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HOUSE OF REPRESENTATIVES—*Friday, September 21, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

The world and all that is in it belong to the Lord; the earth and all who live in it are His.—Psalms 24: 1.

Gracious Lord, help us to appreciate that this world is an expression of Your creation and love. Make us to realize our dependence on each other and how we can make all our lives better by living in unity and peace. Teach us respect for those of a different culture, background, or place, and cause us always to raise our vision so that we work for the common goals and ideals that mark us as members of the human family.

Lift our spirits, O God, to see Your purpose for all people. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 189. Concurrent resolution to correct the enrollment of S. 544.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 544) entitled "An act to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 237) entitled "An act to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of U.S. magistrates, and for other purposes."

OBLIGATING GOVERNMENT TO REIMBURSE MANUFACTURERS FOR PRODUCT LIABILITY LAWSUITS

(Mr. GUDGER asked and was given permission to address the House for 1 minute.)

Mr. GUDGER. Mr. Speaker, I request permission to address the House for 1 minute on H.R. 5351, a bill which I introduced yesterday.

Mr. Speaker, the U.S. Government currently issues detailed specifications for products it purchases. Manufacturers producing these products have little or no voice in these specifications. Under the laws of most States, however, it is the manufacturer who is strictly liable for injury or death caused by a defect in these products, while the Government is generally not liable—particularly to military personnel—under the doctrine of sovereign immunity. Furthermore, under present law, the Government is not obligated to indemnify the manufacturer for the products liability judgment it has to pay to a Government employee stemming from the Government's defective specifications.

The bill I introduced yesterday, H.R. 5351, would obligate the Government to reimburse manufacturers for their losses under these circumstances. The bill would also amend the Soldiers and Sailors Civil Relief Act to make military personnel subject to State statutes of limitations.

This bill should lower Government costs by increasing competition among manufacturers for Government contracts, and by eliminating that part of the price of products produced for the Government attributable to the risk currently borne by the manufacturer. Furthermore, the American people will benefit, because the Government will have a direct financial incentive to acquire safe products. I urge you to join me as a cosponsor of H.R. 5351, the Government Contractors' Product Liability Act of 1979.

CITIZEN INVOLVEMENT IN LONG BEACH

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute.)

● Mr. ANDERSON of California. Mr. Speaker, it is the strong support of citizens that gives real meaning to adopted public policy. Grand designs intended to shape the future of a city, State, or a nation are given life when a well-informed general public displays an active concern.

Over this past weekend, in the California city of Long Beach, such a demonstration took place. More than 200 of its residents took time out from their weekend routine of relaxing with families and friends to discuss the future of their city. The focus of attention was an ambitious plan drawn up by the mayor, city council, and city staff for revitalizing the city's downtown area.

Already, the urban renewal plan has drawn the widespread support of the Federal Government. Three major agencies are investing their resources into this project to make it a success. With the continued active involvement of residents in forums like the one sponsored this Saturday by the Long Beach League of Women Voters, this plan will continue to be a model for imitation throughout the State of California and the entire Nation.

I want to congratulate the League of Women Voters on the success of their continuing encouragement of citizen participation and to pledge my continued support for their desire to improve their city and the quality of life for all its residents.●

PRESIDENT'S MEETING WITH HOUSE MEMBERS SHOWED HIS TOUGHNESS AND SENSE OF LEADERSHIP

(Mr. JONES of Oklahoma asked and was given permission to address the

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Oklahoma. Mr. Speaker, either I missed the full flavor of what went on, or the meeting I attended last night at the White House with other House Members was not the same meeting I read about this morning in the Post. The President Carter I saw last night who gave about 3 hours of his time to us was an impressive man who exhibited the goodness and sensitivity for which he is known—but who also showed a toughness and a sense of leadership and direction for this Nation. Frankly I was impressed and I sensed a new opportunity for this body to influence the formation of Presidential policy. As a former reporter myself, I would characterize the meeting as one of the best exchanges of ideas between House Members and a President that I have seen, including during the 4 years I worked for President Johnson. Comments I heard was that it was a shame that the meeting could not have been captured on tape for all Americans to share. A considerably different and more positive view of President Carter than was reported in the newspaper would have resulted.

REPUBLICANS LEAD SUCCESSFUL FIGHT TO DEFEAT BILL INCREASING THE NATIONAL DEBT

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, the structure of the vote defeating the majority's proposal to increase the national debt—200 to 215—sends a very clear message to the American people: 145 Republicans, 98 percent of the Republicans, voted against increasing the national debt. However, 197 Democrats, 74 percent of the Democrats, voted in favor of increasing the national debt. So once again the record is clear—Republicans fight to limit Government spending while Democrats continue to be the big spenders.

CREATION OF STANDING HOUSE ENERGY COMMITTEE URGED

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, on July 25, 1979, I introduced House Resolution 388, a proposal to create a standing energy committee in the House of Representatives.

It is clear that the problem of energy will be with us for a long time and to keep dealing with it on an ad hoc basis as we have done in the past is living in a fool's paradise.

Last night we defeated the second concurrent resolution and the budget after both sides of the aisle engaged in heated debate over increased budget deficits due in large part to the increased inflation resulting from OPEC price increases on oil.

Recently, Nigeria announced a $3 a barrel increase in oil to the United States. They are the second largest exporter of oil to the United States. This announcement further underscores the need to get an energy program started in this country.

Creation of a Standing House Energy Committee is one important step that would facilitate the handling of energy measures in a priority manner to reach rapid and effective solutions instead of the haphazard and ineffective way that energy is now considered by the House. For example, at this time energy legislation is referred to as many as 14 subcommittees in the House for action. Despite its importance, jurisdiction over energy is fragmented like no other subject in the House.

Winter is fast approaching and Congress still does not have a viable energy program to help ease the tremendous burden, both personally and financially to the American people. My constituents are very concerned about adequate fuel oil not only to see them through the harvest season, but to keep them warm this winter.

I cannot assure them that they will have that needed fuel oil, and I am not sure they can afford to pay for it if it is available.

Again, I urge my colleagues to join me in supporting this resolution.

SOCIAL COMMITMENT OF GULF & WESTERN INDUSTRIES RELIEF PROGRAM PRAISED

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSTENKOWSKI. Mr. Speaker, the nonmercantile activities of large corporations are rarely in the headlines. We often do not learn of the extensive social commitment of some corporations. For this reason I would like to recognize the Gulf & Western Industries relief program for victims of the recent hurricanes in the Dominican Republic. This company is leading relief and recovery efforts in the tragedy that took the lives of 1,800 people, left 200,000 homeless and destroyed 90 percent of the country's food crops. Immediately after the storm, Gulf & Western airlifted 75,000 pounds of medicine and food to people whose lands and lives were devastated by these tropical storms. American Airlines provided free transport for the first planeload of medical supplies and food purchased by Gulf & Western and canned goods gathered by the Dominican Medical Society in New York. Just this last Saturday Gulf & Western chartered their own cargo plane to send another 75,000 pounds of food and medicine. To date that is a total of 75 tons of lifegiving supplies sent to the Dominican Republic by this company.

Certainly, Mr. Speaker, none of these supportive efforts would have been possible without the able assistance of our Department of State. George Beauchamp, task force director for the Caribbean, along with his staff, worked over 14 hours a day throughout the Labor Day weekend. Oliver Davidson and his staff at the State Department's Office of Foreign Disaster Assistance have also been vitally involved in these relief efforts. These people have had to coordinate hundreds of necessary operations and cut through bureaucratic redtape to make sure these supplies arrived and were distributed in time to do some good.

Many others helped to alleviate the tragedy that followed these storms and floods, not least of which have been the many Dominican societies in the United States that have responded quickly and generously during these critical days.

In addition to these initial efforts, Gulf & Western sought and received support from other corporations to help in the wake of the most destructive hurricane to hit the Caribbean in a century. This company is also mounting a long-term program for the country, launching a companywide employee contribution drive with matching gifts from Gulf & Western and sponsoring benefit programs and telethons for additional funds. There is an adage, "A corporation of conscientious men is a corporation with a conscience." I commend the conscientious and caring men and women at Gulf & Western Industries.

CONFERENCE REPORT ON S. 210, DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

Mr. BROOKS submitted the following conference report and statement on the Senate bill (S. 210) to establish a Department of Education:

CONFERENCE REPORT (H. REPT. NO. 95–459)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 210) to establish a Department of Education, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Department of Education Organization Act".

TABLE OF CONTENTS

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Sec. 103. Federal-State Relationships.
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Sec. 207. Office of Special, Education and Rehabilitative Services.
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Sec. 209. Office of Educational Research and Improvement.

Sec. 210. Office of Bilingual Education and Minority Languages Affairs.
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Sec. 212. Office of Inspector General.
Sec. 213. Intergovernmental Advisory Council on Education.
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TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

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Sec. 501. Transfer and allocation of appropriations and personnel.
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Sec. 508. Amendments.
Sec. 509. Redesignation.
Sec. 510. Coordination of programs affecting handicapped individuals.
Sec. 511. Transition.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

TITLE I—GENERAL PROVISIONS

FINDINGS

SEC. 101. The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation;

(2) there is a continuing need to ensure equal access for all Americans to educational opportunities of a high quality, and such educational opportunities should not be denied because of race, creed, color, national origin, or sex;

(3) parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;

(4) in our Federal system, the primary public responsibility for education is reserved respectively to the States and the local school systems and other instrumentalities of the States;

(5) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(6) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted;

(7) there is a need for improvement in the management and coordination of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;

(8) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(9) Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the executive branch of the Government; and

(10) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

PURPOSES

SEC. 102. The Congress declares that the establishment of a Department of Education is in the public interest, will promote the general welfare of the United States, will help ensure that education issues receive proper treatment at the Federal level, and will enable the Federal Government to coordinate its education activities more effectively. Therefore, the purposes of this Act are—

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual;

(2) to supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, the private sector, public and private educational institutions, public and private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;

(3) to encourage the increased involvement of the public, parents, and students in Federal education programs;

(4) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and sharing of information;

(5) to improve the coordination of Federal education programs;

(6) to improve the management and efficiency of Federal education activities, especially with respect to the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds; and

(7) to increase the accountability of Federal education programs to the President, the Congress, and the public.

FEDERAL-STATE RELATIONSHIPS

SEC. 103. (a) It is the intention of the Congress in the establishment of the Department to protect the rights of State and local governments and public and private educational institutions in the areas of educational policies and administration of programs and to strengthen and improve the control of such governments and institutions over their own educational programs and policies. The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and the local school systems and other instrumentalities of the States.

(b) No provision of a program administered by the Secretary or by any other officers of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervison, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law.

(c) The Secretary shall not, during the period within eight months after the effective date of this Act, take any action to withhold, suspend, or terminate funds under any program transferred by this Act by reason of the failure of any State to comply with any applicable law requiring the administration of such a program through a single organizational unit.

DEFINITIONS

SEC. 104. As used in this Act, unless otherwise provided or indicated by the context—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(5) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(6) the terms "private" and "private educational" refer to independent, nonpublic, and private institutions of elementary, secondary, and postsecondary education; and

(7) the term "office" includes any office, institute, council, unit, organizational entity, or component thereof.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. There is established an executive department to be known as the Department of Education. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of a Secretary of Education. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

PRINCIPAL OFFICERS

SEC. 202. (a)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

(2)(A) The Under Secretary shall have responsibility for the conduct of intergovernmental relations of the Department, including assuring (i) that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States and the local school systems and other instrumentalities of the States, and (ii) that appropriate officials of the Department consult with individuals responsible for making policy relating to education in the States and the local school systems and other instrumentalities of the States concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on the States and the local school systems and other instrumentalities of the States.

(B) Local education authorities may inform the Under Secretary of any rules or regulations of the Department which are in conflict with another rule or regulation issued by any other Federal department or agency or with any other office of the Department. If the Under Secretary determines, after consultation with the appropriate Federal department or agency, that such a conflict does exist, the Under Secretary shall report such conflict or conflicts to the appropriate Federal department or agency together with recommendations for the correction of the conflict.

(b) (1) There shall be in the Department—

(A) an Assistant Secretary for Elementary and Secondary Education;

(B) an Assistant Secretary for Postsecondary Education;

(C) an Assistant Secretary for Vocational and Adult Education;

(D) an Assistant Secretary for Special Education and Rehabilitative Services;

(E) an Assistant Secretary for Educational Research and Improvement;

(F) an Assistant Secretary for Civil Rights; and

(G) a General Counsel.

(2) Each of the Assistant Secretaries and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(c) There shall be in the Department an Inspector General appointed in accordance with the Inspector General Act of 1978 (as amended by section 508(n) of this Act).

(d) There shall be in the Department four additional officers who shall be appointed by the President, by and with the advice and consent of the Senate. The officers appointed under this subsection shall perform such functions as the Secretary shall prescribe. including—

(1) congressional relations functions;

(2) public information functions, including the provision, through the use of the latest technologies, of useful information about education and related opportunities to students, parents, and communities;

(3) functions related to monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs;

(4) management and budget functions;

(5) planning, evaluation, and policy development functions, including development of policies to promote the efficient and coordinated administration of the Department and its programs and to encourage improvements in education; and

(6) functions related to encouraging and promoting the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

(e) There shall be in the Department an Administrator of Education for Overseas Dependents.

(f) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office.

(g) Each officer of the Department established under this section shall report directly to the Secretary and shall, in addition to any functions vested in or required to be delegated to such officer, perform such additional functions as the Secretary may prescribe.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be in the Department an Office for Civil Rights, to be administered by the Assistant Secretary for Civil Rights appointed under section 202(b). Notwithstanding the provisions of section 412 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, transferred to the Secretary under section 301(a)(3).

(b)(1) The Assistant Secretary for Civil Rights shall make an annual report to the Secretary, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(2) Notwithstanding any other provision of law, the report required by paragraph (1) shall be transmitted to the Secretary, the President, and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the report required by paragraph (1) to the Secretary sufficiently in advance of its submission to the President and the Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the report.

(c) In addition to the authority otherwise provided under this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate the collection of data necessary to ensure compliance with civil rights laws within the jurisdiction of the Office for Civil Rights;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of such Office, subject to the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out the compliance and enforcement functions of such Office; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the equivalent daily rate payable for grade GS-18 of the General Schedule under section 5332 of such title.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 204. There shall be in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(b). The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 205. There shall be in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(b). The Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate, and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF VOCATIONAL AND ADULT EDUCATION

SEC. 206. There shall be in the Department an Office of Vocational and Adult Education, to be administered by the Assistant Secretary for Vocational and Adult Education appointed under section 202(b). The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate, and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education. The Secretary, through the Assistant Secretary, shall also provide a unified approach to rural education and rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEC. 207. There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary for Special Education and Rehabilitative Services appointed under section 202(b). Notwithstanding the provisions of section 412, the Secretary shall delegate to the Assistant Secretary all functions, other than administrative and support functions, transferred to the Secretary under sections 301(a)(1) (with respect to the bureau for the education and training of the handicapped), 301(a)(2)(H), and 301(a)(4).

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENTS

SEC. 208. There shall be in the Department an Office of Education for Overseas Dependents, to be administered by the Administrator of Education for Overseas Dependents appointed under section 202(e). Notwithstanding the provisions of section 412, the Secretary shall delegate to the Administrator all functions, other than administrative and support functions, transferred to the Secretary under section 302.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 209. There shall be in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Educational Research and Improvement appointed under section 202 (b). The Assistant Secretary shall administer such functions concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate.

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

SEC. 210. There shall be in the Department an Office of Bilingual Education and Minority Languages Affairs, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department and shall consult with the Secretary concerning policy decisions affecting bilingual education and minority languages affairs. The Director shall report directly to the Secretary, and shall perform such additional functions as the Secretary may prescribe.

OFFICE OF GENERAL COUNSEL

SEC. 211. There shall be in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(b). The General Counsel shall provide legal assistance to the

Secretary concerning the programs and policies of the Department.

OFFICE OF INSPECTOR GENERAL

SEC. 212. There shall be in the Department an Office of Inspector General, established in accordance with the Inspector General Act of 1978 (as amended by section 508(n) of this Act).

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 213. (a) There shall be in the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereafter referred in this section as the "Council"). The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b)(1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(B) make recommendations for the improvement of the administration and operation of Federal education and education related programs;

(C) promote better intergovernmental relations;

(D) submit, biennially or more frequently (if determined necessary by the Council), a report to the Secretary, the President, and the Congress (i) reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and (ii) assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(2) In carrying out its functions under subsection (a), the Council may review existing and proposed rules or regulations of the Department concerning Federal education programs in order to determine the impact or potential impact of such rules or regulations on State and local governments and public and private educational institutions. The Council may submit to the Secretary a report containing the results of its review of any existing or proposed rule or regulation. If a report by the Council concerns a proposed rule or regulation, it shall be submitted to the Secretary within the time established for public comment on the proposed rule or regulation, and shall be placed in the file of the proceeding concerning the proposed rule or regulation.

(c)(1) The Council shall be composed of twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, from among board members, chief education officials, administrators, and teachers;

(C) five representatives of public and private postsecondary education, from among board members, chief education officials, administrators, and professors; and

(D) four members of the public, including parents of students and students.

(2) In making appointments under this subsection, the President shall—

(A) consult with representatives of the groups specified in subparagraphs (A) through (D) of paragraph (1); and

(B) select individuals who represent a diversity of geographic areas and demographic characteristics.

(3) The Under Secretary shall be an ex officio member of the Council.

(4) The term of office of a member of the Council shall be four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(5) The President shall designate one member to chair the Council.

(6) Any vacancy in the Council shall not affect its authority.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council. The Secretary shall provide the Council with such other staff, facilities, services, and support as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 214. (a) There is established a Federal Interagency Committee on Education (hereafter referred to in this section as the "Committee"). The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act;

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served; and

(5) full and effective involvement and participation of students and parents in Federal education programs.

(c) The Committee shall be composed of the Secretary who shall chair the Committee, and senior policy making officials from those Federal agencies, commissions, and boards that the President may find appropriate.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Committee shall conduct a study concerning the progress, effectiveness, and accomplishments of Federal vocational education and training programs, and the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(f) The Committee shall meet at least twice each year. The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(g) The Secretary and the head of each agency represented on the Committee under subsection (c) shall furnish necessary assistance to the Committee.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) There are transferred to the Secretary—

(1) all functions of the Assistant Secretary for Education and of the Commissioner of Education of the Department of Health, Education, and Welfare, and all functions of the Office of such Assistant Secretary and of the Education Division of the Department of Health, Education, and Welfare and of any officer or component of such Office or Division;

(2) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under—

(A) the General Education Provisions Act;

(B) the Elementary and Secondary Education Act of 1965;

(C) the Higher Education Act of 1965;

(D) the Education Amendments of 1978;

(E) the Act of August 30, 1890 (7 U.S.C. 321-328);

(F) the National Defense Education Act of 1958;

(G) the International Education Act of 1966;

(H) the Education of the Handicapped Act;

(I) part B of title V of the Economic Opportunity Act of 1964;

(J) the National Commission on Libraries and Information Science Act;

(K) the Vocational Education Act of 1963;

(L) the Career Education Incentive Act;

(M) laws relating to the relationship between (i) Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(N) the Model Secondary School for the Deaf Act;

(O) subpart A of part IV of title III of the Communications Act of 1934 with respect to the telecommunications demonstration program;

(P) section 203(k) of the Federal Property and Administrative Services Act of 1949 with respect to donations of surplus property for educational purposes; and

(Q) the Alcohol and Drug Abuse Education Act;

(3) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare with respect to or being administered by the Office for Civil Rights which relate to functions transferred by this section;

(4)(A) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973, except that the provisions of this subparagraph shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act;

(B) all functions with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act (20 U.S.C. 107 et seq.);

(C) all functions of the Commissioner of Rehabilitation and the Director of the National Institute of Handicapped Research of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973;

(5) all functions of the Institute of Museum Services of the Department of Health, Education, and Welfare, and of the Director thereof;

(6) all functions of the Advisory Council on Education Statistics; and

(7) all functions of the Federal Education Data Acquisition Council.

(b) There are transferred to the Department—

(1) all offices in the Office of the Assistant Secretary for Education or in the Education Division of the Department of Health, Education, and Welfare;

(2) all offices in the Department of Health, Education, and Welfare established under the provisions of law listed in subparagraphs (A) through (Q) of subsection (a)(2);

(3) all offices in the Department of Health, Education, and Welfare established under the Rehabilitation Act of 1973;

(4) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(5) the Advisory Council on Education Statistics;

(6) the Federal Education Data Acquisition Council; and

(7) any advisory committee of the Department of Health, Education, and Welfare giving advice or making recommendations that primarily concern education functions transferred by this section.

(c) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(1) the Education Division of the Department of Health, Education, and Welfare;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics; and

(3) any advisory committee in the Department of Health, Education, and Welfare giving advice or making recommendations that principally concerning education functions transferred by this section.

(d) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

SEC. 302. (a) Notwithstanding the provisions of section 601 of this Act, at such time not later than three years after the effective date of this Act, and in such manner, as the President may designate, there shall be transferred to the Secretary all functions of the Secretary of Defense and of the Department of Defense (or any officer or component thereof) relating to the operation of overseas schools for dependents of the Department of Defense and all functions of the Secretary of Defense and of the Department of Defense (or any officer or component thereof) under the Defense Dependents' Education Act of 1978. There shall be transferred to the Department the offices established by such Act.

(b) In addition to any other authority available to the Secretary under this or any other Act, the authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the functions transferred under subsection (a).

(c) Not later than one year after the effective date of this Act, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing the plan, the Secretary shall also consult with representatives of organizations of parents of students enrolled in overseas dependents' schools and representatives of professional employee organizations and administrators of such schools. The plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

(d) Nothing in this Act shall be construed to give the Secretary authority to operate overseas institutions of higher education.

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 303. (a) Notwithstanding the provisions of section 601 of this Act, there shall be transferred to the Secretary, at such time on or after the effective date of this Act as the Secretary certifies that there has been established in the Department a single component responsible for the administration and the coordination of programs relating to the education of migrants, all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

TRANSFERS OF PROGRAMS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 304. (a)(1) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation established prior to the effective date of this Act pursuant to the National Science Foundation Act of 1950, except the program or parts of programs, as determined after review by the Director of the Office of Science and Technology Policy and the Director of the National Science Foundation, which relate to—

(A) scientific career development;

(B) the continuing education of scientific personnel;

(C) increasing the participation of women, minorities, and the handicapped in careers in science;

(D) the conduct of basic and applied research and development applied to science learning at all educational levels and the dissemination of results concerning such research and development; and

(E) informing the general public of the nature of science and technology and of attendant values and public policy issues.

(2) Except as provided in paragraph (1), no mission oriented research functions or programs of the National Science Foundation or any other Federal agency shall be transferred by this Act.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation, and shall establish advisory mechanisms designed to assure that scientists and engineers are fully involved in the development, implementation, and review of science education programs.

(c) The annual report to be transmitted by the Secretary pursuant to section 426 shall include a description of arrangements, developed by the Secretary in consultation with the Director of the National Science Foundation, for coordinated planning and operation of science education programs, including measures to facilitate the implementations of successful innovations.

(d) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs under the National Science Foundation Act of 1950.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

SEC. 305. There are transferred to the Secretary all functions of the Attorney General and of the Law Enforcement Assistance Administration with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 306. There are transferred to the Secretary all functions relating to college housing loans of the Secretary of Housing and Urban Development and of the Department of Housing and Urban Development under title IV of the Housing Act of 1950.

EFFECT OF TRANSFERS

SEC. 307. The transfer of a function or office from an officer or agency to the Secretary or to the Department includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

(b)(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in each of the grade levels GS-16, GS-17, and GS-18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(2) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, United States Code, provide for the establishment in the Office created by section 209 of this Act of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5 of the United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this Act and, on the day preceding the effective date of this Act, holds a position and has duties comparable to those of the position to which appointed hereunder.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position ceases to hold such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day preceding the effective date of this Act.

(c) The Secretary may appoint, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, up to 175 scientific, technical, or professional employees of the Office created by section 209 of this Act and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the minimum rate of pay currently paid for GS-16 of the General Schedule under section 5332 of such title.

(d) Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5, United States Code. Such positions shall expire on the later of three years after the effective date of this Act or three years after the initial appointment to each position. Positions in effect under this subsection shall be taken into account in applying the limitations on positions prescribed under section 3134(e) and section 5108 of such title.

(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the day of enactment of this Act to any function or office transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function or office transferred by this Act and subject to any such law shall continue to be subject to any such law.

(f) For purposes of any status of forces agreement between the United States and any other country or any international organization, any reference to "civilian component" shall be deemed to include a reference to overseas personnel of the overseas dependents' education system.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may as provided in appropriation Acts obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

PERSONNEL REDUCTION AND ANNUAL LIMITATIONS

SEC. 403. (a) (1) Notwithstanding any other provision of this Act, there shall be included in each appropriation Act containing appropriations for the administration of the Department for any fiscal year beginning after September 30, 1981 (other than an appropriation Act containing only supplemental appropriations for the Department), an annual limitation on the total number of work-years for the personnel of the Department.

(2) The Secretary shall prescribe the allocation of the work-years available under paragraph (1) among the organizational units and components of the Department and shall, within 120 days after the enactment of an appropriation Act containing a work-year limitation, prepare and transmit to the Congress a report on such allocation. Such report shall include explanations and justifications for the allocations made by the Secretary and shall indicate the necessary personnel actions which will be required as a consequence of such allocation. Not later than 120 days after the conclusion of any fiscal year to which a work-year limitation established under paragraph (1) applies, the Secretary shall prepare and transmit to the Congress a report on compliance with such limitation indicating the total work-years actually expended by the Department and by the organizational units and components to which such work-years were allocated.

(3) If the President transmits any reorganization plan under chapter 9 of title 5, United States Code, which would result in the transfer of functions or offices to the Secretary or the Department, the message transmitting the plan shall include any adjustments which may be necessary in a work-year limitation established under paragraph (1) to reflect changes in the work-years required as a result of such plan.

(b) Not later than the end of the first fiscal year beginning after the effective date of this Act, the number of full-time equivalent personnel positions available for performing functions transferred to the Secretary or the Department by this Act shall be reduced by 500.

(c) (1) Computations required to be made for purposes of this section shall be made on the basis of all personnel employed by the Department, including experts and consultants employed under section 3109 of title 5, United States Code, and all other part-time and full-time personnel employed to perform functions of the Secretary or the Department, except personnel employed under special programs for students and disadvantaged youth (including temporary summer employment).

(2) The Director of the Office of Personnel Management shall, by rule, establish a method for computing work-years for personnel of the Department as described in paragraph (1).

(d) The Director of the Office of Personnel Management shall, as soon as practicable, but not later than one year after the effective date of this Act, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the organization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

PART B—GENERAL ADMINISTRATIVE PROVISIONS

GENERAL AUTHORITY

SEC. 411. (a) In carrying out any function transferred by this Act, the Secretary, or any officer or employee of the Department, may exercise any authority available by law (including appropriation Acts) with respect to such function to the official or agency from which such function is transferred, and the actions of the Secretary in exercising such authority shall have the same force and effect as when exercised by such official or agency.

(b) (1) The director of any office continued in the Department the director of which was required, prior to the effective date of this Act, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare, shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) to any officer or employee of the Department.

DELEGATION

SEC. 412. Except as otherwise provided in this Act, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

SEC. 413. (a) The Secretary is authorized, subject to the requirements of section 202 (f), to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate, but the authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity transferred to the Department and established by statute or any function vested by statute in such an entity or officer of such an entity, except as provided in subsection (b);

(2) the abolition of organizational entities established by this Act; or

(3) the alteration of the delegation of functions to any specific organizational entity required by this Act.

(b) (1) The Secretary may, in accordance with paragraph (2) of this subsection, consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) the Office of Bilingual Education;

(B) the Teacher Corps;

(C) the Community College Unit;

(D) the National Center for Education Statistics;

(E) the National Institute of Education;

(F) the Office of Environmental Education;

(G) the Office of Consumers' Education;

(H) the Office of Libraries and Learning Resources;

(I) the Office of Indian Education;

(J) the Office of Career Education;

(K) the Office of Non-Public Education;

(L) the bureau for the education and training for the handicapped;

(M) the Institute of Museum Services; and

(N) the administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, upon the expiration of a period of ninety days after the receipt by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

RULES

SEC. 414. (a) The Secretary is authorized to prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department.

(b) The Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5, United States Code. Section 431 of the General Education Provisions Act also shall apply to such rules and regulations to the extent applicable immediately prior to the effective date of this Act, and to rules and regulations promulgated with respect to programs transferred under sections 301(a) (1), (2), and (4), 302, 303, 304, 305, and 306.

CONTRACTS

SEC. 415. (a) Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may determine necessary or appropriate to carry out functions of the Secretary or the Department.

(b) Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 421.

REGIONAL AND FIELD OFFICES

SEC. 416. The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may find necessary or appropriate to perform functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 417. (a) The Secretary is authorized—

(1) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

(A) schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this Act);

(B) laboratories;

(C) research and testing sites and facilities;

(D) quarters and related accommodations for employees and dependents of employees of the Department; and

(E) personal property (including patents), or any interest therein,

as may be necessary; and

(2) to provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 418. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or used to refund excess sums when necessary.

USE OF FACILITIES

SEC. 419. (a)(1) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function of the Secretary or the Department.

(2) Notwithstanding the transfer of functions from the Secretary of Defense to the Secretary under section 302 (and the consequent transfer of personnel), all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such equipment or facilities provided or to refund excess sums when necessary.

(d) Any interest in real property acquired pursuant to this Act shall be acquired in the name of the United States Government.

COPYRIGHTS AND PATENTS

SEC. 420. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 421. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

TECHNICAL ADVICE

SEC. 422. (a) The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(b) The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions of the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

WORKING CAPITAL FUND

SEC. 423. (a) The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components;

(2) central messenger, mail, telephone, and other communications services;

(3) office space, central services for document reproduction, and for graphics and visual aids; and

(4) a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expenses of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

FUNDS TRANSFER

SEC. 424. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF DEPARTMENT

SEC. 425. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 426. (a) The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. The report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward—

(1) the attainment of such goals, priorities, and plans;

(2) the more effective and efficient management of the Department and the coordination of its functions; and

(3) the reduction of excessive or burdensome regulation and of unnecessary duplication and fragmentation in Federal education programs,

accompanied where necessary by recommendations for proposed legislation for the achievement of such objectives.

(b) The report required by subsection (a) shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under section 415 or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 427. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 428. Subject to any limitation on appropriations applicable with respect to any function or office transferred to the Secretary or the Department, there are authorized to be appropriated for fiscal year 1980 and each succeeding fiscal year such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such position at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315–5316) on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

SEC. 503. (a)(1) On the effective date of this Act, the following entities shall terminate:

(A) the Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(B) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(C) the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

(2) Whenever the President exercises the authority under section 302(a), the Office of Dependents' Education of the Department of Defense shall terminate.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this Act shall also terminate.

INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out the provisions of this Act. The Director shall provide for the termination of the affairs of all entities terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

(b) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Secretary or the Department, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

SEC. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any function transferred by this Act and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which this Act transfers such functions.

AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended—

(1) by striking out "Secretary of Health,

Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(2) by inserting immediately before the period at the end thereof a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

(2) by adding at the end thereof the following:

"The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by inserting immediately after paragraph (4) the following:

"(5) Under Secretary of Education.".

(e) Section 5315 of title 5 of the United States Code is amended—

(1) by striking out paragraph (17) and inserting in lieu thereof the following:

"(17) Assistant Secretaries of Health and Human Services (4)."; and

(2) by inserting immediately after paragraph (24) the following:

"(25) Assistant Secretaries of Education (6).

"(26) General Counsel, Department of Education.

"(27) Inspector General, Department of Education.".

(f) Section 5316 of title 5 of the United States Code is amended—

(1) by striking out paragraph (41); and

(2) by inserting after paragraph (36) the following new paragraphs:

"(37) Additional officers, Departments of Education, (4).".

"(38) Administrator of Education for Overseas Dependents, Department of Education.".

(g) Subchapter II of chapter 53 of title 5 of the United States Code is further amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(h) The Comprehensive Employment and Training Act is amended—

(1) in section 111, by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education, educational programs conducted for offenders, institutional training, health care, child care, and other supportive services, and new careers and job restructuring in the health, education, and welfare professions.";

(2) in section 127(b), by striking out "and the Secretary of Health, Education, and Welfare" and inserting in lieu thereof a comma and the following: "the Secretary of Education, and the Secretary of Health and Human Services";

(3) in section 302(c), by striking out paragraph (3) and inserting in lieu thereof the following:

"(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4.625 percent of the amount allocated pursuant to section 202(a).";

(4) in section 311(g), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Health and Human Services, Department of Education.";

(5) in section 314, by striking out "Health Education, and Welfare" and inserting in lieu thereof "Education";

(6) in section 438(a)(2), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, Secretary of Health and Human Services,"; and

(7) in section 502(a)—

(A) by striking out "15" and inserting in lieu thereof "16"; and

(B) by striking out "Health, Education, and Welfare," in paragraph (1) and inserting in lieu thereof "Education, Secretary of Health and Human Services,".

(i) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting after "Secretary" in the first sentence "of Health and Human Services, the Secretary of Education"; and

(2) by striking out "of Health, Education, and Welfare" in the second sentence and inserting in lieu thereof "of Health and Human Services, the Department of Education".

(j) The Defense Dependents' Education Act of 1978 is amended—

(4) in section 1411(a)(1), by striking out "representatives of sponsors" and inserting in lieu thereof "parents";

(2) in section 1410(b), by striking out "Secretary of Defense" and inserting in lieu thereof "Secretary of Education, in consultation with the Secretary of Defense,";

(3) in section 1411(a), by striking out "Department of Defense" and inserting in lieu thereof "Department of Education";

(4) in section 1411(a)(1), by striking out everything after "Logistics" and inserting in lieu thereof ", and the Administrator of Education for Overseas Dependents of such department, who shall be cochairman of the Council;"

(5) in section 1411(a), by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) twelve individuals appointed by the Secretary of Education, who shall be individuals who have demonstrated an interest in the fields of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, parents of dependents enrolled in the dependents' education system, and one student enrolled in such system;

"(3) a representative of the Secretary of Education and of the Secretary of Defense.";

(6) in section 1411(b)(1), by striking out "Assistant Secretary" and inserting in lieu thereof "Secretary of Education";

(7) in section 1411(c)—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following new paragraph;

"(2) make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under the Dependents' Education Act of 1978 to the Secretary and Department of Education,"; and

(8) in section 1411(c)(5) (as so redesignated), by striking out "Assistant Secretary" and inserting in lieu thereof "Secretary of Education".

(k) Section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.".

(l)(1) Section 352 of the Environmental Education Act of 1978 is amended by striking out "who shall be compensated" and everything that follows through the end of such section and inserting in lieu thereof a period.

(2) Paragraph (1) of section 160(b) of the Vocational Education Act of 1963 is amended by striking out ", and who shall be compensated" and everything that follows through the end of such paragraph and inserting in lieu thereof a period.

(3) Section 512 of the Higher Education Act of 1965 is amended by striking out the second sentence and inserting in lieu thereof the following: "The Teacher Corps shall be headed by a Director and a deputy Director.".

(4) Positions abolished as a consequence of the amendments made by this subsection shall, for purposes of section 502(a), be deemed to be permanent positions transferred pursuant to title V of this Act.

(m)(1) Section 203(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting in lieu thereof "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, the Secretary of Health and Human Services,".

(n) The Inspector General Act of 1978 is amended—

(1) in section 2(1), by inserting "the Department of Education," immediately after "Commerce,";

(2) in section 9(a)(1)—

(A) by redesignating subparagraphs (C) through (L) as (D) through (M), respectively; and

(B) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare or of the Office of Inspector General of Health, Education, and Welfare relating to functions transferred by section 301 of the Department of Education Organization Act;";

(3) In section 11(1), by inserting "Education," immediately after "Commerce,";

(4) in section 11(2), by inserting "Education," immediately after "Commerce,"; and

(5) by amending the title to read as follows: "An Act to establish Offices of Inspector General within various departments and agencies, and for other purposes.".

REDESIGNATION

Sec. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services or the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function or office transferred to the Secretary or the Department under this Act.

COORDINATION OF PROGRAMS AFFECTING HANDICAPPED INDIVIDUALS

Sec. 510. The Secretary of Health and Human Services shall identify, assess, coordinate, and eliminate conflict, duplication, and inconsistencies among programs significantly affecting handicapped individuals carried out by or under the Department of Health and Human Services, shall promote efficiency among such programs, and shall seek to coordinate, to the maximum extent feasible, such programs with programs significantly affecting handicapped individuals carried out by or under the Department of Education.

TRANSITION

SEC. 511. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary or the Department, and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. (a) The provisions of this Act shall take effect one hundred and eighty days after the first Secretary takes office, or on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register, except that at any time on or after October 1, 1979—

(1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in such title; and

(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary or the Department by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

JACK BROOKS,
DON FUQUA,
DANTE B. FASCELL,
FERNAND J. ST GERMAIN,
ELLIOTT H. LEVITAS,
FRANK HORTON,
Managers on the Part of the House.

ABE RIBICOFF,
JOHN GLENN,
CARL LEVIN,
C. H. PERCY,
JACOB K. JAVITS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 210) to establish a Department of Education, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SECTION 1—SHORT TITLE; TABLE OF CONTENTS

The Senate and House provisions are substantially identical. The Senate recedes.

TITLE I

Section 101—Findings

Section 101(1). The Senate and House provisions stating education is fundamental to the development of the Nation are substantially identical.

The conference agreement is the House amendment with the words "as a whole" deleted.

Section 101(2). Both the Senate bill and the House amendment state that there is a continual need to ensure equal access to education; however, the House amendment adds that no individual should be denied such education opportunities by rules, regulations, standards, guidelines, and orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex.

The conference agreement states there is a continuing need to ensure equal access for all Americans to educational opportunities of a high quality and such educational opportunities should not be denied because of race, creed, color, national origin or sex. The substitute language is not intended to change or affect existing law or judicial precedent.

Sections 101(3) and 101(4). The Senate bill states that the primary responsibility for education has in the past, and must continue in the future, to reside with the States, the local school systems and other instrumentalities of the States, and tribal governments, public and nonpublic educational institutions, communities and families. The House amendment states that parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role. The Senate bill further states that, in our Federal system, the primary public responsibility for education is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments.

The conference agreement includes the House amendment and the latter Senate provision.

Section 101(5). The House amendment states the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the work place, the community, and the home. The Senate bill has no comparable provision.

The Senate recedes.

Section 101(6). The Senate bill states that the importance of education is increasing due to new technologies and alternative approaches to traditional education. The House amendment has no comparable provision.

The House recedes.

Section 101(7). The House amendment states that improvement in the management of Federal education programs is needed to support more effectively State, local and private institutions, students, and parents in carrying out their educational responsibilities. The Senate bill contains no comparable provision. Also, both the Senate bill and the House amendment comment on the need for improved coordination. The Senate bill states there is a lack of coordination of Federal resources for State, local and tribal governments in private and nonpublic educational institutions. The House amendment states there is a need for improved coordination of Federal education and related programs.

The conference agreement is the House amendment with an additional reference to the need to improve coordination.

Section 101(8). The Senate bill states that the dispersion of education programs across a large number of Federal agencies has led to fragmentation, duplication, and often inconsistent Federal policies relating to education. The House amendment contains no comparable provision.

The House recedes.

Section 101(9). The Senate bill states that Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the Executive Branch. The House amendment states that the current structure of the Executive Branch fails to recognize the importance of education and does not allow sufficient Presidential and public consideration of education issues. The House amendment also has a separate provision stating there is no single full-time Federal education official directly accountable to the President, the Congress, and the people.

The House recedes with an amendment retaining the House language stating there is no single full-time Federal education official directly accountable to the President, the Congress, and the people.

Section 102—Purposes

The House amendment declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. The Senate bill has a similar statement in the findings section.

The Senate bill's purposes are stated in the context of the purpose of this Act. The House amendment's purposes are stated as purposes of the Department.

The Senate bill states that one of the purposes of the Act in establishing the Department of Education is to enable education to receive appropriate emphasis at the Federal level.

The conference agreement is the House amendment with the purpose stated as purposes of the Act.

Section 102(2). The Senate bill states that one of the purposes is to supplement and complement the efforts of States, local school systems, and other instrumentalities of the States, tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education. The House amendment states that one of the purposes is to support more effectively States, localities and public and private institutions, students, and parents in carrying out their responsibilities for education.

The House recedes with an amendment deleting the reference to tribal governments.

Section 102(3). The Senate bill and the House amendment are substantially identical with respect to a purpose of the Act regarding the encouragement of increased parent, public and student involvement.

The Senate recedes.

Section 102(4). The Senate bill and the House amendment are similar in that they deal with research, evaluation, and information. However, the Senate bill includes an additional provision relating to the implementation of such research at the State and local level.

The Senate recedes.

Section 102(5). The Senate bill and the House amendment are similar with respect to a purpose of the Act regarding the improvement of coordination of Federal education programs. However, the Senate amendment includes provisions for the use of technical assistance in the coordination of education activities.

The Senate recedes.

Section 102(6). The House amendment states that a purpose of the Department is to improve management and efficiency in Federal education activities. The Senate has no comparable provision.

The Senate bill states a purpose of the Department is to supplement and complement the efforts of State, local, tribal, public and nonpublic agencies by providing support to their articulated educational needs, as well as reducing unnecessary and duplicative constraints, including unnecessary paperwork.

The conference agreement is a combination of the Senate bill and the House amendment.

Section 102(7). The House amendment states that a purpose of the Department is to increase accountability. The Senate has no comparable provision.

The Senate recedes.

Section 102(8). The House amendment states that one of the purposes of the Department is to permit in all public schools providing elementary or secondary education a daily opportunity for prayer or meditation, participation in which would be on a voluntary basis. The Senate bill has no comparable provision.

The House recedes.

Section 103—Federal control of education

Both the Senate bill and the House amendment have a provision concerning the Department's limitations with respect to State and local prerogatives in education. The Senate bill states that the establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the States, and tribal governments. The Senate bill also states that it is the intention of Congress in establishing the Department that the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies and administration of programs are protected. The Senate bill also states that this Act does not require any particular organization of the Department's programs at the State level.

The House amendment prohibits any provision of law relating to a program administered by the Secretary or by any other executive branch officer or agency from being construed to authorize any direction, supervision or control over local prerogatives, except to the extent specifically authorized by Federal statute. The House amendment states that the Department's regulations do not have the standing of a Federal statute for purposes of section 103. The House amendment prohibits the Secretary or the Department from withholding funds from an educational institution due to any requirement relating to local prerogatives, except when specifically authorized by law. The House amendment prohibits the Secretary from requiring, as a condition of eligibility for Federal assistance, the transportation of students or teachers to achieve racial balance or to carry out a desegregation plan. The House amendment also prohibits the Secretary for a period of eight months after the effective date of this Act from withholding, suspending or terminating funds from a State because of the State's organizational structure.

The conference agreement is a combination of the Senate provisions concerning the protection of State and local responsibility for education and the House provision which prohibits the Secretary from interfering with local prerogatives. In addition, the conference agreement includes the House provision which prohibits the Secretary for an 8-month period from withholding, suspending or terminating funds from a State because of a State's organizational structure.

Section 104—Definitions

The Senate bill and the House amendment provide for similar definitions. Separate definitions are provided in the Senate bill for "Assistant Secretary," "Director," "Administrator," "Council," and "Committee." The House amendment provides separate definitions for "State," "private" and "private educational" and "office" and "unit."

The Senate recedes.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

Section 201—Establishment

The Senate bill contains a special provision establishing the Department, and includes the provision for the Secretary in the section on "principal officers."

The House amendment establishes the Department and provides for the Secretary in the same subsection.

The conference agreement adopts the language of the House amendment with an amendment to place "Establishment" in one section (with provision for the Secretary), and "Principal Officers" in a separate section (202).

Section 202—Principal officers

Under Secretary

Both the Senate bill and the House amendment provide for an Under Secretary, who is responsible for intergovernmental functions.

The Senate bill has additional provisions relating to the Under Secretary. It states that the Under Secretary shall carry out the Department's functions in a manner which supplements and complements States' and localities' efforts. The Under Secretary is also required to consult with State and local officials on the impact of the Department's rules and regulations. Local authorities may inform the Under Secretary of conflicting rules and regulations. The Under Secretary is required to report conflicts to the appropriate Department or agency if he or she determines there is an existing conflict. The Under Secretary, along with the appropriate Federal agency, has a 90-day period to recommend resolution of any conflicts.

The House amendment states that the Under Secretary shall be responsible for intergovernmental relations.

The House recedes with an amendment deleting the provision providing for a 90-day period to recommend resolution of conflicts.

Sec. 202(b)—Assistant Secretaries

The Senate bill provides for six Assistant Secretaries and for a Director of the Office for Civil Rights, a General Counsel and an Inspector General. The House amendment provides for six Assistant Secretaries. Five of these Assistant Secretaries have functions which are nearly identical to the functions of the Assistant Secretaries named in the Senate bill. The House amendment also provides for an Assistant Secretary for Civil Rights, a General Counsel, and an Inspector General.

The Senate bill provides a specific name for most officers. In other sections of title II, the House bill states that an Assistant Secretary shall head a named office but does not give a specific name to each Assistant Secretary, with the exception of the Assistant Secretary for Civil Rights and the Assistant Secretary for Vocational and Adult Education.

Both the Senate bill and the House amendment provide that the Assistant Secretaries shall report directly to the Secretary, including the civil rights officer. The Senate bill also provides that the General Counsel shall report directly to the Secretary. The House amendment has no such provision.

The conference agreement adopts the approach of the Senate bill with respect to the specific naming of principal officers. The substitute names all officers in the Senate bill with the following modifications: The "Director" of the Office for Civil Rights is changed to "Assistant Secretary"; the word "Community" is deleted from the Senate's "Assistant Secretary for Vocational, Adult, and Community Education"; the reference to the Director of the Office of Bilingual Education and Minority Affairs is deleted from the list of principal officers; the one Senate's additional assistant secretary is deleted; and the Inspector General is appointed in accordance with the Inspector General Act of 1978.

Sec. 202(d)—Additional Officers

The Senate bill provides for one additional Executive Level V officer.

The House amendment provides for five additional Executive Level V officers.

The conference agreement provides for four additional, unnamed officers (all Level V) to perform the list of functions outlined in that subsection.

Planning and Evaluation

The Senate bill provides that the one unnamed Assistant Secretary shall perform planning and evaluation functions.

The House amendment would assign those functions to the additional Level V officers.

The conference agreement (subsection (d)(5)) includes the planning and evaluation functions in those of the four unnamed Level V additional officers.

Rural Education

The House amendment requires the Secretary to assign to one of the principal officers responsibilities for programs relating to rural education.

The Senate bill and the House amendment also contain provisions on rural family education in the section providing for an Office of Vocational and Adult Education.

The conference agreement deletes the House provision relating to rural education from the principal officers section, and instead includes that authority in Sec. 206, "Office of Vocational and Adult Education."

Reallocation of Functions

The House amendment allows the Secretary to allocate and reallocate functions among subordinates in the Department, and name and rename their titles.

The Senate bill deals with this authority in the Reorganization Section.

The conference agreement deletes the language of the House amendment concerning reallocation of functions and renaming of titles. The authority is dealt with in the Reorganization section of the agreement.

Sec. 202(e)—Overseas Education Officer

The Senate bill establishes the Administrator of Education for Overseas Dependents.

The House amendment states that the director of an office to administer funds for the education of overseas dependents shall be one of the officers provided for by the Principal Officers section.

The House recedes.

Sec. 203—Office for Civil Rights

Both the Senate bill and the House amendment provide for an Office for Civil

Rights. The Senate bill provides that the Office be administered by a Director. The House amendment provides that the Office be headed by an Assistant Secretary.

The conference substitute is the language of the House amendment.

Subsection (b) (1)

The Senate bill provides that the Director submit an annual report directly to the Secretary, the President, and to Congress.

The House amendment also requires an annual report, and explicitly states that the report shall be transmitted to the Secretary and the Congress by the Assistant Secretary without further clearance and approval, although the Secretary is to be provided in advance an opportunity to append comments to the report to the Congress.

The Senate recedes with an amendment that the annual reports be submitted to the President in addition to the Congress and the Secretary.

Subsection (c)

The House amendment has additional provisions which authorize the Assistant Secretary for Civil Rights to collect data necessary to ensure compliance, to employ necessary officers and employees, including staff attorneys, to enter into contracts and other service arrangements, and to obtain services of experts and consultants authorized by section 3109 of title V at rates not to exceed grade GS–18.

The Senate bill has no comparable provision.

The Senate recedes.

Sec. 204—Office of Elementary and Secondary Education

Both the Senate bill and the House amendment provide for an Office of Elementary and Secondary Education. The Senate bill states that the Office shall be administered by the Assistant Secretary for Elementary and Secondary Education.

The House amendment states that the functions of the Office (affecting both public and private education) shall be administered by one of the appointed Assistant Secretaries.

The House recedes with an amendment of the House amendment stating the Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate.

Sec. 205.—Office of Postsecondary Education

Both the Senate bill and the House amendment provide for an Office of Postsecondary Education. The Senate bill states that the Office shall be administered by the Assistant Secretary for Postsecondary Education.

The House amendment states the functions of the Office (affecting both public and private education) shall be administered by one of the appointed Assistant Secretaries. The House amendment provides that the Assistant Secretary for this Office shall be the principal adviser to the Secretary on public and private postsecondary education matters.

The conference substitute is the Senate bill with the addition of the House amendment stating the Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate, and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

Sec. 206.—Office of Vocational and Adult Education

Both the Senate bill and the House amendment provide for an Assistant Secretary for Vocational and Adult Education (the Senate bill includes the word "Community" in the Assistant Secretary's name). The Senate bill provides for an Office of Vocational, Adult, and Community Education.

The House amendment does not establish an office. The House amendment provides that the Assistant Secretary for Vocational and Adult Education shall be the principal adviser to the Secretary on matters affecting vocational and adult education.

The conference agreement is the language of the House amendment with the inclusion of the Senate language which requires that an Office be established. The word "Community", which was included in the Senate bill for the title of this Assistant Secretary and respective office, was deleted. The conferees intend that community education programs be closely related to vocational and adult education programs and activities of the Department.

Sec. 207—Office of Special Education and Rehabilitative Services

Both the Senate bill and the House amendment establish an Office of Special Education and Rehabilitative Services. The Senate bill states that the Office shall be administered by the Assistant Secretary for Special Education and Rehabilitative Services. The House amendment states that the Office of Special Education and Rehabilitative Services shall be administered by one of the appointed Assistant Secretaries.

The Senate bill states that the vocational rehabilitation programs as well as the functions of the Bureau for the Education and Training of the Handicapped transferred to the Department are specifically delegated to the Assistant Secretary for Special Education and Rehabilitative Services. The House amendment provides that the Assistant Secretary shall administer such functions affecting special education and rehabilitative services as are delegated by the Secretary and shall serve as principal advisor to the Secretary on matters affecting special education and rehabilitative services.

The House recedes.

Sec. 208—Office of Education for Overseas Dependents

Both the Senate bill and the House amendment establish an office for overseas dependents' education. The Senate bill names the office the "Office of Education for Overseas Dependents"; the House amendment does not give the office a name, but provides for an office to administer functions relating to the education for overseas dependents.

The Senate provision states the office shall be headed by the Administrator established by section 202. The House amendment provides for a director of the office who shall be one of the officers appointed under section 202.

The conference agreement adopts the language of the Senate bill with an amendment to provide simply that the Secretary shall delegate to the Administrator all functions of the Department of Defense transferred under Sec. 302 (notwithstanding the provisions of Sec. 422, "Delegation" provision).

Sec. 209—Office of Educational Research and Improvement

Both the Senate bill and the House amendment establish an Office of Educational Research and Improvement.

The Senate bill states that the Office shall be administered by the Assistant Secretary for Educational Research and Improvement; the House amendment states that the Office shall be headed by one of the appointed Assistant Secretaries. The Senate bill states specifically that the functions to be delegated to the Assistant Secretary for Educational Research and Improvement relate to the Fund for the Improvement of Postsecondary Education (FIPSE), Federal grants for telecommunications demonstrations, and science education.

The House amendment states that the Assistant Secretary of the Office shall administer delegated functions with respect to research, development, demonstration, dissemination, evaluation, and assessment activities.

The Senate recedes.

Sec. 210—Office of Bilingual Education and Minority Languages Affairs

The Senate bill provides for an Office of Bilingual Education and Minority Affairs while the House amendment provides for an Office of Bilingual Education and Minority Languages Affairs. Both Senate bill and the House amendment provide for a Director of the Office.

The Senate bill states that the Director of the Office shall be compensated at a GS–18 level. The Senate bill states the Director shall also consult with the Director of the Office of Bilingual Education (transferred from HEW.)

The conference agreement is the language of the House amendment with an amendment requiring the Director to consult with the Secretary concerning policy decisions affecting minority languages affairs. The specification of a GS–18 rating for the Director is also deleted. The conferees wish to indicate their intentions that this official should be so classified by the Office of Personnel Management.

Section 211—Office of General Counsel

Both the Senate bill and the House amendment provide for a General Counsel. The Senate bill also establishes an Office of General Counsel and states the General Counsel shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

The House amendment has no comparable provision.

The House recedes.

Section 212—Office of Inspector General

Both the Senate bill and the House amendment provide for an Inspector General in the Department by amending the Inspector General Act of 1978 to add its coverage to the Department of Education. The Senate bill has additional technical conforming amendments to the Inspector General Act and also provides for the transfer of the functions relating to education performed by the HEW Inspector General. The House amendment transfers these functions in Section 301.

The House recedes.

Section 213—Intergovernmental Advisory Council on Education

Both the Senate bill and the House amendment provide for the Council.

Subsection (a)—Establishment

The Senate bill states the Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

The House amendment simply establishes the Council.

The House recedes.

Subsection (b)—Functions

The functions of the Council specified in the Senate bill and the House amendment are substantially identical.

The House recedes with an amendment which states that the Council shall provide a forum for representatives of Federal, State and local governments and public and private educational entities to discuss educational issues.

Subsection (b) (1) (D)—Report

Both the Senate bill and the House amendment require a report by the Council to the President and the Secretary. The Senate also requires that the report be submitted to the Congress.

Both the Senate bill and the House amendment have similar language requiring the report to include a review of the impact of Federal education activities upon States and localities.

The Senate bill requires that the Council assist the Secretary in conducting conferences to assess the contribution of States, and localities to the delivery of equitable, high quality and effective education. The House has no similar provision.

The House amendment has an additional provision requiring that the report include an assessment of compliance with the House section prohibiting Federal control of education.

The conference agreement provides that the Council submit a report, biennially or more frequently, if the Council deems it necessary. The agreement contains the Senate provision requiring that the report be submitted to the Congress. The agreement includes the House provision requiring that the report include an assessment of compliance with Section 103. It omits the Senate requirement authorizing the Council to assist the Secretary in conducting conferences.

Subsection (b)(2)—Review of Rules and Regulations

The Senate bill has an additional provision that the Council may review the Department's existing and proposed rules or regulations to determine their impact upon States and localities and public and nonpublic education institutions. If a report of any such review is submitted to the Secretary, the Secretary has 30 days to provide a written response to the Council's recommendations. If the Council's report pertains to proposed rules or regulations, the Council's comments and the Secretary's response are part of the public record.

The House amendment has no comparable provision.

The conference agreement includes the Senate provision providing authority for the Council to review existing and proposed rules or regulations of the Department and the requirements that, if the Council's comments concern proposed rules or regulations, the Council's comments and the Secretary's response be placed in the file of the proceeding. The Senate's 30-day mandatory response provision is deleted.

Subsection (c)(1)—Council Membership

Both Senate bill and House amendment provide for the participation on the Council of State and local representatives, private, postsecondary and elementary education representatives, school board members and administrators, and parents, teachers, students and the public. The Senate bill provides for 25 members and the House amendment provides for 20 members, appointed by the President. The Senate and House versions differ with respect to the grouping of membership and the number of members within each group as follows:

A. The Senate bill provides for eight members from among State officials—governors, legislators, boards of education, and chief education officials. The House amendment provides for six elected State and local officials with general government responsibilities.

The Senate recedes.

B. The Senate bill provides for eight members among local or regional elected general government officials, local boards of education, public and nonpublic school administrators and tribal governments. The House amendment provides for five representatives of public and private elementary education.

The conference agreement is the House provision with chief education officials included as an additional category.

C. The Senate bill provides for two members from governing boards of public and nonpublic postsecondary institutions. The House amendment provides for five representatives of public and private postsecondary education.

The conference agreement is the House provision with chief education officials included as an additional category.

D. Both the Senate bill and the House amendment provide for public membership. The Senate bill provides for six members from among the public, including parents, students and public interest groups. The House amendment provides for four members of the public, including parents of students and students.

The Senate recedes.

The Senate bill provides that not more than 13 Council members may be members of the same political party. The House amendment has no comparable provision.

The Senate recedes.

Subsection (c)(3)—Relationship to Under Secretary

The House amendment states the Under Secretary shall be an ex officio member of the Council. The Senate bill states the Under Secretary shall be one of the 25 members appointed to the Council.

The Senate recedes.

Subsection (c)(4)—Terms of Membership

Both the Senate bill and the House amendments provide that Council members shall have a four-year term, and provide for varying terms of office for the Council members during the first four years.

The House amendment states no official appointed as a member may serve on the Council after the expiration of the office which qualified the member for the appointment.

The Senate bill would permit service after such expiration of such office.

The Senate recedes.

Subsection (c)(5)—Chair

The Senate bill states the Council shall elect the Chair of the Council.

The House amendment states the President shall designate the Chair of the Council.

The Senate recedes.

Subsection (c)(6)—Vacancy

The Senate bill provides for the Council to function notwithstanding a vacancy.

The House amendment has no comparable provision.

The House recedes.

Compensation of Members

The Senate bill provides for each Council member to be compensated at a GS–18 rate during the time the member is participating in official duties of the Council. The Senate version also provides for reimbursed travel, subsistence and other necessary expenses for the members.

The House amendment has no comparable provision.

The Senate recedes.

Hearings

The Senate bill authorizes the Council to hold hearings and to request the cooperation and assistance of Federal departments and agencies.

The House amendment has no comparable provision.

The Senate recedes.

Witnesses and Materials

The Senate bill states that the Council or any subcommittee shall not compel the attendance or testimony of witnesses or the production of books, records, correspondence, memoranda, papers or other documents.

The House amendment has no comparable provision.

The Senate recedes.

Subsection (d)—Executive Director, Support Services

Both the Senate bill and the House amendment provide for an executive director for the Council. The Senate bill has an additional provision providing for the compensation of the director at a GS–17 rate. Both the Senate bill and the House amendment state the Secretary shall provide necessary staff and support services to the Council.

The Senate recedes.

Sec. 214—Federal Interagency Committee on Education

Both the Senate bill and the House amendment establish an interagency coordinating committee. The language of both bills is modeled after the existing Federal Interagency Committee on Education, which presently exists by Executive Order.

Subsection (a)—Establishment, Title

The Senate bill retains the title, "Federal Interagency Committee on Education," while the House amendment names the committee the "Interdepartmental Education Coordinating Committee."

The House recedes.

Subsection (b)—Duties

The duties of the committee in both versions are similar.

The Senate bill requires the Council to make recommendations concerning the improvement of the administration and coordination of federally funded vocational education and training programs. The House amendment has no comparable provision.

The House amendment requires the Council to review and assess parent and student participation in the overall education decisionmaking process and in specific education programs. The Senate has no comparable provision.

The Senate recedes.

Subsection (c)—Membership

The Senate bill specifically lists the 16 agencies from which senior policymaking officials shall be appointed to the Council.

The House amendment does not list the members nor state the number of members, but states the Committee shall be composed of representatives from Federal agencies, commissions, and boards that the President deems appropriate.

The Senate recedes.

Subsection (d)—Observers

With respect to observers, the Senate bill authorizes the Secretary to invite representatives of other agencies than those designated. The House amendment allows the Director of the Office of Science and Technology Policy to send staff members to meetings of the committee.

The Senate recedes.

Subsection (e)—Vocational Education Study

The Senate bill requires the committee to conduct a study and report to the Secretary and Congress on the effectiveness and coordination of Federal vocational education and training programs.

The House amendment has no comparable provision.

The House recedes.

Subsection (f)—Meetings, Subcommittees

The Senate bill requires the committee to meet at least twice a year.

The House amendment has no comparable provision.

The House amendment authorizes the Secretary to establish subcommittees of the committee.

The Senate bill has no comparable provision.

The conference agreement adopts the Senate provision with respect to meetings, and adopts the House provision with respect to subcommittees.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

Section 301—Transfers From the Department of Health, Education, and Welfare

Subsection (a)(1)

The Senate bill, for the purposes of transferring certain offices and agencies from HEW, transfers to the Department and vests with the Secretary officers, employees, assets, liabilities, contracts, property, etc., from those agencies and offices.

The House amendment has no comparable

provision in this section. Similar language, in section 501 of both the Senate bill and the House amendment, covers generally such transfers from each Department or agency.

The conference agreement retains the general transfer provision in section 501 of the Senate bill and the House amendment and deletes the Senate provision in Section 3.

Both the Senate bill and the House amendment transfers to the Secretary functions of the HEW Education Division (which includes the Commissioner of Education) and the Assistant Secretary for Education. The House amendment includes the transfer of offices as well as functions. Both the Senate bill and the House amendment transfer HEW advisory committees, and the House amendment permits the Secretary to combine or terminate such committees. The Senate bill specifically transfers functions of the Office of the HEW Secretary relating to functions transferred in this section. The House amendment contains no comparable provision.

The conference agreement transfers to the Secretary all functions of the Assistant Secretary for Education, Commissioner of Education, and the functions of their offices and of the entire HEW Education Division. The agreement specifically transfers HEW education advisory committees in subsection (b) (7), and the reference of the House amendment to combining and abolishing advisory committees is deleted. The agreement also deletes the provision of the Senate bill specifically transferring functions of the Office of the HEW Secretary.

Subsection (a) (2)

The Senate bill and the House amendment transfer to the Secretary functions (offices also in the House) of the HEW Secretary under several specific education authorities.

The conference agreement combines the Senate and House provisions to transfer functions of the HEW Secretary under the education authorities to the Secretary.

Student Loan Programs

The Senate bill transfers from HEW functions relating to the Nursing and Health Professions Student Loan Programs.

The House amendment has no comparable provision.

The Senate recedes.

Surplus Property

The House amendment transfers functions relating to the disposal of surplus property for educational or public health purposes.

The Senate bill has no comparable provision.

The Senate recedes with an amendment limiting the disposal authority to educational purposes (subsection (a) (2) (P)).

Vocational Rehabilitation Programs

Both the Senate bill and the House amendment transfer the vocational rehabilitation programs of HEW to the Department.

The Senate bill specifically transfers all functions of the HEW Commissioner of Rehabilitation and the Director of the National Institute of Handicapped Research.

The House amendment does not treat these functions separately from functions transferred under section 301(a) (4).

The House recedes.

National Institute of Education

The Senate bill specifically transfers all functions of the National Institute of Education.

The House contains no specific provision, but authorizes the transfer in the language transferring generally functions of the HEW Secretary and the HEW Education Division.

The conference agreement deletes the Senate's specific provision.

Head Start

The Senate bill provides that nothing in the Act shall authorize the transfer of the Head Start program from HEW to the Department.

The House amendment contains no comparable provision.

The House recedes (subsection(d)).

Subsections (b) and (c)

The approach of the Senate bill is to transfer functions to the Secretary and to transfer offices to the Department.

The House amendment transfers functions and offices to the Secretary.

The conference agreement adopts the Senate approach. In subsection (b), the substitute transfers to the Department all offices of the Assistant Secretary for Education, HEW Education Division, HEW relating to the functions transferred, HEW offices established under the Rehabilitation Act of 1973 (which would result in transferring the offices listed in section 301(a) (5), (6), (7), (9), and (10) of the Senate bill (exclusive of that portion of the Rehabilitation Services Administration responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act)) the Institute of Museum Services Advisory Council on Education Statistics, Federal Education Data Acquisition Council, and HEW education-related advisory committees. In subsection (c), the conference agreement transfers to the Secretary all functions of the Assistant Secretary for Education (HEW), Commissioner of Education, or the HEW Secretary with respect the HEW Education Division, Office of Assistant Secretary for Education (including National Center for Education Statistics), and HEW education-related advisory committees.

Section 302—Transfers from the Department of Defense

Transfer Authority

The Senate bill transfers to the Secretary all functions of the Secretary of Defense relating to the operation of schools for overseas dependents, and the functions of the Defense Dependents' Education Act of 1978. The Senate bill also specifies that officers, employees, assets, contracts, etc., connected with DOD schools are transferred (similar language is found in Section 501 of both the Senate bill and the House amendment covering all transfers generally).

The House amendment transfers functions and offices vested in the Secretary of Defense by the Defense Dependents' Education Act of 1978.

The conference agreement (subsection (a)) states that all functions of the Secretary or Department of Defense relating to the schools' operation are transferred to the Secretary, including all functions under the Defense Dependents' Education Act of 1978. The agreement does not contain the Senate's language (subsection (a)(1)) with respect to assets, liabilities, contracts, etc., in this section, but contains a general transfer provision in section 501. The conference agreement's inclusion of the Senate language transferring *all* functions of the Secretary of Defense, relating to the school's operation was so intended to cover the transfer of public schools under the Panama Canal Treaty, oversight of public schools on military bases in the continental U.S. (the so-called "Section 6" or "CONUS" schools), and all incidental operations for the overseas schools throughout DOD.

Teacher's Compensation

The Senate bill makes the authority of the Secretary of Defense under the Defense Department Overseas Teachers Pay and Personnel Practices Act available to the Secretary of Education.

The House amendment has no comparably specific provision.

The House recedes (subsection (b)). The managers fully intend that overseas teachers continue to be compensated according to the provisions of the Act, and that the transfer affect in no way any existing contracts or agreements.

Three-year "Phase-in" Plan

Both the Senate bill and the House amendment allow the Secretary flexibility to "phase-in" the dependents schools over a three-year period. Both the Senate bill and the House amendment also require a plan for making the transfer be submitted to Congress within one year.

The Senate bill, however, requires the plan contain recommendations for increasing parent-teacher-student participation, while the House amendment requires the Secretary to consult with parents, teachers, and others in developing the plan.

The Senate recedes with an amendment adding the language of the Senate bill with respect to recommendations for increasing parent-teacher-student participation.

Overseas Institutions of Higher Education

The House amendment denies the Secretary authority to operate overseas institutions of higher education.

The Senate has no comparable provision.

The Senate recedes. The issue of the Panama Canal Zone College arose during the Conference. It is the intention of the conferees that nothing in this Act will be construed to grant authority for the Department of Education to operate that college. If operation of this institution or any other overseas institution of higher education is authorized in any other provision of law, such other provision of law shall be applicable.

Section 303—Transfers From the Department of Labor

The House amendment specifies that the transfer of migrant education programs be made only when the Secretary of Education establishes a single office to administer all migrant education programs.

The Senate bill has no comparable provision.

The Senate recedes.

Section 304—Transfers of Programs From the National Science Foundation

The Senate bill states the programs which are *not* transferred to the Secretary. The House amendment states the programs which *are* transferred to the Secretary.

The Senate bill also requires the Director of the Office of Management and Budget to consult with the Director of the Office of Science Technology and Policy and the Director of the National Science Foundation prior to determining which programs are transferred to the Department. The Senate bill further requires the Secretary to establish advisory mechanisms for the programs transferred to assure continued participation of the science community.

The Senate bill would transfer approximately $24.4 million of NSF science education programs. The House amendment would transfer approximately $27.8 million in programs. Between the two versions, two programs overlap (both the Senate and the House concurring in their transfer): Elementary and Pre-school Science Teacher Training (approx. $3 million budget) and Minority Institutions Science Improvement (approx. $5 million budget).

The conference agreement adopts substantially the language of the Senate bill—with amendments—and authorizes the transfer of the two overlapping programs described above. The substitute deletes the requirement of consultation with the Director of the Office of Management and Budget, and prohibits the transfer of science education programs relating to the conduct of *basic and applied* research and development. The agreement also retains the Senate provision relating to advisory mechanisms.

Section 305—Transfers from the Department of Justice

Both versions are substantially identical. The Senate recedes.

Section 306—Transfers from the Department of Housing and Urban Development

Both versions are substantially identical. The Senate recedes.

Section 307—Effect of transfers

Both versions are substantially identical. The Senate recedes.

TITLE IV—ADMINISTRATIVE PROVISIONS

Section 401—Officers and employees

Section 401(b)(1)

The Senate bill waives the restriction in 5 U.S.C. 5108(a) that a personnel position may be placed in GS-16, 17, or 18 only by action of the Director of the Office of Personnel Management and permits the Secretary to take this action with respect to the number of positions in such grades on February 1, 1979.

The House amendment requires the Director of the Office of Personnel Management to provide for the establishment of the number of positions in such grades on the day before the effective date of the Act in accordance with 5 U.S.C. 5108(a).

The Senate recedes.

Section 401(b)(2)

The Senate bill authorizes the Secretary to establish scientific, technical, and professional positions outside the General Schedule in a number equal to the number performing functions transferred by the Act and waives the requirements of 5 U.S.C. 3104 that such actions be taken by the Director of the Office of Personnel Management.

The House amendment authorizes the same number of positions but requires the Director of the Office of Personnel Management to establish the positions on the request of the Secretary in accordance with 5 U.S.C. 3104.

The Senate recedes.

Section 401(c)

The Senate bill allows the appointment of scientific, technical, or professional employees under grade GS-18, excepted from Civil Service classification and GS pay rate provisions, in a number not to exceed one-third of the total number of employees of the Office of Educational Research and Improvement.

The House amendment provides similar authority for appointment of excepted scientific, technical, and professional employees, but limits the number to 112 positions.

The conference agreement adopts the House language but raises the ceiling on excepted positions to 175. This number reflects the current number of excepted positions designated in positions and functions to be transferred to the Office of Educational Research and Improvement.

Section 401(d)

The Senate bill authorizes 15 limited term appointments to the Senior Executive Service, subject to 5 U.S.C. 3134 which limits the proportion of such appointments which may be of a non-career or limited emergency type.

The House amendment requires that these limited term appointments be counted for purposes of 5 U.S.C. 3134(e) and 5 U.S.C. 5108 which relate to government-wide limits on these types of appointments and on supergrade positions in general, respectively.

The Senate recedes.

Section 401(e)

The Senate bill provides for the continued coverage of applicable Indian preference laws.

The House amendment contains no comparable provision.

The Senate recedes.

Section 402—Experts and consultants

The Senate bill authorizes the Secretary, as provided in appropriation Acts, to obtain services of experts and consultants.

The House amendment provides similar authority but does not contain the condition "as provided in appropriation Acts."

The House recedes.

Section 403—Personnel reduction and annual limitations

Section 403

The Senate bill provides for a procedure whereby Congress sets an end strength for personnel in the Department at the end of each fiscal year. The Department's personnel appropriations would be barred for a fiscal year if an end strength for that year was not authorized by law. The Secretary would be responsible for apportioning the overall end strength among the different offices within the Department, and for reporting staff allocations to Congress within 120 days. The end strength would include all directly- and indirectly-hired, full- and part-time staff. Students and disadvantaged youth and temporary summer employment would be excluded. A first year end strength of 17,239 is authorized.

The House amendment mandates a reduction of 800 full-time permanent positions by the end of the fiscal year beginning after the bill's effective date, and prohibits an increase thereafter. Consultants and experts would count as full-time permanent staff.

The conference agreement adopts the approach of the Senate bill, but requires appropriation Acts to place annual limits on the total number of work-years for the Department. The Secretary shall prescribe the allocation of these work-years among the Department's organizational units and components and, within 120 days after enactment of an appropriation Act containing a work-year limitation, shall report to Congress on such allocation. The Secretary is required to report to Congress at the end of the fiscal year on the compliance with such limitation, including the actual allocation of work-years for the previous fiscal year. The conference agreement provides for the President to include in any reorganization plan transferring functions to the Department, details of adjustments which may be necessary in established work-year limitations.

The conference agreement requires that the number of full-time equivalent personnel positions available for performing functions transferred to the Department be reduced by 500 by the end of the first fiscal year beginning after the effective date of the Act.

The conference agreement provides that computations to be made by Section 403 shall be made on the basis of all personnel including experts and consultants employed under Section 3109 of Title V and all other part-time and full-time personnel, excepting personnel employed under special programs for students and disadvantaged youth (including temporary summer employment). The Director of the Office of Personnel Management also is directed to establish a method for computing work-years for personnel of the Department.

Section 403(d)

The House amendment requires the Director of the Office of Personnel Management to submit a report within one year after the effective date of this Act, assessing the personnel impact of the reorganization.

The Senate bill has no comparable provision.

The Senate recedes.

Section 411—General authority

The Senate bill grants the Secretary the authorities that transferred agencies or offices held before their transfer and further states that the Secretary's actions in using these authorities would have the same force and effect as when exercised by the previous agency or office.

The House amendment contains a provision granting the Secretary similar authorities, but without the "force and effect" language.

The Senate recedes with an amendment that the Secretary's actions will have the force and effect of the previous agency or office.

Section 412—Delegation

The Senate bill authorizes delegation and redelegation of authority and states that delegation does not relieve the Secretary of administrative responsibility.

The House amendment also authorizes delegation and redelegation, but does not contain the statement regarding administrative responsibility.

The House recedes.

Section 413—Reorganization

The Senate bill allows the Secretary to reorganize offices within the Department and prohibits the Secretary from reorganizing offices established by this Act. The Senate bill also contains a specific procedure for reorganizing offices created by statute. It lists offices or units created by statute and prohibits the Secretary from reorganizing those offices unless he or she follows a procedure of providing a 90 days' notice to the Senate Labor and Human Resources Committee and the House Education and Labor Committee, explaining in detail the reorganization plans for the office.

The House amendment grants general authority to the Secretary to reorganize offices and components within the Department but contains a broader authority for the Secretary to reorganize and discontinue other offices and units as he or she "may deem to be necessary or appropriate." The House amendment states that this authority does not extend to the abolition of organizational units or components established by the Act or to the transfer of functions or offices vested by the Act in any organizational unity or component.

The conference agreement grants general authority to the Secretary to effect internal reorganizations of the Department. It specifies that this authority does not extend to the abolition of entities established by this Act or the alteration of the delegation of functions under the Act to any specific organizational entities. In addition, the conference agreement adopts the approach of the special procedure contained in the Senate bill for reorganization of specified statutory entities. It lists such entities and allows the Secretary to alter, consolidate, or discontinue such entities or reallocate functions vested by statute in such entities, not less than 90 days after notification of the appropriate House and Senate committees. In adopting this provision for internal reorganization of organizational entities within the Department, the Committee does not intend to suggest that it is establishing any limitations on the President's reorganization authority under Chapter 9 of Title 5, United States Code.

Section 414—Rules

The Senate bill and the House Amendment authorize the Secretary to prescribe rules and regulations in accordance with the provision of Chapter 5 of Title 5 of the U.S. Code.

The Senate bill also requires the Secretary to make reasonable efforts to alert appropriate officials of local education authorities as to the purpose and content of proposed rules or regulations.

The House amendment does not contain the local education authority notification requirement. The House amendment specifies that Section 431 of the General Education Provisions Act, providing for legislative veto of education regulations, shall apply to the extent applicable immediately prior to the effective date of this Act and to rules and regulations promulgated with respect to programs transferred under Section 301(a)(1), (2), and (4), 302, 303, 304, 305, and 306.

The conference agreement provides general authority for issuance of rules and regulations in accordance with Chapter 5 of Title 5 of the United States Code. In addition, the Senate recedes to the House language regarding preservation of GEPA's existing legislative veto coverage and extension of that provision to specified programs to be transferred to the Department. The conference agreement does not change existing law with regard to the GEPA legislative veto provision's applicability to civil rights activities. Any civil rights activities to which GEPA's legislative veto provision now applies would remain subject to such legislative veto provision. GEPA's legislation veto provision would remain inapplicable to any civil rights activities not now subject to such provision.

Section 415—Contracts

The Senate bill authorizes the Secretary to enter into contracts and similar agreements and specifies that no authority to enter into contracts or to make payments shall be effective except as provided in advance under appropriation Acts. The Senate bill exempts gifts and bequests from the latter requirement.

The House amendment grants the Secretary similar contracting authority and has a similar requirement that such authority be granted in appropriation Acts, but does not exempt gifts and bequests. The House amendment makes the contracting authorities subject to the Federal Property and Administrative Services Act of 1949.

The conference agreement grants general contracting authority and adopts the House language in regard to the Federal Property and Administrative Services Act of 1949. The conference agreement also contains the specification that amounts be provided for in advance under appropriation Acts and adopts the Senate language exempting gifts and bequests from this requirement.

Section 417—Acquisition and maintenance of property

The Senate bill authorizes the Secretary to acquire and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for Department employees and their dependents, and personal property (including patents). The Senate bill also authorizes the Secretary to provide for eating and health and welfare facilities for Department employees. The authority of Section 524 of the Education Amendments of 1976 also is provided to the Secretary. The Senate bill specifies that the authority for acquisition and maintenance of facilities shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

The House amendment contains similar provisions regarding acquisition and maintenance of facilities, but specifies that schools and related facilities may be acquired and maintained only to the extent that operation of schools and related facilities by the Department is authorized by this Act.

The conference agreement adopts the Senate language but adds the House amendment's condition that schools and related facilities may be obtained only to the extent that operation of schools and related facilities by the Department is authorized by the Act.

Section 418—Facilities at remote locations

The Senate bill authorizes the provision for employees and their dependents at remote locations of emergency medical services and supplies; food and other subsistence supplies; dining facilities; audio-visual equipment, accessories, and supplies for recreation and training, reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies; living and working quarters and facilities; and transportation for dependents to educational facilities.

The House amendment contains similar provisions for facilities at remote locations, but adds the requirement that emergency medical services and supplies shall not include any services or supplies for the performance of abortions, except where the life of the mother is endangered if the fetus were carried to term.

The conference agreement generally adopts the language of the House amendment, but does not adopt the provision relating to services and supplies for the performance of abortions. In deleting the House language in regard to abortions, the conferees wish to emphasize the policy of the Federal Government in regard to abortions has been specified in appropriations and other statutes. It is the conference committee's intention that the Department of Education will, in this matter, follow the general policy of the United States as specified in other relevant legislation.

Section 419—Use of facilities

The Senate bill allows Department use of research, equipment, services, and facilities of other governmental entities, and permits the use of property and facilities within the Secretary's custody and control by public and private entities. The Senate provision also specifies in this section that personnel of overseas schools shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense. Another provision of the Senate bill specifies that proceeds from reimbursements shall be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

The House amendment also allows Department use of other entities' facilities and permits use of Department facilities, but adds a restriction prohibiting the Secretary from permitting use of such facilities by any institution of higher education which uses mandatory student fees to pay for the performance of abortions, except where the life of the mother were endangered if the fetus were carried to term. The House amendment contains a provision regarding reimbursements which is similar in purpose to the Senate provision regarding reimbursements, but permits proceeds to be credited to working capital funds. It also provides that any interest in real property acquired pursuant to the Act shall be acquired in the name of the United States Government.

The conference agreement adopts the House language regarding use of facilities by other institutions but deletes the restriction regarding abortions. In deleting the House language in regard to abortions, the conferees wish to emphasize the policy of the Federal Government in regard to abortions has been specified in appropriations and other statutes. It is the conference committee's intention that the Department of Education will, in this matter, follow the general policy of the United States as specified in other, relevant legislation. The conference agreement adopts the Senate language regarding proceeds from reimbursements and the House provision regarding acquisition of real property in the name of the United States Government.

Section 422—Technical advice

The Senate bill authorizes the Secretary to provide advice, counsel, and assistance to applicants and other interested persons. The Senate bill also authorizes the Secretary, upon request, to provide technical assistance to States desiring to develop comprehensive plans applicable to two or more Department programs.

The House amendment contains similar technical advice authority and in addition allows the Secretary to permit the consolidation of applications for grants or contracts as long as the consolidation does not change statutory criteria for approval of applications for funding.

The Senate recedes.

Section 424—Funds transfer

The Senate bill permits the Secretary, when authorized in an appropriation Act in any fiscal year, to transfer funds from one appropriation to another within the Department. The Senate bill places two restrictions on this power: No appropriation may be increased or decreased by more than five percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated.

The House amendment grants the Secretary similar authority, but specifies that no appropriation for any fiscal year may be increased or decreased by more than ten percent. The House amendment does not contain the language regarding increase of appropriations above the amount authorized.

The House recedes.

Section 426—Annual report

The Senate bill requires an annual report to Congress after the end of each fiscal year. The Senate bill requires that the report include a statement of goals, priorities, and plans for the Department consistent with the findings and purposes of the Act; an assessment of the progress made during the fiscal year and anticipated future progress toward attainment of goals, priorities, and plans; effective and efficient management; coordination of Department functions; and reduction of burdensome regulation and of unnecessary duplication and fragmentation in Federal education programs. The Senate bill also requires that the report include data covering changing trends in education and areas of critical concern, budget projections for the next five fiscal years, and recommendations of the Federal Interagency Committee on Education. Another provision of the Senate bill requires that the Secretary consult with the public in preparation of the report and hold public hearings in order to maximize public participation. The Secretary is authorized to reimburse persons for expenses incurred in such consultation or hearings if the person has made or is likely to make a material contribution to the work of the Department and could not otherwise participate fully and effectively.

The House amendment also requires an annual report including a statement of goals, priorities, and plans for the Department, an assessment of progress toward those objectives, the more effective and efficient operation of the Department and coordination of functions. The House amendment also specifies that the report shall include an estimate of non-Federal personnel (including consultants) employed. The House amendment has no provision for public participation in writing the Department's annual report.

The conference agreement adopts the House language but includes from the Senate bill the provision that the report shall include an assessment of progress toward the reduction of excessive or burdensome regulation and of unnecessary duplication and fragmentation in Federal education programs (accompanied where necessary by recommendations for proposed legislation for the achievement of such objectives).

In deleting the Senate's provision for public participation in preparation of the Department's annual report, the conferees do not wish to suggest that public input into Department policy is unimportant. The conferees urge the Secretary to take all practicable steps to encourage appropriate public participation in the Department's operations and to gain the public's views of the Department's projected plans.

Section 427—Relationship to General Education Provisions Act

The Senate bill includes a section dealing with paperwork control in which it amended the General Education Provisions Act to provide that Federal agencies would submit their requests for data collection regarding education programs simultaneously to the OMB Director and to the Secretary for review and coordination. The Amendment reads as follows:

"Each request for collection of information or data acquisition activities shall be submitted to the Director of the Office of Management and Budget by each relevant Federal agency at the same time that it is submitted to the Secretary for review and coordination under this section. Whenever the Director of the Office of Management and Budget exercises his authority under section 3509 of title 44, United States Code, he shall make a decision thereon within the review period provided in subsection (b) and shall furnish such decision to the Secretary and to the Federal Education Data Acquisition Council. The decision of the Director shall control, unless the Secretary, in carrying out the provisions of this section, determines that additional elements in the proposed collection of information and data acquisition activities are excessive in detail, unnecessary, redundant, ineffective, or excessively costly in which case the decision of the Secretary shall control. If the Director does not exercise his authority under such section 3509, within the review period provided in subsection (b), the decision of the Secretary under this section shall control."

The House amendment does not contain such a provision.

The Senate recedes. In deleting the Senate provision, the conferees wish to stress that they are vitally concerned with the paperwork burden created for educators at all levels by Federal surveys, applications, reports and data requests. The conferees strongly feel that the Secretary of Education and the Director of OMB should attempt to develop the procedure outlined in the Senate bill consistent with their current statutory responsibilities. We also call attention to the fact that bills which would have this effect are pending before the Committee on Governmental Affairs in the Senate and the Committee on Government Operations in the House. These Committees are urged to consider promptly this legislation.

Section 428—Authorization of appropriations

The Senate bill contains a general authorization of appropriations to enable the Secretary to administer and manage the Department, beginning in Fiscal Year 1980.

The House amendment contains a similar general authorization of appropriations, but does not specify when such appropriations shall begin.

The House recedes.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Section 501—Transfer and allocation of appropriations and personnel

Section 501(b)

The Senate bill makes transferred positions at Executive Schedule levels I through V subject to the provisions of Section 503, relating to the termination of positions in terminated offices.

The House amendment makes only transferred positions at levels IV and V subject to such provisions.

The Senate recedes.

Section 502—Effect on personnel

The Senate bill protects transferred personnel from separation or reduction in grade and compensation for one year after transfer or one year after the effective date of this Act, whichever is later.

The House amendment protects such personnel for one year after transfer.

The Senate recedes.

Section 503—Agency terminations

Section 503(a)

The Senate bill states that, except as otherwise provided by this Act, an agency, commission, or other body is terminated when all functions are transferred from the agency, commission, or other body to the Department. Section 413(c) of the Senate bill also provides for the termination of the following organizational entities on the effective date of the Act: The Education Division of the Department of Health, Education, and Welfare, including the Office of Education; the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare; the Bureau for the Education and Training of the Handicapped of the Department of Health, Education, and Welfare; and the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare. In addition, the Senate bill specifies that the Office of Dependents' Education of the Department of Defense shall lapse when the President exercises transfer authority.

Section 503 of the House amendment provides for the termination of the following entities upon the transfer of functions pursuant to the Act: The Education Division of the Department of Health, Education, and Welfare (but not the National Institute of Education); the Office of Assistant Secretary for Education of the Department of Health, Education, and Welfare; the Office of Education and the Office of Commissioner of Education of the Department of Health, Education, and Welfare; and the Office of Dependents' Education of the Department of Defense.

The conference agreement provides that the following entities shall terminate upon the effective date of this Act: The Education Division of the Department of Health, Education, and Welfare, including the Office of Education; the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare; and the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare. The conference agreement also provides that the Office of Dependents' Education of the Department of Defense shall terminate whenever the President exercises his authority under Section 302(c).

Section 503(b)

The Senate bill terminates positions at Executive Schedule levels II through V which were located in offices terminated pursuant to this Act.

The House amendment terminates such positions only to levels IV and V.

The Senate recedes.

Section 505—Savings provisions

Section 505(f)

The Senate bill provides that orders and actions made by the Secretary in carrying out transferred functions shall be subject to judicial review in the same manner as if such orders or actions had been made by the agency or office exercising such functions prior to transfer.

The House amendment contains no comparable provision.

The House recedes.

Section 507—Reference

The Senate bill states that reference regarding technical functions to any department, commission, or agency shall be deemed to refer to the Secretary or Department.

The House amendment states such reference would be deemed to refer to the Secretary, other official or component of the Department in which the Act vests such functions.

The conference agreement states that such reference shall be deemed to refer to the Secretary, other official, or component of the Department to which the Act transfers such functions.

Section 508—Amendments

Section 508(a)

The House amendment redesignates the "Secretary of Health, Education, and Welfare" in section 19 of Title 3, United States Code, as the "Secretary of Health and Human Services."

The Senate bill achieves the same result through the redesignation provisions of Section 512.

The Senate recedes.

Section 508(e)(1)

The House amendment amends Section 5315 of Title 5 of the United States Code to substitute four Assistant Secretaries of Health and Human Services for five Assistant Secretaries of Health, Education, and Welfare at level IV of the Executive Schedule.

The Senate bill has no comparable provision.

The Senate recedes.

Section 508(e)(2)

The Senate bill amends Section 5315 of Title 5, United States Code, by adding to the list of positions at Executive Schedule IV the Director of the Office of Civil Rights of the Department of Education.

The House amendment includes the head of the Civil Rights Office as one of its six Assistant Secretaries of Education added to such section.

The Senate recedes.

Section 508(f)

The House amendment adds five undesignated officers to the Department of Education by amending Section 5316 of Title 5, United States Code.

The Senate bill adds two additional officers at level V, the Administrator of Education for Overseas Dependents and one additional undesignated officer.

The conference agreement adds the Administrator of Education for Overseas Dependents and four undesignated officers to Section 5316.

Section 508(g)

The House amendment amends subchapter II of Chapter 53 of Title 5, United States Code, by substituting "Health and Human Services" for "Health, Education, and Welfare" throughout.

The Senate bill achieves the same result through the redesignation provisions of Section 512.

The Senate recedes.

Section 508(h)(1)

The Senate bill provides for consultation between the Secretary of Labor and the Secretaries of Health and Human Services and Education on services of a health and human services or education character, respectively.

The House amendment is similar, except that there is no House provision comparable to the last sentence of the Senate provision, which requires approval by the Secretary of Education of arrangements by the Department of Labor for education and training.

The Senate recedes.

Section 508(h) (2), (4), and (5)

The House amendment amends the Comprehensive Employment and Training Act to substitute both the Secretaries of Education and Health and Human Services for the Secretary of Health, Education, and Welfare.

The Senate bill has no comparable provision.

The Senate recedes.

Section 508(h)(6)

The House amendment requires the Secretary of Labor to consult with the Secretary of Education in making discretionary grants under the Youth Employment Training Programs of CETA.

There is no comparable Senate provision.

The Senate recedes.

Section 508(h)(7)

The House amendment adds the Secretary of Education to the National Commission for Employment Policy.

The Senate has no comparable provision.

The Senate recedes.

Section 508(i)

The Senate bill amends the Alcohol and Drug Abuse Education Act to make personnel of the Departments of Health and Human Services *and* Education available to render technical assistance.

The House amendment substitutes "Health and Human Services" for "Health, Education, and Welfare" and does not make Education personnel available to render technical assistance.

The House recedes.

Section 508(j)(1)

The Senate bill amends Section 1410(a)(1) of the Defense Dependents' Education Act of 1978 to make the composition of local school advisory committees "an equal number of representatives of professional employee organizations, school administrators, and representatives of organizations of parents of dependents enrolled in the school" in place of "an equal number of representatives of sponsors of students enrolled in the school."

The House amendment contains no comparable provision.

The House recedes with an amendment replacing "representatives of sponsors" with "parents."

Section 508(j)(2)

The Senate bill amends Section 1410(b) of the Defense Dependents' Education Act to make the Secretary of Education, after consultation with the Secretary of Defense, responsible for rules governing elections to the local school advisory committees.

The House amendment has no comparable provision.

The House recedes.

Section 508(j)(4)

The Senate bill makes the Administrator of Education for Overseas Dependents the chairman of the Advisory Council on Dependents' Education.

The House amendment adds the Department of Education Dependents' Education Officer as co-chairman of such Council.

The conference agreement adopts the House provision but conforms the title of the officer to "Administrator of Education for Overseas Dependents."

Section 508(j)(5)

The Senate bill changes the composition of the Advisory Council to include "representatives of organizations of parents of dependents" in place of "sponsors of students." The Senate bill also eliminates Advisory Council representatives of the Commissioner of Education, the National Institute of Education, the National Science Foundation, and the National Endowment for the Arts, and adds representatives of the Secretary of Education and the Secretary of Defense.

The House amendment contains no provision regarding representatives of dependents' parents on the Council. The House amendment eliminates representatives of the Commissioner of Education and the National Institute of Education, and adds a representative of the Secretary of Education.

The conference agreement provides for representation by "parents of dependents" on the Council. It also eliminates Advisory Council representatives of the Commissioner of Education, the National Institute of Education, the National Science Foundation, the National Endowment for the Arts, and of the Secretaries of the military departments and adds representatives of the Secretary of Education and the Secretary of Defense.

Section 508(j)(6)

The Senate bill changes the terms of office and the staggered term provisions of Council membership.

The House amendment has no comparable provision.

The conference agreement deletes the Senate amendment but makes the Secretary of Education responsible for determining the Council's staggered term provisions.

Section 508(j)(7)

The Senate bill provides for the Council to make recommendations concerning the gradual transfer of the dependents' school system and lists three specific areas for recommendations by the Council.

The House amendment contains a similar provision regarding recommendations on transfer, but does not specify areas for recommendations.

The Senate recedes.

Section 508(k)

The Senate bill amends the Elementary and Secondary Education Act of 1965 to require the Secretary of Health and Human Services to transmit data relating to allocation of funds under title I of ESEA to the Secretary of Education by February 1 of each year.

The House amendment makes the reporting date January 1 of each year.

The Senate recedes.

Section 508(l)

The House amendment amends the Environmental Education Act of 1978, the Vocational Education Act of 1963, and the Higher Education Act of 1965 to abolish four supergrade positions that were established outside the supergrade pool by those Acts, while retaining grandfather rights for incumbents of those positions.

The Senate bill has no comparable position.

The Senate recedes.

Section 510—Coordination of programs affecting handicapped individuals

The Senate bill directs the establishment of a unit within the Department of Health and Human Services to coordinate programs for the handicapped within that Department.

The House has no comparable provision.

The House recedes with an amendment which deletes the requirement that a unit be established to effect such coordination.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Section 601—Effective date

The Senate bill and the House amendment are substantially similar, except that the House amendment makes October 1, 1979, the earliest possible effective date in order to comply with the Congressional Budget Act.

The Senate recedes.

Section 602—Interim appointments

The Senate bill and the House amendment are substantially similar, except that the Senate bill limits interim appointments to 120 days or the date on which the office is filled by a permanent appointee, whichever is earlier.

The House amendment permits interim appointments until the date on which the office is filled by a permanent appointee.

The House recedes.

Jack Brooks,
Don Fuqua,
Dante B. Fascell,
Fernand J. St Germain,
Elliott H. Levitas,
Frank Horton,
Managers on the Part of the House.

Abe Ribicoff,
John Glenn,
Carl Levin,
C. H. Percy,
Jacob K. Javits,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF H.R. 2795, INTERNATIONAL TRAVEL ACT AUTHORIZATION

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 318 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 318

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2795) to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

☐ 1020

The SPEAKER. The gentleman from California (Mr. Beilenson) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield 30 minutes to the gentleman from Maryland (Mr. Bauman) for the purpose of debate, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 318 provides for the consideration of H.R. 2795, the International Travel Act authorization for fiscal year 1980.

This is an open rule providing for 1 hour of general debate to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Interstate and Foreign Commerce. The rule allows any germane amendment to be offered to the bill when it is read for amendment under the 5-minute rule.

Mr. Speaker, H.R. 2795 would authorize $8 million for fiscal year 1980 to the Secretary of Commerce for programs administered by the U.S. Travel Service. The authorization is $5.5 million less than the fiscal year 1979 appropriation. In addition the bill requires the Secretary of Commerce to reduce the number of employees of the U.S. Travel Service in its Washington office by 60 percent.

Mr. Speaker, I know of no controversy on this rule. The bill represents a reasonable approach to continuing the activities of the Travel Service in promoting international travel in our country while the Congress is reviewing our tourism policy.

Mr. Speaker, I urge the adoption of House Resolution 318 in order that we may discuss and debate H.R. 2795.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, congratulations are in order for the Committee on Interstate and Foreign Commerce for reporting a bill not in need of waivers to allow for its consideration on the floor of the

House. It is on very rare occasions that we consider an open rule without waivers.

The primary purpose of H.R. 2795 is to authorize $8 million for programs administered by the U.S. Travel Service in fiscal year 1980. This authorization level represents a decrease from the $30 million authorized for each of the fiscal years 1978 and 1979. In addition to providing authorizations, this bill mandates a reduction in the number of U.S. Travel Service employees by September 1, 1979. This could be a very healthy trend if other committees of this body would follow suit by reducing the bloated authorizations and oversized staffs of programs falling within their respective jurisdictions.

Mr. Speaker, I know of no opposition to the rule and have no requests for time.

Mr. BEILENSON. Mr. Speaker, I appreciate the remarks of the gentleman from Maryland.

I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 3642, EMERGENCY MEDICAL SERVICES REAUTHORIZATIONS

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 331 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 331

Resolved, That upon the adoption of this resolution it shall be in order to move, section 401(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3642) to extend for three fiscal years the programs under section 789 and title XII of the Public Health Service Act relating to emergency medical services and to authorize assistance for poison control and assistance centers, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 3642, the House shall proceed, section 401(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, to the consideration of the bill S. 497, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 3642 as passed by the House.

The SPEAKER. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only I yield the customary 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 331 provides for the consideration of H.R. 3642, the Emergency Medical Services Reauthorization Act. The resolution allows 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce. This is an open rule allowing any germane amendment under the 5-minute rule.

At the conclusion of the consideration of the bill for amendment, the previous question will be considered as ordered without intervening motion except one motion to recommit.

After passage of H.R. 3642, the rule permits the House to take up consideration of S. 497, the Senate companion bill, striking all after the enacting clause of the Senate bill and inserting in lieu thereof the provisions of H.R. 3642 as passed by the House.

The rule also waives points of order against both H.R. 3642 and S. 497 under section 401(a) of the Budget Act. Section 401(a) states that it shall not be in order for the House to take up any bill providing new contract authority unless the bill also limits that authority to the amounts contained in appropriations acts. Since section 2(e) of H.R. 3642 authorizes the Secretary of Health, Education, and Welfare to enter into new contracts in establishing poison control centers, without limiting the availability of such contract authority, the bill would be subject to a point of order under section 401(a) of the Budget Act.

However, the Committee on Interstate and Foreign Commerce has agreed to offer a floor amendment making the contract authority contained in the bill subject to the appropriations process, thus rectifying the Budget Act violation. Under this condition, the waiver provided by House Resolution 331 is merely technical, and is supported by the House Budget Committee.

Unlimited contract authority is also provided by section 201 of S. 497, making the Senate bill subject to the same point of order. A waiver is contained in the rule, because the substitution of H.R. 3642 as amended will cure this violation as well.

Mr. Speaker, H.R. 3642 would extend authority for emergency medical services programs under section 789 and title XII of the Public Health Service Act for 3 additional years. The bill authorizes $69 million annually for these programs. Also, this legislation provides for a new program of poison control information and treatment centers at the following levels of funding: Fiscal year 1980, $10 million; fiscal year 1981, $8 million; fiscal year 1982, $6 million.

Mr. Speaker, I support this bill and urge my colleagues to begin its consideration by adopting House Resolution 331.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 1 hour of general debate for the consideration of H.R. 3642, which extends assistance for emergency medical services systems. Under this rule, the bill will be open for all germane amendments.

There are two Budget Act waivers in this rule. First, this rule waives points of order against the bill for failure to comply with section 401(a) of the Budget Act. This section prohibits consideration of a bill containing contract authority which is not subject to the appropriation process. Section 2(e) of the bill provides contract authority to assist in establishing poison control information and treatment centers. Based on his understanding that this violation will be corrected by floor amendment the chairman of the Budget Committee did not object to this waiver.

The rule also makes it in order, after passage of the House bill, to take up the Senate bill and insert the House-passed language in the Senate bill. The section 401(a) Budget Act waiver that was required for the House bill, is also required to allow consideration of the Senate bill. Since the violation will be corrected when the House-passed language is inserted in the Senate bill, the Chairman of the Budget Committee has also written that he has no objection to this waiver.

Mr. Speaker, the bill made in order by this rule is more controversial than the rule. The purpose of H.R. 3642 is to extend authorizations for emergency medical services systems and emergency medical services training. The bill authorizes $79 million for fiscal year 1980, $77 million for fiscal year 1981, and $75 million for fiscal year 1982.

Mr. Speaker, there are minority views in the report on this bill signed by three Members objecting to the excessive authorization levels in this bill. They note that President Carter has proposed a 3-year phaseout of this program and requested only $39.625 million for fiscal year 1980. Yet this bill authorizes $79 million for fiscal year 1980, according to the committee report.

Mr. Speaker, I yield 1 minute to the gentleman from Idaho (Mr. HANSEN).

(By unanimous consent, Mr. HANSEN was allowed to speak out of order.)

STATEMENT OF CONGRESSMAN GEORGE HANSEN REGARDING THE DEFEAT OF THE PANAMA TREATY IMPLEMENTING LEGISLATION

Mr. HANSEN. Mr. Speaker, the American people achieved a great victory Thursday when the House defeated legislation to implement the dangerous and expensive Panama Canal treaties.

The triumph in the House of Representatives, which is the voice of the people, is particularly significant because it drives home their feelings on matters of grave concern.

The Panama treaties have been most objectionable to Americans because they represent a spirit of apology and retreat, a scandalous assault on U.S. taxpayers, a reckless defense move in the face of Soviet and Cuba aggression, and the risking of key American oil sources.

This declaration by Congress against the arrogance of the U.S. State Department and the Panamanian Government should serve as a lesson that you ignore the people of this Nation of your own peril.

I am gratified that people across the country remained alert and that a majority of my colleagues in the final showdown stood with them in this critical issue.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HOWARD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 345, nays 1, not voting 88, as follows:

[Roll No. 498]

YEAS—345

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, John
Byron
Campbell
Carney
Carr
Cavanaugh
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Fuqua
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
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Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
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Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
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McClory
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Martin
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Mattox
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Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
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Mitchell, N.Y.
Moakley
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Mollohan
Montgomery
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Moorhead, Calif.
Moorhead, Pa.
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Murphy, Pa.
Murtha
Myers, Ind.
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Shannon
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Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
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Thompson
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Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—1

McDonald

NOT VOTING—88

Addabbo
Anderson, Ill.
Ashbrook
AuCoin
Badham
Breaux
Brown, Ohio
Broyhill
Burton, Phillip
Butler
Carter
Chappell
Chisholm
Clay
Collins, Ill.
Conyers
Cotter
Coughlin
Crane, Philip
Daschle
de la Garza
Deckard
Dellums
Diggs
Dodd
Dougherty
Downey
Duncan, Oreg.
Early
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Evans, Del.
Fazio
Flood
Foley
Ford, Mich.
Fountain
Garcia
Gaydos
Giaimo
Gibbons
Hall, Tex.
Hanley
Hightower
Holland
Jacobs
Jenkins
Johnson, Colo.
Kogovsek
Leath, Tex.
Lewis
McEwen
Marriott
Mathis
Mitchell, Md.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nelson
Nolan
Oakar
Pashayan
Pepper
Pickle
Pursell
Rangel
Richmond
Rodino
Rose
Rousselot
Runnels
Santini
Sebelius
Seiberling
Stanton
Stark
Stenholm
Symms
Taylor
Treen
Ullman
Wampler
Williams, Ohio
Winn
Wolpe
Wydler
Zeferetti

□ 1030

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 404, CONTINUING APPROPRIATIONS, 1980

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 419 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 419

Resolved, That upon the adoption of this resolution it shall be in order, clause 2(l)(6) of rule XI to the contrary notwithstanding, to consider the joint resolution (H.J. Res. 404) making continuing appropriations for the fiscal year 1980, and for other purposes, in the House as in the Committee of the Whole. No amendment to and no motion to recommit said joint resolution to restrict the use of funds for abortions or abortion-related services shall be in order except an amendment in the following form applying the provisions of section 210 of Public Law 95-480 to activities by the Department of Health, Education, and Welfare: "None of the funds provided for in this bill, for such amounts as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriation Act, 1980 (H.R. 4389), shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy." and said amendment shall not be subject to amendment but may be debated by the offering of pro forma amendments. No amendment to and no motion to recommit said joint resolution pertaining to the authority of or continuation of projects or activities of the Federal Trade Commission in fiscal year 1980 shall be in order.

□ 1040

The SPEAKER. The gentleman from Massachusetts (Mr. Moakley) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes for the purpose of debate to the gentleman from Ohio (Mr. Latta), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 419 is a rule providing for the consideration of House Joint Resolution 404, making continuing appropriations for fiscal year 1980. This is a modified open rule which provides one waiver.

The waiver is of clause (2)(l)(6) of rule XI, which is the 3-day layover rule. There are few Members of this body who are not already quite familiar with the contents of this appropriation, and in view of the pressing need to have it passed, the Rules Committee felt that its consideration should be expedited as much as possible. The rule is a modified open rule, but it is modified in two instances only—on the issues of abortion and the Federal Trade Commission.

With respect to abortion, only one amendment is in order—an amendment to insert the abortion language that is currently in the law, rather than the more restrictive language that is presently in the bill. With respect to the FTC, no amendments are in order because the funding for the FTC was contained in a separate appropriation that passed the House yesterday.

In every other instance—including the issue of a pay raise for Members of Congress and other executive-level Government employees—the rule is open to any and all germane amendments. The continuing appropriation as it is presently written provides a pay raise limited to 5.5 percent, rather than 7 percent, and that provision is open to further amendment.

Mr. Speaker, I strongly support this rule. It is a fair rule that will allow the outstanding issues to be resolved so that we may pass this important appropriation and get on with the business of the House. I urge the support of all my colleagues for this rule.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, need I remind the House that this resolution provides for another continuing appropriation resolution? The rule provides that the continuing resolution be considered in the House as in the Committee of the Whole. This means there will be no general debate. The matter will be considered under the 5-minute rule. The continuing resolution will be considered as having been read for amendment and will be open for amendment and debate under the 5-minute rule.

Unlike the last rule, this rule provides no restrictions on amendments on the subject of compensation for some 22,000 officials in the legislative, executive, and judicial branches of Government.

The continuing resolution reduces—and I stress that "reduces"—a 12.9-percent increase now authorized by law to 5.5 percent, which itself is subject to amendment.

Mr. Speaker, the gentleman from Massachusetts has covered the other two matters in this rule, but I would like to point out that there is more to this joint resolution than the matter of compensation. This is a continuing appropriation resolution, which must pass in one form or another, or this Government will come to a screeching halt. Since only 3 of the 13 appropriation bills are likely to be signed into law before the beginning of the fiscal year, supplemental funds are needed to cover the departments and agencies of our Government under these 10 appropriations bills.

I would just like to read them to the Members. This is what is involved in the continuing appropriation resolution over and above the matter dealing with compensation:

Appropriations for Agriculture; Defense; the District of Columbia; foreign assistance; Interior; Labor-HEW; the legislative; military construction; transportation; and Treasury and Postal Service are all covered by this supplemental appropriation bill.

So, notwithstanding what the House might do on this matter of compensation, some legislation dealing with these appropriations must pass this Congress. So if we keep this in mind, maybe before the day is out we can conclude consideration on this appropriation matter.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, this rule does indeed make in order the continuing resolution which covers, as the gentleman from Ohio has indicated, a great many areas of the Government's operation. As we well know, since we have been voting on the pay raise daily now for most of the week—and I assume we will keep voting until we get it right—this also covers the legislative department, the House and the other body.

In that vein, and with the understanding that we do have to have some money to continue Congress operations, I was reading this morning's Washington Post in which once again evidence of the superior organization of the Democratic Party, as opposed to our feeble efforts on this side of the aisle, was shown.

As the Members may remember, a President of recent memory, a gentleman by the name of Nixon, allegedly kept a yellow pad in his desk with the names of people on his hit list. Having been a lawyer, perhaps a yellow legal pad appealed to him. But President Carter has shown the superior Democratic organization by having a computerized hit list in his desk of those Members of this House for whom he intends political extinction.

My suggestion is that, since we are considering the legislative appropriations in this continuing resolution, the House Administration Committee should seriously consider tying in the House computer system directly to President Carter's hit list computer so that he may instantaneously on any given day know who his enemies are in the House and who are his friends. Perhaps we can start that system immediately. It will make his life much easier and Mrs. Carter's travel arrangements much easier.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, could the gentleman inform us how we might get our name on the list?

Mr. BAUMAN. I publicly want to invite the President to come to my district and speak against me. It would certainly be a big help.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, I want to be sure that I understood the explanation of this rule.

Do we go directly to the 5-minute rule?

Mr. BAUMAN. That is correct.

Mr. DERWINSKI. So that those of us who have an objective, progressive attitude toward pay adjustments will not be muzzled, we will have a chance to make our point, as well.

And then may I say to the gentleman that, as a progressive, occasional Republican supporter of the President, I think Presidents ought to keep attuned to what goes on in the Congress, especially when we make mistakes.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to my friend, the gentleman from California.

Mr. JOHN L. BURTON. Mr. Speaker, I would say to my distinguished friend that he can cancel the reservations that my wife had to speak in his district after those remarks.

Mr. BAUMAN. Mr. Speaker, I hope the gentleman will revise and extend his remarks extensively.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. CONTE).

□ 1050

Mr. CONTE. Mr. Speaker, I support the rule on the House Joint Resolution 404, which contains appropriations for various departments and agencies of the Federal Government through December 31, 1979.

This will be the third time in 3 days that we have voted on a continuing resolution and particularly on the question of pay raises for the upper level Federal employees.

There is very little left to be said, either on the joint resolution or on the pay issue.

On Wednesday of this week, I spoke to the Members of the mechanics of the continuing resolution and the departments and agencies covered, and the funding levels for those departments and agencies.

I will not repeat that statement here today. Yet there is one issue that seems to have gotten lost in this controversy over the pay raise in the past few days.

Two appropriation bills, totaling $79 billion in budget authority as passed or reported to the House, have good prospects of enactment.

Eleven appropriation bills, totaling $271 billion in budget authority, as passed or reported by the House, may not be enacted by the beginning of the fiscal year.

These 11 bills include Labor, HEW, $73 billion; Defense, $129 billion; Agriculture, $16 billion; energy and water, $10 billion; Interior, $10 billion; Transportation, $9 billion; Treasury, Post Office, and executive branch, $8 billion; military construction, $3 billion.

If we cannot pass a continuing resolution, the programs funded under these bills will stop.

The Members who oppose a pay raise have made their case to the public on how they feel about the pay raise. Whether they like it or not, they owe it to this country, to the aged and sick and the weak, to the educational programs, to the defense of our Nation, to transportation programs, and so forth, to pass this continuing resolution.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. Peyser).

Mr. PEYSER. Mr. Speaker, and my colleagues, as we know, over the last several days, we have, as my good friend from Massachusetts (Mr. Conte), has so quietly put it, struggled over the pay raise problem in connection with the vital problem of passing this continuing resolution.

I am going to offer an amendment during the amendment period on the bill that hopefully will resolve this problem for many of our Members.

I think the amendment is going to be very clear. I recognize there are many Members on both sides who morally feel that they should not accept a pay raise. I think that that is a very important thing and something that should be respected by all of us.

Therefore, the amendment that I am going to be offering is going to state that anyone, notwithstanding any other provision of the resolution, no part of the funds appropriated by this act or any act for fiscal year 1980 shall be available to the salary of any Member at a rate which exceeds the salary rate payable for September 30, 1978, if at any time in the consideration of this resolution that Member voted in a recorded vote for an amendment that has the effect of limiting the amount of money payable to a Member back to the rate of 1978, September 30.

In other words, if the Members wish to vote for my amendment, they will be saying that, if the pay raise should pass, that they have declined personally receiving that pay raise. I think it is an opportunity that clears the record for everybody in a moral sense that is objecting to this pay raise, because the Members can vote for my amendment; and if the pay raise should pass, they will not be encumbered with having to receive it.

I think that this will perhaps let this bill move through rapidly without delay, and I think everyone will be satisfied with what they get.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, at this time I yield 10 minutes to the chairman of the Appropriations Committee, the gentleman from Mississippi (Mr. Whitten).

Mr. WHITTEN. Mr. Speaker, inflation is our worst problem and we cannot continue to feed it by automatically increasing salaries and other programs in order to keep up with inflation even though the law requires it. It is like trying to put out a fire with gasoline.

For this reason, I am recommending that the executive pay increases of 12.9 percent that senior Federal officials and Members of Congress would automatically receive be decreased to 5.5 percent. This is less than half the amount senior Federal officials and Members of Congress are entitled to receive because of previous laws and, most importantly, less than half the rate of inflation.

Unfortunately, laws have been enacted in the past which create legal entitlements for some 58 percent of Federal programs. These programs are tied to the rate of inflation—much like many labor contracts. In a time of inflation, this only causes greater problems.

I believe Congress should set an example and therefore I believe the decrease in pay from 12.9 to 5.5 percent is appropriate. If all sectors of our country—government, labor, and industry—would take this step, I believe that over a period of time it would greatly contribute to slowing down and eventually stopping further inflation.

The limitation of 5.5 percent represents a significantly sharp decrease and amounts to only about one-fourth to one-third of the actual rate of inflation during this period. It is hoped that this example will be followed by other parts of the Federal Government, private industry, and State and local government. Unless we slow down, we face disastrous inflation which has wrecked the economy of the other nations

Mr. Speaker, I am going to ask my colleagues to please read in House Joint Resolution 404, the continuing resolution, on page 5, the middle paragraph, beginning on line 10, maybe not at the moment, because I shall explain it here.

As all of the Members know, through their good graces and with the retirement of my good friend, the gentleman from Texas, George Mahon, I succeeded as chairman of the Committee on Appropriations.

Realizing the dangerous situation that we faced, I had a study made.

That study shows that 58 and a fraction percent of the laws on the statute books provide for built-in escalation of the programs covered. That is, as the cost of living or inflation proceeds, the amount in the law goes up with it.

Unfortunately, in my opinion, high-level Federal employees are included, as well as retired Members of Congress.

Might I say that my fears for inflation are well founded, because that study shows that since 1967, the dollar has lost 50 percent of its purchasing power. Each day we read where the world is more and more afraid of the dollar.

Members who retired previously have received, because of this escalated clause since 1967, by simple arithmetic, a 94.7 percent increase in his retirement. Compounded, he has received 124.4 percent in increases under that built-in escalator clause.

Now, those Members—and I want the Members to listen to me—it could be said that those Members who have been voting against a 7-percent or 5.5-percent limitation in pay have been voting for a 12.9-percent increase on all these high-level employees in Government, except those on Capitol Hill. This is because in the absence of a general Government-wide restriction the entitlement of 12.9 percent is the only provision governing the actual amount of pay.

On Capitol Hill, because we turned down the legislative bill from which ours and others' pay comes, we will have an entitlement, but no money.

What I am afraid of—and I want the Members to listen to me on this—I am saying to the Members, when the dollar goes down 50 percent since 1967, we are in dangerous times.

On this budget, and we are all for it, balancing means balanced; we cannot pay an easy, cheap dollar back with a hard-to-get dollar. Income and outgo must balance; neither can it go down sharply without affecting the other.

I want to tell my colleagues our committee has recommended and the Members have adopted 11 bills, which in total are below the President's budget, notwithstanding all of these factors.

So we have tried. The first bill we had we recaptured $723 billion that had been appropriated before.

□ 1100

Not only am I afraid of inflation, but I am afraid we will create a disastrous situation by just trying to reduce—we have got to keep income up—so some balance is required.

I realize we cannot cut back too quickly. I say to my good friends on the Budget Committee, and they did a whale of a good job, I say to them, and to you, and to everybody else, we have got to go careful on this thing because we face a balancing situation. If we make the dollar hard to get we cannot pay it back, so we crash. If we do not stop spending we crash. But keep in mind that it is a two-edged sword.

I want the Members to know that this proposition before you is whether the high-level employees and all of the departments get 12.9 percent in cash and you get a right of action, or whether you scale them all back to 5.5.

May I say that one of the national networks called me this morning at 7:15 and wanted 2 minutes of taped statement about what this is about, about this salary raise. I said, well, that is what most people say, a salary raise. Actually it is an effort to hold down a salary increase that is automatic under the law to 5.5 percent in an effort to phase it out.

I went into these other matters. When I got through he said, "I agree with you." That was from one of the national networks. He said, "Do you hope to pass it?" I said I did not know, but I have felt that it would have passed all along if the Membership had understood that we were voting, when we voted "no" on the efforts to cut back, we were voting "yes" on paying the 12.9 to all high-level employees, because it is automatic and the appropriation bills have been passed that provide for it.

I want to tell my colleagues what the facts are. Those are the facts. You could not be a bit more afraid of inflation than I am.

But do not make the mistake here of knowingly voting for a 12.9-percent increase in cash to everybody in Government except Capitol Hill. Here again you would have a right of action, but no money.

So I want to just take this time to explain what is involved here, and I would hope instead of amendments being offered to put anybody on the spot, or to take anybody off the spot, I wish we could vote on the provisions in this, yes or no, and if you understand it I think you will vote to support this provision because it will be a step toward repealing or scaling back this built-in escalating clause that is in 58 percent of our laws.

I say we as a Congress are going to have to tangle with that along the line if we are going to level off and save our country.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the distinguished majority leader, the gentleman from Texas (Mr. Wright).

Mr. WRIGHT. Mr. Speaker, I think every Member can vote for this resolution. There is no reason for any Member to oppose this rule. It establishes an entirely open rule which permits the House to work its will, whatever it may be, on the subject of legislative and administrative pay scales. With rare exceptions, the same applies to the other subjects involved in the continuing resolution. Surely nobody can quarrel with that. It is a democratic procedure.

I shall not attempt to inflict upon my colleagues any opinion with respect to the question of a pay raise for Members of Congress or for those who have been at equivalent pay grades in the administrative branch of Government. Members may do whatever they wish about that.

But that is the point of this rule. It gives the membership that opportunity. If the Members of the House should decide they do not want any pay raise for anybody, they have that opportunity, too.

What I want to impress upon the Members is the necessity of adopting the continuing resolution. There are three matters which absolutely must be adopted before October 1 or this Government begins to falter. Let us not fall by the weight of our intransigence.

One of those that must be adopted by that date is this continuing resolution. Another is the question of the debt limit. The third is the need for implementing legislation to permit the United States to continue to exercise an influence and protect the rights and interests of the United States in the operation of the Panama Canal.

Unless those three are passed, I think this House has an obligation to the people of the United States to forgo the home district work period scheduled for the early part of October and to remain on the job until we have done those three things that are so essential to the orderly continuance of this Government.

So I urge the Members to vote for this rule, and when this continuing resolution comes before us and the Members have worked their will, whatever it may be, to support the continuing resolution. I urge them then to support the extension of the debt limit, and finally to support the implementing legislation that permits the United States to have a continuing hand until the year 2000 in the operation of the Panama Canal. Until those things are done, we give a poor account of ourselves.

I have greater faith in the Members of this House than to believe that we will go home having failed in our duty to the Nation and to the people who sent us here to be their stewards.

Mr. LATTA. Mr. Speaker, I yield myself 2 minutes.

I was not going to take this time until I listened to my good friend from Texas. Let me say that I join with him in urging the House to adopt this rule and adopt it very quickly.

I do not know of a fairer rule that could be reported out by the Rules Committee for all sides than this rule we now have under consideration, because it is a completely open rule on the subject of compensation. Whether you are for or against a pay raise, this is taken care of. There is no use, as we have done many, many times in the past in this House, in wasting valuable time of this House in having a rollcall on a rule that is open to everybody. I think it is high time we stopped wasting time and we get on with the business of the House.

There are two other things that the distinguished majority leader mentioned about the work of this House. We could expedite it as far as the budget is concerned by reducing the budget that was rejected by the House, and we could also take care of that debt limit by taking out the Gephardt amendment that I am sure caused a lot of controversy. We could reduce the amount, and we could pass it very rapidly.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, a member of the staff just informed me that if this rule is adopted today, and I have no objection to the rule, that we may not take up the continuing resolution and consider it today. Is that true?

The SPEAKER. I would respond to the gentleman that the answer is in the affirmative. The continuing resolution will be brought up on Tuesday.

Mr. BAUMAN. On Tuesday?

The SPEAKER. Yes. We will go right into Mr. Bingham's resolution and I hope we can complete it today.

Mr. BAUMAN. If the gentleman will yield further, if we are not going to bring up the continuing resolution, then what is all of this talk about the rush to pass all of these things?

Mr. LATTA. Let me say to the gentleman that that is news to me.

Mr. BAUMAN. I think the House ought to at least know what is going on, it seems to me.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Before the Chair recognizes the gentleman from New York (Mr. Bingham) I would say I hope the Members appreciate that the House will adjourn at 1 o'clock today, in view of the fact that beginning at 5 o'clock it is a religious holiday for some people and some Members. In order to give them an opportunity to get to their homes, the House will adjourn at 1 o'clock.

☐ 1110

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. Bingham).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 4034, with Mr. Yates, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, September 18, 1979, the Clerk had read through line 24 on page 49.

Are there further amendments to section 113?

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, once again I appeal to the Members to be cooperative. It is essential that we finish this bill by 1 o'clock today. Otherwise, we are going to get completely shunted aside next week by the obvious problems that face us. I can assure Members that as manager of the bill I will be as conciliatory as possible in accepting amendments that I may not be too happy with, but that I think we can work out in conference.

I have already worked out one such arrangement with Mr. Dornan, and I think I can work out such an arrangement with Mr. Miller. We will have the Dannemeyer amendment which deserves discussion, but in view of the fact that I think the outcome of that amendment is perfectly clear and the gentleman cannot prevail with that amendment, I think that after an initial speech of 5 minutes in favor and an opposing speech by, presumably, Mr. McKinney in opposition, there should be a limitation of time of 10 or 15 minutes in which Members can get permission to revise and extend their remarks and get on the record in opposition to or in favor of that amendment.

There is the amendment to be offered by Mr. Pryor, with a substitute to be offered by Mr. Dornan. That may take about a half hour in toto. I think we can finish this, but it will take a maximum of cooperation from the Members. I would urge the Members, please, unless it is absolutely necessary, not to seek record votes. If we can keep the Members on the floor and proceed by voting by division, I think we can conclude.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. DORNAN: Page 49, line 13, insert "(1)" after "(b)".

Page 49, insert the following after line 20:

"(2) Any person who is issued a validated license under this act for the export of any good or technology to a controlled country and who, with knowledge that such a good or technology is being used by such controlled country for military or intelligence-gathering purposes willfully fails to report such use to the Secretary of Defense, shall be fined the sum equal to the amount of gross profit accrued from the sale of the item or $100,000, whichever is greater, or imprisoned for not more than 5 years, or both. For purposes of this paragraph, "controlled country" means any "Communist country" as defined in section 620(f) of the "Foreign Assistance Act of 1961."

Page 49, line 20, strike out the closed quotation marks and final period.

Mr. DORNAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. KINDNESS. Mr. Chairman, reserving the right to object, could we know the subject matter of the amendment before it is agreed to?

Mr. DORNAN. Mr. Chairman, I did not take into consideration the fact that it has been 3 days since we have considered this. The amendment is not that long, and it does involve a slight change, and the Chairman has graciously accepted it. So, I will go ahead and ask the Clerk to read the amendment.

Mr. KINDNESS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. The Clerk will read the amendment.

The Clerk concluded the reading of the amendment.

Mr. DORNAN. Mr. Chairman, in the interest of time and also in an attempt to be conciliatory, because the Chairman has been so gracious in this, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DORNAN. Mr. Chairman, I would like to point out to the Chairman that the amendment I had at the desk until a few minutes ago was the one we agreed on yesterday. However, I want to ask if the gentleman could accept one further change. If not, we will engage in a colloquy on it to put in the language.

The gentleman originally had in the penalties section of his bill the figure of $100,000. That is added to what we agreed to yesterday. I accepted the word "willfully" and the reduction of sentences for violation of the provision from 10 years to 5 years in the penalty. But we had neglected to see that we had left out at least a minimum fine of $100,000.

In most of the products we are talking about here, the profit is in the millions, so there would never really be a circumstance that I can foresee where it would be even as low as $100,000. But, can the gentleman accept the slight change of putting that figure back into the original bill languge?

Mr. BINGHAM. Mr. Chairman, if the gentleman would yield, that does make a change from what I understood we had agreed to yesterday, but in the interest of time and in the thought that if there are imperfections we can perhaps work them out in conference; I am glad to accept the amendment.

Mr. DORNAN. I thank the Chairman.

Mr. Chairman, in his magnificent speech before the AFL–CIO on June 30, 1975, writer Alexandr Solzhenitsyn recalled the penetrating insight of the father of Soviet communism, Lenin, into the sad behavior of a myopic capitalist class which has lost the will to defend its own interests. Let me quote Solzhenitsyn's words:

> I must say that Lenin foretold the whole process. Lenin, who spent most of his life in the West and not in Russia, always wrote and said that the Western capitalists would do anything to strengthen the economy of the U.S.S.R. They will compete with each other to sell us goods cheaper and sell them quicker, so that the Soviets will buy from another, he said: "Comrades, don't panic, when things go very hard for us, we will give a rope to the bourgeoisie, and the bourgeoisie will hang itself."
>
> Then Karl Radek, who was a very resourceful wit, said: "Valdimir Illyich, but where are we going to get enough rope to hang the whole bourgeoisie?" Lenin effortlessly replied, "they will supply us with it."

I do not like to think of people in terms of class. I do not think that anything more than a small fraction of the business community is as decadent or as myopic as the Communists of the East suggest. But we must face up to a truth that can no longer be ignored.

There are indeed crass interests, whose whole world is defined solely in terms of profit margins and balanced books, who would indeed sell the Soviet Union that technological rope whereby they could hang all of us; that is, incinerate us in a nuclear inferno. If this were not true, if this were only pure fantasy, then we would not need this act at all. We would not even be debating this measure and its amendments.

There would be little need for definitions, controls, rules, regulations, or records pertaining to the export of high-level technology. But, of course, we live in a radically different world than that ideal utopia where all businessmen are honest, upright, broadminded, and patriotic. It is not my intention, this evening, to get involved in personalities or to discuss in detail the attitudes and actions of a very few, select companies which I, and most of the American people, find reprehensible, and directly contrary to the security of the Nation. However, we know the problem exists. It cannot be dismissed. It cannot be ignored.

Some weeks ago, Jack Anderson carried a story on the secret testimony of Larry Brady, formerly Acting Director of the Commerce Department's Export Office. It was the talk of the cloakroom on the minority side, and I assume the same on the majority side. Jack Anderson made public what most of us in this House have known all along: The export control systems are in a "shambles," and that the safeguards written into the regulations are "not worth the paper they are written on." That is an Anderson quote. The Soviets now agree to accept end-use statements promising they will not divert hardware for military purposes. Anderson continued in that column: "* * * there is no effective way to make sure that the Soviets live up to their promises. Instead, the Commerce Department relies on the fox to guard the henhouse; onsite inspections are made by representatives of the U.S. companies that sold the products. Not only are these employees often non-Americans, but they have a strong motive for ignoring Soviet violations," explained Brady—

> The company wants to sell more . . . and he knows very well that if he reports a diversion to military use, he's not going to be able to sell more.

For the same selfish reasons American company executives are unlikely to squeal on their customers, another Commerce Department official told us. "Us" being Jack Anderson.

Mr. Chairman, enough is enough. The patience of the American people has been tried. We have to put teeth into our laws to prevent the leakage of our hardware to Soviet military use, through violations of Soviet-American trade agreements and diversion.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to my colleague from California.

Mr. LAGOMARSINO. Mr. Chairman, we accept the amendment on the part of the minority with the same observations that the Chairman made, that we want to look at this in conference.

Mr. DORNAN. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DORNAN).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there additional amendments to section 113? If not, the Clerk will read section 114.

The Clerk read as follows:

CONFIDENTIALITY

SEC. 114. (a) Subsection (c) of section 12 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended—

(1) in the first sentence by striking out "is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information" and inserting in lieu thereof "would reveal the parties to an export or re-export transaction, the type of good or technology being exported or re-exported, or the destination, end use, quantity, value, or price of such good or technology"; and

(2) by striking out the last two sentences and inserting in lieu thereof the following: "Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.".

(b) The amendment made by subsection

(a)(1) shall not require the withholding of any type of information which, immediately before the effective date of this Act, is not withheld from disclosure under section 7(c) of the Export Administration Act of 1969.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 114 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: Page 50, line 4, strike out the dash and all that follows through page 51, line 7, and insert in lieu thereof the following: "by striking out the last two sentences and inserting in lieu thereof the following: "Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.".".

□ 1120

Mr. DORNAN. Mr. Chairman, as reported by the Committee on Foreign Affairs, H.R. 4035 would exempt Commerce Department records in the export control area from public disclosure under the Freedom of Information Act. My amendment would eliminate this unwarranted blanket exemption, which is being urged upon us by the Commerce Department, and allow public scrutiny of the Commerce Department's administration of our Nation's export restrictions.

To this end, my amendment would continue current law, under the Export Administration Act of 1969, as amended in 1977, and as interpreted by the courts. In fact, except for minor changes, the exact language of current law is incorporated into the bill by my amendment.

First, I would adopt the suggestion urged by the Committee on Foreign Affairs to broaden congressional access to export administration records. As some may remember, prior to 1977, the Commerce Department interpreted the confidentiality section of the Export Administration Act to bar disclosure of information from Congress itself. The Congress took action in the Export Administration Act amendments of 1977 to correct the Department of Commerce's creative interpretation of the 1969 act, by providing that "nothing in this act shall be construed as authorizing the withholding of information from Congress * * *" At the time, everyone thought that this language would make the law clear. But the Commerce Department has taken the position, which it takes to this day, that despite the clear legislative history to the contrary, this 1977 amendment applies only prospectively and does not require provision of information to the Congress with respect to license applications pending on the effective date of the 1977 amendment.

Now, in 1979, we must try for the second time to amend a seemingly unambiguous law, with our fingers crossed, hoping that this time the Commerce Department will not devise still another spurious basis on which to deny congressional requests for export information. By providing that disclosures shall relate to all information obtained "at any time under this act or previous acts." I hope the Congress will win the final battle for access to information against a recalcitrant Commerce Department.

It should also be realized that there has been litigation under the Freedom of Information Act in Federal courts by parties seeking access to information acquired under the Export Administration Act. It has now been decided by the U.S. Court of Appeals for the District of Columbia, in the case of *American Jewish Congress* v. *Kreps* (574 F. 2d 624 (D.C. Cir. 1978)), that section 7(c) of the Export Administration Act, as amended, does not completely exempt all export records from the Freedom of Information Act, under exemption 3.

Nonetheless, all eight other exemptions of the Freedom of Information Act would continue to apply such as: Exemption 1, national defense and foreign policy; exemption 4, trade secrets and commercial or financial information; and exemption 5, interagency or intraagency memorandum or letters. The Commerce Department did not seek a writ of certiorari to obtain U.S. Supreme Court review of this case. This case was properly decided.

To reiterate, under current law, information and records obtained pursuant to "the Export Administration Act" are not blanketly exempted from disclosure. But neither are they disclosable without restriction. Simply put, they are available under the Freedom of Information Act except where an exemption applies, as determined on a case-by-case basis. This is current law, and my amendment continues current law.

Exports are not unlike thousands of other business transactions in which Government collects certain information from business in order to make proper decisions. To protect business interests, the Freedom of Information Act exempts from public disclosure (exemption No. 4) "trade secrets and commercial or financial information obtained from a person and privileged or confidential." In this way, Government decisionmaking continues to be subject to public review, under "the Freedom of Information Act," but the interests of the companies submitting information are properly protected. The Freedom of Information Act should apply to export transactions as well.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. DORNAN. Mr. Chairman, I ask unanimous consent that I be allowed to continue for 2 additional minutes.

Mr. BINGHAM. Reserving the right to object, Mr. Chairman, hereafter I am going to object to requests for additional time.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Without objection, the gentleman from California (Mr. DORNAN) will be allowed to continue for 2 additional minutes.

There was no objection.

Mr. DORNAN. Mr. Chairman, the public has a right to know about its government. As a former broadcaster, I cannot help but believe that the public values its right to know how its government works. For example, it seems to me the American public has a right to know whether strategic materials are being shipped to Communist countries and whether these exports diminish our national security. If certain exports of critical American technology and goods are being used to strengthen the warmaking potential of Communist countries, as many contend, I believe the American public should be able to find out about it. Secrecy fosters suspicion and secrecy here is unnecessary. The Commerce Department would undoubtedly argue we should simply trust them to protect our interests, and that public scrutiny is unnecessary, but I cannot imagine that that view would sway this body. Government works best when subject to public review of its actions. The Commerce Department is no exception.

Allowing public access to these records will have no impact on our national security. National defense and foreign policy matters are already exempt under the Freedom of Information Act. Moreover, even in the case of U.S. trade with the Soviet Union, the Soviets already know what materials they imported from us. If the Kremlin has this information, why not allow the American people to have it?

Mr. Chairman, adoption of this bill's virtual blanket exemption would signal a sharp reversal of our public policy of wider access to Government records beginning with the passage of the Freedom of Information Act. This act was designed to compel the Federal Government to become more accountable to the American public, the ultimate judge of all Government policies, by making more information available about Government activities. But this bill's exemption has not been even considered by the Subcommittee on Government Information and Individual Rights of "the Committee on Government Operations," which has jurisdiction over "the Freedom of Information Act." As I understand it, it was only proposed late in the Foreign Affairs Committee's consideration of the bill, by a Commerce Department seeking to eliminate public scrutiny of its actions. No witnesses testified on this exemption No. 3 except for a brief reference by a Commerce Department witness and it was never even considered by the relevant subcommittee. This exemption would constitute a significant inroad into the Congress' often-stated policy to provide for maximum public disclosure of public records. Such blanket exemptions should only, if ever, be granted after a full review by the committees responsible for export policy, and for "the Freedom of

Information Act." This has not been done.

Mr. Chairman, the only way to protect "the public's right to know" is to allow public access to these records, except where barred by the current exemptions to "the Freedom of Information Act." To create a blanket exemption would be a victory for an executive department afraid of public review. To continue current law as my amendment does, would be a victory for the public's right to know.

AMENDMENT OFFERED BY MR. PREYER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DORNAN

Mr. PREYER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. PREYER as a substitute for the amendment offered by Mr. DORNAN: Page 50, strike out line 2 and all that follows through page 51, line 7, and insert in lieu thereof the following:

SEC. 114. Subsection (c) of section 12 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended to read as follows:

"(c)(1) Except as otherwise provided by the third sentence of section 8(b)(2) and by section 11(c)(2)(C) of this Act, information obtained under this Act on or before June 30, 1980, which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest.

"(2) Any department or agency exercising any function under this Act may withhold information obtained under this Act after June 30, 1980, only to the extent permitted by statute, except that information concerning licensing of exports filed under this Act shall be withheld from public disclosure unless the release of such information is determined by the head of such department or agency to be in the national interest.

"(3) Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommitee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.".

Page 60, strike out lines 1 through 7 and redesignate subsequent paragraphs accordingly.

Mr. PREYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. PREYER. Mr. Chairman, I have a substitute for the Dornan amendment at the desk. I ask unanimous consent that the amendment be considered as read.

I offer the amendment because I believe that the provision now in the bill and the Dornan amendment will do unnecessary damage to the concept of access to properly disclosable information.

As reported, section 114 would totally and permanently exempt from disclosure a broad category of information relating to exports. Chiefly at issue here is the information reported on the Commerce Department document known as the "Shipper's Export Declaration" or SED. An SED must be filed for each export from this country. Under the bill, none of the data on an SED would ever be made public. This blanket exemption is unnecessary and unwise for two major reasons.

First, some of the information that the bill seeks to protect is not confidential in any way. No one disputes that some of this information can be obtained from several sources. Why should we prohibit one agency from disclosing information that is already available from another agency or from public sources?

Second, export information which is legitimately confidential already receives a full measure of protection under the Freedom of Information Act. There is no need to provide additional protection under other laws.

H.R. 4034 would lock up much export information forever. However, my substitute does not go to the other extreme and make information automatically available. My amendment is a compromise, incorporating both Freedom of Information principles as well as the practical needs of the Commerce Department and exporters. Under my amendment, export data already filed with the Department of Commerce would continue to have the protection that Commerce seeks. In addition, this protection would extend to information collected during the rest of this year. Thus, no information already collected with an expectation of confidentiality would be disclosed under my amendment. Further, everyone would have a transition period of almost 6 months to prepare for the new rules.

The new rules that would take effect on June 30 of next year are very simple and very familiar. Documents filed after that date would be subject to the Freedom of Information Act. The act provides sufficient protection for confidential business data. The fourth exemption specifically covers trade secrets and confidential commercial information. Legitimate business confidentiality will not be breached.

There are additional reasons why it is important that my amendment be adopted. They are inflation and the balance of payments.

As early as 1976, the Treasury Department recognized that increased access to export information would lead to better and cheaper services in the export industry. In turn, this makes U.S. exporters more competitive with foreign suppliers. The Treasury Department amended its regulations in 1976 to make available from Customs Service documents much of the same information which is at issue here.

My amendment is necessary because the Treasury regulations are not universally followed and much data which should be public is not. Because Commerce Department regulations require that the shipper's export declaration be fully and accurately completed, the problems of gathering information from Customs documents will be avoided.

Current disclosure practices for some export related information would not be affected by my amendment. Where export licenses are required, my amendment allows for full protection of confidential information related to the license application. In this regard, my amendment does not differ from the bill. For the publication of export license information, my intent is identical to the intent reflected in the report of the Committee on Foreign Affairs. Also, my amendment does not differ from the bill with regard to the disclosure of boycott data. Current disclosure practice for this data will prevail.

In conclusion, let me note that the free flow of information is essential to a free market economy. We have a chance here to let the information work for us by lowering costs and helping the dollar. This is why so many businesses are in favor of the publication of export information. I urge my colleagues to support it as well.

☐ 1130

Mr. FASCELL. Mr. Chairman, would the gentleman yield on that point?

Mr. PREYER. I am glad to yield.

Mr. FASCELL. As I gather what the gentleman is saying, the amendment which the gentleman proposes would make public confidential business information.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. PREYER) has expired.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the substitute. The Preyer substitute is a well balanced approach that will allow for the orderly release of information.

At the same time, it will also protect against the release of confidential business information or information related to our national security. Export license applications, most of them covering items controlled for reasons of foreign policy or national security, are specifically excluded from disclosure under this amendment. Other information submitted by exporters may also be withheld under the Preyer amendment where it meets the standard for protection of confidential commercial information under exemption 4 of the Freedom of Information Act.

The current language of the bill restricts the disclosure of export information too narrowly. It is generally agreed that much of the export data supplied by shippers is not secret, so there is no reason to create a general exemption for it. Moreover, having some export data available—such as who is shipping what products to which countries—should help spur export competition. It will enable exporters, shippers, and transporters to compete more effectively in world markets. The Preyer amendment will permit these benefits, without violating legitimate business confidentiality.

The amendment also provides for a rather long transition period until December 31, 1979. This will allow adequate time for the Department of Commerce and shippers to make necessary preparation for release under the new rules. I believe this amendment balances a number of competing interests in a fair and even handed way. I urge the adoption of the substitute.

I yield to the gentleman from North Carolina to answer a question that I am going to propound here.

I gather what the gentleman is saying here is that the principal amendment for which the gentleman proposes this substitute would make public confidential business information which is now in the export license application; is that what the gentleman said?

Mr. PREYER. My amendment would make available information that relates to export information. This is the information that shippers want to know.

Mr. FASCELL. I was talking about the principal amendment.

Mr. PREYER. Oh, I am sorry.

Mr. FASCELL. The Dornan amendment.

Mr. PREYER. The Dornan amendment makes available information from the licensing process.

Mr. FASCELL. That is what I thought the gentleman said.

Mr. PREYER. It involves much confidential business information.

Mr. FASCELL. Business information, yes.

Mr. PREYER. Yes, which should not be released.

Mr. FASCELL. And which heretofore has not been released.

Mr. PREYER. Right.

Mr. FASCELL. And generally has been accepted as a trade matter which should be kept confidential.

Mr. PREYER. The gentleman is correct. This would be a broad new expansion, a new doctrine.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I do not mean to disagree—actually, I do mean to disagree.

I am proposing that we keep current law. Current law now is that this information is available under the Freedom of Information Act.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the chairman.

Mr. BINGHAM. The problem is that the current law turned out to be unsatisfactory in the light of the Freedom of Information Act. The gentleman in the well is probably the expert on this subject.

The reason the current law is unsatisfactory is that the courts have interpreted the Freedom of Information Act to in effect overrule the intention of the Congress when it extended the Export Administration Act in 1977.

The gentleman is technically correct that the amendment will leave the law as it is, but it does not meet the problem.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for making that explanation. That is the reason I rose, because it seems to me that what we were trying to deal with is to correct a very difficult situation, because the present law was not adequate in balancing off the interest of the right to know and the freedom of information and still protect business confidentiality. It seems, to me, quite clear that the substitute amendment of the gentleman from North Carolina does that.

Therefore, Mr. Chairman, I rise in strong support of the substitute and urge my colleagues to support it.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. Yes; I would be delighted to yield.

Mr. QUAYLE. Mr. Chairman, I thank the gentleman from Florida.

I commend the gentleman from North Carolina, who has been an expert and a leader in this field of the Freedom of Information Act and serves as its chairman. I was fortunate enough in the last Congress to serve on that subcommittee.

I have a couple questions. First of all, on that date of June, 1980, what about all the past information that has been compiled up to that? Are we putting a freeze on secrecy on all that information up to June of 1980?

Mr. PREYER. Mr. Chairman, if the gentleman from Florida wishes to yield to me to answer, I would be glad to respond. I do not believe I have the time.

Mr. FASCELL. I was not paying that close attention.

Mr. PREYER. The gentleman from Florida has the time.

Mr. QUAYLE. The gentleman from Florida has the time.

Mr. FASCELL. I was going to say, I yield to the gentleman from North Carolina.

Mr. PREYER. Mr. Chairman, the answer to the gentleman's question is yes. What this bill does is to grandfather in confidentiality for information that has been received under a pledge of confidentiality by the Commerce Department. We do not think it is fair to say retroactively that information which businesses gave with the understanding that it was confidential should be now open and available. My amendment does freeze that information; its effect begins as of June 30, 1980, and in the future.

Mr. QUAYLE. Mr. Chairman, would the gentleman from Florida, who is controlling the time, be good enough to yield further?

Mr. FASCELL. I would be delighted to yield.

Mr. QUAYLE. Mr. Chairman, I just would like to follow up on that one point of confidentiality. I was under the impression that these companies furnish that information on the basis of confidentiality, because it says confidential on the form, but it also says within the provision of section 7(c) of the Export Administration Act, but subsequent to that a court has found out that it is not constitutional.

We are not getting into trade secrets. I do not like to get off on that, because I do not want that information. I think it is a tough area and I commend the gentleman for his leadership on this; but I am a little bit concerned and the gentleman from Florida has been a leader on this, too. I am concerned about putting a lid on all past information, just putting an arbitrary clamp on June 1980. That bothers me.

The CHAIRMAN. The time of the gentleman from Florida (Mr. FASCELL) has again expired.

(At the request of Mr. PREYER and by unanimous consent, Mr. FASCELL was allowed to proceed for 1 additional minute.)

Mr. PREYER. Mr. Chairman, if the gentleman will yield further, there is considerable confusion about the existing law in this area. This bill makes a specific exemption as to pending lawsuits. We do not try to clarify present law which frankly is so confused that I do not think we can ever come to grips with it. What the bill does do is set out the law clearly from June 30, 1980, on. The rights in the future, I think, will be well understood.

Mr. FASCELL. Mr. Chairman, one of the problems and the reason for the date is that the information asks names of customers and prices of goods which is and should be trade secrets. That is the problem and that is the reason for the cutoff.

Mr. QUAYLE. Mr. Chairman, would the gentleman yield, whoever has the time?

Mr. FASCELL. I yield to the gentleman.

Mr. QUAYLE. If price and value were taken out instead of parties having to name the country, would the gentleman change his mind as far as that information being released?

The CHAIRMAN. The time of the gentleman from Florida (Mr. FASCELL) has again expired.

(At the request of Mr. QUAYLE, and by unanimous consent, Mr. FASCELL was allowed to proceed for 30 additional seconds.)

Mr. FASCELL. Mr. Chairman, I think it generally is released.

Mr. QUAYLE. Not according to this amendment, I do not think so.

☐ 1140

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to rise in support of the substitute offered by the gentleman from North Carolina (Mr. PREYER), and I do so as a member of the President's Export Council.

I wish to advise the Members present today that the President's Export Council met just yesterday and considered the problem which is raised by the amendment offered by the gentleman from California (Mr. DORNAN). If the amendment offered by the gentleman from California (Mr. DORNAN) were adopted, it would in effect immobilize the efforts of the President's Export Council to formulate an aggressive export policy that will enhance the position of this country to trade with foreign nations and with foreign customers.

The President's Export Council adopted unanimously a resolution to support the language offered by the gentleman from North Carolina (Mr. PREYER), which language is substantially the same as that contained in a Senate bill which has already been adopted.

Mr. Chairman, I urge my colleagues who are concerned about the formulation of an export policy to enhance the position of this country to trade with foreign nations to support the substitute offered by the gentleman from North Carolina (Mr. PREYER), and I do so as a spokesman for the President's Export Council which has adopted a resolution in support of that amendment.

Mr. Chairman, the Export Administration Act legislation is aimed at helping exporters eliminate unnecessary redtape and confusion in obtaining export licenses. The bill is a necessary first step in allowing Congress a role in developing a national export strategy.

However, the language of the original Export Administration Act is not sufficiently precise to meet the standards established by the Freedom of Information Act (FOIA) in protecting the confidentiality of the shipper export declarations (SED's).

At the time, litigation is pending to gain access to individual SED's under the Freedom of Information Act.

Mr. Chairman, it is important that exporters be allowed confidentiality on their SED's. The data disclosed on SED's includes confidential business information in which disclosure to competitors would be harmful. Foreign competitors would be especially benefited because they would not have similar vulnerability.

Under existing Federal law and regulations, exporters are required to file a SED for each merchandise shipment exported from the United States. The SED covers 20 items of information concerning the details of the particular export transaction. Among other things, a SED includes the name of the exporter, net quantity, value of the shipment, shipping weight, date exported, et cetera.

The confidentiality issue is not an attempt to skirt national security policy or the critical technology issue; it is an attempt to protect the integrity of the merchant-buyer relationship. If Census is to continue to receive information on a scale sufficient to the demands for statistical data, it must be widely perceived as treating all data it receives confidentially.

The United States needs to be protecting and encouraging the export of American goods and services, not hindering those companies trying to gain access to markets.

The Preyer amendment would retain confidentiality of SED's until June 30, 1980. In order that my colleagues can more fully understand the SED issue, the following prepared by the Caterpillar Tractor Co. should prove to be useful The President's Export Council, of which I am a member, has also endorsed the confidentiality of SED's.

I urge my colleagues to support the Preyer amendment.

The material follows:

CATERPILLAR TRACTOR CO.,
Peoria, Ill.

EXPORT ADMINISTRATION ACT AND THE CONFIDENTIALITY ISSUE

SUMMARY

This memorandum states Caterpillar's concerns with the possible public release of Shipper's Export Declarations (SEDs), together with the company's views as to why the Export Administration Act should be amended to ensure that SEDs will remain confidential in the future.

Why We're Concerned. Caterpillar is a major exporter from the United States, with $2.2 billion in exports in 1978 (the second largest total of any U.S. company). Caterpillar has filed some 40,000 SEDs annually in recent years, and disposition of these documents—which contain important and detailed business information—is of vital concern to the company.

Recent court cases indicate that existing Export Administration Act (EAA) language authorizing the Secretary of Commerce to maintain confidentiality of SEDs may not be sufficiently precise to meet standards established by the Freedom of Information Act.

Exporters, such as Caterpillar, could be faced with the disclosure of valuable commercial information contained in SEDs, revelation of which would strengthen the position of competitor companies. All competitors, U.S. and foreign, could benefit from public disclosure of SEDs filed by Caterpillar. Caterpillar, of course, would also gain access to information about U.S. competitors. The big gainers, however, would be foreign competitors. They would gain valuable information about all U.S. exporters . . . while Caterpillar and other U.S. firms would have no access to comparable information about them.

Surely, no one intends this to be a result of either the Export Administration Act or the Freedom of Information Act. If U.S. export performance is to be strengthened, it is important to resolve the matter of SED confidentiality in a way that does not add still another burden to be borne by U.S. exporters alone. That's a matter for Congress, not the courts, to decide.

In the absence of appropriate legislative action, Caterpillar might still be able to fight disclosure of SEDs in the courts. However, such legal action would be expensive; it would consume the time of people who could better devote their efforts to expanding exports; and the outcome would still be uncertain. It is also possible that companies would be required to file suit or take other action on an individual basis to prevent release of their SEDs, which would impose a particular burden on smaller U.S. exporters for whom the regulatory maze is already a strong discouragement to exporting.

Conflict Between Freedom of Information Act and Export Administration Act. The Export Administration Act gives the Secretary of Commerce authority to require such reports as may be necessary or appropriate to the enforcement of the Act. For census and other purposes, the Commerce Department requires the filing of a Shipper's Export Declaration with each export shipment.

This document then becomes a piece of U.S. Government paper, subject to possible disclosure under the Freedom of Information Act (FOIA). The existing EAA authorizes the Secretary of Commerce to protect the confidentiality of business information obtained in reports, but courts have ruled that existing EAA language is not precise enough to meet certain FOIA standards. The issue at this point is whether the confidentiality directive should be maintained and clarified by revised EAA language which would bring it into line with FOIA standards.

What Does a Constitutional SED Conceal From the Public? Let's begin by considering what an SED is and isn't.

Each SED is a report from a single company about a single export transaction.

It is not an application for any kind of government action. It is not a document on the basis of which any kind of decision will be made.

It does become relevant when a substantial number of such documents have been collected; they then provide useful census-type information which may serve as the basis for policy studies or judgments.

But a single SED has on governmental purpose in ordinary usage . . . just as a census form for an individual household does not serve as the basis for governmental decisions, although information aggregated from such forms is important in many respects, such as apportioning seats in the House of Representatives among the states.

SEDs do reveal information about individual commercial transactions. A market analyst in possession of a number of SED's filed by a company could learn much about that company's customers, sales, pricing policies, business trends, dealer organization, replacement parts sales opportunities, and other information. Other companies with access to such information could use it to significant competitive advantage. They could more carefully target market development efforts, identify potential new customers, adjust production scheduling and inventories, adapt pricing strategies, and make countless other decisions on the basis of hard information—where as now they must make many such decisions on the basis of estimates or guesses.

A competitor, in business or politics, who knows everything you do, while you know much less about him/her, has a significant advantage.

Is the Whole SED Confidential? No. Clearly some information contained on the SED form is not confidential—the name of the exporting carrier, for example.

No single piece of information on the SED if released alone, would be confidential. What is special about the SED is the detailed picture it gives of a single transaction.

Some Information on SEDs is Already Available Elsewhere. Some information available in SEDs is also available to the public and press in other documents. Specifically, title 19 (customs duties) of the Code of Federal Regulations, sec. 103.11, specifies conditions under which information on vessel manifests may be disclosed to members of the press and to the public. Members of the public are permitted to obtain information from, but not to examine, vessel manifests.

Members of the press may examine vessel manifests, and copy and publish certain data. "Of the information and data appearing on outward manifests, only, the general character, destination, and quantity (or value) of the commodity, name of vessel, names of shippers,(*) and country of destination may be copied and published. Where the manifests show both quantity and value, either may be copied and published, but not both in any instance." (*Shippers may request that access to the name of a shipper be refused.)

Some argue that such existing availability of some of the information contained in SEDs is reason to make the SED publicly available, in whole or in part. That argument can be turned around: if much information is already available, why is more needed? Why put the U.S. Government in the effective position of telling the world more details about its exporters and their transactions than other governments do about theirs?

The "it's alreadly available" argument also reveals, however, an important additional reason for maintaining the confidentiality of SEDs.

The press may now publish, from outward manifests:

General character of commodities.
Destination.
Quantity or value (but not both).
Country of destination.

It has been suggested that comparable information contained in SEDs be released, and that only a few key items in the SED need be kept confidential, such as the identity of consignees and the value of the shipment.

However, if the rest of the SED is available to the public or press, it would be an easy matter to match up information from such SEDs with published information—obtained from manifests—about the same shipment. Information common to the two documents (name of vessel, destination) could be used to match up the SED with a published report based on the manifest. Information on quantity could then be obtained from the SED; information on value of the same shipment could be copied from the manifest.

Combining two sources in this manner could provide nearly as complete a picture of an individual transaction as if the entire SED were released.

Two-part SED a Compromise Solution? A two-part SED has been proposed as a possible compromise. A precedent is found in the two-part form prescribed for boycott reports in another section of the EAA. We don't think this is a good solution.

First, it would inevitably add to the paperwork burden of filling out and filing SEDs. Caterpillar alone files over 40,000 such documents annually, and administrative inconvenience is a significant argument against complicating this form unless there is a compelling reason to do so. We simply don't need more governmental paperwork.

Second, the basic purpose of the boycott reports—cited as a precedent for the two-part form—is to gather information about boycott requests. Take away the confidential business information from the boycott report form, and the report still serves its basic purpose of indicating the nature and value of boycott requests received by U.S. exporters.

Take away the confidential business information from the SED, and nothing of importance is left. (It should also be noted that the SED calls for more detailed information. There is no reference anywhere in the boycott form to consignees, for example.)

Thus, we believe there is no valid reason for a two-part SED, and the entire document should remain confidential . . . just as entire Census Bureau documents remain confidential, even though telephone directors and many other publicly available documents repeat much of the information contained in a census form.

Public Enumeration of Confidential Items. If a specific enumeration of items which the Secretary of Commerce may hold confidential is to be included in the EAA, an appropriate list is contained in H.R. 4034 as reported by the Foreign Affairs Committee:

Parties to a transaction.
Type of good or technology being exported.
Destination.
End use.
Quantity.
Value or price.

For Caterpillar's purposes, "end use" could be dropped from this list. However, there may be other exporters for whom this is also a sensitive item.

In summary, we urge the Congress, in dealing with this matter, to avoid the following:

An SED that is subject to release in its entirety; and

An SED that is released in part and that can be matched up with other publicly available information about individual export transactions so as to provide a detailed picture of each transaction.

Both S. 737 and H.R. 4034 contain acceptable provisions on confidentiality, and Caterpillar supports enactment of either of these provisions, or some combination of them.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the substitute amendment.

Mr. Chairman, I want to say that the gentleman from California (Mr. DORNAN) has a good idea. I support and understand his objective, but I think it is better reached and more moderately and appropriately reached by the language worked out by the gentleman from North Carolina, Judge PREYER, who has worked on this matter very assiduously.

The Freedom of Information Act is one of the most important pieces of legislation that Congress has enacted in recent years. It stands as a monument to our belief in the idea that the people have a right to know what the Government is doing and what these corporations are doing.

I must view with concern, therefore, any legislation which tends to restrict the access of the public to information in the hands of their Government. I do not mean any criticism of the Committee on Foreign Affairs in saying that. They have fashioned a bill dealing with the very complex question of export controls, in which the section the gentleman from North Carolina seeks to amend is a minor part. And, as their report shows, they resisted an effort by the Department of Commerce to write a much broader exemption from the Freedom of Information Act into the bill.

I believe the language proposed in the substitute amendment offered by the gentleman from North Carolina (Mr. PREYER), the distinguished chairman of the Subcommittee on Government Information and Individual Rights, which watches over the Freedom of Information Act like a mother hen, presents a better, a more rational, a more reasonable, and a more rational, a more reasonable, and a more workable and feasible solution to the problem that is presented here.

The Preyer substitute would preserve the existing protections against the release of confidential information.

In fact, it would make very little difference in the way the information involved in export transactions is supposed to be handled now.

Mr. Chairman, if we are interested in preserving the integrity of the Freedom of Information Act, if we are interested in preserving the vitality of our corporations whose exports must be licensed, and the business which they seek overseas, then we ought to support the Preyer substitute.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the distinguished gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, I, too, would like to protect the Freedom of Information Act, and I, too, am worried about our export trade.

I would like to call the attention of the Members of the House to the fact that our exports account for less than 7 percent of our GNP. In Germany their exports are 22 percent of their GNP; in Belgium they are 45 percent of their GNP. We are losing out in the export market. Companies are strangled by these restrictions.

Mr. Chairman, I think the bill is better than the Preyer amendment, but the Preyer amendment is better than the Dornan amendment. We are going to kill our export trade and our small businesses that are trying to get into it.

Mr. BROOKS. Mr. Chairman, I want to thank the gentlewoman from New Jersey (Mrs. FENWICK) for emphasizing the importance of the Preyer amendment.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, a great member of the committee.

Mr. QUAYLE. Mr. Chairman, I might correct the gentleman and say "a former great member."

Mr. BROOKS. A great former member of the Government Operations Committee.

Mr. QUAYLE. I wish I were still there.

Mr. Chairman, may I ask the gentleman, what information would be revealed under this substitute?

Mr. BROOKS. Not any more than is released now; not confidential business secrets.

Mr. QUAYLE. Would the countries that they are trading with be released, or would that be not released?

Mr. BROOKS. They would be.

Mr. QUAYLE. Mr. Chairman, that is what I am concerned about. I do not think, according to the substitute, that the countries would be released. I am concerned about that, plus putting the lid on by June 30, 1980. Those two things bother me.

The gentleman knows that I support him. I support him most of the time and follow his leadership, but on this, if I would follow his leadership, I would need a couple of clarifying statements on the subject.

Mr. BROOKS. Mr. Chairman, perhaps that could be found in the report. I think the gentleman understands report language.

Mr. QUAYLE. Mr. Chairman, I understand the importance and the integrity of report language that we so often refer to when we just do not want to put it in the bill.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman from California (Mr. LAGOMARSINO) should have his 5 minutes on the amendment, but after that I will ask unanimous consent that debate cease in 10 minutes.

Mr. LAGOMARSINO. Mr. Chairman, I think the gentlewoman from New Jersey (Mrs. FENWICK) summed this up very well. The bill is better than the Preyer amendment, the Preyer amendment is better than the Dornan amendment, and I am not sure about what the Quayle amendment does, if the gentleman ever offers it.

I think what we did in the bill, which represents a compromise in and of itself, is a pretty good solution to a very difficult problem. The Department of Commerce and the exporting industry had asked us to clarify the law and in effect to reverse court decisions.

What we did instead is this: we turned down that request. I thought, frankly, we should go along with that request and change the law completely, but the committee disagreed. They felt it would not be wise to grant that request, and it is the committee's intent in this provision to meet the requirements of the Freedom of Information Act by specifying the particular types of matters which may be withheld from disclosure.

Section 114 of the bill we are discussing here—

> *Further provides, however,* That this provision shall not be construed to require the withholding of any type of information which, immediately before the effective date of these amendments, is not being withheld from disclosure.

This language which is in the report, continues:

> The committee specifically intends that the information currently published in the daily list of export licenses granted—that is, the type of commodity, value of the transaction, and country of destination—shall continue to be made available to the public.

I think it is important to point out that the language in the bill is strongly supported by the export industry. They feel that not to do this is going to affect their ability to compete with other countries and with each other. I say that the confidentiality provision in this bill does not conflict with the principles of the Freedom of Information Act.

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It is quite specific, as required by FOIA, and it does not prevent disclosure of Government information but, rather, prevents publication of data submitted by business as a function of exporting, data which the Government does not have for domestic sales, as a matter of fact.

The Government is not precluded from publishing statistical information, and protecting confidentiality of information can be critical for the success of a business in a particular deal.

The information, if published, would enable foreign and domestic competitors to gain significant advantages in the same markets. It has always been public policy to insure confidentiality of competitive business information. For example, custom import declarations are confidential. IRS returns are not published. Domestic production and pricing statistics are not published when there are only one or two producers.

If Government requires business to supply confidential information, then Government should provide protection for that information.

As the Members will note from the language of the bill itself, there is absolutely no intention to restrict this information from being made available to Congress. As a matter of fact, we strengthen the provisions requiring that this information be furnished to Congress itself.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Maryland has become interested in this because of his acquaintance with M. Stanton Evans, one of the plaintiffs in the suit seeking from Commerce information that has been withheld.

My study of this question seems to run totally contrary to what the gentleman has said and, in fact, Commerce is not allowing the information out that the courts in one instance have already ruled they must allow, and that this bill and the Preyer amendment, which is almost the same as this bill, will ratify Commerce's refusal to reveal this information about strategic materials and processes being shipped to unfriendly nations.

Somewhere in all of this no one has hardly mentioned the fact that this overturns a court decision and severely restricts the Freedom of Information Act. I cannot understand why that is in the best interest of this country.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I would like to concur in the remarks made by the gentleman from California and the gentlewoman from New Jersey. I would like to remind this body that we are standing here with a $30 billion trade deficit from last year. We are trying to expand exports. We are not doing a very good job of it.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. LAGOMARSINO) has expired.

(By unanimous consent, Mr. LAGOMARSINO was allowed to proceed for 2 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, I continue to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, what we are trying to do as a national policy is to expand exports. What we are doing in our amendments to the Export Administration Act on this floor is to try to limit exports. The amendment offered by the gentleman from California is an amendment intended to harass all potential exporters who will not now export because they have to produce a whole bunch of information that will become available to the world. The amendment offered by the gentleman from North Carolina is the same thing, only not quite as bad.

We need to stimulate exports. We have to tell American businessmen to get out and work harder, not be more confused and more depressed by the kind of limitations that we are putting on here. It is simply a question of whether you want to export or whether you do not. If you want to have all of this extra information spread out and demanded of our producers, they simply will not export.

Mr. Chairman, I think all of the amendments should be defeated.

Mr. LAGOMARSINO. Mr. Chairman, I want to make an additional comment.

The gentleman from Maryland made a statement about the effect this would have on existing litigation. Section 123 of this act, page 62, provides:

> This Act and the amendments made by this Act shall not affect any investigation, suit, action, or other judicial proceeding commenced under the Export Administration Act . . .

So we have exempted existing suits.

I would like to conclude by reading to the Members one sentence from a telegram on this subject from Caterpillar Tractor Co., one of the largest exporters in this country, just one paragraph. I will put the telegram in the RECORD in its entirety.

> Caterpillar has always complied willingly with Commerce Department requests for SED's and other documents, relying on the promise of confidentiality contained in the EAA and printed on each copy of the SED form. (SED's are shippers export declarations.)

The complete text of the telegram is as follows:

CATERPILLAR TRACTOR CO.,
May 1, 1979.

Hon. ROBERT J. LAGOMARSINO,
House of Representatives,
Washington, D.C.

We want to invite your attention to a serious problem that has arisen with regard to the Export Administration Act (EAA). It's a matter we believe deserves urgent consideration when the Foreign Affairs Committee meets to mark up H.R. 3652, a bill to extend and amend the EAA.

At issue is treatment of confidential business information submitted to the Department of Commerce. Under the authority of the EAA, the Commerce Department requires exporters to provide considerable information about export transactions.

Caterpillar's most serious concern is with shippers' export declarations (SED's). A copy of this document must be filed for each export shipment. Caterpillar is a major U.S. exporter. In 1978 alone Caterpillar filed SEDs for approximately 19,635 surface shipments. In addition, Caterpillar made 22,542 air shipments in 1978, most of which required the filing of SEDs. (Caterpillar exports amounted to some $2.2 billion in 1978, and provided jobs for 25,000 of Caterpillar's U.S. employees.)

The prescribed SED form requires shippers to provide detailed information about the consignee, items being exported, quantity, and value. Such information is of considerable commercial value. In the hands of competitors, it would provide important market intelligence about Caterpillar's customers, sales of specific products, pricing policies—knowledge of which could help competitors identify promising sales targets, focus sales efforts for competitive replacement parts, develop pricing strategies—all to the competitive disadvantage of Caterpillar.

Such commercial intelligence would be of great value to both foreign and domestic competitors. However, the greatest advantage would be to foreign competitors, who would be able to gather data about all U.S. exporters without expending the tremendous amount of time, effort, and money that would be required to obtain this information in other ways.

Caterpillar has always complied willingly with Commerce Department requests for SEDs and other documents. Relying on the promise of confidentiality contained in the EAA and printed on each copy of the SED form.

Now, however, the Commerce Department's ability to maintain confidentiality of this information is being challenged in court suits, which are based on a claim that section 7(C) of the present EAA does not meet certain standards for an exemption under the Freedom of Information Act. One of these suits would force the Commerce Department to disclose all information contained in SEDs. The potential competitive harm to Caterpillar, should SEDs be disclosed, is substantial.

We urge you to face this issue squarely and to resolve the conflict between the Freedom of Information Act and the Export Administration Act in a manner that will not harm U.S. exporters, either individually or as a group. If Congress fails to amend the EAA, courts may force disclosure of information of considerable commercial and marketing value, particularly to foreign competitors. Meanwhile, U.S. companies will have no offsetting access to comparable information from foreign competitors. Their governments, aware of the value of commercial and marketing intelligence, do not require such disclosure.

There is growing recognition, prompted by concern over the large U.S. trade deficit, that the needs of U.S. exporters have too often been given inadequate attention. We hope that won't happen in this instance.

What should be done? A provision is needed in the EAA that conclusively provides for the protection of confidential information submitted to the Commerce Department under the EAA.

There is now a conflict between the Freedom of Information Act and the EAA, and as an unintended result, the U.S. Commerce Department could in effect be forced to help overseas companies compete more effectively against U.S. exporters through release of SED information. We do not believe Congress intended to undermine the competitive position of U.S. companies in this manner. We urge you to amend the EAA to eliminate this problem.

DONALD R. NIEMI,
Governmental Affairs.

Mr. PREYER. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from North Carolina.

Mr. PREYER. Mr. Chairman, I would like to just reply to the comments of the gentleman from Minnesota.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. LAGOMARSINO) has expired.

Mr. PREYER. Mr. Chairman, I ask uanimous consent that the gentleman be allowed to proceed for 1 additional minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. VOLKMER. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto cease in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. QUAYLE. Mr. Chairman, reserving the right to objection, I hope that the gentleman would not insist on his 10-minute limitation to this colloquy. I do have a perfecting amendment to the Dornan amendment. After the expiration of my time on that amendment, then I would not object to limitation of time. So I would hope that I could convince the gentleman to withdraw his unanimous consent request.

Let me offer and explain my amendment, and then if the gentleman wants to ask for a 10- or 15-minute limitation, I would not object at that time.

Mr. BINGHAM. If the gentleman will yield, the gentleman will have to make his peace with the gentleman from California (Mr. DANNEMEYER), because his time is being cut down by every additional minute we spend on this amendment.

The CHAIRMAN pro tempore. Does the gentleman from New York (Mr. BINGHAM) withdraw his unanimous consent request?

Mr. BINGHAM. Mr. Chairman, I withdraw my unanimous consent request.

AMENDMENT OFFERED BY MR. QUAYLE TO THE AMENDMENT OFFERED BY MR. DORNAN

Mr. QUAYLE. Mr. Chairman, I offer an amendment to the Dornan amendment.

The Clerk read as follows:

Amendment offered by Mr. QUAYLE to the amendment offered by Mr. DORNAN: On line 3 of the amendment strike all after the word "following" and insert the following:

(1) in the first sentence by striking out "is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information" and insrting in lieu thereof "would reveal the countries of the parties to an export or re-export transaction, the type of good or technology being exported or re-exported, or the destination, end use, quantity, value, or price of such good or technology for a period of six months after issuance or denial of an export license or granting or denial of re-export authorization (after which this information, with the exception of value or price of such good or technology, will be available pursuant to section 552 of Title 5, United States Code)"; and

(2) by striking out the last two sentences and inserting in lieu thereof the following: "Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest."

Redesignate the following sections accordingly.

Mr. QUAYLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. QUAYLE. Mr. Chairman, this amendment is basically a compromise between what the gentleman from California (Mr. DORNAN) and the gentleman from North Carolina (Mr. PREYER) are trying to do. Let me tell the Members what this amendment does.

It does not release any information during the licensing process. I do not think that it is appropriate to release this type of information during the process, during the ongoing negotiations, but I do want some information—revealed to the public, if the public wants it, 6 months after the export license is granted.

I realize that it is a very delicate thing to balance what is in fact a trade secret, what should be confidential and what should be the people's right to know. That is not an easy question to answer. In this amendment there are a couple of things that are taken out that are now in the bill. One of those things, we do not ask for the parties involved. We do ask for the countries of the parties. So the businesses cannot complain that you are going to give them the list of their parties. Only the countries.

This amendment also takes out the price and the value. I happen to think that that should be confidential, and we do not want our businesses subject to have the other businesses go in and try to find out how much it is going to cost or what the value was in trading an item. So the only thing that would be revealed would be the countries of the parties, the type of goods or technology, the destination, the end use, and the quantity. That is reasonable, to compromise. And I want to point out that this information would not be released until 6 months after the fact—6 months after the fact.

The problem I have with my good friend—and the gentleman knows that I have utmost respect for his leadership in this area, having served on his committee, his judiciousness and fairness, not only in this, but in everything—the problem I have with the substitute or his amendment is the fact that you put an arbitrary blanket clamp on any information until June 30, 1980. Nothing could be released. And then after that, I do not even know what could be released. So this spells out a compromise, a compromise instead of asking for the parties, we have put in the countries, I have compromised that we will not ask for the value or the price. I will say to those Members who are concerned about hurting exports that we ought to cut out some of the paperwork that they have to file with the Government in the first place. If that is a concern, cut some of the redtape; but do not cut back the people's right to know. And they do have a right to know. I realize that it is delicate, it is a tough situation, but I think this compromise language will get to the heart of the matter and I hope the amendment is accepted.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I want to say to the gentleman that we have seen the Preyer amendment characterized as a compromise. It is no compromise at all. It is a cosmetic change in the bill's language which in fact restricts the public's right to know, and we do have to balance the rights of exporters against the damage done to this country by trading in strategic processes, materials and products with Communist nations which use them to build up their military establishment against us. These are the issues that are being balanced here. The gentleman's amendment is a true compromise. It does protect the rights of business exporters and at the same time the equally and even more important right of the American people to know that their Government will not permit to fall into the hands of our enemies, secrets and processes and products that should not be there.

Mr. Chairman, I commend the gentleman for offering his amendment.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from California.

Mr. DORNAN. I thank the gentleman for yielding.

Mr. Chairman, because we are all trying to be conciliatory here, I hate to be political; but I will put my Chamber of Commerce rating or yours up against anybody who has spoken against my amendment or the gentleman's perfecting amendment, which I accept, against any Member who has spoken against us on this side of the aisle or that side of the aisle.

We are the defenders of free enterprise. I want to give American business the right and the freedom to export all over the world. But what Mr. Stan Evans, the distinguished citizen from the gentleman's State is trying to find out are the ugly secrets involved with the Kama River problem, that massive truck factory.

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Those trucks will be carrying soldiers to kill people in Israel soon. That is why the American-Jewish Congress Against Kreps has a case this so-called substitute amendment would cut. We would change current cases and change current law by this cutting amendment of the distinguished gentleman from North Carolina.

I accept the criticism of the distinguished gentleman from Florida to put a 6-month limit on this and keep prices secret, but not to put everything under wraps until 1980.

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto cease in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Members standing at the time the unanimous-consent request was agreed to will be recognized for 45 seconds each.

The Chair recognizes the gentleman from North Carolina (Mr. Preyer).

Mr. PREYER. Mr. Chairman, let me make clear that there is no compromise involved in the Quayle amendment as between the Dornan amendment and the Preyer amendment. The key thing we are losing sight of is there is a difference between licensing information and export information.

My amendment goes to export information. It carries out the policy established by William Simon, the former Secretary of the Treasury. It carries out the policy in effect at the Treasury Department right now.

It is simply being avoided by some shippers, mostly on the west coast, who remove or destroy the bill of lading. This prevents the routine disclosure of export information.

Mr. Simon is hardly a man who would harass business. As far as licensing information, the Dornan amendment and the Quayle amendment would reveal business information not now revealed. That is harassing business. That is the amendment the Members ought to be against.

The statements of the gentleman from Minnesota and the gentlewoman from New Jersey are directed at the licensing information that would be revealed. The disclosure of export information is already our policy.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. Lagomarsino).

Mr. LAGOMARSINO. Mr. Chairman, I think we should clarify exactly what we are doing here. I think that the language in the bill, as explained in the committee report which I referred to earlier, solves the problem to the satisfaction of industry and the people in the Department of Commerce. As far as strategic information, that does not have to be released now, as provided for by the Freedom of Information Act.

All of this information—and this is confirmed by and fortified in the bill—has to be furnished to Congress, and certainly we are capable of exercising oversight. I am sure that this subcommittee is going to continue to do that.

The CHAIRMAN pro tempore. The gentleman from California (Mr. Dornan) is recognized.

Mr. DORNAN. Although the Foreign Affairs Committee report states that they turn down the administration request to exempt from the FOIA all information obtained from exporters under this act by receiving the types of information which could be withheld, the bill, in effect, grants a complete exemption.

The following information is exempt: Parties, type of goods or technology being exported, destination, end use, quantity—what else is there?

I wish every Member of this House could read the brief of the American-Jewish Congress against Kreps legal case to understand better exactly what we are talking about here.

If there are further refinements needed, let us get at them next year, but something has to be done now before we find ourselves facing Armageddon with our own high technology coming back at us in a totalitarian blitzkrieg.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Maryland (Mr. Bauman).

(By unanimous consent, Mr. Bauman yielded the balance of his time to Mr. Quayle).

(By unanimous consent, Mr. Andrews of North Carolina and Mr. Fascell yielded their time to Mr. Preyer.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. Preyer).

Mr. PREYER. Mr. Chairman, if I might finish up the argument I was making earlier, those who say the Preyer amendment is another amendment harassing business do not understand that this is a procompetitive amendment.

The more information that carriers, warehousemen, insurance people, and others who deal with the shipping industry, the more information they have, the more competitive they are, the more they can reduce prices, the more our shipping is competitive around the world.

The Dornan amendment is a broad-sweeping, new step in our policy. It adopts an open-door policy on information which is collected during the licensing process, information as sensitive as market shares, for example.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. Kindness).

Mr. KINDNESS. Mr. Chairman, there is a good bit of complication involved in this, far too much to discuss in 45 seconds, but I wish everyone who has spoken so eloquently on this subject today had studied the difference between the two different sections of the law involved and the two types of information to which we are directing our attention; the shippers export declaration is one thing, an export license application is another.

Either leave the bill as it is or support the Preyer amendment, but let us not go overboard with either of the alternatives that are presented with this and put more roadblocks in the way of developing exports for our Nation.

We are going far too far in an unnecessary way, I believe, with the amendment of the gentleman from California.

The gentleman from Indiana has sought to improve upon it, but we still are talking about two different things and not that involved in the Jewish Congress litigation.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Chairman, I owe the gentleman from North Carolina (Mr. Preyer) an apology. I was a little overenthusiastic in describing his amendment. His description of it is accurate. Mine was overstated. It is an enormous improvement over the Dornan amendment.

The Quayle amendment should be defeated. It does not make the Dornan amendment much more palatable.

The Dornan amendment should be defeated.

If the Preyer amendment is accepted, I guess it will not do too much damage; but, Mr. Chairman, there is nothing wrong with the language in the committee bill. That section was well written by the committee. That language is my first choice.

The best option for all of us is to defeat all of the amendments. We are trying to improve our balance of trade. We are trying to improve the value of the dollar by reversing our persistent trade deficits. We want to enhance export development from this country.

We can no longer tolerate the huge deficit. The best way to encourage exports is to leave the law as it is. Support the Preyer amendment to the Dornan amendment, and then reject the Preyer amendment as amended.

That is the best way to encourage

American firms, especially small firms, to develop export potential.

(By unanimous consent, Mr. Volkmer yielded his time to Mr. Bingham.)

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. Zablocki).

Mr. ZABLOCKI. Mr. Chairman, the Subcommittee on International Economic Policy of the Committee on Foreign Affairs, after holding extensive hearings, gave serious consideration to the confidentiality provisions that are contained in this bill. The committee bill solves the existing problem of the court having ruled that the confidentiality provision of the Export Administration Act do not meet the requirements of the Freedom of Information Act. The bill specifies what information should be held confidential.

I urge the members of the committee to support the House version. If they see some concern, certainly the Preyer substitute is far preferable to the Dornan amendment, even if it is modified by the Quayle amendment.

I hope the Members will support the committee.

☐ 1210

The CHAIRMAN. The Chair recognizes the gentlewoman from New Jersey (Mrs. Fenwick).

Mrs. FENWICK. Mr. Chairman, we have heard about trucks and we know about trucks. Trucks can be made not only in France by Renault, in Italy by Fiat, in Germany by Volkswagen, but also they can be made in Czechoslovakia, and every bus in the Soviet Union is made in Czechoslovakia. Why do we get so many of these contracts despite the competition and the harassment? Because some of the big companies are able to deal with the roadblocks that are put in the way. The smaller companies cannot.

We imported over $106 billion of manufactured goods last year and we exported only $91 billion, and these restrictions are part of the problem. What part of the public is interested in the price and quantity of what has been sold? Competitors. Congress has a right to know if we are concerned about security, but not competitors.

(By unanimous consent, Mr. Dannemeyer yielded his time to Mr. Quayle.)

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. Quayle).

Mr. QUAYLE. Mr. Chairman, let me just put in perspective what we have here. We have the Dornan amendment which goes back basically to the law we have today. There are people that are concerned about the law. Bill Simon is concerned, the gentleman from North Carolina (Mr. Preyer) is concerned about it and I am concerned about it.

Next we have the Preyer amendment to the Dornan amendment, which puts a cap on all information that is given to the Department of Commerce concerning exports to June 30, 1980, it puts a lid on it.

I want to direct myself to what is a compromise between those two things. We are not after licensing information, we are not after information during the process, we are concerned and interested about historical data. That is why the Quayle amendment says any of this information will not be released until 6 months after the fact.

I do not like to see us get into arguments about whether it is a pro-Soviet or anti-Soviet or proexport or antiexport matter, because what we are talking about here is what kind of a balance we are going to strike between what the people have a right to know and what business has a right to be kept confidential. I want to reiterate that in the Freedom of Information Act today trade secrets are protected. There is no doubt about it. Trade secrets are protected. We are not interested in that.

What my amendment does is to compromise what the Dornan and Preyer amendment goes to, and that is after 6 months we will release information. We will not release parties. Business came to us and said we do not want to give you our list of clients. OK, we will release the countries of the parties.

We will not release price, because that should be kept confidential, and we will not release value.

That is a compromise and it is a compromise from the original version. I think it is a step in the right direction to balance off this thing on the right to know and the right to protect confidentiality.

I must also say as we get into this, and I am sure the gentleman from North Carolina, who has been very active in this area knows, we will take it up under the Freedom of Information Act itself to try to clarify what is a trade secret and what is not a trade secret. This is sort of a piecemeal approach to put this in now. I think the Members ought to support the Quayle amendment which is a balance.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. Preyer).

Mr. PREYER. Thank you, Mr. Chairman.

My amendment is consistent with the committee bill as far as export licensing goes. I agree with him absolutely, to pass the Dornan amendment or the Quayle amendment would open up business to great harassment.

Why do we need my amendment at all then? Simply because some shippers are frustrating what is our announced policy in this country about export information. Some west coast shippers are avoiding that policy, what William Simon said our policy was on information, by tearing the bill of lading off the shipping documents or by mutilating it. My amendment simply provides that all export information will be treated the same all over the country.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Bingham).

Mr. BINGHAM. Mr. Chairman, first of all, very briefly on the subject of the interests of the American Jewish Congress, the American Jewish Congress has no objection to the committee bill. Their legitimate problem dealt with the past. There is no quarrel with what we are trying to do here.

As far as the choice between the Preyer substitute and the Dornan amendment is concerned, I think the arguments are overwhelming in favor of the Preyer substitute, and I hope the Preyer substitute will be adopted.

As far as the Quayle amendment to the Dornan amendment is concerned, it is probably an improvement, and in any event, Mr. Dornan himself has accepted it, so I think that can go on a voice vote.

I would still prefer the committee bill to the Preyer amendment, but mildly, and if the Preyer substitute is adopted, and I assume we will have a record vote on that, I will not ask for a record vote on the final adoption of the Preyer substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. Quayle) to the amendment offered by the gentleman from California (Mr. Dornan).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. Preyer) as a substitute for the amendment offered by the gentleman from California (Mr. Dornan), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Does the gentleman from Maryland press his point of order?

Mr. BAUMAN. Mr. Chairman, I do.

The CHAIRMAN. Did the gentleman from Maryland press the point of order or withdraw the point of order?

Mr. BAUMAN. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The gentleman from Maryland (Mr. Bauman) withdraws his point of order of no quorum.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Maryland (Mr. Bauman) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 318, noes 29, not voting 87, as follows:

[Roll No. 499]

AYES—318

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, John
Byron
Campbell
Carr
Cavanaugh
Cheney
Chisholm
Clay
Clinger
Coelho
Coleman
Conable
Conte
Corcoran
Corman

Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hance
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hinson
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto

Hyde
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones. N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson

Pease
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stark
Steed
Stewart
Stockman
Stokes
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Bob
Wilson, Tex.
Wirth
Wright
Wylie
Yates
Yatron
Young, Alaska
Zablocki

NOES—29

Ashbrook
Bafalis
Bauman
Bethune
Carney
Collins, Tex.
Crane, Daniel
Crane, Philip
Dornan
Gilman

Hammerschmidt
Hansen
Ichord
Kelly
Kemp
Livingston
Lujan
McDonald
Miller, Ohio

Quayle
Quillen
Rudd
Satterfield
Schulze
Solomon
Stratton
Stump
Wyatt
Young, Fla.

NOT VOTING—87

Addabbo
Anderson, Ill.
AuCoin
Badham
Biaggi
Breaux
Brown, Ohio
Broyhill
Burton, Phillip
Butler
Carter
Chappell
Clausen
Cleveland
Collins, Ill.
Conyers
Cotter
Coughlin
Daschle
Davis, S.C.
de la Garza
Dellums
Diggs
Dixon
Dougherty
Downey
Duncan, Oreg.
Early
Edwards, Ala.

Edwards, Calif.
Edwards, Okla.
Fazio
Flood
Foley
Ford, Mich.
Gaydos
Gibbons
Hall, Tex.
Hanley
Hightower
Holland
Hollenbeck
Jacobs
Johnson, Colo.
Kogovsek
Leath, Tex.
Lee
Lewis
McEwen
Marriott
Mathis
Moffett
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Oakar
Pashayan
Paul

Pepper
Pickle
Pursell
Richmond
Rodino
Rose
Rosenthal
Rousselot
Runnels
Santini
Sawyer
Sebelius
Simon
Stanton
Stenholm
Symms
Taylor
Treen
Ullman
Wampler
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Winn
Wolff
Wolpe
Wydler
Young, Mo.
Zeferetti

□ 1230

Messrs. SATTERFIELD, STRATTON, SOLOMON, LIVINGSTON, and COLLINS of Texas changed their votes from "aye" to "no."

So the amendment offered as a substitute for the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DORNAN), as amended.

The amendment, as amended, was agreed to.

The Clerk will read.

The Clerk read as follows:

REPORT TO CONGRESS

SEC. 115. Section 14 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended to read as follows:

"ANNUAL REPORT

"SEC. 14. Not later than December 31 of each year, the Secretary shall submit to the Congress a report on the administration of this Act during the preceding fiscal year. All agencies shall cooperate fully with the Secretary in providing information for such report. Such report shall include detailed information with respect to—

"(1) the implementation of the policies set forth in section 3;

"(2) general licensing activities under sections 5, 6, and 7;

"(3) actions taken in compliance with section 5(c)(3);

"(4) changes in categories of items under export control referred to in section 5(e);

"(5) the operation of the indexing system under section 5(g);

"(6) determinations of foreign availability made under section 5(f), the criteria used to make such determinations, the removal of any export controls under such section, and any evidence demonstrating a need to impose export controls for national security purposes notwithstanding foreign availability;

"(7) consultations with the technical advisory committees established pursuant to section 5(h), the use made of the advice rendered by such committees, and the contributions of such committees toward implementing the policies set forth in this Act;

"(8) changes in policies toward individual countries under section 5(b);

"(9) actions taken to cary out section 5(d);

"(10) the effectiveness of export controls imposed under section 6 in furthering the foreign policy of the United States;

"(11) the implementation of section 8;

"(12) export controls and monitoring under section 7;

"(13) organizational and procedural changes undertaken to increase the efficiency of the export licensing process and to fulfill the requirements of section 10, including an analysis of the time required to process license applications and an accounting of appeals received, court orders issued, and actions taken pursuant thereto under subsection (l) of such section; and

"(14) violations under section 11 and enforcement activities under section 12.".

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 115 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Are there amendments to section 115?

If not, the Clerk will read.

The Clerk read as follows:

RULES AND REGULATIONS

SEC. 116. The Export Administration Act of 1969 is amended by inserting after section 14, as redesignated by section 104(a) of this Act, the following new section:

"REGULATORY AUTHORITY

"SEC. 15. The President and the Secretary may issue such rules and regulations as are necessary to carry out the provisions of this Act. Any such rules or regulations issued to carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) may apply to the financing, transporting, or other servicing of exports and the participation therein by any person.".

The CHAIRMAN pro tempore. Are there amendments to section 116?

If not, the Clerk will read.

The Clerk read as follows:

DEFINITION

SEC. 117. Section 16 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended—

(1) in paragraph (1) by striking out "and" after the semicolon;

(2) in paragraph (2) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(3) the term 'Secretary' means the Secretary of Commerce.".

EFFECT ON OTHER ACTS

SEC. 118. (a) Section 17 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended in subsection (b) by striking out "section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934)" and inserting in lieu thereof "section 38 of the Arms Export Control Act (22 U.S.C. 2778)".

(b) Effective October 1, 1979, the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611–1613d) is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 119. Section 18 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGISLATION.—Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act unless previously and specifically authorized by law.

"(b) AUTHORIZATION.—(1) There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act $7,070,000 for the fiscal year 1980 and $7,777,000 for the fiscal year 1981 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs).

"(2) Of the funds appropriated to the Department of State for the fiscal year 1980, the Secretary of State may use such amounts as may be necessary to carry out the provisions of section 5(k) of this Act.".

TERMINATION DATE

SEC. 120. Section 20 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by striking out "1979" and inserting in lieu thereof "1983".

TECHNICAL AMENDMENTS

SEC. 121. (a) For purposes of this section, an amendment which is expressed in terms of an amendment to a section or other provision, shall be considered to be a section, as redesignated by section 104(a) of this Act, or other provision of the Export Administration Act of 1969.

(b) Section 7 is amended—

(1) in the section heading by striking out "AUTHORITY" and inserting in lieu thereof "OTHER CONTROLS";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting "(2)(C)" immediately after "section 3" the first time it appears,

(ii) by striking out "articles, materials, or supplies, including technical data on any other information," and inserting in lieu thereof "goods",

(iii) by striking out "articles, materials, or supplies" and inserting in lieu thereof "goods", and

(iv) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy stated in section 3(2)(C) of this Act, the Secretary shall include in a notice published in the Federal Register with respect to such restrictions an invitation to all interested parties to submit written comments within fifteen days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking out "(A)" and inserting in lieu thereof "(C)",

(ii) by striking out "of Commerce",

(iii) by striking out "7(c)" and inserting in lieu thereof "12(c)", and

(iv) by striking out "article, material, or supply" and inserting in lieu thereof "goods";

(B) in paragraph (2) by striking out "each article, material, or supply" and inserting in lieu thereof "any goods"; and

(C) by adding at the end thereof the following new paragraph:

"(3) The Secretary shall consult with the Secretary of Energy to determine whether monitoring under this subsection is warranted with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.";

(4) in subsection (f)—

(A) in paragraph (1) by striking out "(B) or (C)" and inserting in lieu thereof "(A) or (B)";

(B) in paragraph (2)—

(i) by striking out "of Commerce" each place it appears, and

(ii) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(C) in paragraph (3) by striking out "clause (A) or (B) of paragraph (2)" and inserting in lieu thereof "paragraph (2)(C)";

(5) in subsection (i) by striking out "(A)" and inserting in lieu thereof "(C)";

(6) in subsection (j)—

(A) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(B) by striking out "of Commerce" each place it appears; and

(7) by striking out subsections (a), (d), (e), (g), (h), and (k), and redesignating subsections (b), (c), (f), (i), (j), (l), subsection (m), as added by section 6(d)(2) of the International Security Assistance Act of 1978, and subsection (n), as added by section 109 of this Act, as subsections (a), (b), (c), (d), (e), (f), (g), and (h), respectively.

(c) Section 8 is amended—

(1) in paragraphs (1)(D) and (5) of subsection (a) by striking out "of Commerce"; and

(2) in subsection (b)—

(A) in paragraph (1) by striking out "4(b)" and inserting in lieu thereof "6(a)"; and

(B) in paragraph (2) by striking out "of Commerce" each place it appears.

(d) Section 9 is amended—

(1) by striking out "of Commerce" each place it appears; and

(2) by striking out "commodity" each place it appears and inserting in lieu thereof "good".

(e) Subsection (c)(2) of section 11 is amended by striking out "4A" each place it appears and inserting in lieu thereof "8".

(f) Section 12 is amended—

(1) in subsection (b) by striking out "the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46)" and inserting in lieu thereof "section 6002 of title 18, United States Code";

(2) in subsection (c)—

(A) by striking out "4A" and inserting in lieu thereof "8";

(B) by striking out "6" and inserting in lieu thereof "11"; and

(C) by striking out "section 4(b)" and inserting in lieu thereof "this Act";

(3) in subsection (d)—

(A) by striking out "quarterly"; and

(B) by striking out "10" and inserting in lieu thereof "14"; and

(4) in subsection (e)—

(A) by striking out "of Commerce";

(B) by striking out "(c)" and inserting in lieu thereof "(h)";

(C) by striking out "articles, materials, and supplies" and inserting in lieu thereof "goods and technology"; and

(D) by striking out the last two sentences and inserting in lieu thereof the following: "The Secretary shall include, in the annual report required by section 14 of this Act, actions taken on the basis of such review to simplify such rules and regulations.".

(g) Section 13 is amended by striking out "6" and inserting in lieu thereof "11".

TECHNICAL AMENDMENTS TO OTHER ACTS

SEC. 122. (a) Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) is amended by striking out "sections 6 (c), (d), (e), and (f) and 7 (a) and (c) of the Export Administration Act of 1969" and inserting in lieu thereof "subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1969, and by subsections (a) and (c) of section 12 of such Act".

(b)(1) Section 103(c) of the Energy Policy and Conservation Act (42 U.S.C. 6212(c)) is amended by striking out "(A)" each place it appears and inserting in lieu thereof "(C)".

(2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3)) is amended—

(A) by striking out "7" and inserting in lieu thereof "12"; and

(B) by striking out "(50 App. U.S.C. 2406".

(c) Section 993(c)(2)(D) of the Internal Revenue Code of 1954 (26 U.S.C. 993(c)(2)(D)) is amended—

(1) by striking out "4(b)" and inserting in lieu thereof "7(a)";

(2) by striking out "(50 U.S.C. App. 2403(b))"; and

(3) by striking out "(A)" and inserting in lieu thereof "(C)".

SAVINGS PROVISIONS

SEC. 123. (a) All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under the Export Control Act of 1949 or the Export Administration Act of 1969 and which are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act or the amendments made by this Act.

(b) This Act and the amendments made by this Act shall not apply to any administrative proceedings commenced or any application for a license made, under the Export Administration Act of 1969, which is pending at the time this Act takes effect.

(c) This Act and the amendments made by this Act shall not affect any investigation, suit, action, or other judicial proceeding commenced under the Export Administration Act of 1969, or under section 552 of title 5, United States Code, which is pending at the time this Act takes effect; but such investigation, suit, action, or proceeding shall be continued as if this Act had not been enacted.

EFFECTIVE DATE

SEC. 124. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect on October 1, 1979.

(b) The amendments made by sections 107 and 108 of this Act shall take effect on the date of enactment of this Act.

TITLE II—INTERNATIONAL INVESTMENT SURVEY ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Section 9 of the International Investment Survey Act of 1976 (90 Stat. 2059) is amended to read as follows:

"SEC. 9. To carry out this Act, there are authorized to be appropriated $4,400,000 for the fiscal year ending September 30, 1980, and $4,500,000 for the fiscal year ending September 30, 1981.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York (Mr. BINGHAM)?

There was no objection.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: Page 63, immediately after line 6, insert the following new section:

DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY

SEC. 127. Section 5 of the Export Administration Act of 1969, as added by section 104(b) of this Act, is amended by adding at the end thereof the following new subsection:

"(1) DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY.—(1) Whenever there is reliable evidence that goods or technology, which were exported subject to national security controls under this section to a country to which exports are controlled for national security purposes, have been diverted to significant military use, the Secretary shall, for as long as that diversion to significant military use continues—

"(A) deny all further exports to the party responsible for that diversion of any goods or technology subject to national security controls under this section which contribute to that particular military use, regardless of whether such goods or technology are available to that country from sources outside the United States; and

"(B) take such additional steps under this Act as are necessary to prevent the further military use of the previously exported goods or technology.

"(2) As used in this subsection, the terms 'diversion to significant military use' and 'significant military use' include, but are not limited to, the use of goods or technology in the design or production of any item on the United States Munitions List.".

Mr. MILLER of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio (Mr. MILLER)?

There was no objection.

Mr. MILLER of Ohio. Mr. Chairman, there is one important item missing from this act which must be corrected. The item concerns what the administration should do once a determination has been made that a military diversion has taken place by a country to which we are controlling exports for national security reasons.

This amendment would require the President to stop any further export of American goods or services to the particular project or plant which is producing the item on the U.S. munitions control list.

The need for this amendment can be easily recognized through the Kama River truck plant episode. Whether there were adequate "safeguards" or "end-use" statements in place should not be the focus of attention at this stage of the game.

The fact is—

The plant is in existence;

It was built in large part with American technology and equipment; and

It is producing military vehicles not only for Soviet use, but for the Warsaw Pact as well.

Therefore, the question now confronting us is what should America do today? Not what we should have done yesterday. Are we going to continue the export of spare parts and technical expertise to keep the plant in operation? If we do, we are very foolish.

This amendment seeks to clarify U.S. policy once a diversion has occurred.

All we are saying with this amendment is that if by chance the "safeguards" and "end-use" statements fail; if by chance we made a mistake by transferring the technology—and that it can be shown that the Soviets are using the exports for miltary purposes—then we must stop the further flow of goods and services which will contribute or support the diversion.

We cannot abdicate our responsibility by saying, "the previous administration is responsible for this military truck plant in the Soviet Union; it is too late now; the water is over the dam, and we should therefore continue to ship them the spare parts and technical advice they need to keep the plant in operation." That attitude is ridiculous. Why should we aid in continued diversion?

The arguments can be raised, "won't the French or Germans come in and supply the technical expertise and material to keep the plant going?" I do not think so. Once the President learns that a diversion has taken place. He should immediately go to our allies and say—"we made a mistake, we did not think the Russians would use this export for military purposes. They breached the understanding. Therefore, we are going to cancel all existing license agreements and to the best of our ability, we will try to prevent the export of spare parts and technical advice they need to run the plant. Can we count on your help?"

I have faith that our allies will listen to such a plea, and work with us to keep the West strong.

If they choose to undercut us, they are only hurting themselves, because one day the Warsaw Pact nations may decide to challenge NATO with superior military strength. The cause for such a confrontation will be in large part their doing.

Mr. Chairman, why should the United States have a munitions control list to prevent the export of military hardware to countries deemed as potential adversaries—if we turn right around and transfer the technology and equipment needed to produce the very items we are trying to keep from falling in the hands of these nations?

If we are going to build the Soviet Union a truck plant to assist in the production of military troops transport vehicles, armored personnel carriers, and tank turrets, why not scrap the munitions list, and sell them the equipment directly?

If the Soviets choose to divert U.S. technology for their military—let us call the deal off. That is the least we can do.

Mr. Chairman, I believe we should take a few minutes and define some of the terms used in this amendment so that there will be no misunderstanding of its original intent when the Commerce Department implements it.

By "reliable evidence that goods or technology have been diverted," we mean when the administration has reason to believe that a diversion is taking place. It does not mean the administration must sit back and wait for some third party to bring in the absolute proof that a diversion has taken place. When dealing with national security issues and with nations like the U.S.S.R., there is rarely absolute proof of anything. The administration must act on those items it has reason to believe are being used for military purposes. As a result, American intelligence agencies must aggressively investigate any allegations that a diversion is taking place. In addition, they must have the attitude that when dealing with Communist nations—if technology can be diverted for military use, it will be.

The term "significant military use" is at least tied to the munitions list. There may be other items not specifically on the U.S. munitions list that need to be controlled for national security reasons. Law enforcement and intelligence gathering equipment could be examples of such items. Items on the "critical technology list" currently being developed within the Department of Defense will probably be added to the list of items we do not want the Soviet Union producing with U.S. technology and support services. As a result, the administration must be given the flexibility to broaden the definition of "significant military use" beyond the items on the U.S. munitions list.

The term "diversion" does not necessarily have to be connected with the use of "safeguards" and "end-use" statements. Because of the Miller "safeguard" amendment overwhelmingly accepted by this body—271 to 138—on Tuesday, September 11, license applications to potential adversaries cannot be approved on the basis of "safeguards" or on the assumption that "end-use" statements will be followed. We must still assume that if it can be diverted, it will be diverted. Therefore, the United States should not export the goods or technology. However, the Soviets are very good at using American civilian technology for military purposes. This amendment is needed to protect U.S. national security on those items we exported where we did not realize that it could be diverted for military use by a potential adversary.

The very nature of the Export Administration Act we are amending today defines that we are dealing with dual-use technologies, and that the United States would not export goods or technology which could be used in the design or production of items on our munitions list. So, if for example, the Soviet Union is using the Kama River truck plant to produce military vehicles—or "civilian" vehicles later diverted for direct military use, that is, rocket launchers, troop transport carriers, et cetera—it can be said that a diversion has taken place—regardless of the presence of "end-use" statements or "safeguard" arrangements.

Finally, this amendment does not limit the President on additional actions he chooses to take in dealing with governments like the Kremlin. This amendment is only the bottom line. If he knows of a diversion, his administration must act.

He can do more than the amendment requires, but he must meet this bottom line.

Mr. Chairman, I believe that this is a constructive amendment which will greatly improve the bill. I urge that it be accepted. Thank you.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I wish we could debate this amendment and discuss it but it would take some time to do so. Under the circumstances, since we only had this amendment given to us fairly recently, I will not object to it. I think it may require some clarification in conference, but at this point I am pleased to accept the amendment.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, on behalf of the minority, I accept the amendment with the same caveat expressed by the gentleman from New York.

Mr. BINGHAM. It may require some clarification in conference.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman from California, and I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. MOAKLEY

Mr. MOAKLEY. Mr. Chairman, I offer a series of amendments, and ask unanimous consent that they be considered en bloc.

There is one substantive amendment but it necessitates five technical amendments.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts (Mr. MOAKLEY)?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. MOAKLEY: Page 55, insert the following after line 19 and redesignate subsequent sections accordingly:

REFINED PETROLEUM PRODUCTS

SEC. 121. Section 7 of the Export Administration Act of 1969, as amended by section 109 of this Act, is amended by adding at the end thereof the following new subsection:

"(o) (1) No refined petroleum product or residual fuel oil may be exported except pursuant to an export license specifically authorizing such export. Not later than five days after an application for a license to export any refined petroleum product or residual fuel oil is received, the Secretary shall notify the Congress of such application, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export. Such notification shall be referred to a committee of appropriate jurisdiction in each House of Congress.

"(2) The Secretary may grant such license if, within five days after notification to the Congress under paragraph (1) is received, a meeting of either committee of Congress to which the notification was referred under paragraph (1) has not been called, with respect to the proposed export, (A) by the chairman of the committee, (B) at the request in writing of a majority of the members of the committee, or (C) at the request of the Speaker of the House of Representatives or the Majority Leader of the Senate. Any such meeting shall be held within 10 days after notification to the Congress under paragraph (1) is received. If such a meeting is so called and held, the Secretary may not grant the license until after the meeting.

"(3) If, at any meeting of a committee called and held as provided in paragraph (2), the committee by a majority vote, a quorum being present, requests 30 days, beginning on the date of the meeting, for the purpose of taking legislative action with respect to the proposed export, the Secretary may not grant the license during such 30-day period.

"(4) Notwithstanding the provisions of paragraph (2) and (3) of this subsection, the Secretary may, after notifying the Congress of an application for an export license pursuant to paragraph (1), grant the license if the Secretary certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that the proposed export is vital to the national interest and that a delay will cause irreparable harm.

"(5) At the time the Secretary grants any license to which this subsection applies, the Secretary shall so notify the Congress, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export.

"(6) This subsection shall not apply to (A) any export license application for exports to a country with respect to which historical export quotas established by the Secretary on the basis of past trading relationships apply, or (B) any license application for exports to a country if exports under the license would not result in more than 250,000 barrels of refined petroleum products and residual fuel oil being exported from the United States to such country in any fiscal year.

"(7) For purposes of this subsection, 'refined petroleum product' means gasoline, kerosene, distillates, propane or butane gas, or diesel fuel.

"(8) The Secretary may extend any time period prescribed in section 10 of this Act to the extent necessary to take into account delays in action by the Secretary on a license application on account of the provisions of this subsection."

Page 59, line 1, strike out "and".

Page 59, line 2, insert after "Act," the following: "and subsection (o), as added by section 121 of this Act,".

Mr. MOAKLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

□ 1240

Mr. MOAKLEY. Mr. Chairman, during the August recess, the Department of Commerce granted export licenses for the sale of $47 million worth of petroleum products to Iran. There was much public outcry over this sale, and I was active in this protest.

I would like to point out that my objection has not been raised because I want to stop aid from going to the people of Iran, nor have I been protesting an action that may ultimately be in the best interests of this country. Rather, my objections were prompted by the fact that this oil was shipped with no advance notice to the Congress at a time when our own citizens are concerned that they may be facing serious shortages of home heating oil this winter.

In fact, Mr. Chairman, just let me explain for a moment the particular situation in which I found myself when the announcement of the export to Iran was made. The original target date put out by the Energy Department for the time at which we were to have sufficient heating oil stockpiled had already slipped by a full month. I was home in my district telling senior citizens that they would most likely be faced with lower temperatures in their homes this winter, telling housing projects that they might well have to take the risk of maintaining only 20 percent supply of heating oil in their tanks—which may cause the sediment to start flowing through the pipes and may cause the furnaces to shut down—and telling everyone that they would have to make the maximum effort to conserve.

It was clear that things could well be very serious this winter for many people, particularly the elderly and the poor. Then, all of a sudden, the Energy Department announced that we had plenty of home heating oil and were, in fact, shipping some of it to Iran.

Mr. Chairman, the people in my district and throughout the Northeast were deeply concerned about that action. We have received a great many conflicting reports from the Department of Energy. It is not at all certain that we are going to have sufficient home heating oil this winter. Energy experts from across the country are doubting whether supplies will be sufficient this winter, particularly if this winter follows the recent pattern of severe cold temperatures. A Small Business subcommittee staff report that was recently issued expressed grave doubts about supplies because, even if we meet the Energy Department goal for primary storage, the amounts of oil at the secondary and tertiary level—the retailers and the consumers—are unseasonably low. The overall situation is still not good.

And, even if we do manage to squeak by with enough, Mr. Chairman, the prices people will be paying are astoundingly high—much higher in most instances than the price Iran paid for the amount they received. As Deputy Energy Secretary O'Leary testified a short while ago, people may literally be faced this winter with a choice between heat for their homes and food.

When there is that kind of domestic impact involved, Mr. Chairman, it seems imperative to have export decisions like the Iranian one subject to congressional scrutiny—not necessarily to bar exports, but to insure that they do not threaten our own national interests. The amendment I now offer seeks to remedy this situation and allow for an open review of a few major energy export decisions with the potential for this kind of impact.

First, by major export decisions I mean

two things: One is that the export would have to be going to a country with which we do not ordinarily trade in refined petroleum products, or the export would have to be significantly greater than usual. Exempt from coverage under this amendment will be all our usual trading partners, like Canada, Mexico, and the countries of the Caribbean. The other provision is that this amendment will apply only to exports that would involve sending more than 250,000 barrels of refined petroleum or residual fuel oil annually to any one country. Here again, the vast majority of our usual, routine, day-to-day transactions will be exempt from the requirements of this amendment.

In those few instances, however, in which a relatively large amount of refined petroleum is going to a country to which we do not ordinarily export such amounts, the amendment requires that the Department of Commerce, after receiving a request for an export license, notify the appropriate committee of each House of Congress of the name of the exporter, the destination of the proposed export and the amount and price of the proposed export.

Once the appropriate committees have received such notification, the amendment gives 5 days for a hearing to be called in either committee in regard to the proposed export, if they feel the proposal is significant enough and serious enough to warrant review. If a meeting were called, either committee would have 10 days—that is a total of 10 days from the time of notification—in which to actually hold a hearing. In all but the most indefensible instances, the maximum delay imposed by this amendment would be 10 days from the time the Department of Commerce received the export application.

This amendment, Mr. Chairman, is drawn as carefully as possible to provide congressional review in a few important instances without in any way adversely affecting the great majority of transactions between this country and our trading partners. I recognize, however, that even as moderate as this amendment is, it might still possibly be necessary in an emergency—such as an outbreak of hostilities in the Middle East—to forgo any congressional review. As a result, there is one final provision in this amendment, one final measure of flexibility. It is that the Secretary of Commerce can waive any review—even the initial 5 days—by deeming the export vital to the national interest and certifying that delay would cause irreparable harm. This would pave the way for immediate export.

In summary, Mr. Chairman, let me emphasize that my amendment does not seek to stop future energy exports, nor does it try to tie the hands of the Commerce Department or of the energy exporting companies in dealings in foreign trade. It is specifically designed not to affect any routine transactions.

Rather, it seeks to insure a congressional voice in a few unique instances in which the Departments of Commerce, Energy, and State are making rather radical departures from our usual trading patterns, in transactions that involve relatively large amounts of refined petroleum products. In that limited number of cases, Congress should have at least a few days to review the decisions of those agencies—decisions that are affecting the lives and well-being of a great many of our constituents.

This is a most reasonable approach, Mr. Chairman, and I urge the support of my colleagues for this important amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I would be glad to yield to the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, the gentleman's amendments refer to past historical quotas based on past trading relations. Am I correct in my interpretation that means existing trading partners will not have to worry about the reliability of the United States as a supplier of refined oil products?

Mr. MOAKLEY. The gentleman is correct.

Mr. LAGOMARSINO. Mr. Chairman, I believe the gentleman's amendments are very useful. For one thing, it will help to lay to rest the mistaken notion that it comes out of ordinary exports of oil products that are happening all the time.

Mr. Chairman, on behalf of the minority we accept the amendments.

Mr. BEARD of Rhode Island. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Rhode Island.

Mr. BEARD of Rhode Island. Mr. Chairman, I would like to go on record as supporting the gentleman from Massachusetts on his amendments.

Mr. MOAKLEY. Mr. Chairman, I yield to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Chairman, I thank the gentleman for yielding.

I would like to commend the gentleman from Massachusetts for this amendment. I think it is an excellent one.

The whole situation points up the inadequacy of the Carter administration in terms of its understanding of how Americans, ordinary Americans, respond to problems in the energy field. The gentleman's amendment is a constructive step toward overcoming or at least bypassing that inadequacy. I do commend the gentleman for his effort.

Mr. MOAKLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts (Mr. MOAKLEY).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 63, insert the following after line 6:

(c) Regulations implementing the provisions of section 10 of the Export Administration Act of 1969, as added by section 104(c) of this Act, shall be issued and take effect not later than July 1, 1980.

Mr. BINGHAM. Mr. Chairman, the Members will recall that this section provides somewhat complicated procedures for imposing deadlines on the various stages of the export administration process. The amendment would give the administration 9 months in which to bring those procedures into effect. We believe they are doing this administratively today. They are working out those procedures. I think the 9 months is necessary for them to get into line. Otherwise, they would have to impose these procedures by October 1, which is the date the bill otherwise would take effect.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I commend the gentleman for offering this amendment. I think it is an improvement to the bill and will take care of some problems.

I accept it on behalf of the minority.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ZABLOCKI

Mr. ZABLOCKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ZABLOCKI: Page 63, after line 18, insert the following:

TITLE III—MISCELLANEOUS

SEC. 301. Section 402 of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting "or beer" in the second sentence immediately after "wine".

Mr. ZABLOCKI. Mr. Chairman, this amendment is designed to correct an inequity in present law which discriminates against beer as one America's export items.

The situation arises from the current wording of section 402 of Public Law 84–480, the Agricultural Trade Development and Assistance Act of 1954. This act is the authorizing legislation for the U.S. Department of Agriculture's overseas market development program.

Section 402 states that the term "agricultural commodity" under that act shall not include alcoholic beverages. Section 402 goes on to exempt wine from this prohibition, by providing that the U.S. wine industry can take part in market development activities financed by local currencies under this law which was designed to promote American agricultural export sales.

Thus, under present law, while American wines can be exhibited at USDA shows abroad, American beers cannot, notwithstanding that other nations have their competing export beers on display. Indeed, if it were a U.S. Commerce Department exhibit, American beers could be included; but not with the Agriculture Department.

So we have a self-defeating situation such as occurred at a recent Harumi Pier International Food Show in Tokyo, where there were at least a dozen West German, Australian, and Dutch beers displayed, but none from the United States of America.

My amendment would remove the discrimination in the present law by putting American beer exporters on the same basis as wine.

Mr. Chairman, I am of course particularly interested in removing this legal discrimination because of my desire to help Wisconsin's agricultural exports. Beer is an important product of my State. I also happen to think we produce the world's best.

It is important to our State's economy. Some 10,000 workers are employed in the brewing industry in Wisconsin. It is a billion dollar industry in our State. It is of course an important contributor to economies in other States.

At this time of recession at home and big deficits in our foreign trade, it is incumbent upon us to do what we can to increase American sales abroad.

The Secretary of Agriculture, the Honorable Bob Bergland, supports this amendment in the interest of American farmers. The Wisconsin State AFL–CIO and the State Brewers Association support it. The Office of Management and Budget has indicated no objection to it. It does not involve any expenditure of taxpayers' funds.

I ask unanimous consent to include in my remarks, letters of support from Secretary Bergland and from the Wisconsin Secretary of Agriculture, Trade and Consumer Protection, the Honorable Gary Rhode.

I urge adoption of this amendment.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., September 11, 1979.
Hon. CLEMENT J. ZABLOCKI,
Chairman, Commission on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for a report on a proposed amendment to H.R. 4034, the purpose of which would be to allow beer to be among the items included in U.S. Department of Agriculture export promotion exhibits abroad.

As we understand the amendment, it would add the words "or beer" in the second sentence immediately following the word "wine" in Section 402 of the Agricultural Trade Development and Assistance Act of 1954.

The Department favors enactment of the amendment.

The omission of beer from those products eligible for export promotion assistance discriminates against beer produced in the United States. We favor increased exports of American agricultural commodities, and beer is an important product made from our farm products.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the President's program.

Sincerely,
BOB BERGLAND,
Secretary.

STATE OF WISCONSIN,
May 17, 1979.
Hon. CLEMENT J. ZABLOCKI,
U.S. House of Representatives,
Rayburn House Office Bldg.,
Washington, D.C.

DEAR REPRESENTATIVE ZABLOCKI: Our department has been intensifying its efforts over the last few years to increase Wisconsin agricultural exports. We work with producers of raw agricultural commodities, as well as suppliers of processed food and beverage products.

We have found that the American Food Exhibits sponsored by the Foreign Agricultural Service of the U.S. Department of Agriculture (FAS/USDA) are a useful forum in which to introduce and promote Wisconsin food products before an international audience. Unfortunately, the members of one of our most important industries, Wisconsin's beer brewing companies, are precluded by law from showing their products at these exhibits.

Public Law 89–808, approved in November 1966, amended P.L. 84–480, the authorizing legislation for the overseas market development program for FAS/USDA. Section 402 of the 1966 legislation read in part: "The term 'agricultural commodity' shall not include alcoholic beverages . . .".

In 1971, P.L. 92–42 amended section 402, releasing the prohibition for domestic wine producers. This was accomplished through the efforts of the California wine producers. The prohibition, however, remains in effect for beer.

The inability of Wisconsin's brewers to display their products at these overseas trade shows puts them at a great disadvantage relative to beer producers from other countries. For example, at the recent Harumi Pier International Food Show in Tokyo, Japan, there were at least a dozen West German, Australian, and Dutch beers displayed. There were no American beers on display in the U.S. exhibit.

Wisconsin's beer industry is a major component of our state's economy. Approximately 10,000 people are directly employed by local brewing companies, which generate a total annual revenue of almost one billion dollars. Of course, the wider effect on the economy can be imagined when one considers all the other Wisconsin companies that supply and service the brewing industry. The prohibition of beer at government-sponsored international food shows appears to be unique to the United States at this time, as evidenced by the plethora of foreign beers seen on display overseas. Even U.S. wine is not so hindered in its international marketing efforts.

We feel that it would be of benefit for the Wisconsin beer industry, the farmers who provide the raw materials for the brewing process, and the state's economy in general for this law to be amended further so as to allow Wisconsin beer to gain greater international exposure. We would like to urge you to study this legislation with the prospect of altering the inequity that allows U.S. wine to be displayed at USDA shows, while our beer is not. Such a change would not only be in the best interest of fair competition, but also would stimulate growth in the important Wisconsin brewing sector.

At a time when our national balance of trade is in deficit, State and Federal governments must make every attempt to remove regulations that unnecessarily impede the expansion of exports. There is considerable interest in Wisconsin for an amendment that would allow beer to be shown at USDA shows, including the Wisconsin State Brewers Association and the Wisconsin State AFL–CIO.

We would be pleased to assist you in any way with regard to this issue. Thank you for your kind attention.

Sincerely,
GARY E. RHODE,
Secretary.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I am happy to concur in the gentleman's amendment.

Mr. ZABLOCKI. I rest my case, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

The amendment was agreed to.

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, just to lay out the procedure, we have 15 more minutes. We can conclude the consideration of this bill with a record vote on the gentleman's amendment to start at 1 o'clock. I see no reason for a recorded vote on final passage.

Mr. ASHBROOK. Mr. Chairman, just a minute.

Mr. BINGHAM. Mr. Chairman, the gentleman may really be fouling us up here. The final passage of the bill is not controversial.

Mr. ASHBROOK. Wait a second. What did the gentleman mean, we will be fouling it up, by orderly legislative process?

The CHAIRMAN. Regular order will be observed.

Mr. BINGHAM. I tried to explain before. We have been trying desperately to finish this bill today. I am just asking for consideration. If anyone wants to vote against final passage of the bill, wants to call for a record vote, that is their intention.

I wanted to explain to the gentleman from California (Mr. DANNEMEYER) that I felt the gentleman's amendment could be dealt with. The gentleman would have the full 5 minutes to present it.

Others can present their remarks and revise and extend and start that record vote at 1 o'clock and then the Members can leave. If Members wish to call for a recorded vote on final passage and wish to do so, that is their privilege.

Mr. DANNEMEYER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1250

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Are there any further amendments?

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 62 after line 24 add the following new section and renumber the succeeding sections accordingly.

SEC. 124. Notwithstanding any other provision of this Act subsection (1) of section 7 of the Export Administration Act of 1969 as such section is redesignated by section 104(a) of the Act, is amended—

(1) in paragraph (1)—

(A) by striking out clause (A) and inserting in lieu thereof the following: "(A) is exported to another country in exchange for the same quantity of crude oil being exported from an adjacent foreign country to the United States, or", and

(B) by striking out "during the 2-year period beginning on the date of enactment of this subsection"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

"(A) the President makes and publishes express findings that exports of such crude oil, including exchanges—

"(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

"(ii) will, within three months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refineries which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil which is exported, and (II) commensurately reduced wholesale and retail prices of products refined from such imported crude oil;

"(iii) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

"(iv) are clearly necessary to protect the national interest; and

"(v) are in accordance with the provisions of this Act; and

"(B) the President reports such findings to the Congress and the Congress, within sixty days thereafter, passes a concurrent resolution approving such exports on the basis of the findings.

Findings of lower costs and prices described in subparagraph (A) (ii) should be audited and verified by the General Accounting Office at least semiannually.

"(3) Notwithstanding any other provision of this section and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any nation pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before May 1, 1979.

"(4) The limitations of this subsection, and the requirement contained in subsection (u) of section 28 of the Mineral Leasing Act of 1920 that the President make certain findings, shall be effective only during a period in which, as determined by the President, the major oil exporting countries have imposed severe restrictions on the export of oil to the United States.".

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANNEMEYER. Mr. Chairman, I am offering this amendment in an effort to resolve a complication that is interfering with our domestic oil supply situation. Currently, our North Slope Alaskan oil fields are expanding their production in spite of the fact that they presently outproduce the refinery capacity of the closest domestic refining market, the west coast. The consequent higher costs of shipping excess Alaskan crude oil to the gulf coast ports, due to the inability of west coast refineries to accommodate it, represents dollars that could either be used to develop new sources of oil or could be passed along to the consumers in the form of lower prices at the pump.

Ironically, Mexico, which is on its way to becoming a major world supplier of oil, has somewhat the same problem. While the closest markets for its oil, much of which is located in the Gulf of Mexico, are obviously the gulf coast ports of the United States, it may be shipping oil through the Panama Canal to Japan under terms of a proposed agreement. Paradoxically, of course, Japan is a lot closer to Alaska than it is to Mexico.

With the energy shortage being a fact of life, with inflation running at 13 percent and with the easy availability of Mexican oil, limiting ourselves to less oil, or higher prices, or both makes no more sense than it does for Mexico, which needs every peso it can get to promote economic development, to ship oil through a canal and across an ocean when it could ship it just across a gulf.

What would make a whole lot more sense would be for this Congress to reject the idea of a prohibition on Alaskan oil imports so that the way would be clear for a barter arrangement to be worked out between the United States, Japan, and Mexico. The United States could send some of its surplus Alaskan oil, surplus being defined as that amount over and above west coast refinery capacity, to Japan in lieu of Mexican oil and in turn, the Mexicans would send the oil that would otherwise go to Japan, to U.S. gulf coast ports. Oil shipments would be speeded up, hopefully costs would be lessened and the dependence on the Panama Canal, which could always be nationalized and closed now that the United States has surrendered its claim of sovereignty, would be substantially reduced. Furthermore, relations between the United States and Mexico, strained in the aftermath of the President's less than successful recent visit, would stand a good chance of being improved.

So that such a barter arrangement could be worked out, if the parties were willing, my amendment would waive the Alaskan oil export prohibition except when foreign nations impose severe restrictions on the export of oil to the United States. To give my colleagues a better idea of why this is needed and how it would work, let me elaborate for a moment on the remarks I made at the outset.

At present, the North Slope oil fields in Alaska produce 1.2 million barrels of oil per day, a rate of production that will soon rise by 200,000 barrels per day and will ultimately peak at two million barrels per day, the capacity of the trans-Alaska pipeline. From there, one would expect the oil to be shipped to the closest point, the west coast and either refined or piped East. However, west coast refineries can refine only 850,000 barrels a day of crude oil, due to severe environmental restrictions on refinery construction and expansion, and there is no west-to-east pipeline for the shipment of crude oil, so the only way to get Alaskan crude in excess of west coast refinery capacity to the Middle West and Texas is to ship it via the Panama Canal. This, in turn, means that the large oil tankers that bring the oil down from Alaska must offload the oil onto a fleet of small tenders for the canal passage. Thus, the extra cost of shipping has been estimated to add roughly $2 to the price of oil—not an inconsequential sum even in these days of high oil prices.

The Japanese, likewise, are faced with the problem of higher than necessary shipping costs when importing oil from Mexico. Japan imports almost all its oil and is bargaining with the Mexican Government for the importation of crude oil, but Mexico's only point of oil export is on the Gulf of Mexico. Consequently, Mexican oil bound for Japan must transship the Panama Canal just like oil bound for Galveston from Alaska.

The closer proximity of Alaska to Japan, and the fact that oil from Alaska to Japan would not have to go through the canal, has apparently not escaped the attention of the Japanese for they have indicated an interest in buying approximately 300,000 barrels per day of Alaskan crude oil now. This figure also corresponds to the amount Japan may contract to purchase from the Mexican Government. Likewise, this figure is close to the amount of Alaskan oil presently being produced in excess of west coast refinery capacity, so we could easily make a deal with Japan to meet their oil needs and with Mexico to receive the oil that would have been sent to Japan. In this manner, all parties could get their oil more quickly and save some money to boot. The positive effects of this action would either be a reduction in cost of crude oil at the refinery, or an added incentive to production, or a combination of the two. The nature of possible savings at the refinery would be dependent upon market supply conditions from time to time. If there were a crude oil supply shortage, the price would tend to drop the degree it would if there were a condition of oversupply of crude oil to refineries. Transportation cost savings not realized at the refinery or the gas pump would be retained by the suppliers and these additional profits could reasonably be expected to facilitate further exploration and development in the energy field.

The CHAIRMAN. The time of the gentleman from California (Mr. DANNEMEYER) has expired.

Mr. DANNEMEYER. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAILEY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

and I yield to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Chairman, I thank the gentleman from New York (Mr. BINGHAM) for his courtesy.

Mr. Chairman, this amendment can have far-reaching positive effects on our balance of trade position regarding both Japan and Mexico. In 1977 our balance-of-trade deficit with Japan was approximately $8.1 billion. If we were to export the majority of our current surplus ANS oil (300,000 barrels per day) at $20 per barrel we could reduce this deficit by $2.19 billion. In 1977 Mexico had a trade deficit with the United States in the amount of $121 million. The purchase of additional Mexican crude oil could create a positive trade balance with Mexico that could help facilitate industrialization in a nation that cannot employ its people. Such industrialization represents a long term solution to the problems of unemployment and illegal immigration to the United States that has plagued United States-Mexico relations for so long. The benefits from this facet of this amendment bear careful consideration by the House in view of their significant foreign policy and economic implications.

My amendment proposes that export of Alaskan crude oil be permitted only when a barter arrangement may be worked out with a contiguous foreign nation. This guarantees that export of crude oil will not result in a net loss of oil to the nation, but will insure faster more economical deliveries. The reference to a contiguous foreign nation narrows the applicability of this provision, but it also prevents further dependency upon potentially interruptible foreign sources since a foreign source, that is adjacent to our borders, may be made more secure than ones that depend upon ocean shipment of supplies.

There is additional benefit, heretofore unmentioned, that would come out of such a barter arrangement. Interestingly, Mexican crude oil, while similar in sulfur content to Alaskan crude, has a lower specific gravity. This, in turn, permits refiners to obtain a higher percentage of gasoline from each barrel of crude oil delivered. I need hardly remind anyone here of the significance of that fact in terms of the gas lines we have been experiencing lately.

The objection has been raised that adoption of this amendment would hurt our merchant marine. But this argument overlooks the fact that additional oil may be produced to offset, at least somewhat, the reduction in shipping distance and that this additional production might keep our ships busy. Furthermore, the fate of our merchant marine is only one of a number of factors that have to be considered here. Even if the critics are right, should that concern outweigh the incentives to production, the possible savings to consumers, and the prospect of improved relations with our neighbor to the south? I think not. A balance has to be struck and adoption of this amendment to waive the prohibition on Alaska oil exports would help strike it. I urge adoption of the amendment.

● Mr. MOAKLEY. Mr. Chairman, I am opposed to the amendment offered by the gentleman from California.

We must maintain protection of our ever-decreasing domestic oil reserves for American consumption and resist efforts to allow exportation of Alaskan oil without careful examination of the costs and benefits.

The bill, as it is written now, does not prevent Alaskan crude from ever being exported, but it does seek to insure that if and when it becomes available for trade it will be to the benefit of the American consumer and not to just the oil-producing corporations.

It is our responsibility to retain a congressional voice in determining our export options, and the bill presently maintains that any oil exchange plan must be approved by both Houses of Congress and not be left up solely to the executive branch.

Let's look at who would benefit from an oil exchange. First, the price of Alaskan oil is already completely decontrolled. Since it is pegged to world prices of crude oil, OPEC increases result in price increases for Alaskan oil.

This has proved to be very profitable for the oil companies. According to an article in "Petroleum Intelligence Weekly" in June of this year, after-tax profits on Alaskan sales to the United States west and gulf coast markets have soared past $3 a barrel and could reach $4.10, which would be an 85-percent increase.

The incentive for the oil corporations in shipping this oil to Japan rather than the continental United States is that they will save about $2 per barrel in transportation costs, increasing their profits even more—not to mention that the tankers they use can be foreign-flag ships using foreign crews.

Second, Alaskan oil's heavier gravity makes it ideally suited for the production of home heating oil. At a time when we are trying to build up our heating oil stocks for the winter, especially for the oil-dependent New England region. I feel we should not ease the restrictions on its export.

How can we justify sending domestically produced oil to Japan or any country when the American people are still skeptical about the origins of our summer liquid fuel shortages? We are now at a time when our President, along with the Congress, is trying to renew confidence in Government and I believe that any exportation of domestic oil would seriously undermine our efforts.

I urge defeat of the amendment.●

□ 1300

Mr. BINGHAM. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. CONABLE asked and was given permission to address the House for 1 minute.)

Mr. CONABLE. Mr. Speaker, I reserve this time for the purpose of inquiring of the distinguished majority leader about the schedule for next week.

Mr. WRIGHT. If the gentleman will yield, there are three things which, as an absolute minimum, we must attend to if we are to avail ourselves of the opportunity of the planned home district work period for the first part of October.

Those three things are: The continuing appropriations, the public debt limitation, and the Panama Canal implementing legislation.

It seems obvious and beyond the necessity of any explanation that the House could not in good conscience abandon its duty and leave the public in the lurch with those needs unattended. Each of those bills has a very short fuse. They should be attended before the 1st of October, and that means next week.

Mr. Speaker, having said that, I will give to the gentleman and the Members the program as I see it from the vantage point of this far out.

On Monday we plan no votes at all, and recorded votes would be postponed until Tuesday. There is one District bill, the D.C. Retirement Reform Act. After that we would proceed to eight bills listed under suspension of the rules, proceed with H.R. 2795, International Travel Act authorizations, and H.R. 3642, emergency medical services reauthorizations, doing general debate only on those two bills. In each instance, they are open rules, with 1 hour of general debate authorized.

On Tuesday the House would meet at noon. There would follow the recorded votes on any suspensions and, if required, on the District bill, which would have been debated on Monday.

We plan then to proceed to the consideration of House Joint Resolution 404, Continuing Appropriations for Fiscal Year 1980, on which a rule already has been adopted.

Then we would take up H.R. 4034, Export Administration Act Amendments of 1979, and hope to complete consideration; then proceed to the consideration of H.R. 2795, International Travel Act authorizations, and H.R. 3642, emergency medical services reauthorizations, voting on the amendments and, we would hope, on the bills.

On Wednesday, Thursday, and Friday we would meet at 10 a.m. We would come to the second concurrent budget resolution, then to the Public Debt Limitation, following that with S. 832, FEC amendments; H.R. 5359, Defense appropriations, fiscal year 1980; H.R. 3000, DOE authorizations, 1980; H.R. 3180, DOE authorizations, 1979; H.R. 2859, Domestic Volunteer Service Act amendments; H.R. 2061, LEAA reauthorizations; and H.R. 3303, Justice Department authorizations, 1980.

We make clear, Mr. Speaker, that conference reports may be brought up at any time and, in that connection, I should say that the Panama Canal implementing legislation is expected.

Beyond that, any further program will have to be announced later. Obviously, we may not conclude this entire program next week.

Mr. CONABLE. Mr. Speaker, if we do not complete the schedule for Tuesday, will we nonetheless begin on Wednesday with the second budget resolution and the public debt limitation measures, or will they follow on completion of Tuesday's schedule?

Mr. WRIGHT. If the gentleman will yield, I think we would start with them. Of course, I must assume that we shall have completed the continuing appropriations bill. I do not believe we would want to interrupt that. But I do believe that, all things being equal, the second budget resolution, the public debt limitation, and a conference report on the Panama Canal implementing legislation would have right-of-way over any other legislation.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

Mr. Speaker, the majority leader has not indicated what would be the closing times, but I would hope that on Tuesday we could sit until we finish the Export Administration Act. I would hope that no time limit would be set for adjournment Tuesday evening.

Mr. CONABLE. I yield to the distinguished majority leader for a comment on that.

Mr. WRIGHT. Mr. Speaker, in deference to the wishes of my beloved colleague, the gentleman from New York, I shall announce at this point no projected closing time for Tuesday, although I would hope that we might conclude for that matter and adjourn by about 5:30. We would hope to adjourn by 5:30 on Monday, we would hope to adjourn by 5:30 on Thursday, we plan to adjourn by 3 o'clock on Friday. On Wednesday we will go until it is timely for us to leave.

Mr. CONABLE. Mr. Speaker, may I ask the majority leader, then his expectation is that when we adjourn, assuming it is 3 o'clock on Friday, we will adjourn until noon on the 9th; is that correct?

Mr. WRIGHT. I will say to the gentleman that we will stay, in the words of the song, until it is time for us to go. And it will not be time us for to go until we have completed at least those three priority items which I enumerated earlier.

Mr. STEED. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Oklahoma.

Mr. STEED. Mr. Speaker, I would like to advise the majority leader that we have reached an agreement with the Senate on the appropriation bill of the Post Office, Treasury, and General Government. We will have it filed Monday. With unanimous consent, we could call it up on Wednesday, and otherwise by Thursday, and since it covers so much of the Government—the other body tells me that they will act as soon as we do—if we could get some time to do that it would help us to get rid of much of the appropriation program.

Mr. WRIGHT. Mr. Speaker, if I might ask the gentleman from New York to yield, the word we have just received from the gentleman from Oklahoma is indeed good news. It tells us that there are a total of nine bills which may be ready on conference, three of them appropriations bills, including the one the gentleman just mentioned. It would be nice if we could take some of them, and I hope we may. But among them, the Panama Canal implementing legislation has priority.

☐ 1310

I hope that we will be able to complete the continuing appropriations bill, the public debt limitation, the second budget resolution, and the Panama Canal conference report.

If we do, we can go home with clear consciences and enjoy relations with our constituents.

Mr. CONABLE. Depending on the outcome.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Maryland.

Mr. BAUMAN. I make two observations: One, I assume the gentleman means the Panama Canal conference report in altered form; and the other point I wanted to ask him, will we actually adjourn on next Friday at 3 or at 1? Today, many of us only learned this morning 1 o'clock was the intended hour.

Mr. WRIGHT. The plan is to adjourn at 3 next Friday.

Mr. BAUMAN. I thank the gentleman.

Mr. WRIGHT. There are religious holidays the Jewish faith observes, and members of the Jewish faith desire to be home by sundown tonight. We wanted to accommodate their wishes.

Mr. CONABLE. I thank the majority leader for the information he has given us.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

ADJOURNMENT TO MONDAY, SEPTEMBER 24, 1979

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday, September 24, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REFORM OF REGULATION OF TELECOMMUNICATIONS — MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–192)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Interstate and Foreign Commerce and ordered to be printed:

To the Congress of the United States:

I am today announcing my support for efforts in Congress to reform the regulation of telecommunications. Legislation is needed to eliminate needless regulatory controls, encourage competition and innovation, and keep telephone service affordable throughout the country.

Regulatory reform is one of my highest national priorities. Where the marketplace can work, we must get the government out of making marketplace decisions. Where regulation is needed, we must ensure it is well managed.

Last year the Administration and Congress worked together to deregulate airlines, introducing competition that already has saved over $2.5 billion for passengers while increasing air travel and airline revenues. This year we have submitted to Congress far-reaching regulatory reform proposals affecting trucking, railroads, banking, drugs, and regulatory procedures.

The 45-year-old regulatory charter for telecommunications also needs revisions. This industry can provide more and better services while cutting many costs. It can help fight inflation and promote growth. We cannot afford to have this progress frustrated by unwarranted regulation. We must ensure that competitors fight through their salesmen in the marketplace rather than through their lawyers in government hearings.

Telecommunications is crucial to our society. This industry—which includes the telephone companies and the firms which provide satellite communications, computer links, and other specialized services—has more than one million employees and annual revenues of over $50 billion. The availability of nationwide, high-quality communications is vital to the economy, national security, and the quality of our lives. Sophisticated new communications systems are providing better services, lower costs, and improved productivity in an economy that depends more and more on information transfers.

Telecommunications firms are regulated by the Federal Communications Commission under the Communications Act of 1934. That Act was designed at a time when technology made monopoly the logical structure for telecommunications. That system, assisted by the rural telephone loan program, has nearly achieved the national goal of universal service—96 percent of all households and nearly all businesses have telephone service.

Two critical changes have occurred since 1934. First, there have been extraordinary technological advances. In addition to the wired network, the telephone companies and new competing firms are using satellites, lasers, microwaves, and miniature computers to provide more and more systems and services for business and homes. The new technology makes it possible to hold meetings, transmit messages, do research, bank, shop and receive a widening variety of information and entertainment—all through electronics. In the process, the technology has invalidated the old assumption that all aspects of telecommunications service are natural monopolies. Second, FCC and court actions over the last decade opened portions of the industry to competition. Despite these far-reaching developments, the statutory framework has remained unchanged, and regulatory changes have come slowly.

Outmoded regulatory controls and slow procedures are harming new competitors, established telephone companies, and users of telephone and other telecommunications services. Regulatory delays and uncertainties discourage firms from entering new markets and offering new services. In a dynamic industry, these delays can mean that the product or services offered is obsolete by the time the regulatory proceeding ends. Innovation is hobbled by uncertainty and by the need to respond to artificial regulatory conditions instead of real consumer demand.

Consumers are the final beneficiaries of competition, through lower prices and wider choices. The competition already allowed in the telecommunications industry is producing benefits. For example, the market for telephone sets and other terminal equipment recently was opened to competition. Consumers now can shop around for good prices, choose from a wide variety of products, and decide whether to buy or lease. Competition is also providing more choices among sophisticated, new services, such as those that combine data processing and transmission.

The choice is clear. Competition is a fact of life in this industry. It cannot and should not be rolled back, and we should not allow it to continue developing haphazardly. That approach means delay and uncertainty, and it poses a long-run danger to the health of our telecommunications system. Instead, we need both legislation and well-planned action at the FCC. The task is to create a structure that will give consumers the benefits of competition and deregulation wherever they make sense while keeping telephone service reliable and affordable.

The FCC under Chairman Charles Ferris is working hard on this effort, but the Act itself needs change. The House and Senate Communications Subcommittees are now working on legislation to meet this challenge. I urge Congress to press forward and enact a bill that incorporates the following basic principles:

Competition should be encouraged and fully competitive markets should be deregulated. The bill should set a policy of encouraging competition wherever it is workable and of eliminating needless regulation. Deregulation makes sense for competitive markets, such as terminal equipment, and for small firms that cannot dominate markets. Many communications and equipment offerings should be deregulated now, and legislation is needed to avoid endless litigation over the FCC's authority to do so. Of course, some communications markets, such as the local exchange, may remain regulated monopolies indefinitely. The legislation should not, however, preclude competition in any market.

As the industry moves toward competition and deregulation, some continued controls will be needed because one firm dominates the telecommunications industry and others have local monopolies. Firms should be prevented from using monopoly power and revenues in some markets to gain advantage over competitors in others. Any monopoly facilities used in providing competitive services should be available to all competitors at the same rates and terms. In addition, changes in companies' structures will be needed, such as mandating fully separate subsidiaries. Where such changes are made, the employment, pension, and union rights of the employee should be protected.

Restrictions based on out-of-date market divisions should be removed. The line between telecommunications and data processing has become blurred; new equipment and services involve both. Existing controls based on this distinction have produced years of regulatory proceedings and are delaying the use of new technologies. In addition, the rules that divide some communications services between domestic and international companies are outmoded and need change. These problems should be solved through open competition by all, without extending the scope of regulation. To insure fair competition, creation of fully separate subsidiaries, including separate accounts and marketing, will be needed, and some of the restrictions on international service will have to be removed gradually.

Universal availability of basic telephone service at affordable rates must be maintained. Overall long-distance revenues currently contribute to keeping some local and toll rates affordable. This is done through complex accounting processes largely determined by the telephone industry. Because of the developments of the last decade, this system is in trouble. The industry is considering changing it in order to match the new competitors' rates, and that could mean significant rate increases in some rural areas.

These are important public policy decisions and should not be left solely to the industry. We need a new system, which would be administered openly by public officials. The legislation should provide for a charge on all long-distance services—including those of the new competitors—which use local exchanges. This "access charge" would cover the actual cost of using local facilities, provide support for local service, and finance protection for rural residents against large toll rate increases.

These provisions should be drawn to encourage the FCC, state regulators and the telephone companies to take long-term steps to support universal service. Such steps include prices based on actual use; low "lifeline" rates for basic service; and use of new technologies that can provide low-cost service over long distances.

In addition, the rural telephone companies and cooperatives should be encouraged to help extend to rural Americans the benefits of all the new communications technologies. As my policy statement on rural communications said last January, the current rules that restrict rural telephone companies from offering cable TV services should be removed.

Appropriate jurisdictional boundaries should be set. The current boundary between Federal and State regulatory jurisdictions—the State line—is inconsistent with technological realities. The bill should set new, clear boundaries: Service within local exchanges should be regulated by the States, while service between exchanges should be under Federal control.

The FCC should be given the authority to develop efficient means of assigning nonbroadcast frequencies. Many of the new telecommunications systems use radio frequencies, such as satellite links, microwaves, and mobile radio. The FCC currently assigns many of these frequencies through "comparative hearings" which impose months or years of delay and waste FCC resources. Under the current system, once a frequency is assigned there is no incentive to use it efficiently. That is a problem because growing numbers of users, here and abroad, are crowding the limited space in the radio spectrum.

We need assignment systems that are fast, flexible, and that provide incentives to use the spectrum efficiently. The legislation should give the FCC authority to design new procedures which use marketplace forces, such as auctions, leasing, and resale. These procedures will help insure that the spectrum is used sensibly, just as similar tools are employed for oil leases and other limited natural resources.

The antitrust laws should remain applicable as before. It should be explicit that the legislation is neutral as to pending and any future litigation.

The technical quality of the telecommunications network should be protected. The legislation should not impede cooperation between the carriers to plan and manage national systems. To provide for technical quality, national security, and emergency preparedness needs, the FCC should retain authority to set technical standards and ensure that facilities are capable of interconnection where appropriate.

Public participation in regulatory decision making should be encouraged. Effective participation by the users of telecommunications services will help the FCC and state regulators make their difficult decisions. Such involvement should be encouraged through open proceedings and by providing funding for groups that could not otherwise afford to participate and that represent an important interest that would not otherwise be heard.

I congratulate Chairman Lionel Van Deerlin of the House Communications Subcommittee and Chairmen Howard Cannon and Ernest Hollings of the Senate Commerce Committee and the Communications Subcommittee and their colleagues for the extensive and informative hearings they have held and the thoughtful bills they have introduced covering the issues I have outlined and other important communications matters. My Administration will continue to provide assistance on specific provisions. I urge Congress to move forward with this important effort.

JIMMY CARTER.

THE WHITE HOUSE, *September 21, 1979.*

VALUE ADDED TAX—ATTACK AGAINST WALLET OF THE AVERAGE AMERICAN

(Mr. BRODHEAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRODHEAD. Mr. Speaker, a little-publicized attack was launched last week against the wallet of the average American. The chairmen of the tax-writing committees in the U.S. Congress have proposed a new tax. Perhaps it has not occurred to some people that in addition to the Federal income tax, corporate taxes, payroll taxes, and State and local taxes, we need a national sales tax on everything from bread to housing construction, from clothing to entertainment, and from transportation to caviar. Yet that is what the chairmen of the tax-writing committees are now arguing that we cannot live without. Of course, they are not calling it a sales tax: They call it value added tax (VAT). This sounds a good bit more serious and less threatening, but it is still a sales tax.

The rationale for VAT, according to its supporters, is to encourage people to spend less and save more. This position is not without logic. If every purchase is hit by a 10-percent sales tax (that is what the supporters of VAT are proposing), some people may just decide to kick the buying habit, unless their habit happens to be the family dinner. The people who would be hardest hit by VAT are those who are already having great difficulty paying steadily increasing prices for food, clothing, housing, and medical care. More affluent citizens would have the option of putting their money into investments or savings which would effectively shelter that portion of their income from VAT.

Supporters justify their admiration of VAT by pointing out that it is "neutral" in its impact across the spectrum of businesses, since it applies in the same way to all types of businesses whether they are labor intensive or capital intensive, debt-financed or equity-financed, efficient or inefficient, profitable or unprofitable. Such supporters are easy to please. After all, with a sales tax, it is not business, but the consumer who is paying the tax. And since it is consumers who would bear the full burden, it is among consumers that we find significant differences in its potential effects.

Of all the faults of the value-added tax, its regressivity is the most disturbing feature. The Federal income tax, based as it is in large measure on the individual's ability to pay, is our most progressive tax. VAT, however, like any sales tax, is set as a fixed percentage of the value of a purchase. The consumer with a small income pays exactly the same tax as the one with a large income, but he pays a higher percentage of his total income. Moreover, the family that must spend its entire income just to survive is taxed on all its purchases, while the family which can afford to save or invest is taxed on only a part of its income.

This new proposal would substitute revenues raised through VAT for a portion of Federal income tax revenues and social security payroll tax revenues. The effect, and the intent, of VAT is to tax consumers in order to provide a substantial tax break to profitable corporations and to individuals in high tax brackets, who typically spend a smaller portion of their income on consumable items.

The supporters of VAT acknowledge its inequity. Those among them who are troubled by it say it can be corrected, and in theory they are right. We could have different rates on different types of commodities: A low tax on bread, a medium-sized tax on hats, and a heavy tax on yachts. However, there are a number of problems with solutions of this sort. First, such variations complicate the administration of VAT and inflate its cost enormously. In the second place, this sort of tax would put government in the business of deciding for all commodities and for all people just what are necessities and what are luxuries. And finally, the tax base available for VAT would be seriously narrowed.

VAT is attractive to its supporters, because it is invisible. I am deeply troubled with a system of taxation which hides the tax from the very person who foots the bill. VAT would not show up as a charge on the sales slip at the supermarket or at the shoestore. The reason for this lies in its cumbersome mode of collection. At each stage in the production of a commodity, the manufacturer would pay a tax which is based on the value he adds, hence the term "value-added tax." Each producer is reimbursed by the Government for the tax built into the price of what he pays his suppliers. In the end, of course, the consumer pays the entire accumulated VAT when he purchases the final product. It does not look to him like a sales tax; but it is a sales tax just the same and he must pay it.

VAT would of course be immediately and highly inflationary because it would automatically force prices up 10 percent from the moment it takes effect. In addition to the predictable price increase brought on directly by VAT, there would be a very serious danger of sparking demands by workers for substantial wage increases to meet the sudden surge in prices. At a time when we are struggling to hold down inflation it would be foolish to implement a new tax, the inflationary impact of which would be virtually impossible to contain.

VAT was designed to solve some real problems: High individual and corporate income tax rates and the burden of the Social Security (FICA) payroll tax. We can find ways to address these problems, without VAT, if we can overcome the negative thinking which has characterized congressional tax-making policy for many years.

The introduction of VAT legislation illustrates the total bankruptcy of our tax policy. We began with a fair, sensible, and progressive income tax, but over the years Congress has loaded it with special exemptions, deductions, credits, and exclusions, so that a very substantial part of individual and corporate income is not subject to the income tax. The result of this is not only a very complicated system, but one in which the tax rates are far too high, since a large portion of individual and corporate income is exempt from tax. For this reason, the income tax is now viewed by many as onerous and oppressive. The proposed solution, VAT, however, is even more onerous and more oppressive.

Instead of imposing this new tax, Congress should eliminate most of these special deductions, exemptions, credits, and exclusions and drastically lower the tax rates. I submit that the resulting system would be fairer for both corporate and individual taxpayers. It would also allow individuals and corporations to decide for themselves how to spend their money instead of being coerced by tax incentives to spend their income or profits in certain Government-approved ways.

The resulting income tax would be much simpler and cheaper for the taxpayer to compute and for the Government to collect. By eliminating most of the tax breaks for business, we could substantially reduce the ridiculously high 46-percent corporate tax rate and thus allow the build-up of capital out of profits, so that businesses could generate the funds they need to make their operations more efficient and productive. Tax simplification and rate reduction, not VAT are the sensible answer to the tax problems of American business. These changes are also the best way to lower high marginal tax rates for individuals.

VAT is also being proposed as a solution to the problems of financing the social security system. There is general agreement that the social security payroll tax is unduly burdensome and regressive and that the social security system is not fiscally sound. The payroll tax rate for social security is currently 6.13 percent both on employees and employers. This tax works as a disincentive to hiring and loads employers with huge fixed costs. This problem has arisen because, over the years, Congress has tried to finance social welfare programs such as disability insurance and medical care out of the social security tax instead of out of the general revenues of the Federal Government. Because these programs keep getting more expensive, the social security tax has risen to intolerable levels, while still not producing enough revenues to make the system fiscally sound.

The answer to the social security problem does not lie in the imposition of yet another regressive tax. It lies, rather, in the reform of our present system through returning the social security system to what it was designed to be: A basic retirement system. If we finance social programs out of Federal general revenues instead of out of the social security tax, the social security tax can be substantially lowered and the social security system will be restored to fiscal soundness, without the use of VAT.

There are serious problems with our Federal tax system and with the social security system. What is needed to solve them is not VAT, but the wisdom and courage to undo some of the damage Congress has done over the years and return to the simpler, fairer Federal income tax, and social security systems which served the Nation so well until Congress began trying to "improve" them.

ADMINISTRATION'S POLICY WITH REGARD TO USE OF COAL IS SCHIZOPHRENIC

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CLINGER. Mr. Speaker, for some time now I have felt that the one word which best describes this administration's policy with regard to the use of coal for energy is "schizophrenia." President Carter persists in promising that coal will provide the energy of the future at the same time his EPA is tightening the screw and making it more and more difficult to use coal for any purpose.

Now comes proof that the left hand not only does not know what the right hand is doing but does not even know it belongs to the same body.

I was appalled to read a recent New York Times article which describes an anticoal theatrical road show, paid for by the EPA, which played in three dozen Ohio communities last August. The show was called "Live: on the River" and cost 40,000 taxpayer dollars to produce. The song and dance show portrayed coal—in the words of an EPA official—"as one of the dirtiest forms of energy there is."

With this kind of support from the Federal Government, is it any wonder that thousands of coal miners are out of work and dozens of coal operators are going bankrupt every day?

Mr. Speaker, this administration should be doing everything possible to promote the use of coal instead of running it down. The administration seems to have forgotten that with regard to energy, there is no fuel like an old fuel.

[From the New York Times, Aug. 19, 1979]

E.P.A. SHOW, ON THE OHIO FLOATS WARNINGS

(By Iver Peterson)

JEFFERSONVILLE, IND.—As President Carter and his staff steamed down the Mississippi campaigning for the Administration's energy program, another Federal troupe wended its way down the Ohio with a far more cautionary message about energy development.

"Live! On the River" is a cheery, dancy, hand-clapping show that, on a Federal shoestring, has been offering songs and dialogue in three dozen Ohio River towns, from Pennsylvania to Kentucky and Illinois. The show presents a far more ambivalent message about the opportunities for energy development in the country than the President has outlined.

The $40,000 shoestring, which has sustained the cast of five plus a pianoplayer, came from the Environmental Protection Agency. The Federal agency had been watching nervously as cries for cheap and abundant energy seemed to overpower the voices of environmentalists who warned that the forms of energy available in this country today, chiefly coal and nuclear power, carried high environmental price tags.

In the Ohio River Valley, winding from Pittsburgh to Cairo, Ill., the name of the energy game is coal. The greatly increased use of coal that President Carter has called for—let alone the visions of riches from local coal that dance in the heads of politicians in the coal-mining states of Pennsylvania, Ohio, West Virginia, Kentucky and Illinois—has the E.P.A. frankly worried.

"Here's Jay Rockefeller, saying that we have enough coal in this area for the whole country, and that all we have to do is dig it," said Frank Corrado, the public affairs officer for the Environmental Protection Agency's Chicago office, referring to Gov. John D. Rockefeller 4th of West Virginia. It was Mr. Corrado who conceived the idea of the musical troupe.

"They're calling the Ohio River Valley the Golden Triangle for energy," he said, "but coal-burning is one of the dirtiest forms of energy there is. We want to make people think about the choices that are involved."

"Live!" does just that, with a cast of characters complete with an obnoxious New York television producer—a little pandering to Middle Western prejudices—a pretty girl, a fiddle-playing Stephen Foster and two Mark Twains, one presented as the genuine article, the other as a fake.

Foster and the real Twain, figures from America's Middle Western river past, come back from the grave when they hear the sugar-coated claptrap about the Ohio River that the New York producer is putting on film on the assumption that, as he puts it, people are tired of the bad news: They want to hear something good for a change. No one wants to hear about smog, pollution and industry.

AN APPEAL FOR THE LITTLE PERSON

But the E.P.A. makes them listen. "Air and water pollution, strip mining, chemical wastes, you can't cover them over with happy-time television," pleads the girl.

The dialogue and songs tread a thin line of neutrality between the choices of conveniences against environment, of jobs against environment, of low costs against environment, until the show-stopping number that spells it all out. It comes down to "bugs in the bathtub, or chemicals in your sink," and "a clean and peaceful countryside, or a "paycheck every week."

"The intent was to come up with a zero sum," Robert Robbins, producer of the show, said after today's performance at the venerable Howard Steamboat Museum here on the banks of the Ohio just across from Louisville, Ky. "It's nonadvocacy. The idea is to get people thinking about the quality of life in the whole river area, instead of just their own little place."

The Federal agency's venture into political theater, however subdued, was prompted by an asserted desire to reach "the grass roots" with its message of choices in energy matters, Mr. Robbins said. "You can't do it just with public hearings," he said. "They only draw the special-interest groups anyway."

The troupe will end its tour, after its 80th show in about 34 cities, in Evansville, Ind., on Aug. 26. It has been performing since the middle of July.

ASSISTANT ATTORNEY GENERAL DANIEL J. MEADOR RETURNS TO TEACHING CAREER

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. KASTENMEIER. Mr. Speaker, on August 26, 1979, during the summer recess, Assistant Attorney General Daniel J. Meador left office and returned to his teaching career at the University of Virginia Law School. Professor Meador was head of the Department of Justice's Office for Improvements in the Administration of Justice (OIAJ). As chairman of the Judiciary Committee's Subcommittee on Courts, Civil Liberties and the Administration of Justice—the House subcommittee with primary oversight over OIAJ—I would like to express my view that the Federal Government will sorely miss Dan Meador. In conjunction with Mr. RAILSBACK, ranking minority member and other members of the committee we wish him well and commend him for his outstanding service to this country.

It is agreed upon by Democrats and Republicans, liberals and conservatives, that during his tenure at the Department of Justice Dan Meador provided professional and principaled leadership to the executive branch in recommending improvements to our legal system. With adeptness he was able to mold his existing skills as law teacher, researcher, and legal philosopher, to his new role as policymaker, manager, and politician.

His ability to formulate and present provocative and useful testimony, his brilliance at getting at the heart of complex, theoretical questions and his desire—not necessarily shared by all Government officials—to be consistent, open and constructive, made him one of the best witnesses ever to testify before my subcommittee. It was always a stimulating and learning experience to have him appear before us. Dan Meador's effectiveness was not limited to excellent testimony. He worked well behind the scenes, helping both with the painstaking task of drafting legislation and the time-consuming job of responding to Members' questions.

Further, as Assistant Attorney General Dan Meador showed the all important capacity to effectively administer an office in a complex bureaucracy. In a little more than 2 years, he put together and directed one of the best policy offices in all of Washington.

Actually, none of this is all that surprising in light of the qualifications that Dan Meador brought with him to office. A native of the State of Alabama, he received his law degree in 1951 from the University of Alabama. In 1954 he received an LL.M, from Harvard University. Shortly thereafter, he became a law clerk for Supreme Court Justice Hugo L. Black. Then, after a short stint in law practice, he joined the faculty of the University of Virginia Law School.

In 1966, Dan became dean of the University of Alabama Law School. Then, in 1970 he returned to the University of Virginia where he stayed until Attorney General Griffin Bell asked him to come to Washington. Professor Meador is a member of the American Law Institute, the American Judicature Society, and the American Society of Legal History. He was a Fulbright lecturer in England (1965–66), chairman of the Courts Task Force of the National Advisory Commission on Criminal Justice (1971–72), and director of the appellate justice project of the National Center for State Courts (1972–74).

His list of publications is lengthy and impressive, not only for its substance but for the diversity of subjects he has confronted. He has authored, for example, books entitled "Preludes to Gideon"; "Criminal Appeals—English Practices and American Reforms"; "Mr. Justice Black and His Books"; and "Appellate Courts: Staff and Process in the Crisis of Volume."

Possessing the attribute of modesty, Dan Meador probably would respond to these thoughts by saying that his Washington accomplishments were meager. He would protest that the ultimate test of an Assistant Attorney General in charge of an Office for Improvements in the Administration of Justice is the formal passage of legislation; and since only one of his proposals (magistrates reform) is close to becoming enacted into law, he would conclude that his tenure has not been all that successful. Such self-criticism would be without foundation and unacceptable to me. The inability of Congress to pass court reform legislation is caused by several factors: lack of an active political constituency to support court reform measures; a practicing bar that generally opposes change to the legal system; and a disinterested Congress. None of these factors were really within the control of Dan Meador.

I feel that Dan Meador can take great pride in which he has accomplished in a little more than 2 short years. He should feel a sense of accomplishment in the leadership he has given the Department of Justice, and indeed the entire country, in the following specific areas:

First. The enlargement of the civil and criminal jurisdiction of U.S. magistrates;

Second. The abolition or curtailment of the diversity or citizenship jurisdiction of the Federal courts and the abolition of the amount in controversy requirement in Federal question cases;

Third. The use of arbitration techniques to resolve disputes;

Fourth. The reform of class action procedures;

Fifth. The resolution of minor disputes outside the existing court structure;

Sixth. Experimentation with neighborhood justice centers;

Seventh. Appellate court reform including, among others, the creation of a new article III U.S. Court of Appeals for the Federal circuit;

Eighth. The creation of a Council on the Role of Courts;

Ninth. Judicial tenure and discipline;

Tenth. The Supreme Court's obligatory jurisdiction;

Eleventh. Study of the costs of civil litigation;

Twelfth. Attorneys fees legislation;

Thirteenth. Standing to bring suit in Federal court;

Fourteenth. Federal criminal code reform;

Fifteenth. Handgun control;

Sixteenth. Speedy Trial Act;

Seventeenth. Sentencing;

Eighteenth. Coordination between the three branches of government;

Nineteenth. Federal funding for State courts;

Twentieth. Creation of a Federal justice research program; and

Twenty-first. Creation of a Bureau of Justice Statistics.

As long as we have scholars and policymakers like Dan Meador, we can be sure that our justice system will move forward to confront changes in our increasingly complex society. As long as we have individuals like Professor Meador, who when faced with physical disabilites have shown extreme courage and fortitude, we can derive strength to overcome our own weaknesses. In conclusion, it has been a distinct pleasure to work with Dan during the last 2 years. I hope he will continue to make himself available to counsel the Judiciary Committee in the future. We need his expertise and assistance.

RESTRAINT NEEDED ON CONTRIBUTIONS TO POLITICAL CAMPAIGNS

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the bill H.R. 4970 to amend the Federal Election Campaign Act is expected to come up next week. I just want to call to the attention of the House that on Monday of this week the Akron Beacon Journal, the leading newspaper in my district, contains a very strong editorial endorsing H.R. 4970, and the effort to try to get some kind of a restraint on the tremendous amount of money that is being poured into political campaigns by the so-called PAC's, or political action committees.

The editorial points out that, unless we do so, "it won't be too much longer before the dominance of Congress by the special interests will be so pervasive that it will become far more difficult for lawmakers to decide questions solely in the public interest."

I hope the editorial will encourage my colleagues to focus on this issue and to support this effort to protect the democratic institution that we all cherish.

The full text of the editorial follows:

TRIM ELECTION INFLUENCE OF SPECIAL INTEREST GROUPS

An election of congressmen should not be like an auction, where the highest bidder gets the prize.

But more and more, that seems to be the direction in which this nation is headed, particularly with the spreading influence of political action committees (PACs) in the election of Washington lawmakers this decade.

The Congress consistently has rejected one solution to the problem—public financing of congressional elections. Now, another solution is before the Congress—and it ought to receive favorable action before representatives and senators complete their work this year.

The latest proposal would place reasonable restraints on the influence that individual PACs, or combinations of PACs, can have on House elections. Specifically, the bill would:

Cut from $10,000 to $5,000 the amount any single PAC may contribute to a House candidate during an election year.

Limit the combined amount a House candidate may receive from all special interest PACs during an election year to $50,000.

PACs are organizations established by big business, little business, trade organizations, labor unions or cooperatives whose sole purpose is to collect voluntary contributions from members for donations to political candidates.

As their contributions have grown this decade, so has their clout on Capitol Hill and in state and local government legislative halls around the nation. It is difficult for legislators to disregard the opinions on proposed laws of the special interest groups whose contributions helped put them in office.

The PAC-weakening measure, which has the strong backing of Common Cause, the self-proclaimed citizens' lobby, is sponsored by Reps. David R. Obey (D-Wis.) and Tom Railsback (R-Ill.). Its more than 100 cosponsors include Ohioans John Seiberling of Akron, Ralph Regula of Navarre and Donald Pease of Oberlin.

The role of PACs in federal elections has become more dominant in recent years, particularly since the advent of public financing for presidential elections. Some of the special interest money that used to go to presidential candidates is now being channeled to those running for seats in the House and Senate.

The extent of the problem can be seen in some figures compiled by Reps. Obey and Railsback. They indicate that the number of PACs has soared from less than 500 to nearly 2,000 since 1972, that contributions by PACs to House candidates have climbed from $6 million (or 14 percent of total campaign funds) in 1972 to $25 million (or 25 percent of total campaign funds) in 1978, and that the number of House candidates receiving more than $50,000 each from PACs jumped from 57 in 1976 to 176 in 1978.

If those trends continue unchecked, it won't be too much longer before the dominance of Congress by the special interests will be so pervasive that it will become far more difficult for lawmakers to decide questions solely in the public interest.

Ultimately, a campaign finance plan that depends to some extent on public funds offers the best hope for dealing with the inequities of the present system—including the considerable advantage enjoyed by incumbents over their challengers.

But until then, the limits on PAC contributions proposed by Reps. Obey and Railsback are essential to keep the steps of the Capitol from becoming an auction block.

POINT OF PERSONAL PRIVILEGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BRINKLEY) is recognized for 30 minutes.

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent to vacate my special order and rise to a point of personal privilege.

The SPEAKER pro tempore. The gentleman rises to a proper question of personal privilege based upon news accounts of which the Chair is aware, and the gentleman is recognized for 1 hour.

SENATOR PEPPER STANDS TALL

Mr. BRINKLEY. Mr. Speaker, our colleague from my neighboring State of Florida is a man of grit and courage. No man has a bigger heart than he does when it comes to the concerns of his fellowman, especially those of the elderly. He champions their causes and is committed to the rule of fair play for all citizens.

So it came as no surprise to me, following the adjournment of the 95th Congress and prior to the convening of the 96th Congress that Mr. PEPPER, citing justice versus injustice, agreed to hold the record open on a proposed report from the staff of the Select Committee on the Aging—in order to include a presentation from American Family Life Assurance Co. headquartered in my congressional district.

A Knight-Ridder reporter, noting my connection, made something sinister of it. I had attended the conference with Congressman PEPPER; my public disclosure statement showed that I was a stockholder; I had expressed an interest in membership on the select committee; the American Family PAC had contributed to my campaign in 1976; in Georgia, I had not returned the reporter's call from the District of Columbia.

Still, no story. Unless he presented the conference with Mr. PEPPER as an effort to do wrong.

How to do this? American Family's name was thought by the chairman not to be in the proposed report, and it was shown to be and was objected to by American Family.

Suppression. Call it suppression and he had his story, sensationalized by the cruelest innuendos.

Ben Franklin was right. Half the truth is often a great lie.

The libelous story was published on September 2, Labor Day Sunday. Three days later when Congress reconvened on September 5, I went immediately to Mr. PEPPER's office and asked if he would summarize in writing for me the nature of our conference. The letter follows:

WASHINGTON, D.C., *September 5, 1979.*

Hon. JACK BRINKLEY,
Member of Congress,
Washington, D.C.

DEAR JACK: This is in reply to your request that I advise you concerning the hearing the Aging Committee had November 28, 1978, regarding among other things the sale of the cancer policies sold by American Family Assurance Company.

My only contact with you prior to the last few days when you asked about what happened respecting this matter occurred in my Congressional office in Miami in late December, when you came to visit me about this matter in company with former Governor Charlie Johns, who requested the interview, Mr. Amos, President of American Assurance, and two other gentlemen who I presumed were in some way associated with the company. At no time did you ask me or suggest to me that our Committee should suppress our proposed report and hearings which included American Family Assurance nor was the suppression of the report mentioned or suggested at my office in Miami by anyone attending the meeting at my office in Miami. You did join in the request that the publication of the report of our Committee be delayed until a statement by American Family Assurance Company setting forth its objections to testimony brought out in our hearings and to our proposed report and stating its side of the matter could be heard or incorporated in the hearings. After consultation between general counsel of our Committee and general counsel of American Family Assurance Company this was essentially agreed upon.

Believe me,
Very sincerely yours,
CLAUDE PEPPER,
Member of Congress.

Thank you, Senator PEPPER, for telling it like it was. You and your staff members get a special vote of confidence from me for not bending with the winds of expediency and for setting the record straight.

Other comparisons follow:

First. From the article:

"Pepper did recall, though, that he didn't support Brinkley's bid for a place on his Aging Committee in January—the same month the committee launched a full-scale inquiry into American Family and other dread-disease insurers who sell policies to the elderly.

"Brinkley was one of dozens of congressmen whom House Speaker Thomas P. 'Tip' O'Neill Jr. passed over for committee membership. Brinkley said he withdrew his application after getting a letter of acknowledgment from O'Neill's office. He said it would have put more demands on his time than he'd realized at first."

The truth:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., September 12, 1979.

Hon. JACK T. BRINKLEY,
U.S. House of Representatives,
Washington, D.C.

DEAR JACK: This is in response to your recent request for information on the selection of Members chosen to serve on the House Select Committee on Aging and, more specifically, details concerning your interest in serving on the Select Committee during the 96th Congress.

My file reflects the following: (1) Your initial letter requesting to serve on the Committee was dated December 14, 1978; (2) My response of January 9, 1979 indicated that I would keep your interest in mind; (3) your letter dated January 12, 1979 indicated your desire to have your name withdrawn from consideration, and; (4) My final letter to you dated January 19, 1979 indicated that I would be pleased to honor your request to withdraw your name from consideration.

Enclosed for your use and information please find copies of pages from the *Congressional Record* of Thursday, January 25, 1979, listing the names of Members appointed to serve on the Select Committee on Aging for the 96th Congress, and from the *Congressional Record* of Wednesday, February 21, 1979, listing additional names of Members appointed to serve on the Aging Committee.

I trust that this information is helpful, Jack.

With best wishes,
Sincerely,
THOMAS P. O'NEILL, Jr.,
The Speaker.

Note: I was a cosponsor of DAVID PRYOR's House Joint Resolution 119 to establish a Select Committee on the Aging in 1971.

Second. From the article:

"Over the last two weeks, Brinkley didn't respond to repeated telephone calls to his office and home. On Friday, however, he agreed to meet with Ledger Staff Writer Constance Johnson to discuss his role."

The facts:

(Memo to Mr. S. E. Kelly, Esq.)

MEMO FOR FILE FROM CONGRESSMAN BRINKLEY, SEPTEMBER 12, 1979

Monday, August 20th and Tuesday, August 21st until noon spent with Corps of Engineers on Appalachicola River. Night spent on board the Montgomery Snag Boat.

Lois met me just after noon at Wewahitchka and we proceeded to St. George Island. We returned through Panama City to Columbus Friday night—weekend at home. The next week, either Lois, or Lois and I, stayed at the Kite residence (illness of her mother) every single night.

JACK BRINKLEY.

Third. Letters to the Editor:

Letter to the editor from the Honorable JACK BRINKLEY.

Note: The committee report is numbered 95-160 and 95-165.

Letter to the editor from Mr. John Amos.

Letter to the editor from the Reverend R. A. Gibson.

WASHINGTON, D.C.,
September 3, 1979.

LETTER TO THE EDITOR,
The Sunday Ledger-Enquirer,
Columbus, Ga. 31902

DEAR SIR: In the November 3, 1966 issue of the Tattler, when I was running for Congress for the first time, I promised to go with men of either party for right; and to go it alone if necessary to oppose wrong.

On the American Family matter where I insisted the Congressional Report be held open until a fair hearing were held, it was in keeping with that promise.

The result achieved was the exact result sought. Just as a court case is incomplete where only the prosecution has been heard, a draft committee report is incomplete when only one side has been heard. Such a clear violation of the rules of fair play could not be denied and the impressive rebuttal of American Family was included in the final report.

Deferral and suppression are not the same.

If the newspaper article gave my fellow citizens the wrong impression, I am genuinely sorry. I have always tried to prefer their interests over my own.

Sincerely,
JACK BRINKLEY,
Member of Congress.

AMERICAN FAMILY LIFE ASSURANCE, CO.,
Columbus, Ga., September 4, 1979.

LETTER TO THE EDITOR,
The Sunday Ledger-Enquirer,
Columbus, Ga. 31902

DEAR SIR: We are shocked and angry over the Sunday Ledger-Enquirer article concerning our Congressman Jack Brinkley. It is an unjust hurt to him and undermines his effectiveness in Washington.

Should not the issue have been whether American Family was right or wrong in wishing a congressional staff report, unfairly critical of it, be kept open until it had a fair chance to be heard?

And if American Family was right, which it was, to whom should it turn on a Congressional matter? Committee reports are frequently held open as a matter of convenience—certainly one should be held open in the interest of justice.

Should not mention have been made that this was precisely what was accomplished by the conference with Congressman Pepper, THE RESULT was exactly what American Family had asked for. Does that not show that there was agreement as to what was right?—that the report should be completed after input from American Family?

A mountain was made out of a molehill. Would not an objective reporter at least be fair toward local industry?

Congressman Jack Brinkley is deserving of praise instead of criticism in representing his constituents just interest.

Sincerely,

JOHN B. AMOS.

COLUMBUS, GA. 31907
September 10, 1979.

Mr. CARROLL LISBY,
Editor, The Columbus Enquirer,
Columbus, Ga. 31902

EDITOR: Your article concerning Congressman Brinkley, the Congressional Health Insurance Investigation and American Family Life Assurance which seems to indicate some improper action in Washington is a deep disappointment. The article was at best unworthy of a newspaper of your caliber. At the worst it showed either serious prejudice or frightening irresponsibility.

Congressional investigation is a powerful tool. Some feel it is too free and too powerful. Yet, a matter such as Watergate could never have been adequately dealt with in regular courts. In majority, the congressmen who are chosen to do such investigations are solid men already overburdened with work. These congressional investigators often must depend upon their congressional counterparts outside the investigation to see when their boundless investigative powers are becoming abusive, biased, or improperly concluded.

Congressman Brinkley requested that a seemingly biased committee "open up" and get a broader view for their investigation. This was his duty—not only to constituents in Columbus but to his nation. The request was for a full, fair hearing. Your article seemed to suggest such is errant.

The errant ones in this matter were those responsible for that article. Go back to good reporting, gentlemen. Get all the facts by talking to all sides before you write. You do this well—often, but you failed us in this matter. A page one public apology is owed Congressman Brinkley, for your article was not an "American Family Story" as additionally noted in the 9 September Sunday Focus. It was an injustice to Congressman Brinkley!

Sincerely,

REV. R. A. GIBSON.

CONCLUSION

I drove back to Washington on the fourth, between the time the story appeared on the second and my going to Congressman PEPPER's office on the fifth to set it straight. En route, I heard Paul Harvey's news media analysis and I later got his exact quote:

EXCERPT FROM PAUL HARVEY NEWS—
SEPTEMBER 4, 1979

Shop talk:

Texas Congressman Jim Wright says the news media tends to criticize our government "too much."

He says the adversary relationship has been "unduly magnified."

He says the Washington-based media people, particularly, view themselves and the Government as "enemies."

Media people hasten publicly to jump to their own defense but privately they recognize that the Watergate exposés imbued a generation of journalists—including those still in school—with something more dangerous than just healthy skepticism.

There is a tendency by some media people now to imagine themselves to be equal partners in a quadra-headed government—or perhaps a little more than equal.

The vast majority of the journalists are faithful to the truth, but those few who censor some of the facts or who twists the truth do a great disservice, not only to the profession, but to the public.

It is anomalous that the newspaper which presented the story back home had run the following editorial about a year ago:

[From the Columbus (Ga.) Ledger,
Sept. 29, 1978]

VERDICT ON ANDERSON

The Ledger is dropping syndicated columnist Jack Anderson.

We think Anderson has violated one of the basic rules of a good newspaper—don't print until you're sure of your facts.

We published in good faith recent Anderson columns dealing with grave charges against Hamilton Jordan, President Carter's chief aide, and Charles Kirbo, the Atlanta lawyer who is the president's unofficial advisor.

Now Anderson has admitted his evidence consists of "reconstructed" letters and memoranda. He never saw the originals. To his credit, as soon as Anderson learned the documents he depended on were not originals, he went public with it in his column. But this didn't alter the fact that he failed to check carefully enough in the beginning.

We are judging Anderson by the same standards we set for our own staff members.

Jack Anderson has great gifts as an investigative reporter. His digging has unearthed much that powerful and influential people in and out of government would prefer to keep hidden. We regret that he has tarnished his reputation with this episode.

We plan to replace the Anderson column with that of another Washington based reporter or reporters.

They ought to practice what they preach.

□ 1320

EVERY STATE BENEFITS FROM U.S. PARTICIPATION IN MULTILATERAL BANKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

● Mr. CAVANAUGH. Mr. Speaker, next week the House will consider H.R. 3829 which will provide authorization for U.S. participation in the Multilateral Development Banks. Although the institutions are not perfect, on balance, the banks have performed their mission of promoting rapid and equitable growth and stability in developing countries.

In 1978 U.S. exports of almost $500 million are directly attributable to contracts procured through the Multilateral Development Bank projects. Virtually every State in the Union benefits from procurement opportunities of the banks in terms of additional jobs. The Treasury Department has calculated that during the period 1972–77 between 50,000 and 100,000 which can be traced to the direct effects of U.S. participation in the lending programs of the banks. The indirect effects (increased exports due to bank supported growth) multiply even further the benefits to the U.S. economy.

In order that each Member should understand the extent to which his or her State has already benefited from our participation in the Multilateral Development Banks, below is a State-by-State breakdown of the 1978 procurement activities for the IBRD and the IDA. In addition, information is also complied for the payments made to U.S. suppliers and contractors with resources dispersed under IDB financed projects for 1976 and 1977. I have also included data on U.S. procurement activities at the IDB for 1974 and 1975 as well.●

I believe that a review of the material will indicate that past U.S. contributions to the multilateral development banks have proved to be returned to our economy in terms of jobs.

In addition, the hearing record includes an article from the recent edition of the Business America—the Journal of Industry and Trade entitled "Winning Contracts From Development Banks." I commend that article to my colleagues and would like to point out that it contains the results of an interagency working group, composed of Treasury, Commerce, and State Department officials, examining the procurement levels of the U.S. firms. The group examined 1,500 contracts of the banks and found that American companies bid on only 20 percent of the project opportunities. It is important to point out, however, that when U.S. firms did get involved, they won 33 percent of the awards. It is, therefore, reasonable to conclude that additional biddings by American companies will yield a significantly increased procurement level for U.S. firms. And that means jobs.

Prior to floor consideration of this legislation I will inform all Members of this body just how they can encourage firms in their own congressional districts to get involved in winning contracts from the development banks. Such firms can develop an export marketing strategy with the help of the U.S. Government and increase the dollar benefits this country already receives from our participation in the multilateral development banks.

I hope that my colleagues will support H.R. 3929 without restrictive amendments that would make it legally impossible for the banks to accept our contributions.

U.S. PROCUREMENT, 1978

	IBRD	IDA	Total
Alabama	$248, 961. 47	$114, 608. 84	$363, 570. 31
Arizona	97, 709. 14	2, 500. 00	100, 209. 14
Arkansas	23, 661. 83		23, 661. 83
California	19, 341, 536. 88	5, 541, 095. 01	24, 882, 631. 89
Colorado	1, 698, 969. 50	763, 572. 38	2, 462, 541. 88
Connecticut	6, 170, 918. 39	485, 885. 09	6, 656, 803. 48
Delaware	721, 278. 59	74, 642. 65	795, 921. 24
District of Columbia	1, 887, 802. 50	691, 630. 48	2, 579, 432. 98
Florida	6, 153, 332. 33	1, 162, 671. 26	7, 316, 003. 59
Georgia	8, 652, 876. 07	1, 262, 093. 72	9, 914, 969. 79
Hawaii	386, 085. 21	78, 332. 93	464, 418. 14
Idaho	26, 832. 34		26, 832. 34
Illinois	39, 122, 994. 70	9, 676, 269. 47	48, 799, 264. 17
Indiana	1, 872, 515. 36	408, 572. 66	2, 281, 088. 02
Iowa	3, 702, 501. 98	151, 608. 20	3, 854, 110. 18
Kansas	326, 952. 53	298, 313. 03	625, 265. 56
Kentucky	1, 311, 214. 07		1, 311, 214. 07
Louisiana	1, 186, 201. 69	972, 868. 12	2, 159, 069. 81
Maine	304, 315. 74		304, 315. 74
Maryland	4, 348, 054. 76	225, 114. 62	4, 573, 169. 38
Massachusetts	6, 181, 771. 71	1, 254, 744. 79	7, 436, 516. 50
Michigan	5, 717, 370. 26	801, 110. 14	6, 518, 480. 40
Minnesota	864, 473. 58	600, 562. 21	1, 465, 035. 79
Mississippi	552, 940. 06	15, 408. 06	568, 348. 12
Missouri	1, 772, 909. 11	3, 676, 808. 00	5, 449, 717. 11
Montana	96, 194. 24		96, 194. 24
Nebraska	42, 961. 13	12, 621. 40	55, 582. 53
Nevada	69, 818. 85	17, 235. 70	87, 054. 55
New Hampshire	142, 089. 48	71, 496. 95	213, 586. 43
New Jersey	14, 680, 164. 91	4, 602, 033. 03	19, 282, 197. 94
New Mexico	5, 196. 98	5, 750. 00	10, 946. 98
New York	51, 166, 488. 57	11, 308, 011. 25	62, 474, 499. 82
North Carolina	2, 836, 794. 24		2, 836, 794. 24
North Dakota	9, 407. 26		9, 407. 26
Ohio	18, 743, 625. 63	1, 347, 780. 34	20, 091, 405. 97
Oklahoma	3, 212, 900. 16	50, 746. 15	3, 263, 646. 31
Oregon	633, 609. 98	27, 277. 60	660, 887. 58
Pennsylvania	18, 003, 760. 98	1, 798, 301. 72	19, 802, 062. 70
Puerto Rico	543, 311. 93	200, 461. 25	743, 773. 18
Rhode Island	1, 740, 219. 46	75, 546. 86	1, 815, 766. 32
South Carolina	439, 253. 46	142, 301. 05	581, 554. 51
Tennessee	1, 103, 408. 32	10, 939, 460. 49	12, 042, 868. 81
Texas	76, 885, 968. 80	198, 358. 65	77, 084, 327. 45
Utah	104, 249. 01	256, 996. 24	361, 245. 25
Vermont	510, 463. 49	50, 033. 45	560, 496. 94
Virginia	417, 329. 51	40, 682. 90	458, 012. 41
Virgin Islands	1, 493, 965. 75		1, 493, 965. 75
Washington	4, 274, 441. 32	407, 700. 09	4, 682, 141. 41
West Virginia	471, 492. 86	3, 403. 30	474, 896. 16
Wisconsin	5, 459, 606. 42	2, 339, 578. 44	7, 799, 184. 86
Wyoming		604. 92	604. 92
State unidentifiable	50, 220, 168. 94	4, 657, 038. 15	54, 877, 207. 09
Total	365, 981, 071. 48	66, 811, 831. 59	432, 792, 903. 07

PAYMENTS MADE TO U.S. SUPPLIERS AND CONTRACTORS WITH RESOURCES DISBURSED UNDER IDB-FINANCED PROJECTS

[In thousands of U.S. dollars]

	1976	1977	1976–77
Alabama		7, 354	7, 354
Alaska			
Arizona	34		34
Arkansas	174	222	396
California	8, 284	12, 309	20, 593
Colorado	546	908	1, 454
Connecticut	542	1, 445	1, 987
District of Columbia	848	1, 466	2, 314
Delaware	699	62	761
Florida	4, 497	10, 111	5, 508
Georgia	799	1, 806	2, 605
Hawaii			
Idaho	1, 435	2	1, 437
Illinois	15, 365	13, 889	29, 254
Indiana	442	318	760
Iowa	532	1, 425	1, 957
Kansas	327	20	347
Kentucky	15	96	111
Louisiana	282	201	483
Maine			
Maryland	161	157	318
Massachusetts	2, 425	2, 226	4, 651
Michigan	767	1, 174	1, 941
Minnesota	196	2, 039	2, 335
Mississippi	781	479	1, 260
Missouri	1, 616	1, 111	2, 727
Montana			
Nebraska			
Nevada			
New Hampshire	2	11	13
New Jersey	5, 788	3, 203	8, 991
New Mexico			
New York	19, 055	15, 219	34, 274
North Carolina	3, 086	2, 058	5, 144
North Dakota			
Ohio	4, 326	8, 134	12, 460
Oklahoma	134		134
Oregon	1, 895	295	2, 190
Pennsylvania	6, 920	3, 837	10, 757
Rhode Island	256	38	294
South Carolina	10	105	115
South Dakota			
Tennessee	102	398	500
Texas	9, 410	5, 910	15, 320
Utah	257	174	431
Vermont	262	292	554
Virginia	2, 195		2, 195
Washington	72	1, 252	1, 324
West Virginia	50	4, 105	4, 155
Wisconsin	5, 657	3, 521	9, 178
Wyoming		3	3
Total	100, 244	107, 375	207, 619
Disbursements not included in survey	35, 333	89, 425	124, 758
Total	135, 577	196, 800	332, 377

PROCUREMENT—MDB's

[In millions of U.S. dollars; calendar years]

	1974	Percent	1975	Percent	1976	Percent	1977	Percent	Through Sept. 30, 1978	Percent
IDB—OC/FSO:										
United States	102. 9	46. 5	151. 9	49. 7	196. 4	46. 5	266. 4	52. 0		
Europe	46. 0	20. 8	73. 8	24. 1	65. 3	15. 4	84. 0	16. 4		
Latin America	38. 3	17. 3	43. 8	14. 4	125. 8	29. 7	118. 0	23. 0		
Other	34. 2	15. 4	36. 1	11. 8	34. 8	8. 4	43. 6	8. 6		
Total	221. 4		305. 6		422. 3		512. 0			
ADB—OC/SF:										
United States	40. 6	11. 8	22. 4	6. 6	19. 0	4. 8	26. 7	6. 6	37. 2	8. 4
Europe	111. 6	32. 3	121. 1	35. 8	99. 5	24. 7	135. 5	33. 5	137. 4	31. 0
Japan	125. 9	36. 5	120. 7	35. 7	125. 6	31. 2	128. 2	31. 6	125. 0	28. 2
Other	67. 1	19. 4	73. 9	21. 9	158. 1	39. 3	114. 5	28. 3	143. 2	32. 4
Total	345. 2		338. 1		402. 1		404. 9		442. 8	
IBRD/IDA:										
United States	269. 0	16. 5	390. 8	17. 7	458. 4	17. 5	439. 0	16. 5	327. 7	17. 9
Europe	820. 5	50. 4	1, 138. 9	51. 5	1, 348. 9	51. 7	1, 286. 0	48. 5	881. 4	48. 1
Japan	358. 8	22. 1	355. 0	16. 0	485. 6	18. 6	564. 2	21. 3	405. 0	20. 9
Other	179. 6	11. 0	327. 4	14. 8	317. 3	12. 2	359. 6	13. 7	219. 7	13. 1
Total	1, 627. 9		2, 212. 1		2, 610. 2		2, 648. 8		1, 833. 8	

PROCUREMENT—IBRD

[In millions of U.S. dollars; fiscal years]

	1974	Percent	1975	Percent	1976	Percent	1977	Percent	Through Sept. 30, 1978	Percent
IBRD:										
United States	185.8	17.4	272.4	19.4	305.7	17.9	327.6	18.5	274.8	19.7
Europe	558.1	52.4	773.2	55.1	890.8	52.2	834.8	47.1	646.7	46.3
Japan	221.9	20.8	215.0	15.3	346.3	20.3	415.4	23.4	334.4	24.0
Others	100.1	9.4	143.3	10.2	164.6	9.6	195.7	11.0	139.3	10.0
Total	1,065.9		1,043.9		1,707.4		1,773.6		1,395.2	
IDA:										
United States	83.2	14.8	118.4	14.7	152.7	16.9	111.4	12.7	52.9	12.1
Europe	262.4	46.7	365.7	45.3	458.1	50.8	451.2	51.5	234.7	53.5
Japan	136.9	24.4	140.0	17.3	139.3	15.4	148.7	17.0	70.6	16.1
Others	79.5	14.1	184.1	22.7	152.7	16.9	163.9	18.8	80.4	18.3
Total	562.0		808.2		902.8		875.2		438.6	

PROCUREMENT—IDB

[In millions of U.S. dollars; calendar years]

	1974	Percent	1975	Percent	1976	Percent	1977	Percent
IDB—OC:								
United States	33.6	27.2	60.9	35.8	64.7	26.9	87.3	30.4
Europe	44.2	35.8	71.1	41.8	63.4	26.4	81.4	28.3
Latin America	11.8	9.6	9.1	5.4	80.7	33.6	85.4	29.7
Other	33.9	27.4	28.8	17.0	41.7	13.1	33.4	11.6
Total	123.5		169.9		240.5		287.5	
IDB—FSO:								
United States	69.3	70.8	91.0	67.0	131.7	66.8	179.1	7.1
Europe	1.8	1.8	2.7	2.0	2.9	1.0	2.4	1.0
Latin America	26.5	27.1	34.7	25.6	60.6	30.7	60.5	24.0
Other	.3	.3	7.3	5.4	3.1	1.5	10.4	4.0
Total	97.9		135.7		197.3		252.4	

PROCUREMENT—ADB

[In millions of U.S. dollars; calendar years]

	1974	Percent	1975	Percent	1976	Percent	1977	Percent	Through Sept. 30, 1978	Percent
ADB—OC:										
United States	37.6	13.2	19.3	7.4	16.4	5.2	23.7	9.2	26.3	9.0
Europe	93.9	32.9	93.9	36.4	76.1	24.0	73.6	28.5	71.5	24.5
Japan	99.0	34.6	87.8	33.4	103.3	32.6	80.0	31.0	93.4	32.0
Other	55.3	19.3	60.0	22.8	121.3	38.2	81.1	31.3	100.4	34.5
Total	285.5		262.6		317.1		258.4		291.6	
ADB—SF:										
United States	3.0	5.0	3.1	4.1	2.6	3.1	3.0	2.2	11.0	7.2
Europe	17.7	29.8	25.6	33.9	26.2	30.8	61.9	42.2	65.8	43.5
Japan	26.9	45.3	32.9	43.6	22.3	26.2	48.2	32.9	31.6	20.9
Other	11.8	19.9	13.9	18.4	33.9	39.9	33.3	22.7	42.8	28.4
Total	59.4		75.5		85.0		146.4		151.2	

KING CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

(Mr. GONZALEZ asked and was given permission to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, repeatedly in the last few months I have addressed the House on what I term "King Crime" because I consider this to be a matter of national concern, not necessarily parochial or local since it involves an unprecedented crime. I address myself specifically to the attempted murder of the assistant Federal district attorney then for the Federal Western Judicial District, James W. Kerr, and subsequently, the latter part of May of this year, the assassination of Federal District Judge John W. Wood.

These crimes are unprecedented. The murder of John Wood is something that has not happened in the history of the judiciary in America for more than a hundred years, if a comparison can be made. It is unprecedented because of the nature of the crime, the circumstances giving rise to the crime and the fact that it points to what I have been speaking out over a period of 10 years on, the overwhelming presence, miasmic-like, of the criminal, organized criminal activities in this country.

This has reached a point of utter insidiousness. I said in the last remarks that I made to the House that I was consecrated to the task of not letting either the attempt on James Kerr or the assassination of John Wood be forgotten and relegated to the dust of history as an unsolved murder, completely unsolved, such as the Jimmy Hoffa case, which also should have national concern because of its implications and because of the hitherto unnoticed connections between Jimmy Hoffa, his disappearance and his knowledge of the circumstances of the assassination of President Kennedy and Senator Robert Kennedy.

Also there is the fact that organized crime, King Crime as I call it, has literally taken over the country. It has become so successful, particularly in its sophisticated form of activities, where in the shape and the form of otherwise honorable and respectable businesses, banks, savings and loans, private corporations, shopping center endeavors which are literally operated and the profit derived therefrom by the organized crime syndicate. The history goes back some time. But never at any point in our national development have we had such a critical stage of criminal activity takeover such as our country and society and government is confronted with now.

I have pointed out it has been successful in penetrating every level of government to the highest in the Federal sector for some time. It particularly made decisive inroads during the administration and attorney generalship of John Mitchell, and its presence is still there.

This is the reason the murder of Judge Wood is related to this national, deeply rooted problem. Whether or not it is ever uprooted or not, and I despair that it will because of its insidiousness, indistinguishable and inexorable connection between the criminal, the political and the social and business element of our country.

Perhaps 30 years ago it might have been possible to control because you did not have this intimate linkage between the political and governmental, particularly, as well as business.

Today I do not know. Time will tell us. In fact, the pendulum has swung completely the other way and we look as if we are also fighting a very corruptive society. We have had, for example, organized, legalized gambling now on the basis of popular suffrage and vote in quite a number of States in just the last 5 or 6 years. In those geographical and political subdivisions where this activity has been legalized, where it is beyond any doubt that you have a very intimate association with organized crime and gambling, there continue to be connecting events such as the assassination of the underworld figure, Galante, in New York, just a few weeks ago. It is spectacular particularly from the standpoint that it is connected to the mysterious death of Sante Bario, in San Antonio, who never got his day in court, and to which I will refer in detail in a few minutes.

All of these are interrelated, and it is frustrating to find that the law enforcement capability of our governments, whether it is on the Federal level or at the State or local level, are handicapped because they have no way of controlling the activities of interstate mobsters and criminals and hit men.

□ 1330

What I started to say about the Galante death proves, I believe, conclusively that just within the last 2 years such organizations of our enforcement bodies as the FBI have completely lost any kind of surveillance and control and supervision of this type of organized activity. In addition to the hit purposes and the attempted murder of James Kerr, and the murder of John Wood, is the fact that at least 70 percent of the middle and upper-level informers or system or information that the FBI had developed, have been murdered in the last 1½ years, with no solution to those crimes and no demonstrated ability of the FBI to resolve them, much less apprehend the perpetrators.

I have, unfortunately, been the only voice attempting to relate the seriousness of the attempt on James Kerr. In fact, he has given me credit for keeping those involved aware of the need for protection for him and the need for concentrated law enforcement effort involving his case. What else can we do? I have attempted since a year ago in November to communicate with the President. I managed to meet with his chief advisor on domestic affairs. I did try to communicate with the head of the Drug Enforcement Agency in the case of the Sante Bario case, but at no time is there any indication that needed priority and urgency of action based on a coordination on all levels, especially the Federal level, where we have had uncoordinated effort of five basic agencies or departments, including the Drug Enforcement Agency, Customs, Immigration, Agriculture even, and, of course, Justice. They have been working as if they were foreign entities and not in communication.

Now I have a big stake in this because it so happens that, not only in my district, but the district adjacent to San Antonio, we know that all this reflects on our area. However, in a larger sense this is very much a national question, a national-based activity.

In further reference to Sante Bario, you will recall, he was the head of the Drug Enforcement Agency in Mexico City. He was the famous man who was responsible for the exposure of our French Connection on our northern border a few years ago. He was the one working for the New York Prevention Authorities that gave rise to the curbing of the nefarious activity then in New York. But all of a sudden, based on an entrapment, in turn based on single information from the most insidious informer and criminal in the international world, a man by the name of Peco, who had been working as an informer with Sante Bario in the French Connection and the others, Bario is entrapped, and is imprisoned.

He is immediately fired by the agency (DEA), despite his background of honest comportment. He was placed under a half million dollar bond, which made it impossible for his wife or family to do anything about communicating and trying to find out just what could be done so that he would have his day in court. Eventually, last December, while imprisoned in the Bexar County jail, Bario was given a peanut butter-and-jelly sandwich and choked on it almost immediately. He lapsed into a coma, lingered in a coma until some time, about 3½ months ago, he finally died.

I happen to know that Mr. Bario was working on what I call the "El Paso Connection," which is what is intimately involved in the case of the murder of John Wood and the attempted murder of James Kerr. I also happen to know that Mr. Bario might have possessed some information which might have been very embarrassing to the agency and to the U.S. agencies that have been penetrated by the underworld, or the organized criminal syndicate.

If he had had his day in court he would have unquestionably been before Judge Wood and this, I think, is a cause that should concern us all. And, to believe that the man took a peanut butter-and-jelly sandwich and immediately choked up and entered into a comatose stage from which he never recovered, because of some coincidental and concomitant occurrence of events, is to also say that one would be willing to believe in the tooth fairy and Little Red Riding Hood and the whole works.

And yet, urgently or not, law enforcement agencies have written this and closed out the case.

I have insisted with the Justice Department that they look into it in connection with their investigation on the perpetrators of the murder of Judge Wood. It is a continuing challenge to America, to our society, to our Government, for the John Wood case to remain unsolved; that the attempt on James Kerr has not even been touched upon except indirectly, and that there is not even a lead as to who ultimately was the brains behind the attempted hit on Kerr and the successful hit on Judge Wood.

Despite some opposition from critics in San Antonio, I still identify these events as a challenge to law enforcement, as a defiant, brazen challenge to law enforcement and the American people.

TAX JUSTICE FOR FISHERMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I am today introducing legislation to ease a situation that has created a tremendous burden for commercial fishermen in California and in other areas of the country.

Because of a provision in the 1976 Tax Reform Act, fishermen working on a boat with fewer than 10 members in the crew are considered to be self-employed for Federal tax purposes, if they are paid by receiving a share of the boat's catch of fish or other forms of aquatic animal life.

I have been informed that this provision was originally designed for the benefit of a small number of fishermen in certain areas of the country who apparently favored such a revision of the previous law. However, this provision has proven to be very unfavorable to the commercial fishermen in my area and throughout the State of California for several reasons.

Under the 1976 act, only those fishermen who work on boats with crews of 10 or fewer men must pay self-employment taxes on a quarterly basis and large income taxes at the end of the year, since no taxes are withheld from their checks. This arrangement is not only unfair to this group of fishermen, but it actually works as an incentive for a boatowner to lower the number of crewmembers he employs in order to avoid contributing to social security and processing withholding taxes. In addition, this situation often results in treating the same fishermen in two different ways, depending on whether he works on a boat with fewer or more than 10 members.

The legislation I am introducing today amends the language in the Tax Reform Act of 1976 to make it apply only to boats with fewer than six crewmembers. This change removes most boats with reasonably sized crews from coverage, thus returning to the fishermen their status as employees, a status they have traditionally held. My bill is flexible, though, in that it permits very small crews to maintain their status as self-employed individuals for tax purposes.

It is clear to me that this provision of the Tax Reform Act of 1976 has created unnecessary confusion and unfair treatment of fishermen. I certainly hope that the House will agree and will move to end this injustice.

Mr. Speaker, I include the text of my bill at this point in the Record:

H.R. 5367

A bill to amend the Internal Revenue Code of 1954 to treat as employees, for purposes of withholding and social security taxes, certain fishermen who comprise the operating crew of a boat if the operating crew normally consists of fewer than 6 individuals

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (20) of section 3121(b) of the Internal Revenue Code of 1954 (defining employment for purposes of the Federal Insurance Contributions Act) is amended by striking out "fewer than 10 individuals" and inserting in lieu thereof "fewer than 6 individuals"

(b) Paragraph (20) of section 210(a) of the Social Security Act (defining employment) is amended by striking out "fewer than 10 individuals" and inserting in lieu thereof "fewer than 6 individuals"

(c) The amendments made by subsections (a) and (b) shall apply to services performed after December 31, 1979.●

PRIORITY ENERGY PROJECT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. Wirth) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, recently, there has been much debate and controversy over the proposed "fast track" legislation. The Priority Energy Project Act, which just passed the House Interstate and Foreign Commerce Committee, allows the proposed Energy Mobilization Board (EMB) to waive any local, State, or Federal laws—subject to a one-House veto and concurrence of the President—which it believes impedes the building of new energy projects. The bill will soon come before the full House for consideration.

I am a strong supporter of a procedural fast track for priority energy projects, but opposed this bill because of the serious constitutional and federalist questions it raises. There is certain to be intense debate on the bill when it comes before the House. So that my colleagues might have the benefit of fully understanding the objections, I and other members of the Commerce Committee raised regarding this legislation, I would like to enter our views on this issue in the Record of the House.

Supplemental views

In the name of energy development and administrative efficiency the Committee has reported legislation establishing an Energy Mobilization Board which holds as much promise for delay as it does for expedition of decisions. It sets a dangerous precedent for our federalist system of government, while unnecessarily threatening a series of fundamental statutory protections which Congress has passed over the last decade. Despite our strong support for "fast-track" decision making on priority energy projects and the development of synthetic fuels, we cannot support the broad waiver attributes in this bill.

There are several other elements of the legislation to which we object, but they pale when compared to the unprecedented authority granted here to the Energy Mobilization Board to waive almost any state, county, local or federal procedural or substantive requirement which "presents" or "may present" an "impediment" to "the implementation of a Priority Energy Project" (subject only to Presidential approval and a one-House veto). The potential pre-emption of all state and local law, and the ceding of this authority along with that of the federal government to a five-member appointed board, should only stem from a clear finding by Congress that emergency action is required to rectify a disastrous situation. No such showing has been made.

A need for total waiver authority?

From our personal experience in resolving project disputes, and from the written and oral reports the Subcommittee on Energy and Power has received, it is clear that procedural reforms are necessary, particularly to force agencies to act with the dispatch that our national energy problems require. There are few in the Congress, the Administration, or the general public who have argued to the contrary. Thus, there is general agreement, in which we join, that the EMB should be empowered to set binding decision timetables for federal, state and local agencies. Similarly, there are other procedural requirements which stand in the way of efficient, timely decisions. These, too, should be streamlined.

We should not, however, mislead ourselves or our constituents into believing that procedural delays by government are the sole, or even the major, cause of delays in completion of energy projects. Construction difficulties, equipment supply, and labor problems have also been significant contributing factors. We cannot control these; we can compress timetables and procedures.

Beyond timetables and procedures, is there a record for the need to waive substantive law? Where is the overwhelming evidence of a problem, and the clear definition of a solution, that Congress should require before taking any serious legislative action, much less an unprecedented delegation of authority such as the one contemplated here?

The answer is simple. There is none.

The President saw no evidence of such a problem, and did not ask for this authority. In fact, he has specifically and repeatedly disclaimed an intent to seek substantive waiver powers for the EMB. The Department of Energy has taken the same position. In July of this year, DOE produced a report which concluded that waiver of substantive laws was not necessary to establish a major synthetic fuels industry. DOE's Assistant Secretary for Environment, Ruth Clusen, under whose aegis this report was prepared, confirmed this position in testimony before a Science and Technology energy subcommittee this month.

On September 5, Secretary of the Interior Cecil Andrus, Environmental Protection Agency Administrator Douglas Costle and Gustave Speth of the President's Council on Environmental Quality wrote to the President objecting to substantive waiver and arguing that the Administration should have supported the Wirth Amendment instead.

There are, of course, those outside of Congress who have long sought to weaken or eliminate the Clean Air Act and similar crucial public health statutes. They support substantive waiver as a back-door method of chipping away at these hard-won protections. It is interesting to note, however, that there has been remarkably little pressure from the energy industry for this provision, and industry opposition to substantive waivers is now emerging based on a practical analysis of the legal tangle this bill would create which would by itself cause significant delays.

From time to time, mention has been made of the Sohio pipeine problems, but that is one project, not a national pattern demanding sweeping legislation. Moreover, we should remember that this was a waiver of the usual careful review of alternatives which preceded the construction of the Alaskan oil pipeline to Valdez, thereby pouring Alaskan oil into the West Coast and necessitating a pipeline to remove some of that glut to the Midwest where it was needed all along.

Of course, it would be easier to build anything if all permits necessary at all levels of government were ignored. But that is not the point. The question must be: "Is it necessary?"

The problem with substantive waivers of requirements passed after a project gets underway is somewhat different. The justification for this second substantive waiver authority provided by this bill (and one which the Administration does advocate) is speculative. According to the bill, the EMB may propose waivers of substantive requirements passed after a Project Decision Schedule is promulgated if they "may present" an "impediment" to a project. The reasoning behind this broad provision is faulty for several reasons, although the problem of changing the rules in midstream is a valid concern which needs to be addressed. First, the authority is not subject to any standards governing how such a decision should be made. Second, we are embarking on a major synthetic fuels development program, but we do not know many of the environmental and health problems this will raise nor will the regulations for several highly relevant statutes be issued before the first wave of these plants has begun.

Finally, are we willing to say that if a plant is built and we subsequently find that the industry, DOE, EPA and others miscalculated in their original requirements (or such protections were waived, and carcinogens are being emitted) a city or state should have no recourse if the EMB and the President disagreed? This bill says yes. In the face of a crash synfuels development plan "fast-tracked" or waived through the permitting process it is especially important that government at all levels retain the authority to deal with health and other hazards which may only appear after construction and operation have begun.

There is a convincing record for procedural reforms; no such record has been established for waivers of any substantive requirement. What is it, then, that the Committee has done? And what are the implications of this grave action? Our opposition to substantive waivers arises from several related problems.

AN ATTACK ON FEDERALISM

This bill represents a frontal assault on the careful balance of responsibilities between the various levels of government in our federalist system. Our concerns here are both parochial and national at the same time. Some of us represent states which will be heavily impacted by oil shale and coal development. The problems this bill presents, however, could arise in any state. Leaving constitutional questions aside for the time being, how can we justify on public policy grounds the elimination of a state, county, or local entity's authority to protect its citizens? Does an appointed five-member board have sufficient expertise in Western water issues, Long Island's aquifier pollution, or Los Angeles' air quality to decide when a waiver is in the public interest? Should we allow this Board to take away a state's right to require energy companies to ease the enormous socio-economic impact of major projects even though these may inconvenience a company, and therefore arguably "impede" a project?

This bill has understandably provoked a storm of protest from governors, state legislators, local officials and their national organizations. It is they who will have to deal with the impact of these projects on their populations, yet we are threatening to take away the limited tools they have, and in all cases are encouraging applicants to stall and avoid compliance with state and local agencies in the hope that the EMB will waive those requirements as "impediments" to swift implementation of a project.

AN ABOUT-FACE IN CONGRESSIONAL POLICY

Since our arrival in Congress, we have seen the fruits of an enormous effort by this institution to reassert the authority it had gradually ceded to the President and the Executive Branch. Through the War Powers Act, the Budget and Impoundment Control Act, and similar actions, large and small, we have expressed our dissatisfaction with the growth of Executive Branch power at the expense of Congress and excessive independence by agencies unguided by clear Congressional requirements. Yet, in a total about-face this Committee has handed the President and his five appointees enormous power, not only over all federal law, but also over state and local requirements as well.

Waiver determinations by the EMB and the President are subject to only the vaguest limitations ("in the national interest and . . . would not unduly endanger the public health and safety"), which Sec. 183(a) makes virtually unreviewable by a Court.

THE WAIVER AUTHORITY IS UNCONSTITUTIONAL

We are greatly troubled that the Board will be treading upon a wide variety of important constitutional values. The creation of this Board with these powers threatens to undermine the ability of states and localities to function effectively, and delegates to the President virtually unrestricted and unaccountable powers.

Even if we are ultimately proven wrong by the Supreme Court the certainty of the constitutional challenge to any waiver of substantive law means that the lengthy process of resolving these questions in the courts may well negate whatever value the EMB could have had in forcing faster decisions.

The Board's authority to recommend a waiver of state and local laws intrudes upon states' Tenth Amendment rights and exceeds appropriate federal authority under the Commerce Clause. The form of this override violates constitutionally-protected state rights because the power of the federal government under the Commerce Clause to regulate the permitting of energy projects is not unlimited. Describing the limits imposed by the Tenth Amendment, Justice Marshall said in *Fry* v. *United States*, 421 U.S. 547 (1975): "Congress may not exercise power in a fashion that impairs the States' integrity or their ability to function effectively in a federal system." The Committee bill allows for the direct regulation of state and local agencies by the federal government, and intrusion that we believe is clearly prohibited by the Constitution.

In the recent case of *National League of Cities* v. *Usery*, 426 U.S. 846 (1976), the Supreme Court struck down a federal law which directly regulated maximum hour and minimum wage provisions paid public employees by states and localities. The Court held that Congress, active under the Commerce Clause, could not interfere with traditional aspects of state sovereignty, such as the policy choice as to the structure of pay scales. The lesson of this case is that Congress can seek to have states adopt minimum wages for their employees by means of extending some federal incentive or withholding some federal benefit, but it cannot directly regulate important attributes of state sovereignty.

This bill strikes at the heart of state and local governance by allowing the EMB to regulate directly the procedure and the substance of the decision-making. Federal waivers of state and local zoning, health, or environmental protection laws present the clearest case of direct "interference with the integral government functions of these bodies" in protecting health and safety. *National League of Cities* at page 851. The approach taken by Sec. 182 violates our established constitutional framework of federal-state relations.

The most fundamental constitutional flaw in this bill is that the grant of authority to the President to waive "impeding" state, local or federal laws, subject only to a one-House veto, amounts to an excessive and therefore unconstitutional delegation of legislative power to the Executive Branch, because of the lack of standards and safeguards. When it comes to making one of the most critical decisions under the bill, namely the waiver of any state, federal or local law posing a substantial "impediment" to project approval, this bill provides virtually no standards to guide the far-ranging discretion of the Board and the President. In which circumstances, for example, should a substantive law be allowed to deny project approval, as contemplated by Sec. 180(c)(2), and in which should the Board and the President move to override such law, as empowered in Sec. 182? This, of course, is an extremely serious choice. Not only may it involve the sacrifice of important protections but also such an override may tread upon constitutional values. Yet, the Executive Branch is simply given "blank check" authority under this bill.

Under the Constitution, Congress may not delegate legislative power to the President without sufficient specificity to guide his actions. *Yakus* v. *United States*, 321 U.S. 414 (1944). As noted, this bill gives the President vast discretion to pick and choose among "impeding" laws, allowing some to operate, waiving others, all without any guidance from the bill. In reviewing such expansive delegations, courts have said that certain safeguards are vital. In particular, as the court stated in *Amalgamated Meat Cutters* v. *Connally*, 337 F. Supp. 737 (D.D.C. 1971), the availability of judicial review and the applications of the Administrative Procedure Act are vital "components of fairness" in assessing whether a delegation has been unconstitutionally excessive. In this case, of course, the bill expressly exempts from meaningful judicial review virtually every action of the Board and the President, including waivers under Sec. 182. The vast discretion delegated the President by the bill thus becomes unreviewable and unaccountable. There is no assurance, for example, that a record has been made or that evidence exists that, indeed, a law does present a substantial impediment to project approval before it is waived.

Also critical to the avoidance of excessive delegation is the development of self-limiting standards by the Executive to guide his broad discretion. *Amalgamated Meat Cutters* at page 759. But there is no requirement in this bill for the issuance of any rules which will further define when waivers will be sought. Waiver decisions may thus be made time and time again on a purely ad hoc basis, with little check on executive discretion beyond whatever statement of reasons he wishes to give under Sec. 182(a)(3).

Our concern about the bill's excessive delegation of power is not alleviated by the provision for a one-House veto because in these circumstances the one-House veto is not an adequate safeguard. In the customary situation where there is a one-House veto of agency regulations, each House reviews the effectiveness of an agency in implementing the specific mandates of particular laws passed by the Congress. Thus, there are usually some definite standards against which to measure the agency action and some expertise on the subject has developed from the Congressional review. In dramatic contrast to the familiar type of one-House veto, however, the review established by this bill means that Congress may have to charge rapidly into the unknown if it wishes to pass judgment on the President's action within the few legislative days permitted. The President will be overriding state and local procedures as well as state and local substantive law. Procedures may vary greatly, of course, depending upon local traditions and practices and so naturally will the substance of these laws, adjusting to extremely varied natural conditions and hazards. For meaningful review of these waivers, Congress will have to investigate and master these state and local laws, see what values are being protected by them and balance such loss against the value of the project to be approved. This is not a review which Congress can accurately undertake in 60 days if we wish to be fair to the states and localities which have carefully crafted their laws over time. There simply should not be an override of substantive laws in this hasty fashion. Moreover, the chances of careful legislative review will be lessened in the face of the predictable atmosphere created by the President's decision to seek a waiver. The allowance of a one-House veto does not adequately check the vast and unprecedented power we have delegated here to the Executive branch.

In addition, there are serious questions about the constitutionality of a one-House veto in this bill in any situation. These questions have not been fully litigated as yet, but these veto requirements usually arise in the context of an action within a defined program. Constitutional arguments against this mechanism are enormously strengthened by its application as the sole legislative action (or inaction) in the face of changes in almost any federal, state or local law.

A PRACTICAL PROBLEM WITH SUBSTANTIVE WAIVERS

Those whose overriding concern is the expeditious implementation of energy projects should carefully consider the practical impact of this legislation. As ARCO Coal—a subsidiary of Atlantic Richfield—a company deeply involved in oil shale development in Colorado, pointed out to Rep. Tim Wirth in a letter of August 29, 1979:

"Regarding the question of EMB authority to waive current substantive laws, ARCO is deeply concerned that plenary authority given the Board to override federal, state and local laws might, on balance, be more harmful than helpful. Indiscriminately issued, substantive waivers could be used to circumvent legitimate requirements protective of the public health, welfare and the environment. In addition, time consuming litigation over constitutional issues would only serve to delay project development."

This view is not now universal, but as the Department of Justice pointed out, there is little precedent to guide the courts in this field, so we can be certain the EMB's substantive waivers will be carried to the Supreme Court whenever they are used.

COMPETITIVE AND BUSINESS IMPACTS

The waiver can only be used on a project by project basis. We do not believe the Committee fully considered the competitive impact, the possibility for political abuse, and the retarding effect on new energy ventures from uncertainty in the market, caused by these provisions.

Is it intended that all oil shale facilities be excepted from water quality requirements? Or only one? How will this choice be made? If only one is chosen for this treatment, how can competition be fair?

One of the enormous problems with our energy regulatory system today is that it lends itself to favoritism, intended or not. It also distorts market decisions. We are repeating the mistake here on a grand scale. It is simple to conceive of a company which will refuse to make large capital investments unless or until it receives preferred treatment. This could easily rise to the level of amicable extortion of waivers: "No waiver of the state siting process and stack emission requirements; no plant investment." Why invest in expensive pollution control technology when well played energy poker may produce a waiver? Why invest in synfuels when a competitor may later be given an enormous advantage with both fast-track decisions and substantive waivers?

THE WIRTH AMENDMENT

We reassert our belief in the need for a procedural "fast track" for priority energy projects. The issue is how this should be done. As we have demonstrated, the Committee bill creates enormous practical, policy and constitutional problems. We believe it will bog down projects in litigation over the powers conferred on the EMB.

Therefore, we strongly supported the Wirth Amendment during the Committee's consideration of the legislation. Avoiding the waiver morass, that amendment would have confirmed the EMB's authority to set binding action timetables for all federal, state and local agencies, and also would have allowed the EMB to consolidate review of applications and hearings among and between agencies at all levels of government, all without Congressional review.

When this legislation comes to the floor we will support amendments which are consistent with this position: procedural streamlining, mandatory timetables, but no substantive waiver authority. Our position goes to the heart of the problem: slow, uncoordinated decision-making.

We should have sensible legislation that addresses the issues of procedural delay, but our energy problems are difficult enough without guaranteeing the plethora of law suits that will result from the waiver authority of Sec. 182. The legislative thicket is already complicated enough without introducing fundamental constitutional issues. Most important, our responsibility as legislators must not be sacrificed in the rush to "do something", no matter what the cost.

Timothy E. Wirth, Andrew Maguire, Richard L. Ottinger, Edward Markey, Al Swift, Anthony T. Moffett, James J. Florio, Henry A. Waxman, Barbara A. Mikulski, James H. Scheuer, Douglas Walgren, Tom Corcoran. ●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Pepper (at the request of Mr. Wright), for today, on account of official business.

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Chappell (at the request of Mr. Fascell), indefinitely, on account of constituent business in his district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Anthony) to revise and extend their remarks and include extraneous material:)

Mr. Brinkley, for 30 minutes, today.
Mr. Cavanaugh, for 5 minutes, today.
Mr. Gonzalez, for 15 minutes, today.
Mr. Annunzio, for 5 minutes today.
Mr. Weaver, for 10 minutes, today.
Mr. Panetta, for 5 minutes, today.
Mr. Wirth, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Leach of Iowa) and to include extraneous matter:)

Mr. Shuster in two instances.
Mr. Conte.
Mr. Erdahl in two instances.
Mr. Daniel B. Crane.
Mr. Goodling in two instances.
Mr. Gilman in five instances.
Mr. Dornan in two instances.
Mr. Rinaldo.
Mr. Derwinski in two instances.
Mrs. Holt.
Mr. Abdnor.
Mr. Railsback.
Mr. Kemp in two instances.
Mr. Findley.

(The following Members (at the request of Mr. Anthony) and to include extraneous matter:)

Mr. Mazzoli in two instances.
Mr. Gudger.
Mr. Solarz in two instances.
Mr. Ambro.
Mr. Minish.
Mr. Roberts.
Mr. Ottinger.
Mr. Young of Missouri.
Mr. Donnelly.
Mr. Dellums in two instances.
Mr. Dingell in two instances.
Mr. Harris.
Mr. Hughes in two instances.
Mr. Cavanaugh.
Mr. LaFalce.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 230. An act to amend title VIII of the Public Health Service Act to extend through fiscal year 1980 the program of assistance for nurse training, and for other purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 38 minutes p.m.), under its previous order, the House adjourned until Monday, September 24, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2491. A letter from the Secretary of the Army, transmitting notice of the Army's intention to begin the limited disposal of certain chemical agent/munitions at Dugway Proving Grounds, Utah, pursuant to section 409(b)(4) of Public Law 91–121, as amended; to the Committee on Armed Services.

2492. A letter from the Secretary of the Interior and the Secretary of Agriculture, transmitting the annual report on the Youth Conservation Corps program, pursuant to section 5 of Public Law 93–408; to the Committee on Education and Labor.

2493. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Foreign Affairs.

2494. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting related to the international energy program to be held on September 25 and 26, 1979, in Paris, France; to the Committee on Interstate and Foreign Commerce.

2495. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Wabash River navigation, Indiana and Illinois, in response to 11 congressional resolutions and the River and Harbor Act of 1946; to the Committee on Public Works and Transportation.

2496. A letter from the Comptroller General of the United States, transmitting a report on the conversion of farmland to nonagricultural uses (CED–79–109, September 20, 1979); jointly, to the Committees on Government Operations and Agriculture.

2497. A letter from the Comptroller General of the United States, transmitting a report on progress in improving program and budget information for congressional use (PAD–79–79, August 31, 1979), pursuant to section 202(e) of the Legislative Reorganization Act of 1970, as amended; jointly, to the Committees on Government Operations, Appropriations, and the Budget.

2498. A letter from the Comptroller General of the United States, transmitting the second of two reports on the well-being of older people in Cleveland, Ohio (HRD–79–95, September 20, 1979); jointly, to the Committees on Government Operations and Education and Labor.

2499. A letter from the Comptroller General of the United States, transmitting a report on the need to improve financial management in developing countries (ID–79–46, September 20, 1979); jointly, to the Committees on Government Operations and Foreign Affairs.

2500. A letter from the Comptroller General of the United States, transmitting the audit of accounts of the majority printing clerk, House of Representatives, for the fiscal year ended August 31, 1979 (GGD–79–58, September 21, 1979); jointly, to the Committees on Government Operations and House Administration.

2501. A letter from the Comptroller General of the United States, transmitting the audit of accounts of the minority printing clerk, House of Representatives, for the fiscal year ended September 30, 1978 (GGD–79–61, September 21, 1979); jointly, to the Committees on Government Operations and House Administration.

2502. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting a report on regulation of Federal radioactive waste activities, pursuant to section 12 of Public Law 95–601; jointly to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

2503. A letter from the Director, Central Intelligence Agency, transmitting a draft of proposed legislation to provide for death gratuities for the survivors of certain Central Intelligence Agency employees; jointly, to the Committee on Post Office and Civil Service and the Permanent Select Committee on Intelligence.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee of conference. Conference report on S. 210 (Rept. No. 96–459). Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. H.R. 4612. A bill to amend title XVI of the Social Security Act to maintain for an additional 3 years the current program of preventive services, referral, and case management for disabled children receiving SSI benefits (Rept. No. 96–466). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 4985. A bill to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes; with amendment (Rept. No. 96–410 pt. 2). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DANIELSON: Committee on the Judiciary. H.R. 887. A bill for the relief of Elizabeth Berwick and Alexander Berwick, her husband; with amendment (Rept. No. 94–460). Referred to the Committee of the Whole House.

Mr. MOORHEAD of California: Committee on the Judiciary. H.R. 901. A bill for the relief of John A. Townsley (Rept. No. 96–461). Referred to the Committee of the Whole House.

Mr. MOORHEAD of California: Committee on the Judiciary. H.R. 1616. A bill for the relief of Caroline M. Babcock (Rept. No. 96–462). Referred to the Committee of the Whole House.

Mr. MOORHEAD of California: Committee on the Judiciary. H.R. 2531. A bill for the relief of Russell W. Allen; with amendment (Rept. No. 96–463). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 2532. A bill for the relief of Gail Williamson; with amendment (Rept. No. 96–464). Referred to the Committee of the Whole House.

Mr. HARRIS: Committee on the Judiciary. H.R. 3818. A bill for the relief of Clarence S. Lyons; with amendment (Rept. No. 96–465). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK:

H.R. 5360. A bill to make the first Monday in February a legal public holiday for Lincoln's Birthday; to the Committee on Post Office and Civil Service.

By Mr. BROOMFIELD:

H.R. 5361. A bill to amend title 5, United States Code, with respect to the retirement of customs and immigration inspectors, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. CONTE:

H.R. 5362. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to residential users of refined petroleum products; to the Committee on Ways and Means.

By Mr. HYDE (for himself, Mr. Anderson of Illinois, Mr. Annunzio, Mr. Corcoran, Mr. Daniel B. Crane, Mr. Derwinski, Mr. Erlenborn, Mr. Fary, Mr. Findley, Mr. Madigan, Mr. McClory, Mr. Michel, Mr. Mikva, Mr. Murphy of Illinois, Mr. O'Brien, Mr. Railsback, Mr. Rostenkowski, Mr. Russo, and Mr. Simon):

H.R. 5363. A bill to provide for the conveyance of certain real property to the State of Illinois for National Guard purposes; to the Committee on Armed Services.

By Mr. KELLY:

H.R. 5364. A bill to provide a tax exemption for the sale of gasoline mixed with alcohol or for use in producing a mixture with alcohol, and for other purposes; to the Committee on Ways and Means.

Mr. NEAL:

H.R. 5365. A bill to provide that any increase in the rate of pay for Members of Congress proposed during any Congress shall not take effect earlier than the beginning of the next Congress; to the Committee on Post Office and Civil Service.

H.R. 5366. A bill to amend the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to provide that adjustments in the pay for Members of Congress may not take effect unless specifically approved by each House of Congress; to the Committee on Post Office and Civil Service.

By Mr. PANETTA:

H.R. 5367. A bill to amend the Internal Revenue Code of 1954 to treat as employees, for purposes of withholding and social security taxes, certain fishermen who comprise the operating crew of a boat if the operating crew normally consists of fewer than six individuals; to the Committee on Ways and Means.

By Mr. TRAXLER:

H.R. 5368: A bill to amend the Internal Revenue Code of 1954 with respect to the requirement that tax return preparers sign the returns they prepare; to the Committee on Ways and Means.

By Mr. ULLMAN:

H.R. 5369. A bill to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process; jointly, to the Committees on Ways and Means and Rules.

By Mr. YOUNG of Alaska:

H.R. 5370. A bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on mortgage revenue bonds will not be exempt from Federal income tax; to the Committee on Ways and Means.

By Mr. KEMP:

H.J. Res. 405. Joint resolution requiring the President to take certain steps to aid Indochinese refugees; jointly, to the Committees on Foreign Affairs and the Judiciary.

By Mr. MOORHEAD of Pennsylvania:

H.J. Res. 406. Resolution to extend by 120 days the expiration date of the Defense Production Act of 1950; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DORNAN:

H. Res. 420. Resolution amending the rules of the House of Representatives to provide for the recording of the names of Members requesting recorded votes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

302. By the SPEAKER: Memorial of the Legislature of the State of California, relative to funding for the National Training Center at Fort Irwin, Calif.; to the Committee on Appropriations.

303. Also, memorial of the Legislature of the State of California, relative to U.S. Forest Service lands in California; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2071: Mr. Whitehurst, Mr. Beilenson, Mr. Mitchell of Maryland, Mr. Edgar, and Mr. Jeffords.

H.R. 3558: Mr. Young of Alaska.

H.R. 3697: Mr. Moffett.

H.R. 4161: Mr. Bauman and Mr. Hammerschmidt.

H.R. 4692: Mr. Whitehurst, Mr. Derwinski, Mr. Dannemeyer, Mr. Gingrich, Mr. Martin, Mr. McDonald, Mr. Burgener, and Mr. Hutto.

H.R. 5099: Mr. Horton.

H.R. 5166: Mr. Cleveland, Mr. Kramer, Mrs. Spellman, Mr. Tauke, and Mr. Walgren.

H.R. 5263: Mr. Jeffords, Mr. Oberstar, Mrs. Spellman, Mr. Downey, and Mr. D'Amours.

H.R. 5308: Mr. Whitehurst, Mr. Devine, Mr. Hyde, Mr. Hinson, Mr. Watkins, Mr. Ichord, Mr. Stangeland, Mr. Lagomarsino, Mr. Hughes, Mr. Bafalis, Mr. Hall of Texas, Mr. Collins of Texas, Mr. Hubbard, Mr. Daschle, Mr. Marriott, Mr. Burgener, Mr.

Davis of Michigan, Mr. Mottl, Mr. Frost, Mr. Hance, Mr. McDonald, Mr. Broyhill, Mr. Roe, Mr. Derwinski, and Mr. Jeffries.

H.J. Res. 69: Mr. Mazzoli.

H.J. Res. 321: Mr. Royer and Mr. Wyatt.

H. Con. Res. 167: Mr. Ambro, Mr. Archer, Mr. AuCoin, Mr. Barnes, Mr. Brodhead, Mr. Corcoran, Mr. Drinan, Mr. Evans of the Virgin Islands, Mr. Forsythe, Mr. Green, Mr. Kogovsek, Mr. Lagomarsino, Mr. Leach of Iowa, Mr. Lent, Ms. Oakar, Mr. Ottinger, Mr. Rousselot, Mrs. Spellman, Mr. Taylor, Mr. Whitehurst, Mr. Wolff, Mr. Dornan, Mr. Glickman, Ms. Holtzman, Mr. Mineta, Mr. Moakley, Mr. Rangel, Mr. Horton, Mr. Buchanan, Mr. Yates, Mr. Rudd, Mr. Marks, Mr. Levitas, Mr. Charles Wilson of Texas, Mr. Bauman, Mr. Guyer, Mr. Stratton, and Mr. Daniel B. Crane.

H. Res. 400: Mr. Young of Alaska, Mr. Dannemeyer, Mr. Robert W. Daniel, Jr., Mr. Symms, Mr. Satterfield, Mr. Lent, Mr. Collins of Texas, Mr. Leath of Texas, Mr. Ichord, Mr. Jeffries, and Mr. Dougherty.

SENATE—*Friday, September 21, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate convened at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. Robert Morgan, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Almighty God, whose laws of righteousness and justice determine the destiny of nations, establish among the people of our Nation, and those having authority over us, the righteousness which shall be our safety, and the justice which shall be our strength. Thou hast brought us through many vicissitudes of conflict and adversity to great riches and power, and now Thou dost confront us with the obligations of our abundance, and the perils of our prosperity. Guide, we pray, the consciences of our people to meet the untried and grave demands of the present time. As our forefathers prevailed over the dangers of their great adventure, so direct us among the unprecedented decisions of today. Give us the wisdom which is from above, and set before our minds the truth which makes men free; through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., September 21, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Robert Morgan, a Senator from the State of North Carolina, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

Mr. ROBERT C. BYRD. I thank the Chair.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GOLD, THE DOLLAR, AND OPEC

Mr. ROBERT C. BYRD. Mr. President, over the past several days the price of gold has jumped to meteoric levels, reaching a high of about $377 an ounce at Tuesday's Treasury auction. Yesterday it reached a high of $380 in London. In the past 4 months the price of gold has risen 50 percent. In 1967 gold was valued at $35 an ounce.

During the past couple of weeks, the price of gold has risen in relation to all currencies, not just the dollar. However, on Thursday, the dollar became subject to severe downward pressures in relation to other currencies.

Last fall the Government engaged in a dollar support program which involved a multicurrency loan to provide foreign exchange for the Federal Reserve to purchase dollars in international markets should such action prove necessary. Between last October and June of this year the dollar, on a weighted basis with other currencies, appreciated almost 10 percent. Since June, however, the dollar has fallen about 5 percent.

Those of us concerned about the stability of foreign markets and the purchasing power of the U.S. dollar must focus on the causes of the tremendous rise of gold and the decline of the dollar. There are several factors which have contributed to these phenomena.

First. Inflation in the United States and more recently in West Germany and Japan and other industrialized nations has diminished the attractiveness of holding assets denominated in the currencies of these countries.

Second. A large quotient of worldwide inflation is due to recent OPEC price increases. Those price increases have generated surplus foreign reserves in the hands of OPEC money managers. There is a good possibility that some of these reserves may have been shifted from currency investments into gold, thereby sparking a fever in the gold market.

Third. The gold market is very thin. It does not take a great deal of buying or selling to cause swings in either direction. Once buying pressure pushed the market significantly from equilibrium, a full-fledged bull market was launched.

It should be emphasized that according to U.S. Treasury officials, there is no evidence of official central bank or monetary authority participation in the recent gold rush.

But there is a great deal of foreign exchange available to some very wealthy citizens in OPEC nations who have a traditional fondness for gold as a medium of value and exchange.

This situation is not a crisis, but it is certainly cause for concern. Particularly, it points up the need for increased U.S. efforts to restrict oil imports—in the short run through serious conservation efforts, and in the long run through aggressive development of alternative domestic energy sources.

Ultimately, the value of the dollar does not depend on the price of gold or the price of oil, but on our ability to foster a noninflated, expanding, energy-independent economy.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

Mr. President, I have no need for my time under the standing order this morning, and I have no requests for time. I am prepared to yield back my time.

Mr. ROBERT C. BYRD. Mr. President, I yield back my time.

Mr. BAKER. Mr. President, I yield back my time.

SELECTIVE SERVICE REGISTRATION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 109, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 109) to require the reinstitution of procedures for the registration of certain persons under the Military Selective Service Act, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Armed Services with an amendment to strike all after the enacting clause and insert the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section

3 of the Military Selective Service Act (50 App. U.S.C. 453) is amended by inserting "(a)" before "Except" at the beginning of such section and by adding at the end of such section the following new subsection:

"(b) The President shall commence registration of citizens and other persons in accordance with the provisions of this title by January 2, 1980. The President may suspend the registration of persons under this title only for the purpose of revising existing registration procedures or instituting new registration procedures, but may not suspend or otherwise discontinue the registration of persons under this title for a period of more than ninety consecutive days. In no event may the President suspend or otherwise discontinue registration under this title more than once in any one-year period.".

SEC. 2. The President may not, after the date of enactment of this Act and before January 1, 1981, classify or examine any person registered under the provisions of the Military Selective Service Act (50 App. U.S.C. 451 et seq.) unless he determines that it is in the national interest to do so.

SEC. 3. The President shall submit a written report to the Congress not later than July 1, 1980, containing his recommendations (1) for revision of the categories and standards for deferment and exemption of persons under the Military Selective Service Act, (2) for the revision of the procedures to be followed for registration and classification under such Act, and (3) for other changes in such Act he determines necessary to improve the fairness and effectiveness of such Act. The President shall include in such report a certification to the effect that the Military Selective Service Act, including any changes recommended by him, is in his judgment, equitable and will provide the means necessary to meet effectively the military manpower needs of the United States.

SEC. 4. (a) The first sentence of subsection (b) of section 135 of title 10, United States Code, is amended to read as follows: "The Under Secretary of Defense for Policy shall supervise manpower mobilization planning in the Department of Defense and shall perform such other duties and exercise such other powers as the Secretary of Defense may prescribe.".

(b) Paragraph (3) of section 138(c) of such title is amended—

(1) by inserting "(A)" after "(3)" at the beginning of such paragraph;

(2) by redesignating clauses (A), (B), and (C) of the second sentence of such paragraph as clauses (i), (ii), and (iii), respectively;

(3) by striking out "It shall include" at the beginning of the third sentence of such paragraph and inserting in lieu thereof the following:

"(B) The Secretary of Defense shall also include in the report required under subparagraph (A) of this paragraph"; and

(4) by adding at the end of such paragraph the following new subparagraph:

"(C) The Secretary of Defense shall also include in the report required under subparagraph (A) of this paragraph an assessment of the Nation's capability of mobilizing the military manpower that may be needed to meet national security requirements during periods of national emergency. In making such assessment, the Secretary of Defense shall determine the Nation's capability of mobilizing the active military forces, selected reserve forces, other reserve force perosnnel, retired military personnel, and persons not members of the armed forces and shall include in such assessment a statement and explanation regarding the Nation's capabilities for mobilizing each of the personnel categories named.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum with the time being charged equally to both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous connsent that there be a brief period for the transaction of routine morning business, not to extend beyond 10 minutes, and that Senators may speak up to 5 minutes therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time not be taken out of the 6 hours.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HEALTH PLANNING AND RESOURCES DEVELOPMENT AMENDMENTS OF 1979—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I submit a report of the committee of conference on S. 544 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 544) to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 5, 1979.)

Mr. KENNEDY. Mr. President, the committee of conference has resolved the disagreement of the two Houses on the Health Planning Amendments of 1979, S. 544. The provisions of the conference agreement conform very closely to the provisions of the Senate bill.

Mr. President, this legislation, which amends the Health Planning and Resources Development Act of 1974, is another step in our attempt to end the fragmentation of the health planning process and to achieve a rational system of health planning which will assure the provision of quality health care at a reasonable cost.

This legislation will further strengthen local decisionmaking in the allocation of health care resources; it keeps the major decisions in the hands of those most affected—consumers, providers, local and State government officials, and the third-party payers—in short all those who ultimately pay for quality health services or pay the price of untreated illness if the services are not there. The legislation assures that the role of HEW in developing national guidelines is restricted to offering guidance and suggestions and does not permit mandating the outcome of a local planning process. Likewise it assures that States' certificate-of-need decisions are made consistent with the plans developed by the local and State planning agencies—not by the Federal Government.

Mr. President, this legislation will help contain the rapidly rising cost of health care through more rational allocation of resources and by establishing a program to assist in the voluntary discontinuation and conversion of unneeded hospital services which will reduce duplication that presently exists.

Mr. President, this legislation also encourages competition and consumer choice when these will constructively serve to advance the purposes of quality insurance and cost effectiveness. To aid consumers in making informed choices, the legislation requires that the health systems agencies collect from each hospital the rates charged for each of the 25 most frequently used services.

The certificate of need program is extended to major medical equipment (over $150,000) located in noninstitutional health care settings if the equipment is to be used, on a regular basis, for inpatients of hospitals. The certificate of need provisions also assure that the State programs do not interfere in the development of health maintenance organizations.

Mr. President, in conclusion, this legislation strengthens local decisionmaking in the allocation of health care resources, helps contain the still too rapidly rising cost of health care, and will serve as a prelude and adjunct to the kind of national health insurance which should be enacted—one which assures the availability and accessibility of quality health care to all Americans.

Mr. President, I urge my colleagues to vote favorably on this conference report which conforms very closely to the provisions of the Senate bill and is the strongest possible compromise with the House position.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

HOUSE CONCURRENT RESOLUTION 189

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate proceed to the immediate consideration of House Concurrent Resolution 189, providing technical amendments to the conference report on S. 544.

The ACTING PRESIDENT pro tempore. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 189) to correct the enrollment of S. 544.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 189) was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The ACTING PESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

RECESS UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 10 a.m. today.

There being no objection, the Senate, at 9:49 a.m., recessed until 10 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. TSONGAS).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I might suggest the absence of a quorum, charging the time against both sides equally.

The PRESIDING OFFICER. The Chair did not hear the request.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may suggest the absence of a quorum, and that the time be charged against both sides equally.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOSED SESSION

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. S. 109 is the pending business.

Mr. NUNN. Mr. President, I move that the Senate go into a closed session for the purpose of discussing classified information.

Mr. ROBERT C. BYRD. Mr. President, I second that motion under the rule.

The PRESIDING OFFICER. The motion has been made and seconded that the Senate go into closed session. The Chair, in accordance with rule XXXV, directs that the galleries be cleared by the Sergeant-at-Arms, that the doors of the Chamber be closed, and that all officials of the Senate not cleared for secrecy be excluded.

At 10:13 a.m., the doors of the Chamber were closed.

EXECUTIVE SESSION

At 1:04 p.m., the doors of the Chamber were opened, and the open session of the Senate was resumed.

The PRESIDING OFFICER (Mr. LEVIN). Under the previous order, the Senate is now in executive session.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have had discussions with the minority leader, and it looks as though the following request might be acceptable.

We are in executive session, are we not?

The PRESIDING OFFICER. Yes.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of the following nominees: All the nominees on page 1 of the Executive Calendar; all the nominees on page 2 of the Executive Calendar with the exceptions: Mr. Sam W. Brown, Jr., and the nominations under the judiciary.

Skipping to page 4 of the calendar, the nominations appearing there under the Department of Energy on page 4, on page 5 the nominations appearing under General Assembly of the United Nations, with the exception of Mr. Donald F. McHenry for the moment.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, the reservation is for the purpose of confirming what the majority leader has just stated, that is, we have consulted on an acceptable and agreeable way of considering the Executive Calendar, and this is a suitable method. It is fully cleared here. It reserves the rights of those Senators on my side of the aisle who have indicated their interests in certain nominations and, of course, it reserves the consideration of the judiciary for another time.

On that basis, then, Mr. President, I am happy to say that we have no objection to the request of the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that those nominees aforementioned be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations confirmed are as follows:)

NATIONAL CONSUMER COOPERATIVE BANK

Ronald Grzywinski, of Illinois; Joseph L. Hansknecht, Jr., of Michigan; Frances Levenson, of New York; Albert Joseph McKnight, of Louisiana; Juan J. Patlan, of Texas; Derek N. Shearer, of California; Roger C. Altman, Assistant Secretary of the Treasury; Carol Tucker Foreman, Assistant Secretary of Agriculture; Geno Charles Baroni, Assistant Secretary of Housing and Urban Development; Lawrence Connell, Jr., Chairman, National Credit Union Administration Board; William A. Clement, Jr., Associate Administrator for Minority Small Business and Capitol Ownership Development, Small Business Administration; and Graciela (Grace) Olivarez, Director, Community Services Administration, members of the Board of Directors of the National Consumer Cooperative Bank for a term of 3 years. (New position.)

DEPARTMENT OF ENERGY

Louis F. Moret, of California to be Director of the Office of Minority Economic Impact. (New position.)

GENERAL ASSEMBLY OF THE UNITED NATIONS

Benjamin S. Rosenthal, U.S. Representative from the State of New York; Larry Winn, Jr., U.S. Representative from the State of Kansas; and Esther L. Coopersmith of Maryland to be representatives of the United States of America to the 34th session of the General Assembly of the United Nations.

Richard W. Petree, of Virginia; William L. Dunfey, of New Hampshire; and Howard T. Rosen, of New Jersey. to be alternate representatives of the United States of America to the 34th Session of the General Assembly of the United Nations.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the nominations were confirmed en bloc.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION OF ESTHER COOPERSMITH

• Mr. PELL. Mr. President, I rise in support of the nomination of Esther Coopersmith as a U.S. Representative to the 34th Session of the General Assembly of the United Nations. I am delighted that Mrs. Coopersmith has been nominated for this very important position, as I have known, liked, and admired her ever since I have been in the Senate.

As President of the United States-Egyptian Cultural Committee and as a member or officer of numerous other civic organizations, Mrs. Coopersmith has exhibited a remarkable ability to work with people and has all the qualities that would make her an excellent diplomat. She is a marvelous organizer and the kind of person who invariably enjoys the trust and confidence of those with whom she is in contact.

Mrs. Coopersmith is a person of tremendous energy, imagination, and dedication; and I know that she will do a superb job at the United Nations. The President made a very wise choice in asking Mrs. Coopersmith to represent the

United States in the General Assembly and I urge her confirmation by the Senate.●

NOMINATION OF ASSISTANT SECRETARY CAROL FOREMAN TO BE A MEMBER OF THE NATIONAL CONSUMER COOPERATIVE BANK

● Mr. RIEGLE. Mr. President, I rise in support of the nomination of Carol Tucker Foreman, Assistant Secretary of Agriculture, to be a Government member of the National Consumer Cooperative Bank.

I have had the pleasure of working closely with Carol Foreman and her staff during the last 2 years. I have come away with that experience impressed with her stewardship of the Food and Nutrition Service at the Department of Agriculture. The programs she is responsible for touch the lives of millions of Americans in need. The laws which govern them are complex and controversial. They represent a major expenditure of the taxpayers' money.

Ms. Foreman has repeatedly demonstrated her sensitivity to these concerns. Under her leadership, the Department of Agriculture has successfully implemented one of the most far-reaching and massive overhauls of the food stamp program in the history of the act. Assistant Secretary Foreman was instrumental in securing the commitment of States to complete the implementation of these sweeping changes within a 4-month period—an important and difficult achievement. By way of contrast, I might point out that the last time changes of this magnitude were made in the food stamp program—in 1970—it took the Agriculture Department more than 3½ years to implement them.

Assistant Secretary Foreman has also worked closely with the Inspector General of the Agriculture Committee in dealing with and correcting deficiencies in the food assistance programs. Inspector General McBride, in testimony before the Appropriations Committee, praised Carol Foreman's commitment to a system of management which sets clear standards for State and local program administrators and holds them accountable to those standards.

I believe that Carol Tucker Foreman has performed an outstanding service to the Nation during her tenure as Assistant Secretary for Food and Nutrition Services at the Department of Agriculture. She has repeatedly demonstrated her abilities as an administrator and her sensitivities to the needs and interests of consumers. I am confident that she will be an equally outstanding member of the National Consumer Cooperative Bank. I urge my colleagues to join me in enthusiastically supporting her nomination.●

Mr. ROBERT C. BYRD. Mr. President, as I see it, this leaves before the Senate at this point as the first nominee before the Senate Mr. Sam W. Brown, Jr., Director of the ACTION Agency. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. All right.

I shall put in a quorum call shortly and hope that we can proceed to discuss this nomination in a limited amount of time. It is hoped that we can reach an agreement on that, after which there will be a rollcall vote on that nominee. On the disposition of that nominee, then, Mr. President, the Senate, under the order previously entered, will automatically go to the nomination of Mr. Donald F. McHenry. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And there will be a rollcall vote on that nomination probably without much discussion. Following the disposition of that nominee, the Senate will then go to the nomination of Mr. Donald F. McHenry on page 5 to be a representative of the United States of America to the 34th session of the General Assembly of the United Nations. That can probably be done by voice vote, after which the only remaining nomination on the calendar on page 5 would be Mr. Neil Goldschmidt to be Secretary of Transportation. That would be a rollcall vote and probably without much discussion.

SELECTIVE SERVICE REGISTRATION

The Senate continued with consideration of S. 109, as in legislative session.

Mr. NUNN. Mr. President, if we are going to have a quorum call, I have about a 3- or 4-minute statement in a declassified way that discusses some of the issues that were presented here. I think it would be better to present that because they are not things that have not been said before, but I wanted, as I said to the majority leader before we went into closed session, the points in there that were classified were the figures. I thought that I might make a brief statement that would be available to other Members or the press or whatever to the American people that would explain the general nature of what we discussed in a declassified way.

Does the majority leader interpret that as being appropriate under the rules?

Mr. ROBERT C. BYRD. Yes.

Mr. NUNN. It is declassified.

Mr. ROBERT C. BYRD. The Senator could ask unanimous consent if he has any doubt about it. Does he wish to do this at this point?

Mr. NUNN. If there is going to be a lull here, I could do it in about 3 or 4 minutes. If not, I do not want to interrupt any other business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Georgia (Mr. Nunn) may proceed for not to exceed 5 minutes as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I thank the majority leader.

Mr. President, we just completed a closed session of the Senate. During that closed session I have presented to the Senate some of the specific results of mobilization exercises conducted over the past year. Despite my request and those of the Senate Armed Services Committee chairman, Senator STENNIS, to the Secretary of Defense to declassify this information, it remains classified. The classified portion has been dealt with in executive session.

As the chairman of the Manpower and Personnel Subcommittee of the Armed Services Committee, I felt an obligation to inform the Senate of the serious problems we face in manpower and in our mobilization capability.

The central conclusions that I have made myself from the information which was contained in the so-called Nifty Nugget exercises, some of which is declassified, some of which is classified, basically are as follows:

The manpower problems upon mobilization are so severe that they would prohibit our military services from meeting the stated requirements of our national security.

First. The Army does not have sufficient manpower to meet its combat requirements in the early stages of a war.

Second. The Army would be compelled to deploy quickly the combat personnel from Reserve units, leaving those units completely gutted and incapable of fighting until trained draftees became available to fill the ranks. Today, if we had a war of this nature, draftees will not complete their training and be available under our current Selective Service System until 7 months after the mobilization begins. The single act of registration would cut this time by over 3 months. This 3-month period could be crucial under this kind of condition.

Third. The shortfall in combat-trained personnel is so dramatic that it would seriously impair the combat unit's ability to fight.

Fourth. There is not sufficient manpower to replace battlefield casualties.

Fifth. The medical care in such a war would be a disaster. There are grave shortages of surgeons, nurses, and enlisted medical personnel.

Thousands of brave young Americans, if this kind of scenario took place, will die but not from their wounds, rather from a lack of medical attention.

Sixth. Thousands of wounded young combat soldiers will be permanently crippled and disabled unnecessarily because we will not have the medical personnel to treat them on the scene and we will not have the capability to return them quickly to the United States.

Seventh. The current capability of the Selective Service System will only begin to address this shortage after 7 months.

This summary, even without the classified details and specifics, raises serious questions about our mobilization capabilities and about whether or not this country is really prepared for the kind of an emergency for which it must be prepared.

The statement of Secretary Brown in his response to our request that this information be classified should also raise serious concern about our national security. He stated that the information cannot be declassified without serious damage to our national security. On the one hand, the Secretary states that registration is not necessary, that our current manpower policies are moving in the right direction, and, on the other hand, that the facts supporting the need for a change in our manpower policies and the need for registration should be classified since if this information were known it would encourage our potential adversaries.

Mr. President, in closing, I would say and we will debate this matter further in open session this afternoon, but I would say that the procedure of registration as proposed in the bill that is now pending before the Senate and it is on the Senate Calendar, the procedure of registration will not solve all of these problems, but it will begin. It will be a step in the right direction, and it will solve some of these problems that have been made available to the Senate today in the closed session.

Are there other Senators who desire recognition? If not, I will yield.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. NUNN. I yield to the Senator from North Carolina.

Mr. MORGAN. How much time does the Senator have?

The PRESIDING OFFICER. The Senator has used all his time.

Mr. ROBERT C. BYRD. How much time does the Senator want?

Mr. MORGAN. Ten or 15 minutes.

Mr. NUNN. I think the Senator from Oregon is going to come at 3 o'clock where we would debate this issue. At that time the Senator from Oregon said he would yield some of his time since we were on my time in executive session.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from North Carolina (Mr. MORGAN) may proceed for not to exceed 5 minutes, as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE REENACTMENT OF SELECTIVE SERVICE

Mr. MORGAN. Mr. President, I wish to express my appreciation to the distinguished Senator from Georgia for the very fine service he has rendered to the Senate and to the people of America in bringing into focus one of the most critical issues of our time.

For several years I have insisted that this country must reenact Selective Service registration in order to guarantee an able and well-organized armed force in case we meet a serious threat to our national security or other extreme emergency.

Since the time that I first brought this matter up, the press in Washington and in my home State of North Carolina have begun to speak favorably of this proposal. They recognize that in the nuclear world, the importance of a well-trained conventional force is often overlooked. President Carter has also been rethinking the matter. He said recently, "We are reassessing the status of whether or not people ought to be registered. I don't see any prospect anytime soon of actually calling people to a draft, but we might have to have, as a precautionary measure, registration for the draft, just as a standby measure."

On August 29 of this year, the General Accounting Office issued a report entitled "Weaknesses in the Selective System's Emergency Registration Plan." The authors of this report state that they have "serious reservations" about whether the current emergency registration plan can be successfully implemented. The GAO found that formal arrangements with the individual States' election machinery to conduct a mass 1-day registration have not been concluded. States surveyed by the GAO responded that it could take anywhere from 2 to 30 days to get this election machinery into full operation. Specific sites for the mass registration have not been identified. The Selective Service System considered only 5 of the 33 State emergency plans provided by the National Guard to be adequate and has returned the other 28 plans for further work.

For this emergency registration to be successful, there are forms and office supplies which must be correctly placed in the field before Mobilization Day. Because specific sites at the State and local level have yet to be identified, these forms and supplies remain stored in only three of the six regional Selective Service centers.

And what about the mobilization of the draft boards? The Selective Service claims that it could get 50 percent of the board members who served before 1975, although it admits that this figure is a "guesstimate." Nor has the Selective Service contacted a single one of these men and women to determine if they would be willing to serve again, or to even verify their 1975 addresses and phone numbers. The remaining 50 percent of the required 15,000 board members would presumably come from various social service organizations. No efforts have been made to seek potential volunteers nor to train them in the System's policies and procedures to guarantee equitable treatment of recruits across the country. Presumably this training would be completed long before Mobilization Day.

The GAO criticizes the mechanical processing system used to notify registrants of their induction. A feasibility study undertaken by the Selective Service System from last November to this May included major features unlike the planned situation. The System assumed that normal communication lines would be available in time of emergency mobilization. No effort has been made to assure the availability of keypunch operators. There is no guaranteed backup support for all parts of the required computer system. They used only IBM equipment in this study, and there is no guarantee that this type of computer will be available throughout the entire system on Mobilization Day. Not even has a feasibility study of guaranteed mail delivery been undertaken.

And finally, the GAO correctly points out that in the likely event that even a single county fails to carry out their obligations to register all eligible young men that it would be impossible to conduct a lottery that was fair and equitable.

Accordingly, the report concludes that "Mobilization requires the delivery of 100,000 people to the military services by the end of 60 days. (A national peacetime registration program) will provide the least risk to the Nation in the event of war or national emergency."

Despite these gloomy conclusions, the House of Representatives last Wednesday defeated a proposal of Representative MONTGOMERY containing provisions similar to the legislation I have introduced. However, the House did approve a provision requiring the President to submit a report this January on the needs and methods of draft registration. No doubt this report will confirm the serious shortcomings highlighted in the GAO report I have just summarized.

Mr. President, we have not tolerated such risks in the SALT II treaty, nor in any other matter related to our national security. Yet where the readiness of our conventional forces are concerned, we stand idly by. I can explain this only by suggesting that the meaning of peacetime registration is dangerously misunderstood.

What would the passage of this bill mean? It would mean that all 18-year-old males without exception would be required to inform their local Selective Service Boards of their current residencies so that in the event of a national emergency we could save precious days by not having to put up with the difficulties and inadequacies of the present emergency registration plan.

It would mean that our citizens and the nations of the world as well would be confident that the Armed Forces could promptly have in hand an adequate number of recruits, should that need ever arise.

I do not foresee a national emergency, nor do I foresee a draft. But it does make sense, and it makes good sense, that if you can conceive of a situation where you want to use the Army, that you develop the mechanism to mobilize that Army while you have the time to sit down and work it all out.

There are some who say that peacetime registration is an invasion of privacy, an infringement of freedom or a denial of constitutional rights. I say in response that this is simply not true. What we are trying to do here is to guarantee that in case we need more military manpower than is now provided by the All-Volunteer Force and the Individual Ready Reserves, that it will not take 150 days to get it.

If we ever need to draft a large number of young men into national service, we had better be able to do it in the least amount of time. This is a vital element of our national security.

Registration is not a hardship, nor is it an infringement of any kind. It is a responsibility that many citizens around the world assume in case they must come to the aid and defense of their country.

Because I believe the conventional armed force to be so important, we must make every effort to put planning, preparation, and time on our side. Let us call for the registration of young men so that if we ever again have to mobilize for war, we will not have to delay precious months, weeks, or days while locating and registering those eligible.

I yield back the remainder of my time.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Mississippi may proceed for 2 minutes, not to exceed 2 minutes, without the time being charged to either side, and that we proceed as in legislative session on a privileged matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

PANAMA CANAL ACT OF 1979

Mr. STENNIS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 111.

The PRESIDING OFFICER (Mr. LEVIN) laid before the Senate a message from the House of Representatives insisting on its disagreement to the amendments of the Senate to the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977, and requesting a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. STENNIS. I move that the Senate insist upon its amendment and agree to the request of the House for further conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

Mr. WARNER. Mr. President, there is no objection for the minority.

The motion was agreed to; and the Presiding Officer appointed Senators STENNIS, JACKSON, EXON, LEVIN, THURMOND, WARNER, and HUMPHREY conferees on the part of the Senate.

EXECUTIVE SESSION

The Senate resumed the consideration of Executive business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and this has been cleared with all interested Senators, that the time on the nomination of Mr. Sam W. Brown, Jr. be limited to 30 minutes to be equally divided between Mr. HUMPHREY and Mr. PROXMIRE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that it be in order to order the yeas and nays on the nomination of Mr. Brown, Mr. Donald S. McHenry, and Mr. Neil Goldschmidt at any time, and with one show of seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I wonder if the Senators would allow me to put in a brief quorum call, to see if Mr. PROXMIRE can come to the floor.

Mr. GARN. I will be happy to do that.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Utah. I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. GARN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire has control of the time.

Mr. GARN. Well, technically I would be, but he has been designated to take my place on this issue.

Mr. HUMPHREY. How much time does the Senator require?

Mr. GARN. Five minutes.

Mr. HUMPHREY. I yield 5 minutes to the Senator from Utah.

NOMINATION OF SAM BROWN, JR. TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK

Mr. GARN. Mr. President, on March 29 of this year, I suggested that Sam Brown resign as head of ACTION.

I did this reluctantly—and only after concluding that criticism of Brown from the conservative, moderate, and liberal press had irrevocably curtailed Brown's effectiveness as agency chief.

"There is a perception that there is something very wrong with the Peace Corps, and rightly or wrongly, Brown is getting the blame," I noted. "Whether or not the criticism is justified, Sam Brown has become an issue."

Sam Brown did not resign. Instead, President Carter has moved to expand his responsibilities by nominating him to the Consumer Co-op Bank's Board of Directors.

In my opinion, this nomination is bad for the Bank and bad for ACTION. It suggests that even less of Brown's time will be spent correcting management deficiencies in his beleaguered agency.

If ever an agency required a 101-percent commitment from its Director, ACTION is that agency. A widely quoted House Appropriations Committee study found widespread illegality in ACTION staffing and contracting practices, and an almost total lack of responsible financial management. The report goes so far as to suggest that Congress should consider whether to "redirect or discontinue (VISTA) grants in light of the improprieties identified."

Sam Brown should turn his attention to the difficult task of rebuilding his agency. Recent commitments to a "hands-off policy" regarding the Peace Corps should make this job a little bit easier. But it makes no sense—at least, from the standpoint of anyone with even a marginal commitment to the Consumer Co-op Bank's success—for us to replace a demoralized Peace Corps with another nascent $300 million agency in his area of responsibility.

The Bank, for its part, deserves a director with a proven record of successful management experience. And it deserves a manager who is not already up to his neck in financial mismanagement difficulties. For these reasons, I will vote against the Brown nomination. I urge my colleagues to join with me.

Mr. President, as ranking minority member on the Banking Committee, I should point out to my colleagues in the Senate that hearings on the nominations for the National Consumer Cooperative Bank Board of Directors were rather unusual. We held hearings on all 13 of the nominees in one hearing. There were only one or two Senators present at those hearings. They were very perfunctory, and certainly did not go into detail on any one of the 13 nominees.

During those hearings, the Banking, Housing, and Urban Affairs Committee acted on this particular nomination without the benefit of any of the information contained in the House Appropriations Committee investigation.

I respectfully submit that this new information warrants further consideration by the committee. So I do support the motion of my colleague from New Hampshire to recommit this to the Banking Committee for further consideration, more in-depth analysis of Mr. Brown's qualifications for this new responsibility, as well as consideration of the information from the House Appropriations Committee report.

I thank my colleague from New Hampshire for yielding me this time.

Mr. HAYAKAWA. Mr. President, I ask the distinguished Senator from New Hampshire to yield to me for 6 minutes.

Mr. HUMPHREY. Mr. President, I yield 6 minutes to my distinguished colleague from California.

Mr. HAYAKAWA. I thank the Senator from New Hampshire.

Mr. President, my strong belief in consumer cooperatives and support of the National Consumer Co-op Bank is no secret among my colleagues. The Bank is at a critical juncture in its formation. A failure to confirm a Board of Directors and secure funding before the end of this fiscal year, September 30, could seriously delay or even kill the Bank.

Mr. President, I find it deplorable that so important an institution could be held hostage in order to assure the approval of all thirteen nominees.

Sam Brown, Director of ACTION, is among the 13 individuals President Carter has nominated to the Board. Many people have questioned the fitness of Sam Brown for this position. I, for one, cannot support the appointment of an individual to this Board who has repeatedly been involved in questionable ethical activities and displayed an arrogant disregard for Federal rules and regulations governing the conduct of agencies.

A report on ACTION by the House Appropriations Committee's majority staff found that organizations receiving close to $1½ million diverted funds away from the intended poor beneficiaries. The report stated:

> Contrary to the intent of the Domestic Volunteer Service Act, many volunteers assigned to (the Community Organization Research Action Project) were not reaching the poor people.

As I am sure you Senators already know, Congress has clearly defined the types of needy institutions which are to receive assistance under the Consumer Co-operative Bank bill. Many long hours were taken in committees and on the Senate floor working out the details of how Federal money would be spent under this program. It is important to me that struggling consumer cooperatives receive the sort of technical and managerial assistance which they so desperately need.

Unfortunately, Sam Brown has not convinced me that he is either able to manage or able to find managers. I was alarmed to read in the New York Times that Brown does not feel he was hired by the administration to manage his department. In view of the House's finding of widespread financial management irregularities in ACTION. I do not believe that his ability to "speak for and promote programs" would make much of a contribution to the Consumer Co-op Bank.

I am greatly concerned that accusations of fiscal improprieties and violations of the law would cast a shadow on the Bank. I am sorry that President Carter has steadfastly refused to withdraw his nomination of Sam Brown to be a member of the Bank's Board of Directors. This short-sighted decision could jeopardize implementation of the legislation which would make the National Consumer Co-op Bank a reality in the business community.

Therefore, Mr. President, I join with my distinguished colleague from Utah and my distinguished colleague from New Hampshire in opposing the nomination of Sam Brown to the Board of the National Consumer Co-op Bank.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. Mr. President, I yield 5 minutes to the distinguished Senator from Idaho.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the motion to recommit which Mr. HUMPHREY will make in respect to this nomination.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, I thank the Senator for yielding this time and I thank the distinguished Senator for the leadership he is displaying in bringing this matter to the floor and calling the attention of the Senate and the Nation to the conditions surrounding this appointment, this nomination, and the reasons we should be concerned with it.

Mr. President, I shall support the motion of the Senator to recommit this nomination for the reasons which I shall detail.

Ordinarily, I believe that the President should have broad latitude to select the nominees he desires in order to staff his administration. I say this even though I may not agree eye to eye with every selection which a President might make.

But I believe that there are certain basic prerequisites which the Senate should require of any nominee. Failing these, the Senate should exercise its constitutional prerogative to reject the nomination.

A nominee should be committed to upholding the Constitution of the United States and its laws. He or she should be dedicated to the principles of justice and individual freedom. The person should be competent to perform the tasks which would be assigned. And he should have demonstrated the honesty and integrity necessary to insure that he will perform his functions in the interest of the American people, rather than pursuant to his own personal pecuniary or ideological objectives.

I am reluctantly forced to conclude that Sam Brown falls short on a number of these points.

I am not at all convinced that he is committed to upholding the Constitution and laws of the United States. Neither is the House Appropriations Committee majority staff, which conducted an investigation of 5 ACTION regional offices and visited 12 ACTION State directors and 45 VISTA projects in 22 States.

The report prepared by the House Appropriations staff should be of interest to anyone who cares how Brown would attempt to administer millions of dollars of Federal loans as a Consumer Cooperative Bank Board member.

Its conclusions break down into four major categories:

The first was that financial management was woefully deficient under Sam Brown's ACTION. ACTION periodically violated the Antideficiency Act and various Federal contracting statutes. Yet, when unauthorized obligations were brought to the attention of Sam Brown's office by the Agency's general counsel, no action was taken to comply with the requirements for reporting violations to the Office of Management and Budget and the Congress, until long after the Appropriation Committee had made known its interest in these cases.

In addition, ACTION attempted to justify travel on at least three occasions by employees to Cuba and the People's Republic of China, using highly questionable accounting procedures. ACTION officials were unable to provide any satisfactory explanation as to why regulations regarding expense vouchers for official travel were ignored on a variety of occasions.

The Appropriation Committee's second major finding dealt with the unlawful use of ACTION employees for political and union organizing activities. The report found that standards for selecting local sponsors of ACTION projects "were largely disregarded." Eleven of the groups selected in the ACTION grant to Midwest Academy were organizations set up to improve the lot of working-women. Most of these groups were staffed by only one person (the VISTA volunteer), contrary to ACTION guidelines. Their "chances for community continuance without VISTA support were practically nil," according to the study.

In addition, volunteers assigned to one project were engaged in a labor union organizing drive. The target was the jewelry workers of Providence, R.I. The ACTION State director knew about the activity, but did not visit the project or make any effort to stop it.

In many agencies, this sort of unlawful deviation would merely be treated as evidence of bad management. In the case of ACTION, it flowed out of training and policies disseminated by the central administration of the agency.

In an agency which uses training manuals urging employees to use strikes, boycotts, and threats to unseat politicians as tools of social action, it can be of little surprise that unlawful political activity by those employees ensues.

The third major finding of the committee report dealt with improper contracting practices. These included allegations that $4 million worth of competitive contracts were given out on a noncompetitive basis.

Finally, the report condemned Brown's staffing policies, strongly hinting at rampant favoritism, empire building, and the questionable use of experts, consultants, supergraders, and political appointees throughout the agency. In many cases, ACTION ignored the salary and experience histories of potential employees, offering $15,000 pay jumps. In one instance, an individual's salary more than doubled over what he was receiving on his previous job.

Mr. President, the inability of Sam Brown to prevent widespread (and in some cases, allegedly intentional) violations of law in his present Agency would seem, in itself, to disqualify him from elevation to additional posts. This is particularly true when such additional duties would involve the financial oversight on millions of dollars of Federal loans.

But I am also concerned about one other aspect of Sam Brown's record. That is his dealings and statements relating to the Vietnamese Government while serving as an official of the United States.

I am referring to his attendance at and statements relating to the arrival of Vietnamese delegates to the United Nations. According to a New York Times article, Brown was alleged to have said:

> I am deeply moved. It's difficult to describe my feelings—what can you say when the kinds of things that fifteen years of your life were wrapped up in are suddenly before you? I believe we ought to aid the Vietnamese in their reconstruction.

At the meeting in which Brown was alleged to have made this statement deputy foreign minister of press and information Ngo Dien read a speech attacking the United States as "imperialist," to the applause of those in attendance. One of this body's most articulate and able members, the distinguished Senator from New York, was constrained to categorize American participation in this event as "repugnant to American principles and to common decency generally."

I ask unanimous consent that the September 27, 1977, statement by the Senator from New York, the New York Times article, and a commentary by CBS evening news commentator Eric Sevareid be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THOUSANDS WELCOME VIETNAM DELEGATES

Mr. MOYNIHAN. Mr. President, it is seldom that one is dismayed by a gathering of American citizens in support of a political objective—except when that objective is repugnant to American principles and to common decency generally. Such a gathering occurred in the city of New York 2 nights ago. Members of the Vietnamese delegation to the United Nations were feted at a New York theater, their attacks on the United States applauded by many of the Americans in attendance. The New York Times reports that at least one official of the U.S. Government was in attendance. He is quoted as being "deeply moved" by the experience of having his own country and his own Government excoriated by the spokesman of a Stalinist dictatorship in Vietnam.

Eric Sevareid of the Columbia Broadcasting System rightfully characterized that gathering as one of persons who were anti-American and pro-Hanoi, whose supposed antiwar sentiment was in fact directed exclusively against the United States. It is of course a tribute to our Constitutional system that it protects the rights of those who wish to express their support even for totalitarian enemies of the United States. It remains the responsibility of the rest of us to point out what has occurred.

I ask unanimous consent that the New York Times article I referred to be printed in the RECORD and that Mr. Sevareid's astringent commentary be printed immediately thereafter. This is political counterpoint which deserves broader appreciation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 26, 1977]

THOUSANDS WELCOME VIETNAM DELEGATES—ANTIWAR ACTIVISTS AMONG THOSE AT CEREMONY IN NEW YORK FOR UNITED NATIONS TEAM

(By Pranay Gupte)

With an explosion of emotion yesterday, Vietnam's new delegation to the United Nations was greeted by thousands of its American friends and supporters, many of whom had opposed the United States involvement in Indochina. In songs and speeches they suggested that a new, more harmonious era between the two countries was about to begin.

"Your presence here finally puts the past behind us," Cora Weiss, a longtime antiwar activist, said to the Vietnamese at a ceremony at the Beacon Theater, Broadway and 74th Street. Her reference seemed to be as much to the end of the Vietnam war as to the recent admission of that nation to the United Nations—admission that the United States had opposed several times.

As she spoke, dozens of supporters of what was once the Saigon Government stood in the rain outside the theater and chanted slogans accusing the Vietnamese Government in Hanoi of ignoring human rights. Occasionally, a sharp argument would break out between the demonstrators and passerby, and at one point it even looked as though there might be a fistfight. There were no arrests, although policemen watched warily.

Mrs. Weiss was repeatedly cheered during her speech, but the applause was loudest when she called on the Carter Administration to provide financial assistance for the reconstruction of Vietnam.

She looked down from the dais at members of the Vietnamese delegation. She smiled, they smiled back.

"Welcome, welcome in the name of the American people," Mrs. Weiss shouted.

The audience of about 2,500 rose to its feet roared, and clapped for many minutes.

As the cheering continued, Mrs. Weiss beckoned to the Vietnamese, four of whom walked up to the stage and, with their hands clasped above their heads, acknowledged the applause of the crowd, which had been invited by Friendshipment, a coalition of peace and religious groups in this country, which Mr. Weiss is affiliated.

One of the Vietnamese, Ngo Dien, the Deputy Foreign Minister of Press and Information, then stepped to the microphone and read a speech, a substantial portion of which was an attack on United States "Imperialists."

"From such a long distance the American imperialists send half a million troops to wage a bloody colonial war," he said in English. "Yet no enmity exists between the Vietnamese and American people."

Heavy applause interrupted him.

Mr. Dien motioned for quiet, then continued: "How can we accept that those who dropped 50 million tons of bombs on Vietnam not contribute to the healing of war wounds?" There was more applause.

"Long live the friendship between the Vietnamese and the American people!" Mr. Dien declared.

The crowd once again rose to its feet and cheered.

Among those who applauded was Ramsey Clark, the former United States Attorney General. "I'm very happy to see Vietnam finally in the United Nations, where they belong," he said.

The man next to him nodded. He was Sam Brown, the former antiwar activist, now an official in the Carter Administration.

"I am deeply moved," he said. "It's difficult to describe my feelings—what can you say when the kinds of things that 15 years of your life were wrapped up in are suddenly before you?"

"I believe we ought to aid the Vietnamese in their reconstruction," Mr. Brown said, adding that he hoped President Carter could be persuaded similarly.

Then Pete Seeger sang a few songs, some from the days of the antiwar protests in which many of those in yesterday's audience had participated. Later there were hugs and kisses, much like in a class reunion.

"We've waited so long, so long for this day," said Evie Moore, who was among those present. There were tears in her eyes.

CBS EVENING NEWS WITH WALTER CRONKITE

WALTER CRONKITE. The United Nations General Assembly opened debate today before representatives from 149 countries, the newest member—Vietnam. Eric Sevareid comments.

ERIC SEVAREID. The UN General Asembly has reconvened in New York, including representatives of the regime that now runs a unified Vietnam. They won their war. They have demonstrated full control of that country. The principle of universality must govern UN membership, not likemindedness, so they are entitled to their seats. Americans must put up with that.

What they may properly react to is the transaction that occurred yesterday in a New York theater. Several thousand other Americans joyfully welcomed the Hanoi delegation, one of whom promptly denounced what he called U.S. imperialism and demanded money payment from this country. One newspaper describes the gathering as the antiwar movement coming together again. It was, rather, that part of the antiwar movement which was not antiwar at all; it was anti the American role in the war and pro Hanoi. This group never had the slightest objection to the murderous civil war in Vietnam, which was started by the Hanoi Communists, who invaded the South, where the war was entirely fought save for the American bombing of the North.

There's a great difference between those Americans who wanted the United States out of the war because they thought it was none of our business, unwinnable, morally and politically destructive of our own principles and our own society—between them and the Americans who wanted Hanoi to win. It was the latter, for the most part, who met in the theater, and they had the effrontery to welcome the Hanoi officials in the name of the American people. There is nothing most Americans want to forget more than Vietnam, but this occurrence obliges us to do a little remembering—to remember the thousands of North Vietnamese farmers cold-bloodedly liquidated by the Hanoi Communists in the name of their class warfare doctrine; a million or so ordinary people of the North driven into exile in the South, men, women and children on foot, tens of thousands of Catholics among them; the thousands of village leaders in the South executed by Vietcong assassination squads. And to remember that at no time was there evidence that the majority of Southern Vietnamese desired communist rule and much evidence that a majority feared and loathed the prospect. They were not a downtrodden starving people, however inefficient and often corrupt their officialdom, which never imposed massive regimentation upon them.

Most of those in the New York theatre were not celebrating peace. They were celebrating the triumph of communist totalitarianism, which is what they had always been working for in the guise of a peace movement.

Mr. McCLURE. Mr. President, in view of all that I have said, I believe that it is an open question whether Sam Brown is committed to upholding the Constitution and laws of the United States, whether his support of totalitarian regimes reflects any commitment to principles of justice and individual freedom, whether he is competent to perform the highly complex fiscal tasks which his new job would require, and whether he would administer his new functions impartially, without regard to his own ideological objectives. I, therefore, urge my colleagues to oppose the nomination.

Mr. PROXMIRE. Mr. President, it is my understanding I have 15 minutes in support of the nomination of Mr. Brown.

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, I strongly urge the Senate to confirm Sam Brown as a member of the Board of Directors of the National Consumer Cooperative Bank. Only one Senator on our committee objected to the nomination of Mr. Brown. Mr. Brown has a broad range of directly relevant experience which should provide a valuable resource in the development and implementation of the Bank's programs and operations.

Mr. President, I think what we should do is consider what this man is being nominated for. It is not, in this case, to head an agency, not as the only person who will run it, the top man. He is one of 15 people who are likely to act, 13 for sure. We will probably increase it to 15. So he is one of only 13 or 15 people to run the Consumer Cooperative Bank. Mr. Brown's experience includes financial institution and investment experience as well as direct experience with the cooperative movement.

This is a cooperative bank. He has had experience both in the cooperative movement, which he understands thoroughly, and also in the investment community.

From 1975 to 1977, Mr. Brown served as the elected State treasurer of Colorado. In that capacity he had sole investment authority for $300 million in short-term investments and an additional $300 million for longer term investments. In addition, Mr. Brown served on the board of the Public Employees Retirement Association of Colorado with assets of $2.2 billion.

Mr. Brown's experience with the cooperative movement is also significant. While living in Colorado, Mr. Brown was himself a member of a consumer cooperative which ran a food store in a poor area in Denver.

And this is the kind of thing that this cooperative bank is supposed to do.

Frankly, I voted against the cooperative bank. I voted against it because I do not think we need another agency competing with small business.

But if we have one, we ought to have one with directors that understand the co-op movement as well as investment, and have real sympathy toward it.

As Director of ACTION, Mr. Brown's activities relating to the cooperative moment have been very broadly based.

Through its VISTA volunteer program, ACTION has been actively involved in assisting the development and organization of food co-ops, marketing co-ops, credit unions, and craft co-ops.

Mr. Brown has been the Director of ACTION.

ACTION has also been involved in self-help housing projects and small business development projects. Whereas ACTION's involvement in the cooperative movement precedes Mr. Brown's tenure as Director, the involvement of the Agency in this field has increased since Mr. Brown became Director. For example, approximately 110 VISTA volunteers have been assigned to the Federation of Southern Cooperatives to assist in establishing producer and marketing cooperatives for small farmers in the South.

In addition, Mr. Brown played a leading role in the administration's Interagency task force on the Consumer Cooperative Bank. Thus, not only has Mr. Brown been in on the ground floor in developing plans for the bank, but he brings an impressive set of experiences which should enable him to make a valuable contribution to the bank's operations and programs.

Mr. President, I am aware, and I think we have all become aware because of the opposition by the distinguished Senator from New Hampshire and the distinguished Senator from Idaho, we became more aware of this, that there have been charges of mismanagement, including politicization, made against ACTION. However, it is my understanding that the House Select Education Subcommittee held very extensive hearings on these charges—34½ hours of hearings. They explored these charges in great detail.

When we have 34 hours of hearings, anybody in the Senate knows we are bound to come across some adverse criticism. Some people are going to be unhappy, especially if we have a man operating a controversial agency and he does it vigorously, and he does it to help the poor. Some people are not going to like that and are going to complain about it.

You are going to develop a lot of information which is critical in 34½ hours.

However, Mr. President, I think we have to recognize that after the hearings the subcommittee concluded that the charges were completely unfounded.

If confirmed by the Senate, I point out that Mr. Brown will be one of 13 members of the Board of Directors or one of 15 members, if pending legislation to increase the board is enacted.

It is not as if we were saying that the Consumer Cooperative Bank is going to be run entirely by this one man. He is one of a number of directors, and the others include a bank president and other people who have great experience in administration, a number of very strong-minded people. Their nominations have been confirmed by the Senate.

If the Bank is to get off to the best start possible in achieving the objectives which have been set forth by Congress, it should not be denied the valuable experience and expertise that Mr. Brown can offer. Sure, he is a controversial figure. But there is no question that when he is one of 13 and is running a consumer cooperative bank, with his background, he can contribute usefully. But if he does go out into left field somewhere, there is plenty of ballast to make sure the Bank stays on the right track.

Therefore, I believe his nomination to be a member of the Board of Directors of the Bank is an excellent appointment, and I urge the Senate to confirm it.

I point out that the Senate has reauthorized the VISTA national grants program and in doing so has affirmed their support of what VISTA has been doing.

VISTA has been operating, during this period, under the directorship of Mr. Brown. The time to criticize that, it seems to me, is when the VISTA authorization was up, and the Senate approved it, putting a stamp of approval on what Mr. Brown has done.

Mr. President, I am happy to yield 3 minutes to the distinguished Senator from Colorado.

Mr. HART. I thank the chairman of the Banking Committee.

Mr. President, I want to add a word, as a friend and a fellow Coloradan, on behalf of Mr. Brown's appointment.

It seems to me that there are several sets of allegations or charges made here, some having to do with Sam Brown's operation of the present responsibilities that he has at ACTION and VISTA and the Peace Corps, others having to do with his political views and statements he has made in the past, and others having to do with his overall qualifications for this position.

I want to address myself primarily to him as an individual and, to a certain degree, his expression of his own political views.

Sam Brown was an early leader, as we all know, against our involvement in Southeast Asia. He spoke out, as others did at that time, at a time when it was considered almost heretical to do so. I think that even many of those who were strong supporters of the war, at least in the early stages, have changed their views in retrospect about our involvement there.

I do not think that an individual who has the strength of his convictions and who did express them should be penalized for that. In fact, it is in the best traditions of our political system in this country and what this country stands for.

Sam Brown is an individual who has strong views. I do not think he should suppress or repress them. I believe we should acknowledge them and encourage people to follow suit in expressing their opinions, whatever they may be, and not deny them the right or the ability to participate in the political process merely because we disagree.

I hope that, regardless of how people feel about this nomination, whatever their decision, it will not be on the mere fact of their disagreement with the political views of an individual or their feeling that that individual somehow does not match up to any particularly arbitrary standard of patriotism or good political conduct.

I think Sam Brown is an excellent choice. I know Sam very well. I think he already has made a great contribution to a government that he believes in, and I know he will continue to do so.

I believe that his participation on this Board is not only in the best traditions of this Republic and people of strong convictions, but also, his experience as the Treasurer of my State and as Director of ACTION will make him a very valuable member of this Board.

I wholeheartedly support the views of the chairman of the Banking Committee, and I hope that Mr. Brown's nomination as well as all the others will be confirmed by the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I understand that the distinguished Senator from New Hampshire (Mr. HUMPHREY) has run out of time. His generosity has been in excess of his time this afternoon. I ask unanimous consent that he may have an additional 8 minutes.

Mr. PROXMIRE. How much time does the Senator desire?

Mr. HUMPHREY. Eight minutes.

Mr. PROXMIRE. Mr. President, how much time do I have remaining?

The **PRESIDING OFFICER.** Nine minutes.

Mr. **PROXMIRE.** I am happy to yield to the Senator whatever time he requires.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **ROBERT C. BYRD.** Mr. President, I think this has been cleared on both sides. The acting Republican leader is present.

I ask unanimous consent that following the first rollcall vote, which will be on the motion to recommit, the remaining rollcall votes be 10-minute rollcalls, with the warning bells to sound after the first 2½ minutes, and I ask unanimous consent that those votes occur back to back. They will be on the nominations of Mr. Brown and the others. The first vote will be on the recommittal. If that vote fails, then the following back-to-back votes would be on the nomination of Mr. Brown and on the nomination of Mr. Donald F. McHenry of Illinois and on the nomination of Mr. Neil Goldschmidt.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **ROBERT C. BYRD.** Mr. President, I ask unanimous consent that the time I have just consumed not be charged to anybody.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **HUMPHREY.** I thank the distinguished majority leader for making these arrangements.

Mr. President, I ask unanimous consent to have printed in the RECORD an article published in the Federal Times entitled "Array of Abuses Charged to ACTION; ACTION Ripped in House Report" and a report of the House Appropriations Committee's 1978 study of the ACTION Agency.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARRAY OF ABUSES CHARGED TO ACTION

(By Inderjit Badhwar)

One of the most devastating, indictments of a federal agency by Congress appears in a recent special report on ACTION prepared by the investigations staff of the House Appropriations Committee.

The House report obtained by Federal Times bores into every aspect of the federal volunteer agency's policies, procedures and practices under the two-year stewardship of director Sam Brown and—as one source described it—"tears ACTION apart limb from limb."

Extensive Capitol Hill hearings on the subject are scheduled in mid-February at which time Sam Brown and his staff will be allowed to defend themselves. ACTION, meanwhile, has made available to the Hill a "summary response" insisting that the House report contains "no findings of ethical violations, fraudulent use of funds, intentional illegalities or other similar charges."

The investigative report condemns Brown's staffing policies, strongly hinting at rampant favoritism, empire building, and the questionable use of experts, consultants, supergraders and political appointees throughout the agency.

The report's analysis of the agency reorganization under Brown concludes that his much-touted reorganization of the field structure was a costly sham.

It excoriates the agency's relatively new National VISTA Grants program under which, according to the report, about $4 million worth of grants have been awarded without formal advertising or requests for proposals. "A number of these awards were made to friends and former associates of the VISTA director," the report said.

And VISTA volunteers, the report said, were often found working in lower middle-class rather than poverty-stricken neighborhoods and communities in violation of the program's charter. Others were discovered to be indulging in lobbying, political actions, union organizing—proscribed activities—with federal funds. And training materials funded by ACTION incited them to use inflammatory confrontational tactics against "enemies."

One of the report's severest criticisms—with possible Justice Department implications—concerns "improper" contracting practices. The report says ACTION officials may have violated federal statutes through "imprudent and premature discussions" about contracts with contractors, questionable use of minority contract awards, and questionable evaluation of competitive bids.

Financial management controls, the report finds, went out the window. The agency failed to report known violations of the Anti-Deficiency Act: It spent money that had never been appropriated. And Hill investigators also found examples of improper vouchers submitted for overseas travel by officials as well as for "back-door financing" of staff travel.

The following is a more detailed summary of the investigators' findings:

Staffing: High-level management and excepted positions—political jobs—jumped by 30 since Brown took over the agency. Schedule C positions trebled, rising from 11 to 33, and supergrade positions increased by five bringing the total to 30. Staff positions in the director's office also rose to an all-time high of 58 in June 1977 but were subsequently cut back.

And using the Civil Service Commission's relaxed standards for salary qualifications, ACTION "has had a free hand in getting those employees wanted for high-level jobs regardless of qualifications and without any second-guessing by CSC examiners."

As a result, appointees without past federal experience and with low earnings realized salary boosts of between $15,000 and $20,000 overnight.

The number of experts and consultants increased and the agency "used its consultant appointment authority extensively and improperly to facilitate the early placement of personnel hired incidental to the change of national administrations, hired experts to serve in ongoing staff positions, set pay levels not commensurate with past earnings.

Reorganization: "The reorganization began with much flurry and fanfare but progressed by fits and starts and ultimately evolved into a plan seemingly based on the premise that the best change is no change at all." The reorganization was motivated by Brown's "New Directions" policy, the report says, but no one had any idea just where the agency should be headed or how it ought to get there. As a result, the agency wound up wasting $147,000 on a reorganization task force because "the reorganization of the field structure intended to move decision-making closer to the communities by distributing additional positions among state offices turned out to be largely an empty gesture."

National VISTA grants program: The agency awarded 12 grants worth $4 million during the first year of the program—all the grants were awarded noncompetitively and rules governing selection of VISTA sponsors were ignored in numerous instances. Investigators found VISTA volunteers working in many communities that would not qualify under the Community Services Administration poverty income guidelines for participation in federal programs designed to help the poor. And volunteers were assigned to sponsors who were never incorporated as non-profit organizations.

And ACTION state directors who raised objections to certain headquarters-pushed projects were summarily overruled by the VISTA director, the report said.

The investigators made a grant-by-grant review of the activities supported by the National VISTA program and concluded that "a combination of poorly-trained supervisors and inadequate monitoring has resulted in [volunteers] becoming involved in restricted work such as union organizing and political activities. For example:

Volunteers were involved in the Arkansas primary election last spring, and other VISTA volunteers in the St. Louis area have escorted grantees to the state capital for lobbying purposes. Five VISTA volunteers in New Orleans were engaged in organizing a labor union for household workers.

Other volunteers were engaged in staff related work and "at another project volunteers appeared to be working more to save a middle class . . . country club rather than to serve the poor."

In addition, the investigators found that training materials used by two large ACTION-funded agencies to be "objectionable" and "inflammatory." For example, training documents made available to VISTA volunteers included instructions such as:

"Give people a taste of blood. Push your opponents so hard you can see them squirm."

Improper procurement practices: The agency risked violating statutes or "actually violated pertinent statutes" by not making synopses of sole-source contracts thereby raising "questions as to concealment of such awards from public awareness . . ." And even though contracting officials are required by law to obtain a Certificate of Current Cost or Pricing data on each contractual action exceeding $100,000, ACTION has not obtained such certificates on at least three awards one of which amounted to nearly $500,000.

ACTION program officials "encouraged contractors to commence work without a contract, developed statements of work jointly with contractors, and obtained budgets (estimated costs) from contractors for use as in-house estimates."

In another case, ACTION awarded an advertising contract to a minority firm "on the pretext of accommodating the government's minority businesses' affirmative action program. In reality, however, the award was made to the minority firm in order to obtain the services of a specific individual"—a consultant to that company who could not otherwise have qualified for a sole-source contract.

In addition, during an audit of Peace Corps operations in El Salvador in 1977, ACTION's Inspector General found that the acting country director had on three occasions violated the Anti-Deficiency Act by executing three contracts citing a non-existent Fiscal Year 1978 appropriation. The employee was subsequently reprimanded, but the violation was never reported to OMB or Congress as required by the act. "We just blew it," the executive officer to ACTION's director told Hill investigators.

And investigators also learned that ACTION officials traveling in Peace Corps countries in their official capacity have stayed free at the homes of Peace Corps directors and yet claimed full per diem reimbursements on their vouchers.

In its section of "back-door financing," the report reveals that—on at least three occasions—two employees had travel costs to Cuba and to China subsidized with the understanding that the employees would share their experiences by writing "trip reports." While the employees were not on official travel, "reimbursement of partial expense was, in effect, accomplished by not charging the travelers annual leave for the time away from the job."

The report is also highly critical of ACTION's abolition of the Inspector General's office and transfer of the IG's responsibility for reporting criminal violations to the Justice Department to the ACTION general counsel's office.

"The investigative staff is concerned about the compatibility of these changes with the interest of Congress in encouraging the establishment of independent inspector general offices."

ACTION's initial response, not intended to be a "detailed" one, according to the agency, is as follows:

The agency is in compliance with civil service regulations in not limiting its review of qualifications solely to past earnings. And the investigators' findings do not demonstrate an overall weakness in personnel management and fail to consider improvements made by the new administration.

The agency reorganization was completed after the investigators left the agency and was accomplished without loss of morale and confusion.

ACTION has now adopted regulations requiring funding of all national grants competitively. And the finding that VISTA was not serving exclusively low-income communities was based on "subjective and untrained opinions of investigators who viewed a small percentage of the projects." And whenever instances of improper and proscribed activities by VISTA volunteers were brought to the attention of the agency "this activity was immediately halted."

While the investigative report discloses "some weaknesses" in the procurement system these instances do not substantiate "the broad conclusion drawn in the report." And steps are being taken, ACTION said, to ensure that the law is obeyed and that "misguided attempts" by program officials to influence source selections are stopped.

As for the investigators' charges of improper travel, ACTION maintains that the "investigators appeared to be upset because the employees were traveling to communist countries while on administrative leave." The only violation found was the failure of the time cards to show the employees on administrative leave.

"Give . . . Taste of Blood"

During its investigation of ACTION, made at the behest of Rep. Robert H. Michel, R-Ill., House Appropriations Committee staffers discovered what they termed "objectionable" and "inflammatory" training instructions being used by certain VISTA grantees who received up to a million dollars in federal funds.

These "training documents"—some of which have been discontinued—were made available to VISTA volunteers as "recommended reading." Here's a sample:

"The Third Principle of Direct Action organizing is that it attempts to alter the relations of power between people's organizations and their real enemies. The enemies are often unresponsive politicians, tax assessors, utilities, landlords, government agencies, large corporations or banks."

"Give people a 'taste of blood.' Push your opponents so hard you can see them squirm."

"'You may want to assign some people to be inciters' and move about to heat up the action getting people angrier and encouraging them to show their anger. You may at other times want some 'calmers' to stand near people who may be disruptive to the focus of the action."

"Make what the opposition is doing or not doing sound scandalous. It generally is scandalous, but the edge may have been dulled by the routine manner in which it is normally treated."

"Your power is your ability to hurt the target or withhold something the target wants. The hurt can be immediate, as in a strike or boycott, or it can be potential, as when bad publicity will cause a politician to be unseated. You should always know exactly what kind of power you are using and how it will work."

"Stunts can help. If, for example, a politician won't meet with you, tape a sign across his office which says, 'This Office Closed to the Public.' If someone won't come into a debate, put a dummy in the chair and debate that for dramatic effect."

"Be ever on the lookout to play targets off against each other, Republicans vs. Democrats, Up-State vs. Down-State, In Group vs. Out Group. Your enemy's enemy may be your ally.

House Appropriations Committee 1978 Study of ACTION

SUMMARY

The Investigative Staff was directed to make an investigation of the policies, procedures, and practices of ACTION. More than 200 persons were interviewed which included ACTION management officials, employees, contractors, grant project directors and supervisors, and VISTA volunteers—both former and present. In addition, ACTION files and documents pertaining to areas of interest to the Investigative Staff were reviewed and analyzed. The Investigative Staff traveled to 5 ACTION regional offices and visited the ACTION State directors in 12 States and 45 VISTA projects in 22 States.

A. Personnel:

The review focused on the conversion of ACTION personnel from foreign service to civil service, changes in the number and staffing of excepted and senior management positions, and the use of experts and consultants.

1. Conversions Not Politically Motivated:

The Investigative Staff found no evidence of political motivation behind the blanket conversion of some 149 ACTION employees from foreign service to civil service. Neither did the Investigative Staff find any evidence of a reported "fifth column" within the agency, made up of upper-level holdovers from the prior administration who acquired job tenure as a result of the conversion exercise. The Investigative Staff can only conclude that ACTION officials have been in error in assuming or implying that past manipulation of the personnel system is in some way related to the ineffective accomplishment of current agency programs.

In early 1974, the Civil Service Commission made a personnel management inspection of ACTION, concluded that foreign service appointments for other than Peace Corps operations were improper, and directed the agency to develop a plan for eliminating the dual personnel system in agencywide support offices. ACTION had difficulty with some of the details of the recommendation, but the Investigative Staff could find no evidence in the record of the agency ever having objected strongly, in principle, to the idea of eliminating foreign service positions in support offices. Neither could the Investigative Staff find any suggestion that the exercise was viewed as an opportunity to provide the incumbents with civil service tenure and other benefits. The attitude seems more likely to have been related to a turnover of personnel in several key positions and a sincere effort to establish a base for better personnel management in the agency. Negotiations with the Commission continued through the spring of 1976, at which time the conversion plan was implemented on the basis that ACTION would limit future foreign service appointments to the Peace Corps and to the FS–1 and FS–2 levels.

While there is some confusion about how many employees were included in the exercise, the best information available to the Investigative Staff indicates that 149 were actually converted and another 35 employees were reinstated. Other data compiled by the ACTION personnel staff would indicate that well over half of the employees were lower-level clerks and technicians and the remainder were supervisory or middle management. Some 28 employees, most of whom were FS–1, FS–2, and FS–3, remained in foreign service positions subsequent to the conversion. Four of these employees are still with the agency.

As of September 30, 1978, ACTION had a total of 25 foreign service employees working in support offices, or 3 fewer than immediately after the conversion. The agency still has no written policy on how positions in support offices will be filled. The Investigative Staff can understand ACTION's reluctance to use only general schedule employees in support offices, but it cannot agree with the position. While the flexibilities of the dual personnel system may be highly desirable from a management standpoint, there are just not enough safeguards to prevent its abuse. In the hands of a willful director, it could still be used as a means for circumventing merit hiring principles. To avert the possibility and encourage better personnel management in the agency, the Investigative Staff believes ACTION should adopt a firm policy of filling agencywide support offices with Civil Service personnel only.

2. Increase in Non-Competitive Positions:

The report entitled "U.S. Government—Policy and Supporting Positions" (popularly known as the "Plum Book") is generally considered to be reflective of the "political jobs" in an agency. The last official "Plum Book" was issued by the House Committee on Post Office and Civil Service in November 1976, with information current as of September 3, 1976. Comparison of the "Plum Book" with a corresponding report current as of March 30, 1978, and prepared by the ACTION personnel office shows a net increase of 30 "political" jobs broken down as follows:

There has been no change in the number of executive level positions. This number is fixed at six by statute.

Noncareer executive assignment (NEA) positions have increased from three to six. NEA appointments are made to positions of a confidential or policy-determining character and are exempt from most civil service rules and regulations governing appointments and employment.

Schedule C positions have trebled, increasing from 11 to 33. Schedule C positions are similar to NEAs except for classification below the supergrade level.

Other excepted positions GS–14 (or equivalent) and above have increased from 81 to 86. The increase is made up of 11 more Peace Corps country directors and medical officer positions, 2 fewer other FS–1, –2, and –3 positions, and 4 fewer selected Schedule A and B positions.

ACTION currently has a total of 30 supergrade and FS–1 and FS–2 positions. This is a net increase of five positions over the past 2 years which represents an additional six supergrade positions and one less foreign service position. The agency is currently authorized a total of 10 supergrade positions, 1 of which was still double encumbered at the time of this report with both a career GS-16 and an FS-2 employee.

With the change in national administrations and appointment of the current Director of ACTION, the number of positions in the Office of the Director increased markedly over prior staffing levels. The number peaked on June 30, 1977, at which time 58 positions were reported. An official with whom the matter was discussed showed an awareness that staffing levels were high, offered some explanations, and advised of plans for reducing total staff down to about 25 employees by the end of the fiscal year (1978). This goal was subsequently achieved.

3. Past Earnings Not Considered in Evaluating Qualifications:

The Investigative Staff found that ACTION largely discounts past earnings in the private sector as a factor in evaluating qualifications and setting salary levels for appointments to excepted positions. In June 1977, the Civil Service Commission officially endorsed this practice. In August 1977, the Commission further facilitated the filling of excepted positions with marginally qualified people by abdicating its statutory responsibility for evaluating the experience of appointees to noncareer executive assignment positions. As a result of these developments, ACTION (as well as the other departments and agencies) has had a free hand in getting those employees wanted for high-level positions, regardless of qualifications and without any second-guessing by Commission examiners.

To review how ACTION has evaluated qualifications, the Investigative Staff looked at 36 cases involving appointment to Schedule C and other excepted positions. Generally, when the appointee was either a career or former career employee, the case posed no qualification problem. In other cases, however, involving mainly appointees without Federal experience, the salary at which the employee was hired was more difficult to reconcile with past earnings in the private sector. In eight cases reviewed, the appointees realized salary boosts of over $15,000 each per year.

The maximum increase of over $20,000 went to a high-level management official in the field organization who had been previously working as a legislative analyst for a State legislature. Close behind with an increase of over $18,000 was a more recently hired headquarters official who, with the appointment, almost doubled his prior earnings.

4. Experts on the Increase:

ACTION is authorized to hire intermittent consultants and experts under both the Domestic Volunteer Service Act of 1973 and the Peace Corps Act of 1961. The Peace Corps Act also provides ACTION with a special personnel service contracting authority which has been used mainly to hire instructors to provide language and other training for Peace Corps personnel abroad.

Available historical information on man-days worked and expenditures for expert and consultant services is not reliable. Other reports prepared by the agency over the past 18 months suggest that even current information is inadequate.

The best data currently available for FY 1978 indicates an expenditure of $868,000 for intermittently employed experts. This compares with a corresponding expenditure of $653,000 for the first 12 months of FY 1976, or of $733,000 when adjusted for salary increases. The difference indicates that an estimated 1,268 more staff-days were worked by experts in 1978 than 2 years earlier.

For the full 2 fiscal years, overall expenditures are as follows:

Intermittent	1976 (15 months)	1978
Experts	$939,000	$868,000
Personal Service Contract	1,815,000	1,395,000
Total	2,754,000	2,263,000

Rules governing the use of experts and consultants are clearly stated in Civil Service Commission publications and in an ACTION agreement with the Commission, but the agency has not observed these rules in many instances. Illustratively, the Investigative Staff found that the agency used its consultant appointment authority extensively and improperly to facilitate the early placement of personnel hired incident to the change of national administrations, hired experts to serve in ongoing staff positions, set pay at levels not commensurate with past earnings, and incorrectly designated all employees hired under the special authority as "experts," regardless of the work to be performed.

B. Reorganization:

The ACTION reorganization to implement the "new directions" for the agency was begun in August 1977, and the work was completed some 10 months later. Peace Corps was not included in the review.

The reorganization was spearheaded by a special task force at a total cost of $147,000. The only major constraints were that (1) no personnel were to be adversely affected by any of the changes, and (2) the instructions outlined in an earlier policy memorandum issued by the Director were to be adhered to closely. These policies included emphasis on "meeting human needs," delegating decision-making authority to the State office level, and increasing program office authority in the budget and training areas.

Realignments outside the area of domestic operations were accomplished with relative dispatch. These included the establishment of an Office of Voluntary Citizen Participation made up of a number of functions formerly performed elsewhere in the agency, and merger of the advertising functions of public affairs with the former recruitment office to form an Office of Recruitment and Communications. The latter change largely re-created the organizational structure existing before July 1976.

Realignment of the domestic operations field structure posed the dilemma of how to strengthen the State office role without relocating office personnel and, therefore, proceeded more slowly. The issue was never really satisfactorily resolved, with the result that reorganization of the field structure turned out to be largely an empty gesture. Accomplishments included a plan for delegating additional authority to State directors in the areas of budget development and execution, project approval, and volunteer personnel actions. To support the changes, a total of 40 positions are to be transferred from the regional to State offices. About half of the positions were vacant, and none of these were funded. As for the remainder, three had actually transferred along with employees as of October 1978, and a time lag of 2 to 3 years was estimated before any meaningful additional numbers would be moved.

Concurrent with realignment of the field structure, the program offices (VISTA/ACTION Education Programs and Older American Volunteer Programs) were increased by 18 positions. A bloated headquarters staff is difficult to reconcile with the objective of strengthening the State office role, and the Investigative Staff believes the need for these additional positions should be reconsidered.

C. National Grants Program:

The national grants program was devised as a means of getting across a new VISTA philosophy in the quickest possible way. National grants differ from traditional VISTA grants in that they are not restricted by State or regional boundaries and are administered by ACTION, Washington. Twelve national grants in the total amount of about $4 million were awarded during the first year of the program. All 12 grants were awarded noncompetitively.

The rules governing selection of VISTA sponsors are spelled out in the VISTA policy guidelines, but ACTION has not observed these rules in numerous instances. The Investigative Staff found volunteers working in many communities and with constituencies that would not qualify under the Community Services Administration poverty income guidelines for participation in Federal programs designed to help the poor. VISTA volunteers were also found working with groups whose chances for survival without the continued services of a full-time organizer were poor, and, contrary to the guidelines, many projects were approved without the sponsor having quantified the goals and objectives against which the progress of the project could be objectively measured.

ACTION operating policies were changed to make it easier for grants to be approved under the national program. As a result of these waivers, volunteers have been assigned to a number of local sponsors who were never incorporated as nonprofit organizations. Sponsors have been approved without on-site visits, and costs have increased from an average unit cost of $5,748 for a standard VISTA to $6,418 for a national grant volunteer.

ACTION State director recommendations for approval or disapproval of projects were often overruled by either the Project Review Board (PRB) or the VISTA director, and, in at least one national grant, the PRB, was overruled on several of the projects by the VISTA director. If State director and PRB recommendations are to be arbitrarily overruled, the procedure raises some questions about the value of an elaborate approval process.

Program office officials maintain that national grant sponsors are capable of providing better training for volunteers than agency staff. State and regional officials dispute this contention. The Investigative Staff found that training provided by national grantees varied widely in the length of training and course content. Some volunteers were given no training at all or as few as 2 or 3 days while others had received over 20 days. Training provided by some sponsors emphasized community organizing topics while training provided by others focused on ethnicity and culture shock. The Investigative Staff was unable to discern any difference in the quality of work performd or attitude of VISTAs extensively trained by the national sponsor and those not trained at all. Attendance at training is not compulsory, and the Investigative Staff found many volunteers who had missed one or more training sessions without any opportunity or apparent need for making them up.

A combination of poorly trained supervisors and inadequate monitoring has resulted in national grant VISTAs becoming involved in restricted staff-related work, union organizing, and political activities. These situations may not have developed if project supervisors had been better trained to draw the line between proper and improper VISTA activity, and if the State directors, who might ordinarily have been expected to pick up the violations, had an interest in monitoring the projects properly.

State officials were almost unanimous in feeling they had little input into the program and, as a result, placed national grants at the bottom of their priorities. The impression was given that national grants was regarded as a Washington program and State officials did not want to be involved.

Evaluations of national grants have been accomplished by ACTION's Office of Compliance and Office of Policy and Planning. The Office of Compliance has to date reviewed three grants and issued two reports. The Office of Policy and Planning had reported on 37 projects under 5 national grants. These evaluations disclosed many of the same program weaknesses found by the Investigative Staff. State offices also have a responsibility in the evaluation process, but the role is as yet largely undefined.

1. Community Organization Research Action Project:

The Community Organization Research Action Project (CORAP) is an organizational spinoff of the Association of Community Organizations for Reform Now (ACORN) organization. It was established for the purpose of receiving and administering VISTA grant funds. The grant was awarded in the amount of $470,475 in September 1977.

ACORN is a national organization with community-based groups in 13 States. In addition to operating at the neighborhood level around issues of local concern (new street light, stop sign for pedestrian crossing, clearing away an abandoned house), all ACORN community-based groups are organized around broader regional or national issues of interest to all members (public utility rates, repeal of a State sales tax on food and medicines). Community groups determine their own local issues and strategies, but the larger issues are decided by an executive board made up of elected community representatives.

The job of the VISTA volunteer is to serve as a community organizer. His main responsibility is to seek out, set up, and work with both new and established neighborhood ACORN organizations. Membership is built up mainly by doorknocking.

Contrary to the intent of the Domestic Volunteer Service Act, many volunteers assigned to CORAP were not reaching poor people. This conclusion is based on the Investigative Staff's own observations, the comments of a number of VISTAs and State officials, and on ACORN's own philosophy of building a "majority constituency" made up of all people shut out of power or, more specifically, "low to moderate income" families.

Community self-reliance is one of the primary thrusts of ACTION's "new directions." The Investigative Staff saw no evidence of self-sufficiency developing in ACORN neighborhood organizations to which VISTAs were assigned. It was the perception of most volunteers that community takeover was impracticable. Further, community takeover is not an ACORN goal.

The Domestic Volunteer Service Act imposes restrictions on VISTAs engaging in political or labor union organizing activities. Volunteers assigned to CORAP were involved in the Arkansas primary election this past spring, and other VISTAs in the St. Louis area have escorted ACORN members to the State capital on legislative lobbying missions. Five VISTA volunteers in New Orleans were actively engaged in organizing a labor union for household workers in the area until directed by the ACTION Office of Compliance to terminate the assignments. All VISTAs assigned to the grant are still indirectly involved in labor organizing activity by collecting ACORN membership dues which are used, in part, to pay the salary of the chief organizer, who is personally responsible for the household workers' union organizing drive.

Accounting under the CORAP grant, especially for subcontractor expenses and for ACORN contributions, has been careless and inadequate. The main subcontractor billed training expenses on the basis of estimated rather than actual costs, and no accounting records were kept to support the actual costs of $165,000 for services and supplies which ACORN agreed to contribute to the grant.

Monitoring of ACORN projects by State offices has been almost nonexistent. Combined with ACORN's predisposition to make its own rules, this has resulted in volunteers being freely moved around both within and outside of the State to which assigned and in ACTION State offices often not having any idea where VISTAS were working or what they were doing.

ACTION's Office of Compliance completed a review of the CORAP grant in March 1978 and, in a critical report, made recommendations on training, excessive attrition, political activity, and volunteer support. ACORN responded favorably except for volunteer support, in which area it was still trying to renege on a commitment to contribute up to $18,000 to provide volunteers with automobiles.

In September 1978, CORAP advised ACTION that it did not intend to apply for an extension of the grant. The decision was attributed mainly to adverse publicity.

2. Midwest Academy:

Midwest Academy is a training institution for community activists. In October 1977, the academy was awarded a VISTA grant in the amount of $432,235. The grant provided for placement of 85 volunteers in 20 "grass-roots" organizations to help poor people gain the organizational skills to improve their lives. One of the three officials approving the grant was a consultant to ACTION at the time, and another was the executive director of one of the local organizations selected to receive VISTAs.

National grantee organizations have been described as groups with national or multiregional affiliations and with projects of national impact or of special interest because they address a problem of high priority to ACTION. Midwest Academy does not meet these criteria. Midwest is in no way affiliated with any of the local sponsors under the grant and provides no supervision over their activities. While some of the local groups had used Midwest's training and consulting services in the past, others were only recently formed and had no prior association whatever with the organization.

Midwest has not provided uniform training for all volunteers assigned under the grant. Some had received 10 days of training, others from 2 to 5 days, and still others had received no preservice training at all. While the length of training varied, the grant application provided for a 10-day living allowance for each volunteer while in training, and the allowance was given to each volunteer upon entering the service. This raises questions about the possible overpayment of living allowance to a number of volunteers. Some of the handout training materials contain passages which could be considered objectionable to some and language which is not considered appropriate for VISTA training. Congress may wish to consider if it is in keeping with the legislation which authorizes the program.

Midwest said it would select local sponsors with solid funding and with a history of success in helping poor people, but, in practice, these standards were largely disregarded. Eleven of the group selected were organizations set up to improve the lot of working women. Most of these groups were staffed with only one person (the VISTA volunteer) and were funded with little more than enough money to pay for the telephone and supplies. Their chances for community continuance without VISTA support were practically nil.

Volunteers assigned to one Midwest project were engaged in a labor union organizing drive when interviewed by the Investigative Staff. The target was the jewelry workers in Providence, Rhode Island. Neither the project supervisor nor the two VISTAs were aware of doing anything improper. The ACTION State director knew about the activity but did not visit the project or make any effort to stop it. ACTION's Office of Compliance subsequently reviewed the project as part of an overall Midwest inspection and directed that union organizing be stopped.

Contrary to VISTA guidelines, other volunteers were engaged in staff-related activities, and, at another project, volunteers appeared to be working more to save a middle-class neighborhood landmark (a country club) rather than serve the poor.

3. National Center for Urban Ethnic Affairs:

The National Center for Urban Ethnic Affairs (NCUEA) is an umbrella organization which provide technical assistance and funds to some 300 affiliated community-based activist groups which are involved in a wide range of fields including crime prevention, drug rehabilitation, urban revitalization, and community organizing. In November 1977, the organization was awarded a national grant in the amount of $491,106. The grant provided for the placement of 75 VISTAs with some 39 affiliated local sponsors and for training of the volunteers for careers in community organizing.

Of the 39 organizations proposed as local project sponsors, 11 were disapproved by either a State director, the Project Review Board, or both, and a number were conditionally approved. All but one were ultimately approved. Since award of the grant, five of the questionable sponsors have either voluntarily left the program or have been asked to leave. Other questionable sponsors whose projects were visited by the Investigative Staff were not working with poverty constituencies. The overall pattern indicates that State director comments should have been given more weight in the selection of projects.

Housing and messing arrangements provided for volunteers during training sessions were unduly austere and resulted in hardship for some of the older volunteers. Standard VISTAs are housed at facilities with adequate living quarters and toilet facilities or they are given per diem to pay for proper food and quarters. This raises some question about why lesser accommodations should be provided for national grant VISTAs.

ACTION policy requires local sponsors to set up time-phased and measurable goals and objectives, but the policy was waived, in effect, for most NCUEA projects. As a result, volunteers were unaware of what exactly they were expected to accomplish and the evaluation of projects has been ineffective.

A number of volunteers assigned to NCUEA projects are not working in predominately low-income communities and serving the needs of poor people. Of 13 projects visited, an estimated 7 were aimed mainly at lower middle-income neighborhoods with, perhaps, some poverty-level pockets. Some projects seemed to be aimed more at stabilizing neighborhoods to keep them from deteriorating and becoming low income rather than at improving the lot of poor people.

The NCUEA grant provides for up to 27 days of training for volunteers, and there is some evidence that this is excessive. For example, many volunteers have missed a number of training sessions but the impact on their performance has been negligible. Further, the excessive training has created hardship for several locally recruited volunteers with family responsibilities and who cannot spare the time away from home.

Attrition under the NCUEA grant has been excessive. The high rate was attributed mainly to competition with the CETA program, which, in a number of areas, offers better pay for the same work.

4. National Public Interest Group Clearinghouse:

The National Public Interest Group Clearinghouse is the headquarters for the Public Interest Research Group (PIRG). PIRG is a public interest advocacy organization focusing on such issues as consumer legislation, utility rate increases, and voter registration. The organization is made up of 30 independent State PIRGs, each of which has its own board of directors. In November 1977, the Clearinghouse was awarded a $289,767 grant to train and place 45 VISTAs.

Prior to award of the national grant, PIRG efforts were aimed at the general public and not necessarily the poor. To get VISTAs, the Clearinghouse agreed that they would be assigned only in low-income communities. This arrangement has not been altogether successful. In both New York City and Albany, New York, the Investigative Staff interviewed VISTAs who were not working in low-income neighborhoods. Further, the problems being addressed were not typically poverty issues but rather problems of middle-class families and declining neighborhoods. These included property taxes, redlining, and small claims actions.

ACTION policy emphasizes placing volunteers with selfgoverning "grassroots" organizations, but the PIRGs do not conform with this model. PIRG policy and issues are typically established at the State level by a board of directors. Local groups, such as those to which the volunteers are assigned, then organize around these issues. The local groups do not have their own policymaking bodies but only steering committees which develop the tactics and strategies to carry out State policy.

The New York PIRG, which was visited by the Investigative Staff, supports an active legislative lobbying program at the State level. While there is no evidence of any direct volunteer involvement in these activities, the availability of VISTA resources may make it easier for the organization to divert manpower to the lobbying effort.

5. National Council of La Raza:

The National Council of La Raza (NCLR) is a Washington, D.C. based advocacy organization dedicated to furthering the interests of Mexican-Americans. NCLR is loosely affiliated with some 108 local groups, most of which are located in the Southwest and each active in its own community in sponsoring programs to improve opportunities for Chicanos. In April 1978, NCLR was awarded a $265,266 grant to place 40 VISTAs with affiliate groups in a 5-State area.

Mainly because of the poor quality of project proposals, approval of the NCLR grant took over 8 months. The extended delay raises questions about the efficiency of the national grants' process. ACTION State directors are much better situated to provide sponsors with technical assistance and support in developing projects than are officials in Washington, D.C. At the same time, no discernible benefits were derived from awarding the grant to a national sponsor rather than to individual projects through regional and State offices. NCLR has little to do with administration of the grant, it has no training component, and it provides no policy guidance or supervision over local sponsors to which VISTAs are assigned.

In spite of all the time taken to rewrite the projects, the Investigative Staff found no evidence of their quality having been improved. Chicanos Por La Causa, a project approved over the objection of the State director, is illustrative. No planning had been done for use of the VISTAs, and, as a result, all three assigned were being used as "cheap staff" (the perception of the volunteers themselves) rather than as organizers as described in the project proposal.

The VISTA guidelines clearly state that volunteers are not to perform direct services, but two of the projects visited by the Investigative Staff were using VISTAs as teachers. If the activity was in any way related to an overall organizing strategy, this was not apparent, and, upon completion of their tour, the VISTAs will either have to be replaced or the service discontinued.

Other volunteers interviewed by the Investigative Staff were performing staff-related work, also contrary to VISTA guidelines. These activities included serving as a teacher's aide, employment interviewing, drug counseling, and grantsmanship.

A number of these potential problem areas were anticipated and reported by State directors and should have been resolved before the NCLR grant was approved.

6. National Association of Farmworkers Organization:

The National Association of Farmworkers Organization (NAFO) is a Washington, D.C.-based coalition of farmworker groups established for the purpose of advocating and lobbying for the civil and labor rights of migrant and seasonal farmworkers. In April 1978, NAFO was awarded a grant in the amount of $49,775. It was intended as a pilot project which, if successful, would be expanded in the fall of 1978 to support an additional 35 volunteers. As of mid-October, evaluation of the pilot project was still pending.

VISTAs working with NAFO are to be assigned to amenable "family" crews in one of the three migrant streams for the purpose of organizing advisory councils and educating farmworkers about their civil rights and protections under other applicable laws.

Initial recruitment efforts under the grant were unsuccessful. Of the five potential volunteers recruited in June 1977, only one remained with the program. Four additional VISTAs were subsequently hired and placed but not until well after the pilot project was supposed to get under way.

Because of recruiting difficulties, experience at the time the Investigative Staff reviewed the grant was limited to the activities of the one initial recruit who had remained with the program. She was assigned to the Delmarva Ecumenical Council (DEC) and was trying to identify migrants or other local farmworkers with a potential for leadership and an interest in being trained to serve on the DEC Executive Board. This assignment was expected to continue until later in the year at which time it was planned that the volunteer would go to Florida for the citrus harvest.

Many questions have been raised about the NAFO grant which reflects a fundamental concern about the practicability of the concept. These questions have been left largely unanswered by the pilot project. Among the main concerns are the following:

It is difficult to conceive of growers being amenable to the idea of VISTAs moving in and organizing farmworkers on the growers' own property for whatever purpose. At best, the volunteer will have to conceal his identity as a federally funded worker, and the Investigative Staff considers such a deception to be totally improper.

Supervision of the VISTAs is to be provided from Washington, D.C., by the project director and by two roving multistate supervisors. It is doubtful whether the widely spread out volunteers will be able to get meaningful guidance under this arrangement, and the solution lends itself to communication breakdowns and problems of accounting for and locating VISTAs in case of emergencies or for other reasons.

The food and lodging allowance for NAFO volunteers was set at $125 a month as compared with a national average of $219 a month. The lower allowance is based on an assumption that VISTAs will live in work camps or other low cost accommodations. If the arrangement does not work out, NAFO has guaranteed payment of actual expenses in excess of the allowance. While Government interests are protected by the guarantee, the health and welfare of the volunteers could well be compromised if the plan fails.

NAFO is not a labor organization, but responsible concern has been expressed about volunteers assigned to the grant getting involved in union organizing activity. The recent effort to disrupt the tomato harvest in Ohio and organize the farmworkers was supported by at least one NAFO affiliate organization—La Raza Unida of Columbus, Ohio. The organizing drive was run by the Farm Labor Organizing Committee (FLOC), another organization with ACTION associations. It is difficult to conceive a VISTA being part of such a scene without getting involved.

NAFO is a registered lobbying organization. NAFO also receives over 90 percent of its funding from Federal sources. The withdrawal of this support would result in major curtailment of the organization's activity, if not mean its end. It follows that Federal money, in this case, is being used to sustain a lobbying organization.

D. Contracts:

The Investigative Staff found that ACTION procurement practices often conflict with regulatory and statutory requirements and tend to limit competition unduly. The tendency of program staff to dominate the procurement process and the lack of management support for the procurement function also contribute to the problem.

1. Improper Practices:

ACTION regulations governing procurements provide for Advance Procurement Planning, but the Office of Grants and Contracts Management has not insisted on program office compliance with this requirement. The purpose of advance planning is to provide the administrative lead time necessary to make the purchase and contract award in compliance with pertinent laws and regulations. As a result of short periods of time allowed for the procurements by the personnel who establish the requirements, ACTION has received proposals from only a limited number of experienced contractors. This kind of limited response tends to favor existing contractors as well as limiting competition for all potential bidders.

Many examples were found in the contract files of potential violations of the statutes authorizing procurement by negotiation, requiring synopses of current procurements, and obtaining certificates of cost or pricing data. With some consistency, negotiated procurements have been initiated or even completed without any determination that the usual requirement for formal advertising could be waived. Also, with some consistency, ACTION has not complied with statutory requirements for synopsizing procurements in the Department of Commerce Business Daily and for obtaining a Certificate of Current Cost or pricing Data on each contractual action exceeding $100,000.

ACTION program officials involved in the procurement process have engaged in imprudent activities. These have included "authorizing" commencement of work without a contract, developing statements of work jointly with contractors, and obtaining budgets from contractors for use as in-house estimates. As a result of these actions, contractors have been exposed to the risk of not receiving payment for work performed without proper approval, and preselection of contractors has been fostered.

ACTION placed a contract with a minority firm to secure the services of a specific individual not otherwise available without competition. The placement of the contract not only circumvented Government requirements for competitive procurement, but caused the minority firm problems because of an unrealistic delivery schedule, delayed payments, and the contract performance period was extended without allowance for cost increases. Another contract was awarded for training in the amount of $495,746 that resulted in considerable waste. The latter contract was for the training of Peace Corps volunteers in Brazil, but difficulties were encountered when the Brazilian Government delayed the issuance of visas to the trainees. As a result, training plans had to be revised and the contract amount was increased to $592,514. However, the new plan did not work out, and, ultimately, a number of courses were canceled, in-service training was cut back, and the number of trainees was reduced, but the estimated contract amount was never adjusted to reflect the changes.

Even when procurements are competed, ACTION's practices cast doubt on the integrity of the competition and make source selection suspect. Requirements are not adequately described and Requests for Proposals (RFPs) consistently provide inadequate information to ensure that contractors and evaluators have a common basis for determining that proposals meet the Government's requirements. Undue pressures are, at times, exerted to insist on award of contract to the source with the best technical proposal rather than to the lower bidder who meets the Government's requirements. The selection of personnel without technical program expertise to serve on reviewing panels and the general lack of harmony between requiring offices and the Contracts and Grants Management Division also serve to lessen confidence in the source selection procedure. Because ACTION evaluations are subjective to an unusually high degree, technical evaluators can manipulate or "back into" selection of a preferred source. The subjectivity is largely attributable to flaws in the ACTION approach to source selection, which include the establishment of categories for scoring and evaluation which are too broad and conducive to manipulation, and frequent failure to establish a base line for acceptability in the RFP. Examples of the subjectivity of evaluations abound and are described in the body of this report.

ACTION has a chronic backlog of contracts completed but not closed out. Unclosed contracts to provide training are a concern because they often contain unexpended funds which can be deobligated. During FY 1978, ACTION had only one part-time employee working on contract closeouts, but he has since been terminated; at the time the Investigative Staff's review was concluded, no one was assigned to the work.

2. Program Staff Domination:

The Investigative Staff found that program technical personnel tend to dominate the procurement process at ACTION and engage in activities which under law and regulation, and in accordance with sound business practice, fall within the responsibilities of the contracting officer. Such technical personnel could benefit from an orientation course designed to provide a better understanding of the procurement process.

3. Organizational Placement of Procurement Function:

Under the present management structure, the Contracts and Grants Management Division has little contact with the ACTION Director. The Investigative Staff believes the degree of dominance of program technical staff over the procurement process is related to the lack of visibility this arrangement affords to the Director of Contracts and Grants Management and suggests the need to reevaluate the organizational placement of the procurement function.

E. Financial Management Controls:

The Investigative Staff found an accounting system in need of further refinement, violations of the Anti-Deficiency Statute and travel irregularities.

1. Accounting System:

ACTION's problems with its accounting system date back to the establishment of the agency, at which time a number of noncompatible systems were brought together. In 1974, the agency engaged a major accounting firm to design and install a new system at a final cost of some $500,000. On June 30, 1975, when the changeover to the new system was made, there were reportedly still many errors in the file. On June 24, 1978, the General Accounting Office (GAO) approved the design of ACTION's General Ledger Accounting System. While ACTION has done much to improve accounting practices in recent years, complete and accurate information requested by the Investigative Staff was not always readily obtainable from the system.

2. Unauthorized Obligations:

For three brief periods during the first quarter of FY 1978, ACTION was required to operate without either an appropriation or a continuing resolution to support its domestic operations. During one of the periods, ACTION was also without obligational authority to support Peace Corps activities. The Investigative Staff found that during these periods, ACTION officials executed contracts, purchase orders, grants, and an interagency agreement in apparent violation of the Anti-Deficiency Statute. Also during these periods, obligations were incurred for staff travel and new employees were hired.

In another instance, ACTION acknowledged three violations of the statute involving contracts in a total amount of over $22,000. While these unauthorized obligations were brought to the attention of the Director's office by the agency General Counsel, no action was taken to comply with requirements for reporting the violations to the Office of Management and Budget (OMB) and the Congress until long after the Investigative Staff made known its interest in the cases.

3. Travel irregularities:

The Investigative Staff found that some ACTION staff, including high-level officials, have been submitting improper expense vouchers for official travel in Peace Corps countries. Contrary to instructions in the Peace Corps manual, these employees have been provided lodging without charge in Government-leased quarters but have been claiming full per diem amounts. Apart from citing past practice, ACTION officials were unable to provide any satisfactory explanation as to why the regulations have been ignored.

The Investigative Staff found other improprieties in the travel area. On at least three occasions, two employees had travel costs to Cuba and to the People's Republic of China subsidized with the understanding that the employees would share their experiences by writing trip reports. While the employees were not on official travel, reimbursement of partial expense was, in effect, accomplished by not charging the travelers annual leave for the time away from the job.

F. Inspector General Functions:

In February 1978, ACTION restructured its former Inspector General (IG) office and established in its place the Office of Compliance. In addition to being responsible for the usual IG functions of audit and investigation, the Office of Compliance supervises the agency's Equal Employment Opportunity (EEO) program. Further, as part of the restructuring, the former IG responsibility for reporting criminal violations to the Justice Department was transferred to the ACTION Office of General Counsel.

The Investigative Staff is concerned about the compatibility of these changes with the interest of Congress in encouraging the establishment of independent Inspector General offices. The merger of EEO with IG functions creates the potential for a conflict of interest and is not in accord with Congressional intent on the subject of program responsibilities as stated in PL 95–452. Transfer of responsibility for liaison with other agencies is also contrary to the intent of Congress and detracts from the independence and organizational status of the IG function.

CONCLUSIONS AND RECOMMENDATIONS

The Investigative Staff's findings demonstrate the apparent weaknesses in ACTION's overall management of its personnel, procurement, and budget and finance programs. The findings concerning the National Grants Program not only demonstrate the inefficiencies in administering the $4 million program, but also the improper use and ineffectiveness of grants in meeting intended goals to reach low-income communities. This raises the question whether Congress should redirect or discontinue such grants in light of the improprieties identified.

The recommendations that follow are directed toward improving overall management in the personnel, budget and finance, and procurement functions. Also, certain legislative considerations are set out which the Congress may wish to consider regarding the National Grants Program.

To strengthen personnel management the Investigative Staff recommends that the Committee require ACTION to:

Adopt a firm, written policy to control foreign service appointments below the FS–1 and FS–2 levels in agencywide support offices.

Develop reporting and management control procedures to assure accountability for man-days worked by experts and consultants and compliance with Civil Service Commission rules with respect to setting pay rates, titling positions, and using such employees properly.

Reconsider the need for the increase in personnel ceiling approved for headquarters program offices as a result of the reorganization.

To strengthen procurement management, the Investigative Staff recommends that the Committee require ACTION to:

Issue an instruction requiring program office compliance with the Advance Procurement Planning procedure directed by Order 2620.1.

Provide, by training or otherwise, for better orientation of program staff in the statutory and regulatory requirements governing the procurement process.

To strengthen the budget and finance function and to preclude violations of the Anti-Deficiency Act and ACTION's regulations, the Investigative Staff recommends that the Committee require ACTION to:

Develop controls for assuring that personnel authorized to obligate funds are aware of restrictions on making any expenditures at times when the agency is without an appropriation.

Report promptly Anti-Deficiency violations to OMB and the Congress, as required by the statute.

Observe the agency's own regulations and discontinue immediately the practice of reimbursing full per diem to travelers using Government-furnished quarters.

To establish and assure independence of an Office of the Inspector General, the Committee may wish to consider having ACTION:

Review its current organization—the Office of Compliance—for conformance with Congressional interest in encouraging the establishment of an independent Inspector General office.

The Investigative Staff suggests that the Congress may want to consider the following legislative matters concerning the National Grants Program:

Prohibit further use of VISTA funds for National Grants, based on the findings of this report.

Review in depth the legislative history of the VISTA program and redefine Congressional intent with respect to program directions and volunteer activities.

If Congress decides that the National Grants Program should not be terminated,

> but modified or redirected, the following recommendations are being made to improve program efficiency and effectiveness. ACTION should then be required to:
>
> Develop a more positive role for State offices in the development, implementation, and monitoring of National Grants projects.
>
> Conform with agency grant management regulations requiring on-site evaluation of potential projects, incorporation of project sponsors as nonprofit organizations, and unit cost ceilings.
>
> Require project sponsors to conform with agency instructions for quantifying and time-phasing project goals and objectives.
>
> Develop standards for identifying low-income communities consistent with Community Service Administration poverty income guidelines and assure those standards are met before VISTA volunteers are approved for a project.
>
> Evaluate potential sponsors more realistically for chances of community continuance of the organization without VISTA support.
>
> Develop more uniform standards for training of VISTA volunteers (standard and National Grant) both with respect to course content and length of training.

Mr. **HUMPHREY**. Mr. President, I oppose the nomination of Sam Brown and will move that it be recommitted to the Committee on Banking, Housing, and Urban Development.

I take this step because confirmation of Sam Brown to the Consumer Cooperative Bank Board would place in this important post a man whose administrative record has been excoriated by a majority of the House Appropriations Committee which investigated ACTION, the Agency managed by Mr. Brown for the past 2 years.

The summary of findings of the House Appropriations Committee investigation of ACTION under Sam Brown's direction reveals such instances of mismanagement, waste, apparent featherbedding, and favoritism that it is ridiculous to reward him with a new position authorizing him to supervise hundreds of millions of taxpayer dollars. The findings in this report, Mr. President, are not based on partisan politics but are the work of the legislative staff of the House Appropriations Committee.

I will enumerate some of the findings which, it seems to me, warrant further investigation:

First. Improprieties and mismanagement in the grant selection process of ACTION.

The House Appropriations Committee investigation found extensive improprieties and mismanagement in the selection process for grants, which had to have Mr. Brown's approval before being awarded. The national grants program, which was administered directly from ACTION's Washington headquarters, awarded 12 grants, totaling $4 million on a noncompetitive basis. In other words, the grants were awarded in violation of the requirement that there should be public advertising to solicit sponsors. Regarding the national grants, ACTION Director Sam Brown demonstrated his contempt for the oversight responsibility of Congress by continuing the awarding of grants on a noncompetitive basis for 9 months after the congressional complaint had been filed. As the committee report states, and I quote, "In the interim, noncompetitive awards were made to five national grantees, including two that were signed during the last month of the fiscal year (one on the last day)." These grants were "locked in" for 2 years.

Sponsors of the national grants in some cases were approved without onsight visits or before achieving the required status of nonprofit organizations. Again, these functions were the responsibility of Mr. Brown.

Second. Poor training and supervision of volunteers.

The House Appropriations Committee investigation found a combination of poorly trained supervisors and inadequate monitoring which resulted in National Grant VISTA volunteers becoming involved in union organizing and political activity.

For example, volunteers were involved in the Arkansas primary election. Five VISTA volunteers in St. Louis were actively involved in organizing a labor union. Training documents made available to VISTA volunteers included such inappropriate language as "Give people a taste of blood. Push your opponents so hard you can see them squirm." Mr. President, there are other instances of alleged misuse of Federal funds for the purpose of political organizing within VISTA. Such activity is against the law, the Domestic Volunteer Service Act, to be exact. Again, such activities could not be going on without the explicit knowledge of Mr. Brown. I have asked the GAO to investigate one abuse where VISTA money has allegedly gone for organizing an economic boycott against agricultural products. That investigation is still underway.

In many instances, the House report revealed that several grant programs designated to help the poor were not reaching poor people, but instead were implemented in middle-class neighborhoods.

Third. Violations of proper procurement and accounting practices.

In yet another concern, the House Appropriations Committee investigation revealed potential violations and mismanagement in the procurement of contracts and the accounting practices of ACTION. ACTION program officials authorized commencement of work without contracts, obtained budgets from contractors for use as in-house estimates, and awarded contracts without proper competitive bidding. To quote the committee report:

> For three brief periods during the first quarter of FY 1978, ACTION, under Sam Brown's direction, was required to operate without either an appropriation or a continuing resolution to support its domestic operation. The Investigative Staff found that during these periods, ACTION officials executed contracts, purchase orders and grants . . . in apparent violation of the Anti-Deficiency Statute. Also during these periods, new employees were hired.
>
> The Investigative Staff found some ACTION staff, including high-level officials, have been submitting improper expense vouchers for travel in Peace Corps countries.

The report also alleges, Mr. President, that these officials, who were provided with private lodgings, sought full per diem reimbursement from ACTION.

On at least three occasions travel costs to Cuba and the People's Republic of China by ACTION staff were subsidized with the understanding that the employees would share their experiences by writing trip reports. While the employees were not on official travel, reimbursement of partial expenses was, in effect, accomplished by not charging the travelers annual leave for the time away from the job.

Fourth. Faulty hiring and staffing practices.

The House Appropriations Committee investigation found many instances of faulty hiring and staffing practices during Mr. Brown's tenure at ACTION.

Since September 1976, the senior management staff at ACTION was increased by 30 positions, mostly policymaking positions, exempt from civil service rules and regulations. The increased costs for these so-called expert consultants was $135,000 and an estimated 1,268 extra staff days. Furthermore, Appropriations Committee investigators found that ACTION had used its consultant appointment authority to hire unqualified "experts" at exorbitant pay increases and had "incorrectly designated all employees hired under the special authority as experts regardless of the work to be performed."

In eight cases reviewed, appointees received salary boosts of over $15,000 each.

During a 10-month reorganization, which was spearheaded by a special task force at a cost of $147,000, staff positions at headquarters alone increased by 18, with the investigative report noting, that "a bloated headquarters staff is difficult to reconcile with the objective of strengthening that State office role."

The conclusion of the House Appropriations Committee investigation characterizes the management of ACTION under Sam Brown's direction as weak, inefficient, improper, and ineffective in meeting the intended goal of reaching low-income communities. The investigative staff even questions the advisability of continuing the National Grants program in light of its inadequate management and potential violations of law.

It seems to me, Mr. President, that this record of failure to properly administer ACTION in and of itself disqualifies Sam Brown from further Presidential appointments. The report of the House Appropriations Committee investigation of ACTION spells out a list of improprieties and potential illegalities which require further scrutiny by a responsible investigative agency. Rather than reject this nomination of Sam Brown outright, Mr. President, I would move that the nomination of Sam Brown be returned to committee pending the outcome of an investigation by the Department of Justice into the findings of the House Appropriations Committee report.

I am advised that the Banking, Housing, and Urban Affairs Committee acted on this nomination without the benefit of any of the information contained in the House Appropriations Committee's investigation. I respectfully submit that this "new information," if you will, warrants further consideration of the committee. I also feel the Justice Department should be asked to look into the alleged violations of law cited in the House committee's findings. I move to recommit the nomination of the Banking, Housing, and Urban Affairs Committee for such an investigation to be made and report issued before the Senate is asked to vote on this nomination.

Mr. President, the ranking minority member of the Senate Banking Committee stated on the floor a short while ago that the committee reviewed these 13 nominees—not in great depth, but that it was unaware of or certainly did not at least take into consideration the report to which I have referred.

It seems elementary to me, now that this has been brought to light, that it would be only prudent to recommit this nomination to the Banking Committee for its consideration of that report.

So I move that the nomination of Mr. Sam Brown be recommitted to the Banking Committee, with instructions to consider the adverse report——

The PRESIDING OFFICER (Mr. Stewart). The Chair informs the Senator that the motion to recommit is not in order until all time has been used or yielded back.

Mr. HUMPHREY. For my part, I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I respond to my friend from New Hampshire by saying that this man was investigated—his actions as director of his agency were investigated—about as thoroughly and comprehensively as anybody's in the many years I have been in the Senate, and the House Education Committee, which investigated him, found nothing wrong.

It is true that the Appropriations Committee made some charges against him. But even if we accept all the charges made against Mr. Brown, even if Mr. Brown made some mistakes in the past, here is a man who has had excellent experience as an investigator, as a treasurer of the State of Colorado, handling $2.2 billion and here is a man who has experience. And everyone, it seems to me, will have to concede he has strong experience in the cooperative movement, helping the poor, and helping small business. With that kind of experience, it seems to me we will have a Director who can be very valuable, 1 of only 13 Directors of this agency.

I do hope that the Senate will not recommit this nomination and will affirm the nomination of Mr. Brown as a Director of the Consumer Cooperative Bank.

Mr. President, I am ready to yield back my time and request the yeas and nays.

IN SUPPORT OF NOMINEES FOR NATIONAL CONSUMER COOPERATIVE BANK

● Mr. WILLIAMS. Mr. President, the administration has sent the Senate a distinguished roster of nominees to be members of the Board of Directors of the National Consumer Cooperative Bank. All of the nominees should be approved by the Senate quickly. I make special mention here of the nomination by the President of Sam Brown, the Director of ACTION.

As the former State treasurer of Colorado, Mr. Brown has the technical, financial expertise to insure that the Bank's financial status remains sound. While State treasurer, Mr. Brown was, for all intents and purposes, the manager of a $2.5 billion business.

As the current Director of ACTION and as a member of the administration's interagency task force, Mr. Brown has been instrumental in establishing the administrative mechanism necessary to prepare for the Bank's startup. In view of the short amount of time it had, that task force did a creditable job.

Mr. Brown will also bring to the Bank Board a firsthand knowledge of how cooperatives work. VISTA, which is part of ACTION, has hundreds of volunteers currently in the field working with cooperatives. This "hands on" expertise is precisely what is needed if the Bank is to start off on the right foot.

In my home State of New Jersey, there are many successful co-ops. One of the largest—the Mid-Eastern Cooperative in Carlstadt—does over $25 million in business every year. But many cooperatives are not as large as the Mid-Eastern or as financially secure. Those are the cooperatives the Bank is meant to help. I am sure that ACTION will complement the work of the National Consumer Co-op Bank. It, therefore, makes eminent sense to have Mr. Brown on the Board of Directors. I urge the speedy approval of his nomination and the nomination of the other Board members submitted by the administration.●

NOMINEES TO THE NATIONAL CONSUMER COOPERATIVE BANK BOARD

● Mr. TSONGAS. Mr. President, as a member of the Senate Banking Committee, I am greatly impressed by the well-qualified people whose nominations to the National Consumer Cooperative Bank Board came before our committee. I have had an opportunity to work with several of the nominees and find them particularly suited to give guidance in the area of consumer co-ops.

I am especially pleased that the director of ACTION, Sam Brown, will sit on this Bank Board. He brings to the job his experience as State treasurer of Colorado—experience that will help insure that the Bank is established on firm financial ground. He brings a network of VISTA volunteers who have had extensive work in organizing cooperatives. ACTION is one of the few Federal agencies with the technical expertise to support the work of the Consumer Cooperative Bank.

My home State of Massachusetts has a strong tradition of supporting cooperatives. The Congress has given important support to the cooperative movement through the creation of this Bank. I urge approval for the entire Bank Board so that the work of the National Consumer Cooperative Bank can move forward.●

Mr. HUMPHREY. Mr. President, I move to recommit the nomination of Sam Brown.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. HUMPHREY. Mr. President, I have not finished my motion.

The PRESIDING OFFICER. The Senator will continue.

Mr. HUMPHREY. I move to recommit the nomination of Mr. Brown to the Banking Committee with the instructions that the Banking Committee consider the adverse report on Mr. Brown's administration of the ACTION agency issued in 1978 by the House Appropriations Committee.

Mr. ROBERT C. BYRD. Mr. President, an order has already been entered that it be in order to ask for the yeas and nays on the nominations of Mr. Brown, Mr. McHenry, and Mr. Goldschmidt on one show of seconds.

Mr. President, I ask for the yeas and nays on those nominations.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that, upon the disposition of the nomination of Mr. Donald F. McHenry to be U.S. Ambassador to the United Nations, and that will be a rollcall vote, without debate or motion, the Senate then by voice vote determine what the will of the Senate may be on the nomination of the same Mr. McHenry to be a representative of the United States to the 34th session of the General Assembly of the United Nations.

Mr. STEVENS. Mr. President, there is no objection to that.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. So, Mr. President, there will be now four rollcall votes back to back. The first will be a 15-minute rollcall. Each of the next three will be 10-minute rollcall votes.

I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Hampshire to recommit the nomination of Sam W. Brown, Jr., Director of the ACTION agency, to be a member of the Board of Directors of the National Consumer Cooperative Bank.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Missouri (Mr. Eagleton), the Senator from Kentucky (Mr. Huddleston), and the Senator from Connecticut (Mr. Ribicoff) are necessarily absent.

I further announce that the Senator from Montana (Mr. Baucus), the Senator from California (Mr. Cranston), and the Senator from Louisiana (Mr. Johnston) are absent on official business.

I also announce that the Senator from Delaware (Mr. Biden) is absent because of illness.

I further announce that, if present and voting, the Senator from Montana (Mr. Baucus) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), the Senator from South Carolina (Mr. Thurmond), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Vermont (Mr. Stafford) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "yea."

The PRESIDING OFFICER (Mr. Bradley). Are there any other Senators in the Chamber who have not voted, who wish to do so?

The result was announced—yeas 25, nays 60, as follows:

[Rollcall Vote No. 304 Ex.]

YEAS—25

Armstrong
Byrd, Harry F., Jr.
Byrd, Robert C.
Domenici
Durenberger
Garn
Hatch
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jepsen
Laxalt
McClure
Randolph
Roth
Schmitt
Schweiker
Simpson
Stevens
Tower
Wallop
Warner
Zorinsky

NAYS—60

Bayh
Bellmon
Bentsen
Boschwitz
Bradley
Bumpers
Burdick
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Culver
Danforth
DeConcini
Durkin
Exon
Ford
Glenn
Gravel
Hart
Hatfield
Hollings
Inouye
Jackson
Javits
Kassebaum
Kennedy
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Stone
Talmadge
Tsongas
Williams
Young

NOT VOTING—15

Baker
Baucus
Biden
Boren
Cranston
Dole
Eagleton
Goldwater
Huddleston
Johnston
Mathias
Ribicoff
Stafford
Thurmond
Weicker

So the motion to recommit was rejected.

The PRESIDING OFFICER. Under the previous order, a vote will now occur on the confirmation of the nomination of Sam Brown. The question is, will the Senate advise and consent to the nomination of Sam Brown, Jr., to be a member of the Board of Directors of the National Consumer Cooperative Bank? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD of West Virginia. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Missouri (Mr. Eagleton), the Senator from Kentucky (Mr. Huddleston), the Senator from Connecticut Mr. Ribicoff), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Montana (Mr. Baucus), the Senator from California (Mr. Cranston), and the Senator from Louisiana (Mr. Johnston) are absent on official business.

I also announce that the Senator from Delaware (Mr. Biden) is absent because of illness.

I further announce that, if present and voting, the Senator from Montana (Mr. Baucus) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), the Senator from South Carolina (Mr. Thurmond), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Vermont (Mr. Stafford) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "nay."

The PRESIDING OFFICER. Is there any other Senator in the Chamber wishing to vote?

The result was announced—yeas 61, nays 23, as follows:

[Rollcall Vote No. 305 Ex.]

YEAS—61

Bayh
Bellmon
Bentsen
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Culver
Danforth
DeConcini
Durkin
Exon
Ford
Glenn
Gravel
Hart
Hatfield
Hollings
Inouye
Jackson
Javits
Kassebaum
Kennedy
Leahy
Levin
Long
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Stennis
Stevens
Stevenson
Stewart
Stone
Tsongas
Williams
Young

NAYS—23

Armstrong
Byrd, Harry F., Jr.
Domenici
Durenberger
Garn
Hatch
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jepsen
Laxalt
Lugar
McClure
Roth
Schmitt
Schweiker
Simpson
Tower
Wallop
Warner
Zorinsky

NOT VOTING—16

Baker
Baucus
Biden
Boren
Cranston
Dole
Eagleton
Goldwater
Huddleston
Johnston
Mathias
Ribicoff
Stafford
Talmadge
Thurmond
Weicker

So the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNITED NATIONS

The PRESIDING OFFICER. Under the previous order, the vote will now occur on the confirmation of the nomination of Donald F. McHenry, of Illinois, to be Representative of the United States to the United Nations. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Missouri (Mr. Eagleton), the Senator from Ohio (Mr. Glenn), the Senator from Kentucky (Mr. Huddleston), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Montana (Mr. Baucus), the Senator from California (Mr. Cranston), and the Senator from Louisiana (Mr. Johnston) are absent on official business.

I also announce that the Senator from Delaware (Mr. Biden) is absent because of illness.

I further announce that if present and voting, the Senator from Montana (Mr. Baucus), would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) the Senator from Kansas (Mr. Dole) the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), the Senator from South Carolina (Mr. Thurmond), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Vermont (Mr. Stafford) is absent on official business.

I further announce that if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "yea."

The PRESIDING OFFICER. Is there any Senator in the Chamber who has not voted and wishes to do so?

The result was announced—yeas 83. nays 0, as follows:

[Rollcall Vote No. 306 Ex.]

YEAS—83

Armstrong
Bayh
Bellmon
Bentsen
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Culver
Danforth
DeConcini
Domenici
Durenberger
Durkin
Exon
Ford
Garn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Jepsen
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Stewart
Stone
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—17

Baker
Baucus
Biden
Boren
Cranston
Dole
Eagleton
Glenn
Goldwater
Huddleston
Johnston
Mathias
Ribicoff
Stafford
Talmadge
Thurmond
Weicker

So the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GENERAL ASSEMBLY OF THE UNITED NATIONS

The PRESIDING OFFICER. The Senate will now proceed to vote on the nomination of Donald F. McHenry, of Illinois, to be a representative of the United States of America to the 34th session of the General Assembly of the United Nations.

The question is, Will the Senate advise and consent to the nomination of Donald F. McHenry, of Illinois, to be a representative of the United States of America to the 34th session of the General Assembly of the United Nations?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF TRANSPORTATION

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on the nomination of Neil Goldschmidt, of Oregon.

Mr. ROBERT C. BYRD. Mr. President, this is the last rollcall vote of the day.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Neil Goldschmidt, of Oregon, to be Secretary of Transportation? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. GLENN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS), the Senator from California (Mr. CRANSTON), and the Senator from Louisiana (Mr. JOHNSTON) are absent on official business.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent because of illness.

I further announce that, if present and voting, the Senator from Montana (Mr. BAUCUS) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New Mexico (Mr. SCHMITT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 83, nays 0, as follows:

[Rollcall Vote No. 307 Ex.]

YEAS—83

Armstrong
Bayh
Bellmon
Bentsen
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Culver
Danforth
DeConcini
Domenici
Durenberger
Durkin
Exon
Ford
Garn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Jepsen
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stennis
Stevens
Stevenson
Stewart
Stone
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—17

Baker
Baucus
Biden
Boren
Cranston
Dole
Eagleton
Glenn
Goldwater
Huddleston
Johnston
Ribicoff
Schmitt
Stafford
Talmadge
Thurmond
Weicker

So the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I ask unanimous consent that the President be notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, while we are still in executive session, I believe Mr. RANDOLPH wishes to make a few remarks.

ORDER FOR RESUMPTION OF LEGISLATIVE SESSION AND DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AT THE COMPLETION OF SENATOR RANDOLPH'S REMARKS

I ask unanimous consent that upon the completion of Mr. RANDOLPH's remarks, the Senate return to legislative session, and that there be a brief period for the transaction of routine morning business of not to exceed 10 minutes, in which Senators may speak up to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. May I have 3 minutes?

Mr. ROBERT C. BYRD. Yes. That the period for the transaction of routine morning business not exceed 12 minutes, and that Senators may speak up to 3 minutes each therein.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, without a dissenting vote, the Members of the Senate have approved the nomination of Neil Goldschmidt to be the Secretary of Transportation in this country, a country relying heavily on the many forms of transportation that move the products of the farm, the factory, the mine and the field, to the consuming public of this country.

For many, many reasons there is an increasingly tough assignment in being the Secretary of Transportation of the United States. It is my privilege to know Neil Goldschmidt, and to have counseled with him. He is not only articulate, but exceedingly able. I am particularly pleased with his knowledge and enthusiasm for the Federal-aid highway program. I believe that by the action of the Senate in approving the nomination of the President, we have endorsed this Oregon citizen but given to him not only the opportunity but the responsibility to perform a critical task. We have given to him an assignment that is highly important in the continually developing economy and the strength of the United States.

So to the 83 Members of this body who have approved Mr. Goldschmidt's nomination, I say they have acted with the full knowledge of his career within his own State, and also the full knowledge that he is capable of performing his duties more than adequately on the Federal level. I wanted the RECORD to reflect, after the vote that has been taken, my assessment of what we have done and my belief and confidence in his ability and his commitment to do this job.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. RANDOLPH. I am happy to yield to our colleague from Oregon.

Mr. HATFIELD. Mr. President, I would like to express my deep appreciation for the comments just made by the Senator from West Virginia (Mr. RANDOLPH). Knowing of Mr. RANDOLPH's long involvement in matters relating to transportation, and knowing him to be a man of great judgment of character and the ability to assess talent and character, I consider that his complimentary remarks concerning the former mayor of Portland, Oreg., Mr. Neil Goldschmidt, who has now been confirmed as Secretary of Transportation, is of special significance because even though Mr. Goldschmidt represents the other political party, as does the Senator from West Virginia, I think there are times when, of course, we have to assess and evaluate the character and the ability of an individual, and not what label he may bear.

As one who has known the new Secretary of Transportation since he was a student at the University of Oregon and in his early political career as well as his later political career, it has always been my judgment that he is not only a man of great intellect—intellect can be interpreted many ways, but he is not only what I consider a man of great intellect because he has the ability to think, but because he has the ability to analyze and reach decisions but that he is also a man who can draw together people of divergent viewpoints and create a team.

He has had, I suppose you might say, the rather questionable distinction of being the mayor of one of the last cities in this country that has retained the archaic, rather ineffective and inefficient commission form of government. For those of us who have not had much to do with that, it is almost impossible for a mayor to be an effective leader or to attain a situation of cooperative rapport with a commission form of government. Why Portland has retained that I do not know. But because he has succeeded in moving Portland ahead in so many ways, such as all kinds of restoration of the downtown core, it is one of the few cities of its size which has experienced a real revival of the downtown area, and because of the dynamic personality and abilities of Neil Goldschmidt, I have a feeling he will bring great results to the Department of Transportation.

I just wished to commend the Senator from West Virginia for his comments, and the Senate for its unanimous approval of his confirmation.

Mr. RANDOLPH. Mr. President, I do not wish to enter into colloquy with my colleague, because what he has said is certainly true in all areas of Mr. Goldschmidt's experience and commitment to good government. I say this not only to the Senator from Oregon, who has just taken the chair, but for his friend for whom he speaks. I well remember at the hearing on this nomination, which is properly within the jurisdiction of the Commerce Committee but on which the Committee on Environment and Public Work has subject matter interest. I was invited to sit and question him that Wednesday afternoon. I think, on the Hill here, everyone was impressed who was present at that hearing that here was a man at the right place at the right time.

Mr. Goldschmidt's record in his hometown of Portland, Oreg., is exemplary and I am sure that his tenure as Secretary of Transportation will be equally as illustrious. I support Mr. Goldschmidt's nomination and wish him well in his duties following confirmation by the Senate today.

THE GENOCIDE CONVENTION WILL NOT VIOLATE CONSTITUTIONAL RIGHTS

Mr. PROXMIRE. Mr. President, many times I have stood here and addressed objections to ratification of the Genocide Convention. The objections have ranged from questions of semantics to questions of constitutionality. Today I wish to clarify another point.

Opponents of the treaty contend that ratification would diminish the constitutional rights of Americans. In particular, they claim that, under the treaty, an American citizen could be deprived of his constitutional right to trial by jury if tried in a foreign court under procedures different from ours.

Mr. President, this argument is not valid. Article 6 of the Genocide Convention clearly states:

> Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

The accused, according to article 6, shall be tried by a state tribunal or by an international tribunal. Opponents of the treaty argue that an American may be deprived of his constitutional rights by an international tribunal.

But there exists today no such international tribunal. In fact, one has never existed.

And even if an international tribunal is organized, three major steps must be taken before the United States officially falls under its jurisdiction: First, a treaty creating the court must be adopted by the United Nations; second, the President of the United States must submit that treaty to the Senate; and finally, the Senate must ratify the treaty, declaring its desire to participate in and agree to the court's jurisdiction.

Mr. President, in ratifying the Genocide Convention, we are not forfeiting any American citizen's constitutional rights. I urge my colleagues to move forward and ratify this essential treaty.

LEGISLATIVE SESSION—ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. BRADLEY). The Senate is still in executive session. Will the Senator withhold?

Mr. ROBERT C. BYRD. Mr. President, under the order I believe I asked that upon the completion of Senator RANDOLPH's speech, the Senate return to legislative session.

The PRESIDING OFFICER. Under the previous order, the Senate is now in legislative session, and routine morning busines is being transacted, with a 3-minute limitation on statements.

Mr. PROXMIRE. I yield the floor.

THE DEATH OF PRESTON JONES

Mr. TOWER. Mr. President, with the death Wednesday of Texas playwright Preston Jones, America has lost one of the brightest lights in that field, and Texas has lost a reflective voice.

Jones' best-known works—three plays in "A Texas Trilogy"—struck a chord of truth and enjoyed success in Texas, in Washington, and in London. It seemed apparent to me, and to most other viewers of his work, that Jones was destined to achieve the stature of Tennessee Williams as a brilliant and revered voice of the American stage.

He was almost 40 when he began writing plays, and only 43 at his death.

Before beginning his short but brilliant career as a playwright, Jones already had achieved success as an actor. As play reader for the Dallas Theater Center, Jones felt that the scripts he was seeing did not represent his region faithfully.

So he began working late at night to produce "The Knights of the White Magnolia" and "Lu Ann Hampton Laverty Oberlander." The third play of the trilogy, which concerns the lives of ordinary people in the mythical small west Texas town of Bradleyville, is "The Oldest Living Graduate."

From their original presentation in a tiny basement theater in Dallas, the plays that form the trilogy have gone on to achieve national and international recognition.

Jones had been working on a film adaptation of his trilogy. A revised version of his "A Place on the Magdalena Flats" was staged this summer at the University of Wisconsin. And his last play, "Remember," opened last month at the Dallas Theater Center.

To those who would have disparaged his plays as "regional," Jones responded that the label was true—he wrote about what he knew. His plays made statements of relevance to our time. However, that transcended mere geography.

Jones also had continued his acting career, and at the time of his last illness was in rehearsal for a role in "A Man for All Seasons."

It is a sad loss to those who cherish artistic excellence that this man was struck down before his full potential for the enrichment of his medium could be realized.

"Good night, sweet Prince. And choirs of angels sing thee to thy rest."

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

SELECTIVE SERVICE REGISTRATION

The Senate continued with consideration of the bill.

Mr. HATFIELD. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The pending business is S. 109, the Selective Service Registration Act.

Mr. HATFIELD. Mr. President, I believe that I have 2 hours and 3 minutes left on my time and Senator NUNN has 1 hour and 6 minutes on his time. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Mr. President, I am happy to yield any amount of time the Senator from Mississippi wishes to speak.

Mr. STENNIS. No; if the Senator would prefer to speak, I shall defer to him.

Mr. HATFIELD. No; I yield to the Senator.

Mr. STENNIS. Does Senator NUNN have something?

Mr. NUNN. No, Mr. President, I have done enough talking for now. I am interested in the remarks of my colleague.

Mr. STENNIS. Mr. President, I shall not detain the Senate but a few minutes, but I do want to make some observations about the matter we heard of this morning, the bill with reference to registration in connection with possible military service.

I just want to say this with emphasis: The matter of not calling the bill up for a vote at this time was prompted solely by my consideration and conclusion, that the real controlling facts had not yet been explained enough to the membership and had not gotten to the people throughout the country.

The most and dire pressing need is for opening up of another source of supply of the necessary manpower of the type that is needed and is essential.

We realize that it is a difficult matter and there are certain restrictions. Particularly there is not time this year to make much headway here in debate and explanation about the main points involved. Therefore, my counsel is that we continue to work on the problem and bring the facts to the attention of the membership and the people, but postpone the vote.

Mr. President, not being personal about it, I do have a recollection. I was here when the Selective Service Act, was permitted to run out, so to speak. The high hope and expectations were that we would be able to meet personnel needs without the benefit of the Selective Service Act. I insisted then, as chairman of the Armed Services Committee, that we keep the Selective Service Act for at least 2 more years, in addition to the 2 years that we were renewing in the bill that was up then. But that was voted down and the bill became law. The power of induction, ran for only 2 years.

I might just as well be frank about it. I knew then that it was partly a political matter; that is, it was a political problem then. There were very liberal pay increases in the bill, too, for all the personnel, whether they were directly affected by Selective Service or not. That was an attractive feature.

When this became the law and the policy, I thought it was my duty to go out to some of the military bases. I went out and helped put this volunteer concept over. I went out to the west coast to Fort Nueces, to Fort Jackson, S.C., and many other places. Through personal and private interviews, I met with the inductees and everyone all up the line after it had been in effect for a while. I talked to the generals and then to the colonels and the majors, and talked to the sergeants.

I talked to the inductees initially and then I talked to inductees after they had been in a while and came out. I realized the problem was growing and that they would not be able, I was afraid, to get enough people of talent to carry out these missions. It became more and more difficult every day—every day.

Finally, I decided that the thing was set and that the services were making a real effort. I saw the mounting costs of recruiting and I saw the problems that were arising out of recruiting. I saw the trial run of paying bonuses to reenlist, additional money for this and that, and more inducements for less work and more pay. I heard the complaints. I am not condemning any unit or any service, but there were more and more complaints of the lack of effective discipline, even coming from these young men who had been in the service.

So, with equal conviction, I thought my duty was very clear. I started to advocate that we consider a method—we did not call it the Selective Service System at the time, but some method to supplement the so-called volunteer forces.

I went on to the proposition, said many times over, that we would not be able to get the true facts through until the leading men in the leading military positions were more free to open up and tell the whole story.

We heard complaints about that on the floor of the Senate this morning, getting two reports about this important matter.

So I have come on down the line now. Senator NUNN and his subcommittee members have done a lot of work on this matter in the personnel field, and they have developed facts.

I have come on down the line. I remember how I felt last year when I turned in the Defense appropriations bill for the year we are in now, fiscal 1979. That was the largest appropriations bill the Congress had ever passed, in war or in peace, the largest sum of money.

But I knew where the real soft spots were. I knew where the most dangerous soft spot was, as I see it, was in manpower.

Again, I speak with all deference to those who wear the uniform. I was thinking about the lack of enough talent and discipline at the so-called lower level.

So you go through those things. As Senator NUNN mentioned this morning, he was worried about some of these weapons and what they may do or mean if they get turned loose.

I do not have any doubt now as to where the weak spot is in our entire military setup. That is why I emphasize now and again, that I am not pleading here for more numbers of people.

I would be willing right now to vote to reduce the numbers at least 25 percent and put the same amount of money as we are spending for the 100 percent now on the 75 percent, if it would bring a method with it that will permit us to get personnel that have the capacity and the talent, and all the things necessary to make a real military man and a disciplined military unit.

That does not mean I think all units are greatly lacking.

But, as I say, during those same years, we abandoned a tank after we spent about 10 years on research and development. The price of it had run up to where it was going to cost $1 million apiece for a tank. We abandoned it 10 years ago and started another one, and the prospective price is $1.5 million per tank.

The intricacies of operating that tank are still so great that it is not given too high a score yet.

It shows the difficulties that we encounter. We have to have A-1 manpower to operate such complex weaponry.

So, without enlarging this, others want the floor, I repeat that this is not a matter of money. It is not a matter of wanting more money for this purpose. It is a matter of getting the necessary ingredient here of the best possible manpower force to represent us in the American military capacity and uniform wherever they may be, at home, abroad, anywhere, everywhere, that we may send these troops.

It is something that must come, and I have no doubt it will come. It is a question of how much time it will take.

I think the presentation this morning was splendid and that it will bear fruit.

Mr. TOWER. Will the Senator yield?

Mr. STENNIS. If I have time, yes. I yield to the Senator.

Mr. TOWER. I would just like to say that I appreciate the remarks of the distinguished chairman of the Armed Services Committee.

I can recall his skepticism about our ability to meet our manpower requirements at the time we abandoned the draft. I think many of us were somewhat skeptical, but we were prepared to go ahead and try and see what could be done.

But I think in the final analysis, the chairman's vision was better than that of any of us, and I am sorry that, actually, our worst fears about going to an All-Volunteer Force appear to be coming to fulfillment.

I think nobody fully understood the problems that we might be getting into better than our distinguished chairman.

I can say that he has been fairminded in spite of his original skepticism, has done everything that was within his power to do to make sure the volunteer experiment worked. He has tried mightily. He has defended it. Now it has come to the point where the chairman's prophecy is becoming fulfilled.

I want to thank him for having had the vision in the first place to warn us of what might happen. In the second place, to have the fairmindedness to do everything he could to prevent it from happening.

And again, his realization of what has come to pass and what we must do to remedy it.

I am pleased to express my gratitude to him for his foresight, his fairness, his close attention, and his leadership.

Mr. STENNIS. I thank the Senator from Texas very much, indeed.

I thank the Senator from Georgia for the time and for the work he and his committee have done.

I thank the Senator from Oregon, also.

Mr. HATFIELD. Mr. President, I yield myself such time as necessary.

Mr. President, I would like to say that I have not expressed views on this particular subject in the closed session because, as I understood, in the closed session we had, basically, a presentation by the Senator from Georgia relating to manpower matters and military in general terms and in specific instances and scenarios.

But in that session, the Senator acknowledged that the registration proposal he has made in S. 109 would not, in itself, solve these problems. It might involve a first step toward what he would see as a solution, but that it would not actually solve the problems.

We used S. 109 as a vehicle to get into a closed session. Therefore, with the unanimous-consent agreement that has been entered into, we do not have any plans to vote on S. 109 at any time during this particular unanimous-consent agreement, and, according to the Senator from Georgia, in all probability, not during any period of this particular session.

So I shall return now, basically, not to the general manpower problems as described by the Senator, because I certainly respect his great judgment and knowledge in that area.

I would make only one observation: That I think it even went beyond the question of manpower problems, but the issue of how big an Army we are going to have in peacetime to meet any of the most severe and the most disastrous possible scenarios that could be portrayed by the Pentagon.

I also feel that as we get back to the basic issue at hand, we should analyze it from a number of points of view—that is, a number of perspectives—because they were raised in one way or another during this morning's closed session.

First, I would like to take a quick look at the present status of the All-Volunteer Force. I have heard some voices raised today that I heard when the whole matter was initially considered by the Senate, and that is that it would not work. I think it is very obvious that this is one of those programs that can be made to work or can be made to fail. I believe there is a great matter of discretion here. It is a matter of selectivity.

I am convinced that if it worked 110 percent, there are those opponents who would say it will not work, because they want a quick fix; they want unlimited manpower supply to draw upon at any time, under any adventuresome spirit or policy that may be entered into by any administration.

I hope that after our experience in Vietnam, under an undeclared war status, we recognize that when the President of the United States had to draw upon an unlimited supply of manpower, that was the only basic way he could sustain himself in a bankrupt policy in Vietnam; that, therefore, the Congress of the United States should be very careful about reinstituting any kind of program that gives that kind of power to the President.

What is the present status of the All-Volunteer Force? We have active forces of 2.024 million as of June 30, 1979. This is 99.1 percent of the objective set for this date in the President's fiscal 1980 budget.

The actual number of volunteers in the most recent recruiting quarter is 8 percent higher than last year.

For example, the Army recruited 38,200 persons in the April to June 1979 quarter, 6,400 more than the same period in 1978. The Army first-term reenlistments for fiscal 1979 are 44.2 percent, compared with 35.6 percent in fiscal 1978 and 33.1 percent in fiscal 1979.

The overall failure to meet 100 percent of objectives is the result of older recruits' failure to reenlist, rather than a difficulty in finding first-time volunteers.

The best quarter for recruiting, of course, is in the present July to September period. The minor failure to meet objectives in recent months may actually be the result of disparaging and inaccurate comments about the quality of recruits made by some Congress people, Government officials, and private organizations, which have discouraged even more young people from considering military service.

The quality of recruits in 1978 and 1979 was generally better than at any time in recent history. The military services are obtaining a higher percentage of high school graduates and a lower percentage of persons with test scores in the lowest acceptable mental aptitude category than during the Korean war, the pre-Vietnam period, or the Vietnam draft.

The Department of Defense statistics reveal that disciplinary incidents and courts-martial have declined significantly since the draft era. This is another way to measure the quality and the performance, I believe, of the volunteer system. Overall, courts-martial have been reduced more than 65 percent. Desertions have dropped by 50 percent overall and by 80 percent alone in the Army.

We have seen early AVF problems with first-time attritions which seem to be lessening significantly; 36½ percent of 1974 entry-year recruits left the service before completing their tour, but 78 percent entry-year recruits appears to be reduced between 28 percent and 29 percent.

Those are the statistics from the Defense Department.

For those who bemoan the fact; that, somehow, they are trying to create the facts that his volunteer service has not worked or is not working, I think these are some fairly significant statistics that indicate that the quality of the recruits and the performance and the retention of the recruits have improved.

Let us look for a moment at the Reserve forces, because I think we all realize that some of the scenarios portrayed by the Senator from Georgia this morning in the closed session would be scenarios that never could be responded to by a draft system, even if we had it in place and operating.

No one will be able to call up a raw recruit and have him put in the breach to meet an emergency of this kind—Nifty Nugget and all the other horror stories we get out of the Pentagon's war games.

We have to recognize that the draft is not to respond to emergencies but is a reserve, and that is the whole purpose of the Reserve.

(At this point in the proceedings there was a colloquy between Mr. NUNN and Mr. McGOVERN which is printed later in the RECORD, by unanimous consent.)

Mr. HATFIELD. Mr. President, at this time I wish to complete, if I might, the points that I wish to make as my initial presentation. Certainly I will be happy to yield to any other Senator sufficient time to make his points, but I would appreciate being able to let this flow through the sequence of the points to the end.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I was about to comment on the status of the Reserve forces because of the significant vital role that they would play in not only ongoing military defense but especially under the terms and types of crises and special unexpected events that would raise the call for the Reserve forces as contrasted to the draft performing that kind of function, which I think would be impossible, and certainly I do not know anyone who seriously advocates the draft as a form of emergency response.

As of June this year, 1979, the Selected Reserve and National Guard totaled 824,400, and this represents an increase in total strength of persons since the end of fiscal 1978, including more than 2,000 in the Army Reserve alone, which is often thought of as the most difficult of the Reserves to recruit and maintain levels of required levels of manpower.

This is 97 percent of congressionally authorized averages. Although this is 143,000 fewer than the ideal peacetime requirements set by the Department of Defense, serious questions have been raised by the General Accounting Office about the need for many Reserve units.

Let me remind the Senate that as early as 1975 suggestions have been made to eliminate hundreds of units in areas like military history, military government, and public information. They have not been eliminated. In April of 1979, a GAO study revealed that 25 percent of Army Reserve and Guard units had no identity and assigned mission or scheduled deployment dates within 6 months of an emergency mobilization.

In the name of reason, it seems to me that if there are problems in the reserves today let us put the blame or let us make the analysis or let us make the required solutions apply to where they belong and not to blame it onto something like a lack of a draft as if the draft is a panacea that is going to cure all the ills of our military manpower and mobilization requirements.

This same GAO report suggested possible redeployment of personnel from nonessential areas where civilian contractors could be more efficient and cost-effective to early deploying combat and supply units.

I might add that we could also make that same analysis on the actual active military forces today as to the kinds of duties being performed, whether or not many of these duties could be more effectively cost-effective and efficiently performed on a contractual basis with civilian employees than employing military personnel to conduct the same. Even if no reserve units are dropped, the DOD is for the first time engaged in serious efforts to interest enlistments.

These include many programs such as full-time recruiters, modest pay, and reenlistment incentives, modifications in enlistment and training options which have only recently been instituted, as I say.

I think we can also analyze the reserve force today, that it has grown more experienced.

In 1977, 68 percent of those recruited were from the active force compared to 32 percent in 1970.

We see the Individual Ready Reserve to fill the gaps in selected reserves and provide battlefield casualty replacements. We have 356,000 as of September 1978; 177,000 of the above number of people were in the Army IRR, the Individual Ready Reserve. Since September of 1978, the Army Individual Reserve strength has increased by 17,000 to approximately 195,000 today. Through single managerial initiatives and termination of automatic transfer to the standby reserve of the last year of NSO direct recruitment into the IRR was just begun in April of this year.

Now, although this is approximately 500,000 short of what is labeled by segments of the DOD and the Armed Services Committee as ideal strength, there are many unanswered questions, and these should be identified and followed through on within the scope and the framework of the reserve program, rather than again looking out here for some quick fix or panacea that will solve all the Reserve's problems by reestablishing registration leading to a draft.

What are some of these unanswered questions? As relates to the IRR, I think there are some obvious ones. I shall not attempt to summarize all of them, but let me summarize some illustrations.

For instance, a projection by the Army in 1971 anticipated the elimination of the IRR by fiscal year 1980. Why is this only a cause for concern now? Another example: Press reports have quoted DOD officials as indicating that IRR requirements are overstated, in fact, as much as 100 percent, and that more than 350,000 Army Ready Reservists could not be utilized.

Why is there such a vast difference of opinion? Another example: Secretary of the Army Clifford Alexander indicates that the Army assumes that only 70 percent of the IRR members would show if called. Why is no greater effort made to have these individuals take their legal obligations seriously?

Again, it just does not ring clear to hear it intimated and implied, and have some people even state explicitly, that once we get the draft back, once we get registration and the draft, we will have all these reserve slots filled and everything will be very, very fine.

There is no evidence to indicate that draft registration alone will do anything at all to enhance active duty or reserve recruitment.

Let me also say that there are some draft officials who feel that renewal of draft registration might impair military sentiment and impede further efforts at recruiting. In some key areas of shortfall, advanced electronics for example, no registration or even the draft of 18- to 20-year-olds would provide these necessary skills.

Mr. President, there has been talk, both this morning in the closed session and now in the open session, as to the capabilities and the options for the Selective Service System to respond to whatever requirements might be made upon them if it were so determined by Congress and the President. I would like to digress for a moment and say again, let us bear in mind what S. 109 really is. S. 109, authored by the Senator from Georgia, in no way changes the law at this point. The President already has the power to establish registration. All S. 109 is doing is saying to the Commander in Chief of the Armed Services, "We mandate you to establish this registration program as provided in the law."

I think it is also interesting, Mr. President, that the President of the United States is the Commander in Chief, and I suppose there are those who would say that that is no particularly important source to quote nowadays, but I still feel whatever his political problems may be, the President of the United States, like all Presidents, has the country's basic interest at heart, and he is going to make the decisions, at least in relation to our national security, that are in the best interests of the country, regardless of political consequences.

So I think it is rather important to recognize that the President of the United States does not support this proposition. He knows he has the authority necessary for this Nation to reinstitute a registration program, that under the Selective Service law he has the power and authority to do it. In a letter to Senator COHEN of Maine, Secretary Brown, who is our Secretary of Defense, again a man who is intimately involved and certainly acquainted with all of the needs of the Nation's military manpower, said:

> Our view, and the view suggested in all studies of the question that I have seen, is that the critical step toward achievement of our goals is not the immediate collection of names through registration.

He then goes on to explain the need for enhancing the capabilities of the Selective Service System. But that is not the issue at hand here today. The point is that the Secretary of Defense has said there is no need for registration for the draft.

The Commander in Chief of the Armed Forces, President Carter, says there is no need for registration for the draft. I do not know how much higher authority you can go to. I am not of the opinion that the Department of Defense is always right; I have found them more often wrong, in my judgment and from the viewpoint of my philosophy, then they have been correct. But at the same time, with all this single issue, where we have this kind of analysis and studies almost running out our ears, it almost reminds me of the fact that they say the devil can quote scripture to prove any point. You can put up a draft study made anywhere between yesterday and 10 or 20 years ago to prove any point about the draft. I can match Senator NUNN's studies, study by study, and he can match my studies, 1 to 1 or 2 to 1. Quoting studies, I repeat, is often like trying to prove a point by selectively quoting scripture.

Senator NUNN has indicated that he has evidence or studies that it would take 110 days, I believe, is that correct, Senator, to get a man cranked into the Selective Service System and through the Selective Service System, out to the point of starting training, 110 days?

Mr. NUNN. The Senator is correct. Those figures were furnished by selective service.

Mr. HATFIELD. Mr. President, the Congressional Budget Office has also made a study along this line, and they have indicated that selective service can provide the first inductees in between 65 and 90 days after mobilization.

But let us bring it down to what we can do with a 30-day mobilization. Let us look a moment here at the question of what could happen or would have to happen in order to reduce all of these studies that are excessive, in the eyes of the Department of Defense. The Department of Defense have said they would like to be able to have the first inductees, if we had reestablishment of the draft, 30 days after mobilization was called for, 100,000 inductees by 60 days, and 650,000 inductees by 180 days. These figures cannot be exceeded because of the capacity limits of training facilities, but what would be the requirement? Would registration be required? No. With an increased budget capability, the Selective Service System can beat the DOD manpower mobilization requirements by 5 days, even without peacetime registration, and to exceed these requirements would be ridiculous, because we simply do not have the beds, the rifles, or the uniforms to train any more men above the established emergency levels, as we have been told.

Mr. NUNN. Mr. President, can the Senator identify briefly the source of that information? I got lost there as to what he was quoting.

Mr. HATFIELD. The Congressional Budget Office study.

Mr. NUNN. Oh, the CBO study?

Mr. HATFIELD. Yes.

Mr. NUNN. Thank you.

Mr. HATFIELD. Now, Mr. President, as we look at the worst case timetable, it can be met with or without draft registration if the administration's own budget request for the Selective Service System is approved. According to the Congressional Budget Office study, again, in 1978, the Congressional Budget Office study found that inductions could begin a mere 13 days sooner with registration than without it. After emergency waiver of the Privacy Act, merger of existing computerized lists from social security and IRS files could produce a current address list of 85 percent of 20-year-old males in just 5 days, early enough to produce the first inductees within 25 days after mobilization. Emergency registration of inductees could not begin in less than 12 days.

The Selective Service has a plan for a 1-day face-to-face registration, a technique used successfully in the past, as referred to by the Senator from Maine (Mr. COHEN) early today in the closed session, based upon experiences in the past war period, using State election machinery which can also deliver inductees within 30 days.

Although a widely publicized General Accounting Office report for Representative G. V. Montgomery expressed "reservations" about this plan, it also recognized that Selective Service does not presently have adequate funding for finalizing plans and doing full-scale testing. The GAO did not even evaluate the simpler and quicker computerized registration method.

I think also when we look at the DOD timetable, we must recognize that it raises certain dubious assumptions and raises serious unanswered questions, that I would like to illustrate. For instance, the Department of Defense assumes that there will be few, if any, volunteers in an emergency. The acting Selective Service Director, Robert Shuck, admits:

> The requirements for selective service deliveries envision very limited volunteers or, possibly, no volunteers. If there is a surge of volunteers, the number of inductees needed would be lowered to prevent the overcrowding of the AFEES or the training bases.

I think we have to recognize that such an assumption is contradicted by evidence from every other major American conflict. Yet there is no data to support the presumption that young people would not come forward if the national security were threatened. Let me remind the Senate today that 290,000 persons volunteered in the first 2 months following Pearl Harbor. I happen to have been one of those 290,000.

Projecting this trend with today's population base would yield us 394,000 volunteers. That would apparently exceed the most optimistic figures on present training base capacity.

I admit, Mr. President, that if we are going to get into adventures around the world that cannot be adequately presented as involving America's national interest, if we are going to get involved in other Vietnams and other such stupid enterprises, of course, we are not going to get this kind of response from American youth. If I were in their age bracket, I would not respond, either.

Now, the Department of Defense has another example I should like to state. The Department of Defense envisions massive early casualties from all kinds of war games, going up to 500,000. But actual projections for this "worst case" are classified.

GAO projects, in a June 1979 study, however, that a Warsaw Pact-NATO confrontation could result in 200,000 casualties in the first 4 to 5 months. We have great variation here. How this figure was achieved is shrouded in mystery but does represent a large increase over maximum casualty estimates that were made in 1976. So we have all kinds of figures that we can rule out from all kinds of studies or games or whatever we want to use as justification.

The DOD recently began assuming that the United States would have no warning before the outbreak of a major conflict. Why this was done is also publicly unknown.

DOD apparently envisions a conventional war in Europe along with a "small" war elsewhere to delineate manpower requirements. Most military analysts question both the credibility and possibility of a conventional European war with the presence of 7,000 tactical nuclear weapons at NATO's disposal. Similarly, it does not appear that NATO allies prepare for any conflict lasting over 60 days. Further, there is no evidence that tinkering with manpower levels in the United States or Europe affect the relative likelihood of the use of nuclear arms.

Congress has repeatedly rejected administration requests to provide modest funding increases for Selective Service, which would increase its delivery capabilities and make the massive funding for registration and the draft unnecessary.

I am one who has perhaps shifted his position on this matter. I think it represents at least an alternative, an option, to the establishment of registration.

The fiscal year 1979 supplemental appropriation request of $1.7 million was reduced to $600,000.

The fiscal year 1980 appropriation request of $918 million was cut to $7.8 million.

Now, Mr. President, again, I want to emphasize that there are alternatives. If we have some concern about maintaining our stated manpower level—and I must say that this closed session raised far more significant problems than that, but it also focused on that. If we are going to take certain possible scenarios, we are not talking about a recruitment system, we are talking about, really, a more fundamental point. That is how big a standing military we need to respond to all sorts of scenarios. I suggest that if we take some of these worst ones that have been presented us, we would need 5 million. We would have to double our manpower. Well, let us face that issue head-on and let us debate that question and not get it all mixed into a question of whether we have a draft program to try to maintain the present level of our military commitments.

Well, let us assume, just for the hypothetical purpose, that we find it necessary to increase or maintain, at least, until we increase the force levels under the all-volunteer military. I certainly would agree that we have to maintain careful management. We have to be more ingenious, perhaps, than we have been, because of our declining population. That is one reason. Let us not forget to recognize that point. That will eventually affect the size of the pool of 18-year-olds in this country who would be available for military service.

Let me list just a few of the possible alternatives of strengthening the volunteer system if we are really committed to that. If we are really using the draft to try to get back to the old days of saying we never were for the volunteer system and we are trying to prove it wrong and the sooner we get rid of it, the better we are, a quick fix—I have always found that the higher the military rank, the faster they wanted to achieve something, the less concerned they were with the way they did it in terms of civilian control of the military in this country.

Let me illustrate: More women could be recruited for a greater variety of assignments. Remember, 80-percent of our military personnel are in noncombatant assignments. I am told that I know this would be an odious thought to some of the proponents of the reestablishment of the draft, but I am not convinced in my mind that we could reestablish the draft without including women. The present law does not do that, and I am sure that many who are supporting the efforts to start the first step back to the draft would not support it.

By the same token, I think the argument could be made and the debate would certainly ensue that if you are going to draft young men and we are in an age of nondiscrimination, we are going to have to draft young women. Certainly, I must say that from my position as a cosponsor of the ERA and as an advocate and supporter and booster of the equal rights amendment to the Constitution, I could not participate, even if forced to the point of having to consider reinstituting the draft, it could not be undertaken without including women.

Not that I am anxious to get women into the military. I am not anxious to get anybody into the military who does not want to go into the military. I am opposed to the coercion in the draft. I am opposed to the character of the draft which represents a totalitarian system of Government rather than a democratic system. I am opposed to the draft from a philosophical point of view, as well as for pragmatic reasons of its inefficiency and ineffectiveness. But we would have to consider this as an alternative, to recruit more women, to give them a greater variety of assignments.

I think the reenlistment restrictions could be eased, allowing the force composition to include more than the present 40 percent of enlistees.

I think we could rescind what I consider excessively liberal early release policies which allow the discharge of personnel before the completion of their full tour.

I think we could lower military physical standards for some positions.

We could lower the intelligence quality standards for some positions.

We could employ more civilian personnel to perform tasks now performed by recruits.

Let me refer again to one of those marvelous categories of study, the Rand Corp. study.

As a recent Rand Corp. study on this issue concluded:

> The All-Volunteer Force can be made to fail. But it can also be made to work—and perhaps much better than its draft-dependent predecessor.

Mr. President, I am sure that because this discussion today does not lead to any vote or to any conclusion, few are going to be persuaded other than what their position is now.

I do not want to use an excessive amount of time. I just want to say that I respect deeply the convictions of my colleagues who hold the opposite view than I have expressed here today, and particularly the Senator from Georgia (Mr. Nunn).

I can honestly say I know of no one in this Senate who I feel closer personal ties and friendship to than Senator Nunn, and that is not idle talk or protocol talk on the floor of this Senate. I think he knows that. And I enjoy the reciprocity of that kind of relationship as I have just expressed with him.

So it is that we are engaged in a very significant issue, that even though we will not determine its outcome today, it is going to be before us. We cannot avoid it. There is no way to hide or avoid it or bury it, and I am not desirous of doing so.

But I do feel that we have to recognize that there are tradeoffs on any piece of legislation or proposal.

Let us assume for a moment we have the draft, the vote to reestablish the registration as the first step leading back to the draft, and we get back to the draft. Let me also warn what I foresee as possible negative impact, and that is as it relates to the temper and the mood of our country.

I think we have in many areas of the country today a calmness that did not exist during the draft period. I cannot help but remember when Abraham Lincoln instituted the draft in the period of the Civil War of the immediate riots that occurred in the streets of New York, the number of deaths that resulted from that.

I am not making dire predictions here to scare anyone. I am saying that from the very beginning of the draft programs of this Nation, the draft has been considered as contrary, alien, and foreign to the democratic American ideals, and there have been forceful actions taken to resist its imposition of involuntary servitude.

I think we had better start looking at our military policies and military management and political policies of this country, that if somehow the American people are not willing to rise up on a volunteer basis to give defense to their Nation and homeland, there is something wrong, more basically wrong than the recruitment system we are using to get military manpower. I think it calls for that kind of deep, profound consideration and analysis.

I am sure we will move into those areas of those subjects as we move ahead in the next months, and perhaps get into the next session of the Congress, down to the point where we will lean to some ultimate decision by the Senate.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. McGOVERN. Mr. President, I was unable to be present for much of the session this morning because of other obligations, but there is one point that I wonder whether we can clarify before we go any further with the discussion.

It began with the desire of the Senator from Georgia that we restore mandatory registration or a possible draft for young people at a subsequent time.

Do I correctly understand that in the session this morning—and perhaps Senator NUNN could answer this better than the Senator from Oregon—the Senator talked about the operation that was carried out by the Defense Department a year ago, I believe in October of 1978, the so-called Nifty Nugget operation, which demonstrated that there would be a critical shortfall of military manpower in the opening months of a war in Europe, and that the Senator was arguing that that pointed up the need to move in the direction of registration? Am I not correct that the exercise by the Pentagon last October was carried out under guidelines which assumed that registration was in place as provided for by S. 109, the Senator's proposed legislation?

Mr. NUNN. This gets a little complex, but for procedural purposes—that is, for the purpose of working with the Selective Service people—the Pentagon assumed that during the first 90 days. But the other exercises, we showed this morning, were only exercises which were a continuation of Nifty Nugget to address the question from 90 days to 200 days.

They assumed it as to the first 90 days; and, as I said clearly this morning, during the first 90 days, the registration does not directly make the difference. It is in the outperiod. But it is an immaterial assumption for the first 90 days, and the only reason it was assumed, as I understand the exercise, was for the purpose of interrelating with the selective service people.

In other words, it was an irrelevant assumption, because that mechanism affects from about D plus 90 to D plus 200.

Continuation of the exercise which the Army did, which went beyond Nifty Nugget, as I showed this morning, basically picked up at the 90 days and continued that but did not assume registration—and that is the point that was made this morning—because that is where your deficiency comes in.

So, technically, the Senator is correct. But as a matter of whether it made any difference or not, or whether it was irrelevant to any of the so-called Nifty Nugget exercises, it was not. The outcome of Nifty Nugget led many people to believe that registration was absolutely necessary. Some others came to different conclusions.

Mr. McGOVERN. Would not the Senator agree, though, that the presence of the registration system which he has recommended to Congress really would have no relevance with respect to the problem the Nifty Nugget exercise revealed in the first few months of a war? In other words, there is nothing about registration that is going to provide us with any filling of the manpower shortfall that this operation demonstrated in the first 90 days. The fact that you have the names of young people all over the country is not going to deal with the problem of where you get manpower in the opening months of a war.

Mr. NUNN. It takes about 3 months for young people to be trained. Therefore, if you have people registered from day one and they have not been trained, they would not be available until M plus or D plus 90 to 100. To the extent the Senator is addressing that question, the answer is "yes."

As I said this morning, this is not classified. I made it clear that we would have to discuss matters that were not classified, which were discussed this morning. So I think that is permissible. I think the majority leader agreed with that. Very little is classified except the figures.

However, for the purpose of describing what registration would do—and I think it is just as important to describe as the Senator is pointing out what it would not do—it would give us a much greater capability to mobilize from about D plus 90 to 100 days, to D plus 200 and thereafter.

That is the direct result of it, and that is where we have critical shortages. But we also have very critical shortages from about M plus 20 on.

This is my opinion. This is not Nifty Nugget. I think we should separate the two. I have not any analytical basis for this except my own belief that it would happen and my own talks with a lot of different people. I think that registration would indirectly address that first 90 days in a significant way. If young people knew that they had a contingent liability in a war, and a lot of them do not today, although it has been the case ever since the volunteer force came into being, that they do, but they do not know it, if they realized that, I think we would have more volunteers both in the active services and in the reserves.

The only way you can address those initial 90 days is through either active forces or reserves. The critical shortages that have come under the volunteer force are in the reserve forces and in what we call the IRR.

The only way you could assure yourself that you could address those problems today would be in the Reserve Forces or in the Active Forces, and registration itself will not give that guarantee.

Mr. McGOVERN. That is why I brought this matter up at this time. The Senator from Oregon has talked about the importance of the Reserve, and I think it is tremendously important. That, as the Senator says, is where you do get trained manpower that are ready to go in the event of a national emergency. But I just wanted to underscore my understanding, and I think the Senator has verified this, that any problems that developed under the exercise that we have referred to here as Operation Nifty Nugget would have developed with the registration plan in effect because that exercise was carried out with the factors assuming that you had a registration plan in effect, that the Selective Service offices were set up and ready to go and yet the exercise revealed all these various problems. Some of them have nothing to do with registration or the draft.

Mr. NUNN. I know the Senator does not intend to do this but what he is making an argument for now is not registration but the draft because only by drafting people can you really get the Reserves beefed up or by doing something that would stimulate volunteers can you address those first 90-day problems.

Mr. McGOVERN. That is what I want the Senator from Georgia to say, that he is talking about the draft.

Mr. NUNN. The Senator from South Dakota is making a cogent argument for the draft. I know he has not reversed his position.

Mr. McGOVERN. I want the Senator from Georgia to indicate what I suspect to be the case right along. You do not really accomplish very much by a registration system. I think we have to address the problems of the Reserves. I think we have to address some of the other problems that were revealed in the Operation Nifty Nugget study that really have nothing to do either with the draft or Reserve.

I think the Senator from Georgia would be the first one to say that we are really just looking at one little small part of the problem.

Mr. NUNN. I agree that this is only one part of the problem. I think it is a large part, but it certainly is not the total problem. The total problem is much larger than just the question of registration.

Just to summarize what registration would do, if we had a war tomorrow morning, without registration like we have now, just the present system, assume we gave the President induction authority and there was a serious war and the President utilized that authority. The first draftee would report for combat duty, that means training has taken place, about April of next year, about April of 1980. If we had registration, we would be able to reduce that time by about 95 to 100 days. So you would be able to produce that trained person in combat about the latter part of December of 1979.

That is the difference, and it depends on the type war as to whether that is an absolutely crucial difference or whether it is not a crucial difference. If you had any war that lasted as long as beyond 3 or 4 months, it would be an absolutely crucial difference. If you did not, it would not.

Mr. McGOVERN. I do not want to impose further on the time of the Senator from Oregon, but I do thank him for yielding for this colloquy.

Mr. HATFIELD. I yield to the Senator from Maine, who has been very patient, whatever time is necessary.

Mr. COHEN. I thank the Senator for yielding.

Mr. JEPSEN. Will the Senator yield for 30 seconds?

Mr. COHEN. Yes.

DEFENSE MANPOWER PROBLEMS

Mr. JEPSEN. Mr. President, as I understand the purpose of our discussion here today the Senate is gathered to discuss a bill reported by the Armed Services Committee which recommends Selective Service registration.

The Senate, however, will have lost an opportunity to address the broader and deeper problems associated with defense manpower if we focus only on the issue of registration. Armed Forces manpower policy revolves around a total force concept and thus demands that the need for registration be viewed in this perspective.

Our ability to meet military manpower requirements in the event of war depends on a continuum of active duty forces; the seven components of the Reserve Forces; and, if necessary, conscription. One of the principal conclusions of the Gates Commission Report of 1970, which recommended an All-Volunteer Force—as well as other military manpower reports—was that a smaller, leaner, All-Volunteer Force was desirable, and feasible, provided that the United States maintain a strong mobilization capability. That mobilization capability is based on our ability to move Reserve Forces rapidly and integrate them with active duty forces; and our ability to register, classify, and induct men through the Selective Service, and then train and arm these previously untrained personnel.

Let me touch briefly on manpower and mobilization problems within the reserves. In the last 3 months, Mr. President, the GAO has produced no fewer than five reports dealing with these issues.

In a report of July 11, GAO reached the following conclusions:

Regarding the Army National Guard:

> The Army National Guard has only a limited capability to perform its mission as a part of the total Army. The Guard does not have enough people, and of those they do have a considerable portion are not qualified for the jobs assigned to them.

The Army National Guard has a shortage of 70,000 men.

Regarding the Army Reserve:

> The Army Reserve's capability to perform its mission as part of the total force Army is severely impaired by low unit strengths and shortages of job-qualified people.

The Army Reserve has a manpower shortage of 64,000.

Since December 1976, the recruiting objectives for these two groups have been based on expected enlistments—that is, number of enlistments they think they will get—rather than on actual manpower needs.

Regarding the Naval Reserve:

> Many Naval Reserve units would have difficulty meeting their wartime commitments, due in part to personnel shortages and unqualified people.
>
> In addition, only two-thirds of the people assigned to mobilization positions are considered fully qualified for the jobs assigned to them.

Regarding the Marine Corps Reserve:

> According to the Force Status Reports, about one-third of Marine Corps Reserve units were rated either marginally ready or not ready. Apparently more units would fall into these categories if the Assessments were made against wartime manpower strengths rather than peacetime strengths.

In the Air Force Reserve:

> Manpower shortages directly affect the combat ability of 25 percent of the flying units and could also impair the ability of the active units that rely on mobilization augmentees in time of war or national emergency. Significant shortages exist in such career areas as physician, aircraft mechanic, and munitions and weapons maintenance.

In the Air National Guard:

> Even though the overall readiness ratings are good, compared to other services, 20 percent of the Air National Guard flying units are marginally ready or not ready. This is a serious matter when considered in the light of the great reliance placed on the Air National Guard flying units under the total force concept.

In the face of these deficiencies, Mr. President, the Department of Defense believes it has several back-up mechanisms. These include:

Recalling retired personnel;

Drafting veterans; and

Changing the stand-by reserve program.

In order to make these programs work, Mr. President, the Department of Defense has apparently "juggled the books" by:

Decreasing force structure requirements—thereby increasing the inventory of the present force, at least on paper;

Projecting an increase in the number of available trainees; and

Projecting a higher number of reserves who will show up than has actually proven to be the case.

GAO found no evidence that, first, Congress would enact legislation to permit drafting of veterans. I, for one, would not support such legislation.

Second, that arbitrary changes in Reserve yield rates would dramatically increase the available number of pretrained individuals;

Third, that new trainees would be available in the numbers indicated;

Fourth, that the numbers of people in the Selected Reserve will increase; and

Fifth, or that the number of people needed is significantly lower than in prior years.

Under these circumstances it is clear that mobilization problems not successfully managed at the Reserve level will fall upon the Selective Service System.

The current Department of Defense stated requirements for the delivery of personnel are for the first inductees by 30 days following the decision to mobilize—M day, 100,000 inductees by M day plus 60, and 650,000 by M day plus 180. Currently the Selective Service System is capable of delivering the first inductee 3 to 4 months after M day; less than 60 percent of induction requirements would be met by 6 months after M day.

In recent testimony the System states that if it were provided the $9.8 million budget requested, it could meet DOD's requirements without returning to peacetime registration. To meet these requirements, the System said it would use the State election machinery in combination with a system of highly automated data processing equipment to conduct a mass 1-day registration. The System stated in the testimony the rapid registration and input concept but has some distance to go before considering its emergency registration plan as fully ready for implementation.

GAO noted that in addition to using the State election machinery and data processing, the System has to take numerous other actions before and after mobilization day to meet DOD's requirements. These include such things as prepositioning supplies and equipment, recruiting and training local and appeal board members, identifying sites for registration, and arranging the delivery of induction notices. Time frames established under this emergency registration plan to meet DOD's requirements of 100,000 inductees at M plus 60 days call for, first, having a mass registration at M plus 10 days; second, processing registrant data between M plus 11 and M plus 15 days; and third, delivering induction notices at M plus 20 days.

In a letter to Congressman MONTGOMERY, the GAO concluded:

> We have examined the procedures being developed for implementing the (current) emergency registration plan and have serious reservations about whether it can be fully implemented. For example, we found that (1) formal arrangements had not been made with the States for using their election machinery, nor had the States been formally asked if they could begin registration by M plus 10 days, (2) the data processing equipment tested by the System was not representative of the equipment necessary to handle the workload in an actual situation, (3) equipment had not been tested to insure delivery of induction notices by M plus 20 days, and (4) logistical arrangements for distributing prepositioned supplies and equipment had not been developed.
>
> In addition to our specific concerns about implementing the emergency plan, an overriding issue centers around the concept of equity. Should any one of the planned procedures fail, serious legal questions could arise concerning fair and equitable treatment of those involved. For example, if one country did hold the mass 1-day registration, it would be impossible to have an equitable lottery.
>
> In view of all of the uncertainty, the lack of complete staff work, the assumptions that everything will work as conceived, and that all barriers are surmountable, GAO still believes reinstating some form of national registration will best meet DOD's manpower requirements of 100,000 by M plus 60 days and carries with it the least amount of risk for the Nation in the event of war or national emergency.

Mr. President, let me direct the attention of my colleagues to a Gallup Poll taken in March of this year. Many of my colleagues are concerned about leaving the impression that we are on our way to a draft if the Senate supports registration. Needless to say, this is a highly sensitive issue.

I would only note that a majority of 18–24 year olds firmly believe—74 against 26 percent—that we should not return to the draft at this time.

However, I would also note that this same group of young people—by 78 to 22 percent—favors registration.

I remain confident that if the American people are given the facts, they will support those things necessary to meet our national security requirements. Unfortunately, even the Senate has not been given a clear picture of our manpower problems, though it is quite apparent that they exist. I urge my colleagues to demand that the Department of Defense face up to these problems, and to seriously work with the Congress toward their resolution at the earliest possible time.

In closing, Mr. President, I categorically state that I oppose a peacetime draft—and also renew my request that the DOD tell the American people the facts—and then provide a solution to the critical shortage that would exist in both our manpower and material needs in the event of mobilization.

I thank the Senator for yielding.

(Mr. CHILES assumed the chair.)

Mr. COHEN. Mr. President, as I indicated earlier today during the closed session, I took the opportunity to commend Senator NUNN for bringing this matter to the attention of the full Senate and, hopefully, much of the information will begin to percolate, at least that unclassified information, throughout the public in general.

I indicated also that it was my position that I was not philosophically opposed to registration or even a draft during peacetime if I became satisfied it was necessary.

I believe the Defense Department has stated that registration in peacetime is a reasonable claim by a nation on its citizenry, if it is necessary; and equally, as an unreasonable demand if it is not necessary.

I share that particular viewpoint.

But I think Senator NUNN has done great service to the country and the Congress by bringing this to our attention, the kind of deficiencies discovered as a result of the exercise called Nifty Nugget.

Without going into the details discussed about "Nifty Nugget" during the closed session, I think it is fair to say it reveals some basic planning deficiencies and mobilization deficiencies that, hopefully, will be corrected in the coming weeks and months, and did serve a very useful and constructive purpose of calling our attention to the kind of demands placed on both our public as well as defense systems in a time of great stress.

I would like to turn, however, to some other issues that have developed as a result of this discussion. I think underlying the basic discussion has been a criticism of the All-Volunteer Force.

If the objective is to discontinue the All-Volunteer Force by saying it has proven to be an unsuccessful experiment, then we ought to do so up front and take a vote on it.

But I think to simply suggest that there are problems with the force, the military is opposed to it, they are covering up, saying positive things on public record, but expressing something else quite privately, then I do not think it is doing credit to us or serving well as far as the military is concerned.

I think it is probably proving very destructive to the process of the All-Volunteer Force itself.

Now, I would like to point out some testimony I read during the open session before the Subcommittee on Armed Services some months ago. It was testimony that was submitted by a friend of mine to the Senate Armed Services Committee on June 20, 1978.

He was also concerned about the deficiencies often alleged about the All-Volunteer Force.

He said:

> I would like to share with you the findings of a study I have made regarding the state of the Army. In pursuing this matter, I visited three installations—Fort Meade, Fort Gordon, and Fort Hood. My goal was to talk with commanders and troops, in headquarters and in the field, in order to gain insight into their views on Army life and the readiness of our forces.
>
> To enhance my ability to get at the facts, I arrived unannounced at each post, making a brief courtesy call at the post headquarters, and then spent several intensive days talking with personnel at all levels of the Army.

The following highlights I am going to recite reveal some of the themes he encountered:

> Volunteers repeatedly said that recruiters had misled them as to job opportunities and assignments;
>
> Dependents stated that medical care was difficult to obtain, and, when given, was delivered in a callous and impersonal manner;
>
> Experienced commanders stated that discipline had never been worse—that rates of courts-martial, Article 15's, and absences were at all-time highs;
>
> Units were often unable to train due to the absence of key personnel;
>
> Senior enlisted men complained that the quality of troops had declined significantly—and that the growing number of individuals in Mental Group IV had made training and discipline nearly impossible;
>
> Personnel at all levels complained that crimes of violence had seriously eroded the quality of life on post; at one installation, I was warned to avoid numerous areas on post after dark because they were dominated by "the criminal element";
>
> Medical personnel told me of rampant drug abuse;
>
> Facilities were in a general state of disrepair; barracks were characterized by severe deterioration of the plumbing, as well as the outside structure; gyms and recreation facilities were not only structurally deficient, but also lacked adequate equipment; soldiers frequently complained about the lack of off-duty activities and an inability to get to a major city for entertainment.
>
> Mr. Chairman, these views simply highlight the more serious problems that I found. My tour was not made in 1978, but in 1971, at the height of the draft. I bring these matters to your attention to place into perspective critiques of the "volunteer" army.

This was a statement that was offered by Representative William Steiger of Wisconsin, who died last year.

I think it is important to place in perspective the entire issue about the quality of the fighting force we have today. We had allegations of recruiting malpractice, command abuse, inadequate equipment, poor facilities, and a host of other problems that have filled our caseworkers' files over the years.

It is helpful to keep in mind, as Senator HATFIELD has suggested, that the return to registration, or ultimately to even a draft, is not necessarily going to cure all the major deficiencies that exist.

The other item I mentioned this morning was the question about congressional complicity in the current state of affairs; but I take strong exception to the fact that Congress over the years has made certain policy decisions by recommending certain cutbacks in programs and now stands back and says the All-Volunteer Force as structured is inadequate, deficient, and has to be rectified, and the only thing to do is to have a registration program and possibly revive the draft.

Let me recite several of the actions taken by Congress over the past few years, to give an example of what I am talking about.

We were late in approving "Junior Enlisted Travel," despite repeated Pentagon requests.

Legislation was introduced in 1972 to provide reserve enlistment and reenlistment bonuses; approved only in 95th Congress.

We failed to provide adequate incentives for medical professions. I believe Senator NUNN is correct, that registration or a draft proposal would not correct this deficiency.

We had inaction on discharge reform legislation, which hampers attrition reduction.

We had repeated statements by both House and Senate Armed Services Committees indicating lack of confidence in AVF concept which undercuts the AVF effort.

In fiscal year 1973, the House Armed Services Committee cut over $39 million from the active forces budget request; $24.5 million of it ticketed for the Army; of the total, $9.5 million was cut from recruiting, almost all of it from the Army's share. The amount finally appropriated by Congress was over $16 million below what the Pentagon requested; Congress went along with the HAC recommendation that $1 million be cut for the reserves; the Army's recruiting and retention budget was cut $6 million in final congressional action.

In fiscal year 1974, HAC cut $3.6 million from the DOD recruiting request; SAC recommended no change, but conferees agreed to the House cuts.

In fiscal year 1975, the final cut in the DOD recruiting and retention budget was more than $4 million less than either committee recommended.

In fiscal year 1976, HAC slashed almost $120 million and SAC almost $67 million from DOD's active forces recruiting and retention request; Congress approved a cut of over $96 million; HAC justified the cuts because of the Pentagon's success in meeting AVF quality and quantity requirements; the result was increased pressure on recruiters. They cut it, because it met the quality and quantity requirements, by some $96 million.

In fiscal year 1977, HAC recommended a $15 million cut in DOD's recruiting, advertising and support budget requests; SAC called for an increase of about $1 million, and that was accepted by conferees and Congress; Senate Armed Services Committee, in its report, acknowledged the negative impact of congressional actions.

In fiscal year 1978, Congress took about $30 million off DOD's budget request, all of it in the advertising budget.

In fiscal year 1979 and fiscal year 1980, Congress refused to give Selective Service what it said it needed to meet DOD's accelerated mobilization schedule.

In fiscal year 1980, SASC has sharply cut the number of dependents overseas.

Legislation such as DOPMA, and others have not received final action in Congress after Congress.

So I think it is unreasonable, on the one hand, to make these significant cuts out of the All-Volunteer Force concept and then, with a fine finger, point and say they have not met the national objectives. I think, as a first step at least, we should clean our own house in this regard and give DOD what it needs in the Army, what it needs in its recruiting and advertising programs, and generate the kind of manpower they need.

I would like to take another moment to talk about what this morning's discussion means so far as I am concerned.

Senator NUNN has pointed out, in a forceful presentation, that there are serious problems that exist within our manpower needs today, and we have to act forcefully to address them.

What is relevant is that there are problems and that we must thoughtfully act to address them. One of the most serious problems is the shortfall in meeting our recruiting objectives. The Army and Navy have the worst difficulties. There is a significant shortfall in the IRR and Army Guard.

Unless these problems are corrected, we will continue to be in serious trouble. We cannot meet our postmobilization needs under current plans. Defense Secretary Brown admits this, and so does everyone else. What are the reasons for the shortfalls? Reasons cited for the Active Forces are the low entry pay for recruits, reductions in benefits, elimination of the G.I. bill, bad publicity about the military, reports of recruiter malpractice, lack of patriotic awareness, and a multitude of others.

Reasons for shortfalls in the Reserve Force are perhaps more complicated, and perhaps more attributable to mismanagement within the Pentagon. For years, members of the IRR were automatically placed in the Standby Reserve at a certain point unless they requested otherwise. A simple switch in that practice within the last year boosted Army IRR numbers from 92,000 to 140,000. Another change which should have been implemented years earlier was to stop counting the period between signing up and actual entry into the service for those in the delayed entry pool against their military obligation. Dick Danzig properly described that practice as "foolish."

There are other reasons for Reserve shortfalls, not the least of which is that we no longer have draft induced enlistees in the Reserves. Lack of mission and lack of job satisfaction have hurt Reserve retention, as have lack of attractive enlistment options and of incentives for serving. DOD officials tell us they are turning things around and that numbers in both the Selected Reserve and the IRR are on the upswing. They have also made changes in the Reserve recruiting structure, which has perenially been one of the biggest obstacles to successful development of a sound Reserve Force and program.

But as we look at the problems facing the All-Volunteer Force, what is the answer? Is it a peacetime draft? That is an easy answer and the most obvious. But is it the best? Does it deal with the root causes and problems? Or does it simply throw manpower at the problem the way we have tried and failed in our efforts to simply throw money to solve social deficiencies and inequities?

What will peacetime registration accomplish? How does this relate to mobilization plans? What are the deficiencies?

Are there alternatives that should be tried before we return to peacetime registration or eventually a draft? What are they? What initiatives have been taken by DOD? What are the results to date? What trends, if any, appear? What conclusions can be drawn?

These kinds of questions have not been adequately addressed by the Congress or by the administration. To act precipitously and move toward peacetime registration when other, better solutions may be at hand could cause certain problems to be masked or obscured and could permit the perpetuation of the kinds of problems that Nifty Nugget uncovered.

Just this week, I met with Dr. Bernie Rostker, the President's selection to be the new head of Selective Service. Dr. Rostker admitted he shares the skepticism that is felt over Selective Service's present plan to supply inductees in time of mobilization. But he emphasized that he is convinced he does not need peacetime registration to accomplish that mission. Dr. Kostker is right now looking toward new alternatives that will take advantage of today's modern technology and that will prove a more effective system than we have had in the past for delivering troops.

The responsible course is to proceed in the direction taken overwhelmingly by the House and in the direction provided for in the legislation Senators DOLE, PROXMIRE, MCGOVERN, EXON, BUMPERS, MOYNIHAN, DURENBERGER, and I are pursuing here in the Senate—namely, a Presidential study to be directed to Congress early next year, including an analysis of our mobilization capability, both within Selective Service and the military, and recommendations of steps needed to provide the most effective mechanism possible to respond in time of emergency. In this way, we will be moving forward, taking advantage of the advances made since the basic groundwork for manual face-to-face registration was laid back in 1917. The problems with the old system have repeatedly been shown.

The debate on Nifty Nugget—the debate on our current defense capability—will have been of immeasurable benefit if it results in a new, streamlined approach to meeting our most stringent needs in time of mobilization.

I am encouraged with the willingness on the part of the Pentagon to acknowledge the problems that do exist and with the commitment of Dr. Rostker to revitalize the moribund Selective Service System because the most valuable contribution we can make at this time is to continue to push for a better, more modern system to provide for our defense needs.

Mr. President, I have a number of documents I wish to have printed in the RECORD at this point.

I ask unanimous consent that these documents be printed in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

[From the Army Times, Sept. 24, 1979]

Meyer: Army Still Supports All-Vol

INDIANAPOLIS.—Anyone who expects the Army to lobby for an end of the all-volunteer force is off base because the service is "totally committed" to it, according to Gen. Edward C. Meyer, the Chief of Staff.

During a speech here, Meyer also told members of the Association of the U.S. Army that the service chiefs see an increase in defense spending as "absolutely necessary" to counter the continuing Soviet buildup.

"Let me make it perfectly clear that the Army is totally committed to the volunteer force," Meyer said. "While we are experiencing difficulties in meeting our strength requirements, we are proposing solutions, within the bounds of volunteer service, to the problems we see to the President and to the Congress . . .

"Obviously there are many kinds of alternative solutions other than strictly volunteer service," he said. "Regrettably I find that many people throughout the country expect the Army to be up front promoting those alternatives."

Meyer noted that the end of the draft stemmed from a political decision. While that decision had some implications for the responsibility of a citizen, redefining those responsibilites is "outside the bounds of my office," he said.

"My specific responsibility shared by my officers, is to articulate what the requirements are and whether or not we are able to do the job with what we have and are given," he said. "That's the way our system works. Congress is charged with raising and manning an Army. I am not."

According to Meyer, soldiers today want "discipline and hard work toward worthwhile objectives." He said that attempting to build a "non-traditional Army" during the early years of the all-volunteer program was "no favor" to soldiers or to the Army.

"The most persistent complaint from soldiers is not what hours the PX is open, but personal concern that not enough time is dedicated to realistic training," he said. "It's interesting that today's soldier is re-inventing Field Marshall Rommel's understanding that 'the best form of welfare for the troops is first-class training.' "

Acknowledging that there are many opinions about the quality of soldiers, Meyer quoted a note sent to him by a major at Fort Hood, Tex. The major said "all the talk about the low-quality soldier" is "hogwash" that "inevitably springs from the mouths of those that (sic) know not of which they speak."

On the subject of defense spending, Meyer said, "real and costly expenditures are absolutely necessary" if the nation is to remain prepared for an attack by the Warsaw Pact against NATO. He said prospects are "good" that the U.S. "will commit itself to a real growth in military expenditures," a move viewed by the Joint Chiefs of Staff as "absolutely necessary."

Remarks by Honorable Robert B. Pirie, Jr.

Ladies and Gentlemen, I am honored to be asked to address you this evening and to have the opportunity to discuss with you one of the most important issues confronting the Department of Defense today. That issue is mobilization manpower. Not only is the mobilization manpower issue important, it is also extremely complex. While it may not appear to some to be a resource allocation issue in the same way that force level and structure decisions are, I believe that, as this discussion goes on I will be making a case that it is a resource allocation problem par excellence. As such it merits, and I hope will receive, increasing attention from the community of people who work on problems of this kind, and whom you represent.

Like any complicated system, the fabric of the Defense mobilization manpower system is woven from many different threads. Misunderstandings sometimes result when individuals pull one of the mobilization manpower threads and examine it out of context.

Today I would like to discuss the Defense mobilization manpower fabric as a whole. I will begin by examining the Selective Service System and the much publicized issue of peacetime registration. I will then attempt to place the registration issue in context with some of our other mobilization manpower concerns. These concerns include: manning levels of our active and Reserve forces and the adequacy of our pools of other trained manpower.

During war, the Department of Defense manpower requirements will not only be large, but the buildup will take place at unprecedented rates. In addition to the people who are in our active and Reserve force units, we will need to recall trained people to bring early deploying units to wartime strength and to replace casualties. We will also need to begin training additional people to fill later deploying units and casualty replacements, and to form new force units, if necessary. We do not expect this wartime requirement to be met solely by volunteers. We must plan to accept and train a large number of conscripts. Consequently, we have asked the Selective Service System to be prepared to start delivery of inductees within thirty days after a decision to mobilize is made, and to provide 100,000 inductees within sixty days.

We will not need inductees sooner than thirty days because we have other sources of manpower to fill the training bases for this period. Not commonly known is that the Department of Defense has, on the average, about 80,000 active military members who have contracted to enlist at a future date but have not yet started their training. The Reserve Components have about 15,000 in the same situation. Their entry on active duty will be accelerated except for those who must complete school. Large numbers of volunteers are likely, but our manpower plans do not depend on large numbers. We also will need to conduct refresher training for some people and retrain others in skills more critical to our needs. These dramatic increases in training loads will be more than enough to keep the training bases full during the first month after mobilization.

Our mobilization requirement for inductees has led to considerable debate within the Department of Defense and in both Houses of Congress concerning how to provide the Selective Service System with the capability to respond. The most publicized proposal has been the reinstatement of peacetime registration.

The House Defense Authorization Bill for Fiscal Year 1980 has been referred to the floor by the Armed Services Committee. Attached to this bill is a provision that would require the President to resume peacetime registration of young men reaching their eighteenth birthday after December 31, 1980. The members of the House will be asked after the current recess to vote on this issue. A similar bill (not part of the Defense Authorization Bill) has been reported out of the Senate Armed Services Committee.

The Administration position on this issue is straightforward: we should return to peacetime registration if, but only if, standby mechanisms cannot meet the nation's mobilization needs. We believe that at the present time there is not sufficient evidence to reject the hypothesis that standby mechanisms can be made to work. In addition, there is no need to mandate peacetime registration since the President already has the authority, in the Selective Service Act, to resume registration if he believes it is necessary to maintain national security.

The arguments presented in favor of registration have focused on military preparedness. In this regard, the Joint Chiefs of Staff and members of the House and Senate Armed Services Committees, all of whom share our concern about manpower needs in a fast-breaking war, believe that only a peacetime registration scheme can provide adequate assurance that recruits will be available quickly enough and in adequate numbers. However, I continue to believe that it is possible to meet the Department's mobilization requirements for inductees without peacetime registration.

Several studies—not only in the Executive Branch but also by the Congressional Budget Office and the General Accounting Office—have concluded that adequately funded, carefully planned Selective Service standby mechanisms could meet our mobilization manpower requirements on the schedule we have set out.

The work to be done is a revitalization of an almost defunct Selective Service System. The Department of Defense is concerned that the Selective Service System cannot currently meet our thirty-day requirement for emergency inductions. That circumstance does not, however, lead to the conclusion that peacetime registration is the only way to correct Selective Service deficiencies. We believe that a less drastic, less costly and lower risk alternative should be attempted first. The Administration has requested the resources to support such an option—an option that would revitalize the Selective Service System. These funds will be used to improve computer equipment and programs, to increase staffing, to improve emergency planning for post-mobilization registration and induction and to improve training of the headquarters staff and field offices. The objective is to provide the Selective Service System with the capability to meet our most demanding mobilization manpower requirement. The Acting Director of the Selective Service System has repeatedly testified that he is confident that the Selective Service System can develop the capability to meet this requirement without peacetime registration—if Congress provides adequate funds.

Many of those who advocate peacetime registration believe that the planned schedule is unduly optimistic, even with improvements to the Selective Service System. They argue that the sequence of individual registration, data reduction, random selection by lottery, notification and examination cannot be accomplished in thirty days, particularly when the country would be fully involved in other war-related activities. However, in 1917, the nation conducted a registration eighteen days after enabling legislation was passed. In 1940, we conducted a registration within thirty days. We believe it is reasonable to expect that we could do better in the future, provided that we make use of modern technology and plan prudently.

We believe, therefore, that the Congress should approve the Administration's request for funds to improve the Selective Service System rather than mandate registration. We also believe that once Selective Service computer resources, staffing and planning have been enhanced, their capability should be periodically tested to provide confidence that the system will work. If these tests demonstrate that the Selective Service System cannot meet our requirements, the Secretary of Defense will not hesitate to recommend that the President order a peacetime registration under the authority he now possesses.

To put the matter concisely, I view registration as a reasonable claim on our citizenry if it is necessary, and—equally—as an unreasonable demand if it is not necessary.

To this point I have been discussing but one strand in the fabric of mobilization manpower. The quality of the whole cloth is a function of the strength of all its threads—from active military manpower to the untrained draftee. I would like to discuss the remaining important mobilization manpower issues and how we in the Department of Defense, with the help of the Congress, are handling them.

Our mobilization manpower plans assume there will be very little warning time. Under these circumstances, our most important mobilization manpower assets will be those who are already trained. Since twelve weeks of training are required by law before individuals may be deployed, we cannot depend on draftees for help in the first few months, no matter how quickly inducted.

Our active force of 2.1 million would bear the initial burden of a fast-breaking war. Since 1973, the United States has manned its active forces without resorting to conscription. So bold an initiative as moving from a force largely composed of draftees to a force composed entirely of volunteers inevitably—and rightly—inspires debate and warrants continued review and appraisal. We welcome debate on this vital issue. However, much of the debate has been oversimplistic.

Some people are sure that the all-volunteer force is a huge success.

Others are equally certain that the all-volunteer force is a dismal failure.

Rather than adopting either of these views, I find it preferable to identify our specific manpower supply problems and assess the costs and benefits of alternative solutions.

When the all-volunteer force was originally being debated, the main concern was our ability to keep the ranks of the active forces filled and the units ready. Thus far, we have generally been successful in meeting our recruiting goals for the active forces. Since 1973, we have never been more than one and one-half percent below our authorized strength.

The quality of our recruits—that is, their ability and willingness to learn military skills and to perform successfully as members of military units—is equally as important as the number of recruits.

By the standards of assessment we use, the quality of enlisted recruits under the all-volunteer force has been roughly comparable to what we experienced in the pre-Vietnam draft era. We got fewer college graduates; on the other hand, we take proportionately fewer who are below average.

Attrition rates for first-term enlistees are higher than we would like them to be. That is, too many recruits are discharged from the service without completing their enlistments, mostly because of lack of aptitude, motivation, or discipline. This requires us to recruit and train replacements at considerable cost. However, this attrition loss is more than compensated for by today's longer enlistment terms. In 1964, we got 3.1 years of service from the average new recruit; we now get 3.7 years.

Recruitment will become more difficult in the coming years because the population of young men between 17 and 21 will decline by 15 percent between 1978 and 1987. We are taking several actions to meet this challenge:

Reducing attrition among first-term enlistees.

Increasing reenlistments.

Continuing to expand, as we have over the past several years, opportunities for women in the Services.

There is no guarantee that these actions will be fully successful in keeping our active forces up to strength. It is certainly conceivable that at some point in the future we may have to resort to the draft. However, I don't look upon the draft as an all-purpose solution to our problem.

Draftees serve shorter terms of service than volunteers. This lowers the experience level of the force at a time when new weapons systems demand more experienced people. Shorter enlistment terms also force us to divert more resources to training new recruits.

The draft—if it is truly representative—may result in taking a greater proportion of people of below-average aptitude.

While we have disciplinary problems today, there are fewer than we experienced in the last years of the draft. There is no assurance that drafted soldiers, serving involuntarily, will be more amenable to military discipline.

Moreover, returning to the draft would probably not produce the significant savings that some expect. It is unlikely that the nation would be willing to pay draftees less than we pay volunteers. The dollars saved in eliminating enlistment bonuses and reducing the recruiting forces would be mostly offset by greater training expenditures.

In summary, the AVF has worked reasonably well in the active force, but it faces challenges in the years ahead as the youth population declines.

The Reserve Components have fared less well following the introduction of the all-volunteer force. Defense policies and programs in the past six years have asked the Reserves to shoulder more of the nation's military burden. But we have seen a decline in the Reserve strength in that period, particularly in the Army Guard and Reserve. As we changed from a country fighting a war with drafted soldiers to one at peace defended by a voluntary force, it was to be expected that the inclination of young men and women to join the Reserve forces would decrease. It was not expected that the decline in unit strength would be as long and as difficult to remedy as has been the case. Since the beginning of the all-volunteer force, the Army Reserve has dropped from nearly 235,000 to 187,000 personnel. Similarly, the Army National Guard fell from a strength of 406,000 to 345,100. Overall, the Army is nearly 130,000 enlisted personnel short of its peacetime objective for the Selected Reserve.

The other services have not experienced such a decline. Last year the Air Force achieved a 15-year high in Selected Reserve manning.

The Congress has demanded, and we must ensure, that this nation's Ready Reserve will be fully prepared in the event of a mobilization. To do that, the Department of Defense has established a comprehensive program to improve the total readiness of the National Guard and Reserve. That program is underway and will be expanded in 1980. For the Selected Reserve, a three part program to increase manning is underway:

The first part of that program centers on providing additional flexibility in enlistment alternatives. In the past the standard enlistment option for the Selected Reserve has been six years. We think a shorter initial enlistment period will attract more recruits. The Army has just been authorized to offer a three-year initial enlistment option in all units of the Army Guard and Reserve. The Army also is testing a two-year, active-duty enlistment option followed by four years in the Ready Reserve.

In addition to the various enlistment options, we are testing a split training program which permits enlistees to take basic training and advanced training at different times. For example, a college student who does not have time for a 12-week training period could split his training into two successive summers.

In the second part of the Selected Reserve strength program, we—following a lead initiated by the Congress—are offering enlistment bonuses in cash or in educational benefits. These programs are designed to attract people to fill shortages in critical skills and, for the Army, to help man early deploying units. The reenlistment bonus, another initiative being accelerated, is an important factor in retaining experienced personnel.

The third part of the Selective Reserve strength program focuses on management improvements. There is now a full-time Reserve Component professional recruiting force of about 5,000 people. All recruiting functions for the Army Reserve are centrally managed by the Army's Recruiting Command. A centralized referral program, an automated system for accession management, and a system that recognizes outstanding recruiting performance round out the major management improvements.

These programs are beginning to work. The long decline in Army Guard and Reserve strength has been arrested and strength is now increasing.

In addition to the combat and support units provided by the Selected Reserves, we also need a pool of pretrained individuals who can flesh out our active and Reserve units and serve as replacements for early battlefield casualties. Our primary sources of pretrained individual manpower include members of the Individual Ready Reserve (the IRR), the Standby Reserve, and retired military personnel. We also consider as a source, individuals in the active or Reserve forces, such as recruiters, who are filling jobs that would not all be needed in wartime. We are concerned about the low level in the collective pool or pretrained individuals. We are beginning to make progress in filling it. We can solve this problem by a combination of increasing the IRR pool and taking better advantage of the talent in the retired population.

The IRR pool is now increasing in strength. Not only did we stop a major leakage from that pool but we will soon be putting into the IRR those who would have been administratively discharged before completion of their service obligation. Thus far, our management efforts have had considerable impact. The Army has increased its enlisted IRR pool from a low of 100,000 in early 1978 to 155,000 today. In addition to these types of management improvements affecting supply, we are testing enlistment and reenlistment programs for the IRR. We are also examining proposals to increase the length of the Military Service Obligation from the current 6 years to either 7 or 8 years. Now an individual who completes 3 years of active duty is obligated to serve an additional 3 years in the IRR. An increase of that obligation by 2 years would give us an adequately sized IRR pool. We are also developing new techniques for notification and screening of the IRR in order to improve our expectations of the number who will report rapidly and be qualified to serve. Peacetime training is another factor under study.

We are planning to use retirees in the event of mobilization, as we did in World War II and the Korean War. For example, there are about 150,000 Army retirees who left service within the last 10 years and are below age 60. By using retirees in support activities we can quickly free up young soldiers to join deploying units. The Army is now identifying its younger retirees and will be contacting them this fall with their mobilization assignments.

Our current shortfalls in mobilization manpower, mainly in the Army, have drawn much attention in the past year. Some have suggested peacetime registration as a solution. I think that suggestion is misguided for two basic reasons. First, the shortfall is not insurmountable—I have mentioned many new initiatives that are underway and are paying off now. We are well along the road to reversing the downward strength trends. Second, the shortfalls are in manpower sources that should be trained before mobilization, not after. A trained draftee four months after mobilization cannot fill a need that occurs at two months.

As you can surmise from my overview remarks, the fabric of mobilization manpower is worn in spots and is in good condition in others. It is being managed as a system. We are working hardest on the most important aspect of the program—increasing the supply of pretrained manpower which is needed in the first few months after mobilization.

The Administration is also committed to improving the capability of the Selective Service System. The President will nominate Bernard Rostker, now a Deputy Assistant Secretary of the Navy for Manpower, as the new Director of the Selective Service System. That appointment, together with the Administration's commitment to revitalize the Selective Service System, gives me great encouragement for that aspect of mobilization manpower.

I hope my remarks have stimulated your thoughts about this critical subject. I look forward to getting your ideas and opinions during our discussions.

Thank you.

[Information Paper]

MANPOWER MOBILIZATION ISSUES RELATING TO PEACETIME REGISTRATION

GAO REPORT ON THE SELECTIVE SERVICE SYSTEM'S EMERGENCY REGISTRATION PLAN

The General Accounting Office (GAO), on August 29, 1979, issued a report on the Selective Service System's (SSS) emergency registration plan. The GAO report criticized the current SSS emergency registration plan and concluded, without supporting evidence, that "reinstating some form of national registration will best meet DOD's manpower requirements of 100,000 by M+60 days." The GAO did not ask the SSS or DOD for formal comments on its findings.

While the GAO report criticizes the current SSS plan as being incomplete and risky, it does not address the fundamental issue: Can a carefully-prepared SSS post-mobilization registration plan meet DOD requirements? The GAO report makes no observation as to whether the current SSS plan could or should be revised. Indeed, the report implicitly argues that the only solution to SSS planning deficiencies is peacetime registration.

DOD disagrees with the GAO perspective. It remains the view of the Department of Defense that a post-mobilization registration plan is feasible and, with careful preparation and testing, may be more equitable and responsive to DOD's needs than peacetime registration.

H.R. 4040 now provides for the peacetime registration of young men as they reach their 18th birthday. This group represents one of the most mobile segments of our population. These individuals are likely to change their address soon after registering. They also will have a propensity to have additional address changes in the first few years following their 18th birthday. Unless updated continuously by those young men who move (a speculative proposition at best), the accuracy of a peacetime registration list will rapidly decay. Consequently, if induction orders are issued from such a list, the induction process would likely be less equitable and responsive than a call-up based on a more accurate post-mobilization list. At this point, no mechanism exists for continuously checking a peacetime registration list for accuracy.

GAO REPORT ON ARMY SELECTED RESERVE RECRUITING

On June 22, 1979, the GAO issued a report that outlined several concerns about recruiting procedures for the Army Selected Reserve. The GAO report expressed concern that the Army's recruiting plans have not been directed at overcoming the shortages in the Army National Guard and Reserves.

DOD Comment: As stated in the GAO report, the Army recruiting objective is a composite of realistically achievable goals for its recruiters rather than a statement about the Army's shortfall below its Reserve peacetime objective. The Army and the Department of Defense have always been quite explicit about this.

The Army and the Department of Defense are extremely aware of the seriousness of the strength shortfall and have taken major steps during FY 79 to overcome the problem.

The Department has provided a broader range of initial training options, offered more combination enlistment options, paid more attention to unprogrammed attrition, and focused on improved advertising and a full-time professional recruiting force. Congress for its part has provided enlistment and reenlistment incentives that appear to be effective. These efforts are expected to overcome the shortages through the planning years, but it is recognized that this cannot be achieved in a single year. The recruiting objectives are set at a level that can be achieved and the budget established accordingly. You can be assured that as the recruiting objectives are met and the manpower programs exceeded, higher objectives and end strengths will be approved and budgeted.

RECENT RECRUITING DIFFICULTIES

The recruiting results for FY 1979 are a matter of serious concern to DOD. At the end of June, the four Services had recruited 22,500 fewer men and women than they had planned. Preliminary recruiting results for July show none of the Services achieving its objective. However, all of the Services currently expect to meet their originally planned August recruiting objectives and hope to recoup some of the previously reported shortfall. Our best estimate for the FY 1979 recruiting shortfall is about 19,000 individuals. Because of retention improvements, this recruiting shortfall is expected to translate into an end strength shortfall of about 1%. This shortfall is hardly unprecedented. End strength relative to target over the past six fiscal years has been as follows:

[In percent]

1973	−3.3
1974*	−1.3
1975	−1.0
1976	−0.5
1977	−0.9
1978	−1.2
1979 (Est)	−0.9

*First full year of the AVF.

SELECTIVE SERVICE LEADERSHIP

The President has announced the nomination of Dr. Bernard Rostker, Principal Deputy Assistant Secretary of the Navy (Manpower) to be the Director of the Selective Service System. The Department of Defense strongly supports this nomination.

[Information Paper]

PEACETIME REGISTRATION

ISSUE

Should the nation return to peacetime registration of its youth? Is it needed either as a preparedness measure for a military crisis that would occur with little warning or as a first step toward resumption of a peacetime draft?

FACTS

House Defense Authorization Bill, H.R. 4040, has been referred to the floor by the Armed Services Committee. It would require the resumption of peacetime registration for male youths reaching their 18th birthday beginning in January 1981.

The President, under the authority of the Military Selective Service Act, now has the power to resume registration of the male youth of the country.

The Administration and the Secretary of Defense have opposed the resumption of peacetime registration at this time.

Although section 812 of H.R. 4040 was undoubtedly intended to enhance the national security, it could impede a rapid manpower mobilization for the next few years. The current law gives the President full authority to register young men eighteen through twenty-five years of age. The amendment contained in H.R. 4040 eliminates this provision and provides in its place solely for the mandatory registration of those males who become eighteen after January 1, 1981. As a result, even in the event of a Presidential decision that registration was necessary, under H.R. 4040 no males would be registerable before 1981 and the pool of registrants thereafter would not be large enough to meet Defense mobilization requirements until well into the 1980's. Consequently, Defense requirements could not be met during this interim period without also conducting a post-mobilization registration.

THE ARGUMENTS

Selective Service System responsiveness

The Selective Service System currently cannot meet the Defense Department's time requirements for emergency induction. However, both the Defense Department and the Administration believe that the Selective Service System can be made sufficiently responsive to those needs without peacetime registration. Others believe that peacetime registration is a necessary condition for the Selective Service System to be able to meet Defense needs. There ought to be a presumption that a less drastic, less costly and low risk alternative to peacetime registration be attempted first.

The Administration, the Congressional Budget Office and the General Accounting Office believe there is such an option. The Administration has requested the funds to support that option—it would provide expanded funds for computer equipment, planning and training. Last year the Congress chose not to fully fund that request. The next logical step is not to mandate peacetime registration, but to approve the Administration's request for Selective Service System funding. If later testing should demonstrate that the Selective Service System cannot meet emergency manpower requirements without peacetime registration, the President will reinstitute peacetime registration under the authority he now has.

Manpower shortfalls

Peacetime registration would not remedy any alleged Defense manpower shortfalls in either the active or the reserve components. This is because these alleged shortfalls would occur in the first few months after a mobilization. Whether registered in peace or upon mobilization, draftees must by law undergo twelve weeks of training before deployment. Thus, peacetime registration is largely irrelevant to the most pressing postmobilization concerns of the Department of Defense.

The AVF

The All Volunteer Force (AVF) remains a viable alternative to a peacetime registration and draft. Those who support peacetime registration because they are not convinced that the All Volunteer Force is working ignore the important facts. The Military Services are attracting sufficient volunteers for the active forces to meet Defense requirements and the quality of our volunteers is equal to or better than that experienced under the draft. Army reserve shortfalls are now responding to management initiatives;

strength is up for both units and individual reservists.

Issues not resolved

There are many issues that need to be addressed before mandatory peacetime registration or the draft might properly be legislated. These include:

Should women be registered? Will they be needed? Is there an equity issue?

To what degree will registration be enforced? What are reasonable sanctions? Can enforcement be uniformly applied? Can other data sources be used to detect violators?

Should health professionals, medical students be registered differently?

Should the Military Selective Service Act be modernized?

Can existing data bases provide sufficient information to construct an initial mobilization registration list? Would this method be equitable?

Can a peacetime registration list be kept current? If not, would such a list be preferable to a list constructed immediately after mobilization?

These issues—none of them are addressed in H.R. 4040 or in the hearings that preceded it—demand further examination. For this reason the Administration supports a sweeping study of the need for registration and of the Selective Service laws in general, and opposes the mandated requirement for peacetime registration in H.R. 4040.

Selected Reserve Enlistment and Initial Training Options

A variety of options have been developed in order to attract as many persons as possible into the Selected Reserve. Inflexible enlistment and training options decrease the available market by preventing certain individuals from being able to participate. Variable options have been provided to better suit individual cases. All of these options could be lumped under the heading of "product improvement."

ENLISTMENT OPTIONS

0×6×0: The normal Reserve enlistment where the individual enlists for 6 years in the Selected Reserve and is eligible for the enlistment incentives of a bonus or educational assistance.

0×4×2: Where the individual enlists in the Selected Reserve for 4 years with the requirement to serve the balance 2 years in the Individual Ready Reserve.

0×3×3: Where the individual enlists in the Selected Reserve for 3 years with the requirement to serve the balance 3 years in the Individual Ready Reserve.

INITIAL TRAINING OPTIONS

Normal Initial Active Duty for Training of a single session of 12 or more weeks of training including basic and advanced individual training.

Split Initial Active Duty for Training of two sessions, the first being basic training of approximately 8 weeks and the second advanced individual training of minimum of 4 weeks.

Civilian Acquired Skills Program (CASP) where a person with a military skill which was acquired as a civilian may be required to attend basic training only. This has been a pilot program for women up to this point.

Militia Careers Program (Vocational-Technical Training) is undergoing a limited test at this time where the Army will enlist high school seniors from vocational-technical schools in 26 occupational specialties and upon graduation the individual will attend basic training and such other training to total 12 weeks so that the person can be deployed if mobilized.

JULY 1978–JUNE 1979, INDIVIDUAL READY RESERVE MANPOWER STRENGTHS

[In thousands]

Individual Ready Reserve	July 1978	August 1978	September 1978	October 1978	November 1978	December 1978
USAR	158.1	163.1	168.6	169.4	175.1	182.2
USNR	95.0	94.2	93.2	96.1	90.0	87.9
USMCR	39.2	35.6	39.6	41.8	43.3	44.7
USAFR	47.1	47.0	45.8	43.9	43.4	43.5
DOD	339.4	339.9	347.2	351.2	355.5	360.4

Individual Ready Reserve	January 1979	February 1979	March 1979	April 1979	May 1979	June 1979
USAR	183.0	186.7	192.1	195.6	197.1	199.8
USNR	87.9	86.0	85.0	84.7	83.9	84.0
USMCR	45.9	47.5	48.9	50.1	50.7	51.9
USAFR	42.6	42.3	42.9	42.8	42.9	42.8
DOD	359.4	362.5	368.9	373.2	374.6	378.5

[Information Paper]

Active Force Enlisted Recruiting, Retention and Strength—Trends and Outlook

FY 1979 SITUATION

The recruiting results for FY 1979 are a matter of serious concern to us and all of the Services. At the end of June, the four Services had recruited 22,500 fewer men and women than they had planned. Although none of the Services achieved their objectives, the Army and Navy had the largest shortfalls:

ACTIVE FORCE ENLISTED ACCESSIONS—ALL SOURCES,[1] FISCAL YEAR 1979 THROUGH JUNE[2]

[In thousands]

Service	Objective	Actual	Shortfall number	Percent of objective
Army	102.3	91.7	10.6	10
Navy	64.3	57.8	6.5	10
Marine Corps	30.9	27.2	3.7	12
Air Force	48.2	46.6	1.6	3
Total	245.7	223.2	22.5	9

[1] Unduplicated count of enlisted accessions for which recruiters were tasked. DOD officer accessions for fiscal year 1979 through June were at about 7 percent below the programed objective of about 18,400. Shortfalls are mainly in the medical and technical (engineering and scientific specialities) skills.

[2] Numbers in all tables may not add due to rounding.

Overall retention (reenlistment and attrition) has improved. (Tab A presents the relevant data.) Service manpower programs, however, anticipated the increase in retention. The improvement, therefore, provided little or no offset to the recruiting shortfalls and left the Services, at the end of June, about 18,000 (a little less than 1%) below the FY 1980 President's Budget strength plan.

ACTIVE MILITARY STRENGTH, END OF JUNE 1979[1]

[In thousands]

	Fiscal year 1980 budget June objective	Actual achievement	Shortfall	
			Number	Percent of objective
Army	763.7	752.0	11.7	1.5
Navy	524.6	524.3	.3	.1
Marine Corps	187.4	184.2	3.2	1.7
Air Force	565.3	562.2	3.1	.5
Total	2,041.0	2,022.7	18.3	.9

[1] Excludes active duty military personnel paid from Civil Functions, Reserve and National Guard appropriations.

Preliminary recruiting results for July show none of the Services achieving its objective. All of the Services currently expect to meet their originally planned August recruiting objectives and hope to recoup some of the previously reported shortfalls. They are less certain about achieving September objectives. Our best estimate of the FY 1979 recruiting shortfall is about 19,000 (6%) as follows:

PROJECTED FISCAL YEAR 1979 RECRUITING RESULTS, ENLISTED ACCESSION—ALL SOURCES

[In thousands]

		Estimated attainment		
			Shortfall	
	Objective	Actual	Number	Percent of objective
Army	146	133–136	13–10	6–9
Navy	85	78–80	7–5	6–8
Marine Corps	41	41		
Air Force	68	66–68	2–0	0–3
DOD	340	318–325	22–15	4–6

Owing to accurate anticipation of retention improvements, these recruiting shortfalls will translate into an end strength shortfall of about 1 percent, DoD wide.

FISCAL YEAR 1979 MILITARY END STRENGTH—FISCAL YEAR 1980 PRESIDENT'S BUDGET PLAN AND CURRENT ESTIMATE

[In thousands]

	DOD	Army	Navy	Marine Corps	Air Force
FY 80 President's budget	2050	774	524	190	563
Current estimate	2031–2025	762–760	520–518	186	563–561
Shortfall estimate	[1] 16–22	12–14	4–6	[1] 0	0–2

[1] Marine Corps revised end strength objective as a result of POM–81 development. It expects to achieve the revised objective.

This shortfall is hardly unprecedented. End strength achievement relative to targets over the past six fiscal years has been as follows:

[In percent]

1973	−3.3
1974*	−1.3
1975	−1.0
1976	−0.5
1977	−0.9
1978	−1.2
1979 (estimate)	−0.9

*First full year of the AVF.

FY 1980 OUTLOOK

The FY 1979 recruiting shortfall will add to the FY 1980 recruiting requirement and compound the difficulty of achieving FY 1980 goals. The revised non-prior service FY 1980 objective is about 5% above the FY

1980 President's Budget projection and about 15% above estimated actual achievement in FY 1979.

NONPRIOR SERVICE ACCESSIONS, FISCAL YEAR 1979 ESTIMATE AND FISCAL YEAR 1980 REQUIREMENT

[In thousands]

	DOD	Army	Navy	Marine Corps	Air Force
1979 (Estimated achievement)	322	135	79	41	67
1980 (President's budget)	354	153	91	41	69
1980 (Revised projection)	371	168	93	40	69

Substantially all of the increase is in Army and Navy. We expect the elimination of the Navy requirement that non-graduates not exceed 24% of accessions will permit Navy to increase its recruit production sufficiently to meet the revised FY 1980 objective.

The Army's FY 1980 revised requirement will be about 24% above its anticipated FY 1979 production. Meeting this objective will be very difficult. Army might be able to achieve its accession requirements through a large infusion of non-high school graduates. This would permit it to meet its strength objective but would result in the proportion of high school graduates among its male recruits falling below 50%, with consequent higher rates of indiscipline, attrition and turbulence in operating units.

To avoid this, the Army is both attempting to improve the effectiveness of its recruiting operations and asking for additional FY 1980 funding for added reenlistment bonuses and recruiting/advertising resources. The reenlistment bonuses are warranted because they will reduce not only the immediate accession requirements, but future requirements as well. More investment in recruiters and recruiter aides is warranted. Both the increased accession requirements and on data that show youth awareness of Army advertising and the number of advertising generated recruiting leads at an AVF high, but the percentage of leads converted to enlistments has declined.

GENERAL OBSERVATIONS

a. Population Decline. The much discussed decline in the youth population has just begun to take effect. After a peak in FY 1978, the number of 17–21 year old males will begin to decline and continue through FY 1990. The decline is modest from FY 1979 to 1982, less than 1% per year. Adjustments to this are being made by lessening accession requirements for the traditionally most difficult to recruit high school graduate males.

b. Reduced Share of High School Graduates. Labor Department data indicate our market share has declined (by about 11% between fall 1977 and fall 1978) and the civilian employers' share of high school graduates increased. Maintenance of a cost effective DoD share of the male high school graduate pool should have yielded about 225,000 such enlistments in FY 1979. The number of male high school graduates enlisting has dropped by 21% from 244,700 in FY 1976 to an estimated 192,000 in FY 1979. The DoD decline in high school graduates appears to have ended (Tab B-Chart 1). There is no significant sign of a turnaround, however.

In part the decline is due to increased employment among 18–19 year old males (Tab B-Chart 2). In part it is because civilian alternatives appear to be more attractive to high school graduates than in prior years. Our market research attitude data reinforce this point: Male likelihood to enlist has declined and remains low.

The military offering has become less attractive with the end of eligibility for G.I. Bill educational benefits (terminated at the end of 1976) and their replacement by the less valuable Veterans Educational Assistance Program (VEAP). Further, entry military pay has not kept pace with changes in the minimum wage, median earnings of 18-year old workers, and changes in consumer prices. The Services are also finding it difficult to attract women to "non-traditional" jobs as more of these jobs are available to females.

c. Reduced Effectiveness with Non-High School Graduates. Concentration on the high school graduate market, with previous tight limits on non-graduate enlistments in the Army, Navy and Marine Corps, appears to have degraded our recruiting effectiveness in the non-graduate segment of the market. This is less of a resource issue than one requiring recruiting management attention.

d. Unfavorable Publicity. This stems in large measure from:

1. Recent highly publicized instances of alleged recruiting malpractice.

2. The continuing debate on the AVF (with its criticism of the quality and representativeness of military personnel) and discussion of a return to peacetime registration and the draft itself

3. Unfavorable publicity on living conditions for Service personnel overseas.

4. Negative feedback on their Service experience from the large number of first-term attritees (over 700,000 since the start of the AVF) who have returned to civilian life as well as from dissatisfied Service members who complete their term of enlistment.

STRATEGY AND IMPLICATIONS

The approach to manning the active force stresses reducing accession requirements for high quality males in proportion to their decline in numbers in society as a whole, while maintaining our share of this quality market segment. This requires increased reenlistments; reduced attrition; increased female accessions; and assumed ability to recruit non-graduates effectively. Very importantly it also demands maintenance of our relative competitiveness against other options available to employable young people. It is this latter goal that is most critical.

Additional "communication" of a lessened military offering alone cannot maintain competitiveness. It can only be maintained by careful enhancement of what is offered to the prospective enlistee in return for satisfactory performance.

This assessment of the FY 1980 recruiting situation may be conservative if a severe recession materializes. Even if increased unemployment temporarily eases the recruiting problem, however, it should not divert attention from the longer term need to insure competitiveness.

The study of the adequacy of military compensation is underway. Systematic evaluation, with the Services and via testing where feasible of those dimensions of the military offering (e.g., pay, bonus, educational assistance, enlistment term, in-service training opportunities, barriers to entry) which can practically and cost effectively be altered to improve service ability to compete for, attract and retain the quality personnel that are necessary to man the force, is required. Simultaneously, investigation of ways to improve the overall effectiveness of the recruiting and examining system is needed.

1ST-TERM RETENTION

[Numbers in thousands; fiscal years]

	1976	1977	1978	1979[1]
DOD				
Eligible to re-enlist	188	167	148	112
Re-enlistments:				
Number	56	59	55	45
Percent of eligibles	30	35	37	40
ARMY				
Eligible to re-enlist	70	68	62	45
Re-enlistments:				
Number	15	22	22	20
Percent of eligibles	21	33	36	44
Percent attriting prior to end of enlistment:[2]				
Goal	33.0	21.8	10.1	
Actual	33.1	21.6	8.8	
NAVY				
Eligible to re-enlist	53	43	39	26
Re-enlistments:				
Number	19	16	16	11
Percent of eligibles	35	37	40	43
Percent attriting prior to end of enlistment:[2]				
Goal	28.0	19.9	10.7	
Actual	27.7	19.8	10.0	
MARINE CORPS				
Eligible to re-enlist	17	18	19	13
Re-enlistments:				
Number	5	5	5	3
Percent of eligibles	29	29	29	20
Percent attriting prior to end of enlistment:[2]				
Goal	29.8	16.2	10.9	
Actual	29.7	16.3	11.1	
AIR FORCE				
Eligible to re-enlist	48	39	29	28
Re-enlistments:				
Number	18	15	12	11
Percent of eligibles	37	39	41	40
Percent attriting prior to end of enlistment:[2]				
Goal	22.5	14.3	8.1	
Actual	21.1	13.6	7.4	

[1] October to June.

[2] Based on male cohort entering service in year shown. As entry cohorts have not matured, data represent elapsed period as of December 1978 rather than full-term attrition rates. Thus, only the goal for fiscal year 1976 accessions reflects attrition goals for 3 yrs of service. Goals for fiscal year 1977 is for 2 yrs and for fiscal year 1978 is for 1 yr of service.

RECRUITING RESOURCES/COMPETITIVENESS

SHORT TERM—FISCAL YEAR 1980

The FY 80 Budget Amendment contains a request for additional retention, recruiting, and examining resources. The Army total of $48.9M includes $11.6M for selective reenlistment bonuses and $37.3M for recruiting, advertising, and operations of the entrance and examination stations for which the Army is the Executive Agent. The Marine Corps total is $3.0M.

The request is based on inflation and one-time requirements facing the two ground combat Services as a result of current market conditions. The Army's FY 1980 non-prior Service accession requirement is now projected to be 168,000. An increase of 15,000 or 10 percent from budget estimate of 153,000.

LONG TERM

The decline in the military services ability to maintain its share of the youth market—particularly male high school graduates—has caused us to evaluate our offering compared to those of our competitors with respect to pay, educational and training opportunities, and terms of service.

ARMY MINIMUM MENTAL STANDARDS, AVF VERSUS DRAFT ERA

The minimum mental quality standard for enlistment is higher today than prior to 1973. Currently the AFQT minimum standard (general trainability) is higher; and, in addition, enlistees must now score 90 or better in one or two job related aptitude areas. During the draft they were not required to obtain minimum aptitude area scores. Thus, the minimum mental standard for enlistment in the AVF is more rigorous than during the draft era.

MILITARY RECRUITER MALPRACTICE

Definition: Action willfully perpetrated by a recruiter in violation of established laws, policies, or directives to either enlist someone who does not meet established standards, or placing an individual in a higher category by falsifying qualifications.

Military Services vigorously pursue a series of quality control checks and balances to insure high degree of integrity.

Latest tool being developed is a diagnostic technique to provide indicators of possible patterns of test compromise.

While technique is still undergoing validation review, the Services have decided to investigate files of approximately 1100 Service recruiters identified by the procedure.

The investigation has been reported in the media as a nationwide investigation of cheating among Service recruiters.

Although 1100 recruiters' files being reviewed, the number of recruiters actually involved will be much smaller.

Historically during the all-volunteer force, substantiated malpractice has averaged one tenth of one percent of enlistments.

In fiscal year 1978, there were 300 individual cases versus 332,000 enlistments.

Military Services recognize that violations of integrity involve serious consequences including damage to the professional reputation of the vast majority of recruiters who are responsible, hard working and dedicated.

Prompt action taken is to relieve and discipline any recruiter involved in a breach of integrity.

COMPARISON OF E-1 BASIC PAY WITH FEDERAL MINIMUM WAGE

Fiscal year	Basic pay	Hourly wage[1]	Minimum wage[2]	Percentage
1970	115.20	0.66	1.60	41.5
1971	134.40	.78	1.60	48.5
1972	288.00	1.66	1.60	103.8
1973	307.20	1.77	1.60	110.8
1974	326.10	1.88	2.00	94.1
1975	344.10	1.99	2.10	94.5
1976	361.20	2.08	2.30	90.6
1977	374.40	2.16	2.30	93.9
1978	397.50	2.29	2.65	86.5
1979	419.40	2.42	2.90	83.4
1980	448.80	2.59	3.10	83.5
1981	[3]480.30	2.77	3.35	82.7

[1] Hourly wage is calculated as 12 mo basic pay divided by 52 weeks at 40 hr per week.

[2] Source: Table 11a, History of Federal minimum wage under the Fair Labor Standards Act, Wage and Hour Division of the Department of Labor.

[3] Assumes a fiscal year 1981 pay raise of 7 percent.

WASHINGTON, D.C.,
September 13, 1979.

Hon. WILLIAM S. COHEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COHEN: This is in response to your letter of September 4, 1979, regarding the General Accounting Office report on the Selective Service System's emergency registration plan.

On August 29, 1979, the General Accounting Office (GAO), issued a report on the Selective Service System's emergency registration plan. The GAO report criticized the Selective Service System's current emergency registration plan and concluded that "reinstating some form of national registration will best meet DOD's manpower requirements of 100,000 by M+60 days."

The Department of Defense agrees that there are shortcomings in the Selective Service mobilization plan, but does not agree with the conclusion that peacetime registration is necessary. The Department of Defense views registration in peacetime as a reasonable claim by a nation on its citizenry if it is necessary, and—equally—as an unreasonable demand if it is not necessary. Nothing in the GAO report makes the case that registration is necessary in peacetime. The GAO does not address the fundamental issue involved: Can the Selective Service System meet Defense Department requirements with an improved plan for conducting registration upon mobilization? Without commenting on this possibility, the report states that the solution to Selective Service planning deficiencies is peacetime registration.

It remains the view of the Department that a post-mobilization registration plan is feasible, and that it is better to proceed with preparation and testing of that option than to reinstate peacetime registration. In 1917 the nation conducted a registration within 18 days of passage of enabling legislation while at war. I believe it is reasonable to expect that we could do better in the future, provided that we make use of modern technology, and that we plan prudently. This judgment is consistent with the conclusions of a study by the Congressional Budget Office.

I hope that you find this information useful.

Sincerely,

RICHARD DANZIG,
Principal Deputy, Assistant Secretary of Defense M R A&L.

SEPTEMBER 17, 1979.

Hon. WILLIAM S. COHEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COHEN: This is in response to your letter of July 25, 1979, to the Secretary of Defense regarding the manpower mobilization plans of the Department of Defense.

You asked if our opposition to Selective Service registration is based on Defense Department plans to call up veterans immediately upon mobilization. My response is no. The two issues are separate. We believe that peacetime registration is not needed from an operational point of view because registration can be conducted after M-Day in time to obtain the first wartime inductee by M+30, as we desire. Our schedule for obtaining wartime draftees is constrained by our capacity to expand the peacetime training base. In the first thirty days, we plan to call up immediately those individuals who enlisted prior to the mobilization but were awaiting training, to provide refresher training to some individual reservists, and to retrain certain active personnel. We believe that there will be sufficient trainees during the first thirty days to fill the available training base capacity without draftees.

The need for pretrained individual manpower (IRR, retired personnel, Standby Reserve) depends on the demand for fillers and replacements in the early days of a mobilization before draftees can be inducted and trained. Even a draft which delivered the first recruit at M-Day would leave a gap of about 90 days before the initial 12 weeks of training required by law could be accomplished. Thus, we are going to need pretrained individuals for the first 90 or 120 days regardless of the status of registration or a draft. Peacetime registration cannot meet our pretrained individual manpower needs.

Your second question was on the status of discussions within the Defense Department on the need for and desirability of calling up veterans in time of mobilization. The question of recalling veterans to meet demands for pretrained individual manpower has been discussed publicly by Defense officials for several years. Since the Army IRR is not large enough to meet all current demands for pretrained personnel, we plan to recall retired personnel and Standby Reservists, as well as the IRR, and we have the necessary authority to do that. Some individuals on my staff believe that we should, in addition, plan to recall veterans as was done in World War II. The major advantage of veterans is that they would require less training than new recruits and could therefore be deployed more quickly. There is opposition within DoD and elsewhere to this proposal. The debate pivots around the question of whether the added efficiencies of using veterans outweigh the inequities arising from requiring them to serve again. This issue has not been resolved; however, two things are clear. First, if we asked veterans to serve, it would only be in the context of both a full mobilization; i.e., in a World War II situation; and a general draft. Second, in no respect would the flexibility to use veterans be an occasion for diminishing the following current priority efforts: (a) to increase our pool of pretrained manpower; and (b) to bring the Selective Service System up to date so that it can meet our requirements for untrained manpower when asked to do so.

As presently enacted, the Military Selective Service Act does provide the general authority to draft veterans but not the flexibility to utilize them in the early days of a mobilization. Currently, only veterans under 26 years of age could be inducted and they would have to receive 12 weeks of post-induction training. Because of these limitations, present plans do not call for the induction of veterans in the event of a national emergency.

Finally, you asked for the Defense Department's official plan for meeting the nation's mobilization needs in time of emergency. Ourplan is to rely on the Ready Reserve to provide the additional units to augment the Active forces and supply the pretrained individual manpower needed during the initial combat period while the wartime draft and training base are producing newly trained personnel. The Marine Corps can accomplish that today. The Navy and Air Force have sufficient Ready Reserve personnel to meet most of their needs, and they will make use of available retired personnel with necessary skills to meet the remainder of their demand. Army officer demands can also be satisfied from these sources.

The Army, however, has insufficient enlisted assets in the Ready Reserve and retired personnel categories to meet the total demand for pretrained enlisted personnel. In the Fiscal Year 1981 program review, we calculated this shortfall at 125,000 people. To meet this shortfall, we plan to increase the size of the Selected Reserve which reduces the need for pretrained manpower, and increase our pretrained manpower pool—primarily the IRR. In this respect, I am pleased to note that initiatives in this calendar year have reversed the decline in the Army Selected Reserve and have increased the strength of the Army IRR. I plan, in the months ahead, to expand these initiatives and appreciate the active role of Congress in supporting these efforts.

Sincerely,

ROBERT B. PIRIE, Jr.,
Assistant Secreary of Defense (Manpower, Reserve Affairs & Logistics).

WASHINGTON, D.C.,
August 28, 1979.

Hon. WILLIAM S. COHEN,
U.S. Senate.

DEAR SENATOR COHEN: This is in response to your letter of 16 April 1979 in which you asked for an analysis of the assumptions, projections, conclusions, and recommendations contained in a 1971 Chief, Army Reserve report entitled "Individual Ready Reserve Study, Phase II."

That report was prepared during a period of considerable uncertainty over the impacts that conversion to an all-volunteer force would have on Army institutions such as the Individual Ready Reserve (IRR). It was perceived at the time that to be viable, the all-volunteer active force would have to be smaller in size, have higher retention rates, and have longer terms of active duty. These factors were seen by those participating in the study as leading to the eventual decline of one of the Army's pretrained mobilization manpower pools—the IRR.

Working necessarily from assumptions and extrapolations from trends to predict future events, it was almost inevitable that the study group would arrive at conclusions that would not be borne out over time. One implied assumption that has not been borne out was that the military service obligation would be reduced from six to three years. This led to the conclusion that the IRR strength would fall to near zero by 1979. In fact, the military service obligation has remained at six years and the current strength of the IRR is approximately 195,000. Because of such faulty premises, much of the detail in the report is inaccurate. Therefore, we have not attempted a detailed, statistical analysis of projected strengths and costs in the report.

Nevertheless, the study group did an excellent job of predicting a serious shortfall in mobilization pretrained manpower and in recommending solutions to the problem that the Army has subsequently used in various proposals to achieve increased mobilization manpower sustainability. To the extent possible without detailed background data from the 1971 study effort, an analysis of assumptions, conclusions, and recommendations is attached at the inclosure.

Sincerely,

Edward C. Peter,
Major General, GS, Chief
of Legislative Laison.

ASSUMPTIONS

1. There will be no change in the IRR mission:

Comment: This has proved to be accurate. The IRR is used to bring active and reserve component units to wartime strength levels, provide replacements of initial combat losses, and activate units required to sustain the force but that cannot be resourced in peacetime.

2. Current annual loss rate of the IRR will continue:

Comment: This assumption has not borne out. The report assumed that the six year military service obligation would end in 1976; however, it has remained at six years. Additionally, the study group could not anticipate that the automatic transfer of IRR members to the Standby Reserve upon completion of the fifth year of the military service obligation would be terminated in 1978. Changes in IRR strength over the period 1971–1979 are shown below:

June 1971–June 1972: 6% incerase.
June 1972–June 1975: 30–33% decrease per year.
June 1975–June 1976: 6% increase.
June 1977–June 1978: 11% decrease.
June 1978–May 1979: 30% increase.*

3. Mental and physical requirements for enlistment will remain the same:

Comment: This was a valid assumption. The physical requirements have remained essentially the same since the study was conducted. The more restrictive mental requirements for females have gradually changed so that, effective 1 October 1979, male and female enlistment eligibility criteria will be identical.

4. The active modern volunteer Army will be maintained at a strength of 838,000:

Comment: This assumption has not proved valid. The actual strength of the active component for the period FY 74–78 and the objective strengths for FY 79–80 are shown below:

Fiscal year:	*Strength*
1974	783,330
1975	784,330
1976	779,415
1977	782,246
1978	771,624
1979	773,800
1980	774,000

5. USAR troop program units will be maintained at a strength of 260,000:

Comment: This assumption has not proved valid. The actual end strength of the USAR troop program units for the period FY 74–78 and the program strengths for FY 79–80 are shown below:

Fiscal year:	*Strength*
1974	234,866
1975	225,057
1976	194,611
1977	189,420
1978	185,753
1979	191,700
1980	196,000

6. ARNG units will be maintained at a strength of 400,000:

Comment: This assumption has not proved valid. The actual ARNG end strengths for the period FY 74–78 and programmed strengths for FY 79–80 are shown below:

Fiscal year:	*Strength*
1974	403,396
1975	394,720
1976	362,330
1977	354,706
1978	340,996
1979	345,500
1980	358,500

7. The IRR required minimum strength will be 650,000:

Comment: There is no required minimum strength for the Individual Ready Reserve as such. The Army computes the differnce between the total wartime trained military manpower requirement and the supply available in the active component and in Reserve Component units; this yields an unfilled requirement. Other sources of pretrained manpower are then applied such as the IRR, retired military, and Standby Reserve. These sources have varying availability and expected show rates; hence, the number of personnel required to overcome a shortfall is dependent upon the source(s) selected and the show rate(s). It appears that the IRR Study assumed that the unfilled requirement would be filled from the IRR alone. The IRR requirement which would have been required to offset all unfilled requirements for FY 70–80 is shown below.

Fiscal year:	*Strength*
1974	515,000
1975	390,000
1976	460,000
1977	450,000
1978	511,000
1979	*497,000
1980	*486,000

*Estimated.

Note: Assuming an IRR show rate of 70 percent, a factor of 1.43 would be applied to the unfilled requirement to determine the number of IRR members required.

8. With present accession and loss rates, the enlisted IRR will be at virtually zero-strength six years after termination of the draft:

Comment: This assumption has not proved valid. As noted above (assumption 2) the assumption that the loss rate would remain constant has not proved to be correct. While the strength has been drastically reduced, it has not gone to zero-strength. The strength of the IRR has been as shown below:

Fiscal year:	*Strength*
1974	532,575
1975	355,097
1976	226,380
1977	149,427
1978	168,607
1979	*197,135

*IRR strength as of end May 1979.

9. There will be no input from Selective Service after 30 June 1973:

Comment: This assumption has proved to be valid. Induction authority expired on 30 June 1973 and has since not been reinstated.

10. The term of first enlistment in the Modern Volunteer Army (MVA) environment will be reduced from six to three years:

Comment: It appears that the Study Group was referring to the military service obligation. The military service obligation has remained unchanged at six years. Therefore, this assumption has not proved valid.

PROJECTIONS—STRENGTH, COSTS, COST AVOIDANCES

The underlying premise upon which these projections were based was that the military service obligation would be reduced from six to three years, thereby requiring enlistments and reenlistments for the IRR to keep its enlisted strength from dropping to zero. This premise was invalid. As noted above, the military service obligation has remained at six years. Therefore, it is meaningless to compare strength or cost projections in the study with historical data.

CONCLUSIONS

1. Maintenance of the IRR at a required strength of 650,000, using the Study Group assumptions, is not feasible in the MVA environment for a reasonable expenditure. After absorbing initial large losses from its FY 74 beginning strength of 825,000, and stabilizing gains and losses, IRR end strength achieves an equilibrium in FY 79 with a maximum attainable strength (using prior service inputs only) of approximately 240,000:

Comment: This conclusion appears consistent with study assumptions; however, it bears little relationship with historical fact. It is true that the enlisted strength of the IRR did absorb large losses from FY 74 through FY 77. With non-incentive management actions effective in FY 78 (termination of automatic transfer to the Standby Reserve upon completion of five years and extension of the military service obligation to females), IRR strength is now at approximately 200,000. Without a clear definition in the report of "reasonable expenditures" it is not possible to estimate what IRR strength could have been achieved through the application of "reasonable" incentives.

2. Survey results indicate that, in the case of cash incentives (reenlistment bonus or educational benefits), a point of diminishing returns is reached at the level of $200-$300 per year. Any further increase in incentives offered will disproportionately increase costs for prior-service personnel; there is no increase in offsetting savings:

Comment: Without the survey sources upon which the study was based or an analysis of the validity of these sources, it is difficult to assess the validity of this conclusion. Proposed IRR enlistment and reenlistment incentives range near those costs mentioned in the report.

3. There is probably some level of expenditure at which greater numbers of prior-service personnel could be induced to enlist in the IRR for less than the cost of non-prior service accessions:

Comment: This portion of the conclusion is valid.

In the interest of maintaining unit strength, higher incentives must be offered for continued unit service than for enlistment in the IRR. Any increase in IRR incentives must therefore be more than matched by unit incentive increases. Such escalation will be counterproductive to the IRR, since larger unit incentives may be expected to produce a higher unit reenlistment rate in the USAR and ARNG with no net advantage to the IRR:

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*Caused by termination of automatic transfer to Standby Reserve in last year of MSO.

Comment: The logic of this portion of the conclusion appears valid on the surface; however, the issue is more complex than may have been assumed. While it would appear true that reserve recruitment success would be greater where the incentives are greater, other motivational factors enter into the choice between unit and individual duty (schooling, seasonal employment, travel and requirement to attend drills and annual training). The Army favors an incentive differential in favor of Selected Reserve units over the IRR as a matter of priority.

It may be further supposed that a roughly 3:2 ratio of escalated unit reenlistment benefits over IRR enlistment benefits will deflect to the USAR units or to the National Guard any increase in accessions from the Active Army which the IRR might otherwise hope to realize:

Comment: Other motivational factors notwithstanding, this portion of the conclusion appears valid and is the logic employed by the Army to influence recruitment for priority units.

4. Higher incentive expenditures might increase IRR enlistments from other sectors than unit personnel. There cannot, however, be two sets of incentives offered; one for the other sectors, e.g., the Active Army, and one for Reserve Component unit personnel. To repeat, a raise in incentive for other sectors would necessitate a corresponding raise for unit personnel to enlist in the IRR, and a proportionately larger raise in unit incentives.

Comment: This portion of the conclusion is valid. An incentive differential between accession sources is impractical and dysfunctional.

To maintain the 650,000 strength level, the alternative would appear to be retention of the residual obligation.

Comment: This portion of the conclusion is not valid. The six year total military service obligation was maintained and, even if Active and Reserve Components strengths had been maintained at assumed levels, it would not have yielded an IRR strength at the 650,000 level.

5. In Section IX, Recruiting, the viability of the IRR is assumed. Whether or not recruiting for the IRR is necessary, the proposed USAR recruiting organization, appropriately adjusted, is still considered sound, practical and economical:

Comment: This conclusion has been considered valid in part. The USAR recruiting mission was assumed by the Active Component recruiting establishment (US Army Recruiting Command, USAREC) on 1 May 1979. Most of the USAR recruiting assets and personnel were transferred to USAREC as part of the reorganization. The current IRR Direct Enlistment Test is being accomplished by active Army and USAR recruiters.

6. Incentive options are desirable that substitute bonuses or educational assistance for the fringe benefits packages at approximately equal cost:

Comment: This conclusion has not yet been tested in actual practice; however, the Army supports a portion of the fringe benefits package and has recommended bonuses and educational assistance for enlistment and reenlistment in the IRR.

7. The success of the USAR recruiting and retention effort will depend to a considerable extent upon the public's attitude toward military service in general and the Reserve Components in particular. . . ..

Comment: This conclusion is valid. Reserve Component recruiting and retention efforts are adversely affected by public attitudes toward military service. Public opinion sampling and market analysis have been a routine part of Army recruiting and retention programs.

RECOMMENDATIONS

1. The contents of the study should be noted. Its substance and conclusions should be used to assist in other studies of the Army Reserve Components in the Modern Volunteer Army environment:

Comment: This recommendation has been carried out. The IRR study was a key effort in recognizing the eventual impact of the IRR strength decline on Army mobilization manpower sustainability and has been a seminal influence in efforts to improve the mobilization manpower situation. While the 1971 Report dealt only with the IRR, it is notable that current and proposed Selected Reserve bonus programs can be traced back to that report.

2. A survey "tracking" procedure of the magnitude and diversity of the Phase II effort, plus public opinion research, should be initiated to monitor at least annually any changing sociological conditions which may affect Phase II conclusions or tend to argue for a viable IRR without resort to residual obligation. This effort should be oriented exclusively toward the Reserve Components.

Comment: The recommendation has been carried out only in the sense that studies of the external environment have been ongoing and provide information upon which Reserve Component advertising, recruiting, and policy changes are based. Currently, DoD and USAREC are conducting public opinion surveys on Reserve enlistment on a regular basis to track significant changes in attitudes. Since there has been no intent to eliminate the military service obligation, no specific research has been conducted to ascertain the viability of the IRR without such service obligation. Within the Total Force policy emphasis is placed on both the Active and Reserve Components; therefore, few research efforts have been undertaken that orient exclusively on the Reserve Components.

3. Regardless of the means used to maintain the IRR, it is recommended that:

(a) The name of the IRR be changed to one with more popular appeal. . . . :

Comment: This recommendation has not been acted upon. It is essentially one of a cosmetic nature.

(b) The benefits included in the cost effective package identified by the Phase II survey effort should be authorized immediately for IRR members and all other USAR personnel:

Comment: From the study report, it cannot be determined exactly which benefits are included in the cost effective package. Nevertheless, enlistment incentives (bonus or educational assistance) and reenlistment incentives (bonus) were authorized by the 95th Congress for personnel in Selected Reserve units. Incentives are under consideration in the Army and OSD to increase IRR strengths.

(c) Increased opportunities for participation, promotion, training, and the earning of retirement points should be made available immediately to IRR members:

Comment: This recommendation was not carried out on an "immediate" basis due to fiscal constraint but rather as a phased implementation of the Officer and Enlisted Personnel Management Systems-USAR. These systems ensure a balanced mix of training experience, professional development, and proficiency attainment through rotation of assignments between the Selected Reserve and the IRR, resident/non-resident forms of military education, and short periods of skill training with an active component counterpart activity. Army management will encompass all IRR personnel by end FY 85.

(d) Incentive options should be developed that provide bonuses or educational assistance at equivalent cost ($200–250):

Comment: This recommendation was not carried out; however, OSD is currently considering enlistment and reenlistment bonuses for the IRR.

4. A separate recruiting organization should be established for the USAR, in accordance with the concept outlined in Section IX, to be trained, in place and operating no later than 1 January 1973:

Comment: This recommendation was not carried out initially. The 1973 reorganization of the Army provided an improved USAR organization and chain of command. It was felt that the USAR recruiting effort would most efficiently be organized within the USAR chain of command as opposed to a geographic basis. However, the USAR recruiting mission was transferred to the active component recruiting system in May 1979 to permit effective and efficient use of the management assets and recruiting expertise available in the US Army Recruiting Command.

5. The present public relations campaign exclusively devoted to informing young people of the advantages of USAR service, should be continued and intensified:

Comment: This recommendation has been carried out; however, a balanced public relations approach has been taken which addresses service in both the Active and Reserve Components. Public relations campaigns have been continuous and routine to the present. Reserve organizations in particular have been effective in this regard in their own geographic areas and recruiting markets through such things as domestic action projects. USAR recruiting advertising has increased considerably in recent years and has been informing the public of the advantages of reserve affiliation, pay, acquisition of skills, and service in and to local communities.

[Information Paper]

MOBILIZATION MANPOWER SHORTFALLS

DISCUSSION

Current shortfalls in mobilization manpower, mainly in the Army reserve components, have drawn much attention in the past year. Peacetime registration has been suggested as a solution. This solution is misguided for two basic reasons. First, the shortfall is not insurmountable. New initiatives are underway to correct this deficiency and are already paying off. Second, the shortages are in manpower that will be needed in the early months after mobilization. These individuals must be trained and ready before mobilization occurs. Draftees must, by law, receive 12 weeks of training before deployment. A draftee completing training after mobilization cannot fill a need that occurs in the first 3 months. Consequently, the Selective Service System, under any state of readiness, cannot be used for early mobilization manpower needs in a fast-breaking major war which is the basis for our planning.

Until the pool of pretrained individuals is improved, the Department must consider other interim solutions. If war were to occur without warning tomorrow, the issue probably would turn on the willingness of trained veterans to volunteer despite the fact that they have no legal obligation to do so. The Department's mobilization manpower shortfalls are based on the assumption that insignificant numbers of veterans will volunteer. However, large numbers probably would volunteer, as they did in World War II, if our national security is threatened. We probably also would receive many volunteers who are not veterans, but that would not help the immediate shortage. There are more than 500,-

000 unobligated Army veterans under 30 years of age today—a number far greater than the estimated shortfall. If they did not volunteer in sufficient numbers and the national security were at stake, the Department might be forced to seek legislation to recall some veterans involuntarily. But that would be done only in a "worst case" emergency situation and if other courses are not open. Moreover, the Department will not need to consider even this option with the improvements expected in reserve unit manning and manpower pools.

[Information Paper]

IMPROVEMENTS IN SELECTIVE SERVICE SYSTEM PLANNING

DISCUSSION

The Selective Service System currently cannot meet the Department of Defense requirement for mobilization manpower. However, Selective Service mobilization plans are being revised to ensure that inductees can be provided after mobilization in accordance with the Department of Defense's time-phased requirements. In this regard, the President has nominated Dr. Bernard Rostker, Principal Deputy Assistant Secretary of the Navy (Manpower and Reserve Affairs) as the new Director of the Selective Service System. Dr. Rostker has indicated that in addition to other improvements he intends to move rapidly to:

Modify the existing Selective Service emergency mobilization plan (including registration procedures);

Make arrangements for necessary computer resources; and

Make arangements for mobilization staffing and logistics.

The Department of Defense strongly supports these improvements.

THE SECRETARY OF DEFENSE,
Washington, D.C., July 5, 1979.

Hon. CARL LEVIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LEVIN: This is in response to your letter of June 20, 1979, asking for my comments on the findings and conclusions of the Armed Services Committees concerning the ability of the Selective Service System to meet Department of Defense mobilization requirements.

The Committees reached two principal conclusions. First, they concluded that the Selective Service System cannot now meet the DOD requirement for inductees beginning 30 days after a decision to mobilize. I agree with this conclusion, and so does the Acting Director of the Selective Service System.

The second conclusion of the Armed Services Committees is that registration is required in peacetime if Selective Service is to be able to meet the 30-day requirement. As you know, this is contrary to the testimony of the Acting Director of the Selective Service System. He testified that he is confident that, if adequate funds are provided by the Congress, the Selective Service System will be able to develop the capability to meet our requirements. I believe that with proper planning and sufficient resources, 30 days should be adequate time for Selective Service to begin delivering inductees without peacetime registration.

To meet our requirement, the Selective Service System must complete four actions: First, assemble a list of people of induction age. This might involve a nation-wide registration similar to those conducted on June 5, 1917 and October 16, 1940. Second, the list of those registered needs to be converted to a form that can be processed by modern data processing equipment. Third, names of inductees need to be extracted from this data file in an impartial way. Finally, induction orders have to be issued.

I know of no reason, given adequate planning and resources, that these four steps could not be accomplished in 30 days under conditions of a national emergency. In 1917 the nation conducted a registration within 18 days of passage of enabling legislation while at war. In 1940 we conducted a registration within 30 days. I believe it is reasonable to expect that we could do better in the future, provided that we make use of modern technology, and that we plan prudently. This judgment is consistent with the conclusions of a study by the Congressional Budget Office.

I do not believe, however, that the matter should be settled merely by judgment—mine or anyone else's. Once Selective Service computer resources, staffing, and planning have been enhanced, their capability should be periodically tested through joint exercises with the Department of Defense to provide the necessary confidence that the system will work. If exercises of Selective Service do not demonstrate that Selective Service can meet Department of Defense mobilization requirements under emergency conditions, I shall not hesitate to recommend that the President order a peacetime registration under the statutory authority he now possesses. The President will use this authority as necessary and appropriate to protect the national security.

The Administration has asked for funds to provide the necessary improvements. I believe that appropriation of these funds is the correct next step—one that will help us achieve our goals through improving the Selective Service System's ability to prepare for processing people upon mobilization.

Sincerely,

HAROLD BROWN.

THE SECRETARY OF DEFENSE,
Washington, D.C., July 23, 1979.

HON. CHARLES E. BENNETT,

DEAR MR. BENNETT: This is in response to your letter of 26 June 1979 regarding the proposed legislation for peacetime registration and related matters.

I oppose peacetime registration at this point. Given adequate planning and funding, I believe the Selective Service System could be able to meet the Department of Defense requirement for delivery of new inductees without peacetime registration. Emergency plans are under preparation. The Administration has asked for the necessary funds. Appropriations of those funds is the correct next step. If future exercises of Selective Service using its new plans and resources demonstrate that it cannot meet Department of Defense mobilization requirements, I shall not hesitate to recommend that the President order a peacetime registration under the statutory authority he now possesses.

Beyond this, I note that though Section 812 of H.R. 4040 was undoubtedly intended to enhance the national security, in some respects the technical phrasing of this provision actually has a negative effect. The current law gives the President full authority to register young men eighteen through twenty-five years of age. The amendment contained in H.R. 4040 eliminates this provision and provides in its place solely for the mandatory registration of those males who become eighteen after January 1, 1981. As a result, even in the event of a Presidential decision that registration was necessary, under H.R. 4040 no males would be registerable before 1981, and the pool of those whom the President might register would be smaller under H.R. 4040 than under the present law until well into the 1980s.

This point is illustrative of more general concern. The Selective Service System poses complex and sensitive problems that I believe require more extended study than has yet been received. For this reason, the Department of Defense does not support Section 812 but does support Section 813 of H.R. 4040 which requires a Presidential report and recommendations concerning registration and induction authorities. We note, however, that such a study would be substantially more productive if more time—perhaps on the order of nine months—were allocated to undertake the effort.

The Department agrees with the objective of Section 814 to test the Selective Service System's mobilization procedures. I plan to conduct integrated mobilization tests with the Selective Service System.

Section 815 of H.R. 4040 provides that the Selective Service System shall remain administratively independent of any other agency and shall not be subject to any reorganization plan under chapter 9 of title 5, United States Code. The purpose of chapter 9 of title 5, United States Code is to promote better execution of the laws, more effective management of the Executive Branch, and economy in government. The Department of Defense supports this purpose. The Department does not believe that the Selective Service System or any other governmental agency should be exempt from the provisions of chapter 9 of title 5, United States Code.

Sincerely,

HAROLD BROWN.

THE WHITE HOUSE,
Washington, D.C., July 23, 1979.

Hon. JOHN F. SEIBERLING,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SEIBERLING: Thank you for your letter to the President of April 9, 1979, concerning the draft, compulsory nonmilitary national service, and universal registration.

The Administration opposes new legislation to reimpose peacetime registration for the draft. The President already has adequate authority to require registration if circumstances warrant. We do not believe it is necessary to impose this burden on our nation and its youth at this time when there are effective ways to improve the capability of the Selective Service System so that it can respond quickly in time of emergency.

In the event of an emergency mobilization, the Department of Defense manpower demands will be substantial. Particularly in the early days, much of that manpower comes from those who have already voluntarily obligated themselves to serve in the event of a mobilization. Beyond that, however, beginning thirty days after a decision to mobilize, the department would need to begin receiving inductees.

We are concerned that at present the Selective Service System might not be able to meet the thirty day requirement. In the near term, we think that the proper course of action is to enhance the standby ability of the Selective Service System, including its computer resources, its staffing and its planning. We are confident that, if adequate funds are provided by the Congress, the Selective Service System will be able to develop the capability to meet our requirements. An Administration funding request is now before Congress. Last year, the Congress chose not to fully fund that request. Passage of the full amount of this year's recommended appropriation measure would be a productive step in improving our posture.

We believe that the critical step towards achieving our goals is not immediate collection of names through registration, but rather the immediate improvement of our ability to prepare for processing people, and in case of mobilization actually to process them, through the Selective Service System.

Sincerely,

STUART E. EIZENSTAT,
Assistant to the President for
Domestic Affairs and Policy.

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, D.C., July 13, 1979.
Hon. JOHN F. SEIBERLING,
House of Representatives,
Washington, D.C.

DEAR MR. SEIBERLING: This letter is in response to your request of 19 June 1979 concerning the Army's training base capability. The Army expects a significant shortage of combat trained manpower if required to execute war plans in defense of Europe in the near term. Based upon peacetime input and the length of training courses, the Selective Service System and the training base together cannot provide the manpower needed in the early months of such a conflict. However, to sustain our forces in the theater, it is imperative that the Selective Service System be capable of delivering inductees rapidly upon mobilization.

As part of its mobilization planning following MOBEX 78, the Army began reassessing planning and programing to achieve more rapid increases in training base output. Since approximately 75 percent of Army training structure is in the Reserves, there is great capacity for expansion upon mobilization. By scheduling the Reserve Training Divisions to receive training input early, rather than by phasing companies on line over three months as previously planned, and by other initiatives identified in the inclosure, greater numbers of soldiers can be trained more rapidly than previously planned.

Our previous estimates of the training base's input capacity during the first month ranged from 36,000 to 45,000 new trainees. Last year, the Army initiated analysis of the training base resource requirements to accomplish a surge expansion. That analysis has not been completed. However, the examination to date (described in the inclosure) shows the earlier estimate to be conservative. This preliminary review subject to considerable more examination causes the Army to believe that in an emergency it may be able to accept and train as many as 133,000 soldiers, albeit with degradation of quality of some training. The Office of the Secretary of Defense, although agreeing that 45,000 is an understatement, believes that today's capacity is less than 133,000. Office, Secretary of Defense also believes that additional investigation and analysis planned by the Army is necessary to firmly identify current capability.

The Army is committed to future investment in the training base to support such wartime loads. Improvements must be programed and budgeted for additional training equipment, facilities and Reserve training unit strength. Initiatives to reorganize and gain strength in the Reserve training units will be implemented in FY 1980. Further, the Army in concert with OSD will address the costing requirements for training base construction, equipment, automation and communications, transportation and civilian contracting.

The answers to your specific questions are enclosed.

Sincerely,

WILLIAM D. CLARK,
Acting Deputy Assistant Secretary of the Army (Manpower and Reserve Affairs).

ANSWERS TO QUESTIONS POSED BY CONGRESSMAN SEIBERLING CONCERNING THE ARMY'S MOBILIZATION TRAINING BASE CAPACITY

Question 1: Is the statement that the Army "can now train" 133,000 personnel in the first month following mobilization, and 300,000 personnel in the second month an accurate reflection of current training base capability?

Answer: The Army's estimated capacity to accept 36,000 trainees developed in August 1978 was based on constrained peacetime standards of training equipment availability and fully adequate training base facilities. The Army will strive to achieve those same standards for mobilization trainees within the priorities and limitations of the DOD budget. However, the Army believes it is now prepared, under less than optimal conditions, to begin training up to 133,000 new trainees the first month following a mobilization decision and 270,000 the second month. The Office of the Secretary of Defense believes that today's capacity is less than 133,000 and also believes that the additional investigation and analysis planned by the Army is necessary to firmly identify current capability.

Question 2: On what assumptions were the upward revisions of training base capability made? For example, did the Army assume that training bases would be at full wartime strength?

Answer: The initial analysis included two assumptions:

a. Decisions to mobilize and to deploy forces will coincide and units deploying from CONUS installations will meet departure schedules.

b. USAR training units will be manned, equipped and organized to accomplish their mission by M plus 19.

These assumptions, however, will not preclude the Army from executing training base expansion if, for example, the optimum amount of equipment is not available. The upward revisions of the training base capability were based on the following initiatives summarized here from the information paper:

INCREASE INPUT CAPACITY OF THE TRAINING BASE IN THE MONTHS AFTER M-DAY

[In thousands]

Initiatives (in ascending order of cost)	1	2
(1) If mobilization occurs in other than summer months, use seasonally underutilized cadre to start new training companies	14	....
(2) Accelerate establishment of 5 training centers at Forces Command installations	7	33
(3) Reconfigure training divisions with fewer support personnel and more trainers. Plan on civilian contracting of support functions upon mobilization	10	22
(4) All trainee companies surge from 220 to 275 trainees	9	17
(5) Double the number of Army Reserve training division companies initiating training at one time. (This option may sacrifice training quality by allowing less time on equipment and certain training facilities.)	53	111
(6) 7 additional medical training brigades		12
(7) Convert armor training to advanced individual training vice one station unit training to maximize the early production of armor-trained soldiers	4	9
Additive to fiscal year 1978 estimate	36	66
Total	133	270

Question 3: At what percentage of the base strength assumed in the information paper are training bases currently operated?

Answer: The training base is currently programed to accommodate an average of 18,500 inputs monthly as compared to the estimate of 133,000 inputs for the first month following mobilization. Using these data, the training base is operating at approximately 14 percent of emergency capacity. However, the 284 Army training companies will surge from 200 to 275 trainees and the 749 USAR training companies will surge to 275 trainees. There could be sufficient training company starts for a total of 133,000 input in the first month. Active Army capacity is 27 percent of total capacity. The comparison of peacetime to wartime capacities for reserve units is not meaningful.

Question 4: Do the training bases currently possess the required equipment to provide adequate training for 133,000 personnel in the first month and 300,000 in the second?

Answer: The optimum amount of training equipment for 133,000 trainees is not available immediately after mobilization. Classes involving heavy weapons and subsystems would be enlarged and scheduled night and day to maximize training availability to trainees. Equipment like trucks, tanks, and armored personnel carriers left behind by deploying units will be made available to the training base to the degree priorities will allow. Detailed equipment analysis has been initiated by the Army.

Question 5: Are there any initiatives in the current Program Objective Memorandum (POM) to fund the program changes discussed in the information paper provided to the Committee by the Army?

Answer: Detailed resource requirements to identify the peacetime cost to execute full mobilization in the training base was not completed for inclusion in the fiscal year 1981–1985 program. These requirements will be addressed by May 1980 for the fiscal year 1982–1986 POM. The Reserve training units have been placed higher on the priority list for personnel resources. Reserve training units have been included in the enlistment bonus and full-time manning programs.

Question 6: Have the program changes to upgrade training capacity, as discussed in the information paper, been implemented? If not, when does the Department of Defense plan to implement them?

Answer: Orderly program changes to upgrade training capacity will be implemented as indicated in the information paper. Some program changes will be implemented within the year as mobilization planning guidance is provided to the major commands; other program changes will not be formally implemented until resource requirements are determined and subsequently provided. If mobilization were to occur prior to completion of all initiatives, the quality of some training for soldiers would be degraded until the initiatives were completed on an emergency basis.

Question 7: Have all the program options discussed in the information paper been deemed acceptable by the Department of Defense?

Answer: The program options discussed in the information paper have been presented to the Office, Secretary of Defense for review. However, the review has not been completed at this time.

Question 8: Have you assessed what impact the program changes discussed in the information paper will have on the quality of training provided?

Answer: The Army has made a staff estimate based on field training experience of the impact of the program options upon the quality of training. It is anticipated under emergency conditions that some training degradation will occur due to an increase in the trainee to equipment ratio and greater demands on ranges and classroom.

Question 9: Has the Army conducted an on-site, in-depth study of its training bases to determine what program changes are necessary, what changes are feasible, what these changes would require in increased personnel and what funding would be needed to fully implement the changes? If not, has the Department of Defense requested the Army to do such a study, and, if so, when will the study be completed?

Answer: The Army initiated a study of the training installation requirements in December 1978. That study was not completed in time for the FY 81–85 program. It will be completed for the identification of resource requirements by 31 December 1979.

Question 10: How long will it take to phase in whichever program changes are deemed desirable in order to upgrade training base capacity?

Answer: The length of time required to phase in program changes to upgrade the training base capability vary, and are dependent upon funding and lead times required to execute programs. Many are being accomplished by procedural decisions with no additional funding required. Some can be implemented immediately by reprogramming current resources. Others which will require more intensive funding and planning are being examined with a view to funding the high priority requirements.

JUNE 19, 1979.

Hon. HAROLD BROWN,
Secretary of Defense,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: As you know, I have taken an active interest in the current debate surrounding proposals to require the President to begin Selective Service System registration. It is, therefore, with considerable interest that I noted a discussion of the Army's current training base capability in the House Armed Services Committee's report on the Fiscal Year 1980 Department of Defense authorization bill (H.R. 4040).

On page 18 of the Committee's report (House Report 96–166, May 15, 1979) the Committee states that the Army "can now train 133,000 in the first month" following mobilization "and 300,000 in the second . . ." as opposed to current estimates of 36,000 and 66,000 respectively. As I understand it, the Committee's conclusion that the Army is capable of training 3.7 times the number of personnel in the first month following mobilization than is currently estimated, and 4.5 times the number of personnel in the second month than is currently estimated, is based on an information paper provided to the Committee by the Army entitled "Potential for Army Training Base Capacity Upon Mobilization" (copy enclosed). Since this upward revision of training base cacapity would have an obvious impact on the need for rapid delivery of inductees by the Selective Service System in the event of an emergency mobilization, the information paper raises a number of questions. I therefore request that you provide me with answers to the following questions:

1. Is the statement that the Army "can now train" 133,000 personnel in the first month following mobilization, and 300,000 personnel in the second month an accurate reflection of current training base capability?

2. On what assumptions were the upward revisions of training base capability made? For example, did the Army assume that training bases would be at full wartime strength?

3. At what percentage of the base strength assumed in the information paper are training bases currently operated?

4. Do the training bases currently possess the required equipment to provide adequate training for 133,000 personnel in the first month and 300,000 in the second?

5. Are there any initiatives in the current Program Objective Memorandum (POM) to fund the program changes discussed in the information paper provided to the Committee by the Army?

6. Have the program changes to upgrade training capacity, as discussed in the information paper, been implemented? If not, when does the Department of Defense plan to implement them?

7. Have all the program options discussed in the information paper been deemed acceptable by the Department of Defense?

8. Have you assessed what impact the program changes discussed in the information paper will have on the quality of training provided?

9. Has the Army completed an on-site, in depth study of its training bases to determine what program changes are necessary, what changes are feasible, what these changes would require in increased personnel, and what funding would be needed to fully implement the changes? If not, has the Department of Defense requested the Army to do such a study, and, if so, when will the study be completed?

10. How long will it take to phase in whichever program changes are deemed desirable in order to upgrade training base capacity?

I realize that I have requested a great deal of information from the Department of Defense. However, since the DOD authorization bill is expected to be considered by the House shortly, I would very much appreciate it if you could provide me with the information I have requested as soon as possible.

Thank you for your courtesy and prompt attention to this matter.

Sincerely,

JOHN F. SEIBERLING,
Member of Congress.

Mr. NUNN. Mr. President, will the Senator yield for one or two brief questions before he yields back the floor?

Mr. COHEN. I yield.

Mr. NUNN. On one point I did not have a chance to get all the informaton the Senator listed about congressional actions. I think most of those occurred in terms of cuts from recruiting in appropriations bills.

As one having worked with this program for 3 years, and the Senator is on the subcommittee, having worked on it also, I think the Senator should reexamine on the list as an impediment. The DOPMA legislation. That is in the subcommittee. I am dealing with that.

It is a long, tedious piece of legislation. It is like revising the criminal code or the Internal Revenue Code. It deals with the Personnel Office Management Act. It has to do with officers and has no bearing on enlisted men.

No one is making the remark that we have a shortage of officers. All the debate on the Volunteer Force does not relate to that.

I think the Senator should reexamine that particular point.

Mr. COHEN. I suggest to the Senator that a number of things that we have done over the years which has contributed to a decline, in my judgment, and that is the incentive for people to go in the service. I think we can and I understand by the DOPMA legislation——

Mr. NUNN. Some of the military things are going to be less than it is now. What we are trying to do is cut some of the officers who are not giving meaningful functions in our services.

I spend a lot of time trying to increase the military budget and I probably spent as much time as anyone in Congress trying to cut out the fat. One place we have fat is too many admirals and generals, and we have done some cutting on that in our subcommittee and in the full committee and Congress, and we also, I think, are going to make some cuts in the number of officers.

Our critical shortages are enlisted people. I think we can cut officers and save money and really give the officers who remain a more meaningful role. And this will be done over a long period of time. It will not affect the people in the short period of time. But it will give them a more meaningful role.

So I just suggest that that DOPMA legislation really is designed for officers.

I wish to ask the Senator from Oregon and the Senator from Maine one other question.

Mr. COHEN. Let me respond by saying the quality of management, I think, was one of the crucial issues as far as Nifty Nugget was concerned. We revealed the real deficiencies in planning so far as mobilization is concerned. The people responsible are those at higher levels. So if we can improve the quality at higher levels, I think that will also have a direct impact on the mobilization efforts.

That is the only reason I mention it in that context.

Mr. NUNN. What the Department of Defense wants to do is basically increase the costs of the overall officer corps, and I am not sure we went along with the proposals on that to increase the management capability. I understand the Senator's point.

Let me answer the question of my friend from Maine, and I appreciate his kind comments, and my friend, the Senator from Oregon.

In most of the remarks that both my colleagues and friends have made in this debate, I think there are a lot of good points raised that need thorough examination and thorough analysis, but most of these problems relate to the question of whether we are going to have a Volunteer Force or not. I know the Senator from Maine has some real feelings about the whole question of registration and whether there is another way to arrive at the same basic result.

But there is one thing that puzzles me, and I will first of all confess that I am not the No. 1 proponent of the Volunteer Force in Congress. I have been skeptical since its inception. I am even more skeptical now. But, nevertheless, the thing that puzzles me, and I wish to pose this in the form of a question: As to the Gates Commission that was the origin or the foundation for the Volunteer Force back during the Nixon administration, one of the fundamental points they made throughout their whole recommendation to go to a Volunteer Force was that we would continue registration.

In fact, they say emphatically—I wish I had the quote here but I do not—almost to the effect, and I paraphrase and will not try to quote it—unless we had registration the Volunteer Force itself was a faulty concept.

Now I know the Senator from Oregon believes strongly in the Volunteer Force in his philosophical belief. Although he and I do not agree on everything, I have tremendous respect for his views. I have tremendous respect for the views of the Senator from Maine, and I know they are not the same as the Senator from Oregon on this point.

What I really do not understand is why those who seems to be most fervent proponents of the Volunteer Force are so opposed to registration, which was one of the most fundamental underpinnings of the whole Volunteer Force concept and idea. I just do not understand that.

I wish to get some response from the Senator from Oregon. My contention is, and I will close with this and then let the Senators answer it, that those who believe most fervently in the Volunteer Force should also be most anxious to see that its greatest deficiency which is the inability to mobilize in an emergency is addressed, and the only way I know to address it is through registration.

So I pose that in the form of a question.

Mr. COHEN. First, let me respond so far as the All-Volunteer Force mobilizing in time of an emergency. Nifty Nugget did not deal with the Active Force. That is really not where the deficiencies were. The deficiencies were with the Reserves and replacements. The registration had nothing to do with the ability of the All-Volunteer Force to respond to an emergency situation. I think that has been established by the debate this morning and by the colloquy here this afternoon. That has no bearing whatsoever as far as the ability of the All-Volunteer Force.

Mr. NUNN. During the first 90 days. It has tremendous impact after that. You have to assume that a war is not going to last over 3 months to reach that conclusion. I say it does not have to be effective the first 90 days.

Mr. COHEN. That is correct. What Nifty Nugget did talk about was the need for pretrained individuals, and registration does not provide that in and of itself.

The question that I have at least is if you can come up with a better system one that would replace or eliminate some of the deficiencies with the registration system, and I thought I tried to lay some of the problems out, and I will go through it again. They had problems with the draft in the past. For example, draftees served shorter tours and there were lowering experience levels of the force at a time when new weapons systems demanded more experienced people.

I heard the Senator from Georgia say earlier that we had registration in place, therefore we assumed that it would be much easier to locate those individuals at a time of mobilization. There is some opinion in the Department of Defense that takes just the contrary viewpoint, that maintains the most mobile force in this country is the 18- to 26-year-olds. They are the ones who are all over the country, the most mobile and, therefore, the most difficult to locate. If we can devise a better system we should.

Mr. NUNN. On that point, I find that preposterous. That has been true historically, and one of the obligations under registration, the only onerous burden we are placing on our young people 18 to 26 under the Byrd bill is to sign your name and address and keep the draft board, or whatever organization you have, informed about your name and address. That is part of the bill.

I read that from the Department of Defense and that was in reply to a GAO report, and it is totally immaterial and is contrary to everything DOD has been saying about the Selective Service System for 30 years. So I do not understand it. But I know the Senator's point and his source. I just say it is one of the spurious arguments that I have heard from DOD, and I heard him on this subject.

Mr. COHEN. Perhaps that part of the problem we talked about this morning, the conflicting reports coming out of the Department of Defense, is spurious. It is emanating from across the river, and they do suggest there is no effective mechanism for updating the registration even now.

Back to what I am saying, if we could devise the system to accomplish the same result and eliminate the need to deal with those problems generated by registration, then we should try it.

I also wish to go back and talk about some of the problems with the draft that we have experienced. The Senator from Oregon (Mr. HATFIELD) talked about some problems as far as the IQ level.

I have before me some average mental abilities based on some of the tests that they had, and another way to put the quality of today's recruits in perspective is apply the 1979 standards to recruits processed during the last year of the draft and determine what percent would be accepted or rejected today.

It turns out that 66,000 of 374,433 recruits in 1972 would have been rejected. In other words, if we had used the same standards of that time today, you could fill all the spots they are talking about now and could have filled them with the same quality of people we had in 1972.

Mr. NUNN. I think we could stipulate, if I could have 1 minute to respond, that we should never go back to the kind of draft we had during the Vietnam era. It was not only, in my opinion, administered in a very poor fashion, I think it was totally inequitable. I do not believe we should ever go back to that. One of the things most onerous about it and most inequitable, as far as this Senator knows, is the exemption of anyone in college. I woulld never support, in fact I oppose any such legislation coming through this body that would exempt basically the upper middle class of America from serving the country.

That is the problem with a Volunteer Force. That was also the problem with the draft during the Vietnam era. We have a sort of paradox, where the most unfair, inequitable part of the draft during the Vietnam era was the part that basically allowed upper class Americans to escape the duty and obligation of serving their country. That is exactly what has happened with the Volunteer Force. That was the problem that that whole question was aimed at, and I think we have perpetuated it.

But I would not go back in any sense to the draft we had in that era, as the Senator has described it. Unless we are going to include all Americans, unless we are going to have the son of the banker just like the son of the millworker or the son of the janitor, it is not very different.

I think we would have to make sure we had an equitable system, without the system that existed with loopholes that allowed class distinctions and economic distinctions in the predraft classifications.

Mr. COHEN. I thank the Senator for his comments. I think they are quite appropriate. There are questions that are still relatively unanswered. For example, should women be registered? Will they be needed? What is the equity issue involved To what degree will registration be involved?

Mr. NUNN. I note that the Senator has left economics and got into sex now.

Mr. COHEN. Yes; I wanted to get into a pleasant area as I complete my remarks.

What about health provisions? Medical students, would they be registered differently? Should the Military Selective Service Act be modified? We have all these questions.

All I am suggesting to the Senator is, let us deal with those questions, and see if we can achieve the same results the Senator is trying to achieve without the necessity of peacetime registration, which, as the Senator has already indicated, may present all kinds of problems that could totally vitiate what he is trying to achieve.

Mr. NUNN. I think those questions are pertinent, but the Senator has already been through the experience I have been through, of having the Department of Defense come over in June and July and adamantly say, "This is our plan, it will work, we will stand by it, let us try it." But when I point out the deficiencies in it, they run for cover. They say, "We do not want this plan any more, let us have another plan."

My question is, Can we continue to go on and on with studies, and let the Department of Defense come up with no plan, after coming in and finally admitting that what they have is not working?

Mr. HATFIELD. Mr. President, whose time is the Senator speaking on?

Mr. NUNN. I will be glad for it to come out of my time, if that is any problem.

The PRESIDING OFFICER. The time is being charged to the Senator from Georgia.

Mr. HATFIELD. I thank the Chair. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Georgia has 55 minutes, and the Senator from Oregon has 47 minutes.

Mr. HATFIELD. Mr. President, there are three other people on our side. I want the Senator from Maine to complete his remarks; I appreciate his letting me interrupt at this point, but I know of three others, or perhaps four others, who wish to speak, or five people. I just wanted to make a check, because I think we will probably utilize all of our time, but I wanted to make a check at this point.

Mr. COHEN. Let me just conclude, Mr. President, by saying that I think the Senator from Georgia is doing an outstanding job in starting this dialog and debate. I agree with him that we have been getting conflicting opinions, depending upon who happens to be testifying and his personal wishes to shade it one way or the other.

I am hopeful, after the initiative the Senator has taken in bringing the matter to the Senate floor for debate, in private session this morning and now publicly in the Senate, that we can force the Department of Defense to take a consistent position. One of my basic objections to date has been that we had the head of Selective Service testify that he was opposed to peacetime registration, that it was not necessary, we had the Secretary of the Army come in and say he was opposed to the draft, but might favor some sort of registration, but he would not say what it was; then we had the Secretary of Defense say he was flatly opposed to registration, and the White House did not have a position at all.

I feel it is incumbent upon our Commander in Chief, through his Secretary of Defense, to propose a plan that I think makes sense, and one we can judge upon the merits. I hope as a result of Senator NUNN's initiative, we will be able to have that at some time. Dates have been set, I believe, for January 15; they are under some obligation in the House, at least, to come forward with a report by then. But time is growing short, and I believe the Senator from Georgia has rendered the country a service.

Mr. NUNN. Mr. President, I believe the Senator from Maine has made a tremendous contribution to this overall dialog. I believe the questions he raises are legitimate. I remind the Senator from Maine again of the markup next Tuesday.

Mr. MATSUNAGA. Mr. President, will the Senator from Oregon yield?

Mr. HATFIELD. I yield to the distinguished Senator from Hawaii.

Mr. MATSUNAGA. I thank the Senator.

Mr. President, I rise to join the distinguished Senator from Oregon, Mr. HATFIELD, in opposition to the pending legislation, S. 109, which proposes to reinstate Selective Service registration beginning on January 2, 1980. I wish, in so doing, to commend the senior Senator from Oregon on the leadership he has demonstrated in this regard.

Mr. President, one of my proudest achievements, during my nearly 17 years of service in the Congress, is that I was one of the two original introducers of the All-Volunteer Force legislation in the House of Representatives (the late Congressman William Steiger of Wisconsin being the other). As such, I am not convinced that that legislation, enacted in 1971, has failed. While I appreciate the concerns which have been expressed about the preparedness of the All-Volunteer Force, I do not believe that registration is the answer to the problems facing our military services. It is not a panacea, Mr. President; Senators should make no mistake about that.

If registration was, indeed, the only solution to the problems of the All-Volunteer Force, the President, who now has the authority to reinstate registration, would have taken such action. He has chosen not to seek any legislative initiative on registration, and he has announced his opposition to the pending legislation.

I would like to emphasize, Mr. President, that I recognize the right and power of the Congress, under article I, section 8 of the Constitution, to raise an army in the time of declared war. Certainly, I do not believe any American would question the need for registration and the draft in the event that the national security of our Nation is in jeopardy. Our country's experience has been that Americans respond splendidly whenever their country needs them. In World War I, the draft was legislated not because of any lack of volunteers, but because Government officials feared that too many highly qualified men would volunteer, with a consequent disruption in the domestic economy. In World War II, there were, at times, many more volunteers than the military services could use. In Hawaii, for example, when a call for 1,500 volunteers was issued by the War Department, within 10 days 10,000 strong had volunteered. Mr. President, there is no doubt in my mind that Americans will make the necessary sacrifices when the situation demands such a response.

To take steps now toward the reinstitution of the draft when the United States is at peace with every nation in the world, would be to disregard the lessons we learned the hard way through the Vietnam war. In my considered judgment, unless the young people of this country have a clear perception that our Nation's interest, and, indeed, their interests, require compulsory registration and possibly the draft, enactment of these measures by the Congress is sure to produce another era of division and alienation among the American people.

Mr. President, all of our efforts since the end of the Vietnam war to restore the confidence of our young people in our Government will be jeopardized if we move hastily to reinstate registration. Without a doubt, our young citizens who are directly affected by registration will become distrustful of our Government, and once again alienated, perhaps to the extent that they were several years ago.

Registration carries with it much more than just giving one's name to the Selective Service System. The Government is also going to demand to know the whereabouts of young people at all times.

If registration is to serve the purposes of mobilization, any list of names of young people without proper addresses would in effect be useless. The physical condition of the registrants, as well as their moral and religious beliefs regarding war will have to be determined by the Selective Service System. Clearly, Mr. President, under the pending legislation, we would return this country to the classification system which we used during the Vietnam war—a system riddled with loopholes and inequities which nearly tore our country apart only a few years ago.

Mr. President, are Senators prepared, and are the people of this country prepared, to return to the turbulent conditions of the 1960's and early 1970's? I think not.

As far as this Senator is concerned, in the absence of a national emergency which would necessitate swift action on the part of the Congress to reinstate draft registration, the proponents of an immediate return to registration must carry the burden of demonstrating, beyond a reasonable doubt, that the only solution to the problems facing the All-Volunteer Force is compulsory registration. And, to date, Mr. President, a convincing case has not yet been made. The fact of the matter is that there is far too much conflicting evidence, and far too many questions that have not been answered, to allow Senators to make a well-informed judgment on this issue of such great import to our Nation.

In response to those who have called the All-Volunteer Force a failure, the long-awaited Defense Department manpower report released last December stated unequivocally that the All-Volunteer Force—

> Has provided the military services with a full strength active force of a quality equal to or superior to that achieved under the draft.

The report continued that since the end of the draft, the quality of our Armed Forces has not declined as popularly believed, but has markedly and steadily improved. I ask my colleagues: Does this report support an indictment of the All-Volunteer Force? Certainly not.

With respect to our mobilization capabilities, I am sure that Senators are now familiar with the position of Defense Secretary Harold Brown who has stated that—

> The critical step toward achieving our manpower goals is not the immediate collection of names through registration, but rather the immediate improvement of our ability to prepare for processing people, and in the case of mobilization, actually to process them through the Selective Service System.

Mr. NUNN. Will the Senator from Hawaii yield?

Mr. MATSUNAGA. I ask the Senator to permit me to complete, because I have limited time.

Mr. NUNN. I just want to make one point that I think is crucial to this point.

Mr. MATSUNAGA. Will the Senator ask it on his own time?

Mr. NUNN. I think it is crucial, because the Senator is quoting from a report that the Secretary of Defense has disavowed in a public hearing.

Mr. MATSUNAGA. I realize that the report has many conflicting statements.

Mr. NUNN. The Secretary of Defense said in public hearing that this is not his report, this is a report that calls for calling veterans back. The Secretary of Defense said he had never seen the report, even though his letter was signed to it. He disavows the report, so I do not know whether it has a lot of validity. I thought the Senator might want to check into the SALT II hearings and bear that out.

I shall not interrupt further.

Mr. MATSUNAGA. I appreciate the Senator's concern. I shall, in fact, check into the matter. If I do find the facts as the Senator has stated, I shall make my retraction.

Mr. NUNN. I thank the Senator.

Mr. MATSUNAGA. The Acting Director of the Selective Service System, Mr. Robert Shuck, has also said that he is confident that his agency can meet Defense Department mobilization requirements and time deadlines without the reinstatement of draft registration, provided that the Congress appropriates adequate funds for improved computerization of the agency's systems.

As one who is very much concerned about the reports of serious manpower problems in our active and Reserve Forces, I would like to know why we are not considering the options available to us for increasing the number and improving the caliber of our active and Reserve Forces. Several options come to mind—options which have already been mentioned by the distinguished Senator from Oregon:

First. Increased use of enlistment and reenlistment bonuses and other compensation.

Second. Federal income tax adjustments for military personnel and reservists.

Third. Increased nonmonetary benefits for Reservists.

Fourth. A more liberal reserve compensation and retirement system.

Fifth. Expanded educational assistance.

Sixth. Modification of enlistment terms including possibly a shorter enlistment term and combining Active Force enlistment and service in the Selected Reserve.

Seventh. Increasing the size of the manpower pool by reducing standards or recruiting more women and older personnel.

Mr. President, I believe that these and many other considerations must be taken into account before the Congress acts to reinstate registration. I strongly believe that we must have a thorough and comprehensive review conducted of the current state of our military preparedness and the effectiveness of the All-Volunteer Force.

For this reason, I am a cosponsor of the McGovern amendment which would instruct the President to prepare a comprehensive set of recommendations on induction and manpower policies covering registration, Selective Service reform, military personnel requiremnets, national service proposals, the Reserves, and the role of women under the Selective Service System. With such a report in hand, the Congress will be better able to address in an informed and coordinated manner the problems that threaten our national security.

Mr. President, let us not forget one of the most important lessons of the Vietnam war. In Vietnam, we were involved in a war about which the American people were deeply and hopelessly divided. I say that if we continue to move now in the direction of compulsory registration and the draft, without securing, in advance, the public support to sustain such an effort, it could be one of the worst mistakes this Congress will have made since Vietnam. For Congress to legislate on such a crucial issue without full and open public debate is only to invite the most destructive kind of domestic polarization and confrontation. I believe it is our duty to the people whom we repreesnt not to allow this to happen.

In conclusion, Mr. President, I quote Daniel Webster who said, while serving in the House of Representatives:

> A free government, with an uncontrolled power of military conscription, is a solecism, at once the most ridiculous and abominable that ever entered into the head of man.

Mr. President, I urge my colleagues, in the strongest of terms, to resist the temptation to react to the serious problems which seem to be facing our military services by advocating an immediate return to registration. Lend your support, instead, to the careful consideration of every possible alternative we have, other than returning to peacetime draft registration.

Mr. HATFIELD. Mr. President, the Senator from Hawaii (Mr. MATSUNAGA) has also provided us with a very challenging observation and evaluation of the voluntary military system that we have adopted. He speaks from the very excellent position of having been a coauthor of the voluntary system.

Let me remind the Senate today, too, that when Congressman MATSUNAGA, proposed along with Congressman Bill Steiger, the all-voluntary system, they had many hours of hearings. They had all the arguments used here today raised against the whole concept of the voluntary system. They sat through those hours of hearings. They had debate on the floor of the House, they had debate on the floor of the Senate, and hearings as well. Out of the consensus of those hearings and that debate on both floors, House and Senate, came the commitment of this country to a voluntary system.

It was not arrived at precipitately, nor was it arrived at in any way but serious, profound evaluation and consideration.

But Mr. President, I recall that before the year was out, before they even had it cranked up in a recruiting program, there were those voices raised that, "It has failed, it is not working" and those were some of the voices we heard repeated and repeated and repeated about the voluntary system.

So when Senator MATSUNAGA brings to us today his judgment and his evaluation, it is not a cursory one that has just been superficially put together by some staff person and handed to the Member, taken to the Chamber to read on the floor. Here is a man who went through all those hearings, who went through all those debates, who has reviewed that year after year, has made his judgment on that kind of background. It should have great impact, it seems to me, on the persuasion and influence of the Senate toward the position Senator MATSUNAGA, Senator ARMSTRONG, and I have stated here.

Several Senators addressed the Chair.

Mr. NUNN. Mr. President, I ask the Senator from Oregon—Senator HARRY F. BYRD, JR., has been here quite a while. I know Senator ARMSTRONG has, also. I would like to yield to Senator BYRD for his comments, he is the authority of this bill, if that is satisfactory to the Senator from Oregon.

Mr. HATFIELD. I am checking with the Senator from Colorado.

He has graciously consented to the Senator's request.

Mr. HARRY F. BYRD, JR. Mr. President, I understand the Senator from Colorado plans to speak only briefly. I would be glad for him to proceed, if he wished to.

Mr. HATFIELD. Will the Senator indicate how much time he plans to use?

Mr. ARMSTRONG. If it is convenient for the Senator from Oregon to yield me about 10 minutes, that would be my plan. But I would be pleased to await the remarks of the Senator from Virginia.

The PRESIDING OFFICER (Mr. MOYNIHAN). Who yields time?

Mr. NUNN. I yield to the Senator.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the Senate went in session this morning at 9:30. It is now after 5 p.m. The Senate has taken almost the entire day in debating this vitally important question as to whether registration requirements for our young men should be reactivated.

The debate, I think, tonight will go on an hour or more longer, but I think this is time well spent. I think many more days of debate in the Senate should occur within the next few months on this particular subject. It is, I feel, a vitally important subject. It is a matter affecting the security of the United States.

There have been excellent presentations on both sides of the issue today. The more information the American people can get, the better the cause of our Nation will be served.

The Senator from Georgia (Mr. NUNN) in a 3-hour executive session—an unusual procedure for the Senate, a 3-hour executive session—presented to the Senate startling information regarding the status of our Armed Forces.

I think it is important that the Senate have the information that Senator NUNN presented today.

The question of reactivating registration, namely, requiring the young men of our Nation to register, is one which does not at this time have majority support in the House of Representatives. I doubt that it has majority support in the Congress of the United States. But I might suggest that the majority is not always right.

In his presentation to the Senate this morning, the Senator from Georgia mentioned a letter from the Secretary of Defense replying to a letter addressed to the Secretary by the chairman of the Committee on Armed Services. The Committee on Armed Services had requested that the information which was submitted to the Senate today in executive session be declassified.

In replying to that letter, Secretary Brown said this:

> The Army's detailed listings of manpower requirements, supplies, and shortfalls cannot be declassified without serious damage to national security.

I do not take issue with Secretary Brown's statement. I point it out, however, to suggest that our military forces do have very grave and very severe problems which, for the most part, are not apparent to the Congress and to the American people.

I am glad to have joined the Senator from Georgia (Mr. NUNN), and the Senator from North Carolina (Mr. MORGAN), in presenting to the Senate the proposal that is now being debated, namely, to require registration by the young men of our Nation beginning next January.

Now, what is so objectionable about registration? No one is advocating a draft. The only thing that is being advocated is that the young men, as they become of age, register so that the Government, in the time of emergency, will have available their name and address.

I cannot see that that works any hardship on anyone.

Mr. President, in hearings before the Senate Committee on Armed Services, every member of the Joint Chiefs of Staff, including the Chairman of the Joint Chiefs of Staff, told the committee that it was vitally important that registration requirements be reinstituted. That is what the pending legislation would do.

I think it is important for all of us to recognize that that present law, the law today, requires registration.

What happened was that President Ford in 1975 suspended registration under that statute, and President Carter has continued to suspend the registration requirement.

The legislation pending before the Senate would merely keep the law as it is, but it would prevent the Preident from setting it aside.

Mr. President, in the 5 years which have elapsed since the end of the Vietnam war, in addition to a termination of conscription, the Selective Service System itself has been virtually dismantled and reduced to caretaker status. It is effectively inoperative.

The pending legislation would activate current law in regard to registration. It would mandate a resumption of registration, but it would not activate classification of registered individuals unless the President declared classification to be in the national interest. The legislation would require the President to submit a proposal on classification within 90 days of the enactment of the section.

In considering the pending legislation, I believe it is important to remember that under article I, section 8, of the Constitution, the Congress is invested with power and has responsibility "to raise and support armies" and "to provide and maintain a Navy." The Constitution thus requires that the Congress, to insure an adequate defense, must also insure that adequate manpower will be available in sufficient time to meet the security needs of the country during a crisis.

Now, Mr. President, at first, the harmful results of failure to continue Selective Service registration were not apparent. Many assumed that since conscription was no longer necessary, then registration was likewise no longer necessary.

We now know otherwise. We should have known otherwise before this. As Senator NUNN pointed earlier, the Gates Commission, which was responsible for the creation of the All-Volunteer Military Force, advocated the all-volunteer procedures on that assumption, and with the understanding, that registration would be a component part of it.

The evidence is overwhelming that Congress must act to reinstitute registration. Repeated studies by the Department of Defense and by a variety of other Government agencies have all pointed to the same conclusion. Draft registration and bringing the selective service machinery out of "deep standby" are steps which have become essential to national security.

In November of last year, Gen. David Jones, Chairman of the Joint Chiefs of Staff, disclosed that the Joint Chiefs recommended revival of peacetime draft registration. General Jones pointed out that a major factor in the Joint Chiefs' recommendation had been the discovery of several severe problems in mobilization which were encountered during test mobilization exercises.

The Joint Chiefs found that mobilization of Reserve Forces and expansion of the peacetime, All-Volunteer Regular Forces could not be accomplished within sufficient time to guarantee required force levels in a crisis.

The basic conclusions of the Joint Chiefs have, since November, been reinforced by additional study.

On December 26, 1978, the General Accounting Office completed and released its very thorough review of the operations of the Selective Service System and of the System's present ability to meet Defense Department needs.

According to the GAO, if the United States had to mobilize for war, it would take 125 days to get only the first 100,000 inducted soldiers into training. A delay of that magnitude, in a crisis, could cause defeat.

Since by law, minimum training before combat has been set at 12 weeks, the period between mobilization and induction is the primary variable in determining the time needed to reach the theater of operations.

Registration would reduce substantially the time delay which would now occur between mobilization and induction.

Registration will not solve all the problems. No one contends that it will. But registration will have a significant impact on correcting some of the problems or many of the problems we now have.

The Senate, in considering this matter, must face some cold, hard facts. Mobilization today would present problems so severe that the military services would not be capable of meeting national emergency requirements in terms of manpower.

The Selective Reserve, comprised of the existing Reserve units which would augment active military forces, is over 30,000 reservists below its authorized strength. Further, the Individual Ready Reserve, the primary force of trained individuals available for replacement and augmentation in emergencies, is an astonishing 500,000 below mobilization levels for the Army alone.

Moreover, there are critical shortages of doctors and other highly skilled personnel, both in Active and Reserve components—although registration alone would not tackle that problem.

The plain fact, Mr. President, is that if the United States had to respond to a crisis, the Army would not have sufficient combat manpower in combat units. The Army would be required to pull soldiers from units scheduled to be deployed at later dates in order to use those soldiers for individual augmentation and replacement in units already deployed. Even taking this extraordinary step, according to the Army Chief of Staff, Gen. Bernard Rogers,

> We only have sufficient personnel for a very small percentage of the combat arms requirement. They would only last for X days, but X is not a very large number of days.

Current Department of Defense plans envision and require the delivery of the first Selective Service inductees within 30 days following a decision to mobilize; 100,000 inductees are required within 60 days. And 650,000 inductees within 180 days.

But, Mr. President, the evidence is clear that the Selective Service System in its present state could not deliver even a few inductees until at least 3 months after mobilization.

And the primary problem, Mr. President, is the nonexistence of an ongoing and current program for registration of eligible individuals. This fact has received increasingly widespread recognition.

The Secretary of Defense, Harold Brown, appearing before the Committee on Armed Services on January 25, 1979, testified as follows:

> I think that Selective Service is not in a situation now where it could meet our requirements should there be a major conflict. It would take too long to register, classify, process, conscript, and so on. For that reason, I believe that we ought to bring Selective Service up to a higher degree of readiness.

Gen. David Jones, Chairman of the Joint Chiefs of Staffs, again focusing attention on the impact of Selective Service deficiences on existing manpower shortages, provided the committee the following information:

> The manpower shortage is further compounded by the lack of a responsive Selective Service System to meet the mobilization manpower needs of the Services. Since registration is one of the most crucial aspects of manpower mobilization, the establishment of a mechanism which provides for peacetime registration is needed now . . . While registration and initial screening would not eliminate the pretrained-manpower shortfall during the early stages of mobilization, it would decrease significantly the total shortfall.

Mr. President, the other members of the Joint Chiefs of Staff have each also recognized the same serious implication of the current inadequate capabilities of the Selective Service.

According to Army Chief of Staff, Gen. Bernard Rogers,:

> Under the current Selective Service System capabilities, providing the first inductees at M+110 days to start training, newly trained soldiers would not be available to fill and sustain deployed Army units until 7 months after mobilization. In view of the Army's current pretrained manpower shortfall of approximately 500,000 to meet the requirements for the defense of NATO in a major war that starts with little warning, this is a very dangerous situation. Although improving the Selective Service System capability to deliver inductees sooner by establish-

> ing peacetime registration will not eliminate the Army's total mobilization manpower deficit or even influence the manpower shortfall in the first 90 days, it will shorten the time of availability to the deployed units of the first newly trained inductees from M+210 to M+110 days.

That is from General Jones. Thus what he is saying is that it would reduce the time by from 7 months to less than 4 months or a reduction of over 3 months.

The present Chief of Staff of the Army, Gen. David Myer, agrees with General Rogers' assessment. General Myer testified last Thursday to the Committee on Armed Services that he also believes that under the existing system it would take a full 210 days, 7 months, to get new draftees in the field in the event of an emergency. That period of time is simply too long.

Mr. President, the overall seriousness of the Selective Service inadequacy is understood in the Air Force and Navy as fully as it is understood in the Army.

The Chief of Naval Operations, Adm. Thomas B. Hayward, testified as follows:

> Any inability of the Selective Service System to ensure the timely flow of forces to the war places the outcome of our strategy in serious question, and our national security in jeopardy.

According to Air Force Chief of Staff, Gen. Lew Allen:

> The United States needs to have, in being, a system which will provide a continuous inventory of potential inductees for mobilization. That capability does not now exist. The national security risk associated with a weak Selective Service System is significant.

To summarize, Mr. President, there is virtually unanimity among the Nation's top military leaders that the current capabilities of the Selective Service System are not adequate and that, as a result, there is a serious risk to the national security.

All of these top military officers are firm, definite, and clear in that assertion in the public testimony to the Committee on Armed Services. All of them advocate a reinstatement of registration requirements.

I might add my own opinion, Mr. President, that the risk posed by our failure to have an adequate system of registration does in itself assume an ongoing strategic significance that is certainly fully recognized by the potential enemies of our country.

In these circumstances, a failure to reinstate promptly registration requirements would be a grave mistake. It would be a mistake that, in a future crisis, would put in jeopardy the security of our Nation.

I might say that I recognize when I use the word "promptly" that there is not a realistic likelihood of Congress promptly adopting the legislation in question to reinstate registration. I think it is going to take many more sessions of the Senate during which detailed debate can be had on this subject and by which a greater understanding on the part of the public can be developed regarding the need of this legislation.

I think the initiative which has been taken by the able Senator from Georgia in dramatizing the military problems, particularly in the manpower field, which deface our national defense, is an initiative of much importance to the future of our Nation. I commend Senator NUNN for the tremendous work that he has done in this field.

Mr. NUNN. I thank my friend and colleague from Virginia. I must say that the initiative in this regard was largely due to the Senator from Virginia and the Senator from North Carolina who introduced bills on this subject and who have pursued it vigorously. Without their leadership this matter would not have moved this far and certainly would not have moved through the Senate Armed Services Committee.

So I thank him for his kind remarks and for his excellent presentation.

Mr. HARRY F. BYRD, JR. I thank the Senator from Georgia.

I hope as time goes on the public will become more aware of the need to take action in this field, and I admit, frankly, that the position taken by the Senator from Georgia, the Senator from Virginia, and the Senator from North Carolina, and others, is not a very popular one at this point and we recognize that as being the case.

But I think that we, especially since we are members of the Committee on Armed Services, have an obligation to present the facts to the Senate as we see them and as we can get the facts from the Defense Department. Then the Senate, of course, can make its own judgment as to how it might wish to proceed.

I personally would feel better in presenting my own views and in urging the adoption of this legislation, if action were taken only after a full exposition of the facts.

Mr. NUNN. I thank the Senator from Virginia.

I am not sure about the votes in the Senate. But it is apparent there are not the votes in the House of Representatives. The primary reason for not voting here in the Senate, as far as the Senator from Georgia is concerned, it is apparent this bill would not have any chance of being approved this year, and I think we would be better off not asking our colleagues to vote on a matter of this nature when there is no chance of having it passed through both Houses.

Of course, the Senator from Oregon is such an articulate and well-regarded opponent of this legislation that he makes this imperative measure for the national security indeed very difficult to achieve.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield a moment?

Mr. NUNN. I yield.

Mr. HARRY F. BYRD, JR. I misspoke a word. If I said the "Senate" I meant "Congress." I did not mean the Senate. I meant Congress. I misspoke myself.

Mr. NUNN. I thank the Senator from Virginia.

The Senator from Oregon is here now and he can speak for himself. But I think the Senator from Colorado had asked to be recognized on the time of the Senator from Oregon. Then I will yield whatever time the Senator from Virginia wishes before I make any further remarks.

Mr. HATFIELD. Mr. President, if the Senator will yield, the Senator from Colorado again in a very gracious gesture yields to the Senator from Virginia who I think wishes to ask for some time of the Senator from Georgia.

Mr. NUNN. Mr. President, I am glad to yield to the Senator from Virginia the time he wishes.

The Senator from Colorado and I will wait with our remarks until he completes his.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. I thank the Chair, and I thank my colleagues for the opportunity to express my views.

Mr. President, as a member of the Armed Services Committee, and as a member of the Manpower Subcommittee, I have alined myself and given total support to Senator NUNN in this effort.

This has been an historic week in the Senate on behalf of national defense. We have heard messages from the President and the Joint Chiefs of Staff, and quotations from innumerable admirals and generals and many other knowledgeable individuals on this vital subject.

Yet, Mr. President, I wish to add to the record of this debate another quote, another expression of opinion which in every respect is just as important as that of the President, the Joint Chiefs of Staff, and my distinguished colleagues. That message comes from those soldiers and sailors who are now, at this very moment, on the perimeter of our defense worldwide protecting our Nation.

Had those individuals been given the opportunity to hear this debate this week, they would have been grateful to the Senate for the vote this week to add more dollars to our defense effort—dollars which will be translated into weapons, food, logistics, and the necessary materials with which to defend this Nation.

But those same soldiers and sailors would say, "All well and good to send me supplies, but we need help in terms of manpower as well. We need other soldiers and sailors to help us defend our Nation."

This may sound oversimplified, but there are many Members of this body who have served honorably and with great distinction in the Armed Forces, and I ask them to recall their own personal experiences. In a very modest way, I have participated in three wars. The privates would say, "It is no less important that you send me the material, the ammunition with which to defend freedom, but I need reinforcements as well."

I do not say this in any way in criticism of those who have presented opposition to this bill, because I think we are rapidly coming to the point where we all recognize, proponents as well as opponents, that we must solve this problem and solve it promptly. In fairness to the families that are waiting at home for his safe return—and, I might add, her safe return, because there are many women who have volunteered to serve on foreign assignments in a supportive role—we owe it to each and every one of them to rapidly resolve this problem, so that there will be no questions in the minds of those brave individuals who volunteer in the name of freedom to serve abroad.

Again, I would like to compliment the distinguished Senator from Georgia, Senator NUNN, for his excellent presentation on the need for reinstituting the draft registration during our debate this morning which had to be closed to meet Department of Defense classification requirements.

This is an issue that many would like to see go away. It is not all that popular to advocate a return to draft registration, but Senator NUNN has had the courage to do what is right. I join him.

It is only through such efforts, and the efforts of other Senators, like Senator BYRD of Virginia and Senator MORGAN of North Carolina, that this vital issue is being brought to the attention of the full Senate and, hopefully, to the attention of the American people.

The American people need to know the state of our military readiness, and they need to know how registration, or the continued lack of registration, will affect that readiness.

As a member of the Armed Services Committee and its Manpower and Personnel Subcommittee, I have been able to study this issue this year. Based on that study and on my own military experience and background, I have come to the conclusion that we must return to a form of registration, but not a resumption of the draft.

Our Nation needs registration to protect our ability to mobilize our Armed Forces in a time of crisis or war. As it now stands, without registration, there is little doubt that our Armed Forces would not be capable of meeting a national security emergency which required a major and rapid increase in military manpower levels.

I do not intend here to make a detailed case for registration. Senator NUNN has already done that—and much of the case can be found in the pages of the Armed Services Committee report on this bill.

I recognize that the House of Representatives just a few days ago voted against registration.

Nevertheless, this issue will not go away. The Senate and the Congress will be faced with it again next year and every year thereafter until the problem is resolved.

Until our mobilization and military readiness problems are solved, I and my colleagues will continue to fulfill our responsibility to raise this issue and assure that both sides are debated in the open. Eventually, the sound judgment of the American people will prevail.

My decision to support the committee recommendation to reactivating registration was predicated upon the following facts drawn from the Senate Armed Services Committee report:

MOBILIZATION PROBLEMS

Testimony presented to the committee indicates that manpower problems in the event of mobilization are so severe that the Military Services are not now capable of meeting our national emergency requirements in terms of manpower. The Military Services are encountering increasing difficulty in recruiting sufficient manpower to meet active duty levels. The Selective Reserve—the units that would augment active military forces in a mobilization—are over 30,000 below anthorized strength. According to testimony, the Individual Ready Reserve, the primary force of trained individuals for replacement and augmentation in emergencies, is 500,000 below mobilization levels for the Army alone. There are critical shortages of doctors and certain other skilled personnel in both active and reserve components.

If an emergency occurred, the Army indicates it would not have sufficient combat manpower in combat units. It would pull people out of units scheduled to deploy at later dates and use those people for individual augmentation and replacement earlier. Even so, according to Army Chief of Staff General Rogers: "We only have sufficient in there for a very small percentage of combat arms requirement. They would only last for "X" days but "X" is not a very large number of days." The Army would also plan to use personnel who were in inactive status but who had not yet completed their 6 years military obligation. This would still not provide sufficient manpower, so the Department of Defense then plans to conscript veterans who have no military obligation and who do not expect to be recalled. Veterans under age 30 who have no remaining military obligation are those who were drafted or enlisted between 1968 and 1973. The committee has previously recommended against such an inequitable policy of conscripting Vietnam veterans before those who have never served.

The military may not be able to insure adequate medical support in a major conflict. The Air Force early in any war can meet only 15 percent of its stated theater requirement for general surgeons and 9 percent of its stated orthopedic surgeon requirement. The Navy could meet only 27 percent of its anesthesiology requirement and 50 percent of its general surgery requirement. Grave shortages also exist for Army sugeons and nurses. There would be substantial shortages of enlisted medical manpower, a shortage of hospital beds in theater of up to 35 percent, and a shortage of aeromedical evacuation assets.

Combat manpower would fall short by substantial amounts and these shortages would be especially acute in the most critical, large combat skills: infantry, armor and chemical specialists. The committee hears much about the need for more tanks and equipment but not as much about the lack of people to operate the weapons.

In addition, testimony is unanimous that the Selective Service System cannot meet the Department of Defense stated requirements for the delivery of inductees in mobilization. It should be noted that Department of Defense plans have never included reliance on an All-Volunteer Force in case of mobilization, and the delivery of inductees under a military draft is an important part of our mobilization capabilities. In a report by the Department of Defense on the All-Volunteer Force on December 31, 1978, the Department states:

"If deterrence fails and a major conventional conflict continues beyond the initial engagements, the ability to rapidly mobilize, train and arm these previously untrained personnel may be the difference between victory and defeat or between staying conventional or being forced to shift to the awful spector of international nuclear war."

The current Department of Defense stated requirements for the delivery of personnel are for the first inductees by 30 days following the decision to mobilize (M day), 100,000 inductees by M day +60, and 650,000 inductees by M day +180. Currently the Selective Service System is capable of delivering the first inductee 3–4 months after M day; less than 60 percent of induction requirements would be met by 6 months after M day.

The implications of the current inadequate capabilities of the Selective Service are most serious.

According to General Rogers:

"Under the current Selective Service System capabilities, providing the first inductees at M+110 days to start training, newly trained soldiers would not be available to fill and sustain deployed Army units until 7 months after mobilization. In view of the Army's current pretrained manpower shortfall of approximately 500,000 to meet the requirements for the defense of NATO in a major war that starts with little warning, this is a very dangerous situation. Although improving the Selective Service System capability to deliver inductees sooner by establishing peacetime registration will not eliminate the Army's total mobilization manpower deficit or even influence the manpower shortfall in the first 90 days, it will shorten the time of availability to the deployed units of the first newly trained inductees from M+210 to M+110 days."

According to Chief of Naval Operations, Admiral Hayward:

Any inability of the Selective Service System to ensure the timely flow of forces to the war places the outcome of our strategy in serious question, and our national security in jeopardy."

According to Air Force Chief of Staff, General Allen:

"The United States needs to have, in being, a system which will provide a continuous inventory of potential inductees for mobilization. That capability does not now exist. The national security risk associated with a weak Selective Service System is significant."

Although there is unanimous agreement that the current capabilities of the Selective Service System are inadequate, there is no such agreement on the appropriate remedy. There are three alternatives: Improved planning by the Selective Service System; registration in peacetime or in an emergency by use of Social Security and Internal Revenue Service records; peacetime registration.

RECOMMENDATION DOES NOT INCLUDE A RETURN TO THE DRAFT

The committee recommendation does not include a return to involuntary induction for military service. There is no authority in law for induction and specific legislation would have to be enacted before any inductions could occur.

In addition to enhancing the capability to meet mobilization requirements, some witnesses believe the reinstitution of registration will enhance the viability of a volunteer force by reminding citizens of their basic obligation, providing useful recruiting information to recruiters and inducing reserve enlistments. Certainly the recommendations of the President's Commission on the All-Volunteer Force included an effective standby draft. The committee has expressed its concerns about the current policies of the All-Volunteer Force many times in the past. It is clear that registration is needed and that this bill does not permit conscription. Whether further changes will be necessary must be addressed based on a continuing assessment of manpower requirements, including the effects of registration.

SUSPENSION OF CLASSIFICATION

The committee recommendation suspends classification and examining procedures. The bill as recommended thus provides for simple registration only. Classification and examining procedures would be suspended until January 1, 1981, unless the President determines it is in the national interest to begin classification earlier.

Registration provides the means for early delivery of inductees in an emergency. Classification procedures would add efficiency to processing since those who would not be inducted would not have to be processed or examined at the same time as those being inducted. However, the committee believes that the categories and standards for exemption and deferment and the procedures under current law must be completely reviewed. The Selectve Service System should be equitable and fair, and the committee feels that deferment and exemption categories should be limited to conscientious objectors, those morally, mentally and physically unfit and only such other categories that the President believes are necessary in the national interest.

CONTINUATION OF PRESENT LAW AND POLICY REGARDING WOMEN

The committee recommendation would continue the provisions of present law which require that only men be registered under the Military Selective Service Act. The committee recommends that this policy be continued and that women not be included in the requirement for registration. The committee feels strongly that it is not in the best interest of our national defense to register women for the Military Selective Service Act, which would provide needed military personnel upon mobilization or in the event of a peacetime draft for the armed forces.

The committee is aware of the significant contribution now being made to our armed forces by women in uniform. The number of women in the military has increased significantly in the past few years and is expected to continue to increase.

History gives examples of women who fought alone and with men during past periods of strife. Women have defended themselves against attack and have been inadvertently drawn into combat activities in defense of their country. Although such examples exist, throughout history women have not regularly participated in combat and no society has ever relied on conscription of women primarily for combat roles. Current law and policy exclude women from being assigned to combat in our military forces, and the committee reaffirms this policy. The policy precluding the use of women in combat is, in the committee's view, the most important reason for not including women in a registration system.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? What is the will of the Senate? If neither side yields time, it will run equally against both sides.

Mr. HARRY F. BYRD, JR. Mr. President, how much time remains?

Mr. ARMSTRONG. Mr. President, I beg the Chair's pardon. I was on my feet seeking recognition. I ask that I be recognized at this time.

The PRESIDING OFFICER. The Senator is entirely correct. He has been on his feet. We are under controlled time, and the Chair would ask one of the Senators controlling the time, who yields time?

Mr. HATFIELD. Mr. President, I yield 10 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Chair thanks the Senator from Oregon. The Senator from Colorado is recognized.

Mr. ARMSTRONG. I thank the Chair, and I thank the Senator from Oregon for yielding. I beg the indulgence of my colleagues, the Presiding Officer, and the staff; I intend to be quite brief.

I have followed with the utmost interest the discussion during the last several hours about a problem which I think is the most meaningful and significant problem facing our country. I particularly associate myself with the remarks of the junior Senator from Virginia a moment ago, in saying that those who are concerned with national defense are heartened by the action of the Senate this week.

Mr. President, the provision of a 3-percent increase for national defense in real terms above the President's recommendation is, indeed, a historic event. I wonder when the last time was that the Senate went above a Presidential recommendation. I think that is great. I think it transmits an unmistakable message to the Soviet Union, to other potential adversaries, and I trust to the U.S. House of Representatives.

I also listened with the utmost interest to the remarks of the senior Senator from Virginia, who, of course, as usual, was logical and persuasive, and marshaled a very meaningful case in support of the legislation which has been brought to the floor.

I particularly compliment the Senator from Georgia (Mr. NUNN). I think he is rendering us a great service by bringing this issue to the floor this evening.

I was impressed during the course of the debate on the Hollings amendment by Mr. NUNN's comments about the military manpower issues, in which he summed them up as being the most critical defense need facing this country. I agree with that. We must have more weaponry, more ballistic missiles, more bombers; we need more military research and development, but above all, we need dedicated, well-trained men and women to operate our military machine.

However, the bill that comes before us tonight attempts to address the manpower needs of the country in a way which I believe to be seriously in error. I would like to take a moment to sum up the principal arguments that I have heard over the last several hours, and which have been advanced prior to today.

Senator NUNN and others have pointed out, rightly in my judgment, that the Volunteer Army is not working very well. Senator HATFIELD, Senator MATSUNAGA, and other Senators have said, "wait a minute, it is not all that bad, really; the problems of the Volunteer Army have been exaggerated."

I would like to stake out, for the purposes of discussion tonight and also for decisionmaking over the next several weeks, a third position—a position which recognizes that the Volunteer Army is not working, but a position which suggests that it can be made to work, and that there are some very specific reasons why the manpower needs of this Nation are not being met at the present time.

Having said that, let me recap briefly the evidence that indicates to me that the volunteer service concept, which I was pleased to support and which, in principle, I continue to support, is not working.

The Armed Forces are smaller in number today than at any time since 1950, and yet the uniformed services are having the utmost difficulty in meeting their peacetime manpower requirements, to say nothing of potential needs in the event of a national emergency—especially, as the Senator from Oregon has rightly pointed out, an unpopular national emergency.

This year, for the first time ever, all of the services have failed to meet their recruiting goals. In the first 10 months of the 1979 fiscal year, the Army experienced a shortfall of 17.4 percent in its recruiting goal. The Marine Corps, Navy, and Air Force recruited only 93, 94, and 96 percent of their respective goals. The recent highly publicized recruiting scandal indicates the Army's problems may be even more severe than these statistics would indicate.

The armed services are also discovering that a steadily increasing percentage of those they do recruit are unsuitable for military service, and must be discharged before their enlistments expire.

Compounding the problem is the fact that the learning skills of those who are attracted to our active forces, and who do serve out their terms of enlistment, is declining. Nearly 50 percent of all male volunteers test mentally in the lower half of the U.S. population, compared to 32 percent in 1974. Army training manuals are being rewritten downward from an 11th to an 8th grade reading level. This is a very serious development in an Army where a corporal who commands a tank is responsible for a more complex piece of machinery than the fighter planes college graduates flew during World War II.

However, to my mind by far the most serious personnel problem in the Armed Forces is the declining rate of reenlistments. The shortages are especially acute in the middle noncommissioned officer and officer grades, the highly trained men and women who have the skills and experience necessary to operate the complex weapons in our modern, technology-centered Armed Forces. The Navy lacks 17,000 skilled petty officers with 9 to 16 years of service, and is suffering shortages of officers trained as nuclear submariners, pilots, and doctors. The Army is short more than 46,000 the Air Force more than 3,000.

These shortages are compounded by the fact that there is no lateral entry into the Armed Forces. If a fighter squadron commander or submariner leaves the service, the Navy or Air Force cannot go into the civilian job market and hire someone to replace him. It takes many years, and many thousands of dollars, to train another to take his place.

Now, the bill that comes before us today for discussion and which may, on another occasion, come before us for a vote suggests that the solution to manpower problems of our service is reinstitution of registration and, in the opinion of many, this will lead to a reintroduction of the peacetime draft.

I should like to suggest that that is the wrong solution to the problem, at least at this time.

There are many reasons for this alarming decline in the quantity and quality of military manpower, but survey after survey have made it clear that low pay and eroding benefits are the primary reasons. Qualified, motivated, patriotic men and women are discovering that they, literally, cannot afford to serve their country.

Most of us have suffered from inflation, but none so severely as the members of the Armed Forces. From December of 1972 to October of 1978, the cost of living rose 59.9 percent. But the regular military compensation—base pay plus allowances for housing and subsistence—of the Armed Forces rose by only 40.8 percent.

Overall, there has been a real decline of 12 percent or more in regular military compensation for each pay grade since 1972.

For instance, a sergeant E–5 with a wife and one child drew pay and allowances amounting to $7,781 in 1972. In 1979, an E–5 with a wife and a child would be entitled to regular military compensation of $11,736. But that income measured in inflation-adjusted 1972 dollars, amounts to only $6,848. In other words, this sergeant has a pay cut of $933.

The result of this substantial erosion in a salary that was not high to begin with is that many junior enlisted men whose wives are unable to work need to go on welfare in order to provide for the needs of their families.

The adverse effect of this erosion of pay has been magnified by the decline of the dollar overseas and by a higher than average increase in the cost of living in the Nation's capital. As a result, duty stations which once were sought after have become hardship posts for our ncos and junior enlisted men, and for that matter for many of our officers, as well.

Hand-in-hand with the decline in regular military compensation, there has been an erosion in commissary subsidies, health benefits, and retirement pay.

Given these facts, the wonder is not that the Armed Forces have been having so much trouble in recruiting and retaining the men and women they need.

In my opinion, Mr. President, the volunteer concept has not failed; the Congress has failed to keep faith with the volunteer concept. We said we were going to pay what it took in the market to attract and hold qualified personnel. Instead, year after year, we have failed to fulfill that obligation. Military pay has lagged so far behind that of the civilian economy, because time after time we have singled out our servicemen and women to be the cannon fodder in our half-hearted war against inflation. Time and again, Congress has put artificial pay "caps" on cost-of-living increases for military personnel. As a consequence, the increases of military personnel have fallen below the inflation rate and they have had a pay cut.

Again, this year, in fiscal 1980, this is going to happen unless Congress takes corrective action.

I am pleased that President Carter has recently changed his mind about retaining the 5.5-point percent pay cap and has proposed instead that military personnel and Federal civilian workers will be given a 7-percent pay increase which he has recently suggested. This is a gesture in the right direction, but it is only a gesture, because it still means that servicemen and women are going to have a pay cut after inflation of 3 percent.

This is not only unjust, it is dangerous and it is precisely the reason for the attrition in the ranks of our uniformed personnel. Our manpower shortages, as has been eloquently discussed here today, are already so severe that we cannot afford to aggravate this situation by legislating a further reduction in military pay.

Mr. President, in a few weeks, I am going to propose an amendment to H.R. 5359, the defense appropriation bill, to lift the pay cap—not to lift it to 7 percent, but to take the pay cap off. This does not represent some kind of bonanza for service personnel; it only goes back to the original concept of the volunteer service, which Senator MATSUNAGA has spoken of so forcefully and vividly here today. It just says that we are going to make whole our service personnel. We are just going to protect them against inflation, just keep them even with, not ahead of, the cost of living. To lift the pay cap will cost about $800 million and I shall suggest to my colleagues in the Senate that this is the best $800 million we could spend.

Should we pass the pending legislation—and I think the sponsors have made it clear that they do not intend to press for passage today. If they did, I must confess that I have grave doubts about it for reasons which the Senator from Oregon, the Senator from Maine, and others have so well stated. I do not think we have to bite that bullet today; I do not think we have to bite it this year. I think there still remains a clear chance to make the volunteer service concept work if we are only willing to go back to one of the original bases of it; that is, to meet the cost of living.

The reason I have taken the floor today is to invite my colleagues to join me in this effort and to encourage their support of this amendment when I offer it, when the defense bill comes to the floor.

Mr. HATFIELD. Mr. President, I yield myself such time as I may need.

I commend the Senator from Colorado for his very thoughtful presentation. I think it is a very interesting illustration, too, of the issue that we have at hand, how it cuts across all political philosophies and party labels. The Senator from Colorado and I occupy the same side of the Senate as our fellow Republicans. We represent different parts of the political spectrum as it relates to philosophy. Yet here we come together on something of this kind, this very fundamental matter that involves all Americans, not just those who would be vulnerable to the draft or possible candidates for a voluntary military. It strikes at the very foundation of the Republicans beliefs in freedom, freedom versus coercion.

I think what the Senate has especially focused on today has to do with the matter of whether we compensate those in the military with a fair compensation, one that is competitive with a civilian job that they might otherwise occupy. So often I can recall my own experience in World War II, when we got our paycheck, and it was a small, paltry amount, as everyone knows. The assumption was that we were performing a responsibility to defend our country in time of war.

But I also would like to suggest that we should not expect those who are willing to risk their lives in peacetime or wartime to defend their country, that we should demand that they subsidize their own service vis-a-vis the kind of remuneration which we do or do not provide.

I think that too often, we have assumed that the military person is getting his board and room and getting uniforms, if he is enlisted, furnished by the Government and, therefore, he ought to be grateful for a few dollars a month for pin money. Then there are those who wonder why a voluntary system may not be working as well as it could.

I thank the Senator from Colorado for focusing upon that important part of the voluntary service. I do not think any of us, the most enthusiastic supporters of the voluntary service, believes that it could not be improved. It must be improved. But I also would like to point out that, too frequently, those who have been in charge of making it work have been so totally opposed to the concept that I am not certain they have given it all they could. That is why I think many of those who are raising the question today have been skeptics before the fact and skeptics during the fact, and they are going to be skeptics no matter what the facts are.

I was earlier asked about the basis of comparison. Let us remind ourselves today that for 180 years of the Republic, we had a voluntary system. Of course we lived in a different period than today, but every era has had its dangers of one kind or another. We cannot just say that because there is a Soviet Union today, the United States of America did not face other threats in the 1840's or 1830's or the 1880's. There were different kinds of threats in the world. There could always have been arguments used to call forth a draft or for a compulsory military service. But this Republic has survived. It has been a prosperous Republic, and it has had more years of freedom and voluntarism than it has of coercive military conscription. Those occupations were not without their disadvantages and very, very sorrowful experiences came out of those periods of the draft.

I thank the Senator from Colorado for his contribution.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HATFIELD. Mr. President, I yield myself an indefinite amount of time.

Mr. President, I am not going to prolong this debate any longer. I want to make one or two additional comments and yield back the rest of my time, or be ready to, or yield my time remaining to the Senator from Georgia if he needs more time.

Even though we have not planned, or had not planned and have not moved to any kind of decisionmaking on this issue today, and even that we have not developed any kind of consensus, or intended to do so, I, too, wish to thank the Senator from Georgia for raising the issue because I feel that the American people have to be brought into this debate more than what they have been to this point.

I think when we get beyond the college campus or the high school senior civics class, we really do not have a great deal of public knowledge or public understanding that this is a current pending issue.

So I think the Senator has provided that kind of service today to at least this weekend, or maybe through next week, who knows how long it will be sustained, that there will be disseminated around this country the fact that the Senate of the United States has debated at some length the issue of military manpower generally and the issue of the draft registration, the step leading to the draft, as a specific.

I hope that out of this general signal, notification, that we will get more of a public involvement, public concern, and the public involved in this whole matter. It seems to me that if the public awakens some morning and finds out we have, by some rather questionable wisdom, at least I would think it would be questionable, overcome the obstacles I will try to throw in the pathway every step of the way and that we had reinstituted the draft, and that 17-, 18-, 19-, and 20-year-old sons were all of a sudden subject to a coercive registration, or mandatory registration leading to possible coercive service in the military, I think we would have a Nation up on its haunches.

I do not think those are healthy experiences. I think they ought to be part of the process that reaches those conclusions or those decisions, and unless they are, then we get reactions rather than responses.

So I, therefore, find that even though I am so adamantly opposed and so totally in disagreement with the Senator from Georgia's proposition here on this manpower recruitment system that he is proposing, I think he has provided us with the vehicle to perhaps get a little more public understanding, public information, and public involvement, and I think that helps.

So it is not intended as a backhanded compliment, or anything to the Senator at all. I just want to say I mean it very sincerely when I say that I think he has provided the service. I can assure him I will be looking forward to the day we return to this floor with some kind of vehicle that will be leading to a decision, some kind of a consensus, or whatever it might be, and take this out of the limbo, the indecision, the questioning, that those who are aware of this issue and who are most directly affected will be able to plan, will be able to think ahead a few years and just be concerned about whether they will be jerked up next year or 2 years down the road in some kind of military service.

I understand the Senator is not proposing this at this time. He is merely proposing registration. But I think we have to be very honest that registration is but a first step toward that odious system of recruitment known as involuntary servitude.

I do feel also, I would like to make one final observation, that I want to work with the Senator in any way possible to strengthen the Reserve program of this country. I think the Senator will find in my voting record that I have pretty consistently voted on those matters which strengthen and support the Reserve programs of this country.

Even though I take this position, and I have taken positions that tend to imply that maybe I am a pacifist, I am not a pacifist.

But I have felt we have too easily resorted to actions that could lead us to war rather than take the risks that might assure us a peace.

But I do want to work with the Senator from Georgia on any matter that strengthens the Reserves, any portion of the Reserve program, and anything that can be raised as a legitimate way to strengthen the voluntary system.

But I would urge the Senator from Georgia not reject the voluntary system as an unworkable, unsuccessful program. But let us look at things we can do to correct what he sees as inequities or inefficiencies or lack of responsiveness there, because until we change the system, we ought to be making it work and correcting the places where it is not working.

So with that pledge, I am ready to yield back the remainder of my time.

Mr. NUNN. I thank the Senator from Oregon for his kind remarks.

I know no person I admire more in this body than the Senator from Oregon. He knows my high esteem for him.

We are not on the same side of this subject, but we will have the same friendship when this debate is concluded, whether it is concluded in my direction or his direction.

I know the Senator from New York would like to say a few words and has been patiently waiting all day. So what I would like to do is make a couple of remarks, and then I have a longer statement I would like to make, but I would yield some time to the Senator from New York. What is more, I will take the Chair while he makes his statement and listen attentively to him.

The PRESIDING OFFICER. The Senator is most kind.

Mr. NUNN. Mr. President, I have just one comment: I think whatever side of this issue we are on, there is a fundamental philosophical question that we have got to come to grips with.

That question has to be dealt with whether we decide to have registration or whether we decide not to have registration or whether we decide later on—a year from now, 2 years from now, 5 years from now—that we are going to have to abandon the volunteer force, or whether we keep it from now on. That is the question of who is going to pay for the volunteer force.

The basic premise of the volunteer force is enunciated by the Gates Commission and by the people who supported it at the time it was instituted in this country, as well as the people who support it now: that it was not fair to a young man to have an implicit tax on that young man or to have him basically subsidize his own service, as the Senator from Oregon said earlier. I can understand that point.

The premise was that the whole country should pay for that service, and therefore he should be rewarded commensurate with the private enterprise system, whatever that was, and whatever he could earn on the outside.

What has happened is that the whole public has not shared that cost. We have not had any new tax on the American public to pay for the cost of the volunteer force and to compensate for the fact that the young people are no longer bearing that implicit burden.

What has happened is that that money has come directly out of the military budget. Not only have we had no new tax; neither have we had any new funds from the overall flow of funds in the Federal Government to the military budget.

So we have set up a system based on the premise that there would be no implicit tax on our young people, that the whole country would bear that tax, but we have not put the burden on the whole country; nor have we put the burden on the other parts of our Federal budget which are not oriented toward defense. We have taken that money directly out of the defense budget.

What has happened is that in 1964, before the Vietnam war, 44 cents out of every dollar was going to manpower. Now, in 1979, 56 cents out of every dollar is going to manpower. That is a percentage of 12 that has increased, and we have not increased the Federal budget. It is lower now than it was in 1964, if you consider inflation. But we have decreased our capability of meeting the challenge that our adversary or adversaries propose.

That is the question we have to deal with if we are going to continue the volunteer force, and we will have to deal with it honestly.

It will bring about a result of continuing to see our national security erode, because if we are going to keep a volunteer force going, we have to put more money into it and have less young people in the 1980's in the target age group. That means recruiting is going to become more difficult. That already is happening, as we debate here. We have shortfalls in the Active Force, and we have shortfalls in the Reserves.

So, either we are going to see a continued erosion of our national security position, no matter how much money we spend, or we will have to decide that we are going to make the implicit tax explicit—and I certainly am not in favor of an additional tax burden on the American people—or we will have to decide that we are not going to respond as much in other programs in the nondefense sector, or we will have to decide that the volunteer force should be abandoned.

If there are other choices, I want someone to point them out to me.

However, we cannot continue, in my opinion, to let national security erode to basically pay for the volunteer force, and that is what is happening.

Mr. President, I would like to be allowed to yield the floor to the Presiding Officer. If the Senator from Alaska will hold forth for a moment, without putting in a quorum call, I will assume the chair and let the Presiding Officer assume my position; and then I will close out the debate by making a speech on this problem. I have been waiting for my colleagues to have a chance to speak, since I spoke in the closed session this morning.

I yield to the Senator from New York.

(Mr. NUNN assumed the chair.)

Mr. MOYNIHAN. Mr. President, I express my appreciation for the graciousness with which my friend and colleague from Georgia has not only provided me this opportunity to speak but also has denied himself the opportunity to reply. It is an enviable situation for someone not nearly so expert as he in this field.

My very brief remarks are to be addressed exactly to the themes that the Senator raised in his most recent comments. He made the telling point that the question was as to who would pay for a Volunteer Army.

As it turned out, it is in a sense the other portions of the military budget that have displaced in order to provide a movement which, if I recall the numbers, is for manpower expenses—44 percent overall to 56 percent, a considerable change.

It is somewhat on that theme that I would like to pick up on the subject I was discussing on Wednesday, at the time we were debating an overall increase in the Defense budget. This week—which, as the distinguished Senator from Colorado observed has been an historic week in this body—I would like to conclude with some further reference.

I voted with the 54 Senators who supported the proposal by the Senator from South Carolina to increase, in the outyears, defense spending by a real portion of 5 percent in 1981 and 5 percent in fiscal 1982, which, combined with anticipated rates of inflation, are very large dollar amounts. I looked at the subsequent vote, and I found myself very much alone, as a representative from my part of the country, in this.

I would like to use the image to the Senator from Georgia, if I may, to say that I hope he would think of me as having been on a goodwill visit to his region of opinion in these matters and that I hope to provide an exchange about the possibilities of creating a coalition which could bring about some of the changes he hopes for and which I also think are necessary.

He spoke just now of three possibilities that might accommodate these new costs involved in manpower defense.

He said we can increase taxes, we can cut other programs, or we can abandon the Volunteer Army.

What I would like to make clear, from my perspective, is that the effort to increase our military expenditure and advance a much deteriorated military posture should not succeed if it is to be a disguised form of reducing the social commitments of this Nation. I do not think this is the purpose. I think this is not the case. But, more important, it will not succeed if this is its consequence.

I remarked to the Senate that the views in the House were quite different in these matters. As Senators will recall, the next day, the 3 percent increase for fiscal 1980, to which we agreed here overwhelmingly, was almost as resoundingly defeated in the House.

I spoke to the regional imbalances and about the expenditures that were a backdrop of that.

A gentleman from Queens was the chairman of the Defense Subcommittee of the House Appropriations Committee, a gentleman of the highest patriotism, most refined intelligence, and sensibility in these matters. But he must know that this kind of expenditure makes no claim on his region, as it did not.

I will speak only of my own party. Of the 25 Democratic Members of the House of Representatives from New York State, 23 voted against, 2 voted for. That is a situation which has to be resolved, and it has to be acknowledged in order to be resolved.

At the outset, we have to make clear that this is not a subterfuge for dismantling the achievements of the last two decades in social policy. It never would be, in the mind of the Senator from Georgia, but others might not be so above suspicion.

Second, I make a general point, and I shall be brief in this: We have not just a crisis of manpower and the volunteer army, if indeed we do have, nor yet of expenditure, if that is the case. There is a much deeper problem of the American posture in the world with respect to military matters. Above all it is to be located in the field of strategic doctrine. There is an intellectual crisis about strategic nuclear doctrine of a kind we have not known since it first appeared in our considerations a generation ago, although it still amazingly is still the work of identical men who first brought it into the world of public policy in the aftermath of Hiroshima and Nagasaki.

Only this morning in the New York Times an article by Mr. Richard Burt describes a Presidential Decision No. 50 which appears to impose very severe restraints on future arms reduction negotiations by the U.S. Government. It is said to have caused consternation, I quote from Burt, "in some circles in the administration." It illustrates a position of Leslie Geld, the former Director of the State Department Bureau of Political, State, and Military Affairs, who said, "Arms control has essentially failed."

As the Senator knows, I have proposed an amendment to the SALT treaty which would take the commitments of the guiding principles of SALT III to significant and substantial reductions in nuclear offensive weapons and make them a part of the treaty itself and require that those reductions be agreed to in 2 years' time else the treaty terminates.

We have to save the SALT process from itself. It—far from having decreased our limited arms—has introduced them as a condition of SALT III. The President of the United States has proposed the largest, most destructive strategic missile weapon system ever contemplated in our history and says we must have it in order to get a treaty which is supposed to limit just such things. There is a deep illogic to this and the people of this country know it.

It is not an illogic that will be resolved by fuzziness or avoidance. We have to bring it out and ask what is our purpose, what is our record, and how can we match performance with purpose? This is not being done. This directive, Presidential Decision No. 50, is a startling thing to hear, as a President urges us to an arms limitation treaty which, granted, will not produce any arms limitation this time but next time, yes, while simultaneously saying next time no. Out of such avoidance epic calamities flow.

I thank the Senator from Georgia for giving me the opportunity to say this. I think he may share some of my sense in that this field, more than any other field of public policy as none other, is the realm of the academic and intellectual. You cannot help that. It was not foot soldiers, alas, who devised the atomic bomb. It was physicists and their counterparts. And they have tried to devise a technique of assured destruction which had their major purpose the sure destruction that can easily be caricatured but, remember, it was the doctrine that had as its essence we would never be the first to use nuclear weapons, a doctrine not without nobility, and we are abandoning it.

The SALT treaty process was begun to preserve a sure destruction as our doctrine and here we are not two treaties in and the President is proposing a counterforce system as the necessary condition of obtaining SALT II. In other words, we abandon the purposes for which we set out in order to continue the process. Santayana described a fanatic as a man who doubled his efforts when he has lost sight of his goal.

If the Senator will allow me, will the Chair advise me on the way in which I might relieve the Senator in the Chair?

The PRESIDING OFFICER. If the Senator will march forward, the Chair will be relieved.

Mr. MOYNIHAN. There has been an altogether sufficient emphasis on military matters this week, would the Chair prefer to ask the Senator to saunter forward, or sidle forward?

The PRESIDING OFFICER. The Chair will advise the Senator to walk and this would be strictly a voluntary mission.

(Mr. MOYNIHAN assumed the chair.)

Mr. NUNN. Mr. President, I thank my friend and colleague from New York. I always enjoy his remarks on any subject I am particularly gratified to have been here in the Senate when he spoke on this overall defense matter earlier this week, and I also enjoyed very much his remarks now.

I have to say that the Senator from New York is truly one of our deep thinkers in the body and one of the intellectual people who has the mind to deal in an analytic and precise way with the most complex subject which he has been describing here.

I certainly share his frustration, realizing that the very essence of arms control to make the world safer, has seemingly failed and we are now grasping for SALT II primarily as a step toward a hopefully more meaningful SALT III but at the same time I think everyone would agree 10 years ago that, if the Soviet Union and the United States ended up with counterforce, the world itself would be less safe than it was when this whole process started.

On the other hand, I must say that I am not comfortable and I know the Senator from New York is not, with the position where they have counterforce while we continue unilateral restraint. So we are on the horns of a dilemma, and I think this SALT debate is the time to point out these profound changes that have occurred in spite of arms control. So I share the sentiments of the Senator from New York and I thank him for his remarks.

Mr. President, the Committee on Armed Services has had two bills before it on registration, S. 109 by Senator HARRY F. BYRD, JR., which I cosponsored, and S. 226 by Senator MORGAN. The committee has approved S. 109, as amended, which includes some provisions of both bills.

There are four major provisions in the committee recommended bill:

First, the bill provides that the President shall commence registration of men under the Military Selective Service Act by January 2, 1980.

Second, classification under current law is suspended until January 1, 1981, unless the President determines it is in the national interest to begin classification before that date. So this bill provides for a simple registration process. Young men would register but would not be classified under current provisions of law.

Third, the President will report to the Congress by July 1, 1980, on recommended reforms in the Military Selective Service Act. In this way, Congress will have an opportunity to consider reforms of the exemption and deferment process and other procedures under the Military Selective Service Act before classification begins.

Fourth, the bill would assign responsibilities for the supervision of manpower mobilization planning in the Department of Defense to the Under Secretary of Defense for Policy and require an annual assessment of manpower mobilization capabilities be reported annually as part of the Manpower Requirement Report.

MOBILIZATION PROBLEMS

Testimony presented to the subcommittee indicates that manpower problems in the event of mobilization are so severe that the military services are not now capable of meeting our national emergency requirements in terms of manpower.

The current Department of Defense stated requirements for the delivery of personnel are for the first inductees to be delivered by 30 days following the decision to mobilize—M-day—100,000 inductees by M plus 60, and 650,000 inductees by M plus 180. M-day is the day on which the President orders the mobilization of the entire Military Establishment for war; in the United States, active units are directed to load up and move to preassigned deployment areas; Reserve Forces are called up; and the Selective Service System presumably initiates the induction of additional manpower.

The current Selective Service System capability would deliver the first inductees 3 to 4 months after M Day and less than 60 percent of the stated requirements would be met by 6 months after M Day. The implications of the current inadequate capabilities of the Selective Service System are serious. General Allen, Chief of Staff of the U.S. Air Force, has said:

> The United States needs to have in being a system which will provide a continuous inventory of potential inductees for mobilization. That capability does not now exist; the national security risk associated with a weak Selective Service System is significant.

Gen. David Jones, Chairman of the Joint Chiefs of Staff, testified that—

> Since registration is one of the most crucial aspects of manpower mobilization, the establishment of a mechanism which provides for peacetime registration is needed now.

Chief of Naval Operations Adm. Thomas Hayward testified:

> Any inability of the Selective Service System to ensure the timely flow of forces to the war places the outcome of our national strategy in serious question, and our national security in jeopardy. . . . I am convinced that registration is a logical and sensible thing to do.

Gen. Edward C. Meyer, Army Chief of Staff, testified during his confirmation hearing that:

> I support registration and believe there is some work that has to be done on the Selective Service Act to ensure that when we register young people we know what we are registering them for.

Gen. Robert Barrow, Commandant of the Marine Corps, stated during his confirmation hearings that:

> I believe the prudent thing to do is to have registration.

In hearings last March, Gen. Bernard Rogers, then Army Chief of Staff and now NATO commander, as well as the then Commandant of the Marine Corps Gen. Louis Wilson both supported registration. Gen. Alexander Haig, testifying in his capacity as NATO commander, also supported registration. Adm. Harry Train, Commander in Chief of the Atlantic fleet, seconded General Haig's views.

There is unanimous agreement by the present Joint Chiefs and their immediate predecessors that the current capabilities of the Selective Service System are inadequate and that registration is needed.

Although there is agreement that the current capabilities of the Selective Service System are inadequate, the Secretary of Defense does not agree with the Joint Chiefs on the appropriate remedy. Three alternatives to the current system have been discussed.

First. Improved planning by the Selective Service System;

Second. The use of social security and tax return information to register people; or

Third. A peacetime registration which is recommended by the Joint Chiefs, by the House Armed Services Committee, by the Senate Armed Services Committee, and by the GAO.

The plan presented with the President's fiscal year 1980 budget is so ambitious as to be incredible. I would like the Senators to look at this chart which outlines the Selective Service System plan for registration and induction at the time of mobilization.

Once a decision to mobilize has been made, the President would announce over television that all 18- to 20-year-old men—6 million men—would be required to register at 40,000 to 50,000 election sites around the country in 10 days. The President would request the assistance of each State and election officials in each State to conduct the registration. Seven hundred and fifteen Guard and Reserve officers would be ordered to immediate active duty to help plan for the registration. That covers activities on M Day. Since the President would have to make this appeal on national television in a period of increased tension, the procedure itself makes it much more likely that M Day would also become D Day.

Now the plan really moves into its continuous state of confusion, and I want to call my colleagues' attention to what happens from the first day after M Day—noted on the chart as M plus 1—to M plus 16. That is, what does the administration expect to happen in the 15 days following a mobilization proclamation?

At M plus 1, the Selective Service System begins hiring 1,500 full-time personnel and establishing 1,950 local boards and 500 area offices. These activities are needed to be able to process registration and classification data. Even though this plan has been the foundation for our national security for 2 years, there has been no notification, coordination or planning with the election officials who supposedly will carry out this task.

At M plus 10, the registration of 6 million men at 40,000 to 50,000 precinct polling sites would take place. The 50 States, the District of Columbia, and other U.S. territories would be expected to plan for and be able to execute such a program. If any State could not meet the requirements, the entire process could be delayed since inductions must be based on the pool of all who are required to register, or it is legally open to an individual challenge. Assuming registration does take place, then the information at the 40,000 to 50,000 collection sites is transferred to 400 to 500 collection sites on the same day that registration takes place.

The next day, M plus 11, this transfer of data continues from the 400–500 collection sites to 10 selective service regional offices. The Selective Service System personnel would then place 40,000 records a day in the primary age group (those who turn 20 in the year) into computers for transmittal to Selective Service headquarters to complete the processing of the primary age group in 5 days—that is M plus 15. These computers and the necessary software and trained personnel are not in place. The Selective Service System is studying its equipment needs and the procurement and development would have to follow. Even if the feasibility studies are positive and the equipment is in place, failure at one site could again delay the entire process.

Also on M plus 15, the 2 weeks from when the process began at M plus 1, 2,500 full-time personnel are now supposed to have been hired and at work. In 2 weeks, we would have established 1,950 local boards and 500 area offices. One wonders whether the Federal Government is capable of doing so much in so little time on such short notice. After all, this is a government that can no longer guarantee the peacetime delivery of a single parcel package within 15 days.

The day after all of this information is processed, at M plus 16, a lottery would be held to assign random number sequences by birthdate.

At M plus 19, 200,000 mailgrams would be addressed ordered registrants to report to the Armed Forces Entrance and Examining Stations within 10 days. The current selective service law permits the President to order registration and classification but contains no induction authority. Induction authority would have to be enacted by Congress by this time.

On the next day, M plus 20, the Selective Service System assumes the 200,000 mailgrams will be delivered. The potential inductees will be given 10 days to do one of two things. They may file a claim requesting postponement or deferment on the basis of health, hardship, conscientious objection, or some other provision of current selective service law. If they choose to do this, that claim will then be processed and handled by all of those people at all of those places who were hired at M plus 15. They will have to do this, however, at the same time they are frantically trying to deliver 100,000 inductees for training by M plus 60.

The second choice potential inductees have is to report to the Armed Forces Entrance and Examining Station for examination and induction if found acceptable for service. During the next 10 days, M plus 21 to M plus 30, the potential inductees report to the examination stations and if they are found qualified, they are inducted and sent directly to Army training. There is no other way to meet the requirement to deliver the first inductee by M plus 30. So there is no time allowed for the young man to get his personal affairs in order before going to training. They will presumably be expected to kiss their families goodbye and bring their toothbrush and luggage with them to the examining station before they even know if they qualify.

I want to point out that this delay and postponement claim is a completely self-initiated process. The only young men who report for examination and induction will be those who want to report for examination and induction. Those who want to be delayed will be automatically delayed upon their own request. There is no way that our young people would view such a system as fair. I have no doubt about the patriotism of our young men. But I submit that a system that purports to compel military service in the early days of a war, but which carries this out on what is essentially a voluntary basis will be viewed as blatantly unfair by even the most patriotic of our young men.

This tight schedule and many assumptions about so many different operations and so many different locations must lead to great skepticism about its feasibility. Anyone who believes this plan will work in a period of great tension also believes in the tooth fairy. It is unthinkable that we are betting our Nation's security on this foundation of quicksand. The personnel who are so hurriedly hired and the hundreds of thousands of precinct workers who are expected to appear would not have previous experience in any part of this process. Challenges and confusion about the entire process—registration, classification, examination, and induction—would be great. Even the media blitz that would have to begin on M Day to start the process itself could be considered as an escalatory act in time of international tension and thus, be delayed.

The current plan will not work. At best, it is naive, wishful thinking. At worst, it is an outright fraud by those who do not have the courage to face reality or who believe that there is no necessity for this Nation to be prepared, but will not admit this philosophy. General Meyers testified that "on that day (M Day), with all of the other things that our country would be doing, with the JCS focusing on trying to move people to Europe, with the Congress of the United States trying to support whatever bills are necessary and required under the War Powers Act, with all of the letters that are going out to bring in the Selected Reserve, to bring in the Individual Ready Reserve and with what we are going to be doing in other areas—to have such a plan in that particular environment is very difficult for me to believe.

Col. Jack D. Kaufman, the Director of Operations and Management at the Selective Service System, testified on July 10 that he told the Acting Director, Mr. Shuck, that he did not think the plan would work and was fired for his views. A Selective Service evaluation analyst, Mr. Robert Wilson, testified that he concluded that the plan would not work and he was ordered by Mr. Shuck to take a psychiatric examination. Certainly, commonsense has got to convince anyone who looks at this timetable that it cannot work. The GAO concluded that the current plan has shortcomings which make it doubtful that the plan will ever be implemented.

GAO further concluded that a national peacetime registration program will best meet DOD's current mobilization request and will provide the least risk to the Nation in the event of war. Yet, this is now the current plan to meet the manpower requirements to maintain the national security of this Nation at time of emergency. If you are sleeping well at night, you should not be unless you believe that the world is a safer place with an unprepared America.

WORLD WAR I-WORLD WAR II EXPERIENCE

Calling the current Selective Service System plan optimistic is a conservative statement. Under the best of circumstances, it will not work. During the period of mobilization and war, it is a fantasy. Yet, in response to characterizing this plan as optimistic, both the Acting Director of the Selective Service System, Robert Shuck, and the Assistant Secretary of Defense for Manpower, Robert Pirie, have pointed to our past experiences in World War I and World War II.

On August 15 of this year, Assistant Secretary of Defense Pirie said in response to those who believe that the plan schedule is unduly optimistic: "In 1917 the Nation conducted a registration 18 days after enabling legislation was passed. In 1940, we conducted a registration within 30 days. We believe it is reasonable to expect that we could do better in the future, providing that we make use of modern technology and plan prudently."

Is this expectation reasonable?

I want to call the Senators' attention to a chart that compares the current plan to our experience in World War I and World War II. There are a lot of boxes on this chart reflecting the many steps that must be accomplished. The measure unit along the horizontal line is time and you see indicated on the chart how much space measures 1 month. In World War I, the Selective Service Act was passed on May 18, 1917, and a mass registration of 10 million men took place on June 5, less than 3 weeks later. In World War II, the Selective Service Act was passed on September 16, 1940, and a mass registration of 16 million men took place a month later. The current plan would beat both of these timeframes and the mass registration would take place 10 days after the President announces the registration plan.

In World War I, following registration, the lottery was held 2 months after the Selective Service Act was enacted. In World War II, following registration, the lottery was held 6 weeks after the act was enacted. But again, the current plan would hold the lottery at M plus 16, much earlier than ever done before and much faster after a mass registration.

This chart also shows the comparison of what happens with inductions. In World War I, inductions began 5 months after the Selective Service Act was enacted and four months after registration. In World War II, inductions began 2 months after the act was enacted, 1 month after registration, but at a very low rate of less than 30,000 inductions in the first 3 months. But the current plan says inductions can begin at M plus 30. In fact, our mobilization plans depend upon beginning inductions by M plus 30 and by getting 100,000 inductions by M plus 60.

The time between M Day and M plus 60 is indeed the critical period. The current capability of the Selective Service System is to begin inductions 3 or 4 months after the decisions to mobilize. That timeframe is consistent and would be an improvement over World War I and World War II experiences. But that is not what is needed today. What is needed is 100,000 inductions by M plus 60. Let me call your attention to that part of this chart. The administration's plan says we will be able to accomplish all of these complicated steps and induct 100,000 people by M plus 60, when in World War I we were just conducting a lottery at about that point and in World War II the lottery had been conducted but inductions had not begun.

There are two other important differences when comparing World War I and World War II experiences to the current plan. First, the Selective Service Act was very different. Vietnam-era court decisions applied to current law have made induction very difficult. For example, and this is only one example, the "order of call" defense became common in refusing induction. Under this defense, an individual ordered for induction could show his induction order to be invalid by showing that there was someone who should have been inducted first but was not inducted. This could be done by finding someone who was older or who would have had a lower lottery number assigned.

In testimony before our subcommittee, I asked Acting Selective Service Director Shuck:

> In other words, if Minneapolis, Minn., had a breakdown and did not feed into your headquarters on time, would you agree . . . that the whole draft would be void, if challenged by anyone who was drafted?

Mr. Shuck replied:

> I would not begin the induction order issuance until I had what I considered the total registration input that was required by law.

I replied:

> So basically every part of the system would have to work perfectly before you would begin it?

Mr. Shuck replied:

> Perfectly or at least have a backup capability.

Senators should know something about the fallibility of the election process even when the election workers have been trained in advance. Given the incredible time constraints of the plan and the absolute equity with which the induction process must operate, do any of you really think that we will be able to begin induction within 30 days?

The second difference is even more important. I have indicated on the chart with a red symbol when the first significant battle occurred. In World War I, the Battle of Belleau Woods in May, 1918 occurred beyond the time covered by this chart over 1 year after registration. In World War II, Pearl Harbor occurred beyond the time covered by this chart 60 days after registration. Under current plans, we expect something like 7 days warning before an attack by the Warsaw Pact. A Middle East scenario probably would develop just as quickly. If we take full advantage of that warning, then war wil break out with intense fighting where the red symbol is shown on this chart. The confusion and turbulence added by this factor is immeasurable.

REGISTRATION IN PEACETIME OR IN AN EMERGENCY USING SOCIAL SECURITY OR INTERNAL REVENUE SERVICE RECORDS

Another alternative to face-to-face registration is the use of social security and Internal Revenue Service computerized records. According to this proposal, social security and IRS would merge their data files and furnish a list of registrants and other information to the Selective Service System. This process would require amendments to current privacy laws which prohibit release of this information. Some witnesses before the Subcommittee who would oppose such a revision of privacy laws in peacetime do support such a revision at time of emergency.

The subcommittee is very concerned about such Privacy Act revisions. Further, since everyone does not have a social security number or file a tax return, registration would not be universal. The Congressional Budget Office estimates that at least 15 percent of the relevant age group would not be included. My reading of the court decisions mean that this procedure would be legally vulnerable to any challenge. Such records would not necessarily contain current addresses on those who were included. In addition, such a procedure would change the current obligation for individuals to register to a Government function to register people.

In summary:

First. Manpower problems in the event of mobilization are so severe that the military services are not now capable of meeting our national emergency requirements.

Second. All members of the Joint Chiefs of Staff support peacetime registration as a means to address these problems. The GAO supports it and our NATO commander states that it is essential.

Third. The current plan of the Selective Service System simply will not work. At best, it is a pipedream. At worst, it is a fraud on the Nation. It is placing the foundation of our mobilization capability in a bed of quicksand.

Fourth. The Office of the Secretary of Defense opposes registration and believes that the social and political considerations relevant to registration outweigh the national security considerations. I reject this warped sense of priorities.

Fifth. Only peacetime registration will address our real manpower needs.

Mr. President, the great Confederate cavalry leader Nathan Bedford Forrest ascribed his victories on the battlefield to his ability "to get thar fustest with the mostest." Unfortunately, the administration's mobilization plan seems certain to guarantee that in the next war "we will get there lastest with the leastest." It is a plan whose success hinges on perfect human execution and an infallibility on the part of computers. It also presumes that our potential adversaries would be gracious enough to delay the initiation of hostilities until we completed mobilization. Some of those who oppose this measure seem to believe that our present lack of preparedness will keep us from fighting the wrong war in the wrong place at the wrong time.

The theory seems to be that a prepared America is dangerous to itself and to the world. I reject this theory, and I hope that this Congress will reject it before it is too late.

By seeking to protect our young men from the hazardous duty of signing their name and address, our Nation is creating a weakness that could lead to the very war we all seek to prevent.

Mr. President, before I yield the floor, I ask unanimous consent that the table on the mobilization plan be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SELECTIVE SERVICE SYSTEM PLAN FOR REGISTRATION AND INDUCTION UPON MOBILIZATION

M-DAY

Issue Presidential Proclamation.

Request assistance of states and election officials to conduct registration.

All 18–20 year old men ordered to register on M+10.

715 Guard and Reserve officers ordered to immediate active duty.

M PLUS 1

Begin hiring 2,500 full-time personnel, establishing 1,950 local boards and 500 area offices.

M PLUS 10

Registration of 6 million men at 40,000–50,000 precinct polling sites.

Data transferred to 400–500 collection sites.

M PLUS 11—M PLUS 15

Data transferred from 400–500 collection sites to 10 Regional offices.

Input the registration data through 10 Regional offices to Selective Service headquarters.

M PLUS 15

Hiring of 2,500 full-time personnel completed.

Establishment of 1,950 local boards and 560 area offices completed.

M PLUS 16

National lottery held.

M PLUS 19

Assuming induction authority enacted, first 200,000 induction orders addressed for Mailgrams.

M PLUS 20

Mailgrams delivered giving inductees 10 days to either file a claim requesting postponement or deferment or to report to the Armed Forces Entrance and Examining Stations for examination and induction if found acceptable for service.

M PLUS 21—M PLUS 30

Inductees report to Armed Forces Entrance and Examining Stations for examination and immediate induction if qualified.

(The following statement was delivered earlier in the day.)

Mr. HART. Mr. President, I do not believe we need a return to draft registration at this time, and I hope this bill is defeated when it finally comes before the Senate for a vote.

But I also offer a plea to my colleagues. My plea on this measure, as on many other defense issues, is that we not define this debate in terms so narrow that we miss many of the more important issues.

Too often, we tend to structure our defense debates around rather shallow questions: What is the administration's position? What is the stated military requirement? What do the generals and admirals want? Does or does not the measure in question give them what they want?

But the responsibility of the Senate goes beyond these questions—far beyond them. We were not intended to be merely a rubber stamp for the administration, nor a quartermaster for the uniformed military. We have a basic responsibility to ask not only what the stated requirements are and whether this measure meets them, but also, do the stated requirements make sense? Do they reflect coherent strategies and military plans? Are alternative strategies more promising? In short, is the presented military rationale really rational?

In this case, as in many others, it is not. The military manpower requirements stated by the Pentagon, which create the perception of a need for a return to registration, and possibly for a return to the draft itself, reflect an incorrect strategy and highly questionable military plans.

Many force planners question the need for a 16 division Army. But even if we do need 16 Army divisions—19 division equivalents if we count independent brigades—a close examination of the Army's structure suggests we could maintain the current number of combat units with substantially less total manpower. Currently, our Army requires approximately 780,000 men and women to generate its current 19 division equivalents. In fact, we should be able to form 19 division equivalents from a substantially smaller Army.

The United States Army today has the lowest ratio of combat power to manpower in the world, among major powers. Its total Army division "slice"—the number of personnel required to man and support each division—is over 40,000 men. In contrast, the French slice is about 25,000, the German 28,000, and the Israeli 27,000.

A principal reason for our Army's inefficient use of manpower is its outdated firepower/attrition doctrine. This World War I doctrine requires, not surprisingly, a massive World War I-type logistics and support system which absorbs large quantities of manpower. A shift to a maneuver doctrine of ground warfare would both improve the Army's effectiveness in battle and enable it to generate more combat forces for a given quantity of manpower. The Soviet army, which has a maneuver doctrine, has a division slice of just over 10,000 men (including category II and III divisions; but the above U.S. figures also include four "category II" divisions, divisions which require a National Guard augmentation brigade). If the U.S. Army could achieve a division slice of 25,00 men—about average for our allies—we could field our current 19 division equivalents with 475,000 men, a saving of about 300,000.

Arguments have been advanced that we need registration for a draft not for the peacetime active forces, but for mobilization in case of war. Again, the stated requirement supports this. Currently, the Department of Defense has a stated requirement for 650,000 draftees by 180 days after mobilization. But the stated requirement does not appear to stand up to critical examination.

It could be argued that two types of ground conflict might require a draft: A prolonged conflict in a secondary theater, such as the war in Vietnam, or a war in Europe. I seriously question whether we should plan for the first type of conflict. Based upon our Vietnam experience, such wars seem to cost more than they are worth. While we may have to engage in short, sharp "police actions" in the Third World to support allies against external aggression, our current 19 active Army divisions, 3 Marine Corps divisions, and 8 National Guard Divisions would appear more than adequate for such. Indeed, we do not have the air or sea transport capacity to move and support overseas more than a fraction of that force. A draft would not seem relevant to a short Third World conflict.

In a European conflict, we must look at the mobilization requirements in both the early phase, where rapid reinforcement is the stated objective, and in the longer term. Several questions can be raised about the requirement for early-phase reinforcement, and about the relevance of a draft to that requirement:

First. If, as seems likely, a war in Europe occurs with little strategic warning, can we realistically plan for early reinforcement? Where do aircraft carrying reinforcements plan to find undamaged airfields on which to land? Will prepositioned stocks be intact? Will highly vulnerable European port facilities be intact and able to receive the equipment for reinforcing units? How will arriving units assemble and move to battle areas while under attack? Unless these questions can be answered satisfactorily, and in my view they have not received satisfactory answers thus far, the rapid reinforcement requirement is open to question.

Second. Can we move existing units to Europe in the early phase of a conflict? Not all active Army divisions will have pre-positioned equipment, even when current plans are fulfilled. No National Guard divisions will have pre-positioned equipment. Without pre-positioning, it seems improbable that units can be used as units for early-phase reinforcement. Can we not use troops from the units which we cannot move to Europe in the early phase to provide individual replacements, especially in the combat arms, for the units which are fighting? If this is done, how urgent a problem is the current shortage in the Individual Ready Reserve?

Third. Should early-phase reinforcements be a European rather than an American task? The European NATO nations have a large pool of trained reservists most of whom today have no unit assignments or equipment upon mobilization. Rather than the United States returning to a draft, would it not be more efficient for our Euopean allies to take over the early-phase reinforcement task, using these reservists to form combat units? This would not put an inequitable burden on the Europeans if it were coupled, as I believe it should be, with an assumption by the United States of the task of dealing with the Soviet Navy, and the expansion of our Navy which is necessary to take on that task.

Until these questions are answered, I see little justification in the early-phase reinforcement requirement, and less in moves to return to a draft to support that requirement.

Looking at the long term requirement to be prepared for the (unlikely) eventuality of a European war lasting many months, a draft only makes sense if we can equip the troops we would be drafting. The Department of Defense could draft 650,000 men within 180 days after mobilization, but could it equip them? A modern Army requires not just rifles, but many pieces of complex equipment, which we today produce only at very limited rates: Communications and other complex electronic equipment, air defense and other battlefield missile systems, armored fighting vehicles, et cetera. In 1941, such equipment was far simpler, and it was possible to raise production rates quickly, but that is no longer the case today. It is even less true for other services: Modern supersonic fighters and warships are produced only at a low rate, and to raise that rate substantially would be both difficult and slow. I see little point in planning to draft masses of men we will not be able to equip.

Neither the early-phase reinforcement requirement nor the requirement to hedge against the possibility of a long war appear to justify the mobilization base arguments put forward by the proponents of registration, much less arguments for a draft. Yet these unjustifiable requirements not only serve as arguments in the Senate for registration, they also contribute, along with the firepower/attrition doctrine, to our current large division slice. The Army's training base is designed to expand the Army in wartime by training draftees. If we recognized that the Nation in arms concept is no longer relevant to our real needs and restructured the Army's personnel and training system accordingly, much of the current training base could be transformed into combat units. This action would permit us to reduce the total Army division "slice" and thus our overall manpower requirement.

Another flaw in our current manpower requirement is strategic. The unstated assumption behind the requirement for an Army of 19 division equivalents is that the United States must be a major land power, and that our strategy must be a continental strategy of focusing our greatest attention on participating with land forces in a land war in central Europe.

Today, our strategy is a continental strategy. While administration spokesmen do not use the term publicly, some do use it privately. The evidence of a continental strategy is obvious in budget trends. In 1977, the Army's procurement budget request, as shaped by administration guidance, was $5.5 billion in fiscal year 1980 dollars. The fiscal year 1980 procurement request was $7.12 billion, an increase of 53 percent. The total Army budget rose in the same period by 4.8 percent in constant dollars.

In contrast, the Navy shipbuilding budget in fiscal year 1978 was $6.5 billion on fiscal year 1980 dollars. For fiscal year 1980, it is down to $6.2 billion. Naval shipbuilding has fallen from 5.27 percent of the total defense budget to 4.56 percent in that time interval.

The most dramatic illustration of the downgrading of the Navy is shown by comparing the fiscal year 1980 shipbuilding budget as shown in the 5-year shipbuilding plan submitted to the Congress in fiscal year 1978 with the actual fiscal year 1980 budget request. The 5-year plan showed 36 new ships and 7 conversions in fiscal year 1980, for a total of 43 ships at $9.9 billion. The actual budget request for fiscal year 1980 was only 15 new ships and one conversion—a total of 16 ships at $6.2 billion. At a time when the Army is receiving procurement funds for a new tank, a new infantry combat vehicle, a new helicopter and three new battlefield air defense missiles, Navy shipbuilding has been cut to less than half what was planned.

This is consistent with a continental strategy. The Navy has been cut to fund the Army.

The problem is that a continental strategy is a poor strategy for the United States. We are by geography, by economic interests, by strategic interests, and by tradition a seapower, not a land power. We require a maritime strategy, in which naval forces are given priority, not a continental strategy. We are not attached by land to the European continent, and attempts to pretend we are can only lead to waste, to an ineffective force structure, and potentially to military and international political disaster. This is not to say our European interests are unimportant.

They are important. But so are our interests in the Pacific, where we find Japan, our largest single trading partner; in the Indian Ocean and Persian Gulf, whence comes much of our vital oil; in Latin America and in Africa. These areas are dominated by naval power, not by the land forces of nonregional powers. An Army unaccompanied by adequate naval power offers us little in these parts of the world, yet that is the choice this administration has made as it builds up the Army at the expense of building an adequate Navy.

How does the need for a maritime strategy instead of a continental strategy relate to draft registration? The plain fact is, if we adopt a maritime strategy, we need not return to a draft.

Land forces inherently require a large quantity of manpower; most of our significant current and projected recruiting shortfalls are in the Army. In contrast, naval forces are capital intensive. As I stated in the White Paper on Defense, which I coauthored with former Senator Robert Taft, Jr:

> Because we can match our potential opponents only through qualitative superiority, it is of critical importance for us to concentrate our defense expenditures in those areas, where, out of each defense dollar, the minimum goes for manpower and the maximum is available for capital expenditure. . . . Expenditures for land forces fail to meet this requirement: out of each dollar going to the Army, 59 percent must be spent for manpower costs; out of each dollar of naval expenditures, only 33 percent is for manpower.

In 1964, the Navy had 917 ships in the active fleet, compared to 462 today. But it had only 143,000 more personnel. The ability of a Navy to support 100 percent more ships with only 27 percent more people shows that a shift from the current continental strategy to a maritime strategy would enable us to reduce substantially our requirement for military manpower. A larger and more powerful Navy would also provide a military force better suited to our island geography, our worldwide economic interests, and even to the defense of NATO. Our European allies can generate the land forces NATO needs, and they can do so economically by making better use of their reservists. But only the United States can counter the growing Soviet Navy.

The coming shortage of military manpower adds an argument to the already powerful battery favoring a maritime strategy and its logical accompaniment, a smaller Army and a more powerful Navy.

We thus see that neither the current strategy, nor the Army's stated manpower requirement in peacetime, nor the wartime mobilization argument provide a sound basis for moves back toward a draft. Are we merely to accept the stated strategy and manpower requirements despite their invalidity, and approve this bill? Or are we going to use this opportunity to direct the administration and the Defense Department to restudy the strategy and the requirements, and either answer the questions raised or revise them? We do the Nation no service, nor do we strengthen our defense, if we merely prop up the Potemkin village of the current strategy and stated requirements with draft registration. We have an opportunity, by widening the debate to include the broader issues, to do the Nation a real service: to address critical questions of strategy and force structure which have too long been neglected. I hope we will not let this opportunity pass by.

The arguments raised here, of course, relate directly to our military force structure. There are other serious concerns about such a major step as returning to the draft, however.

Options to the draft have been proposed. Before taking a major step toward returning to the draft—which registration would be—those options should be explored and discussed by Congress and the American people. Particularly the alternative of some type of universal service for young people of sound mind and body might be preferable to the old style draft. We simply have not given serious enough consideration to all the consequences to begin the return to the draft at this time.

It is unfortunate that we must wait for demographic realities to compel changes which should have come long ago on national strategic grounds. But if the effect of the coming shortage of military-age people is to cause us finally to shift our emphasis from ground to naval forces and to reform the Army, then it will be beneficial, not threatening, to our national defense.

Mr. NUNN. I thank the Senator from West Virginia for his patience in arranging this debate and being most gracious in giving us the time required to at least bring this matter of grave importance to the Senate's attention and the Nation's attention.

I yield back the remainder of my time, if I have any.

Mr. STEVENS. I yield back the remainder of the time of the Senator from Oregon.

The PRESIDING OFFICER. Under the previous order, the bill will be returned to the calendar.

Mr. ROBERT C. BYRD. Mr. President, I take this opportunity to thank the Senator from Georgia (Mr. NUNN) for his kind comments directed toward me, but more than that, to congratulate him on the debate which the Senate has conducted today, and which has been conducted not only at his behest, but at his request. He has demonstrated something that I have seen him demonstrate before, and I have had occasion to comment on it a number of times and am glad to comment on it again. He has demonstrated a thorough knowledge of specific matters before the Senate, and has demonstrated the worth of working to know whereof he speaks.

I have said many times that when Senator NUNN speaks, other Senators listen. They listen because they have confidence that Senator NUNN has done his homework. He is really one of the experts—one of the few experts—on the subject of national defense. He has certainly carved his niche as a member of the Senate Armed Services Committee. He is walking in the footsteps of another great Georgian, the late Senator Richard B. Russell, for whom we all had great respect and in whom we placed our confidence. We felt that he was level-headed, a man of reasoned knowledge and balanced judgment, a man who knew the subject of military security and national defense as much as or more so than any other man in his time.

SAM NUNN strikes me as being just that kind of Senator. He has testified to that in his dedication, his devotion to duty, his high sense of purpose, his hard work, and his reasoned judgment. He is not only one of the bright young stars of this body, but this country and the Senate are going to see this Senator, SAM NUNN, continue to go upward and onward. "Excelsior" in my judgment might very well be his motto.

I am comforted and I have a feeling of reassurance about this Nation's future security when I realize that there is a Senator from Georgia by the name of SAM NUNN on the Armed Services Committee. The Senator has the courage to speak out, and he has the courage to state his position. He is always well-prepared and able—able to state his position and very articulate in doing so. He has performed a service today, and it will be only through the continued efforts and the repeated warnings and the hard work that SAM NUNN can do and has shown that he will do that I think this country is going to again, at some point, take stock of its preparedness for victory, and it is going to take action to restore itself to a position of the kind of strength that we have shown in the past, and which has proved to be a deterrent.

So I compliment him highly. I also compliment the Senator from Oregon (Mr. HATFIELD), who again has demonstrated his fairness and his desire to cooperate with other Senators, and again has demonstrated high integrity and a great deal of courage in maintaining his position.

There has been a good debate. We have heard both sides and all sides, and I, having heard the comments of other Senators, believe that SAM NUNN, MARK HATFIELD, and others have contributed a great service in joining in the debate as they have today.

LARRY STERN

Mr. MATHIAS. Mr. President, when Larry Stern was a cub reporter, I was a cub Congressman. His beat included the Maryland suburbs of Washington and that was part of my congressional district, so I was his legitimate quarry. I got to know him well.

It is an unusual relationship—press and politics. Each side is significantly dependent on the other, yet each is suspicious of the other to a greater or lesser degree. If either side is caught in an act of bad faith, the fragile trust between them can shatter. Bitterness and open hostility can often result.

But not with Larry Stern. He wrote fully, openly, and accurately about Maryland politics. There may have been days when I regretted the acuteness, comprehensiveness and perception of his reporting, but I never had cause to complain of a lack of objectivity.

Larry Stern was that rare reporter who was good for constituents and candidates alike. He told people what they needed to know, and he told it so that the whole political issue was exposed without shading or bias.

He carried this faculty for classic newspaper work with him to greater responsibilities at the Washington Post. Had he lived a normal life span, he would have gained even wider reputation as a newspaperman who really contributed to the life of the Nation. It is our loss that he did not have a chance to reach the heights of journalism.

I ask unanimous consent that the Post article and editorial noting the achievements of Larry Stern be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LAURENCE STERN

To read back over the clips of Laurence Stern, who died on Saturday at the age of 50, is not just to be reminded of the acute perceptions of this skilled newsman who, at the time of his death, was The Post's assistant managing editor for national news. It is also to take a kind of instant survey course in contemporary journalism—the issues, the perspective, the changing problems and obligations of those who try to perform an ancient trade under blindingly new—modern and different—conditions. Mr. Stern had covered it all: the region, the national scene, life (and death) overseas. He was there whacking away at the Maryland Savings and Loans scams, viewing firsthand Vietnam, explicating the inexplicable Robert Vesco. Trace the hot or moving or vital or outrageous stories of the past 25 years, and likely as not you will find that Larry Stern was there.

Mr. Stern, who once wrote of a prominent witness in the Bobby Eaker case that she had a "beehive hairdo and a bouffant memory to match," was, in some impossible combination, a skeptic and a romantic, a joker and a bleeder. As a journalist he had that first essential ingredient: speed. He was a quick study and a quick man with a wisecrack and he could get it all down on paper faster and more comprehensively than anyone else. Editors who wanted something inconceivable accomplished would call on Mr. Stern. Four gillion words by quarter to six—that sort of thing.

This kind of old pro stuff was a mark of Mr. Stern's journalistic upbringing, a prized vestige of bygone days when staff was scant and news abundant and people were accustomed to the discipline of getting it fast and getting it right. But many newsmen who came out of that tradition were unable to accommodate to a changing journalistic scene in which it sometimes seemed that every old certainty and truth and piety was about to go down the tube. There was a time (young readers will, of course, not believe it) when vast areas of U.S. government activity were thought to be off-limits for journalistic inquiry or skepticism, when certain lapses and improprieties on the part of elected officials were not thought possible, when all personal conduct not identical to that of the Osmond family was thought to be aberrational and mad.

Well, times do change, but not everyone can face up to the destruction of comfortable assumptions this entails. Mr. Stern could. And that is why he was so successful as a journalist. In an article about the decade—the sixties—in which so many illusions came crashing down, he wrote of his own experience:

"America's Sixties conformed almost exactly to my thirties. I too confess to having watched the parade begin at the Inaugural mount in Washington with that January's sense of crisp thrill. The ensuing memories come in sharp images . . . reading the first bulletins from Dallas . . . being roused by a telephone call in a Mississippi hotel room earlier that year to learn that . . . Medgar Evers had just been shot . . . hearing a White House press spokesman announce in the spring of 1965 that the arrival of American Marines in Danang signified 'no change of policy' toward the Vietnam War."

Mr. Stern went on to wonder whether the "myths, rages, shocks and disenchantments" of the decade would immobilize people or produce no change or possibly provide some kind of "lesson" to others seeking to wield power in the country and, in the country's name, abroad. It was most characteristic of him to answer his own questions with a question—he didn't know, but watching and inquiring and pursuing the answer was the name of the game. The game was journalism, and Larry Stern was inordinately good at it.

LAURENCE STERN, PRIZE-WINNING POST EDITOR, DIES AT 50

(By Richard Harwood)

Laurence Marcus Stern, reporter, editor and author, died of a probable heart attack yesterday while jogging at Martha's Vineyard, Mass.

He was 50 years old.

Stern, an assistant managing editor of The Washington Post, was vacationing with old friends—Ward Just, John Newhouse, Jonathan Randal and Jim Hoagland. They played tennis yesterday and then Stern and Newhouse went jogging.

As they were running, Stern bent over grabbed his ankle and said he had been stung by a bee. He collapsed. Newhouse gave mouth-to-mouth resuscitation. It didn't work. Stern was taken to Martha's Vineyard Hospital, but he was dead when he arrived.

Stern had been a writer and editor for The Post since 1952, winning awards and cutting a wide swath in both American and international journalism.

Benjamin Bradlee, executive editor of The Post, issued this statement:

"His paper and his friends will be a long time getting over the loss of Larry Stern. He was a world class journalist. He wrote like a dream, with grace and precision. His commitment to excellence, to his staff, to his friends and to The Washington Post will be an example for all of us."

Stern was a newspaper child. His father, Augustus (Gus) Stern, worked in Washington for many years as a copy editor for various local newspapers, the last being The Post.

Larry Stern followed his father. He served in the Army after World War II and got a taste of journalism working for the military newspaper, The Stars and Stripes.

Thereafter, he was educated at the University of Missouri and the New School for Social Research in New York. He worked briefly for the former United States Information Agency and joined The Post in 1952 as a reporter on the metropolitan staff.

He took off in that business like a great running back—national reporter, national editor, foreign correspondent, editor of Style, and, finally, assistant managing editor for national news.

He wrote a much-admired book, "The Wrong Horse," which dealt with the tragedy of Cyprus, and he contributed to several other books. He wrote magazine articles and, even as an editor responsible for a large staff, constantly looked for opportunities to write. He found them frequently.

Stern had another, informal, function at The Post. He was a bridge between this country and journalists from around the world. They sought him out always—Vietnamese, Englishmen, Frenchmen, Turks, Greeks. That was a tribute to his international understanding and to his personality.

His career had an interesting progression. He won many awards writing about politics and corruption in the Washington metropolitan area. He moved then into the national arena and was singularly successful in dealing with the social and political issues of American life. But in the last years of his life, it was really international questions that absorbed his interest and energies.

He became early in the '70s, The Post's first "Dulles Airport correspondent," available day or night to fly anywhere in the world for the big story. The job took him to Vietnam, Cambodia and Laos for almost two years, where he observed in combat the collapse of the American effort. He covered the war in Cyprus, reported from the Middle East, from Italy, from London, from Paris, from Greece.

British journalists intrigued him most of all. Among them, his friends were legion. He admired, especially, the Insight team of the Sunday Times of London and set up his own Insight unit at The Post in the late 1960s. There was an "Insight" project at the top of his list when he died yesterday.

Stern, one of his subordinate editors said yesterday, was "something of an enigma. It became something of a newsroom conceit, after Larry had had a dialogue with a colleague, to say, 'I don't know what he said. I don't speak Zen.' This never detracted from the fact that Larry knew exactly what a news article should say and how it should be said."

One reporter on the national staff of The Post who had worked for Stern for several years volunteered this observation:

"When Larry Sten was working on the national staff as a reporter, you could feel the whole atmosphere change. He was a reporter who made a difference—not only because of what he contributed to the paper under his own byline but because of the standard he set for everyone around him. Other reporters found themselves writing with more life and crispness because he was there doing it—pushing the rest of us."

There was a certain disorganization about his life. He made too many luncheon dates on the same day. He loved many women. Budgets never enthralled him. His checkbook was not often tidy. It was a legend at The Post that Stern mumbled ambiguous instructions, might or might not show up for this meeting or that and probably would forget where he had parked his car.

But when it came to the job, to getting things done, he had no superior. He could produce instant and rather profound workbooks, newspaper series, essays.

The honors his own profession gave him were impressive—the George Polk Memorial Award, the American Political Science Association Award, the Headliners Club Award, the Newspaper Guild Award, the fellowship of the Carnegie Endowment for International Peace. He was proud, for reasons his friends never knew, of having been one of the inventors of a game called "Influence," a political version of Monopoly.

His children, Catherine O'Brien, Marcus, Gunther and Christopher, shared that pride.

One of Stern's friends responded to his death with a fragment from a poem:

Oh, I have slipped the surly bonds of earth,
And danced the skies on laughter's silvered wings.
Sunward I've climbed and joined the tumbling mirth
Of sunsplit clouds, and done a hundred things you've not dreamed of . . .
And while with silent, lifting mind I've trod,
The high untrespassed sanctity of space,
Put out my hand and touched the face of God.

CLARIFICATION OF THE RECORD

Mr. MOYNIHAN. Mr. President, In the course of the Senate debate on increased defense expenditure on September 19, I spoke briefly in support of the proposals then before us. In the press of the day's business I was unable to correct my remarks before they appeared in the RECORD. Reading them last evening I came upon a passage that could be read to suggest that I served on convoy duty during World War II. This was not the case. My naval service was, as I stated, "inglorious." I may claim to have enlisted in the Navy in 1944, just as I turned 17, and to have served 3 years, and at sea, but in nothing so valorous as convoy duty. My allusion was intended to illustrate the need for evenly distributed defense expenditures.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

TELECOMMUNICATIONS REGULATION REFORM—MESSAGE FROM THE PRESIDENT—PM 109

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I am today announcing my support for efforts in Congress to reform the regulation of telecommunications. Legislation is needed to eliminate needless regulatory controls, encourage competition and innovation, and keep telephone service affordable throughout the country.

Regulatory reform is one of my highest national priorities. Where the marketplace can work, we must get the government out of making marketplace decisions. Where regulation is needed, we must ensure it is well managed.

Last year the Administration and Congress worked together to deregulate airlines, introducing competition that already has saved over $2.5 billion for passengers while increasing air travel and airline revenues. This year we have submitted to Congress far-reaching regulatory reform proposals affecting trucking, railroads, banking, drugs, and regulatory procedures.

The 45-year-old regulatory charter for telecommunications also needs revisions. This industry can provide more and better services while cutting many costs. It can help fight inflation and promote growth. We cannot afford to have this progress frustrated by unwarranted regulation. We must ensure that competitors fight through their salesmen in the marketplace rather than through their lawyers in government hearings.

Telecommunications is crucial to our society. This industry—which includes the telephone companies and the firms which provide satellite communications, computer links, and other specialized services—has more than one million employees and annual revenues of over $50 billion. The availability of nationwide, high-quality communications is vital to the economy, national security, and the quality of our lives. Sophisticated new communications systems are providing better services, lower costs, and improved productivity in an economy that depends more and more on information transfers.

Telecommunications firms are regulated by the Federal Communications Commission under the Communications Act of 1934. That Act was designed at a time when technology made monopoly the logical structure for telecommunications. That system, assisted by the rural telephone loan program, has nearly achieved the national goal of universal service—96 percent of all households and nearly all businesses have telephone service.

Two critical changes have occurred since 1934. First, there have been extraordinary technological advances. In addition to the wired network the telephone companies and new, competing firms are using satellites, lasers, microwaves, and miniature computers to provide more and more systems and services for business and homes. The new technology makes it possible to hold meetings, transmit messages, do research, bank, shop and receive a widening variety of information and entertainment—all through electronics. In the process, the technology has invalidated the old assumption that all aspects of telecommunications service are natural monopolies. Second, FCC and court actions over the last decade opened portions of the industry to competition. Despite these far-reaching developments, the statutory framework has remained unchanged, and regulatory changes have come slowly.

Outmoded regulatory controls and slow procedures are harming new competitors, established telephone companies, and the users of telephone and other telecommunications services. Regulatory delays and uncertainties discourage firms from entering new markets and offering new services. In a dynamic industry, these delays can mean that the product or service offered is obsolete by the time the regulatory proceeding ends. Innovation is hobbled by uncertainty and by the need to respond to artificial regulatory conditions instead of real consumer demand.

Consumers are the final beneficiaries of competition, through lower prices and wider choices. The competition already allowed in the telecommunications industry is producing benefits. For example, the market for telephone sets and other terminal equipment recently was opened to competition. Consumers now can shop around for good prices, choose from a wide variety of products, and decide whether to buy or lease. Competition is also providing more choices among sophisticated, new services, such as those that combine data processing and transmission.

The choice is clear. Competition is a fact of life in this industry. It cannot and should not be rolled back, and we should not allow it to continue developing haphazardly. That approach means delay and uncertainty, and it poses a long-run danger to the health of our telecommunications system. Instead, we need both legislation and well-planned action at the FCC. The task is to create a structure that will give consumers the benefits of competition and deregulation wherever they make sense while keeping telephone service reliable and affordable.

The FCC under Chairman Charles Ferris is working hard on this effort, but the Act itself needs change. The House and Senate Communications Subcommittees are now working on legislation to meet this challenge. I urge Congress to press forward and enact a bill that incorporates the following basic principles:

Competition should be encouraged and fully competitive markets should be deregulated. The bill should set a policy of encouraging competition wherever it is workable and of eliminating needless regulation. Deregulation makes sense for competitive markets, such as terminal equipment, and for small firms that cannot dominate markets. Many communications and equipment offerings should be deregulated now, and legislation is needed to avoid endless litigation over the FCC's authority to do so. Of course, some communications markets, such as the local exchange, may remain regulated monopolies indefinitely. The legislation should not, however, preclude competition in any market.

As the industry moves toward competition and deregulation, some continued controls will be needed because one firm dominates the telecommunications industry and others have local monopolies. Firms should be prevented from using monopoly power and revenues in some markets to gain advantage over competitors in others. Any monopoly facilities used in providing competitive services should be available to all competitors at the same rates and terms. In addition, changes in companies' structures will be needed, such as mandating fully separate subsidiaries. Where such changes are made, the employment, pension, and union rights of the employees should be protected.

Restrictions based on out-of-date market divisions should be removed. The line between telecommunications and data processing has become blurred; new equipment and services involve both. Existing controls based on this distinction have produced years of regulatory proceedings and are delaying the use of new technologies. In addition, the rules that divide some communications services between domestic and international companies are outmoded and need change. These problems should be solved through open competition by all, without extending the scope of regulation. To ensure fair competition, creation of fully separate subsidiaries, including separate accounts and marketing, will be needed, and some of the restrictions on international service will have to be removed gradually.

University availability of basic telephone service at affordable rates must be maintained. Overall long-distance revenues currently contribute to keeping some local and toll rates affordable. This is done through complex accounting processes largely determined by the telephone industry. Because of the developments of the last decade, this system is in trouble. The industry is considering changing it in order to match the new competitors' rates, and that could mean significant rate increases in some rural areas.

These are important public policy decisions and should not be left solely to the industry. We need a new system which would be administered openly by public officials. The legislation should provide for a charge on all long-distance services—including those of the new competitors—which use local exchanges. This "access charge" would cover the actual cost of using local facilities, provide support for local service, and finance protection for rural residents against large toll rate increases.

These provisions should be drawn to encourage the FCC, state regulators and the telephone companies to take long term steps to support universal service. Such steps include prices based on actual use; low "lifeline" rates for basic service; and use of new technologies that can provide low-cost service over long distances.

In addition, the rural telephone companies and cooperatives should be encouraged to help extend to rural Americans the benefits of all the new communications technologies. As my policy statement on rural communications said last January, the current rules that restrict rural telephone companies from offering cable TV services should be removed.

Appropriate jurisdictional boundaries should be set. The current boundary between Federal and state regulatory jurisdictions—the state line—is inconsistent with technological realities. The bill should set new, clear boundaries: service within local exchanges should be regulated by the states, while service between exchanges should be under Federal control.

The FCC should be given the authority to develop efficient means of assigning non-broadcast frequencies. Many of the new telecommunications systems use radio frequencies, such as satellite links, microwaves, and mobile radio. The FCC currently assigns many of these frequencies through "comparative hearings" which impose months or years of delay and waste FCC resources. Under the current system, once a frequency is assigned there is no incentive to use it efficiently. That is a problem because growing numbers of users, here and abroad, are crowding the limited space in the radio spectrum.

We need assignment systems that are fast, flexible, and that provide incentives to use the spectrum efficiently. The legislation should give the FCC authority to design new procedures which use marketplace forces, such as auctions, leasing, and re-sale. These procedures will help ensure that the spectrum is used sensibly, just as similar tools are employed for oil leases and other limited natural resources.

The antitrust laws should remain applicable as before. It should be explicit that the legislation is neutral as to pending and any future litigation.

The technical quality of the telecommunications network should be protected. The legislation should not impede cooperation between the carriers to plan and manage national systems. To provide for technical quality, national security, and emergency preparedness needs, the FCC should retain authority to set technical standards and ensure that facilities are capable of interconnection where appropriate.

Public participation in regulatory decision making should be encouraged. Effective participation by the users of telecommunications services will help the FCC and state regulators make their difficult decisions. Such involvement should be encouraged through open proceedings and by providing funding for groups that could not otherwise afford to participate and that represent an important interest that would not otherwise be heard.

I congratulate Chairman Lionel Van Deerlin of the House Communications Subcommittee and Chairman Howard Cannon and Ernest Hollings of the Senate Commerce Committee and the Communications Subcommittee and their colleagues for the extensive and informative hearings they have held and the thoughtful bills they have introduced covering the issue I have outlined and other important communications matters. My Administration will continue to provide assistance on specific provisions. I urge Congress to move forward with this important effort.

Jimmy Carter.

The White House, *September 21, 1979.*

MESSAGES FROM THE HOUSE

At 9:36 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 544) to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 230) to amend title VIII of the Public Health Service Act to extend through fiscal year 1980 the program of assistance for nurse training, and for other purposes.

The message further announced that the House disagrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 111, an act to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977; that the House insists on its disagreement to the amendments of the Senate and requests a further conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Murphy of New York, Mr. Dingell, Mr. Bowen, Mr. Hubbard, Mr. Bonior, Mr. Wyatt, Mr. Zablocki, Mr. Fascell, Mr. Hanley, Ms. Holtzman, Mrs. Schroeder, Mr. Harris, Mr. McCloskey, Mr. Bauman, Mr. Carney, Mr. Broomfield, Mr. Derwinski, and Mr. Fish were appointed as managers of the conference on the part of the House.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 189. A concurrent resolution to correct the enrollment of S. 544.

At 1:47 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 303. A joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 7, 1979, as "National Port Week"; and

H.J. Res. 402. A joint resolution making continuing appropriations for the Federal Trade Commission for the fiscal year 1980, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 230. An act to amend title VIII of the Public Health Service Act to extend through fiscal year 1980 the program of assistance for nurse training, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

HOUSE JOINT RESOLUTIONS REFERRED

The following joint resolutions were read twice by their titles and referred as indicated:

H.J. Res. 303. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 7, 1979, as "National Port Week"; to the Committee on the Judiciary.

H.J. Res. 402. Joint resolution making continuing appropriations for the Federal Trade Commission for the fiscal year 1980, and for other purposes; to the Committee on Appropriations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 21, 1979, he presented to the President of the United States the following enrolled bill:

S. 230. An act to amend title VIII of the Public Health Service Act to extend through fiscal year 1980 the program of assistance for nurse training, and for other purposes.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-2192. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Preserving America's Farmland—A Goal the Federal Government Should Support," September 20, 1979; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2193. A communication from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, approval of a commitment to guarantee a non-REA loan in the amount of $21,075,000 to Big River Electric Corporation of Henderson, Kentucky; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2194. A communication from the Deputy Assistant Secretary of Defense (Administration), reporting, pursuant to law, that the Department of the Air Force intends to exercise the provisions for exclusion of the clause concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-2195. A communication from the Deputy Assistant Secretary of Defense (Administration), reporting, pursuant to law, that the Department of the Army has waived the requirement for the examination of records by the Comptroller General from several contracts; to the Committee on Armed Services.

EC-2196. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improvements Needed in the Securities and Exchange Commission's Efforts to Establish a National Securities Market," September 19, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-2197. A communication from the Secretary of the Interior and the Secretary of Agriculture, United States Youth Conservation Corps, transmitting, pursuant to law, a report of the activiies for the 1978 YCC program; to the Committee on Energy and Natural Resources.

EC-2198. A communication from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, justification for an increase in the funding level of the proposed FY 1979 program in Costa Rica; to the Committee on Foreign Relations.

EC-2199. A communication from the Secretary of State, transmitting, pursuant to law, the third monthly report on developments related to Zimbabwe-Rhodesia; to the Committee on Foreign Relations.

EC-2200. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to require the use of the Consumer Price Index for all urban consumers in certain Federal programs, and for other purposes; to the Committee on Governmental Affairs.

EC-2201. A communication from the Director, Administrative Office of the United States Courts, reporting, pursuant to law, upon the suspension of Speedy Trial Act time limits established by 18 U.S.C. section 3161(c); to the Committee on the Judiciary.

EC-2202. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Conditions of Older People: National Information System Needed," September 20, 1979; to the Committee on Labor and Human Resources.

EC-2203. A communication from the Comptroller General of the United States, reporting, pursuant to law, on the President's eleventh special message for fiscal year 1979 which was transmitted to Congress pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations, the Committee on the Budget, the Committee on Energy and Natural Resources, the Committee on Foreign Relations, and the Committee on Labor and Human Resources, jointly, pursuant to order of January 30, 1975.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

DEPARTMENT OF EDUCATION ORGANIZATION ACT—CONFERENCE REPORT

Mr. RIBICOFF, from the committee of conference, submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 210) to establish a Department of Education (Rept. No. 96-326).

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 3920. An act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes (Rept. No. 96-327).

By Mr. LUGAR, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 1788. An original bill to amend the National Consumer Cooperative Bank Act to provide for a small business representative on the Bank's Board (Rept. No. 96-328).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 242. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1398. Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Sam Epstein Angel, of Arkansas, to be a member of the Mississippi River Commission.

(The above nomination from the Committee on Environment and Public Works was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Lawrence F. Simoneaux, subject to qualifications provided by law, for permanent appointment to lieutenant (junior grade) in the National Oceanic and Atmospheric Administration.

(The above nomination from the Committee on Commerce, Science, and Transportation was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. LONG, from the Committee on Finance:

The following-named persons to be members of the National Commission on Social Security:

James J. Dillman, of Wisconsin;
Milton S. Gwirtzman, of Massachusetts;
D. S. MacNaughton, of Tennessee;
David H. Rodgers, of Washington; and
Elizabeth Duskin, of Maryland.

(The above nominations from the Committee on Finance were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ADDITIONAL CONFEREES—S. 428

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Colorado (Mr. HART) and the Senator from New Hampshire (Mr. HUMPHREY) be added as additional conferees on the part of the Senate to S. 428, the Department of Defense Authorization Act, 1980.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JACKSON:

S. 1785. A bill for the relief of Laird H. Hall; to the Committee on the Judiciary.

By Mr. JACKSON (for himself, Mr. MORGAN and Mr. GOLDWATER) (by request):

S. 1786. A bill to amend the act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said act; to the Committee on Rules and Administration.

By Mr. LONG:

S. 1787. A bill to amend title 49 of the United States Code to revise certain provisions relating to the transportation of food and grocery products by motor vehicle; to the Committee on Commerce, Science, and Transportation.

By Mr. LUGAR (from the Committee on Banking, Housing, and Urban Affairs):

S. 1788. A bill to amend the National Consumer Cooperative Bank Act to provide for a small business representative on the Bank's Board. Original bill reported and placed on the calendar.

By Mr. CULVER (for himself, Mr. NELSON, and Mr. PRESSLER):

S. 1789. A bill to facilitate the ability of product sellers to establish product liability risk retention groups, to purchase product liability insurance on a group basis, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BAYH:

S. 1790. A bill entitled the "Privacy Protection Act of 1979"; referred to the Committee on the Judiciary.

By Mr. CHAFEE (for himself, Mr. MOYNIHAN, Mr. RANDOLPH, Mr. STAFFORD, Mr. BAKER, Mr. BURDICK, Mr. PRESSLER, Mr. PELL, and Mr. GRAVEL):

S. 1791. A bill to enhance the utility and ambience of Federal buildings by circulating exhibits or art and history among public buildings managed by the Administrator of General Services, to define and continue the existing arts-in-architecture program maintained by the Administrator, and for other purposes; to the Committee on Environment and Public Works.

By Mr. McGOVERN:

S. 1792. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. COCHRAN:

S. 1793. A bill to amend title 10, United States Code, to authorize the Secretary of the Army to establish an Army Reserve career interest program for persons between the ages of 14 and 18; to the Committee on Armed Services.

By Mr. MELCHER:

S. 1794. A bill to amend the Public Health Service Act to provide for research concerning Reye's syndrome, and for other purposes; to the Committee on Labor and Human Resources.

S. 1795. A bill to authorize the Gros Ventre Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes; to the Committee on the Judiciary.

S. 1796. A bill to authorize the Assiniboine Tribe and the Blackfeet Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 1797. A bill for the relief of Dr. Robert L. Rausch; to the Committee on the Judiciary.

By Mr. CANNON (for himself and Mr. PACKWOOD):

S. 1798. A bill to reduce regulation of and increase competition in the household goods moving industry, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (for himself, Mr. MORGAN and Mr. GOLDWATER) (by request):

S. 1786. A bill to amend the act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said act; to the Committee on Rules and Administration.

● Mr. JACKSON. Mr. President, I introduce for appropriate reference and consideration a bill to amend the National Museum Act of 1966.

The 1966 act enables the Smithsonian Institution to respond to the needs of other museums through grants and contracts for training museum professionals, training in museum practices, the study of museum problems and opportunities, the preparation of museum publications related to support management, research in museum techniques with special emphasis given to research and training in conservation, and cooperation with agencies of the Government concerned with museums.

Funds appropriated to the Smithsonian for implementation of the National Museum Act are made available to museums, professional associations, and individuals after review by the National Museum Act Advisory Council. The membership of the Advisory Council encompasses the principal museum disciplines—art, science, and history—and is broadly representative of the various regions of the United States. The Council advises and assists in determining priorities and assessing the quality of proposals for which seeking support is requested under the act.

The Smithsonian Institution, the Institute for Museum Services, the National Endowment for the Arts, and the National Endowment for the Humanities regularly consult and review programs and proposals in order to prevent duplication and to meet, insofar as possible, the increasing needs of museums and museum professionals. The programs of the endowments are concentrated on the public aspects of specific museums such as exhibitions, renovations, catalogs and purchases; those of the Institute for Museum Services are related to direct operating costs; and those that the Smithsonian administers under the National Museum Act are designed to serve the needs of the museum profession in general.

The authority for appropriations under the National Museum Act has been extended for 3-year periods since 1966, and the program is looked upon as beneficial to the museum field. The funding levels have been $793,000 in fiscal year 1978 and $798,000 for fiscal year 1979. The fiscal year 1980 budget request for the program is also $798,000. Existing authority for appropriations for the National Museum Act expires at the end of fiscal year 1980.

At its meeting on May 7, 1979, the Board of Regents of the Smithsonian Institution requested its congressional members to introduce and support legislation authorizing appropriations for purposes of the National Museum Act for 3 additional years at the existing level of funding.

This is the purpose and effect of the bill my fellow regents, Senators MORGAN, GOLDWATER, and I are introducing today.●

By Mr. CULVER (for himself, Mr. NELSON, and Mr. PRESSLER):

S. 1789. A bill to facilitate the ability of product sellers to establish product liability risk retention groups, to purchase product liability insurance on a group basis, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PRODUCT LIABILITY RISK RETENTION ACT

● Mr. CULVER. Mr. President, I am today introducing the Product Liability Risk Retention Act of 1979. This legislation would remove existing regulatory barriers to the formation of cooperatives of manufacturers, retailers, and distributors in order to provide themselves with product liability insurance. It represents the product of several years of work by the Department of Commerce to find ways to make this insurance more affordable to business and has been endorsed by the administration. It has the support of a wide range of business and consumer organizations including the National Association of Manufacturers, the National Federation of Independent Business, the National Machine Tool Builders Association, the Sporting Goods Manufacturers Association, the National Association of Wholesaler-Distributors, the Consumers Union, the National Consumers League, and Congress Watch.

Product liability—legal responsibility for injuries caused by products which a firm manufactures, distributes, or sells—became a major problem for many businesses in the mid-1970's. Insurance coverage which had been a relatively minor cost for many years suddenly jumped in price. Whole industries faced a doubling or tripling of premiums each year and it was not unusual for individual firms to see annual increases of more than 1,000 percent.

Congress began looking into the product liability situation in September 1976 when I chaired hearings of the Senate Small Business Committee on the subject. The Senate Finance and Commerce, Science and Technology have also held hearings as have the Committee on Ways and Means and Small Business of the House of Representatives. In addition, an interagency task force of executive branch agencies, directed by the Department of Commerce conducted a comprehensive 18-month investigation of the product liability problems confronting business. These inquiries revealed that a number of factors contributed to the crisis; among them, conflicting State tort laws, the existence of some unsafe products, the operation of some workers' compensation provisions. But neither acting singly nor in combination did these factors explain fully the rapid increases in insurance costs. In fact, the product liability task force concluded, the data simply did not justify the rates being charged. Instead, said its final report, insurers were "panic pricing."

Mr. President, there is a compelling interest both to businesses and consumers that product liability insurance costs be brought to more equitable and affordable levels. Firms unable to find coverage face possible bankruptcy in the event of a major adverse settlement; those who obtain it at unduly high levels see their competitive position eroded. Consumers dealing with these firms either risk the unavailability of compensation in the event of injury or must absorb the higher insurance costs which are invariably passed on in the price of the product.

Last year Congress acknowledged the public's interest in better insurance protection for businesses with product liability problems. Included in the Revenue Act of 1978 an amendment which I introduced to allow businesses suffering product liability losses to carry them back and apply them against the previous 10 years of taxable income. A 3-year carryback is permitted for most business losses. Under this provision, a firm could use taxes previously paid as at least a partial reserve against uninsured losses.

This new provision of law is useful for firms who cannot obtain any insurance at all. But for the great majority of firms, affordability rather than availability is the issue. A partial solution to this problem lies in S. 542 which I introduced with a number of my colleagues earlier this year. That proposal which was recommended by the Department of Commerce would allow business to deduct from taxable income certain amounts set aside in a reserve account to be used only to pay product liability losses and related costs. In effect, under this legislation, small businesses would receive the same tax treatment for dollars used to "self-insure" as for dollars paid for conventional coverage.

When the Department of Commerce reported its recommendations to the administration, the Secretary was directed to continue the search for ways to make insurance more readily available to products manufacturers and sellers. The Risk Retention Act is the result of that continued effort.

This legislation has two basic parts. First, it exempts "risk retention groups" of businesses from State insurance regulations so that they may form self-insurance pooling arrangements. State regulations requiring heavy capitalization, extensive reporting, detailed rate and policy form compliance, and the like are aimed at commercial insurers but have the practical effect of making risk retention groups impossible.

This bill permits such groups to be formed if approved by the Secretary of Commerce after an examination of such factors as a group's assets, managerial expertise, loss prevention efforts, reserves, and other relevant factors.

Second, this legislation will permit the group purchase of product liability insurance through the regular commercial market, a practice which is prohibited in a majority of States.

Both of these provisions will improve the ability of products manufacturers and sellers to obtain coverage at reduced costs. That result would benefit both businesses and consumers. In addition, it is likely that the Risk Retention Act would reduce the outflow of capital and premiums to off-shore "captive insurance companies." In short, this legislation meets a serious continuing problem of the business community, especially small firms, that is consistent with the legitimate needs of consumers. I hope it will receive prompt and serious consideration by my colleagues. I ask unanimous consent that the bill be printed in the Record at this point, along with brief statements made by business and consumer groups in support of the bill and a background paper answering questions about the bill's approach.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 1789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Product Liability Risk Retention Act of 1979".

STATEMENT OF POLICY AND DECLARATION OF PURPOSE

Sec. 2. The policy of Congress which shall be implemented through this Act is to facilitate the formation and sound operation of product liability risk retention groups by product sellers by eliminating Government regulation, which may be necessary for commercial insurers which insure a large number of policyholders, but which is inappropriate and costly for these special purpose groups formed to meet limited risk exposures. The purposes of this Act are to—

(1) reduce insurance costs for some product sellers;

(2) insure the prompt payment of legally valid claims made by persons injured by products;

(3) promote competition among providers of product liability and completed operations risk coverage; and

(4) reduce the outflow of capital and premiums to off-shore jurisdictions which have been attracting captive insurance companies of United States parent corporations.

DEFINITIONS

Sec. 3. As used in this Act the term—

(1) "affiliate" means any person, directly or indirectly, controlling or controlled by such other person, or any person under direct or indirect common control with such other person;

(2) "control" means ownership or control, directly or indirectly, of more than fifty percent of the total combined voting power of all classes of stock entitled to vote and where appropriate, actual control where exercised other than through ownership of stock;

(3) "approved risk retention group" means a risk retention group which, pursuant to this Act, has been issued a certificate of approval by the Secretary which has not been revoked;

(4) "claimant" means a person asserting a legal cause of action or claim and, if the cause of action or claim is asserted on behalf of an estate, claimant includes claimant's decedent;

(5) "completed operations" means operations performed by a person, or those performed for such person by an independent contractor, which operations have been completed or abandoned prior to the occurrence giving rise to the claim, at premises which are not owned or controlled by such person;

(6) "group participant" means a member of a risk retention group or a member affiliate whose risk exposure has been assumed by a risk retention group;

(7) "insurance" includes insurance, excess insurance, reinsurance, and surplus lines insurance;

(8) "member" means a person who, directly or indirectly, has an interest in a risk retention group as the result of having made a contribution to the capital of such group;

(9) "member affiliate" means any person who is an affiliate of a member of risk retention group;

(10) "net direct fees" means the net amounts received by an approved risk retention group as consideration for assuming and retaining the risks of its group participants other than—

(A) nonrecurring items, such as contributions to its capital;

(B) amounts returned to its members (other than in payment for covered losses) such as risk agreement dividends, refunds, and returns for risk agreement cancellations; and

(C) that portion of the group's gross compensation allocable to risks ceded to excess insurers of reinsurers;

(11) "person" means an individual, corporation, partnership, association, joint venture, business trust, unincorporated organization, or any other similar entity, except that, and when used in reference to a risk retention group, such term means a corporation or other limited liability association taxable as a corporation;

(12) "product liability risk" includes liability for damages on account of physical injury or emotional harm to individuals or on account of damage to or loss of use of property arising out of the manufacture, importation, distribution, lease, or sale of a product other than liability arising before the manufacturer, importer, distributor, lessor, or seller has relinquished possession of the product;

(13) "risk agreement" means the contract between a risk retention group and one or more of its group participants whereby the risk retention group agrees to assume all, or any portion, of the product liability and completed operations risk exposure of such person or persons;

(14) "risk retention group" means a person organized for the primary purpose, and whose principal activity consists, of assuming and spreading all, or any portion, of the product liability and completed operations risk exposure of two or more persons;

(15) "Secretary" means the Secretary of the Department of Commerce;

(16) "State" means any State of the United States and the District of Columbia; and

(17) "Title II Group" means any group comprised of persons engaged in the same or similar business which has as one of its purposes the purchase of product liability or

completed operations insurance on a group basis.

TITLE I—RISK RETENTION GROUPS

APPROVAL

SEC. 101. (a) The Secretary shall promulgate rules and regulations which set forth the requirements for approval of risk retention groups.

(b) Rules and regulations promulgated pursuant to subsection (a) shall provide that the Secretary in determining whether to approve a risk retention group may consider—

(1) the amount and liquidity of the assets of the applicant relative to the risks to be assumed and retained by the applicant;

(2) whether the reserves established or to be established by the applicant comply with the requirements of section 103;

(3) the adequacy of the expertise, experience, and character of the person or persons who will manage the applicant;

(4) the adequacy of the loss prevention programs of the applicant and its group participants;

(5) the adequacy of the insurance coverage obtained by the applicant in order to comply with section 102 of this Act;

(6) the overall soundness of applicant's plan of operation;

(7) whether, in its application, the applicant has failed to disclose material facts or circumstances bearing upon its qualifications for approval by the Secretary; and

(8) such other factors deemed relevant by the Secretary to balancing the goals of promoting the formation and efficient operation of risk retention groups and trying to assure that such groups are able to meet their risk agreement obligations.

(c) The assets of the applicant may include irrevocable letters of credit on behalf of the applicant, in the form prescribed by the Secretary by regulation and issued by a national bank or a State bank approved for that purpose by the Secretary.

(d) Any risk retention group whose principal place of business is located in a State may apply for a certificate of approval. Each application shall be in such form and contain such information as the Secretary, by regulation, may prescribe. Each application shall include the applicant's plan of operation and an agreement by the applicant and by its group participants:

(1) to permit and to pay the reasonable cost of any audits and examinations which the Secretary may determine necessary prior to approval, if granted, and those conducted pursuant to section 109;

(2) to furnish any additional information relevant to the purposes of this Act, which is in the possession or subject to the control of the applicant and its group participants, as the Secretary may require; and

(3) to pay the fees provided for in section 110.

(e) The Secretary may make such audits or examinations of an applicant and its group participants which are necessary to ascertain whether an applicant meets the requirements for approval established pursuant to this Act.

(f)(1) Except as otherwise provided in paragraph (2), the Secretary shall not issue a certificate of approval to any risk retention group in which the risk coverage afforded to any one person exceeds five percent of the total risks assumed by the risk retention group.

(2) The Secretary may issue a certificate of approval to any risk retention group that meets all the requirements for approval set forth in this Act if the Secretary determines that such approval is necessary to carry out the purposes of this Act and that, notwithstanding noncompliance with the five percent limitation described in paragraph (1), the group, as approved, is likely to be financially sound and capable of functioning to shift and distribute the risks of its participants.

(g) For the purpose of applying the maximum percentage limitation on an individual person's risk coverage set forth in section 101(f)(1), the risk exposure of persons who are affiliates shall be aggregated and considered attributable to only one affiliate.

(h) The Secretary may approve any risk retention group which meets the requirements established pursuant to this Act. The Secretary may make a group's approval subject to such terms and conditions as the Secretary may determine necessary or appropriate, including restrictions upon the admission of new members to an approved group, the withdrawal of members from an approved group, and the distribution of the assets of an approved group to its members. The Secretary is authorized to issue a certificate of approval to any approved risk retention group.

(i) Any refusal to issue a certificate of approval hereunder shall be made by a written order issued by the Secretary, which order shall specify the factual conclusions and legal authority upon which the refusal is based.

LIMITATIONS ON RISKS AND MEMBERSHIP

SEC. 102. (a) The Secretary may require, as a condition to approval of a risk retention group, that a risk retention group agree to limit the maximum amount of risk it accepts and retains with respect to any one loss or in the aggregate, or with respect to one or more of its group participants, and to acquire and keep in force insurance coverage for losses in excess of such maximum limitations. In satisfying the requirement of the preceding sentence the group shall obtain only policies which provide explicitly that:

(1) their proceeds shall enure to benefit of claimants of the approved risk retention group and shall be payable to a receiver or other officer of a court in the event of the group's inability to satisfy its risk agreement obligations; and

(2) the insurer shall give the risk retention group and the Secretary a minimum of forty-five days' notice in writing prior to the policy's cancellation or substantial modification.

(b) The risk retention group shall provide the Secretary with a copy of the policy or policies for the required coverage, together with the certification of the insurer, and all documents which substantially modify that coverage.

(c) An approved risk retention group shall not assume, directly or indirectly, the product liability and completed operations risk exposure of persons other than its members and member affiliates.

(d) Notwithstanding subsection (b), an approved risk retention group may assume the product liability and completed operations risk exposure of its members and member affiliates, which exposure arises from the operation of hold harmless, indemnity, or other similar agreements executed by a group participant and either—

(1) a supplier of products or services to the group participant;

(2) a purchaser of the products or services from the group participant; or

(3) a person who holds the products of the group participant on consignment for sale.

(e) No person shall become a member of an approved risk retention group unless all or a portion of its product liability or completed operations risk exposure, or that of one or more of its affiliates, is to be assumed by that group pursuant to a risk agreement. No person shall continue to be a member of an approved risk retention group for more than sixty days after that group has ceased to assume all or a portion of its product liability or completed operations risk exposure, or that of one of its affiliates, pursuant to a risk agreement.

(f) The Secretary shall prescribe rules and regulations which provide for the return of the capital contribution of any person required to withdraw from an approved risk retention group pursuant to subsection (e). Such rules and regulations shall provide that—

(1) the withdrawing member's capital contribution shall be increased or decreased, as appropriate, to reflect the claims experience (including incurred but not reported losses), earnings, losses, and distributions of the group, all determined through the application of generally accepted accounting principles, during the period the withdrawing person was a group member; and

(2) the member's adjusted capital contribution shall be returned, together with interest at the rate provided for in the risk agreement, or if no rate was provided for, at the prevailing prime rate in the United States accruing from the date of withdrawal, in installments over such a period of time as is necessary in order to determine the appropriate adjustments under paragraph (1), and to avoid jeopardizing the group's financial condition, but, in any case, no longer than five years after the date of withdrawal.

(g) No approved risk retention group shall, directly or indirectly, acquire reinsurance from any of its members or member affiliates.

(h) An approved risk retention group shall not make non-pro-rata assessments or retroactive adjustments, based on an individual participant's loss experience, to the fees paid by that group participant for coverage.

RESERVES

SEC. 103. (a) The Secretary shall require an approved risk retention group to establish and maintain reasonable and adequate reserves to meet incurred losses, including incurred but not reported losses, and loss adjustment expenses arising from the risks it retains. The Secretary shall not require (or permit) such reserves to exceed levels determined through computations using accepted actuarial methods and based on reasonable actuarial assumption.

(b) In addition to the reserves required by subsection (a), the Secretary shall require an approved risk retention group to establish and maintain a reasonable and adequate reserve for unearned fees paid or to be paid to the group by its group participants. For purposes of accounting for the financial results of the group, such reserve shall not be less than fifty percent of the annual net direct fees paid or to be paid to the group by its group participants. Each approved risk retention group shall include this reserve, as well as the reserves required by subsection (a), as a liability in all its financial statements.

(c) Each approved risk retention group shall act as a fiduciary with respect to its reserves which it shall hold for the benefit of potential claimants against its group participants. The reserves of an approved risk retention group shall be invested in the same manner and with the same care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(d) No approved risk retention group shall, directly or indirectly, acquire any securities of, make or guarantee any loans to, receive loans from, or otherwise acquire any interest in, any of its members or member affiliates.

ANNUAL AND OTHER REPORTS

SEC. 104. (a) Each approved risk retention group shall submit to the Secretary an annual report and such other reports which the Secretary determines to be necessary or appropriate in order to carry out the purposes of this Act.

(b) The reports required to be submitted pursuant to this section shall be in such form and contain such information and certifications as the Secretary, by regulation, may prescribe. The annual report shall include a statement of financial condition and operations substantially similar to the annual statement approved by the National Association of Insurance Commissioners.

APPLICABILITY OF STATE LAW

Sec. 105. (a) This Act and the rules and regulations issued hereunder shall preempt any and all State laws which would—

(1) make unlawful the formation or operation of approved risk retention groups;

(2) regulate, directly or indirectly, the formation or operation of approved risk retention groups with respect to: the assumption, spreading, or ceding of all, or any portion, of the product liability or completed operations risk exposure of their group participants; any related functions; or any other functions permitted by the Secretary;

(3) make it unlawful for any person to provide or sell product liability and completed operations insurance, insurance-related services, or management services to an approved risk retention group; or

(4) regulate, directly or indirectly, the provision or sale of product liability and completed operations insurance, insurance-related services, or management services by any person to an approved risk retention group.

(b) Nothing contained in this Act shall be construed to bar a State from collecting, on a nondiscriminatory basis, from an approved risk retention group applicable premium and other taxes which are levied on admitted insurers and surplus lines insurers under State law.

ANTITRUST LAWS

Sec. 106. (a) The Federal antitrust laws shall be applicable to approved risk retention groups, their group participants, and to any person engaged therein, notwithstanding the provisions of section 2(b) of the McCarran-Ferguson Act.

(b) Nothing contained in this Act shall be construed to create any immunity or defense to any civil or criminal action under any Federal antitrust law.

(c) For the purposes of this section, the term "Federal antitrust laws" shall mean the laws included within the definition of the Clayton Act (15 U.S.C. 12), and the the Clayton Act (15 U.S.C. 12), and the Federal Trade Commission Act (15 U.S.C. 41).

SECURITIES LAWS

Sec. 107. (a) The ownership interests of members in approved risk retention groups shall not be considered securities for purposes of the Securities Act of 1933 (15 U.S.C. 77a), and for purposes of the Securities Exchange Act of 1934 (15 U.S.C. 78a).

(b) Approved risk retention groups shall not be considered to be investment companies for purposes of the Investment Company Act of 1940 (15 U.S.C. 80a–1).

PRODUCT LIABILITY DATA

Sec. 108. (a) Notwithstanding section 552 of title 5, United States Code, neither the Secretary, nor any other officer or employee of the Department of Commerce or bureau or agency thereof, may—

(1) use the information furnished under the provisions of this Act for any purpose other than the administrative and statistical purposes for which it is supplied;

(2) make any publication whereby any person furnishing data pursuant to this Act can be identified; or

(3) permit anyone other than the sworn officers and employees of the Department or bureau or agency thereof to examine the individual applications and reports. No department, bureau, agency, officer, or employee of the Government, except the Secretary in carrying out the purposes of this Act, shall require, for any reason, copies of applications or reports which have been retained by any person. Copies of applications or reports which have been retained shall be immune from legal process, and shall not, without the consent of the person concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(b) The Secretary may require each approved risk retention group to collect and provide to the Secretary such data regarding its product liability claims experience as the Secretary may deem to be appropriate. Notwithstanding subsection (a), the Secretary may disclose the data collected pursuant to this subsection in a format which does not identify, directly or indirectly, the individual persons whose risk has been assumed by the approved risk retention group, together with their individual product liability claims experience.

AUDIT AND MANAGEMENT

Sec. 109. (a) Each approved risk retention group, its members, and its member affiliates shall be subject to audit or examination of their books and records by the Secretary as may be necessary in order to gather information relevant to any of the purposes of this Act. Such audits and examinations may be conducted at reasonable intervals without advance notice.

(b) The Secretary may require that each approved risk retention group engage an independent qualified public accountant to conduct such examination of any financial statements of the group, and of other books and records of the group, as the accountant may determine necessary to enable the accountant to form an opinion as to whether the financial statement and schedules of the group are presented fairly in conformity with generally accepted accounting principles applied on a basis consistent with the group's preceding year. Such examinations shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the books and records of the group as are considered necessary by the independent qualified public accountant. In carrying out the Secretary's responsibilities under this Act, the Secretary may rely upon financial statements prepared in the manner described in the preceding sentence, either in response to the Secretary's request or, if prepared within a reasonable time prior to such request, upon financial statements prepared for some other purpose.

(c) With the consent of the head of the agency, the Secretary may utilize personnel of other agencies of the Federal Government in administering this Act. The Secretary may also utilize independent contractors to perform ministerial functions under this Act, such as conducting audits and examinations.

FEES

Sec. 110. (a) Each applicant for approval under section 101 shall pay to the Secretary a nonrefundable application fee of which shall cover the cost of processing an application for a certificate of approval. The fee required by this subsection shall be in addition to the amounts provided in subsection 101 (d)(1).

(b) The Secretary shall establish and collect from each approved risk retention group a nonrefundable annual fee calculated as a percentage of its net direct fees charged to its group participants.

(c) The annual fee shall include an amount sufficient to reimburse the Secretary for the direct costs of supervising the approved risk retention group.

REVOCATION OF APPROVAL

Sec. 111. (a) The Secretary may revoke the certificate of approval of an approved risk retention group—

(1) upon the request of the group;

(2) upon the refusal of the group to permit an audit or examination of its books and records pursuant to section 109;

(3) upon the approved risk retention group's violation of this Act, or any regulations promulgated thereunder, or the terms and conditions of the Secretary's approval of the risk retention group;

(4) upon the Secretary's determination that the group is primarily engaged in the business of investing, reinvesting, or trading in securities;

(5) upon the Secretary's determination that the primary purpose or principal activity of the group has ceased to be the assumption and spreading of the product liability and completed operations risk exposure of the participants of the group; or

(6) for any reason which, had it existed or had it been known to have existed, at the time the Secretary considered the group's application for a certificate of approval, would have justified the Secretary to refuse to issue its certificate of approval initially.

(b) The Secretary shall, prior to revocation, give any approved risk retention group thirty days' written notice of the Secretary's intention to revoke the group's certificate of approval. The Secretary shall provide the group an opportunity during that period to correct the deficiencies in its operation which are stated in the notice to be the grounds for revocation. Prior to revocation of its certificate of approval, any approved risk retention group or group participant may request in writing, and shall be granted an opportunity for, an informal hearing to contest such revocation.

(c) The Secretary shall revoke a certificate of approval by written order. Such order shall be served upon the risk retention group and shall set forth the factual conclusions and legal authority upon which the revocation is based.

HEARINGS AND JUDICIAL REVIEW

Sec. 112. (a) Any hearing provided for in section 111 shall be held in the District of Columbia. Such hearings shall be informal and need not be conducted in accordance with the provisions of section 554 of title 5, United States Code. The Secretary shall promulgate rules and regulations which specify who may participate in these informal hearings.

(b) Any order issued by the Secretary pursuant to this Act shall be final except that an approved risk retention group, an applicant for a certificate of approval, or a group participant of such group or applicant, may appeal any order by filing in the United States District Court for the District of Columbia, within sixty days after the date of service of such order, a written petition requesting that the order of the Secretary be modified, terminated, or set aside. Such order shall be reviewed in acordance with the provisions of section 706 of title 5, United States Code.

PROCEEDS OF REINSURANCE

Sec. 113. In the event that an approved risk retention group is determined to be insolvent by a court of competent jurisdiction because it is unable financially to pay its debts when due, proceeds from reinsurance policies held by such group shall be payable to the group's receiver or other officer of the court.

TITLE II—GROUP PURCHASE OF PRODUCT LIABILITY AND COMPLETED OPERATIONS INSURANCE

EXEMPTION FROM STATE LAW

Sec. 201. In order to promote the group purchase of product liability and completed operations insurance and thereby reduce the cost of such coverage, the persons specified in section 202 shall be exempt from any and all State laws which would—

(1) make it unlawful for insurers to provide or offer to provide product liability and completed operations insurance, or to act or offer to act as agent or broker with respect to the provision of such insurance, on a group basis, or on any other basis which affords rate, coverage, or other advantages which are not made available to persons who are not members of a group, to the persons described in paragraph (2);

(2) prohibit fictitious groups, groups which have not been in existence for more than some minimum period of time, or groups formed in order to purchase product liability and completed operations insurance on a group basis;

(3) require any policy of product liability and completed operations insurance to be countersigned by an insurance agent or broker residing in that State; or

(4) any other State law which would prohibit or discriminate against the application of this title.

EXEMPT PERSONS

Sec. 202. The following persons shall be exempt from the State laws specified in section 201:

(1) Title II groups;

(2) members of Title II groups; and

(3) any person who provides product liability and completed operations insurance, insurance-related services, or management services to title II groups and their members.

LIMITATION ON TITLE II EXEMPTIONS

Sec. 203. The exemption from State laws contained in this title for persons who provide product liability and completed operations insurance to Title II groups and their members shall only apply to the provision of, or offer to provide, such insurance to Title II groups and their members.

TITLE III—MISCELLANSOUS PROVISIONS

STATE TORT LAW

Sec. 301. Nothing in this Act, including the definition of the term "product liability risk" in section 3(11), shall affect, be construed to affect, or be construed to indicate the desirability of any modifications to, the substantive tort law of any State.

REGULATIONS

Sec. 302. The Secretary shall prescribe such rules and regulations and take all other actions as may be necessary or appropriate to implement this Act.

EFFECTIVE DATE

Sec. 303. This Act shall take effect one hundred and eighty days after the date of enactment.

Product Liability Risk Retention Act of 1979

GENERAL BACKGROUND

The Product Liability Risk Retention Act of 1979 (the "Act") will help product sellers address their product liability problems in two ways. First, Title I of the Act enables product sellers to form their own insurance cooperatives called "risk retention groups." Members of risk retention groups will be able to pool all or a portion of their product liability and completed operations exposure. The groups will be exempted from state insurance regulations. Although these regulations are directed at commercial insurers, they have had the practical effect of preventing product sellers, located in different states, from forming self-insurance groups.

Title I of the Act will be administered by the Department of Commerce under the supervision of the Secreary. In determining whether a risk retention group should be approved, the Secretary would consider: (1) its assets; (2) the expertise of its management; (3) the adequacy of its loss prevention efforts and its reserves; (4) the amount of risk it will accept; and (5) other relevant factors that would indicate its ability to handle claims.

Second, Title II of the Act will permit persons engaged in the same or similar businesses to purchase product liability and completed operations insurance on a group basis. This will allow them to negotiate with commercial insurers for premium discounts, coverage plans, and other benefits which would not otherwise be available to the firms individually. Presently, the group purchase of insurance is prohibited in a majority of states. Title II would be self-administering.

The Act was prepared by the Department of Commerce in response to the Administration's directive of July 20, 1978, to consider means by which product liability self-insurance would be facilitated. The general concept was derived from an 18-month Federal Interagency study of product liability.

MAJOR PURPOSES OF THE ACT

The Act should help:

(1) Reduce insurance costs for some businesses, particularly small firms which have had good claims experience, but do not benefit from this experience.

(2) Ensure the prompt payment of legally valid claims made by persons injured by products. For example, it will encourage companies which cannot obtain commercial insurance coverage at affordable rates or who must absorb a very high deductible to join a risk-sharing mechanism. As a result, these companies would be in a much better position to compensate any persons injured by their defective products.

(3) Increase the specialized loss prevention services provided to members of risk retention groups, thereby reducing injuries caused by products. In that regard, the Interagency Task Force found that small businesses generally receive fewer loss prevention services than larger firms. Moreover, when insurers provide loss prevention advice, it is very general in nature.

(4) Assure that there is full competition among providers of product liability and completed operations risk coverage. This, in turn, may encourage private insurers to set rates as accurately as practicable. This should, in turn, eliminate the need for increased regulation because problems in the ratemaking system will be resolved through competition in the marketplace.

(5) Reduce the outflow of capital and premiums to off-shore jurisdictions which have been attracting captive insurance companies.

SOME MAJOR QUESTIONS CONCERNING THE ACT

1. Is it needed?

Product liability rates and premiums continue to cause serious economic impacts, especially for small businesses. While rates did not increase in 1978, individual premiums and required deductibles often did. There is some indication that premiums will continue to increase in 1979. Many observers of the insurance industry are predicting a sharp downswing in industry underwriting profits as early as 1980, which will result in reduced capacity. If history repeats itself, this cyclical downswing could have a severe impact upon product liability insurance costs and availability, compounding the existing problem.

While the insurance industry and the states have responded to the product liability problem, it has not been resolved. For example, the insurance industry has formed Market Assistance Programs ("MAPs") in approximately 27 states. Product sellers, however, have indicated that MAPs only assist product sellers who are unable to obtain product liability insurance at any price.

Administration, congressional, and state studies show that the heart of the problem is affordability, not availability, of coverage. Approximately 18 states have enacted so-called "tort law reforms," but these individualized state efforts have had no effect on rates or premiums.

The Insurance Services Office's new Commercial Statistical Plan will gather needed product liability data; however, the data will not be reflected in ratemaking until 1984.

In sum, in spite of a variety of initiatives to address the product liability problem, there is a need to stabilize the product liability insurance market.

2. What state barriers preclude the formation of risk retention groups?

State insurance laws have as their purpose the regulation of commercial insurance companies. Upon admission to transact the business of insurance, these insurers are authorized to issue policies to the public at large. For this reason, the overriding objective of the state insurance regulatory systems is to ensure the solvency of commercial insurers. The states seek to meet this objective by: (1) requiring substantial insurer capitalization; (2) establishing complex reporting systems designed to provide early warning of potential insolvency problems; (3) requiring detailed rate and policy form regulation; and (4) requiring insurer membership in state insurance guaranty funds to protect the public against insurer insolvencies (in most states). While these requirements are directed at commercial insurers, they automatically preclude the formation of risk retention groups.

The Risk Retention Act establishes a flexible system which would reduce the amount of overall regulation. It would not require that each risk retention group have resources sufficient to conduct an open-ended insurance business with the public at large. Instead, it would tailor the regulatory requirements to the operations of each group. Thus, risk retention groups would be required to have assets sufficient to meet the risks that they would actually assume and retain. The self-interest of each group's members in assuring its proper management and solvency, as well as the strong pressure placed on a group by its excess insurers and reinsurers, also substitute for regulation.

The Act would also free risk retention groups from state laws which would bar them from competing as to price or capacity with licensed insurers or which would prevent them from operating in a state as an insurer until they had operated for some minimum period of time in some other state.

The Department of Commerce has a more detailed explanation of the regulatory barriers to risk retention groups which is available upon request.

3. Why cannot the states resolve the problems themselves?

Even if some states were to repeal the barriers that preclude the formation of risk retention groups, it would not help the product liability situation. Most risk retention groups would still have to comply with regulations in a multiplicity of states because their members will, in almost all cases, be located in more than one state.

This geographical distribution and the interstate flow of products are what distinguish product liability from the medical malpractice problem with respect to the necessity of federal action. In product liability, because of the interstate flow of products and of the geographical dispersion of firms in similar businesses, inevitably more than one state jurisdiction becomes involved in both tort and insurance-oriented solutions.

It should be noted that private insurers recognize the interstate nature of product liability and set rates on a country-wide, not a state-by-state, basis.

4. Does the Act actually reduce regulatory burdens?

The Act does not simply substitute one set of regulations for another. It eliminates the regulatory problems associated with multistate operations, particularly those that operate to prevent price and coverage competition by non-admitted insurers. It also exempts groups comprised of persons in the same or similar business, as well as risk retention groups, from state laws which prohibit the group purchase of insurance at a reduced price or require the use of the services of resident insurance agents.

5. Does the Act leave product liability claimants unprotected?

The Act may increase the probability that product liability claimants can enforce their judgments. Many firms are going without product liability insurance* because of its high cost and, in some cases, its unavailability. If some of these firms utilize the Act and form risk-sharing mechanisms, i.e., risk retention groups, they will be in a much better position than they are today to pay the claims of persons injured by their products.

In order to assure that all risk retention groups remain solvent, the Act provides the Secretary of Commerce with appropriate regulatory authority to assure that the groups are adequately capitalized and managed.

Furthermore, it is possible that the states could allow approved risk retention groups to participate in the state insurance guaranty associations.

6. Why is the Act limited to product liability?

Although state insurance regulation presents burdensome obstacles to self-insurance mechanisms in general, the Act is limited to product liability and completed operations for two reasons. First, the intensive studies conducted by the Federal Government which led to the Act were limited to those areas. Second, there are unique interstate aspects to product liability and completed operations which may not be involved in problems in other insurance lines. For example, products, in contrast to medical services, are sold interstate. Moreover, risk retention groups will almost inevitably involve companies which are located in more than one state. The interstate aspects of product liability and completed operations require federal intervention.

7. Will approved risk retention groups have an unfair competitive advantage over commercial insurers?

The Act does not provide approved risk retention groups with an unfair competitive advantage over commercial insurers. Approved groups will be subject to similar, and, in some cases, more stringent, requirements as those which commercial insurers must meet. With regard to the similar requirements, approved groups must meet minimum financial and management standards. Also, they will have to maintain proper reserves. These requirements will assure that the groups will be able to meet covered claims brought against their members. It is important to note also that approved groups will be subject to applicable state premium taxes.

Approved groups will be subject to more stringent requirements in several cases. First, unlike commercial insurers, approved risk retention groups will be subject to the federal antitrust laws. Second, they will not automatically receive the favorable tax treatment afforded to commercial insurers under the Internal Revenue Code. Third, unlike commercial insurers, they will not be permitted to make non-pro-rata assessments or retroactive adjustments to premiums paid by their members.

Finally, it is expected that most approved groups would be formed to provide product sellers with the first-dollar coverage equal to the deductibles required by insurers or to provide risk protection in those cases where no insurance is available.

8. Will the Act cause adverse risk selection?

Some may assert that the Act will cause all of the "good risks" to form risk retention groups, leaving the commercial insurance system overburdened to the point of collapse with all of the "bad" product liability risks. This is the so-called "adverse risk selection" process. The Act will not cause or lead to an adverse risk selection process or the described calamitous consequences for several reasons.

First, and most important, the Interagency Task Force, as well as a congressional report and various state studies, found that insurer ratemaking practices are one of the principal causes of the product liability problem. Thus, product liability rates and premiums in recent years have not simply mirrored imperfections in the tort system. Many product sellers who have never had a claim have seen their premiums rise in recent years by several hundred to several thousand percent. This has been caused, in part, by inadequate ratemaking practices and inadequate data on product liability. Approved risk retention groups will be a practical alternative for and will be formed by companies which may have been misclassified as "bad" risks and have had their premiums raised to levels which are too high. The so-called "good risks" will choose to form a risk retention group only if it can offer the same or greater advantages as those offered by commercial insurers. True "bad" risks will not find the Act a practical alternative.

Second, the adverse risk selection argument necessarily assumes that "good" risks subsidize "bad" risks. Information provided by insurers and insurance ratemaking organizations to the Interagency Task Force did not indicate that there is any such subsidy provided through the ratemaking system.

9. What will the impact of the Act be on the federal budget?

The Act is designed to be self-supporting. Individual member fees will cover all of the administrative costs.

10. Does the Act affect the enforcement of the antitrust laws?

The federal antitrust laws are applicable to risk retention groups, their members and member affiliates, notwithstanding the general commercial insurer immunity provided by the McCarran-Ferguson Act. The latter immunity is in no way affected by this Act. The federal antitrust laws will not be a barrier to properly managed risk retention groups.

11. Are premiums paid to risk retention groups tax-deductible?

As long as there is real risk shifting and spreading, in accordance with existing tax law, approved risk retention groups should qualify for the favorable tax treatment afforded to commercial insurers. Thus, for example, reasonable premiums paid to an approved risk retention group should be deductible as an ordinary and necessary business expense under section 162 of the Internal Revenue Code.

12. Is there a federal or state precedent for risk retention groups?

There is a precedent at both the federal and state levels for exempting group risk retention mechanisms from state insurance regulation. These precedents include the Employee Retirement Income Security Act of 1974 (29 U.S.C., section 1144(b)(2)(B) (1976)), the Health Maintenance Organization Act (42 U.S.C., section 300E–10(a) (1974)) at the federal level, and exemptions in Florida (Fla. Stat. Ann. Title 29 section 440.57 (West 1976)) and South Carolina (S.C. Code subsection 42–5–20 (1976)) for Worker Compensation self-insurance.

13. Does the Act affect state tort law?

Section 301 of the Act specifically provides that the Act does not affect existing state tort law in any way. It does, however, recognize that the substantive tort law varies among the states as to the types of injuries which are compensable. Therefore, the Act permits product sellers to protect themselves with respect to damages from loss of use of property and emotional harm to individuals which may be considered compensable damages in some states. Thus, the Act is permissive as to the type of coverage approved risk retention groups may choose to provide their members, but it does not affect state tort law itself.

14. Does the Act place federal monies at risk through a federal guaranty fund?

There is no provision for a federally-backed guaranty fund. However, the Act does not prohibit approved risk retention groups from voluntarily joining a state insurance guaranty association.

STATEMENTS IN SUPPORT OF THE RISK RETENTION ACT

THE NATIONAL ASSOCIATION OF MANUFACTURERS

The National Association of Manufacturers has long been critically concerned over the product liability situation. We now find that instead of stabilizing, the situation is actually worsening. . . . Because of the severity of the problem, because of its effect on product costs and hence inflation, and because it has reached levels that even our association did not anticipate, we urge you to give every consideration possible to mechanisms for reforming the various product liability systems. Chief among these is obviously insurance and the availability/affordability question. . . . We feel this is an extremely worthwhile concept, one that has the potential for bringing much needed relief to the business community without adding to federal expenditures. Consequently, we urge you to release this legislation to the Congress, thereby affording it the public scrutiny that it deserves.

RISK AND INSURANCE MANAGEMENT SOCIETY, INC.

. . . [T]he affordability of product liability insurance remains a critical problem—and a very large expense. . . . It is our policy to support maximum flexibility of risk management options. . . . It would also promote an element of competition in the market place which would be beneficial to all commercial buyers of insurance. . . . We have not been permitted to review the present proposed form of the law, so we can only support—*very strongly*—the concept of a self insurance alternative protected by its federal enabling legislation from the state regulations which would render it inoperative.

CONSUMERS UNION, NATIONAL CONSUMERS LEAGUE, AND CONGRESS WATCH

The Risk Retention Act will provide manufacturers with a competitive alternative to commercial insurance. . . . It will permit companies to get insurance at a lesser cost or to insure risks where they now may be without insurance. The competitive alternative to commercial insurance should force insurers to be more responsible in setting premiums and more responsive to manufacturer needs. Consumers should benefit because reduced insurance costs should relieve some pressure on prices. Also, the availability of insurance should assure seriously injured consumers of a source of recovery. . . . We, therefore, urge the Administration to support the Risk Retention Act.

THE NATIONAL MACHINE TOOL BUILDERS ASSOCIATION

The American machine tool industry needs the Risk Retention Act, which is currently being considered by OMB. Early Congressional passage of this Act will enable our members to form groups to cover all or part of their product liability risks, which are currently uninsurable at affordable premium rates.

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* For example, over 20 percent of the businesses in the machine tool industry today are going without product liability insurance.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Products liability remains a significant small business problem. . . . NFIB has always considered products liability to be in need of a two-sided solution. One side involves reform of tort law. The other involves changes in the insurance system to ease the supply problem. . . . Because NFIB is a democratic organization, we cannot endorse the bill without a vote by the membership. Such a vote is now being conducted. However, we do wish to emphasize that products liability and the costs of acquiring products liability insurance remains of keen interest and concern to large numbers of small businesses.

SPORTING GOODS MANUFACTURERS ASSOCIATION

The Sporting Goods Manufacturers Association strongly feels the legislation should receive favorable consideration by OMB and be sent to the Hill. . . . Insurance is still an overwhelming problem with regard to products liability in the sporting goods industry. . . . The Act will give manufacturers an alternative to commercial insurance and perhaps bring some of the off-shore captives home—two other good reasons for its consideration.

SCIENTIFIC APPARATUS MAKERS ASSOCIATION

SAMA members believe that enactment of the proposed Product Liability Risk Retention Act would: (1) provide viable options for manufacturers facing unreasonably high product liability insurance costs; (2) increase competition in the insurance industry that could result in lower costs; and (3) increase protection of the public by making better coverage more readily available, and would accomplish the foregoing at little or no cost to the taxpayer. Therefore, we urge the Administration to seek passage of this draft legislation by the Congress.

NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS

We believe this proposed legislation deserves the active support of the Administration. We believe that if businesses were afforded the opportunity to form cooperaitve risk retention pools, . . . [t]his would eliminate the highly subjective ratemaking now imposed on our industry. We found that within one commodity line . . . one wholesaler may be paying ten times more for the same amount of protection than another wholesaler whose products would have the same level of risk.●

By Mr. BAYH:

S. 1790. A bill entitled the "Privacy Protection Act of 1979"; referred to the Committee on the Judiciary.

● Mr. BAYH. Mr. President, in May of last year the Supreme Court handed down its decision in the case of Zurcher against Stanford Daily. In that decision the court held that police armed with a warrant could forcibly and without notice search a person's home or office for evidence of a crime, even if that person were in no way suspected of criminal activity. Shortly after the opinion was announced, I introduced legislation designed to protect innocent third parties against the very real dangers to their rights to privacy posed by the Stanford Daily decision. My bill was designed to apply these protections to all citizens not suspected of criminal activity and to all levels of government. Federal, State, as well as local.

Additionally, the Subcommittee on the Constitution, which I have the honor to chair, began a series of hearings on the decision and its implications on the constitutional rights of innocent American citizens. We heard from a wide variety of witnesses who were concerned, as I was, over the fundamental change in the traditional relationship between the innocent law-abiding citizen and his or her government implicit in the unannounced searches of their property condoned by the Court in Stanford Daily. I was particularly concerned by the chilling effects this would pose on the vigorous exercise of first amendment rights by the press.

The subcommittee has worked with the Justice Department on various approaches to this problem, and on April 2 of this year I was pleased to introduce, at the administration's request, S. 855, the First Amendment Privacy Protection Act. This bill embodied the administration's response to the Stanford Daily decision and I was gratified that it adopted my approach of applying remedial legislation to all levels of government. At the time I introduced this legislation, however, I indicated that I was concerned that it did not extend its protection to all innocent third parties but simply to those engaged in first amendment activity.

As valuable as I believe S. 855 to be in protecting the extremely important constitutional rights embodied in the first amendment, I am not convinced that we are best served by not providing those same rights to all innocent third parties. I believe it is significant that I am joined in this view by virtually every one of the major press and media organizations that testified at our hearings on this subject. Moreover, I have come to this conclusion after days of hearings and extensive correspondence with legal scholars, interested parties, and a wide variety of organizations. Doctors, lawyers, and other professionals who have in their possession confidential information should not be subject to forcible entries and rifling through files any more than newspapermen should. They, like the press, should be given the opportunity to provide law enforcement authorities the precise material needed for investigation of a crime by voluntarily complying with a subpena.

As those who are often privileged against disclosing clients' materials should be afforded the process of being served with a subpena before a warrant, so perhaps even more should ordinary citizens or businessmen who find themselves unknowingly or unwittingly in possession of documents that are in some way evidence of a crime. Should they not be able to turn over these materials to the police without having the privacy of their home or office invaded by officers armed with a warrant? As Justice Stevens pointed out in his dissent, the scope of innocent persons exposed to unannounced police searches by the Court's interpretation of the fourth amendment in the Zurcher decision is wide.

> Just as the witnesses who participate in an investigation or a trial far out-number the defendants, the persons who possess evidence that may help identify an offender, or explain an aspect of a criminal transaction, far out-number those who have custody of weapons or plunder. Countless law-abiding citizens—doctors, lawyers, merchants, customers, bystanders—may have documents in their possession that relate to an ongoing criminal investigation. The consequences of subjecting this large category of persons to unannounced police searches are extremely serious. The ex parte warrant procedure enables the prosecutor to obtain access to privileged documents that could not be examined if advance notice gave the custodian an opportunity to object. The search for the documents described in a warrant may involve the inspection of files containing other private matter. The dramatic character of a sudden search may cause an entirely unjustified injury to the reputation of the persons searched. 436 U.S. 547, 579–580.

In light of these considerations, I am introducing today a more comprehensive approach to providing protection for innocent third parties from possible abuses of the search warrant procedure. The Court issued a clear invitation to the Congress:

> Of course, the Fourth Amendment does not prevent or advise against legislative or executive efforts to establish non-constitutional protections against possible abuses of the search warrant procedure, but we decline to re-interpret the Amendment to impose a general constitutional barrier against warrants to search newspaper premises, or to require resort to subpoenas as a general rule, or to demand prior notice and hearing in connection with the issuance of search warrants. 436 U.S. 547, 567.

Title I of this proposal is identical to S. 855. Title II extends the "subpena first" rule to those like doctors and lawyers whose materials are protected by the privilege law of the jurisdiction. Title III would protect all citizens who are innocent third parties. Under both titles II and III exception is made, first, if there is probable cause to believe that the parties are implicated in the crime under investigation; second, if immediate seizure is deemed necessary to prevent possible bodily injury; third, if giving notice might lead to the destruction, alteration, or concealment of the material; fourth, if the materials have not been produced in compliance with the subpena, and all appellate remedies have been exhausted, or the delay in the investigation would threaten the interests of justice.

It is difficult to conceive of circumstances in which such exceptions would allow interference with criminal investigation. In other words, if law enforcement officers were able to show that the person in possession of the wanted documentary evidence might be a suspect in the crime, or that he might try to hide or destroy the materials, or that there were other extraordinary circumstances, they would proceed with a warrant. Otherwise they would afford the person the opportunity to comply with the subpena and produce the papers freely.

Mr. President, our legal heritage well before our own Bill of Rights was rich in the attempts of free men to delineate for their government the boundaries beyond which the state cannot intrude on their lives and property. By 1603, Semaynes' case established the English proposition that "a man's home is his castle" when it held that a homeowner could defend against the unlawful entry of royal agents. In 1765 Entick against Carrington ruled that government officers could not raid a man's house in a broad search for possible seditious materials. Such conduct, the court said, was subversive of "all the comforts of society."

In the American colonies there was long and painful experience with the King's men entering and ransacking homes and businesses on the mere showing of general warrants or writs of assistance in their efforts to enforce the revenue laws. It was out of these legal traditions and personal encounters that the fourth amendment was drafted to establish "the right of the people to be secure in their persons, houses, papers, and effects."

The question of the rights of innocent third parties under the fourth amendment was unsettled until the Supreme Court spoke in Zurcher against Stanford Daily. However, in the absence of clear precedent, it appears that it was the general practice of law enforcement agencies before Zurcher to proceed under a subpena duces tecum in criminal investigations where the person in possession of documentary evidence was not suspected of wrongdoing. However, testimony before the Subcommittee on the Constitution has revealed recent searches of doctors and lawyers' offices for background materials on clients who are suspects in a criminal offense, or simply witnesses to a crime. Further, there has been evidence offered that the incidence of such searches has grown since the Zurcher decision, and it is reasonable to assume that more and more prosecutors will take the shortcut opened to them by the Supreme Court.

Mr. President, I believe that the Senate should accept the invitation of the Zurcher court "to establish non-constitutional protections against possible abuses of the search warrant procedure" and enact legislation such as that introduced today. There will be several more days of hearings on the far-reaching ruling in Stanford Daily against Zurcher shortly after the August recess. Surely one of "the comforts of society" in the United States today is that innocent people are not forced to open their homes or offices against their wills and stand by while police officers ransack their files and personal effects. Surely under these circumstances citizens should be given an opportunity to comply with the law before they may be abused by it; the rule that every man's home is his castle should continue to be honored today.

Mr. President, I ask unanimous consent that the text of this bill, together with a section-by-section analysis, be printed in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 1790

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Privacy Protection Act of 1979."

TITLE I: FIRST AMENDMENT PRIVACY PROTECTION

Sec. 2 (a) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize any work product materials possessed by a person in connection with a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if

(1) there is probable cause to believe that the person possessing the materials has committed or is committing the criminal offense for which the materials are sought:

Provided, however, that a government officer or employee may not search for or seize materials described in subsection 2 (a) under the provisions of this paragraph if the offense for which the materials are sought consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under 18 U.S.C. 793, 18 U.C.S. 794, 18 U.S.C. 797, 18 U.S.C. 798, 42 U.S.C. 2274, 42 U.S.C. 2275, 42 U.S.C. 2277, or 50 U.S.C. 783); or

(2) there is reason to believe that the immediate seizure of the materials is necessary to prevent the death of or serious bodily injury to a human being

(b) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize documentary materials, other than work product, possessed by a person in connection with a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if:

(1) there is probable cause to believe that the person possessing the materials has committed or is committing the criminal offense for which the materials are sought: *Provided, however,* that a government officer or employee may not search or seize materials described in subsection 2(b) under the provisions of this paragraph if the offense for which the materials are sought consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under 18 U.S.C. 793, 18 U.S.C. 794, 18 U.S.C. 797, 18 U.S.C. 798, 42 U.S.C. 2274, 42 U.S.C. 2275, 42 U.S.C. 2277, or 50 U.S.C. 783); or

(2) there is reason to believe that the immediate seizure of the materials is necessary to prevent the death of or serious bodily injury to a human being; or

(3) there is reason to believe that the giving of notice pursuant to a subpoena duces tecum would result in the destruction, alteration, or concealment of the materials; or

(4) the materials have not been produced in response to a court order directing compliance with a subpoena duces tecum, and

(A) all appellate remedies have been exhausted; or

(B) there is reason to believe that the delay in an investigation or trial occasioned by further proceedings relating to the subpoena would threaten the interest of justice. In the event a search warrant is sought pursuant to this subparagraph, the person possessing the materials shall be afforded adequate opportunity to submit an affidavit setting forth the basis for any contention that the materials sought are not subject to seizure.

TITLE II: CONFIDENTIAL INFORMATION PROTECTION

Sec. 2 (a) Notwithstanding any other law it shall be unlawful for a governmental officer or employee, in connection with the investigation or prosecution of a criminal offense to search for or seize any documentary material or work product that would be considered by the jurisdiction of the person in possession of the materials to be privileged material under that jurisdiction's statutory or case law. This provision shall not impair or affect the ability of any governmental officer or employee pursuant to otherwise applicable law to search for or seize materials if:

(1) there is probable cause to believe that the person possessing the materials has committed or is committing the criminal offense for which the materials are sought; or

(2) there is reason to believe that the immediate seizure of the materials is necessary to prevent the death of or serious bodily injury to a human being; or

(3) there is reason to believe that the giving of notice pursuant to a subpena duces tecum would result in the destruction, alteration or concealment of materials; or

(4) the materials have not been produced in response to a court order directing compliance with a subpena duces tecum, and

(A) all appellate remedies have been exhausted; or

(B) there is reason to believe that the delay in an investigation or trial occasioned by further proceedings relating to the subpena would threaten the interests of justice. In the event a search warrant is sought pursuant to this subparagraph, the person possessing the materials shall be afforded adequate opportunity to submit an affidavit setting forth the basis for any contention that the materials ought are not subject to seizure.

TITLE III: CITIZENS PRIVACY PROTECTION

Sec. 3 (a) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize any documentary or work product materials possessed by any person, but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if:

(1) there is probable cause to believe that the person possessing the materials has committed or is committing the criminal offense for which the materials are sought; or

(2) there is reason to believe that the immediate seizure of the materials is necessary to prevent the death of or serious bodily injury to a human being; or

(3) there is reason to believe that the giving of notice pursuant to a subpena duces tecum would result in the destruction, alteration, or concealment of the materials; or

(4) the materials have not been produced in response to a court order directing compliance with a subpena duces tecum, and

(A) all appellate remedies have been exhausted; or

(B) there is reason to believe that the delay in an investigation or trial occasioned by further proceedings relating to the subpena would threaten the interests of justice. In the event a search warrant is sought pursuant to this subparagraph, the person possessing the materials shall be afforded adequate opportunity to submit an affidavit setting forth the basis for any contention that the materials sought are not subject to seizure.

TITLE IV: REMEDIES, EXCEPTIONS, AND DEFINITIONS

Sec. 4. This Act shall not impair or affect the ability of a government officer or employee, pursuant to otherwise applicable law, to conduct searches and seizures at the borders of or at international points of entry into the United States in order to enforce the customs laws of the United States.

Sec. 5. (a) A person aggrieved by a search for or seizure of materials in violation of this Act shall have a civil cause of action for damages for such search or seizure:

(1) against the United States, against a State which has waived its sovereign immunity under the Constitution to a claim for damages resulting from a violation of this Act, or against any other governmental unit, all of which shall be liable for violations of this Act by their officers or employees while acting within the scope or under color of their office or employment;

(2) against an officer or employee of a State who has violated this Act while acting within the scope or under color of his office or employment, if such State has not waived its sovereign immunity as provided in paragraph (1). It shall be a complete defense to a civil action brought under this paragraph that the officer or employee has a reasonable good faith belief in the lawfulness of his conduct.

(b) The United States, a State, or any other governmental unit, liable for violations of this Act under paragraph 5(a)(1), may not assert as a defense to a claim arising under this Act the immunity of the officer or employee whose violation is complained of or his reasonable good faith belief in the lawfulness of his conduct, except that such a defense may be asserted if the violation complained of is that of a judicial officer.

(c) The remedy provided by paragraph 5(a)(1) against the United States, a State, or any other governmental unit is exclusive of any other civil action or proceeding for conduct constituting a violation of this Act, against the officer or employee whose violation gave rise to the claim, or against the estate of such officer or employee.

(d) A person having a cause of action under this section shall be entitled to recover actual damages but not less than liquidated damages of $1,000, such punitive damages as may be warranted, and such reasonable attorneys' fees and other litigation costs reasonably incurred as the court, in its discretion, may award: Provided, however, that the United States, a state, or any other governmental unit shall not be liable for interest prior to judgment.

(e) The Attorney General may settle a claim for damages brought against the United States under this section, and shall promulgate regulations to provide for the commencement of an administrative inquiry following a determination of a violation of this Act by an officer or employee of the United States and for the imposition of administrative sanctions against such officer or employee if warranted.

(f) The district courts shall have original jurisdiction of all civil actions arising under this section.

Sec. 6.(a) "Documentary materials," as used in this Act, means materials upon which information is recorded, and includes, but is not limited to, written or printed materials, photographs, tapes, viedotapes, negatives, films, outtakes, and interview files.

(b) "Work Product," as used in this Act, by a person in possession of such material, as if the work was done by an attorney in the course of an attorney-client relationship, except such work product as constitutes contraband or the fruits of instrumentalities of a crime. For the purposes of Title I of this Act, "work product" means any documentary materials created by or for a person in connection with his plans, or the plans of the person creating such materials to communicate to the public.

(c) "Any other governmental unit," as used in this Act, includes the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any local government, unit of local government, or any unit of State government.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED "PRIVACY PROTECTION ACT OF 1979"

GENERAL INTRODUCTION

The premise underlying this legislation is that, absent extraordinary circumstances, such as those when life is in danger or where there is a risk of destruction or concealment of evidence, the appropriate means of obtaining documentary material in possession of persons who are themselves not implicated in the commission of the crime under investigation is through the use of a subpoena duces tecum rather than a search for and seizure of materials in the homes and offices of these persons.

The legislation is divided in three titles differing in the kinds of persons who are protected by the provisions of the Act. Title I is confined to persons involved in First Amendment activities; Title II applies to persons whose materials or work product would be considered privileged material under the law of the jurisdiction; Title III applies to any person.

TITLE I: FIRST AMENDMENT PRIVACY PROTECTION

Introductory comment

By requiring, in most cases, that persons involved in the dissemination of information to the public shall have an opportunity to produce the materials which are sought, disruptive searches for documentary materials which in their execution often require examination of files and papers irrelevant to the investigation in question, and the attendant chilling effect these searches may have on the ability to obtain and publish information, may be avoided.

In addition, this proposed legislation recognizes that materials whose very creation arises out of a desire to communicate to the public (these materials are defined as "work product" in the statute) generally should not be subject to search and seizure by law enforcement officers, even in the face of the possessor's noncompliance with a subpoena duces tecum, as long as the possessor himself is uninvolved in the commission of the crime under investigation. Such noncompliance may subject the possessor to sanctions arising out of contempt proceedings against him, but resort to search and seizure is deemed an inappropriate remedy for such noncompliance when "work product" is involved.

Section 2. Unlawful acts.

Briefly, this section provides, with limited exceptions, that it is unlawful to search for or seize materials possessed by persons in connection with a broad range of First Amendment activities. When the materials sought for consist of work product, as defined in subsection 5(b), a general no-search rule is applicable. When the materials sought constitute documentary materials other than work product, a subpoena-first rule is generally applicable.

Scope of searches and seizures prohibited by this section:

First, the proposed legislation reaches only searches and seizures conducted by government officers and employees. It is the use of governmental authority to search and seize which is to be limited by this statute. Private citizens are obviously not cloaked with the authority to conduct such searches and seizures, and existing law provides sufficient remedies to deter, punish, and redress intrusions by private citizens into the homes and offices of other persons.

Second, the statute is intended to restrict searches and seizures conducted "in connection with the investigation or prosecution of a criminal offense". Thus, the statute does not reach searches and seizures in civil matters such as the seizure of assets to satisfy the payment of taxes owed to the United States on a State, nor does it apply to searches and seizures which occur in the course of foreign intelligence operations.

Third, it is searches for documentary materials (of which "work product" is a subcategory) which are limited, since it is searches for these sorts of materials which would often require the searching officer to closely examine, and thus ascertain the contents of, other irrelevant documentary materials in order to determine which papers, films, or tapes were those to be seized. On the other hand, a search for non-documentary materials, such as a weapon or narcotics, generally would not require any scrutiny of documentary materials, and so is outside the scope of the protection afforded by this statute. If, however, an officer who had obtained a warrant to search for non-documentary materials were to depart from the permissible scope of his search by embarking on an unnecessary examination of documentary materials, that aspect of his search would be in violation of the statute.

Scope of the materials protected:

The sorts of materials protected from search and seizure by the statute are documentary materials "possessed in connection with a purpose to disseminate to the public" various forms of public communication. This encompasses materials held by persons engaged in a broad range of First Amendment activities. Thus the files and papers of not only the press or members of the news media, but also those of authors, academicians, researchers, and others involved in the dissemination of information to the public, fall within the protections of the statute. (The distinction between "work product" and other documentary materials is reserved for discussion in the explanation of definitions which appear in section 5.)

The phrase "in connection with a purpose to disseminate to the public . . . a form of public communication" reaches not only materials which are to be disseminated to the public or which contain information that is to be incorporated in a form of public communication, but also materials which are gathered in the course of preparing such a publication, yet are at some point determined to be unsuitable for publication. For example, a reporter may prepare an article which his editor decides should not be published; nonetheless, the reporter's interview notes and draft of the article would remain protected by the statute. Similarly, all of an author's research notes would be protected, although only part of the research was ultimately included in the published product.

In order to qualify for the statute's protections, the materials must be possessed in connection with a *purpose* of disseminating some form of public communication. Materials which are prepared or collected for other purposes are not protected. Thus, business records or reports which are required to be filed with government agencies would not be protected, even though the public might be able to gain access to the materials through such means as a request under the Freedom of Information Act.

The term "form of public communication" is designed to have a broad meaning. The fact that a local newspaper, for example, has a small circulation does not preclude application of the statute to searches of the files of the newspaper. The internal memoranda or records of a business,* however, would not constitute a form of public communication, inasmuch as they are not intended to be disseminated to members of the general public.

Subsection 2(a) Unlawful search and seizure of work product.

This section makes it unlawful to search for or seize materials which fall into the category of work product as defined in subsection 5(b). There are two exceptions to this general rule, which appear as paragraphs 2(a)(1) and 2(a)(2), under which a search or seizure of these materials, which is otherwise lawful, may be permitted.

Paragraph 2(a)(1) Suspect exception.

The purpose of this statute is to limit searches for materials held by persons involved in First Amendment activities who are themselves not suspected of participation in the criminal activity for which the materials are sought, and not to limit the ability of law enforcement officers to search for and seize materials held by those who have committed the crime under investigation. This statute recognizes this distinction, but, in light of the importance of protecting First Amendment values, it places a heavy burden on law enforcement officers wishing to invoke the suspect exception provided by this paragraph by requiring that they show probable cause to believe that the person possessing the materials has committed or is committing the criminal offense for which the materials are sought.

The standard enunciated for application of this exception is the same as that which would be required to obtain a warrant for the arrest of the possessor of the materials. Present law governing the issuance of search warrants contains no such requirement that the officer show probable cause to believe that the possesor of the materials which are the subject of the search warrant has or is committing the offense under investigation.

The suspect exception may not, however, be invoked if the only offense of which the possessor is suspected is the receipt, possession, communication, or withholding of the materials of the information contained therein. Thus a law enforcement officer may not use this exception to obtain materials from a reporter who merely receives or possesses unlawfully obtained materials, although the receipt or possession of these materials would constitute a crime. However, if the reporter participated in the unlawful act through which the materials were obtained, the suspect exception could be used to obtain a search warrant for the materials.

A search or seizure, if otherwise lawful, may be conducted under this exception if the offense for which the materials are sought consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data. The specific offenses involved are listed at the end of paragraph 2(a)(1).

Paragraph 2(a)(2) Life-in-danger exception.

This exception allows an otherwise lawful search for the materials described in subsection 2(a) if there is reason to believe that the immediate seizure of the materials is necessary to prevent death or serious bodily injury.

The reason to believe standard which appears in this exception, and in exceptions 2(b)(3) and 2(b)(4)(B) concerning search of non-work product materials, is intended to be considerably less stringent than the standard of probable cause which appears in the suspect exception embodied in paragraph 2(a)(1). See, for a similiar recent employment of the "reason to believe" test, the Right to Financial Privacy Act of 1978.

Subsection 2(b) Unlawful search and seizure of documentary materials other than work product.

This subsection makes it unlawful to search for or seize documentary materials other than work product. (The definitions of "work product" and "documentary materials" are discussed below.) There are four exceptions to this rule, which appear as paragraphs 2(b)(1) through 2(b)(4), under which an otherwise lawful search and seizure of these materials is permitted. It is due to the exception found in paragraph 2(b)(4) that this subsection is characterized as a subpoena-first rule. The exceptions provided by paragraphs 2(b)(1) and 2(b)(2) are identical to the suspect and life-in-danger exceptions provided in paragraphs 2(a)(1) and 2(a)(2), respectively.

Paragraph 2(b)(1) Suspect exception.

See the discussion of the suspect exception under paragraph 2(a)(1).

Paragraph 2(b)(2) Life-in-danger exception.

See the discussion of the life-in-danger exception under paragraph 2(a)(2).

Paragraph 2(b)(3) Destruction exception.

This paragraph permits an otherwise lawful search for non-work product documentary materials if there is reason to believe that the notice provided by a subpoena duces tecum would result in the destruction, alteration, or concealment of the materials. In such cases, it is essential to the interests of effective law enforcement that we retain the ability to obtain and preserve evidence necessary to the prosecution of crime.

Paragraph 2(b)(4) Failure to comply with a subpena duces tecum.

This paragraph provides that if, after a proceeding resulting in a court order directing compliance with a subpoena duces tecum, the possessor of the materials still refuses to produce the materials sought, a search warrant may be obtained if either all appellate remedies have been exhausted, or there is reason to believe that the delay occasioned by further proceedings regarding the subpoena would threaten the interests of justice.

If a warrant is sought prior to the exhaustion of all appellate remedies upon a showing of a threat to the interests of justice under subparagraph (B), the person possessing the materials must be given an opportunity to submit an affidavit setting forth the basis for any contention that the materials sought are not subject to seizure. The affiant could assert that the materials were "work product" and thus not obtainable under this paragraph, that the interest of justice would not be threatened by his further pursuit of appellate remedies, or that, in any event, there was not the requisite probable cause to obtain a warrant.

Instances in which a delay would threaten the interests of justice might include difficulty in meeting the time constraints imposed by the Speedy Trial Act, statutes of limitation, or the expiration of grand juries, if exhaustion of all appellate remedies were permitted.

TITLE II. CONFIDENTIAL INFORMATION

Introductory comment

The title protects those persons whose work product or documentary materials would be privileged in their jurisdiction. The title recognizes that materials that are prepared with every expectation of confidentiality should be guarded against intrusions by law enforcement officers and that the persons engaged in the professions traditionally recognized for such privileges should be given the opportunity of supplying the requested materials in compliance with the precise dictates of a subpoena.

Section 2. Unlawful acts.

This section provides that it is unlawful to search or seize work product or documentary materials possessed by persons who are privileged not to reveal such materials by the law of the jurisdiction. The theory behind this section is that just as the statutes and cases of the jurisdiction have recognized the need for full and unrestricted communication between such persons and those they serve, so also confidentiality must be protected from abusive search and seizure by government officers. This section differs from Title I in that with work product as well as documents, a subpoena first rule is applicable. The special protection of a no search rule is not available for work product in this title.

Scope of searches and seizures prohibited by this section:

First, the proposed legislation reaches only searches and seizures conducted by government officers and employees.

Second, the statute restricts only searches and seizures conducted in the investigation or prosecution of a criminal offense.

Scope of the materials protected:

The sorts of materials protected from search and seizure by the statute are work product and documentary materials considered to be privileged under the statutes or case law of the jurisdiction of the person in possession of the materials. The procedure to be followed by the law enforcement officer in the case of both work product and documentary materials is to serve a subpoena on the person in possession of the materials. The persons protected by the proposed legislation would be readily identifiable to the law enforcement officer or agency by the definitions of privilege provided by local law. Therefore, there would exist few practical problems for police or prosecutor in following the procedures dictated by this section. Paragraph 2(a)(1) Suspect exception.

The purpose of this title is to limit searches for documentary materials deemed to be privileged under the law of the jurisdiction of the person in possession of the materials, and not to limit the ability of law enforcement officers to search for and seize materials held by those who have committed the crime under investigation. This statute recognizes this distinction but it places a heavy burden on law enforcement officers wishing to invoke the suspect exception provided by this paragraph by requiring that they show probable cause to believe that the person possessing the materials has committed or is committing the criminal offense for which the materials are sought.

The standard enunciated for application of this exception is the same as that which would be required to obtain a warrant for the arrest of the possessor of the materials. Present here governing the issuance of search warrants contains no such requirement that the officer show probable cause to believe that the possessor of the materials which are the subject of the search warrant has or is committing the offense under investigation.

The suspect exception may not, however, be invoked if the only offense of which the possessor is suspected is the receipt, possession, communication, or withholding of the materials of the information contained therein. Thus, a law enforcement officer may not use this exception to obtain materials from a person who merely receives or possesses unlawfully obtained materials, although the receipt or possession of these materials would constitute a crime. However, if the person participated in the unlawful act through which the materials were obtained, the suspect exception could be used to obtain a search warrant for the materials.

A search or seizure, if otherwise lawful, may be conducted under this exception if the offense for which the materials are sought consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data. The specific offenses involved are listed at the end of paragraph 2(a)(1).

Paragraph 2(a)(2) Life-in-danger exception.

This exception allows an otherwise lawful search for the materials described in subsection 2(a) if there is reason to believe that the immediate seizure of the materials are necessary to prevent death or serious bodily injury.

The reason to believe standard which appears in this exception, and in exceptions 2(a)(3) and 2(a)(4)(D) is intended to be considerably less stringent than the standard of probable cause which appears in the suspect exception embodied in paragraph 2(a)(1). See, for a similar recent employment of the "reason to believe" test, the Right to Financial Privacy Act of 1978.

Paragraph 2(a)(3) Destruotion exception.

This paragraph permits an otherwise lawful search for work product as documentary materials if there is reason to believe that the House provided by a subpoena duces tecum would result in the destruction, alteration or concealment of the materials. In such cases, it is essential to the interests of effective law enforcement that we retain the ability to obtain and preserve evidence necessary to the prosecution of crime.

Paragraph 2(a)(4) Failure to comply with a subpoena duces tecum.

This paragraph provides that if, after a proceeding resulting in a court order directing compliance with a subpoena duces tecum, the possessor of the materials still refuses to produce the materials sought, a search warrant may be obtained if either all appellate remedies have been exhausted, or there is reason to believe that the delay occasioned by further proceedings regarding the subpoena would threaten the interests of justice.

If a warrant is sought prior to the exhaustion of all appellate remedies upon a showing of a threat to the interests of justice under subparagraph (B), the person possessing the materials must be given an opportunity to submit an affidavit setting forth the basis for any contention that the materials sought are not subject to seizure. The affiant could assert that the materials are "privileged" under the law of the jurisdiction and thus not obtainable under this paragraph, that the interest of justice would not be threatened by his further pursuit of appellate remedies, or that, in any event, there was not the requisite probable cause to obtain a warrant.

Instances in which a delay would threaten the interests of justice might include difficulty in meeting the time constraints imposed by the Speedy Trial Act, statutes of limitation, or the expiration of grand juries, if exhaustion of all appellate remedies were permitted.

TITLE III: CITIZENS PRIVACY PROTECTION

Introductory comment

It is the theory behind this title that any innocent person should have the opportunity to voluntarily produce documentary materials which are sought by governmental officers, thereby being spared the disruptive searches for documentary materials which in their execution often require examination of files and papers irrelevant to an investigation, and the attendant intrusion on the ordinary course of home life or business which these searches may cause.

Unless the person is implicated in the crime, suspected of concealing or destroying the materials, or delaying production of the material sought, or there are other extraordinary circumstances, there is little or no impediment to law enforcement in requiring authorities to first serve the individual with a subpoena rather than entering the premises with a warrant.

Section 2. Unlawful Acts.

This section provides, with certain limitations, that it is unlawful to search or seize materials possessed by any innocent third person.

Scope of searches and seizures prohibited by this section:

First, the proposed legislation reaches only searches and seizures conducted by government officers and employees.

Second, the statute is intended to restrict searches and seizures conducted "in connection with the investigation or prosecution of a criminal offense". Thus, the statute does not reach searches and seizures in civil matters, such as the seizure of assets to satisfy the payment of taxes owed to the United States or a State, nor does it apply to searches and seizures which occur in the course of foreign intelligence operations.

Third, it is searches for documentary materials or work product which are limited, since it is searches for these sorts of materials which would often require the searching officer to closely examine, and thus ascertain the contents of, other irrelevant documentary materials in order to determine which papers, films, or tapes were those to be seized. On the other hand, a search for non-documentary materials, such as a weapon or narcotics, generally would not require any scrutiny of documentary materials, and so is outside the scope of the protection afforded by this statute. If, however, an officer who had obtained a warrant to search for non-documentary materials were to depart from the permissible scope of his search by embarking on an unnecessary examination of documentary materials, that aspect of his search would be in violation of the statute.

Scope of materials protected:

The sorts of materials protected from search and seizure by the title are documentary materials. The other types of evidence often sought in criminal investigations such as weapons or drugs are outside of the scope of the legislation, since their particularity is easily defined and the search for them is not likely to become irrelevant to the items sought. Papers and other documents, however, frequently require familiarity in order to be identified, and thus an investigatory officer may often have to broaden his search and seizure in order to obtain the items desired.

Little practical difficulty is presented to the law enforcement officer in deciding whether to proceed with a subpoena or warrant under the provisions of this title. If the materials sought are documentary, then he proceeds with a subpoena, unless any of the exceptions provided in the statute apply.

Paragraph 2(a)(1) Suspect exception.

The purpose of this title is to limit searches for documentary materials and not to limit the ability of law enforcement officers to search for and seize materials held by those who have committed the crime under investigation. This statute recognizes this distinction but places a heavy burden on law enforcement officers wishing to invoke the suspect exception provided by this paragraph by requiring that they show probable cause to believe that the person possessing the materials has committed or is committing the criminal offense for which the materials are sought.

The standard enunciated for application of this exception is the same as that which would be required to obtain a warrant for the arrest of the possessor of the materials. Present law governing the issuance of search warrants contains no such requirement that the officer show probable cause to believe that the possessor of the materials which are the subject of the search warrant has or is committing the offense under investigation.

The suspect exception may not, however, be invoked if the only offense of which the possessor is suspected is the receipt, possession, communication, or withholding of the materials of the information contained therein. Thus, a law enforcement officer may not use this exception to obtain materials from a person who merely receives or possesses unlawfully obtained materials, although the receipt or possession of those materials would constitute a crime. However, if the person participated in the unlawful act through which the materials were obtained, the suspect exception could be used to obtain a search warrant for the materials.

A search or seizure, if otherwise lawful, may be conducted under this exception if the offense for which the materials are sought consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data. The specific offenses involved are listed at the end of paragraph 2(a)(1).

Paragraph 2(a)(2) Life-in-danger exception.

This exception allows an otherwise lawful search for the materials described in subsection 2(a) if there is reason to believe that the immediate seizure of the materials is necessary to prevent death or serious bodily injury.

The reason to believe standard which appears in this exception, and in exceptions 2(a)(3) and 2(a)(4)(D) is intended to be considerably less stringent than the standard of probable cause which appears in the suspect exception embodied in paragraph 2 (a)(1). See, for a similar recent employment of the "reason to believe" law, the Right to Financial Privacy Act of 1978.

Paragraph 2(a)(3). Destruction exception.

This paragraph permits an otherwise lawful search for work product or documentary materials if there is reason to believe that the notice provided by a subpoena duces tecum would result in the destruction, alteration, or concealment of the materials. In such cases, it is essential to the interests of effective law enforcement that we retain the ability to obtain and preserve evidence necessary to the prosecution of crime.

Paragraph 2(a)(4). Failure to comply with a subpoena duces tecum.

This paragraph provides that if, after a proceeding resulting in a court order directing compliance with a subpoena duces tecum, the processor of the materials still refuses to produce the materials sought, a search warrant may be obtained if either all appellate remedies have been exhausted, or there is reason to believe that the delay occasioned by further proceedings regarding the subpoena would threaten the interests of justice.

If a warrant is sought prior to the exhaustion of all appellate remedies upon a showing of a threat to the interests of justice under subparagraph (II), the person protecting the materials must be given an opportunity to submit an affidavit setting forth the basis for and contention that the materials sought are not subject to seizure. The affiant could assert that the interest of justice would not be threatened by his further pursuit of appellate remedies, or that, in any event, there was not the requisite probable cause to obtain a warrant.

Instances in which a delay would threaten the interests of justice might include difficulty in meeting the time constraints imposed by the Speedy Trial Act, statutes of limitation, or the expiration of grand juries, if exhaustion of all appellate remedies were permitted.

TITLE IV: REMEDIES, EXCEPTIONS AND DEFINITIONS

Section 4. Inapplicability of the Act to searches and seizures conducted to enforce the customs laws of the United States.

This section states that the limitations on governmental search and seizure provided by this statute are not to apply to searches at the borders of or at international points of entry into the United States pursuant to the enforcement of the customs laws of the

United States. These searches are generally of a routine, non-intrusive nature, and are designed to prohibit the introduction of contraband or unlawful materials into the United States, and to facilitate the assessment and collection of duties and tariffs.

Section 5. Remedies.

Subsection 5(a) Civil action for damages.

The remedy provided for violations of this Act is a civil cause of action for damages. Such an action may be brought by a person aggrieved by a violation of the statute. It is not the intent of this proposed legislation to expand current law concerning which persons have standing to bring an action for an unlawful search or seizure. Thus, if materials held by the persons covered by the provisions of the different titles relating to another person are seized in violation of this statute, it would be the person in possession of the materials, and not the party to whom the information related, who would have standing to bring an action under these provisions. The goal of the statute is to protect innocent third parties in possession of documents and papers from governmental intrusions which would unnecessarily subject their files and papers to search and seizure. Consequently, it is these persons who may avail themselves of the remedy provided by the statute.

Paragraph 5(a)(1). Liability of government units.

When a government officer or employee has violated this statute while acting within the scope or under color of his office or employment, the government employing the officer shall be liable for the violations of the officer, except in those cases in which the officer or employee is employed by a State which has not waived its immunity under the Eleventh Amendment of the Constitution.

The remedy against the government unit in such cases is exclusive. The plaintiff may not recover from both the government and the officer, the government alone is liable for the violation of the statute. The exclusivity of the remedy against the government is specifically stated in subsection 5(c).

Paragraph 5(a)(2). Liability of State officers.

Because of limitations on the liability of the States under the Constitution to satisfy judgments for money damages, this subsection provides that when a violation of this statute is committed by an officer or employee of a State which has not waived its immunity under the Constitution, the officer shall be personally liable for the violation.

It is noted that this statute does not provide a remedy for violations committed by officers, whether State, Federal, or local, whose actions are not within the scope of and not under color of their office or employment. In such cases the officers would be acting solely as private citizens, and existing law provides sufficient remedies for their unlawful actions.

Subsection 5(b) Limitation of defenses.

If a government unit is liable under paragraph 5(a)(1) for a violation of this statute committed by one of its officers or employees, it may not assert as a defense to the action brought against it the immunity of the officer committing the offense (whether that immunity is derived from a statute or the common law) or the good faith belief of the officer in the lawfulness of his conduct. The traditional doctrine of judicial immunity, however, is preserved and available to the government sued. Both immunity and good faith are available as defenses to individual officers sued under paragraph 5(a)(2).

In the past, the good faith defense has often precluded recovery for unlawful searches and seizures. Prohibiting the use of this defense when the government unit is the defendant in a suit brought under this statute is not only a fair means of assuring compensation for damages resulting from unlawful governmental searches, it will also significantly increase the number of cases in which the plaintiff may recover, and hence will enhance the deterrent effect of the statute.

Subsection 5(c) Exclusivity of remedy against a government unit.

This subsection provides that the remedy against a government unit which is provided by subsection 5(a) is exclusive of any action against the offending officer for the same violation of the Act. However, this section does not preclude the plaintiff from bringing a claim against the officer for wrongful acts other than a violation of the statute which occur in the same course of events. Thus, even though the government unit is liable for damages for a violation of this statute, the plaintiff could, for example, proceed against the officer for trespass, destruction of property, or a violation of civil rights.

Subsection 5(d). Damages.

This subsection provides that a plaintiff bringing an action under section 5 of the statute may recover actual damages resulting from a violation of the provisions of the Act, but that in any event he is entitled to recover liquidated damages of not less than $1,000. The provision for a minimum amount of liquidated damages is essential because it often will be difficult for a plaintiff to show more than nominal actual damages.

Punitive damages may also be awarded if warranted, as well as attorneys' fees and litigation costs. Since governmental units are exclusively liable for violations which occur when the officer is acting solely under color of office, and these are the instances in which awards of punitive damages are most likely to be warranted, it is appropriate that the governmental unit be liable for punitive damages. Governmental defendants are thus liable to the same extent as individual defendants, except that they are not liable for interest prior to judgment.

Subsection 5(a). Settlement of claims against the United States and commencement of administrative proceedings against officers of the United States violating this Act.

The purpose of subsection 5(c) is twofold. First, it simply gives the Attorney General the authority to settle claims for damages brought against the United States under the provisions of the statute. Second, it requires the Attorney General to promulgate regulations to provide for the commencement of an administrative inquiry if it is determined that an officer of the United States has violated the Act, and to provide for the imposition of administrative sanctions if they are warranted.

Subsection 5(f). Jurisdiction in the district courts.

This section provides that the district courts of the United States shall have jurisdiction to hear civil causes of action for violations of this statute. This provision is designed to overcome the $10,000 amount in controversy requirement of 28 U.S.C. 1331 (which provides jurisdiction over causes of action arising under the laws of the United States) which applies when suing a party other than the United States or an officer or employee of the United States in his official capacity.

Section 6. Definitions.

Subsection 6(a). "Documentary materials".

The term "documentary materials" encompasses the variety of materials upon which information is recorded. Included within the definition are not only written and printed materials such as reports, records, interviews and research notes, but also films, photographs, tape recordings, and videotapes.

Subsection 6(b) "work product".

For the purposes of title I, "work product" is a subcategory of documentary materials which merit the more stringent protections against search and seizure provided by subsection 2(b) of title I. "Work product" is distinguished from other documentary materials by the fact that it is created for the very purpose of communicating information to the public. Thus, for example, financial records of a business which are held by a member of the press, are not work product inasmuch as they are not created in connection with plans "to communicate to the public". However, a report prepared by a member of the press based on those financial records would constitute work product, as would such a report prepared by a whistleblower who intended that the contents of the report be made public.

The definition of work product for the purpose of title I is also designed to reach situations in which the organization or assembly of non-work product gives such insight into the import of the individual documents and represents such a creative effort that the materials which have been subjected to analysis should qualify as "work product." Thus, for example, although individual ledger sheets would not constitute work product, if a reporter were to organize them in a file in such a way as to reveal a pattern of fraud not apparent from examination of isolated sheets, the file itself would be work product, although the documents contained therein would not individually qualify as work product.

The concept of "work product" as used in all three titles of this statute is derived from and in many ways analogous to the concept of attorney "work product." Thus it is intended that the extensive body of case law concerning attorney "work product" is to be used to aid in the determination of which materials constitute "work product" for the purposes of this legislation.

Work product does not include contraband, or the fruits and instrumentalities of a crime. These kinds of evidence are so intimately related to the commission of a crime, and so often essential to securing a conviction, that they should be available for law enforcement purposes, and, therefore, must fall outside the no search rule that is applied to work product. Although it would be rare that contraband, or the fruits and instrumentalities of a crime would in fact meet the definition of work product since they generally would not be created for the purpose of communicating to the public, an example would be a ransom demand sent by a kidnapper to a newspaper for publication, or a fraudulent advertisement which was the instrumentality through which a fraud on the public was effected.

Subsection 6(c) "Any other governmental unit".

"Any other governmental unit" is intended to reach all those governmental units which enjoy no immunity from suit under the Eleventh Amendment to the Constitution. Included are local governments and units thereof, and units of State government. Current law concerning which units of State government are considered part of the State for Eleventh Amendments purposes will be utilized to determine which subdivisions, agencies, and instrumentalities of State government constitute a "unit of a State" which may be liable under the provisions of the statute absent a State's waiver of its immunity under the Constitution. Since neither the District of Columbia, the Commonwealth of Puerto Rico, nor the territories and possessions of the United States enjoy the limitations on liability afforded by the Eleventh Amendment to the States, these governments are included in the definition as well.●

By Mr. CHAFEE (for himself, Mr. MOYNIHAN, Mr. RANDOLPH, Mr. STAFFORD, Mr. BAKER, Mr. BURDICK, Mr. PRESSLER, Mr. PELL, and Mr. GRAVEL):

S. 1791. A bill to enhance the utility and ambience of Federal buildings by

circulating exhibits or art and history among public buildings managed by the Administrator of General Services, to define and continue the existing arts-in-architecture program maintained by the Administrator, and for other purposes; to the Committee on Environment and Public Works.

FEDERAL BUILDINGS ENHANCEMENT ACT OF 1979

Mr. CHAFEE. Mr. President, I am delighted to reintroduce today the Federal Buildings Enhancement Act which will provide a program for acquiring, exhibiting, and circulating works of art and history among Federal buildings. Senator Moynihan has agreed once again to join me as the principle cosponsor of this bill. His support is a great asset.

It seems to me that our Federal buildings could be more than sterile monuments. Their walls deserve better than "wanted posters". Federal buildings should be sources of pride to their communities. The public should visit them for pleasure, as well as for business.

Washington, D.C., is blessed with a lot of Federal structures. We who work in the Capitol are constantly reminded of our heritage because of the artistic and cultural works which abound in the buildings around us here. Thousands come each year to view the surroundings we work in daily.

Have we forgotten what a new Federal building can mean to a community? To bring a Federal presence and jobs into a town or to consolidate Federal offices currently scattered throughout a large city means a great deal to people who work in or visit our governmental offices. An attractive and useful Federal building can bring liveliness to both center cities and small towns alike.

What I am suggesting in this legislation is that we match two segments of our society to reap great benefit: our artistic resources and our governmental functions.

First, my bill will provide a program for exhibiting and circulating, among GSA-managed Federal buildings, works of art loaned by contemporary American artists. The assistance of the National Endowment for the Arts will be a key item in this effort.

Next, this legislation directs the General Services Administration to work with the Smithsonian Institution in developing exhibits of Smithsonian works to travel to many of our Federal buildings, including those in small communities. The Smithsonian's experience with its SITES program will be useful. These exhibits would cover every aspect of our history, culture, art, science and industry. This would give thousands of people, who cannot visit Washington, a chance to view cultural and historic treasures from the Smithsonian.

Finally, the legislation provides stattutory authority to the existing GSA art-in-architecture program to commission and install works of art in Federal buildings operated by them. Leased buildings will be included as well.

One advantage of my bill is that it is not a new financial drain on an already strained budget. The Administrator of GSA would use one-half of 1 percent of the total funds expended for public building design, construction, alteration and repair and one-twentieth of one percent of the leasing budget for the purposes set forth in this legislation. Thus, the bill will encourage initiatives already being taken and will provide new ways of bringing our artistic heritage to many more communities.

Once again, I would like to think we are building more than mausoleums for our governmental processes. Why should not there be vitality and enjoyment in visiting and working in our public offices? This is a goal long sought by our Environment and Public Works Committee and I am confident that the committee will give timely consideration to the legislation which I am proposing.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Buildings Enhancement Act of 1979."

STATEMENT OF FINDINGS AND PURPOSE

Sec. 2. (a) The Congress hereby finds and declares that—

(1) The efficient use of Federal buildings can be increased, and public satisfaction with Federal buildings will be improved, by insuring that such buildings not only provide a congenial work environment but also function attractively for public service;

(2) Federal buildings should enrich the social, commercial, and cultural resources of the communities they serve.

(3) The utility and ambience of Federal buildings will be enhanced by temporary exhibitions of American art works and of the Nation's cultural heritage, as well as by suitable permanent works of art incorporated as an integral part of the architectural style and form of Federal buildings.

(b) It is, therefore, the policy of the Congress to encourage and secure Federal building design which is distinguished, which expresses the dignity, enterprise, and stability of the American government, and which enriches the quality of life in the communities served by such buildings. It is the purpose of this Act to contribute to such design by incorporating permanent installations of suitable works of art into new Federal buildings. It is the further purpose of this Act to enhance the utility and ambience of existing Federal buildings by providing for temporary exhibitions of art and history to be circulated among Federal buildings.

Sec. 3. The Public Buildings Act of 1959, as amended, is amended by adding at the end thereof the following new section:

"Sec. 19. (a) (1) The Administrator of General Services, with the advice and assistance of the Chairman of the National Endowment for the Arts, shall acquire by loan, or by lease at nominal fees, works of art by living American artists. Works of art acquired under this subsection shall be organized into exhibitions and circulated on a rotating basis by the Administrator among Federal buildings throughout the United States. Such works of art shall be selected from artists representative of the different regions of the United States and its territories, and shall include diverse media.

"(2) (A) The Administrator, in conjunction with the Secretary of the Smithsonian Institution, shall develop exhibitions which reflects the artistic, cultural, social, scientific, and industrial heritage of the United States or illustrate the continuing development of the Nation's art, culture, society, science, and industry.

"(B) The Administrator shall circulate and show exhibitions developed under this subsection in Federal buildings throughout the United States. Preference shall be given to Federal buildings in communities that otherwise do not have convenient access to museums of art and history.

"(C) The Administrator shall reimburse the Smithsonian Institution an amount not less than the cost to the Institution of carrying out the provisions of this subsection.

"(b) (1) The Administrator, with the advice and assistance of the Chairman acting in cooperation with the appropriate State Arts Councils, shall commission suitable works of art by American artists to be purchased and installed in Federal buildings which include temporary installation in leased buildings. The preliminary planning and design of each such new Federal building shall include planning for such specific commissions, which may include a variety of compatible works for each such new building. The Administrator shall insure that Federal buildings selected for the installation of such commissioned works of art are equitably distributed within the United States and its territories, and shall consider a diversity of artistic media in commissioning such works of art. The Administrator shall provide for necessary services to keep and preserve such works of art in a state of high quality.

"(2) Whenever the Administrator commissions a suitable work of art pursuant to paragraph (1) of this subsection, he shall instruct that such work shall enhance the architectural design of any new such Federal building. In the case of an existing owned or leased building, such work shall be appropriate to the setting and space available. The Administrator shall also instruct that such work (A) may reflect the common heritage or the unique characteristics of the region, or (B) may symbolize a principal mission of the Federal office housed, or express the character of the work to be performed, in such building.

"(3) In carrying out the provisions of this subsection, the Administrator, with the advice and assistance of the Chairman acting in counsultation with the appropriate State Arts Councils, shall establish such procedures as may be necessary to commission suitable works of art, with or without competition, and to encourage the participation of local artists.

"(c) (1) For the purpose of this section, the Administrator is authorized to utilize one-half of 1 per centum of the total sums available in fiscal year 1980 and each fiscal year thereafter for the design, construction, repair, renovation, alteration, and acquisition of public buildings, and one-twentieth of 1 per centum of the sums available for the lease of public buildings.

"(2) Funds available under this subsection shall be available, without fiscal year limitation, to the Administrator for the purposes set forth in subsection (a) and (b) of this section: *Provided,* That not to exceed 15 per centum of such funds shall be expended for purposes set forth in paragraph (1) of subsection (a), not to exceed 10 per centum shall be expended for purposes set forth in paragraph (2) of subsection (a), and not to exceed 75 per centum of such funds shall be expended for purposes set forth in subsection (b).

"(d) For the purpose of this section—

"(1) the term 'Federal buildings' means Federal courthouses and office buildings owned by or leased to the Federal Government that are under the jurisdiction of the Administrator of General Services; and

"(2) the term 'Chairman' means the Chairman of the National Endowment for the Arts; and

"(3) the term 'works of art' includes, but is not limited to, paintings, sculptures, mosaics, tapestries, crafts, ceramics, and photographs.".

● Mr. MOYNIHAN. Mr. President, I am pleased to join the distinguished junior Senator from Rhode Island in introducing the Federal Buildings Enhancement Act of 1979. Senator CHAFEE, with whom I have the honor of sharing responsibility for managing public buildings matters in the Committee on Environment and Public Works, has devoted considerable effort to refining this bill from legislation that we introduced in the last Congress.

I take particular pride in this measure because it places on firm legislative ground a program that had its administrative beginnings in a report I drafted for President Kennedy in 1962. When the President's Ad Hoc Committee on Federal Office Space suggested a set of "Guiding Principles for Federal Architecture," we included prominently in those principles the suggestion that "the Federal Government * * * should take advantage of the increasingly fruitful collaboration between architecture and the fine arts."

Since that time, the General Services Administration has intermittently managed an "art-in-architecture" program, but the program has occasionally suffered from the ravages of inflation, the vacillating interest of various Administrators, and inevitable differences of opinion over aesthetic quality. The bill we introduce today will not halt inflation, unfortunately, or dictate aesthetic taste, thank goodness, but it will provide a sound and permanent foundation for the program.

One of the more important aspects of the bill is its emphasis on strengthening the "collaboration between architecture and the fine arts." The GSA is not in the business of subsidizing the arts. Its job is to provide functional and attractive Federal buildings and this bill encourages application of the skills of American artists to the production of such buildings.

We need look no further than the Federal Triangle buildings on Pennsylvania Avenue, adorned with art by the relief artists of the 1930's, to see the precursor of the program we endorse today. Contemporary achitects are again showing interest in integrating the arts in their designs and the so-called environmental artists have increasingly turned their interest to man-made spaces. I foresee many fortuitous collaborations between architects and artists under the provisions of this bill.

The bill also encourages the increasing use of Federal buildings for local cultural events. By providing for a steady stream of exhibits in Federal lobbies and courtyards, the bill will reinforce the purposes and accomplishments of the Public Buildings Cooperative Use Act, passed by the Congress 3 years ago.

This bill would authorize the GSA for the first time to operate its arts programs systematically and not on a project-by-project basis. That will assure that works of art are properly maintained and that proper lighting and other equipment are provided for changing exhibits.

Great art cannot redeem a poor architectural design, nor can it assure that Government employees will go about their duties in an enlightened manner. But our form of government, like the arts, is uniquely founded upon the creativity and sanctity of the human spirit. There is no better way of expressing this to ourselves and our descendants than by infusing the arts into our Federal buildings.●

Mr. BAKER. Mr. President, today I am proud to join the Senator from Rhode Island, Senator JOHN CHAFEE, in making every effort to sanction, solidify, and guide the GSA art-in-architecture program which began with an Ad Hoc Committee report on Federal office space and has blossomed since 1963 into an exciting, at times controversial, and enriching network of art enhancing Federal architecture through which many Americans pass. Senator CHAFEE has endeavored to bring about a fine set of guidelines which will enable the GSA program to provide works of art that are integral with the building design—works which reflect the goals and the ideals of the agency housed in such building or reflect in some way the tradition of the local people. These guidelines are important in securing works of art that are born out of their environments—not conceived separately to be pasted on top.

Senator CHAFEE has included along with the National Endowment for the Arts, the state arts councils as responsible for advising and assisting GSA in uncovering lesser known artists and discovering alternatives to the "monumental sculpture in the plaza." Such guidelines in no way attempt to impose artistic limitations, but do provide the artists with points of departure. Certainly working within defined areas can be as taxing and challenging to the creative mind as the development of art for art's sake in its purest form.

In this type of program people's reactions are very personal, relative and often difficult to explain. Yet I believe that the element of differing views is essential here to enable growth and understanding. If such works were not adventurous, people would walk by them placidly unaffected. This country has been the leader in the contemporary art movement and certainly the Federal Government should be able to incorporate works of free form that aesthetically reflect a sound government.

I commend Senator CHAFEE for attempting to define such a program and for extending this program to incorporate the utilization of the many vacant corridors and lobby areas in Federal buildings across the country for exhibiting loaned works of art.

I personally have taken an interest in encouraging architectural excellence in Federal building design having served as a member of the architectural task force under Nancy Hanks and as a member of the Environment and Public Works Committee. Federal building design and use have endless potential—as we have seen through the cooperative use programs. Enacting the Federal Building Enhancement Act of 1979 will only further the development of this potential and enchance our built environment.

By Mr. McGOVERN:

S. 1792. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal; to the Committee on Banking, Housing, and Urban Affairs.

SIMON WIESENTHAL: CHAMPION OF JUSTICE

Mr. McGOVERN. Mr. President, I am today introducing a bill which authorizes the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal in recognition of his unparalleled achievements and immeasurable contributions in safeguarding the rights of humanity, regardless of nationality, religious belief, or race. It is fitting and proper that the Congress of the United States nominate Simon Wiesenthal for this rare honor because he is a man who stood up for an ideal, who struck out against injustice, and who sent out a ripple of hope, which multiplied into a current so strong as to sweep down the mightiest walls of oppression and resistance. He is that rare, but reasonable person who has changed the world.

Simon Wiesenthal is the head of the Jewish Documentation Center located in Vienna, Austria. Since 1945, he has painstakingly brought to justice over 1,100 Nazi-era war criminals associated with those nightmarish names that will haunt mankind for all time: Auschwitz-Birkenau, Belzec, Bergen-Belsen, Chelmno, Buchenwald, Majdanek, Neuengamme, Sobibor, Ravensbruck, Treblinka, Babi-Yar, Gross-Rosen, Dauchau.

Some years ago, Simon Wiesenthal said:

> Our tragedy in the Nazi camps was that the world forgot us. It was that terrible silence of the world that had enveloped us.

And recently in response to a question about what motivates him, he related a conversation he once had with another former inmate of Mauthausen who had become a successful jeweler.

> When we come to the other world and meet the millions of Jews who died in the camps, and they ask us, "What have you done?" there will be many answers. You will say "I became a jeweler." Another will say, "I built houses." But I will say, "I did not forget you."

So today with the introduction of this legislation we are saying in a similar fashion, "We did not forget you," while honoring a singular individual who has kept the flame to the conscience of the world.

His accomplishments are remarkable for any man, but the facts of his life make them truly miraculous. Simon Wiesenthal was born December 31, 1908, in Buczacz, a city in the easternmost corner of Austro-Hungarian Empire, in what is today Poland. After finishing his training in Prague as an architect, in

1936 he married his high school sweetheart, Cyla Muller, and opened his offices in Lwow, Poland. But he was not to practice his profession for long—in August of 1939, Germany and Russia signed a pact of nonaggression, and divided Poland in between them. By mid-September, the Red Army entered Lwow and began arresting Jews, shipping them to Siberia. Many never returned. Weisenthal and his family narrowly escaped deportation by obtaining false passports. This was to be the first of many near escapes from death. But for a while at least he was lucky—he found work in a bedspring factory.

On June 22, 1941, Hitler invaded Russia, seizing Lwow from the Russians. Simon Wiesenthal, arrested by German-trained Ukranian guards, was lined up before a firing squad with 40 other Jewish doctors, teachers, lawyers, and engineers. The guards shot their way down the line. The dead fell closer and closer to Wiesenthal, but suddenly church bells rang out, and in honor of the evening mass the shooting stopped. Wiesenthal escaped into the night with the help of a Polish friend, only to be pushed into the ghetto the next day. Within months he and his wife were in a nearby concentration camp. By the end of 1941 they were transported to a forced-labor camp, where he painted swastika and eagle shields on captured Russian locomotives.

The Nazis stepped up implementation of the Jewish solution in the early months of 1942 by transporting Jews to death camps in Poland. Wiesenthal watched as his mother was crammed into a railroad car. He was never to see her again. Within months, nearly all of Simon and Cyla Wiesenthal's family and relatives were dead. Using his skill as a draftsman, Wiesenthal bartered with the Polish underground for his wife's escape in exchange for maps he had drawn. They provided false papers, and arranged for his blond wife to join him in a Warsaw apartment.

Wiesenthal continued his work for the Ostbahn Repair Works. On April 20, 1943, he and 43 other Jews were taken to be executed in honor of the Fuhrer's birthday. As men were falling around him, at the last minute he was called from death to paint a sign for the birthday celebration which read, "We Thank Our Fuhrer." In September of that year he escaped with the help of a guard, but Polish detectives soon discovered him hiding under the floorboards of a house. They also seized the diary he kept with the names and crimes of SS guards, the first of many lists he was to compile. He was taken back to the concentration camp, sure that the diary in the hands of the Gestapo would seal his fate, once and for all.

Days later, called into the Gestapo's office, he attempted suicide. He failed and tried again, only to be rescued and treated by the Nazis so that they could execute him the next day. Minutes before the execution, approaching artillery fire stopped the proceedings, and Wiesenthal was herded back to the concentration camp to be shot. Facing his second death squad in 1 day, he was inexplicably pulled from the group by the camp commander; the rest were shot.

The Russians were closing in fast; the SS guards needed an excuse to retreat westward. Under the pretext of transporting prisoners, they took the 34 remaining Jews, out of 149,000 who once lived in Lwow. Suddenly Simon Wiesenthal was more important alive, than dead. Toward the end of their journey, Wiesenthal and a friend collapsed in the snow and were picked up by trucks removing the dead. Prisoners unloading their frozen bodies perceived a glimmer of life in the two, revived them, and sneaked them into the section of the camp reserved for the living. On an allowance of 200 calories a day, Wiesenthal was kept alive by a Polish trustee who smuggled him bread. On May 5, 1945, more dead than alive, Simon Wiensenthal was liberated by the Americans.

Days after his liberation from the Mauthausen concentration camp in Austria, he vowed when he barely had the strength to walk, to track down, in countries around the world, the fugitive murderers of 11 million people. He not only sought to avenge the murder of his family, and 6 million Jews, but he also felt bound to represent the 5 million gentiles who died at the hands of the SS.

However, Simon Wiesenthal was not just seeking earthly justice, for what earthly measures could atone for the murder of those 11 million, including 1 million children? On a personal level, his vow to attain justice was an attempt to restore his own faith in humanity when he had every reason to turn his back on the world. In a larger sense, his search for justice became a symbolic memorial for the dead, and for the living, which went beyond mere material reparations, and represented a quest for moral restitution. If he could not hope to find over 100,000 Nazi war criminals, at least he might help prevent such mass murder in the future. He felt the absolute necessity to revive and reassert the rule of law that had been taken from millions when Hitler came to power. He knew that to strengthen the prospects for future justice, and to prevent future holocausts, those who had perverted the law must be made to stand before it—and be judged.

His vision, persistence, and courage led him to begin a search he could never finish. Although trained as an architect, he started after the war by building as strong and as extensive a documentation of war crimes as was possible at that time. He compiled a list of survivors so that relatives and friends might find one another. He compiled a list of war criminals and gathered signed affidavits from witnesses, so that the innocents who died might find their deaths avenged. These lists proved to be invaluable, not only to the work of Simon Wiesenthal's Jewish Documentation Center, but as the evidential basis for many of the cases brought before the Nuremberg Tribunal.

Working out of a two-room office, aided for the most part by a handful of volunteers, his freelance efforts have led to the apprehension and prosecution of some of the worst criminals in history. Yet he is not a lawyer, nor does he enjoy the official status or resources at the command of a state proseuctor's office. Unaided by a police force, a sophisticated intelligence network, or an abundance of funds, he culls case-breaking clues from his files, official documents, newspapers, old photos, and occasional tips. His 34 years of relentless and laborious digging have led to the discovery and prosecution of 1,100 Nazi war criminals.

Beyond these very real achievements, Simon Wiesenthal commands our respect and admiration for his strength of character and will. He faced a world gone mad, an atrocity so great that many governments were ready to give up the demands of administering justice; yet, he continued his work. He answered the crucial political and moral questions of our time by overcoming oppression and violence. He served the world because, like Martin Luther King, Jr., he too believed injustice anywhere is a threat to justice everywhere. He stood before the world, at grave danger to himself, his wife, and his daughter, and said—you will not forget those in death whom you forgot in life. He is a moral force that the world must continually reckon with, and the world is a far, far better place for hearing—and heeding his voice.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present, on behalf of the Congress, to Simon Wiesenthal, a gold medal of appropriate design in recognition of his contribution to international justice through the documentation and location of war criminals from World War II. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be struck and sold at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus 25 per centum of such cost of manufacture. The appropriation then current and chargeable for the cost of manufacture of such duplicate medals shall be fully reimbursed from the payment required by this section and received by the Secretary, except that any money received in excess of the actual cost of manufacture of such duplicate medals shall from time to time be covered into the Treasury. Security satisfactory to the Director of the Mint shall be furnished to indemnify the United States fully for the payment required by this section.

(c) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

By Mr. COCHRAN:

S. 1793. A bill to amend title 10, United States Code, to authorize the Secretary of the Army to establish an Army Reserve career interest program for persons between the ages of 14 and 18; to the Committee on Armed Services.

SUMMER CAREER INTEREST PROGRAM

Mr. COCHRAN. Mr. President, today, I am introducing a bill to authorize a summer career interest program (SCIP), to be administered by the Army Reserve. This program was conducted from 1971 to 1977 and was popular and successful during this time. But before this worthwhile program may continue, the Chief of Army Reserve would like to have congressional authorization.

The purpose of the program is to provide practical insights into various career fields for teenage youths between the ages of 14 and 18, and to offer training opportunities for Reserve instructors.

SCIP provides a unique summer educational experience for its participants, who may choose from a variety of courses that include aviation ground school, amateur radio, basic photography, medical lab technology, law enforcement, automotive maintenance, and control tower operator. These courses provide not only bookwork in classrooms, but actual field experience in the various areas as well. The emphasis of the courses is on providing training for use in either civilian or military careers, but with no pressure applied for military enlistment because the program is not a military one. There are no haircut or dress codes or military-type drills.

After completion of such courses as aviation ground school and control tower operator students can take their licensing tests for Federal certification. In addition, college credit has been available through the Southside Virginia Community College upon successful passage of a final exam administered at the conclusion of each course.

During the 6 years this program was in operation, over 6,000 students and 350 instructors participated at 17 different locations across the United States. This fact is not only evidence of widespread interest in the program's opportunities, but also an indication that it will grow and prosper if continued.

The summer career interest program has been highly praised by all who have been involved with it, including students, instructors, school guidance counselors, and parents. The program has been endorsed by the Explorers Committee of the Boy Scouts of America, and in 1975 it received a Freedoms Foundation Award. Many students have returned to study additional courses in successive years, and the Reserve instructors regard their teaching experience as among their most meaningful training sessions, as they feel that teaching is a very effective way to sharpen their own skills. And when the All-Volunteer Army depends upon its own promotional activities to attract sufficient numbers to fulfill its critical national defense mission, one can ask for no better forum for advertising the career benefits and opportunities of military service.

Perhaps one of the most attractive aspects of this program is that its overall benefits far exceed its cost to the Federal Government. The students pay only a nominal fee to cover their housing, meals, course materials and accident insurance for the 2-week period. And because the Army Reserve personnel employed as instructors are paid from the defense training budget as part of their regular annual reserve training, the direct administrative costs of the program are minimal and can be absorbed within current budgetary allocations. The facilities used by the program are located on military installations or college campuses.

In addition, this program has excellent potential for extending its opportunities to the youth of all segments of society. These courses have been attended by members of various youth organizations such as Boy and Girl Scouts. Local and national civic organizations have sponsored students in an effort to extend the program to teenagers from all social and economic backgrounds.

Mr. President, this legislation would authorize the continuation of a beneficial, inexpensive, and proven program. The program can serve both the recruiting needs of the Army and the educational needs of America's youth. The summer career interest program is a way to train reservists as they pass on a skill or lifetime hobby to teenagers while also showing them a side of the armed services not always seen. I hope the Senate will agree that this legislation merits expeditious passage.

By Mr. MELCHER:

S. 1794. A bill to amend the Public Health Service Act to provide for research concerning Reye's syndrome, and for other purposes; to the Committee on Labor and Human Resources.

REYE'S SYNDROME ACT OF 1979

● Mr. MELCHER. Mr. President, I am introducing today the Reye's Syndrome Act of 1979.

A number of medical journals in the last 5 years have examined Reye's syndrome and although all agree it can be a swift killer of children, there is neither a cure nor full understanding of the causes. One journal reports that the syndrome usually strikes with frightening speed, a week or so after a viral illness, such as influenza or chicken pox. Persistent vomiting and lethargy precede a rapid disorientation which can take the form of extreme anger or irritability, hallucinations, hyperactivity, and depression with degeneration of the intestines and liver damage. Coma is common due to lack of oxygen to the brain which may result in permanent brain damage or, within days of its onset, death.

The median age of the victims is 11 years.

The mortality rate for Reye's syndrome has been high, averaging about 50 percent. Once the patient slips into a coma, the chances for recovery decline dramatically. Reye's is predominantly a winter illness that most often strikes children living in either rural or suburban areas.

Without the ability to pinpoint the causes, methods of treatment are confined at present to early diagnosis, good supportive care, and careful monitoring of the patient aimed at protecting the brain.

As Dr. Jerome S. Haller of the Tufts University School of Medicine has pointed out, Reye's syndrome resembles a jigsaw puzzle whose pieces are slowly being fit together. We need to speed up the process of solving this terrifying puzzle.

In that regard I contacted a number of institutes at the National Institutes of Health this spring seeking their opinions on what has been done and what more can be done to combat this disorder. I wrote the Center for Disease Control (CDC), the National Institute of Child Health and Human Development (NICHHD), the National Institute of Neurological and Communicative Disorders and Stroke (NINCDS), and the National Institute of Allergy and Infectious Disease (NIAID) and I will ask that the text of their replies be printed in the RECORD at the conclusion of my remarks.

The Center for Disease Control made no specific recommendation. They did confirm, however, that Reye's is not a reportable disease. They explained that the reason for this is because, 3 years ago, the Conference of State and Territorial Epidemiologists felt that making it reportable would not necessarily lead to a better fund of information than now exists. It is my view that the years that have passed between then and now with the resulting number of Reye's cases should prompt a review of that decision.

The National Institute of Child Health and Human Development took the position that continued support of basic research is essential to hasten the day when the Reye's problem is finally solved. I do not quarrel with that view. Nevertheless, with the little that is specifically known about Reye's I am afraid that could lead to a situation in which little else will be done on it directly until the numbers grow large enough to make specific attention unavoidable. That could be a tragic delay.

Dr. Richard M. Krause of the National Institute of Allergy and Infectious Diseases told me on May 11 what he thought should be done to deal with Reye's. He suggested an annual workshop to gather data. One such workshop met this July which dealt in part with Reye's syndrome and influenza B. He also suggested that a request for proposal could be issued for grant applications related to more intensive study of influenza infections in children and of Reye's syndrome. That has merit in view of the experience we had with the swine flu vaccine which was not found to be effective in children below the age of 3 years. He made other suggestions as well that would result in an annual cost of about $2.5 million.

The National Institute of Neurological and Communicative Disorders and Stroke had more to say. In late June of 1978 they were among the prime sponsors of a conference on Reye's held in Halifax, Nova Scotia. A report of that conference began by pointing out that Reye's can be effectively controlled in as high as 84 percent of cases if recognized early and treated aggressively. That is encouraging and NINCDS suggest a way of enlarging their effort. They told me on April 2, 1979—

> We believe the time is ripe for establishing up to three Reye's Syndrome Clinical Research Centers strategically located in high-risk areas. With this approach we hope to encourage investigators with specialized expertise, both fundamental and clinical, to combine research efforts in solving the mysteries of this disorder. The cost of funding each center could be as much as $500,000 annually, or $1.5 million for three. In addition, we would anticipate awarding at least six more individual investigator-initiated research grants at an estimated annual cost of about $500,000 . . . .

I did not limit my inquiries solely to Government agencies. At the same time that I contacted these agencies I also wrote to several prominent physicians and scientists around the country who have been active in Reye's research. Their replies reflect a diversity of caution and enthusiasm on how to approach research efforts on Reye's syndrome. While they vary in their suggestions, the quality of thinking is uniformly high. One of the letters came from Dr. John C. Partin, the director of the General Clinical Research Center's Reye's Syndrome Research Effort at the Children's Hospital Medical Center in Cincinnati. He raised a number of very perceptive points, including this one:

> If some funds can be brought to bear, the NIH should support some program projects specifically for Reye's Syndrome research. The scale of support should range from $100,000 to $250,000 per year for 3 years, renewable for 2 years; that is, support for each successful program project grant would be for 5 years. There should be about 6 such programs. Hopefully, one successful applicant would be found for each major geographic region, but, of course, there is no purpose in pouring research money into a university or medical center that is unable to muster an able research group leader. The cost of such a program might approach $2.5 million per year or about 5 percent of the acute hospital billing for Reye's Syndrome per year. I estimate the national cost of acute care for Reye's Syndrome to be between 25 and 37 million dollars . . . .

That last point is a compelling argument for directed research. The cost of treatment and the tragedy of failed treatment of Reye's can be so great it is essential that something more be done to focus activity in Reye's research. After considering the opinions of the specialists and concerned citizens, I have prepared a bill to accomplish that objective.

The bill sets up a Reye's Syndrome Coordinating Committee made up of representatives from several of the institutes at NIH. That committee, to be chaired by the Director of the National Institute of Neurological and Communicative Disorders and Stroke, would have two basic missions. First, it would supervise and monitor the establishment and operation of two comprehensive Reye's syndrome diagnostic and treatment centers. It would also oversee the award of grants to independent researchers specifically focusing on Reye's syndrome. The committee, centers, and grant program would operate for a period of 3 years. The aim of the enterprise, among other things, would be to develop the means of early diagnosis and treatment of Reye's syndrome and spur public and professional education and awareness of programs for this disorder.

Given the variety of views on how best to proceed, the legislation is not proposed with the idea that it sets up the only specific structure sufficient to do the job. No doubt, the legislation can profit and be improved upon by the expert opinion of witnesses at hearings which I hope can be held on the proposal at an early date. It is important that we act now. In the Senate report accompanying the Senate version of the Labor-HEW appropriations bill there was language directing NIH to submit to the Appropriations Committee by February 1, 1980, a report on current activities on Reye's within NIH. The report will also include recommendations for further research on Reye's and suggestions for increasing public and professional awareness of this disorder. This legislation can serve as a vehicle for acting with dispatch on the NIH recommendations.

I realize it has been suggested that Reye's research should not be conducted at the expense of other basic research. It is said that Reye's will ultimately profit from the collaborative effort of clinical research generally. I agree with all of that. But the proposition has another side. Research specifically on Reye's might itself yield information that can profit many other research areas.

I would certainly hope that my colleagues in the Senate will join me in cosponsorship of the Reye's Syndrome Act of 1979.

Mr. President, I ask unanimous consent that the text of the bill and the correspondence to which I referred be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Reye's Syndrome Act of 1979.

SEC. 2. Title XI of the Public Health Service Act is amended by adding the following new part after Part C:

"PART D—REYE'S SYNDROME PROGRAMS

"REYE'S SYNDROME

"SEC. 1141. (a) The Secretary shall establish, through the National Institute of Neurological, Communicative Disorders, and Stroke, the Reye's Syndrome Coordinating Committee (hereinafter referred to in this section as the 'Committee').

"(b)(1) The Committee shall be composed of—

"(A) the Director of the National Institute of Neurological and Communicative Disorders, and Stroke;

"(B) the Director or designee of the National Institute of Allergy and Infectious Diseases;

"(C) the Director or designee of the National Institute of Arthritis, Metabolism, and Digestive Diseases;

"(D) the Director or designee of the National Institute of Child Health and Human Development;

"(E) the Director or designee of the National Institute of General Medical Sciences;

"(F) the Director or designee of the National Heart, Lung and Blood Institute; and

"(G) the Director or designee of the Center for Disease Control.

"(2) The Director or designee of the National Institute of Neurological Communicative Disorders, and Stroke shall serve as Chairman.

"(3)(A) The Committee shall make grants to and enter into contracts with public and nonprofit private entities for a three-year project to establish two comprehensive Reye's Syndrome diagnostic and treatment centers.

"(B) A center established under this paragraph shall—

"(i) conduct basic and clinical research relating to the causes, diagnosis, early detection and treatment of Reye's Syndrome;

"(ii) develop new and improved treatments for the detection, diagnosis, and treatment of Reye's Syndrome;

"(iii) provide training programs for physicians relating to the early diagnosis, control, and treatment of Reye's Syndrome;

"(iv) develop professional education programs and information for physicians relating to the treatment of Reye's Syndrome, and disseminate such information;

"(v) develop and disseminate public information relating to Reye's Syndrome;

"(vi) disseminate within the scientific and medical communities the results of the research and training conducted under this paragraph; and

"(vii) develop standardized methods of recordkeeping of patient data.

"(C) In considering applications for grants and contracts to establish Reye's Syndrome diagnostic and treatment centers under this paragraph, the Committee shall consider among other factors—

"(i) geographic distribution of reported Reye's cases;

"(ii) work in progress in Reye's Syndrome or similar childhood diseases;

"(iii) the number of persons to be served by the program, and

"(iv) the extent to which rapid and effective use will be made by such centers of funds under such grants and contracts;

except that each center shall be located in a single institution.

"(D) No grant or contract may be made under this paragraph unless an application therefor has been submitted to and approved by the Secretary, through the Committee. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(E) The Secretary shall prescribe regulations for the operation of the Committee, and the Centers shall report to the Committee from time to time as required by such regulations.

"(F) The Secretary acting through the Committee may extend the project established under this paragraph if he determines, upon review of the project by the Committee, and the consideration of recommendations made by the Committee, that such extensions are appropriate. Any extensions of the project pursuant to this subparagraph shall be for a period of two years.

"(4)(A) The Committee shall make grants to and enter into contracts with public agencies, nonprofit private entities, and individuals, not associated with the centers established under paragraph (3), to conduct research relating to the diagnosis, control, and treatment of Reye's Syndrome. Such grants and contracts shall be for no more than three years.

"(5) The Secretary shall, within six months following the end of the three-year project, submit a report prepared by the Committee and approved by the Director of the National Institute of Neurological, Communicative Disorders, and Stroke, to Congress. Such report shall account the activiies, accomplishments, and progress of the centers and research grants provided by this section, and shall recommend such further action relating to Reye's Syndrome as the Committee determines appropriate.

"(6) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(7) (A) There are authorized to be appropriated for the centers established under paragraph (3), $750,000 for each center for the fiscal year ending September 30, 1981 and $750,000 for each center for the fiscal year ending September 30, 1982, and $750,000 for each center for the fiscal year ending September 30, 1983.

"(B) There are authorized to be appropriated for grants under paragraph (4), $500,000 for the fiscal year ending September 30, 1981, $500,000 for the fiscal year ending September 30, 1982, and $500,000 for the fiscal year ending September 30, 1983.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Bethesda, Md., April 2, 1979.

Hon. JOHN MELCHER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MELCHER: Your letter of March 13 and your interest in Reye's Syndrome are most welcome, and I am happy to respond to the questions you have raised.

As you know Reye's Syndrome is primarily a childhood disease believed to be caused by a combination of environmental and biological factors, or what is termed a multifactorial syndrome. It is clearly associated with an antecedent viral infection, most commonly influenza B, and seems also to require exposure of a toxic factor, such as certain detergents used in the formulation of pesticides or herbicides. The examples cited are the best documented but there are a number of other viruses and toxins that have been implicated, and the correlations are still not precisely established. Moreover, most investigators believe that there must be some sort of susceptibility factor to account for the selective rather than general occurrence of the syndrome.

Clinically the syndrome affects many body systems, accompanied by high levels of ammonia in the blood and varying stages of coma. The principal damage is to liver and brain, with most therapeutic measures directed at controlling the increased intracranial pressure and coma by appropriate drugs and supportive intensive care. These treatments are not always successful but the success rate has dramatically improved.

The National Institute of Neurological and Communicative Disorders and Stroke (NINCDS) is currently supporting four research grants and one intramural project dealing with such fundamental aspects as: amino acid imbalances; blood serum factors implicated in interfering with cellular metabolism; development of an animal model for Reye's Syndrome; evaluating the neurological and behavioral consequences in children who survive an attack of the syndrome; and tissue culture studies of chronic neurological diseases. The NINCDS research support in fiscal year 1979 totals an estimated $245,000 for these projects. Other components of the National Institutes of Health (NIH) are also supporting projects related directly or indirectly to Reye's Syndrome. Some projects involve technological developments for monitoring vital body signs such as temperature, blood circulation and pressure within the brain that are important in the management of such patients. The NIH Division of Research Resources support General Clinical Research Centers which provide core research facilities for patients, including those with Reve's Syndrome. Overall we estimate that there are about 22 relevant research projects supported throughout the NIH valued at about $1.0 million of which $630,000 is directly related to Reve's Syndrome.

The NINCDS maintains close contact with concerned private agencies, such as the National Syndrome Foundation, by keeping them informed of our activities and soliciting their suggestions. In the near future, the National Institute of Allergy and Infectious Diseases will sponsor a workshop on influenza B virus, with one session devoted to the implications of this virus for Reye's Syndrome. The NINCDS will actively participate in this workshop.

As you know the NINCDS was one of the principal sponsors of the Halifax conference. One of the aims was to stimulate research interest in this area. We think this is beginning to pay off, since several investigators have indicated keen interest in multidisciplinary and collaborative studies. We believe the time is ripe for establishing up to three Reye's Syndrome Clinical Research Centers strategically located in high risk areas. With this approach we hope to encourage investigators with various specialized expertise, both fundamental and clinical, to combine research efforts in solving the mysteries of this disorder.

The cost of funding each such center could be as much as $500,000 annually, or $1.5 million for three. In addition we would anticipate awarding at least six more individual investigator-initiated research grants at an estimated annual cost of about $500,000. Both the requisite scientific interest and opportunities seem to be available, and we want to capitalize on it to maintain the momentum generated by the Halifax meeting.

If we can provide you with additional information or assist you in any way, please let me know.

Sincerely yours,

DONALD B. TOWER,
Director, National Institute of Neurological and Communicative Disorders and Stroke.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Bethesda, Md., May 11, 1979.

Hon. JOHN MELCHER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MELCHER: I am pleased to respond to your inquiry of April 27 about Reye's Syndrome.

All we really know about the cause of the syndrome is that it is associated with influenza and varicella (chicken pox) virus infection. Up until the last year, the association with influenza had been only with influenza B virus; this last year has seen an association with the "Russian" or H1N1 strain of influenza A virus. A beneficial result of the "Swine Flu" episode of 1976 has been the intensified surveillance of influenza outbreaks by both the Center for Disease Control (CDC) and the National Institute of Allergy and Infectious Diseases (NIAID). This surveillance is providing better epidemiological evidence of influenza virus activity and the conditions under which Reye's Syndrome occurs. As yet, we are not able to predict its occurrence to a degree that would enable prepositioning of the multidisciplinary teams to carry out intensive studies. For the present, we must rely on the constituent groups scattered throughout academic institutions and make sure they seize opportunities for research whenever these become available.

A decade ago the NIAID elevated research on influenza to a major level. In company with the CDC and the Bureau of Biologics of the Food and Drug Administration (BoB/FDA), we have sponsored many workshops and conferences to identify the major unsolved problems, assess the state of advancing knowledge, and develop research efforts directed toward better control of this disease. These efforts have included the World Health Organization and scientists in other countries, notably the U.S.S.R. and England. Just this past year, an NIAID-appointed Task Force on Virology completed its six-volume report which provides a comprehensive assessment of our state of knowledge regarding viruses and the diseases these cause. It also provided recommendations as to needed research. I am pleased to be able to forward, under separate cover, this report to you along with the summary and recommendations of the NIAID Advisory Council. The Task Force Report has been widely disseminated to institutions and scientists in the U.S. and abroad.

More specifically, NIAID research has focused on prevention of influenza through new and improved vaccines. An inherent property of influenza viruses sets these apart from other viruses and makes immunization a much more difficult problem. This is the ability of influenza viruses to vary their antigenic composition at fairly frequent intervals so that we are constantly being confronted with what amounts to a new virus against which vaccines made from earlier strains have little or no protective capacity. There is evidence that live virus vaccines afford a greater range of protection over a longer period, and we have gone far in being able to prepare a modified live virus vaccine from a new strain very quickly. Most influenza specialists believe that these live vaccines offer the only route to widespread use of vaccines in children if the remaining problems can be overcome. Since the problems are formidable and extend into the difficulties manufacturers would encounter with liabiltiy, we cannot look for an early solution.

The NIAID has also intensified its research on other means of prevention. Amantadine, a licensed drug, is known to be effective in preventing about 70 percent of influenza A infections but is not active against influenza B. An analogue, rimantadine, is believed to be more effective against influenza A with fewer adverse effects, and this is under study. We plan a consensus development study in September 1979 to determine the extent to which amantadine should be used as an adjunct to vaccines or a primary means of prevention. Research on other antirivals is proceeding as rapidly as funds will allow. Hopefully from this will emerge still other drugs which may be useful against both influenza A and B viruses.

We have established several "centers" of scientists carrying on intensive studies of influenza and other respiratory viruses. These are multidisciplinary and geographically diffuse. Unfortunately, Reye's Syndrome has not as yet occurred in population groups under study to a degree that has enabled much opportunity for study. Neither are these groups presently funded to bring to bear the full capabilities of their university in the study of Reye's Syndrome.

We are also beginning study of varicella vaccines in the United States. A vaccine developed in Japan has been reported to be effective.

You have already referred to the conference on influenza B scheduled to be held at the National Institutes of Health (NIH). This will be held July 30 and 31, and will bring together those interested in Reye's Syndrome and influenza. Because influenza B viruses are more stable than influenza A viruses, the prospects for effective vaccines are better. We hope the conference might stimulate new thinking on the use of these vaccines. We will be sure you receive a program and invitation.

You asked what more can be done and how much it might cost. We have given this much thought, but as yet have no real clues that provide opportunities for highly targeted efforts. I shall try to outline several possible routes to intensifying research.

First, the CDC should be encouraged to expand epidemiologic studies. We are awaiting their analysis of Reye's Syndrome associated with influenza A. Their data on influenza B and varicella (Corey, et al., "Journal of Infectious Diseases," March 1977, p. 398) suggested that the incidence of Reye's Syndrome was about 30 to 60 per 100,000 influenza B infections and somewhat more infrequent in varicella infections. The predominance of cases from rural areas suggested possible environmental factors, but could be due to differences in the immune status of children undergoing infection. We believe every opportunity to expand our knowledge as to contributing factors should be seized, and the CDC is the only organization able to do so. I am sure that Dr. William Foege, the Director, would be glad to expand on this and give you data as to costs.

Second, because of the low frequency and scattered occurence of cases, few clinical researchers are likely to encounter patients in any given year. Yet, when epidemics of H1N1 influenza A or influenza B occur, these researchers must be alerted and prepared to undertake intensive multidisciplinary studies on the virologic, immunologic, endocrinologic, neurologic, and hepatic systems involved. Studies on possible, toxologic exposures should be included. We suggest the best way to accomplish this is through:

First. Periodic publications of accumulating data and analyses as to research that should be undertaken. An annual or biennial workshop can generate this information and would cost about $25,000 to $50,000, depending on the occurrence of disease and publication costs.

Second. Issuance of a Request for Application (RFA) for grant applications related to more intensive study of influenza infections in children and of Reye's Syndrome. This would be done in cooperation with other NIH Institutes and provide for the full range of studies mentioned above. Data on influenza infections without Reye's Syndrome is needed as a baseline to detect the abnormalities that accompany the syndrome and would yield useful information in its own right. The estimated costs per year would be $750,000.

Third. Augmentation of existing NIAID "centers" to enlist multidisciplinary talent in their university settings, both for expanded study of the clinical aspects of influenza infection and as teams of trained clinical researchers that could work with the CDC in investigating outbreaks elsewhere. Annual costs—$400,000.

Fourth. Expanded studies on the use of influenza A and B vaccines in the control of infection in school-age children through annual immunization programs. Annual costs—$500,000.

Fifth. Acceleration of studies on the safety and effectiveness of varicella vaccine. Annual costs—500,000.

Exclusive of CDC needs, the modest investment of $2 to $2.5 million a year would enable an acceleration of efforts to learn much about both influenza and how it eventuates in Reye's Syndrome, and also as to whether annual immunization of school children can give some hopes of prevention.

I apologize for such a lengthy reply but wanted to be as complete as possible in responding to your obvious interest in the devasting sequel to virus infection.

If we can be of further assistance, please do not hesitate to call upon us.

Sincerely,
RICHARD M. KRAUSE, M.D.,
Director, National Institute of Allergy and Infectious Disease.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Bethesda, Md., April 12, 1979.

Hon. JOHN MELCHER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MELCHER: Thank you for your letter of March 13 and your continuing interest in Reye's Syndrome and the research efforts of the National Institute of Child Health and Human Development (NICHD) to help defeat this dread disease.

Reye's Syndrome is a disease which occurs mainly in children and is characterized by progressive signs and symptoms of brain pathology associated with abnormal liver function. The condition takes its name from an Australian physician, Dr. R. D. K. Reye, who first described it in 1963. The Syndrome is associated with a fairly uniform history of intractable vomiting and deteriorating state of consciousness which follow an otherwise uneventful viral-like illness such as chickenpox or influenza. Other clinical characteristics include fever, convulsions, abnormal breathing patterns, increased muscle tone, an enlarged liver, and disorientation which may progress into coma. The mortality rate is high, and a majority of the survivors may present signs and symptoms of brain damage or intellectual impairment. At this time the cause of this condition is not known.

Because the Syndrome most commonly strikes children, our Institute has had a general interest in this field of research for a number of years. As you know, the NICHD is currently supporting two research projects on the Syndrome. The first is studying the basic biochemical mechanisms which may contribute to the development of signs and symptoms of Reye's Syndrome as a means of identifying the cause of the problem. The possibility of genetic or environmental factors which may contribute to the disease is also being investigated, and the development of an animal model will be pursued in concert with other Institutes once the biochemical and physiological bases of the disorder are understood. The current level of NICHD support for this project is $90,054.

The NICHD is also supporting a project which deals with an evaluation of the effects of amino acid metabolism and other compounds in a large number of human metabolic diseases including Reye's Syndrome. The pathogenesis of the Syndrome will be studied in depth by the researchers conducting this project. Using experimental animals, the effects of injected organic acids on concentrations of ammonia and glucose and on the histology of the liver will be investigated. The current level of Institute support for the entire project, of which Reye's Syndrome is a small part, is $81,455.

We anticipate that the NICHD will continue to fund meritorious investigator-initiated research projects in this field in the foreseeable future. However, the National Institute of Neurological and Communicative Disorders and Stroke is the component of the National Institutes of Health with the principal responsibility for such research.

It is our belief that a great deal of research on the basic biologic mechanisms related to Reye's Syndrome is under way and will need to continue for some time before the knowledge derived from it can be used in clinical applications which will effectively cure and prevent this Syndrome. I can assure you that the continued support of such basic research is essential if we are to hasten the day when this health problem is finally solved.

I hope that this information will be helpful to you in your efforts.

Sincerely yours,
NORMAN KRETCHMER, M.D., Ph. D.,
Director, National Institute of Child Health and Human Development.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Atlanta, Ga., April 13, 1979.

Hon. JOHN MELCHER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MELCHER: Thank you for your letter of March 13 requesting information on Reye syndrome.

Although Reye syndrome is not officially reportable to the Center for Disease Control (CDC), by informal agreement, all States do report information on cases that is provided to them by local health departments. The Conference of State and Territorial Epidemiologists met 3 years ago to discuss the matter and decided against official reportability. They felt that this would not necessarily lead to better reporting than currently exists.

During the past 4 years, CDC has spent approximately $65,000 on the following Reye syndrome activities: 1) Two medical epidemiologists who spend approximately 20 percent of their time in surveillance and field investigations of Reye syndrome; 2) six investigations of Reye syndrome outbreaks; and 3) travel to present data, organize studies, and to confer with experts in the field. In addition, CDC has two contracts for a total of $176,570 to study Reye syndrome. One contract covers a study of all Reye syndrome cases in the State of Ohio for an 18-month period; the second contract with Wallace Hayes, Ph. D., University of Mississippi, is to measure aflatoxin levels in patients with Reye syndrome.

The enclosures include copies of summary data as well as reprints of studies performed by CDC over the past several years. We hope this information will be helpful.

Sincerely yours,
WILLIAM C. WATSON, JR.,
(For William H. Foege, M.D., Assistant Surgeon General, Director.)

SUMMARY DATA—REYE SYNDROME, 1977, 1978, and 1979

	1977	1978	1979
States	50	36	30
Number of cases	354	201	179
Race (percent):			
White	91	95	94
Black	9	5	6
Sex (percent):			
Female	44	53	74
Male	56	47	26
Case-fatality ratio (percent)	42	29	18
Recovered with neurologic deficits (percent)	11	11	(1)

[1] Not available. ●

By Mr. MELCHER:

S. 1795. A bill to authorize the Gros Ventre Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes; to the Committee on the Judiciary.

S. 1796. A bill to authorize the Assiniboine Tribe and the Blackfeet Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes; to the Committee on the Judiciary.

● Mr. MELCHER. Mr. President, I introduce and send to the desk two bills which I ask unanimous consent to have printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1795

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70K), or any other provision of law, jurisdiction is hereby conferred upon the United States Court of Claims to hear, determine, and render judgment on any claims filed by the Gros Ventre Tribe, within one year of the date of this Act, for just compensation under the Fifth Amendment for loss of land claimed to have been taken in violation of the United States Constitution. Such jurisdiction is conferred notwithstanding any defense of res judicata or collateral estoppel.

SEC. 2. (a) In determining the amount to be awarded in any action under this Act, the United States Court of Claims shall make appropriate deductions for all offsets, counterclaims, and demands that would be permitted to be made under the third paragraph of section 2 of the Act of August 13, 1946 (25 U.S.C. 70a).

(b) Any award made before, on, or after the date of the enactment of this Act, under any judgment of the Indian Claims Commission, the United States Court of Claims, or any other authority with respect to any lands that are also the subject of a claim submitted under this Act shall not be considered as a defense, estoppel, or setoff of such claim, and shall not otherwise affect the entitlement, or amount of, any relief with respect to such claim.

SEC. 3. The provisions of section 15 of the Act of August 13, 1946 (60 Stat. 1053; 25 U.S.C. 70n) shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that the functions of the Commission shall be performed by the United States Court of Claims.

SEC. 4. The provisions of the Act of November 4, 1963 (77 Stat. 301; 25 U.S.C. 70n-1-7) shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that reference to the Commission shall be deemed to be to the United States Court of Claims.

S. 1796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), or any other provisions of law, jurisdiction is hereby conferred upon the United States Court of Claims to hear, determine, and render judgment on any claims filed by the Assiniboine Tribe or the Blackfeet Tribe, within one year of the date of this Act, for just compensation under the fifth amendment for loss of land claimed to have been taken in violation of the United States Constitution. Such jurisdiction is conferred notwithstanding any defense of res judicata or collateral estoppel.

SEC. 2. (a) In determining the amount to be awarded in any action under this Act, the United States Court of Claims shall make appropriate deductions for all offsets, counterclaims, and demands that would be permitted to be made under the third paragraph of section 2 of the Act of August 13, 1946 (25 U.S.C. 70a).

(b) Any ward made before, on, or after the date of the enactment of this Act, under any judgment of the Indian Claims Commission, the United States Court of Claims, or any other authority with respect to any lands that are also the subject of a claim submitted under this Act shall not be considered as a defense, estoppel, or setoff to such claim, and shall not otherwise affect the entitlement, or amount of, any relief with respect to such claim.

SEC. 3. The provisions of section 15 of the Act of August 13, 1946 (60 Stat. 1053; 25 U.S.C. 70n) shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that the functions of the Commission shall be performed by the United States Court of Claims.

SEC. 4. The provisions of the Act of November 4, 1963 (77 Stat. 301; 25 U.S.C. 70n-1-7) shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that reference to the Commission shall be deemed to be to the United States Court of Claims.●

By Mr. CANNON (for himself and Mr. PACKWOOD):

S. 1798. A bill to reduce regulation of and increase competition in the household goods moving industry, and for other purposes; to the Committee on Commerce, Science, and Transportation.

HOUSEHOLD GOODS TRANSPORTATION ACT OF 1979

● Mr. CANNON. Mr. President, today, together with the distinguished ranking member of the Committee on Commerce, Science, and Transportation, Senator PACKWOOD, I am introducing the Household Goods Transportation Act of 1979. As you know, the Commerce Committee has been looking at the question of economic regulation of the motor carrier industry quite carefully since the beginning of the year. At a very early point in our inquiry, it became clear that the problems and special nature of the household moving industry required a separate treatment from that that will be given to the trucking industry as a whole.

The reasons for this are twofold. First, the household moving sector of the trucking industry is the only one in which the shippers are not sophisticated business persons who are used to dealing with transportation issues on a day-by-day basis. Most shippers of household goods are consumers who move once or twice in their lives and have little experience in dealing with trucking firms. The second reason is that we discovered at an early point that the financial condition of the household moving industry is not good and is deteriorating rapidly. At the same time, consumer complaints continue to increase at the Interstate Commerce Commission.

These two factors are not unrelated. It was my personal belief after hearing testimony from both industry and consumer representatives that a strong and healthy household moving industry is by far and away the best remedy for the current degree of consumer dissatisfaction that is widely reported.

At the same time, it became clear through the hearing process that there is a good deal about which the household moving industry should be proud. There are hundreds of small business people in this industry that provide decent, honest, and excellent service to members of their communities on a day-by-day basis. It is clear to me that the vast majority of household movers are honest, decent citizens that are attempting to do the best job they can within the constraints of the regulatory environment within which they must work. Clearly, there are some bad apples in this lot, and unfortunately, they tarnish the image of the entire industry.

This is not to say that there are not some real problems in this industry. There are. The major problem is that the household moving industry is simply overregulated by the Federal Government. There is too much interference in the day-to-day operations of the way that this industry operates. There are too many restrictions on the ability of the industry to price its services to meet market demand and there is too little opportunity for new carriers to begin business and develop new markets.

Accordingly, it is time to consider some substantial changes in the system of economic regulation for this particular sector of the trucking industry in order to be sure that it can regain its health and better serve the Nation's consumers.

The bill that is being introduced today is not a deregulation bill. But it is a bill that will substantially reduce Federal regulation of the household moving industry. It will do so by creating an environment in which competition is encouraged. It will substantially reduce the barriers to entry into the industry. While it retains a test of public convenience and necessity, the Interstate Commerce Commission is required to apply that test to assure that competition is present throughout the industry. The bill provides greater pricing freedom for the carriers. There is a great deal of seasonal fluctuation in the household moving sector of the transportation industry.

There is no reason why household movers should not have the ability to vary their prices depending on market demand. In some cases, prices will go up. In others, prices should come down. The principal assumption, however, is that these business people are better able to adjust their own prices and services than an agency of the Federal Government that knows very little about how they operate on a day-to-day basis.

A very important aspect of this legislation is a reduction in the type of regulation that creates an incredible amount of paperwork for the household moving industry today. It also eliminates restrictions on the ways that carriers may go about estimating shipments and provides more flexibility for carriers to weigh their shipments. Nevertheless, this does not eliminate protection for consumers against acts that are truly damaging. In fact, the Interstate Commerce Commission will have more flexibility in dealing with the rotten apples in the industry. This will benefit the entire industry and the shippers that it serves.

Many people on all sides of the motor carrier regulation issue have expressed concerns about dealing with the household moving industry separately. Proponents of the existing regulatory system are worried that this legislation may create a precedent for future legislation for the rest of the trucking industry. On the other hand, proponents of general regulatory reform are fearful that this will be considered a substitute for a general trucking reform bill. I want to state quite firmly that neither of these concerns are justified. This is not a substitute for a general trucking bill.

The Commerce Committee continues its efforts to establish a record concerning the issue of general trucking regulation, and we will do so regardless of the outcome of this legislation. At the same time, this bill does not represent any kind of precedent one way or the other with respect to the general trucking industry. At the outset of the statement, I indicated that the primary reason for dealing separately with household moving is that it is a unique sector of the trucking industry.

The solutions to the problems of this sector do not necessarily have anything to do with the problems concerning the rest of the trucking industry. The Commerce Committee will decide the issue of household moving on its own merits and will decide the other general trucking issues on their own merits.

I am very hopeful that the Senate will be able to pass this legislation quickly. The committee has scheduled a hearing on this bill for next Wednesday. We have worked very closely with representatives of the household moving industry, consumers, the administration, and other Members of the Senate to create a bill that would be acceptable to all parties. I think we have achieved such a bill. It is not perfect from any single group's point of view, but it contains elements that most observers of the industry and its problems agree are constructive.

While this bill is not by any means cast in concrete, it is a consensus piece of legislation. As such, there are fine balances within the bill that must be maintained if it is to achieve the kind of universal support that we hope it will.

While I am certainly open to proposed changes, I am hopeful that we will be able to maintain these balances throughout the legislative process.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD, together with a section-by-section analysis.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Household Goods Transportation Act of 1979".

DECLARATION OF POLICY

SEC. 2. FINDINGS AND PURPOSE.

The Congress hereby finds:

(1) that a safe, stable, and financially sound system of transportation of household goods by motor common carriers is vital to the maintenance of a strong national economy and a strong national defense;

(2) that the best means of assuring such a system is through competition and reduced regulation;

(3) that maximum operational flexibility on the part of motor common carriers of household goods best serves the interests of shippers of household goods in that it provides the opportunity for servicing of the widest and most divergent needs and desires of the greatest number of consumers and allows a variety of quality and price options to meet changing market demands; and

(4) that the interests of consumers can best be protected by allowing the carriers of household goods the maximum flexibility in serving the needs of their shippers and by assuring the availability of accurate and complete information concerning performance standards, rights, and remedies.

DEFINITIONS

SEC. 3. Section 1002 of title 49, United States Code, is amended—

(1) by inserting after paragraph (9) thereof the following new paragraph:

"(10) "household goods" shall have the meaning defined for it by the Interstate Commerce Commission, but shall mean at least—

"(A) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling;

"(B) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments; and

"(C) articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods."; and

(2) by renumbering paragraphs 10 through 28 of such section, and all references thereto, as paragraphs (1) through (29), respectively.

ANTI-TRUST IMMUNITY

SEC. 4. Section 10706(b) of title 49, United States Code, is amended by striking the period at the end of the second sentence and inserting the following—

"Provided, That with respect to agreements between two or more carriers engaged in the business of transporting household goods that is solely related to or contains procedures for joint consideration, initiation, or establishment of (1) proposals for changes in the standard rate level for household goods, and (2) charges between two carriers and compensation paid or received for the use of facilities and equipment, shall be deemed to further the transportation policy of section 10101 of this title: *Provided further,* That such agreement provides that cost information of individual carrier members that is not otherwise subject to public disclosure under Commission rules, not be disclosed to other carrier members."

RATES

SEC. 5. (a) Chapter 107 of title 49 United States Code, is amended by inserting the following new section immediately after section 10731 thereof—

"SEC. 10732. HOUSEHOLD GOODS RATES.—

"(a) The Commission shall not have the authority to find any rate for the transportation of household goods to be unreasonable on the basis that it is too high if the proposed rate is not more than ten percent above the standard rate level for the transportation of household goods, nor too low if the proposed rate is not less than ten percent below the standard rate level for the transportation of household goods, in effect on April 1, 1980.

"(b) The Commission shall not have the authority to find any charge for accessorial, terminal, storage, or other services incidental to the transportation of household goods to be unreasonable on the basis that it is too high if the proposed rate is not more than 20 percent above the standard rate level for the transportation of household goods, nor too low if the proposed rate is not less than 20 percent below the standard rate level for the transportation of household goods, in effect on April 1, 1980.

"(c) Subsection (a) and (b) of this section shall not apply to any proposed decrease in any rate or charge that the Commission determines would be predatory.

"(d) For the purposes of this section, the term 'standard rate level for the transportation of household goods' means those rates and charges in effect on April 1, 1980, for the transportation of household goods and for accessorial, terminal, storage, or other services incidental to the transportation of household goods, as adjusted in accordance with subsection (e) of this section.

"(e) The Commission shall, not less than semi-annually, adjust the standard rate level for household goods by increasing or decreasing such rate level by the percentage change from the previous period in the actual operating costs incurred by the carriers. The adjustments shall be made only through the development and application of a formula or procedure to determine objectively increases or decreases in costs and that (1) makes no adjustment to costs actually incurred, and (2) takes into consideration the reasonable estimated or foreseeable future costs anticipated for the next semi-annual period during which the rate at issue would be in effect.

"(f) the Commission shall render a final decision by rulemaking establishing a formula or procedures for determining adjustments in the standard rate level for the transportation of household goods not later than 180 days from the date of enactment of this section. Such formula or procedures may be reviewed upon application by any interested party or on the initiative of the Commission. Changes in the formula or procedures shall be made only after formal rulemaking in accordance with title 5, United States Code, section 553."

(b) The index to chapter 107 of title 49, United States Code, is amended by inserting "10732. Household goods rates." immediately after "10731. Investigation of discriminatory rail rates for transportation of recyclable or recycled materials.".

ENTRY

SEC. 6(a). Chapter 109 of title 49, United States Code, is amended by inserting the following new section immediately after section 10933 thereof—

"SEC. 10934. TRANSPORTATION OF HOUSEHOLD GOODS.—

"(a) The Interstate Commerce Commission shall issue a certificate to a person authorizing that person to provide transportation by motor carrier of household goods, if the Commission finds that (1) the applicant is fit, willing, and able to provide the transportation authorized by the certificate and to conform to the provisions of this Act and the rules, regulations, and requirements of the Commission under this Act, and (2) the transportation to be provided is consistent with the present and future public convenience and necessity.

"(b) In the determination as to whether an applicant is fit, willing, and able pursuant to subsection (a)(1) of this section, the burden of proof shall be upon the applicant. In the determination as to whether the transportation proposed is consistent with the public convenience and necessity, pursuant to subsection (a)(2) of this section, the burden of proof shall be upon the opponents of the application.

"(c) In determining whether an application is consistent with the public convenience and necessity pursuant to subsection (a)(2) of this section, the Commission shall consider, among other things, the statement of Congressional purpose and findings set forth in section 2 of the Household Goods Transportation Act of 1979.

"(d) Any person seeking authority under this section must file with the Commission an application which (1) is filed under oath, (2) contains information required by the Commission regulations, and (3) is served on persons designated by the Commission. The Commission shall promulgate rules of procedure for processing such applications which provide for an adequate notice and opportunity for any interested person to file written evidence and argument, but need not provide for oral evidentiary hearings. The Commission shall reach a final decision upon applications for certificates under this section within 180 days of their filing.

"(e) Each certificate issued pursuant to this section shall specify the area in which the carrier may provide transportation.

"(f) The Commission may prescribe conditions with respect to a certificate, when the certificate is issued and at any time thereafter: *Provided*, That the Commission may not prescribe a condition preventing a motor common carrier of household goods from adding to its equipment and facilities or its transportation within the scope of its certificate in order to satisfy business development and public demand.

"(g) A certificate issued under this section shall not be construed to confer a proprietary or exclusive right to use the public highways.

"(h) The requirement that persons holding certificates under subsection (a)(1) of this section be fit, willing, and able shall be a continuing requirement applicable to each carrier. The Commission may, by order entered after notice and hearing, modify, or suspend such certificate, in whole or in part, for failure to comply with such continuing requirement that the carrier be fit, willing, and able, or for failure to file such reports as the Commission may deem necessary to determine whether the carrier is fit, willing, and able.".

(b) The index to chapter 109 of title 49, United States Code, is amended by inserting "10934. Transportation of household goods." immediately after "10933. Authorizing abandonment of freight forwarder service."

AGENTS

Sec. 7. (a) Chapter 109 of title 49 United States Code, is further amended by inserting the following after the new section 10934—as added by section 6 of this Act—

"Sec. 10935. Household Goods Agents.—

"(a) Each principal carrier shall be absolutely responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) in interstate or foreign commerce when those services are held out or performed for the principal carrier or when the shipper is led to believe that those transportation services would be performed by the principal carrier.

"(b) Each principal carrier shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by the Commission and by their principal.

"(c) Whenever the Commission shall have reason to believe, from a complaint or an investigation, that an agent does not have sufficient knowledge or is not fit, willing and able to provide adequate household goods transportation services (including accessorial and terminal services), it shall issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be no later than 60 days after service of the complaint to such agent.

"(2) Such agent shall have the right to appear at such a hearing and rebut the charges contained in the complaint.

"(3) If such person does not appear at the hearing or if the Commission should find that the agent does not have sufficient knowledge or is not fit, willing and able to provide adequate household goods transportation services (including accessorial and terminal services), it may issue an order limiting, conditioning or prohibiting such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods in interstate or foreign commerce.

"(4) Upon a petition filed with the Interstate Commerce Commission by an agent who is the subject of an order issued pursuant to subparagraph (3) of this subsection, a hearing shall be held after proper notice and with an opportunity to be heard. At such a hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

"(5) Any agent adversely affected or aggrieved by an order of the Commission issued under this subsection may seek relief in the appropriate United States Court of Appeals, as provided by section 2112 of title 28, United States Code.

"(d) The antitrust laws, as defined in section 1 of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a carrier and its agents related solely to (1) rate for the transportation of household goods under the authority of the principal carrier; (2) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier; (3) allowances relating to transportation of household goods under the authority of the principal carrier; and (4) divisions between the principal carrier and its agents.".

(b) The index to chapter 109 of title 49, United States Code, is amended by inserting "10935. Household goods agents." immediately after "10934. Transportation of household goods.", as added by section 6 of this Act.

RULES AND REGULATIONS

Sec. 8. (a) Chapter 111 of title 49, United States Code is amended by inserting the following new section immediately following after section 11108 thereof—

"Sec. 11109. Household Goods Carrier Operations.

"(a)(1) No later than 60 days after the date of enactment of this section, the Commission shall institute a rulemaking proceeding in which it shall review all of its regulations pertaining to transportation of household goods.

"(2) The Commission shall reduce the regulations and paperwork required of each carrier to the maximum extent feasible, except for (A) regulations relating to charges; and (B) regulations for the protection of individual shippers.

"(3) A regulation established pursuant to paragraph (2)(B) of this subsection shall contain whenever possible reasonable performance standards.

"(4) The Commission shall conclude the rulemaking required by subsection (a) of this section within 270 days.

"(5) Nothing in this section shall be construed to limit the Commission's authority to require reports from carriers or to require carriers to provide specified information to consumers concerning their past performance.

"(b) Every carrier of household goods may, upon request of a prospective shipper, provide the shipper with an estimate of charges for transportation and for the proposed services. The Commission shall not prescribe specific formulas, forms, methods, or techniques for providing a prospective shipper with such an estimate nor shall the Commission prohibit any carrier from charging a prospective shipper for providing such an estimate for the transportation and proposed services.

"(c) The Commission shall promulgate rules that provide motor carriers engaged in the transportation of household goods with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Commission shall not prohibit household goods carriers from backweighing shipments, nor from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings and such weighings are performed on the same scale.

"(d) Motor carriers of household goods shall not be prohibited from offering to their shippers guarantees or options for per diem payments to shippers in the event the carrier does not pick up or deliver the shipper's shipment as agreed. If the carrier charges the shipper for such protection, the charges shall be contained in the carrier's lawfully published tariff. The charges, if any, for such protection may vary to reflect one or more options available to meet a particular shipper's needs.".

(b) The index to chapter 111 of title 49, United States Code, is amended by inserting "11109. Household goods carrier operations." immediately after "11108. Water carriers subject to unreasonable discrimination in foreign transportation.".

DISPUTE RESOLUTION

Sec. 9(a) Chapter 117 of title 49, U.S.C., is amended by inserting the following new section immediately after section 11710 thereof—

"Sec. 11711. Dispute Settlement for Transportation of Household Goods

"(a) An action at law for loss, damage, or injury that relates to the transportation of household goods may include a claim for the recovery of attorney's fees, which shall be awarded if the shipper prevails in the action unless—

"(1) the defendant carrier shall have filed with the Commission, printed and kept open to public inspection tariffs or schedules giving notice that, upon the complainant's agreeing to be similarly bound, it shall accept as final, without further judicial proceedings not inconsistent with this section, an adjudication of liability and of the amount of loss, damage, or injury to be arrived at under such informal dispute-settlement procedures, including arbitration, as shall have been published in such tariffs or schedules and approved by the Commission pursuant to subsection (c) of this section; and

"(2) the shipper has not filed a claim with the carrier within 120 days after such loss, damage or injury is ascertained and the carrier has not paid or denied the claim within 120 days after receipt of the claim.

"(b)(1) The Commission shall approve

dispute-settlement programs established in accordance with the requirements of this section.

"(2) The Commission shall review each such program on a regular and periodic basis.

"(3) The Commission may investigate the functioning of any dispute settlement program and may suspend or revoke its approval for failure to conform to the requirements of this section.

"(c) Dispute-settlement programs in use by a carrier or carriers of household goods shall substantially fulfill the following objectives:

"(1) the dispute-settlement procedure shall be easy to read and understand, inexpensive, and expeditious for the use of any person for whom the household goods have been transported;

"(2) the dispute-settlement program shall be designed so as to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business;

"(3) the dispute-settlement program shall provide for adequate notice of the availability of such procedure, including a clear, easy-to-read, accurately written summary of the steps involved in using the procedure and any forms or information necessary for initiating an action under the dispute-settlement program. Such summary shall be given to persons for whom the household goods are to be transported before any contract becomes binding and in adequate time to allow for an informed decision as to whether the person for whom the household goods are to be transported will agree to be bound by the dispute-settlement program;

"(4) each individual who is authorized, pursuant to an approved dispute-settlement program, to arbitrate or otherwise settle claims, shall be independent of the carrier or carriers sponsoring the procedure. The procedure shall insure that such person or persons chosen to settle the claims shall be authorized and able to obtain any material and relevant information to the extent necessary from the claimant or carrier to carry out the decisionmaking process properly. Materials and information obtained in the course of the dispute-resolution process may not be used to bring an action under section 11910 of this title; and

"(5) two or more carriers may join together in creating, maintaining, and sharing the cost of a dispute-settlement program.

"(d) The amount of the attorney's fee to be awarded shall be determined by the court and shall be no more than the reasonable fee for services necessarily performed, except that the court may award less than the reasonable fee or no fee if—

"(1) the recovery is less than the amount offered in a written offer of settlement made by the carrier to the claimant prior to commencement of the suite; or

"(2) the action was brought in a court of general jurisdiction when it could conveniently have been brought in a small claims court.

"(e) Where an informal dispute-settlement program pursuant to this section is available and the claimant brings an action in court in lieu of and after having agreed to such program, the transporting carrier who successfully defends an action for loss, damage, or injury to the extent that the judgement is less than the last written offer of settlement by the carrier prior to the institution of such suit under this section may be awarded reasonable attorney's fees for services necessarily performed to defend such action.

"(f) Where an informal dispute-settlement program is not available, the transporting carrier who successfully defends itself against an action for loss, damage, or injury pursuant to this section shall be awarded reasonable attorney's fees for necessarily performed services in defending itself against such action if the claimant commenced such action in bad faith.

"(g) An action to enforce an award of an arbitrator of a court for claims subject to this section may include a claim for the recovery of attorney's fees incurred in the enforcement action.".

(b) The index to chapter 117 of title 49, United States Code, is amended by inserting "11711. Dispute settlement for transportation of household goods." immediately after "11710. Liability when property is delivered in violation of routing instructions.".

PENALTIES

SEC. 10. Section 11901 of title 49, United States Code, is amended by—

(1) inserting the following sentence at the end of subsection (g) thereof: "The Commission shall not impose any penalty under this subsection for a violation relating to the transportation of household goods.";

(2) redesignating subsection (h) of such section, including all references thereto, as subsection (1); and

(3) inserting immediately after subsection (g) the following new subsection:

"(i)(1) Any person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle concerning transportation of household goods subject to jurisdiction of the Commission, or an officer, agent, or employee of that person that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, (C) does not make, prepare, or preserve the record in the form and manner prescribed by the Commission, or (D) does not comply with section 10921 of this title, is liable to the United States for a civil penalty of not more than $500 for each violation and for not more than $250 for each day during which the violation continues. The level of the penalty imposed by the Commission shall be commensurate with the alleged violation. In the case of an individual shipment, no penalty shall be imposed under this paragraph for failure to make, prepare, or preserve the record in the form and manner prescribed by the Commission, unless the Commission finds that the shipper has suffered actual harm.

"(2) A carrier of household goods providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or a receiver or trustee of that carrier who fails or refuses to comply with regulations prescribed by the Commission with respect to standards for reasonable dispatch is liable to the United States for a civil penalty of not less than $500 nor more than $2,000 for each violation and for not less than $250 nor more than $1,000 for each additional day during which the violation continues. The level of the penalty imposed by the Commission shall be commensurate with the alleged violation. No penalty shall be imposed with respect to an individual shipment if the shipper is satisfied with the shipment.

"(3) The United States or any State of that Union may bring a civil action in the United States District Courts to compel a person to pay civil penalties for engaging in or knowingly authorizing (A) deliberately falsifying documents used in the transportation of household goods which evidence the weight of a shipment, (B) deliberately charging for accessorial services not performed or for which the carrier is not entitled to be compensated when such services are not reasonably necessary in the safe and adequate movement of the shipment, or (C) deliberately refusing to allow the shipper to witness a reweighing of the shipper's shipment if requested in writing prior to the unloading of the shipment. Such persons shall be liable to the United States for a civil penalty of not less than $500 nor more than $2,000 for each violation and for not less than $1,000 nor more than $5,000 for each subsequent violation.

WEIGHT BUMPING

SEC. 11. (a) Chapter 119 of title 49, United States Code, is amended by inserting immediately after section 11916, the following new section—

"SEC. 11917. WEIGHT-BUMPING IN HOUSEHOLD GOODS TRANSPORTATION.

"(a) For the purposes of this section, "weight-bumping" means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods subject to the jurisdiction of subchapter II of chapter 105 of title 49.

"(b) Any individual who has been found to have committed weight-bumping shall be fined not less than $1,000 or more than $10,000 for each offense, imprisoned for not more than 2 years, or both."

(b) The index to chapter 119 of title 49, United States Code, is amended by inserting "11917. Weight-bumping in household goods transportation." immediately after "11916. Conclusiveness of rates in certain prosecutions."

HOUSEHOLD GOODS TRANSPORTATION ACT OF 1979—SECTION-BY-SECTION ANALYSIS

TITLE

The Act is to be cited as the "Household Goods Transportation Act of 1979".

FINDINGS AND PURPOSE

Section 2, the Congressional findings and purpose of the Act, stresses the importance to the national economy of a safe, stable, and financially sound household goods transportation system. It reflects the Congressional belief that a healthy system is best achieved through competition and reduced regulation, and maximum operational flexibility on the part of motor common carriers of household goods. Such a system is in the consumer interest because it provides the servicing of the widest and most divergent needs of consumers and allows a variety of quality and price options to meet changing market demands. In addition, Congress finds that the consumer's interest is best protected by assuring the availability of accurate and complete information concerning performance standards, rights, and remedies.

The section is also important in regards to "market entry". Under Section 6 of the proposed Act, the Interstate Commerce Commission is to consider, in determining whether an application is consistent with the public convenience and necessity, the statement of Congressional purpose and findings. The Congressional policy statement in favor of competition changes the present ICC interpretation of public convenience and necessity and thus significantly reduces current barriers to entry.

DEFINITIONS

Section 3 of the Act amends Section 10102 of 49 U.S.C. to add a statutory definition of household goods. The definition of household goods currently in the Act is similar to the present ICC regulatory definition. The definition may be expanded by ICC regulation but not narrowed.

ANTITRUST IMMUNITY

Section 4 of the proposed legislation amends Section 10706(b) of Title 49 of the United States Code which deals with the Interstate Commerce Commission's ratification of rate bureau agreements. The agreements generally specify the limits of antitrust immunity which will be enjoyed by the member carriers. While the Commission shall have the authority to approve, revise, or reject these rate bureau agreements. Section 10706(b) of the Act also specifies the degree of antitrust immunity which the Commission can approve.

Essentially, Section 4 of this bill provides for the ability of the carriers to jointly establish proposals to the Commission concerning development of the "standard rate level" for the movement of household goods. Section 4 of the proposed legislation would also prohibit carriers from disclosing to each other their individual cost information. However, this does not prevent carriers from discussing their individual transportation *item* costs such as fuel, rental costs, terminal fees, highway taxes, etc. that are required to be reported by the Commission. The rationale is to prevent carriers from merely disclosing to each other their fully allocated costs for performing similar movements and setting a rate that would accommodate each carrier.

RATES

Section 5 amends chapter 107 of 49 U.S.C. by adding a new Section 10732 providing for a zone of reasonableness for transportation rates and accessorial and terminal rates.

Subsection (a) provides that the ICC shall not have the authority to find any rate for the transportation of household goods to be unreasonable on the basis that it is too high if the proposed rate is not more than 10% above the standard rate level for the transportation of household goods, nor too low if the proposed rate is not less than 10% below the standard rate level for the transportation of household goods in effect on April 1, 1980. The downward zone is thus tied to the standard rate level in effect on April 1, 1980.

Under current practice, almost all household goods carriers charge the same rates. The rationale behind this section is to inject a degree of competition into the rates charged by carriers of household goods by allowing each carrier complete freedom to set its own rates within the zone.

Subsection (b) has a wider zone due to general agreement among the parties that carriers' and agents' actual costs for these rates fluctuate greatly. However, the existence of a zone was considered important to protect consumers in the more remote areas of the country where there may not be adequate competition to keep such rates from being excessive.

As in subsection (a), the downward zone is tied to the standard rate level in effect on April 1, 1980.

Subsection (c) provides that subsections (a) and (b) shall not apply to any proposed decrease in rate found by the Commission to be predatory. For the purposes of the subsection, "predatory" rates shall be any rate below variable costs.

This subsection was considered necessary to prevent any interpretation of subsections (a) and (b) that "predatory pricing" within the zone would be tolerated by the Act.

Subsection (d) defines standard rate level under this section in effect on April 1, 1980, for the transportation of household goods and for accessorial, terminal, storage, or other services incidental to the transportation of household goods, as adjusted in accordance with subsection (e).

Subsection (e) provides that the ICC shall, not less than semi-annually, adjust the standard rate level for household goods by increasing or decreasing such rate level by the percentage change from the previous period in the actual operating costs incurred by the carriers. The adjustments are to be made by an objective formula or procedure that (1) makes no adjustment to costs actually incurred and (2) takes into consideration reasonably estimated or foreseeable future costs anticipated for the next semi-annual period during which the rate at issue would be in effect.

Subsection (f) requires the ICC to finally establish the subsection (e) formula on standard rate level adjustment procedure by rulemaking within 180 days from the date of enactment of this section subject to review upon application by any interested party or the ICC.

Subsections (e) and (f) are designed to assure an objective formula and thus eliminate the traditional long, contentious ratemaking proceedings. The ratemaking provision is similar to that used in the airline legislation passed last year. Profit is not a consideration in adjustment of the standard rate level. Each carrier would determine the profit necessary or appropriate and adjust the charges within the zone of reasonableness.

ENTRY

Section 6 amends Chapter 109 of 49 U.S.C. to add a new section 10934. This section sets out a new test for those applicants who are requesting ICC authority to provide transportation by motor carriers of household goods. It is designed to substantially reduce existing statutory and regulatory barriers to entry and to implement expedited procedures for dealing with applications.

Subsection (a) provides that the ICC shall grant certificates to any person authorizing that person to provide transportation by motor carriers of household goods, if the Commission finds that (1) the applicant is fit, willing, and able to provide the transportation, and (2) the transportation to be provided is consistent with the public convenience and necessity.

Subsection (b) provides that the burden of proof is on the applicant to show that it is fit, willing, and able. The burden of proof is on the opponent of the application to show that the application is not consistent with the public convenience and necessity.

Subsection (c) provides that in determining whether an application is consistent with the public convenience and necessity, the ICC shall consider the Congressional statement of findings and purpose set forth in Section 2 of the Household Goods Transportation Act of 1979.

The bill thus retains the traditional test that all applicants must be fit, willing, and able. However, the public convenience and necessity test is significantly modified. First, current law regarding public convenience and necessity requires that in order to grant a certificate to an applicant, the ICC must find that "the transportation to be provided under the certificate is or will be required by the present or future public convenience and necessity". This barrier has been reduced by replacing the words "required by" with the words "consistent with". Essentially, this will change the ICC's practice of denying applications simply because a particular geographic area was already served by its existing carriers. The second important change in the public convenience and necessity test is the reversing of the burden from the applicant to the opponents of the application. Third, the ICC is directed to consider the Congressional purpose and findings statement set forth in Section 2 of the bill, which emphasizes the positive value of competition.

Subsection (d) describes the procedure for filing an application for authority with the ICC and directs the ICC to promulgate rules for processing such applications. Such applications must be acted upon by the Commission within 180 days of their filing. The requirement for long and involved oral evidentiary proceedings has been eliminated.

Subsection (e) requires the ICC to specify the area in which the carrier may provide transportation.

Subsection (f) authorizes the ICC to prescribe conditions, provided that the ICC may not prevent a motor common carrier of household goods from adding to its equipment and facilities or transportation within the scope of its certificate to satisfy business development and public demand.

Subsection (g) provides that a certificate does not confer a proprietary or exclusive right to use the highways.

Subsection (h) provides that the fit, willing, and able requirement for persons holding certificates shall be a continuing requirement and that the ICC may modify or suspend such certificate for failure to comply with the continuing requirement.

AGENTS

Section 7 amends chapter 109 of Title 49, U.S.C., by adding a new section 10934. This section establishes the relationship between carriers and their agents.

Subsection (a) states that each carrier shall be absolutely responsible for the acts or omissions of its agents which relate to the performance of household goods transportation services.

Subsection (b) states that each carrier shall use diligence and care in selecting and maintaining agents who are fit, willing, and able to provide adequate household goods transportation services and to fulfill the obligations imposed upon them by the Commission and their principal.

Subsection (c) imposes upon the agents the standard of fit, willing, and able similar to that currently imposed upon the carriers and authorizes the ICC to investigate the fitness of individual agents. The subsection also sets out the procedure for ICC action against an agent. If the ICC finds after an investigation and hearing that an agent is not fit, willing, and able to provide adequate household goods transportation services, it is required to issue an order limiting or prohibiting such agent from any involvement in the transportation or providing services incidental to the transportation of household goods in interstate or foreign commerce.

This ICC authority over agents is not in the present law. Such authority was deemed necessary in that carriers presently have very little control over their agents. The Committee received testimony that agents easily move from carrier to carrier when one carrier finds the agent's service inadequate.

Subsection (d) assures that discussions between carriers and their agents related solely to transportation rates, accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier, allowances relating to household goods transportation and divisions between the carrier and its agents are not discussions that would be in violation of the antitrust laws.

RULES AND REGULATIONS

Section 8 amends Chapter 111 of 49 U.S.C. by adding a new section 11109.

Subsection (a) requires the Commission to institute a rulemaking in which it shall reevaluate all of the regulations concerning the day-to-day operations that it now imposes upon the household moving industry. The Commission is clearly directed to reduce those regulations to the maximum extent feasible consistent with protection of individual shippers. The Commission is directed to impose reasonable performance standards whenever possible. This rulemaking shall be concluded within 270 days.

Subsection (b) prohibits the ICC from mandatory specific formulas, forms, methods or techniques for providing shippers with estimates of charges to be made. It also states that the ICC shall not prohibit carriers from charging a shipper for providing an estimate for the transportation and proposed services.

This subsection changes present ICC regulation which specifically sets forth the formula a carrier and agent must use in providing estimates for charges to shippers. The Committee received testimony regarding the accuracy of this ICC methodology for estimating the charges. The formula resulted in basically the same percent of overestimates as underestimates. Industry testified that it was their belief that freed from the ICC formula, they could provide more accurate estimates to shippers. Industry also testified that the practice of estimating is costly. The subsection therefore allows the carrier to charge for an estimate.

Subsection (c) gives carriers the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The subsection specifically allows backweighing of shipments, where the household goods are delivered and then the truck is weighed and charges tabulated and the customer billed. This will probably not be used on individual consumer shipments where payment is cash on delivery.

Subsection (d) allows the carriers to provide an option to their customers for protection in the event that the carrier does not pick up or deliver the shipper's goods as agreed.

DISPUTE SETTLEMENT

Section 9 amends Chapter 117 of 49 U.S.C. to add a new section 11712 setting up an effective system for resolving disputes between household goods carriers and their shippers.

Subsection (a) creates an incentive to the carriers to develop an ICC approved dispute settlement program or settle the claim within 6 months. Without such a program, the shipper may go to court and is given the right to recover attorney's fees. In addition, the subsection creates an incentive to the shipper to file a claim with the carrier within 6 months or forfeit his or her right to attorney's fees.

Subsections (b) and (c) sets out the criteria necessitating ICC approval of the dispute settlement program submitted by the carrier. The system is designed to provide an easy-to-read, inexpensive and expeditious program for dispute settlement that will avoid the necessity of lengthy court litigation and provide a final decision in a reasonable amount of time for both the carrier and the shipper that has problems.

Subsections (d), (e), (f), and (g) provides the Congressional guidelines for an award of attorneys' fees.

Dispute settlement programs are not currently prevalent among household goods carriers. The Committee received much testimony regarding the delays, costliness, and inadequacy in present claims settlement. Industry also felt that many times consumers were not timely or reasonable in filing claims. This section was designed to improve claims settlements.

PENALTIES

Section 10 amends section 11901 of 49 U.S.C. to set up a new subsection (h) providing for civil penalties for violations of the Act and ICC regulations pursuant to household goods transportation.

The ability of the ICC to impose fines upon carriers for paperwork violations on individual shipments is prohibited unless the shipper has suffered actual harm. The section gives the ICC more flexibility to impose penalties in more serious cases. It specifically lists certain activities that would be subject to civil penalties with respect to the falsification of documents used to evidence the weight of the shipment and charging for services not actually performed. Actions to enforce these rules and penalties may be brought by the United States or any State of this Union.

Under present law the ICC may only impose civil penalties for paperwork violations. The results have not been satisfactory to industry or the ICC. The provisions in the bill should result in more sensible fines based on the seriousness of the violation.

WEIGHT-BUMPING

Section 11 amends the criminal code to make weight bumping in household goods transportation a specific crime. The penalty for weight bumping would be a fine of not less than $1,000 nor more than $10,000 for each offense, imprisonment of not more than two years, or both.●

● Mr. PACKWOOD. Mr. President, I concur in Chairman CANNON's fine statement. The Commerce Committee has thoroughly investigated the Interstate Commerce Commission's economic regulation and consumer protection regulations governing the household goods moving industry. Input has been sought from many different interests as to the problems of Government regulation and the problems within the industry itself.

I believe that the approach set forth in this bill will significantly improve the financial stability of the industry and improve the quality and range of services offered to consumers. I want to emphasize several important reforms proposed in this legislation.

First, with regard to rates, the bill creates a zone of reasonableness for transportation rates and accessorial and terminal rates. Present law does not allow carriers participating in a rate bureau to vary from a set rate. Creating a zone of reasonableness will inject a degree of competition into the rates charged by carriers of household goods.

Second, the bill makes entry of new carriers into the market considerably easier. More competition among carriers regarding rates and eased market entry will result in more price options and a variety of services. These reforms are also designed to improve the quality of service.

Another important reform attempted in the bill relates to ICC consumer protection-type regulations. Many of these regulations in practice have stifled the creativity and the financial ability of the industry to improve service and offer a choice of price and service options to consumers. Section 8 of the bill eases the regulatory burden on the industry and section 9 of the bill provides incentives to industry and consumers to settle claims for loss and damage in a more timely and less costly manner.

Fourth, the industry, the ICC and consumers complained that the present enforcement and penalty provisions of law resulted in nonsensical fines which do not accomplish their objectives. The reforms proposed in the civil penalties provision are designed to assure a more rational approach to enforcement because they are based on the seriousness of the violation.

Last, much attention has been focused in the last year on the problem of weight bumping. Concern has been forthcoming from the industry itself, the consumer, the Interstate Commerce Commission, and the media.

Section 11 of this bill deals with this fraudulent practice by defining weight bumping as a crime and providing for appropriate penalties. Weight bumping is the knowing and willful making or securing of a fraudulent weight on a shipment of household goods.

On Wednesday, September 26, the committee will hold yet another hearing to receive comments on this bill. I will look forward to constructive testimony.●

ADDITIONAL COSPONSORS

S. 299

At the request of Mr. CULVER, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 299, a bill to amend sections 551 and 553 of title 5, United States Code, to improve Federal rulemaking by creating procedures for regulatory issuance in two or more parts, and for other purposes.

S. 378

At the request of Mr. BELLMON, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 378, a bill to authorize the Robert A. Taft Institute of Government Trust Fund.

S. 542

At the request of Mr. CULVER, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1954 to provide for product liability losses and expenses, to provide a deduction for certain amounts paid to captive insurers, and for other purposes.

S. 1200

At the request of Mr. BAYH, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 1200, the Alcohol Fuels Regulatory Simplification Act of 1979.

S. 1241

At the request of Mr. MOYNIHAN, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 1241, a bill to authorize the National Water Resources Policy and Development Act of 1979, to direct the Water Resources Council to act as the coordinating body for a program of water resources assistance to the States.

S. 1433

At the request of Mr. PACKWOOD, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 1433, a bill to improve the safety certification process used by the Federal Aviation Administration for passenger airplanes.

S. 1465

At the request of Mr. TALMADGE, the Senator from Louisiana (Mr. LONG) and the Senator from Florida (Mr. CHILES) were added as cosponsors of S. 1465, a bill to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes.

S. 1475

At the request of Mr. BENTSEN, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1475, a bill to amend the Internal Revenue Code of 1954 to provide tax incentives to encourage the creation and growth of new and innovative firms.

S. 1647

At the request of Mr. INOUYE, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 1647, a bill to establish a commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order 9066, and for other purposes.

S. 1656

At the request of Mr. KENNEDY, the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 1656, the National Fishery Development Act.

S. 1660

At the request of Mr. SCHMITT, the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 1660, a bill providing for an enhanced civil defense program for the 1980's.

S. 1763

At the request of Mr. KENNEDY, the Senator from California, (Mr. CRANSTON) was added as a cosponsor of S. 1763, a bill to amend the Immigration and Nationality Act to improve the efficiency of the Immigration and Naturalization Service, and to establish a different numerical limitation for immigrants born in foreign contiguous territories, and for other purposes.

SENATE JOINT RESOLUTION 50

At the request of Mr. STONE, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of Senate Joint Resolution 50, a joint resolution proposing an amendment to the Constitution with respect to compensation of Senators and Representatives.

AMENDMENT NO. 440

At the request of Mr. BAYH, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of Amendment No. 440 intended to be proposed to H.R. 3919, the Windfall Profits Tax Act.

SENATE RESOLUTION 242—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. JACKSON, from the Committee on Energy and Natural Resources, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 242

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1398. Such waiver is necessary because S. 1398, the Industrial Equipment Efficiency Act of 1979, authorizes appropriations for fiscal year 1980 of $3 million which was not included in the Committee's submission to the Budget Committee.

Compliance with the deadlines of the Congressional Budget Act of 1974 was not possible by May 15, 1979, as the legislation was introduced in response to the OPEC crude oil price increases that occurred after May 15.

NOTICES OF HEARINGS

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will hold hearings on Federal Reserve membership legislation on Wednesday, September 26, 1979, and Thursday, September 27, 1979. The hearings will be held both days in room 5302 of the Dirksen Senate Office Building and will begin at 10 a.m.

On Wednesday, September 26, 1979, the committee will hear the testimony of the Honorable HENRY REUSS, chairman Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives.

The Honorable Paul A. Volcker, Chairman of the Board of Governors of the Federal Reserve System will appear in behalf of the Board. The final witness will be Mr. John Perkins, president, Continental Illinois National Bank & Trust Co., Chicago, Ill., and president, American Bankers Association. He will be accompanied by Mr. Robert W. Renner, president, Citizens State Bank of Hartford City, Ind., and chairman, Community Bankers Division, American Bankers Association.

On Thursday, September 27, 1979, the committee will hear the testimony of Mr. Raymond Campbell, president, Oberlin Savings Bank, Oberlin, Ohio, and president, Independent Bankers Association of America, accompanied by Mr. Thomas F. Bolger, McHenry State Bank, McHenry, Ill., and first vice president of the Independent Bankers Association of America; and Mr. John E. Malarkey, State bank commissioner, Dover, Del., representing the Conference of State Bank Supervisors.

Additional information about the committee's hearings can be obtained by contacting Steven M. Roberts, chief economist of the committee, at 224-7391.

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, I would like to announce that the Subcommittee on Federal Spending Practices and Open Government, Committee on Governmental Affairs, will hold a subcommittee business meeting at 3:30 on Monday, September 24, 1979. The meeting will take place in room 1318, Dirksen Senate Office Building.

If anyone has questions concerning this meeting, they may contact the subcommittee office at 224-0211.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate today to consider the SALT II treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BUDGET RESOLUTION—COMMENDATION OF SENATORS MUSKIE AND BELLMON

● Mr. PERCY. Mr. President, the Budget Committee has worked diligently to bring to the floor this week a balanced budget resolution. I commend my two good friends, the Senator from Maine and the Senator from Oklahoma for the dedication and responsibility they have brought to the budget process. In these first 4 years of its operation, they have breathed life into a paper process and have made it work.

In the report accompanying the second budget resolution, the Budget Committee explains the state of the economy at this time and points out, in all candor, that "this resolution has been drafted at a moment of extraordinary uncertainty." It is to the further credit of the committee that they have not swerved from their analysis in the first budget resolution last spring that inflation "is the Nation's most serious economic problem."

All evidence continues to point to the intractability of inflation and the ineffectiveness of the tools we have used so far against it. Let me just highlight a few of the key indicators, which only bolster my view that we need the right kind of a tax cut at some point.

1. CONSUMER PRICES

Consumer prices have risen steadily throughout the winter and spring and well into the summer. The recently released July figures for the Consumer Price Index show an annual rate of increase of 12 percent. The average increase for the first half of this year is a staggering 13.4 percent. This is a far cry from the 7.5 percent the President foresaw in January and it is most unlikely that we will even be able to average less than a double digit rate for all of 1979. The effect of escalating prices is seen everywhere around us. Housing costs are one of the most inflationary items in the economy, as a Commerce Department report made clear just recently. The agency announced that the average sales price of new one-family houses sold during the second quarter of this year topped $72,000. What is more, this was an increase of 5.7 percent over the average price of similar houses in the first quarter.

Inflationary consumer prices have become so much a part of the economic landscape that the head of the Labor Department's statistical bureau, Janet Norwood, said last month that the rise in the Consumer Price Index had become "almost monotonous."

Let me say there is no monotony in it for senior citizens on fixed incomes, or for families struggling to balance a family budget. For them it breeds uncertainty and even fear of the future.

2. PRODUCER PRICES

For a few months this spring, it appeared that wholesale prices—as reflected in the Producer Price Index—would be a moderating influence on inflation. There was even brief and cautious hope that this moderation in wholesale prices would be reflected in moderating consumer prices in the later summer and fall.

Now, after 2 months of rapidly escalating producer prices, it appears these hopes will not materialize. In fact, in August the producer price index rose at an annual rate of 14.9 percent, the highest since January and even outstripping the consumer price rise for the month.

3. INTEREST RATES

The prime interest rate, which banks give their best corporate customers, has jumped a full percentage point since the onset of summer. On September 7, it was jacked up twice in 1 day, to a record high of 12¾ percent. Today it is 13¼ percent. Business demand for loans remains high and the Federal Reserve, under its new Chairman, Paul Volcker, is signaling that he will actively work to combat inflation with high interest rates. Nevertheless, it is a bitter pill to small businesses and potential homeowners, for they may be shut out of the market altogether.

4. GROSS NATIONAL PRODUCT

After 3 years of buoyant economic growth, we now appear to be in the midst of a slowdown that may mean the loss of hundreds of thousands of jobs in the year ahead. GNP grew at nearly 6 percent in 1976, as well over 5 percent in 1977 and at a 4.4-percent rate last year. So far this year, though, we have seen GNP grow at an annual rate of only 1.1 percent in the first quarter and it actually declined by 2.4 percent in the second quarter. If the quarter ending September 30 proves to also be in deficit, we will achieve a true recession in the economists' definition of two quarters of negative economic growth.

5. PRODUCTIVITY

Next to GNP, perhaps one of the poorest performers has been productivity, which has also shown no growth this year, we have not had the hard-driving productivity gains in this decade that we experienced in the 1950's and 1960's—the gains which enabled our standard of living to increase steadily and wages to rise to alltime highs. Yet as recently as 1976 we did chalk up a 3.5-percent increase in productivity. It has declined each year since then and in each of the first two quarters of this year, there has been a very serious decline of well over 2 percent.

Mr. President, as much as these five indicators point to continuing inflation, the signals we are receiving from other parts of the economy are mixed. For example, the Commerce Department's index of leading indicators declined in July. But a closer look shows that 6 of the 10 indicators actually rose while 4 fell. The Commerce Department's chief economist, Courtney Slater, commented that this mixed bag of indicators were "very consistent with the proposition that we are experiencing a mild downturn or recession."

In short, there does not seem to be the threat of a serious recession looming ahead. Inflation, however, is still snapping at our heels and a tax cut accompanied by a cut in expenditures, that stimulates investment and productivity is the most effective way we can deal with it. It should be a matter of high priority for the Congress.●

CONGRESS AND CUBA

● Mr. STEVENSON. Mr. President, it appears that the Russian combat troops have been in Cuba since before the mid-1970's, and they may have been organized as a brigade since the early 1970's. The mission of this brigade is not clear. Whatever its mission, it poses no offensive threat to the United States.

The Congress is not competent, nor was it intended by the Constitution, to manage the foreign interests of the United States. The wisdom of the founders in this respect is attested by the history of Cuba and the Congress. That history includes the Spanish-American War and a Congress, traumatized by Vietnam, which acquiesced in Russian-Cuban adventurism in Angola, encouraging more elsewhere in the world. Now the belated discovery of these troops in Cuba has created distempers which threaten to influence history in ways I cannot contemplate with equanimity.

Consternation over this meager force seems to have become an imperative of domestic politics. Political figures clamor to outdo each other in a cacophony which drowns out voices of moderation, sweeps the administration along with it and leaves the world the more confounded by the priorities and methods of the United States. This indignation is unbecoming a nation with some pretensions to greatness. And it threatens consequences beyond Cuba and at odds with the intentions of those who clamor for withdrawal of the troops.

Their overreaction has made it difficult for the Soviet Union to withdraw its troops. That which a country, certainly a great power, might do voluntarily is made more difficult under pressure when prestige is on the line. Cuba is embedded in Russian history, too. The Soviets' humiliation during the missile crisis of 1962 and its alliance with Cuba make it unlikely that they will risk the perception of being intimidated by the menacing statements of U.S. officials.

It is suggested that if the Soviet troops are not withdrawn the Senate should reject SALT. This notion that the United States should express its displeasure with the Soviet Union by punishing itself remains an unacceptable expression of American politics in the conduct of American foreign policy. SALT should be rejected if it is not in the interest of the United States. It should be ratified if it is in the interest of the United States. Its merits are in no way connected with the presence of a Russian brigade in Cuba. Furthermore, this linkage of Cuba and SALT makes a Russian withdrawal even more unlikely. The withdrawal of the troops could signify to some that the Soviet Union considers SALT to its advantage over the United States and that it is prepared to pay a high price for ratification. If such significance were attached to withdrawal of the Russian troops, the chances for Senate ratification would be adversely affected. If, on the other hand, the troops are not withdrawn, the chances of ratification would be likewise adversely affected.

Now the Senate is impulsively increasing budget levels for defense by many billions of dollars, as if increased defense expenditures could solve the Cuban problem. And the House is rebelling at implementation of a treaty with Panama ratified by the Senate. All told, the clamor over the presence of the Soviet troops in Cuba has made withdrawal of the troops more difficult, increased budget levels for defense, threatened an escalation of the strategic arms race, imperiled the treaty with Panama, undermined the Presidency, and invited more inflation and more economic stagnation as resources are diverted to nonproductive military investments.

We should lower our voices and let the negotiators do their work. If the negotiations fail to produce the withdrawal of the troops or a satisfactory explanation of their presence, then the United States might indicate that it is shelving efforts to normalize trade with the U.S.S.R. by granting it most-favored-nation tariff treatment and eligibility for credits. At the same time, it could move to normalize its trading relationship with the People's Republic of China and the remaining noneligible countries of East Europe. That would send a strong message to the U.S.S.R., maintain a felt pressure on that nation and enhance our economic interests at the same time by creating trade and investment opportunities in China and East Europe. At least, the United States would not punish itself for Russian adventurism in the Caribbean.

The last act in this drama will not be finished before we have examined and explained the performance of the U.S. intelligence community. It appears that the failure to establish the presence of the Russian brigade parallels the downgrading of Cuba as a target of intelligence, the demoralization of the CIA, and the diminution of intelligence resources assigned to Cuba. Suffice it to say, the responsibility for this unfortunate intelligence failure falls on many sides. We are examining the past in the Senate Intelligence Committee. Recent omissions from our coverage of Cuba are being corrected, and I hope that from this experience the public will derive a greater appreciation of the importance of intelligence. It is the failure of intelligence, not the presence of the brigade, which now threatens irrational decisions and ultimately more national insecurity. But the meddling of Congress is raising the doubts throughout the world about our capacity for any kind of intelligence.●

TAX EQUITY ENCOURAGES FISCAL DISCIPLINE

● Mr. DOLE. Mr. President, this week the Senate has taken action on the second budget resolution. We have had an opportunity to demonstrate the strength of our commitment to fiscal discipline. Through all the rhetoric about budget-balancing, it is sometimes difficult to separate the sheep from the wolves. Hardly a politician alive can be found who will oppose restraint on Government spending. While there is a consensus on this issue in terms of the direction we must follow, it becomes more difficult to sort out the true believers. An important indicator is the means of achieving fiscal discipline that one advocates.

There are many ways to balance the budget, including various accounting maneuvers that may reduce the deficit on paper but do nothing more than evade the issue. But there are obviously two fundamental approaches to take: Raise taxes or reduce spending (or do some of each). Traditionally, Congress has not been overly eager to cut spending, despite the welcome signs that this is changing. Nor is Congress terribly enthusiastic about raising taxes, at least not when they had to go on record as supporting such a move.

The true advocate of responsible fiscal policy takes into account the extent of the Government's role in the economy. A bloated Federal budget that is balanced by exorbitant tax rates is not a stirring exercise in self-discipline by the Government. But as long as current trends are allowed to continue this is the direction in which we are headed. There is no way that Congress can cut spending without various interest groups feeling the pinch. But there is a way for Government to increase taxes without having to account to anyone. We do it every year.

The method is taxflation. If ever there was a more deceptive and inequitable way of reducing the deficit, it has not come to my attention. Each year as inflation erodes the nominal income that is overstated in dollar terms, the Government hauls in additional revenues. This is because people pay more tax at the higher marginal rates within brackets, or they are pushed into a new and higher bracket. The average tax rate climbs. Yet at the same time real income stays the same or may even decline as a result of inflation.

Congress need do nothing for the Government to receive these extra revenues. They are unearned and undeserved, and they bias our system toward greater spending and a larger role in the economy for the Federal Government. This caused a drain on the productive capabilities of the private sector and reduces the incentive for Congress to hold the line against inflation.

The Tax Equalization Act would reverse this bias. This legislation, S. 12, has been introduced by the Senator from Kansas and should meet with the approval of all those who advocate a balanced budget. By eliminating the inflation tax bonus to the Government, the Tax Equalization Act would force Congress to look to reducing the overall size of Government as the proper road to fiscal responsibility. This incentive to disciplined spending would require that waste be cut wherever it is found. A bill that accomplishes this and at the same time restores equity for the taxpayer should be difficult to resist. As taxflation persists, the public demand for indexing taxes for inflation will become irresistible. The proponents of fiscal responsibility should move now to support the Tax Equalization Act.●

THE RECLAMATION REFORM ACT OF 1979

● Mr. CHURCH. Mr. President, much has been said and written in recent weeks about legislation I sponsored, which passed the Senate on September 14, to overhaul the 77-year-old Reclamation Act of 1902. Now that the Senate has approved the bill, I believe it appropriate to assess its importance to Idaho and the West, and the goals it sets out to achieve.

I introduced the bill nearly 2 years ago, and it has been one of my priorities since that time, because I can think of no legislation that has a more direct bearing on the economic health of thousands of Idaho farmers than the Federal reclamation program.

Idaho has a long record of participation in Federal reclamation projects since the original act became law in 1902. At that time, it was a radical departure for the Federal Government to finance the construction of large storage dams and delivery canals to open the semiarid lands of the West to cultivation and settlement. The 1902 law required that the recipients of the water provided by such projects live "on or near" the land, and limited the amount of water to a volume sufficient to irrigate 160 acres for each adult individual in the family.

Judged by its results, this law helped immensely to develop and populate the West and it has, for the most part, created a pattern of family farming that still exists. Of the 17 Western reclamation States, Idaho ranks second in total acreage irrigated by these projects, with about 1.5 million acres benefiting.

However, no law can last 77 years without becoming outdated. The 1902 residency requirement (which came to be interpreted to mean residence within 50 miles of the land) has not been enforced since 1926. Modern farm economics—requiring hundreds of thousands of dollars of investment in many cases—have long since rendered obsolete the 160-acre limitation, which likewise ceased to be enforced. Leasing extra land became the device for circumventing the acreage restriction. In some cases, large corporations leased vast tracts of reclaimed land, thus subverting the original intent of the law. Further confusion arose concerning the applicability of reclamation law to certain water projects constructed by the Army Corps of Engineers, primarily for flood protection, but with some collateral irrigation benefits. Since each reclamation project had to be authorized by Congress, differing provisions were often adopted between one project and another, until a patch-work quilt of laws and regulations gradually emerged, creating massive confusion, inconsistency, and inequality of treatment. Inevitably, this maladministration of the reclamation law led to litigation in the Federal courts which resulted in a judicial order requiring the Department of the Interior to draft regulations to strictly enforce the provisions of the 1902 act, including the outmoded 160-acre limitation and the abandoned residency requirement. So, unless the law is changed, there will be chaos in the countryside. Thousands of Western farms will be pulled apart and subdivided into uneconomic, unworkable parcels.

To avoid such a disaster, I drafted S. 14, the bill which served as the centerpiece in the Senate for the first comprehensive updating of reclamation law in three-quarters of a century. The bill ran the gauntlet of public hearings, held last year and again this spring. It was modified by the Senate Interior Committee and then amended by the Senate itself in the course of 2 days of intense debate. As finally approved, the bill closely resembles the original measure I first introduced. I believe it to be a balanced, sensible approach to bringing a venerable old law into line with the new realities on the farm. Equally important, the bill not only meets the needs of Western agriculture now, but it will continue to serve those needs for years to come.

Here is what it does:

First, it does away with the old 160-acre limitation, which had been rendered meaningless anyway by the leasing loophole. A new maximum holding of 1,280 acres is established, whether owned or leased. Whereas the 1902 law provided a 160-acre limitation per adult, making the size of the family the determining factor, my bill sets a maximum of 1,280 acres per farm holding. With modern machinery, such a holding is well within the capability of a family to farm.

Second, the bill plugs the leasing loophole. Any farmer holding more than the maximum permissible acreage must divest himself of the excess land within 10 years. Furthermore, large corporations are virtually excluded. Under the terms of the new bill, they may control no more than 160 acres on any Federal reclamation project. The 1,280-acre allowance is limited to "qualified" recipients, defined as an individual, a family, a partnership, or a small family-type corporation (benefiting no more than 25).

Third, the bill extends the concept of equivalency, heretofore, permitted on some projects but not on others, to all equally. This would allow for adjustments in the acreage limitation, where necessary for land of poorer quality or where higher altitudes and shorter growing seasons limit productivity.

Fourth, the bill repeals the long-ignored residency requirement. Living on the land does not necessarily make one a farmer, just as living away from the land does not automatically make one a nonfarmer. Furthermore, the old residency requirement works a hardship on older couples, ready for retirement, who wish to move into town. Thousands of these retirees today augment their limited income by renting their farms. To require them to live within 50 miles of the farm in order to realize this rental income, seems to me to be arbitrary and unreasonable.

Fifth, the bill makes clear that unless Congress has specifically included them, Corps of Engineers projects are exempt from reclamation restrictions, thus clearing up the confusion and hardship created by attempts to transfer regulations from one Federal program to another.

Finally, the bill deals definitively with the question of repayment. Irrigators on reclamation projects must repay the Federal Government for their assessed share of project construction costs. Those who benefit from other types of Federal water projects, such as river and harbor works constructed by the Corps of Engineers, unlike the farmers, are not required to repay the Government. The only "subsidy" extended to irrigators relates to interest. The reclamation loan bears no interest only the principal must be repaid. While this "subsidy" applies, during the period of repayment, I believe the Government has every right to promote a pattern of family farms on each reclamation project, through imposition of the acreage limitation. But once the irrigators have repaid their obligation, the subsidy stops. At that point, the hand of the Federal Government should be lifted from the land. My bill establishes this principle.

Idaho farmers need this Reclamation Act of 1979. It is landmark legislation of enormous importance to Idaho's agricultural base, and I take real pride in being its author and sponsor in the Senate. Now, the matter shifts to the House of Representatives, where I hope our two Congressmen can produce a bill equally favorable to the farmers of our State.●

THE MILWAUKEE ROAD AND GRAIN SHIPMENTS

● Mr. CULVER. Mr. President, the Midwestern railroad situation is fast approaching the crisis point. Farmers and grain elevator operators, while anticipating near record corn and soybean harvests, are also facing a serious car shortage and a potentially devastating disruption in the movement of grain to market.

The current situation is the product of several factors, some short-term and others which have plagued the railroads for years. Record harvests and the prospect of heavy grain sales to the Soviet Union have stimulated the demand for more cars. Several railroads, however, have replaced many of their 40-foot boxcars with 100-ton hoppers that cannot travel along light density branch lines. These factors contribute to an inefficient utilization of freight cars, delays in moving grain and logjam at elevators and loading docks.

One other action which will have a major detrimental impact upon this already serious situation is the attempt of the Milwaukee Railroad to embargo 6,400 miles of track, including over 1,000 miles in Iowa. This "meat-axe" dismemberment would have a devastating impact upon the thousands of farmers, shippers, and consumers who rely on it.

Earlier this summer, a Federal district court denied the Milwaukee's embargo request on the grounds that it had not exhausted all sources of capital, and that only the Interstate Commerce Commission can order what would be—in reality—not an "embargo" but the formal abandonment of the line.

Now, however, the Milwaukee has repetitioned the court for permission to suspend service along a majority of its national system. As a recent editorial in the Cedar Rapids Gazette accurately points out, this embargo would come at the worst possible time for Iowa shippers facing near-record crops while one-half of last year's grain is still in storage.

The Milwaukee Railroad has been in bankruptcy since late 1977 and probably cannot continue to maintain its current system of track indefinitely. Some restructuring of the line is inevitable. However, the current embargo request should be denied and resources found to keep the line in operation through the fall harvest season. To permit the suspension of service along the Milwaukee would leave a gaping void in Midwestern rail transportation that would not be filled in time to alleviate massive disruptions in our grain transportation system. This would hurt both farmers and consumers. As the Gazette concludes:

> Wait at least until all or most of the grain gets to where it has to go.

Mr. President, I ask that the editorial be printed in the RECORD.

The editorial follows:

MILWAUKEE ROAD CHUTZPAH

Last June, U.S. District Court Judge Thomas McMillen turned down the Milwaukee Road's request to embargo three-fourths of its track for the simple reason that the court did not have such jurisdiction at that stage of the reorganization process. In other words, the ailing railroad was trying to sneak around lengthier bankruptcy proceedings which the Interstate Commerce Commission is empowered by law to oversee McMillen called the Milwaukee's bluff.

Now, it's back again—same court, same judge, same argument. The figures have changed a bit—the Milwaukee wants to embargo only two-thirds of its track by Sept. 17, and it's also asking approval of a $16 million loan from the Milwaukee Land Co.—but the railroad's case is essentially the same. That McMillen is willing to hear it all over again suggests, regrettably, that he is for some reason more favorably disposed toward the Milwaukee.

Why? The principle McMillen enunciated less than three months ago has not changed. No firm offer has come from any competitor to purchase as much as an inch of Milwaukee track. Indeed, it is questionable whether the Sept. 17 cutoff date makes much sense. In recent testimony, according to one Iowa transportation official, it was acknowledged that the Milwaukee had enough cash on hand to muddle through to Oct. 1.

No one discounts the wisdom of abandoning excess—unprofitable—track so long as grain elevator operators have an alternative to the Milwaukee. No one wants to see Milwaukee shareholders and creditors lose more than they already have. But Sept. 17 is not an appropriate time to shut down 6,400 miles of road. The embargo would have a severe impact on wheat harvests in Montana, North Dakota and soybean harvests in Minnesota and Iowa.

In Iowa alone, 1,000 miles of track are slated for embargo. According to T. Scott Bannister of the Iowa Transportation Regulation Board, this could mean that 10 to 15 percent of the 1979 grain harvest, plus part of what is still in storage from last year's bumper crop, may not get moved. And 10 to 15 percent of well over 2 billion bushels will be felt—in the grocery store, in the U.S. trade deficit and in the foreign markets. The Rock Island strike's contribution to the surplus of grain that must be hauled certainly does not improve the picture.

By all means, scale down the Milwaukee Road to a reasonable size so that it can stay in business. But don't do it prematurely. Wait at least until all or most of the grain gets where it has to go.●

SALT II POSTPONEMENT RESOLUTION

● Mr. BELLMON. Mr. President, last Monday, September 17, I expressed before this body my long held concern about the disturbing shift in the world balance of power. The testimony presented before the Foreign Relations Committee, including the testimony of administration advocates of SALT II ratification, has reenforced my concern about where we now stand and where we intend to go. It was, therefore, not a surprise for me to read an editorial which appears in the current issue of Business Week (dated September 24, 1979), calling for President Carter to withdraw SALT II from Senate consideration, pending a complete overhaul of our policies toward the Soviet Union.

Mr. President, I ask that the full text of this editorial be printed at the conclusion of my remarks.

The editorial follows:

A FAULTED FOREIGN POLICY

The presence of combat-ready Russian troops in Cuba is more than just an unforeseen obstacle to ratification of the Strategic Arms Limitation Treaty by the Senate. It is a sign of something fundamentally wrong in U.S. foreign policy toward the Soviets. It calls for a comprehensive review and reassessment of U.S. foreign policy, not just an expression of pain from the State Dept.

When the Carter Administration sent SALT II to the Senate, it assumed that the Russians would do nothing to spoil the picture of cooperation and goodwill on both sides that the political strategists were trying to create. The Administration made the basic mistake of anticipating the same behavior from the Russians that Americans would demonstrate under the same circumstances (page 80). It ignored the hard fact that since World War II Russia has consistently built military strength and undertaken political adventures in any part of the world that seemed receptive.

Under the guidance of White House adviser Zbigniew Brzezinski, the Administration also got its priorities confused. In 1977, Brzezinski told Business Week that U.S. foreign policy would no longer be sharply focused on relations with the Soviet Union, a clear break with the policy that had existed since the end of World War II. This switch was obviously a mistake. It led the U.S. to make no response to Soviet moves in the Indian Ocean, Africa, and Afghanistan. And it supported the illusion that Cuban troops in Africa, surrogates of the Soviets, are a stabilizing force instead of the anti-democratic element they really are.

Russia is by far the biggest and most dangerous antagonist the U.S. faces in the world today. Russian-style communism is the greatest threat to democratic government around the world. Such deep-seated opposition is not going to be resolved by handshakes and what former Secretary of State Henry Kissinger called "an exercise in strenuous goodwill."

At this point, the Administration should withdraw the SALT treaty and postpone ratification indefinitely.

Next, it should undertake a complete overhaul of its policies toward Russia—including a review of trade relations, an appraisal of military needs, and an extensive repair of relations between the U.S. and its allies.

In the past, the Russians have understood and responded only to tough talk and clear intentions. Only by returning to that negotiating posture can the U.S. protect the interests it has been losing bite by bite.●

CLOSE UP

● Mr. JOHNSTON. Mr. President, in 1973, shortly after I began my service in the Senate, I was asked to take some time from my regular schedule to speak to a group of young people from the Greater New Orleans area who were in Washington to learn more about the workings of Government. I gladly agreed to do so, and in so doing became introduced to a program which was then in its shaky infancy but which, in the ensuing years, has evolved into a remarkable success story.

It was, and is, called Close Up, a program whose simply stated but hard-wrought goal is to erase young people's cynicism toward the political system by acquainting them with it and convincing them they have a role in shaping it.

Those youngsters I met in 1973 were part of a total of more than 65,000 students and teachers from all across America who have spent a highly structured, intensive week of firsthand study in Washington since the first Close Up program in 1971. Soon these halls will be buzzing with the first wave of the more than 13,000 participants for Close Up's 1979–80 sessions.

We in Louisiana feel some special pride in our affiliation with the Close Up Foundation. In addition to those from Greater New Orleans, schools from Shreveport-Bossier were selected to participate 4 years ago. The foundation's national fellowship program is named in honor of the late Senator Allen J. Ellender of my State, and the entire Louisiana delegation in the House of Representatives were cosponsors of the original legislation to authorize public funds for the Ellender Fellowships. I have sought help in continuing that modest public support, and have worked closely with the foundation to develop a program of major corporate and philanthropic contributions to expand its exemplary nonprofit and multipartisan activities.

Thus it is with great satisfaction that I commend to my colleagues' attention this week's announcement by the distinguished Speaker of the House that Close Up will soon broaden the reach of its Government studies in a major way.

When its 1979–80 program year begins late this fall, the Close Up curriculum will no longer be limited to the youngsters physically in Washington. Instead, through an arrangement with C–SPAN, the public affairs network of cable television, the foundation will transmit several hours of each week's Washington sessions to classrooms all over America. Students and teachers who for one reason or another could not travel to Washington, will instead have the program beamed to them. In a real way, the national Government and all its disparate components will come alive for them as it does for those here on the program.

I congratulate Close Up for its bold expansion, and I commend C–SPAN for the generosity and civic responsibility it has demonstrated in making that possible. If the Close Up concept works on the large level as well as it has on a smaller scale—I have no doubt whatsoever that it will—we have found an exceptionally potent weapon in the effort to instill faith in our system among those who will someday run it.●

INJURIES AND DEATH IN THE MINING INDUSTRY

● Mr. WILLIAMS. Mr. President, the Mine Safety and Health Administration has just released its report on fatalities and serious injuries in the mining industry for the first 6 months of this year.

The report indicates that some segments of the mining industry have shown striking reductions in fatalities and serious disabling injuries since the Federal Mine Safety and Health Act of 1977 became effective.

For example, for the first 6 months of 1979, there were 54 fatalities in the entire coal mining industry. While this represents an increase from the 49 fatalities in the first 6 months of 1978, there was a nationwide coal strike in 1978 which caused a 30-percent reduction in the number of man-hours worked during that period of time.

When we take into account the increased number of hours worked during 1979, there was in fact, nearly 17-percent reduction in the fatality incidence rate during the first half of 1979, compared with the first half of 1978.

Another segment of the industry which has done remarkably well in reducing fatalities under the new Mine Safety and Health Act is the metal mining industry. During the first 6 months of 1979, 11 workers in the metal mining industry lost their lives, compared with 25 during the same period last year. The fatality incidence rate in this segment of the industry for the 6-month period was two-thirds less than for a comparable period last year. At the same time, there was a 53-percent reduction in the number of serious injuries in the metal mining industry.

Mr. President, the reductions in fatality incidence rates in the coal and metal mining segments of the industry indicates that real progress can be made when the industry recognizes its responsibilities under the Federal Mine Safety and Health Act, and is committed toward working to improving mine conditions.

To be sure, the industry did not welcome with open arms the prospect of increased Federal regulation and stricter enforcement. But, these segments of the industry are committed to making the law work, and toward improving workplace conditions. The proof of the value of this effort is reflected in the dramatic reductions in the incidence of fatalities in those segments of the industry.

Regrettably, Mr. President, other segments of the mining industry have not done so well.

The number of fatalities in the nonmetal mining industry jumped from 3 in the first 6 months of 1978 to 13 in the first 6 months of 1979, a six-fold increase in the fatality incidence rate. And while there was a decrease in the number of fatalities in the stone mining industry, from 24 in the first 6 months of 1978 to 18 in the same period this year, there was, at the same time, an increase of more than 17 percent in the number of serious disabling injuries in that industry.

In the sand and gravel industry, there was, unfortunately, no reduction in fatalities. However, the number of serious disabling injuries in the sand and gravel industry increased from 426 during the period from January to June 1978, to 502 during the first 6 months of this year—an increase of nearly 18 percent.

These figures are of more than just passing interest, Mr. President. They, regrettably, reflect the attitudes of the various segments of the mining industry toward the Federal Mine Safety and Health Act, and its requirements.

The coal mining industry and the metal mining industry have, since enactment of the 1977 Federal Mine Safety and Health Act, expressed little opposition to that law and to its administration by the Mine Safety and Health Administration. In the best spirit of industry-Government cooperation they have made every effort to comply with the Federal standards, and to train miners in health and safety matters. The result has been an almost immediate and substantial reduction in the death of miners.

The stone and sand and gravel industries, and certain segments of the nonmetal mining industry, on the other hand, have been strident in their opposition to the new mine safety law and its requirements. They have fought to win exemptions from miner safety and health training requirements, and they have sought exclusion from the act altogether. Regrettably, they have chosen to fight the new law, instead of working to live with its provisions. And their employees are now paying the price of that resistance in death and disabling injury.

Mr. President, these figures show that improvements can be made in miner safety and health if the industry cooperates, within the spirit of the law, and assertively seeks to improve workplace conditions.

These figures also show that where the industry fights the law, where it devotes its energy toward seeking exclusions and exemptions rather than toward seeking means of cooperative compliance, workplace safety shows little improvement. The prophecy that the law will interfere with the operation of business, and will not contribute to improvements in safety will in fact become self-fulfilling, especially when the energy which should be devoted to complying is devoted instead to seeking ways of avoiding compliance.

Mr. President, so that all Senators can see where progress has been made in improving the safety and health of miners, and where progress has not been made, I ask that excerpted tables from the Mine Safety and Health Administration's Mine Injuries and Worktime, Quarterly Report for January through June 1978, and January through June 1979 be printed in the RECORD.

The tables follow:

TABLE 1.—NUMBER OF INJURIES, INJURY-INCIDENCE RATES PER 200,000 EMPLOYEE-HOURS, AVERAGE NUMBER OF WORKERS, EMPLOYEE-HOURS, AND PRODUCTION, BY KIND OF COAL MINED AND WORK LOCATION, JANUARY TO JUNE 1978

[Refer to narrative for limitations and scope of data]

Kind of coal and work location	Fatal	Fatal incidence rate	NFDL	NFDL incidence rate	NDL	NDL incidence rate	All occurrences	All incidence rate	Average number of workers	Employee-hours reported	Production reported (short tons)
Bituminous coal:											
Underground mines:											
Underground	30	0.08	3, 458	9.21	1, 092	2.91	4, 580	12.20	117, 441	75, 087, 193	86, 420, 223
Surface	4	.09	227	5.22	112	2.57	343	7.89	13, 061	8, 699, 842	------------
Total, underground mines	34	.08	3, 685	8.80	1, 204	2.87	4, 923	11.75	130, 502	83, 787, 035	86, 420, 223
Surface mines:											
Strip mines	10	.04	778	3.18	558	2.28	1, 346	5.50	61, 017	48, 923, 735	159, 788, 979
Auger mines			1	.52	2	1.03	3	1.55	771	386, 544	1, 591, 278
Other surface mines									93	40, 795	120, 390
Total, surface mines	10	.04	797	3.16	560	2.27	1, 349	5.47	61, 881	49, 351, 074	161, 500, 647
Total, production mining	44	.07	4, 464	6.71	1, 764	2.65	6, 272	9.42	192, 383	133, 138, 109	247, 920, 870
Preparation plants	4	.07	258	4.48	160	2.78	422	7.33	16, 691	11, 509, 128	------------
Independent shops/yards			60	4.93	38	3.12	98	8.05	3, 731	2, 435, 247	------------
Total, other operations	4	.06	318	4.56	198	2.84	520	7.46	20, 422	13, 944, 375	------------
Total, bituminous mining	48	.07	4, 782	6.50	1, 962	2.67	6, 792	9.24	212, 805	147, 082, 484	247, 920, 870
Pennsylvania anthracite coal:											
Underground mines:											
Underground			15	16.82	3	2.02	28	18.84	434	297, 315	234, 600
Surface			1	3.88	2	7.76	3	11.65	69	51, 514	------------
Total, underground mines			26	14.91	5	2.87	31	17.77	503	348, 829	234, 600
Surface mines:											
Strip mines			35	8.17	10	2.33	45	10.50	1, 211	857, 288	1, 106, 112
Culm bank			2	4.28	4	8.57	6	12.85	181	93, 374	597, 310
Dredge									7	4, 610	2, 459
Total, surface mines			37	7.75	14	2.93	51	10.68	1, 399	955, 272	1, 705, 881
Total, production mining			63	9.66	19	2.91	82	12.58	1, 902	1, 304, 101	1, 940, 481
Preparation plants	1	.25	51	12.70	49	12.20	101	25.15	1, 047	803, 335	------------
Independent shops/yards			7	26.06	11	40.95	18	67.02	60	53, 718	------------
Total, other operations	1	.23	58	13.53	60	14.00	119	27.77	1, 107	857, 053	------------
Total, anthracite mining	1	.09	121	11.20	79	7.31	201	18.60	3, 009	2, 161, 154	1, 940, 481
All coal:											
Underground mines:											
Undergoround	30	.08	3, 483	9.24	1, 095	2.91	4, 608	12.23	117, 875	75, 384, 508	86, 654, 823
Surface	4	.09	228	5.21	114	2.61	346	7.91	13, 130	8, 751, 356	------------
Total, underground mines	34	.08	3, 711	8.82	1, 209	2.87	4, 954	11.78	131, 005	84, 135, 864	86, 654, 823
Surface mines:											
Strip mines	10	.04	813	3.27	568	2.28	1, 391	5.59	62, 228	49, 781, 023	160, 895, 091
Auger mines			1	.52	2	1.03	3	1.55	771	386, 544	1, 591, 278
Culm bank			2	2.98	4	5.96	6	8.94	274	134, 169	717, 700
Dredge									7	4, 610	2, 459
Total, surface mines	10	.04	816	3.24	574	2.28	1, 400	5.57	63, 280	50, 306, 346	163, 206, 528
Total, production mining	44	.07	4, 527	6.73	1, 783	2.65	6, 354	9.45	194, 285	134, 442, 210	249, 861, 351
Preparation plants	5	.08	309	5.02	209	3.39	523	8.50	17, 738	12, 312, 463	------------
Independent shops/yards			67	5.38	49	3.94	116	9.32	3, 791	2, 488, 965	------------
Total, other operations	5	.07	376	5.08	258	3.49	639	8.63	21, 529	14, 801, 428	------------
Total, all coal	49	.07	4, 903	6.57	2, 041	2.74	6, 993	9.37	215, 814	149, 243, 638	249, 861, 351
Officeworkers:											
Bituminous			12	.35	6	.18	18	.53	8, 319	6, 782, 828	------------
Anthracite									114	89, 067	------------
Total, officeworkers			12	.35	6	.17	18	.52	8, 433	6, 871, 895	------------
Grand total	49	.06	4, 915	6.30	2, 047	2.62	7, 011	8.98	224, 247	156, 115, 533	249, 861, 351

TABLE 2.—NUMBER OF INJURIES, INJURY-INCIDENCE RATES PER 200,000 EMPLOYEE-HOURS, AVERAGE NUMBER OF WORKERS, AND EMPLOYEE-HOURS, BY MINERAL INDUSTRY AND WORK LOCATION, JANUARY TO JUNE, 1978

[Refer to narrative for limitations and scope of data]

Mineral industry and work location	Fatal	Fatal incidence rate	NFDL	NFDL incidence rate	NDL	NDL incidence rate	All occurrences	All incidence rate	Average number of workers	Employee-hours reported
Underground mines:										
Metal	14	0.12	1, 153	10.27	847	7.55	2, 014	17.94	23, 839	22, 450, 633
Nonmetal	2	.07	188	6.31	136	4.56	326	10.94	6, 310	5, 960, 915
Stone	2	.19	87	8.27	37	3.52	126	11.97	2, 281	2, 105, 107
Total, underground mines	18	12	1, 428	9.36	1, 020	6.68	2, 466	16.16	32, 430	30, 516, 655
Surface mines:										
Metal	7	.06	449	3.56	319	2.53	775	6.15	26, 773	25, 219, 366
Nonmetal			238	4.80	138	2.79	376	7.59	11, 770	9, 908, 115
Stone	13	.09	638	4.43	533	3.70	1, 184	8.22	32, 352	28, 801, 192
Surface, subtotal	20	.06	1, 325	4.15	990	3.10	2, 335	7.31	70, 895	63, 928, 673
Sand and gravel	12	.09	424	3.26	324	2.49	760	5.84	33, 825	26, 037, 533
Total, surface	32	.07	1, 749	3.89	1, 314	2.92	3, 095	6.88	104, 720	89, 966, 206
Total, mining	50	.08	3, 177	5.27	2, 334	3.87	5, 561	9.23	137, 150	120, 482, 861
Mills:										
Metal	4	.03	566	4.33	532	4.07	1, 102	8.44	28, 013	26, 126, 078
Nonmetal	1	.01	637	5.24	390	8.21	1, 028	8.46	24, 687	24, 298, 838
Stone	9	.04	931	4.59	627	3.09	1, 567	7.73	42, 203	40, 538, 144
Total, mills	14	.03	2, 134	4.69	1, 549	3.41	3, 697	8.13	94, 903	90, 963, 060
Total, mines and mills	64	.06	5, 311	5.02	3, 883	3.67	9, 258	8.76	232, 053	211, 445, 921
Officeworkers:										
Metal			7	.13	10	.19	17	.32	11, 222	10, 594, 447
Nonmetal			6	.18	7	.21	13	.40	7, 029	6, 570, 910
Stone			11	.22	10	.20	21	.42	11, 093	10, 010, 629
Sand and gravel			2	.10	5	.26	7	.36	5, 157	3, 841, 503
Total, officeworkers			26	.17	32	.21	58	.37	34, 501	31, 017, 489
Summary Total (includes officeworkers):										
Metal	25	.06	2, 175	5.15	1, 708	4.05	3, 908	9.26	89, 847	84, 390, 524
Nonmetal	3	.01	1, 069	4.57	671	2.87	1, 743	7.46	49, 796	46, 738, 778
Stone	24	.06	1, 667	4.09	1, 207	2.96	2, 898	7.12	87, 929	81, 455, 072
Subtotal	52	.05	4, 911	4.62	3, 586	3.37	8, 549	8.04	227, 572	212, 584, 374
Sand and gravel	12	.08	426	2.85	329	2.20	767	5.13	38, 982	29, 879, 036
Grand total	64	.05	5, 337	4.40	3, 915	3.23	9, 316	7.68	266, 554	242, 463, 410

TABLE 1.—NUMBER OF INJURIES, INJURY-INCIDENCE RATES PER 200,000 EMPLOYEE-HOURS, AVERAGE NUMBER OF WORKERS, EMPLOYEE-HOURS, AND PRODUCTION, BY KIND OF COAL MINED AND WORK LOCATION, JANUARY TO JUNE 1979

[Refer to narrative for limitations and scope of data]

Kind of coal and work location	Fatal	Fatal incidence rate	NFDL	NFDL incidence rate	NDL	NDL incidence rate	All occurrences	All incidence rate	Average number of workers	Employee-hours reported	Production reported (short tons)
Bituminous coal:											
Underground mines:											
Underground	37	0.06	6,501	11.32	1,063	1.85	7,601	13.23	128,574	114,878,117	149,771,611
Surface	2	.03	466	7.12	138	2.11	606	9.26	14,711	13,084,062	
Total, underground mines	39	.06	6,967	10.89	1,201	1.88	8,207	12.83	143,285	127,962,179	149,771,611
Surface mines:											
Strip mines	6	.02	1,067	3.41	540	1.73	1,613	5.16	65,234	62,493,725	192,764,470
Auger mines			9	6.84	1	.76	10	7.60	483	263,242	889,743
Other surface mines			6	11.04	1	1.84	7	12.88	146	108,656	155,699
Total, surface mines	6	.02	1,082	3.44	542	1.72	1,630	5.19	65,863	62,865,623	193,809,912
Total, production mining	45	.05	8,049	8.44	1,743	1.83	9,837	10.31	209,148	190,827,802	343,581,523
Preparation plants	7	.08	491	5.28	167	1.79	665	7.15	20,357	18,608,150	
Independent shops/yards	2	.10	57	2.94	24	1.24	83	4.28	3,895	3,875,121	
Total, other operations	9	.08	548	4.87	191	1.70	748	6.65	24,252	22,483,271	
Total, bituminous mining	54	.05	8,597	8.06	1,934	1.81	10,585	9.92	233,400	213,311,073	343,581,523
Pennsylvania Anthracite coal:											
Underground mines:											
Underground			30	23.24	4	3.10	34	26.34	399	258,160	189,412
Surface			1	5.30			1	5.30	51	37,712	
Total, underground mines			31	20.96	4	2.70	35	23.66	450	295,872	189,412
Surface mines:											
Strip mines			27	6.71	22	5.47	49	12.18	930	804,691	1,000,928
Culm bank			2	3.88			2	3.88	178	103,199	722,393
Dredge									7	4,390	2,392
Total, surface mines			29	6.36	22	4.82	51	11.18	1,115	912,280	1,725,713
Total, production mining			60	9.93	26	4.30	86	14.24	1,565	1,208,152	1,915,125
Preparation plants			55	14.22	36	9.31	91	23.52	844	773,748	
Independent shops/yards			3	15.72	9	47.17	12	62.89	48	38,163	
Total, other operations			58	14.29	45	11.08	103	25.37	892	811,911	
Total, anthracite mining			118	11.68	71	7.03	189	18.71	2,457	2,020,063	1,915,125
All coal:											
Underground mines:											
Underground	37	.06	6,531	11.34	1,067	1.85	7,635	13.26	128,973	115,136,277	149,961,023
Surface	2	.03	467	7.12	138	2.10	607	9.25	14,762	13,121,774	
Total, underground mines	39	.06	6,998	10.91	1,205	1.88	8,242	12.85	143,735	128,258,051	149,961,023
Surface mines:											
Strip mines	6	.02	1,094	3.46	562	1.78	1,662	5.25	66,164	63,298,416	193,765,398
Auger mines			9	6.84	1	.76	10	7.60	483	263,242	889,743
Culm bank			7	7.24			7	7.24	298	193,427	862,600
Dredge			1	8.77	1	8.77	2	17.53	33	22,818	17,884
Total, surface mines	6	.02	1,111	3.48	564	1.77	1,681	5.27	66,978	63,777,903	195,535,625
Total, production mining	45	.05	8,109	8.45	1,769	1.84	9,923	10.33	210,713	192,035,954	345,496,648
Preparation plants	7	.07	546	5.63	203	2.09	756	7.80	21,201	19,381,898	
Independent shops/yards	2	.10	60	3.07	33	1.69	95	4.86	3,943	3,913,284	
Total, other operations	9	.08	606	5.20	236	2.03	851	7.31	25,144	23,295,182	
Total, all coal	54	.05	8,715	8.09	2,005	1.86	10,774	10.01	235,857	215,331,136	345,496,648
Office workers:											
Bituminous			12	.29	5	.12	17	.41	9,371	8,227,890	
Anthracite									99	87,353	
Total, officeworkers			12	.29	5	.12	17	.41	9,470	8,315,243	
Grand total	54	.05	8,727	7.80	2,010	1.80	10,791	9.65	245,327	223,646,379	345,496,648

TABLE 2.—NUMBER OF INJURIES, INJURY-INCIDENCE RATES PER 200,000 EMPLOYEE-HOURS, AVERAGE NUMBER OF WORKERS, AND EMPLOYEE-HOURS, BY A MINERAL INDUSTRY AN D WORK LOCATION, JANUARY TO JUNE 1979

[Refer to narrative for limitations and scope of data]

Mineral industry and work location	Fatal	Fatal incidence rate	NFDL	NFDL incidence rate	NDL	NDL incidence rate	All occurrences	All incidence rate	Average number of workers	Employee-hours reported
Underground mines:										
Metal	5	0.04	1,346	11.60	866	7.46	2,217	19.11	24,552	23,206,449
Nonmetal	7	.21	244	7.24	100	2.97	351	10.42	6,931	6,744,517
Stone			77	6.91	23	2.07	100	8.98	2,249	2,227,589
Total, underground mines	12	.07	1,667	10.36	989	6.15	2,668	16.58	33,732	32,178,555
Surface mines:										
Metal	3	.02	486	3.76	332	2.57	821	6.35	25,952	25,865,365
Nonmetal	3	.06	164	3.36	86	1.76	253	5.18	10,997	9,760,641
Stone	10	.07	754	4.95	332	2.18	1,096	7.19	33,661	30,487,373
Subtotal, surface mines	16	.05	1,404	4.25	750	2.27	2,170	6.56	70,610	66,111,379
Sand and gravel	12	.09	500	3.64	260	1.89	772	5.61	35,617	27,501,821
Total, surface mines	28	.06	1,904	4.07	1,010	2.16	2,942	6.29	106,227	93,615,200
Total, mines	40	.06	3,571	5.68	1,999	3.18	5,610	8.92	139,959	125,793,755
Mills:										
Metal	3	.02	733	4.81	554	3.64	1,290	8.47	32,364	30,456,138
Nonmetal	3	.03	601	5.27	326	2.86	930	8.15	24,643	22,817,177
Stone	8	.04	1,099	4.84	447	1.97	1,554	6.84	46,401	45,439,882
Total, mills	14	.03	2,433	4.93	1,327	2.69	3,774	7.65	103,408	98,713,197
Independent shops and yards:										
Metal			36	2.90	60	4.83	96	7.73	2,561	2,484,644
Nonmetal			1	1.27			1	1.27	184	157,688
Stone			13	7.64	3	1.76	16	9.40	298	340,427
Total, shops and yards			50	3.35	63	4.22	113	7.58	3,043	2,982,759
Mines, mills and shops:										
Metal	11	.03	2,601	6.34	1,812	4.42	4,424	10.79	85,429	82,012,596
Nonmetal	13	.07	1,010	5.12	512	2.59	1,535	7.78	42,755	39,480,023
Stone	18	.05	1,943	4.95	805	2.05	2,766	7.05	82,609	78,495,271
Subtotal	42	.04	5,554	5.55	3,129	3.13	8,725	8.73	210,793	199,987,890
Sand and gravel	12	.09	500	3.64	260	1.89	772	5.61	35,617	27,501,821
Total, mines/mills/shops	54	.05	6,054	5.32	3,389	2.98	9,497	8.35	246,410	227,489,711
Officeworkers:										
Metal			5	.09	4	.07	9	.16	11,988	11,336,275
Nonmetal			5	.15	2	.06	7	.21	7,465	6,567,599
Stone			12	.21	9	.16	21	.37	12,840	11,276,447
Sand and gravel			2	.10	1	.05	3	.14	5,560	4,163,983
Total, officeworkers			24	.14	16	.10	40	.24	37,853	33,344,302

Mineral industry and work location	Fatal	Fatal incidence rate	NFDL	NFDL incidence rate	NDL	NDL incidence rate	All occurrences	All incidence rate	Average number of workers	Employee-hours reported
Summary total (includes officeworkers):										
Metal	11	.02	2,606	5.58	1,816	3.89	4,433	9.50	97,417	93,348,871
Nonmetal	13	.06	1,015	4.41	514	2.23	1,542	6.70	50,220	46,047,622
Stone	18	.04	1,955	4.36	814	1.81	2,787	6.21	95,449	89,771,718
Subtotal	42	.04	5,576	4.87	3,144	2.74	8,762	7.65	243,086	229,168,211
Sand and gravel	12	.08	502	3.17	261	1.65	775	4.89	41,177	31,665,803
Grand total	54	.04	6,078	4.66	3,405	2.61	9,537	7.31	284,263	260,834,014

●

THE CHANGING UNIVERSITY

● Mr. CULVER. Mr. President, as the seventies draw to a close and we approach another decade, it is useful to examine the changes of the past and try to forecast and prepare for those to come. I have long shared with a number of my colleagues the firm belief that wise public policy is not merely a reaction to today's situations and demands. It should also reflect our best judgment on future needs and future resources. Indeed, without that future-oriented, long-term perspective we limit tomorrow's opportunities.

Future planning is the responsibility of us all. Mr. President, I am particularly pleased that literally thousands of Iowa citizens take that obligation seriously. Since its start in 1972, I have been involved in IOWA 2000, a program which has drawn people and policymakers together in open dialogs about the kind of State and people we want to be in the 21st century. Discussions on energy, economic development, natural resources, and the quality of life have helped put into clearer focus the major long-term concerns of Iowans and the public programs and policies best designed to address them.

Like many institutions, our colleges and universities face new challenges in the coming decades. Shifting enrollments and escalating service demands in an era of fiscal restraint will test the creative capacity of our Nation's educational leaders. Iowa's diverse private and public postsecondary schools are headed by administrators who bring outstanding personal and professional skills to those challenges.

Among them is Willard L. Boyd, president of the University of Iowa. As a lawyer, professor, and leader in higher education, "Sandy" Boyd is well aware of the paramount need to prepare for the future. In addition to his extensive involvement in the IOWA 2000 program, he has served or chaired State and national task forces on nontraditional education; education, training, and development of professional artists; and the role of law schools in establishing lawyer competency. Those of us in this body are indebted for his work as a member of the Commission on the Operation of the Senate. Among his numerous professional memberships, he serves on the long-range planning committee for the Association of Intercollegiate Athletics for Women and the board of directors of the Harry S. Truman Institute. These many contributions at the local, State, national, and international levels evidence the broad range of his interests and abilities.

It is not surprising then that his fall address to the University of Iowa faculty should be a clear and eloquent statement on the changing nature of the university. His remarks to that audience have a wider relevance for all who are concerned about the future. Mr. President, I ask that President Boyd's speech be printed in the RECORD.

The speech follows:

THE UNIVERSITY IN THE 1980'S

(An Address to the Faculty by President Willard L. Boyd, Aug. 30, 1979)

Incredibly, the decade of the 1970s has passed and we are on the threshold of the 1980s. The post-World War II years have had a profound influence on American higher education, so much so that it now is more broadly described as "postsecondary education," a term reflecting the major educational trends of the last 35 years.

Generally, our democratic aspirations coupled with the demands of a technological and service-based economy have made education beyond high school a continuing need of every citizen. Specifically, the growth of postsecondary education has been marked by:

Increased accessibility by all of society regardless of sex, race, age, nationality, handicap, or economic status;

More diverse institutions offering a greater variety of programs;

Emphasis on specialization and professionalism in order to meet student career needs, to cope with the expansion of knowledge, and to meet particular society needs, and

Extension of educational needs beyond the first postsecondary degree or certificate.

Unprecedented veteran enrollment in the late 1940s, curriculum specialization in the 1950s, enrollment and financial growth in the 1960s, and student unrest and fiscal crises in the 1970s bring us to the 1980s. Although strains and weaknesses abound, American postsecondary education is at its strongest point in history.

While educational quality is difficult to measure, its quantity can be counted. In 1977–78 current fund expenditures by American postsecondary educational institutions totaled $47.40 billion or 2.4 percent of the gross national product. These institutions enrolled 11,415,000 students in some 440 academic subdivisions of knowledge and training leading to baccalaureate or higher degrees and 139 technological and occupational curricula leading to degrees and other awards below the baccalaureate.

Few educators in the depressed 1930s could foresee where we are today. Few of us can foresee where we will go in the 1980s. In education, the past and present properly have a large influence on the future. Sound educational practices ought not fluctuate with the economy or social issues of the time. Nevertheless, education is cyclical and is affected by the contemporary needs and goals of the society it serves.

While we must anticipate the future, we must not assume we can predict it. We must be wary of planning which too often is a straight line projection of the present without regard for unforeseen and everchanging circumstances. Moreover, planning must not restrain individual originality which should always be fostered if new ways are to be found.

BASIC PREMISES

Contemplation of the 80s is obscured by our individual and collective uncertainty about the present. Conflict of opinion resulting from enhanced pluralism in American society is a major influence which will affect our future. Our past has been marked by material growth and by social and economic exclusion. Clearly, the future must assure equality of opportunity in all aspects of American life, but our erstwhile panacea of material growth is in doubt.

In the context of these two premises, we face a decade in which we will find it more difficult and frustrating to resolve the questions before us. With more people participating and with scarcer physical resources, the 1980s will likely be disputatious times. If we respect each other and differ reasonably, they can also be generative and invigorating.

The next decade should accept colleges and universities. Human creativity and learning will be at a premium. In the United States, universities are the principal sponsors of basic investigation and experimentation. New energy sources must be found and less expensive environmental controls developed if we are to maintain our standard of living. More and better health care at an acceptable cost will remain a national objective. No longer can we rely upon the abundance of our physical resources to resolve these and other issues. We must depend on our human resourcefulness. The demand for solutions by physical and biological scientists will increase. Their efforts will not be enough, however, for means and ends, values and goals, are also involved.

NEW FORMS OF FULFILLMENT

Public policy will be difficult to make, because there will be tough trade-offs and national consensus will be rarer. If we are to be realistic about the 80s, we will have to moderate our individual and collective materialism. We must be conservationists every day as well as on a camping holiday. We must seek new forms of fulfillment which will make us even more dependent on the creativity of the social scientist, humanist, and artist.

A university is more than a research institute. From its creativity come learning and improved methods which the university transmits. Traditionally, this dissemination takes place through publications and degree programs. Usually these degree programs have been pursued by people ranging in age from 18 to 28. These have been years of maturing as well as learning, years of preparation for work and life.

Since World War II undergraduate and postgraduate curricula have become more specialized and professionalized. The knowledge and skill demands of a highly technical and service based economy also require continuing as well as preparing education. Terminal degrees and certificates are no longer adequate. The content of knowledge will continue to change, and new problems will confront us whatever our career and lifetime pursuits. Learning is an endless process, and some continuing learning must take place through universities where basic knowledge is generated and advanced skills developed. Accordingly, we must be cognizant of the circumstances outside of the university in which our preparing and continuing students find themselves. At the same time our role is limited, and we can only assist in their development since no educational program can guarantee employment or fulfillment.

The 80s are expected to be a time of career difficulties for the young—especially minority young—for women of all ages who will be seeking paid work, and for older persons whose career spans are lengthening. It is predicted that paid employment opportunities will not grow as rapidly as needed and the employment available will not challenge the college educated. There is a fear of an overeducated, underemployed population which will become restive.

This country is a product of individual and collective restlessness. It is hardly possible, and certainly not desirable, to thwart that spirit as we enter a decade requiring human initiative. If we are well prepared, we are more likely to cope with a changing economy and differing career opportunities. Further, we must not define ourselves solely by our paid employment. If we are to flourish in the coming decade, we must multiply our personal interests. We must restructure our lives to encompass the fulfillment of volunteerism and leisure. Education can help provide us with the resourcefulness to be engaged in a number of stimulating pursuits. If this is so, we will come to value the whole of our lives. With this prospect, we should view the future with confidence, not fear.

STRESS ON QUALITY

The University of Iowa in particular should face the 1980s with confidence and commitment. More so than many universities, we have retained a sense of academic mission. By our own intention, we are a university of limited scope. We have sought to strengthen existing programs instead of adding new fields. In this way we have stressed quality in addressing our mission of teaching and research. We have done much with limited resources.

Remarkably, we have maintained a sense of collegiality during a period of increased specialization and expanded knowledge. Our core is arts and sciences surrounded by well-integrated professional programs. From this sound base we anticipate an exciting future. In the 80s we expect to be smaller, but we also expect to be better.

The traditional enrollment of the University will be smaller during the 1980s. The graduating high school classes in Iowa and nearby states will decline this year and continue to do so until 1988. While our total enrollment is expected to be at its highest through 1981–82, the entering classes of 1980 and 1981 are likely to be smaller than that of 1979. Based on projected sizes of high school graduating classes, the University's enrollment will decrease approximately three thousand (13%) students by the fall of 1988.

It is estimated that the comparative student levels will be:

Student level	1978	1988	Change
Lower division	8,034	6,663	−1,371
Upper division	7,193	6,225	−968
Subtotal, undergraduate	15,227	12,888	−2,339
Professional (medicine, dentistry, law)	1,576	1,578	+2
Master's	3,553	3,185	−368
Advanced	2,634	2,340	−294
Total	22,990	19,991	−2,999

These projections assume that we maintain our present share of Iowa students who go on to college and that other factors remain relatively stable. Among the factors which could affect these projections are the percentage of graduating high school seniors who go on to college and where they go. Such decisions are likely to be affected by the ability to pay for an education, academic objectives as influenced by career opportunities, and the uncertain consequences of proposed national service programs. These factors will undoubtedly affect graduate enrollment as well as undergraduate.

Graduate enrollment is, however, more difficult to predict. This University has been deeply involved in graduate education almost from its inception. Indeed its graduate and advanced instruction is a vital part of its role in Iowa postsecondary education. The percentage of our student body enrolled in graduate programs has not changed significantly in the last 15 years. While it is generally true that most doctoral candidates desire an educational affiliation, there has been a growing emphasis on master's degrees as the basis for entry or advancement in other careers. This emphasis along with the graduate enrollment of more women has resulted in more part-time graduate students and the majority of graduate students being Iowa residents.

RETENTION FACTOR

Another factor of great importance in overall enrollment is persistence. Retention is a matter of concern throughout the nation. Whether it can be or should be improved is a matter of controversy. To the extent a student makes a well-considered decision to leave college, it is a desirable result. In other instances, the institution should be examining its own effectiveness.

Our projections show no change in the controlled enrollments of our health colleges. That is a questionable assumption since the financing of these costly programs is precarious, and in the case of medicine and dentistry, we are over-relying on clinical practice earnings.

The projected decline in our traditional student body will not be offset significantly by nontraditional enrollments. Women now approach parity with men in our overall age group enrollment statistics. Nationally, the projected demand for part-time education has so far exceeded actual demand. Such enrollments at Iowa are limited by our location. Older part-time students are principally concerned with education which will advance their careers. Many of them are already working and therefore cannot be residential students. Nevertheless, the part-time, career-oriented student will be an important element in the changing mix of our smaller enrollment. We will have to be more flexible in meeting career-ladder needs.

Part-time students are relatively more expensive to educate than full-time. They too must have the supporting services provided to all students and delivery of off-campus programs brings added costs. Gasoline shortages and costs will have an impact on the location and size of part-time enrollments.

ACCESSIBILITY

Whatever its extent and form, The University of Iowa has a responsibility to make its programs more accessible to qualified learners. We can do so in many ways, some less costly than others. We should do so in concert with the other Regents' universities and private and community colleges and universities of the state. As a university, we must systematically and constantly review our relationship to nontraditional students in Iowa. While specific academic offerings should remain departmental and collegiate responsibilities, basic University-policy questions must be considered. Accordingly, the dean of faculties will consult with the Faculty Senate, the Colleges, and the Division of Continuing Education as to the best means of accomplishing this consideration on a regular basis.

Not everyone should go to college. Not everyone should attend The University of Iowa. In a time of declining enrollments, we should continue to serve those students who can benefit from our programs. At any level, curriculum must focus on the career and lifetime needs of students. This is especially true of the undergraduate curriculum which is the foundation for continuing education.

In recent years the undergraduate curriculum has stressed subject matter. This is due to the extension of knowledge and the increasing emphasis on particular course prerequisites for entry into some careers. Content orientation has been due as much to faculty choice as to employment patterns. In large measure, it represents an attempt to professionalize a field, and it becomes an educational imperative through accreditation by academic peers and state licensure laws. Although there is a trend toward the use of the master's degree for professional career entry, course content and professionalized curricula will constitute a significant portion of university undergraduate education in the 80s. However, this must not be the exclusive direction if our undergraduates are to be adaptable in their lives and careers.

PURPOSE OF UNDERGRADUATE STUDIES

Because the future is uncertain, it is crucial that undergraduate education develop the individual's analytical skills. Subject matter must be of secondary importance because it will change over time. Dissemination of information should not be the principal purpose of undergraduate education. Instead, the baccalaureate degree should attest to the ability of the graduate to gather information, assess it, and then act on it, ethically and effectively. On this foundation, continuing education and training can be pursued as the needs arise through programs of various employers and postsecondary institutions.

Much thought and action is currently being devoted to our basic bachelor of arts and science degrees. The general requirements for basic skills and comprehension are being reviewed. Responding to concerns expressed in that review, a new mathematics skills laboratory joins those in reading and writing.

It is important for a student to pursue a major field of study in depth; it is also crucial to understand how such a major can relate to the student's life after graduation. Career clusters are being articulated which show the multiple uses to which majors can be placed Moreover, the institution of a minor permits the student to seek out additional skills and understandings which will have future pertinence. The establishment of the combined bachelor of arts and master's of business administration or hospital and health administration are examples of additional ways in which general and specialized education can be combined effectively.

In support of these curricular developments, three support services have been instituted as recommended by the 1978 University Committee on University Directions. All three relate to student retention: the early registration system requires advanced planning of academic programs; the Undergraduate Academic Advising Center aids students who are exploring educational options either because they are undecided or seeking entry into a program of limited enrollment; the "entering-year program" in the residence halls increases access to support services for students and cultivates cultural and recreational interests which offer lifetime satisfaction.

GRADUATE EDUCATION

While we are acting with respect to undergraduate education, we are currently only speculating about graduate education. This is true throughout the United States. Many of the issues have been defined, but we are apprehensive and timid about addressing them. This cannot continue. The 1980s will demand more of human talent and skills than past decades. We must be more creative.

This country looks to its major graduate universities as the principal sponsors of basic research and the developers of its most capable theoretical and applied problem solvers. A comprehensive review of the future of graduate studies is difficult because of the high degree of specialization involved. Nevertheless, graduate students are needed for more than the replenishment and advancement of educational institutions. That is the major reality for graduate education in the 80s, and we cannot avoid it. Unsettled times in graduate education can lead to better times if we are venturesome.

Curriculum at all levels is a basic faculty responsibility. It ought to be under constant scrutiny. There must be a sense of curricular purpose predicated on enduring tenets. In achieving this objective, the faculty can be aided by the field itself. Regular contacts with practitioners, profit and nonprofit organizations, and government can assure mutual understanding of educational needs and solutions. Through established consulting forums, we can draw upon experience outside of the University, and we can explain the merits of our programs, engender support for them, and create opportunities for our graduates.

CURRICULAR CONSIDERATIONS

Curricular attention should focus on the changing uses of time, for more of our time will be spent in volunteer work and leisure pursuits. These must be as productive and fulfilling endeavors as paid work. The curricula will also have to be world oriented, for more than ever our lives will be affected by global factors. Our understanding of world affairs will be crucial in the next ten years. In addition to international studies, we can benefit from an increase in foreign students on the Iowa campus and Iowa students abroad.

In meeting its educational objectives, The University of Iowa has always had to set priorities and be resourceful in the use of its limited funds. During the 1970s we were conservative in the nature of expenditures. We husbanded our resources to support existing programs and wherever possible made nonrecurring expenditures to guard against expected and unexpected costs of future years. While we are currently fiscally sound, our budgets are taxed to the utmost because of the inability of state appropriations to cover inflation, enrollment growth, and the costs of improvement always attendant on advanced education. Furthermore, our budgets have had to absorb the rapidly increasing costs of implementing new governmental regulations and the expense of appeals and readjustments where there has been a fundamental conflict of views over the application of these regulations. We estimate that it costs us $2.5 million in operating funds yearly to comply with regulations pertaining to affirmative action, human subject research, student aid, animal care, health planning, third-party health-service reimbursement, safety, environmental control, privacy, and institutional records. Additionally, major capital expenditures must be made continually to upgrade facilities to meet evolving standards and codes.

Enrollment decreases, economic conditions, governmental program priorities, and energy costs will strain even more our fiscal wherewithal—and will cause severe human strain as well. We must not aggravate that strain by over-simplification, a danger existing within and without the University. In recent years our national tendency has been to centralize the solution of problems and obliterate distinctions. This trend is further compounded by assuming that our improved ability to collect and process statistics has commensurately improved our ability to make judgments on these data. A university is particularly endangered by gross conclusions stemming from centralization and data collection.

COMMUNITY OF INDIVIDUALS

A university is a community of individuals. Teaching, research, and learning depend on individuals. The entity of the university is but the means of supporting individuals. If we forget that, the university will fail in its mission, and society will ultimately lose. We are, of course, accountable to society, but that accountability ought to be designed to improve our individual efforts.

This individuality effects all budgetary considerations. Salaries constitute over three-quarters of our expenditures. The bulk of the budget is devoted to faculty salaries. Each faculty member is selected and advanced on the basis of individual qualifications. The quality of the University is basically dependent on that individual quality. Additionally, the University requires an outstanding staff to perform a wide variety of duties which defy generalization.

Students also affect the budget by their choices as well as their number. These decisions vary from year to year and are usually unpredictable since so many factors are at work.

Gathered together in a university, faculty, staff, and students create a unique institution. In this aggregate, a university may be the most diverse and decentralized of all human institutions. In the case of The University of Iowa, our activities range from freshman rhetoric to the nation's largest university-owned teaching hospital, from a national elementary and secondary student testing program to gerontology studies, from laser-beam research to a school of religion, from space satellites to residence halls, and from intercollegiate athletics to the fine arts.

This University has been carefully and laboriously assembled; the 80's must not be a decade of dismantling. Our budgeting must be defensive yet enterprising, for we must advance quality as well as protect it. We will have to engage in reallocation of existing resources and in the allocation of limited increments. This will be painful, time consuming, and vexing. It cannot be accomplished by formulae developed at federal, state, regental, or university levels. Expenditures will have to be examined item by item by the colleges and departments. The Office of Academic Affairs will bear primary administrative responsibility for university-wide budgetary directions. In addressing the budgetary issues of the 80s, we must be concerned with both internal and external perceptions. Better understanding by all persons will be crucial to a better University.

Internally we must respond to views reflected in the Report of the Faculty Welfare Committee on the *Survey of Faculty Interests, Opinions, and Concerns*. Among matters to be examined are the opinions that the University-wide administration does not consult adequately with affected units in making decisions and that committee reports are ignored if they differ from preconceptions held by the University administration. Of critical significance is the widespread belief that faculty salaries are not based on merit. Because individual excellence is the cornerstone of this University, we must make every effort to improve our methods of evaluation for salary adjustments.

Externally, we must demonstrate that support of colleges and universities should not be keyed to enrollments. As we grew in the 60s and 70s, the state was unable to meet all of the University's fiscal needs, including those arising from enrollment growth. Financially, we have never been able to catch up or keep up with comparable universities. Salaries, general expense, equipment, and renovation funds have all lagged. Increased enrollments have been financed only in part from state funds. Classes have been crammed and in the case of medicine and dentistry, we have depended too heavily on practice earnings.

CAPITAL NEEDS

Our building program has never approached our enrollment size, even as envisioned for 1988. Nevertheless, our immediate capital needs arise out of obsolescence. The Old Armory and the Chemistry-Botany requests are related to safety. Changing educational needs are responsible for inadequate facilities in communication, theater arts, and law. Our statewide health services are functioning in unsafe and antiquated structures. Adequate facilities for the Hygienic Laboratory and the second phase of the hospital's south pavilion will require state appropriations. The relative need for better and enlarged sports and recreation facilities underscores the great need for these other facilities.

Although we recognize that the state's financial ability will be limited, we need the strong support of state government during the 1980s. Our fiscal problems must not be over-simplified, and we trust in the continuation of the open, flexible, and understanding approach to our problems which has marked the attitude of state government and the Regents during the past decade. Only with their solid and flexible commitment of core funding can we increase other forms of financial support.

Our challenge is to build a better University in a time of smaller enrollments and larger fiscal uncertainty. To do so requires that we always remember that people, not structures, make a great University. Prudence necessitates that we invest our limited resources in talent.

CULTIVATING INQUIRING MINDS

Excellence must always be our objective, and this we can achieve by cultivating inquiring minds. We need to take risks, and yet we must provide for budgetary contingencies. We can accomplish this by short-term allocations in support of students, faculty, and staff talent. In the case of students, we should strengthen our recently initiated undergraduate student-recognition program. We should also maintain the Teaching-Research Fellowship Program for outstanding graduate students.

The response of the staff to the tuition grant program has been impressive. As a consequence, we have doubled the number of grants for this year. This relatively small increase in expenditure will yield much.

The much expanded faculty developmental assignment program has greatly enhanced the quality of our teaching and creativity. It remains central to the future quality of the University.

We should also consider additional means of cultivating the talent of junior faculty. A limited University Faculty Scholars Program could be established for junior faculty who wish to undertake significant projects. Faculty Scholars would devote half of their time for a period of two or three years to scholarship or other appropriate creative endeavors. In addition to time, the Faculty Scholars would be provided with a modest stipend for project expenses. Funds for replacement by visiting professors would be negotiable and depend on departmental requirements. Faculty Scholar grants would be competitive awards, and the grantees would be selected from across the University by a committee of senior faculty. The Faculty Scholars Program might be initiated with ten appointments in the first year, another ten in the second year, and modified in subsequent years as funds allow. Such a short-term use of funds, coupled with support from the University of Iowa Foundation, would be both judicious and stimulating. Eventually, these Faculty Scholars would become distinguished senior faculty, repaying with their teaching and scholarship the confidence demonstrated in them during their early careers.

Additionally, we must seek to extend the intellectual influence of senior faculty. One way of doing so is to encourage distinguished senior faculty to offer undergraduate perspective courses and seminars. The possibilities are many and exciting. Not surprisingly, senior faculty who have achieved scholarly distinction and peer recognition are also among our most stimulating and inspiring teachers. Deeply engaged in their research and creative activity, they also have the breadth of vision that is the fruit of long acquaintance with a discipline. In expanding the frontiers of knowledge, the seasoned scholar grasps the discipline in a broader intellectual and social context. These professors can provide a stimulating intellectual experience for capable undergraduates. Provided ample time and assistance, distinguished faculty alone or with colleagues can be encouraged to develop University-wide courses with their specialized areas as the core, but with the intent being to incorporate ideas and developments across disciplines.

Other ways can and must be found to respond to the educational future. Predictions about the next decade are not encouraging. However, dark predictions should not deter us from making this a better University. We must regard ourselves as advocates, not adversaries. We will need good faith, good will, and good sense. Most of all, we will need vision.

As we look to the future together, let us concentrate on our possibilities, not our problems. If we focus on our potential, there can be no end to our progress as a center of learning and no end to the contributions this University will make to our society.

HEALTH CARE FOR ALL AMERICANS

● Mr. KENNEDY. Mr. President, on September 6, I introduced the Health Care for All Americans Act along with my distinguished colleague from Connecticut (Mr. WEICKER). Mr. WEICKER recently spoke before the National Retired Teachers Association-American Association of Retired Persons and discussed the national health insurance bill. I believe Mr. WEICKER's address to this large national organization representing more than 12 million members identifies one of the major reasons why we need a national health insurance plan, and that is to improve the woefully inadequate medicare program. Mr. WEICKER's address, Mr. President, calls attention for the reasons of swift passage of national health insurance, and I ask that his speech be printed in the RECORD.

The speech follows:

SPEECH BY SENATOR LOWELL WEICKER, JR.

I am delighted to be with you here in Hartford this morning. The occasion is auspicious. When the President of the United States comes before you to discuss a National Health Insurance Program, and when I come before you as cosponsor with Senator Kennedy of a national health insurance program, and when we differ not on whether to have national health insurance but what is the best and the fastest way to get a program implemented, then I think it is a hopeful time.

With the good will of the President and others in the Administration who are involved; with the good will of the Congress; with the common sense of all those candidates who are running for President and have learned to appreciate your political muscle; with the help of the National Retired Teachers Association and the American Association of Retired Persons, I think the 96th Congress will distinguish itself by passing and the President will sign a comprehensive National Health Insurance Program.

Having said this, I do not want to understate the arduous process that lies before us. The subject has been under discussion since Roosevelt's time. Anything that could be said about it—pro and con—has probably already been said, and every possible configuration for such a program has probably been explored at some time or other. There will be some who think that there can hardly be any need for further talk, and that the time to act has come. Some among you are saying that if we don't get on with it, it's not going to do you any good anyway.

But the fact is we are about to make a very profound departure in American social policy. Previous thinking, previous discussion and planning are not cumulative. We have to begin from where we are right now, muscle this thing along, scratch a few backs, compromise a little here and there because that's how you run a democracy. It will take a lot of everybody's time and a lot of your attention and influence.

I cosponsored Senator Kennedy's bill for good and sufficient reasons. It will probably be changed in the legislative process. It might pick up some features from other proposals. Abe Ribicoff and Russell Long have a proposal. So do Bob Dole, John Danforth and Pete Domenici, and there are others. It may adopt some features of the President's proposal. It has already adopted a key aspect of a predecessor bill proposed by former Senator McIntyre of New Hampshire. I endorsed the McIntyre proposal. I endorsed it particularly because it made provision for the inclusion of the private sector. No such provisions were included at the beginning. Now there are. And because of that the proposal before Congress will offer a competitive role to private insurers permitting for possible lower costs and greater benefits for all.

Under this bill, Americans can freely choose from among the best health plans our nation has to offer; from a commercial insurer, Blue Cross-Blue Shield, Health Maintenance Organization or a prepaid, independent group practice plan. These insurance providers will compete for your business on the basis of the lowest cost but all will be required to provide full, comprehensive health care coverage. Another provision under this bill would allow efficient insurers the opportunity to offer enrollees cash rebates or supplemental benefits by better operation or agreements with doctors or hospitals to give care for lower rates. Profit would be the incentive and reward for efficient administration.

Those are just some of the reasons why I am one of two Republicans—the other is Senator Javits—cosponsoring the "Health Care For All Americans Act of 1979".

There are others. For the poor and near poor, this legislation would replace Medicaid with a uniform National Health Plan of all mandated benefits. Medicaid will cover only those services such as long-term nursing care which are not incorporated in the National Health Insurance Plan. The states will contribute only what they are presently spending for Medicaid, and no more. Therefore, this program will insure adequate coverage for those who need our special care and will insulate the states from burgeoning medical costs.

For the elderly and eligible disabled, this legislation will extend and improve Medicare by injecting over $20 billion in new benefits to the disabled and all persons 65 years of age or over. Some of the new benefits include prescription drugs, hearing aids and examinations, and eye examinations. Under this Act, senior citizens will no longer have to pay 38 percent of their medical bills; no deductibles or coinsurance. In this way, they will be insured from being financially wiped-out. Finally, physicians will no longer bill Medicare beneficiaries but will be paid directly by the insurance company.

Ladies and gentlemen, I think this proposal is the best proposal, and I say that fully cognizant of the objections that have been or will be raised against it.

It will be objected that the cost of the Kennedy proposal, at $40 billion, is too high, is inflationary—and I will be the last to brush aside the concern over inflation. It would be the cruelest possible hoax to offer to those who are most victimized by inflation—those on pensions and other forms of fixed-income—to offer you relief from horrendous medical expenses on the one hand and do it with a program which wipes out through inflation what you have saved through health insurance.

That isn't just dumb social policy; it's dumb economics. I hope I'm a better Republican than that. Even Teddy Kennedy is a better Republican than that.

The measure of inflationary impact is not solely in the numbers; it's in how the money is to be used. And if you take a close look you'll find that Senator Kennedy's $40 billion proposal is counterinflationary while President Carter's plan, as it now stands, would contribute to inflation.

If there is a Federal program which costs more, achieves less, aggravates more people, or invites greater corruption than Medicare, I don't know what it is. Should we junk it? No. We have to fix it. We have to reform it. Roughly half of that $40 billion price tag on the Kennedy bill is directed to reforming and paying for Medicare. To make it cost-efficient. To make it less, not more inflationary. To make it more, not less, responsive to the needs of those it was designed to serve. So we are talking, in some measure, about a one-time cost which will produce cumulative savings which will result from rolled-over reductions in the cost of the program.

The President's plan, at $23–25 billion for the first year alone. An estimated $18 billion simply grafts a National Health Insurance Plan for the elderly onto the existing Medicare program. It does nothing to cure the ills of that program. I don't know much about husbandry, but I know that you graft to sound stock and not to weak or diseased stock because the way Mother Nature works the stock determines the quality of the graft, and not vice-versa. Mother Bureaucracy works the same way. I don't want to take a look at the President's program when is comes up and find out that it is excellent in all parts except for the single fatal flaw that it's going to be attached to the Medicare program which will impart to it the same failings which characterize Medicare itself.

Let me note just one thing before I move on and that is, as I mentioned earlier, that more than half of the projected cost of the total Kennedy program goes to reform and support of Medicare, aid to the poor and aid to the families with dependent children. Less than $20 billion goes directly to the National Health Insurance Plan. In other words, the total Kennedy National Health Insurance Program costs $5 to $8 billion less than the projected first year cost of the

Administration's program. So, yes, I am concerned about inflation. Again, that's why I have cosponsored the "Health Care For All Americans Act of 1979".

I look forward to the public debate and the Congressional debate on this issue. I look forward to it because, of course, it is essential to the formulation of the best possible piece of legislation for Americans—for the American family. I have focused on the economic side of the matter, but I know the human side of it intimately. I have a son afflicted with Down's Syndrome. He's a blessing, not a burden. Camille and I are not unique, certainly, in having a child with what can be an expensive medical problem. Ted Kennedy's own son underwent a bout with cancer and lost a leg to it. But while the Kennedys and Weickers and other of our colleagues in the Senate are not unique, we are perhaps a little bit unusual in that for the most part the care of our children who may need some special help does not entail significant economic choices for us. Thank God we can afford to provide the help that's needed. Not everyone can.

The human aspect of National Health Insurance is that which maintains that a parent should not have to choose between help for this child who needs it and college or some other benefit for the other children. The elderly should not have to choose between financial ruin and physican ruin—pain, diminished health. A father should not have to decide whether he wipes out his family's savings in order to get the medical care that will prolong his own life.

This isn't a so-called liberal view, or sentimental view. Those are barbaric choices, yet people all over this country make them everyday. I don't say we should have a National Health Insurance Plan because almost every other nation in the world has one. That isn't a justification. Monkey-see monkey-do is no argument. I say we should have it because we are a great civilization, and great civilizations do not inflict barbarous choices on their citizens if these can be prevented. And they can be. Period.

Now one last observation. I am hopeful this debate may serve to deflect some of the attention of the nation's leadership to matters of domestic concern. Pick up a paper any day and what do we have. The Iranians are murdering the Kurds; the Nicaraguans are murdering each other; Russia is threatening China; China is threatening Viet Nam and Viet Nam is threatening to relocate her people by floating them out to sea; the Shah is still looking for a place to live; Ireland is still looking for a way to live; Mrs. Ghandi will be making a comeback if only she can stay out of jail and Saturn has more rings than we thought she had, or it had.

I'm not an isolationist. We do have global interests and global responsibilities. It is true there are very real questions of peace involved, and in many, many circumstances there are issues which have profound human dimensions and it does matter whether we turn our faces or our backs to those issues.

But the question is one of priority, and everywhere I go outside of Washington people tell me our priorities are out of order. No, we don't spend great sums of money on matters affecting people of other nations, but money is not the measure—the measure of misbegotten priorities is the time and attention we direct abroad, away from our own people.

Here in America, along with the cost of health, the cost of living in all aspects is becoming unbearable. The list of unfinished business is endless and no one is making a list of new business.

It will be argued in response that there is a great domestic concern and it is energy and many of our other problems flow from it. To that I say our failure for six years to take a single baby step toward the resolution of our energy problems is prima facie evidence that we have not focused the necessary attention and marshalled the necessary sense of national purpose to deal with domestic problems.

So whereas I don't think we should turn our backs on the world, I don't think we should turn our backs on America, either. We have important work to do at home. I hope this debate on National Health Insurance will serve to remind us of it, and will begin the process of focusing the attention of national leaders, legislators and opinion-makers on our domestic needs.

This nation has a record of always caring for every one, of being for the underdog, of always righting its wrongs. Today, however, there are those who say this isn't the right time—this isn't the right time economically, philosophically, politically—for health insurance for all Americans.

Well, answer me.

Whenever was the right time to educate Americans—whenever was the right time to house Americans—whenever was the right time to employ Americans—feed Americans.

And the answer that comes back is all the time—all time.

To tend to the sick and hurt? Today is the right time.●

EXPORT CREDITS FOR THE STEEL INDUSTRY

● Mr. GLENN. Mr. President, I join my colleagues, Senators RANDOLPH, HEINZ, BAYH, SCHWEIKER, LUGAR, DOMENICI, METZENBAUM, STEWART, THURMOND, DURENBERGER, and JAVITS in introducing Senate Concurrent Resolution 38. This resolution urges the administration to initiate, through its representative to the OECD, discussions leading to a multilateral agreement halting predatory government-subsidized export credits for steel plants and equipment.

The catalyst for this joint action was Ex-Im Bank's approval of a $47.3 million loan to help Taiwan build its first stainless steel mill. I want to make it clear, however, that I am not opposed to this project nor do I wish to jeopardize the Ex-Im Bank loan making it possible. This loan provides important growth opportunities for Taiwan and expands export opportunities for U.S. firms. In the State of Ohio, Production Machinery Corp. will receive $23 million in orders from Tang Eng Iron Works in Taiwan.

As beneficial as these loans are, however, the low interest rates of these loans and their focus on steelmaking projects may prove disruptive to international steel trade. This very concern was expressed by Ambassador Strauss November 1, 1978, when he first announced the formation of an international steel committee. He stated at that time that the OECD steel committee was committed to minimizing the distortion of steel trade caused by destructive competition in export credits for steel plants.

I realize that it is necessary for the Ex-Im Bank to offer low interest rates in order to compete with funding offered by other nations. We must meet such competition in order to improve our balance of trade. I think it is time, however, for the United States to take the initiative, via the OECD Steel Committee, to move the governments of Japan and Europe to formulate a common policy with regard to subsidized export credits for the expansion of steel plants.

It is time for the industrialized nations to strike a balance in their export credit programs as they pertain to steel plant construction. They must continue to recognize the legitimate development needs of the Third World yet avoid encouraging unnecessary and potentially disruptive additions to work steelmaking capacity. I urge the administration to take the lead in the development of such a policy.●

HEALTH AND SAFETY IN THE COAL INDUSTRY

● Mr. WILLIAMS. Mr. President, it is not very often that a principal spokesman of a regulated industry applauds the regulation. It is truly a "man bites dog" story, and is one worth retelling.

Just such an instance occurred in Blacksburg, Va., on August 10, 1979, in a speech by Mr. Joseph P. Brennan, president of the Bituminous Coal Operators' Association, to the 10th annual Institute on Coal Mining Health, Safety, and Research.

Mr. Brennan was talking about safety and health in the coal industry. In his speech, he recognized that the coal industry stands on the verge of great growth, and that such growth must be accomplished in a manner which stresses increased safety and health for the industry's workers. He said:

> Coal is becoming a new industry, with the past definitely not prologue.

While the industry's past has sometimes been dismal, Mr. Brennan justifiably points to the great improvement in his industry's safety and health record in recent years, and credits, in part, that improvement to the effects of the Federal Mine Safety and Health Act. He said:

> No one can seriously question the value of the current mine health and safety act.

Mr. Brennan voiced his hopes for the industry in the future as well. He also said:

> Coal will grow in the future, but as we do, death, injury, and disease must go down. There simply is no other alternative acceptable to the industry, to its employees or to society at large.

As the author of the Federal Mine Safety and Health Act of 1977, I am most gratified by Mr. Brennan's speech, and by the industry's commitment.

I firmly believe that as our Nation increasingly turns to coal to meet its energy needs, we must remain ever conscious of the safety and health of that industry's workers.

In enacting the Federal Mine Safety and Health Act, it was the Congress intention to develop a solid mine safety and health program, responsive to the needs of that industry and its workers, so that when the inevitable growth of this vital industry occurred, the necessary safety and health program would be in place.

It is gratifying to know that Mr. Brennan sees the mine safety and health law as a foundation, upon which the future growth of the coal industry can be based.

And, it is gratifying to hear the president of one of the coal industry's major associations say that the law is a good one, that it is important to the industry and to its future growth, and that the law and its regulations can help, and are helping the industry meet the challenge of the future.

The commitment of the coal industry, toward continued improvement of the safety and health conditions in the mines is an important one. Mr. Brennan points out that under this new law, the industry, its workers, and the Mine Safety and Health Administration have been able to cooperate in identifying problems and in developing solutions to those problems. And, Mr. Brennan voices his view that this cooperation must continue during the years ahead.

I am pleased that our current law encourages this cooperation, and that the coal industry, its workers and the Federal Government are committed toward basing the future growth of the industry on a firm foundation of continued cooperation, and continued emphasis on the health, safety, and well-being of our Nation's miners.

Mr. President, I ask that Mr. Brennan's speech be printed in the Record.

The address follows:

Address by Joseph P. Brennan

Two quotations underscore the challenge of the coal industry in health and safety over the coming decades:

One, from Ralph Bailey, Chairman of CONOCO, who said:

"The coal industry is committed to furnishing each of its employees with a working environment which is free from recognized hazards.

The other, a question from a small boy in Canada who underscored the tragedy in human loss involved in mining deaths:

"Can I have the phone number for heaven? I want to talk to my daddy."

With coal on the verge of a new era, improvements in health and safety in mining are a number one priority.

Production and consumption of coal are certain to increase—the rate to be determined only by foresight or lack thereof of public policy. Coal is becoming a new industry, with the past definitely not prologue. New young people are entering into our industry, and demand those things commensurate with a modern industry in an advanced industrial society, not the least of which is proper attention to health and safety conditions on the job.

The record of health and safety is one of continuing improvement. There has been steady improvement in the fatal accident rate since 1969, due mainly to the prevention of disasters and mandated controls in the physical environment of mines. Dust levels have been lowered and now rank in the lowest of the coal producing nations of the world. The accident rate—for a number of reaons—remains steady, seemingly immune to efforts to reduce it.

Coal will grow in the future. But as we do so, death, injury and disease must go down. There simply is no other alternative acceptable to the industry, to its employees or society at large.

As we move into the decade of the 1980's, and as the safety efforts of all segments of the coal industry are focused on continuing improvement, there are certain facts that we must keep in mind.

1. Coal mining takes place in a hostile work environment. We can engineer around potential hazards, we can train people to avoid such hazards, and we can issue regulations to minimize such hazards. But, a coal mine is an unforgiving place and the margin for error demands nothing less than total preventive effort by management, by labor, by government and by all others concerned.

2. There are no acceptable accidents. There are only accidents that happen for a variety of reasons; some of which are currently beyond human control, some of which occur because sufficient human control was not exercised, and some of which happen because people forget the risk involved in a modern coal mining environment.

There is no immutable law that says that men and women have to die, get sick or be injured in America's coal mines. Thus, our challenge is to constantly push the frontiers of safety closer and closer to the elimination of accidents in the industry.

3. The best ally of the safety effort are efforts to improve coal mine productivity. Such improvement—within the context of a dedicated effort to make safety efforts work, makes possible fewer miners at risk per ton mined; suggests sound human resource utilization; and makes available a sound financial base so necessary to support innovative and far-reaching health and safety programs.

4. No one can seriously question the value of the current Coal Mine Health and Safety Act and many of the regulations implemented under that Act to control such conditions have succeeded remarkably well. However, we—industry—Union—and government—must assess the incremental effectiveness of the regulatory approach as the keystone in the effort to further reduce fatalities and to deal with injury problems which are now common. In other words, we must be prepared to build upon the base we have, but tailor the new initiatives to meet present and future health and safety problems.

5. Technology will play an obvious and important role in meeting the objectives in the health and safety field. Technology, however, must be fostered and sustained over the long term. It must not be restricted to deal with overly narrow parameters, and it must be implemented on an orderly and clearly predictable basis.

All of this analysis leads to a simple and straight-forward challenge to all segments of the coal industry and to those external forces which touch upon it.

We must move forward to reduce further coal mining accidents and disease. We must have as a goal—an unreachable one perhaps—but a consistent one nevertheless—the elimination of coal mining accidents.

We must judge all of our actions whether it be on the management side, by the Union or by government with primary consideration of their impact on safety and health. All parties must be ready to forego the trite cliches and approaches of the past if, in fact, they do not help us to meet the challenges of health and safety in 1980 and beyond.

We are suggesting new initiatives and a new philosophy for the health and safety effort. We are suggesting a new era of commitment by all concerned to tackle the common enemy—accidents. The time has come for the three principal parties, management, labor and MSHA to build bridges of trust based on credibility and a common dedication to forego narrow institutional interests to achieve the objective of safety.

Most importantly, we are suggesting the conscious and subconscious purging of the good-guy, bad-guy mentality which has traditionally polarized the parties to the health and safety effort, polarization which is now a threat to the full attainment of the health and safety task.

Industry, for its parts, must assume the primary responsibility for safety and demonstrate a willingness to fully cooperate with both the Union and the government to make safety effective. Health and safety laws and regulations are in place. The Act has been a major factor in improved health and safety and has given the industry a base from which it can move forward.

By the same token, both the UMWA and MSHA must also look at their actions, their policies and their philosophies and measure them against the objectives—i.e., the elimination of death, injury and disease in coal mines.

For example, the UMW should insure that its long-standing tradition of support for the introduction of new technology remains in place. Technology will help productivity and health and safety. Technology development, introduced on a timely basis, represents a major factor in a coal industry capable of meeting the challenge of the 1980's in both production and in safety.

There must be a willingness on the part of the Union to cooperate with management and such cooperation will, in fact, help in health and safety.

There have been many such instances of cooperation during the last two years, and such cooperation has been effective. The Joint Industry Health and Safety Committee, set up under the National Bituminous Coal Wage Agreement, has worked closely together on a number of projects. Most recently the Committee made joint recommendations to MSHA on the question of illumination. Those recommendations were based upon a fact-finding effort by the committee to measure the effect of new lighting regulations on actual safety in the work place. As a result of this joint recommendation, MSHA modified its implementation procedures in a true example of what joint cooperative action can achieve in obtaining a common goal.

MSHA, for its part, must look at its regulatory process, the regulations which emanate from that process and the enforcement philosophy of the agency.

Regulations, for example, can have three specific effects:

a. Whether the regulations will enhance the health and safety objective, and encourage the maximum utilization of available health and safety resources.

b. Whether the regulations provide no material improvement in safety, and are designed merely for administrative efficiency, or to satisfy some bureaucratic objective.

c. The impact of the proposed regulations upon the overall safety objective, i.e., will the implementation of regulations in one area detract from health and safety in another.

Regulations which enhance health and safety in both the specific and the overall are good and desirable and no objection can be raised to them. Indeed, industry should cooperate in their development and in their effective implementation. BCOA, as a representative of a large segment of the industry, individual coal companies, as well as BCOA and the UMWA in cooperation, have supported regulations clearly designed to enhance safety in the overall safety objective. Training regulations are a classic case of such cooperation.

However, regulations which are at best neutral, and at worst counterproductive to the safety effort, represent an entirely different question. Regulations which do not enhance safety merely add cost, detract from the credibility of MSHA and tend to polarize MSHA, the industry and the Union along nonproductive lines. Regulations which could have the side effects of creating safety hazards obviously should be developed and reviewed with great care. At the conceptual stage of regulation development, the overall objectives should be established so that the final regulation does not compromise safety in some other area. It is in this respect that we have consistently suggested the need for input at the conceptual level of the regulatory development process.

Finally, MSHA must move away from the philosophy of regulations as the sole means to achieve this safety goal and toward the philosophy of cooperation. Regulation remains an important part of the MSHA program, both in terms of its effectiveness and in terms of congressional mandate. Obviously, the regulatory effort will continue.

On the other hand I believe that attacking the remaining health and safety problems and building the type of credibility that is needed to continue the momentum toward the elimination of death, injury and disease requires a movement toward close cooperation, full and free discussion, and a willingness on the part of MSHA to be more than just a regulator. To a large degree, this movement of MSHA, the shift in philosophy, if you would, will become the greatest MSHA challenge of the 1980's.

There are many initiatives that can be taken to improve health and safety. I would like to suggest a few:

First, and perhaps most importantly, there must be a conscious dedication on the part of all components of the industry to the objectives of improving health and safety. Such a dedication, as I said earlier, must include a willingness to change longstanding tradition or tightly held convictions. We must be willing to look objectively at what we are doing versus what needs to be done and move toward what needs to be done.

Second, health and safety regulations and the health and safety programs of the company, the Union and the government, must have a goal orientation and not a means orientation.

The bottom line is always less injury, less disease and fewer fatalities, and the efforts must clearly help us to achieve that bottom line.

Third, there must be an improved regulatory process. There must be more coordination among the principals involved during the conceptual phases of regulation as well as in the enforcement process itself. There is some movement in that direction. The Presidential Coal Commission has sponsored a MSHA-UMWA Industry Task Force to examine the health and safety area, and the early discussions have indicated a movement toward the coordination of information and informed opinion at all stages of the regulatory process. From this should come more coordination and more cooperation, less confrontation and a better safety record.

Fourth, there will be the necessity for various tripartite committees of a technical nature to examine the problems and suggest solutions to specific health and safety problems. These committees should be fact oriented and should be made up of those people having the technical expertise to make objective adjustments, needed directions and programs in the health and safety area. They should also be qualified to suggest ways to move forward in both technology and mining and to do so in the optimum way.

Fifth, there should be a review and a reevaluation of current enforcement practices of the Coal Mine Health and Safety Act. The enforcement philosophy often creates an "us-vs.-them" syndrome and diverts scarce human resources to the task of protection of one's self-interest rather than the overall effort toward improving safety. There must be a more enlightened application of enforcement so that the enforcement effort deals with those problems that are most acute at specific mine locations. National enforcement in a specific sense is of less than optimum effect when different mines have different problems and where those problems should be attacked on a specific basis.

Sixth, there must be a better training effort as a primary means of gaining improvement in individual work habits and skills. By the same token, we must come increasingly to focus on the human side of accidents. Time after time it is clear that in a fatality someone made a mistake, a mistake that cannot be explained in terms of experience, training or even logic. The net result seems to be that people take unnecessary risks and that in so doing are killed or injured. We must come to grips with this question, not for the purpose of placing blame but to understand better the motivation and the thought processes of individuals in coal mines at specific individual times. This is a part of the training effort because it will focus trainng programs on what will be most effective in reducing accidents.

Seventh, government sources can be used most effectively if we can eliminate duplicate and conflicting enforcement efforts by Federal and State agencies. It is obvious that a great deal of duplication now exists. Federal inspectors regularly visit coal mines and issue citations. State inspectors regularly visit coal mines and they also issue citations. Very often the effort seems to be to have as many people as possible visit as many coal mines as possible and issue as many citations as possible.

In passing the 1969 Act, Congress foresaw potential problems such as this and directed the Secretary of the Interior to make a special report to determine the best manner to coordinate Federal and State activities in the field of Coal Mine Health and Safety so as to achieve maximum health and safety protection for miners.

This special study was done by the National Academy of Public Administration and was published in April of 1971.

In sum, it concluded that the primary enforcement responsibilities in the mine safety area would be assumed by the Federal Government, and the State government should devote more and more time and attention to efforts such as training which would improve the skill levels, develop proper work habits, and reinforce those work habits on a day-to-day basis.

Unfortunately, this has not come about in many coal producing States. Kentucky has a fairly unique program which aims at the development of proper job habits and the reinforcement of those habits. The State officials in Kentucky are very actively pursuing this effort and, from what we have been able to see, it is an effective and good program.

Eighth, there must be an accelerated effort in the development of coal mining technology. A primary part of this effort must be to develop advanced technology with safety factors built in.

One of my concerns in the area of coal mine research has been the schizophrenia between safety research and so-called productivity research. It seems to me that we really cannot separate the two and that a research program aimed at improving productivity automatically must factor in safety into the particular technology being developed. Unfortunately, much of the work that is currently being done at the Bureau of Mines falls into the "health and safety area," while work at the Department of Energy is "productivity." Such a division harms both. It is time to eliminate this division and to make coal mine technology research a unity with both productivity and health and safety being considered in the same context.

Finally, there remains the challenge. American coal must become the cornerstone of American energy policy over the next quarter century. To do that the American coal industry must commit itself, not only to the expansion of production, but also dedicate itself to a continued improvement in the health and safety record of the industry.

By industry, I mean all the parts of the industry, including management, the labor force and others who are dependent upon the industry in such areas as equipment manufacturing, etc. By the same token, those external governmental forces which impact on coal must also on behalf of society make a similar commitment so that the industry's efforts will be rewarded by an opportunity to sell its product in a free market at a fair profit. Such commitment presupposes working toward a common goal and moving toward utilizing those means necessary—cooperation where possible—confrontation and adversary relationship where unavoidable—to achieve that goal. Clearly, the proper policy in health and safety over the coming decade must be a movement toward cooperation. This does not reflect criticism upon the agencies involved or detract from the job that has been done in reducing the accident rate. It does, however, indicate that what has been effective in the past is not necessarily effective now or in the future. In the final analysis, the achievement of the health and safety goal demands nothing less than a revolution in the way in which we achieve safety. Industry is ready to meet that challenge, and, hopefully, we will stand with all other segments in the effort.

However, come what may, the judgments that industry must make in health and safety over the coming decades will be judgments as to what is best to improve the health and safety record. When these judgments coincide with those other segments of the effort, we stand ready to cooperate fully and to work with them to the effective implementation of necessary programs, be it regulatory, training or whatever. On the other hand, when programs which inhibit what is necessary in health and safety or which create a climate of confrontation inimical to the safety effort are proposed, we stand fully prepared to oppose such efforts to the maximum degree possible. We are committed to move forward and by definition "forward" means toward an industry free of death, injury and disease. That, for us, is the bottom line and all of our efforts will be directed toward it.●

NATIONAL GRANGE SUPPORTS S. 1200

● Mr. BAYH. Mr. President, one of our major problems today is wasteful redtape and regulation. In too many cases, Government regulations have crossed the line from helping to hindering Americans, and are going beyond congressional intent.

A prime example of needless redtape can be found in the current Bureau of Alcohol, Tobacco, and Firearms directives regarding the establishment of a still to produce alcohol for use in gasohol. These regulations are out of sync with the growing demand for gasohol all over the country. ATF wrote these regulations when the only alcohol produced was intended for beverage or industrial purposes. Small-scale production by individuals for use as a fuel was not considered at that time. Farmers wanting to produce alcohol for their own energy needs should not be discouraged by regulations which treat them like potential moonshiners. The present regulations assume the worst and, therefore, require endless security measures, bonding, and paperwork.

ATF is charged with the important function of protecting tax revenue which is charged at the rate of $10.50 on every proof gallon. As important as this task is, however, it should not be allowed to impede the development of alcohol fuels as a method to alleviate our dependence on foreign oil imports and permit farmers a secure, dependable source of energy.

Many individual farmers are anxious to produce their own gasohol. Farm cooperatives are eager to provide this product to their membership. Regulations which were established to protect Government revenues against illegal alcohol sales are necessary. However, these regulations need to be modified so they no longer hinder the production of alcohol fuels.

I applaud recent recommendations made by the Bureau of Alcohol, Tobacco, and Firearms to correct the situation. In a move to incorporate the recommendations into law, I introduced S. 1200, the Alcohol Fuels Regulatory Simplification Act of 1979, which grants the Secretary of the Treasury the authority to waive needless regulations and streamline others. S. 1200 has 20 cosponsors in the Senate and is sponsored by Congressmen ULLMAN, CONABLE, GLICKMAN, BEDELL, and KOGOVSEK in the House. I recently proposed S. 1200 as an amendment to the windfall profits tax bill being considered by the Finance Committee.

I was most pleased when the National Grange recently sent me a letter endorsing passage of S. 1200. As my colleagues know, this is one of the most prestigious and well-respected farm organizations in the country. I value their opinion most highly. As a farmer myself, I know the hard work that goes into making a go of a family farm. Frequently the market return is below the actual costs of a farmer's production. Gasohol offers the farmer the opportunity to not only utilize previously unusable crop byproducts and waste, but enables him to supply power to run his farm equipment and cars as well as supply energy for his neighbors.

I believe it is typical of America's farmers that they are willing to pitch in and do their part to stretch our supply of domestic fuel. Yet when they begin the process of complying with the Government regulations associated with this industry, they encounter barrier after barrier. Instead of encouraging the small scale gasohol producer, the Government is discouraging them with an endless amount of paperwork and other requirements.

S. 1200, the Alcohol Fuels Regulatory Simplification Act would separate alcohol producers into three categories based on the amount of alcohol produced in a given year. Specific ATF controls will vary according to the size of the producer. Some requirements will be the same, others will be changed to be more suitably geared toward the capabilities of small producers to cope with the regulations.

I am very pleased to have the support of the National Grange, the administration, the Bureau of ATF, and the Treasury Department for S. 1200. I know of no opposition to it as it simply reduces redtape and costs the Government a negligible amount to implement. I hope the Congress will have an opportunity to act on this legislation in the near future.

Mr. President. I ask that the following items be printed in the RECORD: The letter I received from Mr. John W. Scott, master, National Grange; articles from the Gary Post-Tribune and the Evansville Courier on gasohol as well as the testimony given by Mr. Jim Gregory at the August 6 hearing in Indianapolis of the National Alcohol Fuels Commission. Mr. Gregory is a farmer in my own State of Indiana who experienced firsthand the procedures one must endure when dealing with the Government to get permission to start an experimental alcohol fuels plant.

The material follows:

NATIONAL GRANGE,
Washington, D.C., June 8, 1979.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH: The National Grange supports S. 1200 and your efforts to give the Secretary of the Treasury the authority to waive certain regulations for those who wish to produce their own alcohol for fuel.

I have been approached by farmers who are interested in producing alcohol for fuel on a cooperative basis and they are having difficulty in obtaining the approval to get started. The Treasury Department has been very helpful but present law restricts what they can approve. Once the red tape is cut, it is possible to produce alcohol on a limited basis but in order for the program to be a success, the laws written to control alcoholic beverages must be modified to allow for small-scale commercial production of alcohol for fuel.

Your efforts to accomplish these purposes are greatly appreciated.

Sincerely,

JOHN W. SCOTT,
Master.

[From the Evansville Courier, Aug. 8, 1979]

NOW YOU CAN LEGALLY BREW ALCOHOL—FOR FUEL

(By Bob Matyi)

No, moonshiners still can't legally fire up the still and brew a batch of homemade 150-proof "corn likker," guaranteed to knock your socks off and make your toes curl.

But if you've had a hankering for distilling alcohol for purposes other than as a libation, now is the time to give it a try. And, with the government's blessing.

With all the recent emphasis on energy, the U.S. Bureau of Alcohol, Tobacco and Firearms—the folks known as "revenoors" in some parts of the country—is busy processing applications for permits for do-it-yourself home-use alcohol fuel stills.

In the Tri-State, interest in distilling alcohol into gasohol and other fuels is picking up, according to Jimmy Canter, special agent in charge of Evansville's ATF office.

"This is sort of a coming thing," Canter said Tuesday. "We've had about four permits issued to individuals" in the Tri-State wanting to try to distill alcohol for their own use as a fuel.

The home-brewed gasohol, noted Canter, can be used to propel farming machinery.

The Evansville ATF office has jurisdiction over 15 Southwestern Indiana counties and seven counties in Western Kentucky. Canter said the permits have been approved by the regional ATF office in Cincinnati, although he declined to reveal the individuals who have received them.

Altogether, said Canter, the Cincinnati office recently has issued a total of 23 permits in Indiana, nine in Kentucky and 29 in Ohio for the home-use stills. In addition, a demonstration alcohol fuel still is expected to be on display at the Ohio State Fair.

Canter says the Evansville office continues to receive frequent inquiries—at least one a week—from Tri-State residents interested in setting up their own alcohol fuel still.

While the government actually may be encouraging the proliferation of home-use alcohol fuel stills, it remains, nevertheless, the government. That means, says Canter, there are strict rules and regulations to follow.

"It's like a distillery," he explained. "Records have to be kept and the doors always must be open for inspection" by ATF agents. The end product must be used in the permit holder's machinery . . . it cannot be sold, given away, or—heaven forbid—drunk.

Canter says he doesn't know whether some of the recent interest has been prompted by an article in a back-to-nature magazine, Mother Earth News, published in Hendersonville, N.C.

A couple of months ago, the magazine printed an article on how to build your own solar still. It since has backed off the solar still idea, and is now proposing a standard wood-burning operation.

While Canter feels the alcohol fuel still might be an idea whose time has come, especially for the do-it-yourself farmer, he adds a bit of additional advice: Moonshiners can forget about applying for a permit.

[From the Post-Tribune, Aug. 7, 1979]

SKEPTICS DELAY FARMERS WANTING TO MAKE ALCOHOL

INDIANAPOLIS.—The U.S. Treasury Department is so worried about moonshine that it is delaying farmers who want to distill alcohol for burning, not drinking, a Washington, Ind., farmer told the National Alcohol Fuels Commission.

Jim Gregory, who operates a 600-acre corn farm, told the commission Monday that he eventually plans to convert most of his farm machinery to run on an alcohol-diesel mixture and to dry corn completely with alcohol fuels.

Gregory said it took 4½ months from the time he first wrote to the treasury department's Bureau of Alcohol, Tobacco and Firearms, before he got a permit to build a small, on-the-farm distillery

And he said the wait might have been longer without the help of Sen. Birch Bayh, D-Ind., alcohol fuels commission chairman.

The fuels panel, which includes senators, congressmen and private citizens, is charged with making recommendations on how the federal government can encourage alcohol fuel development.

One way, said Gregory, is to cut the red tape required to get a permit from the ATF bureau. The farmer said he supports the bill introduced by Bayh that would do just that.

"They never denied me any rights, but they sure didn't help me get it," Gregory said.

Rep. Floyd Fithian, D-Ind., said the federal government should be encouraging farmers to make alcohol for fuel, even if it means changing some of the liquor-related laws.

"I know some people are going to drink a little of the product," Fithian told the commission. "A little corn squeezings on the side is a small price to pay."

Fithian and Gregory were among a series of witnesses at the commission's first public hearing since it was formed earlier this year.

Extolling the benefits of the alternative fuel, Fithian noted that commercially, alcohol can be used as a gasoline extender and octane enhancer, while on the farm, it can promote self-sufficiency and energy independence.

But the U.S. Department of Agriculture—not the federal Energy Department—should have jurisdiction over encouraging alcohol fuel use on the farm, Fithian said.

The Energy Department, at least until recently, said Fithian, showed little interest in alcohol fuels, and in any case is generally tied to a "think big" philosophy of fuel production.

In opening remarks, Bayh said he felt alcohol fuels could play an important role in making the nation more energy independent.

"Frankly, the sheiks and the shahs that make up the OPEC cartel have us over the oil barrel," Bayh said.

Bayh said that excess distillery capacity and farm land now lying idle could be used almost immediately to start producing alcohol from corn grain.

Then, he said, the technology can be refined to produce alcohol from waste products such as corn stalks and garbage.

Bayh said he is encouraged with what he termed the changing attitude of Congress and government toward alcohol fuels.

"Congress and the officialdom is now beginning to understand what a lot of common people understood a long time ago," Bayh said.

The existence of excess distilling capacity was confirmed by Michael Griesser of Schenley Distillers.

Griesser said a Schenley plant in Lawrenceburg could easily be converted into producing alcohol fuels, and could produce more than seven million gallons a year.

Griesser said it would be easy for distillers because the process is very similar to that used in making alcoholic beverages.

Griesser said the only holdup now in using the Lawrenceburg plant for fuel production is gaining permission from the Indiana Public Service Commission to convert the plant from oil to natural gas.

Also testifying before the panel were several engineers who questioned the feasibility of producing alcohol in small on-farm stills.

But Gregory said he disagreed with that view.

Gregory said the savings in oil and the independence his own distilling operation gives him makes the expense worthwhile.

TESTIMONY OF MR. JIM GREGORY

Gentlemen, I became interested in alcohol fuel after being in Washington, D.C. in January 1978. Along with many farmers, who, like myself, were disgusted with farm prices. After talking with many Congressmen and Senators all over the Nation's Capital, it was soon clear we were going nowhere. After returning home, one encounter with a Senator stuck in my mind, that was with Indiana's Birch Bayh, and the one line in the conversation, "Have you thought about alcohol fuel to help solve some of our problems?"

In the spring of 1978, I decided to experiment with alcohol as a fuel. I purchased one gallon of special windshield washer solvent, which has 45% alcohol, one water injection kit, which consisted of a windshield washer pump and container with a special nozzle included. After mounting this equipment on my tractor, which cost approximately $16.00, it was then off to the field. When the tractor began to need more power, I just turned on the switch. It seemed to help. I then went to a neighbor who had a dynamometer and began to experiment drilling out the nozzle to inject one pint of alcohol water mixture in one minute, which was all the engine could stand without fluttering. I then started using differing amounts of water alcohol mixtures and discovered 170 proof provided the most satisfactory results. Having all this new source of power, it was off to the local tractor pulls for more proof. It was quite successful until my neighbors wanted me to equip their tractors. Well, after the tractor pulls it was harvest time and farm life again.

In January of 1979, a friend handed me a book with an article pertaining to a gentleman in Minnesota who had just won a battle in obtaining a experimental permit through the Treasury Department. This gave me new inspiration. I then converted a farm space heater, which ran on No. 1 furnace oil, over to 170 proof alcohol by just changing the nozzle, making it large enough to offset the amount of water in the mixture, and then a slight air adjustment. The heater then worked better than it had on No. 1 fuel. I felt this was the most difficult piece of equipment on my farm to change since it wouldn't work half the time on No. 1 fuel. After this success, I was hooked. I had to have an alcohol fuel still on my farm.

This turned out to be quite an interesting task. I went to the county Sheriff and told him of my plans. I thought the man was going to lock me up right then and there. After convincing him it was possible to have an alcohol fuel still, he sent me to a local A.T.F. agent, who said he would check and get back with me in a few days. After a few days, he reported that his superiors said it was impossible to own a still in the United States. I kindly asked if he would give me the name of the superior, that I wished to talk to him myself. The superior officer was very kind in telling me he knew of no way one may obtain such a permit. At this point, I was more determined than ever. After all, it had been three weeks, and time was passing by.

I then called Senator Birch Bayh's office and was promptly advised they would try and help. This was a Friday morning and early the following Monday, the District Director of the A.T.F. called. After a lengthy discussion he promised to send a book and some forms to fill out. They arrived three days later. But, to my surprise, the book seemed to be in code and the forms looked like a new simplified 1040 tax form. Also enclosed was a note saying—after reading this book, fill out the forms, then call me if you are still interested. I then carefully looked at the book, picking out the code No.'s Lance Cromby had listed in his article. Then I promptly called the District A.T.F. office back, telling him I was still interested. What should I do next?, quite sharply he said, Send me a hand written application, which if he approved, would be sent to Washington, D.C. I then submitted plans of its operations, pictures of the farm, told of security measures which would be taken, and again promptly inserted them into the mail. Well, after many telephone calls to Senator Bayh, and his staff trying to run down the progress, four and one half months later I finally received a letter saying everything was approved with a number of rules to follow.

While the permit was being processed, I began reading all information on how to distill alcohol. Then after visiting A.D.M. plant in Decatur, Illinois, started drawing sketches to adopt some new ideas to a workable farm plant with a minimum amount of labor and man hours. I'm now making equipment to operate a continuous flow 100 gallons of 192 proof alcohol per day. The still will be alcohol fired, the fermenting tank and cooking tank will be run from an alcohol fired boiler with solar assist.

With the oil problem we all have been experiencing and the potential of gas rationing in the very near future, the farmers, some business men, and others in a five county area around Daviess County in Southern Indiana have decided to build a large new alcohol plant near Petersburg, Indiana. We wish to purchase steam from Power Plants in this area, after it has turned the turbines there, receiving old energy and making new.

This plant, when built, will be constructed in a way that coal gasification and bio mass can be implemented into alcohol production in the five county area and the distilled grain will primarily be used in this same area for livestock production. The other byproducts will be marketed wherever possible.

I feel, like many others, that alcohol fuel is the only quick alternative fuel with a renewable source which can help our nation meet the energy problem head on. There is no reason why American farmers and American technology can't produce all the fuel for this Nation and, at the same time, produce much of the liquid fuel this Nation vitally needs.

I understand Senator Bayh has introduced a new bill, Senate bill 1200 to remove red tape from the utter nonsense that goes with the present Treasury Department policy. I think that like most policing agencies that consider each citizen a potential threat to this nation in some way is the primary reason for indifference which seems to be sweeping the nation. Most Americans feel they are tired of bucking the bureaucratic system, this was my feeling until someone helped show the way. Thanks to Bill Moreau and Nels Ackerson, who probably talked to me more times in four and a half months than to Senator Bayh we won. I hope Senate bill 1200 receives passage so that citizens of this country will have a chance to participate in doing something constructive rather than just being victimized by government red tape and bureaucracy.●

HOW CAN YOU KEEP THEM DOWN ON THE FARM?

● **Mr. TALMADGE.** Mr. President, as Members of the Senate, all of us hear and read countless discussions of the problems and challenges facing farming and farmers in America today. But seldom do we hear and read them directly from a practicing farmer—and a successful farmer at that.

I have just had such an opportunity. The Atlanta Journal and Constitution Magazine of September 17 published a most significant and illuminating article based on an on-the-farm interview with a prominent farmer and agriculture leader in my State, Mr. Marshall Lord, who operates a 2,250-acre diversified farm in Laureens County, Ga.

Mr. Lord's is a good-sized farm operation by any standard. But it was not always thus. He and his wife and family have built their present farm enterprise over 30 years of hard work, good management, and—as Mr. Lord says—some good luck.

I have known Mr. Lord for many years. He not only is a respected and successful farmer, but he is an intelligent, constructive, and articulate spokesman for agriculture—and for the farmer. On several occasions he has appeared before my Committee on Agriculture, Nutrition, and Forestry and has always made a valuable and important contribution to whatever subject was under consideration at the time.

Mr. President, Mr. Lord's thoughtful comments and provocative observations on what is taking place in American agriculture—of the problems and the challenges, of the risks and opportunities, of the heartaches and satisfaction of farming—are highly enlightening and particularly timely. I believe this article will be of interest to every Member of the Senate as well as to all others interested in the future of American agriculture. Therefore, I ask that it be printed in the RECORD.

The article follows:

HOW CAN YOU KEEP THEM DOWN ON THE FARM?

(By David Foster)

Marshall Lord stopped his pickup on a sandy road that ran parallel to one of his soybean fields just as a summer shower began an irregular staccato on the windshield. He reached for the mobile telephone and dialed a neighbor up at Buckeye, where Lord had cotton growing.

"Rained up there?" Lord asked, as he watched little pools of water puddle on the road and worried about his cotton. "Not yet, huh, but you see the cloud? Well, maybe it'll miss us."

In July of 1977 or 1978 that little shower would have had Marshall Lord dancing in his cotton field. The state's farmers had weathered back-to-back droughts that had rivaled, and in some areas of the state exceeded, the bleak crop-killing summer of 1954 when droughts threw even the best farmers into an economic tailspin, had huge portions of the state declared disaster areas, and sent some long-established family farms to the auction block. Not only had farmers lost most of their crops, but those that they had managed to save were competing with bumper crops from other areas of the country that were driving down prices. For many, especially the younger farmers and others who were financially insecure, it was one economic indignation too many. Over the past ten years inflation had doubled, and in some cases tripled, the cost of farm production while prices for farm products—grain, livestock, and produce—had remained virtually unchanged since the 1950s. With droughts, the farmers' credit lines—and their tempers—had been stretched to the breaking point. So they borrowed a trick from the civil rights movement, mounted their tractors, and for two successive winters rumbled their way from farms across the nation to the streets of many major cities, including Atlanta and Washington, D.C., in an attempt to dramatize their plight and force some aid from the federal government. Few would agree on just what form the government's relief should take, but one thing each of the angry farmers could agree on, at least those from Georgia: 1979 had to bring some rain.

"It ain't that I've got anything against the rain," Marshall Lord said after hanging up the mobile phone. "It's just that we sprayed that cotton with pesticides Saturday and a shower could wash it all off. Maybe the rain will miss us. Yeah, maybe it will."

The rains didn't miss Buckeye. Two days later Marshall Lord stood knee-high in cotton stalks looking for worms, the ones the pesticides were supposed to have killed. He found them, lots of them. Too many. Big fat caterpillars that had hunkered down in the young bolls and were feasting on the tender shoots of cotton inside. There was no smile as Lord coaxed the pickup out of the field, turned onto the highway, and made a straight shot for the airport. There he called up another chemical assault on the cotton worms and hoped the skies over Buckeye would stay blue long enough for the poisons to do their job. The second $3,000 attack in a week. Damn the rain! Bless the rain!

The rain is only one contradiction facing Georgia's farm community. With the advent of irrigation for those who can afford it, weather is actually one of the least bothersome. It is the man-made contradictions that eat away at the farmer's profits, force him into a feast or famine existence, and threaten his most cherished possession—his independence. And even that is a contradiction. His fierce independence of thought and action is a major stumbling block to his survival. The farmer is the first to admit that his industry needs help, but is often the last to accept help when it is offered or to work to implement the programs he says he needs. Attempts to solve the farmers' problems become bogged down in a quagmire of bewildering regulations, organizations, committees, commissions, programs, associations, conflicts, fear, greed, and mistrust. Or as one farm observer put it, compared to the state of the agricultural industry a can of red wigglers destined to feed fish is a highly organized social system.

Complicating the farmer's dilemma still further is the fact that farmers, not the food-buying consumers in the cities, are their own best customers. And that inter-industry competition and consumption seems to bedevil the attempts of farm leaders to organize their industry, still the single largest in Oregon.

The physical changes that have come in the last thirty years to the great flat table that is western Laurens County have been subtle. It is still a land of fields and trees and small farm towns like Dudley, Dexter, Allentown, and Montrose, each of which straddles the Central of Georgia railroad between Dublin and Macon and has provided the bare necessities to the surrounding farmers for almost 150 years. Yet while the fields still look like fields, the old lower forty has given way to the Oceanic 350 to make using a $60,000 combine worthwhile. Alongside black-topped and sandy-bottomed farm roads the signs of the old days remain, but only in the dank shabby ruins of houses, some choked in kudzu vines, some converted into hay barns, and some with the roofs rotted in or the walls stolen away to help build other houses.

Some of the modern houses and house trailers that dot the landscape are farm houses, but most belong to city workers who commute at the crack of dawn to the bank in Dublin or the Air Force base at Warner Robins instead of jockeying the old tractor and the kids out into a cotton field to turn weeds. They leave the agriculture to the Marshall Lords.

Marshall Lord's modern ranch-style house sits on Lord Road only five miles south of Dudley. Lord, fifty-four, is a career agriculturalist, a diversified farmer who tills 2,250 acres of land in four separate farms within a thirty-mile radius of his homeplace. Unlike Old McDonald, who had a little bit of everything, Lord grows a lot of a few things—soybeans, peanuts, cotton, corn, cattle, and hogs. He is also a family man with two daughters grown and gone, two teenage sons, who help out around the farm during the summer, and a wife, Trudy, whose role only begins at housewife. From there she branches out into accountant, archivist, counselor, steadying influence, and cook, not only for the family, but also for the workers. Lord has a deep respect for the whims of Mother Nature and an equally deep fear that family farmers, the men and women who earn their livings farming full-time, are on the endangered species list.

Like the paradox of the rain, that seems a strange concern for a man who by most standards is a successful farmer—a man who could afford to take his entire family to a Honolulu farm convention a couple of years back and who admits he could sell his farm, pay off his indebtedness, invest the leftover cash in blue-chip stocks, and relax on the patio for the rest of his life. A man who has turned a 450-acre mom-and-pop farm into a small agricultural empire in thirty years. A man who says unabashedly that when things go well for a farmer life can be very rewarding, not only in the satisfaction of bringing in a crop, but also in making money.

Behind the Lord home, across from the irrigation pond that doubles as a cow cooler on hot summer days, a large cornfield stretches to a distant wood which provides shade for his hogs. Across the road from the house, part of his 650-head cow-calf herd grazes on a gentle green hillside lush from recent rains. Six miles east, on another farm, one he bought several years ago, soybeans grow in a fertile sandy/clay soil. On 150 acres of leased land at Buckeye, his cotton is trying to survive the worms. Interspersed on smaller plots in between are 250 acres of peanuts, Georgia's top cash crop, and more soybeans. Soybeans are Lord's major cash crop this year, one he hopes will net him at least forty bushels of beans to the acre with each bushel, he hopes, selling for at least $7.

Helping tend such a far-flung operation are five full-time workers, including one of his sons-in-law who is a partner in the swine operation. The men work on the farm year-round, and to keep them busy Lord maintains some $500,000 worth of equipment—used cars and pickups for general farm transportation, six tractors, and an assortment of combines, pickers (peanut and cotton), dryers for the grains, grinders, and grain storage equipment. With the exception of the tractors, cars, and pickups, most of this equipment is only used at harvest.

Honing the edges of the farm is Marshall Lord, logging up to 150 miles each day cruising the fields in his ever-moving pickup, checking on the workers, trouble-shooting, talking with the necessary folk of his business such as his commodity broker, the county agent, his pest consultant, and his banker, either on his mobile telephone or his private two-way radio. One could hardly compare this to an endangered species. By contrast, his bounty looks almost as plentiful as the flocks of mourning doves that settled on his fish pond in the late evenings to quench their thirst after a long day eating what they can glean from Marshall Lord's budding cornucopia.

"It's all a lot more fragile than it looks," Marshall Lord said over the noise of the pickup as he drove up to Watson's gas station in Dudley to pick up some cigars. "A lot more fragile. I believe I've been successful because I've been a businessman as well as a farmer and because I've been lucky. But in my years of farming I've learned the hard way that failure can ride in this truck a lot easier than success. A lot easier."

Failure rode with Lord in 1954 when he and Trudy had just turned to full-time farming. The drought that year almost knocked him out. He says it took ten years for him to pay off the losses and regain any sort of financial foothold. The droughts of 1977 and 1978 cost him $400,000, including the loss of his crops, interest, labor, and his own loss of income, not counting the disaster-relief loans he had to make to keep things going. Even so, Marshall Lord has never driven in a tractorcade and says he never will. Nor will he ever let a foot of his land lie idle as a hunger bludgeon against consumers, most of whom he considers merely ignorant of the land, the men, and the marketing system that feeds them.

He stopped at a peanut field and examined some leaves for insect damage. "You farm, you live with the rain. We always have and we always will. During droughts you wonder 'Why me?' and sometimes you do it with a clenched fist. But when the rains come and the fields turn green and the prices look fairly good, you forget the bad times. That's just the farmer's nature.

"If we have a good year, those men in the tractorcades are going to be too busy repaying old debts and fixing up long-neglected equipment to be worrying about farm strikes and such this winter.

"And I'm afraid that is a lot of our problem as farmers. We forget that it takes five good years or even ten to pay for one bad one. In good times we tend to let someone else look after our business so we can look after our crops. And in the bad ones we tend to blame someone else for our licks. We ought to blame ourselves."

Marshall Lord has an opinion about farm problems that is shared by most of the state's farm leaders: for farming to become a stable industry once again, the farmers must create the programs and markets that will stabilize it. And, he says, the last place they need to look for such stabilization, especially in the long run, is the federal government.

"We've had enough government," Lord said one night as he lay on his den couch and watched a presidential news conference.

"We get very little from the government. During the droughts we got some disaster-relief loans, but a loan is a loan. It has to be paid back and most farmers have borrowed themselves to the brink already. It seems for every little thing the government gives us, such as the loans, they want three things in return. By making ourselves dependent on the government in so many ways, we are also making ourselves into political pawns.

"A good example would be the beef import quotas. Last year, when beef prices were increasing on the retail market the president, under pressure from some consumer groups, raised the quota on the amount of foreign beef coming into the country. Everybody in the cattle business knew that the beef shortage was a worldwide thing and there was no beef to import, but it was a good psychological move on the part of the president. It didn't affect retail prices one cent. What it did do was force the price of cattle down on the domestic live market for several days, and that hurt the cattle industry.

"Some government programs are good—at least they are better than the surplus-bust system we had a few years ago—but they are not panaceas. We currently have a program for peanuts that allows the producer to be allotted so many acres of peanuts each year. Come harvest, under the allotment program, those peanuts are protected by a government-set price. But that doesn't guarantee us a profit, it only means that by controlling production we have less chance to lose. And in the 1977 Farm Bill, we got the right to hold our surplus crops on the farm until prices reached the level we wanted rather than selling to the government or having them held in government warehouses. That will give us greater control over our grains and greater control over when we have to sell our grains.

"But government programs are only as good as the mood of the Congress. As the number of farmers declines in the country so does our muscle in politics, not only in the Congress, but also at the state level.

"What the farm industry needs is a good farmer-generated farm program, one for both the export and the domestic markets. A program or programs that will stabilize the farm economy and give the average American farmer a chance to work his land and make a decent living without having to expand his production and his credit to the breaking point to do it."

But Marshall Lord knows that the government cannot be exiled from agriculture, especially in the export markets, which most farm leaders (including Secretary of Agriculture Bob Bergland) agree is the ultimate market for American agricultural products.

"On the export market all we need from the government is some interference," Marshall Lord said.

"Man, there is a whole world out there and they get hungry just like we do. But we let the Japanese ship their televisions and Toyotas in here for almost nothing while they charge up to $7 duty on a bushel of wheat. You tell me who the government supports when they allow that kind of thing to go on? Maybe it is supporting the American consumer, they sure complain loud enough about exports; maybe it is supporting the Japanese farmer, but it's damn sure not supporting the American farmer."

The major stumbling block for farmers wanting to sell their own commodities is that they are in the world's biggest buyer's market. When the farmer plants his seed in the spring, not only is he hoping he will make a good crop, but he has no real idea where prices will be in the fall. Attempts to regulate planting have been tried in the past and failed: only peanuts and tobacco have meaningful allotment programs for Georgia farmers. When a farmer places all his chips on one crop, his control over the profitability of that crop ends when he harvests it. If he planted a crop, say soybeans, and everybody else planted soybeans on the idea that prices for the coming fall would be high, they might, in their enthusiasm, be creating a massive bumper crop that in turn would drive prices down. For the successful farmers, like Marshall Lord, it is a game of agricultural roulette that other business people would never dream of playing.

So, the farmers say, if they can't regulate the amount of what is grown, they need to make a greater effort to create markets for agricultural commodities that will consume their surpluses. In the mind of Marshall Lord that means producer-financed associations like Cotton Inc., which in the last ten years has helped return cotton to a favored status with the nation's clothing industry.

"Cotton Inc. not only helped research new uses for cotton," Lord said, "but they also have made a major effort at promoting cotton in the retail marketplace. Maybe you've seen some of the commercials on television. That's what we have to do for our other commodities."

There are several such organizations for commodities. The National Dairy Council pitches milk, the egg producers brought us the "Incredible Edible Egg," and the Florida Orange Growers have turned orange juice into a major media event. But orchardmen, dairymen, and poultry producers are specialty farmers whose products are aimed directly at the consumer marketplace. Unlike the diversified and grain farmers, such as Marshall Lord, they don't have so many economic interests—oftentimes competing economic interests—under one hat.

Marshall Lord is a case in point. His main cash crop for 1979 is soybeans; three years ago it was cotton. Lord was a supporter of cotton when most of his income depended on it. Now that soybeans are his major investment, he is more interested in their welfare and has become active in the American Soybean Association, which promotes the sale of soybeans overseas. With his switch to soybeans, the cotton folks have lost one more voice. His peanuts, which come under a government allotment/purchase program, are of passing interest since the price he receives for them is pretty much determined by government policy. And because he raises hogs, he is both a producer and a consumer of corn. If he doesn't raise enough corn this year or if something unexpected happens to his crop, he will have to buy more and will want it at the lowest price available, especially since hogs are in a downward market themselves. For him to buy his corn at a low price, some other corn farmer will have to take a low corn market on the chin. Lord calls it one farmer's profit at another's expense.

"Farmers are going to learn one day," says a critic of the higher-prices-and-greater-markets-for-all-commodities theory, "that they simply can't pay top dollar for what they buy from each other and ask top price for what they sell and make any money. They never seem to learn that they are their own biggest customers. Most of our grain doesn't go into bread and cereal, it goes into livestock and what's left over goes into livestock overseas. There is simply no way in an industry that double-ended that they can make everybody happy."

Other farm experts claim that the farmer can make money now, a lot of it, by simply being a good businessman and not pushing his assets to a point that, when bad times come along, he has no option but to fold.

Marshall Lord says that sounds great, but the reality of farming requires a major investment of capital, especially borrowed capital. "About the only thing that has kept a lot of farmers in business the last ten years has been the same inflation that has been eating them alive. Not only has the cost of equipment and planting programs increased, but so has the value of land. As land values increase, the farmer has had to borrow more and more against his land to keep going. The end result is that there are a lot of people out there who would like to get out and can't. Not without going bankrupt.

"Management is certainly a help in any kind of business, but it can't totally replace some industry stability."

Since Lord started farming he has been an active member of the Laurens County Farm Bureau, has served on his county board of directors, and is currently serving a term as a director of the Georgia Farm Bureau Federation, the home organization of the state's 157 county farm bureaus. From GFB's modern three-story office building in Macon, Lord and the rest of the state directors work with committees for every commodity in the state to help create better marketing programs.

But as GFB president Bob Nash says, it's a tough job. Nash has even said, privately, that he has heard the Farm Bureau praised for one commodity program and condemned for another one by the same man in the same conversation.

"There is simply no way one organization can look after all commodities," says maverick diversified farmer Tommy Kersey, who was a national leader of the Farm Strike Movement in 1977. "The GFB can't help anybody. There are simply too many conflicting interests. And besides, whatever the Georgia Farm Bureau does isn't going to amount to anything without the backing of the American Farm Bureau. We don't produce enough of anything, with maybe the exception of peanuts, to make any sort of impact on the national market."

Kersey is right. While agriculture is the largest industry in Georgia, the state's annual harvest, even in the best of years, doesn't amount to 4 percent of the national harvest. And that is considering that Georgia is the number one producer in several commodities such as poultry, peanuts, and pecans. Should Georgia producers get together for programs for all commodities, they would still be at the mercy of the national harvest. In the area of feed and cereal grains, what Georgia produces doesn't even place compared to the massive harvests of the Midwest. And, as Tommy Kersey says, what is good for a Georgia farmer is not necessarily good for an Iowa farmer.

"Corn is a cash crop in the Midwest," Marshall Lord said, "but for most Georgia producers it is a rotation crop. We use it to feed our own livestock and in some cases it goes to the market. Therefore many Georgia producers, especially those in the livestock industry, want to keep corn prices down while the man in the Midwest wants to keep them up. Strange, isn't it?"

One solution to the dilemma, says Lord, would be total industry specialization: one man growing soybeans, another cotton, another snap beans, and each belonging to and supporting a commodity association that would market products in open competition against one another. But the need to rotate crops, especially in the South, hinders that approach. Many Georgia farmers believe that cultivating only one crop will deplete their soil—a throwback to the cotton-only days. They also don't like to have their entire financial ship floating on a one-commodity sea. A diversified farmer may lose his peanuts, but he may save his corn.

So the debates go on. In the wake of the farm unrest of the last couple of years, farmers admit they are no closer to an answer than when the first tractors took to the streets. Some admit they are not even sure of the problems, but they see the number of full-time farms, especially in the South, dwindling each year as the remaining farms get bigger and bigger to fill up the void.

The Georgia Crop Reporting Service estimates there are some 72,000 farms in the state. Of those, only 4,000 have reported sales higher than $100,000 annually. Most farmers agree that for a man to make $20,000 disposable income he has to have farm sales of at least $500,000 and enough acreage (around 650 acres at least) to give him an additional $500,000 in assets to survive a bad year.

Eliminate the estimated 1,000 dairies and a few poultry producers, and many experts will agree that there are no more than 2,500 to 3,000 full-time farmers in the state.

That statistic reflects the national average. A 1979 report from the U.S. Senate Agricultural Committee states that in the United States, only 6 percent of the farms are full-time, yet they produce 93 percent of the nation's food and fiber. The remainder are what Tommy Kersey calls "sundowner farms"—small or large farms owned and operated by people who make their livings doing something else.

"A lot of sundowners are real farmers," Kersey says, "but they don't have the interest in farm programs, such as creating producer associations to expand markets, that the commercial farmers do and that really hurts us in trying to make changes."

Marshall Lord sat at a dining room table in the Ramada Inn West at Macon. He had been attending a meeting of the Georgia Farm Bureau's Commodity Committees and had heard reports that planting costs will increase as much as 23 percent in 1980, mainly due to the increased costs in fuel. He had also heard jokes from some of his fellow farmers about selling out if the costs got higher and the prices got any lower.

"They won't," he said. "They won't, because they want to farm. They not only want to farm, but their kids want to farm and they want their kids to have that opportunity.

"I've had a lot of city friends come out to the farm and hear me talk about these things and they ask me, 'Why don't you get out?' or 'Why don't you take your money and run?'

"Well, I'll tell you why. I'm a farmer. Those guys in that meeting are farmers. They quit farming and what are they going to do? Relax by the pool? It would kill them in five years.

"I don't know all the answers, nobody does. I guess what we all want is to give our kids, and anybody who wants to farm and make a living, a chance to do it. But every year it gets a little more expensive.

"Today a kid without some land can forget farming. That shouldn't be. And the ones who do get into it shouldn't have to live off their credit. They should live off what they produce, just like everybody else in the country."

Sixty miles to the east Marshall Lord's farm was going dry. He had made eighty bushels of corn on his first cutting and that was good. But soybeans were dipping on the market and some speculators claimed they would fall below $5.50 per bushel in the fall from the pressure of what they saw as a record crop. Hogs were still in a losing market, and a heat wave that had passed across his fields in early August had left damage as yet undetermined.

I asked Marshall Lord about installing one of those center pivot irrigation systems that have come to adorn the fields of south Georgia during the last few years. They snake out across a field like a giant caterpillar and can irrigate up to 700 acres at a time. He said he didn't think the investment worth the return for a man looking at age 65 in just eleven more years. "But if one of my boys came up and said that he really wanted to farm and thought we needed one of those systems, then I would do it. All he'd have to do is say the word."

And Marshall Lord smiled.●

COAL CONFERENCE TO BE HELD

● Mr. RANDOLPH. Mr. President, as a member of the Coal Caucus in the Senate and as a Senator from one of the Nation's leading coal producing States, I am intimately familiar with the frustrations that coal producers continue to experience. Coal production and consumption should be increasing on all fronts, but coal mines in the Eastern United States are closing, because of the lack of demand for this most abundant fuel. Despite the heralding of coal as the answer to our energy problem, mining areas in our country are currently experiencing high unemployment from lack of coal demand. The United States, however, continues to import ever increasing amounts of petroleum.

The administration's efforts to establish a synfuels industry will not solve the immediate problems of lagging demand for coal in the utility and industrial sectors. Congress needs to know why the industry is currently experiencing over 100 million tons of excess capacity at a time when we are being told that coal is our energy salvation. To answer some of these questions, the Congressional Research Service is sponsoring a seminar for members and staff on "The Coal Industry's Problems: Government, Economics, or Environment?" Tuesday, September 25, 1979, at 9 a.m. to 11 a.m. in the Whittall Pavilion, main Library of Congress building. In addition to their formal remarks, six distinguished panel members, representing various sectors of the coal producing and consuming industries, will address questions from the audience. I urge my colleagues to attend. Mr. President, I ask that the bulletin from the Congressional Research Service be printed in the RECORD.

The bulletin follows:

THE COAL INDUSTRY'S PROBLEM: GOVERNMENT, ECONOMICS, OR ENVIRONMENT?

Members and professional staff are invited to attend a CRS Seminar on constraints to increased coal utilization.

Date: September 25, 1979.

Time: 9:00 to 11:00 a.m. (continental breakfast, 8:30).

Place: Whittall Pavilion, Library of Congress.

The United States has 434 billion tons of coal, more than the equivalent of Saudi Arabian oil resources. Yet, efforts to convert industry and utilities to coal continue to be frustrated. Although coal has been touted as our "ace in the hole" many wonder what is in the cards for our most abundant energy mineral. The Congressional Research Service has invited six of the foremost authorities on the coal industry to talk about this coal puzzle. Among the questions they will address are:

1. Why is the industry currently mining 100 to 150 million tons less per year than it could?
2. Why hasn't current legislation been successful in increasing coal demand?
3. If the demand were there, could the mining industry meet it?
4. Where is additional production likely to come from—east or west, surface or underground?
5. Has a realistic balance been struck between environmental and energy goals?
6. What should the government do to resolve the conflicting requirements placed on coal producers and users?

PANELISTS

Mr. Joel Price, First Vice President, Dean Witter Reynolds, and author of the monthly publication, "The Coal Observer."

Dr. Richard L. Gordon, Professor of mineral economics, Pennsylvania State University, and author of the book, "U.S. Coal and the Electric Power Industry."

Ms. Louise Dunlap, Director of the Environmental Policy Center.

Mr. Carl Bagge, President, National Coal Association.

Mr. William Marx, President of the Council of Industrial Boiler Owners.

Mr. James Childress, Assistant Executive Director of the Presidential Coal Commission.

Questions about the seminar should be directed to Duane Thompson, 287-5873. If you plan to attend, please clip and return—form below (287-7903 for late reservations).

Sincerely,

GILBERT GUDE,
Director,
Congressional Research Service.

THE SECOND CONCURRENT BUDGET RESOLUTION

● Mr. PELL. Mr. President, the budget resolution approved this week by the Senate, with its tight restraints on Federal Government spending, is an important step toward bringing inflation under control. For that reason I supported the resolution.

Inflation, currently running at a staggering rate of 13 percent on an annual basis, is the number one economic problem of the average family and the average worker. Inflation not only eats away at their daily standard of living, it also erodes their hope for the future.

Beyond its direct effect on individuals, inflation also threatens our economic prosperity and future employment, because it discourages investment and planning for the future.

For these reasons, combating inflation must be given a very high priority in decisions on the Federal Government budget, and that means there must be restraint in Government spending and there must be a continued effort to eliminate the Federal Government deficit so we can move toward a balanced budget in fiscal year 1981.

The budget resolution does restrain spending and it does move toward a balanced budget in 1981.

To restrain Government spending and move toward a balanced budget has required some difficult and, indeed, painful decisions during Senate action on the budget resolution.

During the course of Senate action on the resolution, I voted in support of the budget reconciliation provisions which will require cuts in spending of $3.6 billion, and I voted against proposals to restore $100 million in spending for programs under the jurisdiction of the Agriculture Committee, and $100 million for programs under the jurisdiction of the Veterans' Committee. Those were difficult decisions to make, because these budget reductions are not simply a matter of eliminating waste. They involve actual reductions in programs that are beneficial and helpful to many Americans, including many Rhode Islanders.

But I voted for them, because I believe our national interests, including best interests of all the people of Rhode Island, will best be served by bringing inflation under control. Restraining Government spending is one step that must be taken to bring inflation under control.

A particularly troublesome issue in the budget resolution is the question of the level of funding for national defense and our armed services. I am convinced that a modest increase in defense spending in 1980 is necessary to fulfill the explicit commitment made 2 years ago by all member nations of the NATO alliance to strengthen the alliance's military capabilities. The budget submitted by the President in January contained sufficient funds to keep that commitment, but the amount requested in January has been so eroded by the falling value of the dollar overseas and by inflation at home that an increase was necessary to fully meet that commitment. I supported an increase in defense funds, because I believe failure to do so would have led inevitably to reduced efforts by our NATO allies and a potentially dangerous weakening of the will and determination of the alliance.

I opposed, however, and voted against the proposal to increase defense spending in years beyond 1980 by 5 percent each year above and beyond the increase cost caused by inflation. It may be that increased defense spending will be necessary in future years, but in my view the case has not been made and there is no reason to commit ourselves now to huge increases in defense spending during the 1980's.

Just as domestic spending for health and education and energy programs should be examined closely and justified in detail each year, so should expenditures of the taxpayers' dollars for national defense.

Balancing the budget requires more than careful restraint of spending. It also requires providing enough revenues to meet the bill for necessary spending. An important and, I believe, essential source of revenue during the coming years will be the proposed tax on the windfall profits of oil companies resulting from the elimination of Government controls on oil prices. Without the revenues from the windfall profits tax, we will be unable to ease the suffering and hardships caused by the skyrocketing price of petroleum, and particularly, home heating oil. We will also need the revenues from a windfall profits tax to pay for the development of alternative forms of energy and for programs to encourage conservation of energy and increased use of solar energy.

Because of the importance of the windfall profits tax revenues, particularly in solving the heating oil costs and energy problems of the Northeast, I opposed a proposal to eliminate the windfall profits tax from the budget.

As passed by the Senate, the budget resolution holds down Government spending and restrains the Federal deficit for fiscal year 1980 so that we will be in a position to eliminate the deficit in fiscal year 1981 and provide for a noninflationary balanced budget in that year.

The resolution does not provide for a tax reduction in 1980. To provide at this time for a tax cut in 1980 would have threatened a larger Federal Government deficit, more inflation during the coming year, and crushed any hopes for a balanced budget in 1981.

It may be that unforeseeable changes in our economy during the coming year will make early tax reduction necessary to prevent a severe recession, but at this time the greatest danger is that a tax cut might spark another surge in the cost of living, wiping out any real benefit of the tax cut.

The important and encouraging point about this budget resolution is that it continues to move in the right direction—toward a balanced budget, toward less Government spending, and toward substantial tax reductions in 1981 and 1982. That is the direction in which the American people want to move, and I believe with the budget resolution we have shown that we are moving in the same direction.●

RESIDENTIAL ENERGY SAVING IDEA: HOW AND WHERE

● Mr. KENNEDY. Mr. President, last Thursday's New York Times devoted a special section to home energy conservation ideas. Means of cutting down on wasted energy from the Northeast and Canada are laid out in a series of articles.

Many people would like to cut energy use, and at a price they can afford. But too often sources of information are not readily available. Besides giving a wide and innovative array of energy saving tips, the articles refer readers to companies and individuals in the Northeast who can help the potential do-it-yourself insulator.

Mr. President, as the sponsor of the Energy Productivity Act, which includes $25 billion for a residential grants program, I am confident that we can start to take advantage of one of the largest energy "supplies" at our disposal. These articles are a welcome addition to material supporting a major energy productivity push, and I, therefore, ask that they be printed in the RECORD.

The articles follow:

ENERGY STRATEGIES TESTED ON NEW JERSEY TOWN

(By Anthony J. Parisi)

PRINCETON, N.J.—Sometimes a house is more than a home. To the researchers at Princeton University's Center for Energy, and Environmental Studies, for example, it's a repository for a great deal of oil and gas waiting to be recovered—not some time in the future but right now. "Under existing economic and operating conditions," as oilmen like to say when they describe underground reservoirs of petroleum they have already discovered and are now exploiting.

In the biggest field test of its kind ever, including both engineering and psychological experiments in energy conservation, the center's staff spent five years estimating just how large these energy leftovers may be and figuring out how best to recover them.

They used as their laboratory a tidy new community of some 3,000 row houses called Twin Rivers, just outside Hightstown, and their work convinced them that the "proved reserves" of energy now languishing in the nation's 75 million dwellings dwarf the country's conventional reserves of oil and gas.

"We have learned how to eliminate three-quarters of the energy used by the furnace in quite ordinary, reasonably well-built town houses," the group reported in a special issue of Energy and Buildings, a quarterly research journal that devoted an entire issue to the Twin Rivers project.

"Space heating could surely become a minor energy use for most climates," the center's staff concluded, "if conservation receives sustained attention."

Assuming it does, the impact on the nation's energy well-being could be staggering.

Households now gobble up some 22 percent of all the energy consumed in the United States; heating them alone accounts for about 12 percent. If the nation took, say, 10 years to squeeze as much energy out of its housing as the Princeton researchers say is possible, the accumulated annual saving would amount to roughly twice what President Carter hopes to be getting from synthetic fuels in 1990, at a fraction of the cost, with none of the environmental consequences—and with no noticeable change in living habits.

"Conservation doesn't have to mean deprivation," insisted David T. Harrje, director of the Twin Rivers project, during a recent interview. "Sure you can save energy by lowering your thermostat, and you should. But there's a limit. With intelligent construction and proper insulation, you can get that kind of saving and much, much more."

The research at Princeton showed that owners involved in the project pocketed more than $200 last year—even though their homes burn natural gas, the cheapest fuel available; are attached dwellings, so use less fuel than free-standing houses, and were reasonably well insulated because they were built in the early 1970's.

In less than seven years, Mr. Harrje said, the owners will recover the money spent in making the improvements.

Simply lowering thermostats three degrees reduced the energy required for heating by no more than 12 percent or so, the researchers found. Special thermostats that automatically lowered the temperature during the day, when people were out, as well as during the night, saved that much and more.

From there the improvements required noticeable, but hardly overwhelming, cash outlays. They found that for less than $400, including labor charges, an additional 25 percent on average could be saved. In this first phase of "retrofits," properly trained technicians checked and tightened insulation, particularly in the attic, wrapped the water heater with fiberglass batting, plugged leaks around pipes, wires and such, and weatherstripped windows and doors.

For $900 more the heating load could be reduced by another 33 percent. This second phase consisted mainly of plugging less accessible leaks, insulating the base of the building and basement walls, and adding interior shutters.

In all, for less than $1,300, Mr. Harrje's retrofit team slashed the amount of energy needed for heat by at least two-thirds—even though the houses required only half the national average of heat per square foot to begin with. The upshot: a home that used one-sixth as much energy for heating as the typical American residence.

Last year, when heating bills for unimproved houses at Twin Rivers ran more than $300 on average, owners of improved homes paid only around $100.

But Mr. Harrje and his colleagues believe that before the nation's reserves of wasted residential energy can be fully tapped, a fundamental shift may be necessary in the prevailing attitudes about energy conservation.

In the psychological experiments that were also conducted at Twin Rivers, the researchers found that some families used twice as much energy as others, simply because some were more careless. They discovered that considerable improvement was possible once homeowners were given goals and told how they were doing. They noticed that while tough goals prompted admirable gains, easy goals got almost no response at all.

"And when it came to the technological improvements, we found that the people tended to underestimate the potential and overestimate the cost," said Lawrence J. Becker, who headed the psychological experiments but is now on the faculty of the City University of New York. "People have to be given better information, and they need more immediate feedback than they get from price signals alone."

Accordingly, the Princeton experimenters are skeptical of the Government's present strategy of stimulating such investments by offering tax credits. More effective motivation may exist, they argue. One proposal they make is that the Government establish some common standard for gauging the energy efficiency of homes, similar to the "energy efficiency ratios" posted on appliances.

A simple comparison, for houses in the same general area, can be made, they say, by taking the number of British Thermal Units consumed during the year, dividing that by the number of square feet of living space and then dividing the result by the number of degree days in the heating season.

By this measure, the national average is 11, very good homes come out around 2, and very bad ones over 20.

Mr. Harrje and his colleagues believe that if this or some similar guide became a familiar yardstick—perhaps by including it in year-end fuel bills—homeowners would know immediately where they stood, might more eagerly undertake improvements and could readily appreciate the result.

A common standard might also pressure people who are planning to sell their homes to consider energy efficiency investments, since a poor rating would decrease resale value. And poor ratings would limit the rent a landlord could get. Both groups now tend to put off efficiency improvements, the researchers said, because both can easily pass on their fuel costs.

"One of the biggest barriers to conservation is that people are confused," summed up Gautam Dutt, one of the researchers. "They don't know what they can save, and they don't know who they can go to to save it. Even if they do, they don't know whether what is done is done right. The Government has got to tweak the system harder."

[From the New York Times, Sept. 13, 1979]

Do-It-Yourself Interior Shutters

There is a medium-priced, highly efficient way to reduce heatloss from windows: interior thermal shutters you make yourself or assemble from a kit. These shutters, using a stiff foil-faced foam board called Thermoply, reduce heat loss by up to 84 percent and cost about $2 per square foot. Fuel savings derived from the shutters should return the investment in about two years. The shutters can be covered with decorative fabric and take the place of curtains. Here are the steps for making them yourself:

1. Measure the height and width of the window frame. Divide the measurements in half to obtain the size of each shutter. Then subtract three-eighths of an inch from the height and width to allow for weatherstripping.
2. Using a utility knife and a straightedge, cut four pieces of Thermoply to measure.
3. Cut eight lengths of ¾-inch by 1½-inch pipe to form two rectangles of the same dimensions as the Thermoply.
4. Glue and staple the Thermoply onto the frame. Staple some decorative fabric around the front of the shutters.
5. Screw two sets of ¾-inch by 1½-inch loose-pin hinges to the pine edges six inches from the top and bottom of each shutter.
6. Staple weatherstripping material, such as felt, along the hinge edge of each shutter, but not over the hinges.
7. Place a scrap piece of Thermoply under each shutter while holding it in place and mark the location of the hinges against the window frame. Then screw each hinge to the window frame.
8. The shutters should now be slightly too wide for the space, so that when they are closed simultaneously, moderate force is needed to snap them into place. If the fit is loose, staple some felt weatherstripping to one or both of the meeting edges.
9. Nail a ¾-inch by 1-inch pine strip to the window sill at the bottom so that the shutters close tightly against it. The shutter sides and bottom now form a tight cold-air pocket. If the window is leaky, attach a similar piece of pine to the top to form a seal against infiltration.
10. Add a pair of knobs for opening and closing the shutters.

Yankee Lumber, 978 Morris Park Avenue, the Bronx (823-8562) carries materials for the shutters, including Thermoply, which it may have to order. A price was not available. Thermopoly is available elsewhere through Georgia-Pacific Lumber dealers (for their locations telephone (609) 585-1100 or look in the Yellow Pages).

Kits including all materials and instructions are sold by the Homesworth Corporation, Box 565, Brunswick, Me., 04011 (207) 729-1261. Its Sunsaver shutter kit comes in three sizes: 32 by 48 inches for $24.95; 36 by 56 inches for $27.95, and 36 by 62 inches for $30.95. Order the next size larger than needed and tailor it to fit the window.

[From the New York Times, Sept. 13, 1979]

Energy-Saving Methods That Don't Cost Money

Not every energy-saving tactic costs you money. Here are several conservation methods that can be accomplished at no expense:

1. After taking a bath, open the bathroom door and let the bathwater stand in the tub until it cools to room temperature. The heat from the water is sufficient to heat a small house for an hour since a full tub of water will give up about 10,000 B.T.U.'s as it cools from 100 degrees Fahrenheit to 70 degrees. If showering, leave the stopper in the tub to catch the water. A little detergent or bubble bath will eliminate the ring around the tub and scent the air.

2. Similarly, put a stopper in the kitchen sink before draining hot water from cooking; over a winter, this boiling water will add a significant amount of warmth to the house.

3. Use kitchen and bathroom exhaust fans sparingly, as they can blow away a houseful of warm air (or cool air in summer) in one hour.

4. Wear closely woven clothes to retain body heat. Male bodies are quite good heaters, putting out about 390 B.T.U.'s per hour, and women are only slightly less productive, creating about 330 B.T.U.'s per hour. If well-insulated with clothing, the bodies are less dependent on room heat. Slacks make women feel at least one degree warmer than they do in skirts. A light, long-sleeved sweater equals almost two degrees of added warmth, and two lightweight sweaters add about five degrees of extra heat.

5. With dishwashers: Don't use the "rinse-hold" process; it uses up to seven gallons of hot water. Wash only full loads, and let the dishes dry naturally without using the electricity-guzzling heater; most heaters use as much electricity as it takes to light four 75-watt bulbs for an hour. And those bulbs will produce some useful heat as well as light.

6. More heat from light bulbs: Instead of having an exterior porch light, set up an interior light that can shine through a window to illuminate the porch or front steps. This way the 4,000 B.T.U.'s of heat emitted by a 100-watt bulb during nighttime hours can add heat to the house.

7. Close off unused or seldom-used rooms, walk-in closets and stairways—even consider weatherstrippng the doors to these areas—as much fuel is wasted in heating them.

Going Underground: Radical Savings

Robert Homan and his wife Nancy spend between nothing and $60 a year on oil to heat their sunny three-bedroom home in the New Jersey pine barrens, in Vincentown. Their 2,400-square-foot home, designed by architect Malcolm Wells, is a solar-heated building that's deeply set into the ground on three sides and has an earthen roof three feet deep.

In short, it's an underground house that uses the earth to moderate temperatures and save energy. "We love it. Our life centers around the house," said Mr. Homan, a commercial photographer whose studio and office are also in the house.

There is no underground feeling in the single-story building, because major living areas have generous southern exposures and small north-facing windows, which provide for cross-ventilation. Four-foot-tall windows stretch the length of the 100-foot house on the south side, where the far, about 100 underground houses, ranging from Florida dune houses to Texan hill houses (which are covered with nine feet of earth), have been built in this country, and thousands more are on the drawing boards.

The principal appeal of a house piled up with earth or buried under the earth is that climate control is very easy and inexpensive. Isolated from the weather, these well-insulated houses are quickly heated by the sun and the ambient heat given off by people and appliances. Once warm, the houses stay warm for long periods of time, eliminating the need for a continuously operating heater. In summer, the houses are equally easy to cool.

Solaria is heated by a Thomason solar system, which uses 24 large solar-energy collecting panels to heat hot water. The hot water is stored in a 2,000-gallon tank, which is surrounded by small rocks that absorb heat from the water. A fan then blows over the rocks, sending hot air throughout the planked wood ceiling rises to a graceful 14-foot peak. The only time visitors are conscious of the house being underground, Mr. Wells said, is when they're outside and "they can't find it because the house looks like a hill covered with wildflowers."

Construction is fairly conventional in this unconventional house: concrete floor, cement block walls and wooden roof. "Until they're reminded of the way ceilings of mines are supported, people are skeptical about supporting earth with wood," said Mr. Wells. For waterproofing, the architect specified butyl rubber sheeting on the roof and a weatherproof coating on the walls. The houses appear to require few or no design sacrifices and cost only about 5 percent more to build than conventional houses, according to Mr. Wells.

Solaria, as the house is called, is one of many underground houses designed by the Massachusetts architect, one of the principal founders of the burgeoning underground design movement. So house. In summer, a room air-conditioner cools the rocks at night (airconditioners work most efficiently during the cooler night hours); during the day, cool air is circulated.

Plans of the house and a 67-page booklet on its construction and heating system are available for $14.88 through Edmund Scientific Company, 7782 Edscorp Building, Barrington, N.J. 08007. Twenty color slides, taken by Mr. Homan are also available from the company for $8.95.

Another excellent source of information on underground houses is the Underground Space Center, 112 Civil and Mineral Engineering Department, University of Minnesota, Minneapolis, Minn. 55455, which sells a 318-page manual on underground design for $11.

From the Ocean Floor, Attic Insulation

"I'll try anything new that pops up, even things that have been around for thousands of years," said a New Jersey architect, Matthew Rue, who is insulating his attic with seaweed and partially heating his house with a solar system he designed and built himself. This winter he expects his improvements will reduce his fuel bill by 40 percent.

After discovering that seaweed had been used as insulation for hundreds of years up to this century, the architect who is also a chemical engineer specializing in thermodynamics, began investigating its effectiveness. "It would seem to be ideal," he said. "It's fire resistant; it's free, grows abundantly all over the East Coast; it's lighter than fiberglass insulation; it doesn't conduct heat as fast as fiberglass, and it's filled with insulating air pockets."

Mr. Rue, who is chairman of the energy committee of the New Jersey chapter of the American Institute of Architects, was awarded a $1,500 grant last month from the Federal Department of Energy to begin research. Even before feasibility tests are completed, though, Mr. Rue will have had practical experience with the material's insulating ability as he is installing 300 cubic feet of seaweed in the attic of his home in New Hope, Pa. If all goes well, Mr. Rue plans to form a company to produce and promote the use of insulating seaweed, which is technically known as Zostera marina and grows abundantly in sheltered coves and bays.

Meanwhile, Mr. Rue has done all he can to minimize his dependence on fuel oil. He built a three-story greenhouse addition to collect the sun's heat and circulate it throughout his 2,000-square-foot house. There are two solar heating systems: One he designed collects hot air from 200 square feet of black, corrugated aluminum panels mounted under the glass roof; another consists of 10 six-foot tubes filled with a chemical that absorbs heat in the daytime and releases heat at night.

The solar heat accumulated on the aluminum panels, which are hidden from view by a wood ceiling, is funneled to different parts of the house and excess heat is stored in a closet full of bricks. At night, a fan blows heat from the radiating bricks into the house.

In addition to the bricks in this heat-storage room, there is a 50-gallon water tank that absorbs some of the solar heat, preheating water for domestic use to about 100 degrees.

The water is then heated up to 130 degrees by a conventional oil-fired heater. Mr. Rue estimated that this space and water heating system cost $600, far less than a conventional system.

The "solar tubes," recently developed by Dow Chemical, provide space heating for the 12- by 30-foot greenhouse. The tubes, which cost about $30 apiece, are mounted on the wall to receive direct sunlight. They are filled with a "phase change salt" that absorbs a great deal of heat during sunny days and melts into a liquid; at night, as the liquid cools and solidifies, heat is released for many hours.

Even though the two low-cost solar heating systems have nearly cut his fuel bills in half, "that's just keeping even with the inflated cost of oil," said Mr. Rue, who ultimately hopes to heat his house with methane gas produced from—that's right—seaweed.

And in Canada, Federal Grants

(By Henry Giniger)

Ottawa.—In Canada, where the winters are long and cold, heating homes accounts for fully 15 percent of the country's energy consumption. Although Canada is better off than other nations in being able to provide for its energy needs out of domestic resources, the need for conservation is acutely felt as prices rise and supplies from abroad become less dependable.

For two years, the Federal Government has been trying to encourage homeowners to insulate their homes at a faster rate than would normally occur if rising fuel bills were the only incentive. Federal grants of up to $425 are available, and after a slow start applications are coming in at the rate of 1,500 a day from all over the country.

The program started on an experimental basis in Nova Scotia and Prince Edward Island at the beginning of 1977 and in September of that year was extended to the rest of the country. Slightly more than $1 billion was allocated for the seven-year Canadian home insulation program, or CHIP, as it is called, and an intensive program of public information was begun.

A homeowner, using any of a number of governmentally approved materials, may do the insulating himself or have someone else do it. He then mails in his bills with an application for reimbursement. Originally, the government offered to reimburse two-thirds of the cost of the materials used up to $297.50, but with response slow, the offer was extended to cover the entire cost of the materials up to $297.50 plus one-third of the cost of a contractor up to $127.50. A homeowner can get additional help in most provinces in the form of a loan from the provincial government.

A booklet called "Keeping the Heat In" is distributed free, a toll-free "heat line" is available to any homeowner who needs additional information and a questionnaire is distributed that, when the responses are run through a computer, tells a homeowner what he has to do to insulate effectively and how much it will cost. With homes properly insulated, officials estimate an over-all fuel savings of 38 percent.

The program applies to houses of three stories or fewer that constitute primary residences. Accordingly to Ian E. Efford, director general of the conservation and renewable energy branch of the Ministry of Energy, Mines and Resources, a major failure of the program has been the lack of coverage for the thousands of old brownstone houses divided into apartments in cities like Montreal. The owners of these buildings have felt little incentive to insulate, because they pass on their fuel costs to their tenants.

But after an uncertain start, Mr. Efford has been encouraged by the response this year. The 1,500 applications coming in each day is a sign that the program is succeeding, but Mr. Efford said he was not satisfied.

"I would like to see 3,000 applications a day for the next five years," he said. "If that happened, we would very seriously affect the energy demands for home heating."

[From the New York Times, Sept. 13, 1979]

Keeping Snug in Saskatchewan for 16 Cents in Fuel

(By Henry Giniger)

Saskatoon, Saskatchewan.—In this Canadian prairie town, the thermometer can fall to 40 below zero in January or February. But Earl Brooks, an engineering professor at the University of Saskatchewan, is snugly secure, with his wife and daughter, in a small house that does not look much different from all the others on his tree-lined block.

There is a difference, though. His neighbors may be as warm as he is but his gas furnace is barely working during the day, consuming perhaps 16 cents worth of fuel from early morning until late afternoon.

With other engineering teachers at the university, Mr. Brooks has been spending most of his professional time studying fuel conservation in the home. In the house he designed and has been living in since January, he put his knowledge to work.

The walls are a foot thick and are filled with fiberglass insulation. The six-mil polyethylene sheet that serves as a vapor barrier was wrapped around the inside before the dry wall was installed and the wall was made as airtight as possible with special caulking around electrical outlets and window and door frames.

The walls have an R value of 40 and the ceilings, 60. The house is oriented toward the south, where the largest windows are situated, to take advantage of the considerable sunshine that bathes this western province the year round. Overhanging eaves are angled so that the high summer sun is kept out of the front rooms and the low winter sun is allowed in.

The combination of airtightness, high insulation and sun means that everything that produced some warmth can be made to count. Body heat, that thrown out by light bulbs, the heat from the stove and from the clothes dryer can all contribute. The exhaust fan in the hood above the stove draws the hot air through a charcoal filter that removes the odors and blows it out into the kitchen.

The warm, humid air from the dryer is not yet completely connected, but when it is it will pass through a special duct into the ventilation system in the furnace, and then be recirculated through the house after its dust has been filtered out.

The furnace uses electronic ignition, so there is no pilot light to waste gas. It also has an automatic damper that prevents heat from escaping up the flue between firing cycles.

The living-room fireplace has ducts that concentrate and throw out heat more efficiently.

A plywood heat exchanger that cost $170 is a key element. Before it is evacuated, the warm stale air is passed through slits in the exchanger, where it warms the cold fresh air coming in. The furnace, therefore, instead of having to heat minus 40-degree air, has only to heat plus 50-degree air.

Although not yet tested through a complete winter, the house has proven to the professor that what he preaches works. On days when the temperature reached 30 below, he used 100 cubic feet of gas during the day, and during the night up to 600 cubic feet.

Harold Orr, who heads the building division of the Federal National Research Council, agrees with Mr. Brooks that the key element in a fuel-conserving home is airtightness. Mr. Orr noted two old houses that had been "retrofitted" for fuel conservation.

Their owners had added on rooms, then discovered the furnaces were no longer adequate. Rather than invest in new furnaces, they followed Mr. Orr's advice and wrapped their houses in plastic.

The six-mil polyethylene went around the outside walls, fiberglass insulation went over that and a new outside wall was constructed. The old furnaces then proved adequate.

How Maine Stays Warm: From Past to Present

In September 1846, Henry D. Thoreau returned from an extended trip to the Maine woods with some sharp observations about the loggers who lived there and the design of their log cabins:

"The chimney was an oblong square hole in the middle [of the roof] . . . The fireplace, the most important place of all, was in shape and size like the chimney, and directly under it, defined by a log fence . . . These houses are made comfortable by the huge fires that can be afforded night and day."

Thoreau hit it just right with those words "most important," for how to keep warm within the confines of shelter has always been a primary concern in Maine, a state with one of the highest number of heating days per year.

So cold were the winters of the 1620's that the first English settlers survived only by living in pit houses—hollowed out areas in the ground, roofed over, with an entrance to the south or east.

They were not the first in Maine, however, to use packed earth as natural insulation. The remains of Indian winter villages dating from the ceramic period in the first millennium B.C. indicate semisubterranean shelters under a conical structure of bark or hides; just as a Maine woman tucks her braided rug under the door to prevent drafts, the Indians achieved the same result by placing crushed shells around the base of the wigwam.

The southern or southeasterly exposure of these Indian villages and Colonial pit houses demonstrates the underlying principle of site location in Maine: openness to the light and warmth of the sun, and protection from the chilling winds of the north. The prototype structure, well described in the compendium "Maine Forms of Architecture," was "a box of posts and beams combined in multiple bays beneath a pitched roof, the porch (a protruding single bay of two stories for an entry and staircase), the gabled ell, and the lean-to."

This "lean-to" was first added on to provide extra space at the rear, the central chimney providing adequate heat all around, and its roof was abutted at a slightly lower pitch than the main roof. But when it was incorporated into the construction of the house, the rear roof was a long unbroken slope ending at the first-floor level, in contrast to the front where the eave line was at second-story level.

As the rear was generally on the north side, the shape of this salt box house—it resembled a salt container with a sloping lid—cut down exposure to cold by diminishing the north wall.

Although many house styles in Maine sought to duplicate Mother England's stately "four-walls-to-the-wind" mansions, the restrictions exerted by a harsh climate gave shape to this indigenous architecture. So successful were these original forms that they still recur in combination with advanced technologies.

What insulation there was in those days came most from nature. Dried seaweed, tossed up abundantly on beaches; daub and wattle, a thick substance of mud in combination with straw or horsehair; birch bark or even a solid fill of wood planks, which eliminated infiltration by mice. Windows were smaller and fewer and, at night, were covered with tight-fitting Indian shutters—solid rather than louvered.

Nothing succeeded so well in giving protection from the cold as the interconnected farm buildings, the vernacular form of Maine rural architecture, in the 19th century. (The amount of heat given off by farm animals should not be underestimated.)

One can still see these chains of farm buildings stretched out with their roof peaks at various heights. Arranged in either linear or angular formation, these self-contained structures let a family perform all its duties without ever going outdoors.

The family inside was well prepared. In the evening, soapstones were heated on the wood stove to heat featherbeds and the oven door opened for additional warmth. Oatmeal cooked slowly all night on the back of the stone, providing a hot meal in the morning, and feed for the hens was warmed under the stove. Slow-burning wood, such as maple and apple, was reserved for the coldest nights, and lanterns were placed by the sink drain to keep the pipes from freezing.

Mittens were warmed on a shelf above the stove, and there were baked potatoes to keep hands warmed on the way to school. To protect foundations from freezing, wooden planks were set around at a slant against the house and covered with evergreen boughs.

This practice of "banking the house" is still seen, but it is hard to find many soapstones anymore. Although Maine residents like to reminisce about how their parents kept warm, they have lost these habits. Now the additional threat to Maine, due to its position at the end of the fuel delivery circuit, is forcing architects and engineers into renewed design activity. In trying to release itself from an acknowledged dependence on heating oil, Maine is finding new, imaginative solutions.

Common to all is a reliance on wood as an alternative fuel, in a state where wood is still, for now, plentiful. A 1978 Maine Audubon Society survey showed 46 percent of Maine homes used wood for space heating—a figure probably now above 50 percent. A serious problem is the danger of creosote, a highly flammable residue in wood stove chimneys, for 47 percent of all domestic fires are wood stove related.

The Maine Audubon Society was one of the first to respond to the need for new designs, with a new headquarters heated by an active solar system. Completed in 1976 in Falmouth, the shingled structure was designed by a Portland architect, George Terrien. The northwest corner has been lopped off, and there is a very shallow-pitched north roof and only two small windows in what is left of the north wall. It is the familiar salt box, only on a very large scale.

The sloping roof on the south side is a 2,000-square-foot solar collector made of plywood painted black, accordion-pleated steel screening and a translucent fiberglass cover. Air drawn in at eave level rises as it is heated by the screens. Fans at the roof peak blow the hot air into a storage bed of 105 tons of crushed quartzite for release to offices through ducts. It fulfills 75 percent of the building's requirements; the other 25 percent is provided by a wood-burning furnace.

Richard Hill of the University of Maine collaborated with Mr. Terrien on integrating solar and wood heat, the first system of its kind. The fast pace of solar technology is such, however, that the system is already considered antiquated.

The next stage, passive or direct solar, has become the business of two Bucksport architects, John O'Keefe and David Wilson, whose company, Earthworks, designs passive solar houses. One $37,000 house completed last December was named the "Outstanding New Residential Solar Building" in a competition sponsored by the Maine chapter of the American Institute of Architects and the state's Office of Energy Resources.

Passive solar means collecting the sun's warmth on the south side for direct circulation into the house. The collector for the Earthworks house is a solar greenhouse covering two-thirds of the facade, in which everything conspires to hold the hot air that is circulated into the house through a system of vents.

The remaining three sides of the house are "bermed" or banked with turf and there is a sod roof. Its resemblance to the Colonial pit house is unmistakable. The back-up system is a wood-burning stove, with a horizontal flue carrying heat through a concrete wall that radiates heat after the stove is cold.

In Brunswick, there is an answer for the owners of old houses from Charles Wing. His concept is clearly and engagingly defined in architectural and scientific terms in his new book, "From the Walls In" (Little, Brown and Company, $9.95). Basically, his cogent message about "retrofitting" houses is button-up the house with caulking and proper insulation; put in more windows on the south side; gut the interior space; and remember that hot air rises. He has brought back the old "Indian" shutters as thermal shutters made of Thermoply.

On the Cranberry Isles off Mount Desert, where 500 people live in a self-contained fashion, the grade schools have been notified that no oil will be delivered this year. They already have triple-glazed windows and can use wood stoves; Roc Caivano, an architect who teaches at the College of the Atlantic in Bal Harbour, is advising them on glazing the south roof and adding a solar greenhouse.

If Thoreau were to return to Maine this September, he would recognize many of the new house forms. But no doubt, upon noting the recent outcrop of sleek solar greenhouses protruding on the south sides of the homes they heat, he would comment as he did in 1853 on another trip to Maine: "How far men go for the materials of their houses!"

Cost-Saving Cures for Heat Loss

(By Michael deCourcy Hinds)

"Homeowners have to start thinking of their homes as leaky ships sinking in the oil crisis," said a spokesman for the American Petroleum Institute, an industry trade organization. The average residence is not shipshape. It leaks expensively produced warm air to the outdoors and, when the wind blows, it leaks cold air indoors. To make matters worse, the heating system may be out of tune or lacking fuel-saving equipment. Half of the fuel consumed by the average residence, about 650 gallons of oil or an equivalent amount of other fuels, is wasted on heating air that quickly slips outdoors. Heat loss and cold air infiltration can be greatly reduced and the heating system can be made efficient by using a variety of cost-effective solutions. Some of the major solutions are listed below. The percentages for heat loss and fuel savings are approximate. The fuel-saving percentages total more than 100 percent because each conservation measure affects each house different and one step taken may save more money in one house than another.

WINDOWS

Windows, single glazed ones especially, are responsible for about 25 percent of the total heat loss in a house, and most of this loss occurs at night.

Light-colored, lined draperies in conjunction with tightly closed window shades can reduce this heat loss by up to 38 percent. Caulking and weatherstripping cost $50 to $150 and the resulting energy savings will generally return the investment after one cold month. Sealing the house also reduces air-conditioning costs in summer.

Storm windows, exterior or interior, glass or acrylic, ranging from $20 to $50 each, reduce heat loss from windows by up to 53 percent and reduce fuel bills by up to 7 percent. Interior thermal shutters reduce the loss by about 84 percent. They are relatively easy to make, are available in do-it-yourself kits and cost about $30 for the average windown.

Window quilts, a five-layered polyester product that can be covered with decorative fabric, reduce heat loss by up to 79 percent. Appropriate Technology, P.O. Box 975, Brattleboro, Vt. 05301 (802) 257-1773, sell white polyester window quilts on rollers; they cost about $60 installed in an average window.

Insulated window shades reduce heat loss by 80 to 90 percent. Insulating Shade Company, P.O. Box 282, Branford, Conn. (203) 481-2337, has a patented, five-layer shade that costs about $60 installed on an average window.

DOORS

About 10 percent of heat loss is traceable to doors.

Weather stripping, which costs $12 to $75 per door depending on the door and whether the stripping is professionally installed, will cut this leakage in half.

Exterior doors should be made of two-inch-thick hardwood; thin or paneled doors should be replaced, for about $175 including installation, or be improved with a layer of solid insulation and finished paneling for about $80 to $120. A storm door, about $60 in aluminum or $120 in wood, will reduce air infiltration by 50 percent.

Sliding glass doors, even double-glazed ones, are big heat losers. Reduce heat loss with a window quilt, which costs about $240 installed, or exterior thermal shutters, which cost about $300 installed from Energy Alternatives Unlimited, P.O. Box 537, Amagansett, N.Y. 11930 (516) 267–8077. These white vinyl shutters, which have an insulating value comparable to six inches of fiberglass insulation, are operated by an interior crank or motor.

WALLS

Walls, if uninsulated, should be insulated to R–19. If walls already have some insulation, adding more is generally not recommended because of the difficulty and expense of the project. According to a new government regulation, the R-value of all insulation products must be clearly marked.

Examine the walls for openings—of any size—to the outside. Many homes lose as much as 15 percent of their heat through small leaks. Caulk at every intersection of different building materials, such as wood and masonry.

Electric outlets and switches siphon off an amazing amount of heat: Up to 10 percent of the house's heat is lost through these small openings. Check behind electric outlets and switches to make sure there is insulation behind them. Foam insulation, sold in small cans, can be sprayed into the cavity.

Before replacing the outlet covers, use a solid foam gasket to seal the cover plate to the wall, thus eliminating most of the heat loss. To further reduce heat loss, put plastic socket inserts into unused electric outlets. The gaskets and plugs will pay for themselves many times over within a year. Energy Savers R. D. Associates, Box 99, New Rochelle, N.Y. (914) 636–8699, sells a $4.50 package of six outlet insulators and two switch insulators plus 10 plastic plugs for unused outlets.

CEILING FANS

Depending on how elaborate they are, ceiling fans can cost between $45 and $150 and work as well in winter as in summer because they circulate the hot air that rises to tall ceilings. For average-height ceilings, there are other circulating devices, such as the portable Thermocycler sold by Energy Alternatives Unlimited, P.O. Box 537, Amagansett, I.I. 11930 (516) 267–3733, for $19.95, that draw heat near the ceiling down through a tube to the floor. In a room with poor circulation, there can be a 30-degree difference in temperature between the floor and ceiling.

FIREPLACES

Fireplaces account for up to 13 percent of the heat loss in a house.

Install a tempered glass fireplace screen, such as Sear's $180 "Firescreen" which reduces air flow into the fireplace by 90 percent.

Tubular fireplace grates, which draw air into the tubes and expel heated air back into the room, or other convection-type grates can be coupled with a glass screen. Such a grate and screen together cost between $200 and $600. Thermograte Enterprises, 2785 North Fairview Avenue, P.O. Box 43021, St. Paul, Minn. 55164 (1–800) 328–0882, has a $600 model that it says makes fireplaces 27 times more efficient.

A $75 blower will increase efficiency, but it will use as much electricity as an 80-watt bulb.

For best efficiency, close off the fireplace and use its flue for an airtight wood stove, costing $350 to $950.

ATTICS

Attics account for 27 percent of the heat loss in two-story buildings (and up to 70 percent of the loss in one-story buildings because heat rises so quickly). Insulation should be laid between and over the floor joists of unfinished attics; or between and over, if possible, the roof beams in houses that have "cathedral ceilings."

Attic insulation should have an R-value of at least 30. Upgrading an attic with R–11 insulation to R–30 would cost between $130 to $250; savings would range between 15 and 25 percent of the fuel bill.

BASEMENT OR CRAWL SPACE

If unheated, basement or crawl space should have R–19 insulation on the ceiling and between the floor joists, which rest on the foundation. All hot water pipes and heating ducts should also be tightly sealed and insulated. Insulating the unheated basement costs about $175 and could save between 5 and 15 percent of the heating bill.

If the basement is heated, insulate walls to R–19, which will save about 5 percent of the heating bill. Padded carpeting will also reduce heat loss through the floor. At the very least, basement walls above ground level should be insulated.

WATER HEATERS

Water heaters account for about 18 percent of home energy use.

By lowering the water temperature from 140 degrees Fahrenheit to 120 degrees, the fuel bill will be reduced by 18 percent; however, when using a dishwasher, the temperature should be returned to 140 degrees.

If the heater is warm to the touch, it needs insulation. A $25 fiberglass blanket will pay for itself in a few years.

Set the thermostat on a timer, which can save up to 35 percent of operating costs, because most families need hot water for only about four hours a day. The Timeclox Corporation, P.O. Box 4035, 105 West Merrimack Street, Manchester, N.H. 03108, sells its Hot Water Economizer for $29.95 and guarantees the timer will pay for itself in three months or it can be returned for a full refund. Installation by an electrician costs about $20.

WATER FAUCETS

If steadily dripping hot water, water heaters will each waste up to 27 gallons of oil or 3,484 cubic feet of natural gas annually. Replace washers or the faucets, if necessary. Water conservators, ranging in price from $2 to $8, cut hot water flow in half on all faucets. A water conserving shower head pays for itself in a few hours of use.

SOLAR HOT WATER SYSTEMS

Solar hot water systems will provide for half a family's hot water and reduce the total fuel bill by about 10 percent. A residential system from DAS/Solar Systems, 201 Sixth Avenue, Brooklyn, 636–1471, one of many solar system installers in the New York metropolitan area, costs about $2,400 after deducting tax credits.

SOLAR GREENHOUSE

Depending on the home's floor plan and sunshine availability, a solar greenhouse, costing $1,200 to $6,000, can reduce heating bills by up to 25 percent. On sunny days, the greenhouse-solarium becomes a natural furnace, warming and circulating hot air into the house; at night, the greenhouse is usually closed off to prevent heat escaping from the house. The Cornerstones Energy Corp, 54 Cumberland Street, Brunswick, Me. 04011, (207) 729–0540, sells, for $35, construction drawings and a materials list for a solar greenhouse that uses sliding glass doors. Do-it-yourselfers can buy the materials for about $12 per square foot or the greenhouse can be professionally installed for about another $18 per square foot.

Four Seasons Solar Greenhouses, 672 Sunrise Highway, West Babylon, L.I. 11704, (516) 422–1300, sells and installs double-glazed solar greenhouses in the three-state area. The greenhouses, which typically cost between $3,488 and $6,200 installed, are bronze-finished lean-tos with gracefully curved eaves. In addition, a $1,500 Sun-Ray collector system mounted on top of the greenhouse will provide about 40 percent of hot water needs. (The Sun-Ray Solar Company, 415 Howe Avenue, Shelton, Conn. 06484, (203) 735–7767, will soon be selling kits for solar greenhouses and domestic hot water heating for less than $3,000.)

HEATING SYSTEMS

Heating systems account for about 57 percent of home energy use. Annual cleaning and tune-up, costing about $50, will pay for itself in full savings within the year. During the tune-up, have turbulators, costing about $20, installed in the boiler. These devices will make more efficient use of heat and should pay off within a month.

Permanently dropping the thermostat from 75 to 67 degress will save up to 20 percent of the fuel bill.

Clock thermostats, $60 to $160, can save 8 to 12 percent of the fuel bill by lowering the temperatures 5 to 10 degress at night. If no one is at home during the day, the thermostat can be turned down for another eight hours, reducing fuel consumption by a total of 25 percent. Payback on the investment is usually within one cold month.

To make ordinary thermostats into clock thermostats, the Flair Manufacturing Corporation, 600 Calebs Path, Hauppauge, L.I., (516) 234–3600, sells a $30 Fuel Miser, which is a tiny heater, operated by a timer, installed below a thermostat, the Fuel Miser heats up at prearranged times and makes the thermostat "think" the room is warm, thus shutting down the heater.

Enertrols, a boiler water temperature modulator, relates outside air temperature to the temperature of water inside the boiler. It costs about $350 installed and can save up to 20 percent of the heat bill.

Automatic flue dampers, costing between $250 and $450 install, can reduce fuel consumption by as much as 20 percent in older burners and by as much as 10 percent in newer burners. The automatic damper prevents heat from escapng up to flue. These devices are not practical for all heating systems. (See Home Improvement column on page C4.)

For gas heaters, replace the pilot light with an electronic spark ignition, costing about $185, to save between 3 and 9 percent of the gas bill. Utilities do not recommend turning off the pilot lights of gas stoves since the gas could accidentally be turned on and cause an explosion.

In forced hot-air systems (and central air-conditioning systems) have the fan adjusted (for about $20) to run continuously at a low speed. This "continuous air circulation" method save up to 15 percent of heating costs because every bit of warm air is blown into the house, even while the furnace is warming up and cooling down.

Turn the clothes dryer into a heater and humidifier by attaching an adjustable vent to the dryer's exhaust pipe. The dryer's vent can direct 20,000 BTUs of moist heat per hour into the room when the dryer is running. Be sure to insulate and seal the original vent opening to the exterior. (These heat reclaiming vents, such as the $10.25 model sold by Energy Savers R.D. Box 99, New Rochelle, N.Y. 10804 (914) 636–8699, are simple to install.

GARAGES, OTHER ATTACHED BUILDINGS

Whether heated or unheated, garages and other attached buildings should be sealed to the weather. Weatherstrip and caulk doors and windows and insulate walls adjoining the house. If the garage can't be properly sealed, add a storm door at the entrance to the house.

LANDSCAPING

Landscaping a house properly can reduce heating costs from 23 to 30 percent. A landscape architect or landscape designer should be consulted about the following:

To reduce the wind chill, a windscreen of evergreens should be planted on northern sides of a house. A triangular planting of five rapid growing white pines, about 10 feet tall, would cost about $500 planted, according to landscape designers at Rosedale Nursery Inc., Saw Mill River Road, Hawthorne, N.Y. (914) 769-1300.

While the trees are growing, a six-foot stockade fence, costing about $9 a linear foot, will deflect the wind away from the house. It should be installed about 12 feet away from the house on the windy, northern side.

Using New Technology To Update A Furnace

Since fuel prices are almost certain to continue climbing, it is not surprising that increasing numbers of homeowners are investigating ways to update or improve their existing heating equipment—from making minor repairs and adjustments to replacing the furnace or boiler with a more efficient modern unit that will get more heat out of each dollar's worth of fuel consumed.

Most homeowners are by now well aware of the steps to keep heat from being lost to the outside—adding more insulation where practical, installing weatherstripping on all windows and doors, putting up storm sashes and doors, applying caulking to all open joints around the outside of the house, and closing all gaps where cold air can infiltrate.

However, the homeowner interested in cutting fuel costs should also be familiar with several technological developments that have been put on the market in recent years. They will help lower fuel consumption, often by sizable amounts, in homes that are heated by oil or gas. These include:

Automatic flue dampers that can be installed in oil-fired or gas-fired systems.

Electronic spark ignition, which eliminates the need for a constantly burning pilot light on gas furnaces and boilers.

Improved flame-retention-head burners that can be retro-fitted to most existing oil-fired systems.

A new type of "blue flame" unit to replace the conventional oil-fired system, which is much more efficient because it squeezes more British Thermal Units out of each gallon of oil consumed by the boiler or furnace. (Boilers are used in hot water systems; furnaces in hot air systems.)

Since most of these improvements or additions to the heating system involve sizable investments, the first question most homeowners ask is: Does it pay me to do this? In most cases the answer is yes, and the homeowner can figure the specific "pay-back."

Consider the following example:

Suppose it costs $400 for an improvement that tests have shown can be expected to save about 10 percent on the annual fuel bill. If the fuel bill before the change is about $1,000, the savings will add up to about $100 a year—and in about four years the new equipment will be fully paid for (this is the payback period).

The savings in fuel costs start at that point. Of course, if fuel prices rise in the meantime, then the pay-back period will be even shorter, and long-term savings will, therefore, be that much greater.

One device that can be added to almost all oil-fired or gas-fired systems as a means of cutting heat losses up through the chimney or the flue vent is an automatic vent damper.

Long used in many European countries, these devices have only recently become popular in this country, principally because they have only recently been approved or listed by such organizations as the American Gas Association, Underwriters Laboratories or the American National Standards Institute.

The automatic vent damper is installed in the vent pipe or "stack" that leads from the top of the boiler or furnace to the chimney. The vent pipe allows combustion gases to be safely carried away to the outside up through the chimney. However, when the furnace or boiler shuts down because the thermostat upstairs is satisfied, there is a considerable amount of heat still remaining in the combustion chamber and in the vent pipe itself. This heat escapes up the chimney and is wasted.

In addition, all the time that the furnace if off, additional air keeps flowing up the chimney from the vent pipe because the combustion chamber has vents that permit air to enter for feeding the flame. The air that keeps escaping up the chimney while the burner is off carries more indoor heat with it, adding to the amount being wasted.

An automatic vent damper prevents this waste during the burners' "off" period because as soon as the burner shuts off a circular plate inside the device rotates to close off the pipe and thus retain the heat that is left, while also serving to keep additional heated air from escaping up the chimney.

The unit is wired into the burner so that when the thermostat again calls for heat the damper must open before the burner will fire, thus insuring that combustion gases will be safely vented when the burner is operating.

These devices, which are produced by a number of different manufacturers, must be installed by a qualified mechanic who has been trained for this job. He must comply with local building requirements, as well as with the manufacturer's installation instructions. Best purchased through heating contractors, fuel dealers or utility companies, the price of having one of these automatic vent dampers installed will vary from about $250 to $450, depending on the brand, on local rates and on the installation problems involved.

How much fuel will they save. This too, will vary—depending on the type of heating unit and its present efficiency. Savings will be most significant on older units where efficiency was low to begin with and where the burner alowed a great deal of air to escape while the burner was off.

On such installations an automatic damper can cut total fuel costs by anywhere from 10 to 20 percent, according to most experts, while on more modern heating systems, such as those having one of the newer types of flame-retention burners, savings may range from as little as 2 percent to as much as 10 percent.

Thus it can be seen that in the case of older systems the damper can pay for itself in as little as four or five years, while in some of the newer and more efficient systems the pay-back period may be much longer.

Owners of the gas-fired systems can go one step further and have an electronic spark ignition device installed. This eliminates the need for leaving the pilot light burning constantly—thus wasting a substantial amount of gas on a year-round basis.

The savings that will result can vary widely because the warmer the average outside temperature, the higher the savings will be (in warmer climates the burner is off a greater part of the time, and the savings accrue mainly while the burner is off). Tests have shown that savings can vary from about 2½ to 9 percent.

The cost of the device starts at about $150; but varies widely depending on the particular furnace and local labor costs. (A package deal of an automatic vent damper and electronic ignition is offered by at least one manufacturer for about $350.)

Both the automatic vent damper and the electronic spark ignition qualify for the 15 percent income tax credit under the 1977 National Energy Plan, adding to the savings than can accrue.

A House Within a Greenhouse

Robert Mastin's 2,600-square-foot home just outside of Newport, R.I., has no conventional heating system—just the sun and the ambient heat given off by people, appliances, light bulbs and two ordinary fireplaces. The secret of this rather ordinary looking Cape Code-style house is its passive solar design. Lee Porter Butler, a San Francisco designer, has built five such solar-heater houses and has 100 more in the planning and construction stages across the country.

In theory, the design entails building a house within a greenhouse. Actually, the greenhouse is only on the south side but greenhouse-warmed air freely circulates between the building's interior and exterior shells, which are about one foot apart and are both heavily insulated.

Warm air rises from the greenhouse, passes over the attic, and as the air cools, it falls down the cavity between the two north walls. When the air reaches the crawl space under the basement, it releases it's heat into a slab of concrete and then returns to the greenhouse, to begin the cycle all over again.

At night, heat stored in the concrete-floored crawl space rises and maintains a comfortable temperature in the "thermal envelope." Inside the house, temperatures generally range between 65 and 75 degrees Fahrenheit; in extreme weather, temperatures range between 60 and 80 degrees, according to Mr. Mastin.

"Sixty-five degrees feels warm in these houses because the relative humidity stays between 45 and 60 percent," said Mr. Butler explaining that air was moistened as it flowed through the crawl space. In summer, natural air-conditioning is provided by a 100-foot pipe that draws air into the basement.

Humid summer air is drawn into the pipe and, as it flows toward the house, the air loses its moisture on the sides of the earth-cooled pipe. At the depth the pipe is laid under the Mastin's lawn, the earth remains a fairly constant 55 degrees.

Intrigued by the designer's claims about the home's energy efficiency, the Federal Department of Energy is having Brookhaven National Laboratories install monitoring equipment in Mr. Mastin's house this fall.

Although the design isn't revolutionary—an English architect, Emslie A. Morgan, built a country day school near Liverpool that used a similar design in 1961—Mr. Butler is refining and popularizing the concept in this country by offering 10 house plans geared to a variety of climates.

Plans for any of the houses, which vary between 1,100 and 7,000 square feet, cost $4,000. The price includes fitting a house to a particular site and a guarantee that the house will be comfortable without a conventional heating system, or Mr. Butler will install one free of charge.

The price does not include any custom alterations, which the client's architect or builder must design, but Mr. Butler will review the alterations to insure that they won't adversely affect the solar heating principles.

Construction costs have varied, from a low of $18 per square foot for an owner-built house in Ohio to $30 per square foot for a contractor-built house in Georgia. Mr. Mastin, who designs solar greenhouses for older homes, acted as general contractor for his modest Rhode Island house and spent $81,000, or about $31 per square foot. Computing his labors at about $5,000 and adding the $4,000 cost of the house plan, Mr. Mastin said the total cost was about $35 per square foot.

Mr. Butler said his houses, which he calls

Ekose'a Homes—ekose'a, in Greek, means "from the essence"—can be built for the same cost as conventional housing in any area.

When Mr. Mastin and his wife, Elizabeth, moved into the house last March, the temperature was 20 degrees outside and 60 degrees inside.

"I hadn't even finished the lower part of the house and it was working very well," he said. The only drawback now is that he hasn't yet installed a solar hot water heating system so is still relying on an electric heater for domestic water.●

MOLLIE P. LIVINGSTON

Mr. ROBERT C. BYRD. Mr. President, if the distinguished acting Republican leader has no objection, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 239.

The PRESIDING OFFICER (Mr. NUNN). The resolution will be stated by title.

The second assistant legislative clerk read as follows:

> A resolution (S. Res. 239) to pay a gratuity to Mollie P. Livingston.

Mr. STEVENS. No objection, Mr. President.

The resolution was considered and agreed to, as follows:

> *Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Mollie P. Livingston, mother of Robert L. Livingston, an employee of the Senate at the time of his death, a sum equal to two months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS UNTIL 12 O'CLOCK NOON ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 12 noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF THE LABOR-HEW CONFERENCE REPORT ON MONDAY

Mr. ROBERT C. BYRD. I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Monday next, the Senate proceed to the consideration of the Labor-HEW conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

SURFACE MINING AND RECLAMATION PROGRAMS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a resolution recently adopted by the Coal Mining Subcommittee of the West Virginia Legislature, calling upon Congress to adopt the Rockefeller amendment to the Federal Surface Mining Control and Reclamation Act of 1977, this resolution having been supplied to me by Charles F. Donnelly, the legislative analyst for the West Virginia Legislature's Joint Committee on Government and Finance.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

> Whereas, it is generally acknowledged that the overlapping and often contradictory authority of various federal and state agencies engaged in the regulation of the surface and deep mining industries has resulted in unreasonable and unnecessary burdens being placed on the economies of coal producing states, particularly in West Virginia; and
>
> Whereas, The Office of Surface Mining Reclamation and Enforcement (OSM) has continually failed to recognize or adapt to the unique topography, climate and problems indigenous to the coal mining industry in the individual coal producing states; and
>
> Whereas, The State of West Virginia has historically recognized and excelled in the promotion of the environmental and economic well-being of the State while regulating the surface mining industry within the State; therefore, be it
>
> *Resolved by the Joint Committee on Government and Finance of the Legislature of West Virginia:*
>
> That the Congress of the United States be requested to amend The Surface Mining Control and Reclamation Act of 1977 (P.L. 95–87) by amending section 503(a)(7) of the Act, by striking the phrase "regulations issued by the Secretary pursuant to"; and, in section 701(25) of the Act, by striking the phrase "and regulations issued by the Secretary pursuant to this Act," in order to authorize the coal producing states to establish surface mining and reclamation programs, within their respective states, consistent with this Act, without the further requirement of consistency with federal rules and regulations; and be it
>
> *Resolved further*, That a copy of this resolution be forwarded to United States Senators Robert C. Byrd and Jennings Randolph, the West Virginia delegation in the House of Representatives and the presiding officers of the Legislatures of the coal producing states.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there may very well be a vote or votes in relation to the Labor-HEW conference report. I am speaking of rollcall votes now. I suggest that the program would probably also include, during the afternoon on Monday, consideration of the conference report on the Department of Education and consideration of Calendar Order No. 331, S. 446, a bill to amend title 7 of the Civil Rights Act of 1964 to prohibit discrimination against individuals because of their handicap and for other purposes. Rollcall votes are expected in connection with these three items. There may be other measures cleared for action by Monday.

I have not necessarily stated the sequential order in which the education conference report and Calendar Order No. 331, S. 446, would be taken up. I think there is a good likelihood that S. 446 may follow the Labor-HEW conference report and then the Department of Education conference report may follow.

In any event, next week should be a busy week, with rollcall votes daily.

RECESS UNTIL MONDAY, SEPTEMBER 24, 1979

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 12 noon on Monday next.

The motion was agreed to and, at 6:31 p.m., the Senate recessed until Monday, September 24, 1979, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate on September 21, 1979:

AMBASSADOR

Robert S. Strauss, of Texas, for the rank of Ambassador during the tenure of his service as Personal Representative of the President of the United States of America.

James F. Leonard, of New York, for the rank of Ambassador during the tenure of his service as Chief of the U.S. Mission to the Middle East Peace Negotiations.

IN THE AIR FORCE

Lt. Gen. Thomas P. Stafford, U.S. Air Force (age 48), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of Title 10, United States Code, section 8962.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of Title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. John Royster Thurman, III, [redacted] (age 55), Army of the United States (major general, U.S. Army).

The following-named officer to be assigned to a position of importance and responsibility designated by the President under the provisions of Title 10, United States Code, section 3066(a) in grade as follows:

To be lieutenant general

Maj. Gen. William Rowland Richardson, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of Title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Dennis Phillip McAuliffe, [redacted] [redacted], (age 57), Army of the United States (major general, U.S. Army).

The following-named officer to be assigned to a position of importance and responsibility designated by the President under the provisions of Title 10, United States Code, section 3066(a) in grade as follows:

To be lieutenant general

Maj. Gen. Wallace Hall Nutting, [redacted] [redacted], U.S. Army.

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of chapters 35 and 837, Title 10, United States Code.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Abraham, Victor E., Jr., [redacted]
Acasio, Andrew M., Jr., [redacted]
Agan, James F., [redacted]

Alexander, Gerald L., [redacted].
Alexander, Raymond D., [redacted].
Allan, Andrew A., [redacted].
Allen, Fredric A., [redacted].
Altenburg, Bernard M., [redacted].
Amidon, John P., [redacted].
Arnold, James W., [redacted].
Ash, Eldon E., [redacted].
Baer, Randolph K., [redacted].
Bailey, Gardner S., [redacted].
Baird, David E., [redacted].
Banks, Joe F., [redacted].
Barnes, Donald L., [redacted].
Barnett, Donald L., [redacted].
Bass, Jonathan L., [redacted].
Bassham, Steve E., [redacted].
Batchelder, Harry C., Jr., [redacted].
Bauerbach, Richard N., [redacted].
Beelman, Robert E., [redacted].
Belton, Jackie A., [redacted].
Bentley, Richard L., Jr., [redacted].
Berkey, Thomas S., [redacted].
Beyer, Arthur J., [redacted].
Blair, Jack W., Jr., [redacted].
Blinn, Glenn L., [redacted].
Blodgett, Edward T., [redacted].
Bomba, John R., [redacted].
Boone, Richard D., [redacted].
Bouchard, Paul B., [redacted].
Brenan, Denis V., [redacted].
Bridgeman, Richard C., [redacted].
Brignall, Philip J., [redacted].
Brodsky, Henry G., [redacted].
Brouse, Ross M., Jr., [redacted].
Brown, Carol E., [redacted].
Brown, Milton, E., [redacted].
Brown, Pasco P., [redacted].
Broz, Charles W., [redacted].
Bruckner, Richard A., [redacted].
Bryan, Benjamin L., Jr., [redacted].
Bryant, Clarence J., [redacted].
Buckerfield, James D., [redacted].
Buckley, John D., [redacted].
Burke, Larry M., [redacted].
Burke, Robert J., [redacted].
Burkel, Robert G., [redacted].
Burnaman, Robert B., [redacted].
Burroughs, William P., Jr., [redacted].
Campbell, Allen M., [redacted].
Carstenbrock, Robert M., [redacted].
Carter, John W., [redacted].
Carver, Richard E., [redacted].
Casper, Donald L., [redacted].
Castner, Richard R., [redacted].
Chappell, Curtis J., Jr., [redacted].
Charon, Bruce M., [redacted].
Choate, John M. [redacted].
Cieutat, Donald R., [redacted].
Ciraold, Michael C., [redacted].
Clack, Raymond R., [redacted].
Closner, Lowell D., [redacted].
Cole, Byron D., [redacted].
Cole, Keith H., [redacted].
Collopy, Bruce H., [redacted].
Conerly, Steve G. [redacted].
Contreras, Joe W., [redacted].
Cornelius, Harry T., [redacted].
Costello, Edmund J., [redacted].
Creeden, Wilcox J., [redacted].
Crowl, Douglas L., [redacted].
Cruz, Humberto G., [redacted].
Cunningham, William H., [redacted].
Cupp, Gene R., [redacted].
Currier, Edward A., [redacted].
Curtis, Leroy B., [redacted].
Curtright, Jerry D., [redacted].
Cushing, Robert W., [redacted].
Dalessandro, Arthur G., [redacted].
Danbury, Michael J., [redacted].
Daniel, Matthew T., [redacted].
Daroza, Lee R., [redacted].
Davenport, Jack E., [redacted].
Davis, Kenneth J. [redacted].
Day, Lyman R., [redacted].
Deeming, John E., [redacted].
Degolia, Ronald J., [redacted].
Dempsey, Lawrence J., [redacted].
Deutsch, Frank, [redacted].
Diamond, Douglas H., [redacted].
Dickinson, Joseph W., Jr., [redacted].
Didlake, William W., Jr., [redacted].
Dill, John R., [redacted].
Dillion, George F., Jr., [redacted].
Dillion, Robert A., Jr., [redacted].
Dodson, William C., [redacted].
Doherty, Robert E., [redacted].
Dollard, Gerald A., [redacted].
Downing, Robert G., [redacted].
Early, Warren L., Jr., [redacted].
Eck, Alan, [redacted].
Engleman, Donald E., [redacted].
Ensor, William B., [redacted].
Everett, Woodrow W., Jr., [redacted].
Farris, Banks H., [redacted].
Firkins, Carl C., [redacted].
Flaherty, John D., [redacted].
Fleck, Joseph W., [redacted].
Fling, Robert B., [redacted].
Fonde, Richard I., [redacted].
Ford, Jack E., [redacted].
France, Joseph, Jr., [redacted].
Frazier, Lowell C., [redacted].
Freilinger, John J., [redacted].
Gale, Blaine L., [redacted].
Gardner, Elbert W., [redacted].
Garlan, Jerome F., [redacted].
Garner, Owen S., [redacted].
Garner, Ray E., [redacted].
Garver, Charles W., Jr., [redacted].
Gebow, William G., [redacted].
Gildart, David C., [redacted].
Gillespie, John R., [redacted].
Gillman, Wallace M., [redacted].
Glenwright, Earl T., Jr., [redacted].
Glover, Robert, [redacted].
Gordon, John W., [redacted].
Gray, James F., [redacted].
Gray, Thomas S., Jr., [redacted].
Grayson, James P., [redacted].
Green, James E., [redacted].
Greene, Thomas A., [redacted].
Greer, Robert W., [redacted].
Greider, Gordon C., [redacted].
Griffith, David L., [redacted].
Griffith, Donald, [redacted].
Grigsby, Milum E., [redacted].
Gunter, James P., Jr., [redacted].
Hackl, Robert L., [redacted].
Hain, Elwood B., Jr., [redacted].
Hall, Delbert H., Sr., [redacted].
Hamilton, Edward G., [redacted].
Hanscom, Richard L., Jr., [redacted].
Hansen, Jackie L., [redacted].
Harris, Joe R., [redacted].
Harrison, William E., Jr., [redacted].
Hartness, Gregg, [redacted].
Hensiek, Belmont M., Jr., [redacted].
Hershberger, Leroy J., Jr., [redacted].
Hewett, Robert S., [redacted].
Hileman, George H., [redacted].
Hilvety, Richard A., [redacted].
Hix, Larry B., [redacted].
Hoff, Thomas L., [redacted].
Hoglander, Harry R., [redacted].
Holden, Robert F., [redacted].
Holden, Roger M., [redacted].
Holley, Wesley L., [redacted].
Holliday, Walter C., [redacted].
Hollis, Herman, Jr., [redacted].
Hopper, Zane O., [redacted].
Horan, Thomas J., [redacted].
Horner, Marvin E., [redacted].
Houk, James L., [redacted].
Hoyt, John F., [redacted].
Huckabee, Gerald P., [redacted].
Hughes, James R., [redacted].
Hughes, Louis R., III, [redacted].
Hungerford, Henry B., [redacted].
Hunsucker, George E., Jr. [redacted].
Hunt, Arch W., III, [redacted].
Iwasaki, Donald K., [redacted].
Jefferson, Donald E., [redacted].
Jeffery, Kevin B., [redacted].
Jenne, William K., Jr., [redacted].
Jennisch, Thomas L., [redacted].
Johnson, Alvie M., [redacted].
Johnson, Elsie M., [redacted].
Johnson, Terrel F., [redacted].
Jones, Conway B., Jr., [redacted].
Jones, Robert H., [redacted].
Joyce, Richard K., [redacted].
Kaley, Brian G., [redacted].
Kelly, John J., [redacted].
Kelly, Samuel J., [redacted].
King, Elmer W., Jr., [redacted].
King, George S., Jr. [redacted].
Kinsella, Robert W., [redacted].
Kirchner, Raymond L., Jr., [redacted].
Knebel, George W., [redacted].
Knutson, Donald R., [redacted].
Korcheck, Stephen M., [redacted].
Koteles, John T., [redacted].
Kramer, Robert A., [redacted].
Krizek, Donald T., [redacted].
Krubsack, Ernst A. W., [redacted].
Lake, Darrell E., [redacted].
Langley, Kenneth I., Jr., [redacted].
Langston, Billie J., [redacted].
Lashar, William L., Jr., [redacted].
Lau, Ronald D. C., [redacted].
Lederman, Richard E., [redacted].
Lee, Richard K. H., [redacted].
Leviseur, Kurt G., Jr., [redacted].
Lincoln, Edward F., [redacted].
Lindal, John R. [redacted].
Little, Larry S., [redacted].
Livingston, Donald B., [redacted].
Lloyd, Jimmie W., [redacted].
Loewe, Chester J., [redacted].
Londahlsmidt, Donald M., [redacted].
Lonski, Richard L., [redacted].
Lopez, Edward F. [redacted].
Luse, Robert J., [redacted].
Lybrook, William R., [redacted].
Malo, Michael E., [redacted].
Mamiya, Christy T., [redacted].
Marquardt, Philip W., [redacted].
Marr, Gerald N., [redacted].
Marsh, Morton A., [redacted].
Martin, John C., [redacted].
Martin, Laura M., [redacted].
Martinez, Emerico L., [redacted].
Matassov, George, [redacted].
Mattison, William L., [redacted].
Mayer, James I., [redacted].
McCarthy, Francis J., [redacted].
McCarthy, Michael W., [redacted].
McDermitt, Ronald C., [redacted].
McFrye, James E., [redacted].
McGuire, Thomas E., [redacted].
McIntyre, John R., [redacted].
McKee, Kenneth R., [redacted].
McNulty, Terrence J., [redacted].
McSparrin, John L., [redacted].
Meier, James A., [redacted].
Merson, Edgar G., [redacted].
Metz, Harry A., Jr., [redacted].
Miller, Alexander L., Jr., [redacted].
Miller, Burton J., [redacted].
Miller, Russell F., Jr., [redacted].
Mills, George H., [redacted].
Mills, Herbert W., [redacted].
Monahan, Bernard G., [redacted].
Moore, Mark M., [redacted].
Moore, Paul J., Jr., [redacted].
Morgan, John, [redacted].
Morris, Charles M., [redacted].
Morrison, Donald R., [redacted].
Mounts, Timothy L. [redacted].
Moyer, Terrence D., [redacted].
Naler, Bobby J., [redacted].
Napolitan, Thomas W., [redacted].
Neckes, Paul R., [redacted].
Neubauer, Albert H., Jr., [redacted].
Neubauer, Charles H., [redacted].
Newman, James W., [redacted].
Newth, Robert C., [redacted].
Nichol, Harry G., Jr., [redacted].
Nicholas, Nick G., [redacted].
Noebel, Peter C., [redacted].
Nunley, C. T., III, [redacted].
Ockerman, Robert L., [redacted].
Oldham, Ronald M., [redacted].
Olson, Thomas H., [redacted].
Oman, Roger L., [redacted].
Opien, Dayton C., [redacted].
Ormsby, William N., [redacted].
Overmiller, Charles O., [redacted].
Pace, David H., [redacted].
Padgett, Douglas M., [redacted].

Page, Bradford S., [redacted].
Palmer, Adrian S., [redacted].
Parr, Kenneth M., [redacted].
Patrie, John D., [redacted].
Paul, Bernard A., [redacted].
Payton, Jack R., [redacted].
Pedersen, Irwin L., [redacted].
Peirce, Robert A., [redacted].
Pels, Kenneth A., [redacted].
Pendergast, Patrick F., [redacted].
Petersen, Gaylord D., [redacted].
Petersen, Leon K., [redacted].
Peterson, David R., [redacted].
Pewthers, John O., [redacted].
Phillips, Ellison A., Jr., [redacted].
Phillips, James F., [redacted].
Pierce, Louis R., [redacted].
Pierce, Richard T., [redacted].
Pigott, William R., [redacted].
Pitts, Rex A., [redacted].
Poirrier, Alvin E., [redacted].
Port, Chalmers M., [redacted].
Porter, Richard G., [redacted].
Poynter, Bobby C., [redacted].
Prahl, Frederick J., [redacted].
Radichel, Richard E., [redacted].
Reardon, Michael P., [redacted].
Reeves, Clay J., [redacted].
Reich, Michael D., [redacted].
Reidinger, Francis C., [redacted].
Reimers, Frederick A., [redacted].
Rhoades, John A., Jr., [redacted].
Rice, David F. [redacted].
Rice, George M., [redacted].
Ricky, Thomas E., [redacted].
Reimar, Ronald C., [redacted].
Robertson, James L., [redacted].
Roebuck, David B., [redacted].
Roecker, Dana K., [redacted].
Rogers, John I., III, [redacted].
Rogers, Theodore D., [redacted].
Rollins, Jimmy Y., [redacted].
Root, John A., [redacted].
Ross, Paul W., [redacted].
Ryan, Raymond S., [redacted].
Ryland, Walter M., III, [redacted].
Sasseville, Albert L., [redacted].
Sautter, Robert B., [redacted].
Schirm, Lee R., [redacted].
Schwartz, Herbert T. [redacted].
Seal, Galen E., Jr., [redacted].
Sedlik, Jay M. [redacted].
Seligsohn, Alan P., [redacted].
Sexton, James M., [redacted].
Shelok, Thomas C., [redacted].
Shepherd, Hilliard W., Jr., [redacted].
Sherrard, James E., [redacted].
Shields, Don R., [redacted].
Shriber, Richard W., [redacted].
Sikorski, Michael D., [redacted].
Simmons, Philip C., [redacted].
Smith, Alphonso L., [redacted].
Smith, Byron L., [redacted].
Smith, David R., [redacted].
Smith, George L., [redacted].
Smith, Gerald G., [redacted].
Smith, Stanton M., III, [redacted].
Soupene, George L., [redacted].
Spell, Richard P., J., [redacted].
Spielman, Robert W., [redacted].
Spillman, George R., [redacted].
Stahl, Paul J., Jr., [redacted].
Sterling, Richard P., [redacted].
Stewart, William M., [redacted].
Stohler, David H., [redacted].
Stone, John B., [redacted].
Stowell, Phillip C., [redacted].
Strane, Eugene H., Jr., [redacted].
Striedieck, Karl H., [redacted].
Sullivan, Danny C., [redacted].
Svoboda, Charles D., [redacted].
Swain, Jerry M., [redacted].
Symmes, Robert O., [redacted].
Tankersley, Jon G., [redacted].
Taylor, Thomas D., [redacted].
Thayer, David L., [redacted].
Thomas, Gary E., [redacted].
Thompson, Kenneth W., [redacted].
Tomas, Noel E., [redacted].
Traub, William H., [redacted].
Tubbs, Charles W., [redacted].
Turshen, Stephen B., [redacted].
Tweed, Glen G., [redacted].
Tyburski, Charles J., [redacted].
Valigura, Milton H., [redacted].
Vest, Charles H., [redacted].
Viau, Donne D., [redacted].
Vincent, Charles R., [redacted].
Vogel, Richard K., [redacted].
Wales, Bruce A., [redacted].
Warren, James E., [redacted].
Watson, Frank D., [redacted].
Watson, Perry V. Jr., [redacted].
Weddle, Thomas B., [redacted].
Weitzman, Donald O., [redacted].
Wells, Otho A., Jr., [redacted].
White, David L., [redacted].
White, Jerry E., [redacted].
White, Milton J., II, [redacted].
Whitmore, Richard L., [redacted].
Williams, Carl J., [redacted].
Williams, Walker M., III, [redacted].
Wilson, Carlie E., [redacted].
Winden, Kenneth L., [redacted].
Winebarger, Forrest S., [redacted].
Wood, Freddie M., [redacted].
Worrall, Roger C., [redacted].
Wozniak, Daniel F., [redacted].
York, George A., Jr., [redacted].
Young, William G., [redacted].
Zalimeni, Robert J., [redacted].

CHAPLAIN CORPS

Brigman, William G., Jr., [redacted].
Cheesman, Robert E., [redacted].
Chironna, John, Jr., [redacted].
Foote, Phillips K. [redacted].
Hamm, Robert P., Jr., [redacted].
Hibbard, Maurice B., [redacted].
Keller, Ralph E., [redacted].
Kenney, John B., [redacted].
Krick, Howard K., [redacted].
Lynch, John R., [redacted].
Mahoney, John F., [redacted].
Majerus, Daniel J., [redacted].
McMahon, John B., [redacted].
McPherson, Robert H., [redacted].
Motzer, Paul D., [redacted].
Pearson, John R., [redacted].
Roop, David D., [redacted].
Shreve, Thomas M., [redacted].
Shroyer, Francis D., [redacted].
Snable, Robert M., [redacted].
Wiemers, William R., [redacted].
Wright, John E., [redacted].
Young, Samuel T., [redacted].

DENTAL CORPS

Adams, George E., Jr., [redacted].
Anderson, Walter L., [redacted].
Berrey, Curtis O., [redacted].
Cabell, Jasper T., Jr., [redacted].
Cox, Jack D., [redacted].
Dorr, Edward C., [redacted].
Fisher, Jerome E., [redacted].
Gilbertson, Duane R., [redacted].
Giuliana, Richard L., [redacted].
Mayberry, Roland L., [redacted].
Mayo, George E. III, [redacted].
Mulvihill, Leo C., Jr., [redacted].
Norman, Philip R., [redacted].
O'Neill, John J., [redacted].
Petty, Omer K., [redacted].
Sexton, James E., [redacted].
Spelios, George L., [redacted].
Warson, Robert W., [redacted].

NURSE CORPS

Anderson, James E., [redacted].
Baker, Erma J., [redacted].
Barclay, Helen R., [redacted].
Blankenship, Jane C., [redacted].
Bowins, Betty J., [redacted].
Bryson, Mary J., [redacted].
Burke, Margaret M. C., [redacted].
Christensen, Beverly J., [redacted].
Christiansen, Shirley A., [redacted].
Coates, Patricia J., [redacted].
Colley, Helen L., [redacted].
Downey, Maryellen, [redacted].
Eagan, Mary M., [redacted].
Favretto, Anita A., [redacted].
Feenstra, Gertrude M., [redacted].
Fitzsimons, Claudia F., [redacted].
Flaherty, Charles N., [redacted].
Hall, Sara K., [redacted].
Hamilton, Christine J. K., [redacted].
Hansen, Barbara J., [redacted].
Hargett, Margaret V., [redacted].
Henderson, Nancy A., [redacted].
Hofer, Joan M., [redacted].
Hoffman, Rita T., [redacted].
Hoffmaster, Joan E., [redacted].
Honig, Janet E., [redacted].
Irvin, Juanita F., [redacted].
Kautz, Joan E., [redacted].
Kecer, Joan M., [redacted].
Krause, Frankie M., [redacted].
Lantz, Mary J., [redacted].
Leeth, Marye D., [redacted].
Lohmann, Mildred C., [redacted].
Lucas, Virginia A., [redacted].
Mannette, Barbara A., [redacted].
McCartney, Frances L., [redacted].
McGhee, Shirley R., [redacted].
McGuire Patricia J., [redacted].
Miller, Sally D., [redacted].
Mills, Roberta V., [redacted].
Myll, Alice R., [redacted].
Oslin, Jean P., [redacted].
Pokorny, Barbara P., [redacted].
Rebkovich, Mary H., [redacted].
Robohn, Patricia A., [redacted].
Rood, Harry V., [redacted].
Ryan, Martha P., [redacted].
Sawicki, Natalie A., [redacted].
Schaefer, Sherry A. B., [redacted].
Shalloo, Marilyn B., [redacted].
Sheaffer, Dianne S., [redacted].
Sipe, Doris C., [redacted].
Soltesz, Barbara A., [redacted].
Soqui, Emelia V., [redacted].
Spencer, Barbara L., [redacted].
Stead, Mary A., [redacted].
Trowellharris, Irene, [redacted].
Vincent, Carolyn B., [redacted].
Vinson, Iris L., [redacted].
Wallace, Mary E., [redacted].
Weinschenk, Barbara A., [redacted].
Wenzel, Johanna, [redacted].
Wonpat, Marilyn A., [redacted].

MEDICAL SERVICE CORPS

Amberson, Robert C., [redacted].
Carlile, Bruce E., [redacted].
Chester, Thomas M., [redacted].
France, Ronald B., [redacted].
Lacy, James A., [redacted].
Merwin, Carl A., [redacted].
Pace, Joseph B., [redacted].
Sampanis, Leo, [redacted].
Schuyler, James E. II, [redacted].
Whitehead, John C., [redacted].

VETERINARY CORPS

Ahrens, Franklin A., [redacted].
Foster, Lewis C., [redacted].
Gaines, James F., [redacted].

BIOMEDICAL SCIENCE

Alter, Elliott B., [redacted].
Conrad, Ronald G., [redacted].
Rhoads, Charles A., [redacted].

MEDICAL CORPS

Alfano, Jose A., [redacted].
Applebaum, Louis, [redacted].
Bare, Lawrence E., [redacted].
Barnes, William W., [redacted].
Bell, Robert E. Jr., [redacted].
Bell, Robert E., Jr., [redacted].
Binghay, Ben P., [redacted].
Bissell, David D., [redacted].
Blacker, Gerry J., [redacted].
Board, Thomas M., Jr., [redacted].
Cook, Clarence T. [redacted].
Diaz, Humberto, [redacted].
Gallup, James D., [redacted].
Ginsberg, Harold N., [redacted].
Gonzalez, Salvador, [redacted].
Griffiths, Harold M., [redacted].
Hongladarom, Thaworn, [redacted].
Johnson, Charles F., [redacted].
Jones, Courtney P., [redacted].

King, William J. [redacted].
Krecker, Edward C., [redacted].
Lovoll, Kaare, [redacted].
Mattson, Roger A., [redacted].
Mchargue, Anna M., [redacted].
Meltzer, Jack N., [redacted].
Milano, Anthony F., [redacted].
Miller, Albert A., [redacted].
Miranda, Agapito, [redacted].
Redd, Oliver F., Jr., [redacted].
Sanders, Gerald E., [redacted].
Santangelo, Vincent J., [redacted].
Sexton, Curtis C., [redacted].
Shin, Hyun S., [redacted].
Spain, Ronald D., [redacted].
Turman, Alfred E., [redacted].

IN THE NAVY

The following-named chief warrant officers, W-3, of the U.S. Navy, for permanent promotion to the grade of chief warrant officers, W-3, pursuant to Title 10, United States Code, sections 563 and 5791, subject to qualification therefor as provided by law:

Adcock, Daniel W.
Allensworth, Timothy
Alvarez, Don J.
Andersen, Richard E.
Askins, William D.
Atwood, Jack D.
Bagley, Neil W.
Bailey, Bruce
Baker, Troy G.
Bales, James L.
Ballew, Neil G.
Barclay, Bruce M.
Barger, David L.
Barger, Edward B., Jr.
Barnett, Donald R.
Barnett Eben E., II
Bauder, John T.
Beane, William L., Jr.
Benish, Roger W.
Bennett, Paul W.
Bernicken, James F.
Beyer, Donald J., Jr.
Biegler, Loren W.
Blackmore, Thomas O.
Bolin, Charles H.
Bowman, Bruce E.
Brandt, Donald E., Jr.
Brinkley, George W.
Bromaghim, Ward M.
Browning, Harold D.
Bullard, Bobby J.
Burke, Larry D.
Carawon, Bruce C.
Carlson, Murl N.
Carnes, David F.
Carter, Harry F.
Cary, John D.
Casper, J. Kip
Cassoutt, James M.
Castle, William R.
Chenoweth, Wayne G.
Clark, Charles B.
Clark, James W.
Clayborne, Earl K.
Clayburn, Michael W.
Cobb, David L.
Coday, Harold G.
Coleman, Arthur D.
Colman, Hubert E.
Conahan, Francis C.
Conklin, Kenneth J.
Cope, James O.
Cordray, David R.
Couch, William S.
Crabtree, Richard E.
Cranford, James W.
Curtin, Timothy P.
Daugherty, Michael A.
Davidson, James E.
Davis, Robert E.
Davis, Terry T.
Dickerson, Larry G.
Donado, Paul
Doran, James W.
Dunn, James P., Jr.
Duran, Luis M.
Edwards, John W.
Elliott, Boyce W.
Elliott, James A.
Elrod, Herman C.
Evans, Thomas L.
Faries, William R.
Farr, Craig L.
Fenton, William C., Jr.
Feuillerat, Robert A.
Finniss, Richard A.
Fitzsimmons, William
Florida, Frank E.
Floyd, Walter, Jr.
Foley, Lee M.
Fone, Raymond B.
Fortson, Frank S., III
Fowler, William S.
Frederick, Robert E.
Free, James R., Jr.
Freeman, James B.
Frese, David J.
Gaddy, John D.
Garrison, John W.
Gascho, Gerald G.
Gelardi, Lydia C.
Gieck, Marc D.
Gilbert, Melvin L.
Golden, Richard V.
Gonzalez, James
Granlund, Richard
Green, Robert L.
Greene, Ronald M.
Gregoire, Normand L.
Guidry, Dell J., Jr.
Gunter, Danny O.
Hall, Randal R.
Hallman, Lyston L.
Hanson, James H.
Hardgrave, Billy D.
Haupt, Francis J.
Heck, Carl H.
Heller, Richard B.
Herward, James D.
Hessler, Harold R.
Hickerson, Billie N.
Hightshoe, Ronnie L.
Hill, Thomas G.
Hinnefeld, Garrett J.
Hogue, Charles W.
Holik, Manfred J.
Hoover, Daniel L.
Howell, Carleton T., Jr.
Hurdle, Daniel C., Jr.
Hurley, Lawrence E.
Iles, Douglas M.
Isaacson, Leroy D.
Isbell, Carlton R.
James, Edwin M., III
James, Joseph D.
Jensen, Albert H.
Johnson, Gary C.
Johnson, Ronald P.
Johnston, Sydney L.
Jones, William J.
Judd, Michael R.
Kaufman, David L.
Kearney, Thomas E.
Keast, Jerry L.
Kell, George E., Jr.
Kelley, Charles D., II
Kelly, Herbert C., Jr.
Kemp, Alfred D., Jr.
Kieffer, John R.
King, James R.
King, Kenneth J.
Kirst, Alfred C.
Kitchens, Jessie K.
Kitts, Joseph C.
Koch, Danny D.
Koehn, Hubertus J.
Kowalski, James A.
Kuenzinger, James R.
Kulhanek, Darrell L.
Kunkel, David S.
Lambert, Richard A.
Langford, Thomas I.
Lanman, George W.
LaPoint, John T.
Layne, Claude R.
Leasure, Rodger M
Lester, Deloss M.
Lewis, Christopher H.
Licciardi, Dominick, Jr.
Lichty, Gary L.
Lindsey, Keith A.
Litchford, Larry J.
Mahaffey, Joseph W.
Mammen, Lesley F.
Mangel, Michael E.
McCoy, William R.
McGuire, Eldon K.
McKenzie, Clinton L.
McKinney, Lawrence A.
McNeal, Garrel R
McPherson, Richard G.
Meadows, John R.
Meaker, Michael J.
Merkling, Kurt C
Milan, Frederick T.
Miller, George P.
Miller, Kenneth W.
Miller, Ronald W.
Mills, Lowell C.
Mixon, James F.
Monday, James A., III
Moody, Bryan T., Jr
Moore, Herman C., Jr.
Morris, Charles C.
Morrow, Benedict
Mundy, Merlin E., Jr.
Murphy, Raymond E
Nashif, Ronald A.
Naylor, James G.
Nielsen, Robert D.
Noha, Joseph P., Jr.
North, Albert L.
Odell, Joseph M.
Olson, Warren H.
Owen, Charles W.
Owen, Harry W.
Painter, Dewey E.
Parks, Lowell L.
Pavidis, Peter E
Pearson, Richard A.
Perriman, Ronald O.
Pesses, Thomas M.
Peters, Frank C.
Pierce, Donald A
Ploeg, Lee R.
Porter, Donald L.
Pratt, Walter J.
Price, Floyd W.
Quijada, Richard H.
Randall, Charles R.
Rasberry, John H.
Realing, Robert E.
Reed, Ralph G.
Rezas, Peter J.
Risk, Jerry D.
Ritchey, Leonard E.
Robbins, Johnny G.
Roberts, Richard H.
Russell, William M.
Ryan, Robert J.
Sage, William R.
Saig, Stewart F.
Sayre, Roscoe R.
Scalia, August
Schuhl, Peter C.
Schulmeister, Arnold R., Jr.
Schultz, William L.
Schumacher, Wayne
Schwartz, Gerald M.
Scott, George L.
Scott, Gordon F., Jr.
Scott, Michael F.
Sherman, John A.
Shick, Harold D.
Shirer, Glenn S., Jr.
Shull, Kenneth G.
Siguenza, Emmanuel S.
Sinclair, Charles E.
Sitton, William E.
Sizemore, Jack
Smith, Glenn L.
Smith, Thomas R.
Sperlich, James L.
Starnes, John H.
Steele, Terry S.
Steib, John F., Jr.
Stimpson, Gerald N.
StJohn, Charles W.
Stoddard, Leon B.
Stolarz, Robert M.
Stuart, Daniel W.
Suhr, Thomas W.
Swartz, Melvin C., Jr.
Swayne, Richard E., Jr.
Sweeney, Robert L.
Tanner, Marvin M.
Terrebrood Gerald F.
Theobald, Robert L.
Thompson, Carl W.
Thornberry, Donald E.
Thorson, Robert C.
Thurman, Curtis W.
Trammell, David G.
Vandermeer, Raymond R.
Vann, Jarvis W.
Vannoy, Richard T., II
Verhasselt, Ray J.
Viar, Lawrence E.
Waltemyer, Clyde L., Jr.
Webber, Ronald F.
Weidetz, Alvin L., Jr.
Weisinger, Jack P.
White, Merion D.
Whitted, George W.
Widmann, Jeffrey B.
Wiggins, Henry, Jr.
Williams, Nathaniel, Jr.
Willits, Larry L.
Wise, Terry P.
Woods, Joseph
Wykowski, Henry S., Jr.
Young, Leroy

IN THE MARINE CORPS

The following-named male officers of the Marine Corps Reserve for temporary appointment to the grade of lieutenant colonel under the provisions of Title 10, United States Code, section 5902:

Paul J. Albano
Charles L. Bacon
James M. Bailey
Robin L. Beard, Jr.
George W. Beaudry
Gabriel B. Beck
Jerome T. Bertrand
John J. Blenkle
Glenn R. Bollenbach
Latham Boone III
Bruce R. Breitling
Thomas E. Brewster
George H. Brower
Jerry L. Brown
Russell J. Browne, Jr.
David E. Brust
James F. Buckley
Alan L. Burnaford
Kenneth V. Buzbee
Larry W. Carter
Clarence E. Castleberry
Joseph M. Cavanagh
Roger W. Cederholm
Edward A. Cercone
Louis E. Cherico
Thomas W. Choate
Jeffrey B. Clark
Robert T. Clingan
William S. Cochran
Richard W. Coffman
Jack L. Conway
David J. Corson
Chapman B. Cox
Edward H. Coyle
Jerald D. Crow
Jerry A. Cummings
Jack W. Danielson
Herbert W. Degroft
Andrew T. Delgenio
Anthony C. Dias
Gerald D. Dinndorf
Marshall D. Dowdy
Timothy R. Dremann
Frank H. Dubose, Jr.
Don R. Duffer
Peter A. Duffy
Lance M. Duley
Kenneth P. Dunlavy
Keith J. Earnest
James K. Engstrom
Donald R. Farabaugh
Eric T. Farrell
Harold T. Fergus
Robert K. Fincham
John T. Fischbach
Terrence J. Fitzgerald
Wayne N. Fowler
Henry R. Frese
Carl R. Fye
James W. Gallaway
Jerome M. Gardberg
Joseph R. Gendron
George K. Gill
Herbert W. Gillies
Richard D. Gillis
Peter R. Gligor
Kenneth M. Green
Robert D. Greeson, Jr.
Joseph C. Griesbaum
Jack M. Haag
Larry W. Hacker
Charles H. Hall
James L. Hall
Lynn P. Hardy
Robert J. Harriss
Joseph W. Hatchett
Ronald A. Heintz
John L. Henne
Stuart L. Henning
Donald Higginbotham
Robert L. Hilleary
Martin A. Hoesch
Thomas M. Howlett
Charles J. Huber
Winston L. Hughes
John A. Hugya
Eppy W. Human, Jr.
Tristram T. Hyde IV
Jacques A. Istel
Robert L. Jadlow
Robert H. James
Donald E. Jeisy
Gerald W. Johnson
Alfred C. Johnson, Jr.
Walter C. Joos
Willam K. Kellenberger
Robert R. Kenny
David M. Kenworthy
William M. Krulak
John A. Laurence
William F. Lawless
William F. Lersch, Jr.
Stephen W. Lind
William M. Linke
Richard D. Mangiarelli
John A. Marshall
Frederick R. Matthews, Jr.
Conrad E. Mauge
Jeffery W. Maurer
Edward C. McConnaughey
James H. McCuistion
James R. McGrath
Michael McGuirk
Robert C. Mehlin
James J. Mellow, Jr.
Francis W. Milling
William A. Moffett III
Felix C. Moring
Donald Morris
David W. Muir
John J. Murray
Michael J. Naughton
Michael I. Neil
William E. Northup
Paul W. O'Brien
Christopher O'Donnell
William E. Peacock
Gerald J. Phillips
Charles C. Pierpoint III
Martin E. Plummer
Jimmie R. Pollock
Daniel J. Powers
Dean C. Puckett
John M. Pyle
Timothy J. Quinlan
Richard G. Quinn
Daryl L. Rabert
Jerry D. Reece
Brian C. Regan
Alfred C. Richmond, Jr.
Robert M. Robb
James D. Robertson
Jose E. Rodriguez
Richard A. Romine
Thomas O. Rost
Julius M. Rule III
Tommy M. Sanders
John R. Schwartz
Vincent D. Segal
Peter H. Sera
Jermiah S. Shannon III
Gerald A. Shay
Kenneth L. Slowey
Charles Z. Smith
Walter W. Smith
Richard J. Stack
Joseph H. Stargel, Jr.
George R. Stevens
Richard E. Stover
Robert W. Svarrer
Glenn Takabayashi
Larry S. Taylor
Aubrey C. Thomas
Quentin T. Till
Robert G. Ulrich
Juri Valdov
Thomas E. Wallis
Charles H. Waterhouse
John D. Watson
Robert W. Whitton
James R. Wilkie, Jr.
Bruce D. Williams
Joe W. Wilson
Thomas R. Wilson
Edward C. Wingenbach III
Charles E. Wood
Michael G. Wystrach
Harold E. Zealley
Stephen W. Zolomij

The following-named woman officer of the Marine Corps Reserve for permanent appointment to the grade of lieutenant colonel under the provisions of Title 10, United States Code, section 5902:

Rosalind R. Pulaski

The following-named master sergeant for appointment to the grade of first lieutenant in the Marine Corps, pursuant to Title 10, United States Code, section 6222, subject to the qualifications thereof as provided by law:

Foley, Timothy W.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 21, 1979:

NATIONAL CONSUMER COOPERATIVE BANK

The following-named persons to be members of the Board of Directors of the National Consumer Cooperative Bank for terms of 3 years:

Ronald Grzywinski, of Illinois;
Joseph L. Hansknecht, Jr., of Michigan;
Frances Levenson, of New York;
Albert Joseph McKnight, of Louisiana;
Juan J. Patlan, of Texas;
Derek N. Shearer, of California;
Roger C. Altman, Assistant Secretary of the Treasury;
Carol Tucker Foreman, Assistant Secretary of Agriculture;
Geno Charles Baroni, Assistant Secretary of Housing and Urban Development;
Sam W. Brown, Jr., Director of the ACTION Agency; and
Lawrence Connell, Jr., Chairman, National Credit Union Administration Board.

The following-named persons to be members of the Board of Directors of the National Consumer Cooperative Bank for terms of 3 years:

William A. Clement, Jr., Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration; and

Graciela (Grace) Olivarez, Director, Community Services Administration.

UNITED NATIONS

Donald F. McHenry, of Illinois, to be the Representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States of America in the Security Council of the United Nations.

DEPARTMENT OF ENERGY

Louis F. Moret, of California, to be Director of the Office of Minority Economic Impact.

GENERAL ASSEMBLY OF THE UNITED NATIONS REPRESENTATIVES

The following-named persons to be Representatives of the United States of America to the Thirty-fourth Session of the General Assembly of the United Nations:

Donald F. McHenry, of Illinois;
Benjamin S. Rosenthal, United States Representative from the State of New York;
Larry Winn, Jr., United States Representative from the State of Kansas; and
Esther L. Coopersmith, of Maryland.

The following-named persons to be Alternate Representatives of the United States of America to the 34th Session of the General Assembly of the United Nations:

Richard W. Petree, of Virginia;
William L. Dunfey, of New Hampshire; and
Howard T. Rosen, of New Jersey.

DEPARTMENT OF TRANSPORTATION

Neil Goldschmidt, of Oregon, to be Secretary of Transportation.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

U.S.S.R. HOLDS POLITICAL PRISONER 27 YEARS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 20, 1979

• Mr. DORNAN. Mr. Speaker, on my recent trip to the Soviet Union, I hand-carried a letter which was cosigned by 170 Congressmen, addressed to Secretary Brezhnev, pleading for the release of Soviet dissident Balys Gajauskas—170 mint-condition congressional signatures. Believe me, it got their attention.

A few months ago I received a frantic call from the relative of Balys Gajauskas who lives in my congressional district in Santa Monica. The report was Balys was so ill he had to be released from labor at the Sosnovka concentration camp. The Soviet authorities, for the first time since his marriage of 3 years, allowed his wife to visit him for 3 days in prison. Prior to this visit, they were granted a 10-minute marriage ceremony.

Yesterday, I received the happy news that Balys Gajauskas' wife is pregnant. God must have definite plans for that very special baby. And what more compelling reason could we have to renew our efforts to urge the Soviets to comply with our just requests?

My reason for addressing the House today is to remind the Members that Balys Gajauskas is still very much imprisoned—still extremely close to death, and still serving a sentence which, from its inception 27 years ago, has been patently unjust.

I know you are already familiar with this outstanding human rights activist. He has spent half of his life imprisoned, merely for fighting for political freedom. He was sentenced to 25 years in a labor camp for opposing the Red Army's takeover of Lithuania. In 1973 he was released and returned to live with his elderly mother in Lithuania. However, he soon faced additional Soviet harassment, and was fined, along with his mother, who was accused of harboring an illegal resident; that is, her own son.

While in Lithuania, he continued the political struggle for national, religious and democratic rights guaranteed by the U.N. Universal Declaration on Human Rights. He was searched, and interrogated repeatedly by the KGB. On December 23, 1976, the KGB searched his apartment for a full day and found religious literature, 50 pages of a Lithuanian translation of Solzhenitsyn's powerful "Gulag Archipelago," a list of 135 political prisoners, and some money which was assumed to be from the Solzhenitsyn fund. Following that search, Gajauskas was interrogated for 3 days, released, and again arrested on April 20, 1977. A year later he was sentenced to 10 years in a special regimen camp (the most severe) and 5 years of internal exile. This is an obvious death sentence for Balys Gajuskas. He is in very poor health due to being incarcerated in Soviet camps and prisons for over a quarter of a century.

The United States has made its concerns known to the Soviet authorities on numerous occasions, both publicly and diplomatically. We have appealed to the U.S.S.R. for clemency—begging them to show their good faith in our countries' mutual commitment to the Helsinki accord. Their response? Silence, and a continuation of their oppressive policies.

When recently released Soviet dissident Aleksandr Ginzburg testified eloquently before the Committee on Security and Cooperation in Europe, he pleaded: "I hope you will not consider my release a signal to end your efforts." He went on to recall his many colleagues who have yet to be granted freedom.

I know the Members of this body will be faithful to the cause of seeking the release, and emigration to the United States, of Balys Gajauskas, his wife, and unborn child. I plead with every Member to do what he or she can in this regard. I know you will be rewarded a thousandfold by the satisfaction of seeing Balys Gajauskas one day allowed to relish the freedom for which he has literally sacrificed his entire adult life.•

MORGAN MURPHY SEEKS SOLUTION TO GRAYMAIL PROBLEMS

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 20, 1979

• Mr. BOLAND. Mr. Speaker, on August 19, the Chicago Tribune carried an article on its editorial page by my colleague on the Permanent Select Committee on Intelligence, the Honorable MORGAN F. MURPHY.

The article dealt with the subject of "graymail", the phenomenon that occurs when a criminal defendant threatens to disclose classified information in connection with his trial.

Mr. MURPHY, who is the chairman of the Intelligence Subcommittee on Legislation, is chairing hearings today on several bills, one of them developed within the subcommittee, which seek to make such trials easier for the Government to bring while preserving defendant's rights to fair trials.

The successful enactment of this kind of legislation will be a tribute in no small part to the subcommittee's effort.

Accordingly, I recommend to the House the following article which I hope

• This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

serves as the thoughtful introduction to the resolution of this very important problem:

Trials Can Be Held Without Risking National Security

(By Representative Morgan F. Murphy)

This summer I introduced legislation aimed at dealing with the growing problem of "graymail." Graymail refers to a criminal defendant's threat at his trial to demand or disclose classified materials that he claims would exonerate him. While this sensitive information often has no relevance to the issues of the case, the government must frequently drop its prosecution for fear that the disclosure of the documents will harm the national security. [Government prosecutors have dubbed the defendant's action "graymail" because they view it as a pressure-tactic similar to "blackmail."]

Graymail has occurred not only in the prosecution of persons alleged to be spies, but in cases involving break-ins and mail openings by intelligence agents, the bribing of foreign officials by U.S. corporations, and the giving of false testimony to Congress about U.S. intelligence activities abroad. It has even figured in murder and narcotics trials.

Without a procedural mechanism to balance the interests of national security with the interests of justice, the prosecution of these kinds of cases will continue to be hindered or prevented altogether.

To minimize the governmnent's disclose-or-dismiss dilemma, intelligence officials, prosecutors, and civil libertarians—whose views often clash on this type of issue—get together to formulate a response. As a result, the bill I have introduced has the general support of the Justice Department and the American Civil Liberties Union. It is intended to prevent illegitimate graymail without infringing on a person's right to demand relevant information for his defense.

The bill would require a criminal defendant to notify the court and the government of all motions and arguments requiring the disclosure of classified information. Then, at a closed, pretrial hearing—with defense and prosecution present to make their arguments about the need for such disclosure—the court would rule on the admissibility and relevancy of the information. [The bill would not alter the existing standards for determininng relevance or admissibility.]

Once the judge made this ruling, the government could decide whether to pursue the prosecution. In some instances, if the trial judge determined that the defendant's rights would not be injured, the court could order that a specific item of classified material be replaced by a summary of the information. If the judge rules that the classified information is admissible and may not be summarized, and if the government still objects to disclosure on national security grounds, the court could dismiss the indictment.

The judge would also be allowed under the bill to take action short of dismissal, such as dismissing certain counts of the indictment or prohibiting the testimony of certain government witnesses.

For its part, the government would be required to provide the defendant with pretrial notice of the evidence and witnesses it intends to use to challenge the defendant's arguments based on the classified information.

In the event that the Justice Department decides to drop a prosecution, it would have to spell out in writing its reasons for doing so to members of the House and Senate Intelligence Committees.

The purpose of this provision is not to second-guess prosecutorial decisions, but to ensure that the classified material being protected is vital to the national security and not simply embarrassing to the government.

The closed, pretrial hearing would differ substantially from the closed hearings recently approved by the Supreme Court as a way to protect defendants from prejudicial publicity. As the New York Times correctly observed: "Legislation to combat graymail would result in more public trials, not fewer. The choice is between a closed hearing that may permit a trial to take place, and no hearing or trial at all."

Currently there are three bills before Congress aimed at curbing the graymail problem. Besides my own, two bills have been introduced—one by Sen. Joseph Biden [D., Del.] of the Senate Intelligence Committee, and one by Rep. Peter Rodino [D., N.J.], who is sponsoring the Justice Department's proposal. Though there are some substantive differences between the bills, all reflect the general agreement worked out by intelligence officials, prosecutors, and civil libertarians.

While graymail abuses cannot be completely eliminated, the proposals before Congress will go a long way toward reducing the problem. Passage of such legislation will represent an important step in holding lawbreakers accountable to the rule of law, while protecting the national security and American civil liberties. ●

RHODESIAN SANCTIONS

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, September 21, 1979

● Mr. HARRY F. BYRD, JR. Mr. President, this morning the Wall Street Journal provided an excellent and perceptive editorial on the prospects for saving Rhodesia from Soviet domination.

Time is running out for Rhodesia. If Congress does not act decisively and immediately, then Rhodesia will be within the Marxist camp within a matter of months. Extremists at the State Department are determined to force Russian oriented terrorists into the Rhodesian Government—and are using the economic embargo to achieve this objective.

I insert the Journal editorial in the Record and urge that it be read carefully by Members of both Houses of the Congress.

The editorial follows:

Save Rhodesia

Having enjoyed the success of bringing the Communist-backed Rhodesia guerrillas to conference in London, Mrs. Thatcher is finding that she has few levers with which to move them to an accommodating position. With what can she threaten them?

The guerrilla leaders are making demands and not concessions, enjoying the spectacle and watching the Muzorewa government negotiate with itself under British pressure to abrogate the constitutional guarantees to the whites. The guerrillas believe that once the whites believe that Mr. Muzorewa is willing to void the constitution that brought a black government to power in Rhodesia, emigration will quicken, and Mr. Muzorewa's weakened government will fall.

Although there was some apparent progress yesterday on the white guarantees issue, Mrs. Thatcher finds that the State Department and Lord Carrington have positioned her in a corner. The conference has succeeded in weakening the Muzorewa government without softening the guerrillas and is causing unrest in her own party that is expected to bring her under sharp attack at the Conservative Party annual conference next month. Many Tories are incensed that "the iron lady" has knuckled under to Carter administration pressures. Why should Britain sell out British settlers so that Jimmy Carter can get U.S. votes?, they ask.

Although Mrs. Thatcher and Mr. Muzorewa might finally decide to simply deal the guerrillas out, other possible outcomes would be less happy. One is: no agreement is reached and a racially split mutually suspicious Rhodesian government returns home weakened to face continued guerrilla warfare. Another is: to avoid the above the whites make concessions and go home to pack their bags, leaving Mr. Muzorewa to face the guerrillas in his government and to be overthrown by coalition. Mark up a foreign policy failure for Mrs. Thatcher, dissension in her own party, and another Soviet victory in Africa.

Fortunately, the U.S. Congress has an opportunity to help the British and Rhodesia out of their dangerously tight spot. In the FY 1980 defense authorization bill now in conference is an amendment passed by the Senate requiring the President to lift American economic sanctions against Rhodesia. All the House has to do is accept the Senate amendment, and Congress will have yanked away the de facto U.S. recognition that the Carter administration has bestowed on the guerrillas. Congress' repudiation of administration policy would provide Mrs. Thatcher with the missing lever to apply some pressure to the guerrillas for a change. The guerrillas will not make concessions as long as an unrecognized and isolated Rhodesia is up for grabs.●

THE 50TH ANNIVERSARY OF THE ORDINATION OF BISHOP CHRISTOPHER J. WELDON OF SPRINGFIELD

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. CONTE. Mr. Speaker, with deep humility and profound respect, I would like to take this opportunity to recognize, in the presence of my colleagues, a man of great spiritual distinction, Bishop Christopher J. Weldon of the Roman Catholic diocese of Springfield.

On this very day, September 21, 1979, Christopher J. Weldon will celebrate his 50th anniversary of his ordination to the priesthood. His ordination certainly was an auspicious event in my life as well as the lives of my constituents. I have known Bishop Weldon over the years and have found him to be a distinguished pastor as well as a source of personal religious inspiration.

A native of the Bronx, N.Y., Christopher J. Weldon prepared for his ordination to the priesthood at St. Joseph's Seminary, Dunwoodie, Yonkers, N.Y. After completing 6 years of study there, he was ordained a priest on September 21, 1929, in New York.

When the United States entered World War II, Father Weldon enlisted in the Armed Forces and was commissioned as a chaplain in the rank of lieutenant (jg.). He served 16 months on the aircraft carrier, U.S.S. *Guadalcanal* chasing submarines in the North Atlantic. At the conclusion of the war, Father Weldon was honorably discharged with the rank of lieutenant commander.

Reverend Weldon then began a long association with the Catholic Charities Appeal being named executive director of New York Catholic Charities by Cardinal Spellman on December 31, 1947.

Within a year, Christopher J. Weldon was appointed as a domestic prelate with the title of right reverend monsignor.

After completing an exemplary term of service in his native New York State, Monsignor Weldon was consecrated a bishop by Cardinal Francis Spellman on March 24, 1950, at St. Patrick's Cathedral. On February 1, 1950, Bishop Weldon was named the fourth bishop of the diocese of Springfield. Bishop Weldon served in that capacity until his retirement on October 15, 1977.

In summing up his life of sacrifice, Bishop Weldon observed:

> It's been a tremendous 50 years. What is prominent in my mind is the deep sense of humility and gratitude that God did choose me for this post and did give me this opportunity to serve.

Bishop Weldon's unswerving dedication to his sacred obligation serves as an example of the Christian ideal to his spiritual flock as well as an example of perseverance and consistency to men of all faiths and in all walks of life.●

HOME HEATING FUEL CRISIS—PART II*

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. GILMAN. Mr. Speaker, I would like to draw to the attention of my colleagues the situation we find ourselves in regarding our Nation's home heating fuel crisis.

Along with members of our New York congressional delegation, I met yesterday with Department of Energy (DOE) Secretary Duncan to discuss this very crucial problem. He assured us that the situation is not grave and that he felt "quite comfortable" about the administration's ability to heat our homes this winter.

Despite Mr. Duncan's assurances, I do not feel comfortable about this at all. I have been informed by the independent oil dealers in my district that their storage tanks, which range in storage capacity from between 75,000 gallons to a quarter million gallons, are precariously low and that the situation has deteriorated considerably since last winter.

The DOE Secretary did go on to point out that he believed that the goal of stockpiling 240 million barrels of home heating fuel by the end of October would be met. However, he did not acknowledge several aspects that will have a considerable bearing on our heating oil supplies in the next few weeks. One of them is the fact that our entire gulf coast refineries have been shutdown at one point or another because of damage sustained by the recent hurricanes as well as a result of the Louisiana fire. Another crucial consideration is the reluctance of many oil companies to start pumping the refined product into the distribution pipelines in order to insure that the product will be distributed to the independent dealers and their customers before bad weather makes the transportation of the oil difficult, indeed, at times impossible.

Time is running out. The winter heating season is almost upon us. Accordingly, I am calling upon the Department of Energy to act expeditiously in imposing price controls on home heating fuel and to move supplies from the refineries to the consumer.

At this point in the RECORD I want to insert my letter to the DOE Secretary regarding these issues:

SEPTEMBER 21, 1979.

Hon. CHARLES DUNCAN,
Secretary, U.S. Department of Energy,
Washington, D.C.

DEAR MR. SECRETARY: I urge you to reimpose price controls on home heating fuel and to launch an immediate investigation into two aspects of the home heating fuel crisis.[1]

As I stated in our meeting yesterday, I have been informed by our independent dealers that they are experiencing significant reductions in middle distillate fuel allocations. This will cause severe distribution problems, particularly if primary stocks are not released until after October when weather conditions in New York State may make transportation difficult, perhaps even impossible.

Furthermore, the concentration of stocks at refinery levels, or primary storage sites, at the expense of the remainder of the distribution system has been directly responsible for the doubling of prices on heating oil and diesel fuels in this year alone.

Although I recognize your endeavor to see that our citizen's homes are adequately heated this winter, and at a fair price, I am extremely skeptical about any such success until these matters are given prompt attention.

Sincerely,

BENJAMIN A. GILMAN.

Quite frankly, I cannot understand why our dealers are being denied delivery of products and why our citizens are paying the double of what they had to pay for their oil earlier this year, other than the fact of course that the major oil companies may be drawing further profits while assuring the DOE that they met the President's stockpile deadline.

As of today, September 21, 1979, we have in primary storage 210.7 million barrels of home heating oil. Last year at this time we had 210.6 million barrels. For the first time this year we have pulled ahead, even if only by a fraction, of last year's supply. Yet, the situation around the country has deteriorated considerably. There is no rationale for this situation and I am convinced that the only way we can remedy this matter is to keep a close eye on our stockpile and to begin immediately to supply our independent dealers with the fuel, as well as reimposing price controls in order to insure our citizens a fair market price.

Mr. Speaker, I urge my colleagues to fully review the heating oil supply and price situation in their respective districts so that we can keep the Department of Energy fully apprised of the current situation confronting our Nation.●

VICTORY OR COMPROMISE: THE STATE DEPARTMENT'S PERCEPTION OF SUCCESSFUL DIPLOMACY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. GOODLING. Mr. Speaker, behind the human drama and diplomatic duel which unraveled at Kennedy Airport during the last week in August lies a deeper and fundamentally more troubling issue: The State Department's perception of what constitutes successful diplomacy vis-a-vis the Soviet Union. This credibility gap becomes especially crucial in light of Senate consideration of the SALT II agreement.

No one, except the Soviet propagandists, would likely charge that the U.S. Government acted in an unrestrained and unreasonable fashion in dealing with Soviet duplicity and intransigence. As I understand it, the chain of events went as follows: After Mr. Godunov's defection, the State Department informed the Soviet Government of U.S. intentions to interview Godunov's wife, Ludmilla Vlasova. This good faith effort on the part of U.S. officials to inform the Soviets of our intention to execute U.S. law regarding nonforced repatriation was rewarded with deceit on the part of Soviet officials. The Soviets were notified that Miss Vlasova could not leave the country until she had been interviewed to determine her wishes. According to the State Department, the Soviets acknowledged the U.S. right to conduct such an interview. One account indicated that the Soviets, without informing the State Department, decided hastily to fly Miss Vlasova back to Moscow. The Washington Post reported that—

> * * * surface evidence indicated Vlasova might not be leaving voluntarily. This evidence included the facts that she was the wife of a defector, that she had not been interviewed by U.S. officials even though the Soviets were aware of the U.S. intention to conduct such an interview, and that she had been taken to the airport hastily in the company of a large number of young Soviet officials (KGB agents) and put on the plane in a separate compartment surrounded by a number of young men.

At this point, the protracted "showdown" at JFK began when the Soviets refused permission for an American interview with the ballerina. Since we can never know of Vlasova's true desires, my main concern now is not with the outcome of the standoff at JFK but rather with the State Department's interpretation of the event. Our goal was to insist on the right of American officials to interview Ludmilla Vlasova in a "noncoercive environment." Consequently it is difficult to understand how the final outcome of 3 days of negotiations with the Soviets can be interpreted as anything but a major compromise on what constituted such an environment. Indeed, most analysts would consider a noncoercive environment as one which includes an atmosphere where the relation of the parties is such that one is not under subjection to the other, and is thereby basically free of constraints, threats or intimidation.

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*This is the second part of a series of reports on our home heating fuel crisis. Report No. 1, having appeared in the CONGRESSIONAL RECORD on September 17, 1979, vol. 125, No. 119, pp. 4548–4550.

[1] With regard to price controls, I have been informed that it is estimated that this year's oil company profits for home heating fuel will exceed $2 billion. Providing an indirect subsidy to the oil companies by way of emergency funds to relieve those who cannot pay their oil bills, is no solution and does not get to the root of the problem. The reimposition of price controls would not only provide relief for our citizens, it would also help combat inflation.

I am not suggesting that we could have expected to attain such an environment once Miss Vlasova was securely aboard the Aeroflot plane. What arouses my sense of unease is Under Secretary of State Warren Christopher's claim of "victory" for the principle of nonforced repatriation. As the Wall Street Journal noted, given the reality of the final United States-Soviet compromise on the establishment of a "noncoercive environment" for the discussion with Miss Vlasova: "* * * it would have taken a stunning act of personal courage to announce the intention to defect." After all, Miss Vlasova had just spent 2½ days in the confines of a Soviet airplane with the KGB, high-ranking Soviet diplomats and 52 other Soviet "patriots" who had chosen to stay and support the ballerina in her "travail." In the final analysis, the circumstances of a 20-minute meeting with a group of American officials under the glare of a Soviet entourage in a mobile lounge attached to the Soviet aircraft would hardly satisfy most reasonable observers' definition of a noncoercive environment. Despite the obvious "atmosphere of coercion" the State Department seized the opportunity to declare that we had demonstrated to the Soviets our determination to uphold the principle that the Soviets cannot circumvent U.S. law.

It is difficult to contemplate any analysis of the events at JFK which would not conclude that the final outcome (in terms of the original U.S. diplomatic goals and the required execution of U.S. law) was, at best, ambiguous. Yet, the State Department insists that this episode was a clear U.S. "victory" and a demonstration of U.S. determination to uphold its principles in the face of a direct Soviet challenge.

The implications of this divergence between rhetoric and reality are chilling. How can we have faith in the State Department's analysis of the SALT negotiations, which for the most part were conducted in secret, after seeing such obviously inflated rhetoric in their assessment of such a nakedly public event as the Vlasova episode? In his concluding remarks before the Senate Committee on Foreign Relations on July 9, Secretary Vance stated:

> The SALT II treaty is the product of almost 7 years of hard bargaining, on both sides. As members of the committee know, these have been extraordinarily complex negotiations . . . To achieve such an agreement, *compromises* were required by both sides.
>
> * * * Taken as a whole, it (the treaty) is a *balanced agreement*. (Emphasis added.)

I would hope that this most recent example of U.S.-Soviet "bargaining" at JFK and the State Department's perception of successful diplomacy would give the Senators some pause. This is essential as they attempt to extract the fine details and nuances of the SALT II agreement from the official verbiage and euphemistic phraseology emanating from "Foggy Bottom" on the nature of the "compromises" and the extent of the "balance" in SALT II. If the JFK incident is any indication of the State Department's perception of a "diplomatic victory," I would hate to think of our diplomats' interpretation of a "compromise." ●

THE INTRODUCTION OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) ORGANIC ACT (H.R. 5347)

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. MURPHY of New York. Mr. Speaker, for more than 20 years, discussions have taken place, bills have been proposed, and reorganizations have been announced for the purpose of establishing and implementing a comprehensive U.S. national ocean policy and program. For many years, it has been apparent that the oceans play an increasingly larger role in our lives as recently exemplified by their growing importance as a source of energy, minerals, oil, and gas, and even freshwater in addition to their continued importance as a source of world protein and oceanborne commerce and trade.

Since the oceans are of finite size, it was inevitable that conflicts arose as we endeavored to manage the use of those ocean resources in such a way as to balance all concerns, be they commercial or environmental, in an equitable manner. The 1969 report of the Commission on Marine Science, Engineering, and Resources—Stratton Commission—recommended creation of an independent national ocean agency to achieve effective, coordinated management of ocean-related activities by consolidating Federal ocean programs within a single agency.

An attempt was made in 1970 by the administration, through Presidential Reorganization Plan No. 4, to establish such an agency with the creation of the National Oceanic and Atmospheric Administration (NOAA) as a component of the Department of Commerce. There are those who contend, however, that the Reorganization Plan No. 4, while taking steps in the right direction, fell far short of the recommendations of the Stratton Commission. There is no legislative codification of NOAA's existence and its responsibilities are derived from a number of widely assorted public laws. As a result, difficulties have often arisen regarding the identification of the clear national mandate required to implement a comprehensive oceans policy.

It is for these reasons that I was happy to cosponsor, with my colleague, Mr. BREAUX, of Louisiana, the introduction yesterday of the NOAA Organic Act. This legislation is simply a vehicle for hearings to be conducted by our committee with respect to establishing a structure for the lead Federal oceans agency. It is my intention, in cosponsoring this legislation, to stimulate further discussion within the ocean and atmospheric communities and move us toward more effective management of our valuable and finite resources. The Nation must establish a clear commitment to the conservation—that is, "wise use"—of our resources. Enactment of an organic act which gives our Federal Ocean/Atmosphere Agency a firm foundation and a clearly defined mission is an essential first step in implementing that commitment.●

THE AVIATION SAFETY AND NOISE REDUCTION ACT

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mrs. HOLT. Mr. Speaker, H.R. 3942, called the Aviation Safety and Noise Reduction Act, would not achieve what it purports to do. After studying the legislation, I am convinced that it would not reduce the problem of aircraft noise, but would aggravate the problem.

The unmistakable message of this legislation is that the Federal Government is prepared to run away from its commitment to reduce aviation noise pollution. I am in favor of maintaining and enforcing the existing standards and timetables for noise abatement.

I happen to represent a district where people are keenly aware of the problem through sad experience. We have the impact of Baltimore-Washington International Airport and Washington's National Airport. I can tell you the problem has become worse over the years.

Nobody objects to the presence of air transportation facilities that are an economic boon to our area, but it is very clear to me that aircraft noise can and must be reduced with comprehensive standards strictly enforced.

Failure to reduce aircraft noise levels means not only inconvenience and aggravation for the people affected. It means losses of property value running to billions of dollars nationally.

The Federal Government should not be relaxing standards for aircraft noise abatement. It should enforce the standards which we are committed to enforce.

Mr. Speaker, I have spent literally years attempting to persuade the Federal Aviation Administration to enforce tough standards against noise levels that are hurting my constituents. Other Members of this House have had similar problems.

It is past time for Congress to insist on action by the Administrator.●

THE NEED FOR INTERNAL SECURITY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. ASHBROOK. Mr. Speaker, at the beginning of this Congress I proposed that, at a minimum, this House establish an Internal Security Subcommittee under the House Judiciary Committee. This request, along with other moves to elevate internal security concerns within this Chamber, have failed. However, there is a growing public awareness over the threats posed by terrorists and possible subversive groups. The killings and kidnapings witnessed in Western Europe have not come to America yet, but all signs point to a day when the Atlantic Ocean will not be a barrier to those who want to take their hate for the democratic process to the doorsteps of innocent civilians.

I would like to bring to my colleagues' attention a recent article out of the Chicago Tribune. The article initially addresses the possibilities of nuclear terrorism in America, however, the later portions discuss the broader potentials of violence from terrorist groups. I strongly recommend this as background reading to all who feel America can do something to defend itself against PLO or Baader-Meinhof type activity in this Nation:

PERSONALITY PROFILE OF THE FIRST ATOMIC BLACKMAILER

(By James Coates and Eleanor Randolph)

SANTA MONICA, CALIF.—Palm trees and a row of expensive bicycles camouflage this stark yellow building where scientists are inventing the world's first nuclear terrorist.

They are the Rand Corporation's team of experts on terrorism, and they are on contract with the Department of Energy to flesh out the silhouette of the first person who may try to use a nuclear weapon to hold a city for ransom, or worse, to bring on a demented Armageddon.

So far, the scientists are predicting that the first nuclear terrorist, like some of his precursors who have used lesser weapons to make their grim statements to the world, will be the following:

Male.

In his early 20s.

Single. Perhaps divorced, almost certainly unattached.

Middle class. His parents probably will be either professors or civil servants.

Well-educated. He will have some university education, perhaps even graduate school.

A city-dweller.

"After that, it gets pretty difficult," Brian Jenkins, who heads the Rand team, said recently. "When we deal with personality, we're on slippery ground."

Still there are general traits that can be expected. The terrorist probably will be an "absolutist," as Jenkins explained it. He will see the world as clearly good or evil and will ardently believe in his form of good.

He will be impatient; he will demand instant gratification, and he will be "action-prone," as Jenkins describes the phantom atomic guerrilla.

"Guns fascinate such people," he said. "The terrorist may well be a gun freak with an abnormal fixation on firearms. He probably has a real fixation on guns, a sexual fixation. He likes to fondle guns."

He may well be a seeker of risks, Jenkins continued. Not suicidal, he suggested, but simply someone who does not believe he is alive unless he is on a psychological edge, staring into some terrifying chasm.

"It's the bullfighter type," said Jenkins. "The Evel Knievel."

And finally, he will be easily disillusioned. He will be disillusioned with his society, and later he may become disillusioned with the society of terrorists he creates.

Once Jenkins and his associates sketch the terrorist, they issue the exceptions. The first nuclear terrorist could be a rich malicious madman who wants to make no statement and promote no politics. The first atomic guerrilla could be a woman, like some of the members of the notorious German Baader-Meinhof gang.

Not all people who fit the classic Rand profile are terrorists, Jenkins said.

"Some of these kinds of people are also heroes," he said. "They are the kind that win the Congressional Medal of Honor."

The pervasive hope among officials at all levels in the nuclear complex, of course, is that no such person as they have outlined will ever become a terrorist.

But an indication of the concern at top levels over nuclear terrorism is the number of secret full-scale alerts that have been issued because of threats or information from intelligence sources.

Officials told The Tribune that one such alert involved persons gathered in Washington and Philadelphia to celebrate the Bicentennial three years ago.

On July 4, 1976, acting on information provided by intelligence agencies, a task force of FBI, Pentagon, and Atomic Energy Commission experts went on alert while crowds gathered in Washington and Philadelphia to celebrate.

Their job was to check out a report that a group of terrorists planned to spray deadly plutonium over a crowd of thousands of people who were waiting that evening for scheduled fireworks.

According to sources in the Department of Defense and the Department of Energy, this group of secret nuclear policemen roamed through the crowds in Washington and Philadelphia, searching for the radioactive substances. Their briefcases concealed geiger counters. They flew in helicopters with equipment that scanned the crowds for hot spots.

Finally, the group, known as the Nuclear Energy Search Team, or NEST, told intelligence officials that their instruments did not register any plutonium in the knapsacks or picnic baskets on the capitol grounds that day.

Greatly relieved, officials decided that the threat of nuclear terrorism had been an idle boast in the underworld of American subversives. The official term was "apparent hoax."

Officials continue to operate with the hope that no underground organization would combine the technical skill, the manpower, the nuclear material, and the desire to kill thousands of people to make their point.

But the threats already faced are enough for a government wide effort to build defenses against nuclear terrorism. In addition to incidents such as occurred at the Bicentennial celebration, there is evidence that on several occasions a terrorist wanting to kill great numbers of people has appeared in this country.

Details of most of these incidents remain classified, and reportedly none of them involved a person with nuclear materials or a nuclear device.

However, a senior official at the FBI told The Tribune that one of the most frightening incidents involved an Arab of Iraqi descent named Khalid D. Al-Jawary.

Al-Jawary entered the United States in the early 1970s by crossing the Canadian border and settling in a small town in upstate New York.

"He moved into the singles scene in that town," said the intelligence official. "He hung out at a beer-and-pizza joint and became one of the crowd.

"He liked to take girls up in small planes. He took flying lessons at the local airport and worked at an ordinary blue-collar job."

One Friday afternoon, "Al" did not show up at the beer joint. He went to Manhattan instead. There he rented three automobiles and packed them with explosives—tanks of propane gas, dynamite, even black gunpowder.

He parked two of the cars on Fifth Avenue in the shadow of the Empire State Building and abandoned them.

The third was parked outside the Israeli El Al Airlines terminal at Kennedy airport.

The two bombs in Manhattan were near the hub where major subway lines pour traffic into the Garment District and department store center of the city. Hundreds of thousands of people were within range of the bombs.

The plot fell apart, the FBI official said, because the terrorist hired a hoodlum to park one of the cars. The man discovered the explosives and decided the job was more than he had bargained for.

A frantic police search found all three autos before they could explode.

The FBI tested the explosives by detonating them and learned each car would ignite a fireball 200 feet in diameter and 100 feet high.

"Al," intelligence officials learned, was a member of the Palestinian terrorist group, Black September. CIA reports indicate he lives today in Iraq.

"That was just one probe," said the FBI official. "There are others we know about and certainly some we don't know about."

Another FBI official, Sebastian Mignosa, chief of the terrorist section of the bureau, said that like Jenkins, FBI scientists have found a fine line between people who win medals on the battlefield and those who court the gallows.

In some cases the line is psychological. In other cases it may be political.

"What the Israelis see as a terrorist, the Arabs see as a freedom fighter," Mignosa said, citing his experience at Interpol meetings.

Nobody knows absolutely who will become a terrorist, and the government trusts the terrorist profiles only within limits. They also try to use what Tom Isaacs, deputy chief of nuclear weapons at the Department of Energy, calls "intelligence and ordinary good sense."

"Frankly, it's irrelevant whether somebody was or wasn't loved by their mother and therefore they became a terrorist," said Isaacs, who delves into the psychological profiles of a terrorist as part of his job helping protect the DOE's massive nuclear complex.

"My job is to design a system that prevents any of these people from entering and doing great damage to the system, and more important than that, great harm to the public.

"Our job, if we're successful, is for nothing to happen," Isaacs said. "That makes it hard for people to believe what we're doing is so important. But if tomorrow there is an incident, they'd be all over my fanny, saying, 'Why didn't you do more?' "

Because nobody has held a city hostage with an atomic bomb or threatened to spray plutonium over the Super Bowl, government officials feel that somebody must forecast what such terrorists might be like.

For this kind of official prediction, the Department of Energy spends about $200,000 a year on studies like the one at Rand.

What Rand has decided, and what it will report this summer to the Department of Energy is that the threat of a nuclear terrorist attack is increasing, in part because of such incidents as the Three-Mile Island nuclear accident in Pennsylvania.

"It's a signal event, a catalytic event," said Jenkins, who will put the report together with Konrad Kellen, Joseph Krofcheck, Gail Bass, and Bob Reinstedt at Rand.

Jenkins says people are being reminded that nuclear materials kill people.

The word "nuclear" now provokes fear, and fear is the raw material for terrorism, he says.

Jenkins and his team wrote 18 months ago in their first report to the DOE that there was a "subtle escalatory trend" in nuclear incidents that should worry anyone trying to protect the country from a terrorist with a nuclear bomb.

"It's not so subtle anymore," Jenkins said recently. "Things get blown up. Stuff goes out the back door and even the front door. That's not so subtle. It's real. All the things that people were simply discussing a few years ago are happening."

Meanwhile, experts on terrorism—those at the think tanks like Rand—are scanning their computers, looking for psychological, political, or sociological keys to help them predict what they hope will be impossible: the arrival of the first terrorist holding a nuclear bomb.

It is a rough, uncertain business. Until recently the institutional lore was that by studying past acts of terrorism, experts could predict the future. The lore has changed.

"It is important for us not to focus on yesterday's headlines," Isaacs said. "There is a tremendous inclination to look at terrorist groups in a certain way—depending entirely on what they did in the past.

"This is not a static situation. Adversaries change with the times. Their intentions change with the times. Their targets, their methods change with the times.

"It is very, very important to look at any potential group whose code of ethics and whose lifestyle are so different they may find reasons to cross that barrier and indiscriminately kill thousands or hundreds of thousands of people," he said.

For Isaacs and the nuclear seers, this new pool of subversives may include members of some strange cult. The nuclear terrorist they fear could be a Jim Jones who wants to wipe out New York City instead of a small village in Guyana.

"Frankly, it is a potential threat, and I don't say it is a threat I can give you hard data on, but we see this fascination with the end of the world with these kinds of groups," Isaacs said.

"If some Jim Jones-style cult had the perverted view that they were the chosen people or that they could somehow survive a nuclear devastation and start over, that could be the small germ that would become a nuclear act."●

OVERSEAS MILITARY CEMETERIES

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. ROBERTS. Mr. Speaker, some months ago I had the privilege of visiting several of our memorials and overseas military cemeteries. It was a moving experience to witness, firsthand, a very tangible reminder of the sacrifice of thousands of Americans who fought and died in defense of freedom on foreign soil. My visit also gave me a great sense of pride in our country to see how carefully designed and beautifully maintained these sites are. Through our national cemeteries, we not only pay tribute to those who died on foreign soil in defense of our Nation, we acknowledge as well the sacrifices made by more than 30 million living veterans in the United States today.

We continue to appreciate the excellent work of the American Battle Monuments Commission whose job it is to operate these national monuments throughout the world. In this regard, I would like to share with my colleagues a letter the Commission recently received from an individual who visited the grave of her brother at our military cemetery in Epinal, France:

MASPETH, N.Y., *August 11, 1979.*

Col. WILLIAM E. RYAN, Jr.,
Director of Operations and Finance, The American Battle Monuments Commission, Washington, D.C.

DEAR COLONEL RYAN: Back in 1975 we wrote to you concerning a visit to the grave of my brother, Thomas J. Davey, at the Military Cemetery in Epinal, France. At that time you sent us marvelously detailed information, but unfortunately some unexpected and large expenses prevented our taking the trip at that time. But this year we were able to, and again you were most helpful in sending the proper authorization letter for my passport and the up-to-date pamphlet. For all this, I thank you very much.

I used the pamphlet for the address of your office in Paris, arranging to have flowers placed on Thomas's grave, and for asking a few questions concerning our Paris arrangements. The response from Administrative Officer James K. Lyons was immediate, helpful and informative beyond anything I either expected or hoped for. Unfortunately our time in Paris was limited to only one day after our cemetery visit or we should like to have visited the office just to say thank you.

I also wrote to the Superintendent at the Cemetery with some questions about Epinal. Again, the letter from Mr. Antonelli was most helpful and informative. As for the visit to the cemetery itself, well, my vocabulary isn't extensive enough, nor are there enough superlatives in the dictionary to truly express our feelings. During our stay in Epinal (where no one seems to speak English) we three Americans had a wonderful time and found the people there friendly and helpful; but if Mr. Antonelli is the only American they see on a regular basis, I can understand why they were friendly: he is certainly a marvelous "ambassador" for the United States. He and his assistant, Mr. Cheek, couldn't have been more thoughtful, kind, understanding, helpful or friendly. We had the pleasure, too, of meeting Mr. Antonelli's wife, and both of them have to be the most friendly and hospitable people in all of France!

Thomas was my very much loved only brother. For 34 years I've wondered if it was right to leave him overseas (and my parents wondered likewise during their lifetimes). My visit has set both my mind and heart at rest. The cemetery, in so lovely a setting, is beautiful and so meticulously maintained. The annual Memorial Service is better attended than anything this side of the Atlantic; and while we were there (on a Monday and Tuesday) there were several groups of local people just "making a visit." My brother and his comrades won't be forgotten, I am sure.

Since my return I've told my travel agent (as well as my traveling friends) that an American Military Cemetery should be included in the things to see overseas. Not only for the obvious reason: we too often forget that our freedom to travel was assured at a very high cost of lives—a detour to say "we remember" shouldn't be too much to ask. But since my own visit, I think there are two reasons just as important: to feel awfully proud to be an American, as one sees how these small bits of America are so beautifully designed and maintained; and to feel a good bit of satisfaction as we see that one part of the American government (or however you may wish to express it, the A.B.M.C., really is doing its job not only well, but superlatively well!

I am quite active both in my community and in the American Legion Auxiliary and know from my experience and that of others that letters to "officialdom" are seldom answered; if they are answered, the response is never to the questions asked; and that more thangs are done carelessly or not at all than are done as they should be. So even though this letter is very long, I just had to write and through you, to commend the A.B.M.C. on all levels: Washington, Paris, and Epinal for its marvelous work. As an American, as a taxpayer, and most of all as Thomas' sister, I am deeply grateful to everyone involved.

Hope you don't mind, but I'm sending copies of this letter to Mr. Lyons and Mr. Antonelli so they know I appreciate their help. And also to my Congresswoman: I'm sure she will be glad to get something that isn't a complaint!

What could have been a sad and depressing trip was a sentimental, reassuring and memorable one instead and my husband, young son and I thank all of you for making it possible to write that.

Sincerely and gratefully,
FLORENCE DAVEY ALBRECHT.●

ROSH HASHANAH

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. ANDERSON of California. Mr. Speaker, tonight marks the beginning of a new year—5740 on the Jewish calendar—with the observation of Rosh Hashanah by our Jewish friends and colleagues. This holiday heralds the start of a 10-day period of self-examination, so man can consider the relationship he has with God and, possibly even more importantly, his relationship with his fellow human beings. While this 10-day period formally ends with the observance of Yom Kippur, actually it is meant to be ongoing. However, this span of time should also be a joyous one. Man can regret certain thoughts and actions committed against his neighbor, but he can also realize those who have enriched his own life and be thankful for them.

One of the most honorable of the good deeds one can adhere to, especially at this time of year, is that of charity—helping others. If this is accomplished by word or action, we are then able to thank God for what he has given us, as well as the ability to give to others. Thus is the cycle of life continued, symbolized on Rosh Hashanah by a round loaf of challah, a festive bread.

Man is brought full circle when he is asked to consider his role on this earth. We can therefore take this opportunity to consider the plight of those Jews around the world whose ability to rededicate themselves to God and man are hampered by outside forces. The list is never-ending—the Soviet Union, Iraq, Syria, Iran, and all too many others. In this time of renewed hope for peace in the Middle East, let us not forget the ashes of Auschwitz, reminding us of the Jewish struggle for existence, human justice, and the dignity of human life. With these thoughts in mind, let us strive to maintain those precepts.

Mr. Speaker, Rosh Hashanah comes at a time of change in seasons. Blithe summer gives way to the brilliant colors of autumn. New business is considered; value and goals are reexamined and redefined. We can all easily prescribe to this, with the fervent hope that our reflections and prayers, and those of our friends celebrating Rosh Hashanah, will be answered.●

AMERICAN COURAGE

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. DONNELLY. Mr. Speaker, I would like to include in today's CONGRESSIONAL RECORD a copy of an address delivered by Rear Adm. Paul J. Mulloy, U.S. Navy Commander of Patrol Wings, Atlantic. Admiral Mulloy's remarks were given before a Memorial Day ceremony sponsored by the John P. McKeon Post, No. 146 AMVETS in Dorchester, Mass., and I have just received a copy.

The sentiments expressed in Admiral Mulloy's speech should be cause for reflection to my colleagues, especially at this time when we are considering before this House, matters which will dictate the course of U.S. foreign policy:

ADDRESS BY REAR ADM. PAUL J. MULLOY

It is a great honor and deep pleasure to be included in these fitting proceedings—activities which commemorate those who have paid the ultimate sacrifice for our beloved country in war and in peace. It is an honor, for I have experienced in combat and uncertain peace the loss of Navy and Marine shipmates and proudly salute their memory. And so, it is indeed proper that we Americans, as all civilizations of merit, honor our dead—especially those who—fighting in battle—perished that we and our American values may endure. It is right—lest we forget—to remind ourselves, and especially those who are serenely indifferent or worse, that our freedoms, our way of life did not, and does not, come without sacrifice, including life itself. In fact, in the past, self-sacrifice was a renown social element of the American character—extolled early by Emerson as self-reliance. Even now, our American generosity is still rightfully legend. As we honor, let us not forget what we should have learned from their sacrifice. Does it take the loss of precious lives to rescue from mortal danger each time? Can't we be so prepared that peace and lives are guaranteed from assault by would-be predators. Those who died did not do so that we would soon follow—no, I believe the idea of the war to end all wars was not just a poet's dream of a warrior's anguished cry. They died trusting their sons would never have to do likewise. Each time we don't remember, we soon forget, and painfully learn again. Let us not forget. Use their deaths to keep faith with the living—not just today but everyday.

I share with Alexandr Solzhenitsyn—who, I understand, gave a learning lesson at one of our closeby distinguished universities last June—I share with him, concern, that there is an erosion of courage—especially moral—and avoidance of responsibility—among some in influence in the West. The trend toward legalistic interpretation of what is within the letter of the law rather than the moral basis of what is right or wrong is character corrosive. Our country's very motto proscribes in God we trust. I submit we can trust in God if we restore what is morally right more than what is legally correct. I do not subscribe that Solzhenitsyn's criticism—and in particular that of the carping cynics who lead us in harm's way—usually from the rear—that such erosion of courage could include the professional leadership and membership of your Armed Services. Quite the contrary! I stand here today to honor our departed—yes, but also our living men and women of all services. To emphasize their performance, I recall that as a young student in a nearby institution of disciplined learning, I was exposed to a stirring opening line in the Aeneid by the poet Virgil: Arma Virumque Cano, "Arms and the Man I Sing." In his description of the deeds of heroism of the men of arms of that mythical era, I did not understand, then, why he chose the verb cano—that is, I sing. With thirty plus years of watching the outstanding accomplishments of our own men and women in the noble profession of arms, I now clearly understand such an exact and appropriate ringing word. Even though I concede that with all professions and men there are abuses, by an overwhelming margin the account of service to country I witness is one of which I sing and of which you, too, can be proud and confidently reassured. Materialism and mediocrity are not in any plan of the day. I have observed superb performance in combat, at sea—on duty and off. It is professional, innovative and warmly American. Unlike the distortions and doubts sown frequently today—often with benevolent malice—theirs is true self-sacrifice—giving. More than they receive—not like that of their decriers, who have split the meaning of self-sacrifice into—the interests of self at the sacrifice of others.

My most recent four years in command with the matchless troika of sailors, ships and the sea were equally convincing. The dedication, professionalism, pride and performance of your sailors and marines were nothing less than outstanding afloat and ashore. Twelve to eighteen hours per day were often routine seven days a week; for at sea, not just the legalistic terms of man, but the laws of God impose constant vigilance in that domain—and while so doing, we also kept a watchful eye on our Soviet counterparts. We operated with other nations' armed forces in northern Europe, the Mediterranean and the Caribbean, sharing together with neighboring nations' armed forces the common heritage of faiths, customs and the enduring strength of western cultures and civilization, and ashore, your men's behavior and generosity to others in need were heart warming and well respected.

During this past decade, you, here at home, have seen our Navy modernize from one of 926 ships in 1969 to 455 in 1979. We're smaller, yes, and that is of growing concern; but otherwise we are indeed better materially, weapons system-wise and particularly with the skills and dedication of our American youth. I'm sure there is no comfort in our decreasing ship numbers, for the challenges of the eighties to this island nation are awesome. Energy, resources, trade, interdependence—all require freedom of the seas. This freedom is quintessential to our very existence—to our survival. We must again sacrifice to remain sufficiently strong to meet the challenges. We must build more of the military means to convince those who wish us in harm's way not to miscalculate. Most assuredly, we must build in quality even over quantity to maintain our thin margin of maritime superiority. And as an aside I might add you will see that sheer demographics dictate that our extraordinarily capable women will share an increasing role in the armed forces to meet the challenges as society competes for the fewer men available in the eighties.

But beyond military power, however, we must demonstrate the resolve, the moral courage to do what is right because it is right to do so. That quality imparts real strength to the physical presence of power and influence of diplomacy. Central to the challenges mentioned is Soviet Russia and their Godless doctrines. For your Navy knows well that since the Cuban Blockade, the Bear has learned his lesson. He has learned to swim. He has invested enormous resources and sacrifice to fleet a first class deep water navy, which daily increases in size, versatility and professional competence. Russia, epitomizing MacKinder's continental heartland of naturally abundant resources within his borders and those of his unwilling satellites, is worrisome with his commitment to a large ocean-operating navy. This projection of power is not without significant influence in the Third and other worlds and is of deep concern to our allies. Even with the heartland he, too, by about 1982 must reach outside for that industrial lifeblood—oil! Even so, I ask you if the sea is vital to us and not to him, why is he rapidly building an ocean-going and challenge-capable navy? I cite these facts not for alarm but for our awareness and somber reflection. Just as with a frequent and honest use of the public address system aboard ship, a well informed American citizenry, like a well informed American crew, can confidently cope with any challenge and strap on the load that's required.

As we honor our departed, then let us not forget to remember that lack of proper preparedness and resolve have frequently contributed to conflict in the past. The Call to Arms is the last call desired by the true professional. As a leader—not just a manager—he knows first-hand the absolute costs measured in terms: not in profits—not in things—but men's lives. The concerned citizen in or out of uniform also, I believe, would prefer convincing credibility to tempting uncertainty. Let us remember then that the sacrifices of those we honor today especially—and those of your people now on guard, convey an earned trust. Stay strong! Engender real values in our children. Let us meet the obligations, not just the rights, implicit in real freedom. We in service will keep the faith in meeting our responsibilities to you and the constitution. Rebuke the permissive cynics and naive sophists who ceaselessly flood us with what's wrong with our country when that which is noble, is indeed real—is good—is abundantly present and is also serving with steadfast honor around the world. In response to just criticism, I suggest that we individually square ourselves away by first reducing the magnitude and abuses of the vertical pronoun and restoring our ethical/spiritual values; then the collective ills of our society will be easier to engage and cure.

As I mentioned earlier, being with you today is not only an honor, it is also a genuine pleasure for me to share these tenets with you as I share also the pleasure of returning home—here to the great metropolis Boston. When one speaks of an environment that is clearly American, how fortunate it is to have been brought up in this cultured citadel of American heritage, individualism, and indeed sacrifice. Is it any wonder that you can take the man out of Boston but not Boston out of the man!

Lest we forget, just look around at our immense proximate heritage, successfully defended by generations of Americans such as those we honor and yourselves.

Believe me, it has been easy indeed to share that heritage first hand with our sailors and marines in order to encourage their pursuit of personal and professional excellence. It was humbly proudful to reflect this heritage and its commitment with countless acquaintances and guests on your ships and aircraft while visiting other nations around the globe. It was always stirring and a great source of pride to hoist our stars and stripes in foreign ports knowing that that glorious symbol is nobly reflected in the past and present constructive actions of Americans in and out of uniform. Among the knowledgeable, our flag is truly viewed with deep appreciation and trusting reassurance.

In closing, and in support of your witness today, I am reminded of words carved on a monument which as a young boy I passed by each day in Belmont. The confidence expressed is eloquently simple and of timeless value as Ralph Waldo Emerson's genius presciently intended it to be when he penned it. He wrote:

> As night as grandeur is to dust
> So near is God to man;
> When duty whispers low thou must,
> The youth replies "I can."

Lest we forget: They did—and they do—I submit they will again if we forget why!

Thank you.●

OGURTSOV'S MOTHER APPEALS TO SAVE LIFE OF AILING SON

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. McDONALD. Mr. Speaker, on June 29, 1978, I placed in the CONGRESSIONAL RECORD an appeal on behalf of Igor Vyacheslavovich Ogurtsov (page 19752), Russian Orthodox Christian, who has suffered for some years in the Soviet prison camps for his religious and political beliefs. Subsequently, I circulated a "dear colleague" letter and a number of my colleagues joined me in addressing an appeal to Chairman Brezhnev. No response was ever received from Chairman Brezhnev. Recently, a new magazine, the Orthodox Monitor, which is a bimonthly publication devoted to news of persecuted Orthodox Christians, published an appeal from Ogurtsov's mother to save the life of her ailing son in its July–August 1979 issue. Ogurtsov's situation has not improved since I mentioned him—in fact it has gotten worse. Therefore, since this matter should remain under the heading of unfinished business, I am placing the appeal in the CONGRESSIONAL RECORD for the benefit of my colleagues:

OGURTSOV'S MOTHER APPEALS TO SAVE LIFE OF AILING SON

A Letter to the International Association of Physicians:

I, Igor Ogurtsov's mother, turn to you—Save our son!

It is already the thirteenth year that he has been languishing in prison and he is gravely, seriously ill. However, his health is at a stage where, perhaps, it is still possible to save him.

His illness is very serious. It is building up to complete organic destruction. Hesitation in supplying the necessary medical help threatens us with the loss of our son.

For seven years beginning in 1967 he has been imprisoned in Vladimir under very difficult conditions, and this is the sixth year that he has been in one of the Perm prison camps (VS–389/35).

His health, debilitated by his seven year imprisonment, has steadily worsened and has become especially catastrophic during the last year.

He writes us that the last year has been harder on his health than the former eleven years.

We, his parents, are helpless to come to his aid.

They are not giving him medical treatment in prison. They don't even have a diagnosis of his illness there.

The will not even free him from his work as a furnace attendant, work that is beyond his strength.

For the entire last year our son has been working with great difficulty, overcoming incessant circular pains in the abdominal cavity, loins and hip bones. Prison food is extremely meagre, as is prison camp food, although there it is more plentiful, but for all practical purposes without vitamins (in the form of fresh vegetables and fruit, which are unavailable). This fact as well as difficult conditions, repression under the form of deprivation of packages for the last two years (one 10 pound package is allowed per year), confinement in a cell or PKT (a prison within the camp), have contributed to a series of serious illnesses.

We have consulted with medical specialists in Leningrad, who, on the basis of the symptoms described by our son, have come to completely distressing conclusions.

They suppose the following diagnosis:

First. A leaching out of calcium which is leading to weakening of the bone structure.

Second. Sinking of the stomach and intestines.

Third. Infectuous mononucleosis

I think that this is entirely sufficient to incapacitate any man even in normal conditions, but our son is already serving his 13th year in prison and still has 8 more years of deprivation of freedom (he was sentenced to 20 years).

Our son is perishing. He is at the limit of human endurance and will not survive the remaining eight years if no one helps him.

If help and medical treatment will not come in time, we will lose our only son. We do not know how, or to what extent, you can help save our son, but we ask you to do the following:

First. Take him under your international surveillance.

Second. Petition the Ministry of Internal Affairs (MVD) of the USSR to place him in the Gass MVD hospital in Leningrad.

Third. Petition the MVD of the USSR about the possibility of our observing the health of our son.

Fourth. Petition the MVD of the USSR about the possibility of doctors not in the service of the MVD, but invited by his parents, to participate in establishing a diagnosis.

Fifth. Petition the Supreme Soviet of the USSR to consider our son seriously ill and to mitigate his situation.

EVGENIYA MIHAILOVNA DEREVENSKOVA,
LENINGRAD, U.S.S.R.●

TAXBELT VERSUS GROWTHBELT

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. SHUSTER. Mr. Speaker, for those of us who care deeply about the prosperity of Pennsylvania and the surrounding region, a very disturbing and thought-provoking analysis appeared in today's Wall Street Journal.

I commend it to my colleagues for their consideration:

TAXBELT VERSUS GROWTHBELT

Demography has a place in explaining the growth of the Sunbelt, but the crucial insights, the clues to what factors have most helped or hindered growth, have to be sought in specific acts of political units. To understand the Sunbelt, you have to look at state government. Not many researchers do that, we've been surprised to find; the state isn't a fashionable unit of economic analysis. But when you compare state policies and economic performance, side by side, North and South, a simple yet startling pattern emerges.

This approach is so little used that uncertainties arise about measuring even the basic health of state economies. Unemployment rates, for instance, can jump up and down depending on state rules for eligibility. Each state has quirks of geography and resource base that complicate comparisons. But look at the results you get anyway from measuring two sets of neighbors, Massachusetts against New Hampshire and Louisiana against Texas.

For nearly two decades, New Hampshire has grown beyond the national rate. In recovering from the 1973–75 recession, it was the only Northeastern state to outperform an index of national income change prepared by the U.S. Department of Commerce, and it did so by 21 percent. But Massachusetts, the economic center of New England, has stagnated, falling 14 percent below the national recovery rate on that same index. New Hampshire's population has grown 15 percent since 1970, nearly 10 times the rate of Massachusetts, yet the unemployment rate in the Granite State now is less than half that of the Bay State.

Both these states have cold winters and high energy costs; in fact, New Hampshire's are the worse. So why does it look like a "Sunbelt" state compared to Massachusetts (and to the entire Northeast)? As Boston's premier economic journalist Warren T. Brookes was the first to argue, the answer lies in tax burdens. Massachusetts ranks near the top in any list of state tax burdens (defined as total state and local tax revenue in relation to state personal income), New Hampshire ranks near the bottom.

The story continues when you compare Louisiana and Texas, two "Sunbelt" states rich in oil and gas but until recently sharply divergent in their growth. From 1970 to 1975, Louisiana was the only Sunbelt state with net out-migration. Its population grew 4.1 percent only by natural increase. Yet Texas grew by 9.3 percent, with a net of 409,000 newcomers. From 1960 to 1974, Louisiana's unemployment ran higher than the nation's and often half again as high as in Texas. At the same time, thanks to the populism of the Longs, it carried the highest Sunbelt tax burden.

But something has happened in Louisiana in the last four years. In 1975, its unemployment rate dipped below the nation's for the first time in years, and personal income and industrial investment started to grow sharply. So New Hampshire and Texas grow while Louisiana and Massachusetts don't, and then Louisiana starts to grow. Puzzle this out and you may have the key to the Sunbelt.

There are partial explanations, of course. Louisiana's capital-intensive energy industry weathered the recession better than most. Or, in 1976 the state passed a "right-to-work" law, last in the Sunbelt to do so. And a puzzle remains. The state's tax burden remains high. Yet the partial explanations are more symptom than cause, and the puzzle leads us one step on. The state's tax burden may be highest in the South and second in the Sunbelt only to Arizona, but its rate of change is dramatically headed down. From 1975 to 1977, according to the latest yearbook from the Advisory Commission on Intergovernmental Relations, the state's tax burden fell by 3.8 percent a year, the second sharpest decline in the nation.

The importance of tax burden rates of change has been underscored by a few scholars in recent years, but the clincher comes from two economists at Chicago's Harris Bank, Robert J. Genetski and Young D. Chin, who last November released a study making state-by-state comparisons for all states. They first tried a statistical test of the relation between relative state economic growth and state tax burdens from 1969 to 1976. There was no match. Then they related economic growth to the change in tax burden. A loose fit emerged. Then they allowed a three-year time lag to let the tax change take effect. And here they found an "extremely strong relationship," so strong in fact they concluded that each 1 percent increase in a state's relative tax burden would depress its income growth by ½ of 1 percent.

The implications are enormous. Proof is at hand and more can be obtained to show that the Sunbelt is no geographic fluke, that states have more control than liberals care to admit over their economic and social destinies. The real issue is no longer Sunbelt versus Frostbelt but Growthbelt versus Taxbelt. In these conditions, the road to social progress lies more with Howard Jarvis than with all the partisans of active government.●

ALASKAN OIL IS NEEDED IN THE UNITED STATES

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. YOUNG of Missouri. Mr. Speaker, the Export Administration Act amendments before us today are of vital importance to the energy future of the Nation. When the issue of development of Alaskan oil resources was first raised, and during discussion of possible pipeline routes, the oil companies assured Congress and the American people that Alaskan oil would be reserved for American use. We must insure that this promise is kept.

There is already a deep and growing suspicion of oil company intentions evident among our constituents. How often does the question arise—are the oil companies acting in the national interest, or merely for their own corporate benefit? The answer to that question is, to be generous, debatable. Passage of the Export Administration Act amendments will help to insure that the oil companies will act in the national interest, that pipelines will be built, refining capacity increased, and America's oil kept where it belongs—in our own country.

Aside from the question of oil company intentions, the exchange of Alaskan oil for foreign-produced oil, whether the swap is negotiated with Japan or another country, raises important questions of security of supply. Although it might be argued that any agreement could be terminated if foreign supplies are cut off, such a termination process is likely to be lengthy and complex. We have already learned through hard experience the effect which "interruptions" of foreign oil supplies have on the American economy and the consumer.

Forbidding the exchange of Alaskan oil will not solve our energy problems. It will, however, represent one further step toward energy independence, and it will demonstrate to the oil companies that Congress expects action to fulfill the promises that have been made.●

WOMEN IN SCIENCE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. OTTINGER. Mr. Speaker, these days, when we are growing more and more aware of the infinite importance of every kind of resource, it is astounding to reflect that in some fields we are failing entirely to use the full human resources we do have. In science and in technology, we are using only half the human skills and talent potentially available to us. The fact is that there are virtually no women in the higher levels of these fields.

Proportionately, we are training no more women for doctoral degrees in the sciences than we did in the 1920's. Women comprise only one-tenth of 1 percent of engineers, only 2 percent of physicists, only 5 percent of chemists. In sum, half our population can contribute little to our scientific and technical progress due to a lack of training and opportunities. This situation is deplorable.

To rectify this condition, I have introduced a measure, H.R. 5305, to initiate a 10-year program to enhance the possibilities for women to pursue careers in science and technology. The bill, originally introduced in the Senate by Senator KENNEDY as S. 568, provides for—

Funding to encourage women to undertake scientific and technical careers;

Research and information programs to help women embarking on scientific and technical careers;

Programs increasing public awareness of the importance of women in the scientific and technical work force;

Incentives for individuals and institutions demonstrating a record of achievement in encouraging women to study science and math and in providing employment opportunities for women;

Reporting procedures to identify problem areas and to measure successes; and

Enforcement procedures to ascertain that there is full compliance with equal opportunity laws applicable to the sciences.

This legislation will begin the slow but infinitely productive process of making all the human resources in our society available for our society's improvement. I hope this measure will receive wide support and invite my colleagues to cosponsor it.●

A SALUTE TO "MR. FAIRFIELD"

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

○ Mr. MINISH. Mr. Speaker, on next Friday evening, September 28, the community of Fairfield, N.J., will pay tribute to a dedicated and popular public official.

On that date, Harold Courter, affectionately known as "Mr. Fairfield," will be honored by the people he has served so long and so well.

Mr. Courter retired June 1 after 17 years as Fairfield's municipal clerk. He had previously served the borough for more than 35 years as mayor, councilman, and planning board member.

At this time, I wish to insert in the RECORD an article from the Chronicle of Fairfield, which pays tribute to Mr. Courter's service to his community. I also wish to offer my hearty commendations to him for this richly deserved honor.

The article follows:

A SALUTE TO "MR. FAIRFIELD"

(By Garry Herzog)

"For the first time I can remember," Reuben Appet told us during a recent conversation, "every group and organization in Fairfield has united, cutting across all barriers, to pay tribute to one man."

And that man is Harold Courter.

A public official in Fairfield for more than thirty-five years, Harold Courter combined accessibility, charm and integrity into a style that touched and impressed everyone he met. Fairfield will acknowledge his many contributions in "A Salute to Harold Courter", on Friday, September 28th.

Fairfield Council President Ronald H. Carr will present Harold Courter with a plaque on behalf of all the organizations sponsoring the event. Further honors are expected from the Clerks Association, presented by the Association's president and West Caldwell Clerk, Don West.

Assemblyman Frederick Remington will attend the salute, and Congressman Joseph Minish and the clergy have been invited. And in an especially important tribute, Assemblywoman Jane Burgio will bear a special Proclamation from the New Jersey Assembly, honoring Mr. Courter for his many years of service and dedication.

At the center of this public expression of praise and affection is a man whose quiet, carefully reasoned approach to politics and government leaves him a bit uncomfortable with honors and accolades. In fact, Harold Courter suggests that the honors should properly go to his wife, Emma Mae Courter. "She was in the thick of every political campaign going," Harold says. "On top of that she always had my meals ready and my coats clean. Without her, I'd never have been able to put in thirty-five years of public life."

The former Emma Mae Cable was named for her grandmother and, like her, prefers to be called simply, "E.M." The Cable family has long played a role in Fairfield's history. E.M.'s great-grandfather, the Reverend Daniel Cable, was this area's first veterinarian and is buried in the Fairfield Cemetery. E.M.'s grandfather was born in the Cable House on the Scipio tract on Big Piece Road, site of the planned municipal pool. Her grandmother, Emma Ward, grew up in a house directly across Big Piece Road from the Cable House, where E.M.'s father was born. He went to school as a boy in the building where the Fairfield Reformed Church now holds its Sunday School.

Harold and E.C. Courter had three daughters. Diane Courter died tragically in 1965 at the age of 23. Carol Courter, now Mrs. Hugg, lives in Caldwell; Judith Courter, now Mrs. Ulman, lives in Clifton. Harold and E.M. have six grandchildren.

The Courter family name appears on the earliest maps of this area, made in the 1700's. Harold Courter was born in Montclair but moved to Fairfield before he was a year old. He's lived in Fairfield ever since; today, it's generally acknowledged that in fact Harold is "Mr. Fairfield."

Harold was first appointed to the Township Committee in 1942, where he served with Helen Law and Stephen Mowrey on the three-member governing body. He stayed on through 1955, including several terms as mayor. In 1956 Harold was appointed to the Planning Board, where he served until 1962, the year when Fairfield switched over to the five-member governing body system, and also the year when Steven Szabo was elected mayor. In '62, Harold was named Municipal Clerk, a post he held for 17 years until his June 1st retirement this year. His assistant, Janet Lemley was named as Harold's replacement.

Harold received a commemorative plaque from the Mayor and Council on July 2nd "in sincere appreciation of his dedicated service," and was honored as the Grand Marshall this year for Fairfield's Independence Day Parade.

Now, on September 28th, more honors and expressions of gratitude are to come. And although Harold Courter, always a trifle uncomfortable in the spotlight, claims he doesn't "Know what all the fuss is about," those who have worked at his side certainly do.

In a recent Chronicle feature, Editor Anne Harte called Harold Courter "a limitless source of information, from town to state rulings; a provider of special assistance to all who have needed it; a fount of knowledge and remembrances of times past in the town he has loved, and served so well; a friend." Fairfield will not soon forget Harold Courter, nor the debt of thanks it owes him.●

PROPOSAL TO INCREASE THE NATIONAL DEBT DEFEATED

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. SHUSTER. Mr. Speaker, the structure of the vote defeating the majority's proposal to increase the national debt—200 to 215—sends a very clear message to the American people.

One hundred and forty-five Republicans—98 percent of the Republicans—voted against increasing the national debt. However, 197 Democrats—74 percent of the Democrats—voted in favor of increasing the national debt. So once again the record is clear—Republicans fight to limit Government spending while Democrats continue to be the big spenders.●

YOUNG CHAMBER GUIDES MEXICAN BUSINESSES

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. MURPHY of Illinois. Mr. Speaker, I wish to call to the attention of my colleagues an excellent article that appeared in the Chicago Daily Calumet on September 8. The article recognizes the many valuable contributions that the Mexican-American Chamber of Commerce have made to the south Chicago community. I am very proud to have such a hard-working organization in my congressional district.

The article follows:

YOUNG CHAMBER GUIDES MEXICAN BUSINESSES

(By Susan DeMar)

"We all are independent businessmen with independent ideas, but we get together in time of need."

This need is the common bond that brought many South Chicago Mexican businessmen together to form their own chamber of commerce.

As stated by Jose Beltran, of Steel City National Bank and first president of the Mexican American Chamber of Commerce, these merchants are learning more about each other and how to assist one another.

"We are not building an organization on dreams, but on solid, individual ideas," stresses Beltran.

The officers and members of this organization are proud of what they have accomplished in their two and a half year existence.

New officers and directors for 1979–80 will soon be installed—appropriately on Mexican Independence Day, Sept. 16.

Ceremonies will take place at a banquet that Sunday evening at the Villa Cosenza.

"This coming year, we will really move forward," declares new president Carlos Martinez, of La Capital Food Mart, 107th and Torrence.

"We have already laid the foundation on which to build," observes secretary Roberta Romero Lestinsky.

The chamber's formative years are particularly noteworthy.

"One of the best accomplishments is that the Mexican businessmen now know each other. We have met a lot of people through this association," cites Beltran.

"Before, we didn't realize what each other was doing. We had only a few acquaintances," he says.

"We're trying to keep the businessmen together and informed," Martinez adds.

"We wanted an organization to better the area, one that would address our concerns," points out Hector Sanchez, of Hector's Foods, 8801 Escanaba, and chamber treasurer. "We felt left out of the South Chicago Chamber of Commerce. Mexican businessmen are unique. They have different problems."

It is these problems the Mexican-American Chamber plans to tackle.

Primarily, language is the main obstacle.

Some of their members don't understand English, they point out. Consequently, this language barrier brings on other problems for them, says Romero-Lestinsky, such as understanding license and tax forms.

"Bureaucratic paperwork is a big problem," according to Beltran. "Many businessmen get taken because they don't understand the differences in the taxing methods, such as a corporation or a proprietorship."

In the past month, the Mexican-American Chamber has opened an office at 10614 Torrence, at the Centro Multi-Serv, and provides these types of services and assistance.

By offering such help, chamber officials hope that more businessmen will realize the benefits of joining the organization.

President Martinez and his new administration will soon be launching a membership drive with a goal of obtaining 100 members.

Currently, about 60 merchants are on its rolls, and it's estimated that there are about 150 Mexican businesses scattered throughout the southeastern area.

"One of our handicaps," notes Sanchez, "is that most of these people don't have the time to attend chamber meetings and other activities.

"Most of these are small, family businesses. Their business is their life and they spend a lot of time making it successful," he says.

"The average Mexican businessman works 14–15 hours a day, seven days a week. They have to work harder and try harder," Sanchez observes. "As much as they would like to attend meetings, often they cannot."

"You can't compare us to the South Chicago Chamber of Commerce. They've been in existence for many, many years. We don't have the clout that they do. It takes time to acquire that. Our problems are basically different," he says.

"We don't want to duplicate the social programs that others have," Beltran quickly adds. "We want to try something new. We're mainly interested in bringing new businesses into this area, we're trying to be more productive."

The Mexican-American Chamber has already showed signs of progress in these areas.

Encouraged by their chamber officials, numerous merchants have rehabilitated and remodeled their stores, inside and out.

"People say they are worried about the decadence of the neighborhood. Well, we're three times as concerned," Sanchez notes. "We live in this area. We're concerned not only about our businesses, but also our homes. If people don't like it here, if they're afraid to come out, we won't have a business. Our main concern is the consumer."

The Mexican-American Chamber joined in the efforts to help Wisconsin Steel obtain its $90 million loan recently, and had made several donations to area schools.

Martinez reports that they also plan to begin a scholarship fund for a Mexican high school student who is interested in pursuing a business career.

And, they're pleased to note, many new Mexican-owned businesses have recently moved into the South Chicago area on Commercial Avenue, where most of their members are located.

For the most part, these merchants start a business with their own capital, they point out. But Angel Martinez, of San Luis Restaurant, and second vice president of the chamber, believes one of the direct benefits of the chamber is that local banks are now paying more attention to them.

"People are starting to know we're here," says Romero-Lestinsky. "We're making noise."

"We want to make people aware of this chamber so it can be more effective," says Beltran.

Persons interested in learning more about the chamber, or its upcoming banquet should contact the office at 768-1415.

New officers to be installed are Carlos Martinez, president; Jose Pedraza, first vice president, and owner of the Standard Service Station, 83d and Exchange; Angel Martinez, second vice president; Romero-Lestinsky, secretary and broker at Centro Multi-Serv; and Hector Sanchez, treasurer.

Newly elected directors include Jose Beltran, Al Juarez, Nick Pelaez Sr., Sandra Reyes, Rogelio Villalobos and Sal Herrejon.

The installation banquet will begin with cocktail hour from 6 to 7 p.m., with dinner at 7 p.m., followed by dancing until midnight. Tickets are $25 per person.●

A MESSAGE FOR THE ANTI-NUCLEAR COMMUNITY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. BROWN of California. Mr. Speaker, the obvious growing strength of the antinuclear power community causes all of us, regardless of our personal point of view, to assess what our society would be like with no nuclear power. Many people predict disaster, others predict a better world. Both groups could be right, depending on what else we did while ending our use of nuclear energy.

One of the leading critics of our present nuclear power program, Dr. Frank von Hippel, recently addressed this question in an excellent editorial in the September 1979 issue of the Bulletin of Atomic Scientists.

I especially recommend that my colleagues, and those interested in promoting or eliminating nuclear power read this article, since it has been excerpted elsewhere, most recently in today's Washington Post.

The article follows:

[From the Bulletin of Atomic Scientists, September 1979]

WILL OUR PROBLEMS BE SOLVED IF WE ABOLISH NUCLEAR POWER PLANTS?

(By Frank von Hippel)

If we abolish nuclear power in the United States without bringing about at the same time fundamental changes in the ways that our society uses energy, we could end up in worse trouble than we are in already.

My greatest concern about nuclear power is that as soon as a nation has developed its technological infrastructure to the point where it can think about developing a civilian nuclear power program it starts thinking about having a nuclear weapons program as well. To the extent that I am anti-nuclear for this reason, however, I am also anti-petroleum and anti-coal for equally serious reasons.

The most serious problem with petroleum is that there is not enough. If the rest of the world burned petroleum at the same per capita rate that we do today in the United States, the world's petroleum reserves would be consumed in less than 5 years and the world's estimated total recoverable resources of petroleum would be consumed in less than 15 years. Therefore, unless the world shifts rapidly away from petroleum as its primary fuel, international tensions relating to its availability and price will continue to rise.

In contrast to the situation with petroleum, the most serious problem with coal (and the coal- and oil shale-derived synthetics which are being discussed so much currently) is that there is potentially too much. Enough coal could be mined to support for 100 years a world per capita energy consumption equal to that of the United States. If this level of coal consumption were achieved, however, in the first 20 years as much carbon dioxide would be added to the atmosphere as it contains today. No one knows how this would affect the Earth's climate; but the effects on rainfall patterns, and hence agriculture, would probably be drastic and too rapid to adjust to without major disruptions. It would be ironic if the price of a dependable energy supply were the loss of our relatively dependable food supply.

The great hope is energy resources which are renewed by the Sun. At best, however, it will take several decades to replace our current energy supply system with one based on solar technologies. And it may even be impossible for a solar energy supply system to "catch up" if our energy consumption continues to increase.

All of these problems would be reduced greatly if Americans were not consuming energy at such a horrendous rate. Yet even U.S. environmentalists are only beginning to question whether U.S. energy use must increase still further if we are to have a healthy economy. And the leaders of some other nations are only beginning to wonder whether catching up to the United States in energy consumption per capita is necessarily a desirable goal.

Is it really necessary to use as much energy as we do in order to live the good life?

Is it necessary for the shower head in my university-owned apartment to spray water out like a firehose when shower heads are available that use half as much water and give as good a shower?

Is it necessary that the windows in my office fit so badly that the heat literally pours out in the winter and pours in in the summer?

Is it necessary that the lights in the library down the corridor stay on all night even when no one is there?

Why cannot the large quantities of wastepaper I produce be recycled or at least burned for heat?

For me these questions are at the heart of my personal relationship to the energy crisis. But I've found that in its own way my university is as enthusiastic about putting a major institutional effort into reducing its energy waste as the U.S. Department of Energy is about thinking hard about futures for nuclear power which don't involve the breeder reactor.

Accelerating change in my university's attitude toward energy waste is a job for an activist. Unfortunately, however, there aren't that many good activists around these days, even at universities. Most of them seem to be off fighting nuclear power. In my own case I have found that my involvement in the debate over nuclear power has in the past made it impossible for me to be as persistent as I would have had to be to impact the university's energy policy.

This may be the real tragedy of nuclear power. It has inspired a debate which is draining off too much talent and attention from the key part of the solution of our energy crisis: reducing our energy waste.

The waste of talent and emotional energy in the battle over nuclear power has happened both inside and outside government. Inside government, many people in energy-related policy-making positions have become heavily embroiled in the battles over radioactive waste disposal and the breeder. Outside government, the leaders who could help change this country—help sensitize us to the implications of our energy waste—have also been drawn into the larger battle over nuclear power. And the more these people have gotten involved in the nuclear debate, the more they have drawn in other people to help them in what has become a religious war.

Perhaps it is time to realize that the battle over nuclear power is to a large extent a battle over a symbol of a deeper crisis: the way in which our social system relates to its people and to nature.

As a concrete example of how central a role our behavior as energy consumers plays in determining our future, consider how a relatively modest change in our electricity consumption growth has stopped the ordering of new nuclear power plants in the United States during the past few years.

U.S. utilities were ordering an average of more than 20 nuclear power reactors a year during the 9 years from 1966 through 1974. In the years since only 11 more have been ordered and 12 have been cancelled.

The anti-nuclear movement may claim some credit for this change in the outlook for nuclear power, but I think the U.S. consumer's reaction to increasing electricity prices has been much more important.

A few years ago U.S. utilities were confidently expecting our consumption of electric energy to increase 14-fold in the next 50 years. But then, as the cost of new power plants and utility fuel began to rise faster than inflation, utilities were forced to raise the price of electricity also. Not unnaturally this dampened the eagerness of consumers to invest in new systems which consume large quantities of electric energy.

Now the official expectations for U.S. electricity demand in the year 2000 are less than half of what they were as recently as 1975 and, as a result, the federal government expects U.S. utilities to build only 200 to 300 instead of about 1,000 nuclear power reactors in the next 20 years. Orders for new nuclear power reactors have dropped from an average of more than 20 per year to essentially zero. It is possible that we may not need any additional nuclear or coal fired central station generating capacity beyond that which is already operating or under construction until after the year 2000 if we vigorously exploit the opportunities for the co-generation of electricity and process steam in industry. Arguments that we need to rush to a plutanium breeder reactor to fuel a huge nuclear power industry are now widely recognized as passé.

If a relatively small change in the price of electricity can have this much impact on the future of our society, how much more could we make by getting serious about eliminating the energy waste that still exists around us?

It is more difficult to get people to be scared about the implications of our current level of energy use than scared about nuclear accidents. But if the message about waste gets through to our society, the future will be brightened much more than it would be by just the abolition of nuclear power.●

PERSONAL EXPLANATION

HON. KENT HANCE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. HANCE. Mr. Speaker, yesterday, September 20, 1979, I was necessarily absent from the House during its regular order of business. I was absent because I was in my home district in Texas accompanying the Honorable Secretary of Agriculture Bob Bergland. In late August of this year there was a severe hailstorm in my district which devastated farm crops and caused more than $200 million in damages. As a result of this storm 13 counties in my district have subsequently been designated as disaster areas by the Federal Government. Secretary Bergland and I spent Thursday touring much of the damaged cropland in my district so that he could get first-hand knowledge of the severity of the damage. I regret being absent from the House business late Wednesday and all day Thursday, but felt it was necessary under the circumstances.●

HELIUM WASTE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. DINGELL. Mr. Speaker, I wish to draw my colleagues' attention to an excellent article which ran in the Science section of the New York Times during the recent district work period.

The article describes a matter which has been the cause of great concern to, and several hearings before, the Subcommittee on Energy and Power: Our Nation's profligate waste of helium, the gas which may well be the key to a secure and prosperous world for our children and our children's children.

As Times' reporter Malcolm W. Browne points out:

> Despite the fact that helium cannot be replaced by anything once it is lost, . . . some 13 billion cubic feet of the precious gas is being dumped into the atmosphere each year.

From the atmosphere helium gently floats upward, into space and out of our grasp. And if our current practices continue, all the helium which is now in easily retrieved reserves in this Nation will have floated away within 30 years according to a report by the staff of the subcommittee which, unfortunately, came out too late for reporter Browne's article, but which my colleagues may find extremely useful.

If our current waste of helium goes unchecked, this Nation will find itself without a recoverable reserve of helium at the time when our final depletion of present energy reserves will make the use of helium-dependent technologies essential to our economic and social health. To avoid that potential calamity, I hope and expect that the Committee on Interstate and Foreign Commerce will, in this Congress, report for my colleagues' consideration a bill to change our current course.

During the intervening weeks, my colleagues on the committee will be inserting in the RECORD for your perusal other material regarding the potential applications of helium and the dimensions of our current dilemma. I hope all Members of this House will become acquainted with that material and grow to appreciate the problem which is before us. For those who have as yet not studied the helium problem, I believe this article from the August 21 issue of the New York Times will prove an excellent background:

SCIENTISTS SEE PERIL IN WASTING HELIUM

(By Malcolm W. Browne)

Helium, as commonplace as the gasfilled children's balloons sold at the zoo, is under intense new scrutiny because of a warning by scientists that wasting it will imperil the world's technological future.

The warning has compelled Government policymakers and energy experts to re-examine the unique properties and potential uses of helium, a substance so elusive that after its existence was discovered on the sun in 1866, three decades elapsed before it was also found to exist on earth.

Scientific witnesses testified at a Congressional hearing this month that helium is the key to a "supertechnology" by which global energy starvation can be held at bay. While helium itself is not a fuel, it can vastly extend the usefulness of such nonrenewable fuels as oil, coal and uranium because of its ability to remove all "friction" from the flow of electricity, a characteristic known as superconductivity.

Ultra-efficient motors, electrical storage systems far better than any chemical battery and new transportation systems are among the expected benefits of superconductivity. Some working prototypes have already been built, but government and industry have so far been unwilling to make the financial investments needed for large-scale application.

Scientists' statements received a sympathetic hearing by the House Subcommittee on Energy and Power, and experts hope a bill enforcing conservation of helium may be passed in the next session of Congress.

But many earlier attempts to enact such a law have failed.

Despite the fact that helium cannot be replaced by anything once it is lost, the scientists said, some 13 billion cubic feet of the precious gas is being dumped into the atmosphere each year, mainly by the companies that pull it out of the earth along with the natural fuel gas they sell. Existing stockpiled reserves of helium are vastly larger than required by the current small demand, and a helium-based "supertechnology" has yet to become a reality. Consequently, gas companies have considered the cost of separating and storing helium to be greater than its value. The Government ended the stockpiling of helium six years ago for several reasons. Its underground storage area at Cliffside, Tex., containing 39 billion cubic feet of helium, was full, and only small amounts of the gas were being sold. Furthermore, the conservation program was costing $47 million a year.

The helium reserves of the United States (estimated at 718 billion cubic feet, including proved reserves of 198 billion cubic feet) are believed larger than those of all other nations combined. But since the conservation of helium ended in 1973, the gas has been vented as waste by big natural gas producers, with the Cities Service Company doing most of it thus far (Mobil is expected to begin major venting of helium when it opens a new well in Wyoming next year).

The National Research Council has estimated that at this rate, some 85 percent of America's helium reserves would be exhausted within 30 years.

Helium, one of the naturally occurring elements of the universe, is too light to be held by earth's gravity except in extremely small concentrations in the atmosphere. It has been formed in pockets in the earth's crust over a period of billions of years by the very slow radioactive decay of uranium and thorium in the crust. Helium could be created by man as the by-product of a hydrogen fusion reactor, but the amounts such a reactor could create would be insignificantly small.

"This country is spending between $300- and $500-million a year to develop a new energy technology, including fusion reactors, which will depend heavily on helium," a Congressional committee aide said in an interview. "The irony is that by the time we have the technology fully developed, the helium needed to exploit it may have been all thrown away."

Helium's role in the new technology can be understood in terms of its strange behavior and properties, some familiar and some the subject of complex new research.

The gas is best known for its lightness (second only to that of hydrogen) and for being nonflammable. The latter quality makes it preferable to hydrogen as the lifting gas in balloons and airships. America began stockpiling helium after World War I to assure itself a monopoly of fireproof dirigibles to pit against the dangerous, hydrogen-filled zeppelins of Germany.

Huge new airships could be built to transport the nation's freight, using only a small fraction of the energy required to move trucks, trains or airplanes. Because of this, several industries and Government agencies recently expressed interest to a Congressional committee in a new type of airship projected by the Goodyear Aerospace Corporation that would dwarf the company's three existing blimps.

But helium's strangest qualities become apparent only when it is chilled to a temperature below minus 452° Fahrenheit, a few degrees above absolute zero. Helium at that temperature changes from a gas to a clear, thin liquid, whose optical density is so low it is almost invisible.

Helium is the only substance that does not freeze solid at such a low temperature, and for that reason it is vital to future technology, which will require an ultracold fluid refrigerant.

Liquid helium still holds many mysteries, even though it has been a common laboratory tool for decades. (Laboratories buy it in vacuum-insulated flasks for about $6 a liter.

Swirling ultracold liquid helium forms vortexes that behave more like nuclear particles than normal fluids, and hence the liquid is useful in studying the science of quantum mechanics.

But helium's most important technological potential is as a refrigerant for cooling superconductors—substances which lose practically all resistance to electricity when chilled to near absolute zero. Liquid helium is the only refrigerant that can do this.

The future role of superconductivity was described at the Congressional hearing by Dr. Henry H. Kolm of the Frances Bitter National Magnet Laboratory at Masachusetts Institute of Technology.

In an interview, Dr. Kolm said:

"Superconductivity has the same relationship to electrical engineering that the wheel has to mechanical engineering.

"The wheel gave us the civilization we know," he added. "Superconductivity can have just as great an impact on future societies as the wheel has had on ours. But without helium this will not be possible."

The reason why some substances (various alloys of the metal niobium, for instance) become superconductors at the temperature of liquid helium was not really understood until 1957.

Investigators found that when some substances are cooled sufficiently, the vibration of their atoms slows down to the point that it is the same as the vibration of electrons passing them in the form of electric current. Because the chilled atoms and passing electrons vibrate synchronously, the atomic equivalent of friction between them is enormously reduced, and so resistance to electric current becomes practically zero.

What can superconductors do?

¶Conventional power lines lose about 20 percent of the electrical energy ducted through them, in the form of heat. A superconducting transmission line would conserve this vast amount of energy now lost.

¶When a current of electricity is put into a superconducting coil, the electrons in that current will continue circulating indefinitely, and can be drawn off when power is needed. Underground, superconducting coils the size of football fields (proposed by the University of Wisconsin and M.I.T.) could be used to store excess electrical power vastly more efficiently than any existing form of power storage.

¶Superconducting magnets are almost unimaginably more powerful than the most powerful electromagnets. Such ultramagnets are vital as "slingshots" for pulling along particles of matter fast enough to cause the kind of collision needed in nuclear fusion—

which many experts view as the great hope for the nation's future energy needs.

¶Superconducting magnets are essential to a proposed new transportation system using magnetically supported trains that could travel at immense speeds without wheels, flying over a layer of air by magnetic propulsion.

¶Superconducting magnetic cannons could use magnetic "slingshots" rather than gunpowder, firing projectiles at such enormous velocity they could intercept any conventional artillery or rocket projectile. (The Defense Department has already laid claim to 10 percent of any future helium reserves stockpiled, and is known to have some interest in magnetic cannons.)

¶Powerful superconducting magnets could be used efficiently in extracting iron from low-grade ore.

¶Electric motors built with superconducting magnets have an efficiency vastly beyond the reach of any conventional motor. Such motors could revolutionize the development of electric cars, among other things.

¶The future development of large computers will depend on a substitute that has been invented for the semiconducting microcircuits from which all present-day computers are built. The new elements, called Josephson Junctions, can increase the computational power of computers by almost astronomical proportions, but they must be kept cooled by liquid helium.

Nearly every aspect of scientific research is coming under the influence of superconductivity. Future investigation of the nature of matter will be especially dependent on superconductivity, and hence, on helium.

Dr. Leon M. Lederman, director of the Fermi National Accelerator Laboratory, in his testimony before the Congressional subcommittee, said the future of science will be strongly affected by success or failure in conserving helium.

An existing example of helium's importance to research is the laboratory where Dr. Lederman is supervising construction of a four-mile circular track of superconducting magnets. Streams of nuclear particles accelerated by these magnets will be made to collide with so much energy that scientists will be able to probe matter in far greater detail than was hitherto possible.

But to make this superconducting accelerator work will require so much liquid helium that Fermilab is now building a liquefaction plant larger than all the world's existing helium liquefiers combined.●

PERSONAL EXPLANATION

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. RINALDO. Mr. Speaker, unfortunately, I was not present yesterday when the House voted on the conference report to accompany the bill H.R. 111, the Panama Canal Act of 1979. My absence was necessitated by a longstanding commitment in my congressional district which it was impossible for me to cancel; while I had hoped to be present in the House when this vote was taken, the conference report was taken up shortly after I left the House Chamber.

As my colleagues know, I have been in the forefront of the effort to maintain U.S. control of the Panama Canal. In my estimation, the conference report considered yesterday in the House is not in the best interests of the United States. Had I been present for this vote, I would have voted against its adoption.●

HAMILTON FISH, SR.: WATCHDOG OF DEMOCRACY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

○ Mr. GILMAN. Mr. Speaker, I have long considered it a great honer to represent a portion of New York's Hudson Valley, which for several decades was represented by a man who became a "beacon of liberty," Hamilton Fish, Sr.

Ham Fish, Sr., former All-American football star at Harvard, former World War I war hero, and still an eloquent spokesman for patriotism, has once again come to Capitol Hill to share with his colleagues his views on a national issue, the proposed SALT treaty. Former Congressman Fish is over 90 years old, but his ideas are as fresh as those of a man 60 years his junior.

Today, Ham Fish, Sr., continues to battle for a strong America. Before the Senate Foreign Relations Committee he deliberately and persuasively stated his opposition to the SALT II treaty.

As a man deeply concerned for America of the future, Ham Fish, Sr., has pinpointed what he feels to be the problems with this treaty, and the problems with our defense posture.

Mr. Speaker, in order to afford my colleagues an opportunity to share his views on this critical issue, I insert former Congressman Fish's comments before the Senate committee be inserted at this point in the RECORD:

THE SALT II TREATY AS WRITTEN MAKES THE UNITED STATES A SECOND CLASS NUCLEAR POWER AND INVITES A NUCLEAR HOLOCAUST

(Speech of Hon. Hamilton Fish, Sr.)

I am not a prophet or the son of a prophet and before I am a Republican I am an American who loves the United States and believes that the American people have a right to know the truth instead of having it kept from them, making them targets as sheep to slaughter, from a massive arsenal of huge communist nuclear weapons. The most vital issue is the survival of the nation and the lives of the American people.

We are now a second class nuclear power and SALT II confirms it. Its passage, without firm and substantial amendments, invites a surrender or die ultimatum or a nuclear holocaust, wiping out our minutemen ICBM's and killing more than 100 million Americans.

I propose to emphasize the survival issue throughout my remarks but will for a few minutes refer to the abject surrender of the canal to a communist dictator in Panama. Obviously some Senators were fooled when the Administration and their spokesmen said that the giveaway of the Panama Canal would not cost the taxpayers anything. It now appears that it will cost the taxpayers four billion dollars which could well have been spent on strengthening our nuclear defense by building thousands of cruise missiles. But far more important, Panama has become, along with Cuba, the strategic center, promoting terroristic and communist revolutions in Central America, urging that we give up our naval base in Guantanamo Bay and voting with the Soviet Union in the United Nations. Castro and Torrijos are spreading propaganda throughout the Caribbean nations that we surrendered the Panama Canal out of fear and cowardice. This is successfully undermining our prestige, helping the communists in Cuba and Panama to spread into Nicaragua and other Central American nations and even into former British colonies. This is the tragic result of the awesome surrender of the canal which was so bitterly and openly opposed by the American Legion, Veterans of Foreign Wars and 75 percent of the American people.

I am not here to tell Senators how to vote. This is a free country and anyone has a right to his own views and to vote according to his conscience. But United States Senators have manifold issues that confront them constantly regarding various types of important legislation. No Senator has the opportunity or the time to study the origin, plans, purposes and objectives of Soviet Communism as established by Lenin, its creator and only god who is still worshipped, and whose edicts are the very foundation of modern Soviet communism and its foreign policies. Lenin made it crystal clear that the main policy of the communists would be to communize the world and he said that it didn't make any difference if three-quarters of the world were destroyed if one-quarter remained communist. Lenin was a powerful leader, a man of great vision and made other statements regarding the future of communism and its destiny that have come true. He also said, you must surround the United States and if they do not surrender, destroy them. This has become part and parcel of the present foreign policy of the Soviet Union, and the reason that they have built up for the last ten years, a huge arsenal of enormous nuclear ICBM's, that could destroy the United States and kill well over 100 million Americans in a first strike.

J. Edgar Hoover entitled his bestseller, the communists are masters of deceit. This is true as the Soviets have very generally violated the terms of their treaties, including SALT I.

Americans want peace through strength and not through weakness or unilateral disarmament and naturally oppose the attempts of one worlders, pacifists, and appeasers of the Soviet Union to cover up the weakness of our own nuclear deterrence which is well known in Moscow.

If the Senate does not amend the treaty by seeking either parity or sufficiency, to defend the United States, they will be playing Russian roulette with the lives of the American people and aiding and abetting our enemies. In time of war, this is treason but it comes very near being treason when it involves the survival of all Americans. Our people regardless of partisanship want to preserve their own freedoms, independence, and their own lives and not become a satellite of the communists. To do so they must amend the treaty by striking out numerous limitations on our right to build nuclear weapons of various types and sizes, especially cruise missiles to create a strong deterrence against any nuclear attack.

The Soviet Union is a tyrannical government of absolutism, atheism and terrorism. It is the mortal enemy of freedom everywhere. There are in America, extremists, fellow travelers and pro-communists who minimize the communist nuclear superiority that threatens the lives of the American people and the very existence of the United States. These appeasers seek to cover up the real issue—our survival, the destruction of our freedoms and having the United States become a satellite under a despotic dictatorship in Moscow and under the red flag of communism. This will never happen provided the American people insist on strengthening our nuclear defense on land, sea and air so that no nation will ever dare launch a first nuclear attack against the United States. It can only be done by very substantial amendments or by the postponement or defeat of the treaty.

The SALT Treaty as written is in the interest of the Soviet Union and is an abomination of desolation that seriously endangers America and the lives of over 100 million of our people. It is soft on communism and weak on the survival of the United States.

Our survival, our freedoms, our religion, our lives and our country, together with the survival and freedom of half the world is at stake. We must meet the communist challenge with courage, sacrifice and determination to win the ideological battle of freedom and if attacked to be able to retaliate. We must be fearless as lions, wise as sages and gentle as doves when the occasion or events require. There is no substitute for freedom or survival. It will be either freedom and survival, or communism. In 1960 at the end of the Eisenhower Administration, we had a five to one nuclear superiority over the Soviet Union. But within the next eight years, McNamara destroyed most of our big nuclear weapons and the Soviet Union built theirs so that by 1968 there was a virtual parity of equality. By 1972 when SALT I was ratified, the Soviet Union was already slightly ahead but by 1975 the communists had a superiority in almost all nuclear weapons and today the Soviet Union has a virtual 2 to 1 superiority over our Army, Navy and in nuclear weapons.

The present administration has permitted our defense capabilities to decline, jeopardizing the security of the nation and the lives of our people. President Eisenhower, at the christening of the nuclear aircraft carrier that bears his name said: "Until war is eliminated from international relations, unpreparedness for it is well nigh as criminal as war itself." To sin by silence when we should protest, makes cowards of men. The American people are not cowards and will protest overwhelmingly at the polls unless SALT II is very substantially amended in order to provide for their common defense and the security of the nation.

James R. Schlesinger, Jr. former Secretary of Defense, a Democrat, said five years ago: "The Soviets have in recent years produced four times as many submarines and surface aircraft as we have. In ground forces equipment the production rate is 7 to 1. What we have is a flight from reality."

President Carter has repeatedly abandoned or delayed action on cruise missiles, neutron bombs for NATO, B-1 bombers and strengthening minutemen 3. In consideration of SALT treaty II, our failure to achieve reciprocal concessions from the Soviet Union is incomprehensible and unconscionable.

I urge all Senators to demand the strengthening of our nuclear defense at the utmost speed as a top priority and request the Senators not to ratify the pending SALT II even with drastic amendments until the Congress and the President have agreed on a definite plan to build thousands of cruise missiles and their deployment or delivery, to strengthen our nuclear defense and prevent a nuclear holocaust from fear of a ruinous retaliation within the next three to five years. The American Legion and Veterans of Foreign Wars who fought for freedom and democracy in many wars and the American people and Senators from those States bordering on the Gulf of Mexico will agree with them on insisting that no action be taken on SALT II until the Soviet's armed forces including submarines, are removed from Cuba.

In case the President and the Congress are unable to agree on a speedy, comprehensive nuclear defense plan (not conventional), SALT II should be held in abeyance until after the Presidential election in 1980—only 13 months away. The pending SALT II, if ratified without substantial amendments including removal of limitations on cruise missiles, would freeze the United States into a second class nuclear power and within a few years into a third class nuclear nation. This would be a crime against freedom and democracy and would subject the United States to continuous humiliation, blackmail, the loss of prestige throughout the world and the constant menace of an all-out nuclear holocaust.

There has been and still is a conspiracy of silence by those in high authority in government and in our media to cover-up our weakness in nuclear defense. This is by far the greatest and most disastrous cover-up in the history of our country.

The Watergate cover-up in which no one was wounded, killed or drowned, was spread all over our newspapers, night and day for a number of years. Now we are faced with a far more dangerous cover-up because it threatens the lives of most of our citizens and the existence of the nation. The main reason for this gigantic cover-up is that the President and the administration is afraid to tell the truth to the public—that in the last 2½ years they have done nothing to strengthen our nuclear defense. Now they support SALT II which freezes the United States into a second class nuclear power and which even Secretary of Defense Brown admits that within a few years the Soviet Union will have deployed an arsenal of nuclear weapons that will be three times more powerful than our own. It would be bad enough to enter into a treaty with the Soviet Union which freezes us into a second class nuclear nation, but this treaty goes twice as far and would encourage unlimited Soviet blackmail regarding Israel, throughout Africa, Cuba, Panama and Central America and probabely eventually withdrawal from Turkey, Greece and possibly from the NATO.

I challenge any Senator, any representative from our Armed Forces, or government to show me one nuclear weapon in which the Soviet Union is not far superior to us from their huge SS 18's and 19's including their 400 submarines, to our 150, and their 91 modern subs to our 41. It is time, and long since, to tell the truth that their navy is twice as large as ours. Their army is three times as large. Their number of tanks is ten times larger. Their Air Force is far greater than ours and their airplanes and armaments for defense are 40 times greater than ours. In addition, they have built a vast underground network, 500 feet deep, for civilian defense and we have none except for a few airships for the special service of the President. They have 308 SS 18's of 25 megatons each, any one of these hydrogen bombs can destroy any city from Los Angeles to New York for forty miles around. We have no 25's, no 20's, no 15's, no 10's and only a few obsolete 5's and 1,000 minutemen—which even the Pentagon admits can be destroyed by these monstrous nuclear weapons with their 10 MIRVs. In addition, and it has taken me a lot of special research to find out they have 600 to 1,000 SS 19's—three or four times as large as our minutemen, carrying a firepower greater than all of our nucelar weapons combined. This sleeper of from 600 to 1,000 ICBM's has been so well hidden that the American people have never even heard of them. Half of them have already been deployed. This SS 19 is probably larger than the proposed MX that the administration is talking about putting on railroad tracks underground, which would not be completed for 8 or 10 years.

The apex of the total Soviet nuclear power will be in 1983 and that is when the danger point will be reached unless we build sufficient cruise missiles to prevent it. Why, someone might ask, do the communists at Moscow want to destroy the United States and the American people? On that issue, I think I speak with more authority than any living American because I was chairman of the first Congressional committee to investigate communist activities, plans and objectives. We did not investigate liberals or radicals, but those communists who had run for President and other top communist leaders and they made no effort to cover-up their plans or their policies. They were in favor of communizing the world and were opposed to our form of government, freedom of religion and of democracy. They were in favor of the communist dictatorship at Moscow and for the red flag against the American flag. This was back 40 years ago when the communists dominated the CIO labor organization and there were large numbers of fellow travelers. Our committee sent out to the labor organizations the testimony of the leading communists and ever since then, organized and unorganized labor became more opposed to communism than Wall Street, which often for the profit motive, has helped to strengthen the Soviet Union. Thank God we have very little to fear from the communists within the United States but we have a million times more to fear from the ever growing arsenal of huge nuclear weapons and the rapid growing armada of over 400 submarines, one-fourth with a range of 4,000 miles.

As chairman of the first committee to investigate communism, I learned that these Godless Communists worshipped Lenin as their only god who told them, that they must communize the world, and surround the United States and if they do not surrender, destroy them. Now that they have such enormous nuclear power and we have been lulled to sleep they will decide the opportune time to press the button. Why would they do it? Because they believe it is their manifest destiny to communize the world and if they destroy the United States, the whole world will surrender in ten days. We will never press the nuclear button because we are a moral nation and want no additional territory and certainly have no hatred of the Russian people or any others. The monstrous communist regime in the last 62 years, have killed 30 million of their own people and Solzhenitsyn, one of the greatest freedom fighters in the world says I am wrong—it was double that. It must be evident to you Senators that a nation that would exterminate 30 million of its own people would not hesitate to kill more than 100 million Americans, avoid a European war and then communize the entire world within ten days.

If one of the Soviet's huge 25 megaton bombs drops on any part of our country, it will kill within a radius of 40 miles but it will not ask, are you a Democrat, Republican, Independent, black or white, mother or child? A first attack, unless we strengthen our nuclear defense immediately, will according to the Pentagon, kill 100 million Americans. The nuclear scientists say half our population, 115 million would be killed. Admiral Zumwalt, former head of Naval Operations said: "If we do not build any adequate deterrence within the next few years, that we will lose 160 million and the communists will only lose 10 million. Actually, if we lose 100 million upwards, it really makes no difference what our small retaliation is because it will be the end of our country. Our nuclear deterrence at the present time is very weak compared to the Soviet Union and leaves us almost naked and defenseless against a holocaust attack.

We are so weak that we are even afraid to protest effectually the 40,000 Cuban mercenaries in Africa trying to communize various nations. We are so weak that we are afraid to protest building underground submarines bases in Cuba or even to protest the arrival of some 30 top Soviet airplanes, additional bombers, submarines and 3,000 Soviet troops.

F.D.R. as President gave the British 50 destroyers without the consent of Congress in time of peace. What is to prevent the Soviet Union if the SALT Treaty is ratified without strong amendments, from giving Cuba or having based there, 50 submarines where they can be refueled and rearmed and most of them have a firing range of 3,000 to 4,000 miles.

None of this is told to the American people nor are they told that we have lost our finest and best verification units in Iran and that our listening posts in Turkey are uncertain. In spite of that we are lead to believe that in another year we will probably be able to discover a mosquito on the top of Brezhnev's head.

The American people would overwhelmingly support, and I urge the Senate to do so, a motion to recommit the SALT II to the Foreign Relations Committee with the suggestion or instructions that the President renegotiate the treaty and urge the Soviet Union, as they have repeatedly advocated nuclear disarmament, even if China did not go along, to mutually reduce all nuclear weapons of every category by one-third. This would leave the Soviet Union and the United States far ahead in nuclear armaments than any other nation. Then, within two years the Soviet Union and the United States would agree to arrange for a conference of all nuclear nations to mutually agree to reduce their nuclear armaments by 25 percent for four years under total inspection and supervision. The ultimate objective would be to abolish all nuclear weapons six years from now.

The pending SALT II does not reduce nuclear weapons but actually encourage further nuclear armaments on a big scale. All the treaty does is to freeze us into a second or third class nuclear nation for the next five years and promote and encourage greater and more extensive, ruinous, deadly nuclear weapons.

Premier Brezhnev for the last 50 years has been leading a crusade to destroy religion and faith in God, hypocritically said, God have mercy on us if we fail in the passage of the SALT II. My answer to that is God have mercy on all the religions of the world. all the free nations, all the captive nations and the entire freedom of the world, if the Senate does not amend adequately the SALT II so as to provide for our own common defense and the lives of the American people. The treaty should be returned for negotiations on a mutual reduction of one-third of all nuclear weapons between the United States and the Soviet Union, proving definitely that the American people favor a substantial mutual reduction of nuclear weapons and favor the preservation of peace throughout the world.

Blessed are the peacemakers for they shall be called the children of God.

AN INDIAN AT THE BURIAL PLACE

(By William Cullen Bryant)

(Regarding our weakened nuclear defense)

But I hold a fearful sign,
  To which the white men's eyes are blind;
Their race may vanish hence, like mine.
  And leave no trace behind,
Save ruins o'er the region spread,
  And the white stones above the dead.

In case of a nuclear holocaust, there will be no white stones above our dead unless we strengthen our own defense.

As I stated, I am not here to tell Senators how to vote. I am sure they will vote according to their own conscience and what they think is in the best interest for the common defense of the United States and the lives of the American people. But those Senators who voted to give away the canal to a communist dictator, and now vote for the SALT II without very strong amendments, for the protection of the American people, will face on election day, aroused non-partisan voters who are determined that this country should remain free and strong and are overwhelmingly opposed to any public officials who are soft on communism.●

OCEAN CITY CELEBRATES ITS CENTENNIAL

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

○ Mr. HUGHES. Mr. Speaker, this year marks the centennial of Ocean City, N.J., my hometown.

Ocean City is known widely along the Atlantic Coast as America's greatest family resort. It has 7 miles of beautiful white, sandy beaches that draw tourists from all over the country. It has a long boardwalk featuring all kinds of shops, stores, and restaurants to make a vacation in Ocean City a memorable experience.

Of course, Ocean City's greatest resource is its people. They are friendly and compassionate and always ready to work together to make Ocean City a better place to live. They have built and supported one of the finest public education systems in the State of New Jersey. They also have churches of all denominations to serve them, a hallmark of the city that dates back to its founding by Methodist ministers 100 years ago.

Befitting its reputation as a resort city, Ocean City has established many notable social events that take place throughout the year. Perhaps the most famous of these is the Night in Venice celebration, which features one of the biggest and most colorful boat parades on the east coast. Other important events include the Ocean City Baby Parade, which dates its origins back to 1906; the popular Boardwalk Art Show: and the annual Halloween Parade and Easter Parade. The city also is the site of fishing tournaments, sailboat regattas, and boat races.

The city was founded 100 years ago by a small group of Methodist ministers. The ministers were seeking to establish a summer resort in conjunction with Ocean Grove, a Methodist community farther north in the State. They foresaw a community that would provide religious privileges and sanctuary while at the same time providing healthful recreation.

On September 10, 1879, four Methodist ministers—Ezra, Wesley, and James Lake and William Burrell—met under a cedar tree on the island that was to become Ocean City. They prayed for divine guidance and then made the decision to found their religious resort on the island.

The religious influence of these founding fathers is still strongly felt in Ocean City today. The title to any property in town contains religious convenants initially incorporated into deeds by the founding fathers. The two principal covenants are a strict rule against the sale or manufacture of alcoholic beverages and a prohibition against commercialism on the Sabbath. These covenants have passed down to all deeds currently held by Ocean City's property owners.

Since those days, Ocean City has grown greatly. It has modern hotels and motels that blend with quaint guest houses and apartment houses. The city, however, has never lost the high moral character of its founders.

It is a family resort in every sense. The over 100 civic, service and social organizations offer a wide range of activities for people of all ages. There is not only swimming and surfing along our famous beaches, but also the opportunity for a relaxing stroll along the boardwalk. There is sailing and deep-sea fishing in the ocean, but there is also fishing and crabbing in the nearby waters of Great Egg Harbor.

Its residents are honest, hard-working, decent people. It has a well-deserved reputation as a family community that is the envy of many other communities. In short Ocean City is a fine place to live and raise a family.

I am deeply honored to live in Ocean City and consider it a rare privilege to represent my fellow citizens in the U.S. Congress.●

PRAISE FOR GEORGE MASON LAW SCHOOL

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. HARRIS. Mr. Speaker, as a member and former "Tribune" of Delta Theta Phi Fraternity, I am pleased to commend the school of law, George Mason University, and in particular, the J. Lindsay Almond, Jr. Senate for being selected by the Delta Theta Fraternity as the National Outstanding Student Senate for the academic year 1978–79. This recognition by Delta Theta Phi at its 41st biennial convention is significant. However, the J. Lindsay Almond, Jr. Senate returned to northern Virginia with several other national distinctions, as well.

Jon Thacher, a third-year student and resident of the Eighth Congressional District placed fourth in the oral advocacy competition, and won the newly established Joseph A. Perry Award which recognized the correct use on the convention floor of correct parliamentary procedure as an advocate. I want to mention that the Perry Award was established through the generous donation of Professor and Mrs. Raymond B. Benzinger. Professor Benzinger, a resident of Springfield, Va., is not only a professor of law, but was awarded the National Outstanding Professor Award by the fraternity at the convention.

The school of law at George Mason University has every reason to be proud of its accomplishments and the accomplishments of its fraternity. Furthermore, I will be glad to send a copy of this statement to the American Bar Association who, hopefully, will extend accreditation to this fine northern Virginia institution. This new law school serves students throughout the entire State of Virginia and has the only night law school in Virginia. George Mason Law School is important to the community and the metropolitan area and I am glad to be able to congratulate this institution today.●

LORD CARRINGTON'S STATEMENT AT CONFERENCE ON ZIMBABWE-RHODESIA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. SOLARZ. Mr. Speaker, one of the most important foreign policy matters which the House has considered and voted upon this year is the question of United States sanctions against Zimbabwe-Rhodesia. In voting by a decisive margin to reject the immediate lifting of those sanctions, the House has been mindful of the fact that Great Britain retains primary responsibility for Zimbabwe-Rhodesia under international law.

On September 10, 1979, the British Government convened a constitutional conference on Zimbabwe-Rhodesia designed to work out a settlement which will bring that nation to legal independence. I believe it is critically important that the Congress refrain from taking any action which would undermine this major initiative which the British Government has launched. Specifically, we must resist any appeals to lift sanctions now, lest we run the risk of defeating any possibility that the London Conference can produce a peaceful settlement.

British Foreign Secretary Lord Carrington, in his opening remarks to the London Conference on September 10, set a constructive tone which has characterized his response to the Zimbabwe-Rhodesia issue. I would like to share with my colleagues Lord Carrington's opening statement at the Conference on Zimbabwe-Rhodesia.

The statement follows:

LORD CARRINGTON'S STATEMENT AT CONFERENCE ON ZIMBABWE-RHODESIA

REASON FOR CONVENING CONFERENCE

It gives me great pleasure to welcome you to this conference and to open its proceedings.

When the British government issued invitations to this conference on 14 August, after extensive consultations, we naturally hoped for and expected a positive response. Our consultations had revealed a strong desire that the United Kingdom should take the initiative in making a further attempt to achieve a final settlement of the problem of Rhodesia, in fulfillment of its constitutional responsibilities. There was also a widespread feeling that continuation of intensification of the war was not in the best interests of any of the parties to the dispute, nor of the people of Rhodesia as a whole. Nevertheless, it is no simple matter for those who have been involved in a bitter and tragic military confrontation to sit round a conference table together. The British government felt strongly that it has the responsibility to bring that about.

When inviting you here, we appealed to you, in the interests of the people of Rhodesia, to approach these negotiations in a positive spirit and to seek to build up areas of agreement. We hope thereby to lay the foundations for a free, independent and democratic society in which all the people of Rhodesia, irrespective of their race or political beliefs, would be able to live in securty and at peace with each other and with their neighbours. The act of coming together is important. It is now up to us to build on that.

SIMILARITY WITH OTHER CONSTITUTIONAL CONFERENCES

Since 1965, and long before, many meetings have been held to try to resolve this problem. I am under no illusions about the magnitude of the task before us. The problem is one which has defeated the efforts of successive British governments, all of whom sought to achieve the objective of a peaceful settlement in conditions which would guarantee to the people of Rhodesia the full enjoyment of their rights. But I have no intention of going back over the history of those attempts, and I hope that you will also be prepared to look to the future rather than the past.

I would like to hope that there is a difference between this meeting and those which have preceded it. This is a constitutional conference, the purpose of which is to decide the proper basis for the granting of legal independence to the people of Rhodesia. Many such constitutional conferences have been held in this place before. A great many former dependent territories of the United Kingdom have successfully made the transition to independent statehood on the basis of constitutions agreed here. It is our intention to approach this conference on the basis of the same principles and with no less strong a determination to succeed than in the case of those other conferences, which resulted in the granting of independence by this country to our former dependent territories. I believe that we can take some pride in the part we have played at conferences held at Lancaster House in the process of decolonisation. As commonwealth leaders agreed at Lusaka, Britain has had no lack of experience as a decolonising power.

COMMONWEALTH AGREEMENT IN LUSAKA

The agreement reached at Lusaka has made it possible for the British Government to convene this conference with the very real hope that it will lead to an internationally acceptable settlement. I would like to pay tribute to the commonwealth heads of government and the commonwealth secretary-general, who worked so hard at Lusaka to establish an agreed position. In summary, the commonwealth heads of government at Lusaka confirmed that they were wholly committed to genuine majority rule for the people of Rhodesia, and accepted that this requires the adoption of a democratic constitution including appropriate safeguards for minorities. They reiterated that it is the responsibility of the British Government to grant legal independence to Rhodesia. They agreed that the government formed under the independence constitution must be chosen through free and fair elections, properly supervised under British Government authority and with commonwealth observers. They welcomed the British Government's intention to convene this conference, and recognised that the search for a settlement must involve all parties to the conflict. We should do well to bear in mind, throughout our discussions, the framework thus set out in the Lusaka communique. Not only does it incorporate the views of the British Government, but it sets out the approach which the commonwealth will support and which will gain international acceptance.

NEED FOR COMPROMISE AND END TO WAR

Against this background I approach the search for a fair constitutional settlement in Rhodesia with the conviction that is illusory to think that any settlement can fully satisfy the requirements of either side. An agreement can only be reached if there is a willingness to compromise.

The British Government has put to you an outline of the kind of constitution on the basis of which we would be prepared to grant independence. We wish to discuss these proposals with you at this conference, and will be prepared to elaborate on them in the light of our discussions. If we can reach agreement at this conference, there will be an end to the war. That is an outcome which I believe will be greeted with immense relief by the people of Rhodesia and throughout Africa. Rhodesia will proceed to legal independence with a government formed by whichever party and whichever leader can show that they command the confidence of the people. I must confess that I find it difficult to see how any party, group or leader can hope to benefit from what would follow failure to reach agreement along the general lines we have put before you, and those who would suffer most would be the people of Rhodesia, towards whom our real responsibility lies.

A quarter of the population of Rhodesia has been born since 1965. Their lives have been overshadowed, not merely by a tragic and unnecessary political dispute, but by armed conflict. Many of them have died as innocent victims of the war. Or they have lost their parents, brothers or sisters. Or they have lost their homes. Many of them, black and white, face the prospect of themselves having to fight, on one side or another, or of being deprived indefinitely of peaceful residence in the land of their birth—a quarter of a million people are now in refugee camps in other countries—if we, who are assembled in this room, cannot agree on the way to end the fighting and to provide for you to settle your differences by political means.

This generation now at risk had no part in the initial causes of the conflict. It was not born when the problem of Rhodesia came to a crisis in 1965. But now there is acceptance by all the parties of a society free from racial discrimination, of universal suffrage and majority rule. We can make this objective a reality if—and only if—we are prepared to look at the problem on the basis of principles on which both sides should be able to agree.

I believe that the people assembled in this room have it in their power to end the war and to enable the people of Rhodesia to decide their future by peaceful means. We bear a heavy responsibility and I do not believe that the people of Rhodesia will readily forgive any party which deprives them of this opportunity to settle their future by peaceful means. This is a thought which should be in our minds throughout this conference.

It is a matter of great regret and disappointment to me and my colleagues that hostilities are continuing during this conference. Progress towards agreement on political issues—which I hope we are all determined to achieve—will by definition mean progress towards removing the causes of the war. It must be our objective to proceed as soon as possible to a stage at which there can be agreement on a ceasefire. We shall fall short of what we ought to achieve for the people of Rhodesia if we do not give them the chance to make a fresh start, its causes and its consequences put firmly in the past.

BRITAIN'S INVOLVEMENT

Britain has at times been described on one side as choosing to stand with arms folded on the touchline, and on the other as not being serious in its determination to decolonise. Let me assure you today, if anyone is in doubt, that we could not be more serious in our intention to achieve a satisfactory basis for the granting of legal independence for the people of Rhodesia and in this attempt to bring about an end to the war.

We have engaged in extensive consultations on the best way of achieving these objectives. Lord Harlech visited Africa early in the life of this government to consult with the parties to the dispute and with the commonwealth and other African governments most closely concerned. He found a general conviction that a solution to the problem of bringing Rhodesia to legal independence must stem from Britain as the constitutionally responsible authority and that we must put forward proposals to achieve that objective. He also found that there was criticism of the present constitutional arrangements, in particular of the blocking power given to the white minority over a wide range of legislation, and of the character of the public service and other commissions.

In the period of consultations, we made it clear that we would attach particular importance to the commonwealth heads of government meeting at Lusaka. At Lusaka, the British Prime Minister said that the British government were wholly committed to genuine majority rule in Rhodesia. The principle of majority rule has been accepted by all the delegates to this conference. The Prime Minister, at Lusaka, also recognized the importance of encouraging the European minority to remain as an integral part of the community. The Prime Minister emphasised that Britain fully accepted its constitutional responsibility to bring Rhodesia to legal independence on a basis of justice and democracy, comparable with the arrangements we have made for the independence of other countries.

The British government took action immediately to give effect to the Lusaka declaration by convening this conference and by putting forward constitutional proposals in accordance with the principles which were agreed at Lusaka and which have formed the basis for other independence constitutions in Africa and elsewhere.

THE CONSTITUTION AND BRITAIN'S OUTLINE PROPOSALS

The constitution is the fundamental problem which must in due course be resolved. But it is essential to the prospects of success that we should first seek agreement on our destination—which is the independence constitution. If that can be achieved, it will be necessary to decide the arrangements to give effect to that agreement. The British government has stated clearly that it will be prepared to accept its full share of the responsibility for the practical implementation of those arrangements. The central element will be free and fair elections, properly supervised under British government authority.

The British government's outline proposals for an independence constitution have been before you for four weeks. I did not suggest that this conference should be held on the basis of prior acceptance of this document. Instead, I would like to take the document as the starting point for our discussions. The British government have been asked to put forward proposals and we have done so. Unless there is a focus for our discussion, it will be impossible to make progress.

There are certain general points which I could make in introducing them.

First, as the constitution authority for Southern Rhodesia, the United Kingdom intends to take direct responsibility for the independence constitution. What you have before you are the British governments proposals, taking account of the points made to us in our consultations. They are intended to give effect to the principles which have been accepted by successive British governments as the proper basis for independence. Those principles are that the principle of majority rule must be maintained and guaranteed; that there must be guarantees against retrogressive amendments of the constitution; that there should be immediate improvement in the political status of the African population; that racial discrimination is unacceptable; that we must ensure that, regardless of race, there is no oppression of majority by minority or of minority by majority; and that what is agreed must be shown to be acceptable to the people of Rhodesia.

Second, our proposals are comparable to the basis on which the United Kingdom has granted independence to other former dependent territories, in particular those in Africa. We have no doubt, therefore, that a solution on this basis will be accepted by the international community, as giving effect to the principles we have accepted in granting independence to our other former dependent territories. In the case of Rhodesia, as in all other cases, a constitution must take account of special circumstances. But the broad lines of independence constitutions are clear enough, and in the precedents there are points which can help us towards a solution, for example on the representation of minorities.

Third, we have made it unequivocally clear that our constitutional proposals represent in outline the kind of constitution on the basis of which the British government would be prepared to grant legal independence. If agreement could be reached on alternative proposals which meet the British governments criteria, we would be ready to grant independence on that basis. But we believe that the best hope of success lies in negotiation on the lines we have proposed, in accordance with the commonwealth declaration.

If it is possible to get agreement on the general framework for the independence constitution, the British government will be prepared to put forward more detailed proposals to give effect to that agreement. We shall therefore have further suggestions to put before the conference. But, before we advance to that stage, we must establish what measure of agreement exists on the outline proposals, and where the major difficulties will lie. As the first step, therefore, I shall hope to hear your views on the outline proposals.

Before inviting you in our next session to state your positions on the constitutional framework for independence, I would like to speak briefly about the arrangements to give effect to an agreement on the Constitution.

In other countries approaching independence, the United Kingdom's role has invariably been to establish just conditions for independence, not to encourage the aspirations of this or that party. Our role in Rhodesia will be the same as in other dependent territories. The international community is well aware of this and of our constitutional responsibility in many countries we have handed over power to people who had previously been confirmed opponents of the policy of the United Kingdom, if they have been elected by the people of their countries. In the position which we agreed with other commonwealth governments at Lusaka, we stated that there must be free and fair elections, properly supervised under British government authority and with commonwealth observers. This has been accepted by all commonwealth governments, and, as I have already said, the British government will be ready to carry out its responsibilities in this regard.

CONFERENCE PROCEDURE

I turn now briefly to the way in which we might proceed at this conference. The conference is being held under my chairmanship. I attach the highest priority to bringing it to a successful conclusion, and I intend to play the fullest part in the proceedings. At times when I am prevented from being here, I would propose to ask the lord privy seal, Sir Ian Gilmour, to take the chair.

We have made no attempt to fix the duration of the conference. I hope that we can move forward rapidly. I trust that we can show real progress towards agreement on the constitution. We for our part are prepared to continue for as long as is necessary provided of course that progress is being made in the opening plenary sessions. I would ask you to set out fully your views on constitutional questions and on the outline proposals before the conference, as I have done. Depending on the progress made, it might then be appropriate to consider aspects of the constitution in more detail, perhaps on the basis of further proposals tabled by the British Government. We may also wish to consider meeting in less formal groups at different levels. We shall have to decide on this as we proceed.

The conference secretariat, headed by the conference secretary, Mr. Wilson, is at the service of all delegates. Any questions on administrative arrangements should be referred to Mr. Wilson and the conference officers assisting him.

The secretariat will prepare summary records of discussions in the formal conference sessions, that is to say records which give a resume of the main points made by each speaker. They will circulate these records within 24 (twentyfour) hours. If you wish to make corrections of substance to your own interventions, please do so within 30 days. These will also be circulated. The summary records will not be made available to the press.

There will be world-wide interest in the progress of the conference. A great many journalists have been accredited to it. I shall be making public my own statement this afternoon. You may wish to do the same with your opening speeches. The press will not be admitted to Lancaster House, but there is a fully equipped press centre across the road. This is at the disposal of all delegations. Mr. Fenn will act as my spokesman as chairman of the conference. He will also release to the press any joint statements on which we may from time to time agree. I invite each delegation to nominate a member of their staff as press secretary, to be in touch with Mr. Fenn about these matters. They will of course be welcome to make use of the facilities at the press centre.

If there are other papers which you wish to have circulated to all participants, the Secretariat will be ready to have them reproduced and distributed as conference documents.

SUMMARY OF PRESENT POSITION

In conclusion:

A. This conference has been convened in response to the statement agreed by the commonwealth heads of government at Lusaka;

B. We have put forward proposals designed to bring Rhodesia to legal independence;

C. Your acceptance of our invitation has given hope to the people of Rhodesia and the neighbouring countries;

D. It is within the power of the parties represented here to bring an end to the war.

I have deliberately avoided talking of a last chance of a settlement. Last chances have come and gone before. I would put it differently. Since Geneva the conflict has reached new levels. The cost of continuing it is very high. Since 1976 (Nineteenseventysix) the number of men under arms on both sides has more than doubled. The war has spread into neighbouring states. The toll in casualties inside Rhodesia and in the neighbouring countries has continued to rise. Neither side has infinite resources. The price of failure at this conference would be further prolonged bloodshed and further destruction of the life of whole communities. The responsibility for preventing this lies upon all those present here. The eyes of the international community will be upon us all to see that we live up to that responsibility. The British Government is determined for its part to do everything in its power to bring this conference to a successful conclusion. It is in that spirit that I would ask you also to address the task before us.●

SQUEEZING OUT WORLD WAR II VETS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. ABDNOR. Mr. Speaker, on September 18 I placed a speech by the Honorable John Paul Hammerschmidt in the Record. In that speech to the VFW, the gentleman from Arkansas addressed several points regarding the needs our aging veterans will face and the strain it will place on the current hospital system. As a member of the Committee on Veterans' Affairs and the Select Committee on Aging, I have witnessed more every day the impact the veterans of World War II will have on the system.

The very day my remarks appeared in the Record, I received the following article as part of a letter from Mr. Joe Kern, the superintendent of the South Dakota State Veterans Home. The article appeared in the August 20 issue of the Providence, R.I., Evening Journal.

I would ask that the article be made a part of the Record.

Veterans Homes Turn Them Away

PROBLEM GROWS MORE ACUTE AS WORLD WAR II VETS AGE

(By Stephen P. Morin)

Thousands of armed services veterans eligible for care in 44 state-run veterans homes across the country are being turned away, and many end up waiting years to get into these homes because of a serious lack of bed space.

The problem, home officials and national veterans organizations warn, will become more acute in the next two decades as more of the 14 million veterans of World War II (whose average age now is 60) begin relying on these facilities for dormitory space and nursing care.

Already, hundreds of needy veterans, unable to get into veterans homes, are declaring bankruptcy so they can qualify for federally-supported care in private nursing homes, said Jack Carey, national commander of the American Legion.

"I can't believe that our society makes the men who helped keep this country free go on welfare because it won't take care of them in a dignified, humane manner," he said.

The lack of bed space—especially for veterans who require skilled nursing care—has been brought about by inadequate federal financing and poor planning, veterans groups and home officials charged.

They said the problem is being exacerbated by the Carter administration's refusal to increase daily rates given homes for each resident by the Veterans' Administration (the rates have been frozen for four years) and its plan to slash already meager construction grants for these homes by two-thirds, to $5 million a year.

Rhode Island already is seeing the first effects of the "population bubble" caused by aging World War II vets. A new wing was opened last year at the state Veterans Home in Bristol bringing its capacity up to 425 beds.

But today there are 200 former servicemen—most from the World War II era—waiting to be admitted to the home, and many of them will have to wait at least a year to get in, according to Louis P. Allano Jr., the commandant.

New Jersey's two homes have a waiting list of 500 veterans, with an average delay of 2½ years before admittance. In Nebraska, there are 200 veterans who want to get into one of the state's three homes. Some of them will wait four years, before being admitted, officials said.

"The crunch hasn't fully arrived yet," said John F. Heilman, national legislative director for the Disabled American Veterans (DAV). "But the system is already in dire straits, suffering from stagnant levels of funding, lack of planning and lack of commitment."

There is an average of 12,000 former servicemen living in state veterans facilities on any given day, more than half receiving nursing care or hospitalization. Five thousand are in dormitories.

In contrast, 7,800 veterans are residing in VA-operated nursing homes, 8,100 for no longer than six-month stints at private nursing-care facilities paid for by the VA, and 70,000 in VA hospitals.

State veterans homes are allotted funds from the VA on a formula which hasn't changed since 1976. Essentially, the formula provides $5.50 per day for veterans living in dormitories and $10.50 per day for those receiving nursing care.

This leaves the states to pay from two-thirds to three-quarters of the cost of caring for veterans in these homes—a share that is increasing nearly as rapidly as inflation.

Under law, the VA also is permitted to give a maximum of $15 million a year for new construction and renovation projects at all state veterans homes. The federal funds are designed to pay 65 percent of construction costs, and the states are required to pay the rest.

But Paul O. Battisti, veterans home administrator in California and president of the National Association of State Veterans Homes, complained that the VA and the Carter administration have held federal funds in virtual check and thus have all but stopped construction projects at a time when new beds are desperately needed.

This year, $10 million has been given state homes, but next year the administration has recommended spending only $5 million. (However, Congress is considering bills demanding that $10 million be spent.)

"Already, there are $34 million worth of construction projects that have been approved by the VA and $67 million waiting for approval," said Battisti. "With the amount of money being given now, it will take years before these projects are even begun. And then it will be too late."

Dr. Ralph Goldman, VA assistant medical director for extended care, acknowledged that construction money may not be sufficient. Even at the maximum level of $15 million next year, only half of the projects VA has termed "approvable" could be financed, he said.

Goldman said that "it might be time to look at the authorization ceiling." But he insisted that in a period of "'budgetary constraints and competing demands," funds for the state veterans homes have not been given a priority.

"When we have a choice of funding one of our own programs and their programs, naturally we will give priority to our own," he said.

This notion rankles state home administrators, who insist that the care they provide is superior and far cheaper than what is provided by VA facilities and private nursing homes.

Battisti said that nursing homes in California charge $52 a day and that the VA gives these facilities $35 a day for each veteran. Costs for each former serviceman at the California veterans home are $27 a day, with the VA's contribution no more than $10.50 a day, he said.

He added that the state homes are required to meet stringent standards set by state health departments, the Medicare program and by the VA itself, while private nursing homes are exempt from VA rules and most are not involved in the Medicare program.

Goldman said the VA has been aware that the growing number of World War II vets would tax the existing system and that plans are being made to prepare for the future. The long-range plan includes expanding bed space in state homes, constructing new VA nursing-care facilities (100 homes are expected to be operating in two years, an increase of eight from today) and relying on the private nursing home industry.

Battisti called the VA's approach "ludicrous."

"Why should the VA build new homes when we have well-run state homes operating now?" he said. "Why should the VA contract more with private nursing homes, which costs a helluva lot more than the State homes? That's nothing but a sop for that industry."

In New Jersey, the lack of federal construction money may delay plans to build a third veterans home, said John A. White, superintendent of the state's Home for Disabled Soldiers in Edison.

White said New Jersey has 1 million veterans, but space for only 800 in its homes. "By VA standards, we should have 16,000 spaces," he said. "We're in a position where we can't solicit or even advertise our existence. Eighty percent of our population comes directly from the VA hospital in East Orange. If we took an ad in a New Jersey newspaper, we'd be swamped."

Connecticut already limits its 850-bed Rocky Hill Veterans Home and Hospital to those who had war service. Still, the facility turns away more than 100 eligible veterans every year, said Robert D. Houley, the commandant.

Houley said there are plans to build a 100-bed nursing unit, but the lack of federal money may delay groundbreaking for eight years. "We are in very tough shape, maybe the toughest in the country," he added. "By 1985, we project Connecticut will have 300,000 veterans with war service who are over 65. What are we going to do with them?"

New Hampshire has recently opened an addition to its 100-bed veterans home, but already there is a waiting list of 20, said Commandant Kenneth M. Tarr. He said the list will increase to 50 within a year—the level it was at before the addition was completed.

Everett P. Phillips, director of veterans facilities for Nebraska, said that by 1990 the state will need 2,000 beds for veterans. It now has only 736 spaces. "The men we turn away almost invariably end up on welfare," he said. "I can't see how this saves taxpayers' money."

The VA's Goldman said there are veterans who are "spending down"—giving up cash assets and reducing income—in order to enter private nursing homes with federal assistance. This places a severe financial burden on the veteran's potential widow and is not required when former servicemen enter veterans homes, he acknowledged.

But he said he didn't know how widespread the practice is or, for that matter, how many veterans are being turned away from homes. He suggested that even if veterans homes lack space for former servicemen, the slack is being picked up by private facilities.

The VA did not contract with any private nursing homes until 1965, and by 1985 it expects to have 13,000 veterans in private care, Goldman said. He said however, that the VA will pay for only six months of such care and that the costs may be higher than at state veterans homes.

What concerns veterans groups are what they call contradictory positions taken by the VA. On one hand, the VA says it is aware of and planning for the expected influx of the World War II veterans, but on the other it is cutting back the number of VA hospital beds—thus putting another burden on the overloaded state veterans homes.

According to the DVA's Heilman, the VA plans to reduce the number of beds at its hospitals from 112,000 in 1968 to an expected 73,000 by 1983. This means shorter hospital stays for veterans and longer stays in convalescent facilities, he said.

"We feel we are doing their (the VA's) job," said New Jersey's White. "They give us little support and little recognition."

Added New Hampshire's Tarr: "It should be remembered that the federal government called these guys into service—not the states."●

WE NEED A SUGAR BILL

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. MICA. Mr. Speaker, within the next few weeks we will consider the International Sugar Stabilization Act of 1979, H.R. 2172.

The United States currently imports approximately one-half of its annual sugar consumption. Since we depend so heavily upon imported sugar, it seems obvious to me that checks and balances are needed to protect consumers from uncertain price swings caused by international sugar supply changes.

The most important protection we have against an unstable foreign sugar market is to maintain a viable domestic sugar industry. The critical question which this legislation addresses is: Does the United States want to maintain a viable domestic sugar industry, or does the United States want to become totally dependent upon a foreign sugar market?

The International Sugar Stabilization Act of 1979, if administered properly, would provide America with protective checks and balances through imposition of import fees and backup quotas to regulate the supply and price of foreign-produced sugar, thereby maintaining a domestic sugar industry.

If this bill is not passed and we destroy our sugar industry, America will become totally dependent upon an unstable international sugar market. The 1974–75 sugar lesson, which cost consumers more than this pending legislation will, could easily be repeated without some kind of protective legislation.

There are many factors which could drastically alter the world sugar supply situation and cause an increase for American sugar prices. For example, the increased use of sugarcane by other countries for fuel production is an alternative use of sugar which may cause an international sugar shortage and leave less sugar available for food use. The following article entitled, "Brazil Promotes Pure Alcohol as Alternate Fuel," was recently printed in the Washington Post. It outlines the Brazilian Government's plan to use sugarcane in the production of gasohol, which would restrict the international sugar supply.

Additionally, it should be pointed out that this bill is not inflationary. It would raise the Government's market price objective for raw sugar from 15 cents per pound for the 1978 crop to 15.8 cents per pound for the 1979 crop. In the Wall Street Journal last Friday, September 14, the price of raw sugar was 15.84 cents per pound. This is .04 cents per pound above the market price objective established in the bill.

It is in America's best interest to pass this legislation. Our best protection from becoming totally dependent upon an unstable foreign sugar market is to maintain a viable domestic sugar industry. I strongly urge my colleagues to support H.R. 2172.

BRAZIL PROMOTES PURE ALCOHOL AS ALTERNATE FUEL

CAR ENGINES PURRING HAPPILY AS TRADITIONAL "ONE FOR THE ROAD" GOES IN THE TANK

(By Larry Rohter)

RIO DE JANEIRO.—Brazilian President Figueiredo now rides to all official functions in a Ford LTD limousine that runs on pure alcohol. The other day he was photographed driving an alcohol-powered Beetle on the streets of Brasilia.

Within months, the first chief of state to use an official car running on pure alcohol will be joined by thousands of his fellow-citizens. Gen. Figueiredo and the head of the Brazilian Association of Automobile Manufacturers are scheduled to sign an agreement Wednesday aimed at putting 1.7 million alcohol-powered cars on the highways over the next five years.

The accord is the latest step in the government's ambitious, long-term plan to end dependence on costly imported oil. Brazilian cars already run on gasohol, a mixture of 20 percent alcohol with gasoline and the ultimate aim is for pure ethyl alcohol to be the basic auto fuel.

Under the agreement, auto manufacturers in Brazil are to produce at least 250,000 alcohol-powered vehicles a year for the domestic market, beginning in 1980. (Another 500,000 existing cars are to be converted.) Signatories to the accord include the local subsidiaries of General Motors, Ford, Volkswagen and Fiat.

"What Brazil has come up with here is a way of saving the automobile," says Prof. Jose Goldemberg of the University of San Paulo, former president of the Brazilian Society of Physicists. When the world's oil supplies run out the car will be obsolete unless an alternative fuel supply is ready."

The Brazilian government is to guarantee that production of sugar cane, which when refined yields the alcohol, will be sufficient to supply the cars. It is to replace its entire official fleet of conventional cars with alcohol-powered autos.

The alcohol program has been a top energy priority here since the 1973 oil crisis. Rising prices and the oil supply crunch triggered by the Iranian crisis have accelerated the Brazilian drive for energy independence.

Brazil currently has six million cars and a growing industry that produces more than a million vehicles annually. Government statistics have predicted that the 1979 oil-import bill will reach $7.5 billion.

As a result of the government drive, ethyl alcohol output here already has jumped from 169 million gallons in 1975 to an estimated 910 million gallons this year—more than total alcohol consumption in the rest of the world.

The Brazilian goal is to produce at least 2.75 billion gallons a year by 1985. To achieve that target, the government program calls for investments of $11 billion in distilleries and other alcohol-related projects through 1984.

"Brazil is the only country in the world that has already made official an alternative energy program based on alcohol," said General Motors do Brasil President Joseph Sanchez. "The government has reacted in a realistic and rational manner," to the energy crisis.

At General Motors' plant in Sao Paulo state, the first 252 alcohol-powered vehicles rolled off the assembly line last week destined for a government agency. Early next year, GM will begin mass producing its alcohol-powered vehicles for the public.

GM says its new motor, developed in Brazil by an international technical team and capable of running on gas, alcohol or a combination of the two, is the first "multifuel" engine. To restructure its Brazilian operation and expand production, GM plans to invest $500 million here during the next four years.

By 1982, GM expects to be manufacturing 330,000 of its multifuel engines at the revamped Brazilian plant. Of that total, all but 80,000 will be earmarked for export to Britain, Japan, West Germany and Australia.

A General Motors spokesman here said, however, that the company has "no plans at present" to export the four-cylinder multifuel engine to the United States or to manufacture it at the company's parent plant in Michigan.

"Theoretically, there are no barriers that would prevent us from selling or making our line of alcohol-fueled vehicles and engines in the U.S.," said Jairo Lottie of GM. "It's just not in our plans at the moment."

Ford do Brasil, which later this month will begin mass-producing an alcohol-powered version of the LTD and two other models in its 1980 line, also says that it does not envision exports to the United States in the near future. Production is aimed at meeting local demand first.

"At this point, it doesn't depend as much on us as the Brazilian government," said engineering and technical chief Mauro Borghetti. "If they provide the infrastructure that assures there will be enough alcohol to go around, we'll make the cars."

To encourage consumers to switch to alcohol-powered autos, the government has already instituted a series of incentives. Credit restrictions and taxes have been eased for purchasers of alcohol-fueled vehicles and as of Jan. 1, drivers of cars running on pure alcohol will be exempted from the current prohibition on weekend fuel sales.

The biggest boon to users of alcohol comes in filling the car's tank. Government decrees have established a pump price of 87 cents a gallon for alcohol—as opposed to $1.86 a gallon for regular gasoline and $2.98 for high-test. The government says the cost of producing the alcohol is 70 cents per gallon.

Inventive public relations exercises also have been undertaken in an effort to win public confidence. On Sept. 7, Brazil's independence day, 170 race drivers participated in an alcohol-only auto race, held at the same Rio autodrome where the annual international Grand Prix takes place.

"I see nothing but advantages to be gained from using alcohol as a fuel," said the winning driver, Arthur Bragantini, after the race. "The engines perform better, and since the motor temperature is lower, last longer."

Similar conclusions were reached by participants in a road test sponsored earlier this month by the automotive magazine Quatro Rodas. Results of the four-day trial indicated that "the performance of alcohol-powered cars is as good as, if not better, than that of conventional automobiles."

Involved in the 62,000 mile road test were the Volkswagen "Passat" (Dasher) and Fiat's 147 model. Average mileage for the participating cars was 27.3 miles per gallon.

Such figures lead some Brazilians to think they have found, if not an answer to the energy crisis, at least a partial solution. Already, delegations from the Philippines, Africa and Central and South America have sent delegations to investigate possibilities of adapting their auto fleets to run on alcohol with Brazilian-designed technology.●

TESTING LEGISLATION: A CASE OF SLAYING THE MESSENGER?

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. GOODLING. Mr. Speaker, as you know, the Elementary, Secondary, and Vocational Education Subcommittee is considering legislation which would regulate standardized testing. One of the points made at a recent subcommittee hearing by the proponents of the legislation was that the public release of standardized tests and answers would open up the entire testing process to public scrutiny. However, critics of the legislation noted that the real advantage of "opening up the process" would likely flow to private tutoring services and their affluent clientele rather than to those the legislation is purportedly intended to help.

Our distinguished colleague from Minnesota, Mr. ERDAHL, made an astute observation regarding the validity and reliability of the standardized tests. He noted that many parents and teachers have recently bemoaned the decline in students' ability to effectively communicate their ideas, which is precisely what the declining trend in the SAT verbal scores have been reflecting for 10 years. Far from being an arbitrary measuring device to block students' admission to college, the standardized tests are apparently doing a reasonably accurate job of reflecting the declining capabilities of many first-year college students. I concur with Mr. ERDAHL's suggestion that the proponents of the so-called truth-in-testing legislation may be misdirected in their efforts to aid the students of this Nation. As Mr. ERDAHL noted, "We must be careful not to place ourselves in the position of slaying the messenger because he brings bad news."

I am enclosing the following article from the September 9, 1979, Washington Post, which reinforces Mr. ERDAHL's point. I encourage my colleagues to read it.

SAT SCORES, FOLLOWING TREND, DEFY PREDICTIONS, DROP AGAIN

(By Joanne Omang)

Scholastic Aptitude Test (SAT) scores for the nation's college-bound seniors declined again this year, continuing a 10-year trend and defying most predictions.

A million students, roughly two-thirds of the high schoolers going directly to college, took the tests to measure their verbal and mathematical reasoning abilities, according to today's report from the nonprofit College Board testing organization.

The report, called "National College-Bound Seniors, 1979," showed that the average SAT verbal score dropped 2 points to 427 after holding steady for two years, and that the average mathematics score fell 1 point to 467. The highest score possible is 800. In 1968, the verbal score average was 466 and the mathematics average was 492.

The report did not attempt to assess the cause of the decline. Robert G. Cameron, program service officer of the College Board testing division, said the results were "disappointing," but that there are many causes.

"Schools cannot expect to reverse the trend quickly or single-handedly," he said.

A 1977 analysis blamed some of the decline on television viewing, national turbulence, a changing family structure and a wider range of background among college-bound students, as well as looser teaching and learning standards.

Average scores on the achievements tests, of which students usually choose three out of the 15 available, also declined, the survey showed, from 538 in 1976 to 529 this year.

Although male students scored higher than women on both verbal and mathematics tests, the difference was largest on mathematics scores: 443 to 493. More females than males took the tests, for the fifth consecutive year, although the overall number taking the test has been about the same since 1972.

The number of students who called themselves minority group members hit a record 17 percent this year, 8.9 percent of the total being black. The median family income is up 8 percent from last year, to $20,800, but 70 percent of all respondents said they planned to ask for some financial aid.

Parents' ability to contribute to college costs varied dramatically by race. Blacks and Puerto Ricans said their parents would be able to pay about $410 per year, compared with $1,570 for whites. Average per-student charges are expected to be $3,250 at public four-year institutions, according to the Department of Health, Education and Welfare.

More students chose business as a college major than any other field, displacing health and medicine for the first time. "This switch is primarily due to women, whose interest in business has more than doubled since 1973," the report said.

The latest survey is sure to fuel the controversy over testing nationwide, which has resulted in "truth-in-testing" legislation in New York and similar proposals elsewhere.

A recent Federal Trade Commission report said that SAT scores could be improved as much as 25 percent by some of the coaching techniques now being marketed, an assertion disputed by the College Board. The notion of test validity is under fire in some quarters, with critics charging that testing organizations' secrecy about the structure, methods and assumptions of the test often leave students with no recourse if a mistaken score erroneously labels them for life.

Educators had been hoping for a reversal of the trend in falling results this year because of renewed emphasis on basic educational skills and on tightened academic standards. However, "the reasoning abilities which the SAT measures develop slowly and stubbornly over time, both in and out of school," Cameron said.

The report said an increasing number of students with lower grade-point averages were taking SAT tests and aspiring to college. The most able students, judging by their scores, plan to study mathematics, physical sciences, English literature and engineering, while the lowest chose trades, home economics and education.●

REPRESSION OF HUMAN RIGHTS IN ARGENTINA: TIMERMAN, A CASE IN POINT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

o Mr. GILMAN. Mr. Speaker, yesterday marked the conclusion of the visit to Argentina by the Inter-American Human Rights Commission. This historic visit appears to have been carried out with the complete cooperation of President Videla and the ruling military junta. Although the final effects of the Commission's visit and findings will not be known for some time, it is generally believed to already have focused domestic and international attention and debate on the critical human rights situation in Argentina.

Among the most important prisoners with whom the Human Rights Commission met was Jacobo Timerman, the internationally respected journalist and human rights advocate. His 3-year detention without charges has resulted in worldwide concern and in his becoming a symbol of the military junta's lack of resolve in restoring human rights.

Coinciding with the Commission's visit to Argentina, Mrs. Rische Timerman, wife of the famous journalist, met this week in Washington with many Members of Congress. Her mission was to thank those who have stood by her side throughout the long ordeal and to urge others to join in support of her appeal for her husband's release.

An unexpected third event took place in Argentina this week which could prove to have an important impact on the case as well as the government's credibility and commitment to restoring democracy. Early in the week, the Argentine Supreme Court ruled for the second time in a year that Mr. Timerman should be set free.

This important challenge for independence of the judiciary and the restoration of human rights is but the latest court action in Mr. Timerman's favor. Initially, a military tribunal ruled that there was no evidence to connect Timerman with the terrorist movement that had brought about the upheaval in that country. Having lost its justification for his continued imprisonment under military authority, the government transferred his detention to the special powers of the executive that were invoked to combat terrorism. It was at this point that the Supreme Court first ruled that there was no legal justification to hold Timerman under that authority. The government then responded by placing him under the special authority of the junta. In what is described as the "act of institutional responsibility" this special power has been used by the junta to override constitutional guarantees.

This week's Supreme Court decision struck down the application of this authority to the Timerman case, overturning a lower court decision. The court ruled that there was not a "reasonable" relationship between the "objectives of national reorganization" that was said to be the basis of his detention and the constitutional guarantees that the court said were still valid.

At this time, it is unclear what the government's response will be or how long before a final decision will be made. Coming at a time when the world's eyes are on the Commission's visit and involving not only Mr. Timerman, but a challenge for an independent judiciary, the official response will be the key to their commitment to heal the nation's wounds and to restore democracy and respect for human rights.

At this critical stage in Argentina's history, the junta's response could well be the determining factor in the movement to return to civilian rule. For this reason, I urge my colleagues to join with me in expressing our concern to President Videla and urging him to respect the independence of the court and release Mr. Timerman.

For the further information of my colleagues, at this point in the RECORD I am inserting an article from today's New York Times regarding the Argentine Supreme Court's action:

PUBLISHER'S RELEASE URGED IN ARGENTINA—HIGH COURT CALLS ON JUNTA TO FREE TIMERMAN, HELD SINCE 1977

(By Juan de Onis)

BUENOS AIRES, September 20.—For the second time in little more than a year, the Argentine Supreme Court has ruled that Jacobo Timerman, the former newspaper publisher who has been detained without charges since April 1977, should be set free.

The ruling, a unanimous decision by the court's five justices, specifically told the ruling military junta that it should release Mr. Timerman, who was publisher of the newspaper La Opinión. In its previous ruling, handed down in July 1978, the court held that there were no judicial grounds for detaining him.

UNDER HOUSE ARREST

The new decision, which became public today though it was not formally announced, was regarded by some political analysts as providing support for a possible Government order to let Mr. Timerman leave the country. He is prepared to join his family in Israel.

In addition to the 1978 Supreme Court decision, a court-martial has cleared Mr. Timerman of any involvement with "subversive" groups. But he has continued under house arrest, apparently at the insistence of what are described as hardline army officers led by Gen. Carlos Suárez Masón, the army chief of staff.

The new court ruling asking the Government to free him coincides with the end of a 14-day visit by the Inter-American Human Rights Commission, whose members conducted hundreds of interviews, including one with Mr. Timerman, for a report to the Organization of American States on conditions in Argentina.

The Argentine Government, which has been widely accused of human-rights violations, agreed to admit the commission in the apparent belief that the move could lessen international criticism. "We don't expect a whitewash," Gen. Roberto Viola, the army commander, said when the commission arrived, "just some recognition that Argentina is better now than before."

During its two-week inquiry, the commission received thousands of complaints that security prisoners had disappeared, that arbitrary arrests had been made and that prison conditions were harsh.

Mr. Timerman, who is 55 years old, remained under heavy police guard at his home today, and there was no indication when the junta, headed by President Jorge Rafael Videla, would discuss the Supreme Court's ruling that he should be set free.

IMPRISONED FOR A YEAR

The former publisher, an active Zionist; was an innovator in Argentine journalism for 20 years. He antagonized some of the now-powerful military leaders with his criticism of security methods after the military took power in March 1976. Imprisoned in April 1977, he was released a year later and confined to his home.

The high courts ruling represents a reversal of a position, accepted by lower courts, that the Government can hold Mr. Timerman as a prisoner under what is known as the "act of institutional responsibility." This decree, overriding constitutional guarantees, is being applied to hold former President Isabel Martinez de Perón and other political prisoners.

The Supreme Court decision found that in the case of Mr. Timerman there was not a "reasonable" relationship between the "objectives of national reorganization" that the military has declared to be the basis for holding him and confiscating his newspaper and the constitutional guarantees that the court said were still valid.

The ruling, submitted to the junta, does not fix a time for relasing Mr. Timerman, and it is expected that considerable military discussion will still take place over whether it is timely to carry out the ruling.

But the Government is expected to take into account the report that the Inter-American Human Rights Commission is preparing. A full report is not expected to be ready before February, but the commission could make a preliminary report to the annual general assembly of the Organization of American States, which meets in La Paz, Bolivia, next month.

The commission, whose visit was publicized by the Government as an indication of the nation's progress toward easing left-wing terrorism and official repression, obtained much information from both individuals and human rights groups documenting violations, and from political, labor, professional and civil groups describing the violence by leftist terrorists and the military repression that has taken place in Argentina since 1970.

During a final meeting with President Videla and the Interior Minister, Maj. Gen. Albano Harguindeguy, the commission members recommended steps the Government could take to improve conditions in jails and to provide more information on missing persons.●

A TRIBUTE TO THE OCEAN CITY BEACH PATROL

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. HUGHES. Mr. Speaker, I would like to take this opportunity to pay tribute to the remarkable job performed by the beach patrols of our country, particularly the beach patrol of Ocean City, N.J., and its director, Capt. George Lafferty.

The Ocean City Beach Patrol is one of the finest groups of lifeguards in the country. It has 105 guards, five lieutenants, and one captain to protect the safety of the thousands of swimmers and tourists who use Ocean City's 7-mile-long beach. To insure that its members have topflight abilities, each guard must pass a tough tryout to gain a spot on the patrol. A large number of the guards return to the patrol year after year, with several of the senior guards now holding records of over 20 years with the patrol.

The high quality of the beach patrol is demonstrated convincingly by the results of the lifeguard swimming and boating races held with the beach patrols of the many other south Jersey resort towns. Since 1949, the Ocean City Beach Patrol has won 48 major championships in the various south Jersey competitions. This achievement not only shows the lifeguards' great talent, but also points up the many hours of hard work and dedication that the guards have spent to keep their skills at peak level.

The beach patrol even stays active in the winter months, when it repairs and paints the lifeboat, oars, and buoys as well as the lifeguard stands along the beach.

Any tribute to the beach patrol would be incomplete without a special tribute to T. John "Bull" Carey. An Ocean City resident since he was 9, John was an outstanding athlete at Ocean City High School and, later, at the University of Delaware. During the war, he served as an instructor in water training and survival at the U.S. Naval Academy, where he authored one of the first definitive manuals on the subject. He returned to Ocean City following the war and coached Ocean City High School to championships in swimming, football, and track. In 1954, he left coaching and teaching to head his family's real estate business.

John is the foremost of many members of his family that have served Ocean City with distinction as lifeguards and athletes. In the mid-1930's, he brought national recognition to the Ocean City Beach Patrol by winning the national lifeguard titles.

He has often said that the beach patrol is his first love, and he has proved it over the years with support that ranges from the unique medals that he and his wife have provided for the city's championship athletes, to the personal advice and encouragement that he has given to the patrol's rowers and swimmers.

In recognition of his interest, generosity, and support, members of the beach patrol dedicated their 1979 yearbook to him. I can only add that I share their admiration and respect for him.●

RESOLUTION OF WELCOME FOR POPE JOHN PAUL II

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. MAZZOLI. Mr. Speaker, today, I am introducing a resolution welcoming Pope John Paul II to the United States.

I hope that all of my colleagues will join in sponsoring this resolution.

And, I hope that the House will consider and adopt this resolution promptly.

I am introducing this resolution for two reasons, Mr. Speaker.

First, Pope John Paul II is a towering and an influential figure on the world stage. As such, he richly merits a formal welcome from the House.

Second, along with my colleague from the other body, Senator BIRCH BAYH, I have noted with utter dismay that some persons are protesting the Pope's visit because of a misguided reading of the Constitution on the separation of church and State.

In particular, I am chagrined that Madalyn Murray O'Hare, in a suit in Federal district court here in Washington, seeks to prevent the celebration of Mass by Pope John Paul II, charging that the Pope brings a political message to this country.

Rather, the Pope brings to the United States a message like the one he brought magnificently to his homeland, Poland, this past summer.

It is a message of hope, peace, and freedom for all mankind. It is not a political message. Nor a partisan message. Nor a narrow message. His message is as broad as the world itself and all the people who live in it.

As the senior Senator from Indiana noted in his September 18 statement to the other body regarding Pope John Paul II:

> It would certainly be ironic, as well as tragic, if the man who drew millions to religious services in communist dominated Poland would face less cooperation from the U.S. Government in his travels in America.

Mr. Speaker, I had the pleasure of meeting Pope John Paul II in the Vatican last December. He is a man of great personal warmth. A man who is greatly concerned about the condition of our world, torn as it is by war, famine, terrorism, and fear.

His is a voice calling for spiritual and personal freedom for all the world's people and peace for all.

I hope that the House will adopt this resolution. In doing so, it will demonstrate that the U.S. House of Representatives affirms that Pope John Paul II is entitled to the courtesy, the warmth and the hospitality for which America is so noted.

The resolution follows:

RESOLUTION OF WELCOME FOR POPE JOHN PAUL II

Whereas, Pope John Paul II is a moral leader and a force for good in the world community; and

Whereas, he is an advocate for world peace and disarmament, goals shared by men and women of all nationalities; and

Whereas, Pope John Paul's visit to his homeland of Poland was a beacon of light for all those who hope for an end to the repression of religious and other freedoms that has befallen Eastern Europe; and

Whereas, this country has as one of its founding principles the freedom of all to celebrate and worship as they may choose: Now, therefore, be it

Resolved, by the House of Representatives, That we do welcome Pope John Paul II to the United States and extend to him all the courtesies, all the warmth, and all the hospitality appropriate to his visit.●

A TRIBUTE TO OVID A. MARTIN

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. FOLEY. Mr. Speaker, as chairman of the Committee on Agriculture, and also on behalf of the committee's ranking minority member, Representative WILLIAM C. WAMPLER of Virginia, I want to bring to the attention of the House a tribute to the late Ovid A. Martin in the Washington Farm Beat column written for a number of newspapers by Kenneth Scheibel.

Everyone who has followed the progress and problems of American agriculture over recent decades owes a large debt to Mr. Martin, a native of Missouri who was farm editor in Washington for the Associated Press for some 30 years between the late 1930's and his retirement following a stroke in 1968. Through those turbulent years, Mr. Martin kept millions of readers in this country and around the world informed about the current and coming events and trends which shaped the changing agricultural scene. Mr. Martin had the deep respect of both his colleagues in journalism and of those of us in the Congress and the Government. We learned to know him as a complete professional with a passion for informing the public—fully, accurately and without bias—about how its business was conducted and what was happening in the Nation's most basic industry. His death last month was a sad loss for all who knew him and were touched by his career.

The column follows:

OVID A. MARTIN

WASHINGTON, D.C.—The high, the mighty, the lowly and underprivileged, the city dweller and the family on the farm, have lost a valued friend.

Ovid A. Martin, 75, newsman who covered the Department of Agriculture in Washington, and agricultural stories around the world, passed away after a long illness. To the end, he fought sickness like he battled entrenched bureaucracy in Washington—like a mule from his native Missouri. He retired in 1969 after suffering a stroke.

The high strung Associated Press reporter usually held his temper and kept himself in check when confounded by bumbling federal bureacrats of whom he encountered a good many.

He snorted in disgust when he felt some public official was trying to pull the wool over his eyes. His bouts with bureaucrats were legendary.

Said one exasperated USDA bigwig, "you never know when Martin is coming at you or from which direction."

"I swear," said Martin often, "the public, doesn't have any idea what a reporter has to go through to get the truth." As a crack reporter, Martin never made himself part of a story.

For 30 years from his cluttered desk in the USDA press room Martin crafted stories for the AP with patience, clarity, accuracy and impact. He explained to millions of readers what federal policies and programs meant to farmers, ranchers, businessmen and consumers. Often he had to explain the programs to the USDA.

During World War II Martin contributed mightily to the war effort. With perception and skill, he kept the American public—and its fighting forces abroad—informed as to what they could expect in the way of food supplies. If Americans had fears and fretsome worries about many aspects of the war they always knew where they stood on food and fiber.

For all of his hassling with USDA brass, Martin was loyal to the agency he covered. He was quick to defend what he often felt were unfair criticisms and cheap shot attacks against farmers and farm programs.

When big city lawmakers or candidates for office jumped on USDA for some price support fiasco Martin sat at his typewriter and carefully, patiently and accurately explained what the programs were all about. Essentially, he wrote time after time, the idea is to assure adequate supplies of food and fiber for Americans and their allies, at prices consumers could afford to pay and prices deemed fair to farmers. No one ever knew more about "parity" than the man from Missouri.

Martin had powerful friends in both political parties. As a young reporter in Missouri he covered the campaign of an obscure candidate for county judge—Harry S Truman. And he became fast friends with a GOP star—former Kansas Governor Alf Landon, who ran for President against FDR in 1936. Landon always paid Martin a visit when he came to Washington.

Every Secretary of Agriculture from Henry A. Wallace on sought Martin's counsel. The AP reporter was modest, friendly, in such informal sessions. Yet he never let such intimacy stand in the way of calling the shots as he saw them. He was first, last and always, a reporter.

For all of his feistiness and occasional bursts of temper, Martin made lasting friendships. By nature he was a mild man. He patiently educated scores of newly arrived reporters to the intricacies of agriculture. He donated many hours to advancing agricultural journalism throughout the nation. Senators and Representatives often invited him to Capitol Hill for advice.

In 1952, covering the Republican national convention in Chicago, Martin encountered a friend who was having trouble drafting final language in the farm plank in the GOP platform to be used by Gen. Dwight D. Eisenhower in his last big battle.

The friend was then Lt. Gov. Ancher Nelsen of Minnesota. With practiced eye and a grin on his face, Martin suggested a few changes in phrasing to broaden the meaning. Nelsen, the GOP platform committee, and the convention accepted the farm plank enthusiastically. And Eisenhower carried the farm belt overwhelmingly.

With all of his expertise in economics, domestic affairs, civil rights and homespun Missouri humor, Martin also had a keen insight into foreign and international affairs.

In the spring of 1941 President and Mrs. Roosevelt invited the Washington press corps to the White House for the annual beer bust and dance party. Invitations arrived at the USDA press room.

"We better go to this one boys," Martin said. "There won't be any party next year."

"Why not?" asked the International News Service reporter.

"There's going to be a war," said Martin, dolefully.

In his 30 years in Washington, Ovid Martin watched many men and women, the great and near-great, come and go. Many of those he wrote about proved to be inconsequential.

But that never can be said of Ovid Martin. For he set high standards for himself in his relentless search for the truth.

Ovid Martin's work will survive—and follow him.●

PAID PARKING

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. AMBRO. Mr. Speaker, the General Services Administration has recently promulgated its proposed regulations for imposition of parking fees at Federal installations or Federal properties used by U.S. employees. The proposed regulations result from the President's desire to encourage greater energy conservation in the driving of automobiles and by discouraging the "one driver car" so prevalent on U.S. highways during commuting hours. It is the President's belief that free parking for Federal employees encourages this phenomenon.

There may be something to be said for the President's position in this matter as applied to high-density population, urban hubs where there exists: First, a mass transportation alternative, second, proximity to fellow workers who could with relative inconvenience form van or car pools to prorate proposed parking fees.

Neither of those options, however, are open to Federal workers in suburban or rural regions. In those areas, such as the one I represent on Long Island, there is only one way for these employees to get to the workplace and that is by the automobile; and all employers in such areas recognize that fact of suburban life by providing free parking for their employees.

The imposition of such fees in suburban regions will not promote conservation in the way envisioned by the President, since people living there have no alternatives to turn to. Their fellow workers are scattered across hundreds of square miles of territory, rather than a few city blocks, precluding the effective formation of pools.

The GSA opened its comment period last week and I submitted a statement in opposition to this plan since it applies in the most discriminary manner to suburban areas such as Long Island. I would like to share those comments with my colleagues and ask those who represent regions similar to Long Island to join me in seeking more equitable treatment of Federal employees in their districts:

> I would like to voice strong opposition to the General Services Administration's Federal Property Management Regulations Temporary Regulation D-65, issued pursuant to Office of Management and Budget (OMB) Circular A-118, Federal Employee Parking Facilities.
>
> In my view, these regulations discriminate against thousands of federal employees, do little, if anything, to promote energy conservation, and are themselves riddled with internal inconsistencies.
>
> The discriminatory nature of these regulations is revealed in Section 3 of the OMB Circular where it is stated that the policy of charging for parking is "aimed at federal installations and offices primarily in densely populated urban locations where commercial practice is to charge for the use of parking spaces." The Third Congressional District of N.Y., which I represent, is not a densely populated urban area, nor is it commercial practice to charge for spaces.
>
> Nonetheless, federal offices on Long Island, such as the Brookhaven Internal Revenue Service Center in Holtsville, N.Y., must fully comply with these regulations. Parking has always been free at this Center as well as at the nearest shopping center a half-mile away. It surprised me, therefore, to learn that $28.25 will be the standard monthly fee for parking at the Center, and it remains a mystery how this figure was assessed to be the "fair monthly rental value for the use of equivalent commercial space."
>
> Given that commercial parking is free throughout much of my district, it is unlikely that private employees will desire to join carpools for purposes of reducing parking fees which only federal employees must pay. Yet this rationale is implied in the OMB Circular as one possible inducement for complying with these regulations and meeting their goal of energy conservation.
>
> I recognize the importance of this goal and the contribution carpooling makes towards achieving it. In fact, many of my constituents already engage in this fuel-saving, cost-reducing practice. In such cases, these regulations accomplish nothing to further energy conservation. Instead, they impose a fee on employees who, in many instances, have low salaries and cannot withstand this added financial burden. Exempting carpoolers from compliance would bring these regulations a step closer to being fair and reasonable.
>
> "Free or low-cost parking biases an employee's decision on whether to drive alone, carpool or use public transit for commuting," the OMB circular states. Inaccessible public transport and difficulty of arranging carpools with others equally biases an employee's decision. In many areas of my district, public transportation is unavailable; in others, neighbors commute to out-of-reach workplaces, making carpooling impractical. These considerations—accessibility of public transport, feasibility of car- or vanpooling—were summarily ignored in the GSA's regulations, a fact which betrays the GSA's focus on urban, commercial areas. Taking these considerations into account before unilaterally subjecting all employees to compliance, represents another way of making these regulations more responsive and fair.
>
> According to one member of your staff, deciding what constitutes accessible public transportation becomes "impossible semantics." Yet in a section of these regulations dealing with the acquisition of new parking facilities, availability of existing or planned public transit is expressly mentioned as a factor which should be taken into account. If such availability can be determined for purposes of acquiring new parking facilities, it can also be determined for purposes of exempting from compliance those employees for whom commuting via public transit is unfeasible.
>
> Other iniquities or inconsistencies should be noted. Those who travel in vanpools of 8 or 10 passengers are exempt from compliance, but those living in suburban areas where a dispersed population makes vanpooling impractical are ineligible for such an exemption. Similarly, while those employees with workshifts which make carpooling infeasible are exempt, those employees whose suburban residences make carpooling impossible must still fully comply.
>
> These regulations patently discriminate against federal employees not "living in urban areas where the commercial practice is to charge for parking." They compel the suburban federal employee to pay a charge for parking when his neighbors, private employees, pay no such charge. They dangle the carrot of a smaller parking fee for carpooling, when, before this, carpooling meant only savings and no such fee. Finally, they ignore aspects of suburban and rural life which make any travel arrangements other than driving alone difficult or impossible.
>
> This blindness, or premeditated neglect, is inexcusable, especially since parking at federal installations is already provided and paid for by appropriated funds. At a substantial cost to individual employees, these regulations amount to just another misguided attempt to effect hoped-for energy conservation through a price mechanism imposed by the federal government. I urge you to reconsider these regulations and make the necessary changes so that compliance is consistent with policies of energy conservation, but also equitable among *all* federal employees.●

MORE EDITORIAL SUPPORT FOR REFORM IN PAC CONTRIBUTION LAWS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. OBEY. Mr. Speaker, elsewhere in today's RECORD, Mr. RAILSBACK has brought to the attention of our colleagues several newspaper editorials in support of our amendment to S. 832, the Federal Election Commission authorization. Additional editorials supporting this proposal follow at this point:

[From the New York Times, July 25, 1979]

HOW TO STOP DUCKING THE PAC PROBLEM

Most people have no trouble recognizing the PAC problem: political action committees for special interests have been contributing increasing millions to Congressional campaigns—and amassing increasing political wallop. The hang-up has been over how to solve the problem.

So far, reformers have believed the solution to be public financing of Congressional campaigns. They have assumed that an alternative source of funds must be established before Congress will agree to limit the flow of PAC dollars. But public financing has tangled the issue. Some members genuinely dislike the idea. Others find objecting to taxpayer subsidy a convenient pretext for protecting the present system. Whatever the motive, Congress has ducked the PAC question.

Suddenly, however, it is getting harder to duck. Representatives David Obey, a Democrat from Wisconsin, and Tom Railsback, a Republican from Illinois, have devised another, less tangled solution to the PAC problem which deserves, and may yet receive, wide bipartisan support.

The growth in campaign contributions from corporate, labor and other special-interest PAC's has been dramatic. In House elections, PAC spending went from $8.4 million in 1974 to $25 million in 1978. That fact does not impress some observers. An article in the summer issue of The Public Interest, for example, contends that the increases in PAC funds are only keeping pace with increases in total campaign contributions.

But even if that is correct, PAC's now account for 25 cents of the political dollar. And Representatives Obey and Railsback, like other students of the problem, worry about how dependent on PAC money individual members are becoming. Just between 1976 and 1978, they report, the number of House members who received more than $50,000 from PAC's went from 57 to 176. That's one-third of the House.

Special interests, with increasingly sophisticated and aggressive lobbying programs, have a right to try to get their views across. Such PAC spending is perfectly legal. But is it healthy? Members of Congress do indeed vote their consciences, even when that is damaging to special-interest contributors. The question is, how often can even scrupulous legislators be expected to forget their dependence on PAC's?

The Obey-Railsback answer to all this is a brief bill, to be introduced any day now. It would limit to $5,000 the amount a PAC may give any House candidate; the limit now is twice $5,000—once in a primary, once in the general election. The bill would impose a $50,000 limit on the total a candidate could receive from all PAC's. And it would forbid PAC's, direct mail businesses and others to "carry" candidates, prohibiting temporary contributions in the guise of credit.

All three provisions make sense. What makes even more sense is the bill's underlying theory. If Congress won't establish public financing of campaigns as a substitute for PAC dollars, at least let it restrict the rising influence of PAC money and PAC pressure. There'll be time later to drop the other shoe.

[From the Stockton (Calif.) Record, July 31, 1979]

PAC FUNDS WIELD TOO MUCH CLOUT

When President Carter referred in his "confidence" speech to special interests, he was focussing on the oil lobby. Yet that lobby is but one chip of the vast iceberg of special interests on Capitol Hill that shows above the surface.

Political action committees (PACs) far outdo the political parties in contributing to the election or defeat of members of Congress, and year after year this flow of campaign money increases.

Such PACs represent hundreds of organizations ranging from labor unions and consumer groups to industrial associations. Last year they spent eight times the amount on congressional candidates than was spent by Democrats and Republicans.

Campaign contributions of more than $50,000 went to more than one-third the members of the House, and some candidates received more than $100,000 from such sources.

It is utterly naive to believe that senators and representatives can be heedless of the lobbying of their largest contributors, and recognition of this is implicit in a bill to establish limits.

Rep. David R. Obey, D-Wisc., and Rep. Tom Railsback, R-Ill., seek to restrict PAC contributions to $50,000 for any candidate and to cut in half, to $5,000, the current limit from any one PAC. Such subterfuges as loans and services would be forbidden.

This bill now is supported by Common Cause in lieu of public financing of congressional campaigns. Two measures to that end have died in this session of Congress.

Restrictions on PACs, with the support of more than 100 co-authors of the bill, are given a fairly good chance. It is a rational and moderate way to curb the growth and influence of special interests that lubricate their lobbying machinery with large campaign contributions.

It is time that senators and representatives threw a monkey wrench into that machinery.

[From the Watertown (S. Dak.) Public Opinion, July 24, 1979]

PAC INFLUENCE UPON LAWS, LAWMAKERS GROWING

The growth of special interest influence upon legislation, particularly in Congress, has been well catalogued by such groups as Common Cause which notes that over the last three elections "special interest campaign contributions just about tripled as did the number of PACs or political action committees joining the influence-buying game."

What it means is that the nation's lawmakers are being beset more than ever by the axe-grinders. Some is not all bad because considerable effort goes into heading off legislation whose overall effect would be adverse or negative from the public standpoint. But a lot is devoted to guiding and shaping legislation of benefit only to a relative few.

Lobbying, in fact, has burgeoned into a monster Common Cause refers to as "the Special Interest State." How big this has gotten can be seen in a CC report showing that special interest groups gave $25.1 million to Congressional candidates in 1978 compared to only $12.5 million in 1974. They gave candidates almost four times as much as did the Republican and Democratic parties combined ($9.2 million). The biggest growth came in corporations PACs—political action committees—which mushroomed from 89 in 1975 to 821 in 1978.

"And that represents just the incubation stage," declares Common Cause. "According to the newsletter Campaign Practices Reports, only 196 of the companies listed on Fortune Magazine's Top 500 had PACs in 1978. By 1980, the number is sure to be larger."

So much larger, in fact, that CC believes the time may have come for citizens "to reclaim their government" and invoke stringent curbs on the activities of special interest groups devoted to obtaining congressional action benefitting only themselves.

These groups usually consider the money PACs dispense to lawmakers as an "investment." CC quotes the chairman of one industry whose PAC was the third leading corporate group giver last year:

"Dialogue with politicians is a fine thing but with a little money they hear you better."

In many cases, apparently, a little has become a lot.

[From the St. Petersburg (Fla.) Times, Aug. 30, 1979]

BY THE PEOPLE?

Public financing of presidential elections, which was successfully tried in 1976, has won acceptance and general approval. But Congress has refused even to consider the same principle for itself. A bill for public financing of congressional elections, H.R. 1, was killed in the House Administration Committee last May.

As it reassembles this week after its August recess, the House of Representatives has another chance, its last before next year's elections, to do something about the growing scandal of special-interest money in the election of its members.

The compromise vehicle is called the Campaign Contributions Reform Act, and it has substantial support among the congressional leaders of both parties.

If passed, it would apply only to candidates for the House and would limit the amount of money they can receive from political action committees (PACs) set up by corporations, trade associations and unions. The aims of the bill are modest. It would do three things:

Limit to $5,000 the amount a PAC can give to a House candidate in the primary and general elections combined. (Currently a PAC can contribute $5,000 in each such election.)

Limit the total a candidate can receive from all PACs to $50,000. (There is no limit now.)

Prevent PACs, direct mail or political consultants from extending to candidates credit of more than $1,000 for more than 30 days for political advertising or direct mail. This is aimed at specific abuses such as have been disclosed in the past.

The scandal of special-interest influence in congressional elections, and the public's perception of it, has been growing.

Turning off the stream of money from these sources into presidential elections has resulted in more of it flowing into congressional campaigns. Last year PACs contributed $25-million to House candidates, compared to less than $15-million in 1976. There are now about 2,000 PACs collecting and dispensing campaign funds.

The special-interest source of these funds is seen by some as one of the root causes of the fragmentation of Congress in recent years. Members become less dependent on and less responsive to party principles, party programs and party leadership.

This money, in its gross proportions, has another, particularly evil effect, as suggested by Vice President Walter Mondale in a speech he made last December.

"How do you tell Americans to trust the system when they see millions of dollars pouring out every day to candidates in a game they can't play," he asked. "How do you do it? You can't!"

The Campaign Contributions Reform Bill is a bipartisan effort, introduced by Reps. David Obey, D-Wis., and Tom Railsback, R-Ill. Its cosponsors include Democrats Frank Thompson, N.J., John Brademas, Ind., Phil Burton, Calif., and Morris Udall, Ariz., and Republicans Barber Conable, N.Y., John Anderson, Ill., John Buchanan, Ala., and Hamilton Fish, N.Y.

In the absence of a provision for public financing of congressional elections it represents a modest but significant advance in electoral morality.

The bill is expected to come to a vote during the present session, possibly during September. The public will be justified in questioning the motives of any representatives who vote against it.

MEANWHILE . . .

Congress also needs to mend the absurd loophole cited by the Federal Election Commission when it said this month that the spending and contribution limits applicable to all announced candidates for president do not apply to the groups trying to draft Sen. Edward M. Kennedy, D-Mass.

The loophole exempts groups working independently of a candidate without his consent. It threatens to make a farce of the 1976 campaign spending law.

And, before taking advantage of it, the Florida draft-Kennedy group that obtained the commission ruling ought to think very seriously how it will tarnish Kennedy's image if they exploit their advantage over the declared candidacies.

[From the Nashville (Tenn.) Tennessean, July 28, 1979]

THERE MUST BE REFORMS IN CAMPAIGN FINANCING

Special interests are taking an ever-increasing role in financing campaigns for Congress, but there is a move on in the House to stem the tide of influence.

The special interests are operating through political action committees, which may be formed by almost any group in business and labor as a political arm. These groups may contribute money to candidates of their choice.

An idea of the growing influence of the PACs on the political process can be gained from the fact that such committees have grown from slightly over 200 in 1975 to almost 2,000 this year.

The PACs gave a total of $35.1 million to candidates in 1978. By the 1980 elections that figure is estimated to double. If one adds the donations from individuals who represent special interests, some $75 to $85 million could be involved in 1980 congressional races—just from those who have a particular interest in legislation that may affect their business or organization.

Obviously such spending tends to cause erosion in the concept of representative democracy. While PAC contributions may not "buy" a legislator's vote, they do have an influence. And more and more candidates, finding grass-roots money difficult to come by, are turning to the funding fountains of PACs.

Under the rules, a political action committee can donate $5,000 in the primary and $5,000 in the general election. A candidate can get $10,000 from one PAC and is not limited to the number which can contribute to his campaign.

There are those in Congress who are concerned that special interests will soon dominate the legislative process. A bipartisan group of 100 House members has just introduced the Campaign Contribution Reform Act.

The bill has three major provisions. It would cut the amount a PAC may contribute to a House candidate from $10,000 to a total of $5,000 for the full election period.

In 1978, the House Administration Committee approved a similar cutback. But the PACs universally opposed it, and it never came to a vote in the full House.

The second provision would limit the combined amount a House candidate could receive from all special interest PACs to $50,000 for each election cycle, that is, from one general election to another.

The third provision would prohibit PACs, political consultants and direct-mail experts from extending credit of more than $1,000 for more than 30 days for media advertisements or direct-mail fund raising.

The sponsors want to prevent temporary campaign contributions, which are illegal, from being disguised as business debts or credit. This is a gray area in the present campaign finance law that the Federal Election Commission has been unable to clear up.

Short of public financing of congressional campaigns, some restrictive rules in PAC financing must come. The Campaign Contribution Reform Act will do that. It should be passed as quickly as possible before 1980.

[From the Scranton (Pa.) Times, Aug. 1, 1979]

RESTRICTIONS DESIRABLE ON PAC INFLUENCE

With the public financing of at least part of the expense of congressional election campaigns blocked in the U.S. House, attention is being centered on some other approach to removing the factor of undue influence of large contributors on the workings of Congress.

The House Administration Committee refused by a 17-8 vote to allow the measure calling for partial funding of general election campaigns to go to the floor for a vote. And while there are efforts under way to dislodge the bill from committee, such a step is difficult and only rarely successful.

As an alternative, Common Cause and other public interest groups are seeking support for legislation which would limit the role political action committees can play in the financing of congressional election campaigns. The committees, known as PACs, have proliferated in recent years among corporate and other special-interest groups. While PACs contributed $12.5 million to congressional candidates in 1974, the amount nearly tripled to $35 million last year and represented a quarter of all donations last year, according to a compilation by Common Cause. It was to curb the clout of PACs that partial public funding of congressional general election campaigns was put forward along with restrictions on amounts those candidates deciding to participate in public funding could receive and spend.

Now there is a move afoot to restrict PACs themselves. Common Cause is working with lawmakers who favor placing a ceiling on PAC financial support. Among these are Congressmen David Obey, D-Wisconsin, and Tom Railsback, R-Illinois, who are preparing a bill which would limit the amount a PAC may donate to any House candidate to $5,000. PACs may give twice that amount now. And the measure would restrict the total amount a candidate could receive from PACs to $50,000. Temporary contributions in the form of credit would be prohibited.

Under present conditions, there is no limit on the total amount a candidate may receive from PACs. Three House members received more than $100,000 each from the committees last year.

Special interest groups have every right to make known their views. But it makes no sense for their voices to be allowed to drown out other views through the sheer impact of large amounts of political contributions. Money talks, too, and its voice can and should be kept to a reasonable level.●

POPE JOHN PAUL II

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. DERWINSKI. Mr. Speaker, as Washington and the entire country look forward with great expectation to the upcoming visit of Pope John Paul II, I wish to insert a very pertinent article by Prof. Gerald F. Kreyche, chairman of the department of philosophy at DePaul University. The article, appearing in the September 20 Chicago Tribune, very properly dwells on the remarkable qualities of leadership that the Pope has demonstrated. The article follows:

A POPE WHO WALKS AMONG MEN

(By Gerald F. Kreyche)

Wherever Pope John Paul II travels—Poland, Mexico, Ireland, the United States—he is met by huge throngs of people. They take him as one of their own. When they cannot meet him, they read about him and the experience is the same.

Today, this is an unparalleled phenomenon. These are people from all walks of life—rich, poor, middle class, Catholics, Protestants, Jews, Asians, Westerners.

Literally, he has a "catholic" appeal, in the sense of universal appeal.

How can one explain this? The reason, for it must be sought both in the man himself and in what he is, as well as in what he stands for and symbolizes. He is a symbol, a visible sign of something invisible.

As a man, John Paul II wears many hats and wears them all well. His particular gift is that he never confuses one hat with another. He has both surface and depth. He is personable and pensive, capable of small talk with ordinary people and of profundity with fellow philosophers.

At his general audiences in Castelgondolfo, where other Popes would go immediately to the dais, John Paul II works the crowds over, pressing flesh and exchanging greetings, takalmost an hour to get to the platform. On Sunday public appearances in Rome, instead of being standoffish and waving from the window of his apartment, he is as likely to hop into a Jeep and move out into the pavilion in front of Bernini's columns.

It is impossible to visualize a Paul VI or Pius XII going around kissing babies, yet with John Paul II it seems perfectly natural. Like John XXIII he enjoys being Pope and quite freely admits to it. Neither is he embarrassed by having a sense of humor. He would laugh with you at a cartoon of himself skiing a slalom, mitre flaps trailing, using two crosiers as ski poles. He can laugh at himself for he has the self-confidence of a Roosevelt and the charisma of a Kennedy. Everywhere his very presence exudes good will, something the world is in short supply of.

He also is a serious thinker, a professional philosopher who has published extensively and whose works are now appearing in English. To those who would search, these publications reveal the philosophical convictions which account for his outlook. That outlook has as its focus, the dignity of the human person. To fathom John Paul II one must understand that this is the *leif motif* of nearly everything he has written.

The Pope explicitly traces his own philosophical lineage not only to a traditional St. Thomas Aquinas, but especially to a German personalist thinker, Max Scheler. Scheler died in Cologne in 1928 after teaching there for nearly a decade.

Scheler's mother was Jewish and his father a Protestant. Scheler himself converted to Catholicism and had a conviction that Christianity, and especially Catholicism, could be one force to unify Europe after World War I. He was attracted to Catholicism, he said, because of the centrality it gave to the person in its value system.

Later, Scheler became disenchanted with his new religion and eventualy came to be known as "the Catholic Nietzsche." But his philosophy continued to put person at the core of reality and this deep appreciation was never lost on the present Pope. One may also strongly suspect that Scheler's own pluralistic background and vision of Christianity as a world unifying force served as an influence too.

But Karol Wojtyla, the humble peasant, is more than a Pope. He is a living symbol who points to the invisible—a reality larger than himself. And it is this fact, as much as his own character, that accounts for the excitement and love which he generates. Just as George Washington "who lives in the hearts of his countrymen" symbolically is larger than life and larger than the historical Washington of 1776, so it is with John Paul II.

But just what is it that he symbolizes? Above all else, he symbolizes *hope*, the stuff from which dreams are made and the future carved. He is colorful when all else is drab—the economy, the political situation, the energy dilemma, even the credibility crisis in Catholicism itself.

It is no small thing that Polish jokes suddenly lost their bite when this Polish intellectual assumed office. This event recalled for all of us the rich heritage of that "poked fun at" nation, now struggling so manfully in abject poverty under the yoke of communism. Copernicus and Kosciusko and Chopin came immediately to mind and almost at once we felt ashamed.

If his election was not inspired, it certainly was inspiring! It gave concrete encouragement to all minorities, to all who struggle against seemingly impossible odds, against seemingly unshakeable institutional lockstep. It demonstrated that changes can be made. The old can give rise not to the same, but to the new. In an age when the individual person seems to stand for naught, when contrasted with the regulatory weight and might of the institution, the person emerges once more supreme, in this Supreme Pontiff.

In an age seeking leaders when all about us are only managers, John Paul II symbolizes and fulfills this longed-for leadership. He leads, however, not as a corporation president, although in effect he is that, but he leads (to lift a phrase from a colleague) through the immense power of personal charm.

Exhibiting spontaneity when everything else is computer planned, he broke out of the world's tightest palace guard, the Vatican's! He is to all not only a symbol of hope but of freedom itself.

This was not lost to the world nor to the Polish communists who also cheered him on his visit there last year. His presence and his courageous call evoked something within their breasts many felt had died but which in fact was only dormant and drugged by political oppression. That was a deep desire in each to control his own destiny. Through this Vicar, the Poles for the moment forgot their plight, knowing only their pride and lived vicariously.

John Paul II as symbol extends beyond our own limits of time and place and reveals to us a vision of what lies beyond. As symbol, he is subject to many interpretations, possibly even contradictions. Like a diamond which is forever, a symbol has many facets and reflects the eyes of the viewer as much as other things. This too accounts for the Pope's popularity. Each of us tends to see him selectively. His openness allows us to see there in part what we want to see. We liken him to an understanding brother, a father, grandfather, fellow politician, sportsman, friend, professional colleague, and the list could go on. He is each of these and more—because he represents the aspirations of the spirit. As a symbol, he is trully a man for all seasons.

It matters not that he is as much a part of the institutional Church as any Pope has ever been. It matters not that he is religiously conservative (as evidenced at Cuernavaca and in certain of his edicts). In a way, it matters not even whether he will accomplish anything as momentous as John XXIII's Vatican Council. What matters is that the world today desperately needs him in order to look beyond its present condition. For that vision, it must always turn towards the religious. He was beckoned and he answered the call. Well could he say: *Veni. Vidi. Vici.*

GOVERNMENT CONTRACTOR PRODUCT LIABILITY ACT

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. GUDGER. Mr. Speaker, "the Government Contractor's Product Liability Act of 1979" will provide Government indemnity for suppliers of products to the Government in certain cases where suppliers are held liable for losses to Government employees attributable to faulty Government specifications. The bill would also amend the Soldiers and Sailors Civil Relief Act, to make military personnel subject to State statutes of limitations.

There is a serious need for this legislation. The Government is ordering and manufacturers are producing increasingly sophisticated equipment. At the same time, the courts and legislatures of an overwhelming majority of the States have made manufacturers strictly liable for their products. This means that to recover a plaintiff need only show that the product was "defective", or in some cases "unreasonably defective," when the manufacturer sold it and that this defect caused the plaintiff's injury or death. Strict liability laws are rational from a policy perspective when the manufacturer specifies the design and production of a product. Manufacturers contracting with the Government have little control over product specifications, yet they bear financial responsibility for the losses faulty specifications cause.

Obviously, most strict liability cases involving Government contractors arise when Government employees, particularly servicemen and women, are injured by defective equipment. Currently, absent a contractual waiver by the Government, the principle of sovereign immunity prohibits Government indemnification of contractors who are held liable in products liability lawsuits by Government employees. Thus, the manufacturer producing to specifications dictated by a Government contract faces the dilemma of either not producing to specifications and breaching the contract or producing and risking potential lawsuits without Government indemnification. One potential solution to the dilemma, product liability insurance, is often unavailable to the manufacturer or prohibitively expensive.

The contractor is not the only one who suffers under current law. The contractors' risks are ultimately reflected in higher prices for their products. In addition, competition for Government contracts has been reduced, as some eligible companies refuse to bid without an indemnification agreement and others have been bankrupted by products liability judgments.

The public is the biggest loser since under current law the public not only contributes a greater than necessary portion of its tax dollar for Government military contracts, but also suffers from inflation caused by these higher prices. Most important, current law, as a practical matter, removes financial responsibility from the institution in control of specifications, and places it on small powerless manufacturers. These manufacturers often have no choice but to produce dangerous equipment as specified and hope potential defects never materialize.

The problem is highlighted in the case of Stencel Aero Engineering Corp. against Werner. Stencel Aero is a small manufacturing company located in western North Carolina. For years, Stencel Aero has pioneered the development of jet aircraft ejection mechanisms. Stencel Aero's equipment has been the salvation of many a jet pilot in trouble. In Stencel Aero against Werner, Stencel Aero paid $199,000 to settle a claim arising when a parachute pack component manufactured by Stencel Aero to Government specifications failed, causing the death of a California Air National Guard captain. Under California's strict liability doctrine, Captain Werner's heirs had only to show that his death was proximately caused by a defect in the parachute pack, and that Stencel Aero manufactured the pack. Ironically, alert Stencel Aero engineers discovered the design defect after they were awarded the contract and repeatedly asked the Air Force to accept a remedy they developed. The Air Force generated its own remedy, however, and over Stencel Aero's strenuous objections, the Air Force specified that Stencel incorporate the Air Force remedy into the design. Stencel Aero had to produce the equipment as specified or be sued for breach of contract. It was the Air Force design that failed, killing Captain Werner. Stencel Aero had no contractual remedy against the Government and the Supreme Court has denied the tort claim under the principle of sovereign immunity. See *Feres* v. *United States*, 340 U.S. 135 (1950); *Stencel Aero Engineering Corporation* v. *United States*, 97 S. Ct. 2054 (1977).

Under current law, Stencel Aero, or any other similarly situated manufacturer, can only obtain a hearing for Government indemnity in a product liability case involving a Government employee if Congress passes special legislation. I have introduced two bills to accomplish this for Stencel Aero.

I ask you today to support the Government Contractors Product Liability Act of 1979. Small Government contractors and Government employees who must use Government equipment are located in virtually every congressional district in the United States. Your support of this legislation will have a very beneficial impact on these constituents.●

BLAME IT ON THE PEOPLE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. ASHBROOK. Mr. Speaker, in reading over once more President

Carter's recent speech on energy, I find it hard to believe that these are the words of the same politician who 3 years ago was promising us "a Government as good as our people." Apparently that is not very good at all—not if you judge by the way Mr. Carter described the people on nationwide television: Greedy, materialistic, and obsessed with "the worship of self-indulgence and consumption." He spent most of his time in the speech telling how bad Government is and that people properly do not have confidence in it. He spent the rest of his speech telling about our Government programs to—quote—solve—unquote our energy woes.

It used to be that liberal Democrats like Mr. Carter thought "the people" were the repository of everything wise and virtuous. The cure to the ills of democracy was said to be yet more democracy, and liberal writers and artists celebrated "the common man." But that was back when the liberals were regularly winning elections. Now that the people are turning away from liberalism, endangered incumbents like Mr. Carter have decided that what he rightly calls "a loss of faith" by the people must stem from defects in the national character.

Thus Mr. Carter refuses to consider that his own policies of crippling taxation and regulation might be the real cause of the energy crisis. Instead of removing his Energy Department's artificial barriers to private energy production, he pounds the desk and tells us that we all have to sacrifice, leave our cars in our driveways, and learn to live with less.

For the current crop of liberal intellectuals, the key symbol of middle Americans' refusal to sacrifice is the family car. The Washington Star recently published a brilliant column by Michael Novak explaining why car-owning families are right to reject this indictment. For most suburban mothers and fathers, the car is not an instrument of self-indulgence but a tool for meeting other people's needs—usually their children's. These parents do not enjoy driving to work downtown, but they want their children to grow up in uncluttered surroundings with access to good schools. I might add that if Mr. Carter wants people to move back into the cities, he should support tuition tax credits to give them access to private and parochial education. They do not enjoy serving as chauffeurs to Scout meetings and music lessons, but they think these things are important enough to keep doing even if they have to spend more time in gas lines. They cannot afford vacations in Colorado or Martha's Vineyard, but their cars let them take the family for a weekend at the seashore or the mountains.

As Irving Kristol pointed out in a recent Wall Street Journal column, the game of blaming the people was invented by the left back in the 1970's. For urban decay and ghetto riots the liberals blamed, not the politicians who ran the cities, but the people who moved away. For Third World poverty they blamed Western affluence—even though the poorest nations were and are precisely those with the least trade with the West. Now they are blaming the people for energy shortages and inflation as if it were the people who created 10 consecutive years of Federal budget deficits and an expanding web of destructive Washington regulations culminating in Mr. Carter's Department of Energy.

Given their premises, the liberal politicians are right to lash out in frustration at the people. They do not agree with the people's values, and the people do not agree with theirs.

Democracies have tools for narrowing such gaps: They are called elections, and the liberals rightly fear them.

The columns by Mr. Novak and Mr. Kristol follow:

[From the Washington Star, July 18, 1979]

THE WHEELS OF FREEDOM

(By Michael Novak)

It always amazes me when my fellow liberals (especially those who live in Manhattan and walk to work) accuse the American people of greed for their use of automobiles. Automobiles are not usually used for greed.

Most parents, at least, spend far more unpleasant than pleasant hours in the automobile. Some commute long distances to work, but not because of a fetish for traffic jams. They want their children to grow up with memories like those of Russell Baker and Jack Kilpatrick: some touch of green grass, fireflies, a sense of the outdoors.

They think there are better schools and better living away from the crowded cockroach-infested apartments they have known in major cities. Many are not rich enough to afford private schools.

Consider, too, the mother in suburban Cleveland, who has five children, and spends most of every afternoon and evening ferrying each of them to and from various music lessons. Her automobile is the instrument through which her children are developing their talents as they could not do without it. Is she greedy? She runs a shuttle service, but not for money.

Rarely does a parent slide into the front seat of the car merely for pleasure. Often enough, it is on behalf of someone else's needs. Some men and women drive a great deal, and hate every moment of it. They accept it as the only means available to fulfill larger ends, and as the vehicle by which, every so often, to "get away." They cannot afford plane trips or cruises, or summer homes at Martha's Vineyard.

It is perfectly true people have taken the car on short trips where walking was possible. For over a generation, from 1945 until 1973, the oil companies kept gasoline prices here between 20 and 40 cents per gallon, while the rest of the world, usually under government monopolies, each gallon cost $1.50 to $2.50. During those years, cheap gas was a godsend to the poor and working-class families of America. Millions of Americans visited parts of the nation they would otherwise never have seen; migrated in search of a better life; attended colleges far from home.

The automobile made possible for millions of elderly Americans in the northern tier a winter in Florida or Arizona. An auto gives a senior citizen a way of getting to the doctor, doing his or her shopping and getting to church.

Moreover, when one thinks about it, millions of working-class Americans do not really draw huge drafts of energy. Two-thirds of all Americans have never been in an airplane. Most commercial air travel is done on repeated trips by the top 10 per cent of the population in income and education. In bus stations, or even on the long train runs (outside the Boston-Washington corridor), one does not often find our upper class.

The median wage for families in America is approximately $16,500. Half of all American families earn less. Surely, these are not the greedy ones. The next highest 40 per cent earn under approximately $27,500 a year. Those in this group, trying to send their kids through college, do not have much left over to be greedy with.

Our top 10 per cent really has no need to loathe the other 90 per cent so. I wish they would look at their fellow citizens more closely. Most drive their cars because they judge they have to. This is why conservation is so difficult.

Downward mobility is hard to take. It is being forced upon the whole population, not only by a changing world, but also by a tide of false ideas and by governmental mismanagement. The affluent can afford to say "small is beautiful," and to freeze everyone else in place by demanding "no growth." Ninety per cent of America's families still have upward targets. They are a cooperative people; they desire to be fair; they are not afraid of sacrifice or hard times.

I have heard several people say, "Hard times help us all, once we get used to them again." These people are not greedy.

[From the Wall Street Journal, July 19, 1979]

BLAME IT ON THE PEOPLE!

(By Irving Kristol)

In his energy speech last Sunday, President Carter had an unusual 20-minute prelude in which he defined the context of the crisis in his presidency. The basic element in this context, as he perceived it, was "a loss of faith" by the American people in the future of their country. The symptoms of this loss of faith were the "worship of self-indulgence and consumption," a growing disrespect for all of our institutions, and the fragmentation of the polity into self-centered single-interest factions.

In short Mr. Carter, while admitting to some shortcomings of his own, also found much to blame the American people for. In this, he was certainly a la mode. Blaming the people has become the new rhetorical game in Washington. And not only in Washington. It is a game that the media, academia and the culture as a whole play with some skill and much obvious pleasure.

Nor is participation limited to any particular portion of the political spectrum. It is a game that everyone can play, and everyone is playing. The Left invented it back in the 1960s, and still feels that it possesses a proprietary interest. But recently the Right, too, has perceived its merits, and has enthusiastically joined in. Never in living memory—and perhaps never in American history—have the people suffered from such a steady drizzle of public abuse.

ADD INSULT TO INJURY

Typically, of course, it has been the other way around. Though politicians have been known blithely to injure the public, it is rare for them to add insult to injury. And the media, of course, have generally aimed to flatter the people—their customers, after all—not censure them. Indeed, it is one of the inherent dangers of a democracy, long recognized by political theorists, that officialdom will unduly flatter the people. There seems little danger of that today, when the blame for all of our pressing problems—from inflation to energy to impotence in foreign policy—is being dumped on the people.

The irony of the matter is that, on the whole, the people are quite innocent of the various mischiefs we have been perpetrating against ourselves. It is not public opinion that has created the dilemmas now confronting the makers and shakers of public policy. On the contrary, these are the creations of those very politicians and elite groups who are now so busy scapegoating the American people.

This scapegoating was first visible in the 1960s, when the Left—and the "counterculture" generally—launched its assault against American society, the American ethos, the American way of life. Vietnam was the ostensible provocation—despite the fact that there was never the slightest reason to believe that the American people were happy about our initial involvement there, or about the mode of our military operations there, or about our helter-skelter retreat from there. All of this was the work of "our best and brightest" experts on foreign policy, who enjoyed the opportunity to test some highly sophisticated theories about "limited deterrence." The test failed—and these same experts, safely back at Harvard, the Ford Foundation, or the World Bank, are now explaining that it was the lack of resolution and/or understanding on the part of the American people that was the root cause of the debacle.

The Left, of course, had already found this root cause in the utter moral depravity of the American people—a mob of racist, callous, self-seeking, and stupid "hard hats." America, the Left decided, was really "Amerika," fascist society in embryo, and dozens of plays, movies, and books celebrated this theme. This vision achieved incarnation in the person of Jane Fonda, originally dismissed as a left-wing kook, but gradually recognized as an authentic heroine by a bankrupt and desperate liberal establishment.

Indeed, this establishment showed remarkable skill in dumping all of the failures of the Kennedy-Johnson era on to the people. The Kerner Commission blandly discovered that ghetto blacks had rioted, looted, and burned because the American people were "racist." Liberal scholars discovered that our "urban crisis" was engendered, not by the misguided welfare and fiscal policies they themselves had advocated, but by the contemptible inclination of Americans to live in nice houses in pleasant surburbs. And these same scholars, too, quickly discovered why our foreign aid programs seemed not to work: it was because the selfish desire of Americans for a higher standard of living somehow—the "how" was never made clear—was responsible for a Third World "poverty trap."

As the energy problem moved on to center stage, blaming the people (when not blaming the oil companies) became conventional liberal rhetoric. The American people, it seems, were "energy hogs," dedicated to being comfortably warm in the winter and comfortably cool in the summer—and, above all, obstinately preferring to transport themselves in private automobiles, instead of in publicly owned subways. The very persons who made this indictment, of course, also insisted that the price of energy be kept low, lest someone, somewhere, make money out of producing and selling energy. The consequence, inevitably, is the "shortage" we are now experiencing—from which the citizens of Switzerland, Japan, Germany, France and even Israel seem miraculously exempt. And, just as inevitably, the typical response to the government-induced shortage is to demand that the American people cease their profligacy and become self-disciplined conservationists.

As with energy, so with inflation—though now conservative economists and political scientists have joined the game of blaming the people. The focus here is on the power of "single-issue" interest groups, and the complaint is that though everyone is in favor of fiscal responsibility, it is always expenditures on the other fellow's program that he wishes to see curtailed. Many conservatives proceed to the larger—and more dangerous—view that popular democracy itself ineluctably leads to an elephantiasis of the public sector, as everyone scrambles for a "free lunch" at everyone else's expense.

But, once again, such lamentations are beside the point. Yes, of course each and every interest group strives to preserve or expand its privileges, even while demanding that the sum total of such privileges be reduced so as to achieve a balanced budget. Yes, of course individuals, when polled, will insist that government spending be cut, but will disagree violently over which expenditures and programs are to be cut. Americans are not saints—nor does our political system assume them to be. Self-interest is the bedrock of our heterogeneous and pluralistic society. The job of government is to strike a balance among these conflicting interests—a difficult and painful job, made even more so as swollen government expenditures give birth to more and more such interest groups, each with a stake in a particular program.

I recall being in Los Angeles when Proposition 13 was passed, and finding myself watching a fascinating television program. The city fathers of Los Angeles, in dismay and disarray, were holding public hearings on the effects of the successful referendum. Each witness was asked which program he wanted to see cut—and, naturally every program had its supporters. But then Mr. Gann, one of the authors of Proposition 13, was called forward and was asked that same question. His answer was blunt and wise: The people had unequivocally said they wanted greater fiscal responsibility, and the people entrusted to their elected officials the hard decisions this involved. The hearings, in short, were a mere media "hype" as well as an act of political cowardice. Listening to this, the city fathers were uncharacteristically silent.

REVOLUTION OF RISING EXPECTATIONS

But not all conservatives are as wise as Mr. Gann. In recent years, a despairing stream of articles and books have issued from conservative academia, and have evoked sympathetic echoes in the business community. These argue, in one way or another, that it is democracy itself which is moving us toward a bankrupt economy—it is the democratic "revolution of rising expectations," the insatiable demands of the people for greater equality, and for getting something for nothing, which are the ultimate causes of all that tumultuous government spending that results in inflation. If this accusation were true, our situation would be hopeless—as some conservatives in their pessimism take it to be.

Fortunately, it is not true. It was not the people who demanded a War on Poverty—this was the invention of academics and public policy professionals who sold it to Congress as an idea that (a) would work (i.e., abolish poverty), and (b) would be politically popular. They were wrong on both counts—but why should the American people be blamed for that error? Similarly, most of the egalitarian tax measures that Congress has passed were not in response to popular demand. They emerged from academia and certain vociferous sections of the media. True, the politicians who voted for them thought they would be popular; but politicians are not always really thoughtful about such matters.

One can reasonably assert that our democracy has suffered a greater loss of self-confidence as a result of our politicians and policy elites being out of touch with public opinion than with their being too subservient to it. What is being called the "new conservatism" of the American public is to a considerable extent a growing popular insistence that this gap be narrowed. And if this process is painful to politicians, who now have to confront angry interest groups which their own legislation has given birth to—well, the appropriate comment is to the effect that, if you can't stand the heat. . . .●

TALKING WITH THE PLO

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. FINDLEY. Mr. Speaker, increasingly, a wide variety of Mideast observers in this country have come to believe that it is important for the United States to talk to the Palestine Liberation Organization in order to be able to promote peace in the Middle East. Adding its voice is the Chicago Tribune, one of the most respected newspapers in the country. My colleagues will note that the Chicago Tribune does not offer its approval of the PLO or of its methods. But it clearly states that the United States should be talking with the PLO because that organization is "the only organization that has a credible claim to representation of the Palestinians."

The September 17, 1979, editorial follows:

TALKING WITH THE PLO

Who could have expected it? Not a month has passed since Andrew Young lost his job for talking to the PLO, and now it has become the fashion. Black leaders, senators, congressmen, and journalists are getting their names into PLO appointment books. There is talk of Yasser Arafat coming to the U.S., and the State Department is floundering around in an awkward attempt to do what it assured Israel it was not doing, namely to dump the old policy against communicating with the PLO.

Supporters of the present policy of noncommunication have a powerful argument when they say that dealing with terrorists is dangerous. To negotiate under the threat of terrorism, or in response to past acts of terrorism, is to concede that violence against innocent civilians is an acceptable and effective means of advancing political goals. Besides encouraging the terrorists to continue their outrages, it will become an example for others to follow. The sight of Yasser Arafat entering the United Nations General Assembly in triumph, a gun visible beneath his jacket, was a message to other politically-frustrated groups. It said: "Try the gun and the bomb—they got me here."

Still, there are strong arguments in favor of the apparently emerging policy of talking to the PLO. One is the fact that the Palestinians' grievances are genuine, and until they have been resolved the Middle East will not know peace. The PLO is the only organization that has a credible claim to representation of the Palestinians, so it is with the PLO that we must negotiate.

The most compelling argument in favor of communication is that it works, and noncommunication does not. A generation of silent enmity between Egypt and Israel brought one war after another. A few days at the conference table brought peace. Extremism loses its appeal when voices of moderation can be heard and heeded.

In talking with the PLO we must make it clear that we are doing so not because of its history of violence, but despite it. The first aim of communication should be to convince PLO leaders that their grievances can be heard and redressed, but only in an atmosphere of peaceful accommodation. If they can be convinced, then we will be on the road to a durable peace in the Middle East. But they cannot be convinced unless we talk to them.●

DR. GUY S. ALFANO: A LEADER OF THE WESTERN NEW YORK ITALIAN-AMERICAN COMMUNITY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. LAFALCE. Mr. Speaker, the western New York community is blessed with a rich tapestry of ethnic groups. Descendants of Greek, Jewish, German, Irish, Polish, and Italian immigrants, to name but a few, have enriched the region with their own unique contributions.

Like all ethnic groups, Italian Americans have made their own unique and invaluable contribution to the traditions, history, and culture of this country. From a heritage rich with religion, art, music, government, and law, modern Italian Americans have been leaders in jurisprudence, commerce, exploration, science, and medicine.

On October 7, 1979, an Italian American who has made great contributions in the field of medicine will be honored as the Federation of Italian-American Societies' Man of the Year. As part of the societies' 72d anniversary, a truly esteemed gentleman will be honored for the contributions he has made to his community, his Nation, and his fellow Italian Americans.

Dr. Guy S. Alfano, director of the Erie County Medical Center, a native and lifelong resident of Buffalo, is most deserving of the Man of the Year mantle. His contributions to the medical profession in his chosen specialty, general surgery, and to his community for so expertly practicing that specialty, deserve commendation and praise.

Born in Buffalo in 1928, Dr. Alfano spent his childhood attending Buffalo's public schools before entering the State University of New York at Buffalo in 1944. By 1950, Dr. Alfano had left the university with an M.D. degree, and embarked on 5 years of interning and a surgical residency at E. J. Meyer Memorial Hospital. That was only the beginning of a long and enduring relationship that this institution and Dr. Alfano have enjoyed.

After serving in the U.S. Army Medical Corps from 1955 to 1957, Dr. Alfano returned to Buffalo's E. J. Meyer Memorial Hospital for another year of residency before entering a private practice specializing in general surgery that he maintained until he became director of the Erie County Medical Center in October 1976.

While a youth, Dr. Alfano began his contributions to the field of medical education with a series of articles and papers. His first, published in the Journal of the American Medical Association in February 1954, was entitled, "Surgery of the Elderly." During the next two decades, Dr. Alfano delivered numerous papers on a variety of timely subjects before National, State, and regional medical organizations.

His contribution to the field of medical education continued during his 6-year tenure as a clinical professor of surgery at the State University of New York at Buffalo School of Medicine.

Dr. Alfano's hospital appointments outline the breadth and scope of his involvement in local medicine. Prior to assuming his current post, he was the chief of surgery at Buffalo Columbus Hospital for 6 years. He has also served as an attending physician, and chief of both the surgery section and of IV Surgical Services at Buffalo Mercy Hospital, as a member of the attending staff at E. J. Meyer Memorial Hospital, as a member of the courtesy staff at St. Francis Hospital, and a member of the consulting staff at Buffalo Veterans Hospital. He has served as a consultant to both the Masten Park Narcotic Rehabilitation Central and the Armed Forces Examining and Entrance Station in Buffalo.

Community service has not been a duty which Dr. Alfano laid down when he left his office and entered private life. Rather, his long-term, deep involvement with the United Fund, including a 7-year term on the board of directors, is indicative of this man's dedication to his community.

The Buffalo community has been very fortunate to have within its medical profession a man with talents and energy worthy of recognition. Those who know Guy Alfano know that his dedication to his profession is only matched by his concern for his community, and especially his friends within the Federation of Italian-American Societies.

When the federation presents Dr. Guy S. Alfano with its prestigious Man of the Year Award, it will be recognizing an individual who is not only an outstanding physician and administrator, but a leader in his community.●

THE NATIONAL PRESS COMMENTS OF BILL YOUNG'S LEADERSHIP IN BRINGING COMMONSENSE TO FOREIGN AID PROGRAMS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. KEMP. Mr. Speaker, as the ranking minority member of the House Appropriations Subcommittee on Foreign Operations, our colleague from Florida, BILL YOUNG has done an outstanding job in providing us and the American people with a fresh and new insight into our foreign aid programs. His efforts are becoming increasingly noticed by the national press. In recent weeks Barron's financial weekly has published two reports on BILL's hard-hitting and effective actions relative to preventing American aid going to the repressive Communist regime in Vietnam. I refer to a $60 million loan already approved by the International Development Association, the "soft loan" window of the World Bank, as well as five or six more soft loans for Vietnam which are now pending. As a strong supporter of BILL YOUNG's efforts in these areas I am pleased to bring to the attention of the Congress his leadership role.

I am sure that the overwhelming majority of the American people and most Members of this House oppose sending American tax dollars to Vietnam. Neither do they want American funds routed to that country by indirect means. In fact, in July this House voted 271 to 122 to prohibit use for Vietnam of American foreign aid funds contributed to the International Development Agency. Most of us considered the matter settled then. The World Bank, however, decided to interpret another action of this House as nullifying our 271 to 122 vote. Investigative reporting by Barron's revealed that World Bank officials not only planned to ignore the will of this House, but also planned to continue processing a $60 million loan that could help finance a scheme for the Communist government to seize land from farmers in the south and force them into communes. According to press reports, some of these new economic zones are virtual concentration camps. Those who balk at going there have been shipped out in crowded and unseaworthy vessels. The plight of these "boat people" has touched the world.

Fortunately for the taxpayers of America BILL YOUNG has been tenacious in following the situation with diligence and persistence. When the House continued consideration of the foreign assistance appropriations bill September 5, he offered another amendment to prohibit indirect aid to Vietnam. The House voted down an attempt to obfuscate the intent of his action and then adopted the Young amendment 281 to 117.

I commend to my colleagues the following articles from Barron's which provide more specific details about the comments I have just made at this point:

[From Barron's, Sept. 3, 1979]

ASIAN SINKING FUND—THE WORLD BANK IS HELPING TO FINANCE VIETNAM

WASHINGTON.—When the House reconvenes on Wednesday, one of the first items of business will be the pending Foreign Assistance Bill, which includes an appropriation of $1.092 billion for the International Development Association, soft loan window of the World Bank. Virtually unnoticed, the House has approved an amendment to the bill saying that no U.S. funds for IDA may be made available to Vietnam

The amendment was passed by a vote of 271–122, after being introduced by Rep. C. W. Young, (R., Fla.), ranking minority member of the Foreign Operations Subcommittee of the House Appropriations Committee. This week Young expects to introduce a second amendment which would ban the use of U.S. money for indirect assistance to Vietnam, including programs run by the United Nations and the Asian Development Bank. The lawmaker also plans to redraft his earlier amendment to make its purpose clear. That's in response to a World Bank contention that a qualifier by Rep. Matthew McHugh (D., N Y.), passed by voice vote, nullifies the ban on funds for Vietnam.

On the basis of a conversation with Assistant Secretary of the Treasury, C. Fred Bergsten, as well as a letter from the U.S. alternate director at the Bank (confirmed by Bank President Robert S. McNamara), Young is under the impression that the World Bank has frozen the disbursement of a $60 million loan to Vietnam already approved. In fact, the Bank is going right ahead with the $60 million loan, which, according to a confidential World Bank document, is directly linked to the communization of southern Vietnam and to the miseries of the boat people.

In mid-July, Congressman Young wrote identical letters to Robert S. McNamara, head of the World Bank, and U.S. Executive Director Edward Fried asking several questions about the freeze. "What are the conditions or requirements which must be met before the Bank will lift the freeze? Who will make this decision?" In reply, the Congressman received a letter from William P. Dixon, then U.S. alternate director (he has since resigned), which failed to answer the queries. It did say, in part: "On August 8, 1978, the World Bank Board of Executive Directors approved a credit to Vietnam for irrigation to expand food production. There have been no disbursements on this credit and no new lending has been approved since that time. The existence of hostilities, beginning with the invasion of Kampuchea, and the establishment of a policy forcing hundreds of thousands of people to leave the country have raised fundamental questions about Vietnam's development priorities, its performance in managing its economy and its credit-worthiness. In view of these questions, the Bank has made clear that it would be completely inconsistent with its basic policies for any new loan commitments to be approved until the situation in Vietnam changes."

According to McNamara, Dixon's letter represents the position of the Bank. It led Young to assume there is a freeze on disbursements of the existing loan, as well as on new credits.

However, Frederick Nossal, financial relations advisor of the Bank's Information Department staff, told *Barron's* that the freeze has nothing to do with the $60 million loan. True, as the Dixon letter says, there have been no disbursements to date. But $25–$30 million have been committed for the project through letters of credit, which, when presented for payment by suppliers, will automatically be honored. "Only when letters of credit have been actually paid," explained Nossal, "do we consider the money disbursed." He added that the Bank plans to disburse the rest of the $60 million loan between 1980 and 1983. As further confirmation, U.S. Executive Director Fried told us that he has not asked the Bank to hold up disbursement of the $60 million, and that he fully expects the money to be spent.

Without passage of the Young amendment by both houses of Congress, it will be up to the Bank to decide when to resume lending to Vietnam. Several IDA loans, involving two hydro-electric power plants, a coal mine and rehabilitation and expansion of railways, have been pending for about a year. Virtual giveaways, the IDA loans run for 50 years, with a 10-year grace period. Except for an administrative charge of three-quarters of 1%, they are interest-free.

The Bank's press release concerning the $60 million loan from IDA for Vietnam said it would finance "an irrigation project that will boost rice production." However, confidential World Bank documents reveal that the money is designed to finance a scheme for the Communist government to seize land from farmers in the south and force them into cooperatives (communes). Thus, a World Bank Staff Appraisal Report says: "The main effort to deal with the employment problem [in the south] consists of the creation of New Economic Zones—agricultural settlements that are intended to resettle four to five million people by the end of 1980. . . ."

The Staff Appraisal Report explains that the co-op development will have three phases. At first there will be loose forms of work teams for work exchange or mutual aid. With the establishment of cooperatives, part of a member's compensation will be linked to the amount of land he contributes. When the government owns all the land, a member's pay will hinge solely on the amount of work he does. The government will tell the co-op members how much they can produce and what they can charge. The document warns that because of the possibility of rebellion among farmers, the loan is very risky.

According to press reports, some of the New Economic Zones are virtual concentration camps. Those who balk at going there have been shipped out in crowded and unseaworthy vessels, touching the hearts of the world.

A year ago, we asked John Merriam, the Bank's director of information and public affairs, about the institution's long-standing policy of not lending to a country at war, since newspaper reports indicated that the country either was at war or on the brink. He said that Vietnam appeared to be involved only in border skirmishes, but that, in any event, the Bank will lend to a country engaged in hostilities so long as they won't interfere with a project.

Merriam emphasized the long-standing Bank line that is nonpolitical, and that its loans are made solely on an economic basis. When we commented that loans directly to a government automatically are political, he responded, "Saying the Bank is not political depends on the definition of political." The Staff Appraisal Report, dated July 17, 1978, makes abundantly clear the Bank's aims. It says that subjects for future exploration with Vietnam includes arrangements for transforming southern agriculture along the lines of the successful socialist model in the north.

In July, the House Appropriations Committee reported out the Foreign Assistance Bill. Reps. Young, Jack Kemp (R., N.Y.) and Virginia Smith (R., Neb.) filed Minority Views in which they assailed the Bank for approving the $60 million for Vietnam without weighing the involvement of Vietnamese troops in Laos and Cambodia. They also deplored the lack of concern over the hundreds of thosands of Vietnamese forced to flee. "Hundreds of these so-called 'boat people' have perished on the high seas alone as a result of the policies of the Vietnamese government. Thousands more are suffering under intolerable conditions in refugee camps thoroughout Southeast Asia."

"So what is the response of the World Bank to this situation? Currently, IDA is considering an additional six soft loans for Vietnam which will cost hundreds of millions of dollars; yet there is no consideration given to the forced labor camps, indoctrination centers, the prisons from which many may never return. . . . Let us also not forget how Vietnam continues to refuse to account for hundreds of Americans still listed as Missing in Action in Vietnam, even though it has been established that the Vietnamese could be far more forthcoming. But the World Bank doesn't want to become involved in 'politics' because they are more concerned about providing billions of dollars to the various Vietnams of the world."

As a case in point, the lawmakers cited a $2.5 million loan that IDA made last March to the Central African Empire, headed by Emperor Bokassa, who was crowned in a ceremony costing $25 million. The lawmakers noted that Amnesty International has protested the merciless beating and killing of children in the Empire. "The Emperor can kill hundreds of children, but the World Bank cannot become involved in 'politics.' Such arrogance and irresponsibility," they declared, "cannot go unchallenged."

Before voting for the aforesaid McHugh qualifier to the Young amendment prohibiting money for Vietnam, the House debate became so involved that several members admitted that they were confused. The McHugh amendment inserts the following in the Young amendment: "Except that nothing in this paragraph shall in any way prevent the obligation or expenditure of funds that could be used to finance any assistance through the International Development Association to Egypt and Sudan." McHugh explained: "I use those two countries only because to list all of the countries which would be otherwise eligible would take a great deal of space." Young decided to introduce his clarifying amendment after learning that the World Bank is arguing that the McHugh amendment has rendered his own null and void.

During the earlier debate in the House, Rep. Charles E. Grassley (R., Iowa) declared: "When our constituents back home find out we are giving indirect foreign aid to Vietnam—the very country forcing out the boat people—they think we are lunatics." Grassley might have added that when it comes to bamboozling Congress, Robert S. McNamara has no equal. But by offending the conscience of the civilized world, this time he may have gone too far.

—Shirley Hobbs Scheibla.

[From Barron's, Sept. 10, 1979]

HOUSE BANS WORLD BANK LOANS, DIRECT OR INDIRECT, TO VIETNAM

(By Shirley Hobbs Scheibla)

WASHINGTON.—The House voted last week to prohibit the World Bank and other international institutions from using U.S. appropriated funds to aid Vietnam indirectly (Barron's, September 3, 1979). Earlier this summer, the lower chamber approved an amendment to the pending foreign assistance bill saying that no U.S. funds for the International Development Association, soft loan window of the World Bank, may be used directly for Vietnam. (The bill contains $1.092 billion for IDA.) However, the legislators inserted a qualifier by Rep. Matthew McHugh (D., N.Y.), which the World Bank contended nullified the ban on funds for Vietnam.

But last week the House rejected a similar qualifier by McHugh for the ban on indirect aid to Vietnam and the House made it clear that it wants neither direct nor indirect aid to Vietnam.

Before the votes, Rep. David R. Obey (D., Wis.) accused Rep. C. W. Young (R., Fla.) author of the two restrictive amendments, of choosing not to recognize a World Bank freeze on funding for Vietnam. "Both Mr. [Robert S.] McNamara, [World Bank President] and Mr. [William P.] Dixon [alternate U.S. director of the Bank, who recently resigned] made it quite clear that Vietnam 'ain't going to get no money' from the World Bank and that ought to be clear by now," according to Obey.

Rep. Thomas J. Downey (D., N.Y.) said that World Bank President McNamara met at least a dozen members of Congress and "said categorically that the Bank was not involved [in Vietnam] and that there was a freeze in funding."

Young responded, "I think I would get tired of being told one thing by World Bank people, while they are telling somebody else something else.

"Here is an edition of Barron's, Sept. 3, 1979. They interviewed a Mr. Frederick Nossal, financial relations advisor of the Bank's information department. Nossal told Barron's that the freeze has nothing to do with the $60 million loan that is being disbursed now."

The Editorial Commentary to which Young referred pointed out that he wrote identical letters to McNamara and U.S. Executive Director Edward Fried asking several questions about the freeze, including, "What are the conditions or requirements which must be met before the Bank will lift the freeze? Who will make this decision?"

Dixon, who replied to Young in a letter McNamara confirmed as Bank policy, said there have been no disbursements of a $60 million loan to Vietnam already approved and no new lending has been approved.

Referring to Barron's commentary, Young told the House: "True, as the Dixon letter says, there have been no disbursements to date, but $25 to $50 million have been committed to the project through letters of credit, which, when presented for payments by suppliers, will automatically be honored."

Director Fried told us—this is Barron's again—that he has not asked the bank to hold up disbursement of the $60 million and that he fully expects the money to be spent.

"You are on the floor telling us now there is a freeze. Well now, there is something wrong when two different stories coming out of the same source end up here in the House of Representatives.

"Now, if there is a freeze why will they not tell me? I hold the position of ranking minority member on this subcommittee [Foreign Operations subcommittee of the House Appropriations Committee]."

Just before passage of the Young amendment, some Congressmen argued that it was inconsistent to appropriate around $1 billion to help Vietnam's refugees and at the same time allow money from U.S. taxpayers to be used to help the government from which they are fleeing. As we pointed out on Sept. 3, the $60 million loan is directly linked to the communization of southern Vietnam and to the miseries of the boat people.

The matter still must go before the Senate, where chances are deemed good for passage of the Young amendments. Final enactment will raise some interesting questions. Will the World Bank accept the billion dollars for IDA, or still insist that its charter doesn't allow it to accept restricted funds? If it does take the money, how will it prove that none of it goes to Vietnam? What position will the Asian Development Bank, the United Nations Development Program and other "international institutions" take? If they accept the U.S. restrictions, will other legislative bodies around the world enact similar ones?

The Young amendments would not go into effect until Oct. 1, 1980. Currently IDA is considering six additional loans for Vietnam which will run to hundreds of millions of dollars. The Dixon letter says only that there will be no new lending "until the situation in Vietnam changes." Presumably, this would enable the Bank to approve new loans for Vietnam before the effective date of the amendments. Rep. John A. Ashbrook (R., Ohio) warned the House about "changes which would be meager but just enough to let them do what they already want to do."

Whatever the outcome, the House clearly has sent the World Bank a message. Young told the chamber: "I feel no obligation to send American tax dollars to Vietnam to help them do the very things that are costing us hundreds of millions of dollars on the other side to try to correct." ●

A LESSON IN SOCIALISM

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, intellectuals, theoreticians, politicians, academics and numerous others have often debated the theory and practice of socialism. While many books have been written on the topic, it is a rare day that someone is able to succinctly enunciate the problem of socialism.

A constituent of mine, Mr. Mike Donahue of Danville, Ill., recently sent me a copy of an essay entitled, "A Lesson In Socialism" which clearly shows how a socialistic system leads to a sort of "living death" for those who come under it. The article appeared in the April 1979 issue of the Better Business Bureau Report of Northeastern Indiana.

Since the article speaks so eloquently on the inherent dangers of socialism, I commend it to the attention of my colleagues at this point:

A Lesson in Socialism

The following letter from a teacher of economics in New York was written several years ago. With ever increasing government control over business, money (taxes), and life itself, the letter seems more appropriate today than it ever has been. Think about it for a while.

"As a teacher in the public schools, I find that the socialist idea of taking 'from each according to his ability,' and giving 'to each according to his need' is now generally accepted without question by most of our pupils.

"In an effort to explain the fallacy of this theory, I sometimes try this approach with my pupils:

"When one of the brighter or hard-working pupils makes a grade of 95 on a test, I suggest that I take 20 points and give them to a student who had made only 55 points on a test. Thus each would contribute according to his ability and—since both would have a passing mark—each would receive according to his need.

"After I have juggled the grades of all the other pupils in this fashion, the result is usually a 'common ownership' grade of between 75 and 80—the minimum needed for passing, or for survival.

"Then I speculate with the pupils as to the probable results if I actually used that socialistic theory for grading papers.

"First, the highly productive pupils—and they are always a minority in school as well as in life—would lose all incentive for producing. Why strive to make a high grade if part of it is taken from you by 'authority' and given to someone else?

"Second, the less productive pupils—a majority in school as elsewhere—would, for a time, be relieved of the necessity to study or to produce. This socialist system would continue until the high producers had sunk—or had been driven down—to the level of the low producers.

"At that point, in order for anyone to survive, the 'authority' would have no alternative but to begin a system of compulsory labor and punishments against even the low producers. They, of course, would then complain bitterly, but without understanding.

"Finally, I return the discussion to the ideas of freedom and enterprise—the market economy—where each person has freedom of choice and is responsible for his own decisions and welfare.

"Gratifyingly enough, most of my pupils then understand what I mean when I explain that socialism—even in a democracy—will eventually result in a living-death for all except the 'authorities' and a few of their favorite Lackeys." April, 1979—Better Business Bureau Report of Northeastern Indiana.●

EDITORIAL SUPPORT FOR REFORM IN PAC CONTRIBUTION LAWS

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. RAILSBACK. Mr. Speaker, in the near future, Congressman OBEY and I will be offering an amendment to S. 832, the Federal Election Commission authorization, that would provide meaningful reform in those laws governing contributions to House candidates from political action committees (PAC's). Over 130 of our colleagues have joined us in cosponsoring this proposal, a proposal that has received wide editorial support in our Nation's newspapers.

For the benefit of our colleagues who are not aware of the extent of support for reform in PAC contribution laws, we are pleased to insert into today's RECORD a sampling of the many editorials on this subject. A portion of the editorials follow in alphabetical order by the title of the newspaper in which they appeared. The balance appears in remarks made elsewhere in today's RECORD by Mr. OBEY.

[From the Austin American-Statesman, Aug. 6, 1979]

Limiting PAC's a Good Idea

Congress isn't exactly falling all over itself to take down the "For Sale" sign it displays to flush special interest groups, but some members appear willing to weaken its supporting props.

A bipartisan group of more than 100 representatives last month introduced the Campaign Contribution Reform Act to cut in half the maximum contribution a political action committee may give any House candidate and limit each candidate to an overall total of $50,000 from special interest committees. The measure also would curb the credit that PACs, political consultants and direct-mail experts could extend to candidates, a practice which camouflages illegal temporary campaign contributions.

Currently candidates may accept up to $10,000 from any PAC and an unlimited total from all PAC contributors. There's no shortage of interested interest groups. From the end of 1974 to November 1978, the number of PACS more than tripled, as did their contributions to candidates. The 1978 total was $35.1 million and the big givers are making bigger projections for future races. A Common Cause study shows that freshmen members were quick to appreciate the bounty of PACS—the 77 House newcomers in 1978 averaged PAC contributions of $43,000. Such easy addiction to big doses of special interest money can insulate a member against responsibility to the general public.

The PAC limits are the next best thing to public financing of campaigns. Congress should exercise some self-denial and enact the measure right after its August recess, making it effective in the 1980 races.

[From the Boston Globe, July 25, 1979]

Cutting Special-Interest Spending

A bipartisan coalition of House members this week is scheduled to introduce legislation sharply limiting the contributions that can be made by political action committees (PACs) to candidates for the House. The coalition hopes to make it applicable to the 1980 congressional races. It is late in the current Congress to be introducing such controversial legislation, but the fact is that unless PACs are soon restrained, they may never be restrained.

Political action committees are organizations established by businesses, trade associations or unions to collect contributions from employees or members and funnel them to candidates whose views are appealing to the committee. They are the primary campaign-contribution vehicle of the special interests and their proliferation and growing financial clout threaten to undermine the representative system in Congress. There are now more than 2000 PACs, and in 1978 they gave $35 million to congressional candidates, close to a quarter of all the spending on congressional races by all Americans.

Previously, congressional efforts to diminish the clout of PACs have centered on the public financing of congressional elections. That approach has been rebuffed in four straight congresses. Now the attention focuses on a direct effort to limit the spending of PACs.

It would cut from $10,000 to $5,000 the contribution any PAC could make to a candidate in a normal cycle of primary and general elections. It would sharply limit the loans that PACs, political consultants, and others could make to candidates. And, in what is sure to be the most controversial provision, it would limit the total contributions any House candidate could receive from PACs in any one political cycle of $50,000.

The last provision will probably raise constitutional objections. PACS will maintain that if they seek to contribute to a candidate and find he or she has already reached the $50,000 limit, then the free speech rights of the PAC will be violated. That is a substantive issue, but it is not necessarily controlling. First, the Supreme Court has upheld the public financing of general elections for President in which direct private spending is flatly prohibited. Second, nothing in the legislation would prohibit a PAC from spending on behalf of a candidate as long as that spending were independent of the candidate's campaign.

Congress should give speedy consideration to the legislation. In the end, it may have to be attached to other legislation already on the political track. That will ruffle some feathers. But the power of PACs must be circumscribed soon. Last year, 176 House candidates received $50,000 or more in PAC funds; 130 of them won. Without action soon, a working majority of Congress may soon owe a heavy political debt to PACs, and changes in the system will become virtually impossible.

[From the Madison (Wis.) Capital Time, Sept. 4, 1979]

Restrict Campaign Gifts

Fat cats in the Congress, who successfully killed a bill for public financing of House and Senate races last May, appear ready to team up to kill a worthwhile compromise substitute bill written by Reps. Tom Railsback, R-Ill., and David Obey, D-Wausau.

We hope they are unsuccessful, for the measure would strike a crucial blow at the distressing growth of power of special interest lobbies. The Obey-Railsback bill has the solid support of *Common Cause,* the public affairs lobby.

There is an urgent need to curtail the flood of cash that is descending on Capitol Hill, much of it going to leaders who are solidly ensconced in their district and have little need for campaign funds. What happens is that the fat cats distribute the money to less affluent members, thus patently buying influence.

A heartening provision of the compromise bill would cut from $10,000 to $5,000 the amount political action committees could contribute to a candidate in both the primary and general elections. Other provisions would put a $50,000 limit on the amount a candidate could receive from the committees, and prohibit committees, consultants and direct mail experts from extending more than $1,000 credit to candidates for more than 30 days. The bill would apply only to House races.

The measure seeks to restrict the flood of contributions from corporate, trade and labor groups. In the 1978 elections, the special interest committees contributed more than $35 million to federal candidates, compared with $22.6 million in 1976. The largest growth has been in corporate committees.

The bill will be up for consideration when the House ends its Labor Day recess. It will be a final opportunity for the House to curtail influence-buying dollars before the 1980 elections.

[From the Portland (Ind.) Commercial Review, July 29, 1979]

PAC Proposal

A good bill is coming up for consideration soon in the House of Representatives, and its passage might provide evidence that the country's government hasn't been purchased lock, stock, and barrel by special interest groups.

It's called the Campaign Contribution Reform Act, and if early indications mean anything, it is gaining strength. So far, the bill has 100 sponsors, including Tenth District Congressman Phil Sharp, and that is usually a good sign.

Simply stated, the bill would cut in half the maximum contribution any special interest group could donate to the campaign of a House candidate and would put a $50,000 ceiling on all campaign donations from special interest groups.

The growth of the Political Action Committee or PAC in the past few years has been remarkable as more and more special interests have found it a successful vehicle for getting around limits on individual campaign contributions. It works this way: Faced with legal requirements for disclosure and limitations on campaign giving, labor unions, business groups, and individual corporations have set up separate PACs as ways of funneling money to the candidates they like. On paper, the PACs are independent organizations. In fact, they are often little more than money conduits.

As a result of the growth of PACs, the concerns of the individual and the concerns of the nation as a whole have often been lost in the tussle between combating power groups with their own areas of special interest.

Much of the delay involved in the failure of Congress to develop an energy policy is directly the result of the growing influence of PACs.

The new bill, which is being pushed by such groups as Common Cause, would attempt to cut back on that growing influence, without killing off PACs entirely. While limits would be set, the union or business interests would still have an opportunity to do their usual special interest lobbying.

Here's what the bill would do:

Reduce by half the amount of money a special interest PAC could contribute to the campaign of any House candidate, cutting it from $5,000 in the primary and $5,000 in the general election to a total of $5,000 for both.

Set a $50,000 ceiling on the amount a House candidate could receive from all PACs from one general election to the next. According to the Democratic Study Group, 176 House candidates in 1978 were above that $50,000 level.

Prohibit the extension of more than $1,000 credit for 30 days for media advertising or direct-mail campaigns.

Those three steps aren't going to solve all of the problems of campaign wheeling and dealing, but they certainly are a step in the right direction.

We hope the 100 sponsors of the bill have enough clout to get it past the more than 100 who are picking up so much PAC cash. The bill deserves to pass.

[From the Jamestown (N.Y.) Post-Journal, July 28, 1979]

Special Interests: Must Reduce Power

Can congressional support for a particular program be "bought" by a special interest group?

The flow of money from special interest groups to some members of Congress has proliferated to the point that some of the younger mavericks on Capitol Hill are calling for curbs on the amount of money that powerful business and labor groups can funnel to their favorite legislators, especially during election campaigns.

The Campaign Contribution Act was introduced July 26 by a bipartisan group of more than 100 members of the House, led by Reps. David Obey, D-Wis., and Tom Railsback, R-Ill. It would cut by half the maximum contribution a Political Action Committee could make to an individual candidate.

Political Action Committees, or PACs as they are commonly called, first appeared on the scene following a 1972 challenge by Common Cause which questioned the practice of government contractors making direct or indirect campaign contributions. The Common Cause lawsuit asked that a 40-year-old election law prohibiting such contributions be enforced.

Congressional reaction was fairly swift. By 1974 that provision had been struck from the law, and the growth of PACs was precipitated, growing from 516 PACs in 1974 to 1,938 by 1978. Corporate PACs are now the largest numerical category, although they are outspent by labor unions by about a million dallors.

What is the danger in PACs? The more money a group donates to a candidate, the more favors they expect in return. And too often those favors are at the expense of taxpayers and consumers. It is easy to understand why a candidate would feel beholden to a group which substantially supported his election campaign.

Those who rely heavily upon this small group of campaign investors end up representing that group, rather than the larger majority of constituents. And this is the danger Obey and Railsback want to see eliminated.

In 1978, PACs gave a total of $35.1 million to candidates. One study of eight senators elected in 1978 found that special interest money accounted for 64 percent of the total receipts of these candidates.

The bill proposed July 26 to reduce the influence of PACs is only one page in length—a raritiy in itself. It has three major provisions:

—Reduce the amount a special interest PAC may contribute to a House candidate from $5,000 in a primary and $5,000 in a general election to a total of $5,000 for the full course of the election, including both primary and general election. A similar proposal failed to make it through the House last year.

—Limit the combined amounts a House candidate may receive from all special interest PACs to $50,000 during the entire period from one general election to the next. There were 176 House candidates in 1978 who received more than $50,000 in PAC gifts that year alone. Clearly this provision would not be popular with most incumbents.

—Prohibit PACs from extending credit of more than $1,000 for more than 30 days for media advertisements or direct-mail fund-raising activities for a House candidate. Some extend the services in anticipation of funds to be received at a later date which may not come in.

The U.S. Supreme Court in 1976 upheld limits on contributions to congressional candidates as a constitutional method of protecting the integrity of elections.

We believe that elections should be funded by individuals, and not special interest groups for the most part.

The Campaign Contribution Act appears to be a good move, and it is to be hoped that the large number of sponsors of the bill is indicative of enough support for passage.

[From the Los Angeles Times, July 29, 1979]

Too Much Clout in the Corridors

In politics, money is power, and the special-interest lobbies in Washington have been upping the ante every year to increase their clout in Congress.

The money is paid at election time by political-action committees (PACs), representing hundreds of major organizations ranging from labor unions to corporations to industrial and trade associations.

Last year the committees gave House and Senate candidates more than eight times the amount spent by the Republican and Democratic parties.

More than a third of the membership of the House took PAC contributions in excess of $50,000 in 1978, and donations totaling more than $100,000 to a single candidate were not uncommon.

In the past four years, PAC spending has risen 400%, and there has been an even larger gain in the number of political-action committees—from 400 to more than 1,900. The largest increase has been in corporate PACs.

It is wrong that special interests should have such a controlling role in funding congressional races. Even the most circumspect members of the House or Senate cannot always ignore the pleadings of their biggest bankrollers.

The best way to end this dependence on the special interests would be to institute a system of partial public financing, similar to the one now in effect for presidential elections.

But members of Congress are not yet ready to apply to themselves the reforms that they were only too eager to enforce on candidates for President in 1976 in the wake of the Nixon-for-President fund-raising scandals.

Two public-financing measures died at this session of Congress, but Common Cause and other reform organizations will press for their revival next year.

In the interim, however, Congress has an opportunity to limit the inordinate influence of the political-action committees, and without having to accept the restraints of public subsidies.

Two representatives, Democrat David R. Obey of Wisconsin and Republican Tom Railsback of Illinois, are the authors of legislation that would limit to $5,000 the amount that a single PAC should contribute to a candidate in an election year. The present limit is $10,000.

The measure also would impose a ceiling of $50,000 on the total amount that a candidate could accept from all PACs, and would outlaw PAC "loans" or "services" in lieu of direct financial contributions.

The Obey-Railsback proposal strikes us as moderate, and it will test the good faith of House members who claim to deplore the escalating power of the PACs but who oppose public financing as too costly to the taxpayers.

The proposal has a fair chance of enactment. Many of its more than 120 cosponsors are against public financing, but agree that the time has come to stop the no-limit game that the political-action committees are now playing in the corridors of Congress.

We still think that the rules that apply to presidential contenders should apply to all candidates for federal office, but that will have to wait for another time.

[From the Raleigh (N.C.) News and Observer, Sept. 4, 1979]

Limiting PAC Influence

Public financing of congressional elections regrettably is dead for now. But it's good that another effort has begun in Congress to stem the tide of surging "special-interest" financing of House and Senate races through corporate, labor and professional political action committees.

Since 1974, the number of PACs, as the committees are called, has gone from about 600 to 1,900. Their contributions to congressional campaigns have tripled, amounting to $35 million in 1978. The potential for continued PAC growth is enormous. When PACs contribute to a congressional campaign, they are in effect using money to gain access to senators and representatives so they can try to influence in their own self-interest the course of legislation.

A new bill has been introduced—with sponsors hoping to bring it up for action in the next month or so—that would limit each PAC to a single $5,000 contribution to a candidate for a full election, instead of permitting $5,000 in a primary and another $5,000 in a general election.

It is perhaps more important that the bill would prohibit a House candidate from taking more than $5,000 from all PACs combined. In addition, the legislation would ban PACs and direct-mail firms from extending more than $1,000 in credit for more than 30 days for media advertisements.

There are 130 co-sponsors, including Democrats and Republicans. This suggests that the bill has a fairly good chance of passing before fund-raising really heats up for the 1980 campaigns. Though PACs tend to favor incumbents, some congressmen might be attracted to this bill because it would restrict potential opponents from raising a large campaign chest by appealing to PACs.

As the most pragmatic thing that can be done now to constrain PACs, the proposed legislation is useful. North Carolina congressmen ought to support it.

But it would only be a stopgap, a holding action. Eventually, the American public and election officials must recognize that a mixed system of relatively small contributions from individuals and groups, who have a constitutional right to participate, along with matching grants of tax money is an appropriate response to the problems of campaign financing.

Surely a nation that finds a public interest in subsidizing corn and wheat can see a public interest in taxpayer support of the democratic process.

[From the Long Island (N.Y.) Newsday, Sept. 6, 1979]

Let's Loosen the Big Spenders' Hold on Congress

Business and labor habitually try to outspend each other on political influence, much as Washington and Moscow compete to see who can pile up the most military hardware. Fortunately, it's a good deal easier to bring political spending under control than it is to end the arms race—if only Congress has the will.

Ever since Congress provided for public financing of presidential campaigns and the Supreme Court nullified campaign spending ceilings, special interest money has been searching for good, politically safe homes. It's finding more every day.

In 1972, for instance, campaign contributions from so-called Political Action Committees totaled $5 million for congressional races; last year they reached $25 million. The swollen campaign chests of some incumbents—Senator Alan Cranston (D-Calif.) took in more than half a million dollars and Robert Packwood (D-Ore.) raked in $314,000 during the first six months of this year—attest to the upward motion as business tries to match labor's contributions and vice versa. And the next election is still more than a year away.

But now a bipartisan group headed by Representatives Tom Railsback (R-Ill.) and David Obey (D-Wis.) have persuaded more than 100 of their House colleagues to sponsor a simple measure designed to put a lid on PAC contributions.

Under their plan, each candidate for the House would be limited to a total of $50,000 in PAC money, with no more than $5,000 from any one group. The current one-group limit is $5,000 in the primary and $5,000 in the general election, with no ceiling on total donations.

The bill would also prohibit PACs and others from extending "credit" of more than $1,000 for more than 30 days. That provision is aimed at candidates who receive such campaign services as advertising and direct mailings in the expectation that funds generated will pay off the cost in the future. Gerald Rafshoon, for instance, carried presidential candidate Jimmy Carter until federal matching funds arrived. And conservative fund raiser Richard Viguerie, an expert in direct mail appeals, would also be affected by the legislation.

Since public financing of congressional races seems doomed in this Congress, attempts to slow the influence of special interest campaign money are more urgent than ever. The Obey-Railsback bill needs Senate approval to become law, but it applies only to House races. Not only should the House pass it, but the Senate must follow suit or be inundated with special interest funds. That wouldn't look good for individual senators, nor would it serve the public good they're supposed to protect.●

AMENDMENT TO DISTRICT OF COLUMBIA RETIREMENT REFORM ACT, H.R. 3939, SCHEDULED FOR SEPTEMBER 24

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. DELLUMS. Mr. Speaker, I am preparing a committee amendment to H.R. 3939, which is scheduled for floor action Monday, September 24, "District Day."

In an effort to avoid a veto of this important bill, as occurred a year ago, we have been in close contact with officials of the Office of Management and Budget. As late as this morning, those officials indicated that a reduction in the Federal share of the costs of this bill would be necessary.

We have the Office of the Legislative Counsel of the House drafting the amendment and have started discussing it with members of the committee.

If by the time H.R. 3939 is taken up Monday afternoon, there is sufficient agreement among the members of the Committee of the District of Columbia, I intend to offer this amendment, so that when we meet with the Senate in conference, the full range of possible actions on this bill will be available to Congress without further delay.

The intent of the amendment is to reduce the Federal share of responsibility for unfunded liability for employees who retired before home rule in 1975 under regular time of service provisions to less than the 100 percent in H.R. 3939. No change would be made in the 33-percent Federal share for disability retirements before home rule, or in the 100-percent city responsibility for retirements starting in 1975.●

SOVIETS FORAGE AGAIN FOR GRAIN

HON. ARLEN ERDAHL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 21, 1979

● Mr. ERDAHL. Mr. Speaker, the Russians are anticipating a poor wheat harvest again this year and will be buying American grain. Such purchases remind us of the Russian grain deals in 1972 when their traders did a better job on behalf of the Russian buyers than our sellers did for the American farmer. In the interim, we have taken steps to prevent a recurrence of those events and these have been written up in an article appearing in the September 12 issue of Minneapolis Star. I commend it to the attention of my colleagues:

[From the Minneapolis Star, Sept. 12, 1979]

SOVIETS FORAGE AGAIN FOR GRAIN—BUT RECORD SALES UNLIKELY TO CAUSE A REPEAT OF 1972

(By Susan Feyder)

The Russians are coming into the U.S. grain market as never before.

This summer's almost-daily parade of government announcements on grain sales to the Soviet Union ensures that, for U.S. exporters, 1979 will be a record year.

The reason? A sukhovey—a hot, dry wind that blasted the Russian plains just before harvest and shrank the size of the projected Soviet crop from 225 million metric tons to about 190 million. (A metric ton is 2,205 pounds, compared with 2,000 pounds for a standard ton.)

The last time Soviet grain-buying attracted this much attention was in 1972. But it wasn't just the size of those sales that made front page news.

There were charges that year that the U.S. government had tipped off grain firms about the likelihood of sizable Soviet purchases. That inside information, critics charged, allowed the firms to buy up grain supplies before farmers became aware of the improving market.

There were questions about the huge export subsidies paid to exporting companies and allegations that grain firms were racking up windfall profits.

And there were accusations that, in their desire for profit, grain firms sold too much of this country's wheat, depleting the supply and sparking a 16 percent increase in food prices the next year.

Congressional hearings on the 1972 grain sale controversy largely absolved the grain firms of guilt. But in clearing themselves, the normally secretive grain exporters revealed how they'd been caught off guard by the Soviet buying spree. The U.S. grain industry had discovered that it wasn't prepared to anticipate, monitor and fill the needs of such a huge customer.

REPEAT NOT LIKELY

Could too much be sold again this year?

Probably not, say agricultural experts, including those at Cargill Inc., one of the most active grain exporters in the world. They say that this round of buying is different in several ways:

The Soviet shopping list has changed.

When the Soviets came to U.S. exporters in 1972, they came for wheat—10.1 million standard tons of it, compared with just 4 million tons of corn. This time the ratio is almost reversed; the latest figures for the year ending September 30 put total purchases at 4 million tons of wheat and 11.5 million tons of corn.

That's important because the United States produces more corn than wheat, according to Robbin Johnson, assistant vice president and manager of public affairs for Cargill. It's less likely that heavy corn exports could seriously dent domestic supplies.

The Soviet Union has become a steady customer.

The heavier corn purchases are directly related to a fundamental change in Soviet grain-buying habits, Johnson says. The Soviets are buying more corn because they've made a long-term commitment to improve their diets, and that means they want more feed grains to fatten up their livestock herds.

"When you make that kind of commitment, you have to find a source of supply in years when your own crops are poor," Johnson explains. "It used to be that when they had a bad year, the Soviets would just tighten their belts until things got better. But this effort to upgrade diets has changed all that."

Changes in public policy in this country have made it more difficult for the Soviet Union not to be a steady buyer. The Soviets in 1976 signed a five-year purchase agreement that places a 6-million-ton floor and an 8-million-ton ceiling on purchases of U.S. grain.

The United States is watching foreign grain sales more closely to prevent serious shortages in domestic supplies.

Under terms of the five-year agreement, the Soviets can buy more than 8 million tons if the United States gives its approval. This year's round of buying is a good example of how that process works.

The figures for total sales change frequently, but as of late last week, the Soviets had bought 15.5 million standard tons of wheat and corn for the year ending September 30. That's the highest level of buying since 1975, when the Soviets came to the U.S. market for 14.9 million tons of grain.

GOVERNMENT MEETING

The ceiling was raised to permit those bigger exports after a meeting of government agricultural experts last October, according to G. Edward Schuk, head of the University of Minnesota's department of agriculture and applied economics.

"On the basis of crops we had at that time, we knew we had abundant supplies," says Schuk, a former Deputy Under Secretary of the U.S. Department of Agriculture. "We knew we could raise the limit and that the possibility of a short-run wasn't at all likely."

As of July 1 of this year, there were more than 400 million bushels of wheat and 700 million bushels of corn in reserve, That's more than 2½ times the amount bought by the Soviets in 1972.

Such meetings of government experts, which take place twice a year, examine both reserves and prospects for that year's harvest.

"We don't raise the limit unless we're sure we can make the commitment to sell," Schuk adds. "And for the last two years we've raised it without running into any trouble."

Until 1973, the government did not require exporters to report their sales. Now, U.S.-based exporters have to report daily to the USDA sales of more than 100,000 tons and weekly on smaller sales. Firms that don't report are subject to $25,000 fines and jail terms of up to a year.

Although the companies don't have to report sale prices, the system is useful in monitoring export commitments, Johnson and Schuk say. A government study issued in February found that although export sales reports alone can't be relied on to predict exports of commodities, the system is functioning adequately. The study suggested that the USDA review its rules to make sure sales are reported as early as possible.

Grain export subsidies have been replaced with a system of farmer-held reserves.

During the summer of 1972, the domestic price of wheat was about $1.75 per bushel and the export price was $1.63. The USDA made up the difference to companies such as Cargill by paying them an export subsidy.

"Both the sale and the size of it were unanticipated," Johnson says of the 1972 Soviet purchase. "They (the Soviets) had bought small amounts of grain in 1971, but it really had been years since they'd been customers."

In the first round of buying in mid-July 1972, the Soviets bought about 6 million tons of wheat—5 million from Continental and 1 million from Cargill, Johnson said. At the time, exporters thought that was the end of it.

"But then they came back again about a month later, and that was a bigger surprise," Johnson adds. Continental sold them another 3 to 4 million (tons) and we sold them another million."

As the size of the Soviet sale became apparent, the domestic price rose. But grain companies already had made commitments to sell to the Soviets at the $1.63 per bushel export price.

That meant that the difference between what grain companies paid for wheat on the domestic market and what they sold it for abroad got bigger. And so did the export subsidy, up to a point.

"When the Soviets came to us for price quotations that summer," recalls Johnson, "we and other companies went to the government and said, 'Will you maintain the export subsidy program?' And they said they would. That lifted the price risk from our shoulders. That is why we were willing to sell at a fixed (export) price."

SUBSIDY COLLAPSED

By late August, the domestic price of wheat had risen to $2.10 per bushel and the export subsidy had increased to 47 cents.

"That 47-cent offering stayed in place for one week. Then the (Agriculture) Department gradually started reducing it. By mid-September, it had collapsed to zero," Johnson says.

And so the grain companies were caught short. They had to buy the wheat at a higher domestic price, sell it at a lower export price, and take the loss because the subsidy had ended. A Government Accounting Office study would later show that, far from reaping windfall profits, U.S. grain exporters lost half a cent per bushel on the 1972 Soviet grain deal.

Under the farmer-held reserve program, which began in 1977, grain supplies are held off the market until prices have risen enough to signal demand pressure. That makes the entire grain industry more sensitive to price.

"With this and no export subsidy, an exporter has to be worried about rising domestice prices for grain," Johnson said. "The price impact of a big foreign sale gets factored into both the amount and price we offer to a foreign country."

The United States is monitoring Soviet crop conditions and grain needs more closely.

Since 1974, the USDA has been using data obtained from satellites to estimate Soviet crop production.

The five-year agreement also allows periodic exchange of U.S. and Soviet agricultural teams to observe crop conditions. The USDA also has an agricultural attache permanently stationed in the Soviet Union.

"It's a matter of pulling little pieces together," says Art Coffing, a USDA economist. "We get the first-hand observations from the teams. And the attache—his job is to listen to the official (Soviet) government reports, read the provincial newspapers and interpret what they're saying.

"They don't usually come right out and say if they're going to have a bad crop, but after awhile, you learn how to figure out what they mean from the little they do say." ●

SENATE—*Monday, September 24, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. DAVID L. BOREN, a Senator from the State of Oklahoma.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God, our Creator and Lord, who hast given us the gift of life, bless all whose daily toil is in and for the Government of this good land which Thou hast given us for our heritage. Fit each person to his task and unite us in one organism, strong in the Lord, and the power of His might. May we work in Thy spirit this day wasting none of its hours, soiling none of its moments, neglecting none of its opportunities, and failing in none of its duties. Keep us honest, just, and pure in heart. Bring us to evening unblemished in character, undefeated by temptation, at peace with ourselves, at peace with our fellow men, and at peace with Thee. For Thy name's sake, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 24, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID L. BOREN, a Senator from the State of Oklahoma, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BOREN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader, the Senator from West Virginia, is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE H-BOMB ARTICLES

Mr. ROBERT C. BYRD. Mr. President, over the last several months, much attention has been drawn to the attempts of the U.S. Government to prevent the publication of the so-called H-bomb article and more recently, articles and letters that apparently carry detailed information relating to the design and fabrication of nuclear weapons. Last week, it was announced that the Government has suspended its efforts after the publication of one of these articles; other articles have been published since that announcement. These instances raise the most fundamental questions of the need to balance the rights of individuals to publish and read what they want, rights guaranteed by the Constitution, and the rights of the general public to be protected from danger and the threat of danger.

I suspect that further legal action will flow from these developments and, therefore, I will not comment on the substantive merits of any of the cases; I have read only summaries of the articles and, therefore, any substantive observations I might have will have to be limited. But there are at least two broad problems raised by the H-bomb articles that I would like to address.

First, it is apparent from what has been happening that security procedures governing access to highly sensitive technologies have been less stringent than is desirable. The general principles of nuclear weapons design are widely known and are not sensitive: But the specific engineering solutions to very difficult nuclear weapons design problems are a legitimate security secret. Divulging these technical details in any form, whether in Government reports that are then available to the general public or through scientists' interviews with the press, is an egregious breach of the Nation's security. We have a right to demand that similar laxness not be repeated.

The second point is that the dissemination in the media of this kind of sensitive information, whether publicly available or not, raises the most profound questions as to the purpose of a free press. The difference between freedom and license is responsibility—the responsible exercise of freedom is essential to the maintenance of a free society. I cannot understand what legitimate public interest is served by the publication of the design details of nuclear weapons. To me, there is a difference between publicizing the fact that a well has been poisoned and distributing poisoned water far and wide for people to drink. Publishing the details of nuclear weapons design is an equivocal victory for a free press.

The threat posed by the dissemination of design details of nuclear weapons is twofold: It will become easier for governments aspiring to a nuclear weapons capability to accomplish this end, with a consequent increase in the risk of nuclear war in the world; and it will be easier for nuclear terrorists here and abroad to make a credible nuclear threat. How could such a threat be dismissed as implausible if it were accompanied by accurate, detailed design features of the nuclear device the terrorist threatens to detonate? Does not the public have a right to be protected against these kinds of dangers?

Let us hope that on the part of both the Government and the press commonsense will prevail, and that this matter will not become a precedent for similar instances that erode the values and institutions upon which our society rests.

Mr. TOWER. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes. I yield to the Senator.

Mr. TOWER. Mr. President, I appreciate the distinguished majority leader's bringing this matter to the attention of the Senate. I associate myself with his analysis.

I think it raises the important question. At what point does the people's right to know become subordinate to the people's right to be secure from any peril that might come to them as a result of data of this kind being published?

I think it is probably ironic to note that I think the motivation of those who published this material was to generate sentiment in opposition to the use of nuclear weaponry, or even nuclear power, perhaps, but that the net effect might be ultimately to contribute to the proliferation of a nuclear capability that would place us all, I think, in considerable hazard.

I think the majority leader has done us a service in illuminating this issue today.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Texas for his comments.

Mr. President, I am ready to yield back my time, if the Senator is on behalf of the minority.

Mr. TOWER. Mr. President, if the majority leader would indulge me, I would like to reserve my time and suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Certainly.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 15 minutes, and that Senators may speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

RECESS UNTIL 12:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12:30 p.m. today.

There being no objection, the Senate, at 12:10 p.m., recessed until 12:30 p.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. BOREN).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business of not to exceed 10 minutes and Senators may speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Washington.

JAMES R. SCHLESINGER—DISTINGUISHED PUBLIC SERVANT

Mr. JACKSON. Mr. President, I want to take this opportunity to pay a brief tribute to one of the most distinguished public servants of our time—Dr. James R. Schlesinger.

Few Americans have served in as many different and vital Federal jobs with such dedication as Jim Schlesinger.

During the last 10 years, he has served as Assistant Director of the Bureau of the Budget; Chairman of the Atomic Energy Commission; Director of the Central Intelligence Agency; Secretary of Defense; Assistant to the President and, of course, as the Nation's first Secretary of Energy.

From the outset of his service as energy adviser to President Carter, Jim Schlesinger used his position to urge upon the administration, the Congress, and the American people the realization that the energy situation portended grave problems for the country. Indeed, he was criticized as a "hard liner" on energy, advocating tough policies to reduce U.S. dependence upon imported oil. Some of my colleagues, in fact, have come to share his sense of urgency only since the Iranian upheaval.

Within his first year as energy adviser, and later as Secretary, he assisted with the presentation to the Congress, and the legislative creation of the Department of Energy. Simultaneously he oversaw the preparation of the President's National Energy Plan.

For nearly 2 years Jim Schlesinger worked tirelessly in the administration and with the Congress to achieve for this country a program to control energy use. I can attest, from personal experience, to the incredible costs in terms of time, energy, and personal sacrifice that achievement required.

Given the temper of the times as well as the intractable nature of the energy problem, no Secretary of Energy can expect to generate universal acclaim. His diverse responsibilities—from the regulation of prices, through the development of nuclear power technologies and the attempt to make renewable resources cost-effective, to the development and production of nuclear weapons for the armed services—inevitably strike the affected groups as either too large or too small. The Department of Energy has no abiding constituency—save for future generations and for the American Nation as a whole.

Over the years Jim Schlesinger demonstrated that he understood better than most of us the critical relationship between our energy supply and our national security. One can find no better statement of this problem than remarks which he made to the National Press Club on August 16 this year. I ask unanimous consent that this speech be printed in the RECORD in full at the close of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1).

Mr. JACKSON. Jim Schlesinger identified as the most significant element of the energy crisis the fact that it is a new dimension to the political and ideological competition between the United States and the Soviet Union. Such matters as fuel shortages and economic performance can profoundly affect the political destiny of mankind.

The crux of his analysis is as follows:

> The strategic vortex of that crisis now lies in the Persian Gulf and adjoining areas of the Middle East with their vast reserves of oil. Thus, it is focused in a region politically volatile, characterized by historical animosities and by nation-states whose social structures are not yet fully equipped to withstand the buffets of rapid political, economic, and social change. And yet, the West, all free nations, indeed freedom itself, remain for the immediate future dependent upon access to the oil resources of this volatile region.

He concludes that in addition to substantial energy conservation, new energy supply will be needed for economic growth and that coal and nuclear power must be used over the next decade.

Jim Schlesinger's fundamental point in his words, is:

> The energy problem must be reviewed as part of a much broader strategic canvas. Energy requires us to focus our attentions on areas of the world outside our traditional concerns. The challenges are immense. On the one hand, we must rapidly adjust our economies to a condition of chronic stringency in traditional energy supplies. On the other hand, we must avoid circumstances in which indispensible energy resources fall under the domination of a hostile power. On our success depends the economic and political survival of the United States and her allies—and quite possibly of freedom itself.

Mr. President, I know that many of my colleagues have differed with Jim Schlesinger on some occasions. At the same time, I know that he undertook his responsibilities as Secretary of Energy with a strong commitment to public service.

In his first state of the Union message, John Kennedy stated:

> Let the public service be a proud and lively career. And let every man and woman who works in any area of our national government, in any branch, at any level, be able to say with pride and honor in future years "I served the United States Government in that hour of our nation's need."

Jim Schlesinger can look back with pride and honor on his service to the United States. He has alerted us to the problems and the dangers of the 1980's. It is now up to us to take the steps needed to handle these problems and thus reduce the dangers.

EXHIBIT 1

ENERGY RISKS AND ENERGY FUTURES: SOME FAREWELL OBSERVATIONS

The World Crisis is the title of Winston Churchill's history of the first World War. In retrospect, that war seems a curiously local European struggle, though ultimately it required external intervention to resolve what the Europeans on their own could not resolve. Somewhat similar observations might be made about World War II and the Cold War. The unwavering investment of American power has since 1945 been required to preserve the stability and independence of Western Europe, Japan, and other nations which were earlier referred to as the Free World. Without American power the remaining free nations can no longer be a geostrategically self-sustaining entity.

Since 1945 the world has experienced a continuing crisis, dwarfing that earlier one described by Churchill—a crisis born in the persisting conflict between the Soviet Union and the United States and their allies. Perhaps the most significant element of the energy crisis, as it has unfolded since the early 70's, is that it provides a new dimension to the political and ideological competition between the United States and the Soviet Union—a dimension dramatically signalled by Soviet actions and threats during the Middle Eastern War of 1973. That larger dimension places in proper perspective such matters as fuel shortages and economic performance—for it has the power to determine the political destiny of mankind.

Today we face a world crisis of vaster dimensions than Churchill described a half century ago—made more ominous by the problems of oil.

The strategic vortex of that crisis now lies in the Persian Gulf and adjoining areas of the Middle East with their vast reserves of oil. Thus, it is focused in a region politically volatile, characterized by historical animosities and by nation-states whose social structures are not yet fully equipped to withstand the buffets of rapid political, economic, and social change. And yet, the West, all free nations, indeed freedom itself, remain for the immediate future dependent upon access to the oil resources of this volatile region.

No one fully anticipated this emerging dependence—and the vulnerability that it entails. In the post-World War II architecture, the North Atlantic Treaty provided the main pillar of security for the West. Yet, it was only a traditional defensive alliance intended to protect the territorial integrity of the signatory states. In the light of subsequent developments, it is today an insufficient basis for Western security since in itself it offers no protection for the energy resources on which our collective survival depends.

Until quite recently the awe that American power inspired in itself provided deterrence against external invasion as well as some minimal degree of political stability in the region. After 1945, American pressure could persuade Stalin himself to remove Soviet forces from Northern Iran. Today, the pressures from Mr. Brezhnev flow in the opposite direction. The geostrategic landscape has been dramatically altered. The crumbling of the Northern Tier, the political disturbances in the Yemens, and in the Horn of Africa, and the vulnerability of the other states of the Gulf—all point to the need for a new and effective response.

Even in terms of the military balance, the trends are disturbing. The Soviet Union lies near at hand—hovering over a region to which Russia has aspired since the days of Peter the Great. Its military power continues to grow—most ominously in the form of increasing strategic mobility and the strength of its airborne divisions. Within the region itself, there is no counterweight. The Shah's forces might have put up a scrappy defense, but today security rests upon the protection of Allah. The forces of the West in the region are small and are at the distant end of lengthy supply lines. The great military reserves of the West lie far away—with all that that implies for rapid response. There is no significant and continuing military presence of the United States—a fact that the inhabitants in the region must ponder as they contemplate that brooding presence to the North.

For the many Americans who since Vietnam have come to believe that military weakness is a form of virtue and of moral strength, these conditions cause little alarm. Quiet accommodation is the only such defense—and clear indications of the reasonableness of this view are always to be found. Of late, Mr. Georgi Arbatov, whose links to the KGB are perhaps not so well known as his ability to influence and pacify American elites, has opined in an interview that the Soviet Union "would certainly not interfere with Western oil supplies" for these "would be very hostile acts, close to a declaration of hostilities." Some will, no doubt, find such offhand verbal guarantees wholly reassuring. I merely note that the episode provides a clue to those options about which the Soviets have been ruminating—and which, we may hope, they have rejected, at least for the moment.

For those less complacent, the underlying implications are stark. Soviet control of the oil tap in the Middle East would mean the end of the world as we have known it since 1945 and of the association of free nations.

That quite clearly implies that we cannot for long acquiesce in a regional preponderance of Soviet military power. A minimum requirement is the establishment within the region of a rough balance of military power. Without such a balance there will be no deterrent force capable of resisting long-term Soviet pressure—which would inevitably imply a steady erosion of Western influence. Given the massive Soviet presence just over the border, the "demilitarization of the Indian Ocean" would be crippling. No further consideration should be given to such a step, for it would preclude the stationing of substantial naval forces in the area, and thereby preclude the redress of the existing imbalance.

It is not sufficient simply to identify "an arc of crisis." It will be necessary effectively to cope with the conditions that exist today. In the years ahead this will tax our ingenuity and our strength.

Even if the worst does not occur, and if control of the oil tap does not become the decisive element in the East-West struggle—either through Soviet forebearance or through effective deterence—the difficulties remain considerable. The preponderance and proximity of Soviet military power increases Soviet capacity for influence and subversion. In Iran, the re-emergence of the Tudeh party (most notably in the organization of the oil fields) and the overt and covert strengthening of the pro-Soviet left have been major developments during the past year. One can sense the infrastructure gradually being put in place for a later coup—parallel to the events that have transpired in Afghanistan in recent years. Just recently Iraq has survived another internal power struggle, marked by new elements of religious schism likely to portend continued instability—after a long-term and continuing struggle to master its internal Communist threat.

Even if we put aside such opportunities for external mischief, the flow of oil from the OPEC nations can still not be considered wholly reliable. The worldwide system for the production and distribution of petroleum is already stretched taut. There is little, if any, relief in prospect. Any major interruption—stemming from political decision, political instability, terrorist acts, or major technical problems—would entail severe disruptions.

In so tight a market, some of the producers will play a cat and mouse game for economic motives (to keep spot prices high), for political motives or through sheer willfulness. Actions taken or threatened of late to reduce or divert production, by such states as Nigeria, Libya and Algeria, testify to this tightness in the market and to the continued vulnerability of the consuming nations.

Iran, moreover, continues to teeter on the edge of anarchy. A new interruption of Iran exports would be seriously disruptive. And, finally, even such limited interruptions of the oil flow rest on a premise of the continued stability and supportive attitudes in Saudi Arabia. For the Saudi contribution is not only critical, it has been increasing. As we recognize that the near-term energy future depends upon a politically stable Saudi Arabia, we must also recognize that the Kingdom is today a nation exposed to the ferment of social change. It is one in which the sensitivity to corruption is rising—dramatically so in the wake of last year's events in Iran. And, if we do not acknowledge the possible relevance of Iranian developments, we have only to turn back to de Tocqueville as to the impact of massive economic change on traditional social structures. The subject is one so delicate that it is rarely even alluded to, yet reticence hardly should suggest that the subject is not one of the utmost gravity.

The comments to this point only underscore that the flow of OPEC oil is precarious—and potentially subject to severe and unpredictable shocks. Yet, even if we are lucky and there are no intermittent supply interruptions, the overall flow of such oil is unlikely to increase.

Productive capacity in the OPEC nations is unlikely to grow. That forecast reflects the likely political decisions regarding the attractiveness of additional investment in capacity—as well as resource limitations. OPEC production will not increase by even as much as ten percent from current levels—and indeed is just as likely to recede over the years ahead. Non-OPEC production may increase significantly in percentage terms—but from a relatively low base. In absolute terms, such non-OPEC increases will be less significant—perhaps ten percent of present Free World consumption—and this in large degree will be absorbed by the less developed countries and by other industrial nations. Worldwide oil production—and consumption—will never much exceed 65 million barrels a day, and we are already very close to that level. Oil, the fuel of choice, that has driven the vast economic expansion since World War II will no longer be available in increasing quantities to fuel the further growth of the world's economy.

Prices will inevitably reflect the increasing pressures of demand against constrained supply. Saudi leverage for moderating price increases within OPEC has already been significantly reduced. With little or no excess capacity the inevitable movement of prices, save in the face of worldwide recession, will be upward.

Under these circumstances, it is understandable, and has become fashionable, to rail against the OPEC cartel. That, no doubt, is emotionally satisfying. But we should fully understand that no amount of invective or fistshaking is likely to change the realities of supply and price. The OPEC nations possess some eighty percent of the Free World's proven oil reserves—and that percentage is likely to increase. Moreover, market forces now control price trends, inexorably driving the international price of oil upward. Indeed, our neighbors, Canada and Mexico, and the North Sea producers have posted prices substantially above those of OPEC. It is time for us to acknowledge reality—however painful that may be.

The energy future is bleak and is likely to grow bleaker in the decade ahead. If we take forceful and intelligent corrective measures, the future can be somewhat less grim. Yet, in light of historical expectations such corrective measures will serve only as palliatives.

How stable, how resilient is our domestic political base as we confront the national security and economic perplexities posed by the vulnerabilities and constraints in energy supply? There is certainly sufficient ground for concern. Post-Vietnam, the issues of foreign policy and military security do not engage our people. Post-Watergate, all our institutions are widely distrusted.

A surprisingly large percentage of the American people profess to believe that the energy shortage is not real. This may well be a defense mechanism developed to put aside the painful thought that painful change may be unavoidable—and hiding a deeper, if unconscious, realization, that, indeed, the problem is real. But many stand ready to provide solace, suggesting through one institutional device or another the energy problem may be happily resolved. The political left blames The Oil Industry. The political right blames Government. But such behavior simply reflects that post-Watergate tendency to lash out at institutions. Institution-bashing is just another way of evading the problem; it is unlikely to produce much more crude oil.

The widespread fantasy that the United States contains enormous proven reserves of oil, which are hidden and unreported, is something difficult to explain. It may simply fall under the heading of pyschopathology. But it is grist for the mill of those unscrupulous few who would exploit the hopes and fears of the American people—and who suggest in various ways that somewhere out there, there exists an enormous cache of oil that will wash away all other discomforts. Demagoguery is unlikely to provide an effective substitute for crude oil.

What must we do if we are to alleviate the problem of energy supply and the economic repercussions that flow from it? First, we must acknowledge the problem in all its depth and severity—without equivocation. Second, we must put aside all the usual panaceas—those visions of new flows of oil from Saudi Arabia, Mexico, China, hidden domestic caches, or, most recently, synfuels. Third, we shall have to review all of our presuppositions: what supplies are likely, what prices are acceptable, what fuels are acceptable, what risks are acceptable, and what environmental and other regulations are workable.

Domestic crude oil production, we should recognize, is not going to increase and is likely to decline over the next decade. Decontrol will merely slow down the rate of decline. If we work terribly hard and if we are terribly lucky in the frontier areas, we may be able to keep crude oil production close to present levels. The United States, after all, is currently producing as much oil as is Saudi Arabia. But we are exploiting our own proven reserves about six times as rapidly. That cannot continue for long.

The prospects for domestic natural gas production happily are more promising. But we are unlikely over the next decade to increase production significantly above present levels. Therefore, overall, we shall not see additional domestic supplies of hydrocarbons. It oil imports are stabilized at 8.5 million barrels a day either through deliberate import restriction or lack of availability, we shall have to look elsewhere—if the economy is to continue to grow.

Despite the substantial and pleasing efficacy of conservation, additional energy will continue to be required for economic growth. The energy coefficient has now been reduced to .5 or .6. We should strive to keep it there—and I am confident we shall succeed. Nonetheless the use of coal and nuclear power will jointly have to grow—at the rate of six percent per annum if we are to maintain moderate economic growth.

It is as simple as that. With the availability of hydrocarbons basically stable, coal and nuclear must grow more rapidly in percentage terms from their present relatively low base. But coal use will not grow sufficiently rapidly, so long as the mechanics of the Clean Air Act remain unchanged. While we can support the retention of ambient air quality standards, we cannot achieve the necessary growth of coal use in the face of the existing mechanical and legislative impediments. The well-known psychological and procedural obstacles to the construction of nuclear power plants will also have to be overcome.

Quite bluntly, unless we achieve the greater use of coal and nuclear power—over the next decade, this society may just not make it.

For the longer run, we should proceed with the production of synfuels. Synfuels, however, will not significantly affect the equation for the decade ahead. By the 90s such production could represent a useful augmentation of supply. It is no panacea. Yet, if we had inaugurated such a program a decade ago, the oil market would today, be less tight and less risky, and the price of oil might be several dollars a barrel lower than it is.

The dilemma is quite clear. We must make greater use of coal and nuclear power, with the technologies available today, or alternatively, we face reduced economic growth and rising levels of unemployment. The political repercussions flowing from such economic stagnation would both distract attention from and add to our international difficulties.

In short, if we are effectively to grapple with our energy problems, we must accept an adjustment, indeed a decline, in our historic expectations. How will the American society respond to this revolution of declining expectations? I do not know. I do know this: that only a resilient and self-confident society will be able to grapple with these intractable problems—without fundamental changes in its social institutions.

And, going back to my earlier description of the challenges on the international scene, only a self-confident society can continue effectively to bear the international responsibilities of the United States.

There is much more to be said. But I want to leave you with this fundamental point: the energy problem must be reviewed as part of a much broader strategic canvas. Energy requires us to focus our attentions on areas of the world outside our traditional concerns. The challenges are immense. On the one hand, we must rapidly adjust our economies to a condition of chronic stringency in traditional energy supplies. On the other hand, we must avoid circumstances in which indispensable energy resources fall under the domination of a hostile power. On our success depends the economic and political survival of the United States and her allies—and quite possibly of freedom itself.

We have faced such challenges before. After World War II, the United States had the vision to invest her power and prestige in strengthening Western Europe. Through those actions were achieved economic rehabilitation and security. Today the circumstances and some of the challenges are different. Yet, once again we shall have to invest our power and prestige to shore up the independent states of the Persian Gulf—in order to preclude external threat. That is the unavoidable strategic prerequisite for successfully passing through this period of energy transition.

History has destined this American nation to be a superpower—indeed the single, great superpower among the free nations. If the United States were to fail in her responsibilities, there would be others, a good deal less well-disposed, who would be quite ready to seize the opportunities presented—with the resulting loss of our legacy of freedom.

If the American people choose to turn their backs, History would not forgive us.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is there further morning business? If not, morning business is closed.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS, 1980—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on H.R. 4389 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4389) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 31, 1979.)

Mr. MAGNUSON. Mr. President, the conference agreement on the Labor-HEW appropriations bill for fiscal 1980 provides $72.5 billion. This figure excludes all of the trust fund limitations which would otherwise bring the bill total to $77.6 billion.

The conference compromise is $1.3 billion below the President's budget request, $428.7 million below the House, and $470.6 million below the Senate. This is also $843.5 million below even the 1979 level.

I am somewhat proud of this bill, Mr. President. We put in many hours, starting with testimony from over 600 witnesses, continuing through many hours of markup, floor, and conference action.

We have before us a bill which I think truly reflects the priorities of Congress and the American people. More than any other bill to come before the Congress, this is the bill which determines the level of activity in the Federal Government's "people programs"—programs which affect all of our citizens in many direct and diverse ways.

There are many important items in this bill; each one is important for the assistance it provides in fulfilling the human need of our great Nation. We have provided some increases in this bill and some decreases. On the balance we have supported those programs which are most effective. By approving this bill, we are providing better access to education, health care, and job opportunities.

This bill will provide assistance to the poor, the elderly, the disabled, and other less fortunate members of our society.

I will not go into the details of the vital programs in the bill; the House and Senate reports on the bill provide much information on each program and the conference report is printed in the RECORD of July 31, 1979. Let me clarify one small item however, the conference agreement provides $2 million for the Architectural and Transportation Barriers Compliance Board, an even split between the House and Senate allowances.

There is some confusion about that in the conference report, and I wanted to make that clear.

Finally, Mr. President, I want to thank the Senator from Pennsylvania for the very able and hard work he put into the bill. We both worked closely not only with the members of the committee but with every Senator who came forward with funding recommendations. In fact, the committee received over 135 Senators' letters—each one asking for increases over last year's level or increases over the President's recommendations. We tried to take all these recommendations into account. We provided for some of these and we went a long way toward supporting others. But we also cut, that is how we ended up with bill totals under the President's and under last year's level. I believe this bill is a strong signal that we intend to balance the Federal budget while still protecting our most effective programs for human needs.

I now yield to the Senator from Pennsylvania, if he has anything to add to my statement.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SCHWEIKER. First, Mr. President, I wish to commend the distinguished chairman of the Senate Appropriations Subcommittee as well as the full Appropriations Committee for his very close and intensive work in this area. In many of these areas, we have had excellent cooperation from the chairman and the staff. I just wanted to express my appreciation to him for that cooperation we have enjoyed on this very difficult and complex bill.

Mr. President, I believe we have developed a fiscally prudent but responsible conference report on the fiscal 1980 Labor-HEW appropriations bill and I am glad to recommend it to the Senate for adoption.

The bill which has emerged from conference totals $72.3 billion. This is $1.3 billion below the President's budget request, $428 million under the House bill and $470 million below the Senate bill.

Despite these savings we have provided adequate levels of funding for essential programs such as private sector jobs, biomedical research, compensatory education, and low-income fuel assistance.

We also provide more protection for business, particularly the nonhazardous small business, from the regulatory activities of the Occupational Safety and Health Administration.

Following are some highlights of our bill:

LABOR

I was pleased that the conference committee agreed to appropriate $325 million for the new private sector initiative program, the full amount requested. Four out of five jobs in the economy are located in the private sector and this is where Government job assistance for the disadvantaged should be focused.

I believe the conference committee underscored this point in two respects. First it adopted my report language emphasizing the importance of continued financial support to community-based organizations of demonstrated effectiveness in carrying out CETA manpower programs. Community-based organizations, such as the opportunities industrialization centers, are uniquely qualified to assist in carrying out the congressional mandate to make the Federal manpower programs work more closely with the private sector.

Second, the conferees agreed to decrease funding for the title VI CETA countercyclical public service jobs program to the more realistic Senate level of $1.6 billion. This is $188 million below the House level and more than a half-billion below the President's budget request. The program has not been particularly effective in helping the jobless get back into the private sector and has had problems with unutilized funds as well as with fraud, abuse, and waste.

The conferees did adopt language I had been pressing to provide that, as CETA prime sponsors phase down title VI public service jobs, unutilized funds should be redistributed to areas with severe unemployment. This is to insure maximum effectiveness in alleviating unemployment and in easing the effect of phasing down the title VI program in such areas.

I am also pleased the conference accepted my amendment to relieve nonhazardous small businesses from unnecessary burdens under the Occupational Safety and Health Act. The conferees accepted my proposal to modify my amendment adopted by the Senate July 20 by a 61-to-31 vote. It firmly establishes the general rule that OSHA should keep hands off small businesses in nonhazardous industries, except where there is a very clear need for OSHA involvement. Hundreds of thousands of small businesses will benefit from this provision.

Under the conference provision, OSHA may not conduct random inspections of businesses with 10 or fewer employees in 3-digit standard industrial classification code industries which have an annual illness and injury incidence rate less than 7 per 100 employees. OSHA may, however, take firm action in businesses where there are very substantial safety hazards, such as grain elevators, or where there are serious health hazards. OSHA may also respond to employee complaints of hazards, but may assess no penalties for violations found, unless the small employer fails to correct them within a reasonable abatement period.

OSHA's authority is also preserved in the conference provision to investigate serious accidents, to restrain imminent dangers, to deter willful violations, and to prevent discrimination against employees for exercising rights under the act.

The conference provision, therefore, holds firm to the mandate adopted by the Senate in the amendment I sponsored that OSHA keep hands off small businesses in nonhazardous industries unless there is a clear need for OSHA involvement. This is the first time such a far-reaching provision will be enacted into law, and I think it is a great step in the right direction.

The conferees also agreed to two other amendments on OSHA—one prohibiting OSHA inspections for 6 months after an employer is inspected under a State enforcement plan, and the other prohibiting the agency from doing more inspecting on the Outer Continental Shelf than is allowed by present law.

I was particularly pleased that the conferees accepted my amendment to provide full-year funding of 144 black lung positions proposed for elimination in the budget and the House bill. The positions are needed to help reduce the current backlog in black lung claims.

HEALTH

In the health area, the conferees provide $320 million for community health centers, $10 million above the Senate level. I am particularly pleased the conference bill includes $14 million, almost the full amount provided by the Senate, for the health in underserved rural areas (HURA) research centers.

This is the only program in the health services administration which specifically addresses innovative research and demonstration activities in health services delivery. In other areas, the conferees agreed to provide:

The sum of $68 million, the Senate level, for comprehensive health grants; $20 million for hypertension, $2.7 million more than the House; $70 million, the House level, for National Health Service Corps Administration.

The chairman of this committee has been very active and interested in support of the National Health Service Corps; $5 million, principally for training, for home health services; $40 million, the Senate's level, for venereal disease control; $24.5 million, $6 million more than the House, for childhood immunization, and $14 million for rat control and $11 million for lead-based paint poison prevention.

A major achievement of the conference was its decision to essentially maintain Congress' commitment to biomedical research. The conferees agreed to take the highest levels—as provided either by the House or Senate—for each institute at the National Institutes of Health.

Again, I was pleased to have the chairman's support on this. I think this is a very appropriate and very constructive way of resolving our differences and keeping our commitment to the biomedical research community.

Thus, for the first time, a total of $1 billion is allocated to the battle against cancer. This is $39 million more than the House allowance. I was glad that the conferees provided $341 million, or $26 million more than the Senate level, for the National Institute of Arthritis, Metabolism and Digestive diseases. NIAMDD has one of the broadest research agendas at NIH and supports research into many serious killers and cripplers of Americans, including arthritis, diabetes, digestive diseases, and kidney disease. Research in the fields supported by NIAMDD has paid off handsomely in terms of promising leads and new breakthroughs.

I also am very glad the conferees accepted the House level of $215 million for the allergy institute. I believe it is being increasingly recognized that the fundamental research supported by the allergy institute has broad implications for many diseases and disorders and that this research deserves strong support.

In total, the conferees provide $3.4 billion for NIH—$257 million more than the President's unrealistic budget request.

For health resources, the conferees allow $81 million for health professions capitation, $16.5 million for student loans, and $10 million for exceptional need scholarships.

The Senate bill included $1 million in construction grants badly needed to provide additional laboratories, classrooms, and office space for clinical faculty at the Penn State Medical School in Hershey, Pa. The school has capacity for 256 students, but the student body has grown to 388 as the State sought more doctors for rural areas. Indeed, about 60 percent of Penn State medical graduates go into practice in rural areas and small towns.

This makes the medical school, known for the excellence of its program, a national leader in putting graduating physicians into rural shortage areas, thus helping to overcome the Nation's geographic maldistribution of doctors.

I am glad to report that the medical school construction money was agreed to by the conferees. While the conference report makes no specific earmark, the Senate report on the fiscal year 1980 Labor-HEW bill provides HEW with clear direction as to where the $1 million is to go. It is to go to Penn State Medical School.

In other areas, the conference report includes funding higher than the House level for health maintenance organizations (HMO's), as well as my language authorizing HEW's use of its loan guarantee fund for construction and acquisition of HMO ambulatory care facilities. I also was pleased that the conferees provide $17.5 million for the new adolescent pregnancy prevention program. The program is being initiated in the current fiscal year with a $1 million appropriation.

EDUCATION

The conferees agreed to the Senate level of $200 million for title I concentration grants. This amount will provide a one-third increase in education aid to the inner cities over the startup level in the current year. And we provide initial funding for the newly authorized State incentive matching grants under title I, which should encourage States to play a greater role in compensatory education.

The bill provides a total of $805 million for impact aid, which is $11 million less than the 1979 appropriation. The conferees agreed to fully fund the request for "A" children, whose presence imposes the greatest financial burden on school districts. Funding for "B" children was held to $277 million, a substantial cut from the current year but a more reasonable approach to phasing out this program than the zero funding proposed by the President.

For State grants for vocational education, the conferees agreed to a level of $697 million, an increase of $100 million over the current year appropriation and the 1980 budget request. This increase will generate substantial State matching funds, providing for significant growth in vocational training opportunities. The conferees also agreed to an additional $5 million for adult education for refugees to provide needed resources to cope with the influx of new immigrants from Southeast Asia.

The bill allows a total of $3 billion for student assistance, which is $630 million below the budget request and $880 million less than the 1979 appropriation. The conferees agreed to the Senate action reducing grants by $726 million because of the availability of prior-year surpluses. There will be no cuts in student benefits. The conferees also agreed to the higher House levels of $550 million for work-study and $286 million for direct student loans to insure that no reductions in student awards will occur in these programs, either.

In higher education, the conferees increased funding to $147.5 million for the "trio" programs, which aid disadvantaged college students, but accepted the lower Senate figure of $110 million for aid to so-called developing institutions, about which serious questions have been voiced by the GAO.

The conferees accepted a $500 million reduction for fraud, abuse, and waste, but added language which I proposed to avoid penalizing States making good faith efforts to reduce mismanagement of welfare programs.

The conferees agreed to the Senate action deleting bill language which would have restricted HEW from making changes in the controversial system for hospital uniform reporting (SHUR), but directed the Department to submit proposed regulations to the appropriate congressional committees for approval prior to implementation.

I am pleased to report that the conferees agreed to the $250 million provided in the Senate bill for fuel assistance for low-income families and the elderly, to help them cope with the rapidly rising costs of heating oil in the coming winter.

There is one area where the conferees remain deadlocked—and that is on the question of abortion. The House adopted language providing that none of the funds in the bill shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. The Senate adopted the language of the existing law providing HEW wider latitude on medicaid funding of abortion. I agree with the position of the House. I urge the Senate to accept the House language to avoid further delay in sending this important bill to the President.

Mr. President, in regard to the abortion amendment No. 137 that is in disagreement, I intend to offer a preferential motion that the Senate recede from its amendment No. 137 and at the appropriate time, I shall seek recognition to do so.

Mr. President, I recommend the adoption of the conference report and again commend the chairman for his important and industrious work in this area.

Mr. JAVITS. Mr. President, let me ask the Senator from Washington about one item in the conference on which the Senate receded.

I was deeply disturbed to learn that in the House-Senate conference on the Labor/HEW appropriations bill for fiscal year 1980 the Senate conferees receded to the House on the provisions included in its bill—at page 55—to provide an additional $5 million to the Federal Mediation and Conciliation Service to carry out programs authorized under the Labor-Management Cooperation Act of 1978.

The amendment was adopted by the committee at the urging of the Senator from Maryland (Mr. MATHIAS), who was my original Senate partner in the development of our 1976 bill—the Human Resources Development Act—to establish a Federal program to foster labor-management committees. I streamlined that original proposition and offered the Labor-Management Cooperation Act as an amendment to the 1978 CETA bill in committee, and it became law as part of Public Law 95-524.

The chairman will recall that I testified before the committee on April 4 of this year in favor of an appropriation for this program.

For some time, therefore, we have been urging Congress to authorize and appropriate for a Federal program of labor-management committees, which can improve the dialog between labor and management on noncollective bargaining issues and, therefore, have remarkable effects on worker morale and productivity.

For this reason, I was encouraged by the adoption of the Mathias amendment in the Appropriations Committee, and felt that we were at last moving to have our already authorized labor-management committees program get off to a good start in fiscal year 1980.

But, much to my dismay, the Senate conferees receded to the House, and I would like to understand why. The Senate went into the conference at $5 million, while the House bill appropriated zero.

I would like to ask the chairman of the Appropriations Committee, Senator MAG-

NUSON, if I may, whether this conference agreement reflects in any way upon the efficacy of our program of labor-management committees? Were Senate conferees persuaded by the other body that the $5 million would not be well spent, or that it was not reasonable for us to expect that labor-management committees could have a positive effect on the labor relations climate?

In other words, does the conference agreement on this matter reflect a view on the merits, to wit: In our policy authorizing a program of labor-management committees?

I believe there is a change of view by OMB on this subject, and that they are going to make a budget request that this particular activity be financed. So I want the RECORD to be perfectly clear whether or not the conferees dropped it on the merits, or simply because they had had no requests, that is, the Senate Appropriations Committee had had no request from the OMB.

Mr. MAGNUSON. Actually, no, we never received a request from OMB on these funds, but in no way does our decision reflect negatively on the merits of the program. It was a matter that we could not consider because we did not get any requests, and the House was adamant on it. But we made it clear that it does not reflect negatively on the program. We think it is a good program.

Mr. JAVITS. I thank the Senator very much. I would like to ask him a further question if I may. If the obstacle is removed, that is, if we get an OMB request, perhaps in a supplemental for fiscal year 1980 or in the President's budget for fiscal year 1981, and since we have already had the $5 million in the Senate appropriations bill for fiscal year 1980, can we expect favorable consideration from the Appropriations Committee?

Mr. MAGNUSON. If we receive a supplemental request, we will take another look at it.

CLARIFICATION OF "ERRONEOUS PAYMENT"

Mr. JAVITS. Will the Senator yield further?

Mr. MAGNUSON. I would be happy to yield.

Mr. JAVITS. I wonder if the chairman could clarify for me and for my colleague Senator RIEGLE, one of the more complex provisions in the bill? Amendment No. 127 in the conference report, the Michel amendment, reduces HEW's fiscal year 1980 budget authority by $500 million—the savings to be achieved by the reduction of fraud, waste, and abuse in the programs cited by the Inspector General in his report of March 31, 1978. The amendment further requires that these savings be made without reducing legitimate entitlement payments to eligible recipients of these program benefits. The amendment makes reference to the conference report language accompanying the fiscal year 1979 Supplemental Appropriations Act (Public Law 96-38). This fiscal year 1979 conference report language, among other things, directs the Secretary to issue regulations, "requiring that all States must reduce their AFDC and medicaid erroneous payment rates to 4 percent by September 30, 1982, in equal amounts each year beginning in fiscal year 1980." Finally, the Secretary is directed to carry out the requirements enumerated in that fiscal year 1979 conference report except where he determines a waiver of the requirements is in order.

Would the chairman clarify for me what the conferees mean by "erroneous excess payments" as it is used in the conference report accompanying the fiscal year 1979 Supplemental Appropriations Act which, in turn, is cited in the fiscal year 1980 Michel amendment?

Mr. MAGNUSON. I am happy to respond to the Senator's question. By "erroneous excess payments." the conferees mean to include two types of payment error.

The first type of payment error occurs when AFDC and medicaid payments are made to persons who are actually ineligible to receive such program benefits. For example, the State agency enrolls a household in the AFDC program, proceeds to pay benefits for several months, and then discovers that the household had always possessed sufficient income and resources to be ineligible for any payments under the program. Thus, the AFDC benefits received by the family constitute an erroneous payment.

The second type of payment error occurs when an otherwise eligible recipient of AFDC or medicaid benefits receives a payment greater than the payment to which he is actually entitled. One example might be an eligible AFDC household in which the parent begins to work at a part-time job. Ordinarily, the income from this part-time job would partially reduce the AFDC grant. In this case, let us say the parent reports her earned income to the State agency but, because of administrative problems, the household's AFDC grant remains unadjusted for several months. The amount by which the AFDC recipient is overpaid in those months—until the grant is properly adjusted to reflect the household's earned income—constitutes an overpayment and is considered to be an erroneous payment.

I hope this clarifies the issue for the Senator.

Mr. JAVITS. I thank the chairman for his patient and clear response. Do I understand correctly, then, that the fiscal sanctions that could be applied to States failing to lower their erroneous payment error rates to the designated tolerance levels would only be applied for moneys actually misspent? That is, administrative procedural errors, which do not result in the actual mispayment of AFDC and medicaid funds, are not included as erroneous payments?

Mr. MAGNUSON. The Senator is correct. It is our intent that fiscal penalties be utilized as an incentive to curb erroneous spending—that is, dollars spent inaccurately. If benefits turn out to be correctly paid to recipients, there is no basis for applying a fiscal sanction.

It is important, however, that both State and Federal agencies continue, as they now do, to monitor all types of management errors—including strictly procedural errors not resulting in misspent funds—for purposes of improving management of public welfare programs.

Mr. JAVITS. I thank the Senator.

LABOR DEPARTMENT OFFENDERS PROGRAMS

I would like to clarify amendment 8 of the conference report on this appropriation. As the chairman will recall, on July 27, the House passed a $5 million earmark for offender programs under title III of CETA. Over the years, the Labor Department has seriously neglected the employment difficulties of offenders. Is it the view of the chairman that $5 million would constitute a "significant portion" of the appropriation?

Mr. MAGNUSON. Yes; the earmarking of the $5 million in which the Senator is interested was deleted and then we placed in the conference report this language:

> Amendment No. 8: Deletes language proposed by the House which would have earmarked $5 million for offender programs under title III of the Comprehensive Employment and Training Act. The conferees have elected not to earmark funds in the bill. However, the conferees direct the Department to utilize a significant portion of CETA title III resources to fund projects for offenders.

The reason why the figure of $5 million was dropped out was to avoid earmarking specific programs in the bill. It does not reflect a judgment as to the merits of the offenders program. Certainly, at least $5 million could be effectively used for offender programs.

Mr. JAVITS. I certainly want to thank the chairman and the other conferees for the support of the concept of this amendment.

● Mr. BELLMON. Mr. President, I voted against H.R. 4389, when it passed the Senate. I was concerned then—and I remain concerned now—that the Labor/HEW Subcommittee had exceeded its crosswalk allocation under the first budget resolution.

While this bill was in conference, however, two things occurred, which have persuaded me to support the conference agreed to spending levels.

First, the conference has agreed to spending levels below the Senate-passed bill—by $436 million in budget authority and $586 million in outlays. While these reductions come primarily from the assumption of savings resulting from the Michel amendment—and not from reductions in specific programs—they nonetheless account for about half of the amount by which the Senate-passed bill exceeded the subcommittee allocation. I am pleased to see this movement in the right direction. Spending under this conference agreement, for nonentitlement programs, would actually be below fiscal year 1979 levels.

Second, Senator MAGNUSON—and the Senate when it agreed to the second budget resolution for fiscal year 1980—has agreed that if the Appropriations Committee reports a regular or supplemental appropriations bill which would cause total appropriations to exceed the Appropriations Committee's crosswalk allocation under the second budget resolution, the Appropriations Committee will also report a rescission to offset the overage. In this manner, we are assured, even if one or more appropriations bills should exceed the subcommittee allocations, we will not bust the budget.

As ranking member of the Senate Budget Committee, I am well aware that the budget does not imply item discipline; but that we agree in that Budget on limits for total spending. With the agreement of the Appropriations Committee and the Senate to the discipline of reconciliation and rescission, if necessary, to insure this discipline, my concerns about this particular bill are to a large extent modified; and I can, consequently, support the conference agreement on spending levels for fiscal year 1980.●

● Mr. EAGLETON. Mr. President, I would like to take a moment to clarify a particular provision contained in the conference report regarding Federal funding for dental health programs. As the chairman knows, the conference report contains $6.2 million to be administered by the Center for Disease Control to expand the fluoridation effort. Testimony by CDC officials before the subcommittee indicated that these funds would be used to assist States with equipment cost, installation and startup costs, operating and surveillance support, and training support for State and local waterworks personnel.

Am I correct, Mr. Chairman, that it is totally outside congressional intent for any of these funds to be used to in any way coerce States or communities to fluoridate water systems?

Mr. MAGNUSON. The Senator is correct. This is purely a grant program—and it is strictly voluntary.●

NATIONAL INSTITUTE ON AGING

● Mr. EAGLETON. Mr. President, I am delighted that the conference report before us contains $3.4 billion for the National Institutes of Health.

Of particular interest to me is the increased funding provided for the National Institute on Aging. Research on aging is a relatively new approach in the biomedical, social, and behavioral sciences. It requires that intensive efforts be directed toward understanding the mechanisms that underlie time-dependent and/or age-related changes. I believe the mission of the Institute was succinctly stated by Dr. George Morris Pierson, as follows:

> Now that we've added years to people's lives, it is also our reponsibility to add life to their years.

As important as the steady growth in funding of the NIA has been, of equal concern is the level of personnel resources. The relatively brief history of the NIA has been characterized by a continuing lack of personnel resources. The fiscal year 1979 appropriation bill, for example, included 35 full-time permanent budgeted positions to bring the Institute's total to 258. Twenty-six days after the fiscal year began, however, a Presidential freeze was imposed and not lifted until the end of January.

During the months of February and March, the Institute was able to fill 15 of these positions. On April 12, however, new position ceilings took 23 of the 35 positions back, and on June 22, 1979, an NIH-imposed freeze and a lower employment ceiling took 3 more of these positions. Thus the Institute has only 9 of the 35 positions added in the fiscal year 1979 appropriation bill available to it.

These reductions in ceilings have caused much stress within the Institute and have been disruptive to research programs. A planned clinical nutrition unit at the Gerontology Research Center in Baltimore could not be staffed. Expansion of the newly formed neurosciences laboratory in Baltimore did not take place. Our grants management office is handling nearly twice the number of grant applications of 1 year ago with the same staff. Extramural programs in nutrition and exercise physiology lost professional staff that could not be replaced. Matilda Riley, the new associate director of the social and behavioral research program, does not have a secretary. The NIA has provided one position but can continue to provide only minimal support to the 1981 White House Conference on Aging. These are but a few examples.

It is too late to provide any relief during fiscal year 1979. It is imperative, however, that this sequence of events not be repeated in fiscal year 1980. The fiscal year 1980 conference report allowance provides 303 budgeted positions, an increase of 45 positions over the fiscal year 1979 budgeted position level of 259 and 71 positions over the Institute's current employment ceiling. The availability of these positions is crucial to the effective operation of the Institute's program.●

● Mr. JAVITS. Mr. President, I am concerned that the level of support for the Higher Education Act title II–B library training and demonstration program has been reduced to $1 million. This program was a very modest one at last year's level of $3 million. Yet it is one of the few sources of funding for minority recruitment into the library and information field, for continuing education in this fast-changing area, and for demonstrations involving library applications of new technology or model programs to better serve minority groups.

The Senate Education Subcommittee, on which I serve, will be holding hearings on extensions of the Higher Education Act early next month. Pending congressional scrutiny of the act, I would expect that the $1 million for title II–B will be divided, as the law requires, two-thirds for library training and one-third for library demonstrations. I would hope that the distinguished chairman of the Appropriations Committee concurs.

My colleagues in the House have remarked on the importance of the library training program in assisting minority students. I would remind them that the demonstration program has also had a significant impact on library services to minorities. For example, in my own State of New York, the II–B library demonstration program has aided in the establishment of a neighborhood information and employment center at the Queensborough Public Library, funded the design and demonstration of appropriate library services to the Mohawk Indian Tribe at St. Regis, N.Y., and made possible the development of a bilingual Spanish-English guide to library collections useful to minority students at the City University of New York.

The II–B library demonstration program also financed a landmark study of library personnel demand and supply conducted by the Bureau of Labor Statistics. This 1975 report projected strong demand through 1985 for minority librarians and community outreach personnel. However, the study data are now almost 10 years old, and the need for an updated study to assess the current library employment situation is acute. For all these reasons, both the library training and the library demonstration components of HEA II–B should be continued.●

READING IS FUNDAMENTAL

● Mr. EAGLETON. Mr. President, some confusion has arisen as to the amount contained in the Labor-HEW conference report for the reading is fundamental (RIF) program, funded under title II, ESEA, basic skills improvement.

As my colleagues will recall, the conferees agreed to $35 million for the basic skills program, an increase of $7.25 million over the comparable amount available last year. Although the Senate report to accompany the bill did not specify a particular amount for RIF, it was clearly the intent of the conference committee to accept the $6.5 million from the House bill for RIF. This matter has been discussed with the distinguished chairman of the Senate Appropriations Committee, Mr. MAGNUSON, and he fully concurs.●

EXEMPTING NONHAZARDOUS SMALL BUSINESSES FROM OSHA

● Mr. CHURCH. Mr. President, I am pleased to commend the conferees on H.R. 4389, the fiscal 1980 appropriations bill for the Departments of Labor and Health, Education, and Welfare, for the modifications that have been made in the Schweiker/Hatch amendment with respect to nonhazardous small businesses and the Occupational Safety and Health Act. At the same time, however, I wish to stress that the amendment contained in the conference report still falls significantly short of my original proposal to simply exempt nonhazardous small businesses from OSHA.

I have long felt that the most serious defect in OSHA was the attempt to regulate conditions of safety and health in every American business, regardless of the type of business, its size or the absence of hazards in the nature of the business. For this reason as well as others, I offered an amendment to the appropriations bill for OSHA to fully exempt nonhazardous small businesses from this program.

The Senate endorsed my amendment by a substantial majority, 54 to 38. Then, the distinguished minority manager of the OSHA appropriations bill, Senator SCHWEIKER, offered an amendment severely limiting my proposal. I strongly opposed this amendment to my own because I found it grossly defective in a number of ways, including its striking requirement that millions of small businesses must file annual affidavits in order to obtain OSHA exemptions. That blizzard of paperwork alone boggled the mind.

It is difficult to believe that Senators fully understood all of the implications of the Schweiker amendment offered to my own clearcut proposal, but it was, nevertheless, passed by the Senate.

I am particularly pleased, therefore, that the reflections of the conference committee have produced an OSHA provision without the onerous affidavit requirement.

In addition, as the minority manager points out, the conference amendment does make major changes in line with my own to rewrite the OSHA law. Random inspections will be eliminated for nonhazardous small businesses, with the terms "nonhazardous" and "small" tightly defined in the fashion of my original amendment.

Perhaps more importantly, Mr. President, the conference report places the burden for inspections under OSHA on OSHA itself. No longer will it fall upon employers to open their doors without cause to OSHA inspectors. Instead, OSHA will be required to have some reason to believe that "imminent dangers" or "health hazards" exist before an inspection may be made.

The House of Representatives has already approved the conference amendment, so that its adoption by the Senate today marks an important milestone in the congressional effort to curb OSHA's excesses. Coupled with the similar OSHA exemption for family farms which, for some years, has been a part of the OSHA appropriations bill, the small business exemption should lead the way toward amending the basic law.

I am hopeful, Mr. President, that Congress will finally have the opportunity to achieve this goal. At the request of the Senate Committee on Labor and Human Resources, I introduced my OSHA amendment in bill form, S. 1486, which would make my proposed exemption of nonhazardous small businesses and family farms a part of the permanent OSHA law. The conference amendment falls short of this bill, so I ask that a tabular presentation of my bill and the conference amendment be printed at this point in the RECORD.

The material follows:

S. 1486

That this Act may be cited as the "Occupational Safety and Health Amendments of 1979".

Section 2. (a) Section 3 of the Occupational Safety and Health Act of 1970 is amended by inserting at the end thereof the following:

"(15) The term 'nonhazardous business' means any business included within a category having an occupational injury/illness incidence rate which does not exceed seven per one hundred full-time employees as set forth in the 1976 Bureau of Labor Statistics survey of three-digit Standard Industrial Classification Code industries, and for each subsequent year.".

(b) Section 4 of the Occupational Safety and Health Act of 1970 is amended by redesignating subsection (b) as subsection (c), and by inserting after subsection (a) the following new subsections:

"(b)(1) This Act shall not apply to any person who is engaged in a farming operation and employs ten or fewer employees.

"(2) This Act shall not apply to any person who is engaged in a nonhazardous business and employs ten or fewer employees".

CONFERENCE AMENDMENT

Provided further, that no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten (10) or fewer employees who is included within a category having an occupational illness and injury incidence rate less than seven per one hundred employees as published in the 1977 Bureau of Labor Statistics survey of three-digit (or if unavailable, two-digit or one-digit) Standard Industrial Classification Code industries, except:

(1) to take any action authorized by such Act with respect to any employer or group of employers within such category whom the Secretary determines to be engaged in an activity involving very substantial occupational hazards;

(2) to provide requested consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(3) to conduct inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(4) to take any action authorized by such Act with respect to imminent dangers;

(5) to take any action authorized by such Act with respect to health hazards;

(6) to investigate an employment accident which is fatal or results in hospitalization of one or more employees, and take any action pursuant to such investigation authorized by such Act;

(7) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act. This proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees.

Mr. CHURCH. The Senate Labor and Human Resources Committee has already announced that hearings will be held on my bill, and I have been assured that the committee is seriously committed to acting on legislation to reshape the OSHA law.●

● Mr. CHILES. Mr. President, by adopting the 1980 Labor-HEW conference bill today, the Senate indicated that—even while working to balance the Federal budget—it remains sensitive to the needs of older Americans. The conference bill reflects increasing congressional support for programs that help elderly people remain independent and self-sufficient. In a time of increasing public concern over Federal spending, Chairman MAGNUSON and my fellow members of the Appropriations Committee are to be commended for their role in developing a farsighted bill that will help elderly people retain their vitality and independence in the community.

As chairman of the Special Committee on Aging, I personally want to commend Senator MAGNUSON for his continued support of programs that benefit the elderly. Through our work over the past several years, I have come to respect the Senator's judgment and sense of fairness in all appropriation matters.

Major provisions in the Labor-HEW conference bill that affect programs for the elderly are:

OLDER AMERICANS ACT

A record appropriation—just under one billion dollars—will be available to support and expand programs funded under the Older Americans Act. Major highlights for the coming fiscal year are as follows:

SOCIAL SERVICES—TITLE III–B

The conferees agreed on $246.97 million to provide transportation services, senior centers, in-home services and to maintain the present level of supportive services to nutrition programs. A $50 million increase in this program was necessary because of the prohibition on the use of nutrition funds for these services in fiscal year 1980.

NUTRITION—TITLE III–C

A sum of $320 million was appropriated for nutrition services. This level includes $270 million for congregate meals. The remaining $50 million is for expansion of existing home-delivered meals components and permits States to establish home-delivered meals programs where they do not now exist.

TRAINING, RESEARCH, MULTIDISCIPLINARY CENTERS, MODEL PROJECTS—TITLE IV

For research, training and special projects, the committee agreed on $54.3 million. The allowance includes $17 million for training, $8.5 million for research, $3.8 million for multidisciplinary centers on gerontology and $25 million for special projects. Included in the $25 million is a set-aside of $10 million for AoA demonstration projects in long-term care.

COMMUNITY SERVICE EMPLOYMENT—TITLE V

For title V of the Older Americans Act, the conferees agreed upon $266.9 million, which will support approximately 5,000 additional jobs for workers age 55 and older during 1980. This will expand the number of jobs for low-income older workers to approximately 52,500 for fiscal year 1980.

The conferees directed the Department of Labor to "utilize a significant portion of the CETA (Comprehensive Employment and Training Act) title III resources to fund projects for middle-aged and older workers under section 308 of the act." Section 308 supports an array of national demonstration projects for middle-aged and older workers.

DIRECT GRANTS TO INDIAN TRIBES—TITLE VI

First-time funding of $6 million to promote the delivery of social services to Indians was provided by the conferees. These services will include nutritional service comparable to services now provided under title III.

COMMUNITY SERVICES ADMINISTRATION

The conferees agreed upon $250 million for energy crisis intervention programs to be administered locally by community action programs (CAP's) for this coming winter. However, the administration has indicated that it will be asking for an additional $150 million for crises intervention to assist low-income and elderly in combating rising energy costs for this winter.

In addition, the conference agreement for fiscal year 1980 includes $10.5 million for the senior opportunity and service (SOS) program which supports CAP administered programs for the elderly, including transportation, health, nutrition, and crafts.

HEALTH AND LONG-TERM CARE

I am especially pleased that this measure includes a total of $20.5 million for the special initiative long-term care demonstration; $10 million has been allocated to the Administration on Aging and $10.5 million to the Health Care Financing Administration. It is the committee's intent that these funds be jointly applied to develop and test community long-term care channeling agencies under the overall policy direction of the HEW Assistant Secretary for Planning and Evaluation.

For fiscal year 1980, the bill also provides $5 million in continued funding for home health demonstration programs through the Health Service Administration. This figure is $4,196,000 above the administration's request.

NATIONAL INSTITUTE ON AGING

Strong support for the National Institute on Aging is reflected in the conference bill; $70 million is provided for fiscal year 1980. This is an increase of $13.089 million over current funding levels and will provide for 70 new staff positions.

ACTION—OLDER AMERICAN VOLUNTEER PROGRAMS (OAVP)

Appropriations for the older American volunteer programs are as follows: Foster grandparents, $46.9 million; senior companions, $10 million; and RSVP, $26 million. Stipends for both the foster grandparents and senior companions will be raised from $1.60 to $2 per hour as a result of the committee's recommendations.●

Mr. MAGNUSON. Mr. President, I think both of us should extend our congratulations to the staff. The staff worked hard and well on this bill.

Mr. President, I move that the Senate adopt the conference report.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MAGNUSON. Mr. President, I ask that the Chair lay before the Senate certain amendments which are in disagreement.

The ACTING PRESIDENT pro tempore. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$6,500,626,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert ": *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten (10) or fewer employees who is included within a category having an occupational illness and injury incidence rate less than seven per one hundred employees as published in the 1977 Bureau of Labor Statistics survey of three-digit (or if unavailable, two-digit or one-digit) Standard Industrial Classification Code industries, except:

(1) to take any action authorized by such Act with respect to any employer or group of employers within such category whom the Secretary determines to be engaged in an activity involving very substantial occupational hazards;

(2) to provide requested consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(3) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(4) to take any action authorized by such Act with respect to imminent dangers;

(5) to take any action authorized by such Act with respect to health hazards;

(6) to investigate an employment accident which is fatal or results in hospitalization of one or more employees, and take any action pursuant to such investigation authorized by such Act;

(7) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act. This proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert ": *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirement, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate or surface limestone mine".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 62 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert "; and of which $245,000,000 shall be for the purposes of subpart 1 of such part B, and $145,000,000 shall be for the purposes of subpart 2 of such part B, and any reductions in entitlements required thereby shall be proportionate among the States".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 64 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$772,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 65 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$690,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 78 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed in said amendment, insert "$1,049,025,000: *Provided*, That funds appropriated under Public Law 95–480 for part C of Public Law 91–230, Education of the Handicapped Act, as amended, shall remain available through September 30, 1980".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 127 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 201. Notwithstanding any other provision in this Act, the total amount of budget authority provided in this Act for the Department of Health, Education, and Welfare is hereby reduced in the amount of $500,000,000: *Provided*, That this reduction shall be achieved by the reduction of fraud, abuse, and waste as defined and cited in the annual report, dated March 31, 1978, of the Inspector General of the Department of Health, Education, and Welfare: *Provided further*, That this section shall not be construed to change any law authorizing appropriations or other budget authority in this Act: *Provided further*, That the requirements pertaining to AFDC and Medicaid error rates, as specified in the conference report on the fiscal 1979 Supplemental Appropriations Act (Public Law 96-38), shall be carried out except where the Secretary determines, in certain limited cases, that states are unable to reach the required reduction in a given year despite a good faith effort.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 139 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 212. None of the funds appropriated or otherwise made available in this title shall be used to implement section 15 (d) and (e) of the Small Business Act, as amended, or Executive Order number 12073, dated August 16, 1978, in regard to requests for proposals for research, rehabilitation, training or other highly professional health, education, and social services which will not substantially affect employment levels.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 140 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

SEC. 213. Funds appropriated to the Department of Health, Education, and Welfare under title II may not be used to pay the compensation of experts or consultants (other than full-time employees) or organizations thereof, or to procure by contract the services of experts or consultants or organizations thereof in excess of $170,000,000 during fiscal year 1980. Expenditures for all consultant services in the fourth quarter of fiscal year 1980 may not exceed 30 per centum of the total annual fiscal year 1980 expenditure for such consultant services.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 142 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$6,000,000".

Resolved, That the House insist upon its disagreement to the amendment of the Senate numbered 137 to the aforesaid bill.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Senate concur in the amendments of the House to the amendments of the Senate numbered 3, 16, 21, 62, 64, 65, 78, 127, 139, 140, and 142, en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MAGNUSON. Now, Mr. President, we come down to amendment No. 137 in disagreement.

The ACTING PRESIDENT pro tempore. The clerk will state the last amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House insist upon its disagreement to the amendment of the Senate numbered 137 to the aforesaid bill.

Mr. MAGNUSON. Mr. President, I move that the Senate further insist on its amendment No. 137. That motion will be open for debate.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

Mr. SCHWEIKER. Mr. President, I offer a preferential motion; I move that the Senate recede from its amendment No. 137 and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, there is little left to be said on the abortion argument. The Senate has insisted on its language, which is also last year's compromise language, and the language that has consistently been used in other appropriation bills.

When we passed the Senate bill on July 20, I said then that if we included last year's compromise language there should be no further compromise. I am still of that opinion.

The House, nevertheless, insists on the so-called Hyde language. This House language makes no provision for cases of rape or incest, or if there is serious health damage that would occur to the mother. The Senate version does make exceptions for these situations.

I think that is the humane thing to do. I think it is consistent with the whole idea of abortion. I think it is a reasonable compromise between no restriction and the excessively restrictive House language.

I urge my colleagues to continue to insist upon the more humane Senate version and to go back to the House. We will have another vote on it, and I hope that we are not going to hold up this whole HEW appropriation bill, which affects every life in America, over this same old question of abortion.

It does not belong on this bill, to begin with, Mr. President. It is pure legislation on an appropriation bill, but we have had to deal with it year after year. I think one year we had 26 rollcalls in the Senate on this, and the House had 15 or 20.

I am hopeful that the Senate will insist on its language. The compromise language which is now part of the law has worked very effectively in favor of those who profess allegiance to the Hyde amendment, I think. I am hopeful that my colleagues will continue to insist on the more humane Senate version.

Mr. President, the legislative matter, which the Senator from Pennsylvania has offered is a substitute. Is that correct? I will ask the Senator from Pennsylvania. He offered a substitute to the Senate language?

Mr. SCHWEIKER. Yes. I moved that the Senate recede to the House Hyde language.

Mr. MAGNUSON. Which would mean that the vote would be, if they favored the Hyde language, the vote would be "aye." If they are opposed to the Hyde language, the vote would be "no." Or they approve the Senate version, the vote would be "no."

Is that correct, Mr. President?

Inasmuch as the Senate language is not before the Senate, there is a substitute by the Senator from Pennsylvania to approve of the Hyde language, so the vote will occur on that, and that would be that those who favor the strict Hyde language would vote "no" and those who favor the Senate version——

The PRESIDING OFFICER. The Chair does not interpret, the Chair would say.

Mr. MAGNUSON. Those who favor the Hyde language would vote "aye" and those who favor the Senate version would vote "no."

Is that correct?

The PRESIDING OFFICER. That is the Senator from Washington's interpretation. The Chair is not permitted to interpret. The Chair will only state that the motion offered by the Senator from Pennsylvania for the Senate to recede to the House position takes precedence over the motion to adopt the Senate's position——

Mr. MAGNUSON. Well, then——

Mr. SCHWEIKER. Mr. President, I moved that the Senate recede from its amendment No. 137. Under my motion now pending, the Senate would accept the House language on medicaid funding of abortions. That language is as follows:

None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

So an "aye" vote would be for the language, or the so-called Hyde language, as the distinguished Senator from Washington indicated a moment ago. A "no" vote would be in accordance with Senator MAGNUSON's position and the law that is presently on the books.

Mr. President, I hope the Senate is beginning to recognize that there has been a major change in attitude in this body on the issue of Federal funding of abortion. Recent votes show that more and more Members oppose appropriation laws which go beyond permitting abortions only to save the life of the mother.

I have been carrying the fight for strict limits on abortion funding in the Appropriations Committee since 1974. This year for the first time the proponents of abortion did not have the votes in our committee to strike the House language which wisely limits medicaid funding of abortions only to instances where the life of the mother would be endangered if the fetus were carried to term.

As a result those opposed to abortion prevailed and the Senate Appropriations Committee reported a Labor-HEW Appropriations bill containing the House language on abortion.

On the Senate floor, the change in attitude was even more dramatic; 2 years ago, our antiabortion forces were not able to muster a majority to prevent the tabling of an amendment striking the words "medically necessary" from a proabortion amendment. The words "medically necessary," of course, are code words for abortion-on-demand. The vote against our side was 59 to 36.

Just a few weeks ago, on July 19, the Senate faced a similar situation. Senator HELMS moved to strike "medically necessary" from a pending proabortion amendment. The other side moved to table the Helms amendment, but unlike the outcome in 1977, this motion to table was defeated by a vote of 53 to 46. This means that in the space of 2 short years, those of us who are opposed to abortion have gone from a 59 to 36 loss to a 53 to 46 victory.

As a result of this change, the proponents of unlimited abortion could not adopt the "medically necessary" language they felt gave them their best bargaining position in any future House-Senate conference on medicaid funding of abortions. Indeed, all they could do was to secure Senate passage of the language of the present abortion funding law, which nobody likes.

That, however, puts the Senate's diminishing proabortion bloc in a very weak bargaining position with the House which contains a strong majority favoring strict limitations on medicaid funding of abortion.

The Senate, with 20 new Members, is making a new judgment on abortion, a judgment more in line with the prevailing view of the public. We are seeing more and more Members who believe, as I long have believed, that the unborn child possesses a right to life and should be able to exercise a preference for life, even if indirectly.

I happen to believe that life is the most sacred thing we have on Earth. We should shrink from the thought of using our laws, rules, and judicial decrees to deprive the unborn of the opportunity to live.

The unborn cannot speak for themselves, but we here in the Senate can do it for them by adopting humane laws that give them the opportunity for life.

I believe the handwriting is on the wall for all to see. The antiabortion forces in the House command a strong majority that will hold. The proabortion forces in the Senate can no longer be sure of their majority due to the historic shift of attitude in our body. We have demonstrated that this is true, that the momentum is on our side, and that it is only a matter of time before we prevail.

I urge my colleagues on the other side of this issue to halt this useless fight. Do not delay this important Labor-HEW bill any longer. Let us accept the House language on abortion and get this bill to the President.

I urge the Senate to adopt my preferential motion to recede on amendment No. 137.

Mr. President, I ask unanimous consent that the name of the Senator from North Carolina (Mr. HELMS) be added as a cosponsor of the motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, there is no point in protracting discussion of this issue. As the distinguished Senator from Washington has said, it has been discussed fully time and time again on this floor.

I commend the distinguished Senator from Pennsylvania for his work on this issue through the years. He has fought valiantly to protect the lives of innocent unborn children. This Senator believes that the Lord will bless him for the work he has done.

Mr. President, what we are talking about here today is the use of taxpayers' money to deliberately terminate innocent human life. The amendment approved by the House of Representatives addresses itself to those situations in which the life of the mother would be endangered. Beyond that, Congress should not go.

On September 6 of this year, the Washington Post published a story on the front page, written by Victor Cohn, captioned "Fetuses Aborted To Prevent Child of 'Wrong' Sex." Mr. Cohn's story began this way:

> Doctors at several prominent medical centers around the country—and an unknown number of private physicians as well—have begun helping some pregnant women abort their fetuses because the baby would be the "wrong" sex.

That shows how far we have gone in this matter. This Senator considers this development to be an appalling barbarity.

The Senator from Washington noted that there were 26 votes on this question in the Senate last year, if I heard him correctly. I have not checked. But even if there were 26,000 votes on this issue, it still would be worthwhile, because what we are talking about is innocent human life.

The House of Representatives has a good amendment, a fair amendment, and the Senate should recede to it. That is why the Senator from North Carolina has joined the Senator from Pennsylvania in moving that the Senate recede to the House amendment. When we do that, we will have acted responsibly. If we fail to do that, then those Senators who vote to oppose the amendment of the House of Representatives will be putting themselves in the position of supporting abortion on demand.

I hope the Senate will approve the motion offered by the distinguished Senator from Pennsylvania and the Senator from North Carolina.

Mr. President, I ask unanimous consent that the full text of the article from the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FETUSES ABORTED TO PREVENT CHILD OF "WRONG" SEX

(By Victor Cohn)

Doctors at several prominent medical centers around the country—and an unknown number of private physicians as well—have begun helping some pregnant women abort their fetuses because the baby would be the "wrong" sex.

The number of these cases is now small, but some medical authorities predict—and one bioethicist advocates—a rapid increase in the use of sophisticated tests and abortions to allow parents to select the sex of their offspring. And the procedure is already raising important moral and ethical questions within the medical profession.

The issue centers around a prenatal test called amniocentesis, in which doctors withdraw a sample of the fluid in the womb. The test provides genetic information about the fetus, and is primarily used to detect birth defects. But it also reveals the baby's sex.

It is on the basis of this test that some patients choose abortion to avoid having an unwanted boy or girl, though some doctors say the preference in these cases is most often for a boy.

In most cases, authorities said yesterday, those doctors who agree to do amniocentesis only to determine a fetus' sex do so reluctantly. In the typical case, one or both parents are highly disturbed people who threaten to end the pregnancy in any case unless they can be sure the child is the desired sex.

Most doctors apparently still refuse to do an amniocentesis for sex determination alone even in cases like these.

But this situation could be changing.

Doctors at Johns Hopkins, Yale, the University of California at Los Angeles and George Washington University here say they will do such tests in a few, highly screened cases.

Dr. John C. Fletcher, a bioethicist at the federal government's National Institutes of Health in Bethesda, advocates that parents be permitted to use such tests for sex determination, if they choose.

Tabitha Powledge of the noted Hastings Center and Institute for Science, Ethics and Life Sciences at Hastings-on-Hudson, N. Y., said she thinks the practice is not yet really common, but could become so in two or three years.

Fletcher states his position in the New England Journal of Medicine. He said in an interview that he wrote as an individual, not as an NIH official, and came to his position "with great difficulty."

He finally decided, he said, that "it's a woman's right to decide her reproductive future . . . and if she's going to seek this procedure and abortion anyway, she should at least be able to get the very best medical care."

Doctors at Johns Hopkins' Prenatal Diagnostic Center have decided to "at least" counsel and advise parents who want the test for sex determination, and probably "reluctantly" agree in "one or two cases a year," reported Dr. Haig Kazazian, the center's director.

"Our position is that we will do it, in theory, in cases where the parents would abort the fetus if they did not know the sex," said Dr. John Larson at George Washington University here. "But this is a very restricted position, not an open-door policy."

The "actual situation", however, said the Hastings Center's Powledge, is that "more and more obstetricians are learning to do amniocenteses in their offices."

"As more and more learn," she said, "then in a way the lid will be off, because women will shop around until they find someone who's willing. And you can't tell me there won't be lots of obstetricians who are willing, for a price. I think the problem is probably not so much one of today as one of 1981 or 1982."

Dr. Maurice J. Mahoney, director of prenatal diagnosis at Yale University, said he believes "lots of obstetricians all over the country"—some in private practice, some at universities—are already quietly doing amniocenteses for sex determination.

"We're against it," he emphasized. "But under certain circumstances, we will get this information for a prospective mother, and we'll hope that this prevents" rather than cause "the sacrifice of normal kids."

He said Yale doctors have had "serious" requests for sex determination about twice a year, but only three women over the past 10 years have insisted on having the test after counseling about the risks and alternatives.

Neither of the two who learned that the fetus was not the desired sex chose abortion. "But we've given many other women information about sex," as well as genetic information, Mahoney added, "and we just don't know what they go on to do else * * *."

He said "we would never agree to abort a pregnancy because of undesired sex," but pointed out that women can get abortion at many clinics today.

Dr. Barbara Crandall of UCLA recently told Ob. Gyn. New, a doctors' newspaper, that UCLA has done the test to determine sex in 10 cases since 1969, and, after counseling, none of the patients had an abortion. She added, "I don't feel I can deny this service to an emotionally stable individual with a reasonable case."

So far, said GW's Larson, his university has done the test only for sex determination, "when a patient tricked us into it by saying she wanted it for another reason. Then, when she found she had a child of an undesired sex, she asked her obstetrician to terminate the pregnancy. I don't know what happened."

"If we agreed to do the amniocentesis," said John Hopkins' Kazazian, "then our fertility control clinic would do the abortion. But we don't expect this to be very common. Our policy is to counsel such couples and tell them what it means and to a certain extent try to talk them out of it."

When an amniocentesis is done at a major medical center, a trained team takes a sonogram, or sound picture, to locate the fetus precisely, then inserts a fine needle into the abdomen to withdraw some amniotic fluid.

As done at Johns Hopkins, it costs $550. It can be done without hospitalization.

But most authorities think it should be done only at centers with skilled teams with much experience, since there is always some risk to the fetus. The risk, usually miscarriage, has been less than one in 100 at skilled American clinics.

In addition, however, the test can be done until about halfway through pregnancy. This means that an abortion, if done, is a midterm operation with higher risk to the mother than an early abortion.

There are other dangers, including unknown consequences for society if parents widely seek this procedure. NIH's Fletcher writes. A doctor may state an opposing moral view, he argues, but should not withhold the test unless doing it would prevent its being done on some other child for more important reasons.

Mr. MAGNUSON. I just want to add one thing.

The House took back this amendment in disagreement and they had a voice vote on it, so there is no rundown on how the House would vote on this matter if there were a rollcall vote. Therefore, I think it is wise that we send it back to the House for further consideration.

Mr. President, I have no more to say on this matter.

The PRESIDING OFFICER. The question is on agreeing to the motion offered by the Senator from Pennsylvania (Mr. SCHWEIKER).

Mr. SCHWEIKER. Mr. President, I know of a Senator who wishes to speak on the other side of this matter, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, I rise in opposition to the amendment of the Senator from Pennsylvania.

It is a shame that I am forced to choose between very restrictive language and most restrictive language regarding abortion. However, faced with that choice, I opt for the language that is the current law.

We have all been through this debate many times before. To some it is by now a futile exercise. All of the philosophical arguments have been made before this body time and time again. Therefore, I will not add more discussion to this debate.

I would like simply to remind my colleagues of my plea earlier this year when this issue was before us.

The current law allows abortions only when the life of the mother is endangered, when a continued pregnancy would result in lifelong damage to the mother as confirmed by two physicians, and in the case of rape or incest when reported within 60 days.

I believe that these restrictions answer the concerns of those disturbed by the prospect of abortion on demand. The current language satisfied the concerns of the House and the Senate last year, and was the result of many weeks of agonized debate. The language which is current law is not the ideal language, but it is preferable to the language proposed by Senator SCHWEIKER.

I ask my colleagues to join the Senator from Washington in keeping the language of the current law, which was the will of the Senate when we last addressed this issue.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion offered by the Senator from Pennsylvania (Mr. SCHWEIKER). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Michigan (Mr. LEVIN), the Senator from North Carolina (Mr. MORGAN), the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER. Is there any Senator who wishes to vote or to change his vote?

The result was announced—yeas 33, nays 54, as follows:

[Rollcall Vote No. 308 Leg.]

YEAS—33

Armstrong
Boren
Boschwitz
Cochran
Danforth
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Hatch
Hatfield
Helms
Huddleston
Humphrey
Jepsen
Johnston
Laxalt
Long
Lugar
Melcher
Pressler
Proxmire
Roth
Schweiker
Stone
Thurmond
Warner
Young
Zorinsky

NAYS—54

Baucus
Bayh
Bellmon
Bentsen
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cohen
Cranston
Culver
Glenn
Gravel
Hart
Hayakawa
Heflin
Heinz
Hollings
Inouye
Jackson
Javits
Kassebaum
Kennedy
Leahy
McGovern
Magnuson
Mathias
Matsunaga
Metzenbaum
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Simpson
Stafford
Stevenson
Stewart
Talmadge
Tower
Tsongas
Wallop
Williams

NOT VOTING—13

Baker
Biden
Chafee
Dole
Goldwater
Levin
McClure
Morgan
Muskie
Randolph
Stennis
Stevens
Weicker

So Mr. SCHWEIKER'S motion was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, in view of the fact that things have not changed much in 5 years, I do not see any reason to have a rollcall on the conference report if it is agreeable to the Senator from Pennsylvania. The motion recurs on my motion that the Senate further insist on its amendment No. 137. I do not see any reason to have a rollcall on it.

Mr. HELMS. Mr. President, I do see a reason to have a rollcall and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Washington to insist on the Senate amendment.

Mr. MAGNUSON. Mr. President, the

vote now, if Senators want to stick with the Senate amendment, would be aye, and to turn it down would be a nay vote, would it not?

The PRESIDING OFFICER. The question is on agreeing to the motion that the Senate insist on its amendment.

Mr. MAGNUSON. It is on the motion that the Senate insist on its amendment.

The PRESIDING OFFICER. The Senator from Washington is correct. The yeas and nays have been ordered on the motion of the Senator from Washington. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. Biden), the Senator from North Carolina (Mr. Morgan), the Senator from Maine (Mr. Muskie), and the Senator from West Virginia (Mr. Randolph) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "nay."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Rhode Island (Mr. Chafee), the Senator from Kansas (Mr. Dole), the Senator from Utah (Mr. Garn), the Senator from Arizona (Mr. Goldwater), the Senator fom Idaho (Mr. McClure), the Senator from Alaska (Mr. Stevens), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. Garn) would vote "nay."

The PRESIDING OFFICER (Mr. Heflin). Any other Senator wishing to vote come forward and vote now.

The result was announced—yeas 57, nays 31, as follows:

[Rollcall Vote No. 309 Leg.]

YEAS—57

Baucus
Bayh
Bellmon
Bentsen
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cohen
Cranston
Culver
Glenn
Gravel
Hart
Hayakawa
Heflin
Heinz
Hollings
Inouye
Jackson
Javits
Kassebaum
Kennedy
Leahy
Levin
McGovern
Magnuson
Mathias
Matsunaga
Metzenbaum
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Simpson
Stafford
Stennis
Stevenson
Stewart
Talmadge
Tower
Tsongas
Wallop
Warner
Williams

NAYS—31

Armstrong
Boren
Boschwitz
Cochran
Danforth
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Hatch
Hatfield
Helms
Huddleston
Humphrey
Jepsen
Johnston
Laxalt
Long
Lugar
Melcher
Pressler
Proxmire
Roth
Schweiker
Stone
Thurmond
Young
Zorinsky

NOT VOTING—12

Baker
Biden
Chafee
Dole
Garn
Goldwater
McClure
Morgan
Muskie
Randolph
Stevens
Weicker

So the motion of the Senator from Washington was agreed to.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a resumption of routine morning business, not to exceed 30 minutes, and that Senators may be permitted to speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF EDUCATION ORGANIZATION ACT—CONFERENCE REPORT

Mr. RIBICOFF. Mr. President, I submit a report of the committee of conference on S. 210 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 210) to establish a Department of Education, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of September 21, 1979.)

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the following staff be accorded the privilege of the floor during the consideration of the conference report, S. 210, the Department of Education Organization Act:

Richard Wegman, Marilyn Harris, Robert Heffernan, Anthi Jones, Robert Fogel, Lawrence Grisham, Alan Bennett, Franklin Zweig, Robert Schmitt, and Marianne Kern.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, after nearly 3 years of hard work, both the House and the Senate are now ready to complete final action on the bill to separate the "E" from HEW.

We have amply demonstrated and debated the need for the Department of Education.

In no previous time has any bill to establish an agency or executive department ever received so much intense scrutiny and study. Both Houses of Congress have spent more than 50 hours thoroughly debating the proposal on the floor.

This year, for the first time in history, the House and the Senate have both passed a bill to establish the Department of Education.

All in all, there are more than 140 organizations which have endorsed the Department. These groups represent the handicapped, teachers, school board members, women and minorities, laborers, parents, and students. Mr. President, I ask unanimous consent that the entire list of organizations supporting the Department be printed in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

Organizations Supporting Department of Education

Adult Education Association of U.S.A.

Alliance of Association for the Advancement of Education.

American Alliance for Health, Physical Education, Recreation, and Dance.

American Association of Colleges of Teacher Education.

American Association of Community and Junior Colleges.

American Association of School Administrators.

American Association of University Professors.

American Association of Workers for the Blind.

American Choral Directors Association.

American Coalition of Citizens with Disabilities.

American Dance Guild.

American Dietetic Association.

American Educational Research Association.

American Federation of Government Employees (AFL-CIO).

American Federation of Government Employees, Local 2607 (Representing Education Division, HEW).

American Federation of State, County, and Municipal Employees (AFL-CIO).

American GI Forum Education Foundation.

American Library Association.

American Personnel and Guidance Association.

American School Food Service Association.

American Society for Public Administration.

American Theatre Association.

American Vocational Association.

Americans for Democratic Action.

Americans for Democratic Action—Youth Caucus.

Americans for Indian Opportunity.

Asian and Pacific Educational Alliance.

ASPIRA of America.

Association for Childhood Education International.

Association of Community College Trustees.

Association for Educational Communications and Technology.

Association of Schools and Colleges of Education in State Universities and Land Grant Colleges and Affiliated Private Universities.

Association of School Business Officials.

Association for Supervision and Curriculum Development.

Coalition of American Public Employees.

Coalition of Independent College and University Students.

College Art Association of America.

College Band Directors National Association.

College Music Society.
Committee on Research in Dance.
Congress of D.C. PTA.
Council for the Advancement and Support of Education.
Council for Educational Development and Research.
Council for Exceptional Children.
Council of Chief State School Officers.
Council of Great City Schools.
Council of State Administrators of Vocational Rehabilitation (Executive Committee)
Dean's Network.
Education Commission of the States.
El Congreso Nacional de Asuntos Colegiales.
European Congress of American Parents, Teachers and Students.
Home Economics Education Association.
International Council of Fine Arts Deans.
International Reading Association.
League of United Latin American Citizens.
Mexican-American Legal Defense and Educational Fund.
Mid-America Association.
Music Educators National Conference.
Music Teachers National Association.
National Art Education Association.
National Academy of Education.
National Alliance of Black School Educators.
National Alliance of Spanish Speaking People for Equality, Inc.
National Association for Bilingual Education.
National Association for Equal Educational Opportunity.
National Association for Equal Opportunity in Higher Education.
National Association for Retarded Citizens.
National Association for the Deaf.
National Association of Administrators of State and Federal Education Programs.
National Association of College Wind and Percussion Instructors.
National Association of Elementary School Principals.
National Association of ESEA Title I Coordinators.
National Association of Mexican-American Women.
National Association of School Psychologists.
National Association of Schools of Art.
National Association of Schools of Music.
National Association of Secondary School Principals.
National Association of State Boards of Education.
National Association of State Directors of Migrant Education.
National Association of State Directors of Special Education.
National Association of State Directors of Vocational Education.
National Association of Supervisors and Directors of Secondary Education.
National Audio-Visual Association.
National Caucus of Black School Board Members.
National Coalition of Hispanic Mental Health and Human Services Organization.
National Conference of State Legislatures.
National Community Education Association.
National Committee for Citizens in Education.
National Congress of Parents and Teachers.
National Council for the Social Studies.
National Council of La Raza.
National Council of Negro Women.
National Council of State Agencies for the Blind.
National Council of Teachers of English.
National Council of Teachers of Mathematics.
National Dance Association.
National Education Association.
National Federation of the Blind.
National Guild of Community Schools of the Arts.
National IMAGE, Inc.
National Puerto Rican Forum.
National Rehabilitation Association.
National School Boards Association.
National School Public Relations Association.
National School Supply and Equipment Association.
National School Volunteer Program.
National Student Education Fund.
National University Extension Association.
National Urban Coalition.
National Urban League.
National Women's Political Caucus.
Overseas Education Association.
Pacific Asian Coalition.
People United To Save Humanity (Operation PUSH).
Puerto Rican Legal Defense and Education Fund, Inc.
Research for Better Schools.
Speech Communication Association.
State Higher Education Executive Officers Association.
Student National Education Association.
United Auto Workers.
United Farm Workers.
United Negro College Fund.
United States Student Association.
Young Audiences, Inc.

Mr. RIBICOFF. Mr. President, we have closely examined all the issues and impacts. The House, the Senate, and the President all agree that HEW is simply too unmanageable and education too important to continue the present setup. We have found that the large, important Federal effort in education is inefficient, uncoordinated, and unaccountable. Without the remedies offered by the Department of Education, the threat of more Federal intrusion in the local control of education can only increase.

I am pleased to report to my colleagues that the final version agreed upon by House and Senate conferees is an even better bill.

We have combined the strong and clear provisions of both House and Senate bills which protect local control of education. The compromise version explicitly states that the establishment of the Department of Education shall not increase the authority of the Federal Government over States, localities, and private institutions in education.

In addition, the bill now also contains the House provision which actually prohibits the Federal Government from exercising direct control over education.

Both provisions were developed in full consultation with such State and local groups as the National School Boards Association and the National Conference of State Legislatures, among many others.

The bill has the overwhelming support of most State-local organizations, including the National Governors Association, Council of Chief State School Officers, the State Boards of Education, and Education Commission of the States. They know we have gone to great lengths to fully protect local control of education.

The compromise bill we bring to the floor today also provides for a lean, tight, simple, and efficient structure for the new Department.

The number of principal officers and offices will be just 13—down from more than 30 separate offices, agencies, and bureaus which make up the Federal education establishment today.

The new Department's staff allocation—made up of existing authorities—will be larger than five existing Cabinet departments. But, it will have fewer full time staff, fewer assistant secretaries, fewer supergrades, and fewer executive level positions than any other department. That shows just how much we have streamlined the Department of Education.

The compromise version contains two important provisions to hold down the staffing levels of the Department. The first, developed with the valuable assistance of Senators ROTH, BELLMON, and HATCH, mandates that the appropriations committees annually set strict ceilings on the number of staff employed, including experts and consultants.

Also, this bill does something we have never done before. We are so certain of the considerable improvements in management and efficiency under this reorganization that this bill actually requires the reduction of 500 positions by the end of the first fiscal year of the Department's life. We will be saving approximately $15 million a year right there.

OMB estimates the total savings of pulling the "E" out of HEW and consolidating education programs will reach $100 million annually.

Finally, the conferees have rightly decided there is a distinct line which must be drawn between reorganization and structural issues, on one hand, and substantive policy issues on the other.

The compromise version before us today simply separates education from health and welfare and puts it in a new Department of Education. There are no new programs, no increase in the Federal Government's powers, and no changes of any kind in substantive education law and policies. In a reorganization, that is the way it should be.

In so doing, we are preserving the rights, prerogatives, and jurisdictions of the other committees of Congress.

I hope my colleagues will agree the time to establish the Department of Education is now. We have a good conference report and a good bill. Our intentions have been made explicitly clear.

Ever since 1962, when I served as Secretary of HEW, I knew education did not belong there, and that it actually suffered by being crowded together with vitally important health and welfare functions.

I am most grateful for the tremendous and broad support given for the Department of Education by the Senate. Last April, we voted 72 to 21 to set up the Department of Education.

I hope today we can approve this report and get about the serious business of helping our States and localities improve the education of our children.

Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. HAYAKAWA. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a

sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HAYAKAWA. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, in April many of my colleagues expressed doubt and indecision about S. 210, legislation to create a separate, Cabinet-level Department of Education. However, they did not heed the call of their own doubts. Now we are considering the conference report for this legislation. I remain opposed to this new department despite its revised form.

As many of you know, I have been involved in education all of my adult life—as both teacher and administrator. It grieves me to have to disagree with the distinguished Senator from Connecticut in this respect. But in all my capacities as an educator I can speak with some authority on the state of American education today. Yet it appears that few of my colleagues want to listen to someone who has been there, and who knows what the problems are. Senator MOYNIHAN and I have joined in opposing this bill. We have both been teachers for a long time. But it appears that our colleagues would rather listen to the unfounded pleas of people who know only that there are problems in our schools today, but who do not know how to solve them.

Having this new department is rather like grasping at straws. We see there is a problem and attempt to solve it by creating a new department. I wish someone would tell me how this new department is going to make our children literate? Or how it will erase the violence that has erupted in our schools? Or how it will ensure that we get what we pay for with our tax dollars? Or how it will make our children better prepared for their futures? If the supporters of this bill can answer these questions without prefacing the response with "I hope—" then I would consider joining them in supporting this bill. But I daresay that there are few who could say the bill would do any of these things.

There are also people who say that we might as well try it, because things have deteriorated to the point where they are willing to try anything that might help the situation. Of course, I agree that things need improving. But this is an extremely drastic step to take without knowing positively what to expect.

I think the primary problem here is one of different philosophies. The growing belief that we should look to the Federal Government to solve the problems of our schools is, I think, a major mistake. Our schools should be a primary responsibility of our parents, students, and the State and local officials. After all, who knows best what is needed by the children in Rockville, Md., or Oakland, Calif., than the kids who go to school there, their parents, and their school teachers and officials? I certainly do not presume to know what the average student in Bellville, Ill., needs from his school. We in Congress are not, nor can we be, all knowing. We must act on our own beliefs and the advice of others. But first we must think of ourselves as parents in this case, not as Federal legislators whose job it is to put new laws on the books.

I do want to commend my colleagues for at least giving some thought to the problems in education today. I just wish we had given it more time, more careful thought, before we came up with this idea for a new bureaucracy. I am afraid we may have taken the easiest course, rather than the course that promised the most improvement.

Our problems will not, cannot, be solved here in Washington. Ours are problems of the classroom—the students, the teachers, the curriculum. These cannot be corrected by way of Washington.

The structuring or restructuring of a department does not make it much better or much worse. Those involved in the workings of the department and the classroom are what should be considered. If those people with responsibilities for making the department run smoothly understand its workings, and its priorities, and its responsibilities, structure should not play a primary role. Indeed, those who want a new department would not ask for one if there were not already problems within HEW. Only when people are dissatisfied with a situation do they want to change it.

I still believe that we could achieve the same goals at a better, faster rate by working with what we already have in HEW.

And let me emphasize that we in Congress have added to the problems endured by our education system. We continue to throw program after program at HEW. The problem is, our main goal has been achieved by having the bill passed. We think little more about the legislation until it is time to renew it or until we hear complaints from back home. But this is the problem. Our education problems and policies should be handled at home by those who must live with them every day—not by those of us whose job it is to dream up new ideas and mark another notch in our belts every time we get something passed by our colleagues.

I will say no more. I just wanted to express my continued opposition to this new department, and go on record as predicting problems for this new department and little improvement for our schools and students.

Mr. President, I wish to give some ad lib remarks on this matter.

There has been some recent research done on the reason for failure of our schools to teach elementary literacy in many places. What I am about to say is based upon some pretty conscientious research into teachers and especially into school administrators and educational officials.

Who are the people who have their Ph. D.'s or M.A.'s in education? An examination of the entrance records of people in graduate schools indicates clearly that those of the highest undergraduate records are the ones who get into medical school, law school, and engineering school, and of all the graduate schools the people with the lowest records are those who go into colleges of education for Ph. D.'s in education. In other words, granted the many, many brilliant exceptions to this, the majority of Ph. D.'s in education are not the brightest of the lot of graduate students. They become educational administrators very often not because of their intellectual brilliance, not because of their depth in knowledge of any subject, but very often through politics, through academic politics, that is, which is much dirtier than political politics, I might say.

Therefore, some of our great educators or great educational systems are in charge of people of limited intellectual credentials in sociology or philosophy or literature or mathematics or science. There are many who are extraordinary estimable people but are, nevertheless, specialists in athletic coaching and other subjects which are not directly academic.

So our school adminstrations are full of people, again with all due exceptions noted, who are only quasi-intellectuals, if they are even that much, and it is not without reason that schools of education are held in low esteem by science departments, literary departments, economics departments, by all kinds of departments in which a great deal more rigor is expected of a graduate student heading toward his Ph. D.

What we are going to create through this mechanism is a great pantheon of doctors of education, Ph. D.'s in educational administration, people who have no solid substance of mathematics or science or of philosophy or of political economy, or anything else, simply lots and lots of experience in administering tax dollars.

Another great tragedy of education is the fact that the rewards of the educational system are so structured that the ambitious teacher knows he is getting somewhere when he does not teach any more. And our schools are full of teachers who want to stop teaching and become a curriculum coordinator, an assistant principal, a principal, a superintendent, anything but classroom teaching. This dedication to nonteaching, this constant endeavor to escape from teaching, characterizes much of the profession. In creating a Department of Education we are going to fill a Department full of these people who would rather not teach, and I say that their dedication to education is not really that of the classroom teacher.

If the Department of Education were to be filled with dedicated classroom teachers, that would be one thing. But nothing of the kind is going to happen, and I am far too familiar with educational systems around the country to know that there is not much of a chance for classroom teachers ever to get high in the educational hierarchy.

As I say, Mr. President, we are creating a kind of pantheon of Ph. D.'s in education, doctors of education, with a lofty position in society, but who will do, so far as I can see, not a smidgeon of good for the average student in the grade school or in the high school.

I most respectfully differ, therefore, with the distinguished Senator from Connecticut as to the wisdom of this measure. Mr. President, I shall oppose it and shall vote against it, and I urge my colleagues to do likewise.

I thank the Chair.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, our distinguished colleague from California has just outlined many of the problems that afflict and, to some degree, infect, the educational system of this country.

Many, if not most, of the reasons for the problems he has outlined are that we have made teaching, and good teaching, so very, very difficult to perform. Up until modern times, the teacher in the community was considered one of the, if not the, pillar of the community, looked to as an adviser as well as an educator, a community leader as well as a teacher of children.

But in recent decades, for a wide variety of reasons, none of which, by the way, are treated by the bill whose conference report is before us, we have made teaching of children the most difficult of professions and the least rewarding of professions.

Mr. President, we will soon be voting on this conference report on S. 210, the Department of Education Organization Act. The conference version of the bill is similar to the bill passed by the Senate earlier this year.

The amendments added in the other body which assisted in securing its passage by only four votes in that body were, for all intents and purposes, dropped by the conference. Of course, today is not the time to repeat all of the arguments against this proposal for a Cabinet-level Department of Education, one which includes, in addition to many other potential problems, the political control of a large overseas school system.

I have found, Mr. President, that very, very few people with whom I talked in this country about the Department of Education or who asked me questions about it realize that the majority of the employees are being transferred from the Department of Defense where they, at the present time, are overseeing a very large school system.

So it means that for the first time there will be a clear potential, if not high probability of political control of a school system not only by politicians who control, who will control, the Department of Education, but by those activists in education who, in fact, will populate the management levels of that Department.

I am one who considers himself, as I suspect the Senator from California and others in this body consider themselves, an activist in education, but an activist where education ought to be not where a few politically motivated individuals outside this body would like for it to be.

Let me remind my colleagues that the American people appear to be strongly opposed or at least opposed to the federalization of education and to the creation of a Federal Department of Education.

The Gallup organization recently asked the question:

> In your opinion, should education be taken out of the present Department of Health, Education, and Welfare and made a separate department of the Federal Government?

The response was 40 percent answering "yes" and 45 percent answering "no." So within the limits of error of a poll of that kind clearly the country has no consensus, has no majority opinion, on this subject.

In the breakdown of this poll, opposition to the proposal prevailed in virtually all categories, demographic, and otherwise. Those parents with children in public schools were opposed 49 to 40 percent; those parents with children in private schools were opposed 47 to 42 percent; minorities opposed the creation of a Federal Department of Education by 51 to 30 percent. I repeat the minorities opposed the creation of a Federal Department by 51 to 30 percent; while others, so-called nonminorities, a term which I have yet failed to have my distinguished colleague from California define for me, opposed it 43 to 42 percent. Again, within the limits of error, no majority or no consensus.

We should, before we proceed, Mr. President, on the passage of this conference report reflect on why are the American people and, particularly, those categories I have just entered into the RECORD, opposed to the Department of Education. Is the Congress out of step with the desires of their constituents? I firmly believe that Congress is out of step on this proposal.

During the last year editorials and newspapers throughout the Nation have come out against this idea. Yet Congress insists on creating another bureaucracy when the wave of opinion in this country is against bureaucracy.

Congress insists on increasing the potential for Federal control of education when the wave of opinion in this country is against Federal control of our lives or at least additional Federal control of those lives.

Again, referencing the poll I just referred to, the opinion of this country appears to be against Federal control of this all-important, all-critical aspect of our lives, education.

During Senate consideration of this bill the proponents assured us that it would reduce Federal personnel involved in education, and that the Federal Government would not accelerate its ever-increasing control of education.

The fact is that the conference changed the House amendment which would have required a reduction of personnel by 800 to a reduction by only 500. What is even more disturbing, that same House amendment would have counted experts and consultants in the total reduction figure. The compromise position leaves the decision of whether to count these two groups of experts and consultants as employees to the Office of Management and Budget.

The fact is, I think it is clear, that we are on our road, on the road, to a major new bureaucracy.

I hope my colleagues will recall that many of us favored the removal of educational programs from the Department of Health, Education, and Welfare and the creation of an independent agency to oversee those programs under the close scrutiny of the Congress—a nonpolitical agency. Unfortunately, this was not to be.

The House amendment which guaranteed local control of curriculum was dropped by the conference. I cannot think of a better way to guarantee control of education by parents, teachers, and locally-elected school officials than by preserving their control over the curriculum of their children.

Mr. President, if we enact this legislation we open a Pandora's box. In the coming years, zealots espousing various political, social, and economic philosophies will compete for control of the Department of Education, the curriculum of our schools, and the minds of our children.

We are all aware of the complaints of parents who are our constituents today of the kinds of subjects treated and the manner in which they are treated in the textbooks of the school systems today. I see no way in which this new proposal for a Department of Education is going to improve the objectivity of education in this country.

All of the history of the past, all the logic that we have about bureaucracy, points to a decrease in objectivity in education. Education which is without objectivity is merely propaganda.

Once again, Mr. President, I know that this will become law. Once again, however, I must say how disappointed I am in Congress for not following the will of the American people, for not at least pausing to try to determine what that will is, before embarking on this path—a path which I believe clearly our Founding Fathers would have opposed, and which clearly is contrary to the intent of the historical traditions of the American educational system.

In so saying, it is not that I feel that education in this country is without problems and without the need of great change and improvement, but I see no way in which that change and improvement combined is going to result from this ill-advised proposal. I recognize the sincerity with which the distinguished Senator from Connecticut and others who favor this proposal have met their duties and moved to do what they think is right. I just wish that Congress had spent a little bit more time before it made its decision to agree with them.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I

rise on the last occasion that I shall have to speak about the Department of Education Organziation Act, and I wish to begin my remarks, which will be brief, by expressing the gratitude and the admiration which I feel, and I cannot but suppose that we all feel, for the senior Senator from Connecticut, our beloved and admired colleague of all these years, whose is fulfilling a vow he made to himself many years ago when he was perhaps the most distinguished Secretary of Health, Education, and Welfare we have ever known, when he concluded that the organizational requirements of that department were such that the burden had simply become too great, and that the department, therefore, needed to be divided up, especially as the large Federal aid to education programs came into play and the educational component, from being a residual one, scarcely more than the Commissioner of Education established during the Civil War and the National Defense Education Act of 1957, and a few apprenticeship training programs, suddenly began to become a large and significant one. He saw that a move would come one day for it to be an independent department, and this has now come about.

I have opposed the creation of the Department for a set of reasons that it is clear to me do not immediately command the assent of persons who hear them expounded. I think that with greater effort, perhaps, and greater skill, surely it would be possible to make our point in a convincing way, but we have not done so; and so I would wish to speak first as one who congratulates the Senator from Connecticut and who will pledge his loyalty to this new institution.

But before doing so finally, I would just wish to take note of how closely events have followed au forte, I dare to say, since the issue first appeared among us a year or two ago.

I speak to my friend and colleague of so many years, the junior Senator from California; I speak to that man who has soared above us all in so many ways, the Senator from New Mexico, who is also here; we are here in forlorn opposition to an event that has now become inevitable.

But I would like to make the point one last time, a point which I say was never successfully made, in that it seems never to have been grasped—that we risk the politicization of education itself, and that it will come about in ways that the system of education itself will not be able to resist. I would like to state the original argument and then given several instances in which this has already happened, I am sorry to say.

Here I acknowledge one last time the difficulty of making such an argument in terms that command assent.

As the chairman may recall, in the course of my first comments on this, I solicited a statement from David Riesman, who, I think we might agree, is the most distinguished commentator on American education of our time. I asked his judgment and he wrote back, saying he was very much against a Department of Education for this reason. I take the liberty of quoting him. He wrote:

> Education, contrary to people who speak of it as an "establishment," is a weak power, subject to whims and fashions in the country at large, and these show up in the attitudes of individual members of Congress and their aides, assistants and others. Therefore education is best served by being part of a much more powerful coalition in which it is joined with the rest of H.E.W. with its labor union and medical and other affiliations. Furthermore, education is, because of its weakness, vulnerable to attack because something done in one of the three thousand accredited postsecondary institutions by somebody may offend somebody or get in the papers. it therefore needs to have many diverse sources of support, combined with a certain precious obscurity.

I repeat, "a certain precious obscurity."

> Once it is separate, its target quality and actual weakness will be visible and this is a weakness not only vis-a-vis potential critics but potential lobbyists—captors—in the country. Education is best served by decentralization, not only in this huge and diverse country, but also within the federal government and its many agencies.

I should like now to draw attention to three events that have taken place since the beginning of this debate. The first such event was the nearly successful effort to attach to this bill a measure which would remove from the Supreme Court appellate jurisdiction with respect to questions of school prayer. There is not a more sensitive subject in this country—oh, there are subjects as sensitive, but none more so. The heart of the first amendment has to do with the avoidance of State-sponsored religion, the declararation that Congress shall make no law respecting an establishment of religion. School prayer in public schools is surely as close to that as one could imagine at this time.

But much more importantly, the whole basis of constitutionality in America since Marbury against Madison has been judicial review. And suddenly, the issue of the Department of Education brought us into a confrontation with the whole doctrine of judicial review.

The leadership of the Senate was adept. It moved speedily to transfer the particular amendment to another bill. But the fact is that, on April 5, by a vote of 47 to 37, if I am not mistaken, for the first time in the history of the U.S. Congress, we voted to take away this jurisdiction from the Supreme Court. If on school prayer, why not on— I shall not commence to list the issues that will henceforth be proposed. And when we do that, you may be sure that we shall pass such amendments handsomely. The leadership got it on another bill to spare this one. But it has happened. We have opened the possibility.

What does it lead to? It leads to an absolute confrontation with the Supreme Court of the United States. The Supreme Court would not accept any such law, and we might choose not to recede from it, and a constitutional crisis of the very first order will follow. All this from the Department of Education.

Second, Mr. President, because the chairman is listening so courteously and with such great care, I shall only allude to a whole series of amendments adopted in the House of Representatives attaching conditions to this Department, having to do with all manner of issues—pedagogical, ideological, ethical—which shocked the people who were for the bill, as they were altogether contrary to the spirit in which this bill was put forward. But it happened precisely the way David Riesman said it would happen. I shall not list these mischievous and to me abhorrent amendments, because the chairman knows them will enough and the RECORD records them.

I congratulate the chairman on having eliminated every single one of those amendments in the final bill such that this conference bill is pristine in that respect. The Senate conferees are to be congratulated on prevailing on every single issue of any substance or consequence. But these provisions will be back next year in the next authorization or appropriations bill. They will be back, year after year, just as, one after another, the President will, by Executive order, transfer more activities into this Department. We shall not hear the end anytime soon about school prayer, about curriculum, about sex education, abortion, about a whole, endless series of "back to basics" or forward from, most of which will come as very unpleasant surprises to persons of liberal persuasion; for they will find these amendments not at all in the direction they would hope for.

Those who would like to find a carefully cataloged 3-page list of what those unpleasant surprises will consist of may do so in the July 11 CONGRESSIONAL RECORD, in remarks by the distinguished Member of the House, Representative ROBERT E. BAUMAN. Let them read and keep tab as the years go by.

Finally, Mr. President, and lastly, as I shall not keep the Senate all afternoon, I must mention something even David Riesman would not have predicted. That is an instance in which a former colleague and student of mine—and I say this in a sense of full disclosure—a young man who grew to be a distinguished social scientist and educator, a liberal and decent and compassionate man, had his reputation smeared and his own career interrupted by the ugly tactics and baseless allegations of persons who set out to entangle him in the politics of the Department of Education before it even existed.

Had the episode that I am now going to describe in brief occurred under a "conservative administration," it would have aroused the horrors of the liberal community as they saw the imposition of a political test on the research work of a qualified social scientist, and they would have said, "This is outrageous."

I am sorry to have to say that to my knowledge only the Washington Post and the New York Times rose to comment in this case.

I refer, of course, to the experience of Dr. Marshall Smith, who had served education and the present administration loyally and effectively. He came to Washington from the Harvard Graduate School of Education to serve in a senior position in the National Institute of Education, our research institute.

As the chairman knows, I had something to do with establishing that institute several years ago, with the particular purpose of insulating research from day-to-day pressures, and assuredly from the politics of education.

After a point, Dr. Smith, because of his great qualities and superb abilities, was appointed Assistant U.S. Commissioner of Education for Policy Studies.

Then the time came when Dr. Ernest Boyer, the Commissioner of Education, announced his return to private life.

On June 18, the then Secretary of HEW, Mr. Califano, sent around a directive indicating he intended to name Dr. Smith to the position of Acting Commissioner of Education on July 1 when Dr. Boyer's post was to become vacant.

Nine days later, we read in the Washington Post that a group of Congressmen were threatening to oppose President Carter's proposed Education Department because they objected to the findings of a research project in which Marshall Smith had taken part.

This research was done at Harvard University in the graduate school there, done by persons of great skill, persons of impeccably liberal political credentials, if that matters, persons who were compassionate and capable men and women.

Dr. Smith was not the principal researcher, but he took part.

There has, indeed, followed a controversy in the best tradition of social science as to how to interpret the results of the study which, in itself, was basically a study of Federal data. No one ever published a scintilla of ugliness of the kind that was raised in the Washington Post story.

To their credit, the Secretary of HEW, Mr. Joseph Califano, and the Under Secretary, our good friend Hale Champion, now returned to his position at Howard, said that in no circumstances would they dismiss Marshall Smith on such grounds, but the White House said, "Fire him." The White House said, "Fire him." And he was fired. For practical purposes he was fired, although technically he was given the opportunity to withdraw his name from consideration.

He was fired because his research reached what were judged to be unacceptable conclusions by persons who, I am sorry to have to say, I doubt very much even knew what those conclusions were. But their threat to withhold support from the Department of Education was sufficient for the White House to do this dishonorable thing, to declare that a scholar, searching for truth, will have the truth of his findings tested by their political acceptability.

It is a sin against the Holy Ghost. It offends against every tradition of liberalism. It is the disease of this century. It has happened already to this Department and I regret this.

I can only say, however, that it may be that in the three examples I have cited we will have learned how easily the purposes of this Department are distorted, how dangerous can be the depths which are reached in efforts to manipulate American education for profane puposes.

I would sum up once more the three things I said.

In the course of getting the Department of Education, we have brought the Congress to the point where we may have a confrontation with the Supreme Court over judicial review. We have come within a hair of adopting provisions having all sorts of peculiar and unwelcome consequences, politicizing education at the highest level. Finally, we drove from Government an honorable young scholar whose only fault was that he participated in a research project which found results which others either misunderstood or, if they did understand them correctly, found unwelcome.

It may be that we have seen how quickly this can be generated. But I would say that those of us who thought such things would happen, and said so when we first discussed this question, have not as yet been proven wrong. I would think the case is that what we foresaw has, rather, come to pass.

With that, I have tried the patience of my incomparable friend, the Senator from Connecticut. He knows I wish this Department well and that I cannot imagine that anything begun with his sponsorship shall, in the end, come to an unhappy or ignoble fate.

I thank the Chair.

Mr. RIBICOFF. Mr. President, to my knowledge, there are no further speakers.

I move the adoption of the conference report.

The PRESIDING OFFICER (Mr. MATSUNAGA). The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. PRESSLER. Mr. President, as we consider the conference report for the Department of Education Organization Act, I wish to commend the conferees for their fine work. I believe this proposal emphasizes the important role of education in our society and gives deserved recognition to Vocational Education.

As the chairman of the Congressional Advisory Committee for Distributive Education Clubs of America (DECA) and an enthusiatic advocate of vocational education, I am pleased to see that the conference report includes the specific naming of an Assistant Secretary for Vocational and Adult Education. By establishing this position, I believe we will be able to strengthen and develop the efforts of vocational education. When this legislation was considered initially in the Senate, I sponsored an amendment to this effect which was adopted.

The growth of vocational education is essential in meeting the employment trends of our country. As vocational occupations become increasingly apparent in the next decade, specific skills acquired through vocational education programs will be necessary. And meeting those future manpower needs is a priority of vocational education. With over 15 million Americans involved in vocational education, I believe an Assistant Secretary is needed to represent and monitor the progress of this area.

The establishment of an Assistant Secretary focuses attention on vocational education as an equal partner with liberal arts education in America. Vocational education deserves this priority. Granting this recognition to vocational education, I believe we are taking a positive step toward enhancing the goals of vocational education.

Mr. President, I urge that my colleagues give favorable consideration to this provision in the conference report.

● Mr. BAYH. Mr. President, I am very pleased the Senate voted passage of the conference report which will create a Cabinet-level Department of Education. I have long supported such a reorganization and for that reason was an original cosponsor of the legislation.

The quality of education in our school systems today will dictate the quality of life we will experience in the future. Education shapes the lives of our Nation's youth more so than any other Government program. Our system has traditionally been one of the best in the world and we should strive to continue this custom as more complex questions and problems arise. Our Nation is great because of the importance we have placed on educating the young, disabled, emotionally handicapped, elderly, and other groups of individuals with special educational needs.

The conferees wisely decided to exclude some provisions added by the House which would have severely limited constitutional rights. These provisions were obviously included in the House bill to defeat the establishment of a separate Department. To have retained such restrictive language would have severely injured the integrity of our educational system.

Even though good education has been a high priority for all Americans since the beginning of this country, the administration of the necessary programs has never been adequately tended to by the structure of the Federal Government. In 1867 the first Department of Education was established but was then quickly made into a Bureau of the Interior Department. For the next 70 years it kept its head above water as a recordkeeping office for the limited number of Federal education programs then in existence.

In 1953 the Department of Education became part of the new Department of Health, Education, and Welfare. It seems likely that education was included as an afterthought since its function was so overshadowed by the health and welfare duties of the new department.

The very important obligations of the education portion of health, education, and welfare have become lost in the maze of programs administered by the current structure. This is best illustrated by the budget of HEW. The amount spent for health and welfare is 18 times as large as the $9.1 billion budget of the Education Division. Outlays for the Education Division as a percentage of HEW spending have fallen from 7.9 percent in 1970 to 5.6 percent in fiscal year 1979.

In these times when everyone is concerned with Federal spending, it is easy to look at the massive HEW budget and attempt to reduce it. Unfortunately, the predominant portion of the Department's expenses which are uncontrollable fall within the education functions. The remaining uncontrollable expenses are for such necessary and essential programs as social security and medicare. As long as education remains in HEW, it will be lost except when it comes times to focus on target cuts, when education will suddenly be front and center. By establishing a separate Department of Education, the needs in the field of education will be assessed individually, thus assuring much more equitable treatment than has existed in the past.

The Federal education offices' structure will greatly improve with the creation of a new department. In the past, responsibility for the different functions in education were spread out among various departments in the Government. This caused much duplication of effort and wasted funds and left unclear to the vast number of interested persons where educational policy originated.

Almost one out of every three citizens in the country today is enrolled in some kind of educational endeavor. These 60 million people, in addition to the multitude of administrators running the programs, are entitled to know exactly where to go with education questions.

The creation of the post of Secretary of Education will remedy the problem which has existed within the divisions regarding the two seemingly equal post of Assistant Secretary of Education and the Commissioner of Education. The individual appointed to the position of Secretary of Education will coordinate all educational activities for the Federal Government. This Secretary will be able to devote all of his or her time to the field of education and guarantee that the new Department meets the challenge of providing the best education possible for our citizens and obtain the high visibility these matters deserve.

Presently education is going through a series of crises on such matters as violence in schools, lower scholastic scores, and inability of children to read, and lack of financial assistance to schools. A Cabinet-level Department is warranted to assist local and State governments in trying to cope with these many problems. Only in a department where all efforts are focused on education will progress be made on these disturbing problems.

Mr. President, we are not creating a new bureaucracy with the creation of a Cabinet-level Department which will channel all its energies into education matters. Instead we are reorganizing and streamlining a bureaucray which already exists. The legislation includes prohibitions on allowing the Department to grow in size—actually less employees will be in the new Department than are in the programs which will be transferred to it. We are already reducing the size of the bureaucracy.

I urge the House of Representatives to pass the conference report when it is before them for consideration. It is time for education to take its rightful place in Government.●

THE CREATIVE INDIVIDUAL AND THE SENSE OF COMMUNITY

Mr. JEPSEN. Mr. President, in my service as State senator, and Lieutenant Governor, I worked to improve the quality of Iowa's education. In serving Iowa as U.S. Senator I will continue to work to improve all facets of our educational system.

A nation's greatest resource is its youth properly trained and educated. The responsibility for the direction, discipline, and subject matter—as well as financing—of public education must rest with the individual States.

In Iowa we have a very fine public school system with an excellent blend of diversity and competition from private schools. Iowans have always ranked in the top percentile among the States for literacy and quality education. I am proud and thankful for the quality of the educational opportunities which are accessible to Iowans.

I would remind Iowans that the quality in the educational system we now enjoy was built and developed by the good citizens of Iowa through local control and participation. We should keep it that way—and be especially vigilant in keeping the Federal bureaucracy from gaining control and direction of our educational programs.

In addition, at a time when inflation is running rampant, and when the controls on Government spending are not yet functioning, I cannot vote to add to the Federal bureaucracy and increased Government spending, by supporting the creation of a new Department of Education which will cost $13.5 billion and employ more than 16,000 Government employees to manage its affairs. I would hasten to point out that these figures are just for the first year of operation. The action by the Congress at this time and on this item is unwarranted, unwise, and wholly contrary to less bureaucracy, less Government regulation and control, and less Government spending.

Mr. President, I rise today to address an issue that is of grave importance and of high interest to all Americans everywhere—the Federal role in education.

This Congress and particularly this body, is once again addressing the issue as to whether there ought to be a separate Department of Education.

I will briefly and simply state for the record that I oppose the Department of Education because I believe that "the creation of a Department of Education will bring the Federal Government even closer to the final determination of what, how, and by whom America will be taught."

I could further note that the creation of a Department of Education "flies in the face of less political intrusion into academia, less bureaucracy in the classroom and less Government in American life."

Mr. President, the record clearly notes that efforts to create a Cabinet-level Department of Education in the Federal Government has been an ongoing venture for the past 125 years.

In 1867, the first non-Cabinet Department of Education was established with a budget of less than $15,000 and less than 10 staff members. The primary responsibility of the Department then was to collect information on the condition of American education.

Today the Office of Education has grown from a budget of $15,000 in 1867, to approximately $12 billion today with an additional $13 billion in educational related areas.

Mr. President, the creation of a new Department of Education is in and of itself, not the real problem, nor the real issue before us.

There is a more grave, almost sinister evil in what we are about to perpetuate upon the Nation and more importantly the American spirit.

This perpetuation I speak of has become so commonplace, so routine that it is virtually an invisible evil which is slowly and insidiously strangling the core of the American way of life and our Nation's most reliable and ardent resources—the creative individual and the sense of community within this country.

So fundamental is a sense of community to the quality of life, that its preservation and enhancement should long since have been made an explicit goal of public policy.

It is my strong belief that in order to be both effective and meaningful, our system of representative self-government must afford the creative individual the full opportunity to play a part in developing his or her community and ultimately society as a whole. The people of this Nation have watched the Congress of the United States pursue policies designed to enhance public understanding and to counteract complexity in government.

Unfortunately, the results of many Government actions over the past several decades has been to compound confusion in the Government and in the lives of everyday America.

As a result of this confusion and continued complexity, individuals and communities are losing their identity, their creative nature, and their sense of purpose largely as a result of Government taking away from communities their ability to actively engage in decisions that affect the community directly.

Today we find community pride and direction disappearing, swallowed up by urbanization, flattened out uniformity, overwhelmed by complexity, diminished by distant bureaucracy, and exhausted by the mobility and more often immobility of their inhabitants.

Mr. President, we need a change in the way we approach the resolving of American problems. The pattern over the past several decades has been for Government to attempt to solve the problems of America instead of providing avenues for America to solve its own problems.

Every time Congress enacts legislation which has the effect of diminishing the local participation and control of our citizens over their daily lives, we further perpetuate the destruction of the creative individual and the creative community.

Mr. President, I not only challenge and oppose the creation of a separate Department of Education, but I also seriously question the wisdom of this Congress in their attempt to further erode effective local participation by the citizens of this Nation in the care and supervision of education in America.

I specifically opposed the creation of a Department of education because the purpose for which it is being offered is not at all what we the people will be getting.

As I examine the act, S. 210, and listen to the proponent of a new Department of Education, I note that the purposes of the Act are to:

1. Enable education to receive the appropriate emphasis at the federal level;

2. Continue and strengthen the federal commitment to insuring access by every individual to equal educational opportunities;

3. Supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, tribal governments, the private sector, public and nonpublic educational institutions, public and private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;

4. Encourage the increased involvement of parents, students, and the community in the process relating to education, including the development and improvement of education programs and services;

5. Enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;

6. (A) provide assistance in the support of basic and applied educational research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents, and students to implement the findings of such research at the local level; and

7. Supplement and complement the efforts of State, local, tribal, public, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds.

The bottom line effect of the language in these seven sections is to erode away the direction and control of education by the States—and impose additional Federal controls and expense.

The act further states in regard to "State and local responsibilities for education":

1. The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the States, and tribal governments.

2. It is the intention of the Congress in the establishment of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies and administration of programs, including but not limited to competency testing and selection of curricula and program content, and to strengthen and improve the control of such governments and institutions over their own educational programs and policies.

B. Nothing in this Act shall be construed to require any particular organization at the State level of any programs transferred to the Department, including vocational rehabilitation programs.

Mr. President, I challenge the seriousness of the language pertaining to State and local control of education. This language for the most part already exists in section 432 of the General Education Provisions Act of 1970, and is offered here merely as a seductive tranquilizer to those of us who have strong fears and equally strong convictions as to the Federal role in education.

The enactment of this act by this Congress will be a fundamentally political act, and not as suggested, a much needed act of legislative social surgery.

I echo the remarks of Mr. Breneman and Mr. Epstein of the Washington Post, April 6, 1978:

> This enactment of S. 210 is more than the mere attempt to reshuffling programs together under the organizing principle of education. It is in fact a profound restatement of Federal Policy, purpose and priorities and as such cannot be regarded merely as a move to correct organizational mistakes of the past.
>
> I do not believe the people of this nation really understand the nature of executive and government reorganization. Reorganization is a fundamentally political act, not in the partisan sense, but political in that every organization and every reorganization means a distribution or redistribution of power and influence over the substance of policy.
>
> Organization is not just management. It is policy and in the American democratic system policy is politics.
>
> To create a Department of Education is at heart, an exercise in policymaking and not in efficiency. Making education the defining element of a cabinet level department is essentially to authorize the creation of a federal policy for education itself.

Therefore, Mr. President, the question arises not so much as to whether there should be a Federal policy on education, but rather do we need an amended Federal policy on education, articulated and wholly influenced by Washington, D.C., from Washington, D.C., and for Washington, D.C. The answer to this question is a resounding "No."

Mr. LEVIN. Mr. President, I urge the Members of the Senate to support the conference report on the Department of Education. I believe that the creation of the Department can have a streamlining effect on the multitude of education programs currently spread out through various departments within the Federal Government. I also believe that the bill protects local control of the educational process.

I was appointed to serve on the conference committee which reconciled the points of difference between the Senate and House versions of this bill. I urge the Members of the Senate to vote to accept the conference report. The conference was harmonious and the report that will be voted on today contains almost all the provisions of the Senate bill. Much of what the Senate conferees found objectionable in the House bill has now been deleted. As it now stands, we have a bill which is a reorganization bill and, I believe, will better serve the educational needs of our students and schools.

Mr. JAVITS. Mr. President, I support the conference report on S. 210, the Department of Education Organization Act on which I was a conferee. The report before us today is the culmination of long years of hard work by the distinguished floor managers, Senators RIBICOFF and PERCY, and I commend them highly for their efforts.

During my years in the Senate, I have consistently advocated strengthening our educational system and making education one of our primary national priorities. The Department of Education bill we are about to vote on, like any other bill we consider, is a product of many compromises. It will not, by itself, cure the deplorable state of public education in this country, or guarantee the efficient delivery of educational service.

But it is clear to me that the current system is intolerable. The Department of Education gives us an important opportunity to focus attention on the problems of education at the Cabinet level. It will provide a forum for new ideas and new approaches. With time, I truly believe that the enhanced status of education in the Federal Government will lead to the kind of improvements we can all be proud of.

I also want to say a word about some of the controversial amendments that were in the House version of this bill that were deleted in conference. These amendments, dealing with subjects such as school prayer, abortion, busing, and affirmative action, had no place in a reorganization bill, and I was prepared to vote against this report had they remained in the bill. I am pleased to report, however, that the House conferees receded to the Senate position on each of these amendments. Where the bill now touches on civil rights at all, such as in section 101(2), it restates existing law. It was the clear intention of the conferees that nothing in the bill was intended to change or affect existing law or judicial precedent in these areas. It is with this understanding that I will vote for the adoption of this report.

Mr. RIBICOFF. Mr. President, to my knowledge, there are no further speakers.

I move the adoption of the conference report.

The PRESIDING OFFICER (Mr. MATSUNAGA). The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. MORGAN), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

On this vote, the Senator from West Virginia (Mr. RANDOLPH) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting, the Senator from West Virginia would vote "yea" and the Senator from North Carolina would vote "nay."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and

voting, the Senator from Utah (Mr. Garn) would vote "yea."

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted and who desire to vote?

The result was announced—yeas 69, nays 22, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—69

Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Cannon
Chafee
Chiles
Church
Cochran
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tsongas
Williams
Zorinsky

NAYS—22

Armstrong
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cohen
Dole
Exon
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
Moynihan
Proxmire
Schmitt
Schweiker
Tower
Wallop
Warner
Young

NOT VOTING—9

Baker
Biden
Garn
Goldwater
McClure
Morgan
Randolph
Stevens
Weicker

So the conference report was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JEPSEN. Mr. President, we voted today the creation of a Department of Education. I voted "nay" on that. I cannot conceive, at this time of inflation and trying to balance the budget, anything that would be less desirable and is less justifiable than to create a brand new Federal department.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business for not to exceed 30 minutes, and Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 4:35 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 hour.

There being no objection, the Senate, at 3:35 p.m., recessed until 4:35 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Sarbanes).

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, there is a possibility that the conference report on the Panama Canal implementing legislation may yet come up today. That is not definite, but a little time is needed to determine whether or not it will be ready.

So I ask unanimous consent that the Senate stand in recess for another 30 minutes.

There being no objection, at 4:36 p.m. the Senate took a recess for 30 minutes; whereupon, at 5:06 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. Exon).

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 5:29 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 5:14 p.m., recessed until 5:29 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Exon).

ORDER FOR RECOGNITION OF SENATOR WARNER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or the designees have been recognized under the standing order, the Senator from Virginia (Mr. Warner) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, with reference to the conference report on the Panama Canal Treaty implementing legislation, that there be a 2-hour overall time limit on the conference report, to be equally divided between and controlled by the Senator from Michigan (Mr. Levin) and the Senator from South Carolina (Mr. Thurmond), and that any motions in relation to the conference report and any appeals or points or order, if there be such, all come out of the 2-hour overall time limit, with the exception of a motion to recommit by Mr. Dole, such motion to recommit being with an instruction, as I understand it.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. I withhold that.

Mr. President, I revise the agreement to provide that no point of order lie against the one motion to recommit that would be permitted under the agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. And that there be a time limit on that one motion to recommit of 1 hour, to be equally divided between Mr. Dole, the author of the motion to recommit, and Mr. Levin, the manager of the conference report.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of the conference report on H.R. 111, the Panama Canal Act debate on a motion to recommit to be offered by the Senator from Kansas (Mr. Dole) (on which there shall be no point of order to said motion or amendments thereto), shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the conference report; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall come out of the two hours on the conference report.

Ordered further, That on the question of agreeing to the conference report, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Michigan (Mr. Levin) and the Senator from South Carolina (Mr. Thurmond).

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:15 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE TOMORROW AND FOR CONFERENCE REPORT ON PANAMA CANAL TO BE THE PENDING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the recognition of Mr. Warner under the order previously entered on tomorrow, Mr. Proxmire be recognized for not to exceed 15 minutes, after which the conference report on the Panama Canal implementing legislation be the order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 1398

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 326, S. 1398, energy efficiency, be made the pending business before the Senate, there be a time agreement thereon as follows: One hour on the bill, to be equally divided between Mr. METZENBAUM and Mr. DOMENICI; 30 minutes equally divided on any amendment, debatable motion, appeal, or point of order, if such is presented to the Senate; and that the agreement be in the usual form.

Mr. TOWER. Reserving the right to object, Mr. President, we have no objection.

Mr. ROBERT C. BYRD. I temporarily withdraw that request.

Mr. President, I renew the unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 1398 (Order No. 326), a bill to establish energy efficiency standards for industrial equipment debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Ohio (Mr. METZENBAUM) and the Senator from New Mexico (Mr. DOMENICI): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

LEAH MI COHEN

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives amending S. 275.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 275) entitled "An Act for the relief of Leah Mi Cohen", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That, in the administration of the Immigration and Nationality Act, Leah Mi Cohen may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Edward Cohen and Alberta Cohen, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

• Mr. KENNEDY. Mr. President, on June 20, 1979, the Senate passed S. 275, a bill to facilitate the admission into the United States of the adopted child of U.S. citizens, within the meaning of section 101(b)(1)(E) of the Immigration and Nationality Act.

On August 2, 1979, the House of Representatives passed S. 275 amended to the language contained in a similar bill H.R. 925, which places the child within the meaning of section 101(b)(1)(F).•

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I move that the Senate concur in the House amendment to S. 275.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. TOWER. I move to reconsider the vote by which the measure was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COUNSEL IN MIMS AGAINST THURMOND

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask that it be stated.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 243

Whereas, Senator Thurmond is an appellee in *Mims v. Thurmond, et al.*, No. 79–2638, pending in the United States Court of Appeals for the Fifth Circuit.

Whereas, Title VII of the Ethics in Government Act of 1978, Publc Law 95–521 ("the Act"), establishes the Office of Senate Legal Counsel and provide that the Senate may direct its Counsel to represent the Senate, its committees, members, officers or employees.

Resolved, That pursuant to Section 704 (a)(1) of the Act the Senate Legal Counsel is directed to represent Senator Thurmond in this case.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF TIME TO FILE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services have until 8 p.m. today to file a conference report on the Panama Canal legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to exceed 10 minutes and that Senators may be permitted to speak therein up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now go into executive session to consider the nominations on the Calendar beginning with New Reports on page 3 and going through page 4, all inclusive.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominees, beginning with New Reports on page 3 and going through page 4 inclusive, to be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the vote by which the nominees were confirmed en bloc.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The nominations considered and confirmed en bloc are as follows:

MISSISSIPPI RIVER COMMISSION

Sam Epstein Angel, of Arkansas, to be a member of the Mississippi River Commission.

NATIONAL COMMISSION ON SOCIAL SECURITY

James J. Dillman, of Wisconsin, to be a member of the National Commission on Social Security.

Milton S. Gwirtzman, of Massachusetts, to be a member of the National Commission on Social Security.

D. S. MacNaughton, of Tennessee, to be a member of the National Commission on Social Security.

David H. Rodgers, of Washington, to be a member of the National Commission on Social Security.

Elizabeth Duskin, of Maryland, to be a member of the National Commission on Social Security.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Lawrence F. Simoneaux, to be Lieutenant (junior grade).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

BRITISH AND FRENCH END SUPERSONIC AIRLINE PRODUCTION SHOWING CONGRESS RIGHT TO KILL U.S. PROGRAM IN 1971

Mr. PROXMIRE. Mr. President, at a time when there is more and more Government spending, more and more Government in business, more and more pressure for Government to bail out, buy out, regulate, fix, and generally run our economy, there has suddenly come one sharp contrary development.

The British and French have decided to end their immensely expensive subsidy of the Concorde supersonic airliner after sinking about $2½ billion into it. And why is that significant? Because it confirms the wisdom of our congressional decision almost 9 years ago to get the U.S. Government out of the business of subsidizing the production of supersonic jets.

That was a titanic struggle, waged over almost 10 years. On the side of our Government getting into the supersonic race were the President of the United States, the aerospace industry, much of organized labor, the Boeing Corp., and a number of banks that were financing the operation. At first the few of us in the Congress who opposed the SST lost the battle to stop funding by Senate and House votes of 10 to 1. But then a number of prominent economists supported our opposition to the funding and finally the decisive support of the Nation's conservation organizations enabled us to win and end the prospect of a Federal subsidy in this country of the production of supersonic jets for the private airlines.

It was a rare and memorable victory for those of us who were opposed to more spending and more Government involvement in the economy. But it was not a complete victory. There was still the haunting prospect that Britain and France by pouring endless government dollars into their supersonic Concorde would carve out an increasingly big share of the international travel market.

And if they did so, we would be told that the Congress had made a foolish mistake in failing to match the British-French supersonic subsidy with one of our own.

Mr. President, on Friday the British and French Governments gave us their answer, when they announced they are ending the Concorde production and cutting their losses to $2.46 billion.

Mr. President, how pitifully inadequate the British French Concorde production has been can best be appreciated by recognizing that there are at least 5,000 subsonic jets in the fleets of the world. The results of the British and French pouring $2½ billion into their commercial SST venture has been a penetration of less than one-third of 1 percent. They have produced exactly 17 supersonic transports.

Also the only other commercial SST transport built in the world is the Russian TU 144. That transport has not carried passengers since a fatal accident in 1973. So if ever there were economic, technological, and philosophical positions vindicated, it has been in our successful opposition to Federal funding of the supersonic transport.

Now, Mr. President, this does not mean that SST's will not or should not come on the scene eventually in commercial transport. It does mean they should not come on until we have solved the environmental and economic problems that have prevented their initiation to date. It also means they should take advantage of U.S. military SST technology which is abundant and available, and not require a special Federal subsidy for developing a technology for the SST for private airline operation.

At last Mr. President, we can mark one up for free enterprise and the taxpayer.

THE GENOCIDE CONVENTION IS ENFORCEABLE

Mr. PROXMIRE. Mr. President, 12 years ago I announced to the Senate that I intended "to speak day after day in this body to remind the Senate of our failure to act on several U.N. human rights treaties." To this day I have kept my word. Why? Because the need for human rights treaties—and in particular the Genocide Convention—has not died, and it never will.

Many people concur with me on the need for a treaty to outlaw genocide. Some people, however, have been opposed to specifics. Certain phrases, for example, were criticized by legal experts. Each of these questions, however, has been systematically resolved.

But some skeptics continue to criticize the general concept of the Genocide Convention. They claim the treaty is impractical—that one treaty cannot possibly prohibit the mass slaughter of human beings. These critics says, in essence, that the convention would not be enforceable.

Mr. President, those claims are not true. The Genocide Convention is indeed enforceable, both nationally and internationally. Article V covers enforcement within a country. It states:

> The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for the persons guilty of genocide or of any of the other acts enumerated in article III.

In providing for international enforcement, article VIII reads as follows:

> Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

Mr. President, the Genocide Convention is a treaty that certainly is enforceable. On these grounds I urge swift ratification of this treaty.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

YOUTH UNEMPLOYMENT: THE NEED TO STRENGTHEN EDUCATION-WORK LINKAGES

Mr. JAVITS. Mr. President, the New York regional office of the U.S. Bureau of Labor Statistics has just reported that in the second quarter of 1979, recorded unemployment among all 16- to 19-year-olds in New York City was an incredible 35.4 percent, up sharply from 23.1 percent in the comparable quarter of 1978. The U.S. average for all teenagers in the second quarter was 16.2 percent, while for black teenagers it was 35.2 percent. Since the rate for blacks in the United States is about twice that for the total teenage labor force, I shudder to think what the black teenage unemployment rate must be in New York City—easily in the range of 60 percent. And if this recession gets much worse, urban unemployment among black teenagers could go much higher.

Mr. President, under the Youth Employment and Demonstration Projects Act of 1977 (YEDPA), now part A of title IV of CETA—I am one of the authors—about $826 million will be made available nationally in fiscal year 1980 to provide some 200,000 annual job and training opportunities for youth. Because of the size (1.5 million in August 1979) and the intractable nature of youth unemployment in our country, however, particularly among minorities, the economically disadvantaged and those in the inner cities, we are barely able to make a dent in the problem, even with this huge sum of money.

One of the principles embodied in the YEDPA legislation was that a major research and demonstration effort had to be mounted to determine which kinds of programs hold the greatest promise for relieving this terrible epidemic of our era. Now the results of that R. & D. effort have begun to come in and I am pleased to report that the initiative in which the late Senator Humphrey and I were partners, to wit: the encouragement of greater linkages between the classroom and the workplace, is being recognized as having a great potential for enhancing the employment preparation and career development of unemployed youths.

The so-called "Javits-Humphrey 22 percent Education-Work Set-aside," under which some $115 million will be made available in fiscal year 1980 for various work/study programs jointly administered by local education agencies and CETA prime sponsors throughout the United States, is helping to bridge the world of education and the world of work.

A recent report by Joseph Coleman and Gregory Wurzberg entitled "Involving Schools in Employment and Training Programs for Youth," concludes:

The importance of the YETP 22 percent set-aside cannot be overstated. It has set in motion the forces necessary for genuine collaboration between the education establishment and the employment and training establishment.

Mr. President, I ask unanimous consent that the summary, introduction, and first chapter of this important report be printed at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

(See exhibit 1.)

Mr. JAVITS. In addition, Mr. President, Profs. Robert Meyer and David Wise, of the highly regarded National Bureau of Economic Research, have tried to determine which factors have positive effects upon individuals' wages or employment experiences in the years following high school graduation. Analyzing data from a nationwide survey of male high school graduates during the mid-1970's they have concluded that academic performance and actual job experience of the students while they are in high school appear to have the strongest effect on employment after graduation. In addition, outside employment during school added as much as 35 percent to earnings after school completion.

The authors conclude:

> We find that work experience while in high school is strongly related to later employment . . . The weight of our evidence implies that programs that emphasize work experience for youth, together with general academic education, have the greatest chance of enhancing their subsequent labor force experiences.

Clearly, Mr. President, the studies to which I refer demonstrate that one of our best hopes for ameliorating severe youth unemployment is to cultivate greater collaborative mechanisms between school and work—specifically to imbue secondary school education with the opportunity for exposure to the world of work. I am encouraged by these reports to build upon our 1977 YEDPA initiative and go much further in seeking additional Federal authority and appropriations for cooperative education or work-study programs for economically disadvantaged in-school youth.

Indeed, Mr. President, the highly regarded American Assembly last month convened a number of distinguished authorities in the field of employment and training policy at the Arden House in Harriman, N.Y., to examine this endemic problem of youth unemployment in our country. The American Assembly recommended, among other things, the establishment of "closer linkages between education and work." I ask unanimous consent that this report of the American Assembly to printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. JAVITS. The question for the Senate, therefore, Mr. President, is how do we carry out in our public policies the recommendations that are coming in to foster better ties between education and work? How can we build upon the institutional foundation that has been established within the framework of the 22-percent education-work set-aside? After all, those provisions were principally institutional, not programmatic; they were designed chiefly to put in place a process of collaboration with respect to education-work programs, not to prescribe the details of the programs themselves. But I believe it is now time for us, on the basis of the research design information, and in cooperation with local government and education officials, community-based organizations, and U.S. business to begin consideration of programmatic initiatives for the reauthorization of title IV of CETA next year.

EXHIBIT 1

INVOLVING SCHOOLS IN EMPLOYMENT AND TRAINING PROGAMS FOR YOUTH

SUMMARY OF FINDINGS AND RECOMMENDATIONS

Current policy

One of the hallmarks of the Comprehensive Employment and Training Act has been its repeated emphasis on linking local CETA prime sponsor employment and training programs with other local agencies. The various mandates for collaboration have produced few results, however, for lack of mechanisms to facilitate the process of, or of incentives sufficient to overcome the obstacles to cooperation.

The Youth Employment and Demonstration Projects Act of 1977 includes the usual exortations for collaboration, especially between CETA sponsors and local education agencies. But the Act also includes a specific mechanism to spur it: A provision under the Youth Employment and Training Program reserving 22 percent of each sponsor's formula allocation to be administered under the terms of an agreement between the sponsor and the local education agency (agencies).

The importance of the YETP 22 percent set-aside cannot be overstated. It has set in motion the forces necessary for genuine collaboration between the education establishment and the employment and training establishment. In isolated instances, usually where schools and CETA offices were already working together, alternative education programs and other joint ventures are thriving.

The 22 percent set-aside appears to be necessary, but it is not sufficient for collaboration. For the most part, the results of CETA–LEA collaboration are uncertain, formal agreements notwithstanding, because there are considerable impediments to progress in the collaborative process. Administrative and substantive differences between the two institutions stand in the way. Nonfinancial incentives (or the removal of disincentives) are necessary along with more substantive guidance with regard to program models and institutional roles. So far, there is no definite policy or set of mechanisms to move the tentative CETA-LEA partnerships beyond their present stage.

In the final analysis, collaboration between the manpower and education establishments can be successful only if it is accepted at the local level. The challenge is coaxing along the two disparate parties. Cases of healthy CETA–LEA partnerships as well as cases in which there are chronic ill feelings between CETA prime sponsors and local educators bear out the conclusion that financial incentives alone are not sufficient to push the collaborative programs already established beyond the rudimentary stage, or even sustain the progress achieved so far. Because of the administrative authority that local CETA sponsors have to the Department of Labor, they can be "won over" by way of the normal prime sponsor channel. But because local schools have no accountability to the Labor Department and little accountability to the U.S. Office of Education, the route for influencing them must be less direct. They certainly cannot be coerced. Instead, models for policies, programs, and collaboration are needed. If they can be used to convince local educators about the importance of employment and training programs for youth, the validity of a role for them in those initiatives, and the feasibility of developing those roles, perhaps their cooperation can be won. CETA prime sponsors, however, are not the ones to provide LEA officials with information or guidance. While they are applying the outside pressure for change in schools, they are not equipped, nor do they have the standing in the education community to direct such change. The objective then is to utilize alternate channels for influencing local education policymakers.

The next step

The U.S. Department of Labor is already relying on the cooperation of educators in a number of interest groups and associations to identify exemplary employment and training programs based in schools and models for collaboration between schools and CETA prime sponsors. The Department has also undertaken a number of joint programs with the U.S. Office of Education in implementing and evaluating YEDPA. The leadership in the Office of Career Education and Bureau of Adult and Vocational Education has been especially cooperative, endorsing the concept of CETA–LEA partnerships and using the access they have to local schools to provide ideas and encourage progress. Additional measures and a clear articulation of some current ad hoc policies seem necessary though.

1. Because institutions seem most subject to change in response to pressure initiated from the outside and endorsed on the inside, the Department of Labor ought to continue its strategies of relying on education groups that already support a manpower-education partnership for youth, to persuade other educators.

2. Changing institutions by adding on new functions is probably easier than changing them by adapting old functions to serve new purposes. Although the U.S. Office of Education is cooperating with the Department of Labor in supporting the new initiatives under YEDPA, there are education laws already on the books that can serve some of the same purposes as YEDPA. USOE ought to review implementation of those laws and determine whether they might be implemented differently to better complement YEDPA.

3. A common complaint in the education community is that educators (with the exception of vocational educators) were not consulted during the development of YEDPA. Debate skipped the question of whether education should take a role in employment and training programs, in favor of the matter of defining how education should be involved.

Because educators feel YEDPA was done to them, it still lacks the whole-hearted support of even the Washington education establishment, to say nothing of other educators around the country. The single most feasible strategy for coalescing support of the education and employment and training institutions around a single purpose might be to create a shared vested interest between them by developing new legislation through a joint process involving education and manpower interests.

4. Because of the federal character of traditional employment and training programs and the reluctance of the federal government to take an activist role in local education affairs, the notion of CETA–LEA linkages may pose something of a dilemma for policymakers concerned with maintaining the autonomy of local schools. But since LEA cooperation in YETP is optional for schools, policymakers should not adopt the alternative suggested by some educators of giving LEAs unilateral authority over YETP set-aside

funds. This is because where sponsors have abdicated authority over the set-aside, the resulting school programs frequently have been conducted without regard to overall YETP program objectives or other CETA youth programs. A lack of prime sponsor authority in these cases has reduced the effectiveness of YEDPA dollars and, more importantly, provides little incentive or pressure for changing the programs schools provide or improving their services to economically disadvantaged youth.

In order to assure the independence of LEAs, however, while giving them a piece of the manpower pie, it might be desirable to funnel a portion of what would otherwise be prime sponsor allocations down to the local level by way of state education agencies, and require LEA officials to administer that money under the terms of an agreement negotiated with CETA sponsors.

5. Whatever the respective roles that CETA sponsors and LEAs may take in jointly supported local education/training/employment "systems" for youth, the development of such systems will take time. National policymakers ought to take this into account in establishing objectives and timetables, or expectations will outrun what is feasible.

INTRODUCTION

The Youth Employment and Demonstration Projects Act of 1977 (PL 95–93, Title III) is the federal government's most recent response to the crisis of youth unemployment. It is an add-on to CETA but includes provisions that present a marked departure from past federal manpower initiatives. One of the most important features of the 1977 legislation is its emphasis on tying local manpower programing for youth to the system of public education. Both the Youth Community Conservation and Improvement Projects (YCCIP) and the Youth Employment and Training Program (YETP) call for development and reinforcement of linkages between a community's employment-training (CETA) organization and its local education agencies (LEAs). More significantly, under YETP, a minimum of 22 percent of each local sponsor's allocation is reserved to be administered under the terms of a prime sponsor–LEA jointly-approved program for employment and training services.

Although the notion of mixing education with employment and training is neither radical nor novel, collaboration between schools and manpower agencies has seldom come easy. Coaxing local manpower administrators, though not simple, is a fairly direct process, thanks to the accountability they have to the U.S. Department of Labor. But convincing officials and teachers in LEAs is another story. Numerous conditions and influences affect the posture of LEAs towards joining education and manpower services for YEDPA eligible youth. Some of these grow out of school policy related, for example, to length of the school day, credentialing of staff, the award of academic credit, or out of experience schools have had serving economically disadvantaged youth or underachievers. Other factors affecting LEAs posture towards linking manpower and education grow out of a complex network of influence exerted by interest groups with their often conflicting objectives, programs and procedures. These various influences are complicated further by a less than tidy network of governmental interest (federal, state and local), the many professional organizations representing one or another specialized constituency, the internal organization of a local school system, and its constituencies in the community it serves.

From evidence collected so far in case studies conducted by the National Council on Employment Policy on implementation of YEDPA, it is clear that the 22 percent set-aside for CETA-LEA agreements is a useful starting point for improving relationships between local CETA sponsors and schools, and for developing institutional complementarity; but that alone is not sufficient for obtaining the level of results demanded by existing program goals.

It is the purpose of this report first to review the progress that local CETA sponsors and LEAs have made towards collaboration, and then to offer some strategies for improving the durability and long-term usefulness of the joint CETA-LEA ventures. In order to achieve the second purpose of this report, it is necessary to identify and analyze the diverse influences that bear on public schools as they establish procedures and make policy, and to persuade them to support an expanded school role in youth employment and training programs.

The presumption of this report is that in formulating policy, school administrators look beyond financial incentives for their policy cues. Federal and state laws, regulations and guidelines, and their accompanying legislative histories, of course, are important. But so too are the platforms, statements of belief and objectives of professional or political national and state organizations, and professional journals, reports, and research. More direct approaches involving workshops, seminars, lectures, or clinics for local staff also shape local policy.

This analysis starts with a review of prime sponsor-LEA experience under YEDPA so far. It then investigates the systems of governance under which LEAs operate, the less formal networks of influence upon them, and the part they have played in advancing YEDPA goals in local school systems.

METHODOLOGY

The analysis of early prime sponsors and LEA experience under YEDPA—YETP in particular—is based upon the first three parts of a four-part evaluation conducted by the National Council on Employment Policy of YEDPA implementation in 37 CETA prime sponsorships. The implementation study includes extensive discussion about CETA-LEA agreements, the mechanics of local change and the difficulties encountered along the road to collaboration. The findings most useful for this analysis are in the second and third implementation reports, August 1978 and March 1979 respectively.

Data for the second part of this report analyzing channels of influence to local schools other than CETA prime sponsors, were obtained from a number of interviews, meetings and "mini-case studies" conducted in the Summer and Fall of 1978. Interviews were held during July, August and September 1978 with representatives of those national educational organizations or institutions which previously had taken action to stimulate or reinforce linkages between the education community and the employment/training community, or were in a position to influence the education community to do so. The organizations represented in these interviews were:

American Vocational Association (60,000 vocational educators).

American Personnel and Guidance Association (42,000 guidance and counseling specialists).

National Parent-Teacher Association (6.5 million membership).

National School Boards Association (16,000 local school districts).

Council of Great City Schools (28 largest urban school systems).

American Association of School Administrators (20,000 members).

Institute for Educational Leadership.

American Federation of Teachers (2,500 locals).

American Association of Community and Junior Colleges (925 community college members of the 1,235 existing).

National Manpower Institute, Work-Education Consortium (33 communities).

National Governors' Association (all states).

National Conference of State Legislatures (represents 7,600 state legislators).

Council of Chief State School Officers (all states).

National Association of State Boards of Education (51 of 57 state boards).

Office of Career Education, U.S. Office of Education.

Bureau of Vocational, Occupational and Adult Education, U.S. Office of Education.

"Mini-case study" visits were made to the City of Baltimore and the Maryland State Education Agency and to Springfield and Columbus, Ohio, and the Ohio Education Agency. The community visits were not undertaken with the expectation that universal or definitive strategies could be formulated. Rather, the objective was to map the local leverage points in a small number of school systems in order to provide some notion of the complexities of the mechanics of CETA–LEA collaboration and the size of achieving that on a grand scale. The conclusions are merely suggestive of the national picture, and might be regarded mainly as hypotheses for testing with further research or issues that ought to be considered in the process of policy formulation.

WHY MIX SCHOOL AND WORK?

One of the most important features of YEDPA is the provision reserving a minimum of 22 percent of each prime sponsor's allocation under the Youth Employment and Training Program to be administered under the terms of an agreement between the sponsor and local education agencies. The provision was included in the law in the hopes that it would provide an incentive for schools and CETA systems to work together. In the words of Senator Jacob Javits, a co-sponsor of the provision:

". . . competition between prime sponsors and local education agencies has been the rule, while cooperation has been the exception. There is a need to nudge these two competing systems closer together, so that the in-school labor force can be served in a more efficient and sensible manner."

Citing the Senate report on YEDPA, he added:

"The Committee believes it is essential that cooperation take place between prime sponsors and local education agencies in providing employment opportunities and training and supportive services for youths enrolled in school. In the absence of such linkages, in-school youth may continue to be served by two separate and competing delivery systems which bifurcate their labor market experience at a critical stage of their transition between school and work."[*]

The Department of Labor willingly adopted as one of its objectives, the tying together of education and CETA, but expressed a tone of caution:

". . . /T/he mandate for a local education agency (LEA)-CETA agreement will not by itself achieve educational reform or a significant restructuring of service delivery systems in most cases. We see it as a way to make the education and manpower 'camps' sit down and talk together about their problems, progress, and aims in dealing with youth."[**]

Not willing to put all its eggs in one basket, the Department provided discretionary money to support a number of exemplary in-school youth job programs and stressed ties between sponsors and LEAs for the purpose of awarding academic credit under the Youth Community Conservation and Improvement Projects (YCCIP). The Youth Incentive Entitlement Pilot Projects (YIEPP), an experimental initiative testing whether a guaranteed job encourages youths to stay in school requires, by virtue of its design, some degree of cooperation between sponsors and schools. But cooperation under YCCIP is occurring generally where sponsors and schools were already getting along. Under YIEPP, some degree of cooperation was necessary for sponsors to survive the stiff competition for the limited number of YIEPP grants. Furthermore, less than 4 percent of all sponsorships were awarded entitlement projects.

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[*] *Congressional Record*, Senate, July 21, 1977, p. 24280.

[**] Office of Youth Programs, U.S. Department of Labor, "A Planning Charter for the Youth Employment and Demonstration Projects Act of 1977," August 1977, pp. 7–8.

The first interesting question then is not whether schools and prime sponsors can work together; there are always the exceptions to prove they can. The question is, instead, can such cooperation be encouraged across all sponsorships, even where there is no history of cooperation between schools and the manpower community? Or, more to the point, how effective has the current 22 percent set-aside under YETP been in encouraging local schools and CETA prime sponsors to work together? A second question is, if other strategies are needed, what might they be?

IS 22 PERCENT ENOUGH?

The education establishment is, by reputation, a rigid and inflexible one that some critics say changes only slowly. But the last two decades have demonstrated that public schools are not totally isolated from changes in the rest of society, and that they can respond to policy emphases coming out of Washington as different societal needs have appeared or as findings from research dictated better ways of accomplishing existing goals. In the post-Sputnik era, science and math instruction were upgraded in order to help put America's technological research and development on a par with that of the Soviet Union; sex, drug and alcohol education, counseling and guidance services, and career education have all been responses to more recent concerns.

Unfortunately, the public schools, by and large, have not shown much predisposition to participate in youth employment and training despite more than 15 years of coexistence with local programs. But at least part of the reluctance to change can be attributed to the fact that the changes implied in the calls for a greater education role in the employment and training administration have not been coming from within the education establishment, but from outside, frequently as part of an explicit criticism of public education. And while there are ample precedents for important changes in American public education, there are really no precedents for change as controversial as that embodied in YETP being forced by agents outside the education establishment.

Evaluations of the implementation of YEDPA, nevertheless show that YEDPA is contributing to some change that appears necessary, but is far from sufficient for long-lasting and useful institutional change.

YETP in particular has succeeded in shifting the immediate focus of debate among local educators from the question of whether education should play a deliberate role in enhancing the employability of youth, to what that role should be. This does not mean that educators have decided that employment and training can mix with education. Local educators are now engaged in initiatives that try the mix, though. The implication is that when and if the first debate is resumed, it will have more basis in experience than conjecture.

In the first year, there has been a record of some success and really no instances of outright failure among the 37 prime sponsors examined by the YEDPA implementation study sponsored by the National Council on Employment Policy.

Cooperation between prime sponsors and local schools is not an untried concept, and in many areas, there is a history of joint efforts that predate CETA. There, YETP money is paying for work experience components added on to career awareness and skill training, and in some instances, is providing money for extra staff in the LEAs or for liaison staff between LEAs and prime sponsors.

Most prime sponsors, however, started with no established links. Before YEDPA they and the respective local schools operated in relative isolation in spite of their supposed common interest: preparing youths for adulthood. The effect of YEDPA in these areas is more noticeable and, hence, more dramatic. Virtually all prime sponsors succeeded in signing agreements with the local schools. But, many of the initial agreements were not thought through in the crisis climate of implementation, and reflected more the aspirations of some enlightened individuals (and the rhetoric of the Department of Labor) than feasible prospectives for action. The hasty, mid-semester start of the first year programs did not provide adequate opportunity for them to be properly implemented. The prevalent pattern for the second year of programs in the 1978-1979 school year was to simply continue the first year designs.

Even with a second year for extending programs under CETA–LEA agreements, local CETA sponsors and LEAs are almost certainly not going to be able to put in place the kind of quality of collaborative programs envisioned by the architects of YEDPA, because the process of getting the two systems to work together requires more than an orderly planning and implementation period. The process requires solutions to some fundamental problems that underlie attempts to collaboration, and time for local planners to find alternate routes around major barriers.

Pulling the systems together

The process of pulling together the education and employment and training institutions is occurring in two phases. The first is one of administrative detente and the second is substantive collaboration. In the familiarization process leading up to administrative detente, CETA sponsors have been trying to live down bad local histories of manpower-education relations or the more general problem of a bad CETA reputation, and then getting past the frictions caused by procedural differences between the two establishments. Thanks possibly to its separate authorizing legislation and the fact that considerable resources are earmarked for local schools, YEDPA was not perceived by most schools as another CETA program or add-on to pre-CETA youth programs. This was an achievement whose significance should not be underestimated since it appears that a large part of the objection some local educators have had to mixing manpower and education has really been an objection to working with the manpower establishment.

Procedural differences have contributed to more serious chronic friction. The fiscal year for CETA sponsors starts in October, while for schools it starts in September, January or July. This mismatch plus the accelerated, patchwork style of CETA planning which frequently is not complete until days before the start of the new year (or even after the start of the new year) have made it difficult for schools to engage in long-range strategic plans. Another point of friction encountered in planning for the 78–79 school year (but not encountered in 77–78 because of delayed startup) was uncertainty over funding levels and some doubt about whether changes made in the basic CETA legislation would also affect the youth programs. CETA–LEA collaboration in the first year of YEDPA also was hindered by its late mid-semester start-up (January-March 1978). While these were one-time or only occasional problems, CETA's comparatively brief history has been riddled with periods of funding uncertainty, constantly shifting priorities, and changing regulations. The instability that this has built into the CETA system is not likely to be corrected overnight and is bound to present a chronic source of friction in CETA–LEA relations.

Another mismatch between local schools and CETA systems is in their networks of accountability. LEAs are accountable to local boards of education, perhaps some other local officials, and state education authorities. CETA sponsors are also accountable to local officials but usually not the same ones as schools, and the U.S. Department of Labor. The procedural difficulties caused by these two separate systems having to clear their actions with their respective authorities can cause delays and be a serious hinderance to a long-term stable relationship.

In the process of achieving administrative detente there has also been a number of differences between CETA systems and schools that can, perhaps, best be attributed to the two institutions being at different stages in the bureaucratic aging process. The education establishment is old compared to almost any other public institution and ancient compared to the CETA system. Career structures, administrative models, professional interests groups, and credentialing standards are firmly in place. Tradition and established procedures are resistant to major changes. In short there is an institutional identity and—more importantly—continuity. The CETA system is a stark contrast.

Manpower did not emerge as a governmental policy area until the early 1960s. The Manpower Administration in the U.S. Department of Labor, which has been the focal point for all federally supported manpower initiatives, was not established until 1963. It has been the only permanent fixture on the employment and training landscape in the relatively brief time since then (it did change its name to the Employment and Training Administration in 1975). The present network of CETA sponsors has been in place only since 1974. The hybrid manpower field has a fluid literature and lacks consensus on the most basic paradigms. Local expertise in employment and training affairs is more political and managerial than substantive because grantsmanship and outguessing Congress and the Department of Labor are prerequisites for survival. Substantive know-how is useful but not indispensable because so much of local policy is made in Washington.

The local CETA systems are also unstable organizationally. They have frequently attracted talented and capable administrators, but have been unable to retain them in the atmosphere of fiscal and programmatic uncertainty. The lack of opportunity to formulate local policy and the frustration of having to respond to the whims of Washington effectively reduce incentives for creativity and excellence. The consequent high staff turnover, besides complicating the challenge of day-to-day management virtually erases institutional memory. Though local institutions. CETA officers are entirely federally funded. They have fared well financially, but their reliance on federal money and chronic last minute uncertainties over their budgets have undermined their perceived staying power to the point that some local offices are seen as being perpetually on the brink of collapse.

The marked differences in the character of the LEA and CETA bureaucracies inevitably present sources of friction. While there are sufficient instances to demonstrate that CETA sponsors and LEAs can work together, in fact the bureaucratic differences create friction that can provide convenient pretexts for either partner breaking off collaboration. Since there are intuitively appealing reasons for the two systems to collaborate, however, the question is whether the substantive differences are sufficient to rule out joint efforts. If they are not, it seems that if there is a will to work together, there can be a way.

In the second stage of the process in which local schools and CETA sponsors begin working together—that of substantive collaboration—there appears to be less pervasive points of friction between the two systems. Some are based on misinformation. But to the extent others are based on attitudinal differences, they can pose systemic obstacles to complementary systems. Initially, a few educators voiced concern that CETA's emphasis on job placements would encourage that system to push youths out of school into jobs. In fact, the expressed purpose of the legislation is to encourage youths to stay in school and both the Department of Labor and local CETA administrators have taken steps to remove incentives that might entice youth to drop out. There have been no substantiated reports of students leaving school to take YEDPA jobs, and so that issue has subsided.

Targeting employability services by income has not subsided as an issue. Although CETA administrators, as a rule, are locked into restricting services to economically disadvantaged youths, school administrators object on substantive and political grounds. They do not believe family income is a reasonable predictor of need for employability services, and they are accountable to a constituency that is much broader than CETA sponsors' and therefore less tolerant of provisions that reserve services for only a few.

The emphasis on serving the dropout population now, as in the past, is another point of contention. The CETA system and its predecessors have traditionally served dropouts, blaming schools for failing to adequately serve kids who did not fit the normal mode. Some local educators are objecting to YEDPA now because programs are designed to "recycle" dropouts back into regular channels. One principal complained that ". . . the very ones that had been kicked out used CETA as a way to get back into the system." Most educators, though, do not appear adverse to making another try with dropouts. The controversy arises in the debate over what constitutes effective alternative educational systems for those persons.

The most heated CETA–LEA controversy has been over the award of academic credit for work experience or employability development training. Some local discussions have centered on the question of whether credit for employment-related experience devalues or deemphasizes credit for academic areas. In states where seniors must demonstrate basic competencies to graduate, teachers sometimes object to any school experience that detracts from preparation for those exams. There is also a question of whether local educators can make policy regarding the award of credit without specific state mandates on the subject. These debates have frequently, however, been used as smokescreens to conceal the real issue: the turf question of who decides what is credit-worthy experience; schools or CETA sponsors? Educators see the certification process as properly a school role. Employment and training personnel concede that it is appropriately a school responsibility, but then go on to criticize schools for being too reluctant to support activities involving credit and more to the point, unwilling to make an extra effort to establish education alternatives for YEDPA-eligible youth. In some areas where credit is awarded for work experience or career awareness training, observers note educators providing no more oversight than sponsors had proposed, but a share of the YEDPA pie has succeeded in buying their cooperation.

None of the problems encountered in the CETA–LEA relations is unanticipated, insuperable or irreconcilable. They may provide credible pretexts for inaction, however, where local sponsors or schools are not inclined to cooperate because they do not see the value in it or know how to do so.

It appears that the 22 percent set-aside under YETP has been effective in encouraging local schools and CETA prime sponsors to approach one another. A linkage between education and manpower has, to a degree, been formalized. But, if the CETA–LEA linkages are to progress beyond "administrative detente," there has to be more substance built into them. While the developments so far do not preclude that from happening—indeed a cooperative posture is a prerequisite to a truly productive relationship—the strategies for making it happen are not so apparent.

CETA–LEA activities may acquire substance over time, but the likelihood of it happening, the value of the content, and the pace at which it develops are all problematical. These uncertainties are inherent in any attempt to push together at the local level two establishments that have vastly different superstructures or administration, statutory authority, political constituencies, institutional history, program objectives, and client groups. The peculiar need is for a strategy to coax collaboration between a federal system of prime sponsors operating manpower programs for youth and a state/local system of schools providing education for youth.

The Department of Labor is able to steer local sponsor programming into conforming somewhat to the Department's objective of better CETA–LEA relations through its regulatory authority and power over the purse. DOL is also providing to sponsors a degree of technical assistance and information about how CETA–LEA agreements can be set up and what they might look like.

The Department, however, has no authority to push local schools alone, and very few options for pulling them along. The 22 percent set-aside under YETP is the only real incentive, but DOL alone is not equipped to develop the technical assistance or program models that educators need. Even if it were, the DOL-prime sponsor channel is hardly an effective conduit. Local educators are not inclined to take the word, advice, or assistance of employment and training experts without the imprimatur of and collateral input from the education establishment.

Exhibit 2

Final Report of the American Assembly on Youth Employment

At the close of their discussions the participants in *The American Assemby on Youth Employment*, at Arden House, Harriman, New York, August 9–12, 1979, reviewed as a group the following statement. The statement represents general agreement; however, no one was asked to sign it. Furthermore, it should not be assumed that every participant subscribes to every recommendation.

PREAMBLE

Youth unemployment is one of the nation's most difficult domestic problems. In a nation where both individual and collective progress have depended heavily upon a commitment to the work ethic and participation in the labor market, involuntary joblessness among youth assumes profound significance. Many attempts have been made to better understand the problem of youth joblessness, and numerous public policy initiatives have been undertaken to reduce it. Yet, despite these efforts, the incidence of unemployment among youth and the difficulties which youth face in entering the world of work continue at levels which are unacceptable. The consequences, in terms of antisocial behavior, alienation, lost output, and reduced social mobility, impose both short- and long-term costs which cannot be ignored.

The most serious aspect of the problem is the large and growing gap between the joblessness of minority and other youth. The unemployment rate of black youth, exceeding 20 percent for each year during the past quarter century, has risen alarmingly in recent years to over 30 percent, and large numbers of black youth have withdrawn from all participation in the labor market. Similarly the unemployment problems of Hispanic youth are severe, although less well documented. In contrast, the employment rates of white youth have increased overtime while their unemployment rate has remained about half that of minorities.

There is no general agreement about the relative importance of different causes of youth joblessness, but it appears to be related to the rate of growth and location of jobs; the recent large increases in the number of youth and other new entrants into the labor market; deficiencies in the education and training of youth; the high cost of employing some youth relative to their productivity; race, sex, or age discrimination; the higher overall unemployment rates experienced in the 1970s; and changes in societal values affecting the attitudes and motivation of youth toward the world of work.

Various public policies adopted in the past have attempted to reduce youth unemployment, but they often have suffered from a lack of clearly stated goals, inappropriate services, poor coordination among complementary institutions, inadequate census and other employment data, and uncertain and insufficient funding.

Although the challenge of youth joblessness is great and the promise of quick solutions should be rejected, the problem is not insoluble. The nation cannot flinch from its responsibility to seek effective ways to improve the labor market experience of youth. We need a comprehensive, coordinated youth employment policy designed to improve youth preparation for and participation in the world of work. The public support for such a policy should be accorded high priority with other important national goals, such as defense security, energy self-sufficiency, and price stability. The major emphasis, however, should be to improve opportunities for those youth in greatest need.

We therefore make the following recommendations:

GOALS AND PRIORITIES FOR THE 1980'S

1. Both public and private programs to alleviate youth joblessness should be carefully targeted to assist those youth having the most difficulty moving from school to employment. We would place in this category all economically disadvantaged youth between the ages of sixteen and twenty-four, with emphasis on those between sixteen to twenty-one, who are out of school and who have experienced long spells of joblessness or are in school but are deemed to have poor employment prospects. We must recognize that minorities—blacks and Hispanics—are disproportionately represented in this group. Even this specific targeting within the youth population results in a large pool, numbering at least 2.5 million individuals at any point in time. Although resources are not currently allocated to provide services to everyone in this target group, we believe that a system should be established as soon as possible which would afford all individuals in the target group who need assistance an opportunity to receive services until they become employed.

2. The goal over the next decade should be a sufficient increase in the employability of youth and in the quantity and quality of job opportunities so that (a) there is a long-term improvement in unsubsidized employ-

ment and earnings prospects of disadvantaged youth, (b) the differential employment prospects of minority groups and other youth are greatly narrowed, and (c) overall youth joblessness declines substantially.

3. The long-term structural nature of the problem requires that the nation establish and maintain a set of youth employment policies which have stability and continuity. Moreover, since youth, especially minority youth, are disproportionately affected by a recession, we should increase the resources committed to resolving this problem in the face of a downturn in the economy.

JOB OPPORTUNITIES

1. An essential condition to the expansion of job opportunities for youth is a high employment economy. In the short run, we urge the immediate preparation of a program of fiscal and monetary stimulus to head off a deepening recession. In the longer run, we recommend that the nation find new ways of combating inflation which do not entail deliberate slow growth policies. New entrants to the labor force and those with limited seniority are the major victims of such policies.

2. A greatly enhanced role for the private sector in providing job opportunities for disadvantaged youth is essential.

The President should exhort all major private employers to establish a voluntary program committing themselves to ambitious and verifiable hiring goals for disadvantaged youth.

Stronger linkages must be developed between private employers and public employment and training programs. The growth of intermediary organizations, such as the new Private Industry Councils (PICs), which are focused on the needs of the disadvantaged to obtain employment in the private sector, should be fostered. In this connection the efforts should be particularly directed to small businesses.

Financial incentives to private employers for hiring and training disadvantaged youth, such as on-the-job training programs and the new targeted employment tax credit, ought to be retained and expanded. A major effort should be made to make employers fully aware of the advantages of the employment tax credit and other related financial incentives. Subsidized private sector work experiences, with appropriate provisions to minimize windfall profits, ought to be permitted under the Comprehensive Employment and Training Act (CETA). Although the evidence is clear that the high cost of employing some youth have reduced job opportunities, we do not favor a special minimum wage for youth. Any reduction in employment opportunities for disadvantaged youth caused by the minimum wage can be more than offset by the targeted tax credit, without the harmful consequences of a differential minimum wage.

3. Although progress has been made in reducing racial discrimination in the labor market, vigorous efforts to eliminate it are necessary. Furthermore, since the effects of racial discrimination outside the labor market limit the education, training, and employment opportunities of many minority youth, it is urgent that action be taken by all institutions, public and private, to identify and eradicate the elements which impede progress toward equality of social and economic opportunity.

4. Standards and licensing requirements regulating the employment of youth in a number of occupations vary widely among federal, state, and local governments. These rules have developed over many years, and the circumstances to which they were directed often have changed. The U.S. Department of Labor should conduct a study of these barriers which limit or prohibit youth employment in certain occupations and determine the extent to which they are necessary to protect the health and safety of youth. Where these regulations are unnecessary, they should be abolished; where they are inappropriate, they should be modified.

PREPARATION FOR WORK

1. The school system is the key public institution in our society responsible for preparing youth with both basic skills and with knowledge of and readiness for work. The schools should be held accountable for effectively performing these roles, particularly for those youth who will not go on to higher education. It is crucial that all students emerge from the schools with the basic skills levels required for employment in available entry-level jobs. A secondary but critical role should be the development of knowledge of and contact with the world of work.

2. Current federal funding gives inadequate emphasis to the problems of disadvantaged high school youth and of high school dropouts. On the average, federal support for college students is four times as high on a per capita basis as support for high school dropouts. We recommend a significant increase in the federal resources available for in-school and out-of-school programs for youth who are not college bound.

3. Closer linkages between education and work should be established jointly by schools, employers, and unions through activities such as vocational skill development, programs of cooperative education, vocational exploration, and job placement. These groups should cooperatively develop performance standards for their programs. These programs should be especially targeted toward those not intending to go to college.

The active involvement of parents and community organizations in these activities should be encouraged.

4. Alternative institutions should be encouraged and strengthened for youth for whom the school is not effective. The goals of these institutions, like the traditional school system, should be basic skill development and work preparation, but they should vary in their vocational focus, methods of delivery, institutional structure, and means of support. While a diversification of approaches is healthy, these institutions should be carefully monitored and held accountable for effectiveness in achieving these goals. Employers should be actively involved in this process in order to gain their acceptance of it.

5. Youth programs should emphasize the development of long-term employability and job-related skills. Therefore:

Training programs that provide basic skill development (e.g., apprenticeship, institutional skills training, on-the-job training, Job Corps) should be expanded, to the extent that this can be done without diluting the quality of the training.

All employment and training programs, including part-time work experience programs, should provide for good supervision; adequate supplies and equipment; and should emphasize adherence to reasonable work standards, penalties for poor performance, and rewards for exemplary performance.

Public service employment should emphasize the development of job skills which will lead to unsubsidized employment.

6. Employment counseling services in the schools should be strengthened and transformed to include job development and job placement. There should be greater contact between employment counselors and potential employers. These employment counselors should develop a wider knowledge of the training, work, and educational options available to youth.

7. Since the ultimate goal of employment and training programs is to achieve long-term improvement in the unsubsidized employment and earnings of participants, resources adequate to this purpose should be devoted to each individual served. In those instances when there are not sufficient resources to serve all in need, we recommend that programs should provide quality services to fewer individuals rather than serve large numbers inadequately.

8. An essential concept for employment training and education systems is the development and use of performance standards and incentives to encourage meeting these standards. Such standards must apply to trainers and teachers as well as to private, public, and nonprofit program managers. In addition, the effectiveness of the programs in meeting these performance standards should be carefully evaluated at the national level.

9. The success of CETA and related youth programs requires that federal government funding agencies link their expenditure of funds when dealing with similar problems of assisting youth.

By this statement, the Assembly affirms a new and major commitment to alleviating joblessness for young Americans. We must assure their future by altering our institutions and expending the effort and resources so that all youth have the opportunity for education, training, and employment.

THE BUDGET

Mr. DURKIN. Mr. President, I am as committed to a balanced Federal budget as any one of my Senate colleagues who along with me voted for a balanced budget beginning October 1, 1980. However, this can and must be accomplished in a fair and reasonable way.

Fact is, the second budget resolution, as reported, is neither fair nor reasonable to this Nation's veterans. I say this without reservation as the only Member of the Senate on both the Appropriations and Veterans' Affairs Committees.

The budget amendment I am co-sponsoring will increase the proposed totals for veterans' benefits and services by a much needed $300 million in budget authority (BA) and $400 million in outlays (O). It will also strike those specious instructions directing the Veterans' Affairs Committee to recommend legislation to reduce spending under current law and reported bills by $100 million. Failure to approve this amendment will not eliminate waste or inefficiency in Government spending, and it certainly will not balance the Federal budget. Rather, it can only serve as a serious threat against the proper care and quality of services our veterans rightfully deserve.

In my view, there are ablsolutely no Budget Committee recommendations concerning cuts in veteran's programs that the Veterans' Committee could responsibly make other than those already recommended. Even here, I still strongly oppose the three VA health benefit reduction amendments—regarding beneficiary travel reimbursement, over-the-counter drugs and dental care, that this Senate approved. The victims of inflation are not the cause of inflation.

Let me point out that our veterans' organizations are not asking for preferential treatment when they express support for the budget amendment I am co-sponsoring. It protects quality care and service which every veteran has the right to expect.

FRED S. BROWN

Mr. DURKIN. Mr. President, I take this opportunity to commend Fred S. Brown, a volunteer weather observer in Woodstock, N.H., who just last week received the Thomas Jefferson Award, the highest award the National Weather Service presents to volunteer weather observers.

Mr. Brown is one of only five winners selected nationwide. There are nearly 12,000 weather observers in the United States. His outstanding achievements over the past 35 years as both a dedicated weather observer and as a river stage recorder should be especially noted in light of the Granite State's fickle weather. The popular saying describing New England's temperamental climate, "If you don't like the weather, just wait a few minutes," is indicative of the difficulty Mr. Brown faced daily in arriving at his forecasts.

Mr. Brown has contributed immensely to the area's hydrological and climatological history. His river and rainfall reporting, in particular, have been an invaluable service. In addition, Mr. Brown has served as a weather commentator for more than 16 years and now writes the "Weather Watch" column for the Record Citizen.

I extend my congratulations to Mr. Brown for bringing Thomas Jefferson's fine tradition of weather observation north to New Hampshire, and I wish him every success in his future work.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 4:35 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 544. An act to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 29. A concurrent resolution regarding the restoration of Olympic records of the late James (Jim) Thorpe.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 24, 1979, he presented to the President of the United States the following enrolled bill:

S. 544. An act to amend titles XV and XVI of the Public Health Service Act to review and extend the authorities and requirements under those titles for health planning and health resources development, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1300. A bill to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for United States air carriers, establish goals for developing United States international aviation negotiating policy, and for other purposes (Rept. No. 96–329).

PANAMA CANAL ACT OF 1979—CONFERENCE REPORT

Mr. STENNIS, from the committee of conference, submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977 (Rept. No. 96–330).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURKIN:

S. 1799. A bill to require the President to impose mandatory price and allocation controls on the sale of middle distillate fuels by refineries, to provide that removal of such controls be subject to congressional review, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BRADLEY (for himself, Mr. JACKSON, Mr. HATFIELD, Mr. BUMPERS, Mr. NELSON, Mr. FORD, Mr. MATSUNAGA, Mr. TSONGAS, Mr. BELLMON, Mr. WALLOP, Mr. PACKWOOD, Mr. DANFORTH, Mr. WEICKER, Mr. DOMENICI, and Mr. HEINZ):

S. 1800. A bill to facilitate energy efficiency in residential buildings; to the Committee on Energy and Natural Resources.

By Mr. MELCHER:

S. 1801. A bill for the relief of Wong Chi Ming and Wong Kim Hung, husband and wife; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself and Mr. MELCHER):

S. 1802. A bill for the relief of Mondakota Gas Company; to the Committee on the Judiciary.

By Mr. JACKSON (by request):

S. 1803. A bill to modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

S. 1804. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. NELSON:

S. 1805. A bill to amend the Economic Opportunity Act of 1964 to establish a Weatherization Program designed to enable low-income and near-poor individuals and families to participate in energy conservation programs; to the Committee on Labor and Human Resources.

By Mr. RIBICOFF (for himself, Mr. MUSKIE, Mr. GLENN, Mr. ROTH, Mr. PERCY, Mr. STAFFORD, Mr. HART, Mr. JAVITS, and Mr. DURENBERGER):

S. 1806. A bill to establish an Energy Mobilization Board to reduce the delay in the governmental review process for nonnuclear energy projects determined to be in the national interest; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. ZORINSKY, Mr. PELL, Mr. SARBANES, Mr. TSONGAS, and Mr. STONE):

S. 1807. A bill to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance; to the Committee on Foreign Relations.

By Mr. LAXALT:

S. 1808. A bill to strengthen the American family and promote the virtues of family life through education, tax assistance, and related measures; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURKIN:

S. 1799. A bill to require the President to impose mandatory price and allocation controls on the sale of middle distillate fuels by refineries, to provide that removal of such controls be subject to congressional review, and for other purposes; to the Committee on Energy and Natural Resources.

MIDDLE DISTILLATE FUEL CONTROL ACT OF 1979

Mr. President, I am today introducing legislation to reimpose price controls on home heating oil and kerosene at the refinery level. Home heating oil, kerosene, and diesel fuel are so vital to the well-being of the people of New Hampshire, New England, and the Nation that further disastrous price increases must be prevented. In fact, Congress should act to roll back the unjustified price increases for home heating, kerosene, and diesel fuel.

I am convinced that unless controls are reimposed on home heating oil, people in New Hampshire and the Northern Tier will face severe economic hardship this winter. In New Hampshire, 80 percent of the home-use home heating oil. Last winter supplies of this vital commodity ran so low that only unseasonably warm weather in March prevented widespread suffering.

Despite urgent appeals, the Carter administration has refused to use the powers present in existing law to prevent outrageous price increases for home heating oil and kerosene. In fact today's Washington Post in a well-documented article observed that the Carter administration has passively allowed the rapid price escalation, if not in fact actually encouraged the rapid rise in the cost of home heating oil, in an effort to ration by price. Secretary Schlesinger, in a rare moment of candor, admitted that the administration feared oil company reprisals if price controls were reimposed.

I think it is time for the Carter administration to start putting the interests of the American people over the interests of the major multinational oil conglomerates.

Over a year ago, the Carter administration unwisely removed controls and allocation from middle distillates. At the time I vigorously opposed this move and I warned that the international oil market was too unstable to work without the stabilizing influence of controls. My predictions, unfortunately, have been borne out by subsequent events. More importantly, the people of New Hampshire and New England are being confronted with energy price increases beyond the means of the average working family.

Consumers of home heating oil in New Hampshire, New England, and the Northeast will be devastated by the ruinous increase in prices. At the beginning of last winter's heating season oil cost approximately 50 cents a gallon. Today the price has spiralled to almost 90 cents and it is fast approaching $1 a gallon. For the average working family, for families on fixed incomes, for the elderly, and for the handicapped, this price spells disaster. Middle-class consumers are experiencing a reduction in their standard of living as a result of these rapidly increasing prices. Furthermore, our ruinous rate of inflation will be pushed even higher by these runaway fuel costs.

The price increases are not justified by an increase in the cost of producing oil. These exorbitant price increases have occurred because refiners—most of them owned by the major multinational oil companies—have been singlemindedly devoted to higher and higher profits. The refiners, not the heating oil dealers, have benefited from these price increases. Indeed, the independent small business home heating oil dealers have been increasingly squeezed between higher prices and unfavorable credit terms imposed upon them by the major multinational oil conglomerates.

Since the 1973 embargo, the home heating oil dealer has become an economically endangered species. Poorly conceived and poorly implemented Federal energy policy contributed to the bankruptcy of many smaller dealers, further disrupting our storage capacity and the distribution system.

The small business independent home heating oil dealer in New England is one of the most competitive segments of the oil industry. Because price controls at the retail level are imposed too late in the process, they are nowhere near as effective in holding down prices as imposing price controls at the refinery level. Accordingly, the legislation I am introducing today imposes controls at the refinery level, where they can be more easily monitored and more effectively enforced.

Refiners have been enjoying unprecedentedly large profits at the expense of the hard-pressed consumer. Passage of this legislation would prevent further price gouging without encumbering the competitive heating oil dealers and their efficient distribution system with onerous Federal regulations.

When the Carter administration removed middle distillate controls, the Department of Energy assured us that the price would go up only 3–5 cents a gallon. In fact, these estimates have proven wildly inaccurate and have been surpassed many times over. The massive price increases have no justification and only serve to fill the already bloated coffers of the major multinational oil companies.

The President has relied too long on the good will and voluntary efforts of the major multinational oil companies. It is time for immediate and decisive action, action which this administration does not seem capable of taking.

It is up to the Congress to act and act now to avert economic disaster this winter.

I ask unanimous consent that the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Middle Distillate Fuel Control Act of 1979".

FINDINGS AND PURPOSES

Sec. 2. (a) The Congress finds that—

(1) middle distillate fuels (number 2 heating oil, number 2-D diesel fuel and kerosene) are in short supply, and shortages of such fuels are currently and will in the future cause adverse impacts on the domestic economy; and

(2) competition and market forces at the refinery level are inadequate to protect consumers from both shortages and inequitable prices for middle distillate fuels.

(b) It is the purpose of this Act—

(1) to require the President to impose, consistent with applicable provisions of the Emergency Petroleum Allocation Act of 1973 (Public Law 93–159), mandatory allocation and price controls on middle distillate fuels (number 2 heating oil, number 2–D diesel fuel and kerosene with respect to sales of such fuels by refiners); and

(2) to provide that such fuels may thereafter be exempted from such controls only after an opportunity for Congressional review with right of either House to disapprove.

PRICE AND ALLOCATION CONTROLS

Sec. 3. (a) Notwithstanding any provision of law, the President shall not later than fifteen days after enactment of this section promulgate a regulation under authority available to him under the Emergency Petroleum Allocation Act of 1973 (Public Law 93–159) providing for the mandatory allocation of middle distillate fuels (number 2 heating oil, number 2–D diesel fuel and kerosene) in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such regulation. Such regulation shall apply to all middle distillate fuels produced in or imported into the United States, but only with respect to the sales of such products by:

(1) any refiner of petroleum products, or

(2) any person who controls, is controlled by, or is under common control with, a refiner.

(b) The regulation under subsection (a) shall take effect not later than fifteen days after its promulgation and, except as provided in subsection (c), may thereafter be amended by the President as provided for in the Emergency Petroleum Allocation Act of 1973.

(c) Any amendment to the regulation under subsection (a) of this Act which, with respect to a class of persons or class of transactions (including transactions with respect to any market level) exempts middle distillate fuels from the provisions of such regulation may take effect only as prescribed in subsections (c), (d) and (e) of section 12 of the Emergency Petroleum Allocation Act of 1973.

———

By Mr. BRADLEY (for himself, Mr. Jackson, Mr. Hatfield, Mr. Bumpers, Mr. Nelson, Mr. Ford, Mr. Matsunaga, Mr. Tsongas, Mr. Bellmon, Mr. Wallop, Mr. Packwood, Mr. Danforth, Mr. Weicker, Mr. Domenici, and and Mr. Heinz):

S. 1800. A bill to facilitate energy efficiency in residential buildings; to the Committee on Energy and Natural Resources.

RESIDENTIAL ENERGY EFFICIENCY PROGRAM OF 1979

Mr. BRADLEY. Mr. President, on behalf of myself and Senator Jackson, Senator Hatfield, Senator Bumpers, Senator Nelson, Senator Ford, Senator Matsunaga, Senator Tsongas, Senator Bellmon, Senator Wallop, Senator Packwood, Senator Danforth, Senator Weicker, Senator Domenici, and Senator Heinz, I am introducing legislation to implement the residential energy efficiency plan.

This plan deals effectively and systemically with two of the most urgent matters on our national agenda—reducing our costly and dangerous dependence on insecure oil imports and protecting homeowners and renters alike from rapidly escalating fuel prices.

My solution to both these problems is to make better, more efficient use of the energy we already have. Recent studies at Princeton University demonstrated that application of sophisticated new techniques can save as much as 50 to 70 percent of the energy used to heat and cool even well-insulated homes. Systematic application of these retrofit techniques to the Nation's housing stock can displace as much as 1.6 million barrels of imported oil a day within 5 to 10 years at a fraction of the cost of new generating capacity or purchased fuel.

Those of us who stood in gas lines in the wake of the Iranian oil supply shortfall—at most 700,000 barrels a day—do not need to be reminded that even small supply reductions can cause severe economic and political disruption. For this very reason, relatively small supply increments from reliable sources can make an important contribution to our energy security. In the short term, at least, the cheapest and most reliable new energy source is the energy we can save in our homes.

Despite its enormous promise, the potential of residential energy conservation has barely been tapped. This is because other energy conservation plans have not addressed the major impediments to residential energy efficiency. These impediments are the hassle most of us face in choosing appropriate conservation measures and in finding a reliable retrofitter, as well as the cost of materials and installation.

The residential energy efficiency plan is unique in that it creates an efficient, nationwide residential conservation delivery system that will provide maximum energy savings at least cost to consumers with a minimum of Government bureaucracy and regulation.

The residential energy efficiency plan provides for private energy conservation companies to retrofit homes and apartments to enhance their energy efficiency. The conservation company operates under a contract negotiated with a Government contracting agency, and specifying the price per unit of saved energy that will be paid to the conservation company. The energy conservation company using private financing, will organize and manage the retrofit program. It will subcontract with local suppliers and installers and utilize retrofit experts to do systematic, block-by-block energy saving evaluations. The energy experts will also conduct training programs for employees recruited to assist in performing the evaluations.

The energy experts will come to homes and apartments within the designated area and offer to perform energy audits at no charge to the homeowner or residents. If a homeowner or resident gives permission, the energy expert will inspect the residence, identify sources of energy loss, and prescribe individualized retrofit measures.

If the homeowner or resident gives permission, the energy conservation company will arrange and supervise the installation of the retrofit measures recommended by the energy expert. Neither the owner nor the resident—if the residence is rented—will be charged for the material and labor involved.

The contracting agency will also arrange for independent preretrofit and postretrofit audits to determine how much energy the conservation company actually saves. Following the retrofit and the determination of the energy savings, the contracting agency will authorize the commencement of payment to the conservation company at the predetermined negotiated rate. Payment will continue to the company over the duration of the contract.

The private conservation companies will not be paid by homeowners or residents but will be paid for actual energy savings out of a revolving fund administered by the Federal Government. The revolving fund will be underwritten by Government bonds which will be repaid by assessments on public utility companies. The utilities will be permitted to pass these assessments through to their customers. However, the amount a utility is assessed in any year will not exceed the amount the utility would otherwise have spent on purchasing fuel or installing new generating capacity. Because the assessment is limited to the value of the energy savings, no utility customer will ever pay more than he or she would have paid had the conservation companies not installed the energy efficiency measures.

In very rare cases, the conservation program could cause a revenue loss to a utility. This could occur, because the utility might be unable to fully offset reduced residential demand by savings on fuel it no longer needed to purchase, or by finding new residential or commercial customers. In this case, a tax credit would be available to offset the revenue loss and obviate the need for a rate increase.

Adoption of the residential energy efficiency plan will not only mitigate the impact of recent and future energy price increases but will also make a positive contribution to inflation and unemployment. Because it is essentially self-financing, the Bradley plan avoids the inflationary effect of increased Government spending that is an inevitable consequence of other energy conservation proposals. In addition, the Bradley plan will create some 400,000 new jobs and train the skilled labor force to fill them. Finally, by insuring a reliable supply of low-cost energy over the next decade, the REEP will provide much needed time for the Nation to choose wisely among, and plan the balanced development of, the new energy resources and technologies we must rely on for the future.

Mr. President, I ask unanimous consent that the text of the bill, along with a section-by-section analysis, be printed in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 1800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.—This Act may be cited as the "Residential Energy Efficiency Program of 1979".

Sec. 2. Purpose.—The purposes of this Act are—

(a) to reduce dependence on foreign oil supplies, and

(b) to protect residential consumers against rising energy costs by—

(i) increasing the efficiency of residential heating and cooling systems;

(ii) delivering effective conservation measures to residential consumers without charge; and

(iii) marketing the energy saved through residential conservation to utilities.

Sec. 3. Title II, part 1 of the National Energy Conservation Policy Act (Public Law 95–619, 92 Stat. 3206), as codified at 42 U.S.C. §§ 8201 et seq., is amended by adding a new section 226—

"Sec. 226. Alternative Program.—(a) (1) The Secretary on his own initiative, or upon petition of the Governor of any State, may institute, in cooperation with state and local governmental bodies and affected utilities, an alternative home energy efficiency program in any State, political subdivision, utility service area, or geographical area thereof, in accordance with the requirements of this section.

(2) If an alternative home energy efficiency program is instituted, the requirements and prohibitions contained in Part I of this title shall not apply to any person in any State, political subdivision, utility service area, or geographical area thereof in which such alternative program has been instituted.

(b) Requirements—An alternative home energy efficiency program shall—

(1) require the Secretary to designate a Federal, State, or local government agency which shall—

(A) negotiate a contract with an energy conservation company to undertake a home energy retrofit program as described in paragraph (2);

(B) designate the geographical area in which residential buildings will be retrofitted pursuant to the contract;

(C) establish with the approval of the Secretary the per unit price which the designated government agency will pay yearly during a twenty contract term for a given increment of energy (electricity, natural gas or oil) actually saved as determined in accordance with paragraph (3).

(2) require an energy conservation company, as a condition of a contract, to agree to undertake a home energy retrofit program whereby the company—

(A) utilizes home energy retrofit experts who shall offer to conduct systematic audits of all residential buildings designated in the contract without charge to the owners or occupants thereof;

(B) directs the home energy retrofit expert to enter a residential building upon permission of a resident, inspect the residence, identify residential energy conservation measures or load management techniques, or both, and prescribe such measures or techniques so as to maximize the amount of energy actually saved in relation to the per unit price to be saved;

(C) arranges, upon obtaining permission of the owner and resident, for the supply and installation of prescribed residential energy conservation measures or bad management techniques, or both, without charge to the owner or resident;

(D) shall utilize, to the greatest possible extent, local suppliers and installers when supplying and installing prescribed measures and techniques; and

(E) assures that such measures and techniques are properly installed and maintained during the reasonable life of the residential buildings in which such measures or techniques are installed.

(3) require the designated government agency to establish accurate normalized measurements, which may include a statistically reliable sample, of actual energy use by type of energy before and after the installation of prescribed retrofit measures for an area designated in the contract referred to in paragraph (1). Such measurements shall measure actual energy savings produced by an energy conservation company under the contract for a reasonable period of time (not less than 3 years) following installation of energy conservation measures or load management techniques, or both.

(c) Financing.—(1) The Secretary is authorized and directed to make funds available to designated government agencies to meet their contractual obligations to pay energy conservation companies for energy actually saved as determined pursuant to subsection (b) (3).

(2) (A) In order to have funds to meet obligations under paragraph (1), the Secretary is authorized and directed to require public utilities, after consultation with the State regulatory authority, to make periodic payments to the Secretary not to exceed the value of the savings in a given year that the utilities realized as a result of the energy actually saved.

(B) As used in this section "value of savings" shall include—

(i) either—

(I) the value of any savings in fuel minus any unavoidable costs;

(II) the value of any savings in capacity minus any unavoidable costs; or

(III) both (I) and (II).

(ii) the selling price of conserved natural gas minus any unavoidable costs of selling the conserved natural gas or fixed charges to residential customers which would be assessed if such costs were not subtracted from the selling price.

(C) Any payment under this paragraph shall be treated as if it were a cost of service.

(D) Notwithstanding any other provision of law, a public utility, in order to maximize the value of savings, is authorized and directed to sell any energy available to it as a result of a home energy retrofit program at the highest price which a willing non-residential buyer will pay for it.

(3) If at any time the moneys available to the Secretary as a result of payments under paragraph (2) are temporarily insufficient to enable him to discharge his obligations under paragraph (1), he shall issue notes or other obligations to the Secretary of Treasury repayable from future payments made pursuant to paragraph (2) in such forms and denominations, bearing such maturities, and subject to such tems and conditions as may be prescribed by the Secretary of the Treasury. Such obligations shall bear interest at a rate to be determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury is authorized and directed to purchase any such obligations and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended. At any time, the Secretary

of the Treasury may sell any such obligations and all sales, purchases, and redemptions of such obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States.

(4) The Secretary may not authorize any contract pursuant to paragraph (1) unless there is a reasonable likelihood total payments under paragraph (2) will exceed total payments under paragraph (1) by a margin substantial enough to cover those payments and retire any notes or other obligations issued to the Secretary of the Treasury pursuant to paragraph (3).

(d) Other Provisions—

(1) Prior to instituting any alternative program pursuant to this section, the Secretary shall publish notice of the intention to institute such a program and shall provide 30 days for public comment on such intention.

(2) Any public utility required to make periodic payments pursuant to subsection (c) or any State regulatory authority may request the Secretary to adjust the amount of the payment on the basis that such payment exceeds the value of the savings the public utility would have realized but for the energy actually saved. The Secretary shall determine, in accordance with section 553 of title 5, United States Code, whether and to what extent such payment shall be adjusted.

(3) As used in this section "residential buildings" shall not be limited to four dwelling units as provided in section 210(9)(B)."

SECTION-BY-SECTION ANALYSIS OF THE "RESIDENTIAL ENERGY EFFICIENCY PROGRAMS OF 1979"

Section 1. The bill is to be cited as the "Residential Energy Efficiency Program of 1979".

Section 2. Section 2 sets forth the purposes of the bill which are: to reduce dependence on foreign oil; and to protect residential consumers against rising energy costs by significantly reducing their energy bills through the free delivery of effective energy conservation measures paid for through assessments on utilities.

Section 3. The National Energy Conservation Policy Act (NECPA) is amended by adding a new Section 226 to Part I (Utility Program) of Title II (Residential Energy Conservation).

Subsection (a) of the new section 226 authorizes the Secretary on his own initiative, or upon petition of the Governor of any State, to institute an alternative home energy efficiency program in any State, political subdivision, utility service area, or geographical area thereof of such State, subdivision, or area. If the Secretary initiates such a program, then the requirements and prohibitions contained in Part I of NECPA would not apply to any person in the designated area in which the alternative program has been instituted.

Subsection (b) sets forth the requirements of the alternative home energy efficiency program. Under the program the Secretary, in cooperation with governmental entities and affected utilities, would designate a Federal, State or local agency of government to contract with an energy conservation company to undertake a home energy retrofit program. The designated agency would identify the geographical area in which all residential buildings would be retrofitted pursuant to the contract and establish (with the approval of the Secretary) the per unit price which the designated government agency would pay for a given increment of energy (electricity, natural gas, or oil) which was actually saved as a result of the home energy retrofit program. For example, the contract might specify that if a given increment, e.g. 20 megawatt hours of electricity, are saved in the area, the energy conservation company would be entitled to 10 mils per kilowatt hour; if 40 megawatt hours of electricity were saved, the company might be paid 20 mils per kilowatt hour; and if 60 megawatts of electricity were saved, the conservation company would be entitled to 30 mils per kilowatt hour.

It is important to note that the contract between the designated government agency and the energy conservation company would be a performance contract. The energy conservation company could be paid no money unless it actually saved energy. The contract would also provide for long-term repayment in order to assure continuing performance of the energy conservation company (and in order to minimize the size of any revolving fund which the government might have to create). (See discussion *infra* at page 4.)

In order to obtain a contract, an energy conservation company would have to agree to undertake a home energy retrofit program whereby the company utilized home energy retrofit experts (referred to as "energy doctors" in one study). These experts would conduct systematic audits of all residential buildings in the area designated in the contract. The audits would be free to the owners or occupants of the residences. The experts would enter a residential building after obtaining permission from the resident, inspect the residence, identify possible energy conservation or load management techniques, and then prescribe measures which were cost-effective in relation to the contract price and the anticipated energy to be saved. After the so-called energy doctor prescribed the measures to be installed, the energy conservation company, upon obtaining permission of the owner and resident would proceed systematically house-by-house and block-by-block to install his prescribed measures without charge to the owner or resident.

Subsection (b)(2)(D) specifically requires an energy conservation company to utilize "to the greatest extent possible" local suppliers and installers when supplying and installing prescribed energy conservation measures and load management techniques. In addition, an energy conservation company is required to assure that the measures and techniques are properly installed and maintained during the reasonable life of the building in which such measures and techniques are installed.

Subsection (b)(3) requires the designated government agency which contracts with the energy conservation company to establish accurate measurements of actual energy use by type of energy before and after the installation of prescribed retrofit measures. The measurement of actual energy would be normalized to take into acount such things as temperature differences and measurable changes in lifestyles. The measurement and normalization could be based upon a statistically reliable sample which would have to before a sufficient duration (not less than 3 years) so as to establish a reasonable basis for determining actual energy savings for the life of the contract.

Subsection (c) sets forth the way in which the installation of energy conservation or load management techniques would be paid for over time. Paragraph (1) of subsection (c) authorizes and directs the Secretary to make funds available to the designated governments to meet their contractual obligations to pay energy conservation companies for energy actually saved.

The Secretary obtains the money to pay the designated government agencies from a Federal Fund created for that purpose. The Fund is financed from several sources. First, the Secretary is authorized and directed to require public utilities to make periodic payments to the Secretary. Second, the Secretary is authorized to raise additional monies at any time that he needs them in order to meet the contractual obligations as long as these additional funds can be repaid through future utility assessments.

The bill is carefully crafted to insure that the costs of electricity or natural gas to ratepayers does not go up or down as a result of energy conservation. By tying the payments from the utilities to the government to the value of the savings to the particular utility, no class of customers ends up paying more as a result of the savings to those people who have had their homes retrofitted. For example, if a utility in a given year as a result of energy conservation has saved $50 million dollars because it has not had to burn expensive imported oil, then that utility could be assessed up to $50 million dollars and that assessment would be required to be treated as a cost of service by operation of subsection (c)(2)(C). This $50 million would go into a general fund which would be used to pay for energy conservation contracts. It is important to note that there is no requirement that the money collected from a utility be used to pay for energy conservation company activities in the utility service area. Rather the bill contemplates the creation of a national pool, but no region of the country will pay any more than it otherwise would have paid. Thus, while there may be inter-regional transfers there will be no inter-regional subsidies.

Under paragraph (4) of subsection (c) the Secretary may *not* authorize any contract unless there is a "reasonable likelihood" that total payments by utilities will exceed total payments by the Secretary to both designated agencies (to pay the energy conservation companies) and to the Secretary of Treasury (to retire any notes or other obligations issued). This limitation ensures that the program will be self-financing over the life of the program and that the costs of conservation will never exceed the costs of providing that energy by other means such as building new power plants.

Subsection (d) of the bill requires the Secretary to publish notice of the intention to institute an alternative program and allow 30 days for comment. In addition, subsection (d) permits the utility or State regulatory authority to request the Secretary to review and adjust the amount of any assessment as a further protection against unwarranted rate increases. Finally, subsection (d) defines "residential building" to include buildings with more than four dwelling units in order to overcome the limitations in that definition contained in Part I of the National Energy Conservation Policy Act. Without such a provision, a number of rental units in the United States would not be eligible to receive the benefits of the alternative home energy efficiency program and the program would be of limited benefit to lower income residents.

By Mr. JACKSON (by request):

S. 1803. A bill to modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

CIBOLA NATIONAL FOREST

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of Agriculture, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Secretary be printed in the RECORD.

There being no objection, the bill and

the letter were ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the Cibola National Forest in New Mexico, is hereby modified to include two areas of approximately 4,556 and 14,476 acres, respectively as shown on U.S. Department of Agriculture, Forest Service map entitled "Boundary Modification, Cibola National Forest", dated January, 1979.

SEC. 2. Subject to valid existing rights, all lands owned by the United States in the areas described in section 1 of this act are hereby added to the Cibola National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable thereto.

SEC. 3. For the purpose of section 6 (renumbered section 7 by the Act of July 11, 1972, 86 Stat. 459) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903 as amended; 16 U.S.C. 4601-9 (1976)) the boundary of the Cibola National Forest, as modified by section 1 of this act, shall be treated as if it were the boundary of that Forest on January 1, 1965.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 20, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith, for the consideration of Congress, is a draft bill "To modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes."

The Department of Agriculture recommends introduction and enactment of the draft bill.

The proposed legislation would extend the boundary of the Cibola National Forest to include two areas, one 4,556 acres and the other 14,476 acres.

Area one is the south end of the Fort Wingate Army Depot and covers 4,556 acres all of which is Government owned. The area was part of the National Forest from 1912 until August 25, 1954, when Public Land Order 999 transferred it to the Army which has administered the lands since that time. The Army has declared the property excess and the Corps of Engineers has been in the process of its disposal. This action is being delayed pending consideration of legislation to extend the National Forest boundary.

The terrain on the tract is quite broken with elevations ranging from 7,280 to 8,260 feet above sea level. The most prominent geologic feature is the Nutria Hogback which parallels the western boundary of the area. The vegetative cover is principally ponderosa pine, pinyon, juniper, and open grasslands. The timber has been cutover twice, most recently in 1970. A productive forest of sapling and pole-sized timber remains. Although there are no live streams within the area, the restoration and maintenance of favorable watershed conditions on the area would be a primary consideration of management. The City of Gallup experienced a flood during the summer of 1972 which caused considerable damage. To help insure against a recurrence, the watershed must be managed to maintain ground cover conditions favorable for controlling runoff. A range resource is present and would be a part of National Forest management. The area and adjacent National Forest lands are better than average wildlife habitat and support a good deer herd. A small impoundment, Lake McFarran, is within the area and would provide public fishing and recreation.

The National Forest Boundary must be extended before the lands could be transferred. We understand the McKinley County Commissioners and the New Mexico Department of Game and Fish favor the extension of the National Forest boundary.

Area two is adjacent to the north end of the National Forest just west of the Continental Divide and covers 14,476 acres. The tract contains 9,760 acres of Federal lands administered by the Bureau of Land Management, 1,280 acres owned by the State of New Mexico, and 3,436 acres of privately-owned land. The Federal lands were acquired through land-for-land exchange under the Taylor Grazing Act. Approximately 2,360 acres of the privately-owned lands are owned by one individual who has indicated he would be willing to convey his lands to the United States through exchange should the National Forest boundary be extended. We are not aware of any opposition to the boundary extension or the proposed exchange. The Department of the Interior has reviewed this proposal and concurs in its submission to Congress.

The topography consists of relatively gentle slopes along the broad drainage bottoms and flat mesa tops between the drainages. Steep topography occurs between the two elevations. The vegetation is open grassland along the drainage bottoms, pinyon-juniper on the mesa tops, and about 800 acres of ponderosa pine on the southern portion adjoining the existing National Forests. Several flowing water wells occur in the area.

The proposed legislation would not of itself entail additional budget outlays by the Federal Government. The proposed combination of Federal lands in the two areas which would result from the boundary extensions would increase the efficiency in administration of these lands. Savings could result.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

A similar letter is being sent to the Speaker of the House.

Sincerely,

BOB BERGLAND, *Secretary.*●

By Mr. JACKSON (by request):

S. 1804. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of Agriculture, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Secretary be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second paragraph up to the first proviso of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) as amended (16 U.S.C. 4601-9) be further amended to read as follows:

"NATIONAL FOREST SYSTEM.—In holdings within (a) wilderness areas of the National Forest System, and (b) other areas of National Forests and purchase units all of which are primarily of value for outdoor recreation, endangered species, or wildlife purposes."

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 22, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes."

We recommend that the draft bill be referred to the appropriate Committee for consideration and enactment.

The enclosed draft bill would amend section 7(a)(1) of the Land and Water Conservation Fund Act to remove a limitation which restricts the use of Land and Water Conservation Funds for the acquisition of inholdings within the National Forests to areas within the boundaries of such Forests as they existed on January 1, 1965, and to authorize the acquisition of lands primarily of value for outdoor recreation, endangered species, or wildlife purposes. It also would delete reference to the National Forest Reservation Commission which was abolished by the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

The present language of section 7(a)(1) limits the use of Land and Water Conservation Fund acquisition moneys to inholdings within (a) wilderness areas of the National Forest System, and (b) other areas of National Forests as the boundaries of those forests existed on January 1, 1965, or purchase units subsequently approved by the National Forest Reservation Commission all of which other areas are primarily of value for outdoor recreation purposes.

The proposed amendment would make the Land and Water Conservation Fund Act more responsive to the present need for such funds within the National Forest System. It would not, in any way, diminish the congressional oversight of NFS land acquisitions as authorized by section 17(b) of the National Forest Management Act of 1976 (90 Stat. 2949). It would eliminate the need for requesting special exception from the L&WCF Act every time extension of the NFS boundary is proposed in legislation. It also would bring the L&WCF Act into conformance with the Endangered Species Act Amendments of 1978 (92 Stat. 3751) which authorize the use of L&WCF funds by the Secretary of Agriculture for acquisition of lands to establish and implement within the NFS a program for conservation of fish, wildlife, and plants including those listed as endangered or threatened species.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

BOB BERGLAND,
Secretary.●

By Mr. NELSON:

S. 1805. A bill to amend the Economic Opportunity Act of 1954 to establish a weatherization program designed to enable low-income and near-poor individuals and families to participate in energy conservation programs; to the Committee on Labor and Human Resources.

ECONOMIC OPPORTUNITY ACT AMENDMENTS OF 1979

● Mr. NELSON. Mr. President, today I am introducing legislation to establish a weatherization program for low-income and older Americans as a new title to the Economic Opportunity Act.

This legislation would put the Community Services Administration (CSA), the Federal agency with the most experience in dealing with the low-income population and with energy assistance programs, in charge of the weatherization program now being administered by the Department of Energy and expand and improve upon the existing program.

There are three major program components under this bill:

A weatherization program putting unemployed and in-school youths to work insulating and weatherizing homes of low-income and older families;

An energy conservation education, program coordination, and outreach effort to bring about energy savings in low-income households and to inform such households of the various programs available to serve them; and

An energy conservation research, demonstration, and pilot project component to revise and expand upon current authority within the Economic Opportunity Act to conduct research and to experiment and demonstrate technological innovations to produce energy savings.

Mr. President, this bill has been developed after extensive consultations with the administration, consumer and antipoverty organizations, representatives of State, county, and municipal government, and older American groups. In the next few weeks, I have been informed that the Carter administration will be sending to Congress specifications for a weatherization program to insulate and weatherize America's housing stock.

This legislation addresses the energy crisis faced by poor and near-poor Americans and, at the same time, will conserve energy. While all American families have had to reexamine and readjust their budgets to pay the additional cost of utility and fuel bills created by the dramatic increases in the various nonrenewable sources of energy, low-income Americans—especially older persons on fixed incomes—now confront an intolerable situation. They do not have budgets to meet their basic living needs, and cannot reallocate resources to pay for energy without taking money away from some other basic need.

The result is that many poor families are forced to make choices no one should have to contemplate: food or fuel, health needs or heating.

The increasing cost of energy has compounded the fundamental problem of the poor in our society; the lack of sufficient income to pay for all of life's essentials. It is in this context that the increase in energy prices has begun and will continue to devastate America's poor population.

In order to respond to this crisis situation, this legislation proposes:

First. An expanded and improved weatherization services program for both low-income renters and owners. This component of the program would utilize primarily both in-school and unemployed youth to accomplish this work.

Second. Implementation of a nationwide system of energy audits for low-income people.

Third. Expanded energy conservation education activities to improve energy conservation in the low-income community.

Fourth. Encouragement of the development and application of technological improvements, especially those which utilize renewable resources such as solar power.

Mr. President, each element of this program has been tried and tested at the local level through several State and Federal programs. This legislation places primary responsibility for the administration of a weatherization program for the low-income population in each of the States, rather than placing that responsibility in Washington. In my judgment, each State can and should adjust and design their own weatherization program based upon their unique weather conditions and other factors such as the condition of their housing stock, the size of their elderly and low-income population, and their energy usage and cost.

For each of the programs prescribed in this legislation, there is an open-ended authorization of appropriations.

At this time, the cost of this weatherization program cannot be accurately projected. It will, no doubt, be substantial. In my judgment, the cost associated with this package only can be estimated after the Congressional Budget Office and other Federal agencies assemble solid factual information on the universe of need within the low-income population and the projected energy costs for this segment of the population taking into account the tremendous increases in the cost of energy sources since 1973.

The impact on low-income households of high fuel oil prices has been studied by the Community Services Administration. In an August 1978 report by the Grier Partnership, the following conclusions were developed:

> The average low-income household (125 percent of the federal poverty limit) which heated with fuel oil and paid its own oil bills spent an estimated $530 for that fuel alone during the 1977–78 heating season. This was 41 percent more than it paid in 1974–1975.
>
> This estimated expenditure takes into account not only increased prices for oil, but also general climatic changes between the two winters. It also makes an allowance for conservation and for savings in fuel costs through weatherization.
>
> Rising oil prices are the largest single factor in the increase, contributing twice as much as the colder weather. The five coldest months of 1977–1978 were 14.3 percent colder than in 1974–1975, but oil prices were 29.6 percent higher.
>
> Total energy costs for oil-using households are considerably higher than their expenditures for oil alone. We estimate that the average household heating with oil, and using gas and electricity in addition, paid a combined total of $1,003 for the three fuels in 1977–1978. The average low-income household paid $831.
>
> Energy expenses now consume sizable proportions of the financial resources of low-income households. While total money incomes (if not real purchasing power) have been rising rapidly for most U.S. households, nearly 14 million households are still at the low-income level. Based on the latest available Census Bureau data (for 1976), we estimated that the mean income of these households was less than $3,500 at that time. By the 1977–1978 heating season, the average low-income household received an estimated income of $3,850 or less.
>
> For this average household heating with oil, the $831 total cost of home fuels was more than one-fifth of its before-tax income. Of course, many low-income households, especially among the elderly, receive less than the average. For many of these households, the burden was even greater.
>
> These are national figures, and households in the cold northern sections of the nation face much higher costs. In Milwaukee, an analysis of the 1977–78 winter season's applicants for emergency energy assistance showed that those between 101 and 125 percent of poverty income levels who heated with oil paid 32.4 percent of their incomes for all home fuels. Those at or under poverty levels paid almost half, or 45.7 percent. If we add to these percentages mortgage payments and taxes or rent, it is easy to see how total shelter costs can add up to 80 or 90 percent of some households' annual income.
>
> Heating fuel expenses, unlike most other living costs, peak sharply during certain months of the year. Hence the annual expenditure figures, large as they are, do not fully reflect the impact on low-income families with their very limited budget flexibility. During 1977–1978, nearly three-fifths of the total heating degree days (and hence heating costs) nationally were accumulated during only three months—December, January, and February.
>
> "Budget" plans are designed to smooth these peaks. But many low-income households cannot meet the credit requirements for these plans. In our field interviews, we were told that many had recently lost their budget plan eligibility because they had been unable to maintain regular payments in the face of sharply higher prices.
>
> More than one-third of all low-income fuel oil users are elderly, most of them on fixed incomes. For these people, the rapid rise in fuel oil prices has been especially terrifying. Poverty field workers have told us of elderly householders who had sold their furniture to meet oil bills.
>
> To some extent the problems which low-income households encounter today with rising fuel oil prices are in the social and economic arenas. But to a considerable degree they are physical in origin. About half of low-income fuel oil users pay a premium simply for living in the Northeast. A majority of them nationally—and about three-fifths in the Northeast—are penalized because they live in old buildings.

The Grier report is now nearly two winter seasons old. Since that report, the cost of fuel oil has surged upward to record high levels. It is now estimated that the cost of home heating fuel will be up over 50 percent since last winter, the cost of all other utilities such as natural gas and electricity will increase substantially, and as everyone is painfully aware, gasoline prices are averaging more than a dollar a gallon.

This legislation addresses itself to this situation by seeking to reduce the dependence of low-income and near-poor individuals and families on increasingly scarce and expensive, nonrenewable sources of energy. This result is to be achieved by undertaking a major initiative to make energy-conserving improvements to low-income dwellings that will reduce heat loss and improve thermal efficiency. In this manner, home energy consumption can be reduced and alternative and renewable energy sources for space heating and cooling can be installed.

WEATHERIZATION PROGRAM

Federal financial assistance would be made available under part A of this bill for a weatherization program. A Federal categorical grant would be made to the States, who in turn would be responsible for operating a program in accordance with federally established minimum requirements.

Funds provided under the weatherization program could be used for materials, labor, and program support. Weatherization material costs and labor costs would be limited to 80 percent, and program costs could not exceed 20 percent. The Director of CSA, however, could waive these requirements for program start-up purposes. Administrative costs, which are to come out of program support, could not exceed 10 percent of a State's grant.

Under the current Department of Energy program, community action agencies are given a presumptive role for carrying out local weatherization projects. This role for the community action agencies would be continued under this program. Other nonprofit agencies and governmental units also are eligible to perform weatherization activities and would play a major role in the implementation of the weatherization program.

The labor for weatherizing homes would utilize, to the extent feasible, individuals who are employed under the Comprehensive Employment and Training Act (CETA). Weatherization funds also could be used for labor costs. A maximum wage limitation similar to those established under the CETA amendments of 1978—$10,000 a year indexed upward in high wage areas to $12,000 a year—would be enforced. But the CETA average wage limitation would not apply.

Both unemployed and in-school youth whose family incomes are below 100 percent of the Bureau of Labor Statistics lower living standard budget—a national average of $11,546 for a family of four—would be given preference for weatherization jobs that become available under the CSA program.

Mr. President, youth unemployment continues to be one of our Nation's most critical problems. Over 2 million 16- to 21-year-olds have been looking for, but have been unable to find, work in 1979. The problem is particularly acute among minority youth where the rate of unemployment remains at a catastrophic 34.3 percent, down less than 3 percent from the 1976 level. Looming in the background is the possibility of a serious economic downturn which will, as always, mean depression-level unemployment for youth, particularly minority youth who are the last hired and first fired.

Energy conservation programs, particularly the weatherization of low-income housing present a unique opportunity for unemployed youth to help solve our energy problems.

According to Energy Department figures, less than 10 percent of the homes needing and qualifying for such services have received them. In great part, this has been due to limited coordination between energy conservation activities and the employment and training programs funded by the Department of Labor and operated through the CETA prime sponsors.

Specfically, coordination has been ineffective due to the following factors:

The CETA prime sponsors operate autonomously in assigning jobs to enrollees. This has made it very difficult to match employment and training programs with weatherization program finds;

The requirement that prime sponsors coordinate their employment and training efforts with weatherization programs conflicts with other Department of Labor (DOL) regulations emphasizing a mix of activities which are determined by local policies and priorities;

CETA public employment programs are not available uniformly throughout the Nation, but are, instead, targeted to areas of high unemployment. Many energy dependent States that experience a cold season have low unemployment rates and therefore fewer available public service employment slots;

Program slots in CETA projects have been limited to 1 year and are typically not renewable, thereby increasing training costs and decreasing the quality of work produced;

While many of the community action agency programs have outstanding performance records in implementing the weatherization program, for a variety of reasons, CETA prime sponsors have been restrictive in allotting CETA slots to weatherization programs.

Therefore, weatherization programs have had difficulty in matching their weatherization resources with labor which is essential to complete local program implementation; and

Average wage levels prescribed in the CETA legislation are too low, in many instances, to pay for weatherization workers and supervisors.

HISTORY OF WEATHERIZATION PROGRAMS

Federal efforts to support weatherization of low-income dwellings began in 1974 through initial funding of "project fuel" in the State of Maine by CSA, and through local efforts in northern Wisconsin.

The total amount of funds appropriated by Congress for fiscal years 1975 through 1979 is approximately $510.4 million. Of that amount, CSA was appropriated $219 million and the Department of Energy (DOE) was appropriated $291.4 million. A chart showing the legislative and appropriation history follows:

WEATHERIZATION, LEGISLATIVE AND APPROPRIATION HISTORY

Fiscal year	Federal agency	Authorization	Appropriation (millions)
1975	CSA	222(a)(12)-EOA [1]	16.5
1976	CSA	222(a)(12)-EOA	27.5
1977	CSA [2]	222(a)(12)-EOA, including supplemental.	110.0
1977	DOE [3]	ECPA [4]	27.5
1978	CSA	222(a)(12)-EOA	65.0
1978	DOE	ECPA	65.0
1979	DOE	ECPA	198.9

[1] Economic Opportunity Act.
[2] Community Services Administration.
[3] Department of Energy.
[4] Energy Conservation and Production Act.

The weatherization program for low-income households is currently administered by the Department of Energy (DOE). There have been numerous problems experienced by the program while under DOE administration including: less than 25 percent of the national goal to weatherize low-income homes have been completed; there is a lack of adequate labor for home weatherization; DOE regulations have been overly restrictive creating programmatic complexity and administrative problems; and there has been a lack of integration of program services at the Federal level with other federally sponsored energy assistance and conservation programs.

In March 1979, a report entitled "Home Weatherization Program of the Community Services Administration" was issued by the staff of the House Appropriations Committee. Three months later, a report entitled "Report on Conditions Adversely Affecting the Weatherization Program for the Low-Income Persons" was issued by the Office of Inspector General, U.S. Department of Energy.

Both of these reports identify problems with the weatherization programs operated by DOE and CSA. Although management problems were experienced by both agencies, DOE administration of the program has resulted in the most extensive problems in the history of the weatherization program. In my home State of Wisconsin, for example, nearly $2 million in weatherization materials remains stockpiled in warehouses because of the inflexibility of DOE regulations.

This particular legislation being introduced today is an attempt to eliminate the documented program problems. In view of the operation and performance of the weatherization program, this bill provides for CSA administration of the weatherization program. CSA has proven that CSA administration results in more homes being weatherized in less time with fewer financial resources than DOE.

Moreover, it is my judgment that weatherization of low-income homes should be centralized in an agency whose primary purpose is service to the poor. Only if energy problems confronting poor people are seen and understood by those administering the program as problems of poverty as well as problems of energy can they be dealt with effectively. DOE is not a poverty agency. CSA, by virtue of its legislative mandate, offers the best opportunity available to integrate energy and social service programs to assist the poor. National efforts to save energy cannot be implemented separately from other national efforts to eliminate poverty.

The Community Services Administration and its local administering agencies, community action agencies (CAA's), are already very involved with social programing in the areas of employment, housing, and community economic development as well as energy conservation. Together, they are uniquely qualified to carry out a comprehensive program of energy conservation which will both address the problems and enhance the opportunities created by the energy crisis for the poor and the near poor of our Nation.

In addition, CSA, through the CAA's, have in place an extensive outreach and follow-through mechanism to reach and serve those families and individuals most in need of such services. CSA has consistent and regular contact with such agencies assessing their performance in implementing programs and utilizing Federal dollars. It is administratively cost efficient and program effective to have local administering agencies relate, where possible, to one Federal agency (CSA) rather than two or three Federal agencies.

Mr. President, weatherization of low-income homes can result in substantial energy savings. Current estimates indicate that homeowners may save 20 to 60 percent in energy consumed and cost as a result of home weatherization. The percentage of energy saved is dependent on the type and condition of the home, nature and kind of weatherization activities performed in the home, and the efficiency or lack thereof of the heating unit.

In September 1976 a study was published entitled "Energy Conservation Evaluation" by Neil Prochnow (University of Wisconsin, River Falls). This study indicated that in low-income homes where attic insulation was installed and air infiltration problems were fixed, a 20 to 23 percent energy savings was experienced. Other later studies have substantiated these findings and also projected additional energy savings occur in homes where additional weatherization is needed and was performed.

ALLOCATION OF FUNDS TO STATES

Mr. President, the allocation of Federal dollars to the States under the weatherization program will be based on heating degree days, energy usage and cost, and a combination of eligible population measures.

Thirty-five percent of the money made available would be distributed based upon the relative number of U.S. heating degree days in each State weighted by the amount of total population in each State as compared to the number of heating degree days in all States weighted by the amount of total population in all States.

Thirty-five percent of the money made available would be distributed based upon the relative aggregate residential energy expenditure in each State as compared to the aggregate residential energy expenditure in all States.

Ten percent of the money made available would be distributed based on the relative number of persons who are at or below 100 percent of the Bureau of Labor Statistics lower living standard income level;

Ten percent of the money made available would be distributed based upon the relative expenditures under the SSI program in each State compared to SSI expenditures in all States; and

Ten percent of the money available would be distributed based upon the relative expenditures under the AFDC program in each State compared to all AFDC expenditures in all States.

ENERGY CONSERVATION EDUCATION AND ENERGY CONSERVATION RESEARCH, DEMONSTRATION AND PILOT PROJECTS

Mr. President, parts B and C of this legislation provide Federal financial support for projects and activities which will educate and counsel low-income and near-poor energy consumers in energy conservation practices and management, self-help activities in energy conservation and alternative energy application, and the care and maintenance of weatherization and alternative energy improvements. These parts of the comprehensive program also provide a continuation of CSA's existing authority to carry out energy conservation, research, demonstration, and pilot projects.

One of the most important aspects of helping to conserve energy is to assess the heat loss of a building and provide consumers with an explanation not only of how a building loses heat, but also of how the resident's lifestyle is wasting or conserving energy. Energy auditors are an important link to the conservation of energy, and this kind of activity is contemplated by part B of this legislation. Education materials and information for homeowners, renters, community groups, and public agencies also could be funded from this part of the program.

During the past few years, CSA has carried out many experiments on alternative energy sources such as using solar power to heat and cool low-income housing. These activities are now authorized under the Economic Opportunity Act, and would be continued under part C of this legislation.

CONCLUSION

Mr. President, low-income households face a very serious crisis this winter and for the forseeable future, so long as energy costs remain critically high. The legislation I am introducing today addresses itself to this crisis.●

By Mr. RIBICOFF (for himself, Mr. MUSKIE, Mr. GLENN, Mr. ROTH, Mr. PERCY, Mr. STAFFORD, Mr. HART, Mr. JAVITS, and Mr. DURENBERGER):

S. 1806. A bill to establish an Energy Mobilization Board to reduce the delay in the governmental review process for non-nuclear energy projects determined to be in the national interest; to the Committee on Energy and Natural Resources.

ENERGY MOBILIZATION BOARD ACT OF 1979

● Mr. RIBICOFF. Mr. President, as chairman of the Committee on Governmental Affairs, I am pleased to join with other members of my committee, Senators PERCY and ROTH, Senator MUSKIE, chairman of the Subcommittee on Environmental Pollution; Senator GLENN, chairman of the Subcommittee on Energy, Nuclear Proliferation and Federal Services, and other Senators, in introducing an alternative proposal for the creation of an Energy Mobilization Board with authority to expedite regulatory decisions for a group of priority national energy projects. All of us believe that President Carter's decision to recommend such a Board to the Congress represented an important step toward reducing delays in the construction of new energy facilities. Mr. President, this bill is also the result of a directive by the majority leader in July to a number of committees and Senators to work together to produce a practical, efficient organization and set of procedures for the Energy Mobilization Board. Those of us who are supporting this alternative have greatly benefited from the deliberations and work of the Energy and Natural Resources Committee, and this bill in some of its provisions reflects the judgments of that committee.

The bill represents a most careful balancing of the need for new mechanisms to expedite the construction of new mechanisms to expedite the construction of new energy supply facilities with the need to protect and preserve environmental values, State and local responsibilities, and individual rights of due process. It is a positive effort to reduce redtape, eliminate redundant regulatory actions, and to speed up the decisionmaking process for national priority energy projects. Yet it does so without undermining or destroying existing statutory safeguards.

The bill's enforcement provisions are stronger and more effective than those proposed either by the administration or the Energy Committee. Under this proposal, the Energy Mobilization Board will act as a watchdog over the regulatory process for priority energy projects; it will be able to spot early on potential bottlenecks and dilatory action by Federal, State, or local agencies; and it will be given authority to go into court to force those agencies to meet the reasonable deadlines which they themselves have agreed to.

I have, as my colleagues know, a serious concern that increased production of energy from synthetic and fossil fuels will lead to serious environmental damage through increasing the concentration of carbon dioxide in the Earth's atmosphere. This is a long term problem for which long term solutions are required. One important solution is to develop a diverse mix of energy sources, so that if we discover a technology to be unusually dangerous or hazardous, we may turn to others. The Energy Secretary and the Energy Mobilization Board would be directed under this bill to select a diverse range of energy sources and technologies to be put on the fast track. This will arm us with alternatives, if, in the future, we find that we must forego synthetic fuel production due to the threat from increased carbon dioxide, or some other as yet unknown danger.

I should like briefly to discuss the major provisions of the bill:

1. ENERGY MOBILIZATION BOARD

The bill provides for the creation of a three-member Energy Mobilization Board which would be empowered to make the final decision to designate priority energy projects for a fast decisionmaking track. The members of the Board would be appointed by the President, and confirmed by the Senate. They would serve full time, and would be subject to existing conflict of interest laws.

The bill also provides that the Board members will serve at the pleasure of the President. This is proper because the Board in this bill is being given only executive responsibilities. It is my strong feeling, however, that should the Congress grant the Board power to set aside substantive or procedural law or to make decisions in place of Federal, State or local officials, then it must be made independent and removable for cause. Such authority—which Congress has usually given to independent regulatory agencies—should not be exercised by a political officer of the White House.

2. NATIONAL ENERGY POLICY

The bill establishes a semiannual process in which the Department of Energy will make an initial screening of applications for priority energy project status. Two years ago, the Committee on Governmental Affairs agreed with the President that a Department of Energy should be established that would become the chief executive agency responsible for carrying out national energy policy under the direction of the President. Despite the problems that the Department has had, the decision to unify Federal energy policymaking and administration was a correct decision by the President and the Congress. And the organization proposals that we are currently considering should preserve that role for the Energy Department.

Designation of priority projects will have a tremendous impact on energy policy, altering the allocation of Government and energy industry resources. Senator GLENN has recognized this great impact and his concern for a rational designation process is reflected in this bill. Thus, the bill makes clear that the Secretary of Energy should be given a direct role in the designation process in order to insure that the Board will take action consistent with current national energy policy.

3. PROJECT DECISION SCHEDULE

The Board is given the power to set deadlines, after consultation with the relevant Federal, State, and local agencies, for all Government actions necessary to construct and begin operation of an energy facility designated as a national priority energy project. The imposition of this planning schedule is one of the key provisions of the bill, and the discipline and planning that it will produce will be a major factor in reducing delays that have impeded and halted major energy projects.

4. ENFORCEMENT

The bill provides an efficient and effective means for the Board to enforce deadlines for regulatory actions agreed to by Federal, State, and local agencies. It gives the Board power to seek a court order compelling action in accordance with the project decision schedule. It also gives the Board the authority to monitor closely Federal, State, and local agency actions and to move in before a final deadline is missed if there is evidence that through neglect, lack of leadership or dilatory tactics an agency will at some future date miss a final deadline established in the project decision schedule. This provision is stronger than a similar provision in the Energy Committee bill and will allow the Board to prevent the kinds of delays that might occur if it had to wait to act only after a deadline was actually missed.

The administration has proposed another enforcement mechanism which would ultimately lead to endless litigation and greater delays. The administration alternative, which the Energy Committee has adopted, provides that if a Federal, State or local agency fails to makes a decision or perform an action within the time allowed on the project decision schedule, the Board may step in and make that decision or perform an action in lieu of the agency.

Giving the Board power to act in lieu of the agency is an unwise proposal. Specifically, it would:

Lead to complications and inevitable delays in court actions if a court remands a case either to the Energy Mobilization Board or to an agency, to develop a further record for decision; or if a court decides that the Board has improperly applied the relevant law;

Decrease Government accountability by tempting agencies to "pass the buck" to the Energy Mobilization Board on particularly tough or policy-sensitive issues;

Erode the authority of independent regulatory agencies at all levels of government;

Invite abuse of enforcement power for political purposes on decisions affecting large, capital-intensive energy projects; and

Lead to the establishment of a large bureaucracy at the Board which would have to have the expertise to make decisions on a wide range of Federal, State, and local matters.

5. ENVIRONMENTAL IMPACT STATEMENTS

The bill provides for a more expeditious handling of environmental impact statements. It allows the Board to require that one final environmental impact statement be prepared for a project that would serve for all Federal agencies as well as for State and local agencies. The bill also provides that all nonenvironmental actions related to the project may proceed concurrently with the preparation of the environmental impact statement.

There is a safeguard written into the bill for State and local environmental laws and ordinances. Should the Board require one environmental impact statement for Federal, State and local agencies, then that statement must include all the factors and criteria included in State and local law in the manner prescribed by those laws.

6. PROTECTION OF RIGHTS OF STATE AND LOCAL GOVERNMENTS

While furthering the goal of a more expedited decisionmaking process for priority energy projects, the bill contains a number of provisions to protect the authority and rights of State and local governments. These include:

A mandate to the Energy Secretary to consult with State and local agencies before making a final selection of candidates for priority energy project status;

Provision that where a single environmental impact statement is called for, that statement must include all the factors and criteria in a State or local law or ordinance in the manner provided in that law or ordinance;

Allowance for a State or local government to undertake to complete those parts of an environmental impact statement that relate to its jurisdiction and concerns;

Preservation of State court jurisdiction on purely State law matters; and

Provision for the use of State courts for the enforcement of the Board's deadlines in matters related to State laws.

Finally, and possibly of greatest significance, the bill does not allow the Board to substitute its judgment for that of State or local agencies on regulatory matters relating to the priority energy projects.

7. LIMITATIONS OF PRIORITY ENERGY PROJECTS

The bill limits the number of priority energy projects to eight in any 1 year and a total of 24 at any one time. This restriction will give the Board the authority to place those projects that are truly of national significance and importance on the fast decision track, while at the same time foreclosing the possibility of wholesale use of this mechanism for projects of lesser importance that should utilize existing regulatory mechanisms established by Congress and the States. Without the discipline imposed by a numerical limit, the Board may designate so large a number of projects that agencies will not be able to carry out their regulatory functions properly.

8. GRANDFATHERING PRIORITY ENERGY PROJECTS

The administration has proposed to allow the Board to exempt priority energy projects from the provisions of any new regulatory legislation passed by Federal, State or local legislative bodies after the project has begun. This bill does not contain such a provision. Since the number of priority energy projects on the fast track system will always be small, Congress, when it passes new regulatory legislation can, on a case-by-case basis, exempt such projects if it deems such an action necessary.

Mr. President, this bill will significantly reduce unnecessary delay in the construction of our highest priority energy projects, while at the same time preserve the environmental goals Congress has placed in statute over the last decade. It represents the most careful balancing of energy needs, environmental values and principles of federalism of any of the proposals in this area now before Congress.

It is my hope that it will attract strong support and will be adopted by the Senate when this body takes up this issue in the near future.

I ask unanimous consent that the bill, along with the accompanying section-by-section analysis be printed in the RECORD at this point.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

Act may be cited as the "Energy Mobilization Board Act of 1979".

PURPOSES

SEC. 2. The purposes of this Act are—

(a) to establish an Energy Mobilization Board to administer jointly with the Department of Energy a Priority Energy Project program;

(b) to expedite the review process of energy projects determined to need accelerated decisionmaking so that such projects will contribute to a timely reduction in the use of imported energy supplies, without interfering with the present statutory authorities and responsibilities of Federal, State, and local agencies; and

(c) to foster, within proper limits, the integration of Federal, State, and local processes for permitting, licensing and approving energy projects which are determined to be in the national interest.

DEFINITIONS

SEC. 3. As used in this Act the term—

(a) "applicant" means any person planning or proposing a project which has been designated a priority energy project;

(b) "approval" means any permit, license, lease, certificate, right-of-way, or other grant, rate, ruling or decision authorized or issued by an agency of Federal, State, or local government;

(c) "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation;

(d) "Board" means the Energy Mobilization Board established by section 4;

(e) "Chairman" means the Chairman of the Board;

(f) "candidate priority energy project" means a designation request selected by the Secretary of Energy under section 9 to be forwarded to the Board;

(g) "designation request" means an application filed with the Secretary of Energy pursuant to section 8;

(h) "energy facility" means any physical structure, including any structure which incorporates active and/or passive solar devices, any equipment, building, mine, well, rig, pipeline, transmission line, processing facility, transportation device, manufacturing facility, or installation, which is designed to promote energy conservation or invention, exploration, research, development, demonstration, transportation, production, or commercialization of any form of energy other than atomic energy, including any facility owned or operated in whole or in part by Federal, State, regional or local government or any combination thereof;

(i) "energy project" means any plan, proposal, program, scheme, or design to produce, build, install, expand, modify the operation of, or alter in any other way, an energy facility;

(j) "Federal agency" means an executive agency as defined in section 105 of title 5 of the United States Code;

(k) "local agency" means any executive agency of local government;

(l) "local government" means the government of any poltical subdivision of a State and any recognized government board of an Indian tribe or Alaskan Native village which performs substantial governmental functions;

(m) "Member" means a member of the Board other than the Chairman;

(n) "person" means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust estate, nonprofit institution, or any entity organized for a common purpose, and any instrumentality of Federal, State, or local government;

(o) "priority energy project" means any project which has been designated as a priority energy project by the Energy Mobilization Board under section 10 of this Act;

(p) "Project Decision Schedule" means a schedule established by the Board pursuant to section 16 of this Act;

(q) "Secretary" means the Secretary of Energy;

(r) "State" means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(s) "State agency" means any executive agency of State government; and,

(t) "State law" means the law of any State or any subdivision thereof.

ESTABLISHMENT AND MEMBERSHIP OF THE ENERGY MOBILIZATION BOARD

SEC. 4. (a) There is hereby established the Energy Mobilization Board (the "Board"). The Board shall consist of three members appointed by the President, by and with the advice and consent of the Senate.

(b) The Chairman and members of the Board shall be individuals who, by demonstrated ability, background, training, or experience are especially qualified to carry out the functions of the Board.

(c) No member of the Board may hold another office or position in the Government of the United States.

(d) The Board shall have its principal office in or near the District of Columbia.

(e) The term of office for each member of the Board shall be four years, coterminous with the term of the President. A member whose term has expired may continue to serve until a successor is appointed by the President, by and with the advice and consent of the Senate, but may not serve more than one year after the date on which the term of the member would otherwise expire under this section.

(f) A member appointed to fill a vacancy before the end of a term of his predecessor serves for the remainder of that term. Any appointment to fill a vacancy is subject to the requirements of this section.

OFFICERS OF THE BOARD

SEC. 5. (a)(1) The President shall from time to time appoint, by and with the advice and consent of the Senate, one of the members of the Board as the Chairman of the Board. The Chairman serves at the pleasure of the President as Chairman.

(2) The Chairman of the Board shall be the principal executive officer of the Board, and he shall exercise all of the executive and administrative functions of the Board, including functions of the Board with respect to (i) the appointment and supervision of personnel employed under the Board (other than personnel employed regularly and full time in the immediate offices of members other than the Chairman, and except as otherwise provided in this Act), (ii) the distribution of business among such personnel and among administrative units of the Board, and (iii) the use and expenditure of funds.

(3) In carrying out any of his functions under the provisions of this Act, the Chairman shall be governed by general policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

(4) There are hereby reserved to the Board its functions with respect to revising budget estimates and with respect to determining the distribution of appropriated funds according to major programs and purposes.

(b) The President shall from time to time designate one of the members of the Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

(c) During the absence or disability of both the Chairman and Vice Chairman, or when the offices of Chairman and Vice Chairman are vacant, the remaining Board member shall perform the functions vested in the Chairman. Two members of the Board shall constitute a quorum for the transaction of business.

(d) The Chairman and members of the Board shall not engage in any other business, vocation, or employment while serving on the Board. The Chairman shall receive compensation at the rate prescribed for offices and positions at Level I of the Executive Schedule (5 U.S.C. 5312). Members of the Board shall receive compensation at the rate prescribed for offices and positions at Level II of the Executive Schedule (5 U.S.C. 5313).

(e)(1) There shall be a General Counsel to the Board who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for offices and positions at Level IV of the Executive Schedule (5 U.S.C. 5315).

(2) The General Counsel shall be an individual who, by demonstrated ability, background, training, or experience is especially qualified to carry out the functions of the General Counsel.

(f) The Chairman may appoint an executive director who shall exercise such powers and duties as may be delegated to him by the Board or the Chairman. The executive director shall receive compensation at the rate provided for Level IV of the Executive Schedule (5 U.S.C. 5315).

POWER AND AUTHORITY OF THE BOARD

SEC. 6. (a) The Board shall decide and administer all matters within the jurisdiction of the Board under this Act subject to otherwise applicable provisions of law, and take final action on any such matter. The Board is authorized to—

(1) sit and act at places and times as it may determine;

(2) make full use of competent personnal and organizations outside the Board, public or private; form advisory committees and special ad hoc interagency task forces; and make other personnel arrangements in accord with Federal law, as the Board determines to be appropriate;

(3) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Board with any agency or instrumentality of Federal, State, regional, or local government or with any person, with or without reimbursement, with or without performance or other bonds, and with or without regard to section 5 of title 41, United States Code; *provided*, That the Board shall not use its authority to become directly involved in the actual construction or operation of any priority energy project;

(4) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Board, and take other appropriate actions to fulfill the purposes of this Act.

(b) Contractors and other parties entering into contracts and other arrangements under this section which involve costs to the Government shall maintain such books and related records as will facilitate an effective audit of the execution of such contracts or arrangements in such detail and in such manner as shall be prescribed by the Board, and such books and records (and related documents and papers) shall be available to the Board and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of such audit and examination.

(c) The Board is authorized to secure directly from any executive department or agency information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions under this Act. Each such executive department or agency shall furnish the information, suggestions, estimates, statistics, and technical assistance directly and expeditiously to the Board upon its request.

(d) On request of the Board, the head of any executive department or agency may detail, with or without reimbursement, any of its personnel to assist the Board in carrying out its functions under this Act.

(e) The Chairman may obtain services of experts in accordance with section 3109 of title 5, United States Code.

(f) In carrying out the provisions of this Act, the Chairman is authorized, in accordance with section 5, to appoint such personnel as may be necessary, subject to the provisions of title 5, United States Code, governing appointments and compensation in the competitive service.

(g) In carrying out the provisions of this Act, the Board shall not interfere with labor-management relations, nor take any actions which conflict with terms of an existing labor-management contract.

REPORTS OF THE BOARD

SEC. 7. (a) The Board shall conduct periodic reviews of its activities under this Act and shall report annually, or more often as it may deem necessary, to the Congress on such activities including:

(1) the functioning of the selection and designation process for priority energy projects;

(2) the status of projects;

(3) the effectiveness of the Board's actions in expediting the development and construction of energy projects; and

(4) any significant delays in the completion of priority energy projects and the causes thereof.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 208. (a) Any person planning or proposing an energy project may apply to the Secretary of Energy for designation of such project as a candidate priority energy project.

(b) An application for designation shall:

(1) identify all Federal, State, and local licensing and permitting actions necessary for the approval and development of the project known to the applicant; and

(2) include such detailed information concerning the project as the Secretary may require by rule, including a detailed design proposal for the project, detailed economic data on the financing of the project, and an analysis of environmental impacts of the project.

(c) Not later than five days after the receipt of a designation request the Secretary shall publish notice of the filing of the designation request, together with a brief description thereof in the Federal Register.

AUTHORITY OF THE SECRETARY OF ENERGY

SEC. 209. (a) The Secretary shall consider applications for priority energy project designation, and shall select as candidate priority energy projects only projects that meet the criteria in sections 10(c) and (d). The Secretary shall select those candidate priority energy projects that best meet the criteria of sections 10(c) and (d), and that, to the maximum extent practicable, represent a diverse range of energy sources and technologies. The Secretary of Energy shall, not later than January 1, and July 1, of each calendar year following the effective date of this Act, prepare and publish in the Federal Register a list of candidate priority energy projects.

(b) The Secretary shall, in consultation with the Board, propose and promulgate regulations for the selection of candidate priority energy projects in accordance with the requirements of this Act.

(c) The Secretary shall, in considering applications from persons for candidate priority energy projects, adopt such procedures as are necessary to assure that potential applicants, affected agencies, and interested members of the public are provided an opportunity to participate in the process of selecting candidate priority energy projects.

(d) The Secretary shall transmit a list of not less than eight nor more than twenty-four candidate energy priority projects to the chairman of the Board, together with a statement describing each candidate priority energy project, and explaining the basis for his selection of each project. The Secretary shall also forward a copy of the application, and any other material received by the Secretary in connection with its consideration of the application. There shall be no judicial review of the Secretary's selection of a candidate energy project.

DESIGNATION OF PRIORITY ENERGY PROJECTS

SEC. 10. (a) Upon receipt from the Secretary of the list of candidate priority energy projects and the other information specified in section 9, the Board shall immediately publish such list in the Federal Register and shall afford interested persons at least sixty days thereafter within which to submit written comments for the Board's consideration. The Board shall provide written notice of the candidate priority energy project to the Federal, State, and local agencies identified by the applicant under section 8(b)(1), and such agencies may present such written comments as they deem desirable, including information listed in sections 14 and 15. The Board shall consult with officials of those agencies of State and local government likely to be affected by the designation of a project as a priority energy project. The Board may hold hearings and adopt any other such procedures to aid in the Board's consideration. The Board shall keep on file and make available for public inspection and copying, at the main office of the Board and in such other places as the Board deems appropriate the designation requests and comments received thereupon.

(b) The Secretary may forward and the Board may consider a designation request notwithstanding any previous decision by the Board denying the same or a similar request for that project.

(c) Not later than sixty days after the close of the comment period required in subsection (a), the Board shall review the candidate priority project list and determine whether any of the candidate priority energy projects is of sufficient national interest to be designated a priority energy project and shall publish its decision and the reasons therefor in the Federal Register. Not more than eight projects may be designated in any one calendar year, and not more than twenty-four projects may have been designated and be pending certification at any one time. No project shall be designated a priority energy project unless the Board determines that such project—

(1) will affect interstate or foreign commerce;

(2) will significantly contribute to a reduction in the use of imported energy supplies (and the achievement of a fifty per centum reduction in the use of imported oil by calendar year 1990);

(3) needs the accelerated decisionmaking available under this Act to assure that such facility will be in operation so that it will make a timely reduction in the use of imported oil.

(d) In making a determination whether to designate a project as a priority energy project, the Board shall also consider—

(1) whether the environmental uncertainties or the potential adverse environmental impacts of the project are such that they cannot be adequately considered and resolved in the period of time permitted for review of the priority energy project;

(2) the extent to which the proposed facility would make use of renewable energy resources;

(3) the extent to which the proposed facility would promote energy conservation;

(4) the extent to which the proposed facility would contribute to the development of new energy production or conservation technologies and techniques;

(5) the degree of specificity in describing the proposed facility in the application;

(6) the probable long-term impact of the facility upon energy supply and demand; and

(7) comments submitted by the public and other governmental entities.

(e) The designation by the Board of priority energy projects pursuant to this section shall, to the maximum extent practicable, represent a diverse range of energy sources and technologies.

(f) The Board may designate as a priority energy project more than one related energy facility only if the Board determines that—

(1) the related energy facilities are located in the same or in contiguious geographic areas; and

(2) the principal use of each energy facility is to—

(i) contribute directly to satisfaction of the criteria specified in section 10(b), or

(ii) support a facility within the proposed energy project which satisfies the criteria specified in section 10(b) of this Act.

(g) The Board shall publish in the Federal Register a statement explaining the basis for its designation of each priority energy project. Each such designation shall be subject to judicial review in accordance with sections 21–26.

EXTENSION OF DEADLINES

SEC. 11. The Board may extend the deadlines for receiving comments under section 10(a) and the time for ruling on an application for priority energy project status under section 10(c) if such application is incomplete or if more time is necessary to afford interested persons a reasonable time to comment.

RELATION TO NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 12. (a) Determinations by the Secretary under section 9 and by the Board under section 10 are not subject to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) Promulgation or revision of a Project Decision Schedule under sections 16 and 17 is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969.

(c) Promptly following designation of an energy project as a priority energy project pursuant to section 10, and prior to establishment of a Project Decision Schedule under section 16, the appropriate Federal agency shall determine whether any Federal action relating to the priority energy project will be a major Federal action sigficantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and shall publish notice of its determination in the Federal Register. Upon publication, any person aggrieved may immediately commence a civil action seeking judicial review of that determination under the provisions of this Act. If a Federal agency determines that a priority energy project will be such a major Federal action, the remaining parts of this section shall apply.

(d)(1) Notwithstanding any other provision of law, the Board, after consultation with the Council on Environmental Quality and appropriate State and local agencies, may require that one final environmental impact statement be prepared to reflect the actions of any or all Federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969 and by any or all State and local agencies to substitute for any comparable statement required by State or local law.

(2)(i) A lead agency shall supervise the preparation of the environmental impact statement if more than one agency either:

(A) proposed or is involved in the same action; or

(B) is involved in a group of related actions directly related to each other because of their functional independence or geographical proximity.

(ii) Federal, State or local agencies, including at least one Federal agency may act as joint lead agencies to prepare the environmental impact statement.

(iii) If Federal agencies are unable to agree on which will be the lead agency or a lead agency is not otherwise designated within forty-five days of the determination in subsection (d)(1), any of the agencies or persons concerned may file a request with the Council on Environmental Quality asking it to determine which Federal agency shall be the lead agency. The Council shall determine as soon as possible, but not later than twenty days after receiving the request, which Federal agency shall be the lead agency and which other Federal agencies shall be cooperating agencies.

(3) If the Board requires pursuant to paragraph (1) that such statement substitute for a comparable requirement of State or local law—

(i) such statement shall meet the requirements of the comparable State or local law in the same manner specified under comparable State or local law; and

(ii) the Federal agency or agencies preparing such statement shall consult with the appropriate State and local officials during the preparation of the statement with respect to any portions of such statement which will substitute for comparable requirements under State or local law. At the request of the State or local agency, such agency may prepare the position of the statement dealing with the applicable State or local law.

(e)(1) Before publication of the Project Decision Schedule under section 16, the lead agency designated under subsection (d) shall convene one or more meetings with such other Federal agencies as it deems appropriate and, if the Board has determined that the Federal environment impact statement shall substitute for any comparable State or local statement or other assessment, with representatives of such States or localities. The purposes of such meeting(s) shall be to identify significant issues, establish the content of the environmental impact statement, and determine whether and how responsibilities should be apportioned among other Federal agencies.

(2) After such meetings, the lead agency, with the concurrence of the Board and the Council on Environmental Quality, may determine to prepare the environmental impact statement without requiring assistance from any other Federal agency, notwithstanding any decision by the Board to require that one such statement be used by any or all Federal, State and local agencies.

(f) At any time prior to the completion of the priority energy project and in accordance with the requirements of subsection (d), the lead agency may assign responsibilities in the preparation of the environmental impact statement to any appropriate Federal agency. The lead agency shall publish such assignments in the Federal Register, and such assignments shall be subject to procedures and deadlines specified by the Board. Such procedures and deadlines shall be incorporated in the Project Decision Schedule and shall be treated as part of the Schedule for the purposes of this Act. Except as provided in this section, the deadlines and procedures for carrying out such assignments shall be consistent with the provisions in section 219.

(g) All Federal agencies shall comply with the assignments, deadlines and procedures established pursuant to subsection (f). Nothing in this section shall authorize the Board or Council on Environmental Quality or the lead agency to require any action from any State or local agency in the preparation of the environmental impact statement.

(h) The Board may require that proceedings in which the consideration of an environmental analysis is not required to commence prior to the completion of such environmental statement; *Provided*, That no Federal agency shall issue a final decision significantly affecting the quality of the human environment until at least thirty (30) days after the environmental impact statement has been completed.

(i) Notwithstanding any other provision of law, the Project Decision Schedule established under section 219 shall provide that, prior to the completion of agency preparation of the environmental impact statement, agencies shall give interested persons an opportunity to submit written data, views or arguments with or without opportunity for oral presentation.

(j) For the purposes of this Act, the term—

(1) "Lead Agency" means the Federal agency designated under subsection (d) of this section to prepare an environmental impact statement on a priority energy project;

(2) "Cooperating Agency" mean a Federal agency other than the Lead Agency which has jurisdiction by law or special expertise with respect to an environmental impact statement on a priority energy project and is designated by the Lead Agency as a Cooperating Agency.

EARLY ACTION REQUIREMENT

SEC. 13. The Secretary shall encourage prospective applicants under section 8 to notify the Secretary and to file applications for any necessary government actions or approvals with the appropriate agencies as soon as possible in order that any eventual action or decision may be expedited. The Secretary and the Board may consider any failure to contact the Secretary in a timely fashion in making their respective determinations under sections 9 and 10.

FEDERAL AGENCIES REQUIRED TO SUBMIT INFORMATION

SEC. 14. (a) Upon designation of a priority energy project, the Board shall promptly provide written notice of such designation to the head of—

(1) the Department of the Interior including the Fish and Wildlife Service;

(2) the Department of Agriculture;

(3) the Department of Commerce;

(4) the Department of Transportation;

(5) the Department of Energy;

(6) the Environmental Protection Agency;

(7) the Council on Environmental Quality;

(8) the Department of the Army; and

(9) any other Federal agency with authority to grant or deny any approval or perform any action necessary to the completion of such project or any part thereof.

(b) With respect to each project designated a priority energy project, not later than thirty days after receiving notice as specified in subsection (a), each agency so notified shall transmit to the Board—

(1) a compilation of all significant actions required by such agency before a final decision on any necessary approval(s) can be rendered, including an indication of any time limits established by statute or regulation for such actions;

(2) a compilation of all significant actions required of the applicant or of any other agency before a final decision by such agency can be made, including an indication of any time limits established by statute or regulation for such actions;

(3) a tentative schedule for completing actions listed in paragraphs (1) and (2) of this section and an environmental analysis necessary for the preparation of the environmental impact statement required by section 12 of this title, together with a preliminary indication of any points on such schedules that may present unusual delays anticipated by such agency;

(4) all necessary application forms which must be completed by the priority energy project before such approval can be granted; and

(5) an analysis of (i) the amount of funds and personnel available to such agency to perform the actions required by such agency before any final decisions can be made and (ii) the impact of giving priority status to the applicant on other activities of and applications pending before such agency.

REQUEST FOR STATE COOPERATION AND INFORMATION

SEC. 15. (a) Upon designation of a priority energy project, the Board shall notify the Governor and other appropriate local government agencies or officials of any State which would be significantly affected by a priority energy project and shall request them to supply—

(1) a compilation of significant actions required by the State and local governments before the priority energy project can be completed, including an indication of any time limits established by statute or regulation for such actions;

(2) a compilation of significant actions required of the applicant or any other agency before a final decision can be made, including an indication of any time limits established by statute or regulation for such actions;

(3) a tentative schedule for completing the actions listed in paragraph (1) and (2) of this subsection, together with a preliminary indication of any points on such schedule that may present unusual delays anticipated by the affected agencies;

(4) all necessary application forms which must be completed by the applicant before such approval can be granted; and

(5) an analysis of (i) the amount of funds and personnel available to the agencies of such governments for performing the actions required by such agencies before any final decisions can be made and (ii) the impact of giving priority status to the applicant on other applications pending before such agencies.

(b) The Board may provide any assistance authorized by law to assist State and local authorities (i) in complying with requests for cooperation from the Board, (ii) developing an adequate record for decisionmaking for priority energy projects, and (iii) in expediting decisionmaking for such projects.

PROJECT DECISION SCHEDULE ESTABLISHED BY THE BOARD

SEC. 16. (a) Not later than sixty days after designating a proposed energy facility as a priority energy project, the Board, in consultation with the appropriate Federal, State and local agencies, shall publish in the Federal Register a reasonable Project Decision Schedule. The Project Decision Schedule shall (i) establish deadlines for all Federal, State, and local actions relating to such project and all applications required of such applicant; (ii) clearly identify the order in which licenses, permits and other government approvals must be obtained by the priority energy project before such project can be completed; and (iii) include deadlines for the completion of required portions of the environment impact statement prior to and as a part of each scheduled agency action. In carrying out its functions under this section, the Board may set deadlines for completion of any significant intermediate step to a final agency action governed by the Project Decision Schedule and may suggest concurrent review of applications and joint hearings by agencies of Federal, State, and local governments. All relevent Federal, State and local agencies shall comply with the Project Decision Schedule.

(b)(1) The deadlines in the Project Decision Schedule shall be consistent with the deadlines submitted to the Board under sections 14 and 15 unless the Board determines that different deadlines are essential in order to expedite and coordinate agency review, and publishes, together with the Project Decision Schedule, a brief statement of its reasons for such determination.

(2) Whenever the Project Decision Schedule is not consistent with the schedule which would otherwise apply, such Project Decision Schedule shall apply in lieu of such otherwise applicable schedule.

(3) Any agency may consolidate, to the maximum extent practicable, its proceedings respecting decisions which are subject to the Project Decision Schedule with the proceedings of other agencies respecting decisions which are also subject to such schedule.

(c) The Federal Project Decision Schedule established pursuant to subsection (a) shall expressly provide for the completion of all final agency actions and the issuance of all final agency decisions by a date no later than one year from the date the applicant's application for such actions or decisions is complete, unless a longer period is essential to enable the agency to comply with its statutory obligations or to assure that due process is not denied to any person.

(d) All deadlines in the Project Decision Schedule shall be consistent with the statutory obligations of Federal, State, and local agencies governed by such schedule.

(e) The designation of any energy project as a Priority Energy Project pursuant to this part shall not, except as provided by this section, affect the application to such project of any requirement established by, or pursuant to, Federal, State, or local law, shall not affect the basis on which any agency decision is made with respect to such project, and shall not affect or influence the outcome of any such decision.

(f) Except as specifically provided, nothing in this Act shall be construed to affect the authority or independence of any independent Federal regulatory agency.

MODIFICATION OF PROJECT DECISION SCHEDULE

SEC. 17. (a) Upon the petition of any agency with authority governed by a Project Decision Schedule, the applicant or other interested person, or on its own motion, the Board may modify the Project Decision Schedule. No extension of any time period applicable to any agency under such schedule may be granted unless the Board determines that—

(1) continued adherence to the Schedule would be impractical or would not be in the public interest;

(2) such modification is consistent with the other provisions of this section and is published in the Federal Register;

(3) in the case of a request for a modification by an agency, the agency has exercised due diligence in attempting to comply with the Project Decision Schedule, taking into account the personnel and funds available to the agency for complying with such schedule; and

(4) in the case of a request for a modification by an applicant, the applicant has exercised due diligence in attempting to comply with the schedule.

(b)(1) The Board shall establish procedures for receiving, considering and ruling in an expedited manner on requests for modifications of Project Decision Schedules and shall publish a description of such procedures in the Federal Register. The Board shall allow a reasonable period for public comment on proposed modifications of Project Decision Schedules.

(2) Decisions of the Board on any request for a modification of a Project Decision Schedule shall be issued in writing with a statement of the reasons for the decision. Such statement shall consider comments individually or collectively as the Board deems appropriate.

CERTIFICATION OF COMPLETED AGENCY REVIEW

SEC. 18. (a) If the Board has been notified by the agencies with authority to grant approvals or perform actions or by a reviewing court that all agency actions and approvals on the Project Decision Schedules relating to a priority energy project (i) have been granted, or (ii) have been performed, or (iii) are not necessary; and if further judicial review of such actions or approvals is barred by section 23, the Board shall certify the same to the applicant. Such certification shall indicate any conditions and the expiration date of any approvals that have been granted to the project.

(b) A certificate issued by the Board under subsection (a) of this section shall constitute prima facie evidence in any judicial or executive proceeding that all actions and approvals necessary to the completion of the project have been granted for the duration and subject to the conditions specified on the certificate.

ENFORCEMENT OF PROJECT DECISION SCHEDULE

SEC. 19. (a) If any Federal, State or local agency has failed or is reasonably likely to fail to comply with a deadline established as part of a Project Decision Schedule pursuant to section 16, the General Counsel of the Board may bring an enforcement action on behalf of the Board in the United States Court of Appeals for the circuit in which the priority energy project is, or is proposed to be located. Except as provided in subsection (d), such court shall have exclusive jurisdiction to determine actions brought under this section.

(b) In any action brought under this section, if the court determines that a Federal, State or local agency has failed, or is reasonably likely to fail, to comply with a deadline established as part of a Project Decision Schedule established pursuant to section 16, the court, may exercise its powers at law and in equity and shall order the agency to act in accordance with the existing schedule.

(c) Notwithstanding any other provision of law, including any other provision of this Act, any action brought under this section shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court.

(d) In the case of a State or local agency, the General Counsel of the Board may bring an enforcement action on behalf of the Board in the appropriate State court.

MONITORING OF COMPLIANCE; TERMINATION OF PRIORITY DESIGNATION

SEC. 20. (a) The Board shall monitor compliance with the Project Decision Schedule by the applicant and by the agencies to which the schedule applies and may require such agencies and applicant to submit to the Board such information regarding compliance with such schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay and notify the appropriate agencies and other persons of its determination together with suggestions on how to eliminate or reduce such delay. The Board shall publish such reasons and suggestions in the Federal Register and notify the President and the Congress of its determinations.

(b) At any time after an energy project has been designated a priority energy project, the Board, on its own motion or by a petition by an interested person, shall terminate the priority designation if—

(1) the applicant has not exercised due diligence in attempting to comply with the Project Decision Schedule;

(2) the applicant has not attempted in good faith to comply with any law governing the priority energy project;

(3) the applicant has requested that the priority designation be withdrawn;

(4) the project has been certified under section or the Board determines that it is unlikely that the project will be certified under such section; or

(5) the Board determines that, notwithstanding the Board's earlier determination, the project will not satisfy the criteria specified in sections 10 (b) and (c).

(c) The Board shall publish in the Federal Register notice of its intent to terminate a priority designation and shall afford interested persons at least thirty days in which to submit written comments. Such decision shall be subject to judicial review in accordance with sections 21–26. The Board shall publish a detailed statement explaining the basis for its decision to terminate a priority energy project.

(d) If the Board terminates the priority designation for any priority energy project, the deadlines in the Project Decision Schedule for that project shall no longer apply to any Federal, state, or local agency, and unless the Board redesignates the project pursuant to section 10, the Board shall no longer have authority to establish deadlines for agency decisions relating to the project. Judicial review of any Federal action relating to such project shall no longer be governed by the provisions of this title, *Provided*, That—

(1) jurisdiction over any challenge to any action which is pending in the court specified in section 21 at the time the priority designation is terminated shall be retained by that court if the court determines that the interests of justice would be served by such action; and

(2) any Federal action or approval relating to a priority energy project which was valid before the priority designation for that project was terminated shall not be deemed invalid on the ground that the priority status has been withdrawn or that the Project Decision Schedule is no longer legally applicable.

(e) Termination of a priority designation is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969.

JUDICIAL REVIEW

SEC. 21. (a) The granting or denying of an extension under section 11, shall not be subject to judicial review, except as may be required by the Constitution of the United States.

(b) The designation of a priority energy project under section 10 and the termination of a priority designation under section 20 shall be subject to judicial review in accordance with the other provisions of this title. In reviewing such actions, no court shall—

(1) stay or enjoin such action pending appeal; or,

(2) conduct a trial de novo.

(c) Any civil action brought by any person seeking review of final Federal agency action (whether authorized by this Act or any other provision of law) shall be subject to the following provisions if the action for which review is sought is subject to a deadline in a Federal Project Decision Schedule:

(1) Such action may only be brought in any United States Court of Appeals for the circuit in which the priority energy project is, or is proposed to be, located;

(2) Such action may only be brought within thirty days following the date on which such decision has become final or within a shorter time as may be required by other applicable law;

(3) The Court shall assign such action for hearing, and shall complete such hearing, at the earliest possible date;

(4) Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same priority energy project which are brought in such court or in any other court of the United States.

(5) Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

(6) Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

(d) The provisions of subsection (c)(1)–(5) shall also apply to any action by the Board pursuant to sections 10, 19, and 20 of this Act.

LIMITATION OF ACTIONS

SEC. 22. Any challange to any action pursuant to this title, including any challenge to the constitutionality of this title, shall be brought not later than thirty days following the date of the final agency action relating to the action which is being challenged.

TIME BAR: JURISDICTION OF THE COURT OF APPEALS

SEC. 23. Any claim arising out of action pursuant to this title shall be barred unless a complaint is filed prior to the expiration of the time limits prescribed by this title unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

SUPREME COURT REVIEW

SEC. 24. (a) The Supreme Court shall have exclusive jurisdiction to review any judgment or order of the court of appeals pursuant to this title and the petitioner must file a petition for certiorari or a certification as provided in section 1254 of title 28, United States Code, within thirty days after the decision of the court of appeals or his appeal shall be barred.

(b) Any review by the Supreme Court shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court of that time, and shall be expedited in every way by such court and the court shall render its final decision relative to any claim within ninety days from the date such claim is brought unless the court determines that a longer period of time is required to satisfy requirements of the United States Constitution.

SCOPE OF REVIEW

SEC. 25. Notwithstanding any other provision of law, no action pursuant to this title shall be subject to trial de novo by the reviewing court.

ACTION ON REMAND

SEC. 26. Immediately following any decision remanding to an agency any case or controversy involving an action pursuant to this Act, the Board shall revise the Project Decision Schedule as necessary to expedite any further proceedings required by the decision of the court. Such revisions shall be consistent with section 16 of this Act.

EFFECTIVE DATE

SEC. 27. The provisions of this Act shall become effective thirty days after the day of enactment of this Act, but no application may be submitted for designation of any project as a priority energy project before promulgation of regulations establishing criteria for designation of such projects.

EXPIRATION OF AUTHORITY

SEC. 28. The Board shall cease to exist, and the authority provided to the Board under this Act, shall terminate, on September 30, 1985. Notwithstanding the previous sentence, any Project Decision Schedule established under this part for any priority energy project prior to the expiration of such authority, and the other provisions of this part applicable to such project, shall continue to be applicable to such project after September 30, 1985.

AUTHORIZATION

SEC. 29. There is authorized to be appropriated the Board to carry out the provisions of this Act such sums as are necessary for fiscal years 1980, 1981 and 1982.

Section-by-Section Analysis

ENERGY MOBILIZATION BOARD ACT OF 1979

Sec. 1. Title.

This section establishes the title of this Act as the Energy Mobilization Board Act of 1979.

Sec. 2. Purposes.

This section establishes the purposes of this bill. The purpose of this Act is to provide a coordinated, integrated and timely process for review, permitting, and licensing of non-nuclear energy projects which are significant to the national interest, without interfering with the present statutory auhorities and responsibilities of federal, state, regional, and local agencies. To accomplish this purpose, the bill would establish an Energy Mobilization Board to administer, in conjunction with the Department of Energy, a Priority Energy Project program.

Sec. 3. Definitions.

This section establishes definitions for this bill.

Sec. 4. Establishment and Membership of the Energy Mobilization Board.

This section provides for the establishment and membership of an Energy Mobilization Board. Subsections (a) and (b) provide for three members of the Board who shall be appointed by and with the advice and consent of the Senate, and who shall be individuals especially qualified by experience or training to carry out the functions of the Board. Subsections (c) and (d) provide no member of the Board may hold another office or position in the government, and that the principal office of the Board will be in or near the District of Columbia.

Subsection (e) provides for a four-year term of office for each member of the Board, conterminous with the term of the President. This section also provides that a member whose term has expired may continue to serve until a successor is appointed by the President, by and with the advice and consent of the Senate, but he may not serve for more than one year after the date on which the term of the member would otherwise expire under this section.

Subsection (f) provides that a member appointed to fill a vacancy before the end of a term of his predecessor serves for the remainder of that term. It also provides that any appointment to fill a vacancy is subject to the requirements of this section.

As established by this bill, the Board would exercise functions that are largely executive in nature. Accordingly, no restriction are made on the President's power to remove members of the Board.

Sec. 5. Officers of the Board.

This section provides for the appointment of a Chairman, Vice Chairman, and General Counsel, of the Energy Mobilization Board.

Subsection (a) provides that the President shall appoint, with the advice and consent of the Senate, one of the members of the Board as Chairman of the Board. The Chairman serves at the pleasure of the President as Chairman. This subsection provides that the Chairman of the Board shall be the principal executive officer of the Board and shall exercise all the executive and administrative functions of the Board. The Chairman, in carrying out his functions, shall be governed by the general policies of the Board and by its regulatory decisions, findings, and determinations. This subsection also provides that the Board will reserve its functions with respect to revising budget estimates and with respect to determining the distribution of appropriated funds according to major programs and purposes.

Subsection (b) provides that the President shall designate one of the members of the Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the Office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

Subsection (c) provides that in the absence or disability of both the Chairman and Vice Chairman or when the offices of Chairman and Vice Chairman are vacant, the remaining Board members shall perform the functions vested in the Chairman.

Subsection (d) provides that the Chairman and members of the Board shall not engage in any other business, vocation, or employment while serving on the Board.

The members of the Board would be full time officers of the Board. The extensive responsibilities of the Board as well as its anticipated large workload makes part-time membership unwise and unworkable. This also will eliminate conflict of interest problems that could occur if members served on a part-time basis, and will give Board members standing with agencies of federal, state and local governments which will be cooperating with the Board.

The bill provides no exemption for Board members from the Ethics in Government Act of 1978. There has been no demonstrated need for any such exception; on the contrary, the exceptional powers granted the Board under this bill would require that its members adhere to the highest ethical principles. For example, an employee of an energy company should not be permitted to make decisions as a Board member that might affect his own financial interests, or those of his company or its competitors.

Subsection (e) provides for appointment of a General Counsel, by and with the advice and consent of the Senate, who shall receive compensation at the prescribed rate for offices and positions at Level I of the Executive Schedule, and who by demonstrated ability, training or experience is especially qualified to carry out the functions of the General Counsel.

The Chairman shall receive compensation at Level I of the Executive Schedule. This subsection provides that members of the Board shall receive compensation at Level II of the Executive Schedule.

Subsection (f) provides for the appointment of an Executive Director who shall exercise such powers and duties as are delegated to him by the Board or its Chairman, and who shall receive compensation at the rate provided for offices and positions at Level IV of the Executive Schedule.

Sec. 6. Power and authority of the board.

This section provides powers and authorities for the Energy Mobilization Board, and authorizes the Board to exercise the powers granted under this Act.

Subsection (a) authorizes the Board to decide and administer all matters within the jurisdiction of the Board under this Act and, subject to otherwise applicable provisions of law, take final action on any such matters. The Board is authorized to sit at places and times as it may determine. It also provides that the Board shall have the authority to hire consultants, form advisory committees, inter-agency task forces, and other personnel arrangements in accord with federal law. The Board may also enter into contracts or other arrangements as may be necessary for the conduct of its work with any agency or instrumentality of the federal, state, regional, or local government, or with any person to carry out its responsibilities under this Act, provided that the Board shall not use its authority to become directly involved in the actual construction or operation of any priority energy project. Further, subsection (a) provides the Board with the authority to prescribe such rules and regulations as it deems necessary governing the operation and organization of the Board.

Subsection (b) requires that contractors and other parties entering into contracts or other arrangements under this section involving costs to the government maintain books and records to facilitate an effective audit of the execution of these contracts or arrangements. These books and records shall be available to the Board, the Comptroller General or any of their representatives for the purpose of audits and examinations.

Subsection (c) provides that the Board is authorized to secure directly from any executive department or agency information, suggestions, estimates, statistics, and technical assistance for the purposes of carrying out its functions under this Act. This subsection requires such executive department or agency shall furnish the information directly and expeditiously to the Board upon its request.

Subsection (d) provides that the head of any executive department or agency may detail any of its personnel to the Board to assist it in carrying out its functions under this section.

Subsection (e) provides that the Chairman may obtain services of experts in accordance with section 3109 of title 5, United States Code.

Subsection (f) provides that in carrying out the provisions of this Act the Chairman is authorized to appoint such personnel as may be necessary in accordance with the civil service laws. No need has been shown to waive the requirements of the civil service laws in order for the Board to obtain qualified personnel.

Subsection (g) provides that the Board shall not interfere with labor-management relations, or take any actions which conflict with the terms of existing labor-management contracts, in carrying out its responsibilities under this Act.

Section 7. Reports of the Board.

This section provides that the Board shall periodically review its activities under the Act and shall report to the Congress annually, or more often as it may deem necessary, on the functioning of the selection and designation process for priority energy projects, the status of projects, the effectiveness of the Board's actions, any significant delays in completion of projects and the causes thereof.

Such reports may assist the Congress in its review of the functioning of certain statutes. For example, a project may encounter difficulties in meeting the requirements of a particular statute or regulation. In such cases, the Board should inform the Congress, and the Congress may then act in its constitutionally established role and duty to enact and amend the law. This places accountability with the Congress for the laws it enacts.

AUTHORITY TO APPLY FOR PRIORITY STATUS

Sec. 8. Sections 9 through 11 set forth the procedures and criteria for designating priority energy projects. Section 8 authorizes any person planning or proposing an energy project to apply to the Secretary of Energy for the selection of such project as a candidate priority energy project. The application is to identify all federal, state, and local licensing or permitting actions necessary for approval and development of the project and to contain detailed information on the project's design, economics, and environmental impacts. The Secretary of Energy may specify other information to be contained in such applications by regulations promulgated pursuant to section 9(b) concerning the selection of candidate priority energy projects. No later than five days after receipt of an application the Secretary is required to publish a notice of the designation request and a brief description of the project for which designation is sought in the Federal Register.

AUTHORITY OF THE SECRETARY OF ENERGY

Sec. 9. This section provides that on January 1 and July 1 of each year following enactment of this Act the Secretary is to select from all pending applications for priority designation between 8 and 24 candidate priority energy projects which are to be forwarded to the Energy Mobilization Board for further examination under the provisions of section 10. When he forwards the candidate projects, the Secretary is to provide a statement explaining his selection and other pertinent materials. In selecting candidate priority energy projects, the Secretary is to use the criteria set forth in section 10; and only projects which, in the Secretary's judgment meet these criteria may be selected as candidates for Board designation as priority energy projects. Section 9 also requires the Secretary to select as candidate priority energy projects those energy projects that best meet the section 10 criteria and, to the maximum extent practicable, those that, when all selections in a given selection cycle are considered collectively, represent a diverse range of energy sources and technologies.

Section 9 further specifies that, in consultation with the Energy Mobilization Board, the Secretary shall publish regulations for selecting candidate priority energy projects in accordance with the criteria set forth in section 10. Such regulations might provide, for example, that certain classes of energy projects would not be eligible for consideration as candidate priority energy projects because of their inherent inability to meet the section 10 criteria. The type of information from applicants necessary for the Secretary to make his decision and any clarification as to how the Secretary intends to apply the section 10 criteria could also be included in such regulations.

Finally, Section 9 requires the Secretary to adopt procedures necessary to assure applicants, affected agencies and interested members of the public an opportunity to participate in the selection of candidate priority energy projects.

It is important that the Secretary to employ the expertise, resources, and policy judgments of the Secretary of Energy to narrow the field of potential priority energy projects from the many applications anticipated and to ensure that the overall process of designating priority energy projects is based upon comparison of the relative merits of a wide range of applications.

Selection decisions of the Secretary are not subject to judicial review.

DESIGNATION OF PRIORITY ENERGY PROJECTS

Sec. 10. This section provides for the Energy Mobilization Board to make the final designation of projects as priority energy projects from the candidate projects forwarded by the Secretary of Energy.

Subsection (a) provides that upon receipt of the applications for the candidate priority energy projects elected by the Secretary, the Board is to publish a notice in the Federal Register soliciting public comments in the candidate projects to aid in the Board's determination of which among them should receive priority energy project designation. The Board may hold hearings and adopt other procedures to aid in its consideration. In addition the Board is to notify Federal, State and local agencies likely to be afffected by any candidate priority energy project; the agencies may offer written comments on pending candidate projects. Further, the Board is to consult with officials of state and local agencies likely to be affected by the designation of a candidate project as a priority energy project.

Subsection (b) further provides that even though the Board may have denied a designation request for a particular project, during a previous cycle the Secretary may forward it to the Board as a condidate priority energy project and the Board may designate it a priority energy project.

Subsection (c) also specifies that within 60 days of the close of the period for public comment (which is also to be a period of 60 days) the Board is to determine which, if any, of the candidate energy projects it will designate priority energy projects. The Board may not designate more than 8 projects as priority energy projects during any calendar year and at no time may there be more than a total of 24 projects with priority energy project status. The Board may not designate a candidate project to be a priority energy project unless it finds that the project is of sufficient national interest to warrant such designation; will affect interstate commerce; will significanty contribute to a reduction in the use of imported energy supplies and the achievement of a fifty per centum reduction in the use of imported oil by calendar year 1990; and needs accelerated decision making as provided under this Act so it will make a timely reduction in the use of imported oil. The findings of the Secretary of Energy on these questions, made in his selection of candidate priority energy projects, are not binding on the Board but are to be considered by the Board as being in the nature of recommendations by the Secretary.

The Board may not, however, designate as a priority energy project any project which has not been selected by the Secretary as a candidate priority energy project during the most recent selection cycle. The Board thus has the authority to find that a candidate project does not satisfy the above mentioned criteria.

Subsection (d) specifies that the Board is to consider 7 additional factors in making its designation, including:

(1) whether the environmental uncertainties or the potential adverse environmental impacts of the project are such that they cannot be adequately considered and resolved in the period of time permitted for review of the priority energy project;

(2) the extent to which the proposed facility would make use of renewable energy resources;

(3) the extent to which the proposed facility would promote energy conservation;

(4) the extent to which the proposed facility would contribute to the development of new energy production or conservation technologies and techniques;

(5) the degree of specificity in describing the proposed facility in the application;

(6) the probable long-term impact of the facility upon energy supply and demand; and

(7) comments submitted by the public and other governmental entities.

In making its designations, furthermore, the Board shall to maximum extent practicable select projects which represent a diverse range of energy sources and technologies.

Subsection (f) states that the Board may designate multiple related energy facilities as a single priority energy project only if the related energy facilities are located in the same or in contiguous geographic areas, and each facility either contributes directly to satisfying the criteria specified in section 10(a) or supports a facility within the candidate priority energy project which satisfies the criteria specified in section 10(a).

Subsection (g) requires the Board to publish in the Federal Register a statement explaining the basis for its designation. Each such designation is subject to judicial review under the provisions of sections.

Sec. 11. Extension of Deadlines.

This section authorizes the Board to extend the deadlines for receiving public comments on the designation of priority energy projects, and the time for ruling on an application for designation, if the application is incomplete or if more time is necessary to afford interested persons a reasonable time to comment.

Sec. 12. Relationship to National Environmental Policy Act.

This section establishes the relationship of determinations by the Secretary and the Board to the National Environmental Policy Act of 1969.

Subsection (a) provides that determinations by the Secretary under section 9, and by the Board under section 10 are not subject to section 102(2)(C) of the National Environmental Act of 1969.

Subsection (b) provides that the promulgation or revision of a Project Decision Schedule under section 218 of this Act is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969.

Subsection (c) provides that after the designation of a priority energy project and prior to the establishment of a Project Decision Schedule the appropriate federal agency shall determine whether any federal action relating to the priority energy project will be a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA, and shall publish notice of its determination in the Federal Register. Upon publication, any person aggrieved may commence a civil action seeking judicial review of that determination under the provisions of this Act.

Subsection (d) provides that notwithstanding any other provision of law, the Board, after consultation with the Council on Environmental Quality and appropriate State and local agencies, may require that one final environmental impact assessment be prepared to reflect the actions of any or all federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969, and by any or all State and local agencies to substitute for any comparable statement required by State or local law. The bill preserves current regulations and practices concerning the designation of the lead agency to prepare the environmental impact statement.

This subsection also requires a lead agency to supervise the preparation of the environmental impact statement if more than one agency proposed or is involved in the same action, or is involved in a group of related actions directly related to each other functionally or geographically. The subsection provides that Federal, State or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare the environmental impact statement. If, within forty-five days of the Board's determination in subsection (d)(1), Federal agencies are unable to agree which agency will be the lead agency, any of the agencies or persons concerned may request the Council on Environmental Quality to determine which shall be the lead agency.

The subsection further requires that if the Board requires that such a statement substitute for a comparable requirement of State and local law, such statement shall include all matters required under the comparable State or local law in the same manner specified under such comparable State or local law, and that the federal agencies preparing such a statement shall consult with the appropriate State and local officials during the preparation of the statement with respect to any portions of such statement which will substitute for comparable requirements under State or local law. At the request of the State or local agency, such agency may prepare the portion of the statement dealing with the applicable State or local law.

Subsection (e) requires that before publication of Project Decision Schedule, the lead agency designated to prepare the environmental impact statement shall convene one or more meetings wih other federal agencies as it deems appropriate, and if the Board has determined that the federal environmental impact statement shall substitute for any comparable State or local statement, with representatives of such States or localities. This subsection further provides that the purposes of this meeting shall be to identify significant issues, establish the content of the statement, and to determine whether and how responsibilities should be apportioned among other federal agencies. This subsection provides, too, that after such meeting, the lead agency, with the concurrence of the Board and the Council on Environmental Quality, may determine to prepare the statement, without requiring assistance from any other federal agency, notwithstanding any decision by the Board to require that one such statement may be used by any or all federal, state, and local agencies.

Subsection (f) requires that any time prior to the completion of the priority energy project the lead agency may assign responsibilities in the preparation of the environmental impact statement to any appropriate federal agency. The lead agency shall publish such assignments in the Federal Register, and such assignments shall be subject to the procedures and deadlines specified by the Board. The subsection requires that such procedures and deadlines shall be incorporated in the Project Decision Schedule and shall be treated as part of this Schedule for the purposes of this Act.

Subsection (g) requires that all federal agencies shall comply with the assignments, deadlines, and procedures established pursuant to subsection (f) of this section.

Subsection (h) requires the Board to require that proceedings which are not specifically required by law to substantially rely on the findings of the environmental impact statement commence prior to completion of such environmental impact statement but provides that no Federal agency shall issue a final decision significantly affecting the quality of the human environment until at least thirty days after the environmental impact statement has been completed.

Subsection (i) provides that nothwithstanding any other provision of law the Project Decision Schedule shall provide that, prior to the completion of agency actions, agencies shall give interested persons an opportunity to submit written data, views, or arguments with or without opportunity for oral presentation.

Subsection (j) provides additional definitions for the purposes of this Act.

Sec. 13. Early action requirement.

This section requires the Secretary to encourage prospective applicants to notify the Secretary and to file applications for any necessary government actions or approvals with the appropriate agencies as soon as possible in order that eventual action or decision may be expedited.

Sec. Federal agencies required to submit information.

This section requires federal agencies to submit information to the Board.

Subsection (a) requires that upon issuance of an order designating a priority energy project, the Board shall promptly provide written notice of such order to the Department of the Interior, the Department of Agriculture, the Department of Commerce, the Department of Transportation, the Department of Energy, the Environmental Protection Agency, the Council on Environmental Quality, the Department of the Army, and any other federal agency with authority to grant or deny any approval or perform any action necessary to the completion of such project or any part thereof.

Subsection (b) provides that no later than 60 days after receiving notice, as specified in subsection (a), each agency shall transmit to the Board certain information critical to their consideration and expedition of these projects.

Sec. 15. Requests for State cooperation and information.

This section requires that the Board notify the Governor and other appropriate local officials or agencies of any state which would be significantly affected by the completion of the priority energy project and shall request them to supply, among other things, compilations of significant actions required by state and local governments and by the applicant before the priority energy project can be completed; and a tentative schedule for completing such actions. This section also authorizes the Board to provide assistance authorized by law to assist any state or local authorities in complying with the request for cooperation from the Board, and to assist such authorities in expeditiously completing its consideration. The Board is also authorized to assist in developing an adequate record for decisionmaking for priority energy projects.

Sec. 16. Project decision schedule established by the Board.

This section requires the Board to establish a Project Decision Schedule, containing deadlines for all federal, state, and local actions relating to a priority energy project.

Subsection (a) provides that not later than 60 days after designating a proposed energy facility as a priority energy project the Board shall publish in the Federal Register a Project Decision Schedule containing reasonable deadlines. This subsection requires that all relevant agencies comply with the Project Decision Schedule. The Schedule shall clearly identify the order in which licenses, permits, and other government approvals must be obtained by the project before such project can be completed. The Schedule shall include deadlines for completion or the required portions of the environmental impact statement prior to and as a part of each scheduled agency action. The schedule may also suggest concurrent review of applications and joint hearings by agencies of the federal, state, and local governments. In order to expedite agency actions, and improve enforcement of the deadlines, the Board may set deadlines for completion of any significant intermediate step to a final agency governed by the Project Decision Schedule.

Subsection (b) provides that the deadlines in the Project Decision Schedule shall be consistent with the deadlines submitted to the Board under sections 14 and 15 unless the Board determines that different deadlines are essential to expedite and coordinate agency review, and publishes, together with the schedule, a brief statement of its reasons for such determination.

Subsection (c) requires that final agency actions be completed no later than one year after the applicant's application for such actions is complete, unless a longer period is essential for an agency to meet a statutory obligation or assure due process.

Subsection (d) provides that all deadlines in the Project Decision Schedule shall be consistent with the statutory obligations of Federal, state and local agencies governed by such schedule.

Subsection (e) provides that designation of a project as a priority energy project shall not affect the obligations of the project to comply with federal, state or local laws, nor shall it affect or influence the basis for an agency decision under such laws.

Subsection (f) provides that, except as specifically provided, nothing in this Act shall be construed to affect the authority or independence of any independent Federal regulatory agency.

Sec. 17. Modification of project decision schedule.

Subsection (a) provides that upon petition of any agency with authority governed by a schedule, of the applicant or of any other interested person, the Board may modify the Project Decision Schedule. No extension of any time period applicable to any agency under the schedule may be granted unless the Board makes certain determination including that continued adherence to the schedule would be impractical or not in the public interest; that such modification is consistent with other provisions in this section; and that the agency or the applicant, as the case may be, have exercised due diligence in attempting to comply with the schedule.

Subsection (b) provides that the Board shall establish procedures for receiving, considering and ruling in an expedited manner on requests for modification of Project Decision Schedules and shall publish a description of such procedures in the Federal Register.

Subsection (c) provides that the procedures used for the modification of the Project Decision Schedule shall not be subject to judicial review under any law other than the Constitution of the United States.

Sec. 18. Certification of completed agency review.

Subsection (a) provides that the Board shall certify to the applicant that agency review has been completed after the Board has been notified by the relevant agencies that all agency actions and approvals on the Project Decision Schedule have been granted, performed, or are not necessary; and that further judicial review of such actions or approvals is barred by section 23.

Subsection (b) provides that a certificate issued under subsection (a) shall constitute prima facie evidence in any judicial or executive proceeding that all actions and approvals necessary to the completion of the project have been granted, subject to the conditions specified on the certificate.

Sec. 19. Enforcement of project decision schedule.

This section provides mechanisms for the enforcement of the Project Decision Schedules.

Subsection (a) provides that if any federal, state, or local agency has failed to comply with a Project Decision Schedule, the General Counsel of the Board may bring enforcement action on behalf of the Board in the United States Court of Appeals for the circuit in which the priority energy project is or is proposed to be located. Except as provided in subsection (d), such court shall have exclusive jurisdiction to determine actions brought under this section.

Subsection (b) provides that in any action brought under this section, if the court determines that a federal, state, or local agency has failed to comply, or is unlikely to comply, with a Project Decision Schedule, the court shall order the agency to act in accordance with the existing schedule.

Subsection (c) provides that notwithstanding any other provision of law, including any other provision of this Act, any action brought under this section shall be assigned for hearing and completed at the earliest possible date.

Subsection (d) provides that in the case of a state or local agency, the Board has the option of bringing an enforcement action in the appropriate state court.

Sec. 20. Monitoring of compliance, termination of priority designation.

This section requires the Board to monitor compliance by the applicant and the agencies to the Project Decision Schedule.

Subsection (a) requires the Board to monitor compliance with the Project Decision Schedule and may require agencies and applicants to submit to the Board such information regarding compliance with such schedule as the Board deems necessary and appropriate for such purposes. This section further provides that if the Board determines that a project is being delayed or threatened with delay, the Board shall determine the reasons for such delay and notify the appropriate agencies and other persons of its determination together with suggestions on how to eliminate or reduce such delay.

Subsection (b) provides that any time after an energy project has been designated a priority energy project, the Board, on its own motion or by petition from an interested person, shall terminate the priority designation if certain conditions exist, including lack of due diligence on the part of the application complying with the Project Decision Schedule; lack of a good faith effort on the part of the applicant to comply with any law governing the priority energy project; a request on the part of the applicant that the priority designation be withdrawn; the Board determines that the project does not satisfy the designation critetria; the project has been certified as completed or in the judgment the Board project is unlikely to achieve such certification.

Subsection (c) provides that the Board shall publish in the Federal Register a notification of its intent to terminate a priority designation and shall give interested persons at least thirty days to comment. After the termination, the Board shall publish a statement explaining the reasons for its decision. Such decision shall be subject to judicial review in accordance with Sections 21–26.

Subsection (d) provides that if the Board terminates the priority designation for any priority energy project the deadline established in the Schedule for that project shall no longer apply to any agency unless a project is redesignated. Judicial review of any federal action relating to such projects shall no longer be governed by the provisions of this Act.

Subsection (e) provides that termination of a priority designation is not subject to review under the National Environmental Policy Act of 1969.

Sec. 21. Judicial review.

This section provides for judicial review of decisions.

Subsection (a) provides the granting or denying of an extension under section 11 shall not be subject to judicial review, except as may be required by the Constitution of the United States.

Subsection (b) provides that the designation of a priority energy project and the termination of a priority designation shall be subject to judicial review in accordance with other provisions of this title. In reviewing such actions, no court shall stay or enjoin such action pending appeal or conduct a trial de novo.

Subsection (c) provides that any civil action brought by any person seeking review of final Federal agency action (whether authorized by this Act or any other provision of law) shall be subject to the following conditions if the review action is subject to a deadline on a Federal Project Decision Schedule:

1. such action may only be brought in a U.S. Court of Appeals for the circuit in which the priority energy is located;

2. such action may only be brought within thirty days following the date on which such decision has become final or within shorter times as may be required by other applicable law;

3. the Court shall complete its hearing of the action at the earliest possible date;

4. such action shall, to the greatest extent practicable, take precedence over all other matter pending on the Court's docket at the time and shall be consolidated, to the greatest extent practicable, with other actions relating to the same priority energy project;

5. any reviewing court shall also expedite and consolidate such review to the greatest extent practicable;

6. any agency decision with respect to which review could have been obtained under this subsection may be subject to judicial review in any other proceeding.

Subsection (d) provides that subsection (c)(vi) shall also apply to any action by the Board pursuant to sections 10, 19, and 20.

Sec. 22. Limitation of actions.

This section provides that any challenge to any action pursuant to this Act may include any challenge to the constitutionality of this Act and shall be brought not later than 30 days following the date of the final agency action relating to the action which is being challenged.

Sec. 23. Time bar; Jurisdiction of the court of appeals.

This section provides that any claim arising out of action pursuant to this Act shall be barred unless a complaint is filed prior to the expiration of the time limits prescribed by this Act unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

Sec. 24. Supreme Court review.

This section provides that the Supreme Court shall have exclusive jurisdiction to review any judgment or order of the Court of Appeals pursuant to this title. This section requires that the petitioner must file a petition within 30 days after the decision of the Court of Appeals or his appeal shall be barred. This section further provides that any review by the Supreme Court shall be assigned for a hearing and completed at the earliest possible date, and shall take precedence on the docket of the Court at the time. This requires the Court to make its final decision within 90 days from the date such claim is brought unless the Court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

Sec. 25. Scope of review.

This section provides that, notwithstanding any other provision of law, no action pursuant to this title shall be subject to trial de novo by the reviewing court.

Sec. 26. Action on remand.

This section provides that immediately following any decision remanding to an agency any case or controversy involving an action pursuant to this title, the Board shall revise the Project Decision Schedule as necessary to expedite any further proceedings required by the decision of the court.

Sec. 27. Effective date.

This section provides that the provisions of this title shall become effective 30 days after the date of enactment of this Act.

Sec. 28. Expiration of authority.

This section provides that the Board shall cease to exist and the authority provided to the Board under this part shall terminate on September 30, 1985.

Sec. 29. Authorization.

This section provides that there is authorized to be appropriated to the Board to carry out the provisions of this title such sums as are necessary for fiscal years 1980, 1981, and 1982.●

● Mr. MUSKIE. Mr. President, the Members of the Senate have discussed at length the need for a national energy plan in recent months. The President has presented us with a many-faceted program to reduce our dependence on imported oil, including the creation of an Energy Mobilization Board. The Board's purpose would be to expedite consideration of proposed energy facilities. As the Senate Energy and Natural Resources Committee has developed its bill to create such a Board, I have examined carefully the advantages and disadvantages of this mechanism.

There is no evidence to justify waiving substantive statutes to which energy facilities are subject, yet such a waiver came very close to being adopted by the Energy Committee. The call for energy independence has been a convenient shield for those who cannot find any other way to wipe away the environmental health, safety, labor, and civil rights requirements crafted so carefully by the Congress.

Some have lost sight of the original goal of the legislation: The goal is to reduce our dependence on foreign oil.

Proposals have been advanced to afford special treatment to deepwater ports which would receive foreign oil, and to refineries which would process imported crude oil. Those are outside the proper scope of such legislation.

This bill which we introduce today is, therefore, an attempt to separate the wheat from the chaff. It is an attempt to identify a mechanism by which projects capable of producing domestic energy can be constructed expeditiously without bypassing the requirements of protective laws developed over many decades.

Specifically, this bill would do the following:

An Energy Mobilization Board would be created to designate priority energy projects that would be put on a fast decisionmaking track;

Projects would be designated for fast decisionmaking only if they reduced dependency on imported oil and needed such designation;

The Department of Energy would screen applications for priority treatment and forward for the Board's consideration those proposals which were consistent with the national energy plan, thus assuring coordination between the two agencies and rational choices among competing projects;

Local, State, and Federal officials, as well as other interested persons, would have an opportunity for participation in the designation process;

Only one environmental impact statement would be prepared for a priority project, thereby reducing paperwork and delay, although State and local environmental impact assessment requirements must be met;

The Board would set deadlines for all government actions necessary to begin operation of the facility and all government agencies would be required to adhere to those deadlines;

The Board would enforce the deadlines through court order;

Judicial review of agency decisions would be expedited, but State courts' jurisdictions over purely local matters would be preserved.

There is no provision for waiver of any substantive law, Federal, State or local. The evidence available indicates that environmental requirements have not seriously constrained the construction of energy facilities. For example, EPA has issued air pollution permits in clean air areas for 81 units since the program began in 1975. Only two permits have been denied. And, EPA has granted 74 of 76 permit applications for new coal-fired powerplants.

Nor has the time required by the Agency to process permits been excessive. Delays have more often resulted from failure of an applicant to provide required data, and financing problems.

The bill we are introducing does not provide for the waiver of new requirements for projects under construction, or after their completion. Such a waiver fails to recognize that new requirements are often enacted or promulgated as specific remedial responses to problems which were unknown or unknowable at the time a project was initially approved. Such a prohibition would effectively prevent corrective action needed to protect public health or the environment.

In summary, Mr. President, I believe we can expedite decisionmaking without doing damage to State and local rights or to the substantive and procedural protections afforded in existing Federal, State and local laws. And, I believe it is the desire of the Congress to achieve both of these goals in developing a comprehensive national energy plan. We offer this bill as an alternative mechanism to do just that.

I ask unanimous consent that a letter from Maine's Attorney General Richard S. Cohen and a resolution adopted by the Eastern Regional Conference of the National Association of Attorneys General bearing on this issue, be printed in the Record at this point.

State of Maine,
Department of the
Attorney General,
Augusta, Maine, September 21, 1979.

Hon. Edmund S. Muskie,
U.S. Senate,
Russell Building,
Washington, D.C.

Dear Senator Muskie: It has come to my attention that Senator Johnston of Louisiana has offered an amendment to S. 1308 that would authorize the proposed Energy Mobilization Board to supercede any federal, state or local regulatory act, including public health, safety, environmental and land use laws, deemed to be a substantial impediment to completion of a priority energy project.

I have grave concerns about the wisdom of this proposal and would oppose passage of any legislation containing a provision such as that proposed, since I believe it to be bad public policy to supercede laws designed to protect public health and safety. My position is also shared by the Eastern Regional Conference of the National Association of Attorneys General, which group recently adopted a resolution opposing such a Johnston Amendment. A copy of the draft resolution is enclosed.

Please feel free to call me if you wish to discuss this further.

Best regards.

Sincerely,

Richard S. Cohen,
Attorney General.

Whereas, the Attorneys General, as the chief law enforcement officers of their respective states, are concerned with all statutes relating to the health and welfare of citizens of their states; and

Whereas, all states and their subdivisions have enacted statutes, by-laws and ordinances that provide for the health and welfare of their citizens; and

Whereas, the operation of those statutes, by-laws and ordinances is indicative of healthy federal-state relations; and

Whereas, the power of states and their subdivisions to enact and enforce such statutes, by-laws and ordinances has long been recognized by the courts; and

Whereas, the solution to our concededly real energy crisis lies in a careful, long-range program of energy-development and conservation and not in hasty solutions that will undermine existing protections for public health and welfare;

Now, therefore, be it resolved that the Eastern Association of Attorneys General opposes the adoption of the amendment to S. 1308 offered by Senator Johnston of Louisiana, which amendment provides for the waiver by the Energy Mobilization Board of any federal, state or local law deemed to be a "substantial impediment" to the completion of a "priority energy project." ●

● Mr. GLENN. Mr. President, despite our declared goals of energy security and independence from imported energy supplies, we are giving our best contenders in the area of new energy projects little more than an opportunity to run in place. We must build a fast track for them—a format for them to receive expedited review. I am cosponsoring the "Energy Mobilization Board Act of 1979" because I believe it represents the best way to do just that.

Frankly, I am appalled that we need even to think about an Energy Mobilization Board. We should not be in this predicament. We should not have permitted—let alone abetted—the development of a system in which critical energy projects can get snarled up and bogged down in a morass of uncoordinated procedures, duplicative paperwork, and unwarranted delays.

We should have done everything in our power to help craft a system that would yield fair, comprehensive and timely decisions on diverse energy projects supported by a broad spectrum of public officials and private citizens.

Not that we have not tried. We have attempted to establish and make the most of governmental expertise in energy technologies; energy conservation; energy economics; international energy issues; energy and the environment, health and safety—you name it. Two years ago we established a Department of Energy to help bring it all into line.

Unfortunately, despite our good intentions, the result has been little short of dismal. The blame, if blame need be put, does not lie alone with the management of DOE. The Congress must accept some of the opprobrium as a result of establishing a mandate for a new Department without an appropriate level of authority or organizational structure for that Department.

Mr. President, in cosponsoring energy mobilization legislation, I am obviously acknowledging the failures of our efforts. But this bill would, more than any other current proposal for an Energy Mobilization Board, make use of the best of our past efforts to alleviate the present mess.

I am not eager—to put it mildly—to create a new governmental entity. I want Congress to do its part to correct the defects in existing agencies and processes. But in the area of energy, that can be a major, long-term undertaking. We must set out to take responsibility for that undertaking, but in the meantime we must fill a crucial gap by providing a system for appropriately accelerated decisionmaking on significant energy projects.

One of the most important facets of this bill—and one to which I have devoted particular attention—is the careful process it sets forth for designating priority energy projects. What decision is more critical than that? Unless priority energy projects are selected on the basis of sufficient scrutiny by governmental experts and interested persons, the expedited decisionmaking process that follows the designation will crumble—and our efforts here will once again prove to be wasted.

To avoid that, this bill gives the Department of Energy a significant role in the designation process—thereby involving at the crucial front end of the fast tract the agency which is responsible for national energy policy and which contains the Federal Government's greatest concentration of energy experts.

Briefly, under this legislation, the Secretary of Energy would conduct an initial screening of all applications for designation, and select between 8 and 24 of the best according to the bill's criteria. Applicants, interested agencies and the public would be in on this screening process. The Secretary would then forward the 8 to 24 candidate priority energy projects to the Energy Mobilization Board, which would—again, with public and agency comment—designate up to eight as priority energy projects.

This would be a 6-month cycle—so that twice a year significant energy projects would have the opportunity to be designated priority energy projects. Although the Board could designate up to 8 in any one cycle, it would not designate more than 8 in a calendar year, and it would not have more than 24 on the fast track at any one time. We do not want to overload the system. We want to make it work for the projects that merit it most.

After designation, the Board—together with appropriate Federal, State, and local agencies—would develop a project decision schedule. This schedule would provide, in general, that all necessary decisions on the project be made within 1 year after the application for the project is completed.

This means tightening deadlines, coordinating efforts at various governmental levels, and consolidating procedures wherever and whenever possible. It does not mean ignoring, skirting, or otherwise short-circuiting the substantive responsibilities of any Federal, State, or local entity. They are far too important for that. We want to expedite intelligently, not rush blindly.

The project decision schedule would be binding on the agencies involved. If any of them failed to make a required decision according to that schedule, the Board could obtain a Federal Court of Appeals order directing the responsible agency to make the necessary decision forthwith.

Mr. President, I believe this bill not only provides for an accelerated decisionmaking system that is procedurally clean and substantively fair, but also insures—through its careful designation process—that the best energy projects will be the priority energy projects. And that cannot help but benefit the Nation.●

● Mr. PERCY. Mr. President, I wish to lend my full support today to the Energy Mobilization Board Act of 1979, offered by my good friend and distinguished colleague, the senior Senator from Connecticut.

The Energy Mobilization Act is designed to hasten the construction of new, crucial energy facilities in our country. It will accomplish this, however, with full respect for the requirements of State, local and Federal law, and with a deep appreciation for our need to preserve essential environmental standards. It assures that the Energy Mobilization Board's decision will be consistent with and contribute to our long-range energy priorities. The bill creates an Energy Mobilization Board that is both efficient and responsible.

Several key features of this Mobilization Board proposal highlight its attention to these concerns:

First, the Mobilization Board will be required to work in cooperation with the Department of Energy in selecting fast-track projects. DOE will be the initial collector and reviewer of all applications. Twice a year, the Mobilization Board will review DOE's list of final fast-track candidates and will select the best among them.

With the hundreds of applicants that are likely to seek priority designation for their energy projects, it is crucial that the full resources of DOE be employed to designate only the most meritorious of projects for fast-tracking.

Mr. President, the Department of Energy was created in 1977 as the chief executive agency for American energy policy making. In spite of the Department's problems to date, it must hold a central place now in our selection of energy projects that are going to receive our highest priority for the 1980's. A role for DOE in the fast-track selection process is essential if we are going to have a consistent national energy plan.

Second, the Council on Environmental Quality (CEQ) will play a major role in preparing environmental impact statements (EIS) for projects in need of them. These reports would be required under other Mobilization Board proposals Congress is considering. The bill simply insures that the experts most sensitive to environmental concerns have a hand in assessing the full environmental impact of a project. This change in no way impairs the Board's important authority to set deadlines for EIS completion.

Third, the Board will be able to take Federal, State, and local agencies to court to speed up the licensing process, but it will not be able to take actions in lieu of these agencies. Fast-track licensing decisions should be made by knowledgeable bodies that are sensitive to the special concerns of affected communities. There must be a full appreciation of the intent and purpose of the laws to be followed in decisionmaking. I fear, Mr. President, that the Board would need a weighty, unwieldy new bureaucracy to gain this appreciation for the thousands of existing Federal, State, and local codes. Government accountability could be impaired by agencies which decided to pass off all sensitive decisions to the Board, rather than make unpopular rulings themselves. And even then, there would be no guarantee that Board decisions would adequately reflect the intent of relevant law. Ensuing court battles, in this case, could wipe out any significant fast-track time savings.

Fourth, the Energy Mobilization Board Act of 1979 not only prohibits the Board from waiving substantive laws, but prohibits the waiving of procedural laws as well. Careful legal balances have been wrought by legislatures around the country between the concerns of energy, environment, and public planning. Frequently, it is impossible to distinguish procedural from substantive issues. Waiving procedural requirements now in law could be disasterous in our efforts to create a fast-tracking process than has the consent and backing of all Americans.

Mr. President, we do not want to create here another regulatory bureaucracy. The Board is given authority only to accelerate agency decisionmaking, yet we are still investing it with remarkable powers. Not only does the Board retain the right to set decisionmaking schedules for agencies, but it is also authorized to go to court at any time to force compliance with these schedules. In other proposals Congress is considering, the Board cannot act until a schedule deadline has been missed.

Under this proposal, in fact, all agency decisions regarding a fast-track license will have to be made within a year, drastically compressing the usual regulatory time frame.

So we are creating a fast-track process with teeth, but we are also creating one with responsibility—to our environment, to our local and State authorities, and to our people. The Energy Mobilization Board Act of 1979 establishes an equitable, balanced decisionmaking structure for fast-tracking priority energy projects, one that provides for energy expedition and environmental and public sensitivity.

I urge my colleagues to endorse this bill.●

● Mr. DURENBERGER. Mr. President, I would like to thank our colleagues, Senator RIBICOFF and Senator MUSKIE, for their efforts in drafting this legislation. The energy mobilization concept is one that touches many interests. I believe that the bill being introduced today strikes a careful balance between the need for new energy facilities, the necessity to protect human health and safety, and our commitment to provide for public participation in the decisionmaking process. I am pleased to be a cosponsor and am encouraged by the response of other Senators to this legislation.

When the energy mobilization concept was first raised last June, I initiated a process to review the various issues with citizens, environmentalists, energy producers and State agency officials in Minnesota. Through a series of meetings we developed several recommendations that would be helpful in implementing the intent of this legislation. Among these proposals, a single Federal-State environmental impact statement received unanimous endorsement as the best measure to speed the process of review. The State officials also indicated that technical assistance from Federal agencies would be useful in meeting permit schedules as a part of the process. The bill being offered today includes these provisions and it is my belief that the emphasis on Federal-State coordination rather than Federal intervention to enforce State schedules is a more promising path to timely regulatory review.

One issue that received considerable attention in our discussion was public participation in the decisionmaking process. By its very nature the energy mobilization concept seeks limitation of judicial review. Minnesotans agreed that a time limitation on appeals is appropriate, if citizens were assured an adequate role in the regulatory process. The cost of inadequate public participation is uncontrolled delay which takes the form of civil disobedience, vandalism, and violence. An Energy Mobilization Board that galvanizes citizen opposition to new facilities by riding roughshod over their rights would defeat the very purpose of our efforts. As we implement the energy mobilization concept, we must take care that the demand for an open and democratic decision process is channeled toward a meaningful role for those affected by new energy facilities and not simply cut off by an arbitrary deadline for judicial appeal.

Mr. President, I have joined with other Senators in cosponsoring this legislation because it provides a balanced approach to expediting energy facility decisions. Under the provisions of this bill, the Energy Mobilization Board could simplify and coordinate the review process without diminishing the right of citizens to participate. I would again thank the authors for giving the Senate an opportunity to consider this concept and look forward to early Senate action on this bill.●

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. ZORINSKY, Mr. PELL, Mr. SARBANES, Mr. TSONGAS, and Mr. STONE):

S. 1807. A bill to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance; to the Committee on Foreign Relations.

DISASTER ASSISTANCE TO THE CARIBBEAN ISLANDS

● Mr. KENNEDY. Mr. President, I rise to introduce a bill that would provide $25 million in emergency assistance to Caribbean nations that have been devastated by the recent hurricanes in that region. Joining with me as cosponsors are Senators JAVITS, ZORINSKY, PELL, SARBANES, TSONGAS, and STONE.

Such assistance is purely humanitarian, with the sole purpose of alleviating the massive suffering of peoples who have long been friendly to the United States, and deserve our help.

I am sure that my colleagues have closely followed the tragic story of Hurricanes David and Frederic, and the damage and deaths they caused within the United States and other countries.

Mid-day on August 29, Hurricane David struck the island nation of Dominica with winds exceeding 120 miles per hour and waves over 20 feet high. Almost immediately all communications with the islands were cut. Two days later, David slammed into the coast of the Dominican Republic with winds that were measured at over 150 miles per hour—before the wind testing equipment blew away. The eye of the hurricane fortunately missed the Dominican Republic's capital and main port, Santo Domingo, but its winds nevertheless uprooted trees, damaged buildings, and pounded the port facilities with 20 foot waves. After blasting the island for 48 hours, Hurricane David moved north from the islands.

Yet the crisis was not yet over for the peoples of Dominica and the Dominican Republic. For on the heels of Hurricane David came the heavy rains of Hurricane Frederic, whose damage was further increased by the vulnerability of the already devastated islands. Virtually all the rescue and relief operations were forced to come to a halt, assemble stocks and emergency transport vehicles were grounded or destroyed, efforts to establish communication were forced to stop, and the daily count of those injured and dead became higher and higher.

The State Department's preliminary situation reports are terse and straight to the point. In Dominica, there is "severe damage in the capital city of Roseau and in the southwest area of the island. Effects elsewhere are unknown: damage to crops is extensive, and there are vast losses in housing."

In the Dominican Republic, "extensive property damage is reported from winds and flooding. Ground transportation to some outlying areas is impossible. Damage to main agricultural crops is widespread, current estimates value the total agricultural at $125 million. Initial estimates of the total damage country-wide are as high as $1 billion."

But what do these terse reports mean in terms of human suffering? "Dominica does not exist anymore" cried a radio operator in one of the first efforts received on damage to that country. A report from a British naval vessel in the vicinity said the capital city of Roseau was "flattened." Final reports show that 37 people are dead, and over 400 severely injured. Most appalling is the fact that out of 85,000 Dominicans, over 65,000, or 80 percent of the population, are left homeless. As food stocks were destroyed and distribution systems broke down, the population is beginning to face starvation. And in the face of the hundreds injured and the possibility of widespread disease in the wake of the storm, virtually all medical facilities and supplies were destroyed.

The situation is much the same in the Dominican Republic, although on a larger scale. According to the United Nations Disaster Relief Office, over 1,200 people have died in the Dominican Republic. Over one-third of the dead were victims of an esepecially tragic catastrophe in the small town of Villa de Ocoa, in which 400 persons taking shelter in a church were drowned by a flooding river. According to the latest estimates of the U.S. Office of Foreign Disaster Assistance there are over 105,000 refugees, and up to 160,000 homeless—all this in a population of only 5 million. The transportation infrastructure is completely destroyed in some areas. The health care systems have broken down, exposing large sections of the population to contagious disease.

But these severe problems only represent the short-term emergency needs of the people of Dominica and the Dominican Republic. For the economies of these two countries, dependent as they are on agricultural production, were especially vulnerable to the strong winds and flooding rains of the hurricanes. Dominica's all important banana groves, which provide the bulk of that country's income and foreign exchange, were destroyed. The storms dealt a massive blow to the crops of the Dominican Republic as well, where the major irrigated agricultural production areas in the western part of the country were devastated.

The most important rice-production region of the Northeast was flooded and the crop destroyed. According to an estimate by three independent relief agencies, over 19 million pounds of food and seed will be needed to make up the losses. And it will be years before the economies of these countries are returned to their previous levels of production.

Behind the human, physical, and economic suffering and destruction which call for urgent assistance, there lurks another tragedy. A year ago the people of the Dominican Republic rejected efforts of an outgoing regime to falsify election returns and forced the first orderly, democratic transfer of power in the Dominican Republic in 30 years. The people were aware that the road to democracy would not be easy—and Hurricane David has borne sad witness for that truth. For Hurricane David has indeed dealt a serious blow to the economic foundations of this democratic system of government.

The Governments of Dominca and the Dominican Republic have requested our help in easing the immediate crisis—starvation, epidemics, and lack of shelter. They have urgently requested the immediate supply of food, water, and purification facilities, hospital units, and specialized transport vehicles, such as helicopters and shallow draft boats. They have further requested funds and technical assistance to aid in reconstruction. I do not see how the United States can turn them down.

I commend the Carter administration, and in particular the Office of Foreign Disaster Assistance for their prompt response to these unforeseen disasters. In each country, the resident ambassador's small discretionary fund of $25,000 was immediately dispensed for emergency purposes. Military disaster assessment teams were dispatched immediately. And substantial amounts of medicines to counter contagious diseases, medical devices, and foodstuffs are currently being distributed within the stricken countries.

In addition, I would like to commend the U.S. private agencies, including CARE, the Catholic Relief Service, and the American National Red Cross, for their immediate dispatch of badly needed tools, foodstuffs, and cash grants for immediate relief. Finally, I wish to commend a private American firm, the Gulf and Western Co., for providing substantial amounts of baby food, powdered milk, and pharmaceutical supplies to the Dominican Republic.

Yet we must recognize that, in the face of the devastation left by Hurricanes David and Fredric, even these efforts amount to little more than stalling tactics to stave off further suffering. The needs are too great for private voluntary organizations to handle. The State Department's Office of Foreign Disaster Assistance projects that it will need over $13 million just to continue present relief efforts. In order to continue these programs, the State Department is now having to draw funds from other badly needed humanitarian projects. They further estimate that reconstruction needs for Dominica and the Dominican Republic will require approximately $12 million.

However, after providing much-needed assistance to such countries as post-Amin Uganda, the discretionary funds of the President's International Disaster Assistance Account are nearly depleted. It is therefore necessary, if we are to save lives and ease human suffering in the stricken nations of the Caribbean, for the Congress to provide the funding necessary to continue ongoing relief efforts and to launch the necessary reconstruction efforts.

That is exactly what the amendment I am now proposing will do. It will provide $25 million to be expended by the President for the relief of Caribbean nations struck by the recent storms there. The $25 million figure matches the projected immediate relief and reconstruction as estimated by the Agency for International Development.

I have before me a list of emergency relief needs and their costs as compiled by aid experts in the Caribbean. These include such essential relief and reconstruction items as handtools, emergency generators for hospitals, road-building tools, and seedlings so that these countries can begin feeding themselves again as soon as possible. Mr. President, I request that this list of projected needs and costs be inserted in the RECORD at the conclusion of my remarks.

By providing the funds to the President "on such terms and conditions as he may determine," those in the field would have the flexibility that is needed in emergency relief efforts. Furthermore, by not allocating fixed funding amounts to each nation, further flexibility is allowed to match assistance to need. Finally, these funds will not be allocated to Puerto Rico, which as a commonwealth is eligible for domestic disaster relief funds; and Cuba, which is denied U.S. assistance by other statutes.

Mr. President, the Congress has long since held that "prompt U.S. assistance to alleviate human suffering caused by natural and manmade disasters is an important expression of the humanitarian concern and tradition of the people of the United States" Let us reaffirm this commitment today.

Mr. President, the people of Dominica and the Dominican Republic are not looking for a handout. They are asking us for the tools to help them help themselves. They are the unfortunate victims of unforeseen storms that left too many homeless, hungry, and dead. I do not see how the United States could possibly turn down their call for help.

Surely $25 million is not too large a contribution, considering the needs. I wish to inform my colleagues that the Office of Management and Budget has approved the State Department's request for $25 million, and a formal request for this sum has been made by the State Department. Furthermore, this additional funding will fall within the budget ceilings for fiscal year 1980.

I would like to commend my colleagues on the Appropriations Committee for including the request on the foreign assistance appropriations bill, which is scheduled for markup tomorrow.

Finally, this bill is identical to the version that should be passed out of the House tomorrow, which will end the need for a conference. I am confident that my colleagues will give this bill the rapid consideration so necessary to providing assistance quickly for the victims of the hurricanes.

I urge my colleagues to support this bill to grant emergency assistance to the island nations of the Caribbean that have been devastated by the recent storms.

There beng no objection, the list was ordered to be printed in the RECORD, as follows:

CARIBBEAN HURRICANE DISASTER RELIEF PROPOSED U.S. CONTRIBUTION

Dominican Republic

DISASTER RELIEF AND REHABILITATION

	Cost (millions)
Military personnel costs, including support (less airlift) for life support operations	$.2
Shelter	2.0
Quick growing vegetable crops—seeds	.5
Air support and resupply	.85
Purchase and airlift of portable generators	.25
Fertilizer	.8
Inland (truck) transport of relief	.7
Rehabilitation of utilities; open and emergency rehabilitation of key roads	3.245
Support of damage DAST equipment	.3
Spare parts and maintenance contracts for inoperable heavy equipment needed for road/bridge reopening and repair	.8
Total relief and rehabilitation for Dominican Republic	9.645
DOMINICAN REPUBLIC RECONSTRUCTION	
Roofing sheets and lumber for reconstruction of houses	$4.455
Hand tools, nails, cement, reinforcing steel, glass, and related construction materials needed in reconstruction of houses and facilities	1.4
Reconstruction of bridges; construction	3.5
Total for reconstruction in Dominican Republic	9.355
Dominican Republic Total	19.000

Dominica

DISASTER RELIEF AND REHABILITATION

	Cost (millions)
Equipment, repair and rehabilitation	$1.1
Seeds and plants/shoots	.05
Fertilizer	.08
Shelter	.4
DAST operations	.2
Air support—in-country and resupply from outside	.6
Generators	.05
Rehabilitation utilities, (open and make every repair of roads)	.15
Inland transportation	.075
Hand tools and building materials	.06
Total relief and rehabilitation for Dominica	3.305
DOMINICA RECONSTRUCTION	
Roofing sheets and lumber	1.945
Repair of bridges, conduits and culverts	.4
Purchase of A.I.D. excess equipment, transport, spare parts package	.35
Total for reconstruction for Dominica	2.695
Dominica Total	6.000

The proposed expenditures are based upon assessments received to date. Assessments are continuing to be received which may affect this distribution and priority emphasis. Some requirements may also emerge from Haiti as communications are reestablished with the stricken northern coastal areas.●

ADDITIONAL COSPONSORS

S. 794

At the request of Mr. LEVIN, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 794, the Postal Supervisor Arbitration Act.

S. 1108

At the request of Mr. SASSER, the Senator from Maryland (Mr. SARBANES) and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 1108, a bill to amend the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970.

S. 1435

At the request of Mr. NELSON, the Senator from Nevada (Mr. CANNON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Oklahoma (Mr. BOREN), the Senator from Alabama (Mr. STEWART), the Senator from California (Mr. CRANSTON), and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of S. 1435, the Capital Cost Recovery Act.

S. 1488

At the request of Mr. NELSON, the Senator from Kentucky (Mr. HUDDLESton) was added as a cosponsor of S. 1488, the Individual Savings Act of 1979.

S. 1576

At the request of Mr. Jepsen, the Senator from New Hampshire (Mr. Humphrey) was added as a cosponsor of S. 1576, a bill to amend the National Labor Relations Act to provide for a freedom of choice in labor relations for full-time and part-time secondary and college students by exempting them from compulsory union membership, and for other purposes.

S. 1577

At the request of Mr. Jepsen, the Senator from New Hampshire (Mr. Humphrey) was added as a cosponsor of S. 1577, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 1648 AND S. 1649

At the request of Mr. Cannon, the Senator from Arizona (Mr. Goldwater) was added as a cosponsor of S. 1648, the Airport and Airway System Development Act of 1979, and S. 1649, the Airport and Airway Revenue Act of 1979.

S. 1655

At the request of Mr. Levin, the Senator from Maryland (Mr. Sarbanes), the Senator from New Jersey (Mr. Williams), the Senator from Pennsylvania (Mr. Heinz), the Senator from South Carolina (Mr. Hollings), the Senator from West Virginia (Mr. Randolph), the Senator from Hawaii (Mr. Matsunaga), and the Senator from New York (Mr. Moynihan) were added as cosponsors of S. 1655, to designate the Department of Labor Building as the "Francis Perkins Department of Labor Building."

S. 1688

At the request of Mr. Mathias, the Senator from North Carolina (Mr. Morgan) was added as a cosponsor of S. 1688, a bill to clarify the extent to which a State, or political subdivison, may tax certain income from sources outside the United States.

S. 1740

At the request of Mr. Tower, the Senator from Washington (Mr. Magnuson) was added as a cosponsor of S. 1740, a bill to amend the Railroad Retirement Act of 1974 to include employment with the National Transportation Safety Board among the types of employment in which an individual may engage while retaining current connection with the railroad industry.

S. 1775

At the request of Mr. Talmadge, the Senator from Alabama (Mr. Stewart) was added as a cosponsor of S. 1775, a bill to promote the development of energy from agricultural commodities, forest products, and their waste and residues, and rural energy conservation practices.

S. 1776

At the request of Mr. Tower, the Senator from Texas (Mr. Bentsen) was added as a cosponsor of S. 1776, a bill to impose quantitative restrictions on the importation of lamb meat.

SENATE JOINT RESOLUTION 100

At the request of Mr. Sasser, the Senator from Maryland (Mr. Sarbanes) was added as a cosponsor of Senate Joint Resolution 100, a joint resolution to authorize the President to designate May 1, 1980, as National Bicycling Day.

AMENDMENTS NOS. 440, 441, AND 442

At the request of Mr. Bayh, the Senator from Alabama (Mr. Stewart) was added as a cosponsor of Amendments Nos. 440, 441, and 442, intended to be proposed to H.R. 3919, the Windfall Profits Tax bill.

NOTICE OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will resume its hearings on the competitive impact of Department of Energy gasoline allocation and price regulations at 9:30 a.m., Wednesday, September 26 in room 424 RSOB. Senator Huddleston will chair.

The following witnesses are scheduled to testify: Douglas Robinson, Deputy Administrator, Economic Regulatory Administrator, Department of Energy; and Mel Goldstein, Director, Office of Hearings and Appeals, Department of Energy.●

SUBCOMMITTEE ON ENVIRONMENT, SOIL CONSERVATION, AND FORESTRY

● Mr. MELCHER. Mr. President, I rise to announce that the Subcommittee on Environment, Soil Conservation, and Forestry of the Committee on Agriculture, Nutrition, and Forestry will hold hearings October 1 and 2 on the planning and program development process of the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA).

The purpose of these hearings is to give Congress an understanding of the amounts and location of resource availability over the next several years, and provide an opportunity for the Congress to make recommendations to the administration on possible program levels.

Some concerns have been expressed that program levels for the Forest Service are being developed to fit into prescribed dollar limits rather than maximizing opportunities for resource management.

Further, as long as the Office of Management and Budget continues to use a 10-percent carrying cost for Forest Service capital investments, a realistic view of the economic potential of the national forests cannot be achieved.

Finally, some observers believe that the data base used for the RPA assessment is out of date and not properly influenced by directions prescribed in the National Forest Management Act of 1976.

It is our intention to examine these questions to insure that the planning and program development process is on the right track.

The hearing on October 1 will begin at 10 a.m. in room 324 of the Russell Senate Office Building. At that time we will hear from public witnesses. Those persons or organizations wishing to testify should contact James Giltimer of the committee staff at 224-6922.

The hearing on October 2 will be held in room 457 of the Russell Senate Office Building, beginning at 10 a.m., when we will hear from appropriate officials of the Department of Agriculture.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will hold hearings this week on small business participation in U.S. exports. Senator Stewart will chair the hearing at 9:30 a.m., Tuesday, September 25. Senator Levin will chair the hearing at 9:30 a.m., on Friday, September 28. Both hearings will be in room 424, RSOB.

The following witnesses are scheduled to testify: Tuesday, September 25, 1979, 9:30 a.m., room 424, RSOB—Hon. Adlai Stevenson, U.S. Senator; William Tobin, Director of Marketing and Development, Massachusetts Port Authority; Douglas R. Stucky, first vice president, First Wisconsin National Bank of Milwaukee, Wisconsin; Alfred C. Holden, vice president, Foreign Credit Insurance Association, New York, N.Y.; William Savage, Director of International Trade, Department of Commerce, Commonwealth of Kentucky.

Friday, September 28, 1979, 9:30 a.m., room 424, RSOB—Hon. Luther Hodges, Under Secretary of Commerce; Ray Norat, Deputy Commissioner, Ombudsman and Small Business Services, New York State Department of Commerce; Thomas Rees, attorney-at-law, Washington, D.C.; a panel consisting of James Farley, president, Speedfam Corp., Des Plaines, Ill.; Neil J. Boyer, International Trade Consultant, Westport, Conn.; Kurt O. Tech, president, Cross Co., Fraser, Mich.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, as indicated earlier this month, a series of hearings is being held by the Select Committee on Small Business. I ask that an updated table listing the date, time, place, subject matter, and chairing Senator be printed in the Record.

More detailed information may be obtained by calling the committee office at 224-5179.

The list follows:

Date, time, Senator, issue, and place.

September 25—9:30 a.m., Culver: Oversight of SBA's Management Assistance Programs, 1318 DSOB.

September 25—9:30 a.m., Stewart: Small Business Participation in U.S. Exports, 424 RSOB.

September 26—9:30 a.m., Huddleston: Competitive Impact of DOE gasoline Allocation and Price Regulations, 424 RSOB.

September 27—10:30 a.m., Nelson: Oversight of SBA's Section 8(a) Assistance Program, 1318 DSOB.

September 27—9:30 a.m., Stewart: Examination of Health Care Financing Administration's Impact on Small business health care providers, 424 RSOB.

September 28—9:30 a.m., Levin: Small Business Participation in U.S. Exports, 424 RSOB.

October 2—9:30 a.m., Huddleston: Oversight of SBA's Office of Chief Counsel for Advocacy and Examination of the Mission of SBA, 424 RSOB.

October 3—9:30 a.m., Huddleston: Examination of the Mission of SBA, 424 RSOB.

October 4—10:00 a.m., Morgan: Procurement, 154 RSOB.

October 4—9:30 a.m., Stewart: Examination of the Mission of SBA, 424 RSOB.

October 5—9:30 a.m., Morgan: Procurement, 424 RSOB.

October 23—9:30 a.m., Stewart: Economic Policy, 424 RSOB.

October 24—9:30 a.m., Stewart: Economic Policy, 424 RSOB.

October 25—9:30 a.m., Stewart: Economic Policy, 424 RSOB.

October 26—8:30 a.m., Baucus: Economic Policy/Capital Formation.

October 31—8:30 a.m., Levin: Impact of Commercial Credit Reporting Practices on small business, 424 RSOB.

November 1—8:30 a.m., Levin: Impact of Commercial Credit Reporting Practices on small business, 424 RSOB.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BRADLEY. Mr. President I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the sessions of the Senate today, tomorrow, and Wednesday to consider synthetic fuels legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BRADLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to consider the Robert Krueger nomination to be Ambassador at Large and Coordinator for Mexican Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

Mr. BRADLEY. Mr. President, I ask unanimous consent that the Subcommittee on Governmental Affairs be authorized to meet during the session of the Senate on Friday, September 28, 1979, to hold hearings concerning legislation to fund completion of the Metro rail system.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the sessions of the Senate on Tuesday, September 25, and Thursday, September 27, to consider the SALT II treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Judiciary be authorized to meet during the session of the Senate on Thursday, September 27, to consider pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SUM STRATEGY

● Mr. MATHIAS. Mr. President, my distinguished colleague and good friend from Oregon, MARK HATFIELD, made an important contribution to the ongoing debate regarding U.S. national security in an article in the September 18, 1979 Washington Post entitled "SUM Strategy."

Senator HATFIELD recommends consideration of an alternative to deployment of the controversial MX missile—putting our existing Minuteman III missiles on submarines Senator HATFIELD has devoted an enormous amount of effort to examining alternatives to the MX missile. His proposal deserves the careful consideration of his colleagues and of the Nation as a whole. I, therefore, ask that Senator HATFIELD's excellent article be printed in the RECORD.

The article follows:

[From the Washington Post, Sept. 15, 1979]

SUM STRATEGY

(By MARK O. HATFIELD)

President Carter has embraced the controversial defense theory which claims that the Soviet Union will be able by the 1980s to destroy 90 percent of U.S. land-based missiles (ICBMs) in a surprise attack. The president has called this "our most pressing strategic problem." His solution was to order production of a mobile MX missile, the most lethal weapon in U.S. history.

Unfortunately, the president has chosen one of the slowest, most expensive and strategically destabilizing solutions to the perceived vulnerability problem. The best possible choice would be to make the existing Minuteman ICBM force mobile aboard small submarines in U.S. coastal waters.

This proposal, known as the Shallow Underwater Missile System (SUM), offers dramatic strengths compared with land-based deployment of the MX. The 550 Minuteman III missiles could be carried by 138 small submarines, nearly identical to the German Type 600 submarine now in operation. This submarine force would patrol the U.S. coastal waters of the Atlantic and Pacific, which offer one-half-million square miles of protected, navigable area. The Minuteman III missiles aboard the submarines would continue to offer a wide range of strategic options, retain their present high degree of accuracy, while being able to stay in direct contact with strategic command centers in times of crisis. In short, the SUM proposal with the existing ICBM forces maintains all the positive features of the land-based MX proposal while retaining none of its most glaring weaknesses.

For example, defense specialist Richard Garwin recently indicated to me that the Minuteman III force could be rapidly modified and deployed aboard these 450-ton submarines. The first missile deployment could be achieved by 1984, with the entire force at sea by 1986. As a result, our ICBM force would be invulnerable at the very time the Soviet counterforce threat will become severe.

By contrast, even the best Air Force estimates conclude that the full MX force will not be deployed before September 1989—a decade from now.

But serious problems are working against the 1989 deadline. No fewer than 33 federal laws will bear on the problems of land acquisition alone. To build and operate the MX "racetrack" scheme, the fourth-largest city in Nevada will have to be built and maintained in the middle of the desert.

Construction will require some 600,000 tons of cement, 32 to 48 million tons of sand, 210 million gallons of liquid asphalt, 125 million gallons of petroleum fuel and 17.9 billion gallons of water. At a minimum, then, the president's decision to deploy the MX will cause an unnecessary, 3- to 4-year delay in solving what he terms "our most pressing strategic problem."

Even with the substantial environmental and construction problems to be addressed, the Air Force assures Congress that the MX system can be built for about $30 billion. Other estimates range as high as $50 billion.

By contrast, Garwin's estimate on the cost for a fully operational Minuteman III force in the SUM concept is less than $12 billion. The billions saved by placing Minuteman III missiles at sea could be used to ease the burgeoning U.S. deficit or our dangerous dependence on foreign oil. The Air Force is already advancing the proposal that the United States may be forced to place an anti-ballistic missile (ABM) system around the MX site in the late 1980s to protect it against a large increase in Soviet warheads, an expensive addition to long-term MX costs. With the U.S. forces at sea, no such costly abandonment of the ABM treaty would be necessary. What's more, SUM would be easily verifiable and would not hold millions of U.S. citizens hostage to a Soviet counterforce attack.

Once deployed, the 200 MX missiles will increase the already immense explosive power of our ICBMs by over 400 percent, giving the United States the ability to destroy every Soviet ICBM site in a surprise attack. Even after such a counterforce strike, the United States would retain an overwhelming residual force equal to hundreds of thousands of Hiroshima bombs.

But the difference between a theoretical U.S. and Soviet first-strike capability is dramatic. Fully 70 percent of Soviet warheads rest on their landbased missiles. By contrast, some 25 percent of U.S. warheads are carried by our ICBMs. Put plainly, the preemptive strike posed by the MX against the Soviet arsenal would dwarf the much-vaunted Soviet threat against U.S. ICBMs.

In response, the Soviets will be forced to make one or more strategically dangerous decisions. Options could include launching their ICBMs on warning of attack, which would greatly increase the tension in any crisis; abrogating the ABM treaty to deploy an anti-missile system to protect their ICBMs; deploying their own mobile system, which may not be verifiable; or attacking the United States preemptively in a crisis for fear that the United States might use MX to destroy Soviet ICBMs in their silos. As a result, every international crisis would carry with it a heightened risk of nuclear war.

The present Minuteman III force poses no such first-strike capability. Deploying the force aboard coastal submarines will ensure the full range of strategic options short of a first-strike counterforce threat, while offering maximum protection from Soviet attack.

Finally, by protecting our missiles while not proceeding with the MX, the United States could accept a proposal considered by both sides during SALT discussions to establish a moratorium on new land-based missiles. This would be a major step toward a more comprehensive moratorium on deployment of additional strategic systems. Such a moratorium is essential if the United States is to exert the moral authority necessary to halt frightening proliferation of nuclear weapons among Third World nations. The SUM/Minuteman III alternative to the MX will save billions, enhance the protection of our strategic forces and offer hope that effective controls can finally be placed on the burgeoning arms race.●

OLD AGE: TV TELLS IT WRONG

● Mr. CHURCH. Mr. President, as chairman of the Senate Committee on Aging for 8 years and currently its ranking majority member, I have often been troubled by the fact that other cultures bestow a more honorable status on their elders than we Americans who often neglect the old in our society.

In many cultures, it is traditional for two or three generations to live in one house. Many Americans no longer live in the same city or State where their parents and grandparents live. More and more children are growing up without the cherished relationship of a grandparent.

In many other countries, the elders are considered as wise and experienced leaders of their families and communities. Too often in America one is thought to be too old for work and counsel after age 65.

Regretfully, this prejudice against age is often reflected in our media. Elderly characters are seldom featured on most television prime-time series. One would think the elderly are disappearing in our society if the TV character rate was indicative of the true situation. In fact, 1 out of 9 of our population is 65 and over.

If the elderly are featured on TV, they are often portrayed as evil, senile, or a nuisance. The Gray Panthers, led by Maggie Kuhn, have led a campaign against this negative stereotyping of older persons. Hopefully, through the educating and sensitizing of the media and the public, the television industry will respond in a more positive way.

The Annenberg School of Communications of the University of Pennsylvania under a grant from the Administration on Aging, Department of Health, Education, and Welfare, has completed an extensive research project on "Aging With Television: Images on Television Drama and Conceptions of Social Reality." Recently, the Annenberg School sponsored a national conference in the District of Columbia to discuss the findings of their research. These findings are summarized in an article of the Washington Post which I ask be printed at this point in the RECORD.

The article follows:

[From the Washington Post, Sept. 18, 1979]

OLD AGE: TV TELLS IT WRONG

(By Michael Kernan)

Older people are so badly shortchanged in TV drama that viewers actually believe they are disappearing from the scene—though in real life they are increasing.

Television's gross distortion of some basic facts about American life has been documented by a two-year project at the Annenberg School of Communications, part of the University of Pennsylvania, on a $200,000 federal grant.

Heavy-duty watchers—the ones on the high side of the national average of 30 hours a week—also believe that old age comes earlier in life, especially to women.

Nearly 70 specialists in education, aging and communications tossed around some possible responses to the bleak picture presented by George Gerbner and some colleagues from Annenberg yesterday at the Hyatt Regency.

The saddest thing, Gerbner noted, is that "the best and possibly only time to learn about growing old with decency and grace is in youth . . . Images of old age we absorb throughout life cultivate our concept of aging." And television, especially network drama, is telling it wrong.

Curiously for this youth-worshipping country, TV also grossly underrepresents children and adolescents, Gerbner said.

Some findings from the 10-year study of 1,365 programs and 16,688 characters:

Characters under 18 make up only 8 percent of the fictional population. In reality they are 30 percent of the American population. The over-65s, actually constituting 11 percent of Americans, appear to be hardly more than 2 percent of the TV population. In other words, a viewer meeting more than 300 speaking characters in a week will be exposed to only seven over 65.

Furthermore, the older people are shown as eccentric, stubborn, nonsexual, ineffectual and often silly. Old men are likely to possess power for evil and accordingly must die, by TV's simple code. Old women have no such powers and usually wind up as victims, especially to the violence that occurs in almost 80 percent of prime-time and children's programs.

In TV's "compelling, vivid, translucent world," men outnumber women by three to one. Fantasyland, indeed.

Women are valued only under 35, while men, the wielders of authority, thrive in the 35-44 age bracket. "The character population is structured to provide a relative abundance of younger women for older men," but not vice versa.

In children's programs, people of their parents' age group (25–35) are all but invisible. The grandparental age group is also extremely sparse.

But it is the older people who suffer most on TV, and it is the older nonwhites and women who get the worst of it. Respectful, serious treatment of the elderly, and women of all ages, is less likely than otherwise, observed researcher Nancy Signorielli. The older are apt to have more negative qualities, to be married but to have no romantic interest, to be less successful, attractive or happy. With exceptions, of course.

"Marriage," the report adds, "at least in the television world, is practically devoid of romance and is the domain of older people."

One interesting aspect of this consistent skewing of truth is the TV watchers' notions about crime. In TV's world, three out of 10 older people are apt to be robbed or beaten. (The real figure is less than one percent—less than the rate for other age groups.) A special survey of heavy watchers indicated that TV cultivates fear and a sense of danger, leading them to believe they may be mugged or attacked at any time, that even walking at night in their own neighborhood is "not safe at all."

"Heavy viewers in greater proportion than light viewers appear to generalize from observation of television's message system to real life situations, despite facts to the contrary and despite the fictional nature of most TV."

Solutions were discussed only in a general sense, but they seemed to boil down to counterpromotion, alternative TV such as cable and cassette, pressure on licensing agencies.

Rep. Marc Lincoln Marks (R-Pa.) suggested organizing campaigns against offending local stations and promoting minority stations. He noted that since programs are essentially bait used by advertisers, who concentrate on the profitable 18-to-49-year-old market, an effort could be made to interest advertisers in the $60 billion market represented by older people.

Fiction, he reminded the audience, disarms its critics. Theater makes lies appear harmless, even noble, while all the time transmitting and preserving biases.●

PUNISHING THRIFT

● Mr. HUMPHREY. Mr. President, the September 24, 1979, issue of the Wall Street Journal contained an article on the effect of high rates of inflation on savings and consumption. As is usual for the editorial staff of the Wall Street Journal, they have written an incisive and clear analysis of a complex economic matter, and I wish to share that analysis with my colleagues.

I submit the article for the RECORD.

The article follows:

PUNISHING THRIFT

Some of our friends have noticed recently that they have this uncontrollable urge to spend money, get rid of the greenbacks and acquire shiny Japanese cameras, or Honda Accords or Cuisinarts for the kitchen.

We assure them that it is all very natural in a country with 13% inflation—they are behaving the way consumers normally behave when their currency is rapidly losing value. And these spend-spend tendencies also no doubt have something to do with our current economic confusions, brought about by a recession that seems to be creeping in one month and mysteriously disappears the next. To give the Keynesians their due, when people are in a mood to spend-spend, the economy takes on the appearance—albeit a misleading appearance—of vigor.

The reason the appearance is misleading is that this kind of vigor is not sustainable. When people have an abnormal urge to spend, they have a correspondingly subnormal urge to save. Americans are now saving only a little over 5% of their disposable income, compared with over 8% early this decade. When the savings rate is low, individuals are contributing less than normally to the nation's overall formation of capital, the money that is available to meet the needs of borrowers. When borrowing demand is high—something that tends to go hand-in-hand with the spend-spend urge—and capital formation is low, there is pressure on the government to close the gap through money creation, better known as inflation.

The effect of currency inflation on prices (they go up) further stimulates the spend-spend, borrow-borrow urge and further lowers the incentive to save. The cycle repeats itself and the inflation gets worse.

There is one way to moderate this vicious cycle. But it is a way that the United States, because of the great penchant in Washington for various forms of economic intervention and control, has chosen not to employ. The secret is to let inducements to save rise along with the rate of inflation. Put in simpler terms, you let savings account interest rates go up.

Under the general heading of Regulation Q of the banking act, the U.S. instead chooses to apply ceilings on savings account interest. When the inflation rate rises above the ceiling, as it did long ago, the saver loses money over time by putting it into a savings account. It is no accident at all that the net flow of funds into thrift institutions this year is likely to be down some 10 percent from last year and that the total supply of funds to the credit markets is also declining.

President Carter recognized the insidious effect of Regulation Q and proposed last spring that Congress remove interest rate ceilings. He suggested that savings institutions be allowed to write variable rate mortgages as a protection against the higher costs of deposits that might ensue from a removal of ceilings.

But savings institutions, by and large, didn't see variable rate mortgages as a sufficient inducement to agree to the removal of Regulation Q. The regulation gives them a one-quarter point higher ceiling than commercial banks and thus enables them to compete more effectively for savings. Congress has ignored the President's request and the Federal Reserve has even moved to try to block banks from circumventing the ceilings through repurchase agreements and other instruments.

It is just conceivable that the ceilings actually accelerate the inflationary cycle, once the inflation rate moves above the ceilings. While country-to-country comparisons are tricky, it is a matter of some interest that Canada, which has similar economic circumstances to the U.S. but does not apply savings account ceilings, is suffering only a 9 percent inflation rate this year, compared with the U.S. 13 percent. The Canadian savings rate is nearly double the U.S. rate.

The usual "consumer protection" gabble is employed on behalf of interest ceilings. It is claimed, with no supporting evidence, that they hold down mortgage interest rates. Even if that were true it wouldn't be much consolation given the effect of inflation on home prices. Our friends who want to spend-spend can't be blamed for their tendencies, but policies that encourage them to do that are badly in need of repair.●

NATIONAL OIL JOBBERS COUNCIL INDICATES SUPPORT FOR GASOHOL

● Mr. BAYH. Mr. President, those of us who have been engaged in the effort to promote the use of gasohol in this country have too often run up against obstacles presented by Federal regulations which have frustrated the intent of Congress as well as the desire of many Americans to sell and purchase gasohol. To alleviate some of these difficulties, I have introduced three amendments to the windfall profits tax bill now before the Senate Finance Committee which would encourage gasohol production and use, and ease the regulatory burden faced by those desiring to produce gasohol.

In a recent letter to the distinguished chairman of the Finance Committee, Senator Long, the National Oil Jobbers Council outlined the ways in which these technical, but important, changes in existing laws, which I have proposed, would have an important impact on the increased commercial availability of gasohol. I ask that the text of the NOJC's letter to Senator Long be printed in the Record for the benefit of my colleagues.

The letter follows:

National Oil Jobbers Council,
Washington, D.C., September 19, 1979.

Hon. Russell B. Long,
Chairman, Senate Finance Committee, Russell Senate Office Building, Washington, D.C.

Dear Mr. Chairman: As your committee considers the windfall profits tax legislation, H.R. 3919, and potential tax incentives for the production of gasohol, I wish to express the National Oil Jobbers Council's support for three amendments originally sponsored by Senator Birch Bayh which will generally enhance the production and marketing of alcohol fuels.

The first amendment, originally introduced as S 1746, would provide for a refund mechanism for those gasohol marketers who buy gasoline tax paid from their suppliers. The Energy Tax Act of 1978, in an obvious oversight, failed to address the question of a refund mechanism. This amendment also would allow marketers to qualify for a quarterly refund under certain circumstances. I understand that neither the Treasury department nor the Joint Committee on Taxation have problems with this amendment.

The second amendment is identical to S 1200, the Alcohol Fuels Regulation Simplification Act. This amendment would greatly simplify the regulatory problems confronting many marketers by tiering the regulatory requirements according to the size of the individual actually producing the gasohol.

The final amendment would make the current four cent federal excise tax exemption permanent. A permanent exemption is necessary to insure stability to those numerous small businessmen who are now considering substantial investments in gasohol production facilities.

The thousands of small independent petroleum marketers represented by NOJC can be a major force in insuring the viability of alcohol fuels. Marketers are constantly looking for ways to maximize their limited supplies of gasoline. Gasohol, with the proper incentives as provided in these amendments, could be a major step forward both for these marketers and consumers as a whole.

I appreciate your interest in this issue.

Respectfully,

Phillip R. Chisholm,
Director of Legislative Affairs.●

THE RECLAMATION REFORM ACT OF 1979

● Mr. CHURCH. Mr. President, much has been said and written in recent weeks about legislation I sponsored, which passed the Senate on September 14, to overhaul the 77-year-old Reclamation Act of 1902. Now that the Senate has approved the bill, I believe it appropriate to assess its importance to Idaho and the West, and the goals it sets out to achieve.

I introduced the bill nearly 2 years ago, and it has been one of my priorities since that time, because I can think of no legislation that has a more direct bearing on the economic health of thousands of Idaho farm families than the Federal reclamation program.

Idaho has a long record of participation in Federal reclamation projects since the original act became law in 1902. At that time, it was a radical departure for the Federal Government to finance the construction of large storage dams and delivery canals to open the semiarid lands of the West to cultivation and settlement. The 1902 law required that the recipients of the water provided by such projects live "on or near" the land, and limited the amount of water to a volume sufficient to irrigate 160 acres for each adult individual in the family.

Judged by its results, this law helped immensely to develop and populate the West and it has, for the most part, created a pattern of family farming that still exists. Of the 17 western reclamation States, Idaho ranks second in total acreage irrigated by these projects, with about 1.5 million acres benefiting.

However, no law can last 77 years without becoming outdated. The 1902 residency requirement (which came to be interpreted to mean residence within 50 miles of the land) has not been enforced since 1926. Modern farm economics—requiring hundreds of thousands of dollars of investment in many cases—have long since rendered obsolete the 160-acre limitation, which likewise ceased to be enforced. Leasing extra land became the device for circumventing the acreage restriction. In some cases, large corporations leased vast tracts of reclaimed land, thus subverting the original intent of the law.

Further confusion arose concerning the applicability of reclamation law to certain water projects constructed by the Army Corps of Engineers, primarily for flood protection but with some collateral irrigation benefits. Since each reclamation project had to be authorized by Congress, differing provisions were often adopted between one project and another, until a patchwork quilt of laws and regulations gradually emerged, creating massive confusion, inconsistency, and inequality of treatment. Inevitably, this maladministration of the reclamation law led to litigation in the Federal courts which resulted in a judicial order requiring the Department of the Interior to draft regulations to strictly enforce the provisions of the 1902 act, including the outmoded 160-acre limitation and the long abandoned residency requirement. So, unless the law is changed, there will be chaos in the countryside. Thousands of western farms will be pulled apart and subdivided into uneconomic, unworkable parcels.

To avoid such a disaster, I drafted S. 14, the bill which served as the centerpiece in the Senate for the first comprehensive updating of reclamation law in three-quarters of a century. The bill ran the gauntlet of public hearings, held last year and again this spring. It was modified by the Senate Energy and Natural Resources Committee and then amended by the Senate itself in the course of 2 days of intense debate. As finally approved, the bill closely resembles the original measure I first introduced. I believe it to be a balanced, sensible approach to bringing a venerable old law into line with the new realities on the farm. Equally important, the bill not only meets the needs of western agriculture now, but it will continue to serve those needs for years to come:

Here is what it does:

First, it does away with the old 160-acre limitation, which had been rendered meaningless anyway by the leasing loophole. A new maximum holding of 1,280 acres is established, whether owned or leased. Whereas the 1902 law provided a 160-acre limitation per adult, making the size of the family the determining factor, my bill sets a maximum of 1,280 acres per farm holding. With modern machinery, such a holding is well within the capability of a family to farm.

Second, the bill plugs the leasing loophole. Any farmer holding more than the maximum permissible acreage must divest himself of the excess land within 10 years. Furthermore, large corporations are virtually excluded. Under the terms of the new bill, they may control no more than 160 acres on any Federal reclamation project. The 1,280-acre allowance is limited to "qualified" recipients, defined as an individual, a family, a partnership, or a small family-type corporation (benefiting no more than 25).

Third, the bill extends the concept of equivalency, heretofore permitted on some projects but not on others, to all equally. This would allow for adjustments in the acreage limitation, where necessary for land of poorer quality or where higher altitudes and shorter growing seasons limit productivity.

Fourth, the bill repeals the ignored residency requirement. Living on the land does not necessarily make one a farmer, just as living away from the land does not automatically make one a nonfarmer. Furthermore, the old residency requirement works a hardship on older couples, ready for retirement, who wish to move into town. Thousands of these retirees today augment their limited income by renting their farms. To require them to live within 50 miles of the farm in order to realize this rental income, seems to me to be arbitrary and unreasonable.

Fifth, the bill makes clear that unless Congress has specifically included them, Corps of Engineers projects are exempt from reclamation restrictions, thus clearing up the confusion and hardship created by attempts to transfer regulations from one Federal program to another.

Finally, the bill deals definitively with the question of repayment. Irrigators on reclamation projects must repay the Federal Government for their assessed share of project construction costs. Those who benefit other types of Federal water projects, such as river and harbor works constructed by the Corps of Engineers, unlike the farmers, are not required to repay the Government. The only "subsidy" extended to irrigators relates to interest. The reclamation loan bears no interest; just the principal must be repaid. While this "subsidy" applies, during the period of repayment, I believe the Government has every right to promote a pattern of family farms on each reclamation project, through imposition of the acreage limitation. But once the irrigators have repaid their obligation, the subsidy stops. At that point, the hand of the Federal Government should be lifted from the land. My bill establishes this principle.

Idaho farmers need this Reclamation Act of 1979. It is landmark legislation of enormous importance to Idaho's agricultural base, and I take real pride in being its author and sponsor in the Senate. Now, the matter shifts to the House of Representatives, which I hope will produce a bill equally favorable to the farmers of our State.●

ADDRESS BY ADMIRAL RICKOVER ENTITLED "ENVIRONMENTAL PERSPECTIVE"

● Mr. HUMPHREY. Mr. President, the problem of what risks entail from our Nation's use of nuclear energy is a perplexing one. From nuclear power plants supplying essential energy to nuclear submarines and ships providing critical defense needs, nuclear energy is an important asset for the country. Yet many would eliminate its use no matter how important the benefits; these people demand risk-free energy.

One of the foremost experts on nuclear energy and safety is Adm. H. G. Rickover, a man who has spent more than 30 years as head of the Navy's nuclear propulsion program. Admiral Rickover recently spoke on the subject of the risk of radiation. His words put this perplexing problem into a form which all Americans can understand. I commend this balanced, clear presentation to the attention of my colleagues and to the attention of the American people. Mr. President, I ask that Admiral Rickover's speech before the International Platform Association be printed in the RECORD in its entirety.

The speech follows:

"ENVIRONMENTAL PERSPECTIVE"

I am greatly honored to be the recipient of the Winston Churchill Award. I had the privilege of meeting this great statesman when I visited the House of Commons in the early 1960's. I admired him greatly for his achievements and because he was a singularly warmhearted human being.

I want to thank the members of the International Platform Association for this award and for inviting me to speak here this morning.

Long before the term environmentalist became a household word, I was concerned about our environment. Early in my career I became concerned that our national resources were being consumed too rapidly; that the world's finite supply of petroleum would eventually be depleted; that the hydrocarbons we were burning for energy would be desperately needed by future generations as raw materials. Back in 1936, I had computed that the oil used in all history was one cubic mile in volume. By 1979, the total oil consumption had reached 17 cubic miles (463 billion barrels), a cube about 2.6 miles on a side. These figures show how small this precious resource is.

For too many years every new highway or invention was welcomed as an indicator of progress without taking into account the long range consequences. Mankind has been profligate—as if we were owners rather than trustees of this planet.

Today, there is a greater awareness of these problems, but not the recognition of the limits that nature imposes. From many quarters there are pressures to come up with a "safe" source of abundant energy. But each alternative has its limitations. Some, such as nuclear power, are opposed by single interest groups that often vie to be the loudest to cry doom. As more aspects of everyday life are being characterized by one group or another, as involving high risk, ordinary citizens are finding it increasingly difficult—perhaps impossible—to get the issues into perspective.

Within some special interest groups are those who favor returning to the simpler style of 100 years ago. Their objective is clear; they tend to be against most forms of energy.

The great majority of people, however, want to sustain today's advanced life style. For them the problem is one of evaluating alternatives—of comparing risks and weighing them against benefits.

The media, in search of exciting news, and special interest groups, encourage embellishing and sensationalizing facts. Since tough facts are often bland and hard to market as "news," the public gets a distorted picture of environmental matters. We face a danger that public policies in technology will be determined, in effect, by the media and by single interest groups.

While the problems we face today are immense, the increased public interest in energy and environmental matters offers an opportunity for progress toward solving these difficult, long-range problems. But these will have to be dealt with intelligently, not on an emotional basis. Scientists, engineers, businessmen, medical people, lawyers, and others with professional knowledge and training are being called upon for facts and advice. It is essential that all involved take to heart their professional responsibilities; that they feel duty bound to convey what they know and what they do not know, with balance and perspective. That is not the case in many areas of society and is why, as the President recently said, America is suffering a crisis of confidence. The American people simply do not know what or whom to believe.

Our society now abounds with so-called experts who deal in half-truths and play on human fears or suspicions to further their own special interests. And a half-truth is like a half-brick—it will go farther. In so doing, they abrogate their professional responsibility to the public and cloud important issues. Those knowledgeable in the various disciplines have an obligation to see that these issues are kept in perspective, so they can be addressed intelligently by our leaders and understood by ordinary citizens. Consistency is needed in evaluating risks, and in providing proper perspective.

ENVIRONMENTAL RISKS

Nothing we do is without risk. Risk is an inherent and accepted part of daily life. The problem lies in determining how great are the risks and what should we truly be afraid of. For this, it is important to acquire a sense of perspective. Should the falling of Skylab have been a major concern? It was estimated that there was only one chance in 150 that Skylab debris would hit one person in the entire world. Nevertheless, in some areas emergency preparedness centers were activated and airplanes grounded. A more meaningful risk to me was that I had one chance in six hundred billion of being hit. This risk was worth worrying about for about one billionth of my time, which translates to about one second.

The risk from Skylab was inconsequential. The environmental risk having the greatest effect in the United States today is smoking. Smoking causes us about 325,000 deaths each year, half these are from heart disease, and about one-quarter from lung cancer. Sixty years ago we had little lung cancer. Today more are dying from it than from automobile accidents.

Each cigarette has been estimated to shorten life expectancy by five minutes. Another method of estimating the risk shows that of a group of 10,000 who continue smoking, 1600 die from the effects.

Another major health problem in the United States is caused by overweight. Our affluence and use of television contribute to this. Each ounce above normal weight is estimated to reduce life expectancy by two days.

We accept the inevitability of automobile accidents. Chances are that ten people in this room will be seriously injured this year from automobiles. By building safer cars or further reducing speed the risk could be reduced. But even a parked car is not risk free. You could choose not to drive, yet pedestrians and bicyclists also are injured by cars. Reducing the risk of injury from automobiles to zero requires moving to a place where there are none.

These comparisons should give some idea of the risk involved in things you are familiar with. They give a basis for judging what smoking, or eating, or watching Skylab fall, could mean to your health and safety. This is the kind of perspective to which people can relate. Everyone knows life is risky. If he has the basis for judgment, he can decide what to do or not do.

RADIATION RISK

While accepting the many daily risks of living, many seem to be getting the idea that their demands for energy should be met on essentially a risk-free basis. Since this is not possible, attention should be focused on taking reasonable steps to safeguard the public, on developing realistic assessment of the risks, and on placing them in perspective. One of the most widely distorted risks is radiation.

At the start of the Navy's Nuclear Propulsion Program in 1946, I realized the need for careful attention to radiation. It was clear to me that if nuclear ships were to be viable, there would have to be assurance that workers and crews not be subjected to excessive radiation. To emphasize this, I designed the shielding for our Naval nuclear plants to be many times more stringent than required by the standards then in effect. As a result, the shielding built into the first nuclear submarine, the Nautilus, was so conservative that it continues to be far more than adequate to meet the considerably lower radiation levels permitted today.

My approach to radiation shielding design was not agreed to in some places. For example, in 1957, the Chief of the Bureau of Ships—my boss—asked me to reduce the shielding in our submarines in order to save weight. Likewise, in 1965, a Congressional Committee launched an investigation to determine whether my conservative approach to shielding was unnecessarily increasing the cost of submarines. In both cases I held to my determination to keep radiation levels as low as I could reasonably get.

Insofar as the environment is concerned Naval plants have been so designed and operated that in each of the last eight years the total gamma radioactivity discharged to all harbors of the world has been less than two thousandths of a curie. This quantity is for the operation of over 100 ships and of all their support facilities. To give you an idea what this means, if one person were able to drink the entire amount of this radioactivity discharged into any harbor in all of 1978, he would not exceed the annual radiation exposure permitted by the Nuclear Regulatory Commission for an individual worker.

The word "radiation" has come to connote danger. It is often described as so dangerous that any amount is unsafe—as if the only question worth addressing is "how fast will radiation harm you?" Because you cannot see, feel, taste, hear, or smell radiation, it has an aura of mystery. But this same mystery appears to be absent from other potentially hazardous things for which we have a lack of sensory perception, such as radio waves, carbon monoxide, and small concentrations of numerous cancer-causing substances. These do not generate the same degree of fear as radiation.

The fear instilled by radioactivity today is akin to the fear of electricity following the invention of the electric light bulb one hundred years ago by Thomas Edison. Public fear of electricity was inflamed. Wall plaques had to be installed in rooms with electric lights, assuring people that "the use of electricity for lighting is in no way harmful to health, nor does it affect the soundness of sleep." Yet electricity has helped to transform man's life from a short one of drudgery to one where long life and higher aspiration can be realized.

Scientists have stated for decades that radiation can cause harm. However, all of us have been subjected to radiation throughout our lives from time of conception and, in fact, even prior to conception. The entire human race has been subjected to radiation, as has every living thing, throughout the entire evolution of our earth. The average person in the United States receives each year about one-tenth rem from natural radioactivity in the earth, in this body, and from cosmic radiation.

The unit of radiation, rem, ought to be required knowledge in all technical societies. It is defined in terms of energy absorbed in body tissues. Receiving one rem of gamma radiation is equivalent to absorbing 100 ergs of radiation energy for each gram of body tissue. There are 454 grams in a pound. An erg is the amount of energy required to lift a mosquito weighing one thousandth of a gram about one centimeter. In terms of energy the rem is a small unit. A dose of one rem would raise body temperature only two millionths of a degree centigrade.

We are not accustomed to fear background radiation; after all it is part of our natural environment. Yet in scientific terms it can be shown that its risk is not zero. More is known about radiation than almost any substance that can affect humans. More money has been spent to learn the effects of radiation on humans than for any other hazard in our modern society. The main effect is cancer. Effects other than cancer have not been found for low-level radiation exposure to adults. While genetic effects from radiation can occur, they are so small that none have been found in 35,000 children conceived after the nuclear explosion, by parents irradiated in Hiroshima or Nagasaki in 1945.

The combination of one-tenth rem per year background radiation, together with nearly the same average amount from medical diagnostic radiation, is estimated to cause almost 1 percent of cancer deaths in the United States. In an average group of 10,000 people, 1,600 will die of cancer. Sixteen of these deaths will be from background and medical radiation. If the lifetime radiation exposure of 10,000 people is increased by an average of 1 rem per person—a total of 10,000 rem—it is estimated that 1 additional fatal cancer may occur.[1]

This estimate of risk gives perspective on what radiation exposure means in the following ways:

Of all industrial and medical radiation workers in the United States, about 15,000 die each year from cancer. The total radiation exposure from their work adds an estimated 25 cancer deaths per year.

Radiation from the nuclear accident at Three Mile Island may add one fatal cancer death to the public within 50 miles. Of the 2 million people living within this 50-mile radius, 325,000 are expected to die of cancer from causes other than the radioactivity released from this accident.

The perspective on radiation can be improved by comparison. For example, I know an apparently healthy person who 40 years ago received more radiation from medical chest X-rays than the total exposure all 15,000 radiation workers at 9 shipyards received in 1978 from naval nuclear powerplant work. Others have had similar radiation exposure, and years later are alive and well.

Another example: for years rumors have persisted that radiation-induced cancer has killed the crew of the first nuclear-powered ship, the *Nautilus*. In 1978 the Navy traced each of the 96 officers and enlisted men of the first crew. Despite the rumors, all the men associated with operating the nuclear propulsion plant were alive and well.

With this perspective you are in a position to better answer the question. "Is radiation safe?" If safe means zero effect, then you have to conclude radiation is unsafe. But to be consistent, you should also conclude that background radiation and medical radiation are unsafe. Or more simply, that being alive is unsafe.

"Safe" is a relative term. Comparisons are necessary for actual meaning. For a worker, *safe* means the risk is small compared to other risks accepted in normal work activities. Aside from work, *safe* means the risk is small compared to other risks routinely accepted in life. From what I have said, it should be clear that the radiation encountered in our daily activities should not be the scary subject it is proclaimed to be.

EXTRAPOLATIONS

In radiation, as in other areas, a most effective way to frighten people is to proclaim that no one knows what the effects are. This has been repeated so often that it has become an article of faith that no one knows the effects of low-level radiation on humans.

One could well state, "No one knows the risks of smoking a few cigarettes," but the risks of smoking a larger number of cigarettes are well known. If 10,000 people smoke an average of four cigarettes a day, about 100 deaths will result; data are not available for lower smoking rates. For radiation, doses of 100 rem to each of 10,000 people would be required to cause an equal number of deaths. The effects of radiation on humans at doses of 100 rem are well known. The major controversy over radiation risks today is how to extend the risk estimates to even lower levels. As we get to lower levels, it becomes more and more difficult to detect the effects, and this becomes a problem. Would it be possible to determine the effect on the death rate of doing one situp or one pushup a day?

Using the figures I just presented you can extend the numbers to show that one rem has about the same risk of death as smoking one cigarette per month. I make this comparison only to show that finding out the effect on the death rate of one rem of exposure is about the same as trying to find out the effect of smoking one cigarette a month.

The point is that the effect of one rem is extremely small. There are physical limits to how far we can go to ascertain precisely the size of this risk, but we do know it is small. Those who sing the refrain of how little we know about low-level radiation do a disservice. Instead, they should explain how much we do know about the small actual effects.

STUDIES

Today, the universal answer to a claimed lack of knowledge of environmental effects is to conduct a study—nearly always at Government expense. I am not against studying environmental or health effects per se. But studies must be high quality; they have to cover tens or hundreds of thousands of people, and they must extend for many years, to have any chance of validly detecting effects as small as those from low-level radiation. One wonders whether this is a proper expenditure of taxpayer money. Are there not other areas more deserving of this kind of attention?

The compulsion to study is often used to quell public fears. It is also a way to show that something is being done. At Three Mile Island, epidemiological studies are being launched. One study has been commissioned to investigate the radiation effects on all pregnant women in the area—there were only a few hundred. These pregnant women received less extra exposure to radiation as a result of the Three Mile Island accident than they would have received had they moved to Denver, Colorado for a few months. If we must have a new study, it would make more sense to study radiation effects in Denver, with its higher background radiation due to the high altitude. Or members and staffs of the U.S. Congress could be studied because there are places on Capitol Hill with radiation levels above normal background due to natural elements in the building stone. If the idea of conducting studies on Congressional groups strikes you as strange, you may understand why I have reservations about the real need for some of the studies underway.

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[1] This risk estimate was made in 1977 by the United Nations Scientific Committee on the Effects of Atomic Radiation and by the International Commission on Radiological Protection. It is within the range of estimates in the 1979 draft report of the U.S. National Academy of Sciences Committee on Biological Effects of Ionizing Radiations, and in the 1972 report of this committee.

A study is often the way to forestall taking meaningful action or making a decision. Doing a study is usually doing nothing. DeMontaigne said "Too much study suffocates the active part of understanding." Studies are frequently used to quiet an outcry. The study takes time. During this period the clamor dies down. The study is issued, filed and forgotten. Meanwhile a new issue has aroused the public. Another study is authorized. The report is filed in the archives, and so on, and so on.

INJURY CLAIMS

Another aspect of radiation where scare stories are contributing to the problem is in the realm of radiation injury claims. Here, as in other areas, our approach to life is to turn from self-sufficiency to excessive reliance on Government. Many have come to presume that any risk, no matter how small, warrants indemnification by the Government. I am not against the payment of legitimate claims where the cause can be substantiated and it can be clearly shown that the Government was at fault. But when the risks are minimal, common sense should prevail.

In 1978, a worker in New Mexico was awarded $75,000 in worker's compensation because he feared radiation. No physical injury was claimed. No excessive exposure to radiation was claimed. In 1979 the Connecticut State Supreme Court awarded compensation to a municipal employee for injuring his ankle playing ping pong before his work shift started. A compensation claim was approved for a Navy worker for headaches allegedly caused by sitting at a desk with his head down. Such abuses are becoming common. The implications of these awards are far-reaching—not simply for the money involved but in the attitudes being inculcated into large numbers of Americans.

There are about 65,000 employees in Government-owned Naval shipyards. About 22,000 past and present employees have filed claims for damage to their ears from noise. These Government workers are being paid an average of $12,000 per claim. No distinction is made for normal loss of hearing with age. No effort is made to differentiate hearing damage caused on the job from that caused by modern music played at deafening volume. Secretaries whose only exposure to noise was a typewriter or copy machine are receiving awards. Workers apparently feel it is their right to receive these awards for normal work. In the last ten years, over $75,000,000 has been awarded to Naval shipyard employees for alleged hearing loss. The General Accounting Office has studied this area and found it riddled with fraud and abuse.

Since risk from radiation cannot be proven to be zero, suggestions have been made that the Government should pay all shipyard workers who get cancer just to be sure that none which might be related to radiation are missed. At a typical shipyard, about 10,000 workers have received radiation exposure from Naval Nuclear Propulsion work since the beginning of the program. Their radiation exposure from such work may add one or two cancer deaths to the 1600 normally expected in a group this size. To pay compensation to 1600 individuals so that one or two possibly deserving ones are not denied is absurd and unaffordable.

Demands have been made that all veterans who develop cancer be compensated because the cancer might have been caused by radiation from nuclear weapons tests. This would result in the Government making payment to almost 100,000 men who, according to normal incidence, will die of cancer, so that an estimated twelve possibly valid claims are not missed. Many claims have already been filed by these veterans.

The Navy's experience with hearing loss claims demonstrates that as long as there is money in the U.S. Treasury and Government agencies are willing to hand it out, there will be plenty of claimants. Many are urged on by unscrupulous lawyers who promote frivolous claims for a fee or a percentage of the award. Ordinary citizens, if they knew what was going on in some of these programs would demand a halt to such generosity with their taxes.

To those who get paid, this kind of cancer payment program may seem like getting something for nothing—like chain letters, the Pyramid Club, or the Circle of Gold confidence games. But the taxpayer foots the bill. In my view, environmental issues are badly out of perspective when we end up with a system that pays tax money to all who get cancer, merely to take care of a few for whom the real cause was radiation.

NEWS MEDIA

The news media have contributed substantially to getting environmental issues out of perspective. In their efforts to generate interesting stories that help sell newspapers, many members of the press have distorted the facts and the issues. In complex areas like energy and environment, bare facts are unexciting. To spice up otherwise dull articles, there is at times a tendency to be selective in the facts used or in the topics covered. At times conclusions are shown as facts. I understand that in some publications, the advertising department has a say in what gets printed as news.

Too often, facts have lost their proper separation from opinions. Merely by choosing what stories are reported, the media express opinions. Publishing a statement without reservations lends authority to that statement. Serious articles are often written by those who lack the technical background to understand even the available facts. And sometimes news is contrived. Let me give you examples:

During the Three Mile Island emergency, residents and local officials commented how useful the local news reports were, but that the national news reports were distorted. For example, one national television crew requested that an entire street be cleared so that their film could show, by the empty street, how frightened the people were.

A so-called documentary television report on radiation was strongly anti-nuclear. It led to a conclusion in which the reporter was said to have been killed by radation. However, nowhere in the report of his death from lung cancer was it mentioned that he was a long-term heavy smoker.

In areas such as nuclear power, even innocuous events are frequently blown into issues by a zealous reporter or editor. Not long ago, a hose broke, spilling a few gallons of pure water into one of our most polluted rivers. Because this happened on a nuclear-powered submarine, the story appeared the next morning in the newspaper.

The failures of the media—its preoccupation with the sensational and its lack of balance and perspective—are understandable to some extent. News is like fish—it must be sold quickly. But these stories can have a harmful effect on the public. Doctors report that following a series of news stories which fan the fear of radiation, the risk of death increases for people who will not take x-rays they should take.

Our country's growth has been fueled by technology. The bulk of the information on this subject is in the news media. It, therefore, has a special obligation to educate, through responsible reporting. Given the facts in proper perspective, the public can understand environmental issues. The tendency of the press to omit facts interferes with understanding these issues. For proper perspective, the news media must exercise self restraint, and make available enough information so the public can understand the significance of the events reported.

I have no simple solution for this problem. The media are not really accountable to anyone. Freedom of the press belongs to the person who owns the press. The only way I can see a change is for the public to demand more enlightened and factual reporting; perhaps the media will respond. Loss of sales or viewer interest is something a newspaper or TV network understands immediately.

GOVERNMENT

In environmental matters, there is a tendency to view Government officials as if working for the Government were in itself evidence of incompetence and bad intentions, therefore guilty of the charges leveled at them.

Some self-proclaimed public interest groups tend to focus on a single issue, demanding an immediate solution regardless of cost. But when Government agencies are pressed into solving one problem in a narrow fashion, this often leads to exacerbation of other problems. In come cases companies have been forced to switch from coal to gas for environmental reasons only to have to switch back a few years later because of energy considerations.

The Government agencies involved in these issues have an almost impossible job. Faced with problems that would challenge the wisdom of Solomon, Government agencies are increasingly plagued with other demands on their limited resources. The flood of injury claims is but a small part of the problem. Today we in Government can be tied in knots by frivolous law suits, Freedom of Information Act requests, investigations, and studies. These demands, individually, seem reasonable and necessary safeguards over the activities of Government officials. But faced with limited resources, the cumulative effect of these demands diverts attention and effort from their primary functions. It is analogous to the case of Cyrano de Bergerac who had to compose a sonnet while fighting a duel.

To be sure, we do have problems in Government. Some Government agencies themselves have become a sort of special-interest group. In this way the Government itself has been unable to provide the perspective to balance the problems inherent in new technologies. Those who criticize Government's inability to respond effectively to the challenges it confronts, should work equally hard to promote within the Government an atmosphere in which it is possible for us to devote our attention to important issues.

"EXPERTS" IN SCARE STORIES

Many have come to realize they can make names for themselves by scaring the public on radiation and other environmental risks. This approach creates reputations because the news media play them up. It creates research grants—with the Government, of course, paying—to explore the newly discovered problems. Time and again a so-called "expert" makes a startling "discovery" followed by a not-so-startling conclusion that he is the one who should conduct further research at Government expense.

To illustrate the trouble one self-proclaimed expert can cause, I will recount a situation I have followed closely. Two years ago a young medical doctor with little if any experience in radiation or epidemiology research investigating the effects of radiation on workers at the Portsmouth, New Hampshire Naval Shipyard. Studies in this field are complex, and require considerable talent and effort to find answers and avoid mistakes. In conducting the study he enlisted the help of an investigative reporting team from the Boston Globe.

In February 1978 the front page of this paper carried results of the investigation. This was not the case of a newspaper reporting something out of a technical journal; it was a report by the paper itself. No technical reviews were printed with this story. Reservations were stated in the story, but in a manner that made the reservations appear doubtful or readily dismissed. In the name of investigative reporting the newspaper itself had become an advocate for a highly questionable study, thereby dropping any vestige of objectivity. This was a classic case of limited information being blown into sensational news.

The story was printed in many newspapers here and abroad. The summary featured in many papers was that cancer deaths were six times higher for radiation workers at Portsmouth than for other workers. The news accounts spread fear among the workers, their families, and neighbors. Others here and abroad wondered if being near a nuclear-powered ship was dangerous.

The articles and concerns of constituents generated immediate Congressional interest. Within a week, a Congressional hearing took place. But little was done at this hearing to explore the validity of the study's conclusions.

White House officials used the results of this private study to order a Government-wide investigation of radiation. Millions of dollars will be spent carrying out these investigations.

For the past year and one-half I and key people in my organization and at the shipyards have been tied up with this issue. It has consumed our time and interferred with our proper work. Ironically, it has diverted attention from an important technical aspect of our job, which is to ensure safety of workers.

Throughout the controversy, the news media headline writers found it difficult to resist inserting the word "deadly" in front of "radiation." They rarely reported the Navy's achievements in radiation control, and the careful attention paid in this area. Those promoting the stories did not bother to explain that, despite a doubling in the number of nuclear-powered ships, radiation exposure had been reduced to one quarter what it had been fifteen years previously; that no one involved in the program had exceeded the Federal radiation exposure limits in a dozen years; that no one in the program had received more than one-tenth the radiation exposure allowed for radioactivity inside the body.

Official risk estimates indicate that about 1600 cancer deaths are expected for every 10,000 people. Among the 10,000 radiation workers who have worked at the Portsmouth Naval Shipyard, exposure received on the job might add two cancer deaths. Many scientists believe the true effects of radiation will be much smaller.[2] These facts are in sharp contrast to the exaggerated statements made in the Boston Globe.

Eventually the facts began to come out. In a Congressional hearing one and a half years after his report was published, the investigating doctor entirely changed his results. He repudiated his earlier conclusion that the cancer death rate for radiation workers at Portsmouth was double the death rate of their co-workers. He testified he could no longer support his earlier conclusion that the leukemia rate was six times higher for Portsmouth radition workers than for non-radiation workers.

I do not intend to denigrate those who are addressing valid public health issues in a responsible fashion. But a true professional does not publish until he knows the facts and acknowledges the significance of potential errors. Those who do not follow this path of credible scientific inquiry are acting irresponsibily. Not everyone who proclaims himself an expert, is an expert. Not everyone with the title of "doctor" merits public esteem. Not everyone who claims to be acting in the public interest is actually doing so. We must guard against those who in the name of public interest pursue fame through exaggeration. It is easy to use statistics improperly to predict large problems or to emphasize risk, out of context. Those who do so cause great harm by preventing a balanced assessment of the risks, thereby distorting proper preventive and remedial actions.

Since the doctor's new testimony, the Boston Globe has been comparatively silent. To my knowledge, the publishers have made no move to return the award they received for their earlier investigative reporting. There has been no apology to the workers and families they scared. The publishers have sold newspapers and have now moved on to other issues. I doubt if this experience will have any impact on their future reporting.

When a newspaper teams up with a doctor and then rushes preliminary, unsubstantiated results into print, it develops a vested interest to show that its reports are correct. Thus, it discounts or does not report information which conflicts with its own stand. That is the apogee of irresponsibility.

Such irresponsibility is a failure of newspaper management—not of the reporter. Much of the blame for other problems in the media also lie with management, who set the standards, style, and tone, and create the pressure for instant sensational reporting.

NUCLEAR POWER

I have spent considerable time discussing how public understanding of the true risks of radiation has been distorted in the name of protecting the environment. I have concentrated on radiation, although the problems I have mentioned are common to other environmental issues as well. The public perception of radiation has a direct bearing on the use of nuclear power in this country.

Nuclear power is not easy to deal with in this country because it has become a highly polarized issue. It involves individuals' concerns for themselves and their families, and it is a highly technical sophisticated technology. Ultimately, the decision whether we should have nuclear power is a political one—in the true sense of the word—that is, one made by the people through their elected representatives. It is essential that the decision be made on the basis of fact, not rhetoric, nor conjecture, or hope; nor as a result of the widespread tendency to sensationalize or ignore the true limits and risks of the alternatives.

According to the estimates I have already stated, the actual radiation exposure to workers and to the public from today's use of nuclear power can be estimated to result in about eleven extra cancer death per year out of a total of 360,000. On this basis, to eliminate nuclear power here would then potentially save an estimated eleven lives per year, but reduce the energy available. This loss of energy itself, might well result in loss of life.

If the saving of eleven human lives were the sole objective, better results could be obtained from the following, than by eliminating nuclear power:

Reduce cigarette consumption for each smoker by one cigarette per year.

Reduce medical radiation exposure by one percent.

Move the population of the Denver region to coastal areas which have lower background radiation levels.

Eliminate stock car racing.

Reduce the overweight condition of those in this room by an average of three pounds.

Some analysts have reported there may be greater radiation exposure from operation of a coal-fired central power station than from a nuclear power station. Whether this assertion on radiation is or is not true, accidents in mining and transporting coal, and the effects on the public from sulphur and other pollutants, result in a demonstrably higher death rate from use of coal than from nuclear power.

Concern over a nuclear accident is often cited as a reason for prohibiting nuclear power. Obviously, a repeat of the Three Mile Island accident cannot be lightly accepted and corrective actions are called for to prevent recurrence. I have provided my views to Congress and to others responsible for assessing what might be done in the commercial nuclear power program. The record and risks of this source of energy should be put into perspective, as compared with other risks we face.

Here are some examples of accidents far worse than anything resulting from Three Mile Island, yet without comparable repercussions on public policies:

In 1947, a ship loading ammonium nitrate fertilizer exploded, killing 561 people and leveling much of Texas City, Texas.

Many fires, explosions and wrecks have occurred in which more people than this were killed.

Forty-eight earthquakes, floods, tidal waves, and storms have been recorded in each of which 10,000 or more people were killed.

The DC-10 airplane which recently crashed, killed several hundred people. No one is considering abolishing aviation—it is too important to our way of life.

I am not aware of anyone advocating relocating cities such as Los Angeles or San Francisco away from geological faults which might cause earthquakes or away from risk of flood or storm damage.

As another example, there are approximately one hundred million shipments of hazardous material annually in this country. Hundreds of people each year are killed or seriously injured by hazardous materials in accidents. More scrutiny is being given to the approximately two million radioactive shipments than to the others, yet not a single death or injury has occurred from radiation or radioactivity in the material being transported.

I am not an expert or particularly knowledgeable in the areas of environmental effects of other forms of power generation. However, I am aware that many knowledgeable people conclude that the total risk involved in the use of nuclear power is no greater than that of any alternate source which can meet our needs in the next few decades.

Today many are optimistic about the possibility of widespread use of solar and other so-called "natural sources of energy." However, in their enthusiasm they often disregard the limitations and environmental effects of these sources. Others advocate exploitation of shale oil deposits without mentioning the vast amounts of water and earth removal required.

Any large-scale generation of energy—whether nuclear or from other sources—involves major engineering difficulties and potential environmental impacts. It is incorrect to assume that techology and increased Government spending can overcome limits nature imposes.

I remember the optimistic projections made for nuclear power when it was first being developed. It was predicted that electricity from nuclear power would be too cheap to meter. These predictions sprang from hope, from ignorance of the engineering problems that would be encountered in using nuclear power.

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[2] The National Academy of Sciences 1979 Report of the Advisory Committee on the Biological Effects of Ionizing Radiation is in contention over the views of a majority of the committee members on *how much smaller* the true effects will be.

In similar vein, many advocates exaggerate the benefits and ignore the problems of the energy sources they are promoting. The solution to our energy needs is not just over the hill at the end of the rainbow. Nature always demands its price; providing adequate amounts of energy will exact its proper price.

CONCLUSION

The technical problems involved in developing additional sources of energy are great, and will require our best talent.

I am not a proponent of nuclear power or of any other energy source. All alternatives have their own limitations; none are without risk.

In addition to the technical problems of generating the energy, environmental concerns must be factored into the equation. Whether these can be solved on a scale enabling us to sustain our present standard of living is not clear at this time.

One thing is clear. These problems cannot be dealt with effectively—from a technical or political standpoint—if those responsible are not set free to work on the problems. We cannot make progress unless those truly interested in solving these problems act responsibly.

Too many so-called technical, medical, and scientific people have been abrogating their professional responsibility to present facts accurately and objectively and in a context which enables others to evaluate them.

Too many in the media are sensationalizing the news in an attempt to attract readers, generate controversy, and make a name for themselves.

Too many self-proclaimed public interest advocates are pushing single interest ideas in ways that make it increasingly difficult to place the issues in true perspective.

Too many, in exercising their so-called rights, are exploiting environmental issues to obtain grants from the Government; through study contracts, improper injury claims and other methods.

These conflicting pressures have left the public uncertain, distrustful, confused, and in need of help. I consider this audience can provide a signal service by answering this call for help. Environmental issues must be put into proper perspective. Balancing risks and benefits must become a standard approach to evaluating environmental matters. The significance of environmental data must be explained to the public, so it can reach its own conclusions.

The present crisis in confidence over energy requires this approach to environmental issues. The Chinese word for crisis combines two ideographs, *wei chi* (pronounced weigh gee) literally, dangerous opportunity. A time of crisis is also a time of opportunity. We should take advantage of this opportunity to achieve a proper perspective in environmental matters.●

SHOPSTEADING

● Mr. **WILLIAMS**. Mr. President, bringing economic vitality to communities long beset by unemployment, poverty, and business disinvestment, presents one of the most formidable challenges facing local officials today. Whether or not localities will be successful in meeting this challenge depends to a large extent on the ability of these officials to approach their task with imagination and resourcefulness.

We can see both of these qualities at work today in Baltimore, Md., and Jersey City, N.J., where city officials have pioneered an exciting and potentially significant form of commercial revitalization known as "shopsteading." This concept takes its cue from the urban homesteading program through which a city sells an abandoned deteriorated dwelling for a nominal fee to a family which agrees to rehabilitate it and live in it for a specified period of time. With shopsteading, the city turns over an abandoned commercial property to a new owner who will rehabilitate the property and operate a business on that spot for a certain period of time. Under existing Federal programs, owners can obtain loans at favorable interest rates to carry out necessary renovation. Shopsteading can produce a number of important economic benefits for cities including additional tax revenues, new jobs for neighborhoods residents, and a reawakened sense of community purpose and progress.

Mayor Tommy Smith of Jersey City and Mayor William Schaeffer of Baltimore both deserve praise for their work to make shopsteading a useful tool in urban revitalization. Mr. President, I am, of course, most familiar with the examples of shopsteading in Jersey City and I know that Mayor Smith's creative and sensitive leadership has certainly resulted in progress. The success we have seen in Jersey City would serve as an ideal model for other communities around the country.

Mr. President, the July 1979 issue of Commentary published by the National Council for Urban Economic Development described shopsteading programs in both Baltimore and Jersey City. I believe this article will prove interesting to my colleagues, and I ask that it be printed at this point in the RECORD.

The article follows:

SHOPSTEADING: NEW BUSINESSES IN OLD NEIGHBORHOODS

(By Amelia Purcell)

(NOTE: A program underway in Baltimore and Jersey City lends new hope for declining commercial areas. Although still in its infancy, the shopsteading experience to date suggests that its advantages for the city and the shopsteader are considerable.)

Shopsteading is a relatively new phenomenon in neighborhood commercial revitalization. The concept was developed two years ago in the cities of Baltimore, Maryland and Jersey City, New Jersey, to address the problem of vacant commercial property.

Conceptually, shopsteading is similar to urban homesteading which involves the sale of abandoned residences, for a nominal fee, to people who are willing to rehabilitate and live in them. Shopsteading, however, is much riskier than homesteading. Not only must shopsteaders renovate the abandoned property, but they must operate a business there as well. The city, moreover, must be more cautious in selecting areas for shopsteading than it is for homesteading; the demand for goods and services in potential shopstead neighborhoods must be carefully assessed.

The success of both shopsteading and homesteading hinges on the availability of vacant properties that are suitable for revitalization. Cities commonly acquire such properties through eminent domain, tax foreclosure, gifts or purchase at market value. The process varies according to state statutes. Some cities—those in Missouri, for example—may be able to create a private, non-profit redevelopment corporation to act as negotiator and conduit for the city in acquiring land.

BALTIMORE'S EXPERIENCE

Most of the 38 shopsteads in Baltimore are abandoned, tax-delinquent properties that were turned over to the city's Real Estate Department because the owners did not redeem them, or because the city was unable to sell them at a sheriff or tax sale. The Real Estate Department then transferred the properties to the Office of Neighborhood Commercial Revitalization, which administers the shopstead program. The cost to the city of purchasing the properties is equal to the total amount of liens on them.

There are clusters of shopstead properties in three Baltimore neighborhoods—Union Square, Jonestown and Washington Hill—and scattered properties in other areas of the city. These areas were selected for shopsteading because they are being revitalized and have vacant properties suitable for commercial redevelopment. Also, each area has a unique feature, such as the new post office building in Jonestown, which enhances its appeal and stability. Potential properties must be commercially zoned and most are in urban renewal areas.

Baltimore's Office of Neighborhood Commercial Revitalization, located within the city's Department of Housing and Community Development (DHCD), began operating the shopstead program in December 1977. For a fee of $100, vacant, commercial property is conveyed to individuals who agree to renovate the building and operate a business there. The agency staff, which includes architects and loan officers, screens potential shopsteaders and helps them make satisfactory financing arrangements.

The Department of Housing and Community Development advertises the properties that have been designated for shopsteading. Interested individuals must submit a letter of intent describing their plans for the property, along with a personal resume and financial statement. The Neighborhood Commercial Revitalization staff interviews each applicant to determine the feasibility of the project and the applicant's ability to finance the rehabilitation and repay a loan. The staff also examines how the applicant's business plans fit with existing and planned retail uses in the area. If several acceptable proposals are submitted for the same building, a lottery system is used to make the final selection. The project must also be approved by the neighborhood planning council in the shopstead area, the commissioner of the DHCD and the mayor.

Once an application has been accepted, the shopsteader must submit architectural plans and specifications, along with a contractor's estimate, to the Office of Neighborhood Commercial Revitalization. Financial arrangements, which must be finalized within three months, can be initiated as soon as the plans have been approved. Financial counseling and loan packaging assistance are provided by the Neighborhood Commercial Revitalization staff. Program participants are also required to attend marketing and financing courses offered by SBA's Service Corps of Retired Executives (SCORE).

Several financing mechanisms are available to shopsteaders. The Baltimore Commercial Revitalization Environmental Assistance Loan (REAL) program provides loans up to $50,000 at seven percent interest for a 20-year period. Commercial REAL loans are supported by municipal general obligation bonds. Shopsteaders and homesteaders alike may obtain loans at six percent interest for up to 20 years through the Maryland Housing Rehabilitation Program. The Small Business Administration's 502, 7(a), and Economic Opportunity Loans (EOL) are additional sources of shopstead financing. HUD's Section 312 loans, which carry an extremely low three percent interest rate, are available to business persons with the greatest need.

All publicly financed loans, except Section 312 loans, must be approved by the city's Commercial Loan Committee whose members are private bankers and staff of the city's Department of Finance. Section 312 loans are approved by DHCD.

Before settling on the property, the shopsteader must provide evidence of equity capital; submit detailed specifications for rehabilitating the property; estimate all capital requirements for construction and initial business operations; have $300,000 worth of liability insurance; and have commitments for necessary construction financing.

Within 30 days of settlement, the shopsteader must begin improving the property. Within six months, the building must comply with the city building code. If the shopsteader is unable to complete the renovations within one year, the property reverts back to the city.

The shopsteader must also begin operating the business within a year. Further, the shopsteader must continue operations for at least two years before the business can be sold. The first shopstead, an ice cream parlor in the Union Square area, opened in June. Six other shopsteads are scheduled to begin operating this summer—an oriental gift shop, a hair salon, a pottery shop, an engineering design firm, a stained glass shop and a real estate office.

JERSEY CITY'S EXPERIENCE

A similar shopstead program began operating in Jersey City in 1977. Initiated on a limited, demonstration basis, the program was part of an overall revitalization plan for the neighborhood surrounding Martin Luther King Drive, an eight-block, declining commercial strip.

To get the program started, the city purchased four adjacent, abandoned shops on Martin Luther King Drive. A HUD discretionary grant of $193,000 that the city was using for facade improvements to abandoned storefronts also helped get the program underway. The city's Planning Department, which administered the program, hired an architect to create a common design theme for the four shops, and then advertised the properties.

Shopsteaders are required to submit a variety of documents to the Planning Department, including a financial statement, evidence of business experience, and a description of the business they want to develop. After an application is approved by the Planning Department, the shopsteader must secure the financing necessary to make the renovations. The Planning Department and the local development corporation that serves the Martin Luther King area provide financial counseling to shopsteaders. In addition to conventional financing, SBA and HUD Section 312 loans are available. Settlement is scheduled when financing arrangements are completed.

A sales contract is drawn up between the city and each buyer. The contract includes a timetable for completing the renovation work. If a shopsteader cannot complete the renovation within the time constraints stipulated in the contract, the property will be returned to the city. Otherwise, the shopsteader can open for business as soon as the property meets city code standards. The shopsteader is required to own and operate the business for at least five years before it can be sold.

In the second year of the shopstead program, with the four properties in various stages of rehabilitation, administrative responsibility for shopsteading was transferred to the city's Redevelopment Agency. The agency has suspended the program until the shopsteading area can be declared blighted a designation that will enable the city to use federal funds for improvements in the neighborhood.

ADVANTAGES TO THE CITY

Jersey City's program is still evolving, and only one of Baltimore's shopsteads, has begun operating. Still, both the cities and the shopsteaders can expect to realize a number of benefits from the program.

For the city, the program will enhance the quality of life and vitality in the shopstead area, and expand the market for goods and services as well. Shopsteading also has the potential for improving land use patterns in marginal commercial areas. In Baltimore, shopsteading has catalyzed renovation of an entire commercial block on West Baltimore street. The rehabilitation of several vacant buildings through the shopsteading program has provided an incentive for other private investors to renovate the remaining buildings on the block.

Rehabilitated commercial properties are expected to stimulate additional new investment, both public and private. Jersey City plans to build parking lots and sidewalks along Martin Luther King Drive. Baltimore has already built parking lots, improved streets and sidewalks, and planted trees in several shopstead areas. New businesses have been attracted to Baltimore's shopstead neighborhoods, and existing businesses in these areas have been encouraged to improve their properties.

Tax-delinquent properties will be returned to the city's tax rolls at an increased assessed value. Many shopsteaders will pay corporate and residential taxes because the program encourages them to live in or rent the upper floors of their shops.

Shopsteading is designed to promote both business retention and business attraction activities. Baltimore's shopsteading program aims to attract businesspersons to city neighborhoods. Most shopsteaders are from outside the city or from a different city neighborhood, although several residents of shopstead areas are participating in the program too. Jersey City's shopsteading program was designed to attract businesspersons in Jersey City and nearby cities to the Martin Luther King area, as well as to encourage local shopowners in the commercial corridor to remain there.

BENEFITS FOR BUSINESS

For the businessperson, the most important benefit is low-cost, rent-free property. The shopsteader has the immediate advantage of purchasing property at a cost considerably below the market value. Owning the building where his business is located gives the small businessman an incentive to improve it.

Other benefits for the businessperson include a facility remodeled to fit his business needs, and financial help to renovate and operate his shop. Baltimore's long-term, low-interest loan program is especially appealing to shopsteaders. Under federal law (P.L. 95–600), shopsteaders qualify for a 10 percent investment tax credit for rehabilitating old commercial property. Under New Jersey's tax abatement law, a shopsteader is exempted from paying property taxes on the assessed value of rehabilitated property for five years after renovation work has been completed. Shopsteading probably provides the best opportunity for businesspersons who wish to open retail and specialty shops, service-oriented firms and other small businesses.

When shopsteading is combined with historic preservation, the businessperson gets an additional tax advantage for rehabilitating an historic building. This combination also has potential for increasing tourism and the demand for goods and services in the area. Baltimore's Union Square has been designated an historic district by the U.S. Department of the Interior. Once a store in this area has been certified for the National Register of Historic Places, the owner is eligible for five years accelerated depreciation on all renovation costs.

OUTLOOK

Shopsteading cannot occur in a vacuum. To be successful, it must be incorporated into an economic development strategy. The area where vacant commercial properties are located must have considerable potential for overall revitalization. This means there must be an identifiable market in the area. Other elements of economic revitalization that must be present include physical improvements, organized neighborhood support, financial and other supportive resources, and a business development plan.

The overall success of shopsteading is difficult to predict since experience with the program in the United States is limited to Baltimore and Jersey City. A city must study the opportunity costs of shopsteading (the resources that might have been used for another project) before it decides to initiate this program. This means estimating the impacts of shopsteading on the target area, projecting the jobs and income it will generate, and weighing these factors against alternate plans for the property.●

PUBLIC MONEY FOR INTEREST GROUP LOBBYING

● Mr. TOWER. Mr. President, Senator SIMPSON appeared on September 19 before the Consumer Subcommittee of the Senate Commerce Committee to raise a cry against the practice of compelling our citizens to contribute their tax dollars to support the efforts of private lobbying groups before Federal agencies.

The most serious abuses in this area, according to Senator SIMPSON, may be seen in the activities of the Federal Trade Commission in using public funds to finance the appearance of interest groups before the Commission in rulemaking proceedings under the Magnuson-Moss Act. During the past 2 years, the bureaucrats at the Federal Trade Commission doled out more than $482,000 to their favorite groups to appear in the FTC children's advertising proceeding to echo the FTC Chairman's litany that the Government alone is capable of protecting children from their parent's supposed inability to resist their own children's unwise demands for various brands of cereals, soft drinks and candy which will assuredly be purchased for them by their weak-willed, uninformed, parents.

Senator SIMPSON points out that many of the groups receiving taxpayers' dollars are scarcely in need of these subsidies. For example, the Americans for Democratic Action has received $177,000 to participate in five separate rulemaking proceedings. Yet this group has an annual budget exceeding $1.6 million. The Sierra Club, with financial resources of at least $1.8 million annually, was chosen to share $28,241 with the environmental groups to participate in another rulemaking proceeding.

A danger in this type of funding is that we may be creating a whole new class of "kept" critics who will slant their testimony to coincide with the agency subsidizing their appearance. According to testimony received by the Consumer Subcommittee the FTC awarded no funds whatsoever to parties opposed to the FTC children's advertising rule. This could create a whole new industry primarily composed of lawyers pandering their skills to take advantage of the Government largess.

Another area of concern regarding the funding of consumer groups involves the difficulty in determining whose interests they in fact represent. Typically, these groups are self-appointed individuals serving on self-perpetuating boards. Even those with membership seldom go to those members for a vote on positions to be taken on the issues.

To remedy this situation, in an article by George D. Webster entitled "Standards are Required for the Regulation of Consumer Groups" appearing in the September issue of Association Management it is suggested that consumer groups which are tax exempt and receive public funding be required to disclose such items as their basic philosophy, interlocking directorships, opportunities for personal benefits and any other potential conflict of interest. Although I do not necessarily endorse the concepts advanced in this article, they are novel approaches to a complex problem and worthy of broad exposure.

Mr. President, I ask that the statement and article cited above be printed in the RECORD.

The material follows:

Remarks for Senate Commerce Committee Hearing on Intervenor Funding

(By Senator ALAN K. SIMPSON)

Mr. Chairman, I appreciate this opportunity to comment before the Commerce Committee concerning the subject of public interest intervenor funding. I have previously introduced an amendment to the Federal Trade Commission's 1980 Budget Authorization that would prohibit the continuation of the existing FTC intervenor funding program.

I feel it to be a most inappropriate situation in a free society when our citizens are compelled to contribute their tax dollars to any private lobbying group, no matter how worthy it may appear to be in its self proclaimed goals. To the extent that any private group enjoys public support it can, and always will be able, to raise money through voluntary contributions. It will have no need for a public subsidy, which is all that any intervenor funding program is. To the extent that these so-called public interest groups may lack the financial resources to appear, that may likely be a very strong item of evidence indicating a lack of public support commended by the ideas and programs those groups espouse. And if they lack public support, then these groups lack any right to claim to say that they speak in the public interest—let alone any right to demand that the public be forced to support their activities.

Secondly, when it comes to tossing about the taxpayer's money, no agency may be more wasteful of it than the Federal Trade Commission. I think most Americans feel that they are quite capable of raising their own children, without an all-seeing National Nanny such as the FTC injecting its own theories and opinions. Yet the FTC is currently intending to prohibit all advertising on children's television programs because it is of the belief that it alone is capable of protecting children from their parent's supposed inability to resist their own children's unwise demands for various brands of cereals, soft drinks, and candy which will assuredly be purchased for them by their weak-willed, uninformed, parents. Not only does the FTC want to be Big Brother, they also aspire to be Big Mother as well. During the past two years more than $482,000 have been presented to various special interest groups who, much as a chorus in a Greek tragedy, echo the FTC chairman's opinions. That is not good. Action For Children's Television received $84,614 to chant in the chorus. The Committee For Children's Television received $73,916 for the same purpose. The Community Nutrition Institute obtained $40,666 to prattle the same script.

The FTC's generosity in awarding so much money to Action For Children's Television, highlights—and exemplifies—two other deep and serious problems that I have with intervenor funding:

First, Action For Children's Television clearly had no need whatever, for the sum of $84,000. Action For Children's Television recevied, by its own admission, substantial support from Mobil Oil, United Technologies, Woolworth's, the Aetna Life and Casualty Insurance Company and numerous other blue chip firms. Action For Children's Television is so "impoverished" that it is able to publish a glossy 35 page magazine, having a national circulation—six times a year. Do they now also require a taxpayer subsidy? I think not!

This identical, and equally vaild, criticism may also be made of the manner in which the FTC ladles out the taxpayer's money to other special interest groups. In recent years, the Americans for Democratic Action has received $177,000 to participate in five separate rule making proceedings. Yet this group has a national membership of nearly 75,000 people and an annual budget exceeding $1.6 million. An organization with these financial resources certainly can afford to hire its own lawyers and consultants without asking the overburdened American taxpayers to foot the bill!

Similarly, the Sierra Club was one of the your environmental groups sharing in a subsidy of $28,241 to participate in another rule making proceeding. This "impoverished" organization has a nationwide membership of 183,000 people, who pay dues of $20 per year, thus giving this group financial resources of at least $1.8 million annually.

The Environmental Defense Fund, which also shared in that taxpayer subsidy is able to maintain offices in Washington, D.C., New York City, Denver, Colorado, and Berkeley, California. Do the American people really have to subsidize an operation such as this?

A second problem is the blatant conflict of interest that existed between the views of FTC's Chairman and the requirement that he act on this issue in a fair and impartial manner.

So notorious was his bias, and so clearly did he abuse the powers of his office that so liberal a judge as Gerhard Gesell felt compelled to order that the Chairman be disqualified from any further participation in that FTC rule making proceeding.

Apologists for these programs claim that all opposition to them comes from the "far right", however that is defined. Is John W. Gardner, the founder and past president of Common Cause part of the "far right"? I doubt it—yet John Gardner has stated, and I quote, "Public participation proposes direct assistance. If the concept of conflict of interest means anything, then there is a danger in potential critics of any agency being financed by the very agency they criticize. We could easily create a class of kept critics, and damage the future of an independent public interest movement."

Along these same lines, Commissioner Robert E. Lee of the Federal Communications Commission, an Eisenhower appointee and certainly no "far right" hard liner has stated that, and I quote, "It seems that, in its zeal to help everybody, the Federal Government has been playing musical money—shuffling it from citizen to citizen. This is hardly the time to propose a spending program which may ultimately benefit only the lawyers."

The basic justification given for the existence of this program is that, without it, the FTC would be denied access to valuable technical information and points of view it would not otherwise receive. This is errant nonsense.

One must inquire what the technical knowledge the Americans for Democratic Action has in the fields of over the counter drugs, or ophthalmic goods,—that should entitle it to weave its web of ideology before the FTC? Indeed what does the ADA know about health spas? Very little I hunch. What do they know about funerals? I take that back—since it is engaged in an effort to bury this present Democratic President, perhaps they do know something about funerals.

Does that "Nader-like" Media Access Project know anything about developmental psychology that would enable it to claim the technical expertise to testify in favor of banning childrens' television advertising? I doubt that. They were chosen to speak for only one reason—they supported the position already having been reached and advocated by the Chairman and his staff—and we are paying for it!

Mr. Chairman, the FTC's intervenor funding program is an indefensible waste of the taxpayers' money, from both a philosophical and practical point of view.

It was one of those ideas—hatched in an era of "compassion fatigue" in this country, where an originally fine and noble theory has been rigged and gimmicked to the severe detriment of the public who is being badly abused in the process.

I urge that such programs be abolished. I ask that the documentation concerning amounts of intervenor funding received be included in the record.

Standards Are Required for the Regulation of Consumer Groups

(By George D. Webster)

The decade of the 1970s witnessed an explosion of consumer consciousness. Congress responded to the hue and cry to protect consumers and their interests by enacting a multitude of consumer-oriented legislation. Much of the legislation defines unfair and deceptive selling and credit practices, as well as product safety.

Among the measures enacted by Congress were the Consumer Credit Protection Act, Fair Credit Billing Act, Equal Credit Opportunity Act, Consumer Home Mortgage Act, Magnuson-Moss Warranty Act, and the Consumer Product Safety Act.

CONSUMERS AS VICTIMS

Virtually every adult American has been victimized at some point by shady business or credit practices or through the purchase of an item that was not what it was represented to be. For example, I have had the misfortune of purchasing two lemon cars over the past nine years. In each case, I was forced to do battle with the dealer and the manufacturer. Satisfaction was hard to come by.

Legislative efforts to protect the consumer are commendable. Consumer protection must remain a vital concern of every American. When the consumer is ripped off, everyone suffers. However, integrity cannot be legislated.

SELF-APPOINTED CONSUMER GROUPS

One of the outgrowths of the rising consumer consciousness is the proliferation of self-appointed consumer groups, each claiming to represent the interests of American consumers. It is estimated that nationally there are well over a hundred active consumer groups. They claim to represent the consumers or some specialized segment of consumers, yet they have received no authorization. While paying lip service to the idea that they represent the consuming public, very often they are merely organs through which the narrow views of their founders can be expressed. Many people have taken advantage of the public's justifiable concern over consumer protection in order to benefit their own interests. Many groups are duplicative.

One of the first consumer groups to gain a national following was the Consumers Union, publisher of Consumer Reports. In the April 1973 issue of Consumer Reports, there appeared an article titled "Microwave Ovens: Not Recommended." This article, which reached approximately 2.3 million readers, purported to represent an objective evaluation of the safety of microwave ovens.

The article indicated that Consumers Union had performed tests measuring radiation emissions from numerous microwave ovens, when in fact it failed to test the most popular microwave oven model—the Amana Radarange. The tests indicated that each oven met the current federal standards for emissions, yet the article asserted that these ovens were unsafe. This conclusion was based on a comparison of the radiation emission levels with the Soviet bloc countries' standard for continuous radiation exposure. Reliance on this comparison was irresponsible and scientifically invalid.

COMPLAINT WITH THE FTC

Shortly after the article appeared, Amana Refrigeration, Inc., filed a complaint with the Federal Trade Commission asserting that the article contained false and misleading statements. The complaint charged Consumers Union with spending approximately 35 percent of its $16 million budget for the promotion of its magazine. On the other hand, the total budget of the technical department, which conducted product testing, was only $2.1 million, according to a May 24, 1973, article in the *Washington Post.*

So while Consumers Union was heavily engaged in pushing its magazine, less emphasis was placed on carefully researching the products that were being evaluated. This policy was confirmed in an affidavit filed with the FTC by a former assistant director of the Consumers Union, Channing H. Lushbough. In his affidavit, Mr. Lushbough said that, in his opinion, the article criticizing microwaves was put into the April issue of *Consumer Reports* not to help consumers choose safe products but rather primarily to increase the sales of the magazine by printing an inflammatory article on a controversial new product. The affidavit concluded that the "reference to consumer safety was a sham."

TAX-EXEMPT STATUS

The operating costs of these self-appointed, often self-serving, advocates are primarily borne by the taxpayers. Virtually all consumer groups enjoy a tax-exempt status under both federal and state law. Thus, they pay no income tax on revenues generated from their activities. In addition, several federal agencies—including the Federal Trade Commission and the Consumer Product Safety Commission—are authorized by statute to dispense large amounts of public funds to these consumer groups, ostensibly to enable them to assist the agency in developing and adopting new product standards.

MANY SERIOUS QUESTIONS

Direct public funding of consumer groups that owe no allegiance to the public at large raises many serious questions. The first question is: What is the purpose of giving public funds to these consumer groups? This issue has been raised in congressional hearings with regard to the FTC's policy of reimbursing public participation in trade regulation rule proceedings.

For instance, in the current proceedings on standards and certification, a number of consumer groups have received funding solely because the FTC staff believes that these individuals would testify in favor of the proposed rule. During the recent FTC hearings held in San Francisco, the commission reimbursed an individual with public funds for his testimony detailing the effect of the proposed rule on adjustable golf clubs—hardly a vital concern to the vast majority of consumers.

The money is dispensed with the approval of a committee appointed by FTC Chairman Michael Pertschuk and supervised by Michael N. Sohn, FTC general counsel. This arrangement is authorized by the Magnuson-Moss Act, which Mr. Pertschuk helped to draft when he was chief counsel to the Senate Commerce Committee. Many senators have complained that the public funds are available only to a select number of favored groups based on their support of a proposed trade regulation rule. Many of the recipients merely provide duplication in point of view.

WASTE OF PUBLIC FUNDS?

Another question is: Do consumer groups waste public funds? As part of the Consumer Product Safety Act, a new method of developing and adopting product safety standards was enacted, allowing greater public participation—including grants of funding to private groups to develop the relevant standards. After five years of operation under this method of promoting product standards (Section 7 of the act), only four standards have been approved. These standards are for (1) architectural glazing, (2) swimming pool slides, (3) matchbooks, and (4) power lawnmowers.

This is hardly an impressive record. A example of this ineptness and waste of public funds is the attempt to develop a safety standard for ornamental Christmas tree lights. The Consumer Product Safety Commission paid $161,000 in public funds to a consumer group, The National Consumers League, to come up with a standard for Christmas tree lights. The standard has never been adopted by the CPSC because it was not a good standard. In addition, it should be noted that the NRL had four out of seven positions on the executive committee of the SPSC-appointed group, which is not representation in any sense under the usual standards-making procedure.

Some expenditures of money from consumers may not even be for "consumers." The FTC gave $177,000 to the Americans for Democratic Action—hardly a "consumer" group.

Another area of concern regarding consumer groups invloves the interlocking nature of their memberships—especially among the leaders of these organizations. Many individuals are actively involved in numerous distinct consumer groups.

The time has come to recognize that there are many philosophical and ideological differences among the rival consumer groups. Theoretically, each of us has the same interest in protecting consumer rights. However, in reality, there is a tremendous diversity of views as to how the task can best be performed and what the proper priorities should be.

Because of this diversity, consumer groups should be forced to disclose their basic philosophy and policy objectives in a simple, understandable manner. Otherwise, there will be no opportunity for participation by the rank and file consumer. Steps should also be taken to ensure that any conflicts of interest due to the interlocking nature of consumer group leadership are fully disclosed and appropriately dealt with.

REASONABLE STANDARDS REQUIRED

Consumer groups have a particular responsibiilty to the American consumer—especially to the extent that such groups rely on tax dollars for support. In view of that, it seems reasonable to require them to abide by standards of conduct and disclosure regarding their directorships, including interlocking relationships, opportunities for personal benefit that may accrue to the directors and organizers, any other potential conflicts of interest that might exist, the basic philosophy, and any other matters that might influence one's decision whether to join or support a particular consumer group.

Without this disclosure, consumer groups have no accountability to their only constituency, the consuming public. Without accountability and standards of conduct, there is an insidious potential for abuse which renders these groups as dangerous as the problems they were intended to cure.

For many years, the corporate community has been required to disclose all of these items and more to the public through the Securities and Exchange Commission and other bodies. Shouldn't so-called public-interest, consumer groups meet at least the same standards of disclosure as tax-paying businesses? The stockholders of consumer groups are American taxpayers, and they have a right to freedom of information.●

GASOHOL PRODUCTION IN NORTHERN VIRGINIA

● **Mr. BAYH.** Mr. President, gasohol will soon start being produced on the east coast by the A. Smith Bowman Distillery in Reston, Va., which plans to complete facilities by the end of this year for producing anhydrous alcohol which will then be mixed with gasoline to become gasohol. Bowman anticipates having the potential to produce 2 million gallons per year. This will make them the first distiller to produce large amounts of alcohol for energy use in the East.

Several aspects cf this new gasohol are noteworthy and augur well for the future. First, the financing for the new facilities was raised completely internally.

Second, purchasers for the alcohol have already been lined up, which demonstrate that markets for gasohol continue to grow. Additionally, the byproduct from the alcohol production, a wet distillers grain, will be sold to local dairies for use as a feed for livestock.

Third, some of the heat generated in the production process will be used to dry the grain byproduct. This use of cogeneration is expected to result in a substantial energy cost savings for the distillery as a whole.

Finally, Mr. John B. Adams, vice president of A. Smith Bowman Distillery, anticipates selling the anhydrous alcohol at a price below today's current market rates. If the continued growth of alcohol for fuel production facilities around the country leads to lower prices for gasohol, while petroleum costs go up, then the attractiveness of gasohol to the consuming public will be further enhanced.

I might just add, Mr. President, that A. Smith Bowman Distillery is a participant in preliminary discussions with the Department of Energy regarding a joint venture to build an experimental, new generation distillery plant in Virginia. Potentially, these discussions will lead to a further expansion of gasahol production and availability in the Metropolitan Washington area.

Mr. President, this is an example of a company showing energetic leadership in the development of alcohol fuels. I compliment Mr. John Adams and the management of A. Smith Bowman Distillery for their efforts to aid our Nation in resolving its energy problems and for the innovative and cost effectiveness manner in which they have undertaken this endeavor. I look forward to filling up with gasohol once it is available in Washington as I have done when at home in Indiana.●

CANADA BEATS TAXATION

● Mr. DOLE. Mr. President, last week's increase in the prime lending rate to 13¼ percent by Chemical Bank brings the rate to an all-time high. There is no sign that interest rates are about to peak. In addition, the Federal Reserve has allowed the Federal funds rate—the rate charged on loans to banks—to rise to 11½ percent. The fact that rates must reach these heights to enable the Fed to gain control over the money supply is an indication of how deeply ingrained in our society inflation has become. Double-digit inflation requires a rethinking of our traditional approaches to economic policy.

It is worth our while to study what measures other nations have taken to deal with persistent high rates of inflation. In the early 1970's Canada, like the United States, began to experience rates of inflation that were far out of proportion to what the Nation had been accustomed to through most of the 1950's and 1960's. In 1973, the Canadian Minister of Finance proposed modifying the income tax system to take into account the impact of inflation on progressive tax rates. The proposal was implemented in 1974, and has been in effect since then.

The Canadian system is quite simple. It recognizes that, with a progressive tax structure, increases in nominal income that move a taxpayer into a different rate bracket can have a dramatic increase in tax liability. Furthermore, with exemptions and deductions stated in fixed dollar terms, taxable income during periods of high inflation rises more rapidly than the inflation. Real income—the citizen's actual purchasing power—may stay the same or actually decline, but the average tax liability increases in real terms as a result of the inflation of income. To deal with this phenomenon, Canada annually adjusts the tax rate brackets, and the primary exemptions, by the percentage increase in the Canadian Consumer Price Index for the previous year ending September 30. The adjusted tax tables are then ready for withholding tax in the following year.

Mr. President, the Canadians have realized the devastating impact inflation can have on people by distorting their tax liabilities. The old theory that tax increases from inflation provide an automatic stabilizer for the economy simply does not hold water when inflation remains at high levels. Taxflation is destabilizing, because it imposes additional financial burdens in times of economic stress and because it makes it difficult for taxpayers to save or plan their own finances. Taxflation reinforces an inflationary psychology.

Canada has come to grips with its problem, and the Canadians were fortunate that the Minister of Finance took the responsibility for proposing indexing. In the United States we have not been so fortunate. It is time that the Secretary of the Treasury followed the example of his Canadian counterpart. The remedy for taxflation is ready and waiting. It is the Tax Equalization Act, S. 12, introduced by the Senator from Kansas. Tax equalization would result in the tax brackets, the zero bracket amount, and the personal exemption being adjusted annually for inflation. The legislation is ready to go, the people have long been ready for indexing, and equitable tax treatment is long overdue. It is time for the Treasury Department to move to eliminate the inflation tax penalty. Canada has proved that it can be done, and that it works.●

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER (Mr. EXON). If there is no further morning business, morning business is closed.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I will state the program for tomorrow.

The Senate will come in at 9:15 a.m.

There are two orders for the recognition of Senators—Mr. WARNER and Mr. PROXMIRE.

After those orders have been consummated, the Senate will take up the conference report on the Panama Canal Treaty, the implementing legislation. There is a time agreement on that conference report of 2 hours overall, including any motions relative thereto, with the exception of one motion to recommit with instructions, by Mr. DOLE. No point of order will lie against that motion to recommit, under the order that has been entered.

There is a 1-hour limitation on that motion to recommit. So there will be rollcall votes—probably at least two, as I see it—and then the Senate will go into executive session, following the disposition of the conference report, to take up the nominations on the Executive Calendar. I would anticipate at least three rollcall votes on nominees.

Following that, the Senate will proceed to the consideration of any other matter that has been cleared for action by that time.

Mr. President, in view of the fact that any point of order to be made against Mr. DOLE's motion to recommit with instructions will not lie, I make the same unanimous-consent request with respect to any amendments to the Dole instructions, so that no point of order will lie against any amendments to his motion.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9:15 tomorrow morning.

The motion was agreed to; and at 5:58 p.m. the Senate recessed until tomorrow, Tuesday, September 25, 1979, at 9:15 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, September 24, 1979:

MISSISSIPPI RIVER COMMISSION

Sam Epstein Angel, of Arkansas, to be a member of the Mississippi River Commission for a term of 9 years.

NATIONAL COMMISSION ON SOCIAL SECURITY

James J. Dillman, of Wisconsin, to be a member of the National Commission on Social Security for a term of 2 years.

Milton S. Gwirtzman, of Massachusetts, to be a member of the National Commission on Social Security for a term of 2 years.

D. S. MacNaughton, of Tennessee, to be a member of the National Commission on Social Security for a term of 2 years.

David H. Rodgers, of Washington, to be a Member of the National Commission on Social Security for a term of 2 years.

Elizabeth Duskin, of Maryland, to be a member of the National Commission on Social Security for a term of 2 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grade indicated in the National Oceanic and Atmospheric Administration:

To be lieutenant (junior grade)

Lawrence F. Simoneaux.

HOUSE OF REPRESENTATIVES—*Monday, September 24, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O Lord, God of Creation, we ask Your favor on us. You have called these Your servants to be stewards of the concerns of this Nation, and have given them responsibility as representatives of all the people. Grant that they will sense their duties as a vocation from You and will lead us in the paths of peace and justice.

Grant them insight to see the noble and lasting values that bind us together in trust, and, sustained by Your spirit, give them the courage to stand for the truth, the right, and the good, this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate insists upon its amendments to the bill (H.R. 111) entitled "An act to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977," disagreed to by the House; agrees to the further conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. JACKSON, Mr. EXON, Mr. LEVIN, Mr. THURMOND, Mr. WARNER, and Mr. HUMPHREY to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 480. An act amending the Water Resources Planning Act to authorize appropriations for fiscal year 1980 for the Water Resources Council, to authorize appropriations for the State water management and conservation technical assistance programs for fiscal years 1980, 1981, and 1982, and for other purposes.

The message also announced that Mr. HART and Mr. HUMPHREY were added as additional conferees on S. 428, authorizing funds for fiscal year 1980 for military procurement programs of the Department of Defense.

DISASTER RELIEF ACT AMENDMENTS OF 1979

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, I am sure we all have our own horror stories about the way in which the Federal disaster relief program has been administered in our districts. Political concerns often outweigh humanitarian concerns, while administrators often overrule law with regulation.

Legislation has been offered in the past to amend the Disaster Relief Act of 1974 to make it a more responsive, responsible program. Such legislation has always been pulled before consideration, however, in exchange for promises of improvement from the Administrator of the Federal Disaster Assistance Administration and from the President. Improvements have not occurred, however, and it is now time for Congress to correct that situation.

I introduce today the Disaster Relief Act Amendments of 1979, which will do several things. First, it would recognize the unique position of the Governor of a State to determine whether his State is in need of emergency or major disaster relief. The Governor's declaration would trigger immediate Federal aid, of the types allowed under the act, as specified by him. Second, review of the circumstances surrounding the request would come after the aid was granted. If the President determines that an emergency or major disaster did not exist, the States will be required to reimburse the Federal Government for the aid that was granted. This way, aid is available immediately upon the declaration of the Governor, not on the whims of the Federal bureaucracy or the political determinations of whoever occupies the White House at the time.

Those of us who wish to depoliticize this important relief process while at the same time make it more responsive to local needs and more fiscally responsible will, I hope, rise to support the Disaster Relief Act Amendments of 1979.

ANOTHER METRIC IMPOSITION

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, the U.S. Metric Board is again in the news with a costly boondoggle to change Arizona highway signs on Interstate 19 to kilometers only.

The Metric Board persuaded the Arizona Highway Department to go along with this idea, in order to discover the reaction of motorists driving from Tucson to the Mexico border.

It should not have taken an expenditure of $628,000 to discover the confusion and annoyance caused by metric distance signs.

Motorists expecting to travel less than 70 miles now see huge signs telling them they must drive "107 km" to the Mexico border.

At least someone had the sense not to change the speed signs from 55 to 90 at the same time.

This is just one more public nuisance for which the Metric Board has become a regular culprit.

We should repeal the 1975 law which created the Metric Board and its bureaucratic zeal to impose metric upon our people involuntarily.

ELECTION FINANCING

(Mr. FRENZEL asked and was given permission to address the House for 1 minute.)

Mr. FRENZEL. Mr. Speaker, because of a major loophole in the Federal election law, independent committees working for unannounced candidates are not subject to the same contribution limits and disclosure requirements as committees working for declared candidates.

Therefore, each of the at least 22 committees working for Senator KENNEDY for President may receive five times as much from any individual as the single committees working for declared candidates. That is a 110-to-1 ratio in favor of the nondeclared candidate, who is always advising us on how honorable we ought to be on election financing.

Some of the Kennedy committees have said they will make voluntary disclosures. Some have said nothing.

I challenge the noncandidate and his committees to play by the same rules as the other candidates, no matter how much they have become accustomed to enjoying an unfair advantage.

□ 1210

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 111, PANAMA CANAL ACT OF 1979

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama

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□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Canal, for the duration of the Panama Canal Treaty of 1977.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

Such rollcall votes as postponed will be taken up on Tuesday. We will go into the suspensions and following the suspensions we will get to H.R. 3939, the D.C. Retirement Reform Act. Following that, we will take up the general debate on H.R. 2795, International Travel Act authorizations, and H.R. 3642 emergency medical services reauthorizations.

EXTENSION OF EXPIRING PROVISIONS OF LAW RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

Mr. NICHOLS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5168) to extend certain expiring provisions of law relating to personnel management of the Armed Forces.

The Clerk read as follows:

H.R. 5168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 93–397 (10 U.S.C. 8202 note), is amended by striking out "beginning with October 1, 1974, through September 30, 1979" and inserting in lieu thereof "through September 30, 1980".

SEC. 2. Sections 2(a), 2(b), 3, and 10(b) of Public Law 95–377 (92 Stat. 719) are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

SEC. 3. Sections 1201(3) (B) (iv), 1203(4) (A) (iii), 1203(4) (C) (iii), 5787c(b) (2), and 5787d (g) of title 10, United States Code, are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

The SPEAKER pro tempore (Mr. WRIGHT). Pursuant to the rule, a second is not required on this motion.

The gentleman from Alabama (Mr. NICHOLS) will be recognized for 20 minutes, and the gentleman from New York (Mr. MITCHELL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5168.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. NICHOLS. Mr. Speaker, as a result of the National Emergencies Act of 1976 and Public Law 95–377 on September 30, 1979, certain powers and authorities of the President to act under a period of national emergency terminate. Severe problems will arise if action is not taken to extend some of these authorities. Most of the required actions will be addressed during consideration of the Defense Officer Personnel Management Act (DOPMA); however, complete action on DOPMA will be delayed beyond September 30, 1979.

A periodic problem that the Congress has faced in the past is the temporary extension of authority for the Air Force to exceed the grade limitations imposed under title 10, United States Code, section 8202. The Officer Grade Limitation Act of 1954 established ceilings on the number of Air Force lieutenant colonels and colonels significantly below their cohorts in the other services. This was done at that time recognizing that the Air Force was a young service and required fewer senior officers. Of course, as the Air Force matured, the Congress has passed temporary relief from these grade limitations. The current authority for temporary grade ceilings expires on September 30, 1979. DOPMA, as previously passed by the House would, have solved this problem permanently.

As a result of the National Emergencies Act of 1976 (Public Law 94–412), on September 14, 1978, certain powers and authorities of the President to act under a period of national emergency would have terminated. Public Law 95–377 extended the date to September 30, 1979, in order to provide the Senate time to act on DOPMA. As it turned out, the press of other business prevented complete action in the 95th congress.

Severe problems will arise—particularly in the Navy—if action to extend some of these authorities is not taken. Most of the required actions were included in previous House-passed versions of DOPMA.

Those provisions that are affected by the National Emergencies Act are as follows:

A 2-year sea duty requirement for promotion of certain naval officers to lieutenant commander or above would be reinstated. Because of rotational problems, this requirement has been suspended since 1964. If the suspension is not continued, considerable personnel turbulence would be caused if the Navy attempts to order officers back to sea in order to qualify for promotion.

Below the zone selection for Regular Navy and Marine Corps officers would be made inconsistent with the other services. Consistency has been maintained since 1970. If current authority is not extended, Regular officers would have a 5-percent limitation placed on below the zone selection and Reserve officers would have no limitation.

Time in grade requirements for establishing promotion eligibility for Navy and Marine Corps officers would be reinstated. The requirements for different grades have been suspended beginning at various times since 1954. If current authority is not extended, promotion opportunity would need to be increased to fill the expected vacancies.

Spot promotion of Navy lieutenants serving in critical lieutenant commander engineering billets would be terminated. Severe retention problems would result if authority for these temporary promotions is not extended.

Membership on Marine Corps major general selection boards would be restricted to require that each major general serve on the board every other year.

Members with less than 8 years of service would not be eligible for disability retirement unless the disability is incurred as a proximate result of the performance of active duty. Presently the disability system covers individuals if the disability is incurred in line of duty. The former criterion is much more restrictive.

Mr. Speaker, to provide sufficient time for an orderly consideration of DOPMA in this Congress, and to preclude considerable personnel turbulence as a result of termination of existing personnel practices, I urge the Members to support H.R. 5168.

Mr. MITCHELL of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5168. H.R. 5168 extends for 1 year certain authorities affecting military personnel that would otherwise expire on September 30, 1979.

While all of the expiring authorities are important and their extension is urgently requested, I would like to discuss only two of them.

Before 1954 there was no permanent statutory limitation on the total number of officers serving on active duty. In order to provide reasonable restrictions on the number of officers in the higher grades, the Congress, in 1954, enacted the Officer Grade Limitations Act which imposed numerical ceilings on the number of officers on active duty in the so-called field grades.

In fixing those ceilings a special problem existed in the case of the Air Force—as a new service. At that time the officers in that service were relatively young and were concentrated in the junior grades. If the Air Force had been authorized a number of officers in the field grades, comparable to those authorized by the other services, excessively rapid and undesirable acceleration in promotions could have occurred. Accordingly, a lesser number of officers were authorized in those grades for the Air Force at that time. As the Air Force officer structure matured the Congress has, from time to time, given temporary authority for increased numbers of officers in those grades. The Air Force officer structure has now fully matured and permanent grade authorizations are needed.

The proposed Defense Officer Personnel Management Act, (DOPMA), which the House passed in both the 94th and 95th Congresses, would provide permanent and adequate grade authorizations for the Air Force. Unfortunately, our colleagues in the Senate have not yet acted on that legislation. We understand that the Senate will act on that legislation sometime during the present Congress. In the meantime, however, on September 30, 1979—just 6 days from now—the current temporary grade limitation for the Air Force will expire. Unless H.R. 5168 is enacted the Air Force grade authorizations will revert to the permanent law which authorized approximately 500 fewer colonels and nearly 3,000 fewer lieutenant colonels. Drastic action in the form of a promotion moratorium affecting 6,000 officers and the demotion of over 1,000 officers would be required over the next year. You can imagine the disaster this would cause.

The other matter which I would like to call to the attention of the House is that junior military personnel—those with less than 8 years of military service—who become physically unfit for further duty by reason of a disability incurred in line of duty may not, after September 30, 1979, be entitled to disability retirement benefits. The current law which has been continuously in effect since 1949 authorizes such personnel to be retired for disability. However, under the National Emergencies Act of 1976, that authority was scheduled to terminate on September 14, 1978. To provide time to consider permanent authority with regard to such retirements the President was authorized to continue to retire these junior personnel until September 30, 1979. The Department of Defense on August 8, 1979, proposed that permanent authority be enacted. In order to give this matter appropriate consideration an extension for 1 year of the present authority would be provided by H.R. 5168. In conclusion, the bill passed unanimously in both sub and full committee. There are no bold new programs here. We were simply extending existing programs. Failure to do so would cause havoc.

Mr. Speaker, I urge my colleagues to suspend the rules and pass H.R. 5168.

Mr. MITCHELL of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

□ 1220

Mr. NICHOLS. Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAVANAUGH). The question is on the motion offered by the gentleman from Alabama (Mr. NICHOLS) that the House suspend the rules and pass the bill, H.R. 5168.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

Mr. ASHBROOK. Mr. Speaker, I insist on my point of order.

The SPEAKER pro tempore. The point of order is considered withdrawn. The question is no longer pending.

Mr. ASHBROOK. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore. The Chair did not recognize the gentleman for that purpose.

AUTHORIZATION OF DISPOSAL OF INDUSTRIAL DIAMOND STONES FROM NATIONAL DEFENSE STOCKPILES

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3384) to authorize the disposal of industrial diamond stones from the national stockpile and the supplemental stockpile, as amended.

The Clerk read as follows:

H.R. 3384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized to dispose of approximately five million five hundred thousand carats of industrial diamond stones now held in the National Defense Stockpile established by section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b). Any disposal under the authority of the preceding sentence shall be made in accordance with section 6 of such Act (50 U.S.C. 98e).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida (Mr. BENNETT) will be recognized for 20 minutes, and the gentleman from South Carolina (Mr. SPENCE) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill under consideration today, as amended, authorizes the disposal of 5.5 million carats of industrial diamond stones in the national defense stockpile. Administration witnesses testified that the quantity of stones authorized for disposal by this bill is clearly in excess of our defense needs and would not be required to support the industrial base of the United States.

The current stockpile goal, which represents the difference between requirements and supply for a 3-year mobilization planning period is approximately 5.5 million carats. In determining the goal, no imports from Communist or war-zone countries were assumed.

In addition, import estimates were reduced for possible unwillingness of foreign producers to sell to the United States in wartime and were further reduced for transportation losses where appropriate. Although some secondary recovery and substitution can augment diamond supplies, this augmentation was not used in the analysis of factors affecting the goal.

Since the stockpile inventory contains approximately 20 million carats, there is an excess of 14.5 million carats. After the disposal authorized by this bill is completed, the inventory will still contain 9 million carats considered excess to our national defense requirements. Thus, in view of this large surplus, the committee supports the release of this 5.5 million carats.

Mr. Speaker, for the information of the Members of the House, past studies have revealed that the stockpile is badly in need of updating. The quantity of some commodities is far in excess to the required amount needed to satisfy defense needs. Conversely, there are commodities in the stockpile, the quantity of which is far below that required to meet defense needs. In order to correct this situation and purchase those commodities in short supply, billions of dollars will be needed over the next 5 to 10 years to finance an acquisition program. The most logical and expeditious way to accomplish this objective is to begin immediately an orderly and coordinated plan to dispose of our excess materials and use the receipts from these sales to purchase additional materials.

The approval of this disposal bill will be the first step forward in the beginning of a long overdue restructuring of our national defense stockpile. I urge the House to take favorable action on H.R. 3384, as amended, today.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3384 as amended, and join my distinguished chairman, Mr. BENNETT, in advocating its passage.

As most of us know, our Nation has a stockpile of critical materials which we will need in time of a national emergency. There are currently 93 commodities in the stockpile; 53 are below the goals needed for national security requirements, and 40 are in excess of their goal. In order to bring the stockpile up to date and purchase those materials urgently needed to satisfy our defense requirements, it will be necessary to dispose of some of the excess commodities in the inventory to generate funds for these purchases.

Right now the current value of all items in our stockpile inventory is $11.9 billion. The estimated value of the stockpile, if all goals were met, is $14.2 billion. The value of the excess we have in our stockpile of these 40 commodities I referred to is approximately $5.2 billion. If we are to completely meet the stockpile goals in all the commodities referred to, it will cost us over $8.7 billion.

Prior to July 30, 1979, when the President signed into law Public Law 96-41, the receipts from the sale of excess materials were deposited in the General

Treasury, to be used for whatever purpose it was deemed appropriate by the administration. Under the provisions of Public Law 96–41 they can only be used to acquire materials for the stockpile, after the funds have been authorized and appropriated. We cannot afford to maintain a large stockpile of excess materials when there is an urgent need to purchase materials in short supply. The committee, based upon testimony from administration witnesses, was convinced that the disposal of the 5.5 million carats of industrial diamond stones is in the best interest of the United States.

I agree with this conclusion and urge the Members to approve the passage of this bill.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BENNETT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BENNETT) that the House suspend the rules and pass the bill, H.R. 3384, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to authorize the disposal of a certain quantity of industrial diamond stones from the National Defense Stockpile."

A motion to reconsider was laid on the table.

SALE TO CERTAIN FOREIGN NATIONS OF CERTAIN EXCESS NAVAL VESSELS

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5163) to authorize the sale to certain foreign nations of certain excess naval vessels.

The Clerk read as follows:

H.R. 5163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 7307 of title 10, United States Code, the Congress approves the sale of fourteen vessels of the United States Navy as follows:

(1) One tank landing ship of the Suffolk County class, one auxiliary repair drydock of the ARD–12 class, and one small auxiliary floating drydock of the AFDL–35 class, to the Government of Brazil.

(2) One auxiliary repair drydock of the ARD–12 class, to the Government of Colombia.

(3) One auxiliary repair drydock of the ARD–12 class, to the Government of Ecuador.

(4) One dock landing ship of the Cabildo class, to the Government of Greece.

(5) One destroyer tender of the Shenandoah class, to the Government of Indonesia.

(6) One auxiliary repair drydock of the ARD–12 class, to the Government of the Republic of Korea.

(7) One auxiliary repair drydock of the ARD–12 class, to the Government of Mexico.

(8) One auxiliary repair drydock of the ARD–12 class, to the Government of Peru.

(9) One cargo ship of the Kukui class and one small auxiliary floating drydock of the AFDL–35 class, to the Government of the Republic of the Philippines.

(10) Two amphibious transports of the Paul Revere class, to the Government of Spain.

SEC. 2. (a) Any sale of a vessel under the first section of this Act shall be subject to such terms and conditions as the President may require and shall be for a price not less than the value in United States dollars of the vessel involved.

(b) Any expense of the United States in connection with the transfer of a vessel sold under the first section of this Act shall be charged to the Government involved.

SEC. 3. The approval of the Congress under the first section of this Act shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida (Mr. BENNETT) will be recognized for 20 minutes, and the gentleman from South Carolina (Mr. SPENCE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5163 to permit the sale of 14 older naval vessels to several allied and friendly countries. This legislation is necessary as the Congress must approve the sale of a naval vessel which displaces in excess of 3,000 tons or is less than 20 years of age. All 14 vessels considered in this legislation are over 20 years old, and each displaces more than 3,000 tons.

In the past we have greatly aided our allies' navies by transferring to them our older ships. Since many of them have become sufficiently strong, ship transfers to them have tapered off. The 94th Congress most recently enacted similar legislation authorizing the sale of 49 vessels to 13 foreign countries.

These 14 vessels consist of 8 auxiliary repair drydocks, 1 destroyer tender, 1 dock landing ship, 1 tank landing ship, 1 cargo ship, and 2 amphibious transports. The details of each vessel and recipient country are provided in the bill. In each case the Chief of Naval Operations has stated these vessels are excess to the Navy's force requirement and can be transferred with no detrimental effect on our military capability.

Each of these vessels, with the exception of the two amphibious transports, is now either on lease to the recipient nation or in an inactivation status. The sale prices for these vessels are based on their market appraisal value or obtained from the Defense Property Disposal Ship Sales Office and are based on recent experience in sales of the same or similar type ships.

The transfer of the amphibious transports to Spain deserves special note. These ships, which have been declared excess to our needs, are being transferred to satisfy commitments of the United States undertaken in two bilateral agreements: the agreement to friendship and cooperation entered into the 1970, and the treaty of friendship and cooperation ratified by the Senate in 1976. Agreement was recently reached between the U.S. Navy and the Spanish Navy that the transfer of these two transports would fulfill the remaining ship transfer obligations of both the agreement and the treaty. We can now effect an orderly transfer of the ships as they are phased out of the U.S. Navy service.

Mr. Speaker, the time has come to sell the ships on lease, and the orderly transfer of the amphibious transports to Spain makes enactment of this legislation a matter of some urgency. Prompt authorization of these transfers will enable the U.S. Navy to avoid unnecessary costs and undesirable personnel actions which would be caused by a delay.

I urge my colleagues to support this ship transfer legislation.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am in support of H.R. 5163 to permit the sale of these 14 older naval vessels to several allied and friendly countries.

This sale is consistent with the U.S. Government's policy of transferring arms to serve U.S. national security interests, and for the legitimate security requirements of our allies and friends.

The Chief of Naval Operations has certified that these vessels are not essential to the defense of the United States. The Secretaries of the Navy, Defense, and State also support this legislation.

As the chairman of the Seapower Subcommittee has stated, under the law, Congress must approve this legislation because these vessels displace in excess of 3,000 tons. All of the vessels are over 20 years old.

I wish to emphasize that the transfers will be made at no cost to the U.S. Government. The sale price will be based on the estimated market value and should add about $10 million to the U.S. Treasury.

I urge my colleagues to support this ship transfer legislation.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BENNETT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BENNETT) that the House suspend the rules and pass the bill, H.R. 5163.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

SPECIAL CARIBBEAN HURRICANE RELIEF ASSISTANCE AUTHORIZATION

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5218) to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance.

The Clerk read as follows:

H.R. 5218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 9 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 495G. SPECIAL CARIBBEAN HURRICANE RELIEF ASSISTANCE.—The President is authorized to furnish assistance, on such terms and conditions as he may determine, for disaster relief and reconstruction in the Caribbean to assist in alleviating the human suffering caused by recent hurricanes in that region. In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for purposes of this section $25,000,000 for the fiscal year 1980, which amount is authorized to remain available until expended. Assistance under this section shall be provided in accordance with the policies and general authorities contained in section 491.".

SEC. 2. Priority shall be given to furnishing agricultural commodities under the Agricultural Trade Development and Assistance Act of 1954 to countries in the Caribbean in order to assist in alleviating the human suffering caused by the recent hurricanes in that region.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration, H.R. 5218.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of H.R. 5218, to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance.

Mr. Speaker, I will be very brief, as the explanation of this bill is very simple and its justification is overwhelming.

During August 30 and 31, the Caribbean was hit by Hurricane David, one of the most devastating hurricanes of this century. It was followed almost immediately by torrential rains from Hurricane Frederic. The combined effect was to bring one of the worst natural disasters in recorded history to the Caribbean.

The principal countries affected were the small island of Dominica and the Dominican Republic. The preliminary statistics only begin to show the extent of this tragedy.

On Dominica, for instance, there were 38 persons dead, 2,500 injured, and three-fourths of the population of 80,000 left homeless.

In the Dominican Republic, estimates of the number of deaths ranged from 1,400 to 4,000; 200,000 have been left homeless; and up to 2 million persons have suffered personal or property injury or loss.

For both countries there has been a total breakdown of public facilities, that is, power, water, telephone, and transportation. The overall damage was over $1 billion.

The U.S. Government has already provided emergency relief assistance of some $4 million, and in the next several weeks it may provide another $2 million in assistance. This assistance takes the form of blankets, tents, water pumps, water purification plants and chemicals, milk, rice, medical supplies, and disaster assessment teams.

Mr. Speaker, because the fiscal year 1980 foreign economic assistance authorization has already been approved by the Congress, there is no provision in that act to provide medium-term relief and reconstruction assistance for the Caribbean hurricane victims to the extent needed in the coming year.

☐ 1240

The purpose of this bill therefore is to provide at least a minimum of such assistance.

The proposed $25 million would be used in the following manner: for the Dominican Republic, $9.64 million for relief and rehabilitation and $9.35 million for reconstruction; for Dominica, $3.3 million for relief and rehabilitation and $2.7 million for reconstruction.

Mr. Speaker, the suffering and needs of the Caribbean as a result of these two devastating hurricanes are immense. I urge the Members to support this modest measure, a symbol of U.S. concern and interest.

I reserve the balance of my time.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question at that point?

Mr. ZABLOCKI. I yield to the gentleman from Maryland.

Mr. BAUMAN. I understand the testimony before one of the subcommittees on appropriations indicated approximately $7.9 million of this disaster relief fund was diverted and not used for natural disasters, but, in fact, used to make grants or payments to the Government of Nicaragua. If this is the case, what authority exists in law to allow the diversion of natural disaster funds for political reasons?

Mr. ZABLOCKI. In my opinion, first of all let me say to the gentleman from Maryland, this reprograming that has been recurring is done by the executive branch. The reprograming which the gentleman refers to was not of disaster assistance funds, which are for humanitarian purposes, but from another account—the Economic Support Fund, which is to carry out U.S. foreign policy interests. The ESF funds had been authorized originally for the Magavin Dam. Such reprograming is generally, I think, an undesirable action to take.

As far as the reprograming of funds for Nicaragua, which was done from the ESF funds previously authorized for the Magavin Dam, I am not fully aware why the Appropriations Committee has approved it.

Mr. BAUMAN. It is my understanding that it is done by Executive order and not by approval of any congressional committee. There was reprograming of other funds, but my concern is the use of disaster relief for political funding.

It seems to me a perversion of the reason that we appropriate these moneys.

Mr. ZABLOCKI. I will try to respond to the gentleman. The reprograming was with ESF, not disaster assistance funds. In reprograming ESF funds I believe that the President is within his rights as the Chief of State in formulating foreign policy. However, such reprograming by the Executive is subject to review by the appropriate committees.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 5218. I would like to associate my self with the remarks of the chairman of our committee.

Mr. Speaker, this legislation is urgently needed to alleviate the human suffering caused by Hurricanes David and Frederic.

The combined effect of David and Frederic has been a major catastrophe for the island nations of Dominica and the Dominican Republic. The resulting losses in both human and economic terms total several thousand dead and injured, hundreds of thousands homeless and extensive damages exceeding $1 billion.

The ill effects of this disaster adds new pressures to both Dominica and the Dominican Republic which already suffer from regional economic and political strains. Rapid assistance by the United States will help these friendly, democratic nations overcome these serious problems and strengthen our mutual relationships in an area where U.S. interests are being threatened.

Compared to the economic loss of over $1 billion, this modest request of $25 million will nonetheless provide the remaining emergency relief that is required, meet immediate needs for rehabilitation of essential infrastructure and support a start on reconstruction priorities. I urge all of my colleagues to join with me in support of this urgently needed legislation.

Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I rise in support of H.R. 5218.

Mr. Speaker, one of the brightest facets of America's foreign relations is its willingness to help its neighbors in times of distress. The Caribbean area has just sustained unprecedented damage from one of the worst hurricanes in this century. The bill before us recognizes the catastrophic nature of the hurricane damage done recently and seeks to help alleviate the suffering and restore the area to normal life. It makes available money for disaster relief and reconstruction and agricultural commodities to help meet one of the most urgent human needs.

I urge your support here today of H.R. 5218.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. CARNEY).

Mr. CARNEY. Mr. Speaker, on September 6, the gentleman from Florida (Mr. FASCELL) offered an amendment to the Foreign Assistance Appropriations Act of 1980 That amendment would have appropriated $25,000,000 for disaster relief in the Caribbean. I made a point of order against that amendment for a variety of reasons pertaining to House rules—the most basic being that such an appropriation would have been made without authorizations legislation, in flagrant violation of one of the most basic rules of both the House and the Senate. H.R. 5218, which is now before us, was submitted on September 7, the day after the gentlemen's amendment was ruled out of order. This bill also seeks $25 million for hurricane relief in the Caribbean. Already, the Committee on Foreign Affairs has completed its hearings and our vote on H.R. 5218 will complete the authorization process.

I am certain that Hurricane David dealt a tragic blow to the Caribbean. In his "Dear Colleague" letter of September 12, my colleague from Florida told us that in the Dominican Republic alone, Hurricane David was responsible for more than 1,300 dead, thousands injured, and 200,000 homeless.

I think that it is interesting to note that back in 1978 the United States gave only $7,200,000 for cyclone and flood relief to India when that nation suffered 21,000 dead and 36.7 million people seriously affected by those disasters. We gave India $18,000,000 less than we would spend in the Caribbean now, even though 20,000 more Indian nationals were killed and 36.5 million more Indian nationals were seriously affected by that disaster than the current one. Why were we so ungenerous toward India 2 years ago? I think the reason is this—we did not offer more, not because we are miserly—but merely because there are limits to what we can spend. Americans are among the most generous people on Earth. Our Government reflects the inherent generosity of our people. But the Federal Treasury is not a bottomless pit. Of the limited amount of money available to be spent, we must make some very difficult decisions as to how to allocate our resources. If this $25,000,000 is spent on hurricane relief in the Caribbean, it will not be spent on cancer or heart disease research, it will not be spent on new methods of energy production it will not be spent on any number of very worthwhile projects which every Member of this body should and would proudly support.

I am raising all this now because I am concerned about the way some of our foreign aid programs have been administered. I do not want to recite a litany of what I consider to be excesses in the overall foreign aid program, but I do want to concentrate on the disaster assistance program because I think that it exemplifies the laxity with which the American taxpayer's money has been spent.

Section 491 of the Foreign Assistance Act of 1961, as amended, authorizes humanitarian assistance to be used for "natural" and "manmade" disasters. As I studied the 1961 act, and the 1975 International Development and Food Assistance Act (Public Law 94-161), I found no definition of "manmade" disasters. Indeed, the Senate and House Conference Reports, and the floor debate on the 1975 act spoke only to natural disasters. In such an amorphous delegation, one would expect some sort of control on executive spending power. Yet the Senate report insisted that careful oversight rather than legislative controls would make our foreign assistance programs more effective.

Well what has happened to congressional control and oversight? Public Law 94-330, which required a quarterly report on the programing and obligation of funds appropriated for disaster assistance has been repealed, by Public Law 95-424. Additionally section 2360 of title 22 of the United States Code grants the President the flexibility to transfer up to 10 percent of the funds available for almost any foreign assistance account to any other account so long as the second account is not increased by more than 20 percent over the original amount appropriated for that account.

Therefore, I reiterate, how effective are our congressional controls on foreign aid?

Recent testimony before the Foreign Relations Appropriations Subcommittee reveals that approximately $8,000,000 was taken from the disaster relief account to assist the population in Nicaragua. Now that money was originally appropriated for natural or man-made disasters. Once again, what is a manmade disaster? Expenditures for 1978 show that most nonnatural disaster assistance for that year went to assist displaced persons in East Africa. Bangladesh, and Lebanon. I include in the RECORD a chart prepared by the Agency for International Development indicating how 1978 disaster assistance money was spent. The $8 million grant to Nicaragua was larger than any 1978 grant for any kind of relief.

AGENCY FOR INTERNATIONAL DEVELOPMENT—CONGRESSIONAL PRESENTATION, FISCAL YEAR 1980; ANNEX VIII—SELECTED DEVELOPMENT ACTIVITIES, OTHER APPROPRIATION ACCOUNTS

U.S. FOREIGN DISASTER ASSISTANCE, FISCAL YEAR 1978

[Oct. 1, 1977 to Sept. 30, 1978]

Country: Date: Disaster	Dead	Affected	Amount	Type, and method of providing assistance
Afghanistan: July 1978: Flood	127	51,000	$25,000	Contribution to emergency relief fund in country.
Bangladesh:				
June 1978: Displaced persons	8,150	213,879	500,000	Grant to UNHCR for mass care.
September 1978: Preparedness			53,300	Satellite cyclone detection-warning system installed.
Belize: September 1978: Hurricane	5		53,978	Airlift food, medicine, generators, plastic sheeting, supplies.
Benin: April 1978: Fire		4,000	15,000	Contribution to emergency relief fund in country.
Chile: February 1978: Preparedness			30,000	Regional preparedness seminar in Santiago for 10 countries.
Djib/Eth/Som: September 1977: Displaced persons		100,000	2,430,000	Grant to UNHCR for mass care.
Djibouti:				
October 1977: Flood		50,000	28,190	Mosquito controls, medicines, and help with cleanup.
February 1978: Flood		75,000	80,000	Airlift of tents and heavy-duty pumps.
East Africa: June 1978: Locusts			113,023	Emergency airlift of malathion.
Ethiopia:				
1977: Civil strife			1,365,000	Cost of transporting emergency food overland.
April 1978: Drought		700,000	193,628	Grant to CRS for transporting foods; emergency supplies
August 1978: Displaced persons		400,000	400,000	Emergency funding for tools, shelters, transport.
Fiji: April 1978: Preparedness			103,000	Seismic monitoring net (U.S. Geological Survey, Cornell University.)
The Gambia: August 1978: Power shortage			70,000	Grant to UNDP to transport 3 generators.
Greece: June 1978: Preparedness			15,000	Provide seismographic equipment with USGS.
Guyana: April 1978: Power shortage		250,000	272,083	Rehabilitate 2 generator power sets.
Haiti:				
1977: Drought			7,525	(Liquidate balance on prior year disaster.)
June 1978: Preparedness			1,000	Assist in planning Government disaster organization.
Honduras: September 1978: Hurricane		7,000	326,700	Airlift DAST, tents, pumps, generators, supplies, food.
India:				
November 1977: Cyclone	20,000	7,500,000	5,146,338	Grant to volags for shelter, oxen, supplies, medicines.
September 1978: Flood	965	29,269,000	2,064,866	Grants to CARE and CRS for relief food and supplies.
Indonesia: April 1978: Food shortage	54	30,379	25,000	Helicopter support for emergency food distribution.
Korea: November 1977: Explosion	56	10,000	25,000	Grant to Korean Red Cross for relief effort.

AGENCY FOR INTERNATIONAL DEVELOPMENT—CONGRESSIONAL PRESENTATION, FISCAL YEAR 1980; ANNEX VIII—SELECTED DEVELOPMENT ACTIVITIES, OTHER APPROPRIATION ACCOUNTS—Continued

U.S. FOREIGN DISASTER ASSISTANCE, FISCAL YEAR 1978
[Oct. 1, 1977 to Sept. 30, 1978]

Country: Date: Disaster	Dead	Affected	Amount	Type, and method of providing assistance
Lebanon:				
1976: Civil strife			2,700	(Liquidate balance on prior year disaster.)
March 1978: Displaced persons	176	400,000	3,714,549	Grant to UNHCR for care for displaced persons.
March 1978: Preparedness			8,226	Develop emergency medical and preparedness programs.
Liberia: December 1977: Fire		950	5,000	Support emergency relief fund in country for resettlement.
Maldives: April 1978: Cholera epidemic	166	6,000	39,900	CDC assessed medical needs and determined mode of spread.
Mauritania: December 1977: Drought		1,300,000	3,247,295	Food transport, cattle feed, support of emergency office.
Nepal: September 1978: Flood	139	80,000	25,000	Grant to Government of Nepal for emergency food, clothing.
Nicaragua: September 1978: Civil strife		35,000	475,000	$400,000 ICRC; $25,000 Nicaragua Red Cross; $50,000 food transport.
Pakistan: September 1978: Flood	279	2,143,849	(10,000)	Grant to CRS (in United States-owned rupees) for nonfood relief.
Peru:				
January 1978: Flood	4	640	10,000	Medicines and rehabilitation of hospital kitchen.
April 1978: Flood		16,000	25,000	Roofing, hammers, nails, lamps.
June 1978: Preparedness			1,400	CDC epidemiologist participation in medical workshop.
July 1978: Preparedness			1,000	Evaluation of disaster response capability.
Portugal: December 1977: Preparedness			2,700	Vulnerability study with National Bureau of Standards.
Senegal: March 1978: Drought		3,715,000	1,862,155	Grants for cattlefeed, food transport, and for CRS.
Somalia: December 1977: Flood		40,000	96,000	Emergency shelter: 10 large, 30 small tents.
Sri Lanka 1977: Civil strife			440	(Liquidate small balance on prior year disaster.)
Sudan: July 1978: Flood		100,000	2,323,983	Airlift 1,600 tents, fertilizers, seeds, relief supplies.
Tonga: May 1978: Hurricanes		10,000	25,000	Emergency transportation and distribution of food.
Upper Volta: April 1978: Drought		10,000	153,769	Grant to Catholic Relief Services for inland food transportation.
Zaire:				
May 1978: Displaced persons	800	60,000	243,601	Grant to ICRC for mass care; airlift support.
1977: Epidemic			786	(Liquidate small balance on prior year disaster.)
Zambia: February 1978: Flood	6	20,000	14,000	Emergency shelter.
			1,113,027	Technical assistance, preparedness, evaluation activities.
Total, 32 countries (12 types of disaster)	30,927	46,587,697	26,734,162	International disaster assistance funds.

I need not explain the political situation in Nicaragua in great detail to the Members of this body. The Sandanista's came to power with Cuban weapons and Communist support. Without defending the Somoza regime, it is my feeling that aid to Nicaragua at this point in time has so many political overtones that it was not really disaster assistance so much as it was a show of support that was given to the new regime.

Had the administration sought that money from a military or foreign aid appropriation, the $8 million would have been left in the disaster assistance account, and could already have been on its way to the Caribbean.

I have been informed that in order to get assistance down to the Caribbean, AID deobligated certain funds that had been committed to new projects. I have also been informed that AID does not yet have accurate cost analysis available for the totality of aid that will be needed. Under 22 U.S.C. 2360, up to $2.5 million of this hurricane money will be available for reprograming if it is not expended for the hurricane victims.

I do not want to seem cruel and heartless. But I do want to make sure that the taxpayers of this country have a fiscally responsible Congress keeping Federal spending to a minimum. I will continue to question and protest broad and expansive discretionary spending power grants to the executive branch of Government.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I rise in support of H.R. 5218, a bill to provide special relief to Caribbean islands damaged by two recent hurricanes. Several weeks ago I joined with Representative FASCELL and Representative ZABLOCKI in urging our colleagues to join us in cosponsoring special disaster assistance for these two islands. The bill before us today cosponsored now by 22 Members, is the outgrowth of that initial effort.

Hurricane David, the worst in the century, and Hurricane Frederic together constitute an unparalled disaster for the people of the Dominican Republic and Dominica. The death toll has been placed at from 1,400 to 4,000; 200,000 are homeless; crop damage has conservatively been estimated at over $125 million. Total damage to the two countries is over $1 billion. Spread over a combined population of 5.6 million, this amounts to over $180 of damage per capita. The relative magnitude of this $180 figure stands out in relief against the $780 per capita GNP of the Dominican Republic and $410 per capita GNP of Dominica. Even beyond this human suffering, significant U.S. foreign policy objectives are involved. These considerations of our national self-interest stem from geographic proximity, ethnic ties, and a shared commitment to the evolution of strong, democratic institutions in the unstable Caribbean area.

The Dominican Republic's election and peaceful transfer of power last year were important steps in strengthening the democratic process. They have reinforced the Dominican Republic's close ties with the United States, including $500 million in U.S. investments there and the fact that it is the largest market in the Caribbean for U.S. products. During January, I led a special study mission of the Foreign Affairs Committee to a number of Caribbean countries, including the Dominican Republic. I was very impressed with their prospects for economic and political development under the new democratically elected government. It would be deplorable if this natural distster were to be allowed—for lack of modest external assistance—to blight these prospects.

Dominica, one of the poorest islands of the eastern Caribbean, only became independent last year. Its fragile democratic institutions, already faced with balance of payments and severe unemployment problems, is now beset by a disaster which has leveled its crops and forced three-quarters of its population to depend on critical emergency assistance.

U.S. foreign policy objectives of shoring up stable democratic regimes in the Caribbean reinforce our humanitarian concerns and make this $25 million authorization a modest investment in national self-interest.

These funds will complete the emergency relief efforts underway, meet immediate needs for rehabilitation of essential infrastructure and provide some help for the beginning of reconstruction. The present fiscal year 1980 authorization of $21.8 million for worldwide disaster relief is less than the average annual funding level for the past 3 years. It is essential that the additional $25 million be made available if the United States is to play a role in meeting this crisis close to our shores and still retain necessary flexibility to address critical disasters which will undoubtedly arise elsewhere during the rest of the year.

I urge my colleagues to join me in voting for this measure.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 5218 which provides $25 million for emergency disaster assistance for the Caribbean.

The devastating blow which Hurricane David delivered to the Dominican Republic and Dominica is, I believe, not well understood in this country. One of the most powerful hurricanes recorded, David struck these two neighboring countries with the full force of its 150-mile-per-hour winds.

The destruction caused was simply enormous. Over 1,500 people were killed; tens of thousands of dwellings destroyed; and most food crops were flattened and lost. In the Dominican Republic 3 weeks after David's passing the dead are still being counted. Both countries face a hurculean task of relief and reconstruction.

In contrast to some other countries of the Caribbean, the Dominican Republic has not been in our headlines the past few years. Many of us may have forgotten that country's past history of dictatorships, political violence, and revolution—conditions that drew the United States to intervene there militarily as recently as 1965. More recently the Dominican Republic has enjoyed political and economic success. Last year a new democratic government peacefully took power after regular free elections for the first time in the country's history. After just 1 year in office, that government—moderate, democratic, and a good friend to the United States—is confronted with a catastrophe. If it cannot get the Dominican Republic back on its feet, peace and stability in this close neighbor of ours may well be threatened once again.

This is a time when everyone seems agreed that our country must pay more attention to the Caribbean. Here we have a situation in which two Caribbean neighbors—one a close ally of the United States, the other a newly independent country seeking its way in the international arena—are stricken and in desperate need of help. Without the $25 million authorized in this amendment, our Government will not be able to alleviate the suffering and help begin the task of reconstruction. I urge approval of this amendment.

● Mr. CORRADA. Mr. Speaker, the tragedy that has taken place in the Caribbean as a result of Hurricanes David and Frederic continues to unfold. We do not yet have a final figure on the total losses in that area; but one thing is certain, it will take many years and large amounts of money to restore the economy of the area. The human loss is even more tragic and the total number of casualities may never be known.

H.R. 5218, which amends the Foreign Assistant Act of 1961, authorizes an appropriation of $25,000,000 for fiscal year 1980. This money would be of great assistance to the Caribbean in their reconstruction efforts. Puerto Rico's neighbor to the west, the Dominican Republic, suffered enormous damages. Their agriculture is in shambles, many towns and cities are still without electricity and food and medical supplies are sparse.

While Puerto Rico was lucky to be spared the full impact of David, we still suffered approximately $50 million in agricutural losses alone and many of our municipalities have been declared eligigible for disaster aid pursuant to President Carter's prompt response to a request by Governor Romero-Barceló and diligent assessments made by the Federal Emergency Management Agency. By comparison, others in the Caribbean particularly Domenica and the Dominican Republic were devastated by the full impact of Hurricane David, one of the worse storms to have hit the Caribbean in this century.

This legislation would help these countries to recover from this catastrophy and I urge all my colleagues to vote in favor of its passage.●

● Mr. OTTINGER. Mr. Speaker, I rise to urge my colleagues to vote in favor of H.R. 5218, Special Caribbean Hurricane Relief Assistance Authorization.

The Caribbean islands, especially the Dominican Republic and Dominica, have suffered one of the worst natural disasters in their history. Hurrican David has caused these islands to lose much of their agricultural production capacity—their most important economic activity. But more importantly, the human costs are tragicly high. According to State Department figures for the Dominican Republic: 105,000 persons are displaced; 200,000 are left homeless; 901,000 are on relief rolls; and estimates for fatalities range as high as 4,000 dead. We must do whatever we can to diminish the human suffering and misery by expediting disaster relief and pledging our steadfast support for the critical period of economic reconstruction that will follow.

On September 14, I and 34 of my colleagues wrote to President Carter urging him to extend all necessary humanitarian assistance to these disaster-wrought islands for as long as necessary.

I urge you all to support this essential humanitarian assistance.

The text and the signers of that letter follows:

The President,
The White House,
Washington, D.C.

Dear Mr. President: We are writing to express our concern for the peoples of the Dominican Republic and other Caribbean Islands devastated by Hurricane David. We urge you to do all possible to speedily extend humanitarian assistance to these disaster struck people.

We commend you on the initiatives the Administration has taken in providing emergency assistance to the most ravaged areas. But as you are well aware, the damage has only just begun to be assessed. Water supplies, electric power plants, and communication lines are destroyed. Major irrigated agricultural production areas are devastated. The most important source of rice production has been flooded and destroyed. Coffee, cocoa, and sugar plantations have been wiped out. Hurricane David has clearly dealt a massive blow to Dominican agriculture—its most important economic activity. This is especially tragic for the fledgling democratic regime in the Dominican Republic which is sincerely concerned about the welfare of its people.

More important than the economic losses have been the human costs of this disaster. People remain isolated from water, food, and medical attention. Collapsed electric power and water systems are exposing large numbers of the population to infection and contagious diseases. Estimates of fatalities range from 1,500 to 3,500; and more than 200,000 have been left homeless.

We cannot sit by and watch this human tragedy unfold. We urge you to insure that disaster assistance is expedited as long as necessary. But we must also look beyond the immediate crisis. We urge you to pledge the support of the United States for necessary reconstruction assistance in collaboration with other countries and international agencies. This commitment is especially crucial for protecting the future economic stability of the democratic regime in the Dominican Republic, as well as of the other islands. We assure you of our support for such initiatives.

Sincerely,

Richard L. Ottinger, John W. Wydler, Claude Pepper, Jack F. Kemp, Clarence D. Long, William G. Whitehurst, Charles B. Rangel, William Lehman, Shirley Chisholm, Thomas J. Downey, Robert Lagomarsino, S. William Green Julian C. Dixon, Melvin H. Evans, Ted Weiss, Ken Kramer, Don Edwards, Bruce F. Vento.

Dante B. Fascell, Peter W. Rodino, David E. Bonior, Edward J. Stack, Michael D. Barnes, Frederick W. Richmond, John J. LaFalce, Christopher J. Dodd, Edward J. Markey, James L. Oberstar, Edwin B. Forsythe, Parren J. Mitchell, William Hughes, Bennett M. Stewart, James M. Jeffords, Fortney H. Stark, James C. Cleveland.●

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. Zablocki) that the House suspend the rules and pass the bill, H.R. 5218.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GEORGE MEANY FILM DISTRIBUTION

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5279) to provide for the distribution within the United States of the International Communication Agency film entitled "Reflections: George Meany."

H.R. 5279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the International Communication Agency shall, upon receipt of reimbursement for any expenses involved, make available to the Administrator of General Services, for deposit in the National Archives of the United States, a master copy of the film entitled "Reflections: George Meany", and the Administrator shall make copies of such film available for purchase and public viewing within the United States.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin (Mr. Zablocki) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. Broomfield) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. Zablocki).

□ 1250

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of H.R. 5279, which authorizes the distribution within the United

States of an international communication agency film entitled "Reflections: George Meany."

This film is part of a series done by the ICA on distinguished Americans which are distributed abroad. This film in particular is an informal history of the American labor movement and one of its greatest living leaders, George Meany. Through interviews with him and extensive use of rare historical footage, the film explores early organizing efforts, the rise of collective bargaining, and the tumultuous years after World War II that led to the merger of two centers of American labor—the American Federation of Labor and the Congress of Industrial Organizations.

The legislation is needed pursuant to section 501 of the U.S. Information and Educational Exchange Act of 1948, which provides for the distribution of ICA materials overseas, and prohibits such distribution of ICA materials overseas, and prohibits such distribution within the United States.

The AFL–CIO has requested that this film be released for distribution within the United States, and on September 18 the Committee on Foreign Affairs considered the legislation and approved it by unanimous voice vote.

There will be no cost to the ICA for the release of this film, since the legislation provides that the ICA be reimbursed for any expenses involved in its release.

I urge the adoption of this bill.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2379.

According to law (section 501 of the United States Information and Educational Exchange Act of 1948—22 U.S.C. 1461), the International Communications Agency (ICA) may not disseminate within the United States the material it provides to its audiences abroad. From time to time, however, there is good reason to make an exception to the general principle and give the people of the United States the benefit of a particularly good example of ICA's work. In such cases—each one being considered on its own merits—an exception to the law is legislated by the Congress.

This is one of these cases. The International Communications Agency has produced a film for distribution abroad on the life and work of an exceptional American, the leader of America's free labor movement, George Meany, president of the American Federation of Labor/Congress of Industrial Organizations.

The purpose of this legislation is to provide for the distribution in the United States of the ICA film entitled "Reflections: George Meany." The administration supports the bill and the Foreign Affairs Committee, on which I am the ranking minority member, reported the bill unanimously. Passage of this bill will give the American people a glimpse of its foremost labor leader—a man who has dedicated his life to trade unionism and democratic principles. George Meany is a patriot and a great American. I support this measure to make his life better known to the American people.

Mr. Speaker, I yield 1 minute to the gentleman from Illinois, Mr. DERWINSKI.

Mr. DERWINSKI. Mr. Speaker, one of the tasks assigned to the International Communications Agency (ICA) is to disseminate abroad information about illustrious Americans whose lives have been noteworthy for service to their country. One of those outstanding persons is George Meany, president of the American Federation of Labor/Congress of Industrial Organizations (AFL–CIO), about whom the ICA has produced a film entitled, "George Meany: Reflections."

Ordinarily, the American people would not have access to this film. This bill provides for an exception to that rule and would permit ICA to release the film for distribution. George Meany is an outstanding leader who has guided America's trade union movement for decades. I support this bill.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I rise in support of the legislation.

Mr. Speaker, as the distinguished chairman of the full Committee on Foreign Affairs has noted, special dispensation is needed to release within the United States any materials which the International Communication Agency gathers for dissemination abroad.

I personally believe that most of the materials that ICA produces would be of interest to the American public, and therefore, I support the legislation to release this film.

The "Reflections" series that the International Communication Agency produced, contains five "full feature" films on Leonard Bernstein, Margaret Meade, Samuel Eliot Morison, Buckminster Fuller, and George Meany; and also a short film on NAACP leader Roy Wilkins, which along with the Margaret Meade film has already been released.

The film on George Meany has been reviewed by the Subcommittee on International Operations staff. It gives insights into the career of a distinguished American and, historically, follows the labor movement from its beginning to the inception of the AFL–CIO.

As the chairman indicated, the full Committee on Foreign Affairs passed H.R. 5279 by unanimous voice vote. I urge the adoption of this legislation.

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and pass the bill, H.R. 5279.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

JIM THORPE OLYMPIC RECORDS RESTORATION

Mr. BONKER. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 29) to restore the Olympic records of the late James Thorpe.

The Clerk read as follows:

S. CON. RES. 29

Whereas the Amateur Athletic Union of 1975 restored the amateur status of James (Jim) Thorpe for the years 1909–1912; and

Whereas the United States Olympic Committee forwarded this restoration to the International Olympic Committee: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the International Olympic Committee officially recognize Jim Thorpe's achievements in the 1912 pentathlon and decathlon events and restore these records to the official Olympic books; and be it further

Resolved, That it is the sense of the Congress that the International Olympic Committee be requested to present duplicate medals to the heirs of Jim Thorpe.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Washington (Mr. BONKER) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington

There was no objection.

Mr. BONKER. Mr. Speaker, I rise in support of the resolution (S. Con. Res. 29) to restore the Olympic medals to the heirs of the late Jim Thorpe.

On September 10, this resolution was passed by the Senate. The Committee on Foreign Affairs considered and unanimously approved Senate Concurrent Resolution 29 on September 18. I would like to commend our colleague from California, the Honorable VIC FAZIO, who introduced an identical resolution in the House—House Concurrent Resolution 180.

Senate Concurrent Resolution 29 is straightforward and to the point. It simply asks that the International Olympic Committee do what is sensible and just—that is to restore Jim Thorpe's impressive records to the official Olympic books, and present duplicate Olympic medals to Jim Thorpe's heirs.

Jim Thorpe was one of the greatest athletes of our time. His achievements in football, baseball, and track—to name only a few sports in which he excelled—continue to be a source of inspiration to our leading athletes. Jim Thorpe was a native American who in the 1912 Olympic games won eight events in the pentathlon and decathlon, which is a record in itself. During the following year, Jim Thorpe was stripped of these medals because he had received $60 a month for travel and room and board expenses while playing baseball under Pop Warner from 1909 to 1912. The International Olympic Committee claimed that this disqualified Jim Thorpe as an amateur, and therefore, his achievements could not be recognized in the Olympic games.

This decision by the International Olympic Committee was met immediately with an international outcry. Finally, in 1975, the Amateur Athletic Union proclaimed that Jim Thorpe was, indeed, an amateur at the time of the 1912 Olympic games. This decision was endorsed by the U.S. Olympic Committee later that same year, but thus far the International Olympic Committee has not taken any action on the matter. Jim Thorpe's records will remain a source of pride for all Americans, regardless of what the International Olympic Committee does.

The United States will be hosting the winter Olympics early next year. It is now time for Congress to speak out. Mr. Speaker, I urge the adoption of House Concurrent Resolution 29, to accord Jim Thorpe the complete recognition he so richly deserves.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support Senate Concurrent Resolution 29. I think this action is long overdue.

James "Jim" Thorpe, one of the greatest athletes of all time, won eight gold medals in the Olympic games in 1912—gold medals which were stripped from him by the International Olympic Committee in 1913. This measure before us would complete the long-overdue restitution endorsed by the U.S. Olympic Committee 4 years ago. This resolution was reported out of the Committee on Foreign Affairs with a unanimous vote.

This measure would redress the unfortunate situation which resulted in the denial of Jim Thorpe's amateur status for the years 1909–12. I urge you to join in requesting the International Olympic Committee to restore Thorpe's records to the books and present duplicate medals to his heirs.

● Mr. GOODLING. Mr. Speaker, I urge my colleagues to support the resolution we have before us today.

Jim Thorpe, a Sac and Fox Indian from Oklahoma and one of America's greatest all around athletes, has a special place not only in the history of America, but also in the history of Carlisle, a Pennsylvania town which I am truly proud to represent.

At the turn of the century, Carlisle was the site of the Indian school where the great Jim Thorpe began his outstanding athletic career under the guidance of Glenn "Pop" Warner, one of America's greatest football coaches. As a football and track star, Jim Thorpe made this small Cumberland County school one of the most talked about in sports history. Thorpe's accomplishments in the 1911 and 1912 football seasons earned him all-American status and brought instant fame to the town of Carlisle.

While attending the Carlisle Indian School, Jim Thorpe decided to enter the 1912 Olympic games in Stockholm, Sweden. He easily won both the pentathlon and decathlon events. Later, however, it was learned that he had played minor league professional baseball to help defray room and board costs at the Carlisle school. As a result of this minor participation, Jim Thorpe was humiliated and stripped of his amateur status as well as his Olympic honors and medals.

I feel that a serious wrong was done in Jim Thorpe's case and as a result I urge my colleagues to support the resolution before us today. With this legislation, we can restore Jim Thorpe's status as well as his honors—honors he so earnestly worked for—honors which made Carlisle and America so very proud.●

● Mr. BROOMFIELD. Mr. Speaker, I urge my colleagues to support the resolution we have before us today.

Jim Thorpe, one of America's greatest sports legends, has a special place in the history of our country. A powerful athlete, his feats in sports at the Carlisle Indian School in Pennsylvania are truly legendary.

In 1912, while enrolled at the Carlisle School, he scored a record of 25 touchdowns and 198 points. The same year he entered the 1912 Olympic games in Stockholm where he won the decathlon and pentathlon. King Gustav of Sweden called him "the greatest athlete in the world." In 1950, the Associated Press voted him the best athlete of the first half of the 20th century.

Jim Thorpe loved America's pasttime—the game of baseball. In order to help defray room and board costs at the Carlisle School, he played professional minor league baseball. This minor participation resulted in Thorpe's tragic loss of amateur status as well as his Olympic honors and medals.

I believe that in Jim Thorpe's case, a serious injustice was done and as a result, I urge my colleagues to support the resolution we have before us today.●

GENERAL LEAVE

Mr. DERWINSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the Senate concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DERWINSKI. Mr. Speaker, I yield back the balance of my time.

Mr. BONKER. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. BONKER) that the House suspend the rules and concur in Senate Concurrent Resolution 29.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

DISAPPROVAL OF SOVIET UNION'S SYSTEMATIC NONDELIVERY OF INTERNATIONAL MAIL

Mr. BONKER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 167) expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning that Government's systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union, that the Department of State should pursue this matter at the diplomatic level with the Soviet Union and other countries, and that the U.S. delegation to the next Congress of the Universal Postal Union seek the compliance of the Government of the Soviet Union with the acts of the Universal Postal Union.

The Clerk read as follows:

H. CON. RES. 167

Whereas the integrity of the mail service between the United States and the Soviet Union is being called into question by mailers in the United States who assert that postal items are systematically not being delivered to selected addresses in the Soviet Union;

Whereas the explanations required under international law and given by the Soviet postal administration in regard to the nondelivery of mail to certain addresses have been inaccurate, insufficient, or untimely;

Whereas the mail which is not being delivered typically is between family members or persons sharing a religious, ethnic, or professional bond and typically consists of personal correspondence or gifts of articles for personal or professional use;

Whereas the nondelivery of mail which is deliverable as addressed and which does not contain prohibited articles is an interference by the Soviet Union with internationally recognized human rights guaranteed to all persons by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Final Act of the Conference on Security and Cooperation in Europe;

Whereas such nondelivery also violates the Acts of the Universal Postal Union: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress—

(1) that the President, through the Department of State, should express to the Government of the Soviet Union the disapproval of the American people—

(A) concerning those postal items which are mailed in the United States and are deliverable in the Soviet Union as addressed but which are systematically not delivered by the Soviet Union to the persons to whom they are addressed; and

(B) concerning violations by the Soviet Union of the Acts of the Universal Postal Union and violations of the Final Act of the Conference on Security and Cooperation in Europe;

(2) that the Department of State should bring to the attention of other member countries of the Universal Postal Union patterns of nondelivery of international mail by the Soviet Union contrary to the Acts of the Universal Postal Union and to the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights; and

(3) that at the Congress of the Universal Postal Union in Brazil in 1979, the delegation of the United States should ask other member countries to support the adoption of technical amendments to the Universal Postal Convention and to take such other measures as they consider appropriate that would encourage improved performance by the Soviet Union.

□ 1300

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Washington (Mr. BONKER) will be recognized for 20 minutes, and the gentleman from New York (Mr. GILMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 167, expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning that Government's systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union, that the Department of State should persue this matter at the diplomatic level with the Soviet Union and other countries, and that the U.S. delegation to the next Congress of the Universal Postal Union seek the compliance of the Government of the Soviet Union with the acts of the Universal Postal Union.

One of the fundamental rights we enjoy in this country is freedom from censorship of our mail. One shudders at the idea of some government official systematically opening and reviewing correspondence before deciding whether it should be delivered or not. However, in totalitarian societies, such as the Soviet Union, censorship of the mail is commonly practiced as a means of punishment and controlling people's minds.

House Concurrent Resolution 167 rightly condemns this practice and calls upon the State Department to pursue this matter vigorously in our bilateral relations, and in international organizations such as the Universal Postal Union currently meeting in Brazil.

House Concurrent Resolution 167 was introduced by our colleague the Honorable BENJAMIN A. GILMAN, and jointly referred to the Committees on Foreign Affairs and Post Office and Civil Service, both committees on which he serves. He should be commended for his efforts in documenting how the Government of the Soviet Union systematically halts the delivery on international mail addressed to a wide range of its citizens. This practice is completely contrary to the acts of the Universal Postal Union, the Helsinki accords, and other major declarations and covenants on human rights, all of which the Soviet Union has signed.

Mr. Speaker, not only is the Soviet Union violating the rights of its citizens, it is also failing to live up to its international commitments. I urge, therefore, that House Concurrent Resolution 167 be adopted.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Post Office and Civil Service Committee, my colleague the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. Mr. Speaker, I rise in support of the adoption of House Concurrent Resolution 167, and wish to associate myself with the remarks of the distinguished gentleman, Mr. BONKER, the manager of the bill.

This legislation was referred jointly to the Committee on Foreign Affairs and the Committee on Post Office and Civil Service. Our committee has held hearings on the problem of the Soviet Union's interference with the delivery of mail for several years. My colleague, Mr. GILMAN, has been in the forefront in bringing this matter to the attention of the American people, the State Department, and the Postal Service. Our committee held hearings in Washington, D.C., New York City, and San Francisco in 1978 and 1979, and dozens of witnesses have expressed their deep concern about the systematic delay in mail from Americans to Soviet citizens, and the refusal of the Soviet Government to comply with Universal Postal Union policies concerning the delivery of international mail.

At the present time, the Universal Postal Union is meeting in Rio de Janeiro. I have discussed this matter with Postmaster General Bolger on several occasions as well as representatives of the Department of State and our committee has been assured that this matter will be brought to the attention of the Soviet delegation at the UPU meeting. We hope that the Soviet Union will change its policy and permit the uninterrupted and undelayed delivery of letters and publications to all Soviet citizens.

I urge that the resoluton be adopted.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 167.

Mr. Speaker, I thank the gentleman from Washington (Mr. BONKER) for his support of House Concurrent Resolution 167, a resolution designed to alleviate the problem of interruption by the Soviet Government of mail sent by U.S. citizens to certain individuals and groups in the Soviet Union.

The continued efforts of the distinguished chairman of the Committee on Post Office and Civil Service, the gentleman from New York (Mr. HANLEY), and the efforts of our ranking minority member, the Congressman from Illinois (Mr. DERWINSKI), has allowed this committee, of which I am a member, to carefully scrutinize the problem of Soviet mail interruption in hearings throughout the country during the last 2 years, and to bring this important matter before the House today. I also commend the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI) for expeditiously guiding that bill through the Foreign Affairs Committee, on which I am also pleased to serve.

This legislation, which has been cosponsored by more than 40 of our colleagues, calls upon the President to issue a formal protest to the Soviet Government concerning this issue, urges the President to instruct the Department of State to bring the matter of Soviet mail interruption before other member countries of the Universal Postal Union (UPU), and requests the U.S. delegation to the recently convened Universal Postal Union Congress in Brazil (meeting from September 12 to October 26, 1979) to seek compliance of the Soviet Union to the acts of the Universal Postal Union outlining the principles of the integrity and free flow of international mail.

Mr. Speaker, in early 1977 I began an indepth inquiry into this problem of interrupted mail deliveries. In December 1977, I issued a report to the Committee on Post Office and Civil Service outlining my findings, of which the major unquestionable conclusion was: The Soviets are systematically preventing delivery of mail from the United States to Soviet Jews, to members of other religious and ethnic groups, and to scientists and cultural figures within the Soviet Union. These individuals and groups are being denied contact through the mail with citizens of our country. Families are being denied correspondence from their relatives in this country—in many instances the only source of news these families have about their loved ones abroad. Soviet scientists and artists, and thus scientists and artists in this country, are denied the opportunity to exchange their research and achievements.

And all this occurs while the Soviets profess adherence to international agreements such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Helsinki Final Act of the Conference on Security and Cooperation in Europe, and of course the Convention of the Universal Postal Union. All these agreements, to which the Soviet Union is a signatory, proclaim the principle of the integrity and free flow of international mail.

I have met with high-ranking Soviet postal authorities on several occasions to protest the action of their government. They have dismissed my charges, claiming that any nondelivery problems are merely the result of the errors associated with the huge volume of mail processed in the Soviet Union.

The substantial documentation and evidence received during hearings by our committee on this problem demolishes this claim. Witnesses from the Committee of Concerned Scientists, the Greater New York Conference on Soviet Jewry, the Lithuanian American Committee, the National Conference on Soviet Jewry, the Polish American Congress, the Captive Nations Committee, the Women's Campaign for Soviet Jewry, the Jewish Community Relations Council, and Scientists for Orlov and Shcharansky unequivocably support our earlier findings: The Soviets are engaged in a deliberate scheme to interrupt U.S. mail. Despite the continued protests of U.S. postal authorities, this rate of Soviet nondelivery of mail continues at an unacceptably high rate. More than 2,000 inquiries per year, during the last several years, have been made by U.S. mailers who have not received proper notification that the proper addresses have received registered mail which had been sent to them.

Mr. Speaker, as I indicated earlier, the Congress of the Universal Postal Union is now meeting in Brazil to consider a number of international postal matters. Passage of the resolution now before us will send a clear message to that UPU assembly that the U.S. Congress vigorously objects to the blatant disregard the Soviets have demonstrated for the sanctity of U.S. mail sent to the Soviet Union. Passage of this measure will clearly convey our expectation that the Soviets must live up to the international agreements to which they are a signatory, insuring the integrity and free flow of international mail.

Accordingly, I urge my colleagues to support this resolution.

Mr. Speaker, I yield 2 minutes to the distinguished ranking minority member of our committee, and a cosponsor of this concurrent resolution, the gentleman from Illinois (Mr. Derwinski).

Mr. DERWINSKI. Mr. Speaker, I am proud to be the co-sponsor of a measure which focuses public attention on the denial of a fundamental human right by the Soviet Union. I refer to its despicable practice of failing to deliver international mail to Soviet Jews, members of other religious and ethnic groups, scientists and other cultural figures.

House Concurrent Resolution 167, which has been endorsed unanimously by the Post Office and Civil Service Committee and the Foreign Affairs Committee, is an expression of strong disapproval of the methodical, ongoing interruption of mail by the Soviet Union. It is a practice which is in contravention of international agreements on postal service.

Under the pending resolution, American disapproval of the Soviet practice will be expressed by President Carter and pursued at the diplomatic level by the State Department. The U.S. delegation to the Universal Postal Union now meeting in Brazil also will be asked to follow through on this problem. The Universal Postal Union Meeting convened earlier this month and still is in session.

As a critic of Soviet violations of the Helsinki Accords, I view House Concurrent Resolution 167 as a most appropriate measure for protesting the Soviet Union's failure to abide by international postal agreements. Despite the fact the Soviet Union is a signatory to international postal agreements, it continues its illegal mail practices.

The number of inquiries and protests on the nondelivery of U.S. mail sent to the Soviet Union has continued at unusually high levels since 1976, despite the protests of the U.S. Postal Service.

Many Soviet citizens are able to withstand mistreatment and pressure because of the constant encouragement they receive in letters from the United States and the rest of the free world. We must do everything within our power to see that these courageous citizens are not denied a basic human right.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his comments and for his efforts in assisting us to bring this measure to the floor.

Mr. Speaker, I am pleased to yield such time as he may consume to another cosponsor of this measure, the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman for yielding. First of all, I too want to compliment both committees for bringing House Concurrent Resolution 167 to the floor. It is absolutely essential that this Congress go on record in a very firm and positive way in stating that we do not agree with this attitude of the Soviet Union relating to interference with the normal mail system.

I know that all of the House are grateful to the two gentlemen from New York (Mr. Hanley and Mr. Gilman) for taking the initiative to have hearings on this legislation. I know my colleague from New York (Mr. Gilman) started clear back in 1977 the inquiry that has finally resulted in this legislation. I hope the President will follow through, as he has stated he will.

The Universal Postal Union Congress recently convened in Brazil and it is only appropriate that the U.S. delegates bring the matter of Soviet mail interruption before other member countries at this meeting. It is most important to achieve the compliance of the Soviet Union to the acts of the Universal Postal Union. These acts stress the principles of the integrity and free flow of international mail.

It is important also to note today that the Soviet Union is preventing the delivery of mail from the United States to members of various religious and ethnic groups, to scientists and cultural figures within the Soviet Union, but most especially, to Soviet Jews. These people have been denied any postal contact with U.S. citizens. There is no reason for this.

Families cannot correspond with each other—they have no way of keeping up family contacts, ties, and relationships while living in these two separate countries. This affects not only personal relationships, but any coordination between individuals in the arts and sciences is also being prohibited.

New advances, new research cannot be announced through postal correspondence. By systematically interfering in the delivery of U.S. mail in the Soviet Union, the Soviets are denying basic human rights to not only individuals in their country—but the rights of their counterparts in the United States. Statistics supplied for the past several years by the U.S. Postal Service indicate that well over 2,000 inquiries per year are filed by U.S. mailers, unsure whether mail has been received by the addressee in the Soviet Union.

I would like to stress two important points in this resolution. First, that it go on record to state that it is well-documented that the Soviet Union is not delivering to selected address certain postal items. Second, that the articles mailed in the United States which are not being delivered in the Soviet Union are not prohibited articles and is therefore an interference by the Soviet Union with internationally recognized human rights guaranteed to all persons by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Final Act of the Conference on Security and Cooperation in Europe.

It is indeed important for the President to express to the Government of the Soviet Union the disapproval of the American people concerning their interference in the postal, international mail.

I am sorry that we have—the Congress—has to speak out in this manner, because one would think that just the normal procedures of mail delivery could go forward on the basis of discussions that have been held in the past. But, I compliment both these gentlemen, my colleague from New York (Mr. Hanley) and my colleague from New York (Mr. Gilman) for their insistence that this resolution be brought to the floor of the House to make sure that the Soviet Union gets the message.

Mr. Speaker, I thank the gentleman for yielding. I urge my colleagues to support House Concurrent Resolution 167.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California for his persistent diligence and for his support of this measure, and for expressing his concern.

● Mr. ZEFERETTI. Mr. Speaker, I would like to rise in support of House Concurrent Resolution 167, which was introduced by the distinguished gentleman from New York (Mr. Gilman). This legislation calls upon the President to issue a formal protest to the Soviet Government concerning the interruption of international mail addressed to individuals in the U.S.S.R. In addition, House Concurrent Resolution 167 urges the President to instruct the State Department to bring the matter of Soviet mail interruption before other member countries of the Universal Postal Union. It also requests the U.S. delegation to the recently convened Universal Postal Union Congress in Brazil to seek compliance of the Soviet Union to the acts of the Universal Postal Union outlining the principles of the integrity and free flow of international mail.

As an outspoken proponent for human rights in all countries, I abhor the Soviet refusal to deliver international mail to Soviet Jews, members of other religious and ethnic groups, scientists, and other cultural figures. There is no reason for this interruption. In fact, Mr. Speaker, this practice is completely contrary to the acts of the Universal Postal Union, the Helsinki accords, and other major declarations and covenants on human rights, all of which the Soviet Union has signed.

It is my belief that passage of this measure will clearly demonstrate our expectation that the Soviets must fulfill the terms of the international agreements to which they are a signatory, and insure the integrity and free flow of international mail. Mr. Speaker, I therefore urge my colleagues to support House Concurrent Resolution 167.●

● Mr. HARRIS. Mr. Speaker, I appreciate the fact that this important resolution has been moved along expeditiously and that it is being considered by the full House today. It is imperative that Congress quickly approve this resolution so that it can be brought before the Congress of the Universal Postal Union meeting in Brazil later this month.

As has been pointed out, tampering

with mail and the disappearance of letters because of Soviet confiscation are in violation of international postal agreements to which the Soviet Union is a signatory. And yet, the problem is growing. It is clear that the Soviet Union is harassing not only the Soviet Jewish community in this cruel way. Members of other religious and ethnic groups, scientists, and cultural figures are victims as well.

Since coming to Congress, I have been involved in helping a number of families in their efforts to emigrate from Russia. Many of these ordeals are still in progress, and I am angered when I discover, time after time, that letters I have written to certain individuals are never delivered. This information comes from family members already in the United States, whose letters often meet a similar fate. I am also outraged when I receive the "pink card" back in my office only to discover that the scrawl is a totally different signature than that of the individual to whom I wrote. I have brought along an example for my colleagues to examine.

I urge the House to pass House Concurrent Resolution 167 as quickly as possible. The Soviet Union must be encouraged in every way possible to improve their postal performance. Time after time, many of us have protested Soviet violations of the Helsinki accords. Now we must formally protest the U.S.S.R.'s failure to adhere to international postal covenants, to which both the United States and the Soviet Union are signatories.

There are many in the Soviet Union who endure constant persecution and mistreatment. These brave people survive day-to-day because of the encouragement they receive from the West mainly through letters. We must do everything we can to see that they are not denied this basic human right.●

Mr. OTTINGER. Mr. Speaker, I rise to urge my colleagues to vote in favor of the House Concurrent Resolution 167 concerning the systematic nondelivery of mail in the Soviet Union.

As an ardent critic of Soviet Union human rights policies, the problem of nondelivery of mail has frequently been brought to my attention by many who have sent letters and packages to the Soviet Union. Whether writing to friends, relatives, adopted "prisoners-of-conscience," professional associates or dissidents, complaints are extensive. Complaints include letters being opened, inspected, confiscated and returned "addressee unknown"—even when the U.S. mailer knows unequivocally that the individual resides at the address to which the mail was sent.

These complaints are further supported statistically. During 1978 the U.S. Postal Service received 2,302 inquiries about registered letters sent to the U.S.S.R. whose receipts were not returned or questions about letters that were not properly delivered. Furthermore, findings from hearings held over the past 2 years confirm that the Soviets are systematically interrupting mail to Soviet Jews, as well as to members of other religious and ethnic groups, scientists and cultural figures.

This abrogation of human rights cannot be tolerated. It is an insult to our commitment to free and open speech. Besides being morally unpalatable, it is contrary to the acts of the Universal Postal Union, the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Convenant on Civil and Political Rights.

This resolution expresses the disapproval of the American people for this Soviet policy and calls upon the State Department to pursue this matter on the diplomatic level. The measure also requests that the U.S. delegation to the Congress of the Universal Postal Union (which meets this fall in Brazil) seek to insure that the Government of the Soviet Union complies with the acts of the Universal Postal Union.

I urge all my colleagues to support this resolution which reaffirms our unwavering commitment to human rights for individuals around the world.

Mr. BONKER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Washington (Mr. BONKER) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 167)

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BONKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just considered.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

□ 1310

BORROWER'S RELIEF ACT

Mr. BARNARD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2515) to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2515

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That titles II and III of the Act entitled "An Act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes", approved October 29, 1974 (Public Law 93-501; 88 Stat. 1557), are hereby repealed, except that—

(1) the amendments made by title II of such Act and the provisions of such title shall apply to any loan made in any State during the period specified in section 206 of such Act; and

(2) the amendments made by title III of such Act shall apply to any deposit made or obligation issued in any State during the period specified in section 304 of such Act.

TITLE I—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON CERTAIN LOANS

SEC. 101. Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business of agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located,".

SEC. 102. The Federal Deposit Insurance Act (12 U.S.C. 1811–1831) is amended by inserting after section 23 the following new section:

"SEC. 24. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

SEC. 103. Title IV of the National Housing Act (12 U.S.C. 1724–1730f) is amended by inserting after section 411 the following new section:

"SEC. 412. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving such interest.".

SEC. 104. Subsection (h) of section 308 of the Small Business Investment Act of 1958 is amended to read as follows:

"(h)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds from small business investment companies to small business concerns.

"(2) In the case of a business loan the principal amount of which is $25,000 or more, the small business investment company making such loan may charge interest on such loan at a rate which does not exceed the lowest of the rates described in subparagraphs (A), (B), and (C).

"(A) The rate described in this subparagraph is the maximum rate prescribed by regulation by the Small Business Administration for loans made by any small business investment company (determined without regard to any State rate incorporated by such regulation).

"(B) The rate described in this subparagraph is the maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(C)(i) The rate described in this subparagraph is the higher of the Federal Reserve rate or the maximum rate authorized by applicable State law (determined without regard to the preemption of such State law).

"(ii) For purposes of clause (i), the term 'Federal Reserve Rate' means the rate equal to the sum of 5 percentage points plus the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which the principal office of the small business investment company is located.

"(iii) The rate described in this subparagraph shall not apply to loans made in a State if there is no maximum rate authorized by applicable State law for such loans or there is a maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(3) A State law shall be preempted for purposes of paragraph (2)(B) with respect to any loan if such loan is made before the earliest of—

"(A) July 1, 1981;

"(B) the date, after the date of the enactment of this paragraph, on which such State adopts a law stating in substance that such State does not want this subsection to apply with respect to loans made in such State; or

"(C) the date on which such State certifies that the voters of such State, after the date of the enactment of this paragraph, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in this subsection.

"(4)(A) If the maximum rate of interest authorized under paragraph (2) on any loan made by a small business investment company exceeds the rate which would be authorized by applicable State law if such State law were not preempted for purposes of this subsection, the charging of interest at any rate in excess of the rate authorized by paragraph (2) shall be deemed a forfeiture of the greater of (i) all interest which the loan carries with it, or (ii) all interest which has been agreed to be paid thereon.

"(B) In the case of any loan with respect to which there is a forefeiture of interest under subparagraph (A), the person who paid the interest may recover from a small business investment company making such loan an amount equal to twice the amount of the interest paid on such loan. Such interest may be recovered in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the most recent payment of interest.".

SEC. 105. (a) In order to prevent discrimination against any financial institution chartered pursuant to the statutes of the United States with respect to interest rates, if the applicable rate prescribed in this section exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, the federally chartered financial institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the federally chartered financial institution is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the federally chartered financial institution taking or receiving such interest.

SEC. 106. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

SEC. 127. The amendments made by this title and the provisions of this title shall apply only with respect to loans made in any State during the period beginning on the date of the enactment of this Act and ending on the earlier of—

(1) July 1, 1981;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by this title and the provisions of this title to apply with respect to loans made in such State; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in the amendments made by this title and the provisions of this title.

TITLE II—APPLICABILITY OF STATE USURY CEILINGS TO CERTAIN OBLIGATIONS ISSUED BY BANKS AND AFFILIATES

SEC. 201. Section 19 of the Federal Reserve Act (12 U.S.C. 461 et seq.) is amended by inserting after subsection (j) the following new subsection:

"(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person.".

SEC. 202. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

"(k) No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such bank or affiliate, and defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such bank or affiliate or to any other person.".

SEC. 203. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by inserting after subsection (d) the following new subsection:

"(e) No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank, or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person.".

SEC. 204. The amendments made by this title shall apply only with respect to deposits made or obligations issued in any State during the period beginning on the date of the enactment of this Act and ending on the earlier of—

(1) July 1, 1981;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by this title to apply with respect to such deposits and obligations; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain, any law, provision of

the constitution of such State, or amendment to the constitution of such State which limits the amount of interest which may be charged in connection with such deposits and obligations.

The SPEAKER pro tempore. Is a second demanded?

Mr. WYLIE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. Barnard) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. Wylie) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. Barnard).

Mr. BARNARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before the House is designed to assist financial institutions, small businesses, and farming operations caught in the effects of rapidly rising market interest rates which have exceeded State interest rate limitations. As market rates have risen, States which have low usury limits experience a decline in loan fund availability. Deposits flow out of the State in search of higher returns elsewhere. This outflow causes a reduction in loan funds available for small businesses and farming operations.

The bill would for a temporary period override State usury laws on business and agricultural loans exceeding $25,000 in amount. Institutions would be authorized to charge up to 5 percent above the Federal Reserve discount rate which is currently at 11 percent. Small business investment companies would be able to charge a higher rate as well but subject to a maximum of 15 percent. The bill's authority expires on the earlier of first, July 1, 1981, second, the date of enactment of a State law expressly stating that the provisions of the bill will not apply in that State, or third, the date a State certifies that its voters approved a law or constitutional provision retaining or favoring a lower limit than that allowed in the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. Alexander).

Mr. ALEXANDER. Mr. Speaker, I rise in strong support of H.R. 2515, legislation which will provide a temporary exemption from State usury ceilings on certain business and agricultural loans. This temporary relief measure, primarily designed for the benefit of Arkansas, will authorize national banks, State banks, savings and loan associations, and other federally chartered financial institutions such as production credit associations and Federal Land Banks to charge interest on business and agricultural loans of $25,000 or more at a rate of not more than 5 percent above the Federal discount rate.

Mr. Speaker, my home State of Arkansas has probably the most rigid interest rate ceiling in the Western Hemisphere, a 10-percent limit on all loans. This unrealistic ceiling in terms of today's economy is a vestige of the 1874 Arkansas constitution which is now being rewritten by a constitutional convention for the November 1980 consideration of the Arkansas electorate. The delegates to the Arkansas constitutional convention have approved a usury provision that includes the choice of the legislative remedy before us today.

Recent news accounts like those reported on September 19, 1979, in the Washington Star clearly demonstrate the need for this legislation:

[From the Washington Star, Sept. 19, 1979]

Prime Rate Hits Record 13¼ Percent

(By Lee M. Cohn)

Interest rates continued spiraling upward today, with a rise in the corporate prime rate from 13 percent to a record 13¼ percent.

Chemical Bank of New York initiated the increase in the rate which banks charge on loans to the most creditworhy corporations. Other banks were expected to follow soon.

The prime rate has been rising rapidly because of strong loan demand by businesses and the high costs banks are paying to obtain money for relending.

Rates paid by banks on large certificates of deposit and other short-term rates have been pushed up in part by the Federal Reserve's efforts to fight inflation by curbing growth of money and credit.

Over the protests of a strong minority, the Federal Reserve Board pursued this course yesterday by raising its discount rate from 10½ percent to a record 11 percent.

The board's 4–3 vote to raise the rate shattered the consensus supporting the Fed's tough campaign against inflation and reflected growing concern that the escalation of interest rates threatens to deepen the recession.

The prime rate increase initiated today was not a surprise, since interest rates generally have been climbing. Further fractional increases in the prime rate are widely expected although most analysts believe rates now are close to their peaks.

As the recession deepens, demand for credit should slacken and the Federal Reserve will become more reluctant to raise rates further.

The prime rate rose last month to 12 percent, matching the record set in 1974. It jumped from 12¼ to 12¾ percent Sept. 7, and to 13 percent Sept. 12.

Interest rates on home mortgages and consumer credit are not directly affected by movements of the prime rate.

The increase yesterday in the discount rate—the interest on Federal Reserve loans to commercial banks—had only limited significance in itself, but the split vote clouds the outlook for monetary policy.

As the board acted on the discount rate, financial markets were trying to guess what the Fed's broader policy-making body, the Federal Open Market Committee, decided at its regular meeting yesterday. There were some indications that the committee might be raising its target for the Federal funds rate from 11⅜ to 11½ percent, but the evidence was not conclusive.

Actions by the committee are not disclosed officially until about a month after each meeting. The board's actions on the discount rate are announced immediately.

Explaining the rate increase, the board said: "Action was taken against the background of recent increases in other short-term interest rates, to bring the discount rate into closer alignment with short-term rates generally and to discourage excessive borrowing by member banks at the discount window."

TIGHTER MONEY NOT OBJECT

The discount rate sometimes is raised to signal the Fed's intention to tighten money and credit and to raise the general structure of interest rates. Analysts said the official explanation and other circumstances indicated that is not the case this time.

They concluded that it was a mild move intended only to complete the recent sequence of interest rate increases, not a signal starting a new round of tightening.

Prior moves by the Fed had raised short-term interest rates out of normal relationships with the discount rate. This could cause market distortions, including excessive borrowing from the Fed by commercial banks.

Significantly, the official explanation did not follow the usual practice of offering as reasons for raising the discount rate the need to restrain growth of the money supply, to fight inflation and to defend the dollar abroad. Only rate relationships were mentioned.

Despite the limited scope of the discount rate move, the seven-member board split. It had voted unanimously for the previous increase, from 10 to 10½ percent, on Aug. 16.

THE FED'S DILEMMA

The Fed is struggling with a dilemma. It has been trying to fight inflation by raising interest rates as a means of restraining growth of money and credit. However, the economy has slid into a recession, and rising interest rates could make it worse.

Until recently most statistics indicated the recession was mild, which gave the Fed leeway to tighten monetary policy without provoking strong protests. But since the Aug. 16 discount rate increase, the unemployment rate has risen from 5.7 to 6 percent and there have been other indications that the recession is deepening.

At least for the Fed minority, the balance has tipped. Though still worried about inflation, they see growing risks of a severe recession, so they are more reluctant to tighten the credit squeeze.

This split presumably is affecting the 12-member Federal Open Market Committee, which sets basic policy. The committee tries to regulate growth of money and credit by expanding and contracting bank reserves. It uses the federal funds rate—the interest on short-term loans of excess reserves among banks—as a gauge of tightness and ease.

The Fed's market operations will be watched closely to determine whether the committee decided at yesterday's meeting to raise the target for the federal funds rate above the prevailing 11⅜ percent. The tentative judgment yesterday was that the target had been nudged up to 11½ percent and might go higher. This rate has a bigger impact than the discount rate on market trends and the economy.

On the 4–3 vote of the board yesterday, the increase in the discount rate to 11 percent was supported by Chairman Paul A. Volcker, Frederick H. Schultz, Henry C. Wallich and Philip E. Coldwell. Voting against the increase were J. Charles Partee, Nancy H. Teeters and Emmett J. Rice.

Henry S. Reuss, D-Wis., chairman of the House Banking Committee said the split vote suggests that "Fed members are wondering out loud whether it really makes sense to throw men and women out of work, and businesses into bankruptcy, in order to 'rescue the dollar' by chasing ever-rising European interest rates."

What we are seeking from the Congress is essentially a renewal of legislation enacted during the 93d Congress, Public Law 93–501, that granted such exemptions to the States of Arkansas, Tennessee, and Montana. That legislation expired on July 1, 1977. Montana and Tennessee have since relaxed their usury ceilings. The people of Arkansas recognize the need to do so and will have the opportunity to remedy this situation for all time next November. The bill before us today will expressly expire with the vote in Arkansas on a new constitution.

The bill does contain a provision whereby any State that finds itself impacted by this legislation may, on action of its State legislature, reject the higher interest rates provided for in this temporary measure.

Mr. Speaker, this legislation was jointly sponsored by all four Arkansas House Members at the request of our State legislature, and with the concurrence of the Governor. It has the endorsement of every Arkansas public official interested in the issue.

Unless Arkansas financial institutions can become competitive with surrounding States possessing more favorable interest rates, the long-term economic development of our State will be seriously impeded. We simply ask that the Congress give temporary relief from what appears to be a trend, for the foreseeable future, of higher interest rates.

H.R. 2515 does not constitute an invasion of States rights. In the area of interest rates, the invasion of States rights took place many years ago. The National Banking Act permits national banks to charge 1 percent over the Federal Reserve discount rate, without regard to State usury laws. This constitutes discrimination against State-chartered institutions. A further invasion took place with the implementation of Regulation Q. Today the Federal Government controls interest on payments of all types of accounts and on charges in federally insured financial institutions. It is not important at what level of government interest rates are regulated so long as they are regulated equally.

This bill has been thoroughly scrutinized by the House Banking, Finance and Urban Affairs Committee, and by the Small Business Committee, which offered a conforming amendment to the Small Business Investment Act section of the bill, and has the support of all Federal financial regulatory bodies.

I want to take this opportunity to commend my colleague from Rhode Island (Mr. St Germain), chairman of the Financial Institutions Subcommittee, the gentleman from Wisconsin (Mr. Reuss), chairman of the full Banking Committee, and the gentleman from Iowa (Mr. Smith), chairman of the Small Business Committee, for their attention to this critical situation existing in Arkansas. My associate Henry Woods has done an outstanding job.

Mr. Speaker, I urge adoption of this legislation.

Mr. WYLIE. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, this bill, as has been stated, provides for the preemption of the State usury laws on a temporary basis on business and agricultural loans above $25,000. As it also has been noted, this bill was introduced by the Arkansas delegation to authorize financial institutions in Arkansas to make business and agricultural loans notwithstanding the Arkansas constitution usury ceiling limits. It would also amend, I might say, the Small Business Investment Act to allow the Small Business Administration to set interest rates for SBIC loans.

I perceive the real purpose of this bill to be to provide relief to the economy of the State of Arkansas until such time as the voters have a chance to vote on a change in the constitution.

Mr. Speaker, I would like to yield at this time such time as he may consume to the distinguished gentleman from Arkansas (Mr. Bethune), a member of the committee who has been most diligent in shepherding this bill through our committee.

Mr. BETHUNE. Mr. Speaker, I would like to associate myself with the remarks that have been made already this afternoon. I think they are excellent statements that outline the great need for this piece of legislation.

I would like to commend my colleague, the gentleman from Arkansas (Mr. Alexander) for his leadership in this matter and in introducing this legislation.

I want to add my full support to my colleague and fellow Arkansans' bill. H.R. 2515 is of great importance to the State of Arkansas. It has the full support of the Arkansas delegation, of both Senators from Arkansas, and of the Governor. The State legislature has passed a resolution urging Congress to take prompt action on this bill.

The bill would allow federally insured or federally chartered lenders to temporarily make loans of $25,000 or more to businessmen at an interest rate of up to 5 percent more than the discount rate on 90-day commercial paper. And to farmers at an interest rate up to 5 percent of the discount rate or the rate allowed by Small Business Administration regulations—whichever is less. In the absence of this legislation, business and agriculture in Arkansas face a severe squeeze, as interest rates continue to climb beyond the 10-percent usury ceiling established by the Arkansas Constitution.

In 1874, when the State constitution was adopted, 10 percent was truly a high interest rate and the usury ceiling could be said to function as a real ceiling. Today, however, with the record-high 13¼ percent prime rate—the lending fee on corporate loans—it can hardly be said to be usurious to charge 10 percent or more for an ordinary business or agricultural loan. Interest rates in excess of 10 percent are a reflection of fiscal and monetary policies made in Washington and not the result of greedy lenders taking advantage of needy borrowers. Instead of functioning as a ceiling, the Arkansas constitutional provision acts to choke off funds and to hamstring the economy of Arkansas. Even as the national economy heads into a recession, interest rates continue to rise, and the economic pinch is almost certain to get tighter unless relief is granted.

The relief sought in this bill is temporary. H.R. 2515 is designed to preempt the usury ceiling only long enough to permit the voters of Arkansas to vote on the question of whether to raise the ceiling permanently to 5 percent above the commercial paper rate or to retain the present 10-percent ceiling. These measures are already set to go on the ballot, but under the established amendment procedures, no vote can be taken until November 1980. Once the voters have made their decision and the State has had an opportunity to implement it, this legislation will lapse. The bill will terminate on July 1, 1981, or in November 1980, if the 5-percent floating rate—which is exactly the same as in this bill—is not approved in the election. As a further protection, the bill would permit affected States to override the Federal preemption, to insure that the Federal Government will not be imposing its will on a State which desires to retain its ceiling.

Finally, I want to stress that there is ample precedent for this bill. Just 6 years ago, when the national economy experienced a period of high and rising interest rates similar to what we are seeing today, Congress enacted Public Law 93-501 to provide relief to the States of Arkansas, Tennessee, and Montana. The bill before us today is virtually identical to it.

I urge my colleagues to support this bill, so that the economy of Arkansas will not be forced to suffer further damage between now and the time when its citizens will have a chance to repeal the present, unrealistically restrictive, usury provision. It was reviewed by the Small Business Committee and received unanimous approval from both the Housing Banking Subcommittee on Financial Institutions and the full Banking Committee.

Mr. WYLIE. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. Hammerschmidt) who gave very excellent testimony before our committee on the need for this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, this legislation, H.R. 2515, is a subject of utmost importance to the State of Arkansas. I would like to commend Chairman Reuss, Mr. St Germain, our distinguished colleague Doug Barnard, and the members of the House Banking Committee for allowing prompt consideration of the bill.

A brief synopsis of the problem is that in Arkansas the financial industry has been trapped in a serious credit crunch because of the high price it must pay for money as opposed to the interest it can earn. The Arkansas constitution sets the maximum interest which may be charged business borrowers at 10 percent. Statutes in the many States of the Union include an exemption for corporate borrowing from the usury statutes; however, Arkansas' constitution does not include this critical exemption for business borrowing from their restrictive usury statute. As a result, many financial institutions in Arkansas have continued to make business loans in anticipation that rates would go down or that the State would take necessary action for their relief, although they will not be able to continue this practice indefinitely and remain sound. Moreover, Arkansas is faced with a unique difficulty in that it will not be able to modify this constitutional provision until their convention in 1980. Until then, the economy will continue to be adversely affected.

On February 28, I joined with the other members of the Arkansas congressional delegation in the House to sponsor H.R. 2515 which would provide temporary relief to financial institutions from our State's constitutional usury provision. Almost identical to Public Law 93-501, this measure, if enacted, would allow federally insured or chartered banks, federally insured or chartered savings and loan associations, and federally chartered production credit associations to make business and agricultural loans of $25,000 or more at an interest rate that is not more than 5 percent above the Federal Reserve discount rate. The measure is temporary and will expire on January 1, 1981.

In my view, this legislation is not an encroachment of the State's prerogative of setting usury rates, and should stress that the Arkansas General Assembly has approved a resolution entitled the "Borrowers Relief Act," seeking Federal legislation patterned after Public Law 93-501 and this resolution has been forwarded by the Arkansas secretary of state to Senator WILLIAM PROXMIRE, to Chairman REUSS, and to members of the Arkansas congressional delegation in an effort to enlist their support on the national level.

This resolution specifically stresses that since the current national money market rates for the loaning and borrowing of money for the best secured loans are not less than 13 percent, there has been a cessation of the flow of money from other States into the State of Arkansas, further decreasing the supply of loan and investment funds to the detriment of the citizens of the State of Arkansas. The resolution goes on to mention that in response to substantial similar high money market conditions existing in 1976, Congress adopted Public Law 93-501 and the provisions of this act were not preempted by the general assembly which had the right to do so by the terms of this act.

Additionally, the act was upheld as applied to State lending institutions by the Honorable Oren Harris, U.S. District Judge for the Western District of Arkansas, and affirmed by the Eighth Circuit Court of Appeals in *Stephens Security Bank* v. *Eppivie Corporation*, 411 F. Supp. 61 (1976), aff'd. 553 F. 2d 102.

Witnesses that appeared before the Financial Institutions Subcommittee hearings on H.R. 2515 represented the outstanding members of the financial community throughout the State of Arkansas. These citizens verified that the financial situation which Arkansas faces at this time is sufficiently acute to justify Federal action before it is too late and irreparable damage has occurred.

Congressmen ALEXANDER, BETHUNE, ANTHONY, and myself sponsored this bill because we believe that there is evidence to justify Federal action of an emergency nature and which would not be construed as reflecting a Federal policy of overriding State law in this area. The bill was drafted, as Public Law 93-501 was passed with a termination date to reflect a congressional policy of permitting a State to possess the primary responsibility to determine its usury rates. In this instance, the public interest is again at stake, and the alternative that borrowers face in the absence of this legislation can ultimately be the unavailability of funds altogether before the commencement of the State constitutional convention in 1980.

Loans in the State are becoming unavailable already, the liquidity of financial institutions is being adversely affected, and an outflow of funds from the State is at a rate to be of serious concern. Unless remedial action is initiated now, the State of Arkansas' unemployment problems will be aggravated, and business failures increased. Because of these apprehensions, we are rightfully seeking an interim solution, the legislation before you, and employ Public Law 93-501 as a legitimate precedent for this request.

The historical background of Public Law 93-501 serves as a reminder that the 1973-74 interest rates in this country soared as high as 20 percent.

Personally, I am always reluctant to preempt State law. However, I realize that Public Law 93-501 was necessary in the past and if resumed could save many financial institutions and their customers in my State from facing serious financial problems. If Arkansas banks had to cope with the trouble they experienced with 1973 interest rates without the benefit of Public Law 93-501 there could be a massive outflow of capital from the State. Preventive action now might save these institutions from the severe repercussions they faced during that time period before this law was approved.

Admittedly, the overall depressing effect of the Arkansas usury law on income and economic growth is sometimes difficult to pinpoint or assess, but believe me, it nevertheless exists. Therefore, I am again urging my esteemed colleagues to cast your vote in favor of this critical legislation which will preserve the economic stability and security of the State of Arkansas.

Mr. Speaker, I also want to recognize the important role played by my distinguished colleague and friend, the gentleman from Arkansas (Mr. BETHUNE), a member of the committee.

● Mr. ANTHONY. Mr. Speaker, I join my colleagues from Arkansas today and urge passage of H.R. 2515 to afford some relief to the citizens of Arkansas from the devastating effects of inflation.

In 1874, the people of Arkansas adopted a State constitution which contains a provision that limits interest rates to 10 percent. The supreme court of Arkansas over the years has consistently broadened the term "interest" and the result is that virtually every type of charge made for the use of money in Arkansas is deemed interest. Commitment fees, loan guarantee charges, credit life charges, time-price differentials are interest in Arkansas and coupled with simple interest must not exceed 10 percent. Not only is the Arkansas definition of interest probably the broadest in this Nation, the penalty for exceeding 10 percent is the most severe. If a loan is found usurious, whether intentional or not, the principal and interest are forfeited. In addition, the agreement between lender and borrower is void which has resulted in the lender being precluded from repossessing collateral from the borrower.

Economic conditions in Arkansas today are vastly different than they were in 1874 when the State constitution was adopted. The financial community is trapped between the Arkansas constitution and the prevailing economics of the day which force lending institutions to pay more for funds than they can charge their borrowers. This condition has had a devastating impact on Arkansas and of course the citizens of Arkansas are the ultimate bearers of the burden.

H.R. 2515 is not the total solution. It will only afford some relief, and that relief is temporary. The effective period of H.R. 2515 is tied to the time during which the voters of Arkansas can change the State constitution. Even if they decline to do so H.R. 2515 will expire.

Under provisions of H.R. 2515 some lending institutions will be allowed to exceed the 10-percent maximum interest rate. Only agriculture or business loans in excess of $25,000 will qualify. We are hopeful that until July 1, 1981, when the State constitution can be changed that H.R. 2515 will give some relief to our State and at least allow some loans to be made and thereby retain our economic stability.●

● Mr. SMITH of Iowa. Mr. Speaker, section 104 of the bill (H.R. 2515) addresses interest rates small business investment companies may charge on loans. SBIC's are companies licensed by the Small Business Administration to make loans, equity and equity type investments in small firms.

As of June of this year, over 400 SBIC's have been licensed by SBA. They have resources of over $1.3 billion and annually make available over $220 million in financing to small business concerns.

Under regulations adopted by SBA, an SBIC may charge a rate of interest of up to 15 percent on loans made to small business concerns, unless a lower maximum rate is imposed by State law.

Some States have imposed a lower interest rate on loans; for example, the constitution of the State of Arkansas prohibits interest rates in excess of 10 percent. Since interest rates have risen, that limitation results in no loans being available. While it is desirable to keep interest rates reasonable, imposing a limit which results in no loans does not serve the objective and counteracts the purpose of the legislation.

Section 104 of this bill includes a temporary override of State law in the case of SBIC loans, similar to that being included for other financial institutions by the other provisions of the bill. Basically, the amendment to the Small Business Investment Act would authorize SBIC's to charge an interest rate equal to the lower of:

First. Five points above the discount rate on 90-day commercial paper in effect at the local Federal Reserve Bank (this would now be approximately 16½ percent), or

Second. The maximum rate authorized by SBA regulation (now 15 percent)—

On loans made prior to July 1, 1981, unless the State rejects the higher interest rates being authorized by this bill. This provision overriding State law is basically the same as one contained in Public Law 93–501 which was approved October 29, 1974, and automatically expired July 1, 1977.

Because this bill includes an amendment to the Small Business Investment Act, a law which is under the jurisdiction of the Small Business Committee, it was jointly referred to the Small Business Committee and the Banking Committee. The Banking Committee held hearings on this measure and has explained the need for this temporary legislation.

The Small Business Committee, particularly Representative Henry Nowak and Representative William Stanton, chairman and ranking minority member, respectively, on our Equity Capital Subcommittee, have worked with the Banking Committee on this measure and the provision affecting SBIC's has been revised. This revision has been incorporated in the committee amendment.

Although the Small Business Committee has not formally considered the small business portion of this bill, our members do not object to consideration of this measure by the House. It is only fair to provide equitable treatment for SBIC's and to permit them to charge the same higher interest rates on loans they make to small business concerns as the bill permits other financial institutions to charge on loans they make.●

GENERAL LEAVE

Mr. BARNARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill under consideration by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BARNARD. Mr. Speaker, I have no further requests for time and yield back the remainder of my time.

Mr. WYLIE. Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. Barnard) that the House suspend the rules and pass the bill, H.R. 2515, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1320

INTERNATIONAL TRAVEL ACT AUTHORIZATION, 1980

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2795) to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. Florio).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2795, with Mr. Dellums in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. Florio) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. Madigan) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from New Jersey (Mr. Florio).

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 2795 amends the International Travel Act of 1961 to authorize funding of $8 million for fiscal year 1980 for the U.S. Travel Service in the Department of Commerce. The bill also requires the Department of Commerce to reduce the number of employees in the U.S. Travel Service Office in Washington, D.C., by 60 percent.

The USTS appropriation for fiscal year 1979 was $13.5 million. In authorizing $8 million for fiscal year 1980, this bill proposes a reduction of $5.5 million, more than 40 percent less than the fiscal year 1979 appropriation. Therefore, the fiscal year 1980 authorization is consistent with the effort to reduce Government expenditures. The main purpose of this funding is to enable the USTS to maintain the six overseas offices in Canada, Mexico, Japan, West Germany, France, and the United Kingdom. These overseas offices work directly with the travel trade and tour operations in these countries to encourage foreign residents to visit the United States. I yield $18 in incoming tourist dollars for every $1 public funds expended.

The reduction in the Washington, D.C., staff of the USTS is based on the recommendation of the Travel Advisory Board of USTS which concluded that the office is currently overstaffed.

The committee is presently considering new legislation to initiate a more vigorous, expanded national tourism policy and therefore, it would be inappropriate at this time to totally dismantle USTS as some have advised. In the interim, the committee believes that this legislation represents a reasonable and prudent way to continue the activities of the U.S. Travel Service in promoting international travel to this country. H.R. 2795 is identical to the Senate bill, S. 233, which passed the Senate on March 8, 1979, by unanimous consent.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. White). The Chair recognizes the gentleman from Illinois (Mr. Madigan).

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am happy to support H.R. 2795. This bill authorizes $8 million for the U.S. Travel Service, a reduction of $5.5 million from the 1979 appropriations.

Mr. Chairman, our subcommittee is presently holding a series of hearings reviewing our National Tourism Policy and considering legislation to define that policy. The Senate has already passed such legislation.

Therefore, H.R. 2795 is a necessary interim measure to prudently continue the activities of the U.S. Travel Service, until this Congress is able to definitively outline our National Tourism Policy and determine what the Federal role should be.

We are not satisfied with the present efforts of the USTS and this Congress has a lot of work to do in an effort to focus the Federal Government's tourism efforts.

The Office of Management and Budget's recommendation to curtail USTS ignores the views of the Department of Commerce, of industry, of the Travel Advisory Board, and even the views of Robert Strauss, who as the President's special representative for trade negotiations, stated that funds authorized and appropriated to encourage tourism are a good investment.

It would be extremely unwise to interrupt our efforts to encourage travel to this country.

It would be equally shortsighted to withhold funding for the USTS efforts while the Congress is in the process of determining a new tourism policy for the country. I urge my colleagues to support H.R. 2795.

Mr. Chairman, I remind my colleagues this reduces appropriation levels from current levels of expenditure by $5.5 million and further reduces the number of employees that are on the payroll of the U.S. Travel Service.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. Collins).

Mr. COLLINS of Texas. Mr. Chairman, I oppose this bill which will authorize $8 million in order to maintain six overseas U.S. Travel Service offices (in Canada, Mexico, Japan, West Germany, France, and the United Kingdom).

It is hard to imagine that we are asking the American taxpayers to fund this program when our U.S. private travel industry is equipped to do the job. In 1978 this country's airlines had an advertising budget of $345 million, and 30 percent of this budget was spent in attracting foreign travelers to America. United States travel companies with vast cash resources offer credit cards and travelers' checks, hotel and travel reservations, and unlimited tourist services. American owned or managed hotels around the world are closely tied in with U.S. resorts and cities. There is no major conference center or city in America that does not advertise for foreign customers. The travel industry has a tremendous stake in foreign travel and they have large budgets to advertise and to provide for incentive where the foreign traveler needs motivation.

We are spending the taxpayer's money for a service that the private industry should provide. Even President Carter's fiscal year 1980 budget contained no funding for the International Travel Act of 1961 which this bill continues to fund. The Assistant Secretary for Administration of the Department of Commerce, Elsa A. Porter, recommended that the Federal Government should get out of the foreign travel business. She also recommended that the six U.S. Travel Service overseas offices be closed, and that all travel promotion be carried out by the travel and transportation industries.

What we are doing here is authorizing $8 million for an interim funding program for six U.S. Travel Service offices. The travel and transportation industry in this country has the necessary capital and will do a better job of promoting foreign travel, and I urge my colleagues to vote against this bill.

□ 1330

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

I just want to respond very briefly to some of the points the gentleman from Texas made. I am interested to see the gentleman's support for the Carter administration in this particular area. Unfortunately, in this respect the Carter administration is not very wise in a cost efficient sense; that the investment of this relatively small amount of money is yielding this country great dividends. As I indicated, for every one dollar that is spent in overseas promotion, this Nation derives $18; that is, for every one dollar, we derive $18.

The total amount of incoming revenues that will assist us in balancing that trade deficit that we are all so concerned about is $18 million.

What we are doing by way of an interim proposal is stating that these offices serving a very important purpose should be maintained until the completion of this next fiscal year, because we in the Congress are now in the process of formulating a long overdue national tourist policy. It would be the height of folly to dismantle what may very well be determined to be a very important component of our attempt to initiate tourism policies that will bring more foreign tourists to this Nation; therefore, we would derive more foreign revenues for this Nation: therefore, generate more job opportunities for this Nation.

What we are saying to the gentleman and to the Congress is that this is something that is a very good moderate balanced approach to the problem that we have in determining what this Nation should be doing by way of the tourist industry.

When I say that the gentleman stated the tourist industry, the private sector does the job, and there is no question about the fact that they do a very effective job, but the tourist industry supports this initiative as well because there is an important role for the private sector and the public sector to play in determining how our tourist policy can be most furthered.

I think it is likewise important to note that the revenues that should be generated or can be generated out of this bill will more than in excess pay for the amounts of money that are going to be appropriated.

Mr. COLLINS of Texas. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I would be happy to yield to the gentleman.

Mr. COLLINS of Texas. Mr. Chairman, now, the gentleman said that it was a rate of $18 to $1 on the investment that they made. How did the gentleman measure the difference between what the private sector had invested and had achieved in the way of advertising and what this almost little Government pittance had achieved in the way of results?

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I would be happy to yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I would just inject myself in the debate for the purpose of making the point that at that juncture it is the private travel industry that was testifying on behalf of this bill in our subcommittee and asking us to not only continue what we are doing, but to coordinate and to expand our effort to make our country as competitive as other countries are in attracting these tourist dollars.

We are not doing this because the gentleman from New Jersey and I want to do it. We are doing it in response to all the testimony before our subcommittee, except that that came from the State Department officials and one Department of Commerce official.

I say to the gentleman from Texas that I am a little bit taken aback by the gentleman agreeing with the State Department on this issue, because I would normally think the gentleman would not be in agreement with them on anything.

I just make the point again that what we are doing here is responding to the private industry when they are asking us to keep this thing alive and continue it and try to find a greater role for this Government.

Mr. COLLINS of Texas. Mr. Chairman, will the gentleman yield further?

Mr. FLORIO. Certainly, I yield.

Mr. COLLINS of Texas. Mr. Chairman, I do find myself in a strange position with the State Department and President Carter; but when they are right, they are right.

What we have here is a situation where private industry, and I am afraid this has happened too much in this country, thinks they have got an opportunity for the Government to give them something for nothing and as they said, the private industry has said, "Would you just supplement us?"

It is not a question whether their services are needed. There is no proof anywhere that this particular group of six travel offices has actually achieved the results. There is no proof they have done anything worthwhile. Usually when you have these offices, you just have them loaded with officials that are on high Government salaries and they have big expense accounts over there; but the actual tangible proof that ths $8 million, these six U.S. offices have achieved anything, is a rather vague, ambiguous sort of a situation.

Mr. FLORIO. Mr. Chairman, I would be happy to commend the gentleman for his reading the committee's report which goes into the methodology that was utilized in terms of coming up with these figures.

There is not any question about the fact that the major purpose of this legislation is that this is an interim proposal, that this Nation in my opinion and in the opinion of the committee should be doing much more to work with the private sector in a cooperative way to develop a policy that will maximize the benefits that we can derive from the tourist industry, that we, the Federal Government that we, the public, can derive from the tourist industry.

As I say, we are in the process now of having hearings developing a policy. This proposal is designed to keep everything that is appropriately kept in the status quo to remain in the status quo.

As the gentleman heard in my initial presentation, we are cutting rather substantially the budget of this particular agency. We are cutting back on employees that are determined not to be cost efficient and are determined not to be needed; so this is not in any way a continuation of the total status quo. It is a continuation of that part of the program that is determined to be essential as we go on to develop that new policy.

Mr. COLLINS of Texas. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. Yes, sir.

Mr. COLLINS of Texas. Mr. Chairman, I would say, as we all know, this week again we are working on the budget. We are trying to get a balanced budget and we are trying to keep the deficit down as small as we can.

When the gentleman said that we have cut back, what the gentleman meant was we cut back on the old budget. We did not cut back on what the President asked. The President asked us to do away with this.

I would just ask in the way of comparison, because this looks to me like it is one of the most deserving plans that I can think of to be eliminated, can the gentleman think of any place this week when we are trying to balance the budget that there is any place where we can cancel another agency?

I am just suggesting specifically that this is one agency we can cancel, one set of offices we can cancel.

Mr. FLORIO. Well, if the gentleman sees virtue in cancellation for cancellation's sake, the gentleman may very well be correct; but in terms of the whole new approach that I would hope the gentleman would adopt of cost-benefit ratios, this is an agency that we think should be maintained for this particular year until we can make a final determination as to how it fits in with the overall policy that we are trying to facilitate with regard to tourism.

The amount of money that goes into

this program certainly is outweighed by the amount of benefit that this country derives from it.

Mr. BROYHILL. Mr. Chairman, would the gentleman yield?

Mr. FLORIO. I would be happy to yield.

Mr. BROYHILL. Mr. Chairman, I rise in disagreement with my friend, the gentleman from Texas, on the point that the gentleman is making. It seems to me here as a refreshing change we have an agency of the Government that is actually helping private industry.

I know I get complaints, as the gentleman does, of these bureaus and agencies that tend to hinder private industry; but this is one that is helping the private sector.

As the gentleman pointed out, we do have an imbalance of payments problem. It is possible through programs like this to attract foreign visitors and thus to help bring some of the dollars home and to be able to help the tourist industry in this country.

Now, I would like to ask the chairman of the subcommittee, if private industry got together to carry out the number, or all of the functions that they are carrying out, is it not true that they would probably be in violation of the antitrust laws?

Mr. FLORIO. Well, the gentleman raises a question that is certainly deserving of a great deal of exploration into the legal consequences than we can provide here and now; but I think it is fairly clear that if all the airlines got together and tried to cooperate, there would be some legitimate questions that would be raised with regard to the fixing of rates; so that is a very strong concern that we have.

I think even more basic to the gentleman's real concern is the fact of the need for a systematic evaluation of what our policy should be with regard to the components in the industry and their working among themselves, as well as their working with the public sector.

This exploration is going on. Our committee has had three hearings. We are continuing to have hearings and we are hopeful that by the end of this session we will have formulated a national policy for tourism. We are hoping to work that particular agency into that policy, or as the case may be, to work it out of the policy.

We just think that while we are formulating that policy, it would be unwise and inappropriate to totally eliminate this agency.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield for one further comment?

Mr. FLORIO. I yield.

Mr. BROYHILL. Mr. Chairman, I would like to commend the gentleman from New York and the gentleman from Illinois for the work they have done on this program; that is, by not only making sure that the agency is operating effectively, but they have also taken the lead here to cut down on their authorization. I think this is refreshing to see, too, at a time when so many of these programs come in here with increased authorizations year after year.

Mr. FLORIO. Mr. Chairman, I thank the gentleman.

I have no further requests for time, and I yield back the balance of my time.

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, if I may just in summary remind the committee that as the gentleman from North Carolina has said, we do have a serious balance of payments problem in the country. We do perhaps here have the opportunity to earn some currency from foreign countries and to address in some way that balance-of-payments problem.

□ 1340

If we look at the examples of other countries, we find in Great Britain, for example, tourism is, if not the No. 1 business, the No. 2 business in that country in terms of addressing their balance-of-payments problem.

The response to the dollar devaluation has been, on the part of the State Department, to suggest the closure of these offices in those countries where for the first time in a great many years travel by the residents of those countries to the United States would be to the financial advantage of those people. We are responding or would respond to the situation by closing the offices and making it almost impossible for the people of those countries to find a coordinated way to plan travel or make arrangements to travel to the United States.

The gentleman from New Jersey (Mr. FLORIO) and obviously the gentleman from North Carolina (Mr. BROYHILL) and I all feel that is a wrong-headed approach. In the limited travel I have done, I find it is even very difficult for me to find the offices of the U.S. Travel Service.

Mr. Chairman, I am in complete agreement with the gentleman from Texas (Mr. COLLINS) in that I think this agency has not done an adequate job, but I think it is capable of doing a better job. This is, as we have pointed out, just an interim measure until we can draft legislation to enable the U.S. Travel Service to do a better job, to respond to the opportunity that it has, and to meet the requirements of the people interested in the Travel Service so it may continue to exist and follow the example set by other countries where travel promotion has been most successful.

Mr. Chairman, as I suggested earlier, I think this is a good interim measure, and I hope the committee will support the bill.

● Mr. STAGGERS. This bill H.R. 2795, would amend the International Travel Act of 1961 to authorize $8 million for the U.S. Travel Service in the Department of Commerce for fiscal year 1980. The fiscal year 1979 appropriation for this agency was $13.5 million. Therefore this $8 million authorization for fiscal year 1980 is a reduction of more than 40 percent from the previous year. This is in keeping with the effort to reduce government expenditures.

The bill also requires the Department of Commerce to reduce the number of employees in the U.S. Travel Service office in Washington, D.C., by 60 percent as of September 1, 1979.

The international travel act directs the Secretary of Commerce to "stimulate and encourage travel to the United States by residents of foreign countries * * *;"

The U.S. Travel Service was established to accomplish these purposes. To encourage travel to this country by foreign visitors, the USTS established six overseas offices which work directly with the travel trade and tour operators. These offices are located in Canada, Mexico, the United Kingdom, France, Germany, and Japan. The latest measurement of the effectiveness of these overseas offices states that for each $1 of Federal money spent on travel promotion, $18.60 is returned in foreign exchange earnings. Even if this estimate is discounted by 50 percent as an overstatement, the Government is still receiving a 10-to-1 return on its money.

I sponsored this bill with subcommittee chairman FLORIO and Mr. SANTINI. This committee has a long history of bipartisan support for the international travel program. The Subcommittee on Transportation and Commerce has held hearings on the development of a new national tourism policy which would improve the current law and its administration. Until that work is completed, I urge my colleagues to support the international programs and overseas offices of the U.S. travel service which bring foreign exchange earnings to this country.

It is important to remember that international travelers to the United States do not benefit only the private industries which advertise abroad. The money spent here by foreign visitors provides revenues to domestic companies and interest, large and small, and jobs in the service sector for approximately 5 million persons, many of whom are relatively low skilled and do no have other job options. The tax revenues which go to States and cities as a result of money spent by foreign visitors are enormous. For years tourism has been one of the top three industries in most of the 50 States and accounts for over $115 billion annually in consumer expenditures.●

The CHAIRMAN pro tempore. Does the gentleman from Illinois (Mr. MADIGAN) yield back all of his remaining time?

Mr. MADIGAN. Yes; I do, Mr. Chairman.

The CHAIRMAN pro tempore. Does the gentleman from New Jersey (Mr. FLORIO) yield back all of his remaining time.

Mr. FLORIO. Yes; Mr. Chairman, I do.

Mr. Chairman, I move that the Committee do now rise.

PARLIAMENTARY INQUIRY

Mr. COLLINS of Texas. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. COLLINS of Texas. Mr. Chairman, do I understand that they are not calling for a vote on this issue?

The CHAIRMAN pro tempore. Not at this time. By prior agreement, there will be no votes taken on this day.

The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. VENTO) having assumed the chair, Mr. WHITE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2795) to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes, had come to no resolution thereon.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4393, TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS, 1980

Mr. STEED. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 4393) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1980, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

DISTRICT OF COLUMBIA BUSINESS

The SPEAKER pro tempore. This is District of Columbia Day. The Chair recognizes the gentleman from California (Mr. DELLUMS), chairman of the Committee on the District of Columbia.

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia I call up the bill (H.R. 3939) to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, with the following table of contents, may be cited as the "District of Columbia Retirement Reform Act".

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Sec. 1. Short title and table of contents.

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TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that the retirement benefits authorized by various Acts of Congress for the police officers, fire fighters, teachers, and judges of the District of Columbia have not been financed on an actuarially sound basis. Neither Federal payments to the District nor District of Columbia appropriations have taken into account the long-term financial requirements of the District's retirement programs. As a result, the annual budget cost to the District of Columbia for annuities and refunds of deductions is growing at a rapid rate and, in the case of the retirement program for police officers and fire fighters, is predicted to exceed the cost of salaries for active police officers and fire fighters by the year 2000.

(b) It is the purpose of this title—

(1) to establish separate retirement Funds for police officers and fire fighters, for teachers, and for judges of the District of Columbia;

(2) to establish a Retirement Board with responsibility for managing these Funds;

(3) to require that these Funds be managed on an actuarially sound basis in order to provide proper financing for the benefits to which the District's retired police officers, fire fighters, teachers, and judges are entitled;

(4) to require that the Retirement Board comply with reporting and disclosure requirements similar to those imposed under the Employee Retirement Income Security Act of 1974; and

(5) to provide for Federal payments to these Funds to help finance, in part, the liabilities for retirement benefits incurred by the District of Columbia prior to the establishment of self-government under the District of Columbia Self-Government and Governmental Reorganization Act.

DEFINITIONS

SEC. 102. As used in this title:

(1) The term "Mayor" means the Mayor of the District of Columbia.

(2) The term "Council" means the Council of the District of Columbia.

(3) The term "Speaker" means the Speaker of the House of Representatives.

(4) The term "President pro tempore" means the President pro tempore of the Senate.

(5) The term "Board" means the District of Columbia Retirement Board established by section 121 of this Act.

(6) The term "Custodian of Retirement Funds" means the Board, except that until such time as the members of the Board are first elected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the term "Custodian of Retirement Funds" means the Director of the Office of Budget and Financial Management of the District of Columbia (established by Organization Order Numbered 30, Commissioner's

Order Numbered 72–78, April 5, 1972 (D.C. Code, title 1—Appendix)).

(7) The term "retirement program" means—

(A) the program of annuities and other retirement and disability benefits for members and officers of the Metropolitan Police force and the Fire Department of the District of Columbia, but does not include the program of annuities and other retirement and disability benefits for members and officers of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division under the Policemen and Firemen's Retirement and Disability Act;

(B) the program of annuities and other retirement and disability benefits for judges of the courts of the District of Columbia under subchapter III of chapter 15 of title 11 of the District of Columbia Code; or

(C) the program of annuities and other retirement and disability benefits for teachers in the public day schools of the District of Columbia.

(8) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the Canal Zone.

(9) The term "party in interest" means—

(A) any person (including a member of the Board) having fiduciary responsibilities under this title;

(B) any person providing services to a Fund;

(C) the government of the District of Columbia;

(D) an employee organization; and

(E) a spouse, ancestor, lineal descendant, or spouse of a lineal descendant of any individual described in subparagraph (A) or (B).

(10) The term "Fund" means the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122, the District of Columbia Teachers' Retirement Fund established by section 123, or the District of Columbia Judges' Retirement Fund established by section 124.

(11) The term "current value" means fair market value where available (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board) or otherwise the fair value (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board), assuming an orderly liquidation at the time of such determination.

(12) The term "future value" means a liability for a given prior fiscal year expressed in terms of the price level expected to prevail in a given future fiscal year, adjusted at the rate of inflation used with regard to determinations made under section 142(a)(1).

(13) The term "qualified public accountant" means a person who is a certified public accountant, certified by a regulatory authority of a State.

(14) The term "enrolled actuary" means an actuary enrolled under subtitle C of title III of the Employee Retirement Income Security Act of 1974.

(15) The term "security" means a security as defined in section 2(1) of the Securities Act of 1933.

(16) The term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which individuals covered by a retirement program participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning such retirement program.

(17) The term "teacher" means a teacher as defined in section 13 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–733).

(18) The term "judge" means a judge as defined in section 11–1561(1) of title 11 of the District of Columbia Code.

(19) The term "participant" does not include an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division to whom the Policemen and Firemen's Retirement and Disability Act applies; and, unless the context requires otherwise, the term "beneficiary" does not include a beneficiary under such Act of any such officer or member.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

DISTRICT OF COLUMBIA RETIREMENT BOARD

SEC. 121. (a) There is established, as an independent agency of the government of the District of Columbia, a board of trustees to be known as the District of Columbia Retirement Board which shall have exclusive authority and discretion (subject to the requirements of this title) to manage and control the Funds established by this title.

(b)(1) The Board shall consist of eleven members selected as follows:

(A) One member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the members and officers of the Metropolitan Police force.

(B) One retired member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the retired members and officers of the Metropolitan Police force.

(C) One member or officer of the Fire Department of the District of Columbia, to be elected by the members and officers of the Fire Department.

(D) One retired member or officer of the Fire Department of the District of Columbia, to be elected by the retired members and officers of the Fire Department.

(E) One teacher in the public day schools of the District of Columbia, to be elected by the teachers of the public day schools of the District of Columbia.

(F) One teacher in the public day schools of the District of Columbia who is retired, to be elected by the retired teachers of the public day schools of the District of Columbia.

(G) Two individuals appointed by the Council of the District of Columbia.

(H) Three individuals appointed by the Mayor.

A vacancy on the Board shall be filed in the manner in which the original selection was made.

(2) The first election of the Board members described in subparagraphs (A) through (F) of paragraph (1) shall be conducted within six months after the date of the enactment of this title in accordance with regulations which the Mayor shall promulgate. Thereafter, elections shall be conducted by the Board. In any such election, voting shall be by secret ballot, and each individual to be represented on the Board by the winner of such election shall be eligible to vote in such election.

(3)(A) Except as provided in subparagraph (B), the members of the Board shall each serve a term of four years, except that a member selected to fill a vacancy occurring prior to the end of the term for which his predecessor was selected shall only serve until the end of such term. A member may serve after the expiration of his term until his successor has taken office.

(B) Of the members of the Board who are first selected—

(i) two shall serve for a term of one year,

(ii) three shall serve for a term of two years,

(iii) three shall serve for a term of three years, and

(iv) three shall serve for a term of four years, as determined by lot at the first meeting of the Board.

(4) No individual shall serve more than two terms as a member of the Board, except that an individual serving less than two years of a term to which some other individual was originally selected shall be eligible for two full terms as a member of the Board and an individual serving two years or more of a term to which some other individual was originally selected shall be eligible for only one full term as a member of the Board.

(5) Any individual who was selected as a member of the Board under subparagraph (A), (C), or (E) of paragraph (1) and who ceases to be a member or officer of the Metropolitan Police force, member or officer of the Fire Department, or a teacher, as the case may be, may not continue as a member of the Board.

(6) No member of the Board may hold or be a candidate for any elective office in the District of Columbia.

(7) No member of the Board may have any personal interest, direct or indirect (except as a participant in a retirement program), in any transaction involving assets of the Funds established by this title and shall otherwise comply with the standards of conduct applicable to fiduciaries in the District of Columbia, as well as those standards of conduct established by part E of this title.

(8) Not less than two of the members of the Board appointed by the Mayor under paragraph (1) shall be individuals who have professional work experience in the banking, insurance, or investment industry.

(9) Any member of the Board may be removed from the Board by a vote of two-thirds of the members of the Board for a breach of fiduciary responsibility with respect to a Fund or for a violation of section 184.

(10) The Board shall elect one member of the Board to be chairman of the Board. The chairman shall be elected for a term of one year, but may be removed from such position by a vote of two-thirds of the members of the Board.

(11) The Director of the Office of Budget and Financial Management of the District of Columbia shall be an ex officio member of the Board, but shall not vote, shall not be eligible to be elected chairman of the Board, and shall not be counted for purposes of a quorum.

(c) Subject to the availability of appropriations therefor, each member of the Board shall be entitled to receive the hourly equivalent of the annual rate of pay in effect for the highest step of grade GS–15 of the General Schedule under section 5332 of title 5, United States Code, for each hour such member is engaged in the actual performance of duties vested in the Board, except that any member of the Board who is a full-time officer or employee of the District of Columbia or the United States shall not be entitled to receive pay under this subsection for performance of duties vested in the Board.

(d)(1) The Board shall meet at least once each calendar quarter at a regular and specified time. It shall meet at such other times as the chairman or any three members of the Board may prescribe.

(2) Any six members shall constitute a quorum for the transaction of the business of the Board.

(3) Except as otherwise provided in this title, actions of the Board shall be determined by a majority vote of the members present and voting.

(e) The Board shall from time to time promulgate rules and regulations, adopt resolutions, issue directives for the administration and transaction of its business and for the control of the Funds established by this title, and perform such other functions as may be necessary to carry out its responsibilities under this title.

(f)(1) All administrative expenses incurred by the Board in carrying out this title, including compensation for the members of the Board, shall be paid out of funds appropriated for such purpose.

(2) The budget prepared and submitted by the Mayor pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act shall include recommended expenditures at a reasonable level for the forthcoming fiscal year for the administrative expenses of the Board.

(3) The Mayor and the Council may establish the amount of funds which will be allocated to the Board for administrative expenses, but may not specify the purposes for which such funds may be expended or the amounts which may be expended for the various activties of the Board.

(g) (1) The Board shall engage the services of competent investment counsel or counsels who shall be qualified under the Investment Advisors Act of 1940. Such investment counsel or counsels shall be fiduciaries, to the extent designated by the Board, with respect to services rendered to the Board. Such fiduciary relationship shall be specified in a written agreement between the investment counsel or counsels and the Board.

(2) The Board may appoint such staff as it considers necessary to enable it to carry out its responsibilities under this title. The staff of the Board shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no staff member may receive pay in excess of the annual rate of basic pay in effect for GS–15 of the General Schedule under section 5332 of title 5, United States Code.

(h) Not more than ninety days after all initial members of the Board have been selected in accordance with subsection (b) of this section, the Board shall certify in writing to the Director of the Office of Budget and Financial Management of the District of Columbia that the Board is assuming responsibility for the Funds established by this title.

DISTRICT OF COLUMBIA POLICE OFFICERS AND FIRE FIGHTERS' RETIREMENT FUND

SEC. 122. (a) There is established a fund to be known as the District of Columbia Police Officers and Fire Fighters' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount paid to the Custodian of Retirment Funds pursuant to the last sentence of subsection (d) (1) or to subsection (c) (5) of the Policemen and Firemen's Retirement and Disability Act or pursuant to the proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935.

(2) Any amount appropriated for such fund under part C of this title.

(3) Any return on investment of the assets of such fund.

After September 30, 1979, or after the end of the thirty-day period beginning on the date on which funds are first appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, whichever is later, all payments of annuities and other retirement and disability benefits (including refunds and lump-sum payments) under the Policemen and Firemen's Retirement and Disability Act shall be made from the Fund (except for any such payment which is made to an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or to a beneficiary of any such officer or member).

(b) (1) The last sentence of subsection (d) (1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–524(1)) is amended by striking out "Such" and inserting in lieu thereof "In the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, such deductions and withholdings shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) and shall be deposited in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act; and in the case of any other member, such".

(2) The proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935 (D.C. Code, sec. 4–502), is amended by inserting immediately before the period the following: ", except that all moneys required to be deposited with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act".

(3) The act entitled "An Act to credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen's relief fund, District of Columbia", approved July 21, 1947 (D.C. Code, sec. 4–504a), is amended by inserting "or the District of Columbia Police Officers and Fire Fghters' Retirement Fund (established by section 122(a) of the District of Columbia Retirement Reform Act)" immediately after "District of Columbia," the first place it appears.

(c) The amendments made by paragraphs (1) and (2) of subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act. The amendment made by paragraph (3) of such subsection shall take effect on such date of enactment.

DISTRICT OF COLUMBIA TEACHERS' RETIREMENT FUND

SEC. 123. (a) There is established a fund to be known as the District of Columbia Teachers' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount paid to the Custodian of Retirement Funds pursuant to the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia" approved August 7, 1946, or under the Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960.

(2) Any asset transferred to such Fund under subsection (c).

(3) Any amount appropriated for such Fund under part C of this title.

(4) Any return on investment of assets of such Fund.

Annuities and other retirement and disability benefits (including refunds and lump-sum payments) payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, shall continue to be paid from such fund until all amounts in such fund have been expended or transferred under subsection (c) to the District of Columbia Teachers' Retirement Fund, and thereafter such benefits shall be paid from the District of Columbia Teachers' Retirement Fund.

(b) (1) The Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, is amended—

(A) in the first section (D.C. Code, sec. 37–721) —

(i) by adding at the end of the first paragraph the following new sentence: "After the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, any amounts deducted and withheld pursuant to this paragraph shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of such Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act.", and

(ii) in the first sentence of the second paragraph, by striking out "Collector of Taxes, District of Columbia," and inserting in lieu thereof "Custodian of Retirement Funds";

(B) in section 2 (D.C. Code, sec. 31–722), by striking out "The" in the first sentence and inserting in lieu thereof "Until the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the";

(C) in clause (ii) of paragraph (1) of section 5(b) (D.C. Code, sec. 31–725(b) (1) (ii)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act";

(D) in section 9(a) (D.C. Code, sec. 31–729(a)), by striking out "deposit in the fund" in the second proviso and inserting in lieu thereof "repay to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,";

(E) in clause (ii) of section 9(b) (1) (D.C. Code, sec. 31–729(b) (1)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act"; and

(F) in section 17 (D.C. Code, sec. 31–737), by inserting "(including any assets of the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act)" immediately after "Act".

(2) Section 4 of the Act entitled "An Act to increase annuities payable to certain annuitants from the District of Columbia teachers' retirement and annuity fund, and for other purposes", approved September 2, 1958 (D.C. Code, sec. 31–744), is amended by inserting immediately before the period at the end of the first sentence the following: "until such time as all amounts in such fund have been expended or transferred under section 123(c) of the District of Columbia Retirement Reform Act to the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act and thereafter from the District of Columbia Teachers' Retirement Fund".

(3) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31–745), is amended by striking out "the deposit by such teacher to the credit of the teachers' retirement and annuity fund of the District of Columbia" and inserting in lieu

thereof "payment by such teacher to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act), for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,".

(c) Notwithstanding any other provision of law, any asset held in the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, may be transferred to the District of Columbia Teachers' Retirement Fund established by subsection (a).

(d) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

DISTRICT OF COLUMBIA JUDGES' RETIREMENT FUND

SEC. 124. (a) There is established a fund to be known as the District of Columbia Judges' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount deposited pursuant to subchapter III of chapter 15 of title 11 of the District of Columbia Code.

(2) Any asset transferred to such Fund under subsection (c).

(3) Any amount appropriated for such Fund under part C of this title.

(4) Any return on investment of the assets of such Fund.

(b)(1) Section 11-1561(4) of title 11 of the District of Columbia Code is amended by striking out "Judicial Retirement and Survivors Annuity Fund as provided in section 11-1570" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(2) Section 11-1563(a) of such title 11 is amended by striking out "deposited in the fund in accordance with procedures established by the Commissioner" and inserting in lieu thereof "paid to the Custodian of Retirement Funds (as defined in section 102 (6) of the District of Columbia Retirement Reform Act) for deposit in the fund".

(3) Section 11-1564(d)(4) of such title 11 is amended in the first sentence by striking out "Judicial Retirement and Survivors Annuity Fund" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(4) Section 11-1570 of such title 11 is amended—

(A) in subsection (a)—

(i) in the first sentence, by inserting immediately before the period "until such time as all amounts in such Fund have been expended or transferred to the District of Columbia Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act"; and

(ii) by striking out the second and third sentences and inserting in lieu thereof the following: "Thereafter the retirement salaries, annuities, refunds, and allowances provided for in this subchapter shall be paid from such Fund.";

(B) in subsection (b)—

(i) by striking out "such funds" and inserting in lieu thereof "the District of Columbia Judicial Retirement and Survivors' Annuity Fund";

(ii) by striking out "from the fund" and inserting in lieu thereof "under the first sentence of subsection (a)"; and

(iii) by striking out "fund" the second place it appears and inserting in lieu thereof "District of Columbia Judicial Retirement and Survivors Annuity Fund"; and

(C) in subsection (d), by inserting "(including moneys in the District of Columbia Judges' Retirement Fund)" immediately after "subchapter".

(c) Notwithstanding any other provision of law, any asset held in the District of Columbia Judicial Retirement and Survivors Annuity Fund may be transferred to the District of Columbia Judges' Retirement Fund established by subsection (a).

(d) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

MANAGEMENT OF RETIREMENT FUNDS

SEC. 125. (a) The Custodian of Retirement Funds shall be the custodian of the assets of each Fund established by this title and shall manage and invest such assets in accordance with this title.

(b) The assets of each Fund shall be kept separate from other moneys which may be under the control of the Custodian of Retirement Funds, but need not be kept separate from the assets of the other Funds if the Board determines that commingling of such assets is advisable for investment purposes.

(c) The Board shall maintain, in an appropriate depository, a cash reserve for the Funds in an amount determined by the Board to be sufficient to meet current outlays for annuities and other retirement and disability benefits authorized to be paid from such Funds.

PAYMENTS FROM THE FUNDS

SEC. 126. The Mayor shall notify the Custodian of Retirment Funds of any payments to be made from the Funds established by this title for annuities or other retirement or disability benefits (including refunds and lump-sum payments), and the Custodian of Retirement Funds shall make such payments from the appropriate Fund.

PART C—FINANCING OF RETIREMENT BENEFITS

LIMITATION ON INVESTMENT OF RETIREMENT FUNDS

SEC. 141. (a) The assets of the Funds established by this title may not be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(2) Obligations fully guaranteed as to the payment of both principal and interest by the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(3) Real property in the District of Columbia, Virginia, or Maryland.

(4) Loans, mortgages, bonds, notes, bills, or certificates of indebtedness secured, in whole or in part, by real property in the District of Columbia, Virginia, or Maryland.

(b) Until such time as the members of the Board are first selected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the assets of such Funds may only be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the United States Government, or obligations fully guaranteed as the payment of both principal and interest by the United States Government.

(2) Interest-bearing certificates of deposit issued by National, State, or District of Columbia savings and loan institutions.

DETERMINATION OF FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 142. (a)(1) The Board shall engage an enrolled actuary who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A), who shall, on the basis of the entry age normal cost funding method and in accordance with generally accepted actuarial principles and practices, make the following determinations with respect to each Fund.

(A) At the times specified in paragraph (2), the actuary shall determine the level percentage of payroll, expressed as a percentage (hereinafter in this title referred to as the "net normal cost percentage"), which shall be the percentage such that the amount equal to the product of such percentage and the present value of future compensation for participants in the retirement program, if paid annually into the Fund from the date of hire of each participant in the retirement program until the date of such participant's death, retirement, or other withdrawal from employment covered by the retirement program, is equal to the amount of the difference between (i) the present value of the future benefits payable from the Fund to such group, and (ii) the present value of all future employee contributions to the Fund.

(B) At the times specified in paragraph (2), the actuary shall determine the amount (hereinafter in this title referred to as the "accrued actuarial liability") that is the difference between (i) the present value (as of the date of the determination) of the future benefits payable from the Fund, and (ii) the the sum of—

(I) the present value of all future employee contributions to the Fund; and

(II) the product of the net normal cost percentage and the present value of future compensation for participants in the retirement program.

(C) At the times specified in paragraph (2), the enrolled actuary shall determine the current value of the assets in the Fund.

(D) Each year, not later than sixty days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, the enrolled actuary shall determine—

(i) an estimate of the current annual active duty payroll;

(ii) the amount (hereinafter in this title referred to as the "future Federal obligation") that is the amount of the present value of the sum of the amounts authorized by section 144(a) to be appropriated to the Fund for fiscal years beginning on or after the date of the determination; and

(iii) the amount (hereinafter in this title referred to as the "net pay-as-you-go cost") that is the difference between (I) the amount of the obligation of the Fund during the next fiscal year for the payment of benefits payable from the Fund during such year, and (II) the amount of employee contributions to the Fund for such year.

The actuary shall also determine such additional information as the Board may require in order to make the determinations specified in paragraph (4) and in subsection (b).

(2) The actuary engaged by the Board pursuant to paragraph (1) shall make the determinations described in subparagraphs (A), (B), and (C) of such paragraph at the following times:

(A) No later than sixty days after the date of the enactment of this Act.

(B) Upon a request by the Board or by the Director of the Office of Management and Budget.

(C) Not later than the end of the ninety-day period beginning on the first day of the fiscal year occurring after the fiscal year in which the last such determination was made pursuant to any subparagraph of this paragraph.

(3) On the basis of the most recent determinations made under paragraph (1), the enrolled actuary shall certify to the Board

each year, at a time specified by the Board, the following information with respect to each Fund for the next fiscal year:

(A) The net normal cost, which shall be computed as the product of the net normal cost percentage and the estimate by the actuary of the current annual active duty payroll.

(B) The accrued actuarial liability.

(C) The current value of assets in the Fund.

(D) The future Federal obligation.

(E) The net pay-as-you-go cost.

(F) The unfunded actuarial liability, which shall be computed as the difference between the accrued actuarial liability and the sum of the current value of the assets in the Fund and the future Federal obligation.

(G) The unpaid Federal obligation, which shall be computed as the difference between the accrued actuarial liability as of January 2, 1975 (in future value as of the end of the fiscal year for which the determination is made), and the sum of the future Federal obligation, the current value of previous Federal contributions, and (in the case of the District of Columbia Teachers' Retirement Fund and the District of Columbia Judges' Retirement Fund) the current value of any assets in the predecessor to such Fund as of January 2, 1975.

For the purposes of subparagraph (F), the term "current value of the assets in the Fund" shall be deemed to include (i) the present value of any payments to be made to the Fund by the District in accordance with subsection (b)(1)(C)(ii), and (ii) the present value of the amount of any reduction in the amount of future District payments to the Fund determined in accordance with subsection (b)(1)(D).

(4) The Board shall determine—

(A) the amount of the Federal payment for the next fiscal year for each Fund authorized to be appropriated under section 144(a); and

(B) on the basis of the most recent certification submitted by the enrolled actuary under paragraph (3), the amount of the District payment for the next fiscal year for each Fund, as described under subsection (b).

(b)(1)(A) For the District payment for each Fund for each fiscal year through fiscal year 2004, the Board shall determine—

(i) the unfunded actuarial liability for such Fund as of the end of fiscal year 2004;

(ii) the unfunded actuarial liability as of October 1, 1979, in future value as of the end of fiscal year 2004 for such Fund; and

(iii) the amount equal to the lesser of (I) the net pay-as-you-go cost, and (II) the sum of the net normal cost and the amount of annual interest (computed at the valuation rate used in the determination under subsection (a)(1)) on the unfunded actuarial liability, as computed under subsection (a)(3)(F).

(B) If the amount determined under subparagraph (A)(i) is equal to the amount determined under subparagraph (A)(ii), the amount of the District payment for the fiscal year for such Fund shall be the amount determined under subparagraph (A)(iii).

(C)(i) If the amount determined under subparagraph (A)(i) is greater than the amount determined under subparagraph (A)(ii), the amount of the District payment for the fiscal year for such Fund shall be the amount equal to the sum of (I) the amount determined under subparagraph (A)(iii), and (II) the amount of the level amortization payment that, if paid annually into the Fund through the next ten fiscal years (and accrued at the rate of interest used in the determinations under subsection (a)(1), would reduce the amount determined under subparagraph (A)(i) to the amount determined under subparagraph (A)(ii) by the end of such ten fiscal years.

(ii) A level amortization payment shall not be required under this subparagraph for any fiscal year to the extent that the difference between the amount determined under subparagraph (A)(i) and the amount determined under subparagraph (A)(ii) for such fiscal year is attributable to the failure of the Federal Government to make all or any part of the Federal payment to such Fund for any fiscal year.

(D) If the amount determined under subparagraph (A)(ii) is greater than the amount determined under subparagraph (A)(i), the amount of the District payment for such Fund shall be the amount determined under subparagraph (A)(iii) reduced by the amount of the level amortization payment that, if paid annually for the next ten fiscal years, would have a future value as of the end of fiscal year 2004 equal to the difference between the amount determined under subparagraph (A)(ii) and the amount determined under subparagraph (A)(i).

(E) The amount of a District payment determined under subparagraph (C) may not exceed the amount determined under subparagraph (A)(iii) by more than 10 percent of the net pay-as-you-go cost, in the case of a payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, or by more than 30 percent of the net pay-as-you-go cost, in the case of a payment to the District of Columbia Teachers' Retirement Fund or to the District of Columbia Judges' Retirement Fund.

(F) Determinations under subparagraph (A) shall be made in accordance with generally accepted actuarial principles and practices.

(2) The amount of the District payment to each Fund for fiscal year 2005 and for each fiscal year thereafter shall be the sum of (A) the net normal cost, and (B) the amount of annual interest (computed at the valuation rate used in the determination pursuant to subsection (a)(1)) on the unfunded actuarial liability.

(c)(1) On the basis of the most recent determinations made under subsection (a)(4), the Board shall—

(A) not later than March 15 of each year through calendar year 2003, submit to the President and to the Congress a request for appropriation of the Federal payment for the next fiscal year for each Fund; and

(B) not less than thirty days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self.Government and Governmental Reorganization Act, certify to the Mayor and the Council the amount of the District payment for each Fund.

(2) The Mayor, in preparing each annual budget for the District of Columbia pursuant to section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, and the Council of the District of Columbia, in adopting each annual budget in accordance with section 446 of such Act, shall include in such budget not less than the full amount certified by the Board under paragraph (1)(B) as being the amount of the District payment for the next fiscal year for each Fund. The Mayor and the Council may comment and make recommendations concerning any such amount certified by the Board.

(d)(1) Whenever any change in benefits under a retirement program is made, the Mayor shall engage an enrolled actuary, who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A), to estimate the effect of such change in benefits over the next five fiscal years on (A) the net normal cost percentage with respect to the retirement program, (B) the accrued actuarial liability with respect to the retirement program, (C) the net pay-as-you-go cost with respect to the retirement program, and (D) the level of the District payments to the Fund. The Mayor shall transmit the estimates of the actuary under the preceding sentence to the Board and to the Speaker and the President pro tempore, and such change in benefits may not go into effect until the end of the thirty-day period beginning on the date such transmittals are completed.

(2) In the event a change in benefits under a retirement program is made that increases the present value of benefits payable from the Fund, a level amortization payment for a period not to exceed 25 years shall be paid by the District to the Fund such that the present value of the sums of such level amortization payments equals the increase in the present value of such benefits. Such payments shall be made in addition to any other payment to the Fund required to be made by the District, and such increase in present value of benefits payable from the Fund and such payments shall be disregarded in calculating the unfunded actuarial liability under subsection (b)(1)(A).

(e) Whenever the amount authorized to be appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund for any fiscal year under section 144(a)(1) is reduced under section 145(c), the District shall, beginning with the next fiscal year, pay a level amortization payment to such Fund for a period not to exceed ten years such that the present value (determined as of the beginning of the fiscal year for which such amortization is reduced) of the sum of such level amortization payments equals the amount of such reduction. Such payments shall be made in addition to any other payment to such Fund required to be made by the District and shall be disregarded in calculating the unfunded actuarial liability under subsection (b)(1)(A).

(f) The Comptroller General of the United States shall have access to all books, accounts, records, reports, files and other papers necessary to carry out the responsibility of the Comptroller General under section 736(a) of the District of Columbia General under section 736(a) of the District of Columbia Self-Government and Governmental Reorganization Act and under section 144(e) of this Act.

INFORMATION ABOUT RETIREMENT PROGRAMS

SEC. 143. Upon a request of the Board, the Mayor shall furnish to the Board such information with respect to retirement programs to which this title applies as the Board considers necessary to enable it to carry out its responsibilities under this title and to enable the enrolled actuary engaged pursuant to section 142(a) to carry out the responsibilities of the enrolled actuary under this title.

FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 144. (a) There is authorized to be appropriated from the revenues of the United States for fiscal year 1980 and for each fiscal year thereafter through fiscal year 2004—

(1) as the Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, the sum of $39,445,000, reduced by the amount of any reduction required under section 145(c);

(2) as the Federal payment to the District of Columbia Teachers' Retirement Fund, the sum of $21,827,000; and

(3) as the Federal payment to the District of Columbia Judges' Retirement Fund, the sum of $287,000.

(b)(1) Amounts appropriated as a Federal payment to a Fund established by this title shall not be subject to apportionment and shall be deposited in the appropriate Fund not more than thirty days after they are appropriated or thirty days after the beginning of the fiscal year for which they are appropriated, whichever is later.

(2) Amounts appropriated as a District of Columbia payment to a Fund established by this title shall be deposited in the appropriate Fund in equal quarterly installments.

the first of which shall be made on the first day of the first quarter of the fiscal year, or on the first day thereafter that funds for such installment become available, and the remainder of which shall be made on the first day of succeeding quarters of the fiscal year, or on the first day thereafter that funds for such installments become available.

(c) If at any time the balance of any Fund established by this title is not sufficient to meet all obligations against such Fund, such Fund shall have a claim on the revenues of the District of Columbia to the extent necessary to meet such obligations.

(d) If, for any fiscal year, the Mayor and the Council do not carry out the requirements of subsections (c)(2), (d), and (e) of section 142 with respect to a Fund, no funds authorized to be appropriated for such Fund by this section shall be available for such Fund for such fiscal year.

(e)(1) In the year 2004, the Comptroller General shall determine whether the Federal share with respect to each Fund has been paid in full by payments made pursuant to appropriations authorized under subsection (a) of this section and, in the case of the District of Columbia Police Officers and Fire Fighters' Retirement Fund, by payments made or to be made under section 142(e).

(2) For the purposes of this subsection, the term "Federal share", with respect to a retirement program, means the sum of—

(A) 100 percent of the accrued unfunded liability as of October 1, 1979, for participants in the retirement program who retired before January 2, 1975, under a provision of law authorizing retirement and entitlement to an annuity based upon the years of creditable service of the participant (and for the beneficiaries of such participants under the retirement program); and

(B) 33⅓ percent of the accrued unfunded liability as of October 1, 1979, for participants in the retirement program who retired before January 2, 1975, under a provision of law authorizing retirement and entitlement to an annuity based upon a disease or disability from which the participant is suffering (and for the beneficiaries of such participants under the retirement program).

REDUCTION IN FEDERAL CONTRIBUTION FOR EXCESSIVE NUMBER OF POLICE AND FIRE DISABILITY RETIREMENTS

SEC. 145. (a) After January 1 and before March 1 of each year beginning with calendar year 1982 and ending with calendar year 2003, the Comptroller General of the United States shall—

(1) determine the percentage of the total number of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who retired, died, withdrew by taking out a lump sum payment, or otherwise separated from active duty while eligible for a deferred annuity under the Policemen and Firemen's Retirement and Disability Act during the preceding calendar year who retired with a disability under subsection (f)(1) or (g)(1) of the Police and Firemen's Retirement and Disability Act;

(2) determine the percentages of the total number of officers and members of the police and fire departments of each of the five largest police and fire departments combined of cities in the United States (based upon the most recent figures of the Bureau of the Census and excluding the District of Columbia) who retired (or otherwise separated while eligible to retire) during the preceding calendar year who retired with a disability; and

(3) state whether the percentage determined under paragraph (1) is greater than the average of the percentages determined under paragraph (2) and, if the percentage determined under paragraph (1) is greater than such average, what the difference between the two is.

The Comptroller General shall report the determinations and statements made under paragraphs (1) through (3) for any year to the Board not later than March 1 of such year.

(b) The Board and the Comptroller General shall each transmit a copy of each report under subsection (a) to the Speaker, the President pro tempore, the Mayor, and the Council not later than March 31 of the year in which the report is made, and each shall submit comments on such report.

(c) For the fiscal year beginning in a calendar year in which the report of the Comptroller General under subsection (a) includes a statement under paragraph (3) of such subsection that the percentage determined under paragraph (1) of such subsection is greater than the average of the percentages determined under paragraph (2) of such subsection, the amount authorized by section 144(a)(1) to be appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund for such fiscal year shall be reduced. Such reduction shall be in the amount equal to the product of (1) the amount specified in such section, and (2) the difference between the percentage determined under paragraph (1) of subsection (a) and the average of the percentages determined under paragraph (2) of such subsection, as stated by the Comptroller General under paragraph (3) of such subsection.

DETERMINATION OF PERCENTAGE OF DISABILITY FOR CURRENT EMPLOYEES WHO APPLY FOR DISABILITY RETIREMENT

SEC. 146. (a) Whenever during calendar year 1980 or any subsequent calendar year through calendar year 2002 an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first became such an officer or member of such force or department before the end of the ninety-day period beginning on the date of the enactment of this Act completes five years of police and fire service (as determined under subsection (c) of the Policemen and Firemen's Retirement and Disability Act) and retires (or applies for retirement) under subsection (f)(1) or (g)(1) of the Policemen and Firemen's Disability Act, the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with the regulations promulgated by the Mayor in accordance with subsection (g)(5) of such Act, the percentage of impairment of such officer or member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board. In the case of such officer or member, such Board shall determine, within a reasonable time, the percentage of disability of such officer or member giving due regard to—

(1) the nature of the injury or disease;

(2) the percentage of impairment reported pursuant to the preceding sentence;

(3) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the officer or member immediately prior to such officer or member's retirement;

(4) the age and years of service of the officer or member; and

(5) any other factor or circumstance which may affect the capacity of the officer or member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

(b) The Police and Firemen's Relief Board, on or before January 31 of each calendar year from 1981 through 2003, shall make available to the Speaker, the President pro tempore, the Mayor, the Council, the Comptroller General, and the enrolled actuary—

(1) all determinations (including related documents and information) made during the preceding calendar year pursuant to subsection (a) of this section; and

(2) the decisions of the Board on the type of annuity to be awarded to officers and members subject to a determination under subsection (a) during such year.

CONFORMING AMENDMENTS

SEC. 147. (a)(1) Section 7 of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-727), is repealed.

(2) Section 14 of such Act of August 7, 1946 (D.C. Code, sec. 31-734), is amended—

(A) in the third sentence, by striking out "The" and inserting in lieu thereof "Until such time as all amounts in the teachers' retirement and annuity fund have been expended or transferred to the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act, the"; and

(B) by striking out the fourth sentence.

(3) Section 15 of such Act of August 7, 1946 (D.C. Code, sec. 31-735), is repealed.

(b) The proviso in the fourth paragraph (relating to District government retirement and relief funds) under the heading "Compensation and Retirement Fund Expenses" in the Act of July 31, 1953 (D.C. Code, sec. 31-716a), is repealed.

(c)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved January 15, 1920 (D.C. Code, sec. 31-707), is amended by striking out the second and third sentences of the first paragraph.

(2) Section 14 of such Act of January 15, 1920 (D.C. Code, sec. 31-715), is amended by striking out the third and fourth sentences.

(3) Section 15 of such Act of January 15, 1920 (D.C. Code, sec. 31-716), is repealed.

PART D—REPORTING AND DISCLOSURE REQUIREMENTS

PERSONAL FINANCIAL DISCLOSURE BY BOARD MEMBERS

SEC. 161. (a) Each member of the Board shall, within ninety days of his selection as a member of the Board and not later than April 30 of each year thereafter, submit to the Mayor, the Council, the Speaker, and the President pro tempore a personal financial disclosure statement with respect to the preceding calendar year. Such statement shall be in such form as the Council may by regulation require and shall contain such information with respect to the member's financial condition as the Council may by regulation require, including the following information:

(1) The amount and source of all income (as defined in section 61 of the Internal Revenue Code of 1954) received during the year.

(2) The identity and category of value of each liability owned, directly or indirectly, that exceeds $2,500 as of the last day of the year (excluding any mortgage that secures real property that is the principal residence of such member).

(3) The identity and category of value of any property held, directly or indirectly, in a trade or business or for investment or the production of income that has a fair market value of not less than $1,000 as of the last day of the year.

(4) The identity and category of value of any transaction, whether direct or indirect, in securities or commodities futures during the year in excess of $1,000 (excluding any gift to any tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1954), and the identity, date, and category of value of any purchase or sale, whether direct or indirect, of any interest in real or tangible personal property during the year the value of which exceeds $1,000 at the time of such purchase or sale (excluding any purchase or sale of any property that is the principal residence of such member or that is used as furnishings for such principal residence).

(5) The nature and extent of any interest during the year in any bank, insurance company, or other financial institution, or in any brokerage or other securities or investment company.

(6) The nature and extent of any employment during the year by any bank, insurance company, or other financial institution, or by any brokerage or other securities or investment company.

A member shall not be required to submit a personal financial disclosure statement to the Speaker and the President pro tempore for calendar years after calendar year 2004.

(b) For purposes of paragraphs (2), (3), and (4) of subsection (a), the member reporting need not specify the actual amount of value of each item required to be reported under such paragraphs, but shall indicate which of the following categories such amount or value is within:

(1) Not more than $5,000.

(2) Greater than $5,000 but not more than $15,000.

(3) Greater than $15,000 but not more than $50,000.

(4) Greater than $50,000 but not more than $100,000.

(5) Greater than $100,000.

ANNUAL REPORTS

Sec. 162. (a) (1) (A) The Board shall publish an annual report for each fiscal year (beginning with fiscal year 1980) with respect to each retirement program to which this title applies and with respect to the Fund for such retirement program. Such report shall be filed with the Mayor, the Council, the Speaker, and the President pro tempore in accordance with section 164(a) and shall be made available and furnished to participants and beneficiaries in accordance with section 164(b).

(B) The annual report shall include the information described in subsections (b), (c), (d), and (e) and, when applicable, subsection (f), and shall also include—

(i) the financial statement and opinion required by paragraph (3) of this subsection; and

(ii) the actuarial statement and opinion required by paragraph (4) of this subsection.

(2) If some or all of the information needed to enable the Board to comply with the requirements of this title is maintained by—

(A) an insurance carrier or other organization which provides some or all of the benefits under the retirement program, or holds assets of the Fund for such retirement program in a separate account;

(B) a bank or similar institution which holds some or all of the assets of the Fund in a common or collective trust or a separate trust, or custodial account; or

(C) the Mayor (or the Police and Firemen's Retirement and Relief Board, established pursuant to section 122 of the Act of September 3, 1974, in carrying out the Mayor's responsibilities under the Policemen and Firemen's Retirement and Disability Act);

such carrier, organization, bank, or institution, or the Mayor, shall transmit and certify the accuracy of such information to the Board within one hundred and twenty days after the end of the fiscal year (or such other date as may be prescribed under regulations of the Board).

(3) (A) Except as provided in subparagraph (C), the Board shall engage an independent qualified public accountant who shall conduct such examination of any financial statements of the Fund, and of other books and records of the Fund or the retirement program, as the accountant may deem necessary to enable the accountant to form an opinion as to whether the financial statements and schedules required to be included in the annual report by subsection (b) of this section are presented fairly in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Such examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the books and records of the Fund and the retirement program as are considered necessary by the independent qualified public accountant. The independent qualified public accountant shall also offer his opinion as to whether the seperate schedules specified in subsection (b) (2) of this section and the summary material required under section 164(b) (2) present fairly, and in all material respects, the information contained therein when considered in conjunction with the financial statements taken as a whole. The opinion by the independent qualified public accountants shall be made a part of the annual report.

(B) In offering his opinion under this section, the accountant may rely on the correctness of any actuarial matter certified to by an actuary if he so states his reliance.

(C) The opinion required by subparagraph (A) need not be expressed as to any statements required by subsection (b) (2) (G) prepared by a bank or similar institution or insurance carrier regulated and supervised and subject to periodic examination by a State or Federal agency if such statements are certified by the bank, similar institution, or insurance carrier as accurate and are made a part of the annual report.

(4) (A) The Board shall engage an enrolled actuary who shall be responsible for the preparation of the materials comprising the actuarial statement required under subsection (d) of this section.

(B) The enrolled actuary shall utilize such assumptions and techniques as are necessary to enable him to form an opinion as to whether the contents of the matters reported under subsection (d) of this section—

(i) are in the aggregate reasonably related to the experience of the Fund and the retirement program and to reasonable expectations; and

(ii) represent his best estimate of anticipated experience under the Fund and the retirement program.

The opinion by the enrolled actuary shall be made with respect to, and shall be made a part of, each annual report.

(C) In making a certification under this section, the enrolled actuary may rely on the correctness of any accounting matter under subsection (b) as to which any qualified public accountant has expressed an opinion if he so states his reliance.

(b) (1) An annual report under this section shall include a financial statement containing a statement of assets and liabilities, and a statement of changes in net assets available for benefits under the retirement program, which shall include details of revenues and expenses and other changes aggregated by general source and application. In the notes to financial statements, disclosures concerning the following items shall be considered by the accountant: A description of the retirement program, including any significant changes in the retirement program made during the period and the impact of such changes on benefits; the funding policy (including the policy with respect to prior service cost), and any changes in such policy during the year; a description of any significant changes in benefits made during the period; a description of material lease commitments, other commitments, and contingent liabilities; a description of agreements and transactions with persons known to be parties in interest; and any other matters necessary to fully and fairly present the financial statements of the Fund.

(2) The statement required under paragraph (1) shall have attached the following information in separate schedules:

(A) A statement of the assets and liabilities of the Fund, aggregated by categories and valued at their current value, and the same data displayed in comparative form for the end of the previous fiscal year.

(B) A statement of recipts in and disbursements from the Fund during the preceding twelve-month period, aggregated by general source and application.

(C) A schedule of all assets held for investment purposes, aggregated and identified by issuer, borrower, or lessor, or similar party to the transaction (including a notation as to whether such party is known to be a party in interest), maturity date, rate of interest, collateral, par or maturity value, cost, and current value.

(D) A schedule of each transaction involving a person known to be a party in interest, the identity of such party in interest and his relationship or that of any other party in interest to the Fund, a description of each asset to which the transaction relates; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(E) A schedule of all loans or fixed income obligations which were in default as of the close of the fiscal year or were classified during the year as uncollectable and the following information with respect to each loan on such schedule (including a notation as to whether parties involved are known to be parties in interest): The original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and other material terms), the amount of principal and interest overdue (if any) and an explanation thereof.

(F) A list of all leases which were in default or were classified during the year as uncollectable and the following information with respect to each lease on such list (including a notation as to whether parties involved are known to be parties in interest): The type of property leased (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the property); the identity of the lessor or lessee from or to whom the Fund is leasing; the relationship of such lessors and lessees, if any, to the Fund, the government of the District of Columbia, any employee organization, or any other party in interest; the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; the date the leased property was purchased and its cost; the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, expenses paid for the leased property during the reporting period, the net receipts from the lease, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default.

(G) The most recent annual statement of assets and liabilities of any common or collective trust maintained by a bank or similar institution in which some or all the assets of the Fund are held, of any separate account maintained by an insurance carrier in which some or all of the assets of the Fund are held, and of any separate trust maintained by a bank as trustee in which some or all of the assets of the Fund are held, and in the case of a separate account or a separate trust, such other informaton as may be required by the Board in order to comply with this subsection.

(H) A schedule of each reportable transaction, the name of each party to the transaction (except that, in the case of an acquisition or sale of a security on the market, the report need not identify the person from whom the security was acquired or to whom it was sold) and a description of each asset to which the transaction applies; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(3) For purposes of subparagraph (H) of paragraph (2), the term "reportable transaction" means a transaction to which the Fund is a party and which is—

(A) a transaction involving an amount in excess of 3 percent of the current value of the assets of the Fund;

(B) any transaction (other than a transaction respecting a security) which is part of a series of transactions with or in conjunction with a person in a fiscal year, if the aggregate amount of such transactions exceeds 3 percent of the current value of the assets of the Fund;

(C) a transaction which is part of a series of transactions respecting one or more securities of the same issuer, if the aggregate amount of such transactions in the fiscal year exceeds 3 percent of the current value of the assets of the Fund; or

(D) a transaction with or in conjunction with a person respecting a security, if any other transaction with or in conjunction with such person in the fiscal year respecting a security is required to be reported by reason of subparagraph (A).

(c) The Board shall furnish as a part of an annual report under this section the following information:

(1) The number of individuals covered by the retirement program.

(2) The name and address of each member of the Board.

(3) Except in the case of a person whose compensation is minimal (as determined under regulations of the Council, which regulations the Council shall initially promulgate within ninety days after the date of the enactment of this Act) and who performs solely ministerial duties (as determined under such regulations), the name of each person (including any consultant, broker, trustee, accountant, insurance carrier, actuary, administrator, investment counsel, or custodian who rendered services to the Board or who had transactions with the Board) who directly or indirectly received compensation from the Board during the preceding year for services rendered to the Board or the participants or beneficiaries of the retirement program for which a Fund was established, the amount of such compensation, the nature of his services, his relationship, if any, to the District of Columbia government or any employee organization, and any other officer, position or employment he holds with any party in interest.

(4) An explanation of the reason for any change in appointment of any accountant, insurance carrier, enrolled actuary, or investment counsel appointed by the Board.

(5) Such other financial and actuarial information as the Council may by regulation prescribe.

(d) An annual report under this section for a fiscal year shall include a complete actuarial statement applicable to the fiscal year which shall include the following information:

(1) The date of the actuarial valuation applicable to the fiscal year for which the report is filed.

(2) The date and amount of the payments to the Fund for the fiscal year for which the report is filed and contributions for prior fiscal years not previously reported, including payments by the participants, the United States, and the District of Columbia.

(3) The following information applicable to the fiscal year for which the report is filed:

(A) The amounts determined under section 142(a)(1).

(B) The accrued liabilities.

(C) An identification of benefits not included in the calculation.

(D) A statement of the other facts and actuarial assumptions and methods used to determine costs.

(E) A justification for any change in actuarial assumptions or cost methods.

(4) The number of participants and beneficiaries covered by the retirement program.

(5) A certification of the amount of the payments to the Fund necessary to reduce the accumulated funding deficiency to zero.

(6) A statement by the enrolled actuary of any change in actuarial assumptions made with respect to the Fund during the year.

(7) A statement by the enrolled actuary of the estimated current value of vested benefits under the retirement program.

(8) A statement by the enrolled actuary that to the best of his knowledge the report is complete and accurate.

(9) A copy of the opinion required by subsection (a)(4).

(10) Such other information regarding the retirement program as the Council may by regulation require.

(11) Such other information as the enrolled actuary may determine is necessary to fully and fairly disclose the actuarial position of the Fund.

The actuary shall make an actuarial valuation of the Fund for every third fiscal year, unless he determines that a more frequent valuation is necessary to support his opinion under subsection (a)(4) of this section.

(e) A report under this section for a fiscal year shall include a statement prepared by the Board of—

(1) the relative riskiness of the investments during the fiscal year of the assets of the Fund;

(2) a comparison of the average return on the investments of the Fund during the year with the average return on the investments of other public pension funds during the year that have comparable asset valuation; and

(3) the average daily balance of, and the average rate earned by, assets of the Fund in each of any time or demand deposits during the year.

(f) If some or all of the benefits under the retirement program are purchased from and guaranteed by an insurance company, insurance service, or other similar organization, a report under this section shall include a statement from such insurance company, service, or other similar organization covering the fiscal year and enumerating—

(1) the premium rate or subscription charge and the total premium or subscription charges paid to each such carrier, insurance service, or other similar organization and the approximate number of persons covered by each class of such benefits; and

(2) the total amount of premiums received, the approximate number of persons covered by each class of benefits, and the total claims paid by such company, service, or other organization; dividends or retroactive rate adjustments, commissions, and administrative service or other fees or other specific acquisition costs paid by such company, service, or other organization; any amounts held to provide benefits after retirement; the remainder of such premiums; and the names and addresses of the brokers, agents, or other persons to whom commissions or fees were paid, the amount paid to each, and for what purpose.

If any such company, service, or other organization does not maintain separate experience records covering the specific groups it serves, the report shall include, in lieu of the information required by paragraph (2), a statement as to the basis of its premium rate or subscription charge, the total amount of premiums or subscription charges received from the Fund, and a copy of the financial report of the company, service, or other organization and, if such company, service, or organization incurs specific costs in connection with the acquisition or retention of any particular Fund or Funds, a detailed statement of such costs.

RETIREMENT PROGRAM SUMMARY DESCRIPTION

Sec. 163. (a)(1) A summary description of each retirement program to which this Act applies shall be furnished to participants and beneficiaries as provided in section 164 (b). The summary description shall include the information specified in subsection (b) of this section, shall be written in a manner calculated to be understood by the average participant or beneficiary, and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the retirement program.

(2) A summary of any material modification in the terms of the retirement program and any change in the information required under subsection (b), written in a manner calculated to be understood by the average participant or beneficiary, shall be furnished in accordance with section 164 (b)(1).

(b) Each summary description of a retirement program shall contain the following information: The name and type of administration of the retirement program; the name and address of the chairman of the Board, who shall be the agent of the Board for the service of legal process; the name, title, and address of each member of the Board; a description of the relevant provisions of applicable collective-bargaining agreements; the retirement program's requirements respecting eligibility for participation and benefits; a description of the provisions providing for nonforfeitable pension benefits; circumstances which may result in disqualification, ineligibilty, or denial or loss of benefits; the identity of any organization through which benefits are provided; the procedures to be followed in presenting claims for benefits under the retirement program; and the remedies available under the retirement program for the redress of claims that are denied in whole or in part.

FILING REPORTS AND FURNISHING INFORMATION TO PARTICIPANTS

Sec. 164. (a)(1) The Board shall file with the Mayor, the Council, the Speaker, and the President pro tempore—

(A) the annual reports for a fiscal year within two hundred and ten days after the end of such year;

(B) a copy of each summary description of a retirement program within one year after the date of the enactment of this Act; and

(C) a revised summary description of a retirement program, incorporating any material modification in the terms of the retirement program, within sixty days after such modification is adopted or occurs.

The Mayor shall make copies of such retirement program descriptions and annual reports available for public inspection in an appropriate location. The Board shall also furnish to the Mayor, the Council, the Speaker, and the President pro tempore, upon request, any documents relating to the retirement program or the Fund, including any bargaining agreement, trust agreement, contract, or other instrument under which the retirement program or Fund is operated.

(2)(A) The Mayor or the Council may reject any filing under this section within thirty days of such filing—

(i) upon determining that such filing is incomplete for purposes of this part; or

(ii) upon determining that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If the Mayor or the Council rejects a filing of a report under subparagraph (A), and if a revised filing satisfactory to the Mayor or the Council is not submitted within forty-five days after the determination under subparagraph (A) to reject the filing is made, and if the Mayor or the Council considers it in the best interest of the participants, then the Mayor or the Council may take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

(iii) Bring a civil action for such legal or equitable relief as may be appropriate to enforce the provisions of this title.

The Board shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund are necessary for such audit.

(3) (A) Either House of Congress may reject any filing under this section within thirty days of such filing by adopting a resolution stating that such House has determined—

(i) that such filing is incomplete for purposes of this part; or

(ii) that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a) (3) (A) or section 162(a) (4) (B).

(B) If either House of Congress rejects a report under subparagraph (A) and if either a revised filing is not submitted within forty-five days after adoption of the resolution under subparagraph (A) rejecting the initial filing or such revised filing is rejected by either House of Congress by adoption of a resolution within thirty days after submission of the revised filing, then either House of Congress may, if it deems it in the best interests of the participants, take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatver books and records of the Fund and the retirement program are necessary for performing such audit or preparing such statement.

(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal payment may be paid to the Fund until such time as an acceptable filing is made. For purposes of this subparagraph, a filing is unacceptable if, within thirty days of its submission, either House of Congress adopts a resolution disapproving such filing.

(b) Publication of the summary retirement program descriptions and annual reports shall be made to participants and beneficiaries as follows:

(1) The Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the summary retirement program description and all modifications and changes referred to in section 163(a) within ninety days after he becomes a participant or in the case of a beneficiary, within ninety days after he first receives benefits. The Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, every fifth year an updated summary retirement program description described in section 163 which integrates all retirement program amendments made within such five-year period, except that in a case where no amendments have been made to a retirement program during such five-year period this sentence shall not apply. Notwithstanding the foregoing sentence, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, the summary retirement program description described in section 163 every tenth year. If there is a modification or change described in section 163(a), a summary description of such modification or change shall be furnished to each participant and to each beneficiary who is receiving benefits under the retirement program not later than two hundred and ten days after the end of the fiscal year in which the change is adopted.

(2) The Board shall make copies of the latest annual report and of any bargaining agreement, trust agreement, contract, or other instruments under which the retirement program or the Fund is operated available for examination by any participant or beneficiary in the principal office of the Board and in such other places as may be necessary to make available all pertinent information to all participants (including such places as the Council may by regulation prescribe).

(3) Within two hundred and ten days after the close of the fiscal year, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the statements and schedules described in subparagraphs (A) and (B) of section 162(b) (2) for such fiscal year and such other material as is necessary to fairly summarize the latest annual report.

(4) The Board shall, upon written request of any participant or beneficiary, furnish a copy of the latest updated summary retirement program description, the latest annual report, and any bargaining agreement, trust agreement, contract, or other instruments under which the retirement program or Fund is operated. The Board may make a reasonable charge to cover the cost of furnishing such copies. The Council may by regulation prescribe the maximum amount that will constitute a reasonable charge under the preceding sentence.

(c) The Council may by regulation require that the Board furnish to each participant and to each beneficiary receiving benefits under a retirement program a statement of the rights of participants and beneficiaries under this title.

REPORTING OF PARTICIPANTS' BENEFIT RIGHTS

Sec. 165. (a) The Board shall furnish to any participant or beneficiary who so requests in writing, a statement indicating, on the basis of the latest available information—

(1) the total benefits accrued, and

(2) the nonforfeitable retirement benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable.

(b) A participant or beneficiary is not entitled to receive more than one report under subsection (a) during any twelve-month period.

PUBLIC INFORMATION

Sec. 166. (a) Except as provided in subsection (b), the contents of the descriptions, annual reports, statements, and other documents filed with the Mayor, the Council, the Speaker, and the President pro tempore pursuant to this part shall be public information, and the Mayor, the Council, the Speaker, and the President pro tempore shall each make such documents available for inspection in an appropriate location. The Mayor, the Council, the Speaker, and the President pro tempore may use the information and data in such documents for statistical and research purposes and may compile and publish such studies, analyses, reports, and surveys based thereon as may be considered appropriate.

(b) Information described in section 165 (a) with respect to a participant or beneficiary of a retirement program may be disclosed only to the extent that information respecting that participant's or beneficiary's benefits under title II of the Social Security Act may be disclosed under such Act.

(c) Except to the extent that information which is protected from public disclosure under subsection (b), or which relates to personnel matters the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, is involved, all meetings of the Board shall be open to the public.

RETENTION OF RECORDS

Sec. 167. The Board shall maintain records on the matters required to be disclosed by this title which will provide in sufficient detail the necessary basic information and data from which the required documents may be verified, explained, or clarified, and checked for accuracy and completeness, shall include vouchers, worksheets, receipts, and applicable resolutions in such records, and shall keep such records available for examination for a period of not less than six years after the filing date of the documents based on the information which they contain. Except to the extent that information is involved which is protected from public disclosure under section 166(b), all such records shall be available for inspection by the public.

ADDITIONAL INFORMATION

Sec. 168. (a) In addition to the information specifically required to be furnished by this part, the Board shall furnish promptly such additional information as the Mayor, the Council, the Speaker, or the President pro tempore may request.

(b) The Board shall, at regular intervals to be determined by the Board, compile and publish all regulations then in effect which were issued by the Board or the Council under this title.

CRIMINAL PENALTIES

Sec. 169. Whoever willfully violates any provision of this part (other than sections 165 and 168), or any regulation or order issued under any such provision, shall be fined not more than $5,000 or imprisoned not more than one year, or both, except that in the case of such a violation by a person not an individual, such person shall be fined not more than $100,000.

Part E—Fiduciary Responsibility; Civil Sanctions

FIDUCIARY RESPONSIBILITIES

Sec. 181. (a) (1) The Board and each member of the Board shall discharge responsibilities with respect to a Fund as a fiduciary with respect to such Fund. The Board may designate one or more other persons who exercise responsibilities with respect to a Fund to exercise such responsibilities as a fiduciary with respect to such Fund. The Board shall retain such fiduciary responsibility for the exercise of careful, skillful, prudent, and diligent oversight of any person so designated as would be exercised by a prudent individual acting in a like capacity and familiar with such matters under like circumstances.

(2) A fiduciary shall discharge his duties with respect to a Fund solely in the interest of the participants and beneficiaries and—

(A) for the exclusive purpose of providing benefits to participants and their beneficiaries;

(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying the investments of the Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(D) in accordance with the provisions of law, documents, and instruments governing the retirement program to the extent that such documents and instruments are consistent with the provisions of this title.

(b) In addition to any liability which he may have under any other provision of this part, a fiduciary with respect to a Fund shall be liable for a breach of fiduciary responsibility of another fiduciary with respect to the same Fund—

(1) if he knowingly participates in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is a breach of fiduciary responsibility;

(2) if, by his failure to comply with subsection (a)(2) in the administration of his specific responsibilities which give rise to his status as a fiduciary, he has enabled such other fiduciary to commit a breach of fiduciary responsibility; or

(3) if he has knowledge of a breach of fiduciary responsibility by such other fiduciary, unless he makes reasonable efforts under the circumstances to remedy the breach.

(c) Except as provided in subsection (f), a fiduciary with respect to a Fund shall not cause the Fund to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—

(1) sale or exchange, or leasing, of any property between the Fund and a party in interest;

(2) lending of money or other extension of credit between the Fund and a party in interest;

(3) furnishing of goods, services, or facilities between the Fund and a party in interest; or

(4) transfer to, or use by or for the benefit of, a party in interest, of any assets of the Fund.

(d) A fiduciary with respect to a Fund shall not—

(1) deal with the assets of the Fund in his own interest or for his own account;

(2) in his individual or in any other capacity act in any transaction involving the Fund on behalf of a party (or represent a party) whose interests are adverse to the interests of the Fund or the interests of its participants or beneficiaries; or

(3) receive any consideration for his own personal account from any party dealing with such Fund in connection with a transaction involving the assets of the Fund.

(e) A transfer of real or personal property by a party in interest to a Fund shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the Fund assumes or if it is subject to a mortgage or similar lien which a party in interest placed on the property within the ten-year period ending on the date of the transfer.

(f) The prohibitions provided in subsection (c) shall not apply to any of the following transactions:

(1) Contracting or making reasonable arrangements with a party in interest for office space, or legal, accounting, or other services necessary for the establishment or operation of the Fund, if no more than reasonable compensation is paid therefor.

(2) The investment of all or part of a Fund's assets in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a State, if such bank or other institution is a fiduciary of such Fund and if such investment is expressly authorized by regulations of the Board or by a fiduciary (other than such bank or institution or affiliate thereof) who is expressly empowered by the Board to make such investment.

(3) The providing of any ancillary service by a bank or similar financial institution supervised by the United States or a State if such bank or other institution is a fiduciary of such Fund and if—

(A) such bank or similar financial institution has adopted adequate internal safeguards which assure that the providing of such ancillary service is consistent with sound banking and financial practice, as determined by Federal or State supervisory authority, and

(B) the extent to which such ancillary service is provided is subject to specific guidelines issued by such bank or similar financial institution (as determined by the Major after consultation with Federal and State supervisory authority), and adherence to such guidelines would reasonably preclude such bank or similar financial institution from providing such ancillary service (i) in an excessive or unreasonable manner, and (ii) in a manner that would be inconsistent with the best interests of participants and beneficaries of the retirement program

Such ancillary services shall not be provided at more than reasonable compensation.

(4) The exercise of a privilege to convert securities, to the extent provided in regulations of the Council, but only if the Fund receives no less than adequate consideration pursuant to such conversion.

(5) Any transaction between a Fund and a common or collective trust fund or pooled investment fund maintained by a party in interest which is a bank or trust company supervised by a State or Federal agency, or a pooled investment fund of an insurance company qualified to do business in a State, if—

(A) the transaction is a sale or purchase of an interest in the Fund;

(B) the bank, trust company, or insurance company receives not more than reasonable compensation; and

(C) such transaction is expressly permitted by the Board, or by a fiduciary (other than the bank, trust company, insurance company, or an affiliate thereof) who has authority to manage and control the assets of the Fund.

(g) Nothing in subsection (c) shall be construed to prohibit any fiduciary from—

(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the retirement program, so long as the benefit is computed and paid on a basis which is consistent with the terms of the retirement program as applied to all other participants and beneficiaries;

(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with respect to the Fund; or

(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

LIABILITY FOR BREACH OF FIDUCIARY DUTY

SEC. 182. (a) Any person who is a fiduciary with respect to a Fund who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to such Fund any losses to the Fund resulting from each such breach and to restore to such Fund any profits of such fiduciary which have been made through the use of assets of the Fund by the fiduciary and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary.

(b) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he became a fiduciary or after he ceased to be a fiduciary.

EXCULPATORY PROVISIONS; INSURANCE

SEC. 183. (a) Any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this part shall be void as against public policy.

(b) Nothing in this subpart shall preclude—

(1) the Board from purchasing insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if such insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary;

(2) a fiduciary from purchasing insurance to cover liability under this part from and for his own account; or

(3) an employee organization from purchasing insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with regard to the Fund from which the annuities and other retirement and disability benefits of the members of such employee organization are paid.

PROHIBITION AGAINST CERTAIN PERSONS HOLDING CERTAIN POSITIONS

SEC. 184. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, fraud, grand larcency, burglary, arson, a felony violation of Federal or State law involving substances defined in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, murder, rape, kidnapping, perjury, assault with intent to kill, any crime described in section 9(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(a)(1)), a violation of any provision of this Act, a violation of section 302 of the Labor-Management Relations Act, 1947 (29 U.S.C. 186), a violation of chapter 63 of title 18, United States Code, a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code, a violation of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401), or conspiracy to commit any such crime or attempt to commit any such crime, or a crime in which any of the foregoing crimes is an element shall serve or be permitted to serve—

(1) as a fiduciary, investment counsel, agent, or employee of any Fund established by this title; or

(2) as a consultant to any Fund established by this title;

during or for five years after such conviction or after the end of such imprisonment, whichever is the later, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in paragraph (1) or (2) would not be contrary to the purposes of this title. Prior to making any such determination the Board of Parole shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board of Parole's determination in any such proceeding shall be final. No person shall knowingly permit any other person to serve in any capacity referred to in paragraph (1) and (2) in violation of this subsection. Notwithstanding the preceding provisions of this subsection, corporation or partership will be precluded from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee of any Fund established by this title, or as a consultant to any Fund established by this title, or as a consultant to any Fund established by this title, without a notice, hearing, and determination by such Board of Parole that such service would be inconsistent with the intention of this section.

(b) Whoever willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) For the purposes of this section:

(1) A person shall be deemed to have been "convicted" and to be under the disability of "conviction" from the date of entry of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event.

(2) The term "consultant" means any person who, for compensation, advises or represents a Fund or who provides other assistance to such Fund concerning the operation of such Fund.

(3) A period of parole shall not be considered as part of a period of imprisonment.

BONDING

SEC. 185. (a) (1) Each fiduciary of a Fund established by this title and each person who handles funds or other property of such a Fund (hereinafter in this section referred to as "Fund official") shall be bonded as provided in this section, except that no bond shall be required of a fiduciary (or of any director, officer, or employee of such fiduciary) if such fiduciary—

(A) is a corporation organized and doing business under the laws of the United States or of any State;

(B) is authorized under such laws to exercise trust powers or to conduct an insurance business;

(C) is subject to supervision or examination by Federal or State authority; and

(D) has at all times a combined capital and surplus in excess of such a minimum amount as may be established by regulations issued by the Council, which amount shall be at least $1,000,000.

Subparagraph (D) shall apply to a bank or other financial institution which is authorized to exercise trust powers and the deposits of which are not insured by the Federal Deposit Insurance Corporation only if such bank or institution meets bonding or similar requirements under State law which the Council determines are at least equivalent to those imposed on banks by Federal law.

(2) (A) The amount of such bond shall be the lesser of 10 percent of the amount of the funds handled by such fiduciary and $500,000, except that the amount of such bond shall be at least $1,000.

(B) The Mayor, after notice and opportunity for hearing to such fiduciary and all other parties in interest to such Fund, may waive the $500,000 limit.

(C) The amount of such bond shall be set at the beginning of each fiscal year.

(3) For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by the predecessor or predecessors, if any, during the preceding reporting year, or if the Fund has no preceding reporting year under this title, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations to be prescribed by the Council.

(4) Such bond shall provide protection to the Fund against loss by reason of acts of fraud or dishonesty on the part of the Fund official, directly or through connivance with others.

(5) Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to sections 6 through 13 of title 6, United States Code. Any bond shall be in a form or of a type approved by the Council, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

(b) It shall be unlawful for any Fund official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any Fund without being bonded as required by subsection (a), and it shall be unlawful for any Fund official or any other person having authority to direct the performance of such functions to permit such functions, or any of them, to be performed by any Fund official with respect to whom the requirements of subsection (a) have not been met.

(c) It shall be unlawful for any person to procure any bond required by subsection (a) from any surety or other company or through any agent or broker in whose business operations the Fund or any party in interest in the Fund has any control or significant financial interest, direct or indirect.

(d) Nothing in any other provision of law shall require any person required to be bonded as provided in subsection (a) because he handles funds or other property of a Fund to be bonded insofar as the handling by such person of the funds or other property of such Fund is concerned.

(e) The Council shall prescribe such regulations as may be necessary to carry out the provisions of this section.

LIMITATION ON ACTIONS

SEC. 186. (a) No action may be commenced under this title with respect to a fiduciary's breach of any responsibility, duty, or obligation under this part, or with respect to a violation of this part, after the earlier of—

(1) six years after (A) the date of the last action which constituted a part of the breach or violation, or (B) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

(2) three years after the earliest date (A) on which the plaintiff had actual knowledge of the breach or violation, or (B) on which a report from which he could reasonably be expected to have obtained knowledge of such breach or violation was filed with the Mayor, the Council, the Speaker, or the President pro tempore under this title;

except that in the case of fraud or concealment, such an action may be commenced not later than six years after the date of discovery of such breach or violation.

CIVIL ENFORCEMENT

SEC. 187. (a) A civil action may be brought—

(1) by a participant or beneficiary—

(A) for the relief provided for in subsection (b) of this section, or

(B) to recover benefits due to him under the terms of his retirement program, to enforce his rights under the terms of the retirement program, or to clarify his rights to future benefits under the terms of the retirement program;

(2) by a participant or beneficiary or the District of Columbia for appropriate relief under section 182; or

(3) by a participant or beneficiary or the District of Columbia (A) to enjoin any act or practice which violates any provision of this title or the terms of a retirement program, or (B) to obtain other appropriate equitable relief (i) to redress any such violation, or (ii) to enforce any provision of this title or the terms of a retirement program.

(b) If the Board fails or refuses to comply with a request for any information which the Board is required by this title to furnish to a participant or beneficiary (unless such failure or refusal results from matters reasonably beyond the control of the Board) by mailing the information requested to the last known address of the requesting participant or beneficiary within thirty days after such request, then the Board may, in the court's discretion, be liable to such participant or beneficiary in an amount of up to $100 a day from the date of such failure or refusal, and the court may order the Board to provide the required information and may in its discretion order such other relief as it considers proper.

(c) The Board may sue and be sued under this title as an entity. Service of summons, subpena, or other legal process of a court upon the chairman of the Board in his capacity as such shall constitute service upon the Board.

(d) In any action under this title by a participant, beneficiary, or fiduciary, the court in its discretion may allow a reasonable attorney's fee and costs of action to either party.

CLAIMS PROCEDURE

SEC. 188. In accordance with regulations of the Council, the Mayor shall provide to any participant or beneficiary who has a claim for benefits under a retirement program denied—

(1) adequate written notice of such denial, setting forth the specific reasons for such denial in a manner calculated to be understood by such participant or beneficiary; and

(2) a reasonable opportunity for a full and fair review of the decision denying such claim.

TITLE II—CHANGES IN RETIREMENT BENEFITS

PART A—POLICE OFFICERS AND FIRE FIGHTERS' RETIREMENT BENEFITS

SALARY BASE PERIOD FOR COMPUTATION OF ANNUITY

SEC. 201. Paragraph (17) of subsection (a) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–521(17)) is amended—

(1) by striking out "twelve consecutive months of police or fire service," and inserting in lieu thereof "thirty-six consecutive months of police or fire service in the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, or over any twelve consecutive months of police or fire service in the case of any other member,"; and

(2) by inserting "or thirty-six consecutive months, as the case may be," immediately after "twelve consecutive months" the second place it appears.

CREDITABLE SERVICE FOR FULL-TIME OFFICIALS OF EMPLOYEE ORGANIZATIONS

SEC. 202. (a) Subsection (c) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–523) is amended by redesignating paragraphs (6) and (7) of such subsection as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) (A) Any period of time during which a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia is on approved leave without pay to serve as a full-time officer or employee of a labor organization shall be considered to be police or fire service for purposes of this section if such member files an election in accordance with subparagraph (B) and makes payments as described in subparagraph (C). The basic salary in effect at any time for the grade in which a member was serving at the time he entered on approved leave described in the preceding sentence shall be considered to be the basic salary in effect for such member for purposes of this section if the period of time when such member is on approved leave is considered to be police or fire service under this paragraph.

"(B) To be eligible to have any period of approved leave described in subparagraph (A) considered to be police or fire service for purposes of this section, a member described in such subparagraph must, not later than the end of the sixty-day period commencing on the day such member enters on such approved leave or the effective date of this paragraph, whichever occurs later, file an election with the Mayor to have such period of approved leave considered to be police or fire service for purposes of this section.

"(C) (i) To have any period of approved leave described in subparagraph (A) occurring after the effective date of this section considered to be police or fire service, a member described in such subparagraph must each month deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act a sum equal to one-twelfth the annual new-entrant normal cost of the annuity of a member receiving the basic salary in effect during such month for the grade in which such member was serving at the time such member entered on such leave.

"(ii) To have any period of approved leave described in subparagraph (A) which occurred before the effective date of this section considered to be police or fire service, a member described in such subparagraph must deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122 (a) of such Act, in a manner to be determined by the Mayor, a sum equal to the new-entrant normal cost of the annuity of a member receiving the basic salary in effect during the period of such leave for the grade in which such member was serving at the time such member entered on such leave.

"(iii) The Mayor shall make an annual determination of the new-entrant normal cost for purposes of clauses (i) and (ii) according to information supplied by the actuary retained pursuant to section 142 of the District of Columbia Retirement Reform Act.

"(D) For purposes of this paragraph, the term 'employee organization' means any organization of any kind, or any agency or employer representation committee or plan, in which members or officers of the Metropolitan Police force or the Fire Department of the District of Columbia participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

REQUIREMENTS FOR OPTIONAL RETIREMENT

SEC. 203. (a) Subsection (h)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–528(1)) is amended—

(1) by striking out "who completes twenty years of police or fire service" and inserting in lieu thereof "who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and who completes twenty-five years of police or fire service and attains the age of fifty years and any other member (other than a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first becomes such a member after the end of such ninety-day period) who completes twenty years of police or fire service."; and

(2) by striking out "twenty years; *Provided*" and inserting in lieu thereof "(A) twenty-five years, in the case of a member who becomes a member after the end of such ninety-day period, or (B) twenty years, in the case of any other member: *Provided*".

(b)(1) Paragraph (2) of subsection (h) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–528) is amended by striking out "in subsection (h)" and inserting in lieu thereof "under".

(2) Paragraph (3) of such subsection is amended by striking out "of this subsection (h)"

DISABILITY RETIREMENT

SEC. 204. (a) Subsection (g) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–527) is amended—

(1) in paragraph (2), by striking out "In any case in which the proximate cause of an injury incurred or disease contracted by a member" and inserting in lieu thereof "In any case involving a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, in which the proximate cause of an injury incurred or disease contracted by the member"; and

(2) by adding at the end thereof the following new paragraph:

"(4) A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia may not retire and receive an annuity under this subsection on the basis of the aggravation in the performance of duty of an injury incurred or a disease contracted in the performance of duty unless—

"(A) in the case of the aggravation of a disease, the disease was reported to the Board of Police and Fire Surgeons within thirty days after the disease was first diagnosed; or

"(B) in the case of the aggravation of an injury, the injury was reported to the Board of Police and Fire Surgeons within seven days after the injury was incurred or, if the member was unable (as determined by such Board) as a result of the injury to report the injury within such seven-day period, within seven days after the member became able (as determined by such Board) to report the injury.

The burden of establishing inability to report an injury in accordance with subparagraph (B) within seven days after such injury was incurred and of establishing that such injury was reported within seven days after the end of such inability shall be on the member claiming such inability. Any report under this paragraph shall include adequate medical documentation. Nothing in this paragraph shall be deemed to alter or affect any administrative regulation or requirement of the Metropolitan Police force or the Fire Department of the District of Columbia with respect to the reporting of an injury incurred or aggravated, or any disease contracted or aggravated, in the performance of duty.".

(b)(1) Subsection (f) of such Act (D.C. Code, sec. 4–526) is amended—

(A) by striking out "Whenever" and inserting in lieu thereof "(1) Except as provided in paragraph (2), whenever"; and

(B) by adding at the end thereof the following new paragraph.

"(2) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act completes five years of police or fire service and is found by the Mayor to have become disabled due to injury received or disease contracted other than in the performance of duty, which disability precludes further service with his department, such member shall be retired on an annuity which shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with subsection (g)(5)(B)(ii) of this section, except that such annuity shall not be less than 30 per centum of his basic salary at the time of retirement.".

(2) Subsection (g) of such Act, as amended by subsection (a) of this section, is further amended—

(A) in paragraph (1), by striking out "Whenever" and inserting in lieu thereof "Except as provided in paragraph (5), whenever"; and

(B) by adding at the end thereof the following new paragraph:

"(5)(A) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty at any time after appointment and such injury or disease or aggravation permanently disables him for the performance of duty, he shall upon retirement for such disability, receive an annuity computed in accordance with subparagraph (B).

"(B)(i) In the case of any member who retires under this paragraph or paragraph (2) of subsection (f), the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with regulations which the Mayor shall promulgate, the percentage of impairment for such member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board.

"(ii) In the case of any member described in clause (i), the Police and Firemen's Retirement and Relief Board shall determine within a reasonable time the percentage of disability for such member giving due regard to—

"(I) the nature of the injury or disease,

"(II) the percentage of impairment reported pursuant to clause (i),

"(III) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the member immediately prior to his retirement,

"(IV) the age and years of service of the member, and

"(V) any other factors or circumstances which may affect the capacity of the member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

"(iii) The percentage of impairment or the percentage of disability for a member to whom this paragraph applies may be redetermined at any time prior to the time such member reaches the age of fifty and his annuity shall be adjusted accordingly.

"(iv) The annuity of a member who is retired under this paragraph shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with clause (ii), except that such annuity shall not be less than 40 per centum of his basic salary at the time of retirement.

"(v) For purposes of this paragraph—

"(I) the term 'impairment' means any anatomic or functional abnormality or loss existing after maximal medical rehabilitation has been achieved; and

"(II) the term 'disability' means any actual or presumed reduction in or absence of ability to engage in gainful activity which is caused, in whole or in part, by an impairment."

(c) The amendment made by paragraph

(1) of subsection (a) shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who apply for disability retirement under subsection (g) of the Policemen and Firemen's Retirement and Disability Act prior to the end of the ninety-day period beginning on the date of the enactment of this Act. The amendment made by paragraph (2) of subsection (a) shall not apply with respect to injuries incurred or diseases first diagnosed prior to the end of such ninety-day period.

RECOVERY FROM DISABILITY

SEC. 205. (a)(1) Subsection (j)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4—530(1)) is amended in the first sentence by striking out "shall cease" and all that follows in such sentence and inserting in lieu thereof "shall cease—

"(A) upon reemployment in the department from which he was retired,

"(B) on the date of the medical examination showing such recovery,

"(C) forty-five days from the date of the determination that he is so restored, or

"(D) in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, upon a refusal by such annuitant to accept an offer of reemployment in the department from which he was retired at the same grade or rank as he held at the time of his retirement,
whichever is earliest.".

(2)(A) Such subsection (j)(1) is amended in the second sentence by striking out "in each of two succeeding calendar years" and inserting in lieu thereof ", in each of two succeeding calendar years in the case of an annuitant who was an officer or member of the United States Park Police force, Executive Protection Service, or the United States Secret Service Division, or in any calendar year in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,".

"(B) Subsection (j) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3)(A) If any annuitant who is retired under subsection (f) or (g), who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, and who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, receives, directly or indirectly, income from wages or self-employment, or both, in any calendar year after the calendar year in which he retired—

"(i) in an amount in excess of the difference between 70 per centum of the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be reduced by 50 cents for each $1 of such income received during such year in excess of such difference; and

"((ii) in an amount in excess of the difference between the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be further reduced by 20 cents for each $1 of such income received during such year in excess of such difference.

"(B) For the purposes of subparagraph (A), the term 'current earnings limitation', with respect to an annuitant, means the greater of—

"(i) the current annual salary for the position which such annuitant held immediately prior to the retirement of such annuitant; or

"(ii) the current entry level salary for active officers and members, divided by .7.

"(C) The reductions provided for in subparagraph (A) shall be made as follows:

"(i) Such reductions shall be pro rated over a period of twelve consecutive months, with equal amounts withheld from each payment of annuity during such twelve-month period.

"(ii) The twelve month period during which such reduction is made shall begin as soon after the end of the calendar year involved as is administratively practicable (as determined in accordance with regulations which the Mayor of the District of Columbia shall promulgate).

"(D) If the Mayor of the District of Columbia determines that the level of income of an annuitant whose annuity would otherwise be reduced in accordance with subparagraph (A) has decreased significantly (other than in accordance with normal income fluctuations for such annuitant) during the period in which such reduction would occur, the Mayor may authorize the withholding during such period, or any portion thereof, of such lesser amount than the amount prescribed in such subparagraph as the Mayor considers appropriate or the Mayor may waive the requirements of subparagraph (A) if he finds that circumstances justify such waiver.

"(E)(i) Any annuitant who is retired under subsection (f) or (g) and who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall, at such times as the Mayor of the District of Columbia shall by regulation prescribe, submit to the Major a notarized statement containing such information as the Mayor shall by regulation require with respect to the income received by such annuitant from wages or self-employment, or both. After examining such statement, the Mayor may require such annuitant to submit to the Mayor a further notarized statement containing such additional information with respect to the income received by such annuitant from wages or self-appointment, or both, as the Mayor deems appropriate.

"(ii) Any annuitant described in clause (i) who willfully furnishes materially false information with respect to his income in any statement required to be submitted under such clause shall forfeit all rights to his disability annuity. Any such annuitant who refuses or otherwise willfully fails to timely submit such statement as required by this subsection, payment of the annuity to such annuitant shall cease and such annuitant shall not be eligible to receive such annuity or part thereof for the period beginning on the date after the final day for timely filing of such statement and ending on the date on which the Mayor receives such statement. Nothing in this clause shall affect any rights to a survivor's annuity under subsection (k) based upon the service of such annuitant.".

(b) Subsection (m)(2) of such Act (D.C. Code, sec. 4–533(2)) is amended—

(1) by inserting "(A)" before "If a member";

(2) by striking out the last sentence of such subsection and adding after "is based." the following: "The Commissioner shall not require employment questionnaires under subsection (j)(3)(C) or the medical examination of such member under subparagraph (B) after such member reaches the age of fifty."; and

(3) by adding at the end of such subsection the following:

"(B) The Mayor shall, by regulation, require any annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who retired before, on, or after the date of the enactment of the District of Columbia Retirement Reform Act under subsection (f) or (g) of this section to undergo, during each twelve-month period following the effective date of this subparagraph, at least one medical examination of the disability upon which the annuitant's retirement under subsection (f) or (g) is based. No such annuitant shall be required under such regulations to undergo a medical examination during any such twelve-month period during which the annuitant was required to undergo a medical examination under this subsection in connection with such annuitant's employment. Such annual examination shall be carried out by the Board of Police and Fire Surgeons or by a physician designated by the Board.

"(C) Such regulations shall further provide for notification by the Board of Police and Fire Surgeons to each such annuitant as to the time and place for such examination and the consequences of failure to appear and submit to such examination.

"(D) In any case in which the requirement to undergo a medical examination under this section would impose on an annuitant an undue hardship because of the physical or mental condition of such annuitant, the Mayor, by regulation, shall provide other means sufficient to determine the continuance of the disability on which such annuitant's retirement under subsection (f) or (g) is based.

"(E) Such regulations shall further provide that, in any case involving any such member so retired who refuses or otherwise fails to undergo any medical exam required by this section, payment of the annuity to such member shall cease and such member shall not be eligible to receive such annuity or any part thereof for any period commencing on the day next following the day on which such member was required to undergo such examination, and ending on the date on which such member undergoes such examination. Nothing in this paragraph shall be construed as affecting any rights to a survivor's annuity under subsection (k) based upon the service of such member.".

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act. The amendment made by paragraph (2)(B) of subsection (a) shall apply with respect to income from wages or self-employment, or both, received directly or indirectly during calendar year 1979 or the calendar year after the year in which the member retires, whichever is later, and any calendar year thereafter.

SURVIVORS' ANNUITIES

SEC. 206. (a)(1) Subsection (k) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531) is amended—

(A) in paragraph (2)—

(i) by inserting "(A)" immediately after "40 per centum" the second place it appears, and

(ii) by striking out "computed," and inserting in lieu thereof "computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or (B) of the adjusted average pay of such former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia;"; and

(B) by amending paragraph (3) to read as follows:

"(3) Each surviving child or student-child of any member who dies before retirement, or of any former member who dies after retirement, shall be entitled to receive an annuity equal to the smallest of—

"(A) in the case of a member or former member who is survived by a wife or husband—

"(i) 60 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,548; or

"(iii) $4,644 divided by the number of eligible children; and

"(B) in the case of a member or former member who is not survived by a wife or husband—

"(i) 75 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,860; or

"(iii) $5,580 divided by the number of eligible children.".

(2) Subsection (a) of such Act (D.C. Code, sec. 4–521) is amended—

(A) by striking out the period at the end of paragraph (4) of such subsection and inserting in lieu thereof the following: ", in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the surviving husband of a member or former member who was a member or officer of the Metropolitan Police force or the Fire Department of the District of Columbia if—

"(A) he was married to such member or former member (i) while she was a member, or (ii) for at least one year immediately preceding her death, or

"(B) he is the father of issue by such marriage."; and

(B) by inserting the following new paragraph immediately after paragraph (17):

"(18) The term 'adjusted average pay' means the average pay of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia increased by the per centum increase (adjusted to the nearest one-tenth of 1 per centum in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, between the month in which such member retires and the month immediately prior to the month in which such member dies.".

(b) The amendments made by subsection (a) shall apply with respect to survivor annuities under the Policemen and Firemen's Retirement and Disability Act for survivors of officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia which commence on or after the first day of the first month which begins after end of the ninety-day period beginning on the date of enactment of this Act.

DEFERRED ANNUITIES

SEC. 207. (a)(1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (l) through (r) as subsections (m) through (s), respectively; and

(B) by inserting immediately after subsection (k) the following new subsection:

"DEFERRED ANNUITIES

"(l)(1) Except as provided in paragraph (2), any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department, except for retirement under subsection (f), (g), or (h), shall be entitled to an annuity commencing on the first day of the month during which such member attains the age of fifty-five or on the first day of the first month beginning after such member's separation from his department, whichever month occurs later. Such annuity shall be computed at the rate of 2½ per centum of his average pay for each year of service up to twenty years of service and at the rate of 3 per centum of his average pay for each year of service after twenty years of service, or, in the case of a member who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, after twenty-five years of service, except that such annuity may not exceed 80 per centum of the average pay of such member.

"(2)(A) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completed five years of police or fire service and who is thereafter separated from his department (other than a member who retires under subsection (f), (g), or (h)) may elect, at the time of his separation, to receive a refund of the amount of deductions made from his salary under this section. Receipt of such refund by the member shall void all annuity rights under this section.

"(B)(i) Any member who, by electing to receive a refund under subparagraph (A), loses annuity rights under this section, may reestablish all such rights at any time prior to attaining the age of fifty-five by redepositing the amount of such refund plus interest computed in accordance with paragraph (3).

"(ii) If any member who receives a refund under subparagraph (A) is subsequently reappointed to any department whose members come under this section and elects, at the time of such reappointment, to redeposit the amount refunded to him under subparagraph (A) plus interest computed in accordance with paragraph (3), then credit shall be allowed under this section for such member's prior period of service. Such redeposit (and the required interest thereon) may, at the election of the member, be made in a lump sum or in not to exceed 60 monthly installments, except that if the member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.

"(3) The interest which is required by paragraphs (2)(B)(i) and (ii) of this subsection and by paragraph (2)(B) of subsection (d) to be paid by a member who redeposits the amount of previously refunded deductions shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund if he makes a lump sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on redeposits under this section.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund.

"(C) If a member elects to make his redeposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

(2) Subsection (k) of such Act (D.C. Code, 4–531), as amended by section 206 of this Act, is further amended—

(A) in paragraph (2)—

(i) by striking out "or" in the first place it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,";

(B) in paragraph (3)—

(i) by striking out "or" the second place it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,"; and

(C) in paragraph (6)—

(i) by striking out ", may," in the first sentence and inserting in lieu thereof "may",

(ii) by inserting ", and any member entitled to receive an annuity under subsection (l) of this section may at the time such annuity commences," immediately after "such retirement," in the first sentence,

(iii) by striking out "the retired annuitant" in the first sentence and inserting in lieu thereof "such member's",

(iv) by striking out "the retiring" in the proviso in the first sentence and inserting in lieu thereof "such",

(v) by striking out "retiring" in the second and fourth sentences,

(vi) by striking out "retirement" in the last sentence and inserting in lieu thereof "election", and

(vii) by striking out "or (h)" in the last sentence and inserting in lieu thereof "(h), or (l), as the case may be".

(b) The amendments made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST OF REFUNDS AND ON DEPOSITS FOR PRIOR SERVICE CREDIT

SEC. 208. (a)(1) Subsection (d) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–524) is amended—

(A) in paragraph (2)—

(i) by striking out "Any member coming under the provisions of this section" and inserting in lieu thereof "(A) any member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division,"; and

(ii) by adding at the end of such paragraph the following new subparagraph,

"(B) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia with less than five years of police or fire service who is separated from his department, except for retirement under subsection (f), (g), or (h), shall be refunded the amount of the deductions made from his salary under this section. The receipt of payment of such deductions by such member shall void all annuity rights under this section, except that if such member is subsequently reappointed to any department whose members come under this section and such member elects, at the time of such reappointment, to redeposit the amount refunded to him pursuant to the preceding sentence plus interest computed in accordance with subsection (1) (3), then credit shall be allowed under this section for the prior period of service. Such redeposit (and the interest required thereon) may be made, at the election of the member, in a lump sum or in not to exceed 60 monthly installments, except that if such member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.";

(B) in the proviso at the end of paragraph (3), by inserting immediately before the period ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto"; and

(C) in paragraph (4)—

(i) by striking out "after retirement", and

(ii) in the proviso at the end of such paragraph by inserting ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto" immediately before the period.

(2) Paragraph (5) of subsection (c) of such Act (D.C. Code, sec. 4–523(5) is amended to read as follows:

"(5) (A) A member shall be allowed credit for government service performed prior to appointment in any of the departments mentioned in subsection (a) (1) of this section, if such member deposits a sum equal to the entire amount, including interest (if any), refunded to him for such period of government service. A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall deposit such sum, plus interest computed in accordance with subparagraph (B), with the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act. All other members shall deposit such sums with the Mayor of the District of Columbia for credit to the revenues of the District of Columbia. If the member so elects, he may deposit the total amount of such refund in monthly installments not exceeding twenty-four, except that in the case of a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, such monthly installments shall be of equal amounts. No deposit shall be required for days of unused sick leave credited under subsection (h) of this section.

"(B) Interest required on deposits under this paragraph for members who are officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be computed as follows:

"(i) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits under this paragraph.

"(ii) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(iii) If a member elects to make his deposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

The amendments made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act. The amendments made by paragraph (2) of subsection (a) shall not apply with respect to deposits made, in whole or in part, prior to the end of such ninety-day period.

COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

SEC. 209. (a) (1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (m) through (s), as redesignated by section 207(a) (1) (A) of this Act, as subsections (n) through (t), respectively; and

(B) by inserting immediately after subsection (l), as added by the amendment made by section 207(a) (1) (B) of this Act, the following new subsection:

"COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

"(m) (1) Each month the Mayor of the District of Columbia shall determine the per centum change in the price index. On the basis of this determination, and effective the first day of the third month which begins after the price index shall have equaled the rise of at least 3 percentum for three consecutive months over the price index for the base month each annuity payable under this section which—

"(A) is payable to a survivor of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, and

"(B) has a commencing date on or before such effective date,

shall be increased by 1 per centum plus the per centum rise in the price index. For purposes of this paragraph, the term 'base month' means the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under this paragraph, except that, until the first cost-of-living annuity increase under this paragraph, the base month shall be the last month which was the base month for purposes of subsection (k) (7) before its repeal by section 209(b) of the District of Columbia Retirement Reform Act.

"(2) With respect to any annuity payable under this section which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, or to a survivor of any such member, the Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(3) If in any year the per centum change determined under either paragraph (2) (A) of (2) (B) indicated a rise in the price index, then—

"(A) in the case of an increase under paragraph (2) (A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum, or

"(B) in the case of an increase under paragraph (2) (B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.

"(4) The monthly installment of annuity after adjustment under this subsection shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least $1.

"(5) For purposes of this subsection, the term 'price index' means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics.".

(2) Subsections (m) (2) and (3) of the Policemen and Firemen's Retirement and Disability Act, as added by the amendment made by paragraph (1) (B) of this subsection, shall apply (A) to any increase after the effective date of such amendment in annuities payable under subsection (k) of such Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change for the purpose of such an increase such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month which was the base month for purposes of subsection (k) (7) of the Policemen and Firemen's Retirement and Disability Act before the repeal of such subsection by sub-

section (b) of this section, and (B) to any increase in each annuity payable under such Act having a commencing date after the effective date of such amendment.

(b) Subsection (k)(7) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531(7)) is repealed.

(c) Section 301 of the District of Columbia Police and Firemen's Salary Act of 1953 (D.C. Code, sec. 4–518) is amended by adding at the end thereof the following new subsection:

"(e) This section shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who retire after the effective date of this subsection.".

(d) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

AUTHORITY TO WAIVE COLLECTION OF OVERPAYMENTS

SEC. 210. Subsection (o) of the Policemen and Firemen's Retirement and Disability Act, as amended by section 205(b) of this Act and redesignated by section 209(a)(1)(A) of this Act (D.C. Code, sec. 4–533), is amended by adding at the end thereof the following new paragraph:

"(3) Except in a case of fraud against the District of Columbia, the Mayor may waive collection of any amount less than $100 which was paid to an annuitant in excess of the amount to which such annuitant was entitled under this section.".

COMMENCING DATE OF PAYMENT OF ANNUITIES

SEC. 211. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a)(1)(A) of this Act (D.C. Code, sec. 4–534), is amended by inserting after "accrues monthly" in paragraph (1) the following: "(except that an annuity accrues over any portion of a month after the commencing date of such annuity but before the first day of the next month and is payable for such month in an amount pro rated in a manner to be determined by the Mayor)".

PAYMENT OF ANNUITIES TO MINORS AND MENTAL INCOMPETENTS

SEC. 212. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a)(1)(A) of this Act and amended by section 211 of this Act (D.C. Code, sec. 4–534), is amended by redesignating paragraphs (2) and (3) of such subsection as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Mayor, is responsible for the care of the claimant, and the payment bars recovery by any other person.".

IMPROVEMENTS IN ADMINISTRATION OF DISABILITY RETIREMENTS

SEC. 213. Subsection (g) of the Policemen and Firemen's Retirement and Disability Act (as amended by section 204 of this Act) is further amended by adding at the end thereof the following new paragraphs:

"(6) Not later than ninety days after the date of the enactment of the District of Columbia Retirement Reform Act, the Board of Police and Fire Surgeons shall submit to the Mayor recommendations for regulations to establish specific criteria for determining whether an injury was incurred, or a disease was contracted, in the performance of duty and whether an injury or disease was aggravated in the performanec of duty. The Mayor shall promulgate regulations establishing such criteria in a timely manner based on the recommendations of the Board.

"(7)(A) In making determinations under this subsection and under subsection (f), the Board of Police and Fire Surgeons and the Police and Firemen's Retirement and Relief Board shall make full use of the medical resources in the District of Columbia and shall make the widest practical use of the medical expertise available to them consistent with fair and even administration of this Act.

"(B) Not later than ninety days after the date of the enactment of the District of Columbia Retirement Reform Act, the Board of Police and Fire Surgeons and the Police and Firemen's Retirement and Relief Board shall each submit to the Mayor recommendations for regulations to carry out the requirements of subparagaph (A). The Mayor shall, in a timely manner and based on the recommendations of such Boards, promulgate regulations to carry out the requirements of such subparagraph.

"(C) Failure to promulgate such regulations, or failure to comply with such regulations, shall not invalidate any decision of the Mayor or the Police and Firemen's Retirement and Relief Board with respect to the retirement of any individual.".

RESTRICTION ON RETIRED POLICE OFFICERS AND FIRE FIGHTERS RECEIVING ANNUITY WHILE EMPLOYED BY THE DISTRICT OF COLUMBIA GOVERNMENT

SEC. 214. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act (as redesignated by section 209(a)(1)(A) and amended by section 211) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of law, the salary of any annuitant who first becomes entitled to an annuity under this section after the date of the enactment of the District of Columbia Retirement Reform Act and who is subsequently employed by the government of the District of Columbia shall be reduced by such amount as is necessary to provide that the sum of such annuitant's annuity under this section and compensation for such employment is equal to the salary otherwise payable for the position held by such annuitant.".

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

COST-OF-LIVING ADJUSTMENTS OF TEACHERS' ANNUITIES

SEC. 251. (a)(1) Section 21(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–739a,g)), is amended to read as follows:

"(b)(1) The Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the per centum change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum, or

"(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.".

(2) The amendment made by paragraph (1) shall apply to any increase after the effective date of such amendment in annuities payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, or from the District of Columbia Teachers' Retirement Fund established by section 123(a) of this Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month before such effective date for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under section 21(b) of such Act of August 7, 1946, as in effect immediately before the amendment of such section by paragraph (1).

(b) Section 21(c) of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–739 a(c)), is amended—

(1) by striking out "governed by the commencing date of each annuity payable from the fund as of the effective date of an increase" and inserting in lieu thereof "as provided in subsection (b)(2)"; and

(2) by striking out "from the fund" in paragraph (1) of such section.

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

COST-OF-LIVING ADJUSTMENTS OF JUDGES' ANNUITIES

SEC. 252. (a) Section 11–157(a) of title 11 of the District of Columbia Code is amended by inserting ", or who, before the next such increase first becomes payable under such section, receives such salary or annuity, either" immediately after "salary or annuity".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON TEACHERS' REFUNDS AND DEPOSITS

SEC. 253. (a)(1) The first section of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–721), is amended—

(A) in the first paragraph by inserting "or the end of the 90-day period beginning on the date of the enactment of the District of

Columbia Retirement Reform Act, whichever is earlier" immediately before the period at the end of the proviso in the second sentence; and

(B) in the second paragraph—

(i) in the first sentence—

(I) by striking out "at 3 per centum per annum compounded as of December 31 of each year" and inserting in lieu thereof "computed in accordance with section 24(a) of this Act" and

(II) by striking out "an interest rate of 3 per centum per annum compounded annually" and inserting in lieu thereof "the interest rate computed in accordance with section 24(a) of this Act"; and

(ii) in the second sentence, by inserting "to the date of such death or separation or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "are made".

(2) Section 1A(b) of such Act (D.C. Code, sec. 31–721a(b)) is amended by striking out 'with interest at 4 per centum compounded annually" in the first sentence and inserting in lieu thereof ", with interest computed in accordance with section 24(b) of this Act,".

(3) Section 8 of such Act (D.C. Code, sec. 31–728) is amended in the first paragraph—

(A) in the second proviso in the sixth sentence—

(i) by striking out "the accumulated contributions and interest" and inserting in lieu thereof "(1) the accumulated contributions" and

(ii) by inserting immediately before the colon at the end of such proviso ", and (2) interest thereon computed in accordance with 24(b) of this Act"; and

(B) in the seventh sentence, by striking out "with interest at 3 per centum per annum compounded annually".

(4) Section 9(a) of such Act (D.C. Code, sec. 31–729(a)) is amended—

(A) in the first proviso—

(i) by inserting "(computed to the date of separation or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "thereon", and

(ii) by inserting "(computed to the date of separation or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "interest" the second time it appears;

(B) in the second proviso, by inserting "(including the interest thereon) plus interest computed in accordance with section 24(c) of this Act" immediately before the colon at the end of such proviso; and

(C) in the third proviso, by striking out ", with interest at 3 per centum compounded annually".

(5) Section 10(f)(3) of such Act (D.C Code, sec. 31–730(f)(3)) is amended by inserting after "interest" the first time it appears ", earned prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act.".

(6) Such Act is further amended by adding at the end thereof the following new section:

"SEC. 24. (a) For purposes of determining the amount available to purchase an annuity under the second paragraph of the first section of this Act, interest shall be deemed to accrue on deposits at the following rates for the following periods:

"(1) Prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, interest shall accrue at the rate of 3 per centum per annum compounded as of December 31 of each year.

"(2) For the period beginning at the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and ending on September 30, 1981, interest shall accrue at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum).

"(3) After October 1, 1981, interest shall accrue at an annual rate which (as determined by the Mayor of the District of Columbia) is equal to the average annual rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund established by section 123 of the District of Columbia Retirement Reform Act.

(b) Interest required on deposits under section 1A or 8 of this Act or under the Act of June 27, 1960, shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

"(c) Interest required on deposits under section 9(a) of this Act shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.".

(b) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31–745), is amended—

(1) by striking out "an interest"; and

(2) by inserting immediately before the colon at the beginning of the proviso "plus interest computed in accordance with section 24(b) of such Act of August 7, 1946".

(c) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON JUDGES' REDEPOSITS

SEC. 254. (a) Subchapter III of chapter 15 of title 11 of the District of Columbia Code is amended—

(1) in section 11–1561—

(A) in paragraph (9)(C), by inserting immediately before the semicolon at the end thereof "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier", and

(B) in paragraph (10)(C), by inserting immediately before the semicolon at the end thereof "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act whichever is earlier"; and

(2) in section 11–1569(c), by inserting "of the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "such judge" and before the comma.

(b) Such subchapter III is further amended—

(1) in section 11–1563(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11–1564 (d)(2)";

(2) by amending section 11–1564(d)(2) to read as follows:

"(2) Interest on deposits under this subsection and section 11–1567(b) shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Judges' Retirement Fund (established by section 124 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(i) for so much of any such period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits;

"(ii) for so much of any such period which occurs between January 1, 1948, and the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year compounded annually, shall be used in determining the interest rate to be paid on deposits; and

"(iii) for so much of any such period which occurs prior to January 1, 1948, the rate of 4 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit it made.

"(C) If a judge elects to make his deposit in installments, each payment shall include interest in that portion of the refund which is then being redeposited.

Interest may not be charged for a period of separation from the service which began before October 31, 1956."; and

(3) in section 11–1567(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11–1564 (d)(2)".

(c) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

RESTORATION OF TEACHERS' ANNUITIES IN THE EVENT OF PREDECEASED BENEFICIARIES

SEC. 255. (a) Section 5(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–725(b)), is amended by adding at the end thereof the following new paragraph:

"(4) In the event an individual designated as a surviving widow or widower or as a survivor annuitant under this subsection predeceases the teacher designating such individual, the annuity of such teacher shall, effective the day after the death of such individual, be the amount it would have been if no such beneficiary had been named.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1978, or at the end of the ninety-day period beginning on the date of the enactment of this Act, whichever is later.

TERMINATION OF TEACHERS' DISABILITY ANNUITIES BASED ON OUTSIDE EARNED INCOME

SEC. 256. Section 4 of the Act entitled "An Act for retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–724), is amended by inserting after the second paragraph thereof the following new paragraph:

"Notwithstanding the foregoing provisions of this section, if during any calendar year an annuitant who is receiving a disability annuity under this section and who has not reached retirement age (as defined in section 3) receives income from wages or self-employment, or both, in an amount not less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, the annuity of such annuitant shall be terminated by the Board of Education effective January 1 of the first calendar year after such calendar year, except that this sentence shall not apply with respect to income received during the year in which the annuitant retired. The annuity of any annuitant whose annuity is terminated under the preceding sentence shall be restored, at the rate which would have been in effect but for such termination, effective January 1 of any year following a year during which the amount of such annuitant's income from wages and self-employment is less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, or effective immediately if the Board of Education determines that, outside of normal fluctuations in such annuitant's income, such annuitant's income is reduced to a level which on an annual basis is less than 80 per centum of such current rate of pay.".

RESTRICTION ON RETIRED TEACHERS RECEIVING ANNUITY WHILE EMPLOYED BY THE DISTRICT OF COLUMBIA GOVERNMENT

SEC. 257. The Act entitled "An Act for retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–721 et seq.), is amended by adding after section 24 (as added by section 253(a)(6)) the following new section:

"SEC. 25. Notwithstanding any other provision of law, the salary of any retired teacher who first becomes entitled to an annuity under this Act after the date of the enactment of the District of Columbia Retirement Reform Act and who is subsequently employed by the government of the District of Columbia shall be reduced by such amount as is necessary to provide that the sum of such teacher's annuity under this Act and compensation for such employment is equal to the salary otherwise payable for the position held by such teacher.".

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks in explanation of H.R. 3939, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 8 additional minutes.)

The SPEAKER pro tempore. The gentleman from California (Mr. DELLUMS) is recognized for 13 minutes.

Mr. DELLUMS. Mr. Speaker, the bill we are considering today has been fashioned during the past 7 years of hearings and markups, floor discussions and votes. In 1972, the Nelsen Commission warned that the unfunded liability for the D.C. employee pension systems would bring a fiscal crisis to the city. Hearings were held in three Congresses. Finally, in the 95th Congress both the House and Senate passed a bill, similar to the one before us. The House bill passed overwhelmingly 348 to 21. The compromise bill, however, was pocket vetoed last November.

Today, in H.R. 3939, we have a bill that balances the Federal and local interests and deals reasonably with the rights and hopes of city employees as well.

I am especially proud of the work of my colleagues of the committee in drafting this bill, because it addresses a serious problem now while there is still time to act. Each year that we delay, the unfunded liability of these pension systems grow by $150 million. I am proud too that employee groups have recognized their stake in a sound pension system and have been willing to see a tightening up of some of the benefits and practices.

Before describing some of the features of the bill, let me remind you of the dimensions of the crisis which is just a few years away if we, indeed, do not act now. At the present time, the city pays out of current taxes many millions of dollars in salaries of the employees who are covered by this bill, and in addition, half that amount for former employees who have retired. For every dollar the city pays for current services, it pays 52 cents for pension benefits for those who performed services in years gone by. The situation is steadily growing worse. In 20 years, the pensioners will be receiving as much as the entire city payroll. A few years later, the retirees will cost the city half as much as those employees still working for the city. The danger is clear that essential city services might have to be cut to meet pension payments—on that the city would default on its obligations.

The solution which this bill offers is a simple one—start now to pay into a pension fund so that 20 years from now a large part of the monthly retirement bill can be paid from interest on investments of the pension fund. The second part of the solution is to eliminate any abuse that has grown in the pension systems and reduce any benefits which are recognized to be both excessive or overly generous.

The bill before us Mr. Speaker, H.R. 3939, is comprised of two titles. Title I provides for the financing of retirement benefits. Title II provides for changes in benefits.

More specifically, title I establishes separate retirement funds for police officers and firefighters, teachers, and judges which will make the pension plans financially sound. It allows moneys in these funds to be commingled for investment purposes. An 11-member Retirement Board (five appointed by the city, six elected by active and retired employees) will administer the funds under statutory procedures similar to the standards adopted by Congress a few years ago for private pension funds.

Title I further requires that these funds be managed on an actuarially sound basis to provide proper financing of benefits; prohibits investment of funds in the District of Columbia, Maryland, and Virginia bonds, real estate, and agencies; gives the Retirement Board fiduciary responsibility over the funds; requires the Retirement Board to comply with reporting and disclosure requirements similar to those imposed by the Employee Retirement Income Security Act of 1974 (ERISA); provides for Federal payment into each fund to help finance, in part, liabilities for retirement benefits enacted and administered by Congress prior to home rule.

Title I provides for an annual payment from the U.S. Treasury of $61 million for 25 years to meet the Federal share of the unfunded liability. The city will be paying for 100 percent of the liability for any present or recent employees retiring after home rule began in 1975. Of those employees who retired before home rule began in 1975, the city will pay two-thirds of the cost of the unfunded liability for regular retirees and one-third of the cost for those who retired on disability.

The breakdown of Federal share and city share is a reasonable compromise. The President argues that abuses of the disability retirement system led to the present difficulty and should not be borne entirely by the Federal Government. On the other hand, before home rule the city taxpayers had no say in what pay or fringe benefits the employees should receive. The size of the city payroll was set in the budget submitted by the President and enacted by Congress. The size of the local police force is an example of how decisions are made for Federal purposes, not just with local residents in mind. In his last year of office, President Lyndon Johnson increased the authorized strength of the District of Columbia Police Department by 1,000—from 3,100 to 4,100. The very next year President Richard Nixon increased the police force by another 1,000 to 5,100. Today, although the population of Washington, D.C., continues to decline as do other large cities, its police force is kept larger than any other American city, in proportion, because this is the Nation's Capital and the Federal presence requires a higher level of expenditure for public safety.

Title II of H.R. 3939 provides benefit changes for present employees and new hires of the District of Columbia metropolitan police officers and firefighters. It offers Congress the opportunity to tighten controls governing disability pensions. There have been widespread abuses in the disability features of the retirement law. A few years ago it was standard practice for District of Columbia police officers—rather than completing their 20 years of service for regular retirement—to apply for early retirement on disability. They could claim aggravation of an earlier injury—occurring either on the job or off the job. They were then granted early retirement at a higher dollar amount. As you know, disability retirement pay is tax exempt under the tax law.

In recent years, some of these abuses have been eliminated by stricter administration of the law. However, H.R. 3939 goes further. It closes those loopholes dealing with aggravation for non-service-connected injuries. Disability retirement pay will be based on the percent of impairment, rather than everyone being considered 100 percent disabled. Disability payments will be reduced or stopped when the disability is reduced or is overcome.

Title II also makes important economics in other parts of the retirement laws. The 1 percent "kicker" on the cost-of-living adjustments—a feature of the pension laws for teachers and judges—will be eliminated. A "double-dipping" amendment reduced the salaries of retirees who return to take jobs with the District of Columbia government. Normal retirement will occur after 25 years rather than 20 years of service for police officers and firefighters. These changes in benefits will be phased in over the coming years. The more stringent reforms will apply to employees hired after this bill becomes law.

I want to be clear that we are not intending to balance the budget on the backs of those who are retired and trying to live on a fixed income. Aside from some additional reporting and health checkups, the bill and its benefit reductions will not apply to former employees who are already retired. Of course, for the record, this bill only applies to District of Columbia employees, not to some of the other police forces who happened to be covered by the present police pension law—such as Park Police, Executive Protection Service, and Secret Service.

Allow me to note also for the record that title I of H.R. 3939 funds only the Federal share of the outstanding liability of the pension plans. The city will have to adopt separate legislation for its share of the unfunded liability. Mr. Speaker, Mayor Marion Barry testified before our committee on May 2 of this year as follows:

> As for the District's liability, I am committed to an actuarily sound method of financing . . . the exact form and timetable for implementing advanced funding methods depend on benefit levels and Federal financing . . .

Thus, this bill will prepare the way for a completely sound and secure pension program for police officers, firefighters, teachers, and judges. When Congress acts and the city acts, we will lift the dark cloud of unfunded pension liability which now hangs over the Capital City.

Just in case with funding in title I, H.R. 3939 still leaves a large part of the job of designing the pension system of the future to the local city officials. Mayor Barry in his testimony before our committee made a number of recommendations for benefit changes, some of which the committee did not put in H.R. 3939. It is the committee's view that under the Home Rule Act, the city has the authority to pass laws setting the pay and benefit schedules for city employees. I assume that the Mayor and City Council will consider further pension law changes as they consider personnel issues in future budget years. Under the Home Rule Act, Congress has delegated to the city the power to conduct its internal affairs.

I trust that this body will recognize the wisdom of acting now to protect the pension plans of police officers, firefighters, teachers, and judicial employees of the District of Columbia and head off the fiscal crisis which threatens the Nation's Capital—H.R. 3939 will do that job.

☐ 1350

Mr. McKINNEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise in support of H.R. 3939, the District of Columbia Retirement Reform Act. It is a credit to the chairman of the House District of Columbia Committee, Mr. DELLUMS, the staff of the Subcommittee on Fiscal Affairs and Health, and the entire membership of the House Committee on the District of Columbia for bringing this legislation to the floor in such an orderly and efficient manner. This task has not been an easy one in light of the rather volatile nature of the subject matter.

The legislation before us today has a legislative history which, in effect, stretches back some 63 years. Congress first got involved in this matter in 1916 when it created the Policemen and Firemen's Relief Fund, and since that time Congress has often returned to this issue to pass amendments affecting pensions in the District of Columbia. In retrospect, some of these amendments were good, but others were detrimental. Unfortunately, it was not until the Nelsen Commission, chaired by our distinguished former colleague from Minnesota, made its final report in 1972 that attention was focused on the fact that the continued unfunded liabilities inherent in these systems were undermining not only the future of the funds, but also the future fiscal health of the District of Columbia as well.

Legislation to correct this situation was introduced in the 93d Congress, the 94th Congress, and the 95th Congress. Last year, taking recognition of the fact that continued inaction was annually adding tens of millions of dollars to the final price tag of this necessary legislation, both the House and the Senate passed a comprehensive bill which was later pocket-vetoed by the President.

Mr. Speaker, this time around, the chairman and members of the Subcommittee on Fiscal Affairs and Health, as well as the full membership of the full House Committee on the District of Columbia took great pains to address the concerns outlined by the President in his memorandum of disapproval which accompanied his actions on H.R. 6536 last year. Today, we bring to the floor a bill which is comparable in form and substance to last year's legislation. However, it should be noted that the annual Federal contribution outlined in H.R. 3939 is significantly less than that contained in the bill vetoed last year.

On another front, and also in direct response to the President's concerns, we have cut the percentage of Federal contributions for the pre-home rule disability retirements by two-thirds. In fact, title II of this legislation addresses, and corrects the "all or nothing" disability retirement problems which have plagued the police and fire pension fund for many years.

I am sure that any number of my colleagues may be apprehensive about the fact that we are considering the passage of an authorization bill with a lifespan of some 25 years. While the Federal authorizations during that period are outlined in H.R. 3939, one does not have to serve in Congress very long to realize that long-term authorizations and commitments such as this often serve as the basis for future legislation and future burdens to the Federal taxpayers. However, I am pleased to report that safeguards against this happening have been written into this bill. More specifically, the District of Columbia now operates under the home rule system and in accepting this long overdue control over its own affairs, it has also accepted the responsibility, both managerial and fiscal, over the future of these pension systems. Thus, section 144 of H.R. 3939, which contains the authorizations for the Federal appropriations to the three funds for fiscal years 1980–2004, also spells out that if these authorizations prove to be insufficient, the source of additional funds to maintain the actuarial soundness of the plans will be the general revenues of the District of Columbia.

In summation, I can only ask that all of those members who recognized the need for this legislation last year join with us again this year to put this issue behind us. For those new members approaching the D.C. pension issue for the first time, I hope that you will take note of the strong support which H.R. 3939 has attracted, not only from both sides of the aisle, but also from members who represent both sides of the political spectrum. I can only think of one enemy working against this legislation, and that is time. Each day we delay costs us thousands of dollars. This money is owed to those police officers, fire fighters, teachers, and judges who have completed their duties as well as those who still serve. The bill for these pensions must be paid someday, and I urge my colleagues to join me in supporting this legislation so that we may pay the bill today.

● Mr. MAZZOLI. Mr. Speaker, I rise in support of H.R. 3939, the District of Columbia Retirement Reform Act.

This bill creates an actuarially sound funding system for police, teachers, firefighters, and judges in the District of Columbia, and tightens benefit rules—especially for disability benefits—for these employees.

Since 1975, the House District Committee has considered this proposal in various forms. Over these 4 years, we have taken testimony on this bill from nearly 100 witnesses.

The bill before the House reflects the hard work and care with which the committee and its distinguished chairman, the gentleman from California, Mr. DELLUMS approached this problem. The committee bill contains a funding system that will—with a Federal contribution of slightly more than $60 million per year—put the District's pension plans well on the road to financial health.

Further, the bill puts the control of these funds under an independent board a majority of whose votes are controlled by the employees. Further, this board will invest funds subject to careful guidelines, and disclosure requirements to prevent abuses.

In the disability area, the bill makes makes two steps that will be great strides toward reform. First, for all new employees disability retirements will be awarded based on the extent of the disability injury. Second, no employee will be able to receive a service-connected disability retirement because active duty allegedly aggravated an off-duty injury.

The committee's investigations have indicated these two changes will lead to dramatic savings in disability retirements costs.

Further, since last year's bill was adopted by the House, the District of Columbia has taken a number of administrative steps which have greatly reduced the cost and number of disability retirements. In close consultation with the mayor the committee has added to this year's bill a number of new provisions to facilitate this process of administrative reform.

In short, Mr. Speaker, this is a good bill. I urge that the House adopt it.●

☐ 1400

AMENDMENTS OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Speaker, I offer amendments, and ask unanimous consent that the amendments be considered en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. DELLUMS:

Page 40, line 10, strike out "$39,445,000" and insert in lieu thereof "$32,843,000".

Page 40, line 14, strike out "$21,827,000" and insert in lieu thereof "$16,687,000".

Page 40, line 17, strike out "$287,000" and insert in lieu thereof "$215,000".

Page 42, line 4, strike out "100 percent" and insert in lieu thereof "75 percent".

Mr. DELLUMS. Mr. Speaker, in an effort to avoid a veto of this important bill, as occurred a year ago, we have been in close contact with officials of the Office of Management and Budget. Those officials indicated that a reduction in the Federal share of the cost of this bill would be necessary.

There is agreement among the members of the Committee on the District of Columbia that I offer this amendment, so that when we meet with the Senate in conference, the full range of possible actions on this bill will be available to Congress without further delay.

The intent of the amendment is to reduce the Federal share of responsibility for unfunded liability for employees who retired before home rule in 1975, under regular time of service provisions to less than the 100 percent in H.R. 3939. No change would be made in the 33-percent Federal share for disability retirements before home rule, or in the 100-percent city responsibility for retirements starting in 1975.

The specific effect of this amendment is to establish the formula for the Federal share at 75 percent and the city's share at 25 percent which in turn will reduce the Federal cost from approximately $1.4 billion to approximately $1.1 billion.

Mr. McKINNEY. Mr. Speaker, I rise in support of the amendment.

Mr. Speaker, I would concur with the gentleman from California, my committee chairman, on this amendment. However, I would like to add that this amendment represents a crude compromise with this marvelous fifth wheel of Government we have. You do not know who they are, Mr. Speaker, and I do not know who they are. I never knew who they were under Presidents Nixon or Ford. The governmental entity to which I refer is called OMB, Office of Management and Budget.

It has become the office of policy, the office of determination, the office of arrogance. They expurgate or otherwise censor the testimony of every single Secretary who comes to testify before the representatives of the people.

They are not elected. Most of them are GS–12, 13's, and 14's.

They gave the President such marvelous advice in pocket vetoing this bill in the last session that it cost us $150 to $180 million, if you take in inflationary factors over the lifetime of this bill. This is the gross stupidity and arrogance of these people who tend to tell this body and the Senate what we are to do.

We have given in to them. I know the chairman is in a bind, and the city is in a bind, and the firefighters sitting up there, policemen, teachers, and judges are in a bind if we do not do something.

But once again, there they are, right straight out of the fog of the Executive Office Building telling us what to do. I do not know their names.

One thing I have been certain of, whether it is in housing, whether it is in cities, whether it is in banking, whether it is in the District of Columbia, I am certain of one thing and that is their sheer stupidity.

Mr. DELLUMS. Mr. Speaker, I move to strike the requisite number of words.

I would simply like to take this opportunity to express my deep appreciation for my colleague's courage and his candor and commitment to the truth.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the amendments offered by the gentleman from California (Mr. DELLUMS).

The amendments were agreed to.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1037) to establish an actuarially sound basis for financing retirement benefits for police officers, firefighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. DELLUMS)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, with the following table of contents, may be cited as the "District of Columbia Retirement Reform Act".

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Sec. 1. Short title and table of contents.

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Sec. 256. Termination of teachers' disability annuities based on outside earned income.

TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that the retirement benefits authorized by various Acts of Congress for the police officers, fire fighters, teachers, and judges of the District of Columbia have not been financed on an actuarially sound basis. Neither Federal payments to the District nor District of Columbia appropriations have taken into account the long-term financial requirements of the District's retirement programs. As a result, the annual budget cost to the District of Columbia for annuities and refunds of deductions is growing at a rapid rate and, in the case of the retirement program for police officers and fire fighters, is predicted to exceed the cost of salaries for active police officers and fire fighters by the year 2000.

(b) It is the purpose of this title—

(1) to establish separate retirement Funds for police officers and fire fighters, for teachers, and for judges of the District of Columbia;

(2) to establish a Retirement Board with responsibility for managing these Funds;

(3) to require that these Funds be managed on an actuarially sound basis in order to provide proper financing for the benefits to which the District's retired police officers, fire fighters, teachers, and judges are entitled;

(4) to require that the Retirement Board comply with reporting and disclosure requirements similar to those imposed under the Employee Retirement Income Security Act of 1974; and

(5) to provide for Federal payments to these Funds to help finance, in part, the liabilities for retirement benefits incurred by the District of Columbia prior to the establishment of self-government under the District of Columbia Self-Government and Governmental Reorganization Act.

DEFINITIONS

SEC. 102. As used in this title:

(1) The term "Mayor" means the Mayor of the District of Columbia.

(2) The term "Council" means the Council of the District of Columbia.

(3) The term "Speaker" means the Speaker of the House of Representatives.

(4) The term "President pro tempore" means the President pro tempore of the Senate.

(5) The term "Board" means the District of Columbia Retirement Board established by section 121 of this Act.

(6) The term "Custodian of Retirement Funds" means the Board, except that until such time as the members of the Board are first elected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the term "Custodian of Retirement Funds" means the Director of the Office of Budget and Financial Management of the District of Columbia (established by Organization Order Numbered 30, Commissioner's Order Numbered 72-80, April 5, 1972 (D.C. Code, title 1—Appendix)).

(7) The term "retirement program" means—

(A) the program of annuities and other retirement and disability benefits for members and officers of the Metropolitan Police force and the Fire Department of the District of Columbia, but does not include the program of annuities and other retirement and disability benefits for members and officers of the United States Park Police force, the Executive Protective Service, or the United States and Service Division under the Policemen and Firemen's Retirement and Disability Act;

(B) the program of annuities and other retirement and disability benefits for judges of the courts of the District of Columbia under subchapter III of chapter 15 of title 11 of the District of Columbia Code; or

(C) the program of annuities and other retirement and disability benefits for teachers in the public day schools of the District of Columbia.

(8) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the Canal Zone.

(9) The term "party in interest" means—

(A) any person (including a member of the Board) having fiduciary responsibilities under this title;

(B) any person providing services to a Fund;

(C) the government of the District of Columbia;

(D) an employee organization; and

(E) a spouse, ancestor, lineal descendant, or spouse of a lineal descendant of any individual described in subparagraph (A) or (B).

(10) The term "Fund" means the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122, the District of Columbia Teachers' Retirement Fund established by section 123, or the District of Columbia Judges' Retirement Fund established by section 124.

(11) The term "current value" means fair market value where available (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board) or otherwise the fair value (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board), assuming an orderly liquidation at the time of such determination.

(12) The term "future value" means a liability for a given prior fiscal year expressed in terms of the price level expected to prevail in a given future fiscal year, adjusted at the rate of inflation used with regard to determinations made under section 142(a)(1).

(13) The term "qualified public accountant" means a person who is a certified public accountant, certified by a regulatory authority of a State.

(14) The term "enrolled actuary" means an actuary enrolled under subtitle C of title III of the Employee Retirement Income Security Act of 1974.

(15) The term "security" means a security as defined in section 2(1) of the Securities Act of 1933.

(16) The term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which individuals covered by a retirement program participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning such retirement program.

(17) The term "teacher" means a teacher as defined in section 13 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-733).

(18) The term "judge" means a judge as defined in section 11-1561(1) of title 11 of the District of Columbia Code.

(19) The term "participant" does not include an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division to whom the Policemen and Firemen's Retirement and Disability Act applies; and, unless the context requires otherwise, the term "beneficiary" does not include a beneficiary under such Act of any such officer or member.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

DISTRICT OF COLUMBIA RETIREMENT BOARD

SEC. 121. (a) There is established, as an independent agency of the government of the District of Columbia, a board of trustees to be known as the District of Columbia Retirement Board which shall have exclusive authority and discretion (subject to the requirements of this title) to manage and control the Funds established by this title.

(b)(1) The Board shall consist of eleven members selected as follows:

(A) One member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the members and officers of the Metropolitan Police force.

(B) One retired member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the retired members and officers of the Metropolitan Police force.

(C) One member or officer of the Fire Department of the District of Columbia, to be elected by the members and officers of the Fire Department.

(D) One retired member or officer of the Fire Department of the District of Columbia, to be elected by the retired members and officers of the Fire Department.

(E) One teacher in the public day schools of the District of Columbia, to be elected by the teachers of the public day schools of the District of Coumbia.

(F) One teacher in the public day schools of the District of Columbia who is retired, to be elected by the retired teachers of the public day schools of the District of Columbia.

(G) Two individuals appointed by the Council of the District of Columbia.

(H) Three individuals appointed by the Mayor. A vacancy on the Board shall be filled in the manner in which the original selection was made.

(2) The first election of the Board members described in subparagraphs (A) through (F) of paragraph (1) shall be conducted within six months after the date of the enactment of this title in accordance with regulations which the Mayor shall promulgate. Thereafter, elections shall be conducted by the Board. In any such election, voting shall be by secret ballot, and each individual to be represented on the Board by the winner of such election shall be eligible to vote in such election.

(3)(A) Except as provided in subparagraph (B), the members of the Board shall each serve a term of four years, except that a member selected to fill a vacancy occurring prior to the end of the term for which his predecessor was selected shall only serve until the end of such term. A member may serve after the expiration of his term until his successor has taken office.

(B) Of the members of the Board who are first selected—

(i) two shall serve for a term of one year,

(ii) three shall serve for a term of two years,

(iii) three shall serve for a term of three years, and

(iv) three shall serve for a term of four years.

as determined by lot at the first meeting of the Board.

(4) No individual shall serve more than two terms as a member of the Board, except that an individual serving less than two years of a term to which some other individual was originally selected shall be eligible for two full terms as a member of the Board and an individual serving two years or more of a term to which some other individual was originally selected shall be eligible for only one full term as a member of the Board.

(5) Any individual who was selected as a member of the Board under subparagraph (A), (C), or (E) of paragraph (1) and who ceases to be a member or officer of the Metropolitan Police force, member or officer of the Fire Department, or a teacher, as the case may be, may not continue as a member of the Board.

(6) No member of the Board may hold or be a candidate for any elective office in the District of Columbia.

(7) No member of the Board may have any personal interest, direct or indirect (except as a participant in a retirement program), in any transaction involving assets of the Funds established by this title and shall otherwise comply with the standards of conduct applicable to fiduciaries in the District of Columbia, as well as those standards of conduct established by part E of this title.

(8) Not less than two of the members of the Board appointed by the Mayor under paragraph (1) shall be individuals who have professional work experience in the banking, insurance, or investment industry.

(9) Any member of the Board may be removed from the Board by a vote of two-thirds of the members of the Board for a breach of fiduciary responsibility with respect to a Fund or for a violation of section 184.

(10) The Board shall elect one member of the Board to be chairman of the Board. The chairman shall be elected for a term of one year, but may be removed from such position by a vote of two-thirds of the members of the Board.

(11) The Director of the Office of Budget and Financial Management of the District of Columbia shall be an ex officio member of the Board, but shall not vote, shall not be eligible to be elected chairman of the Board, and shall not be counted for purposes of a quorum.

(c) Subject to the availability of appropriations therefor, each member of the Board shall be entitled to receive the hourly equivalent of the annual rate of pay in effect for the highest step of grade GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each hour such member is engaged in the actual performance of duties vested in the Board, except that any member of the Board who is a full-time officer or employee of the District of Columbia or the United States shall not be entitled to receive pay under this subsection for performance of duties vested in the Board.

(d)(1) The Board shall meet at least once each calendar quarter at a regular and specified time. It shall meet at such other times as the chairman or any three members of the Board may prescribe.

(2) Any six members shall constitute a quorum for the transaction of the business of the Board.

(3) Except as otherwise provided in this title, actions of the Board shall be determined by a majority vote of the members present and voting.

(e) The Board shall from time to time promulgate rules and regulations, adopt resolutions, issue directives for the administration and transaction of its business and for the control of the Funds established by this title, and perform such other functions as may be necessary to carry out its responsibilities under this title.

(f)(1) All administrative expenses incurred by the Board in carrying out this title, including compensation for the members of the Board, shall be paid out of funds appropriated for such purpose.

(2) The budget prepared and submitted by the Mayor pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act shall include recommended expenditures at a reasonable level for the forthcoming fiscal year for the administrative expenses of the Board.

(3) The Mayor and the Council may establish the amount of funds which will be allocated to the Board for administrative expenses, but may not specify the purposes for which such funds may be expended or the amounts which may be expended for the various activities of the Board.

(g)(1) The Board shall engage the services of competent investment counsel or counsels who shall be qualified under the Investment Advisors Act of 1940. Such investment counsel or counsels shall be fiduciaries, to the extent designated by the Board, with respect to services rendered to the Board. Such fiduciary relationship shall be specified in a written agreement between the investment counsel or counsels and the Board.

(2) The Board may appoint such staff as it considers necessary to enable it to carry out its responsibilities under this title. The staff of the Board shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no staff member may receive pay in excess of the annual rate of basic pay in effect for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(h) Not more than ninety days after all initial members of the Board have been selected in accordance with subsection (b) of this section, the Board shall certify in writing to the Director of the Office of Budget and Financial Management of the District of Columbia that the Board is assuming responsibility for the Funds established by this title.

DISTRICT OF COLUMBIA POLICE OFFICERS AND FIRE FIGHTERS' RETIREMENT FUND

SEC. 122. (a) There is established a fund to be known as the District of Columbia Police Officers and Fire Fighters' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount paid to the Custodian of Retirement Funds pursuant to the last sentence of subsection (d)(1) or to subsection (c)(5) of the Policemen and Firemen's Retirement and Disability Act or pursuant to the proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935.

(2) Any amount appropriated for such Fund under part C of this title.

(3) Any return on investment of the assets of such Fund.

After September 30, 1980, or after the end of the thirty-day period beginning on the date on which funds are first appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, whichever is later, all payments of annuities and other retirement and disability benefits (including refunds and lump-sum payments) under the Policemen and Firemen's Retirement and Disability Act shall be made from the Fund (except for any such payment which is made to an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or to a beneficiary of any such officer or member).

(b)(1) The last sentence of subsection (d)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–524(1)) is amended by striking out "Such" and inserting in lieu thereof "In the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, such deductions and withholdings shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) and shall be deposited in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act; and in the case of any other member, such".

(2) The proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935 (D.C. Code, sec. 4–502), is amended by inserting immediately before the period the following: ", except that all moneys required to be deposited with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act".

(3) The Act entitled "An Act to credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen's relief fund, District of Columbia", approved July 21, 1947 (D.C. Code, sec. 4–504a), is amended by inserting "or the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122(a) of the District of Columbia Retirement Reform Act)" immediately after "District of Columbia," the first place it appears.

(c) The amendments made by paragraphs (1) and (2) of subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act. The amendment made by paragraph (3) of such subsection shall take effect on such date of enactment.

DISTRICT OF COLUMBIA TEACHERS' RETIREMENT FUND

SEC. 123. (a) There is established a fund to be known as the District of Columbia Teachers' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount paid to the Custodian of Retirement Funds pursuant to the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, or under the Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960.

(2) Any asset transferred to such Fund under subsection (c).

(3) Any amount appropriated for such Fund under part C of this title.

(4) Any return on investment of assets of such Fund.

Annuities and other retirement and disability benefits (including refunds and lump-sum payments) payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, shall continue to be paid from such fund until all amounts in such fund have been expended or transferred under subsection (c) to the District of Columbia Teachers' Retirement Fund, and thereafter such benefits shall be paid from the District of Columbia Teachers' Retirement Fund.

(b)(1) The Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, is amended—

(A) in the first section (D.C. Code, sec. 31–721)—

(i) by adding at the end of the first paragraph the following new sentence: "After the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, any amounts deducted and withheld pursuant to this paragraph shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of such Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act.", and

(ii) in the first sentence of the second paragraph, by striking out "Collector of Taxes, District of Columoia"; and inserting in lieu therecf "Custodian of Retirement Funds";

(B) in section 2 (D.C. Code, sec. 31–722), by striking out "The" in the first sentence and inserting in lieu thereof "Until the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the";

(C) in clause (ii) of paragraph (1) of section 5(b) (D.C. Code, sec. 31–725(b)(1)(ii)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act";

(D) in section 9(a) (D.C. Code, sec. 31–729(a)), by striking out "deposit in the fund" in the second proviso and inserting in lieu thereof "repay to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,";

(E) in clause (ii) of section 9(b)(1) (D.C. Code, sec. 31–729(b)(1)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act"; and

(F) in section 17 (D.C. Code, sec. 31–737), by inserting "(including any assets of the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act)" immediately after "Act".

(2) Section 4 of the Act entitled "An Act to increase annuities payable to certain annuitants from the District of Columbia teachers' retirement and annuity fund, and for other purposes", approved September 2, 1958 (D.C. Code, sec. 31–744), is amended by inserting immediately before the period at the end of the first sentence the following: "until such time as all amounts in such fund have been expended or transferred under section 123(c) of the District of Columbia Retirement Reform Act to the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act and thereafter from the District of Columbia Teachers' Retirement Fund".

(3) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31–745), is amended by striking out "the deposit by such teacher to the credit of the teachers' retirement and annuity fund of the District of Columbia" and inserting in lieu thereof "payment by such teacher to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act), for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act";

(c) Notwithstanding any other provision of law, any asset held in the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, may be transferred to the District of Columbia Teachers' Retirement Fund established by subsection (a).

(d) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

DISTRICT OF COLUMBIA JUDGES' RETIREMENT FUND

SEC. 124. (a) There is an established fund to be known as the District of Columbia Judges' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount deposited pursuant to subchapter III of chapter 15 of title 11 of the District of Columbia Code.

(2) Any asset transferred to such Fund under subsection (c).

(3) Any amount appropriated for such Fund under part C of this title.

(4) Any return on investment of the assets of such Fund.

(b)(1) Section 11-1561(4) of title 11 of the District of Columbia Code is amended by striking out "Judicial Retirement and Survivors Annuity Fund as provided in section 11-1570" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(2) Section 11-1563(a) of such title 11 is amended by striking out "deposited in the fund in accordance with procedures established by the Commissioner" and inserting in lieu thereof "paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the fund.".

(3) Section 11-1564(d)(4) of such title 11 is amended in the first sentence by striking out "Judicial Retirement and Survivors Annuity Fund" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(4) Section 11-1570 of such title 11 is amended—

(A) in subsection (a)—

(i) in the first sentence, by inserting immediately before the period "until such time as all amounts in such Fund have been expended or transferred to the District of Columbia Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act"; and

(ii) by striking out the second and third sentences and inserting in lieu thereof the following: "Thereafter the retirement salaries, annuities, refunds, and allowances provided for in this subchapter shall be paid from such Fund.";

(B) in subsection (b)—

(i) by striking out "such funds" and inserting in lieu thereof "the District of Columbia Judicial Retirement and Survivors Annuity Fund";

(ii) by striking out "from the fund" and inserting in lieu thereof "under the first sentence of subsection (a)"; and

(iii) by striking out "fund" the second place it appears and inserting in lieu thereof "District of Columbia Judicial Retirement and Survivors Annuity Fund"; and

(C) in subsection (d), by inserting "(including moneys in the District of Columbia Judges' Retirement Fund)" immediately after "subchapter".

(c) Notwithstanding any other provision of law, any asset held in the District of Columbia Judicial Retirement and Survivors Annuity Fund may be transferred to the District of Columbia Judges' Retirement Fund established by subsection (a).

(d) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

MANAGEMENT OF RETIREMENT FUNDS

SEC. 125. (a) The Custodian of Retirement Funds shall be the custodian of the assets of each Fund established by this title and shall manage and invest such assets in accordance with this title.

(b) The assets of each Fund shall be kept separate from other moneys which may be under the control of the Custodian of Retirement Funds, but need not be kept separate from the assets of the other Funds if the Board determines that commingling of such assets is advisable for investment purposes.

(c) The Board shall maintain, in an appropriate depository, a cash reserve for the Funds in an amount determined by the Board to be sufficient to meet current outlays for annuities and other retirement and disability benefits authorized to be paid from such Funds.

PAYMENTS FROM THE FUNDS

SEC. 126. The Mayor shall notify the Custodian of Retirement Funds of any payments to be made from the Funds established by this title for annuities or other retirement or disability benefits (including refunds and lump-sum payments), and the Custodian of Retirement Funds shall make such payments from the appropriate Fund.

PART C—FINANCING OF RETIREMENT BENEFITS

LIMITATION ON INVESTMENT OF RETIREMENT FUNDS

SEC. 141. (a) The assets of the Funds established by this title may not be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(2) Obligations fully guaranteed as to the payment of both principal and interest by the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(3) Real property in the District of Columbia, Virginia, or Maryland.

(4) Loans, mortgages, bonds, notes, bills, or certificates of indebtedness secured, in whole or in part, by real property in the District of Columbia, Virginia, or Maryland.

(b) Until such time as the members of the Board are first selected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the assets of such Funds may only be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the United States Government, or obligations fully guaranteed as the payment of both principal and interest by the United States Government.

(2) Interest-bearing certificates of deposit issued by National, State, or District of Columbia savings and loan institutions.

DETERMINATION OF FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 142. (a)(1) The Board shall engage an enrolled actuary who may be the enrolled actuary engaged pursuant to section 162-(a)(4)(A), who shall, on the basis of the entry age normal cost funding method and in accordance with generally accepted actuarial priniples and practices, make the following determinations with respect to each Fund:

(A) At the times specified in paragraph (2), the actuary shall determine the level percentage of payroll, expressed as a percentage (hereinafter in this title referred to as the "net normal cost percentage"), which shall be the percentage such that the amount equal to the product of such percentage and the present value of future compensation for participants in the retirement program, if paid annually into the Fund from the date of hire of each participant in the retirement program until the date of such participant's death, retirement, or other withdrawal from employment covered by the retirement program, is equal to the amount of the difference between (i) the present value of the future benefits payable from the Fund to such group, and (ii) the present value of all future employee contributions to the Fund.

(B) At the times specified in paragraph (2), the actuary shall determine the amount (hereinafter in this title referred to as the "accrued actuarial liability") that is the difference between (i) the present value (as of the date of the determination) of the future benefits payable from the Fund, and (ii) the sum of—

(I) the present value of all future employee contributions to the Fund; and

(II) the product of the net normal cost percentage and the present value of future compensation for participants in the retirement program.

(C) At the times specified in paragraph (2), the enrolled actuary shall determine the current value of the assets in the Fund.

(D) Each year, not later than sixty days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, the enrolled actuary shall determine—

(i) an estimate of the current annual active duty payroll;

(ii) the amount (hereinafter in this title referred to as the "future Federal obligation") that is the amount of the present value of the sum of the amounts authorized by section 144(a) to be appropriated to the Fund for fiscal years beginning on or after the date of the determination; and

(iii) the amount (hereinafter in this title referred to as the "net pay-as-you-go cost") that is the difference between (I) the amount of the obligation of the Fund during the next fiscal year for the payment of benefits payable from the Fund during such year, and (II) the amount of employee contributions to the Fund for such year.

The actuary shall also determine such additional information as the Board may require in order to make the determinations specified in paragraph (4) and in subsection (b).

(2) The actuary engaged by the Board pursuant to paragraph (1) shall make the determinations described in subparagraphs (A), (B), and (C) of such paragraph at the following times:

(A) Not later than sixty days after the date of the enactment of this Act.

(B) Upon a request by the Board or by the Director of the Office of Management and Budget.

(C) Not later than the end of the ninety-day period beginning on the first day of the third fiscal year occurring after the fiscal year in which the last such determination was made pursuant to any subparagraph of this paragraph.

(3) On the basis of the most recent determinations made under paragraph (1), the enrolled actuary shall certify to the Board each year, at a time specified by the Board, the following information with respect to each Fund for the next fiscal year:

(A) The net normal cost, which shall be computed as the product of the net normal cost percentage and the estimate by the actuary of the current annual active duty payroll.

(B) The accrued actuarial liability.

(C) The current value of assets in the Fund.

(D) The future Federal obligation.

(E) The net pay-as-you-go cost.

(F) The unfunded actuarial liability, which shall be computed as the difference between the accrued actuarial liability and the sum of the current value of the assets in the Fund and the future Federal obligation.

(4) The Board shall determine—

(A) the amount of the Federal payment for the next fiscal year for each Fund authorized to be appropriated under section 144(a); and

(B) on the basis of the most recent certification submitted by the enrolled actuary under paragraph (3), the amount of the District payment for the next fiscal year for each Fund, as described under subsection (b).

(b)(1)(A) For the District payment for each Fund for each fiscal year through fiscal year 2005, the Board shall determine—

(i) the unfunded actuarial liability for such Fund as of the end of fiscal year 2005;

(ii) the unfunded actuarial liability as of October 1, 1979, in future value as of the end of fiscal year 2005 for such Fund; and

(iii) the amount equal to the lesser of (I) the net pay-as-you-go cost, and (II) the sum of the net normal cost and the amount of annual interest (computed at the valuation rate used in the determination under subsection (a)(1)) on the unfunded actuarial liability, as computed under subsection (a)(3)(F).

(B) If the amount determined under subparagraph (A)(i) is equal to the amount determined under subparagraph (A)(ii), the amount of the District payment for the fiscal year for such Fund shall be the amount determined under subparagraph (A)(iii).

(C) If the amount determined under subparagraph (A)(i) is greater than the amount determined under subparagraph (A)(ii), the amount of the District payment for the fiscal year for such Fund shall be the amount equal to the sum of (i) the amount determined under subparagraph (A)(iii), and (ii) the amount of the level amortization payment that, if paid annually into the Fund through the next ten fiscal years (and accrued at the rate of interest used in the determination under subsection (a)(1), would reduce the amount determined under subparagraph (A)(i) to the amount determined under subparagraph (A)(ii) by the end of such ten fiscal years.

(D) If the amount determined under subparagraph (A)(ii) is greater than the amount determined under subparagraph (A)(i), the amount of the District payment for such Fund shall be the amount determined under subparagraph (A)(iii) reduced by the amount of the level amortization payment that, if paid annually for the next ten fiscal years, would have a future value as of the end of fiscal year 2005 equal to the difference between the amount determined under subparagraph (A)(ii) and the amount determined under subparagraph (A)(i).

(E) The amount of a District payment determined under subparagraph (C) may not exceed the amount determined under subparagraph (A)(iii) by more than 10 per centum of the net pay-as-you-go cost, in the case of a payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, or by more than 30 per centum of the net pay-as-you-go cost, in the case of a payment to the District of Columbia Teachers' Retirement Fund or to the District of Columbia Judges' Retirement Fund.

(F) Determinations under subparagraph (A) shall be made in accordance with generally accepted actuarial principles and practices.

(2) The amount of the District payment to each Fund for fiscal year 2006 and for each fiscal year thereafter shall be the sum of (A) the net normal cost, and (B) the amount of annual interest (computed at the valuation rate used in the determination pursuant to subsection (a)(1)) on the unfunded actuarial liability.

(c)(1) On the basis of the most recent determinations made under subsection (a)(4), the Board shall—

(A) not later than March 15 of each year through calendar year 2004, submit to the President and to the Congress a request for appropriation of the Federal payment for the next fiscal year for each Fund; and

(B) not less than thirty days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, certify to the Mayor and the Council the amount of the District payment for each Fund.

(2) The Mayor, in preparing each annual budget for the District of Columbia pursuant to section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, and the Council of the District of Columbia, in adopting each annual budget in accordance with section 446 of such Act, shall include in such budget not less than the full amount certified by the Board under paragraph (1)(B) as being the amount of the District payment for the next fiscal year for each Fund. The Mayor and the Council may comment and make recommendations concerning any such amount certified by the Board.

(d)(1) Whenever any change in benefits under a retirement program is made, the Mayor shall engage an enrolled actuary, who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A), to estimate the effect of such change in benefits over the next five fiscal years on (A) the net normal cost percentage with respect to the retirement program, (B) the accrued actuarial liability with respect to the retirement program, (C) the net pay-as-you-go cost with respect to the retirement program, and (D) the level of the District payments to the Fund. The Mayor shall transmit the estimates of the actuary under the preceding sentence to the Board and to the Speaker and the President pro tempore, and such change in benefits may not go into effect until the end of the thirty-day period beginning on the date such transmittals are completed.

(2) In the event a change in benefits under a retirement program is made that increases the present value of benefits payable from the Fund, a level amortization payment for a period not to exceed twenty-five years shall be paid by the District to the Fund such that the present value of the sum of such level amortization payments equals the increase in the present value of such benefits. Such payments shall be made in addition to any other payment to the Fund required to be made by the District, and such increase in present value of benefits payable from the Fund and such payments shall be disregarded in calculating the unfunded actuarial liability under subsection (b)(1)(A).

(e) Whenever the amount authorized to be appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund for any fiscal year under section 144 (a)(1) is reduced under section 145(c), the District shall, beginning with the next fiscal year, pay a level amortization payment to such Fund for a period not to exceed ten years such that the present value (determined as of the beginning of the fiscal year for which such authorization is reduced) of the sum of such level amortization payments equals the amount of such reduction. Such payments shall be made in addition to any other payment to such Fund required to be made by the District and shall be disregarded in calculating the unfunded actuarial liability under subsection (b)(1)(A).

(f) The Comptroller General of the United States shall have access to all books, accounts, records, reports, files and other papers necessary to carry out the responsibility of the Comptroller General under section 736 (a) of the District of Columbia Self-Government and Governmental Reorganization Act and under section 114(e) of this Act.

INFORMATION ABOUT RETIREMENT PROGRAMS

SEC. 143. Upon a request of the Board, the Mayor shall furnish to the Board such information with respect to retirement programs to which this title applies as the Board considers necessary to enable it to carry out its responsibilities under this title and to enable the enrolled actuary engaged pursuant to section 142(a) to carry out the responsibilities of the enrolled actuary under this title.

FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 144. (a) There is authorized to be appropriated from the revenues of the United States for fiscal year 1981 and for each fiscal years thereafter through fiscal year 2005—

(1) as the Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, the sum of $49,270,000, reduced by the amount of any reduction required under section 145(c);

(2) as the Federal payment to the District of Columbia Teachers' Retirement Fund, the sum of $15,510,000; and

(3) as the Federal payment to the District of Columbia Judges' Retirement Fund, the sum of $220,000.

(b)(1) Amounts appropriated as a Federal payment to a Fund established by this title shall not be subject to apportionment and shall be deposited in the appropriate Fund not more than thirty days after they are appropriated or thirty days after the beginning of the fiscal year for which they are appropriated, whichever is later.

(2) Amounts appropriated as a District of Columbia payment to a Fund established by this title shall be deposited in the appropriate Fund in equal quarterly installments, the first of which shall be made on the first day of the first quarter of the fiscal year, or on the first day thereafter that funds for such installment become available, and the remainder of which shall be made on the first day of succeeding quarters of the fiscal year, or on the first day thereafter that funds for such installments become available.

(c) If at any time the balance of any Fund established by this title is not sufficient to meet all obligations against such Fund, such Fund shall have a claim on the revenues of the District of Columbia to the extent necessary to meet such obligations.

(d) If, for any fiscal year, the Mayor and the Council do not carry out the requirements of subsections (c)(2), (d), and (e) of section 142 with respect to a Fund, no funds authorized to be appropriated for such Fund by this section shall be available for such Fund for such fiscal year.

(e)(1) In the year 2005, the Comptroller General shall determine whether the Federal share with respect to each Fund has been paid in full by payments made pursuant to appropriations authorized under subsection (a) of this section and, in the case of the District of Columbia Police Officers and Fire Fighters' Retirement Fund, by payments made or to be made under section 142(e).

(2) For the purposes of this subsection, the term "Federal share", with respect to a Fund, means the accrued unfunded liability as of October 1, 1979, for members retired prior to January 2, 1975, and beneficiaries of such members.

REDUCTION IN FEDERAL CONTRIBUTION FOR EXCESSIVE COST OF POLICE OFFICERS AND FIRE FIGHTERS' DISABILITY RETIREMENT

SEC. 145. (a) After January 1, and before March 1, of each year beginning with calendar year 1983 and ending with calendar year 2004, the enrolled actuary engaged pursuant to section 142 shall, with respect to the District of Columbia Police Officers and Fire Fighters' Retirement Fund—

(1) determine the estimated present value (as of the date of the determination) of the cost to the Fund of the future benefits

payable from such Fund for disability retirements under subsections (f)(1) and (g)(1) of the Policemen and Firemen's Retirement and Disability Act to those officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who first became such officers or members on or before the end of the ninety-day period beginning on the date of the enanctment of this Act and who were not retired on the first day of the preceding calendar year.

(2) determine the estimated present value (as of the date of the determination) of the cost to the Fund of the benefits referred to in paragraph (1) determined as if such officers and members retire or had retired under the provisions of subsection (f)(2) or (g)(5) of such Act, as in effect on the day after the end of the ninety-day period beginning on the date of the enactment of this Act, except that in making determinations under this paragraph, the enrolled actuary shall not take into account reductions pursuant to subsection (j)(3) of the Policemen and Firemen's Retirement and Disability Act; and

(3) state whether the ratio of the amount determined under paragraph (1) to the amount determined under paragraph (2) is greater than 1.02.

The enrolled actuary shall report the determinations and statement made under paragraphs (1) through (3) for any year to the Board and to the Comptroller General of the United States not later than March 1 of such year.

(b)(1) The Board and the Comptroller General shall each transmit a copy of each report by the enrolled actuary under subsection (a) to the Speaker, the President pro tempore, the Mayor, and the Council not later than March 31 of the year in which the report is made, and each shall submit comments on such report.

(2) The Comptroller General shall include in his comments on each such report transmitted under paragraph (1) a statement of whether the determinations and statements made by the enrolled actuary under subsection (a) were made in conformance with generally accepted actuarial practices and principles and whether such determinations and statement fairly present in all material respects the amounts described in paragraphs (1) and (2) of such subsection.

(c) Notwithstanding any other provision of this Act, with respect to the fiscal year commencing in any calendar year in which a report of the enrolled actuary under subsection (a), as transmitted to the Congress in accordance with subsection (b), includes a statement by the enrolled actuary under paragraph (3) of subsection (a) that the ratio of the estimates determined under paragraphs (1) and (2) of such subsection is greater than 1.02, the amount authorized by section 144(a)(1) to be appropriated to the Fund for such fiscal year shall be reduced. Such reduction shall be an amount equal to the product of the amount specified in such section and the ratio of the number of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who retired during the proceeding calendar year under subsections (f)(1) and (g)(1) of the Policemen and Firemen's Retirement and Disability Act to the number of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who first became such members prior to the end of the ninety-day period beginning on the date of the enactment of this Act and who retired, died, withdrew by taking out a lump-sum payment, or separated from active duty while eligible for a deferred annuity under the Policemen and Firemen's Retirement and Disability Act during such year.

(d)(1) Notwithstanding any provision of the Policemen and Firemen's Retirement and Disability Act or any other provision of this Act, in any case in which any officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia retires during calendar year 1979 or any subsequent calendar year through calendar year 2001 under subsection (f)(1) or (g)(1) of the Policemen and Firemen's Disability Act, the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with regulations which the Mayor shall promulgate, the percentage of impairment of such officer or member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board. In the case of such officer or member, such Board shall determine, within a reasonable time, the percentage of disability of such officer or member giving due regard to—

(A) the nature of the injury or disease;

(B) the percentage of impairment reported pursuant to the preceding sentence;

(C) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the officer or member immediately prior to such officer or member's retirement;

(D) the age and years of service of the officer or member; and

(E) any other factor or circumstance which may affect the capacity of the officer or member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

(2) The Police and Firemen's Relief Board, on or before January 31 of each calendar year from 1980 through 2002, shall make available to the Comptroller General and the enrolled actuary all determinations (including related documents and information) made during the preceding calendar year pursuant to paragraph (1) of this subsection in order to enable the Comptroller General and the enrolled actuary to make the determinations and statement required by this section.

CONFORMING AMENDMENTS

SEC. 146. (a)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-727), is repealed.

(2) Section 14 of such Act of August 7, 1946 (D.C. Code, sec. 31-735), is amended as follows:

(A) in the third sentence, by striikng out "The" and inserting in lieu thereof "Until such time as all amounts in the teachers' retirement and annuity fund have been expended or transferred to the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act, the"; and

(B) by striking out the fourth sentence.

(3) Section 15 of such Act of August 7, 1946 (D.C. Code, sec. 31-735), is repealed.

(b) The proviso in the fourth paragraph (relating to District government retirement and relief funds) under the heading "Compensation and Retirement Fund Expenses" in the Act of July 31, 1953 (D.C. Code, sec. 31-716a), is repealed.

(c)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved January 15, 1920 (D.C. Code, sec. 31-707), is amended by striking out the second and third sentences of the first paragraph.

(2) Section 14 of such Act of January 15, 1920 (D.C. Code, sec. 31-715), is amended by striking out the third and fourth sentences.

(3) Section 15 of such Act of January 15, 1920 (D.C. Code, sec. 31-716), is repealed.

PART D—REPORTING AND DISCLOSURE REQUIREMENTS

PERSONAL FINANCIAL DISCLOSURE BY BOARD MEMBERS

SEC. 161. (a) Each member of the Board shall, within ninety days of his selection as a member of the Board and not later than April 30 of each year thereafter, submit to the Mayor, the Council, the Speaker, and the President pro tempore, a personal financial disclosure statement with respect to the preceding calendar year. Such statement shall be in such form as the Council may by regulation require and shall contain such information with respect to the member's financial condition as the Council may by regulation require, including the following information:

(1) The amount and source of all income (as defined in section 61 of the Internal Revenue Code of 1954) received during the year.

(2) The identity and category of value of each liability owned, directly or indirectly, that exceeds $2,500 as of the last day of the year (excluding any mortgage that secures real property that is the principal residence of such member).

(3) The identity and category of value of any property held, directly or indirectly, in a trade or business or for investment or the production of income that has a fair market value of not less than $1,000 as of the last day of the year.

(4) The identity and category of value of any transaction, whether direct or indirect, in securities or commodities futures during the year in excess of $1,000 (excluding any gift to any tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1954), and the identity, date, and category of value of any purchase or safe, whether direct or indirect, of any interest in real or tangible personal property during the year the value of which exceeds $1,000 at the time of such purchase or sale (excluding any purchase or sale of any property that is the principal residence of such member or that is used as furnishings for such principal residence).

(5) The nature and extent of any interest during the year in any bank, insurance company, or other financial institution, or in any brokerage or other securities or investment company.

(6) The nature and extent of any employment during the year by any bank, insurance company, or other financial institution, or by any brokerage or other securities or investment company.

A member shall not be required to submit a personal financial disclosure statement to the Speaker and the President pro tempore for calendar year after calendar year 2003.

(b) For purposes of paragraphs (2), (3), and (4) of subsection (a), the member reporting need not specify the actual amount of value of each item required to be reported under such paragraphs, but shall indicate which of the following categories such amount or value is within:

(1) Not more than $5,000.

(2) Greater than $5,000 but not more than $15,000.

(3) Greater than $15,000 but not more than $50,000.

(4) Greater than $50,000 but not more than $100,000.

(5) Greater than $100,000.

ANNUAL REPORTS

SEC. 162. (a)(1)(A) The Board shall publish an annual report for each fiscal year (beginning with fiscal year 1980) with respect to each retirement program to which this title applies and with respect to the Fund for such retirement program. Such report shall be filed with the Mayor, the Council, the Speaker, and the President pro tempore in accordance with section 164(a) and shall be made available furnished to participants and beneficiaries in accordance with section 164(b).

(B) The annual report shall include the information described in subsections (b), (c), (d), and (e) and, when applicable, subsection (f), shall also include—

(i) the financial statement and opinion required by paragraph (3) of this subsection; and

(ii) the actuarial statement and opinion required by paragraph (4) of this subsection.

(2) If some or all of the information needed to enable the Board to comply with the requirements of this title is maintained by—

(A) an insurance carrier or other organization which provides some or all of the benefits under the retirement program, or holds assets of the Fund for such retirement program in a separate account;

(B) a bank or similar institution which holds some or all of the assets of the Fund in a common or collective trust or a separate trust, or custodial account; or

(C) the Mayor (or the Police and Firemen's Retirement and Relief Board, established pursuant to section 122 of the Act of September 3, 1974, in carrying out the Mayor's responsibilities under the Policemen and Firemen's Retirement and Disability Act);

such carrier, organization, bank, or institution, or the Mayor, shall transmit and certify the accuracy of such information to the Board within one hundred and twenty days after the end of the fiscal year (or such other date as may be prescribed under regulations of the Board).

(3)(A) Except as provided in subparagraph (C), the Board shall engage an independent qualified public accountant who shall conduct such examination of any financial statements of the Fund, and of other books and records of the Fund or the retirement program, as the accountant may deem necessary to enable the accountant to form an opinion as to whether the financial statements and schedules required to be included in the annual report by subsection (b) of this section are presented fairly in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Such examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the books and records of the Fund and the retirement program as are considered necessary by the independent qualified public accountant. The independent qualified public accountant shall also offer his opinion as to whether the separate schedules specified in subsection (b)(2) of this section and the summary material required under section 164(b)(2) present fairly, and in all material respects, the information contained therein when considered in conjunction with the financial statements taken as a whole. The opinion by the independent qualified public accountant shall be made a part of the annual report.

(B) In offering his opinion under this section, the accountant may rely on the correctness of any actuarial matter certified to by an enrolled actuary if he so states his reliance.

(C) The opinion required by subparagraph (A) need not be expressed as to any statements required by subsection (b)(2)(G) prepared by a bank or similar institution or insurance carrier regulated and supervised and subject to periodic examination by a State or Federal agency if such statements are certified by the bank, similar institution, or insurance carrier as accurate and are made a part of the annual report.

(4)(A) The Board shall engage an enrolled actuary who shall be responsible for the preparation of the materials comprising the actuarial statement required under subsection (d) of this section.

(B) The enrolled actuary shall utilize such assumptions and techniques as are necessary to enable him to form an opinion as to whether the contents of the matters reported under subsection (d) of this section—

(i) are in the aggregate reasonably related to the experience of the Fund and the retirement program and to reasonable expectations; and

(ii) represent his best estimate of anticipated experience under the Fund and the retirement program.

The opinion by the enrolled actuary shall be made with respect to, and shall be made a part of, each annual report.

(C) In making a certification under this section, the enrolled actuary may rely on the correctness of any accounting matter under subsection (b) as to which any qualified public accountant has expressed an opinion if he states his reliance.

(b)(1) An annual report under this section shall include a financial statement containing a statement of assets and liabilities, and a statement of changes in net assets available for benefits under the retirement program, which shall include details of revenues and expenses and other changes aggregated by general source and application. In the notes to financial statements, disclosures concerning the following items shall be considered by the accountant: A description of the retirement program, including any significant changes in the retirement program made during the period and the impact of such changes on benefits; the funding policy (including the policy with respect to prior service cost), and any changes in such policy during the year; a description of any significant changes in benefits made during the period; a description of material lease commitments, other commitments, and contingent liabilities; a description of agreements and transactions with persons known to be parties in interest; and any other matters necessary to fully and fairly present the financial statements of the Fund.

(2) The statement required under paragraph (1) shall have attached the following information in separate schedules:

(A) A statement of the assets and liabilities of the Fund, aggregated by categories and valued at their current value, and the same data displayed in comparative form for the end of the previous fiscal year.

(B) A statement of receipts in and disbursements from the Fund during the preceding twelve-month period, aggregated by general source and application.

(C) A schedule of all assets held for investment purposes, aggregated and identified by issuer, borrower, or lessor, or similar party to the transaction (including a notation as to whether such party is known to be a party in interest), maturity date, rate of interest, collateral, par or maturity value, cost, and current value.

(D) A schedule of each transaction involving a person known to be a party in interest and his relationship or that of any other party in interest to the Fund, a description of each asset to which the transaction relates; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(E) A schedule of all loans or fixed income obligations which were in default as of the close of the fiscal year or were classified during the year as uncollectable and the following information with respect to each loan on such schedule (including a notation as to whether parties involved are known to be parties in interest): The original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and other material terms), the amount of principal and interest overdue (if any) and an explanation thereof.

(F) A list of all leases which were in default or were classified during the year as uncollectable and the following information with respect to each lease on such list (including a notation as to whether parties involved are known to be parties in interest): The type of property leased (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the property); the identity of the lessor or lessee from or to whom the Fund is leasing; the relationship of such lessors and lessees, if any, to the Fund, the government of the District of Columbia, any employee organization, or any other party in interest; the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; the date the leased property was purchased and its cost; the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, expenses paid for the leased property during the reporting period, the net receipts from the lease, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default.

(G) The most recent annual statement of assets and liabilities of any common or collective trust maintained by a bank or similar institution in which some or all the assets of the Fund are held, of any separate account maintained by an insurance carrier in which some or all of the assets of the Fund are held, and of any separate trust maintained by a bank as trustee in which some or all of the assets of the Fund are held, and in the case of a separate account or a separate trust, such other information as may be required by the Board in order to comply with this subsection.

(H) A schedule of each reportable transaction, the name of each party to the transaction (except that, in the case of an acquisition or sale of a security on the market, the report need not identify the person from whom the security was acquired or to whom it was sold) and a description of each asset to which the transaction applies; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(3) For purposes of subparagraph (H) of paragraph (2), the term "reportable transaction" means a transaction to which the Fund is a party and which is—

(A) a transaction involving an amount in excess of 3 per centum of the current value of the assets of the Fund;

(B) any transaction (other than a transaction respecting a security) which is part of a series of transactions with or in conjunction with a person in a fiscal year, if the aggregate amount of such transactions exceed 3 per centum of the current value of the assets of the Fund;

(C) a transaction which is part of a series of transactions respecting one or more securities of the same issuer, if the aggregate amount of such transactions in the fiscal year exceeds 3 per centum of the current value of the assets of the Fund; or

(D) a transaction with or in conjunction with a person respecting a security, if any other transaction with or in conjunction with such person in the fiscal year respecting a security is required to be reported by reason of subparagraph (A).

(c) The Board shall furnish as a part of an annual report under this section the following information:

(1) The number of individuals covered by the retirement program.

(2) The name and address of each member of the Board.

(3) Except in the case of a person whose compensation is minimal (as determined under regulations of the Council, which regulations the Council shall initially promulgate within ninety days after the date of the enactment of this Act) and who performs solely ministerial duties (as determined under such regulations), the name of each person (including any consultant, broker, trustee, accountant, insurance carrier, actuary, administrator, investment counsel, or custodian who rendered services to the Board or who had transactions with the Board) who directly or indirectly received compensation from the Board during the preceding year for services rendered to the Board or the participants or beneficiaries of the retirement program for which a Fund was established, the amount of such compensation, the nature of his services, his relationship, if any, to the District of Columbia government or any employee organization, and any other officer, position or employment he holds with any party in interest.

(4) An explanation of the reason for any change in appointment of any accountant, insurance carrier, enrolled actuary, or investment counsel appointed by the Board.

(5) Such other financial and actuarial information as the Council may by regulation prescribe.

(d) An annual report under this section for a fiscal year shall include a complete actuarial statement applicable to the fiscal year which shall include the following information:

(1) The date of the actuarial valuation applicable to the fiscal year for which the report is filed.

(2) The date and amount of the payments to the Fund for the fiscal year for which the report is filed and contributions for prior fiscal years not previously reported, including payments by the participants, the United States, and the District of Columbia.

(3) The following information applicable to the fiscal year for which the report is filed:

(A) The amounts determined under section 142(a)(1).

(B) The accrued liabilities.

(C) An identification of benefits not included in the calculation.

(D) A statement of the other facts and actuarial assumptions and methods used to determine costs.

(E) A justification for any change in actuarial assumptions or cost methods.

(4) The number of participants and beneficiaries covered by the retirement program.

(5) A certification of the amount of the payments to the Fund necessary to reduce the accumulated funding deficiency to zero.

(6) A statement by the enrolled actuary of any change in actuarial assumptions made with respect to the Fund during the year.

(7) A statement by the enrolled actuary of the estimated current value of vested benefits under the retirement program.

(8) A statement by the enrolled actuary that to the best of his knowledge the report is complete and accurate.

(9) A copy of the opinion required by subsection (a)(4).

(10) Such other information regarding the retirement program as the Council may by regulation require.

(11) Such other information as the enrolled actuary may determine is necessary to fully and fairly disclose the actuarial position of the Fund.

The actuary shall make an actuarial valuation of the Fund for every third fiscal year, unless he determines that a more frequent valuation is necessary to support his opinion under subsection (a)(4) of this section.

(e) A report under this section for a fiscal year shall include a statement prepared by the Board of—

(1) the relative riskiness of the investments during the fiscal year of the assets of the Fund;

(2) a comparison of the average return on the investments of the Fund during the year with the average return on the investments of other public pension funds during the year that have comparable asset valuation; and

(3) the average daily balance of, and the average rate earned by, assets of the Fund in each of any time or demand deposits during the year.

(f) If some or all of the benefits under the retirement program are purchased from and guaranteed by an insurance company, insurance service, or other similar organization, a report under this section shall include a statement from such insurance company, service, or other similar organization covering the fiscal year and enumerating—

(1) the premium rate or subscription charge and the total premium or subscription charges paid to each such carrier, insurance service, or other similar organization and the approximate number of persons covered by each class of such benefits; and

(2) the total amount of premiums received, the approximate number of persons covered by each class of benefits, and the total claims paid by such company, service, or other organization; dividends or retroactive rate adjustments, commissions, and administrative service or other fees or other specific acquisition costs paid by such company, service, or other organization; any amounts held to provide benefits after retirement; the remainder of such premiums; and the names and addresses of the brokers, agents, or other persons to whom commissions or fees were paid, the amount paid to each, and for what purpose.

If any such company, service, or other organization does not maintain separate experience records covering the specific groups it serves, the report shall include, in lieu of the information required by paragraph (2), a statement as to the basis of its premium rate or subscription charge, the total amount of premiums or subscription charges received from the Fund, and a copy of the financial report of the company, service, or other organization and, if such company, service, or organization incurs specific costs in connection with the acquisition or retention of any particular Fund or Funds, a detailed statement of such costs.

RETIREMENT PROGRAM SUMMARY DESCRIPTION

SEC. 163. (a)(1) A summary description of each retirement program to which this Act applies shall be furnished to participants and beneficiaries as provided in section 164 (b). The summary description shall include the information specified in subsection (b) of this section, shall be written in a manner calculated to be understood by the average participant or beneficiary, and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the retirement program.

(2) A summary of any material modification in the terms of the retirement program and any change in the information required under subsection (b), written in a manner calculated to be understood by the average participant or beneficiary, shall be furnished in accordance with section 164(b)(1).

(b) Each summary description of a retirement program shall contain the following information: The name and type of administration of the retirement program; the name and address of the chairman of the Board, who shall be the agent of the Board for the service of legal process; the name, title, and address of each member of the Board; a description of the relevant provisions of applicable collective-bargaining agreements; the retirement program's requirements respecting eligibility for participation and benefits; a description of the provisions providing for nonforfeitable pension benefits; circumstances which may result in disqualification, ineligibility, or denial or loss of benefits; the identity of any organization through which benefits are provided; the procedures to be followed in presenting claims for benefits under the retirement program; and the remedies available under the retirement program for the redress of claims that are denied in whole or in part.

FILING REPORTS AND FURNISHING INFORMATION TO PARTICIPANTS

SEC. 164. (a)(1) The Board shall file with the Mayor, the Council, the Speaker, and the President pro tempore—

(A) the annual reports for a fiscal year within two hundred and ten days after the end of such year;

(B) a copy of each summary description of a retirement program within one year after the date of the enactment of this Act; and

(C) a revised summary description of a retirement program, incorporating any material modification in the terms of the retirement program, within sixty days after such modification is adopted or occurs.

The Mayor shall make copies of such retirement program descriptions and annual reports available for public inspection in an appropriate location. The Board shall also furnish to the Mayor, the Council, the Speaker, and the President pro tempore, upon request, any documents relating to the retirement program or the Fund, including any bargaining agreement, trust agreement, contract, or other instrument under which the retirement program or Fund is operated.

(2)(A) The Mayor or the Council may reject any filing under this section within thirty days of such filing—

(i) upon determining that such filing is incomplete for purposes of this part; or

(ii) upon determining that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If the Mayor or the Council rejects a filing of a report under subparagraph (A), and if a revised filing satisfactory to the Mayor or the Council is not submitted within forty-five days after the determination under subparagraph (A) to reject the filing is made, and if the Mayor or the Council considers it in the best interest of the participants, then the Mayor or the Council may take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

(iii) Bring a civil action for such legal or equitable relief as may be appropriate to enforce the provisions of this title.

The Board shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund are necessary for such audit.

(3)(A) Either House of Congress may reject any filing under this section within thirty days of such filing by adopting a resolution stating that such House has determined—

(i) that such filing is incomplete for purposes of this part; or

(ii) that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If either House of Congress rejects a report under subparagraph (A) and if either a revised filing is not submitted within forty-five days after adoption of the resolution under subparagraph (A) rejecting the initial filing or such revised filing is rejected by either House of Congress by adoption of a resolution within thirty days after submission of the revised filing, then either House of Congress may, if it deems it in the best interests of the participants, take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund and the retirement program are necessary for performing such audit or preparing such statement.

(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal payment may be paid to the Fund until such time as an acceptable filing is made. For purposes of this subparagraph, a filing is unacceptable if, within thirty days of its submission, either House of Congress adopts a resolution disapproving such filing.

(b) Publication of the summary retirement program descriptions and annual reports shall be made to participants and beneficiaries as follows:

(1) The Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the summary retirement program description and all modifications and changes referred to in section 163(a) within ninety days after he becomes a participant or in the case of a beneficiary, within ninety days after he first receives benefits. The Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, every fifth year an updated summary retirement program description described in section 163 which integrates all retirement program amendments made within such five-year period, except that in a case where no amendments have been made to a retirement program during such five-year period this sentence shall not apply. Notwithstanding the foregoing sentence, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, the summary retirement program description described in section 163 every tenth year. If there is a modification or change described in section 163(a), a summary description of such modification or change shall be furnished to each participant and to each beneficiary who is receiving benefits under the retirement program not later than two hundred and ten days after the end of the fiscal year in which the change is adopted.

(2) The Board shall make copies of the latest annual report and of any bargaining agreement, trust agreement, contract, or other instruments under which the retirement program or the Fund is operated available for examination by any participant or beneficiary in the principal office of the Board and in such other places as may be necessary to make available all pertinent information to all participants (including such places as the Council may by regulation prescribe).

(3) Within two hundred and ten days after the close of the fiscal year, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the statements and schedules described in subparagraphs (A) and (B) of section 162(b)(2) for such fiscal year and such other material as is necessary to fairly summarize the latest annual report.

(4) The Board shall, upon written request of any participant or beneficiary, furnish a copy of the latest updated summary retirement program description, the latest annual report, and any bargaining agreement, trust agreement, contract, or other instruments under which the retirement program or Fund is operated. The Board may make a reasonable charge to cover the cost of furnishing such copies. The Council may by regulation prescribe the maximum amount that will constitute a reasonable charge under the preceding sentence.

(c) The Council may by regulation require that the Board furnish to each participant and to each beneficiary receiving benefits under a retirement program a statement of the rights of participants and beneficiaries under this title.

REPORTING OF PARTICIPANTS' BENEFIT RIGHTS

SEC. 165. (a) The Board shall furnish to any participant or beneficiary who so requests in writing, a statement indicating, on the basis of the latest available information—

(1) the total benefits accrued, and

(2) the nonforfeitable retirement benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable.

(b) A participant or beneficiary is not entitled to receive more than one report under subsection (a) during any twelve-month period.

PUBLIC INFORMATION

SEC. 166. (a) Except as provided in subsection (b), the contents of the descriptions, annual reports, statements, and other documents filed with the Mayor, the Council, the Speaker, and the President pro tempore shall each make such documents available for inspection in an appropriate location. The Mayor, the Council, the Speaker, and the President pro tempore may use the information and data in such documents for statistical and research purposes and may compile and publish such studies, analyses, reports, and surveys based thereon as may be considered appropriate.

(b) Information described in section 165(a) with respect to a participant or beneficiary of a retirement program may be disclosed only to the extent that information respecting that participant's or beneficiary's benefits under title II of the Social Security Act may be disclosed under such Act.

(c) Except to the extent that information which is protected from public disclosure under subsection (b), or which relates to personnel matters the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, is involved, all meetings of the Board shall be open to the public.

RETENTION OF RECORDS

SEC. 167. The Board shall maintain records on the matters required to be disclosed by this title which will provide in sufficient detail the necessary basic information and data from which the required documents may be verified, explained, or clarified, and checked for accuracy and completeness, shall include vouchers, worksheets, receipts, and applicable resolutions in such records, and shall keep such records available for examination for a period of not less than six years after the filing date of the documents based on the information which they contain. Except to the extent that information is involved which is protected from public disclosure under section 166(b), all such records shall be available for inspection by the public.

ADDITIONAL INFORMATION

SEC. 168. (a) In addition to the information specifically required to be furnished by this part, the Board shall furnish promptly such additional information as the Mayor, the Council, the Speaker, or the President pro tempore may request.

(b) The Board shall, at regular intervals to be determined by the Board, compile and publish all regulations then in effect which were issued by the Board or the Council under this title.

CRIMINAL PENALTIES

SEC. 169. Whoever willfully violates any provision of this part (other than sections 165 and 168), or any regulation or order issued under any such provision, shall be fined not more than $5,000 or imprisoned not more than one year, or both, except that in the case of such a violation by a person not an individual, such person shall be fined not more than $100,000.

PART E—FIDUCIARY RESPONSIBILITY; CIVIL SANCTIONS

FIDUCIARY RESPONSIBILITIES

SEC. 181. (a)(1) The Board and each member of the Board shall discharge responsibilities with respect to a Fund as a fiduciary with respect to such Fund. The Board may designate one or more other persons who exercise responsibilities with respect to a Fund to exercise such responsibilities as a fiduciary with respect to such Fund. The Board shall retain such fiduciary responsibility for the exercise of careful, skillful, prudent, and diligent oversight of any person so designated as would be exercised by a prudent individual acting in a like capacity and familiar with such matters under like circumstances.

(2) A fiduciary shall discharge his duties with respect to a Fund solely in the interest of the participants and beneficiaries and—

(A) for the exclusive purpose of providing benefits to participants and their beneficiaries;

(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying the investments of the Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(D) in accordance with the provisions of law, documents, and instruments governing the retirement program to the extent that such documents and instruments are consistent with the provisions of this title.

(b) In addition to any liability which he may have under any other provision of this part, a fiduciary with respect to a Fund shall be liable for a breach of fiduciary responsibility of another fiduciary with respect to the same Fund—

(1) if he knowingly participates, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is a breach of fiduciary responsibility;

(2) if, by his failure to comply with subsection (a)(2) in the administration of his specific responsibilities which give rise to his status as a fiduciary, he has enabled such other fiduciary to commit a breach of fiduciary responsibility; or

(3) if he has knowledge of a breach of fiduciary responsibility by such other fiduciary, unless he makes reasonable efforts under the circumstances to remedy the breach.

(c) Except as provided in subsection (f), a fiduciary with respect to a Fund shall not cause the Fund to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—

(1) sale or exchange, or leasing, of any property between the Fund and a party in interest;

(2) lending of money or other extension of credit between the Fund and a party in interest;

(3) furnishing of goods, services, or facilities between the Fund and a party in interest; or

(4) transfer to, or use by or for the benefit of, a party in interest, of any assets of the Fund.

(d) A fiduciary with respect to a Fund shall not—

(1) deal with the assets of the Fund in his own interest or for his own account;

(2) in his individual or in any other capacity act in any transaction involving the Fund on behalf of a party or represent a party whose interests are adverse to the interests of the Fund or the interests of its participants or beneficiaries; or

(3) receive any consideration for his own personal account from any party dealing with such Fund in connection with a transaction involving the assets of the Fund.

(e) A transfer of real or personal property by a party in interest to a Fund shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the Fund assumes or if it is subject to a mortgage or similar lien which a party in interest placed on the property within the ten-year period ending on the date of the transfer.

(f) The prohibitions provided in subsection (c) shall not apply to any of the following transactions:

(1) Contracting or making reasonable arrangement with a party in interest for office space, or legal, accounting, or other services necessary for the establishment or operation of the Fund, if no more than reasonable compensation is paid therefor.

(2) The investment of all or part of a Fund's assets in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a State, if such bank or other institution is a fiduciary of such Fund and if such investment is expressly authorized by regulations of the Board or by a fiduciary (other than such bank or institution or affiliate thereof) who is expressly empowered by the Board to make such investment.

(3) The providing of any ancillary service by a bank or similar financial institution supervised by the United States or a State if such bank or other institution is a fiduciary of such Fund and if—

(A) such bank or similar financial institution has adopted adequate internal safeguards which assure that the providing of such ancillary service is consistent with sound banking and financial practice, as determined by Federal or State supervisory authority, and

(B) the extent to which such ancillary service is provided is subject to specific guidelines issued by such bank or similar financial institution (as determined by the Mayor after consultation with Federal and State supervisory authority), and adherence to such guidelines would reasonably preclude such bank or similar financial institution from providing such ancillary service (i) in an excessive or unreasonable manner, and (ii) in a manner that would be inconsistent with the best interests of participants and beneficiaries of the retirement program.

Such ancillary services shall not be provided at more than reasonable compensation.

(4) The exercise of a privilege to convert securities, to the extent provided in regulations of the Council, but only if the Fund receives no less than adequate consideration pursuant to such conversion.

(5) Any transaction between a Fund and a common or collective trust fund or pooled investment fund maintained by a party in interest which is a bank or trust company supervised by a State or Federal agency, or a pooled investment fund of an insurance company qualified to do business in a State, if—

(A) the transaction is a sale or purchase of an interest in the Fund;

(B) the bank, trust company, or insurance company receives not more than reasonable compensation; and

(C) such transaction is expressly permitted by the Board, or by a fiduciary (other than the bank, trust company, insurance company, or an affiliate thereof) who has authority to manage and control the assets of the Fund.

(g) Nothing in subsection (c) shall be construed to prohibit any fiduciary from—

(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the retirement program, so long as the benefit is computed and paid on a basis which is consistent with the terms of the retirement program as applied to all other participants and beneficiaries;

(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with respect to the Fund; or

(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

LIABILITY FOR BREACH OF FIDUCIARY DUTY

SEC. 182. (a) Any person who is a fiduciary with respect to a Fund who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to such Fund any losses to the Fund resulting from each such breach and to restore to such Fund any profits of such fiduciary which have been made through the use of assets of the Fund by the fiduciary and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary.

(b) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he became a fiduciary or after he ceased to be a fiduciary.

EXCULPATORY PROVISIONS; INSURANCE

SEC. 183. (a) Any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this part shall be void as against public policy.

(b) Nothing in this subpart shall preclude—

(1) the Board from purchasing insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if such insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary;

(2) a fiduciary from purchasing insurance to cover liability under this part from and for his own account; or

(3) an employee organization from purchasing insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with regard to the Fund from which the annuities and other retirement and disability benefits of the members of such employee organization are paid.

PROHIBITION AGAINST CERTAIN PERSONS HOLDING CERTAIN POSITIONS

SEC. 184. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, fraud, grand larceny, burglary, arson, a felony violation of Federal or State law involving substances defined in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, murder, rape, kidnapping, perjury, assault with intent to kill, any crime described in section 9(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(a)(1)), a violation of any provision of this Act, a violation of section 302 of the Labor-Management Relations Act, 1947 (29 U.S.C. 186), a violation of chapter 63 of title 18, United States Code, a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code, a violation of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401), or conspiracy to commit any such crime or attempt to commit any such crime, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

(1) as a fiduciary, investment counsel, agent, or employee of any Fund established by this title; or

(2) as a consultant to any Fund established by this title;

during or for five years after such conviction or after the end of such imprisonment, whichever is the later, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in paragraph (1) or (2) would not be contrary to the purposes of this title. Prior to making any such determination the Board of Parole shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board of Parole's determination in any such proceeding shall be final. No person shall knowingly permit any other person to serve in any capacity referred to in paragraph (1) or (2) in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee, of any Fund established by this title, or as a consultant to any Fund established by this title, without a notice, hearing, and determination by such Board of Parole that such service would be inconsistent with the intention of this section.

(b) Whoever willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) For the purposes of this section:

(1) A person shall be deemed to have been "convicted" and to be under the disability of "conviction" from the date of entry of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event.

(2) The term "consultant" means any person who, for compensation, advises or represents a Fund or who provides other assistance to such Fund concerning the operation of such Fund.

(3) A period of parole shall not be considered as part of a period of imprisonment.

BONDING

SEC. 185. (a)(1) Each fiduciary of a Fund established by this title and each person who handles funds or other property of such a Fund (hereinafter in this section referred to as "Fund official") shall be bonded as provided in this section, except that no bond shall be required of a fiduciary (or of any director, officer, or employee of such fiduciary) if such fiduciary—

(A) is a corporation organized and doing business under the laws of the United States or of any State;

(B) is authorized under such laws to exercise trust powers or to conduct an insurance business;

(C) is subject to supervision or examination by Federal or State authority; and

(D) has at all times a combined capital and surplus in excess of such a minimum amount as may be established by regulations issued by the Council, which amount shall be at least $1,000,000.

Subparagraph (D) shall apply to a bank or other financial institution which is authorized to exercise trust powers and the deposits of which are not insured by the Federal Deposit Insurance Corporation only if such bank or institution meets bonding or similar requirements under State law which the Council determines are at least equivalent to those imposed on banks by Federal law.

(2) (A) The amount of such bond shall be the lesser of 10 per centum of the amount of the funds handled by such fiduciary and $500,000, except that the amount of such bond shall be at least $1,000.

(B) The Mayor, after notice and opportunity for hearing to such fiduciary and all other parties in interest to such Fund, may waive the $500,000 limit.

(C) The amount of such bond shall be set at the beginning of each fiscal year.

(3) For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by the predecessor or predecessors, if any, during the preceding reporting year, or if the Fund has no preceding reporting year under this title, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations to be prescribed by the Council.

(4) Such bond shall provide protection to the Fund against loss by reason of acts of fraud or dishonesty on the part of the Fund official, directly or through connivance with others.

(5) Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to sections 6 through 13 of title 6, United States Code. Any bond shall be in a form or of a type approved by the Council, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

(b) It shall be unlawful for any Fund official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any Fund without being bonded as required by subsection (a), and it shall be unlawful for any Fund official or any other person having authority to direct the performance of such functions to permit such functions, or any of them, to be performed by any Fund official with respect to whom the requirements of subsection (a) have not been met.

(c) It shall be unlawful for any person to procure any bond required by subsection (a) from any surety or other company or through any agent or broker in whose business operations the Fund or any party in interest in the Fund has any control or significant financial interest, direct or indirect.

(d) Nothing in any other provision of law shall require any person required to be bonded as provided in subsection (a) because he handles funds or other property of a Fund to be bonded insofar as the handling by such person of the funds or other property of such Fund is concerned.

(e) The Council shall prescribe such regulations as may be necessary to carry out the provisions of this section.

LIMITATION ON ACTIONS

SEC. 186. (a) No action may be commenced under this title with respect to a fiduciary's breach of any responsibility, duty, or obligation under this part, or with respect to a violation of this part, after the earlier of—

(1) six years after (A) the date of the last action which constituted a part of the breach or violation, or (B) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

(2) three years after the earliest date (A) on which the plaintiff had actual knowledge of the breach or violation, or (B) on which a report from which he could reasonably be expected to have obtained knowledge of such breach or violation was filed with the Mayor, the Council, the Speaker, or the President pro tempore under this title;

except that in the case of fraud or concealment, such an action may be commenced not later than six years after the date of discovery of such breach or violation.

CIVIL ENFORCEMENT

SEC. 187. (a) A civil action may be brought—

(1) by a participant or beneficiary—

(A) for the relief provided for in subsection (b) of this section, or

(B) to recover benefits due to him under the terms of his retirement program, to enforce his rights under the terms of the retirement program, or to clarify his rights to future benefits under the terms of the retirement program;

(2) by a participant or beneficiary or the District of Columbia for appropriate relief under section 182; or

(3) by a participant or beneficiary or the District of Columbia (A) to enjoin any act or practice which violates any provision of this title or the terms of a retirement program, or (B) to obtain other appropriate equitable relief (i) to redress any such violation, or (ii) to enforce any provision of this title or the terms of a retirement program.

(b) If the Board fails or refuses to comply with a request for any information which the Board is required by this title to furnish to a participant or beneficiary (unless such failure or refusal results from matters reasonably beyond the control of the Board) by mailing the information requested to the last known address of the requesting participant or beneficiary within thirty days after such request, then the Board may, in the court's discretion, be liable to such participant or beneficiary in an amount of up to $100 a day from the date of such failure or refusal, and the court may order the Board to provide the required information and may in its discretion order such other relief as it considers proper.

(c) The Board may sue and be sued under this title as an entity. Service of summons, subpena, or other legal process of a court upon the chairman of the Board in his capacity as such shall constitute service upon the Board.

(d) In any action under this title by a participant, beneficiary, or fiduciary, the court in its discretion may allow a reasonable attorney's fee and costs of action to either party.

CLAIMS PROCEDURE

SEC. 188. In accordance with regulations of the Council, the Mayor shall provide to any participant or beneficiary who has a claim for benefits under a retirement program denied—

(1) adequate written notice of such denial, setting forth the specific reasons for such denial in a manner calculated to be understood by such participant or beneficiary; and

(2) a reasonable opportunity for a full and fair review of the decision denying such claim.

TITLE II— CHANGES IN RETIREMENT BENEFITS

PART A—POLICE OFFICERS AND FIRE FIGHTER'S RETIREMENT BENEFITS

SALARY BASE PERIOD FOR COMPUTATION OF ANNUITY

SEC. 201. Paragraph (17) of subsection (a) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-521 (17)) is amended—

(1) by striking out "twelve consecutive months of police or fire service," and inserting in lieu thereof "thirty-six consecutive months of police or fire service in the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, or over any twelve consecutive months of police or fire service in the case of any other member,"; and

(2) by inserting "or thirty-six consecutive months' as the case may be," immediately after "twelve consecutive months" the second place it appears.

CREDITABLE SERVICE FOR FULL-TIME OFFICIALS OF EMPLOYEE ORGANIZATIONS

SEC. 202. (a) Subsection (c) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-523) is amended by redesignating paragraphs (6) and (7) of such subsection as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) (A) Any period of time during which a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia is on approved leave without pay to serve as a full-time officer or employee of a labor organization shall be considered to be police or fire service for purposes of this section if such member files an election in accordance with subparagraph (B) and makes payments as described in subparagraph (C). The basic salary in effect at any time for the grade in which a member was serving at the time he entered on approved leave described in the preceding sentence shall be considered to be the basic salary in effect for such member for purposes of this section if the period of time when such member is on approved leave is considered to be police or fire service under this paragraph.

"(B) To be eligible to have any period of approved leave described in subparagraph (A) considered to be police or fire service for purposes of this section, a member described in such subparagraph must, not later than the end of the sixty-day period commencing on the day such member enters on such approved leave or the effective date of this paragraph, whichever occurs later, file an election with the Mayor to have such period of approved leave considered to be police or fire service for purposes of this section.

"(C) (i) To have any period of approved leave described in subparagraph (A) occurring after the effective date of this section considered to be police or fire service, a member described in such subparagraph must each month deposit with the Custodian of Retirement Funds (as defined in section 102 (c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122 (a) of such Act a sum equal to one-twelfth the annual new-entrant normal cost of the annuity of a member receiving the basic salary in effect during such month for the grade in which such member was serving at the time such member entered on such leave

"(ii) To have any period of approved leave described in subparagraph (A) which occurred before the effective date of this section considered to be police or fire service, a member described in such subparagraph must deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act, in a manner to be determined by the Mayor, a sum equal to the new-entrant normal cost of the annuity of a member receiving the basic salary in effect during the period of such leave for the grade in which such member was serving at the time such member entered on such leave.

"(iii) The Mayor shall make an annual determination of the new-entrant normal cost for purposes of clauses (i) and (ii) according to information supplied by the actuary retained pursuant to section 142 of the District of Columbia Retirement Reform Act.

"(D) For purposes of this paragraph, the term 'employee organization' means any organization of any kind, or any agency or employer representation committee or plan, in which members of officers of the Metropolitan Police force or the Fire Department of the District of Columbia participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

REQUIREMENTS FOR OPTIONAL RETIREMENT

SEC. 203. (a) Subsection (h)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–528(1)) is amended—

(1) by striking out "who completes twenty years of police or fire service" and inserting in lieu thereof "who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and who completes twenty-five years of police or fire service and attains the age of fifty years and any other member (other than a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first becomes such a member after the end of such ninety-day period) who completes twenty years of police or fire service."; and

(2) by striking out "twenty years: *Provided*" and inserting in lieu thereof "(A) twenty-five years, in the case of a member who becomes a member after the end of such ninety-day period, or (B) twenty years, in the case of any other member: *Provided*".

(b)(1) Paragraph (2) of subsection (h) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–528) is amended by striking out "in subsection (h)" and inserting in lieu there "under".

(2) Paragraph (3) of such subsection is amended by striking out "of this subsection (h)".

DISABILITY RETIREMENT

SEC. 204. (a) Subsection (g) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–527) is amended—

(1) in paragraph (2), by striking out "In any case in which the proximate cause of an injury incurred or disease contracted by a member" and inserting in lieu thereof "In any case involving a member who is an officer or member of the United States Park force, the Executive Protective Service, or the United States Secret Service Division, in which the proximate cause of an injury incurred or disease contracted by the member"; and

(2) by adding at the end thereof the following new paragraph;

"(4) A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia may not retire and receive an annuity under this subsection on the basis of the aggravation in the performance of duty of an injury incurred or a disease contracted in the performance of duty unless—

"(A) in the case of the aggravation of a disease, the disease was reported to the Board of Police and Fire Surgeons within thirty days after the disease was first diagnosed; or

"(B) in the case of the aggravation of an injury, the injury was reported to the Board of Police and Fire Surgeons within seven days after the injury was incurred or, if the member was unable (as determined by such Board) as a result of the injury to report the injury within such seven-day period, within seven days after the member became able (as determined by such Board) to report the injury.

The burden of establishing inability to report an injury in accordance with subparagraph (B) within seven days after such injury was incurred and of establishing that such injury was reported within seven days after the end of such inability shall be on the member claiming such inability. Any report under this paragraph shall include adequate medical documentation. Nothing in this paragraph shall be deemed to alter or affect any administrative regulation or requirement of the Metropolitan Police force or the Fire Department of the District of Columbia with respect to the reporting of an injury incurred or aggravated, or any disease contracted or aggravated, in the performance of duty.".

(b)(1) Subsection (f) of such Act (D.C. Code, sec. 4–526) is amended—

(A) by striking out "'Whenever" and inserting in lieu thereof "(1) Except as provided in paragraph (2), whenever"; and

(B) by adding at the end thereof the following new paragraph.

"(2) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act completes five years of police or fire service and is found by the Mayor to have become disabled due to injury received or disease contracted other than in the performance of duty, which disability precludes further service with his department, such member shall be retired on an annuity which shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with subsection (g)(5)(B)(ii) of this section, except that such annuity shall not be less than 30 per centum of his basic salary at the time of retirement.".

(2) Subsection (g) of such Act, as amended by subsection (a) of this section, is further amended—

(A) in paragraph (1), by striking out "Whenever" and inserting in lieu thereof "Except as provided in paragraph (5), whenever"; and

(B) by adding at the end thereof the following new paragraph:

"(5)(A) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty at any time after appointment and such injury or disease or aggravation permanently disables him for the performance of duty, he shall upon retirement for such disability, receive an annuity computed in accordance with subparagraph (B).

"(B)(i) In the case of any member who retires under this paragraph or paragraph (2) of subsection (f), the Board of Police and Fire Surgeons shall determine. within a reasonable time and in accordance with regulations which the Mayor shall promulgate, the percentage of impairment for such member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board.

"(ii) In the case of any member described in clause (i), the Police and Firemen's Retirement and Relief Board shall determine within a reasonable time the percentage of disability for such member giving due regard to—

"(I) the nature of the injury or disease,

"(II) the percentage of impairment reported pursuant to clause (i),

"(III) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the member immediately prior to his retirement,

"(IV) the age and years of service of the member, and

"(V) any other factors or circumstances which may affect the capacity of the member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

"(iii) The percentage of impairment or the percentage of disability for a member to whom this paragraph applies may be redetermined at any time prior to the time such member reaches the age of fifty and his annuity shall be adjusted accordingly.

"(iv) The annuity of a member who is retired under this paragraph shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with clause (ii), except that such annuity shall not be less than 40 per centum of his basic salary at the time of retirement.

"(v) For purposes of this paragraph—

"(I) the term 'impairment' means any anatomic or functional abnormality or loss existing after maximal medical rehabilitation has been achieved; and

"(II) the term 'disability' means any actual or presumed reduction in or absence of ability to engage in gainful activity which is caused, in whole or in part, by an impairment."

(c) The amendment made by paragraph (1) of subsection (a) shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who apply for disability retirement under subsection (g) of the Policemen and Firemen's Retirement and Disability Act prior to the end of the ninety-day period beginning on the date of the enactment of this Act. The amendment made by paragraph (2) of subsection (a) shall not apply with respect to injuries incurred or diseases first diagnosed prior to the end of such ninety-day period.

RECOVERY FROM DISABILITY

SEC. 205. (a) (1) Subsection (j) (1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–530(1)) is amended in the first sentence by striking out "shall cease" and all that follows in such sentence and inserting in lieu thereof "shall cease—

"(A) upon reemployment in the department from which he was retired,

"(B) one year from the date of the medical examination showing such recovery,

"(C) one year from the date of the determination that he is so restored, or

"(D) in the case of an annuitant who was an officer or member of the Metropolitan Police Force or the Fire Department of the District of Columbia and who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, upon a refusal by such annuitant to accept an offer of reemployment in the department from which he was retired at the same grade or rank as he held at the time of his retirement, whichever is earliest.".

(2) (A) Such subsection (j) (1) is amended in the second sentence by striking out "in each of two succeeding calendar years" and inserting in lieu thereof ", in each of two succeeding calendar years in the case of an annuitant who was an officer or member of the United States Park Police force, Executive Protection Service, or the United States Secret Service Division, or in any calendar year in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,".

(B) Subsection (j) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3) (A) If any annuitant who is retired under subsection (f) or (g), who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, and who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, receives, directly or indirectly, income from wages or self-employment, or both, in any calendar year after the calendar year in which he retired—

"(i) in an amount in excess of the difference between 70 per centum of the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be reduced by 50 cents for each $1.00 of such income received during such year in excess of such difference; and

"(ii) in an amount in excess of the difference between the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be further reduced by 20 cents for each $1.00 of such income received during such year in excess of such difference.

"(B) For the purposes of subparagraph (A), the term 'current earnings limitation', with respect to an annuitant, means the greater of—

"(i) the current annual salary for the position which such annuitant held immediately prior to the retirement of such annuitant; or

"(ii) the current entry level salary for active officers and members, divided by .7.

"(C) The reductions provided for in subparagraph (A) shall be made as follows:

"(i) Such reductions shall be pro rated over a period of twelve consecutive months, with equal amounts withheld from each payment of annuity during such twelve-month period.

"(ii) The twelve-month period during which such reduction is made shall begin as soon after the end of the calendar year involved as is administratively practicable (as determined in accordance with regulations which the Mayor of the District of Columbia shall promulgate).

"(D) If the Mayor of the District of Columbia determines the level of income of an annuitant whose annuity would otherwise be reduced in accordance with subparagraph (A) has decreased significantly (other than in accordance with normal income fluctuations for such annuitant) during the period in which such reduction would occur, the Mayor may authorize the withholding during such period, or any portion thereof, of such lesser amount than the amount prescribed in such subparagraph as the Mayor considers appropriate or the Mayor may waive the requirements of subparagraph (A) if he finds that circumstances justify such waiver.

"(E) (i) Any annuitant who is retired under subsection (f) or (g) and who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall, at such times as the Mayor of the District of Columbia shall by regulation prescribe, submit to the Mayor a notarized statement containing such information as the Mayor shall by regulation require with respect to the income received by such annuitant from wages or self-employment, or both. After examining such statement, the Mayor may require such annuitant to submit to the Mayor a further notarized statement containing such additional information with respect to the income received by such annuitant from wages or self-employment, or both, as the Mayor deems appropriate.

"(ii) Any annuitant described in clause (i) who willfully furnishes materially false information with respect to his income in any statement required to be submitted under such clause shall forfeit all rights to his disability annuity. Any such annuitant who refuses or otherwise willfully fails to timely submit such statement as required by this subsection, payment of the annuity to such annuitant shall cease and such annuitant shall not be eligible to receive such annuity or part thereof for the period beginning on the date after the final day for timely filing of such statement and ending on the date on which the Mayor receives such statement. Nothing in this clause shall affect any rights to a survivor's annuity under subsection (k) based upon the service of such annuitant.".

(b) Subsection (m) (2) of such Act (D.C. Code, sec. 4–533(2)) is amended—

(1) by inserting "(A)" before "If a member";

(2) by striking out the last sentence of such subsection and adding after "is based." the following: "The Commissioner shall not require employment questionnaires under subsection (j) (3) (C) or the medical examination of such member under subparagraph (B) after such member reaches the age of fifty."; and

(3) by adding at the end of such subsection the following new subparagraph:

"(B) The Mayor shall, by regulation, require any annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who retired before, on, or after the date of the enactment of the District of Columbia Retirement Reform Act under subsection (f) or (g) of this section to undergo, during each twelve-month period following the effective date of this subparagraph, at least one medical examination of the disability upon which the annuitant's retirement under subsection (f) or (g) is based. No such annuitant shall be required under such regulations to undergo a medical examination during any such twelve-month period during which the annuitant was required to undergo a medical examination under this subsection in connection with such annuitant's employment. Such annual examination shall be carried out by the Board of Police and Fire Surgeons or by a physician designated by the Board.

"(2) Such regulations shall further provide for notification by the Board of Police and Fire Surgeons to each such annuitant as to the time and place for such examination and the consequences of failure to appear and submit to such examination.

"(3) In any case in which the requirement to undergo a medical examination under this section would impose on an annuitant an undue hardship because of the physical or mental condition of such annuitant, the Mayor, by regulation, shall provide other means sufficient to determine the continuance of the disability on which such annuitant's retirement under subsection (f) or (g) is based.

"(4) Such regulations shall further provide that, in any case involving any such member so retired who refuses or otherwise fails to undergo any medical exam required by this section, payment of the annuity to such member shall cease and such member shall not be eligible to receive such annuity or any part thereof for any period commencing on the day next following the day on which such member was required to undergo such examination, and ending on the date on which such member undergoes such examination. Nothing in this paragraph shall be construed as affecting any rights to a survivor's annuity under subsection (k) based upon the service of such member.".

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act. The amendment made by paragraph (2) (B) of subsection (a) shall apply with respect to income from wages or self-employment, or both, received directly or indirectly during calendar year 1979 or the calendar year after the year in which the member retires, whichever is later, and any calendar year thereafter.

SURVIVORS' ANNUITIES

SEC. 206. (a) (1) Subsection (k) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531) is amended—

(A) in paragraph (2)—

(i) by inserting "(A)" immediately after "40 per centum" the second place it appears, and

(ii) by striking out "computed," and inserting in lieu thereof "computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or (B) of the adjusted average pay of such former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia;"; and

(B) by amending paragraph (3) to read as follows:

"(3) Each surviving child or student-child of any member who dies before retirement, or of any former member who dies after retirement, shall be entitled to receive an annuity equal to the smallest of—

"(A) in the case of a member or former member who is survived by a wife or husband—

"(i) 60 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,548; or

"(iii) $4,644 divided by the number of eligible children; and

"(B) in the case of a member or former member who is not survived by a wife or husband—

"(i) 75 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,860; or

"(iii) $5,580 divided by the number of eligible children.".

(2) Subsection (a) of such Act (D.C. Code, sec. 4–521) is amended—

(A) by striking out the period at the end of paragraph (4) of such subsection and inserting in lieu thereof the following: ", in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the surviving husband of a member or former member who was a member or officer of the Metropolitan Police force or the Fire Department of the District of Columbia if—

"(A) he was married to such member or former member (i) while she was a member, or (ii) for at least one year immediately preceding her death, or

"(B) he is the father of issue by such marriage."; and

(B) by inserting the following new paragraph immediately after paragraph (17):

"(18) The term 'adjusted average pay' means the average pay of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia increased by the per centum increase (adjusted to the nearest one-tenth of 1 per centum in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, between the month in which such member retires and the month immediately prior to the month in which such member dies.".

(b) The amendments made by subsection (a) shall apply with respect to survivor annuities under the Policemen and Firemen's Retirement and Disability Act for survivors of officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia which commence on or after the first day of the first month which begins after the end of the ninety-day period beginning on the date of enactment of this Act.

DEFERRED ANNUITIES

SEC. 207. (a)(1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (l) through (r) as subsections (m) through (s), respectively; and

(B) by inserting immediately after subsection (k) the following new subsection:

"DEFERRED ANNUITIES

"(l)(1) Except as provided in paragraph (2), any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department, except for retirement under subsection (f), (g), or (h), shall be entitled to an annuity commencing on the first day of the month during which such member attains the age of fifty-five or on the first day of the first month beginning after such member's separation from his department, whichever month occurs later. Such annuity shall be computed at the rate of 2½ per centum of his average pay for each year of service up to twenty years of service and at the rate of 3 per centum of his average pay for each year of service after twenty years of service, or, in the case of a member who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, after twenty-five years of service, except that such annuity may not exceed 80 per centum of the average pay of such member.

"(2)(A) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department (other than a member who retires under subsection (f), (g), or (h)) may elect, at the time of his separation, to receive a refund of the amount of deductions made from his salary under this section. Receipt of such refund by the member shall void all annuity rights under this section.

"(B)(i) Any member who, by electing to receive a refund under subparagraph (A), loses annuity rights under this section, may reestablish all such rights at any time prior to attaining the age of fifty-five by redepositing the amount of such refund plus interest computed in accordance with paragraph (3).

"(ii) If any member who receives a refund under subparagraph (A) is subsequently reappointed to any department whose members come under this section and elects, at the time of such reappointment, to redeposit the amount refunded to him under subparagraph (A) plus interest computed in accordance with paragraph (3), then credit shall be allowed under this section for such member's prior period of service. Such redeposit (and the required interest thereon) may, at the election of the member, be made in a lump sum or in not to exceed sixty monthly installments, except that if the member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.

"(3) The interest which is required by paragraphs (2)(B)(i) and (ii) of this subsection and by paragraph (2)(B) of subsection (d) to be paid by a member who redeposits the amount of previously refunded deductions shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund if he makes a lump sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on redeposits under this section.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund.

"(C) If a member elects to make his redeposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

(2) Subsection (k) of such Act (D.C. Code, 4–531), as amended by section 206 of this Act, is further amended—

(A) in paragraph (2)—

(i) by striking out "or" the first place it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,";

(B) in paragraph (3)—

(i) by striking out "or" the second place it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,"; and

(C) in paragraph (6)—

(i) by striking out ", may," in the first sentence and inserting in lieu thereof "may",

(ii) by inserting ", and any member entitled to receive an annuity under subsection (l) of this section may at the time such annuity commences," immediately after "such retirement," in the first sentence,

(iii) by striking out "the retired annuitant" in the first sentence and inserting in lieu thereof "such member's",

(iv) by striking out "the retiring" in the proviso in the first sentence and inserting in lieu thereof "such",

(v) by striking out "retiring" in the second and fourth sentences,

(vi) by striking out "retirement" in the last sentence and inserting in lieu thereof "election", and

(vii) by striking out "or (h)" in the last sentence and inserting in lieu thereof "(h), or (l), as the case may be".

(b) The amendments made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON REFUNDS AND ON DEPOSITS FOR PRIOR SERVICE CREDIT

SEC. 208. (a)(1) Subsection (d) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–524) is amended—

(A) in paragraph (2)—

(i) by striking out "Any member coming under the provisions of this section" and inserting in lieu thereof "(A) any member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division,"; and

(ii) by adding at the end of such paragraph the following new subparagraph,

"(B) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia with less than five years of police or fire service who is separated from his department, except for retirement under subsection (f), (g), or (h), shall be refunded the amount of the deductions made from his salary under this section. The receipt of payment of such deductions by such member shall void all annuity rights under this section, except that if such member is subsequently reappointed to any department whose members come under this section and such member elects, at the time of such reappointment, to redeposit the amount refunded to him pursuant to the preceding sentence plus interest computed in accordance with subsection (l)(3), then credit shall be allowed under this section for the prior period of service. Such redeposit (and the interest required thereon) may be made, at the election of the member, in a lump sum or in not to exceed sixty monthly installments, except that if such member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.";

(B) in the proviso at the end of paragraph (3), by inserting immediately before the period ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto"; and

(C) in paragraph (4)—

(i) by striking out "after retirement", and

(ii) in the proviso at the end of such paragraph by inserting ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto" immediately before the period.

(2) Paragraph (5) of subsection (c) of such Act (D.C. Code, sec. 4–523(5)) is amended to read as follows:

"(5)(A) A member shall be allowed credit for government service performed prior to appointment in any of the departments mentioned in subsection (a)(1) of this section, if such member deposits a sum equal to the entire amount, including interest (if any), refunded to him for such period of government service. A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall deposit such sum, plus interest computed in accordance with subparagraph (B), with the Custodian of Retirement Fund (established by section 122(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act. All other members shall deposit such sums with the Mayor of the District of Columbia for credit to the revenues of the District of Columbia. If the member so elects, he may deposit the total amount of such refund in monthly installments not exceeding twenty-four, except that in the case of a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division such monthly installments shall be of equal amounts. No deposit shall be required for days of unused sick leave credited under subsection (h) of this section.

"(B) Interest required on deposits under this paragraph for members who are officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be computed as follows:

"(i) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first monthly payemnt if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits under this paragraph.

"(ii) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(iii) If a member elects to make his deposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

The amendments made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act. The amendments made by paragraph (2) of subsection (a) shall not apply with respect to deposits made, in whole or in part, prior to the end of such ninety-day period.

COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

SEC. 209. (a)(1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (m) through (s), as redesignated by section 207(a)(1)(A) of this Act, as subsections (n) through (t), respectively; and

(B) by inserting immediately after subsection (l), as added by the amendment made by section 207(a)(1)(B) of this Act, the following new subsection:

"COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

"(m)(1) Each month the Mayor of the District of Columbia shall determine the per centum change in the price index. On the basis of this determination, and effective the first day of the third month which begins after the price index shall have equaled the rise of at least 3 per centum for three consective months over the price index for the base month each annuity payable under this section which—

"(A) is payable to a survivor of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, and

"(B) has a commencing date on or before such effective date,

shall be increased by 1 per centum plus the per centum rise in the price index. For purposes of this paragraph, the term 'base month' means the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under this paragraph, except that, until the first cost-of-living annuity increase under this paragraph, the base month shall be the last month which was the base month for purposes of subsection (k)(7) before its repeal by section 209(b) of the District of Columbia Retirement Reform Act.

"(2) With respect to any annuity payable under this section which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, or to a survivor of any such member, the Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(3) If in any year the per centum change determined under either paragraph (2)(A) or (2)(B) indicated a rise in the price index, then—

"(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum, or

"(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.

"(4) The monthly installment of annuity after adjustment under this subsection shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least $1.

"(5) For purposes of this subsection, the term 'price index' means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics.".

(2) Subsections (m)(2) and (3) of the Policemen and Firemen's Retirement and Disability Act, as added by the amendment made by paragraph (1)(B) of this subsection, shall apply (A) to any increase after the effective date of such amendment in annuities payable under subsection (k) of such Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change for the purpose of such an increase, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month which was the base month for purposes of subsection (k)(7) of the Policemen and Firemen's Retirement and Disability Act before the repeal of such subsection by subsection (b) of this section, and (B) to any increase in each annuity payable under such Act having a commencing date after the effective date of such amendment.

(b) Subsection (k)(7) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531(7)) is repealed.

(c) Section 301 of the District of Columbia Police and Firemen's Salary Act of 1953 (D.C. Code, sec. 4-518) is amended by adding at the end thereof the following new subsection:

"(e) This section shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who retire after the effective date of this subsection.".

(d) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

AUTHORITY TO WAIVE COLLECTION OF OVERPAYMENTS

SEC. 210. Subsection (o) of the Policemen and Firemen's Retirement and Disability Act, as amended by section 205(c) of this Act and redesignated by section 209(a)(1)(A) of this Act (D.C. Code, sec. 4-533), is amended by adding at the end thereof the following new paragraph:

"(3) Except in a case of fraud against the District of Columbia, the Mayor may waive collection of any amount less than $100 which was paid to an annuitant in excess of the amount to which such annuitant was entitled under this section.".

COMMENCING DATE OF PAYMENT OF ANNUITIES

SEC. 211. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a)(1)(A) "accrues monthly" in paragraph (1) the following: "(except that an annuity accrues over any portion of a month after the commencing date of such annuity but before the first day of the next month and is payable for such month in an amount pro rated in a manner to be determined by the Mayor)".

PAYMENT OF ANNUITIES TO MINORS AND MENTAL IMCOMPETENTS

SEC. 212. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a)(1)(A) of this Act and amended by section 211 of this Act (D.C. Code, sec. 4-534), is amended by redesignating paragraphs (2) and (3) of such subsection as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Payment due a minor, or an individual mentally incompetent or under other legal disability may be made to the person who is consituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Mayor, is responsible for the care of the claimant, and the payment bars recovery by any other person.".

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

COST-OF-LIVING ADJUSTMENTS OF TEACHERS' ANNUITIES

SEC. 251. (a)(1) Section 21(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-739a(b)), is amended to read as follows:

"(b)(1) The Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the per centum change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall effective such March 1 be increased by the per centum change computed under such paragraph adjusted to the nearest one-tenth of 1 per centum and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall effective such commencing date be increased by such per centum or

"(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1, of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.".

(2) The amendment made by paragraph (1) shall apply to any increase after the effective date of such amendment in annuities payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, or from the District of Columbia Teachers' Retirement Fund established by section 123(a) of this Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month before such effective date for which the price index showed a per-centum rise forming the basis for a cost-of-living annuity increase under section 21(b) of such Act of August 7, 1946, as in effect immediately before the amendment of such section by paragraph (1).

(b) Section 21(c) of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-739a(c)), is amended—

(1) by striking out "governed by the commencing date of each annuity payable from the fund as of the effective date of an increase" and inserting in lieu thereof "as provided in subsection (b)(2)"; and

(2) by striking out "from the fund" in paragraph (1) of such section.

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

COST-OF-LIVING ADJUSTMENTS OF JUDGES' ANNUITIES

SEC. 252. (a) Section 11-1571(a) of title 11 of the District of Columbia Code is amended by inserting ", or who, before the next such increase first becomes payable under such section, receives such salary or annuity, either" immediately after "salary or annuity".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON TEACHERS' REFUNDS AND DEPOSITS

SEC. 253. (a)(1) The first section of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-721) is amended—

(A) in the first paragraph by inserting "or the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately before the period at the end of the proviso in the second sentence; and

(B) in the second paragraph—

(i) in the first sentence—

(I) by striking out "at 3 per centum per annum compounded as of December 31 of each year" and inserting in lieu thereof "compounded in accordance with section 24(a) of this Act" and

(II) by striking out "an interest rate of 3 per centum per annum compounded annually" and inserting in lieu thereof "the interest rate computed in accordance with section 24(a) of this Act"; and

(ii) in the second sentence, by inserting "to the date of such death or separation or the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "are made".

(2) Section 1A(b) of such Act (D.C. Code, sec. 31-721a(b)) is amended by striking out "with interest at 4 per centum compounded annually" in the first sentence and inserting in lieu thereof ", with interest computed in accordance with section 24(b) of this Act,".

(3) Section 8 of such Act (D.C. Code, sec. 31-728) is amended in the first paragraph—

(A) in the second proviso in the sixth sentence—

(i) by striking out "the accumulated contributions and interest" and inserting in lieu thereof "(1) the accumulated contributions", and

(ii) by inserting immediately before the colon at the end of such proviso ", and (2) interest thereon computed in accordance with section 24(b) of this Act"; and

(B) in the seventh sentence, by striking out "with interest at 3 per centum per annum compounded annually".

(4) Section 9(a) of such Act (D.C. Code, sec. 31-729(a)) is amended—

(A) in the first proviso—

(i) by inserting "(computed to the date of separation or the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "thereon", and

(ii) by inserting "(computed to the date of separation or the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "interest" the second time it appears;

(B) in the second proviso, by inserting "(including the interest thereon) plus interest computed in accordance with section 24(c) of this Act" immediately before the colon at the end of such proviso; and

(C) in the third proviso, by striking out ", with interest at 3 per centum compounded annually".

(5) Section 10(f)(3) of such Act (D.C. Code, sec. 31-730(f)(3)) is amended by inserting after "interest" the first time it appears ", earned prior to the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act.".

(6) Such Act is further amended by adding at the end thereof the following new section:

"SEC. 24. (a) For purposes of determining the amount available to purchase an annuity under the second paragraph of the first section of this Act, interest shall be deemed to accrue on deposits at the following rates for the following periods:

"(1) Prior to the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, interest shall accrue at the rate of 3 per centum per annum compounded as of December 31 of each year.

"(2) For the period beginning at the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and ending on September 30, 1981, interest shall accrue at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum).

"(3) After October 1, 1981, interest shall accrue at an annual rate which (as determined by the Mayor of the District of Columbia) is equal to the average annual rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund established by section 123 of the District of Columbia Retirement Reform Act.

"(b) Interest required on deposits under section 1A or 8 of this Act or under the Act of June 27, 1960, shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposits in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

"(c) Interest required on deposits under section 9(a) of this Act shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.".

(b) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31–745), is amended—

(1) by striking out "and interest"; and

(2) by inserting immediately before the colon at the beginning of the proviso "plus interest computed in accordance with section 24(b) of such Act of August 7, 1946".

(c) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON JUDGES' REDEPOSITS

SEC. 254. (a) Subchapter III of chapter 15 of title 11 of the District of Columbia Code is amended—

(1) in section 11–1561—

(A) in paragraph (9)(C), by inserting immediately before the semicolon at the end thereof "or the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retiremnt Reform Act, whichever is earlier", and

(B) in paragraph (10)(C), by inserting immediately before the semicolon at the end thereof "or the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier"; and

(2) in section 11–1569(c), by inserting "or the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "such judge" and before the comma.

(b) Such subchapter III is further amended—

(1) in section 11–1563(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11–1564(d)(2)";

(2) by amending section 11–1564(d)(2) to read as follows:

"(2) Interest on deposits under this subsection and section 11–1567(b) shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Judges' Retirement Fund (established by section 124 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(i) for so much of any such period which occurs between the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits;

"(ii) for so much of any such period which occurs between January 1, 1948, and the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits; and

"(iii) for so much of any such period which occurs prior to January 1, 1948, the rate of 4 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(C) If a judge elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.
Interest may not be charged for a period of separation from the service which began before October 31, 1956."; and

(3) in section 11–1567(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11–1564(d)(2)".

(c) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

RESTORATION OF TEACHERS' ANNUITIES IN THE EVENT OF PREDECEASED BENEFICIARIES

SEC. 255. (a) Section 5(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia" approved August 7, 1946 (D.C. Code, sec. 31–725(b)), is amended by adding at the end thereof the following new paragraph:

"(4) In the event an individual designated as a surviving widow or widower or as a survivor annuitant under this subsection predeceases the teacher designating such individual, the annuity of such teacher shall, effective the day after the death of such individual, be the amount it would have been if no such beneficiary had been named.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979, or at the end of the ninety-day period beginning on the date of the enactment of this Act, whichever is later.

TERMINATION OF TEACHERS' DISABILITY ANNUITIES BASED ON OUTSIDE EARNED INCOME

SEC. 256. Section 4 of the Act entitled "An Act for retirement of public school teachers in the District of Columbia" approved August 7, 1946 (D.C. Code, sec. 31-724), is amended by inserting after the second paragraph thereof the following new paragraph:

"Notwithstanding the foregoing provisions of this section, if during any calendar year an annuitant who is receiving a disability annuity under this section and who has not reached retirement age (as defined in section (3) receives income from wages or self-employment, or both, in an amount not less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, the annuity of such annuitant shall be terminated by the Board of Education effective January 1 of the first calendar year after such calendar year, except that this sentence shall not apply with respect to income received during the year in which the annuitant retired. The annuity of any annuitant whose annuity is terminated under the preceding sentence shall be restored, at the rate which would have been in effect but for such termination, effective January 1 of any year following a year during which the amount of such annuitant's income from wages and self-employment is less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, or effective immediately if the Board of Education determines that, outside of normal fluctuations in such annuitant's income, such annuitant's income is reduced to a level which on an annual basis is less than 80 per centum of such current rate of pay.".

MOTION OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DELLUMS moves to strike out all after the enacting clause of the Senate bill (S. 1037) and to insert in lieu thereof the provisions of H.R. 3939, as passed by the House, as follows:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, with the following table of contents, may be cited as the "District of Columbia Retirement Reform Act".

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TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that the retirement benefits authorized by various Acts of Congress for the police officers, fire fighters, teachers, and judges of the District of Columbia have not been financed on an actuarially sound basis. Neither Federal payments to the District nor District of Columbia appropriations have taken into account the long-term financial requirements of the District's retirement programs. As a result, the annual budget cost to the District of Columbia for annuities and refunds of deductions is growing at a rapid rate and, in the case of the retirement program for police officers and fire fighters, is predicted to exceed the cost of salaries for active police officers and fire fighters by the year 2000.

(b) It is the purpose of this title—

(1) to establish separate retirement Funds for police officers and fire fighters, for teachers, and for judges of the District of Columbia;

(2) to establish a Retirement Board with responsibility for managing these Funds;

(3) to require that these Funds be managed on an actuarially sound basis in order to provide proper financing for the benefits to which the District's retired police officers, fire fighters, teachers, and judges are entitled;

(4) to require that the Retirement Board comply with reporting and disclosure requirements similar to those imposed under the Employee Retirement Income Security Act of 1974; and

(5) to provide for Federal payments to these Funds to help finance, in part, the liabilities for retirement benefits incurred by the District of Columbia prior to the establishment of self-government under the District of Columbia Self-Government and Governmental Reorganization Act.

DEFINITIONS

SEC. 102. As used in this title:

(1) The term "Mayor" means the Mayor of the District of Columbia.

(2) The term "Council" means the Council of the District of Columbia.

(3) The term "Speaker" means the Speaker of the House of Representatives.

(4) The term "President pro tempore" means the President pro tempore of the Senate.

(5) The term "Board" means the District of Columbia Retirement Board established by section 121 of this Act.

(6) The term "Custodian of Retirement Funds" means the Board, except that until such time as the members of the Board are first elected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the term "Custodian of Retirement Funds" means the Director of the Office of Budget and Financial Management of the District of Columbia (established by Organization Order Numbered 30, Commissioner's Order Numbered 72-80, April 5, 1972 (D.C. Code, title 1—Appendix)).

(7) The term "retirement program" means—

(A) the program of annuities and other retirement and disability benefits for members and officers of the Metropolitan Police force and the Fire Department of the District of Columbia, but does not include the program of annuities and other retirement and disability benefits for members and officers of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division under the Policemen and Firemen's Retirement and Disability Act;

(B) the program of annuities and other retirement and disability benefits for judges of the courts of the District of Columbia under subchapter III of chapter 15 of title 11 of the District of Columbia Code; or

(C) the program of annuities and other retirement and disability benefits for teachers in the public day schools of the District of Columbia.

(8) The term "State" means any State of

the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the Canal Zone.

(9) The term "party in interest" means—

(A) any person (including a member of the Board) having fiduciary responsibilities under this title;

(B) any person providing services to a Fund;

(C) the government of the District of Columbia;

(D) an employee organization; and

(E) a spouse, ancestor, lineal descendant, or spouse of a lineal descendant of any individual described in subparagraph (A) or (B).

(10) The term "Fund" means the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122, the District of Columbia Teachers' Retirement Fund established by section 123, or the District of Columbia Judges' Retirement Fund established by section 124.

(11) The term "current value" means fair market value where available (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board) or otherwise the fair value (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board), assuming an orderly liquidation at the time of such determination.

(12) The term "future value" means a liability for a given prior fiscal year expressed in terms of the price level expected to prevail in a given future fiscal year, adjusted at the rate of inflation used with regard to determinations made under section 142(a)(1).

(13) The term "qualified public accountant" means a person who is a certified public accountant, certified by a regulatory authority of a State.

(14) The term "enrolled actuary" means an actuary enrolled under subtitle C of title III of the Employee Retirement Income Security Act of 1974.

(15) The term "security" means a security as defined in section 2(1) of the Securities Act of 1933.

(16) The term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which individuals covered by a retirement program participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning such retirement program.

(17) The term "teacher" means a teacher as defined in section 13 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-733).

(18) The term "judge" means a judge as defined in section 11-1561(1) of title 11 of the District of Columbia Code.

(19) The term "participant" does not include an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division to whom the Policemen and Firemen's Retirement and Disability Act applies; and, unless the context requires otherwise, the term "beneficiary" does not include a beneficiary under such Act of any such officer or member.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

DISTRICT OF COLUMBIA RETIREMENT BOARD

SEC. 121. (a) There is established, as an independent agency of the government of the District of Columbia, a board of trustees to be known as the District of Columbia Retirement Board which shall have exclusive authority and discretion (subject to the requirements of this title) to manage and control the Funds established by this title.

(b)(1) The Board shall consist of eleven members selected as follows:

(A) One member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the members and officers of the Metropolitan Police force.

(B) One retired member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the retired members and officers of the Metropolitan Police force.

(C) One member or officer of the Fire Department of the District of Columbia, to be elected by the members and officers of the Fire Department.

(D) One retired member or officer of the Fire Department of the District of Columbia, to be elected by the retired members and officers of the Fire Department.

(E) One teacher in the public day schools of the District of Columbia, to be elected by the teachers of the public day schools of the District of Columbia.

(F) One teacher in the public day schools of the District of Columbia who is retired, to be elected by the retired teachers of the public day schools of the District of Columbia.

(G) Two individuals appointed by the Council of the District of Columbia.

(H) Three individuals appointed by the Mayor.

A vacancy on the Board shall be filled in the manner in which the original selection was made.

(2) The first election of the Board members described in subparagraphs (A) through (F) of paragraph (1) shall be conducted within six months after the date of the enactment of this title in accordance with regulations which the Mayor shall promulgate. Thereafter, elections shall be conducted by the Board. In any such election, voting shall be by secret ballot, and each individual to be represented on the Board by the winner of such election shall be eligible to vote in such election.

(3)(A) Except as provided in subparagraph (B), the members of the Board shall each serve a term of four years, except that a member selected to fill a vacancy occurring prior to the end of the term for which his predecessor was selected shall only serve until the end of such term. A member may serve after the expiration of his term until his successor has taken office.

(B) Of the members of the Board who are first selected—

(i) two shall serve for a term of one year,

(ii) three shall serve for a term of two years,

(iii) three shall serve for a term of three years, and

(iv) three shall serve for a term of four years,

as determined by lot at the first meeting of the Board.

(4) No individual shall serve more than two terms as a member of the Board, except that an individual serving less than two years of a term to which some other individual was originally selected shall be eligible for two full terms as a member of the Board and an individual serving two years or more of a term to which some other individual was originally selected shall be eligible for only one full term as a member of the Board.

(5) Any individual who was selected as a member of the Board under subparagraph (A), (C), or (E) of paragraph (1) and who ceases to be a member or officer of the Metropolitan Police force, member or officer of the Fire Department, or a teacher, as the case may be, may not continue as a member of the Board.

(6) No member of the Board may hold or be a candidate for any elective office in the District of Columbia.

(7) No member of the Board may have any personal interest, direct or indirect (except as a participant in a retirement program), in any transaction involving assets of the Funds established by this title and shall otherwise comply with the standards of conduct applicable to fiduciaries in the District of Columbia, as well as those standards of conduct established by part E of this title.

(8) Not less than two of the members of the Board appointed by the Mayor under paragraph (1) shall be individuals who have professional work experience in the banking, insurance, or investment industry.

(9) Any member of the Board may be removed from the Board by a vote of two-thirds of the members of the Board for a breach of fiduciary responsibility with respect to a Fund or for a violation of section 184.

(10) The Board shall elect one member of the Board to be chairman of the Board. The chairman shall be elected for a term of one year, but may be removed from such position by a vote of two-thirds of the members of the Board.

(11) The Director of the Office of Budget and Financial Management of the District of Columbia shall be an ex officio member of the Board, but shall not vote, shall not be eligible to be elected chairman of the Board, and shall not be counted for purposes of a quorum.

(c) Subject to the availability of appropriations therefore, each member of the Board shall be entitled to receive the hourly equivalent of the annual rate of pay in effect for the highest step of grade GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each hour such member is engaged in the actual performance of duties vested in the Board, except that any member of the Board who is a full-time officer or employee of the District of Columbia or the United States shall not be entitled to receive pay under this subsection for performance of duties vested in the Board.

(d)(1) The Board shall meet at least once each calendar quarter at a regular and specified time. It shall meet at such other times as the chairman or any three members of the Board may prescribe.

(2) Any six members shall constitute a quorum for the transaction of the business of the Board.

(3) Except as otherwise provided in this title, actions of the Board shall be determined by a majority vote of the members present and voting.

(e) The Board shall from time to time promulgate rules and regulations, adopt resolutions, issue directives for the administration and transaction of its business and for the control of the Funds established by this title and perform such other functions as may be necessary to carry out its responsibilities under this title.

(f)(1) All administrative expenses incurred by the Board in carrying out this title, including compensation for the members of the Board, shall be paid out of funds appropriated for such purpose.

(2) The budget prepared and submitted by the Mayor pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act shall include recommended expenditures at a reasonable level for the forthcoming fiscal year for the administrative expenses of the Board.

(3) The Mayor and the Council may establish the amount of funds which will be allocated to the Board for administrative expenses, but may not specify the purposes for which such funds may be expended or the amounts which may be expended for the various activities of the Board.

(g)(1) The Board shall engage the services of competent investment counsel or counsels who shall be qualified under the Investment Advisors Act of 1940. Such investment counsel or counsels shall be fiduciaries, to the extent designated by the Board, with respect to services rendered to the Board. Such fiduciary relationship shall be specified in a written agreement between the investment counsel or counsels and the Board.

(2) The Board may appoint such staff as it considers necessary to enable it to carry out its repsonsibilities under this title. The staff of the Board shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no staff member may receive pay in excess of the annual rate of basic pay in effect for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(h) Not more than ninety days after all initial members of the Board have been selected in accordance wtih subsection (b) of this section, the Board shall certify in writing to the Director of the Office of Budget and Financial Management of the District of Columbia that the Board is assuming responsibility for the Funds established by this title.

DISTRICT OF COLUMBIA POLICE OFFICERS AND FIRE FIGHTERS' RETIREMENT FUND

SEC. 122. (a) There is established a fund to be known as the District of Columbia Police Officers and Fire Fighters' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount paid to the Custodian of Retirement Funds pursuant to the last sentence of subsection (d)(1) or to subsection (c)(5) of the Policemen and Firemen's Retirement and Disability Act or pursuant to the proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935.

(2) Any amount appropriated for such Fund under part C of this title.

(3) Any return on investment of the assets of such Fund.

After September 30, 1979, or after the end of the thirty-day period beginning on the date on which funds are first appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, whichever is later, all payments of annuities and other retirement and disability benefits (including refunds and lump-sum payments) under the Policemen and Firemen's Retirement and Disability Act shall be made from the Fund (except for any such payment which is made to an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or to a beneficiary of any such officer or member).

(b)(1) The last sentence of subsection (d)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-524(1)) is amended by striking out "Such" and inserting in lieu thereof "In the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, such deductions and withholdings shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) and shall be deposited in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act; and in the case of any other member, such".

(2) The proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935 (D.C. Code, sec. 4-502), is amended by inserting immediately before the period the following: ", except that all moneys required to be deposited with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act".

(3) The Act entitled "An Act to credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen's relief fund, District of Columbia", approved July 21, 1947 (D.C. Code, sec. 4-504a), is amended by inserting "or the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122(a) of the District of Columbia Retirement Reform Act)" immediately after "District of Columbia," the first place it appears.

(c) The amendments made by paragraphs (1) and (2) of subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act. The amendment made by paragraph (3) of such subsection shall take effect on such date of enactment.

DISTRICT OF COLUMBIA TEACHERS' RETIREMENT FUND

SEC. 123. (a) There is established a fund to be known as the District of Columbia Teachers' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount paid to the Custodian of Retirement Funds pursuant to the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, or under the Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960.

(2) Any asset transferred to such Fund under subsection (c).

(3) Any amount appropriated for such Fund under part C of this title.

(4) Any return on investment of assets of such Fund.

Annuities and other retirement and disability benefits (including refunds and lump-sum payments) payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, shall continue to be paid from such fund until all amounts in such fund have been expended or transferred under subsection (c) to the District of Columbia Teachers' Retirement Fund, and thereafter such benefits shall be paid from the District of Columbia Teachers' Retirement Fund.

(b)(1) The Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, is amended—

(A) in the first section (D.C. Code, sec. 31-721)—

(i) by adding at the end of the first paragraph the following new sentence: "After the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, any amounts deducted and withheld pursuant to this paragraph shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of such Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act.", and

(ii) in the first sentence of the second paragraph, by striking out "Collector of Taxes, District of Columbia," and inserting in lieu thereof "Custodian of Retirement Funds";

(B) in section 2 (D.C. Code, sec. 31-722), by striking out "The" in the first sentence and inserting in lieu thereof "Until the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the";

(C) in clause (ii) of paragraph (1) of section 5(b) (D.C. Code, sec. 31-725(b)(1)(ii)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act";

(D) in section 9(a) (D.C. Code, sec. 31-729(a)), by striking out "deposit in the fund" in the second proviso and inserting in lieu thereof "repay to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,";

(E) in clause (ii) of section 9(b)(1) (D.C. Code, sec. 31-729(b)(1)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act"; and

(F) in section 17 (D.C. Code, sec. 31-737), by inserting "(including any assets of the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act)" immediately after "Act".

(2) Section 4 of the Act entitled "An Act to increase annuities payable to certain annuitants from the District of Columbia teachers' retirement and annuity fund, and for other purposes", approved September 2, 1958 (D.C. Code, sec. 31-744), is amended by inserting immediately before the period at the end of the first sentence the following: "until such time as all amounts in such fund have been expended or transferred under section 123(c) of the District of Columbia Retirement Reform Act to the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act and thereafter from the District of Columbia Teachers' Retirement Fund".

(3) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31-745), is amended by striking out "the deposit by such teacher to the credit of the teachers' retirement and annuity fund of the District of Columbia" and inserting in lieu thereof "payment by such teacher to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act), for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,".

(c) Notwithstanding any other provision of law, any asset held in the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, may be transferred to the District of Columbia Teachers' Retirement Fund established by subsection (a).

(d) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act.

DISTRICT OF COLUMBIA JUDGES' RETIREMENT FUND

SEC. 124. (a) There is established a fund to be known as the District of Columbia Judges' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount deposited pursuant to subchapter III of chapter 15 of title 11 of the District of Columbia Code.

(2) Any asset transferred to such Fund under subsection (c).

(3) Any amount appropriated for such Fund under part C of this title.

(4) Any return on investment of the assets of such Fund.

(b)(1) Section 11-1561(4) of title 11 of the District of Columbia Code is amended by striking out "Judicial Retirement and Survivors Annuity Fund as provided in section 11-1570" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(2) Section 11-1563(a) of such title 11 is amended by striking out "deposited in the fund in accordance with procedures established by the Commissioner" and inserting in lieu thereof "paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the fund".

(3) Section 11-1564(d)(4) of such title 11 is amended in the first sentence by striking out "Judicial Retirement and Survivors Annuity Fund" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(4) Section 11-1570 of such title 11 is amended—

(A) in subsection (a)—

(i) in the first sentence, by inserting immediately before the period "until such time as all amounts in such Fund have been expended or transferred to the District of Columbia Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act"; and

(ii) by striking out the second and third sentences and inserting in lieu thereof the following: "Thereafter the retirement salaries, annuities, refunds, and allowances provided for in this subchapter shall be paid from such Fund.";

(B) in subsection (b)—

(i) by striking out "such funds" and inserting in lieu thereof "the District of Columbia Judicial Retirement and Survivors Annuity Fund";

(ii) by striking out "from the fund" and inserting in lieu thereof "under the first sentence of subsection (a)"; and

(iii) by striking out "fund" the second place it appears and inserting in lieu thereof "District of Columbia Judicial Retirement and Survivors Annuity Fund"; and

(C) in subsection (d), by inserting "including moneys in the District of Columbia Judges' Retirement Fund)" immediately after "subchapter".

(c) Notwithstanding any other provision of law, any asset held in the District of Columbia Judicial Retirement and Survivors Annuity Fund may be transferred to the District of Columbia Judges' Retirement Fund established by subsection (a).

(d) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

MANAGEMENT OF RETIREMENT FUNDS

SEC. 125. (a) The Custodian of Retirement Funds shall be the custodian of the assets of each Fund established by this title and shall manage and invest such assets in accordance with this title.

(b) The assets of each Fund shall be kept separate from other moneys which may be under the control of the Custodian of Retirement Funds, but need not be kept separate from the assets of the other Funds if the Board determines that commingling of such assets is advisable for investment purposes.

(c) The Board shall maintain, in an appropriate depository, a cash reserve for the Funds in an amount determined by the Board to be sufficient to meet current outlays for annuities and other retirement and disability benefits authorized to be paid from such Funds.

PAYMENTS FROM THE FUNDS

SEC. 126. The Mayor shall notify the Custodian of Retirement Funds of any payments to be made from the Funds established by this title for annuities or other retirement or disability benefits (including refunds and lump-sum payments), and the Custodian of Retirement Funds shall make such payments from the appropriate Fund.

PART C—FINANCING OF RETIREMENT BENEFITS

LIMITATION ON INVESTMENT OF RETIREMENT FUNDS

SEC. 141. (a) The assets of the Funds established by this title may not be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(2) Obligations fully guaranteed as to the payment of both principal and interest by the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(3) Real property in the District of Columbia, Virginia, or Maryland.

(4) Loans, mortgages, bonds, notes, bills, or certificates of indebtedness secured, in whole or in part, by real property in the District of Columbia, Virginia, or Maryland.

(b) Until such time as the members of the Board are first selected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the assets of such Funds may only be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the United States Government, or obligations fully guaranteed as the payment of both principal and interest by the United States Government.

(2) Interest-bearing certificates of deposit issued by National, State, or District of Columbia savings and loan institutions.

DETERMINATION OF FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 142. (a)(1) The Board shall engage an enrolled actuary who may be the enrolled actuary engaged pursuant to section 162 (a)(4)(A), who shall, on the basis of the entry age normal cost funding method and in accordance with generally accepted actuarial principles and practices, make the following determinations with respect to each Fund:

(A) At the times specified in paragraph (2), the actuary shall determine the level percentage of payroll, expressed as a percentage (hereinafter in this title referred to as the "net normal cost percentage"), which shall be the percentage such that the amount equal to the product of such percentage and the present value of future compensation for participants in the retirement program, if paid annually into the Fund from the date of hire of each participant in the retirement program until the date of such participant's death, retirement, or other withdrawal from employment covered by the retirement program, is equal to the amount of the difference between (i) the present value of the future benefits payable from the Fund to such group, and (ii) the present value of all future employee contributions to the Fund.

(B) At the times specified in paragraph (2), the actuary shall determine the amount (hereinafter in this title referred to as the "accrued actuarial liability") that is the difference between (i) the present value (as of the date of the determination) of the future benefits payable from the Fund, and (ii) the sum of—

(I) the present value of all future employee contributions to the Fund; and

(II) the product of the net normal cost percentage and the present value of future compensation for participants in the retirement program.

(C) At the times specified in paragraph (2), the enrolled actuary shall determine the current value of the assets in the Fund.

(D) Each year, not later than sixty days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, the enrolled actuary shall determine—

(i) an estimate of the current annual active duty payroll;

(ii) the amount (hereinafter in this title referred to as the "future Federal obligation") that is the amount of the present value of the sum of the amounts authorized by section 144(a) to be appropriated to the Fund for fiscal years beginning on or after the date of the determination; and

(iii) the amount (hereinafter in this title referred to as the "net pay-as-you-go cost") that is the difference between (I) the amount of the obligation of the Fund during the next fiscal year for the payment of benefits payable from the Fund during such year, and (II) the amount of employee contributions to the Fund for such year.

The actuary shall also determine such additional information as the Board may require in order to make the determinations specified in paragraph (4) and in subsection (b).

(2) The actuary engaged by the Board pursuant to paragraph (1) shall make the determinations described in subparagraphs (A), (B), and (C) of such paragraph at the following times:

(A) Not later than sixty days after the date of the enactment of this Act.

(B) Upon a request by the Board or by the Director of the Office of Management and Budget.

(C) Not later than the end of the ninety-day period beginning on the first day of the third fiscal year occurring after the fiscal year in which the last such determination was made pursuant to any subparagraph of this paragraph.

(3) On the basis of the most recent determinations made under paragraph (1), the enrolled actuary shall certify to the Board each year, at a time specified by the Board, the following information with respect to each Fund for the next fiscal year:

(A) The net normal cost, which shall be computed as the product of the net normal cost percentage and the estimate by the actuary of the current annual active duty payroll.

(B) The accrued actuarial liability.

(C) The current value of assets in the Fund.

(D) The future Federal obligation.

(E) The net pay-as-you-go cost.

(F) The unfunded actuarial liability, which shall be computed as the difference between the accrued actuarial liability and the sum of the current value of the assets in the Fund and the future Federal obligation.

(G) The unpaid Federal obligation, which shall be computed as the difference between the accrued actuarial liability as of

January 2, 1975 (in future value as of the end of the fiscal year for which the determination is made), and the sum of the future Federal obligation, the current value of previous Federal contributions, and (in the case of the District of Columbia Teachers' Retirement Fund and the District of Columbia Judges' Retirement Fund) the current value of any assets in the predecessor to such Fund as of January 2, 1975.

For the purposes of subparagraph (F), the term "current value of the assets in the Fund" shall be deemed to include (i) the present value of any payments to be made to the Fund by the District in accordance with subsection (b) (1) (C) (ii), and (ii) the present value of the amount of any reduction in the amount of future District payments to the Fund determined in accordance with subsection (b) (1) (D).

(4) The Board shall determine—

(A) the amount of the Federal payment for the next fiscal year for each Fund authorized to be appropriated under section 144 (a); and

(B) on the basis of the most recent certification submitted by the enrolled actuary under paragraph (3), the amount of the District payment for the next fiscal year for each Fund, as described under subsection (b).

(b) (1) (A) For the District payment for each Fund for each fiscal year through fiscal year 2004, the Board shall determine—

(i) the unfunded actuarial liability for such Fund as of the end of fiscal year 2004;

(ii) the unfunded actuarial liability as of October 1, 1979, in future value as of the end of fiscal year 2004 for such Fund; and

(iii) the amount equal to the lesser of (I) the net pay-as-you-go cost, and (II) the sum of the net normal cost and the amount of annual interest (computed at the valuation rate used in the determination under subsection (a) (1) on the unfunded actuarial liability, as computed under subsection (a) (3) (F).

(B) If the amount determined under subparagraph (A) (i) is equal to the amount determined under subparagraph (A) (ii), the amount of the District payment for the fiscal year for such Fund shall be the amount determined under subparagraph (A) (iii).

(C) (i) If the amount determined under subparagraph (A) (i) is greater than the amount determined under subparagraph (A) (ii), the amount of the District payment for the fiscal year for such Fund shall be the amount equal to the sum of (I) the amount determined under subparagraph (A) (iii), and (II) the amount of the level amortization payment that, if paid annually into the Fund through the next ten fiscal years (and accrued at the rate of interest used in the determinations under subsection (a) (1)), would reduce the amount determined under subparagraph (A) (i) to the amount determined under subparagraph (A) (ii) by the end of ten fiscal years.

(ii) A level amortization payment shall not be required under this subparagraph for any fiscal year to the extent that the difference between the amount determined under subparagraph (A) (i) and the amount determined under subparagraph (A) (ii) for such fiscal year is attributable to the failure of the Federal Government to make all or any part of the Federal payment to such Fund for any fiscal year.

(D) If the amount determined under subparagraph (A) (ii) is greater than the amount determined under subparagraph (A) (i), the amount of the District payment for such Fund shall be the amount determined under subparagraph (A) (iii) reduced by the amounted of the level amortization payment that, if paid annually for the next ten fiscal years, would have a future value as of the end of fiscal year 2004 equal to the difference between the amount determined under subparagraph (A) (ii) and the amount determined under subparagraph (A) (i).

(E) The amount of a District payment determined under subparagraph (C) may not exceed the amount determined under subparagraph (A) (iii) by more than 10 percent of the net pay-as-you-go cost, in the case of a payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, or by more than 30 percent of the net pay-as-you-go cost, in the case of a payment to the District of Columbia Teachers' Retirement Fund or to the District of Columbia Judges' Retirement Fund.

(F) Determinations under subparagraph (A) shall be made in accordance with generally accepted actuarial principles and practices.

(2) The amount of the District payment to each Fund for fiscal year 2005 and for each fiscal year thereafter shall be the sum of (A) the net normal cost, and (B) the amount of annual interest (computed at the valuation rate used in the determination pursuant to subsection (a) (1)) on the unfunded actuarial liability.

(c) (1) On the basis of the most recent determinations made under subsection (a) (4), the Board shall—

(A) not later than March 15 of each year through calendar year 2003, submit to the President and to the Congress a request for appropriation of the Federal payment for the next fiscal year for each Fund; and

(B) not less than thirty days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, certify to the Mayor and the Council the amount of the District payment for each Fund.

(2) The Mayor, in preparing each annual budget for the District of Columbia pursuant to section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, and the Council of the District of Columbia, in adopting each annual budget in accordance with section 446 of such Act, shall include in such budget not less than the full amount certified by the Board under paragraph (1) (B) as being the amount of the District payment for the next fiscal year for each Fund. The Mayor and the Council may comment and make recommendations concerning any such amount certified by the Board.

(d) (1) Whenever any change in benefits under a retirement program is made, the Mayor shall engage an enrolled actuary, who may be the enrolled actuary engaged pursuant to section 162(a) (4) (A), to estimate the effect of such change in benefits over the next five fiscal years on (A) the net normal cost percentage with respect to the retirement program, (B) the accrued actuarial liability with respect to the retirement program, (C) the net pay-as-you-go cost with respect to the retirement program, and (D) the level of the District payments to the Fund. The Mayor shall transmit the estimates of the actuary under the preceding sentence to the Board and to the Speaker and the President pro tempore, and such change in benefits may not go into effect until the end of the thirty-day period beginning on the date such transmittals are completed.

(2) In the event a change in benefits under a retirement program is made that increases the present value of benefits payable from the Fund, a level amortization payment for a period not to exceed 25 years shall be paid by the District to the Fund such that the present value of the sum of such level amortization payments equals the increase in the present value of such benefits. Such payments shall be made in addition to any other payment to the Fund required to be made by the District, and such increase in present value of benefits payable from the Fund and such payments shall be disregarded in calculating the unfunded actuarial liability under subsection (b) (1) (A).

(e) Whenever the amount authorized to be appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund for any fiscal year under section 144 (a) (1) is reduced under section 145(c), the District shall, beginning with the next fiscal year, pay a level amortization payment to such Fund for a period not to exceed ten years such that the present value (determined as of the beginning of the fiscal year for which such authorization is reduced) of the sum of such level amortization payments equals the amount of such reduction. Such payments shall be made in addition to any other payment to such Fund required to be made by the District and shall be disregarded in calculating the unfunded actuarial liability under subsection (b) (1) (A).

(f) The Comptroller General of the United States shall have access to all books, accounts, records, reports, files and other papers necessary to carry out the responsibility of the Comptroller General under section 736(a) of the District of Columbia Self-Government and Governmental Reorganization Act and under section 144(e) of this Act.

INFORMATION ABOUT RETIREMENT PROGRAMS

SEC. 143. Upon a request of the Board, the Mayor shall furnish to the Board such information with respect to retirement programs to which this title applies as the Board considers necessary to enable it to carry out its responsibilities under this title and to enable the enrolled actuary engaged pursuant to section 142(a) to carry out the responsibilities of the enrolled actuary under this title.

FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 144. (a) There is authorized to be appropriated from the revenues of the United States for fiscal year 1980 and for each fiscal year thereafter through fiscal year 2004—

(1) as the Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, the sum of $32,843,000, reduced by the amount of any reduction required under section 145(c);

(2) as the Federal payment to the District of Columbia Teachers' Retirement Fund, the sum of $16,637,000; and

(3) as the Federal payment to the District of Columbia Judges' Retirement Fund, the sum of $215,000.

(b) (1) Amounts appropriated as a Federal payment to a Fund established by this title shall not be subject to apportionment and shall be deposited in the appropriate Fund not more than thirty days after they are appropriated or thirty days after the beginning of the fiscal year for which they are appropriated, whichever is later.

(2) Amounts appropriated as a District of Columbia payment to a Fund established by this title shall be deposited in the appropriate Fund in equal quarterly installments, the first of which shall be made on the first day of the first quarter of the fiscal year, or on the first day thereafter that funds for such installment become available, and the remainder of which shall be made on the first day of succeeding quarters of the fiscal year, or on the first day thereafter that funds for such installments become available.

(c) If at any time the balance of any Fund established by this title is not sufficient to meet all obligations against such Fund, such Fund shall have a claim on the revenues of the District of Columbia to the extent necessary to meet such obligations.

(d) If, for any fiscal year, the Mayor and the Council do not carry out the requirements of subsections (c)(2), (d) and (e) of section 142 with respect to a Fund, no funds authorized to be appropriated for such Fund by this section shall be available for such Fund for such fiscal year.

(e)(1) In the year 2004, the Comptroller General shall determine whether the Federal share with respect to each Fund has been paid in full by payments made pursuant to appropriations authorized under subsection (a) of this section and, in the case of the District of Columbia Police Officers and Fire Fighters' Retirement Fund, by payments made or to be made under section 142(e).

(2) For the purposes of this subsection, the term "Federal share", with respect to a retirement program, means the sum of—

(A) 75 percent of the accrued unfunded liability as of October 1, 1979, for participants in the retirement program who retired before January 2, 1975, under a provision of law authorizing retirement and entitlement to an annuity based upon the years of creditable service of the participant (and for the beneficiaries of such participants under the retirement program); and

(B) 33⅓ percent of the accrued unfunded liability as of October 1, 1979, for participants in the retirement program who retired before January 2, 1975, under a provision of law authorizing retirement and entitlement to an annuity based upon a disease or disability from which the participant is suffering (and for the beneficiaries of such participants under the retirement program).

REDUCTION IN FEDERAL CONTRIBUTION FOR EXCESSIVE NUMBER OF POLICE AND FIRE DISABILITY RETIREMENTS

SEC. 145. (a) After January 1 and before March 1 of each year beginning with calendar year 1982 and ending with calendar year 2003, the Comptroller General of the United States shall—

(1) determine the percentage of the total number of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who retired, died, withdrew by taking out a lump sum payment, or otherwise separated from active duty while eligible for a deferred annuity under the Policemen and Firemen's Retirement and Disability Act during the preceding calendar year who retired with a disability under subsection (f)(1) or (g)(1) of the Police and Firemen's Retirement and Disability Act;

(2) determine the percentages of the total number of officers and members of the police and fire departments of each of the five largest police and fire departments combined of cities in the United States (based upon the most recent figures of the Bureau of the Census and excluding the District of Columbia) who retired (or otherwise separated while eligible to retire) during the preceding calendar year who retired with a disability; and

(3) state whether the percentage determined under paragraph (1) is greater than the average of the percentages determined under paragraph (2) and, if the percentage determined under paragraph (1) is greater than such average, what the difference between the two is.

The Comptroller General shall report the determinations and statements made under paragraphs (1) through (3) for any year to the Board not later than March 1 of such year.

(b) The Board and the Comptroller General shall each transmit a copy of each report under subsection (a) to the Speaker, the President pro tempore, the Mayor, and the Council not later than March 31 of the year in which the report is made, and each shall submit comments on such report.

(c) For the fiscal year beginning in a calendar year in which the report of the Comptroller General under subsection (a) includes a statement under paragraph (3) of such subsection that the percentage determined under paragraph (1) of such subsection is greater than the average of the percentages determined under paragraph (2) of such subsection, the amount authorized by section 144(a)(1) to be appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund for such fiscal year shall be reduced. Such reduction shall be in the amount equal to the product of (1) the amount specified in such section, and (2) the difference between the percentage determined under paragraph (1) of subsection (a) and the average of the percentages determined under paragraph (2) of such subsection, as stated by the Comptroller General under paragraph (3) of such subsection.

DETERMINATION OF PERCENTAGE OF DISABILITY FOR CURRENT EMPLOYEES WHO APPLY FOR DISABILITY RETIREMENT

SEC. 146. (a) Whenever during calendar year 1980 or any subsequent calendar year through calendar year 2002 an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first became such an officer or member of such force or department before the end of the ninety-day period beginning on the date of the enactment of this Act completes five years of police and fire service (as determined under subsection (c) of the Policemen and Firemen's Retirement and Disability Act) and retires (or applies for retirement) under subsection (f)(1) or (g)(1) of the Policemen and Firemen's Disability Act, the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with the regulations promulgated by the Mayor in accordance with subsection (g)(5) of such Act, the percentage of impairment of such officer or member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board. In the case of such officer or member, such Board shall determine, within a reasonable time, the percentage of disability of such officer or member giving due regard to—

(1) the nature of the injury or disease;

(2) the percentage of impairment reported pursuant to the preceding sentence;

(3) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the officer or member immediately prior to such officer or member's retirement;

(4) the age and years of service of the officer or member; and

(5) any other factor or circumstance which may affect the capacity of the officer or member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

(b) The Police and Firemen's Relief Board, on or before January 31 of each calendar year from 1981 through 2003, shall make available to the Speaker, the President pro tempore, the Mayor, the Council, the Comptroller General, and the enrolled actuary—

(1) all determinations (including related documents and information) made during the preceding calendar year pursuant to subsection (a) of this section; and

(2) the decisions of the Board on the type of annuity to be awarded to officers and members subject to a determination under subsection (a) during such year.

CONFORMING AMENDMENTS

SEC. 147. (a)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-727), is repealed.

(2) Section 14 of such Act of August 7, 1946 (D.C. Code, sec. 31-734), is amended—

(A) in the third sentence, by striking out "The" and inserting in lieu thereof "Until such time as all amounts in the teachers' retirement and annuity fund have been expended or transferred to the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act, the"; and

(B) by striking out the fourth sentence.

(3) Section 15 of such Act of August 7, 1946 (D.C. Code, sec. 31-735), is repealed.

(b) The proviso in the fourth paragraph (relating to District government retirement and relief funds) under the heading "Compensation and Retirement Fund Expenses" in the Act of July 31, 1953 (D.C. Code, sec. 31-716a), is repealed.

(c)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved January 15, 1920 (D.C. Code, sec. 31-707), is amended by striking out the second and third sentences of the first paragraph.

(2) Section 14 of such Act of January 15, 1920 (D.C. Code, sec. 31-715), is amended by striking out the third and fourth sentences.

(3) Section 15 of such Act of January 15, 1920 (D.C. Code, sec. 31-716), is repealed.

PART D—REPORTING AND DISCLOSURE REQUIREMENTS

PERSONAL FINANCIAL DISCLOSURE BY BOARD MEMBERS

SEC. 161. (a) Each member of the Board shall, within ninety days of his selection as a member of the Board and not later than April 30 of each year thereafter, submit to the Mayor, the Council, the Speaker, and the President pro tempore a personal financial disclosure statement with respect to the preceding calendar year. Such statement shall be in such form as the Council may by regulation require and shall contain such information with respect to the members financial condition as the Council may by regulation require, including the following information:

(1) The amount and source of all income (as defined in section 61 of the Internal Revenue Code of 1954) received during the year.

(2) The identity and category of value of each liability owned, directly or indirectly, that exceeds $2,500 as of the last day of the year (excluding any mortgage that secures real property that is the principal residence of such member).

(3) The identity and category of value of any property held, directly or indirectly, in a trade or business or for investment or the production of income that has a fair market value of not less than $1,000 as of the last day of the year.

(4) The identity and category of value of any transaction, whether direct or indirect, in securities or commodities futures during the year in excess of $1,000 (excluding any gift to any tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1954), and the identity, date, and category of value of any purchase or sale, whether direct or indirect, of any interest in real or tangible personal property during the year the value of which exceeds $1,000 at the time of such purchase or sale (excluding any purchase or sale of any property that is the principal residence of such member or that is used as furnishings for such principal residence).

(5) The nature and extent of any interest during the year in any bank, insurance company, or other financial institution, or in any brokerage or other securities or investment company.

(6) The nature and extent of any employment during the year by any bank, insurance company, or other financial institution, or by any brokerage or other securities or investment company.

A member shall not be required to submit a personal financial disclosure statement to the Speaker and the President pro tempore for calendar years after calendar year 2004.

(b) For purposes of paragraphs (2), (3), and (4) of subsection (a), the member reporting need not specify the actual amount of value of each item required to be reported under such paragraphs, but shall indicate which of the following categories such amount or value is within:

(1) Not more than $5,000.

(2) Greater than $5,000 but not more than $15,000.

(3) Greater than $15,000 but not more than $50,000.

(4) Greater than $50,000 but not more than $100,000.

(5) Greater than $100,000.

ANNUAL REPORTS

SEC. 162. (a)(1)(A) The Board shall publish an annual report for each fiscal year (beginning with fiscal year 1980) with respect to each retirement program to which this title applies and with respect to the Fund for such retirement program. Such report shall be filed with the Mayor, the Council, the Speaker, and the President pro tempore in accordance with section 164(a) and shall be made available and furnished to participants and beneficiaries in accordance with section 164(b).

(B) The annual report shall include the information described in subsections (b), (c), (d), and (e) and, when applicable, subsection (f), and shall also include—

(i) the financial statement and opinion required by paragraph (3) of this subsection; and

(ii) the actuarial statement and opinion required by paragraph (4) of this subsection.

(2) If some or all of the information needed to enable the Board to comply with the requirements of this title is maintained by—

(A) an insurance carrier or other organization which provides some or all of the benefits under the retirement program, or holds assets of the Fund for such retirement program in a separate account;

(B) a bank or similar institution which holds some or all of the assets of the Fund in a common or collective trust or a separate trust, or custodial account; or

(C) the Mayor (or the Police and Firemen's Retirement and Relief Board, established pursuant to section 122 of the Act of September 3, 1974, in carrying out the Mayor's responsibilities under the Policemen and Firemen's Retirement and Disability Act);

such carrier, organization, bank, or institution, or the Mayor, shall transmit and certify the accuracy of such information to the Board within one hundred and twenty days after the end of the fiscal year (or such other date as may be prescribed under regulations of the Board).

(3)(A) Except as provided in subparagraphs (C), the Board shall engage an independent qualified public accountant who shall conduct such examination of any financial statements of the Fund, and of other books and records of the Fund or the retirement program, as the accountant may deem necessary to enable the accountant to form an opinion as to whether the financial statements and schedules required to be included in the annual report by subsection (b) of this section are presented fairly in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Such examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the books and records of the Fund and the retirement program as are considered necessary by the independent qualified public accountant. The independent qualified public accountant shall also offer his opinion as to whether the separate schedules specified in subsection (b)(2) of this section and the summary material required under section 164(b)(2) present fairly, and in all material respects, the information contained therein when considered in conjunction with the financial statements taken as a whole. The opinion by the independent qualified public accountants shall be made a part of the annual report.

(B) In offering his opinion under this section, the accountant may rely on the correctness of any actuarial matter certified to by an enrolled actuary if he so states his reliance.

(C) The opinion required by subparagraph (A) need not be expressed as to any statements required by subsection (b)(2)(G) prepared by a bank or similar institution or insurance carrier regulated and supervised and subject to periodic examination by a State or Federal agency if such statements are certified by the bank, similar institution, or insurance carrier as accurate and are made a part of the annual report.

(4)(A) The Board shall engage an enrolled actuary who shall be responsible for the preparation of the materials comprising the actuarial statement required under subsection (d) of this section.

(B) The enrolled actuary shall utilize such assumptions and techniques as are necessary to enable him to form an opinion as to whether the contents of the matters reported under subsection (d) of this section—

(i) are in the aggregate reasonably related to the experience of the Fund and the retirement program and to reasonable expectation; and

(ii) represents his best estimate of anticipated experience under the Fund and the retirement program.

The opinion by the enrolled actuary shall be made with respect to, and shall be made a part of each annual report.

(C) In making a certification under this section, the enrolled actuary may rely on the correctness of any accounting matter under subsection (b) as to which any qualified public accountant has expressed an opinion if he so states his reliance.

(b)(1) An annual report under this section shall include a financial statement containing a statement of assets and liabilities, and a statement of changes in net assets available for benefits under the retirement program, which shall include details of revenues and expenses and other changes aggregated by general source and application. In the notes to financial statements, disclosures concerning the following items shall be considered by the accountant: A description of the retirement program, including any significant changes in the retirement program made during the period and the impact of such changes on the benefits; the funding policy (including the policy with respect to prior service cost), and any changes in such policy during the year; a description of any significant changes in benefits made during the period; a description of material lease commitments, other commitments, and contingent liabilities; a description of agreements and transactions with persons known to be parties in interest; and any other matters necessary to fully and fairly present the financial statements of the Fund.

(2) The statement required under paragraph (1) shall have attached the following information in separate schedules:

(A) A statement of the assets and liabilities of the Fund, aggregated by categories and valued at their current value, and the same data displayed in comparative form for the end of the previous fiscal year.

(B) A statement of receipts in and disbursements from the Fund during the preceding twelve-month period, aggregated by general source and application.

(C) A schedule of all assets held for investment purposes, aggregated and indentified by issuer, borrower, or lessor, or similar party to the transaction (including a notation as to whether such party is known to be a party in interest), maturity date, rate of interest, collateral, par or maturity value, cost, and current value.

(D) A schedule of each transaction involving a person known to be a party in interest, the identity of such party in interest and his relationship or that of any other party in interest to the Fund, a description of each asset to which the transaction relates; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(E) A schedule of all loans or fixed income obligations which were in default as of the close of the fiscal year or were classified during the year as uncollectable and the following information with respect to each loan on such schedule (including a notation as to whether parties involved are known to be parties in interest): The original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and other material terms), the amount of principal and interest overdue (if any) and an explanation thereof.

(F) A list of all leases which were in default or were classified during the year as uncollectable and the following information with respect to each lease on such list (including a notation as to whether parties involved are known to be parties in interest): The type of property leased (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the property); the identity of the lessor or lessee from or to whom the Fund is leasing; the relationship of such lessors and lessees, if any, to the Fund, the government of the District of Columbia, any employee organization, or any other party in interest; the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; the date the leased property was purchased and its cost; the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, expenses paid for the leased property during the reporting period, the net receipts from the lease, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default.

(G) The most recent annual statement of assets and liabilities of any common or collective trust maintained by a bank or similar institution in which some or all the assets of the Fund are held, of any separate account maintained by an insurance carrier in which some or all of the assets of the Fund are held, and of any separate trust maintained by a bank as trustee in which some or all of the assets of the Fund are held, and in the case of a separate account or a separate trust, such other information as may be required by the Board in order to comply with this subsection.

(H) A schedule of each reportable transaction, the name of each party to the transaction (except that, in the case of an acquisition or sale of a security on the market, the report need not identify the person from whom the security was acquired or to whom it was sold) and a description of each asset to which the transaction applies; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(3) For purposes of subparagraph (H) of paragraph (2), the term "reportable transaction" means a transaction to which the Fund is a party and which is—

(A) a transaction involving an amount in excess of 3 percent of the current value of the assets of the Fund;

(B) any transaction (other than a transaction respecting a security) which is part of a series of transactions with or in conjunction with a person in a fiscal year, if the aggregate amount of such transactions exceed 3 percent of the current value of the assets of the Fund;

(C) a transaction which is part of a series of transactions respecting one or more securities of the same issuer, if the aggregate amount of such transactions in the fiscal year exceeds 3 percent of the current value of the assets of the Fund; or

(D) a transaction with or in conjunction with a person respecting a security, if any other transaction with or in conjunction with such person in the fiscal year respecting a security is required to be reported by reason of subparagraph (A).

(c) The Board shall furnish as a part of an annual report under this section the following information:

(1) The number of individuals covered by the retirement program.

(2) The name and address of each member of the Board.

(3) Except in the case of a person whose compensation is minimal (as determined under regulations of the Council, which regulations the Council shall initially promulgate within ninety days after the date of the enactment of this Act) and who performs solely ministerial duties (as determined under such regulations), the name of each person (including any consultant, broker, trustee, accountant, insurance carrier, actuary, administrator, investment counsel, or custodian who rendered services to the Board or who had transactions with the Board) who directly or indirectly received compensation from the Board during the preceding year for services rendered to the Board or the participants or beneficiaries of the retirement program for which a Fund was established, the amount of such compensation, the nature of his services, his relationship, if any, to the District of Columbia government or any employee organization, and any other officer, position or employment he holds with any party in interest.

(4) An explanation of the reason for any change in appointment of any accountant, insurance carrier, enrolled actuary, or investment counsel appointed by the Board.

(5) Such other financial and actuarial information as the Council may by regulation prescribe.

(d) An annual report under this section for a fiscal year shall include a complete actuarial statement applicable to the fiscal year which shall include the following information:

(1) The date of the actuarial valuation applicable to the fiscal year for which the report is filed.

(2) The date and amount of the payments to the Fund for the fiscal year for which the report is filed and contributions for prior fiscal years not previously reported, including payments by the participants, the United States, and the District of Columbia.

(3) The following information applicable to the fiscal year for which the report is filed:

(A) The amounts determined under section 142(a)(1).

(B) The accrued liabilities.

(C) An identification of benefits not included in the calculation.

(D) A statement of the other facts and actuarial assumptions and methods used to determine costs.

(E) A justification for any change in actuarial assumptions or cost methods.

(4) The number of participants and beneficiaries covered by the retirement program.

(5) A certification of the amount of the payments to the Fund necessary to reduce the accumulated funding deficiency to zero.

(6) A statement by the enrolled actuary of any change in actuarial assumptions made with respect to the Fund during the year.

(7) A statement by the enrolled actuary of the estimated current value of vested benefits under the retirement program.

(8) A statement by the enrolled actuary that to the best of his knowledge the report is complete and accurate.

(9) A copy of the opinion required by subsection (a)(4).

(10) Such other information regarding the retirement program as the Council may by regulation require.

(11) Such other information as the enrolled actuary may determine is necessary to fully and fairly disclose the actuarial position of the Fund.

The actuary shall make an actuarial valuation of the Fund for every third fiscal year, unless he determines that a more frequent valuation is necessary to support his opinion under subsection (a)(4) of this section.

(e) A report under this section for a fiscal year shall include a statement prepared by the Board of—

(1) the relative riskiness of the investments during the fiscal year of the assets of the Fund;

(2) a comparison of the average return on the investments of the Fund during the year with the average return on the investments of other public pension funds during the year that have comparable asset valuation; and

(3) the average daily balance of, and the average rate earned by, assets of the Fund in each of any time or demand deposits during the year.

(f) If some or all of the benefits under the retirement program are purchased from and guaranteed by an insurance company, insurance service, or other similar organization, a report under this section shall include a statement fom such insurance company, service, or other similar organization covering the fiscal year and enumerating—

(1) the premium rate or subscription charges paid to each such carrier, insurance service, or other similar organization and the approximate number of persons covered by each class of such benefits; and

(2) the total amount of premiums received, the approximate number of persons covered by each class of benefits, and the total claims paid by such company, service, or other organization; dividends or retroactive rate adjustments, commissions, and administrative service or other fees or other specific acquisition costs paid by such company, service, or other organization; any amounts held to provide benefits after retirement; the remainder of such premiums; and the names and addresses of the brokers, agents, or other persons to whom commission or fees were paid to each, and for what purpose.

If any such company, service, or other organization does not maintain separate experience records covering the specific groups it serves, the report shall include, in lieu of the information required by paragraph (2), a statement as to the basis of its premium rate or subscription charge, the total amount of premiums or subscription charges received from the Fund, and a copy of the financial report of the company, service, or other organization and, if such company, service, or organization incurs specific costs in connection with the acquisition or retention of any particular Fund or Funds, a detailed statement of such costs.

RETIREMENT PROGRAM SUMMARY DESCRIPTION

SEC. 163. (a)(1) A summary description of each retirement program to which this Act applies shall be furnished to participants and beneficiaries as provided in section 164 (b). The summary description shall include the information specified in subsection (b) of this section, shall be written in a manner calculated to be understood by the average participant or beneficiary, and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the retirement program.

(2) A summary of any material modification in the terms of the retirement program and any change in the information required under subsection (b), written in a manner calculated to be understood by the average participant or beneficiary, shall be furnished in accordance with section 164(b)(1).

(b) Each summary description of a retirement program shall contain the following information: The name and type of administration of the retirement program; the name and address of the chairman of the Board, who shall be the agent of the Board for the service of legal process; the name, title, and address of each member of the Board; a description of the relevant provisions of applicable collective-bargaining agreements; the retirement program's requirements respecting eligibility for participation and benefits; a description of the provisions providing for nonforfeitable pension benefits; circumstances which may result in disqualification, ineligibility, or denial or loss of benefits; the identity of any organization through which benefits are provided; the procedures to be followed in presenting claims for benefits under the retirement program; and the remedies available under the retirement program for the redress of claims that are denied in whole or in part.

FILING REPORTS AND FURNISHING INFORMATION TO PARTICIPANTS

SEC. 164. (a)(1) The Board shall file with the Mayor, the Council, the Speaker, and the President pro tempore—

(A) the annual reports for a fiscal year within two hundred and ten days after the end of such year;

(B) a copy of each summary description of a retirement program within one year after the date of the enactment of this act; and

(C) a revised summary description of a retirement program, incorporating any material modification in the terms of the retirement program, within sixty days after such modification is adopted or occurs.

The Mayor shall make copies of such retirement program descriptions and annual reports available for public inspection in an appropriate location. The Board shall also furnish to the Mayor, the Council, the Speaker, and the President pro tempore, upon request, any documents relating to the retirement program or the Fund, including any bargaining agreement, trust agreement, contract, or other instrument under which the retirement program or Fund is operated.

(2)(A) The Mayor or the Council may reject any filing under this section within thirty days of such filing—

(i) upon determining that such filing is incomplete for purposes of this part; or

(ii) upon determining that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If the Mayor or the Council rejects a filing of a report under subparagraph (A), and if a revised filing satisfactory to the Mayor or the Council is not submitted within forty-five days after the determination under subparagraph (A) to reject the filing is made, and if the Mayor or the Council considers it in the best interest of the participants, then the Mayor or the Council may take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

(iii) Bring a civil action for such legal or equitable relief as may be appropriate to enforce the provisions of this title.

The Board shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund are necessary for such audit.

(3)(A) Either House of Congress may reject any filing under this section within thirty days of such filing by adopting a resolution stating that such House has determined—

(i) that such filing is incomplete for purposes of this part; or

(ii) that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If either House of Congress rejects a report under subparagraph (A) and if either a revised filing is not submitted within forty-five days after adoption of the resolution under subparagraph (A) rejecting the initial filing or such revised filing is rejected by either House of Congress by adoption of a resolution within thirty days after submission of the revised filing, then either House of Congress may, if it deems it in the best interests of the participants, take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund and the retirement program are necessary for performing such audit or preparing such statement.

(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal payment may be paid to the Fund until such time as an acceptable filing is made. For purposes of this subparagraph, a filing is unacceptable if, within thirty days of its submission either House of Congress adopts a resolution disapproving such filing.

(b) Publication of the summary retirement program descriptions and annual reports shall be made to participants and beneficiaries as follows:

(1) The Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the summary retirement program description and all modifications and changes referred to in section 163(a) within ninety days after he becomes a participant or in the case of a beneficiary, within ninety days after he first receives benefits. The Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, every fifth year an updated summary retirement program description described in section 163 which integrates all retirement program amendments made within such five-year period, except that in a case where no amendments have been made to a retirement program during such five-year period this sentence shall not apply. Notwithstanding the foregoing sentence, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, the summary retirement program description described in section 163 every tenth year. If there is a modification or change described in section 163(a), a summary description of such modification or change shall be furnished to each participant and to each beneficiary who is receiveing benefits under the retirement program not later than two hundred and ten days after the end of the fiscal year in which the change is adopted.

(2) The Board shall make copies of the latest annual report and of any bargaining agreement, trust agreement, contract, or other instruments under which the retirement program or the Fund is operated available for examination by any participant or beneficiary in the principal office of the Board and in such other places as may be necessary to make available all pertinent information to all participants (including such places as the Council may by regulation prescribe).

(3) Within two hundred and ten days after the close of the fiscal year, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the statements and schedules described in subparagraphs (A) and (B) of section 162(b)(2) for such fiscal year and such other material as is necessary to fairly summarize the latest annual report.

(4) The Board shall, upon written request of any participant or beneficiary, furnish a copy of the latest updated summary retirement program description, the latest annual report, and any bargaining agreement, trust agreement, contract, or other instruments under which the retirement program or Fund is operated. The Board may make a reasonable charge to cover the cost of furnishing such copies. The Council may by regulation prescribe the maximum amount that will constitute a reasonable charge under the preceding sentence.

(c) The Council may by regulation require that the Board furnish to each participant and, to each beneficiary receiving benefits under a retirement program a statement of the rights of participants and beneficiaries under this title.

REPORTING OF PARTICIPANTS' BENEFIT RIGHTS

SEC. 165. (a) The Board shall furnish to any participant or beneficiary who so requests in writing, a statement indicating, on the basis of the latest available information—

(1) the total benefits accrued, and

(2) the nonforfeitable retirement benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable.

(b) A participant or beneficiary is not entitled to receive more than one report under subsection (a) during any twelve-month period.

PUBLIC INFORMATION

SEC. 166. (a) Except as provided in subsection (b), the contents of the descriptions, annual reports, statements, and other documents filed with the Mayor, the Council, the Speaker, and the President pro tempore pursuant to this part shall be public information, and the Mayor, the Council, the Speaker, and the President pro tempore shall each make such documents available for inspection in an appropriate location. The Mayor, the Council, the Speaker, and the President pro tempore may use the information and data in such documents for statistical and research purposes and may compile and publish such studies, analyses, reports, and surveys based thereon as may be considered appropriate.

(b) Information described in section 165 (a) with respect to a participant or beneficiary of a retirement program may be disclosed only to the extent that information respecting that participant's or beneficiary's benefits under title II of the Social Security Act may be disclosed under such Act.

(c) Except to the extent that information which is protected from public disclosure under subsection (b), or which relates to personnel matters the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, is involved, all meetings of the Board shall be open to the public.

RETENTION OF RECORDS

SEC. 167. The Board shall maintain records on the matters required to be disclosed by this title which will provide in sufficient detail the necessary basic information and data from which the required documents may be verified, explained, or clarified, and checked for accuracy and completeness, shall include vouchers, worksheets, receipts, and applicable resolutions in such records, and shall keep such records available for examination for a period of not less than six years after the filing date of the documents based on the information which they contain. Except to the extent that information is involved which is protected from public disclosure under section 166(b), all such records shall be available for inspection by the public.

ADDITIONAL INFORMATION

SEC. 168. (a) In addition to the information specifically required to be furnished by this part, the Board shall furnish promptly such additional information as the Mayor, the Council, the Speaker, or the President pro tempore may request.

(b) The Board shall, at regular intervals to be determined by the Board, compile and publish all regulations then in effect which were issued by the Board or the Council under this title.

CRIMINAL PENALTIES

SEC. 169. Whoever willfully violates any provision of this part (other than sections 165 and 168), or any regulation or order issued under any such provision, shall be fined not more than $5,000 or imprisoned not more than one year, or both, except that in the case of such a violation by a person not an individual, such person shall be fined not more than $100,000.

PART E—FIDUCIARY RESPONSIBILITY; CIVIL SANCTIONS

FIDUCIARY RESPONSIBILITIES

SEC. 181. (a)(1) The Board and each member of the Board shall discharge responsibilities with respect to a Fund as a fiduciary with respect to such Fund. The Board may designate one or more other persons who exercise responsibilities with respect to a Fund to exercise such responsibilities as a fiduciary with respect to such Fund. The Board shall retain such fiduciary responsibility for the exercise of careful, skillful, prudent, and diligent oversight of any person so designated as would be exercised by a prudent individual acting in a like capacity and familiar with such matters under like circumstances.

(2) A fiduciary shall discharge his duties with respect to a Fund solely in the interest of the participants and beneficiaries and—

(A) for the exclusive purpose of providing benefits to participants and their beneficiaries;

(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying the investments of the Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent to do so; and

(D) in accordance with the provisions of law, documents, and instruments governing the retirement program to the extent that such documents and instruments are consistent with the provisions of this title.

(b) In addition to any liability which he may have under any other provision of this part, a fiduciary with respect to a Fund shall be liable for a breach of fiduciary responsibility of another fiduciary with respect to the same Fund—

(1) if he knowingly participates in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is a breach of fiduciary responsibility;

(2) if, by his failure to comply with subsection (a)(2) in the administration of his specific responsibilities which give rise to his status as a fiduciary, he has enabled such other fiduciary to commit a breach of fiduciary responsibility; or

(3) if he has knowledge of a breach of fiduciary responsibility by such other fiduciary, unless he makes reasonable efforts under the circumstances to remedy the breach.

(c) Except as provided in subsection (f), a fiduciary with respect to a Fund shall not cause the Fund to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—

(1) sale or exchange, or leasing, of any property between the Fund and a party in interest;

(2) lending of money or other extension of credit between the Fund and a party in interest;

(3) furnishing of goods, services, or facilities between the Fund and a party in interest; or

(4) transfer to, or use by or for the benefit of, a party in interest, of any assets of the Fund.

(d) A fiduciary with respect to a Fund shall not—

(1) deal with the assets of the Fund in his own interest or for his own account;

(2) in his individual or in any other capacity act in any transaction involving the Fund on behalf of a party (or represent a party) whose interests are adverse to the interests of the Fund or the interests of its participants or beneficiaries; or

(3) receive any consideration for his own personal account from any party dealing with such Fund in connection with a transaction involving the assets of the Fund.

(e) A transfer of real or personal property by a party in interest to a Fund shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the Fund assumes or if it is subject to mortgage or similar lien which a party in interest placed on the property within the ten-year period ending on the date of the transfer.

(f) The prohibitions provided in subsection (c) shall not apply to any of the following transactions:

(1) Contracting or making reasonable arrangements with a party in interest for office space, or legal, accounting, or other services necessary for the establishment or operation of the Fund, if no more than reasonable compensation is paid therefor.

(2) The investment of all or part of a Fund's assets in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a State, if such bank or other institution is a fiduciary of such Fund and if such investment is expressly authorized by regulations of the Board or by a fiduciary (other than such bank or institution or affiliate thereof) who is expressly empowered by the Board to make such investment.

(3) The providing of any ancillary service by a bank or similar financial institution supervised by the United States or a State if such bank or other institution is a fiduciary of such Fund and if—

(A) such bank or similar financial institution has adopted adequate internal safeguards which assure that the providing of such ancillary service is consistent with sound banking and financal practice, as determined by Federal or State supervisory authority, and

(B) the extent to which such ancillary service is provided is subject to specific guidelines issued by such bank or similar financial institution (as determined by the Mayor after consultation with Federal and State supervisory authority), and adherence to such guidelines would reasonably preclude such bank or similar financial institution from providing such ancillary service (i) in an excessive or unreasonable manner, and (ii) in a manner that would be inconsistent with the best interests of participants and beneficiaries of the retirement program.

Such ancillary services shall not be provided at more than reasonable compensation.

(4) The exercise of a privilege to convert securities, to the extent provided in regulations of the Council, but only if the Fund receives no less than adequate consideration pursuant to such conversion.

(5) Any transaction between a Fund and a common or collective trust fund or pooled investment fund maintained by a party in interest which is a bank or trust company supervised by a State or Federal agency, or a pooled investment fund of an insurance company qualified to do business in a State, if—

(A) the transaction is a sale or purchase of an interest in the Fund;

(B) the bank, trust company, or insurance company receives not more than reasonable compensation; and

(C) such transaction is expressly permitted by the Board, or by a fiduciary (other than the bank, trust company, insurance company, or an affiliate thereof) who has authority to manage and control the assets of the Fund.

(g) Nothing in subsection (c) shall be construed to prohibit any fiduciary from—

(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the retirement program, so long as the benefit is computed and paid on a basis which is consistent with the terms of the retirement program as applied to all other participants and beneficiaries;

(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with respect to the Fund; or

(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

LIABILITY FOR BREACH OF FIDUCIARY DUTY

SEC. 182. (a) Any person who is a fiduciary with respect to a Fund who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to such Fund any losses to the Fund resulting from each such breach and to restore to such Fund any profits of such fiduciary which have been made through the use of assets of the Fund by the fiduciary and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary.

(b) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he became a fiduciary or after he ceased to be a fiduciary.

EXCULPATORY PROVISIONS; INSURANCE

SEC. 183. (a) Any provision in a agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this part shall be void as against public policy.

(b) Nothing in this subpart shall preclude—

(1) the Board from purchasing insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if such insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary;

(2) a fiduciary from purchasing insurance to cover liability under this part from and for his own account; or

(3) an employee organization from purchasing insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with regard to the Fund from which the annuities and other retirement and disability benefits of the members of such employee organization are paid.

PROHIBITION AGAINST CERTAIN PERSONS HOLDING CERTAIN POSITIONS

SEC. 184 (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, fraud, grand larceny, burglary, arson, a felony violation of Federal or State law involving substances defined in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, murder, rape, kidnapping, perjury, assault with intent to kill, any crime described in section 9(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)(1)), a violation of any provision of this Act, a violation of section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186), a violation of chapter 63 of title 18, United States Code, a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18 United States Code, a violation of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401), or conspiracy to commit any such crime or attempt to commit any such crime, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

(1) as a fiduciary, investment counsel, agent, or employee of any Fund established by this title; or

(2) as a consultant to any Fund established by this title;

during or for five years after such conviction or after the end of such imprisonment, whichever is the later, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in paragraph (1) or (2) would not be contrary to the purposes of this title. Prior to making any such determination the Board of Parole shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board of Parole's determination in any such proceeding shall be final. No person shall knowingly permit any other person to serve in any capacity referred to in paragraph (1) or (2) in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee, of any Fund established by this title, or as a consultant to any Fund established by this title, without a notice, hearing, and determination by such Board of Parole that such service would be inconsistent with the intention of this section.

(b) Whoever willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) For the purposes of this section:

(1) A person shall be deemed to have been "convicted" and to be under the disability of "conviction" from the date of entry of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event.

(2) The term "consultant" means any person who, for compensation, advises or represents a Fund or who provides other assistance to such Fund concerning the operation of such Fund.

(3) A period of parole shall not be considered as part of a period of imprisonment.

BONDING

SEC. 185. (a) (1) Each fiduciary of a Fund established by this title and each person who handles funds or other property of such a Fund (hereinafter in this section referred to as "Fund official") shall be bonded as provided in this section, except that no bond shall be required of a fiduciary (or of any director, officer, or employee of such fiduciary) if such fiduciary—

(A) is a corporation organized and doing business under the laws of the United States or of any State;

(B) is authorized under such laws to exercise trust powers or to conduct an insurance business;

(C) is subject to supervision or examination by Federal or State authority; and

(D) has at all times a combined capital and surplus in excess of such a minimum amount as may be established by regulations issued by the Council, which amount shall be at least $1,000,000.

Subparagraph (D) shall apply to a bank or other financial institution which is authorized to exercise trust powers and the deposits of which are not insured by the Federal Deposit Insurance Corporation only if such bank or institution meets bonding or similar requirements under State law which the Council determines are at least equivalent to those imposed on banks by Federal law.

(2) (A) The amount of such bond shall be the lesser of 10 percent of the amount of the funds handled by such fiduciary and $500,000, except that the amount of such bond shall be at least $1,000.

(B) The Mayor, after notice and opportunity for hearing to such fiduciary and all other parties in interest to such Fund, may waive the $500,000 limit.

(C) The amount of such bond shall be set at the beginning of each fiscal year.

(3) For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by the predecessor or predecessors, if any, during the preceding reporting year, or if the Fund has no preceding reporting year under this title, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations to be prescribed by the Council.

(4) Such bond shall provide protection to the Fund against loss by reason of acts of fraud or dishonesty on the part of the Fund official, directly or through connivance with others.

(5) Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to sections 6 through 13 of title 6, United States Code. Any bond shall be in a form or of a type approved by the Council, including individuals bonds or schedule or blanket forms of bonds which cover a group or class.

(b) It shall be unlawful for any Fund official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any Fund without being bonded as required by subsection (a), and it shall be unlawful for any Fund official or any other person having authority to direct the performance of such functions to permit such functions, or any of them, to be performed by any Fund official with respect to whom the requirements of subsection (a) have not been met.

(c) It shall be unlawful for any person to procure any bond required by subsection (a) from any surety or other company or through any agent or broker in whose business operations the Fund or any party in interest in the Fund has any control or significant financial interest, direct or indirect.

(d) Nothing in any other provision of law shall require any person required to be bonded as provided in subsection (a) because he handles funds or other property of a Fund to be bonded insofar as the handling by such person of the funds or other property of such Fund is concerned.

(e) The Council shall prescribe such regulations as may be necessary to carry out the provisions of this section.

LIMITATION ON ACTIONS

SEC. 186. (a) No action may be commenced under this title with respect to a fiduciary's breach of any responsibility, duty, or obligation under this part, or with respect to a violation of this part, after the earlier of—

(1) six years after (A) the date of the last action which constituted a part of the breach or violation, or (B) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

(2) three years after the earliest date (A) on which the plaintiff had actual knowledge of the breach or violation, or (B) on which a report from which he could reasonably be expected to have obtained knowledge of such breach or violation was filed with the Mayor, the Council, the Speaker, or the President pro tempore under this title;

except that in the case of fraud or concealment, such an action may be commenced not later than six years after the date of discovery of such breach or violation.

CIVIL ENFORCEMENT

SEC. 187. (a) A civil action may be brought—

(1) by a participant or beneficiary—

(A) for the relief provided for in subsection (b) of this section, or

(B) to recover benefits due to him under the terms of his retirement program, to enforce his rights under the terms of the retirement program, or to clarify his rights to future benefits under the terms of the retirement program;

(2) by a participant or beneficiary or the District of Columbia for appropriate relief under section 182; or

(3) by a participant or beneficiary or the District of Columbia (A) to enjoin any act or practice which violates any provision of this title or the terms of a retirement program, or (B) to obtain other appropriate equitable relief (i) to redress any such violation, or (ii) to enforce any provision of this title or the terms of a retirement program.

(b) If the Board fails or refuses to comply with a request for any information which the Board is required by this title to furnish to a participant or beneficiary (unless such failure or refusal results from matters reasonably beyond the control of the Board) by mailing the information requested to the last known address of the requesting participant or beneficiary within thirty days after such request, then the Board may, in the court's discretion be liable to such participant or beneficiary in an amount of up to $100 a day from the date of such failure or refusal, and the court may order the Board to provide the required information and may in its discretion order such other relief as it considers proper.

(c) The Board may sue and be sued under this title as an entity. Service of summons, subpena, or other legal process of a court upon the chairman of the Board in his capacity as such shall constitute service upon the Board.

(d) In any action under this title by a participant, beneficiary, or fiduciary, the court in its discretion may allow a reasonable attorney's fee and costs of action to either party.

CLAIMS PROCEDURE

SEC. 188. In accordance with regulations of the Council, the Mayor shall provide to any beneficiary who has a claim for benefits under a retirement program denied—

(1) adequate written notice of such denial, setting forth the specific reasons for such denial in a manner calculated to be understood by such participant or beneficiary; and

(2) a reasonable opportunity for a full and fair review of the decision denying such claim.

TITLE II—CHANGES IN RETIREMENT BENEFITS

PART A—POLICE OFFICERS AND FIREFIGHTERS' RETIREMENT BENEFITS

SALARY BASE PERIOD FOR COMPUTATION OF ANNUITY

SEC. 201. Paragraph (17) of subsection (a) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–521 (17)) is amended—

(1) by striking out "twelve consecutive months of police or fire service," and inserting in lieu thereof "thirty-six consecutive months of police or fire service in the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, or over any twelve consecutive months of police or fire service in the case of any other member,"; and

(2) by inserting "or thirty-six consecutive months, as the case may be," immediately after "twelve consecutive months" the second place it appears.

CREDITABLE SERVICE FOR FULL-TIME OFFICIALS OF EMPLOYEE ORGANIZATIONS

SEC. 202. (a) Subsection (c) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec, 4–523) is amended by redesignating paragraphs (6) and (7) of such subsection as paragraphs (7) and (8), respectively, and by inserting after paragraph (6) the following new paragraph:

"(6) (A) Any period of time during which a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia is on approved leave without pay to serve as a full-time officer or employee of a labor organization shall be considered to be police or fire service for purposes of this section if such member files an election in accordance with subparagraph (B) and makes payments as described in subparagraph (C). The basic salary in effect at any time for the grade in which a member was serving at the time he entered on approved leave described in the preceding sentence shall be considered to be the basic salary in effect for such member for purposes of this section if the period of time when such member is on approved leave is considered to be police or fire service under this paragraph.

"(B) To be eligible to have any period of approved leave described in subparagraph (A) considered to be police or fire service for purposes of this section, a member described in such subparagraph must, not later than the end of the sixty-day period commencing on the day such member enters on such approved leave or the effective date of this paragraph, whichever occurs later, file an election with the Mayor to have such period of approved leave considered to be police or fire service for purposes of this section.

"(C)(i) To have any period of approved leave described in subparagraph (A) occurring after the effective date of this section considered to be police or fire service, a member described in such subparagraph must each month deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act a sum equal to one-twelfth the annual new-entrant normal cost of the annuity of a member receiving the basic salary in effect during such month for the grade in which such member was serving at the time such member entered on such leave.

"(ii) To have any period of approved leave described in subparagraph (A) which occurred before the effective date of this section considered to be police or fire service, a member described in such subparagraph must deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act, in a manner to be determined by the Mayor, a sum equal to the new-entrant normal cost of the annuity of a member receiving the basic salary in effect during the period of such leave for the grade in which such member was serving at the time such member entered on such leave.

"(iii) The Mayor shall make an annual determination of the new-entrant normal cost for purposes of clauses (i) and (ii) according to information supplied by the actuary retained pursuant to section 142 of the District of Columbia Retirement Reform Act.

"(D) For purposes of this paragraph, the term 'employee organization' means any organization of any kind, or any agency or employer representation committee or plan, in which members or officers of the Metropolitan Police force or the Fire Department of the District of Columbia participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

REQUIREMENTS FOR OPTIONAL RETIREMENT

SEC. 203. (a) Subsection (h)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-528(1)) is amended—

(1) by striking out "who completes twenty years of police or fire service" and inserting in lieu thereof "who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and who completes twenty-five years of police or fire service and attains the age of fifty years and any other member (other than a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first becomes such a member after the end of such ninety-day period) who completes twenty years of police or fire service."; and

(2) by striking out "twenty years: *Provided*" and inserting in lieu thereof "(A) twenty-five years, in the case of a member who becomes a member after the end of such ninety-day period, or (B) twenty years, in the case of any other member: *Provided*".

(b)(1) Paragraph (2) of subsection (h) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-528) is amended by striking out "in subsection (h)" and inserting in lieu thereof "under".

(2) Paragraph (3) of such subsection is amended by striking out "of this subsection (h)".

DISABILITY RETIREMENT

SEC. 204. (a) Subsection (g) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-527) is amended—

(1) in paragraph (2), by striking out "In any case in which the proximate cause of an injury incurred or disease contracted by a member" and inserting in lieu thereof "In any case involving a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, in which the proximate cause of an injury incurred or disease contracted by the member"; and

(2) by adding at the end thereof the following new paragraph:

"(4) A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia may not retire and receive an annuity under this subsection on the basis of the aggravation in the performance of duty of an injury incurred or a disease contracted in the performance of duty unless—

"(A) in the case of the aggravation of a disease, the disease was reported to the Board of Police and Fire Surgeons within thirty days after the disease was first diagnosed; or

"(B) in the case of the aggravation of an injury, the injury was reported to the Board of Police and Fire Surgeons within seven days after the injury was incurred or, if the member was unable (as determined by such Board) as a result of the injury to report the injury within such seven-day period, within seven days after the member became able (as determined by such Board) to report the injury.

The burden of establishing inability to report an injury in accordance with subparagraph (B) within seven days after such injury was incurred and of establishing that such injury was reported within seven days after the end of such inability shall be on the member claiming such inability. Any report under this paragraph shall include adequate medical documentation. Nothing in this paragraph shall be deemed to alter or affect any administrative regulation or requirement of the Metropolitan Police force or the Fire Department of the District of Columbia with respect to the reporting of an injury incurred or aggravated, or any disease contracted or aggravated, in the performance of duty.".

(b)(1) Subsection (f) of such Act (D.C. Code, sec. 4-526) is amended—

(A) by striking out "Whenever" and inserting in lieu thereof "(1) Except as provided in paragraph (2), whenever"; and

(B) by adding at the end thereof the following new paragraph.

"(2) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act completes five years of police or fire service and is found by the Mayor to have become disabled due to injury received or disease contracted other than in the performance of duty, which disability precludes further service with his department, such member shall be retired on an annuity which shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with subsection (g)(5)(B)(ii) of this section, except that such annuity shall not be less than 30 per centum of his basic salary at the time of retirement.".

(2) Subsection (g) of such Act, as amended by subsection (a) of this section, is further amended—

(A) in paragraph (1), by striking out "Whenever" and inserting in lieu thereof "Except as provided in paragraph (5), whenever"; and

(B) by adding at the end thereof the following new paragraph:

"(5)(A) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty at any time after appointment and such injury or disease or aggravation permanently disables him for the performance of duty, he shall upon retirement for such disability, receive an annuity computed in accordance with subparagraph (B).

"(B)(i) In the case of any member who retires under this paragraph or paragraph (2) of subsection (f), the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with regulations which the Mayor shall promulgate, the percentage of impairment for such member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board.

"(ii) In the case of any member described in clause (i), the Police and Firemen's Retirement and Relief Board shall determine within a reasonable time the percentage of disability for such member giving due regard to—

"(I) the nature of the injury or disease,

"(II) the percentage of impairment reported pursuant to clause (i),

"(III) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the member immediately prior to his retirement.

"(IV) the age and years of service of the member, and

"(V) any other factors or circumstances which may affect the capacity of the member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

"(iii) The percentage of impairment or the percentage of disability for a member to whom this paragraph applies may be redetermined at any time prior to the time such member reaches the age of fifty and his annuity shall be adjusted accordingly.

"(iv) The annuity of a member who is retired under this paragraph shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with clause (ii), except that such annuity shall not be less than 40 per centum of his basic salary at the time of retirement.

"(v) For purposes of this paragraph—

"(I) the term 'impairment' means any anatomic or functional abnormality or loss existing after maximal medical rehabilitation has been achieved; and

"(II) the term 'disability' means any actual or presumed reduction in or absence of ability to engage in gainful activity which is caused, in whole or in part, by an impairment."

(c) The amendment made by paragraph

(1) of subsection (a) shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who apply for disability retiremnt under subsection (g) of the Policemen and Firemen's Retirement and Disability Act prior to the end of the ninety-day period beginning on the date of the enactment of this Act. The amendment made by paragraph (2) of subsection (a) shall not apply with respect to injuries incurred or diseases first diagnosed prior to the end of such ninety-day period.

RECOVERY FROM DISABILITY

Sec. 205. (a) (1) Subsection (j) (1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–530(1)) is amended in the first sentence by striking out "shall cease" and all that follows in such sentence and inserting in lieu thereof "shall cease—

"(A) upon reemployment in the department from which he was retired,

"(B) on the date of the medical examination showing such recovery,

"(C) forty-five days from the date of the determination that he is so restored, or

"(D) in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, upon a refusal by such annuitant to accept an offer of reemployment in the department from which he was retired at the same grade or rank as he held at the time of his retirement,

whichever is earliest.".

(2) (A) Such subsection (j) (1) is amended in the second sentence by striking out "in each of two succeeding calendar years" and inserting in lieu thereof ", in each of two succeeding calendar years in the case of an annuitant who was an officer or member of the United States Park Police force, Executive Protection Service, or the United States Secret Service Division, or in any calendar year in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,".

"(B) Subsection (j) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3) (A) If any annuitant who is retired under subsection (f) or (g), who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, and who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, receives, directly or indirectly, income from wages or self-employment, or both, in any calendar year after the calendar year in which he retired—

"(i) in an amount in excess of the difference between 70 per centum of the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be reduced by 50 cents for each $1 of such income received during such year in excess of such difference; and

"(ii) in an amount in excess of the difference between the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be further reduced by 20 cents for each $1 of such income received during such year in excess of such difference.

"(B) For the purposes of subparagraph (A), the term 'current earnings limitation', with respect to an annuitant, means the greater of—

"(i) the current annual salary for the position which such annuitant held immediately prior to the retirement of such annuitant; or

"(ii) the current entry level salary for active officers and members, divided by .7.

"(C) The reductions provided for in subparagraph (A) shall be made as follows:

"(i) Such reductions shall be pro rated over a period of twelve consecutive months, with equal amounts withheld from each payment of annuity during such twelve-month period.

"(ii) The twelve-month period during which such reduction is made shall begin as soon after the end of the calendar year involved as is administratively practicable (as determined in accordance with regulations which the Mayor of the District of Columbia shall promulgate).

"(D) If the Mayor of the District of Columbia determines that the level of income of an annuitant whose annuity would otherwise be reduced in accordance with subparagraph (A) has decreased significantly (other than in accordance with normal income fluctuations for such annuitant) during the period in which such reduction would occur, the Mayor may authorize the withholding during such period, or any portion thereof, of such lesser amount than the amount prescribed in such subparagraph as the Mayor considers appropriate or the Mayor may waive the requirements of subparagraph (A) if he finds that circumstances justify such waiver.

"(E) (i) Any annuitant who is retired under subsection (f) or (g) and who prior to such retirement was an officer or member of the Metropolitan Police or the Fire Department of the District of Columbia shall, at such times as the Mayor of the District of Columbia shall by regulation prescribe, submit to the Mayor a notarized statement containing such information as the Mayor shall by regulation require with respect to the income received by such annuitant from wages or self-employment, or both. After examining such statement, the Mayor may require such annuitant to submit to the Mayor a further notarized statement containing such additional information with respect to the income received by such annuitant from wages or self-employment, or both, as the Mayor deems appropriate.

"(ii) Any annuitant described in clause (i) who willfully furnishes materially false information with respect to his income in any statement required to be submitted under such clause shall forfeit all rights to his disability annuity. Any such annuitant who refuses or otherwise willfully fails to timely submit such statement as required by this subsection, payment of the annuity to such annuitant shall cease and such annuitant shall not be eligible to receive such annuity or part thereof for the period beginning on the date after the final day for timely filing of such statement and ending on the date on which the Mayor receives such statement. Nothing in this clause shall affect any rights to a survivor's annuity under subsection (k) based upon the service of such annuitant."

(b) Subsection (m) (2) of such Act (D.C. Code, sec. 4–533(2)) is amended—

(1) by inserting "(A)" before "If a member";

(2) by striking out the last sentence of such subsection and adding after "is based." the following: "The Commissioner shall not require employment questionnaires under subsection (j) (3) (C) or the medical examination of such member under subparagraph (B) after such member reaches the age of fifty."; and

(3) by adding at the end of such subsection the following:

"(B) The Mayor shall, by regulation, require any annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who retired before, on, or after the date of the enactment of the District of Columbia Retirement Reform Act under subsection (f) or (g) of this section to undergo, during each twelve-month period following the effective date of this subparagraph, at least one medical examination of the disability upon which the annuitant's retirement under subsection (f) or (g) is based. No such annuitant shall be required under such regulations to undergo a medical examination during any such twelve-month period during which the annuitant was required to undergo a medical examination under this subsection in connection with such annuitant's employment. Such annual examination shall be carried out by the Board of Police and Fire Surgeons or by a physician designated by the Board.

"(C) Such regulations shall further provide for notification by the Board of Police and Fire Surgeons to each such annuitant as to the time and place for such examination and the consequences of failure to appear and submit to such examination.

"(D) In any case in which the requirement to undergo a medical examination under this section would impose on an annuitant an undue hardship because of the physical or mental condition of such annuitant, the May or, by regulation, shall provide other means sufficient to determine the continuance of the disability on which such annuitant's retirement under subsection (f) or (g) is based.

"(E) Such regulations shall further provide that, in any case involving any such member so retired who refuses or otherwise fails to undergo any medical exam required by this section, payment of the annuity to such member shall cease and such member shall not be eligible to receive such annuity or any part thereof for any period commencing on the day next following the day on which such member was required to undergo such examination, and ending on the date on which such member undergoes such examination. Nothing in this paragraph shall be construed as affecting any rights to a survivor's annuity under subsection (k) based upon the service of such member.".

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act. The amendment made by paragraph (2) (B) of subsection (a) shall apply with respect to income from wages or self-employment, or both, received directly or indirectly during calendar year 1979 or the calendar year after the year in which the member retires, whichever is later, and any calendar year thereafter.

SURVIVORS' ANNUITIES

Sec. 206. (a) (1) Subsection (k) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531) is amended—

(A) in paragraph (2)—

(i) by inserting "(A)" immediately after "40 per centum" the second place it appears, and

(ii) by striking out "computed," and inserting in lieu thereof "computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or (B) of the adjusted average pay of such former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia;"; and

(B) by amending paragraph (3) to read as follows:

"(3) Each surviving child or student-child of any member who dies before retirement, or of any former member who dies after retirement, shall be entitled to receive an annuity equal to the smallest of—

"(A) in the case of a member or former member who is survived by a wife or husband—

"(i) 60 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,548; or

"(iii) $4,644 divided by the number of eligible children; and

"(B) in the case of a member or former member who is not survived by a wife or husband—

"(i) 75 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,860; or

"(iii) $5,580 divided by the number of eligible children.".

(2) Subsection (a) of such Act (D.C. Code, sec. 4–521) is amended—

(A) by striking out the period at the end of paragraph (4) of such subsection and inserting in lieu thereof the following: ", in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the surviving husband of a member or former member who was a member or officer of the Metropolitan Police force or the Fire Department of the District of Columbia if—

"(A) he was married to such member or former member (i) while she was a member, or (ii) for at least one year immediately preceding her death, or

"(B) he is the father of issue by such marriage."; and

(B) by inserting the following new paragraph immediately after paragraph (17):

"(18) The term 'adjusted average pay' means the average pay of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia increased by the per centum increase (adjusted to the nearest one-tenth of 1 per centum in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, between the month in which such member retires and the month immediately prior to the month in which such member dies.".

(b) The amendments made by subsection (a) shall apply with respect to survivor annuities under the Policemen and Firemen's Retirement and Disability Act for survivors of officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia which commence on or after the first day of the first month which begins after the end of the ninety-day period beginning on the date of enactment of this Act.

DEFERRED ANNUITIES

SEC. 207. (a) (1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (l) through (r) as subsections (m) through (s), respectively; and

(B) by inserting immediately after subsection (k) the following new subsection:

"DEFERRED ANNUITIES

"(l) (1) Except as provided in paragraph (2), any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department, except for retirement under subsection (f), (g), or (h), shall be entitled to an annuity commencing on the first day of the month during which such member attains the age of fifty-five or on the first day of the first month beginning after such member's separation from his department, whichever month occurs later. Such annuity shall be computed at the rate of 2½ per centum of his average pay for each year of service up to twenty years of service and at the rate of 3 per centum of his average pay for each year of service after twenty years of service, or, in the case of a member who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, after twenty-five years of service, except that such annuity may not exceed 80 per centum of the average pay of such member.

"(2) (A) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department (other than a member who retires under subsection (f), (g), or (h)) may elect, at the time of his separation, to receive a refund of the amount of deductions made from his salary under this section. Receipt of such refund by the member shall void all annuity rights under this section.

"(B) (i) Any member who, by electing to receive a refund under subparagraph (A), loses annuity rights under this section, may reestablish all such rights at any time prior to attaining the age of fifty-five by redepositing the amount of such refund plus interest computed in accordance with paragraph (3).

"(ii) If any member who receives a refund under subparagraph (A) is subsequently reappointed to any department whose members come under this section and elects, at the time of such reappointment, to redeposit the amount refunded to him under subparagraph (A) plus interest computed in accordance with paragraph (3), then credit shall be allowed under this section for such member's prior period of service. Such redeposit (and the required interest thereon) may, at the election of the member, be made in a lump sum or in not to exceed 60 monthly installments, except that if the member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.

"(3) The interest which is required by paragraphs (2) (B) (i) and (ii) of this subsection and by paragraph (2) (B) of subsection (d) to be paid by a member who redeposits the amount of previously refunded deductions shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund if he makes a lump sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on redeposits under this section.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund.

"(C) If a member elects to make his redeposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

(2) Subsection (k) of such Act (D.C. Code, 4–531), as amended by section 206 of this Act, is further amended—

(A) in paragraph (2)—

(i) by striking out "or" the first place it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,";

(B) in paragraph (3)—

(i) by striking out "or" the second place it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,"; and

(C) in paragraph (6)—

(i) by striking out ", may," in the first sentence and inserting in lieu thereof "may",

(ii) by inserting ", and any member entitled to receive an annuity under subsection (l) of this section may at the time such annuity commences," immediately after "such retirement," in the first sentence,

(iii) by striking out "the retired annuitant" in the first sentence and inserting in lieu thereof "such member's".

(iv) by striking out "the retiring" in the proviso in the first sentence and inserting in lieu thereof "such",

(v) by striking out "retiring" in the second and fourth sentences,

(vi) by striking out "retirement" in the last sentence and inserting in lieu thereof "election", and

(vii) by striking out "or (h)" in the last sentence and inserting in lieu thereof "(h), or (l), as the case may be".

(b) The amendments made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST OF REFUNDS AND ON DEPOSITS FOR PRIOR SERVICE CREDIT

SEC. 208. (a) (1) Subsection (d) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–524) is amended—

(A) in paragraph (2)—

(i) by striking out "Any member coming under the provisions of this section" and inserting in lieu thereof "(A) any member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Division,"; and

(ii) by adding at the end of such paragraph the following new subparagraph,

"(B) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia with less than five years of police or fire service who is separated from his department, except for retirement under subsection (f), (g), or (h), shall be refunded the amount of the deductions made from his salary under this section. The receipt of payment of such deductions by such member shall void all annuity rights under this section, except that if such member is subsequently reapopinted to any department whose members come under this section and such member elects, at the time of such reappointment, to redeposit the amount refunded to him pursuant to the preceding sentence plus interest computed in accordance with subsection (l)(3), then credit shall be allowed under this section for the prior period of service. Such redeposit (and the interest required thereon) may be made, at the election of the member, in a lump sum or in not to exceed 60 monthly installments, except that if such member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have ben met.";

(B) in the proviso at the end of paragraph (3), by inserting immediately before the period ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto"; and

(C) in paragraph (4)—

(i) by striking out "after retirement", and

(ii) in the proviso at the end of such paragraph by inserting ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto" immediately before the period.

(2) Paragraph (5) of subsection (c) of such Act (D.C. Code, sec. 4–523(5) is amended to read as follows:

"(5)(A) A member shall be allowed credit for government service performed prior to appointment in any of the departments mentioned in subsection (a)(1) of this section, if such member deposits a sum equal to the amount, including interest (if any), refunded to him for such period of government service. A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall deposit such sum, plus interest computed in accordance with subparagraph (B), with the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act. All other members shall deposit such sums with the Mayor of the District of Columbia for credit to the revenues of the District of Columbia. If the member so elects, he may deposit the total amount of such refund in monthly installments not exceeding twenty-four, except that in the case of a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, such monthly installments shall be of equal amounts. No deposit shall be required for days of unused sick leave credited under subsection (h) of this section.

"(B) Interest required on deposits under this paragraph for members who are officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be computed as follows:

"(i) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits under this paragraph.

"(ii) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(iii) If a member elects to make his deposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

The amendments made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act. The amendments made by paragraph (2) of subsection (a) shall not apply with respect to deposits made, in whole or in part, prior to the end of such ninety-day period.

COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

SEC. 209. (a)(1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (m) through (s), as redesignated by section 207 (a)(1)(A) of this Act, as subsections (n) through (t), respectively; and

(B) by inserting immediately after subsection (l), as added by the amendment made by section 207(a)(1)(B) of this Act, the following new subsection:

"COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

"(m)(1) Each month the Mayor of the District of Columbia shall determine the per centum change in the price index. On the basis of this determination, and effective the first day of the third month which begins after the price index shall have equaled the rise of at least 3 per centum for three consecutive months over the price index for the base month each annuity payable under this section which—

"(A) is payable to a survivor of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, and

"(B) has a commencing date on or before such effective date,

shall be increased by 1 per centum plus the per centum rise in the price index. For purposes of this paragraph, the term 'base month' means the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under this paragraph, except that, until the first cost-of-living annuity increase under this paragraph, the base month shall be the last month which was the base month for purposes of subsection (k)(7) before its repeal by section 209(b) of the District of Columbia Retirement Reform Act.

"(2) With respect to any annuity payable under this section which is payable to a member who was an officer or member of the Metropolitan Police Force or the Fire Department of the District of Columbia, or to a survivor of any such member, the Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(3) If in any year the per centum change determined under either paragraph (2)(A) of (2)(B) indicated a rise in the price index, then—

"(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum, or

"(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.

"(4) The monthly installment of annuity after adjustment under this subsection shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least $1.

"(5) For purposes of this subsection, the term 'price index' means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics.".

(2) Subsections (m)(2) and (3) of the Policemen and Firemen's Retirement and Disability Act, as added by the amendment made by paragraph (1)(B) of this subsection, shall apply (A) to any increase after the effective date of such amendment in annuities payable under subsection (k) of such Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change for the purpose of such an increase, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month which was the base month for purposes of subsection (k)(7) of the Policemen and Firemen's Retirement and Disability Act before the repeal of such subsection by subsection

(b) of this section, and (B) to any increase in each annuity payable under such Act having a commencing date after the effective date of such amendment.

(b) Subsection (k)(7) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531(7)) is repealed.

(c) Section 301 of the District of Columbia Police and Firemen's Salary Act of 1953 (D.C. Code, sec. 4–518) is amended by adding at the end thereof the following new subsection:

"(e) This section shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who retire after the effective date of this subsection.".

(d) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

AUTHORITY TO WAIVE COLLECTION OF OVERPAYMENTS

SEC. 210. Subsection (o) of the Policemen and Firemen's Retirement and Disability Act, as amended by section 205(b) of this Act and redesignated by section 209(a)(1)(A) of this Act (D.C. Code, sec. 4–533), is amended by adding at the end thereof the following new paragraph:

"(3) Except in a case of fraud against the District of Columbia, the Mayor may waive collection of any amount less than $100 which was paid to an annuitant in excess of the amount to which such annuitant was entitled under this section.".

COMMENCING DATE OF PAYMENT OF ANNUITIES

SEC. 211. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a)(1)(A) of this Act (D.C. Code, sec. 4–534), is amended by inserting after "accrues monthly" in paragraph (1) the following: "(except that an annuity accrues over any portion of a month after the commencing date of such annuity but before the first day of the next month and is payable for such month in an amount pro rated in a manner to be determined by the Mayor)".

PAYMENT OF ANNUITIES TO MINORS AND MENTAL INCOMPETENTS

SEC. 212. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a)(1)(A) of this Act and amended by section 211 of this Act (D.C. Code, sec. 4–534), is amended by redesignating paragraphs (2) and (3) of such subsection as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Mayor, is responsible for the care of the claimant, and the payment bars recovery by any other person.".

IMPROVEMENTS IN ADMINISTRATION OF DISABILITY RETIREMENTS

SEC. 213. Subsection (g) of the Policemen and Firemen's Retirement and Disability Act (as amended by section 204 of this Act) is further amended by adding at the end thereof the following new paragraphs:

"(6) Not later than ninety days after the date of the enactment of the District of Columbia Retirement Reform Act, the Board of Police and Fire Surgeons shall submit to the Mayor recommendations for regulations to establish specific criteria for determining whether an injury was incurred, or a disease was contracted, in the performance of duty and whether an injury or disease was aggravated in the performance of duty. The Mayor shall promulgate regulations establishing such criteria in a timely manner based on the recommendations of the Board.

"(7)(A) In making determinations under this subsection and under subsection (f), the Board of Police and Fire Surgeons and the Police and Firemen's Retirement and Relief Board shall make full use of the medical resources in the District of Columbia and shall make the widest practical use of the medical expertise available to them consistent with fair and even administration of this Act.

"(B) Not later than ninety days after the date of the enactment of the District of Columbia Retirement Reform Act, the Board of Police and Fire Surgeons and the Police and Firemen's Retirement and Relief Board shall each submit to the Mayor recommendations for regulations to carry out the requirements of subparagraph (A). The Mayor shall, in a timely manner and based on the recommendations of such Boards, promulgate regulations to carry out the requirements of such subparagraph.

"(C) Failure to promulgate such regulations, or failure to comply with such regulations, shall not invalidate any decision of the Mayor or the Police and Firemen's Retirement and Relief Board with respect to the retirement of any individual.".

RESTRICTION ON RETIRED POLICE OFFICERS AND FIRE FIGHTERS RECEIVING ANNUITY WHILE EMPLOYED BY THE DISTRICT OF COLUMBIA GOVERNMENT

SEC. 214. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act (as redesignated by section 209(a)(1)(A) and amended by section 211) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of law, the salary of any annuitant who first becomes entitled to an annuity under this section after the date of the enactment of the District of Columbia Retirement Reform Act and who is subsequently employed by the government of the District of Columbia shall be reduced by such amount as is necessary to provide that the sum of such annuitant's annuity under this section and compensation for such employment is equal to the salary otherwise payable for the position held by such annuitant.".

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

COST-OF-LIVING ADJUSTMENTS OF TEACHERS' ANNUITIES

SEC. 251. (a)(1) Section 21(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–739a(b)), is amended to read as follows:

"(b)(1) The Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the per centum change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum, or

"(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.".

(2) The amendment made by paragraph (1) shall apply to any increase after the effective date of such amendment in annuities payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, or from the District of Columbia Teachers' Retirement Fund established by section 123(a) of this Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month before such effective date for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under section 21(b) of such Act of August 7, 1946, as in effect immediately before the amendment of such section by paragraph (1).

(b) Section 21(c) of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–739 a(c)), is amended—

(1) by striking out "governed by the commencing date of each annuity payable from the fund as of the effective date of an increase" and inserting in lieu thereof "as provided in subsection (b)(2)"; and

(2) by striking out "from the fund" in paragraph (1) of such section.

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of the Act.

COST-OF-LIVING ADJUSTMENTS OF JUDGE'S ANNUITIES

SEC. 252. (a) Section 11–1571(a) of title 11 of the District of Columbia Code is amended by inserting ", or who, before the next such increase first becomes payable under such section, receives such salary or annuity, either" immediately after "salary or annuity".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON TEACHERS' REFUNDS AND DEPOSITS

SEC. 253 (a)(1) The first section of the Act entitled "An Act for the retirement of a public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–721) is amended—

(A) in the first paragraph by inserting "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately before the period at the end of the proviso in the second sentence; and

(B) in the second paragraph—

(i) in the first sentence—

(I) by striking out "at 3 per centum per annum compounded as of December 31 of each year" and inserting in lieu thereof "computed in accordance with section 24(a) of this Act" and

(II) by striking out "an interest rate of 3 per centum per annum compounded annually" and inserting in lieu thereof "the interest rate computed in accordance with section 24(a) of this Act"; and

(ii) in the second sentence, by inserting "to the date of such death or separation or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "are made".

(2) Section 1A(b) of such Act (D.C. Code, sec. 31–721a(b)) is amended by striking out "with interest at 4 per centum compounded annually" in the first sentence and inserting in lieu thereof ", with interest computed in accordance with section 24(b) of this Act,".

(3) Section 8 of such Act (D.C. Code, sec. 31–728) is amended in the first paragraph—

(A) in the second proviso in the sixth sentence—

(i) by striking out "the accumulated contributions and interest" and inserting in lieu thereof "(1) the accumulated contributions", and

(ii) by inserting immediately before the colon at the end of such proviso ", and (2) interest thereon computed in accordance with section 24(b) of this Act"; and

(B) in the seventh sentence, by striking out "with interest at 3 per centum per annum compounded annually".

(4) Section 9(a) of such Act (D.C. Code, sec. 31–729(a)) is amended—

(A) in the first proviso—

(i) by inserting "(computed to the date of separation or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "thereon", and

(ii) by inserting "(computed to the date of separation or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "interest" the second time it appears;

(B) in the second proviso, by inserting "(including the interest thereon) plus interest computed in accordance with section 24 (c) of this Act" immediately before the colon at the end of such proviso; and

(C) in the third proviso, by striking out ", with interest at 3 per centum compounded annually".

(5) Section 10(f)(3) of such Act (D.C. Code, sec. 31–730(f)(3)) is amended by inserting after "interest" the first time it appears ", earned prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act.".

(6) Such Act is further amended by adding at the end thereof the following new section:

"SEC. 24. (a) For purposes of determining the amount available to purchase an annuity under the second paragraph of the first section of this Act, interest shall be deemed to accrue on deposits at the following rates for the following periods:

"(1) Prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, interest shall accrue at the rate of 3 per centum per annum compounded as of December 31 of each year.

"(2) For the period beginning at the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and ending on September 30, 1981, interest shall accrue at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum).

"(3) After October 1, 1981, interest shall accrue at an annual rate which (as determined by the Mayor of the District of Columbia) is equal to the average annual rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund established by section 123 of the District of Columbia Retirement Reform Act.

"(b) Interest required on deposits under section 1A or 8 of this Act or under the Act of June 27, 1960, shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which precludes the month during the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit installments, each payment shall include interest on that portion of the refund which is then being redeposited.

"(c) Interest required on deposits under section 9(a) of this Act shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.".

(b) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31–745), is amended—

(1) by striking out "and interest"; and

(2) by inserting immediately before the colon at the beginning of the proviso "plus interest computed in accordance with section 24(b) of such Act of August 7, 1946".

(c) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON JUDGES' REDEPOSITS

SEC. 254. (a) Subchapter III of chapter 15 of title 11 of the District of Columbia Code is amended—

(1) in section 11–1561—

(A) in paragraph (9)(C), by inserting immediately before the semicolon at the end thereof "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier", and

(B) in paragraph (10)(C), by inserting immediately before the semicolon at the end thereof "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier"; and

(2) in section 11–1569(c), by inserting "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "such judge" and before the comma.

(b) Such subchapter III is further amended—

(1) in section 11–1563(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11–1564 (d)(2)";

(2) by amending section 11–1564(d)(2) to read as follows:

. "(2) Interest on deposits under this subsection and section 11–1567(b) shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Judges' Retirement Fund (established by section 124 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(i) for so much of any such period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits;

"(ii) for so much of any such period which occurs between January 1, 1948, and the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits; and

"(iii) for so much of any such period which occurs prior to January 1, 1948, the rate of 4 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(C) If a judge elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

Interest may not be charged for a period of separation from the service which began before October 31, 1956."; and

(3) in section 11-1567(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11-1564 (d)(2)".

(c) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

RESTORATION OF TEACHERS' ANNUITIES IN THE EVENT OF PREDECEASED BENEFICIARIES

SEC. 255. (a) Section 5(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-725(b)), is amended by adding at the end thereof the following new paragraph:

"(4) In the event an individual designated as a surviving widow or widower or as a survivor annuitant under this subsection predeceases the teacher designating such individual, the annuity of such teacher shall, effective the day after the death of such individual, be the amount it would have been if no such beneficiary had been named.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1978, or at the end of the ninety-day period beginning on the date of the enactment of this Act, whichever is later.

TERMINATION OF TEACHERS' DISABILITY ANNUITIES BASED ON OUTSIDE EARNED INCOME

SEC. 256. Section 4 of the Act entitled "An Act for retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-724), is amended by inserting after the second paragraph thereof the following new paragraph:

"Notwithstanding the foregoing provisions of this section, if during any calendar year an annuitant who is receiving a disability annuity under this section and who has not reached retirement age (as defined in section 3) receives income from wages of self-employment, or both, in an amount not less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, the annuity of such annuitant shall be terminated by the Board of Education effective January 1 of the first calendar year after such calendar year, except that this sentence shall not apply with respect to income received during the year in which the annuitant retired. The annuity of any annuitant whose annuity is terminated under the preceding sentence shall be restored, at the rate which would have been in effect but for such termination, effective January 1 of any year following a year during which the amount of such annuitant's income from wages and self-employment is less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, or effective immediately if the Board of Education determines that, outside of normal fluctuations in such annuitant's income, such annuitant's income is reduced to a level which on an annual basis is less than 80 per centum of such current rate of pay.".

RESTRICTION ON RETIRED TEACHERS RECEIVING ANNUITY WHILE EMPLOYED BY THE DISTRICT OF COLUMBIA GOVERNMENT

SEC. 257. The Act entitled "An Act for retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-721 et seq.), is amended by adding after section 24 (as added by section 253(a)(6)) the following new section:

"SEC. 25. Notwithstanding any other provision of law, the salary of any retired teacher who first becomes entitled to an annuity under this Act after the date of the enactment of the District of Columbia Retirement Reform Act and who is subsequently employed by the government of the District of Columbia shall be reduced by such amount as is necessary to provide that the sum of such teacher's annuity under this Act and compensation for such employment is equal to the salary otherwise payable for the position held by such teacher.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 3939, was laid on the table.

EMERGENCY MEDICAL SERVICES REAUTHORIZATION

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3642) to extend for 3 fiscal years the programs under section 789 and title XII of the Public Health Service Act relating to emergency medical services and to authorize assistance for poison control and assistance centers.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3642, with Mr. DELLUMS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of bill is dispensed with.

Under the rule, the gentleman from California (Mr. WAXMAN) will be recognized for 30 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

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Mr. Chairman, the emergency medical services (EMS) program enacted in 1973 is one of the great success stories among our Federal health programs. The numbers of lives and dollars saved is demonstrable. Many communities regard their improved emergency services as equally as vital to the community as police and fire protection.

It was clear during Interstate and Foreign Commerce Committee deliberations on the reauthorization of this program that H.R. 3642 enjoyed strong bipartisan support.

The emergency medical services program has introduced many progressive concepts to the American health care system. It is intended to assist in providing comprehensive and integrated emergency health care to previously underserved areas with specialized treatment of heart attacks, burn and trauma victims, and public first aid and health care education.

The Federal EMS program enacted in 1973 envisions 304 regionally-coordinated systems of emergency medical services in every State and in all U.S. territories. To date, 282 of these regional systems have received some assistance under the program. At the end of fiscal year 1978, 96 systems covering 67.2 million people were planned or being planned; 169 systems serving 118.3 million citizens were in some phase of operational development; and 17 systems covering 26.2 million people had completed eligibility under the program. Grants have been made in every State and territory, except American Samoa.

Since 1974, when the first EMS grants were made, funding of the program consistently has been below authorized levels. Thus, in 1978, requests for funding exceeded available appropriations by 52 percent. Development, therefore, has been slower than we would like, but the program is on firm footing and remarkable progress is being made in every section of the country.

Accidental injury is the leading cause of death in the United States among persons aged 1 to 38, and is the fourth highest cause of death in the United States. Recently, the National Center for Health Statistics reported that, in 1976, there were 100,000 accidental deaths. Although this number is high, it does represent a decrease from the 117,000 deaths from accidents which occurred in 1972—a decrease of almost 15 percent. Improvements in the quality of emergency care contributed to this decrease. These improvements were made possible by Federal funding to States and localities under the Emergency Medical Services Systems Act, enacted in 1973.

Several Members of Congress deserve recognition for the hard work they have put in on creating and furnishing vigorous congressional support for this program. Congressman MOLLOHAN originated this program in the House in 1972. His testimony before our subcommittee last spring was an inspiration. No one can question how important and effective a contribution to public health policy a single Member of Congress can make when one looks at the remarkable accomplishment of Mr. MOLLOHAN in working with Paul Rogers and Representative HARLEY STAGGERS to shepherd this program through the House and on to enactment in 1973. Other supporters who have assisted me with this reauthorization include Dr. TIM LEE CARTER, Congressman RICHARDSON PREYER, Congresswoman BARBARA MIKULSKI, and Congressman RICHARD SHELBY.

The Subcommittee on Health and the Environment heard testimony from the administration on its alternative proposal to phase out Federal support for emergency medical services over the next 3 fiscal years. However, the subcommittee did not adopt the administration proposal because we felt it would abandon emergency medical services at critical stages in their development across the country.

If we accepted the administration's plan, only 25 percent (75 of 304) of the regional systems would complete the 5-year Federal funding cycle with fully developed advanced life support (ALS) systems. Another 179 systems (59 percent) would be forced to stop development with basic life support (BLS). The remaining 50 systems (16 percent) would either receive no assistance or would be stymied at the planning stage. In short, under the administration's plan, 75 percent of the regional EMS systems we envision as being necessary would be left undeveloped or underdeveloped. This is a successful program that is saving lives and helping hold down medical costs. A drastic phase-out over the next 3 years just did not seem justified.

Accordingly, the committee bill extends for 3 fiscal years the existing authorization for emergency medical services systems, under section 789 and title XII of the Public Health Service Act, and also amends title XII to provide new authority for assistance to poison control centers.

Subcommittee hearings on this legislation indicated poison treatment needs more support than it now has under existing programs.

Each year there are an estimated 2 to 5 million poisonings in this country. This number is continually increasing as new drugs, household and industrial products present a growing hazard to our citizens.

Poisonings are the fifth most frequent cause of accidental death; 85 percent of all cases involve children, which makes poisoning the most frequent pediatric emergency; the remaining 15 percent are intentional or industrial adult poisonings resulting in over 5,000 deaths per year.

Although poisoning has been identified as a specific patient care system within the emergency medical service network, development of poison control information and treatment centers nationwide has been sluggish and fragmented. The committee believes the development of a national network of regional poison control centers which supply on the telephone essential information on antidotes will substantially reduce mortality and morbidity due to poisoning. A poison hotline network would actually reduce unnecessary emergency medical costs by lessening demand on expensive emergency room services.

H.R. 3642 authorizes for emergency medical services $79 million for fiscal year 1980, $77 million for fiscal year 1981, and $75 million for fiscal year 1982.

The authorization for the 3-year extension of the existing EMS program is actually $6 million less than the authorization for the last 3 years of the program under existing law. The proposed authorization levels have been reduced to be more consistent with actual budget spending. This EMS reauthorization is consistent with current efforts to contain spiraling medical expenditures.

As EMS programs improve and provide prompt care to accident victims, they decrease both the amount and degree of illness and injury which must be treated and the cost of that treatment.

I urge my colleagues to join me in supporting H.R. 3642, the reauthorization of Federal assistance for emergency medical services.

Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. I rise in strong support of the emergency medical services legislation. I do not exaggerate when I say that I feel as strongly about this bill as any before the Health Subcommittee in this Congress.

The basis for my enthusiasm is simple—EMS works. At a time when federally supported programs are coming under attack, EMS is very popular. Testimony made it clear that this is a program which enjoys a rare consensus. EMS is effective, and people know it.

It is not as if we are talking about a program which is heavily laden with bureaucracy. People all over the country know what ambulances are. Cardiopulmonary resuscitation is saving lives every day.

At Three Mile Island, EMS was involved in the disaster relief procedures.

Many communities regard the EMS "911" telephone system as vital to their public welfare as police and fire protection.

In New Jersey, the rate of child mortality by poisoning has dropped 58 percent since the EMS program took hold.

In San Diego, 85 percent of problems relating to poisons are handled over the telephone. This has resulted in annual savings of $750,000 tax dollars for San Diego alone. Projected nationwide, this savings would amount to $60 million.

The administration has proposed a 3-year continuation with declining authorizations and program termination in fiscal 1982; 6 more years of authority will be needed to complete the Federal EMS commitment. Ending the program in fiscal 1982 when we will be so near to fulfilling the objectives of this act would be very bad policy.

Let me reiterate that this is not a new spending program. If we pass this bill, we will be giving these local EMS programs a realistic chance of being self-sufficient by 1985. We can phase out Federal support, but we must do it responsibly.

This is one authorization which must not be reduced. EMS works. People care about it. Let us tell the communities across America that we are behind them by passing this bill.

Mr. BROYHILL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this legislation to extend for 3 years the authorizations of appropriations for the Emergency Medical Services System Act.

Created by Congress in 1973—the EMS law was designed to provide Federal support for the development of regional systems of emergency care throughout the Nation.

There are now 304 EMS regions in the country of which 140 are in the development stage—85 have completed the planning stage and 66 will have completed their eligibility for funding by the end of the year. In my own State—five of the six EMS regions have received funding under this act and are in various stages of development.

And despite the fact that not all systems are fully implemented impressive evidence of the effectiveness of the EMS concept has been cited.

For example, serious spinal cord injury which until recently was viewed as a hopeless condition has been successfully treated in Illinois as a result of rapid emergency evacuation to a speciality care center in Chicago. Approximately 62 percent of these victims returned to active employment within 6 months at a total estimated savings of $3 million in health care costs.

Significant reductions in infant mortality have also been attributed to effective emergency medical services systems.

For example, the rate of infant mortality in New Jersey decreased by 58 percent and in San Antonio, Tex., the rate decreased by 50 percent because of improvement in local EMS systems.

Certain rural areas have also experienced reductions in mortality rates from effective emergency interventions and skilled prehospital care. For example, in the rural EMS program located in Charlottesville, Va., there was a 26-percent decline in the prehospital coronary death rate because of the immediate availability of emergency medical services and trained personnel. This is a particularly impressive statistic in light of the fact that many rural areas face difficult transportation and geographic barriers in the delivery of emergency care.

And for one final example, we can look to the Maryland Trauma Center which has greatly improved the survival rate of trauma victims. For example, in 1968, 70 percent of the seriously injured accident victims in Baltimore were either dead on arrival or else they died in the hospital. Now more than 80 percent of the seriously injured accident victims are surviving.

These are just a few of the vivid lifesaving results which show the potential of the EMS concept. Moreover, with a fully implemented and effective EMS network nationwide, it has been estimated that 60,000 lives could be saved annually. And with the reduction in mortality and the effective treatment of critical medical conditions, considerable cost-savings can be expected because of the increased number of patients who would be returned to active employment.

Mr. Chairman, I believe that the EMS program is demonstrating its effectiveness and I urge my distinguished colleagues to support extension of the program as provided by H.R. 3642.

The funds authorized in this legislation are needed to help communities continue development of their EMS systems so that they can respond as rapidly and effectively as possible to victims of emergency situations.

In addition to basic program support the legislation includes funds for the training of emergency personnel, for research, for burn injury programs, and for the development of regional poison control centers to reduce morbidity and mortality from poisonings.

Mr. Chairman, this program offers a worthy investment of taxpayers' dollars because it helps save lives and reduce disability. I urge favorable consideration of this legislation.

● Mr. COLLINS of Texas. Mr. Chairman, emergency medical services in this country have made enormous strides forward in the past decade. We were told in committee that in one city in 1968, for example, 70 percent of seriously injured accident victims were either dead on arrival or died in hospitals. Today 80 percent of the victims are surviving. This representative case testifies to the great ability of the medical community to respond to critical needs.

Congress in 1973 provided funds to support, among other things, an effort to extend the emergency services in rural areas. HEW reports that 50 percent of EMS systems development grants from those funds have in fact gone to rural areas. The funds have supported training for local citizens and paramedics in procedures for treating accident victims before they reach a hospital. They have helped to fund ambulances and tie-in with military helicopter service in aid of the injured.

The short-term funding under the original legislation has made local agencies understand that they must quickly get continuing local support for emergency medical services. Not only do they get the support, but they continue it after our funding stops. HEW reports that not a single program funded and completed under this legislation has discontinued or diminished services or public support.

Mr. Chairman, it is obvious that Congress's support of the American people's capacity for self-help has in this case succeeded up to all hopes and expectations. I wish all our appropriations had effect. Some Members look at the 90 percent full bottle and say it is 10 percent empty. They want to continue Federal support. I say, let the strong momentum already carrying this work run its course. Great depth of know-how exists throughout the country. Any community with a will to work can readily get any technical guidance it needs.

Let us be content with success. Let us drop this program and get on with more critical concerns in this day of limited budgets. I urge the House to phase out this funding as has been intended for the past 6 years. And I heartily support my colleagues who point out that we should not make it unnecessarily difficult for the Appropriations Committee to phase it out.

Mr. Chairman, H.R. 3642 extends for 3 fiscal years the programs under section 789 and title XII of the Public Health Service Act (PHS) relating to emergency medical services and authorizes assistance for poison control and assistance centers.

In light of the original self-supporting objectives of this limited-duration program and existing constraints on the budget, H.R. 3642 maps out an entirely inappropriate authorization course (see attached budget chart). This is particularly the case with respect to those aspects of the legislation which would continue a demonstration program which has run its course and initiate a new program for a particular type of trauma.

President Carter in his fiscal year 1980 budget proposed authorization consistent with his plan to begin an orderly 3-year phaseout of the Federal assistance for the emergency medical services program. To that end he proposed $39.625 million for the program in fiscal year 1980 as contrasted to the $74 million, $72 million, and $70 million that H.R. 3642 woud provide for fiscal year 1980, 1981, and 1982, respectively.

At the completion of fiscal year 1979, 95.7 percent, or 291 of the 304 State emergency medical services regions, will have received assistance under title XII of the Public Health Service Act. That is, 85 regions will have completed the planning phase and will be ready to proceed to the operational phase in fiscal year 1980; 140 regions will be in some phase of operational development, and 66 regions will have completed their eligibility.

Section 1 of the bill would extend the existing authorization of $10 million for 3 fiscal years under section 789 of the Public Health Service Act. That section allows the Secretary of HEW to make grants and contracts with appropriate educational entities to assist in the cost of training programs in the techniques and methods of providing emergency medical services. Though Congress authorized $10 million for this program for 1979, $6 million was appropriated. Then President Carter proposed that the $6 million be rescinded because he felt that support for training should be initiated at the local levels with local funds. The Budget Rescission Act of 1979 (Public Law 96–7) contained a rescission of $3 million for these programs for 1979. By comparison the President suggested no funding for this section in fiscal year 1980.

Section 2 of H.R. 3642 would provide authorizations of $40 million for each of the next 3 years under section 1207 of the PHS Act for payments under section 1202 (feasibility studies and planning), section 1203 (initial operations), and section 1204 (expansion and improvements). The appropriation this fiscal year is $36.625 million. The President proposes for fiscal year 1980 the same level as the 1979 appropriation to be allocated for initial operations only.

For grants and contracts for research under section 1205, H.R. 3642 would provide authorizations of $4 million for each of the next 3 fiscal years. The current appropriation level is $3 million. The President proposes to continue authorizations for fiscal year 1980 at the fiscal year 1979 appropriation level.

H.R. 3642 would continue authorizations under section 1221 for programs relating to burn injuries for each of the next 3 fiscal years at the same level as that fiscal year 1979 ($10 million). The President did not request any money for this program because the third and final phase of the burn demonstration program will be funded in fiscal year 1979 at the level of $3 million. The program, created in order to develop a burn care strategy, has proceeded on schedule with the mission of collecting and analyzing prospective data associated with the care of burn patients and the cost of providing that care.

H.R. 3642 adds a new part C to title XII of the act which would add assistance for poison control information and treatment centers rather than subsume them under emergency medical services generally. The President's budget did not request this authority which would add $10 million for fiscal year 1980, $8 million for fiscal year 1981, and $6 million for fiscal year 1982.

In short, H.R. 3642 creates an unrealistic public expectation by virtue of continuance of certain unneeded authorities and promotion of an unrequested new authority. It is unfair to strike such a budgetary posture which will make it more difficult for the Appropriations Committee to exercise the necessary restraint with respect to the expected phasedown of this program.

BUDGET CHART

[In millions of dollars]

	1979 estimate	President's 1980 budget request	H.R. 3642 1980 authorizations	H.R. 3642 1981 authorizations	H.R. 3642 1982 authorization [2]
Section of PHS Act:					
789—Training	[1] $3	----------	$10	$10	$10
1207—Grants and contracts	36.625	36.625	40	40	40
1205—Research	3	3	4	4	4
1221—Burn program	3	----------	10	10	10
1231—Poison control [2]			10	8	6
Total amount	45.625	39.625	79	77	75

[1] Twice that amount was appropriated, but ½ was rescinded.

[2] New authority not requested in the budget.

JAMES M. COLLINS. ●

● Mr. LEE. Mr. Chairman, I rise in support of H.R. 3642, legislation extending the emergency medical services program for 3 years and providing funding for poison control and treatment centers. The $231 million funding level over a period of 3 years is modest compared to the approximately 180,000 lives that could be saved during that same period by improved EMS systems.

Let us look at some examples of the many life-saving and enhancing accomplishments already made possible by EMS programs around the country:

Various projects have reported in the literature 20 to 60 percent field conversion of ventricular fibrillation. This is a lethal condition when it occurs outside the medical system. With the advent of advanced life support in emergency medical systems, however, it is coming under medical control. Some projects report as high as 33 percent long-term survival rate for this patient group.

Serious spinal cord injury, viewed until recently as a hopeless condition, has been successfully treated in one of our large Midwestern cities by rapid evacuation to a specialty care center. Approximately 62 percent of the victims in this program returned to active employment within 6 months, at a total estimated saving of $3 million in health service costs.

The Maryland trauma center has estimated that 750 lives of accident victims were saved as a result of the use of helicopters in their program.

The rural EMS program in Charlottesville, Va., has estimated that the actual death risk from acute heart attacks decreased 26 percent for all persons under the age of 70 since the development of their prehospital care system.

Approximately 2 million people are injured by burns annually, 70,000 of whom require hospitalization. Because the treatment of burn victims is so specialized, it is very difficult, especially for rural hospitals, to deliver quality burn care to the massively burned patient on an occasional basis. Regional burn care planning is, therefore, of great importance in providing top-quality care.

Even disregarding the boon to human life, the present emergency medical services program has resulted in considerable cost savings to date and could, through the further refinement of the program allowed under the provisions of this legislation, save additional billions in economic costs annually. In these inflationary times, I think we all welcome a bill that could contribute so much to mankind but that our Committee on Interstate and Foreign Commerce has estimated would have no substantial adverse impact on inflation. The committee's favorable cost estimate is based on the following:

The funding requested under this legislation is actually $6 million less than the authorization for the last 3 years of the program under existing law.

As EMS programs improve, we will realize a decrease both in the amount and degree of illness and injury which must be treated and the necessary cost of that treatment.

The total authorization of $10 million for burn injury programs, for instance, is modest, especially if one considers that if all severe and critical burn injuries could be treated in appropriate, specialized burn care facilities—such as that at Upstate Medical Center that serves the central New York area that I represent in the Congress—we might see as much as a 50-percent reduction in inpatient days, representing an estimated annual hospital and medical cost reduction of approximately $100 million.

The foregoing illustrates the tremendous savings that can be realized with the passage of this bill, both in terms of dollars and of human lives. Conversely, the cost of not funding this program for an additional 3 years would be monumental. Each of us, each of the members of our families, is a potential consumer of emergency medical services—life-saving services—and I think we all want to be assured these services will be available when we need them. This bill goes a long way toward providing that assurance, and I urge my colleagues to join me in enthusiastically supporting H.R. 3642.●

● Mr. SHELBY. Mr. Chairman, I would like to voice my support for the authorization for the continued funding of the emergency medical services systems portion of the Public Health Service Act and urge my colleagues to join me in voting for this bill. My deep interest in this program is due in large part to the tremendous benefits it has provided for my district in west Alabama. I would like for us to assure that all areas of the country have the opportunity provided in this legislation to initiate and upgrade their life-saving emergency capabilities to the degree of sophistication and effectiveness attained by the west Alabama emergency medical services, a level of accomplishment that recently earned WAEMS an award by region IV, Department of Health, Education, and Welfare, as the exemplary EMS system in the eight-State region.

West Alabama's regional EMS system had quite a task ahead of it back in 1974 when its development first began. The region is mostly rural, with two counties designated as poverty areas. Emergency care had been the old "you call—we haul" variety—a high speed run to the nearest hospital in poorly equipped ambulances operated by funeral homes, with inadequately trained personnel and no ambulance-to-hospital communication capabilities.

With the establishment of the emergency medical system in July 1975, efforts were concentrated on building a strong basic life support system to serve the entire seven-county system area. Important aspects of that system included:

First. Public access was improved by consolidating the myriad of emergency telephone numbers into a countywide toll free number in each of the counties for any fire, police, or medical emergency. Central dispatch centers with trained dispatch operators were established to receive these calls and dispatch the necessary response units.

Second. Hospital emergency facilities were improved through equipment furnished by two basic life support grants under this act. Through involvement of physicians, model standing orders were developed and adopted for implementation in community hospitals. Rural hospital nursing staffs received training on the protocols.

Third. Transfer agreements among the community hospitals, the regional hospital, and the tertiary care center adjacent to the region assured that critically ill and injured patients reached the proper level of care.

Fourth. Ambulance service was upgraded and expanded, mostly through Office of Highway Traffic safety matching grants to municipalities or counties. Each ambulance operates with licensed emergency medical technicians on each run as a result of training provided by EMS. Now all have VHF radios. One county, a poor, predominantly black county, had no ambulance service at all, and has now initiated an ambulance service with licensed EMT's.

Fifth. Medical control was defined and implemented. All the hospitals were categorized. Types of emergencies that could be treated locally and those requiring transfer to a higher level of care were defined by the rural community hospitals.

Sixth. County and regional disaster plans were developed and tested in cooperation with the civil defense directors.

Seventh. Coordinated recordkeeping systems were developed; public education programs were launched; and seminars and training programs were held for physicians, nurses, and EMT's.

After 2 years, West Alabama Emergency Medical Services launched a program of advanced life support. Many accomplishments of note have resulted from this expansion. Paramedics are being trained to serve as physician extenders in the field. An innovative UHF telemetry system has been developed and installed that is a model communication system for the Nation because of its cost effectiveness and virtually unlimited range, making west Alabama one of the few—if not the only—regions in the Nation with true regional medical control.

In cooperation with the city of Tuscaloosa, a surplus helicopter has been secured and equipped as an advanced life support unit to provide secondary transportation. EMS grants have made possible additional equipment to upgrade the regional hospital's emergency department. Specialized training for physicians, nurses and paramedics has been conducted. A subregional poison control center for West Alabama was developed, and poison prevention has been heavily promoted. In its first month of operation from the emergency room of the regional hospital, the poison control center took more than 100 calls. Seventy percent of these cases were handled completely by telephone, keeping the emergency room clear of those cases and saving the patient's time and money.

At this point, the EMS in my district has just completed its final year of funding under the emergency medical services system section of the Public Health Services Act, funding that has made possible the implementation of a complete system which I feel is a model for the Nation. By anticipating the termination of this funding, West Alabama Emergency Medical Services has built up a core of local and State financial support that will now sustain the program.

I believe the experience in my district is dramatic evidence that this program works; it achieves its goal; it is cost effective, both in terms of human life and health care costs saved through effective trauma management. I would urge my colleagues to allow their districts the benefits of quality emergency medical service such as that achieved in my district and made possible by the Emergency Medical Services funding.●

Mr. WAXMAN. Mr. Chairman, I yield back the balance of my time.

Mr. BROYHILL. Mr. Chairman, I yield back the balance of my time.

Mr. WAXMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Vento) having assumed the chair, Mr. Dellums, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3642) to extend for 3 fiscal years the programs under section 789 and title XII of the Public Health Service Act relating to emergency medical services and to authorize assistance for poison control and assistance centers, had come to no resolution thereon.

□ 1420

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT

Mr. PREYER. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight tonight to file a report on the public debt limit temporary increase.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

THE EPA STRIKES AGAIN

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, just when I think I have seen and heard it all, those blundering bureaucrats at the EPA strike again. It is no secret to those of us who hail from Ohio, West Virginia, Kentucky, or Pennsylvania, that the Environmental Protection Agency is out to prevent coal development at all costs. But this time, I think they have outdone themselves.

I am inserting into the Record today, a New York Times article which tells a little tale about how our tax dollars have been put to use by the EPA in yet another effort to discourage the use of coal. This one defies imagination. Apparently, those antibusiness bureaucrats thought it a good idea to follow the lead of their mentor, President Carter, and take their self-serving show on the road; $40,000 later, a troupe of six, including, believe it or not, a piano player, began a tour of nearly three dozen Ohio River towns in an effort to bring their message to the people—the same people who have been put out of work and deprived of fuel because of ridiculous EPA policies.

This taxpayer-financed troupe brought to the people the message that coal is dirty, in fact one of the dirtiest forms of energy known to man. I take that as proof of the longstanding EPA attack on the coal industry. The bureaucrats, of course, contend that their production presented a neutral view of the energy issue. That is a matter of opinion. I can imagine how some of the unemployed taxpayers along the river reacted to this neutrality.

Mr. Speaker, as the energy crisis became evident to all earlier this summer, many observers, myself included, urged the President to make use of coal, one of our most abundant natural resources. Well, the EPA did not like that idea and they wanted to be certain that it did not catch on. That is precisely what they had in mind when they went on the road last month.

With each passing day, I find it increasingly more difficult to believe what is going on within the Carter administration. This latest example has got to be one of the most blatant examples of deception that I have yet to see come out of the White House. And believe me, I have seen quite a few since Mr. Carter took up residence.

Today, I join the Governor of Ohio, the Honorable James A. Rhodes, in calling for the dismissal of the EPA officials responsible for this ridiculous operation. I think the Governor's remark that "there are enough bad actors in the Federal bureaucracy without hiring any more" bears repeating and I include his statement and the New York Times article in the Record at this point:

Office of the Governor

Governor James A. Rhodes today called for firing of the federal EPA official responsible for a $40,000, anti-coal theatrical road show which played during August in approximately 34 Ohio River cities.

The show, with singing and dancing, portrayed coal as "one of the dirtiest forms of energy there is," and was a clear attempt to prejudice people against its use, Rhodes said. "This is an insult to all rank and file organized labor in America and other workers. All responsible Americans know we need coal to bring inflation under control and our crippling dependence on Arab oil."

"Everyone is entitled to an opinion," Rhodes added, "but Congress didn't have political theater in mind when it appropriated money for EPA operations. There are enough bad actors in the federal bureaucracy without hiring any more."

The Governor said, "There was one beneficial result. This production at taxpayer expense proves beyond doubt the anti-coal bias of the federal EPA. These bureaucrats are out to put coal miners out of work. If they would open their ears and listen, they would find out that we can burn coal and live within EPA clean air standards.

"If we just had a little help from the federal government, we could be burning coal, controlling inflation and reducing our dangerous overdependence on Arab oil. We could be putting coal miners and auto workers back to work, and strengthening our national defense. Instead, we have featherbrained bureaucrats dreaming up song and dance routines rather than trying to solve the nation's problems.

"President Carter should clean house at the federal EPA, and get rid of this kind of thinking. If he doesn't it will look more and more as if he is hostage to these environmental extremists."

[From the New York Times, Aug. 19, 1979]

E.P.A. Show, on the Ohio, Floats Warnings

(By Iver Peterson)

Jeffersonville, Ind., August 17.—As President Carter and his staff steamed down the Mississippi campaigning for the Administration's energy program, another Federal troupe wended its way down the Ohio with a far more cautionary message about energy development.

"Live On the River" is a cheery, dancy, hand-clapping show that, on a Federal shoestring, has been offering songs and dialogue in three dozen Ohio River towns, from Pennsylvania to Kentucky and Illinois. The show presents a far more ambivalent message about the opportunities for energy development in the country than the President has outlined.

The $40,000 shoestring, which has sustained the cast of five plus a piano-player, came from the Environmental Protection Agency. The Federal agency had been watching nervously as cries for cheap and abundant energy seemed to overpower the voices of environmentalists who warned that the forms of energy available in this country today, chiefly coal and nuclear power, carried high environmental price tags.

In the Ohio River Valley, winding from Pittsburgh to Cairo, Ill., the name of the energy game is coal. The greatly increased use of coal that President Carter has called for—let alone the visions of riches from local coal that dance in the heads of politicians in the coal mining states of Pennsylvania, Ohio, West Virginia, Kentucky and Illinois—has the E.P.A. frankly worried.

"Here's Jay Rockefeller, saying that we have enough coal in this area for the whole country, and that all we have to do is dig it," said Frank Corrado, the public affairs officer for the Environmental Protection Agency's Chicago office, referring to Gov. John D. Rockefeller 4th of West Virginia. It was Mr. Corrado who conceived the idea of the musical troupe.

"They're calling the Ohio River Valley the Golden Triangle for energy," he said, "but coalburning is one of the dirtiest forms of energy there is. We want to make people think about the choices that are involved."

"Live" does just that, with a cast of characters complete with an obnoxious New York television producer—a little pandering to Middle Western prejudices—a pretty girl, a fiddle-playing Stephen Foster and two Mark Twains, one presented as the genuine article, the other as a fake.

Foster and the real Twain, figures from America's Middle Western river past, come back from the grave when they hear the sugar-coated claptrap, about the Ohio River that the New York producer is putting on film on the assumption that, as he puts it, people are tired of the bad news: They want to hear something good for a change. No one wants to hear about smog, pollution and industry.

AN APPEAL FOR THE LITTLE PERSON

But the E.P.A. makes them listen. "Air and water pollution, strip mining, chemical wastes, you can't cover them over with happy-time television, pleads the girl.

The dialogue and songs tread a thin line of neutrality between the choices of conveniences against environment, of jobs against environment, of low costs against environment, until the show stopping number that spells it all out. It comes down to "bugs in the bathtub, or chemicals in your sink," and "a clean and peaceful countryside, or a paycheck every week."

"The intent was to come up with a zero sum," Robert Robbins, producer of the show, said after today's performance at the venerable Howard Steamboat Museum here on the banks of the Ohio just across from Louisville, Ky. "It's nonadvocacy. The idea is to get people thinking about the quality of life in the whole river area, instead of just their own little place."

The Federal agency's venture into political theater, however subdued, was prompted by an asserted desire to reach "the grass roots" with its message of choices in energy matters, Mr. Robbins said. "You can't do it just with public hearings," he said. "They only draw the special-interest groups anyway."

The troupe will end its tour, after its 80th show in about 34 cities, in Evansville, Ind., on Aug. 25. It has been performing since the middle of July.

MISSIONS FOR PEACE

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. FINDLEY. Mr. Speaker, I feel that Members of this body owe a salute to our colleague, the delegate from the District of Columbia, Mr. FAUNTROY, and officials of the Southern Christian Leadership Conference for undertaking a unique but promising mission for peace in the Mideast.

The ultimate result of their initiative, and the similar one now underway by another black leader, Rev. Jesse Jackson, remains to be seen.

But these people deserve high marks for trying. Their immediate goal is to reduce the violence between Israelis and Palestinians and to bring about direct talks between the United States and the PLO, as a beginning for peaceful reconciliation. In doing so, they have taken substantial risk but, in my opinion, the risk is worth the taking.

In a sense they are doing what the U.S. administration should have been doing long ago: Talking directly with the PLO leadership, encouraging an end to violence, and mutual acceptance by Israel and the Palestinians of each other's right to a secure homeland.

I call my colleagues' attention to this editorial comment on the Fauntroy mission in the Sunday, Washington Post:

AMERICAN BLACKS AND THE MIDEAST

Hard on the heels of Andrew Young's public embrace of the Palestinian issue, delegations of American blacks are racing each other to the Mideast to try out their newly discovered diplomatic wings. Once disencumbered of office, Mr. Young will probably head there himself. People who have been in the area before suspect—and some hope—that these blacks will discover how intricately bound the real issues are, and that, as a result, they will be appropriately sobered. But that may not be the only result. The newcomers bring something special to the region; an emotional identification with the Palestinians, whom they perceive as the injured party, or the more injured party, and at the same time a high moral profile and a sense of mission. These last translate into a desire to halt the violence and resolve the Middle East dispute on terms acceptable to Israelis and Palestinians alike.

Is it possible to identify openly with one side and still remain in a position to mediate? Certainly, the particular way blacks came to the Mideast issue last month suggested that the answer was no. The first signs were that the black leaders meant to become a lobby for the Palestinians in the same respect that many American Jews are a lobby for Israel. In this expectation, the Israeli government snubbed a Southern Christian Leadership Conference delegation, and the PLO's Yasser Arafat greeted the group and gatefully joined it in singing "We Shall Overcome." If this had been the tone of the SCLC's whole mission, one could only have concluded that the black delegation was determined to act as a traditional ethnic lobby. That, of course, is a formula for further polarization in the Mideast and at home as well.

But the SCLC delegation did not follow the script. There is reason to expect, moreover, that subsequent black delegations will not follow it either. The SCLC, besides offering sympathy and solidarity, asked the PLO to accept peaeful coexistence with Israel and to honor a three-month "moratorium on violence." Said District Del. Walter Fauntroy: "We deplore violence wherever it occurs, whether its a bomb from an aircraft in southern Lebanon or a bomb in a garage in Jerusalem." The PLO found all of this "unfair."

Will these black leaders keep trying to combine the roles of advocate and conciliator? It's a moral and political tightrope, but they should be encouraged to inch farther along. The best way to help Palestinians achieve self-determination is to remove the basis for the great fear most Israelis now have that the Palestinians' gain is their inevitable loss, perhaps their destruction. If leaders like Mr. Fauntroy are to seek PLO acceptance of Israel by word and deed—by removing from its charter the language declaring Israel "null and void" and by stopping the killing—they would be helping clear the way for fulfillment of the Palestinians' deepest legitimate desires.

THE SOVIET UNION CANNOT BE PERMITTED TO EXTEND ITS GEOPOLITICAL SHADOW FURTHER IN THIS REGION

(Mr. HANSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANSEN. Mr. Speaker, we are approaching a second Cuban crisis within the space of one generation; but this time we may not be able to recover as well as President Kennedy did in 1962. This time, Mr. Speaker, the military balance has shifted so far toward the Soviet Union that even if we had an administration determined to remove Soviet military forces from Cuba, the President might not be able to act decisevly—such has been the erosion of American military strength.

The Cuban crisis of 1979 may have even greater long-term implications than the earlier one. At stake is no less than the future direction of U.S. foreign policy, for if this country cannot stand against the Soviet surrogates in our own historic sphere of influence, we must remain permanently crippled at every other point of the globe and on every issue of substance between ourselves and the Soviet Union and its allies.

The introduction of a Soviet combat brigade into Cuba, whenever it occurred, does not threaten U.S. territorial security in an immediate fashion as did Kruschev's missiles in 1962. The threat this time is more geopolitical and symbolic. As Senator JACKSON said in his speech of September 11, the Soviets have transformed the island of Cuba into a virtual "fortress" on the American doorstep.

There is no parallel for this on the other side of the ocean, and the existence of U.S. forces in NATO Europe, Soviet apologists to the contrary, is in no way similar. If the United States sent troops to Romania or Yugoslavia, for example, a parallel might exist. But even President Eisenhower—at the height of U.S. military strength during the 1950's—was not bold enough to consider this step. What is at stake in Cuba now is the stability of a geopolitical balance of power. If the Soviets are allowed to keep this recent gain over the United States it will be a clear signal to the rest of the world of the visible decline in American power and resolve. Clearly, we have reached another watershed in our dealings with Cuba.

Militarily, the new combat brigade shores up the defensive capability of Cuba, thus permitting the use of over 50,000 of Castro's own soldiers for field service in Africa. Specifically, the Soviet brigade will: protect Soviet radar and satellite equipment at Torrens, near Pinar del Rio; defend the Soviet MIG-23 and MIG-27 fighter aircraft in Cuba; defend Soviet electronics intelligence in Cuba, thus increasing their own capability to intercept satellite traffic and communications.

The Soviet brigade has other ominous implications for the future. They can train more Cuban soldiers for further offensive actions in Africa or closer to home, in Central America. The Sandinista revolution in Nicaragua was aided substantially by Cuban forces, and there is ample evidence that the administration knew this well before the fall of the Somoza government. The Soviets and Cubans must be confident that there is little risk of U.S. response to their military intervention in the internal wars of Central America, and who can blame them. Twenty years ago, this would have been unheard of.

During the past year the Soviets have also supplied Castro with two attack submarines, opening up an entirely new dimension to the Cuban threat. These boats have the potential to smuggle arms and personnel throughout the Caribbean. They can also interrupt the lines of maritime communications between the United States and South America.

Mr. Speaker, I support those Senators who have spoken firmly on this issue. At the very least, there can be no further consideration of SALT II until this combat brigade departs. For the longer future, it must be the policy of the United States, in my opinion, to monitor the military activities of Cuba very carefully and to begin those U.S. military considerations which would maintain the balance of power in this hemisphere where it has always been and where it belongs. The Soviet Union cannot be permitted to extend its geopolitical shadow any further in this region, and Moscow must be warned of our resolve before it becomes too late.

ANTITESTING BILLS WOULD HARM STUDENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Ashbrook) is recognized for 15 minutes.

● Mr. ASHBROOK. Mr. Speaker, one of the things I have learned from watching Federal education policy since 1961 is that the ability of Congress to improve teaching and learning is a lot smaller than proponents of massive Federal programs think it is. Unfortunately, Congress has a much larger ability to foul things up through unwise legislation, and I am afraid that is just what we will do if we pass either H.R. 3564 or H.R. 4949, the bills to put standardized tests under Federal regulation.

Computer-graded, multiple-choice tests like the SAT have become an irreplaceable tool for the educators who use them to help make decisions about placement and admissions. Nobody thinks these tests are sufficient by themselves, but they are incomparably more consistent and reliable than grade transcripts for comparing students from widely different backgrounds—especially in this era of "grade inflation." Critics say that the tests are "dehumanizing" because they do not reveal anything about characteristics like integrity, idealism, and imagination. But the same charge could be made against any process which rewards sheer competence. Far more dehumanizing are the education information surveys conducted by HEW, which emphasize things like gender and skin color.

Standardized tests have helped us see just how academic standards have declined during the era of Federal activism in education. It is not surprising that groups like the National Education Association, which seek an even larger Federal role, do not like these tests. To place standardized tests under the supervision of the Federal education bureaucracy would mean entrusting their future to the very people who are least inclined to judge them fairly.

I hope no one in this House makes up his mind about these bills before considering the opinions of the deans, career counsellors, and admission officers who actually use standardized tests. They are in the best position to know just what role tests play in the admission process, and what would be the most likely effects of the proposed legislation. I recently received comments on this subject from two distinguished Ohio educators: Ronald Schultz, dean of the college of graduate studies at Cleveland State University, and Barbara Gensemer, director of the career development center at Kenyon College. Both of these letters offer convincing arguments to the effect that H.R. 3564 and H.R. 4949 would actually harm the very students they are intended to help. I commend them to your attention.

Kenyon College,
Gambier, Ohio, September 6, 1979.

Rep. John Ashbrook,
U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

Dear Mr. Ashbrook: I am writing to you concerning H.R. 3564 "Truth in Testing" bill and H.R. 4949 "Educational Testing" bill.

As Director of the Career Development Center at Kenyon I work with many students who are planning to attend graduate or professional schools and who are taking the admission tests required for the type of school they are considering. I am thus quite familiar with such tests as the GRE (Graduate Record Examination), LSAT (Law School Admission Test) and the GMAT (Graduate Management Admission Test). I am very concerned about provisions in the Truth in Testing bill and the Educational Testing bill which would require test administration organizations to disclose to students all of the questions used on an examination after the administration of it. While this might seem helpful to students in their preparation for a test I believe that it would result in either poorer quality tests or more costly tests as the testing services endeavored to develop entirely new sets of questions for each administration. Full length sample tests are available to students now, and in my experience these sample tests give students a good idea of what to expect at the actual tests. The disclosure called for in H.R. 3564 and 4949 seems to be unnecessary as well as probably detrimental to the calibre of the tests over the long run.

I urge you to use your influence as a member of the Subcommittee on Elementary, Secondary and Vocational Education of the Committee on Education and Labor to see to it that these bills as now constituted do not become law.

Sincerely,

Barbara Gensemer,
Director.

Cleveland State University,
Cleveland, Ohio, September 5, 1979.

Hon. Carl D. Perkins,
Chairman, House Education and Labor Committee, U.S. House of Representatives, Washington, D.C.

Dear Congressman Perkins: I am writing to you in my position as Dean of the College of Graduate Studies at Cleveland State University, Cleveland, Ohio. The issue I wish to discuss briefly in this letter is that of the "truth in testing", or the standardized test, legislation that is now being heard before your Committee.

Such tests as the Graduate Record Examination (GRE), Graduate Management Admissions Test (GMAT), and Miller Analogy Test (MAT), are very important factors in evaluating admission to our Graduate College. We recognize these as being standard tests taken not only in the United States but in many cases in foreign countries and provides us a chance to look at more than just a transcript of undergraduate work when attempting to determine the probable success of a student entering one of our graduate programs.

The reason that we can rely on these tests is that they have been used over a long period of time and as new questions are generated, they are incorporated into the tests with other questions previously used, so that new questions can be evaluated in the same light as those previously used questions. It is this feature of the standardized tests that permit us to compare students from tremendously varying backgrounds where undergraduate quality point hour averages may vary from field to field and from university to university. Therefore, it is extremely important to us that we be able to maintain such standardized features.

Admission to the Graduate College is dependent not only on scores on a standardized test (such as those referenced above), but when taken into account with the applicant's background, they help us to evaluate the potential for success of the student. Many times we can determine that a student who has not performed well as he or she should have at the undergraduate level has a potential, and if proper motivation is present through the instructors and advisors, the student can really blossom at the graduate level. On the other hand, the student may have chosen an undergraduate major that was not a difficult one and performed well at the undergraduate level but may not have a sufficient base of knowledge for a newly chosen graduate level major. This, of course, would be brought out in the Graduate Record Examination (or equivalent) and would provide the advisor a chance to discuss the options opened to the potential student.

I could go on for many more paragraphs discussing with you the harm that legislation directed toward "truth in testing" would bring to both students and universities across the country. However, I will close by asking that you oppose any such legislation that comes forward, since it will be more detrimental to the students and to the universities than the standardized tests that are now being used to help judge the potential success of a student prior to admission into a graduate program.

If there is any further information you should desire, please feel free to contact me at the address shown on the letterhead.

Sincerely yours,

Ronald G. Schultz,
Dean, College of Graduate Studies.●

GENERAL LEAVE

Mr. PREYER. Mr. Speaker, I ask unanimous consent that all Members be permitted to revise and extend their remarks and to include therein extraneous material on the subject of the special order speech today of the gentleman from California (Mr. VAN DEERLIN).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PEN REGISTERS: REQUIRING COURT ORDERS FOR THEIR SURREPTITIOUS USE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 10 minutes.

● Mr. DRINAN. Mr. Speaker, in June, the Supreme Court decided a case whose significance to the privacy of American citizens is not immediately apparent. The Court ruled in Smith against Maryland that the police do not need a warrant in order to install pen registers, mechanical devices that record which numbers are dialed from a particular telephone.

The Court's decision was based in part on the contention that "a person has no legitimate expectation of privacy in information he voluntarily turns over to third parties." I find this contention disturbing. For how voluntary can telephone use be when, as Justice Marshall correctly noted, a telephone "for many has become a personal or professional necessity?" How much choice between telephone companies do customers have when local service is dominated throughout the country by monopolies? And should a person have a "legitimate expectation" that information transmitted during the routine purchase of an almost necessary service will end up in Government hands? No, Mr. Speaker, citizens should not be forced to feed the Government personal information during the normal course of life, which in America is so reliant on telephones.

Justice Marshall said in his dissent to the 5 to 3 decision:

> The numbers dialed from a private telephone—although certainly more prosaic than the conversation itself—are not without "content." Most private telephone subscribers may have their own numbers listed in a publicly distributed directory, but I doubt there are any who would be happy to have broadcast to the world a list of local or long distance numbers they have called. This is not because such a list might in some sense be incriminating, but because it easily could reveal the identities of the persons and the places called, and thus reveal the most intimate details of a person's life.

The knowledge that a list of numbers dialed from a telephone can be compiled without a court order will inhibit, and possibly intimidate both journalists and their sources of information. I agree with Justice Marshall when he wrote:

> Particularly given the Government's previous reliance on warrantless telephonic surveillance to trace reporters' sources and monitor protected political activity, I am unwilling to insulate use of pen registers from independent judicial review.

I have therefore introduced H.R. 5285, a bill to require court orders for the surreptitious use of pen registers. My bill would amend the provisions covering eavesdropping in title 18 of the United States Code to include in the definition of "wire communication," and the interception thereof, information that identifies the point of origin or reception of such communication.

The exercise of congressional authority to protect fourth amendment and related privacy rights is of course not unprecedented. In 1968, Congress enacted title III of the Omnibus Crime Control and Safe Streets Act to define the authority of Federal, State, and local officials to engage in electronic surveillance. My bill would require a court order before a pen register is installed by or at the request of Government officials, as is required for wiretaps.

H.R. 5285 will not hinder the police in instances where there is cause to believe that a crime has or will be committed. It will, however, protect Americans from indiscriminate invasions of their personal privacy. I urge my colleagues' support.

Mr. Speaker, I include the text of H.R. 5285 at this point in the RECORD.

H.R. 5285

A bill to amend title 18 of the United States Code to require court orders for the surreptitious use of pen registers, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2510 of title 18 of the United States Code is amended—

(1) by striking out the semicolon at the end of paragraph (1) and inserting in lieu thereof ", and also includes the identity of the intended or actual point of origin or point of reception of such communication;"; and

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and with respect to the identity of the intended or actual point of origin or point of reception of such communication, means any acquisition of such identity;".

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, due to official business I was unable to be present for rollcall No. 498 on Friday. If I had been present, I would have voted "yes" on the rule, House Resolution 331, providing for the consideration of H.R. 3642, to extend the emergency medical services program.●

SOUTHERN HIGH SCHOOL AF JUNIOR ROTC UNIT FIRST PLACE WINNER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, the Southern High School Air Force Junior ROTC unit has received a $4,000 scholarship award as first-place winner of the contest sponsored by the Aerospace Education Foundation for the second consecutive year. This contest is open to all Air Force Junior ROTC units in the United States and abroad, and Southern High School's unit has captured this award with an essay, last year and this year. Usually an audiovisual presentation is the winner, and I am particularly proud of young people whose words have outranked pictures.

Southern High School's interest in and support of the unit was evident at the awards luncheon yesterday held at the Sheraton-Park Hotel during the annual National Convention of the Air Force Association, the parent organization of the Aerospace Education Foundation. The cadets receiving the award were: Janice Frauendorfer, Bennie Piland, and Kerry Mayton. They were accompanied by the unit instructor, Col. Robert Newman; the superintendent of county schools, Dr. Robert Nelson; and assistant superintendent, Dr. Robert Stockard.

The text of the award winning essay, "How Best To Meet the Military Threat":

HOW BEST TO MEET THE MILITARY THREAT

INTRODUCTION

The United States emerged from World War II as the leader of the free world. A strong dollar and a modern industrial base, backed by modern technology, was the basis of a strong economy. We were united in spirit and in purpose. Overseas countries saw us as builders and doers, eager to help those less fortunate. We maintained this image and this momentum for many years.

The Soviet Union emerged from World War II as the leader of the Communist World. However, they lacked a strong economy; they were backward technologically and lacked a strong industrial base. But they too were united in spirit and in purpose. Through their own totalitarian methods they progressed to the point where they were also perceived as doers and builders.

Even though there have been several changes in Russian leadership since World War II, each regime has kept the Communist objective of world domination utmost in national policy. In order to support this objective, Russian leadership has been united in building the worlds greatest military power.

For many years the U.S. has been spending just a little over five percent of its GNP on defense. The Soviets have been spending double that amount of their GNP on defense. For two decades they have had a steady increase in yearly expenditures; these increases have amounted to at least four percent in real terms. The U.S., on the other hand, has reduced its defense budget in real terms year after year.

The end result is that the U.S. has gone from a position of unquestionable superiority over the Soviet Union, through a period of parity, to one approaching dangerous inferiority. The military threat posed by the Soviet Union in the 1980s is a grave one. This paper examines the elements of that threat and proposes some actions required to cope with it.

ASSESSMENT OF THE THREAT

A basic underlying factor requiring attention in examining the Soviet threat is one of philosophy. To the people of the U.S., nuclear war is unthinkable. This feeling led to our policy of deterrence in the early 1960s, which has since been pursued by our national leadership. The Soviet view considers the nuclear weapon as just one more type in their arsenal to achieve their national objectives. Their leaders do not accept the logic or morality of deterrence. Victory is the paramount objective, whether the war be nuclear or conventional. There is little doubt that the Soviet Union intends a massive first strike if their leaders conclude that war is the only way to obtain their objectives. Some studies conclude that the USSR would lose less people than they lost in World War II or in the 1930 purges in a nuclear war. As they continue to build their civil defense system and their massive strategic offensive capability, the temptation to use nuclear weapons will be even more attractive.

Many agree that by the early 1980s, the USSR will have ICBMs capable of destroying most of our ICBMs in their silos. They could destroy all of our ICBMs and still have 1,100 additional land-based missiles, plus about 1,000 submarine-based ballistic missiles (SLBMs). This remaining capability after a first strike, coupled with their fleet of intercontinental-range bombers, could be used against other U.S. bases and cities in the case of U.S. retaliation.

Strategic Arms Limitation Talks (SALT I) allowed the Soviets more than a fifty percent advantage in ICBM launchers and eighteen more SLBM submarines than we could have. Since SALT I, the USSR has put into operation five new type ICBMs, including the SS–18 with ten warheads. The SS–17 and SS–19 have also been employed in MIRV and single warhead modes. These are said to be much more accurate than the older 190 SS–9s and the 780 SS–11s. The Soviets are also testing the SS–20 mobile MIRV Medium-Range Ballistic Missile (MRBM), which can be converted to an ICBM with a 3–4,000 mile range. It is significant to note that the SS–20 is not covered by SALT II.

Soviet SLBMs have increased to 1,015 in ninety submarines. Two new SLBMs have been tested, the SS–NX–17 and SS–N–18. The SS–N–18 is a three MIRV replacement for the SS–N–8 and is already operational. A longer range replacement for the SS–N–3 sea-launched cruise missile (SLCM) is under development.

The inventory of supersonic Backfire bombers has grown at a rate approximately twenty-five per year and now stands at a total of eighty to 100. Thus far the Soviets have succeeded in excluding the Backfire from SALT II on the basis that it is not an intercontinental system. However, some intelligence sources, along with the Air Force, are convinced that with aerial refueling the Backfire can fly from Soviet arctic bases, hit any US target, and return to the Soviet Union. At the same time the Soviets have continued to deploy the Backfire, US defenses against bomber attack have been cut back to a skeleton force.

To add to the seriousness of the growing Backfire threat, there is considerable evidence that the Soviets are developing a follow-on bomber. Sketchy information available indicates the plane is designed with range greater than the Backfire. The suspected improved engines would permit a larger payload of bombers or missiles. Some analysts believe the follow-on will be produced in the next three to five years and replace the older Tu–16 and Tu–22 Blinder bombers.

Another aspect of the Soviet threat is their modern air defense system. Their interceptor aircraft fleet of approximately 2,700 is supported by an extensive, modern, early warning and control system. There are sixty-four known antiballistic missile (ABM) launchers in the defensive system, heavily deployed around Moscow. In addition, there are an estimated 12,000 surface-to-air missile (SAM) launchers deployed at more than 1,000 sites.

Closely related to the Soviet air defense system is their massive civil defense system. Some studies indicate that Soviet city evacuation plans and underground shelters would enable them to suffer an acceptable number of casualties. Without question, the Soviet air and civil defense capabilites greatly strengthen the Kremlin's bargaining power in times of tense international crisis by diluting our second-strike assured destruction threat.

The Soviet military threat against our NATO allies is a serious one. Along with their Warsaw Pact allies, they have a quantitative advantage over NATO in combat divisions, tanks, armored fighting vehicles, artillery, and combat aircraft. They are modernizing these forces to close the qualitative gap, which in the past has favored NATO. Since the US is deeply committed to NATO, any threat to that organization must be considered an equally serious one to this country.

Another aspect of the Russian military threat is their military personnel strength. A huge conscript army is the traditional source of Soviet military manpower. It is estimated that during the period of 1967–77 between sixty-five and seventy-five percent of the males reaching draft age were drafted into the Soviet armed forces. Current military forces strength is approximately three and one half million, compared to a US strength of slightly over two million. This disparity takes on a much more serious aspect when one considers the growing serious quantitative and qualitative problems facing the US armed forces because of the All-Volunteer Force concept.

Soviet space efforts must be taken into account when examining the military threat they pose. Although SALT I prohibits interference with surveillance satellites of any type, the Soviet Union has continued developing and testing interceptor satellites. They have attained an operational capability that poses a threat to US communications and early warning satellites. The most likely target for a Soviet antisatellite (ASAT) is the US "Big Bird" KH–11 spy satellite. This threat poses serious problems in any surveillance and verification procedures the US might agree to in SALT II.

Strong evidence suggests that the Soviets have achieved a quick reaction system that can be launched, rendezvous with, and destroy a US spacecraft in less time than is required for one orbit. Such destruction could occur while the US satellite was out of view of US tracking facilities. This would result in no positive evidence by the US that the satellite had been destroyed by a hostile act.

There is also evidence that the Soviets are doing extensive research in the fields of laser and charged-particle technology. They have conducted charged-particle beam experiments from their Salyut orbiting manned laboratory. An operational capability built around this technology offers many possibilities in satellite disruption and destruction.

Any military capability depends on an aggressive research and development program. The Soviets are well aware of this and are currently expending about one-fourth of all defense funds for this purpose. It is alarming to compare the $12.5 billion for US defense R&D in FY 1979, far below one quarter of the total DoD budget, with Soviet expenditures. This lack of attention to R&D has caused our qualitative lead to decline to the point where it is doubtful that it can offset the Soviet numerical superiority. Soviet technology leads the US in the areas of ICBM and SLBM throw-weight, SAMs, ABMs, tanks, helicopters, infantry combat vehicles, chemical warfare, antiship cruise missiles, mine warfare, and survivability of command control and communications systems.

In evaluating the Soviet military threat, one must examine overseas areas where they may decide to test US capability and will to become involved. The recent and current internal turmoil in Iran makes that country a high-priority choice. Its oil resources, plus its geographic position as a Soviet back door approach to the rest of the Middle East, makes any Soviet intervention a serious threat to the US.

Another possible testing ground the Soviets might select is Saudi Arabia, owner of the world's largest known oil reserves. Its highly vulnerable monarchy, in a land of only 8 million people living in an area one-fourth the size of the US, makes it an attractive choice to test US will and capability. The pro-Soviet governments of Afghanistan, South Yemen, Ethopia, Iraq, and Syria would make Russian probes into any of the many countries of Africa and Asia torn by internal strife much easier by providing overflight rights. Any of these power plays would not only test US capability and will, but it would also test our credibility among allies and nonaligned countries as well.

Things are not all rosy for the Soviets. They face economic difficulty, a power struggle of succession within, and a growing challenge from China. With these economic and political pressures, the USSR may concentrate even more on the one area where it has competed successfully—the military. Many agree that the next five years will be a period of optimum military posture for the USSR. The danger that she may take military action increases sharply and is one that we must recognize.

REQUIRED ACTIONS

As valuable time goes by, and the alarming Soviet military threat increases daily, the need for positive actions to cope with it grows more pressing each day. A basic required action is to alert the American people to the growing danger. Two problems of a serious nature exist in our country which must be overcome: division and complacency among the people. A number of reasons have contributed to these conditions. The unpopular war in Vietnam is a major cause of divisiveness. The material prosperity existing in our country has been a major cause of complacency. We have been so preoccupied with curing social problems that a large segment of the population does not believe, and does not want to believe, that a serious threat to our national survival exists.

There is no easy solution to awakening the American people to the danger we face. An unbiased news media, presenting the true picture, would be a major step. The Administration should make priority efforts to encourage all phases of the media to present unbiased reports to the American people. Administration spokesmen must be honest in their reports to the people whether or not these reports are politically expedient.

The Air Force Association, the Retired Officer Association, the Reserve Officer Association, and other similar organizations can do a lot more toward awakening the public. The national leadership of these organizations is doing a good job now. The real need is for a grass-roots effort by individual members at the local level. It is incumbent on each member of these organizations to understand the threat so they can communicate it effectively to their fellow citizens.

Another basic and pressing required action is assuring that the US is not put at a disadvantage in a SALT II agreement. A panel of the House Armed Services Committee has concluded that SALT II neither limits strategic arms, enhances security, deters war, nor maintains strategic balance. The panel feels that the Soviet threat to the survivability of US strategic forces is so serious that no arms-control agreement should restrict our options to develop and deploy the most effective and survivable systems possible.

Even if a satisfactory SALT agreement is reached, verification and detection remain serious problems. Some aspects of SALT II would be difficult, if not impossible, to verify. Improvements in the Backfire bomber or SS–16 missile capability in the manufacturing process could not be detected. Likewise, preparations and techniques for increasing the number of warheads and reloading of bombers or ICBM silos could not be measured. Secret deployment of mobile missile systems would also be difficult to verify.

As this paper is being written, SALT II negotiations are incomplete. Indications are that a number of Senators are not in favor of ratification of the proposed version. We hope this number is large enough to ensure that those provisions of SALT II that put the US in a situation of strategic disadvantage are corrected or not agreed to.

Another mandatory action required to meet the Soviet threat is the budgeting of a consistent defense program. The dangers of a stop-and-start weapons policy are unacceptable. We must support our friends overseas without the ambiguity we have displayed in recent years. The Administration and the Congress must accept that it is going to require huge expenditures to reverse the dangerous position we are now in. All concerned must realize that a sound, long-range program, properly funded, is much more economical in the long run than the stop-and-go, wait-and-see approach we have been following.

It is widely accepted that the most serious USSR military threat is against our ICBM force. The need for making a decision and getting on with positive action is urgent. A typical bureaucratic tactic to avoid making tough decisions is to do another study. This tactic has certainly been used in the MX question.

Everyone agrees we need a new missile, but there is divided opinion on its configuration. There are two main consideration. One version is ninety-two inches in diameter with eleven warheads. The other version is eighty-three inches in diameter with ten warheads to fit into launch tubes of Trident submarines. We believe that the best course of action now is to proceed with the full-size version as the best capability with money available. The objective of common components usable by both the Air Force and the Navy is a good one and should be sought in the future as a way to maximize the capabilities of both the ICBM and the SLBM.

Basing of the MX is another urgently needed decision. Two generic basing modes are under study. One of these is the multiple aim point (MAP), commonly known as the "shell game." Under this concept a missile would be placed randomly at a single location among a large number of fixed dispersed shelters. Each shelter becomes a potential missile location to the enemy, making an attack statistically unprofitable.

A second generic mode is the "mobile" concept. Under this concept, there are two versions of airmobile basing. One version would extract the missile from a transport aircraft and air-launch it after it had fallen away from the aircraft. Possible aircraft are the C–5 and the Boeing 747. The Advanced Medium Short Takeoff (AMST) YC–4 or YC–15 are also possibilities, but neither has been purchased or funded. One attractive feature of the AMST aircraft is the large number of airfields they could be rotated among.

Another version of the airmobile concept is the land-and-launch method. The ICBMs would be flown by transport aircraft to preselected airfields where they would be rolled out in launcher vehicles and fired.

A third version of the mobile concept is the trench method. A single missile platform would be frequently moved within a buried tunnel ten to twenty miles long. The ease and quickness of movement and the large number of possible locations make the mobile concept attractive as a highly survivable concept.

With the various studies completed or under way there should be enough data available to proceed on a positive course of action. This course of action could provide several options. However, the time has come when survivability should be the primary consideration. Up to now our primary concern seems to be verification and detectability of the MX basing modes. It is time for these concerns to take a second place to survivability. Above all we must not allow SALT II to rule out our mobile ICBM! We believe a secure MX system would convince the USSR of the futility of continuing arms competition with the U.S.

A second element of the strategic Triad that requires priority improvement is the manned bomber. There are numerous critics of the manned bomber being retained as a primary strategic weapon. However, these critics overlook the flexibility that the bomber provides. It allows changes in vital decisions right up to the last second before weapon release. As proven in Vietnam, the large manned bomber performs effectively in a conventional role. Based on this experience, B–52 crews are now participating in joint exercises demonstrating their ability to provide conventional bombing support to ground commanders.

The need to improve the manned bomber strategic capability requires that we continue with priority to add the cruise missile to the B–52. While there is evidence that the Soviets are testing a new type of airborne radar "look-down" capability, indicating a potential cruise missile defense program, we should add the cruise missile as rapidly as possible, without the range restrictions proposed in SALT II.

The cruise missiles will force the Soviets to divide their defensive efforts and prevent them from concentrating in one particular area. It will force them to divert funds from offensive systems to defensive systems. Our ability to air-launch the cruise missile and penetrate is a hedge against the uncertainties of Soviet technological breakthrough. In addition to expediting the cruise missile, the proposed programs of improving the B–52's offensive avionics and addition of new countermeasures equipment should be given high priority.

Concurrent with these improvements to the aging B–52 fleet, there is a pressing need to develop a new manned bomber. Because of its high price tag and the controversy surrounding the aircraft, revival of the B–1 is probably not practical. However, the test program should be continued to take advantage of the technology it offers. This technology should be applied to test models of the stretched FB–111. The design of a new penetrating bomber capable of carrying the cruise missile should be solicited from industry. The preliminary studies recently completed by Rockwell International and Boeing should be aggressively pursued.

A vital link of the strategic Triad is command control and communications, commonly known as C^3 or "C-cubed." Gen. Richard H. Ellis, CINCSAC, has stated that SAC has identified certain aspects of our current communications system that are vulnerable to new Soviet technology. He emphasized that any future C^3 systems must provide national decision-makers and nuclear force commanders with detailed and unambiguous surveillance warning and attack assessment information. A second requirement includes a survivable, secure, two-way communications capability stretching down to the lowest operating force level in the field. Only when we have attained these capabilities can we have the flexibility and responsiveness needed to effectively implement strategy, control forces, and employ weapons under all conditions.

While the Soviet strategic threat is growing increasingly serious each day, we cannot overlook their tactical threat. The Warsaw Pact threat against NATO continues to be a serious one. The U.S. has pledged, along with its NATO allies, to increase the NATO defense commitment by three percent per year in real terms. This three percent spending increase is the estimated minimum required just to keep up with the Soviet efforts and capabilities. The U.S. must live up to this pledge so that it will be able to pressure the other NATO countries to do likewise.

We must continue to modernize U.S. tactical air forces with the mix of F–15, F–16, A–10, and E–3A AWACS aircraft, phasing F–4s and A–7s into the Reserve and National Guard components. Concurrently, we must expedite the programmed new and more effective conventional munitions. A key factor in the mobility of tactical forces is an effective supporting airlift capability. Priority funding and expediting the C–5 wing modification program, the C–141 stretch/air refueling modification, and the Civil Reserve Air Fleet (CRAF) enhancement program are urgently required. A programming/funding decision on either the YC–14 or YC–15 to replace the aging C–130 fleet is also urgent. This becomes even more important since these aircraft are also under consideration as an option for air-launching the cruise missile.

Equally critical is funding and production of the DC–10 advanced tanker cargo aircraft to replace and augment the KC–135 fleet, many of which are older than the crews who fly them. The limited funding currently allocated to this vital program is not adequate to produce the aircraft required to provide air refueling capability demanded by strategic bomber, airlift, and tactical aircraft. U.S. defense planning cannot rely on other countries to let our military aircraft land and refuel; a modern tanker fleet is the only acceptable alternative.

Another badly neglected area critical to U.S. capability to meet the Soviet threat is air defense. The growing numbers of Soviet Backfire bombers would be far superior adversaries to the 1950-vintage F–101 and F–106 aircraft operated by U.S. and Canadian air components of NORAD. There is an urgent need for a new dedicated interceptor, possibly a modified F–15, to enter the inventory. Gen. James E. Hill, CINC NORAD/ADCOM, has stated that comprehensive defense against the Backfire dictates an air defense system as large as we had in the late 1950s.

The current NORAD program to upgrade its Ballistic Missile Early Warning System (BMEWS) attack assessment capability should be continued on an expedited basis. Aggressive research efforts should be undertaken to examine the possibilities of large-aperture, high-resolution radars based in space to provide detailed ICBM/bomber early warning information.

Space defense is an area of rapidly increasing concern. The present U.S. Space Surveillance System (SPADATS) is made up of a number of radars designed primarily for ICBM warning; they have little capability to detect and track objects above 3,000 miles altitude. The U.S. plan to overcome this limitation by a ground-based electro-optical deep-space surveillance system should be expedited. To eliminate the need for foreign basing of ground stations, research and development of satellites equipped with long-range infrared sensors should be aggressively pursued.

The Air Force has already awarded a contract to build a killer satellite based on the simple principle of heat sensing and then ramming for destruction. The same contract provides development of a "pop up" system, which could be launched from a high-flying aircraft. This would also be a heat-seeker and ram for destruction. Another DoD proposal is a larger, 1,500-pound killer satellite that would use radar to seek its target and explode a cloud of destructive pellets. Tests of these proposals need to be expedited, with early decisions made to choose and proceed with operational models.

The fields of laser and charged-particle beam (CPB) technology offer many possibilities in satellite disruption and destruction. The U.S. needs to step up its efforts, especially in the CPB area, to produce operational models ahead of its mid-1980's target date. Because of the growing threat from Soviet

ASAT systems and U.S. dependence on space surveillance systems for SALT II agreement verification, the U.S. must step up to its whole spectrum of space defense activities.

The vital subject of civil defense cannot be overlooked. The best defense against nuclear weapons is to be somewhere else when they detonate. Therefore, assuring some period of strategic warning, the evacuation of high-risk areas seems to be the most practical and effective concept of civil defense. It is encouraging that the Administration has recently recognized the need for action and has provided some funding. However, there is an urgent need for much more aggressive action in this area.

While all these actions discussed above are on-going, the whole spectrum of U.S. research and development (R&D) needs much greater priority.

Several actions are required. First, the most pressing of these is funding in the basic research and exploratory development activities. An annual growth rate of ten percent in research and five percent in exploratory development on a sustained basis is considered minimum. If we are to offset Soviet quantitative superiority, we must take advantage of our lead in high payoff technologies such as aeronautical vehicles, propulsion, and avionics. There is a pressing need for academic and industry research and technology to increase and become more closely integrated with defense R&D, and positive controls at the national level must be set up to ensure that there are no sales to any potential enemy that might enhance that country's technological base.

Finally, we must address the most critical element of any capability—manpower. Since 1973, the US has depended on the All-Volunteer Force concept to provide military manpower. The Soviets, on the other hand, depend on a huge conscript system. Since the beginning of the US All-Volunteer concept, spokesmen at the national level have been making special efforts to emphasize its success. However, it is becoming increasingly apparent that this concept is not a satisfactory source of qualified manpower. Gen. David C. Jones, Chairman of the Joint Chiefs of Staff, expressed his concern with All-Volunteer Force problems during his appearance on CBS-TV's "Face the Nation" on November 19, 1978.

A Defense Department report concedes some problems. According to it, test scores for Army recruits have declined steadily since 1975. Discipline problems in the Navy have increased. Twice as many persons are leaving the military before completing their first time as left during the draft era. All services have had difficulty during the past year attracting sufficient recruits. Strength levels in the National Guard and Reserve components have dropped drastically. Quality recruits are not distributed equally among the services.

These shortcomings point up an immediate need to start actions to reestablish a draft or some sort of national service. The first step toward a return to the draft would be setting up a system of registering for the draft, including a classification system for registrants. Today, there is no source providing information on the quantity of qualified manpower available for military service. The delays in getting a large augmentation of manpower into uniform today would be unacceptable. This subject needs to be addressed in the current session of the Congress and positive action taken toward at least establishing a registration/classification system.

CONCLUSIONS

The actions outlined above will be costly. They will require expenditures far in excess of those allocated in the budget submitted to Congress in January. The national temptation to place our confidence in SALT II and continue neglecting vital defense needs will be great. An encouraging trend is a turnaround in views on defense spending. A Harris survey in December indicated that a fifty to forty-seven percent plurality of Americans would like to see defense spending increased; in July 1978, a fifty-nine to thirty-six percent majority had opposed any increase in the military budget.

Time is of the essence. We are past the point where vital programs can be delayed because of indecision or lack of will to pursue them. The events of today are dynamic; they wait for no one. Even as this paper was written, turmoil in Iran poses grave problems for the US and other Western nations. The temptations facing the Soviets in these kinds of power vacuum situations may be irresistible unless we have the national will to take positive, prompt action to reverse the dangerous trend now apparent in our ability to cope with the Soviet military threat.●

LAFALCE SUPPORTS UAW POSITION ON ENERGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 10 minutes.

© Mr. LAFALCE. Mr. Speaker, consistent with their proud tradition of taking strong and courageous positions on issues of national importance, the United Auto Workers have issued a four point program which would help this country avoid being victimized by the profit-rich oil companies and the rapacious OPEC oil cartel.

This program includes four key provisions:

First. Assure the basic needs for gasoline, heating oil, natural gas, and electricity can be met at reasonable prices;

Second. Enact a strong windfall profits tax;

Third. Take control of oil imports; and

Fourth. Create a public corporation to produce oil and gas on Federal lands to provide competition for the oil monopolies.

I believe that the Federal Government has a mandatory need "to assure the basic needs for gasoline, heating oil, natural gas, and electricity can be met at reasonable prices." The Department of Energy must not perform a repetition of last summer's fiasco with gasoline supplies and prices, as it handles home heating oil during the coming autumn and winter, because home heating oil is vital for the very existence of people in New York State and the Northeast. Without adequate supplies of all energy sources at reasonable prices, many Americans could be faced with unnecessary hardships and inconvenience; and this is particularly true for the poor and elderly. Some of the revenues from the windfall profits tax must be used to provide meaningful economic relief for those groups which are most affected by higher energy prices.

On June 28, the House passed "a strong windfall profits tax" on the unearned profits of the multinational energy conglomerates. The House version of this tax would impose a higher level of taxes on these profits than the administration's original proposal. Unfortunately, the House did not support even higher levels of taxation on these windfall profits, which I backed. The challenge from the multinational energy conglomerates is now before the Senate, and I hope that the Senate will take prompt and expeditious action to approve a strong windfall profits tax.

I agree that the Federal Government must "take control of oil imports," because this country can not continue to allow oil imports to be controlled by the multinational energy conglomerates which are either in league with or creatures of the OPE oil cartel. These companies which are controlled by a small number of impersonal corporate chieftains do not operate in the national interest, as the entire history of the oil industry eloquently demonstrates.

The first move to "take control of oil imports" occurred during the 94th Congress, when the Congress passed the Energy Policy and Conservation Act, which, inter alia, gives the President the standby authority to vest exclusive right to purchase foreign oil in the Federal Government. Because of OPEC's last price increases, which by any conceivable standards are outrageous, I have repeatedly urged President Carter to invoke this standby authority and submit a plan to the Congress for a National Oil Importing Corporation. In order to help strengthen those signals, I have also cosponsored a bill which would establish such a corporation. The importation of oil is too important to be left to the energy monopolies, and oil supply and pricing decisions are crucial questions of public policy and should be made by our own Government and not by the multinational energy conglomerates and their OPEC associates.

The "creation of a public corporation to produce oil and gas on Federal lands to provide competition for the oil monopolies" is an excellent idea. The oil companies are not just oil companies; they possess huge holdings in natural gas, coal, and uranium. This monopoly position gives these conglomerates a great deal of clout in dealing with the general public, but the Federal Government could help turn that situation around. The Government owns vast lands throughout the West and in Alaska and could through a national public corporation produce oil, coal, and natural gas from these Federal lands. This public corporation could be patterned after the Tennessee Valley Authority which was created in an earlier time during the Roosevelt administration to meet the energy needs of many Southern States. The TVA has been a proven success, and its example should be emulated.

Mr. Speaker, the UAW's four-point proposal for an effective national energy program is outstanding and should be resoundingly adopted by the Congress, in order to help create a truly energy independent America, free from domination by the multinational energy conglomerates and OPEC.●

CONFERENCE REPORT ON H.R. 111

Mr. MURPHY of New York submitted the following conference report and statement on the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the

Panama Canal, for the duration of the Panama Canal Treaty of 1977.

CONFERENCE REPORT (H. REPT. No. 96–473)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Panama Canal Act of 1979".

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STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide legislation necessary or desirable for the implementation of the Panama Canal Treaty of 1977 between the United States of America and the Republic of Panama and of the related agreements accompanying that Treaty.

DEFINITONS AND RECOMMENDATIONS FOR LEGISLATION

SEC. 3. (a) For purposes of this Act—

(1) references to the Panama Canal Treaty of 1977 refer to the Panama Canal Treaty between the United States of America and the Republic of Panama, signed September 7, 1977; and

(2) references to the Panama Canal Treaty of 1977 and related agreements refer to the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977, and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979.

(b) Subject to the provisions of subsection (c) of this section, for purposes of applying the Canal Zone Code or other laws of the United States and regulations issued pursuant to such Code or other laws with respect to transactions, occurrences, or status on or after the effective date of this Act—

(1) "Canal Zone" shall be deemed to refer to the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements;

(2) "Canal Zone waters" and "waters of the Canal Zone" shall be deemed to refer

to "Panama Canal waters" and "waters of the Panama Canal", respectively;

(3) "Government of the Canal Zone" or "Canal Zone Government" shall be deemed to refer to the United States of America;

(4) "Governor of the Canal Zone" or "Governor", wherever the reference is to the Governor of the Canal Zone, shall be deemed to refer to the Panama Canal Commission;

(5) "Panama Canal Company" or "Company", wherever the reference is to the Panama Canal Company, shall be deemed to refer to the Panama Canal Commission;

(6) in chapter 57 of title 5 of the Canal Zone Code, "hospitals" and "Health Bureau" shall be deemed to refer, respectively, to the hospitals operated by the United States in the Republic of Panama, and to the organizational unit operating such hospitals; and

(7) in chapter 57 of title 5 of the Canal Zone Code, in section 4784 of title 6 of such Code, and in section 2 of title 7 of such Code, "health director" shall be deemed to refer to the senior official in charge of the hospitals operated by the United States in the Republic of Panama.

(c) Any reference set forth in subsection (b) of this section shall apply except as otherwise provided in this Act or unless (1) such reference is inconsistent with the provisions of this Act, (2) in the context in which a term is used such reference is clearly not intended, or (3) a term refers to a time before the effective date of this Act.

(d) The President shall, within two years after the Panama Canal Treaty of 1977 enters into force, submit to the Congress a request for legislation which would—

(1) amend or repeal provisions of law which in their present form are applicable only during the transition period prescribed in Article XI of that Treaty,

(2) repeal the Canal Zone Code, and

(3) contain provisions considered necessary and appropriate in light of the experience as of that time under that Treaty.

TITLE I—ADMINISTRATION AND REGULATIONS

CHAPTER 1—PANAMA CANAL COMMISSION

ESTABLISHMENT OF COMMISSION

SEC. 1101. There is established in the executive branch of the United States Government an agency to be known as the Panama Canal Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall, under the general supervision of the Board established by section 1102 of this Act, be responsible for the maintenance and operation of the Panama Canal and the facilities and appurtenances related thereto. The authority of the President with respect to the Commission shall be exercised through the Secretary of Defense.

SUPERVISORY BOARD

SEC. 1102. (a) The Commission shall be supervised by a Board composed of nine members, one of whom shall be the Secretary of Defense or an officer of the Department of Defense designated by the Secretary. Not less than five members of the Board shall be nationals of the United States and the remaining members shall be nationals of the Republic of Panama. At least one of the members of the Board who are nationals of the United States shall be experienced and knowledgeable in the management or operation of an American-flag steamship line which has or had ships regularly transiting the Panama Canal, at least one other such member shall be experienced and knowledgeable in United States port operations or in the business of exporting or importing one of the regular commodities dependent on the Panama Canal as a transportation route, and at least one other such member shall be experienced and knowledgeable in labor matters in the United States. Three members of the Board shall hold no other office in or be employed by the Government of the United States. Members of the Board who are nationals of the United States shall cast their votes as directed by the Secretary of Defense or his designee.

(b) The President shall appoint the members of the Board. The members of the Board who are United States nationals shall be appointed by and with the advice and consent of the Senate. Each member of the Board shall hold office at the pleasure of the President and, before assuming the duties of such office, shall take an oath to discharge faithfully the duties of his office. Members of the Board shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 1107 of this Act.

(c) The Board shall hold meetings as provided in regulations adopted by the Commission and approved by the Secretary of Defense. A quorum for the transaction of business shall consist of a majority of the Board members of which a majority of those present are nationals of the United States.

ADMINISTRATOR

SEC. 1103. There shall be an Administrator of the Commission, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office at the pleasure of the President.

DEPUTY ADMINISTRATOR AND CHIEF ENGINEER

SEC. 1104. (a) There shall be a Deputy Administrator and a Chief Engineer of the Commission, both of whom shall be appointed by the President. The Deputy Administrator and the Chief Engineer shall perform such duties as may be prescribed by the President.

(b) The Deputy Administrator and the Chief Engineer shall each be paid compensation at a rate of pay established by the President which does not exceed the rate of basic pay in effect for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code.

CONSULTATIVE COMMITTEE

SEC. 1105. (a) The President shall designate, and the Secretary of State shall coordinate the participation of, representatives of the United States to the Consultative Committee to be established under paragraph 7 of Article III of the Panama Canal Treaty of 1977.

(b) The Consultative Committee shall function as a diplomatic forum for the exchange of views between the United States and the Republic of Panama. The Committee shall advise the United States Government and the Government of the Republic of Panama on matters of policy affecting the operation of the Panama Canal. The Committee shall have no authority to direct the Commission or any other department or agency of the United States to initiate or withhold action.

JOINT COMMISSION ON THE ENVIRONMENT

SEC. 1106. (a) The United States and the Republic of Panama, in accordance with the Panama Canal Treaty of 1977, shall establish a Joint Commission on the Environment (hereinafter in this section referred to as the "Joint Commission") to be composed of not more than three representatives of the United States and three representatives of the Republic of Panama, or such other equivalent numbers of representatives as may be agreed upon by the Governments of the two countries. The United States members of the Joint Commission shall periodically review the implementation of the Panama Canal Treaty of 1977 with respect to its impact on the environment and shall, jointly with the representatives of the Government of Panama, make recommendations to the United States Government and the Government of the Republic of Panama with respect to ways to avoid or mitigate adverse environmental impacts resulting from actions taken pursuant to such Treaty.

(b) Representatives of the United States on the Joint Commission shall be appointed by the President and shall serve at the pleasure of the President. Such representatives shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 1107 of this Act.

(c) Any Federal employee subject to the civil service laws and regulations who is detailed to serve with, or appointed by, the United States representatives on the Joint Commission shall not lose any pay, seniority, or other rights or benefits by reason of such detail or appointment.

(d) The United States representatives on the Joint Commission may, to such extent or in such amounts as are provided in advance in appropriation Acts, appoint and fix the compensation of such personnel as the representatives of the United States on the Joint Commission may consider necessary for the participation of the United States on the Joint Commission.

(e) The United States representatives on the Joint Commission may, in cooperation with the representatives of the Republic of Panama on the Joint Commission, establish rules of procedure to be used by the Joint Commission in conducting its affairs, subject to the approval of such rules by the Governments of the United States and the Republic of Panama.

TRAVEL EXPENSES

SEC. 1107. While away from their homes, regular places of business, or official stations in performance of services under this chapter, members of the Board of the Commission and the representatives of the United States on the Consultative Committee referred to in section 1105 of this Act and on the Joint Commission on the Environment referred to in section 1106 of this Act shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

DEFENSE OF THE PANAMA CANAL

SEC. 1108. In the event of an armed attack against the Panama Canal, or when, in the opinion of the President, conditions exist which threaten the security of the Canal, the Administrator of the Commission shall, upon the order of the President, comply with such directives as the United States military officer charged with the protection and defense of the Panama Canal may consider necessary in the exercise of his duties.

JOINT SEA LEVEL CANAL STUDY COMMITTEE

SEC. 1109. (a) The President shall appoint the representatives of the United States to any joint committee or body with the Republic of Panama to study the possibility of a sea level canal in the Republic of Panama pursuant to Article XII of the Panama Canal Treaty of 1977.

(b) Upon the completion of any joint study between the United States and the Republic of Panama concerning the feasibility of a sea level canal in the Republic of Panama pursuant to paragraph 1 of Article XII of the Panama Canal Treaty of 1977, the text of the study shall be transmitted by the President to the President of the Senate and to the Speaker of the House of Representatives.

(c) No construction of a sea level canal by the United States in the Republic of Panama shall be undertaken except with express congressional authorization after submission of the study by the President as provided in subsection (b) of this section.

AUTHORITY OF THE AMBASSADOR

SEC. 1110. (a) The United States Ambassador to the Republic of Panama shall have full responsibility for the coordination of the transfer to the Republic of Panama of those functions that are to be assumed by the Republic of Panama pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b) (1) The Commission shall not be subject to the direction or supervision of the United States Chief of Mission in the Republic of Panama with respect to the responsibilities of the Commission for the operation, management, or maintenance of the Panama Canal, as established in this or any other Act or in the Panama Canal Treaty of 1977 and related agreements, except that the Commission shall keep the Ambassador fully and currently informed with respect to all activities and operations of the Commission.

(2) Except as provided in paragraph (1) of this subsection, section 16 of the Act of August 1, 1956 (22 U.S.C. 2680a), shall apply with respect to the activities of the Commission.

SECURITY LEGISLATION

SEC. 1111. It is the sense of the Congress that the best interests of the United States require that the President enter into negotiations with the Republic of Panama for the purpose of arranging for the stationing of United States military forces, after the termination of the Panama Canal Treaty of 1977, in the area comprising the Canal Zone before the effective date of this Act, and for the maintenance of installations and facilities, after the termination of such Treaty, for the use of United States military forces stationed in such area. The President shall report to the Congress in a timely manner the status of negotiations conducted pursuant to this section.

CODE OF CONDUCT FOR COMMISSION PERSONNEL

SEC. 1112. (a) Before assuming the duties of his office or employment, each member of the Board of the Commission and each officer and employee of the Commission shall take an oath to discharge faithfully the duties of his office or employment. All employees of the Commission shall be subject to the laws of the United States regarding duties and responsibilities of Federal employees.

(b) Not later than 60 days after all the members of the Board of the Commission have been appointed, the Board shall adopt a code of conduct applicable to the persons referred to in subsection (a) of this section. The code of conduct shall contain provisions substantially equivalent to those contained in part 735 of title 5 of the Code of Federal Regulations on the effective date of this Act. The code of conduct shall, at a minimum, contain provisions substantially equivalent to the following provisions of law:

(1) the provisions of chapter 11 of title 18, United States Code, as amended, relating to bribery, graft, or conflicts of interest, as appropriate to the employees concerned;

(2) section 7352 of title 5, United States Code, as amended;

(3) sections 207, 208, 285, 508, 641, 645, 1001, 1917, and 2071 of title 18, United States Code, as amended;

(4) section 5 of the Act of July 16, 1914 (31 U.S.C. 638a), as amended;

(5) the Ethics in Government Act of 1978 (92 Stat. 1824), as amended; and

(6) those provisions of the laws and regulations of the Republic of Panama which are substantially equivalent to those of the United States set forth in this subsection.

(c) The Commission shall investigate any allegations regarding the violation of the code of conduct adopted pursuant to subsection (b) of this section. The Commission may recommend that the President suspend from the performance of his duties any member of the Board of the Commission or any officer or employee of the Commission, pending judicial proceedings by appropriate authorities concerning such allegations.

(d) The President shall negotiate suitable arrangements with the Republic of Panama whereby each nation shall agree to take all measures within its legal authority to assure that members of the Board of the Commission comply with the code of conduct established pursuant to subsection (b) of this section. Without prejudice to such jurisdiction as the United States may have with respect to members of the Board, the provisions of law enumerated in subsection (b) of this section shall be enforced with respect to members of the Board only in accordance with such arrangements.

OFFICE OF OMBUDSMAN

SEC. 1113. (a) There is established within the Commission an Office of Ombudsman, to be directed by an Ombudsman, who shall be appointed by the Commission. It shall be the function of the Office of Ombudsman to receive individual complaints, grievances, requests, and suggestions of employees (and their dependents) of the Commission and other departments and agencies of the United States, including the Smithsonian Institution, conducting operations before the effective date of this Act in the area then comprising the Canal Zone concerning administrative problems, inefficiencies, and conflicts caused within departments and agencies of the United States, including the Smithsonian Institution, as a result of the implementation of the Panama Canal Treaty of 1977 and related agreements.

(b) The Ombudsman shall make findings and render assistance with respect to the complaints, grievances, requests, and suggestions submitted to the Office of Ombudsman, and shall make appropriate recommendations to the Commission or any other department or agency of the United States, including the Smithsonian Institution.

(c) The establishment of the Office of Ombudsman shall not affect any procedures for grievances, appeals, or administrative matters in any other provision of this Act, any other provision of law, or any Federal regulation.

(d) The Ombudsman shall be a citizen of the United States.

(e) The Office of Ombudsman shall terminate upon the termination of the Panama Canal Treaty of 1977.

CHAPTER 2—EMPLOYEES

Subchapter I—Panama Canal Commission Personnel

DEFINITIONS

SEC. 1201. As used in this chapter—

(1) "Executive agency" has the meaning given that term in section 105 of title 5, United States Code;

(2) "uniformed services" has the meaning given that term in section 2101(3) of title 5, United States Code;

(3) "competitive service" has the meaning given that term in section 2102 of title 5, United States Code; and

(4) "United States", when used in a geographic sense, means each of the several States and the District of Columbia.

APPOINTMENT AND COMPENSATION; DUTIES

SEC. 1202. (a) In accordance with this chapter, the Panama Canal Commission may appoint without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service, fix the compensation of, and define the authority and duties of officers, agents, attorneys, and employees (other than the Administrator, Deputy Administrator, and Chief Engineer) necessary for the management, operation, and maintenance of the Panama Canal and its complementary works, installations, and equipment.

(b) Individuals serving in any Executive agency (other than the Commission) or the Smithsonian Institution, including individuals serving in the uniformed services, may, if appointed under this section or section 1103 or 1104 of this Act, serve as officers or employees of the Commission.

TRANSFER OF FEDERAL EMPLOYEES

SEC. 1203. (a) The head of any agency may enter into agreements for the transfer or detail to the Commission of any employee of that agency serving under a permanent appointment. Any employee who so transfers or is so detailed shall, upon completion of the employee's tour of duty with the Commission, be entitled to reemployment with the agency from which the employee was transferred or detailed without loss of pay, seniority, or other rights or benefits to which the employee would have been entitled had the employee not been so transferred or been so detailed.

(b) For purposes of this section, the term "agency" means an Executive agency, the United States Postal Service, and the Smithsonian Institution.

(c) The Office of Personnel Management shall prescribe regulations to carry out the purposes of this section.

COMPENSATION OF INDIVIDUALS IN THE UNIFORMED SERVICES

SEC. 1204. (a) Except as provided in subsection (b) of this section, any individual who is serving in a position in the Commission and who is a member of a uniformed service shall continue to be paid basic pay by such uniformed service and shall not be paid by the Commission for the period of the service in the uniformed service involved.

(b) If the individual appointed as Administrator, Deputy Administrator, or Chief Engineer of the Commission is a member of a uniformed service, the amount of basic pay otherwise payable to the individual for service in that position shall be reduced, up to the amount of that basic pay, by the amount of the basic pay payable to the individual as a member of a uniformed service.

(c) The Commission shall annually pay to each uniformed service amounts sufficient to reimburse that uniformed service for any basic pay paid by that uniformed service to any member of that service during any period of service in the Commission by the member.

DEDUCTION FROM BASIC PAY OF AMOUNTS DUE FOR SUPPLIES OR SERVICES

SEC. 1205. The Commission may deduct from the basic pay otherwise payable by the Commission to any officer or employee of the Commission any amount due from the officer or employee to the Commission or to any contractor of the Commission for transportation, board, supplies, or any other service. Any amount so deducted may be paid by the Commission to any contractor to whom it is due or may be credited by the Commission to any appropriation from which the Commission has expended such amount.

COST OF LIVING ALLOWANCE

SEC. 1206. Effective beginning October 1, 1984, each officer and employee of the Commission who is a citizen of the United States and was employed by the Panama Canal Company or the Canal Zone Government on September 30, 1979, or who is an individual of any nationality recruited outside the Republic of Panama after September 30, 1979, may be paid an allowance to offset any increased cost of living which may result from the termination of the eligibility of the officer or employee and his dependents to use military postal services, sales stores, and exchanges. The amount of the allowance may be determined by the Commission.

EDUCATIONAL TRAVEL BENEFITS

SEC. 1207. (a) The Commission shall provide by regulation for round-trip transportation between the Republic of Panama and the United States or, in the case of an employee described in paragraph (2) of this subsection, between the Republic of Panama and the country in which such employee is recruited, for undergraduate college education for dependents of employees of the Commission who—

(1) are United States citizens who were employed by the Panama Canal Company

or the Canal Zone Government on September 30, 1979, or

(2) are recruited outside the Republic of Panama after that date.

(b) The regulations prescribed by the Commission under this section shall—

(1) provide eligibility requirements which must be met by such dependents to qualify for transportation under this section, including a requirement that all eligible dependents must be under 23 years of age; and

(2) limit the transportation provided to one round trip during any one-year period.

PRIVILEGES AND IMMUNITIES OF CERTAIN EMPLOYEES

SEC. 1208. The Secretary of Defense shall designate those officers and employees of the Commission and other individuals entitled to the privileges and immunities accorded under paragraph 3 of Article VIII of the Panama Canal Treaty of 1977. The Department of State shall furnish to the Republic of Panama a list of the names of such officers, employees, and other individuals and shall notify the Republic of Panama of any subsequent additions to or deletions from the list.

INAPPLICABILITY OF CERTAIN BENEFITS TO CERTAIN NONCITIZENS

SEC. 1209. (a) Chapter 81 of title 5, United States Code, relating to compensation for work injuries, chapter 83 of such title 5, relating to civil service retirement, chapter 87 of such title 5, relating to life insurance, and chapter 89 of such title 5, relating to health insurance, are inapplicable to any individual—

(1) who is not a citizen of the United States;

(2) whose initial appointment by the Commission occurs after October 1, 1979; and

(3) who is covered by the Social Security System of the Republic of Panama pursuant to any provision of the Panama Canal Treaty of 1977 and related agreements.

(b) Subparagraph (B) of section 8701(a) of title 5, United States Code, defining the term employee for purposes of life insurance, is amended to read as follows:

"(B) an individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States, unless the individual was an employee for the purpose of this chapter on September 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone; or".

(c) Clause (ii) of section 8901(1) of title 5, United States Code, defining the term employee for purposes of health insurance, is amended to read as follows:

"(ii) an individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States, unless the individual was an employee for the purpose of this chapter on September 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone;".

Subchapter II—Wage and Employment Practices

DEFINITIONS

SEC. 1211. As used in this subchapter—

(1) "agency" means—

(A) the Commission, and

(B) an Executive agency or the Smithsonian Institution, to the extent of any election in effect under section 1212(b)(2) of this Act;

(2) "position" means a civilian position in the Commission, or in any other agency if a substantial portion of the duties and responsibilities are performed in the Republic of Panama; and

(3) "employee" means an individual serving in a position.

PANAMA CANAL EMPLOYMENT SYSTEM; MERIT AND OTHER EMPLOYMENT REQUIREMENTS

SEC. 1212. (a) After considering any recommendations of the Commission, the President shall establish a Panama Canal Employment System. The Panama Canal Employment System shall—

(1) be established in accordance with and be subject to the provisions of the Panama Canal Treaty of 1977 and related agreements, the provisions of this chapter, and any other applicable provision of law;

(2) be based on the consideration of the merit of each employee or candidate for employment and the qualifications and fitness of the employee to hold the position concerned;

(3) conform, to the extent practicable and consistent with the provisions of this Act, to the policies, principles, and standards applicable to the competitive service; and

(4) in the case of employees who are citizens of the United States, provide for the appropriate interchange of those employees between positions under the Panama Canal Employment System and positions in the competitive service.

(b)(1) The Commission, and any Executive agency and the Smithsonian Institution to the extent of any election under paragraph (2) of this subsection, shall conduct their employment and pay practices relating to employees in accordance with the Panama Canal Employment System and regulations prescribed by, or under the authority of, the President in accordance with this subchapter.

(2) The head of any Executive agency and the Smithsonian Institution may elect to have the Panama Canal Employment System made applicable in whole or in part to personnel of that agency in the Republic of Panama.

(c) Subject to the provisions of this chapter, the President may, from time to time and after considering any recommendation of the Commission, amend or modify any provision of the Panama Canal Employment System, including any provision relating to selection for appointment, reappointment, reinstatement, reemployment, and retention, with respect to positions, employees, and candidates for employment.

(d) The President may, to the extent the President determines appropriate—

(1) exclude any employee or position from coverage under any provision of this subchapter; and

(2) notwithstanding section 1202 of this Act, extend to any employee, whether or not the employee is a citizen of the United States, the rights and privileges which are provided by applicable laws and regulations for citizens of the United States employed in the competitive service.

EMPLOYMENT STANDARDS

SEC. 1213. The head of each agency shall establish written standards for—

(1) determining the qualifications and fitness of employees and of candidates for employment in positions; and

(2) selecting individuals for appointment, promotion, or transfer to positions.

The standards shall conform to the provisions of this subchapter, any regulations prescribed thereunder, and the Panama Canal Employment System.

INTERIM APPLICATION OF CANAL ZONE MERIT SYSTEM

SEC. 1214. Notwithstanding any repeal made by this Act or any provision of this chapter, the provisions of subchapter III of chapter 7 of title 2 of the Canal Zone Code establishing the Canal Zone Merit System, together with the regulations prescribed thereunder, as in effect on September 30, 1979, shall continue in effect and shall apply with respect to employees until the Panama Canal Employment System is established and in effect pursuant to section 1212 of this Act.

BASIC PAY

SEC. 1215. (a) The head of each agency, in accordance with the provisions of this subchapter, shall establish, and from time to time may revise, the rates of basic pay for positions and employees in the agency.

(b) The rates of basic pay may be established and revised in relation to the rates of basic pay for the same or similar work performed in the United States or such areas outside the United States as may be designated in the regulations prescribed under section 1223 of this Act.

(c) The head of each agency may make adjustments in rates of basic pay established under subsection (b) of this section in amounts not to exceed the amounts of the adjustments made from time to time by or under statute in the corresponding rates of basic pay for the same or similar work referred to in such subsection (b). The head of the agency may designate the effective date of any such adjustment, except that that date may not be earlier than the effective date of the adjustment in the corresponding rate of basic pay.

UNIFORM APPLICATION OF STANDARDS AND RATES

SEC. 1216. The standards established pursuant to section 1213 of this Act and the rates of basic pay established pursuant to section 1215 of this Act shall be applied without regard to whether the employee or individual concerned is a citizen of the United States or a citizen of the Republic of Panama.

RECRUITMENT AND RETENTION REMUNERATION

SEC. 1217. (a) In addition to basic pay, additional compensation may be paid, in such amounts as the head of the agency concerned determines, as an overseas recruitment or retention differential to any individual who—

(1) before October 1, 1979, was employed by the Panama Canal Company, by the Canal Zone Government, or by any other agency in the area then known as the Canal Zone;

(2) is an employee who was recruited on or after October 1, 1979, outside of the Republic of Panama for placement in the Republic of Panama; or

(3) is a medical doctor employed by the Department of Defense in the Republic of Panama or by the Commission;

if, in the judgment of the head of the agency concerned, the recruitment or retention of the individual is essential.

(b) Any employee described in more than one paragraph of subsection (a) of this section may qualify for a recruitment or retention differential under only one of those paragraphs.

(c) Additional compensation provided under this section may not exceed 25 percent of the rate of basic pay for the same or similar work performed in the United States by individuals employed by the Government of the United States.

(d) Subchapter III of chapter 59 of title 5, United States Code, relating to overseas differentials and allowances shall not apply with respect to any employee whose permanent duty station is in the Republic of Panama and who is employed by an agency.

BENEFITS BASED ON BASIC PAY

SEC. 1218. For the purpose of determining—

(1) amounts of compensation for disability or death under chapter 81 of title 5, United States Code, relating to compensation for work injuries;

(2) benefits under subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement;

(3) amounts of insurance under chapter 87 of title 5, United Sates Code, relating to life insurance;

(4) amounts of overtime pay or other premium pay;

(5) annual leave benefits; and

(6) any other benefits related to basic pay;

the basic pay of each employee shall include the rate of basic pay established for his position under section 1215 of this Act plus the amount of any additional compensation provided under section 1217 of this Act.

SALARY PROTECTION UPON CONVERSION OF PAY BASE

SEC. 1219. (a) In the case of any employee whose rate of basic pay is determined in relation to rates of basic pay for the same or similar work in the United States and which is converted to a rate of basic pay pursuant to section 1215(b) of this Act which is determined in relation to rates in areas other than the United States pursuant to such section 1215(b), the employee shall continue to receive a rate of basic pay not less than that to which the employee was entitled immediately before the conversion.

(b) This section shall cease to apply with respect to any employee if the employee is placed in a position—

(1) for which the rate of basic pay is determined in relation to rates of basic pay in the United States pursuant to section 1215 (b) of this Act; or

(2) which is of a lower grade.

REVIEW AND ADJUSTMENT OF CLASSIFICATIONS, GRADES, AND PAY LEVEL

SEC. 1220. An employee may request at any time that the employee's agency—

(1) review the classification of the employee's position or the grade or pay level for the employee's position, or both; and

(2) revise or adjust that classification, grade or pay level, or both, as the case may be.

The request for review and revision or adjustment shall be submitted and adjudicated in accordance with the regularly established appeals procedures of the agency.

PANAMA CANAL BOARD OF APPEALS; DUTIES

SEC. 1221. (a) Subject to the provisions of this chapter, the President shall prescribe regulations establishing a Panama Canal Board of Appeals. The regulations shall provide for the number of members of the Board and their appointment, compensation, and terms of office, the selection of a Chairman of the Board, the appointment and compensation of the Board's employees, and other appropriate matters relating to the Board.

(b) The Board shall review and determine the appeals of employees in accordance with section 1222 of this Act. The decisions of the Board shall conform to the provisions of this subchapter.

APPEALS TO BOARD; PROCEDURE; FINALITY OF DECISIONS

SEC. 1222. (a) An employee may appeal to the Panama Canal Board of Appeals from an adverse determination made by an agency under section 1220 of this Act. The appeal shall be made in writing within a reasonable time (as specified in regulations prescribed by, or under the authority of, the President) after the date of the transmittal by the agency to the employee of written notice of the adverse determination.

(b) The Board may authorize, in connection with an appeal pursuant to subsection (a) of this section, a personal appearance before the Board by the employee, or by a representative of the employee designated for that purpose.

(c) After investigation and consideration of the evidence submitted, the Board shall—

(1) prepare a written decision on the appeal;

(2) transmit its decision to the agency concerned; and

(3) transmit copies of the decision to the employee concerned or to the designated representative.

(d) The decision of the Board on any question or other matter relating to an appeal is final and conclusive. The agency concerned shall take action in accordance with the decision of the Board.

ADMINISTRATION BY THE PRESIDENT

SEC. 1223. (a) The President shall prescribe regulations necessary and appropriate to carry out the provisions of this subchapter and coordinate the policies and activities of agencies under this subchapter.

(b) The President may establish an office within the Commission as the successor to the Canal Zone Central Examining Office. The purpose of the office shall be to assist the President in—

(1) carrying out the President's coordination responsibility under subsection (a) of this section; and

(2) implementing the provisions of the Panama Canal Treaty of 1977 and related agreements with respect to recruitment, examination, determination of qualification standards, and similar matters.

(c) The President may delegate any authority vested in the President by this subchapter and may provide for the redelegation of that authority.

APPLICABILITY OF CERTAIN LAWS

SEC. 1224. This chapter does not affect the applicability of—

(1) the provisions of title 5, United States Code, which relate to preference eligibles;

(2) the provisions of title 5, United States Code, which relate to removal or suspension from the competitive service; and

(3) the provisions of section 5544(a) of title 5, United States Code, which relate to wage-board overtime and Sunday rates, with respect to classes of employees who were covered by those provisions on the date of the enactment of this Act.

MINIMUM LEVELS OF PAY; MINIMUM ANNUAL INCREASES

SEC. 1225. (a) Subsection (f) of section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(f)), relating to applicability to employees in foreign countries and certain United States possessions, is amended by striking out "Johnston Island; and the Canal Zone," and inserting in lieu thereof "and Johnston Island.".

(b)(1) Effective October 1, 1979, each individual employed by an Executive agency or the Smithsonian Institution, whose permanent duty station is located within an area or installation in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, shall be paid basic pay at a rate of not less than $2.90 an hour.

(2) Effective on October 1 of each succeeding calendar year, the rate of basic pay for each individual referred to in paragraph (1) of this subsection whose basic pay is not fixed in relation to rates of basic pay for the same or similar work performed in the United States shall be increased by an amount equal to not less than 2 percent of the rate of basic pay for that individual in effect immediately before that date.

Subchapter III—Conditions of Employment and Placement

TRANSFERRED OR REEMPLOYED EMPLOYEES

SEC. 1231. (a)(1) With respect to any individual employed in the Panama Canal Company or the Canal Zone Government—

(A) who is transferred—

(i) to a position in the Commission; or

(ii) to a position in an Executive agency or in the Smithsonian Institution the permanent duty station of which is in the Republic of Panama (including the area known before October 1, 1979, as the Canal Zone); or

(B) who is separated by reason of a reduction in force on September 30, 1979, and is appointed to a position in the Commission before April 1, 1980;

the terms and conditions of employment set forth in paragraph (2) of this subsection shall be generally no less favorable, on or after the date of the transfer referred to in subparagraph (A) of this paragraph or the date of the appointment referred to in subparagraph (B) of this paragraph, as the case may be, than the terms and conditions of employment with the Panama Canal Company and Canal Zone Government on September 30, 1979, or, in the case of a transfer described in subparagraph (A)(ii) of this paragraph which takes place before that date, on the date of the transfer.

(2) The terms and conditions of employment referred to in paragraph (1) of this subsection are the following:

(A) rates of basic pay;

(B) tropical differential;

(C) premium pay and night differential;

(D) reinstatement and restoration rights;

(E) injury and death compensation benefits;

(F) leave and travel;

(G) transportation and repatriation benefits;

(H) group health and life insurance;

(I) reduction-in-force rights;

(J) an employee grievance system, and the right to appeal adverse and disciplinary actions and position classification actions;

(K) veterans' preference eligibility;

(L) holidays;

(M) saved pay provisions; and

(N) severance pay benefits.

(3)(A) The provisions of this subsection shall take effect on the date of the enactment of this Act.

(B) No spending authority (as described in section 401(c)(2)(C) of the Congressional Budget Act of 1974) provided for under this subsection shall take effect before October 1, 1979.

(C) Effective October 1, 1979, any individual who, but for subparagraph (B) of this paragraph, would have been entitled to one or more payments pursuant to this section for periods before October 1, 1979, shall be entitled, to the extent or in such amounts as are provided in advance in appropriation Acts, to a lump sum payment equal to the total amount of all such payments.

(b) Any individual described in subsection (a)(1)(B) of this section who would have met the service requirement for early retirement benefits under section 8336(i) or 8339 (d)(2) of title 5, United States Code (as amended by sections 1241(a) and 1242 of this Act, respectively), but for a break in service of more than 3 days immediately after September 30, 1979, shall be considered to meet that requirement. Any break in service by any such individual for purposes of section 8332 of such title 5 during the period beginning September 30, 1979, and ending on the date of the appointment referred to in such subsection (a)(1)(B) shall be considered a period of creditable service under such section 8332 for such individual, except that such period shall not be taken into account for purposes of determining average pay as defined in section 8331(4) of such title 5 and no deduction, contribution, or deposit shall be required for that period under section 8334 of such title 5.

(c)(1) Section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c)) shall not apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama, until the rates of basic compensation established under section 5(c) of such Act equal or exceed the rates of basic compensation then in effect for teachers who were so transferred.

(2) Section 6(a)(2) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 904(a)(2)) shall not apply with respect to any teacher who was employed by the Canal Zone Gov-

ernment school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama.

(3)(A) The head of a department or agency of the United States may grant a sabbatical to any teacher to whom paragraph (1) of this subsection applies for not to exceed 11 months in order to permit the teacher to engage in study or uncompensated work experience which is in the United States and which will contribute to the teacher's development and effectiveness. Basic compensation shall be paid to teachers on sabbatical under this section in the same manner and to the same extent as basic compensation would have been paid to teachers on sabbatical while employed in the Canal Zone Government school system on the day before the effective date of this Act. A sabbatical shall not result in a loss of, or reduction in, leave to which the teacher is otherwise entitled, credit for time or service, or performance or efficiency rating. The head of the department or agency may authorize in accordance with chapter 57 of title 5, United States Code, such travel expenses (including per diem allowance) as the head of the department or agency may determine to be essential for the study or experience.

(B) A sabbatical under this paragraph may not be granted to any teacher—

(i) more than once in any 10-year period;

(ii) unless the teacher has completed 7 years of service as a teacher; and

(iii) if the teacher is eligible for voluntary retirement with a right to an immediate annuity.

(C)(i) Any teacher in a department or agency of the United States may be granted a sabbatical under this paragraph only if the teacher agrees, as a condition of accepting the sabbatical, to serve in the civil service upon the completion of the sabbatical for a period of two consecutive years.

(ii) Each agreement required under clause (i) of this subparagraph shall provide that in the event the teacher fails to carry out the agreement (except for good and sufficient reason as determined by the head of the department or agency that granted the sabbatical) the teacher shall be liable to the United States for payment of all expenses (including salary) of the sabbatical. The amount shall be treated as a debt due the United States.

(d) Sections 5595(a)(2)(iii), 5724a(a)(3) and (4), and 8102(b) of title 5, United States Code, are each amended by striking out "Canal Zone" each place it appears and inserting in lieu thereof "areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979)."

PLACEMENT

Sec. 1232. (a) Any citizen of the United States—

(1) who, on March 31, 1979, was an employee of the Panama Canal Company or the Canal Zone Government;

(2) who separates or is scheduled to separate on or after such date for any reason other than misconduct or delinquency; and

(3) who is not placed in another appropriate position in the Government of the United States in the Republic of Panama;

shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(b) Any citizen of the United States—

(1) who, on March 31, 1979, was employed in the Canal Zone as an employee of an Executive agency (other than the Panama Canal Company or the Canal Zone Government) or the Smithsonian Institution;

(2) whose position is eliminated as the result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(3) who is not appointed to another appropriate position in the Government of the United States in the Republic of Panama;

shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(c) The Office of Personnel Management shall establish and administer a Government-wide placement program for all eligible employees who request appointment to positions under this section.

(d) The provisions of this section shall take effect on the date of the enactment of this Act.

Subchapter IV—Retirement

EARLY RETIREMENT ELIGIBILITY

Sec. 1241. (a) Section 8336 of title 5, United States Code, is amended—

(1) in subsection (c), by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2) An employee is entitled to an annuity if the employee—

"(A) was a law enforcement officer or firefighter employed by the Panama Canal Company or the Canal Zone Government at any time during the period beginning March 31, 1979, and ending September 30, 1979; and

"(B) is separated from the service before January 1, 2000, after becoming 48 years of age and completing 18 years of service as a law enforcement officer or firefighter, or any combination of such service totaling at least 18 years."; and

(2) by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i)(1) An employee of the Panama Canal Commission or of an Executive agency conducting operations in the Canal Zone or Republic of Panama who is separated from the service before January 1, 2000, who was employed by the Canal Zone Government or the Panama Canal Company at any time during the period beginning March 31, 1979, and ending September 30, 1979, and who has had continuous Panama Canal service, without a break in service of more than 3 days, from that time until separation, is entitled to an annuity if the employee is separated—

"(A) involuntarily, after completing 20 years of service or after becoming 48 years of age and completing 18 years of service, if the separation is a result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; or

"(B) voluntarily, after completing 23 years of service or after becoming 48 years of age and completing 18 years of service.

"(2) An employee of the Pamana Canal Commission or of an Executive agency conducting operations in the Canal Zone or Republic of Panama who is separated from the service before January 1, 2000, who was employed, at a permanent duty station in the Canal Zone, by any Executive agency other than the Canal Zone Government or the Panama Canal Company at any time during the period beginning March 31, 1979, and ending September 30, 1979, and who has had continuous Panama Canal service, without a break in service of more than 3 days, from that time until separation, is entitled to an annuity if—

"(A) the employee is separated involuntarily, after completing 20 years of service or after becoming 48 years of age and completing 18 years of service; and

"(B) the separation is the result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements.

"(3) For the purpose of this subsection—

"(A) 'Panama Canal service' means—

"(i) service as an employee of the Canal Zone Government, the Panama Canal Company, or the Panama Canal Commission; or

"(ii) service at a permanent duty station in the Canal Zone or Republic of Panama as an employee of an Executive agency conducting operations in the Canal Zone, or the Republic of Panama; and

"(B) 'Executive agency' includes the United States District Court for the District of the Canal Zone and the Smithsonian Institution."

(b)(1) The amendments made by this section shall take effect on the date of the enactment of this Act, but no amount of annuity under chapter 83 of title 5, United States Code, accruing by reason of those amendments shall be payable for any period before October 1, 1979.

(2) Effective October 1, 1979, any individual who, but for paragraph (1) of this subsection, would have been entitled to one or more annuity payments pursuant to the amendments made by this section for periods before October 1, 1979, shall be entitled, to such extent or in such amounts as are provided in advance in appropriation Acts, to a lump sum payment equal to the total amount of all such annuity payments.

EARLY RETIREMENT COMPUTATION

Sec. 1242. Section 8339(d) of title 5, United States Code, is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraphs:

"(2) The annuity of an employee retiring under this subchapter who was employed by the Panama Canal Company or Canal Zone Government on September 30, 1979, is computed with respect to the period of continuous Panama Canal service from that date, disregarding any break in service of not more than 3 days, by adding—

"(A) 2½ percent of the employee's average pay multiplied by so much of that service as does not exceed 20 years; plus

"(B) 2 percent of the employee's average pay multiplied by so much of that service as exceeds 20 years.

"(3)(A) In the case of an employee who has service as a law enforcement officer or firefighter to which paragraph (2) of this subsection applies, the annuity of that employee is increased by $8 for each full month of that service which is performed in the Republic of Panama.

"(B) in the case of an employee retiring under this subchapter who—

"(i) was employed as a law enforcement officer or firefighter by the Panama Canal Company or Canal Zone Government at any time during the period beginning March 31, 1979, and ending September 30, 1979; and

"(ii) does not meet the age and service requirements of section 8336(c) of this title; the annuity of that employee is increased by $12 for each full month of that service which occurred before October 1, 1979.

"(C) An annuity increase under this paragraph does not apply with respect to service performed after completion of 20 years of service (or any combination of service) as a law enforcement officer or firefighter.

"(4) For the purpose of this subsection—

"(A) 'Panama Canal service' means—

"(i) service as an employee of the Panama Canal Commission; or

"(ii) service at a permanent duty station in the Canal Zone or Republic of Panama as an employee of an Executive agency conducting operations in the Canal Zone or Republic of Panama; and

"(B) 'Executive agency' includes the Smithsonian Institution.".

(b)(1) The amendments made by this section shall take effect on the date of the enactment of this Act, but no amount of annuity under chapter 83 of title 5, United States Code, accruing by reason of those amendments shall be payable for any period before October 1, 1979.

(2) Effective October 1, 1979, any individual who, but for paragraph (1) of this

subsection, would have been entitled to one or more annuity payments pursuant to the amendments made by this section for periods before October 1, 1979, shall be entitled, to such extent or in such amounts as are provided in advance in appropriation Acts, to a lump sum payment equal to the total amount of all such annuity payments.

RETIREMENT UNDER SPECIAL TREATY PROVISIONS

SEC. 1243. (a) (1) Subject to subsection (b) of this section, and under such regulations as the President may prescribe, the Secretary of the Treasury shall pay to the Social Security System of the Republic of Panama, out of funds deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund under section 8334(a) (2) of title 5, United States Code, such sums of money as may be necessary to aid in the purchase of a retirement equity in such System for each individual who—

(A) meets the requirements of paragraph (2) of this subsection;

(B) is separated from employment in the Panama Canal Company, the Canal Zone Government, or the Commission by reason of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(C) becomes employed in a position covered by the Social Security System of the Republic of Panama through the transfer of a function or activity to the Republic of Panama from the United States or through a job placement assistance program.

(2) This subsection applies with respect to any individual only if the individual—

(A) has been credited with at least 5 years of civilian service under section 8332 of title 5, United States Code, relating to creditable service for purposes of civil service retirement;

(B) is not eligible for an immediate retirement annuity under chapter 83 of title 5, United States Code, relating to civil service retirement, and elects not to receive a deferred annuity under that chapter based on any portion of that service; and

(C) elects to withdraw from the Civil Service Retirement and Disability Fund the individual's entire lump-sum credit (as defined in section 8331(8) of title 5, United States Code) and to transfer that amount to the Social Security System of the Republic of Panama pursuant to the special regime referred to in paragraph 3 of Article VIII of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977.

(b) The amount paid to the Social Security System of the Republic of Panama with respect to any individual under subsection (a) of this section shall not exceed the individual's entire lump-sum credit (as so defined).

(c) (1) Pursuant to paragraph 2(b) of Annex C to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977, the President, or the President's designee, shall purchase from a source determined by the President to be appropriate, in accordance with such regulations as the President or the President's designee may prescribe, and to such extent or in such amounts as may be provided in advance in appropriations Acts, a nontransferable deferred annuity for the benefit of each employee of an agency or instrumentality of the Government of the United States in the Republic of Panama—

(A) who is not a citizen of the United States;

(B) who was employed on October 1, 1979, and during any period before that date by an agency or instrumentality of the Government of the United States at any permanent duty station in the Republic of Panama (including, with respect to employment before that date, the area then known as the Canal Zone);

(C) who, for any period of service with such agency or instrumentality before October 1, 1979, at any such permanent duty station was not covered, by reason of that service, by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama; and

(D) who, on October 1, 1979, is under a Federal retirement system and, on or before that date, has accrued in one or more agencies or instrumentalities of the United States a total of 5 years or more of service which—

(i) is creditable toward any Federal retirement system as in effect on October 1, 1979;

(ii) would have been creditable toward any such retirement system if the retirement system were in effect at the time of the service accrued by the employee; or

(iii) consists of any combination of service described in clauses (i) and (ii) of this subparagraph.

(2) The retirement annuity referred to in paragraph (1) of this subsection with respect to any employee will cover retroactively, from October 1, 1979, all periods of service, described in subparagraph (D) of that paragraph, by that employee at any permanent duty station in the Republic of Panama (including the area known before that date as the Canal Zone) in agencies and instrumentalities of the Government of the United States during which that employee was not covered by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama.

OBLIGATION OF COMMISSION FOR UNFUNDED LIABILITY

SEC. 1244. Section 8348 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) (1) Notwithstanding any other provision of law, the Panama Canal Commission shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to or on behalf of employees and their survivors to the extent attributable to the amendments made by sections 1241 and 1242, and the provisions of sections 1231(b) and 1243(a) (1), of the Panama Canal Act of 1979.

"(2) The estimated increase in the unfunded liability referred to in paragraph (1) of this subsection shall be determined by the Office of Personnel Management. The Secretary of the Treasury shall pay to the Fund from appropriations for that purpose the amount so determined in annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.".

CASH RELIEF TO CERTAIN FORMER EMPLOYEES

SEC. 1245. (a) The Commission, under the regulations prescribed by the President pursuant to the Act entitled "An Act authorizing cash relief for certain employees of the Panama Canal not coming within the provisions of the Canal Zone Retirement Act", approved July 8, 1937, as amended (50 Stat. 478; 68 Stat. 17), may continue the payments of cash relief to those individual former employees of the Canal Zone Government or Panama Canal Company or their predecessor agencies not coming within the scope of the former Canal Zone Retirement Act whose services were terminated prior to October 5, 1958, because of unfitness for further useful service by reason of mental or physical disability resulting from age or disease. Subject to subsection (b) of this section, that cash relief may not exceed $1.50 per month for each year of service of the employees so furnished relief, with a maximum of $45 per month, plus the amount of any cost-of-living increases in such cash relief granted before October 1, 1979, pursuant to section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), nor be paid to any employee who, at the time of termination for disability prior to October 5, 1958, had less than 10 years' service with the Canal Zone Government, the Panama Canal Company, or their predecessor agencies on the Isthmus of Panama.

(b) An additional amount of $20 per month shall be paid to each person who receives payment of cash relief under subsection (a) of this section and shall be allowed without regard to the limitations contained therein.

(c) Each cash relief payment made pursuant to this section shall be increased on the same effective date and by the same percent, adjusted to the nearest dollar, as civil service retirement annuities are increased under the cost-of-living adjustment provisions of section 8340(b) of title 5, United States Code. Such increase shall apply only to cash relief payments made after October 1, 1979, as increased by annuity increases made after that date under such section 8340(b).

(d) The Commission may pay cash relief to the widow of any former employee of the Canal Zone Government or the Panama Canal Company who, until the time of his death, receives or has received cash relief under subsection (a) of this section, under section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), or under the Act of July 8, 1937, referred to in such subsection (a). The term "widow" as used in this subsection includes only the following:

(1) a woman legally married to such employee at the time of his termination for disability and at his death;

(2) a woman who, although not legally married to such former employee at the time of his termination, had resided continuously with him for at least five years immediately preceding the employee's termination under such circumstances as would at common law make the relationship a valid marriage and who continued to reside with him until his death; and

(3) a woman who has not remarried or assumed a common-law relationship with any other person.

Cash relief granted to such a widow shall not at any time exceed 50 percent of the rate at which cash relief, inclusive of any additional payment under subsection (b) of this section, would be payable to the former employee were he then alive.

(e) Subchapter III of chapter 83 of title 5, United States Code, applies with respect to those individuals who were in the service of the Canal Zone Government or the Panama Canal Company on October 5, 1958, and who, except for the operation of section 13(a) (1) of the Act entitled "An Act to implement item 1 of a Memorandum of Understanding attached to the treaty of January 25, 1955, entered into by the Government of the United States of America and the Government of the Republic of Panama with respect to wage and employment practices of the Government of the United States of America in the Canal Zone", approved July 25, 1958 (72 Stat. 405), would have been within the classes of individuals subject to the Act of July 8, 1937, referred to in subsection (a) of this section.

APPLIANCES FOR EMPLOYEES INJURED BEFORE SEPTEMBER 7, 1916

SEC. 1246. Artificial limbs or other appliances may be purchased by the Commission, out of any funds appropriated to the Commission, for persons who were injured in the service of the Isthmian Canal Commission or of the Panama Canal before September 7, 1916.

Subchapter V—Leave

LEAVE FOR JURY OR WITNESS SERVICE

SEC. 1251. Section 6322(a) of title 5, United States Code, is amended—

(1) by striking out "the Canal Zone, or"; and

(2) by striking out "Islands." and inserting in lieu thereof "Islands, or the Republic of Panama.".

Subchapter VI—Application to Related Personnel

LAW ENFORCEMENT; CANAL ZONE CIVILIAN PERSONNEL POLICY COORDINATING BOARD; RELATED EMPLOYEES

SEC. 1261. (a) For the purposes of sections 1206, 1231, 1232, 1241, and 1242 of this Act, including any amendment made by those sections, the United States Attorney for the District of the Canal Zone and the Assistant United States Attorneys and their clerical assistants, and the United States Marshal for the District of the Canal Zone and his deputies and clerical assistants shall be considered employees of the Commission.

(b) For the purposes of this Act, including any amendment made by this Act, the Executive Director of the Canal Zone Civilian Personnel Policy Coordinating Board, the Manager, Central Examining Office, and their staffs shall be considered to have been employees of the Panama Canal Company with respect to service in those positions before October 1, 1979, and as employees of the Commission with respect to service in those positions on or after that date.

(c) The provisions of this section shall take effect on the date of the enactment of this Act.

Subchapter VII—Labor-Management Relations

LABOR-MANAGEMENT RELATIONS

SEC. 1271. (a) Nothing in this Act shall be construed to affect the applicability of chapter 71 of title 5, United States Code, relating to labor-management and employee relations, with respect to the Commission or the operations of any other Executive agency conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, except that in applying those provisions—

(1) the definition of "employee" shall be applied without regard to clause (1) of section 7103(a)(2) of such title 5 which relates to nationality and citizenship; and

(2) a unit shall be considered to be appropriate notwithstanding the fact that it includes any supervisor if that supervisor's position (or type of position) was, before October 1, 1979, represented before the Panama Canal Company by a labor organization that included employees who were not supervisors.

(b) Labor-management and employee relations of the Commission, other Executive agencies, and the Smithsonian Institution, their employees, and organizations of those employees, in connection with operations conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, shall be governed and regulated solely by the applicable laws, rules, and regulations of the United States.

CHAPTER 3—FUNDS AND ACCOUNTS

Subchapter I—Funds

CANAL ZONE GOVERNMENT FUNDS

SEC. 1301. On the effective date of this Act, any unexpended balances of the appropriation accounts appearing on the books of the United States Government as "Operating Expenses, Canal Zone Government (38–0116–0–1–806)" and "Capital Outlay, Canal Zone Government (38–0118–0–1–806)" shall be covered into the general fund of the Treasury, and any appropriations to which expenditures under such accounts have been chargeable before such effective date are repealed. The Commission may, to such extent or in such amounts as are provided in appropriation Acts to the Commission for such purpose, pay claims or make payments chargeable to such accounts, upon proper audit of such claims or payments. There are authorized to be appropriated to the Commission such funds as may be necessary to pay claims and make payments pursuant to this section.

PANAMA CANAL COMPANY FUNDS; COMMISSION FUNDS

SEC. 1302. (a) On the effective date of this Act, the account appearing on the books of the United States Government as the "Panama Canal Company Fund (38–4060–0–3–403)" shall be terminated, and any unexpended balances under such account as of that date shall be covered into the Treasury in an account to be known as the "Panama Canal Commission Fund".

(b) On or after the effective date of this Act, tolls for the use of the Panama Canal and all other receipts of the Commission that, before such effective date, would have been credited to the account appearing on the books of the Government as the "Panama Canal Company Fund (38–4060–0–3–403)" shall be deposited in the Treasury in the Panama Canal Commission Fund.

(c)(1) No funds may be appropriated to or for the use of the Commission, nor may any funds be obligated or expended by the Commission for any fiscal year, unless such appropriation, obligation, or expenditure has been specifically authorized by law.

(2) No funds may be appropriated to or for the use of the Commission for any fiscal year in excess of (A) the amount of revenues deposited in the Panama Canal Commission Fund during such fiscal year, as such amount is estimated by the Secretary of Defense and certified by the Comptroller General of the United States at the time the budget request for the Commission for such fiscal year is submitted to the Congress, plus (B) the amount of revenues deposited in such Fund prior to such fiscal year and remaining unexpended at the beginning of such fiscal year. Not later than thirty days after the end of such fiscal year, the Secretary of the Treasury shall report to the Congress the actual amount of revenues deposited in the Panama Canal Commission Fund during such fiscal year.

(d) The Commission may, to such extent or in such amounts as are provided in advance in appropriation Acts, enter into contracts in order to carry out its functions.

(e)(1) It is the sense of the Congress that the additional costs resulting from implementation of the Panama Canal Treaty of 1977 and related agreements should be kept to the absolute minimum level. To this end, the Congress declares that the direct appropriated costs of implementation to be borne by the taxpayers over the life of such Treaty should be kept to a level no greater than the March 1979 estimate of those costs ($870,700,000) presented to the Congress by the executive branch during consideration of this Act by the Congress, less personnel retirement costs of $205,000,000, which were subtracted and charged to tolls, therefore resulting in the net taxpayer cost of approximately $665,700,000, plus appropriate adjustment for inflation.

(2) It is further the sense of the Congress that the actual costs of implementation be consistent with the obligations of the United States to operate the Panama Canal safely and efficiently and keep it secure.

EMERGENCY FUND

SEC. 1303. (a) On the effective date of this Act, the Secretary of the Treasury shall establish and thereafter shall maintain in the Treasury a fund to be known as the "Panama Canal Emergency Fund". There are authorized to be appropriated for deposit in such Fund (1) for the fiscal year beginning on October 1, 1979, $40,000,000, and (2) for any fiscal year beginning on or after October 1, 1980, such additional sums as may be specifically authorized by law for such fiscal year.

(b) The Commission may make withdrawals from the Panama Canal Emergency Fund by check in order to defray emergency expenses and to insure the continuous, efficient, and safe operation of the Panama Canal, if funds appropriated for the operation and maintenance of the Canal are insufficient for such purposes. Any withdrawal from such Fund to cover increased costs attributable to unprogrammed increases in traffic may not be made in amounts greater than the revenues from such increased traffic. Such Fund shall not be available for payments to Panama under Article XIII of the Panama Canal Treaty of 1977. Any withdrawal from such Fund or expenditure made under this subsection shall be reported forthwith by the Commission to the Congress and to the Office of Management and Budget.

Subchapter II—Accounting Polices and Audits

ACCOUNTING POLICIES

SEC. 1311. (a) The Commission shall establish and maintain its accounts pursuant to the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.) and the provisions of this chapter. Such accounts shall specify all revenues received by the Commission, including tolls for the use of the Panama Canal, expenditures for capital replacement, expansion, and improvement, and all costs of maintenance and operation of the Panama Canal and of its complementary works, installations, and equipment, including depreciation, payments to the Republic of Panama under the Panama Canal Treaty of 1977, and interest on the investment of the United States calculated in accordance with section 1603 of this Act.

(b) The Commission may issue regulations establishing the basis of accounting for the assets which are made available for the use of the Commission. Such regulations may provide for depreciation of the net replacement value of the assets which will ultimately require replacement to maintain the service capacity of the Panama Canal. Such regulations may also provide that depreciation of such assets be recorded ratably over their service lives.

REPORTS

SEC. 1312. The Commission shall, not later than January 31 of each year, submit to the President and the Congress a financial statement and a complete report with respect to the maintenance and operation of the Panama Canal during the preceding fiscal year.

AUDIT BY THE COMPTROLLER GENERAL OF THE UNITED STATES

SEC. 1313. (a) Financial transactions of the Commission shall be audited by the Comptroller General of the United States (hereinafter in this Act referred to as the "Comptroller General") pursuant to the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.). In conducting any audit pursuant to such Act, the appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission and necessary to facilitate such audit, and such representatives shall be afforded full facilities for certifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. An audit pursuant to such Act shall first be conducted with respect to the fiscal year in which this Act becomes effective.

(b) The Comptroller General shall, not later than six months after the end of each fiscal year, submit to the Congress a report of the audit conducted pursuant to subsection (a) of this section with respect to such fiscal year. Such report shall set forth the scope of the audit and shall include—

(1) a statement of assets and liabilities, capital, and surplus or deficit, based on the accounts of the Commission established pursuant to this chapter.

(2) a statement of income and expenses.

(3) a statement of sources and application of funds.

(4) a statement listing all direct and indirect costs incurred by the United States in implementing the Panama Canal Treaty of 1977, including the cost of property transferred to the Republic of Panama during each fiscal year, and

(5) such comments and information as the Comptroller General considers necessary to keep the Congress informed of the operations and financial transactions of the Commission, together with such recommendations with respect to such operations and transactions as the Comptroller General considers advisable.

The report shall identify specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit which, in the opinion of the Comptroller General, has been carried out or made and has not been authorized by law. The Comptroller General shall submit a copy of each such report to the President, the Secretary of the Treasury, and the Commission.

(c) In conducting the audits and preparing the reports provided for in this section and in carrying out his other responsibilities pursuant to law, the Comptroller General shall, with respect to fiscal year 1980, take into account the problems inherent in converting the existing accounting system of the Panama Canal Company to conform to the requirements established in section 1311 of this Act. Accordingly, the Comptroller General shall take no adverse action with respect to the Commission, nor shall any violation of section 3679 of the Revised Statutes (31 U.S.C. 665) be considered to have taken place, so long as the Commission is in substantial compliance with the requirements of this Act. The Comptroller General shall make such recommendations to the Commission and to the Congress as he may consider appropriate to insure that full compliance with the financial controls provided for in the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.) is achieved promptly.

Subchapter III—Interagency Accounts

INTERAGENCY SERVICES; REIMBURSEMENTS

SEC. 1321. (a) The Commission shall reimburse the Employees' Compensation Fund, Bureau of Employee's Compensation, Department of Labor, for the benefit payments to the Commission's employees, and shall also reimburse other Government departments and agencies for payments of a similar nature made on its behalf.

(b) The Department of Defense shall reimburse the Commission for amounts expended by the Commission in maintaining defense facilities in standby condition for the Department of Defense.

(c) Notwithstanding any other provision of law, funds appropriated (for any fiscal year beginning after September 30, 1979) to or for the use of the Department of Defense, or to any other department or agency of the United States as may be designated by the President to carry out the purposes of this subsection, shall be available for—

(1) conducting the educational and health care activities, including kindergartens and college, carried out by the Canal Zone Government and the Panama Canal Company before the effective date of this Act, and

(2) providing the services related thereto to the categories of persons to which such services were provided before such effective date.

Notwithstanding any other provision of law, the Department of Defense, or any department or agency designated by the President to provide health care services to those categories of persons referred to in this subsection, shall provide such services to such categories of persons on a basis no less favorable than that applied to its own employees and their dependents.

(d) Amounts expended for furnishing services referred to in subsection (c) of this section to persons eligible to receive them, less amounts payable by such persons, shall be fully reimbursable to the department or agency furnishing the services, except to the extent that such expenditures are the responsibility of that department or agency. The appropriations or funds of the Commission shall be available for such reimbursements on behalf of—

(1) employees of the Commission, and

(2) other persons authorized to receive such services who are eligible to receive them pursuant to the Panama Canal Treaty of 1977 and related agreements.

The appropriations or funds of any other department or agency of the United States conducting operations in the Republic of Panama, including the Smithsonian Institution, shall be available for reimbursements on behalf of employees of such department or agency and their dependents.

(e) The appropriations or funds of the Commission, or of any other department or agency of the United States conducting operations in the Republic of Panama, shall be available, in accordance with subsection (d) of this section, to defray the cost of—

(1) health care services to elderly or disabled persons who were eligible to receive such services before the effective date of this Act, less amounts payable by such persons, and

(2) educational services provided by schools in the Republic of Panama, which are not operated by the United States, to persons who were receiving such services at the expense of the Canal Zone Government before the effective date of this Act.

(f) For purposes of the reimbursement of the United States by the Republic of Panama for the salaries and other employment costs of employees of the Commission who are assigned to assist the Republic of Panama in the operation of activities which are transferred to that Government as a result of any provision of the Panama Canal Treaty of 1977 and related agreements, which reimbursement is provided for in paragraph 8 of Article 10 of that Treaty, the Commission shall be deemed to be the United States of America.

(g) Notwithstanding any other provision of law, the President, through the appropriate department or agency of the United States, shall, until January 1, 2000, operate the educational institution known as the "Canal Zone College". Such institution shall continue to provide, insofar as practicable, the level of services which it offered immediately before the effective date of this Act.

Subchapter IV—Postal Matters

POSTAL SERVICE

SEC. 1331. (a) The postal service established and governed by chapter 73 of title 2 of the Canal Zone Code shall be discontinued on October 1, 1979.

(b) The provisions of chapter 73 of such title 2 relating to postal-savings deposits, postal-savings certificates, postal money orders, and the accounting for funds shall continue to apply for the purpose of meeting the obligations of the United States concerning outstanding postal savings and money orders and disposition of funds.

(c) The Commission shall take possession of and administer the funds of the postal service referred to in subsection (a) of this section and shall assume its obligations. The Commission and the United States Postal Service may enter into agreements for the transfer of funds or property and the assumption of administrative rights or responsibilities with respect to the outstanding obligations of the postal service referred to in subsection (a) of this section. Any transfer or assumption (including any agreement for such transfer or assumption) pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(d) Mail addressed to the Canal Zone from or through the continental United States may be routed by the United States Postal Service to the military post offices of the United States Forces in the Republic of Panama. Such military post offices shall provide the required directory services and shall accept such mail to the extent permitted under the Panama Canal Treaty of 1977 and related agreements. The Commission shall furnish personnel, records, and other services to such military post offices to assure wherever appropriate the distribution, rerouting, or return of such mail.

(e)(1) The second sentence of section 403 (a) of title 39, United States Code, is amended by striking out "Except as provided in the Canal Zone Code, the" and inserting in lieu thereof "The".

(2) Section 3401(b) of such title is amended—

(A) by inserting "or" before "the Virgin Islands"; and

(B) by striking out "or the Canal Zone,".

(3)(A) Section 3402 of such title is repealed.

(B) The table of sections for chapter 34 of title 39, United States Code, is amended by repealing the item relating to section 3402.

(4) Section 3682(b)(5) of such title is amended by striking out "the Canal Zone and".

Subchapter V—Accounts With the Republic of Panama

PAYMENTS TO THE REPUBLIC OF PANAMA

SEC. 1341. (a) The Commission shall pay to the Republic of Panama those payments required under paragraph 5 of Article III and paragraph 4 of Article XIII of the Panama Canal Treaty of 1977. Payments made under paragraph 5 of Article III of such Treaty shall be audited annually by the Comptroller General and any overpayment, as determined in accordance with Understanding (1) incorporated in the Resolution of Ratification of the Panama Canal Treaty (adopted by the United States Senate on April 18, 1978), for the services described in that paragraph which are provided shall be refunded by the Republic of Panama or set off against amounts payable by the United States to the Republic of Panama under paragraph 5 of Article III of the Panama Canal Treaty of 1977.

(b) In determining whether operating revenues exceed expenditures for the purpose of payments to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, such operating revenues in a fiscal period shall be reduced by (1) all costs of such period as shown by the accounts established pursuant to section 1311 of this Act, and (2) the cumulative sum from prior years (beginning with the year in which the Panama Canal Treaty of 1977 enters into force) of any excess of costs of the Panama Canal Commission over operating revenues.

(c) The President shall not accede to any interpretation of paragraph 1 of Article IX of the Panama Canal Treaty of 1977 which would permit the Republic of Panama to tax retroactively organizations and businesses operating, and citizens of the United States living, in the Canal Zone before the effective date of this Act.

(d) Any accumulated unpaid balance under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 at the termination of such Treaty shall be payable only to the extent of any operating surplus in the last year of the Treaty's duration, and nothing in such paragraph may be construed as obligating the United States to pay after the date of the termination of the Treaty any such unpaid balance which has accrued before such date.

(e) As provided in section 1602(b) of this

Act, tolls shall not be prescribed at rates calculated to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977. Moreover, no payments may be made to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 unless unexpended funds are used to pay all costs of operation and maintenance of the canal, including but not limited to (1) operating expenses determined in accordance with generally accepted accounting principles, (2) payments to the Republic of Panama under paragraphs 4(a) and 4(b) of such article XIII and under paragraph (5) of Article III of such Treaty, (3) amounts in excess of depreciation and amortization which are programed for plant replacement, expansion, and improvements, (4) payments to the Treasury of the United States under section 1603 of this Act, (5) reimbursement to the Treasury of the United States for costs incurred by other departments and agencies of the United States in providing educational, health, and other services to the Commission, its employees and their dependents, and other categories of persons in accordance with section 133 of this Act, and (6) any costs of treaty implementation associated with the maintenance and operation of the Panama Canal.

(f) The prohibitions contained in this section and in sections 1302(c) and 1503 of this Act shall apply notwithstanding any other provision of law authorizing transfers of funds between accounts, reprograming of funds, use of funds for contingency purposes, or waivers of prohibitions.

TRANSACTIONS WITH THE REPUBLIC OF PANAMA

SEC. 1342. The Commission may, on a reimbursable basis, provide to the Republic of Panama materials, supplies, equipment, work, or services, including water and electric power, requested by the Republic of Panama, at such rates as may be agreed upon by the Commission and the Republic of Panama. Payment for such materials, supplies, equipment, work, or services may be made by direct payment by the Republic of Panama to the Commission or by offset against amounts due the Republic of Panama by the United States.

DISASTER RELIEF

SEC. 1343. If an emergency arises because of disaster or calamity by flood, hurricane, earthquake, fire, pestilence, or like cause, not foreseen or otherwise provided for, and occurring in the Republic of Panama in such circumstances as to constitute an actual or potential hazard to health, safety, security, or property in the areas and installations made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, the Commission may expend available funds appropriated to the Commission for such purpose, and utilize or furnish materials, supplies, equipment, and services for relief, assistance, and protection.

CONGRESSIONAL RESTRAINTS ON PROPERTY TRANSFERS AND TAX EXPENDITURES

SEC. 1344. (a) The Congress enacts this section in the exercise of its authority under Article IV, section 3, clause 2 of the Constitution of the United States to dispose of and make necessary rules and regulations with respect to property of the United States.

(b) Prior to the transfer of property of the United States located in the Republic of Panama to the Republic of Panama pursuant to section 1504 of this Act the President shall formally advise the Government of Panama that—

(1) in fulfilling its obligations under the Panama Canal Treaty of 1977, the United States shall make no payments to the Republic of Panama derived from tax revenues of the United States;

(2) the United States retains full discretion and authority to determine whether and the extent to which tax revenues of the United States may be expended in exercising United States rights and carrying out United States responsibilities under the Panama Canal Treaty of 1977 and related agreements;

(3) no tax revenues of the United States shall be made available for obligations and expenditure after the effective date of this Act for purposes of implementing the Panama Canal Treaty of 1977 and related agreements, unless hereafter specifically approved by the Congress through the authorization and appropriation process;

(4) the total amount expended by the Commission from funds appropriated to or for the use of the Commission shall not exceed the total amount deposited in the Panama Canal Commission Fund; and

(5) the foregoing paragraphs of this subsection do not apply to expenditures made by the United States in fulfilling United States obligations to transfer the remains of our honored dead from Mount Hope Cemetery in the former Canal Zone to an appropriate and dignified resting place in accordance with Reservation 3 to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

CHAPTER 4—CLAIMS FOR INJURIES TO PERSONS OR PROPERTY

Subchapter I—General Provisions

SETTLEMENT OF CLAIMS GENERALLY

SEC. 1401. (a) Subject to the provisions of this chapter, the Commission may adjust and pay claims for injury to, or loss of, property or for personal injury or death, arising from the operation of the Panama Canal or related facilities and appurtenances.

(b) No claim for an amount exceeding $50,000 shall be adjusted and paid by the Commission under the provisions of this subchapter.

(c) An award made to a claimant under this section shall be payable out of any moneys appropriated for or made available to the Commission. The acceptance by the claimant of the award shall be final and conclusive on the claimant, and shall constitute a complete release by the claimant of his claim against the United States and against any employee of the United States acting in the course of his employment who is involved in the matter giving rise to the claim.

(d) Except as provided in section 1416 of this Act, no action for damages on claims cognizable under this chapter shall lie against the United States or the Commission, and no such action shall lie against any officer or employee of the United States. Neither this section nor section 1416 of this Act shall preclude actions against officers or employees of the United States for injuries resulting from their acts outside the scope of their employment or not in the line of their duties, or from their acts committed with the intent to injure the person or property of another.

(e) The provisions of section 1346(b) of title 28, United States Code, and the provisions of chapter 171 of such title shall not apply to claims cognizable under this chapter.

Subchapter II—Vessel Damage

INJURIES IN LOCKS OF CANAL

SEC. 1411. The Commission shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew or passengers of vessels, which may arise by reason of their passage through the locks of the Panama Canal under the control of officers or employees of the United States. Damages may not be paid where the injury was proximately caused by the negligence or fault of the vessel, master, crew, or passengers. If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence or fault attributable to the vessel, master, crew or passengers. Damages may not be allowed and paid for injuries to any protrusion beyond any portion of the hull of a vessel, whether it is permanent or temporary in character. A vessel is considered to be passing through the locks of the Canal, under the control of officers or employees of the United States, from the time the first towing line is made fast on board before entrance into the locks and until the towing lines are cast off upon, or immediately prior to, departure from the lock chamber.

INJURIES OUTSIDE LOCKS

SEC. 1412. The Commission shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels which may arise by reason of their presence in the Panama Canal, or waters adjacent thereto, other than the locks, when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal, and when the amount of the claim does not exceed $120,000. If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence or fault attributable to the vessel, master, crew, or passengers. In the case of a vessel which is required by or pursuant to regulations prescribed pursuant to section 1801 of this Act to have a Panama Canal pilot on duty aboard, damages may not be adjusted and paid for injuries to the vessel, or its cargo, crew, or passengers, incurred while the vessel was underway and in motion, unless at the time the injuries were incurred the navigation or movement of the vessel was under the control of a Panama Canal pilot.

MEASURE OF DAMAGES GENERALLY

SEC. 1413. In determining the amount of the award of damages for injuries to a vessel for which the Commission is determined to be liable, there may be included—

(1) the actual or estimated cost of repairs;

(2) charter hire actually lost by the owners, or charter hire actually paid, depending upon the terms of the charter party, for the time the vessel is undergoing repairs;

(3) maintenance of the vessel and wages of the crew, if they are found to be actual additional expenses or losses incurred outside of the charter hire; and

(4) other expenses which are definitely and accurately shown to have been incurred necessarily and by reason of the accident or injuries.

Agent's fees, or commissions, or other incidental expenses of similar character, or any items which are indefinite, indeterminable, speculative, or conjectural may not be allowed. The Commission shall be furnished such vouchers, receipts, or other evidence as may be necessary in support of any item of a claim. If a vessel is not operated under charter but by the owner directly, evidence shall be secured if available as to the sum for which vessels of the same size and class can be chartered in the market. If the charter value cannot be determined, the value of the vessel to its owners in the business in which it was engaged at the time of the injuries shall be used as a basis for estimating the damages for the vessel's detention; and the books of the owners showing the vessel's earnings about the time of the accident or injuries shall be considered as evidence of probable earnings during the time of detention. If the books are unavailable, such other evidence shall be furnished as may be necessary.

DELAYS FOR WHICH NO RESPONSIBILITY IS ASSUMED

SEC. 1414. The Commission is not responsible, and may not consider any claim, for demurrage or delays caused by—

(1) landslides or other natural causes;

(2) necessary construction or maintenance works on Canal locks, terminals, or equipment;

(3) obstruction arising from accidents;

(4) time necessary for admeasurement;

(5) congestion of traffic;

(6) time necessary for investigation of marine accidents; or

(7) except as specially set forth in this subchapter, any other cause.

SETTLEMENT OF CLAIMS

SEC. 1415. (a) Subject to subsection (b) of this section, the Commission, by mutual agreement, compromise, or otherwise, may adjust and determine the amounts of the respective awards of damages pursuant to this subchapter. Such amounts shall be payable promptly out of any moneys appropriated or allotted for the maintenance and operation of the Panama Canal. Acceptance by a claimant of the amount awarded to him shall be deemed to be in full settlement of such claim against the Government of the United States.

(b) The Commission shall not adjust and pay any claim for damages for injuries arising by reason of the presence of the vessel in the Panama Canal or adjacent waters outside the locks where the amount of the claim exceeds $120,000 but shall submit the claim to the Congress in a special report containing the material facts and the recommendation of the Commission thereon.

ACTIONS ON CLAIMS

SEC. 1416. A claimant for damages pursuant to section 1411 of this Act who considers himself aggrieved by the findings, determination, or award of the Commission in reference to his claim may bring an action on the claim against the Commission in the United States District Court for the Eastern District of Louisiana. Subject to the provisions of this chapter and of applicable regulations issued pursuant to section 1801 of this Act relative to navigation of the Panama Canal and adjacent waters, such actions shall proceed and be heard by the court without a jury according to the principles of law and rules of practice obtaining generally in like cases between a private party and a department or agency of the United States. Any judgment obtained against the Commission in an action under this subchapter shall be paid out of any moneys appropriated or allotted for the maintenance and operation of the Panama Canal. An action for damages cognizable under this section shall not otherwise lie against the United States or the Commission, nor in any other court, than as provided in this section; nor may it lie against any officer or employee of the United States or of the Commission.

INVESTIGATION OF ACCIDENT OR INJURY GIVING RISE TO CLAIM

SEC. 1417. Notwithstanding any other provision of law, a claim may not be considered under this subchapter, or an action for damages lie thereon, unless, prior to the departure from the Panama Canal of the vessel involved—

(1) an investigation by the competent authorities of the accident or injury giving rise to the claim has been completed; and

(2) the basis for the claim has been laid before the Commission.

BOARD OF LOCAL INSPECTORS

SEC. 1418. (a) The President shall provide for the establishment of a Board of Local Inspectors of the Panama Canal Commission which shall perform, in accordance with regulations prescribed by the President—

(1) the investigations required by section 1417 of this Act; and

(2) such other duties with respect to marine matters as may be assigned by the President.

(b) In conducting any investigation pursuant to subsection (a) of this section, the Board of Local Inspectors established pursuant to such subsection may summon witnesses, administer oaths, and require the production of books and papers necessary for such investigation.

CHAPTER 5—PUBLIC PROPERTY

ASSETS AND LIABILITIES OF PANAMA CANAL COMPANY

SEC. 1501. All property and other assets of the Panama Canal Company shall revert to the United States on the effective date of this Act, and, except as otherwise provided by law, the United States shall assume the liabilities, including contractual obligations, of the Panama Canal Company then outstanding. The Commission may use such property, facilities, and records of the Panama Canal Company as are necessary to carry out its functions.

TRANSFERS AND CROSS-SERVICING BETWEEN AGENCIES

SEC. 1502. (a) In the interest of economy and maximum efficiency in the utilization of property and facilities of the United States, there are authorized to be transferred between departments and agencies of the United States, with or without reimbursement, such facilities, buildings, structures, improvements, stock, and equipment located in the Republic of Panama, and used for their activities therein, as may be mutually agreed upon by the departments and agencies involved and approved by the President of the United States or his designee.

(b) The Commission may enter into cross-servicing agreements with any other department or agency of the United States for the use of facilities, furnishing of services, or performance of functions.

(c) The Commission, any department or agency of the United States, or any United States court in the Republic of Panama is authorized to transfer to the Government of the Republic of Panama any record of such Commission, department, agency, or court, or copy thereof, including any record acquired from the Canal Zone Government or Panama Canal Company (including any vital statistics record), to any other department, agency, or court of the United States if such action is determined by the Commission, the head of the department or agency concerned, or the judge of the court concerned to be in the interest of the United States. Transfer of any record or copy thereof under this section to the Government of the Republic of Panama shall be made under the coordination of and with the approval of the United States Ambassador to the Republic of Panama.

(d) The provisions of this section shall apply to the Smithsonian Institution.

DISPOSITION OF PROPERTY OF THE UNITED STATES

SEC. 1503. No property of the United States located in the Republic of Panama may be disposed of except pursuant to law enacted by the Congress.

TRANSFER OF PROPERTY TO PANAMA

SEC. 1504. (a) (1) On the date on which the Panama Canal Treaty of 1977 enters into force, the Secretary of State may convey to the Republic of Panama the Panama Railroad and such property located in the area which, immediately before such date, comprised the Canal Zone and which is not within the land and water areas the use of which is made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(2) Property transferred pursuant to paragraph (1) of this subsection may not include buildings and other facilities, except housing, located outside such areas, the use of which is retained by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b) With respect to the transfer of all other property (not described in subsection (a)(1) of this section) to be transferred in accordance with the terms of the Panama Canal Treaty of 1977 and related agreements, the Secretary of State may convey such property from time to time in accordance with the terms of such Treaty and related agreements. At least 180 days before the transfer of any such property, the President must submit a written report to the Congress—

(1) precisely identifying and describing the particular property to be transferred;

(2) certifying the state of compliance by the Republic of Panama with such Treaty and related agreements; and

(3) setting forth the reasons for the conveyance being made at the particular time.

(c) The Panama Canal, and such other property referred to in paragraph 2(d) of Article XIII of the Panama Canal Treaty of 1977 that has not been previously transferred in accordance with paragraphs 2(a), 2(b), and 2(c) of such Article, shall not be transferred to the Republic of Panama prior to December 31, 1999.

CHAPTER 6—TOLLS FOR USE OF THE PANAMA CANAL

PRESCRIPTION OF MEASUREMENT RULES AND RATES OF TOLLS

SEC. 1601. (a) The President is authorized, subject to the provisions of this chapter, to prescribe and from time to time change—

(1) the rules for the measurement of vessels for the Panama Canal; and

(2) the tolls that shall be levied for the use of the Canal.

(b) Such rules of measurement and tolls prevailing on the effective date of this Act shall continue in effect until changed as provided in this chapter.

BASES OF TOLLS

SEC. 1602. (a) Tolls on merchant vessels, army and navy transports, colliers, tankers, hospital ships, supply ships, and yachts shall be based on net vessel tons of one hundred cubic feet each of actual earning capacity determined in accordance with the rules for the measurement of vessels for the Panama Canal, and tolls on other floating craft shall be based on displacement tonnage. The tolls on vessels in ballast without passengers or cargo may be less than the tolls for vessels with passengers or cargo.

(b) Tolls shall be prescribed at rates calculated to produce revenues to cover as nearly as practicable all costs of maintaining and operating the Panama Canal, together with the facilities and appurtenances related thereto, including unrecovered costs incurred on or after the effective date of this Act, interest, depreciation, payments to the Republic of Panama pursuant to paragraph 5 of Article III and paragraph 4 (a) and (b) of Article XIII of the Panama Canal Treaty of 1977, and capital for plant replacement, expansion, and improvements. Tolls shall not be prescribed at rates calculated to produce revenues sufficient to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977.

(c) Vessels operated by the United States, including vessels of war and auxiliary vessels, and ocean-going training ships owned by the United States and operated by State nautical schools, shall pay tolls.

(d) The levy of tolls is subject to the provisions of section 1 of Article III of the treaty between the United States of America and Great Britain signed November 18, 1901, of Article I of the treaty between the United States of America and the Republic of Colombia signed April 6, 1914, and of Articles II, III, and VI of the Treaty Concerning Permanent Neutrality and Operation of the Panama Canal, between the United States of America and the Republic of Panama, signed September 7, 1977.

CALCULATION OF INTEREST

SEC. 1603. (a) For purposes of sections 1311 and 1602 of this Act, interest shall be computed, at a rate determined by the Secretary of the Treasury, on the investment of the United States in the Panama Canal as shown in the accounts of the Panama Canal Company at the close of business on the day preceding the effective date of this Act, and as adjusted in accordance with subsections (b) and (c) of this section. Capital investment for interest purposes shall not include any interest during construction.

(b) The investment of the United States described in subsection (a) of this section—

(1) shall be increased by—

(A) the amount of expenditures from appropriations to the Commission made on or after the effective date of this Act, and

(B) the value of property transferred to the Commission by any other department or agency of the United States, as determined in accordance with subsection (c) of this section; and

(2) shall be decreased by—

(A) the amount of the funds covered into the Treasury pursuant to section 1302 of this Act,

(B) the value of property transferred to the Republic of Panama pursuant to this or any other Act on or after the date on which the Panama Canal Treaty of 1977 enters into force, and

(C) the value of property transferred by the Commission to any other department or agency of the United States.

(c) The value of property transferred to the Commission by any other department or agency of the United States shall be determined by the Director of the Office of Management and Budget. In computing such value, such Director shall give due consideration to the cost and probable earning power of the transferred property, or the usable value to the Commission if clearly less than cost, and shall make adequate provisions for depreciation, obsolescence, and other determinable decreases in value. Insofar as practicable, the value of such transferred property shall exclude any portion of such value properly allocable to national defense.

PROCEDURES

SEC. 1604. (a) The Commission shall publish in the Federal Register notice of any proposed change in the rules of measurement or rates of tolls referred to in section 1601(a) of this Act. The Commission shall give interested parties an opportunity to participate in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the notice. The notice shall include the substance of the proposed change and a statement of the time, place, and nature of the proceedings. At the time of publication of such notice, the Commission shall make available to the public an analysis showing the basis and justification for the proposed change, which, in the case of a change in rates of tolls, shall indicate the conformity of the existing and proposed rates of tolls with the requirements of section 1602 of this Act, and the Commission's adherence to the requirement for full consideration of the following factors set forth in Understanding (1) incorporated in the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (adopted by the United States Senate on March 16, 1978):

(1) the costs of operating and maintaining the Panama Canal;

(2) the competitive position of the use of the Canal in relation to other means of transportation;

(3) the interests of the United States and the Republic of Panama in maintaining their domestic fleets;

(4) the impact of such a change in rates of tolls on the various geographical areas of each of the two countries; and

(5) the interests of both countries in maximizing their international commerce.

(b) After consideration of the relevant matter presented, the Commission may revise the proposed rules of measurement or rates of tolls, as the case may be, except that, in the case of rates of tolls, if such revision proposes rates greater than those originally proposed, a new analysis of the proposed rates shall be made available to the public, and a new notice of the revised proposal shall be published in the Federal Register appraising interested persons of the opportunity to participate further in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the new notice. The procedure set forth in this subsection shall be followed for any subsequent revision of the proposed rates of tolls by the Commission which proposes rates higher than those in the preceding proposal.

(c) After the proceedings have been conducted pursuant to subsections (a) and (b) of this section, the Commission shall publish in the Federal Register a notice of the changes in the rules of measurement or rates of tolls, as the case may be, to be recommended to the President.

(d) Upon publication of the notice pursuant to subsection (c) of this section, the Commission shall forward a complete record of the proceedings, with the recommendation of the Commission, to the President for his consideration. The President may approve, disapprove, or modify any or all of the changes in the rules of measurement or rates of tolls recommended by the Commission.

(e) Rules of measurement or rates of tolls prescribed by the President pursuant to this chapter shall take effect on a date prescribed by the President which is not less than 30 days after the President publishes such rules or rates in the Federal Register.

(f) Action to change the rules of measurement for the Panama Canal or the rates of tolls for the use of the Canal pursuant to this chapter shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

INTERIM TOLL ADJUSTMENT

SEC. 1605. (a) After the effective date of this section, the Panama Canal Company or the Commission may, without regard to the procedures set forth in section 1604 of this Act for making changes in tolls by the Commission and the President, change the rates of tolls calculated to cover the cost of maintaining and operating the Panama Canal during the fiscal year beginning on October 1, 1979. Such rates shall be calculated in accordance with the provisions of section 1602(b) of this Act. Any such change in rates of tolls shall be subject to the approval of the President whose action in the matter shall be final. Any change in rates of tolls approved by the President shall become effective on a date prescribed by the President.

(b) This section shall take effect on the date of the enactment of this Act.

CHAPTER 7—GENERAL REGULATIONS

AUTHORITY OF PRESIDENT

SEC. 1701. The President may prescribe, and from time to time amend, regulations applicable within the areas and installations made available to the United States for the operation and protection of the Panama Canal pursuant to the Panama Canal Treaty of 1977 and related agreements concerning—

(1) the use of aircraft;

(2) the possession and use of alcoholic beverages;

(3) exclusion and removal of persons; and

(4) health and sanitation.

AUTHORITY OF COMMISSION

SEC. 1702. The Commission may prescribe, and from time to time amend, regulations applicable within the areas and installations made available to the United States for the operation and protection of the Panama Canal pursuant to the Panama Canal Treaty of 1977 and related agreements concerning—

(1) the keeping and impounding of domestic animals;

(2) fire prevention;

(3) the sale or use of fireworks;

(4) the use of roads and highways;

(5) photographing of areas, objects, installations, or structures;

(6) swimming in the Panama Canal and adjacent waters; and

(7) the protection of wildlife, hunting, and fishing.

CHAPTER 8—SHIPPING AND NAVIGATION

Subchapter I—Operation of Canal

OPERATING REGULATIONS

SEC. 1801. The President may prescribe, and from time to time amend, regulations governing—

(1) the operation of the Panama Canal;

(2) the navigation of the harbors and other waters of the Panama Canal and areas adjacent thereto, including the ports of Balboa and Cristobal;

(3) the passage and control of vessels through the Panama Canal or any part thereof, including the locks and approaches thereto;

(4) pilotage in the Panama Canal or the approaches thereto through the adjacent waters; and

(5) the licensing of officers or other operators of vessels navigating the waters of the Panama Canal and areas adjacent thereto, including the ports of Balboa and Cristobal.

Subchapter II—Inspection of Vessels

VESSELS SUBJECT TO INSPECTION

SEC. 1811. With the exception of private vessels merely transiting the Panama Canal, and of public vessels of all nations, vessels navigating the waters of the Panama Canal shall be subject to an annual inspection of hulls, boilers, machinery, equipment, and passenger accommodations.

FOREIGN VESSELS

SEC. 1812. With respect to a foreign vessel of a country which has inspection laws approximating those of the United States, any such vessel having an unexpired certificate of inspection duly issued by the authorities of such country shall not be subject to an inspection other than that necessary to determine whether the vessel, its boilers, and its lifesaving equipment are as stated in the certificate of inspection. A certificate of inspection may not be accepted as evidence of lawful inspection under this section unless similar privileges are granted to vessels of the United States under the laws of the country to which the vessel belongs.

REGULATIONS GOVERNING INSPECTION

SEC. 1813. The Commission shall prescribe, and from time to time may amend, regulations concerning the inspection of vessels conforming as nearly as practicable to the laws and regulations governing marine inspection by the United States Coast Guard.

TITLE II—TREATY TRANSITION PERIOD

CHAPTER 1—LAWS CONTINUED IN FORCE

LAWS, REGULATIONS, AND ADMINISTRATIVE AUTHORITY

SEC. 2101. To the extent not inconsistent with the Panama Canal Treaty of 1977 and related agreements and the provisions of this Act, the Canal Zone Code and other laws, regulations, and administrative authority of the United States applicable in the Canal Zone immediately before the date on which the Panama Canal Treaty of 1977 enters into force shall continue in force for the purpose of the exercise by the United States of law enforcement and judicial jurisdiction during the transition period provided for in Article XI of the Panama Canal Treaty of 1977 (hereinafter in this Act referred to as the "transition period").

CHAPTER 2—COURTS

JURISDICTION

SEC. 2201. (a) During the transition period, the jurisdiction of the United States District Court for the District of the Canal Zone and the magistrates' courts under title 3 of the Canal Zone Code shall be continued, subject to the limitations set forth in Article XI of the Panama Canal Treaty of 1977.

(b) For purposes of the exercise of the jurisdiction provided in Article XI of the Panama Canal Treaty of 1977, the United States District Court and magistrates' courts referred to in subsection (a) of this section shall construe the terms "United States citizen employees", "members of the United States Forces", "civilian component", and "dependents" as such terms are defined in the Panama Canal Treaty of 1977 and related agreements, and shall construe the term "areas and installations made available for the use of the United States" to mean (1) the Panama Canal operating areas and housing areas described in Annex A to the Agreement in Implementation of Article III of the Panama Canal Treaty, (2) the Ports of Balboa and Cristobal described in Annex B to that Agreement, and (3) the defense sites and Military Areas of Coordination described in Annex A to the Agreement in Implementation of Article IV of the Panama Canal Treaty.

DIVISION AND TERMS OF DISTRICT COURT

SEC. 2202. The United States District Court for the District of the Canal Zone may conduct its affairs at such places within the areas made available for the use of the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, and at such times, as the district judge may designate by rule or order.

TERMS OF CERTAIN OFFICERS

SEC. 2203. (a) Notwithstanding the provisions of sections 5, 41, 45, and 82 of title 3 of the Canal Zone Code, the term of office of a district judge, magistrate, United States attorney, or United States marshal shall extend for a period of 30 months beginning on the date on which the Panama Canal Treaty of 1977 enters into force, and any such term shall be subject to such extension of time as may be provided for the disposition of pending cases by agreement between the United States and the Republic of Panama, pursuant to the last sentence of paragraph 7 of Article XI of the Panama Canal Treaty of 1977.

(b) The provisions of this section shall take effect on the date of the enactment of this Act.

RESIDENCE REQUIREMENTS

SEC. 2204. Sections 5(d), 7(d), 41(d), and 45(d) of title 3 of the Canal Zone Code, the second sentence of section 42 of such title, and the second sentence of section 82(c) of such title, which provisions require that certain court officials reside in the Canal Zone, are repealed.

SPECIAL DISTRICT JUDGE

SEC. 2205. (a) Section 6 of title 3 of the Canal Zone Code is amended to read as follows:

"§ 6. Special district judge

"The chief judge of the judicial circuit of the United States in which the district court lies may designate and assign a special district judge to act when necessary—

"(1) during the absence of the district judge;

"(2) during the disability or disqualification of the district judge because of sickness or otherwise to discharge his duties; or

"(3) when there is a vacancy in the office of district judge.".

(b) Each designation and assignment by the chief judge under subsection 6 of title 3 of the Canal Zone Code, as amended by subsection (a) of this section, shall be made in accordance with chapter 13 of title 28, United States Code, which shall be deemed to apply for such purposes.

MAGISTRATES' COURTS

SEC. 2206. (a) The two magistrates' courts established pursuant to section 81 of title 3 of the Canal Zone Code and existing immediately before the date on which the Panama Canal Treaty of 1977 enters into force shall continue in operation during the transition period unless terminated during such period under subsection (b) of this section.

(b) During the transition period, the President may terminate one magistrate's court, together with the positions of magistrate and constable corresponding thereto, if the President determines that the workload is insufficient to warrant continuance of that court. If one of the magistrates' courts is so terminated, the remaining magistrate's court shall exercise the jurisdiction that otherwise would have been exercised by the terminated court and shall take custody of and administer all records of the terminated court.

CHAPTER 3—ATTORNEYS

OATH OF ATTORNEYS

SEC. 2301. (a) Section 543 of title 3 of the Canal Zone Code is amended to read as follows:

"§ 543. Oath of attorneys admitted to bar

"Before receiving a certificate the applicant shall take and subscribe in court an appropriate oath prescribed by the district judge.".

(b) The table of sections for chapter 17 of title 3 of the Canal Zone Code is amended by amending the item relating to section 543 to read as follows:

"543. Oath of attorneys admitted to bar.".

CHAPTER 4—TRANSITION AUTHORITY

TRANSITION AUTHORITY OF PRESIDENT

SEC. 2401. Except as expressly provided to the contrary in this or any other Act, or in the Panama Canal Treaty of 1977 and related agreements, any authority necessary for the exercise during the transition period of the rights and responsibilities of the United States specified in Article XI of the Panama Canal Treaty of 1977 shall be vested in the President.

PRISONS; PAROLE; PARDONS

SEC. 2402. (a) Subsection (c) of section 6503 of title 6 of the Canal Zone Code is amended to read as follows:

"(c) Pursuant to the provisions of section 5003 of title 18, United States Code, the Governor may contract with the Attorney General of the United States for the transfer to the custody of the Attroney General of prisoners sentenced by the United States District Court for the District of the Canal Zone to terms of imprisonment in excess of one year.".

(b) After entry into force of the Panama Canal Treaty of 1977—

(1) all prisoners imprisoned in United States prisons pursuant to contracts entered into pursuant to subsection (c) of section 6503 of title 6 of the Canal Zone Code, as amended by subsection (a) of this section, shall be committed to the custody of the Attorney General as if committed in accordance with part III of title 18, United States Code;

(2) all persons convicted of offenses in the United States District Court for the District of the Canal Zone, and sentenced to terms of imprisonment of one year or less, shall be committed to the custody of the Commission; and

(3) the Commission shall prescribe, and from time to time may amend, regulations providing for the management of prisoners in the jails located in the areas and installations made available for the use of the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, including provisions for treatment, care, assignment for work, discipline, and welfare.

(c) After the entry into force of the Panama Canal Treaty of 1977, all persons convicted of offenses in the United States District Court for the District of the Canal Zone, and sentenced to terms of imprisonment in excess of one year, shall be committed to the custody of the Attorney General pursuant to parts III and IV of title 18, United States Code.

(d)(1) Sections 6501 through 6505 of title 6 of the Canal Zone Code are repealed.

(2) The table of sections for chapter 351 of title 6 of the Canal Zone Code is amended by repealing the items relating to sections 6501 through 6505.

(e) Subsections (c) and (d) of this section shall take effect 90 days after entry into force of the prisoner transfer agreement referred to in paragraph 11 of Article IX of the Panama Canal Treaty of 1977 but in no event later than 90 days prior to the end of the transition period.

(f)(1) Chapter 355 of title 6 of the Canal Zone Code is repealed.

(2) The table of chapters for part 3 of title 6 of the Canal Zone Code is amended by repealing the item relating to chapter 355.

TITLE III—GENERAL PROVISIONS

CHAPTER 1—CEMETERIES

DISINTERMENT, TRANSPORTATION, AND REINTERMENT OF REMAINS

SEC. 3101. (a) There are authorized to be appropriated for the fiscal year beginning October 1, 1979, and subsequent fiscal years, such sums as may be necessary to carry out the purposes and provisions of reservation (3) to the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, adopted by the United States Senate on March 16, 1978, such sums to be made available to those agencies that are directed and empowered by the President to carry out such purposes and provisions.

(b) With regard to remains that are to be reinterred in the United States, the United States shall not bear the cost of funeral home services, vaults, plots, or crypts unless otherwise provided for by law.

CHAPTER 2—IMMIGRATION

SPECIAL IMMIGRANTS

SEC. 3201. (a) Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), relating to the definition of special immigrants, is amended—

(1) by striking out "or" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon; and

(3) by adding after subparagraph (D) the following new subparagraphs:

"(E) an immigrant, and his accompanying spouse and children, who is or has been an employee of the Panama Canal Company or Canal Zone Government before the date on which the Panama Canal Treaty of 1977 (as described in section 3(a)(1) of the Panama Canal Act of 1979) enters into force, who was resident in the Canal Zone on the effective date of the exchange of instruments of ratification of such Treaty, and who has performed faithful service as such an employee for one year or more;

"(F) an immigrant, and his accompanying spouse and children, who is a Panamanian national and (i) who, before the date on which such Panama Canal Treaty of 1977 enters into force, has been honorably retired from United States Government employment in the Canal Zone with a total of 15 years or more of faithful service, or (ii) who, on the date on which such Treaty enters into force, has been employed by the United States Government in the Canal Zone with a total of 15 years or more of faithful service and who subsequently is honorably retired from such employment; or

"(G) an immigrant, and his accompanying spouse and children, who was an employee of the Panama Canal Company or Canal Zone Government on the effective date of the exchange of instruments of ratification of such Panama Canal Treaty of 1977, who has performed faithful service for five years or more as such an employee, and whose personal safety, or the personal safety of whose spouse or children, as a direct result of such Treaty, is reasonably placed in danger because of the special nature of any of that employment.".

(b) Section 212(d) of such Act (8 U.S.C. 1182(d)), relating to waivers of conditions of inadmissibility to the United States, is amended by adding after paragraph (8) the following new paragraphs:

"(9) The provisions of paragraph (7) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subparagraph (E), (F), or (G) of section 101 (a)(27).

"(10) The provisions of paragraph (15) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subparagraph (E), (F), or (G) of section 101 (a)(27) and who applies for admission as such a special immigrant not later than March 31, 1982.".

(c) Notwithstanding any other provision of law, not more than 15,000 individuals may be admitted to the United States as special immigrants under subparagraphs (E), (F), and (G) of section 101(a)(27) of the Immigration and Nationality Act, as added by subsection (a) of this section, of which not more than 5,000 may be admitted in any fiscal year.

(d)(1) The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Paragraph (9) of section 212(d) of the Immigration and Nationality Act, as added by subsection (b) of this section, shall cease to be effective at the end of the transition period.

CHAPTER 3—REPORTS; AMENDMENTS; REPEALS AND REDESIGNATION; EFFECTIVE DATE

REPORT

SEC. 3301. Until the termination of the Panama Canal Treaty of 1977, the President shall report annually on the status of the exercise of the rights and responsibilities of the United States under that Treaty. Such report shall include a discussion of the following:

(1) The actions taken by the Government of the Republic of Panama with respect to the living conditions of persons who resided in the Canal Zone before the effective date of this Act and who continue to reside in those areas made available to the United States under the Agreement in Implementation of Article III of the Panama Canal Treaty.

(2) The terms, conditions, and charges for land-use licenses within the canal operating areas specified in the Agreement in Implementation of Article III of the Panama Canal Treaty.

(3) The condition of former employees (and their dependents) of the Panama Canal Company and the Canal Zone Government who reside in the Republic of Panama on or after the effective date of this Act.

AMENDMENTS

SEC. 3302. (a) Section 1 of title II of the Act of June 15, 1917 (50 U.S.C. 191), is amended—

(1) by striking out the second paragraph; and

(2) in subsection (b) of the last paragraph, by striking out ", the Canal Zone,".

(b) Section 1 of title XIII of the Act of June 15, 1917 (50 U.S.C. 195), is amended by striking out "the Canal Zone and".

(c) The first section of the Act of August 9, 1954 (50 U.S.C. 196), is amended by striking out ", including the Canal Zone.".

(d) The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1974 (87 Stat. 636 et seq.) is amended by striking out the heading "PAYMENT TO THE REPUBLIC OF PANAMA" and all that follows that relates to the heading.

(e) Title 5, United States Code, is amended—

(1) in sections 305(a)(7), 5102(a)(1)(vii), 5342(a)(1)(G), 5348(b), and 5541(2)(xii), by striking out "Panama Canal Company" and inserting in lieu thereof "Panama Canal Commission";

(2) in sections 5504(a)(A) and 6301 (2)(iv), by striking out "Canal Zone Government or the Panama Canal Company" and inserting in lieu thereof "Panama Canal Commission";

(3) in section 8335(e), by striking out "Panama Canal Company or the Canal Zone Government" and inserting in lieu thereof "Panama Canal Commission";

(4) in section 5373(1), by striking out "section 121 of title 2, Canal Zone Code (76A Stat. 15)" and inserting in lieu thereof "section 1202 of the Panama Canal Act of 1979";

(5) in section 6323(c)(2)(B), by striking out "the Canal Zone,";

(6) in section 5102(c), by amending paragraph (12) to read as follows:

"(12) any Executive agency to the extent of any election under section 1212(b)(2) (relating to the Panama Canal Employment System) of the Panama Canal Act of 1979;";

(7) in section 5583(b), by—

(A) adding "and" at the end of paragraph (1);

(B) striking out paragraph (2); and

(C) redesignating paragraph (3) as paragraph (2);

(8) in section 5533(d)(7), by—

(A) striking out the semicolon at the end of subparagraph (E) and inserting in lieu thereof "; or";

(B) striking out "; or" at the end of subparagraph (F) and inserting in lieu thereof a period; and

(C) striking out subparagraph (G);

(9) in section 8146—

(A) by striking out "Canal Zone" in the catchline and inserting in lieu thereof "Panama Canal Commission";

(B) in subsection (a)(1), by striking out "Canal Zone Government and of the Panama Canal Company are concerned to the Governor of the Canal Zone" and inserting in lieu thereof "Panama Canal Commission are concerned to the Commission";

(C) in the first sentence of subsection (b), by striking out "Canal Zone Government" and inserting "Panama Canal Commission" in lieu thereof;

(D) in the first sentence of subsection (b), by striking out "or from funds of the Panama Canal Company";

(E) in the second sentence of subsection (b), by striking out "Governor of the Canal Zone" and inserting "Panama Canal Commission" in lieu thereof and by striking out "Canal Zone Government" and inserting "Panama Canal Commission" in lieu thereof;

(F) by amending subsection (c) to read as follows:

"(c) The President may authorize the Panama Canal Commission to waive, at its discretion, the making of the claim required by section 8121 of this title in the case of compensation to an employee of the Panama Canal Commission for temporary disability, either total or partial."; and

(G) in subsection (e), by striking out "Canal Zone Government and of the Panama Canal Company" and inserting in lieu thereof "Panama Canal Commission";

(10) in section 5343(a)(5), by striking out "Canal Zone" and inserting in lieu thereof "areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979";

(11) in section 5316(87), by striking out "Governor of the Canal Zone" and inserting in lieu thereof "Administrator of the Panama Canal Commission"; and

(12) in the table of sections for chapter 81, by striking out "Canal Zone" in the item relating to section 8146 and inserting in lieu thereof "Panama Canal Commission".

REPEALS AND REDESIGNATION

SEC. 3303. (a) The following provisions of law are repealed:

(1) title 2 of the Canal Zone Code;

(2) sections 2 and 3 of title 3 of the Canal Zone Code, and the items relating to such sections in the table of sections for chapter 1 of title 3 of the Canal Zone Code;

(3) subchapter III of chapter 237 of title 6 of the Canal Zone Code and the items relating to such subchapter in the table of sections for chapter 237 of such title;

(4) subsection (d) of section 38 of the Arms Export Control Act (22 U.S.C. 2778 (d)); and

(5) section 4 of the Act of November 15, 1941 (50 U.S.C. 191b).

(b) Those provisions of the Canal Zone Code not repealed by this Act are redesignated as the "Panama Canal Code". Any reference to the Canal Zone Code in those laws and regulations referred to in section 3(b) of this Act shall, subject to the provisions of such section, be deemed to refer to the Panama Canal Code.

EFFECTIVE DATE

SEC. 3304. Except as provided in sections 1231, 1232, 1241, 1242, 1261, 1605, 2203, 2402, 3101, and 3201 of the Act, the preceding provisions of this Act shall take effect on the date on which the Panama Canal Treaty of 1977 enters into force.

And the Senate agree to the same.

That the House recede from its disagreement to the Senate amendment to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate to the title of the bill insert the following: "An Act to provide for the operation and maintenance of the Panama Canal under the Panama Canal Treaty of 1977, and for other purposes.".

And the Senate agree to the same.

John M. Murphy,
David R. Bowen,
David E. Bonior,
Clement J. Zablocki,
Dante B. Fascell,
Jim Hanley,
Pat Schroeder,
Herbert E. Harris II,
Paul N. McCloskey, Jr.,
Bob Bauman,
Wm. Broomfield,
Edward J. Derwinski,
Hamilton Fish, Jr.,
Managers on the Part of the House.
John C. Stennis,
Henry M. Jackson,
J. J. Exon,
Carl Levin,
Strom Thurmond,
John W. Warner,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977, submit the following statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

OVERALL ORGANIZATION OF THE BILL

The major differences in structure and organization of the House bill and the Senate amendment were in the portions of the two bills dealing with the organization and financial operation of the Panama Canal Commission. The sections of the bills dealing with employment matters, courts, postal matters and related administrative provisions were similar and in some cases identical.

In light of the Senate's decision to recede from its amendments on the form of the Panama Canal Commission, the conferees agreed to adopt the basic organization structure of the House bill.

DISPOSITION OF CONFERENCE ISSUES

There follows a description of the action taken by the conferees on the principal differences between the House bill and the Senate amendment.

Form of the Panama Canal Commission—(Section 1101)

The House bill provided that the Panama Canal Commission would be operated as an appropriated funds agency, with all revenues deposited in the Treasury and all expenditures made pursuant to appropriation acts approved by Congress. The Senate amendment provided that the Commission would continue to operate as a government corporation.

The Senate reluctantly recedes.

Direction of the Secretary of Defense—(Sections 1101 and 1102)

Sections 101 and 102 of the House bill provided that the Commission and its Board would act under the direction of the Secretary of Defense. The Senate amendment contained no comparable language.

The conferees adopted compromise language making it clear that the powers of the President would be exercised through the Secretary of Defense in order to clarify the administrative placement of the Panama Canal Commission as an agency within the executive branch. This language does not effect a delegation of the President's powers to the Secretary of Defense, nor does it preclude the President from exercising his powers directly.

Board membership—(Section 1102)

The House provision (Sec. 102) provided supervision of the Commission by a Board under the direction of the Secretary of Defense, appointed by the President and, in the case of the American members, subject to Senate confirmation. Five of the new members were to be nationals of the United States and four nationals of Panama. The House provision also required that of the five U.S. members one should be the Secretary of Defense, one should be experienced in operation of ships using the Canal, one should be experienced in U.S. port operations, and one should be experienced in U.S. labor matters. The Senate amendment (Sec. 205) eliminated the requirements in reference to the three members other than the Secretary of Defense, and the specific provision for direction by the Secretary of Defense.

The conferees adopted a provision containing the requirement from the House bill that three U.S. members of the Board have specialized backgrounds in steamship and port operations, and in labor matters, and requiring that three U.S. members (though not necessarily the same three referred to above) be from the private sector. The reference to direction of the Board by the Secretary of Defense was omitted as unnecessary in view of the revised provision of section 1101 for exercise of the President's authority in reference to the Commission as an Executive Branch agency.

Chief engineer—(Section 1104)

The House bill contained a provision for a Chief Engineer to be appointed by the President (Sec. 104). The Senate amendment did not provide for this position.

The Senate recedes.

Wartime control—(Section 1108)

The House bill contained a provision (Sec. 108) which allows the President, in time of war in which the United States or the Republic of Panama is engaged, to put the operation of the Panama Canal under the direct control of a military officer. The Senate amendment contained no comparable provision.

The conferees agreed to adopt compromise language similar to that recommended by the House Committee on Foreign Affairs in its report on H.R. 111. However, the description of conditions under which the President may order the Administrator of the Panama Canal Commission to comply with the orders of a military officer with regard to protection and defense of the Canal is adapted directly from Article IV of the Panama Canal Treaty, which defines U.S. defense rights. This section is intended to define for domestic legal purposes the manner through which the President will carry out the responsibilities of the United States in accordance with the Treaties.

It is the intention of the Conferees that the phrase contained in section 1108 "... conditions . . . which threaten the security of the Canal . . ." is deemed to include any circumstance in which foreign combat troops or military forces (other than those of the United States as provided in the Panama Canal Treaties of 1977) are located within the Republic of Panama.

Code of conduct—(Section 1112)

The House bill required the Panama Canal Commission to adopt a Code of Conduct applicable to each member of the supervisory Board and all employees of the Commission (Sec. 110). The Senate amendment did not include this provision.

The Senate recedes.

Cost of living allowance—(Section 1206)

The House bill provided that effective October 1, 1984, each U.S. citizen officer or employee of the Panama Canal Commission could be paid an allowance to offset any increased cost-of-living due to termination of his right to use military postal services, sales stores and exchanges (Sec. 125). The Senate amendment provided the allowance for U.S. citizens employed prior to the entry into force of the Panama Canal Treaty or persons recruited outside of Panama by the Commission.

The House recedes, with a technical amendment specifying that persons employed before the effective date of the Panama Canal Treaty must have been employed by the Panama Canal Company or Canal Zone Government on September 30, 1979.

Educational travel benefits—(Section 1207)

The House bill stated that the Panama Canal Commission shall provide educational travel benefits for dependents of individuals who are U.S.-citizen officers or employees of the Panama Canal Commission (Sec. 126). The Senate amendment stated that the Commission shall provide such educational benefits to dependents of U.S. citizens employed prior to the entry into force of the Panama Canal Treaty and also to dependents of individuals recruited outside of Panama for employment with the Panama Canal Commission (Sec. 307).

The House recedes, with a technical amendment indicating that in the case of U.S. citizens who must have been employed prior to the entry into force of the new treaty, such employment must have been by the Panama Canal Company or Canal Zone Government on September 30, 1979.

Privileges and immunities—(Section 1208)

The House bill provided that the Secretary of Defense shall designate those officers and employees of the Panama Canal Commission who are to receive privileges and immunities accorded under Article VIII of the Panama Canal Treaty, and that the Department of State shall furnish the list to Panama and notify that country of any changes in it (Sec. 127). The Senate amendment provided that the Secretary of State shall designate persons, from a list supplied by the Panama Canal Commission, who will receive privileges and immunities (Sec. 107).

The Senate recedes.

Minimum levels of pay—(Section 1225)

The House bill contained a provision (Sec. 154(b)) which applies certain provisions of the Fair Labor Standards Act to United States agencies operating in Panama. The Senate amendment contained no comparable provision.

As the applicability of Fair Labor Standards Act, the House recedes. The conferees agreed to add language outlining the wage policy to be followed by U.S. agencies operating in Panama. This section provides for a $2.90 per hour minimum wage for employees of Federal government agencies operating in the areas made available to the United States pursuant to the Panama Canal Treaty and related agreements. It further provides that employees, other than employees whose pay is established in relation to rates of pay paid in the continental United States, will receive each year, at a minimum, a two percent pay adjustment in the form of a step increase. This provision would not preclude payment of a starting wage that is higher than $2.90 per hour, if required, to assure that wages paid by Federal agencies remain competitive.

The managers note that the Department of Defense has announced its intention to grandfather current employees of the Panama Canal Company, and current employees of the Department of Defense in Panama, at their current wage system, so that those employees who have been receiving U.S. Service wage increases would continue to do so.

Terms and conditions of employment—(Section 1231)

The House bill and Senate amendment differed in three respects in their specification of those benefits which must remain generally no less favorable for employees who were employed by the Panama Canal Company and Canal Zone Government and who will continue to work for U.S. agencies in Panama.

The House bill (Sec. 201(a)(2)) provided that not only the rates of basic pay but also the bases for establishing such rates would remain generally no less favorable. The Senate amendment (Sec. 341(a)(2)) includes only rates of basic pay.

The House recedes.

The House bill (Sec. 201(a)(2)) included leave and travel benefits in the list of those terms of employment which would remain generally no less favorable, while the Senate amendment (Sec. 341(a)(2)) provided that leave and travel benefits could be modified to provide equity with other employees in the agency to which the employee is transferred.

The Senate recedes.

The House bill provided in Section 201(c)(3) for the continuation of the sabbatical leave program provided to teachers by the Canal Zone Government, but increasing the level of sabbatical pay from one-half to full pay. The Senate amendment contained no sabbatical program, in conformity with the Department of Defense worldwide educational system, which will operate the former Canal Zone schools.

The Senate recedes, with an amendment restricting sabbatical pay to one-half of basic pay.

Balance of revenues and appropriations—(Section 1302(c)(2))

The House bill contained a provision (Sec. 232(c)(2)) which mandated that no funds could be appropriated for the Panama Canal Commission in excess of estimated revenues for that fiscal year, and providing that amounts appropriated in excess of actual revenues would be deducted from appropriations in the following year. The Senate amendment contained no comparable provision, though the corporate form on which the Senate bill is based contemplated the balancing of revenues and expenses.

The conferees agreed to a compromise provision which retained the substance of the House provision limiting appropriations to estimated revenues, while recognizing that there may be occasions when excess revenues deposited in the Panama Canal Commission Fund in a prior fiscal year justify appropriations greater than estimated revenues to the extent of such prior year excess revenues. Both Senate and House conferees reiterate their strong intention that the Panama Canal Commission be operated over the life of the Panama Canal Treaty of 1977 without the need for support by the American taxpayer.

Method of depreciation—(Section 1311(b))

The Senate amendment contained a provision in Section 211 which described the basis of accounting to be used by the Panama Canal Commission, based on the net replacement value of those transferred assets which will ultimately require replacement to maintain the service capacity of the canal. The House bill contained no similar provision.

The House recedes, with an amendment to make it clear that the method of depreciation described in the provision is recommended but not mandatory.

GAO audit—(Section 1313)

The House bill (Sec. 236) contains a provision for audit of the financial transactions of the Commission by the General Accounting Office pursuant to the Accounting and Auditing Act of 1950, with reports of the audits similar to those required by the Government Corporation Control Act for corporate agencies. The Senate amendment contained no comparable provision inasmuch as the Government Corporation Control Act would have been generally applicable to the agency.

The Senate recedes and concurs in the House provision as consistent with the agreement to establish the Commission as a Government agency in non-corporate form. The conferees added language in this section which recognizes the special problems inherent in revision of the Panama Canal Company's accounting systems created by enactment of H.R. 111 only a short time before the beginning of fiscal year 1980.

Interagency services and reimbursements—(Section 1321)

Sections 240 of the House bill and 213 of the Senate amendment contained similar provisions regarding reimbursements by agencies operating in Panama to the agency designated to furnish educational, health and other services, and related matters.

The conferees agreed on a compromise provision which contains the substance of the House and Senate versions. The new provision makes it clear that agencies operating in Panama may make available health care and educational services to the same categories of persons as had received such services prior to the effective date of this Act, and that services must be provided on an equitable basis.

The conferees intend that physicians transferred from the Canal Zone Government to the agency designated by the President to conduct health care activities shall, to the extent agreed upon between the U.S. and the Republic of Panama, continue to be eligible for health, educational, commissary,, post exchange, and postal services for which they were eligible prior to entry into force of the Treaty.

Canal Zone College—(Section 1321(g))

Both bills contained provisions (Secs. 240(d) of the House bill and 603 of the Senate amendment) mandating the continuation of the Canal Zone College at generally the same level of services provided on the effective date of the Act. The Senate provision specified that the requirement applied not just to the Department of Defense but to any executive agency which may be charged with operating the College.

The House recedes. Section 603 of the Senate amendment is section 1321(g) of the conference report.

The conferees intend that the requirement to continue the same level of services of the College includes a continuation of present tuition policies.

Transfer of leave funds

Section 308 of the Senate amendment required the Panama Canal Commission to reimburse the U.S. Treasury for the leave and repatriation liabilities of employees transferred from the Company and Government to the Department of Defense. The House bill contained no such provision, since all funds of the Panama Canal Commission would be covered into the Treasury in any event under the appropriated funds agency concept.

The Senate recedes.

Timing of payments

The House bill provided that all treaty payments to Panama, except the contingency payment described in Article XIII 4(c) of the treaty, would be made monthly from appropriations for that purpose. Any contingency payment to Panama was to be paid at the end of the second fiscal quarter following the end of the fiscal year for which payment would be due (Sec. 250(a)). The Senate amendment contained no comparable provision and left the timing of payments open.

The House recedes.

Payment to Panama—(Section 1341)

The House bill contained three sections (Secs. 250 (c), (f) and (g)) which imposed conditions on the payments to Panama. The Senate amendment contained no comparable provisions.

As to section 250(c), relating to the levying of retroactive taxes by Panama, the conferees agreed to delete the House language and the language from both the bill and the amendment expressing the sense of Congress that retroactive taxes are prohibited by the Treaty. The conferees substituted a new provision stating that the President should not accept any interpretation of the Treaty which would permit Panama to impose retroactive taxes.

As to Section 250(e), which conditioned Panama's receipt of the contingency payment under Article XIII(4)(c) of the Panama Canal Treaty of 1977 on prior payment of all U.S. costs of implementing the Treaty, the conferees agreed to compromise language which makes it clear that such payment may be made only after payment of all normal costs of operation and maintenance of the Panama Canal, reimbursement for costs incurred by other agencies in providing educational, health, and other services to Commission employees, and any costs of treaty implementation which are associated with the operation and maintenance of the Canal.

As to section 250(g), conditioning the contingency payment to the Republic of Panama on the determination of that country's noninterference in the internal affairs of other nations, the House recedes.

Claims—(Section 1401–18)

Chapter 7 of Title 1 of the House bill withdrew consent to suit against the United States or the Commission on claims other than claims for damage to vessels in the locks and placed a limitation of $120,000 on the amount of each claim that could be administratively settled by the Commission. The Senate amendment deleted this chapter and continued in effect the present claims provisions applicable to the corporate agency with some specific amendments on measure of damages and procedural matters. (Sec. 231).

The Senate recedes, with an amendment to Section 271 of the House version (new Sec. 1401) reducing to 50,000 the amount of claims other than vessel accident claims within the authority of the Commission to effect administrative settlement.

Disposition of property—(Sections 1341(f) 1503, and 1504)

The House bill contained provisions (Secs. 373 and 374) requiring that all transfers of property to Panama be authorized by the Congress and leaving certain of those transfers to be decided by subsequent legislation. The Senate amendment contained no provision on property transfers.

The conferees agreed on language which retains Section 373 of the House bill (new Sec. 1503) and amends Section 374 (new Sec. 1504) to authorize all transfers required by the Treaties, with provision for a report by the President on each transfer after those occurring on October 1, 1979.

The conferees agreed on a new subsection (c) which makes it clear that the President is not authorized to accelerate the final transfer of the Panama Canal in 1999, as provided by the Panama Canal Treaty of 1977.

It is the intention of the managers that the conference proposal relative to disposition of property not prejudice the positions that have been taken by the House and Senate with respect to the necessary procedure for the disposition of property of the United States. The managers on the part of the House believe that legislation is the exclusive vehicle for effecting the disposition of U.S. property, and hence that the authorizations in this bill are necessary to transfer property to Panama. The managers on the part of the Senate maintain that the treaty power is concurrent with the legislative power for the purpose of disposing of property, and thus believe that the authorizations for transferring property in this bill are redundant to and reaffirm the transfer provisions in the treaty.

The House bill contained a related provision, Section 250(f), which restricted the powers of the Commission to transfer property to Panama through reprogramming of funds or pursuant to other statutes. The Senate bill contained no comparable provision.

The conferees agreed to amended language which is intended to negate any inference that the Foreign Excess Property Act would be inapplicable to the Executive agencies operating in Panama.

The language of Section 1344 was changed to conform to the substantive agreement of the conferees on this issue.

Transfer of fire stations

The House bill provided that, except for the Balboa and Coco Solito fire stations in the Panama Canal operating area, other fire stations operated by the United States in such area would not be transferred to Panama until the Administrator determined that voluntary attrition of firefighting personnel had made it impossible to staff such station and also that the station was excess to needs of the United States (Sec. 374). The Senate amendment contained no comparable provision.

The House recedes. With no language in the conference report on transfer of fire stations, such stations would be transferred under the general provisions for property transfer in H.R. 111 and in connection with the provisions of paragraph 14 of the Agreed Minute to the Agreement in Implementation of Article III of the Panama Canal Treaty. Paragraph 14 states that the United States will periodically review fire protection resources and if appropriate will transfer fire stations to Panama that are excess to U.S. needs.

Toll surcharge

The House bill contained a provision (Sec. 412(c)) which permitted the Commission to impose a toll surcharge on traffic not originating from or destined for United States or Panamanian ports in order to fund future capital costs of the Panama Canal Commission. The Senate amendment contained no comparable provision.

The House recedes.

Interest rate—(Section 1603)

Section 202 of the Senate amendment provided that the rate of interest to be paid by the Panama Canal Commission to the Treasury on the net direct interest-bearing investment of the United States in the canal enterprise should be determined by the Secretary of the Treasury. Section 413(d) of the House bill repeated the requirement that interest be paid, but stipulated that it should be calculated at the "average market yield" rate.

The conferees adopted the House provision on interest but with the Senate language allowing the Secretary of the Treasury to determine the rate. It is the intention of the conferees that the Commission should continue to pay interest at the "coupon" rate, the rate paid by the Panama Canal Company before October 1, 1979.

The conferees also modified the language of this section (new Sec. 1603(b)(2) (B) and (C) to make it clear that those subsections cover non-capital as well as capital assets.

Interim toll adjustment—(Section 1605)

Both sections 415 of the House bill and 222 of the Senate amendment provided expedited procedures for the initial toll increase under the Treaty.

The conferees agreed on a compromise provision, which provides the needed authority to raise tolls effective October 1, 1979, provided that such toll adjustment may cover only the first year of operation of the Panama Canal Commission.

Negotiation regulation—(Section 1801)

The House bill provided that the President may prescribe and amend regulations on Panama Canal operation, navigation, control of vessels, pilotage, and licensing of vessels operations (Sec. 1331). Under the Senate amendment the Commission was vested with that authority (Sec. 212).

The Senate recedes.

Prisons and parole—(Section 2404)

Both the House bill (Sec. 1532) and the Senate amendment (Sec. 412) contained provisions for the transfer to the custody of the U.S. Attorney General of prisoners sentenced by the U.S. District Court for the Canal Zone, and for issuance of regulations by the Commission for management of prisoners in jails located in the areas made available for the use of the United States under the Panama Canal Treaty. Because paragraph 11 of Article IX of the Panama Canal Treaty contemplates a future prisoner transfer agreement between the United States and the Republic of Panama, which could obviate the need for transfer to the United States of prisoners who are Panamanian citizens, the Senate amendment included a provision making the transfer requirement effective no earlier than 90 days after the entry into force of any such prisoner transfer agreement, but in no case later than 90 days before the end of the transition period established by paragraph 1 of Article XI of the Treaty.

The House recedes.

Special immigrants—(Section 3201)

The House provision (Sec. 1611) conferred special immigrant status on three categories of persons who have resided in the Canal Zone or have been employed by the Canal Zone agencies for specified periods of time. This included a category of persons whose personal safety may be endangered as a result of changes brought about by the Panama Canal Treaty. A limit of 7,500 was placed on the total number of immigrants admitted under the provision. The Senate amendment (Sec. 501) eliminated the class of immigrants whose safety might be endangered and increased the total number of possible immigrants to 25,000, with a limit of no more than 7,500 in any one year.

The conferees adopted a compromise provision restoring the class of immigrants whose safety would be endangered, and with clarifying language, allowing up to 5,000 immigrants a year up to a total of 15,000.

The conferees agree that regulations issued for the administration of this section should establish appropriate priorities for allocation of the number of annual admissions to assure to the maximum possible extent that the immigrants selected are those whose need for resort to the benefits of the section are most pressing and meritorious.

Title of the bill

The conferees agreed on a compromise amendment to the title of the bill.

John M. Murphy,
David R. Bowen,
David E. Bonior,
Clement J. Zablocki,
Dante B. Fascell,
Jim Hanley,
Pat Schroeder,
Herbert E. Harris II,
Paul N. McCloskey, Jr.,
Bob Bauman,
Wm. Broomfield,
Edward J. Derwinski,
Hamilton Fish, Jr.,
Managers on the Part of the House.

John C. Stennis,
Henry M. Jackson,
J. J. Exon,
Carl Levin,
Strom Thurmond,
John W. Warner,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 4393

Mr. STEED submitted the following conference report and statement on the bill (H.R. 4393) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1980, and for other purposes.

Conference Report (H. Rept. No. 96–471)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4393) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 12, 16, 19, 20, 23, 24, 25, 30, 37, 50, 51, 52, 54, 58, 66, 71, 72, 73, and 74.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 5, 6, 7, 10, 13, 15, 21, 22, 28, 29, 36, 38, 39, 47, 56, 57, 59, 60, 61, 62, 63, 64, 65, 68, and 69, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert $30,700,000; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$22,726,000"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$13,003,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$799,000,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "of which not to exceed $750,000 shall remain available until expended, for payments to State and local governments for protection of permanent and observer foreign diplomatic missions, pursuant to Public Law 94–196 including costs of providing protection for motorcades and at other places associated with a visit qualifying under section 202(7) of title 3, United States Code;".

And the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,920,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$32,400,000"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$145,953,000"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$574,700,000"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,055,000"; and the Senate agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,200,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 8, 9, 11, 18, 26, 32, 33, 34, 35, 40, 42, 43, 45, 46, 53, 55, 67, and 70.

Tom Steed,
J. P. Addabbo,
Edward R. Roybal,
Edward J. Patten,
R. N. Giaimo,
Jamie L. Whitten,
Clarence Miller,
R. C. McEwen,
Silvio O. Conte,
Managers on the Part of the House.

Lawton Chiles,
Dale Bumpers,
Dennis DeConcini,
Warren G. Magnuson,
William Proxmire,
Harrison Schmitt,
Paul Laxalt,
Milton R. Young,
Mark O. Hatfield,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4393) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1980, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I

TREASURY DEPARTMENT

OFFICE OF THE SECRETARY

Amendment No. 1: Appropriates $30,700,000 for salaries and expenses instead of $30,850,000 as proposed by the House and $30,550,000 as proposed by the Senate.

INTERNATIONAL AFFAIRS

Amendment No. 2: Establishes a limitation on official reception and representation expenses of $80,000 as proposed by the Senate instead of $60,000 as proposed by the House.

Amendment No. 3: Appropriates $22,726,000 instead of $22,752,000 as proposed by the Senate and $22,700,000 as proposed by the House.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Amendment No. 4: Appropriates $13,003,000 for salaries and expenses instead of $13,335,000 as proposed by the Senate and $12,670,000 as proposed by the House.

The conferees are agreed that the additional funding provided above the House allowance is to be used to fund 4 additional positions for white collar crime courses to support the Inspector General offices that are being established.

The conferees request the Department to develop a comprehensive program setting forth personnel and funding requirements to provide training support for the inspectors general. This information should be presented to the Senate and House Committees on Appropriations for consideration during the fiscal year 1981 budget hearings.

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

Amendment No. 5: Appropriates $190,361,000 for salaries and expenses as proposed by the Senate instead of $191,115,000 as proposed by the House.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Amendment No. 6: Appropriates $138,482,600 for salaries and expenses as proposed by the Senate instead of $139,000,000 as proposed by the House.

Amendment No. 7: Deletes language proposed by the House and stricken by the Senate which prohibits the use of funds for issuing or carrying out proposed rules on labeling of wine, distilled spirits and malt beverages.

U.S. CUSTOMS SERVICE

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $447,457,000 for salaries and expenses as proposed by the Senate, instead of $446,857,000 as proposed by the House.

The conferees are agreed that the elimination of the word "acquisition" from the appropriation language by both the House and Senate in connection with aircraft in the bill for fiscal year 1980 was in no way intended to preclude the Service from acquiring aircraft from other services by excess, by seizure for violations of law, or by any other legal means except by purchase of aircraft from commercial sources. Funds for purchase of aircraft in fiscal year 1980 were not allowed and the language for that purpose was stricken from the bill. The conferees are agreed that the Service may continue to acquire aircraft by seizure, by excess from other services, and other means except by purchase, and may continue to operate and maintain aircraft in possession of or under control of the Service during fiscal year 1980.

The conferees are also agreed that the dispute between the airlines and Customs Service regarding cost of the Treasury Enforcement Communications Systems should be submitted to the General Accounting Office. The General Accounting Office is directed to submit their opinion on this matter to the House and Senate Appropriations Committee by December 31, 1979.

The conferees are further agreed that the 200 additional positions added by both the House and Senate are to be allocated to the inspections activity.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: "and of which at least $5,300,000 shall be available for the Antidumping and Countervailing Duty Program".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees fully support this program and approved the full amount requested to carry it out.

Amendment No. 10: Deletes language proposed by the House which limits the overtime pay of Customs employees to the annual base salary of that employee and inserts in lieu thereof a limitation of $20,000 as proposed by the Senate.

BUREAU OF THE MINT

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $59,047,000 for salaries and expenses instead of $53,347,000 as proposed by the Senate and $50,580,000 as proposed by the House. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have provided full funding for the gold medallion program. The conferees emphasize that the gold medallions shall be sold to the general public at a competitive price equal to the free market value of the gold contained therein plus the cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses including marketing costs.

The conferees are further agreed that the New York Assay Office will remain open and allowed an authorized level of 95 positions in fiscal year 1980.

Amendment No. 12: Deletes language proposed by the Senate which would have made available $5,700,000 of unobligated balances in the construction account for current operations.

INTERNAL REVENUE SERVICE

Amendment No. 13: Appropriates $773,660,000 for taxpayer service and returns processing as proposed by the Senate instead of $773,160,000 as proposed by the House.

Amendment No. 14: Appropriates $799,000,000 for examinations and appeals instead of $818,711,000 as proposed by the Senate and $784,000,000 as proposed by the House.

The conferees are extremely concerned about the burgeoning subterranean economy estimated to be in excess of $100 billion and the declining trends of voluntary compliance with the U.S. tax laws that this situation may imply. The conferees direct the IRS to maintain quality audit coverage of 2.24 percent in fiscal year 1980. The conferees allow an additional 750 positions for the program.

Amendment No. 15: Appropriates $476,711,000 for investigations and collections as proposed by the Senate instead of $475,000,000 as proposed by the House.

UNITED STATES SECRET SERVICE

Amendment No. 16: Appropriates $157,000,000 for salaries and expenses as proposed by the House instead of $151,400,000 as proposed by the Senate.

Amendment No. 17: Restores language proposed by the House and stricken by the Senate for payments to State and local governments, amended to make available $750,000 instead of $2,000,000 as proposed by the House. The conferees are agreed that the authority provided in this amendment is effective only during fiscal year 1980.

In view of the fact that some uncertainty has arisen concerning the application of provisions of existing law regarding reimbursements to State and local governments, the conferees suggest that the appropriate authorizing committees review the matter and provide clarifying guidance in this matter.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following: "for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided*, That approval is obtained in advance from the House and Senate Committees on Appropriations".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 19: Deletes language proposed by the Senate which would have made available for salaries and expenses $5,600,000 previously appropriated for payment to State and local governments.

Amendment No. 20: Restores language proposed by the House and stricken by the Senate which authorizes research and development activities.

Amendment No. 21: Deletes language proposed by the House which would have prohibited the payment to candidates for providing air transportation for Secret Service agents protecting that candidate.

The conferees are concerned about the potential for high levels of payments by the Secret Service to presidential candidates, or organizations supporting candidates, for air transportation of agents protecting the candidates. Most candidates in addition to receiving reimbursement from the Secret Service ($1.06 million in 1976) are also receiving Federal campaign funds.

The Secret Service is directed to encourage protectees to provide for agent air travel at no cost to the government, or else to decline Secret Service protection. The Service is also directed to advise the Appropriations Committees as to the actual payments to candidates for providing air travel to Secret Service employees protecting presidential candidates not later than 15 days prior to the presidential election.

Amendment No. 22: Deletes appropriation of $1,900,000 for salaries and expenses for fiscal year 1979 proposed by the House and stricken by the Senate.

GENERAL PROVISIONS—TREASURY DEPARTMENT

Amendment No. 23: Restores language proposed by the House and stricken by the Senate which prohibits the IRS from issuing rules regarding private schools.

TITLE II

U.S. Postal Service

Amendment No. 24: Deletes language proposed by the Senate which provided that a particular provision would be "for the fiscal year ending September 30, 1980". The conferees are agreed that this bill is for fiscal year 1980 and that the language is not necessary.

Amendment No. 25: Deletes language proposed by the Senate which would have appropriated $2,000,000 for fiscal year 1979. The Conferees are agreed that the Postal Service should compute the actual cost of political committee mailings in fiscal year 1979 and provide the information to the House and Senate Committees on Appropriations for appropriate consideration.

TITLE III

Executive Office of the President

COMPENSATION OF THE PRESIDENT

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following: ": *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 701 of title 31 of the United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment provided $50,000 to the President for expenses authorized by 3 U.S.C. 102. For almost 30 years Congress has appropriated funds in this manner and under conditions which (1) require the President to pay income tax on these funds and (2) permit the President to retain any unused portion of them. The uncertainty of taking tax deductions for expenditures of these funds by reference to rules concerning ordinary and necessary expenses of business enterprises often has resulted in Presidents paying taxes on expenditures from this account. The House bill provided that any unused amount of these funds would revert to the Treasury at the end of the fiscal year. The House bill did not address the questions concerning the taxability of these funds.

The President has proposed, and the conferees have agreed, that for this year and until a review of the authorizing legislation is made, the $50,000 appropriation should be made as authorized by 3 U.S.C. 102 for expenses, so that:

(1) it may be used for expenses related to the official duties of the President;

(2) any unused amounts would revert to the Treasury at the end of the fiscal year; and

(3) the President would not be taxed on expenditures of these funds.

OFFICE OF ADMINISTRATION

Amendment No 27: Appropriates $7,920,000 for salaries and expenses instead of $7,628,000 as proposed by the Senate and $11,000,000 as proposed by the House.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

Amendment No 28: Establishes a limitation on official entertainment expenses of $60,000 as proposed by the Senate instead of $40,000 as proposed by the House.

COUNCIL ON WAGE AND PRICE STABILITY

Amendment No 29: Appropriates $8,483,000 for salaries and expenses as proposed by the Senate instead of $7,500,000 as proposed by the House.

DOMESTIC POLICY STAFF

Amendment No 30: Appropriates $2,600,000 for salaries and expenses as proposed by the House instead of $2,650,000 as proposed by the Senate.

OFFICE OF MANAGEMENT AND BUDGET

Amendment No 31: Appropriates $32,400,000 for salaries and expenses instead of $32,486,000 as proposed by the Senate and $27,600,000 as proposed by the House.

The Conferees agreed to include funding for an additional 20 positions to be used exclusively on the management side of OMB in order to maintain the management activities in fiscal year 1980 at the same level that existed in fiscal year 1979. The Conferees are agreed and, therefore, direct that these additional resources be focused on providing leadership and direction to the Administration's efforts to: (1) eliminate fraud and waste in government; (2) reduce the paperwork burden caused by the Federal government; and (3) monitor and insure agency compliance with the Sunshine Act.

OFFICE OF FEDERAL PROCUREMENT POLICY

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate transferring the functions and personnel of the Federal Acquisition Institute from the Department of Defense to the Office of Federal Procurement Policy.

TITLE IV

Federal Election Commission

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

"Federal Election Commission

"SALARIES AND EXPENSES

"For expenses necessary to carry out the provisions of the Federal Election Campaign Act Amendments of 1976, $8,646,000, of which $400,000 shall be available only for activities, including contract support, of the National Clearinghouse of the Federal Election Commission.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

General Services Administration

FEDERAL BUILDINGS FUND

Limitations on Availability of Revenue

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment establishing a limitation of $1,427,268,000 instead of $1,421,985,000 as proposed by the Senate and $1,423,622,000 as proposed by the House. The managers on the part of the Senate will move to concur with the amendment of the House to the amendment of the Senate.

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment establishing a limitation on construction of $36,380,000 instead of $29,280,000 as proposed by the Senate and $18,787,000 as proposed by the House. The managers on the part of the Senate will move to concur with the amendment of the House to the amendment of the Senate.

Amendment No. 36: Deletes $2,500,000 proposed by the House which would have provided only partial funding for the construction of a Federal office building in El Paso, Texas, and provides $21,572,000 to fully fund this construction project, as proposed by the Senate.

Amendment No. 37: Restores $7,100,000 proposed by the House but stricken by the Senate, for construction of a border station at Laredo, Texas.

Amendment No. 38: Deletes $783,000 proposed by the House which would have provided for construction of a Federal Building (Extension) in Vancouver, Washington.

Amendment No. 39: Deletes $697,000 proposed by the House which would have provided for construction of a Food and Drug Building in Boston, Massachusetts.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That all funds for direct construction projects shall expire on September 30, 1981, except funds for projects as to which funds have been obligated in whole or in part prior to such date".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 41: Establishes a limitation of $145,953,000 for alterations and major repairs instead of $180,000,000 as proposed by the House and $144,570,000 as proposed by the Senate.

The Conferees are agreed that the sum of $1,383,000 added to this limitation above the Senate amount is for the alteration of the Edward A. Garmatz Federal Building in Baltimore, Maryland.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: ": *Provided*, That funds in the Federal Buildings Fund for Alterations and Major Repairs shall, for prospectus projects, be limited to the amount by project shown in the budget justification therefor, except each project may be increased by an amount not to exceed 10 per centum".

The Conferees are agreed that while the cost of individual projects may be exceeded by 10 percent the total limitation established by this Act for alterations and major repairs may not be exceeded without specific Congressional approval.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That all funds for alterations and major repair prospectus projects shall expire on September 30, 1981, except funds for projects as to which funds have been obligated in whole or in part prior to such date".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 44: Establishes a limitation of $574,700,000 for rental of space instead of $554,600,000 as proposed by the House and $577,900,000 as proposed by the Senate.

The Conferees direct that the $20,100,000 added to this limitation above the House-passed amount be used exclusively for rental of space.

The Conferees are extremely concerned about the very low utilization of certain existing court rooms and direct that every effort be made to utilize all court rooms to the fullest extent possible before funds are used to rent or construct additional space.

The Conferees further direct that specific justifications be developed by the Judiciary and General Services Administration for the additional space requested for the Omnibus Judgeship Act and the Bankruptcy Act including locations, amount and kind of space, and related information and reported to the House and Senate Committees on Appropriations prior to rental of additional space.

The Conferees further direct that all space presently owned or controlled by the Federal Government be utilized to the fullest extent possible prior to the rental of additional space. The Conferees direct that GSA continue to keep the House and Senate Committees regularly informed of the amount of unutilized or under-utilized space under Federal control and of the steps being taken to reduce such waste.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment establishing a limitation of $1,427,268,000 instead of $1,421,985,000 as proposed by the Senate and $1,423,622,000 as proposed by the House.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate.

Amendment No. 47: Deletes a proviso proposed by the House that would have prohibited leasing space where the lessor had failed to fulfill requirements of the Slum Clearance and Urban Renewal Program. The Conferees were advised that this prohibition is included in existing law.

NATIONAL ARCHIVES AND RECORDS SERVICE

RECORDS DECLASSIFICATION

Amendment No. 48: Appropriates $3,055,000 for records declassification instead of $3,255,000 as proposed by the House and $2,855,000 as proposed by the Senate.

AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE

OPERATING EXPENSES

Amendment No. 49: Appropriates $9,200,000 for operating expenses instead of $8,900,000 as proposed by the House and $9,222,000 as proposed by the Senate.

GENERAL MANAGEMENT AND AGENCY OPERATIONS

SALARIES AND EXPENSES

Amendment No. 50: Deletes center heading proposed by the Senate.

Amendment No. 51: Deletes language proposed by the Senate to include administrative and staff support services under this heading.

Amendment No. 52: Deletes language proposed by the Senate.

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $6,675,000 for salaries and expenses instead of $104,758,000 as proposed by the Senate and $18,988,000 as proposed by the House.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 54: Deletes language proposed by the Senate that would have provided that funds under this heading be available for services performed for other agencies.

OFFICE OF INSPECTOR GENERAL

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

"OFFICE OF INSPECTOR GENERAL

"For necessary expenses of the Office of Inspector General, $18,874,000: *Provided*, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the government, including payment for recovery of stolen government property.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

Amendment No. 56: Appropriates $759,500 for allowances and office staff for former Presidents as proposed by the Senate instead of $798,000 as proposed by the House. This amendment reduces the total allowance for former President Gerald R. Ford from $409,000 to $376,000 in accordance with his request. The amendment also reduces the amount allowed for former President Richard M. Nixon by $5,500—$5,000 in his travel allowance and $500 in the miscellanous services request.

Amendment No. 57: Deletes language proposed by the House which would have limited the total allowance for former President Nixon to $191,385.97. The Conferees agreed to accept language inserted by the Senate in amendment No. 70 in lieu of this limitation.

ADMINISTRATIVE AND STAFF SUPPORT SERVICES

SALARIES AND EXPENSES

Amendment No. 58: Restores language proposed by the House which appropriates $97,000,000 for salaries and expenses.

This amendment (together with amendments numbered 50, 51, 52, 53, and 54) would have consolidated these two accounts into one account in the immediate office of the Administrator.

The Conferees are agreed that the merits of such consolidation of GSA accounts should be examined carefully and considered again by the House and Senate Appropriations Committees during consideration of the fiscal year 1981 budget proposals. In order to assist the committees in this consideration, the Office of Management and Budget and the General Accounting Office are directed to provide comments and recommendations to the committees not later than December 31, 1979.

PUBLIC SERVICES

Amendment No. 59: Appropriates $6,669,000 for public services as proposed by the Senate instead of $6,600,000 as proposed by the House.

OFFICE OF PERSONNEL MANAGEMENT

Amendment No. 60: Appropriates $113,939,000 for salaries and expenses as proposed by the Senate instead of $114,139,00 as proposed by the House.

MERIT SYSTEMS PROTECTION BOARD

Amendment No. 61: Appropriates $12,075,000 for salaries and expenses as proposed by the Senate instead of $10,500,000 as proposed by the House.

OFFICE OF SPECIAL COUNSEL

Amendment No. 62: Appropriates $4,516,000 for salaries and expenses as proposed by the Senate instead of $3,250,000 as proposed by the House.

FEDERAL LABOR RELATIONS AUTHORITY

Amendment No. 63: Inserts language proposed by the Senate which authorizes the hire of experts and consultants.

Amendment No. 64: Appropriates $12,132,000 for salaries and expenses as proposed by the Senate instead of $10,590,000 as proposed by the House.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

Amendment No. 65: Inserts language proposed by the Senate which provides that electric and hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 are not subject to the limitations of Section 601 of this Act.

Amendment No. 66: Restores language proposed by the House but stricken by the Senate which exempts Israel from the restriction on the employment of persons who are not U.S. citizens. The Conferees are concerned about the growing list of exemptions and direct the Administration to review this section of the bill and submit its recommendations to the House and Senate Committees on Appropriations by December 31, 1979.

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

"SEC. 613. (a) No part of any of the funds appropriated for the fiscal year ending September 30, 1980, by this Act or any other Act, may be used to pay the salary or pay of any individual in any office or position in an amount which exceeds the rate of salary or basic pay payable for such office or position on September 30, 1979, by more than the overall average percentage increase in the General Schedule rates of basic pay, as a result of any adjustments which take effect during such fiscal year under section 5343 of title 5, United States Code, if such adjustment is granted pursuant to a wage survey (but only with respect to prevailing rate employees described in section 5342(a)(A) of that title.)

"(b) The limitations on the availability of funds imposed by this section shall not restrict the payment of any rate of basic pay which does not exceed $4.22 per hour, if such rate of basic pay would be payable were it not for this section.

"(c) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Conferees intend that blue collar wages now established through regular labor-management negotiations as required by Section 704 of P.L. 95-454 should continue to be set in that way.

Amendment No. 68: Inserts new section number, as proposed by the Senate.

Amendment No. 69: Inserts new section number, as proposed by the Senate.

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate.

Amendment No. 71: Deletes language proposed by the Senate which would have prohibited the Internal Revenue Service from issuing regulations providing for the inclusion of fringe benefits in gross income. This matter has been resolved by the legislative committees and the Internal Revenue Service.

Amendment No. 72: Deletes language proposed by the Senate related to taxation of time deposit certificates. This matter has been resolved by the Internal Revenue Service.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

Amendment No. 73: Deletes language proposed by the Senate which would have prohibited the U.S. Postal Service from requiring payment of postage on mail transmitted without compensation between school districts when such mail consists of matters relating to the conduct of business of the intermediate and local school districts.

The Conferees direct, however, that the Postmaster General resolve this issue in favor of the Macomb County, Michigan, Intermediate School District. The Conferees do not consider this case to be an encroachment upon the Private Express Statutes.

Amendment No. 74: Deletes language proposed by the Senate which would have prohibited the Internal Revenue Service from carrying out any rule, policy, procedure, guideline, regulation, standard, or measure which would cause the loss of tax-exempt status of private, religious, or church-operated schools.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1980 recommended by the Committee of Conference, with comparisons to the fiscal year 1979 amount, the 1980 budget estimates, and the House and Senate bills for 1980 follow:

New budget (obligational) authority, fiscal year 1979	$9,354,377,000
Budget estimates of new (obligational) authority, fiscal year 1980	[1] 9,021,250,000
House bill, fiscal year 1980	8,789,724,000
Senate bill, fiscal year 1980	8,846,646,100
Conference agreement	8,837,278,100
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1979	−517,098,900
Budget estimates of new (obligational) authority, fiscal year 1980	−183,971,900
House bill, fiscal year 1980	+47,554,100
Senate bill, fiscal year 1980	−9,368,000

[1] Includes $16,036,000 of budget estimates not considered by the House.

TOM STEED,
J. P. ADDABBO,
EDWARD R. ROYBAL,
EDWARD J. PATTEN,
R. N. GIAIMO,
JAMIE L. WHITTEN,
CLARENCE MILLER,
R. C. MCEWEN,
SILVIO O. CONTE,
Managers on the Part of the House.

LAWTON CHILES,
DALE BUMPERS,
DENNIS DECONCINI,
WARREN G. MAGNUSON,
WILLIAM PROXMIRE,
HARRISON SCHMITT,
PAUL LAXALT,
MILTON R. YOUNG,
MARK O. HATFIELD,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ROSE (at the request of Mr. WRIGHT), for September 24 through 28, on account of serving as the Speaker's representative at the World Administrative Radio Conference in Geneva.

Mr. MURPHY of Illinois (at the request of Mr. WRIGHT), for September 24 and 25, on account of illness in the family.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. ASHBROOK, for 15 minutes, today.

(The following Members (at the request of Mr. PREYER) to revise and extend their remarks and include extraneous material:)

Mr. VAN DEERLIN, for 20 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. DRINAN, for 10 minutes, today.

Mr. NELSON, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PREYER and to include extraneous material notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,061.50.

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous matter:)

Mr. KRAMER.

Mr. ASHBROOK in two instances.

Mr. CONTE.

Mr. RHODES.

Mr. MICHEL in two instances.

Mr. LOEFFLER.

(The following Members (at the request of Mr. PREYER) and to include extraneous matter:)

Mr. MONTGOMERY.

Mr. SOLARZ.

Mr. ANDERSON of California in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. BROWN of California in 10 instances.

Ms. HOLTZMAN in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. CORRADA.

Mr. CORMAN.

Mr. LAFALCE.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 544. An act to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development, and for other purposes.

ADJOURNMENT

Mr. PREYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 2 o'clock and 24 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 25, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2504. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice that the Army has waived the requirement for the examination of records by the Comptroller General from several contracts, pursuant to 10 U.S.C. 2313 (c); to the Committee on Armed Services.

2505. A letter from the Chairman, Cost Accounting Standards Board, transmitting a proposed new cost accounting standard entitled "Part 420—Accounting for Independent Research and Development Costs and Bid and Proposal Costs," pursuant to section 719(h)(3) of the Defense Production Act of 1950, as amended; to the Committee on Banking, Finance and Urban Affairs.

2506. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 3-102, to provide for the management and operation of the Washington Convention Center and for other purposes, pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2507. A letter from the Assistant Attorney General for Administration, transmitting notice of a proposed change in an existing records system for the Federal Bureau of Investigation, and withdrawing a previously transmitted related new system notice, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2508. A letter from the Comptroller General of the United States, transmitting a report on the various alternatives that the Environmental Protection Agency might use to consider scientific and technical information (CED–79–115, September 21, 1979); jointly, to the Committees on Government Operations, Merchant Marine and Fisheries, and Science and Technology.

REPORTED BILLS SEQUENTIALLY REFERRED

[*Omitted from the Record of September 21, 1979*]

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mrs. SPELLMAN: Committee on Post Office and Civil Service. H.R. 2583. A bill to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes; with amendments, (Rept. No. 96–467 pt. 1). Referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401 (b) of Public Law 93–344 and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Submitted September 24, 1979*]

Mr. WHITE: Committee on Armed Services. H.R. 4627. A bill to permit citizens of the Northern Mariana Islands to enlist in the Armed Forces of the United States before becoming citizens of the United States upon the establishment of the Commonwealth of the Northern Mariana Islands (Rept. No. 96–468). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITE: Committee on Armed Services. H.R. 5025. A bill to amend title 10, United States Code, to provide that any person eligible for medical care under the civilian health and medical program of the uniformed services (CHAMPUS) who is a veteran with a service-connected disability may not be denied care and treatment for such disability under CHAMPUS solely because such person is eligible for care and treatment for such disability in Veterans' Administration facilities (Rept. No. 96–469). Referred to the Committee of the Whole House on the State of the Union.

Mr. STEED: Committee of conference. Conference report on H.R. 4393 (Rept. No. 96–471. Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. H.R. 5369. A bill to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process. (Rept. No. 96–472, pt. 1). Ordered to be printed.

Mr. MURPHY of New York: Committee of Conference. Conference report on H.R. 111 (Rept. No. 96–473). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITE: Committee on Armed Services. H.R. 3407. A bill authorizing the President to award a Medal of Honor posthumously to William James Tsakanikas; with amendments (Rept. No. 96–470). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. JONES of Oklahoma:

H.R. 5371. A bill to amend the Congressional Budget Act of 1974 to limit the levels of total budget outlays contained in certain concurrent resolutions on the budget; to the Committee on Rules.

By Mr. BEARD of Rhode Island:

H.R. 5372. A bill to amend the Emergency Petroleum Allocation Act of 1973 to reestablish price and allocation controls on home heating oil and other middle distillates; to the Committee on Interstate and Foreign Commerce.

By Mr. HAMMERSCHMIDT:

H.R. 5373. A bill to amend chapter 55 of title 10, United States Code, to include chiropractic care in the health care which may be provided members and certain former members of the uniformed services and their dependents in facilities of the uniformed services and under CHAMPUS, and for other purposes; to the Committee on Armed Services.

H.R. 5374. A bill to provide chiropractic treatment when requested for veterans eligible for outpatient medical care; to the Committee on Veterans' Affairs.

By Mr. HOWARD (for himself, Mr. Harsha, Mr. Johnson of California, and Mr. Shuster):

H.R. 5375. A bill to establish a trust fund for public mass transportation projects, to amend title 23, United States Code, to provide for transportation systems management, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. JEFFORDS:

H.R. 5376. A bill entitled "Continuing Education Funding Formula"; to the Committee on Education and Labor.

By Mr. RHODES (for himself, Mr. Michel, Mr. Devine, Mr. Edwards of Alabama, Mr. Burgener, Mr. Shuster, Mr. Lott, Mr. Vander Jagt, Mr. Quillen, Mr. Dickinson, Mr. Frenzel, Mr. Stockman, Mr. Badham, Mr. Gingrich, Mr. Campbell, and Mr. Loeffler):

H.R. 5377. A bill to amend section 301 of the Federal Elections Campaign Act of 1971 to include the value of certain volunteer services in the definition of the term "contribution"; to the Committee on House Administration.

By Mr. SENSENBRENNER:

H.R. 5378. A bill to amend the Disaster Relief Act of 1974 to provide immediate relief in case of emergency or major disaster, and for other purposes; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ROBINSON (by request) presented a bill (H.R. 5379) for the relief of Jaramporn Sermsri and Akharata Sermsri, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 654: Mr. Kramer.

H.R. 1781: Mr. Mitchell of New York.

H.R. 1897: Mr. Blanchard, Mr. AuCoin, Mr. Panetta, Mr. Stokes, Mrs. Spellman, Mr. Moakley, and Mr. Lagomarsino.

H.R. 2288: Mr. Stokes, Mr. Nolan, Mr. Weiss, Mr. Bedell, Mr. Sawyer, Mr. Broomfield, Mr. Bonior of Michigan, Mr. Davis of Michigan, Mr. Hollenbeck, and Mr. Jeffords.

H.R. 3111: Mr. Dougherty.

H.R. 3203: Mr. Young of Alaska.

H.R. 4243: Mr. Seiberling, Mr. Simon, Mr. Harkin, Mr. Stokes, Mr. Markey, Mr. McHugh, Mr. Gray, Mr. Roe, and Mr. Synar.

H.R. 4329: Mr. Devine.

H.R. 4693: Mr. Gibbons, Mr. Robert W. Daniel, Jr., Mr. Symms, Mr. McClory, Mr. Lott, Mr. McDonald, Mr. Burgener, and Mr. Shumway.

H.R. 4751: Mr. Kogovsek.

H.R. 4783: Mr. Lott and Mr. Lungren.

H.R. 4818: Mr. Frenzel, Mr. Chappell, and Mr. Cleveland.

H.R. 4842: Mr. Pritchard, Mr. Wolff, Mr. Richmond, Mr. Mitchell of Maryland, Mr. Biaggi, Mr. Weiss, Mr. Coelho, Mr. Flood, Mr. Paul, Mr. Simon, Mr. Edwards of California, Mr. Hawkins, and Mr. Cleveland.

H.R. 4897: Mr. Garcia.

H.R. 5060: Mr. Mineta.

H.R. 5218: Mr. Cleveland.

H.R. 5330: Mr. Broomfield, Mrs. Snowe, Mr. Bereuter, Mr. Erdahl, Mr. Tauke, Mr. Marriott, Mr. Roth, Mr. Williams of Ohio, Mr. Donnelly, Mr. Whittaker, Mr. Lagomarsino, Mr. Drinan, Mr. Mavroules, and Mr. Skelton.

H.J. Res. 3: Mr. Moorhead of California, Mr. John L. Burton, and Mr. Giaimo.

H.J. Res. 157: Mr. Grassley.

H. Res. 388: Mr. Murphy of Pennsylvania, Mr. Donnelly, Mr. Petri, Mr. Edwards of Oklahoma, Mr. Hagedorn, Mr. Livingston, Mr. Jeffries, Mr. Courter, Mr. Lagomarsino, Mr. Benjamin, Mr. Williams of Ohio, Mr. Price, Mr. Coelho, Mr. Bedell, Mr. Won Pat, Mr. Boner of Tennessee, Mr. Mitchell of New York, Mr. Tauke, Mr. Jeffords, Mr. Collins of Texas, Mr. Cleveland, Mr. Pritchard, Mr. Roe, Mr. Burgener, Mr. Emery, Mr. Vander Jagt, and Mr. Andrews of North Dakota.

PETITIONS, ETC.

Under clause 1 of rule XXII,

199. The SPEAKER presented a petition of the Madison County Board, Edwardsville, Ill., relative to Russian troops in Cuba, which was referred to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2313

By Mr. KINDNESS:

—Beginning on page 24, strike line 20 and all that follows through line 11 on page 25, and insert, in lieu thereof, the following:

"Sec. 303. The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982 for the purpose of providing compensation for participation by any person in a rulemaking proceeding pursuant to Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h))."

H.J. Res. 404

By Mr. FISHER:

—Page 4, line 23, insert "(1)" before "Notwithstanding".

Page 5, beginning on line 3, strike out "except as to executive salaries which are covered subsequently)" and insert in lieu thereof "(without regard to section 305 thereof)".

Page 5, strike out line 10 and all that follows down through line 8 on page 6 and insert in lieu thereof the following:

(2(A) Notwithstanding the provisions of section 102 of this joint resolution or any other provision of law, section 304 of the Legislative Branch Appropriation Act, 1979, shall apply to funds appropriated by this joint resolution or any other Act for the fiscal year 1980, except that in applying such section 304 in the case of officers and employees other than Members of the Congress, the term "at a rate which exceeds by more than 7 percent the rate" shall be substituted for the term "at a rate which exceeds the rate" where it appears in subsection (a) of such section 304.

(B) For purposes of this paragraph, the term "Member of the Congress" means any person who holds the office of Senator, Members of the House of Representatives, Delegate to the House of Representatives, Resident Commissioner from Puerto Rico, President pro tempore of the Senate, majority or minority leader of the Senate or the House of Representatives, or the Speaker of the House of Representatives.

Page 6, line 9, insert "(3)" before "No funds".

By Mr. FISHER:

—Page 6, before line 9, insert the following:

(C) It is the sense of the Congress that no provisions of law should prevent the use of appropriated funds to pay the basic pay of any Member of the Congress at a rate which exceeds by not more than 7 percent the rate of basic pay payable for that position for September 30, 1978, for pay periods ending after January 3, 1981.

By Mrs. SPELLMAN:

—Page 4, line 23, insert "(1)" before "Notwithstanding".

Page 5, beginning on line 3, strike out "(except as to executive salaries which are covered subsequently)" and insert in lieu thereof "(without regard to section 305 thereof)".

Page 5, strike out line 10 and all that follows down through line 8 on page 6 and insert in lieu thereof the following:

(2) (A) Notwithstanding the provisions of section 102 of this joint resolution or any other provision of law, section 305 of the Legislative Branch Appropriation Act, 1979, shall apply to funds appropriated by this joint resolution or any other Act for the fiscal year 1980, except that in applying such section 305 in the case of officers and employees other than Members of Congress, the term "at a rate which exceeds by more than 7 percent the rate" shall be substituted for the term "at a rate which exceeds the rate" where it appears in subsection (a) of such section 305.

(B) For purposes of this paragraph, the term "Member of the Congress" means any person who holds the office of Senator, Member of the House of Representatives, Delegate to the House of Representatives, Resident Commissioner from Puerto Rico, President pro tempore of the Senate, majority or minority leader of the Senate or the House of Representatives, or the Speaker of the House of Representatives.

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EXTENSIONS OF REMARKS

SUPREME COURT SAYS CONGRESS IS WELL INTENTIONED BUT ILLITERATE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. ASHBROOK. Mr. Speaker, in the Weber case, the U.S. Supreme Court decided that the Congress, in banning employment discrimination, meant only to ban discrimination against everyone except white males. When we passed title VII of the Civil Rights Act, we are told, we meant to add to that ban the words "except women and nonwhites belonging to groups which, in the opinion of the employer, have been the subject of previous discrimination." That is what we meant, according to the Supreme Court, but we were not capable of saying it.

This is the sort of precedent all of us, liberal, conservative, Republican and Democrat, had better take seriously, because it is an extremely dangerous one. It is true that every Member from time to time has doubts about the intelligence of some of his colleagues with whom he disagrees, but I do not believe any of us has ever doubted that every Member of this body is quite capable of drafting the exception to title VII which the Supreme Court insists we could not have formulated without its help. If we wish title VII to say something besides what, in the plainest conceivable language, it does say—that all employment discrimination on the basis of race is prohibited—then we can, if a majority so chooses, do so on our own. Every Supreme Court Justice knows such an alteration would be repudiated overwhelmingly. It is not the place of the Supreme Court to unilaterally change the language of the act. That is the business of the U.S. Congress.

If there is one fact of which recent history has made every Member aware, it is that, if we do not defend the authority of Congress, no one is going to protect it for us. While it was not the purpose of the Supreme Court's action, it is impossible to imagine a more direct challenge to our prerogatives than its rewriting of our legislation while we were actually in session less than a block away.

I am extremely disappointed that the only Members who have criticized this decision have been those of us who oppose discrimination of any kind on principle. It is the duty of the majority leadership to protest this invasion of congressional prerogatives. Their present silence makes them appear to be interested in the maintenance of the constitutional balance of powers only when it serves liberal ideology. I call upon the majority leadership, as well as on moderate and liberal members of my own party, to strongly protest the dangerous arrogation of legislative powers by the Supreme Court as represented by the decision in the Weber case.●

THE FLATBUSH CLUB

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. SOLARZ. Mr. Speaker, this coming Saturday, September 29, I will be attending the dinner celebrating the 90th anniversary of the Knickerbocker Field Club in the Flatbush section of Brooklyn, N.Y.

The Knickerbocker Club, built in 1901 is not only an historic landmark, but the hub of the Flatbush community. To many Americans, the name "Flatbush" calls to mind images as distant and unreal as those evoked by the names of the Dutch communities from which Flatbush's founders came 300 years ago. But Flatbush is more than just a word which conjures up quintessential Brooklyn, U.S.A.; it is a real neighborhood facing problems and change.

Only 4 years ago, there was an article in the Village Voice which read:

> Today the place called Flatbush—by which we mean the geographical area bounded on the south by Avenue J, the north by Empire Boulevard, the west by Coney Island Avenue, and the east by New York Avenue—is shambling into decay and collapse. While the politicians are running from meeting to agitated meeting, serving as valets for bankers, shuddering under the assaults of Ford and Simon, or drawing lists of cops and firemen who will be fired, the city itself is sliding away. And Flatbush is a key to the slide area. New York depends on places like Flatbush; they are the human concrete of the city. It is no hyperbole to say that as Flatbush goes, so goes the city. And Flatbush is going.

That was 4 years ago. I had just recently entered Congress. The problems that faced Flatbush and the city seemed insurmountable. We seemed to live in a city near death. Many thought we were at the brink.

But both New York City and Flatbush have refused to succumb to either their particular problems or to the pessimism that feeds them.

When a person is ill and refuses to die, we talk of an undefinable spirit—a will to live. It is much the same way with a community. We see it in spontaneous activism, neighborhood groups, families, and friends getting together to discuss mutual problems and possibilities. In a man who refuses to die you seek a spark of life and this is the essence of the Knickerbocker Club.

The Knickerbocker Club can look forward to another 90 years of success and with the concern and compassion of its members, Flatbush will continue to be an important national resource.●

MAINTAINING OUR OVERSEAS CEMETERIES AND MEMORIALS

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. MONTGOMERY. Mr. Speaker, Members of the House who have visited the American memorials and overseas cemeteries administered by the American Battle Monuments Commission are always impressed with the beauty and meticulous maintenance that is so noticeable at all of these sites. Our country has made a historic commitment to honor our war dead with all dignity and respect, not only to pay tribute to their service, but to remind us all of the sacrifice our country has had to make in defense of freedom throughout the world and the preservation of our way of life.

I am personally concerned that over the past several years the American Battle Monuments Commission has had to absorb reductions in personnel and other resources because of the budget situation and the devaluation of our currency. Still, while struggling under adverse conditions, the Commission continues to do an outstanding job given the number of people employed and their great responsibility. But that job does not grow easier as budgets shrink and costs rise. I believe the employees of the Commission deserve our continued support in maintaining our commitment to honor our dead and to preserve our overseas cemeteries and monuments as proper symbols of the position of America in the world.

Mr. Speaker, from time to time we receive letters, and other communications from those who have paid their respects at the resting places of our departed comrades. There follows a communication received by the American Battle Monuments Commission from a young man who just returned from Europe where he visited the American cemetery at Normandy. I believe the spirit of his letter supports the view that our overseas cemeteries are not just memorials to far away battles and distant sacrifice, but are living reminders for Americans, both young and old, of what it has taken to make our Nation what it is today. It should remain so.

The letter follows:

SEPTEMBER 7, 1979.

DEAR SIRS: I am a freshman at Brown University in Providence, Rhode Island and I have just returned from Europe, where I spent a month in France. During that month, having always been interested in the Second World War, I took a day trip to Normandy and specifically Omaha Beach. I would like to tell you how overwhelmingly impressed I was by the American Cemetery there. It was so perfectly kept, so extensive, and so moving a tribute to the men buried there that I felt an obligation as an American to express my feelings concerning the cemetery to those in overall charge. While I hope never to fight in a war, if I had to, and was killed, I can imagine no better place to be. I don't mean to be morbid, nor superficial, but I want to thank you for showing me part of what it means to be an American, and making me proud of my country's influence abroad.

Yours sincerely,

JAMES B. SITRICK, JR.

A BILL TO FORBID FORCED UNIONISM

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. KRAMER. Mr. Speaker, in an article from the Denver, Colo., Colorado Leader, authored by our very esteemed colleague from South Carolina, Mr. Carroll Campbell, Jr., the serious civil liberties problem of forced union membership is discussed.

I want to call to the attention of my colleagues in the House and for that matter, all Americans, the very eloquent discussion of this problem and the legislative proposal to remedy it:

CAROLINA CONGRESSMAN ADVOCATING BILL TO FORBID FORCED UNIONISM

Right now, in 30 States of the Union, workers can be forced to join and pay dues to labor unions as a condition of employment. Fortunately, South Carolina is one of the 20 "right to work" states where such forced unionism is illegal. But the fact that millions of American workers elsewhere can be compelled to pay a part of their earnings to a union—or lose their jobs—is wrong.

To correct that basic inequity, I am co-sponsoring the National Right to Work Act which would guarantee that no American would be required to join a union to keep his job.

The original intent of Federal labor law was to make sure that employees have the right to form or join labor organizations free from interference or coercion of any kind. I support that right, and it would not be threatened by passage of the right to work bill. In fact, the bill would simply restore the historical purpose of national labor policy by eliminating from the law language which allows compulsory unionism.

As far as I am concerned, the philosophical importance of this issue cannot be overstated. One of the great American freedoms is the freedom of choice. That right must be protected.

The citizens of this country recognize that, as evidenced by the fact that every reliable measure of public opinion consistently shows that a majority of Americans—including most union members—believe it is wrong to compel an individual to support a labor union as a condition of employment.

Thirty years ago, almost 40 percent of the American Labor force was unionized; today, it is at most 25 percent. Further, for the fourth successive year, union organizers in 1978 lost more representation elections than they won. According to the National Labor Relations Board, unions won only 45 percent of all representation elections and lost 54 percent in 1978.

Samuel Gompers, founder of the American labor movement, termed voluntarism the "cornerstone" of unionism. In 1916, he pointed out, "The workers of America adhere to voluntary institutions in preference to compulsory systems which are held to be not only impractical but a menace to their rights, welfare, and their liberty." A menace to liberty! I don't think that is an exaggeration.●

SENATOR MARK HATFIELD TESTIFIES ON SALT II—CALLS FOR PROHIBITION ON NEW STRATEGIC WEAPONS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. SEIBERLING. Mr. Speaker, the Members of Congress for Peace Through Law held its annual dinner last Tuesday to honor former Senator Joseph Clark of Pennsylvania. My friend and fellow Member Senator MARK HATFIELD gave the address in which he announced the startling news that the Hollings amendment to the Senate budget resolution had passed. That amendment calls for immediate increases in defense spending totaling $141 billion in fiscal year 1980 and annual increases committing this Nation's struggling economy to an aggregate outlay of $1 trillion over the next 5 years. The Senator noted the pathetic irony that this unconscionable escalation in wanton miliary expenditure appears against a backdrop of debate on the strategic arms limitation treaty awaiting ratification. He also revealed the fact that under the terms of the so-called limitation treaty our production of nuclear bombs will double its present rate of 2.2 weapons per day to bring us to the insane stockpile total of 13,054 nuclear bombs by 1985. The Soviets will be able to double their warhead count as well, within the limits of the treaty. If this is the direction in which the SALT process is taking us, we had better consider setting a new course before we and the Soviets make mankind an extinct species.

The immediate reaction of a sane mind to the pattern of ever increasing nuclear instability and military profligacy is to seek a halt to the march toward human extinction. Senator HATFIELD has proposed just such a moratorium in his testimony before the Senate Foreign Relations Committee which I hereby offer for the consideration of my colleagues:

SENATOR MARK O. HATFIELD'S TESTIMONY BEFORE FOREIGN RELATIONS COMMITTEE: SALT II

On a September day in 1945 I set out in a small landing craft from Kure up the estuary to Hiroshima. We arrived to be among the first outsiders to view the destruction of the bomb which had been dropped there the previous month. Many of those who had died from that atomic bomb and its after effects had not yet been buried.

My personal response was compounded by the fact that the bomb, in all probability, had saved my life. I was with the naval forces which had been through Iwo Jima and Okinawa; we were scheduled to invade mainland Japan, with an expected huge number of U.S. casualties. So as we approached Hiroshima, I remember wondering what the cost of this act, which had probably preserved my life, was.

What I saw in Hiroshima that day was beyond the comprehension of my mind and spirit. The devastation was so total, so indiscriminate, and so stark that it is difficult to recount my reaction.

I witnessed then the effects of a horror that is too terrible to imagine. It jarred me to the depths of my being and burned a lasting image in my conscience.

My attitudes and convictions about nuclear weapons and the arms race are rooted in that experience. It is my reference point as I try to respond to the ongoing arms race, the negotiations intended to control it, and the SALT II treaty now being considered by this Committee.

The bomb which was dropped on Hiroshima immediately killed 78,150 people, injured 84,000, and demolished 62,000 buildings. It destroyed the city. Thousands more died later, and today its aftermath is still being felt in the lives of those who were its victims.

By today's standards it was a very small bomb, equaling about 13 kilotons (13 thousand tons of dynamite).

Since that day, the United States has built an arsenal of more than 30,000 tactical and strategic nuclear weapons. The 9,994 strategic nuclear weapons of this arsenal, when compared according to what specialists call "equivalent megatonage," meaning the area on the ground which is destroyed by a bomb, are equal to 76,363 Hiroshima bombs. When compared according to raw explosive power, our present strategic arsenal equals 246,000 Hiroshimas. And when our entire stockpile is included—tactical and strategic—the raw explosive power equals that of 615,385 Hiroshima bombs. The potential kill-power of this stockpile, it has been estimated, is sufficient to destroy all humanity not once, but a dozen times.

Futuba Kitayama, who was a 33-year-old housewife when the atomic bomb fell on Hiroshima, remembers what she saw and felt:

"Under the bridge were floating, like dead dogs or cats, many corpses, barely covered by tattered clothes. In the shallow water near the bank, a woman was lying face upward, her breasts torn away and blood spurting. A horrifying scene . . . I wondered if the hell that my grandmother had told me so much about in my childhood had fallen upon the earth."

The United States' nuclear arsenal, matched by a comparable Soviet arsenal, can now create this hell on earth tens of thousands of times.

The stated purpose of the strategic arms limitations talks, when they began more than a decade ago, was to bring a halt to the escalating quantity and quality of nuclear weaponry. Judged according to that goal the process has failed. Since we first began talking about limiting nuclear weapons, the U.S. has tripled its strategic nuclear stockpile. Since the first SALT agreement was signed, both the U.S. and the Soviet Union have roughly doubled their arsenals.

The prospects under the proposed SALT II treaty are no better and in some respects are worse.

Since SALT I, the United States has been producing 2.2 new strategic weapons per day, or 800 annually. During the time of SALT II, the United States will produce 4.9 new strategic nuclear bombs each day. The rate of production will more than double.

Some of these bombs will replace existing ones which will be dismantled. Others will be net increases in the overall number of U.S. warheads which will rise from 9,994 to about 13,054 by 1985.

Specifically, these warheads will be placed on new U.S. strategic nuclear weapons systems:

As many as 2,840 bombs on cruise missiles;

2,688 warheads on the Trident missiles; and

2,000 warheads, now likely to be 550 kilotons each, on the MX missiles (after 1985).

The following replacements on existing weapons systems will be made:

1,000 new and very powerful bombs placed on our B-52s;

900 new Mark 12 A warheads put onto 300 Minuteman III missiles; and

The probable replacement of the present 3,000 warheads on our Poseidon missiles with 3,000 new warheads.

Thus under the terms of the SALT II treaty the U.S. is able and likely to manufacture a total number of weapons equal to and perhaps even surpassing the total number of nuclear weapons in our present strategic arsenal. Including the MX warheads, and assuming that the present Poseidon warheads are replaced with new ones, the U.S. will produce 12,428 new nuclear bombs. These warheads, built with the SALT II treaty, will equal in their destructive power on the ground, 88,909 Hiroshimas.

Since many of these new warheads will replace existing ones, the net gain to our arsenal is less. But the rate of U.S. strategic nuclear bomb production will more than double during the time of SALT II.

Soviet warhead production is likewise unrestrained. Under SALT II their present 4,500 strategic warheads will be doubled. Though smaller in total number, many of these warheads are more powerful in raw terms than those of the U.S., although less accurate.

I do not understand, therefore, how the SALT II treaty can be heralded as a significant step in arms control. I do not even know how it can honestly be termed a Strategic Arms Limitation Treaty.

It allows the arms race to continue and to accelerate. What modest curtailments it does impose shrink into near insignificance, in my judgment, in the face of what the treaty permits.

This includes not only the quantity of nuclear warheads which are added, but even more so, the qualitative leaps which will be made. The new generation of nuclear weapons systems, all allowed under SALT II, will grant to the U.S. an assured ability to eliminate Soviet land-based missiles. As both sides deploy weapons capable of a first strike, the actual use of nuclear weapons becomes all the more likely; nuclear war is put on a hair trigger.

Thus SALT II fails to reverse the two most central dangers of the arms race: the increase in weapons and the qualitative improvements which increase the likelihood of using those weapons.

In the years which will be covered by the SALT II treaty, each day the possible use of nuclear weapons will become a more likely rather than a less likely event. With first strike counterforce weapons on both sides, the strategic environment will become increasingly insecure; the world will become less safe.

In response to such realities it is commonly asked, "Wouldn't this situation be even worse without SALT II?" But that is the wrong question.

Rather, the Senate must ask how, in giving advice and consent on SALT II, we can rescue ourselves from this desperate situation.

We cannot merely express the hope that SALT III will be better. We simply do not have time. Weapons with a clear first strike counterforce capability will be in place before then. And it seems, in my judgment, to be naive and foolhardy to trust that the negotiating process, dominated by the military bureaucracies of both countries, will do any better in the future; in the past, it has barely inched along, while the arms race has sped us on toward oblivion.

The Senate and the public have a rare opportunity now to dramatically affect the course of those negotiations, reshaping them with the force of moral conscience and sanity. It will most likely be years before we will have such an opportunity again.

We must convert SALT II into an effective instrument for stopping the nuclear arms race.

The most simple way to do so is for both sides to agree to stop where they now are, knowing that for either side to continue adding to its arsenal is fruitless, meaningless, and irrational. This recognizes that notions of being ahead or behind in the competition for greater global overkill are without sanity or worth.

For this reason I have introduced an amendment to the SALT II treaty which would mutually prohibit further testing, development, or deployment of any new strategic weapons system not already deployed. It would prohibit deployment of any additional number of strategic arms beyond what each side possesses. This moratorium amendment would freeze the strategic arms race; it would stop escalation by simply halting it.

In so doing it would prevent the full deployment of first strike counterforce weapons on both sides; it would stop the next and most dangerous step in the arms race. But most importantly, it would represent a joint declaration that this race is not worth winning, and that we each passed long ago the threshold of sanity in our nuclear weapons competition.

The strategic nuclear arsenals of both countries are more roughly equal now than they have been for decades. Specific differences still exist in accuracy, numbers of warheads, throw-weight, and explosive power of bombs. The concept of SALT II is to allow each side to escalate their arsenals in a proscribed manner in order to reach a greater future parity.

Why not instead simply stop where we are; and then negotiate how each side will reduce their arsenals in order to eliminate any possible one-side advantages.

Though such an idea sounds fundamental, it has not been proposed by the U.S. negotiators. Neither the Soviet response, nor that by the U.S. Government, can be known for certain until the moratorium proposal is set into the heart of the negotiating process.

If adopted, such an amendment would dramatically change the climate of the SALT negotiations. Obviously, its incorporation into the SALT II treaty would require further discussions with the Soviets. But those talks would focus, finally, on what the SALT negotiations were intended to do: How to halt the arms race and fairly reduce our nuclear arsenals. It would also set an essential foundation to stop the menacing proliferation of nuclear weapons into third world nations.

The hell which I witnessed at Hiroshima is like a small spark when compared to the capacity for inferno which we now possess, and will greatly increase, under SALT II.

We must break free of the mindset which allows us to multiply the potential for the horror of Hiroshima thousands of times over without any moral qualm, without any spiritual hesitation, and without any deeper cry of conscience.

Reverend Kiyoshi Tanimoto was just outside Hiroshima when the bomb fell. He came into the city after the blast and recalls:

"I remember people lying in the park near our home, swollen to two times their size, crying, 'Water, water!' On the right bank of the river where I was, everything was so quiet. People were lying on the ground with me, dead. . . . There was no animosity toward Americans, but since we saw the worst part of war, which had never before been seen in human history, we began to hate war itself. . . . So we regretted we had been involved in war itself. . . . We should not repeat this war psychology."

I trust that the Senate could hear and heed these memories and break the psychology which so binds us to this race toward oblivion. ●

PUERTO RICO'S NATIONAL GUARD HELP TO THE DOMINICAN REPUBLIC

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. CORRADA. Mr. Speaker, I am very pleased by the action taken by President Carter in mobilizing 100 National Guard troops from Puerto Rico to provide disaster relief to the Dominican Republic after hurricane David lambasted that Caribbean island.

This is an excellent example of how well this nation can serve other countries in distress through the advantages of having Spanish-speaking people as U.S. citizens. This is a landmark event.

The article written by Richard J. Meislin in the New York Times of September 12, 1979, speaks by itself. This Nation has been able to help the people in distress in the Dominican Republic in an able manner by simply mobilizing members of the National Guard of Puerto Rico who are bilingual.

I am including in the Record at this point the article written by Mr. Meislin:

Carter Sends Puerto Rico's National Guard To Help in Dominican Relief

(By Richard J. Meislin)

Santo Domingo, Dominican Republic.—President Carter today authorized up to 100 National Guard troops from Puerto Rico to join almost 200 American soldiers already providing disaster relief here after Hurricane David.

The unusual mobilization of National Guard troops for duty in a foreign country will be accompanied by the addition of 10 "Huey" helicopters and 10 watertank trailers, which are badly needed to carry food and potable water to the devastated countryside. The President's mobilization authorization is for a maximum of 10 days.

Embassy officials here said the suggestion had come from the Puerto Rican National Guard and that assignment to the relief effort would be voluntary.

More than 170 regular United States military personnel and nine helicopters are already delivering food and trying to help the country recover from the hurricane damage of Aug. 31.

Figures issued by Dominican civil defense officials last night indicated that more than 1,300 people have died as a result of the hurricane and floods caused by Tropical Storm Frederic. In addition, civil defense officials estimated that 54,000 were injured, 500 were missing and 100,000 were homeless.

THE SOURCES OF AID

The United States has provided the bulk of the aid for victims of the storm, many of whom remain trapped in the flooded countryside. Other assistance, including food, medicine, clothing and equipment, has come from Venezuela, Colombia, Haiti and Cuba. In addition, Alejandro Orfila, Secretary General of the Organization of American States, announced here today that his organization would give $1 million to the Dominican Republic and Dominica for relief.

Cuba does not have diplomatic relations with this country, and its aid has become a touchy issue. It was arranged by José Francisco Peña Gómez, secretary general of the Dominican Revolutionary Party, and has further strained his relations with President Antonio Guzmán, also a member of the party.

With the sun making its first sustained appearance here in a week, clean-up and repair workers seemed to be everywhere in the city today, resuming long-delayed garbage pickups, carting away the gnarled remains of trees from the streets and stringing telephone and electric lines knocked down in the storm.

But by afternoon, rain had begun again, drumming steadily on lines of dozens of cars that waited at every gas station for increasingly scarce fuel.

Most of the city remains without electricity and virtually all of it is without water.

As bad as things are here, they are worse in the rest of the country. There are many places outside the capital where people talk of too little aid, and some places have not been seen yet because of cut roads and washed-out bridges.

No Precedent Recalled

Washington.—Spokesmen for the Defense Department could not recall any previous instance of a National Guard unit being sent to help with disaster relief in a foreign country, but active-duty units are often sent.

A spokesman for the United States Atlantic Command headquarters in Norfolk, Va., said today that a Puerto Rican National Guard unit was en route to the Dominican Republic to provide food, water and medical assistance.

The aviation unit, composed of 100 crew members and support personnel, volunteered in response to a request from the Joint Chiefs of Staff to the National Guard brigade in Puerto Rico for relief assistance. The Puerto Rican National Guard was chosen because of its proximity to the Dominican Republic and because its troops speak Spanish. ●

COMMON CAUSE: SUPPORT REASONABLE PAY ADJUSTMENT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. LaFALCE. Mr. Speaker, Common Cause is an organization well known to us all. It is hardly known as an organization that espouses outlandish causes or that lobbies for irresponsible legislative actions.

That organization, in a letter to Members of Congress signed by David Cohen, its president, and Fred Wertheimer, its senior vice president, points out that in light of the House's enactment and adherence to a policy of limiting outside earned income—

> It is particularly appropriate for House Members to receive reasonable pay adjustments. . . .

Common Cause has shown courage in entering this debate, and I hope that their letter will be read and considered by all. I would like at this point to introduce a copy of that letter and insert it in the Record:

September 21, 1979.

Dear Representative: The House is presently scheduled to consider on Tuesday a proposed pay increase of 5.5 percent for federal officials. The procedures involved in considering this issue have now been changed to allow a direct vote on whether or not there should be any pay raise at all.

Common Cause supports the proposed increase and urges you to vote in favor of the measure. We believe that the increase is appropriate for all branches of government and urge that you oppose any efforts to exclude the House from coverage.

In 1977 the House and Senate adopted limits on outside earned income as part of their new Codes of Conduct. The Senate reneged on its commitment to the American public before it took effect. The House has held firm on behalf of its restriction, however, despite pressure to repeal the limit.

We believe that given these circumstances and the House's continuing commitment to maintaining the outside earned income limit, it is particularly appropriate for House Members to receive reasonable pay adjustments under appropriate procedures.

Additionally, passage of the pay raise is essential for implementing the civil service reform legislation passed by Congress in 1978. Without this increase, the Senior Executive Services (SES) program cannot be properly implemented and employees who voluntarily gave up important rights in return for the opportunities and incentives of the SES will be placed in an unfair and inequitable situation.

We, therefore, urge you to support the pay increase and oppose any efforts to eliminate the House from coverage.

Sincerely,

Fred Wertheimer,
Senior Vice President.
David Cohen,
President. ●

STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED ON H.R. 5369, RELATING TO THE PUBLIC DEBT LIMITATION

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. ULLMAN. Mr. Speaker, on September 24, 1979, the Committee on Ways and Means ordered favorably reported to the House H.R. 5369, a bill relating to the public debt limitation. Title I of the bill would provide that the public debt limitation is to be $879 billion through May 31, 1980. Title I would also increase by $10 billion, from $40 billion to $50 billion, the amount of long-term bonds which may be issued with interest rates in excess of the 4¼-percent statutory ceiling. Title II of the bill is within the jurisdiction of the Committee on Rules and would amend the House rules to establish the public debt limitation in the future as part of the congressional budget process.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for the consideration of H.R. 5369 on the floor of the House. The Committee on Ways and Means has specifically instructed me to request the Committee on Rules to grant a modified open rule which would only provide for:

First. Committee amendments which would not be subject to amendment;

Second. Germane amendments with respect to the amount or duration of the temporary increase in the public debt, such amendments not to be subject to amendment;

Third. Waiving all necessary points of order;

Fourth. One hour of general debate, to be equally divided; and

Fifth. One motion to recommit.

All other portions of the bill would be closed.

The committee report will be filed tonight, September 24, 1979. We will request to be heard before the Committee on Rules as expeditiously as possible.●

ESTABLISHMENT GRAFFITI?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. MICHEL. Mr. Speaker, there are signs we all recognize. When we see the leaves falling, we know winter cannot be far behind. And when we see members of the liberal Democrat establishment and liberal media heavyweights telling us there is no leadership, we can be certain the President is being given a message that his one-time friends are deserting him.

Theodore Sorenson, now a lawyer and once John F. Kennedy's speechwriter, was chosen by President Carter to head the Central Intelligence Agency. His nomination never got past the committee in the Senate. Now, 3 years after that nomination, Sorenson has written a column which is all the more devastating to President Carter because it is written more in sorrow than in anger over the President's failures.

James Reston, the dean of Washington correspondents, has also written a piece decrying what he calls the chaos in foreign affairs. He blames a number of people for this chaos, but the unstated premise of his article is that the President simply is not strong enough to direct foreign policy and that many others are attempting to fill that power vacuum.

The pieces may have been printed in the Times, but so far as the President goes, the handwriting is on the wall, a kind of establishment graffiti.

At this point I wish to insert in the RECORD. "The Chaos in Foreign Affairs" by James Reston, New York Times, September 21, 1979, and "An Appeal to Carter: Regain Control Over Foreign Policy" by Theodore Sorenson, the same date:

THE CHAOS IN FOREIGN AFFAIRS

WASHINGTON.—The misconduct of foreign affairs in the United States has lately become something of an international scandal. You can seldom pick up a newspaper these days without reading about some self-appointed Secretary of State who is embarrassing the country.

The latest outrage is that Jesse Helms, Democrat of North Carolina, a new member of the Foreign Relations Committee, has sent two of his staff members to London to observe the efforts of the British Government to negotiate a settlement of the civil war in Rhodesia. And in the process, that London has gone to the unusual length of protesting to Washington that these aides of Mr. Helms have been interfering in the negotiations.

Senator Helms denies the charge of interference. He concedes that he sent two associates, John Carbaugh and James P. Lucier, to the London talks on Zimbabwe Rhodesia and defends this on the ground that "I don't trust the State Department on this issue." This is the problem here now: everybody is his own State Department.

Mr. Helms' argument has a familiar ring. Ambassador Andrew Young talked to a representative of the Palestine Liberator Organization without the knowledge of the State Department and against the orders of his friend, the President. He also defended his defiance of policy on the ground that he didn't trust the State Department "bureaucracy."

Senator Richard Stone of Florida and Senator Frank Church of Idaho, the chairman of the Senate Foreign Relations Committee, dramatized the presence of Soviet troops in Cuba against the judgment but finally with the acquiescence of the State Department because, they felt, aside from their political interest in the question, they were doing the country a favor.

This is the way it seems to be these days. Everybody wants to be a quarterback and nobody wants to follow anybody else's signals. The people who published the facts on how to make a hydrogen bomb the other day, and the scientists who helped them, probably felt that they had struck a blow for liberty and the First Amendment right of a free press—though they have probably established the Government's power of prior restraint on what can be published. With the best of intentions, all kinds of highly intelligent people seem to be doing all kinds of silly things these days.

The self-appointed leaders of the American black community are off in the Middle East and elsewhere, and talking to the P.L.O.'s self-appointed leader, Yasir Arafat. The self-appointed leaders of the American Jewish community say this is outrageous, and denounce anybody who wonders why, since Israel and Egypt have made some kind of peace at Camp David, Israel and Egypt have to request that the United States, with all its inflation and other economic problems, must double Washington's military and economic aid to both of them.

These conflicts have been going on for a long time and were probably inevitable. Maybe they can't be resolved, but the new and disturbing thing about all this is the corruption of diplomacy and even the decline of privacy, respect and manners.

This is clear in the Congress. Seldom in memory has it seemed so divided, so concerned with personal, local or state interests and so indifferent to its own Congressional leadership or the disturbing problems of the 1980's. Actually, member for member, it may be the most intelligent Congress of our time, but it has little sense of loyalty to party or to Presidential policies.

Apparently this is not merely a national problem. Even among the allies of the Western world, there seems to have been an erosion of the normal rules of civil conduct among officials and the press. For example, the Israeli Defense Minister, Ezer Weizman, and the U.S. Assistant Secretary of State, Harold Saunders, had a rather sharp argument the other night at the Israeli Embassy in Washington about the Israeli bombing of Lebanon, and who lost Angola and Iran. With a little bit of wine, and in the presence of reporters, this suddenly turned from an honest personal and private difference into a major public controversy.

This is what is happening these days all the time—individuals blowing off on their own, playing their own personal or political games, and making things seem worse than they really are. But the worst of these outrages is right here in Washington, where even private arguments become public and the Congress increasingly gets out of hand.

Never since the Senate defied Woodrow Wilson on the importance of creating a League of Nations at the end of World War I has the Congress of the United States seemed as parochial, personal or divided as it does now.

All the special interests, the local interests, the ethical, commercial and regional lobbies are going off on their own, and the tragedy is that, despite the appeals of President Carter and Secretary of State Vance, it is this division of the Republic—this clash of separate interests—that is confusing the American people, their allies and adversaries about the future direction of U.S. foreign and military policy.

AN APPEAL TO CARTER: REGAIN CONTROL OVER FOREIGN POLICY

Effective control over the conduct of foreign affairs is slipping away from Jimmy Carter, and that is sad to see.

It is sad because the President and his able foreign-affairs team have in the past staked out generally admirable positions.

He has achieved concrete results on the strategic-arms-limitation treaty, the Middle East, China, Panama, Turkey, world trade and third-world relations that his two predecessors, for all of Henry A. Kissinger's luminosity, could not wrap up. He has demonstrated restraint in Iran, Nicaragua, Afghanistan and elsewhere in a manner recognizing both the realistic and the ethical limits of American military power as well as the folly of aiding repressive regimes. On human rights, refugees, foreign aid and Central Intelligence Agency covert operations, he has steadily chipped away at the tarnish that had recently blemished this nation's moral stature.

It is said, further, because a coherent and effective American foreign policy requires Presidential leadership. Not with unaccountable power. Not with an exclusive monopoly of power. But the Framers of the Constitution knew that decisive, unified initiative and implementation in foreign affairs were properly the prerogative of a single, nationally elected executive.

It is sad, finally, because it is so unnecessary. No President, under Alexander Hamilton's design of "power as the rival of power," has a free hand in Washington. But even in this post-Vietnam, post-Watergate era of extra suspicion and scrutiny, even a beleaguered chief executive buffeted by unfavorable economic and political winds can and should retain the central direction of American foreign policy.

But to do so he must remember three basic rules:

1. The President must seize initiative on every major international issue.

When Soviet forces are detected in Cuba, for example, he should determine as best and as quickly as he can, through intelligence and diplomatic channels, when they arrived, what purpose they serve, what threat they constitute, whether they can be differentiated from American troops in Cuba and Turkey, and what course we will follow—and then disclose all of that fully and promptly to the American people from the White House.

When his ambassador to the United Nations resigns, the President should state who sought that resignation and why and whether any policy change is involved. Presidential silence or delay, or polite deferral to Senator Frank Church or others, leaves a vacuum certain to be filled by speculation, exaggeration and misinformation.

2. The President must define the terms of the foreign-policy debate.

It should be his agenda, his perspective, his boundaries that are fixed in the public mind. It is his role to explain that "détente" was oversold by his predecessors and to provide a more accurate definition; his role to insist that the SALT II treaty and new weapons programs and any Cuban resolutions be voted up or down independently on their own merits, not linked together in a log-rolling bargain for Senate votes; his role to determine whether the Horn of Africa or Shaba-Zaire or each price rise by the Organization of Petroleum Exporting Countries presents a real test of American will, and not leave that pronouncement to some headline writer or House member.

If a former Secretary of State tells Western Europe that it can no longer rely on the American nuclear umbrella, or if a Congressman warns Panama that we will renege on the new canal treaties, the President must promptly and emphatically make clear that this country could never accept such positions. He cannot accommodate both George McGovern and Barry Goldwater on most international issues and he should not try.

3. The President must be perceived to be in full command of his own forces.

If he permits the inference that his Middle East policy is determined by a power struggle among various executive branch officials, if his Administration speaks with more than one voice on United States-Soviet relations, South Africa, Mexico or international energy, if he does not create an atmosphere that drys up free-wheeling leaks and anonymous dissents from the White House and national security agencies, then no amount of Cabinet reshuffling can avoid the impression that he is not in full command.

The need is not for more belligerence in President Carter's policy or more bombast in his speeches, nor for a strong warning to Congress unmatched by action.

What's needed is Presidential leadership. The times require it. The Constitution authorizes it. This President is capable of it.

Pray, sir, begin.●

OUR SICK SOCIETY?

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. PICKLE. Mr. Speaker, we hear so much about our "sick" society that it is refreshing to hear another voice. Prof. Robert C. Solomon who teaches philosophy at the University of Texas at Austin and is also the author of the "Passions and History and Human Nature" states his views in the September 17, 1979, issue of Newsweek, I might add to Professor's Solomon's essay that perhaps the reason he has a more optimistic view of life is that he is fortunate in living in that beautiful city, Austin, Tex.

MY TURN

(By Robert C. Solomon)

Every age, wrote the Danish philosopher Soren Kierkegaard in 1846, has its own characteristic depravity. The diagnostic tone of the word "depravity" should make us suspicious, and what Kierkegaard in fact described was his own unhappiness. But the idea of "the depravity of the age" has its undeniable attractiveness, and so comes the question, "What's ours?"

When I ask that of my students, the answers are shockingly uniform. The word "despair" recurs with monotonous frequency, along with "dullness," "apathy" and "crisis." But most of all, they complain that everyone is "into themselves," that is, self-absorbed, though it is not always clear whether this is itself the depravity of the age or a reaction to it. A profound pessimism grips the class. Optimism is considered to be in poor taste. I ask why, but the answers are singularly unsatisfactory: "the energy crisis," "it's hard to get a job," "inflation" and "there's nothing good on TV." Hardly the earmarks of a sick society, much less the absurdity of the human condition.

Kierkegaard, too, complained that his age was dull and boring, devoid of passion if not gasoline. His equally miserable German contemporary, Arthur Schopenhauer, pondered the pointlessness of human existence in general over glasses of fine wine and between reputedly passionate but unhappy love affairs. The inventor of the diagnostic kvetch, Jean-Jacques Rousseau, couldn't get along in Paris, so he indicted society as such as "corrupt" and "depraved." Nietzsche referred to "the disease called man." And today, the same sensibility has a new champion, Christopher Lasch, whose book "The Culture of Narcissism" contains one more thoroughly pathological diagnosis of our lives as a whole.

What characterizes the diagnostic sensibility is its tenacious fatalism, its insistence on rejecting the whole of our culture, not just a piece of it. We are sick. We are not only unhappy; we are doomed by our own self-indulgence. Lasch's "narcissism" is a thoroughly pathological term, like Kierkegaard's "depravity," and it is part of the same self-righteous tradition. Of course, moralistic cynicism and collective self-flagellation are nothing new; even the Bible was full of it. But what gives the diagnostic sensibility its current authority is its implicitly scientific appeal to medicine, using the categories of health and disease.

'CRISIS': A few years ago, we were similarly caught up in a game metaphor (games people play, life as a game, etc.). Now our favorite metaphor is disease, and societies are as prone to diagnosis as individuals. Even Jimmy Carter agrees that there is a "crisis of the American spirit."

Thus Lasch strikes out, the diagnostician disgusted with his patient, at our self-indulgence and our consumer materialism, our refusal to sacrifice ourselves, the "waning of the sense of historical times," "fascination with celebrity and fear of competition." He attacks capitalism (of course) and our fear of death and aging. He sees a "collapse of personal life" in America and "a general crisis of Western culture." The examination is thorough, the diagnosis is serious, the prognosis is poor. The disease of "narcissism" consists in fact of our favorite virtues—"the pursuit of happiness," our search for individual fulfillment and our insistence on personal expression—and is so basic to our lives that it is certainly "incurable," at least without killing the patient.

The disease metaphor itself deserves a diagnosis. What parades as cultural criticism in fact makes cultural criticism impossible. (Why worry about the manners of an already moribund patient?) And once one becomes a "patient," the pathological suspicion assures that every act is further proof of depravity; psychiatrists mistaken for patients have found it impossible to prove their sanity. The criteria are slippery; everything becomes a symptom, and the diagnostician cannot be proved wrong.

Behind the metaphor is a method; what seems to be concern betrays itself as self-indulgence, a self-righteous bitterness that declares society "depraved" in order that one may pity oneself for being "caught" in it. One blames the world for one's own unhappiness or political failures—and at the same time, appears "courageous" by raising oneself up "above" it. It is the classic technique of resentment, that two-faced emotion that condemns others in order to mask a sense of failure. Now it picks on this detail, now on that one; it is only important that nothing escapes. Resentment is always ready to condemn other people's pleasures as "empty" or "depraved," and it is always ready to enjoy their misfortunes, "their just deserts," while gleefully predicting that the worst is yet to come. Resentment is insidious because it is infectious, respected and admired even by those who are eventually mutilated by it.

Every age—if I too may be simple-minded—has its own peculiar forms of self-denigration. In a society that emphasizes the possibility of happiness, unhappiness will seem to be a kind of failure. Where privacy is a value, loneliness is bound to be a danger, and where youth and mobility are prized the family will of course be endangered, aging and death will be feared and a certain degree of social uncertainty will be inevitable. But if life isn't perfect, that doesn't make it sick. In fact, to say so is what I would call, given the metaphorical currency, hypochondriacal.

Our so-called depravity is nothing but the deficit side of our chosen form of life, and I for one would want no other. (Except perhaps a society that read more philosophy.) But "narcissim" is a nasty and unnecessary word. Ever since the early days when the diagnosis was damnation instead of disease, our desire to promote a decent society has been undermined by those bitter voices demanding nothing less than total change, and thereby making change impossible.

The most tiresome depravity of our age is all this talk about the depravity of the age.●

RIGHT TO WORK AGAINST COMPULSORY UNIONISM

HON. TOM LOEFFLER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. LOEFFLER. Mr. Speaker, it has always been my view that compulsory unionism serves no one's best interests, be they worker, management, or consumer. As you know, my State is solidly opposed to compulsory membership in labor unions, and fiercely maintains its right-to-work status—with excellent reason. I believe the article by John Chamberlain, which recently appeared in the San Antonio Light, cogently explains many of the sound reasons why Texas and the other 19 States who remain free of forced unionism continue to offer the best conditions for the full spectrum of our citizenry. I now insert Mr. Chamberlain's article in the RECORD:

EXTENDING DOMAIN

Samuel Gompers, who more or less fathered the modern American labor movement, was a firm supporter of voluntary unionism. An anti-statist, he didn't believe in endowing unions with the compulsory powers of ministates. But the AFL–CIO today has no truck with Gompers' wisdom. It wants to get the power of government behind it in forcing people to take out union cards as a condition of earning a living.

It has been pushing bills in 34 state legislatures to extend the domain of mandatory union membership. Luckily for the cause of free choice, out of 152 bills introduced in 1979, 136 have been defeated. In fourteen other cases, the bills are still pending. In only two instances have the pro-compulsion forces had their way.

As Reed Larsen's Right to Work Committee keeps telling us year after year, compulsory unionism goes hand in hand with declining jobs. But where voluntary choice prevails as it does in 20 states, manufacturing jobs proliferate. The research director of the Right to Work Committee, Charles W. Bailey, points out that in the states that have right to work laws there has been a net increase of 1,010,500 manufacturing jobs between 1967 and 1977. In the 30 non-right-to-work states, on the other hand, a net loss of 888,800 manufacturing jobs has occurred.

The big union bosses argue that the correlation between voluntary unionism and increasing job opportunities involves taking pay cuts in runaway factories. But if standards of living are to be compared, what is one to make of the fact that Maine, a non-right to work state, had the lowest per capita personal income figure for the United

States in 1977 while Nevada, a state in which compulsory unionism is prohibited, had the highest? Runaway factories or not, life is better in the right to work states than it is where compulsion prevails.

Where jobs are growing, real income, adjusted for taxes and the cost of living, is marginally higher. The real after-tax income per capita for right to work states is $4,606; in the compulsory union states it is $4,601. These figures, by themselves, do not prove very much. But the right to work states accounts for ten of the 13 states with the lowest unemployment rates in the country.

Most of the right to work states happen to be in the Sun Belt. But climate per se does not necessarily account for economic growth, nor does raw material natural endowment. Louisiana is just as hot as Texas, and, like Texas, it is blessed with oil and natural gas. But Louisiana stagnated for years while Texas prospered. Texas has had right to work since 1947. But Louisiana did not become a right to work state until 1976. Since then it has been busy catching up.

The only states in which compulsory unionism made gains in 1979 were New York and Connecticut. In New York public sector union bosses got a 2-year extension on a law that forces public employees to pay money to union treasuries as a condition of holding tax-supported jobs. In Connecticut a teacher agency shop bill was passed. The averaged real after-tax income per capita in Connecticut holds up fairly well, it was $4,796 in 1977. But the New York per capita figure, compared to the U.S. average in general and the right to work state average in particular, was a deplorable $3,979. Only four states in the whole country—Mississippi, Maine, Vermont and New York—are below the $4,000 average per capita income line.●

HAPPY BIRTHDAY TO MR. JOHN MULLEN

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. CORMAN. Mr. Speaker, today, I ask my colleagues to join me in wishing a very happy birthday to Mr. John Mullen, for on October 9 he will celebrate his 100th birthday.

Father Mullen, as he is affectionately known by his friends and members of the Calvary Baptist Church of Pacoima, Calif., was born in 1879. His search for a permanent location for his family took him from his birthplace in Brownsville, Tenn., through Arkansas and finally to California in 1959.

Mr. Mullen was born during the Period of Reconstruction and has lived through the administrations of 17 Presidents and 44 Congresses. He has seen the devastation of two World Wars and the prosperity of peace. He lived through the Depression of 1929 and undoubtedly has vivid memories of the suffering this Nation endured. Mr. Mullen has watched the advancement of a strong technological society—the development of media and communication, the automobile, and the exploration of the universe. He has seen a century of history and development of this Nation about which we can only read or hear.

Father Mullen has taken the time to share this wealth of experience and wisdom with members of his church. He has taken a special interest in sharing his life with the young and old and spiriting a motivating force for the Calvary Baptist Church. In honor of Mr. Mullen, the Rev. Hilary Broadus, pastor of the Calvary Baptist Church of Pacoima, has proclaimed October 9, 1979, as John Mullen Day, and ordered October 7, 1979, be set aside as the time to celebrate Father Mullen's 100th birthday.

Mr. Speaker, October 7 and 9 will be most festive and memorable days for Mr. Mullen, his family and friends. Please join me in wishing him a continued life of health, happiness, and contentment.●

GUADALUPE CLINIC FOUNDER RECEIVES INTERNATIONAL SERVICE TO MANKIND AWARD

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. ZABLOCKI. Mr. Speaker, on September 13, 1979, I was privileged and honored to be present in the White House Oval Office when President Carter warmly recognized the accomplishments of one of my constituents, Dr. John J. Czajka, who recently received the 1979 Sertoma International Service to Mankind Award.

Also present were his lovely wife, Shirley, Mr. Lee M. Machemer, president of Sertoma International, as well as Mr. James M. Hooper, and Mr. Patrick Burke, executive director and public relations director, respectively, of Sertoma International.

Dr. Czajka was selected for this well-deserved high honor after receiving the Club Service to Mankind Award from the Sertoma Club of Milwaukee and after being selected for both the Wisconsin District Award and the Illinois-Wisconsin Region Award.

Our colleagues and my good friend, the Honorable Jack Brinkley, was a member of the final selection committee which made this wise choice.

Mr. Speaker, Dr. Czajka was selected for this high honor because of his selfless dedication and service to his fellow man. Dr. Czajka provides an example for all who respect the highest principles and traditions of the medical profession and who are guided by the Judeo-Christian ethic on which our great Nation is founded.

Mr. Speaker, the September-October 1979 issue of the Sertoman, the magazine of Sertoma International, details the basis for Dr. Czajka's selection. I am honored to share that article, which follows, with my colleagues:

GUADALUPE CLINIC FOUNDER RECEIVES INTERNATIONAL SERVICE TO MANKIND AWARD

A reporter for the Milwaukee Journal has said, "It isn't the award that's so important. It's who receives it. And what he did to deserve it." This is her way of congratulating Dr. John J. Czajka, the 1979 Sertoma International Service to Mankind Award Winner.

Dr. Czajka, who was born and raised in a poor Polish neighborhood in Chicago, nine years ago opened a free clinic for Spanish-speaking people in Milwaukee, the Guadalupe Children's Medical Clinic. Since the Clinic's opening in November, 1969, he has been the Clinic's medical director and board president for the past six years.

In the almost 10 years since the Clinic's opening, it has come a long way. In the beginning, there was only one room, one doctor, one nurse and no running water.

Now there are five medical and five dental clinics for children each week; one obstetrical-gynecology clinic; and three clinics for adults each week. Once a week there is available for counseling: a social worker, a nutritionist for special diets and nutrition teaching and a medical technologist for laboratory examinations. Two Spanish-speaking outreach workers spend 10 hours each week visiting the homes of young mothers.

Dr. Czajka became aware of the Spanish community's health needs through his involvement with the Guadalupe Center's Head Start Program. There he saw that children were suffering needlessly because they lacked medical attention. Colds turned to pneumonia and cuts into infected hands before parents could afford to find medical help.

Dr. Czajka said he watched time after time as mothers and fathers and their children waited hours just to be told that the child had a sore throat or an ear infection—something easily treated with antibiotics usually.

He started the Clinic because of "deep concern for human beings." The idea came from a dentist friend who operated a clinic at the Spanish Center and felt something similar should be done in the medical field.

While the idea was brewing, Dr. Czajka approached 17 pediatricians, but they were too busy or committed to help him start the Clinic. "But one day, I got to thinking about it," he said, "I felt if no one else wants to do it, why shouldn't I?"

Mrs. Rita Bourassa, R.N., a member of the Sacred Hearts of Jesus and Mary Parish in Franklin, assisted Dr. Czajka in the opening of the one-room Clinic. Sister Patricia Ann, then director of the Guadalupe Clinic, and some of the mothers aided the doctor in crossing the language barrier.

In the first year Dr. Czajka was available to the Clinic on Monday, Wednesday and Friday from 11:30 to 12:30 p.m. or longer if needed in spite of his own busy practice in Hales Corners. By his dedication, he has attracted other doctors and dentists who wanted to help at the Clinic.

The current director of the Clinic, Sister Phyllis Franzen, says there are about 1,000 patients treated at the Clinic each month and that about 24 doctors volunteer their time. The house they use, rent free, belongs to the Catholic Archdiocese of Milwaukee.

Most of the people who go to the Clinic are not eligible for Title 19 medical care, paid for by the government. "Their parents usually work," Sister Phyllis says, "And they make just a little too much to be eligible. But when there are several children in the family . . ." She didn't have to continue because everyone knows how much everything costs today, not to mention medical attention.

Before the Clinic was opened, the West Allis Knights of Columbus refurbished the two-story building that houses the Center. Plumbing and electrical repairs were made, and the dental clinic, formerly housed at the Spanish Center, moved into more adequate space.

The two Clinics merged and officially became the Guadalupe Children's Medical-Dental Clinic, Inc. In February, 1971, a clinic for adults was started. The ob/gyn clinic opened in March of the same year and is staffed by residents of St. Mary's Hospital in Milwaukee.

Not only did Dr. Czajka begin the Clinic alone when he saw the need, but by his dedication and care, he has helped bring other doctors to become equally concerned enough to bring their talents to the health needs of the Spanish community.

Now there are 20 doctors, 13 dentists and about 50 other volunteers involved in the Clinic. Dr. Czajka has a weekly pediatric clinic and serves as a substitute when a scheduled pediatrician cannot come.

Dr. Czajka would like the community to be more involved in the Clinic, and he is inviting neighborhood citizens to become members of the Clinic board, encouraging them to become active in health issues and decisions regarding the Clinic.

What has the Clinic been able to accomplish in the last six years? Most importantly there is a better level of health in the Spanish community since the Clinic has become an established institution on the near South side.

Although there are still occasions when there is a need to send a child to Children's Hospital, it is no longer a frequent event. The Spanish community is very aware of the presence of the Guadulupe Children's Medical-Dental Clinic, and because of its availability and culturally acceptable setting, children are getting earlier care in illness, preventing many complications. Immunizations, health check-ups and instructions in health and nutrition also prevent more serious health problems.

As a Spanish mother said, "If I could not come here, I guess I would have to take the buses and go to Children's Hospital. It is very expensive there, and I cannot always afford so much. But it is free here, and the staff speaks Spanish, and I like the doctors very much more. They have time to listen to you. Not in such a hurry."

Although Dr. Czajka, the father of six, has worked hard to establish the Clinic and keep it running, he is quite modest about the Service to Mankind Award. The same *Milwaukee Journal* reporter, who asked him about the award, said he seemed "slightly embarrassed I brought it up." He said there was "no need to make a big deal about it."

Dr. Czajka received the Club Service to Mankind Award from the Sertoma Club of Milwaukee and then was nominated by the Club for the Wisconsin District's Service to Mankind Award. As one of the District Award winners, his name was entered into competition with the other District winners in the Illinois-Wisconsin Region to compete for the Regional Award and was again selected as the winner.

His selection as the International winner was made by a non-Sertoman judging committee after the judges carefully studied and reviewed the 15 Regional entries in the competition. This year's judging committee was composed of the Honorable Jack T. Brinkley, House of Representatives, Washington, D.C.; Ms. Ruth Meacham, Lexington, North Carolina; George Franklin, Las Vegas, Nevada; James Morris, Indianapolis, Indiana; and Ogden R. Davies, Whitehall, Pennsylvania.●

FEDERAL DEFICIT DRAINS AMERICAN'S JOB PRODUCING AND HOMEBUILDING CAPITAL

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. ASHBROOK. Mr. Speaker, we are all aware that Government deficit is one of the driving forces behind inflation. But another vicious effect of every Federal deficit is not so well known. This is the fact that every dollar of Federal deficit takes up money that should be used as capital to make jobs and build homes. Each year, the Government goes into the capital market to borrow money to pay for the spending which taxes do not cover. For example, Federal borrowing is directly in competition with businesses which are trying to sell bonds or borrow from banks cash they require to modernize our steel industry. Our domestic steel industry must borrow money for capital if it is to compete with the brand-new equipment European and Japanese business use to produce steel in competition with them. This is one of the major reasons our steel producing equipment is so old and inefficient. Governmental boondoggles have first call on the limited capital available in the marketplace.

Home buyers are hit hard by Government borrowing. Every American who seeks a home loan must bid against the Federal Government. Banks and savings and loan associations can only loan the money that savers put into them. A $50 billion Federal deficit means $50 billion that savers have put into Federal bonds. It takes away $50 billion that would otherwise have gone mostly into other safe and liquid types of investment. This is precisely the kind of investment that savings and loan accounts and bank deposits represent. Interest rates on some loans which are now sky high would drop enormously if the Federal Government would cease its annual invasion of the capital market.

Rents are also increased by high Federal bidding in the capital market. Apartment builders have to borrow most of their building funds. They cannot stay in business unless they pass increased interest rates on to people renting their apartments.

I feel that every American who rents an apartment, and every person who buys a home in this country, should be fully aware of the fact that deficit spending, which the majority of their Congressmen support each year, comes from funds that could otherwise be used to put roofs over our people's heads. A particular landlord may or may not be raising rent unfairly. But it is dead certain that this Congress raises the rent all over America every time it passes a new program and increases Government borrowing to pay for it.

Runaway inflation has made increasingly large numbers of Americans aware that demands for a balanced budget down through the years have been more than a dry old slogan of "penny-pinching conservatives." The fact is that these huge demands on our capital markets are more of a "family" issue than they are a "purely economic" one. One of the things that is making it difficult for working Americans to raise a family decently is the skyrocketing cost of a place to live. Inflation, of course, is also a family issue. Here too, Federal deficit is the biggest culprit. To support the family, you must have a job, but the jobs will remain scarce as long as the Government keeps draining away the capital essential to produce those jobs.

Taxes constitute a big burden on people trying to raise a family today. But the deficits liberals use to keep up their programs without tax increases is just as deadly to the future of the American family as a tax increase would be.

The best way to reduce the skyrocketing interest rate is to get America's biggest single borrower, the Federal Government, out of the capital market. Every year a liberal majority is in power in Congress, the Federal Government will be bidding against home buyers for the capital they need.●

WILL IT REALLY BE THE DEPARTMENT OF EDUCATIONAL REGULATION?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. MICHEL. Mr. Speaker, the distinguished professor of political science, Paul Seabury, has recently written an article describing—and decrying—the regulations placed on universities by the Federal Government.

Although a new Department of Education will direct much of its mischief toward secondary and elementary schools, Dr. Seabury's look at what Federal regulations have done to universities should help Members of the House make up their minds about this new Department. Quite definitely, what students and teachers and taxpayers do not need is a bureaucratic stronghold from which newer and more binding regulations can be issued.

If you like what is been happening to our universities, you will love the Department of Education. But if you like academic freedom vote against this monstrosity.

At this point I wish to insert in the Record, "Colleges Reap Their Own Crop of Misery—Federal Regulation" by Paul Seabury, the Los Angeles Times, August 31, 1979:

Colleges Reap Their Own Crop of Misery—Federal Regulation

The world is full of ironies; a businessman who reads what follows may do so with wry amusement.

For more than half a century, American universities have been the chief seed-beds for ideas about how to regulate society and business. Now the tables are turning, and the petard hoists its creator. After only a decade of intense activity in Washington, American higher education today is as much subject to federal regulation as is the automobile industry. Since it is now true, as Clark Kerr once prophesied, that American universities have become public utilities, it will do no good for defenders of academic freedom to cry for exemptions and immunities. If every other major American institution (except churches and newspapers) is meticulously regulated by federal authorities, why should universities be given favors?

Regulation penetrates nearly every college and university in the country. This is particularly intriguing, since American higher education—exemplar to the world—grew to maturity before World War II with no federal assistance whatsoever (except land grants to some state colleges), and federal regulations were unheard of until very recently. Now, regulation touches and controls so many aspects of University life that few people, besides administrators and higher-education specialists, have the slightest comprehension of what is going on.

In contrast to federal regulation of business, the government's motives behind this cascade of rules for the most part have been benign, not punitive. Universities are a good thing, worthy of the government's warmest embrace. The chief reason that the embrace has encountered so little resistance is that for several decades there has been a common-law marriage; universities and colleges were already heavily dependent on federal money before Washington decided to indulge its reformist zeal. Now, the threat of across-the-board contract cancellation is the federal government's chief weapon to exact compliance with its directives.

Regulations breed little regulations; federal regulators breed campus regulators. Consequently, universities are now awash with directives and inspectors; the costs of compliance are incalculable. But dismay about cumbersome and time-consuming regulatory procedures may only deflect from the purposes that gave rise to them in the first place. The basic question is: What does the federal government want colleges and universities to do?

First of all, it wants them to be agents of its social purposes. Some of these are now fixed in statutes; others, such as preferential hiring requirements, are creatures of its bureaucracy. The government wants universities to be agencies and laboratories of social change, and the regulations to accomplish this are legion. It wants universities, furthermore, to be physically and psychologically safe places, and it has devised its own standards and hired its own inspectors to see that this comes to pass. It insists that the rights of disadvantaged and handicapped persons be protected, and it establishes its own rules to see that this is done. To this particular end, and regardless of cost and demand, it now requires that any campus area, building, classroom, laboratory, office or dormitory be accessible to persons in wheelchairs.

To protect laboratory animals from possible discomfort, it requires that cat and dog cages be air-conditioned—a right that is not yet established for academic persons. In the name of sexual equality, it now forbids the construction of women's cot-rooms—since these, unavailable to men, violate Title IX of the Civil Rights Act. Colleges must allow sexually integrated dormitories. Regardless of consequences to the great American game of football, college athletic budgets now must allocate funds equally between male and female, sports; male and female coaches' salaries must be equal.

The federal government imposes heavy constraints on research; scientists are hounded by auditors in their laboratories. The concern here is not simply with accountability and safety but also with the safety of subjects of research. A doctrine of prior restraint now is to be seen in regulations for the "protection of human subjects." Campus watchdog committees, which are required by federal regulations, now routinely scrutinize research proposals of scholars and scientists, to ascertain in advance whether the research may damage its human subjects, either physically or psychologically.

To protect students, the federal government now insists that once-confidential evaluations of them by faculty members be open for their inspection; thus, the contents over time become innocuous. Confidential personnel files now may be inspected by federal agents to discover whether systematic discrimination is being practiced. Universities are obliged, under duress, to devise their own race-quota and sex-quota schemes. Severe accountability requirements act as straitjackets for scientific investigators, hampering flexibility and imagination.

In brief, what Washington requires of every college and university on its payroll is that it be a place of equality, safety, privacy and openness—and that it accept Washington's own shifting, yet rigid and uniform, standards and criteria. Otherwise, no money!

A former bureaucrat, a man once responsible for devising federal guidelines for hiring women and minority academics, and a man who now regrets his past transgressions in this crusade for virtue, recently told me a funny story. Under his supervision, in the early 1970s, the Department of Labor had conjured up a proposed directive to universities, to the effect that standards of competence in a particular department by which minority and women's competence should be measured would be based on the current competence of the least competent member of that unit. When Harvard got wind of *that* proposed regulation, it sent a distinguished team to Washington to remonstrate with this official. Tempers waxed hot in the argument that ensued. Finally, one of the Harvard emissaries said angrily, "Now you just tell me, Mr. Secretary, how exactly should I go about determining who is the most incompetent member of my department?" The official replied wryly, "It's easy!" He then mentioned the name of a well-known academic celebrity. Harvard was not amused; the dean seized a nearby ashtray and hurled it at his regulator. (The proposed regulation was rescinded.)

Today, however, there is more resignation than anger in the groves of academe. Maybe you have to get used to anything, as long as it is virtuous. Maybe the late writer, Albert J. Nock, was on the right track when he observed, "Virtue is more to be feared than vice, because its excesses are not subject to the restraints of conscience." ●

THE "PICKPOCKET" CONGRESS

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1979

● Mr. RHODES. Mr. Speaker, the Christian Science Monitor of September 21, has a trenchant editorial entitled "The Pickpocket Congress" which reflects their view of the House's performance on the pay raise issue. Since the Congress is now the lowest rated in public regard of all our major institutions, I urge my colleagues to take the time to read this discussion of the manner in which the pay raise has been handled.

The text of the Monitor's editorial is as follows:

The "Pickpocket" Congress

It would be amusing if it were not so scandalous. Lawmakers in the U.S. Congress are paragons of bravado these days when it comes to being tough on the Russians, the Cubans, the oil companies, OPEC, and you name it. But they seem to have the courage of a chicken (no offense to chickens meant) when it comes to voting themselves a lump of money. The American public can only be disdainful of the action of the House of Representatives, which first approved a $4,000 pay increase and then timidly reversed itself when its members were forced to vote individually on the record. Standing safely together in a collective vote was one thing; letting the folks back home know how the Representative voted was another.

Gutless? And how! The legislators even employed a sly parliamentary procedure to try to prevent a recorded vote. Congresswoman Millicent Fenwick summed it up snappily on the floor of the House when she said, "We have justified the contempt the people have for this Congress."

The question now is what the House does next. If it does not set a specific amount for a cost-of-living pay raise or specifically prohibit such an increase, its members will automatically receive a 12.9 percent increase (yes, 12.9 percent) on October 1. That is the provision of a 1975 law that entitles members of Congress to the same raises as other government employees. The 12.9 percent includes the 7 percent increase going to most federal workers this year and the 5.5 percent raise which Congress turned down last year—plus (would you believe it?) interest on the latter.

Clearly there is still time and room for the House to redeem itself. First, by acting before the October deadline and, second, by demonstrating restraint in its pay request. Few could quarrel that the highest legislators in the land deserve to be well rewarded. But they now earn a most respectable $57,500 a year and even the 7 percent increase they seek will strike most Americans as out of order. For the average household, a 7 percent increase could mean the difference between buying meat or macaroni for dinner. But for someone in the $50,000-a-year bracket it simply means more luxuries. Is that the kind of example the US Congress wants to set in a time of uncurbed inflation and deepening recession? Surely a more modest increase, if it is deemed needed, would be economically—and politically—appropriate.

As Mrs. Fenwick suggested, lots of people are living on a fraction of the wages which the lawmakers make. Moreover, the House members, instead of forthrightly standing up to be counted, prefer to choose the "pickpocket's way," as she put it, of filling their coffers. That's a damning description and we hope the House has the good sense to make sure it does not live up to it.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional Record on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 25, 1979, may be found in the Daily Digest of today's Record.

Meetings Scheduled

SEPTEMBER 26

9:15 a.m.

Select on Indian Affairs

Business meeting, to resume mark up of S. 751 and 1077, bills to provide for the relocation and resettlement of the Navajo and Hopi Indians.

S–206, Capitol

9:30 a.m.

*Banking, Housing, and Urban Affairs

To hold hearings on H.R. 7, and Amendment No. 398, proposed Monetary Policy Improvement Act, to S. 85 and on S. 85 and 353, bills to strengthen the ability of the Federal Reserve Board to conduct monetary policy, to promote greater competitive equality, enhance the safety and soundness of the banking system, and improve the efficiency of the Federal Reserve payments system.

5302 Dirksen Building

Commerce, Science, and Transportation

To hold hearings on proposed legislation to reduce excessive regulation of the household moving industry, increase competition, provide improved operating and pricing flexibility, and assure adequate protection for consumers.

235 Russell Building

Judiciary

Antitrust, Monopoly and Business Rights Subcommittee

To resume hearings on S. 598, to preserve the manufacture, bottling, and distribution of trademarked soft drink products by local companies operating under territorial licenses.

5110 Dirksen Building

Judiciary

Limitations of Contracted and Delegated Authority Subcommittee

To hold oversight hearings to discuss various aspects of issues relative to the investagation of alleged mismanagement practices within the General Services Administration.

6226 Dirksen Building

Select on Small Business

To resume hearings to explore the potential of small businesses to contribute in solving the energy crisis.

424 Russell Building

10 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Environment and Public Works

Environmental Pollution and Resource Protection Subcommittees

To hold joint mark up of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.

4200 Dirksen Building

Finance

Business meeting to continue consideration of H.R. 3919, to impose a windfall profit tax on domestic crude oil.

2221 Dirksen Building

Foreign Relations

To hold hearings on and to consider pending nominations.

4221 Dirksen Building

Governmental Affairs

To continue hearings on S. 1564, to require public disclosure of certain lobbying activities to influence issues before the Congress.

3302 Dirksen Building

Judiciary

To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

* Labor and Human Resources

To continue hearings on S. 1724, 1725, 771, 1270, 1331, and 1603, bills to provide financial assistance to low and lower middle income, and fixed-income households to meet the increased cost of home energy.

4232 Dirksen Building

Rules and Administration

Business meeting, to consider proposed regulations pursuant to S. Res. 170, to require that documentation be submitted with vouchers for reimbursement out of a Senator's official expense account; and other legislative and administrative business.

301 Russell Building

2 p.m.

Conferees

Closed, on S. 975, authorizing funds for fiscal year 1980 for intelligence operations of the Federal Government.

H-405, Capitol

Finance

Internal Trade Subcommittee

To hold hearings on the proposed utility tax credit as it relates to H.R. 3919, to impose a windfall profit tax on domestic crude oil.

1114 Dirksen Building

2:30 p.m.

Finance

International Trade Subcommittee

To hold hearings on S. 55, to modify the method of establishing quotas on the importation of certain meat.

2221 Dirksen Building

SEPTEMBER 27

9:00 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To resume oversight hearings to examine the enforcement and administrative authority of the Federal Trade Commission to regulate unfair and deceptive trade practices.

235 Russell Building

9:30 a.m.

Judiciary

Limitations of Contracted and Delegated Authority Subcommittee

To continue oversight hearings to discuss various aspects of issues relative to the investigation of alleged mismanagement practices within the General Services Administration.

6226 Dirksen Building

Select on Small Business

To hold hearings to examine the Health Care Financing Administration's impact on small business health care providers.

424 Russell Building

Joint Economic

Economic Growth and Stabilization Subcommittee

To hold joint hearings with the House Subcommittee on Transportation and Commerce of the Committee on Interstate and Foreign Commerce to promote an equitable economic deregulation of the railroad industry.

357 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To continue hearings on H.R. 7, and Amendment No. 398, proposed Monetary Policy Improvement Act to S. 85, and 353, bills to strengthen the ability of the Federal Reserve Board to conduct monetary policy, to promote greater competitive equality, enhance the safety and soundness of the banking system, and improve the efficiency of the Federal Reserve payments system.

5302 Dirksen Building

Energy and Natural Resources

Parks, Recreation, and Renewable Resources Subcommittee

To hold hearings on S. 812 and 1369, bills to designate certain areas as wilderness areas, focusing on the Secretary of Agriculture's Roadless Area Review and Evaluation program (RARE II) as it applies to certain lands in the State of Oregon for inclusion in the National Wilderness Preservation System.

3110 Dirksen Building

Environment and Public Works

Environmental Pollution and Resource Protection Subcommittees

To continue joint markup of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.

4200 Dirksen Building

Finance

Business meeting, to continue consideration of H.R. 3919, to impose a windfall profit tax on domestic crude oil.

2221 Dirksen Building

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold hearings on the refugee crisis in Southeast Asia.

4221 Dirksen Building

Judiciary

To continue hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

*Labor and Human Resources

To continue hearings on S. 1724, 1725, 771, 1270, 1331, and 1603, bills to provide financial assistance to low and lower middle income, and fixed-income households to meet the increased cost of home energy.

4232 Dirksen Building

10:30 a.m.

Governmental Affairs

Federal Spending Practice and Open Government Subcommittee

To hold joint oversight hearings with the Select Committee on Small Business, on the implementation of the minority assistance program under the Small Business Administration.

1318 Dirksen Building

Select on Small Business

To hold joint oversight hearings with the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs, on the implementation of the minority assistance program under the Small Business Administration.

1318 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Foreign Relations

To resume hearings, in closed session, on the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

S-116, Capitol

3:00 p.m.

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

SEPTEMBER 28

8:00 a.m.

Energy and Natural Resources

To hold hearings on the nomination of John C. Sawhill, of New York, to be Deputy Secretary of Energy.

3110 Dirksen Building

9:00 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To continue oversight hearings to examine the enforcement and administrative authority of the Federal Trade Commission to regulate unfair and deceptive trade practices.

235 Russell Building

Judiciary

To continue hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

9:30 a.m.

Governmental Affairs

Governmental Efficiency and the District of Columbia Subcommittee

To hold hearings on S. 828 and H.R. 3951, bills authorizing funds through fiscal year 1987 to the Washington Metropolitan Area Transit Authority for the construction of the rapid transit system for the national capital region.

3302 Dirksen Building

Select on Small Business

To resume hearings on export assistance programs administered by the Small Business Administration.

424 Russell Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Environment and Public Works

Environmental Pollution and Resource Protection Subcommittees

To continue joint markup of S. 1480, 1325, and 1341, bills to provide for the adequate and safe treatment of hazardous substances being released into the environment.

4200 Dirksen Building

Finance

Business meeting, to continue consideration of H.R. 3919, to impose a windfall profit tax on domestic crude oil.

2221 Dirksen Building

10:30 a.m.

Select on Indian Affairs

To hold hearings on S. 1682, to authorize the Indian trust land comprising Wapato Point on Lake Chelan, Washington, to be leased for up to 99 years by the Wapato family; H.J. Res. 199, to correct certain land descriptions as contained in Public Law 95–498, providing that certain public lands be held by the United States in trust for the Santa Ana Pueblo Indians; and to consider S. 668, to allow the Cow Creek Bank of the Umpqua Indians of Oregon to file a claim with the U.S. Court of Claims for alleged failure of the United States to fulfill treaty obligations.

5110 Dirksen Building

11:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To resume hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.

6226 Dirksen Building

OCTOBER 1

9:30 a.m.

Energy and Natural Resources

Energy Regulation Subcommittee

To resume oversight hearings on S. 1684, to provide for the development, improvement, and operation of domestic refinery capabilities.

3110 Dirksen Building

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94–142).

4232 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

Environment, Soil Conservation, and Forestry Subcommittee

To hold hearings on the planning and program development process of the Forest and Rangeland Renewable Resources Planning Act of 1974, to emphasize amounts and location of resource availability over the next several years, and to provide recommendations to the Administration on possible program levels.

322 Russell Building

2:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 2

10:00 a.m.

Agriculture, Nutrition, and Forestry

Environment, Soil Conservation, and Forestry Subcommittee

To continue hearings on the planning and program development process of the Forest and Rangeland Renewable Resources Planning Act of 1974, to emphasize the amounts and location of resource availability over the next several years, and to provide recommendations to the Administration on possible program levels.

457 Russell Building

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To hold hearings on S. 1681, to require that a contractor on a Federal public construction project submit a notarized statement at the beginning and the end of each contract with respect to the wages and fringes to be paid or which have been paid on the project.

1318 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

4232 Dirksen Building

2:30 p.m.

Select on Ethics

Closed business meeting.

S–206, Capitol

OCTOBER 3

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1656, to promote the development of a strong domestic fishing industry, by strengthening the provisions of the Saltonstall-Kennedy Act which established a reserve fund to support fisheries development projects.

235 Russell Building

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94–142).

4232 Dirksen Building

9:45 a.m.

Governmental Affairs

Intergovernmental Relations Subcommittee

To resume hearings on S. 878 and 904, bills to simplify the administration of national policy requirements applicable to Federal assistance programs to State and local governments.

1114 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To continue hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

6226 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To mark up S. 1177, to establish a partnership between the Federal government and the States in the planning and provisions of mental health services.

Room to be announced

OCTOBER 4

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit and Rural Electrification Subcommittee

To hold hearings on S. 1465, proposed Farm Credit Act Amendments.

322 Russell Building

10:00 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To resume oversight hearings to examine the enforcement and administrative authority of the Federal Trade Commission.

235 Russell Building

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To continue hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

4232 Dirksen Building

OCTOBER 5

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit and Rural Electrification Subcommittee

To continue hearings on S. 1465, proposed Farm Credit Act Amendments.

322 Russell Building

Commerce, Science, and Transportation

Consumer Subcommittee

To continue oversight hearings to examine the enforcement and administrative authority of the Federal Trade Commission.

235 Russell Building

9:30 a.m.

Judiciary

To resume hearings on S. 1722 and 1723, bills to reform the Federal criminal laws and streamline the administration of criminal justice.

2228 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To continue hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

4232 Dirksen Building

OCTOBER 9

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit and Rural Electrification Subcommittee

To resume hearings on S. 1465, proposed Farm Credit Act Amendments.

322 Russell Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 10

9:00 a.m.

Energy and Natural Resources

To hold hearings on H.R. 3756, authorizing funds for fiscal years succeeding fiscal year 1980, to provide a medical care and environmental research program for the Marshall Islands, resulting from U.S. nuclear weapons tests, and to administer and enforce certain taxes and customs duties in the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa; and H.R. 3758, to stipulate that U.S. income tax laws will not become effective in the Northern Mariana Islands as a local territorial income tax until January 1, 1982.

3110 Dirksen Building

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To resume hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

1318 Dirksen Building

OCTOBER 11

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To continue hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

4232 Dirksen Building

OCTOBER 12

10:00 a.m.

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold hearings on S. 1637, to modify the existing oil and gas leasing system on public lands.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To continue hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

4232 Dirksen Building

OCTOBER 15

2:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 16

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 17

8:00 a.m.

Labor and Human Resources

Child and Human Development Subcommittee

To hold oversight hearings on the implementation of older American volunteer programs by ACTION agencies.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 18

10:00 a.m.

Energy and Natural Resources

To hold hearings on S. 1699, and Amendment No. 395 to S. 1308, measures to expand the existing energy impact assistance to State and local governments contained in the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620) to reflect recent legislative initiatives to foster greater domestic energy production.

3110 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 19

9:30 a.m.

Energy and Natural Resources

To continue hearings on S. 1699 and Amendment No. 395 to S. 1308, measures to expand the existing energy impact assistance to State and local governments contained in the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620) to reflect recent legislative initiatives to foster greater domestic energy production.

3110 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 23

10:00 a.m.

Labor and Human Resources

To hold oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training, and educational programs.

4232 Dirksen Building

OCTOBER 24

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on S. 829 and 1644, bills to provide for Federal management of a 20-year coordinated program in weather modification within the Department of Commerce.

235 Russell Building

10:00 a.m.

Labor and Human Resources

To continue oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training, and educational programs.

4232 Dirksen Building

OCTOBER 25

9:30 a.m.

Veterans' Affairs

To hold joint oversight hearings with the House Committee on Veterans' Affairs on administration policies to Veterans' Administration's medical care facilities.

345 Cannon Building

OCTOBER 26

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 829 and 1644, bills to provide for Federal management of a 20-year coordinated program in weather modification within the Department of Commerce.

235 Russell Building

OCTOBER 29

9:30 a.m.

*Veterans' Affairs

To hold hearings on S. 1523 and H.R. 4015, bills to provide the capability of maintaining health care and medical services for the elderly under the Veterans' Administration.

5110 Dirksen Building

OCTOBER 31

9:30 a.m.

Select on Small Business

To hold hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessability of information released by such services.

424 Russell Building

NOVEMBER 1

9:30 a.m.

Select on Small Business

To continue hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessability of information rereleased by such services.

424 Russell Building

NOVEMBER 14

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.

235 Russell Building

CANCELLATIONS

OCTOBER 5

10:00 a.m.

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To resume oversight hearings to examine alleged fraud and mismanagement practices in the General Services Administration.

3302 Dirksen Building

OCTOBER 15

9:30 a.m.

*Energy and Natural Resources

Energy Regulation Subcommittee

To continue hearings on S. 1684, to provide for the development, improvement, and operation of domestic refinery capabilities.

3110 Dirksen Building

SENATE—*Tuesday, September 25, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Our Father-God, we thank Thee for our creation, our preservation, the means of grace and especially for the altar of prayer which unites us in communion with Thee. Keep our Nation under Thy sovereignty, Thy guidance, and Thy judgment. Spare us from sectional, sectarian, racial, and ethnic divisions which frustrate national purpose and obstruct world peace. Forge into one united people the multitudes which have come here from diverse kindreds and tongues to become through many generations one nation under God. So wilt Thou give us grace and wisdom to keep alive the faith of the Founding Fathers, faith in the integrity of free man, faith in the invincibility of goodness and justice and mercy. Lord, be with all those who in the service of this Government work for that coming kingdom whose builder and maker is God. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 25, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no request for my time unless the minority leader needs it.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no need for my time. I observe, however, that the distinguished junior Senator from Virginia has a special order this morning to speak on an important subject.

I offer him the time I may have remaining under the standing order if he believes that time allocated under the special order is inadequate.

Mr. ROBERT C. BYRD. That is fine.

Mr. WARNER. I thank the majority and minority leaders.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Wisconsin who now presides over the Senate has an order for this morning. If he should need additional time, I will be glad to yield him part of my time and also if Mr. WARNER needs additional time I will be glad to add to the time that the minority leader is yielding.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders No. 336 and No. 303.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I do not plan to object, these items are cleared on our calendar. We have no objection to their consideration.

BUDGET ACT WAIVER

The resolution (S. Res. 218) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3923, was considered and agreed to, as follows:

Resolved, That pursuant to section 402 (c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 3923. Such waiver is necessary because of the delay in development of an administration proposal for reauthorization of the Commission to be funded. Moreover, funding for this purpose has been assumed in the fiscal year 1980 budget and included in fiscal year 1980 appropriations. Also, the nature (grants to agencies and institutions) of the program makes its uninterrupted continuation important and a waiver would not be disruptive to the budget process because of the size ($4,000,000) of the program and its inclusion in budget appropriations actions.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

The ACTING PRESIDENT pro tempore. The clerk will state the bill by title.

A bill (H.R. 3923) to amend chapter 25 of title 44, United States Code, to extend for 2 years the authorization of appropriations for the National Historical Publications and Records Commission, and for other purposes.

The Senate proceeded to consider the bill.

● Mr. PRYOR. Mr. President, in 1934 Congress established the National Historical Publications Commission to promote the collection and publication of the papers of outstanding citizens of the United States. For the first 30 years of its existence, the Commission operated without the support of public appropriations.

Today we are considering H.R. 3923, a bill to extend the authorization for the National Historical Publications and Records Commission at the current level of $4 million. H.R. 3923 was favorably reported by the Governmental Affairs Committee.

The National Historical Publications and Records Commission (NHPRC) is chaired by the Archivist of the United States and administered by the National Archives and Record Service, a component of the General Services Administration. The Commission recommends grants to Federal, State, local, and nonprofit agencies to safeguard historical materials and to make them more widely known and available for public use.

From private individuals, historical societies, libraries, and other institutions and repositories across the Nation, the projects under the Commission's aegis are gathering and publishing the written record of our history—of all periods and all areas of the country. The Commission offers advice and encouragement in all facets of documentary publication, establishes training programs for editors, and sponsors conferences and seminars on historical editing. It also assists editorial projects in searching for and making accessible valuable collections of historical materials previously unavailable for research.

In 1978, the Commission recommended 68 publications grants, averaging 32,000

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

each, to institutions and organizations in 23 States and the District of Columbia.

An extension of the Commission's funding authority at its current level will allow the Commission to continue functioning effectively and will allow Congress time to reexamine the Commission's financial needs.

I support the continuation of the important work of the National Historical Publications and Records Commission and I urge my colleagues to act favorably on H.R. 3923.●

● Mr. STEVENS. Mr. President, I strongly support the passage of H.R. 3923, a bill that extends for 2 years the authorization of appropriations for the National Historical Publications and Records Commission.

In 1934 Congress established the Commission, and since that time it has compiled, preserved, and published documentary source materials which had not been readily available to the public. This Commission has financially helped Federal, State, and local agencies and nonprofit organizations to enable them to collect, describe, preserve, and publish documentary sources significant to the history of the United States. In fiscal year 1978 some of the Commission-supported volumes published were journals and papers of Benjamin Henry Latrobe, Daniel Webster, John Adams, Alexander Hamilton, Henry Laurens, Stephen H. Long, and others.

As you can see, the Commission performs a very valuable function in helping us in the United States put ourselves in the perspective of our whole history. Therefore, I urge quick passage of this vital piece of legislation.●

UP AMENDMENT NO. 568

(Purpose: To extend the authorization of appropriations only for fiscal year 1981)

Mr. ROBERT C. BYRD. Mr. PRYOR has an amendment which I send to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

Mr. ROBERT C. BYRD. This amendment assures that the bill conforms with the Budget Act.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for Mr. PRYOR proposes an unprinted amendment numbered 568: On page 1, line 6, strike out "'September 30, 1980, and the succeeding fiscal year'" and insert "'September 30, 1981,' and by striking out 'for each year'".

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of Mr. PRYOR.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time and, as amended, passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An act to amend chapter 25 of title 44, United States Code, to extend for one year the authorization of appropriations for the National Historical Publications and Records Commission, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I have nothing further.

Mr. BAKER. I have nothing further, Mr. President.

If the Senator from Virginia has no need for my time I will yield it back.

Mr. President, I yield back the remainder of my time, if any, under the standing order.

RECOGNITION OF MR. WARNER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. WARNER) is recognized.

Mr. BAKER. Mr. President, if the Senator will yield, before he makes his statement, I ask unanimous consent to withdraw the yielding of the remaining time. I yield that time remaining under the standing order to the Senator from Virginia.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The remaining time of the Senator from Tennessee is yielded to the Senator from Virginia.

Under the previous order, the Senator from Virginia (Mr. WARNER) is recognized for not to exceed 15 minutes.

Mr. WARNER. I thank the Chair. I thank the distinguished majority leader and the distinguished minority leader for their courtesies this morning.

SALT II

Mr. WARNER. Mr. President, in recent months, I purposely have not taken a public stand—one way or the other—on Senate ratification of the SALT II treaty. Instead, I have worked with other Senators to insure that an arms-limitation treaty, if one becomes the law of the land, will enhance the national security of the United States and will, indeed, place reliable and safe restrictions on the arms race.

During this period, I have joined with Members of the Senate in expressing some legitimate concerns about various provisions of the SALT II treaty.

We have pointed out that the SALT II agreement allows the Soviets military advantages which are denied the United States, and which—unless corrected—will give strategic superiority to the Soviet Union within a few years.

As one example, the destructive power of one class of Soviet missiles alone—the "308 heavies" (SS–18 ICBM's)—exceeds the combined power of all of our ICBM's and SLBM's.

Another example is the Soviets' Backfire bomber, which the Defense Department acknowledges is capable of intercontinental missions against the United States without refueling—and can be equipped with nuclear cruise missiles.

Have we reached a determination that is convincing that these planes should be excluded from the treaty?

Still other provisions pose treaty ambiguities. The issue of verification, now clouded in the public's mind by the recent revelations about the presence of Soviet combat troops in Cuba, remains.

The question is: Is this the right time for a decision? Does the political atmosphere permit arrival at a fair and objective resolution of such vital issues?

I favor rational and genuine arms control, but I do not believe it possible, with the political atmosphere in which we find ourselves, to achieve this desired result in the present or even in the near future.

In the reality of the political atmosphere that exists today, can the Senate fairly and impartially determine whether legitimate concerns about the SALT II treaty are, in fact, flaws sufficient to require changes, renegotiation or outright rejection?

I perceive it impossible at this time.

I strongly urge the majority leader, the minority leader, and my colleagues to complete committee hearings on SALT II, to prepare committee reports, and to continue debate—but not to compel the Senate as a whole to take premature, hurried final action.

Delay will not adversely affect the chances for a SALT II agreement. The Soviet Union and the United States can and are moving forward on schedule with new and existing weapons permitted under the negotiated SALT II agreement.

Mr. President, it is my judgment that no final vote on this treaty should occur until the first session of the 97th Congress in 1981—until after next year's Presidential election.

It is a waste of time to try to assess fault against either the executive branch or the Senate as to why the dynamics of our political process forces such a decision on this treaty.

It is not fair, either to those who presently lean in favor of the SALT II agreement as written, or to those who lean against it unless changes are made, to force this decision under the existing circumstances.

These are my reasons:

First, the fate of this treaty will determine, in large part, the course of our national defense policy for the next decade. Therefore, every effort should be made to gain widespread public support because, as the debate has already unfolded, a clear perception is emerging that the we must strengthen our national defenses across the board. This will require greater public support and funding for defense.

In ever-increasing numbers, the American people are manifesting a concern that this treaty somehow is in conflict with their basic instinct of what is needed for their long-term survival.

This extended time will afford the Congress an opportunity to examine with care the 5-year defense plan which will be forthcoming early in 1980.

This Nation is witnessing now, in the closing days before October 1, the results of one treaty which did not have widespread public support and was ratified by only a single vote—the treaty on the Panama Canal.

We do not want a repeat.

Second, poll after public opinion poll—rightly or wrongly—is depicting an administration of steadily declining influence, declining to a position in which it is questionable whether it has the strength to turn back the thrust of senatorial critics demanding change or, conversely, accept legitimate requirements for change and perform the requisite diplomatic steps with the Soviet Union to gain final acceptance of the treaty.

Third, the schedule of deliberation on SALT II during 1979 is inconclusive. I do not make this observation in any criticism of the majority or minority leader, but it is a statement of fact. There is now, to my knowledge, no fixed date for the commencement of floor debate, and the reporting dates of the two committees—Foreign Relations and Armed Services—are undetermined at this hour.

Much of this problem of delay has been incurred as a consequence of the revelations about the presence of Soviet combat troops in Cuba. An issue that requires prompt resolution by the President.

Fourth, recognizing the unlikelihood—in fact, the inadvisability—of calling up this treaty to the Senate floor this year, we turn next to 1980, an election year dominated by campaigns for the Presidency as well as for a third of the Senate.

It is for this reason that the time for final action by the Senate has slipped away for now.

The debate, however, must continue because it affords us a rare opportunity for a review—in the context of campaigns for the Presidency and the Senate—of our whole national defense posture, our place in the world, and our plans for continued security and freedom.

If President Carter is his party's nominee, he will have the opportunity to take his arguments directly to the American people. He will be able to use the campaign as a forum for repairing his damaged credibility. If he wins reelection, he will have regained the strength and leadership he will need to bring about ratification of the SALT II treaty in some form acceptable to the Senate.

If, on the other hand, some new President is in the White House in 1981, he will have arrived there on the basis of a campaign in which the SALT II treaty and the border issue of national defense were major factors. He will be dealing from a position of mandated leadership and strength not only with the Senate, but with the Soviets, as well.

Mr. President, I thank the Chair, the majority leader, and the minority leader for their courtesy.

Mr. BAKER. Mr. President, will the Senator yield to me briefly?

Mr. WARNER. Yes.

Mr. BAKER. I wish to commend the distinguished Senator from Virginia for his careful and thorough statement on a subject of great importance. It has been my privilege for the last several months to see and observe the care and caution with which the Senator from Virginia approaches important issues, and to come to understand the diligence with which he addresses these problems and translates them into useful policies for the consideration of the Senate.

In the time the Senator from Virginia has been here, I believe few issues, indeed I believe no issue, has been presented which is of such fundamental importance to the future of the United States, and I am happy to hear, once again, the evidence of this careful consideration of this matter, for it deserves that quality and level of attention and consideration.

Mr. President, for some time I have been concerned about the future course of the foreign policy and national defense of this country as it relates to the SALT treaty. As long ago as January and February of 1979, I urged that we use the consideration of the SALT treaty as a forum for a great national debate on the relevance of our foreign policy and the adequacy of our national defense. I believe to a degree that has occurred. I believe as well there is a growing feeling that SALT should be considered in the context of real world circumstances, which include the insinuation of Russian combat troops in Cuba or the presence of Cuban troops in Africa or the Middle East. This may be linkage, but if it is linkage, then it is so. It is a fact of life in the real world circumstances.

Mr. President, in any event I feel that it is inescapable that those of us in this Chamber will consider SALT II in the light of those circumstances. In Russia in January, when I had the privilege of meeting with President Brezhnev, I heard his admonition, even his warning, that SALT should not be considered in linkage with other matters, and I replied at that time that in my humble judgment SALT might be considered free of linkage by the executive department of the Government of the United States or the Soviet Union, but that I thought it highly unlikely that the Senate would do that, that the Senate's rules were sufficiently flexible so that each of us would consider that treaty on its merits according to our own tests and standards, and that a degree of linkage was inevitable in the Senate.

I think the Senator from Virginia has pointed to our current situation with care and characteristic concern, for we have reached the place in the Senate where every other official word has been spoken and it is now up to us; and the grave question before us now is, what do we do with this treaty?

Frankly, I have not yet stated what I think we should do, whether we should postpone it or go ahead and take it up now. I have indicated previously that I thought the Russian troop situation in Cuba was another factor to be taken account of. I have not yet taken the position that we should postpone consideration of the treaty, but I have observed the growing sentiment for that in the Senate, and I wish to say now that the statement by the Senator from Virginia is an important addition to that growing sentiment, and that I will not oppose that.

I reiterate, I have not decided what I think, for whatever that is worth, as a single Senator from the State of Tennessee, whatever that may count for; I do not know yet how I feel about postponing the treaty or taking it up and disposing of it, in consideration of all the real life circumstances as we find them. But the statement of the Senator from Virginia is an important statement. He represents, I believe, a growing feeling in the Senate, and he states it very well.

So, Mr. President, I commend the Senator for expressing what I perceive to be the view of many Senators on an important option, one that I reserved early, and for making an important contribution to the consideration by the Senate of this important issue.

Mr. WARNER. Mr. President, I thank the distinguished minority leader for his senatorial courtesy.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. The Senator has 6 minutes and 45 seconds.

Mr. ROBERT C. BYRD. How much time does the Senator from Virginia have remaining?

The ACTING PRESIDENT pro tempore. Nine minutes remain of the combined time of the Senator from Tennessee and the Senator from Virginia.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, the distinguished Senator from Virginia has made a very calm, thoughtful, and restrained statement. I have noticed throughout the transcripts of the hearings by the Committee on Armed Services his equally thoughtful, careful, incisive questions; and, of course, he has made a statement today that deserves to be considered.

I do consider statements of this kind. I also consider other factors. I have been in touch with the three responsible committees. I have been talking with my colleagues. I talked with one dozen in 1 day, among those Senators who are yet uncommitted, and I am continuing to hold discussions.

I do not believe that we ought to set any arbitrary dates for this matter. I have never said that the treaty was coming up tomorrow or the next day, and if the island of Cuba did not even exist, the SALT treaty would not come up next week or even the week after next.

So I think that all of these statements about deadlines and about delaying the action on the treaty, are a bit premature. It is a little bit like running out of this building if the corner of the drapery catches on fire. There is no need for everybody to rush out because there is time to stay and put out the fire.

From the beginning, I have said that it is my intention to get on with consideration of the energy legislation before we take up the treaty. The committees have conducted their hearings on the treaty. They have been valuable hearings. Those hearings are continuing. The Intelligence Committee has been carefully studying the areas within its jurisdiction.

For my part, I have not reached a final decision on the treaty yet. I have never felt that this was something that I should rush to judgment on, so I have not jumped on the treaty and I have not jumped off the treaty. But I have been reading the transcripts. I have a stack of transcripts in my office and I have read every word of those transcripts.

So there is time to reach a judgment. But I would advocate that we not put this treaty over to the next Congress and have it discussed in the heat of a Presidential campaign. I cannot foresee events. I do not know what may happen tomorrow. We do not know what a day will bring forth. But to advocate that a matter of this seriousness be put over until the year after next, I think, with all due respect, would be a mistake.

What will happen? Obviously, if the treaty goes over into 1981, the Soviets may proceed with the deployment of their SS-16 intercontinental mobile missile. They can proceed to produce more than 30 Backfires annually. They can proceed with fractionation. They can put more than 10 independently targetable reentry vehicles on the SS-18. Conceivably, they can put 20, they can put 30 RV's on the missiles.

If there is no treaty, why should they wait? If we wait to carry this through a Presidential campaign, why should they wait? They may proceed. There will be no treaty, no agreement to inhibit or limit them.

Then, in 1981, we shall have a lot more catchup ball to play than we have even now.

Mr. President, we are talking about the security interests of the United States. If we put the treaty off until 1981, the SALT process will be put off until 1981. Who here believes that the Soviets would sit down in the meantime and negotiate further? They maintain that they have made concessions in this treaty—more than we.

I talked with President Brezhnev, I talked with Mr. Gromyko. They say, "We have made concessions, you have made concessions." But, Mr. President, if I enter into a contract that you are to sell me your house and I to purchase your house, you are satisfied with your end of the bargain, and I am satisfied with my end of the bargain. So, they have made concessions. They are not going to renegotiate that treaty between now and 1981 if we delay action on it.

So there you are. Fractionation could go forward. The SS-16 mobile could go forward. Production of the Backfire could be increased. They have the capability of increasing the number of new missiles. The SALT process would be stalled, stopped in its tracks. In the meantime, there would be no restrictions against encryption of telemetry.

So all of these things would go forward while the SALT process stops in its tracks, dead. Delaying action for long on this treaty, in my judgment, kills it.

The treaty emerged from the hearings in relatively good shape. During the August recess, it was discovered that there were some Soviet troops, some people say combat troops, in Cuba. Suddenly, the opposition seized upon this as a way to kill the treaty. Delay will also kill the treaty. With all due respect, I am sure that Mr. WARNER has spoken out of the sincerity of his heart. He believes the treaty ought to be put over until 1981. But there are elements in our society opposed to the treaty who advocate delay as another weapon to kill the treaty.

Mr. President, I am going soon to make my own public decision on the treaty. I am inclined to vote for it, but I have not fully decided. I want to hear what the Intelligence Committee says in its report to the Senate on the treaty. In the beginning I said that my approach to a decision on the treaty would be systematic, comprehensive, and thorough. The treaty was signed on June 18; this is 3 months later. I want to see what the Intelligence Committee says. Then I am going to make my final decision. Whether or not we ever vote on the treaty, I will at least have taken my position.

Mr. President, we hear this talk of linkage. I am concerned about Soviet troops in Cuba. I have no sympathy for their presence there. And I can be just as firm as the next man when there is a necessity for it. But we have known there have been Soviets in Cuba all along. This latest revelation perhaps could have come to light earlier, but it did not. But to link the two, I think, is to cut off the finger to spite the arm. These are two entirely different matters. The treaty deals with strategic nuclear forces, central systems. The situation in Cuba has nothing to do with central strategic systems.

Why all this sudden panic? Why all this sudden hysteria? Why? I ask why? What does the Cuban situation have to do with the SALT treaty, a treaty that deals with central strategic systems, that is a step in the SALT process, a step in the direction of what we hope will eventually become a meaningful reduction in strategic nuclear weapons and the correcting of an adverse imbalance in theater nuclear forces in Europe and in conventional forces?

If emotions are allowed to govern our words and actions in this situation, I think there is a danger that we can lose both the finger and the arm. I would like to see the Cuban situation resolved. I think it can best be resolved in a diplomatic way—calmly.

I do not know what such a resolution might be. I do not even know what the precise facts are, and I do not know whether anyone else in his body does. The Soviets say the troops have been in Cuba for years. It is said that there has been no increase over a period of years—perhaps fluctuations, 500 up or down, from time to time.

Now, if, suddenly, Soviet troops in Cuba were found to be guarding an SS-18 camouflaged under a banana tree, I would say, then, yes, delay the treaty, for that would be a clear violation of the Kennedy-Khrushchev agreement. But we are told that those troops do not pose any security threat to our country. They have apparently been there all these years. We have known all along that there were other Soviet troops there training the Cubans. So why link that situation with the treaty. If we persist in doing so, we may end up losing the SALT treaty and losing on the Cuban issue also. Then where will we be?

I say, Mr. President, let us be just a little more steady, a little more calm. There is time. I cannot call the treaty up if the Senate Foreign Relations Committee does not report it. But I certainly hope it will report the treaty. I hope it will continue with its hearings, mark up the treaty, and report it.

Reporting the treaty from the committee does not mean that it is going to be taken up immediately in the Senate I have a little sense of timing, and I am not going to call up the treaty if there are only 50 or 55 or 60 votes in favor of it.

But I think it ought to be reported out, put on the calendar, and we can take a look at the situation as we go along.

So in this sudden rush to not take it up, to put it over until 1981, to let it be an issue in the campaign, what is going to happen to the national security interests of this country? I do not claim to have any monopoly on concern about our security. Every Senator is concerned about this as much as I am. We do see things differently, sometimes, of course.

But let us stop, and look, and listen. Let us back off just a little bit and see the forest as well as the trees. There is ample time. The treaty is not going to be brought up tomorrow, or not even week after next.

But in the meantime, let the committee proceed, report the treaty out, get it on the calendar.

There are items on the legislative calendar that will never be brought up in this session or this Congress. The fact they are on the calendar does not hurt the calendar. It might require an extra page in the calendar.

So let us just calm down a little bit.

I cannot control any other Senators'

emotions or feelings. They can, of course, say what they think.

But I never have to worry about what I did not say; I never have to take back what I do not say. There is plenty of time to speak. When we have the Senate floor debate, which I hope we will, there will be time for every Senator to voice his opinion, pro and con, and to vote as he sees fit.

I thank the distinguished Senator from Virginia for his carefully thought out and restrained approach to this whole problem from the very beginning.

His questions in the committee were pertinent. They were thoughtful. His experience prior to coming to the Senate is evident in the questions he asked. How do I know this? Because I read the transcripts of the hearings.

I have been impressed by his knowledge, backed up by his experience.

So what I say here is certainly not, I am sure the Senator will understand, out of anything other than respect for him.

(During the foregoing remarks the chair was assumed first by Mr. BRADLEY, and then by Mr. HEFLIN.)

Mr. WARNER. I thank the distinguished majority leader.

I interpret his remarks as not to include me in the characterization of one who is reacting from any panic or haste. It is quite the opposite.

Further, I will never be a party to using simply a delay tactic as a means by which to defeat or thwart this treaty. Quite the contrary, Mr. President. I do not think that my statement results in the stopping of the SALT II deliberation. The delay I recommend gives SALT II deliberations an even greater impetus, not only within this Chamber, but in the whole of the public domain across the Nation.

The SALT II agreement with the attendant national defense implications will become one of the two or three major issues in the Presidential debate, thereby, hopefully, elevating the public's knowledge of the seriousness of the national defense issues and the implications of the treaty pro and con as it is now written.

While I felt it was imperative in this statement to mention Cuba, in no way did I dwell on Cuba and the presence of Soviet troops as a reason for stopping this.

Yes, the Senate deliberation in the committees has stopped. In our Armed Services Committee we have yet to schedule further hearings.

I think it is quite proper that the leadership of this Senate and my colleagues have restrained themselves in criticizing the President. Give him the option to decide what is the best course of action in the light of the presence of Soviet troops in Cuba.

Nevertheless, if I interpret what the majority leader said, and I think I quote his words accurately, he does not feel that the final decision on this treaty should be during an election year, 1980, and I consider that as a support of my position. Therefore, we are looking at a near 90-day time frame, October, November, December, within which he anticipates a finality within the Senate?

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. WARNER. Yes.

Mr. ROBERT C. BYRD. The Senator did not understand me precisely, and I think that is my fault.

I do not think I said I did not advocate a decision on the treaty in an election year of 1980. I hope I did not say that. We could very well have a decision in January or February.

What I am saying is that I do not advocate putting it over to 1980, I do not advocate delay, and I certainly do not advocate putting it over until 1981 and having this treaty hostage to a campaign.

So if I might make that slight distinction, I thank the Senator.

Mr. WARNER. I thank the majority leader.

Mr. President, I yield to the minority leader.

Mr. BAKER. I thank the Senator.

Mr. President, I will not prolong the debate. It has been a good debate. I think we owe the Senator from Virginia a debt of gratitude for not only his statement, but providing this occasion this morning for this discussion of this issue.

I will not have much more to say, but I would like to make two or three observations.

Mr. President, sometimes—sometimes, sometimes—the things we do not say do, in fact, cause us problems, and I am sure the majority leader understands when I take that degree of issue with him. But I am thinking particularly of what position the Government of the United States is going to take in respect to these troops in Cuba.

When the President invited the joint leadership of the Congress to the White House for a briefing on this subject, I said then, and repeated later for the TV media and for the press generally, that I am going to forbear decision on what I think the President ought to do because we cannot have but one President at a time. He has to manage this problem and I will not circumvent his opportunity and obligation.

But the only thing he cannot do is nothing. He has to do something. That has been almost 3 weeks now, and at some point inaction can become a form of action.

If there is no response to the presence of a Russian combat brigade in Cuba, then that itself is a statement of American policy.

While this should not be determinative of the outcome of SALT by itself, it is another in a long series of Soviet initiatives in the Caribbean, in this hemisphere, in Africa, and in the Middle East, that represent a continuation of challenge by the Soviet Union to the United States, beginning at the time of the execution of SALT I.

The only thing worse than defeating this treaty, or failing to ratify it, would be ratifying a bad treaty.

I reiterate what I said before, Mr. President, I have not decided whether I think we should postpone this matter or go ahead and consider it this year. But regardless of that, it has to be an issue in the public forum of the Presidential contest next year because it is a matter of that importance, of that caliber.

Whether we ratify it, amend it, reject it, postpone it, it has to be discussed, and it has to be a major issue; because foreign policy and national defense are major issue in every campaign for President, for Congress, for every national political encounter, as they properly should be.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. BAKER. Mr. President, I yielded my time to the Senator from Virginia, and he has control of the time.

Mr. WARNER. I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to comment on the statement by the distinguished majority leader about the treaty's being an issue in the campaign.

Is it not true that whether or not candidates wish to make it an issue, the people are going to make it an issue? Is it not true that the people of the United States will want to know how candidates for the Senate next year stand on that particular question?

This is a vital question. It is one of the most vital questions that will come before this body for years to come, because the very security of our Nation is at stake.

In my opinion, it is a question that cannot be avoided. It is a question that must be answered. It is a question that will be an issue in the campaign, injected into it by the people of this country, and rightfully so, whether or not the candidates make it an issue.

Mr. ROBERT C. BYRD. Mr. President, I will not prolong this debate. There will be plenty of time to discuss this in the future.

Yes, I think the people should know how Members stand, but let us go ahead with the treaty, call it up, and let Senators take their stand. Then the people will know how all Senators stand. It will be a campaign issue next year, but let us have the treaty disposed of, one way or another, before then.

The politicians can campaign all they wish next year, on either side, but let us not put off the treaty. Let us not make it hostage. Let us not make it the victim of the campaign.

My friend, the distinguished minority leader, talks about this being a challenge to the President and that the one thing the President cannot do is "nothing." Well, the President has not been standing idle. He has attempted to get the facts. First of all, we have to have the facts. It is said, "the status quo is unacceptable." What is the status quo?

I think we have to know how many troops are there, when they went there, what their mission is, how many units there are, what the prospects are for the future. That is what the status quo is.

So, with respect to the challenge to the President, to say that "the one thing he cannot do is nothing," he is doing something. What else can he do?

We talk about these deadlines. My friend the minority leader says, "I won't be on his back. I won't say anything for another week or I'll give him 10 days." Then what?

I say to the minority leader that he should state his position now. Do not wait 10 days; do not wait a week. He should state what he would do. He should say what he would do. Then, if such action is seen by the Soviets as a threat, what do we do?

If you come into my office and I say, "Get out," and you do not get out, then the next move is up to me. What do I do? So we imply that there must be a deadline: We will give a week; we will give 10 days. Then what?

Let us hear what the distinguished minority leader has to say. What does he suggest the President do?

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. I point out that at the meeting I am referring to, the President asked me to forbear and withhold making a public statement

I told the President of the United States at that meeting: "Look, it has been 2 weeks. I feel I am relieved of the self-imposed obligation to not try to second-guess you in public. You're the President. I'm relieved of that by the operation of time."

The President of the United States said to me: "Howard, don't do that yet. We need some more time."

I am doing that as an accommodation to the President. It is not a threat. It is at his request.

Mr. ROBERT C. BYRD. I certainly would not presume to see myself as President, Secretary of State, and national security adviser, all in one, and say to the President, "You've got a week or you've got 10 days or you've got whatever."

I suggest that if any Senator has a recommendation, he should come forward with it.

Let us give diplomacy time to work. If we say, "We have to take action," what action do we propose?

Suppose we say, "Get out." Suppose they do not get out. Then what? Are we going to kill the SALT treaty and cut off our nose to spite our face? We could lose on both issues.

I advocate that we take it a little slower, take it a little cooler, and see what can be worked out. That is the constructive approach.

Mr. WARNER. Mr. President, as I understand the procedure, the very gentleman who must occupy that chair, the floor manager of the treaty, the distinguished chairman——

The PRESIDING OFFICER. The time that has been allotted has expired.

Mr. ROBERT C. BYRD. Mr. President, I do not usually ask for this time to be extended, but the Senator from Virginia and the minority leader certainly should have this time. They yielded to me graciously.

I ask unanimous consent that an additional 3 minutes be allotted to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I repeat my question to the distinguished majority leader.

In that chair will be the man who will manage the floor debate—presumably, the chairman of the Committee on Foreign Relations—and he has addressed the public and his colleagues in the Senate, although rhetorically, saying, "Unless the troops are removed, we cannot go forward." We see emanating from the White House the foundation stories which presumably lead to something less than the condition precedent he has set.

The point that the majority leader stresses is that we should not combine the situation with respect to Cuba with the matter of the SALT treaty that I address today. It is the reality of the political situation. We in the Senate are not at fault, nor is the President, but it is the state of the matter that we must recognize.

Mr. ROBERT C. BYRD. I understand the position of the distinguished Senator. I simply am saying, "Let us not interdict the decision on the treaty by advocating delay, which, in the final analysis, can only kill the treaty."

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield

Mr. CRANSTON. Mr. President, our Secretary of State, only yesterday, met with the Secretary of State of the Soviet Union. That is the first time those levels have been reached in the discussion of the Soviet troops. I think that form of negotiation should be permitted a reasonable amount of time before extreme demands are made.

I fail to see the relevance between Soviet troops in Cuba and the SALT treaty. There is, of course, a relevance in emotion and in politics. There is no relevance in terms of logic or in terms of our national defense interests.

This controversy with the Soviet Union over troops in Cuba is not our first, nor will it be our last, collision with the Soviet Union. We have different systems, different philosophies, different political objectives, different social aims, different world views. Plainly, we will meet in direct controversy time and time and time again.

The purpose of the SALT treaty is to set certain ground rules that will contain the dimensions of these collisions so that they will be less likely to wind up in a nuclear holocaust. That is why our present argument over Soviet troops in Cuba, it seems to me, is really an argument for proceeding with SALT—not an argument for defeating, rejecting, or setting SALT aside.

The gravest danger to our national security lies in the possibility of a nuclear war with the other super power, the Soviet Union. While SALT II is not a certain way to avoid that, it is a step in the process. For that reason, we should proceed with it, regardless of our difficulties with the Soviet Union over troops in Cuba.

The PRESIDING OFFICER. The additional time has expired.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

WHY NO COMPLAINT ABOUT INTEREST RATES?

Mr. PROXMIRE. Mr. President, interest rates right now are at the highest levels they have ever been at in the history of the Republic. For hundreds of thousands of American families buying homes, those rates will be a burden they must carry for many years to come.

The burden on farmers, on small businessmen, on auto buyers is very heavy, indeed, and the country seems to be moving into a recession. Industrial production is falling off. Unemployment is beginning to increase. Housing starts are weakening. Inventories are starting to climb.

And what effect do interest rates—high interest rates have on all of this? A respected member of the Board of Federal Reserve Governors, Charles Partee, says that every notch that interest rates rise has a more depressing effect on the economy.

We know the monetary policy now being followed by the Federal Reserve Board—the deliberate tightening of credit—the conscious raising of interest rates is sure to deepen and lengthen whatever recession we have.

And the remarkable fact is that almost no one in authority is protesting this.

Rising interest rates were vigorously protested by Presidents and House and Senate Banking Committee chairmen in the past when they rose above 6 percent. Now they are more than twice that high and there is a deafening silence from the White House and Capitol Hill. Even the press is barely mumbling about record high, sky high, cruelly high interest rates.

The New York Times lead editorial this morning entitled "A Leaden Foot on the Monetary Brakes" is a notable but rare exception.

So, what gives here? Is everyone asleep?

The answer is that one of the unusual transformations in economic history has taken place in this country in the past few years. There is a new and stunningly broad recognition that this grim inflationary situation in which we find ourselves requires some very painful medicine. Part of that medicine is monetary restraint.

This is a credit economy we live in. Consumers and business move on credit. If people can borrow freely and cheaply an important element of economic prosperity is in place. On the other hand if businessmen and their customers cannot borrow, if credit is not there, or if it is too costly, business is sure to slow down. And what the Federal Reserve is doing right now is making credit so costly that business slows down and prices begin to ease.

This is the so-called old-time religion. You slow inflation by slowing the economy. And that means—more unemployment, lower profits, more business failures. If it works at all, it can work only through consumers having less money to spend. So they slow down their buying of homes and cars and appliances. If it works, through business not being able to afford the higher interest rates so business foregoes borrowing to buy equipment or build buildings. If it works, it works through farmers not being able to afford the higher rates of interest so they stop buying equipment and supplies and fuel.

It is a cruel, painful, ugly, dismal, unpopular course, but when it comes to fighting inflation, it is the only game in town.

And inflation has become so big and promises to last so long and become so devastatingly destructive that there are few, very few voices raised against this blunt bludgeoning instrument that promises to push the country into a deeper recession and is sure to be costly and painful to tens of millions of Americans.

This is a fascinating watershed in American economic policy. In my judgment the tough credit restraint policy of the Federal Reserve—the fight-inflation-at-all-cost approach is half right. I repeat half right, right by half. And it is to the credit of the President, Congress, the press, the academic community that in spite of its pain there is very little opposition to it.

But, Mr. President, I did say half right, there is one missing ingredient. The trouble is that monetary policy, no matter how firmly and strongly pursued by the new Chairman of the Fed and his colleagues cannot do the inflationary job alone. It must be accompanied by a fiscal policy that is also restrained. If fiscal policy continues to be expansionary as it has been in the past couple of years and continues to be with our huge present and prospective deficits, then monetary policy will fail. It will give us super big interest rates along with super high prices. Whatever the tight credit policies take out of the economy in discouraging private spending, the loose fiscal policies will put back in by pushing ahead with public spending.

Anyone disagree? If they do, they must argue that these high interest rates are the price we must pay—not to fight inflation—but to permit government spending to continue to explode and government deficits in the tens of billions to continue on during the worst inflationary period in American history.

Mr. President, it is a remarkable sign of America's economic maturity that this country is willing to accept the pain and punishment of high interest rates to fight inflation with hardly a murmur of protest. It is unfortunate that our leadership has not found the way to make that fight a winner by applying equally tough restraints to Government spending.

Mr. President, there is a tendency for all of us to rise in the Chamber and speak out vigorously on matters about which we can do nothing. We may deplore the conduct of the Soviet Union or some American general in Korea. We may attack the Government of Cambodia or criticize the policies of Mexico.

But when it comes to interest rates, the buck stops right here. Interest rates are not the responsibility of the President. I can recall sitting in the Banking Committee over the years when Senators vehemently attacked the Secretary of the Treasury or the Chairman of the Council of Economic Advisers for high interest rates.

Senators who make such an attack should reread the Constitution. The Constitution gives the money power, which includes the power over interest rates, entirely and exclusively to Congress. It is specifically enumerated in the Constitution as a congressional power.

The President has no right under the Constitution to butt in. Now, it is true that as a matter of fact we have created a Federal Reserve Board which determines the availability of credit and, of course, that supply of credit can directly influence the price of credit or interest rates. So you can argue that it is not Congress that determines monetary policy and the rate of interest. It is the Federal Reserve Board. Does that get Congress off the hook for high interest rates?

No way. The constitutional power is not given the Federal Reserve Board. It is given to Congress. We as a Congress delegate that power to our creature: The Federal Reserve Board. Any action the Fed takes in our name, not in the name of the President, but in the name of Congress, we can undo. If any Senator thinks interests rates are too high or that monetary policy is mistaken, he could speak out.

It happens that the Banking Committees of the House and Senate have committee jurisdiction over the Federal Reserve Board. One way to bring the Fed to account is to require the Chairman of the Fed to appear before the committee, cross examine him, and challenge his policy. The committee could, if it disagreed with the Fed's policy, draft a resoluton saying so and bring this before the Senate and eventually the House for action. If Congress agreed with the resolution we could instruct the Fed to follow a different policy. We could direct them to ease up on monetary restraint. We could tell them to make credit more freely available. We could in doing so accomplish what the President cannot do. We could reduce the rate of interest. But in the course of doing this we would lay the groundwork for a more serious inflation in the future, because, of course, the cheapening of credit by making it more abundant would mean that we would have more money chasing the given supply of goods, and that could do nothing except drive prices up. But the temporary consequence would indeed be a lowering of interest rates.

I described that process as originating with the Banking Committee. That is one way, the conventional way, the action could begin.

It is certainly not the only way. Any Member of this body—and I rise this morning to challenge my colleagues in the Senate—any Member of this body, any one of the 100 Senators could introduce such a resolution requiring an easier monetary policy and a temporary reduction in interest rates.

And as chairman of the Banking Committee I can assure members who do that that I would promptly schedule hearings on such a resolution. The committee would invite the Chairman of the Fed and other monetary experts to testify as well as the Senator introducing the resolution and whatever experts that Senator would like to have testify. I would assure such a Senator that the committee would promptly act on such a resolution. And I would also assure the Senator introducing such a resolution that if the committee defeated such a resolution that I would be glad to urge the leadership of the Senate to permit the Senate as a body to act on such a resolution in spite of the adverse action of the committee.

Of course, any one of the 435 Members of the House could take a similar initiative.

Mr. President, here is one monkey that is not on the back of the President. It is on the back of Congress. It is up to us. It happens that I think Mr. Volcker and a majority of the Federal Reserve Board are right in following this policy on interest rates. I say that in spite of the cruelly, painfully high level of interest rates. I say that in spite of the prospect of high interest rates could drive us at least temporarily into a deeper recession with higher levels of unemployment. I say that although the level of interest rates may not have peaked, they could go higher.

I say that because our No. 1 problem is inflation. We should not take our eye off that ball—and tight credit and high interest rates is one way to fight inflation.

In my judgment, it would be just as foolish for us to throw in the towel in fighting inflation with a restrained credit policy as it would be for us to continue to throw in the sponge when it comes to a truly austere and tight fiscal policy. We need them both.

Senator MUSKIE and Senator BELLMON have given this body superb leadership on the fiscal front. Unfortunately the Senate has failed to follow that leadership as we should.

The new chairman of the Federal Reserve Board, Paul Volcker has given us similarly wise leadership in fighting inflation on the monetary front. So far we have permitted that leadership to operate effectively. I hope we continue to do so. But we must recognize as we do it that this monetary policy is not the President's, and basically it is not even the Federal Reserve's policy; it is Congress policy. It is ours and we should stand up and acknowledge it, or strive to change it as we have the clear power to do.

OUR CONSTITUTION: NO BARRIER TO GENOCIDE RATIFICATION

Mr. PROXMIRE. Mr. President, for years opponents of the Genocide Convention have maintained that ratification would violate our U.S. Constitution. It is time we dismiss that charge completely.

It is argued that the Constitution prevents ratification of the treaty because genocide is a "domestic" matter. Genocide is certainly not just a domestic matter. It is most definitely an international concern.

The human rights movement, of which the Genocide Convention is part, is of worldwide importance. When Hitler exterminated millions of Jews in World War II, the impact was felt in many nations. Reverberations are, in fact, still felt today. Genocide is of international, not just domestic, concern. Ratification by 83 nations is evidence of that.

No provision of our Constitution prohibits ratification of the Genocide Convention. Moreover, many of our allies operating under a democratic form of government have ratified the Convention without limitation or reservation. These include, for example, the United Kingdom, Canada, and France.

Mr. President, the protection of human rights is a matter of great concern, both national and international. The United States has shown its support of international human rights by ratifying the World War II peace treaties as well as the Supplementary Conventions on Slavery in 1967 and Refugees in 1968. The signing of the Genocide treaty would, therefore, in no may be precedent setting.

Mr. President, in concluding today I quote former Supreme Court Justice Tom C. Clark, who stated that:

> Treaties which deal with the rights of individuals within their own countries as a matter of international concern may be a proper exercise of the treaty making power of the United States. . . . It may seem almost anachronistic that this question continues to be raised.

Mr. Clark's view is compelling and correct. I urge my colleagues to join with me in fully supporting the Genocide Convention.

Mr. President, I yield back the remainder of my time.

PANAMA CANAL ACT OF 1979—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report on H.R. 111.

Mr. LEVIN. Mr. President, I submit a report of the committee of conference on H.R. 111 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The Legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 24, 1979.)

The PRESIDING OFFICER. Time for debate on the conference report is limited to 2 hours, to be equally divided and controlled by the Senator from Michigan (Mr. LEVIN) and the Senator from South Carolina (Mr. THURMOND), with 1 hour on the Dole motion to recommit, on which there shall be no point of order to said motion or amendments thereto and with debate on any debatable motion, appeal, or point of order to come out of the 2 hours on the conference report.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield to the Senator from Mississippi as much time as he needs.

Mr. STENNIS. Mr. President, I thank the Senator from Michigan. I shall not use much time. I want to briefly outline the relatively small points but meaningful points that the conference took up in addition to matters that had already been settled under the bill that was before the Senate last week.

I say they are relatively minor, but they are meaningful. We did not yield anything of real substance that we thought in any way violated the Constitution of the United States which makes a treaty duly adopted the supreme law of the land.

I voted against the treaty, however this matter of the implemention of the treaty is another matter.

The conferees on H.R. 111, the bill to implement the Panama Canal treaties, met yesterday and have again reached an agreement on this very important piece of legislation.

The Senate conferees have very reluctantly agreed to a small number of additional provisions, and we are hopeful that these changes will lead to the approval of the conference report by the other body as well as our own. I can assure the Senate that these changes do not alter my conclusion that this is a good bill and deserves to be supported.

On the question of the membership of the Panama Canal Commission Board, the Senate conferees agreed to move somewhat closer to the original House provision by modifying the bill to specify that three members of the Board must have experience in port, shipping, and labor matters. The basic structure of the Board, which includes three private members, remains the same.

May I say a special word there, Mr. President. I yielded on that point for the sake of saving the bill so that we pass what is considered necessary legislation. Basically I believe in putting the responsibility where the power is, that is, on the Chief Executive. The Chief Executive makes these appointments, and I think he ought to carry the responsibility for them, along with the power that he is given. Nevertheless, this language makes certain modifications which can well prove to be helpful. I am not dogmatic about it. I just want to point this out as an exception to my basic belief about the Constitution. This is particularly true when the nomination by the Chief Executive, whoever he may be, is subject to confirmation by this body, which is a protection of the legislative branch of the Government under that provision already passed.

As to the disposition of property, the conferees agreed to an additional statement in the bill which makes it crystal clear that the President is not authorized to transfer the canal itself to Panama until the treaty mandated date of December 31, 1999. It was our view that this accelerated transfer was not contemplated by the treaty in any event, but this language removes any doubt that may have existed in anyone's mind.

On the matter of the contingency payment, the conferees agreed to some modifications of the language without sacrificing the principle that only legitimate operation and maintenance costs—and not other costs, such as military expenditures—are to take precedence over the contingency payment.

Some Members had expressed a feeling that our language on retroactive taxation was not strong enough, so the conferees agreed to strengthen that portion of the bill to make it clear that the President should not accept any interpretation of the treaty that allows for retroactive taxation.

Finally, Mr. President all Members will remember that there was a discussion about the dangers of foreign troops in Panama during the life of the treaty. Responsive to the concern, the conferees added new language to the statement of managers which makes it clear that the presence of such troops in Panama would be interpreted as a threat to the canal under section 1108 of the bill.

I believe that the Senate conferees have now compromised just as far as they can on this legislation. It is absolutely imperative that it be enacted into law and signed by the President before October 1. Otherwise we break faith with our employees in Panama and jeopardize our own rights under the treaty.

As a matter of fact if we do not implement in some way this treaty that was constitutionally adopted by a two-thirds vote of this body last year then we will have no treaty to operate under. Our present treaty of 1903 will be automatically vacated October 1. We must have some law to protect our remaining vested interests that are in Panama in connection with the canal and will remain there until December 31, 1999.

I believe too these changes will be acceptable to the House, and I urge that the conference report be agreed to in this body.

Mr. President, this is an unusual situation in that it is generally agreed we must have legislation. It is generally agreed that the points that have to be covered to protect our own rights. At the same time, this legislation runs across the jurisdiction of several committees. This is particularly true in the House. The membership of this body, which acted primarily through the Committee on Armed Services, went to a great deal of extra work and a great deal of extra yielding in order to get a composite bill that came within the law and was within the confines of the better judgment of several groups.

So I consider it a privilege to have had a part in handling this bill in the conference. I want to again thank every member of our Senate Armed Services Committee for a very fine outlook and view. I want to specifically thank again the Senator from Michigan (Mr. LEVIN), who has labored long, faithfully, and with effectiveness during hearings on the bill—it was largely through him that the testimony was heard—for participation in the markup, and every other step all the way through. He had some excellent help, and I could name those individuals.

Let me make one observation here that is irrelevant to our schedule. I was not here, but some reference has been made this morning in the discussion of SALT that the Senate Armed Services Committee had not conducted its hearings on that matter. We have by no means abandoned those hearings.

Let me just point out that today, as we stand here, the Senate Armed Services Committee is meeting on a highly important bill that relates to the officer corps of all the military services. Some members of the committee are here on the floor to present this conference report that we finished yesterday afternoon about 5 o'clock. This afternoon at 2 o'clock the Senate Armed Services Committee goes into conference with the House of Representatives on the entire authorization bill for the Department of Defense for fiscal year 1980, where many things are in issue.

I say that to illustrate the program and the schedule of our committee. We are proud to render such service, but it is just a fact that we could not be holding hearings on SALT today and carry on these other activities.

I have been trying to arrange a suitable time for hearings and make it possible for all our Members to attend those hearings. Our Members are tied up on other things. The Chairman of the Energy Committee, when he found out that energy bills were coming in just as soon as these matters are disposed of, wanted it to be changed on that account. I want a chance for all other Senators to be present. We just have not had a chance to bring energy matters to the floor.

But on the SALT matter we must, we should and we will continue. We have to get this military authorization bill through. We are running late. We passed our bill in June, and we have to get the conference report together this week if at all possible. I understand that the House Members may not be here next week, so I am putting that first this week. When that is over, we will go on and schedule the SALT hearings unless there are major energy bills pending, in which case we will have to suspend them.

I make that statement for the information of the membership.

Mr. STENNIS subsequently said: Mr. President, I shall use just 1 minute. The Senator from South Carolina is detained on another important matter.

I want to quote here from the Constitution, Mr. President. I refer now to article II of the Constitution of the United States, which reads as follows:

> He—

Meaning the Chief Executive.

> shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur;

There, Mr. President, it is in plain terms that a treaty has to be approved by two-thirds of the Senators present.

Article VI provides as follows:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land,

Mr. President, those two articles, read together, in plain, simple, ordinary language, show that this treaty about the Panama Canal, having been concurred in by two-thirds of the Senators present and voting, becomes the supreme law of the land, with the status of a treaty, as soon as the date that is used shall come, which is October 1, 1979.

Mr. LEVIN. Mr. President, first of all, let me thank my friend from Mississippi for his kind remarks.

On behalf of the Senate conferees on the Panama Canal implementing bill, I join Senator STENNIS in bringing to the full Senate a second conference report. As other Senators may be aware, the conference report which the Senate approved last week, by a relatively wide margin, was subsequently defeated by the House by a vote of 203 to 192. The House then requested a further conference with the Senate, and the Senate accepted that request.

Speaking as one member of that conference, I returned to our discussions fully prepared to listen to any proposals the House might offer, but not inclined to make any substantial change in the conference report. I felt that we had negotiated a tight and well-balanced bill, and one which protected the U.S. interests, the U.S. Treasury, and one which avoided any treaty violations.

I was not prepared, nor I think were most Senate conferees, to accept substitute changes in the bill, changes which might be inimical to the interests of the United States, or to the Senate's position, or changes which might plunge us into the self-defeating realm of treaty violations, simply because of political difficulties involving the House.

The package which we adopted does not, in my judgment, strike at the integrity of any fundamental interests of our country or of this body. Moreover, the changes responded not only to concerns expressed by House Members during last week's debate, but to concerns expressed by Members of the Senate as well.

Last week I discussed in some detail the major provisions of the conference report. I do not intend to repeat that, but I would like to discuss the changes which are embodied in this report.

First, some concern was expressed in both Houses that the statutory authority which this bill grants to the President to transfer property to Panama could authorize him to turn over the canal itself prior to the termination of the treaty on December 31, 1999. Personally, I do not and did not subscribe to such an interpretation, because the treaty clearly states that the canal will be transferred to Panama upon the termination of the treaty, and I do not believe that that leaves any ambiguity. However, to reassure those who raised this issue, the conferees inserted language in the conference report stating that the Panama Canal itself may not be turned over to Panama until the termination of the treaty. This language will, I hope, put to rest the lingering fear of some that the President might throw all political, much less national interest, considerations to the winds and offer the canal to Panama earlier then the treaty requires.

Second, the conference report contains a provision stating that no funds may be paid to Panama under the so-called contingency payment until those funds are used to pay all costs associated with the operation and maintenance of the canal—costs which are then spelled out. It was always the intention of both the House and Senate that, in accordance with the treaty, all legitimate operating expenses of the Commission should be recovered before the contingency payment would be made. The conference report adds two items to the list of allowable expenditures: Payments to the Treasury as reimbursement for costs incurred by other agencies (primarily the Defense Department) in providing educational, health, and other services to employees and dependents of the Panama Canal Commission, and any other operation and maintenance costs of the Commission itself which may not be explicitly enumerated in the relevant section. However, this section clearly restricts costs which may be paid by the Commission prior to the contingency payment to operation and maintenance costs of the Commission itself, for to include our implementation costs of the treaty in this calculation as distinguished from the Commission's implementation costs would violate the terms of the treaty.

Third, the conferees decided to reiterate the provision in the treaty which prohibits Panama from imposing retroactive taxes on organizations and businesses operating, and individuals living, in the Canal Zone prior to the date the treaty takes effect.

Again, it is my belief that this provision is really unnecessary, because the treaty is quite explicit on this point, and it has been confirmed by an exchange of notes between the United States and Panama. However, to respond to concerns which were raised, the conferees added language prohibiting the President from accepting any interpretation of the treaty which would permit such retroactive taxation. If, therefore, Panama did impose such taxes, we would hold them in violation of the treaty, and would have the right under international law to make an appropriate response.

Fourth, the conferees made a change in the provision of the bill specifying the composition of the U.S. membership on the Commission's supervisory Board. The conference report originally contained a requirement that three of the five U.S. members be from the private sector, and the statement of managers recommended to the President that those three members have experience in port and shipping operations and labor matters. In the new version, the President is required to appoint three Board members with those specific areas of experience, and three members from the private sector, but they need not necessarily be the same three members. That is, an appointee might have a particular type of private-sector experience, but might be a Government official at the time of his or her appointment. This provision is somewhat less restrictive than the original House provision, but gives the President less flexibility than the original Senate bill provided.

The fifth change is the one which I believe will be of greatest interest to my Senate colleagues. When this report was before the Senate last week, a motion was offered in relation to it which expressed a concern about the threat that might be posed to the security of the canal as a result of the possible presence of foreign troops in the Republic of Panama. Under the treaty, the United States has the primary responsibility for the defense of the canal, and therefore we have the right to take such steps as we may deem necessary to insure the protection of the canal, so long as those steps do not constitute interference in the internal affairs of Panama.

The conferees wanted to respond to this concern but in a way which would not violate the treaties. We therefore added to the statement of managers accompanying this report new language stating clear congressional intent that, should foreign combat troops or military forces be stationed in Panama, the President shall insure a coordinated defense of the canal by requiring the Administrator of the Panama Canal Commission to comply with any directive issued by the U.S. military officer in charge in Panama, in the performance of his duties with respect to the protection and defense of the canal. This would allow us to insure that, in the event of such a threat, the operation of the canal would be adequately integrated with any security precautions which might be necessary. It would, however, keep us within our carefully defined treaty rights to protect and defend the canal, and should not be construed as our attempting to dictate to the Republic of Panama, another sovereign nation, what activities they may or may not permit within their borders. This provision provides us with the authority to take necessary steps to insure the security of the canal, without raising the risk of our violating the treaty itself in the process. I commend this conference proposal to my colleagues as a sound and sensible approach which was widely supported in the conference, and which attempts to respond to the concerns which were presented last week by the Senator from Kansas.

That concludes my description of the changes which are embodied in this new conference report. I close by urging that we act promptly to pass this report and resolve this longstanding issue. Treaty Day is now only 6 days away, and we are truly at the end of the line time-wise. We cannot afford any additional delay; we cannot afford to return to conference; and we cannot afford to postpone final Senate action on this report. We are at the end of the road.

This conference report keeps our word and guarantees our control of the canal. This conference report avoids any treaty violation. This conference report responds to the concerns of Members of this body without damage to the treaty.

The Panama Canal Treaty imposes upon the United States responsibilities and grants us certain rights. Without this implementing legislation, we cannot, as a hardheaded practical matter, meet our obligation to operate the canal, and if we fail to do so, we could forfeit our rights under the treaty, including the right to operate and maintain the canal and to station troops in Panama until the year 2000.

Mr. President, I yield the floor.

Mr. CRANSTON. Mr. President, I want to express my admiration for the Senator from Michigan for his very able and courageous handling of this controversial measure. He has been exceedingly diligent and most effective in handling a measure that is of very great importance to the people of our country and to stability in the Western Hemisphere. It would be tragic indeed if we did not meet our commitment, if we did not obey a treaty which is, in effect, the law of the land, and if we created needless and unfair controversy with Panama over the terms of this treaty.

I am very confident that the Senate will follow the leadership of the Senator from Michigan and approve the conference report today, as it did last week.

Mr. LEVIN. Mr. President, I thank my friend and colleague from California for his generous comment.

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

Mr. President, the Senate now has before it the second conference report of the Panama Canal implementing legislation, H.R. 111.

This compromise version tightens up further the rights of the United States during the implementation period and specifically includes some new features.

Principal among these are two changes which provide that the President may not transfer the canal prior to 1999 and may not accept any interpretation of the treaty which allows for retroactive taxes. These features are now spelled out in the legislation rather than left to interpretation.

Also of great importance is the acceptance by the conference of the House provision that the statute require the appointment of three Commission Board members from the private sector with experience in shipping, ports and labor matters. In the previous report this was merely recommended.

The other significant change involved the provision that operation and maintenance costs of the canal and reimbursement to the Defense Department of health and hospital expenses of Commission employees must be made by the Commission before contingent payments could be paid to Panama.

Mr. President, these changes improve the U.S. position in this matter. However, I cannot participate in any manner in the giveaway of the Panama Canal and will vote against any legislation implementing the treaties providing therefor.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. LEVIN. Mr. President, I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I yield to the Senator from New Hampshire as much time as he may require. I have requested that he control the time until my return.

Mr. HUMPHREY. Mr. President, yesterday, the conferees for H.R. 111 met again to iron out problems in the Panama Canal implementing legislation which caused the House of Representatives to reject the conference's first attempt to rationalize Senate and House versions of the bill. The House rejected the first conference report, in large part, because the conferees removed assurances contained in the original House version of the Panama Canal implementing legislation which assured Congress a say in approving future property transfers to Panama.

The treaty and annexes attached to the treaty detail the schedule for transferring U.S. property to Panama during the lifetime of the treaty—property, if transferred prematurely, could hinder the effective utilization and protection of the canal.

Provisions in the annexes of the treaty dealing with the transfer of property contain language that permits the United States and Panama to adjust the transfer schedule as they see fit. I refer my distinguished colleagues' attention to article III, section 6 of the agreement in implementation of article III of the Panama Canal Treaty and to article 4, section 2, of the agreement in implementation of article IV of the Panama Canal Treaty. The first document gives the administration leeway to adjust the transfer schedule of civilian property and the second document gives the administration leeway in adjusting the transfer of military property.

Furthermore, the original conference report on H.R. 111 injected new language into the bill which provides that "the Secretary of State may convey such property from time to time in accordance with the treaty and related agreements. The language inserted by the conference would require the President merely to inform the Congress 180 days before any such transfer of the U.S. property in Panama would be made. But the conference report gives neither House the right to veto any such transfer. The provision is only a cosmetic protection. In order to stop an ill-advised transfer, the Congress would have to pass new legislation repealing the authority granted the President in this pending bill. The President would almost surely want to veto such legislation. So it would require a congressional override of a veto to stop an accelerated transfer of U.S. property to Panama if the President were determined to surrender early the rest of our property rights in Panama until now deemed necessary for the safe and efficient operation of the canal."

In its second attempt to resolve differences in the House and Senate versions of the bill, the conferees inserted language into implementing legislation which would forbid the President from transferring the Panama Canal before December 31, 1999. While this is certainly a step in the right direction, the provision refers only to the canal itself, the waterway, locks, et cetera. It does not forbid expediting the transfer of related civilian and military properties that are essential to the operation and protection of the canal.

Under this legislation, the President, or a future President, can still return these support properties to Panama before December 31, 1999, without congressional approval. For this reason, Mr. President, I was unable to sign the conferees report, or vote for H.R. 111, in good conscience. It represents an open invitation for the Panamanian Government to start agitating immediately for accelerated property transfer. No one can predict how sympathetic this administration or a future administration may be to such agitation.

Mr. President, I urge my distinguished colleagues to vote against this bill which allows the President to transfer U.S. property without the explicit and prior approval of Congress.

Finally, Mr. President, I received this morning a "Dear Colleague" letter from Senator LEVIN stating that the conferees unanimously adopted language in the statement of managers accompanying this report stating congressional intent that, should foreign combat troops or military forces be stationed in Panama, the President shall insure a coordinated defense of the canal by requiring our civilian Administrator of the Panama Canal Commission to comply with any directive of the U.S. military officer in charge in Panama.

Mr. President, I, for one did not support this move. I support wholeheartedly Senator DOLE's motion to recommit the conference report on H.R. 111 with instructions to insist on language concerning the issue of foreign troops in Latin America.

The PRESIDING OFFICER (Mr. LEVIN). Who yields time?

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. HUMPHREY. To be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I support the conference report on the Panama Canal implementation procedures. This matter has been before the Senate before. It has been before the House of Representatives. I would like to make a few remarks and basically incorporate in my remarks what I said on the floor of the U.S. Senate a few days ago when we first considered this matter.

I do not know what other amendments will be offered on the floor of the Senate today in this regard, but the rumor mills are working, and it seems that we likely will be faced with votes on matters other than whether or not we are going to approve the conference report worked out by the Senate and House conferees.

Mr. President, it is very critical that we place this matter in proper perspective as we debate it and eventually vote on it on the floor of the Senate today.

In the first place, I believe it should be made clear that, whether we like it or not, on October 1 the Panama Canal Treaty that was approved by the last session of Congress will go into effect. So I say to those who not only may be in opposition to the conference report but also may support amendments that will be offered today that I hope they will realize that they may—and I emphasize "may"—be treading on some rather dangerous ground.

In the first place, the word of the United States in international affairs is basically at stake here, and I think that is critically important.

Second, in all the work we have done in the Armed Services Committee of the Senate, in working out the implementation procedure, we have taken this agreement apart and have protected the best interests of the United States as best we can under the circumstances.

I hope that when we debate this matter today we will not fall back into the old trap that we are debating whether or not the United States of America should have agreed to the Panama Canal Treaty. That bridge was crossed in the last session of Congress.

So, Mr. President, I emphasize that, regardless of what we do here, whether or not we accept the implementing legislation, whether or not we adopt some kind of amendment that might be offered, the treaty will go into effect on October 1. Therefore, I remind my colleagues to be very thoughtful in this matter.

I believe that, under the able leadership of the Senator from Michigan, we have done all we can do with regard to protecting not only the taxpayers but also the interests of the United States in the implementation procedures of this treaty.

Indeed, as one of the Members of the House said yesterday during the conference that agreed on the latest wording of the implementation of the treaty—which I believe was an improvement over what we had done before—the opponents to that said that although they were not excited about the implementing procedures, they would be saying on the floor of the House of Representatives that some of the objections and some of the corrections that certain Members of the House wanted had been accomplished with our conference of yesterday.

I emphasize again that unless we have proper implementing procedures in effect come October 1, it is entirely possible that the interests of the United States and the safety of the canal itself might be at stake.

Mr. President, the situation in which I find myself is, I am sure, shared by many of my colleagues.

Had I been a member of the U.S. Senate last year, I would have voted against the Panama Canal treaties. I am troubled by recent events in the Western hemisphere, including problems with national security ramifications for the United States in Cuba, Nicaragua, and elsewhere in Latin America.

Nevertheless, the Panama Canal treaties were negotiated, signed, and duly ratified according to the constitutional provisions we all hold so dear. Therefore, it is necessary that we proceed with this implementing legislation to insure that the interests of the American taxpayers are best protected under the present circumstances. Let us make no mistake about it—the treaties are now the law of the land and will go into effect on October 1, 1979. The Senate had its opportunity last year to work its will on these agreements during the ratification process. I was not happy with that outcome; however, the constitutional process was followed and we are all committed, whether we like it or not, to respect what is now a valid international agreement. The treaties cannot be renegotiated now and we cannot now realistically be subject to a de facto congressional veto, contrary to what some statements on the floor, in the last few days, suggest, since that ratification process has been completed. To attempt such a course at this juncture would do far more harm to the U.S. interests, domestically and internationally, than the give away of a hundred Panama Canals. I remind my colleagues, especially those in opposition to the matter before the Senate, that the fundamental processes and their sanctity under the Constitution are really at issue. The question really comes down to whether the word of the Senate is good or whether it is not and will be so judged by the people of not only the United States but the entire world.

The legislation before us accomplishes my goal, under the circumstances, of protecting the interests of the United States and the taxpayers as best we can. I was not here, and therefore, I cannot amplify on the debate that continues on "who told what to whom" on costs of implementation. The facts are that ratification was accomplished and debate at that time should have exposed that legitimate issue. The administration submitted this bill with a cost to the Treasury of $870 million over the life of the treaty. The House of Representatives passed its version containing a taxpayer cost of $1 billion, 370 million. The legislation then came to the Senate for action. I can assure my colleagues that we on the Armed Services Committee dissected this bill in order to weed out unnecessary costs and submitted to the full Senate a bill costing the Treasury $665 million—less than half the cost of the House-passed version over the life of the treaty, and none of this money, I emphasize, is structured to go to Panama. This bill passed only weeks ago, and I am sure my colleagues are familiar with its contents. These costs represent essentially the appropriations necessary to adequately fund our defense activities in the canal area for 20 years. These savings resulted from our committee's decisions to both eliminate needless costs and shift their form of payment to canal revenues without adversely affecting the flow of shipping.

The House-Senate conference committee on the bill which is before us has worked very hard. Under the terms of the treaty, it protects the interests of the United States to the maximum exent possible under the circumstances at an absolute minimum cost. The conferees adopted the Exon sense of the Senate provision which limits costs to the lowest possible amount. The United States has the right to do whatever is necessary militarily to insure the neutrality of the canal.

Surely our best interests and the interests of the hundreds of Americans working in Panama now are best served by adopting this legislation at this time. Again, I assure my colleagues that this bill has been scrutinized and unnecessary costs weeded out, while U.S. protection has been maximized. I wish the treaties had been rejected when ratified; however, we now have no choice but to do the right thing and approve this conference report on implementation. To do otherwise, in my opinion, would be the height of irresponsibility.

I thank the Chair.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. EXON assumed the chair.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

30-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a recess for 30 minutes, and that the time for the recess be equally charged against both sides on the conference report.

The PRESIDING OFFICER. The request by the majority leader would not be possible because one side has 12 minutes and 16 seconds and the other side has 40 minutes remaining.

Mr. ROBERT C. BYRD. Would the participants be agreeable to pooling their remaining time, and then taking it out equally?

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, reserving the right to object, and I shall not object, of course, the leadership does expect this matter to move along all right?

Mr. ROBERT C. BYRD. Yes.

Mr. STENNIS. We have further matters this afternoon, a conference with the House, and we have urged the House conferees to be present, so we will have to be there.

Mr. ROBERT C. BYRD. Yes. The reason why I have suggested this, may I say to the distinguished chairman of the Armed Services Committee, is that the Senator from Kansas (Mr. DOLE), who will offer the motion to recommit, cannot be present because he is tied up in the Finance Committee.

Mr. STENNIS. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, the manager, Mr. LEVIN, has suggested that both managers yield back all remaining time on the conference report, and that would leave only the time on Mr. DOLE's motion.

Mr. THURMOND. Better reserve about 5 minutes to each side; something might come up.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the managers on each side of the aisle may reserve 5 minutes of their remaining time on the conference report, and that the time for the recess not be charged against either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Whereupon, at the hour of 11:33 a.m., the Senate took a recess for 30 minutes.

The Senate reassembled at 12:03 p.m., when called to order by the Presiding Officer (Mr. CANNON).

TIME-LIMITATION AGREEMENT—NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent, as in executive session, that time on the nomination of Bailey Brown be limited to 2 hours, to be equally divided between Mr. THURMOND and Mr. KENNEDY; and that time on the nomination of Cornelia Kennedy be limited to 1½ hours, to be equally divided between Senator KENNEDY and Senator THURMOND.

Mr. JAVITS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. I do not know which side Senator KENNEDY is on. I am the one who is raising the issues about Judge Brown. I do not want to change the unanimous-consent request, but I do that with the understanding that if Senator KENNEDY is on Senator THURMOND's side, time will be available to the opposition; to wit, me.

Mr. ROBERT C. BYRD. Then, Mr. President, I ask unanimous consent that the time be equally divided between Mr. JAVITS and Mr. THURMOND.

Mr. JAVITS. No, Mr. President, I do not want that, either. Mr. KENNEDY is the chairman of the committee. I just want it understood that if he is on the same side as Senator THURMOND, there will be equal time for the opposition.

Mr. ROBERT C. BYRD. Yes. I so ask, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

PANAMA CANAL ACT OF 1979—CONFERENCE REPORT

The Senate continued with the conference report on H.R. 111.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, how much time remains on the conference report?

The PRESIDING OFFICER. Three minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum and that the time be equally charged against both sides on the motion to recommit, which will be in order under the order entered.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I send to the desk a motion to recommit.

The PRESIDING OFFICER. The motion will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) submits the following motion:

Mr. President, I move to recommit the bill H.R. 111 to the committee of conference with instructions that the conferees on the part of the Senate insist that language be specifically included in section 1108 stating that among the "conditions . . . which threaten the security of the Canal" is any circumstance in which foreign combat troops or military forces (other than those of the United States or Panama as provided in the Panama Canal treaties of 1977) are located within the Republic of Panama.

Mr. DOLE. Mr. President, first I wish to thank the distinguished chairman of the subcommittee (Mr. LEVIN) for his courtesy in permitting the recess, because we are in the middle of the windfall profits tax markup in the Finance Committee and about to resolve an important point. The Senator from Kansas believes this motion is also very important, and I would say very briefly that I have been trying to decide, during the course of this discussion, whether to declare victory based on our past success and suggest that we not pursue it further, or whether to try one more time in the conference to include this language.

Mr. President, today the Senate finds the new decision of the Panama Canal treaties implementing legislation awaiting our action. This is the fifth time in 4 months the administration has tried to make this measure palatable to the Senate and the people of the United States. Each time a little more security, a little more protection for our foreign policy goals and for our country and its allies ultimate well-being are included. At our present rate the Senator from Kansas will make the prediction that we will have the best possible bill, the one most responsive to Americans' needs, by next year at this time.

It is certainly not the belief of this Senator that we should accept this latest version of the bill, improved as it is, just because a few more items have been added that ought to have been included in the first place. Of course there should be no retroactive taxes on American enterprise in the canal; of course U.S. expenses for the implemention should be reimbursed before Panama's contingency fund is filled; of course we should have men with canal and related experience and special expertise included on the Canal Commission; of course it should be made clear that no President can give away the Canal before 1999 when the treaties take effect.

The present situation in the Caribbean—where Russian combat troops are, apparently, permanently stationed and allowed to train guerrilla armies for export to overthrow the vulnerable governments of neighboring Latin American countries—this situation reminds us how dangerous it is to abdicate our responsibilities in this sphere or to leave our meaning in any treaties nuclear or ambiguous.

Mr. President, it is not the intent of the Senator from Kansas to obstruct this legislation's passage or to continually offer motions that some have unfairly characterized as killer amendments. I have long been concerned over the spread of Soviet military interference in the Caribbean and Latin America from the very beginning of this administration's policies in the region.

On March 20, 1978, during the debates on the treaties, I raised the point of foreign troop involvement in Panama when I offered amendment No. 69. Unfortunately, at that time only 38 other Senators shared my concerns and my motion failed 39 to 45. During the debate on the implementing legislation I offered a measure which would have tightened the language in that section insuring the neutrality, security and accessibility of the canal. This time there was more concern among my colleagues, but my amendment was defeated 46 to 44.

Last week the Senator from Kansas introduced a measure with respect to the problem of foreign troops stationed within the borders of Panama, and its effect upon the operation and security of the canal.

That section would do simply this: If foreign troops were stationed within the borders of Panama, the United States would take immediate and appropriate action to influence their prompt removal through the medium of discontinuing all canal payments to Panama. This motion was narrowly tabled by a vote of 50 to 45.

In the conference which again met to resolve the differences and inadequacies within this bill, a report was agreed upon that included in its accompanying statement of intent much the same language suggested last week by this Senator. This is certainly a step in the right direction. But to make our meaning clear to Panama and the rest of the world, let us not keep this language to ourselves. This declaration should be a part of the Panama Canal Act itself—in fact, it was my belief and that of many of my colleagues that it should be included in the treaty itself when amendment No. 69 was narrowly defeated last year on March 20.

Ambiguities and misunderstandings based on mere statements of intent are bound to occur. One only need look at the DeConcini reservation to the treaties, which I may add 92 Senators supported, to see how a serious reservation is totally ignored by one of the parties to the treaties. The Panamanian Government claims that because it was "only a reservation" it is an understanding affecting only the United States. If the Government of Panama can misread the intent of 92 Senators and all the legal opinion we can muster with respect to a treaty reservation, just how much attention will they pay to a statement of floor managers expressing the arguably ambiguous "intent" of the conferees?

If all conferees could agree on this language why cannot all members vote now to move this section from the statement to the bill where it belongs: It is a moderate and reasonable compromise which expresses the bare minimum of what the world could expect from the United States under a condition of definite provocation and threat to our national security.

The argument has been made that the Congress is running out of time, and today is the last chance the Congress has to vote on this issue and allow the previously voted treaties to be properly implemented.

Mr. President, that just is not the case. This legislation could return to conference immediately and I have all faith that the conferees could report the bill back to the Senate within 24 hours or even this afternoon with plenty of time to pass the legislation in this body and send it to the House before October 1 for their approval.

It has also been stated that the pending legislation language would not substantially strengthen the Congressional instruction to the President contained in the statement of the managers.

Mr. President, with all due respect I must strongly disagree with that premise. If this language were to be included in the bill itself there would be no doubt as to what the conditions of this implementing legislation are, and what the intent of the United States in the future will be.

The opposition to my motions have been tried to use a parliamentary argument against this language. I can only state again that we must not permit a mere parliamentary technicality to stand in the way of doing the responsible thing in terms of U.S. national security interests. I do not believe that will happen, especially if the will of the Senate and the people of the United States is expressed on this vote to further protect our interests.

Mr. President, to summarize my statement, we find a little different version of the Panama Canal treaties implementing legislation awaiting our action. This is the fifth time in 4 months the administration has tried to make this measure acceptable to the Senate, to the House of Representatives, and to the people of the United States, and each time I think we have made some progress. I question whether we have gone far enough, and whether, even if we adopt the suggestion by the Senator from Kansas, we will have gone far enough.

The changes have been many, but they have been obvious ones: Of course, there is to be no retroactive taxes on American enterprises in the Canal Zone; that is one change.

Of course, U.S. expenses for implementation should be reimbursed before Panama's contingency fund is funded. Incidentally, that was an amendment that I offered at the previous debate on the Panama Canal Treaty. All the amendments at that time were tabled except for one or two, during the course of that long debate.

And, of course, we should have men on the Commission's supervisory board with special expertise. This happens to be another amendment I offered. I only point that out to indicate that our interest in the problem is not a new interest; it has been a continuing interest ever since the debate on the Panama Canal treaties started in 1977.

I also understand the real political difficulty that the President of the United States finds himself in with respect to Soviet troops in Cuba. There is some concern that this somehow clouds the Panama Canal Treaty even further, but that is the situation. Apparently they are stationed there on a permanent basis to train guerrilla armies, exporting revolution to overthrow the vulnerable governments of neighboring Latin American countries. So I suggest that we are talking about something that is real.

On March 20, 1978, I offered amendment No. 69 to the Panama Canal treaties which said, in effect, that only military forces, defense sites, and military installations of Panama or the United States may be maintained within Panama, and I lost that amendment, as everybody else lost their amendments, by a rather close margin; I think at that time it was either tabled or I lost it straight up or down on a vote of 39 to 45.

I also attempted to express my concern that we not consider the SALT II treaty unless the President stipulates that Russian combat troops have been removed or that they pose no danger to the security of the United States or its allies.

The last thing I would wish done would be to obstruct this measure's passage, or to continually offer proposals that some have unfairly criticized or characterized as "killer amendments." I have long been concerned over the spread of Soviet military forces in the Caribbean and Latin America, from the very beginning of this administration's policies in the region. Back in April 1978, I raised the point of foreign troop involvement in Panama. At the time, I recall, I was, I do not say ridiculed, but as I remember the discussion on the floor, some even suggested that we were looking under rocks for Soviet troops. "The Russians are coming, the Russians are coming," as one Senator said on the floor, and I would assume at that time there was no knowledge, at least I had no knowledge, that Soviet troops were in Cuba.

So I would suggest that my initiative is not based on theory or on speculation. I think it is based on what could very well happen, and I wonder whether or not we should further amend the conference report to make certain that our interest is protected.

That gets me down to the motion to recommit itself. What does it do?

Section 1108 of the conference report is entitled "Defense of the Panama Canal." I read it in full:

> SEC. 1108. In the event of an armed attack against the Panama Canal, or when, in the opinion of the President, conditions exist which threaten the security of the Canal, the Administrator of the Commission shall, upon the order of the President, comply with such directives as the United States military officer charged with the protection and defense of the Panama Canal may consider necessary in the exercise of his duties.

All the Senator from Kansas seeks to do is to say that among the conditions which threaten the security of the canal is "any circumstance in which foreign combat troops or military forces (other than those of the United States or Panama as provided in the Panama Canal treaties of 1977) are located within the Republic of Panama."

In other words, all the Senator from Kansas seeks to do is to say that this is one of the conditions which would threaten the security of the canal and, therefore, the administrator or the Commission shall, upon the order of the President, comply with such directives to defend the Panama Canal.

The Senator from Kansas believes that it is a very responsible effort. It takes some of the pressure away from the President and the Commission and anybody else who may have to act in those circumstances. It clears up an ambiguity.

This declaration should be a part of the Panama Canal Act itself. In fact, as I shall say again, it was by belief back on March 20, 1978, that we should have adopted amendment No. 69. This is one more opportunity to say to the world, say to the Soviets, or say to anyone else who has any designs on Panama that if we find foreign combat troops or military forces other than those of the United States or Panama, as provided for in the Panama Canal treaties of 1977, if in fact they are located within the Republic of Panama, that shall be a condition which threatens the security of the canal.

I understand the practical reason for not wanting to go back to conference. I certainly share the concern of the distinguished Senator from Michigan. I understand the concern for time. The Senator from Kansas understands that, and is concerned about that, even though he voted against the Panama Canal treaties. And if they were up today, I assume they might be defeated. But they were passed. The treaty was ratified and we now have to implement that treaty. So I am not trying to delay or somehow frustrate the efforts of those who have the responsibility of seeing that this legislation is passed.

But if all conferees could agree on this language, why cannot the Members of the Senate and the Members of the House just move this section from the statement to the bill where it belongs?

Mr. President, the Senator from Kansas views the motion to recommit as a moderate and reasonable compromise which does express the bare minimum of what the world can expect from the United States under a condition of definite provocation and threat to our national security. I know the argument is always made around here that we are running out of time, we cannot go back to conference, we only have 24 hours. I understand that. But the Senator from Kansas is not talking about a very broad point, but a very important, specific point.

It has also been suggested that the pending legislative language will not substantially strengthen the congressional instruction to the President contained in the Statement of the Managers. The Senator from Kansas disagrees with this, but I know the Senator from Michigan will have more to say on that.

It seems to me, and I have been trying to make the point now for several weeks, that it would be very helpful to the President of the United States, and I think perhaps he needs some help at this point, to send a signal to the Soviets that we are concerned, specifically in this language about Panama, but that our concern originated with the discovery, belated as it may be, of troops in Cuba. As one of those still uncommitted Senators on SALT II, I can say it is becoming more and more difficult to remain in the uncommitted column with no resolution of the Soviet troops issue.

Maybe, as I heard Mr. Brezezinski say recently in briefing a group of citizens from the States of Pennsylvania and Kansas, "We ought to separate them, there should be no linkage." But I suggest that if anyone reads the mail, they will find that the taxpayers and the voters of this country and the citizens of this country are applying linkage. We are being told in our letters, and there are many, many letters and many, many visits, that we should not even consider taking up SALT II until the Soviet troop issue has been resolved.

So I suggest that it would be helping the President of the United States, it would be helping the Secretary of State, because there would be precise and specific language, which I believe the Soviets would understand and they would probably better understand our concern about Soviet troops in Cuba.

The Senator from Kansas would like to bring up his little sense of the Senate resolution on Soviet troops themselves, but I do not intend to do that today because I see the majority leader is present and he might object to that.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. I ask unanimous consent that the vote on the motion to recommit, if, indeed, it does go to a vote, occur at the hour of 2 p.m., and that the vote on the conference report, if there is a rollcall vote, occur immediately thereafter; and, in the alternative, if a vote on the motion to recommit does not go forward, that the vote on the adoption of the conference report occur at 2 p.m. so that, in any event, the first vote will be at 2.

The **PRESIDING OFFICER.** Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. DOLE. The Senator from Kansas reserves the remainder of his time. How much time does he have remaining?

The **PRESIDING OFFICER.** The Chair advises that the Senator from Kansas has 5 minutes remaining.

Mr. LEVIN. Mr. President, first of all, I thank the Senator from Kansas for his remarks. I think that they help to set a useful tone for this discussion, and can permit us to create some legislative history here which, in addition to the managers' language, in their report, accomplish what he set out to accomplish.

His intent, which is to specify that the presence of foreign troops on Panamanian soil would constitute a type of threat referred to in section 1108, I believe is shared by most Members of the Senate. Even though it was expressed a week ago in a motion which in the opinion of some of us might have constituted a treaty violation, nonetheless, the vote at that time I think clearly indicated there was much support for that intent that most of us shared.

I think his intent has been accomplished, clearly accomplished, by the managers' language. I would like to indicate in what way I think so and why there would be some difficulties in moving it into the bill.

As the Senator from Kansas knows, the managers' report specifically provides the following language:

> It is the intention of the conferees that the phrase contained in section 1108, "conditions which threaten the security of the canal" is deemed to include any circumstance in which foreign combat troops or military forces (other than those of the United States as provided in the Panama Canal treaties of 1977) are located within the Republic of Panama.

This added language was aimed at meeting the concerns which were expressed on this floor last week, and in previous weeks and years, by the Senator from Kansas.

There was a question which was raised in conference as to whether or not that language should be in the report or in the bill. The question which the Senator from Kansas raises this afternoon was specifically addressed yesterday in the conference report.

There was a decision that we made in conference yesterday, and I think it was agreed to by most, if not all, the members of the conference, that the Senator from Kansas intention and concern be best addressed in the managers' report, rather than the bill itself, for at least two reasons.

First, because of the problem that could be raised on a point of order if this language appeared in the bill itself.

We were advised by the Parliamentarian that if a conference report was brought back to the Senate with the proposed language we had in our managers' report, and which is in the Senator from Kansas motion, if that proposed language was inserted in the bill itself, it would be subject to a point of order for introducing new subject matter not germane to either bill.

Of course, that new subject matter would be the question of foreign troops in Panama.

In addition, the Parliamentarian has informed me that it might be subject to a point of order in the House, as well, for exceeding the scope of the conference.

Now, it is not my intention here to debate either whether or not such a point of order would be sustained or would properly lie because the problem is not that. The problem is delay which could ensue as a result of such a point of order being raised. I think the Senator from Kansas would acknowledge that the circumstances were somewhat unusual in terms of delay. This not an ordinary situation.

The treaty will go into effect October 1 regardless of what we do. If we do not have implementation legislation in effect, there is the danger that our right to manage and operate the canal will be in jeopardy.

I do not think anybody in the Senate wants that to happen or even to take the chance of that happening.

Frankly, we were very much concerned in that conference that we do have implementation legislation adopted and not open it up to possible points of order, against whether they would be sustained or not.

I know there would be healthy debate and voting on that question of whether or not they would be sustained.

So it is the fear of that kind of delay which could be caused by inserting this in the bill, in part, which caused the members of the conference to leave this out of the bill and leave it for the managers' report.

There was another concern raised yesterday in conference that directly addresses itself to the substance of the Senator from Kansas motion.

That concern is the breadth of the language relative to foreign troops on Panamanian soil.

We maintain a number of schools in Panama. We maintain the School of the Americas and the Inter-American Air Forces Academy where foreign troops are trained by us.

We considered the possibility that language, which would be broad about foreign forces, might be construed to include the forces which are trained in those academies. There was some concern expressed as to the difficulties in framing language which would take care of that consideration, as well.

I believe the Senator from Kansas, as well as myself and I think all Members of the Senate, want those schools to remain open. We have committed that those schools will, in fact, remain open.

Eighteen Latin American countries sent students to the Canal Zone military schools in the last fiscal year and those students could be construed, under at least one interpretation, to come under language which the Senator from Kansas and others would like in the bill.

We thought it was safer—when I say "we," I think there was a general consensus, although there may have been one or two exceptions in the conference—we thought it was a lot safer not to get on that subject in the bill because of the possibility of it being construed or misconstrued, and the difficulties in framing language to avoid such construction which would plunge us into further delays in the implementation legislation.

That was a consideration we specifically addressed ourselves to yesterday.

Congressman MURPHY, in particular, is familiar with those schools. He was somewhat leery about the language and the time it would take to create language which could avoid the possibility of misconstruction.

For those reasons and others, we felt it best it be in the managers' report.

We can assure the Senator from Kansas it was intended to address his concerns in that report relative to the stationing of foreign troops in Panama and that that concern we thought was best addressed in this way.

I would urge the Senator from Kansas to accept this additional bit of legislative history as supportive of his own intention and possibly see fit to withdraw his motion for that reason.

Mr. JAVITS. Will the Senator yield?

Mr. LEVIN. I am happy to yield to the Senator from New York.

Mr. JAVITS. Mr. President, I would like to be notified when I have used 3 minutes.

Mr. President, first, I would like to join the manager of the conference report in urging the Senator to withdraw this motion, and I will say why: I think it tends to defeat itself.

I speak now as a lawyer. The specific always swallows the general.

We have the DeConcini amendment, which was highly objected to, and here we are over that now, which gives us an absolute right to do anything in Panama, including militarily, respecting the security of the canal.

Second, and this is very important, the general words of the implementing legislation, to me, are even more appealing than the specificity subconsciously inspired by the Cuban situation, which, in my judgment, limits us rather than expands our opportunity, because section 1108 which will be in the law speaks of "In the event of an armed attack against the Panama Canal," and here are the critical words, "or when, in the opinion of the President,"—in the opinion of the President—"conditions exist which threaten the security of the canal," of any kind.

Last, we will have troops there until the year 2000, after the year 2000. So that it is really almost inconceivable we are going to have a hostile foreign presence there in that time. We just would not tolerate it.

And very important, after the year 2000, the neutrality part of the treaty assures us against foreign troops, as a commitment they will not be there.

Finally, it seems to me that what the Senator from Kansas has done has borne enormous fruit; and if I may be so bold as to say it to a friend, I hope we will not overstep the mark. October 1 is right at our door, and we know the mischief this can cause.

There are many elements in Latin America just waiting for the chance to say, "Here is this conspiracy. See, at the very end, they would not go through with the deal, and the intentions are completely defeated by the performance."

For all those reasons, especially the hard core reasons of the generality of the law, which I think is much more effective than narrowing it with the specificity, because of a concern we have which is legitimate, arising out of Cuba and, second, the fact that it is locked in, with our troops there until the year 2000, with a prohibition against any foreign troops after the year 2000, and, finally, by the guarantees of the DeConcini amendment, I hope very much that the Senator will consider withdrawing the amendment and that if he does not, the Senate will reject it.

Mr. LEVIN. Mr. President, I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, first, I compliment the distinguished Senator from Michigan (Mr. LEVIN) on his able managership of this legislation on the floor and in conference.

I compliment the distinguished Senator from New York for very succinctly and cogently pointing out the dangers of proceeding in the manner as is suggested by the motion.

I hope that the distinguished Senator from Kansas will withdraw his motion to recommit. He has performed a very effective and useful service already.

The language in the committee report speaks for itself very clearly on this point, and that constitutes the legislative history, plus all that has been said on the floor. The Senator from Kansas really has accomplished something worthwhile; and as the distinguished Senator from New York has said, it is very worthy.

The treaties themselves provide ample recourse for the United States to protect its economic and security interests. The Senate spent considerable time on this issue last year, under the constitutional processes, as it debated the treaties. It did not act in haste. It reviewed the treaties, debating them for 38 days before recommending ratification. The economic and military needs of our Nation were paramount in our consideration, and we decided then and there that the treaties did protect our interests; and we added amendments to the treaties to insure that our interests would be protected.

As the Senator from Michigan has pointed out, recommittal would require a new conference and could delay enactment of the legislation beyond the October 1 deadline. On that date, the treaties go into effect. We cannot turn the clock back. Whether there is implementing legislation or not, they are going into effect.

What is needed now is the means to exercise our rights under the treaties which we approved in the Senate and which were ratified. If these means are not in place by October 1—and that is what is involved here, the means to exercise our rights technically—who loses? The United States is the loser. Not only would we have no way to carry out the arrangement for joint management of the canal with Panama, but also, the operation of the canal itself would enter a period of uncertainty.

The word of the Senate is at stake with respect to the implementing legislation. It is our obligation to live up to the provisions of these treaties. They were considered fully and were ratified legally in accordance with our constitutional processes. The proper course is to see that the treaties are implemented in a manner fully consistent with the Senate's actions last year.

The distinguished Senator from Kansas has rendered a service here, as he often has done. I often have seen him offer motions on amendments and decide, after debate, that in the interests of all concerned, he had achieved his purpose and that there was no point in muddying or making murky what already has been achieved.

If he pursues the motion and the Senate votes it down—which I hope the Senate will do—then I think this represents a drawing back from the point where he now stands and where has has achieved a purpose, and a useful purpose. So I hope he will not press his motion to recommit.

Mr. THURMOND. Mr. President, I commend the able and distinguished Senator from Kansas for the consideration he has given to this matter. I believe he has rendered a great service here. He has focused attention on this very vital question.

I say to him that the last conference strengthened the bill from his standpoint and mine. I stated earlier today that I think the bill is in much better shape from the standpoint of our country than it was before the last conference.

I do not intend to vote for the conference report, because I will not have any part—in any way, shape, or form—in giving away the Panama Canal. However, I commend the able Senator from Kansas for offering this amendment and carrying on this colloquy here today, which I think is very important and which does focus attention on this matter, which is of great magnitude and importance to our Nation.

It is up to the Senator from Kansas as to whether or not he will withdraw his motion. In any event, he is to be commended highly for his intense interest and the great capacity he has shown in comprehending this question and in bringing it before the Senate today.

Mr. DOLE. Mr. President, I thank my distinguished colleagues, and I will withdraw the motion to recommit.

My only purpose was to provide a service; and I am persuaded by the statements, particularly the statement made by the majority leader.

I doubt that the Senator from Kansas could prevail; and in my arithmetic, I believe I am right most of the time.

If I did not prevail, then I think someone reading the legislative history a month from now, a year from now, or 10 years from now would say, "Well, up to that point there was victory, but then the Senator from Kansas snatched defeat from the jaws of victory and was defeated."

I believe it is important that the legislative history be made and that we do not muddy the water. If there were a vote at this time, I might win or might lose. The odds are probably the latter, very close odds, because the vote on the tabling motion was 50 to 45. However, I am convinced, after the clear and positive statements made by the distinguished Senator from Michigan (Mr. LEVIN), supported by the distinguished Senator from New York and the distinguished Senator from South Carolina, highlighted by the majority leader, that when the legislative history is reviewed and when we include, as will be included as part of my statement, the language on page 56, "Wartime control, section 1108," and when it is understood—and I hope I am not misquoting anyone—that there is agreement by those who have spoken on the floor, following the submission of the motion to recommit, then the intent is just as clear by having the language in the report and the statement of the managers as having the language in the legislation itself.

If that is the appropriate understanding, as I believe it is, based on comments made on the floor, then there has been success, and I do not suggest that anyone in this Chamber would have it any other way.

I am certain that if, in fact, foreign troops, combat troops, were in Panama, that certainly would be a condition which would threaten the security of the canal; and I am convinced that almost every Member of this body would agree.

I ask the manager if he concurs in the statement just made by the Senator from Kansas, and I will be prepared to withdraw the motion to recommit.

Mr. LEVIN. I thank the Senator from Kansas for his remarks.

I do concur, that the presence in Panama of foreign troops who are not friendly to the United States would be that type of condition which would cause the canal to be threatened; that the intention is as clear in the managers' report as it could be in the act that such condition should cause the President to transfer the power, in effect, from our civilian administrator to our military person down there in order to take care of that kind of threat. I think the intention is equally clear. I fully agree with that.

With those words, I again commend the Senator from Kansas for his efforts here. I think he has achieved what he set out to achieve.

Mr. DOLE. I thank my colleague for that response.

Mr. President, I ask unanimous consent that the motion to recommit, along with the statement of the managers which appears on page 56, section 1108, "Wartime Control," along with section 1108 of the bill itself, be printed at this point in the RECORD so that there will be a full understanding of what we were discussing.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MOTION TO RECOMMIT H.R. 111 TO THE COMMITTEE OF CONFERENCE

Mr. President, I move to recommit the bill H.R. 111 to the committee of conference with instructions that the conferees on the part of the Senate insist that language be specifically included in section 1108 stating that among the "conditions . . . which threaten the security of the Canal" is any circumstance in which foreign combat troops or military forces (other than those of the United States or Panama as provided in the Panama Canal Treaties of 1977) are located within the Republic of Panama.

Wartime control—(Section 1108)

The House bill contained a provision (Sec. 108) which allows the President, in time of war in which the United States or the Republic of Panama is engaged, to put the operation of the Panama Canal under the direct control of a military officer. The Senate amendment contained no comparable provision.

The conferees agreed to adopt compromise language similar to that recommended by the House Committee on Foreign Affairs in its report on H.R. 111. However, the description of conditions under which the President may order the Administrator of the Panama Canal Commission to comply with the orders of a military officer with regard to protection and defense of the Canal is adapted directly from Article IV of the Panama Canal Treaty, which defines U.S. defense rights. This section is intended to define for domestic legal purposes the manner through which the President will carry out the responsibilities of the United States in accordance with the Treaties.

It is the intention of the Conferees that the phrase contained in section 1108 "... conditions . . . which threaten the security of the Canal . . ." is deemed to include any circumstance in which foreign combat troops or military forces (other than those of the United States as provided in the Panama Canal Treaties of 1977) are located within the Republic of Panama.

DEFENSE OF THE PANAMA CANAL

SEC. 1108. In the event of an armed attack against the Panama Canal, or when, in the opinion of the President, conditions exist which threaten the security of the Canal, the Administrator of the Commission shall, upon the order of the President, comply with such directives as the United States military officer charged with the protection and defense of the Panama Canal may consider necessary in the exercise of his duties.

Mr. DOLE. Mr. President, I withdraw the motion to recommit.

The PRESIDING OFFICER (Mr. BRADLEY). Without objection, the motion to recommit is withdrawn.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for taking this action. He has again demonstrated the reasonableness of his approach, and he recognizes the dangers to his own position and to the bill itself if he were to proceed otherwise. I compliment him.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. I join the majority leader in commending Senator DOLE. As is characteristic of him, he fought a hard fight, and he is a great sport. He has shown that.

Mr. DOLE. Mr. President, if I have any time remaining I am happy to yield it back.

Mr. LEVIN. Mr. President, I yield back all my time on the motion.

Mr. ROBERT C. BYRD. Mr. President, if there is no inclination to have a rollcall vote on final adoption, we could proceed with a voice vote.

Mr. JAVITS. I think we should check.

Mr. THURMOND. I think we should have a rollcall vote on adoption.

Senator DOLE does not wish to have one.

Mr. DOLE. I have withdrawn my motion.

Mr. THURMOND. He has withdrawn the motion.

Mr. ROBERT C. BYRD. Senator THURMOND wishes to get the yeas and nays ordered on final adoption.

Mr. THURMOND. Mr. President, I call for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficent second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I yield back my time on the conference report.

Mr. LEVIN. I yield back all of my time also.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the conference report now be temporarily set aside until 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The following proceedings occurred at 2 p.m. and are printed at this point by unanimous consent.)

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, under the previous order, as in legislative session, the Senate will proceed to vote on the conference report on H.R. 111.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BAUCUS (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Montana (Mr. MELCHER). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. MELCHER) and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER (Mr. ZORINSKY). Are there any Senators in the Chamber who have not voted and who wish to do so?

The result was announced—yeas 63, nays 32, as follows:

[Rollcall Vote No. 311 Leg.]

YEAS—63

Baker
Bayh
Bellmon
Bentsen
Biden
Bradley
Bumpers
Byrd, Robert C.
Chafee
Chiles
Church
Cochran
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Exon
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Kassebaum
Kennedy
Leahy
Levin
Long
McGovern
Magnuson
Mathias
Matsunaga
Metzenbaum
Morgan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stone
Talmadge
Tsongas
Williams
Young
Zorinsky

NAYS—32

Armstrong
Boren
Boschwitz
Burdick
Byrd,
  Harry F., Jr.
Cannon
Cohen
Dole
Domenici
Ford
Garn
Goldwater
Hatch
Heflin
Helms
Humphrey
Jepsen
Johnston
Laxalt
Lugar
McClure
Pressler
Randolph
Roth
Schmitt
Simpson
Stevens
Stewart
Thurmond
Tower
Wallop
Warner

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Baucus, for.

NOT VOTING—4

Melcher
Moynihan
Schweiker
Weicker

So the conference report was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The first nomination will be stated.

THE JUDICIARY

The assistant legislative clerk read the nomination of Bailey Brown, of Tennessee, to be a U.S. circuit judge for the sixth circuit.

Mr. ROBERT C. BYRD. Mr. President, I shall suggest the absence of a quorum and ask unanimous consent that the time in this instance not be charged against either side.

I did indicate to the minority a little earlier we would proceed in this fashion and I have no objection.

Mr. JAVITS. Mr. President, will the Senator withhold the quorum call?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. I intend to debate the Bailey Brown nomination. It is on a time limit. Could we agree that the time will start immediately after the vote as I, also, wish to go to a Republican luncheon?

Mr. ROBERT C. BYRD. After the vote. Then could we go to some other nomination?

Mr. JAVITS. I guess we can go to the nominations that are unobjected to.

Mr. ROBERT C. BYRD. The problem is I have a Senator or Senators who need to get away this afternoon at not too early an hour, but if we delay, and these Senators are particularly interested in the Mikva nomination, so the longer we delay that, the more it encumbers their getting away to meet engagements. That we make progress now in these 50 minutes is the only thing I am concerned about.

Mr. JAVITS. Of course, I could ask for a quorum and we will not make any progress anyhow.

Mr. ROBERT C. BYRD. If the Senator asks for a quorum it will be charged against the time on Brown.

Mr. JAVITS. The point is we have other things going and I wish to go to them. Why do we not have the debate start at 1:45?

Mr. ROBERT C. BYRD. I wish to do something in the meantime. I certainl want to protect the able Senator and accommodate him in every way. I wonder if we could take some other nominations on the calendar at this point so that we are making some progress. I wish to help the Senator also.

Mr. JAVITS. May I suggest we put in a quorum call and I go and talk with the minority leader?

Mr. ROBERT C. BYRD. Very well. I

ask unanimous consent that the time for the quorum call not be charged against either side. But before we begin the quorum, could we go to Cornelia G. Kennedy?

Mr. JAVITS. That is one contested also.

Mr. ROBERT C. BYRD. That is contested but it is contested on our side for the most part.

Mr. JAVITS. That is fine.

Mr. ROBERT C. BYRD. If there be no objection, we could move that nomination and then go back to Bailey Brown.

Mr. JAVITS. That is fine.

Mr. THURMOND. I doubt if there will be a rollcall on that one. I do not think there will. There might be.

Mr. JAVITS. They wish to be heard.

Mr. ROBERT C. BYRD. If there be no objection, I ask unanimous consent that we proceed out of order for consideration of Cornelia G. Kennedy and then go back to Bailey Brown upon the disposition of Kennedy.

Mr. JAVITS. That is fine.

Mr. THURMOND. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, will the Senator yield to me for an inquiry only?

Mr. ROBERT C. BYRD. I yield.

Mr. STENNIS. What about the Panama Canal bill? Did the Senator defer that?

Mr. ROBERT C. BYRD. Yes. The vote will occur at 2 p.m. The motion to recommit was withdrawn.

Mr. STENNIS. I see. Great.

Mr. ROBERT C. BYRD. We will have a rollcall vote.

Mr. STENNIS. I thank the leader.

The PRESIDING OFFICER. The nomination will be stated.

NOMINATION OF CORNELIA G. KENNEDY TO BE U.S. CIRCUIT JUDGE

The assistant legislative clerk read the nomination of Cornelia G. Kennedy, of Michigan, to be U.S. circuit judge for the sixth circuit.

Mr. THURMOND. Mr. President, there is no time limit on this, is there?

Mr. ROBERT C. BYRD. Yes, there is a time limit.

Mr. THURMOND. Did we agree to 30 minutes on each side?

Mr. ROBERT C. BYRD. One hour and a half on this one.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally charged against both sides on this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that during the consideration of the judges on the Executive Calendar, Tom Susman and Elaine Shocas of the Judiciary Committee be accorded the privilege of the floor during the debate as well as the votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMAN. Mr. President, I ask unanimous consent that Mr. Duke Short and Emily M. Snedman be accorded the privilege of the floor during the vote on these judgeship nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I understand that the present matter that is before the Senate is the nomination of Judge Cornelia Kennedy. Am I correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. There is a time limitation. Am I correct?

The PRESIDING OFFICER. That is correct.

Mr. THURMOND. What is the time limitation on this? Is it 45 minutes to the side?

The PRESIDING OFFICER. Forty-five minutes are allotted to each side.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Mr. President, a judicial nominee should "possess and demonstrate a commitment to equal justice under law," as President Carter recognized in his Executive order a year ago. Central to this commitment is whether the nominee is sensitive to civil rights and civil liberties and willing to enforce the law which protects these fundamental rights. The Senate Judiciary Committee has a solemn responsibility to examine each judicial nominee closely and independently for this commitment.

From the voluminous records that came before the Senate Judiciary Committee, everyone agrees that Judge Kennedy is a person of personal integrity, honesty, and professional competence. Nevertheless, I cannot read her record to reflect a satisfactory sensitivity to civil rights and civil liberties, or a commitment to their full enforcement. I acknowledge that some would draw different conclusions from the record. Both individual cases and the overall record are open to interpretation. But for me, the doubts raised by her record are far too disturbing to ignore. The position of a U.S. circuit court judge is too vital to allow the appointment of a nominee whose commitment remains subject to such serious doubt. I must vote no.

Mr. President, I withhold the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the Kennedy nomination——

Mr. KENNEDY. We may not vote on that.

Mr. THURMOND. We may not have a rollcall vote.

Mr. ROBERT C. BYRD. I withdraw my request then.

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

Mr. President, I heartily support the nomination of Judge Cornelia Kennedy to be a U.S. circuit judge for the Sixth Circuit Court of Appeals.

Judge Kennedy graduated from the University of Michigan Law School with distinction and was a member of the board of editors of the Michigan Law Review. After graduation she worked as a law clerk to the late Chief Judge Harold M. Stevens of the U.S. Court of Appeals for the District of Columbia. She served for 4 years as a Michigan circuit judge and nearly 9 years as a Federal judge, eastern district of Michigan. At the present, she is chief judge for that district and has occupied this position since 1977. Judge Kennedy represents the highest ideals of the judiciary.

Let me just tell you some of the comments made by her contemporaries. First a statement by Mr. Ivan Barris, president-elect of the State Bar of Michigan:

> Judge Kennedy is undoubtedly the most capable woman judge before whom I have ever had the pleasure of appearing, she is one of the finest judges who ever sat in Michigan regardless of gender. I don't believe there is any question but that Judge Kennedy's morals and integrity are above reproach. While certainly pragmatic, Judge Kennedy is none the less a legal scholar with a highly incisive mind. She is so industrious that perhaps some refer to her as a workaholic. But if workaholicism is a disease I would only hope that more members of our State Judiciary would come down with a severe case of this malady.
>
> I want to especially emphasize that I consider Judge Kennedy to be the personification of fairness and that she dispenses justice on an even-handed basis regardless of the race, religion, ethnic background or station in life of the parties before her. Although I as a defense counsel in criminal matters do not always personally agree with Judge Kennedy's conservative bent, I can unequivocally say that in every matter in which I have appeared before her, she has scrupulously adhered to the law and I assure you that her comprehension of the law is equaled by few judges whom I have known. Judge Kennedy has an extraordinarily fine, judicial temperament and she has a true dedication to the law.

Mr. Fred Mester, president of the Federal Bar Association, Detroit chapter, had this to say about Judge Kennedy:

> Judge Kennedy has demonstrated the highest degree of compassion for those who have historically suffered under the oppression of prejudice and racial bigotry. She does not see before her an ethnic individual but in each instance she sees a human being who is seeking fairness, dignity and justice from her court. Such a characteristic embodied in so few individuals cannot be turned on and off at will. It is carried inside the judicial setting and is manifested in everything she does. I know of no other judge who meets this standard of compassion and fairness we all hope for in our judicial system better than Cornelia Kennedy. For those of us who have had the privilege of practicing before her the immediate and inexhaustible interest and concern exhibited by Judge Kennedy from the onset of the case, no matter how mundane or complex, has been duly noted and appreciated. Throughout the course of the litigation, Judge Kennedy provides an environment free from all outside distractions and thus sets the stage for fair and earnest deliberations. Regardless what the matter may be, Judge Kennedy gives it the dignity it deserves and which is expected from litigants in our courts today.
>
> Just as she provides an environment of fairness as a case progresses in her court she also exerts judicial control over the case at each step of the proceeding. She is always prepared when oral argument ensues and has an innate sense to quickly get to the

> heart of the issue presented. Her thorough advance preparation for pre-trial conference, the soul of federal trial practice, saves precious trial time by narrowing the issues to only those which absolutely need be litigated. Her scholarship, hard work and keen common sense makes the pretrial an effective tool to place issues in their proper perspective and thus, eliminates technical manipulations that tend to obscure the real issues, wasting tremendous amounts of energy, work and time.

Prior to her elevation to the bench, Judge Kennedy contributed to her profession as chairperson of the Michigan Bar Association's Negligence Committee. Before and after assuming the chairpersonship, she ran negligence seminars for that bar section. Upon assuming the position of chief judge of the U.S. District Court for the Eastern District of Michigan, she began taking a leadership role in the U.S. district court's new lawyer seminar, which is cosponsored by the Detroit chapter of the Federal Bar Association. This seminar assists the new attorney in his/her attempt to bridge the gap between academia and the practice of law. Her strong support of this and other efforts of continuing legal education demonstrate her interest that parties finding themselves in the Federal court receive the best possible representation.

She has pursued the law in the spirit of Mr. Justice Holmes when he said:

> Law is a business to which my life is devoted, and I should show less than devotion if I did not do what in me lies to improve it, and when I perceive what seems to me to be the ideal of its future, if I hesitated to point it out and press toward it with all my heart.

Judge Kennedy's sense of fairness, integrity, intellectual capacities and experience place her at the forefront of her profession. She is an exemplary person as a lawyer and judge, but most important as a human being.

I would like to emphasize that Judge Kennedy was rated well-qualified by the American Bar Association, and in addition has received the strong support of the Federal Bar Association; the Detroit Bar Association; the Michigan State Bar Association (a bar incidentally consisting of a lawyer population in excess of 18,000 members); the Women Lawyers of Michigan; the National Association of Women Lawyers; the Oakland County Bar Association; Mr. Harry M. Philo, president-elect of the American Trial Lawyers; Edmond Kitch, University of Chicago Law School: and Terrance Sandolow, Dean, University of Michigan Law School, as well as many others.

I heartily recommend to my colleagues the confirmation of Judge Cornelia Kennedy for the position of U.S. circuit judge for the Sixth Circuit Court of Appeals.

Mr. HATCH addressed the Chair.

Mr. THURMOND. Mr. President, I yield 10 minutes to the distinguished Senator from Utah.

Mr. HATCH. I thank my dear friend and colleague from South Carolina.

Mr. President, I do not want to delay the Senate very long. I just want to rise to my feet in support of Judge Cornelia Kennedy. I think she is probably the most exceptional woman judge in the country, and that is saying something because we have some other tremendous women judges in this country and, in particular, Shirley Hufstedler out in California, and others, and I do not want to slight any of them. But this woman certainly rises in equality to any of the men or women judges in this country.

As a matter of fact, I feel she is probably the single best candidate for a Federal judgeship who has come before the Judiciary Committee since I have sat thereon and in passing on these judgeship confirmations, in this judgeship process.

She has had eminent practitioners of the law who have testified in her behalf. I cite particularly Mr. Harry Philo, president-elect of the Trial Lawyers of America, the leading plaintiffs' trial lawyers association in this country; Fred Mester, president of the Federal Bar Association, Detroit chapter; Ivan Barris, president-elect of the State Bar of Michigan; John Crsul, Jr., president of the Detroit Bar Association; Alan C. Harnisch, vice president, Detroit chapter, of the Federal Bar.

She is well qualified according to the American Bar Association, and her fellow judges, I think, hold her in high esteem.

I believe, having had extensive trial practice before coming to the U.S. Senate, that I am in a position to at least have some idea about what constitutes a good Federal judge. Most of my practice in the later years was in Federal court.

All I can say is that I would certainly have considered it and deemed it a tremendous privilege to be in front of Judge Cornelia Kennedy. She is a woman of integrity, fairness, experience, and inestimable ability and skills. She is a very hard worker, as everyone admits. And most importantly, I thank and commend the two Senators from Michigan who support her nomination, Mr. RIEGLE and Mr. LEVIN, for not only supporting her nomination, but also for having set up the Judicial Merit Selection Commission which selected her in the first place.

I believe in merit selection of Federal judges, even though I feel that there have been some situations where merit selection has not actually contributed to the process. Nevertheless, I think it is something that we should be shooting for, to take Federal judgeships out of the political arena and to have judges chosen, or fill judgeships by people chosen by merit selection. Cornelia Kennedy was chosen that way. I think that speaks well for her, and I would recommend to all of my fellow Senators on the floor today that they support the confirmation of Mrs. Kennedy's nomination. In doing so, they will be doing this country a great favor and Detroit in particular, and Michigan, I think, a great service. Those who have to practice law before the Federal bench and the appeals court in that area will, I think, be benefited greatly by the selection of this woman of outstanding ability, integrity, intellectual capacities, and experience on the appeals court bench.

I have nothing further to say, other than that I support her nomination wholeheartedly.

Mr. KENNEDY. Mr. President, I yield the Senator from Ohio such time as he may require.

Mr. METZENBAUM. Mr. President, I rise to address myself to the question of the confirmation of Judge Kennedy's nomination. I had the privilege of chairing the hearings conducted by the Committee on the Judiciary in connection with this matter, and for full 2 days, both of which went until about 7 o'clock at night, we had extensive hearings concerning Judge Kennedy.

Mr. President, without question Judge Kennedy is a jurist of integrity and ability. She is conscientious, and she has been an excellent member of the district court on which she presently serves.

It is a fact that there was extensive testimony in opposition to her appointment presented on behalf of the NAACP Legal Defense and Educational Fund, Incorporated. By reason of the fullness of that presentation, I then asked a number of leading scholars to be part of an expert panel charged with undertaking an analysis of the judicial opinions rendered by Judge Kennedy. It is fair to report that the response came back on a divided basis. Some felt very strongly that she had been too technical, that she had leaned over backwards, that she had found reasons to throw out and rule out those cases concerned with civil rights, prisoners' pro se complaints—meaning complaints filed by a prisoner on behalf of himself—and certain police cases.

As I heard the testimony that was submitted and heard from the legal experts, and studied the many cases involved, I personally arrived at the conclusion that indeed Judge Kennedy had been overly technical, almost overly anxious in some respects, overly involved in the juridical process, though only with respect to certain cases.

As a result of those 2 days of hearings and the reservation that I had myself in connection with her opinions, I arrived at the conclusion that I would vote in opposition to the confirmation of her appointment.

I am hopeful that the 2 days of hearings will serve a useful purpose in the future judicial service of Judge Kennedy, and that perhaps, if nothing else was gained, it will provide her with a sensitivity in hearing cases in the future in connection with these kinds of matters.

I would guess that her nomination will be confirmed by the U.S. Senate, but I, for myself, will be more comfortable in voting no in connection with her confirmation.

Mr. KENNEDY. Mr. President, unless there are other Senators who care to speak, I am prepared to yield back the remainder of our time.

Mr. THURMOND. Mr. President, I yield to the able Senator from Wyoming. How long do you want?

Mr. SIMPSON. It should not be longer than 10 minutes.

Mr. THURMOND. I yield the Senator 10 minutes.

Mr. SIMPSON. Mr. President, I do trust that my colleagues will act to confirm U.S. District Judge Cornelia Kennedy's nomination to the U.S. Court of Appeals for the Sixth Circuit. I really believe, after most careful consideration, that any other result would be a grave injustice and a rather bleak commentary, indeed, on the fairness and effectiveness of the Senate's procedures in this area.

I have carefully considered the testimony presented on this nomination. I have personally questioned many of the witnesses, and I have conferred with and questioned Judge Kennedy.

There is no doubt in my mind that Judge Kennedy has all the qualities needed to be a circuit court judge, not merely an adequate judge, but a truly outstanding judge.

I will not go through the full list of recommendations, but permit me to mention a few. Judge Kennedy has been highly recommended by her own State's Senators, Senators RIEGLE and LEVIN, former Senator Griffin, the State Bar of Michigan, the Detroit Chapter of the Federal Bar Association, the Oakland County Bar Association, the Detroit Bar Association, the Women Lawyer's Association, prominent attorneys in the Michigan area who have practiced before her on behalf of both plaintiffs and defendants, and other judges in the Eastern District Federal Court.

Senator RIEGLE testified to Judge Kennedy's courteous manner and her reputation for judicial temperament. He mentioned her long and distinguished public service and reputation for hard work and high scholarship.

Senator LEVIN stated that Judge Kennedy has shown throughout her years on the bench an attitude of understanding and cooperation.

Mr. Harry M. Philo, one of the finest trial lawyers in the country, national vice president and president-elect of the Association of Trial Lawyers of America, an association of lawyers for civil plaintiffs and criminal defendants, and former president of the Michigan Trial Lawyers Association, stated:

> All of the lawyers who knew her, and who had appeared before her and had handled litigation before her—and litigation of the type that the Legal Defense Fund had talked about—were in support of her nomination.

Mr. Ivan E. Barris, president-elect of the State Bar of Michigan, said:

> I do not look upon her as just an outstanding female judge. I look upon her as being an outstanding judge, period. I have observed her for the 12 years since she has been on the bench, and I have been before her many, many times. She is the personification of fairness.

Alan C. Harnisch, vice president of the Detroit chapter, Federal Bar Association, stated that Judge Kennedy enjoys a widely held reputation for fairness and integrity.

The principal opposition to Judge Kennedy's nomination appears to rest almost totally on allegations made by Mr. Eric Schnapper, of the NAACP legal defense fund, who has made an analysis of Judge Kennedy's legal opinions in 50 cases which he characterized as involving issues of race, prisoner rights, and police brutality, and 35 other constitutional and civil rights cases, again as characterized by Mr. Schnapper.

Mr. Schnapper seemed to come to three conclusions: First, that Judge Kennedy has ruled in every case against the person asserting a civil rights violation; second, that Judge Kennedy's rate of reversal in cases leading to published opinions of the sixth circuit is disproportionately high—allegedly over 50 percent in criminal cases; and, third, that Judge Kennedy has followed an unusual practice in her disposition of pro se suits of prisoners by frequently dismissing such cases as frivolous even before service on the defendants, and that she thereby has demonstrated an insensitivity to the civil rights of prisoners.

Mr. President, those are serious charges, especially when made to the public and in this form of context. Such charge can do great harm to one person's reputation and career, and I think to public confidence in the judicial process.

One would believe that a responsible person would not make such charges without adequate foundation, without painstaking attention to detail and attempts to avoid distortion and innuendo. Unfortunately, Judge Kennedy had not been accorded the benefit of such amenities.

Let me briefly review Mr. Schnapper's conclusions.

It was claimed that Judge Kennedy had a reversal rate of over 50 percent in criminal cases appealed to the sixth circuit and resulting in published opinions and that there was no reason to believe that the consideration of unreported and per curiam decisions would substantially alter that rate. Simple inquiry would have revealed that the sixth circuit published opinions much more often when it reversed a lower court. Thus we find that Judge Kennedy's actual reversal rate for all criminal cases was 16 percent and not 52 percent. Similarly, if inquiry had actually been made of the clerk of the district court, as Mr. Schnapper claimed, it would have been discovered that dismissing pro se prisoner cases sua sponte—and that is a remarkable Latin phrase referring to actions on a judge's own motion—was common practice in the eastern district and that Judge Kennedy followed that practice even less than the average for judges in the district.

With respect to the claim that Judge Kennedy always ruled against the person asserting a civil rights violation, I wish to state that I have come to feel that Mr. Schnapper's analyses have lost a great deal of credibility. Noting the errors and misleading statements concerning reversal rates and pro se prisoner suits, I do not believe reliance can reasonably be placed on the abbreviated case analyses alone. We see that his presentations do not fairly and accurately describe the actual cases. We must look elsewhere for supporting testimony.

The best that can be said for Mr. Schnapper is that some independent academic witnesses agreed with some of his charges. Most did not. I believe the most helpful comment was made by Prof. Peter Westen, of the University of Michigan Law School when he stated:

> I cannot say that I agree with every decision Judge Kennedy has made, but I can say that in the few cases in which we disagree, her reading of the law falls within the area in which reasonable people may differ.

Professor Westen analyzed only the "prisoner cases," but three of his colleagues at Michigan Law School similarly analyzed the other categories of Judge Kennedy's cases discussed by Mr. Schnapper—Prof. Yale Kamisar examined the "police cases," Prof. Christina Whitman examined the "race and sex cases," and Dean Terrance Sandolow examined the "other civil rights and constitutional cases." They all came to the same conclusion as Professor Westen. As my colleagues know, the law faculty of the University of Michigan is consistently rated as being among the finest in the country.

A detailed analysis of the issues raised by Mr. Schnapper was also made by the Detroit chapter of the Federal Bar Association and that analysis also vigorously disagrees with Mr. Schnapper's conclusions concerning Judge Kennedy's decisions in civil rights cases.

A further problem with Mr. Schnapper's analysis is that as far as I know, no other similar case-by-case analysis has been made of a judge's record. Therefore, how could any comparisons be made even if Mr. Schnapper's analysis had credibility, which it does not?

Apparently as a kind of substitute for the kind of analysis that would be needed for any valid comparisons, Mr. Schnapper lists—without analysis—"favorable decisions in civil rights cases by Detroit district judges." This list contains one or two cases for each of seven judges.

Since even a witness who testified against her, Prof. Stephen Barnett of the Law School of the University of California at Berkeley, listed several cases where Judge Kennedy ruled favorably for plaintiffs, this kind of comparison just does not prove out. It was also of interest to me to note that the committee had received enthusiastic endorsements of Judge Kennedy from at least four of the judges on the list as well as others in the Eastern District, including that of Judge Charles W. Joiner. Judge Joiner was one of the five persons recommended by the nominating panel in the sixth circuit to the position for which Judge Kennedy has been nominated.

I want to share with my colleagues a very brief portion of Judge Joiner's testimony, which casts further doubt on the allegations against Judge Kennedy. Judge Joiner said:

> Mr. Schnapper has attached an analysis of the record of a part of the hearing in the *Ferndale* case in the motion for preliminary injunction, apparently in an effort to indicate that Judge Kennedy acted abruptly with bias in the conduct of that case. I have read the transcript of that portion of the hearing referred to and it suggests no such thing. It suggests a diligent judge attempting to help all counsel obtain rulings on all points they wish to raise. It suggests an interested judge attempting to understand arguments and positions taken in the case and meaning to devote all essential time to that case in order to allow the parties ample opportunity to make a record, and yet at least make a stab at getting other matters handled.

Finally, Mr. President, I wish to state that I find very little to justify the ordeal to which Judge Kennedy has been subjected in this matter. No other nominee of whom I am aware has had to face this, and, frankly, I have observed that many were less qualified for the Federal bench than she. I was very impressed with the grace, the rationality, and the understanding which she demonstrated.

I trust that in the future we might try to resist the political pressures and temptations to crease issues where none really exists. I also trust we might try not to apply a double standard to judicial nominees, rubberstamping those who share our own philosophy or theories of judicial activism and subjecting anyone else to the most searching and enduring examination, apparently intended to discover any possible basis that could be used to justify rejection.

Mr. President, let me conclude by pointing out to my colleagues that Judge Kennedy's commitment to—and I think this is so important—equal justice under the law is demonstrated not only by her record on the bench, but also in activities outside the courtroom. For example, when a proposal was made in Detroit to reduce the size of the juries from 12 to 6, Judge Kennedy tried valiantly to blunt that effort, since she felt deeply that the change would reduce the black and other minority representation on juries. Judge Kennedy also expended her own time and efforts to argue against the imposition of changes in parole policy guidelines in Detroit, guidelines that she felt might be prejudicial to the best interests of young minority offenders.

She is a remarkable woman and a remarkable judge. She deserves to be confirmed. She will be a credit to the judiciary of Michigan and of the Nation. I commend her earnestly to the Senate.

Mr. KENNEDY. Mr. President, I am prepared to yield back our time.

Mr. THURMOND. If there is anyone on this side who wishes to speak on the nomination—I do not believe I see anyone.

Mr. President, I am prepared to yield back my time.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. THURMOND. I move to reconsider the vote by which the nomination was confirmed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I will yield to my friend, the distinguished Senator from Florida, and ask unanimous consent that the time not be charged to the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

VISIT TO THE SENATE BY MEMBERS OF THE EGYPTIAN PARLIAMENTARY DELEGATION AND THE EMBASSY OF THE ARAB REPUBLIC OF EGYPT

Mr. STONE. Mr. President, I have the honor to present to the Senate the Chairman and Delegation from the People's Assembly of Egypt, which has just concluded its participation in the International Parliamentary Union in Caracas, Venezuela, and has just concluded a visit to Washington.

The Delegation is headed by Dr. Sufi Abu Taleb, Speaker of the People's Assembly, Chairman of the Delegation, and includes:

Dr. Ahmed Fouad Mohy El Din, Member of the People's Assembly; Mr. Barsom Salama Abraham, Member of the People's Assembly; Mr. Ibrahim Shoukri, Member of the People's Assembly; Mr. Kamal El Shazli, Member of the People's Assembly; Dr. Farkhonda Hassan, Member of the People's Assembly; Mr. Ibrahim El Sherbini, Secretary General, People's Assembly.

Mr. President, they are accompanied by His Excellency, the Ambassador of Egypt, Dr. Ashraf A. Ghorbal.

All of the above are of the People's Assembly, and some, also, of the Federation Council.

We are honored and proud to have them here as guests of the Senate Foreign Relations Committee.

Mr. President, I ask that my colleagues on the floor take advantage of the opportunity to meet and greet them.

Mr. ROBERT C. BYRD. Will the Senator yield briefly?

Mr. STONE. Yes, I do.

Mr. ROBERT C. BYRD. Mr. President, I join with the distinguished Senator in welcoming these distinguished visitors and I hope Senators will join in personally greeting them.

Mr. STONE. I thank the leadership and the managers.

[Applause.]

RECESS

Mr. STONE. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes so that Members can greet their guests.

There being no objection, the Senate, at 1:53 p.m., recessed until 1:58 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Bradley).

EXECUTIVE SESSION

THE JUDICIARY

NOMINATION OF BAILEY BROWN TO BE U.S. CIRCUIT JUDGE

The PRESIDING OFFICER. The clerk will state the nomination of Bailey Brown.

The assistant legislative clerk read the nomination of Bailey Brown, of Tennessee, to be a U.S. circuit judge for the sixth circuit.

Mr. KENNEDY. Mr. President, I understand there is a time limitation on this nominee. Is that correct?

The PRESIDING OFFICER. The Senator is correct. One hour is allotted to each side.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

Mr. President, we have before us today the nomination of Judge Bailey Brown to serve on the U.S. Court of Appeals for the Sixth Circuit. The Judiciary Committee has voted, 11 to 2, to recommend that Judge Brown's nomination be confirmed. I joined in that recommendation, and I will vote for Judge Brown's confirmation today.

Judge Brown has served as a member of the U.S. District Court for the Western District of Tennessee for 18 years, and is currently its chief judge. His fine record as a district judge—which Senator Sasser outlined to the Judiciary Committee—provides strong support for the President's decision to nominate him to the court of appeals. As to this record, I have no reservations.

In considering a nominee for the Federal bench, however, we must look beyond his paper record. We must be concerned with his sensitivity as an individual, and with the public perception of his ability to do justice to those who appear before him.

In response to the Judiciary Committee's questionnaire, Judge Brown stated that he was a member of the University Club, a private social club in Memphis which has never had a black member. He told the committee at that time, that, in his opinion, "while no black may have ever applied, none would have been accepted."

I strongly believe that persons who belong to discriminatory private clubs should not be confirmed as judges of the U.S. courts. There is no task more important for Federal judges than enforcement of civil rights, and no principle more important in our system than equality of rights for all. I agree that a nominee to the Federal bench who associates himself with a group which refuses to recognize the equality displays an "unacceptable insensitivity to racial intolerance, inconsistent with the fundamental policy of the United States to rid ourselves of racial discrimination." As a Member of the Senate called upon to pass on nominees to the Federal bench, I cannot condone such insensitivity and I cannot support a person whose affiliation suggests such an intolerance.

Mr. President, the hour of 2 o'clock having arrived, I would like to withhold the remainder of my statement and ask unanimous consent that this vote on the Panama Canal Treaty appear at an appropriate place in the Record and not interrupt the general debate and discussion either on Judge Brown or the other nominees who have been recommended by the Judiciary Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Pursuant to the above order, the vote on the conference report on the Panama Canal Act of 1979 is printed at the conclusion of the debate thereon, earlier in today's Record.)

Mr. KENNEDY. Mr. President, what is the time situation on the nominee?

The PRESIDING OFFICER. The proponents have 57 minutes remaining and the opponents 60 minutes remaining.

Mr. KENNEDY. Mr. President, I understand under the time agreement that the time was to be divided between the chairman of the committee and the ranking minority member.

I ask unanimous consent that the Senator from New York (Mr. Javits) control the time in opposition to Mr. Brown and that the other time be divided between the Senator from South Carolina and the Senator from Massachusetts.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the Judiciary Committee, prompted by Judge Brown's candid description of the University Club, has overwhelmingly expressed its disapproval of membership in clubs that discriminate—a position which I think is in accord with my views. At our last executive session, I read to the committee a letter that Senator THURMOND and I proposed to send jointly to Judge Brown. There was no objection from the other members present, and we sent the letter. I should like to read you a paragraph from it:

> We have tried to consider this issue apart from your own record, which certainly shows sensitivity towards civil rights matters. In our view, it is inadvisable for a nominee for a Federal judgeship to belong to a social club that engages in invidious discrimination. While we have not discussed all possible forms of discrimination, we feel that "invidious discrimination" exists when the club's discrimination, in historical context, constitutes a stigma or badge of social inferiority. A social club's discrimination based on race or religion would ordinarily be considered invidious."

In my view, this letter represents an important decision by the committee on the issue of membership in discriminatory private clubs. A copy of it will be sent to the Ethics Committee of the Judicial Conference of the United States, which will consider the issue as it applies to sitting judges at its January meeting. Its contents have been communicated by staff members to four nominees who belonged to private all-white clubs, and all four have decided to resign their memberships. And the Attorney General has told us that he will in the future advise all nominees of the committee's position on private clubs, and in appropriate cases will request that they resign.

Judge Brown, however, has not resigned from the University Club. He told the committee that he believed discrimination by the club was a relic of the past and would not continue in the future. But he agreed to suspend his participation in the club until he is "convinced personally that the club does not discriminate on the basis of race." He has written a letter to this effect to the club's officers, and has stated that he will sponsor for membership black friends of his who wish to apply.

At this point I will read a letter that I have received from Bailey Brown. I ask unanimous consent that it be printed in the RECORD. I will quote from it.

U.S. DISTRICT COURT,
Memphis, September 25, 1979.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: I have stated to the Judiciary Committee that I will suspend my participation in the University Club until I am properly satisfied that it does not discriminate. I made this statement in good faith and I intend to carry it out in good faith. I have also notified officers of the Club of my decision. I have also told Senator Sasser that I have black friends who, if they desired to join the Club, I would sponsor their applications. I therefore believe that discrimination by this Club will turn out to be a relic of the past which is precisely as it should be. Should it turn out that discriminatory practices continue, I shall not resume activity in the Club.

Sincerely yours,

BAILEY BROWN,
Chief Judge.

There was a division of opinion within the committee on whether this action, under the circumstances, was sufficient. Some Senators believed that Judge Brown should simply resign; others argued that his action might, as a practical matter, put additional pressure on the club to abandon any discrimination. Despite this division, the committee was able to agree, without any dissent, to send the letter that I have read expressing our disapproval of membership in clubs that discriminate.

Personally, I would have preferred that Judge Brown resign from the University Club. But in my mind, the most important thing was that we on the committee agree that nominees should not be associated with private clubs that discriminate invidiously. That we have done. As for Judge Brown, I think he has made a good-faith effort to sever his personal connection with the discriminatory policies of the University Club. Either he will be proved correct in his belief that the club no longer discriminates, or he will not set foot in it again. Under these circumstances, I am prepared to vote for Judge Brown.

In making my decision on how to vote, I have kept in mind the wise advice of the late Senator Hart. He said:

> In a complex and free society, few if any mountains will be scaled on the first try, and progress comes by climbing a molehill at a time. And perhaps that is the way it should be for who among us has the wisdom to foresee with certainty what life is like on a summit we have yet to achieve.

I believe this is a sound philosophy for those interested in practical achievement, and I believe in reaching a consensus. The committee here has made progress and taken a step of practical value.

I ask unanimous consent that the letter of Senator THURMOND and myself to Judge Brown, and other material previously referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 11, 1979.

Hon. BAILEY BROWN,
Chief Judge, U.S. District Court, Western District of Tennessee, Memphis, Tenn.

DEAR JUDGE BROWN: The Senate Committee on the Judiciary has voted to recommend to the Senate that you be confirmed as a member of the United States Court of Appeals for the Sixth Circuit. As you know, your nomination presented the question of a nominee's membership in a social club that allegedly maintained a membership policy that discriminated against Blacks.

We have tried to consider this issue apart from your own record, which certainly shows sensitivity towards civil rights matters. In our view, it is inadvisable for a nominee for a federal judgeship to belong to a social club that engages in invidious discrimination. While we have not discussed all possible forms of discrimination, we feel that "invidious discrimination" exists when the club's discrimination, in historical context, constitutes a stigma or badge of social inferiority. A social club's discrimination based on race or religion would ordinarily be considered invidious.

We wish you to know our views on this matter.

Sincerely,

EDWARD M. KENNEDY,
Chairman.
STROM THURMOND,
Ranking Minority Member.

[From the New York Times, Sept. 25, 1979.]

ADVICE, NOT CONSENT, ON BIGOTRY

Those who insist that it's all right for Federal judges to belong to white-only social clubs had better look around. Their stand is now to the right of Strom Thurmond, the ranking Republican on the Senate Judiciary Committee. Senator Thurmond, once a champion of official segregation, has joined Senator Kennedy in advising judicial candidates to quit groups that engage in "invidious discrimination."

Judicial candidates would do well to heed that advice, coming as it does from a committee that passes on their nominations. The Justice Department has started giving the same advice to those seeking nomination. And the Judicial Conference of the United States, which writes the ethical rules for Federal judges, is considering a rule prohibiting such memberships.

The message is getting through. Bailey Brown, a nominee for the Court of Appeals for the Sixth Circuit, won Senate committee endorsement only after suspending his affiliation with the University Club in Memphis. He agreed to stay out of the club until he satisfies himself it will admit minorities. Three other nominees have resigned from similarly suspect clubs.

The Judiciary Committee's tough and prudent new policy statement addresses racial exclusion directly. It also looks forward to subtler questions: "While we have not discussed all possible forms of discrimination, we feel that 'invidious discrimination' exists when the club's discrimination, in historical context, constitutes a stigma or badge of social inferiority." That would seem to cover the primary evil without threatening bona fide ethnic groups.

The policy also leaves the committee free to be wary of clubs that bar women. The courts do not yet regard sex barriers as suspiciously as racial and religious ones, but the committee surely recognizes the professional price that women pay because they are excluded from the clubrooms of the male establishment.

A disturbing survey by the Southern Regional Council has found that three out of five Federal judges in the South, and half the Federal judges in four Northern cities, belong to all-white clubs. The appearance of impartial justice, so critical to confidence in the judiciary, is compromised when judges give moral and financial support to discrimination. Individual social preferences are personal concerns; but anyone who aspires to the Federal bench and wishes to be called "Your Honor" ought truly to deserve it.

[From the Washington Star, Sept. 12, 1979]

SENATE PANEL SETS CLUBS POLICY FOR U.S. JUDGES

(By Robert Pear)

In a session at which it approved three of President Carter's most controversial judicial nominees, the Senate Judiciary Committee yesterday took the positions that persons nominated to the federal bench should not belong to social clubs that practice discrimination.

The panel supported Rep. Abner J. Mikva, D-Ill., and two trial judges for seats on federal appeals courts.

It approved Mikva by a vote of 9-6, endorsed U.S. District Judge Cornelia Kennedy of Michigan 9-4, and voted 11-2 for U.S. District Judge Bailey Brown of Tennessee. The nominations go now to the full Senate, which is likely to follow the committee's lead and endorse them.

After intense debate the committee adopted a historic policy statement declaring that those nominated to federal judgeships should not belong to social clubs that practice discrimination—for example, against blacks.

The issue arose with Brown's nomination because the Tennessee jurist had refused to resign from the all-white University Club of Memphis, where he has been a member for more than 30 years.

"While no black may have ever applied," Brown said in reply to a committee questionnaire, "none would have been accepted" as a club member.

Brown, who is 62, averted a showdown by making a promise to the committee at the last minute. "I agree to suspend my participation (in the club) until such time as I am convinced personally that the club does not discriminate," he said.

DOESN'T EXPECT TO RESIGN

Later, in a telephone interview from Memphis, Brown said he did not expect to resign from the club. Likewise, he said, "I don't mean to indicate that I think I've been living in sin all these years by going along with the committee formula now."

Brown is chief judge of the U.S. District Court for Western Tennessee, and has served on the court 18 years. He has been nominated for a seat on the 6th Circuit Court of Appeals.

Mikva, 53, a liberal Democrat, was opposed by conservatives who feared he would be a judicial activist on the influential U.S. Court of Appeals for the District of Columbia. Also, the National Rifle Association opposed Mikva because he has been a leading sponsor of gun-control legislation.

Kennedy, chief judge of the U.S. District Court for Eastern Michigan (Detroit), would join Brown on the 6th Circuit Appeals Court if confirmed by the Senate. Kennedy, now 55, has been on the bench nine years.

At a hearing in July, Eric Schnapper of the NAACP Legal Defense and Educational Fund complained that Kennedy had "ruled against the plaintiff in every race case, in every police case and in every prison case she had ever handled."

KENNEDY, THURMOND SIGN LETTER

Conservative senators supported Kennedy. Strom Thurmond of South Carolina, the panel's ranking Republican, said that during 25 years in the Senate, he had never seen a judicial candidate who made a "finer impression."

Judiciary Committee Chairman Edward M. Kennedy and Thurmond jointly signed a letter to Brown stating their position on all-white social clubs. They said "it is inadvisable for a nominee for a federal judgeship to belong to a social club that engages in invidious discrimination."

Discrimination is invidious, they said, when, in historical context, it constitutes "a stigma or badge of social inferiority."

Schnapper and Elaine Jones of the NAACP Legal Defense Fund said they were delighted at the way Kennedy had tackled and resolved the social clubs issue.

"It is a real credit to Kennedy that he was able to get Thurmond's support for this policy statement," Schnapper said. Jones said she hoped the Judicial Conference, the policy-making arm of the federal judiciary, would adopt a similar rule.

The former attorney general, Griffin B. Bell, set a precedent when he agreed to resign from two white-only Atlanta clubs before he was confirmed in 1977.

U.S. COURT NOMINEES SAID TO QUIT ALL-WHITE CLUBS

[From the New York Times, Sept. 23, 1979]

WASHINGTON, Sept. 22.—More than a dozen nominees for Federal judgeships, under pressure from the Senate Judiciary Committee, have agreed in recent months to resign from all-white social clubs, committee sources said today.

Three of the nominees pledged to quit the clubs in the last few days, the sources said, after a new committee policy on the issue was read to them over the telephone.

The sources identified the three as C. Weston Houck of Florence, S.C.; Eugene Spellman of Miami, and Lynn Higbee of Panama City, Fla., all nominated for Federal district judgeships.

Yesterday Attorney General Benjamin R. Civiletti put into writing his own policy, asking prospective candidates for judgeships to resign or suspend memberships in segregated clubs before they were nominated. Under the Civiletti policy, refusal to comply would not automatically disqualify a candidate, but it would be a factor in the nomination process.

Committee sources said that Senator Edward M. Kennedy, Democrat of Massachusetts, the committee chairman, as the main force behind the new policies, being shaped rather suddenly after Congress refused for years to budge on the sensitive question.

The policy changes could prod the Judicial Conference of the United States, which is made up of top Federal judges, to tackle an even thornier side of the issue: Should sitting judges also be asked to resign from all-white clubs?

Yesterday Judge Edward Tamm of the United States Court of Appeals for the District of Columbia, chairman of the conference's ethics committee, said that he had placed the topic of club membership on the agenda for discusison at the conference's meeting this winter.

The Southern Regional Council of Atlanta, a civil rights organization reported last week that three of five Federal judges in the South and probably a majority nationwide held memberships in all-white clubs.

The issue of membership in segregated clubs touched off controversy more than two years ago when the nominee for Attorney General, Griffin B. Bell, was pressured in his confirmation hearings into quitting three such clubs. But in his two and a half years in office, the Attorney General did not push the issue with the nominees President Carter sent to Congress for confirmation.

When Attorney General Civiletti came up for confirmation as Mr. Bell's successor last month, Senator Kennedy extracted from him a pledge to ask judgeship nominees to resign from all-white clubs.

Committee sources have estimated that more than a dozen nominees had agreed to quit all-white social clubs under committee pressure in the past few months.

The showdown came two weeks ago when Bailey Brown, a candidate for the appellate court, refused to quit the all-white University Club of Memphis.

He did, however, reluctantly agree to suspend his membership until he was "convinced personally the club does not discriminate."

U.S. JUDGE NOMINEES QUITTING WHITE CLUBS

More than a dozen nominees for federal judgeships have agreed in recent months to resign from all-white social clubs under pressure from the Senate Judiciary Committee, committee sources said yesterday.

Three of them pledged to quit the clubs within the last few days after a new committee policy on the issue was read to them over the phone, the sources said.

At the same time, Attorney General Benjamin Civiletti has committed himself in writing to ask candidates before they are nominated for judgeships to resign from or suspend their memberships in segregated clubs.

Committee sources say its chairman, Edward M. Kennedy (D-Mass.), is the main force behind the new policies, being shaped rather suddenly after Congress refused for years to budge on the sensitive question. Nominees for the federal bench undergo confirmation hearings in that committee.

The policy changes could prod the Judicial Conference of the United States, which is comprised of top federal judges, to decide whether sitting judges also should be asked to resign from all-white clubs.

SEPTEMBER 25, 1979.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR TED: I have seen the letter that you and Senator Thurmond sent to Judge Brown setting forth your views on membership in private clubs. I believe that your letter represents a significant step forward in the fight against discrimination. It reflects the fact that the Judiciary Committee of the United States Senate unanimously disapproves membership by judicial nominees in clubs that practice invidious discrimination.

I hope that the Judicial Conference, when it meets next January and discusses the proper policy for sitting judges, takes note of this consensus within the Senate.

I am delighted that several nominees have, on the basis of your statement, resigned from all-White clubs.

Yours sincerely,
JOSEPH L. RAUH, Jr.

[Taken by phone 9-25-79]

NAACP-LEGAL DEFENSE FUND,
AND EDUCATION FUND, INC.

DEAR SENATOR KENNEDY: We are gratified by the Committee's letter of September 11, 1979 to Judge Bailey Brown in which the Committee recognizes the impropriety of a federal judge belonging to a club or organization which engages in invidious discrimination. The Attorney General has now written in a similar vein, contributing to a national consensus disapproving such membership. We understand that, in practice, judicial nominees are resigning from clubs which are known to engage in invidious discrimination. Where that club policy is not known, but there is a reasonable question as to whether that discrimination exist, as evidenced, for example, by the absence of any black members, we understand that nominees are either resigning such clubs, or are suspending their memberships and agreeing to propose a black for membership in order to ascertain with certainty the policy of the club involved. We understand that Judge Brown has chosen the latter course.

We appreciate the substantial contribution which the Committee has made to the resolution of this issue.

Yours sincerely,
JACK GREENBERG,
Director, Counsel.

Mr. KENNEDY. Mr. President, after the Senator from South Carolina has spoken, I would like to yield such time to the Senator from Tennessee (Mr. SASSER) as he may desire.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

Mr. President, over the past 6 or 7 months, the Judiciary Committee has examined closely the background of approximately 120 nominees for Federal judgeships. Of this number, there have only been 4 to receive the rating of exceptionally well-qualified from the American Bar Association's Standing Committee on the Federal Judiciary. Judge Bailey Brown is one of those individuals. Judge Brown has been a U.S. District Court Judge for 18 years, and has served with distinction throughout this time. There is no doubt as to Judge Brown's fairness, his honesty, competency, ability, judicial temperament, courage and independence, all of the qualities I believe are required of a Federal judge.

Under most circumstances, there would be no hesitation in elevating a man of Judge Brown's capabilities to the Circuit Court of Appeals. However, in this case some individuals are greatly concerned about Judge Brown's membership in the University Club of Memphis, a club which presently has no black members.

In order for my colleagues to have more information to assist them in deciding for themselves whether this should be an issue, I think the record should reflect information received from the vice president of the University Club, Mr. Roy Keithly, who said:

> The University Club was incorporated in 1919 and was originally located in downtown Memphis where it served primarily as a luncheon club.
>
> In 1924, the Club moved to its present location on Central Avenue. It is primarily a social, family, club with facilities for handball, squash, racketball, swimming, tennis and dining.
>
> You will notice under Article VI of the bylaws, any member of the Club may propose a candidate for membership. In addition, two other club members must endorse the application before it can be considered. There are no other provisions relative to application other than as provided in the bylaws.
>
> There is no club policy that excludes a person from membership in the club due to sex, race, religion or national origin. We have members of Italian, German, English and Lebanese backgrounds. There are both male and female members. To our knowledge, no black person has ever made application for membership in the Club. More than one of the original members of the club were of the Jewish faith and through the years there have been other Jewish members, Mr. William Goodman, one of our charter members who is also a Jew is not aware of any applicant to the Club that has ever been rejected for membership due to his Jewish faith.

In order to insure the accuracy of this last statement, I had Mr. Goodman contacted, and he provided the following information:

> You have asked that I furnish my comments about the membership of Jews and Negroes in the University Club of Memphis.
>
> I do not know of any Negro member nor do I know of any Negro applicant for membership that has been turned down.
>
> I joined the University Club while I was still at the Harvard Law School and before my graduation in 1923, and believe that I was a charter member of the Club. I am a Jew and have from time to time been head of many of the Jewish organizations in Memphis.
>
> Chancellor Israel Peres, whose father was a Rabbi was also a charter member of the Club.
>
> Among other Jewish members that I can recall offhand without research were Arthur Hale, Dr. Lewis Levy, Joseph J. Marks and B. W. Hearsh.
>
> I do not know of any turndown of any Jewish applicant for membership in the University Club.

Mr. President, Judge Brown belongs to a club, which has no black members, but most importantly, has done nothing or has any bylaws that prohibit black individuals from applying or, upon approval of the club membership becoming members.

Where does it end? How far do we take the issue of club membership? I think most of my colleagues would agree on the absurdity of denying a nominee a Federal judgeship solely because he or she may be a member of the Kiwanis International, for example, which has in excess of 289,000 members but has no women.

The Lions International, which has a membership of 1,230,000, does not have any women members. The Fraternal Order of the Eagles, a membership of 750,000; no women. The Masons have a membership of 1,000,000; no women. The Loyal Order of Moose, with a membership in excess of 1½ million, has no women. The Independent Order of Odd Fellows has a membership of 1,200,000; no women. The Optimist International, 120,000; no women. The Rotary International, which has a membership of 818,000; also has no women members. Almost everyone is aware of the exceedingly fine contributions made by these organizations and the approximately 7 million total members they represent; and yet, several nominees for Federal judgeships have resigned their membership in one or more of these organizations because of the question of the exclusion of women. In fact, one black nominee who had joined the Rotary International in an effort to integrate this organization felt compelled to resign for fear that he would not be confirmed to the position of district court judge.

Is this what we want? What are we attempting to prove by forcing judicial nominees to feel that they might be doing something improper by belonging to such fraternal and service organizations.

Membership in an organization should not be the thrust of the Senate's advice and consent inquiry. In fact, Drew S. Days III, Assistant Attorney General for the Civil Rights Division of the Justice Department, has been quoted as saying:

> There are serious First Amendment problems if a person is forced to resign from a Club in order to be confirmed as a Judge.

Bona fide private clubs, he said, are not covered by the public accommodations section of the 1964 Civil Rights Act or other Federal antidiscrimination laws.

We must not go overboard on the question of club membership. We should assess a nominee's qualifications on specific actions that would indicate a policy of discrimination and not mere membership in organizations such as those I have just mentioned. We must not solely attempt to determine whether clubs do or do not have women or do or do not have blacks or whites among their members as a prerequisite to becoming a Federal judge. Judge Brown is a man of proven integrity who will honorably serve on the court of appeals. I shall be pleased to cast my vote for his confirmation and urge my colleagues to do likewise.

Mr. President, in closing I just want to say again that of the 120 nominees we have had and considered so far in this Congress for Federal judgeships, only 4 have received a rating of "exceptionally well qualified" from the American Bar Association. Judge Brown is one of these. It has not been alleged by anyone that he has discriminated. Why the question comes up is beyond me. There is no allegation that he has been unfair. There is no allegation that he discriminates. He has membership in a club, but he has been a member for 18 years. He has been a Federal district judge 18 years. No one has been turned down by this club, because of his race or religion.

Mr. KENNEDY. Mr. President, I yield 10 minutes to the Senator from Tennessee.

Mr. SASSER. I thank the distinguished Senator from Massachusetts.

Mr. President, I rise in support of the nomination of Judge Bailey Brown to the Sixth Circuit Court of Appeals.

Judge Brown was among five individuals recommended to the President from a large group of qualified candidates by one of the administration's blue ribbon judicial selection commissions. President Carter then selected Judge Brown to be his nominee for the sixth circuit vacancy.

As the distinguished Senator from South Carolina indicated, Judge Brown received the "Exceptionally Well Qualified" recommendation from the American Bar Association. Mr. President, let me just say a word about the Judicial Selection Committee which selected and recommended Judge Bailey Brown to the President of the United States. The two members of that commission from the State of Tennessee, where Judge Brown has served with distinction on the district bench for 18 years, consisted of Mr. John Seigenthaler, the publisher of Nashville Tennessean, and prior to that time administrative assistant to Robert Kennedy when he served as Attorney General of the United States. In that capacity Mr. Seigenthaler was active personally in many early civil rights battles of the 1960's, Mr. Seigenthaler personally participated in many of the activities surrounding the Justice Department's activities in Alabama, to the point of risking his personal safety to face down racist mobs in support of his convictions. Indeed he was severely beaten on one such occasion by those who resented his dedication to common decency and justice.

Also on that commission from Bailey Brown's home State was Mrs. Ruth Holmberg, the distinguished publisher of the Chattanooga Times, a newspaper which editorially has been in the forefront of civil rights activity and has stated with great eloquence the aspirations of minority Americans for almost half a century. Surely these two distinguished individuals would not have allowed the commission to recommend Judge Brown had he not been exemplary in the area of equal rights for all Americans—both personally and in terms of his opinions on the bench.

I believe Bailey Brown's qualifications are beyond question. He was admitted to the Tennessee bar in 1941 after receiving his legal training at Harvard University. In 1961, President Kennedy appointed him to serve as a U.S. District Judge for the Western District of Tennessee.

Bailey Brown was recommended to President John Fitzgerald Kennedy by two great Tennessee U.S. Senators. It was a joint recommendation made by Senator Estes Kefauver and Senator Albert Gore, men known to this body for their dedication to social justice.

Since Judge Brown was appointed to the bench, he has distinguished himself as a learned and able member of the bench. I think you will find that all who are familiar with his career admire his compassion and understanding as well as his strong commitment to equal justice for everyone, regardless of race, creed, color, religion, sex, or national origin. Judge Brown has never been accused of discrimination, and his decisions have reflected his commitment to social justice.

The Judiciary Committee approved Judge Brown's nomination by an 11 to 2 vote, following extensive hearings and consideration. He is supported by both Senators from Tennessee and by Representative HAROLD FORD, one of the outstanding black leaders in the Nation.

I think it is highly unfortunate that Bailey Brown's nomination has been delayed for several months. I believe the issue of membership in the University Club of Memphis has been resolved; and that all parties, including a majority of the Judiciary Committee as well as leading civil rights organizations, are satisfied that Judge Brown should now be confirmed to serve on the Sixth Circuit Court of Appeals.

Judge Brown has announced that he would suspend his participation in the University Club until such time as he is personally convinced that the club does not discriminate. This agreement was acceptable to the Judiciary Committee which unanimously approved a policy statement indicating that those individuals nominated for Federal judgeships should not belong to social clubs that practice discrimination. That policy statement and the agreement of Judge Brown has been approved in statements by civil rights organizations, including the NAACP.

Several days ago, the New York Times editorially criticized Judge Brown's nomination, before the judge's agreement to suspend his activities with the University Club—a club, I might add, Mr. President, of which he has been a member since 1946.

The editorial that unfortunately appeared in the Times would lead its readers to believe that Bailey Brown is a judicial nominee who "clings" to racial discrimination. That is an inaccurate statement, obviously written by an individual unfamiliar with Judge Brown's beliefs and his record on the bench. I daresay the writer would change his views had he the opportunity to review the nominee's entire record.

As I mentioned, Judge Brown was appointed a Federal judge by President John Kennedy. I don't believe President John Fitzgerald Kennedy would have nominated a person to the Federal bench who "clings" to racial discrimination.

I am convinced that Estes Kefauver and Albert Gore would certainly not have suggested his nomination should they have had one iota of evidence that is claimed of racial discrimination.

To the contrary, Bailey Brown has a long, solid record against discrimination. He was vice chairman of the Memphis Urban League when he went on the Federal district bench.

To his credit, he carried out an effective affirmative action program in the hiring of minorities in the Federal court, a program which began in 1966. The Southern Regional Council has applauded the results of Judge Brown's efforts in this regard.

Under Judge Brown's direction, for the first time in the history of the Federal District Court in the Western District of Tennessee, to my knowledge, black bailiffs have been appointed to serve in that court, beginning as early as the early 1960's. Under Judge Brown's tenure as senior district judge for the Western District of Tennessee, the first black bankruptcy judge in the South, one of the few in the Nation, was appointed.

I frankly do not believe, Mr. President, that anyone who studies carefully the record of Bailey Brown could label him a prejudiced man in any way. In my judgment, and based on my years of experience and association with this distinguished jurist, Bailey Brown is an honorable man who believes deeply in social justice. He deserves to be confirmed, Mr. President, by the U.S. Senate.

The American people deserve to have judicial vacancies filled quickly with qualified individuals such as Bailey Brown. I believe that Judge Brown and the Committee on the Judiciary have acted in good faith and, indeed, have acted in the public interest. I commend its distinguished chairman, the able Senator from Massachusetts. So Mr. President, I urge the Senate to confirm Bailey Brown to the Sixth Circuit Court of Appeals.

Mr. KENNEDY. Mr. President, I have some editorials which I ask unanimous consent to have printed at this point in the RECORD. Also, Representative HAROLD FORD, the Member of Congress who represents this district, has written a letter to me. I ask unanimous consent to have that letter printed in the RECORD, and also letters from Mr. Joseph Rauh and Mr. Jack Greenberg of the NAACP Legal Defense and Education Fund, Inc.

There being no objection, the editorials and letters were ordered to be printed in the RECORD, as follows:

Hon. EDWARD M. KENNEDY,
Chairman, Senate Judiciary Committee,
U.S. Senate, Washington, D.C.

DEAR TED: I have seen the letter that you and Senator Thurmond sent to Judge Brown setting forth your views on membership in private clubs. I believe that your letter represents a significant step forward in the fight against discrimination. It reflects the fact that the Judiciary Committee of the United States Senate unanimously disapproves membership by judicial nominees in clubs that practice invidious discrimination.

I hope that the Judicial Conference, when it meets next January and discusses the proper policy for sitting judges, takes note of this consensus within the Senate.

I am delighted that several nominees have, on the basis of your statement, resigned from all-white clubs.

Yours sincerely,
JOSEPH L. RAUH, JR.

ADVICE, NOT CONSENT, ON BIGOTRY

Those who insist that it's all right for Federal judges to belong to white-only social clubs had better look around. Their stand is now to the right of Strom Thurmond, the ranking Republican on the Senate Judiciary Committee. Senator Thurmond, once a champion of official segregation, has joined Senator Kennedy in advising judicial candidates to quit groups that engage in "invidious discrimination."

Judicial candidates would do well to heed that advice, coming as it does from a committee that passes on their nominations. The Justice Department has started giving the same advice to those seeking nomination. And the Judicial Conference of the United States, which writes the ethical rules for Federal judges, is considering a rule prohibiting such memberships.

The message is getting through. Bailey Brown, a nominee for the Court of Appeals for the Sixth Circuit, won Senate committee endorsement only after suspending his affiliation with the University Club in Memphis. He agreed to stay out of the club until he satisfies himself it will admit minorities. Three other nominees have resigned from similarly suspect clubs.

The Judiciary Committee's tough and prudent new policy statement addresses racial exclusion directly. It also looks forward to subtler questions: "While we have not discussed all possible forms of discrimination, we feel that 'invidious discrimination' exists when the club's discrimination. in historical context, constitutes a stigma or badge of social inferiority." That would seem to cover the primary evil without threatening bona fide ethnic groups.

The policy also leaves the committee free to be wary of clubs that bar women. The courts do not yet regard sex barriers as suspiciously as racial and religious ones, but the committee surely recognizes the professional price that women pay because they are excluded from the clubrooms of the male establishment.

A disturbing survey by the Southern Regional Council has found that three out of five Federal judges in the South, and half the Federal judges in four Northern cities, belong to all-white clubs. The appearance of impartial justice, so critical to confidence in the judiciary, is compromised when judges give moral and financial support to discrimination. Individual social preferences are personal concerns; but anyone who aspires to the Federal bench and wishes to be called "Your Honor" ought truly to deserve it.

DEAR SENATOR KENNEDY: We are gratified by the Committee's letter of September 11, 1979 to Judge Bailey Brown in which the Committee recognizes the impropriety of a federal judge belonging to a club or organization which engages in invidious discrimination. The Attorney General has now written in a similar vein, contributing to a national consensus disapproving such membership. We understand that, in practice, judicial nominees are resigning from clubs which are known to engage in invidious discrimination. Where that club policy is not known, but there is a reasonable question as to whether that discrimination exists, as evidenced, for example, by the absence of any black members, we understand that nominees are either resigning from such clubs, or are suspending their memberships and agreeing to propose a black for membership in order to ascertain with certainty the policy of the club involved. We understand that Judge Brown has chosen the latter course.

We appreciate the substantial contribution which the Committee has made to the resolution of this issue.

Yours sincerely,

JACK GREENBERG,
Director, Counsel.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 25, 1979.
Hon. EDWARD KENNEDY,
Chairman, Committee on Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: I know Judge Brown and endorse him for the position on the Sixth Circuit Court of Appeals.

He appointed the first black bankruptcy judge in the South. His civil rights decisions have been proper. If he says he is going to carry out his agreement to suspend activities in the University Club in good faith, I believe he will do so.

Sincerely,

HAROLD FORD,
Member of Congress.

Mr. BAKER. Mr. President, will the Senator yield 1 minute to me?

Mr. KENNEDY. Yes, I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, it is with great pleasure that I rise to recommend the confirmation of Judge Bailey Brown for appointment to the U.S. Sixth Circuit Court of Appeals.

Judge Brown has served with honor and distinction since his nomination by the late President John F. Kennedy in 1961. As a member of the U.S. District Court for the Western District of Tennessee, he has shown himself to be a jurist of highest caliber. His outstanding work both as an attorney and a member of the bench have proven to be a great benefit to both the western district of Tennessee and the State of Tennessee as a whole.

Judge Brown was born in Tennessee in June 1917. He received his undergraduate degree from the University of Michigan in 1939 and his legal education from Harvard Law School—graduating in 1942. He was admitted to the Tennessee bar in 1941.

After law school graduation, he served for 4 years in the U.S. Navy. Upon completion of his tour of duty, he returned to his birthplace of Memphis, Tenn., and began practice as an attorney. From 1946 until his appointment to the Federal bench in 1961, Judge Brown was a member of the firm of Birch, Porter & Johnson.

Judge Brown has been an active member of the Memphis community both as a private citizen and as a member of the legal profession. I know he will add to the dedication, ability, and excellence presently found in the Sixth Circuit Court of Appeals, and I wholeheartedly support his nomination and urge confirmation of his appointment by the Senate.

Mr. President, in the brief time remaining of that which was kindly yielded to me by the Senator from Massachusetts, let me add for the benefit of my colleagues that I know Mr. Brown as a lawyer and as a judge. I have seen him perform, in his official functions and as a private citizen, for a long time. He is a man above reproach, in my opinion. He will bring great honor and credit to the Court of Appeals of the Sixth Circuit. I am honored and proud to stand here and join my colleague from Tennessee in support of his nomination.

Mr. JAVITS. Mr. President, I yield myself 10 minutes.

Mr. President, it is a strange day. I have spoken on the floor of the Senate, man and boy, since 1957 on civil rights issues. This used to be a very cold Chamber for civil rights advocates and, indeed, for many years, we had a very hard time. We finally have had various laws, capped by the Civil Rights Act of 1964, to codify the fact that the Constitution must be obeyed. But everybody knows, just as I know and the black people of the United States know, that we have not yet achieved a nondiscriminatory society. But, painfully, we have marched step by step through law, practice, tradition, and general public acceptance, up this very long hill.

Now, Mr. President, we come to a day when men who believe as deeply in civil rights as I do, like the chairman of the Committee on the Judiciary, find themselves in this position, where they are arguing and standing up for the affirmative on confirming this particular judge.

On what grounds, Mr. President? On a ground which needs to be debated. That is why I chose to debate it myself, rather than to leave it to others.

That ground is, how do you do best: by boring from within, or by calling the issue frontally and dealing with it—winning or losing, but facing the issue? Now, Mr. President, that is an argument which bedevils us in many fields, not just this one. I believe that our history has now advanced to the point where the cause of equality of opportunity will be advanced rather than retarded by facing the issue frontally.

I fully respect those who would take the other position. And it is true that some who would take that other position have always thought that we were wrong about changing the social policy of the United States as well as its public policy. But in this case, I am the first to say that there is represented a real difference of view. So, it is because it is a difference of view and because it is profound, and because I really feel that the committee members who supported this nomination thought that they were making progress in this field by taking the action which they did, that I address myself to it.

Mr. President, perhaps the most acid test of what faces us is the maturation of Judge Bailey Brown's mind itself. He is the best witness on this subject. When he appeared before the Committee on the Judiciary on June 20 last, he was asked by a member about this particular matter.

The Member said the following at page 13 of the testimony:

> In response to the committee's inquiry as to whether you belonged to any club which discriminates on the basis of sex, race or religion, you stated "The University Club has no black member, though I have seen black persons eating there as guests. I understand there is nothing in the constitution or bylaws ruling out black members, though it is my opinion that while no blacks may have ever applied, none would have been accepted. Even if the policy should be changed, as I believe it should, and even if some black persons applied, the integration of the club would be very gradual because there is and always has been a long waiting list of applicants."

That is from Judge Bailey Brown's application answer.

Then the Senator in question continues:

> Judge, do you think your membership in the club gives the appearance that you privately sanction exclusionary policies.

Judge Brown:

> I would hope not. I might make this slight correction. It is not a country club. It is an intown squash-handball-tennis type club.

Senator DECONCINI, who was asking the question, then said:

> Thank you.

Judge Brown went on as follows:

> It is my personal feeling on this matter that it would be completely counterproductive for me, for example, to resign. I think I can do more good for the cause by staying in and showing by example that you can be a normal everyday American and still be in favor of black membership. I think I can be more persuasive with other members of the club that way. That is my thought on the subject.

Then he was asked:

> Have you taken any action along that line?

He said:

> Well, except when anybody asks me my opinion, I express it, but I felt as a District Judge I should not be pegging the stump on a matter that could conceivably come before me as a judge.

I would like to read that again because that is the essence of my opposition to Judge Brown. He said:

> Well, except when anybody asks me my opinion; I express it, but I felt as a District Judge I should not be pegging the stump on a matter that could conceivably come before me as a judge.

Now, by remaining a member of the club, what is he doing but pegging the stump? It may be subconscious. It may not intrude into his conscious stream of thought, but that is exactly what he is doing.

He is, himself, patronizing an establishment, and others with whom he leads his social life, who he feels, and he says so himself, have that point of view on blacks.

Mr. President, sure, he was a leader of the Urban League and, from Senator KENNEDY's letter and Senator THURMOND's, and I take their word for it, he is a good judge. I take the word of Senator SASSER and Senator BAKER.

But, Mr. President, anyone who starts with that misconception, to begin with, that it is consistent in life to belong to that club, and at the same time, to feel that it does not occur in your stream of consciousness of judging cases which concern Blacks, or which concern the black American issues, in my judgment, is myopia.

Mr. President, I do not stand alone in this. There were 28 nominees before the Judiciary Committee, of whom it would appear that a number were in exactly the same position as Judge Brown. The difference is that all the others resigned, as we understand it, that is, they resigned before I put this hold on Judge Brown's nomination, and three resigned thereafter.

One, I gather, is still in doubt. Perhaps the committee will tell us what he did.

Judge Brown dealt with the matter in the way that has been described, but that I wish to go over again.

Judge Brown, in effect, said—and he has got a series of letters, not just one letter—"I will keep my membership and I will determine, I will satisfy myself, that the club does not discriminate against minorities with respect to membership." So he will be the censor on the club.

Though he has been a member of the club all these years, and despite the resignation of others, in a similar situation he chose not to resign.

Mr. President, it seems to me that is hardly convincing on whether or not he can be the sole judge of how this might or might not affect his conduct on the bench.

Mr. President, he then kind of steps up the bidding, and this is the letter of September 19, the one I just read, I would like to read that sentence I have just referred to:

> I have agreed with the Senate Judiciary Committee to suspend my activity at the University Club of Memphis until I am able to satisfy myself that the club does not discriminate against minorities with respect to membership.

Then he goes on in the letter of September 25, to which Senator KENNEDY just referred, and he steps up the bidding somewhat, and says:

> I have also told Senator Sasser that I have black friends who, if they desired to join the Club, I would sponsor their applications.

Mr. President, I yield myself another 5 minutes.

Mr. President, it is somewhat doubtful whether black friends will choose to join the club, considering where Judge Brown stands and where the club stands. But even if they should, Mr. President, Judge Brown will again be the sole judge as to whether somebody blackballed them because they were black or because they did not like the wart on their nose, or what.

In other words, Mr. President, we are dealing with objectivity, not subjectivity.

Placed in a similar situation, a very distinguished lawyer, Griffin Bell, the former Attorney General of the United States, faced with exactly that kind of a situation, did not say, "I'll reserve my judgment and see about it, and I will be the judge of whether or not they do discriminate." He resigned, and so did a number of other judges who were nominated and appeared before the committee. In this very club they resigned.

Mr. President, this is not an isolated situation. The Southern Regional Council has just made a survey. It is a very reputable survey, and I will be contradicted if my statement is inaccurate.

Since 1944, it has been considered one of the top research agencies in this field in the whole United States. Members of it are black and white, very distinguished people, including Ralph McGill of the Atlanta Constitution.

They made a survey entitled "The Crisis of Conscience, Federal Judges in Segregated Clubs."

Mr. President, I ask unanimous consent the survey be printed in the RECORD.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

THE CRISIS OF CONSCIENCE: FEDERAL JUDGES IN SEGREGATED CLUBS

INTRODUCTION

In December 1976, when former federal circuit judge Griffin Bell appeared before the U.S. Senate Judiciary Commitee for confirmation as attorney general, he was asked if his membership in all-White social clubs disqualified him from serving as the nation's chief law enforcement officer. A few days later, Mr. Bell admitted that "it would be improper to be in the clubs . . ." and that he would "resign temporarily or become inactive" in the segregated clubs where he had been a member for many years.[1] On the following day, Mr. Bell agreed that he should resign since "the Attorney General is a symbol of equality before the law." [2]

In July 1979, as he resigned his office as attorney general, Mr. Bell was asked if he intended to rejoin as a private citizen the clubs which as a public official he had left two years earlier. The outgoing attorney general responded that he was not sure but he did know that as he'd traveled around the country he had found that the practice was not just in Georgia. It was followed throughout the country.

Indeed, the prevalence of public officials' membership in private, segregated clubs has not been fully realized. As this report demonstrates, such practices among federal judges in the country are very widespread. Yet, the issue of public officials—in this instance judicial officials—belonging to segregated clubs has been a fragmented concern.

No one at Judge Bell's confirmation hearings for attorney general in 1976 indicated any concern that the man before them had appeared without question as a nominee for a federal judgeship as a member of the same segregated clubs.

The paradox was more poignant when in January 1978, federal appellate court Judge William H. Webster appeared before the Senate Judiciary Committee for confirmation as director of the Federal Bureau of Investigation. Senator Edward M. Kennedy questioned Judge Webster about his membership in four segregated, private clubs in St. Louis. In response to questions, the sitting federal judge stated that, while the clubs had never had a Black member in their more than 50 years of existence, his intention was to "monitor them and if I conclude there is any active discrimination, to leave them, or if I conclude that they are in any way impeding or interfering with effective performance of my role as director of the FBI, to leave them." [3]

Perhaps as amazing as the Committee's acceptance of Judge Webster's explanation of his membership was the failure of any senator to observe, if not question, the fact that here sat a respected federal judge who had been a member of four segregated clubs for the entire duration of his judicial service. Judge Webster became the director of the FBI and did not resign his membership in all-White clubs.

Heightened by the controversy surrounding the President's own hometown church's segregated policies and by recent legislation requiring public disclosure of financial conflicts of interest in all areas of the federal government, the concern for membership in segregated clubs was expressed formally in writing after the passage of the Omnibus Judgeship Act in October 1978. The new chairman of the Senate Judiciary Committee, Edward M. Kennedy, established for all nominees of the 159 new federal judgeships a questionnaire that, among other things, inquired if the nominee for the federal bench belonged to any club that segregated on the basis of race. In June of this year, published reports showed that at least seven nominees to federal judgeships belonged to all-White social clubs.[4]

Two of the seven nominees were sitting federal district judges awaiting confirmation for appointment to the circuit courts. One of the nominees who had already been confirmed, David Belew, referred to the inquiry about segregated clubs as "the questionnaire about niggers." [5] Another nominee, Judge Bailey Brown of Memphis, was the subject of extended scrutiny because for a time he refused to resign his membership in a segregated club.

In light of the growing concern and controversy surrounding segregated club memberships by high federal officials and in the absence of an overall view of the issues and facts, the Southern Regional Council undertook this study to ascertain the probable extent and nature of segregated memberships among sitting federal judges and to assess the actual harm that such practices may involve for the judiciary and the quality of justice.

The Southern Regional Council has long-maintained a concern for the quality of justice in the South and the nation. Since its beginnings in 1944, the Council has conducted several fact-finding studies about the judicial system and the treatment of minorities. For example, in 1965, the Council issued its report on "Discrimination in Southern Federal Courts," and only last year updated that report with its survey entitled "Blacks & Women in Southern Federal Courts."

This report was begun nine months ago and examines from available information the practice of membership in segregated, all-White social clubs by federal judges in the South and four selected communities outside the region.

The study has established limits. No individual judge who belongs to an all-White, segregated social club is specifically named in this report. While the statistical information is provided for each federal district in the South, no useful purpose would be served by a listing of the named judges and their specific segregated memberships. The fact that a specific judge in Houston, Texas belongs to a segregated club is not the personal issue which this report addresses. The fact that any federal judge would belong to such clubs is the issue and the fact that so many sitting federal judges have such memberships is the problem.

Information for the report was obtained in most instances through existing published information. When information was not accessible in published form, independent inquiries were made with club members, local attorneys, and civil rights organizations. All information about segregated membership was confirmed by at least one additional source.

Since federal judges have been confirmed almost weekly since the beginning of 1979, the number of federal judges listed in the survey may vary slightly with the number

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Footnotes at end of article.

who are sitting as of the date of publication. Any such variations are caused by the decision to survey the membership in segregated clubs of judges sitting on the federal bench as of January 1979.

The survey of the four communities outside the South was undertaken to determine if the issue and problem of segregated membership on the federal bench are largely Southern.

SOUTHERN FEDERAL JUDGES IN SEGREGATED CLUBS

> He insisted upon taking us to "The Club," a place and a grouping so exclusive not to have need of a name, built at the very top of Red Mountain, overlooking what was named "Magic City" (Birmingham, Alabama) in the 1880s and '90s as U.S. Steel squeezed, punctured, and pillaged the hills and valleys, finding all three ingredients necessary for the making of steel—coal, iron ore, and limestone—in one place. "The Club" sitting beside the world's second largest cast iron statue, Vulcan, God of the Forge, presiding over it all from his Dixie Olympus, wondering perhaps at times if even a deity could not make mistakes.
>
> Steve and I felt more than a little uneasy sitting there in the midst of all the splendor, eating strip sirloins and drinking good bourbon while Bob was far below us in the county jail. But not Chuck (Morgan). "The jury is down there. But the judge is up here."
>
> From Brother To A Dragonfly, Will D. Campbell, 1977.

> It just didn't come up because no nigger—no Black—ever applied for membership.—Judge David Belew responding to questions about his membership in the Rivercrest Country Club.

Last January most federal judges in the South probably adjourned a court proceeding during the early afternoon, reviewed their legal dockets, which likely included cases on race discrimination, and left the courthouse traveling to a local social or country club for dinner or entertainment. The club was probably segregated—all-white by practice or policy.

Of the 123 federal district court judges who resided in the 11 states of the South in January 1979, 58 percent belonged to social clubs that have no Black members (See Chart No. 1). At least one judge in every district of the federal judiciary in the South maintains membership in such a club.

CHART 1.—SOUTHERN DISTRICT COURT JUDGES' MEMBERSHIP IN SEGREGATED CLUBS

Area	Number of Federal judges	In segregated clubs	
		Number	Percent
South	127	74	58

In most instances, the percentage of judges belonging to segregated clubs in each federal district roughly reflects the overall regional pattern. (See Chart #2). In Miami, for example, five of the nine federal district judges have memberships in segregated clubs. In South Carolina, however, only two out of five federal district judges belong to all-White clubs.

The largest percentage of judges having such club membership in any one Southern state is found in Florida where 69 percent of the district court judges belong to such clubs. In Alabama and Georgia, more than 60 percent of the federal judges are members of segregated associations or clubs. The lowest proportion in any Southern state was as high as 40 percent in South Carolina.[6]

While available information evidenced that most judges who do have membership in all-White clubs belong to only one such club, one federal judge in Florida maintains membership in six segregated clubs.

Southern federal judges sitting on circuit courts showed an even greater likelihood overall to be members of segregated clubs. Almost two-thirds of all the circuit federal judges—65 percent—belong to a segregated social club or organization (See Chart #3). Of the 21 men sitting on the Fifth Circuit Court of Appeals, 14 are members of segregated clubs. Of the eight other Southern judges on the sixth and eighth circuit courts, at least 34 percent belong to all-White clubs.

Although the analysis was not detailed, the usual identification of a judge as "liberal" or "conservative" in the interpretation of law did not appear to distinguish those who held segregated memberships from those who did not. While some judges such as Frank Johnson of Alabama held no membership in such clubs, other "liberal" judges did. At the same time, available information showed that some "conservative" judges did not belong to segregated clubs.

CHART 2.—SOUTHERN DISTRICT COURT JUDGES IN SEGREGATED CLUBS, BY DISTRICT

State/city	Number of Federal Judges	In segregated clubs	
		Number	Percent
Alabama:			
Birmingham	7	5	72
Mobile	3	2	67
Montgomery	2	1	50
Arkansas:			
Fort Smith	2	1	50
Little Rock	4	2	50
Florida:			
Jacksonville	6	3	50
Miami	8	6	75
Pensacola	2	2	100
Georgia:			
Atlanta	6	4	67
Macon	3	2	67
Savannah	2	1	50
Louisiana:			
Baton Rouge	1	1	100
New Orleans	9	5	56
Shreveport	7	3	43
Mississippi:			
Jackson	2	1	50
Oxford	3	2	67
North Carolina:			
Ashville	2	2	100
Greensboro	3	1	33
Raleigh	3	2	67
South Carolina	5	2	40
Tennessee:			
Knoxville	3	2	67
Memphis	4	2	50
Nashville	2	1	50
Texas:			
Beaumont	3	1	33
Dallas	9	5	56
Houston	10	6	60
San Antonio	5	3	60
Virginia:			
Alexandria	8	4	50
Roanoke	3	2	67

CHART 3.—SOUTHERN CIRCUIT COURT JUDGES IN SEGREGATED CLUBS, BY CIRCUIT

Circuit court	Number of judges	In segregated clubs	
		Number	Percent
4th	5	3	60
5th	23	15	65
6h and 8th	3	1	33

NOT JUST THE SOUTH—FEDERAL JUDGES IN SEGREGATED CLUBS

In order to determine if the pattern of membership in segregated clubs is uniquely Southern, four cities across the country were selected for their geographic representation. The results of the survey of judges' memberships in Los Angeles, St. Louis, Chicago, and Baltimore show a pattern not substantially different from that of Southern judges. More than a majority of the judges in these four communities maintain memberships in all-White Clubs.[7]

Only in St. Louis was there less than a majority of the federal judges belonging to segregated clubs. (See Chart No. 4). Even then, however, the proportion was at least 30 percent. The largest percentage of judges who held such memberships was found in Los Angeles, California where 57 percent of the federal judges belonged to all-White clubs.

CHART 4.—NONSOUTHERN FEDERAL JUDGES IN SEGREGATED CLUBS, BY CITY

City/State	Number of Federal judges	In segregated clubs	
		Number	Percent
Baltimore, Md	10	5	50
Chicago, Ill	27	14	52
St. Louis, Mo	8	3	34
Los Angeles, Calif	23	13	57
Total	68	35	51

SUGGESTED REASONS FOR JUDGES' MEMBERSHIP IN SEGREGATED CLUBS

The issue raised by this report is whether it is proper and ethical for sitting federal judges to belong to social clubs that segregate by practice or policy in their membership on the basis of race. No suggestion is offered that strictly private clubs cannot exist or permit only White members. The question is whether those men and women who sit as the deciders of justice in federal courts can belong to such clubs and associations and still uphold the code of judicial conduct by which they serve in office.

Although the need for strict adherence to concepts of honesty, fairness, and openness has increasingly required that private conduct of public officials abide by public standards, several arguments have been made over the course of this study that would attempt to belittle the issue or explain away the findings.

The first argument offered has been that judges—like others—can separate their private choices from their public decisionmaking. A judge, for example, does not have to prefer criminals in private life in order to rule that the law requires criminals be protected by constitutional or statutory principles. Hence, a judge can associate in his social life with private, segregated clubs and rule impartially in his public life on matters of race.

Secondly, it is argued that practically all judges—especially those who sit on circuit courts—must associate with other judges in public and private in order to carry out the court's business harmoniously. In a sense, the decision-making in the federal courts, it is argued, follows the same rule of thumb as in politics in Congress. As former House Speaker Sam Rayburn said, "to get along, you must go along." Segregated social clubs are were judges "get along" with other judges.

Finally, there is the simple argument that judges must have places to which they can retreat from the rigors of office and the clamor of the public. Most of those places for private social gathering involve private clubs—most of which are segregated.

To some extent, each argument is relevant and truthful. Yet, each explains more about the considerations that may have been made before joining such clubs than giving an answer to the question of whether it is proper and ethical for judges to have such memberships. Just as important, the arguments avoid the history under which such social clubs have developed as a way of life.

The role of the private, segregated, social club in Southern life has been a symbol of unabashed privilege and resistance to integration. When the institutions of segregation were being dismantled in federal courts during the last decade, private clubs and associations stood as the one area which could not be invaded by the demands of integration. Once reserved for the primary use of Whites, adequate and expensive public facilities such as swimming pools, tennis courts, and golf courses were closed in many

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Footnotes at end of article.

Southern communities so that such facilities became available only to the upper classes of Whites at country clubs and social clubs. More than any other institution, the segregated, private clubs have stood as the most conspicuous haven for those who would not accept public integration.

This history was not confined entirely to the South. In many parts of the country, all-White clubs have been the retreats from the social responsibility of integration. Today in many small towns and rural communities in the South and elsewhere, public swimming pools and golf courses remain closed while private pools and country club golf courses are available only to White members and their guests.

In this context the propriety and ethics of federal judges' membership in segregated clubs should be considered.

THE QUESTION OF ETHICS

Membership in clubs and associations segregated by race in fact or policy should constitute a violation of at least two sections of the Canons of Judicial Ethics. Such conduct belies the public posture of fairness of a federal judge and today robs the judiciary of the clear, undoubted appearance of impartiality.

Canon II of the Code of Judicial Conduct [8] states as follows:

A. A judge should respect and comply with the law and *should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.* (emphasis supplied).

B. A judge should not allow his family, social, or other relations to influence his judicial conduct or judgment. He should not lend the prestige of his office to advance the private interests of others; nor should he convey or permit others to convey the impression that they are in a special position to influence him. He should not testify voluntarily as a character witness.

Portions of the fifth canon state:

A. Avocational Activities. A judge may write, lecture, teach, and speak on non-legal subjects, and engage in the arts, sports, and other social and recreational activities, *if such avocational activities do not detract from the dignity of his office or interfere with the performance of his judicial duties.* (emphasis supplied).

B. Civic and Charitable Activities. A judge may participate in civic and charitable activities that do not reflect adversely upon hs impartiality or interfere with the performance of his judicial duties. . . .

Surely these two canons prohibit judges' membership in private, segregated clubs. In 1979, a private club's choice to discriminate racially may be lawful and may not constitute a distraction to the dignity of offices held by corporate executives or landowners. Yet, such exclusive associations do distract from the dignity of institutions of government that are charged with the duty of weighing fairly each person's claim of unlawful wrong, including the wrongs of race discrimination. It is difficult to understand how litigants could be expected to maintain faith in a court where the judge decides the evidence of race discrimination during the morning and lunches in an all-White, segregated club at midday. When at least one in two federal judges belongs to all-White clubs the private decisions of individuals in the judiciary becomes the practice of the judiciary [9] and public confidence is eroded by a lack of private conscience.

As compelling, the principle of equal justice under law is simply contrary and unaccommodating to the principles of segregation by race—even in private and under law. These competing interests may present as much conflict as does the competing interests of personal finances and public duty. The conflict between the public mandate of the courts for non-discrimination and the private choices of judges to discriminate on the basis of race is essentially an eroding influence upon the appearance of justice and respect for the judicial system.

A judge also has an ethical obligation to avoid questionable, controversial private associations since his role as arbitor of disputes requires impartiality and integrity. Membership in an all-White club is no longer, if it ever was, a way of life that can escape controversy and disrespect from Blacks and others. The evolving nature of race relations today requires a high degree of personal and private adherence to public standards by public officials. Judges who attempt to except themselves from such standards evoke controversy. Judges who are able to do in private clubs what would be unlawful to do in truck stops, bus stations, lunch counters, and hotels invite controversy as well as questions of impropriety.

CONCLUSIONS AND RECOMMENDATIONS

Most judges in the South and probably in the nation belong to at least one social club that has no Black member nor ever has had. Within the 11 Southern states, 60 percent of the sitting federal judges have membership in all-White, segregated social clubs. In four non-Southern communities, more than 50 percent of the judges have such memberships.

The prevalence of segregated memberships within the community of federal judges constitutes a national crisis of conscience in the third branch of government and a highly questionable practice for the individual judicial official. By no measure can this extraordinary pattern of all-White associations be explained as a private matter of individual, personal choice. It is now a practice of most men and women who sit in judgment on the major legal controversies of our society.

Under the circumstances, the ethical questions raised by these findings must be addressed by the entire judiciary and as a matter of conscience with every individual federal judge. The tragic effects upon the quality of justice and the trustworthiness of the judiciary can only increase if collective action is not taken to address the questions.

It is time for the United States Judiciary to undertake the collective process of soul searching. The federal bench is not well integrated by race. Although the President will appoint more Blacks and other minorities than ever before, Blacks and other minorities still constitute a small percentage of the federal bench. The federal courts in the South and the country "have steadfastly failed to integrate their employment." [10] Now, as this report demonstrates, most federal judges choose to belong to segregated clubs.

There should be no mistake about the gravity of the issue. The federal judiciary is in fact in jeopardy of losing its most vital elements—the appearance and reality of justice.

As the administrative arm of the federal courts, the U.S. Judicial Conference or the U.S. Supreme Court must act deliberately and expeditiously to restore the good standing of the federal courts. To this end, the canons of judicial conduct should be explicitly interpreted by the Judicial Conference or the Court as prohibiting membership in all-White clubs and placing an affirmative obligation on the individual judge to ascertain the policies and practices of his private clubs and associations in regard to race. If the Judicial Conference and Supreme Court fail to initiate such standards, federal courts endanger their own independence by inaction.

If the judiciary will not act, the President and the Congress should exercise selectively their own constitutional powers to require the judiciary to address this issue. Both branches of government can provide moral leadership by requiring within limits the judicial branch to face this issue and conduct a thorough self-examination.

In addition, both the President and the U.S. Senate have independent duties in the process of appointment of federal judges. The President and the Senate should resolve that no federal judge shall be appointed or confirmed so long as he or she belongs to a club that in fact or policy does not have, nor ever has had a Black or other minority as a member.

On balance, the federal judiciary has a remarkable record of acting to uphold the Constitution and the principles of equal justice even when other institutions of government have failed. It would be ironic—indeed tragic—if the federal judiciary were to falter in restoring its own integrity and impartiality on this issue after having brought the nation to embrace the principle of law that people cannot be separated nor denied privileges simply on the basis of race.

FOOTNOTES

[1] See "Bell is Concerned About Membership in Exclusive Clubs," New York Times, December 22, 1979, p. 1.

[2] "Bell Will Quit All Private Clubs," New York Times, December 23, 1976, p. 1.

[3] "Senators Hear Webster's View on FBI & Clubs," New York Times, January 31, 1978, p. 13.

[4] "Seven Named By Carter For Judgeships Belong to All-White Social Clubs," the National Law Journal, June 4, 1979.

[5] "NAACP Ask U.S. Judge to Resign Over Remarks," New York Times, May 8, 1979, p. A-16.

[6] The eleven States of the South are Alabama, Arkansas, Florida, Georgia, Louisiana, Mississipi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

[7] Both district judges assigned to a court where these four cities are located and the circuit judges living in these cities were included in Chart No. 4.

[8] The Code of Judicial Conduct was revised and published in 1972 by a special committee of the American Bar Association that included judges and one Supreme Court justice.

[9] Before the Senate Judiciary Committee and in response to published reports, some nominees for federal judgeships have contended that their membership in segregated clubs should be considered "harmless" since they are only "honorary members." The fact that a segregated club will allow federal judges the benefits and pleasures of membership without having to pay for them is cause for even greater concern about the private association of a federal judge. In that instance, the judge is essentially receiving free benefits from a club that segregates on the basis of race.

[10] See "Blacks and Women in Southern Federal Courts," Report of the Southern Regional Council, 1978.

Mr. JAVITS. Mr. President, this survey found that 58 percent of the judges in the 11 States known as the Southern States were members of segregated clubs. Just so it is very clear that none of us is not guilty, it found also by a survey of a number of northern cities, to wit, Baltimore, Chicago, St. Louis, and Los Angeles—pretty big cities—that 51 percent, an average of 51 percent, of the Federal judges in those cities were also members of segregated clubs.

There is nothing in the Civil Rights Act of 1964 that deals with this matter. I debated that bill and it was passed because it did not deal with this matter.

It was very clear in that debate, Mr. President, that one could go to a social club with anybody he pleased, that one could invite anybody to dinner that he pleased, and one could frown or smile on anybody that went out with his daughter that he pleased, and that that was not part of the constitutional requirement respecting equal opportunity under the civil rights laws and under the Constitution.

However, Mr. President, we have moved on from that, certainly in respect of a man who is going to be a judge for life, who was raised from one court to another court, where the issue comes before the Senate of the United States and it is challenged.

We hear a lot of talk about signals around here. What signal are we sending out to the black people of the United States if we are going to accept this self-judgment concept by Judge Brown?

Also, what is such a big deal about being a member of the club? Others similarly situated are resigning, and even if we said we are going to apply that standard now, which is what the chairman and the ranking minority member of the Judiciary Committee say they are doing—though I am going to deal with that in a minute—that is what they are doing. Even if we apply that standard now, why cannot Judge Brown resign? Is he just stubborn, or does he still have this vestige of discrimination in his bones?

We can come to any conclusion we want, but it seems impossible to believe that a man who is going to be promoted to the circuit court of appeals from the district court bench, a man who has a fine judicial record—and again I draw on Senator KENNEDY and Senator THURMOND, who say that "His record shows 'sensitivity' toward civil rights matters," cannot resign from a club. There are plenty of good places to eat in Memphis, and there are other clubs to belong to, I am sure. Why can he not resign, as others, just as distinguished as he, felt was the right thing to do in those situations?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 2 additional minutes.

Mr. President, the answer is that he does not have the good judgment to resign, and we have to tell him how we feel about it and tell him, "Judge Brown, resign, because that is the new position we have now attained, in an effort to right the centuries-old injustices against blacks which have obtained in this country."

Nobody knows better than I that there is such a thing as the tyranny of weakness, and I have stood against it all my life, whether from blacks, Jews, or anybody else. But there is also a call for justice; and when justice is denied, then the tyranny of weakness can properly come into place.

This is the issue before us today. Are we going to stand still for the fact that it is a social club? It is not a big deal. It does not involve his wife and children. It does not involve his fortune. It does not involve anything except the fact that there is a serious question about it and others have resigned, including an Attorney General of the United States. He can say, "I'm not going to stand in the way of that. It is a good idea, and I'll go along with it, unless I don't want to go to the circuit court of appeals, in which case that's my privilege, and I'm not up for confirmation, and I don't have to do a thing."

I assume that Judge Brown wants to go to the circuit court. Should we help him? That is what we are asked to do. Should we help him, or should we say, "No, sir. We respect you. We're sorry. You can do anything you please socially, but we don't have to confirm your nomination to the circuit court of appeals of the United States, with even the slightest vestige of reservation in you, which is evident by the fact that you don't do what others similarly situated do—resign."

Senator KENNEDY and Senator THURMOND believe they have done a great thing here. They brought the committee forward a considerable step, in that they say that this letter they have written to Judge Brown states that hereafter they will not recommend to the Senate the confirmation of the nomination of a judge who has any such reservation as this and will not resign.

I think I am a pretty good lawyer, and I generally try, when reading a document, to add my own color and climate to it. I think we are able enough in the Senate to listen to this. It is one of the weakest papers I ever have read on any subject, let alone this one. Listen to it. It is addressed to Hon. Bailey Brown. I am going to read it slowly. It is dated September 11, and is signed by EDWARD M. KENNEDY, chairman, and STROM THURMOND, ranking minority member. It says:

> DEAR JUDGE BROWN: The Senate Committee on the Judiciary has voted to recommend to the Senate that you be confirmed as a member of the United States Court of Appeals for the Sixth Circuit. As you know, your nomination presented the question of a nominee's membership in a social club that allegedly maintained a membership policy that discriminated against blacks.
>
> We have tried to consider this issue apart from your own record, which certainly shows sensitivity towards civil rights matters. In our view, it is inadvisable for a nominee for a federal judgeship to belong to a social club that engages in invidious discrimination. While we have not discussed all possible forms of discrimination, we feel that "invidious discrimination" exists when the club's discrimination, in historical context, constitutes a stigma or badge of social inferiority. A social club's discrimination based on race or religion would ordinarily be considered invidious.
>
> We wish you to know our views in this matter.
>
> Sincerely,
>
> STROM THURMOND,
> *Ranking Minority Member.*

Well, he knows their views on this matter; he knows them very well. He construed their views on this matter to mean the following: He wrote them on September 19, and he said that he is going to stay in the club. So he understood them very well, because the 11-to-2 vote meant a lot more to practical-headed Judge Brown than this letter, which said absolutely nothing and promised nothing and committed to nothing.

Let us face the real facts. That is what the letter said. So what is the policy of the Judiciary Committee? That it is invidious? But they reported his nomination and they advise us to confirm the nomination.

Mr. President, I repeat what I said earlier: I can understand the good faith which is involved in trying to build up this situation and the fact that the committee probably would have reported his nomination anyhow, or would have advised us to confirm it, and the fact, therefore, that the letter represented some step forward that at least said they consider it invidious discrimination to continue to belong to such a club. I hope it will have an effect upon the judicial conference which is going to meet in January.

Even Mr. Civiletti has not said they are not going to send the nomination up here of a fellow who is a member of a segregated club and will not resign. He has not said that. He has said it is an important and serious question, just as they said it is inadvisable.

Mr. President, the difference of opinion between myself and my colleagues—and I yield to no one in my respect and affection for them—is that I say we should say, "Judge Brown, we respect you. You are a fine man and a good judge. You stay where you are, unless you are ready to undertake what should be undertaken in this situation, and what others similarly situated have undertaken—to wit, you resign. When you descend from the bench, it is your privilege to do anything you please; or, when it is clear that such discrimination is ended in terms of this club, in fact, perhaps you may rejoin. But right now, the policy of our country demands that you affirm where you stand, if you are going to be a judge for life on the U.S. Court of Appeals."

These are not very pleasant sessions, and I have had them for years, and I have loved the fact that in late years they have been unnecessary. However, I really thought it was necessary in this particular situation to call the turn as I saw it.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. I yield to the distinguished Senator from Mississippi.

Mr. JAVITS. I have a speaker.

Mr. President, I yield Senator BAUCUS such time as he may use.

Mr. BAUCUS. I thank the Senator.

Mr. President, this is a delicate and sensitive problem. On the one hand, the Judiciary Committee has stated that nominees should not be members of clubs that discriminate.

Judge Tamm, who is chairman of the judicial conference committee on ethics is going to recommend that sitting judges who belong to clubs that presently discriminate should reevaluate their membership in those clubs.

I think that the chairman and the ranking minority member of the Judiciary Committee, Judge Tamm, Attorney General Civiletti and others, should be commended for taking steps forward to address the problem of membership in clubs which discriminate.

The real issue here, though, is one that the Senator from New York focused upon and on which I shall elaborate very briefly. The question is whether suspension of membership at the discretion of the nominee advances the efforts that we are attempting to undertake. In my judgment it does not.

I have no doubt that Bailey Brown is a very fine honorable man. I have heard no one suggest anything to the contrary.

But what are we doing when we say that a nominee can suspend membership in a club until he in his own discretion determines that it does not discriminate any more? What is a suspension? Does he still pay dues? Are members of his family still active in the club? Is he an honorary member? By what standard does he determine that the club no longer discriminates?

Not only are the questions about the status of suspension difficult ones but by today's action we are elevating the status of discretionary suspension and perhaps indicating that it is an acceptable response by prospective nominees.

My view is that by the committee's statement of policy concerning discriminatory clubs we have taken a step forward. But we are taking a step backward by elevating the status of discretionary suspension by condoning it.

It is for these reasons that I will vote against the nomination.

I am sure Judge Brown is a fine man. I have heard no one suggest to the contrary. I think very highly of my colleague from Tennessee. I think he certainly would not recommend a nominee from his own State who is not a very fine person. My problem, though, is with the signals the Senate is sending. Are we saying that nominees should resign from clubs that discriminate? I believe they should. I think we should speak out as has the senior Senator from New York. I join with him.

Mr. President, I want to again commend the chairman and the ranking minority member of the Judiciary Committee for their leadership in the area of judicial selection and in particular their efforts to bring greater sensitivity to the issue of nominee membership in clubs which invidiously discriminate.

Their joint focus on this particular issue has led to an increased awareness of the inadvisability of Federal judges belonging to clubs that discriminate. The positive effects of the committee's advice in this area are best articulated by this morning's editorial in the New York Times:

> Judicial candidates would do well to heed that advice, coming as it does from a Committee that passes on their nominations. The Justice Department has started giving the same advice to those seeking nominations. And the Judicial Conference of the United States, which writes the ethical rules for Federal judges, is considering a rule prohibiting such membership.

All of these developments are clearly laudable. However, the question before us today is not the Judiciary Committee's policy about club membership, but rather the nomination of Bailey Brown for the position on the Sixth Circuit Court of Appeals. It needs to be kept in mind that Bailey Brown has not resigned his membership from the University Club in Memphis, Tenn. Rather, he has agreed to "suspend his membership" in such club. The question is whether suspension of membership is in keeping with the spirit of the policy articulated by the Judiciary Committee.

The New York Times in its editorial this morning characterized Brown's action in the following manner:

> The message is getting through. Bailey Brown, a nominee for the Court of Appeals for the Sixth Circuit, won Senate Committee endorsement only after suspending his affiliation with the University Club in Memphis. He agreed to stay out of the Club until he satisfies himself it will admit minorities. Three other nominees have resigned from similarly suspect clubs.

The three nominees who resigned recently should not be put in the same category as Bailey Brown. Does Bailey Brown's action mean that his wife and his family will continue as active members in the University Club? If they do, what is the continued public perception of the relationship between Judge Brown and the club? Does suspended membership mean that Judge Brown will visit the club and participate in its activities as a guest of other members?

All of these questions are begged by the act of suspending membership. The real issue here is if club membership is a violation of canon II of the Judicial Canon of Ethics, inasmuch as it gives the appearance of impropriety, then any kind of affiliation, suspended or otherwise, will also give such an appearance.

The chairman and ranking minority member of the Judiciary Committee, the Attorney General of the United States and the New York Times are all correct that the committee policy against membership in discriminatory clubs is an important step in the right direction. My only concern is that they have condoned and elevated the remedy of "suspension of membership" so that it will become an acceptable alternative to nominees who are members of discriminatory clubs. The ambiguous message that is communicated by "suspension of membership" is not a helpful solution and will only complicate the issue. I therefore will vote against the nomination of Bailey Brown for U.S. Court of Appeals judge.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. KENNEDY. I yield myself 7 minutes.

Mr. President, first of all, let me just say I would associate myself with the principles underlying the comments that the Senator from New York, my good friend and colleague, Senator JAVITS, made. I think the Senator from New York and I have worked on various civil rights matters and issues that have been before the Senate over the period of time both when he was on the Judiciary Committee and also in the Chamber. While we have some differences on this particular issue, our objectives, I think, are very much the same.

Mr. JAVITS. May I affirm that right away. I have no doubt our objectives are the same.

Mr. KENNEDY. Fine.

So there is a difference, Mr. President, in the way that the committee has approached this issue. We believe, quite frankly, that, both in terms of making progress in the civil rights area and in terms of considering an individual nominee's position, the procedure that we have followed is meritorious and will move us toward the objective, which the Senator from New York and I and hopefully all Members of the Senate share.

There have been questions raised whether this is an effective way of dealing with this problem, by giving to the nominee the right to make a decision about a club rather forcing the nominee to make a clear statement that he is going to resign, as Judge Bell and others who have appeared before different committees have done.

The fact remains that there may be the possibility, although I hope not, that an individual who serves in a Cabinet position would say, "Sure, I'm prepared to resign from a particular club," and then would proceed to rejoin the club once his service is complete. There is not one thing the Senate can do about that. If he wants to go right back and join that club there is virtually nothing that can be done about it. Perhaps we can scrutinize a nominee to the judiciary, but we can do nothing about a Cabinet official or someone who holds appointed offices and quits and then later rejoins a club that discriminates.

The question is how should we treat this particular nominee? We are prepared and we have seen over the period of the past that he is a man of significant credibility and integrity. No one has questioned that. We would be prepared to evaluate him positively. We are prepared to elevate him to an important position of trust. As district court judge he has already served in such a position—a position in which he is trusted to make critical decisions honestly and in good faith.

He has served in courts making important decisions about whether individual freedoms are going to be denied under the sentencing provisions of the various title 18 acts. He makes decisions on the basis of his own judgment involving antitrust cases involving millions of dollars and individual freedoms. We have trusted him and are prepared to trust him further to make those important decisions. Yet, we seem hard pressed for some reason or another, when the issue is whether we are prepared to allow him to make what promises will be a good faith judgment carefully made, on the issue of discrimination. Trying out the facts of discrimination is often complex and difficult. Our committee staffs have been trying to find out whether we have seen a policy of discrimination in that club. A civil rights issue which comes before the courts on a 1964 violation requires deposition after deposition and requires historical analysis. This judge does not believe the club discriminates. We have been hard pressed as a committee with a limited staff to make a final judgment whether it does or does not. He does not believe that it does.

He has stated to us that, if he makes the finding that the club does discriminate, he is prepared to resign—if he makes that finding. I have read his letter on that into the Record.

Now let me turn to the committee's statement, to the letter that we have sent to Judge Brown. That letter might not seem to be convincing to certain Members of the Senate in terms of their lawyerlike interpretation of it, but it has been a sufficiently convincing statement by the Judiciary Committee so that when four nominees, who have been members of private clubs, when read the letter felt that they should make their own judgment about discrimination in their own situations, did so, have resigned.

I will take what the Senator from New York has stated as descriptive of the situation in the South in certain district courts or circuit courts. The fact is that happens to be the case today. That is what we want to change.

I am interested in achieving the same objective of the Senator from New York, seeing that they are not going to be members of clubs that discriminate, and that they do resign, and, hopefully, those who are presently on the district courts or on the circuit courts will similarly resign. I hope we can work with the Judicial Conference in achieving that objective.

Mr. President, with regard to the particular letter, of the committee, let me quote Mr. Joseph Rauh's letter to myself He says:

> Dear Ted: I have seen the letter that you and Senator Thurmond sent to Judge Brown setting forth your views on membership in private clubs. I believe that your letter represents a significant step forward in the fight against discrimination. It reflects the fact that the Judiciary Committee of the United States Senate unanimously disapproves membership by judicial nominees in clubs that practice invidious discrimination.

Similarly, the letter that comes from Jack Greenberg, of the NAACP Legal Defense Fund, is of the same effect. I know these are men who have long been in the battle against the forces of discrimination.

So, Mr. President, I want just to say to those who have expressed concern about this situation that I think we are together in our objectives. I welcome the opportunity to work with those Members and the members of the committee in our shared objectives.

We do view the procedure and process we have established as having had both the practical effect and a real and, I believe, important effect in the current selection process for judges and those who serve as judges, and we are quite prepared to work with those Members and others in the future to try to deal with the situation as it exists now even in the district courts and the circuit courts.

I want to say how much we appreciate the constructive role which has been played by our two colleagues on the Judiciary Committee, the Senator from Montana (Mr. Baucus) and the Senator from Maryland (Mr. Mathias) who have discussed this at length with the members of the committee, and who have been constant in their dedication and concern respecting the issue that is before us.

Again I want to thank my friend and colleague from New York, Senator Javits, for what I think is a constructive comment which he has made, and to give him the assurance that we look forward to working with him and other Members of the Senate in attaining our shared objectives.

I do not know if there are any other speakers.

Mr. JAVITS. I have one other speaker.

Mr. President, how much time do I have?

The PRESIDING OFFICER (Mr. Levin). The Senator has 23½ minutes remaining.

Mr. JAVITS. I yield myself 5 minutes.

Mr. President, I address myself now to the two points made by Senator Kennedy: First, that he could rejoin the club once he lays down his public office, and the other the fact that he is a man whose intentions—his intentions and motivations—are high, and that he is trustworthy.

Now, Mr. President, as to rejoining a club, of course, there is a very simple answer to this one, and that is that he is a judge for life. We are not making a Cabinet officer who is going to go out with the next administration or some kind of an office of limited tenure. This is tenure for life. But quite aside from that, Mr. President, it makes a very great difference as to the internal gearing of a man during the time he is in office and carrying out his responsibilities for this reason: Every code of ethics that I know of, Mr. President, including the judicial canons of ethics and including the ethics of the Senate of the United States, says that you not only must avoid doing something which impairs confidence in you but you must avoid what gives the appearance of an act that impairs confidence in you.

I quote from canon 2 of the Code of Judicial Conduct published in 1972 by a special committee of the American Bar Association as follows:

> A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Mr. President, we have to ask ourselves what does a litigant before the judge think in terms of what the judge does or does not do? I respectfully submit that the bearing of that upon this situation is decisive.

Finally, Mr. President, I ask again why would not Judge Brown resign? Why would he not resign? What is the vestige that persists in going through all kinds of circumlocutions? He is going to suspend his activity, whatever that may mean; does it mean he is not going to eat there or whatever that comes to? Then he is going to judge whether they really do or do not discriminate, notwithstanding his own answer to the questionnaire that as far as he knew they did. Why? Why?

It seems to me that others similarly situated, who may have felt the same way as Judge Brown, decided they would resolve the doubt; that that was their public responsibility if they wished to be confirmed by the Senate. Judge Brown is the one who said, "No." Yet he is the very one whom we are asked to confirm.

Mr. President, I do not think it is right or wise or in the interests of our country. We have come a long way since the days of 1964 and, Mr. President, that marks a certain element of our maturity in that regard. That is what we are debating here today. Have we matured now to the point where we recognize not only the obvious in a judge but we recognize also those motivations which make a judge what he is or unmake him?

I most respectfully submit that the standard must be that he not only must avoid evil, he must avoid the appearance of evil if he wishes to be a judge for life in the courts of the United States.

Mr. HAYAKAWA. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HAYAKAWA. I am not sure the Senator wants to yield to me. I am not sure whose side I am on. However, if the distinguished Senator from Massachusetts would give me 5 minutes or so, I would like to raise some questions.

I must say as of this moment I am not sure how I am going to vote because both of you gentlemen have been so extraordinarily persuasive, and there are fine arguments on both sides.

The first question that bothers me is the degree of intrusion that your public office must make into your private life. I can understand Mr. Brown's unwillingness to resign from the society or club where he has made many friendships dear to him over many, many years.

It is not as if that club were vested with any public responsibility presumably like some of the clubs I belong to. They gather to have lunch, to have drinks together, to have, perhaps, an annual dance, essentially to have a good time, people selecting each other on the basis of their similarity to each other. Similarity traditionally in this country has been based very often on questions of race.

As time goes on, as I was pointing out to Senator Javits not long ago, I myself have belonged to clubs, and do belong to clubs, but they are obviously not all white or I would not be in them.

But I have seen the discrimination against, for example, blacks and Jews diminish in those same clubs in the 10 years in which I have been a member, because not even the Greyfriars Club can exist thus indefinitely, with the temper of the times, the social movement that is going on all around them.

It is perhaps necessary to avoid not only injustice or evil, and even the appearance of injustice or evil, but this presents a very, very difficult question: A colleague of mine from the State of California made application to join a body which is vested with public responsibility which does, indeed, have strictly racial criteria for admission, and I refer to my colleague in the House of Representatives Fortney Stark, known as Pete Stark, who applied for membership in the Congressional Black Caucus because he represented a constituency that was more black than white. Since he represented so many black interests in his own constituency, he felt he ought to belong to the Black Caucus.

The Black Caucus is not a private club to have lunch together and have dances and bridge parties. They are a body, unlike social clubs, vested with a public responsibility. But they turned down Mr. STARK's application for membership in that group, although his interests and the interests of the Congressional Black Caucus overlap considerably, since, as I say, he represents a large black constituency.

Are we to condone racism within our own ranks as Members of Congress? Are we to promote that kind of situation?

I myself belong to and am a dues-paying member in a small society of Japanese and Japanese Americans who come from the prefecture of Yamanashi in Japan, and they and their descendants are members of this organization. In one sense it is racist, not because they exclude anybody but they do include all those who are Yamanashi people, or descended from Yamanashi people. So the only non-Japanese in them are children and grandchildren, who are sometimes half Japanese or quarter Japanese; they all have some kind of racial connection with that province in Japan.

I think this society, which tries to preserve certain memories of a province in Japan, can be distinguished. I think if a black or white were interested in the cultural history of that province, or had served in the military in that province and applied for membership, he would probably be admitted; but no such people so far have applied, so, from appearances, it is limited to Japanese and their descendants.

But that body is vested with no public responsibility. They have annual picnics and annual dinners, and talk about the progress back in Japan and the progress of Japanese people in this country.

The PRESIDING OFFICER. The Senator has used his 5 minutes.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. JAVITS. Mr. President, I yield the Senator 2 minutes.

Mr. HAYAKAWA. Half a minute is all I need. All I want to say is that I am distressed by the racially exclusionary rules of the Congressional Black Caucus, and I wonder what we will do if any of its members are appointed to the Federal judiciary.

I thank the Chair and the distinguished Senator from Massachusetts.

Mr. JAVITS. I thank my colleague.

Mr. President. I think I can answer the question best by pointing out what I have tried to maintain, and that is that we are dealing with a specific office, that of a Federal judge for life, with a public responsibility to be completely fair and completely dispassionate.

I would like to read two sentences out of this publication of the Southern Regional Council which has been referred to. With respect to judges, it says, on page 18:

> It is difficult to understand how litigants could be expected to maintain faith in a court where the judge decides the evidence of race discrimination during the morning and lunches in an all-White, segregated club at midday. When at least one in two federal judges belongs to all-White clubs the private decisions of individuals in the judiciary becomes the practice of the judiciary and public confidence is eroded by a lack of private conscience.

What we are talking about here is a specific calling, to wit, that of a Federal judge, with a specific responsibility, and that, I submit, does not accommodate a continued membership in a club that excludes blacks, especially where others similarly situated have cut off and resigned. There seems to be no reason why, unless there be some vestige of this left, that a particular judge should refuse to resign, which is the situation we have in this case.

Mr. President, do I have 5 minutes left?

The PRESIDING OFFICER. The Senator has 16½ minutes remaining.

Mr. JAVITS. I yield the 5 minutes to the Senator from Maryland.

Mr. MATHIAS. Mr. President, the Omnibus Judgeship Act, which became law almost a year ago, raised the prospect for the U.S. Senate of the unprecedented task of investigating and considering the qualifications of an extraordinary number of nominees for the Federal judiciary in a very short period. There are few matters more important to the citizens of this country than the quality of Federal judges and the character of the men and women who sit on the Federal bench. Swelling the ranks of the judiciary by 152 members will have a lasting impact on our Nation.

The Senate Judiciary Committee, in preparing for this onslaught of judicial nominations, and being properly determined to confirm the best possible Federal judges, instituted a policy of requiring every nominee to answer a detailed questionnaire. This was the first time that the committee had asked for written responses from nominees. The process of relying solely upon the Department of Justice questionnaire was abandoned.

In his response to one of the questions on the committee questionnaire, Judge Bailey Brown informed the committee that he was a member of the Memphis University Club and that it was his opinion that "while no blacks may have ever applied (for membership), none would have been accepted." Judge Brown, in hearings before the committee, expressed the belief that it would be inappropriate for him, as a Federal district judge, to take steps to change the club's membership practices, since such a question could conceivably come before him on the bench. Presumably, his inhibitions in this respect will continue should his nomination to the Sixth Circuit Court of Appeals be confirmed by the Senate.

I also find troubling Judge Brown's reluctance to resign from the Memphis University Club. Two other judicial nominees recently considered by the committee resigned from clubs with similar practices.

I believe all Senators will recall, and I think we should recall with some admiration, the example of Judge Griffin Bell, who did resign from a private club to which he belonged and which practiced discriminatory policies, and he resigned before he was confirmed by the Senate as the Attorney General of the United States.

Judge Bell's words are worth recalling, because they, I think, are generous and proper, and appropriate for one who has been offered the President's commission, and whose qualifications are being discussed by the United States Senate.

Judge Bell said:

> I do not think that I would be trusted as much if I were a member of clubs which have discriminatory practices and policies * * * I will be holding a very high office. One contribution I would like to make would be to restore the trust of the people in the Government.

That is what Judge Bell said when he was faced with this same issue. He said, "One contribution I would like to make would be to restore the trust of people in the Government." So he was willing to resign his membership in a discriminatory club.

The office of Attorney General of the United States is indeed a very high office. I think those of us who contemplate the constitutional scheme would not put a Federal judge any lower in the scheme of separate, equal, and coordinate branches of Government. I think the same kind of responsibilities rest upon Federal judges.

Now, as I am sure has been discussed here today, under pressure from the Committee on the Judiciary, Judge Brown has agreed to suspend his participation in the Memphis University Club until he determines whether or not the club, in fact, discriminates. I have two difficulties with that procedure.

In the first place, it seems to me that it delegates a discretion which is the Senate's discretion to the nominee. That is going to appear to a great many Americans as simply a way to duck the issue. I do not think we can delegate that discretion.

Second, it seems to me that Judge Brown, in his own words, has already made the determination in the testimony that I already quoted, before the Committee on the Judiciary, that it was his opinion that, had blacks applied for membership in the Memphis University Club, none would have been accepted. So, for this reason, Mr. President, I am constrained to vote against the confirmation of this nominee.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

I thank Senator BAUCUS and Senator MATHIAS for their statements and for standing on this issue as firmly as they have. I believe it is the way in which this question should be decided.

Judge Brown had every opportunity to resign. He chose not to, in a very considered way. I cannot see how we can approve that as conduct befitting a Federal judge for life.

I am prepared to yield back the remainder of my time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I reserve the remainder of my time.

Mr. THURMOND. Mr. President, I shall take but a few minutes.

Mr. President, I want to go back just a few years. In the first place, Judge Bailey Brown was appointed by President John F. Kennedy to be a U.S. district judge. He has served for 18 years in that position. He has been a member of the University Club of Memphis throughout this period of time. If this is such a bad club, why hasn't someone raised the point before now? If this is a club of discrimination, why has someone not said, "Judge Brown, why don't you get out of this club?"

Why have the Presidents and the Attorney Generals, all down the line since John F. Kennedy, not raised this question? I cannot believe that John F. Kennedy would have appointed Judge Brown if he had felt that he was a man who would discriminate.

President Carter has not just appointed him; he has promoted him. The President has promoted him from a U.S. district judge to a U.S. circuit judge.

Certainly, President Carter caused him to be investigated carefully. The Attorney General of the United States investigated him. Other people investigated him. The majority staff investigated him. The minority staff investigated him. No one has alleged or made an allegation that he is guilty of discrimination.

Are we going to consider turning down a man when no one stands up to say that he is not fair? All the witnesses who testified testified that they think he is fair and he is able. The American Bar Association finds that he is only 1 of 4 of a group of 120 judges appointed by President Carter recently, who attained the rating of exceptionally well qualified—1 of 4. We are going to turn down a man of such obvious merit?

Are we going to turn down a man when both Senators in this body from his State, one Republican, one Democrat—say he is a fair man and should be confirmed?

The able Senator from Tennessee (Mr. SASSER) pointed out that one Congressman from Tennessee, who is a black came up and said, "I endorse him; I am for him; he ought to be confirmed."

Do you think that black Congressman would run the risk of being defeated in his district, which has a predominance of black people, unless he felt that Judge Brown is a fair judge?

Mr. President, it just does not make sense. You can make allegations against anybody, but you have to prove the allegations. No one has proved here that this judge is unfair and that he will not do the right thing.

Mr. President, here is what Bailey Brown said when he was contacted by Mr. Steve Breyer from the majority staff. He says:

> I agree to suspend my participation until such time as I am convinced personally that the club does not discriminate on the basis of race.

He has already suspended himself and will continue to suspend himself unless he is convinced that they do not discriminate. What more can we ask of him? Can we trust him in making that decision? Why not trust him in making that decision? He has made thousands of other decisions in trying cases and no one has said he has discriminated.

Mr. President, I guess we all make mistakes. I believe that everybody agrees now that Judge Bell made a good Attorney General. I think everybody agrees he was fair and that he did not discriminate as Attorney General. I believe both of my good friends, the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from Maryland (Mr. MATHIAS) voted against him. I believe they would agree now, and they did stand up and tell you, that they believe Mr. Bell made a good Attorney General. Just as they were wrong then, they are wrong now.

Mr. President, the Judicial Conference is going to consider this matter soon. The Judicial Ethics Committee of the Judicial Conference will consider the propriety of Federal judges belonging to clubs that appear to discriminate as to membership against identifiable groups such as black people, Jewish people, gentiles, women, and so forth. If they are going to consider that soon—and they are. That is what the distinguished Senator from New York said and that is what Judge Brown says in his letter. If they make a determination here that is against this type of club, I am confident Judge Brown will get out of the club. So why go and rush action here and try to force him to take some action that is unnecessary?

Now, we hear a lot said here about, oh, Why does he not get out? Why does he not get out? I believe both Senators mentioned that, Senator JAVITS and Senator MATHIAS. Here is what Judge Brown said:

> As you know, it has been strongly suggested to me by committee staff that I resign from the University Club of Memphis. This has created a real problem for me because, among other reasons, I have been a member of the University Club throughout my eighteen years as a district judge (actually since 1946) and resignation now could well be construed as an admission by me that I have been guilty of impropriety from the inception of my judicial career. In this connection, I have been restudying the "Code of Judicial Conduct For United States Judges" by which all federal judges are governed. I can find nothing that proscribes membership in a club such as the University Club of Memphis. On the contrary, the only organizations that are proscribed are organizations involved in political activity and interest groups which take positions on issues that are litigated in courts. For your information, I am enclosing copies of four Advisory Opinions that deal with this subject.
>
> My point, of course, is that, according to the canons that have governed the conduct of all federal judges, I have not been guilty of impropriety because of my membership in the University Club of Memphis.

Mr. President, it seems to me that with this man's fine record, appointed by President Kennedy, promoted by President Carter, approved by the black Congressman from his district, approved by both U.S. Senators from his State, who would have the most say-so in this nomination? A Senator from New York, a Senator from Maryland, or the two Senators from his home State where he comes from?

It has been considered around here that the home States are the ones that have the say-so in these matters.

Mr. MATHIAS. Will the Senator yield?

Mr. THURMOND. In just a minute the Senator can get the floor.

Mr. President, I repeat, in 18 years, since 1946, since he has been on the bench, not one person, not one has made allegations that Judge Brown has discriminated.

If he has not discriminated in all those years, I do not know why he is starting now, because there is more emphasis now on human rights, and things of that kind, than ever before.

Now I am pleased to yield to the distinguished Senator from Maryland if he wants to ask any questions.

Mr. MATHIAS. I think the point is really lost.

The only thing I presume to say to the Senator is that we would agree a Senator dealing with a U.S. district judge within his State certainly should have a very strong influence. But when we are dealing with the U.S. Court of Appeals, which has jurisdiction over a number of States, it seems to me that a number of other Senators' views are also important.

Mr. THURMOND. But who is better qualified to know this judge, a Senator from Maryland or a Senator from New York, or a Senator from Tennessee, his home State?

It seems to me it is clear that this man should be confirmed.

Mr. President, I hope the Senate will see fit to confirm this man, a good judge, exceptionally well-qualified, who has a fine record, and no one has ever charged him with discrimination.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I yield myself 1 minute.

Mr. President, I have heard these arguments of Senator THURMOND for 20-odd years on civil rights matters.

Mr. President, we are asking Judge Brown to do one thing, and the committee asked him to do it, asked him to resign from the club. He said, "No."

I believe the Senate ought to say "No" to him on an appointment of a judge for life to the circuit court of appeals.

● Mr. DOLE. Mr. President, I rise in support of Judge Bailey Brown's nomination to the Sixth Circuit Court of Appeals. He has served for 18 years as a Federal district judge for the Western District of Tennessee. He has had a distinguished career. His credentials are sterling. During his years on the bench Judge Brown has shown himself to be a worthy and able jurist. He has been rated as exceptionally well qualified by the American Bar Association. He has displayed a balanced judicial temperament over the years, and I am certain that Bailey Brown will make a noteworthy contribution to the Federal bench.

I urge my colleagues to support Judge Brown's nomination. He has undergone careful scrutiny by the members of the Judiciary Committee, and it is now time for him to take his place on the bench.●

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

SEVERAL SENATORS. Vote!

Mr. THURMOND. I yield back the remainder of my time.

Mr. President, I believe the yeas and nays have been ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered.

All time having been yielded back, the question is on the confirmation of the nominee. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN) and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER (Mr. BAUCUS). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 83, nays 12, as follows:

[Rollcall Vote No. 312 Ex.]

YEAS—83

Armstrong
Baker
Bayh
Bellmon
Bentsen
Biden
Boren
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Metzenbaum
Morgan
Muskie
Nunn
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young

NAYS—12

Baucus
Boschwitz
Bradley
Durenberger
Heinz
Javits
Mathias
Nelson
Packwood
Pressler
Proxmire
Zorinsky

NOT VOTING—5

Melcher
Moynihan
Schweiker
Stennis
Weicker

So the nomination was confirmed.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, during the vote this afternoon on the nomination of Hon. Bailey Brown, of Tennessee, to be a member of the U.S. Circuit Court of Appeals for the Sixth Circuit, I was engaged as chairman of a House-Senate conference on the fiscal year 1980 military authorization bill. When advised that the vote was in progress, I went to the Senate floor, but the vote was completed before I arrived.

Had I been in the position to vote on the nomination, I would have voted "yea," in favor of confirmation of the nomination.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Massachusetts yield to me?

Mr. KENNEDY. I yield.

TIME-LIMITATION AGREEMENT—NOMINATION OF ABNER J. MIKVA TO BE U.S. CIRCUIT JUDGE

Mr. ROBERT C. BYRD. I ask unanimous consent that there be a time limitation on the nomination of Mr. MIKVA of 2 hours to be equally divided between Mr. THURMOND and Mr. KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of all of the remaining nominees under the judiciary and that they be considered and confirmed en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection to that.

There being no objection, the Senate proceeded to the consideration of the following nominations:

THE JUDICIARY

Mary M. Schroeder, of Arizona, to be U.S. circuit judge for the 9th circuit.

Richard D. Cudahy, of Wisconsin, to be U.S. circuit judge for the 7th circuit.

Boyce F. Martin, Jr., of Kentucky, to be U.S. circuit judge for the 6th circuit.

Otto R. Skopil, Jr., of Oregon, to be U.S. circuit judge for the 9th circuit.

Edward C. Reed, Jr., of Nevada, to be U.S. district judge for the district of Nevada.

Avern Cohn, of Michigan, to be U.S. district judge for the eastern district of Michigan.

Stewart A. Newblatt, of Michigan, to be U.S. district judge for the eastern district of Michigan.

William L. Hungate, of Missouri, to be U.S. district judge for the eastern district of Missouri.

Howard F. Sachs, of Missouri, to be U.S. district judge for the western district of Missouri.

John V. Parker, of Louisiana, to be U.S. district judge for the middle district of Louisiana.

Scott O. Wright, of Missouri, to be U.S. district judge for the western district of Missouri.

Zita L. Weinshienk, of Colorado, to be U.S. district judge for the district of Colorado.

Jim R. Carrigan, of Colorado, to be U.S. district judge for the district of Colorado.

Richard M. Bilby, of Arizona, to be U.S. district judge for the district of Arizona.

Veronica D. Wicker, of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

John M. Shaw, of Louisiana, to be U.S. district judge for the western district of Louisiana.

Falcon B. Hawkins, of South Carolina, to be U.S. district judge for the district of South Carolina.

C. Weston Houck, of South Carolina, to be U.S. district judge for the district of South Carolina.

George Arceneaux, Jr., of Louisiana, and Patrick E. Carr, of Louisiana, to be U.S. district judges for the eastern district of Louisiana.

Benjamin F. Gibson, of Michigan, and Douglas W. Hillman, of Michigan, to be U.S. district judges for the western district of Michigan.

NOMINATION OF OTTO R. SKOPIL TO BE U.S. CIRCUIT JUDGE

● Mr. PACKWOOD. Mr. President, Judge Otto Skopil is a man of many accomplishments, worthy of the position of justice on the U.S. Ninth Circuit Court of Appeals. He deserves the unanimous confirmation of the Senate today.

Judge Skopil's distinguished legal career has been diverse. He has served on the Federal District Court for the District of Oregon since 1972; he has been chief judge since 1976. Judge Skopil's judicial ability is unquestioned in the legal community of Oregon; he is highly regarded. Furthermore, his judicial temperament is exemplary. He is calm, deliberative, polite, yet commandingly efficient.

Prior to his outstanding service on the Federal bench, Judge Skopil was in private practice in Oregon, where he had a broad variety of legal experience, particularly in the area of trial practice. Through his work in private practice, he appeared before all the courts in the State of Oregon, from justice of the peace to the supreme court. He also had diverse Federal court experience, ranging from Federal district court to the U.S. Supreme Court.

Judge Skopil has been very active in the Oregon State Bar Association. He served on the Oregon State Bar Board of Governors, as well as numerous committees. He has contributed significantly to the continuing legal education program. He has also been active in the American Bar Association. In addition to his involvement in the legal community, Judge Skopil has given much of his time and talent to civic and community service.

In short, Judge Otto Skopil is exceedingly well qualified to sit on the U.S. court of appeals. It is an honor and a pleasure to wholeheartedly endorse his confirmation.●

NOMINATIONS OF FALCON B. HAWKINS AND C. WESTON HOUCK TO BE U.S. DISTRICT JUDGES

Mr. THURMOND. Mr. President, Mr. Hawkins was born in 1927 in Charleston, S.C. He was educated at the Citadel, the finest military college in the United States, where he graduated with honors, and he received his law degree from the University of South Carolina. He served in the U.S. Army from 1944 through 1946. He served as law clerk to Senator ERNEST F. HOLLINGS and later became a partner in that firm.

Mr. President, Mr. Hawkins has a splendid reputation. I am confident that he will be a great asset to the Federal bench, and I wholeheartedly endorse him and shall support him.

Mr. President, Mr. Houck was born in 1933 in Florence, S.C. He attended the University of North Carolina and received his LLB degree from the University of South Carolina, where he served in the Order of the Wig and Robe. He served in the Judge Advocate General's Corporation. After discharge from the service, Mr. Houck entered private practice as a member of the firm, Wilcox, Hardy, Houck, Palmer and O'Farrell, which is a very outstanding law firm in our State. He later then established his own firm of Houck, Clark and Johnston.

Mr. President, Mr. Houck has a fine reputation as an able and competent lawyer as well as a man of high character, and I am very pleased to endorse him for the position of district judge for South Carolina.

Mr. HOLLINGS. Mr. President, I move the confirmation of Falcon B. Hawkins and C. Weston Houck who have been nominated by President Carter to serve on the newly created district judgeships in South Carolina. A third nominee, the Honorable Matthew J. Perry, Jr., was confirmed by the Senate on September 19, 1979 and I am confident that this body will agree that Messrs. Hawkins and Houck have the same superior qualifications that Judge Perry possesses. It is an honor for me to present these gentlemen to my distinguished colleagues for confirmation.

On November 8, 1978, the President issued an Executive order setting the standards for the merit selection of the newly created district judgeships. In compliance with his wishes, I established a Merit Selection Committee on December 13, 1979 to review the qualifications of the individuals who wished to be considered for the positions. The committee represented an accurate cross section of the people of South Carolina and included two incumbent district judges, three attorneys (including the president-elect of the Bar), two college presidents, two blacks, two women, Democrats, Republicans, a balanced geographical representation, and a variety of political persuasions. As I believe is evident from the caliber of individuals they recommended to me, they did an outstanding job. I wish to thank Federal District Judge Robert Hemphill, chairman of the committee, Ross Anderson, Mrs. Philip H. Arrowsmith, Judge Sol Blatt, Jr., Mrs. Charles Gibbs, George Dean Johnson, Dr. Joab Lesesne, Dr. Maceo Nance, Dr. I. D. Newman, and Morris Rosen for their participation on this committee. They can take pleasure in knowing that their recommendations are worthy of the time, effort, and attention they devoted to select them.

After the formation of the committee, I referred to them all of the letters, petitions, and memoranda of telephone conversations which were submitted by or for the individuals interested in one of the judgeship positions. In addition, the chairman contacted the South Carolina Bar, the Trial Lawyers Association, other legal associations and publications, and the news media seeking other names for the committee's consideration.

A total of 62 names were submitted to the committee and each individual was sent the questionnaire for prospective nominees for the U.S. circuit judgeship so that the committee would have a uniform standard of comparison for use in this screening process. After several weeks of study, consideraton, and review, the committee provided me with the names of the 11 people whom they concluded were the best qualified for the judgeships. From these recommendations, I selected the three individuals that I concluded had the best credentials. I trust you agree they are eminently qualified and exceptionally well prepared to serve on the bench.

It is with a sense of personal pride and honor for me that Falcon B. Hawkins is being considered for one of these seats. When I completed my term as Governor in 1963, he and I began practicing law together in Charleston. Mr. Hawkins impressed me from the start as a man with exceptional ability, dedication, and legal sense. He is the hardest working attorney that I know and he has the best judgment. His career has been characterized by fairness, compassion, and a temperament which make him a unique nominee and, if given the opportunity, a superior judge.

Mr. Hawkins was born in Charleston in 1927. After serving in the Army in World War II, he started working full time at the Charleston Naval Shipyard at night while attending the Citadel during the day under the GI bill. He was at the top of his class in undergraduate school and entered law school at the University of South Carolina, again, while working full time. He completed his study of law in the top 10 percent of his class and after his admission to the bar, he and I began the practice of law in Charleston.

C. Weston Houck was born in 1933 in Florence. He attended the University of North Carolina and received his LL.B. from the University of South Carolina School of Law. While in law school, he served in the Order of the Wig and Robe. He entered the Army in 1957 and was discharged as a staff judge advocate. He has been an outstanding member of the legal community in the Pee Dee and has received the endorsement of the Florence Bar Association. I am told by various judges that Mr. Houck is the most capable attorney in that part of South Carolina and, if confirmed, I am sure that he will serve on the bench with equal distinction.

Again, I am hopeful that you will concur that these two nominees are indeed outstanding and, if confirmed by the Senate, will serve on the bench with exceptional distinction.

Thank you, Mr. President.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the nominations were confirmed en bloc.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the President be informed of the confirmations of Falcon B. Hawkins and C. Weston Houck.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if the Senator from Massachusetts will yield further, that completes as far as the Executive Calendar is concerned, and only the nomination of Mr. MIKVA and then the nomination under the Office of the Special Representative for Trade Negotiations remain.

TIME-LIMITATION AGREEMENT—S. 1075

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in legislative session, that at such time as Calendar Order No. 334, S. 1075, a bill to revive and reform Federal law applicable to drugs for human use, and for other purposes, is called up that there be the following time agreement as follows: 1 hour, equally divided, on the bill between Mr. KENNEDY, and Mr. SCHWEIKER, and with 30 minutes on any debatable motion, appeal, or point of order, if such be submitted to the Senate for consideration and that the agreement be in the usual form.

Mr. STEVENS. Mr. President, I have no objection to that either.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 1075 (Order No. 334), a bill to revise and reform Federal law applicable to drugs for human use, and for other purposes, debate on any amendment, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Pennsylvania (Mr. SCHWEIKER): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

THE JUDICIARY

NOMINATION OF ABNER J. MIKVA TO BE U.S. CIRCUIT JUDGE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on the Mikva nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of ABNER J. MIKVA, of Illinois, to be U.S. circuit judge for the District of Columbia circuit.

Mr. KENNEDY. Mr. President, I yield to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, in July I had the honor of chairing a hearing before the Judiciary Committee on the nomination of Congressman MIKVA for the position of U.S. circuit judge for the U.S. Court of Appeals for the District of Columbia. Since entering the Senate almost 7 years ago I have had the opportunity to review numerous Presidential nominations. I take that responsibility very seriously. In my view the most thorough and objective investigation and deliberation is necessary when we are called upon to pass on the qualifications of a man to sit for life on the Federal judiciary. As a member of the Judiciary Committee I have reviewed many judicial nominees, both qualified and unqualified. As a result, I chaired the hearings on Congressman MIKVA's nomination with a number of preconceived ideals on the nature and scope of our responsibility to review judicial nominees as well as personal views on the characteristics which distinguish a highly qualified judicial nominee.

As I see it, our function in reviewing the qualifications of a judicial nomination is somewhat different from our function in reviewing the qualifications of a nominee to an executive branch position. Personal views on matters of policy falling within the purview of an executive office are critically important in assessing a nominee's qualifications. Abner Mikva as a Member of Congress has spoken out on practically every public issue coming before the House of Representatives in the past decade. His views on those issues would be important if, for example, he were to be nominated to a Cabinet post where his job would be to implement his positions.

The necessary qualifications of a judicial nominee are somewhat different. Although a nominee's personal views on matters likely to come before him are relevant, they are not nearly as important as the more elusive qualities of demeanor and judicial temperament. The real issue with a judicial nominee is whether he is capable of performing the delicate role of objectively reviewing questions of law and fact. He must be able to put aside any personal prejudice he might have on the matters before him.

Therefore, I believe, what is properly before us here as we consider Congressman Mikva's nomination is not the views he has expressed on public issues as a Member of Congress, but rather the degree to which he possesses those attributes experience has shown to be desirable in a judge, particularly the ability to be objective on the bench. To apply any other standard would be to disqualify from the judiciary virtually any public person who has been willing to take positions on judicial issues. Specifically, I do not believe that elected officials should be disqualified for service on the Federal bench simply because during the course of their political careers they have advocated positions with which some people have disagreed.

We are all aware that Congressman Mikva has publicly and vigorously taken a position on gun control with which many people disagree. As a matter of fact, I am one of those who does disagree with him on this issue. Nevertheless, I think we must be clear that our responsibility here is not to express our personal views on gun control or any other issue on which Congressman Mikva has spoken out. Our business here is to inquire into the Congressman's qualifications to impartially interpret the law in the courtroom.

Issues, indeed, have their own importance. If we did not believe that, none of us would be here today. But the quality and the integrity of the Federal bench, and the personal, intellectual, and legal attributes of the judges who occupy it, have a unique importance of their own.

Among the witnesses at the nomination hearing who spoke in support of Congressman Mikva's nomination were some of our colleagues whose views I believe are particularly relevant to our deliberations today—both as a result of the tremendous respect we hold for their objectivity and as a result of their personal and professional association with Congressman Mikva. Those witnesses who expressed very strong support for Congressman Mikva's nomination included: Senators Stevenson and Percy, Congressmen Tip O'Neill, Peter Rodino, and John Rhodes.

The strong bipartisan support for Congressman Mikva's nomination was most evident in the testimony of Congressmen Robert H. Michel and Guy Vander Jagt. Mr. Michel frankly admitted that he and Mr. Mikva have been on "opposite sides of the major issues" for as long as they have been in Congress and that there are few matters on which they agree when it comes to political and economic approaches. Despite their strong philosophical differences, Mr. Michel testified that he has been impressed with Mr. Mikva's personal integrity and his essential character. He has the kind of temperament that seeks answers for questions, not scapegoats to blame. Ab Mikva's essential integrity transcends political and ideological lines and will help him to be a fair, impartial, and dedicated judge.

In the same vein, Congressman Guy Vander Jagt who acknowledged a "philosophical gulf" between himself and Mr. Mikva, testified that he "knows of no other Member of the House who exemplifies a higher level of integrity and fairness and patriotism and ability to see all sides of the issue." In his view we will "never have a chance to confirm a nomination of a judge who will serve with greater integrity and fairness and intelligence." Congressman Vander Jagt added that if he were indicted on a gun offense, he would "pray I was sent before a judge with the kind of fairness that I know Ab Mikva would exemplify."

The Judiciary Committee also received similarly strong expressions of support for Mr. Mikva's nomination from former President Gerald Ford, and former Attorney General Edward Levi. I ask unanimous consent to place their letters in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Gerald R. Ford,
July 3, 1979.

Hon. Edward M. Kennedy,
Chairman, Senate Judiciary Committee,
U.S. Capitol,
Washington, D.C.

Dear Mr. Chairman:

I was very pleased to learn that President Carter had nominated United States Representative Abner J. Mikva for a position on the United States Court of Appeals. I strongly endorse affirmative action on his nomination by the Senate Committee on the Judiciary and the United States Senate.

Representative Mikva and I served together in the House of Representatives for four years (January 1969 to January 1973). For two years (January 1975 to January 1977) he served in the House of Representatives while I was President. During these times I became well acquainted with Ab Mikva on both a personal and professional basis.

Even though Representative Mikva and I have some philosophical and partisan differences he is a person of great integrity, ability and dedication. He was a skillful and effective legislator. I was impressed with his committee work and his actions on the floor of the House in the consideration of legislative matters.

I know first hand that he was highly respected by his colleagues in the House of Representatives, both Democrat and Republican, in spite of political party differences. Ab Mikva is an attractive, conscientious articulate individual.

During my Presidency I was most grateful for his assistance on many matters that involved the best interests of our nation. He was always willing to listen to the views of others and was responsive in an affirmative way on both domestic and foreign policy.

It is my best judgment that Abner J. Mikva is fully qualified to be a member of the United States Court of Appeals and I trust he will be confirmed.

Sincerely,

Gerald R. Ford.

House of Representatives,
Washington, D.C., June 26, 1979.

Hon. Edward Kennedy,
Chairman Judiciary Committee,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Kennedy: I have known Congressman Abner Mikva since we debated the Medicare legislation on a Chicago TV station in 1965.

My colleague and I represent opposing philosophies—for the most part—and sit on opposite sides of the aisle.

For all of that, I have never known Congressman Mikva to ever be anything other than honest, sincere, and a man of considerable talent. He is, in short, a highly respected adversary and I consider him a personal friend as well.

As I know Congressman Mikva will appear before your Committee for his confirmation hearing, I wanted you to know my relationship with Congressman Mikva.

Cordially,

Philip M. Crane,
Member of Congress.

STATEMENT OF THE HONORABLE JOHN J. RHODES, MINORITY LEADER, U.S. HOUSE OF REPRESENTATIVES, BEFORE THE SENATE JUDICIARY COMMITTEE, JULY 12, 1979

Chairman Kennedy and distinguished Members of the Senate Judiciary Committee:

I am pleased to have this opportunity to testify on behalf of my colleague who has been appointed as a candidate for Circuit Court Judge in the District of Columbia.

Ab Mikva has served in the House for 10 years, and for six of those years has been a member of the Judiciary Committee. Currently he is engaged in a sizable challenge, working out a bipartisan approach to reforming the Nation's Criminal Code.

I have known Ab Mikva well during his tenure in the House, and although we do not often agree on issues, he has been willing to listen to opposing viewpoints and consider all sides of issues before the House. Impartial application of the law is, of course, a prerequisite to judicial service.

I know that Ab Mikva and I take opposing sides on the issue of control of handguns. However, there is not the slightest doubt in my mind that as a Circuit Court Judge, he would eschew partiality and make decisions based solely on the law, even if it disagrees with his personal viewpoint.

Certainly, his experience in the Congress, where laws are written, enhances his qualification to serve as a Judge of the courts where the law is applied.

Ab Mikva has a reputation, on both sides of the political aisle, for fair-mindedness and hard work. I believe he will make a competent Judge, and I urge this Committee to confirm his appointment.

THE UNIVERSITY OF CHICAGO,
Chicago, Ill., July 9, 1979.
Hon. EDWARD M. KENNEDY,
U.S. Senate
Washington, D.C.

DEAR SENATOR KENNEDY: I understand that the nomination of Abner Mikva for judge of the United States Court of Appeals for the District of Columbia is now before the Judiciary Committee.

I have known Mr. Mikva since he was a student at the University of Chicago Law School from which he graduated in 1951. Mr. Mikva was a member of an exceptionally able post war law school class which reflected the drive and maturity of returning veterans. His record in law school in every way was outstanding. He was elected to Phi Beta Kappa in his first year, and to Coif in his third year. In his last year he was Editor-in-Chief of the University of Chicago Law Review. His scholastic attainments, the high regard in which he was held by members of the law faculty, and their belief in his promise resulted in Justice Sherman Minton taking him for his law clerk in the following year.

Since that time his career has been a full one, both in practice and in elected public office at the state and national levels. As part of that full career he has participated in the activities of the organized bar (for example, serving on the Board of Managers of the Chicago Bar Association) and he has contributed articles to the scholarly law journals of the University of Illinois, Northwestern University, and the University of Chicago. He has been a thoughtful and scholarly member of the bar.

For many years it has been recognized that he has the qualities which can make a great judge, not the least of which are an inherent sense of fairness and the analytical ability and sense of history so important for the separate role of the judiciary.

I was delighted when I learned he had been recommended by the committee in the District and then nominated by the President.

Sincerely,

EDWARD H. LEVI.

Mr. BIDEN. Mr. President, we cannot ignore such strong bipartisan support and the clearly objective conclusions of those respected individals. After a careful and thorough review of all relevant concerns, the Judiciary Committee concluded that Congressman MIKVA possesses the necessary qualifications to impartially interpret the law in the courtroom. The only relevant question before us is whether Mr. MIKVA possesses the demeanor and temperament required of a member of the Federal judiciary. I respectfully recommend that my colleagues concur in the Judiciary Committee position and confirm his nomination.

I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield to the distinguished Senator from Nebraska.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from Nebraska.

Mr. EXON. I thank my friend from Massachusetts.

The Senate today is considering Presidential nominees to fill 18 Federal judgeships, including the nomination of the Congressman from Illinois, Mr. MIKVA.

In my investigation into this matter, I read and was impressed by a letter from President Ford which was received by the Senate Judiciary Committee during the consideration of these nominations:

Even though Representative Mikva and I have some philosophical and partisan differences he is a person of great integrity, ability and dedication. He was a skillful and effective legislator. I was impressed with his committee work and his actions on the floor of the House in consideration of legislative matters.

I know first hand that he was highly respected by his colleagues in the House of Representatives, both Democrat and Republican, in spite of political party differences. Ab Mikva is an attractive, conscientious and articulate individual.

During my Presidency I was most grateful for his assistance on many matters that involved the best interests of our nation. He was always willing to listen to the views of others and was responsive in an affirmative way on both domestic and foreign policy.

It is my best judgment that Abner J. Mikva is fully qualified to be a member of the United States Court of Appeals and I trust he will be confirmed.

Mr. President, as I understand the controversy, the opposition to the appointment has to do with Mr. MIKVA's public actions on one issue, gun control legislation. From what I know of his activities in this regard, I strongly disagree with his position.

It is interesting to note that other nominations have been opposed today because of disagreement over similar specific, single issues. It seems to me, Mr. President, that the consideration today of the Brown, Kennedy, and MIKVA nominations indicate to me a dangerous trend toward opposing judicial appointments on political, not judicial grounds. Such a trend bodes an unhealthy future for our judicial system.

As Governor for 8 years, I acted upon recommendations for appointment of many, many judges from Nebraska's Judicial Nomination Commissions. The confirmation and appointive process carries heavy responsibility, since judges are called upon to administer justice affecting people in all walks of life, and in most instances, for many years to come.

It was always my firm conviction that the primary criterion was to evaluate judicial candidates on the basis of their integrity, ability, temperament, intelligence and honesty.

If the nominee meets those basic qualifications, and is well considered personally by his professional and lay contemporaries, the question then comes secondarily on philosophy.

I find it difficult, if not impossible, to be in complete agreement with another person on all issues that confront us. Indeed, my beloved wife of 36 years does not, strangely enough from my point of view, agree with her husband on all worldly or domestic issues.

This brings the Senate, I think, to the key question of whether or not each Senator can, in good conscience, support or oppose Congressman MIKVA's nomination.

The easy way out for me would be to cast my single vote against the nominee because we do not agree on the gun control issue. But, Mr. President, the easy vote is not necessarily the correct one. While my political judgment tells me to oppose the nomination, my conscience dictates that I do otherwise.

Mr. MIKVA would be only 1 of 132 Federal courts of appeals judges. An appeals judge sits on a panel with other judges to hear and decide appeals from lower courts. They are not trial judges who decide cases in the first instance, nor do they reach final decisions on Federal matters which under the Constitution, are reserved to the U.S. Supreme Court.

I do not downplay the role of the important Federal court of appeals judges, I only wish to place it in perspective.

I have sensed, Mr. President, correctly or otherwise, an attitude that Mr. MIKVA must be punished and rebuked, whipped in public if you will, for his beliefs on the one single issue of gun control.

The well-known National Rifle Association has sounded the alarm across America on this nomination. While I find myself generally in sympathy with the goals and aims of the NRA, I cannot comfortably be with them on this issue.

All the weight of evidence on this issue indicates that Mr. MIKVA is a qualified nominee. His only possible shortcoming that has been brought to my attention, is his philosophy on gun control.

To cast a negative vote on this nomination for that single reason would not, in my estimation, be prudent and would set up a criterion for future judicial confirmation processes that would deal a devastating blow to the foundations of our judicial and constitutional guarantees. The right of dissent and thoughtful discussion remains fundamental to our system.

Under these circumstances, Mr. President, I urge the confirmation of Mr. MIKVA's nomination.

I yield back the remainder of the time allotted to me.

Mr. THURMOND. Mr. President, I am opposed to the confirmation of ABNER MIKVA to be a judge on the U.S. Court of Appeals for the District of Columbia. In view of Mr. MIKVA's past words and deeds, I do not think he will exercise the proper judicial restraint; and further, he lacks the judicial temperament required of a Federal judge. I think the record will reflect that Mr. MIKVA is not only an advocate, but an uncompromising one, a partisan, firmly committed to his personal preconceptions of the Constitution.

I find no reason to oppose Mr. MIKVA's nomination based on his distinguished career as a Member of the House of Representatives. For there, he is not required to exercise the restraint we expect of a Federal judge and can properly be an advocate for the issues he deems so important. Let me tell you, however, of just a few of Mr. MIKVA's statements and actions concerning such issues as guns, criminal rights, etc.

In the CONGRESSIONAL RECORD on January 21, 1975, Mr. MIKVA stated:

> It is my earnest conviction that Congress must ban handguns from private citizens before handguns banish us from our society.

In 1972, Mr. MIKVA, testifving before the Senate Judiciary Committee, stated:

> The only private citizens who really need handguns are criminals.

Mr. MIKVA has referred to the National Rifle Association as the "National Rip-off Association and the Street Crime Lobby."

Mr. MIKVA has introduced the Handgun Crime Control bill, H.R. 566, which would ban the manufacture, importation, sale, transfer, or transportation of all handguns and would allow legal possession of currently owned handguns only for the lifetime of the present gunowner. After which time, all guns would be forfeited or seized.

In his nomination hearing before the Judiciary Committee on July 19, of this year I asked Mr. MIKVA:

> Don't you think it might be a dangerous policy, for a person not to be able to have a gun to protect himself?

Mr. MIKVA replied:

> If you really want to defend yourself, there are better ways of defending yourself than with a handgun.

On the question of criminal rights, Representative MIKVA has introduced legislation to give prisoners the right to vote (H.R. 7052), 95th Congress). He has spoken out against preventive detention, as a form of prior restraint, stating:

> It shows a peculiar insensitivity to the liberties of those who are candidates for detention without trials.

The list goes on and on. I do not want to take my colleagues' valuable time citing additional examples of Congressman MIKVA's attitude and personal feelings, and I will again reiterate that a Congressman has the constitutional right to espouse such views. But I would urge you to ask yourself the question, Will Congressman MIKVA be able to shed his role as an advocate at the courthouse door?

Quoting from former Senator Sam Ervin who said:

> Although one may possess a brilliant intellect and be actuated by lofty motives, he is not qualified for the station of a Judge in a Government of laws unless he is able and willing to subject himself to the restraint inherent in the judicial process.

The court to which Representative MIKVA has been appointed is the second most powerful in the land, second only to the Supreme Court. It is a unique position to restructure American law and society by changing the relationship of the citizenry to the bureaucracy, by reinterpreting laws and agency regulations altogether. For example, the rulings handed down by this court regarding Occupational Safety and Health Administration cases frequently affect every single businessman, large and small, in the Nation. Rulings it hands down on firearms control may impact on the ability of millions of citizens to enjoy responsible recreation and to defend themselves from criminal assault. The rulings of this court in the area of environmental and energy law can affect not only millions of jobs but also the air we breathe, the water we drink and our access to enough energy to keep our homes heated in the winter.

This is not an appointment to be taken lightly. The men and women who serve and will serve on this court may have as much lasting policy impact on our Nation as most of the legislation we will consider this year. The decision we make here will be with us for decades to come.

I urge you to ask yourself the question, Will Mr. MIKVA be likely to use the court as a tool for social change, to incur regulation by agencies he approves of and discourage action by agencies he feels have outlived their usefulness?

The great majority of lawyers are able to exchange the role of advocacy for the role of judge; missionaries cannot. Mr. MIKVA may simply exchange the open, visible arena of the legislative process for the closed-door immunity of the judicial forum. His advocacy of narrow, extremist political causes may well be imposed on the American people unabated and subject to constant review by his colleagues and the Supreme Court.

If a perspective judge might be inclined to rewrite the Constitution into his own image, it is essential that his political views be looked at in concert with his qualifications and temperament.

I, therefore, suggest that my colleagues reject the nomination of ABNER MIKVA to the U.S. Court of Appeals for the District of Columbia.

● Mr. LAXALT. Mr. President, after careful and considered thought, I feel compelled to vote against the appointment of ABNER MIKVA as Federal judge to the Circuit Court for the District of Columbia.

ABNER MIKVA's nomination to the Circuit Court of Appeals for the District of Columbia exemplifies the sort of appointment which the Carter administration said it was not going to make, and exemplifies this sort of nomination which I have commented on repeatedly in the past few months, and which I oppose.

As I will point out in a few minutes, the President indicated that he was not going to appoint judges who would be activists and who would expand the role of the Federal courts. As I will further point out, I believe that Mr. MIKVA's past history as a lawyer and as a Member of Congress indicates that he will be exactly that sort of judge. I have commented repeatedly in the past few months, as the process of confirming many of the new Federal judgeships has progressed, that I oppose the sort of nominee who will become an activist judge, and who will continue the process of using the Federal courts to legislate reflecting that judge's own personal philosophy. Again, I believe that ABNER MIKVA will be exactly that kind of judge.

U.S. Senators are called upon to vote on many matters of great importance. Among the foremost of these actions is to confirm Presidential nominations for the Federal court.

I have appointed many during the course of my own law practice. While Governor of Nevada I was called upon to tender numerous judicial nominations to the State legislature. As a Senator and member of the Judiciary Committee, I have voted on judicial nominations in the past. These experiences have impressed upon me their critical importance on the Federal courts.

The American judicial system is the lodestone of our society. It acts as arbiter between citizens when disputes arise. It protects citizens from trespass whether from other individuals, from corporations or from the Government itself. It serves as final protector of individual liberty. The courts are instructed to enforce the laws made by Congress. It acts as ultimate arbiter of the law between the separate and independent branches of Government.

The first criterion any judicial system must satisfy is personal integrity. The second standard is legislative competence. Mr. MIKVA has an excellent reputation for integrity and a record of legal skill and achievement. Having satisfied both of these criterion, a third standard need be satisfied. Will previous ideological commitment impair the nominees ability to exercise sound, impartial judicial responsibilities? In this case, I think it will, and it is due to my serious legislative responsibilities on this that I feel compelled to vote against the confirmation of ABNER MIKVA for the Federal bench.

I share the concerns of Prof. Raoul Berger, who, in his book Government by Judiciary (1977), outlines the history of how judicial review has become a power through which the court too often participates actively in policymaking. Too often, judicial decisions reflect individual beliefs of the Federal judges dressed up in lawyers language. Too often, the question posed by the courts is neither whether a lower court correctly applied the laws as passed by Congress or whether a particular policy is constitutionally permissible, but whether such policy corresponds to judicial notions of societal "oughts." Such review influences the democratic prerogatives of this Nation. I believe that liberty and the common good can be enjoyed only through a Constitution which places specific limitation on judicial interpretation. I believe in a return to judicial restraint. As James Madison warned, "If the sense in which the Constitution was approved and ratified by the Nation * * * but the Nation does not expound it, there can be no security for a constant and stable government, more than for an execution of its powers." (9 James Madison, the Writings of James Madison 191, G. Hund ed. 1900–1910).

It is through the political process that the American people can exercise the power of the ballot box and thereby realize themselves through legislation. I do not believe the judiciary, to correct a self-imposed ideal, may assume a power not granted in order to realize a policy, that the people have, and remain, unready to cure through the political process. Alexander Hamilton called such enroachment on the legislative function judicial usurpation. John Stuart Mill cautioned against man's disposition "to impose (his) own opinions * * * as a rule or condition on others." Mill On Liberty 28 (1885).

According to Caleb P. Patterson in the Constitutional Beliefs of Thomas Jefferson 70 (1953), Thomas Jefferson "foresaw that if the Constitution were ever destroyed, it would be destroyed by interpretation, in the final analysis, by the Federal judges."

A lawyer who has devoted the most recent years and a considerable part of his career to political activities rather than the practice of law has made certain fundamental decisions on how he wishes to make his view of a Federal world become a reality. I believe that such individuals, having made such a personal and career commitment, better serve the Nation by continuing to seek to realize their goals in the political process through legislation. However well intended, I do not believe such men or women can have the objectivity to exercise the crucially important discretion given a Federal judge. As Berger has written, "Noble enthusiasm is no less prone to destroy the vision than vulgar prejudice." (10).

The following exchange took place in March of 1977, in Clinton, Mass., between President Carter and a citizen of Clinton, at his first "town meeting:"

> Question. During the last several Administrations, many of the major domestic questions have been decided by the Federal Judiciary and not be the consent of those people that are governed. Many decisions seem to be made in Judicial Chambers and not in the halls of Congress and not in the White House.
>
> I know, Mr. President, that there are many well-meaning Federal Judges and that they must interpret the Constitution. But it seems to me that sometimes, in the guise of the Constitutional interpretation, some Federal Judges impose their biases and their ideologies on the average American citizen. . . . The question was, is this situation going to continue during your Administration?
>
> The President. First of all, I agree with you, and second, I hope to cut it down as much as I can.
>
> . . . I believe that Chief Justice Burger, who is now head of the Supreme Court, feels the same way that you just expressed. I think that we can make a lot of progress on this.
>
> I would like to get the courts out of our business, and I would like to let the American people stay out of court as much as possible, too.

The Mikva nomination does not adhere to what the President said he planned to do in Clinton. Rather, the past experience of ABNER MIKVA indicates that his legal and political career has been so issue oriented, and that the remedies he has sought in court have been the sort of remedies which the President said that he hoped to cut down as much as he could, that it seems to me MIKVA's philosophy while on the bench, despite what he says now to the contrary, would directly fly in the face of what the President said he hoped to cut down.

Federal judges are, of course, appointed for life, and they are beyond the control or influence of the voters. As has so often been repeated, not having to answer to the voters gives them a freedom to decide cases according to the law, without fear of retribution or of losing their jobs. However, when judges make social policy, when they in effect legislate, when their decisions have as much impact as, or even more than, the Members of Congress, they have remained beyond the reach of voters and our constitutional system is perverted.

I am thus concerned, as the President said he was, that judicial appointees not expand the role of the Federal courts, but that they act within traditional, constitutional bounds. For that reason, I believe that I am obligated, as a Senator, to oppose nominees who, by their past activities indicate a willingness to be activist, expansionist judges.

Thurman Arnold was appointed to the U.S. Circuit Court for the District of Columbia in 1942. He later stepped down from the bench, because he felt that his past partisanship and role as an advocate was incompatible with that of being a judge. After doing so, he said:

> I think it was my preference for partisan argument, rather than for impartial decision, that made me dissatisfied with the career on the Appellate Court. Furthermore, I was beginning to doubt whether a person of my temperament could ever be an ornament to the bench. I was impatient with legal precedence that seemed to me to reach an unjust result. I felt restricted by the fact that a judge has no business writing or speaking on controversial subjects. A judge can talk about human liberties, the rule of law above men, and similar abstractions. All of them seem to be dull subjects. To sum it up, a person who is temperamentally an advocate, as I am, is not apt to make a good judge.

ABNER MIKVA is also an advocate. He has worked, incessantly, to make his ideology the law, to win cases which further his ideology, and to make his ideology the social policy of the land. Will he not, too, become impatient with legal precedence that seems to reach an unjust result? Will he not also feel restricted by the fact that a judge has no business writing or speaking on controversial subjects? Will he be able, in short, to cast aside years and years of past advocacy, and suddenly to become an impartial arbiter of cases, many of which involve the very same issues which he worked for so long as an advocate to further? I do not see how he can do so.

The U.S. Circuit Court for the District of Columbia is the most important circuit court in the country, and is thus, after the Supreme Court, the most important court in the country. Its decisions are national in scope, and as a whole it probably has more impact in the State of Nevada than does the ninth circuit, more impact on the State of Illinois than has the seventh circuit, and more impact on the State of New York than has the second circuit.

Alexander Bickel, the late legal historian, commented "all too many Federal judges have been induced to view themselves as holding roving commissions as problem solvers, and as charged with the duty to act when majoritarian institutions do not." ABNER MIKVA himself attempted to be a problem solver, and his legal and political career to an amazing degree of consistency, reflects his ideology and his desire to further that ideology. Such ingrained ideology does not lightly go away, and like it or not, I cannot help but believe that he, too, will view himself as holding a roving commission as a problem solver, and will attempt to solve those problems which Congress has failed to address.

Erwin Griswold, former dean of the Harvard Law School and former Solicitor General of the United States, in addressing the judicial activism problem commented that many judges employ the ruse of saying, "what we are doing is interpreting the Constitution," when what they are actually doing is deciding what is good for the country. He went on to say that, "what is good for the country is a question for the representatives of the people to decide, not for an unelected, politically selected group of lawyers." Griswold concluded that "the judiciary may be doing some good things in the name of activism today, but by setting the precedent now, activism could easily be used to order bad things once the principle of intervention is accepted. "

ABNER MIKVA has been an ideal log during his tenure in the House, as he was in the Illinois State legislature. He has not only been a liberal, as many Congressmen are, voting on and introducing legislation consistent with his philosophy, but has been a legislative missionary for his cause. As such, he has consistently introduced and fought for legislation, has used his position in Congress to further his cause by debating outside of Congress, has written magazine and law review articles, has appeared before many liberal organizations around the country, and has generally done everything possible to further his cause.

He has, for example, fought diligently for various bills broadening the rights of criminals and allowing for more, open rehabilitative prisons, and has written numerous law review articles and lectured extensively on that subject.

As is now legend, he has been the foremost advocate of gun control legislation in the House. I need not point out the intensity of his feelings on this issue.

Although he has stated time and again that a judge should not be a policymaker, and has stressed that during the hearings how important it is for judges to delineate between interpreting the law as written and how they would have liked it to be written, one must wonder whether he will in fact be able to leave his "ideology at the courthouse door" as he stated he would. He has spoken of the "gaps in legislation" left by Congress for purposes of putting together a coalition to pass the law, which gaps can, and should be filled by the courts, and has spoken of the "non-legislative roads to reform of social policy," referring to court action. In that regard, and a recent interview with the Chicago Tribune, he said:

> There are times when the judiciary must act because the Congress has failed to . . . there are often gaps in a statute . . . they are there for a reason.

In conclusion, ABNER MIKVA will be an activist judge and will do his best to expand the role of the Federal courts, and will seek to create the remedies which he asked for in his career in politics and in law. Although I respect him as an individual, and respect him for holding such strong beliefs, it is my strong conviction that people who have approached ideological matters with zeal demonstrated by Mr. MIKVA better serve the American people by remaining in politics rather than becoming Federal judges. For that reason, I oppose his nomination.●

Mr. THURMOND. Mr. President, I yield 20 minutes to the distinguished Senator from New Hampshire (Mr. HUMPHREY).

Mr. HUMPHREY. I thank the Senator from South Carolina. I would like to call to the attention of my good friend from Nebraska and my fellow Senators another reason for opposing the nomination, perhaps one that is even more important.

Mr. President, in the past few decades this country has experienced a dangerous shift in the role and powers of the judiciary. The courts are becoming more and more a tool for social change and less and less the impartial, interpretive bodies they were meant to be. We have had ample opportunity to survey the damages done by activist judges. Court-ordered busing such as Cleveland is now experiencing is just one example of the courts making law and overriding the will of the people.

Something must be done to reverse this trend if we are to protect our system of checks and balances among the three branches of government. We must appoint judges who will judge and not legislate. We must appoint judges who will interpret the laws made by Congress, not take the responsibility for lawmaking into their own hands. I cannot support any judicial nominee who will take an activist role on the bench. I opposed the nomination of Patricia Wald on these grounds, and for these same reasons I find I must rise in opposition to Representative ABNER MIKVA's appointment to that same appellate court.

In the Law Journal Business Lawyer, Representative MIKVA called the court system "an important nonlegislative road to reform." This is precisely the view which has led to the problems we now face. Advocates of social reforms too unpopular to gain a majority of support in Congress instead take their cases to court. The courts have become, in effect, a legislature of last resort for these people.

Court action is frequently swifter than the legislative route, because there are fewer steps in the process, and therefore, fewer places where a proposal can be stymied. The so-called reformers on the bench need not fear that their pet bills will be bottled up in a subcommittee or kept off the calendar for floor action. While the unpopularity of a measure may doom it to defeat or inaction in Congress, supporters of an unpopular or controversial measure need not fear public opinion if they take their issue to court. Federal judges are appointed for life. They do not have to face the electorate to answer for their actions.

Supporters of judicial activism maintain that the courts must act on certain legislative issues, absent any congressional action. I challenge this view. What legislation is justified if it is not supported by either the Congress or the people? Why are we concentrating virtual omnipotence in the one unelected branch of Government, and what is worse—doing it in the name of democracy?

Representative MIKVA is sympathetic to those who perceive the judiciary as a mechanism for forcing the public to submit to changes they would not otherwise accept. The desires and needs of the public apparently mean little to him, judging from his recent statement in an interview in North Shore magazine, Representative MIKVA stated:

> We don't need judges if all they do is make decisions that are popular. We need judges who swim upstream.

Representative MIKVA certainly does swim upstream on most issues. He is not only out of the mainstream of public opinion in many areas, but directly in opposition to its general flow. While many have said that the personal philosophy of a nominee is irrelevant to his or her fitness to serve, I think Mr. MIKVA's own statement points out just how important philosophy is in evaluating a nominee. Mr. MIKVA's own philosophy, his views on issues, and more importantly, the degree of his commitment to legislating those views from the bench, must be taken into account. As one Senator said, in expressing concern over the Carswell nomination, we do not need a nominee who is "out of step with the mainstream and direction the country appears to be headed."

This same Senator, the senior Senator from Indiana (Mr. BAYH) stated, in reference to the Rehnquist and Powell nominations:

> It seems to me that it is impossible for any human being not to let his personal views interfere or intervene in some way as he brings the Constitution into focus on a given problem.

At these same confirmation hearings, the senior Senator from Massachusetts, now the chairman of the Judiciary Committee (Mr. KENNEDY), said that—

> After concerning ourselves with judicial competence, fairness, and objectivity, is the question of philosophy . . .

I agree with these statements by my two distinguished colleagues, the principles articulated in them should also be applied to this nomination.

I am not suggesting that any judicial nominee should or could be expected to be a total philosophical neuter. I am merely asking that we not vote for any nominees who would use the courts as a forum to continue a career of legislative activism, a career of swimming upstream from public opinion.

Mr. MIKVA has been such a strong and uncompromising advocate in several legislative areas that I do not believe he can or will put those biases behind him by the simple act of donning judicial robes. His own expressed views prove he favors legislating from the judicial bench.

Each of us is aware of Mr. MIKVA's activities in support of gun control as a legislative measure. This issue has been a passionate lifetime cause for him, beginning with his first term in the Illinois State Legislature. How can we expect him to be able to deliver an impartial ruling on this issue, or any other issue he has made a personal crusade? Could we expect impartiality on taxpayer campaign financing when he is a principal House sponsor? On abortion, when he had made Federal funding one of his major crusades?

In a 1968 article discussing the nomination of Mr. Justice Fortas to be Chief Justice of the Supreme Court, former Senator Sam Ervin stated that an individual is not qualified to be a judge "unless he is both able and willing to subject himself to the self-restraint which enables him to accept the Constitution as the rule for the Government of his judicial action and makes him refrain from attempting to revise or update that instrument according to his personal views as to what is desirable when he undertakes to interpret it."

Senator Ervin's statement sets criteria which any citizen has the right to expect his country's judges to meet. But they are hard criteria for Mr. MIKVA to meet. He has been a staunch civil libertarian when the rights of those whose behavior he approves are threatened, but an equally staunch authoritarian regarding the rights of those he disagrees with or whose behavior he disapproves of.

Privacy rights have generally been a popular cause with Representative MIKVA. He has voiced outrage at Federal data banking on private citizens while, at the same time, supporting data banking on firearms owners through registration. He has opposed Government wiretapping, but actually participated in a wiretap of jury proceedings.

As an employee working on the University of Chicago's controversial study of jury behavior in 1954, his job function was to conceal and monitor recording devices in six civil trials. Although permission to do so had been granted by the judges and the attorneys involved, none of the defendants or plaintiffs was informed, nor were the jurors. This study was condemned by the Senate Judiciary Committee, and following oversight hearings at which Mr. MIKVA testified the Senate rapidly enacted legislation making jury bugging a Federal offense under the obstruction of justice statute. When Mr. MIKVA testified, he defended the bugging as legitimate research and showed no concern for the privacy rights of the jurors.

As these examples indicate, Representative MIKVA, throughout his legal and legislative career has willingly bent his interpretation of civil and constitutional rights to fit the situation and the persons involved. A man of such a temperament cannot properly uphold the doctrine of equal protection under the law. There is no reason to believe that a judge MIKVA will be a different person from the Congressman MIKVA, or attorney MIKVA, whose record we are now examining. He is the same man, and will always be. And since that man believes that the courts are a "nonlegislative road to reform," I am concerned how far down that road he will take us. I am concerned by his definition of reform. And I am concerned, above all, by the impact this kind of appointment has on the American people.

The surest way to cause Americans to lose what little faith they retain in the Federal judicial system is to create more judges who hold Mr. MIKVA's views of the role of our courts.

Mr. MIKVA's nomination was a mistake. His confirmation would be a worse mistake. The American people expect their Senators to protect them from such mistakes.

Mr. President, I urge the Senate to oppose this nomination and take a step away from Mr. MIKVA's view on the role of the judiciary. We must reverse the trend toward judicial activism. We must restore that proper balance among the legislative, judicial, and executive branches which made this Nation both free and great.

Mr. President, Mr. MIKVA put it in his own words: He regards the bench as an important nonlegislative road to reform. Those Senators who wish to approve of judicial activism and wish to further it will certainly want to vote for his nomination. I do not. I shall vote against it. I am confident that my constituents would uphold my judgment in this case.

I thank the Chair.

Mr. KENNEDY. Mr. President, today the Senate is called upon to pass on the nomination of Congressman ABNER MIKVA of Illinois to serve as a judge of the U.S. Court of Appeals for the District of Columbia Circuit. I strongly support his nomination, for I believe he will be an outstanding addition to the Federal bench.

The Judiciary Committee conducted 2 days of hearings on Congressman MIKVA's nomination. During those hearings, we heard from numerous witnesses who had worked with Congressman MIKVA and served with him in the U.S. House of Representatives. The picture that emerged was of a man of the highest ability and integrity. Our committee voted 9 to 6 to order his nomination favorably reported to the Senate. I believe that today, this body should accept our recommendation and should confirm his nomination.

ABNER MIKVA has, for over 8 years, ably served as a Member of Congress from Illinois. As the representative of the people in his district, and as a member of the House Judiciary Committee, he has been called upon to take stands on a range of important and controversial issues. The task of a legislator is to write the law as he thinks it should be, and Congressman MIKVA has not shied away from that task.

If strong political views were a disqualifying factor from serving on the Federal bench, then all of us here today—and every man and woman who has ever served in either House of Congress, or held a political office—would be disqualified. Under such a rule, Hugo Black, who served in the Senate, and Charles Evans Hughes and Earl Warren, who served as Governors, could never have served on the Supreme Court; our former colleague Paul Hatfield, who we confirmed last May, would not serve on the Federal bench; nor would Congressman William Hungate, whose nomination we consider today. In my judgment, such a rule makes no sense at all.

When an individual is nominated to the Federal bench, the question for us to consider is not how he would—or did—write the law as a legislator. The question is whether he is willing and able to interpret the law as we and those before us have written it. The answer does not turn on politics; it turns on ability, sensitivity, and perhaps most importantly, integrity. Under these criteria, ABNER MIKVA is supremely well qualified.

Congressman MIKVA's record clearly reflects his ability and accomplishments. Former Attorney General Edward Levi describes his law school record as "in every way outstanding"—a description which to me seems highly apt in light of his membership in Phi Beta Kappa and Order of the Coif; his service as editor-in-chief of the University of Chicago Law Review; and his selection as a law clerk for Justice Sherman Minton. In the succeeding years, he has practiced law at the trial and appellate level, served on the boards of the Chicago Bar Association, American Bar Association's Section on Litigation and Individual Rights, and the American Cancer Society. He chaired the Illinois Board of Ethics, and found time to contribute scholarly articles to the law journals of the University of Illinois, Northwestern University, and the University of Chicago.

Throughout this period, his public service has been recognized. Congressman MIKVA received the best legislator award of the Illinois independent voters each term he served in the State legislature. He received the Clarence Darrow award for humanitarian service in 1963. Last year alone, he was honored by awards from such diverse organizations as the National Federation of Independent Business, the National Council of Senior Citizens, and Taxation with Representation.

His accomplishments as an attorney and the accolades he has received as a legislator attest to Congressman MIKVA's ability to understand the law and his sensitivity and commitment to equal rights for all.

Perhaps the most important qualification for the Federal judiciary, however, is one that cannot be measured solely by reference to resumes or public recognition. That qualification is integrity, and it must be measured largely by the judgments of those who have known and worked with the individual.

During our confirmation hearings on Congressman MIKVA, we were privileged to hear the views of numerous distinguished officials who have served with him. Each one of them—former President Ford, Speaker O'NEILL, Congressman RHODES, and Chairman RODINO, to name a few—supported him without reservation. Each one of them spoke not only of his ability as a lawyer and legislator, but of his compassion and integrity as an individual.

It is perhaps no surprise when those who agree with a nominee on the political issues come forward to support his confirmation. It is, to me, a far greater tribute to the individual when those who disagree—indeed, disagree on virtually every major political question of the day—take it upon themselves to come forward in his support. Congressmen MICHEL and VANDER JAGT are two such supporters by their own admission, they have agreed with Congressman MIKVA on few issues that have come before the House. Yet they both support his nomination enthusiastically. Their words speak with greater force than mine. Congressman VANDER JAGT stated:

> After hand-to-hand combat for four years now I know of no Member of the House who exemplifies a higher level of integrity and fairness and patriotism and ability to see all sides of the issue.

Congressman MICHEL agreed:

> Here we have a conservative Republican endorsement of a liberal democrat, not on partisan grounds, not on ideological grounds, but because he is convinced that Abe Mikva's essential integrity transcends political and ideological lines and will help him to be a fair, impartial and dedicated judge.

In answer to questioning by the committee, Congressman MIKVA said:

> It is impossible to find people to be judges who have not been involved in the passions of our time. The question is, not have you been involved, but . . . can you leave those passions at the courthouse door. I think I can.

All of those who have worked with Congressman MIKVA have shared this assessment of his ability to be fair and impartial, and to interpret the law as the lawmakers have written it. I agree, and I am proud to support his confirmation.

Mr. President, I yield such time as the Senator from Illinois desires.

Mr. STEVENSON. Mr. President, I thank the distinguished Senator from Massachusetts for yielding. I also commend him and the committee which he chairs for having favorably reported the nomination of Representative ABNER J. MIKVA to the U.S. Court of Appeals for the District of Columbia.

Representative MIKVA is well qualified to serve on this high court.

He was a cum laude graduate of the University of Chicago Law School, where he was editor-in-chief of the Law Review. He served as law clerk to Mr. Justice Minton. He spent 18 years in the private practice of law with extensive experience in litigation. As a member of the American Bar Association, he served on the council of its section on individual rights and responsibilities and the council of the section on litigation. He had been an adjunct professor of law at Northwestern University Law School.

For five terms, ABNER MIKVA was a much acclaimed member of the Illinois Legislature, receiving "Best Legislator" awards in each term from the Independent Voters of Illinois. He served as chairman of the Illinois House Subcommittee on the Criminal Code and as chairman of the Illinois House Judiciary Committee—where I was privileged to serve with him many years ago.

His commitment to public service repeatedly has been recognized. He was the recipient of the Clarence Darrow Humanitarian Award for Public Service in the Darrow Tradition (1963), the Excellence in Politics Award from the Committee on Illinois Government (1973), and numerous other awards from groups which range the spectrum of our society.

In his fifth term in the U.S. House of Representatives, he is one of the most capable, admired, and industrious Members of that body. His integrity is beyond reproach.

In Illinois, he is acclaimed on all sides as a virtuous and effective public servant.

ABNER MIKVA is a fine human being, with an intellect and a background superbly qualifying him to deal with the range of issues which come before the Federal courts.

Mr. President, I am not unaware of the opposition to his nomination. In fact, I, more than any Member of this body, am intimately familiar with that opposition, because it began with my service in the Illinois House of Representatives when he appointed me chairman of the Subcommitee on the Criminal Code. That subcommittee reported the language of the first gun control legislation in Illinois, with which he was associated. Since then, the gun lobby has had it in for him. But since then and throughout his entire career, he has done his duty and he should not be punished for doing it.

His nomination is opposed because he has fought for his beliefs, because he has fought for the interests of his constituents, and because he has also represented the desires of his constituents, both in the Congress of the United States and earlier in the Illinois House of Representatives.

Mr. President, that opposition, for those reasons, is not a reason to punish ABNER MIKVA nor to intimidate others. It is all the more reason to support his nomination. He has demonstrated the courage, time and time again, to do his duty.

Besides, I remind my colleagues that as a judge, ABNER MIKVA, with all of his reverence for the law and the separation of powers embodied in our Constitution, will apply it.

He would never trangress the boundaries of judicial authority.

We have an opportunity to enhance the quality of the Federal judiciary today by supporting the nomination of ABNER MIKVA to the U.S. Court of Appeals for the District of Columbia.

I urge Senators to act favorably on this nomination and support Mr. MIKVA for that office.

Mr. KENNEDY. Mr. President, I yield to the Senator.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 38 minutes remaining.

Mr. KENNEDY. I yield whatever time the Senator from Connecticut needs.

Mr. RIBICOFF. Mr. President, I have known ABNER MIKVA for many years. He is a man of character, integrity, ability, and judicial temperament. He has the bipartisan support of President Ford, Speaker O'NEILL, House Minority Leader RHODES, and former Attorney General Levi.

Questions have been raised concerning Mr. MIKVA's position on gun control.

While Mr. MIKVA, as a Congressman, did support the control and manufacture of handguns, he specifically does not include long guns, rifles used by hunters and sportsmen.

The U.S. Court of Appeals for the District of Columbia seldom has had gun cases before it in this century. Yet, specifically, he stated that instances where he believes he cannot be impartial or where his impartiality might be questioned, he will recuse himself.

As a matter of fact, Members of Congress who oppose his stand on gun control and other issues testified he will be fair and impartial on the bench. This support comes from Congressman VAN DEERLIN, chairman of the National Republican Congressional Committee, and Congressman ROBERT MICHEL, House Republican whip.

At the hearing, Mr. MIKVA testified, and I quote:

> The canons and statutes are clear that a judge ought not sit on a case in which he cannot make the decision impartially. I would observe those strictures very seriously. I think it important that a judge not only be impartial, but appear to be impartial.

Mr. President, in this Congress, there are many men, in my opinion, who are qualified to go on the Federal bench. These men, in the House and the Senate, voted hundreds of times on issues before the Congress of the United States. They voted their conscience. They voted their beliefs.

I do not believe a man should be denied, who has all the qualifications for the judiciary, a place on the Federal bench, because of his stand on one or more issues.

It would be a tragedy if we would deny the opportunity for the Members of Congress to serve on the bench, because of their vote. These votes are given, because of their conscience, because of their philosophy, and because of their belief.

I do believe that Mr. ABNER MIKVA is eminently qualified. I do hope that this body will overwhelmingly vote in favor of his confirmation.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS addressed the Chair.

Mr. THURMOND. I yield to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, the nomination of Congressman ABNER J. MIKVA to a seat on the U.S. Court of Appeals for the District of Columbia obviously ranks as one of the President's most controversial appointments.

This is not surprising, inasmuch as Congressman MIKVA personifies, perhaps more than any other nominee, the wholesale liberal infusion that President Carter is giving our Federal court system. For whatever reason, the President seems oblivious to the public's faltering faith in the Federal judiciary. A recent study by the American Judicature Society found that 42 percent of President Carter's nominees to the Federal appeals courts described themselves as "liberal" or "very liberal." Only 3 percent called themselves conservative. There is no question about the inevitable effect; the newcomers are going to give the Federal courts a markedly more activist approach to the law.

This says nothing about the character of Congressman MIKVA. I do not question Mr. MIKVA's character or his integrity and I do not think any other Member of this body does.

But the fact remains that this shift in philosophy on the Federal bench comes at a time when the American people, as well as some scholars, are deeply concerned that the judiciary has already gone too far in assuming power over a wide array of public-policy matters. The American people rightfully fear what they perceive as the secular priesthood of the Federal bench. Does it not follow that the citizens of this country would far prefer the appointment of more lawyers with a conservative, strict-constructionist view of the law?

I think it does.

Obviously, the concerns of the American people are given scant consideration insofar as these appointments are concerned.

The voters can remove Members of Congress from office, but Federal judges are appointed for life. The judges are beyond the reach of the American people. This is what makes, in my opinion, the Federal judiciary the most powerful institution in this country. Hence my own concern with overwhelming liberal bias of the Carter appointments.

Most analysts agree that America's Federal courts will be more liberal and more activist for years to come—even though this is contrary to the wishes of the American people. Yet we wonder why people are losing faith in their Government.

I do not wish to appear to be attacking Congressman MIKVA personally. I do not know the man. He is perhaps no less qualified than other Carter appointees, but his nomination does serve to focus attention on the activist credentials which appear to be the sole standard of merit for administration nominees.

I am not, therefore, going to debate Mr. MIKVA's views, because they are well known. Instead, I feel obliged to address an issue which I think is, at least, equally important.

It has been raised before. I think it ought to be considered today before Senators cast their votes on this nomination. That question is, Does the Constitution bar the appointment of Congressman MIKVA to the Federal bench at this time?

Mr. President, article I, section 6, clause 2, of the U.S. Constitution, provides:

> No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Mr. President, that seems to this Senator to be clear language, as contained in the Constitution.

I find myself wondering why this point was not considered—and considered seriously—by the Judiciary Committee at the time Representative MIKVA's nomination was before that distinguished committee.

The appointment of Congressman ABNER J. MIKVA to the office of circuit judge of the U.S. Court of Appeals for the District of Columbia at any time during his term would seem to violate this provision of the Constitution. This became especially clear on August 31, 1979.

On November 7, 1978, ABNER MIKVA was elected to the House of Representatives from the 10th Congressional District of the State of Illinois. On May 29, 1979, Congressman MIKVA was nominated by the President to the office of circuit judge of the U.S. Court of Appeals for the District of Columbia, a civil office under the authority of the United States.

Pursuant to the provisions of title 28, section 44(d), of the United States Code, each circuit judge of the United States receives a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351–361) as adjusted by section 205(a)(1) of the Executive Salary Cost-of-Living Adjustment Act (28 U.S.C. 461). Section 205(a)(1) provides that when an adjustment in rates of pay in the General Schedule takes effect under the Federal Pay Comparability Act of 1970 (5 U.S.C. 5305, et seq.), each salary rate subject to adjustment under section 205(a)(1) shall be adjusted by an amount equal to the percentage of such salary rate which corresponds to the overall average percentage of the adjustments in the rates of pay under such General Schedule.

The Federal Pay Comparability Act requires that the President, after considering the report of his Pay Agent and the findings and recommendations of the Advisory Committee on Federal Pay, annually adjust the rates of pay of each statutory pay system in accordance with the principle of paying the same rate of pay for the same level of work in private enterprise. The President is further required annually to transmit to Congress a report of the pay adjustment which shall specify the overall percentage of the adjustment in the rates of pay in the General Schedule and of the adjustment of the rates of pay under the other statutory pay systems.

The President may, however, because of economic conditions, submit a different pay adjustment plan, as an alternative to that recommended by the Advisory Committee and his Pay Agent, which becomes effective on the first day of the first applicable pay period commencing on or after October 1 and continues in effect unless before the end of the first period of 30 calendar days of continuous session of Congress after the date on which the alternative plan is submitted, either House adopts a resolution disapproving the alternative plan. If such a resolution is adopted, the President is required to adjust the rates of pay of the statutory pay systems in accordance with the recommendations of the Advisory Committee on Federal Pay and the Pay Agent, effective as of the beginning of the first pay period commencing on or after the date the resolution is adopted or on or after October 1, whichever is later.

Because existing law anually increases the salary of the office of circuit judge of the U.S. Court of Appeals for the District of Columbia, it is plain, in light of the clear wording of the Constitution and the intent of the framers of the Constitution, that until Congressman MIKVA's term expires, he cannot be appointed to that office.

The language of article I, section 6, clause 2, applicable to Congressman MIKVA's case provides that:

> No . . . Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States . . . the Emoluments whereof shall have been encreased during such time . . . .

At the outset, it is obvious by its terms that the clause extends to all increases occurring "during the time for which—the Representative—was elected," that is, the congressional term of the proposed appointee, since the word "time" at the end of the above-quoted phrase is the "time for which he was elected."

To fully understand the prohibitions of this clause, it is necessary to realize that in the phrase of the clause which provides that no Congressman "shall . . . be appointed", the word "shall," is used in its imperative or mandatory sense and that when "shall" is used in the words "shall have been encreased", "shall" is being used to express the future perfect tense. The future perfect is a verb tense traditionally formed in English to express completion of an action in a specified time that is yet to come. (Webster's New Collegiate Dictionary, 1977) The specified future time in this instance is the end of the congressional term. The wording of the clause, especially when read in the light of the already legislated pay raise mandates that a Congressman not be appointed to a Federal judgeship until the end of his term.

The legislative history of article I, section 6, clause 2, clearly supports this construction as does the fact that the very harm sought to be prevented by the clause will occur since the pay increases to which Congressman MIKVA has become entitled as of August 31, 1979, and will become entitled on August 31, 1980, will be directly traceable to a decision made by the Congress of which he was a member.

This prohibition cannot be avoided by reliance on the fact that in some past years Congress has acted either to prevent this comparability pay adjustment from becoming effective or has delayed its funding and might possibly do so this year and next. By way of explanation, under the Executive Salary Cost-of-Living Adjustment Act, the increase for Members of Congress and other top Government officials was disbursed in calendar year 1975. In calendar year 1976, however, the legislative branch appropriations bill was used to postpone payment of the increase in fiscal year 1977.

In March, 1977, the increase recommended by the Quadrennial Commission under the Federal Salary Act of 1967, took effect. In the same calendar year, Public Law 95–66 was adopted providing that the salaries of Members of Congress and other top Government officials that were increased by the Quadrennial Commission pursuant to the Federal Salary Act of 1967, would not be increased again in calendar year 1977 of fiscal year 1978, by the comparability pay increase. In calendar year 1978, the legislative branch appropriations bill for fiscal year 1979, was used to postpone payment of increases under the Executive Salary Adjustment Act. The 5.5 percent increase for fiscal year 1979 has, however, been compounded and added to this year's increase of 7 percent and will be distributed when funds are appropriated for fiscal year 1980. These entitlements, moreover, may be funded at any time in the future. In addition, under rule XVI of the Senate and rule XXI of the House of Representatives, general legislation may not be enacted in appropriations bills. The entitlements, therefore, cannot be affected by appropriations bills.

The correctness of the position outlined above is demonstrated conclusively by the President's action of August 31, 1979, when he adjusted Federal pay rates. Further, Congress reaffirmed its concurrence in this action by failing to pass legislation to prevent it. As previously mentioned, Congress has in the past voted legislation to stay the effect of the Executive Salary Cost-of-Living Adjustment Act when it did not wish judges and high-level Federal executives to receive pay increases. For example, on March 10, 1977, the Senate passed and on June 28, 1977, the House passed, legislation to prevent the pay increases mandated by the Executive Salary Cost-of-Living Adjustment Act for fiscal year 1978. The law was approved by the President on July 11, 1977, prior to the August 31, 1977, date on which he would have been required to adjust the rates for the statutory pay systems.

This calendar year, however, no such law was passed to prevent the pay raise which will be disbursed on October 1, 1979: in fact, the President as mandated by the existing statutory scheme, adjusted the rates of pay of each statutory pay system on August 31, 1979. Either House of Congress acting alone can prevent only the alternative raise instituted by the President; if either House so acts, the higher raise must go into effect. There is no question that an entitlement to the increased emoluments of the office of circuit judge effectuated by the President's action of adjusting the rates of pay on August 31, 1979. Therefore, pursuant to the laws in existence and the acts of both the executive and legislative branches of the Government, the civil office to which Congressman MIKVA has been nominated has received an increase in emoluments.

The fact that there has been an increase in emoluments has been acknowledged by Congressman ADAM BENJAMIN of Indiana, chairman of the House Appropriations Subcommittee on the Legislative Branch. In floor debate in the House of Representatives on the legislative appropriations bill for fiscal year 1980, Congressman BENJAMIN indicated that in regard to appropriating funds for Federal pay increases under the Federal Pay Comparability Act and the Executive Salary Cost-of-Living Adjustment Act, regardless of the level of appropriations, the entitlement remained as fixed by the foregoing laws. He further stated that:

> The entitlement is going to become so attractive 1 day—and the entitlement at this point, I might add, can go to 11.3 percent, or more—is going to be so attractive that one of those Government workers or perhaps a Member of this body or perhaps a judicial officer is going to sue.
>
> When the suit comes about, there are those who are much more scholarly in the law than I who have said that the plaintiffs will win.
>
> So, if you think you are denying adjustment, you are wrong. You are denying payments. And by denying these payments, you are making that adjustment just that much more attractive to force someone into court, and then we will not only be paying these wages out, but we will be paying whatever interest may be due and I assume attorney's fees as well. CONGRESSIONAL RECORD, June 13, 1979, at p. 14661.

His conclusion supports my own view that the entitlement to the increase is fixed by existing law regardless of what

Congress may do to delay the appropriation of funds.

Supportive of the foregoing analysis is an opinion dated January 3, 1960, by former Attorney General Ramsey Clark, which construed article I, section 6, clause 2, as prohibiting the appointment of a Senator or House Member to an office the compensation of which shall have been increased "prior to the making of such appointment" (42 Ops. A.G. 382). Clark further expressed the view that the ban was inapplicable where it is possible, but not certain at the time of appointment, that a proposed salary increase for the appointee may receive final approval at a future date. In the present case, however, there is no uncertainty; that the law entitlement to the increase became effective as law, on August 31, 1979.

Also dispositive of the constitutional prohibition is an opinion by Attorney General Benjamin Harris Brewster dated May 26, 1882. The opinion concerned Senator Kirkwood who was elected and qualified as Senator from Iowa for a term to expire in March 1883. In March 1881, he resigned to accept the position of Secretary of the Interior, which post he subsequently resigned later in 1881. After his second resignation, the Office of Tariff Commissioner was created in 1882 by act of Congress and Kirkwood was nominated to that office. Brewster concluded that the positive terms of the provision of the Constitution, must control and that the language is precise and clear: Kirkwood was disabled from receiving the appointment as Tariff Commissioner.

This opinion stands for the proposition that a literal reading of the language of article I, section 6, clause 2, does not confine the prohibition from appointment to offices where the increase for the office has occurred prior to the appointment. Rather, we believe that the prohibition clearly extends to all increases occurring "during the time for which—the Representative—was elected," that is, the congressional term of the proposed appointee. This interpretation is supported by the constitutional debates regarding article I, section 6, clause 2.

Mr. President, it is interesting to note that House Joint Resolution 399, as amended, making continuing appropriations for fiscal year 1980, contained the following language:

> *Provided*, That any additional payment under existing law is not to be construed as an increase in salary or emoluments within the meaning of Article I, Section 6, Clause 2 of the Constitution.

The constitutional provision referred to reads:

> No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

The placing of the quoted language in the resolution appears to confirm that ABNER MIKVA is barred, by the Constitution, from appointment as a circuit judge since the emoluments of the office of circuit judge, under existing law, have already been increased during his term. The funds are to be disbursed during the first pay period after October 1, 1979. The President, acting under authority of the Federal Pay Comparability Act of 1970 and the Executive Cost-of-Living Adjustment Act of 1975, triggered the pay increase machinery on August 31, 1979, when he sent a message to Congress with his decision that the pay raise for this year would be 7 percent.

Under existing law, members of Congress and top Government executives and Federal judges—including circuit judges—have thus become entitled to a pay increase of 12.9 percent. This was pointed out in Report No. 96-436, accompanying the continuing resolution. The percentage is arrived at by compounding last year's entitlement increase of 5.5 percent with this year's entitlement increase of 7 percent. Still pending is the matter of how much of the entitlement will be funded for fiscal 1980 by a continuing resolution or by the appropriations bill. The increased entitlement, however, has been enacted into law and the funds can be disbursed when appropriated.

The Department of Justice has in the past taken the position that the increase in emoluments occurs when enacted into law and that after this date a Member cannot be appointed to an office entitled to the increase. The pay laws which cause this pay increase were enacted in 1970 and 1975, prior to Mr. MIKVA's appointment. Further, the present Congress in which Mr. MIKVA serves—his term expires on January 3, 1981—has manifested its consent to the pay increase by failing to enact new legislation before August 31, 1979 preventing the President from triggering the pay raise machinery as present law required. In 1977, on the other hand, Public Law 95-66 was enacted before August 31, to prevent the President from triggering the pay increase for that year. Under existing law, moreover, the emoluments of the Office of Circuit Judge will be increased again on August 31, 1980, still during the time for which Mr. MIKVA has been elected to serve in Congress.

I do not know to what extent the Judiciary Committee considered the constitutional issue. Perhaps some Senators may want to discuss that. Frankly, I suspect that all question has been brushed aside in the rush to bring this nomination to the floor. In any event, I believe that this constitutional issue should have been referred to the Subcommittee on the Constitution, and then we would have a better basis on which to cast our votes in connection with this nomination.

I thank the Senator from South Carolina for yielding to me, and I yield back whatever time I have remaining.

Mr. THURMOND. I yield 15 minutes to the distinguished Senator from Idaho (Mr. MCCLURE).

Mr. McCLURE. Mr. President, I thank the Senator from South Carolina for yielding this time.

I associate my remarks with those just delivered by the distinguished Senator from North Carolina because I agree with him that we have not looked at the constitutional issue with as much care as we should have. It will be my purpose, not only today but later as well, to discuss the constitutional issue with the seriousness I think it should be given.

Mr. President, I cannot support the nomination of ABNER MIKVA to the Nation's second highest court and inflict upon American jurisprudence the philosophy and the actions of a man who would unabashedly be positioned to make law, not interpret it.

Each charge leveled here today may on face value seem relatively minor. Taken as a whole, they provide a picture of a man who is peculiarly insensitive to the beliefs, indeed to the rights, of a vast majority of the American people.

In determining the fitness of this nominee, we do not have the benefit of reviewing prior judicial decisions—as in the debates over Messrs. Haynsworth, Carswell, and Fortas—but we have the benefit of a legislative and legal history strewn with inconsistency, irreverence, hypocrisy and injudiciousness.

The esteemed historical scholar, Mr. de Tocqueville observed more than a century ago that there is "hardly a political question which does not sooner or later turn into a judicial one." I maintain that Mr. MIKVA's political decisions are germane to his future judicial ones and must be assessed lest his certain bias, hostilities, and prejudices be forever written into law.

The inherent power of the judiciary is such that judges are by design virtual autocrats with the freedom of "reading their own views into broadly worded statutes and vaguely defined constitutional rights." (Time, August 20, 1979, p. 50.)

To say that Mr. MIKVA's views are of little consequence in this debate—that those views take a back seat to his scholarship and integrity—is a cop-out. It is a disservice to the judiciary and the American people.

In Mr. MIKVA's political role, he has fashioned himself as an advocate and as an extremist. In dealing with each sensitive and controversial issue to come before the Congress, Mr. MIKVA has advocated or denounced, written about or vocally defended, voted for or against with zeal, conviction, and commitment. His political views are a part of his more general social views which cannot be shed at the courthouse door no matter how persistently Mr. MIKVA would have us believe. These attachments will invariably guide and serve as his eyeglasses in reading law.

Mr. MIKVA calls himself a civil libertarian. He talks a good deal about civil rights and about the freedom of the individual. He talks a good deal about police misuse of powers, about illegal wiretap, and illegal search and seizure, and about the rights of the accused. And he talks a good deal about the right to privacy, and about the terrible excesses of Federal Government recordkeeping on individual citizens. He talks a good deal about somebody called the little guy.

Then, Mr. MIKVA talks about gun control. And somehow, when it comes to a private citizen owning a firearm, or my owning a gun, all that concern about civil rights just vanishes.

While he claims to be concerned about central recordkeeping kept on convicted felons, Mr. Mikva would have electronic dossiers kept in Washington computer banks on every individual citizen who would own a firearm for lawful use. Mr. Mikva would go to any extreme to get your gun or my gun. When it comes to firearms, nothing bothers him, and constitutional guarantees and protections are set aside.

Abner Mikva's hatred of guns leads him to endorse drastic, even Gestapo-like activities. Under the provisions of the handgun-ban legislation which he has repeatedly introduced in the Congress, all handguns seized outside the home or business—regardless of the police measures used—could be confiscated and destroyed. Police seeking to reduce the numbers of handguns in private possession would be encouraged—in defiance of the Supreme Court's efforts to discourage illegal seizures with the "fruit of the poisonous tree" doctrine—to stop and frisk arbitrarily. He has endorsed widespread searches without probable cause:

> We have what is known as a stop-and-frisk law in Illinois—and they pick up guns where there is no commission of a crime. And they prosecute even those people. (Testimony, Bayh Bill, Saturday Night Special Handguns, Senate Judiciary Subcommittee to Investigate Juvenile Delinquency, 1972, p. 228.)

Chicago courts find that guns are carried illegally by ordinary citizens out of fear of crime, and the judges are reluctant to sentence even where the searches are legal. But the guns get destroyed regardless:

> The state will confiscate and destroy the weapon. He (the judge) orders this in nearly all cases—win, lose, or draw. Every year, the police cart some 20,000 confiscated guns to the Wisconsin Steel works . . .

This despite the problem of illegal searches leading many cases to be dropped.

> The Fourth Amendment of the Constitution and various decisions of the U.S. Supreme Court ordinarily make it impossible for the prosecution to enjoy the "fruit (in this case the seized revolver) of the poisoned tree" (an unlawful search). (Jack Starr, "Why the Gun Law Doesn't Work", Chicago, 27(2): 128 et seq. quotes from page 130 (February 1978).)

Representative Mikva's primary goal is to confiscate and destroy guns. From his point of view, getting the guns and destroying them is more important than whether the fourth amendment is observed by police. But his approach creates a whole new "fruit of the poisonous tree"—the confiscated and destroyed gun. Mikva would get his goal by ignoring constitutional rights, contrary to the whole spirit of the Court's line of reasoning in the "Exclusionary rule" cases. And Representative Mikva wants the Chicago approach nationalized. His regular gun bill—(for example H.R. 7070—94th Congress, 1st session—says (1096(b)):

> Any handgun involved or used in, or intended to be used in, any violation of the provisions of this chapter or chapter 44 of this title or any rule or regulation promulgated thereunder (which would obviously include the ban on transportation of handguns, which illegal carrying would include), or any violation of any other criminal law of the United States, shall be subject to seizure and forfeiture. . . .

To effectively enforce the provisions of a Federal gun prohibition of the magnitude envisioned by Abner Mikva, it would be necessary to enlist a national police force of tremendous size and power. It is indeed ironic that a man who regards himself as a staunch civil libertarian remains curiously unconcerned, even hostile, about the rights of gun owners. Indeed, Representative Mikva embraces the most oppressive measures against gun ownership as a badge of his "liberal" credo. In any other context, such measures would be soundly condemned.

Mikva's gun prohibition would sanction abuses by the Federal gun police. The Mikva provisions would give the Bureau of Alcohol. Tobacco and Firearms (BATF) additional leeway, under the guise of enforcement, to run roughshod over constitutional rights, entrap dealers and collectors into technical violations of the law in order to justify seizing their gun collections—and trample individual rights to privacy in searches for handguns. That agency's already routine and frightening official disregard for civil rights would be concentrated and accelerated against citizens who have never before run afoul of the law, not against criminals.

Mikva has proudly acknowledged that he would "plead guilty" to being the foremost anti-gun spokesman in the House (October 29, 1978, Chicago Sun Times, page 29.) In fact, Representative Mikva has devoted his congressional office to furthering his gun prohibition schemes. Ralph Nader's 1972 "Citizens Look at Congress" notes "several large, framed political cartoons" adorning the Congressman's office walls. One of these "depicts a handgun inside a large ice cube; it is captioned, 'Another freeze needed.'" Again in the Nader report, Mikva reinforces his support for such a "freeze" claiming it is "the thing I'd most like to get done before I leave Congress."

One need ask whether Mr. Mikva would use the weight of the Federal judiciary to achieve his ends and the illusive goal he most sought after in the Congress. This question must not be answered lightly. For what is at stake on this debate are the rights of over 60 million Americans whose only transgression in Mr. Mikva's "perfect world" is that they choose to own a firearm.

At the present time, two major cases involving NRA are now in the D.C. Federal court system, and may go to the appellate division; two other current cases involving the fundamental rights of citizens, cases funded by the NRA, may eventually come before this court.

And Mr. Mikva is squarely in the corner of the antigun antihunting lobbies, which call hunters "kill for kicks boys" and argue that the "destroyers of life, must themselves, in turn be destroyed—preferably by due legal process."

These groups have already moved into the judicial arena, bragging that since judges "don't run for reelection . . . we expect to win . . . And we're going to continue to press the battle in the courtroom where NRA tactics have proved ineffectual." In recent times, the Federal bureaucracy, through BATF, OSHA, EPA, CPSC, USF&WS and countless other regulatory agencies, have through backdoor schemes issued regulations restricting firearms ownership, transportation and use—all of which adversely affect the hunting community. It is inconceivable that a man who has accepted political contributions from these groups and sponsored legislation in their behalf could give the Nation's sportsmen a fair hearing on this second most important bench in the Nation.

Mr. Mikva serves on the Congressional Advisory Board of the National Council to Control Handguns—Handgun Control, Inc.—and praises such interest lobbying to the hilt:

> Interest representatives can be mobilized for the purposes of a legislator. There is only a limited amount that a Congressman can do in advocacy of a bill. . . . And, finally, he can attempt to arouse public opinion in support of his proposal. What this almost always means, however, is not a massive and spontaneous outpouring of support by individual concerned citizens, but vocal and intensive support groups to whom the issue he has raised is important. Interest representatives, then, may be mobilized by a legislator to use their resources and influence on behalf of a proposal which will benefit them but which they did not instigate. Lobbying groups can be useful to a Congressman precisely because they do have influence within the Congress and the Administration, and because they do have the organizational and financial resources which the Congressman lacks." (38 George Washington Law Review, 651, 662, (May 1970).)

Yet, Abner Mikva never misses an opportunity to take a "cheap shot" at the National Rifle Association or to ridicule its involvement in the legislative process in behalf of the Nation's 60 million gun owners:

> The NRA only fires blanks. And it's the fastest mimeograph machine in the nation. (Chicago Sun Times, January 28, 1979.)
>
> The gun lobby is . . . the most highly organized and self-serving lobby in the country, and it has contributed much heat and no light to the discussion. The gun lobby promotes the kind of misunderstanding and misinformation that turns some intelligent hunters and sportsmen into unreasoning zealots. (At Issue, NRTA-AARP News Bulletin, February, 1979.)
>
> . . . Mikva, playing on the acronym of the National Rifle Association, said that if street criminals has a lobbying arm, 'perhaps they would call themselves the NRA—National Ripoff Association'. (The News American, Baltimore, May 7, 1978.)

So intense is Mikva's anti-NRA bias, that a purely recreational softball game between his staff and the NRA's became the subject of a Congressional Record insert on August 16, 1978:

> But if there were worried looks behind the ostensibly optimistic smiles of the NRA team there was good reason. This contest, after all, was being played out in the open, for all to see, and no paper blitz of mail was going to keep the Marvels from scoring. Moreover, the game was being played in Washington, a city with one of the strictest gun control laws. The weapons for this contest were restricted to baseball bats, gloves and balls, no doubt putting the NRA at a disadvantage.
>
> The NRA managed three consolation tallies in the last inning but the final 7-to-3

> score was conclusive. As ironies would have it, the margin of victory was about the same as the proportion of Americans who want Congress to pass stronger gun control laws.
>
> This proves conclusively that the NRA is just a paper tiger. They may have the fastest mimeograph machine in the western world, but they are short hitters when the game is really played.
>
> Can one game make a difference? Only time will tell. But today the gun control movement knows that the NRA can be defeated, and their hats are off to all of the Marvels.

Representative Mikva's views on guns, gun owners, sportsmen, and the gun lobby make him unfit to render consistent judgment on any issue where firearms may—in certain instances—be involved. Any rulings he made in the areas of privacy, search and seizure, data banks, the exclusionary rule, due process, regulatory procedures and powers, lobbying, and the like, would be based upon whether or not guns were involved. Such a distinction would mean his decisions could provide no constitutional guidance for general issues.

Moreover, Representative Mikva's hostility toward guns, sportsmen, and the NRA would render him too biased to take part in any case involving guns, sportsmen, or the NRA.

Texas State Representative Clay Smothers in testimony before the Senate Judiciary Committee in opposition to the nomination of Abner Mikva made an apt analogy in saying:

> Just as a juror should be unbiased as to the facts and witnesses in a case, a determiner of law should be unencumbered by judicial prejudices and ideology. In no court of the land would a prospective juror be considered qualified to decide a case in which that juror would admit:
>
> "Yes, your honor: I have stated that the NRA 'has the fastest mimeograph in the West,' and I have referred to the plaintiff organization as the 'National Ripoff Association,' and the street crime lobby, but if I were selected as a member of this jury panel, under no circumstances would those statements by me have any effect upon my judgment in this case."
>
> Yet, the Senate Judiciary Committee is being asked to believe that it would be perfectly proper for Mr. Mikva to sit as a judge on a case in which he would unquestionably be disqualified as juror.
>
> The American judicial system bases many procedures on the ideal of fairness. The voir dire system of jury selection offers each side the opportunity to discover potential jury bias by dismissing individual jurors. Appellate judges, however, are seldom questioned on their critical role as an impartial reviewer—purely and simply, they, unlike members of a jury, are expected to be unsusceptible to interpreting law based upon a predisposition, an already hardened bias in a given issue.

And as public defender Walter Marvin said in testimony against the Mikva nomination in committee, he is concerned about a fairness of a hearing a client of his could get before a "nobody ought to own a gun" jurist described as the foremost antigun spokesman in the House.

> I try to say this in a balanced way. I would be startled and disturbed if I learned of the nomination of a Congressman who referred to himself as "the foremost pro-gun spokesman in the House" for a Federal judgeship. I would want to know what extraordinary aptitude for the judicial life the candidate has displayed in order to neutralize the obvious potential for bias. A crusading, "everybody ought to own a gun" jurist might be a serious threat to the right of a future client of mine to a fair hearing.

Equally, one must ask the corollary question: Could Mr. Mikva render a fair and impartial decision in any case involving Handgun Control, Inc., or the Committee for Humane Legislation, or any of a host of lobbying organizations whose water he has carried during these many years in the Congress? I think not.

Yet, under severe questioning before the Senate Judiciary Committee regarding the need for Mr. Mikva to excuse himself in cases involving the National Rifle Association, Mr. Mikva maintained that his views on gun control would not relate to his role as judge. When Senator Cochran asked Mr. Mikva if he would disqualify himself in gun control related cases, Mr. Mikva was noncommittal.

> I cannot say absent the specific facts and parties and specific controversy that I would disqualify myself here and would not there.

Senator Cochran pressed further, asking Mikva about his well-documented bias against the National Rifle Association, and asking if Mikva would rescue himself if a case directly involving the NRA came before the D.C. Court of Appeals. Mr. Mikva said—

> Again, I am reluctant to specifically say I would here or would not there.

Senator DeConcini probed still further asking under what circumstances Mr. Mikva would feel qualified to rule fairly in a case involving the NRA. Mr. Mikva responded that a real estate case involving the NRA might be a possibility of this sort, perhaps prophesying on precisely that case which is pending before district court between the NRA and a district real estate agency on sale of NRA headquarters.

Senator Cochran pushed the issue further asking Mr. Mikva whether he would see fit to disqualify himself in the pending case involving the Bureau of Alcohol, Tobacco and Firearms' seizure of guns from the NRA museum. Mr. Mikva responded that he probably would not. On pending litigation involving the Army's civilian marksmanship program, Mr. Mikva gave some indication of disqualifying himself on this gun related case, but again, did not commit to that course of action.

Mr. Mikva, throughout the hearings remained uncommitted to recusal although he vowed before that same committee to rescue himself "particularly where the facts of the case fall within the ambit of something about which I have expressed myself specifically and directly."

And that strikes at the heart of this debate. Mr. Mikva has revealed by his own testimony that he is incapable of making the necessary change from lawmaker to adjudicator.

Senator Laxalt best summed up my perception of this nominee during his confirmation hearings saying—

> The concern I have about your nomination isn't a single-issue situation . . . my problem is whether or not people who have been in active positions in the practice of law and legislation belong on the bench. Whether or not you have the type of judicial temperament that would permit you to set aside your past background and treat one and all, gun owners and whoever else comes before you with equal objectivity. This is my concern.

In too many cases to be lightly dismissed by this body, Mr. Mikva reveals a man who is not only an advocate, he is a crusader, blind to his own prejudices and unable to interpret law impartially or to even recognize the absence of fairness in making judgments.

I urge my colleagues to oppose the confirmation of Abner Mikva on these grounds.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLURE. Mr. President, will the Senator yield me 1 additional minute?

Mr. STEVENS. Mr. President, the Senator from South Carolina has temporarily left the Chamber, so the Senator from Idaho has control of the time.

Mr. PERCY. Mr. President, will the Senator yield me 5 minutes?

Mr. STEVENS. Mr. President, will the Senator withhold a minute?

Mr. McCLURE. Mr. President, the minority floor leader indicates Senator Thurmond left the Chamber and I am in charge of the time.

With that understanding I yield myself 1 additional minute.

Mr. President, I take the additional minute only for the purpose of indicating that it is not my concern about gun legislation alone that concerns me about Representative Mikva. I use that as an example of judicial activism that he will provide on the bench in the very fields in which he has been most aggressive in terms of activism as a political figure and as a Member of the House of Representatives.

Mr. President, for those reasons I shall oppose the nomination and will vote against.

Mr. President, I yield to the Senator from Alaska 1 minute.

Mr. STEVENS. Mr. President, I thank the Senator from Idaho. I merely state to the Senate that I submitted to the Judiciary Committee a statement concerning my views on the nomination and I see no reason to repeat them here.

I hold no personal animosity toward Mr. Mikva and I know him to be a very fine Member of the House of Representatives. I just disagree with the concept of his concerning the right of individuals to own and control firearms, particularly handguns, and on that basis I shall oppose his nomination.

Mr. PERCY. Mr. President, will the distinguished floor manager yield 5 minutes?

Mr. KENNEDY. I yield 5 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I rise in support of Abner Mikva because he is my own Congressman, and because I deeply respect the capable job that he has done in representing his district and the extraordinary competence he has brought to Congress.

But I also rise to express appreciation to my distinguished colleague from Idaho, and others opposing this nomination, for permitting the Senate to have an up and down vote on it, and to do so under a time limitation.

At one time there was discussion that this nomination would never see the light of day.

The distinguished Senator from Idaho and the leadership on both sides displayed a sense of decency in deciding that, to a congressional colleague, we should allow an up and down vote. I am very grateful that we are going to have that opportunity this afternoon.

I have no doubt that Congressman MIKVA will be approved and confirmed by the Senate.

Having spent as much time as I have in Idaho, having met my wife in Sun Valley, having been out in Sun Valley with Senator KENNEDY, I recognize that the outlook, the attitude toward guns in Idaho is entirely different from that in other parts of the country.

The Senator from Idaho fights fiercely to represent the views of his own constituency.

But I simply repeat an American Indian adage—if you want to understand the soul of a man, walk in his moccasins for 24 hours.

I say to my friends from Western and Southeastern States—walk in the shoes of those who live in urban areas. Walk in the shoes of a Congressman who has represented the North Side of Chicago, where the Senator from Illinois lived for 4 years, where his mother was born, and which was the home of Paul Douglas who preceded me.

This area is entirely different from that represented by the Senator from Idaho. We had 1,000 people slaughtered in Chicago last year alone. A teacher will stand up in front of her classroom with a piece of chalk and an eraser wondering how many students have Saturday night specials in their pockets, how many happened to see some violent film last night on television, how many have seen "Clockwork Orange," or something that would excite them and cause them to slaughter a fellow citizen. This has happened many times, right out in the schoolyard.

This is a different kind of a jungle we are living in, and something has to be done about it.

Though the Senator from Illinois is all for strengthening the economy of the United States of America, I do not think we have to act at the expense of the lives and safety of our citizens.

For that reason, the Senator from Illinois, working with Attorney General Ed Levi, came up with a brilliant idea, which he and the Senator from New York sponsored in the Senate. This proposal was to differentiate between high-crime urban areas on the one hand, and rural areas, like downstate Illinois, Idaho, or others where the kind of crime is relatively unknown and where availability of guns does not really cause a problem, on the other.

The first year the Senator from Illinois lived in Georgetown, two marines were shot at a hamburger stand because they were slurred as "tin soldiers," by two fellows coming into the stand. The marines made a cutting remark back. There was no "tin soldier" about the duty they had done in Vietnam, they said.

The fellows went right out to a car, got a gun, and in the heat of emotion shot the marines down.

Two days later, right in front of Peoples Drug Store, in an emotional argument, two more young people were killed.

The quick access to guns in concentrated urban areas is a problem we have got to solve.

I proposed that we exclude from gun control those areas of the country that have no real problem, and concentrate our efforts where the need was greatest. Take, for instance, the Saturday night specials. No one can argue that these Saturday night specials have any legitimate use respecting target practice or marksmanship or skill. They are blunt instruments, designed to kill, to be cheap and readily available to anyone on a streetcorner who has $25 and who wants to buy one.

The Senator from Illinois has been privileged in 8 years of Republican administrations to suggest a number of Federal judges to the President, including one on the Supreme Court. In looking at Congressman MIKVA, I urge my colleagues to set aside this one issue on which he has truly represented his own constituency as best he can. Congressman MIKVA has been supported on this issue in both congressional districts he has represented in the Congress, the better part of a million people living in urban areas under the terror of those conditions.

I look at ABNER MIKVA as a man of intelligence, a man of decency, a man of compassion, a fighter for his beliefs. I have seen him fight in a Republican district, one which has been Republican for 100 years, to get those votes and hang onto that seat. That is the kind of person you want on the bench, a man of conviction, an intelligent man, a decent man.

Certainly I think he has all of those qualities we look for in a Federal judge, the judicial temperament. He has demonstrated his judicial temperament year after year to his colleagues in the House of Representatives and to those who have known him well.

Congressman MIKVA's nomination is backed solidly by every Bar Association that has reviewed him. He has been rated as well-qualified by the American Bar Association's committee on the Federal judiciary.

Although the NRA has taken a position against him, they have likewise taken a position against the Senator from Illinois on many of the things the Senator from Illinois was trying to accomplish.

We simply cannot let a special interest, well-meaning as it may be, to carry the day on an issue of this kind. I think they have taken on the wrong man at the wrong time, and I hope we can seriously and decisively defeat their effort to defeat a fine man, and deprive the Federal bench of a truly gifted candidate.

For these reasons, Mr. President, I am pleased to endorse the nomination of ABNER J. MIKVA of Illinois to the Federal Circuit Court of Appeals, District of Columbia Circuit. My endorsement is based not only upon a review of his judicial qualifications, but also upon the personal experience of having known AB MIKVA for many years.

The role of the courts in our system of government has grown dramatically in recent years. As our society grows more complex, the laws and regulations which govern our lives likewise grow ever more intricate and far-reaching. Today the courts are called upon to resolve deep conflicts within our social fabric, to interpret complex congressional and agency decisions, and face pressing issues which the other two branches of government have failed to resolve.

For this reason, nominees to the Federal bench must be individuals of the highest intellect and integrity.

Against these criteria, AB MIKVA is a uniquely well qualified candidate for this position.

AB's professional experience covers all facets of our system of law and government, including State and Federal Government, public service and private practice, legislative work and judicial experience. As chairman of the judiciary committee of the Illinois State House of Representatives, from 1956 through 1967, and as a distinguished member of the Judiciary Committee of the U.S. House of Representatives, he is well versed in the legal issues confronting our Nation. As former clerk to U.S. Supreme Court Justice Sherman Minton, adjunct professor of the Northwestern University Law School, and private lawyer of long standing, he is equally well versed in the judicial process.

AB MIKVA's legal experience spans three decades, and is an invaluable resource to any candidate for the bench.

In this light, it is no wonder that the American Bar Association's committee on the Federal judiciary decided unanimously that AB MIKVA was "well qualified" for judicial appointment.

While certain narrow special interests have attempted to distort this nominee, I trust that this committee will focus its attention on the central question of AB MIKVA's qualifications for the office of Federal appeals court judge. On this basis, there is no question that the committee should act positively in recommending Senate confirmation of this nomination.

I hope, therefore, he will be overwhelmingly confirmed.

The PRESIDING OFFICER (Mr. TSONGAS). The Senator from Montana is recognized for 5 minutes.

Mr. BAUCUS. Mr. President, I happen to be a Senator who is unalterably opposed to gun control. I strongly opposed gun control when I was a Member of the House of Representatives, and I will continue to oppose gun control in the Senate Judiciary Committee and on the floor of the Senate. Furthermore, I do not intend to take any action which in my view would further the cause of gun control.

However, Mr. President, I firmly believe that my strongly held views on gun control are in no way inconsistent with a vote in favor of the confirmation of Abner J. Mikva to the U.S. Court of Appeals for the District of Columbia. Perhaps the best way to make this point clear is to relate to you the testimony of Congressman Guy Vander Jagt of Michigan who is the chairman of the Republican Congressional Campaign Committee in the House of Representatives.

During committee hearings Senator Bayh asked Congressman Vander Jagt whether he was in agreement with Congressman Mikva's position on firearms control.

Congressman Vander Jagt replied:

> I specifically mentioned, Senator, that Ab Mikva and I disagree on the subject of gun control. I, however, have no doubt in my mind that Ab Mikva has the integrity and fairness to interpret the law the way the law was written, not the way he wishes it might have been written.

Senator Bayh then asked:

> If you were convicted or indicted on a firearms offense, you would have no compunction about going before Judge Mikva to get justice?

Congressman Vander Jagt replied:

> I would pray I was sent before a judge with the kind of integrity and fairness that I know Ab Mikva would exemplify as a judge.

Congressman Vander Jagt's response goes right to the heart of the issue surrounding this nomination. As a well-known and respected Republican Member of the House of Representatives, Guy Vander Jagt is on record testifying to Abner Mikva's integrity and fairness even as it relates to an issue on which the two strongly disagree.

Congressman Vander Jagt's views not only reflect the extraordinary bipartisan nature of the support for this nomination but also reflect his and others' confidence in the fact that Congressman Mikva is the kind of person who instills a sense of trust even in those who disagree with his views.

We should all remember that the particular views of a nominee are not often the best basis upon which to decide whether or not to vote for confirmation. Many argued that Justice Hugo Black's former affiliation with the Ku Klux Klan should preclude him from sitting on the Supreme Court and yet while on the Court he was an ardent protector of the very rights that his initial detractors were fearful he would not protect.

Similarly, in the case of Abner Mikva although we may not agree on the issue of gun control, I feel certain that he will interpret the laws and the Constitution of the United States as they have been written, and not as he would like them to be written. I honestly believe that during my career in the Senate I will rarely have the opportunity to vote for a nominee to the Federal Judiciary who is more honest, decent and fair than Abner Mikva. I am proud to cast my vote for him and hope that the Senate as a whole can focus on the real issues of his qualifications and judicial temperament and not be unnecessarily sidetracked by concerns over substantive issues which really don't address his ability to execute his responsibilities as a Federal court of appeals judge.

I know that there are deeply felt views both for and against this nomination. I am simply calling it the way I see it and I know that Montanans and other concerned citizens will understand that my vote on this nomination in no way affects my strong opposition to gun control legislation.

Mr. President, I believe it is extremely unusual to have a judicial nominee supported by former Republican President Ford, Minority Leader John Rhodes, in addition to Speaker Tip O'Neill, and President Carter. All of these men rarely concur on an issue. It is a unique tribute to Abner Mikva that all of them would agree on his nomination. I join them in support of the nomination of Abner J. Mikva.

The central issue, it seems to me, is the degree to which a candidate's political philosophy should preclude his being confirmed.

Obviously those who agree with that philosophy will not have much difficulty with that question. The real problem though is what about those who disagree with his basic personal and political philosophy, and to what degree should that affect their vote on confirmation.

This question concerns me because I happen to differ in some areas with the philosophical views of Ab Mikva. He and I disagree on the question of gun control.

There are other Senators who also oppose gun control legislation, and a good number of those Senators have opposed Ab Mikva's nomination. Several Senators have asserted that Ab Mikva not only will carry his views in favor of gun control to the District of Columbia Circuit Court of Appeals but he will also carry his other "liberal" views as an activist to the circuit court of appeals.

The question, therefore, is to what degree should his philosophy preclude his confirmation?

During the Judiciary Committee hearings I asked Ab Mikva a series of questions that go to these points because I am very concerned about how he would view his role as a judge. I wanted to know whether he would be an activist on the court as he has been in representing his Illinois congressional district. I think his answers are illuminating. One question I asked him is how he perceives the difference between his role as a Congressman and his role as a judge, and let me give you his answer:

> As I say, I think one of the unique qualities that a legislator, or former legislator, can bring to the bench is an understanding of the legislative process, and knowing that sometimes the gaps and the undotted "i's" and uncrossed "t's" are an important part of the way the legislative process works. As a judge, I would not expect to step in and render my judgment from what I think you should have done.

It is very clear that Ab Mikva has said that it is the responsiblity of the legislature to cross the "t's" and dot the "i's". A judge should not, and he, Ab Mikva, would not, do so as a judge.

I also asked him what about those instances where Congress has legislated but where a case comes before a judge and Congress did not address the issue before the court. Whether the legislature acted intentionally or unintentionally what would he, Ab Mikva, do in that case? Would he be a legislator? Would he legislate as a judge? Would he step in and dot those "i's" and cross those "t's"? This is Ab Mikva's response to that question:

> I would say that the Congress has not acted in this area, and therefore I should not act for them, or I should not decide how they would have acted if I had been there. I think again that is part of that very important distinction between the role of the policy maker and the role of the judge.

Ab Mikva stated that he would not try to legislate as a judge.

Mr. President, those answers are very helpful to me as I believe they address many of the concerns raised here today.

The final question is, should we trust Ab Mikva's response? Obviously Ab Mikva is sufficiently intelligent to know the difference between a judge and a legislator. After all, he was editor in chief of a law review. But the question is, should we trust him?

I do not know what it is that enables us to know whom we trust and whom we do not. It is a very intangible quality. Sometimes you get it by looking a person straight in the eye; sometimes you get it by listening to the tone of his voice or observing his demeanor.

I have known Ab Mikva for 4 years, and I cannot think of anybody else whom I trust more. He is very intelligent. But more important, his integrity and his candor convince me to support his nomination, though I oppose his views on gun control as well as some other matters. I think it will be one of the Senate's finest hours if it overlooks what, in my view, is the misdirected opposition to the confirmation of his nomination. In my view, he is one of America's finest citizens.

Mr. THURMOND. Mr. President, I yield 10 minutes to the Senator from Iowa (Mr. Jepsen).

Mr. JEPSEN. Mr. President, in considering the confirmation of the nomination of one Abner J. Mikva of Illinois, let me say, prior to my formal remarks, that I do not believe it is for me to judge what the intent of a man's heart or a man's mind is. That is not for me to do, and I detect and believe that is the way that other Members of the Senate feel.

Representative Mikva is unknown to me, but mutual friends of ours have told me that he is a fine gentleman, and I do not for 1 minute question that. I realize it is not for me to judge what the intent of a man's heart is, or what is in his mind, but I can judge a man based on the consequences of his actions.

This man's actions over the years have been actions of activism—activism in areas that to me are very near and dear, as a family man with children.

Gun control has been mentioned here a number of times, most recently by the distinguished Senator from Illinois. I might point out for the record that 52 percent of all of the murders committed are committed by something other than guns. I might point out further, just for the record, that in the consumer product list of most dangerous things in the house, handguns are No. 36. Labeled more dangerous are icepicks, bicycles, bathtubs, and lawnmowers. We would have to do away with a lot of things before we get down to guns.

Mr. President, the Judiciary Committee, while considering the nomination of Abner Mikva to the Federal Appellate Court of the District of Columbia, amassed considerable information on a variety of topics regarding the fitness of this nominee for a Federal judgeship.

I would like to take this opportunity to briefly discuss a matter that has not been considered and is conspicuous by its absence; that is, the concept of rights to privacy that we enjoy in this country, and hold very dear.

Increasingly, Americans are concerned about privacy. This concern about privacy is a healthy concern, and we should listen well when the people speak. They have an intuitive sense about freedom and privacy. They know that freedom is impossible without privacy, and that privacy is impossible without freedom. The two are forever interwined in a democratic society.

Recently, the Sentry Insurance Co. hired pollster Louis Harris to survey the American people on privacy issues. The poll indicates that concerns about threats to privacy are on the upswing; 64 percent of the people are very, or somewhat, concerned about potential invasions of their personal privacy; 19 percent feel that their privacy actually has been invaded. Of the Members of Congress and congressional aides polled a full 39 percent think their privacy has been invaded Three out of four Americans now believe that the "right of privacy" should be akin to the inalienable American right to life, liberty, and the pursuit of happiness.

Mr. Mikva has made eloquent statements over the years in defense of the concept of privacy. He has, on many occasions, vigorously defended the right to privacy against those who would set up national data banks or advocate wire tapping. Yet his own actions belie this rhetoric.

Specifically, I want to concentrate for a moment, not on statements or attitudes, but on actual behavior. I think this is an appropriate tack to take, as often actions do speak louder—and perhaps more clearly—than words.

I am referring to a landmark case in the history of the right to privacy. This incident occurred in Wichita, Kans. in May 1954, when the jury room in the Tenth Federal Circuit Court was "bugged" for research purposes.

When this secretive research was uncovered, then Attorney General Brownell reprimanded the University of Chicago Law School—which supervised the project—and said:

> We in the Department of Justice are unequivocally opposed to any recording or eavesdropping on the deliberations of a jury under any conditions, regardless of the purpose.

The Attorney General stated that he would ask for a law to prevent such recording "by any persons whomsoever and by any means whatsoever."

Shortly thereafter, the Internal Security Subcommittee of the Senate Judiciary Committee began investigation with an eye to writing Federal legislation prohibiting any further recording. The committee subpenaed five persons, among them Abner Mikva.

Mr. Mikva was subpenaed because, as he stated to the subcommittee, he supervised the actual recordings of the juries. Indeed when asked what his part in the project was, Mikva admitted:

> I was sent down there . . . to actually maintain the equipment, operate the equipment, while the (jury) recordings were being made. (Recording of Jury Deliberations, p. 147.)

The researchers never expected to be called before the Internal Security Subcommittee because the research was to be secret. Indeed, the very secrecy was part of the ethical justification for the project. Secrecy, it was felt, was necessary so that the jury process would not be destroyed by future jurrors feeling constrained with the possibility that their comments were being secretly monitored.

The tapes were to be secret. But the edited tapes were taken to a judicial conference at Estes Park, Colo., and played to an audience of judges. At this meeting, newspaper reporters were present and the lid was blown off the jury project.

The press expressed public outrage over the jury tapping project. For example, the Washington Post ran the following editorial on October 7, 1955:

> The disclosure that concealed microphones were placed in the jury room of a Federal Court in Wichita, Kansas as part of a research project is altogether shocking. It is no less shocking that a United States Judge, a United States Attorney, and members of the University of Chicago Law School Faculty should have approved of the project and participated in it without any apparent awareness of its impropriety. There is something a little bit anomalous in having the enormity of this situation called to public notice by Attorney General Brownell and Senator Eastland, who have not been especially sensitive about the perils of wiretapping. Nevertheless, their protest was entirely proper and timely.
>
> A jury imperatively needs to carry on its deliberations in private. When it retires to consider the evidence and arguments in a case which has been argued before it, its members must be free from any outside pressure or fear of reprisal. They must be free also to discuss the case with full confidence that what they say will not go beyond the walls of the jury room. Any impairment of this privacy not only destroys the detachment with which they ought to deliberate, but effectually deprives the litigants of their right to a fair trial. Uninhibited discussion becomes very difficult if there is fear of a concealed microphone. A very bad mistake was made at Wichita, and it was compounded by the public discussion of the project. Mr. Brownell and Senator Eastland are quite right to initiate measures which will prevent any recurrence of this kind of intrusion on the administration of justice.

Warren E. Burger, then Assistant Attorney General of the United States, changed his speech before the Northwest Regional Meeting of the American Bar Association on October 12, 1955, to speak on the subject "Tampering with the Anglo-American Jury System." In this speech Mr. Burger outlined the history of the jury system, noting that the privacy of the jury deliberation is central to the American system of justice. He noted the oaths given the bailiff of a typical court, which read as follows:

> Do you solemnly swear that when this court commits these 12 jurors to your care and custody you will use all reasonable means to keep them in a body as they deliberate, that you will not suffer them to speak to any other person; nor suffer others to speak to them, and that you will preserve and protect the privacy of their deliberations on this case and that you will report promptly to this court any deviations from their complete privacy until they have reached a verdict, so help you God?

According to Mr. Burger, there is a "common thread" in the jury system, going back 400 years, protecting the privacy of the jury and protecting them from extraneous disturbances or influences—not only during the trial, but in the course of their deliberations and until they reach a verdict.

"The records are replete," says Mr. Burger, "with cases in which eavesdropping in jury deliberations by newspaper reporters or others has been punished for contempt." He sums up his speech before the ABA meeting by quoting a Supreme Court decision which states (Vol. 279, U.S. Reports, p. 749):

> The mere suspicion that he, his family, and friends are being subjected to surveillance by such persons is enough to destroy the equilibrium of the average juror and render impossible the exercise of calm judgment upon patient consideration. (Justice McReynolds.)

Now, the point I want to make here is that there was no specific law regarding the recording of the jury—it was a matter of judgment. As was expected, different groups reacted differently to the disclosure of jury bugging. One would expect the social scientists to defend their right of inquiry. One would expect the public to be outraged. But what should one expect from those in the legal profession?

A research project was conducted on this issue by Waldo W. Burchard and published in Social Forces, 1975, 36. This study was titled "A Study of the Attitudes Toward the Use of Concealed Devices in Social Science Research." In this survey groups of lawyers, political scientists, and sociologists were asked to agree or disagree with the following statement:

> The use of concealed devices for purposes of studying the jury in action will destroy public confidence in the jury system.

Thirty-two percent of political scientists agreed, 27 percent of sociologists agreed, and 65 percent of the lawyers agreed.

The study concludes:

> It is probable that differences in professional training and practice account for the greater part of the difference in attitude. Lawyers are trained to have a high regard for tradition and precedent. Their training prepares them to apply the law, rather than to question it.

Fortunately, this body, in its wisdom, has passed a law prohibiting it, and the cannons of the professional ethics of law prohibit it. (Canon 23, No. 258.)

However, the fact remains that Mr. Mikva ran the tape recorders and did not protest. Mr. Mikva was not a law student, he was a practicing attorney whose job it was to supervise and interpret the project from a legal point of view. In this, he advocated the inquiry of social science over and above protecting the legal sanctions of the American jury system. He was an advocate of reform and of experimentation at the expense of the privacy of the jury—a very critical aspect of privacy in general. Today, this action would be considered a felony, prosecuted by a fine or imprisonment.

More recently, Mr. Mikva appeared before a Senate subcommittee investigating Army information collection systems. This was in 1972. There, he was asked by Senator Ervin, and I quote:

> So, in the light of constitutional principles and the laws Congress has passed implementing these principles, do you see any basis that would justify taking steps to collect data on civilians where there is no actual violence, merely upon the theory that those civilians at some future time might engage in some violence or do something unlawful?

Mr. Mikva responded—

> There is absolutely no such justification.

In testimony before the Senate Judiciary Committee on March 13, 1974, Mr. Mikva reiterated his concern for privacy rights:

> There will always be a tension between government and the interests of individual privacy, but there must always be a balance. Over the last few years, the scales seem to have swung in the direction of government, and individual privacy at times has been seriously compromised . . . and the fate of the legislation before this subcommittee will determine whether we can balance the scales again, or if, instead we continue to sacrifice privacy for the convenience of government.
>
> . . . We are now faced with the problem of placing effective controls on a centralized data bank, one that I think can really haunt this whole concept of privacy for generations to come.

Just last year Representative Mikva testified before the House Judiciary Committee Subcommittee on Crime in support of a centralized data bank on firearms sales and purchase information. The regulations proposed by the Treasury Department's Bureau of Alcohol. Tobacco and Firearms would have set up all the major components of a comprehensive firearms registration system. But Representative Mikva did not feel this was an abuse of privacy rights.

We see here a pattern of stated principle and glaring exceptions, once again. In testimony before the Senate Judiciary Committee Juvenile Delinquency Subcommittee in 1972 on that year's gun control bill, Mr. Mikva voiced his support for the Illinois firearms laws. He said:

> We have what is known as a stop-and-frisk law in Illinois—and they pick up guns where there is no commission of a crime. And they prosecute even these people.

In sum, the record shows a pattern of behavior exhibited by Mr. Mikva that allows exceptions to rights under certain circumstances that are not well defined. He rhetorically defends the right to privacy, yet defended jury tapping and defends regulations that attack the very roots of privacy. We are dealing here with the very important concept of judicial temperament—the ability to use sound legal reasoning when every step is not spelled out in advance. These are qualities a Federal judge must possess. Mr. Mikva's behavior over the years indicates that he indeed does not possess the judicial temperament required in the critical post on the U.S. Court of Appeals for the District of Columbia.

As a Member of Congress, Representative Mikva has been a controversial figure. His views on crime and criminals, on firearm ownership, and his prejudice against gun owners are incongruent with the attitudes of the majority of Congress and the American public as a whole.

As someone has said here today. I think the distinguished Senator from New Hampshire (Mr. Humphrey), regarding judicial nominees G. Harold Carswell and Clement Haynesworth, "if a nominee had a philosophy that was so out of step with the mainstream and the direction the country appears to be headed * * * then I think philosophy would enter into my thinking."

I believe that Representative Mikva's views are similarly out of step with the mainstream, and, like Carswell and Haynesworth, his philosophy must be taken into account.

An illustration of my point is Mr. Mikva's active endorsement of House Concurrent Resolution 109.

That is the most recent. But before I address some of the things embodied in House Concurrent Resolution 109, I would just like to add parenthetically that Mr. Mikva was one of only eight Representatives to support a bill to remove the restriction on the mailing of salacious and pornographic material which might fall into the hands of children. I refer my colleagues to the Congressional Record, pages 20017 and 20018. Now, back to House Concurrent Resolution 109.

Among other things it states that it is, "the sense of the Congress that children possess both fundamental human rights and rights attributable to their status as children, and to call for enactment of Federal and State laws to implement such rights to the fullest extent possible and to grant children additional rights equivalent to the rights now possessed only by adults."

On page 3, line 3, is the following:

> The right to be represented by skillful legal counsel, as an individual having rights and interests independent of any rights and interests that the parents or guardians of the child may have,

So if the child does not want to go to church, or follow the rules at home, or if he wants to take his parents to court, according to this—according to the law; he could do so.

It goes on to declare that these children

> may exercise rights equivalent to the rights that now may be exercised under Federal and State laws only by adults.

Mr. President, families form the building blocks of a stable society. It is neither the right nor the responsibility of the Federal Government to raise our children, to determine exactly what their needs are, or to shape their political and religious beliefs. The needs that children have are best met through the institution of the family.

In recent years there has been enormous expansion of the role of Government in our private lives. As our dependence on State action expands, the family is inevitably affected by the effects of growing State intervention. The responsibility and privilege of the family to experience independence and to establish its own norms is being usurped by "big brother."

Finally, Mr. President, there is every reason to believe that Representative Mikva, if confirmed, would view his role as a judge as one of activism and advocacy.

In certain areas, executive impoundment and the rights of debtors, he has specifically advocated judicial remedies to supplement legislation: "There is an important nonlegislative road to reform."

Such judicial activism is especially dangerous for a judge on the Court of Appeals for the District of Columbia. That court hears most of the appeals from decisions of the regulatory agencies—close to half of the total work load of the court and over a quarter of all appeals to appellate courts from such agencies. Representative Mikva is clearly in favor of active regulation by Federal agencies.

He would be likely to use the court as a tool for social change to encourage regulation by agencies he approves of and discourage action by agencies he feels have outlived their usefulness. He fits the mold of the activist lawyers who have played a key role in the latter part of this century. But a good lawyer does not necessarily make a good judge.

A case in point is the late Judge Thurman Arnold, appointed in 1942 to the D.C. Circuit Court of Appeals—the same court for which Mr. Mikva has been nominated. In stepping down from the bench, Judge Arnold later reflected on his own incompatibility with the role of a Federal judge:

> I think it was my preference for partisan argument, rather than for impartial decision, that made me dissatisfied with a career on the appellate court. Furthermore, I was beginning to doubt whether a person of my temperament could ever be an ornament to the bench. I was impatient with legal precedents that seemed to me to reach an unjust result. I felt restricted by the fact that a judge has no business writing or speaking on controversial subjects. A judge can talk about human liberties, the rule of law above men, and simillar abstractions. All of them seemed to me dull subjects. To sum it up, a person who is temperamentally an advocate, as I am, is not apt to make a good judge. I could cite many examples of good advocates with whom I was acquainted who made bad judges, and since this is classified information, I must refrain.

Mr. President, I believe that Congressman Mikva is, as Judge Arnold was, temperamentally an advocate. His strong views have put him in the thick of many controversial battles both in his career as an attorney and as a Member of Congress. There is no reason to believe that his personality would change overnight if confirmed for the Federal bench. Instead, a Federal judgeship would be more likely to be another chapter in his career as an advocate of controversial social change.

One of the major issues on which he would be likely to continue his activist role would be the area of crime control and gun control. His hardened opposition to strict punishment of criminals, support for softer prison conditions, and support for restrictive firearms legislation put him out of step with the mainstream of American society.

The political appointment of Abner Mikva would conflict with President Carter's and former Attorney General Bell's claims that we need a more professional, less political judiciary. And it would do so when there is already a complaint that the President, even without the Mikva appointment, has made the judicial appointment process too political.

Mr. President, I believe that Mr. Mikva is a sincere man, but I do not feel he is capable of exercising the temperament necessary in a judge, especially at the Court of Appeals level of the Federal judiciary. For this reason, and for the reasons outlined above, I must object to his nomination.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Maryland.

Mr. SASSER. Will the Senator yield for a brief moment?

Mr. SARBANES. I am happy to yield.

Mr. SASSER. Mr. President, after careful deliberation, I have decided to cast my vote in favor of the nomination of Congressman Mikva to serve on the U.S. Court of Appeals for the District of Columbia.

I have had a number of calls from several of my constituents who perceive this nomination as a cause for concern. A substantial majority of my constituents in Tennessee are opposed to gun control. I have consistently represented that point of view. I have opposed all threats to the right of Tennesseans to legitimately possess firearms and I will continue to do so. If I felt that the confirmation of Abner Mikva would threaten that right, I would not hesitate to vote against him. With this in mind, I have given this nomination close study.

I am impressed by the testimony given in Congress, on Mikva's behalf by some of his present and past colleagues in the House of Representatives who represent opinions on gun control that are similar to mine and those of the people of Tennessee. For example, former President Ford stated:

> Even though Representative Mikva and I have some philosophical and partisan differences, he is a person of great integrity, ability and dedication.

When Representative Guy Vander Jagt of Michigan appeared before the Judiciary Committee he said:

> I specifically mention that Ab Mikva and I disagree on the subject of gun control. I, however, have no doubt in my mind that Ab Mikva has the integrity and fairness to interpret the law the way the law was written, not the way he wished it may have been written.

Congressman Vander Jagt and Congressman Robert Michel, were then asked, if they were convicted or indicted on firearms offense, if they would have any compunction about going before Judge Mikva.

Congressman Vander Jagt answered:

> I would pray I was sent before the kind of judge with the kind of integrity and fairness that I know Ab Mikva would exemplify as a judge.

Congressman Michel responded:

> I would have to certainly echo those sentiments.
>
> I would have all the assurance in the world that I would get fair treatment and the law would be followed to the letter. That is the thing I think we are looking for.

House Speaker O'Neill said of Congressman Mikva:

> I have always found him ready to look at both sides of an argument. He brings a basic sense of fairness and balance to every discussion.
>
> Ab Mikva is able to disagree without being disagreeable. He understands that reasonable men can differ without thinking less of each other.

His service as an elected official has been impressive, testimony in support of his nomination given by Democrats and Republicans, liberals and conservatives, have given the highest words of praise for Congressman Mikva.

Mr. President, Congressman Mikva has impressed those who have served with him with his integrity—that he can be taken at his word.

His position on gun control is of concern to me and many people in Tennessee have let me know that it concerns them as well.

It is, therefore, important to me to note statements that the Congressman has made on the subject of gun control.

> I intend to, and expect, to leave my advocacy behind the minute I take the oath of office. The judge ought not make the law, and ought not advocate changes in the law. The judge ought to interpret the law as policy makers decide.
>
> My views on gun control have been those of a policy maker . . . I would oppose the attempt to change the gun policy of this country by judicial fiat.
>
> I can say unequivocally that I would apply the constitution and the laws to the best of my knowledge as they were written and not the way I wish they were (written).
>
> The cannons and the statutes are very clear that a judge ought not sit on a case which he can not make the decision impartially, and ought not sit in a case where it appears he is not impartial. And I would observe those strictures very seriously.

Mr. President, it is clear that Congressman Mikva and I do not share the same opinions on the issue of gun control. But, in light of his high qualifications and personal attributes, I do not believe this difference should stand in the way of his serving on the Court of Appeals. Further, I believe that Congressman Mikva's statements on gun control which he presented in his confirmation hearings can be taken at face value by the people of the United States. Accordingly, I shall vote for his confirmation.

Mr. SARBANES. Mr. President, I am pleased to rise in strong support of the nomination of Abner Mikva to serve on the U.S. Court of Appeals for the District of Columbia. It is not often that we have the opportunity to pass favorably on a man or a woman with the distinguished qualities which Abner Mikva brings to this position: qualities of intelligence, of character, of integrity, of dedication to the Nation.

Ab Mikva's entire career has been one of service to this country in keeping with our very finest traditions. Those qualities of distinction ought to transcend differences that any of us may have with respect to one or another of the substantive issues on which, over a long public career, he has taken a stand.

Mr. President, Ab Mikva's career from the very beginning has been marked by quality. The dean of the University of Chicago Law School, Dean Levi, in commenting on this appointment, said the following, and I want to read just a moment from this letter to the chairman of the Senate Committee on the Judiciary:

> I have known Mr. Mikva since he was a student at the University of Chicago Law School, from which he graduated in 1951. Mr. Mikva was a member of an exceptionally able postwar law school class which reflected the drive and maturity of returning veterans. His record in law school, in every way, was outstanding. He was elected to Phi Beta Kappa in his first year and to Coif in his third year. In his last year, he was editor-in-chief of the University of Chicago Law Review. His scholastic attainments, the high regard in which he was held by members of the law faculty, and their belief in his promise resulted in Justice Sherman Minton taking him for his law clerk in the following year.
>
> Since that time, his career has been a full one, both in practice and in elected public office at the State and national levels. As part of that full career, he has participated in the activities of the organized bar (for example, serving on the board of manager of the Chicago Bar Association) and he has contributed articles to the scholarly law journals of the University of Illinois, Northwestern University, and the University of Chicago. He has been a thoughtful and scholarly member of the bar.
>
> For many years, it has been widely recognize that he has the qualities which can make a great judge, not the least of which are an inherent sense of fairness and the analytical ability and sense of history so important for the separate role of the judiciary.

Abner Mikva interrupted his early college years at the age of 17 to go into the Armed Forces of the United States to serve his country in the Second World War. After the war he attended the University of Chicago Law School where, as Dean Levi has pointed out, he established a brilliant academic record. He clerked for Justice Sherman Minton in the Supreme Court of the United States. He practiced law in the city of Chicago for close to 20 years, and was elected to the Illinois House of Representatives, where he served from 1957 to 1966 and was chairman of the committee on the judiciary of the Illinois House of Representatives.

He came to the Congress of the United States in 1969 until 1972, and again in 1975 until the present.

Throughout his career, anyone who has come into contact with Abner Mikva and who has had the opportunity to know him and to work with him, as I have, is prepared to testify to the extraordinary qualities which ABE MIKVA brings to any task which he undertakes.

Mr. President, in the testimony before the Senate Judiciary Committee, there was an extremely thoughtful and moving statement made by BOB MICHEL, Congressman from the State of Illinois and the Republican whip of the House of Representatives. I want to quote from his comments before the committee:

> I am here because I have observed Ab Mikva in debate over a period of years. I have seen him in the midst of complex and protracted policy discussions on the floor of the House. And I have always been impressed with his ability to state his convictions clearly and forcefully but without animosity or personal attacks. I have been impressed with his personal integrity and his essential character. In short, Ab Mikva has the kind of temperament that seeks answers for questions, not scapegoats to blame.
>
> To those who may find it strange to find a Republican like me saying nice things about a Democrat like Ab Mikva, I can only say that thank God we live in the kind of country where such a thing can happen. We have disagreed on issues, but we have come to respect each other as human beings. In too many nations of the world, political disagreement results in the winner executing the loser. In other nations there is no such thing as true political disagreement as we know it. But in the United States, conservatives and liberals can disagree on practically everything but still recognize in each other essential character traits that are admirable.
>
> Integrity knows no political party. Honesty bears no partisan label. Patriotism is not the private priority of any ideological viewpoint.
>
> Integrity, honesty, patriotism—that is not a bad combination of character traits for any person and most certainly for a judge. Add to that Ab's experience as a member of the Judiciary Committee and his endorsement by the American Bar Association, and you have what I believe is a first-rate nominee.

Integrity, honesty, patriotism, intellect, character. BOB MICHEL said it all when he recognized, as someone from the opposite side of the aisle who disagreed with the substance of many of AB MIKVA'S policies, that he had such deep respect for his personal character as to see that he would be an outstanding judge.

Mr. President, we have before us a man of great quality, great fairness, great decency. He should be confirmed by the Senate of the United States.

Mr. THURMOND. I yield such time as he may require to the distinguished Senator from New Hampshire (Mr. HUMPHREY).

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. HUMPHREY. I thank the Chair.

Mr. President, like Senator JEPSEN, I have a mutual friend who thinks highly of Representative ABNER MIKVA. As a matter of fact, this mutual friend is also a Member of the House of Representatives and we discussed this over dinner last night.

In my opposition I do not question the references of Mr. MIKVA or, indeed, his integrity, honesty, or patriotism. No one has raised that issue. That is not a matter under any question.

But what is under question is whether Mr. MIKVA will be a judicial activist, whether he will use the bench for reform.

Our distinguished colleague from Montana, I am glad to observe, put a direct question to Mr. MIKVA during the Judiciary Committee hearings, asked him whether or not he would be a judicial activist and, of course, Mr. MIKVA replied, as these nominees always will, "Of course not, I wouldn't think of that. If Congress has not acted on a matter, then I certainly would not."

Well, Mr. President, certainly, no nominee for the Federal bench will come before the committee and say, "Don't confirm me, don't pass my nomination down to the floor, because if confirmed I will be a judicial activist. I will make law by judicial fiat."

No one will say that.

So, I think we have to ask ourselves to which statement we will give great credibility, his denial before the Judiciary Committee or his statement in the law review I alluded to earlier in which he said that he regards the bench as "an important nonlegislative road to reform."

I think that is the central issue, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. DURKIN. Mr. President, Senator KENNEDY indicated he would yield me 2 minutes.

Mr. THURMOND. I yield the distinguished Senator from New Hampshire 2 minutes.

Mr. DURKIN. I thank the distinguished Senator from South Carolina.

Mr. President, I want to make the RECORD very clear, I am totally opposed to federally enforced gun control. I do not think it will work.

Mr. President, if we like the Department of Energy, we would love an agency embarked on Federal gun control.

I do not think the Mikva nomination has absolutely anything to do with gun control. I think he has a distinguished record in the House. I think there would be very little area to get involved with gun control on the appellate court.

I think it is too bad, I think it hurts the cause of those of us who are opposed to Federal gun control, to mix this nomination up with the issue of gun control.

I do not think there will be legislation that would pass this Chamber or the House imposing Federal gun control. If there is, I would oppose it.

But I think his record, Congressman MIKVA'S record, speaks for itself.

He has been an excellent Member of the Congress and he will be an excellent member of the court.

Mr. President, I realize time is a problem. I yield back my time.

Mr. KENNEDY. I yield 3 minutes to my colleague from Massachusetts.

The PRESIDING OFFICER (Mr. SARBANES). The Senator from Massachusetts.

Mr. TSONGAS. I thank the Senator for yielding.

Mr. President, one of the issues that has not been raised here is the issue of the capacity and willingness of good people to serve in Government.

In the State of Massachusetts, there are elections being held today and they cannot find enough people to warrant having primaries. It is the whole process of disinterest in which the public process continues.

Here is an example of where an individual whose credentials are outstanding, whose personal record is impeccable, seems to be in some difficulty in terms of his confirmation because of a view he has that is representative of his particular congressional district.

I served with Mr. MIKVA for 4 years in the House. I think anyone who was in a similar position could only come before this body and recommend him to his colleagues.

It seems to me that if we ever get to that point where people like AB MIKVA are not confirmed, are discouraged from participating in the process, the loss is not perhaps to him, but to the country as a whole.

I hope the nomination will not only be confirmed, but confirmed with a majority of such substance that the word will go out quite clearly that this country needs and wants people of that caliber serving in all its branches.

I yield back the remainder of my time.

Mr. KENNEDY. I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to acknowledge the work on this nomination of our colleague on the Judiciary Committee (Mr. BIDEN) who chaired the hearings and has taken a great interest in this nomination. I want to thank the ranking minority member (Mr. THURMOND) and the other Members for the bipartisan cooperation and help and support they have given the total range of the judges.

This will be the last vote on this group that has come up.

We have worked together. There have been areas of some difference on some of the nominations, but I want to thank them.

Mr. THURMOND. Mr. President, I thank the distinguished chairman of the committee for his kind words. It has been a pleasure to work with him on the judicial nominations.

Mr. NUNN. Will the Senator yield me 1 minute?

Mr. KENNEDY. I yield 1 minute to the Senator.

Mr. NUNN. Mr. President, I intend to vote for this nomination. I do so in spite of the fact that this particular nominee has been in favor of gun control and I have consistently opposed it.

But if we in this body start turning down people who are recommended by the President of the United States for the Federal bench because of a philosophical position they might have on one issue, then we have succumbed to, I think, the worst kind of one-issue politics.

We see it decried all over the country. We in this body time after time talk to each other about how one-issue politics can really sway us, and should not.

Well, this is the time to decide whether that will happen.

I might have a nominee that comes up here in 2 weeks or a month that happens to be in favor of some position like resuming the draft. He may have made a speech on it once or twice.

Will we vote him down because of that position?

I do not believe in judicial activism.

But I do believe that this Congress of the United States has to stand up every now and then in spite of our own individual views and in spite of political causes and say that we are not going to be run by one-issue groups.

I would be the first to say that I am opposed to gun control. I will continue to be opposed to gun control. But I do plan to support this nomination. I hope my colleagues do likewise.

Mr. President, I am totally opposed to gun control, but I am for this nomination.

Mr. STONE. Will the Senator yield to me?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. One minute to the Senator from Florida.

Mr. STONE. Mr. President, this is a very difficult vote for me. I was against voting for confirming this nominee. But having checked most closely on the issue of whether the nominee is thought, by his colleagues and those who have worked with him over the years, to be not only able, but willing and desirous—not to vote a philosophy, not to judge on the basis of a philosophy, but to judge on the basis of precedents of law—based on that I find that I really ought to vote for the confirmation.

Though, as other Senators who have spoken here today, I have consistently voted against Federal gun control and will continue to do so, based on that one issue, that the man not only says himself that he will vote on the basis of the law and the facts and not on his personal predilections, but on the fact that almost all, if not all, of his colleagues testified about that factor in him, testified that way, I think it would be wrong to vote "no" in a circumstance like that. So I will vote "yes."

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Virginia such time as he may require.

Mr. HARRY F. BYRD JR. Mr. President, there is, I think, a serious constitutional problem involved in regard to the nomination of Congressman ABNER MIKVA to be judge for the Circuit Court of Appeals for the District of Columbia.

Article 1, section 6, clause 2 of the Constitution states:

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time.

Thus, it seems clear that no Member of Congress may be appointed to a Federal office when the salary of that office is increased at any time during the term for which the Member has been elected. The term for which Congressman MIKVA was elected will not end until January 2, 1981, whether or not the Congressman resigns his present position. Under existing law, on October 1, the salary of the job for which he has been nominated will be increased. Congressman MIKVA is squarely within the prohibition set forth in the Constitution.

The Virginia constitution has similar restrictions in regard to appointments of legislators to judicial positions during the terms of office to which they were elected. I faced this situation as a member of the Virginia Senate.

While on constitutional grounds I cannot vote to confirm the nomination of Mr. MIKVA as a Federal judge, I also have reservations as to whether Congressman MIKVA, although a fine man, is one whose activist temperament is suited to the office of U.S. judge.

Mr. KENNEDY. Mr. President, there is a response to the constitutional issue which has been raised by the Senator from Virginia.

Question has been raised by the Senator from Idaho regarding the constitutionality of this appointment under article I, section 6, clause 2 of the constitution.

I will not go into the details of this argument, but it was most certainly considered and weighed by the Judiciary Committee. We agreed, in reporting this nomination, that there was no constitutional bar to Congressman MIKVA's nomination.

I ask unanimous consent that two Justice Department memoranda on this issue be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM FOR THE ATTORNEY GENERAL

Re Appointment of Congressman Mikva as a Federal Judge.

This is in response to the informal request of the Senate Judiciary Committee for the views of the Department of Justice regarding an unsigned memorandum dated July 2, 1979, taking the position that Article I, Section 6, Clause 2, of the Constitution bars Congressman Abner Mikva from appointment during the present Congress as a judge of the United States Court of Appeals for the District of Columbia Circuit. That position rests on factual assumptions which are untenable and in constitutional analysis which, in our view, is at odds with the plain language and settled interpretation of Article I, Section 6, Clause 2. The constitutional provision reads as follows:

"No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office."

I

The memorandum argues that wisdom dictates that Congressman Mikva's appointment as a judge be deferred beyond the expiration of his current congressional term, which began in January of 1979. The core premise of this assertion, as stated on page 1 of the memorandum, is that "existing law will operate to increase the compensation of circuit judges during Representative Mikva's present term of office." However, the premise—namely, that the compensation of federal judges must in fact increase during the present Congress—is speculative.

Federal appellate judges are compensated at rates determined under § 225 of the Federal Salary Act of 1967, Pub. L. 90–206, 81 Stat. 643, as amended, 2 U.S.C. §§ 351–361, and adjusted pursuant to the Executive Salary Cost-of-Living Adjustment Act. Pub. L. 94–82, 89 Stat, 422, 28 U.S.C. § 461. Pursuant to § 205(a)(1) of the Executive Salary Cost-of-Living Act, the affected salary rate of federal judges is to be adjusted by a percentage of the salary rate equal to the overall percentage adjustments made in the rates of pay under the General Schedule. Adjustments in the rates of pay under the General Schedule are governed by the Federal Pay Comparability Act of 1970, Pub. L. 91–656, 84 Stat. 1946, 5 U.S.C. § 5305 *et seq.* It provides that the President is to direct his agent to prepare annually a report which compares rates of pay in the statutory pay system with rates of pay for the same levels of work in the private sector, and recommends appropriate adjustments of the former. After considering the report and the findings of an Advisory Committee on Federal Pay, the President is to adjust statutory rates of pay accordingly. That adjustment becomes effective in October of the applicable year. Alternatively, the President, in view of economic conditions affecting the general welfare, may prepare and transmit to Congress before September 1 of each year an alternative plan incorporating salary adjustments that he considers appropriate. Such an alternative also becomes effective in October, and it is to continue in effect unless, within a stated period, either House of Congress adopts a resolution disapproving the alternative plan. If a disapproval resolution is adopted, the salary adjustments for the statutory pay system recommended by the Advisory Committee on Federal Pay are to become effective.

A fundamental element of the foregoing statutory scheme is that salary adjustments are triggered by action of the President, which for 1979 has not yet occurred and will not necessarily occur under the statutory scheme until September. Moreover, once a Presidential decision is transmitted to Congress, it remains possible that Congress will assure that no salary increases may occur in any event, for Congress could well enact legislation, as it has in the past, preventing upward salary adjustments. In short, it is incorrect to assert that, at the present time, it is known as a fact that the salary of federal appellate judges will rise this year or, indeed, during this Congress.

II

Thus, the issue in the present circumstance is not whether Congressman Mikva may be appointed to a judgeship the emoluments of which have already been increased, but rather whether he may be appointed to a judgeship as to which the emoluments may be increased subsequent to his appointment. To hold that in the latter situation he is precluded from appointment, it would be necessary to construe Article I, Section 6, Clause 2 as barring the appointment of a member of the Congress to a civil office during the term for which he has been elected prior to the time when the emoluments of the office have been increased. That interpretation is plainly at odds with the language of the constitutional provision itself, which establishes that no member of Congress "shall . . . be appointed" to a civil office the emoluments of which *"shall have been encreased"* during the term for which the member was elected. By utilizing the future tense when referring to an appointment, while employing the future perfect tense to refer to an increase in emoluments, the provision on its face plainly shows an intention of preventing an appointment only when an increase in the emoluments of an office precedes an appointment to that office.

The importance of carefully construing the literal language of the constitutional provision is underscored in the opinion of Attorney General Ramsey Clark, 42 Ops. A.G. 381 (1969), which concluded that it did not disqualify Congressman Laird from appointment as Secretary of Defense. The essential foundation of the Clark opinion was the language of the constitutional proscription, which, it was held, "clearly does not apply to an increase in compensation which is proposed subsequent to the appointment." Furthermore, he held it did not apply where ". . . it is possible but not certain at the time of the appointment that a proposed salary increase for the appointee may receive final approval at a future date." 42 Ops. A.G., at 382. This reasoning, which is directly applicable to the present case, is as follows:

> It is my view that, notwithstanding submission of any salary increase recommendations in the Budget message, the salaries in question will not 'have been increased' within the meaning of the constitutional prohibition so long as Congress may still exercise its power of disapproval. Assuming that you [Congressman Laird] are, in the normal practice . . . , nominated, confirmed, and appointed as Secretary of Defense within a few days following the inauguration, i.e., during the period in which it remains uncertain whether Congress may disapprove the Presidential salary recommendations, I believe your appointment will not be precluded by this constitutional clause. *Id.* at 382–83.

Just as Attorney General Clark concluded that before an increase in the emoluments of an office is certain, an appointment to a civil Office of a sitting Congressman is valid, so in the present circumstances, until such a salary increase has become an accomplished fact, Congressman Mikva's appointment is permissible pursuant to Article I, Section 6, Clause 2.

The memorandum attempts to distinguish the Clark opinion on the ground that the salary statute in effect at that time is different from the present salary statute in that under the current arrangement, some salary adjustment will go into effect unless the Congress as a whole, as opposed to one House alone, takes affirmative legislative action to prevent this eventuality. According to this view, present law makes it somewhat more difficult for Congress to prevent a salary increase. However, whatever else may be said about the distinction, it is simply not germane to the reasoning of the Clark opinion. The opinion, in summarizing the applicable statutory scheme, emphasized that ". . . it will be uncertain whether there will be any increase in Cabinet salaries until March 1, or such earlier date *as Congress may take definitive action manifesting that it will not disapprove such increase.*" 42 Ops. A.G., at 382. (Emphasis supplied.) The precise nature of "definitive action" by Congress was not an issue in the Clark analysis. Rather, the crucial point was the uncertainty of a salary increase at the time of Mr. Laird's appointment. Furthermore, nothing in the language of the constitutional provision suggests that it shall operate only when it may be relatively less difficult for Congress to prevent there being an increase in the emoluments of an office. Rather, the critical point is whether there has been an "appointment of a legislator to an office the compensation of which '*shall have been*' increased prior to the making of such appointment." 42 Ops. A.G. at 381–82. (Emphasis in original.)

The memorandum also suggests that the present case is covered by the opinion of Attorney General Brewster in 1882, 17 Ops. A.G. 365, holding that a former member of Congress could not be appointed to an office in view of the proscription of Article I Section 6, Clause 2. However, the memorandum neglects to note that the situation underlying the Brewster opinion is fundamentally distinguishable from that obtaining here. In the Brewster case, a former Senator, whose term was to expire in March of 1883, resigned from the Senate in 1881 to accept appointment as Secretary of the Interior. He subsequently resigned from that position, returned to private life, and came under consideration for appointment to the office of tariff commissioner, which was created by legislation enacted on May 15, 1882. It is obvious that the former Senator could not have been appointed to the newly-created position until after it had in fact been created. Thus, as Attorney General Clark stressed in his opinion when discussing the 1882 Brewster holding, it rested on a crucially distinguishable factual foundation, and as such it "has no bearing on [the present] situation." 42 Ops. A.G. at 383.*

In summary, the language and settled interpretation of Article I, Section 6, Clause 2 establishes that Congressman Mikva is not barred from appointment to a federal judgeship.

III

It should be further noted that, contrary to the view expressed in the memorandum, even if a salary increase for federal judges generally were to come into effect, the Congress could by legislation exempt from coverage of the salary increase the office to which Congressman Mikva may be appointed. Such a step has been taken in the past. For instance, in 1909, President Taft sought to appoint Philander Knox as Secretary of State, although in the prior year the compensation for that office had been increased. A bill was introduced and enacted to reduce the salary of the office to the previous level in order to avoid a constitutional difficulty. *See* 43 Cong. Rec. 2205, 2390–2403. The same type of measure was taken with respect to the appointment of Senator Saxbe to the office of Attorney General. *See* Pub. L. 93–178, 87 Stat. 697 (Dec. 10, 1973). Accordingly, even in the event that a salary increase were to become effective prior to the appointment of Congressman Mikva, which is not the situation presently existing, he would not thereby be necessarily barred from appointment as a federal judge.

JOHN M. HARMON,
Assistant Attorney General, Office of Legal Counsel.

MEMORANDUM FOR THE ATTORNEY GENERAL

Re Appointment of Congressman Mikva as Federal Judge.

This memorandum addresses the arguments made in a letter dated July 16, 1979, from James Featherstone, General Counsel of the National Rifle Association (NRA), to Senator Joseph Biden concerning the constitutional eligibility of Congressman Abner Mikva to appointment to the U.S. Court of Appeals for the District of Columbia Circuit. That letter substantially reiterates the contentions contained in an unsigned memorandum dated July 2, 1979, to which I responded in my memorandum to you of July 11, 1979. However, in order to clarify the issues, after summarizing our position, we will discuss certain of the main points advanced by the NRA in its recent letter.

It is our conclusion that, under present statutory arrangements, Congressman Mikva's appointment to a federal judgeship is not barred by Article I, Section 6, Clause 2 of the U.S. Constitution. First of all, since no increase in the emoluments of federal judges has to date come into effect during this Congress, we are thus dealing with a situation in which there is a prospect—but no present reality—of such an increase. Accordingly, the question is whether appointment to a federal judgeship of a sitting Congressman is barred by the possibility of a future salary increase for judges during the term for which the Congressman was elected. The plain language and settled executive interpretation of Article I, Section 6, Clause 2, firmly support the view that a sitting Congressman is not barred from appointment in such circumstances. Second, even if a salary increase were to occur prior to the appointment of Congressman Mikva, it is our position that Congress is constitutionally empowered to exempt from coverage of the increase the office to which Congressman Mikva may be appointed. Such practice has both historic (the appointment of Senator Knox as Secretary of State) and modern (appointment of Senator Saxbe as Attorney General) precedent, each of which is referred to in our earlier memorandum.

The NRA, in responding to these arguments, has stated quite clearly, at page 2 of its July 16 letter, that its position is that under existing statutes "the compensation of federal judges must increase during the present Congress." This is simply incorrect. It is possible for Congress, by means of legislation, to block a salary increase for judges during the present Congress; we do not now know what course Congress will take.

Further, the NRA letter makes plain that its position is that all sitting Congressmen are barred from appointment to federal judgeships, or any other "civil Office" for purposes of Article I, Section 6, Clause 2, until after the end of their term as Congressman. Such reasoning rests on the premise that the federal salary statutes, by providing for the possibility of annual adjustments in government salaries, disqualify all active Congressmen because, after their appointment to a civil office, the office to which they had been appointed may have its compensation adjusted upwards. Such an extreme view fails to take account of the plain wording of Article I, Section 6, Clause 2, which establishes that no member of Congress "*shall . . . be appointed*" to a civil office the emoluments of which "*shall have been* increased" during the term for which the member was elected. (emphasis added). As we noted in our earlier memorandum, by utilizing the future tense when referring to an appointment, while employing the future perfect tense to refer to an increase in emoluments, on its face the provision displays a clear and unambiguous intent of preventing an appointment only when an increase in the emoluments of an office precedes an appointment to that office.

In response, the NRA letter seems to suggest that our position treats differently the provision's language "shall have been created . . . during such time" referring to an office and the language "shall have been increased . . . during such time" referring to the compensation. Yet, if we understand that suggestion correctly, the opposite is in fact the case. For it is clear that a Congressman cannot be appointed to a civil office before that office has been created. Thus, the constitutional language referring to the creation of offices must be taken to refer to a situation in which an office is created during a Congressman's term at a certain moment, and *after* that moment but before the end of the term the Congressman is appointed to that office. Such an appointment under Article I, Section 6, Clause 2, is barred. In precisely analogous fashion, with respect to the language regarding an increase in emoluments, such language must, in our opinion, be taken to refer to a situation in which the emoluments of an office are increased during a Congressman's term at a certain moment, and *after* that time but before the end of the term the Con-

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*Moreover, it should be noted that if the opposite interpretation from the one supported by the language and settled analysis of the constitutional provision were followed, and it were held that a sitting Congressman could not be appointed to an office the emoluments of which were increased *after* his appointment, then Congress, by enacting a salary increase after the President had appointed a federal judge, would thereby retroactively invalidate the appointment of a judge who had been a Congressman at the time of his appointment. This would, in effect, amount to the removal of such an officer, and thus would circumvent the constitutionally-mandated process of impeachment as the only existing method for removing federal judges.

gressman is appointed to that office. In short, the two situations should be viewed in parallel terms. That reasoning leads to our conclusion that unless emoluments for an office have been increased prior to appointment, the Constitution presents no bar at all.

Further, the NRA's July 16 letter rather inexplicably asserts that Attorney General Clark's decision regarding the appointment of Congressman Laird to the Office of Secretary of Defense does not lend support to the conclusion that Congressman Mikva's appointment would be constitutional. In fact, the Clark opinion directly supports that view. Under the statute of concern in the Clark opinion, the President was authorized to include recommendations for salary increases, if any, in his budget message to Congress; the recommendations were to become effective no earlier than 30 days following the transmittal in the President's budget message unless they were disapproved by Congress. Under these circumstances, Mr. Laird would have been a member of the 91st Congress when the recommendations for salary increases were transmitted, but Secretary of Defense when they became effective. See 42 Ops. A.G., at 382. On this basis—which if anything is less favorable than the present factual situation—Attorney General Clark reasoned that the appointment would be valid, for the proscription of Article I, Section 6, Clause 2 does not apply were ". . . it is possible but not certain at the time of the appointment that a proposed salary increase for the appointee may receive final approval at a future date." 42 Ops. A.G., at 382. That reasoning applies directly to this case, in which it is possible, but not certain, that a salary increase may receive final approval at a future date.

In response to the contention that even if, in the future, a salary increase for federal judges were to come into effect before Congressman Mikva were appointed to the federal bench, Congress still could by legislation exempt from coverage of the salary increase the office to which the Congressman may be appointed, the July 16 memorandum merely repeats points earlier advanced. The short answer is that although this point has been debated in the past—for example, by Professor Kurland—Congress quite correctly, has not accepted the suggestion that Article I, Section 6, Clause 2 stands in the way of such a procedure.

JOHN M. HARMON,
Assistant Attorney General,
Office of Legal Counsel.

● Mr. BRADLEY. Mr. President, I rise to support the nomination of our colleague, ABNER MIKVA, for a seat on the U.S. Court of Appeals for the District of Columbia.

ABNER MIKVA is one of those rare individuals who grace and do honor to any institution with which he is connected. As a longtime Congressman from Illinois, he has served on the Judiciary Committee and the Ways and Means Committee for many years. There he has gained a reputation that any of us would envy. He is respected by his colleagues beyond party, beyond political philosophy, and beyond ideology. He is universally considered one of the most intelligent Members of the other body. His integrity is unchallenged. His dedication to the causes he champions never flags. No one has ever accused him of trimming his sails to meet changing political winds. In fact, his service in that body might well have not been interrupted had he done so.

The high regard with which he is held in that body has been testified to by the leaders and other Members who have supported his nomination. It is not every day that the minority leader, the minority whip, the leaders of conservative factions of the Republican membership, and a former Republican President, all support the nomination of a liberal Democrat by a Democratic President.

Now, to be sure, their support may be tinged with a little enlightened self-interest. As they humorously suggested. AB MIKVA is a hard man to beat in the House of Representatives, and they are more than a little pleased to kick him upstairs where they do not have to contend with him.

I do not believe that the kind of support that AB MIKVA has gotten is really based upon such considerations. He has been recognized by his colleagues, by the President, by the selection commission that recommended him unanimously, as perhaps the most qualified person to take a seat on this court. Those of my colleagues who have had a chance to work with him in the past, know his qualities. I only regret that I have not had a chance to do so myself. But because of what I know about him, I support his confirmation, and I urge the rest of the Senate to do so.●

● Mr. DOLE. Mr. President, I oppose the nomination of ABNER MIKVA for the District of Columbia Court of Appeals. We have heard many arguments in favor of Representative MIKVA's character—that he is a man of integrity and social consciousness, that he has much experience, that he is fair.

While I do not question all these accolades, I must weigh them in the balance against those qualities which I feel a justice should possess. He represents the scales of justice when he sits at the bench, and we have an obligation to our constituents to see to it that those scales are not overly balanced for or against one side. A judge should be impartial when faced with a case on appeal. He should not allow his own emotions and political prejudices to blind him to one side while enlarging his view of the other.

In asking myself whether ABNER MIKVA is fit to act in this impartial manner while on the bench, I cannot help but conclude that the answer is no.

Representative MIKVA has a long history of political activism, and has tended to take extreme positions on such issues as gun control. In part, it is a legislator's role to play the advocate—precisely the opposite of what is expected of a good judge.

While I am not arguing that being a legislator per se should disqualify one from holding judicial tenure, I believe that in this nominee's case, the record speaks for itself.

The nominee has long been an ardent advocate of gun control, to the point where he has stated that "the only private citizens who need handguns are criminals." Can such a nominee act impartially on the bench with regard to the second amendment?

On other issues like abortion, drug abuse, obscenity, bail reform and antitrust, the nominee has been an outspoken advocate of one side—thus raising serious questions as to his capacity for impartiality as a juror, let alone as a judge.

As one of three jurists on the District of Columbia Court of Appeals, the nominee might well be tempted to persuade the other two to adopt his position in a case, to render decisions to shape society consistent with his own views, since he believes that the judiciary must act because Congress has failed to. His accustomed role as an activist may lead him to extend his advocacy to the bench.

In short, Mr. President, I feel that the nominee's record as an activist may render it difficult or impossible for him to act as an impartial judge, particularly on many issues likely to arise in the District of Columbia Court of Appeals for which he has been nominated. For this reason, and not because of any political differences, I must oppose his nomination today.●

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. TSONGAS). All time having been yielded back, the question is, will the Senate advise and consent to the nomination of ABNER J. MIKVA, of Illinois, to be U.S. circuit judge for the District of Columbia? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BURDICK (when his name was called). On this vote I have a pair with the distinguished Senator from West Virginia (Mr. RANDOLPH). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I, therefore, withhold my vote.

Mr. DECONCINI (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Delaware (Mr. BIDEN). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Illinois (Mr. STEVENSON). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CANNON (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Montana (Mr. MELCHER). If we were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), the Senator from Delaware (Mr. BIDEN), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the

Senator from Tennessee (Mr. BAKER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER (Mr. PRYOR). Are there any other Senators wishing to vote?

The result was announced—yeas 58, nays 31, as follows:

[Rollcall Vote No. 313 Ex.]

YEAS—58

Baucus
Bayh
Bellmon
Bentsen
Bradley
Bumpers
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
Durenberger
Durkin
Eagleton
Exon
Glenn
Hart
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stewart
Stone
Tsongas
Williams

NAYS—31

Armstrong
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Church
Dole
Domenici
Ford
Garn
Goldwater
Gravel
Hatch
Helms
Huddleston
Humphrey
Jepsen
Laxalt
McClure
Morgan
Roth
Schmitt
Schweiker
Simpson
Stevens
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—4

Burdick, for.
DeConcini, against.
Robert C. Byrd, against.
Cannon, against.

NOT VOTING—7

Baker
Biden
Melcher
Moynihan
Randolph
Stevenson
Weicker

So the nomination was confirmed.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the President be immediately notified that we have approved the judicial nominations this evening.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

(The following proceedings occurred earlier:)

Mr. ROBERT C. BYRD. Mr. President, no debate is in order during rollcall votes.

There will be no more rollcall votes today.

In order that committees meeting on energy, taxes, et cetera, may have a day without interruption, the Senate will not be in tomorrow if I can secure the agreement as to the agenda on Thursday and Friday. I hope the committees will take advantage of this.

Mr. President, the Senate will probably be in tomorrow. I just retract my statement.

I wanted to explain that the reason we were going to be out tomorrow and not in Friday is that we do not have work for tomorrow. We do not have the continuing resolution over here. We do not have the debt-limit ceiling over here. I would love very much to be in tomorrow and be out Friday. But it is a case of not having work tomorrow and giving the committees a chance to vote.

We can be in but we still have to be in Friday.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. PRYOR). The Chair, on behalf of the Vice President, pursuant to Public Law 70–770, appoints the Senator from Arkansas (Mr. PRYOR) to the Migratory Bird Conservation Commission, in lieu of the Senator from Colorado (Mr. HASKELL), retired.

Mr. STEVENS. Mr. President, may the Senator from Alaska inquire whether there is a conflict of interest in the Chair's announcement? [Laughter.]

The PRESIDING OFFICER. The Chair does not respond at this time to the Senator from Alaska.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 30 minutes, and Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Was the request that the President be notified of the confirmation of all nominees made?

The PRESIDING OFFICER. Yes.

DEATH OF DEAN CLARENCE E. MANION

Mr. THURMOND. Mr. President, Dean Clarence E. Manion, one of the outstanding public figures in America and a perceptive political pundit, died recently ending a long and distinguished career of service to America.

For a quarter of a century he was a distinguished professor of constitutional law at Notre Dame and was dean of the law school for 10 years. Dean Manion's exemplary work and many contributions at Notre Dame earned him the respect of public officials and constitutional scholars across the country.

In 1953, Dean Manion was appointed chairman of the Commission on Intergovernmental Relations by President Eisenhower. In this capacity he served honorably and well, and the service he rendered our Nation was outstanding.

The Manion Forum, which Dean Manion created in 1954, was an effective vehicle from which he could voice his concerns and observations of the sociopolitical texture of our Nation. For 25 years the Manion Forum was broadcast around the Nation, and its audience numbered in the millions. This outstanding program offered insight into vital issues and provided the public with detailed analyses of matters affecting our Nation.

Dean Manion was an eminent American, and I was proud to have served on the Gaty Trust with him. I knew him to be an intelligent, able man who always worked hard for our country. He tenaciously fought for his beliefs, and his uncompromising devotion to America was admired by friends and foe alike.

My deepest sympathy is extended to Dean Manion's charming wife, Virginia, his devoted sons Daniel and Christopher, and his loving daughters Mrs. Marilyn Thies, Mrs. Carolyn Butler, and Mrs. Diane Woodhead. They can take genuine solace, however, from the life-long benefits gained by sharing a close family association.

Mr. President, numerous articles concerning Dean Manion's death have appeared throughout the Nation. I ask unanimous consent that three representative accounts appear in the RECORD at the conclusion of my remarks so that they may be shared with my colleagues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MANION FORUM'S FINAL BROADCAST

As we announced over the *Manion Forum* network recently, Dean Clarence Manion died on July 28, 1979, at the age of 83 of complications resulting from a stroke suffered two weeks earlier. This week's broadcast will be the last to be heard on the *Manion Forum*. After 25 years on the air, it is difficult to face the reality of having to close.

Yet, after much discussion among the members of the family, we feel satisfied with this decision. God has called Dean Manion, and, after all, Dean Manion *was* the *Manion Forum*. From start to finish he was the editor and decision maker of everything that went into the broadcasts and publications.

To go forward with any project that would be under the name of the *Manion Forum* that did not have the careful scrutiny of Dean Manion would be something different, something new. No matter how good or how well-meaning that new project might have been, it would not be the *Manion Forum*. Therefore, our family and close friends of the *Manion Forum* reluctantly agreed that it is better to end on a positive note and to package and preserve the legacy as it is.

In this, the final analysis, I want to take a brief look at the *Manion Forum's* history and its purpose. In his first broadcast over the *Manion Forum* network on October 3, 1954, Dean Manion stated: "I am here now, next week and hereafter, to tell you the simple truth as I see it, limited only by the principles of decency, morality and good taste."

In what was to be his final 15-minute broadcast, heard on July 8, 1979, Dean Manion said, "I refused then and still refuse to turn around. I stand now, as I did then, for the historic independence and national sovereignty of the United States. You will hear more of my reasons why, in future *Manion Forum* broadcasts."

Well, we won't hear any more of those reasons. But really we need only to examine the vast reservoir of information that Dad left behind to know and understand those reasons that he could have given in the future.

In his book *Lessons in Liberty* written many years before the *Manion Forum* came into being, Dean Manion constructed a diagram called the "Tree of Liberty," which diagram clearly illustrated the source and evolution of constitutional government in the United States.

As with any tree, the Tree of Liberty started with the soil, in Dad's words "the soil of God's creative purpose." This was the foundation of all of Dean Manion's philosophy. As he stated in *Lessons in Liberty*, "this is the only soil in which the real Tree of Liberty can grow and live. If this tree, strong and broad as it now is, were transplanted to other soil it would soon wither and die."

The roots were the next part of the Tree of Liberty in Dean Manion's diagram. These roots consisted of the principles of the Declaration of Independence. In a guest editorial appearing in the July 4, 1971, issue of the New York *Times* entitled "A Very Rare Document," Dean Manion analyzed the Declaration and how it was founded on faith in God. He said "to proclaim 'that all men are created equal' and that 'they are endowed by their Creator with certain unalienable rights' goes far beyond any supporting floor of material evidence. Such a proclamation is a profound act of faith which each of the signers of the Declaration performed when he subscribed to it. . . .

"The signers thus truly believed that all men are equal before God but they knew from the evidence that man-to-man, all men are unequal; that here and now, each man is different from every other man. From the unquestionable evidence, they knew that the Creator gives each of us a special personality that is obvious from our looks and actions and is finally certified by the examination of our fingerprint, our God-given individuating trademark which distinguishes each of us from every other person who has ever lived."

The rest of the Tree of Liberty, of course, consisted of our federal system with the individual state and federal constitutions forming the trunk of the tree, and all of the branches of the state and federal government logically forming the branches of the tree. But *all* were founded on God's creative purpose and the unalienable rights that were endowed by our Creator, those of life, liberty and the pursuit of happiness.

This was the underlying philosophy that Dean Manion brought to the *Manion Forum*. But Dad didn't just espouse these principles—he lived by them. In 1934, when he ran for the U.S. Senate, the state Democratic nominating convention was deadlocked among three people. Deals were offered and made—but Dad wouldn't deal, and he lost.

When Clarence Manion was serving as Indiana director of the National Emergency Council in the Roosevelt Administration, a conflict arose. Dad felt strongly that the United States should not get involved in the war in Europe. When presidential assistants and other power brokers insisted that he promote the party line, Dad resigned instead.

In 1952, after teaching 25 years in the Notre Dame Law School, and after serving the last eleven of those years as the law school's dean, Dean Manion resigned. He had recently authored the best selling book, the *Key to Peace*. Also at that time he was active in the Taft for President campaign. And if that was not enough, on behalf of the American Bar Association, he was aggressively pursuing the adoption of the Bricker Amendment which would prevent treaties with foreign nations from interfering with the reserved right of the states. The heavy demand for speaking engagements on those issues made it impossible for him to continue as dean.

Taft lost and Eisenhower won, and perhaps at Taft's request President Eisenhower appointed Dean Manion to the chairmanship of the Commission on Inter-governmental Relations. The intent of the commission was to return the taxing and regulatory power to the states.

Dean Manion's July 8 *Manion Forum* broadcast covers the details of that appointment and the subsequent controversies surrounding it. But what that broadcast does not relate is that when the Eisenhower Administration changed from a neutral to a negative position on the Bricker Amendment, presidential aides and power brokers again emerged. They insisted that if Dad would back off from his campaign for the Bricker Amendment, he would receive the next appointment to the U.S. Supreme Court. Not only was Dad a brilliant constitutional law expert and former dean of the Notre Dame Law School, but he was also a Catholic Democrat, the apparent ethnic requirement that the High Court lacked at that time.

For some, that was a tempting prize indeed. But for Dad, he not only disregarded the Supreme Court lure but also resigned from the chairmanship of the prestigious commission and continued his endeavors for the Bricker Amendment—which incidentally was ultimately one vote short of the two-thirds majority required in the Senate.

At that point in his incredible career Dean Manion founded the *Manion Forum*, which would continue for nearly a quarter century until this its final day. But the bottom line on that career was not the prestige and influence that sometimes followed his many pursuits, but rather it was Dean Manion's continual subordination of personal gain to what he believed was right. Whether a Senate seat or seat on a Supreme Court for Dean Manion, principle always prevailed over political expediency.

Before we close the book on this final chapter of what will undoubtedly be recognized historically as an American institution, we should recognize also those loyal workers in the *Manion Forum* who helped make it great. Emmett Mellenthin, who died June 6, 1979, and who was the subject of Dad's own final broadcast on July 8, was the director, engineer and Mr. Everything from the beginning.

Trudy Kreider, who has been with us for 23 years, and Marlene Rumsey, who has been with us for 20 years, are the loyal and hard-working office ladies who handled the large volume of work throughout the years and who remain with us to the end. Eugene Alexander, the accountant and also administrator of many of the many details, has been with the *Forum* for the past 15 years. And Wilda Polt, from the beginning until just a few years ago, was the office manager and editor.

Captain Frank Manson in recent years was the invaluable on-the-spot reporter in Washington who obtained so many magnificent interviews for the *Forum*. And finally my sister, Marilyn Manion Thies, worked for the *Forum* for a number of years and for the last 12 years has written the *Manion Forum Newsletter*.

For their excellent work and unqualified loyalty, we thank each and all of them and commend their work as Dad so often did.

We are very much aware that many friends of the *Manion Forum* would love to see it continue, at least under some form. Because of the fact that the *Forum* has in its treasury every recorded broadcast since the beginning, we plan to preserve the tapes in an accessible place for research and possibly even reproduction. But no matter what new entity, if any, takes over from this point on, it will not be the *Manion Forum*, because Clarence Manion was the *Manion Forum*.

To perpetuate the *Manion Forum* as it has been up till now is an impossibility, and we choose to put it to rest when it is on a high note. Future generations will always be able to draw upon it as the excellent source of information that Dad so carefully insisted that it be.

The *Manion Forum* always did have and still has money problems. I guess it was a non-profit organization on the first order. But not only did Dean Manion never receive any money for his mammoth effort and sacrifice—he always refused to ask for contributions over the air, and we are not going to start now.

Rather, we are ending all of this by tying a final ribbon on a beautiful package whose contents contain a 25-year legacy that is undoubtedly unsurpassed anywhere. The package includes the prolific writings of Dean Manion, exclusive interviews with leaders of business, religion, government and education. Some of those interviews include the voices of former President Herbert Hoover, Richard Cardinal Cushing, Captain Eddie Rickenbacker, Senator Joseph McCarthy, General Douglas MacArthur and hundreds more.

In fact, the first national broadcast that Senator Barry Goldwater ever made was on the *Manion Forum* in 1957. And incidentally, it was Dean Manion who published *The Conscience of a Conservative*, the book that launched Barry Goldwater and the conservative movement into national prominence. At that time no one else would publish it.

These historic broadcasts are not sensational merely for their content at the time—rather, many of the issues discussed by Dean Manion and his guests were presented with amazing foresight. Broadcasts warning of such things as the possible bankruptcy of the Social Security system, the threat of a weakening national defense, the approach of runaway inflation and mammoth deficits, as well as numerous other subjects were presented long before these unfortunate problems actually occurred.

But regardless of the controversy at the time, the *Manion Forum* microphone was always available to patriots and advocates of the conservative cause when they were otherwise precluded from the national media. For that reason alone there is no doubt that the preservation of freedom in this country was better served.

In addition to the 15-minute broadcasts and interviews presented during the 25-year history of the *Manion Forum*, for the past several years Dean Manion also personally wrote daily three-minute Footnotes.

The last line of the last Footnote he recorded was this: "Regardless of its civil code of laws, a society that is not held together consciously by its teaching and observance of the laws of Almighty God is unfit for human habitation and doomed to destroy itself." That line beautifully sums up those principles he always espoused and lived. Those same principles to carefully brought out by his favorite example of that individuating fingerprint that underscores the miracle of God's creation.

Sometimes shoes are hard to fill, and often footsteps are tough to follow. But fingerprints are never duplicated—rather they are God's way of saying we are equal only under the scrutiny of his infinite wisdom and mercy.

The *Manion Forum* is Dad's fingerprint. It is a vast legacy through which he touched us all. The other members of the family and I choose to leave it that way—never duplicated, never smeared, but unmistakenly Dean Clarence Manion. With that, this is the *Manion Forum* finally, and prayerfully, signing off.

[From the St. Paul (Minn.) Wanderer, Aug. 9, 1979]

DEAN MANION, R.I.P.

Clarence E. (Pat) Manion, former Dean of the Notre Dame Law School and founder of the Manion Forum, died in South Bend, Ind., on July 28, 1979. The major public elements of his career are impressive. He was, for 25 years, a distinguished professor of constitutional law at Notre Dame. He served for a decade as dean until 1952. Upon the election of President Eisenhower whom he, a former Democrat, supported, Dean Manion was named to head the important Commission on Intergovernmental Relations. He was forced out when it was discovered that he was actually serious about restoring the vitality of the states in our constitutional system. He courageously backed the Bricker Amendment which would have protected that system. He authored nine books, at least one of which, *The Key To Peace,* is an enduring classic. He served with distinction as a member of the National Council of the John Birch Society and for 25 years as director and spokesman of the Manion Forum which he founded in 1954. He received honors too numerous to recount from patriotic and religious organizations.

This is the bare outline of the public career of Dean Clarence Manion. But this is not an obituary, concerned with the recital of detail. Rather, what I offer in this essay is an acknowledgement of personal and professional indebtedness to Dean Manion whom I was privileged to know as my friend and counselor for the last ten years of his life.

As a Taft-MacArthur-McCarthy (Joe, that is) conservative in the 1950s, I knew Dean Manion by reputation as a leader of the cause. During 1957 and 1958, my wife and I came to rely on the Sunday night broadcasts of the Manion Forum, often listening to it on the old Route 40 in Maryland while driving from New York back to Quantico, Va. In those tranquilized Eisenhower '50s, the infant conservative movement had precious few sources of information and encouragement among which the Manion Forum was one of the foremost.

Dean Manion had a life-long romance with the Declaration of Independence. He saw it, not as an antique curiosity, but as an affirmation of the reality that this nation is indeed under God. Every society has to have a god. If ours is not the real One, it will be the *New York Times,* Walter Cronkite, or some other. Dean Manion knew ours has to be the real God if we are to survive. He saw correctly that the root of our national problem is that we have turned from God. In the 1960s he strove to restore the Ten Commandments to the schools, seeing that without them discipline is sterile or nonexistent and learning is a shell.

As a constitutional scholar, Dean Manion was the foremost critic of the violence done to the Fourteenth Amendment by Supreme Court Justices Black and Douglas by their misusing it to bind the states in a straitjacket of literal and unfair application of the Bill of Rights. Someday, the practical bankruptcy of the Black and Douglas position will be evident even to the majority of the Supreme Court. But this is not a plea for vindication of Dean Manion. His record stands and time will prove that our country would be well advised to review and follow his advice on these and other points.

I suspect that the trimmers of politics and the academy were uneasy and a little embarrassed with Pat Manion. How does one deal with a public figure who not only says those disconcertingly accurate things, but who is a thoroughly likable human being as well? One could not know Pat Manion and dislike him. His public career spanned the half century (downward) from Rockne (who was his close friend) to Jimmy Carter (who was not). In a way Dean Manion was a throwback to the day when Catholic public men, like Chesterton whom he knew, stood for the Church and said, without fear of favor, what had to be said.

My wife and I are grateful to Dean Manion for all he did for us by example even more than by word. He was clearly one of the finest men we have ever met.

At Dean Manion's funeral, his son, Chris, read from his father's Bible a heavily underscored passage from St. Paul's *Epistle to the Ephesians:* "Finally, brethren, be strengthened in the Lord and in the might of His power. Put you on the armor of God, that you may be able to stand against the deceits of the devil. For our wrestling is not against flesh and blood: but against principalities and powers, against the rulers of the world of this darkness, against the spirits of wickedness in the high places. Therefore, take unto you the armor of God, that you may be able to resist in the evil day and to stand in all things perfect. Stand therefore, having your loins girt about with truth and having on the breastplate of justice: and your feet shod with the preparation of the Gospel of peace. In all things taking the shield of faith, wherewith you may be able to extinguish all the fiery darts of the most wicked one. And take into you the helmet of salvation and the sword of the Spirit (which is the Word of God)" (*Eph.* 6:10–17).

I can only add the words of Paul to Timothy which could well have been spoken by Dean Manion himself: "I have fought the good fight, I have finished the course" (II *Tim.* 4:7). *Requiescat in pace.*

[From the St. Paul (Minn.) Wanderer, Aug. 9, 1979]

CLARENCE MANION, 1896–1979

SOUTH BEND, IND.—Clarence E. Manion, dean emeritus of the University of Notre Dame Law School, died at the age of 83 on July 28th, after suffering a stroke on July 14th. The funeral Mass was celebrated on July 31st in Christ the King Catholic Church in South Bend, followed by burial at Highland Cemetery. Manion is survived by his wife, Virginia, whom he married in 1936, and by his sons Christopher and Daniel, daughters Mrs. Marilyn Thies, Mrs. Carolyn Butler, and Mrs. Diana Woodhead, and 10 grandchildren. (See p. 4 of this week's issue for a tribute to Dean Manion by Charles Rice.)

Manion was a professor of constitutional law for more than 25 years and served as dean of the University of Notre Dame Law School from 1925 to 1952. He founded the Manion Forum in 1954, which was at one time broadcast over 200 radio stations. Later, the Forum was televised.

Dean Manion—a former Democrat—supported the presidential candidacy of Dwight Eisenhower. In 1953, Manion was appointed chairman of the Intergovernmental Relations Commission. He was forced out of that position because of his support of the Bricker Amendment.

In 1950, Manion was appointed to an American Bar Association committee to study the goals and tactics of Communism. In 1957, he was named to the State Board of Education's general commission. He was chairman of the Indiana Task Force of the Indiana Criminal Justice Committee in 1969.

The author of nine books, Manion was also a talented speaker. In 1932, he appeared as the keynote speaker for the state Democratic convention.

Manion twice addressed the Wanderer Forum, in 1965 and in 1967, and in 1967 he received a Wanderer Forum Award for service to God and country.

Manion received many other awards during his long career. In 1968, the Sons of the American Revolution presented the Jonathan Morre Award to Manion; in 1975, the American Conservative Union gave a testimonial dinner in his honor; he was honored on various occasions by the Daughters of the American Revolution and by Young Americans for Freedom.

Dean Manion was a member of the National Council of the John Birch Society and the council's executive committee.

Manion, born on July 7th, 1896 in Henderson, Ky., held a bachelor's degree from St. Mary's College, St. Mary's, Ky., master and doctoral degrees from Catholic University, and degrees in law from Notre Dame and from Boston University.

Memorial contributions may be given to the Manion Forum, 311 S. Eddy, South Bend, Ind. 46617.

DEATH OF FORMER CONGRESSMAN JOHN L. McMILLAN

Mr. THURMOND. Mr. President, former Congressman John L. McMillan, one of the outstanding statesmen of this century, died recently ending a long and distinguished career of public service.

Congressman McMillan was an energetic, patriotic man who was known for his hard work and his dedication to duty throughout his life. He not only possessed a quick mind but, in his youth, was a fine athlete. He attended the University of North Carolina, where he was a member of the all-southern conference football team, and the University of South Carolina law school.

After serving in the U.S. Navy during WW I, John came to Washington as secretary to Congressman Allard Gasque. He was an able and efficient aide, and his experience with Congressman Gasque helped him greatly throughout his career.

In 1938 John was elected to the U.S. House of Representatives from the Sixth District of South Carolina. In Congress he was known as a forceful, effective man with keen insight into many of the problems facing our Nation. He was well versed in the workings of Congress and always stood strong for his beliefs. His hard work and selfless dedication to his country gained him the respect of all his colleagues.

John served the Sixth District longer than any other person and was elected to Congress 17 times. He was the chairman of the House District of Columbia Committee and became known as the "unofficial mayor of Washington" as his committee was the most influential body in the administration of Washington before home rule.

Congressman McMillan was one of the finest men to serve in Congress since I have been a Member, and I take pride at having been a friend to such a great man.

My deepest sympathy is extended to Congressman McMillan's charming wife Margaret, his devoted son John, and his many relatives who mourn his passing. They can take genuine solace, however, from the lifelong benefits gained by sharing a close family association.

Mr. President, numerous articles and editorials concerning John McMillan's death have appeared in newspapers throughout South Carolina and the Nation. In order to share them with my colleagues, I ask unanimous consent that they appear in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 4, 1979]

JOHN MCMILLAN DIES, OPPOSED HOME RULE AS CONGRESSMAN

Former Rep. John L. McMillan (D-S.C.), who wielded vast and often resented power over District affairs for 24 years as chairman of the House District Committee, died yesterday in Florence, S.C., his home town.

Mr. McMillan, who was 81 years old, had been under treatment for prostate cancer for two years. He died about 5:30 p.m. at Florence General Hospital, to which he had been admitted last Friday.

During his tenure as District Committee chairman, which began long before home rule, Mr. McMillan was viewed as the holder of ultimate authority for almost every aspect of life in the city from parking space assignments to public employe payrolls.

For much of his long tenure as chairman, which began at the close of World War II, Mr. McMillan won praise from city business interests and conservative congressmen who were his allies in opposing home rule for the District.

Liberal congressmen and other supporters of self-government here depicted him as a tyrant, who they claimed ran his committee with a dictatorial hand. Many leaders of the black community accused him of racism.

At the end of 1972, after defeat in a hard-fought Democratic primary ended his 34 years as the representative of his state's 6th District Mr. McMillan issued a report that gave his own view.

"He loved his country and its Capital and honored his pledge to uphold the Constitution," the report said.

Mr. McMillan held office during a time of vast social and political change in the nation, the South and the city of Washington. His experience at the polls and the power he exercised as chairman of the District Committee may be regarded in a sense as barometers of that change.

In the view of some observers, the authority of Mr. McMillan over city affairs began to erode significantly in 1965, when the House of Representatives took a home rule bill out of the hands of his committee.

Spurred by intense lobbying from the Johnson administration, the House voted by 213 to 183 to bring the bill to the floor.

Mr. McMillan argued during the historic debate on the home rule bill—the first to reach the floor since 1948 that Washington is a "federal city . . . the only city created for a federal purpose." The bill he contended would "give it away."

The Johnson administration home rule measure was eventually defeated. But the rare vote to wrest it from the hands of Mr. McMillan's committee was seen as a watershed in local politics.

In 1967 it was Mr. McMillan himself who introduced the bill that gave the District an elected 11-member Board of Education. Previously school board members had been appointed by judges of the U.S. District Court.

In the same year, however, Mr. McMillan, never renowned as an orator, stood in the well of the House in an effort to persuade his colleagues to vote against a Johnson administration measure that reorganized the city government.

The measure, which replaced the city's three-member Board of Commissioners with an appointed mayor and council, was widely viewed as a step towards full home rule.

"Who's going to have time to keep up with all this council is doing uptown?" Mr. McMillan demanded.

In what was regarded as an effort to educate his House colleagues about the possible ramifications and drawbacks of the administration proposal, he warned: "you people will be required to get D.C. tags (for cars)."

"This is your baby," Mr. McMillan told the House at another point. "If you want to vote for it, I'm not going to lose any sleep about it."

The measure did pass, and at least one witness observed that contrary to his assurances, Mr. McMillan looked weary.

Despite what appeared to be mounting pressure on Mr. McMillan by the advocates of Home Rule, it was not until 1973 when he was gone from the House and from the District Committee chair, that the committee voted out a Home Rule measure.

Mr. McMillan's rejection by the Democratic voters of his district in a 1972 primary runoff reflected at least in part the changes in national politics since he was first sent to Congress in 1938.

In that first election, he defeated five opponents. In 1940, Mr. McMillan faced a single foe, and won by 18,000 votes. By 1948 and for many years afterward, he faced no opposition at all.

In 1964, something unusual happened. A Republican was nominated to oppose him. Mr. McMillan won by about 50,000 votes to 25,000, but the day of uncontested November elections was over.

Four years later, Mr. McMillan faced a closer than usual primary challenge. His campaign literature continued to describe him as a member of the "coalition of conservative Democrats and Republicans" that reduced "every budget that has been presented by the five presidents he served under."

But at the same time, he took pains to note the federal programs he supported. He claimed, for example, that it was his vote that brought the food stamp bill out of the Agriculture Committee.

In 1970, Mr. McMillen was forced into a primary runoff with his Democratic opponent, a black physician. In that year's primary campaign, home for Washington was an issue in the politics of Mr. McMillan's largly agricultural, tobacco-growing district.

Many D.C. residents went to South Carolina to campaign against McMillan, who eventually won in the runoff and in the general election. Back in Washington he withstood an unusual effort by restive liberals in a changing House to dislodge him from his District Committee chairmanship.

In 1972 came the Last Hurrah. "Johnny Mac," as he was called, the University of South Carolina football star, friend of the tobacco farmer and virtual charter member of his local were bought out," he said.

Mr. McMillan blamed his defeat on the black vote. "The colored people were bought out," he said.

An analysis of returns showed that blacks cast about 17 percent of Mr. McMillan's votes. About 47 percent of his opponent's votes came from blacks.

John Jenrette, who defeated Mr. McMillan lost to a Republican in the 1972 general election, but won the seat again two years later. Charles C. Diggs (D-Mich.) became the new chairman of the District Committee.

Mr. McMillan's defeat seemed to mark the end of an era. He became head of the District Committee when blacks were in the minority here. He remained until blacks formed more than 70 percent of the population.

Many blacks contended that he ignored their needs in such areas as housing, welfare and law enforcement. Critics of the committee claimed its proceedings, particularly as internal opposition grew, were characterized by bickering and pettifoggery.

As chairman, Mr. McMillan was in a position to issue his own valedictory. A committee report subtitled "Activities of McMillan as Chairman," issued just before he left, said that bills he sponsored or supported made Washington one of the world's great cities, and calls him "the best and most effective friend the nation's capital has ever had."

Survivors include his wife, Margaret, and a son, John Jr.

[From the Florence (S.C. Morning News, Sept. 4, 1979]

Former Congressman John McMillan Dies

John L. McMillan, who represented the Pee Dee in Congress from 1939 until 1973, died Monday afternoon in a Florence hospital.

Funeral arrangements will be announced by Waters Funeral Home.

McMillan was known as the "unofficial mayor of Washington" because he served for years as chairman of the House District of Columbia Committee.

His committee was the most influential body in administration of the District of Columbia before home rule was instituted in recent years.

He also was a ranking member of the House Agriculture Committee and its Tobacco Subcommittee and brought several congressional tobacco hearings to the Pee Dee in that capacity.

McMillan was secretary to Congressman Allard Gasque who served the district in the house from 1932 until he died in 1938.

Gasque's widow finished that term. Then in the regular 1938 Democratic primary, McMillan emerged from a field of six and won in a runoff.

He was elected, mostly without opposition, until 1972 when he lost in a primary runoff. He served the 6th District longer than any other person in history.

As chairman of the House District Committee, McMillan was influential in the development of Washington as a major city after World War II. He also was representative of the speaker of the House at the Interparliamentary Conference in London in 1960 and in Tokyo in 1961.

McMillan was elected to Congress 17 times.

Congressman John Jenrette, said that McMillan "served the district and the state through some very trying and changing times with great distinction."

Jenrette, who defeated McMillan in the 1972 Democratic primary runoff, said that McMillan was "a gentleman who will always be remembered in the District of Columbia as having led the city from a small country type community to one of enormous size and prestige."

"We certainly had our earlier differences, but later we had become friends, and I and the district will miss his counsel and advice."

Former Congressman Ed Young, who succeeded McMillan in 1973 for one term, said McMillan was an outstanding congressman.

"He was a kind and warm man," said Young.

"He will be missed very much by the people of the 6th District."

He was a son of M. L. and Mary Alice Keith McMillan.

His age was a question in his latest campaigns, and members of his staff set his age at 69 during the 1972 primary campaign.

He attended Mullins schools, the University of North Carolina and the University of South Carolina Law School.

As a student he was an athlete and one year was a member of the All-Southern Conference football team.

He served with the U.S. Navy in 1918.

[From the Columbia (S.C.) State, Sept. 5, 1979]

John L. McMillan Services Are Friday

Florence.—Services for former Congressman John L. McMillan will be noon Friday at Central United Methodist Church. Burial will be in McMillan Family Cemetery.

Mr. McMillan died Monday in a Florence hospital.

He was born in Mullins, a son of the late M. L. and Mary Alice Keith McMillan. He served as a congressman from 1939–1973, and was known as the "unofficial mayor of Washington" because he served for many years as chairman of the House District of Columbia committee.

His committee was the most influential body in administration of the District of Columbia before the home rule was instituted. He was also a ranking member of the House Agricultural Committee and its Tobacco

Subcommittee. He brought several tobacco hearings to the Piedmont.

He was also secretary to Congressman Allard Gasque, who served the district in the House from 1932 until his death in 1938. Then in the regular 1938 Democratic Primary, McMillan emerged from a field of six and won in a runoff. He was elected mostly without opposition until 1972 when he lost in a primary runoff.

He served the 6th District longer than any other person in history, and was elected to Congress 17 times. As chairman of the House District Committee, McMillan was influential in the development of Washington as a major city after World War II. He was also representative of the Speaker of the House at the Interparliamentary Conference in London in 1960 and in Tokyo in 1961.

He attended the University of North Carolina and the University of South Carolina Law School.

As a student, he was an athlete and was a member of the All-Southern Conference Football Team. He was also a World War I veteran.

Surviving are his widow, Mrs. Margaret English McMillan; a son, John L. McMillan Jr., of Greenville; a brother, Dr. Carl B. McMillan of Mullins: and three grandsons.

The family suggests that those who wish may make memorials to Central United Methodist Church, First Baptist Church, the Salvation Army, the American Cancer Society or the Heart Association.

Waters Funeral Home is in charge.

[From the Florence (S.C.) Morning News, Sept. 6, 1979]

John L. McMillan

In the world of politics, where John L. McMillan spent most of his life, re-election is the highest compliment of all—the ultimate commentary on an officeholder's performance.

By all accounts, that made McMillan, who died Monday, the most-complimented congressman in Sixth District history. He was elected to the House of Representatives 17 times. Nearly a hundred million Americans were born while he was in office. The nation moved from prop planes to spacecraft, from Joe DiMaggio to Reggie Jackson.

It wasn't fiery oratory that kept him in office, or ambitious legislative crusades. It was service—to his district as a whole, and to individual constituents. For 34 years he served, helping veterans with their pay problems, reminding his colleagues that a nation is no better than its farms. While government was growing larger and more impersonal, McMillan was providing a link between ordinary people and Capitol Hill.

Not the least of his assets was a gentle, helpful manner that will be remembered by many hundreds of Pee Dee area residents who had no special claim, by virtue of position or power, on the time of a United States congressman.

South Carolina wasn't the only place in which McMillan became something of an institution. For many years, before home rule came to the nation's capital, he was known as "the unofficial mayor of Washington," directing its affairs as chairman of the District of Columbia Committee.

The federal building on Evans Street, which bears his name, is a fitting memorial; but for a man who served his district so long, taking a genuine interest in his constituents, memorials are unnecessary. He won't be forgotten.

[From the Florence (S.C.) Morning News, Sept. 8, 1979]

Friends Pay Last Respects to McMillan

State and federal officials turned out Friday for the funeral of former Congressman John L. McMillan.

Dozens of former staffers in his congressional office and their families also went to the services at Central Methodist Church.

It was a sort of reunion for many staffers who have been split up since McMillan left office early in 1973. That many may not be together again. Some traveled hundreds of miles to be there.

They fondly recalled their former boss who represented the 6th District in Congress for 34 years, longer than anyone else in history. He was first elected in 1939.

Anne Steadman Witt seemed to speak for many of them when she told newsmen outside the church that "I couldn't tell you all he did for me."

Her association with McMillan, she said, was one of the finest things that ever happened to her.

"He was a wonderful friend to me," said Mrs. Witt, who worked for McMillan in Washington.

Gov. Dick Riley led state officials who gathered in the hot sunshine outside the Florence church. Coming from Washington were U.S. Sens. Strom Thurmond and Ernest F. Hollings and Congressmen John Jenrette and Mendel Davis. Also there were former Congressmen Ed Young, Tom Gettys and Robert Hemphill, now a federal district judge.

They served as honorary pallbearers and formed a line for the flag-draped coffin to be carried through after the services. Burial was at the McMillan Cemetery in Mullins.

"The world is a better place because he lived in it," the Rev. Robert C. Faulkner, senior minister of Central said during the services.

The former congressman was able to make a career of work "he said he gladly would have done for free," Faulkner said.

McMillan's service in Congress, Faulkner noted, "started before most people here were born." The congressman's one driving ambition was to be of use to his country, he said.

Of McMillan, who died last Monday at 81, Faulkner said he "has fought the good fight for his constituents and kept the faith with the people."

Faulkner said, "He finished the race. He did it honorably. There is no better way for a man to die.

"His strength was in his gentleness and willingness to give of himself," Faulkner said.

Faulkner, the Rev. J. Herbert Thomas, assistant pastor of the church, the Rev. Lewis McCormick of First Baptist Church of Mullins; and the Rev. Dr. C. LeGrande Moody, retired pastor of Central, officiated.

Hollings said McMillan's service had been long and distinguished. "He was a highly respected figure in Washington," the senator said.

McMillan was chairman of the House District of Columbia Committee for years when Congress still ran the affairs of the city. He was known as unofficial "mayor of Washington."

Before that, McMillan was secretary to Congressman Allard Gasque who served the district from 1922 to 1938.

[From the Charlotte (N.C.) Observer, Sept. 8, 1979]

A Bit of the Old South Died With "Johnny Mac"

Florence, S.C.—Back in 1970, a reporter asked veteran U.S. Rep. John McMillan, D-S.C., what he thought the major campaign issue was between himself and the three men running against him.

McMillan, a man of few words, replied "I've got the job, and they want it."

But there were other issues, chiefly McMillan's advancing age—then 72, though he wouldn't admit it—and dissatisfaction among the 6th Congressional District's newly enfranchised black voters with McMillan's conservative politics.

"Johnny Mac," who had served in Congress since 1938, won that race, but it was his last victory.

In 1972, 36-year-old John Jenrette, the current congressman, beat him in the Democratic primary.

McMillan died Monday at 81. And Friday, as his flag-draped casket was wheeled out of the Central United Methodist Church for burial at the family cemetery in Mullins, a piece of the older, more rural and traditional South he represented went with him.

In the congregation of about 200 were the elected officials of today's South, including Jenrette, Gov. Dick Riley and both of South Carolina's U.S. senators, Ernest Hollings and Strom Thurmond.

Thurmond, though only four years younger than McMillan, has been able, through consummate political skill and a personal magnetism McMillan seemingly lacked, to adapt himself to changing times.

During McMillan's 34 years in Congress, he was known in the 6th District, a then almost entirely agricultural area stretching across the Pee Dee to the coast, as a courtly, kind, considerate man who did thousands of individual favors for his constituents and protected the interests of the area's dominant tobacco industry.

In his last race in 1972, his campaign literature boasted of "at least 50 new post office buildings" in the district, along with opposition to "all socialistic and communistic proposals . . . and to a minimum wage for agricultural workers. . . ."

But McMillan was best known nationally as the "mayor of Washington," by virtue of his chairmanship for 24 years of the House District of Columbia Committee.

Until Washington began in the 1960s to achieve home rule, over McMillan's strenuous opposition, he controlled even such day-to-day details of the city's life as assigning parking spaces and setting public-employee payrolls.

He won praise from city business interests, but many blacks, who composed 70 percent of Washington's population by the time McMillan left Congress, accused him of racism.

Liberal Northern congressmen and other home rule supporters accused him of running his committee and the city like a dictator.

In 1972, blacks from Washington went to the 6th District to campaign for Jenrette against McMillan.

Before 1970, however, McMillan had been viewed as unbeatable because of the personal loyalty of his longtime constituents and his traditional coalition of courthouse politicians, tobacco farmers and warehousemen and old-line black political leaders.

"He followed the old way of politics," says one influential Florence black. "He used to go to the leaders and depend on them to get the votes out for him.

"The leadership he used to deal with had certain things they wanted for the community. They would meet with him, and he'd give them one out of the five or six things they'd ask for."

McMillan's politics were based on being able to walk the streets of small towns and know everyone's name, and on knowing who to depend on to deliver.

A state Democratic Party official recalled a meeting about 10 years ago when Gov. Robert McNair and other party bigwigs were trying to get $500 donations for the party from a well-heeled group.

"Everybody was making speeches about good government and how the Democratic Party had served the state well," the official said.

"Then Johnny Mac got up to speak—he was a terrible speaker—and he sort of talked into his shoelaces and he said, yep, we had to beat those Republicans, and a little money in the right places the night before the election could do a lot of good."

But the district had become half industrial by the early 1970s, and thousands of new residents had moved into the larger counties like Florence.

McMillan, who avoided reporters and seldom granted interviews, who turned down billboards the state Democratic Party offered to provide him against a Republican challenger and who refused to reveal his age, finally ran into a new political era.

He allowed Jenrette to lure him into a televised debate the night before their primary runoff. According to those who remember it, it was McMillan's biggest mistake.

"He just wasn't a fast thinker and he looked awful, just awful," said one Florence politician.

But those who knew McMillan well were deeply fond of him, and even his political enemies conceded he couldn't be beaten at touching people individually.

At his funeral Friday, a congressional staff member, Ann Steadman Whit, was in tears as she talked about McMillan.

She told of a man named Gene Commander, to whom McMillan used to write long, personal letters and send gifts when the man was sick.

"During one of the elections," Mrs. Whit said, "we were at some gathering with a lot of people and Mr. McMillan said, 'Gene Commander is in the other room. Go ask him to come eat with us."

She continued, "I went and looked, and then I told Mr. McMillan, 'There's nobody in there but an old black man.' And he said, 'That's Gene Commander.' "

REPEAL OF CARRYOVER BASIS TAX PROVISIONS

Mr. HEFLIN. Mr. President, every day I receive mail from my constituents in Alabama calling my attention to very real problems which have been created by legislation passed by this Congress. Few laws, however, have invoked such a widespread and emotional reaction as the carryover basis rules adopted by the Congress in the so-called Tax Reform Act of 1976.

Mr. President, prior to 1976, the tax laws provided that an individual who inherited property received a "basis" in the property equal to its fair market value as of the date of the decedents death, or a date 6 months thereafter. An individual's basis is the starting point from which capital gains and losses are determined on any subsequent sale or exchange of the property. The amount received from the buyer when the property is sold is reduced by the individual's basis and the difference is the individuals gain or loss.

From the time of the original enactment of the personal income tax in 1913, the rule for basis determinations has provided that when property is transferred on the death of the owner, the basis in the hands of the heir or person receiving the property by the terms of the will is the fair market value of the asset at the time of the decedent's death. The pre-death appreciation in value of the assets transferred on the death of the owner were not subject to income tax. Since, in my judgment, the leading factors in this appreciation has been inflation, any change in this treatment for tax purposes would in effect be another tax of inflation and certainly such a tax is not in the best interests of American taxpayers.

The carryover basis rules introduced by the Tax Reform Act of 1976 reflected a major policy change. Under the changed rules, the heir, devisee, legatee would have a basis in the property equal to that of the decedent, subject to certain adjustments and limitations.

Mr. President, these new rules have been criticized on the grounds that they are unfair as a matter of tax policy, and they create unbearable administrative burdens. Although some claim that there was inequitable treatment between a taxpayer who sold assets prior to death and a taxpayer who chose to hold assets until his death, in my judgement, there really is no inequity among such taxpayers. First, all property owners are free to choose to sell, to give away, or to hold on to their assets. Moreover, taxpayers do not generally choose when to die in order to invoke stepped up basis possibilities of the prior law. The new carryover basis rules are an extreme burden on small family, farms, and businesses. The sale of assets to pay estate taxes could result in substantial larger income tax burden that would be the case under the old rules.

As we all know, Mr. President, payment of estate tax frequently presents a liquidity problem. The carryover basis rules will compound this problem with higher income taxes on the surviving members of a family. For example, such person may be unable to retain the ownership of homes, farms, forest lands, or means of production of a family income which may have to be sold in order to pay the taxes.

Not only is the new procedure unfair from a standpoint of its impact on the average American taxpayer, but it should be noted that there is growing concern among tax attorneys and accountants about the complexity of the Federal income and estate tax laws. A tax system based on voluntary compliance depends in a substantial measure on the ability of taxpayers and others with compliance responsibility, such as attorneys and accountants, to understand and fulfill their obligations. The old stepped up basis rules were simple and direct. The new provisions require highly technical arbitrary and artificial calculations. They cannot be readily understood even by experts in the field and it is certain that they will lead to noncompliance and inconsistent applications. Most people will now be required to hire expensive lawyers and accountants to fathom the meaning of the law and to protect their interests.

Moreover, Mr. President, the carryover basis rules imposed an additional recordkeeping burden that is almost unprecedented and it is not justified by any tax policy. It will be necessary for executors and administrators of estates to determine the basis of all property in the estate. It will in turn be necessary for the property owner to maintain records from which such determination can be made. These records must be maintained because the law requires that the executors must supply information on the properly computed carryover basis of each asset to the Internal Revenue Service and each beneficiary. The executor's failure to supply the Internal Revenue Service with such information may result in a fine of $100 for each such failure up to a maximum total fine of $5,000. Failure to supply a beneficiary with the correct and appropriate information may result in a fine of $50 for each failure with a maximum fine of $2,500. The difficulty of proving the decedents basis in many assets after the decedent has died and can no longer furnish information is almost mind boggling. Moreover, estate fiduciaries such as executors and trustees are required to make many difficult decisions with respect to the carryover basis rules including but not limited to selection of property to be excluded under the $10,000 household effects exclusion authorized by the new law. In some cases, these choices must favor one beneficiary over another which will certainly present problems of potential conflicts of interest and fiduciary liability.

Representatives of legal, accounting, and banking organizations have argued that these responsibilities will create additional risk and will result in additional costs in the administration of estates to the detriment of the taxpayer. The end result, of course, will be diversion of assets away from the heirs of the estate since the cost of administration will be increased.

Mr. President, in my judgment, this Congress made a mistake when it changed the carryover basis rules in the Tax Reform Act of 1976. I think that we should move quickly to correct this mistake. The people of Alabama and the people of this Nation are crying out for relief from this unfair and burdensome feature of our tax laws. We must make sure that our small businesses, our small farmers, our small landowners, and timber producers are not forced out of business. Rather we must take actions to insure that these small businessmen are nurtured, because they are the bedrock of this Nation's economy. In my judgment, the economic fate of this Nation may well depend upon the actions this Congress takes with respect to these owners of family farms and businesses who must face the possibility of losing their farm or business if we do not act to correct mistakes of previous years.

Mr. President, I hope that the Members of this Congress will stand up and be counted on this issue, will admit that a mistake was made, and will quickly move to repeal these obnoxious carryover basis provisions.

TIDE IS TURNING AGAINST TAXFLATION

● Mr. DOLE. Mr. President, the October 1 issue of U.S. News & World Report focuses on the impact of inflation on American citizens. One of the issues particularly highlighted by U.S. News & World Report is the way inflation increases the income tax bite without Congress passing a tax increase. The U.S. News article discusses many of the inequities caused by "taxflation," which I have also been bringing to the attention of my colleagues in recent weeks. Taxflation reduces incentives to increase productivity, squeezes the taxpayer trying to keep ahead, and constitutes taxation without action by the representatives of the people. In short, it is irresponsible and unfair to our citizens.

The Tax Equalization Act, S. 12, would put a stop to taxflation. This legislation has been introduced by the Senator from Kansas to restore equity to our tax system. It would index the income tax for inflation by requiring the tax brackets, zero bracket amount, and personal exemption to be adjusted by the percentage rise in the Consumer Price Index for the preceding fiscal year. Tax withholding tables are corrected accordingly. The consequence would be that the tax rates would correspond to constant levels of real, as opposed to inflated, income. Indexing would reduce the Government's incentive to inflate the economy and would force Congress to pass real tax cuts or real tax increases. It would not deprive economic policymakers of any tools they have; it would merely keep them honest.

The Tax Equalization Act is the most meaningful tax reform Congress could undertake, and the Senator from Kansas is proud to be its sponsor. Tax reform to deal with inflation is receiving ever greater attention, as the October 1 U.S. News demonstrates. The momentum in favor of tax equalization is growing, and the issue will not go away.

Mr. President, I ask that the U.S. News report on taxflation be printed in the Record.

The report follows:

Catch-Up Raises That Do Not Quite Catch Up

(Pay boosts don't go very far these days—especially when they thrust people into higher tax brackets. It's a problem Congress is starting to take a look at.)

A new term has crept into the vocabulary used to portray the burdens that inflation places on many Americans: "Taxflation."

That is how Senator Bob Dole (R-Kans.) describes the trap that has snared millions of taxpayers.

Simply put, at the same time that inflation boosts salaries and wages without increasing buying power, it also pushes people into higher income-tax brackets. With each step up the ladder, an individual stands to pay a heftier bill, with the federal government coming out a big winner.

A windfall. All told, about 35 billion dollars in added tax receipts from individuals and corporations will flow into the U.S. Treasury because of inflation in the 1979 fiscal year ending September 30, estimates the Joint Economic Committee of Congress. "This hidden tax increase is a dramatic example of taxation without legislation," complains Senator Gary Hart (D-Colo.).

With inflation running at double-digit rates again—the second such period in five years—the problem is getting closer attention and prompting a batch of proposals to ease taxpayers' plight.

The chart on this page shows in dollars and cents how, despite wage hikes equal to inflation over the past five years, a worker is worse off in real terms. Behind the problem: The one-two punch of bigger income-tax payments and higher Social Security taxes that result from a salary hike.

For many, the squeeze is more like a bear hug because wage boosts have been outstripped by the inflation rate, leaving workers even further behind than the chart shows.

Hard hit, too, are the many families in which both husband and wife work. These people are affected doubly by higher income and Social Security taxes. If each spouse earned as much as the maximum wage taxed by Social Security, the couple's combined payroll tax would have increased a whopping $1,263 between 1974 and now.

Add in sharply higher state and local levies, and the situation for many taxpayers is even grimmer.

This growing load has taken place despite tax cuts, reductions in rates and increases in the amount of income exempt from taxation. Five years ago, tax rates were higher and the personal exemption was only $750, compared with $1,000 now.

What can be done to provide relief from taxflation? The major suggestion is to "index" the income-tax system. While proposals vary in their details, the gist of the plan is this—

Tax brackets, exemptions, deductions and other aspects of the tax code would rise automatically each year in line with inflation. For instance, if the cost of living rose 10 percent in 1979, the personal exemption on 1979 income would be increased 10 percent—from $1,000 to $1,100. Brackets also would be widened. Thus, the 28 percent rate, now applied to taxable incomes in the $20,200–$24,600 bracket on joint returns, would be applied to taxable incomes of $22,220–$27,060.

Some proposals go further and call for similar indexing of other fixed limits, such as the exemption of $100 ($200 on joint returns) on income from stock dividends.

Another idea is to index capital-gains income—as in profits from sale of property or stock—so that only the "real" increase in value would be taxed. For example, if the value of an individual's stock had risen by 100 percent over five years and the consumer price index had soared by 50 percent, a person would pay capital-gains taxes only on the one-third real increase in value, not the full amount of the gain.

"With indexation, a tax cut will be a real tax cut," argues Dole, sponsor of one such measure. "Taxpayers will be able to keep up with inflation."

Behind opposition. Canada and several other nations have indexed taxes for several years, but the Carter administration is strongly opposed to the idea. Some of its opponents, such as Federal Reserve Board Chairman Paul A. Volcker, hold that indexing amounts to a surrender to inflation—in effect, writing it into the system instead of fighting to bring it under control.

Others argue that indexing woud rob Congress and policymakers of a valuable economic tool. As it stands now, periodic tax cuts can be tailored to fit the needs of the economy through the size of the reduction and the way it is split up among businesses and various groups of individuals. Talk now centers on a tax cut in 1980 that would include Social Security relief for business and individuals and an overhaul of corporate taxes aimed at boosting investment in new plants.

Administration officials add that higher taxes under the present system are useful in fighting inflation by reducing consumer buying power and therefore cooling demand.

Supporters of indexing, however, contend that the real reason the White House—and many members of Congress—are opposed to the idea is that the federal government would lose a big chunk of tax revenue. Another factor, they argue, is that lawmakers are reluctant to give up the political points they win with voters by passing tax cuts in election years.

The arguments on both sides are likely to grow more heated in the months ahead as Congress and the White House grapple with the dilemma of inflation and a sagging economy in a politically charged year.●

TESTIMONY OF FRANK I. HAMILTON, NATIONAL COMMANDER, THE AMERICAN LEGION

Mr. THURMOND. Mr. President, today, September 25, 1979, the national commander of the American Legion, Mr. Frank Hamilton, appeared before the Senate Committee on Veterans' Affairs and presented the legislative goals and initiatives of the Legion for fiscal year 1980.

The American Legion is the largest veterans' organization in the United States. There are approximately 2.7 million Legionnaires and nearly 1 million members of the ladies' auxiliary. The policies, programs, and goals of the Legion promote a better understanding of the principles of democracy and instill Americanism among the citizens of this great country while providing advice and service to our Nation's veterans.

Mr. President, attending this committee meeting were Legionnaires from throughout the United States. My State of South Carolina was well represented by William Jennings Bryan Dorn, State department commander; Jim Hamilton, State department adjutant, and his wife, Dorothy; Bill Plowden, veterans' employment service representative for South Carolina, and his wife, Ruth; Abe Fennell, editor, South Carolina Legionnaire, and his wife, Jewell.

Mr. President, the testimony of National Commander Hamilton not only presents the legislative goals of this fine organization, but also outlines the programs which reflect our Nation's historical commitment to those who served when called upon. I ask unanimous consent that the testimony of National Commander Hamilton be printed in the Record for the benefit of my colleagues.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Statement of Frank I. Hamilton

Thank you, Dick, for your very kind introduction . . . it was deeply appreciated. Mr. Chairman and Members of the Committee, I have known Senator Dick Lugar for many years and have always valued his counsel and friendship. Before I begin my testimony I would also like to thank Senator Bayh for taking the time to be with us this morning. Birch, I appreciate the courtesy you have extended to me before this distinguished Committee.

Mr. Chairman and Members, permit me to introduce several guests and those at this table.

In the audience are members of my family, my wife Ethel, my daughter Mary and my son Frank, Jr.

I'm also privileged to present the National President of the American Legion Auxiliary, Mrs. Agnes Kennedy of New York and her officers Mrs. Dora Seymour, National Vice President, Mrs. Miriam Junge, National Secretary and Mrs. Helen Adams, Chairman of the National Legislative Committee.

At the witness table with me is Mr. Bill Lenker, Chairman of the National Veterans Affairs and Rehabilitation Commission and his division director Mr. Robert E. Lyngh; also joining me is Mr. Albert D. Brown, Jr., Chairman of the National Legislative Commission and his division director Mr. Myllo S. Kraja.

Mr. Chairman, our statement has been submitted and I respectfully request that it be made part of the hearing record in its entirety.

I wish now to highlight our statement and in respect of our time limits to then have the opportunity to respond to any questions there may be.

VETERANS MEDICAL CARE PROGRAM

The centerpiece of the veterans benefits program is the medical care program that is operated by the Veterans Administration. The American Legion is keenly aware that without this centerpiece it would be difficult to justify the continuation of the VA as the single agency for the administration of veterans benefits. Which is why the Legion reacts so quickly to perceived danger to the medical care program, and works so hard for the continued improvement of the program.

All of us who are interested in veterans affairs, have been concerned in the recent past, about the future of the VA medical care program. Officials of the Administration, including the President, the VA Administrator and the Chief Medical Director have repeatedly offered assurances as to the future of that program. However, at the same time, these officials have presided over reductions in the system that clearly diminish its ability to meet the demands for care of eligible beneficiaries.

As all of us know, the additional funds that Congress provided in the Fiscal Year 1979 Budget, for the operation of beds, and necessary staff increases, were used instead to fund pay raises for Federal employees. 3200 beds have been closed down, and more than 6,000 personnel have been eliminated from the Department of Medicine and Surgery during this Fiscal Year. The Administration's proposed Budget for FY 1980, was essentially a straight-line budget, and called for a further reduction of DM&S employees—which would very likely lead to more bed closures.

And while these actions have been taken and projected, the Administration has continued to assure us that they will do more with less. But they are not doing more with less, because we are receiving reports from American Legion Service Officers, and from our own Field Representatives, that veterans are in fact being turned away from hospitals and clinics—veterans with nonservice-connected disabilities, who need care.

Congress responded to our expressions of concern, and has provided additional funds in the Appropriations measure for Fiscal Year 1980, to restore 3800 staff members to the Department of Medicine and Surgery. Let me say quickly, that we are grateful for the additional $76.4 million.

But already, we are faced with the same old story. Under date of July 19, 1979, the Deputy Director of OMB addressed a letter to Senator Proxmire, in which the Administration agreed to the funding of 3200 personnel. But it expects to recover these costs by a significant reduction of benefits. In H.R. 3892, an Administration measure, travel allowances, over-the-counter drugs, and dental care for Vietnam Era veterans will be reduced. Please note that the largest number of those who will be affected by these reductions are old and poor veterans. This exchange is not what we would call generous.

The American Legion asks Congress not to offset the gains in needed employees by the reduction of benefits for needy veterans. And as to the curtailment of this dental benefit, there is no valid reason that we know of, why the one year eligibility for one-time dental care for Vietnam Era veterans should be reduced to six months. Thousands of veterans have already had the advantage of this benefit. Why deny it to those remaining who may be eligible for it?

As to bed closures, we note that as of June 1979, VA was operating 86,790 beds. Twenty years ago, VA was operating 120,000 beds. That is an elimination of more than 33,000 beds. VA insists that it doesn't need these beds. We agree that some losses were dictated by fire and safety regulations, and the need for more personal privacy for patients. But we are categorically opposed to any more bed losses. The reduction of the size of the system has gone far enough. VA is faced with an inevitable increase in demand for both inpatient and outpatient care. This increase will stem from the increase in the size of the veteran population, and from the fact that the average age of the remaining WW I veterans is now in excess of 83 years, and the average age of 12.5 million WW II veterans is now 59.5 years; meaning that these WW II veterans are arriving at the time of life when they will be increasingly subject to the catastrophic illnesses that are associated with advancing years. We know that the demand for care is going to increase, and it is essential that VA be able to respond to that demand; which it will not be able to do if it keeps on closing beds. As we have said earlier, VA is already turning veterans away—and that practice will increase if the size of the system continues to be reduced.

We know that the President has recently addressed a letter to Senator Cranston, in which he renews his pledge to maintain a viable medical care program for veterans. We accept the President's word. However, his assurances are not going to bear fruit as long as the size of the system continues to be reduced, and benefits for needy veterans continue to be curtailed. If the President wants a positive response from the veteran constituency, he will have to match his words with deeds in the operation of the veterans medical care program.

Before completing my remarks on the veterans medical care program, I do want to commend VA for certain things that are being done. The American Legion supported the enactment of Public Law 96–22, The Veterans Health Care Amendments Act of 1979. This measure will strengthen VA's effort to assist Vietnam Era veterans who are having readjustment problems, and it will further strengthen the VA's alcohol and drug treatment programs. The problem of alcoholism, especially, is a serious one among veterans of all ages, and VA is deserving of credit for its efforts to deal with this problem. In addition to the provisions of PL 96–22, VA has instituted a pure research program into the causes and effects of alcoholism, and is now in the process of establishing clinical fellowships in the treatment of alcoholics and drug abusers. The benefits of these efforts will extend to the entire American people.

Similarly, VA is expanding its activities in the field of geriatric medicine and gerontology. With an aging veteran population, and an aging national population, these new and exciting programs are to be highly commended. The American Legion strongly supports them.

VETERANS ADMINISTRATION BUDGET

Discussion of the veterans medical care program leads quite naturally to discussion of the VA Budget for Fiscal Year 1980. And even though budget action has been essentially completed by Congress, some observations are indicated.

In the first place, the Budget proposed for VA by the Administration was a straight-line budget. Funding was provided for new construction, but this was for projects that have long been planned and approved. In benefits, other than the curtailments that I mentioned earlier, the only change proposed was a modest 7.8 percent increase in compensation and death benefits for the service disabled and the survivors of the service deceased. Since these are the most deserving category of beneficiaries the Government has, the additional increases Congress signifies intention to provide, in the face of double digit inflation, are strongly indicated, and they have the full support of The American Legion.

We are further grateful for the additional funds that will be provided for health care, and we urge the Congress not to enact the benefits curtailments the Administration has proposed.

The final figure in the Appropriations measure of nearly $20.3 billion should fund veterans programs with reasonable adequacy. This figure does entail some reduction in personnel in the Department of Veterans Benefits. If these reductions result in a generalized delay in delivery of benefits to eligible veterans and their dependents, the Legion will bring the matter to the attention of this Committee, with a request for any necessary personnel adjustments. Most of those who are in receipt of veterans benefits, of whatever category, have urgent need of such benefits—and unusual delays in delivery, by reason of manpower shortages, are unfair, and to be avoided. We trust the Committee will agree with us on this point.

VIETNAM ERA VETERANS

The American Legion has more than 700,000 Vietnam Era veterans presently enrolled in its ranks. We have a strong concern for the welfare of all Vietnam Era veterans, and we have demonstrated that by support of programs to aid their readjustment.

The President also has repeatedly expressed concern for Vietnam veterans in public statements he has made. We note, however, that his Budget proposal for FY 1980 did not include any specific recommendations for improvement in benefits for this generation of veterans.

The American Legion believes there should be an immediate increase in the education and training allowances for those Vietnam veterans who are still in training under the GI Bill. During FY 1978, more than 1.5 million Vietnam veterans continued to receive training under the GI Bill. While it is expected that this number will continue to decline, there will still be a significant number of veterans in education and training programs in FY 1980. They urgently need an increase in the education and training allowances, which were last increased on October 1, 1977. We realize such an increase will cause a budget problem; but it is important that the Government complete its commitment to these veterans by making it feasible for them to complete their education and training programs; and this can only be done if the allowances are realistic in the face of double digit inflation. The American Legion has called for an increase of 15%, which we do not consider excessive. We will support any reasonable amount that Congress can agree on.

As required by Public Law 95–202, VA has completed a study of the Vocational Rehabilitation Program, Chapter 31 of the United States Code, and on the basis of that study has proposed legislation to revise and improve the program. The American Legion supports the revision as overdue and necessary.

There is another problem, specifically affecting Vietnam veterans, to which the Government must pay greater attention. And that is the residual effect, on veterans who were exposed to it, of Agent Orange. There was widespread use of this highly toxic herbicide during the fighting in Vietnam. Thousands of U.S. servicemen came in contact with it in the fighting areas. Now, there is a strange apathy evident by the Government in trying to ascertain what the residual effects may be on the health of those exposed.

As a result of pressure from Congress, and others in the nation, the VA has now established a professional level study committee, on which the Legion has representation through its Medical Consultant. We will certainly work with VA in completing this study. But time is of the essence. Claims are being filed now by Vietnam veterans who believe they have developed disabilities stemming from Agent Orange exposure. Since the use of this substance was an act of war by our Government, we expect VA to pursue an extremely liberal course in considering these claims. If there is the least possible chance that the herbicide has caused any disease, or disabilities of any kind, the VA should pay these claims. The American Legion states categorically that the Government of the United States must accept the consequences of its own actions. It has no right to resolve any doubt in this matter in its own favor. Our most recent National Convention took note of this problem in Resolution No. 158 (District of Columbia), and we intend to take every action necessary to insure the VA does not drag its feet on this issue.

VETERANS DEATH AND DISABILITY PENSION PROGRAM

When former National Commander John M. Carey, appeared before this Committee last September, Public Law 95–588, the Veterans and Dependents Pension Improvement Act of 1978, was in final stages of preparation, and did in fact become law effective January 1 of this year. It has proved to be controversial with many veterans, in comparison with the former pension program, mainly because it does not have as many exclusions. The American Legion has supported the new program because, although it is somewhat more restrictive than the earlier programs, it does accomplish two necessary goals. It treats all beneficiaries equally, and it assures the greatest amount of pension for those most in need. In doing so it eliminates some of the anomalies that had crept into the older programs in the course of numerous legislative changes.

Most new programs are not perfect at their inception. Pending a period of experience with the new program, the Legion reserves the right to approach the Congress to seek improvements in the new pension program, as the need for these becomes apparent.

We have already ascertained one significant weakness in the new law—the benefits provided to widows and orphans. These are so restrictive as to be inequitable. Our National Convention last month addressed the problem in Resolution No. 433 (Wisconsin). On the basis of that resolution, we will, in January, submit certain legislative proposals to this Committee. Essentially they will seek to increase the benefit level for widows and orphans to 90 percent of that paid to veterans, and to strengthen income exclusions in such a way that these beneficiaries will be assured a level of income support that will be meaningful.

SPECIAL PENSION PROGRAM FOR WORLD WAR I VETERANS

On the basis of a mandate from our 1978 National Convention, The American Legion had introduced into this Congress H.R. 2057, a measure that would provide a special pension program for veterans of WW I. That mandate was renewed at our 1979 National Convention.

The American Legion believes these veterans should have a special pension program that is liberal and generous to them, in consideration of their special status.

It was the veterans of WW I who sponsored and helped to develop the broad program of benefits that is now available to the nation's veterans. Many of these benefits, including all of the readjustment programs, were not available to the WW I veterans themselves. Yet they selflessly worked for the welfare of their sons and grandsons, who fought in wars that came after theirs.

Today, there are 600,000 of these veterans surviving. Their mortality curve is high—running at about 4,000 per month. Special attention to their special needs is long overdue. Most of their working years were spent in the midst of the Great Depression, and most of them were not able to acquire enough of the material things of life to see them through their later years.

For all of these reasons, it behooves the nation now to show them a measure of generosity. The American Legion earnestly petitions the Congress to do that.

HEALTH EFFECTS OF EXPOSURE TO IONIZING RADIATION

There is a special problem that affects a considerable number of WW II and post-WW II veterans. That is the effects of exposure to ionizing radiation—or the consequences of the series of nuclear explosions that took place, mainly in the testing of new weapons.

Based on the experience of American Legion Service Officers who are assisting veterans with claims based on radiation exposure, we are able to tell you that there is today a prevalent and clearly defined attitude of reluctance by a number of government agencies, including VA, we are sorry to say, to provide all the information available in government files that will make possible the prompt and fair evaluation of these claims. This attitude by these government operatives ill-becomes this nation.

The development of nuclear weapons was a calculated government policy. The American Legion supported this development in the interest of the national defense. Inevitably, many thousands of servicemen were involved. The Legion never expected that the government, having conducted the tests, with attendant exposure of large numbers of servicemen, would then seek to avoid its responsibility for the consequences of its own actions. This is not the American way. Those responsible for this foot-dragging should be called to account by this Committee. The hearings that have been held on this subject to date, were a good beginning. But more needs to be done.

Presently there are significant numbers of former servicemen who have malignancies that may be attributable to exposure to ionizing radiation. Many of their claims have been denied by the VA. Many more are being subjected to lengthy delays. And in many of these cases, the issue is a matter of life and death. The veterans want to get these claims settled before they die, so they will know their survivors will be protected in their entitlement to benefits. The failure of government employees to deal with these matters expeditiously is unjustifiable, and The American Legion protests against it. It isn't only VA. The Defense Department is also involved, as are HEW, NIH, and the NRC. The employees in these agencies who are trying to save the government money at the expense of the government's own victims, should be ashamed of themselves. Our National Convention addressed this problem in Resolution No. 547, and on the basis of that mandate, we intend to pursue this matter vigorously. We hope for the support of this Committee in that effort.

THIRD PARTY REIMBURSEMENT

One of the legislative proposals of the Administration, in the field of veterans affairs, calls for reimbursement to the VA of benefits due on health insurance policies carried by veterans being treated in VA hospitals for nonservice-connected conditions. The Legion's National Convention addressed this matter in Resolution No. 456 (Georgia), and on the basis of that mandate we shall oppose the concept of third party reimbursement.

The Administration calculates a savings of some $218 million during FY 1980, by reason of third party reimbursement. This isn't going to happen, which makes the proposal non-productive at the outset.

There is a constitutional question involved here, concerning the interference by Federal legislation into contracts entered into by private parties. This constitutional question is going to have to be settled by the courts, and that is not going to happen during FY 1980.

The cost formula to be used in determining benefits to be paid, is also going to result in long negotiations with the health insurance industry, and possible further litigation. So, neither is the matter of cost formulas going to be settled during FY 1980. Thus, any projected recoveries by the government during the next Fiscal Year are totally unrealistic.

But The American Legion is opposed to third party reimbursement on a further, fundamental basis. The grant of medical care to war veterans was formalized in the World War Veterans Act of 1924. At that time it was a benefit, freely given by the American people, through Congress, to care for the service disabled, and beyond them, to all honorably discharged veterans. The benefit was given in recognition of valuable service rendered during wartime.

In the years intervening since 1924, nothing has happened to change that mandate of the people. Rather, it has been enhanced through the years, in the multitude of legislation Congress has adopted, to strengthen and expand the veterans health care program, to the point that it is today, the finest health care delivery program in the nation. This health program denotes a special relationship between the people and the nation's veterans. To change the nature of the program now would destroy that special relationship.

If third party reimbursement were to become law, then veterans would, in fact, be contributing to the cost of their care, which would place the present medical care benefit on an entirely different basis. We of the Legion don't think the American people want that.

Further, we must add, that if third party reimbursement becomes law, we fear for the ability of all of us to defend the veterans health care program against inclusion in a national health insurance law.

JUDICIAL REVIEW

The recently concluded National Convention of The American Legion continued our long-standing mandate against judicial review of veterans claims.

We are aware that a Senate bill has been reported favorably. However, on the basis of continued study of the issue, we continue to be convinced that veterans and their dependents are receiving a level of consideration of their claims for benefits now, under the liberalized policies of the Veterans Administration, that will not continue should the Federal judiciary become involved, creating an adversary relationship between the claimant and the government, and making the decisions of the adjudicative processes of VA subject to review by Federal judges.

ELIMINATION OF 180 DAYS AWOL AS A BAR TO BENEFITS

Section 3103(a) of title 38 of the United States Code, as amended by Public Law 95–126, establishes a statutory bar to the receipt of benefits by a serviceperson who is AWOL for 180 days. The American Legion supported this measure.

The Administration has effected the introduction, in the Senate, of S. 1041, which would eliminate that bar to benefits. The American Legion, meeting last month, adopted Resolution No. 383 (Minnesota), restating the Legion's support of the statutory bar.

It is our view that entitlement to veterans benefits is an inducement to honest and faithful performance of military duty. Entitlement to such benefits is also an acknowledgment by a grateful American people, of such honest and faithful service. To relax the standards of qualification for benefits is to put a premium on refusal or failure to perform duty. To grant benefits to those who do not perform duty is an insult to those who do so.

We believe the American people have every intention that veterans benefits be reserved for those who serve the national interest. Deserters and chronic AWOLs cannot be placed in the same category as those who perform valuable service.

We hope that Congress will not entertain this Administration measure.

VETERANS EMPLOYMENT

The American Legion is appreciative of the fine support it has received from Congress in legislation to improve employment programs for veterans. We are also aware that many times it would not have been necessary to appeal to Congress for either legislation or oversight functions if the Department of Labor had implemented legislation promptly and effectively.

I will not go into detail about the past record of the Department of Labor in this regard. I do, however, want to thank the members of this Committee for your most recent help, to assure that there will be funds in the 1980 appropriations bill specifically for support personnel in the Veterans Employment Service field staff. To prevent a recurrence of this Department of Labor effort to seriously weaken the veterans employment programs, with the resulting necessity for the Legion to appeal to the friends of veterans in Congress, we are seeking legislation to provide for these positions—which had been routinely provided by the Department of Labor for more than forty years.

This long and recurring history of Department of Labor antipathy for veterans programs has convinced The American Legion that an Assistant Secretary of Labor for Veterans Employment is essential to insure the full implementation of all the measures Congress has enacted to provide comprehensive and effective employment services for the nation's veterans. We fully support S. 250 introduced by Senator Strom Thurmond for this purpose and pending before the Committee on Governmental Affairs.

This Committee, in requiring a letter of assurance from the Secretary of Labor that the Deputy Assistant Secretary for Veterans Employment would have access to the Secretary, before confirming the current holder of this position, recognizes that such access and status in the Department is crucial to the success of the veterans employment programs. We do not believe the Secretary's assurance in this regard is sufficient to overcome what we believe is an anti-veteran bias in the Department of Labor. Only an Assistant Secretary will be in a position to effectively overcome the bureaucratic roadblocks and diversions in the Department.

Mr. Chairman, Members of the Committee:

There are other matters concerning veterans benefits in which The American Legion is interested, and that will require legislative action. We shall approach the Committee about these in the early months of next year. The matters I have discussed today are those we consider to be most important at this time.

Before closing, I would like to offer a few final observations. With some of the Administration proposals and actions, mainly affecting health care programs for veterans, and with certain recent expressions in the public press (for example, a recent editorial in the New York Times, and an article in U.S. News and World Report), it seems clear to The American Legion that we are again beginning to experience that phenomenon of peacetime, the grudging of benefits for veterans.

It is being said again that veterans benefit programs are becoming too expensive; that they are costing too much money, in these times of inflation and of the need for fiscal austerity.

May we point out that in Fiscal Year 1975, veterans benefits and services consumed 5.1% of the Federal Budget. In Fiscal Year 1979, they will consume 3.8%. Whence then the charge of being too costly? Between 1960 and 1978, VA medical programs increased in cost by $4.2 billion. But $3.3 billion of that was inflation. Again, on what basis is the charge made? The programs administered by HEW cost the nation in excess of $180 billion per year. The FY 1980 VA Budget will be $20.3 billion. Is this too much? Most of those who receive veterans benefits, including those in VA hospitals, would be public charges in any case, because they are mostly the poor and the aged. Why is it wrong if they receive assistance in the form of veterans benefits, instead of as wards of the Department of HEW?

Congress has faced up to the need for caution in the income supplement program, through its adoption of PL 95-588, which revised and tightened the pension program. The VA medical care program, while providing needed care for veterans, has benefited the entire American people, through its research and education programs. It is too bad other federally financed health care programs are not as cost efficient and as beneficial to the whole people, as is the veterans health care program.

Nothing was said about the future cost of programs in 1942, when 14 million men and women were sent off to serve in WW II. Nor was anything said about future costs when 2.5 million men and women were sent to Southeast Asia, to serve in a war they had nothing to do with starting.

The American Legion is distressed that those with short memories now rise up and say that veterans benefits cost too much. Our organization has said since its founding in 1919 that the cost of war only begins when the shooting stops. These costs are the inescapable consequences of national policy. It is hardly becoming of these complainers to raise their voices now that the wars are over and peace has come.

We do not think the complainers represent the wishes, or the intentions of the American people. For our part, we continue to place our trust in the Congress, which is the true representative of all the people. We see no sentiment here, at this time, to compromise on promises, implicit and explicit, that were made to those who were asked to serve the nation in time of war.

Mr. Chairman and Members. The American Legion appreciates the courtesies extended to us at this annual appearance and wish to compliment you and your colleagues for your dedication to the care of and benefits for veterans of our great nation.

I am well aware that your commitment includes the defense of existing programs and it concerns us that there seems to be an increase of efforts to decrease and eliminate various veterans programs. The American Legion recognizes this contribution on your part.

I wish to further comment on the relationship that exists with our respective staffs—the cooperation with your offices and with Messrs. Steinberg, Shriver, Scott and all those of the staff of the Senate Committee on Veterans Affairs.

I further wish to remind you that you are our guests of honor this evening from 5:30 to 7:30 p.m. in rooms B-339 and 340 of the Rayburn House Office Building. This reception is in your honor and the American Legion Auxiliary and Legionnaires here are looking forward along with me in greeting you this evening.

NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION RESOLUTIONS THAT REQUIRE LEGISLATIVE ACTION

POLICY

A. Travel on military aircraft for certain disabled veterans.

1978 Convention Resolution No. 3 (CZ) seeks legislation to provide for space available travel on military aircraft for 100 percent disabled veterans.

B. Oppose any proposal which would alter staffing of American military cemeteries operated by the American battle monuments commission.

1978 Fall NEC Resolution No. 4 urges The American Legion to oppose any measures from whatever source, that would permit the employment of foreign nationals as superintendents or assistant superintendents of American cemeteries operated and maintained by the American Battle Monuments Commission.

C. Urges the Veterans Administration to develop a comprehensive health care program for aging veterans.

1978 Fall NEC Resolution No. 5 urges the Veterans Administration to prepare and submit to the Congress a comprehensive plan that would detail its proposals to deliver health care and related services to the aging veteran.

D. Veterans Administration Budget.

1978 Fall NEC Resolution No. 9 urges that The American Legion alert the Congress to the possible effects of any action by the Administration to circumvent the mandates of the Congress of the United States as it affects the budget of the Veterans Administration.

E. Reopening of the guerrilla recognition program.

1978 Convention Resolution No. 10 (PI) supports legislation for the reopening of the Guerrilla Recognition Program of the Commonwealth of the Philippines by the Department of Defense of the United States.

F. Oppose the transfer of those functions relating to education vested in the Administrator of Veterans Affairs.

1978 Convention Resolution No. 18 (ND) urges that The American Legion oppose any administrative or legislative proposal that would transfer to and vest in any other department or agency any functions vested in the Administrator of Veterans Affairs under Chapters 32, 34, 35 and 36 of title 38, United States Code.

G. Reductions of staff in VA Department of Medicine and Surgery.

1979 Convention Resolution No. 20 (ND) urges The American Legion to oppose reductions of staff in the Veterans Administration Department of Medicine and Surgery.

H. Authorized appropriations for the Veterans Administration.

1979 Spring NEC Resolution No. 32 seeks legislation to amend PL 93-344 to preclude diversion of expenditures within an appropriation/fund account without referral to the Congress for approval or disapproval.

I. Provide sufficient VA health care facilities for the treatment and care of the nonservice-connected disabilities of war veterans.

1979 Convention Resolution No. 41 (NC) urges the Congress to authorize funding of the Veterans Administration at such level as will assure that all eligible war veterans who require medical care, and who seek it from the Veterans Administration, shall be provided required care for their disabilities, service-connected or nonservice-connected, in Veterans Administration health care facilities.

J. Oppose reduction of acute bed care capacity in VA hospitals.

1978 Convention Resolution No. 44 (NE)

urges that The American Legion vigorously oppose any plans or proposals by the VA or others which would further reduce the average daily operating bed capacity in VA hospitals: and to support expansion of the intermediate and extended care operating bed capacity in the VA hospital care system to assure meeting the requirements of the aging veteran population.

K. Budgetary needs of the Veterans Administration.

1979 Convention Resolution No. 107(OK) urges the President of the United States and the Congress to give high priority to the budgetary needs of the Veterans Administration to administer and provide the benefits authorized by law for former members of the Armed Forces and for the dependents and other beneficiaries of deceased former members of such forces.

L. Adequate funding of the Veterans Administration medical research programs.

1978 Convention Resolution No. 145 (MN) seeks that The American Legion shall urge the Congress to authorize adequate budget funding in Fiscal Year 1979 and in future years of the VA medical research programs.

M. Adequate funding of the Veterans Administration Health Care Construction Program.

1978 Convention Resolution No. 148 (MN) seeks that The American Legion shall urge the Congress, in its consideration of the VA fiscal year budgets, that sufficient budget authorization be provided each year to enable the VA to carry out a planned program of maintaining an up-to-date system of health care facilities and one suited to its mission of providing medical services to the nation's veterans.

N. Continue the Veterans Administration as a single agency for Veterans Programs.

1978 Convention Resolution No. 169 (KS) urges the The American Legion exert every effort, influence, and resource to assure rejection of those reorganization plans that would transfer from the VA sole jurisdiction of any veterans benefits and services programs; and support continuation of the VA as the sole independent agency in the Executive Branch of the Federal Government responsible for the administration and execution of benefits and services programs provided by law for veterans, their dependents and survivors.

O. Cabinet rank for Administrator of Veterans Affairs.

1978 Convention Resolution No. 170 (KS) seeks legislation to raise the office of the Administrator of Veterans Affairs to that of Cabinet rank.

P. Judicial review of decisions of the Veterans Administration.

1978 Convention Resolution No. 191 (WI) urges opposition to those proposals which would provide judicial review of the decisions by the Administrator of Veterans Affairs on claims for benefits.

Q. The American Legion Policy on National Health Insurance.

1978 Convention Resolution No. 192 (WI) seeks to provide that any National Health Insurance legislation enacted by Congress should include the following: (1) that the medical care program operated by the VA is recognized as one providing health care services exclusively for veterans, and it shall continue to be so maintained and operated; (2) that a veteran applying for medical care from the VA, to which he is otherwise entitled, and who, in accordance with existing law and regulations is required to state his inability to pay for his own care, shall not be required to consider, in making such statement, any medical benefits that would accrue to him under the provisions of a Federal Health Care Act; (3) that if the provisions sets forth above are included in a Federal Health Care Act, then The American Legion shall make no objection to any section of the Act providing for reimbursement rendered the veteran for nonservice-connected disabilities, of benefits to which the veteran may be entitled under a Federal Health Care Act; and, (4) that The American Legion shall actively oppose the enactment of a Federal Health Care Act that does not include the provisions set forth in clauses (1) and (2).

R. Oppose legislation which would provide veterans benefits to those former members of the armed forces who were absent without leave for a period of 180 days or more.

1979 Convention Resolution No. 383 (MN) urges The American Legion to oppose any legislation that would remove the restriction contained in 38 USC 3103(a) denying benefits to those veterans who were held as a deserter, or who were absent without authority from active duty for a period of 180 days or more.

S. Adequate funding to assure that eligible veterans receive needed outpatient treatment for their nonservice-connected conditions.

1978 Convention Resolution No. 443 (IA) urges the Congress to increase the funding of the VA medical care programs so as to assure that veterans in need of outpatient or ambulatory treatment of their nonservice-connected disabilities will not be referred to another State or Federal Agency for treatment.

T. Oppose transfer of the RPC, St. Louis to the General Services Administration.

1979 Convention Resolution No. 452 (WI) opposes the transfer of the Records Processing Center at St. Louis, Missouri to the control and administration of the General Services Administration.

U. Oppose legislation providing for third party reimbursement by the Veterans' Administration.

1979 Convention Resolution No. 456 (GA) urges The American Legion to oppose the enactment of legislation providing for third party reimbursement of the cost of medical care provided by the Veterans Administration to eligible veterans.

V. Oppose legislation as would further erode the distinction in benefits and services provided war veterans.

1978 Convention Resolution No. 472 (DC) urges The American Legion to oppose enactment of any legislation which will further destroy the distinction in veterans benefits and services between those who served in the United States Armed Forces during a period of war or armed conflict and those who served in such forces in time of peace.

NATIONAL CEMETERIES

A. The National Cemetery policy of the American Legion.

1978 Convention Resolution No. 61 (AZ) calls upon the VA to establish additional cemeteries wherever a need for them is apparent; support legislation to provide contract burials for veterans who are indigent at time of death; support legislation to provide Federal financial assistance for the establishment of State Veterans' Cemeteries, and of Veterans Sections in cemeteries owned and operated by local governmental units; support legislation for the construction of columbaria and mausoleums wherever feasible within national cemeteries; oppose any effort, from whatever source, to reduce or eliminate the present burial allowance and plot allowance provided to veterans under the laws and regulations administered by the VA, or the reduction or elimination of the earned burial benefit payable to all citizens who qualify for it under the Social Security Act as amended; and, urges upon the Department of Defense that the only equitable policy for burials at Arlington National Cemetery is the admission thereto of all war veterans whose service was honorable.

MEDICAL AND HOSPITALS

A. Increase per diem rates to State Veterans Homes.

1979 Spring NEC Resolution No. 33 urges The American Legion to support legislation to amend title 38 U.S.C. to promote the care and treatment of veterans in State Veterans Homes.

B. Provide that the term veteran in certain circumstances include a person who died in active service.

1978 Convention Resolution No. 116 (KY) seeks legislation to amend section 613 of title 38, United States Code, so as to provide that the term "veteran" as used in this section, includes a person who died in the active military, naval, or air service.

C. Alcohol and drug dependency treatment for certain veterans.

1978 Convention Resolution No. 172 (KS) calls upon the VA to proceed with the formulation of a comprehensive Alcohol and Drug Treatment and Rehabilitation Program encompassing the entire VA system of hospitals and clinics; and urges Congress, in funding VA health care programs, to assign high priority to the VA Alcohol and Drug Treatment and Rehabilitation Programs.

D. Hospitalization and outpatient medical and dental care for World War I veterans.

1978 Convention Resolution No. 221 (OH) seeks legislation to amend 38 U.S.C. 612(b) and (e) to include veterans of World War I, as is now provided Spanish American War veterans.

E. Extend community nursing home care at VA expense to nine months.

1979 Convention Resolution No. 272 (MA) seeks legislation to amend 38 USC 620 to extend community nursing home care at VA expense to nine (9) months.

F. Oppose the elimination of certain essential medical programs.

1979 Convention Resolution No. 378 (MN) urges The American Legion to oppose those legislative or administrative proposals designed to reduce budgetary expenditures by eliminating existing essential programs of readjustment, rehabilitation and medical care.

VETERANS ADMINISTRATION HOSPITALS

A. VA outpatient clinic at Philadelphia.

1978 Convention Resolution No. 186 (PA) urges the Congress and the VA to restore the outpatient clinic, Philadelphia, to its previous independence, and that it be operated as an independent outpatient facility.

B. Funding for State Veterans Homes.

1979 Convention Resolution No. 222 (MO) seeks legislation to provide that adequate funding be appropriated for the construction, remodeling and renovating of State Veterans Homes.

CLAIMS AND RATING

A. Transportation costs for burials of certain veterans.

1978 Convention Resolution No. 43 (NE) seeks legislation to provide that where an eligible veteran dies in a State Veterans Home, the Administrator of Veterans Affairs shall pay the cost of transporting the remains to place of burial.

B. Payments to hospitalized incompetent veterans.

1978 Convention Resolution No. 45 (NE) seeks legislation to amend 38 USC 3203(b) (1) which would increase the amounts in this section of law to $3,000 and $1,000 respectively.

C. Increase the monthly rates of dependency and indemnity compensation.

1978 Convention Resolution No. 118 (KY) seeks legislation to amend section 411 of title 38, United States Code, to increase the monthly rates of dependency and indemnity compensation.

D. Improve the dependency and indemnity compensation program for parents.

1978 Convention Resolution No. 224 (OH) seeks legislation to improve the dependency and indemnity compensation program for dependent parents.

E. Armed Forces retirement payments.

1978 Convention Resolution No. 485 (NC) seeks legislation so as to remove the restriction against the receipt of Armed Forces retirement pay, due to length of service, concurrently with VA compensation.

F. Improve the disability compensation program.

Provide a Seven Year Presumption for Syringomyelia:

1978 Fall NEC Resolution No. 7 seeks legislation to amend 38 USC 312(a) to authorize service connection for Syringomyelia developing a compensable degree of disability within seven years following separation from wartime service.

Add the Loss of One Lung or One Kidney to the List of Anatomical Loss or Loss of Use Disabilities:

1979 Convention Resolution No. 78 (KY) seeks legislation to add, one lung or one kidney to the list of anatomical loss or loss of use of disabilities, which now includes creative organs, feet, hands, buttocks, sight and hearing.

Reduce the Protected Time Limitation in Compensation Ratings From 20 or more Continuous Years to 10 or more Continuous Years:

1978 Convention Resolution No. 94 (OR) seeks legislation to provide that any disability which has been continuously rated at or above any evaluation for ten or more years for compensation purposes under laws administered by the VA shall not thereafter be rated at less than such evaluation, except upon a showing that such rating was based on fraud.

Presumption for Certain Diseases and Disabilities of Former Prisoners of War:

1978 Convention Resolution No. 193 (WI) seeks legislation to provide as follows: "Psychosis or psychoneurosis which became manifest to a degree of 10 per centum or more within 7 years after date of separation from service; and, any chronic constitutional disease becoming manifest to a degree of 10 per centum or more within 5 years from the date of separation from service."

Adaptive Automobile Equipment for Certain Veterans:

1979 Convention Resolution No. 246 (OH) seeks legislation to provide adaptive automobile equipment to service-connected veterans whose knees or hips are ankylosed at favorable angles and are required by motor vehicle licensing laws to obtain such equipment.

Increase the Rates of Disability Compensation:

1978 Convention Resolution No. 325 (VA) seeks legislation to increase the monthly rates of disability compensation.

Add Lupus Erythematosis to the List of Chronic Diseases:

1979 Convention Resolution No. 495 (IA) seeks legislation to amend title 38, USC, 301 (B)(3) by adding Lupus Erythematosis to the list of chronic diseases that shall be considered to be service-connected under section 312(a)(1), when manifested to a degree of ten percent within one year from the date of separation from a period of war service.

G. Improve the death and disability pension program.

Special Pension Program for World War I Veterans:

1979 Convention Resolution No. 150 (NH) seeks legislation to provide a special pension program for veterans of World War I.

Payment of Additional Benefits to Those who did not Elect Payments Under PL 95–588:

1979 Convention Resolution No. 404 (CA) urges amendments to PL 95–588 to permit payment of additional benefit of aid and attendance or housebound to pension recipients who did not elect to receive pension benefits under PL 95–588.

Improve the Pension Program for Veterans and for their Dependents:

1979 Convention Resolution 433 (WI) seeks legislation to further improve the death and disability pension benefits program for veterans of World War I, World War II, the Korean and Vietnam Wars, and for their widows and children.

Payment of Pension to Veterans and Dependents Residing Outside the Fifty States and the District of Columbia:

1978 Convention Resolution No. 519 (Convention Committee) urges The American Legion to oppose the enactment of that provision of HR 19173, or any other legislation which would impose a limitation on payments on death and disability pension by reason of residence outside the fifty States and the District of Columbia.

INSURANCE

A Mortgage life insurance for certain veterans.

1979 Convention Resolution No. 80 (KY) seeks legislation to provide mortgage life insurance for those veterans unable to acquire commercial life insurance because of service-connected disabilities.

B. Special Government Insurance for Vietnam Era veterans.

1979 Convention Resolution No. 243 (OH) seeks legislation to provide a special Government Life Insurance Program for Vietnam Era veterans.

C. Reopen the national service life insurance program.

1978 Convention Resolution No. 265 (IL) supports legislation to reopen for a one-year period the right for certain veterans to apply for National Service Life Insurance.

D. Kidney and heart transplants qualify as statutory disabilities.

1979 Convention Resolution No. 495 (IA) seeks legislation to provide that kidney and heart transplants shall qualify as statutory total disabilities for insurance purposes.

EDUCATION AND TRAINING

A. Define Veterans Administration authority in undergraduate course measurement.

1978 Spring NEC Resolution No. 31 supports legislation as would (1) reaffirm the Administrator of Veterans Affairs' traditional authority under current law and his implementation of the traditional statutory distinctions made in benefit levels based upon the type of program and periods of course pursuit; and, (2) clarify those areas of dispute in the measurement and the amount of benefits payable for nontraditional programs.

B. Increase in Monthly payments under education and training programs.

1979 Spring NEC Resolution No. 34 seeks legislation to provide a cost-of-living increase in the monthly rates payable for vocational rehabilitation subsistence allowance, and special assistance.

C. Increase the number of hours veterans can utilize under VA or outreach programs.

1979 Convention Resolution No. 169 (MT) seeks legislation to permit veterans who are enrolled in the Spring quarter or semester and are registered as fulltime students for the Fall quarter or semester, to continue their work study program in any VA or Outreach Program during the summer break.

NATIONAL ECONOMIC COMMISSION RESOLUTIONS THAT REQUIRE LEGISLATIVE ACTION

General employment

A. Require secretarial support for veterans employment service field staff.

1979 Convention Resolution No. 14 (ND) seeks legislation to provide that Federal funds shall be used for the assignment of Federally employed secretary/stenographers in the field staff of the Veterans Employment Service; such secretary/stenographers being assigned to each State Director for Veterans Employment and to Assistant State Directors of Veterans Employment as required, and with provisions for promotion to Administrative Assistant positions for secretaries meeting certain prescribed performance and length-of-service standards.

B. Maintain the two-year residence requirements for State and assistant veterans employment representatives.

1979 Convention Resolution No. 84 (UT) opposes any proposal to eliminate the two-year residency requirement for candidates for any State Veterans Employment Representative position.

C. Eliminate length of unemployment as factor in eligibility of veterans in CETA programs.

1979 Convention Resolution No. 91 (OK) seeks legislation that will permit any unemployed veteran to be eligible to participate in programs under the Comprehensive Employment and Training Act, regardless of length of time of unemployment.

D. Oppose any change in the Wagner-Peyser Act that would adversely affect veterans.

1979 Convention Resolution No. 98 (OK) opposes any change in the Wagner-Peyser Act that would have an adverse effect on programs of employment services to veterans.

E. Assistant Secretary of Labor for Veterans Employment.

1979 Convention Resolution No. 100 (OK) supports legislation to establish a full Assistant Secretary of Labor for Veterans Employment.

F. Sufficient funds and accountability for the Veterans Employment Service and State Employment Service.

1979 Convention Resolution No. 197 (PA) urges Congress to: (1) appropriate adequate funds, earmarked specifically for employment services to veterans, for the use of the Veterans Employment Service, United States Department of Labor, in carrying out their responsibilities under the law; (2) that through its oversight powers ensure that budgeted funds for each State Employment service agency for services to veterans be separately identified for use exclusively for service to veterans, and ensure that there be included in each State Employment service agency budget adequate funds to support the assignment of local veterans employment representatives as required by law; and (3) require fiscal accountability annually from the Department of Labor to ensure that funds made available for veterans service are in fact used for such purpose.

G. Establish position of Regional Veterans Employment Representative.

1979 Convention Resolution No. 290 (AR) supports legislation to establish the position of Regional Veterans Employment Representatives in the Veterans Employment Service.

H. Deny affirmative action to Members of Enemy Forces in Vietnam.

1979 Convention Resolution No. 455 (GA) seeks legislation to provide that affirmative action required of Federal contractors will not be applicable to any individual who has fought against or has been a member of an armed force which was opposed to the United States in Vietnam.

I. Increase State employment service staff.

1979 Convention Resolution No. 551 (Convention Committee) seeks to have the Office of Management and Budget and the Congress increase the present unrealistic number of 30,000 positions in the public employment service to 33,000 in order to more effectively perform its task of placing people, especially veterans, in employment and training, and to provide veterans with the legally mandated counseling, job development, and other services.

J. Amend definition of "eligible veterans" in affirmative action legislation.

1978 Convention Resolution No. 158 (VT) seeks legislation to define a "disabled veteran" and a "veteran of the Vietnam Era" for the purpose of affirmative action by deleting the 30 percent disability requirement and the stipulation that the Vietnam Era veteran be discharged or released from military service within 48 months preceding application for employment.

K. Definition of "eligible veteran" for preferential job placement.

1978 Convention Resolution No. 339 (OK) seeks legislation to provide that the definition of "eligible veteran" for purposes of preferential job placement, job counseling and training opportunities be a person who served in the Armed Forces during any war, including the period of April 28, 1952 through July 1, 1955, or who served for 180 days or more, any part of which occurred between August 4, 1964 and May 7, 1975.

L. Transfer of veterans employment programs to the Veterans Administration.

1978 Convention Resolution No. 347 (OK) urges The American Legion to oppose any legislation that would transfer to the Administrator of Veterans Affairs the functions of the Secretary of Labor as provided under title 38, United States Code.

HOUSING

A Oppose transfer of the G.I. Loan Program from the Veterans Administration.

1978 Convention Resolution No. 119 (KY) urges that The American Legion continue to voice vigorous protest against the transfer of the administration of the G.I. home loan program or any part thereof from the VA to any other department or agency of the Federal Government.

VETERANS PREFERENCE AND CIVIL SERVICE

A. Oppose consolidation of the Social Security retirement program with the Civil Service retirement program.

1979 Convention Resolution No. 97 (OK) opposes any move to consolidate the Social Security retirement program with the Civil Service retirement program or any other retirement system.

B. Repeal requirement to recompute certain Civil Service annuities.

1979 Convention Resolution No. 143 (DC) urges enactment of legislation which would eliminate the inequities now contained in PL 84–881 and permit present and former civilian employees of the United States government to receive civil service annuity credit for retirement purposes for all their periods of service to the United States (Federal Government, uniformed services and District of Columbia Government), including such service which was covered by social security, regardless of eligibility for social security benefits.

C. Reaffirmation of support for veterans preference in Federal employment.

1979 Convention Resolution No. 428 (WI) urges The American Legion to reaffirm its traditional support of the preference in Federal employment extended by a grateful nation, strenuously oppose any and all attempts to weaken or reduce veterans rights and benefits in Federal employment as provided and set forth in title 5, United States Code.

D. Support continuation of a standing committee in the House of Representatives with jurisdiction over veterans preference in Federal employment.

1979 Convention Resolution No. 550 (Convention Committee) supports the retention of the House Post Office and Civil Service Committee, or any standing committee that will have the jurisdiction to effectively and economically administer veterans preference programs; and to aid in the development of such additional programs as may affect the Federal employment of our nation's war veterans and other preference eligibles; and opposes any recommendations, and any effort, from whatever source, to abolish the House Post Office and Civil Service Committee in the House of Representatives.

E. Require that all veteran preference eligibles passed over for Federal appointment be notified.

National Executive Committee Resolution No. 11—October 1978, urges The American Legion to support legislation to require that veterans preference eligibles, when passed over for appointment, must be notified in writing of such a pass over, and be afforded adequate time to respond to such notification.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REORGANIZATION PLAN NO. 3 OF 1979—MESSAGE FROM THE PRESIDENT—PM 110

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1979, to consolidate trade functions of the United States Government. I am acting under the authority vested in me by the Reorganization Act of 1977, chapter 9 of title 5 of the United States Code, and pursuant to section 1109 of the Trade Agreements Act of 1979, which directs that I transmit to the Congress a proposal to restructure the international trade functions of the Executive branch.

The goal of this reorganization is to improve the capacity of the Government to strengthen the export performance of United States industry and to assure fair international trade practices, taking into account the interests of all elements of our economy.

Recent developments, which have raised concern about the vitality of our international trade performance, have focused much attention on the way our trade machinery is organized. These developments include our negative trade balance, increasing dependence upon foreign oil, and international pressures on the dollar. New challenges, such as implementation of the Multilateral Trade Negotiation (MTN) agreements and trade with non-market economies, will further test our Government trade organization.

We must be prepared to apply domestically the MTN codes on procurement, subsidies, standards, and customs valuation. We also must monitor major implementation measures abroad, reporting back to American business on important developments and, where necessary, raising questions internationally about foreign implementation. MTN will work—will open new markets for U.S. labor, farmers, and business—only if we have adequate procedures for aggressively monitoring and enforcing it. We intend to meet our obligations, and we expect others to do the same.

The trade machinery we now have cannot do this job effectively. Although the Special Trade Representative (STR) takes the lead role in administering the trade agreements program, many issues are handled elsewhere and no agency has across-the-board leadership in trade. Aside from the Trade Representative and the Export-Import Bank, trade is not the primary concern of any Executive branch agency where trade functions are located. The current arrangements lack a central authority capable of planning a coherent trade strategy and assuring its vigorous implementation.

This reorganization is designed to correct such deficiencies and to prepare us for strong enforcement of the MTN codes. It aims to improve our export promotion activities so that United States exporters can take full advantage of trade opportunities in foreign markets. It provides for the timely and efficient administration of our unfair trade laws. It also establishes an efficient mechanism for shaping an effective, comprehensive United States trade policy.

To achieve these objectives, I propose to place policy coordination and negotiation—those international trade functions that most require comprehensiveness, influence, and Government-wide perspective—in the Executive Office of the President. I propose to place operational and implementation responsibilities, which are staff-intensive, in line departments that have the requisite resources and knowledge of the major sectors of our economy to handle them. I have concluded that building our trade structure on STR and Commerce, respectively, best satisfies these considerations.

I propose to enhance STR, to be renamed the Office of the United States Trade Representative, by centralizing in it international trade policy development, coordination and negotiation functions. The Commerce Department will become the focus of non-agricultural operational trade responsibilities by adding to its existing duties those for commercial representation abroad, antidumping and countervailing duty cases, the non-agricultural aspects of MTN implementation, national security investigations, and embargoes.

THE UNITED STATES TRADE REPRESENTATIVE

The Trade Representative, with the advice of the Trade Policy Committee, will be responsible for developing and coordinating our international trade and direct investment policy, including the following areas:

Import remedies. The Trade Representative will exercise policy oversight of the application of import remedies, analyze long-term trends in import remedy cases and recommend any necessary legislative changes. For antidumping and countervailing duty matters, such coordination, to the extent legally permissible, will be directed toward the establishment of new precedents, negotiation of assurances, and coordination with other trade matters, rather than case-by-case fact finding and determinations.

East-West trade policy. The Trade Representative will have lead responsibility for East-West trade negotiations and will coordinate East-West trade policy. The Trade Policy Committee will assume the responsibilities of the East-West Foreign Trade Board.

International investment policy. The Trade Representative will have the policy lead regarding issues of direct foreign investment in the United States, direct investment by Americans abroad, operations of multinational enterprises, and multilateral agreements on international investment, insofar as such issues relate to international trade.

International commodity policy. The Trade Representative will assume responsibility for commodity negotiations and also will coordinate commodity policy.

Energy trade. While the Departments of Energy and State will continue to share responsibility for international energy issues, the Trade Representative will coordinate energy trade matters. The Department of Energy will become a member of the TPC.

Export-expansion policy. To ensure a vigorous and coordinated Government-wide export expansion effort, policy oversight of our export expansion activities will be the responsibility of the Trade Representative.

The Trade Representative will have the lead role in bilateral and multilateral trade, commodity, and direct investment negotiations. The Trade Representative will represent the United States in General Agreement on Tariffs and Trade (GATT) matters. Since the GATT will be the principal international forum for implementing and interpreting the MTN agreements and since GATT meetings, including committee and working group meetings, occur almost continuously, the Trade Representative will have a limited number of permanent staff in Geneva. In some cases, it may be necessary to assign a small number of USTR staff abroad to assist in oversight of MTN enforcement. In this event, appropriate positions will be authorized. In recognition of the responsibility of the Secretary of State regarding our foreign policy, the activities of overseas personnel of the Trade Representative and the Commerce Department will be fully coordinated with other elements of our diplomatic missions.

In addition to his role with regard to GATT matters, the Trade Representative will have the lead responsibility for trade and commodity matters considered in the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD) when such matters are the primary issues under negotiation. Because of the Secretary of State's foreign policy responsibilities, and the responsibilities of the Director of the International Development Cooperation Agency as the President's principal advisor on development, the Trade Representative will exercise his OECD and UNCTAD responsibilities in close cooperation with these officials.

To ensure that all trade negotiations are handled consistently and that our negotiating leverage is employed to the maximum, the Trade Representative will manage the negotiation of particular issues. Where appropriate, the Trade Representative may delegate responsibility for negotiations to other agencies with expertise on the issues under consideration. He will coordinate the operational aspects of negotiations through a Trade Negotiating Committee, chaired by the Trade Representative and including the Departments of Commerce, State, Treasury, Agriculture and Labor.

The Trade Representative will be concerned not only with ongoing negotiations and coordination of specific, immediate issues, but also—very importantly—with the development of long-term United States trade strategies and policies. He will oversee implementation of the MTN agreements, and will advise the President on the effects of other Government policies (e.g., antitrust, taxation) on U.S. trade. In order to participate more fully in oversight of international investment and export financing activities, the Trade Representative will become a member of the National Advisory Council on International Monetary and Financial Policies and the Boards of the Export-Import Bank and the Overseas Private Investment Corporation.

In performing these functions, the Trade Representative will act as the principal trade spokesman of the President. To assure that our trade policies take into account the broadest range of perspectives, the Trade Representative will consult with the Trade Policy Committee, whose mandate and membership will be expanded. The Trade Representative will, as appropriate, invite agencies such as the Export-Import Bank and the Overseas Private Investment Corporation to participate in TPC meetings in addition to the permanent TPC members. When different departmental views on trade matters exist within the TPC as will be the case from time to time in this complex policy area, I will expect the Trade Representative to resolve policy disagreements in his best judgment, subject to appeal to the President.

THE DEPARTMENT OF COMMERCE

The Department of Commerce, under this proposal, will become the focal point of operational responsibilities in the non-agricultural trade area. My reorganization plan will transfer to the Commerce Department important responsibilities for administration of countervailing and antidumping matters, foreign commercial representation, and MTN implementation support. Consolidating these trade functions in the Department of Commerce builds upon an agency with extensive trade experience. The Department will retain its operational responsibilities in such areas as export controls, East-West trade, trade adjustment assistance to firms and communities, trade policy analysis, and monitoring foreign compliance with trade agreements. The Department will be substantially reorganized to consolidate and reshape its trade functions under an Under Secretary for International Trade.

With this reorganization, trade functions will be strengthened within the Department of Commerce, and such related efforts in the Department as improvement of industrial innovation and productivity, encouraging local and regional economic development, and sectoral analysis, will be closely linked to an aggressive trade program. Fostering the international competitiveness of American industry will become the principal mission of the Department of Commerce.

IMPORT REMEDIES

I propose to transfer to the Department of Commerce responsibility for administration of the countervailing duty and antidumping statutes. This function will be performed efficiently and effectively in an organizational setting where trade is the primary mission. This activity will be directed by a new Assistant Secretary for Trade Administration, subject to Senate confirmation. Although the plan permits its provisions to take effect as late as October 1, 1980, I intend to make this transfer effective by January 1, 1980, so that it will occur as the new MTN codes take effect. Commerce will continue its supportive role in the staffing of other unfair trade practice issues, such as cases arising under section 301 of the Trade Act of 1974.

COMMERCIAL REPRESENTATION

This reorganization plan will transfer to the Department of Commerce responsibility for commercial representation abroad. This transfer would place both domestic and overseas export promotion activities under a single organization, directed by an Assistant Secretary for Export Development, charged with aggressively expanding U.S. export opportunities. Placing this Foreign Commercial Service in the Commerce Department will allow commercial officers to concentrate on the promotion of U.S. exports as their principal activity.

Initially, the transfer of commercial representation from State to Commerce will involve all full-time overseas trade promotion and commercial positions (approximately 162), responsibility for this function in the countries (approximately 60) to which these individuals are assigned, and the associated foreign national employees in those countries. Over time, the Department of Commerce undoubtedly will review the deployment of commercial officers in light of changing trade circumstances and propose extensions or alterations of coverage of the Foreign Commercial Service.

MTN IMPLEMENTATION

I am dedicated to the aggressive implementation of the Multilateral Trade Agreements. The United States must seize the opportunities and enforce the obligations created by these agreements. Under this proposal, the Department of Commerce will assign high priority to this task. The Department of Commerce will be responsible for the day-to-day implementation of non-agricultural aspects of the MTN agreements. Management of this function will be a principal assignment of an Assistant Secretary for Trade Policy and Programs. Implementation activities will include:

Monitoring agreements and targeting problems for consultation and negotiation;

Operating a Trade Complaint Center where the private sector can receive advice as to the recourse and remedies available;

Aiding in the settlement of disputes, including staffing of formal complaint cases;

Identifying problem areas for consideration by the Trade Representative and the Trade Policy Committee;

Educational and promotion programs regarding the provisions of the agreements and the processes for dealing with problems that arise;

Providing American business with basic information on foreign laws, regulations and procedures;

Consultations with private sector advisory committees; and

General analytical support.

These responsibilities will be handled by a unit built around the staff from Commerce that provided essential analytical support to STR throughout the MTN negotiation process. Building implementation of MTN around this core group will assure that the Government's institutional memory and expertise on MTN is most effectively devoted to the challenge ahead. When American business needs information or encounters problems in the MTN area, it can turn to the Department of Commerce for knowledgeable assistance.

Matching the increased importance of trade in the Department's mission will be a much strengthened trade organization within the Department. By creating a number of new senior level positions in the Department, we will ensure that trade policy implementation receives the kind of day-to-day top management attention that it both demands and requires.

With its new responsibilities and resources, the Department of Commerce will become a key participant in the formulation of our trade policies. Much of the analysis in support of trade policy formulation will be conducted by the Department of Commerce, which will be close to the operational aspects of the problems that raise policy issues.

To succeed in global competition, we must have a better understanding of the problems and prospects of U.S. industry, particularly in relation to the growing strength of industries abroad. This is the key reason why we will upgrade sectoral analysis capabilities throughout the Department of Commerce, including the creation of a new Bureau of Industrial Analysis. Commerce, with its ability to link trade to policies affecting industry, is uniquely suited to serve as the principal technical expert within the Government on special industry sector problems requiring international consultation, as well as to provide industry-specific information on how tax, regulatory and other Government policies affect the international competitiveness of the U.S. industries.

Commerce will also expand its traditional trade policy focus on industrial issues to deal with the international trade and investment problems of our growing services sector. Under the proposal, there will be comprehensive service industry representation in our industry advisory process, as well as a continuing effort to bring services under international discipline. I expect the Commerce Department to play a major role in developing new service sector initiatives for consideration within the Government.

After an investigation lasting over a year, I have found that this reorganization is necessary to carry out the policy set forth in section 901(a) of title 5 of the United States Code. As described above, this reorganization will increase significantly our ability to implement the MTN agreements efficiently and effectively and will improve greatly the services of the government with regard to export development. These improvements will be achieved with no increase in personnel or expenditures, except for an annual expense of about $300,000 for the salaries and clerical support of the three additional senior Commerce Department officials and a non-recurring expense of approximately $600,000 in connection with the transfers of functions provided in the plan. I find that the reorganization made by this plan makes necessary the provisions for the appointment and pay of a Deputy Secretary, an Under Secretary for International Trade, and two additional Assistant Secretaries of the Department of Commerce, and additional members of the Boards of Directors of the Export-Import Bank and the Overseas Private Investment Corporation.

It is indeed appropriate that this proposal follows so soon after the overwhelming approval by the Congress of the Trade Agreements Act of 1979, for it will sharpen and unify trade policy direction, improve the efficiency of trade law enforcement, and enable us to negotiate abroad from a position of strength. The extensive discussions between Administration officials and the Congress on this plan have been a model of the kind of cooperation that can exist between the two branches. I look forward to our further cooperation in successfully implementing both this reorganization proposal and the MTN agreements.

JIMMY CARTER.

THE WHITE HOUSE, *September 25, 1979.*

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on September 21, 1979, he had approved and signed the following act:

S. 1019. An act to amend the International Development and Food Assistance Act of 1978 and the Foreign Assistance and Related Programs Appropriations Act, 1979 by striking out certain prohibitions relating to Uganda, and for other purposes.

MESSAGES FROM THE HOUSE

At 12:33 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5279. An act to provide for the distribution within the United States of the International Communication Agency film entitled "Reflections: George Meany."

ENROLLED BILL SIGNED

At 4:10 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bill:

S. 275. An act for the relief of Leah Mi Cohen.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 4:58 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 404. A joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes.

HOUSE BILL AND JOINT RESOLUTION REFERRED

The following bill and joint resolution were read twice by their titles and referred as indicated:

H.R. 5279. An act to provide for the distribution within the United States of the International Communication Agency film entitled "Reflections: George Meany"; to the Committee on Foreign Relations.

H.J. Res. 404. Joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes; to the Committee on Appropriations.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-2204. A communication from the Secretary of Agriculture, transmitting, pursuant to law, responses to Section 6 which amends Section 14(d) of the National School Lunch Act and relates to the purchase of foods for the commodity distribution programs; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2205. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller), reporting, pursuant to law, on the transfers of funds appropriated to the Department of Defense made recently pursuant to the authority granted in Section 834 of the Department of Defense Appropriation Act, 1979; to the Committee on Appropriations.

EC-2206. A communication from the Under Secretary of the Air Force, transmitting a draft of proposed legislation to amend Chapter 101 of title 10, United States Code, to authorize the Secretary concerned to require an applicant for certain advanced education sponsored by the armed forces to agree to serve on active duty for a specified period or reimburse the United States for the apportioned costs of the education; to the Committee on Armed Services.

EC-2207. A communication from the Secretary of the Army, reporting, pursuant to law, that the U.S. Army intends to initiate the limited disposal of chemical agent/munitions under the Phase I Drill and Transfer System Operations at Dugway Proving Ground, Utah on or about October 19, 1979; to the Committee on Armed Services.

EC-2208. A communication from the Chairman, Cost Accounting Standards Board, transmitting, pursuant to law, material adding to the Board's Cost Accounting Standards a seventeenth proposed Standard: Part 420—Accounting for Independent Research and Development Costs and Bid and Proposal Costs; to the Committee on Banking, Housing, and Urban Affairs.

EC-2209. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improving the Scientific and Technical Information Available to the Environmental Protection Agency in its Decision-making Process," September 21, 1979; to the Committee on Environment and Public Works.

EC-2210. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Training and Related Efforts Needed to Improve Financial Management in the Third World," September 20, 1979; to the Committee on Foreign Relations.

EC-2211. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC-2212. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Protecting the Public From Unnecessary Federal Paperwork: Does the Control Process Work?" September 24 1979; to the Committee on Governmental Affairs.

EC-2213. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the Minority Printing Clerk, House of Representatives, for the Fiscal Year Ended September 30, 1978," September 21, 1979; to the Committee on Governmental Affairs.

EC-2214. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the Majority Printing Clerk, House of Representatives, for the Fiscal Year Ended August 31, 1978," September 21, 1979; to the Committee on Governmental Affairs.

EC-2215. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, Act 3-102, "Washington Convention Center Management Act of 1979," and report, adopted by the Council on July 31, 1979; to the Committee on Governmental Affairs.

EC-2216. A communication from the Attorney General of the United States, transmitting, pursuant to law, a report on the business of the Department of Justice for fiscal year 1978; to the Committee on the Judiciary.

EC-2217. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Evaluating Benefits and Risks of Obstetric Practices—More Coordinated Federal and Private Efforts Needed," September 24, 1979; to the Committee on Labor and Human Resources.

EC-2218. A communication from the President of the United States, transmitting amendments to the request for appropriations for the fiscal year 1980 in the amount of $190,000,000; to the Committee on Appropriations and ordered to be printed.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-463. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry:

"Senate Joint Resolution No. 17

"Whereas, The federal government has requested and solicited public participation in the program to develop recommendations to Congress regarding the Second Roadless Area Review and Evaluation (RARE II) program for the management of United States Forest Service lands; and

"Whereas, The United States Forest Service, in its program to obtain such public participation in California, has received outstanding cooperation from individuals, organizations, and various affected counties through expressions of their locally elected officials; and

"Whereas, The Legislature congratulates those who participated in helping develop the recommendations relative to RARE II; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California hereby urges the Congress of the United States to consider the wishes and points of view expressed to the United States Forest Service through the RARE II public participation program; and be it further

"*Resolved,* That the Legislature of the State of California urges a speedy resolution of the management programs for United States Forest Service lands in California so that the counties in which the lands lie can escape from their present limbo; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Governor and the Secretary of the Resources Agency of the State of California."

POM-464. A joint resolution adopted by the Legislature of the State of California; to the Committee on Appropriations:

"Assembly Joint Resolution No. 52

"Whereas, Fort Irwin, California, has been selected by the Department of Defense as the National Training Center for the Armed Forces of the United States; and

"Whereas, The purpose of the National Training Center is to provide simulated combat situations in the training of the Armed Forces, thereby enhancing their effectiveness and survivability in any future combat situation; and

"Whereas, The California National Guard has been operating Fort Irwin for seven years and training its members at that location for over 25 years; and

"Whereas, The California Legislature has enacted, and the Governor has signed, Senate Bill 952 into law as Chapter 402 of the Statutes of 1979, authorizing the Commanding General of the California National Guard to contract with the United States for the purposes of training of federal military personnel; and

"Whereas, The Military Subcommittee of the United States House Armed Services Appropriations Committee has deleted from the national defense appropriations bill the funding for a National Training Center for the 1980-81 fiscal year; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California supports the National Training Center at Fort Irwin, California and respectfully memorializes the United States House Armed Services Appropriations Committee to restore the funding for the 1980-81 fiscal year for the National Training Center at Fort Irwin; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to each member of the House Armed Services Committee."

POM-465. A resolution adopted by the House of Representatives of the State of Massachusetts; to the Committee on Armed Services:

"Resolution

"Whereas, the General Dynamics Shipyard in Quincy employs up to five thousand people; and

"Whereas, with the Department of the Navy's recent rejection of General Dynamics as the qualified low bidder for the construction of a cable ship; and

"Whereas, without this contract, the shipyard will be effectively shut down for at least three years and possibly permanently; and

"Whereas, Congressman Brian Donnelly, Senator Edward Kennedy and Senator Paul Tsongas and the entire congressional delegation are fighting to have the Navy reconsider this contract; and

"Whereas, intercession by President Carter could effectively save this contract and help insure continuation of the ship building industry in Massachusetts, which is a vital cornerstone of our state economy as well as serving as the largest national defense plant in New England; therefore be it

"*Resolved,* That the Massachusetts House of Representatives join with the union rank and file, the citizens of Quincy and the Commonwealth, the congressional delegation and Governor Edward J. King in urging President Carter to intercede in behalf of these workers, that they be given what is justly theirs; and be it further

"*Resolved,* That we urge President Carter to intercede with the Department of the Navy to correct this injustice which will produce long range economic and human hardship; and be it further

"*Resolved,* That copies of these resolutions be transmitted forthwith by the Clerk of the House of Representatives to the President of the United States, the presiding officer of each branch of the Congress, and to the Members thereof from this Commonwealth."

POM-466. A memorial adopted by the Senate of the State of Oregon; to the Committee on Governmental Affairs:

"Senate Memorial 3

"Whereas three bills currently under consideration in Congress (H.R. 1516, H.R. 2653 and S. 596) would significantly interfere with the powers of state legislatures to redraw Congressional district lines after each decennial census; and

"Whereas all three bills would impose a litany of substantive and inconsistent standards to govern redistricting plans; and

"Whereas H.R. 2653 and S. 596 both vest redistricting powers in a bipartisan commission to be appointed by majority and minority party leaders in each house of the state legislature with those members then choosing a fifth member to head the commission which would then prepare a redistricting plan to be submitted to the Federal Elections Commission; and

"Whereas the nation's state legislatures have acted in a responsible manner in Congressional redistricting, with the overall population deviation in Congressional districts within one percent in virtually every state; and

"Whereas each state legislature, since it is representative of the entire voting population of the state, is the proper body to develop a Congressional redistricting plan and procedures for its state; now, therefore,

"Be It Resolved by the Senate of the State of Oregon:

"That the Senate is opposed to any federally mandated procedures, structures or substantive standards for redistricting, which the Senate believes would constitute a fundamental revision of the accepted Constitutional role of the state legislatures and of the historic federal-state relationship; and be it further

"Resolved, That a copy of this memorial be immediately sent to the President of the Senate and the Speaker of the House of Representatives of the Unitd States and to each member of the Oregon Congressional Delegation."

POM-467. A resolution adopted by the Eighth Biennial Convention of the Hawaii State Federation of Labor, AFL-CIO, relating to national strategic petroleum reserve, Hawaii quota; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with amendments and an amendment to the title:

S. 1308. A bill to set forth a national program for the full development of energy supply, and for other purposes (together with additional and minority views) (Rept. No. 96-331).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary:

J. Jerome Farris, of Washington, to be U.S. Circuit Judge for the Ninth Circuit.

Betty Binns Fletcher, of Washington, to be U.S. Circuit Judge for the Ninth Circuit.

Mr. NUNN. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the following nominations in the Army: Lt. Gen. Dennis Phillip McAuliffe, Army of the United States to be placed on the retired list and Maj. Gen. Wallace Hall Nutting, USA, to become lieutenant general. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, the nominations will be placed on the Executive Calendar.

Mr. NUNN. In addition, Mr. President, in the Army, there are 1,718 officers for promotion to the grade of lieutenant colonel and below (list beginning with Michael R. Acton to major) and in the Army and Reserve of the Army there are 361 officers for promotion to the grade of colonel and below (list beginning with William C. Berryman); in the Air Force there are 2,935 officers for promotion to the grade of major (list beginning with Ronald D. Aarons); in the Navy and Naval Reserve there are 177 appointments to temporary commander and below (list beginning with Andrew W. Acevedo); and, in the Marine Corps there are 189 graduates from the NROTC and Marine Corps Enlisted Commissioning Education program for permanent appointment to the grade of second lieutenant (list beginning with Frank M. Aichelmann). Since these names have already appeared in the Congressional Record and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record on September 5, 1979, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MORGAN:

S. 1809. A bill to amend sections 3686 and 8686 of title 10, United States Code, to credit certain full-time training duty of members of the National Guard; to the Committee on Armed Services.

S. 1810. A bill to amend subsection (f) of section 2024 of title 38, United States Code, to credit certain National Guard full-time training or duty as active duty for training; to the Committee on Finance.

By Mr. DURKIN:

S. 1811. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to small businesses for filing forms required by Federal law; to the Committee on Finance.

By Mr. RIBICOFF:

S. 1812. A bill to establish a national program of protection against medical expenses for all Americans; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent.

By Mr. BAYH:

S. 1813. A bill to designate the building known as the Federal Building in Evansville, Indiana, as the "Winfield K. Denton Building"; to the Committee on Environment and Public Works.

By Mr. GLENN (for himself and Mr. Metzenbaum):

S. 1814. A bill to provide for a National Afro-American History and Culture Commission, which shall establish the National Center of Afro-American History and Culture, and for other purposes; to the Committee on Governmental Affairs.

By Mr. NELSON:

S. 1815. A bill to require explicit authorization from judges of competent jurisdiction for any covert entry onto premises for the purpose of installing and removing any electronic interception devices to be utilized in the investigation of specified criminal offenses; to the Committee on the Judiciary.

S. 1816. A bill to assure the rights of citizens under the Fourth and Fourteenth Amendments and to protect the freedom of the press under the First Amendment, and for other purposes; to the Committee on the Judiciary.

S. 1817. A bill to amend title 28, United States Code, to provide that State prisoners and Federal prisoners shall not be denied Federal habeas corpus relief on the ground that such prisoners were previously afforded a full and fair opportunity to litigate their claims, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 1818. A bill to direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel *Alaskan Shores* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade; to the Committee on Commerce, Science, and Transportation.

By Mr. WALLOP (for himself and Mr. Simpson):

S. 1819. A bill to amend the Internal Revenue Code of 1954 to provide a refundable tax credit for investment in qualified industrial conservation projects; to the Committee on Finance.

By Mr. BENTSEN:

S. 1820. A bill to amend section 4941(d)(2) of the Internal Revenue Code of 1954 with respect to private foundations; to the Committee on Finance.

By Mr. MATHIAS:

S. 1821. A bill to establish a Nuclear Waste Management Authority, and for other purposes; to the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Governmental Affairs, jointly, by unanimous consent.

By Mr. CULVER:

S. 1822. A bill for the relief of Shu-min Huang and Anne Kuang-pei Huang, husband and wife; to the Committee on the Judiciary.

By Mr. WILLIAMS (for himself, Mr. Proxmire, and Mr. Garn):

S.J. Res. 105. Joint resolution to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MORGAN:

S. 1809. A bill to amend sections 3686 and 8686 of title 10, United States Code, to credit certain full-time training duty of members of the National Guard; to the Committee on Armed Services.

● Mr. MORGAN. Mr. President, I am introducing a bill today which would entitle members of the National Guard who perform full-time training duty under authority of section 502 of title 32, United States Code, to the same benefits they are now entitled to receive for performance of full-time training duty under section 503, 504, and 505 of that title.

Although members of the National Guard are also members of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, they conventionally train in their National Guard status in accordance with specific sections of title 32, United States Code, and not as members of the Reserve components under provisions of title 10 relating to the Armed Forces. For example, section 316 of title 32 authorizes full-time duty for officers and noncommissioned officers of the Army National Guard at civilian rifle ranges. Section 503 is the authority for annual field training, section 504 for National Guard schools, and section 505 for attendance at service schools of the Armed Forces.

Section 502 of title 32 is the authority for the inactive duty training of the National Guard, characterized as "armory drills" in years gone by, now more accurately described as unit training assemblies. But in addition to the unit inactive duty training described in subsection (a)-(e) of section 502, and full-time duty described in sections 316 and 503-505, individual members often perform other duties which are not covered by the cited statutes. For example, pilots and aircrews are authorized additional flying training periods (inactive duty), both the Army and Air National Guard use members on full-time duty as recruiters. And a test is currently being conducted, in accordance with a recommendation by the Congress, to determine the ability of the National Guard, the Army Reserve, and the Air Force Reserve, to provide part of the day-to-day administrative and logistical support they require by the use of members ordered to full-time duty—in the case of the National Guard—and active duty for training in the case of the Army Reserve and Air Force Reserve.

Most Federal benefits which National Guard members receive for title 32 training, such as pay, allowances, and medical care, result from statutes which refer to specific sections of title 32. There are some benefits, however, for example, medical care for dependents of members on active duty for over 30 days, which flow from the fact that active duty includes active duty for training, and sections 3686 and 8686 of title 10 provide that full-time training or duty performed by members of the Army National Guard of the United States and Air National Guard of the United States in their National Guard status under sections 316, or 503–505 of title 32 is considered active duty for training as Reserves of the Army or Air Force. In order to receive the latter benefits, section 502 (subsection (f) of which authorizes full-time duty in addition to that described with specificity in other sections), must be added to the current enumeration in 10 U.S.C. 3686 and 8686.

The failure to include section 502 in the enumeration appears to have been inadvertent. For example, 5 U.S.C. 6323 (a) authorizes military leave for Federal employees performing full-time duty under 32 U.S.C. 502–505, and full-time duty under sections 316 and 502–505 is creditable under 10 U.S.C. 1332(a)(2)(A)(ii) in computing years of service for retired pay for nonregular service. All full-time training or duty by members of the National Guard is considered to be active duty for the purpose of basic pay (37 U.S.C. 204(d)). And 38 U.S.C. 101(22) includes full-time duty under those sections in the definition of active duty for training as used in that title (veterans' benefits). The latter definition is also incorporated in 42 U.S.C. 410(z)(1), describing military service covered by social security laws.

Inclusion of section 502 full-time duty in the 10 U.S.C. 3686 and 8686 enumeration will bring these statutes into conformity, and provide identical benefits for all full-time duty irrespective of the section of law under which it is performed.●

By Mr. MORGAN:

S. 1810. A bill to amend subsection (f) of section 2024 of Title 38, United States Code, to credit certain National Guard full-time training or duty as active duty for training; to the Committee on Finance.

● Mr. MORGAN. Mr. President, I am also introducing a bill which would provide the same reemployment rights following the performance of full-time duty under section 502 of title 32 as members of the National Guard now enjoy if their full-time duty was performed under authority of section 503–505 of that title.

Section 2024(f) of title 38, which spells out these reemployment rights, omits section 502 of title 32 from the enumeration. In order to insure that all members of the National Guard on full-time duty have identical rights to reemployment upon release from that duty, the list of title 32 sections enumerated in section 202(f) of title 38 should be expanded to include section 502.●

By Mr. DURKIN:

S. 1811. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to small businesses for filing forms required by Federal law; to the Committee on Finance.

SMALL BUSINESS REGULATORY RELIEF ACT

● Mr. DURKIN. Mr. President, I would like to take this opportunity to pledge my full support to a sorely needed legislative package for small business. The backbone of our economy, both nationally, and especially in New Hampshire, is small business. The contributions of small business to our economic growth cannot be emphasized enough. Small business creates almost 70 percent of the new jobs in the United States and employs over half of the private sector work force. Well over half of our new inventions and technologies emerge from the small business community. And, perhaps most impressively of all, the aggregate output of small business accounts for almost 50 percent of the gross national product.

Despite these considerable contributions our national policy has frequently relegated small business to the low rung on the legislative ladder. As a result our country is suffering from a severe case of economic atrophy. And the small business entrepreneur is becoming an endangered species. I have long recognized that to insure the well being of our free enterprise system we must diligently work, not only to protect small business, but take immediate legislative action to revitalize small business. Simply stated, there is no single concern as significant to the resurgence of our national economy as the revitalization of the small business community.

One area in which small business has particularly felt the burden of ineffective and inflationary Federal intervention is in the regulatory compliance arena. We must enact legislation to cut through the seemingly endless web of strangling redtape and regulations spun forth by the Federal Government. Since 1975 the regulatory network has more than doubled in size. In 1979 alone, the cost of Government regulation will top $102 billion. This expense is especially onerous to every small enterprise in the Nation which is forced to pay on the average, $3,600 per year to comply with Federal mandates. And, in the end, it is, of course, the hardworking, taxpaying consumer who bears the cost of this inflationary waste.

I urge my Senate colleagues to join with me in supporting a series of bills which will go a long way in eliminating needless paperwork and reducing Federal overregulation.

Today I am introducing a bill, the Small Business Regulatory Relief Act, which would bring immediate relief to the overtaxed, overburdened small business man or woman. The small business community is fast approaching a crisis in its ability and willingness to cope with Federal regulations and the subsequent mountain of paperwork.

This legislation establishes a $5 Federal income tax credit for each federally required form a small business must fill out in the course of normal business compliance procedures. The purpose of this bill is twofold: First, it would provide some much needed economic relief to small business by compensating them in part for the time and money spent complying to Federal paperwork requirements. Second, it would send a clear message to every Federal agency; unnecessary forms will result in a loss of revenue. This legislation is needed to drive home the reality that regulations and needless paperwork cost money. I have already noted the tremendous cost incurred by business but I would like to point out that the average family has $1,200 a year taken out of its pocket due to wasteful regulations and paperwork. We can and we must cut through that waste now.

The Federal Administrative Improvements in Reports Act, S. 391, mandates a 50-percent reduction within 3 years in the number of forms required of small businesses. The bill also requires the Government to obtain suggestions and criticisms from the small business community before issuing any new forms. This simple screening procedure will be a tremendous step in streamlining the compliance process.

The "Emergency Paperwork Reduction Act of 1979," S. 259 is a similar measure with slightly more modest goals. It seeks to reduce Federal paperwork by 25 percent over a 2-year period. It is vital that in this session, the Senate pass one of these bills. And I am here today to pledge my support to work for that passage.

I am cosponsoring three pieces of legislation which will reduce and coordinate the regulations arena.

S. 93, "Regulatory Procedures Improvements Act of 1979," will apply my "sunset" concept to regulations. It would periodically review and eliminate outdated or duplicative rules. For the small business this will mean a reduction in regulations and paperwork.

S. 262 "Reform of Federal Regulation Act of 1979," would create an office for regulatory management within each agency. This office in turn would analyze their agency's rules, establish deadlines for regulations, and report to Congress on its regulatory activity. This, too, will be a coordinated, cost-saving measure.

S. 299, "The Regulatory Flexibility Act," will apply some sound commonsense to the regulation arena. This bill is designed to create a more realistic and streamlined regulatory system for small business, which will tailor regulations to the size of a particular business. The act recognizes that a small business should comply with a much simpler set of rules than a large multinational corporation. This bill also provides for public participation to improve regulations.

Cutting through forms and regulations is only the first step in improving the business climate for the small enterprise. Tax reform is still vitally needed to provide relief from inflation and incentives for expansion.

I am cosponsoring five bills which will specifically address these needs.

S. 110, "The Small Business Depreciation Reform Act," is designed to encourage the modernization and expansion of small business by allowing a 3-year straight line depreciation for the first $25,000 of equipment purchased annually.

S. 1435, "The National Capital Cost Recovery Act," gives businesses a wide range of investment tax deductions covering cars, trucks, equipment, machinery, and plant facilities.

S. 655 and S. 653, both amendments to the IRS Code, and S. 487, "The Small Business Private Investment Act of 1979," all provide incentives for stock investments in small companies. These and other measures will encourage sorely needed capital formation which in turn will lead to increase productivity in the manufacturing sector.

In addition, I am cosponsoring S. 615, "The Small Business Administrative Review Court Act." The small business community simply cannot afford the cost of contesting the increasing number of legal actions it faces annually. The court will review fines, citations, and so forth, of $2,500 or less, levied by the Government against small businesses. In doing so, it will provide an economical alternative to the high cost of challenging those grievances.

The Federal Government has failed abysmally in granting both research and development and procurement contracts to small firms. Small businesses account for over half of the new inventions developed in this country. The cost of employing research scientists from small firms is half as much as it is in employing large firm scientists. Despite these hard facts, the Government awards less than 4 percent of its research and development money to small firms. This is clearly not the most productive, cost-effective approach.

In order to redirect this misguided "big is better" policy, while at the same time assisting those firms who have been awarded contracts, I am cosponsoring S. 414, the University and Small Business Patent Procedures Act. Simply stated, this bill helps small firms market those inventions developed under Government research and development contracts.

Another bill designed to aid small business is S. 533, the Buy American Act. This establishes a preference for domestic products and materials procured by Government. It includes provisions for small business set asides, mandating the Government to purchase goods from American small business. This is specifically targeted at those agencies not included in the Trade Act Agreement of 1979 to look to small U.S. firms for their purchases.

These two measures reflect many of the provisions included in energy legislation which I have already introduced. Small business is a more cost-effective, inventive avenue for the Federal Government to follow in awarding procurement and research contracts. Small business is just plain good business.

To protect small business I am today joining in support of S. 1246, the Energy Antimonopoly Act of 1979 which prohibits the 16 largest oil companies from investing their windfall profits in other domestic companies. In the face of empty gas tanks and crowded gas lines, and shortages of home heating oil and kerosene, it is unconscionable that our large oil companies are expanding horizontally rather than investing their profits in the urgently needed exploration and development of new energy sources which are necessary to hold down energy costs. S. 1246 will incourage the oil companies to focus their attention on oil.

These bills are not a panacea for all the problems faced by small business today, but they do provide a vitally needed start in redirecting Federal policy back to the needs of small business.

In addition, two further steps are necessary: Reducing the size of the Federal Government and combating its inflationary practice of deficit spending. This will help all sectors of the economy.

It is precisely for this reason that I last year cosponsored a successful amendment which will require a balanced budget by fiscal year 1981. Every small business in New Hampshire, New England, and the Nation must balance its budget or close down its doors. There is no reason for the Federal Government not to work within the sound business practice of a balanced budget. This will entail tough managerial decisions, but it is high time that we begin to make those decisions in the public sector.

Also, I have cosponsored "sunset" legislation which would provide the quickest and surest vehicle to cut wasteful Government spending programs. Most Federal agencies and programs would be terminated automatically every 10 years unless legislation specifically recreating the program or agency passed both Houses of Congress and was signed into law by the President.

I urge you to join with me in support of these bills so that the resurgence of small business and the revitalization of our country's economy may begin immediately.

I ask unanimous consent that the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately after section 44C the following new section:

"Sec. 44D. Expense of Filing Federal Forms.

"(a) General Rule.—There is allowed as a credit against the tax imposed by this chapter for the taxable year a credit of $5 for each form or document which a small business is required by Federal law to file with the United States Government or any agency or establishment thereof during such taxable year.

"(b) Application With Other Credits.—The credit allowable by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31 and 39.

"(c) Definition of Small Business.—For purposes of this section, the term 'small business' means an electing small business corporation (as defined in section 1371(b)), or a small business concern as determined by the Administrator of the Small Business Administration under section 3 of the Small Business Act (15 U.S.C. 632).".

(b) The table of sections for such subpart is amended by inserting immediately after the item relating to section 44C the following:

"Sec. 44D. Expense of Filing Federal Forms.".

Sec. 2. The amendments made by the first section of this Act apply to taxable years beginning after September 30, 1979, with respect to forms required by law to be filed after such date.●

By Mr. RIBICOFF:

S. 1812. A bill to establish a national program of protection against medical expenses for all Americans; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent.

NATIONAL HEALTH PLAN ACT

● Mr. RIBICOFF. Mr. President, I am pleased to introduce the National Health Plan Act, S. 1812, which implements the first phase of President Carter's national health insurance proposal. In the National Health Plan Act, President Carter has set forth in detail his administration's response to one of the most serious and urgent problems facing our Nation today; That of insuring that no American is denied adequate health insurance coverage.

This legislation represents the first phase of a broader, more comprehensive national policy articulated by President Carter last June. The first phase is designed to respond to the most immediate needs in our health care system while laying the foundation for widespread changes in the future.

When enacted, the President's National Health Plan Act would provide fully subsidized comprehensive coverage to poor people who are now ineligible for public financing programs. S. 1812 would require employers to protect all full-time workers and their families against the cost of major illness. As a result of this legislation, for the first time aged and disabled Americans would have a limit on their out-of-pocket medical expenses. The President's plan would also make important preventive and treatment services available to every pregnant woman and infant in this Nation.

Now that President Carter has submitted this detailed legislation to the Congress, the major health insurance proposals are on the table. Careful analysis of these proposals produces an encouraging result—one which is overlooked by those who would rather highlight differences, controversy, and politics. The similarities between the proposals put forward by President Carter, Senator Kennedy, and Senator Long are significant, are numerous, and far exceed the remaining differences.

When President Carter first outlined his national health insurance proposal last June, I addressed the Senate in order to point out in some detail the significant issues on which a consensus was developing on the shape of national health insurance legislation. Now that Senator Kennedy, Senator Long, and President Carter have put their detailed legislative proposals for national health insurance before the Congress, it is worth briefly describing again the areas of consensus on key issues which a careful examination of these proposals reveals.

President Carter, Senator Kennedy, and Senator Long agree that we must phase-in a national health insurance program. This is very important. If the last 15 years have taught us anything, it should be that implementation of a program is crucial—and that it is difficult. From my experience in developing programs—as a Congressman, as a Governor, as Secretary of Health, Education, and Welfare, and as a Senator—I am convinced that the right approach to national health insurance is the step-by-step approach.

When one looks at the proposed first phase of the Carter plan, the first phase of the Kennedy plan, and the Long proposals, the first phase each envisions is not dissimilar.

All three agree that the current medicaid program is inadequate. They all agree that a program providing health care for the poor must have uniform standards and a more substantial Federal role.

President Carter, Senator Long, and Senator Kennedy all agree that a first phase must include improvement in the medicare program. Due to the dramatic increase in health care costs, the amount the elderly are paying in real terms is greater than when medicare was first enacted. All three proposals would place a cap on the medical expenses an elderly person would have to pay and would broaden existing hospitalization benefits.

The vast majority of our citizens are employed or are the spouse or dependent of an employed individual; President Carter, Senator Long, and Senator Kennedy all agree that for these citizens, mandated coverage by private employers is the proper approach.

The plans put forward by Senator Kennedy, Senator Long, and President Carter all agree that use of the private health insurance industry should be the dominant method of health care delivery. All the plans build upon the strengths of the private health insurance industry. This is a significant area of agreement which did not exist until very recently.

President Carter, Senator Long, and Senator Kennedy all agree that the costs to the Federal budget must be as limited as possible. At the same time they all agree that health care for the poor, the elderly, and the unemployed is the responsibility of the Federal Government and must be paid for out of the Federal budget.

On the important issues of cost controls and system reforms, the thrust of the Carter and Kennedy proposals are similar while Senator Long has not yet presented his position. Both the Carter and Kennedy proposals involve some budgeting and cost controls. Both plans involve fee schedules for doctors and capital controls.

In addition both President Carter and Senator Kennedy have proposed that physicians be required to accept both medicare and medicaid patients if they accept either, and that such physicians cannot charge the patient more than a Government-approved negotiated fee.

Also significant is the recent introduction by Senators Dole, Danforth, and Domenici of their own health insurance proposal. While the bill only covers catastrophic health costs, the Republicans are also constructively joining the debate.

National health insurance is doable. We can have it during this Congress. Because it is doable, the major participants in this debate have a heavy obligation to the American people to act responsibly.

The Senate Finance Committee has held hearings on the major proposals and has already begun detailed committee consideration of this issue. I know it is the intention of the chairman of the committee, Senator Long, to resume consideration of national health insurance as soon as the committee completes work on the windfall profits tax legislation.

It is now necessary that we put together enactable national health insurance legislation. While there are significant areas of consensus as outlined, there are obviously substantial and important differences which remain on both substance and timing.

But we have an opportunity to enact national health insurance legislation during this Congress. For the first time responsible spokesmen are moving significantly toward a common position. It is essential that we submerge personalities for the common good. Now is the time for statemanship. There is enough credit to go around. Working together we can pass landmark national health insurance legislation.

Mr. President, I ask unanimous consent that Secretary Harris' letter to the President of the Senate transmitting the President's draft National Health Plan Act, a summary of the National Health Plan Act, and the text of the National Health Plan Act be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 1812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

Section 1. This Act may be cited as the "National Health Plan Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Purposes of Act.
Sec. 4. Structures of National Health Plan.

TITLE I—PROTECTION AGAINST MEDICAL EXPENSES

Sec. 101. National Health Plan.

"TITLE XVIII—NATIONAL HEALTH PLAN

"Part A—Benefits

"Sec. 1801. Scope of Coverage.
"Sec. 1802. Exclusions from Coverage.

"Part B—Health Insurance Through Employment

"Sec. 1811. Provision of coverage and related benefits.
"Sec. 1812. Premium payments.
"Sec. 1813. Certification of qualified plans.
"Sec. 1814. Certification of qualified plan administrators.
"Sec. 1815. Voluntary reinsurance program.
"Sec. 1816. Federal insolvency program and report.
"Sec. 1817. Insurance standards advisory board.
"Sec. 1818. Employer subsidy.
"Sec. 1819. Revocation of certification.
"Sec. 1820. Sanctions for nonparticipation and noncompliance.
"Sec. 1821. Special provisions for the Federal Government.
"Sec. 1822. Special provisions for territorial health systems.

"Part C—Healthcare

"Sec. 1831. Entitlement to benefits.
"Sec. 1832. Employer agreements for Healthcare benefits.
"Sec. 1833. Cost sharing.
"Sec. 1834. Amount of premiums.
"Sec. 1835. Payment of premiums.
"Sec. 1836. Healthcare Trust Fund.
"Sec. 1837. Payments to providers.
"Sec. 1838. Use of public and private entities for administration of benefits.
"Sec. 1839. Payments to health maintenance organizations.
"Sec. 1840. Provider Reimbursement Review Board.
"Sec. 1841. Determination of eligibility and benefits; notice and opportunity for hearing.

"Part D—Providers of Items and Services

"Sec. 1851. Certification by Secretary.
"Sec. 1852. General findings.
"Sec. 1853. Specific findings.
"Sec. 1854. Provider agreements.
"Sec. 1855. Revocation of certification and other sanctions.
"Sec. 1856. Federal certification of certain health care practitioners.

"Part E—General Provisions

"Sec. 1831. Definitions.
"Sec. 1862. Penalties for fraud.
"Sec. 1833. Regulations.
"Sec. 1864. Administration.
"Sec. 1865. Application of certain provisions of title II.
"Sec. 1866. Studies and recommendations."
Sec. 102. Conforming Medicaid amendments.
Sec. 103. Amendments to the Internal Revenue Code.
Sec. 104. Other conforming amendments.
Sec. 105. Effective dates and transitional provisions.

TITLE II—HEALTH SYSTEMS REFORM

Sec. 201. Annual national limit for certification and reports of need for major increases in hospital capital stock.
Sec. 202. Modifications in certificate of need program requirements.
Sec. 203. Modification in the Social Security Act program for limiting Federal participation for capital expenditures.
Sec. 204. Limit and moratorium for certain major increases in hospital capital stock.
Sec. 205. Effective dates.

FINDINGS

Sec. 2. The Congress finds that—

(1) the current health care system in the United States is costly and inefficient, and does not provide needed health services to all Americans,

(2) millions of Americans lack insurance coverage for basic health services and protection against the rising cost of major illness,

(3) as a result, the national health is seriously and adversely affected and this in turn seriously affects the general welfare,

(4) to protect the national health and, consequently the general welfare, it is necessary to assure that adequate health care for all Americans is available and affordable,

(5) to require adequate protection against the costs of needed health care only for employees engaged in interstate commerce would impose an unreasonable burden on that commerce and would not deal effectively with the overall problem of health care in the United States, and

(6) a program to require all employers to provide adequate protection to their employees against the costs of needed health care, to require self-employed persons to obtain such protection, to provide for governmental protection against the costs of necessary health care for the poor, the aged, and the disabled, and to provide guaranteed access to such care to all others, would effectively deal with the overall problem of health care financing in the United States.

PURPOSES OF ACT

Sec. 3. The purposes of this Act are to—

(1) establish a national program of protection against medical expenses for all Americans,

(2) improve the quality of health care provided to Americans, and especially to the poor, to mothers, and to children, by increasing the availability and continuity of care and by emphasizing preventive health measures,

(3) reduce inflation in the health care industry by reducing unnecessary health care spending, while providing fair compensation to those who furnish health care,

(4) establish the foundation upon which a universal and comprehensive national health program can be built,

(5) preserve and build on the strengths of our mixed public and private system by providing health benefits through both private employers and the Federal government, and by utilizing the resources and expertise of the private insurance industry and other portions of the private sector,

(6) assure full public accountability of all aspects of the plan and its operations, and provide for consumer representation in the development and operation of the plan,

(7) assure that all Americans have freedom of choice in their selection of physicians and other providers of health care (unless an individual voluntarily agrees to limit his choice of providers by enrolling with certain kinds of health care plans),

(8) effect savings from increased efficiency,

(9) encourage competition in the health care system through the growth of prepaid practice arrangements and other measures to stimulate greater efficiency and cost consciousness, and

(10) provide for health systems reform, especially with regard to the reduction of excess capacity in hospitals, and enhance Federal efforts to develop needed health resources.

STRUCTURE OF NATIONAL HEALTH PLAN

Sec. 4. The National Health Plan carries out its purposes for the benefits of individuals who live or work in the United States through three major structural elements:

(1) health insurance required to be provided by all employers to employees and their families,

(2) Healthcare, a Federal health insurance program for aged, disabled, poor, and for other individuals who cannot obtain health insurance elsewhere, and

(3) health systems reform, designed to enhance competition in the health care system, reduce excess capacity in hospitals, and improve access to essential health resources.

TITLE I—PROTECTION AGAINST MEDICAL EXPENSES

NATIONAL HEALTH PLAN

Sec. 101. Title XVIII of the Social Security Act is amended to read as follows:

"TITLE XVIII—NATIONAL HEALTH PLAN

"PART A—BENEFITS

"SCOPE OF COVERAGE

"Sec. 1801. (a) The National Health Plan covers the following items and services (subject to the exclusions in section 1802) when reasonable and needed (as determined by the Secretary) to diagnose, treat, or aid in rehabilitation from, disease, injury, or malformation:

"(1) inpatient hospital items and services,

"(2) inpatient skilled nursing items and services,

"(3) home health items and services,

"(4) physician's services,

"(5) outpatient physical therapy services,

"(6) the following items as specified by a physician:

"(A) supplies (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) furnished as an incident to a physician's professional services, of kinds which are commonly furnished in physicians' offices and are commonly either rendered without charge or included in physician's bills,

"(B) diagnostic tests,

"(C) X-ray, radium, and radioactive isotope therapy items,

"(D) devices used for the reduction of fractures or dislocations,

"(E) durable medical equipment, whether furnished on a rental basis or purchased, as specified by the Secretary,

"(F) prosthetic devices (other than dental),

"(G) colostomy care supplies,

"(H) leg, arm, neck, and back braces,

"(I) blood,

"(J) body organs,

"(K) allergen extracts,

"(L) portable devices for monitoring cardiac failure and portable respirators, and

"(M) dialysis items for chronic renal disease,

"(7) health care practitioner items and services,

"(8) X-ray, radium, and radioactive isotope therapy services,

"(9) ambulance services as specified by the Secretary but only if the use of other methods of transportation is contraindicated by an individual's condition, and

"(10 chiropractor's services.

"(b) The National Health Plan covers the following items and services (subject to the exclusions in section 1802) when reasonable and needed (as determined by the Secretary) for the maintenance of good health:

"(1) family planning items and services,

"(2) immunizations,

"(3) items and services related (as determined by the Secretary) to pregnancy, to delivery, to care of a child through one year after birth, or to care of a woman through 60 days after termination of pregnancy,

"(4) items and services for individuals under 18 years of age as prescribed by the Secretary in regulations, and

"(5) dental, vision, and hearing items and services for individuals under 18 years of age who are entitled to benefits under subsection (j), (k), or (l) of section 1831.

"EXCLUSIONS FROM COVERAGE

"Sec. 1802. The National Health Plan does not cover the following items and services:

"(1)(A) items and services needed solely to diagnose, treat, or aid in rehabilitation from, disease, accident, or malformation in relation to teeth or structures directly supporting teeth (other than oral surgery in case of accident or malformation),

"(B) eyeglasses, eye examinations for the purpose of prescribing, fitting, or changing eyeglasses, and procedures performed (during the course of an eye examination) to determine the refractive state of the eyes, and

"(C) hearing aids or examinations therefor, except for individuals under 18 years of age who are entitled to benefits under subsection (j), (k), or (l) of section 1831,

"(2) personal comfort items that are not supplied to all patients of an entity or are not found by the Secretary to promote higher quality of care,

"(3) cosmetic surgery, except as required for the prompt repair of accidental injury or for improvement of a malformed body member,

"(4) items and services furnished to an individual by an immediate relative or a member of the individual's household,

"(5) items and services for—

"(A) the treatment of flat foot conditions,

"(B) the treatment of subluxations of the foot, or

"(C) routine foot care,

"(6) surgery performed by a physician who is neither board certified nor board eligible in surgery, except as provided by the Secretary in regulations,

"(7) diagnostic tests for occupational or environmental diseases, except as provided by the Secretary in regulations,

"(8) elective surgery, except as provided by the Secretary in regulations,

"(9) items and services that a physician has not certified (or not recertified, if the items and services are furnished over a period of time, as prescribed by the Secretary in regulations) as needed at the level of intensity furnished,

"(10) custodial care, and

"(11) items and services furnished by the Veterans' Administration to a disabled veteran for a military service-connected disability.

"PART B—HEALTH INSURANCE THROUGH EMPLOYMENT

"PROVISION OF COVERAGE AND RELATED BENEFITS

Sec. 1811. (a) Every employer shall provide coverage under a qualified plan or under Healthcare for each employee family member (including the employee), except as provided in subsection (b). Every employer that does not provide coverage under Healthcare to employee family members in a geographic area shall designate one qualified plan as the employer's primary plan in that geographic area.

"(b) The requirement of the first sentence of subsection (a) does not apply with respect to the coverage of any individual who can demonstrate that he is covered under a qualified plan or under Healthcare through another employer and who chooses not to accept coverage.

"(c) Every employer shall offer a health benefit (whether or not part of a qualified plan) to each employee family member in a geographic area if the employer offers that health benefit to any other employee family member in that geographic area.

"(d) Every employer shall provide such information and reports to the Secretary, and provide the Secretary such access to records, as the Secretary finds are needed to carry out this title.

"(e) Nothing in this part shall lessen any obligation of any employer under section 1310 of the Public Health Act (concerned with health maintenance organizations).

"PREMIUM PAYMENTS

"Sec. 1812. (a) Every employer shall provide for the payment of required premiums on behalf of employee family members to the entity administering a qualified plan or, in the case of coverage under Healthcare, to the Secretary.

"(b) Every employer shall deduct each employee's share (if any) of the premium payments for the employer's family from the salary of the employee.

"(c) (1) An employer may not require any employee covered under the employer's primary plan (or under Healthcare) to contribute, with respect to the portion of the premium payments for his family members attributable to the minimum benefits required by section 1813, more than 25 percent (or 25 percent of the payments for benefits under Healthcare).

"(2) The employer's total share of premium or other payments for health benefits provided to an employee's family in a geographic area (other than to an individual described in section 1811(b)) shall be equal to the dollar amount of the employer's share of premium payments under the primary plan (or under Healthcare) for a family of the same size and composition in that geographic area. If the total payments for health benefits for an employee's family are less than the employer's share of premium payments under the primary plan, the employer shall provide to the employee, in salary or fringe benefits, compensation equal to the difference.

"(d) Every employer shall provide each employee a written statement with each salary payment indicating the portion of that salary payment deducted as provided in subsection (b).

"CERTIFICATION OF QUALIFIED PLANS

"SEC. 1813. (a) The Secretary shall certify a plan as a qualified plan if he finds that the plan—

"(1) is administered by an entity certified by the Secretary under section 1814,

"(2) covers at a minimum (without any exclusions or waiting period) the items and services covered by the National Health Plan when (A) furnished by any entity certified under part D as a provider of those items and services, or (B) when furnished in an emergency as prescribed by the Secretary in regulations,

"(3) provides for rates of payment under the plan for items and services such that the rates in the aggregate insure access to items and services, and a level of quality of items and services, equal at least to the access and level enjoyed by individuals entitled under section 1831(g)(2) to payments on their behalf,

"(4) provides for rates of payment under the plan as specified by the Secretary for items and services specified in section 1801 (b)(3), or furnished to a child under one year of age,

"(5) provides that payments for services of a hospital-based physician, furnished by or in an entity certified under part D as a provider of inpatient hospital items and services or by or at an outpatient facility, shall be made to the entity or facility on the basis of rates otherwise utilized by the plan for payments to the entity or facility,

"(6) does not permit total coinsurance and deductibles for items and services covered by the National Health Plan for the family members of any employee to exceed $2,500 (plus such additional amount as determined by the Secretary to take into account the increase from October 1, 1980, to October 1, 1982, in per capita health expenses in the United States) for any annual period ending before September 30, 1983 (or such smaller amount as prorated for a shorter period), and, for annual periods ending after September 29, 1983, the amount determined above plus such additional amount as determined by the Secretary annually to take into account the annual increase in per capita expenses for health in the United States (or, if adequate data are available, for items and services covered by the National Health Plan), except that there shall not be taken into account as coinsurance any payment required of an employee family member—

"(A) for inpatient skilled nursing items and services furnished to that individual after the plan has paid in any annual period for such services furnished to that individual an amount equal to the maximum amount payable under part C for such services in the calendar year in which the plan's annual period ends,

"(B) for inpatient hospital items and services furnished to that individual when that individual has a primary diagnosis of a mental or nervous condition, alcoholism, or drug abuse, after the plan has paid in any annual period for such services furnished to that individual with such a diagnosis an amount equal to the maximum amount payable under part C for such services to an individual with such a diagnosis in the calendar year in which the plan's annual period ends,

"(C) for items and services furnished on an outpatient basis to that individual when that individual has a primary diagnosis of a mental or nervous condition, alcoholism, or drug abuse, after the plan has paid in any annual period for such services furnished to that individual with such a diagnosis an amount equal to the maximum amount payable under part C for such services to an individual with such a diagnosis in the calendar year in which the plan's annual period ends, or

"(D) for home health items and services furnished to that individual after the plan has paid in any annual period for such services furnished to that individual an amount equal to the maximum amount payable under part C for such services in the calendar year in which the plan's annual period ends.

"(7) provides for participation in (and payment to) the Professional Standards Review Program under part B of title XI to the same extent as the participation of the program under part C of this title in that program (except that determinations under that program shall be advisory rather than mandatory),

"(8) provides coverage, without requiring any additional premium payment, for at least 90 days for any individual who ceases to be an employee family member,

"(9) provides at least 90 days notice to employees if the plan is to be terminated,

"(10) provides for a continuation policy, at the option of any family (or part of a family) whose coverage under the plan has expired, under which—

"(A) the premium, payable by the family (or part), shall be no greater than 125 percent of the premium charged for a unit of that size and composition under the plan,

"(B) the continuation policy shall remain in force as long as the family (or part) continues to make the premium payments, and

"(C) the benefits provided are at least the minimum benefits required by this section for a qualified plan, and

"(11) provides for notification to an employee when payments are made on behalf of a family member, and

"(12) contains provisions, as prescribed by the Secretary, to avoid duplicate coverage by the Plan and by any other health benefits plan.

"(b) The provision of services as prescribed by title XIII of the Public Health Service Act by a health maintenance organization shall be considered a qualified plan.

"(c) The Secretary may waive the requirement of subsection (a)(2)(A) with respect to a particular plan if the Secretary finds that waiving that requirement will not impair the quality of care provided under that plan.

"CERTIFICATION OF QUALIFIED PLAN ADMINISTRATORS

"SEC. 1814. (a) The Secretary shall certify an entity as an administrator for a plan if the Secretary makes the findings specified in subsection (b), and if the entity agrees—

"(1) to protect the privacy of individual medical records in accordance with standards specified by the Secretary in regulations,

"(2) to provide to the Secretary, employers, and employees complete and accurate information as to the plan's rates of payments, a list of those physicians who have agreed to accept the plan's payments (plus coinsurance and deductibles) as payment in full, and such additional information and reports as the Secretary may find are needed to carry out this title or to conduct research,

"(3) to provide the Secretary such access to records as the Secretary finds is needed to carry out this title or to conduct research,

"(4) to provide grievance and appeal procedures as specified by the Secretary in regulations,

"(5) if not an employer, not to require any employer to purchase any other form of insurance or any other item as a condition of purchasing a qualified plan,

"(6) if not an employer, to set premiums for qualified plans for groups of 10 to 50 individuals on a community rated basis, in accordance with standards set by the Secretary,

"(7) if an employer,—

"(A) to establish a separate reserve fund to cover both the average daily balance over 120 days on accounts payable under the plan as well as the costs for items and services already provided for which claims have not yet been filed, or

"(B) to purchase a bond or reinsurance to cover the amount specified in subparagraph (A),

"(8) to maintain a reasonable (as determined by the Secretary) ratio of premiums charged to benefits paid under any qualified plan, and

"(9) to continue to meet the applicable conditions specified in subsection (b).

"(b) The Secretary, before certifying an entity under subsection (a) as an administrator for a plan, must find that the entity—

"(1) is able to administer the plan, and

"(2) is governed by a board of directors of whom—

"(A) no more than 25 percent are physicians or selected by physicians, and

"(B) at least 60 percent are individuals who do not furnish health care items or services.

"VOLUNTARY REINSURANCE PROGRAM

"SEC. 1815. (a) There is established in the Treasury a Health Reinsurance Fund, which shall be available to the Secretary without fiscal year limitation, to enable him to carry out the provisions of this section.

"(b) The Secretary shall—

"(1) make reinsurance available to certified administrators of qualified plans, and to health maintenance organizations, to cover 80 percent of expenses attributable to any individual that exceed $25,000 annually for the minimum benefits required by this part,

"(2) make reinsurance available to certified administrators to satisfy the requirement of section 1814(a)(7)(B),

"(3) set premiums so as to fully cover the expected expenses of the Fund, and

"(4) use the Fund for any Federal insolvency program established under section 1816 for a State.

"(c) There shall be deposited in the Fund premiums received by the Secretary pursuant to subsection (b)(3) and any funds received by the Secretary pursuant to subsection (b)(4).

"(d) If at any time the sums in the Fund are insufficient to enable the Secretary to carry out his responsibilities under this section, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this paragraph shall be deposited in the Fund and redemption of such notes and obligations shall be made by the Secretary from the Fund.

"FEDERAL INSOLVENCY PROGRAM AND REPORT

"SEC. 1816. (a) The Secretary, by October 31, 1982, shall transmit a report to the Congress on the adequacy of State programs for assuring the solvency of health insurers.

"(b) If the Secretary finds that any State does not have an adequate program for assuring the solvency of health insurers, the Secretary may establish a Federal insolvency program for that State, under which the Secretary shall assess all health insurers doing business in the State in the event of the insolvency of any such insurer. The Federal insolvency program for any State shall be administered through the Health Reinsurance Fund established by section 1815.

"INSURANCE STANDARDS ADVISORY BOARD

"SEC. 1817. (a) The Secretary shall establish an Insurance Standards Advisory Board.

"(b) The Board shall consist of fifteen members appointed by the Secretary. Of those members—

"(1) five shall be individuals representative of certified administrators of qualified plans,

"(2) five shall be individuals representative of Federal and State agencies concerned with health insurance, and

"(3) five shall be individuals representative of consumers.

"(c)(1) Expect as provided in paragraphs (2) and (3), members shall be appointed for three years.

"(2) Of the members first appointed—

"(A) five shall be appointed for a term of two years, and

"(B) five shall be appointed for a term of one year.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of his term until his successor has taken office.

"(d) The Secretary shall appoint one of the consumer members as chairman, to serve until the expiration of the member's term.

"(e) Eight member of the Board shall constitute a quorum to do business. The Board shall meet at the call of the chairman or at the call of a majority of its members.

"(f) The Board shall advise, consult with, and make recommendations to, the Secretary with respect to—

"(1) standards for qualified plans,

"(2) implementation of the certification process,

"(3) appeals from plans or administrators denied certification, and

"(4) any other matters under this part as requested by the Secretary.

"(g)(1) Except as provided in paragraph (2), members of the Board shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of Board duties.

"(2) Members of the Board who are full-time officers or employees of the United States shall receive no additional pay on accounts of their service on the Board.

"(3) While away from their homes or regular places of business in the performance of services for the Board members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under 5 U.S.C. 5703.

"(h) The Board may, subject to the provisions of part III of title 5, United States Code, as they apply to the civil service, appoint, fix the pay of, and prescribe the functions of, such personnel as are necessary to carry out its functions. In addition, the Board may procure the services of experts and consultants as authorized by 5 U.S.C. 3109.

"(i) The provisions of section 14(a) of the Federal Advisory Committee Act shall not apply with respect to the Board.

"EMPLOYER SUBSIDY

"SEC. 1818. The Secretary shall pay, from the Health-care Trust Fund established under part C, any employer whose premium payments attributable to the minimum benefits required by this part for qualified plans exceed 5 percent of the employer's payroll, the difference between those payments and 5 percent of payroll, but only to the extent that the Secretary finds those payments are reasonable payments in relation to the benefits to be provided and the expected use of those benefits by covered individuals.

"REVOCATION OF CERTIFICATION

"SEC. 1819. (a) The Secretary may revoke, after reasonable notice to the administrator of a qualified plan, for a limited time or permanently, the certification under section 1813(a) of the plan, if the Secretary finds that the plan no longer meets all of the conditions specified in section 1813(a).

"(b) The Secretary may revoke, after reasonable notice to an entity, for a limited time or permanently, the certification under section 1814 of the entity as an administrator, if the Secretary finds that the entity no longer meets all of the applicable conditions specified in section 1814(b), or is not fulfilling all the terms of the agreement with the Secretary under section 1814(a).

"SANCTIONS FOR NON-PARTICIPATION AND NON-COMPLIANCE

"SEC. 1820. (a)(1) Any employer (other than an employer specified in subsection (e)) who fails to comply with section 1811(a), 1811(c), or 1812, is subject, for each month during which the employer fails to comply, to a penalty of up to 150 percent of the monthly Healthcare premium multiplied by the number of employee family members with respect to whom any of such requirements is not met.

"(2) Any employer (other than an employer specified in subsection (e)) who fails to comply with subsection (d) of section 1811 is subject, for each month during which the employer fails to comply, to a penalty of up to 150 percent of the monthly Healthcare premium multiplied by the number of its employees.

"(b) The Secretary shall determine the amount of penalties under subsection (a). The Secretary shall not make a determination adverse to any employer under this section until the employer has been given written notice and an opportunity for a hearing. A determination by the Secretary to assess a penalty under this section shall be final sixty days after the Secretary has provided to the employer final written notice of his determination.

"(c) Penalties imposed under this section on an employer may be recovered in a civil action in the name of the United States brought in United States district court for the district where the employer does business. Two thirds of the amounts recovered (plus an amount equal to the administrative expenses incurred in recovering the amounts) shall be paid to the Secretary and deposited in the Healthcare Trust Fund; the remainder shall be deposited as miscellaneous receipts of the Treasury of the United States.

"(d) Any employer adversely affected by a determination of the Secretary under this section (other than an employer specified in subsection (e)) may obtain a review of such determination in the United States district court for any district in which the employer is located, by filing in such court within sixty days following notification to the employer of the Secretary's final determination a written petition praying that the determination be modified or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record in the proceeding as provided in 28 U.S.C. 2112. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, remanding for further consideration, or setting aside, in whole or in part, the determination of the Secretary and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and his recommendations, if any, for the modification or setting aside of his original order.

"(e) Notwithstanding any other provision of law, compliance with the provisions of this part shall be a condition of entitlement of any State or local government to any Federal payment to which the State or local government is otherwise entitled in the form of Federal grants-in-aid used to provide compensation to employees of the State or local government.

"SPECIAL PROVISIONS FOR THE FEDERAL GOVERNMENT

"SEC. 1821. (a) The requirements of this art, as they apply to any Federal agency not under the jurisdiction of the Secretary, shall be administered by the head of that agency rather than by the Secretary.

"(b) (1) Section 1813(2) (A) does not apply, with respect to individuals who are members of a uniformed service, if the provider is not a uniformed service provider.

"(2) Paragraphs (8) and (10) of section 1813 do not apply to a uniformed services family member.

"(3) Members of the uniformed services (and family members) shall be treated as if living in geographic areas distinct from those in which other Federal employees live.

"(c) Sections 1814(a) (7), 1814(a) (8), 1814 (b), 1818, and 1820 do not apply to any Federal entity.

"SPECIAL PROVISIONS FOR TERRITORIAL HEALTH SYSTEMS

"SEC. 1822. (a) Section 1813(a) (2) (A) does not apply, with respect to individuals covered by a territorial health system, if the provider is not a provider of that system.

"(b) Paragraphs (1), (3), (4), (5), (10), and (11) of section 1813(a) do not apply to a territorial health system.

"(c) The Secretary may not certify a territorial health system as a qualified health plan unless the Secretary finds that the system sets premiums on a community rated basis, in accordance with standards promulgated by the Secretary.

"PART C—HEALTHCARE

"ENTITLEMENT TO BENEFITS

"SEC. 1831. (a) Every individual who—

(1) in a particular month—

"(A) is age 65 or older, and

"(B) is entitled to monthly insurance benefits under section 202 or is a qualified railroad retirement beneficiary, and

"(2) before the last preceding month (but after the fifth preceding month) filed an application under this subsection,

is entitled to benefits under this part (subject to the limitations in subsection (m) and section 1833) for items and services furnished in that month and in each succeeding month in which he satisfies paragraph (1) (B).

"(b) Every individual who —

"(1) for a particular month is entitled to—

"(A) disability insurance benefits under section 223,

"(B) child's insurance benefits under section 202(d) by reason of a disability (as defined in section 223(d)),

"(C) widow's insurance benefits under section 202(e) or widower's insurance benefits under section 202(f) by reason of a disability (as defined in section 223(d)), or

"(D) is a disabled qualified railroad retirement beneficiary, within the meaning of section 7(d) of the Railroad Retirement Act of 1974,

"(2) has been entitled to any such benefits for any 24 consecutive months within the preceding 84 months, and

"(3) before the last preceding month (but after the fifth preceding month) filed an application under this paragraph,

is entitled to benefits under this part (subject to the limitations in subsection (m) and section 1833) for items and services furnished in that month and in each succeeding month for which he is entitled to any benefits described in paragraph (1).

"(c) Every individual who—

"(1) (A) is fully or currently insured (as such terms are defined in section 214) or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1974), after December 31, 1936, were included in the term 'employment' as defined in title II, or (B) is entitled to monthly insurance benefits under title II or any annuity under the Railroad Retirement Act of 1974, or (C) is the spouse or dependent child (as defined in regulations) of an individual who is fully or currently insured or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included in the term 'employment' as defined in title II, or (D) is the spouse or dependent child (as defined in regulations) of an individual entitled to monthly insurance benefits under title II or an annuity under the Railroad Retirement Act of 1974,

"(2) is medically determined to have end stage renal disease, and

"(3) has filed an application under this subsection, is, in accordance with the provisions of subsections (d) and (e), entitled to benefits under this part (subject to the limitations in subsection (m) and section 1833).

"(d) Subject to subsection (e), entitlement of an individual to benefits under this part on the basis of end stage renal disease—

"(1) shall begin with—

"(A) the third month after the month in which a regular course of renal dialysis is initiated, or

"(B) the month in which such individual receives a kidney transplant, or (if earlier) the first month in which such individual is admitted as an inpatient to an institution which is certified under section 1851 as a provider of inpatient hospital items and services (and which meets such additional requirements as the Secretary may prescribe) in preparation for or anticipation of kidney transplantation, but only if transplantation occurs in that month or in either of the next two months,

whichever first occurs (but no earlier than one year preceding the month of the filing of an application for benefits under subsection (c)), and

"(2) shall end, in the case of an individual who receives a kidney transplant, with the thirty-sixth month after the month in which the individual receives such transpant or, in the case of an individual who has not received a kidney transplant and no longer requires a regular course of dialysis, with the twelth month after the month in which that course of dialysis is terminated.

"(e) Notwithstanding the provisions of subsection (d)—

"(1) in the case of any individual who participates in a self-care dialysis training program prior to the third month after the month in which such individual initiates a regular course of renal dialysis in a facility meeting requirements prescribed by the Secretary, entitlement to benefits under this part shall begin with the month in which such regular course of renal dialysis is initiated,

"(2) in any case in which a kidney transplant fails (whether during or after the thirty-six-month period specified in subsection (d) (2)) and as a result the individual who received that transplant initiates or resumes a regular course of renal dialysis, entitlement to benefits under this part shall begin with the month in which such course is initiated or resumed, and

"(3) in any case in which a regular course of dialysis is resumed subsequent to the termination of an earlier course, entitlement to benefits under this part shall begin with the month in which such regular course of renal dialysis is resumed.

"(f) Every individual who—

"(1) in a particular month is undergoing preparation for the donation of, has donated, or is recovering from the donation of, a kidney, and

"(2) before the fourth succeeding month (but after the fifth preceding month) files an application under this subsection,

is entitled to benefits under this part (subject to the limitations in section 1833) for items and services furnished in that month and in each succeeding month through the end of the period of recovery.

"(g) (1) Every family member of an individual who—

"(A) in a particular month is (i) a citizen of the United States, (ii) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a) (7) or section 212(d) (5) of the Immigration and Nationality Act), or (iii) any other individual as provided by treaty or by the Secretary in regulations, and

"(B) before the last preceding month (but after the fifth preceding month) filed an application under this paragraph,

is entitled to benefits under this part (subject to the limitations in subsection (m) and section 1833) for items and services under section 1801(b) (3) or for children under one year of age furnished in that month and in each succeeding month through the third month following the last month in which he is a family member of such an individual.

"(2) Every family member of an individual who—

"(A) in a particular month meets the requirements of paragraph (1) (A), and

"(B) (i) in the last January before the preceding month filed an application under this paragraph, or

"(ii) before the last preceding month (but after the fifth preceding month) filed an application under this paragraph within 90 days of initially meeting the requirements of paragraph (1) (A) (or within 90 days of losing eligibility under any other subsection of this section or under a qualified plan under part B, or before January 1, 1983),

is entitled to benefits under this part (subject to the limitations in subsection (m) and section 1833) for items and services furnished in that month and in each succeeding month through the third month following the last month in which he is a family member of such an individual.

"(h) Every individual who in a particular month is covered by an employer agreement under section 1832 is entitled to benefits under this part (subject to the limitations in section 1833) for items and services furnished in that month and in each succeeding month through the third month following the month in which he ceases to be a family member of an employee of that employer.

"(i) Every individual—

"(1) for whom for a particular month an employer is required under part B to provide coverage, but for whom coverage is not so provided, and

"(2) who before the fourth succeeding month (but after the fifth preceding month) files an application under this section.

is entitled to benefits under this part (subject to the limitations in section 1833) for items and services furnished in that month and in each succeeding month for which the individual satisfies paragraph (1).

"(j) (1) Every family member of an individual who in a particular twelve month period—

"(A) meets the requirements of subsection (g) (1) (A), and

"(B) has an annual income that, reduced in accordance with paragraph (2), does not exceed 55 per centum of the amount established by the applicable income poverty guidelines in accordance with subsection (p),

and who, before the fourth month succeeding the end of such twelve month period files an application under this subsection, is entitled to benefits under this part (subject to the limitations in section 1833) for items and services furnished in that month and in each succeeding month through the third month following the last month in which he is a family member of such an individual.

"(2) In determining eligibility under this subsection, the income of the individual for the twelve month period shall be reduced by—

"(i) twenty percent of wage, salary, and self-employment earnings, and

"(ii) work-related child care expenses of not more than $160.00 per month, adjusted to the extent determined by the Secretary to be appropriate by reason of changes in the cost of such care after June 1980.

"(k) (1) (A) Every family member of an individual who, in a particular twelve month period—

"(i) meets the requirements of subsection (g) (1) (A),

"(ii) has an annual income, reduced in accordance with paragraph (2), that does not exceed 55 per centum of the amount established by the applicable income poverty guidelines in accordance with subsection (p),

and who before the fourth month succeeding the end of such twelve month period files an application for benefits under this subsection, is entitled to benefits under this part (subject to the limitations in section 1833) for such twelve month period.

"(B) Every individual who is (or, but for income and resources, and, in the case of a child under 18, family composition, would be) eligible for medical assistance under a plan of a State approved under title XIX, whose income for any twelve month period, reduced in accordance with paragraph (2), does not exceed the lower of—

"(i) the income standard for eligibility of that individual for medical assistance under the State plan in effect on October 1, 1981, or

"(ii) the income standard for eligibility of that individual for medical assistance under the State plan in effect on the date that eligibility is determined under this subsection,

and who before the fourth month succeeding the end of such twelve month period files an application under this subsection, is entitled to benefits under this part (subject to the limitations in section 1833) for such twelve month period.

"(2) In determining eligibility under this subsection, the income of the individual for the twelve month period shall be reduced by—

"(i) twenty percent of expected wage, salary, and self-employment earnings,

"(ii) estimated work-related child care expenses of not more than $160.00 per month, adjusted to the extent determined by the Secretary to be appropriate by reason of changes in the cost of such care after June, 1980, and

"(iii) estimated expenses for items and services for which payment is provided under this part or under the State plan approved under title XIX (not to exceed the amount which would be paid under this title for such items and services), including premiums under part B, except that a person may not, for the same year, claim an earned income tax credit under section 43 of the Internal Revenue Code of 1954 and also deduct the cost of premiums under this part from income for the purpose of establishing eligibility under this subsection.

"(l) An individual receiving aid or assistance under any State plan approved under title I, X, XIV, or XVI, or aid to families with dependent children under part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, and who is a resident of a State which, if eligible, participates in the program under title XIX, is entitled to benefits under this part (subject to the limitations in section 1833) for items and services furnished in or after the third month preceding the month in which application was made for cash assistance under that program (if eligible for such cash assistance at the time such items and services were furnished) and in each succeeding month through the third month (and, in the case of individuals receiving supplemental security income benefits under title XVI on the basis of disability, the thirty-sixth month) following the last month for which he is entitled to such cash assistance or supplemental security income.

"(m) An individual who is required to make premium payments under this part shall cease to be entitled to benefits under this part—

"(1) if the individual files notice that he no longer wishes to participate in Healthcare, for items and services furnished after the third month following the month in which he so files, or

"(2) if the individual fails to make a required premium payment, for items and services furnished in and after the month for which the premium was due, unless the Secretary by regulation provides for a later month (not later than the sixth month after the month for which the premium was due).

"(n) For purposes of this section, the term 'qualified railroad retirement beneficiary' means an individual whose name has been certified to the Secretary by the Railroad Retirement Board under section 7(d) of the Railroad Retirement Act of 1974. An individual shall cease to be a qualified railroad retirement beneficiary at the close of the month preceding the month which is certified by the Railroad Retirement Board as the month in which he ceased to meet the requirements of section 7(d) of the Railroad Retirement Act of 1974.

"(o) (1) For purposes of determining entitlement to benefits under subsection (b) in the case of widows and widowers described in paragraph (1) (C) of that subsection—

"(A) the term 'age 60' in sections 202(e) (1) (B) (ii), 202(e) (5), 202(f) (B) (ii), and 202(f) (6) shall be deemed to read 'age 65', and "(B) the phrase 'before she attained age 60' in the matter following subparagraph (F) of section 202(e) (1) and the phrase 'before he attained age 60' in the matter following subparagraph (F) of section 202(f) (1) shall each be deemed to read 'based on a disability'.

"(2) For purposes of determining entitlement to benefits under subsection (b) in the case of an individual under age 65 who is entitled to benefits under section 202, and who was entitled to widows insurance benefits or widowers insurance benefits based on disability for the month before the first month in which such individual was so entitled to such widows or widowers insurance benefits (but ceased to be entitled to such widows or widowers insurance benefits upon becoming entitled to such old-age insurance benefits), such individual shall be deemed to have continued to be entitled to such widow's insurance benefits or widower's insurance benefits for and after such first month.

"(3) For purposes of determining entitlement to benefits under subsection (b), any disabled widow age 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits) shall, upon application for such hospital insurance benefits, be deemed to have filed for such widow's benefits and shall, upon furnishing proof of such disability prior to July 1, 1974, under such procedures as the Secretary may prescribe, be deemed to have been entitled to such widow's benefits as of the time she would have been entitled to such widow's benefits if she had filed a timely application therefor.

"(4) For purposes of determining entitlement to benefits under subsection (b) in the case of an individual described in paragraph (1(C) of that subsection, the entitlement of such individual to widow's or widower's insurance benefits under section 202 (e) or (f) by reason of a disability shall be deemed to be the entitlement to such benefits that would result if such entitlement were determined without regard to the provisions of section 202(j) (4).

"(p) (1) For purposes of this subsection, the 'unadjusted income poverty guidelines', with respect to any State (other than any territory listed in the following sentence), means the income poverty guidelines for the nonfarm population of the United States as prescribed by the Office of Management and Budget (and adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964) as applicable to such State. 'Unadjusted income poverty guidelines', with respect to the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, means an amount bearing the same ratio to the amount determined under this subsection with respect to the State of the continental United States with the lowest per capita income as the per capita income of that territory bears to the per capita income of that State (but in no event greater than the amount determined for that State). For purposes of subsections (j) and (k), the 'income poverty guidelines' applicable to any period shall be the 'unadjusted income poverty guidelines' adjusted as provided in paragraph (2) and (3).

'(2) For the nine month period beginning with October, 1982, the 'unadjusted income poverty guidelines' prescribed for 1982 will be (i) increased by an amount equal to the product of those guidelines and the ratio of (I) the Consumer Price Index for all urban consumers for December, 1981 to (II) such index for December, 1980, and (ii) thereafter rounded, when not a multiple of $10, to the nearest multiple of $10, or, if a multiple of $5, increased to the next higher multiple of $10.

"(3) For each twelve month period beginning with July of any year after 1982, the 'unadjusted income poverty guidelines' prescribed for the previous year shall be increased and rounded in the same manner as prescribed in paragraph (2).

"(4) For purposes of comparing family income to the income poverty guidelines, a family with 7 or more members shall be considered to have 7 members.

"(q) The Secretary may enter into a contract with any State which is able and willing to do so under which the State will determine the eligibility under subsections (j) and (k) of section 1831 of individuals located in the State, in accordance with standards and procedures established by the Secretary in regulations.

"Employer Agreements for Healthcare Benefits.

"SEC. 1832. Any employer may enter into an agreement with the Secretary under which—

"(1) the family members of all employees of that employer in a geographic area (except as provided in section 1811 (b)) shall be entitled to benefits under this part,

"(2) the employer will not offer any qualified plan (other than the provision of services by a health maintenance organization) under part B to those employees,

"(3) the employer will pay to the Secretary or to the Secretary of the Treasury (as specified in regulations) every three months for each covered employee a premium set as prescribed in section 1833, and

"(4) the employer will give the Secretary at least three months' notice of the employer's intention to terminate the agreement.

"COST SHARING

"SEC. 1833. (a) Every individual entitled to benefits under this part shall be entitled to have—

"(1) payments made on his behalf by the Secretary for any items and services covered by the National Health Plan when furnished by any entity certified under part D as a provider of those items and services, and

"(2) payments made to him or on his behalf by the Secretary for items and services covered by the National Health Plan when furnished in an emergency, as prescribed by the Secretary in regulations,

except as otherwise provided in the following subsections of this section or section 1839.

"(b) The Secetary may not pay for items and services that are—

"(1) inpatient skilled nursing items and services furnished to an individual in any calendar year after 100 days of such services for which payment may be made under this part have been furnished to that individual in that year,

"(2) inpatient hospital items and services furnished to an individual when that individual has a primary diagnosis of a mental or nervous condition, alcoholism, or drug abuse, after 30 days of such services for which payment may be made under this part have been furnished to that individual with such a diagnosis in that year,

"(3) items and services furnished on an outpatient basis to an individual in any calendar year when the individual has a primary diagnosis of a mental or nervous condition, alcoholism, or drug abuse, after such services for which the Secretary is to pay $1,000 have been furnished to that individual with such a diagnosis in that year, and

"(4) home health items and services furnished to an individual in any calendar year after more than 200 visits involving such services for which payment may be made under this part have been made in that year.

"(c) The Secretary may not pay for any calendar year the following amounts for an individual entitled to benefits under subsection (a), (b), or (c) of section 1831 (other than an individual who is a resident, as defined by the Secretary, of a territory listed in subsection (h) that contributes to the Healthcare Trust Fund pursuant to section 1836(i), and who has elected to be entitled to payment for items and services furnished in that territory only if furnished by the territorial health system, except in emergencies as prescribed by the Secretary):

"(1) for inpatient items and services, an amount that the Secretary calculates to reflect the average amount determined under section 1837 for one day of such services,

"(2) for each day of inpatient skilled nursing items and services furnished after 20 days of such services for which payment may be made under this part have been furnished to that individual in that year, one-eighth of the amount that the Secretary calculates under paragraph (1),

"(3) for items and services other than inpatient hospital items and services, services of hospital-based physicians furnished by or in an entity certified under part D as a provider of inpatient hospital items and services, inpatient skilled nursing items and services and home health items and services—

"(A) $60 (plus such additional amount as determined by the Secretary to take into account the increase from October 1, 1980, to October 1, 1982, in per capita health expenses in the United States) for calendar year 1983, and, for each succeeding year, the amount determined above plus such additional amount as determined by the Secretary annually to take into account the annual increase in per capita expenses for health in the United States (or, if adequate data are available, for items and services covered by the National Health Plan), and

"(B) 20 percent of the amount (other than the amount under paragraph (1)) determined for those services determined under section 1837, other than amounts for items and services under section 1801(b)(3), or items and services furnished to an individual under one year of age, and other than amounts which would cause the individual to be liable to pay (including premium payments) more than $312 (plus such additional amount as determined by the Secretary to take into account the increase from October 1, 1980, to October 1, 1982, in per capital health expenses in the United States) for the last quarter of 1982, $1,250 (increased in the same manner) for 1983, or, for any subsequent year (and for the last three months of the previous year, if the limit for the previous year was not reached or reached only in that three month period), the amount determined for 1983 plus such additional amount as determined by the Secretary annually to take into account the annual increase in per capita expenses for health in the United States (or, if adequate data are available, for items and services covered by the National Health Plan), for items and services for which the Secretary would pay if this subsection were not taken into consideration.

"(d) The Secretary may not pay for items and services for an individual entitled to benefits under subsection (f) of section 1831 other than for items and services in connection with the individual's donation of a kidney.

"(e) The Secretary may not pay for items and services for an individual entitled to benefits under subsection (g)(1) of section 1831, other than for items and services under section 1801(b)(3) and items and services furnished to a child under one year or age.

"(f) The Secretary may not pay for any calendar year for items and services for an individual entitled to benefits under subsections (g)(2), (h) or (i) of section 1831, until the amounts (not including premium payments under this part) for which the family members of the person who filed the application under any of those subsections are liable (and for which no private insuror is obligated to pay) exceed $625 (plus such additional amount as determined by the Secretary to take into account the increase from October 1, 1980, to October 1, 1982, in per capital health expenses in the United States) for the last quarter of 1982, $2,500 (increased in the same manner) for 1983, or, for any subsequent year (and for the last three months of the previous year, if the limit for the previous year was not reached or was reached only in that three month period), $2,500 plus such additional amount as determined by the Secretary annually to take into account the annual increase in per capita expenses for health in the United States (or, if adequate data are available, for items and services covered by the National Health Plan), for items and services for which the Secretary would pay if this subsection were not taken into consideration, except for items and services under section 1801(b)(3) and items and services furnished to a child under one year of age.

"(g)(1) The Secretary may not pay for items and services furnished to an individual to the extent that payment has been made for those items—

"(A) under a qualified plan under part B,

"(B) under any other insurance contract, or any reparations or benefits regime, or

"(C) pursuant to a legal claim that the individual has against another person.

"(2) The Secretary shall be subrogated to the rights of an individual under subparagraphs (A) through (C) of paragraph (1) for payment not yet made under any of those subparagraphs, to the extent that the Secretary makes payment under this part on behalf of the individual.

"(3) No State or local governmental entity may restrict, on the basis of a payment or obligation of any Federal entity, the rights of an individual under subparagraphs (A) through (C) of paragraph (1).

"(h) The Secretary may not pay for items and services furnished in the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Northern Mariana Islands to an individual entitled to benefits under this part pursuant to subsection (j), (k), or (l) of section 1831 (or to an individual residing in one of those territories entitled to benefits under this part pursuant to subsection (a), (b), or (c) who has elected to be entitled to payment for items and services furnished in that territory only if furnished by the territorial health system, except in emergencies as prescribed by the Secretary), when furnished (except in an emergency, as prescribed by the Secretary) by any entity other than the territorial health system.

"AMOUNT OF PREMIUMS

"SEC. 1834. (a) The monthly premium of each individual entitled to benefits under subsection (a), (b), or (c) of section 1831 shall be $8.70 (plus such additional amount as determined by the Secretary to take into account the increase from October 1, 1980, to October 1, 1982, in per capita health expenses in the United States) through calendar year 1982, and, for each month of each succeeding calendar year, the amount determined above plus such additional amount as determined by the Secretary annually to take into account the annual increase in per capita expenses for health in the United States (or, if adequate data are available, for items and services covered by the National Health Plan).

"(b) The Secretary shall determine the monthly premium for each family entitled to benefits under section 1831(g) by using a community rating system for families of employees of employers with fewer than 10 employees and families of individuals who are not employees, such that—

"(1) for items and services under section 1801(b)(3) and items and services furnished to individuals under one year of age, there will be no premium payments, and

"(2) for other covered items and services, the premium payments will cover in the aggregate the full amount of the payments to be made under this part for families entitled to benefits under section 1831(g) (excluding individuals who have attained age 65 or who are entitled to benefits described in section 1831(b)(1)).

The Secretary may vary the premium by State (or by areas within a State) and for families of different size and composition. The Secretary shall revise the premium rates annually.

"(c) The premium to be paid by an employer who enters into an agreement with the Secretary under section 1832 and who has more than 9 employees in a geographic area shall be five percent of the employer's payroll for employees entitled under the agreement to benefits under this part.

"(d) The premium to be paid by an employer who enters into an agreement with the Secretary under section 1832 and who has fewer than 10 employees in a geographic area shall be the lesser of the amount calculated under subsection (b) and the amount calculated under subsection (c).

"PAYMENT OF PREMIUMS

"SEC. 1835. (a)(1) In the case of an individual who is entitled to monthly benefits under section 202 or 223, his monthly premiums under this part shall (except as provided in subsections (b)(1) and (c)) be collected by deducting the premiums from the amount of such monthly benefits. The deduction shall be made in such manner and at such times as the Secretary shall by regulation prescribe.

"(2) The Secretary of the Treasury shall, from time to time, transfer from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Healthcare Trust Fund the aggregate amount deducted under paragraph (1) for the period to which the transfer relates. The transfer shall be made on the basis of a certification by the Secretary of Health, Education, and Welfare and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

"(b) (1) In the case of an individual who is entitled to receive for a month an annuity under the Railroad Retirement Act of 1974 (whether or not the individual is also entitled for that month to a monthly insurance benefit under section 202), his monthly premiums under this part shall (except as provided in subsection (c)) be collected by deducting the amount from that annuity or pension. The deduction shall be made in such manner and at such times as the Secretary shall by regulations prescribe. Those regulations shall be prescribed only after consultation with the Railroad Retirement Board.

"(2) The Secretary of the Treasury shall, from time to time, transfer from the Railroad Retirement Account to the Healthcare Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfer shall be made on the basis of a certification by the Railroad Retirement Board and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

"(c) If an individual to whom subsection (a) or (b) applies estimates that the amount which will be available for deduction under either subsection for any premium payment period will be less than the amount of the monthly premiums for that period, he may (under regulations) pay to the Secretary such portion of the monthly premiums for that period as he desires.

"(d) (1) In the case of an individual receiving an annuity under subchapter III of chapter 83 of title 5, United States Code, or any other law administered by the Office of Personnel Mangagement providing retirement or survivorship protection, to whom neither subsection (a) nor subsection (b) applies, his monthly premiums under this part (and the monthly premiums of the spouse of that individual under this part if neither subsection (a) nor subsection (b) applies to the spouse and if the individual agrees) shall, upon notice from the Secretary of Health, Education, and Welfare to the Office of Personnel Management be collected by deducting the premium from each installment of such annuity. The deduction shall be made in such manner and at such times as the Office of Personnel Management may determine. The Office of Personnel Management shall furnish such information as the Secretary of Health, Education, and Welfare may reasonably request in order to carry out his functions under this part with respect to individuals to whom this subsection applies. A plan described in section 8903 of title 5, United States Code, may reimburse each annuitant enrolled in that plan an amount equal to the premiums paid by him under this part if the reimbursement is paid entirely from funds of that plan which are derived from sources other than the contributions described in section 8906 of that title.

"(2) The Secretary of the Treasury shall, from time to time, but not less often than quarterly, transfer from the Civil Service Retirement and Disability Fund, or the account (if any) applicable in the case of such other law administered by the Office of Personnel Management, to the Healthcare Trust Fund, the aggregate amount deducted under paragraph (1) for the period to which the transfer relates. The transfer shall be made on the basis of a certification by the Office of Personnel Management and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

"(e) In the case of an individual who participates in the program established by this part but with respect to whom none of the preceding provisions of this section applies, or with respect to whom subsection (c) applies, the premiums shall be paid to the Secretary at such times, and in such manner, as the Secretary shall by regulations prescribe.

"(f) Amounts paid to the Secretary under subsection (c) or (e) shall be deposited in the Treasury to the credit of the Healthcare Trust Fund.

"(g) In the case of an individual who participates in the program established by this part, premiums shall be payable for the period commencing with the first month of his coverage period and ending with the month in which he dies or, if earlier, in which his coverage under the program terminates.

"HEALTHCARE TRUST FUND

"Sec. 1836. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Healthcare Trust Fund' (hereinafter in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, the fund as provided in this part. There are hereby appropriated to the Trust Fund for each fiscal year, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

"(1) the taxes imposed by section 3101(b) and 3111(b) of the Internal Revenue Code of 1954 with respect to wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of that Code after December 31, 1965, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with such reports, and

"(2) the taxes imposed by section 1401(b) of the Internal Revenue Code of 1954 with respect to self-employment income reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying applicable rate of tax under that section to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of self-employment established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

"The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the Trust fund, the amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such sentence.

"(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the 'Board of Trustees') composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the 'Managing Trustee'). The Secretary of Health, Education, and Welfare shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

"(1) hold the Trust Fund,

"(2) report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next two fiscal years,

"(3) report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust fund is unduly small, and

"(4) review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and the disbursements to be made from, the Trust Fund during the current fiscal year and each of the next two fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(c) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

"(d) Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

"(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in Trust Fund shall be credited to and form a part of the Trust Fund.

"(f) (1) The Managing Trustee is directed to pay from time to time from the Trust Fund into the Treasury the amount estimated by him as taxes imposed under section 3101 (b) which are subject to refund under section 6413(c) of the Internal Revenue Code of 1954 with respect to wages paid after December 31, 1965. Those taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, and the Secretary of Health, Education, and Welfare shall furnish the Managing Trustee such information as may be required by the Managing Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections.

"(2) Repayments made under paragraph (1) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

"(g) There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Federal Old-Age and Survivors Insurance Trust Fund and from the Federal Disability Insurance Trust Fund amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments (other than amounts so certified to the Railroad Retirement Board). There shall be transferred periodically (but not less than once each fiscal year) to the Trust Fund from the Railroad Retirement Account amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments to the Railroad Retirement Board.

"(h) The Managing Trustee shall also pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses in accordance with section 201(g) (1).

"(i) (1) Effective October 1, 1982, each State which has a plan approved under title XIX will participate in the costs of services provided under this title to individuals eligible under this part, as provided in this subsection.

"(2) (A) For each of fiscal years 1983 and 1984, each State shall pay to the Healthcare Trust Fund 90 percent of the State share (as determined in accordance with the formula set forth in section 1905(b)) of estimated total title XIX costs (as determined under subparagraph (B)), for care and services which would have been provided under title XIX if the State plan approved under title XIX in effect on September 30, 1980, had remained in effect through that fiscal year.

"(B) The estimated total title XIX costs for any fiscal year shall be 100 percent of the total Federal and State costs under title XIX for items and services for which coverage is provided under this part for fiscal year 1982, increased by a percentage of that total amount equal to

"(i) for fiscal year 1983, the average annual rate of increase, and

"(ii) for fiscal year 1984, the average annual rate of increase compounded for two years in costs for care and services under title XIX in the State in fiscal years 1980, 1981, and 1982.

"(3) For fiscal year 1985 and each succeeding fiscal year, each State shall pay to the Healthcare Trust Fund an amount determined as follows:

"(A) The amount determined under paragraph (2) (B) for fiscal year 1984 shall be subtracted from the total costs under this title for that fiscal year for persons eligible under subsections (j), (k), or (l) of section 1831.

"(B) The remainder determined under subparagraph (A) shall be increased by an amount determined by the Secretary to take into account the increase from fiscal year 1983 to the fiscal year preceding the fiscal year for which the determination is made in per capita expenses for health in the United States (or, if adequate data are available, for items and services covered by the National Health Plan).

"(C) The amount determined under subparagraph (B) for each fiscal year shall be subtracted from the total payments under this part for that fiscal year on behalf of individuals entitled to benefits pursuant to subsections (j), (k), or (l) of section 1831.

"(D) The State shall pay to the Healthcare Trust Fund 90 percent of the State share (as determined in accordance with the formula set forth in section 1905(b)), of the remainder determined under paragraph (C).

"(4) (A) Puerto Rico shall pay to the Healthcare Trust Fund, for fiscal year 1982 and each succeeding fiscal year, the amount, if any, by which the cost of items and services furnished under this part to individuals eligible pursuant to subsections (j), (k), and (l) of section 1831, reduced by the amount determined under paragraph (2) or (3), as appropriate exceeds $120,000,000.

"(B) The Virgin Islands shall pay to the Healthcare Trust Fund, for fiscal year 1982 and each succeeding fiscal year, the amount, if any, by which the cost of items and services furnished under this part to individuals eligible pursuant to subsections (j), (k), and (l) of section 1831, reduced by the amount determined under paragraph (2) or (3), as appropriate exceeds $4,000,000.

"(C) Guam shall pay to the Healthcare Trust Fund, for fiscal year 1982 and each succeeding fiscal year, the amount, if any, by which the cost of items and services furnished under this part to individuals eligible pursuant to subsections (j), (k) and (l) of section 1831, reduced by the amount determined under paragraph (2) or (3), as appropriate exceeds $4,000,000.

"(D) The Commonwealth of the Northern Mariana Islands shall pay to the Healthcare Trust Fund, for fiscal year 1982 and each succeeding fiscal year, the amount, if any, by which the cost of items and services furnished under this part to individuals eligible pursuant to subsections (j), (k) and (l) of section 1831, reduced by the amount determined under paragraph (2) or (3), as appropriate exceeds $800,000.

"(5) In the case of a State which on October 1, 1982, was not participating in the program under title XIX, the State's estimated total title XIX costs for purposes of paragraph (3) (B) shall be deemed to equal the product of the number of individuals in the State receiving cash assistance under State plans under titles I, X, XIV and XVI and supplemental security income under title XVI multiplied by the average per capita total title XIX costs in a comparable State (as determined by the Secretary) in the fiscal year ending September 30, 1982.

"(6) Notwithstanding any other provision of law, effective October 1, 1982, any State eligible to participate in the program under title XIX which does not have a plan approved under that title shall not be entitled to participate in the programs under titles V and XX of this Act or in any program for delivery of health care services under the Public Health Service Act.

"(j) There are hereby authorized to be appropriated from time to time such sums as may be necessary to enable the Managing Trustee and the Secretary of Health, Education, and Welfare to carry out their responsibilities under this part.

"PAYMENTS TO PROVIDERS

"Sec. 1837. (a) The Secretary may pay an entity certified under part D as a provider of specified items and services only for items and services furnished by that provider, except that the Secretary shall pay an entity certified under part D as a provider of inpatient hospital items and services for services furnished by a hospital-based physician in that entity, and except that the Secretary shall pay an outpatient facility for services furnished by a hospital-based physician at that facility.

"(b) Subject to the provisions of section 1833, the Secretary shall pay for inpatient hospital items and services (other than if furnished by an entity certified as a provider under section 1853(b) (2)), and for services of a hospital-based physician furnished by or in an entity certified under part D as a provider of inpatient hospital items and services, on the basis of reasonable cost (but not to exceed any amount or limit specified by any other law). The reasonable cost of any item or services shall be the cost actually incurred, excluding any part of incurred cost found to be unnecessary in the efficient delivery of needed health items and services (including the extra cost of a private room when not necessary to isolate a patient for medical reasons, unless no other room is available), and shall be determined in accordance with regulations establishing the method or methods to be used. In prescribing the regulations referred to in the preceding sentence, the Secretary shall consider, among other things, the principles generally applied by national organizations or established prepayment organizations (which have developed such principles) in computing the amount of payment to be made, by persons other than recipients of services, to providers of items and services on account of items and services furnished to recipients by providers. Those regulations may provide for determination of costs of services on a per diem, per unit, per capita, or other basis, may provide for using different methods in different circumstances, may provide for the use of estimates of costs of particular items or services, may provide for the establishment of limits on the direct or indirect overall incurred costs or incurred costs of specific items or services or groups of items or services to be recognized as reasonable, based on estimates of the costs necessary in the efficient delivery of needed health services to individuals covered by the program established under this part, and may provide for the use of charges or percentage of charges where this method reasonably reflects the costs. These regulations shall (1) take into account both direct and indirect costs of providers of services (excluding any costs, including standby costs, which are determined in accordance with regulations to be unnecessary in the efficient delivery of items and services covered by the program established under this part) in order that, under the methods of determining costs, the necessary costs of efficiently delivering covered items and services to individuals covered by the program established by this part will not be borne by individuals not so covered, and the costs with respect to individuals not so covered will not be borne by that program, and (2) provide for the making of suitable retroactive corrective adjustments where, for a provider of services for any fiscal period, the aggregate reimbursement produced by the methods of determining costs proves to be either inadequate or excessive.

"(c) Subject to the provisions of section 1833, the Secretary shall pay for inpatient skilled nursing items and services and for home health items and services on the basis of prospectively set rates or as provided in subsection (b).

"(d) Subject to the provisions of section 1833, the Secretary shall pay for items and services furnished by or at an outpatient facility on the basis of a prospectively set, all-inclusive rate per visit (including an allowance for overhead costs attributable to furnishing the covered items and services).

"(e) Subject to the provisions of section 1833, the Secretary, in order to provide reimbursement in an equitable manner, shall pay for physician's services (other than those provided for under subsection (b) or (d)) on the basis of a fee schedule under which fees shall be—

"(1) the same for the same services (with such exceptions as the Secretary may provide in regulations to allow for specialty training),

"(2) set on a State or other area basis,

"(3) set on an all-inclusive basis for services related to pregnancy (except as otherwise prescribed by the Secretary in regulations),

"(4) set on an all-inclusive basis for services furnished to a child under one year of age (except as otherwise prescribed by the Secretary in regulations), and

"(5) adjusted annually.

The Secretary shall consult with representatives of physicians from time to time concerning the fee schedule under this subsection.

"(f) Subject to the provisions of section 1833, the Secretary shall pay for items and services not provided for under the preceding subsections on such bases as he finds reasonable and will assist in the effective implementation of this part.

"(g) An entity certified as a provider of services under part D may charge an individual entitled to benefits under this part for items and services covered by the National Health Plan to the extent that subsections (b) through (f) of section 1833 preclude payment by the Secretary for those items and services, but the provider's charges for those items and services may not be more than if calculated on the same basis on which the Secretary would pay were it not for those subsections.

"(h) The Secretary shall periodically determine the amount which should be paid under this part to each entity furnishing services with respect to the services furnished by it, and the entity shall be paid, at such time or times as the Secretary believes appropriate (but not less than monthly) and prior to audit or settlement by the General Accounting Office, from the Healthcare Trust Fund, the amounts so determined, with necessary adjustments on account of previously made overpayments or underpayments; except that no such payments shall be made to any entity unless it has furnished such information as the Secretary may request in order to determine the amounts due the entity under this part for the period with respect to which the amounts are being paid or any prior period.

"USE OF PUBLIC AND PRIVATE ENTITIES FOR ADMINISTRATION OF BENEFITS

"SEC. 1838. (a) In order to provide for the administration of the benefits under this part with maximum efficiency and convenience for individuals entitled to benefits under this part and for entities furnishing services to those individuals the Secretary is authorized to enter into contracts with public and private entities which will perform some or all of the following functions (or, to the extent provided in such contracts will secure performance thereof by other organizations):

"(1)(A) make determination of the amounts of payments required pursuant to this part to be made to various entities,

"(B) receive, disburse, and account for funds in making such payments, and

"(C) make such audits of the records of entities furnishing services as may be necessary to assure that proper payments are made under this part.

"(2)(A) determine compliance with the requirements of section 1853(e) as to utilization review and

"(B) assist entities who furnish services for which payment may be made under this part in the development of procedures relating to utilization practices, make studies of the effectiveness of such procedures and methods for their improvement, and assist in the application of safeguards against unnecessary utilization of services furnished by them to individuals entitled to benefits under this part,

"(3) serve as a channel of communication of information relating to the administration of this part,

"(4) provide consultative services to entities furnishing health services to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to become or remain eligible for payments under this title and

"(5) otherwise assist, in such manner as the contract may provide, in discharging administrative duties necessary to carry out the purposes of this part.

"(b)(1) No contract may be entered into with any entity under this section unless the Secretary finds that the entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

"(2) Each such contract shall provide, as appropriate, that the entity—

"(A) will take such action as may be necessary to assure that, where payment under this part for a service is on a cost basis, the cost is reasonable cost (as determined under section 1837(b)),

"(B) will establish and maintain procedures pursuant to which an individual enrolled under this part will be granted an opportunity for a fair hearing by the entity, in any case where the amount in controversy is $100 or more when requests for payment under this part with respect to services furnished him are denied or are not acted upon with reasonable promptness or when the amount of such payment is in controversy,

"(C) will furnish to the Secretary such timely information and reports as he may find necessary in performing his functions under this part, and

"(D) will maintain such records and afford such access thereto (and to its claims processing operations) as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (D) and otherwise to carry out the purposes of this part,

and shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary or appreciate.

"(c) Any contract entered into with an entity under this section may provide for advances of funds to the entity for the making of payments by it under this title.

"(d) Any contract with an entity under this section may require the entity or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give fidelity bond to the United States in such amount as the Secretary may deem appropriate.

"(e)(1) No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by him under this section.

"(2) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by a certifying officer designated as provided in paragraph (1) of this subsection.

"(3) No such entity shall be liable to the United States for any payments referred to in paragraph (1) or (2).

"PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1839. (a)(1) The Secretary shall annually determine a per capita rate of payment for each class of individuals entitled to benefits under this part who are enrolled under this section with a health maintenance organization with which he has entered into a contract under subsection (h). The Secretary shall define appropriate classes of members, based on such factors as age, sex, institutional status, disability status, and place of residence, and cost sharing requirements otherwise applicable under this part. The rate for each class shall be equal to 95 percent of the adjusted average per capita cost for that class. Each month the Secretary shall pay each such organization the appropriate rate, in advance, for each individual enrolled under this section with the organization, or such lesser amount as the organization requests. Those payments shall be instead of the amounts which would be otherwise payable for services furnished by or through the organization to individuals enrolled under this section with the organization, or enrolled other than under this section with the organization but eligible to enroll under this section with the organization.

"(2) For purposes of this section, the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by a health maintenance organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for services covered under this part, and types of expenses otherwise reimbursable under this part (including administrative costs incurred by organizations described in section 1848) if the services were to be furnished by other than a health maintenance organization.

"(3) The payment to a health maintenance organization under this subsection for individuals enrolled under this section with the organization and entitled to benefits under this part shall be made from the Healthcare Trust Fund.

"(b)(1) For purposes of this section, the term 'health maintenance organization' means a legal entity that meets the definition of 'health maintenance organization' under section 1301(a) of the Public Health Service Act as that definition applies (or would apply) to individuals not entitled to benefits under this title, except that—

"(A) with respect to individuals enrolled under this section with the organization—

"(i) the organization may not include any supplemental health services in its basic health services, and

"(ii) the organization fixes the payments required from those individuals as prescribed by subsections (g) and (i)(2), and

"(B) with respect to the enrollment of individuals with the organization under this section—

"(i) subsections (c)(4) and (d) of section 1301 of that Act shall not apply, and

"(ii) the organization must enroll individuals eligible to enroll under this section without regard to their health status (but may commence or cease enrolling such individuals at any time).

"(2)(A) The administration of the duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a "health maintenance organization" within the meaning of paragraph (1), shall be integrated with the administration of section 1312 of the Public Health Service Act.

"(c) If an individual is enrolled under this section with a health maintenance organization, neither the individual nor any other person or entity (except for the health maintenance organization) shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(d) Subject to the provisions of subsection (e), every individual entitled to benefits under this part (other than an individual medically determined to have end-stage renal disease) shall be eligible to enroll under this section with any health maintenance organization with which the Secretary has entered into a contract under subsection (i) that serves the geographic area in which the individual resides.

"(e) An individual may enroll under this section with a health maintenance organization as may be prescribed in regulations, and may terminate his enrollment with the health maintenance organization as of the beginning of the first calendar month following a full calendar month after he has requested termination.

"(f) Any individual enrolled with a health maintenance organization under this section who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay shall, if the amount in controversy is $100 or more, be entitled to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the health maintenance organization a party. If the amount in controversy is $1,000 or more, the individual or health maintenance organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the health maintenance organization shall be entitled to be parties to that judicial review.

"(g)(1) The portion of a health maintenance organization's premium rate and the actuarial value of its other charges for an individual enrolled under this section with the organization and entitled to benefits under this part, for services covered under this part, may not exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals with the same coinsurance and deductibles enrolled under this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to such individuals in the area, in the State, or in the United States, eligible to enroll under this section with a health maintenance organization) and entitled to benefits under this part, if they were not members of a health maintenance organization; and the portion of its premium rate and the actuarial value of its other charges for an individual for other services may not exceed the value of the adjusted community rate for those services (except as prescribed by the last three sentences of section 1301(b)(1) of the Public Health Service Act).

"(2) For purposes of this section, the term 'adjusted community rate' for a service means the rate of payment for that service that the Secretary annually estimates would apply to an individual enrolled under this section with a health maintenance organization if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C), but adjusted for differences between the utilization characteristics of the individuals enrolled with the health maintenance organization under this section and the utilization characteristics of the other members of the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals in the area, in the State, or in the United States, eligible to enroll under this section with a health maintenance organization and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(h)(1) The Secretary is authorized to enter into a contract with any health maintenance organization that undertakes to provide the benefits described in title XIII of the Public Health Service Act (as modified by subsection (b)) to individuals enrolled under this section with that organization.

"(2) The contract shall provide that, if the adjusted community rate for services under this part (as reduced for the actuarial value of the coinsurance and deductibles under this part), for individuals enrolled under this section with the organization and entitled to benefits under this part, is less than the average per capita payment to be made under subsection (a) at the beginning of an annual period for individuals enrolled under this section with the organization and entitled to benefits under this part, the health maintenance organization shall provide to each individual enrolled under this section with the organization and entitled to benefits under this part certain additional benefits that the Secretary finds are at least equal in value to the difference between that average per capita payment and that adjusted community rate (as so reduced). Those additional benefits shall be as follows, and provided in the following order:

"(A) first, reduction (or elimination) of that portion of the premium rate attributable to preventive health services under section 1302(1) of the Public Health Service Act,

"(B) second, reduction (or elimination) of that portion of the premium rate attributable to coinsurance or deductibles under this part, and reduction of any other charges for services listed under this part to the lowest charges (other than the premium rate) for those (or similar) services for any other enrollee (other than enrollees under a Federal or State program) of the organization, and

"(C) third, reduction (or elimination) of any remaining charges for services listed under this part, and provision of supplemental health services without an increase in the premium rate.

"(3) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the health maintenance organization involved as he may provide in regulations), if he finds that the organization (A) has failed substantially to carry out the contract, (B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or (C) no longer substantially meets the applicable conditions of subsection (b).

"(4) The effective date of any contract executed pursuant to this subsection shall be specified in the contract.

"(5) Each contract under this section—

"(A) shall provide that the Secretary, or any person or organization designated by him—

"(i) shall have right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under the contract, and

"(ii) shall have right to audit and inspect any books and records of the health maintenance organization that pertain to services performed or determinations of amounts payable under the contract,

"(B) shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this section with the organization,

"(C) shall require the organization to comply with subsections (a) and (c) of section 1318 of the Public Health Service Act, and

"(D) shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary.

"(6) The Secretary may prescribe the procedures and conditions under which a health maintenance organization that has entered into a contract with the Secretary under this subsection may inform individuals eligible to enroll under this section with the organization about the organization, or may enroll such individuals with the organization.

"(7) The Secretary may not enter into contract with a health maintenance organization under this subsection if a former contract with the organization under this subsection was terminated at the request of the organization within the preceding five year period, except in circumstances which the Secretary finds warrant special consideration.

"(i) The function vested in the Secretary by subsection (h) may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"PROVIDER REIMBURSEMENT REVIEW BOARD

"SEC. 1840. (a) Any provider of items and services that has filed a claim for payment within the time specified in regulations may obtain a hearing with respect to the claim by a Provider Reimbursement Review Board (hereinafter referred to as the 'Board') which shall be established by the Secretary in accordance with subsection (g), if—

"(1) the provider—

"(A) is dissatisfied with a determination of the Secretary as to the amount of reimbursement due the provider for the items and services furnished to individuals for which payment may be made under this title, or

"(B) has not received such a determination on a timely basis after filing the claim,

"(2) the amount in controversy is $10,000 or more, and

"(3) the provider files a request for a hearing within 180 days after notice of the Secretary's determination under paragraph (1)(A) or, with respect to appeals pursuant to paragraph (1)(B), within 180 days after a notice of the determination would have been received if the determination had been made on a timely basis.

"(b) The provisions of subsection (a) shall apply to any group of providers of items and services if each provider of items and services in the group would, upon the filing of an appeal (but without regard to the $10,000 limitation), be entitled to such a hearing.

but only if the matters in controversy involve a common question of fact or interpretation of law or regulations and the amount in controversy is, in the aggregate, $50,000 or more.

"(c) At the hearing, the provider shall have the right to be represented by counsel, to introduce evidence, and to examine and cross-examine witnesses. Evidence may be received at any such hearing even though inadmissible under rules of evidence applicable to court procedure.

"(d) A decision by the Board shall be based upon the record made at the hearing, and shall be supported by substantial evidence when the record is viewed as a whole. The Board shall have the power to affirm, modify, or revise a determination of the Secretary with respect to a claim for payment and to make any other revisions on matters covered by the claim (including revisions adverse to the provider) even though the matters were not considered by the Secretary in making his determination.

(e) The Board shall have full power and authority to make rules and establish procedures, not inconsistent with the provisions of this title or regulations of the Secretary, which are necessary or appropriate to carry out the provisions of this section. In the course of any hearing the Board may administer oaths and affirmations. The provisions of subsections (d), (e), and (f) of section 205 with respect to subpoenas shall apply to the Board to the same extent as they apply to the Secretary with respect to title II.

"(f)(1) A decision of he Board shall become final 90 days after the provider is notified of the Board's decision, unless the Secretary, on his own motion, within that 90 day period, reverses, affirms, modifies, or remands the Board's decision. A decision of the Board, following a remand by the Secretary, shall be reviewable by the Secretary to the same extent as the Board's initial decision. Providers shall have the right to obtain judicial review of any final decision of the Board, or of any reversal, affirmance, or modification by the Secretary, by a civil action commenced within 60 days of the date on which the Board's decision becomes final or, if earlier, within 60 days of the date on which notice of any reversal, affirmance, or modification by the Secretary is received. Such action shall be brought in the judicial district court of the United States for the judicial district in which the provider is located or in the District Court for the District of Columbia and shall be tried pursuant to the applicable provisions under chapter 7 of title 5, United States Code, notwithstanding any other provisions in section 205.

"(2) The district court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and may, at any time, on good cause shown, remand the case to the Secretary for further administrative action. Any decision rendered following remand shall be subject to review to the extent provided for review of the original decision.

"(g) The Board shall be composed of five members appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive services. Two of such members shall be representative of providers of services. All of the members of the Board shall be persons knowledgeable in the field of reimbursement, and at least one of them shall be a certified public accountant. Members of the board shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate specified (at the time the service involved is rendered by such members) for grade GS–18 in section 5332 of title 5, United States Code. The term of office shall be three years, except that the Secretary shall appoint the initial members of the Board for shorter terms to the extent necessary to permit staggered terms of office.

"(h) The Board is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Board such secretarial, clerical, and other assistance as the Board may require to carry out its functions.

"DETERMINATION OF ELIGIBILITY AND BENEFITS; NOTICE AND OPPORTUNITY FOR HEARING

"SEC. 1841. The Secretary shall by regulation establish procedures to assure that—

"(1) all individuals wishing to make application for benefits under this part have the opportunity to do so;

"(2) a determination on the application is made promptly and, in any event, notice of the determination is sent to the individual applying no later than thirty days following the date of application,

"(3)(A) if a determination cannot be made within thirty days (for reasons other than the individual's or other family member's refusal to cooperate or take other reasonable actions necessary to such determination), benefits under this part will be provided with respect to an individual or family that is presumptively eligible (as determined in accordance with criteria prescribed by the Secretary), for three months or until a determination under paragraph (1) is made, whichever is earlier, and

"(B) if the individual or family is later determined to be ineligible, payments for items and services furnished during the period of presumptive eligibility under subparagraph (A) shall not (in the absence of any fraudulent act or statement) be considered to be incorrect payments, and no recovery will be made,

"(4) an opportunity for a fair hearing is granted to any individual—

"(A) who for any period is determined to be ineligible for benefits under this part, or

"(B) who is determined not to be entitled to payment on his behalf under this part for items and services furnished to him, and

"(5) an individual applying for or receiving benefits under this part may represent himself or be represented or accompanied by an attorney or any other person of the individual's choosing in any proceeding relating to administration of the program under this part or in any matter in which the individual has contact with the agency administering such program.

"PART D—PROVIDERS OF ITEMS AND SERVICES

"CERTIFICATION BY SECRETARY

"SEC. 1851. (a) The Secretary shall certify an entity (including an individual practitioner) as a provider of specified items and services that the National Health Plan covers if—

"(1) the Secretary makes the general findings specified in section 1852,

"(2) the Secretary makes the specific findings, if relevant, specified in section 1853, and

"(3) the entity files with the Secretary an agreement as specfied in section 1854.

"(b) The Secretary may, to assist in carrying out this part, define classes of entities, based on various kinds of items and services to be furnished.

"(c) The Secretary may waive any of the requirements of section 1853 as they apply to an entity which is part of a territorial health system.

"(d) Components of the Veterans' Administration shall be treated as certified by the Secretary under this part.

"GENERAL FINDINGS

"SEC. 1852. The Secretary, before certifying under section 1851 an entity as a provider of specified items and services, must find that the entity—

"(1) is able to furnish those items and services,

"(2) is legally permitted to furnish those items and services in the jurisdiction in which the entity will furnish them,

"(3)(A) is located in the United States, or

"(B)(i) is located in Canada or Mexico, and

"(ii) is substantially more accessible from the residences or workplaces (in either case if located in the United States) of some individuals than any entity in the United States certified as a provider of those items and services, and

"(4) meets such other requirements as the Secretary finds are needed for the health or safety of individuals to whom the entity will furnish items and services.

"SPECIFIC FINDINGS

"SEC. 1853. (a) The Secretary, before certifying under section 1851 an entity as a provider of any inpatient hospital items and services (other than such items and services furnished to an individual with a primary diagnosis of a mental or nervous condition, alcoholism, or drug abuse), whether or not such items and services also meet the definition of other kinds of items and services, must find that the entity is an institution that—

"(1) is primarily engaged in furnishing inpatient hospital items and services needed to diagnose, treat, or aid in rehabilitation from disease, accident, or malfunction,

"(2) maintains clinical records on all its patients,

"(3) has bylaws in effect with respect to its staff of physicians,

"(4) has a requirement that every patient be under the care of a physician,

"(5) provides 24-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times,

"(6) has in effect a hospital utilization review plan that meets the requirements of subsection (e),

"(7) has in effect an overall plan and budget that meets the requirements of subsection (f), and

"(8) complies with the requirements of section 1124.

"(b) The Secretary, before certifying an entity as a provider of any inpatient hospital items and services furnished to an individual with a primary diagnosis of a mental or nervous condition, alcoholism, or drug abuse, whether or not such items and services also meet the definition of other kinds of items and services, must find that the entity is—

"(1) an institution meeting the conditions specified in subsection (a), or

"(2) an institution that is affiliated with a community mental health center and that meets the accreditation standards of the Joint Commission on Accreditation of Hospitals for a community mental health center inpatient facility.

"(c) The Secretary, before certifying an entity as provider of inpatient skilled nursing items and services, whether or not such items and services also meet the definition of other kinds of items and services, must find that the entity is an institution (or distinct part of an institution) that—

"(1) is primarily engaged in furnishing inpatient skilled nursing items and services needed to treat, or aid in rehabilitation from, disease (other than mental disease or tuberculosis), accident, or malformation,

"(2) has policies, which are developed with the advice of (and with provision for review of those policies from time to time by) a group of professional personnel, including one or more physicians and one or more registered professional nurses, to govern the skilled nursing care and related medical or other services it provides,

"(3) has a physician, a registered professional nurse, or a medical staff responsible for the execution of those policies,

"(4)(A) has a requirement that the health care of every patient be under the supervision of a physician, and (B) provides for having a physician available to furnish necessary medical care in case of emergency,

"(5) maintains clinical records on all its patients,

"(6) except as specified in the second sentence of this subsection, provides 24 hour nursing service which is sufficient to meet nursing needs in accordance with the policies developed as provided in paragraph (2), and has at least one registered professional nurse employed full time,

"(7) provides appropriate methods and procedures for the dispensing and administering of drugs and biologicals,

"(8) has in effect a utilization review plan which meets the requirements of subsection (e),

"(9) has in effect an overall plan and budget that meets the requirements of subsection (f),

"(10) complies with the requirements of section 1124,

"(11) cooperates in an effective program which provides for a regular program of independent medical evaluation and audit of the patients in the institution to the extent required by the program in which the institution participates (including medical evaluation of each patient's need for skilled nursing items and services),

"(12) meets such provision of such editions of the Life Safety Code of the National Fire Protection Association applicable to nursing homes as are specified by the Secretary in regulations, except that the Secretary may waive, for such periods as he deems appropriate, specific provisions of that Code which if rigidly applied would result in unreasonable hardship upon an institution, but only if the waiver will not adversely affect the health or safety of the patients, and except that the provisions of that Code shall not apply in any State if the Secretary finds that in that State there is in effect a fire and safety code, imposed by State law, which adequately protects patients in nursing facilities, and

"(13) establishes and maintains a system that (A) assures a full and complete accounting of its patients' personal funds, and (B) includes the use of such separate accounts for those funds as will preclude any commingling of those funds with funds of the institution or with the funds of any person other than another of its patients. To the extent that paragraph (6) may require that any institution to be certified under this subsection engage the services of a registered professional nurse for more than 40 hours a week, the Secretary may waive that requirement if he finds that the institution is located in a rural area and the supply of inpatient skilled nursing items and services in that area is not sufficient to meet the needs of individuals residing there, that the institution has one full-time registered professional nurse who is regularly on duty at the institution 40 hours a week, and that the institution has only patients whose physicians have indicated (through physicians' orders or admission notes) that each such patient does not require the services of a registered nurse or a physician for a 48-hour period, or has made arrangements for a registered professional nurse or a physician to spend such time at the institution as may be indicated as necessary by the physician to provide necessary inpatient skilled nursing items and services on days when the regular full-time registered professional nurse is not on duty.

"(d) The Secretary, before certifying an entity as a provider of home health items and services, must find that the entity is a public agency or private organization, or a subdivision of such an agency or organization, that—

"(1) is primarily engaged in providing skilled nursing services and other therapeutic services,

"(2) has policies, established by a group of professional personnel (associated with the agency or organization), including one or more physicians and one or more registered professional nurses, to govern the services (referred to in paragraph (1)) which it provides, and provides for supervision of those services by a physician or registered professional nurse,

"(3) maintains clinical records on all patients, and

"(4) complies with the requirements of section 1124.

"(e) A utilization review plan shall be considered sufficient for purposes of subsection (a)(6) or (c)(8) if it provides for the review, on a sample or other basis, of admissions to the institution, the duration of stays at the institution, and the professional services (including drugs and biologicals) furnished, (A) with respect to the medical necessity of the services, and (B) for the purpose of promoting the most efficient use of available health facilities and services.

"(f) An overall plan and budget shall be considered sufficient for purposes of subsection (a)(7) or (c)(9) if it—

"(1) provides for an annual operating budget which includes all anticipated income and expenses related to items which would, under generally accepted accounting principles, be considered income and expense items (except that nothing in this paragraph shall require that there be prepared, in connection with any budget, an item-by-item identification of the components of each type of anticipated expenditure of income),

"(2) provides for a capital expenditures plan for at least a 3-year period (including the year to which the operating budget described in subparagraph (1) is applicable) which includes and identifies in detail the anticipated sources of financing for, and the objectives of, each anticipated expenditure in excess of $100,000 related to the acquisition of land, the improvement of land, buildings, or equipment, or the replacement, modernization, or expansion of buildings or equipment, which would, under generally accepted accounting principles, be considered capital items,

"(3) provides for review and updating at least annually, and

"(4) is prepared, under the direction of the governing body of the institution, agency, or organization, by a committee consisting of representatives of the governing body, the administrative staff, and the medical staff (if any) of the institution, agency, or organization.

"PROVIDER AGREEMENTS

"SEC. 1854. Before the Secretary may certify under section 1851 an entity as a provider of specified items and services, the entity must file with the Secretary an agreement—

"(1) not to charge any individual entitled under part C to have payments made on his behalf, or any other person, for any item or service covered by the National Health Plan and furnished to the individual, except as provided in that part,

"(2) not to require any individual who is entitled, under a qualified plan under part B, or under part C, to have payments made to him or on his behalf, to pay for any item or service not covered by that qualified plan, or by the National Health Plan, respectively, as a condition of receiving a covered item or service,

"(3) to provide such information and reports to the Secretary and to provide the Secretary such access to records, as the Secretary finds are needed to carry out this title or to conduct research,

"(4) to furnish items and services to individuals without discrimination on the ground of race, sex, religion, national origin, disability, or enrollment under part C,

"(5) to continue to meet the applicable conditions specified in sections 1852 and 1853, and

"(6) to give adequate notice to the Secretary and to the public, as specified in regulations (but not to exceed six months advance notice), if the entity wishes to terminate the agreement.

"REVOCATION OF CERTIFICATION AND OTHER SANCTIONS

"SEC. 1855. (a) The Secretary may revoke, after reasonable notice to an entity and to the public, for a limited time or permanently, with respect to all or any items or services, the certification under section 1851 of an entity as a provider if the Secretary finds that the entity no longer meets all of the applicable conditions specified in sections 1852 and 1853, or is not fulfilling all the terms of the agreement filed with the Secretary under section 1854.

"(b) Where the Secretary finds that an entity certified as a provider under section 1851, no longer meets all of the applicable conditions specified in sections 1852 and 1853, or is not fulfilling all the terms of the agreement filed with the Secretary under section 1854, but further finds that such failure to comply does not jeopardize the health or safety of patients, he may, instead of revoking the entity's certification, impose such other sanctions as appropriate, which sanctions may include denial of reimbursement with respect to all patients, or with respect to patients admitted to the entity or furnished items and services after the date of notice of his findings, until such time as he finds that the deficiencies noted have been corrected.

"FEDERAL CERTIFICATION OF CERTAIN HEALTH CARE PRACTITIONERS

"SEC. 1856. (a) The Secretary may define various kinds (other than physicians) of health care practitioners and the scope of their practices.

"(b) The Secretary may certify a person, based on such training, experience, education, and other requirements as the Secretary may prescribe in regulations, as a qualified health care practitioner of a certain kind.

"(c) Notwithstanding any State law to the contrary, any person certified as a particular kind of health care practitioner under subsection (b) may furnish items and services within the scope of his practice, if those items and services are furnished through an outpatient facility that has been certified as a provider under this part.

"PART E—GENERAL PROVISIONS

"DEFINITIONS

"SEC. 1861. For purposes of this title—

"(1) 'Chiropractor's services' means manual manipulation of the spine when (A) ordered by a physician, and (B) performed by a chiropractor who meets uniform minimum standards promulgated by the Secretary.

"(2) 'Employee' includes, with respect to any employer, the employer (except for purposes of subsections (b), (c), and (d) of section 1812), if the employer is an individual who is self-employed in the United States, but excludes any individual—

"(A) whose place of work is neither in the United States nor aboard an American vessel or aircraft,

"(B) who, if his employer contributes to a trust fund described in section 302(c)(5) of the Labor Management Relations Act, 1947, has not worked for at least 250 hours during the preceding 10 weeks as an employee of any employer contributing to that trust fund, or

"(C) who, if his employer does not contribute to a trust fund described in section 302(c)(5) of the Labor Management Relations Act, 1947, has not worked for at least 250 hours during the preceding 10 weeks as an employee of that employer.

"(3) 'Employer' includes the Federal government, State and local governments, and self-employed individuals but excludes foreign governments, instrumentalities wholly owned by foreign governments, and international organizations.

"(4) 'Family member', with respect to any individual (including an employee) means—

"(A) the individual,

"(B) the individual's spouse,

"(C) any child (including an adopted or foster child) of the individual or spouse, if the child is—

"(i) under 18 years of age,

"(ii) under 26 years of age, if either the individual or the spouse may claim an exemption for the child under section 151 of the Internal Revenue Code of 1954, or

"(iii) disabled (as defined by the Secretary in regulations), became disabled before reaching 22 years of age, and either the individual or spouse may claim an exemption for the child under section 151 of the Internal Revenue Code of 1954.

"(5) 'Health care practitioner items and services' means—

"(A) (i) professional services (other than physician's services) furnished to an outpatient of an outpatient facility by a health care practitioner employed by the facility who is legally permitted to practice his profession in the jurisdiction in which he furnishes his professional services, and

"(ii) services furnished as an incident to services described in clause (i), if the services would be physician's services if the health care practitioner were a physician under paragraph (14) (A), and

"(B) items listed in section 1801(a) (6) as specified by such a health care practitioner (other than a physician) for an outpatient of an outpatient facility,

if the health care practitioner is under the general supervision of a physician.

"(6) 'Health maintenance organization' has the meaning of that term under section 1301 of the Public Health Service Act.

"(7) 'Home health items and services' means the following items and services that are furnished to an individual who is confined to his home, is under the care of a physician, and needs skilled nursing care on an intermittent basis (or needs physical or speech therapy), that are furnished under a plan established and periodically reviewed by a physician, and that are furnished on a visiting basis in a place used as the individual's home:

"(A) part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse,

"(B) physical, occupational, or speech therapy services,

"(C) medical social services under the direction of a physician, and

"(D) part-time or intermittent services of a home health aide, to the extent provided by the Secretary in regulations.

"(8) 'Hospital-based physician' means a physician who spends more than half of his professional practice time (A) in entities that are primarily engaged in furnishing inpatient hospital items and services, (B) at outpatient facilities, or (C) in providing services to inpatients of entities described in clause (A).

"(9) 'Income', in the case of any individual, means all income of the individual (and of any persons with respect to whom the individual is a family member) from whatever source, excluding only—

"(A) any gain or benefit which is not in the form of money payable directly to such individual or to a member of the family other than a gain or benefit, under circumstances and to the extent specified by the Secretary, available for shelter, utilities, food, and similar needs,

"(B) all educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' education benefits, and the like to the extent that they are used for tuition, mandatory school fees, books, and transportation,

"(C) all loans other than educational loans on which repayment is deferred,

"(D) reimbursements which do not exceed expenses actually incurred and which do not represent a gain or benefit to such individual or family,

"(E) moneys received and used for the care and maintenance of a third-party beneficiary who is not a member of the family,

"(F) income earned by a dependent child or any other child who is a member of the family, who is a student, and who has not attained his twenty-sixth birthday.

"(G) moneys received (except as provided in the following sentence) in the form of income tax refunds, rebates, or credits, and

"(H) any income that any other Federal law specifically excludes from consideration as income for the purposes of determining eligibility for (A) the food stamp program, or (B) assistance under a State plan approved under title I, X, XIV, XVI, or XIX, or part A of title IV, or supplemental security income under title XVI, but only to the extent found necessary by the Secretary to assure the equitable and efficient administration of the program established under this title.

An individual's income includes, to the extent and under the circumstances prescribed by the Secretary, an amount (which shall be treated as earned income for purposes of this title) equal to the earned income advance amount (under section 3507 (a) of the Internal Revenue Code of 1954) that is (or, upon the filing of an earned income eligibility certificate, would be) payable to such individual.

"(10) 'Inpatient hospital items and services' means items and services (other than physician's services) that are furnished by or under the supervision of physicians to an inpatient of an institution and that are part of a regimen of care of greater intensity than that of skilled nursing care.

"(11) 'Inpatient skilled nursing items and services' means items and services (other than physician's services that are furnished to an inpatient of an institution and that are part of a regimen of skilled nursing care.

"(12) 'Outpatient facility' means

"(A) a health maintenance organization, or

"(B) any other entity, as prescribed by the Secretary in regulations, that furnishes health care services on an outpatient basis.

"(13) 'Outpatient physical therapy services' means physical therapy services that are furnished on an outpatient basis to an individual who is under the care of a physician and that are furnished under a plan established and periodically reviewed by the physician.

"(14) 'Physician' means a doctor of medicine, osteopathy, dentistry, dental or oral surgery, podiatry, surgical chiropody, or optometry, who is legally authorized to practice his profession in the jurisdiction in which he furnishes his professional services.

"(15) 'Physician's services' means—

"(A) professional services furnished by a doctor of medicine, osteopathy, dentistry, dental or oral surgery, podiatry, or surgical chiropody,

"(B) professional services furnished by a doctor of optometry with respect to establishing the need for prosthetic lenses, and

"(C) services that are furnished as an incident to services described in subparagraph (A) or (B), that are commonly furnished in physicians' offices, and that are commonly either rendered without charge or included in physicians' bills.

"(16) 'Premium' includes, in the case of a self-funded employer, the amounts set aside by the employer to make payments under the employer's qualified plan.

"(17) 'Territorial health system' means a health system administered by the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa.

"PENALTIES FOR FRAUD

"SEC. 1862. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment,

"(3) having knowledge of any material fact or the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual on whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such material fact or event with an intent fraudulently to secure each benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person, shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this title, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year, or both.

"(b) (1) Whoever solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—

"(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this title, or

"(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) Whoever offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

"(A) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Paragraphs (1) and (2) shall not apply to—

"(A) a discount or other reduction in price obtained by a provider of services or other entity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this title; and

"(B) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

"(c) Whoever knowingly and willfully make or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any entity in order that such entity may qualify (either upon initial certification or upon recertification) as a provider under part D shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"REGULATIONS

"SEC. 1863. The Secretary may prescribe regulations to carry out the provisions of this title.

"ADMINISTRATION

"SEC. 1864. (a) Except as otherwise provided in this title and in the Railroad Retirement Act of 1974, the program established by this title shall be administered by the Secretary. The Secretary may perform any of his functions under this title directly, or by contract providing for payment in advance or by way of reimbursement, and in such installments, as the Secretary may deem necessary.

"(b) The Secretary may contract with any entity, to secure on a reimbursable basis such special data, actuarial information, and other information as may be necessary in the carrying out of his functions under this title.

"(c) In the course of any hearing, investigation, or other proceeding that he is authorized to conduct under this title, the Secretary may administer oaths and affirmations.

"APPLICATION OF CERTAIN PROVISIONS OF TITLE II

"SEC. 1865. The provisions of sections 206 and 216(j), and of subsections (a), (d), (e), (h), (j), (k), and (l) of section 205, shall also apply with respect to this title to the same extent as they are applicable with respect to title II.

"STUDIES AND RECOMMENDATIONS

"SEC. 1866. (a) The Secretary shall carry on studies and develop recommendations to be submitted from time to time to the Congress relating to health care of the American people, including studies and recommendations concerning (1) the adequacy of existing personnel and facilities for health care, (2) methods for encouraging the further development of efficient and economical forms of health care which are a constructive alternative to inpatient hospital care, and (3) the effects of deductibles and coinsurance provisions upon individuals, person who provide health services, and the financing of health insurance.

"(b) The Secretary shall make a continuing study of the operation and administration of the insurance programs under this title (including the operation and administration of health maintenance organizations, the experiments and demonstration projects authorized by section 402 of the Social Security Amendments of 1967, and the experiments and demonstration projects authorized by section 222(a) of the Social Security Amendments of 1972), and shall transmit to the Congress annually a report concerning the operation of the program.".

CONFORMING MEDICAID AMENDMENTS

SEC. 102. (a) Section 1902(a) (9) is amended by deleting "(whichever is utilized by the Secretary for the purposes specified in the first sentence of section 1864(a))".

(b) Section 1902(a) (10) is amended, in the matter following subparagraph (C) (ii),

(1) by deleting clause (II), and

(2) by redesignating clause (III) as clause (II).

(c) (1) Section 1902(a) (13) (A) is amended to read as follows—

"(A) (i) for the inclusion of the care and services listed in section 1905(a) (3) (1) for all individuals eligible for services under the plan who meet the age requirements prescribed therein, and

"(ii) for the inclusion of home health services for any individual who, under the State plan, is entitled to skilled nursing facility services, and".

(2) Subparagraphs (B), (C), (D), and (F) of section 1902(a) (13) are repealed.

(3) Subparagraph (E) of section 1902(a) (13) is redesignated as subparagraph (B) and is amended by deleting "and" from the end.

(d) Section 1902(a) (14) is amended in subparagraph (A) (i) by deleting "clauses (1) through (5) and (7) of section 1905(a)" and inserting instead "section 1905(a) (3) (1)".

(e) Section 1902(a) (15) is amended by deleting "who are covered by either or both of the insurance programs established by title XVIII" and inserting instead "who are enrolled in the program under title XVIII pursuant to section 1831(a)".

(f) Section 1902(a) (23) is amended by deleting ", or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic".

(g) Section 1902(a) (24) is amended—

(1) by deleting "hospitals," and

(2) by deleting "home health agencies, clinics, laboratories,".

(h) Section 1902(a) (28) is amended by deleting "must satisfy all requirements contained in section 1861(j)" and inserting instead "must satisfy all requirements contained in sections 1852 and 1853(c) for certification as a provider of inpatient skilled nursing items and services".

(i) Section 1902(a) (32) (A) is amended—

(1) by deleting "physician, dentist," each place it appears and inserting instead "dentist", and

(2) by deleting "hospital, clinic, or other".

(j) Section 1902(a) (33) (B) is amended by deleting all that precedes "will perform for the State agency" and inserting instead "that the State agency which is responsible for licensing heatlh institutions".

(k) Section 1902(a) (39) is amended by deleting "under section 1862(e) (2) (A)".

(l) Section 1902(a) is amended by adding at the end thereof the following new paragraph:

"(40) provide that the State agency will contribute to the costs of care of low income individuals in accordance with section 1833."

(m) Section 1902(f) is repealed.

(n) Section 1903(a) is amended—

(1) in paragraph (1), by deleting "part B of", and by deleting "hospital insurance benefits under title XVIII or who are not enrolled under part B of title XVIII" and inserting instead "benefits under title XVIII",

(2) in paragraph (3), by deleting the clause designation "(i)" and all of clause (ii), and

(3) by deleting clause (5), and redesignating clauses (6) and (7) as clauses (5) and (6).

(o) Section 1903(b) (1) is amended by deleting "individuals aged 65 or over" and all that follows through "part B of title XVIII" and inserting instead "individuals eligible to enroll in the program under title XVIII which would not have been expended if the individuals involved had been enrolled in the program under title XVIII".

(p) (1) Section 1903(g) (1) is amended, in the matter preceding subparagraph (A), by deleting "hospital (including an institution for tuberculosis)," and "inpatient hospital services (including tuberculosis hospitals),".

(2) Section 1903(g) (1) (C) is amended by deleting ", except in the case of a hospital,".

(3) Section 1903(g) (1) is amended, in the matter following subparagraph (D), by deleting "section 1812" and inserting instead "title XVIII".

(4) Section 1903(g) (4) (B) is amended by deleting "hospitals and" and "hospital or" each place they appear.

(q) Section 1903(i) is amended—

(1) in paragraph (1), by deleting "section 1842(b) (3)" and inserting instead "section 1847",

(2) in paragraph (2), by deleting "section 1862(d) (1)" and all that follows and inserting instead "section 1855", and

(3) in paragraph (4), by deleting "section 1861(k)" each place it appears and inserting instead "section 1813(e)".

(r) Sections 1903(j), (k), and (m) are repealed.

(s) Section 1903(n) is amended, in the matter preceding the semicolon, by deleting "hospital," and "(whether or not such institution" and all that follows.

(t) Section 1905(a) is amended to read as follows:

"Sec. 1905. (a) (1) The term 'medical assistance' means payment, on behalf of the individuals listed in paragraph (2) who meet the requirements for eligibility under the plan, of part or all of the cost of the care and services specified in paragraph (3).

"(2) An individual for whom medical assistance may be provided under a State plan under this title must be

"(i) receiving assistance under a State plan approved under title I, X, XIV, XVI, or part A of title IV, or receiving supplemental security income benefits under title XVI,

"(ii) under the age of 21,

"(iii) a relative specified in section 406 (b) (1) with whom a child is living if such child is (or would, if needy, be) a dependent child under part A of title IV,

"(iv) 65 years of age or older,

"(v) blind, with respect to States eligible to participate in the State plan program under title XVI,

"(vi) 18 years of age or older and permanently and totally disabled, with respect to State eligible to participate in the State plan program under title XVI,

"(vii) a person essential (as described in the second sentence of this paragraph) to an individual receiving aid or assistance under State plans approved under title I, X, XIV, or XVI, or

"(viii) blind or disabled as defined in section 1614, with respect to States not eligible to participate in the State plan program under title XVI, and not an inmate of a public institution (except as a patient in a medical institution). For purposes of clause (vi), a person shall be considered essential to another individual if such person is the spouse of and is living with such individual, the needs of such person are taken into account in determining the amount of aid or assistance furnished to such individual (under a State plan approved under title I, X, XIV, or XVI), and such person is determined, under such a State plan, to be essential to the well-being of such individual.

"(3) Payment is available under this title for the following items and services, but only to the extent that payment is not available under title XVIII:

"(1) skilled nursing facility services (other than services in an institution for tuberculosis or mental diseases) for individuals 21 years of age or over;

"(2) intermediate care facility services (other than such services in an institution for tuberculosis or mental diseases);

"(3) inpatient hospital services, skilled nursing facility services, and intermediate care facility services for individuals 65 years of age or over in an institution for tuberculosis or mental diseases;

"(4) private duty nursing services;

"(5) home health care services;

"(6) clinic services;

"(7) dental services;

"(8) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist;

"(9) inpatient psychiatric hospital services for individuals under age 21;

"(10) medical care, or any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law;

"(11) any other medical care, and any other type of remedial care or diagnostic, screening, preventive and rehabilitative services recognized under State law, specified by the Secretary.".

(u) Section 1905(f) is amended to read as follows:

"(f) The term 'skilled nursing facility services' means inpatient skilled nursing items and services, and the term 'skilled nursing facility' means a certified provider of inpatient skilled nursing items and services, as these terms are defined in section 1861.".

(v) Subsections (g), (h), (i), and (l) of section 1905 repealed, and subsections (j) and (k) are redesignated as subsections (g) and (h).

AMENDMENTS TO THE INTERNAL REVENUE CODE

SEC. 103. (a) SIMPLIFICATION OF MEDICAL EXPENSE DEDUCTION.—Section 213(b) of the Internal Revenue Code of 1954 is repealed, and section 213(a) of the Code is amended to read as follows:

"(a) Allowance of deduction.

"There shall be allowed as a deduction, if not compensated for by insurance or otherwise, the amount by which the expenses (including expenses for insurance) paid during the taxable year for medical care of the taxpayer, his spouse, and dependents (as defined in section 152) exceed 10 percent of the adjusted gross income."

(b)(1) MODIFICATION OF EARNED INCOME TAX CREDIT.—Subsection (a) of section 43 of the Internal Revenue Code of 1954 (relating to the earned income credit) is amended by striking out "10 percent" and inserting instead "14 percent".

(2) REVISION OF LIMITATION.—Subsection (b) of such section 43 is amended by:

(A) striking out "$500" in paragraph (1) and inserting instead "$700";

(B) striking out "12.5 percent" in paragraph (2) and inserting instead "15 percent", and

(C) striking out "$6,000" in paragraph (2) and inserting instead "$7,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to taxable years of a taxpayer beginning after December 31, 1982.

OTHER CONFORMING AMENDMENTS

SEC. 104. (a) Section 226 and 226A of the Social Security Act are repealed.

(b)(1) The first sentence of section 1101 (a)(1) of the Social Security Act is amended (A) by inserting "XVIII," after "XI,", and (B) by striking out "and Guam" and inserting instead ", Guam, and the Northern Mariana Islands".

(2) Section 1101(a)(1) of that Act is amended by inserting after the third sentence the following: "Such term when used in title XVIII also includes American Samoa.".

(c)(1) Section 1163(a)(1) of the Social Security Act is amended by inserting "one dentist, one registered nurse, one health care practitioner not a physician, dentist, or registered nurse, one individual representative of insurance companies operated for profit, one individual representative of nonprofit insurance companies, one individual representative of employers self-funded with respect to the provision of employee health benefits, and one individual representative of health maintenance organizations" after "physicians,".

(2) The first sentence of section 1163(a)(2) of that Act is amended by striking out "four members" and inserting instead "six members".

(3) The first sentence of section 1163(b) of that Act is amended by striking out "Members" and inserting instead "The physician members".

(4) The second sentence of section 1163 (b) of that Act is amended by striking out "by the Secretary" the first place it occurs.

(5) Section 1173 of that Act is amended by striking out "(except sections 1155(c) and 1163)" and inserting instead "(except section 1155(c))".

(d)(1) Section 1108(c) of the Social Security Act is amended by deleting "any fiscal year—" and inserting instead "any fiscal year ending before October 1, 1981—".

(2) Section 1108 of that Act is further amended by adding at the end of the following new subsection:

"(e) The total amount of Federal funds paid by the Secretary (i) for items and services furnished under part C of title XVIII to individuals eligible to have such payment made on their behalf pursuant to subsections (j), (k), and (l) of section 1831, and (ii) as the Federal share of medical assistance under title XIX, shall not exceed—

"(1) with respect to Puerto Rico, $120,000,000 for fiscal year 1982 and each succeeding fiscal year,

"(2) with respect to the Virgin Islands, $4,000,000 for fiscal year 1982 and each succeeding fiscal year,

"(3) with respect to Guam, $4,000,000 for fiscal year 1982 and each succeeding fiscal year, and

"(4) with respect to the Commonwealth of the Northern Mariana Islands, $800,000 for fiscal year 1982 and each succeeding fiscal year."

(e)(1) Section 1301(c)(6)(A) of the Public Health Service Act is amended—

(A) by striking out "and" before "(ii)", and

(B) by inserting the following after "by the organization,": "and (iii) if the organization utilizes more than 60 percent of the physicians (but at least 25 physicians) in the area which it serves, (I) no more than 25 percent of the membership of such body will be physicians or selected by physicians, and (II) at least 60 percent of the membership of such body will be individuals who do not furnish health care items or services,".

(2) Section 1302(1) of that Act is amended by—

(A) striking out "and" in subparagraph (G),

(B) striking out the period at the end of subparagraph (H) and inserting instead a semicolon and "and", and

(C) adding at the end the following new subparagraph:

"(I) other items and services, to the extent the program under part C of title XVIII of the Social Security Act will pay for them in whole or in part.".

(3) Section 1310(a)(1) of that Act is amended to read as follows:

"SEC. 1310. (a)(1) In accordance with regulations which the Secretary shall prescribe, each employer (as defined in title XVIII of the Social Security Act) shall offer to the family members of each employee (as defined in title XVIII of the Social Security Act) the option of membership in any qualified health maintenance organization which is engaged in the provision of basic health services in a service area in which at least 25 employees of the employer reside.".

(4) Section 1310(a)(2) of that Act is amended by striking out "or State or political subdivision thereof".

(5) Section 1310(b) of that Act is repealed.

(6) Section 1310(f) of that Act is amended by striking out "For purposes of this section" and inserting instead "For purposes of subsection (e)".

(f)(1) Section 402(b) of the Social Security Amendments of 1967 is amended in the first sentence by deleting all the matter preceding the semicolon and inserting instead the following: "In the case of any experiment or demonstration project under subsection (a), the Secretary may waive compliance with any of the requirements of titles XVIII, XIX, and V of the Social Security Act, to the extent and for the period he finds necessary to conduct such experiment or project".

(2) Section 222(a)(3) of the Social Security Amendments of 1972 is amended in the first sentence—

(A) by striking out "the requirements" and inserting instead "any requirements", and

(B) by striking out "insofar as such requirements relate to methods of payment for services provided" and inserting instead "to the extent and for the period he finds necessary to conduct such experiment or project".

EFFECTIVE DATES AND TRANSITIONAL PROVISIONS

SEC. 105. (a) This Act is effective with respect to items and benefits furnished after September 30, 1982.

(b) As of October 1, 1982, the amounts in the Federal Hospital Insurance Trust Fund or in the Federal Supplementary Medical Insurance Trust Fund are transferred to the Healthcare Trust Fund.

(c) Notwithstanding section 1902(b) of the Social Security Act, the Secretary shall not, after the date of enactment of this Act, approve any State plan under title XIX of the Social Security Act effective during the period ending September 30, 1982, which provides with respect to any category of individuals stricter standards of eligibility or medical assistance of lesser amount, duration, or scope than under the plan in effect on September 30, 1979.

TITLE II—HEALTH SYSTEMS REFORM

ANNUAL NATIONAL LIMIT FOR CERTIFICATES AND REPORTS OF NEED OF MAJOR INCREASES IN HOSPITAL CAPITAL STOCK

SEC. 201. Part A of title XV of the Public Health Service Act is amended by adding at the end the following new section:

"ANNUAL NATIONAL LIMIT FOR CERTIFICATES AND REPORTS OF NEED FOR MAJOR INCREASES IN HOSPITAL CAPITAL STOCK

"SEC. 1504. (a) At least 60 days before the beginning of calendar year 1980, and at least 60 days before the beginning of each succeeding calendar year, the Secretary shall promulgate a national limit for certificates and reports of need to be issued in that year for major increases in hospital capital stock. The limit for any year shall equal $3,000,000,000, increased by the percentage by which the Secretary estimates that construction prices in the United States for that year will exceed construction prices in the United States for 1979, and increased to allow for the amount by which the estimate made by the Secretary for the previous year fell below the actual percentage for that previous year; the Secretary may further adjust the limit for any year to reflect changes in the size of the population in the United States.

"(b) The Secretary shall allocate among

the States the limit promulgated under subsection (a). The allocation shall be based on such factors as the Secretary finds appropriate, such as the size, rate of growth, and distribution by age of the population of each State, State differentials in construction prices, the age of hospital capital stock in each State, and the need for modernization in each State.".

MODIFICATIONS IN CERTIFICATE OF NEED PROGRAM REQUIREMENTS

SEC. 202. (a)(1) Section 1523(a)(4) of the Public Health Service Act is amended to read as follows:

"(4) Administer a State certificate of need program that applies to new institutional health services proposed to be offered or developed in the State, and to increases in health care facility capital stock and changes in health care facility bed function proposed to be made in the State, and that is satisfactory to the Secretary. That program shall provide for review and determination of need prior to the time such services are offered or developed, or such an increase or change is made, or substantial expenditures are undertaken in preparation for such an offering, development, increase, or change; shall provide that only such services, increases and changes found to be needed shall be offered, developed, or made in the State; and shall provide that the requirements of sections 1527 and 1528 shall be complied with. In performing its functions under this paragraph the State Agency shall consider recommendations made by health system agencies under section 1513(f).".

(2) Section 1523(b)(2) of that Act is repealed.

(b) Section 1513(f) of that Act is amended by inserting ", and for increases in health care facility capital stock and changes in health care facility bed function proposed to be made," after "developed".

(c)(1) Section 1531(5) of that Act is amended to read as follows:

"(5) The term 'institutional health services' means health services provided through health care facilities."

(2) Section 1531 of that Act is amended by adding at the end the following new paragraphs:

"(6) The term 'increase in health care facility cap stock' means—

"(A) the construction, development, or other establishment of a new health care facility, or

"(B) an improvement or acquisition (other than an acquisition of an existing health care facility or of land) by a health care facility for which expenditures would, under generally accepted accounting principles, be considered capital expenditures.

"(7) The term 'major increase in hospital capital stock' means—

"(A) the construction, development, or other establishment of a new health care facility that—

"(i) satisfies paragraphs (1) and (7) of section 1861(e) of the Social Security Act,

"(ii) is not a Federal facility,

"(iii) has an average duration of stay of less than thirty days,

"(iv) is not primarily engaged in providing psychiatric services for the diagnosis and treatment of mentally ill individuals, and

"(v) is not wholly owned by a health maintenance organization (as defined in section 1301(a) of this Act), or

"(B) an improvement or acquisition, by an existing health care facility described in clauses (i) through (v) of subparagraph (A), that—

"(i) satisfies paragraph (6)(B), and

"(ii)(I) exceeds $150,000 in value,

"(II) will increase the number of short term non-Federal hospital beds in the State, or

"(III) will substantially change institutional health services offered.".

(d) Part C of title XV of that Act is amended by adding at the end the following new sections:

"LIMITATION ON NUMBER OF BEDS UNDER A CERTIFICATE OF NEED PROGRAM

"SEC. 1527. (a) If the number of short term non-Federal hospital beds per 1000 individuals in a health service area exceeds the short term non-Federal hospital bed limit for that health service area, the State Agency may not grant a certificate of need that authorizes the establishment of any new short term non-Federal hospital beds unless two existing short term non-Federal hospital beds are to be eliminated for each new short term non-Federal hospital bed to be established.

"(b) The short term non-Federal hospital bed limit for any health service area shall be the limit set forth for that health service area in the State health plan, or, if there is no such limit set forth in that plan, 4 short term non-Federal hospital beds per 1,000 individuals.

"ANNUAL STATE LIMITS FOR CERTIFICATES AND REPORTS OF NEED FOR MAJOR INCREASES IN HOSPITAL CAPITAL STOCK

"Sec. 1528. (a) Any certificate of need authorizing a major increase in hospital capital stock (or authorizing substantial expenditures in preparation of such an increase) issued under a certificate of need program described in section 1523(4) shall specify the maximum dollar amount authorized.

"(b) The sum of the maximum dollar amounts authorized in certificates of need described in subsection (a), or covered in reports described in the third sentence of section 1122(b) of the Social Security Act, issued in any calendar year by a State Agency, may not exceed the amount allocated to the State for that year by the Secretary under section 1504(b), increased by—

"(1) that portion of the total amount permitted under this subsection for the previous year for that State that was neither authorized in such certificates, nor covered in such reports, issued in that previous year,

"(2) the amount by which increases in hospital capital stock (and preparatory expenses) authorized in such certificates, or covered in such reports, issued in any year, and completed in the previous year, fell below the amount authorized or covered by those certificates or covered by those reports,

"(3) one-half of the unrealized depreciation of any capital stock disposed of by a health care facility satisfying paragraphs (1) and (7) of section 1861(e) of the Social Security Act that were utilized in providing institutional health services found inappropriate by the State Agency under section 1523(a)(6) and discontinued in the previous year, less one-half of any Federal payments made to assist in discontinuing the inappropriate service, and

"(4) major increases in hospital capital stock (and preparatory expenses) granted an exception by the Secretary under subsection (c).

"(c) The Secretary may, on request of a State, grant an exception for a proposed major increase in hospital capital stock (and preparatory expenses) in a State —

"(1) in an emergency situation, or

"(2) needed to assist in serving individuals residing in other States.

The Secretary may not grant exceptions for any calendar year totaling more than 10 percent of the national limit promulgated under section 1504(a) for that year.".

(e) Section 1532(b)(2) of that Act is amended by striking out "ninety days" and inserting instead "fifteen months."

MODIFICATION IN THE SOCIAL SECURITY ACT PROGRAM FOR LIMITING FEDERAL PARTICIPATION FOR CAPITAL EXPENDITURES

SEC. 203. (a) Subsections (a) through (e) of section 1122 of the Social Security Act are amended to read as follows:

"SEC. 1122. (a) The purpose of this section is to assure that Federal funds appropriated under title V, XVIII, or XIX are not used to support unnecessary capital expenditures made by, or on behalf of, or to support unnecessary new institutional health services furnished through, health care facilities (as defined in regulations prescribed under title XV of the Public Health Service Act) that are reimbursed under any of those titles, and that, to the extent possible, reimbursement under those titles shall be supportive of planning activities with respect to health services and facilities in the various States.

"(b) The Secretary shall make an agreement with the chief executive officer of each State (as defined in section 2(f) of the Public Health Service Act) that does not have a certificate of need program meeting the requirements of title XV of that Act (as amended by the National Health Plan Act), but that does have a State health planning and development agency designated under section 1521 of that Act that is able and willing to carry out a report of need program as described in this subsection. The agreement shall provide that the agency shall carry out a report of need program that meets the requirements of a certificate of need program under title XV of that Act (as amended by the National Health Plan Act), except that, instead of providing that only those new institutional health services proposed to be offered or developed, or increases in health care facility capital stock or changes in health care facility bed function proposed to be made, that are found to be needed shall be offered, developed, or made, shall instead provide for reporting to the Secretary whether such services, increases or changes are needed. A report making a finding of need for a major increase in hospital capital stock (as defined in section 1531(7) of that Act) shall be subject to the State limit prescribed in section 1528(b) of that Act.

"(c) If a State has neither a certificate of need program that meets the requirements of title XV of that Act (as amended by the National Health Plan Act), nor a report of need program described in subsection (b), the Secretary may determine the need in the State for such services, increases, and changes as would be subject to such a certificate of need program.

"(d)(1) Federal payments may not be made under title V, XVIII, or XIX, with respect to new institutional health services (as defined in section 1531(5) of the Public Health Service Act) offered or developed in a State unless those services have been found to be needed under a certificate of need program that meets the requirements of title XV of that Act (as amended by the National Health Plan Act), under a report of need program described in subsection (b), or by the Secretary under subsection (c).

"(2) The Secretary, in determining Federal payments to be made under title V, XVIII, or XIX, shall exclude an amount equal to ten times any amount that is attributable to depreciation, interest on borrowed funds, a return on equity capital (in the case of proprietary facilities), rental expenses, or other expenses related to an increase in health care facility capital stock (as defined in section 1531(6) of the Public Health Service Act) or a change in health care facility bed function, unless the increase or change has been found to be needed under a certificate of need program that meets the requirements of title XV of that Act (as amended by the National Health

Plan Act), under a report of need program described in subsection (b), or by the Secretary under subsection (c).

"(e) Any person dissatisfied with a determination by the Secretary under subsection (d)(2) may, within six months following notification of the determination, request the Secretary to reconsider the determination. A determination by the Secretary under subsection (d)(2) shall not be subject to administrative or judicial review.".

(b) Subsections (f) through (h) of that section are repealed.

(c)(1) Subsection (i)(1) of that section is amended by striking out "in the preparation of general regulations to carry out the purposes of this section and".

(2) Subsection (i) of that section is redesignated as subsection (f).

LIMIT AND MORATORIUM FOR CERTAIN MAJOR INCREASES IN HOSPITAL CAPITAL STOCK

Sec. 204. (a) The Secretary, within three months of enactment of this Act, after consulting as appropriate with State health planning and development agencies designated under section 1521 of the Public Health Service Act, and with health systems agencies designated under section 1515 of that Act, shall estimate the number and value of major increases in hospital capital stock contracted for, or actually begun, in calendar years 1977 through 1979 but before enactment of this Act, and of proposed major increases in capital stock to which this section applies, in each State in each of the following categories:

(1) increases needed to eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, buildings, or life safety codes or regulations, or to avoid noncompliance with State or voluntary licensure or accreditation standards,

(2) increases (other than those described in paragraph (1)) that will not result in an increase in the number of short term non-Federal hospital beds, and

(3) increases other than those described in paragraphs (1) and (2).

Based on the above estimates, and on any other relevant information, the Secretary shall allocate to each State (as defined in section 2(f) of that Act) a maximum dollar amount for all major increases in hospital capital stock in the State a maximum dollar amount for such major increases described in paragraphs (2) and (3), and a maximum dollar amount for such major increases described in paragraph (3), to which this section applies. The Secretary, in allocating amounts as described in the preceding sentence, shall take into account the relatively greater importance of major increases in hospital capital stock described in paragraph (1) over those described in paragraph (2), and of those described in paragraph (2) over those described in paragraph (3).

(b) The Secretary shall request each State health planning and development agency designated under section 1521 of that Act to recommend, for each category of major increases in hospital capital stock in the State to which this section applies, which increases (within the applicable allocation) should be approved. The Secretary shall approve increases recommended for approval by a State agency (within this applicable allocation); the Secretary shall determine, based on such criteria as he finds appropriate, whether to approve increases (within an applicable allocation) for which a State agency has not submitted recommendations.

(c) The Secretary, in determining the Federal payments to be made under title V, XVIII, or XIX of the Social Security Act, shall exclude an amount equal to ten times any amount that is attributable to depreciation, interest on borrowed funds, a return on equity capital (in the case of proprietary facilities), rental expenses, or other expenses related to a major increase in hospital capital stock to which this section applies (whether or not a certificate of need or other document has previously been issued for that increase), if that increase (1) was contracted for, or acutally begun, before the ninety-first day after the date of enactment of this Act, or (2) was not approved by the Secretary under subsection (b).

(d) This section applies to major increases in hospital stock contracted for, or actually begun, after the enactment of this Act, that—

(1) are contracted for, or actually begun, before 1980, or

(2) have been (A) authorized under a certificate of need issued before 1980 under a certificate of need program meeting the requirements of title XV of the Public Health Service Act (as in effect at the time of issuance), or (B) determined before 1980 by the Secretary under section 1122(b) of the Social Security Act (as in effect at the time of the determination) not to require reduced reimbursement under that Act.

(e) For purposes of this section—

(1) the term 'major increase in hospital capital stock' has the meaning assigned by section 1531(7) of the Public Health Service Act (as amended by this Act), and

(2) the term 'Secretary' means the Secretary of Health, Education, and Welfare.

EFFECTIVE DATES

Sec. 205. (a) Subsections (a) through (d) of section 202 are effective with respect to a certificate of need program in a State (as defined in section 2(f) of the Public Health Service Act) as of the first calendar month beginning after the close of the first regular session of the State legislature that begins after enactment of this Act.

(b) Section 203 is effective with respect to any new institutional health services, any increase in health care facility capital stock, and any change in health care facility bed function, contracted for, or actually begun, after calendar year 1979, unless (1) authorized under a certificate of need issued before 1980 under a certificate of need program meeting the requirements of title XV of the Public Health Service Act (as in effect at the time of issuance), or (2) determined before 1980 by the Secretary of Health, Education, and Welfare under section 1122(b) of the Social Security Act (as in effect at the time of the determination) not to require reduced reimbursement under that Act.

(c) This title is otherwise effective as of the date of enactment.

Summary of the Proposed National Health Plan Act

Section 1. Short Title and Table of Contents. The draft bill would be cited as the "National Health Plan Act".

Sec. 2. Findings. The Congress would find that—

The current health care system in the United States is costly and inefficient, and does not provide needed health services to all Americans,

Millions of Americans lack insurance coverage for basic health services and protection against the rising cost of major illness,

As a result, the national health is seriously and adversely affected and this in turn seriously affects the general welfare,

To protect the national health and, consequently, the general welfare, it is necessary to assure that adequate health care for all Americans is available and affordable,

To require adequate protection against the costs of needed health care only for employees engaged in interstate commerce would impose an unreasonable burden on that commerce and would not deal effectively with the overall problem of health care in the United States, and

A program to require all employers to provide adequate protection to their employees against the costs of needed health care, to require self-employed persons to obtain such protection, to provide for governmental protection against the costs of necessary health care for the poor, the aged, and the disabled, and to provide guaranteed access to such care to all others, would effectively deal with the overall problem of health care financing in the United States.

Sec. 3. Purposes of Act. The purposes of the draft bill would be to—

Establish a national program of protection against medical expenses for all Americans,

Improve the quality of health care provided to Americans, and especially to the poor, to mothers, and to children, by increasing the availability and continuity of care and by emphasizing preventive health measures,

Reduce inflation in the health care industry by reducing unnecessary health care spending, while providing fair compensation to those who furnish health care,

Establish the foundation upon which a universal and comprehensive national health program can be built,

Preserve and build on the strengths of our mixed public and private system by providing health benefits through both private employers and the Federal government, and by utilizing the resources and expertise of the private insurance industry and other portions of the private sector,

Assure full public accountability of all aspects of the plan and its operations, and provide for consumer representation in the development and operation of the plan,

Assure that all Americans have freedom of choice in their selection of physicians and other providers of health care (unless an individual voluntarily agrees to limit his choice of providers by enrolling with certain kinds of health care plans),

Effect savings from increased efficiency,

Encourage competition in the health care system through the growth of prepaid arrangements and other measures to stimulate greater efficiency and cost consciousness, and

Provide for health systems reform, especially with regard to the reduction of excess capacity in hospitals, and enhance Federal efforts to develop needed health resources.

Sec. 4. Structure of National Health Plan.

The National Health Plan would carry out its purposes for the benefit of individuals who live or work in the United States through three major structural elements:

1. health insurance required to be provided by all employers to employees and their families,
2. Healthcare, a Federal health insurance program for the aged, disabled, poor, and for other individuals who cannot obtain health insurance elsewhere, and
3. health systems reform, designed to enhance competition in the health care system, reduce excess capacity in hospitals, and improve access to essential health resources.

TITLE I—PROTECTION AGAINST MEDICAL EXPENSES

Sec. 101. National Health Plan. The current provisions of title XVIII of the Social Security Act (Medicare) would be replaced with a much broader National Health Plan. The provisions of the National Health Plan (the new title XVIII) would be as follows:

Part A—Benefits

Sec. 1801. Scope of Coverage. The National Health Plan would cover the following kinds of items and services needed in relation to disease, injury, or malformation:

Inpatient hospital items and services;

Inpatient skilled nursing items and services;

Home health items and services;

Physician's services; and

Outpatient physical therapy services (furnished under a physician's plan).

The following items as specified by a physician:

Supplies furnished as an incident to a physician's professional services;

Diagnostic tests;

X-ray and related items;

Devices used for the reduction of fractures or dislocations;

Durable medical equipment;

Prosthetic devices (other than dental);

Colostomy care supplies;

Braces;

Blood;

Body organs;

Allergen extracts;

Portable devices for monitoring cardiac failure and portable respirators;

Dialysis items for chronic renal disease;

Items and services furnished by physician assistants and similar personnel at outpatient facilities;

X-ray and related services;

Ambulance services; and

Chiropractor's services ordered by a physician.

The National Health Plan would also cover the following kinds of items and services needed for the maintenance of good health:

Family planning items and services;

Immunizations;

Items and services related to pregnancy, to delivery, to care of a child through one year after birth, or to care of a women through 60 days after termination of pregnancy,

Items and services for individuals under 18 years of age as prescribed by the Secretary; and

Dental, vision, and hearing items and services for individuals under 18 years of age who are entitled to benefits under Healthcare (the Federal health insurance program) due to the low income level of their family.

Sec. 1802. Exclusions from Coverage. The National Health Plan would not cover certain items and services:

Dental items and services (other than oral surgery in case of accident or malformation), eyeglasses and related examinations, and hearing aids and related examinations (except as provided above for individuals under 18 years of age from low-income families);

Personal comfort items that are not supplied to all patients or that do not promote higher quality of care;

Cosmetic surgery, (except as required for the prompt repair of accidental injury or for improvement of a malformed body member);

Items and services furnished by the individual's relatives;

Items and services for certain foot conditions;

Surgery performed by a physician who is neither board certified nor board eligible, except as provided by the Secretary in regulations;

Diagnostic tests for occupational or environmental diseases, except as provided by the Secretary in regulations;

Elective surgery, except as provided by the Secretary in regulations;

Items and services not certified by a physician as needed;

Custodial care; and

Items and services furnished by the Veterans' Administration to disabled veterans for a military service-connected disability.

Limitations (such as coinsurance and deductibles) on payment for items and services required to be covered by the employer plans, or for which Healthcare may make payment, are described in sections 1813 and 1833.

Part B—Health insurance through employment

Sec. 1811. Provision of Coverage and Related Benefits. Every employer would be required to provide to each employee, and to the employee's spouse and dependent children, coverage under a qualified plan certified under section 1813 (or under Healthcare). This requirement would not apply with respect to individuals for whom another employer provided coverage. Employers would continue to be required, as under current law, to offer employees the choice of enrolling with a health maintenance organization. Employers could not offer any health benefit (whether or not part of a qualified plan) to any employee unless they offered the same benefit to all employees in the same geographic area.

Sec. 1812. Premium Payments. The employer would be responsible for assuring payment of premiums for qualified plans. An employer could not require any employee covered under the qualified plan that the employer designated as his primary plan (or under Healthcare) to pay more than 25 percent of that portion of the premiums for himself and his family members attributable to the minimum benefits required. The employer's share of the premium for every employee family would be the same as the employer's share of the premium for a family of that size and composition under the primary plan. Where an employee chose lower cost coverage for which the total premium was less than the employer's share under the primary plan, the employee would be entitled to compensation equal to the difference in cash or fringe benefits.

Sec. 1813. Certification of Qualified Plans. The Secretary would be required to certify any health insurance plan which met certain requirements, including the following:

Coverage: The plan would have to cover all items and services (without any exclusions or waiting period) covered by the National Health Plan when (1) furnished by a certified provider (unless the Secretary waived this requirement), or (2) in an emergency. Coverage would be required to be provided at rates of payment which assured access to and quality of care equal to that afforded under Healthcare. Rates of payment for pregnancy-related care and for children under one year of age would be specified by the Secretary.

Period of coverage and cost sharing: Total premiums, coinsurance, and deductibles for the family members of any employee could not exceed $2,500 (indexed from 1980) for any annual period ending before September 30, 1983 (or a smaller amount prorated for a shorter period), and for annual periods ending after September 29, 1983, $2,500 further indexed to reflect the annual increase in per capita health expenses in the United States.

Payments for certain items and services furnished to an individual in excess of the maximum coverage under Healthcare would not be taken into account in determining the above limitation. These items are inpatient skilled nursing items and services in excess of 100 days annually, inpatient mental health benefits in excess of 30 days annually, outpatient mental health benefits in excess of $1,000 annually, and home health visits in excess of 200 annually.

The plan would have to provide coverage, without additional premium, for at least 90 days for any individual who ceases to be an employee family member (including the employee), and provide for a continuation policy, at the option of any family member (including the employees) whose coverage under the plan had expired, for which the premium could be no greater than 125 percent of the premium charged under the plan for a family unit of that size and composition, and affording at least the minimum benefits required for a qualified plan.

Payments for certain items and services: Payments for services of a hospital-based physician furnished by or in an institution or outpatient facility could be made only to the institution or facility.

Professional standards review: The plan would be required to participate in the professional standards review program and share in its costs, but determinations under that program would be advisory rather than mandatory.

Sec. 1814. Certification of qualified plan administrators. The Secretary would be required to certify as an administrator of a qualified plan an entity able to do so which agreed to protect privacy of a patient records; to provide to the Secretary and its enrollees required information, including payment rates and a list of participating physicians, and access to records; to provide required grievance and appeal procedures; not to require an employer to purchase additional insurance as a condition of purchasing a qualified plan; to set premiums for small groups on a community rated basis; to meet certain requirements designed to assure solvency; to maintain a reasonable ratio of premiums charged to benefits paid; and to meet requirements designed to prevent physician control of the entity.

Sec. 1815. Voluntary reinsurance program. This section would establish a Health Reinsurance Fund to assist in ensuring the solvency of qualified plans.

Sec. 1816. Federal Insolvency Program and Report. This section would provide for a report to the Congress, by October 31, 1982, on the adequacy of State programs for assuring the solvency of health insurers, and would authorize the Secretary, if he found that any State did not have an adequate program, to establish a Federal insolvency program for that State.

Sec. 1817. Insurance Standards Advisory Board. The Secretary would be directed to establish an Insurance Standards Advisory Board. Five board members would represent administrators of qualified plans, five would represent Federal and State agencies concerned with health insurance, and five would represent consumers. A consumer member would be chairman.

Sec. 1818. Employer subsidy. Any employer whose premium payments attributable to the minimum benefits required by Part B exceeded 5 percent of the employer's payroll would receive a subsidy from the Healthcare Trust Fund equal to the difference, to the extent found reasonable by the Secretary.

Sec. 1819. Revocation of certification. The Secretary would be authorized, after giving reasonable notice, to revoke certification of plans or plan administrators which he found no longer met all applicable conditions of certification.

Sec. 1820. Penalties for Non-Participation and Non-Compliance. Any employer who failed to comply with the requirement to provide coverage to employees and families, or who failed to make the same coverage available to all employees in the same geographic area, would be subject, for each month of non-compliance, to a penalty of 150 percent of the monthly Healthcare premium multiplied by the number of individuals affected.

The Secretary could not assess a penalty against an employer until after giving written notice and opportunity for a hearing on the record. Penalties imposed could be recovered in a civil action in United States district court. An employer could obtain a review of the Secretary's determination in United States district court. State and local governments would have to comply with the provisions of this part as a condition of receiving Federal funds used to provide compensation to State and local government employees.

Sec. 1821. Special Provisions for the Federal Government. Certain special rules would apply to the Federal government. In particular, each Federal employee system would be responsible to assure that it was complying with the requirements of this part.

Sec. 1822. Special Provisions for Territorial Health Systems. The public health system of Puerto Rico (and of other territories) could act as a qualified health plan without meeting certain of the requirements for such plans.

Part C—Healthcare

Sec. 1831. Entitlement to Benefits.
Sec. 1832. Employer Agreements for Healthcare Benefits.
Sec. 1833. Cost Sharing.
Sec. 1834. Amount of Premiums.

These sections would provide the conditions of eligibility for Healthcare, the amounts of premiums, deductibles, and coinsurance, and covered services and exclusions from coverage for each group of persons entitled to Healthcare benefits.

General exclusions from coverage:

Certain general limitations would apply to the coverage of all individuals entitled to Healthcare benefits.

No payment would be made for inpatient skilled nursing care furnished to an individual beyond 100 days in a calendar year.

No payment would be made for inpatient hospital items and services furnished an individual with a primary diagnosis of a mental or nervous condition, alcoholism, or drug abuse, beyond 30 days in a calendar year.

Healthcare benefits with respect to outpatient care furnished an individual with a primary diagnosis of a mental or nervous condition, alcoholism, or drug abuse would be limited to $1,000 per calendar year.

No payment would be made for home health visits for an individual beyond 200 visits in a calendar year.

Aged and disabled individuals and certain individuals with end stage renal disease:

Individuals age 65 and older, and disabled individuals, entitled to Old Age, Survivors, and Disability Insurance (OASDI) benefits under title II of the Social Security Act or under the Railroad Retirement Act, and certain individuals not eligible for such cash assistance who are medically determined to have end stage renal disease (ESRD) would be eligible for Healthcare benefits. (These are the same types of individuals who are currently entitled to Medicare benefits.)

The premium for these individuals would be $8.70 (indexed from 1980) per month for the last three months of calendar year 1982, and an amount thereafter as increased annually to reflect the increase in per capita health expenses in the United States.

These individuals would be required to pay the following deductible and coinsurance amounts for covered services for each calendar year:

The cost of the first day of inpatient care;

One-eighth of the above amount for each day of inpatient skilled nursing care after 20 days; and

For items and services other than inpatient hospital care, inpatient skilled nursing care, and home health care—$60 (indexed from 1980) for calendar year 1983, increased annually thereafter to reflect the increase in per capita health expenses in the United States, plus 20 percent coinsurance for amounts above the first $60.

There would be no deductible or coinsurance for costs related to pregnancy or for items and services furnished to a child under one year of age.

Healthcare would pay 100 percent of costs after an individual in this group was liable for amounts in a calendar year, for premiums, coinsurance, and deductibles, of more than $312 (indexed from 1980) for the last quarter of 1982, $1,250 (indexed from 1980) for 1983, or such larger amounts for subsequent years as increased annually to reflect the increase in per capita health expenditures in the United States.

Low-income individuals:

Three methods would be provided whereby low-income individuals could establish entitlement to Health-care benefits.

Individuals at or below 55 percent of the poverty level would be entitled to Healthcare benefits.

Individuals eligible for cash assistance under a State plan under title I, X, XIV, XVI, or part A of title IV of the Social Security Act, or supplemental security income under title XVI of that Act, who were residents of a State participating (if eligible) in the Medicaid program under title XIX, would be entitled to Healthcare benefits.

Individuals would also qualify for Healthcare benefits who "spend down" their income as follows:

The individual's or family's annual income would be reduced by (i) work-related child care expenses of up to $160 (indexed as under the Administration's proposed welfare reforms) per month, (ii) 20 percent of earned income, and (iii) medical expenses (including, premiums) for care which would be covered by Healthcare, up to the amount which would be paid by Healthcare.

Individuals or families would be eligible for Healthcare if their income, so reduced, was at or below either (i) 55 percent of the poverty level, or (ii) the income standard for eligibility of that individual or family under the State's Medicaid plan.

Low income individuals who established eligibility for Healthcare under any test would not be subject to any premiums, deductibles, or coinsurance.

Individual buy-in:

Any United States citizen, and any alien lawfully and permanently residing in the United States, would be permitted to purchase either catastrophic coverage or coverage for costs related to pregnancy and care of infants under one year of age, or both.

The premiums for these individuals would be set by the Secretary, using a community rating system. Premiums for pregnancy-related care and infant care would be designed to cover in the aggregate 25 percent of the cost of such care; premiums for all other care would be designed to cover in the aggregate the full cost of such care (excluding in either case the costs for disabled or aged individuals).

Pregnancy-related care and infant care would be subject to no deductible or coinsurance requirements. For individuals who purchased the catastrophic coverage, Healthcare would pay 100 percent of costs for covered services after the individual was liable for amounts (including amounts for covered family members) for covered care for which no private insuror was liable to pay, of more than $625 (indexed from 1980) for the last quarter of 1982, $2,500 (indexed from 1980) for 1983, and such larger amount for subsequent years as increased annually to reflect the increase in per capita health care costs in the United States.

Individuals covered through employer buy-in; Other individuals entitled to employment-related coverage:

Employers could satisfy the minimum requirements of part B to provide catastrophic pregnancy-related, and infant health coverage by buying Healthcare coverage for employees and their families.

The premiums to be paid to the Secretary by an employer with more than 9 employees in a geographic area would be equal to five percent of the employer's payroll for covered employees. The premiums to be paid to the Secretary by an employer with fewer than 10 employees in a geographic area would be the lesser of five percent of the payroll for covered employees or the amount of premiums for individuals buying into Health care determined by the Secretary using a community rating system.

The portion of the premium to be paid by the employee would be determined by the employer as for any other employer plan under part B (see section 1812).

The coverage, coinsurance, and deductible requirements for individuals covered through employer buy-in would be the same as for individuals buying in.

Healthcare coverage would be provided to all individuals entitled to employment-related health insurance under part B who were not provided coverage under such an employer plan.

Sec. 1835. Payment of Premiums. Premiums for individuals receiving monthly payments under title II of the Social Security Act or the Railroad Retirement Act would be deducted from these monthly payments, and transferred from the appropriate trust funds or other accounts to the Healthcare Trust Fund. Where such monthly payments would be insufficient to cover the premium, the individual would pay the difference directly to the Secretary. Healthcare premiums payable by or on behalf of other individuals would be paid as prescribed by the Secretary in regulations.

Sec. 1836. Healthcare Trust Fund. This section would create a Healthcare Trust Fund. This section contains provisions substantially identical to the provisions of section 1817 of current law (establishing a Hospital Insurance Trust Fund).

In addition, this section would provide for participation by States which chose to participate in Medicaid in the Healthcare costs attributable to care for the low income population. The States' share would approximate 90 percent of what they would pay under Medicaid if this bill were not enacted. For the first two years of Healthcare, the States' share would be based on estimated Medicaid costs determined on the basis of a projection of actual Medicaid costs in the year prior to implementation of Healthcare. For the third and subsequent years, States would pay a portion of actual Healthcare costs for the low income population; the costs to be shared would exclude costs attributable to expansion of eligibility and benefits and to upgrading of fees. The States' matching rate for the remaining costs would be 90 percent of the Medicaid matching rate.

States eligible to participate in Medicaid (and in the costs of Healthcare) which chose not to do so would lose eligibility for Federal funds under title V and XX of the Social Security Act and for any program for delivery of health care services under the Public Health Service Act.

Provisions of section 1836, combined with amendments to sections 1108 and 1902 of the Social Security Act, would establish specific limits on Federal funding in the territories. The combined total of Federal funds paid for fiscal year 1982 or any succeeding fiscal year for Healthcare services to poor individuals and for Medicaid services under title XIX, could not exceed $120,000,000 for Puerto Rico, $4,000,000 each for Guam and the Virgin Islands, and $800,000 for the Northern Mariana Islands.

Sec. 1837. Payments to Providers. Providers of hospital services would be reimbursed on the basis of reasonable cost, using the same method as provided under title XVIII of current law, but limited by the Administration's proposals for reform of hospital reimbursement as contained in its separate bill, the "Hospital Cost Containment Act of 1979."

Payment for inpatient skilled nursing items and services and for home health items and services could be either on the basis of reasonable cost or on the basis of prospectively set rates.

Payment for outpatient services would be on the basis of a prospectively set, all-inclusive rate per visit.

Payment for physicians' services would be on the basis of a fee schedule.

Payment for all other covered items and services would be made on such basis as the Secretary found reasonable.

Sec. 1838. Use of Public and Private Entities for Administration of Benefits. The provisions of this section are substantially the same as section 1842 of current law, as proposed to be amended by the separate Administration bill, the "Medicare and Medicaid Amendments of 1979". Providers of services would no longer have the right to nominate specific organizations to process Medicare claims, contracts could be entered into with any public or private entity, and all contracts would be subject to the same competition requirements as are other Federal contracts.

Sec. 1839. Payments to Health Maintenance Organizations. This section would replace the present provisions of law under which a health maintenance organization (HMO) may contract for Medicare reimbursement on either a cost or a risk basis; the existing risk basis reimbursement authority has not been acceptable to HMOs and has been used only once. Under the new method, HMOs would be paid, on a prospective basis, 95 percent of the amounts the Secretary estimates would be paid for Healthcare services furnished by entities other than HMOs. The Secretary would also estimate the amount that the HMO would charge its Healthcare members if that amount were determined by using a community rating system, adjusted for utilization characteristics of Healthcare beneficiaries. If that amount were lower than the Healthcare reimbursement rate, the HMO would have to return the difference to its members entitled to Healthcare in a specified order of reduced payments and extra services. Services not furnished by or through the HMO could not be paid for by Healthcare. The draft bill would also require at least 50 percent of an HMO's membership to consist of individuals who were not Healthcare beneficiaries; the Secretary, however, would waive this requirement in circumstances which he found warranted special consideration.

Sec. 1840. Provider Reimbursement Review Board. This section is substantially the same as section 1878 of current law.

Sec. 1841. Determination of Eligibility and Benefits; Notice and Opportunity for Hearing. This section would provide safeguards of individual rights under Healthcare. Procedures would be required to assure that individuals wishing to apply for coverage would have an opportunity to do so; that determinations of eligibility would be made and notice of such determinations would be given promptly; and that individuals found ineligible for benefits would be afforded a fair hearing. Other procedural safeguards would also be included.

Part D—Provisions of items and services

Sections 1851 through 1853 would state the requirements for certification as a provider of health care items and services covered under the National Health Plan. All providers (including physicians and other individuals practitioners) would have to be certified in order to participate in Healthcare.

Sec. 1851. Certification by Secretary. In order to be certified as a provider, an entity (including an individual) would have to meet the general requirements in section 1852 and to file with the Secretary a provider agreement under section 1854; a provider of inpatient hospital, inpatient skilled nursing, and home health care would also have to meet the applicable specific requirements of section 1853. Special provisions would apply to territorial public health systems and the Veterans' Administration.

Sec. 1852. General Findings. Before certifying any provider of items and services under the National Health Plan, the Secretary would have to find that the provider (1) was able to furnish the items and services, (2) was legally permitted to do so, (3) was either (A) located in the United States or (B) located in Canada or Mexico and more accessible to some individuals eligible for benefits than any certified provider located in the United States, and (4) met other requirements found by the Secretary to be necessary for health and safety.

Sec. 1853. Specific Findings. This section would provide specific requirements which must be met by providers of inpatient hospital care, inpatient skilled nursing care, and home health services.

All of these providers would have to meet certain requirements with respect to policies and procedures, maintenance of patient records, overall plan and budget, and disclosure of ownership. Providers of inpatient hospital and inpatient skilled nursing care would have to meet certain requirements with respect to staffing, physician supervision of patient care, and utilization review. Providers of inpatient skilled nursing care would also have to meet requirements with respect to compliance with the Life Safety Code, medical review of the necessity of patient care, and accounting for patients' personal funds. The Secretary would be authorized to waive the requirements for 24-hour nursing services in skilled nursing facilities with respect to facilities in rural areas in certain circumstances.

Sec. 1854. Provider Agreements. This section would specify the terms that must be included in each provider agreement.

Any provider of items and services under Healthcare would have to file with the Secretary an agreement (1) not to charge for any care provided under Health care for which Healthcare could make payment; (2) not to require any individual entitled to benefits under Healthcare or under an employer plan under Part B to pay for noncovered items or services as a condition of receiving covered items and services; (3) to provide to the Secretary necessary information, reports, and access to records; (4) to furnish items and services to individuals without discrimination on the basis of race, sex, religion, national origin, disability, or enrollment in Healthcare; (5) to continue to meet certification requirements; and (6) to give reasonable notice before terminating the agreement.

Sec. 1855. Revocation of Certification. The Secretary would be authorized to revoke certification for failure of a provider to continue to meet the requirements of section 1852, 1853, or 1854. The Secretary would also be authorized to impose less severe sanctions, where he found that continuation of a provider agreement would not jeopardize the heatlh or safety of patients.

Sec. 1856. Federal Certification of Certain Health Care Practioners. The Secretary could certify physician assistants and other health professionals to practice in outpatient facilities certified as Healthcare providers, despite any State or local law to the contrary.

Part E—General provisions

Sec. 1861. Definitions. This section would provide definitions of terms used in title XVIII.

Sec. 1862. Penalties for Fraud. This section would provide for criminal penalties of up to $25,000 and imprisonment for up to five years as sanctions against anyone seeking by fraud or abuse to obtain benefits or payment under the National Health Plan.

Sec. 1863. Regulations. The Secretary could promulgate regulations as necessary for the administration of the National Health Plan.

Sec. 1864. Administration. The Secretary would be authorized to carry out various parts of the National Health Plan directly or by contract.

Sec. 1865. Studies and Recommendations. The Secretary would be required to carry on studies and develop recommendations for the Congress with respect to the health care of the American people. The Secretary would also be required to make a continuing study of and to report annually to the Congress concerning the operation of the National Health Plan.

Sec. 102. Conforming Medicaid amendments. Services available to low-income individuals under Healthcare would no longer be covered under title XIX. The most important services dropped from title XIX would be inpatient and outpatient hospital services, the first 100 days per year of skilled nursing facility services, the first 200 visits per year of home health care services, physicians' services, and rural health clinic services.

The only mandatory services under title XIX would be skilled nursing facility services (other than services in an institution for tuberculosis or mental diseases) for individuals 21 years of age or older, and home health care services for individuals entitled to skilled nursing facility services. These services would be mandatory for all individuals entitled to medical assistance under the State Medicaid plan.

States participating in Medicaid would no longer have the option under section 209(b) of P.L. 92-603 not to provide Medicaid coverage to certain individuals receiving supplemental security income benefits under title XVI of the Social Security Act.

This section would also make a number of conforming amendments reflecting the amendments to title XVIII.

Sec. 103. Amendments to the Internal Revenue Code. This section would simplify the medical expense deduction under section 213 of the Internal Revenue Code of 1954. Medical care expenses would be deductible only to the extent that they exceeded 10 percent of adjusted gross income. Only those expenses would be deductible which were of a type customarily used primarily for medical purposes, and which were in fact intended primarily for medical use of the taxpayer or a dependent.

This section would also increase the earned income tax credit under section 43 of the Code. The deduction, as amended, would 14 percent of earned income up to $5,000, limited to the amount, if any, by which $700 exceeds 15% of the adjusted gross income (or, if greater, the earned income) above $7,000.

These amendments would be effective for taxable years beginning after December 31, 1982.

Sec. 104. Other Conforming Amendments. This section would make conforming amendments to the Social Security Act and the Public Health Service Act. In particular, all employers would be required to offer membership in any health maintenance organization serving an area in which at least 25 of that employer's employees resided.

Sec. 105. Effective Dates and Transitional Provisions. The amendments made by the bill would be effective with respect to health care items and services furnished after September 30, 1982. The section would provide for transfer as of October 1, 1982, of funds in the Medicare trust funds to the Healthcare Trust Fund. This section would also require that States participating in the Medicaid program on the date of enactment of the bill not reduce benefits or narrow eligibility in the period between September 30, 1979, and October 1, 1982.

TITLE II—HEALTH SYSTEMS REFORM

Sec. 201. Annual National Limit for Certification and Reports of Need for Major Increases in Hospital Capital Stock. This section would direct the Secretary to promulgate, for calendar year 1980 and succeeding years, a national limit for certificates of need (and determinations of need under section 1122 of the Social Security Act) to be issued in the year for major increases in hospital capital stock. The limit for any year would be three billion dollars, increased to reflect the increase in construction prices in the United States since 1979, and adjusted, if the Secretary finds it appropriate, for population changes. The Secretary would allocate the national limit among the States; the allocation would be based on such factors as he found appropriate.

Sec. 202. Modifications in Certificate of Need Program Requirements. This section would enact changes in the requirements for certificate of need programs. The section would define a "major increase in hospital capital stock" as the establishment of a new hospital (other than a Federal hospital, long-term care hospital, psychiatric hospital, or health maintenance or organization hospital), or an acquisition or improvement by an existing hospital (other than a hospital excluded above) that exceeded $150,000 in value, would increase the number of short term non-Federal hospital beds, or would substantially change institutional health services offered. A certificate of need for a major increase in hospital capital stock would have to specify the maximum dollar amount authorized. The total value of such certificates issued in any year in a State could not exceed the amount allocated to the State from the national limit for the year (with certain adjustments); the Secretary could permit exceptions to the State limit in emergency situations, or if needed to assist in serving individuals residing in other States; the total value of exceptions granted for a year could not exceed 10 percent of that year's national limit.

This section would permit certificates of need authorizing an increase in the number of short term non-Federal beds only if the number of such beds per 1,000 persons in the health service area was under the hospital bed limit for that health service area, or if two existing beds would be eliminated for each new bed to be established. State health and planning agencies would determine the hospital bed limit for each health service area as part of the State health plan; otherwise the limit would be 4 short term non-Federal hospital beds per 1,000 individuals.

This section would also—

Eliminate the requirement that certificate of need programs determine the need for the establishment of health maintenance organizations;

Provide for grouping and comparative evaluation of requests for certificates of need by permitting certificate of need programs to have 15 months, instead of only ninety days, to act on such requests, and

Clarify provisions of law concerned with certificate of need programs.

Sec. 203. Modification in the Social Security Act Program for Limiting Federal Participation for Capital Expenditures. This section would enact changes to section 1122 of the Social Security Act; that section provides for reduced reimbursement under Medicare, Medicaid, and the Maternal and Child Health Program for capital expenditures found to be unnecessary by State planning agencies. Under this section—

The reductions in reimbursement for unapproved projects would be increased tenfold;

Requirements for State planning agencies in making determinations of need for projects would be identical to the requirements for certificate of need programs (including limits on the dollar amounts authorized and on the number of beds per 1000 individuals), except that, instead of permitting or denying permission for a project to proceed, the State agency would issue a report to the Secretary as to whether the project was needed;

A project in a State without a section 1122 program or a certificate of need program would be subject to the increased reimbursement penalty (unless the Secretary chose to make determinations of need for projects in that State and approved that project);

Unneeded new institutional health services would be covered under section 1122, and

The Secretary would not have to consult with the National Council on Health Planning and Development as to regulations under section 1122.

Sec. 204. Limit and Moratorium for Certain Major Increases in Hospital Capital Stock. This section would require the Secretary, within 3 months of enactment of the draft bill, to estimate the number and value of major increases in hospital capital stock that were contracted for, or actually begun, before enactment of the draft bill, and to estimate the number and value of such increases proposed to be contracted for, or actually begun, in 1979 (or approved before 1980 under a certificate of need or section 1122 program). No projects could be contracted for, or actually begun, for three months after enactment of the draft bill. Based on the estimates and any additional relevant information, the Secretary would allocate to each State, for each of three categories (specified in the draft bill) of major increases in hospital capital stock, dollar limits for projects to be contracted for, or actually begun, in 1979 (or approved before 1980 under a certificate of need or section 1122 program). The Secretary would request and follow each State agency's recommendations for approval within the limits set by the Secretary. Projects not approved by the Secretary would be subject to the increased penalties enacted by section 203 of the draft bill.

Sec. 205. Effective Dates. This section would provide for effective dates. A State would have to modify its certificate of need program to meet the new requirements by the end of the first regular session of the State legislature beginning after enactment of the draft bill. The new section 1122 requirements (and the new penalties), however, would apply to all projects contracted for, or actually begun, after 1979 (unless previously approved under a certificate of need or section 1122 program).

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., September 25, 1979.
Hon. WALTER F. MONDALE,
U.S. Senate
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for consideration by the Congress is a draft bill "To establish a national program of protection against medical expenses for all Americans".

The draft bill would establish a national program of protection against medical expenses for all Americans and would address major problems of inflation and inefficiency in the health care financing and delivery system. The National Health Plan under this bill would include three principal components:

Employer Guaranteed Coverage—A program requiring employers to provide all full-time employees and their dependents with health benefits coverage meeting uniform Federal standards;

Health Care—A new Federal insurance program providing coverage for the aged, blind, disabled, low-income and others who are unable to obtain private coverage at reasonable rates;

Health Systems Reform—Components of the bill designed to enhance competition in the health care sector and reduce excess capacity in hospitals.

This draft bill is structured as a series of closely integrated amendments to existing law, primarily titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act. The draft bill also includes amendments to other authorities, such as those concerned with health maintenance organizations and health planning programs, and to the earned income tax credit provision of the Internal Revnue Code of 1954.

A detailed description of the draft bill is contained in the enclosed summary. This letter highlights the major features of the draft bill.

The draft bill would establish the basis for universal health care coverage in the United States. Together, Health Care—a new program subsuming Medicare and Medicaid—and the requirements for coverage provided through employers would guarantee all Americans coverage for major medical expenses and provide a framework for future program expansions. The draft bill would take effect in fiscal year 1983.

The draft bill would guarantee all Health Care enrollees and all persons obtaining private coverage through their employers a comprehensive set of benefits, including hospital, physician, skilled nursing facility and other heatlh care services and a package of preventive benefits, including maternity and infant care.

The draft bill would establish requirements for employer-based coverage provided through the private sector. The principal components of this "employer guarantee" are:

Eligibility—Every employer would have to provide health care coverage for all full-time workers (those working at least 250 hours over 10 weeks), their spouses and dependent children.

Benefits and Cost-sharing—An employer-based plan would have to include, at a minimum, the benefits outlined above and would have to limit out-of-pocket payments (otherwise payable under the plan) to no more than $2500 per year. No cost-sharing could be imposed on prenatal, delivery and infant care services.

Financing and Special Subsidies—Employers would be required to pay at least 75 percent of the cost of a plan meeting the minimum Federal standards. Employers could obtain subsidies for excessive premium costs either by purchasing the minimum mandated coverage from Health Care at a premium equal to 5 percent of payroll or by applying for an equivalent subsidy to purchase coverage from a private firm. For low-wage workers, the Earned Income Tax Credit would be amended to provide a maximum additional benefit of $150.

Standards for Employer Plans—The Department of Health, Education and Welfare would review and certify private plans to assure that they met minimum requirements. No waiting periods or exclusions could be imposed. Coverage for employees and their dependents would have to continue for 90 days after separation from employment. Various information and disclosure requirements would be established.

Reimbursement: Payment for hospital services would be limited by the Administration's proposed hospital cost containment program. For physicians, plans could use their own schedules of payment. Plans would have to publish rates of payment and furnish enrollees with a list of physicians agreeing to accept these rates as payment in full.

Health Care would be a new Federal health insurance program which would consolidate Medicare and Medicaid into a single administrative structure and expand coverage to newly-eligible populations. Major features of Health Care include:

Eligibility: HealthCare would provide health insurance for the aged and disabled, all cash assistance recipients (under the AFDC and SSI programs) and all individuals and families with incomes below 55% of the Federal poverty standard. Anyone whose expenses for covered services exceeded the difference between income (minus disregards) and the low-income standard could also obtain complete, subsidized coverage from HealthCare. Individuals or employers who find affordable private coverage difficult to obtain could purchase coverage from HealthCare.

Benefits and Cost-Sharing: HealthCare would provide the comprehensive set of benefits outlined previously. The aged and disabled would have cost-sharing requirements similar to Medicare but their maximum out-of-pocket payment would be limited to $1250 per year. The low-income population and those who "spend-down" would have no cost-sharing. Individuals and groups could purchase the minimum coverage from HealthCare with a deductible of $2500. There would be no cost-sharing for prenatal, delivery and infant care.

Financing: HealthCare would be financed through (1) the hospital insurance portion of the Social Security tax; (2) premiums paid by non-poor aged and disabled enrollees equivalent to the current Medicare-Part B premium; (3) State government funds at a rate set to equal 90% of each State's payments under Medicaid for services covered under HealthCare; and (4) Federal general revenues. Individuals wishing to purchase HealthCare coverage would pay a community-rated premium.

Administration: HealthCare administration would be similar in concept to Medicare. All claims processing would be handled by fiscal agents. The Federal government would determine eligibility for the aged and disabled; the States would handle determinations for AFDC recipients. Eligibility determination for other low-income enrollees would be federally directed, although the States could contract to perform these functions.

Providers and Reimbursement: Payment for hospital services would be on a cost-related basis, limited by the Administration's proposed hospital cost containment program. Physicians would be paid on the basis of a fee schedule, based initially on average Medicare payment levels. All physicians would be required to accept the HealthCare rates as payment in full.

The draft bill would amend the Medicaid program in that acute care services covered under HealthCare would no longer be included in State Medicaid plans. States would continue to provide skilled nursing facility and intermediate care services and other optional Medicaid services for the low-income population. The Federal-State matching rates for financing these services would be unchanged.

The draft bill would also include important provisions for encouraging competition and reforming health delivery:

A national limit on hospital capital spending, allocated among the States, would be established.

Employers would be required to contribute equal dollar amounts towards the cost of all plans they offer. Employees selecting a plan which is less expensive than the employer contribution would receive the difference in salary or fringe benefits.

Employers would be required to offer multiple choice of health maintenance organizations to their employees.

This draft bill represents a sound and realistic approach toward expanding health coverage for the millions of Americans who are now uninsured or have inadequate coverage against the high costs of medical care. The program under the draft bill would address the most pressing health needs of the nation, initiate key cost containment and system reforms and establish a framework which can be built upon in the future.

We urge the Congress to give the draft bill its prompt and favorable consideration. We are advised by the Office of Management and Budget that enactment of the draft bill would be in accord with the program of the President.

Sincerely yours,

Patricia Roberts Harris.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by the Senator from Connecticut (Mr. Ribicoff), to establish a national program of protection against medical expenses for all Americans, be jointly referred to the Committee on Finance and the Committee on Labor and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. BAYH:

S. 1813. A bill to designate the building known as the Federal Building in Evansville, Ind., as the "Winfield K. Denton Building"; to the Committee on Environment and Public Works.

WINFIELD K. DENTON BUILDING

● Mr. BAYH. Mr. President, few Members of Congress have captured the hearts of their constituents as fully as Winfield Kirkpatrick Denton who represented the citizens of the Evansville area for 16 years in the U.S. House of Representatives. Winfield's goal during his years in Washington was to represent the wishes of his constituents to the best of his ability and in a manner beyond reproach. I do not hesitate at all when I say he achieved his goal. Because of the admiration the citizens in the Evansville area hold for Winfield Denton as well as my own deep admiration, today I am introducing legislation to name the Evansville Federal Building the Winfield K. Denton Building.

Winfield Denton was born October 28, 1896, in Evansville and maintained his residency there for all 75 years of his life. He served his community as prosecutor of Vanderburgh County for two terms, was elected to the Indiana State Legislature where he was appointed minority leader and served on the budget committee.

He was married to the former Grace Abernathy and they were blessed with three daughters. A graduate of DePauw University, he attended Harvard Law School and earned an LL.B. degree in 1922. In accordance with his deep feelings for this country, Winfield Denton enlisted in the service as a private and later was commissioned a second lieutenant as an aviator in the U.S. Army Air Corps. In the Second World War he reentered the service as a major and served in the Judge Advocate's Department at Wright Field, Ohio.

The terms Winfield Denton spent in service to his constituents are years of sterling example of a man dedicated to his constituents, a man of outstanding integrity who never shirked his responsibilities but faced them with the utmost courage. Many tough questions arose during these times but were dealt with effectively and thoroughly by Congressman Denton.

I had the honor of knowing Winfield during my early years in the Senate. We served in the Congress together for 4 years and it was a real pleasure for me to work with someone with his experience and knowledge.

As a resident and lifelong advocate of the Evansville, Ind. area, it is only right that we recognize the many contributions and important work of this greatly loved man by making his name a permanent landmark in the community. I urge my colleagues to join in commemorating the life of Winfield Denton by naming the Evansville Federal building after him.

I ask unanimous consent that the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 101 N.W. 7th Street, Evansville, Indiana (commonly known as the Federal building) shall hereafter be known and designated as the "Winfield K. Denton Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Winfield K. Denton Building".●

By Mr. GLENN (for himself and Mr. Metzenbaum):

S. 1814. A bill to provide for a National Afro-American History and Culture Commission, which shall establish the National Center of Afro-American History and Culture, and for other purposes; to the Committee on Governmental Affairs.

Mr. GLENN. Mr. President, I am pleased today to introduce legislation designed to establish a Commission whose mandate is to develop a Center for Afro-American History and Culture in Wilberforce, Ohio, and to authorize the Secretary of the Interior to establish a specific national historic site at Wilberforce.

This bill, which I am joined in sponsoring by my colleague, Senator Metzenbaum, represents the culmination of over a decade of efforts of many Ohioans in laying the groundwork for this long overdue tribute to the history and culture of black Americans. Wilberforce was the Ohio terminus of the underground railroad, a haven for runaway slaves. A station of the railroad was what is now the national historic landmark home of Col. Charles Young, one of West Point's earliest black graduates. In addition, Wilberforce University, one of the Nation's first incorporated black institutions of higher learning, Central State University and Payne Theological Seminary have, for over 100 years, constituted a truly remarkable center of learning for black Americans. Alumni and alumnae of these great institutions have spread throughout Ohio and the Nation and have assumed leadership roles in virtually every field of endeavor. The tremendous scholarly resources of these institutions have generated a rich treasury of historical papers and memorabilia, art collections, buildings, and artifacts. Because of the region's rich historical resources, the Wilberforce area has been the site of conferences on black history.

The State of Ohio, the Ohio Historical Society, Greene County, the NAACP, the universities and elected officials, the Chamber of Commerce, and the Regional Planning Commission have worked diligently to advance the cause of this proposed center. My colleague from Ohio, Representative CLARENCE BROWN, has introduced measures to this effect for some time in the House. In 1976, after extensive Senate hearings, we were successful in enacting Public Law 94-518 which directed the Secretary of the Interior and the National Park Service to conduct a feasibility/suitability study of the Wilberforce area to determine whether the area met the strict requirements and standards the Park Service has set for institutions and sites being considered for national status. The study report concluded that the Wilberforce area was a suitable, viable, accessible location for a national center.

My bill establishes a phased, sensible and broad-based methodology for the establishment of this center. It authorizes the acquisition of the Colonel Young home and adjacent lands by the Secretary of the Interior. When these lands are acquired, the site shall be known as the "Wilberforce National Historic Site." Second, the bill establishes a broad-based "Afro-American Center for History and Culture" Commission composed of public officials including the Secretary of the Interior, the Secretary of the Smithsonian Institution, and the Secretary of Health, Education, and Welfare, or their designees; the presidents of Wilberforce and Central State Universities; the president of the Association for the Study of Afro-American Life and History, and various others. The Commission would total 29 members under my bill.

The mandate of this commission shall be to develop within 2 years a specific plan for development of the "National Center for History and Culture," together with legislative recommendations to be presented to the President and the Congress. This report will include recommendations as to: First, the objectives, uses, ownership and operation of the Center; second, estimates of public and private costs for implementing the recommendation; third, areas where cooperative agreements might be developed between the center and Afro-American institutions, organizations and universities; and fourth, the criteria and recommendations for interpretative cultural and educational programs and uses of the center.

Mr. President, this bill will get us started on this project in specific, measurable ways. National historic site designation will enable land acquisition to begin and will immediately open up planning activity by State, local, public and private sectors. The commission authorized by this bill will properly work to resolve intricate questions involving the center's format, long-term funding and its relationship to other similar institutions. My bill is identical to a measure being introduced in the House by my colleague from Ohio, Representative CLARENCE BROWN. An earlier version of Representative BROWN's bill has already attracted solid support from members of the Black Caucus and others.

I look forward to hearings on this important measure and hope that we can move ahead rapidly to get this well-deserved and highly significant project underway.

By Mr. NELSON:

S. 1815. A bill to require explicit authorization from judges of competent jurisdiction for any covert entry onto premises for the purpose of installing and removing any electronic interception devices to be utilized in the investigation of specified criminal offenses; to the Committee on the Judiciary.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT AMENDMENTS OF 1979

● Mr. NELSON. Mr. President, I today introduce the Omnibus Crime Control and Safe Streets Act Amendments of 1979.

This bill is introduced in response to a recent decision by the U.S. Supreme Court, *Dalia* v. *United States*, 99 S. Ct. 1682 (1979). In Dalia, by a vote of 6 to 3, the Court held that the fourth amendment does not prohibit covert entry performed for the puropse of installing electronic bugging equipment, provided such installation is otherwise authorized by law. It further held that when Congress enacted title II of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. 2510-2520, which established the procedures for installing electronic surveillance equipment in the investigation of crime, it also implicitly granted to courts authority to approve covert entries to install that surveillance equipment. Finally, the Court also held that the fourth amendment does not require that a title III electronic surveillance order include a specific authorization to enter covertly premises described in the order.

This decision ended a decade of controversy over the requirements of title III and the fourth amendment concerning covert entry for the purpose of effecting electronic surveillance. Prior to Dalia, the circuit courts of appeals had split on the issue of whether or not title III authorized judges to order, or police to carry out, covert entry to implant bugging equipment. Compare *United States* v. *Scafidi*, 564 F.2d 633 (2nd Cir. 1977), cert. denied, 98 S. Ct. 2231 (1978); *In re United States*, 563 F.2d 637 (4th Cir. 1977); *United States* v. *Agrusa*, 541 F.2d 690 (8th Cir. 1976), cert denied, 492 U.S. 1045 (1977) with *United States* v. *Finazzo*, 583 F.2d 837 (6th Cir. 1978) and *United States* v. *Santora*, 583 F.2d (9th Cir. 1978).

The Court based its decision in part on an interpretation of what the fourth amendment requires with regard to covert surveillances requiring covert entry. The Court held that law officers "may break and enter to execute a search warrant where such entry is the only means by which the warrant effectively may be executed." (99 S. Ct. 1688.)

And the Court held that the fourth amendment's notice requirements are adequately served by furnishing notice after the surveillance has taken place. I believe that this holding is radically at variance with traditional fourth amendment values and I greatly regret it. However, the legislative branch of Government is not at liberty to overturn the Supreme Court's statement of what the Constitution requires.

However, Mr Justice Powell, writing for the Court, premised parts III and IV of his opinion on Congress failure to explicitly refer to the permissibility or impermissibility of covert entries during the consideration of and debate on the Safe Streets and Crime Control Act of 1968. Part III of his opinion holds that Congress implicitly authorized covert entries when it authorized electronic surveillance of criminal suspects. In part IV, Justice Powell maintained that it is not "unreasonable" in fourth amendment terms for otherwise valid search warrants not to specify the means by which they are to be carried out, even if those means may include breaking and entering. Again, Congress failure to indicate any legislative intent enabled the Court to decide the issue by recourse to its own lax standards of fourth amendment "reasonableness." Clearly, these parts of the decision leave Congress free to clarify its intent concerning this issue.

Dalia provides that the police may, at their discretion, break and enter to execute otherwise valid search warrants. This legislation would alter that state of affairs, albeit in a restrained and modest way. This bill would amend title III to require explicit requests by police for the right to conduct covert entries and explicit approval by authorizing judges, both State and Federal, for such entries. Judges would be required to state in their orders permitting oral interceptions the reasons why a covert entry was necessary and proper and the reasons why means of surveillance less offensive to fourth amendment values could not be employed.

Enactment of this legislation will require judges and police officers to consider alternative means of entry to effectuate electronic surveillance. It will require judges not to approve illegal entry unless other means of surveillance would be unlikely to succeed if tried or would be too dangerous to the officers attempting to install the interception device. It should be emphasized that illegal entry ought not to be normally employed. In 1976, the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance reported that between 1968 and 1973 only 26 out of 1,220 orders under title III involved a trespassory intrusion. I fear that without this legislation, in light of Dalia, this number will climb inexorably upward.

This bill, if enacted, would contribute to the safeguarding of individual privacy, which today is under assault as never before by the various large institutions of our society. It protects the reasonable interests of society in law enforcement while establishing some procedural barriers against needless intrusions into the private lives of citizens. I urge its speedy consideration by the Senate and its early enactment into law, and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Crime Control and Safe Streets Act Amendments of 1979."

SEC. 2. 18 United States Code, Section 2518 (1) shall be amended by adding a new subsection, (g), which shall read:

"(g) a statement of whether or not a covert method of entry into private premises for the purposes of installing and removing any electronic interception device(s) is to be utilized in accomplishing any oral interception otherwise allowable under this chapter. Such statement shall also contain the reasons why illegal entry as opposed to legal methods of entry must be employed."

SEC. 3. 18 United States Code, Section 2518 (4) shall be amended by adding a new subsection, (f), which shall read:

"(f) whether or not a covert method of entry for the purposes of installing and removing any electronic interception device(s) is to be utilized in accomplishing any oral interception otherwise allowable under this chapter."

SEC. 4. 18 United States Code, Section 2518 (4) shall be amended by adding after new sub-section (f):

Judges of competent jurisdiction shall not grant requests to employ a covert method of entry into private premises for the purposes of installing and removing any electronic interception device(s) without also stating in the order permitting such interception the reasons why legal methods of entry would appear to be unlikely to succeed if tried or would be too dangerous to the officers attempting to install the interception device.●

By Mr. NELSON:

S. 1816. A bill to assure the rights of citizens under the 4th and 14th amendments and to protect the freedom of the press under the first amendment, and for other purposes; to the Committee on the Judiciary.

PRIVACY PROTECTION ACT OF 1979

● Mr. NELSON. Mr. President, today I am introducing the Privacy Protection Act of 1979.

This bill is intended to undo the effects of a recent Supreme Court decision, *Zurcher* v. *Stanford Daily*, 436 U.S. 547 (1978). In this case, the Court, by a vote of 5–3, held that a State is not prevented by the 4th and 14th amendments from issuing a warrant to search for evidence simply because the owner or possessor of the place to be searched is not reasonably suspected of criminal involvement. Henceforth, according to Zurcher, the critical element in determining whether or not a search is "reasonable" will not be a plausible suspicion of criminal involvement on the part of the property owner, but rather will be whether or not there is reasonable cause to believe that the "things" to be searched for and seized are located on the property to which entry is sought.

This legislation, which is proposed under the auspices of the 1st, 4th and 14th amendments, would require that evidence to be sought from innocent third parties be sought only through a subpena duces tecum.

The bill provides for three exceptions to this general rule. First, a warrant may be employed to seize evidence if there is probable cause to believe that the matter sought to be seized would be destroyed, hidden or moved if a subpena were obtained. Second, if there is probable cause to believe that the evidence is contraband, it may be obtained by a warrant. Third, if the identity of the person in possession or control of the evidence cannot be determined within a reasonable time with reasonable effort, a warrant may be utilized.

In my view, this bill would balance, with sensitivity and intelligence, the competing interests of privacy and effective law enforcement.

The potentially damaging impact of Zurcher on freedom of the press has been noted with alarm by a wide variety of commentators, ranging from conservatives such as James J. Kilpatrick to liberals such as James Reston. To cite a few newspapers out of many, the New York Times, the Washington Post, and the Milwaukee Journal have strongly criticised Zurcher as being inimical to their news gathering responsibilities. However, it was Justice Stewart, dissenting from the majority opinion in Zurcher, who perhaps best summarized the nature of the threat posed to freedom of the press by possible interpretations of the decision:

> A search warrant allows police officers to ransack the files of a newspaper, reading each and every document until they have found the one named in the warrant, while a subpoena would permit the newspaper itself to produce only the specific documents requested. A search, unlike a subpoena, will therefore lead to the needless exposure of confidential information completely unrelated to the purpose of the investigation. The knowledge that police officers can make an unannounced raid on a newsroom is thus bound to have a deterrent effect on the availability of confidential news sources. The end result, wholly inimical to the First Amendment, will be a diminishing flow of potentially important information to the public.
>
> One need not rely on mere intuition to reach this conclusion. The record in this case includes affidavits not only from members of the staff of The Stanford Daily but from many professional journalists and editor, attesting to precisely such personal experience. Despite the Court's rejection of this uncontroverted evidence, I believe it clearly establishes that unannounced police searches of newspaper offices will significantly burden the constitutionally protected function of the press to gather news and report it to the public. *Zurcher, supra,* at 573–4.

In his dissent, Justice Stevens made the equally important point that the decision does not only threaten the press, but also contains profoundly dangerous implications for the right of privacy in general:

> Just as the witnesses who participate in an investigation or a trial far outnumber the defendants, the persons who possess evidence that may help to identify an offender or explain an aspect of a criminal transaction, far outnumber those who have custody of weapons or plunder. Countless law abiding citizens—doctors, lawyers, merchants, customers, bystanders—may have documents in their possession that relate to an ongoing criminal investigation. The consequences of subjecting this large category of persons to unannounced police searches are extremely serious. The ex parte warrant procedure enables the prosecutor to obtain access to privileged documents that could not be examined if advance notice gave the custodian an opportunity to object. The search for the documents described in a warrant may involve the inspection of files containing other private matter. The dramatic character of a sudden search may cause an entirely unjustified injury to the reputation of the persons searched. *Zurcher, supra,* at 579–80.

Congress ought not to act capriciously to overrule decisions of the Supreme Court which interpret the Constitution. What convinces me that this legislation is worth supporting, apart from the policy reasons touched on above, is that this decision did not hold that the Constitution requires the obtaining of warrants instead of subpenas in cases like Zurcher, but only held that under the present law of the fourth amendment, there is no subpena requirement. As the majority conceded, Congress is free to establish more stringent requirements in furtherance of fourth amendment objectives.

I believe that we have made some progress in protecting individual liberty in recent years. For example, some of us began in 1973 an effort to eliminate the concept of "inherent Presidential authority" to engage in the warrantless electronic surveillance of U.S. citizens. In 1978, when the President signed Public Law 95–511, these efforts were finally successful. Also, Congress has made a beginning in the complex and difficult task of writing charters for our intelligence agencies. And I believe that those of us in Congress, as well as our fellow citizens outside the Congress, have grown increasingly cognizant of the need to safeguard the right to individual privacy in an ever more regimented and centralized society. Set against this background, this decision constitutes a disappointing regression.

In Zurcher, the Court disregarded both the history of the fourth amendment and the logic of its own decisions to reach a result which is hostile to liberty.

It ought to be emphasized that until 1967 the type of evidence which the Palo Alto Police Department sought from the Stanford Daily could not have been obtained by a warrant. As was noted by Justice Stevens in his able Zurcher dissent, at common law, private papers were not among the "things" which could be seized with a warrant. In 1765, the great English jurist Lord Camden made one of the first and most eloquent statements in support of a right to privacy in personal papers:

> Papers are the owner's goods and chattels; they are his dearest property; and are so far from enduring a seizure, that they will hardly bear an inspection; and though the eye cannot by the laws of England be guilty of a trespass, yet where private papers are removed and carried away the secret nature of those goods will be an aggravation of the trespass, and demand more considerable damages in that respect. Where is the written law that gives any magistrate such a power? I can safely answer, there is none; and therefore it is too much for us, without such authority, to pronounce a practice legal, which would be subversive of all the comforts of society. *Entick* v. *Carrington*, 19 How. St. Tr. 1029, 1066 (1765).

The fourth amendment grew out of the colonists' profound fears of unjustified state intrusions into their private lives. It reads:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Again, until recent years, it was generally understood that there could be no probable cause to seize personal papers. The Supreme Court, through Mr. Justice Bradley, underscored this point in *Boyd* v. *United States*, 116 U.S. 616 (1886):

> The search for and seizures of stolen or forfeited goods, or goods liable to duties and concealed to avoid the payment thereof, are totally different things from a search for and seizure of a man's private books and papers for the purpose of obtaining information therein contained, or of using them as evidence against him. The two things differ *toto coelo*. In one case, the government is entitled to the possession of the property; in the other it is not. *Id.* at 623.

The courts later restated this doctrine as the "mere evidence rule," which the Supreme Court summarized in *Harris* v. *United States*, 331 U.S. 145, 154 (1947). The Court in Harris emphasized:

> A distinction between merely evidentiary materials, on the one hand, which may not be seized either under the authority of a search warrant or during the course of a search incident to arrest, and on the other hand, those objects which may validly be seized including the instrumentalities and means by which a crime is committed, the fruits of crime such as stolen property, weapons by which escape of the person arrested might be effected, and property the possession of which is a crime. *Id.*, at 154.

Finally, in *Warden* v. *Hayden*, 387 U.S. 294 (1967), the Supreme Court abruptly abandoned this time-honored doctrine, holding that the mere evidence rule was an anachronism not required by the fourth amendment.

Warden against Hayden dealt with "mere evidence" possessed by a person suspected of criminal involvement, specifically a shirt covered with the blood of a murder victim possessed by the murderer. It thus concerned a situation which this bill would not apply to. Warden, at the time, seemed to deal only with the striking down of an ancient legal distinction which by 1967 had become merely an irrational barrier to effective law enforcement. Only Justice Douglas, writing in dissent, sensed the dangers to the fourth amendment in the decision.

In Warden, the Court's majority perhaps did not realize that their ruling opened the way not only for warrants to obtain "mere evidence" from those suspected of criminal involvement, but also for warrants to obtain such evidence from innocent third parties.

The Court's majority, in Zurcher, did not face squarely the logical implications of its actions. In a concurring opinion in *Berger* v. *New York*, 388 U.S. 41, 69 (1967), Justice Stewart stated:

> The standard of reasonableness embodied in the Fourth Amendment demands that the showing of justification match the degree of intrusion.

Justice White, writing for the majority in Zurcher, evinced no understanding of the greater degree of intrusion entailed in searching the premises of a presumptively innocent third party as opposed to searching those suspected of criminal involvement.

As a matter of logic, I consider it reasonable that before a surprise search of an innocent third party ought to be allowed, the police should be compelled to adduce reason for that search of comparable urgency to those they would have to put forward if they intended to obtain a warrant to search the home of a criminal. With all due respect, Justice White's argument that the fourth amendment's essential concern is with the reasonableness of searching a particular place for particular things rather than with the privacy of individuals seems to me to be drastically inadequate.

The fourth amendment is intended to protect individual rights. Evidence held by innocent third parties, if it is to be obtained at all, ought to be obtained in a way which is consonant with the fourth amendment's underlying purposes.

Is this legislation the proper vehicle for legislative action?

I believe that it is. There can be little doubt that Congress possesses the power to act to enforce and safeguard constitutional guarantees, even if those State practices which would be changed by the congressional enactment do not, in or of themselves, violate the Constitution. *Katzenbach* v. *Morgan*, 384 U.S. 641, 646–57 (1966). The classic formulation of Congress power to act to further constitutional aims was provided by the Supreme Court in *McCulloch* v. *Maryland*, 4 Wheaton 316, 421 (1819):

> Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, and which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, **are constitutional.**

By passing this legislation, Congress will signal an intention to safeguard that freedom of speech and of the press which is guaranteed by the first amendment, that freedom from unreasonable searches and seizures which is provided by the fourth amendment, and that right to due process of law which is guaranteed by the fifth amendment and which the 14th amendment makes applicable to the States.

Recently, in *National League of Cities* v. *Usery*, 426 U.S. 833 (1976), which declared unconstitutional the application of minimum wage laws to the States, the Supreme Court breathed new life into the 10th amendment, which reserves all nondelegated powers to the States. However, in that instance, Congress had sought to use its power under the Commerce Clause to alter traditional employer/employee relations between States and their employees. The Court held, on federalist grounds, that the States had the weightier interest. Here, Congress seeks to strengthen and make meaningful rights which citizens already have against all governments, whether State or Federal. That is a crucial difference and that is why I believe that National League principles would pose no threat to this bill.

The bill is constitutional and would repair some damage which the Supreme Court has done to our fourth and first amendment rights.

I urge its early consideration by the Judiciary Committee and its speedy enactment by the Senate.

And I ask unanimous consent the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Privacy Protection Act of 1979."

SEC. 2. Notwithstanding any other law, and except as provided for in section 3, it shall be unlawful for any State, Federal or local government officer, employer, agent or other person clothed with the authority of such government, in connection with the investigation or prosecution of a criminal offense to obtain a warrant to search for or seize any matter in the possession or control of any person whom there is no probable cause to believe has committed or is an accessory to the crime to which the matter sought relates. Such matter shall be sought as evidence only through a subpoena duces tecum.

SEC. 3. Notwithstanding Section 2 of this Act; a warrant may issue if:

(1) there is probable cause to believe the matter sought to be seized would be destroyed, hidden or moved if the procedures set out in Section 2 were followed; or

(2) there is probable cause to believe that the matter is contraband; or

(3) the identity of the person in possession or control of the matter sought cannot be determined within a reasonable time with reasonable effort.

SANCTIONS

SEC. 4. (a) Evidence obtained in violation of this Act shall not be admissible in any court.

(b) Any unit of federal, state or local government, and every person who, under color of any statute, ordinance, regulation, custom or usage of the United States, any State or territory, or of the District of Columbia, subjects or causes to be subjected, any person within the jurisdiction thereof to the deprivation of any right under this Act shall be liable to such person in an action for legal or equitable relief brought in an appropriate United States District Court.

(c) Each unit of federal, state or local government shall be jointly and severally liable with any officer, employee, agent or other person clothed with the authority of such unit for any violation of this Act.

(d) It shall not be a defense for such unit that the officer, employee, agent or other person clothed with the authority of such unit is personally immune from liability under this Act by virtue of a common law or statutory immunity or defense attached to such officer, employee, agent or other person clothed with the authority of such unit.

(e) In any action brought under this Act, the court shall award such special or general damages as may be appropriate, as well as punitive damages not to exceed $1,000 for each violation, and may award reasonable attorney's fees and other actual and reasonable expenses incurred in connection with such action.

DEFINITIONS

SEC. 5. (a) For purposes of Section 2, "accessory" means one who, without being present at the commission of a crime, becomes guilty of the crime, not as a chief actor, but as a participator, as by Command, advice, instigation or concealment; either before or after the commission of the crime.

(b) For purposes of Section 3, "contraband" means goods or merchandise the importation, exportation or possession of which is prohibited under the laws of the State in which the warrant or order is issued or of the United States.

(c) For purposes of Section 4,

(1) "person" means any natural person, or any partnership, corporation, association or other legal entity organized under the laws of the United States, of any State, or of the District of Columbia;

(2) "unit of federal, state or local government" means the United States or any agency, department or instrumentality thereof other than the Congress; any State or territory; or any agency, department or instrumentality thereof, other than the legislature; any municipality, county, parish or other State, territorial or local governmental subdivision, or agency, department of instrumentality thereof; or the District of Columbia or any agency, department or instrumentality thereof.●

By Mr. NELSON:

S. 1817. A bill to amend title 28, United States Code, to provide that State prisoners and Federal prisoners shall not be denied Federal habeas corpus relief on the ground that such prisoners were previously afforded a full and fair opportunity to litigate their claims, and for other purposes; to the Committee on the Judiciary.

FEDERAL HABEAS CORPUS STATUTE

● Mr. NELSON. Mr. President, I am pleased to once again introduce this legislation to amend the Federal habeas corpus statute.

On April 20, 1977, Senator MATHIAS and I introduced S. 1314, legislation identical to this bill. At that time, I discussed in considerable detail our reasons for introducing the bill and furnished the Senate with a wealth of documentary material regarding its constitutionality and desirability. I do not intend to repeat all my arguments here, but rather to highlight the abiding reasons why this bill ought to be carefully considered and to alert my colleagues to recent developments in the Federal courts which demonstrate the urgent need for this legislation's enactment.

This legislation is introduced in direct response to three recent Supreme Court decisions which construed portions of 28 U.S.C. 2241 et seq., the Federal habeas corpus statute, in a way which departed radically from longstanding precedent and seriously curtailed the rights of those in prison in violation of their constitutional rights to petition the Federal courts for a writ of habeas corpus.

In *Francis* v. *Henderson*, 425 U.S. 536 (1976), the Supreme Court held that a State prisoner who failed at trial to make a timely challenge to the racial composition of the grand jury which indicted him could not, after his conviction, bring that challenge in a Federal habeas corpus proceeding without a showing of actual prejudice.

In reaching this decision, the Court implicitly rejected the existing law set out in *Fay* v. *Noia*, 372 U.S. 391 (1963), that, absent a deliberate bypass of State procedures, a procedural default by a State prisoner would not foreclose him from making a constitutional challenge to his confinement through a habeas corpus petition.

In so deciding, the Court extended an earlier decision, *Davis* v. *United States*, 422 U.S. 233 (1973), which had held that Federal prisoners were not entitled to have their claims of unconstitutional confinement heard under 28 U.S.C. 2255, the habeas corpus statute applying to Federal prisoners, if they had not previously raised these claims within the time limits of the Federal Rules of Criminal Procedure.

By applying the Davis reasoning to the situation of a State prisoner, the Court overlooked the crucial need for Federal court intervention when there has been an abuse of constitutional rights by State court procedures, and it disregarded the congressional intent, expressed in 28 U.S.C. 2254, that the Federal courts should have jurisdiction over all claims of unconstitutional confinement by State prisoners in habeas corpus proceedings. It must be remembered that the crucial aspect of both 28 U.S.C. 2254 and 28 U.S.C. 2255 is that a State or Federal prisoner can seek habeas or other postconviction relief on the grounds that the prisoner is "in custody in violation of the Constitution or laws or treaties of the United States."

In *Stone* v. *Powell*, 428 U.S. 465 (1976), the Court held that when a State has provided an opportunity for a full and fair litigation of a fourth amendment claim of illegal search and seizure, a State prisoner may not be granted habeas corpus relief on the grounds that the evidence illegally seized from him was used against him at trial.

In reaching this decision, the Court reached the unprecedented conclusion that certain constitutional rights could not be vindicated through a habeas corpus petition.

Implicitly, the Court held that some constitutional rights, particularly one's right to be free from illegal searches and seizures under the fourth amendment, were less important than other constitutional rights.

Soon after Stone, the Supreme Court once again restricted the scope of Federal habeas relief in *Wainright* v. *Sykes*, 433 U.S. 72 (1977).

In that case, the Court held, inter alia, that absent a showing that a person's waiver of his right to assert a constitutional right in a State proceeding had a "reasonable cause" and that "prejudice" had resulted from the waiver, Federal habeas relief will not be available to that person even if that constitutional right has been violated. In Wainright, the Federal court was not allowed to hear a prisoner's claim that his confession had been coerced because his lawyer had failed to raise this claim during the State proceeding.

These decisions have resulted in instances of lamentable injustice.

In *United States ex. rel Petillo* v. *New Jersey*, 562 F.2d 903 (3d Cir. 1977), the defendant was convicted of violating State antigambling laws. The evidence which convicted Petillo was gathered by a search of his home. The affidavit which supported the search warrant contained crucially false information, specifically, a telephone number which the affiant had allegedly used to make bets, which turned out not to be Petillo's telephone number. Thus, the evidence could have been suppressed at trial as having been gathered in violation of the fourth amendment. Petillo raised this defense at trial, but the State court judge disregarded it. Under Stone against Powell, despite the clear error of the State court judge, the third circuit was constrained to hold that Petillo's unconstitutional confinement could not be remedied.

The habeas petitioners in *Jarrell* v. *Stahl*, 446 F. Supp. 395 (W.D.N.C. 1977), had been convicted by a North Carolina State court of homosexual activity and sentenced to 7 to 10 years in prison. The U.S. district court flatly declared the evidence used against the petitioners to have been "unlawfully obtained." Prior to 1976, the prisoners would have been freed. However, the Court "felt compelled" to deny their petitions because of Stone against Powell.

The destructive potential of Francis against Henderson was revealed in *Ochoa* v. *Estelle*, 445 F. Supp. 1076 (W.D. Texas 1976). The question presented in that case was whether or not the double jeopardy clause of the fifth amendment barred a reindictment, a second trial, and a conviction based on a count in the second indictment, after a jury had been impaneled and sworn at the first trial and the State had abandoned an identical count in the previous indictment based on the same criminal transaction. The Court's answer to this question was that this procedure did constitute double jeopardy. However, because the petitioner had not raised this claim prior to his second trial, the double jeopardy claim was deemed to be "waived" within the meaning of Francis against Henderson. It is difficult to determine what reasonable State interest is served by this kind of inflexible and cruel doctrine.

In *Caver* v. *Alabama*, 577 F.2d 1188 (5th Cir. 1978), the habeas petitioner had been arrested without a warrant for vagrancy without probable cause to arrest him. During the period of illegal detention, identification evidence was gathered which connected the petitioner with other crimes. The Fifth Circuit Court of Appeals found that this other evidence should have been suppressed at trial but once again pronounced itself powerless to grant the habeas petition because of the petitioner's alleged opportunity to litigate his claim at trial.

One could multiply these examples at length, but I believe that the cases I have cited demonstrate a need to restore the "Great Writ" to its once-hallowed position as a safeguard of our liberties. Our bill will accomplish precisely this.

This legislation would overrule Stone, Francis, and Wainwright. It would amend 28 U.S.C. 2254 to provide, first, that when a person in State custody applies to a Federal court for a writ of habeas corpus, the application cannot be denied on the ground that the applicant did not raise the claim at trial or in a pretrial proceeding in the State court, unless the court finds that the applicant understandingly and knowingly decided not to raise the claim; and, second, that an otherwise valid claim for a writ of habeas corpus cannot be denied simply because the State courts furnished the applicant with a full and fair opportunity to litigate his claim.

This legislation would also amend 28 U.S.C. 2255 to provide the same protections for those in Federal custody.

There are five crucially important reasons why this legislation ought to become law.

First, the writ of habeas corpus is itself one of our most cherished constitutional rights and safeguards other constitutional rights. Its arbitrary reduction in scope diminishes the freedom of all Americans.

Second, Stone, Francis, and Wainwright reverse, without justification or real explanation, the previous 50-year trend toward expansion of the scope of habeas corpus.

Third, these decisions seem to be partly motivated by a desire on the part of the Supreme Court to reduce the caseload of the Federal courts. I agree that our overcrowded Federal court dockets are a serious problem, but the remedies for it must come from Congress, not from the Court, in decisions which attempt to reduce the caseload by stripping away constitutional rights and protections.

Fourth, these decisions set forth requirements that may prove more difficult to implement than the pre-1976 habeas standards. At present instead of dealing with Federal habeas petitions on the merits, the Federal courts are compelled to launch lengthy investigations of whether or not a "full and fair" opportunity to litigate fourth amendment or other constitutional claims was offered at trial. The resolution of these inquiries will in turn depend on whether or not the petitioner's counsel was competent and whether there was adequate consultation between the petitioner and his trial counsel. I beileve that the pre-Stone system was fairer to habeas petitioners and was more efficient for the Federal courts.

Finally, these decisions are, in essence, an attempt by the Supreme Court to usurp Congress power under article III to define the jurisdiction of the inferior Federal courts.

I believe that Congress ought to accept this challenge and enact this legislation which will reassert both our determination to retain our power to define the jurisdiction of the Federal courts and our equally firm belief that essential constitutional rights must be safeguarded.

These decisions purport to interpret a Federal statute. It is in Congress power to clarify the statutory language so that the Court could not interpret the statute so restrictively in the future.

Mr. President, I urge early consideration of this bill by the Judiciary Committee and speedy action on it by the full Senate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2254 of title 28, United States Code, is amended—

(1) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (c), (d), (e), (f), and (g), respectively;

(2) by adding immediately after subsection (a) the following new subsection:

"(b) No application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall be denied on the ground that such State afforded the applicant a full and fair opportunity to raise and have decided his claim that his rights, privileges, or immunities under the Constitution or laws or treaties of the United States were violated by officers of such State, or any agency or political subdivision thereof, in connection with the investigation, apprehension, processing, or conviction of such person or any appeal relating to the judgment of such State court.";

(3) by inserting "(1)" immediately before "An" in subsection (d), as redesignated by paragraph (1) of this section; and

(4) by adding at the end of subsection (d), as redesignated in paragraph (1) of this section, the following:

"(2) No application for a writ of habeas corpus shall be denied under this section on the ground that the applicant did not raise the claim at trial or in any pretrial proceeding unless after a hearing the court finds that such applicant, after consultation with competent counsel or after a knowing and understanding waiver of the right to counsel, understandingly and knowingly forwent the privilege of seeking to vindicate his claim in the State courts.".

SEC. 2. Section 2255 of title 28, United States Code, is amended—

(1) by adding immediately after the second paragraph the following:

"No motion for such relief shall be denied on the ground that such prisoner was afforded a full and fair opportunity to raise and have decided his claim that his rights, privileges, or immunities under the Constitution or laws or treaties of the United States were violated by officers of the Federal Government or any agency or political subdivision thereof, in connection with the investigation, apprehension, processing, or conviction of such prisoner or any appeal relating to the sentence of such court."; and

(2) by adding after the fifth paragraph of such section, taking into account the new paragraph added by paragraph (1) of this section, the following:

"No such motion shall be denied on the ground that the prisoner did not raise the claim at trial or in any pretrial proceeding unless after a hearing the court finds that such applicant, after consultation with competent counsel or after a knowing and understanding waiver of the right to counsel, understandingly and knowingly forwent the privilege of seeking to vindicate his claim in such trial court or in such pretrial proceedings.".●

By Mr. WALLOP (for himself and Mr. SIMPSON):

S. 1819. A bill to amend the Internal Revenue Code of 1954 to provide a refundable tax credit for investment in qualified industrial conservation projects; to the Committee on Finance.

INDUSTRIAL ENERGY CONSERVATION INCENTIVE TAX ACT

● Mr. WALLOP. Mr. President, today Mr. SIMPSON and I are introducing legislation to provide tax incentives for industrial energy conservation projects. In my judgment, legislation such as that which I am proposing can contribute significantly over the next decade to reducing our dependence upon imported energy.

By any standard of measurement, the energy consumed by American industry is substantial in amount and it must remain so for a healthy and vigorous domestic economy. Industrial conservation efforts already undertaken have produced significant energy savings, but there is a potential for substantial additional savings to be achieved with existing proven technology. Projects to achieve these conservation savings are in many instances not going forward today because the capital required for them is such that they do not produce an adequate real rate of return on investment. As the price of energy continues to rise, many of these projects will ultimately be undertaken. However, for the decade of the 1980's, incentives are needed if these conservation projects are to be undertaken.

The legislation I am introducing today is designed to stimulate these projects by providing tax incentives which are sufficient to produce an adequate real rate of return on investment, but only where the granting of such tax incentives is "cost effective" to the Nation. A project would be considered cost effective to the Nation in all cases where the cost of the energy conserved by the project is less than the cost of producing an equivalent amount of energy from an alternative energy source. For simplicity, that alternative cost is set at a uniform figure of $32 in the bill. I am hopeful that this legislation will be considered and acted upon favorably by the Committee on Finance during its current deliberations on energy.

Under this legislation, tax incentives would be made available for industrial conservation projects which, first, modify or replace all or part of an existing domestic productive facility; second, result in the utilization of less energy, other than coal, per unit of production; and third, to not increase the amount of oil and gas consumed per unit of production. The legislation thus applies both to projects which result in more efficient use of energy and to projects which involve conversion to coal, our most abundant domestic energy resource. In addition, the bill specifies a minimum level of energy savings. Thus, incentives will be available only if there are quantifiable energy savings.

Once these initial tests have been met, tax incentives would be available but only if they are necessary to enable the taxpayer to realize a specified real rate of return on the project, and even then only if the granting of the incentives is cost effective to the Nation. If the energy savings entailed in a conservation project will provide a 15-percent real rate of return on investment, then there is no need for an investment incentive from the Government, and the tax credit is denied. There is no need to provide Government funds for conservation projects that would proceed without Government grants or tax incentives. These two concepts are designed to assure that we achieve the maximum possible energy savings for each dollar of tax incentives.

The tax incentive is cast as a refundable additional investment tax credit, and amount of the additional credit is in each case to be equal to that necessary to enable the taxpayer to realize a real rate of return of 15 percent on the capital invested in the project. The amount of the additional credit, which cannot exceed 30 percent, is determined by a formula which takes into account all of the costs and benefits of the project, including energy savings, existing tax incentives, and increases in production or capacity. Thus, the credit allowed will vary from project to project and will in all cases be equal to that necessary to produce the target real rate of return of 15 percent, but no more.

A central feature of this legislation, Mr. President, is that the tax incentives, even if needed by the taxpayer to produce a 15-percent real rate of return, will not be made available unless it is cost effective for the Nation to do so. Whether the granting of incentives for a particular conservation project is cost effective to the Nation is determined by first calculating the price, expressed in terms of dollars per barrel of oil equivalent, at which the energy conserved by the project would have to be sold by the taxpayer in order for the taxpayer to realize a real rate of return of 15 percent. This "conservation price" is then compared with the cost, expressed in dollars per barrel of oil equivalent, of producing the same amount of energy from an alternate domestic energy source.

For simplicity, the bill sets the alternative energy cost at $32 per barrel of oil equivalent. This figure would increase with the price of oil. So long as the conservation price is less than the alternative energy price of $32, the granting of incentives for the project is cost effective to the Nation. However, if the conservation price exceeds the alternative energy price, granting of the incentives is not cost effective to the Nation and the incentives are, therefore, to be denied.

Mr. President, cost effective incentives for industrial energy conservation are a necessary part of any effective short-term strategy to reduce our growing dependence upon imported energy. Such savings can be achieved with existing technology, but only if we are prepared to meet, on a cost effective basis, the need to provide capital, through incentives, for qualified conservation projects. More is involved in these projects than improved operating procedures and relatively minor modifications to existing equipment. What is now involved are costly projects to replace existing equipment or modifying processes to reflect current energy efficient technologies. Carefully tailored incentives can stimulate these projects and result in increased energy savings.

The legislation I am introducing today is designed to meet these goals. Undoubtedly, as with any legislation, further refinements and improvements can be made as the legislative process moves forward. I look forward to working with my colleagues on the Finance Committee in fashioning the best possible response for cost effective tax incentives for industrial energy conservation.

I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Industrial Energy Conservation Incentive Tax Act".

SEC. 2. ALLOWANCE OF CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by inserting after section 44C the following new section:

"SEC. 44D. INVESTMENT IN QUALIFIED INDUSTRIAL CONSERVATION PROJECTS.

"(a) GENERAL RULE.—There is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage (determined under subsection (b)) of the qualified investment (as determined under sections 46(c) and (d)) in section 38 property (determined without regard to the words '(not including a building or its structural components)' in section 48 (a) (1) (B)) which is (or, for the purpose of applying section 46(d), will be) qualified industrial energy conservation property.

"(b) DETERMINATION OF PERCENTAGE.—

"(1) IN GENERAL.—For purposes of subsection (a) the applicable percentage is the smaller of—

"(A) 30 percent, or

"(B) the percentage determined under paragraph (2).

"(2) PARAGRAPH (2) PERCENTAGE.—For purposes of subparagraph (B) of paragraph (1), the percentage determined under this paragraph is that percentage (if any) which is necessary to enable the taxpayer to realize a real rate of return on investment in the property, over the useful life of the property, of 15 percent. The percentage described in the preceding sentence shall be determined, under regulations prescribed by the Secretary, by taking into account the cost of the property, the amount of the credit allowed by section 38 with respect to that property (determined without regard to this section and without regard to the energy percentage under section 46(a) (2) (C)), the amount of any deduction allowable with respect to such property under part VI of subchapter B of this chapter (relating to itemized deductions for individuals and corporations), the cost decreases resulting from the energy saved by the property, and all other costs and benefits resulting from the investment, including any reduction in production costs properly attributable to the use of such property, and a real rate of return on investment of 15 percent.

"(c) LIMITATION BASED ON ALTERNATIVE ENERGY COST EQUIVALENT.—

"(1) IN GENERAL.—If the conservation price of the taxpayer's qualified investment in qualified industrial energy conservation property with respect to a facility, item of equipment, or process exceeds the alternative energy cost equivalent, the amount of the credit allowed by subsection (a) with respect to that investment shall be zero.

"(2) CONSERVATION PRICE.—For purposes of paragraph (1), the conservation price of such a qualified investment shall be the cost over the useful life of the modified or replaced facility, equipment, or process, expressed in terms of dollars per barrel of oil equivalent, of producing the energy savings properly attributable to the replacement or modification of the facility, equipment, or process with respect to which the credit is allowed. Pursuant to regulations prescribed by the Secretary, the conservation price shall be determined by taking into account the energy saved, and the corresponding cost of the replacement or modification, the credit allowed by section 38 with respect to the qualified investment in property involved in the replacement or modification (determined without regard to this section and without regard to the energy percentage under section 46(a) (2) (C)), the amount of any deduction allowable with respect to such property under part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), all other costs and benefits resulting from the investment, including any reduction in production costs properly attributable to the use of such property, and a real rate of return of 15 percent. Determinations under this paragraph with respect to electricity shall be made by employing a heat rate of 10,000 Btu per kilowatt hour.

"(3) Alternative energy cost equivalent.—For purposes of paragraph (1), the alternative energy cost equivalent of a barrel of oil shall be $32. The $32 amount in the preceding sentence shall be increased annually, beginning with 1980, by the Secretary by an amount which bears the same ratio to $32 as the amount, if any, by which the average landed price of a barrel of crude oil not produced in the United States during the 12-month period ending on September 30 of the year in which the determination is being made exceeds the average landed price of such oil for the 12-month period ending on September 30, 1979.

"(d) DEFINITIONS.—For purposes of this section—

"(1) Qualified industrial energy conservation property.—The term 'qualified industrial energy conservation property' means industrial energy conservation property used by the taxpayer as a modification to, or a replacement of, all or part of an existing productive facility, item of equipment, or process located in the United States if such modification or replacement—

"(A) results in the utilization of less energy per unit of production,

"(B) does not increase the total amount, in barrels of oil equivalent, of oil and natural gas (other than petroleum coke and waste gases from industrial operations) consumed per unit of production, and

"(C) results in an aggregate annual decrease in energy consumption, based upon levels of production in effect before such modification or replacement, of 15,000 or more barrels of oil equivalent per year.

"(2) INDUSTRIAL ENERGY CONSERVATION PROPERTY.—The term 'industrial energy conservation property' means tangible property—

"(A) used as an integral part of manufacturing, production, or extraction.

"(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

"(C) the useful life of which (determined as of the time such property is placed in service) is 3 years or more,

"(D) the original use of which commences with the taxpayer, and

"(E) which is part of, physically attached to, or otherwise directly associated with the property the use of which results in the utilization of less energy per unit of production.

"(3) Existing.—The term 'existing' means—

"(A) when used in connection with a building or facility, a building or facility the construction, reconstruction, or erection of which is completed before the date of enactment of the Industrial Energy Conservation Incentive Tax Act,

"(B) when used in connection with equipment, such equipment was placed in service before such date of enactment, and

"(C) when used in connection with a process, such process was carried on as of such date of enactment.

"(4) Alternate substance.—The term 'alternate substance' means any substance other than—

"(A) oil,

"(B) natural gas, or

"(C) any product of oil or natural gas.

"(e) Special Rules.—

"(1) Application of investment credit rules.—

"(A) Credit in addition to section 38 credit.—The credit allowed by this section is in addition to any amount allowed as a credit under section 38 (other than any amount determined under section 46(a)(2)(C) (relating to the energy percentage)).

"(B) Certain subpart B rules to apply.—

"(i) Except as otherwise provided in this section, the provisions of sections 47 and 48 are hereby made applicable, under regulations prescribed by the Secretary, to the credit allowed by this section, except that the words '(not including a building and its structural components)' contained in section 48(a)(1)(B) shall be disregarded and any reference to 'section 38 property' shall be treated as a reference to 'qualified industrial energy conservation property'.

"(ii) For the purpose of determining the amount of the taxpayer's qualified investment, the applicable percentage (for purposes of section 46(c)(1)) shall be 100 percent for all items without regard to the useful life of any particular item.

"(iii) For purposes of applying section 47, if qualified industrial energy conservation property is disposed of or converted into property which is not qualified industrial energy conservation property, and if such disposition or conversion occurs before it has been in service for half its useful life, the disposition or conversion shall be treated as having occurred before the close of the third year after the property was placed in service.

"(iv) No credit shall be allowed under this section for property which is public utility property (within the meaning of section 46(f)(5)).

"(v) In the case of a taxpayer which is not a corporation, the credit allowed by subsection (a) shall be allowed with respect to property of which such person is the lessor under the rules applicable to the credit allowed by section 38 set forth in section 46(e)(3) (but without regard to the limitations of section 48(a)(4) and (5).

"(2) Property financed by public funds.—Any investment in qualified industrial energy conservation property shall be reduced to the extent that such investment is made directly or indirectly, with funds provided for the acquisition or modification of such property by a grant paid by any agency of the United States.

"(3) Property financed by industrial development bonds.—In the case of qualified industrial energy conservation property which is financed in whole or in part by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax section 103. the applicable percentage, for purposes of subsection (a), shall be one-half of the applicable percentage determined under subsection (b).

"(4) Certain otherwise qualified property not to be treated as qualified.—No property shall be treated as qualified industrial energy conservation property if—

"(A) the taxpayer claims the energy percentage provided by section 46(a)(2)(C) with respect to that property, or

"(B) in the case of property which replaces an existing productive facility—

"(i) the replaced property is not retired from service, other than for use as a temporary replacement for the qualified industrial energy conservation property which replaced it during periods for which the qualified property is inoperable due to an emergency or on account of repairs or maintenance, or

"(ii) the replacement property is constructed on a site other than the site of the replaced property or reasonably adjacent to that site.

"(f) Recomputation of Credit Amount After Period of Operation.—The amount of the credit allowed by subsection (a) with respect to the taxpayers qualified investment in qualified industrial energy conservation property shall be redetermined as of the close of the first taxable year beginning after the property has been placed in service for more than 6 months, on the basis of actual costs and operating data and the alternative energy cost equivalent originally determined under subsection (c) with respect to the investment. If the amount of the credit so redetermined—

"(1) is greater than the amount of the credit allowed under subsection (a) for the taxable year in which the credit was claimed, then the excess shall be allowed as a credit against the tax imposed by this chapter for the taxable year for which the redetermination is made and added to the amount of the credit otherwise allowable under subsection (a) for that taxable year, or

"(2) is less than the amount of the credit allowed under subsection (a) for the taxable year in which the credit was claimed, then the tax under this chapter for the taxable year for which the redetermination is made shall be increased by the amount by which the credit allowed for the prior taxable year exceeds the amount of the credit as so redetermined.

"(g) Application of Credit to Projects to Convert to Coal.—In applying this section to industrial conservation projects which increase the taxpayers utilization of coal—

"(1) subsection (d)(1)(B) shall be disregarded, and

"(2) the computation of the applicable percentage under subsection (b) and the conservation price under subsection (c) shall take into account all costs and benefits associated with the utilization of coal.".

(b) Technical and Conforming Amendments.—

(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Investment in qualified industrial conservation projects.".

(2) Paragraph (8) of section 46(f) of such Code is amended by striking out "and the Revenue Act of 1978" and inserting in lieu thereof "the Revenue Act of 1978, and the Industrial Energy Conservation Incentive Tax Act".

(3) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(c) Refund of Excess Credit Attributable to Qualified Industrial Energy Conservation Property.—Section 6401(b) of such Code (relating to amounts treated as overpayments) is amended—

(1) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit), and 44D (relating to investment in qualified industrial energy conservation projects),", and

(2) by striking out "and 43" and inserting in lieu thereof "43, and 44D".

(d) Effective Date.—The amendments made by this section shall apply to—

(1) property to which section 46(d) of the Internal Revenue Code of 1954 does not apply, the construction, reconstruction, or erection of which is commenced by the taxpayer after September 30, 1979, and before January 1, 1985, and which is placed in service before January 1, 1989,

(2) property to which section 46(d) of such Code does not apply, acquired by the taxpayer after September 30, 1979, and which is placed in service before January 1, 1989, and

(3) property to which section 46(d) of such Code applies which is placed in service before January 1, 1989, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) with respect to qualified progress expenditures made after September 30, 1979.●

By Mr. BENTSEN:

S. 1820. A bill to amend section 4941(d)(2) of the Internal Revenue Code of 1954 with respect to private foundations; to the Committee on Finance.

● Mr. BENTSEN. Mr. President, I am today introducing a bill to prevent certain private foundations from being subjected to an unnecessary cost burden by a technical provision of the Internal Revenue Code.

Under existing law, certain private foundations will be forced to move their offices by December 31, 1979 even though the foundation is paying a fair rent to the owners of the building. The cost of moving will result in a reduction in the funds available to the foundation to make charitable contributions. The legislation I am introducing will allow these foundations to continue maintaining their present office space as long as a fair rent is paid to the owner of the building—arms' length transaction. This rule is identical to the comparable provision of the Employee Retirement Income Security Act (ERISA).

My bill will prevent the imposition of an unnecessary cost on private foundations which would otherwise reduce the amount of funds available for charitable giving. At the same time the Internal Revenue Service will have full authority to prevent abuses.

Mr. President, under a technical provision of the Internal Revenue Code—section 4941(d)(1)(A)—leasing between a private foundation and a so-called "disqualified person" is considered an act of self-dealing and is prohibited. Such a lease is subject to the excise taxes imposed under section 4941. A transitional rule allows foundations to continue leasing until December 31, 1979, from "disqualified persons" if such leasing is pursuant to a lease—or renewals of a lease—which was in effect on October 9, 1969, and if the lease is as favorable to the foundation as an arm's length lease with an unrelated party.

My bill amends section 4941(d)(2) of the Code to permit a private foundation to lease office space from a disqualified person in a building in which there are tenants who are not disqualified persons if the lease terms are no less favorable to the foundation than they would be in an arm's length transaction.

Under the proposed amendment, foundations which were originally grandfathered would continue to be grandfathered indefinitely, but only where there were tenants in the building who were not disqualified persons. This latter provision would minimize any potential enforcement problems by the Internal Revenue Service in that an arm's length standard would be readily available to test the rental price being paid by the Foundation.

There is precedent for my proposal in ERISA. Section 4975(d)(2) of the tax code specifically allows leasing of office space on an arm's length basis between a disqualified person and a private pension plan.

I urge the Senate to Act favorably on my legislation.●

By Mr. MATHIAS:

S. 1821. A bill to establish a Nuclear Waste Management Authority, and for other purposes; to the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Governmental Affairs, jointly, by unanimous consent.

NUCLEAR WASTE MANAGEMENT REORGANIZATION ACT OF 1979

● Mr. MATHIAS. Mr. President, 2 months ago, President Carter outlined to the Nation what he termed a comprehensive energy plan to be implemented over the next several decades. "Nuclear power," he said, "must play an important role in the United States to insure our energy future." But conspicuously absent from the President's plan was any mention of one of the gravest and most urgent problems facing this country—the problem of nuclear waste management.

Two and one half years ago, I first raised the prospect of a solution to the problem of nuclear wastes, when I introduced the Nuclear Waste Management Act of 1977, on the opening day of the 95th Congress. That was the first action taken by any Member of the Congress to face the problem of nuclear waste management and to deal with it comprehensively. Since then, I am sorry to say, there has been no real progress toward solving this problem which grows more menacing by the day.

During the consideration of the legislation which created the Department of Energy in early 1977, I specifically proposed that a nuclear waste management function be assigned to the newly created Department. This proposal was adopted and included in the final version of the law and it should have been enough to get the Government off dead center on this issue. Indeed, that assurance was given by the administration witnesses during those hearings. But, to my surprise and chagrin, like so many grains of sand on the beach, that promise was quickly washed away.

The first act of the Department of Energy under this new nuclear waste management authority was to postpone the target date for the completion of a waste repository from 1985 to 1988. I protested then that:

> If we had heard of nuclear waste for the first time last year, it might be excusable for the administration to be floundering about as it gets its bearings. The fact is, though, that since before we ever split the atom, we have known that something would have to be done with the by-products of nuclear fission to keep them out of the environment.

Today, Mr. President, I am introducing a revised version of my earlier proposal, entitled the Nuclear Waste Management Reorganization Act of 1979, because we must not go any further down the road to nuclear energy development until we solve our nuclear waste disposal problem. Right now there are 75 million gallons of high-level nuclear waste from atomic weapons production in temporary storage facilities. And there will be 40 million more gallons of military radioactive waste by the year 2000. In addition, each of the United States 67 nuclear powerplants produces about 30 tons of spent fuel a year. They have already accumulated about 4,000 tons of radioactive waste and by the year 2000 as much as 100,000 tons will have accumulated in that deadly stockpile.

The costs involved in a nuclear waste disposal program will be large but they must be paid. Nobody knows exactly what the bottom line will be, but $20 billion for the military waste alone is the most conservative figure you hear. An energy program that glosses over the facts of nuclear waste disposal not only does a disservice to the American people, but substantially diminishes the prospects for the continued viability of nuclear energy itself.

Even were we to stop developing nuclear power tomorrow and ban nuclear weapons production, our nuclear waste disposal problem would remain. It simply is not going to disappear now or ever until we take vigorous action.

As noted in a recent article in the Progressive—

> The nuclear industry and the Federal Government badly need visible evidence of light at the end of the nuclear waste tunnel. Optimistic predictions, routinely issued for decades, are clearly wearing thin—threatening the commercial nuclear power industry and jeopardizing atomic weapons production as well. In recent months, several States have effectively prevented further reactor construction. Along with the shakiness of nuclear energy finances, absence of dependable storage for radioactive waste is key to the growing anti-nuclear sentiment of both the public and its elected officials. Thirty-five years after atomic fission became a reality and more than 5,600 Federal studies on waste management later, no solutions have emerged.

The permanent challenge which radioactive waste disposal poses to Government must be squarely faced immediately, before it is too late; before future generations are confronted with grave risks to health and environment. I do not wish to be associated with that kind of legacy, and I am sure my colleagues do not either. The bill I am introducing today is designed to prevent it.

Daily I receive letters from constituents in Maryland, and from people across the country urging that Congress address the problem of nuclear waste disposal. The recent accident at Three Mile Island brought the dangers of nuclear waste, its shipment, treatment and disposal under public scrutiny. What the public has discovered has sparked the demand for solutions.

A technical solution for long-term disposal of nuclear wastes—sealed storage in stable geologic formations such as salt beads—was recommended to the Congress several years ago. And, incredible as it seems, that same recommendation was made by the National Academy of Sciences to the Atomic Energy Commission 20 years earlier. But, after years of studies, research, and development, we still have no long-term way to manage nuclear waste and no comprehensive scheme to regulate such waste.

Mr. President, my bill would establish an independent, self-financing Government agency to control existing and future commercial and military radioactive waste facilities. This agency, to be known as the Nuclear Waste Management Authority, would deal with the high-level and transuranic wastes which are the most threatening to humanity.

A study done for the Energy Research and Development Administration by Mason Willrich under the auspices of the Energy Laboratory at the Massachusetts Institute of Technology concludes that the—

> Existing organization for radioactive waste management will be unworkable if left unchanged . . . Bifurcated responsibility for an essentially integrated series of waste management operations creates incentives for each sector to pass through to the other as much as possible of the risks and costs . . . One pervasive deficiency in the existing waste management structure is that it does not tend to generate strong incentives for efficient management.

Our present organization for dealing with radioactive wastes thwarts the effective management of waste disposal. The diffuse pattern of responsibility in this area and conflicting interests have resulted in too little being done. The bill I am introducing today provides a new and efficient means for managing waste disposal in a new, independent Government authority. This agency would finance itself by selling bonds and charging fees for waste disposal. Thus, while safety and efficiency would increase, there would be no increase in Federal expenditures.

This agency would own all high-level and transuranic waste facilities, including facilities for temporary storage, treatment, and permanent disposal of wastes and any specially constructed waste transport containers. It would take over existing commercial and military waste facilities.

The Authority would then have the complete responsibility for getting the job of storage, treatment, and finally, disposal of nuclear waste materials accomplished. The Authority is directed by the bill to prepare plans, construct, and operate facilities for long-term surface storage of spent fuels, for nuclear waste treatment plants which will be available to convert liquid wastes to solid form, and for permanent nuclear waste repositories.

In each of these tasks, the Authority is directed to obtain the concurrence of the Congress in actions it plans to take. In addition, the Congress and interested States are to be closely involved in the selection of storage and disposal sites. The bill establishes a mechanism for the participation of States in this process, in order to insure the protection of all interests involved.

Finally, the Nuclear Waste Management Reorganization Act of 1979 would provide a foundation for the international regulation of hazardous radioactive waste materials. Under the bill, a commission would undertake a worldwide feasibility study to recommend sites to serve as repositories for nuclear wastes. It would work closely in this study with the Department of State and the International Atomic Energy Agency, and would build on the recommendations of the international nuclear fuel cycle evaluation.

Mr. President, the problems that this country faces with respect to nuclear waste management are not going to dissipate. In fact, unless we act now, they can only grow worse. I introduce this legislation as the step that must be taken now to implement a comprehensive, efficient, safe, and workable solution to the ever-mounting problem. It demands consideration because the very future of this country depends on how and how soon we solve our critical problem of nuclear waste management.

Mr. President, I ask unanimous consent that the text of the Nuclear Waste Management Reorganization Act of 1979 be printed at this point in the RECORD, together with a two-part article from the July 9 and 10, 1979 New York Times on the problems surrounding nuclear waste management.

There being no objection, the bill and articles were ordered to be printed in the RECORD, as follow:

S. 1821

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Waste Management and Reorganization Act of 1979".

TITLE I—DECLARATION OF FINDINGS AND PURPOSES; DEFINITIONS

DECLARATIONS OF FINDINGS AND PURPOSES

SEC. 101. The Congress finds that—

(1) there is a concern among the citizenry, within the scientific community, and within the international community of nations with regard to the potential for present and future contamination of the natural and human environment by radioactive and toxic substances which are produced through the use of nuclear energy no matter what the purpose;

(2) thirty years of effort by the federal government have been ineffective in establishing and implementing a nuclear waste management policy;

(3) the American public is increasingly skeptical of the ability of present federal institutions to deal with the long-term management and safe disposal of nuclear wastes;

(4) nuclear wastes from civilian and military programs are rapidly accumulating and represent a potential long-term hazard to public health and safety;

(5) the Department of Energy and its predecessor agencies have been ineffective in providing the necessary leadership on the nuclear waste management issue; in part, due to their conflicting responsibilities for energy policy, supply, and technological developments;

(6) the recent Report to the President by the Interagency Review Group on Nuclear Waste Management, while a valuable contribution to the discussion of the issues, demonstrates the ineffectual nature of committee decisions by offering compromise positions and noncommittal recommendations;

(7) there is a compelling need to establish a policymaking framework which will assure the development of a national nuclear waste disposal plan, and will establish a decisionmaking process with clearly defined authority for decision;

(8) Congress should maintain strict oversight over decisions involving nuclear waste policy;

(9) An independent executive agency should be established which will develop policies for, and establish and manage facilities for, the treatment, storage, and ultimate disposal of nuclear wastes from military weapons programs and the government and commercial nuclear power programs;

(10) while there may be some delay attendant to the establishment of a new agency, such delay is justified by the long-term benefits of establishing a functional decision-making process;

(11) Congress should declare that it shall be a national policy to provide for long-term storage of fuel from domestic nuclear reactors and for military wastes:

(a) the technology for such long-term storage presently exists and it is technically feasible to safely store nuclear wastes for decades;

(b) long-term storage will permit deliberate, scientific research, development and demonstration of safe permanent means of nuclear waste disposition;

(c) long-term storage allows for decay of radioactive isotopes and heat from nuclear wastes, facilitating safe permanent disposal;

(d) long-term storage permits recovery of valuable energy resources in the spent fuel from nuclear reactors in the spent fuel from nuclear reactors if the Nation should decide on such an energy policy.

SEC. 102. Therefore the Congress declares that it is the purpose of this Act:

(1) To establish an independent executive agency to be known as the Nuclear Waste Management Authority (hereinafter in this Act referred to as the "Authority"). The Authority shall have the sole responsibility for and shall be required to develop a nuclear waste treatment and disposal plan.

(2) To establish an interim program of long-term storage of nuclear wastes.

(3) To establish the jurisdiction of Federal agencies and the States with respect to management, storage and disposal of nuclear wastes.

(4) To establish a nuclear waste trust fund.

(5) To direct the Authority to take the lead with the Department of State in fostering international cooperation in developing solutions to nuclear waste management problems.

DEFINITIONS

SEC. 103. For the purposes of this Act—

(1) the term "Department" shall mean the Department of Energy;

(2) the term "Secretary" shall mean the Secretary of Energy;

(3) the term "Authority" shall mean the Nuclear Waste Management Authority established by section 202 of this Act;

(4) the term "Executive Director" shall mean the Executive Director of the Authority;

(5) the term "nuclear waste" shall mean high-level waste, transuranic contaminated waste and low-level waste;

(6) the term "high-level waste" shall mean the highly radioactive wastes resulting from the reprocessing of spent nuclear fuel, and includes both the liquid waste which is produced directly in reprocessing and any solid material into which such liquid waste is made;

(7) the term "transuranic nuclear waste" shall mean material contaminated with elements having an atomic number greater than 92, including neptunium, plutonium, americium, and curium, in concentrations of greater than 10 nanocuries per gram;

(8) the term "low-level waste" shall mean material contaminated with radioactive elements emitting beta or gamma particles or with traces of transuranic elements in concentrations less than nanocuries per gram;

(9) the term "spent nuclear fuel" shall mean fuel which has been discharged from a nuclear reactor following irradiation, whose constituent elements have not been separated by reprocessing; and

(10) the term "radioactive mine and mill tailings" shall mean the radioactive remaining portion of metal-bearing ore, such as uranium, after some or all of the metal has been extracted.

TITLE II—NUCLEAR WASTE MANAGEMENT AUTHORITY

ESTABLISHMENT AND FUNCTIONS

SEC. 201. (a) There is established an independent executive agency to be known as the Nuclear Waste Management Authority. The Authority shall be headed by an Executive Director appointed in accordance with the provisions of Sec. 202.

(b) All functions, powers, and duties of the Department of Energy with regard to disposal are hereby transferred to the Authority.

(c) subject to the provisions of this Act, the Authority shall perform functions as are necessary to carry out the purposes of this Act including the—

(1) acquisition of existing nuclear waste facilities not owned by the United States;

(2) establishment of control over existing government facilities for the treatment, transportation, and storage of nuclear wastes and spent nuclear fuel, including casks, buildings, vehicles, equipment and other materials associated with such facilities;

(3) design, construction, operation, and management of all temporary and permanent nuclear waste facilities within the United States and all government owned away-from-reactor facilities for the storage of spent nuclear fuel;

(4) establishment of programs for the treatment, management, storage and disposal of nuclear wastes and spent nuclear fuel, including necessary research and development activities related thereto;

(5) establishment, collection, and deposit of fees in the Nuclear Waste Management Fund for nuclear waste treatment services and storage of nuclear wastes and spent nuclear fuel;

(6) establishment of a Nuclear Waste Treatment and Disposal Plan outlining how, when and where the United States shall accomplish the safe disposal of its existing and future nuclear waste and the storage of spent nuclear fuel; and

(7) promulgation of such rules and regulations to implement the authority granted under this Act.

(d) Nothing in this section shall be construed to grant to the Authority regulatory functions of the Nuclear Regulatory Commission held by such Commission on the date of enactment of this Act.

(e) All functions, powers, and duties of the Department of Energy with regard to radioactive mine and mill tailings are hereby transferred to the Authority. Nothing in this section shall be construed to grant to the Authority regulatory or management functions with respect to radioactive mine and mill tailings of the federal agencies, states, Indian tribes or private enterprises as set forth in the Uranium Mill Tailings Radiation Control Act of 1978 (Public Law 95-604).

OFFICERS AND PERSONNEL

SEC. 202. (a) The Executive Director and the Deputy Executive Director, shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The President shall appoint the Executive Director and the Deputy Executive Director from among individuals who by reason of their general background and experience are specially qualified to manage a full range of nuclear waste management programs.

(c) There shall be in the Authority a General Counsel who shall be appointed by the Executive Director and who shall serve at the pleasure of and be removable by the Executive Director. Officers appointed pursuant to this section shall perform such functions as the Executive Director shall specify from time to time. The Executive Director shall delegate to one such officer a special responsibility for international cooperation in all nuclear waste management programs.

(d) Except as otherwise expressly provided by law, the Executive Director may delegate any of his functions to such officers and employees of the Authority as he may designate, and may authorize successive redelegations of such functions as he may deem necessary or appropriate.

(e) The Executive Director is authorized to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions now or hereafter vested in him and prescribe their functions. Positions and current Budget authority of the Department of Energy relating to nuclear waste disposal shall be transferred to the Authority 90 days after the date of enactment of this Act.

(f) The Executive Director is authorized to obtain services as provided by section 3109 of title 5 of the United States Code. The Executive Director is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses in accordance with chapter 57 of title 5 of the United States Code for travel while at places of duty, of persons appointed for emergency, temporary or seasonal services in the field services of the Authority.

(g) The Executive Director is authorized to utilize on a reimbursable basis, the services of any personnel made available by any department, agency, or instrumentality including any independent agency of government.

(h) The Executive Director is authorized to establish advisory boards, in accordance with the provisions of the Federal Advisory Committee Act (Public Law 92-463), to advise with and make recommendation to the Authority on legislation, policies, administration, research, and other matters.

(i) Notwithstanding any other provisions of law, the Executive Director is authorized to employ persons who are not citizens of the United States in expert, scientific, technical, or professional capacities whenever he deems it in the public interest.

ADMINISTRATIVE PROVISIONS

SEC. 203. (a) The Executive Director shall prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to perform the functions prescribed by this Act.

(b) The Executive Director shall engage in policy planning, and perform programs evaluation analysis and such other studies, as may be necessary to promote the efficient and coordinated administration of the Authority and properly assess progress toward achievement of its stated goals.

(c) The Executive Director is authorized to establish, maintain, alter or discontinue such State, regional, district, local, or other field offices as he may deem necessary or appropriate to perform the functions prescribed by this Act.

(d) The Executive Director shall cause a seal of the office to be made for the Authority of such device as he shall approve and judicial notice shall be taken of such seal.

(e) Notwithstanding any other provision of law, the Nuclear Regulatory Commission shall have exclusive licensing and related regulatory authority including but not limited to the establishing of rules, criteria and standards, with regard to all existing and future commercial nuclear waste materials, all nuclear waste treatment and storage facilities and all spent fuel storage facilities including—

(1) temporary storage;

(2) permanent disposal;

(3) treatment of commercial high-level waste and transuranic nuclear waste; and

(4) transportation of nuclear wastes.

(f) Except for public buildings as defined in the Public Buildings Act of 1959, and with respect to the lease space subject to the provisions of the Reorganization Plan No. 18 of 1950, the Executive Director is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain facilities and real property as the Director deems to be necessary in and outside the District of Columbia, except that such authority shall apply only to facilities required for the maintenance and operation of facilities, quarters and related accommodations for employees and dependents of employees of the Authority and such other special purpose real property as the Executive Director deems to be necessary in and outside the District of Columbia. Title to property or interest therein, real, personal, or mixed, acquired pursuant to the provisions of this section shall be in the United States.

(g) (1) The Executive Director is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(A) emergency medical services and supplies;

(B) food and other subsistence supplies;

(C) messing facilities;

(D) audio-visual equipment, accessories, and supplies for recreation and training;

(E) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(F) living and working quarters and facilities; and

(G) transportation for school age dependents of employees to the nearest appropriate educational facilities.

(2) The furnishing of medical treatment under subparagraph (A) of paragraph (1) and the furnishing of services and supplies under subparagraphs (B) and (C) of paragraph (1) shall be at prices reflecting reasonable values as determined by the Executive Director.

(h) The Executive Director is authorized to require any of the following described rights if the property acquired thereby is for use in, or is useful to the performance of the functions vested in him:

(1) copyrights, patents, and applications for patents, designs, processes, specifications, and data;

(2) licenses under copyrights, patents, and applications for patents.

INTERAGENCY COOPERATION

SEC. 204. Each department, agency and instrumentality of the Executive Branch of the Government is authorized and directed to furnish the Authority, upon the request of the Executive Director, any information or other data which the Executive Director deems necessary to carry out his duties under this Act.

TITLE III—LONG-TERM SURFACE STORAGE

SEC. 301. The Congress hereby finds that—

(1) considerable research and development activities have been carried out over the last two decades on the long-term storage and permanent disposal of nuclear waste and spent fuel;

(2) it appears technically feasible to safely store nuclear waste and spent fuel in geologic media for many thousands of years;

(3) safe, long-term surface storage of nuclear waste and spent fuel is readily achievable;

(4) there are no technical, environmental or economic reasons requiring early operation of either a permanent repository or a long-term storage facility for nuclear waste and spent fuel;

(5) further research and development into alternatives for permanent disposal will permit a higher degree of confidence and a more cost-effective design.

SEC. 302. Therefore Congress declares that it is the purpose of this Title to provide for the long-term surface storage of military nuclear waste, spent fuel and nuclear waste from domestic nuclear reactors and, where appropriate and consistent with applicable law, foreign nuclear reactors.

SEC. 303. The Executive Director is authorized to conduct a study into the feasibility of long-term surface storage of nuclear waste and spent fuel, and shall select a site or sites for such storage and construct one or more facilities for such storage in accordance with the provisions of this Title.

SEC. 304. Each site for a facility for long-term storage of spent fuel and nuclear waste (hereinafter in this Title referred to as "long-term facility") shall be located on a federal reservation at which there are on-going nuclear activities at the time of enactment of this Title.

SEC. 305. The long-term facility shall provide surface or near-surface storage, and shall be designed to store spent fuel and nuclear waste for at least 100 years, and to permit retrievability of such stored spent fuel. Such long-term facility shall utilize passive cooling, and shall permit modular construction of storage units.

SEC. 306. The Executive Director shall take all appropriate steps to assure that a long-term facility, including the initial module of storage units, shall be available to receive and store spent fuel by January 1, 1988.

SEC. 307. Within one year from the date of enactment of this Act, the Secretary shall submit to the President, each House of the Congress, and the Governor of the State in which the site of the long-term facility is to be located, a report with detailed recommendations, including but not limited to—

(a) selection of the site for the long-term facility, as described in section 304;

(b) the general design of the long-term facility, as described in section 305;

(c) a schedule for detailed design, environmental review, licensing and construction to support availability of long-term facilities consistent with the date specified in section 306;

(d) criteria for the packaging and condition of spent fuel and nuclear waste at the time of its receipt at a long-term facility;

(e) the projected cost per year for the design, construction and operation of the long-term facility over its design life;

(f) the proposed criteria for determining the fees to be charged for long-term storage and ultimate disposal of spent fuel and nuclear waste;

(g) an estimate of the fees to be charged;

(h) projected storage capacity and facility requirements in yearly increments through the year 2000, assuming continued deferral of reprocessing;

(i) the organizational and management approach for construction and operation of the long-term facility.

SEC. 308. (1) The Executive Director shall enter into contracts to accept and take title to, and to provide long-term storage and ultimate disposal of spent fuel and nuclear waste. The fees for such services shall be established on a non-discriminatory and one-time basis and shall provide for recovery of the Government's costs. Contracts entered into pursuant to this section shall provide for the refund of an appropriate portion of the fee in the event that it is determined that spent fuel may be reprocessed and the spent fuel is returned to the former owner for reprocessing.

(2) The Executive Director shall establish criteria in writing setting forth the terms and conditions under which services provided under this section shall be made available; *Provided*, That before the Executive Director establishes such criteria, the proposed criteria shall be submitted to the Senate Energy and Natural Resources and House Science and Technology Committees, and a period of forty-five days shall elapse while Congress is in session (in computing the forty five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days) unless the aforementioned Committees by resolution in writing waive the conditions of, or all or any portion of, such forty-five day period.

SEC. 309. Section 202(4) of the Energy Reorganization Act of 1974 is amended to read:

"(4) Retrievable Surface Storage Facilities and other facilities for the express purpose of subsequent long-term storage of high-level radioactive waste or spent fuel, which are not used for, or are part of, research and development activities."

SEC. 310. All requirements imposed by the National Environmental Policy Act of 1969 (Public Law 91-190) for the preparation of a detailed statement and the consideration of alternatives with respect to the siting, design, licensing, construction and operation of the long-term facility shall be met by the preparation by the Executive Director of a detailed statement; *Provided*, That with respect to the requirements imposed by the National Environmental Policy Act of 1969, this Act shall be deemed adequate consideration of the need for the long-term facility, the timing of the initial availability of the long-term facility, alternative sites for the long-term facility, and alternative methods for the long-term storage of spent fuel and nuclear waste; *Provided further*, That no further consideration of such matters shall be required.

SEC. 311. The Nuclear Regulatory Commission shall not deny, withhold or delay the granting of licenses for nuclear power reactors based upon any finding or determination concerning the status or progress of programs and facilities for the long-term storage or permanent disposal of nuclear wastes and spent fuel; *Provided*, That nothing herein shall be construed to affect the Commission's consideration of the environmental impacts of such long-term storage of permanent disposal in its review pursuant to the National Environmental Policy Act of 1969 of the licensing of such reactors.

TITLE IV—NUCLEAR WASTE TREATMENT AND DISPOSAL

THE GENERAL PLAN

SEC. 401. Not later than one year after the date of enactment of this Act, the Authority shall submit to Congress a Nuclear Waste Treatment and Disposal Plan (hereinafter referred to as the "Plan"). The Plan shall contain a timetable and budget for any research, demonstration, or development activity that is needed to determine the appropriate methods for the safe treatment, transportation, and disposal in perpetuity of high level and transuranic nuclear waste, and spent nuclear fuel. The Plan shall identify any technical uncertainties that need to be resolved by scientific or engineering studies prior to the siting and construction of any liquid waste treatment plants or permanent nuclear waste repositories. The general Plan shall include:

(a) a program (including schedules) for siting, construction, and operation of nuclear waste treatment plants needed to convert the existing and projected inventory of liquid nuclear waste to solid form by 1995;

(b) a program for safely moving spent nuclear fuel, and high level and transuranic nuclear waste from point of origin to any intermediate points and to final disposal in repositories;

(c) a program (including schedules) for siting, construction and operation of pilot or experimental nuclear waste facilities and their projected costs and duration;

(d) a program (including schedules) for siting, construction and operation of permanent nuclear waste repositories that will be required by the year 2000 for the safe disposal of high level nuclear waste, transuranic waste and spent nuclear fuel, including the development of engineering specifications and designs for the construction of permanent repositories and the development of specific information required to proceed with the siting, construction, and operation of such repositories;

(e) the financial provisions for the implementation of the Nuclear Waste Management Fund authorized by Section 501 of this Act, including estimates of the cost of acquisition of any facilities not owned by the Authority;

(f) a program (including schedules) for siting, construction and operation of facilities for the interim storage of spent fuel at away-from-reactor sites that will be available for operation by January 1, 1984; and

(g) an identification of all generic and site specific environmental impact statements to be issued by the Authority in connection with this Plan and facilities described in subsections (a), (c), (d), and (f), above, and the schedules for their issuance.

THE SITE DEVELOPMENT PLAN

SEC. 402. (a) Concurrent with the submittal of the Budget for the Authority and no later than January 30, 1981, the Authority shall submit to the Congress individual site development plans for one or more liquid waste treatment plants and one or more high level and transuranic nuclear waste, and spent nuclear fuel repositories.

(b) The site development plans required by subsection (a) shall include—

(1) the specific locations of the most technically feasible liquid waste treatment plant and repository sites;

(2) the status of the designs and engineering specifications of any liquid waste treatment plant or repository sites, including any contracts entered into for such designs by the Authority;

(3) an identification and status report on all licenses, permits, and other regulatory requirements of Federal, State and local agencies related to the development of liquid waste treatment plants or proposed repository sites, and for the transport of nuclear waste materials to such sites; and

(4) the estimated capital and operating costs of each liquid waste treatment plant or repository site recommended by the Authority.

AMENDMENT AND APPROVAL OF PLANS

SEC. 403. (a) The Executive Director may make amendments to the general Plan or the Site Development Plan within the first 60 days after such Plans are submitted to Congress for approval.

(b) Any Committee of the Congress to which a Plan is referred in accordance with the rules of each House may, within 60 days of submittal, report to its respective House a resolution disapproving of the Plan. If a resolution of disapproval is not passed by both Houses within 30 days after the resolution is reported, such Plan shall be considered approved.

(c) In the event a Plan is disapproved, the Authority shall revise and resubmit the Plan within 60 days of such disapproval. Congress shall have 60 days from the date of submittal to enact a resolution of disapproval.

LOW LEVEL WASTE

SEC. 404. The Authority shall prepare and submit to the Congress within one year after the date of enactment of this Act a plan:

(a) defining the need for additional low-level waste sites (with designation of specific sites to be developed, if any), and the need for remedial action, if any, for existing low-level facilities;

(b) providing for the performance of additional research and development, as needed; and

(c) projecting the cost for the actions defined in subsections (a) and (b).

STATE PARTICIPATION

SEC. 405. (a) Upon the selection of a site for any nuclear waste treatment facility or permanent repository, the Executive Director shall notify the Governor of each State within 50 miles of the proposed facility, in writing, of such selection, and shall furnish each Governor all relevant information concerning the identification of such site and the plans for development of such site.

(b) The Executive Director shall work closely with and consult with each such Governor.

(c) The Authority may reimburse a Governor for the reasonable cost of his consultation with the Executive Director, analyses, and other work performed by the State, and other costs incurred by the State as a result of the siting and construction of a facility.

(d) The Authority shall hold hearings on the Nuclear Waste Treatment and Disposal Plant in Washington, D.C., and at a location within 50 miles of any proposed facility and at any other relevant location, if determined by the Executive Director to be required to ventilate fully the issues, prior to the date of submittal of such plans to Congress.

(e) The Executive Director shall seek advice from interested industry, public interest, governmental, scientific, and other organizations and individuals in the establishment of site development plans, prior to the submittal of such plans to Congress.

(f) The Executive Director shall consult with the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Commission, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality and the Secretaries of State, Defense, Energy, Interior and Transportation in the establishment of all waste plans.

(g) (1) The Governor of any State located within 50 miles of a planned facility shall have the right to file a formal objection with the Executive Director with regard to any aspect of the site development plans of such facility. Any such objection shall specify the nature of and reasons for the objection position. Such objection shall be filed with the Executive Director prior to the date of submittal of such Plans to Congress. An objection shall propose amendments to the plan, which if implemented, would remove the basis for such objection.

(2) In the event of a formal objection to a site development plan by a Governor, the Authority may not implement any aspect of such plan unless the Executive Director makes provision for resolving such objection, including the implementation of any amendments submitted with the objection, or unless the Executive Director makes a finding that the plan as prepared is necessary in order to provide for environmentally safe storage of nuclear waste, and the proposed amendments submitted with the objection should not be implemented.

(3) In the event of such a finding by the Executive Director, the Executive Director shall notify the Governor in writing of the nature of and justifications for such a finding. The Executive Director shall also submit the plan, objection and finding to the Congress, which shall have 60 days, during continuous session, to approve the plan. For purposes of this section, the period of continuous session is tolled by any day in which either House is not in session because of adjournment for more than three days.

EFFECT ON OTHER LAWS

SEC. 406. (a) Nothing in this Act shall be construed to affect the authority of the Nuclear Regulatory Commission to license and regulate high-level radioactive waste storage and disposal pursuant to section 202 of the Energy Reorganization Act of 1974 or of byproduct, source, or special nuclear material pursuant to section 201(f) of such Act.

(b) The Authority may seek Commission licensing of a facility designated in a site development plan prior to the approval of such plan by Congress. In the event that a plan is amended, applications to the Commission shall be amended accordingly.

(c) Nothing in this Act shall exempt the Authority from the requirements of the National Environmental Policy Act, unless specifically stated.

(d) The Authority shall provide such Environmental Reports and Environmental Impact Statements as may be required by the National Environmental Policy Act in conjunction with Nuclear Waste Plans, Development Plans, and other plans in a timely and expeditious manner.

TITLE V—FUNDING

NUCLEAR WASTE MANAGEMENT FUND ESTABLISHMENT AND POWERS

SEC. 501. (a) There is established in the Treasury of the United States a Nuclear Waste Management Fund (hereinafter referred to as the "fund"). The purpose of the Fund is to provide capital and operating expenses which are necessary for planning and administration, research and development, management, transport, treatment and disposal, and perpetual care and maintenance of commercially generated nuclear wastes, and such other financial needs as arise in the implementation of this Act with regard to such commercially generated wastes.

(b) The Fund shall be administered by the Executive Director without the requirement of annual authorizations in order to secure payment, when due; of the principal of, any redemption premium on, and any interest on all Fund bonds, by a first pledge of a lien on all revenues payable to and assets held in the Fund, and to carry out the purposes, functions and powers authorized in this Act.

(c) In order to achieve the objectives and to carry out the purposes of this Act the Executive Director may—

(1) issue and sell securities and Fund bonds;

(2) make and enforce such rules and regulations and make and perform such contracts, agreements, and commitments as may be necessary to carry out the purposes of this Act;

(3) prescribe and impose fees and charges for services rendered by the Authority pursuant to this Act;

(4) settle, adjust, and compromise, and with or without consideration or benefit to the Fund, release or waive, in whole or in part, in advance or otherwise, any claim, demand, or right of, by or against the Executive Director or the Fund;

(5) sue or be sued, complain and defend in any State, Federal, or other court;

(6) acquire, take, hold, own, deal with and dispose of any property, including bonds issued under the provisions of this title; and

(7) determine in accordance with appropriations, the amount to be withdrawn from the Fund and the manner in which such withdrawal shall be effected. (d) There shall be deposited in the Fund—

(1) funds received by the Authority for deposit in the Fund representing the proceeds from the issuance and sale of securities and Fund bonds as provided;

(2) income and gains realized by the Fund from any investment of excess funds of the Fund; and

(3) income from fees and charges established pursuant to this Act for the use of nuclear waste facilities operated by or for the Authority.

(e) If the Executive Director determines that the amount of money in the Fund exceeds the amount required for current needs, he may invest such amounts as he deems advisable in obligations of or obligations guaranteed by the Government of the United States, or in such other governmental agency obligations or other securities of the United States.

(f) The Executive Director may deposit monies of the Fund with any Federal Reserve Bank, any depository for public funds or in such other places and in such manner as the Secretary of the Treasury deems appropriate.

FUND BONDS

SEC. 502. (a) The Executive Director may issue Fund bonds in denominations of $100,000 (or any integral multiple thereof), and such total amounts as may be authorized by Congress. No Fund bonds—

(1) shall be issued which mature in less than 8 or more than 15 years from the date of original issuance thereof;

(2) shall be issued later than the tenth anniversary of the date of publication of the final standards and designations under this Act; and

(3) shall, except as otherwise provided pursuant to this Act, be subject to redemption (at the option of the Executive Director)—

(A) at any time prior to the tenth anniversary date of the original issuance thereof, and

(B) at any time thereafter.

(b) For purpose of securing the payment when due, or the principal and any redemption premiums on, and any interest on all Fund bonds, and for other purposes incidental thereto the Executive Director shall impose a first pledge of and a first lien on all revenues payable to the assets held in the Fund, for the use of the Executive Director pursuant to this Act. The Executive Director may impose such a pledge of and lien on all other revenues or property of the Fund. Such incidental purposes may include the creation of reserve and other funds which may be similarly pledged and used, to such extent and in such manner as the Executive Director deems necessary or desirable. Any pledge made by the Executive Director shall be valid and binding from the time it is made. The revenues and assets held in the Fund, and the revenues or property of the Fund which are so pledged and which are subsequently received by the Fund, shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind, in tort, contract, or otherwise against the Executive Director or the Fund, without regard to whether such parties have notice thereof, no instrument by which a pledge is created need be recorded or filed to protect such a pledge.

(c) The Executive Director may enter into binding convenants with the holders of Fund bonds and with the trustee, if any, under any agreement entered into in connection with the issuance of such bonds with respect to—

(1) the establishment of reserves and other funds;

(2) stipulations concerning the subsequent issuance of obligations; and

(3) such other matters as the Executive Director deems necessary or desirable to enhance the marketability of Fund bonds.

(d) Subject to the provisions of subsection (a) of this section, the Executive Director may determine with respect to Fund bonds—

(1) the form and denominations in which they shall be issued;

(2) the time when they shall be sold, and in what amount;

(3) the time and when they shall mature;

(4) the price thereof at sale;

(5) the rate of interest thereon;

(6) whether and in what manner, they may be redeemed prior to the date when they mature; and

(7) whether they shall be negotiable or non-negotiable and whether they shall be bearer or registered instruments, and any indentures or covenants relating thereto.

(e) Fund bonds issued by the Executive Director under this section shall—

(1) contain a recital that they are issued under this section, which shall be conclusive evidence as to the validity and regularity of the issuance and sale of such Fund bonds;

(2) be subject to such other terms and conditions as the Executive Director may, by resolution authorizing the issuance, determine;

(3) be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, investment or deposit of which shall be under the authority or control of any officer or agency of the United States;

(4) not be exempted from Federal, State, and local taxation; and

(5) not to be debts or enforceable general obligations of nor shall be payment of a principal thereof or interest thereon be guaranteed by the United States.

Neither the full faith or credit nor the general taxing power of the Federal government shall be pledged to the payment of the principal or of any premium on or interest on such Fund bonds.

(f) Neither the Executive Director, nor any other individual, who executes any Fund bond shall be subject to any personal liability or accountability by reason of issuance of such bond.

(g) If, after the tenth anniversary of the date of the original issuance of the initial series of Fund bonds the amount in the Fund exceeds 250 percent of the amount required to satisfy amounts due in the succeeding fiscal year on account of Fund bonds, the Executive Director may use such excess to redeem Fund bonds in accordance with their terms or may withdraw all or part of such excess from the Fund and transfer it to the General Fund of the United States, when all Fund bonds have been redeemed, all amounts remaining in the Fund or thereafter accruing to it shall be transferred to the General Fund of the United States, except to the extent necessary to cover such expense of the Fund as may be required to carry out completely the responsibilities of the Authority.

FEE SCHEDULES

SEC. 503. (a) The Authority shall be responsible for adopting criteria for setting fees, establishing fee schedules, and collecting fees from all commercial users of its facilities. Prior to adoption of any such criteria, the Authority shall publish proposed criteria for comment and shall consider any comments prior to adopting its criteria. Such fee schedules shall be established to assure the recovery of the Fund's costs over a reasonable period of time. Such costs shall include direct and indirect costs of operating the nuclear waste and spent nuclear fuel storage facilities operated by or for the Authority, including appropriate depreciation of such facilities, process development, office administration and other Government support functions and imputed interest in plant and working capital.

(b) Such fees shall be reviewed no less than annually, and readjusted prospectively from time to time at the discretion of the Executive Director.

(c) The Authority shall take title to the nuclear waste and spent fuel transmitted by the user at the time of transfer of possession.

(d) If the Government of the United States determines that spent nuclear fuel shall be reprocessed, the Authority shall revise its fee schedules to include provisions for the return of spent nuclear fuel to facility users should such users desire such a return, and provisions to compensate facility users in the event the Authority itself reprocesses spent nuclear fuel or otherwise makes use of or sells spent nuclear fuel.

(e) (1) The Authority may not impose any additional fee upon a facility user once it takes title to nuclear waste or spent fuel; *Provided* that in the event that the Authority determines the cost of ultimate disposal of nuclear waste or spent fuel is less than that charged a user for that nuclear waste or spent fuel, the Authority shall reduce subsequent fee schedules accordingly.

(2) If the Authority determines that ultimate disposal costs will be more than predicted, it shall recover such costs from current and future users. It may not impose additional charges upon previous users.

(f) In the event that operation of a repository is carried out by a person other than the Authority, and that such person has leased the repository for such purposes, the fee shall consist of—

(1) a charge to be determined by the Authority to cover perpetual care and maintenance and research and development, such charge to be paid into the Fund; and

(2) a charge to be determined by such person to cover operating costs of the person.

NON-COMMERCIAL GENERATED NUCLEAR WASTE

SEC. 504. (a) The Authority shall provide for planning, administration, research and development, management, transport, treatment, disposal, and perpetual care and maintenance of all non-commercially generated nuclear waste and spent fuel.

(b) The Executive Director shall determine by rule the allocation of the costs identified in Section 303(a), for commercial and non-commercial material. Only such costs as are directly related to each type of material may be allocated to it. All costs identified as attributable to noncommercial nuclear wastes and spent fuel shall be charged against the budget of the appropriate Department of the Federal Government.

BUDGETING AND AUTHORIZATION

SEC. 505. (a) The Congress shall approve all budgets of the Authority. The Authority shall compensate the Treasury of the United States out of the Fund for the cost of all research and development work performed by the Authority and appropriated by Congress where such costs are allocable to commercial nuclear waste programs.

ACQUISITION OF FACILITIES

SEC. 506. The Authority is directed to take title to any existing nuclear waste disposal facility not presently under United States ownership within 12 months after the date of enactment of this Act. It shall provide just compensation to States or other persons who own such facilities. The Executive Director shall recognize existing leasehold interests in the acquisition and management of such facilities. Changes in title pursuant to this section shall not affect the licensing or regulation of activities at such facilities.

AUTHORIZATION OF APPROPRIATIONS

SEC. 507. There is authorized to be appropriated for fiscal year 1981 such sums as may be necessary for the initial implementation of the Authority and for such other purposes as the Executive Director may determine.

TITLE VI—INTERNATIONAL COOPERATION

SEC. 601. (a) The Authority shall provide primary technical assistance to the Department of State in developing policies for international cooperation in nuclear waste management, building on the recommendations of the International Nuclear Fuel Cycle Evaluation (INFCE).

(b) The Executive Director shall appoint a commission to undertake a worldwide feasibility study to recommend policies for international cooperation in the management and disposal of nuclear wastes and to identify foreign sites that might be feasible as repositories for nuclear wastes. To the extent possible, this commission should coordinate its study with the International Atomic Energy Agency and should investigate mutually acceptable joint programs for safe control and permanent disposal of nuclear wastes.

(c) The results of the study shall be issued in a report, which shall include recommendations concerning international nuclear waste policy, additional legislation needed to further such international cooperation, possible foreign site locations, procedures for transporting nuclear waste to any such sites, methods of storage at such sites, and compensation for the use of such sites. The designation or feasibility of the establishment of an international agency to administer any such sites in cooperation with the governments in which the sites are located should also be included in the report. The Authority shall transmit the report of the Commission to the President and the Congress.

[From the New York Times, July 9, 1979]

GROWING WASTE PROBLEM THREATENS NUCLEAR FUTURE

(By David Burnham)

WASHINGTON.—Every year, each of the atomic power plants in the world generates tens of thousands of cubic feet of potentially harmful radioactive waste, and as the amount grows so does the still unresolved problem of how to safely dispose of some of those wastes.

So widespread is public concern about the lack of a solution that it has become a major barrier, three decades into the nuclear age, to the continued development of nuclear power in the United States. One result is increasing support in Congress this year for laws giving the states power to reject waste disposal sites within their borders.

There are 233 commercial reactors operating around the globe and 323 more under construction or on order. The wastes they generate must be isolated from people to varying degrees and for varying lengths of time.

But those wastes are just part of the growing inventory of radioactive materials. The production of nuclear weapons alone, for example, has resulted in the storage of more than 9 million cubic feet of wastes from spent fuel rods in South Carolina, Idaho and Washington.

Never before have engineers and scientists been confronted with the problem of devising a tamper-proof method of isolating such large volumes of poisonous materials for thousands of years. While even the most severe critics of the industry acknowledge that a solution is technically possible, the continuing failure to arrive at a method has become one of the most important weapons in the armory of those opposed to nuclear energy.

Senator Gary Hart, chairman of the subcommittee on nuclear regulation, said recently, "If the word 'scandal' can be attached to nuclear power, it is that this industry has been permitted to expand for two and a half decades without an acceptable solution for waste disposal."

Some disagree with Senator Hart. "The technology to operate first-generation geological repositories for nuclear waste in a safe and common sense way is available now," J. E. Mendel told a Senate subcommittee recently. Mr. Mendel is an official with the Pacific Northwest Laboratory, a research organization that has spent millions of dollars studying waste disposal problems for the Energy Department.

The optimistic tone of Mr. Mendel's testimony has been echoed in the official Government statements for years. The Atomic Energy Commission told Congress in its annual report for 1959 that "waste problems have proved completely manageable in the operation of the Commission and of its predecessor wartime agency, the Manhattan Engineering District, Corps of Engineers, U.S. Army."

NOT A LIMITING FACTOR

The report added, "There is no reason to believe that the proliferation of wastes will become a limiting factor on future development of atomic energy for peaceful purposes."

However, the unresolved problem of disposing of high-level radioactive waste from spent fuel rods has now become a significant obstacle to the plans of the United States' and other governments to build more nuclear reactors.

One year ago, California stopped the construction of a reactor within its borders on the ground that an acceptable waste disposal method had not been demonstrated. Maine has approved legislation similar to the law under which California acted, according to an analysis by the Natural Resources Defense Council, a leading environmental group. Eight other States now have laws imposing some kind of restriction on nuclear waste, with proposals pending in at least four States, the council said.

The United States has gone to court to challenge the California action halting the Sun Desert reactor, arguing that the development of nuclear energy has been preempted by the Federal Government. The State contends that it is a zoning decision, well within its authority, and the matter may well be decided in the Supreme Court.

LEFT AND RIGHT UNITED

The waste-disposal issue has attracted Congressional sponsors from the left who are opposed to nuclear energy, and sponsors from the right who are committed to states' rights. Among current sponsors of restrictive legislation are Senator George McGovern, Democrat of South Dakota and Representative Jack Kemp, Republican of New York, a political conservative seeking the Republican Presidential nomination.

Congressional staff members now predict that legislation that gives governors veto power over waste facility sites may well become law within the next year.

Public worry about the problem appears to be intense partly because of the special qualities of radiation and partly because of the repeated failure to anticipate the difficulty of containing wastes.

BOOK DESCRIBES CONTROVERSY

"The Problem of Radioactive Waste" by Ronnie D. Lipschutz, a book sponsored by the Union of Concerned Scientists, one of the leading public affairs organizations critical of nuclear regulation, describes some of the elements that have made the waste issue such a potent force.

"The radioactive emissions from this waste are invisible, odorless, tasteless," Mr. Lipschutz writes. "They cannot be felt or heard. Yet, minute amounts of radioactivity are capable of inducing cancer in the living, birth defects in the unborn, and mutagenic effects in the descendants of those exposed."

The book, to be published soon by the Ballinger Publishing Company, adds that the longevity of the radioactivity was another reason for special concern, "for if the wastes are improperly managed, some very long-lived radioactive species may pose a continuing hazard to living things for tens, perhaps hundreds, of millenia—periods far longer than the span of recorded human history." Mr. Lipschutz has a master's degree in nuclear physics from the Massachusetts Institute of Technology.

LITTLE RESEARCH ON PROBLEM

The radioactive waste problems, technically difficult in themselves, have been made more so because the confident assurances of Federal and industry officials that there were no problems resulted in relatively little research. From 1968 to 1977, for example, the Federal waste program totaled less than $75 million a year.

An idea of the problem can be gained from examining early efforts to deal with nuclear wastes.

In March 1943, more than 51,000 construction workers, engineers and scientists began building, in great secrecy, what would ultimately become a string of nine nuclear reactors on a 570-square-mile Government reservation on the Columbia River in the isolated central section of Washington.

The reactors transformed uranium fuel into plutonium, the basic ingredient of the atomic bomb dropped on Nagasaki on Aug. 9, 1945, and of many subsequent nuclear warheads.

100 MILLION GALLONS OF WASTE

In addition to turning out tens of thousands of pounds of weapons-grade plutonium, the reactors created more than 100 million gallons of highly radioactive liquid waste that was stored in single-walled carbon steel tanks.

Initially the Government predicted that the tanks would provide an effective barrier for decades, possibly 500 years, but the first leak—35,000 gallons—apparently occurred in 1958, 15 years after the vast desert of central Washington had been turned into a nuclear arsenal. The leaks continued, moreover, and by 1973 more than 400,000 gallons had seeped into the sandy soil of the Hanford reservation.

Criticized by such groups as the National Academy of Sciences, the Atomic Energy Commission began a program to reduce the volume of the wastes, turning much of it into sludge and moving the remaining liquids into new double-walled steel tanks.

The wastes of Hanford raise two questions: Who is going to guard them for the next several thousand years should such security be required? Are current managers sufficiently cautious?

CONFIDENT OF PROGRAM NOW

John Roecker, head of waste management at Hanford for Rockwell International, the company hired to take care of the waste, is confident the program is under control. "During the last few years," he said in a recent interview, "significant strides have been made in drying up the wastes and significant improvements have been implemented in our surveillance programs."

In a formal statement to the Office of Inspector General of the Energy Department, however, Stephen Stalos, an environmental physicist who worked at Hanford for five years, has charged that the company now managing radioactive wastes on the reservation has covered up evidence indicating that three tanks sprang new leaks.

Mr. Stalos charged that, when he tried to report one of the leaks in June 1977, he was told by a Department of Energy official that it was Energy Department "policy that there will be no more leaks" because announcement of them would hurt the nuclear industry.

SYSTEM "MORE THAN ADEQUATE"

Mr. Roecker denied that it was Energy Department policy not to announce the existence of leaking tanks.

The charges made by Mr. Stalos, who has resigned as manager of tank farm surveillance analysis at Hanford, are being investigated by the Energy Department's inspector general.

Another place where high-level radioactive wastes have become a problem is West Valley, N.Y. A privately owned company there, Nuclear Fuel Services, extracted plutonium and uranium from spent fuel rods between 1966 and 1971. Although it is closed now, the West Valley facility includes one waste tank that contains 600,000 gallons of highly radioactive wastes.

Last year, a hole was discovered in the saucer below the tank. That means that, if the tank should spring a leak, there is nothing to prevent the wastes from running into the soil.

WHO WILL PAY IS UNCLEAR

Estimates of the cost of disposing of the West Valley wastes range from $600 million to $1 billion. But the question of who will ultimately foot the bill has not been resolved.

During the Presidential campaign of 1976, the Federal Government's approach to waste disposal began a gradual change. One contributing factor was increasing public concern that the plan to extract plutonium from spent fuel rods from reactors might lead to the proliferation of nuclear weapons.

After intensive internal debate in the last months the Ford Administration and the early months of the Carter Administration, Mr. Carter announced that, because of the dangers of proliferation, the plan was being shelved.

Although the President's decision to abandon reprocessing did not significantly alter the dimensions of the waste problem, it did precipitate a review of overall disposal programs and plans.

On March 13, 1978, Mr. Carter formed a special interagency review group on nuclear waste management, led by the Energy Department but including skeptics from the Environmental Protection Agency, the White House Council on Environmental Quality and the Office of Management and Budget.

One year later, the group completed its work with a report that reached conclusions sharply contrasting with the optimism of the Atomic Energy Commission in 1959, and with the 1976 statement by the defunct Federal Energy Resources Council that "it is technically and scientifically feasible to salvage wastes in a safe manner."

HIGHLY CAUTIOUS STATEMENT

The review group concluded in an obscurely worded, highly cautious statement that the ultimate feasibility of disposing of waste could be assessed only on the basis of "specific investigations at and determinations of the suitability of particular sites."

The shift in language seems small. But experts familiar with the Government's handling of radioactive wastes believe it is highly significant. Said one House staff member: "The admission that they didn't have the problem licked was the most important step in moving toward a solution in the last 10 years."

[From the New York Times, July 10, 1979]

Wide Differences Persist Over Safety and Methods of Nuclear Waste Disposal

(By David Burnham)

Richland, Wash.—The tunnel, its floor thick with oozing mud and its air pungent with the acrid odor of blasting powder, rang with the scream of the diesel-powered earth loaders.

Eight hundred feet into the side of Gable Mountain, a long low ridge of the Government's massive Hanford nuclear reservation, miners were building a facility to test whether highly radioactive fuel rods from the nation's reactors could be safely stored for hundreds of years in a heavy black rock called basalt.

A thousand miles south of Richland, and 1,400 feet below the barren surface of the nuclear test site in Yucca Flat, Nev., a second team of sweating miners was building a facility to test the possibility of storing high-level radioactive wastes in another kind of rock, granite.

Robert M. Nelson Jr., the Navy-trained nuclear engineer in charge of the Nevada project, is enthusiastic. "If everything goes well at the mine, we hope to go for a license to build a permanent waste storage facility at the Nevada test site in 1984," he said.

Because there is no permanent storage system of highly radioactive wastes in the United States—roughly 25 years after the beginning of the civilian nuclear energy program—a large and rapidly growing Federal research program is now trying to resolve the technical questions concerning safe storage.

The aim is to develop a solution that will survive for hundreds, even thousands of years. Should the waste be chemically transformed into a kind of glass? Or would some kind of container provide the greatest resistance to corrosion? Should it be buried in salt, or granite, or deep under the floor of the ocean?

FEDERAL POLICY IMMINENT

President Carter's attempt to rectify the storage problem is expected to culminate in the next few weeks with the resolution of a fundamental policy dispute that has divided the Administration's top experts on radioactive wastes for the last year. The debate centers on whether the United States should now move ahead with the development of an underground waste depository in a salt bed near Carlsbad, N.M., or wait until five or six possible sites have been qualified and pick the best.

In the meantime, the 15,000 nuclear fuel assemblies drawn from this country's reactors are being held in temporary storage pools, and space must be found for 5,000 more assemblies each year.

A fuel assembly is a bundle of from 49 to 220 fuel rods, the pencil thin metal containers that hold the uranium pellets that power the reactors.

No permanent storage method has yet been agreed upon either for the nine million cubic feet of high-level military radioactive wastes generated since World War II in the production of nuclear weapons.

The disposal of radioactive wastes is one of the four separate but overlapping issues that in recent years has become the focus of those opposed to the construction of atomic reactors. The three other issues are the question of reactor safety as illustrated by the accident in March at the Three Mile Island reactor in Pennsylvania, the health effects of low level radiation and nuclear proliferation.

J. Gustave Speth, formerly a leading critic of nuclear policy in the Washington office of the Natural Resources Defense Council but now a member of President Carter's Council on Environmental Quality, recently summarized his view of Federal research on waste disposal.

"We inherited a badly flawed Federal program that provided a poor basis for getting the right answers quickly and no basis for public confidence," Mr. Speth asserted.

ENERGY VS. STATE DEPARTMENT

The current policy disagreement within the Administration is described in a Presidential decision memorandum drafted after more than a year of study by a special Government panel on waste management. It pits the Energy and State Departments against most of the other members of the Interagency Review Group on Waste Management, including the Environmental Protection Agency, the White House Council on Environmental Quality and the Office of Management and Budget.

The Energy Department, according to several officials familiar with the Presidential decision memorandum, believes the New Mexico depository should be developed now because of the shortage of available storage for the nuclear fuel assemblies and because of growing concern about nuclear proliferation. The unstated Energy Department worry, these officials added, was that the construction of nuclear power plants would be halted unless a permanent storage facility were soon developed.

Many of the other agencies that were part of the review group, however, are reported to have wanted greater assurances of reliability before a waste site was selected. They also argued that postponing a final decision on the New Mexico depository would add only about five years to the present schedule, which calls for a working disposal system by sometime in the 1990's.

Perhaps more important than the disagreement within the Carter Administration, however, was the review group's unanimous recommendation that the President request the Nuclear Regulatory Commission to convene some form of public proceeding on the basic question of whether waste can be disposed of in a safe manner.

The suggestion that the N.R.C. called upon to publicly explore the waste problem independently of the Energy Department contrasts with past procedures. Such decisions have usually been dominated by nuclear engineers and by officials with a direct interest in promoting the use of nuclear energy.

But in a report several months ago, the review group emphasized the importance of both formal and informal participation by the public.

To win public support, the Government and the nuclear industry must develop an acceptable way to isolate radioactive wastes from man for long periods of time. While a small part of the wastes will remain hazardous for tens of thousands of years, most of it will have become essentially harmless after about 600 years.

Many problems remain to be resolved. Virtually all experts agree, however, that the safe disposal of radioactive waste is now technically possible.

SPENDING INCREASED FIVEFOLD

In the pursuit of that goal, the Energy Department this year is spending $449 million on the nuclear waste program, five times more than just a few years ago when it was widely regarded as a negligible problem.

The two main questions are where the waste should be stored and how it should be packaged. Over the years, scientists have proposed placing the wastes in the ice sheets of Greenland or Antarctica, launching them into space, burying them in the sediment on the sea bed, storing them in the surface of the earth and entombing them in vaults mined in a stable geological medium such as salt or basalt or granite.

To package the high-level military wastes, the Government is now exploring industrial techniques by which they could be transformed into a solid, such as glass or crystalline ceramic, which would then be encapsulated in canisters of stainless steel or some other material less subject to corrosion.

Although research on disposing of the fuel assemblies has just begun, engineers now believe the highly radioactive rods probably will be packaged in some kind of inert material, then placed in a heavy metal container.

The 800-foot-long tunnel in Gable Mountain, in the central part of Washington, and the Climax Mine, below the Nevada test site, are designed to test the chemical and geological questions in disposal in two kinds of rocks—basalt and granite.

Within the next year, the engineers plan to lower about 40 stainless steel canisters filled with highly radioactive fuel assemblies into specially prepared holes dug at precisely measured intervals in the floors of both facilities. Near each canister will be elaborate instruments to measure the temperature, movement and stress changes prompted in the surrounding rock.

With a finding that minimal damage has occurred to the canisters in the first few years, when the wastes they contain will be at their hottest, the Energy Department would then begin the process of obtaining a Nuclear Regulatory Commission license to construct a permanent storage facility either in Washington or Nevada or other locations with the same kind of geological formations.

The experiment proposed for the salt beds near Carlsbad is far more elaborate, possibly involving both military wastes and spent fuel assemblies.

Many questions have been raised about both the overall research effort and the specific experiments. One year ago, for example, a special panel of earth scientists prepared a report for the Environmental Protection Agency about deep geological disposal.

"Unlike ordinary engineering problems, there is no experience with long-term, sealed underground storage of such materials, and thus no foundation of empirical knowledge upon which to build," the report said.

A number of more pointed questions have been raised about various specific depositories. In a report soon to be published by the Union of Concerned Scientists, a Massachusetts organization that frequently has criticized nuclear regulation in the United States, Ronnie D. Lipschutz cited six separate geological problems that he contended made the site of the proposed Waste Isolation Pilot Plant in New Mexico "unsuitable."

BURIED HIGH-LEVEL WASTES

Questions also have been raised about the method the Government now favors for containing high-level wastes after they have been buried. In a report for the Nuclear Regulatory Commission, a panel of the National Academy of Sciences charged that the technology of waste disposal had failed to keep up with the development of nuclear reactors primarily because of "the low priorities assigned to the problem" by the Government.

The most recent manifestation of the broad public confusion about waste came several weeks ago when the House of Representatives voted to cut $130 million from the Administration's request for $372 million for the management of radioactive wastes generated by the nuclear weapons program.

Even though there is widespread agreement on the need for permanent storage, the House Appropriations Committee report said, "There is no consensus among the Congress, the executive branch and the states as to how and where to do this." ●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by the Senator from Maryland (Mr. Mathias), to establish a Nuclear Waste Management Authority, and for other purposes, be jointly referred to the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Governmental Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 92

At the request of Mr. Thurmond, the Senator from New Hampshire (Mr. Humphrey) was added as a cosponsor of S. 92, a bill to amend title 5 of the United States Code to permit present and former civilian employees of the Government to receive civil service annuity credit for retirement purposes for periods of military service to the United States as was covered by social security, regardless of eligibility for social security benefits.

S. 1330

At the request of Mr. McClure, the Senator from California (Mr. Hayakawa) was added as a cosponsor of S. 1330, the Omnibus Geothermal Energy Development Act of 1979.

S. 1523

At the request of Mr. Thurmond, the Senator from Vermont (Mr. Stafford), the Senator from Indiana (Mr. Bayh), the Senator from Vermont (Mr. Leahy), the Senator from New Hampshire (Mr. Durkin), the Senator from Maine (Mr. Cohen), the Senator from Montana (Mr. Melcher), the Senator from Kansas (Mr. Dole), the Senator from Arizona, Mr. DeConcini), and the Senator from Oklahoma (Mr. Boren) were added as cosponsors of S. 1523, the Veteran Senior Citizen Health Care Act of 1979.

S. 1592

At the request of Mr. Dole, the Senator from Colorado (Mr. Armstrong) was added as a cosponsor of S. 1592, the Financial Regulation Simplification Act of 1979.

S. 1791

At the request of Mr. Chafee, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 1791, the Federal Buildings Enhancement Act of 1979.

SENATE JOINT RESOLUTION 100

At the request of Mr. Sasser, the Senator from Michigan (Mr. Levin) was added as a cosponsor of Senate Joint Resolution 100, a joint resolution to authorize the President to designate May 1, 1980, as National Bicycling Day.

AMENDMENT NO. 428

At the request of Mr. McClure, the Senator from Montana (Mr. Melcher) was added as a cosponsor of amendment No. 428 intended to be proposed to S. 1020, a bill to authorize appropriations for the Federal Trade Commission.

NOTICES OF HEARINGS

COMMITTEE ON FOREIGN RELATIONS

● Mr. CHURCH. Mr. President, I wish to announce that the Committee on Foreign Relations will be holding hearings on four international human rights treaties. The treaties are as follows:

The International Convention on the Elimination of All Forms of Racial Discrimination (Executive C, 95–2);

The International Covenant on Economic, Social and Cultural Rights (Executive D, 95–2);

The International Covenant on Civil and Political Rights (Executive E, 95–2); and

The American Convention on Human Rights (Executive F, 95–2).

The hearings will take place on October 16, 17, and 18, 1979, at 10 a.m., in room 4221, Dirksen Senate Office Building. All those requesting further information should contact Steven Emerson of the committee staff (224–7523).●

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICES

● Mr. GLENN. I wish to announce that the Subcommittee on Energy, Nuclear Proliferation and Federal Services of the Committee on Governmental Affairs will hold a hearing on October 3, 1979, on S. 794, a bill to establish dispute resolution procedures and an arbitration board to settle disputes between organizations of supervisors and other managerial personnel of the U.S. Postal Service. Senator Carl Levin, who introduced S. 794 on March 27, 1979, will be chairing the hearing.

The hearing will take place at 10 a.m., in room 357 of the Russell Senate Office Building. If you have any questions regarding the hearing, please contact Mr. Jim Vollman of Senator Levin's staff at 224–6847.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today to consider S. 1186, the Defense Office Personnel Management Act, and nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate today to consider the Judicial Conduct and Disability Act and other legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on tomorrow, September 26—which will be the day after Christmas 3 months from now—beginning at 2:30 p.m., to hold a hearing on S. 1012, legislation to provide for U.S. participation in the International Energy Exposition to be held in Knoxville, Tenn.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, September 27, 1979, beginning at 2 p.m. to hold a markup session on Windfall Profits Tax.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TAIWAN IS BEING SOLD OUT AGAIN

● Mr. GOLDWATER. Mr. President, I have just received information that the Carter administration's deception and callous treatment of Taiwan is continuing unabated.

First, it was the dropping of official diplomatic relations with Taiwan and the attempted abrogation of our Defense Treaty with Free China, without defining or providing for the future security relationship between the two nations.

Next, the administration imposed a moratorium on new sales to Taiwan of the advanced military defense equipment it needs to protect the safety of its people.

Now, I learn that President Carter has taken another step toward completely severing ties with Taiwan. The U.S. Government has formally commenced the 2-month time period necessary to give notice of termination of the official Air Transport Agreement between the United States and Taiwan, which was signed on December 20, 1946.

Moreover, the United States has told Taiwan it intends to give such notice unless Taiwan agrees to replace the agreement with an "informal, unofficial arrangement."

Mr. President, this is blackmail. If Taiwan does not cave in, our Government's representatives are saying that there will not be any agreement at all regarding such an important matter as air services between the two nations.

This is just the latest slap in the face to Taiwan by the Carter administration. It is the latest demonstration by the State Department of its willingness to kow tow to the Communist dictators who are suppressing human rights on the Chinese mainland.

The proposed replacement of the Aviation Agreement with a merely "informal, unofficial arrangement" is in direct conflict with the letter and spirit of the Taiwan Relations Act. It also violates assurances given to the people and Government of Taiwan by representatives of the Carter administration during congressional hearings on the President's foreign policy in the Pacific.

Section 4(c) of the Taiwan Relations Act, which is now a part of the law of the land, specifically provides for the continuation in force of "all treaties and other international agreements" between the United States and Taiwan for all purposes, including proceedings in any court in the United States. Other provisions of the Taiwan Relations Act specifically protect the status of Taiwan as an independent, international nation-state under all the laws and regulations of the United States.

Taken together, these recent provisions of law mean that Taiwan is a nation—a separate country—under U.S. law. By proposing to substitute some kind of private understanding that has no official or formal basis, the executive branch is thwarting the express meaning of the Taiwan Relations Act. Instead of treating Taiwan as another "nation," Taiwan would be given no higher dignity than any private citizen dealing with another private citizen.

Mr. President, it is not necessary for the Government to harass and offend Taiwan this way. The original Aviation Agreement can be amended, rather than being replaced.

Here is the critical difference between dealing with Taiwan on an honorable basis, in accordance with the Taiwan Relations Act, and snubbing Taiwan in direct violation of the law.

There is no reason high officials of the United States cannot meet and deal with their counterparts in Taiwan. There is no reason these officials cannot enter into discussions on the need for amendment of the 1945 agreement, including provisions related to the expansion of air services between the two countries.

Once these changes have been agreed upon, they could be recorded through an exchange of notes between the American Institute in Taiwan and its Taiwan counterpart, the Coordination Council for North American Affairs.

This approach would preserve the existing agreement and be consistent with section 6 of the Taiwan Relations Act, which establishes the Institute.

Mr. President, I am making such a strong point about this development in relations between the United States and Taiwan because it appears to be the precursor of how the Carter administration will deal with all other treaties and international agreements entered into by the United States and the Republic of China before January 1 of this year.

The aviation agreement is an executive agreement. Even so, it has the same status under international law of a formal treaty.

More importantly, it is but one of some 59 agreements between our two countries, some of which are formal treaties, including in particular the Treaty of Friendship, Commerce and Navigation. This treaty is the basis for a broad range of private rights enjoyed by citizens of each country and serves as the basic framework for commercial business between Americans and the free Chinese.

If a fundamental and vital agreement, such as the Commercial Treaty, is reduced to the status of merely being an "informal, unofficial arrangement," a serious cloud will be put on the legal effect and stability of such an agreement. In other words, the result of replacing all our existing agreements with Taiwan with some kind of informal arrangement is more than a change for appearance's sake, it is a change in substance as well.

Mr. President, I am shocked at this latest attempt by the Carter administration to abrogate the international agreements we have with Taiwan. I am amazed that the President would act without awaiting for the decision which Judge Oliver Gasch may hand down at any day now on the respective powers of the President and Congress over treaty termination.

It would seem most fitting for the President to find out what the judicial branch says about his power or lack of power in the field of treaty termination before he starts a new series of unilateral actions proposing to break the numerous agreements we have with Taiwan.

Mr. President, this is one more example of the effort by the Carter administration to enhance and expand executive power at the expense of Congress. To the best of my knowledge, this latest action was taken without any consultation with Congress. I do not believe the Senate Foreign Relations Committee, for example, was provided with any formal notice of the fact that our Government had officially commenced the time period called for under the aviation agreement in order to terminate it.

This is just one more example of the failure of the Carter administration to openly inform Congress of major foreign policy actions before they happen. It is an end run around Congress. It is an end run around the Taiwan Relations Act. And it is an inexcusable offense toward Taiwan.

I have today filed a formal request under the Freedom of Information Act for all materials relating to the proposed termination of this agreement and its bearing upon the possible termination of the other agreements we have with Taiwan, and when these documents are available I will share them with the Senate.

Mr. President, I ask that a cable which I have received from the American Chamber of Commerce of the Republic of China relative to this subject be printed in the Record.

The cable follows:

Sen. Barry Goldwater,
U.S. Senate,
Washington, D.C.

In light of the congressional oversight function written into section 14 of the Taiwan Relations Act, the text of a message cabled today to President Carter, is provided as follows:

President Jimmy Carter,
The White House,
Washington, D.C.

The American Chamber of Commerce in Taipei is deeply concerned by our administration's proposal to terminate the air transportation treaty with Taiwan and replace it with an "informal, unofficial arrangement," as announced by Vice President Mondale in Canton.

Such action is directly contrary to representations made to us and to the Congress by your administration at the time of normalization. We were repeatedly assured, in the words of the State Department's legal advisor in testimony before the Senate Foreign Relations Committee, that "treaties and other international agreements between the United States and Taiwan at the time of normalization will remain in force, except that the mutual defense treaty and related agreements will terminate at the end of this year."

Now we are told by Assistant Secretary of State Holbrooke that the administration wants to terminate all the remaining formal agreements with Taiwan and put them on an unofficial basis, with "replacement" of the aviation treaty as merely the first step.

Whether or not we were misled, our foremost concern as businessmen is with the substance of agreements affecting our businesses. We do not accept the contention that replacing a treaty with an "informal, unofficial arrangement" is only a change in form and not in substance. This concern relates not only to the aviation treaty, but to other important commercial agreements with Taiwan including the vital treaty of friendship, commerce and navigation. Section 4.C of the Taiwan Relations Act expressly provides for the continuation of existing treaties between the U.S. and Taiwan, making clear the legal effect of such treaties and executive agreements in the U.S. and Taiwan courts. The legal effect of "informal, unofficial arrangements" between the American Institute in Taiwan and the Coordination Council for North American Affairs is far less certain, even under section 6.B of the act. It therefore cannot be definitively said that the proposal announced by Vice President Mondale is a matter only of form.

We do not oppose the conclusion of aviation and other agreements with mainland China, provided they are in the U.S. national interest and are not at the expense of Taiwan or American interests in Taiwan. We therefore urge that you direct the State Department and the American Institute in Taiwan to honor your pledge and congressional intent in the Taiwan relations act by keeping in force all existing commercial treaties and executive agreements with Taiwan until they expire in accordance with their terms. These agreements, which can be amended by both parties if necessary, are a crucial part of our country's relations with Taiwan and must not be sacrificed for questionable reasons of political expediency.

Respectfully,

Robert P. Parker,
President, American Chamber of Commerce in the Republic of China.●

PRESERVING THE FAMILY FARM

● Mr. BAYH. Mr. President, I had strong reservations about the Reclamation Reform Act S. 14, as reported out of the Senate Energy and Natural Resources Committee. I felt it would have continued to subsidize huge corporate farms on some of the world's richest farmlands to the detriment of the small family farmers in our country. Fortunately, several amendments were passed by the Senate which would close many of the larger loopholes and enable us to return to the original intent of the 1902 reclamation law, that of having the Government help the small family farmer develop this arid land with the help of Government financed water projects.

When originally passed, the 1902 law was a noble attempt to follow the tradition of the settlement of the American frontier. Numerous families were to settle on 160-acre tracts of the once arid desert land, now blooming as a result of newly built Federal irrigation projects. But the water proved to be liquid gold, and just as the miners of 1849 ran roughshod over Sutter's Mill, so have huge corporations and wealthy landholders trampled the provisions of the reclamation law. Greed and Government inaction shielded these landholders from a law of which they were well aware.

The amount of Government subsidy involved here is very large, Mr. President. We have witnessed a handout of Government money to oil companies and other multinational corporations that would infuriate American taxpayers if they were aware of the situation. Conservative estimates peg the total annual subsidy per acre in the reclamation projects at $481. In some of the newer districts of California, the figure is almost five times higher. The total Government subsidy is over $5 billion.

S. 14 as originally passed by the Energy and Natural Resources Committee had several large loopholes which I felt had to be closed if we were to maintain the original purpose of the 1902 reclamation law. One provision allowing large landowners to buy themselves out of the requirements of the law by paying only a fraction of the cost of the project was totally objectionable to me. Another, allowing unlimited leasing of land, would have enabled large landowners to continue their domination of all lands in the western part of our country.

Fortunately, the Senate took action to close some of these more egregious loopholes. Unlimited leasing provisions were excluded from the bill. Hence, upon enactment of this bill a landowner will only be able to own a total of 1,280 acres of class I land. This is not an effort by the Senate to govern how large a farm anyone can own, but to place a limit on the total number of acres of land which can receive water provided by the Government at subsidized rates. Other land can be owned by an individual and be dry farmed or else irrigated with water from the State.

One hundred and eighty-four acres is the average size of a farm in this area and, according to the U.S. Department of Agriculture, 320 acres can provide a family with a very good income. Therefore, I supported efforts to reduce the total number of subsidized acres to 640 or 960, but these efforts failed.

I regret that the final version of the bill the Senate passed did not close all the loopholes. However, I do believe we have made progress toward withdrawing subsidies from corporate landholders who were not intended to receive them and the original intention of encouraging family farming will be carried out by passage of S. 14.●

FRANK GOULD

● Mr. RIEGLE. Mr. President, the Senate will soon consider an increase in appropriations for the Philippine Government in both military aid and military related assistance. I wish to call my colleague's attention to the possible involvement of the Philippine Government in the death of an American journalist before we consider any measure.

Mr. Wesley Gould and his wife Jean, of Oak Park, Mich., recently brought to my attention an incident involving their son Frank Gould while he was working as a reporter in the Philippines. Frank has now been missing for over 4 years. It is believed that Frank's activities as a journalist brought him into conflict with the Government and eventually lead to his death.

I wish to submit two articles for printing in the Record. One appeared in the Detroit News on July 30, 1979, and another from the San Francisco Chronicle of July 22, 1979, both concerning this incident. Both stories suggest a strong likelihood of foul play in the death of Mr. Gould. This is a matter which should be investigated prior to the approval of any military aid package to the Philippines.

The articles follow:

[From the Detroit News, July 30, 1979]

Reporter Dies in Philippines: He Didn't Escape Jungle

(By Barbara Young)

Frank Gould went into the jungle of the Philippines' Muslim rebellion as a free-lance journalist five years ago.

He never returned to his Oak Park parents, Jean and Wesley Gould, who have spent the last four years trying to solve the mystery of their son's fate.

Four months ago the Goulds were told their son was killed and buried in a common grave in the jungle a few miles north of Cotabota City, on the island of Mindanao.

The information came from a West Coast free-lance reporter who recently went to the Philippines. The reporter, Lawrence Johnson, met several people who knew Frank, Mrs. Gould said.

"Johnson said a high-ranking officer of the Philippines' Integrated National Police (INP) told him Frank and two Muslim guides were killed by a INP U2 squad in October, 1974. Johnson said the officer explained that 'U2' is the designation given to a special section of the intelligence branch of the INP. Its only jobs are assassinations."

Frank went to the Philippines in March, 1974, to begin gathering material for a book to chronicle the bitter fighting between government troops and Filipino Muslim rebels. He was funded by the National Council of Churches of the Philippines.

The Goulds received letters at regular intervals until the winter before their son disappeared. In the last letter dated Aug. 11, 1974, Frank said that a colonel in charge of intelligence in Zamboanga City had been trying to make him leave the area.

Wesley Gould, a political science professor at Wayne State University, acknowledged in an interview last year that it was unlikely his son was alive. But he and his wife continued hoping.

Now Mrs. Gould says, "If you suspect someone you love has been done away with by a political regime, you never rest until you find out the truth."

[From the San Francisco Examiner & Chronicle, July 22, 1979]

Sleuth Say Yank Journalist Is Dead

(By Lawrence Johnson)

Beside the high school yearbook photo of Francis Barnard Gould are the words of Henry David Thoreau: "If a man does not keep pace with his companions, perhaps it is because he hears a different drummer."

In March 1974, 10 years after the yearbook came out, 27-year-old Frank Gould followed that "drummer" into the jungle of the Philippines' Moslem rebellion as a free-lance journalist. In a letter to his parents dated Aug. 11, he said that a colonel in charge of intelligence in Zamboanga City had been trying to make him leave the area. It was the last letter his parents received from him.

Methodist missionary Paul Van Buren, who was living then in the province of North Cotabota, Mindanao, said that Gould stayed with him and his family for "12 or 14 days, in and out over a period of a month" from Aug. 25 to Sept. 27.

"Frank had informed me his mail would be coming to our home," Van Buren said, "and that he would be back."

"He never came back."

Van Buren said that he had been told to warn Gould that the military was trailing him and might be planning to ambush him in a Moslem area.

No one has heard from Gould since Sept. 27, 1974. And despite the persistence of his family over the past 4½ years, his fate has remained a mystery.

Recently, however, two reliable sources charged that Gould was assassinated by agents of the Philippine government in October 1974.

A high-ranking officer of the Philippines' Integrated National Police said that Gould and his two Moslem guides were killed and buried in a common grave in the jungle a few miles north of Cotabato City, on the island of Mindanao.

"A U–2 squad from the INP in Cotabato City did the salvaging of Frank Gould," the officer said.

He explained that "U–2" is the designation given to a special section of the intelligence branch of the INP. Its only function, he said, is assassination. "Salvaging" is a Philippine army euphemism for murdering a suspect.

Another source said that he had been conducting his own investigation of Gould's disappearance at the request of the journalist's parents. He confirmed the INP officer's statement that a U–2 squad had killed Gould and his guides.

'There is no doubt that the government is responsible," he said.

Gould's parents, Jean and Wesley Gould of Oak Park, Mich., said their investigator told them last December that agents of the Philippine government had killed their son.

"We waited and worried about Frank for over four years," Jean Gould said, "hoping against hope that somehow he would be alive."●

A SPECIAL TEAM: LEE CORSO, AL CARPENTER, AND THE INDIANA UNIVERSITY FOOTBALL SQUAD

● Mr. BAYH. Mr. President, those of us who know Lee Corso are aware that he is an outstanding human being who also happens to be an outstanding coach of the Indiana University football team. While Lee is certainly a successful coach he is a man who can place college sports in a proper perspective; he does not measure his worth exclusively by references to a won-lost column.

I noted a story in this morning's Washington Post, Mr. President, which tells a great deal about Lee Corso and also quite a bit about the type of person Al Carpenter is and how these two individuals are helping each other discover what is important in life. It is a story that should remind us that sports were initially developed to provide enjoyment. Al and Lee have found that it can provide enrichment even for those who are afflicted with cerebral palsy.

We in Indiana know and appreciate Lee Corso. I believe the Nation should get to know him a little better. I would like to submit this story for printing in the Record.

The article follows:

What Indiana Has, The World Needs: A Coach and a Fan That Are Special

(By Dave Kindred)

Bloomington, Ind., Sept. 24—If Al Carpenter isn't the world's happiest man, he is in the top five.

Al has cerebral palsy.

He can't read or write. He is 29 years old and lives by himself in an apartment three blocks from the Indiana University football stadium. If he could, Al says, he would sleep in a tent on the stadium floor. He loves Indiana football and comes to every practice and every game.

He is the guy on crutches wearing a white pith helmet with a big red "I" painted on top.

He first came to an Indiana practice when the coach, Lee Corso, was wondering why in heaven's name anyone would want to be the Indiana football coach. Corso was down. This was five years ago, and Corso was wondering why he had taken a job at a school that had never won consistently in football.

"Self-doubt and self-pity, that was me," Corso said.

Al Carpenter, five years ago, thought of killing himself. He first came to an Indiana practice shortly after failing in vocational rehabilitation classes. The cerebral palsy that won't let him read or write seemed determined to make him worthless.

"Everything was drained out of me," Carpenter said. "I told my mom, 'What's the use?' I'd been close to suicide a number of times. It's a rough road when you think that. Matter of fact, I thought it more than I should have. That's when I met Coach Corso."

Corso is one of college football's bright men, a charming entertainer who coaches so well that if he were working for a football power—a Notre Dame, say—he could be famous from coast to coast, selling us big cars on television and writing books about how he has never lost a game on the blackboard because he always draws Xs three times bigger than the Os.

Ambition is part of Corso as it is part of every competitor in every competitive business. He wanted to coach a national champion before he was 40. At age 40, his Indiana team won two of 11 games. Now 44, Corso is in his seventh season at Indiana, a season that he started with three straight victories. And maybe someday, somewhere, he will have his national championship.

It isn't as important as it used to be.

Al Carpenter is why.

Because Al gets tired standing on his crutches, he sometimes flops stomach-down on the stadium grass, propping his chin on his palm.

So does Corso.

They talk about things. About how Al, as a kid in Spencer, Ind., always wanted to play football at Indiana, but he always had the cerebral palsy. About Al's troubles in vocational rehabilitation. About Corso's moments when he didn't know if he would ever get a perennial loser onto the winner's side.

Corso has made Carpenter part of his football family. Al eats some pregame meals with the players and is invited to some Friday night parties Corso puts on for the team. Every Monday or Tuesday, when Corso secludes himself in his office and puts on tapes of opera music by which to compose his game plan, only one person is allowed in that room with the coach.

Al Carpenter.

"That opera music took some getting used to," Carpenter said, "but it's not too bad now. I'd still like to convert Coach to country music. Mostly, it's just the stillness of the Xs and Os going around that I like."

Two seasons ago, Corso came under attack from a South African anti-apartheid organization for appearing on a television show sponsored by one of that organization's opponents. The anti-apartheid group came to Bloomington and asked Corso's black players to boycott a game against Minnesota.

"Coach Corso was having a curious feeling all week, I don't know what it was," Carpenter said "But I told him, 'Don't worry, we got it locked up.' I kept telling him that, and he kept getting better and better."

Fresh from a 16–0 victory over mighty Michigan, Minnesota was a prohibitive favorite over Indiana, but the Hoosiers won the game, 34–22. On the Monday after, Al Carpenter was getting a drink of water in the stadium when a team manager asked him to come to the field, Coach Corso wanted to talk to him.

"Coach got all the players together in the middle of the field," Carpenter said. "And then he presented me with a game ball. I couldn't believe it. It's not often I'm flabbergasted, but I was flabbergasted at that."

Indiana football is Carpenter's life. Until this summer, he daily hitch-hiked the 40 miles round trip from Spencer for practices and games.

"It makes me feel useful to be around the players and the coaches. I really get wildly enthusiastic, too, because it means so much to me.

"I hope whatever story you do doesn't glorify me. I'm just a small part of this team. The guys out there are the ones that should be glorified. Everyone of those guys out there is my legs. Even though I'm not playing, I AM playing."

Carpenter was engaged to be married last winter.

The woman called it off.

"It was the lowest I ever got in my life," Carpenter said. "I didn't feel like I had much left in me."

Someone knocked at Carpenter's door in Spencer that day.

"Lo and behold," Carpenter said, "it was Coach Corso coming to see how things were. I'll spend the rest of my life paying him back for everything he's done for me. If he asked me, I'd run to the top of the press box and if he said, 'Jump,' I'd say, 'Yes, sir.' "

A big-time college football coach is in constant demand. He can be a social butterfly, a business shark. How many coaches would drive 20 miles to knock on the door of a guy with cerebral palsy whose marriage plans had fallen through?

"Life is bigger than winning and losing, life is bigger than writing sports stories," Corso said. "If it isn't, it isn't worth living. We're put on earth to help each other. When I saw Al Carpenter the first time, I knew God had sent him. In my weakest moment—when I could see a light at the end of the tunnel but had no idea how far away it was—God sent me help. Through Al Carpenter.

"Here's a guy who has fought all his life for the opportunity to walk, who has dreamed all his life about having a couple close friends, who has dreamed of having the things we take for granted—and me? I'm worried about kicking a field goal?

"Hey, I said, let's get this life in perspective. Everybody needs an Al Carpenter."

"Lee Corso is my brother," Carpenter said. "The world needs more Lee Corsos."●

TRUCKING DEREGULATION

● Mr. HOLLINGS. Mr. President, for the past several months a number of newspaper editorials have been placed in the Record by some of my colleagues. These editorials extol the virtues of trucking deregulation. As is true of most of the issues before the Senate, there are two sides to the issue. It is in this light that I submit these remarks.

I support changes in the present regulatory framework under which the Nation's trucking industry operates. The changes I feel necessary are those contained in S. 1496, which I cosponsored. These changes are designed to strengthen, not destroy, the public utility concept inherent in our present day motor freight transportation system. My interest in this subject is especially keen. The recent independent truckers strike had a devastating effect upon the fresh fruit and vegetable growers in South Carolina. Many farmers stood and watched helplessly as their crops rotted in the fields because of a lack of dependable truck transportation service. This experience clearly demonstrates to me the perils we face with an unregulated trucking industry.

The Commerce Committee under its very able Chairman, Howard Cannon, has held extensive hearings on this issue and has heard from numerous groups representing virtually every segment of the economy—consumer groups, independent truck operators, shippers, carriers, farmer groups, organized labor and others who have expressed a desire to be heard. This is the most thorough oversight of truck regulation since its enactment into law.

Today, I have several editorials which I will submit for printing in the Record. These editorials tell a different story than those which have been previously printed in the Record. On balance, the writers indicate that we should proceed carefully and cautiously on this matter. These editorials do not embrace or endorse the total deregulation plan outlined in the Kennedy/Carter bill, S. 1400. What they do endorse is that close scrutiny be given this vitally important issue and that drastic change could well result in irreparable harm to our transportation system—a system which works well and in the American people's best interest.

The articles follow:

[From the Waterloo (Iowa) Courier, Aug. 10, 1979]

Rep. Rapp Asks Careful Moves to Deregulation

(By Stephen J. Rapp)

Iowa House District 34

In remarks that he had prepared for delivery before the annual meeting of the Iowa State Bar Association, Sen. Edward Kennedy, D-Mass., was to have underlined his anti-regulation theme by describing how well airline deregulation had worked in Iowa.

His words were to be: "As deregulation began, there was consternation in the Chambers of Commerce of Ottumwa and Waterloo . . . But today, the local service is better than before, because you have a new airline committed to the community. The only losers are the travelers who like to fly in large but empty planes."

The words were never delivered—a wise deletion said most. For the Chambers of Commerce, despite their free enterprise rhetoric, are still not happy with the effects of free competition on airline service.

If he had spoken instead about freeing the trucking industry from the regulator's red-tape, a move both he and President Carter are pushing, he would have run into problems as well.

For the truckers, despite their reputation as the last of the rugged individualists, are generally opposing deregulation and the American Trucking Association is predicting that its advent will bring disaster to many small communities.

If Sen. Kennedy had looked the lawyers themselves in the eye and talked about the need for more competition and advertising in area of attorney's fees, he would have gotten very little applause indeed.

For the Iowa Bar, according to one survey, has adopted the most restrictive rules against competitive practices of any state outside Alabama and Mississippi.

As one economist has said, free competition is that state of affairs that everyone says he seeks, but in fact is seeking to escape.

We should not allow potential competitiors to escape, particularly if that escape is behind government controlled or sanctioned regulatory practices.

If we are ever to get inflation under control and to improve our balance of payments with our ever-richer trading partners, we need to eliminate regulations that stifle competition.

But as we dismantle these regulations we must take care. They were often established for reasons that went beyond the protection of an industry.

Most were at least initially demanded by the public out of a recognition that while the competitive system does a good job of delivering goods and services at the lowest cost—it does a poor job of looking after other values, such as quality of life in smaller communities, the viability of small business, the standards of a profession, the orderliness of growth and development.

These are the kinds of values that may be endangered in a headlong rush to deregulate—and values which if they are ignored will lead to another era of over-regulation when the pendulum swings again.

What is critically needed is a rhetoric-free discussion between individuals from business, labor, government, and the general public about means of integrating important non-economic values into a free enterprise economy by establishing a rational system of rewards and penalties geared toward competition as well as the broader public interest.

[From the Mail (Oreg.) Tribune, Mar. 20, 1979]

Trucking Deregulation

(By Eric W. Allen)

Columnist James Kilpatrick, the conservative whose column appears three times a week in the Mail Tribune, recently wrote about the proposals to deregulate the trucking industry, and, rather to our surprise, came out against it—for the time being, anyway.

The Oregon Teamster likewise is against deregulation, and one of the arguments it makes is that it would increase traffic hazards on roads and highways. Under no regulatory restraints, independent truckers would find the best way to make a buck in competition with the big firms would be to bid low and then drive long and fast, and skimp on maintenance.

Comparisons with the airline industry are invalid. There may be a score of successful airlines, but there are some 155,000 trucking companies. It's hardly a matter of increasing competition.

It's an idea that needs further study. Hasty action could be harmful, not only to truckers, but to the public too.

Deregulation and Trucking

The trucking industry is critical to the New South, that is, the industrialized South which has experienced great economic growth since the Second World War. Manufacturing in the South has added almost one hundred billion dollars to the southern economy in this period, and the trucking industry's contribution to this growth is indicated by the fact that trucks have increased the tonnage they have moved in the South by one hundred million tons of goods in the same period. Among this tonnage, 79 percent of fabric mill products and 67 percent of knitting mill products are hauled by trucks.

Regulation of the trucking industry by the Interstate Commerce Commission has guaranteed a positive economic climate for growth in freight transportation, fair and reliable service has been provided, and very importantly service has been distributed to small and large communities alike. And yet there has been continuing pressure to deregulate trucking. A bill on this matter has been defeated before and will have to be again in the U.S. Congress. Without regulation many small communities will lose their delivery service just as these communities have lost air travel with the deregulation of air carriers. This is critical to the South since most of our industry is dispersed among small towns dependent on trucking. Trucking serves 856 communities in S. C. alone, and 58.1 percent of these are without rail service and so rely completely on trucks. There is also no reason to assume that new levels of competition will control rates either; after deregulation of air carriers, rates increased for freight by 21 percent. Deregulation of trucking industry will obviously hurt the South's economy. This is a challenge we must all work to meet and defeat. WSPA hopes you will make sure your Congressman knows how you feel.

DEREGULATION CRACK-UP

The heading to this comment is deliberately ambiguous. One may say that deregulation is being cracked up as something that has to come for the general good of our economic processes. Or one may say that deregulation is headed for a crack-up, that is for a breakdown. It all depends on who wins or loses.

A "Background Report" from the Office of Media Liaison, the White House Press Office, includes this cheerful assertion: "Congress passed the President's Airline Deregulation Act, substantially deregulating a major industry. As a result of competition, air fares have been lowered and American air travelers save 2.5 billion dollars a year."

On the other hand, a press handout mailed to us by a Houston-based public-relations advocate for the American Trucking Associations, Inc., quotes the president of the Associations as saying "Deregulation was supposed to get the government out of the airline industry. Instead, the government plans to become an unemployment service for the entire airline business, with taxpayers footing the bill."

Neither of those two pronouncements gets us very excited. All we can say is how it looks to us as we sit here in our swivel chair pondering the course of events.

EFFECT ON AIR FARES

As to air travel, we haven't noticed that buying a ticket is easier on the pocketbook since November, when the price was supposedly cut free. Flying north out of Monroe, the fare has actually gone up, so that instead of taking it easy and flying at about sixteen cents a mile, we find it worthwhile to endure the day-long strain of driving so long as we can still get by on four cents to the mile for gasoline cost.

However, if we can fly on an excursion rate, staying over Saturday night, we will fly. The gimmick is that since last November it has been harder to get the reservations people to admit they have seats available for excursion rate. One can ask a month in advance, but then one has to pick up the ticket within ten days, and any change within a week before departure involves a cancellation charge. But then there's no real competition north out of Monroe.

It's different between major metropolitan airports. Out of St. Louis there's no sweat at all getting a senior citizens' discount. But then again if they tell you you have to be at the Detroit airport early in the morning right after the ticket counter opens in order to get the one seat that seems to be available at a bargain, you had better be there, even if it means buying the ticket the night before. The few hours before flight time in the morning needn't mean much if you are by yourself and don't mind stretching out on one of the dozen or so three-cushioned waiting benches on the balcony next to the Christian Science reading room. There is a hotel in the terminal, but every room is taken, and anyway, the price is forty-six dollars for a single, fifty-three for a double.

Morning finally comes, after seven hours of pipe-in Muzak and all-night country from the next bench, where a young innocent fell blissfully asleep without turning off his radio. After a good in-flight breakfast with repeats on the coffee at an altitude of thirty thousand feet, the sun shines cheerfully on the cottony clouds far below. However, any of that $2.5 billion that air travelers are supposed to be saving as a result of deregulation comes to us the hard way.

TRUCKERS HAVE A POINT

Now as to the truckers and the trucking industry. There are now 16,000 carriers presently regulated by the Interstate Commerce Commission, and some 4,000 of those gross more than a half million dollars annually. If all these were cut loose from price and route regulation, we might expect to see some real cost-cutting competition. ICC permits, which now give particular trucking companies what amounts to a monopoly over certain routes, would lose their considerable value on the company books.

Spokesmen for the truckers and their employees have a point in arguing that deregulation won't save the taxpayers any money. The U.S. Department of Labor is proposing that airline employees laid off because of deregulation should receive "monthly assistance payments of up to $1,200". Presumably it is the government's fault if they miss a paycheck and the government has to make it up.

Think what will happen if the Department of Labor decrees that any of the 600,000 employees of the trucking industry are entitled to "monthly assistance payments" as a result of deregulation. We ourselves would like to be that lucky.

[From the Morning (Bloomsburg) Press, July 26, 1979]

TRUCK DEREGULATION BILL WON'T HELP SMALL TOWNS

In one of those strange quirks that make politics interesting, President Jimmy Carter and Sen. Ted Kennedy are agreed on something—and opponents believe this will harm Bloomsburg.

Not only Bloomsburg, but Berwick, Danville, Catawissa, Benton, Mifflinville. To be "generally" specific, "Small Town, U.S.A."

Both Carter and Kennedy support proposed legislation which would deregulate the motor truck industry.

And, in another strange quirk, where most industries and people want less government controls, the organized trucking industry wants the controls continued.

Among the major arguments against the measure is the fact that you can now look up in an ICC book and find out what the cost will be to get freight from a shipper in Los Angeles (or anywhere else) to Buckhorn (or anywhere else). With deregulation, a separate negotiation would be required with a hauler—and this could take some time-consuming shopping around.

Further, major trucking companies are in position to come to terms with a major shipper for a, say, Chicago-New York run. But what of the less profitable run to the small town off the beaten track, the farmer in the boondocks? The major firms would not be interested in these.

It would be up to the shipper or, more likely, the consignee, to find his own source of delivery—and probably at a premium.

Proponents claim that "free enterprise" would take care of this. They hold there would be sufficient interest by smaller, local trucking firms to pick up that slack. Perhaps so to a certain extent, but we question what Farmer Brown over Catawissa R. D. way might have to pay for such a delivery. And further, the trucking industry tales are replete with "exempt truckers" (those exempted from ICC regulations) having financial difficulties, lost loads, etc., which makes deliveries in such instances lacking greatly in assurance.

And what of the efforts of small towns to progress? How can Columbia County's Industrial Park No. 1, now in the throes of birth, attract industries if the industries cannot be assured of freight deliveries?

It is true the general public has little sympathy for trucks. The industry has much to do to turn this attitude around and it should get cracking on its public relations yesterday.

But, whether or not you like trucks, they're here. They are a major factor in your life. Look about you. Is there any one item you can point to with which the trucking industry, in some way or another, did not have a hand?

Kennedy and Carter estimate that deregulation will save the country $5 billions a year. The trucking industry can find no basis in fact for the claim.

Proponents of deregulation point to the deregulation of the airlines as an example of the benefits derived. For passengers, yes; fares have lowered. The trucking industry, however, points to an average air freight rate increase of 21 percent.

Besides, airlines only go to major cities. They don't land at Buckhorn.

One last point. "Smalltown, U.S.A." will continue to be serviced by trucks in one way or another. But it will be more expensive.

Would you like to hazard a guess as to who will pay?

[From Today, June 9, 1979)

DEREGULATION OF TRUCKING NOT IN PUBLIC INTEREST

Encouraged by successes in its experiment with airline deregulation, the Carter administration is testing Capitol Hill waters on deregulation of the trucking industry as well. The debate may be as heated as Washington sidewalks this summer after the president sends his deregulation proposal to Congress.

The call to loosen Interstate Commerce Commission reins on the trucking industry has rallied consumer advocate groups, independent truckers and even Sen. Edward M. Kennedy, D-Mass., normally a key stumbling block to Carter proposals. Unusual allies opposed to deregulation are large trucking companies, through the American Trucking Association, and the Teamsters.

At first glance, it appears that if deregulation brought lower airline fares in tow, it should do as much for freight costs by enhancing competition. Axing the ICC's ability to set freight rates and to decide on which routes trucks may roll will save consumers a bundle, claim proponents.

But a closer inspection hints that what's good in the friendly skies may cause gears to grind on the nation's highways.

ICC authority evolved with the Motor Carrier Act of 1935 after truckers asked Congress to intervene in a chaotic marketplace. With thousands of commodities moving on different routes in different-sized trucks, a shipper couldn't be sure he was getting the best price. Regulation assured all markets were served at stabilized prices. A manufacturer shipping tractor parts from Chicago to Des Moines pays roughly the same rate as one shipping the same parts on another trucking line from Des Moines out into the boondocks.

Competition is not a rare item in the industry. There are 16,500 regulated trucking firms, compared to 34 federally regulated airlines. The eight largest trucking companies capture only 14 percent of the business. By comparison, the eight largest auto firms have corralled 97 percent of their market.

The trucking industry claims that with deregulation, service to smaller cities would be costlier and perhaps disappear in some instances. Keeping up with a crazy-quilt pattern of competing routes would add costs for both shippers and truckers, argues the industry, and ICC power to assure safety standards would be whittled.

The industry's arguments make sense.

Brevard County, although it has no major metropolitan center, is guaranteed service through regulation which requires motor carriers to make regular trips here from Orlando, Central Florida's transportation hub. With industrial development gaining steam every day, the county must be assured of predictable service at a fair price.

The decision to deregulate must be based on the effectiveness of the system and not on its merits as a political trophy.

The 44-year-old legislation is not without its worn spots, and ICC regulations can be streamlined to better serve consumers. Congress's time would be better spent improving a workable system of regulation, rather than junking it altogether.

[From the Automotive Messenger, June 22, 1979]

NO NEED FOR DEREGULATING TRUCK-TRANSPORT INDUSTRY

With the public becoming more aware every day of the dampening effect of excessive government control on the American economy and of how the high cost of complying with government regulations adds enormous costs to the goods and services which are sold, the idea that the federal government might actually "deregulate" anything might seem to be a desirable response to the public cry to the government to "get out of my life."

Deregulation, however, is not a simple subject. It does not mean the same thing when applied to all industries nor can the effects of deregulation be measured by the same yardstick. The government recently deregulated the commercial air lines of the United States and while some of the effects of that might seem good, such as lower air fares, some of the effects are bad, such as the loss of scheduled airline service to smaller cities. Also, all of the effects of airline deregulation are not yet visible and opinions of its value may change as experience provides more information.

Congress is now in the process of studying the deregulation of the trucking industry and many of the effects of that are already visible before deregulation actually occurs. In fact, it is believed that there would be so many ill effects from trucking deregulation—with some of those effects actually disastrous—that nearly all the groups most closely associated with the trucking industry are already opposed to deregulation. These include the truckers themselves, speaking through their National Trucking Associations, based in Washington, the Teamsters who drive the trucks, as well as an impressive array of shippers and receivers who do the paying of what it costs to ship by truck.

What does deregulation of the trucking industry mean and why are all these groups, who might be expected to want the government's hand removed from their industry, opposed to deregulation?

The trucking industry is regulated in that it is exempted from the provision of the anti-trust laws which prohibits companies within the same industry to group together into cartels and to fix prices among themselves, thus reducing the degree of competition between them. The trucking industry is exempt from those laws and companies may band together and act as a group in setting prices for their services but they may do this only under a program approved and regulated by the government.

This is accomplished through a group of "rate bureaus" set up by the motor carriers themselves. These rates may serve a region, a smaller area, or may represent a group of trans-national carriers. Acting on the recommendations of the carriers, themselves, the rate bureaus set tariffs or rates, for various routes, for various types of shipments and for various other specified conditions. The rate bureaus then publish these tariffs widely and they have a regular procedure set up for hearing complaints or suggestions not only from the truckers themselves but from the shippers/receivers who use them as well.

Thus, a shipper need only consult the tariffs of the rate bureaus serving the area or route in which he wants to make a shipment and he knows what it will cost. The remarkable thing about the rate bureau system is that it is all voluntary. No carrier is forced to belong—although most do—and he is allowed to set his own private rate for a particular route or type of service or condition of service.

The things the orderly system of the rate bureaus accomplish are many. It reduces the number of tariffs a particular shipper must consult to learn what a particular shipment will cost. Without the rate bureaus, shippers, particularly national shippers, would have to keep on file the individual tariffs of about 16,500 regulated motor carriers now operating in the United States; without the rate bureaus there would be no combination tariffs for a shipment which had to pass through the hands of two, three or four carriers to reach its destination.

According to John F. Mahon, Transportation Regulation Specialist of the J. C. Penney Company, who was quoted in an American Trucking Associations pamphlet on the subject, "If each carrier were to publish its own tariff, we would be inundated with tariffs and faced with a veritable nightmare in accomplishing an economic distribution of our merchandise."

Also, if the rate bureaus were abolished, according to Robert Questell, Traffic Manager of JFD Electronics Corporation of Oxford, North Carolina, "Many small shippers would be ruined by non-regulated rate-making the expense to shippers of keeping the published rates current will be more than many can afford.

According to another national traffic manager, "Collective rate making is the lifeline of transportation."

All of this illustrates what a complex subject deregulation can be. Here is a case where deregulation would cause more harm, expense and confusion than the regulation itself and this for the very simple reason that the rate bureau system was set up in the first place because it was needed to bring order to a chaotic trucking industry, which it has done. To deregulate the trucking industry, in this sense, would be to simply destroy an efficient and necessary rate-making system. This opinion, significantly, is held not only by the truckers but by their customers as well.

In one broad sense, the rate bureau system is not really a "regulation" of the trucking industry. It is more of a government permission to set up a system which might by a violation of the anti-trust laws if that permission were not given but which is over-seen by the government to see to it that the special permission to be exempt from the anti-trust laws is not abused.

The government has many oppressive and harmful regulatory programs in many parts of our economy which indeed should be eliminated but in choosing what industries to deregulate and which not to deregulate, some selectivity is needed. A program such as the rate bureau system of the trucking industry is performing a valuable service and should not be wrecked indiscriminately.

[From the Texas Business, Sept. 1979]

DEREGULATION: IT'S NOT ALL ROSES

The political air is crackling with talk of government deregulation. In fact, deregulation seems to be equated increasingly with virtuous American institutions like motherhood and Independence Day. The opposite—regulation—has almost become synonymous with downright sin.

Advocates of deregulation point to the air-travel boom which followed airline deregulation as evidence that the same thing should happen to the part of the nation's trucking industry that's still regulated. A similar move to deregulate the railroads is gaining momentum.

Hardly any Texas businessman would disagree that government already has too many fingers in the business pie. Conforming with the crazy-quilt proliferation of government regulations costs billions. So it would appear logical that to free trucking and railroading at least partially from the burdens of regulation should be, to the Texas business community, like getting an unexpected tax bonus from the IRS.

But is regulation of transportation *all* bad—and would deregulation be *all* good?

Oddly enough, most motor-carrier executives don't think so. And while leaders in both trucking and railroading agree procedural reforms are needed—that much regulatory red tape should be eliminated—even some railroaders favor caution. They generally back a step-by-step deregulation program aimed mainly at enabling the industry to be far more responsive to changing economic conditions and competition than it is now. But, among other things, they oppose changes which might inhibit the railroads' ability to operate a single national rail system.

Railroads blast subsidies: The railroads feel they're discriminated against. They point to the fact that two primary competitors—the motor and water carriers—have received massive federal subsidies.

For example, Reg Whitman, CEO of the Katy—the only Class I railroad headquartered in Texas—wonders what truck rates would be if the truckers had to build, operate and maintain their own highway system. The railroads, on the other hand, not only must pay the cost of operating and maintaining their right-of-way facilities but also pay hefty ad valorem taxes on them.

A rationale for regulating cargo transportation is to help assure all shippers of equal access to rail or trucking service at fair, uniform set rates. If the typical trucker or railroader had his druthers, he'd probably prefer to accept mainly the most profitable freight business. It's much more cost-efficient, for instance, to load 15,000 pounds of cargo on an 18-wheeler in Dallas and haul it all the way to Los Angeles than it is to make the relatively short run from Fort Worth to San Antonio, delivering and picking up shipments all along the way.

A case in point is Waco-based Central

Freight Lines, Inc., Texas' largest motor carrier. Central operates entirely within the state, serving some 850 cities and towns daily via 55 terminals and 9,000 miles of highways. To perform this service, it uses about 2,000 pickup and delivery trucks plus 700 diesel tractors and 4,000 trailers mainly for over-the-road hauling. The company has around 4,500 employees.

As primarily an intrastate carrier, Central makes thousands of deliveries and pickups each day in Texas communities of almost every size—all the way from Abbot to Zorn.

What would happen to such far-ranging service under deregulation?

Small towns would lose: For one thing, according to W. W. Callan, Central's chairman of the board, nearly two-thirds—or about 550—of the towns now reached on a daily basis likely would get less service. Some perhaps twice a week, some once a week—and some towns would receive no service at all.

"Under deregulation," Callan tells me, "the traffic that we would handle would be substantially different from what it is today and, on the average, it would move at a much higher rate. This is particularly true of less-than-truckload business. Some truckload shipments probably would move at lower rates, but it is my judgment that, over all, deregulation would result—after a shakedown period—in increased freight transportation charges being paid by the shipping public in Texas."

The reason for this, of course, is that, instead of being obliged on a non-discriminatory basis to serve all shippers in the area where it has operating authority as it is now, under deregulation Central would pick and choose its freight according to its profitability—or non-profitability.

Callan concludes, "Under deregulation, we believe shippers and receivers of freight would have real difficulty in having dependable freight service . . . (Therefore) we do not believe that deregulation of the trucking industry is in the best interest of the shipping public and would result not only in less service but in higher transportation cost."

No quick answers: So it's apparent that deregulation is an extremely complex question. Rather than blacks or whites, there are varing shades of gray—and no quick answers.

Some industry authorities believe some form of deregulation of trucking and the railroads eventually is almost certain to be enacted by Congress. Market conditions have changed, so outmoded rules and regulations likewise need to be changed or eliminated to keep up with the times.

But such action should not be taken hastily. Texas is a huge state in which the needs of shippers in its hundreds of small cities and towns must be balanced against those in metropolises like Houston or Dallas/Fort Worth.

So, if and when deregulation ultimately occurs, it should create a healthy, competitive environment in which the big winner is the shipping public.

[From the Texarkana Gazette, Aug. 17, 1979]

Small Towns Are Hurt by Deregulation

(By Paul Scott)

WASHINGTON, D.C.—Rural America could face a rude economic awakening if the well-financed and carefully orchestrated drive to deregulate the trucking industry should be successful in Congress.

Because of the cut backs and ending of rail service over the past 30 years, much of small town U.S.A. is now dependent on trucks for freight transportation and the deregulation movement threatens to reduce this vital service.

The Carter administration and Senator Edward M. Kennedy, (D.-Mass.) has set forth a plan to dismantle the Interstate Commerce Commission's (ICC) 44-year-old system of truck regulation.

If approved by Congress, this plan would remove the common carrier's obligation to provide pick-up and delivery service to small communities at regulated prices.

Under the present law, this service is guaranteed by an ICC certificate of public convenience and necessity. In other words, truckers certified by the ICC must serve the small towns in the regions in which they operate.

The wide-open, free market theory for the trucking industry sounds good in speeches but a closer look uncovers problems that could outweigh the proposed benefits for vast areas of the country.

Deregulation, for example, could prove disasterous to the nearly 40,000 U.S. communities which do not have rail service and are dependent on truck transport for linkage with the rest of the nation's economy. Because of low volume freight and the often great distance between shipping points and small towns, freight transportation to small communities often is not profitable for the motor carrier.

If no longer required to serve unprofitable shipping points, many carriers will be forced, by economic realities, to abandon small and rural communities altogether. To many truckers, it simply will not be worth the time, effort, equipment and manpower to offer the service.

THE TRUCKING LINK

A hard look at the numbers—the thousands of small towns and cities lacking rail service—emphasizes the nightmare that deregulation could bring. Nearly 64 percent of all U.S. communities are without rail service and are completely dependent on truck service to keep the flow of consumer goods coming. In some states, the percentage is even higher.

In Kentucky, Virginia and Arizona, the figure is three-quarters. Two-thirds of California and Oregon communities lack any kind of rail service. And in New York, more than 2,180 communities are without rail service. There doesn't seem to be any doubt that truck transportation is vital to the economic health and well being of small-town America.

A survey of regulated motor carriers, now being circulated in Congress, shows that truckers, if completely deregulated, would reduce the average number of towns they serve from 84 to only 58. Further, 72 percent of those surveyed said they would continue service to those small towns only if freight rates increased.

Not all small towns will be left high and dry, but the fundamentals of the economic systems indicate that a lot of them will be hurt. Service will be reduced or rates increased.

THE AIRLINE EXAMPLE

The deregulation of the airlines is a graphic illustration of what could be expected.

"Those who support deregulation of the trucking industry using the so-called airline 'success' as a model should consider what the actual impact deregulation has had on the small town and the consumer," warns Bennett C. Whitlock, Jr., President of the American Trucking Association, which is fighting the Carter-Kennedy proposal.

Freedom of entry into any point permitted by deregulation also has allowed freedom to exit. After deregulation of the airline industry, many small and medium sized cities suddenly found themselves with no scheduled airline service.

100 CITIES HURT

Since the airline industry was deregulated in October, 1978, more than 100 cities across the nation have lost the service of one or more carriers.

An estimated 68 cities have lost or will lose all certified air service. And deregulation of the air cargo industry has caused rates to rise an average of 20 percent, with some 100 percent increases, in less than 18 months. Now threatened by a loss of truck service many of these small communities fear being cut off altogether from the mainstream of commerce and transportation.

Opponents of deregulation led by the American Trucking Association agree that there is room for improvement in the present regulatory structure. They support the Motor Carrier Regulatory Improvement Act of 1979, which would reform ratemaking practices and other areas of the regulated system. Their argument is that the end result would be to make motor carrier service more responsive to public need.

So far, Congress has moved slow on the Carter-Kennedy plan for deregulation. There has been no Committee votes on the measure in either the House or Senate. Whether there is any action on the legislation when Congress returns after Labor Day could depend on what the lawmakers hear from rural America.

Proceed With Caution

(By Martin W. Lorenz)

Change has become such a part of our lives that it is generally regarded as inherently good. For instance, I'm sure you are familiar with the expression, "Well, at least it's a change." But change, as often as not, can be harmful. For example, during the Arab oil embargo, Congress passed a law creating year-round daylight savings time in order to conserve energy. Shortly afterward, it became obvious that this apparently simple and harmless law was having serious repercussions, most notably a tragic increase in the number of accidents involving children who had been obliged to wend their way to school every morning in the dark.

Deregulation, like change, is a concept that is generally thought of in favorable terms today. But deregulation also can have negative effects, and I particularly believe that would be the result if the trucking industry was to be completely deregulated. Certainly, the present regulatory system is not perfect, there is a need for some change. But, instead of discussing trucking deregulation in absolute terms, the debate should focus on the degree of change that is reasonable. Surely, a disciplined approach to deregulation is required if you are going to tamper with a national distribution system that touches all of us, every day, in the way we conduct our businesses and life styles.

For starters, it would be interesting to study the effects of the Carter Administration's highly-touted deregulation of airlines, which has been held up as an example for the railroad and trucking industries. While at first glance airline deregulation seems to be of considerable benefit to consumers, there are those who believe that the jury is still out on its ultimate effects. One prominent questioner of the purported benefits of airline deregulation has been Senator Robert C. Byrd (D-W.Va.), the Senate's majority leader.

In a speech delivered on the Senate floor in April, Senator Byrd cautioned against hasty solutions. In his remarks, the majority leader noted that airline deregulation had been brought up in Congress as an anti-inflationary measure that would be of great potential benefit to consumers.

"The actual picture is not so rosy," he said. "True, there are some significant fare reductions on certain routes. But the airlines have established their own quagmire of fare regulations. In most cases, there are so many restrictions and requirements on the super fares that I wonder how much, if any, reduction the traveler really receives." In addition, the Senator pointed out that most airlines only make available a limited number of seats for these low fares. Thus, he said, passengers may meet all the qualifications and still not be able to take advantage of the advertised low fares.

Senator Byrd added that deregulation has caused "a severe economic impact, particularly on the smaller and medium-sized cities. A proper balance must be struck. And, in any case, efficiency must not take precedence over the requirements for adequate and economical service."

Then, too, there is a significant difference between the basic business of airlines and trucking companies. The airlines are primarily in the business of transporting passengers, while trucks are freight haulers. By offering special fare arrangements, the airlines have been able to attract passengers who might not otherwise have traveled by plane. They filled what would have been empty seats. But trucking deregulation cannot create any additional freight because every available shipment is being hauled.

THE PUSH FOR DEREGULATION

The clamor for deregulation comes from many quarters in the federal government. President Carter, in his anti-inflation address on October 24, 1978 and again in his State of the Union address, specifically identified the railroad and trucking industries as areas where his Administration intends to work with Congress to reduce economic regulation.

An interagency task force headed by the Department of Transportation has prepared a draft report that lists three options for regulatory reform. These range from a proposal to phase in total deregulation, virtually eliminating the Interstate Commerce Commission's (ICC) functions, to a much less stringent set of amendments to the transportation rules that would point the ICC toward reduced economic regulation.

In the draft report itself, the task force recognizes the problems of the total deregulation proposal and admits to the difficulty of showing any direct consumer benefits, although it states that "overall national benefits could be quite significant." Moreover, the task force notes that there is little evidence that the benefits of deregulation would be as large as predicted by its proponents. And, the task force acknowledges that "short-term economic dislocations" could be experienced by carriers, shippers, and communities. In short, the Administration's own task force recognized that the effects of total deregulation cannot be reasonably predicted.

Meanwhile, the regulatory picture is changing even without the development of a formal legislative package by the Administration. The ICC has gone ahead and made a number of policy changes that drastically impact the present regulatory scene in two key areas—entry (gaining operating authority) and ratemaking.

Before I review the changes already brought about in these two areas, let me re-emphasize the need for the advocates of legislative and administrative change to be prudent and aware of the consequences of their proposals. They should exercise care and not permit their zeal to do irreparable harm to a system that, despite its imperfections, does work.

The nation's distribution system is too important to be subjected to theoretical experimentation. It is hard to imagine any business that is not affected by trucking as it operates today and, consequently, one that would not be affected by drastic changes in the industry's structure. As Senator Byrd said in his congressional speech, nothing should take precedence over the need for "adequate and economical service."

To illustrate the need for prudence in deregulating the trucking industry, here is a review of recent changes in the two key regulatory areas mentioned earlier: entry and ratemaking. In the course of this review, note that considerable changes have already taken place—some with potentially serious consequences and many revealing a shortage of foresight.

REQUIREMENTS FOR ENTRY

Among the prime target areas for deregulation is entry, or the granting of operating authority, into the trucking business. Increased competition is the argument usually given for reducing or eliminating the barriers for "free" entry into the trucking business. This suggests that there is not enough competition at present. But aren't the more than 16,000 interstate motor carriers regulated by the ICC enough? If not, how many should there be?

Perhaps it is not the number of carriers that is perceived to be the problem, but the limited scope of operations of many existing carriers. But, then, doesn't the present regulatory system provide a remedy for that? For instance, the ICC reported that, in the first six months of fiscal year 1978 (beginning October 1, 1977), it received an average of 950 new applications per month for permanent motor carrier authority. During that period, of the applications for motor carrier authority for which the ICC reached a decision on the merits of the case (that is, all those which were not either dismissed or withdrawn), 94.3% resulted in a complete or partial grant of authority. In June 1978 the grant rate was 98.2%, and for July it was 96%.

Certainly, those numbers would seem to show an increasing degree of competition within the present regulatory structure. While the grant rate is extremely liberal, the ICC obviously found valid reasons to turn down some applications. Presumably, under free entry, those unqualified applicants would be operating today. Surely, there should be some process to weed out operations like those that the ICC found not to be in the public interest.

Taking another perspective, I suggest to proponents of trucking deregulation that, if one completely opens the door for free entry, this impiles leaving it ajar for free exit. If virtually anyone is free to serve those markets that are found to be attractive, it also would follow that anyone is free to abandon unattractive markets. Under present ICC rules, a carrier must serve its entire operating authority. Obviously, the carriers see greater benefits for themselves under these rules than they would gain from the ability to abandon unprofitable markets. Nonetheless, the impact on communities that might lose carrier service—should deregulation come to pass—would be critical, if not fatal. This concern is even expressed in the most sweeping of the three reform options drafted for the Administration's consideration.

Usually, when we consider the impact of service losses as a result of deregulation, we think of small communities, such as those in Senator Byrd's home state of West Virginia, with relatively light amounts of available traffic. While such areas could certainly be subject to service losses, isn't it conceivable that the problem might go beyond these communities? What of service to large metropolitan areas with heavy traffic? Due to operating conditions, which result in extremely high cost factors, service to these areas can be unprofitable or marginal at best, particularly with the rapidly rising cost of fuel. While it is unlikely that such markets would be abandoned under deregulation, the level of service might suffer measurably as carriers attempt to maximize their profits. Some may find this scenario acceptable on the basis of its being good business, but what of the impact of reduced services on enterprises and consumers in the affected areas?

RATEMAKING

The present practice of collective ratemaking by motor carriers is also under attack from a number of quarters. Collective ratemaking involves carriers with similar traffic flows that join together in rate bureaus, which file tariffs on behalf of their member carriers. Ratemaking is one of the subjects covered in the three-option draft report submitted to the White House for consideration in deregulating the industry. The most stringent Administration option calls for repeal of the Reed-Bulwinkle Act, which presently provides the antitrust exemption permitting collective ratemaking. At the other side of the spectrum, the third option recommends reform of rate bureau provisions, with restrictions on collective ratemaking.

Throughout 1978, both the Justice Department's antitrust division and Senator Edward M. Kennedy (D-Mass.), then chairman of the Senate Judiciary Committee's antitrust subcommittee, criticized the antitrust exemption of the motor carrier rate bureaus. Senator Kennedy, now chairman of the Judiciary Committee, has introduced legislation to eliminate the trucking industry's antitrust exemption that he said would end "30 years of legalized price-fixing." His bill has the Administration's endorsement.

It does not have the support of the majority of the nation's shippers, however. And shippers—as users of trucks—would seem to be a link in the chain that the proponents of deregulation should be trying to help. But five major shippers' organizations, which represent nearly 80 percent of the nation's shippers, have publicly stated that they oppose deregulation of the trucking industry and, particularly, Senator Kennedy's bill. The five groups are the National Industrial Traffic League, the Transportation Association of America, the Eastern Industrial Traffic League, the Southern Traffic League, and the National Small Shipments Traffic Conference's government affairs committee.

These shippers' organizations contend that deregulation would lead to higher trucking rates, rather than lower charges, especially when rising fuel prices are taken into account. Also, they have pointed out that under the present regulatory system trucking rates have not had an inflationary effect but, in fact, have risen at a slower pace than both the Consumer Price Index and the Wholesale Price Index.

Meanwhile, without awaiting the outcome of any legislative proposals, the ICC issued a decision in late 1978 that established entirely new criteria for ratemaking. This decision came after a review of the evidence presented by the Southern Motor Carrier Rate Conference to secure a rate increase intended to offset Teamster wage increases that went into effect on April 1, 1978.

Perhaps it is time to establish new criteria for rate cases, but the timing seems a little strange in view of the pending legislation on the subject. Indeed, there have been a number of letters from congressmen to the ICC questioning its action. Moreover, the decision, which caused an immediate downturn in trucking stocks, was based on a number of questionable assumptions.

These assumptions may have a grave effect on the industry. In commenting on the ICC's action, Bennett C. Whitlock, Jr., president of the American Trucking Associations, said: "The ICC has performed open-heart surgery—blindfolded. . . . This could be the death knell of the industry's ability to perform its vital transportation services. . . . However the ICC congratulates itself on having abided by President Carter's anti-inflation guidelines, it must know that the strangulation of the trucking industry is no boon to the nation's economy."

The importance of the ICC's decision is good cause to examine some of the assumptions that it applied in reaching its conclusions. For instance, after reviewing a number of financial ratios, the ICC decided that return on equity (ROE) is the most appropriate ratio to use in determining revenue needs. It defines ROE as net income after interest and taxes/stockholders' equity, minus intangibles (intangibles are generally the value of operating authorities).

The ICC concluded that a target ROE for truckers should be approximately 14 percent. This was based on the commission's belief that the ROE for motor carriers should be no higher than the ROE for all manufacturing companies. Federal Trade Commission statistics show that the four-quarter average for all manufacturing corporations in 1977 was 14.2 percent.

Truckers, however, question the appropriateness of being pegged to the average of all manufacturing firms. And, they contend that, even in applying this parameter, the ICC has been inconsistent. For instance, truckers point out that the 14.2 percent ROE for manufacturing corporations does not include the subtraction of intangibles from stockholders' equity that the ICC requires of motor carriers. Also, the truckers note that, while the ROE of manufacturing companies is based on consolidated financial data, the ICC did not consolidate the motor carriers' data with that of their affiliates. In addition, the carriers pointed out several other technical inconsistencies in the ICC's calculations.

If ROE is the correct measure to determine the revenue needs of truckers, is the average of manufacturing firms a correct standard? And, if so, shouldn't the comparison be consistently applied?

Faced with vigorous criticism from the trucking industry, the ICC has backed off and asked for public comment on the method of determining the proper rate of return for motor carriers.

THE NEED FOR PRUDENCE

The administrative changes and legislative proposals in effect or under way are most likely going to result in a different mix of trucking service than what we have come to expect. The advocates of change should study the recent regulatory revisions discussed above and be aware of the consequences of these and any additional proposals. They should exercise care and not allow their zeal to do irreparable harm to a system that, despite its imperfections, does work.

Motor carriers, employees, unions, shippers, suppliers, bankers, and investors are all concerned about what deregulation will do to the stability of the trucking industry. With so much hanging in the balance for such a large component of the U.S. economy, it is imperative that the ultimate decisionmakers prudently evaluate substantive data to assess the impact of their conclusions.

[From the Zanesville (Ohio) Times Recorder, Aug. 1, 1979]

Trucking Vital

Mail and comments coming across an editor's desk normally oppose government regulation of business and industry and favor all the freedoms a free enterprise system can provide.

The newspaper tends to favor deregulation leaving the operational practices and procedures of non-monopolies to the companies as they operate as free enterprises in a competitive market.

For this reason it was shocking to hear representatives of two Zanesville trucking companies and public relations personnel of the American Trucking Associations, Inc. and the Ohio Trucking Association speak out urging editorial disapproval of President Carter's trucking deregulation proposals.

A background report dispatched to the TR from the White House Press Office noted that on June 21 the President submitted to Congress proposed legislation which would result in significant deregulation of the trucking industry.

The White House report said the "proposed legislation would establish a new policy to govern decisions of the Interstate Commerce Commission over motor freight transportation." The report said the proposal "recognizes that the trucking industry is naturally competitive and that excess government regulations over the years have not protected the public, but rather raised trucking costs and created unnecessary inefficiencies."

The local trucking executives and associational spokesmen, pushing to continue regulation of the industry, expressed the feeling that the President was ill advised on the value of the regulations and the problems of the trucking industry.

A position paper of the American Trucking Associations, Inc. stated that the regulations were adopted in 1935 because the trucking industry had become "overcrowded with small economic units which proved unable to satisfy even the most minimal standards of safety or financial responsibility."

The association said "continued regulation of the trucking industry is vital to maintain a stable nondiscriminatory system of national surface freight transportation by the trucking industry—in the public interest."

According to the trucking association deregulation would result in less competition within the trucking industry, not more. "Small companies would be driven out by the larger, more powerful ones," the association states.

"Without regulation," the association states, "the collective rate-making system would be dismantled." According to the group "it is widely agreed that the overall effect would be marked increases in shipping rates."

Without regulation, the ATA states, "the ICC would lose its economic muscle to enforce safety regulations, currently making regulated truck drivers among the safest on the road."

Deregulation, according to the ATA, would force trucking firms to abandon less profitable routes and increase rates substantially to others" with the result being a "dramatically negative economic effect on small-town America."

A Zanesville trucking executive likened this to what happened at the Zanesville airport after airlines were deregulated.

While at one time the local airport was served by three airlines now there is no airline service. Once the regulation to service the Zanesville airport was removed service was discontinued as being economically unprofitable.

"The trucking industry is regulated because that regulation serves the public and serves it well," the ATA stated.

Government regulation is normally opposed by most businesses and industry. For this reason it was shocking to hear these trucking spokesmen fighting against deregulation. But they feel strongly about their cause and obviously know more about their business and its ins and outs than those outside of the field.

Good trucking service is vital to our community and Zanesville would not want to lose any of the service it has at this time. Anything that would weaken the trucking service here would be a hardship on our community.

It's just difficult to endorse government regulation of business and industry.

Truck Deregulation Unwise

(By Donald G. Benton)

There are many people who believe that trucking deregulation would be a great boon to the economy. Even President Carter has said it would save the economy $5 billion per year. Unfortunately, the president has chosen to hang his hat on a number that he probably feels will attract a great deal of attention even though it is completely unfounded.

There are many others who feel that airline deregulation is proof positive that trucking deregulation would be a good thing. This also is fallacious. Since airline deregulation, there have been service cutbacks to more than 100 cities. Similar deregulation of the trucking industry would also mean widespread service cutbacks to smaller communities and subsequent higher costs to consumers. The proponents of deregulation are premature in touting the airlines as a success story. It is a matter of great concern that the public would accept this premise and erroneously conclude that trucking deregulation would be in its best interest.

The idea of deregulation sounds great, but if you're a small merchant or consumer in a little town in the South the theories don't mean nearly as much as guaranteed delivery of your merchandise. The airlines' cutback in service comes as no surprise. For what the airlines are doing is the same thing the trucking industry would do under deregulation: drop non-profitable, small-town routes and concentrate service to the heavy-traffic, large-city areas. Under regulations, the trucking industry has to serve the smaller communities as the airlines previously were required to do. Forty-four percent of all Americans live in towns under 10,000.

So, what would be the benefits of trucking deregulation to John Q. Public? Not lower costs, unless the individuals lived in large metropolitan areas. Again, look at the airlines. Rate reductions have only been between major cities, and I predict even these reduced fare routes will be short-lived as reduced competition results from mergers.

There are already 16,600 trucking companies under regulation. Only two other industries—miscellaneous machinery and feminine wearing apparel—are more competitive. As for deregulation reducing inflation in the trucking industry, from 1967 through 1978 the consumer index rose from 100 to 195, or 24.4 percent higher than regulated motor carrier service. Since the deregulation of air freight rates, charges have gone up 21 percent in less than one year.

Deregulation as it would apply to the trucking industry is a terrible misnomer, for the public is being led to believe that this means more competition and hence lower costs. Unfortunately, the evidence strongly suggests that quite the opposite is true.

Gov. Rhodes Opposes Deregulation; Commends Teamster Energy Policy

Approximately 250 delegates and alternates assembled in the Capitol of Columbus for the 31st annual Ohio Conference of Teamsters heard Governor James Rhodes (R) commend the Teamsters for their sound approach to the nation's energy crisis and join with the Teamsters in opposition to Deregulation. At the Teamster conclave he became the first governor of a major, populous state to oppose deregulation.

Stating that we currently don't have a national energy policy that makes sense and that the working people are the big losers, Rhodes urged a greater dependence on our own coal and less dependence on unstable Arab oil.

"The Teamsters have seen the merit of this approach and have been our allies in trying to bring our federal government to a sane national energy policy," the governor told the delegates.

The August 27-30 conference, which centered around the many services provided by the various divisions of the Ohio Conference of Teamsters and the theme "Teamsters—People Helping People," was opened by an address from OCT President William Presser, followed by IBT Vice President Jackie Presser who explained Conference programs and services.

The opening day session also included an address by Ohio Attorney General William Brown, who praised the Ohio DRIVE for helping to "increase the quality of life in Ohio." Robert Cassidy, OCT secretary-treasurer, followed with a Conference progress report. The opening session concluded with a report and dialogue on the Central States Health & Welfare and Pension Funds conducted by Bruce Trojak, George Faulkner and James Jorgensen. That evening separate meetings were held by the Warehouse Division and the Dairy Division.

Oliver Ocasek, president of the Ohio Senate, opened the Tuesday morning session stating that the relationship between the state legislature and the Ohio Teamsters has never been better. Senator Ocasek told the delegates, "The Teamsters have been vigilant as a watchdog for the working people of Ohio."

Safety and health issues and services were underscored by presentations of Steve McDougall, IBT industrial hygienist and Susan Dritz, OCT director of safety and health. The morning session concluded with a report on the Ohio Highway Drivers Insurance Fund by George Faulkner, Sr.

Tuesday afternoon was devoted to reports by various divisions of the OCT, including the Sports Committee by Skip Felice, Communications (Video, Public Relations and the Ohio Teamster Newspare), Research, Legislative and Educational by Paul Locigno, and Legal by Sorrell Logothetis. The evening session included meetings of the Construction, Bakery and Beverage Divisions.

Bill DeMatte, staff assistant to Senator John Glenn, kicked off the Wednesday morning session with a message from Ohio's senior senator who was unable to attend. Joe Knight described the divisions of the Service Bureau and their accessability to Teamsters and their families and gave a report of the Retiree Division. Karen Zelman offered a look at the various Family Services available through her division and Louis Friedman outlined recent activities of the Speakers Division. The session concluded with a special video presentation by Mike Pruitt, Cleveland Browns' fullback, who is the new director of community relations for Ohio Teamsters.

The major issue of the afternoon session was deregulation. Keith O'Brien presented the Teamster opposition to current legislation which would deregulate the trucking industry. He was followed by Ohio's junior Senator Howard Metzenbaum, a sponsor of deregulation legislation in the U.S. Senate. Metzenbaum defended his position in supporting deregulation, but at the same time acknowledged the responsibility of Teamster opposition. After a spirited and respectful exchange with the delegates the Senator agreed to meet with a delegation from OCT and expressed a willingness to consider carefully their points of opposition with an open mind.

The Wednesday session concluded with Field Services reports by Andy Suckart, Sam Stintsman, Richard Collinson, Sherman Brown and Bob Moody. That evening a meeting of the Ohio DRIVE was held.

The concluding day of the Conference included a retiree meeting and an executive board meeting, as well as committee reports and the governor's address.

The final evening a dinner was held for the delegates included in the conference from the three joint councils and 45 local unions represented.

[From the International Operating Engineer, July 1979]

TRUCKING DEREGULATION COULD PRODUCE CONSTRUCTION PROBLEMS

Many times we hear of legislatives issues that seem to have no direct effect on us, but on closer examination they are of considerable importance. One such issue is deregulation of the motor-carrier industry.

Essentially, the motor-carrier industry is regulated by the Interstate Commerce Commission (ICC), which determines rates that may be charged and the routes that must be traveled.

By contrast, there are some facets of motor transportation operating without ICC regulation—primarily in long distance delivery of agricultural products.

In comparing the two, regulated and unregulated, we find matters that are of major importance to our organization—job security and safety.

With regard to job security, the unregulated portion of the motor-carrier industry is virtually non-union, while the regulated sector is organized.

Thus, in an unregulated environment non-union status will almost be guaranteed. This will become very important in picket-line situations because the non-union carriers will have little or nothing to lose in crossing picket lines on construction projects.

As things stand today, the organized drivers who transport regulated commodities such as steel, cement blocks, and the like, understand and respect our rights.

These same truckers, under deregulation, face certain unemployment from cut-throat non-union operators.

As to safety, a recent study demonstrates drivers who transport unregulated goods have a poor safety record. It shows that the unregulated operators regularly drive beyond the time limits considered safe by the Department of Transportation; have more traffic violations and accidents than regulated drivers, and drive at higher speeds than others.

We urge you to contact your elected officials and recommend opposition to any effort aimed at deregulating the motor carrier industry because it means substandard working conditions for those employed in the industry, weakens our strength in labor-management disputes, and encourages unsafe conditions on our nation's highways.

[From the Cheyenne (Wyo.) Tribune, Aug. 21, 1979]

TRUCK DEREGULATION WON'T HELP CONSUMER, SAYS MAYOR

(By Kirk Knox)

Mayor Don Erickson has told a hearing of a House Subcommittee on Surface Transportation meeting in Denver that he fears proposed deregulation of the trucking industry "will not help the consumer, especially in areas like Wyoming."

He said at his news conference today that he had testified before the hearing at the invitation of the U.S. Conference of Mayors.

Erickson said he told the hearing that, "There are not enough independent truckers (in Wyoming) to fill the voids that will be created when regulated carriers abandon the marginal routes. Subsequently, prices will escalate and the service will become chaotic and confused."

The mayor said the subcommittee is looking at ways to increase competition, to improve truck safety and try to simplify the whole regulatory process.

He said Cheyenne obviously is "in a good position" for truck service because of its location on two interstate highways.

Erickson said he had reiterated the frequently-heard prediction that if trucking were deregulated, then "the smaller communities would lose service because the larger carriers would not be required to provide it."

The mayor said he had suggested at the hearing that the subcommittee "work with the trucking industry—both regulated and independent—to come up with specification of agreed useless regulations, do away with them and come up with a new set."

Erickson said the mayor's conference he represented "does not have a position (on deregulation) at this time."

He added, "I will be doing some more study on trucking, as it affects our community."

The mayor said that while he felt the goals of the subcommittee were useful, "I don't think legislation necessarily is going to implement those goals. Possibly, deregulation is necessary, but not total deregulation."

Erickson said at the end of his news session that he hadn't yet studied a statement of Monday by Police Chief Byron Rookstoll that the police department was encountering difficulty in finding qualified applicants for its vcaancies because of relatively low police pay here.

TRUCKLINE SERVICE: HOW MUCH DOES IT MEAN?

(By John C. Dills)

Hendersonville merchants could discover some morning that the truck lines that bring in their merchandise don't stop here any more, a management consultant said here Friday.

Charles F. Holbrook of Charles Holbrook and Associates, speaking at the weekly meeting of the Hendersonville Lions Club, said that if Congress deregulates the motor carriers, many of the carriers would stop serving some small cities like Hendersonville.

Loss of service here, Holbrook said, could adversely affect small manufacturers as well as merchants.

He gave a brief speculative résumé of what might happen in Hendersonville should some of the carriers suddenly decide that it's no longer profitable to serve Hendersonville—based on passage of an act deregulating the carriers.

He painted a picture of what might happen to a smaller manufacturer expecting a shipment of material needed for a week's production when the shipment doesn't arrive.

"The owner phoned the truckline in Atlanta," Holbrook said, picturing the scene, "and after a brief conversation, he turned to his foreman, 'Send the men home,' he said. 'Our shipment is still in Atlanta. That truckline does not stop here any more.' "

Merchants awaiting goods would be adversely affected too, he said, since they wouldn't be getting the merchandise to sell.

And he speculated that the trucklines' reply to the merchants could be: "No. We've decided it's just too costly to serve your town; so no more deliveries."

Holbrook admitted to some exaggeration, but he said such could happen here if the Trucking Competition Reform Act sponsored by the Carter administration is passed.

"I am giving you this warning," he said "because I want there to be no surprises when deregulation becomes law and you find that you cannot receive supplies, and cannot make shipments to your customers in the same manner and at the same costs as in the past."

Holbrook said that two of the provisions of the bill he considers most harmful to small communities are that freight rates could vary up or down, under competitive pressures, unknown from one day to the next; and that established trucklines "could abandon unprofitable services (to small towns, perhaps?) without prior notice."

He suggested to offset as far as possible the adverse affects of such a law, the merchants and manufacturers could:

Keep informed on the progress of trucking deregulation. "You will ignore this legislation at your peril."

Let vendors know of their concern and ask what to do to keep orders coming in.

Ask their trade associations for periodical bulletins on the pending legislation.

Form a transportation committee under

the sponsorship of the chamber of commerce to disseminate information to the chamber members, the merchants' association and the newspaper.

With the cooperation of the chamber of commerce and the merchants' association, arrange to have a leading spokesman from the motor carrier industry to present the industry's position on the issue.

Currently, Holbrook said, there are more than 20 truck lines serving Hendersonville.

"Maybe it's not profitable for 20 truck lines to come in here, and perhaps, under the new law, we'll have to get along with a half-dozen.

"But Hendersonville must protect the right to maintain the level of truckline services considered essential to its growth and development. That's the crucial task facing this community."

[From the Cleveland Plain Dealer, Sept. 7, 1979]

Big Shipper Rips Deregulation of Trucking Industry

(By John Leo Koshar)

Arthur W. Todd, purchasing director of Lincoln Electric Co., said here yesterday that deregulation of the industry as proposed by the Carter administration would do more harm than good.

The Senate Commerce Committee is holding hearings in Washington on an administration-backed bill sponsored by Sens. Howard M. Metzenbaum, D-O.; Edward M. Kennedy, D-Mass., and others that would reduce government regulation of the industry.

Speaking on behalf of Cleveland area shippers served by the trucking industry, Todd said: "We need to have all kinds of carriers and we need to know what they are doing.

"So that's why we need regulation. Without it, we wouldn't know what they were doing."

Todd said his company ships two million pounds of its products daily from its plants in Euclid and Mentor by common carriers and contract carriers.

"We have 150 different trucks coming into our plants with materials and 100 trucks going out every day. Now, under deregulation, we wouldn't know from day to day which territory they served or the rates they were charging," he said.

The Senate is considering two separate trucking deregulation bills, both sponsored in whole or in part by Kennedy.

The president's proposal would phase out the Interstate Commerce Commission's rate-setting authority over two years.

After that, truckers would set whatever rates they wished so long as the commission did not find them to be aimed at wiping out competition because another aim of the bill is to encourage more competition.

During the first two years of the bill, truckers would lower rates by up to 20% each year or raise them by up to 5% annually, without ICC interference.

Trucking spokesmen contend that the present system makes for a manageable price structure that prevents chaos among shippers.

Carter's proposals would phase out by 1984 all federal restrictions on the commodities trucking companies may carry and the routes they must follow, beginning with an immediate end to restrictions on backhauls.

A backhaul is a term used to describe a truck that is forced to make a return trip empty.

The ICC has estimated that more than 20% of all truck miles are now driven empty, in part because of regulations preventing carrying cargo on return trips.

Carter's plan would make it easier and speedier for truckers to gain ICC approval to enter the business.

But Todd said "a lot more trucking companies would create a cross-hauling situation in the industry to no good purpose."

[From the Boulder (Colo.) Camera, Aug. 22, 1979]

Trucking Problems Draw Various Solution Proposals

(By Carl Hilliard)

Denver.—A congressional subcommittee studying trucking problems has ended two days of regional hearings, with members wondering whether complete deregulation, or only a streamlining of procedures is needed to solve the industry's economic ills.

The group finished its hearings Tuesday.

A half dozen trucking representatives complained their biggest problem is cutting through red tape in complying with regulations and in applying to the Interstate Commerce Commission for licenses as carriers.

Rep. James J. Howard, D-N.J., the subcommittee chairman, said the hearings would resume in September, "probably on the West Coast."

With him were Reps. John C. Fary, D-Ill.. Nick Joe Rahall, D-W. Va., and Tom Hagedorn, R-Minn.

Howard said it is clear there are steps Congress could take soon to eliminate or at least reduce some of the problems, but it may take several years to overhaul the trucking regulation program, if that is found necessary.

It is possible legislation could be written to allow some smaller operators to haul both ways under their permits, instead of taking a load to a destination, and then returning empty, as some are now required to do.

And he was also hopeful a list of "unrestricted commodities" set by the ICC can be expanded, so some haulers do not have to run their trucks with less than capacity loads.

"As it is now, an operator might back his truck up to a loading dock where there are 12 items to be hauled, and he might be authorized only to haul eight of them," he said.

A major complaint the subcommittee heard was about a band of "barrier states" in the midwest, that have weight and length limitations different from other states. That forces a trucker to "end run" several hundred miles to avoid crossing those barriers, and costs him money, the chairman said.

States are responsible for weight-length standards, and not the federal government, he pointed out.

An independent, minority trucker from Denver, Lovis Turner, told the subcommittee he favors deregulation because as the situation exists now, he is being "frozen out" bigger companies that have the money and legal staff to protest his hauling applications.

He has spent $15,000 to $20,000 for legal help in fighting those protests, he said.

And he has evidence some haulers are taking on loads for a price less than the rate they have filed with the ICC, he said.

Turner's lawyer, Walt Jones, said getting ICC authority to haul on certain routes is a "Catch-22" situation for businessmen like Turner.

"You can't get the authority until you get the business, and the bank says you can't get the loan for the business until you have the (ICC) authority." An ICC waiver for new business is needed, so it can be determined if they can be competitive, he said.

Edward R. Toliver, coordinator for the Teamsters in Colorado, Wyoming, Arizona and New Mexico, said his organization doesn't think wholesale deregulation will solve any problems.

The regulations were instituted to bring order to an industry "that was dangerous, chaotic, haphazard and, incidentally, not amenable to free market pressures."

Deregulation would reduce highway safety, raise prices for consumer goods, isolate many small towns and rural areas, allow "cutthroat competition" to drive medium and small truck lines out of business and cause "bureaucratic upheaval at great public expense."

He pointed to the airline freight industry, which he said had increased its rates more than 20 percent since recent deregulation.

Byron Raznick, president of Nolte Bros. Trucking Lines of Denver, criticized those who say there is not enough competition in trucking.

"What do they think 16,800 authorized carriers are?" he asked.

[From the Container News, Aug. 1979]

9 Former ICC Members Back Continued Regulation—Congress Must Make Decisions, They Say

(Editor's Note: The following article is adaped from a statement issued by nine former members of the Interstate Commerce Commission. The statement was circulated to all former members of the ICC, but some, for reasons not necessarily related to its content, chose not to join in it, according to a footnote.

The nine issuing the statement were Owen Clarke, Robert J. Corber, Abe McGregor Goff, Dale W. Hardin, Alfred T. MacFarland, Donald P. McPherson, Robert W. Minor, Rupert L. Murphy and Charles A. Webb.)

We are former members of the Interstate Commerce Commission whose combined service in that agency totals 71 years and five months. Our service spans the period beginning July 10, 1953 and ending August 31, 1978.

This statement is made in the hope it may clarify a few basic issues in the current debate on regulatory reform for surface transportation. Our statement implies no criticism of incumbent commissioners. Sharp differences of opinion exist within the transportation community on the extent to which surface transportation should be regulated. Such differences exist among ourselves.

We recall that the Duchess in *Alice In Wonderland* said: "If everybody minded their own business . . . the world would go round a deal faster." But that was in Wonderland. If each transportation enterprise minded its own business, if carriers and shippers were not organized to facilitate communication and coordination, the wheels of transportation would turn more slowly and less efficiently.

Creation of a national transportation system requires coordination, cooperation and collective action both within and between the various modes of surface transportation. Some degree of regulation is required because if each carrier minded its own business, there would be no system to serve the public.

The conflicting claims of individual carrier action and creation of a system of transportation were first resolved by the Congress some 92 years ago. The Congress rejected rampant individualism, on the one hand, and on the other, state socialism and nationalization of transportation. Charting a safe course between license and regimentation is not a problem peculiar to transportation, but the consequences of navigational error are devastating.

ESSENTIAL DIFFERENCE

There is an essential difference between an industrial cartel and a carrier rate bureau. Members of an industrial cartel have no obligation to create and to operate, for example, a national steel system, a coordinated electronics system, or an integrated system of supermarkets. On the contrary, our economic Magna Charta, the Sherman Act, prohibits any such form of cooperation because it is unnecessary and would deprive the public of the benefits of relatively unrestrained price competition.

On the other hand, the concept of a national surface transportation system comprised of privately-owned carriers of different modes necessarily requires the system to be guided by collective action subject, of course, to whatever degree of regulation may be necessary to protect the public interest.

No developed nation has ever denied itself a national system of transportation. The systems are either owned and operated by the government or created and managed by the cooperative action of privately-owned carriers under governmental regulation.

NATIONAL SYSTEM

It is not necessary that all carriers function as a part of the national transportation system; that entry into and exist from the system be tightly controlled; or that rates within a broad zone be regulated. A national system of transportation can function reasonably well even though a large number of private carriers, specialized carriers, and small transportation firms operate completely outside the framework of the system, and even though the right of independent action is accorded to essential elements of the system.

Our concern is not that total deregulation would revive "the law of the jungle," or "cutthroat competition," or return the common carrier industry to its condition in the Great Depression. In passing on the extent of deregulation, our concern is that the public may not fully understand the necessity for retaining a national system of transportation. No such system could exist in the total absence of regulation because the antitrust laws would condemn the collective activities required to make it operable.

The savings generally attributed to total deregulation are inflated if it is assumed that users of transportation will be protected to the same extent as consumers of goods and other services. If the industry were made fully subject to the antitrust laws and fair trade legislation, litigation in the courts and before the Federal Trade Commission could be costly, time consuming and confusing, again assuming that the full range of consumer protection is to be accorded to transportation users.

1930'S APPALLING

Although we doubt that total deregulation would return the surface transportation industry to its condition in the 1930s, it should not be forgotten that the condition was appalling. A rail transportation system existed but it was debilitated and much of it in bankruptcy. No motor common carrier system existed in any meaningful sense.

Although we differ among ourselves on the optimum degree of economic regulation for surface transportation, we are unanimous in believing that a national transportation system must be preserved and that the Congress should address this issue as soon as possible. Neither the commission nor the courts can revitalize the nation's surface transportation policy without congressional guidance. The commission's power to reshape transportation policy is not only limited but its full reach can be determined only after years of litigation.

The Congress, on the other hand, can decide promptly the extent to which the commission's departures from established policy are sound; whether economic regulation of surface transportation should be strengthened, relaxed or eliminated; and, if regulation is not abolished, what degree of regulation is necessary to preserve a national system of surface transportation.

1920 ACT

For almost a century, surface transportation has functioned as a national system. In the beginning, it was sufficient to outlaw discrimination, to require just and reasonable rates, and to permit the railroads to satisfy those commands by collective action. When it became necessary to create a more highly integrated system, the Congress responded with the Transportation Act of 1920 to curb unnecessary expansion and to encourage rationalization of plant. When, for constitutional and other reasons, the states proved unable to foster a national motor carrier system, the Congress enacted the Motor Carrier Act of 1935. Water carriers were recognized to be part of the national system by the Transportation Act of 1940, which also provided a charter for the fair and impartial regulation of the rail, motor and water modes.

That charter, called the National Transportation Policy, has served as the touchstone of regulation for 39 years. At the heart of the policy is the conviction that surface transportation should be regulated as a multi-modal system, not as a horde of disconnected carrier enterprises.

LAW ILLUMINATES

The 1940 congressional declaration of the National Transportation Policy has it sole objective: "To ensure the development, coordination and preservation of a transportation system that meets the transportation needs of the United States . . ." Whether the basic policy decision of 1940 should be reaffirmed, revised or discarded should be resolved not by executive, administrative or judicial response to legislative inaction but by affirmative congressional action.

No law more clearly illuminates the existence of a national system of surface transportation than the Reed-Bulwinkle Act of 1948. In the absence of a national transportation system, carrier rate bureaus could only be regarded as legalized cartels. It is only the existence of a coordinated system which separates surface transportation from meat packers, department stores, real estate and other firms in the so-called unregulated sector of the economy. All businesses are important but the nontransportation enterprises are not required to operate as components of a national economic system and have not been since the Supreme Court's decision in *United States* v. *A. L. A. Schecter Poultry Corporation*, 295 U.S. 495 (1934).

What makes transportation different? The essential difference between common carriers and businesses not subject to economic regulation is that carriers must work within a system which serves all other businesses, regions, localities, ports and the traveling public, without discrimination and at reasonable rates. No transportation concept has won greater support than intermodalism; the idea that not only carriers but also modes of transportation should work together in forming a national system so that any commodity can be shipped from any point to any place by any means with a minimum of trouble and expense. For transportation the concept is sound, as shown by the remarkable growth of piggyback and other intermodal movements. On the other hand, a concept of intermodalism for industry generally is so incongruous that it defies formulation.

SHIPPERS LOSERS

If carriers, subject to the supervision of the commission, are denied the opportunity to consult, confer and take collective action, the carriers will not be the principal losers. The losers will be shippers who no longer have a voice in the ratemaking process; ports denied rate equalization; and producers of countless commodities who can no longer compete on the basis of price because of their inability to overcome locational disadvantages.

A fragmented national transportation network would lead toward the Balkanization of America. The barriers to commerce imposed by state boundaries, which the founding fathers leveled by the Commerce Clause of the Constitution, would reappear in the form of barriers raised against the free flow of goods from mode to mode and from carrier to carrier.

LOSS OF FAITH

We recognize respectable arguments can be made both for tightening or for relaxing economic regulation of surface transportation. Total deregulation, however, poses the question whether the nation would be better served by a national system of surface transportation or by no system at all. A decision on a question of such import will not be durable unless it is made by Congress.

Nothing more clearly reveals loss of faith in a national transportation system than the proposal for a Railroad Transportation Policy as an exception to the present National Transportation Policy. If such an exception is sound, separate policy statements for the bus, trucking, water carrier and freight forwarder industries followed by interment of the multi-modal National Transportation Policy would appear to be a logical extension.

Secondly, the bill would split the rail system into its component parts by repealing the requirement for joint rates and by emasculating the conference method of ratemaking. Hacking our national transportation system into thousands of disjointed members is a prescription for disaster. Once the system is dismantled, its rebuilding would be as difficult as construction of the Tower of Babel, and for the same reason.

[From the Kinsely (Kans.) Mercury,
Aug. 9, 1979]

DEREGULATION COULD HURT AG INDUSTRY

Continued regulation of the rail and trucking industries was requested by Ivan W. Wyatt, vice president of the Kansas Farmers Union, in testimony presented to the USDA Rural Transportation Task Force in Wichita July 26.

In a statement prepared by Dale Lyon KFU president, and Wyatt Wyatt said, "We are opposed to the deregulation of railroads. The purpose of regulation was and still should be to assure service to captive users wherever there is any reasonable justification for that service.

"Regulation was instituted to overcome the non-competitive nature of all common carriers," Wyatt said. "The Deregulation Act of 1979 will completely leave these captive shippers at the mercy of these monopolistic giants.

"In the case of rail transportation as it relates to agriculture in rates and availability of service, the problem should be approached with the idea that the entire collection problem (with respect to Unit Trains) is just as important as the movement of the 'Unit Train'," Wyatt said.

"Without an adequate collection system of grains, there cannot be a successful unit train system for grain movement," he said. "The transportation monopolies should not be allowed to skim off the cream of the business and ignore the needs of the local shipper."

Relating to the trucking industry, Wyatt suggested there be a uniformity of truck regulations and recommended the continued regulation of the industry.

"The Kansas Farmers Union urges this task force to consider recommending wider use of the federal highway trust fund in the development of a total national transportation system both urban and rural," Wyatt said.

He also recommended a windfall profits tax on oil be used for development of energy efficient methods of mass transportation.

[From the Machinest Monthly, Aug. 1979]

DEREGULATION COULD DESTROY AMERICA'S TRUCKING INDUSTRY

Hearings on a bill to deregulate the trucking industry are now being conducted by the U.S. Senate Commerce Committee, chaired by Senator Howard Cannon (D, NV). The bill is backed by President Carter.

After the Commerce Committee drafts a final proposal, the bill will be referred to the Judiciary Committee.

It is opposed by the American Trucking Associations, most shippers' groups, and by all unions representing trucking industry workers, including the Teamsters and the IAM.

The IAM and its attorneys are keeping a sharp eye on developments.

IAM Vice President John Peterpaul explains that if the deregulation bill passes in its present form, it could result in "IAM members losing their jobs and carriers being unable to pay fair wages. It could also destroy safety on the road, and increase traffic congestion and fuel consumption.

"Ultimately," Peterpaul concluded, "deregulating the trucking industry will lead to higher shipping costs and major service cuts."

The bill proposes to eliminate the trucking industry's rate bureaus, joint carrier-shipper commissions which now regulate prices. It also proposes to give free run to "gypsy" truckers, allowing them to enter any market. Deregulation would further mean that truckers could abandon markets they feel are marginally profitable.

Job loss—By allowing cutthroat competition, the deregulation bill creates a situation in which many older, established trucking firms could go under, replaced by a mass of fly-by-night outfits.

Ironically, many spokesmen for private carriers are not enthusiastic about the deregulation bill. They predict that ultimately the big fish will eat the little fish, and just a few carriers will remain. This trend has already started in the airlines industry, which was deregulated last year.

Fewer carriers means fewer workers. "The trucking industry's workforce could be cut in half," Peterpaul speculates.

Benefit loss—At present, trucking rates are established by the industry's rate bureaus, which have representatives from both the truckers and the shippers.

Shippers know in advance what they, and their competition, will be charged. Labor unions have guidelines for determining fair and reasonable demands for wages and benefits.

Eliminating the rate bureaus would throw the entire collective bargaining process into chaos. Lack of rate regulation would encourage companies to try to undercut each other, and they would be unable to maintain the current level of employee benefits.

Shippers report that rate bureaus allow them to plan well in advance, and help to keep the prices of their products down. They fear that elimination of the rate bureaus will mean higher shipping costs and higher prices all around.

Safety last—Today, nonregulated truckers who are attempting to remain economically solvent are forced to violate the hours of driving laws, speed laws, and the laws of safe maintenance of equipment. As a result, nonregulated drivers have many more accidents that those covered by regulation.

Deregulation would tremendoulsy increase truck accidents, and lead to increased carnage on our nation's highways.

Doing away with regulation means stripping government of the clout it uses to enforce safety standards.

Service cuts—Experience in the airline industry, and in other countries, prove that when carriers are allowed free reign, they will cut service to smaller communities.

Retail automobile dealers in smaller towns are particularly concerned that if trucking deregulation passes, they will not be able to receive parts shipments.

This might prove to be a death blow to many new car dealers' service operations. They already have to wait for up to a year for some parts, and are reeling under the effects of the gas shortage.

Fuel waste—Experts point out that truck deregulation could lead to squandering of fuel.

It would place more trucks on the road to handle the same amount of traffic, resulting in greater traffic congestion, in greater consumption of fuel, and in more pollutants in the air.●

BUSINESS WEEKLY

● Mr. JACKSON. Mr. President, I want to take just a few moments to call attention to one of the most worthwhile and innovative programs that I have seen developed in the private sector in many years. The program, know as "Business Week" and sponsored by the Association of Washington Business and the Foundation for Private Enterprise Education in my own State of Washington, is a unique endeavor by the business community to tell its story of marketplace economics to high school students. In short, "Business Week" provides the business community with a vehicle for getting its message across to a student population which is for the most part unaware of how free enterprise works and how capitalism enables business to create jobs, meet payrolls, and provide goods and services to consumers.

The program allows the business community to become actively involved in explaining our economic system to high school youths who will soon enter and hopefully become a productive part of our economy as business people and consumers.●

In 1978, 894 Washington State business firms and service clubs donated in excess of $100,000 to foot the bill for 3, week-long seminars which involved over 900 students. High school teachers and business people gave a week of their time to act as company advisers, and countless corporate executives, small business operators, public relations and advertising people, agriculturalists, educators, bankers, lawyers, and "rag-to-riches" entrepreneurs led individual classes and discussion groups to better acquaint the students with American capitalism.

Currently, 17 other States have inquired about "Business Week" and this past summer 8 additional States followed Washington's lead and developed programs of their own. This demonstrates remarkable growth for the program in a very short time, and reflects the value of "Business Week" to American youth and the business community. I believe, therefore, that "Business Week" is an enlightening experience which should be duplicated nationwide for the benefit of our free enterprise system and all who live and prosper within it. Hopefully, we will see this develop in the very near future. Thank you.

Mr. President, I ask that the article entitled, "Business Week—Learning the Free Enterprise System by Doing", which appeared in the spring 1979 issue of View magazine highlighting the fine efforts of Mr. James Brooks and the Association of Washington Business, be printed in the RECORD following my remarks.

The article follows:

BUSINESS WEEK—LEARNING THE FREE ENTERPRISE SYSTEM BY DOING

(By John Murray and Eldon Barrett)

"Business Week"—a unique project which gives the business community an opportunity to tell its somewhat neglected story of marketplace economics to Washington's high school students—is gain national attention.

Sponsored jointly by the Association of Washington Business, Central Washington University and the state superintendent of public instruction, the program tripled in size during its first three years. The goal for the fourth year is a 50 percent increase. The idea also has spread to 14 other states, six of which have followed Washington's lead and initiated similar projects.

Business Week last year was conducted in three weekly sessions on the Central Washington University campus at Ellensburg with over 900 students participating—average 300 per session. Those who attended returned to their respective high schools across the state as juniors and seniors.

The purpose of the project is to provide the business community with a vehicle for getting its message across to a generally disinterested high school population. That message is that free enterprise is not a bugaboo—but conversely, makes this country the land of opportunity—and that capitalism enables business to create jobs, meet payrolls and provide services and goods to consumers.

The boys and girls attending the sessions were on scholarships of $95 each and were selected by their teachers and endorsed by their school principals because of their active interest in economic matters. There is no doubt that they got the message. Many arrived in Ellensburg with misunderstandings, half truths and contradictions about business as evidenced by their answers to a true-false questionnaire they filled out shortly after arrival.

The questionnaire contained 50 straightforward statements about business, government and society which persons of all ages might be prone to accept or disbelieve merely on the basis of bias, misconception or generalities. The students answer this same questionnaire at the end of the session. Their changes of attitude about many phases of the American business scene are an interesting measure of the program's success.

JUST THE FACTS

These youngsters are not being brainwashed. They are much too intelligent for that. In fact, they are encouraged to take issue with any statement they believe to be false or wanting. The sponsors are not out to spread propaganda, just the facts.

Consequently, at the end of six days most of the students indicated they were eager to become involved in the free enterprise system which they had now come to view in the light of "golden opportunity."

The fact is, Business Week turns on the younger generation. As they get involved in the discussions and hear business men and women tell their side of the story, misconceptions about production, profit taking and private ownership crumble. They find out that capitalism is not a dirty word. Indeed, they find out that with a little effort they can make it work for them. They learn that private enterprise often means the freedom to put an idea to work and then to improve upon it, not only for the betterment of the person who originated and developed the idea, but also for the public in general.

A "BETTER IDEA"

Business Week itself is a better idea. Primarily it was the brainchild of Dr. James E. Brooks, who stepped down as president of CWU after serving in that capacity for 17 years. Brooks holds a firm belief that the business community should not just sit back and criticize others for lack of interest but instead become actively engaged in explaining the private enterprise system to other segments of society. And he stood ready to work with business leaders in explaining and discussing market street economics with the youth of this state—those who would soon be out on that street as the business people or as consumers.

The Association of Washington Business, an organization of 3,000 members dedicated to making Washington an attractive place in which to own and operate a business, saw the point. Along with State Superintendent of Public Instruction Frank Brouillett, the Association joined Brooks and CWU in establishing Business Week.

The students come from all parts of the state and live for a week in dormitories designated appropriately as "Private Enterprise Village." In 1978, 894 firms, service clubs and individuals donated a total of $102,824 to foot the bill for the three-week endeavor which involved over 900 students. In addition, 110 high school teachers participated in supervision, 64 business people gave a week of their time to act as "company advisors," and 78 persons travelled to Ellensburg at their own expense to participate in educational sessions.

The three-week stint was directed by Hal Wolf, a Yelm shopping center operator, who volunteered his time and effort. Wolf, also director of 1977's two-week program, and Linda Mackintosh and Doris Pfeiffer, members of the AWB's Olympia office staff, kept the unrelenting schedules running without a hitch.

Wolf says the most important cogs that make the wheels of the program turn smoothly and efficiently are the "company advisors." There were 64 for the 1978 program and together they represented a homogeneous blend of expertise, a cross-section of the businesses the students will encounter one day. All of them seemed to have a "missionary zeal" to spread the word. A couple of them worked two sessions. These men and women served as "role models" for the students, and their influence obviously had a profound effect on the business-views the students came away with.

While the advisors were on hand each day during the week, other business leaders came for one-day stands. They included corporation executives, small business operators, public relations and advertising people, agriculturists, educators, a couple of "rags-to-riches" entrepreneurs and experts in such fields as law, labor relations, employment, banking and energy. These people were keynote speakers at daily assemblies, lecturers and discussion leaders.

Top quality, Hollywood-produced education movies and scads of printed information supplemented the efforts of the speakers and advisors, but it was "The Computer Game" that really turned the students on.

Wolf described this game as "the golden thread" because if minds began daydreaming in the welter of words, film and literature, the game always got the adrenalin surging again and held things together.

Shortly after arriving on campus, the student delegation was divided into companies of 12 to 15 members, each with an adult advisor for each company. The companies, in turn, were split into three firms. Each company picked a product to produce and a name for their outfit. One company engaged in making tennis rackets, for example, called itself the "Backhand Corporation."

The firms in each company compete against each other and because they are producing the same product they start even. The object is to make more profit than the other two firms in the company.

Each firm gets a green computer printout showing how much money is available to divide among advertising, research, production and plant improvement. Each firm competes in its own territory as well as in that of the other two, and there also is a neutral area in which all can compete. Each firm decides separately what price they are going to set for their goods in each territory, and how much will go into advertising, production, research and plant improvement during the coming period. The data is fed into a computer and the results of each firm's decisions as related to the decisions of their competitors are available for the next session.

Some firms went bankrupt on their first endeavor and had to take out "loans," but they were precluded from beating the firms that remained solvent.

The students—and the teachers who also played—learned that setting prices too high, especially in areas where transportation costs were heavier than those of a competitor, was a sure way to wind up with a surplus and few sales. They also learned that: production had to keep up with sales; that they could not forget depreciation factors on plants and equipment; that advertising pays off dividends.

After playing the game for six days, most of the students had a good idea of the basic problems business people face in their day-to-day operations.

As Wolf said at the end of the third week: "It was an enlightening experience for all concerned, not only for the students but also for the business people who participated. I am sure the advisors and speakers found out that the high school students have as much to give as to gain in encounters of this nature."●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on September 19, 1979.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the committee on Foreign Relations, room S–116 in the Capitol.

Defense Security Assistance Agency,
Washington, D.C., September 19, 1979.
Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near East country tentatively estimated to cost in excess of $25 million.

Sincerely,

Ernest Graves,
Lieutenant General, U.S.A.●

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Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that eight such notifications were received on September 24, 1979.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

Defense Security Assistance Agency,
Washington, D.C., September 24, 1979.
Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country tentatively estimated to cost in excess of $25 million.

Sincerely,

Ernest Graves,
Lieutenant General, USA.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 24, 1979.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

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Sincerely,
ERNEST GRAVES,
Lieutenant General, USA.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 24, 1979.
In reply refer to: I-7093/79ct
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

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The Department of State is considering an offer to a Middle East country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,
ERNEST GRAVES,
Lieutenant General, USA.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 24, 1979.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

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The Department of State is considering an offer to a European country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERNEST GRAVES,
Lieutenant General, USA.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 24, 1979.
Dr. HANS BINNENDIJK,
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The Department of State is considering an offer to a NATO organization for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,
ERNEST GRAVES,
Lieutenant General, USA.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 24, 1979.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,
ERNEST GRAVES,
Lieutenant General, U.S.A.●

IMPACT OF ENERGY REGULATIONS ON MONTANA SMALL BUSINESSES

● Mr. BAUCUS. Mr. President, on September 11, the Senate Select Committee on Small Business, under the able direction of my colleague, Senator WALTER HUDDLESTON, held hearings on the impact of Department of Energy regulations on petroleum jobbers and retailers in this country.

As a member of that committee, I offered testimony on the subject. I would like to expand on those comments at this time in order to draw the attention of the Senate to this very serious problem.

The mortality rate of small businesses in this Nation is unconscionably high. For a country which has prided itself on upward mobility and economic opportunity, our treatment of small business is shabby, indeed.

Our hearing revealed that in the field of petroleum distribution alone, more than 30,000 gasoline retail outlets have gone out of business during the past 5 years, including more than 7,500 in the last 6 months. Now with the Energy Department's new "downward certification" rule, great peril is posed for jobbers because fuel normally supplied to the defunct station will be subtracted from the jobber's base.

The Federal Government is bound by congressional fiat to protect and nurture small businesses. Yet regulations are a Federal fact of life—and they fall hardest on the smallest firms. Not all of the negative impacts are intentional, but that is of small consolation to the owner who places a "going out of business" sign on his door.

The Department of Energy is caught in the unenviable position of having to distribute relatively diminishing supplies of petroleum. I am confident that its employees, along with most people associated with the petroleum industry, would prefer to abolish all controls. But circumstances have dictated that a mechanism be created which will assure all users of petroleum a fair share of the product at a fair price. It is that mechanism, and its effect on small business, which is at issue now.

I want to acknowledge that you cannot have controls without regulations, and you cannot have regulations without a measure of inequity and increased paperwork. However, if the burden is spread fairly, all up and down the production, distribution, and consumption chain, everyone I know is willing to pay the price.

Unfortunately, the burdens are not being spread equitably. Major oil companies are reporting profits so large that they are incomprehensible to the average American; yet filling stations, truck stops, and jobbers are going under in Montana, strangled by redtape, a diminishing supply base and declining profit margins. Something is wrong—tragically wrong.

A typical example is reported by Connie Pelican of Pelican Oil in Billings, Mont. She does the paperwork for her husband, an Amoco jobber. As she states:

> I used to work 3 days a week, 6 hours a day. Now I work 5 days a week, 8 hours a day.

She enclosed a sheaf of regulations and forms which was formidable.

Jim Nelson, a jobber in Sidney, is situated in one of the fastest growing areas in the West. While he should be out servicing oil rigs and ranchers, he spends an increasing part of his time handling paperwork. He writes:

> This week alone, one man has worked five days just filling in the proper forms. We have a computer and figures at our fingertips, but it is still taking 5 days to complete. The whole thing in a nutshell: the small businessman is being buried in DOE paperwork!

Nelson adds that it is costing him "roughly $5,000, including man and truck downtime."

Austin Darkenwald, representing the

Montana Petroleum Marketing Co. in Billings, defends the smaller firms, although his business has managed to thrive so far. He writes:

> The overwhelming problem of any small businessman is the constant changing by the Department of Energy of the rules under which we operate. Of course this is also creating great new opportunities as thousands of people are dropping out of our business, and those of us who are large enough to remain are going to become larger and larger and there is going to be less and less competition in this business.

Darkenwald is especially critical of the downward certification rule for jobbers, stating it is "almost unbelievably unfair." He says:

> These men have invested from $200,000 to $800,000 in bulk plants and service stations, and they are paying from 11.5 to 13.0 percent on this money. They then close down some units to make other units economical. If they then have the product taken away from the stations they have closed, it will bankrupt many jobbers I know and I would suspect it will bankrupt many jobbers across the country.

Lee Tower of Wrangler Oil, Inc., of Kalispell distributes Phillips 66 products. He states that this past summer he has operated on 70 percent of his 1968 contract. However, after checking with his bank and the local county treasurer, he was told that neither would accept 70 percent as payment of notes or taxes. He regards the downward certification rule as grossly unfair. He says consolidation of existing retail outlets is the only hope of survival of many firms; yet DOE now says it will take away the allocation for less prosperous outlets if they are closed.

R. C. Cremer, general manager of Beacon Carter Service, an Exxon distributor in Miles City, states that his firm's costs "have increased 280 percent while our gross percentage on sales has been cut in half." He is unhappy with the profit margins allowed by DOE. "How," he asks, "can we cut our gross percentage in half, receive less to sell, be bound to supply our base period farm customers and pay more for every expense we have?"

Howard Wheatley of H–W Distributors, Inc., of Great Falls, feels that DOE does not understand the impact of its regulations on the small businessman. He writes:

> Trying to keep up with all the regulations is very time consuming and costly. Trying to understand them is also very hard to do. I think any changes should be held to a minimum and be much more clearly defined.

Recent DOE regulations pose special problems for Cenex, the petroleum refining and marketing arm of the Farmers Union. Cenex supplies some 800 accounts, all cooperatives, many of which are located in Montana. By establishing agriculture as a priority use, all suppliers must take care of agricultural customers first. Other companies are not so rurally oriented, so they can take care of their agricultural customers and have perhaps 70 percent of their base allocation remaining to serve lesser priority or nonpriority users. Cenex, however, has such a heavy percentage of priority users that there is little or no product remaining for many of their outlets. In Great Falls, for example, Cenex outlets which qualified for 418,000 gallons of gasoline in August of 1978 were certified for 200,000 gallons in August of this year—and finally received 168,000.

Also impacted by DOE regulations is the Montana Energy Office which receives and dispenses the special State set-aside of fuel. This office, headed by John Braunbeck, receives the bulk of requests and criticism of distraught businesses. It has neither the manpower nor the supplies to relieve the situation; yet the DOE more and more tends to shift responsibility for monitoring or explaining energy policy to the State offices. On more than one occasion, I have sought answers from DOE's Washington liaison office, only to be referred to its Denver regional office, and referred once again to the Montana State office in Helena.

Understandably, this is a cause for concern for the Montana authorities. They wish to deemphasize the set-aside, administered by the State, as the cure-all for a variety of problems spawned by DOE. Rather they want DOE, particularly at the regional level, to assume its rightful responsibility.

Says John Braunbeck:

> Each applicant must have the right to seek a permanent decision on his case in a rapid and equitable manner. Due to existing minimal staffing at DOE regional offices, rapid and equitable case resolution . . . is physically impossible.

In Montana, the downward certification rule is expected to cause great difficulties. The casework is expected to increase as a result—making it all the more important that DOE get its regional house in order. Braunbeck and his associates suggest that if downward certification is to be retained, this should be limited to wholesale purchasers with a certain annual volume, perhaps at least 25 million gallons. Smaller wholesalers and rural communities are deserving of special consideration.

I have just been informed that the Department of Energy has relented and postponed indefintely the effective date of the downward certification rule. This is welcome news. However, I would point out that the rule has only been delayed; a modified rule is expected to follow. I hope the evidence advanced at the Small Business hearings will assure that any rule is workable and fair.

Mr. President, the cases cited above are but a small fraction of those being generated daily in Montana. If I were to relay all the grievances of small businessmen in my State, they would fill a book.

A particularly tragic consequence of the hardship is the feeling of helplessness it engenders. One gets the feeling that wheels once set in motion in Washington must continue to turn, regardless of the consequences. Well, I for one do not buy that. A caring bureaucracy could do a great deal to relieve the burdens on ordinary people who are doing their best to make a living.

Under authority of law, the Secretary of the Department of Energy has almost unlimited power to determine the quantity and mix of products to be refined, the diverson of those products, the profits to be made from them, and so on. Pleas to help Montana are always met with a stated reluctance to "interfere in the market place." I would respectfully submit that the issue is not interference—for that takes place on a daily basis—but how and where and to whose benefit.

The truth is that the impact of DOE regulations falls hardest on the smallest businesses. There needs to be a thorough review of these impacts. A beginning was made with the Small Business Committee hearings. More hearings will be held. I look forward to receiving the reaction of the Department to the many questions raised. I would especially like to see some initiatives on the part of DOE to ease the burden on my fellow Montanans who are simply trying to do their job.●

INDIANS AWAKEN TO THEIR LANDS' ENERGY RICHES

● Mr. DOMENICI. Mr. President, Gov. Floyd Correa of the Laguna Pueblo symbolizes the new generation of Indian leaders in our country. Articulate, astute businessmen who have chosen political careers, they are leading their people to self-sufficiency.

I ask that the Wall Street Journal article of September 30, 1979, which details Governor Correa's business acumen, be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Sept. 20, 1979]

INDIANS AWAKEN TO THEIR LANDS' ENERGY RICHES AND SEEK TO WREST DEVELOPMENT FROM COMPANIES

(By Gerald F. Seib)

PAGUATE, N.M.—This little Indian village literally sits on the lip of the largest uranium mine in the non-Communist world. From the gaping pit below, Anaconda Co., an Atlantic Richfield Co. unit, has scooped out 35 million tons of uranium ore over the past 26 years and hauled it off this pueblo of Laguna reservation to run nuclear plants that eventually will light and heat homes elsewhere.

Yet these mineral riches have never made Paguate prosperous. Its 1,500 residents live in a collection of ramshackle huts, some made of adobe 200 years old, some with walls cracked from mining blasts. Most of the streets are mere dirt paths, because the tribe can't afford to pave them.

Paguate symbolizes the paradox of Western Indian tribes: Their reservations cover millions of dollars worth of energy; but the tribes, because they once were ignorant about their treasures, are saddled with poor leases negotiated for them in years past by the Bureau of Indian Affairs and have never fully shared in their own wealth.

AWAKENING TO RICHES

But Paguate also illustrates the fact that Indians have finally awakened to their energy riches—and that, having opened their eyes, they are in no mood to give up their treasures easily or cheaply. This pueblo has renegotiated its lease with Anaconda to win its first increase in uranium-royalty rates. It is negotiating a plan for the company to restore the land once strip mining is finished, something ignored in the original lease. And, at the tribe's request, Anaconda is paying for mine training and scholarships for young Indians.

Most important, the tribe's articulate young governor, Floyd Correa, says the tribe will negotiate much tougher leases, enter joint ventures or even form its own energy company to develop the rest of its uranium, coal and oil. "It's not ever going to be a conventional Bureau of Indian Affairs lease again," declares Mr. Correa, a businessman who gave up his own computer firm to return to his tribe.

Tribes across the West similarly are stretching their energy muscles. Indians began learning the value of their parched lands after the 1973 Arab oil embargo, and the 25 major energy-producing tribes took a cue from the Organization of Petroleum Exporting Countries and formed an energy coalition called the Council of Energy Resource Tribes, or CERT for short. The tribes are estimated to control half of the country's uranium, a third of its Western strippable coal, 4 percent of its oil and gas and considerable geothermal, oil-shale and other resources.

These tribes may hold some of the solutions to the nation's energy problems. But the solutions won't be painless either for energy companies or for the country because Indians have become shrewd energy experts who know the value of their land and want to control it and to profit from its development. Recently, for example, CERT hired as its director of economics and finance Ahmed Kooras, Iran's former deputy minister for economics and oil. He is also the former governor and chief economist of the Central Bank of Iran.

Lately Indians are upset because they think that in composing its new energy plan, the Carter administration ignored a chance to help the tribes. Peter MacDonald, the dapper chairman of the Navajo tribe and leader of CERT, fired off a letter to the President, admonishing him for failing to invite any Indian representatives to the Camp David talks at which the plan was molded.

Mr. MacDonald complained that while the administration is prepared to spend $140 billion on its new program, it requested only $1 million in fiscal 1980 to help Indians develop their energy resources, and Congress is considering allocating even less. Mr. MacDonald maintains that directing a half a percent of the proposed energy budget to Indian energy programs could bring the country an additional two million barrels of oil a day from Indian resources by 1990.

"I must ask why—at the very time he speaks of unity, of forging a national energy consensus—the President has appeared to look upon the native Americans of these United States as foreigners," Mr. MacDonald fumes. He hints that CERT members, who in letters to the President have called themselves "the native American OPEC," will consider selling their resources to countries like Japan unless they get some help from the U.S. government.

Mr. MacDonald's letter may have jarred the White House because Energy Secretary Charles Duncan quickly met with CERT leaders and agreed to look into their proposals for federal aid, including loan guarantees, feasibility studies and office and education facilities.

LESS THAN ICE CREAM

What the tribes want to avoid is a continuation of the traditional practice of having their leases negotiated solely by the Bureau of Indian Affairs. Such leases, Indians say, have paid low royalties and given them little control over their land. Mr. MacDonald points to a coal lease the Navajo tribe has with Utah International Inc., a subsidiary of General Electric Co., that pays the same 15-cent-a-ton royalty it did when it was signed 22 years ago. Coal prices have climbed and leaseholders elsewhere today can get many times that royalty, but the Navajo lease has no escalator clause to raise royalties with prices.

"Indians have literally given away their resources by the barrel and by the ton," Mr. MacDonald says. Ed Gabriel, CERT's executive director, says that Bureau of Indian Affairs officials have "done more than a lousy job. They've given away Indian coal for less (per ton) than we pay for an ice-cream cone. All we've done is subsidize the energy companies at the expense of the American people."

Tom Riggs, minerals officer of the bureau concedes that "there have been some inequities no one will deny." And of the Utah International lease he says, "At the time, 15 cents was not bad. The travesty in that one is that it has no escalator clause."

Mr. Riggs says that the bureau always has acted with the interests of Indians in mind, not the interests of politically powerful companies or other interest groups, as some Indians maintain. "In some ways the bureau has been a constraint," he says. "At other times it has prevented (tribes) from getting ripped off."

NEGOTIATING LEASES

At any rate, Indians now would rather do it themselves. Led by a new generation of leaders and their own lawyers and experts, tribes are renegotiating some of their old leases. The Navajo, for example, have renegotiated a coal lease with Consolidation Coal Co. and El Paso Natural Gas Co., and the Black Feet tribe is renegotiating oil and gas leases with several companies.

For their part, energy companies say they are willing to renegotiate old Indian leases, if only to remain on good terms with Indians. "We feel it's good business to do business in an atmosphere of mutual respect," explains Kirk Blackard, a special Indian negotiator at Shell Oil Co. While the federal government is the main target of Indian wrath, energy companies also have found that the new hard-nosed Indian attitude makes bargaining difficult; Shell, for example, since 1974 has been trying to come to terms in renegotiating a large coal lease with the Crow tribe.

In the future, Indians say, they would prefer not to lease their land to energy companies at all but to control it themselves, through joint ventures, service contracts (under which companies would extract minerals for a flat fee) or through their own energy companies.

"A lease is the sorriest kind of arrangement. Total ownership is the best," says LaDonna Harris, an Indian activist who is the wife of Fred Harris, the former U.S. Senator. Energy companies, while conceding that joint ventures and service contracts won't be easy to negotiate, say they are willing to discuss them with Indians.

Mr. MacDonald of the Navajo also says his tribe has talked to utilities, including the Tennessee Valley Authority, about the possibility of selling coal and uranium directly to utilities, thus bypassing energy companies. "At least in coal, the new relationship may be with the consumer," says Tom Schoppert, an attorney for the Crow tribe. But, he asks, will the utilities and the tribes be able to work together?

SENDING OUT EXPERTS

Developing their huge energy reserves in such independent ways will, perhaps, require more money and expertise than Indians can muster. But CERT has established a technical office in Denver, from which a staff of geologists, engineers, economists and other experts travel to help the organization's tribes. Eventually, tribes will start their own energy development offices staffed with their own people, CERT hopes.

The Indians' financial health got a big boost recently when the Equitable Life Assurance Society agreed to help the CERT tribes obtain funds for energy projects. Such backing will not only help Indians in their own projects but give them clout if they must deal with outside companies. "I would rather be in a position where I can bargain on an equal basis with an energy company rather than be dependent on an energy company," says Mr. Correa of the Laguna tribe pueblo.

Indians are becoming more assertive in other ways. They are demanding that the energy companies they deal with hire Indian workers, provide training and guarantee environmental protection. In one case last year, a group of Navajo Indians occupied and shut down oil companies' operations on their land in protest over several issues, including the terms of the tribe's leases with the companies. In subsequent meetings, the companies agreed to tribal requests for land-reclamation plans, protection of Navajo burial sites, scholarships for young Indians and closer control of company employes.

The Navajo also have proposed two new taxes for energy companies on tribal land. The first, a business-activity tax, would take 5 percent of a company's gross revenues from Indian land production over $500,000 annually, the second tax would take 3 percent of the value of mineral reserves under lease. The tribe estimates that the two taxes would bring in at least $28 million annually from current operations on the reservation.

But energy companies are unhappy because they already pay state taxes on the land, and they don't think they should have to pay taxes to two governments. More than 20 energy companies and utilities have filed suits to block the proposed Navajo taxes.

Despite such recent activities, Indians insist that they are willing to use their energy resources to help the U.S., provided they get a fair price. "The tribes by and large are not opposed to development; they are producers," says CERT's Mr. Gabriel. But he adds, "The tribes are saying 'no more development until you deal on our terms.'"

Adds Mr. Correa of the Laguna tribe pueblo, "We're American citizens. We love our country here. We love our land. We're just looking to develop our resources."●

SEVEN-ELEVEN STORES DISCONTINUE SALE OF ROLL-YOUR-OWN CIGARETTE PAPERS

● Mr. NUNN. Mr. President, I would like to submit for the Record a news release I recently received from the Citizens for Informed Choices on Marijuana. Jere W. Thompson, the president of the Southland Corp., which operates 6,700 7-Eleven convenience stores in the United States and Canada, has ordered the discontinuance of sales of roll-your-own cigarette papers in company-operated stores. I believe that hampering the availability of drug-related paraphernalia is an essential element as we strive for drug control. I commend the action of Mr. Thompson and hope that other businesses will follow this positive action on the drug front.

The article follows:

Citizens for Informed
Choices on Marijuana, Inc.,
Washington, D.C., September 20, 1979.

Washington, D.C.—The decision to halt the sale of roll-your-own cigarette papers in 7-Eleven convenience stores is a major step forward in the battle against drug abuse, particularly among children, a spokesman for Citizens for Informed Choices on Marijuana (CICOM) said today.

Dr. Robert L. DuPont, a member of CICOM's professional advisory board, applauded the action by Jere W. Thompson, president of Southland Corp., which operates the chain of 6700 stores in the U.S. and Canada.

Thompson ordered a halt to the sales of

the paper, now used to roll marijuana cigarettes, in company-operated stores no later than Oct. 1, and recommended similar action by franchise operators. "As father of seven children, I feel that the sale of cigarette papers gives credibility to the use of drugs and this is an area with which I do not want my company associated," Thompson said at the time.

"Mr. Thompson's action deserves the applause of every thinking American and businessman dealing wittingly or unwittingly in drug-related paraphernalia," Dr. DuPont said. "We hope all responsible Americans will give equal recognition to the fact that marijuana is not a harmless drug, but is an exceedingly dangerous one."

Latest medical and scientific findings show clearly that use of marijuana can cause severe physical and psychological damage, Dr. DuPont emphasized. This is being aggravated, he said, by the increasing potency of the drug and its increasing use among younger and younger children.

Dr. DuPont is assistant clinical professor of psychiatry at George Washington University's school of medicine and is chairman of the drug dependency section of the World Psychiatric Association.

CICOM, based in Stamford, CT, is a nonprofit, tax-exempt organization of parents, physicians, health care of professionals and others concerned about the growing use of marijuana.●

COFFEE PRICES MANIPULATED

● Mr. BAUCUS. Mr. President, this month, U.S. negotiators in London are working on coffee agreements. As they do so, the Senate and the American coffee consuming public should be aware that coffee prices are much higher than they need be.

A recent Library of Congress study conducted at my request to assist an ongoing investigation at the Judiciary Committee on the Limitations of Contracted and Delegated Authority, has indicated that this summer's coffee prices are over twice as high as normal supply and demand factors would dictate. I ask tnat a copy of the CRS study be printed in the RECORD at the conclusion of my remarks.

LOCAL GROCERS NOT TO BLAME FOR HIGH COFFEE PRICES

Also following my remarks, I ask to have printed an article by Columnist Jack Anderson, based in part on the subcommittee's study. It reports that it is not the local grocer who is to blame for such high coffee prices. Rather, it is apparent market manipulation at an international level.

I understand that U.S. representatives at the current coffee negotiations are fighting to put an end to the so-called "Bogota Group"—a group of coffee exporting interests which has been colluding to manipulate coffee prices at the expense of the U.S. consumer.

United States coffee consumers should not and will not accept these artificially high coffee prices.

The U.S. Senate should not, and I believe, will not accept artificially high coffee prices as some sort of nonappropriated foreign aid to wealthy producers in coffee exporting countries.

I hope both coffee producing interests and U.S. coffee negotiators are extremely sensitive to these facts. The political equation is simple and clear. I doubt whether any constituent-consumer in this country will appreciate either artificially high coffee prices or those who are manipulating these prices to keep them high.

COFFEE CARTEL MAY FORCE CONSUMER BOYCOTT

If prices do not soon begin to reflect supply and demand, I will not be alone in urging Americans to cut back consumption of coffee significantly. I need not remind coffee exporters that past cut backs in consumption, bordering on boycott, amply demonstrated the power of aroused U.S. consumers.

Members of the Senate may wish to inform their constituencies of the current price situation. If coffee producers insist on acting like OPEC, the politicalization of coffee trade which will surely follow can only lead to an organized effort to cut consumption. Indeed, it may lead to Senate review of aid and other relations with coffee exporting nations.

Mr. President, one way Members of the Senate may respond to constituents angry with inflation is to urge the administration to be firm in insisting that any coffee producing cartel must be disbanded. The United States should insist that coffee producers halt any attempts to manipulate the international coffee market.

Should coffee prices remain out of line with real supply and demand, it will be appropriate for Members of Congress to use their close contact with home constituencies as a means to publicize the problem and promote concerted consumer action.

[Fom the Washington Post, Sept. 20, 1979]

PRICE GOUGING BY THE COFFEE CARTEL

(By Jack Anderson)

There's apparently no end to the international cartels that rip off the American consumer. Already gouged by the oil-producing nations and a uranium syndicate that have multiplied the cost of energy, Americans are also paying twice as much as they should for their coffee. The cause: price rigging by coffee-growing countries.

That is the conclusion of a confidential congressional report prepared for Sen. Max Baucus (D-Mont.). His judiciary subcommittee is conducting an extensive probe of commodity prices.

"The actual current price [of coffee]," the study reports, "is approximately double the price that would be consistent with the historical supply-and-demand relationship."

The reason, the report says, is that "coffee-producing nations are taking action to keep prices artificially high."

The astronomical rise in coffee prices a few years ago was blamed on the so-called "black frost" in Brazil. We reported earlier that the Great Coffee Shortage really wasn't as bad as the coffee producers claimed—that, in fact, it was partially contrived as a means of justifying the huge price increase.

Once the "black frost" crisis was over, coffee supplies increased and prices began dropping somewhat. They began dropping, that is, until a few months ago when the major U.S. coffee companies adopted significant increases in the wholesale price of ground coffee. They took the action in response to a 20 percent hike in prices by Brazil, which grows about one-third of the world's coffee beans.

The Brazilians once again blamed a frost—though admitting it was not nearly as serious as the one in 1975.

But sources told our associate Gary Cohn that the price rise was primarily caused by the market manipulations of the international coffee cartel. This gang of board room bandidos is known as the "Bogota Group," after the capital of Colombia, home of the fictitious bean-picker Juan Valdez of the coffee commercials.

But the extra dollar or more per pound paid by American coffee lovers doesn't go to the Juan Valdezes of the world. Crop failures simply mean hard times for the coffee plantation workers.

The Bogota Group's main reason for existence is to see that the price of coffee stays high even when market conditions should dictate a drop. The coffee cartel was described to us by one source as "a mini-OPEC."

With a multimillion-dollar slush fund, the cartel buys and sells coffee on the international commodities market to ensure that the price stays up. So whether you take one lump or two, one thing is certain: You'll keep getting your lumps from the coffee cartel.

REPORT OF COFFEE PRICES PREPARED FOR SENATOR MAX BAUCUS, CHAIRMAN, JUDICIARY SUBCOMMITTEE OF THE LIMITATIONS OF CONTRACTED AND DELEGATED AUTHORITY; CONGRESSIONAL RESEARCH SERVICE, AUGUST 27, 1979

Over the past few months, the price of green coffee has increased and U.S. coffee companies have been increasing the wholesale price of ground coffee. Procter and Gamble Co., of which the Folger Coffee Co. is a division, announced a 6 percent increase in wholesale ground coffee prices on May 3. This was the first price increase since March 1977. In early June 1979, Procter and Gamble increased prices another 10 percent. Similar price increases were announced by other companies. According to a Wall Street Journal article, Procter and Gamble noted that "during the five-week period when Procter and Gamble raised its wholesale price 16%, green coffee costs rose 20%." The article also stated that the N.Y. spot market price for green coffee was $1.84 per pound June 7, up 43 percent from $1.29 in early February.

In a July report on the coffee situation, the U.S. Department of Agriculture (USDA) estimated that 1979/80 world coffee production would be 78.3 million bags, 3 million bags larger than the previous year. Exportable production is estimated to be 58.3 million bags, 4 percent more than the 56.1 million bags available in 1978/79. Both world and exportable production levels are estimated to be higher than in any year since at least 1975/76 and the average of the previous five years. World demand for coffee continued to be strong and is increasing in some countries. In response to cheaper prices, per capita consumption in the U.S. is recovering from 1977 low levels.

USDA reports that the cold wave which hit the Brazilian coffee growing area on May 30–June 1, 1979 caused "significant" damage to the trees thereby affecting the 1980/81 crop but only causing minor damage to the 1979/80 crop.

The Brazilian Coffee Institute (IBC), which controls the availability and export price of coffee, suspended trading at that time. The IBC estimates that the current coffee crop will be reduced by about 9 percent and the 1980/81 crop reduced from a potential 26 million bags, by 7 million bags or 27 percent. Brazil's production is estimated to be up 2.5 million bags from 1978/79 and exportable production is estimated to increase by 2 million bags.

A field team from the Office of the U.S. Agricultural Attache in Brazil also made a survey of the affected area and estimated that the 1980/81 crop would decrease 6 million bags from a potential of 26 to 28.5

million bags. The team also speculated that the size of the current crop would not be affected greatly but that it could be of a lower quality.

The International Coffee Organization (ICO) maintains a world composite price for green coffee which may be used to compare current and past average world prices. In response to an earlier frost in Brazil and other factors, the ICO monthly composite price for coffee (1976 agreement basis) last peaked in April 1977 at $3.15 per pound. Coffee prices continued to decline until February 1979 when the average monthly price was $1.28 per pound. The yearly averages for 1977 and 1978 were $2.30 and $1.55 per pound respectively. During this spring, prices climbed to $1.49 per pound in May and then shot up to $1.91 per pound in June in response to the early unfavorable weather in Brazil. The average monthly price in July was $2.00 per pound. Since then prices have been declining, reaching $1.86 per pound August 14. The period in which the coffee crop is especially vulnerable to cold weather will be over around the end of August.

In response to coffee company actions to increase prices, one commodity analyst quoted in a Wall Street Journal article stated, "I'm not suprised at the size of the increase or the fact that it's effective immediately, even though it will take some time before the green beans (bought at present) will appear as a roasted product." Others noted that roasters' inventories were at relatively low levels.

Per your request, an update of the CRS study relating coffee supplies and prices was performed. Since the last study, USDA has revised the figures for world coffee beginning stocks: therefore, a new series of data representing total coffee supply was used. The following table provides information on the price estimates according to the model and the actual ICO annual composite price (1968 agreement basis).

MODEL ESTIMATED AND ACTUAL COFFEE PRICES

[Cents per pound]

Year	Model estimate	ICO composite price
1976	67.51	142.48
1977	74.48	256.39
1978	78.45	162.32
1979	78.31	[1] 160.58

[1] January to Aug. 16 average.

On the basis of this analysis, it appears that the actual current price is approximately double the price that would be consistent with the historical supply and demand relationship. Again, non-supply factors have a significant impact on the price level. For example, some have alleged that coffee producing nations are taking actions to keep prices artificially high.●

NEW MEXICO: FIRST IN CHILE PRODUCTION, BUT CATTLE DOMINATE RECEIPTS

● Mr. DOMENICI. Mr. President, the following article highlights the state of agribusiness in New Mexico. It details the successes New Mexicans have achieved as well as enumerating challenges which will confront us in the future. I ask that it be printed in the RECORD:

The article follows:

NEW MEXICO: FIRST IN CHILE, BUT CATTLE DOMINATE RECEIPTS

(The "Land of Enchantment" ranks sixth nationally in sheep and high as well in sorghum and peanut production.)

Every state should be first in something.

Wisconsin has its dairy cows, Idaho its potatoes, Iowa its hogs, Washington its apples, Georgia its peanuts and Texas its cattle.

New Mexico, not to be left out, has . . . you guessed it . . . its chile.

New Mexico's leadership in chile production has spawned interesting organizations such as the International Connoisseurs of Green & Red Chile Society, as well as a private enterprise called New Mexico Chile Lovers' Supply. The latter sells chile jewelry, "Chile-lover" T-shirts, chile-lover cook books and New Mexico chile samplers, which are designed as "care packages" for chile-starved folks unfortunate enough to live outside Dona Ana County, where most of New Mexico's chile is grown.

Small wonder that chile is an official state symbol.

Non-chile lovers might point out, however, that chile represented less than 2% of the value of New Mexico's agricultural commodities in 1977.

When the hard economic facts are spread out, chile takes a distant back seat to several of The Land of Enchantment's other farm commodities.

The union's 47th state (admitted 1912) devotes 88% of its nearly 78 million acres (fifth largest in the nation) to rangeland. With an average annual precipitation of only 14 in., much of the state is poorly suited for any other use. The state had 11,400 farms with sales of $1,000 or more in 1978.

In 1976 cattle and calves led all agricultural products with more than $426 million in cash receipts. Dairy products were second with more than $44 million, followed by all vegetables at a little more than $40 million, hay at a bit more than $36 million, sorghum with almost $30 million, wheat and corn at about $20 million each and cotton at about $18.5 million.

Cash receipts for sheep and lambs were more than $18 million. Fruit and nuts accounted for $16 million, with pecans representing almost 81% of that total. Eggs accounted for nearly $15 million.

WATER, LAND USE

Like many of its fellow western states, New Mexico faces major water and land use issues.

Agriculture uses about 90 percent of the state's land and water, according to Bill Stephens, director of the New Mexico Department of Agriculture.

The state had 1,358,170 acres of irrigated cropland in 1977. Of that, 815,560 acres were irrigated by groundwater, 368,250 by surface water (principally from the Rio Grande, Pecos, San Juan and Canadian rivers) and 174,360 by a combination of the two. A little more than 1 million acres are gravity irrigated and the balance sprinkler irrigated.

Much of the cropland irrigated by groundwater is in the eastern part of the state. Water tables there are being depleted in some areas at a rate that would make irrigation impossible shortly after the turn of the century.

The Ogallala Basin, which is the main irrigation source in the plains regions around Clovis and Portales, is gradually being depleted. To compound the problem, the cost of energy to pump water out is rising, and irrigators are caught in a cost squeeze. "Almost an impossible situation," observes Stephens.

"Everything we do, we think about water problems," notes Dr. Merle Niehaus, head of New Mexico State University's agronomy department. The situation will become more critical, he said, as population and industry grow and increase the demand for water.

Ultimately, there is hope that the state's water needs can be met by using its vast resources of saline water.

Of 20 billion acre feet of water under the state, 15 billion is brackish and not currently usable by agriculture, according to Niehaus.

Genetics research aimed at developing plants that can utilize saline water or a mixture of that and salt-free water is underway. The U.S. Department of the Interior has selected Alamogordo as a site for a $3 million experimental desalinization plant. While there are many ways to produce fresh water from saline sources, none developed so far is economical.

LAND USE CONCERNS

Land use is another major issue in New Mexico. One-third of the state is federal land, about 45 percent is privately owned and the balance is either state owned or controlled by Indian tribes.

The Bureau of Land Management has reduced stocking rates on some federal rangelands. Grazing allotments in one area were cut an average of 14 percent, with some reduced more than 50 percent. Lawsuits challenging the reductions have been filed.

The situation is a "nasty one" and "is going to get worse before it gets better," said one observer.

Adding to the problem is designation of lands as recreational or wilderness areas, and implementation of multiple-use programs.

As running cattle on certain lands becomes less profitable, it is anticipated that ranchers will become fewer but larger.

CATTLE DOMINATE

Cash receipts from cattle and calves in recent years have averaged about 66 percent of New Mexico's total income from all agricultural products and 80–90 percent of livestock receipts.

Beef cows are distributed throughout the state. The inventory of 602,000 on Jan. 1, 1979, compares with 620,000 a year earlier and a record high of 714,000 in 1975.

New Mexico's feedlots are concentrated on the eastern side of the state, where feed is most available. Feedlot numbers decreased from 140 in 1972 to 50 in 1977. In 1977, 294,000 fed cattle were marketed.

Dr. Arnold Nelson, head of NMSU's department of animal and range sciences, said he thinks the state's feedlot industry has basically stabilized at its current size. In the long run, he said, cattle feeders will probably be feeding more milo, although prices make it economical to import corn at times.

DAIRY INDUSTRY SECOND

New Mexico's dairy industry, with cash receipts of more than $44 million in 1976, was the state's second largest contributor to farm income. Nonetheless, dairy product receipts were only 10 percent of receipts from cattle and calves that year.

The state has very close to 125 dairies, of which about 15 have the majority of the 33,000 cows. Most dairies are located in the Albuquerque and Portales areas.

Dr. Donald Miller, NMSU animal scientist, predicts that cow numbers and possibly dairy farms will increase within the next few years due to availability of dairy feed, encouragement for more production by the Associated Milk Producers, Inc. (the nation's largest dairy co-op) and discouragement of dairy farming in other parts of the U.S.—particularly California.

SHEEP AND LAMBS

In 1977 New Mexico ranked sixth nationally in the number of sheep and lambs on farms, and its lamb crop was 10th largest in the nation. The state currently has about 555,000 head on hand.

Sheep and lambs are the third largest contributor to livestock receipts. In 1976 they accounted for more than $18 million. About 45 percent of the state's sheep population is located in three southeastern counties. Another 23 percent is located in the northwestern corner of the state.

Industry observers expect numbers to be stable or slightly increasing in the near future.

POULTRY, SWINE

In 1977 New Mexico's poultry and egg receipts were about $14.5 million. Poultry numbers have increased steadily since there were about 682,000 layers in 1965. On Jan. 1, 1979, the state had a little more than 2.1 million chickens on hand, up 75 percent from 1975. More than half of those chickens are concentrated in three layer flocks.

New Mexico has no commercial broiler operations and only two commercial turkey operations.

New Mexico's hog production is concentrated in the southern part of the state, primarily the southwest, and most hogs are marketed in Phoenix. In 1976 swine accounted for $9.3 million in cash receipts. The approximately 60,000 hogs in the state are widely distributed among producers, with only about a dozen individuals having 100 or more sows.

CROP PRODUCTION

Alfalfa is New Mexico's leading cash crop. In 1976 hay accounted for a little more than $36 million in cash receipts, ranking as the state's third largest agricultural commodity. In 1977 alfalfa production established a new state record, 1,040,000 tons, about 93 percent of the state's total hay production. Alfalfa was harvested on 231,000 acres with a yield of 4.5 tons per acre.

Cotton production in 1977 totaled 173,000 bales from 137,300 harvested acres. American Pima cotton registered an average yield of 621 lb. per harvested acre, the highest since 1939, the first year records were kept.

Almost all cotton is grown under irrigation. Production has been declining in the long term.

GRAINS

New Mexico's grain belt lies in the east-central and northeastern parts of the state, its plains region. Wheat, sorghum and corn production is concentrated here, although these crops are grown throughout the state.

Wheat and sorghum make up a large share of New Mexico's dry-land acreage, while corn and barley are mostly grown on irrigated acreage.

Corn for grain production set a state record for the third consecutive year in 1977. Nearly 10.3 million bushels were produced, a 2 percent increase over the previous year and 37 percent increase since 1975. Farmers harvested 114,000 acres in 1977, the most since 1946, and yield was 90 bushels per acre.

Sorghum grain was harvested on 238,000 acres in 1977, yielding 11.4 million bushels.

Winter wheat production of 8.8 million bushels in 1977 was up 5 percent from 1976. The 421,000 harvested acres were up from 245,000 the previous year.

About 4,000 acres of durum wheat were harvested in 1977.

VEGETABLES

Chile, lettuce and onions, New Mexico's leading vegetables, are grown mainly in the Rio Grande Valley near Las Cruces.

Vegetables of all types accounted for a little more than $40 million in farm income in New Mexico in 1977.

Total value of the state's chile peppers, 16,600 tons grown on 10,900 acres, was about $14.2 million.

New Mexico's onion production of a little more than 1 million cwt. from 3,200 harvested acres was valued at more than $8 million.

Lettuce was the third most valuable vegetable. The 728,000 cwt. grown on 3,750 harvested acres was valued at more than $6.1 million.

FRUIT, NUTS

The value of fruit and nut production in New Mexico in 1976 was almost $16 million. Pecans and apples dominated that, with pecans accounting for almost $13 million and apples almost $3 million.●

P. J. "SQUEAK" KEENAN

● Mr. BAUCUS. Mr. President, last Friday marked the passing of a dedicated public servant and a long time personal friend, P. J. "Squeak" Keenan. Squeak's passing ended a civic and public service career which spanned nearly five decades. At the time of his death, he was a county commissioner for Deer Lodge-Anaconda, Mont. Squeak served as a city councilman, school board member, Democratic county chairman and State senator. He worked tirelessly on many local projects, particularly youth recreation and sports programs.

Squeak through his deeds exemplified the meaning of public trust and service. His spirit and enthusiasm were infectious. In recent years, when public esteem for government and its officials has waned, Squeak continually encouraged young people to become involved in community affairs and elective political office.

Often civic leaders are taken for granted. Many of their deeds and good works go unnoticed. It is for this reason, I make these remarks part of the Record. During my public career I worked with Squeak on numerous issues and projects. I appreciated his sage counsel and advice. His presence will be sadly missed in the smelter city. I extend my sympathy to his devoted family and many friends. He was a public servant in the fullest sense of the word.●

PUBLIC LIABILITY FOR FOREIGN ARMS SALES

● Mr. BAUCUS. Mr. President, when the revolutionary government of Iran took over, Iran had $12.6 billion worth of arms orders pending with the United States. Most of these orders have since been canceled by the unilateral action of the Khomeini government. My concern, then and now, centers around what financial liability, if any, the American Government might incur as a result of these cancelations.

Some purchases of U.S. weapons traditionally are handled on a government-to-government basis, with the Pentagon acting as middleman. When the same government uses American-made weapons, it orders them from the Defense Department, which then signs a procurement contract with the domestic manufacturer. A trust fund is created, into which the contracting foreign country periodically deposits sums of money adequate to cover the purchases.

Because I felt apprehensions then, as I do now, that the American taxpayer might end up footing the bill for these cancellations, I joined with my colleague, Senator Riegle of Michigan, in seeking a GAO evaluation of the Iranian Trust Fund and arms situation. That report was made public the first week of August. Its findings are ominous and most unsettling.

Our foreign military sales program is riddled with management problems. The public treasury may be liable for billions of dollars worth of arms contracts canceled by Iran, according to the study. GAO concludes that DOD has failed to charge foreign governments for hundreds of millions of dollars worth of weapons. The report also specifies that DOD cannot identify which weapons were purchased from domestic defense contractors with billions of dollars the Department received from foreign entities.

The study also states that DOD does not require foreign governments to keep enough funds on deposit to cover costs of contracts. Contracts usually specify that a manufacturer will receive payment, in the form of damages or a penalty, if an order is canceled, to cover overhead, equipment, and related costs. The report states that in the case of Iran, policy may force the United States to use general treasury funds to reimburse American manufacturers whose weapons sales were canceled by the Khomeini regime.

Further, the report shows that there are institutional evils characterizing all such foreign trust funds, the worst of which is the lack of a central disbursing authority. Any of our military services may disburse funds from a military trust fund without ascertaining what payments will be made by other services out of that same fund. The right hand knows little of what the left hand is doing. These problems are of many years standing.

The report indicated that while no contractor has sought, through court action, to compel the Public Treasury to make good on such cancellations; such a suit, if brought, might well hold our Government liable.

DOD did not even maintain a separate reserve account to cover potential termination costs. When the Shah was ousted, the Department "could not readily determine the value of potential termination costs, nor did it know precisely what was available for such costs."

Iranian deposits that the Department does maintain may be insufficient to cover remaining unpaid bills and cancellation costs. As of June 30, the Iranian Trust Fund had a balance of $112 million, with no new money coming from the Khomeini regime. The average disbursement rate has been $125 million per month.

Finally, DOD has depleted the trust fund, according to the report by GAO, by continuing to make payments to contractors for Iranian weapons in hopes of finding a second buyer.

If any top corporate executive ran his company in this way, the company would go broke and the executive would be fired.

Now there are published reports that our Government is dealing with the Khomeini regime in the arms purchasing area. Before such activities are pursued further, it is incumbent upon the Congress, as guardian of the Public Treasury, to ascertain from DOD just what is going on.

Is the trust fund depleted? Is the Public Treasury already liable? If so, to what amount? What specific steps is DOD taking to put its financial house in order regarding such sales and how is it implementing GAO's recommendations? Certainly, these questions require specific, thoughtful, and comprehensive responses, before any further agreements or sales activities are entered into.

The taxpaying public is willing to commit whatever resources are necessary for a more than adequate defense. But it is unwilling to stand still for slipshod administration of programs which may allow military contractors to stage a raid on the Public Treasury that would make the pirates of the Spanish Main green with envy.

I have a responsibility to the taxpayers of my State to raise these questions. If DOD does not respond satisfactorily, then I feel other steps are in order.●

UNITED STATES-CANADA ENVIRONMENTAL COOPERATION: THE FINAL REPORT ON THE WATER QUALITY OF THE POPLAR RIVER

● Mr. BAUCUS. Mr. President, on August 2, 1977, the International Joint Commission (IJC), following provisions of the Boundary Waters Treaty, began a project with wide implications for United States-Canada relations. The Governments of the United States and Canada requested the IJC to examine and report on the water quality effects of the thermal power station of the Saskatchewan Power Corp. and its ancillary facilities, including coal mining, at a site near Coronach, Saskatchewan. Also, the IJC was to make recommendations which would assist both Governments in assuring that provisions of article 4 of the treaty are upheld.

I endorse this step. It has important implications for Montana, and with consideration to long-term future relations between the United States and Canada, it has implications for the whole of our common border regions.

I believe, however, that the time allowed for public comment has been inadequate. Only recently I visited northeastern Montana, and it is clear to me that the residents of this region do not believe they have been consulted adequately. Thus, I urge the IJC to extend the public comment period. In addition, the IJC should conduct further hearings. I want ample public participation in this important process.

I would like to commend the Government of Canada and the Province of Saskatchewan for a willingness to cooperate in establishing and maintaining a system of monitoring devices. This will help us all to better understand the pollution of the water and air of the Poplar River Basin. I stand ready to assist in the development of mitigation measures in order to assure specific corrective action should environmental impacts resulting from the projects become significant.

The water quality report increases the acceptable level of TDS (total dissolved solids) to 1,500 mg/L. I would point out, the standard acceptable level of TDS has been in the range of 1,000 mg/L. Many residents of the Poplar River Basin in Montana have serious reservations regarding this recommendation. I urge the IJC to further examine what should be the appropriate, recommended level.

I am also concerned about the increased concentration of boron. High levels of boron may affect agricultural crop production, particularly irrigated alfalfa and barley. We should understand more about boron concentration, especially during the growing season.

This is not just a Montana concern, I might add. Other border regions are affected as well, in the United States and in Canada. Additionally, the boron data is inadequate. We should obtain more primary data.

Water quantity apportionment is equally important. I am concerned that the present plan will result in a 50-percent reduction of duck production, which is a vital environmental consideration as well as a concern to sportsmen.

And last, I can only underscore the necessity for the Governments of the United States and Canada to work more closely. This last month, for example, I found it necessary to call for a United States-Canada transboundary air quality agreement. Both sides are guilty of neglecting a serious subject. This step, nevertheless, has resulted in an encouraging response from Canadian officials. Canada's Minister of the Environment, John Fraser, and others agree that an agreement is badly needed. I have urged Secretary of State Vance likewise to act as quickly as possible.

Resolution of these issues should be—and can be—a way to demonstrate to the people of the United States and Canada that our Governments are committed to solving these complex environmental problems cooperatively.●

PRESENCE OF SOVIET TROOPS IN CUBA

Mr. DOLE. Mr. President, the Senator from Kansas just rises to suggest that maybe one thing that could be considered tomorrow would be, perhaps, the resolution the Senator from Kansas introduced with reference to the presence of Soviet troops in Cuba.

It would seem to me that tomorrow or the next day or the next day or sometime very soon it is a resolution which could be considered by the Senate.

It does provide two options: The first, the removal of the Soviet troops in Cuba before we bring up the SALT II agreement; or, second, a finding and a report by the President to the Senate that any troops in Cuba, any Soviet troops in Cuba, do not pose a threat to any country in this hemisphere.

The Senator from Kansas suggest that it is very timely, and I would be very happy to call that up tomorrow if we need something to do.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. EXON). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS COMMISSION AUTHORIZATION ACT OF 1979

Mr. BAYH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 721.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 721) entitled "An Act to amend the Civil Rights Act of 1957 to authorize appropriations for the United States Commission on Civil Rights for fiscal year 1980", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "Civil Rights Commission Authorization Act of 1979".

SEC. 2. Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated not to exceed $14,000,000 to carry out the provisions of this Act for the fiscal year ending September 30, 1980.".

Amend the title so as to read: "An Act to amend section 106 of the Civil Rights Act of 1957 to raise the limitation on appropriations for the United States Commission on Civil Rights.".

UP AMENDMENT NO. 569

Mr. BAYH. Mr. President, I move that the Senate concur in the amendments of the House of Representatives to the text of the bill with an amendment, which I send to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 569:

Immediately following "1979" insert the following new section and renumber Section 2 as Section 3:

Sec. 2. Section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c) is amended by inserting at the end the following:

"(g) The Commission shall continue to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution involving Americans who are members of eastern- and southern-European ethnic groups and shall report its findings to the Congress. Such report shall include an analysis of the adverse consequences of affirmative action programs encouraged by the Federal Government upon the equal opportunity rights of these Americans.".

Mr. BAYH. Mr. President, I would just like to state to the Senate that that language is the result of a compromise between the House of Representatives and the Senate on a measure which the Senator from North Carolina (Mr. HELMS) and the Senator from Indiana discussed and added to the bill when it went through the Senate, relative to the importance of finding out just exactly what is the condition with respect to the rights of eastern and southern European ethnic groups. I think this language handles it very appropriately, and I suggest that the Senate go along with the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Indiana.

The motion was agreed to.

Mr. BAYH. Mr. President, I move that the Senate disagree to the amendment of the House to the title of the bill.

The motion was agreed to.

Mr. BAYH. Mr. President, I thank my colleagues and the Presiding Officer for their patience.

I move to reconsider the vote by which the amendments of the House, as amended, were agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AUTHORITIES

Mr. WILLIAMS. Mr. President, I send a joint resolution to the desk and ask unanimous consent for its immediate consideration, as in legislative session.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 105) to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, what is the joint resolution about?

Mr. WILLIAMS. Extension of FHA mortgage insurance authorities.

Mr. STEVENS. Mr. President, reserving the right to object, also it is my understanding this matter was cleared with the Senator from Utah (Mr. GARN). We have no objection.

Mr. ROBERT C. BYRD. All right. I have no objection.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time at length, and the Senate will proceed to its consideration.

Mr. WILLIAMS. This joint resolution is necessary to prevent the expiration of a number of vital housing authorities of the Department of Housing and Urban Development. These authorities are set to expire on September 30, 1979. The resolution would extend these authorities to November 1, 1979, to allow completion of the conference committee on H.R. 3875, the Housing and Community Development Amendments of 1979, which continues the programs through fiscal year 1980.

Mr. President, this proposed joint resolution would extend, through October 31, 1979, the authority of the Secretary of Housing and Urban Development to:

Insure mortgages or loans under certain HUD-FHA mortgage or loan insurance programs contained in the National Housing Act;

Administratively set interest rates for FHA-insured mortgage loans to meet the market at rates above the statutory maximum; and

Enter into obligations to make rehabilitation loans under section 312 of the Housing Act of 1964.

Additionally, it would extend, to November 1, 1979, the authority of the Government National Mortgage Insurance Association to enter into new commitments to purchase mortgages under the interim mortgage purchase authority contained in section 313 of the National Housing Act, as added by the Emergency Home Purchase Assistance Act of 1974.

It also would extend certain authorities under title V of the Housing Act of 1949 with respect to the Farmers Home Administration rural housing programs.

Under existing law, these authorities will remain available only through September 30, 1979. H.R. 3875, the "Housing and Community Development Amendments of 1979," as passed by both the House and the Senate, would extend these authorities for another year through September 30, 1980. The proposed joint resolution is designed to provide a temporary extension of these authorities to avoid interruption in the administration of the affected programs in the likely event H.R. 3875 is not enacted prior to September 30.

With respect to the HUD-FHA mortgage insurance authority, the proposal would extend authorities under the following programs: Title I—property improvement and mobile home loan insurance; section 203—basic home mortgage insurance; section 207—rental housing insurance; section 213—cooperative housing insurance; section 220—rehabilitation and neighborhood conservation housing insurance; section 221—housing for moderate-income and displaced families; section 222—mortgage insurance for servicemen; section 223—miscellaneous housing insurance, including insurance in older, declining urban areas and for existing multifamily housing projects, and refinancing of the existing debt of existing hospitals; section 231—housing for the elderly; section 232—nursing homes; section 233—experimental housing; section 234—condominums; section 235—homeownership for low-income families; section 236—rental and cooperative housing for lower income families; section 237—special mortgagors; section 240—homeowner purchases of fee simple title; section 241—supplemental loans for multifamily housing projects; section 242—hospitals; section 243—homeownership for middle-income families; section 244—mortgage insurance on a coinsurance basis; section 245—graduated payment mortgages; title VIII—armed forces-related housing; title X—land development; and title XI—group practice facilities.

The proposed extension of these insuring authorities is necessary to guarantee the uninterrupted availability of FHA mortgage insurance during the period between the September 30 expiration date and enactment of the 1 year extension of these authorities under H.R. 3875.

An extension of the authority of the Secretary of Housing and Urban Development administratively to set interest rates is designed to assure that the Secretary will retain the flexibility to set interest rates to meet the market at rates above the statutory 6 percent maximum as necessary.

Extension of GNMA's authority to make commitments to purchase mortgages whenever economic conditions are having a severe effect on the housing industry will allow GNMA to remain available as a tool to counter recessionary conditions in housing production.

The proposed extension of the Secretary's authority to make rehabilitation loans under section 312 of the Housing Act of 1964 is needed to continue the operation of this popular and successful community preservation and revitalization tool.

Without respect to the Farmers' Home Administration rural housing programs, it would extend through October 31, 1979, the Secretary of Agriculture's authority under the following programs: Section 515—loan insurance for rental or cooperative housing and related facilities for elderly, handicapped, or moderate-income persons or families in rural areas; section 517—loans and loan insurance for low- or moderate-income dwellings; and section 523—grants or loans for mutual and self-help housing.

It is my understanding that the immediate consideration of this resolution has been cleared on both sides.

The joint resolution (S.J. Res. 105) was considered, ordered to a third reading, read the third time, and passed, as follows:

S.J. Res. 105

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AUTHORITIES

SECTION 1. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1979" in the first sentence and inserting in lieu thereof "November 1, 1979".

(b) Section 217 of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "October 31, 1979".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1979" in the fifth sentence and inserting in lieu thereof "October 31, 1979".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "October 31, 1979".

(e) Section 236(o) of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "October 31, 1979".

(f) Section 244(d) of such Act is amended—

(1) by striking out "September 30, 1979" in the first sentence and inserting in lieu thereof "October 31, 1979"; and

(2) by striking out "October 1, 1979" in the second sentence and inserting in lieu thereof "November 1, 1979".

(g) Section 245 of such Act is amended by striking out "September 30, 1979" where it appears and inserting in lieu thereof "October 31, 1979".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserting in lieu thereof "October 31, 1979".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserting in lieu thereof "October 31, 1979".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserting in lieu thereof "October 31, 1979".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserting in lieu thereof "October 31, 1979".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 2. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709–1), is amended by striking out "October 1, 1979" and inserting in lieu thereof "November 1, 1979".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 3. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1979" and inserting in lieu thereof "November 1, 1979".

REHABILITATION LOANS

SEC. 4. Section 312(h) of the Housing Act of 1964 is amended—

(1) by striking out "September 30, 1979" and inserting in lieu thereof "October 31, 1979"; and

(2) by striking out "October 1, 1979" and inserting in lieu thereof "November 1, 1979".

EXTENSION OF RURAL HOUSING AUTHORITIES

SEC. 5. (a) Section 513 of the Housing Act of 1949 is amended by striking out "September 30, 1979" where it appears in clauses (b), (c), and (d) and inserting in lieu thereof "October 31, 1979".

(b) Section 515 of such Act is amended by striking out "September 30, 1979" where it appears in paragraph (b)(5) and inserting in lieu thereof "October 31, 1979".

(c) Section 517(a)(1) of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "October 31, 1979".

(d) Section 523(f) of such Act is amended—

(1) by striking out "October 1, 1979" where it appears in paragraph (f) and inserting in lieu thereof "November 1, 1979"; and

(2) by striking out "September 30, 1979" where it appears in such paragraph (f) and inserting in lieu thereof "October 31, 1979".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination under Office of the Special Representative for Trade Negotiations.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the nomination.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

The second assistant legislative clerk read the nomination of Reubin O'D. Askew, of Florida, to be Special Representative for Trade Negotiations, with the rank of Ambassador Extraordinary and Plenipotentiary.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of all the nominations confirmed today.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMTRAK REORGANIZATION ACT OF 1979—CONFERENCE REPORT

Mr. CANNON. Mr. President, I submit a report of the committee of conference on H.R. 3996 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. EXON). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3996) to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. CANNON. Mr. President, the conference report has been agreed to. I think we have worked out an equitable agreement with the House.

Mr. President, I move that the Senate approve the conference report. It has been cleared on both sides of the aisle.

Mr. STEVENS. There is no objection. I am happy to join with the Senator from Nevada.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CANNON. Mr. President, I ask unanimous consent that the requirement for the printing of the conference report on H.R. 3996 as a Senate document be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

TENTATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the continuing resolution was received in the Senate today. The Appropriations Committee will meet tomorrow to mark up that resolution. If the report can be filed tomorrow and if it can be printed overnight and be available on Thursday, it could be taken up on Thursday, provided the 3-day rule is waived.

The Senate cannot act on the debt ceiling measure until the House sends it over. The House presumably will act tomorrow. It should be received sometime in the mid- to late afternoon.

On the drug law reform bill, S. 1075, we have a time agreement and we can do that on Thursday. We could on tomorrow, but there is some problem with Senators who will not be here tomorrow, who have a prominent part in that bill. They will not be here tomorrow, so it will have to be Thursday.

As to the energy efficiency bill, S. 1398, we have a time agreement on that bill, but we need a budget waiver and we should have a budget waiver on that bill by Thursday.

So that is about it, Mr. President. There are other measures on the calendar that, for various and sundry reasons, cannot be taken up. So the Senate is awaiting action, marking time until the measures I have mentioned are ready to be taken up here.

Next week, we shall have the first of the energy bills that have been reported out of the Energy Committee, the Energy Mobilization Board measure. We hope to have a conference report on the standby gas rationing proposal. The House is, I hope, going to act on three additional appropriations bills. We are awaiting action by the House on those three bills. By the end of next week, possibly, the Senate will be ready to act on one or more of the appropriations bills that, for one reason or another, have not advanced to the stage of being calendared. So, come next week, things will look better. We shall have more business. We shall have more business this coming Thursday.

So, that is about it. I thought we had better have something in the RECORD to indicate why there is a little bit of a lag tomorrow. But business will probably pick up tomorrow afternoon, who knows?

RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, there being no further business to come before the Senate—I look north, south, east, and west—I move, in accordance with the previous order, that the Senate stand in recess until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and, at 6:45 p.m., the Senate recessed until tomorrow at 12 noon.

NOMINATIONS

Executive nominations received by the Senate September 25, 1979:

DEPARTMENT OF STATE

Harry Roberts Melone, of New York, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

ENVIRONMENTAL PROTECTION AGENCY

Eckardt C. Beck, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency, vice Thomas Cash Jorling, resigned.

IN THE ARMY

The following-named officers for temporary appointment in the Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be brigadier general

Col. Robert W. Riscassi, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert J. Sunell, [redacted], U.S. Army.

Col. James T. Bramlett, [redacted], U.S. Army.

Col. Frederick F. Woerner, Jr., [redacted] U.S. Army.

Col. Charles F. Briggs, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Richard S. Kem, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Donald R. Morelli, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James L. Dozier, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Peter G. Burbules, [redacted], U.S. Army.

Col. Kenneth E. Lewi, [redacted], U.S. Army.

Col. Norman E. Archibald, [redacted], U.S. Army.

Col. Richard G. Graves, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Roger J. Price, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Hugh J. Quinn, [redacted], U.S. Army.

Col. Jimmy D. Ross, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James F. McCall, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Carl W. Stiner, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles G. Prather, IV, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Mark J. Sisinyak, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. William E. Odom, [redacted], U.S. Army.

Col. Donald P. Whalen, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Thomas C. Nelson, [redacted], U.S. Army.

Col. John W. Nicholson, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Donald M. O'Shei, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John M. Kirk, [redacted], Army of the United States (lieutenant colonel), U.S. Army).

Col. Robert B. Adams, [redacted], U.S. Army.

Col. Richard W. Wilmot, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Douglas S. Smith, [redacted], U.S. Army.

Col. Henry J. Schumacher, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. August R. Pede, [redacted], U.S. Army.

Col. Charles E. Getz, [redacted], Army of the United States (major, U.S. Army).

Col. Stanislaus J. Hoey, [redacted], U.S. Army.

Col. Walter C. Cousland, [redacted], U.S. Army.

Col. Benjamin J. Pellegrini, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Philip H. Mason, [redacted], U.S. Army.

Col. Charles W. Brown, [redacted], U.S. Army.

Col. George K. Withers, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Jack B. Farris, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Harold M Davis, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. William C. Roll, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Lloyd K. Rector, [redacted], U.S. Army.

Col. Sidney Davis, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles H. Edmiston, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Bobby J. Maddox, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. John T. Myers, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Church M. Matthews, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. James R. Hall, Jr., [redacted], Army of the United States (major, U.S. Army).

Col. Donald J. Gudinas, [redacted] Army of the United States (major, U.S. Army).

Col. Charles E. Teeter, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Claude T. Ivey, [redacted], Army of the United States (major, U.S. Army).

Col. Hardin L. Olson, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Christian Patte, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Howard C. Whittaker, [redacted] U.S. Army.

Col. John W. Foss, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Henry G. Watson, [redacted], U.S. Army.

Col. Lincoln Jones III, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Llyle J. Barker, Jr., [redacted] U.S. Army.

Col. Eugene Fox, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Julius Parker, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John C. Bahnsen, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Bernard M. Herring, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Gary L. Turner, [redacted], U.S. Army.

Col. Richard G. Cardillo, [redacted], U.S. Army.

Col. Thomas P. McHugh, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles F. Drenz, [redacted], U.S. Army.

Col. Todd P. Graham, [redacted], U.S. Army.

Col. James M. Hesson, [redacted], U.S. Army.

Col. Allen K. Ono [redacted], Army of the United States (lieutenant colonel, U.S. Army).

CONFIRMATIONS

Executive nominations confirmed by the Senate September 25, 1979:

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Reubin O. D. Askew, of Florida, to be Special Representative for Trade Negotiations, with the rank of Ambassador Extraordinary and Plenipotentiary.

The above nomination was approved subject to the nominees commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Bailey Brown, of Tennessee, to be a U.S. circuit judge for the sixth circuit.

Cornelia G. Kennedy, of Michigan, to be U.S. circuit judge for the sixth circuit.

Mary M. Schroeder, of Arizona, to be U.S. circuit judge for the ninth circuit.

Richard D. Cudahy, of Wisconsin, to be U.S. circuit judge for the seventh circuit.

Abner J. Mikva, of Illinois, to be U.S. circuit judge for the District of Columbia circuit.

Boyce F. Martin, Jr., of Kentucky, to be U.S. circuit judge for the sixth circuit.

Otto R. Shopil, Jr., of Oregon, to be U.S. circuit judge for the ninth circuit.

Edward C. Reed, Jr., of Nevada, to be U.S. district judge for the district of Nevada.

Avern Cohn, of Michigan, to be U.S. district judge for the eastern district of Michigan.

Stewart A. Newblatt, of Michigan, to be U.S. district judge for the eastern district of Michigan.

William L. Hungate, of Missouri, to be U.S. district judge for the eastern district of Missouri.

Howard F. Sachs, of Missouri, to be U.S. district judge for the western district of Missouri.

John V. Parker, of Louisiana, to be U.S. district judge for the middle district of Louisiana.

Scott O. Wright, of Missouri, to be U.S. district judge for the western district of Missouri.

Zita L. Weinshienk, of Colorado, to be U.S. district judge for the district of Colorado.

Jim R. Carrigan, of Colorado, to be U.S. district judge for the district of Colorado.

Richard M. Bilby, of Arizona, to be U.S. district judge for the district of Arizona.

Veronica D. Wicker, of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

John M. Shaw, of Louisiana, to be U.S. district judge for the western district of Louisiana.

Falcon B. Hawkins, of South Carolina, to be U.S. district judge for the district of South Carolina.

C. Weston Houck, of South Carolina, to be U.S. district judge for the district of South Carolina.

George Arceneaux, Jr., of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

Patrick E. Carr, of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

Benjamin F. Gibson, of Michigan, to be U.S. district judge for the western district of Michigan.

Douglas W. Hillman, of Michigan, to be U.S. district judge for the western district of Michigan.

HOUSE OF REPRESENTATIVES—*Tuesday, September 25, 1979*

The House met at 12 o'clock noon.

Rev. Deryl Fleming, pastor, Ravensworth Baptist Church, Annandale, Va., offered the following prayer:

The eternal God is your dwelling place, and underneath are the everlasting arms.—Deuteronomy 33: 27a.

Eternal God:

We give Thee thanks for the goodness which accompanies us all the days of our lives, and for Thy mercies fresh every day.

Grant us wisdom and courage for today's tasks.

May we serve Thee by seeking the common good and serving even the least of our brothers and sisters.

For those who work here—Congressmen, aides, clerks, pages, maintenance and security personnel, and others—we ask grace for their difficulties, joy in their privileges, faithfulness in their responsibilities.

For our Nation's other citizens we ask the same.

Hallowed be Thy name, O Lord; Thy kingdom come, Thy will be done, on Earth and in our lives as it is in heaven; for Thine is the kingdom, the power, and the glory forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On September 21, 1979:

H.R. 2774. An act to authorize appropriations for fiscal years 1980 and 1981 under the Arms Control and Disarmament Act, and for other purposes.

On September 24, 1979:

H.R. 4392. An act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 210) entitled "An act to establish a Department of Education."

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 275. An act for the relief of Leah Mi Cohen.

MAKING IN ORDER ON WEDNESDAY, SEPTEMBER 26, 1979, OR ANY DAY THEREAFTER, CONSIDERATION OF CONFERENCE REPORT ON H.R. 111, PANAMA CANAL ACT OF 1979

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that it shall be in order for the House to consider on Wednesday, September 26, 1979, or any day thereafter, the conference report on the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977, and that said conference report shall be considered as read when called up for consideration.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

CAMPAIGN FINANCING—A SINGLE STANDARD SHOULD APPLY TO ALL SEEKERS OF OFFICE

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, yesterday at this time I pointed out that Senator KENNEDY was enjoying an unfair advantage of 110 to 1 over others seeking the Presidency. A loophole in the election laws allows individuals to give $5,000 to each Kennedy committee so long as it is independent and he has not declared. Declared candidates are allowed one committee and only $1,000 from any individual.

But the unfair advantage is not 110 to 1; it is 180 to 1 because there are now 36—count them—36 independent Kennedy committees.

It is miraculous that the press has failed to notice that the setter of standards for honorable campaign financing behavior is cheerfully accepting a double standard for his own campaign. The noncandidate's unfair advantage is a national irony and a national outrage.

Those of us who are interested in good, fair election laws are breathlessly awaiting a statement from the Senator or his committees that a single standard should apply to all seekers of office. As long as money which is illegal to all others is pouring into the Kennedy campaign, I suppose we will wait in vain.

THE SUSAN B. ANTHONY DOLLAR

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, this morning the Committee on Banking, Finance and Urban Affairs started to hold hearings on the Susan B. Anthony dollar as to whether or not we should continue minting this coin. I find this somewhat

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

amusing and also symbolic of the age in which we live. Claims are made that we need this coin because we cannot afford to print the dollars anymore and the Eisenhower dollars are too heavy to carry.

I have a rather simple solution to this to take care of all of this. There are some who want to have Susan B. Anthony honored. I say make the Susan B. Anthony coin a gold coin, and then the Treasury would not be able to mint enough because there would be such a demand for them. And for the dollar, all we have to do is substitute our silver dime, because it is now worth a dollar today due to its silver content. This is certainly a solution deserving our attention.

GOVERNMENT TAKES 70 PERCENT OF OIL COMPANIES' FUNDS

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, in establishing America's energy policy, we are concerned with determining the distribution of oil cash income in the operations of the major 48 U.S. oil companies. It shows that Government received 70.2 percent out of the oil cash revenue. We have too much Government.

For 4 years "Energy Week" has analyzed the distribution of cash income generated by the 48 U.S. major oil companies. The survey points out that the 70.2-percent estimate of the Government's share is very conservative. This total does not include the taxes paid by supplier stockholders in sales, income, property, school nor does it include the taxes related to equipment and services that oil companies purchase.

The major recipient of the income produced by oil companies shows 70.2 percent going to the Government. The balance includes 15.6 percent which is the employees share that goes in wages; 8.9 percent being the company share which is used to operate the business, and 5.3 percent being the return on investment to the stockholder. Again this year, the figures prove that the Government through taxes gets 14 times as much out of the investment of the private oil business as a shareholder receives.

To quote the bottom line totaling $81.665 billion, we have employees pay and benefits after taxes which is $14.319 billion; earnings of 48 companies after dividends—$8.192 billion; dividends after taxes paid by stockholders—$4.823 billion; and taxes paid by companies/investors/employees and collected from consumers—$64.331 billion.

Governments in the United States by taxation receive 70.2 cents out of each dollar generated by the oil industry.

This survey is from the most recent edition of "Energy Week" which is published by Ernestine Adams with Abbott Sparks as president.

WELCOME TO STUDENTS FROM THE FOURTH DISTRICT OF INDIANA

(Mr. QUAYLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUAYLE. Mr. Speaker, it is my pleasure to welcome the third group of Fourth Congressional District students from Indiana to the Capitol. Mr. Speaker, these students were selected on a nonpartisan, competitive basis and I commend them for their success and enthusiasm.

The purpose of the program is to stimulate student interest in our Government. As the adage says "the youth of today are the leaders of tomorrow." These high school students are getting an inside look at Washington which may encourage them or their friends to seek public service at some juncture in their career.

The congressional student program is an annual event with the funding and operations of the program derived from a nonpartisan, not-for-profit organization.

I would like to thank my colleagues in the House, the Honorable John Rhodes, the Honorable Pete McCloskey, the Honorable Olympia Snowe, the Honorable Phil Crane, and the Honorable Tom Downey for taking time out of their busy schedules to meet with the students this week. I would also like to express my appreciation to Senator Nancy Kassebaum and Indiana Senators Birch Bayh and Richard Lugar for their participation in the program.

The following students are this year's participants:

Scott Aurand, New Haven High School.

David Bennet, Westview High School.

Mark Bolyard, Homestead High School.

Denise Butler, Columbia City Joint High School.

Linda Buttell, Northrop High School.

Steve Kuhn, Angola High School.

Laura Lebrecht, Prarie Heights High School.

Teresa Miller, East Noble High School.

Marla Murray, DeKalb High School.

James Noel, Northside High School.

Gary Parker, New Haven High School.

Carol Rugg, Huntington Catholic High School.

Gail Spade, Concordia Lutheran High School.

Carson Sparks, Garrett High School.

Melodie Sparks, Wabash High School.

Thomas Teel, Snider High School.

Ann Voors, Bishop Luers High School.

Nancy Yentes, Northfield High School.

Mr. and Mrs. Mark Clough of Fort Wayne, sponsors.

Again, Mr. Speaker, it is my honor to welcome these students and insert for the Record their presence in the House this afternoon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed on Monday, September 24, 1979.

Votes will be taken in the following order:

H.R. 5168, de novo; H.R. 5163, by the yeas and nays; H.R. 5218, by the yeas and nays; House Concurrent Resolution 167, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

EXTENSION OF EXPIRING PROVISIONS OF LAW RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5168.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. Nichols) that the House suspend the rules and pass the bill, H.R. 5168.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SALE TO CERTAIN FOREIGN NATIONS OF CERTAIN EXCESS NAVAL VESSELS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5163.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. Bennett) that the House suspend the rules and pass the bill, H.R. 5163, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 379, nays 25, not voting 30, as follows:

[Roll No. 500]

YEAS—379

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conyers
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia

Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stokes
Stratton
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—25

AuCoin
Boland
Bonior
Burton, John
Conte
Dellums
Early
Florio
Forsythe
Jacobs
Jenrette
Kastenmeier
Kildee
Long, Md.
Maguire
Mitchell, Md.
Moffett
Richmond
Schroeder
Stark
Studds
Vento
Weaver
Weiss
Wilson, Bob

NOT VOTING—30

Anderson, Ill.
Biaggi
Carter
Corcoran
Donnelly
Fazio
Ferraro
Flood
Ford, Mich.
Gibbons
Goldwater
Holtzman
McCormack
Mathis
Mavroules
Moakley
Murphy, Ill.
Myers, Ind.
Nolan
Quillen
Rodino
Rose
Rosenthal
Santini
Snyder
Stewart
Treen
Watkins
Waxman
Winn

☐ 1230

The Clerk announced the following pairs:

Mr. Biaggi with Mr. Anderson of Illinois.
Mr. Fazio with Mr. Snyder.
Ms. Ferraro with Mr. Goldwater.
Mr. Murphy of Illinois with Mr. Quillen.
Mr. Waxman with Mr. Carter.
Mr. Stewart with Mr. Corcoran.
Mr. Rosenthal with Mr. Winn.
Mr. McCormack with Mr. Rose.
Mr. Santini with Mr. Watkins.
Mr. Moakley with Ms. Holtzman.
Mr. Nolan with Mr. Gibbons.
Mr. Donnelly with Mr. Ford of Michigan.
Mr. Mathis with Mr. Myers of Indiana.
Mr. Mavroules with Mr. Rodino.

Messrs. EARLY, BOLAND, DELLUMS, MITCHELL of Maryland, STUDDS, and CONTE changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ADDABBO). Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

SPECIAL CARIBBEAN HURRICANE RELIEF ASSISTANCE AUTHORIZATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5218.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and pass the bill, H.R. 5218, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 370, nays 27, not voting 37, as follows:

[Roll No. 501]

YEAS—370

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Dannemeyer
Daschle
Davis, S.C.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—27

Archer
Ashbrook
Bauman
Carney
Collins, Tex.
Crane, Philip
Daniel, Dan
Daniel, R. W.
Davis, Mich.
Deckard
Gaydos
Hansen
Harsha
Holt
Ichord
Kelly
McDonald
Miller, Ohio
Mottl
Paul
Rousselot
Rudd
Satterfield
Shelby
Stump
Symms
Taylor

NOT VOTING—37

Anderson, Ill.
Beilenson
Biaggi
Breaux
Carter
Conyers
Corcoran
Crane, Daniel
Dellums
Donnelly
Fazio
Ferraro
Flood
Ford, Mich.
Gibbons
Goldwater
Hawkins
Heftel
Holtzman
McCormack
Mathis
Mavroules
Moakley
Murphy, Ill.
Myers, Ind.
Nolan
Pashayan
Quillen
Rodino
Rose
Rosenthal
Santini
Snyder
Stewart
Treen
Watkins
Winn

The Clerk announced the following pairs:

Mr. Biaggi with Mr. Anderson of Illinois.
Mr. Donnelly with Mr. Pashayan.
Mr. Fazio with Mr. Goldwater.
Mr. McCormack with Mr. Quillen.
Mr. Murphy of Illinois with Mr. Snyder.
Ms. Holtzman with Mr. Carter.
Mr. Moakley with Mr. Corcoran.
Mr. Rosenthal with Mr. Myers of Indiana.
Mr. Rodino with Mr. Winn.
Mr. Stewart with Mr. Rose.
Mr. Santini with Mr. Watkins.
Mr. Hawkins with Mr. Mathis.
Mr. Mavroules with Mr. Nolan.
Ms. Ferraro with Mr. Dellums.
Mr. Breaux with Mr. Daniel B. Crane.
Mr. Conyers with Mr. Gibbons.
Mr. Heftel with Mr. Ford of Michigan.
Mr. Beilenson with Mr. Flood.

Mr. HANSEN changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1240

DISAPPROVAL OF SOVIET UNION'S SYSTEMATIC NONDELIVERY OF INTERNATIONAL MAIL

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 167).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. Bonker) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 167) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 401, nays 0, not voting 33, as follows:

[Roll No. 502]

YEAS—401

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—33

Anderson, Ill.
Bevill
Biaggi
Carter
Corcoran
Donnelly
Duncan, Tenn.
Fazio
Ferraro
Flood
Ford, Mich.
Gibbons
Heftel
Holtzman
Leland
McKay
Mathis
Mavroules
Moakley
Murphy, Ill.
Myers, Ind.
Nolan
Quillen
Rangel
Rodino
Rose
Rosenthal
Santini
Snyder
Steed
Treen
Watkins
Winn

The Clerk announced the following pairs:

Mr. Rosenthal with Mr. Anderson of Illinois.
Mr. Murphy of Illinois with Mr. Snyder.
Mr. Rodino with Mr. Quillen.
Mr. Biaggi with Mr. Winn.
Mr. Fazio with Mr. Myers of Indiana.
Mr. Donnelly with Mr. Duncan of Tennessee.
Mr. Bevill with Mr. Carter.
Ms. Ferraro with Mr. Corcoran.
Mr. Moakley with Mr. Ford of Michigan.
Mr. Gibbons with Mr. Leland.
Mr. Rangel with Mr. Watkins.
Mr. Steed with Mr. Rose.
Mr. Santini with Mr. McKay.
Mr. Heftel with Mr. Mavroules.
Mr. Mathis with Mr. Flood.
Mr. Nolan with Ms. Holtzman.

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXTENSION OF DEFENSE PRODUCTION ACT OF 1950

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the joint resolution (H.J. Res. 406) to extend by 120 days the expiration date of the Defense Production Act of 1950, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 406

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166 (a)) is amended by striking out "September 30, 1979" and inserting in lieu thereof "January 28, 1980".

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. MOORHEAD) is recognized for 1 hour.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, House Joint Resolution 406 is a simple and, I believe Members will agree, a necessary resolution. It would extend for 120 days, until January 28, 1980, the present provisions of the Defense Production Act of 1950. Without this action, the act will expire at the end of this month.

Members will recall, Mr. Speaker, that on June 26 the House passed an extension of the Defense Production Act, accompanied by amendments to the act, which represent our synthetic fuels proposal. It was passed by an overwhelming vote, 368 to 25. That bill is now making its way through the Senate but progressing more slowly than we had hoped because it was referred to two committees and because it is being considered within the context of broader energy measures resulting chiefly from the President's energy proposals of last July. I see no way that the legislation will be completed before the expiration of the Defense Production Act on September 30. It is vital to our national security that the provisions of that act continue uninterrupted.

The Defense Production Act of 1950 is the statutory authority for our Nation's defense preparedness. It was first enacted during the Korean war and has been reenacted without interruption since 1950. It contains the authorities under which our industrial base is kept in a state of readiness to mobilize quickly in the event of a national emergency.

Because failure to extend the act now would jeopardize these defense preparedness programs, it is important that we continue the authorities of the act while Congress completes action on the energy measures. I urge our colleagues, therefore, to suspend the rules and pass House Joint Resolution 406.

Mr. Speaker, I yield for debate purposes to the gentleman from Connecticut (Mr. MCKINNEY), the ranking minority member of the subcommittee which reported the legislation.

Mr. McKINNEY. Mr. Speaker, the House is considering today a 4-month extension of the Defense Production Act of 1950. As the ranking minority member of the Economic Stabilization Subcommittee, I am pleased to join with my chairman, Mr. MOORHEAD, in urging that the House pass this simple extension until January 28, 1980.

The Defense Production Act of 1950 represents the sole authority for the Nation to maintain a level of preparedness among our industries that will enable the United States to meet any national defense emergencies. This act provides for a number of ongoing programs, such as the Trident submarine and cruise missile programs, to support this preparedness effort as well as our national defense mobilization program. It is essential to our national security that these programs be continued without interruption.

The House has already approved the extension of this law until September 30, 1980. The Senate has approved extension of this act until 1981. The House extension carried with it, however, several amendments which the Senate is now considering in committee. We hope the full Senate will act shortly so that we may have a conference to iron out the differences. This is the reason for today's action. We must maintain our defense preparedness but we also want to keep some pressure on the other body to address our energy problems.

In the interest of maintaining a stable and strong national defense program, I urge the House to pass House Joint Resolution 406, the Defense Production Act extension.

● Mr. PAUL. Mr. Speaker, I am opposed to this bill for many reasons. Merely calling a bill a defense bill does not make it so, however. The fact that this resolution was referred to the Committee on Banking, Finance and Urban Affairs and not the Committee on the Armed Services indicates the nondefense nature and purposes of this resolution. The fact that House Judiciary Resolution 406 was handled by the chairman of the Economic Stabilization Subcommittee of the Banking Committee should alert one to the fact that its purposes are economic, not military, in nature.

People, both liberals and conservatives, are more inclined to support a measure if it is labeled "necessary for defense." The temptation to mislabel legislation in order to win support must be stubbornly resisted, for it leads to our being unable to distinguish between defense and nondefense programs, policies, and legislation. This blurring has already occurred in the Department of Energy, which already handles a number of "defense-related" programs. Unless we can keep the distinction clear, eventually every bill that goes through this House, from highway funds to education for the handicapped, will become a "defense" or "security" measure.

Second, the blurring of the distinction between military and nonmilitary legislation seems to indicate a growing garrison state mentality in the Federal Government and in this Congress. There is, need I point out, interest both within and without Congress in a revival of conscription, registration, and national service. This interest in using war power during peacetime is a corollary of the blurring of the distinction between military and nonmilitary matters.

The confusion of war and peace, of military and nonmilitary, defense and nondefense, indicates to me that we are well on our way toward the confusion of thought so vividly portrayed in George Orwell's "1984."

Saying this, however, does not exhaust the issue. House Judiciary Resolution 406, by extending the Defense Production Act for 4 months, incorporates by reference the language of the 1950 act. I quote from it for the benefit of those who may not have read it:

> In view of the present international situation and in order to provide for the national defense and national security, our mobilization effort continues to require some diversion of certain materials and facilities from civilian use to military and related purposes.

This language may have been appropriate in September of 1950 when the Nation was involved in a war in Korea; it is not appropriate during peacetime.

Passage of this bill will extend for 4 months, the following powers originally granted to the President in 1950 during the Korean war and for the purpose of promoting the "mobilization effort":

1. To *require* that performance under contracts or orders (other than contracts of employment) which *the President* deems necessary or *appropriate* to promote the national defense shall take priority over performance under any other contract or order. (Emphasis added.)

2. To require *acceptance* and performance of such contracts or orders in preference to other contracts or orders by any person *the President* finds to be capable of their performance. (Emphasis added.)

3. To allocate materials and facilities in such manner, upon such conditions, and to such extent as *the President* shall deem necessary or *appropriate* to promote the national defense. (Emphasis added.)

4. To control the general distribution of any material in the civilian market if *the President* finds that such material is a scarce and critical material essential to the national defense and that the requirements for defenses cannot otherwise be met. (Emphasis added.)

5. To require the allocation of, or the priority performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment in order to maximize domestic energy supplies, if *the President* finds that such supplies be scarce, critical, and essential to maintain or further exploration, production, refining, transportation, or conservation of such supplies, or for the construction and maintenance of energy facilities. (Emphasis added.)

6. To prohibit, under penalty of imprisonment and fine, the accumulation by any person of any materials which have been designated by *the President* as scarce materials or materials the supply of which would be threatened by such accumulation. (Emphasis added.)

7. To authorize any government agency *the President* may designate to guarantee *in whole or in part any public or private financing institution* (including any Federal Reserve Bank), by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on *any* loan, discount, or advance, or on *any* commitment in connection therewith, which may be made by such financing institution for the purpose of financing any contractor, subcontractor or other person in connection with the performance of any contract or other operation deemed by the guaranteeing agency to be necessary. (Emphasis added.)

8. To extend unlimited funds ("all such funds as may be necessary") to enable any fiscal agent designated by the President to carry out any loan guarantee.

9. To make loans unlimited in the aggregate to private business enterprises for the expansion of capacity, the development of technological processes, or the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals, and manufacture of newsprint, subject to a one-House veto by the Congress.

10. To purchase or make commitments to purchase metals, minerals, and other materials for Government use or resale.

11. To "encourage" exploration, development, and mining of critical and strategic minerals and metals.

12. To subsidize the production of any such domestically produced material other than an agricultural commodity in such amounts and in such manner and on such terms and conditions as the President determines to be necessary.

13. To transport, store, and have processed and refined any materials procured.

14. To install additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the United States Government, and *to install Government-owned equipment in plants, factories, and other industrial facilities owned by private persons.* (Emphasis added.)

15. To make provision for the development of substitutes for such strategic and critical materials.

This list of powers granted to the President is extraordinary. Nowhere in the act is the President required to declare a national emergency. In certain isolated cases, the Congress may veto specific actions of the President, but there is no necessity to seek any prior permission from the Congress at all. By extending this act for 4 months, the House will be approving: First, standby rationing authority (No. 4 above), which it overwhelmingly rejected on May 10; second, standby allocation authority (Nos. 3 and 5 above); third, assumption of the risks taken by banks and other lending institutions (Nos. 7 and 8 above); fourth, unlimited loans to private corporations (No. 9 above); fifth, the prohibition, with criminal penalties, of "hoarding," whatever that may mean (No. 6 above); sixth, forcing private persons to accept contracts and then to perform them (Nos. 1 and 2 above); seventh, making subsidy payments to corporations (Nos. 11 and 12 above); eighth, operating transportation, storage, processing, and refining facilities (No. 13 above); ninth, installing government-owned equipment in privately owned businesses (No. 14 above); and tenth, developing ersatz materials (No. 15 above).

Whatever the worth of these powers during wartime, they are not necessary during peacetime. They create far too great a concentration of power in the imperial Presidency. All of them should be allowed to expire at the end of the month before they are used to transform the economy into a total corporate state.●

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I have no further requests for time, and I move the previous question on the joint resolution.

The previous question was ordered.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1250

GENERAL LEAVE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONTINUING APPROPRIATIONS, 1980

Mr. WHITTEN. Mr. Speaker, pursuant to House Resolution 419, adopted September 21, 1979, I call up for consideration in the House as in the Committee of the Whole the joint resolution (H.J. Res. 404) making continuing appropriations for the fiscal year 1980, and for other purposes.

The Clerk read the title of the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. Res. 404

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1980, namely:

Sec. 101. (a) (1) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1979 and for which appropriations, funds or other authority would be available in the following appropriation Acts:

Agriculture, Rural Development, and Related Agencies Appropriation Act, 1980;

District of Columbia Appropriation Act, 1980;

Foreign Assistance and Related Programs Appropriations Act, 1980, notwithstanding section 10 of Public Law 91–672, and section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended;

Department of the Interior and Related Agencies Appropriation Act, 1980;

Military Construction Appropriation Act, 1980; and

Treasury, Postal Service, and General Government Appropriation Act, 1980: *Provided,* That the Office of Inspector General, General Services Administration, shall be continued at the rate and in the manner as provided in H.R. 4393 as passed the Senate on September 6, 1979.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 1979, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1979, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority.

(4) Whenever an Act listed in this subsection has been passed by only one House as of October 1, 1979, or where an item is included in only one version of an Act as passed by both Houses as of October 1, 1979, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1979: *Provided,* That no provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1979, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Such amounts as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriation Act, 1980 (H.R. 4389), at a rate of operations, and to the extent and in the manner, provided for in such Act as adopted by the House of Representatives on August 2, 1979, notwithstanding the provisions of section 106 of this joint resolution.

(c) Such amounts as may be necessary for continuing projects or activities which were conducted in fiscal year 1979 for which provision was made in the Department of Defense Appropriation Act, 1979, at a rate of operations not in excess of the current rate or the rate provided in the budget estimate, whichever is lower, and under the more restrictive authority.

(d) Notwithstanding the provisions of sections 102 and 106 of this joint resolution, such amounts as may be necessary for continuing projects and activities to the extent and in the manner as provided in H.R. 4390, entitled the Legislative Branch Appropriation Act, 1980, as reported June 7, 1979 (except as to executive salaries which are covered subsequently) and such amounts as may be necessary for continuing projects or activities for which disbursements are made by the Secretary of the Senate, and the Senate items under the Architect of the Capitol, to the extent and in the manner which would be provided for in the budget estimates for fiscal year 1980.

For the fiscal year 1980, funds available for payment to executive employees, which includes Members of Congress, who under existing law are entitled to approximately 12.9 percent increase in pay, shall not be used to pay any such employee or elected or appointed official any sum in excess of 5.5 percent increase in existing pay and such sum if accepted shall be in lieu of the 12.9 percent due for such fiscal year: *Provided further,* That for the purpose of carrying out this provision and notwithstanding the provisions of the Federal Pay Comparability Act of 1970, the Executive Salary Cost-Of-Living Adjustment Act, or any other related provision of law, which would provide an approximate 12.9 percent increase in pay for certain Federal officials for pay periods beginning on or after October 1, 1979, and notwithstanding section 102 of this joint resolution, the provisions of section 304 of the Legislative Branch Appropriation Act, 1979, which limit the pay for certain Federal offices and positions, shall apply to funds appropriated by this joint resolution or any Act for the fiscal year 1980, except that in applying such limitation the term "at a rate which exceeds by more than 5.5 percent the rate" shall be substituted for the term "at a rate which exceeds the rate" where it appears in subsection (a) of such section for the purpose of limiting pay increases to 5.5 percent.

No funds contained in this section shall be used to remodel the gallery in Statuary Hall in the Capitol into carrels or into any other structure constituting additional office or work space for Members of Congress.

(e) Such amounts as may be necessary for fiscal year 1980 for Department of Energy, Operating Expenses, Energy Supply, Research and Development Activities, to carry out the breeder reactor demonstration project or project alternative approved by Congress in authorizing legislation, and for no other purpose, at the current rate of operations notwithstanding the provisions of sections 102 and 106 of this joint resolution.

(f) Such amounts as may be necessary for continuing the following activities, not otherwise provided for, which were conducted in fiscal year 1979, but at a rate for operations not in excess of the current rate:

activities under the Domestic Volunteer Service Act;

activities for support of nursing research under section 301 of the Public Health Service Act;

activities for support of nursing fellowships and for support of training programs and program support related to alcoholism under sections 301, 303, and 472 of the Public Health Service Act;

activities under section 789 and titles VIII, XII, XV, and XVII of the Public Health Service Act;

activities under sections 204 and 213 of the Community Mental Health Centers Act;

activities under title IV of the Drug Abuse Office and Treatment Act;

activities under titles III and V of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act;

activities under section 2 of the Indochina Migration and Refugee Assistance Act;

activities of the National Board for the Promotion of Rifle Practice;

activities under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, except that such activities shall be continued at a rate of operations not in excess of appropriations contained in the Department of Justice Appropriation Act, 1980 for the Office of Justice Assistance, Research, and Statistics;

activities of the Economic Development Administration; and

activities of the Regional Action Planning Commissions.

(g) Notwithstanding the funding rates provided for in section 101(a), activities of the Department of State for Migration and Refugee Assistance shall be funded at not to exceed an annual rate for obligations of $456,241,000, notwithstanding section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, and section 10 of Public Law 91-672.

(h) Such amounts as may be necessary for projects or activities which were conducted in fiscal year 1979 and for which provision was made in the Department of Transportation and Related Agencies Appropriation Act, 1979, or chapter X of the Supplemental Appropriations Act, 1979, at a rate of operations not in excess of the current rate or the rate provided in the budget estimate, whichever is lower, and under the more restrictive authority: *Provided*, That the Panama Canal Commission is authorized to incur obligations at the rate of operations, and to the extent and in the manner provided for in H.R. 4440 as reported on June 13, 1979, to meet operational and capital requirements of the Panama Canal in conformance with applicable legislation and the Panama Canal Treaty of 1977, notwithstanding the provisions of section 106 of this joint resolution.

(i) Such amounts as may be necessary for the programs or activities of the Federal Inspector for the Alaska Gas Pipeline, at a rate of operations not in excess of 35 per centum of the fiscal year 1980 budget estimate.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1979, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) December 31, 1979, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(d)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1979.

SEC. 107. Any appropriation for the fiscal year 1980 required to be apportioned pursuant to section 665 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of section 665 of title 31, United States Code.

SEC. 108. None of the funds available to the Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil in fiscal year 1980 shall be available, except on a voluntary basis, for the acquisition of land or easements at or around the four lake projects in the Yazoo Basin, Mississippi, pending the submission to Congress of a plan for changing the curve by which the flow is regulated in line with the instructions contained on page 60 of the Conference report accompanying H.R. 4388 and of alternative solutions for the protection of Coffeeville, Mississippi, and other properties affected by the flood control operation at the project.

SEC. 109. No provision in any appropriation Act for the fiscal year 1980 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 110. Appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commission in accordance with the provisions of the applicable Appropriation Act and pursuant to the Appalachian Regional Development Act of 1965, as amended, notwithstanding the provisions of section 405 of said Act.

The SPEAKER pro tempore (Mr. BROWN of California). Pursuant to the rule, no amendments are in order that restrict the use of funds for abortions or abortion-related services except an amendment printed in House Resolution 419. Said amendment shall not be subject to amendment but may be debated by the offering of pro forma amendments. No amendments are in order pertaining to the authority of or continuation of provisions or activities of the Federal Trade Commission in fiscal 1980.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 404.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I move to strike the last word.

(By unanimous consent Mr. WHITTEN was allowed to proceed for 5 additional minutes.)

Mr. WHITTEN. Mr. Speaker, in my experience in the Congress I do not believe I have personally seen a time that is more serious to us than we face today. That has to do with the matter of inflation.

I do not remember, as the Members will not remember, the fact about the collapse of the economy of Germany and of the United States many years ago; but I do remember the aftermath, when one could not buy a sack of flour on the credit of the State of Mississippi, and one could not do the same thing in any State in the Union. Breadlines, and I do not think that they would stop with breadlines today, were the order of the day. Nobody had money. The local papers were filled with homes being advertised for sale because of nonpayment of taxes.

When I saw that I was likely to succeed my good friend, George Mahon, I had a study made of our situation in this country.

Before that, let me review with my colleagues very briefly the situation that happened in Germany.

I hope the Members will listen to me.

July 1914, the mark, which was the currency of Germany, was valued 4.2 to the American dollar. In 1921, it was valued at 76.7 to the dollar. In 1922, the value dropped to 191.8 to the dollar.

The inflation continued through 1922 and 1923, until November 4, 1923, the mark was valued at 4 trillion, 200 million to the dollar. It took a wheelbarrow to carry enough money to buy groceries for the day.

I had a study made of our own country.

Since 1967, the value of the American dollar has dropped 50 percent.

What have we done to correct that? In part we have tried to meet that inflationary trend by adding inflation to it—particularly in regard to Federal programs.

A study which I had made before becoming chairman of the Appropriations Committee shows that in 58 percent of the laws that we have, you have escalating clauses which provide that as inflation advances, you match the inflation, which means you double the rate at which inflation comes.

We passed the Congressional Budget Act so we would stop backdoor spending; then to get around this the Congress began to pass laws providing for entitlements

I say to my colleagues that with the rate of inflation that you now have, we have got to do something about it. We have got to recognize it and we have got to act accordingly.

Mr Speaker it is very important to realize what will happen unless this continuing resolution passes. Nearly every Agency and Department of the entire Government will be without funds come

October 1, 1979, unless this resolution is passed. This includes the programs of the Departments of Labor, HEW, HUD, the Veterans' Administration, DOT, and those activities covered in the Energy and Water Appropriations Act, formerly the public works bill.

Obviously, this would affect our hospitals, our schools, our highways and local public works projects, our veterans, our agricultural programs and so many of those things that are essential to all of us, including the funding of the entire Department of Defense—our Army, Navy, Air Force, and Marine Corps.

We have got to pass the continuing resolution so that this Government can continue to operate after October 1.

What I wish to point out to my colleagues is a section in this bill which I think is a start in the right direction.

Now, I do not know anyone who does not believe in a balanced budget.

Let me tell the Members, when a dollar gets today to where it will buy only 50 percent as much as it would in 1967, and we are escalating the rate of inflation twofold, it is not going to be long, unless we watch very carefully, until we crack up because of inflation.

I would like to point out to the Members that a balanced budget has two prongs to it. On the one hand, we are going to have to hold down inflation. On the other hand, we are going to have to keep income up so it is a balancing act.

So the Committee on Appropriations has brought to the Members what I believe to be the very best approach to one section of this bill.

Some years ago, in 1967, to be exact, the year that I point out from which the dollar dropped, this Congress provided for increases in retirement and in various other expenditures going to employees and to others, an escalating clause where, and listen to this, since 1967, the pay of retired Members of Congress—and it applies to other Federal officials—has gone up in simple arithmetic, 84.1 percent and in actuality when it is compounded by some 151 percent since 1967.

In the bill before us, we have put in the section which provides that where the present law would provide for a 12.9-percent increase, that the increase would be limited to 5.5 percent.

Now, in that is involved the executive employees, that is, as somebody said, the high-level employees.

They were passed over last year. They were passed over here. If some action is not taken, many in the Federal Government, except Members of Congress, will receive 12.9-percent increase, and Members of Congress will receive a cause of action, because the law provides for it.

So, I say to my colleagues that as we come here trying to balance the budget, we have got two things. We have got to gradually slow this thing down.

□ 1300

It is simply economics. There is no way in the world for us to pay a cheap dollar which we borrowed with the hard-to-get dollar. There is no way to keep living and keep the economy going by constantly cheapening the dollar unless you invite what happened in Germany.

What we have tried to bring to the Members in this section in this bill is a balanced approach to this matter.

I would like to point out that in a Federal case, I have the case before me, from the district court in eastern Illinois, on the last page of that case—and may I say this opinion is not binding insofar as Congress is concerned—but I think the law as spelled out is so plain that my colleagues are bound to agree that it is the law. They say in this case, and I quote from the court:

> It has long been established that the mere failure of Congress to appropriate funds without words modifying or repealing, expressly or by clear implication, the substantive law, does not in and of itself defeat governmental obligation created by statute.

That decision was rendered when a number of judges sued the Government on the basis that the law, having provided for this escalation, this increase to offset increased cost of living, on which retired Members have received since 1967, those who retired at that time, a 151-percent increase in their retirement. I say to my colleagues what we have tried to recognize here is that we have built this economy up so fast, we are wheeling, dealing in such a cheap dollar now, that if we do not gradually work out of this thing, a complete drop will lead us to another depression. On the other hand, if we keep on spending at the rate we have been spending, we could have the same effect.

May I say again, Congress would not get the money unless we appropriate it.

The SPEAKER. The time of the gentleman from Mississippi has expired.

(By unanimous consent, Mr. WHITTEN was allowed to proceed for 2 additional minutes.)

Mr. WHITTEN. I know there are those here that wish to make an impression by saying that nothing shall be paid, even though the law requires it. If you say that, it is my judgment that they could go in court and you would have to pay it.

So I say at this stage we need to balance this matter off. To vote not to pay it would mean that they would sue you in court and that you would have to pay it. If they accept the 5.5 we would recommend here instead of the 12.9 they are entitled to by law, which I oppose, if they accept that, it is a settlement for the year 1980 of that amount.

I realize that you are under a whole lot of pressure. We all are. Who knows what to do? But I say when we get built up again, when we build up to the highest level of wheel turning, the high level of our existing economy, we are going to have to be careful on the one side to hold down expenditures—and we have held nearly every bill our committee has handled below the budget—but on the other side, may I say, we have to keep the income up. So I say what we come to you with is a balanced approach to this. We are gradually slowing down and in a period of 2 or 3 years we are going to have to get the matter balanced.

But I say again, we must keep the income up, the outgo down, and do it gradually. If we do not, we will crack up just like they did in Germany. We have got to do it in a balanced way. If we go off this edge, we are gone; if we go off the other edge, we are gone. It is a balancing act, and that is what we have brought you. I repeat again, you are going to have to pass a bill unless you want to close nearly every Federal institution in the United States. That is what is in the bill itself, and I hope Members will deal fairly with this section. It represents the best judgment of the Committee on Appropriations, with many years of experience. Any change in the law then, we could look to the proper legislative committee to do it in due time.

AMENDMENT OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. BEVILL: On page 6 after line 20 insert the following:
>
> Such amounts as may be necessary, notwithstanding any other provision of this joint resolution, for the fiscal year ending September 30, 1980, for programs, projects, and activities to the extent and in the manner provided for in the Energy and Water Development Appropriations Act, 1980 (H.R. 4388) as enacted by the Congress.

Mr. BEVILL. This amendment provides appropriations for the Department of Energy and other agencies included in the energy and water development appropriation bill for fiscal year 1980. It incorporates exactly the same bill that was passed by the House. There is no change whatsoever in the bill that the House has already approved.

I move the adoption of the amendment.

Mr. WHITTEN. Mr. Speaker, insofar as I am concerned, the committee accepts the amendment.

The SPEAKER. The question is on the amendment offered by the gentleman from Alabama (Mr. BEVILL).

The amendment was agreed to.

Mr. CONTE. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I support House Joint Resolution 404, which continues appropriations for various departments and agencies of the Federal Government through December 31, 1979.

This will be the third time that we have voted on a continuing resolution, and particularly on the question of pay raises for upper-level Federal employees.

On Friday I spoke to the House about the choices we face. I think I should repeat those choices.

Two appropriation bills, totaling $79 billion in budget authority, as passed or reported to the House, have good prospects of enactment.

Eleven appropriation bills, totaling $271 billion in budget authority, as passed or reported to the House, may not be enacted by the beginning of the fiscal year.

These bills include:

Labor-HEW, $73 billion;

Defense, $129 billion;

Agriculture, $15 billion;

Energy and water development, $10 billion;

Interior, $10 billion;

Transportation, $9 billion;

Treasury Postal Service, $8 billion; and

Military construction, $3 billion.

If we cannot pass a continuing resolution, the programs funded in these bills will stop.

The pay of Federal employees will stop.

Grants to State and local governments will stop.

Many entitlements and trust fund payments which are administered with funds in these bills will stop.

Federal health, education, and welfare programs for the poor and the handicapped will stop.

The Defense Establishment will stop.

Military construction projects will stop.

Energy activities and water projects will stop.

Additional delay in passing a continuing resolution will cause confusion and uncertainty throughout the Federal Government, and will certainly contribute to the public image of a Congress that is thoroughly disorganized.

Mr. Speaker, I would also like to say a few words about the pay issue. Members of Congress and upper-level Federal employees had their last pay increase in March of 1977. Since then, prices have increased by 23 percent.

I think that a 5.5-percent pay increase, which is contained in this resolution as reported, is modest and restrained in the fact of this kind of inflation. I will vote for it, and I will defend it openly to my constituents.

I also point out to my colleagues that the pay of upper-level Federal positions of great responsibility is simply no longer competitive with the private sector.

I point out to my friends on the conservative side, with their interest in good management of the Federal Establishment, that many capable people have left the Federal service because of the new limitations on subsequent employment, and many more are leaving and will leave because Federal compensation is no longer comparable.

We are not "two-bit Congressmen," and the American people do not deserve two-bit officials running the Federal Government. Yet if we continue to hold upper-level Federal pay far below comparable positions in the private sector, we will attract those people to the Federal service who are not competent to earn higher compensation for the same responsibilities.

We place the Federal Government at a critical disadvantage in competing with the private sector for competent executives and managers.

The pay issue is a matter of individual conscience for each Member. But however, you vote on the pay issue, vote to pass the resolution.

□ 1310

AMENDMENT OFFERED BY MR. O'BRIEN

Mr. O'BRIEN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'BRIEN: On page 5, strike lines 10 through 16.

On page 6, line 3, strike everything after "1980" through line 8, and insert a period.

Mr. O'BRIEN. Mr. Speaker, I would like to suggest at the outset that the House is in the same mode, if you will, at this moment as we were last week when we faced this issue. Specifically, that means when one of us—probably I—request a recorded vote on this amendment, 44 Members of the House must stand to call for a record vote.

I would like to say also that this appears to be the first time we will squarely face the issue of a pay raise on its merits, without its being confined in a resolution that has other important items surrounding it. I would also like to suggest this for myself: If we get, and I am assuming we will get a recorded vote on the issue of the pay raise amendment, however that vote turns out I plan to support my chairman with reference to the joint resolution on final passage.

Now, I have one brief comment with reference to the merits of the raise and with reference to arguments that have been made effectively and well by articulate Members asserting the need for the raise. In my nearest large city young men fresh from the bar examinations are starting with large law firms at $35,000 a year. I understand on good authority that certain airline pilots are earning in excess of $100,000 a year. Now, when we set those occupations up against the position we occupy, which I would judge to be either second or third most important position in Government, a position that affects, for example, everyone's taxes, there does seem to be some problem, some serious discrepancy with the monetary appraisal of what our effort is worth.

But, there is a material difference, a material difference to which I think everyone at home is sensitive. I had 20 calls within a half hour of the last termination of debate on this issue from people opposing the raise. The difference, I think, boils down to this: With respect to the bar exam freshman and with respect to the airline pilots, the employer—their employer—sets the amount of their salaries. The employer either sets that figure or has an extremely strong, probably a 50–50 voice, with respect to the negotiations that set that figure. In our case, the situation is radically different. Our employer is the public, and the public because of the procedure under which we operate has no voice in the question of the money that we should be paid for our work.

It boils down, in conclusion, to this: We in Congress should stand for election before accepting an increase in pay that we decided our employer must pay us. That is the heart of the matter. That is the whole question. I submit that we should support this amendment and defeat the pay raise on that ground alone.

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in support of the amendment offered by the gentleman from Illinois (Mr. O'BRIEN) and against a pay raise for the Congress. We are not talking about a small amount of money here. We are talking about whether $50 or $60 million will be spent. Not only the salaries of Members of Congress, but also for the 15,000 upper-level civil servants, the judges, and the Cabinet members.

The issue is one that is basic to the whole discussion of inflation and what is the attitude of Congress toward the expenditure of money in the first place. If Congress today votes itself a pay raise, think of the message that will be sent to the American people. They will plainly see that Congress does not care about inflation. They will know that all the talk in the Congress about balancing the budget is meaningless when the Congress has a chance to save $50 or $60 million and does not do it.

Mr. Speaker, the American people know all too well that we have rampant inflation at the rate of 13 percent annually and 18 percent on the basic necessities of life when you consider the increased cost of food, medicine, heating fuel, and gasoline. Why do we have rampant inflation? It is because in the last 6 years our Federal budget has grown from over $270 billion to over $500 billion. It costs $60 billion just to pay the interest on the national debt. That is $105 million a day we could be returning to the people of this country.

The Congress is the cause of inflation today, and here we sit asking ourselves to accept a pay raise. I just think it is outrageous and the American people will not be fooled by it.

Some Members of this body have suggested that to reject a pay raise would be demeaning to this body. I wholeheartedly disagree with that notion. By voting for this pay raise we are demeaning the people of this country. We are saying to the people that they must tighten their belts but we are not willing to do the same. It is ludicrous that we line our pockets with one hand while pointing out with the other that taxpaying Americans must bite the bullet and bear up bravely under the burdens of inflation.

The taxpayers are calling for leadership; they expect their elected representatives to demonstrate leadership. Certainly, leadership is best exemplified by the setting of good examples. Unlike the majority of Americans who are trapped by the inflation we create, we are in a position to do something about it. We are at the helm, we have the ability to stop deficit spending, and we have been sent here to do just that. The voters presented us with 2-year contracts and the salary per year for the duration of our contracts was clearly spelled out. I would hope that many of my colleagues will share the shame and exasperation I feel about this attempt to help ourselves at the expense of the American people.

I am at a loss to know how we can hope to restore American confidence in Government, not to mention our own credibility, while we perform in such an appalling manner.

This body just last week passed up two chances to set the economy back on a responsible path, to restore balance to the Federal budget, and reduce the deficit. I supported both the Republican substitute budget offered by the gentleman from Ohio and the Rousselot balanced budget. It is easy to see by the defeat of these proposals that the Congress merely pays lip service to the idea of economic recovery through a balanced budget.

This is a terrible indictment of this institution and all who serve in it. No one in this body can look askance at the record of the previous Congresses unless he or she is willing to vote to assure that fiscal 1980 is not still another milestone of waste, deficits, inflation, and broken promises.

The economic danger before us is very real and the Congress must take the lead because the administration seems to lack the ability or the will—or both—to deal with it. Instead of formulating the needed economic incentives—to restrain inflation by increased productivity and enterprise; reduce the trade-and-payments deficits; increase the real GNP by bringing the national books into balance; and restore domestic and world confidence in the dollar—the administration has chosen a policy of papering over the basic economic illness by market manipulation of the dollar, wage and price exhortation, and failure to fashion a national energy policy.

The administration continues to rely principally upon an almost unintelligible already unsuccessful program of half-mandatory/half-voluntary wage and price controls. The economic history of the world proves the folly of continuance of wage and price controls which distort the economy and incur greater inflationary pressure. The administration continues to proceed as if its sole function was to reward the nonproductive at the expense of the productive; to favor public spending over private production, consumption, and savings.

The administration has not watched what makes the dollar strong. If we are going to change the economic direction of this country, it is going to be changed only if we build upon the things in which we are strong. We are strong in innovation. We are strong in industry. America's farmers feed both this country and the rest of the world. We have the best articulated and most efficient private sector in the world. We have not continued to build upon these strengths as we have in the past. On the contrary, we have torn them down.

This becomes painfully clear when one considers that the United States has one of the lowest savings rates of any industrialized country; the lowest rate of business investment of our major trading partners; an astonishing annualized decrease of 2.4 percent in labor productivity in the second quarter of this year. This is due, in part, to the proliferation of Government regulation which in 1976 alone was estimated to cost society about $65 billion.

In spite of this, the administration continues to propose foreign aid programs that are more and more expensive. Since the start of foreign assistance programs in 1946, the United States has given away $214 billion to various nations. Many of these nations were helped so generously that they now have loaned the United States money. Before this year is over, Germany will have loaned us $41 billion and Japan will have loaned us $28 billion. In 1978 the U.S. Treasury paid various foreign countries a total of $7.9 billion in interest on the portion of our Federal debt that they held. These expenditures are draining the resources of America.

Mr. Speaker, the Congress cannot help set this country back on the straight and narrow by voting itself a pay raise. The Congress cannot vote itself a pay raise and expect to be the leaders of this country where the administration has failed. To help restore the confidence of the American people in the Congress we must vote down this pay raise by supporting the amendment by the gentleman from Illinois. I strongly urge its adoption.

Mr. O'BRIEN. I thank the gentlewoman.

Mr. HANLEY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, this marks the third time in but a handful of days that the House has turned its attention to the matter of congressional pay. This is most unfortunate, because the wheels of Government virtually come to a halt because of this particular issue. My purpose in taking to the well is to advise that Members will have, very soon, the opportunity to vote on a true alternative to what they are considering today.

This subject has no place in an appropriations bill, but, with due respect, it allows the opportunity for demagoguery. Mr. WHITTEN has outlined the intent of the committee, and has done so eloquently. It is most important that this measure pass the House. Mr. CONTE has given us an excellent outline with respect to continuing appropriations.

But, then we get all tangled on the matter of congressional pay. During the course of this afternoon we will probably burn up maybe several hours debating it, and we might wind up not having a bill at all.

Trapped into this situation are about 20,000 deserving people outside of the Congress of the United States, highly qualified employees of the Federal Government, who are being denied their just due. I venture that, if somebody took the issue to the courts, the courts would decide in favor of the 12.9 percent notwithstanding recent congressional actions.

You know, in the history of this Congress there have been but nine times—just nine times in almost 200 years that congressional pay has been increased. Why? By virtue of the same kind of nonsense that has endured here over the course of this past week. So our committee, the Post Office and Civil Service Committee, has spent considerable time in an effort to come up with an honest, responsible concept with respect to how congressional wages should be adjusted.

Over the years, the Committee on Post Office and Civil Service has attempted to resolve this problem. In 1967, with the leadership of the distinguished gentleman from Arizona (Mr. UDALL) we devised a method for adjusting pay which we hoped would work: that the President would appoint a panel of citizens from outside the Government to make recommendations on what pay should be, that the President would make recommendations based on the Commission's report, and that the President's recommendations would become effective unless either House adopted a resolution of disapproval.

That system worked the first time in 1969, but 4 years later, President Nixon refused to make a recommendation and the system got out of kilter. It never got back on track, although a pay increase was approved in 1977. Perhaps no method of adjusting pay will ever survive very long, because Members of Congress are extremely reluctant to vote to increase their own pay because they fear the reactions of the folks back home. That the superintendent of schools for Montgomery County, just a couple of miles from here, is paid more than a Member of Congress does not carry much weight when you are voting on an issue which many feel involves political survival.

Our reluctance to increase our pay, and thereby lift the ceiling on agency chiefs and other high ranking executive officials, has an adverse impact on people of very high qualifications in the private sector who might come to work for the Federal Government. Some will take a post in the Cabinet because of the distinction of that office; but to a lawyer or a businessman who is earning $80,000 or $100,000 a year in the private sector, going to work as an Assistant Secretary or as an Assistant Attorney General at a salary of $50,000 is a sacrifice that few are willing to make.

The Committee on Post Office and Civil Service is concerned about this problem. It is our responsibility to recommend legislation to solve problems concerning the post office and the civil service, and the pay of Members of Congress is within the purview of our committee. At an early date, our committee will consider proposals to offer some solution to this problem. Perhaps Members would be willing to vote for a pay raise if it did not apply during the term of office for which they have already been elected. That idea is not a new solution; it was proposed as an amendment to the Constitution in 1791, but was never ratified. We will explore alternatives.

A number of Members have spoken on the floor about this issue in the past few days. Most have been critical of the proposal for a pay increase. It does not help the legislative process simply to say, "We aren't worth the pay raise." It does not help for a Member who is a millionaire to say what a shame it is for us even to be considering a pay raise at this time. That may have a certain appeal, particularly since the deliberations of the House are now carried on television, but it does not solve the problem. What would help solve the problem is for Members to suggest some constructive idea on how we can face this difficult political issue.

☐ 1320

The SPEAKER. The time of the gentleman has expired.

(At the request of Mr. HARRIS, and by unanimous consent, Mr. HANLEY was allowed to proceed for 3 additional minutes.)

Mr. HANLEY. I cite these few examples as reason for frustration on the part of this committee. And I would be remiss, incidentally, if I did not pay great tribute to the gentleman from Arizona (Mr. UDALL) who tried so hard in such objective fashion to serve the national interest well, to serve the Congress well, in an effort to resolve this, but his own colleagues would not let him do it, so the Congress owes him much for his longtime effort in this regard, and for that matter the people of America owe the gentleman from Arizona (Mr. UDALL) much for his efforts.

So once again shortly we are going to have the opportunity. We are going to bring forth a good measure that makes an awful lot of sense and the Members' constituents are going to have the opportunity to say yes or no, "I want my Member to have that salary, and I am going to send him or her back." Of if they do not want you to have that salary, then they will not return you. Be patient, and shortly with the cooperation of the leadership on both sides of the aisle, we are going to have this measure up here in the House, and then you will have the opportunity to truly vote responsibly.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

I want to applaud the distinguished gentleman from New York (Mr. HANLEY) and the distinguished chairman of the Committee on Post Office and Civil Service for the leadership he has taken in this area.

Mr. Speaker, I have witnessed this body harangue over the pay adjustment issue for the past week. During that time, I have heard Members of this body consistently argue that a 7-percent adjustment cannot be justified. At this point I would like to ask that this body stop playing political football with salaries of career civil service employees.

Since March 1977 an estimated 6,200 dedicated top-level Federal officials have been denied any comparability adjustment at all. An additional 11,000 now have their salaries frozen at Executive level V. All of this has occurred during a period of double-digit inflation.

Because of this artificial cap, individuals with widely disparate duties and responsibilities are being compensted at equal rates of pay. Morale has suffered tremendously, and top Federal officials are fleeing to more lucrative private sector jobs, or retiring earlier than intended. The Federal Government is losing an irreplaceable resource.

In April I urged the President to listen to the advice of his chief inflation fighter and institute a 7-percent comparability increase for employees in the executive branch. This action has been taken.

The issue which this body must resolve today is whether the 7 percent should apply to those employees of the executive branch who have had their salaries capped at Executive pay level V.

I am of the opinion that the movement of wages and salaries in the private sector alone is sufficient to justify a 7-percent increase for these employees. This is the theory behind comparability, and I find that the concept is still sound. Moreover, I feel that the problem of grade compression which has resulted from the imposition of artifical pay caps must be recognized and corrected.

I strongly urge the Members of this body to support the 7-percent comparability adjustment for all Federal employees.

Mr. OBEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I want to rise in support of the committee position and in opposition to the pending amendment. As everyone knows, both inside and outside this Chamber, we have had two kinds of games going on the last week or so, on this issue. One game says we ought to finesse the issue. We ought to avoid rollcalls on the direct issue and limit the vote to final passage of the continuing resolution.

The rationale for that game has been largely the belief that most Members of Congress do not have the guts to really vote their convictions and their desires on this issue.

The second game, as the Members know, that has been going on on this issue has been that we would vote for a pay raise on an unrecorded vote, but would vote against it on a recorded vote. The people who belong to that school belong to the "I want it but I do not want anybody to know about it" school. I think as a result of those games for the last week, Congress has looked like the national idiot, and I do not think it has done especially decent service to the Congress or the public to go through these charades.

Today the situation is different. Today we have an open situation. Today we are going to have some clear votes and some clear choices. I personally do not believe that any of us ought to be voting on our own pay for two reasons, obviously: First, because it is inherently a conflict of interest and certainly appears to be a conflict of interest; and second, because it invites the kind of hypocrisy which filled this town last week on this issue. But the fact is that largely because of what happened the last time the quadrennial Pay Commission choice was before this House, people who shared my view are in a minority. So as a consequence we have no choice but to vote one way or another on our pay, much though we may believe that that is inappropriate. In my judgment, if we are going to vote on our own pay, then the committee recommendation is a reasonable effort to deal with this issue in a rational, fair, and balanced way.

I know that there are some people in this Congress and some people in the general public as well who take the view that never ever should there be a congressional pay raise. People can take that view if they want, but that is obviously an irrational position unless you want a Congress populated by millionaires. They would not say that about anybody else in society, and I do not think people if they really look at it objectively would say that about their Representatives.

Others will say—and I have had three people say this to me in the last 10 minutes—"I am not going to vote for 5½ percent because that small an increase is not worth the heat. If it were bigger, I would vote for it, but 5½ percent I am just not going to go for," they say. I think that also is clearly wrong. I believe that much as I dislike it, if we are going to vote on our own pay, then a useful rule to follow is that our salaries would be adjusted by a modest amount annually, but that increase should be somewhat less than the pay raise provided for other Federal employees. I believe that is rational for two reasons: First, because it does help to set an example of restraint in the country, and second, because people in high-income brackets, frankly, do not need a cost-of-living adjustment as large as those in lower brackets. But I think on balance that is the best system we can come up with. That is what the committee is trying to do. I think if you go home and talk to your people in a rational, low-key way, that they will recognize that this is a reasonable way to deal with the situation, given the fact that there is no way that we can deal with the situation which will satisfy either ourselves or anybody else because of the conflict problems involved. But I think this is a reasonable approach. This provides for an adjustment for us which is always somewhat less than the increase given to other employees in government. I think it is rational, and I think if you are going to be honest with yourselves and if you vote the way you honestly believe—and I know how you believe because I have talked with so many Members of this House on this issue—if you vote the way you honestly believe, you will support the committee position. That is an intellectually honest position. It is a rational position, and I think it is a politically proper position as well.

□ 1330

Mr. SNYDER. Mr. Speaker, I move to strike the last word.

PERSONAL EXPLANATION

(By unanimous consent, Mr. SNYDER was allowed to proceed out of order.)

Mr. SNYDER. Mr. Speaker, earlier today I missed 3 votes that occurred between 12 noon and 1 p.m.

My absence was occasioned by bad flying weather in the Ohio Valley. I was at the Louisville, Ky. airport by 8:30 a.m. to catch a 9 a.m. Eastern Airlines flight. However, that airplane was unable to leave Evansville, Ind., because of heavy fog.

As a consequence, the flight did not leave until approximately 11:45 and arrived at National Airport a few minutes before 1 p.m.

I thank the Speaker for the opportunity to explain my earlier absence.

AMENDMENT OFFERED BY MR. FISHER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. O'BRIEN

Mr. FISHER. Mr. Speaker, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FISHER as a substitute for the amendment offered by Mr. O'BRIEN: Page 5, beginning on line 3, strike out "(except as to executive salaries which are covered subsequently)" and insert in lieu thereof "(without regard to section 305 thereof)".

Page 5, strike out line 10 and all that follows down through "limitation" on line 4 of page 6 and insert in lieu thereof the following:

Notwithstanding the provisions of the Federal Pay Comparability Act of 1970, the Executive Salary Cost-Of-Living Act, or any other related provision of law, which would provide an approximate 12.9 percent increase in pay for certain Federal officials for pay periods beginning on or after October 1, 1979, and notwithstanding section 102 of this joint resolution, the provisions of section 304 of the Legislative Branch Appropriation Act, 1979, shall apply to funds appropriated by this joint resolution or any Act for the fiscal year 1980; except that in applying the limitation in such section 304 to the pay of offices and positions (other than Members of Congress) covered by that section the term "at a rate which exceeds by more than 7 percent the rate" shall be substituted for the term "at a rate which exceeds the rate" where it appears in subsection (a) of such section for the purpose of limiting such pay increases to 7 percent, and in applying such limitation to the pay of Members of Congress.

Page 6, line 7, strike out "pay increases" and insert in lieu thereof "such pay increases".

Page 6, line 8, after the period, insert the following: As used in this subsection, the term "Member of Congress" means the office of Senator, Member of the House of Representatives, Delegate to the House of Representatives, Resident Commissioner from Puerto Rico, President pro tempore of the Senate, majority or minority leader of the Senate or the House of Representatives, Vice President, or Speaker of the House of Representatives.

Mr. FISHER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to request of the gentleman from Virginia?

Mr. CONTE. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Clerk concluded the reading of the amendment.

Mr. FISHER. Mr. Speaker, this amendment is offered as a substitute for the proposal made by the gentleman from Illinois (Mr. O'BRIEN). It is offered by the gentleman from Maryland (Mr. BARNES) and by me.

Mr. Speaker, the pay raise issue we deal with every year and have dealt with in the past week on two occasions, links congressional pay to that of high-level employees of the executive, judicial, and legislative branches. A linked raise was defeated twice last week. I think it is time to break the linkage and make the pay process more reasonable, more acceptable.

Mr. Speaker, our amendment, in effect, would permit a 7-percent pay increase for executive-level personnel of the three branches. Their pay is separated out and we are required to vote on their pay all by itself. The pay raise question has vexed, confused, and upset Members and Federal Government employees and all citizens for too long now. I think the way out of this morass is to separate, to break this linkage between the Members' pay and the pay of the very critical, high-level employees of the three branches of Government. Our substitute amendment does not affect pay for Members. It leaves room for a separate amendment adjusting Members' pay.

This is a very important thing, Mr. Speaker. Great damage is being done to top level officials, as has been pointed out by my colleague from Virginia (Mr. HARRIS) and by others. Great damage is being done to effective administration of Government by this continual pay linkage. It embarrasses us and exposes our embarrassment to the whole country. We should do away with it.

Mr. Speaker, these higher level executive department, judicial and legislative branch employees have had no raise for going on 3 years. The compression effect that you have heard of is really hurting our Government and hurting us, therefore, in the eyes of the public, because we cannot run a good show here, nor can the executive branch do it as long as we are in this bind. The compression now extends down to the middle of GS-15 pay level so that all of those employees and everybody above that level gets the same salary, $47,500. It is a real disservice to those employees to leave their pay frozen at that rate.

Further than that we are breaking faith with the very top managers of the Federal enterprise who have joined the senior executive service created by the Civil Service Reform Act of last year, which I supported. We are telling them, "Join this. There will be more flexibility, more responsibility for you. You have the chance for higher salaries but you can be knocked back as well." Now we are telling them that higher pay is not going to be possible this year and possibly next year as well, which is an election year.

Mr. Speaker, a 7-percent increase for these executive-level people would be the same as for all other Government workers who are going to get the 7 percent. It makes no sense for good Government or good personnel administration, year after year, to give a comparability or some other substantial increase to everybody except the ones in charge, the ones who have the ultimate responsibility for these great programs of Government. It makes no sense at all. We must break this linkage. If we wish to freeze our own pay, we should not freeze executive pay at the same time.

Mr. Speaker, separation, breaking the linkage is the way to deal with this vexing issue. We Members should not put reasonable, below-cost-of-living raises for executive-level employees in jeopardy year after year by linking their pay raises to ours. Let us establish the precedent here and now not to hamstring Government operations by linking senior-level pay to the Members' pay.

Mr. Speaker, this is reasonable, this is sensible. We have thought about this. It has punished us year after year. The way to break through is to cut the connection and stand up and act on the pay for these senior-level people in the executive, legislative and judicial branches, apart from our own. The amendment of the gentleman from Maryland (Mr. BARNES) and my amendment would do just that.

Mr. BARNES. Mr. Speaker, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Maryland.

Mr. BARNES. I thank the gentleman for yielding, Mr. Speaker.

(At the request of Mr. BARNES, and by unanimous consent, Mr. FISHER was allowed to proceed for 3 additional minutes.)

Mr. BARNES. Mr. Speaker, I wanted to bring to the attention of any Members who may not have seen it, a letter to our great Speaker from the President of the United States with respect to precisely the issue the gentleman from Virginia (Mr. FISHER) has so eloquently delineated.

The President has urged us in the strongest possible terms to support 7-percent pay increases this year for the top-level Federal employees. This term "top level" we have been hearing is a little bit deceptive. As the gentleman from Virginia (Mr. HARRIS) said earlier today, because of the fact we are going on now 3 years in which Federal employees have not received any pay increase in these categories, it is all the way down to GS-15, step 6. If we go another year it is going to be down into the GS-14. Everybody who is GS-14, GS-15, GS-16, GS-17, GS-18, and all the executive levels up through executive level 5 will make precisely the same pay. It is an absurd way to run the U.S. Government.

Mr. Speaker, last year this Congress passed, and I think it was wise to do so, a Civil Service reform package that put into effect management procedures, including merit pay, merit bonuses, merit reductions for the top-level civil servants.

☐ 1340

If we continue the freeze that has been in effect for the last 3 years, we are going to destroy that whole concept that was passed by the Congress last year. The President has implored us not to destroy what the Congress did last year. He points out that all of these employees in these categories before they got that pay raise about 3 years ago had gone 7 years before that without any pay increase.

This is extraordinarily demoralizing, as the President said in his message to us, for those employees.

As you know, I represent many of them who live in the Washington suburbs. When I go out with my congressional mobile office, employee after employee says to me—

> Mike, this isn't going to work. We are going to be driven out of government. We're going to take the better paying jobs in private industry.

Who is going to be driven out? Not the inefficient, not the incompetent, the good ones. We are driving out the best people from Government. It is harming Government. It is forecasting exactly what so many Members say here on the floor about public employees.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, the reason I objected to the reading of the amendment was because I did not understand the amendment. I am still a bit confused.

Does the 7 percent for the 30-some-odd thousand higher level employees exclude the Congress?

Mr. FISHER. This substitute amendment does not address the congressional Members' pay.

Mr. CONTE. Does it exclude Congress from 5.5 percent as proposed in the continuing resolution?

Mr. FISHER. No; it would leave the proposal from the committee on the books.

Mr. CONTE. Intact?

Mr. FISHER. Intact, except for the 7 percent for the executive and other employees that we have been talking about.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. FISHER. I will yield.

The SPEAKER. The time of the gentleman from Virginia (Mr. Fisher) has expired.

(At the request of Mr. Rousselot and by unanimous consent, Mr. Fisher was allowed to proceed for 3 additional minutes.)

Mr. FISHER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, could the gentleman tell us, what does this do with the judiciary?

Mr. FISHER. They are included in the 7 percent.

Mr. ROUSSELOT. So all the judiciary get the 7 percent?

Mr. FISHER. That is correct.

Mr. ROUSSELOT. Can the gentleman explain to me why the gentleman thinks it is time to upgrade the judiciary over the Congress as it relates to pay? Is there a good reason for that?

Mr. FISHER. No; the bulk of these employees by a 7-percent increase would not come up to the congressional pay level. The typical case would be $47,500, increased by 7 percent, which is nowhere near the congressional level.

Mr. ROUSSELOT. What about the other judiciary?

Mr. BARNES. Mr. Speaker, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Maryland.

Mr. BARNES. Mr. Speaker, if I can respond also at this point, the judiciary has already demonstrated by taking its case to the courts that they are entitled to the full pay increase. As the chairman of the committee pointed out in his opening remarks on this whole point, if we adopt the amendment of the gentleman from Illinois that would reduce everybody to zero, the Federal employees, the judges and others and Congressmen if they wanted to could go to court under the present law which requires a 12.9-percent pay increase this year and get it; but the bill brought to the floor by the committee would eliminate that ability because if they accept the 5½ percent or the 7 percent which we are proposing, they would not then be able to go to court and get the 12.9 percent which the law requires.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, but all levels of the judiciary would go up 7 percent; is this correct?

Mr. BARNES. I believe so.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, what about the Cabinet level, do they all go up by 7 percent?

Mr. FISHER. I defer to members of the committee on that question, but I believe they do.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Mississippi.

Mr. WHITTEN. It is my understanding they would.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, so all of the Cabinet level would go up 7 percent and we would create an additional differential between ourselves, of course, and the equal branch of Government, the executive.

Mr. FISHER. The Cabinet members already receive more.

Mr. ROUSSELOT. I am very well aware of what the Cabinet officers receive; but on top of that they will receive 7 percent, is that right?

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. FISHER. I yield to the distinguished minority leader.

Mr. RHODES. Mr. Speaker, then the effect of the gentleman's amendment would be to raise the judiciary and the Cabinet level to 7 percent and the Congress would get a 5.5-percent increase. If the gentleman's amendment does not succeed and if the O'Brien amendment fails and if the committee's work stands intact, everybody gets a 5.5-percent increase?

Mr. FISHER. That is correct.

Mr. RHODES. Mr. Speaker, I thank the gentleman.

Mr. FISHER. The ridiculous part of this is that once again we are starting down the road of picking out a few people out of the many thousands and worrying about that. This is a tactic for defeating a sensible program here which is to allow a raise of about two-thirds of the increase in the cost of living to the very people who have to run the Government, the several branches of it, and administer it.

AMENDMENT OFFERED BY MR. PEYSER TO THE AMENDMENT OFFERED BY MR. FISHER AS A SUBSTITUTE TO THE AMENDMENT OFFERED BY MR. O'BRIEN

Mr. PEYSER. Mr. Speaker, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Peyser to the amendment offered by Mr. Fisher as a substitute for the amendment offered by Mr. O'Brien: After the substitute offered by the gentleman from Virginia add the following:

Notwithstanding any other provision of this resolution, no part of the funds appropriated by this Act for fiscal year 1980 shall be available to pay the salary of any Member at a rate which exceeds the salary rate payable for that office for September 30, 1978, if at any time in the consideration of this resolution that Member voted in a recorded vote for any amendment that has the effect of limiting the amount payable for Members of Congress to the rate payable for September 30, 1978. For purposes of the preceding sentence, the term "Member" means the office of Member of the House of Representatives, majority or minority leader of the House of Representatives, and Speaker of the House of Representatives.

Mr. CONTE. Mr. Speaker, I reserve a point of order on the amendment.

The SPEAKER. The gentleman from Massachusetts reserves a point of order.

Mr. PEYSER. Mr. Speaker, the intent of this amendment is very plain. I, for one, do not doubt for a moment the sincerity of any Member of this House who votes against a pay raise. I believe that they make that vote out of a conviction that states that they feel that for the good of the country today they should not accept this 5½ percent increase; so what my amendment says, Mr. Speaker, is that if you vote for my amendment, which I would expect most Members to vote for, certainly the majority, that if after that vote a pay raise for the Members should be approved, let us say 5½ percent, which is what is presently before us, that those Members voting against that pay raise will not be burdened with receiving that pay raise and the money will not be appropriated for that purpose. Therefore, it gives a very clear opportunity for every Member of this House to very squarely vote on this issue, and not only vote on the issue, but to assure the public that they will act on their own convictions by stating right now when the vote takes place on this amendment that they will not in any way take this money because it will not be paid to them.

Now, it is just that simple. I have put it together on a little piece of paper trying to clarify it again. It says the Peyser amendment, if you vote against the pay raise, you should vote against taking one. Vote aye on the Peyser amendment.

Mr. Speaker, that is the question before us at this time. I think it can be easily resolved by the passage of this amendment.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, as I understand the gentleman's amendment, it would only apply to votes on this resolution and it does not apply to votes that occurred on the resolution last week or votes that occurred earlier in the summer.

Mr. PEYSER. That is correct. The only votes that would be cast from this point on would be a vote for this amendment. There is no retroactivity in the amendment.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I would be glad to yield.

Mr. SOLOMON. Mr. Speaker, could the gentleman expain why there is no retroactivity and why it only applies to this amendment? It seems to me if the gentleman has strong convictions and is sincere on the issue, I would think it would apply all the way through.

Mr. PEYSER. Well, I would be glad to respond. My stand on this issue has been clear from the time it has first come to the floor and from the time that I have been in the U.S. Congress.

□ 1350

The reason for not making it retroactive is not to place any Member in jeopardy who might want to rethink his position. That is the only protection for the Members who have voted in the past.

That is the only purpose for the language in the amendment in not making it retroactive.

Mr. Speaker, I yield back the balance of my time.

POINT OF ORDER

Mr. CONTE. Mr. Speaker, I insist on my point of order.

Mr. Speaker, I do so very reluctantly because I sympathize with what the gentleman in the well is trying to do and because he is my good friend.

I make the point of order that the amendment is not germane to the substitute. The amendment conditions the use of funds to pay salaries on the votes of Members of Congress on this resolution and, therefore, introduces new subject matter, both a Member's voting record and a new method of calculating pay depending on the Member's voting record. The amendment places nongermane restrictions on the use of funds and should be ruled out of order.

The SPEAKER. Does the gentleman from New York (Mr. Peyser) desire to be heard on the point of order?

Mr. PEYSER. I do, Mr. Speaker.

Mr. Speaker, I appreciate the statement of my friend, the gentleman from Massachusetts (Mr. Conte). However, I do not agree with it.

I think that the germaneness here is very obvious. We are dealing with Members' pay, and we are also dealing with the right of Members by their vote to select on this issue in this year what their rate of pay is going to be based on the proposal put forth by the continuing resolution.

So I would see absolutely no conflict here, Mr. Speaker, or no lack of germaneness. What we are talking about is a pay raise and the availablity of the pay raise to individual Members, and I would think Members would want to have that opportunity and are entitled to the opportunity to vote on whether they will receive their pay raise or not, regardless of what the majority may do on this particular issue.

So I would say, Mr. Speaker, that it is germane and in no way violates a constitutional right. We have researched that point very carefully, and I believe this should stand on its merits right now.

The SPEAKER. Does any other Member desire to speak on the point of order?

If not, the Chair is prepared to rule.

The Chair will rule that the Fisher substitute contains a selective restriction on the availability of funds in the bill by separating salaries of certain employees, as opposed to Members of the Congress of the United States, and that is in order. The amendment offered by the gentleman from New York (Mr. Peyser) is a further selective restriction on the availability of fiscal 1980 funds for the Members' pay.

The Chair feels that the amendment as offered by the gentleman from New York (Mr. Peyser) is germane to the Fisher amendment, and the point of order of the gentleman from Massachusetts (Mr. Conte) is overruled.

Mr. MILLER of California. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, just quickly let me say that I do not think the amendment ought to be accepted because it is in order. It ought to be rejected because it is the dumbest amendment I have ever seen proposed.

I vote for the pay raise, but I give it back. I wonder if under the amendment I would be forced to take it.

I am sure Members in this House vote against the Public Works bill, but they take the projects for their districts. Maybe we should say, "You can't have a project if you vote against the bill."

Maybe we should say, "If you vote against the sugar bill, you can't use sugar." Or we might say, "You voted against the hide bill, so you can't have new shoes."

This is really a major infringement upon the liberty and the freedom of us as Members to cast our votes as we will.

I hope that the Members will vote on the pay raise however they genuinely feel, for or against it, and I hope they will do with the pay raise whatever they like. They can buy new shoes for their kids with the money, or they can give it back to the Treasury, or they can give it to charity, whatever their economic status is in life. But this foolhardy attempt to amend this substitute is just stupid, and it ought to be rejected for that reason.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I would like to point out that when a pay raise proposal came up 2 years ago, a number of Members went down in the well and talked about how they would not take the pay raise if this passed. After it passed without their vote—and obviously the majority thought it should pass because the vast majority voted for it when they did not have to put their vote on the record and voted their conscience, but they did not have the backbone to stand up and vote the same way on the record.

Obviously they did not feel that way, but after it passed the record down in the Clerk's office showed that most did take the pay. Then some of the reporters started asking them, "Why did you take the pay when you said you wouldn't take the pay raise?"

Then some of them said, "Oh, well, we had to take it. The law did not permit us to refuse it."

Under this amendment Members would not have that problem. They would not have to take it if they do not want to.

Then when some of them who did take it before thought about it, they said, "Well, maybe on second thought I shouldn't take all of it." So then some handled it in a way that satisfied the requirements to add it to the base of their retirement, and some also took enough to pay the 8½-percent contribution to the retirement.

So, Mr. Speaker, the Members can see that there is some merit in this proposal here. Those who really do not want to take it will not have to take it, and they will not have to worry about being in violation of the law or being charged with it if they do not take it. So I think the proposal really addresses a situation and has some merit.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Speaker, I thank the gentleman for yielding.

The gentleman from California (Mr. Miller) expressed concern that he could not still turn back his money. He can still turn back his money, whatever money he wants to turn back out of his pay. He can turn that back at any time. This has absolutely no bearing on that.

But the gentleman is absolutely correct in what he has said here, that it does clarify the issue and it simplifies the issue for those who do not want the money. As the gentleman pointed out, there are obviously some strong feelings on this issue, and I suggest the Members listen carefully to what the gentleman has had to say.

Mr. SMITH of Iowa. Mr. Speaker, I will say that I would rather that it be voluntary and that the Member who votes against this not necessarily be placed in this position. I would want their vote to be voluntary, and then they would just not have any excuse. But that does not happen to be the alternative.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. DORNAN. Mr. Speaker, I would like to suggest to the gentleman from New York that there might yet be some other ways to perfect the gentleman's strange proposal. Personally, I think punishment amendments might be interesting for those who change their votes in the well at the last minute, or who might have a "courageous" change of heart and change back to a "present" vote. We could roll their pay back to $30,000 a year the amount received by Members prior to 1969.

For Members who have their eyes directed southward and a few degrees skyward to that unmentionable section of the gallery containing the press, and who notice reporters from their hometown newspapers and then change their votes those craven Members could be punished and their pay could be rolled back to $22,500 the yearly rate in the fifties.

Perhaps we could have a punishment amendment for those who want to increase their own pay and yet continue to vote increases in Government spending. Why not have a selective list of the House big spenders, on both sides of the aisle, so we could consider a perfecting amendment which would specify which Members cast votes in this body with no regard for the finite Treasury or the beleagured source our tax dollars.

Mr. SMITH of Iowa. Mr. Speaker, those are among the reasons why I would rather it be voluntary, but as a matter of fact the amendment does permit Members, although it is not voluntary, to do what they want to do, instead of what they did in 1977, and live up to their promise.

Mr. HOPKINS. Mr. Speaker, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Illinois (Mr. O'BRIEN).

Mr. HOPKINS. Mr. Speaker, I would like to speak to my colleagues, if I may briefly, with the brutal frankness of a blood relative.

I have no desire to cross swords with any of the Members on this issue, and I have no desire to stand here today in any attempt to adjust my halo. But the fact is that all of us knew when we applied for the job last year that we had inflation. The fact is that all of us knew when we applied for the job last year what the salary was.

I do not happen to know of a single Member of this body who campaigned last year and had a plank in his platform that said, "Please vote for me so I can go to Washington and increase my salary." There was not one. I happen to believe that we made a contract with the people of this country, and for us to come here and to renegotiate that contract, at a time when the people now have been removed from the negotiations, is not right.

Now, let me ask, what do the people want? A very high percentage of the people say they want us to balance the Federal budget. I also happen to believe that a very high percentage of those people would like to put Congress on a commission basis so that we might get paid for what we do rather than for what we say we will do.

Mr. Speaker, I am no expert on all of the amendments that have been introduced today, but I am the world's greatest expert on what I think; and I think for us to vote ourselves a salary increase without negotiating with the public is wrong.

☐ 1400

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Speaker, I admire what the gentleman has just said and the sincerity with which he said it, which is exactly what I was addressing my amendment to. I hope I am correct in my assumption that the gentleman would not have a problem supporting my amendment, which simply says that anyone who has the feeling and the concern that the gentleman has would not have a pay raise. Am I correct in that?

Mr. HOPKINS. I am not speaking for any of my colleagues.

Mr. PEYSER. But the gentleman himself.

Mr. HOPKINS. I have no intention whatsoever to accept any pay increase. Again, that is no attempt on my part to adjust my halo.

Mr. PEYSER. If the gentleman will continue to yield, basically, then, the amendment that I have offered, which simply says a Member such as the gentleman, who would vote against the pay raise with the sincerity that the gentleman is expressing, would support my amendment, which says that they would not receive that pay raise.

Mr. HOPKINS. The fact is that I do not really think the gentleman from New York, not as an individual, but Congress collectively, does not deserve a pay raise, and for that reason I could not support it.

Mr. PEYSER. I thank the gentleman.

Mr. PASHAYAN. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. I yield to the gentleman from California.

Mr. PASHAYAN. I thank the gentleman for yielding.

Mr. Speaker, I think the point the gentleman was making is that this body as a whole has a contract, which the gentleman mentioned, with the people; and I think the point the gentleman was making is that this body ought not to let some Members out of that contract. Is that the point the gentleman was making?

Mr. HOPKINS. That is exactly the point that I was making, and let me expand on that, if I may. In my opinion, I think there are individuals here who deserve a raise, colleagues from my own State. I do not mind telling the gentleman that. Many of them are Members whom I have learned to admire in the last few months. That is on an individual basis. But collectively this Congress has not done anything to deserve a raise, in this Member's opinion.

Mr. SOLOMON. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the Peyser amendment, in opposition to the Fisher amendment, and in support of the O'Brien amendment.

Mr. Speaker, I just want to reiterate briefly what the gentleman from Kentucky has said. It is not a question of each one of us individually needing or deserving a raise. I said this on this floor several days ago. I think that every Member who I have grown to respect in this House certainly deserves it. They probably need it in many cases. I know I have five children. I have three in college. And certainly I could use that money. But the gentleman from Kentucky said the other day that it is not a question of individuals; it is a question of the collective job that this Congress has done.

I just want to mention an amendment that I will be offering a little bit later, which will be the reason why I am voting against the Peyser amendment.

I intend to offer an amendment which is going to say, "Yes, you Members of Congress, you can have a raise, the day you balance the Federal budget."

I admire the gentleman from Mississippi who spoke earlier, when he talked about inflation and the causes of inflation. The gentleman brought out some very relevant facts about what has happened to the American dollar and what is breaking the backs of the American people. It is inflation. The gentleman from Mississippi said that the reason that we in Congress need the raise is because of a cost-of-living adjustment. The gentleman was absolutely right, and I admire him for saying it.

But the problem is—and this gets back to the Fisher amendment—not only is the Congress, we, the collective Members of this House, responsible for rampant inflation, but do the Members know who else is? This gets back to the gentleman from Virginia and the gentleman from Maryland. I admire them for standing on this floor and fighting for their constituents. But let me just recall to the Members what has happened in the last 2 months as we approach the end of the fiscal year. Many of these high-echelon employees, Federal employees, have gone on a hell-bent-for-leather spending spree to spend those moneys that we appropriated for them. It is things like that which cause inflation. We know that many of these employees at the Cabinet level, high-echelon employees, have done everything they can to raise their budgets in order to justify their jobs. If we were to enact my amendment, which is to say that no Member of Congress or any of these higher echelon Federal employees would receive a raise until they have earned it, until they have balanced the Federal budget, can the Members imagine what 20,000 higher echelon Federal employees would do? Can the Members imagine what every Member of this Congress would do? We would be breaking our backs to try to balance that budget to be fiscally responsible in every way that we could in order to get that raise.

So, Mr. Speaker, I am going to vote against the Peyser amendment because it does give raises to some individuals and not to others. I am going to vote against the Fisher amendment because I believe that if they were subjected to my amendment and had to be really fiscally conservative in projecting their budgets and in their spending procedures, I think they would go a long way toward helping us balance the budget. I am going to support the O'Brien amendment because it negates any raise until we have accomplished some fiscal responsibility in this House.

Mrs. SPELLMAN. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Speaker, I have just asked what the figures are that we have been discussing for so long and for so many times. We have a bill before us that would appropriate $247 billion at an annual rate, and what have we spent our time discussing? What has the press focussed on? The part of the measure which amounts to $1,374,000—the pay raise for the Congress. A quick calculation tells me that all that attention has been directed to the part which represents six ten-thousands of 1 percent. That is sobering, is it not? How can we have spent so much of our time talking about our own salaries, when there are so many far more important things we ought to be discussing?

The gentleman from New York, who just spoke said that he would like to see the top-level employees, "receive a raise when they deserve it." That is exactly what we are talking about in the Fisher amendment when we say, "Let us let those people who are running our Government, who are making the decisions and who are our top-level people, have the money for the incentive program that you, my colleagues, voted in." I voted against it only a handful voted against it. But you, my colleagues voted for the program. I ask you now to fund the concept you voted for—fund it so that it can function and provide the people who do a good job of running our Government with the increase they were promised they would get.

Unless we provide the funding we will have an exodus from the top levels of Government. Soon we will have only mediocre people running our Government. So let us stop spending so much time worrying about whether Congress will get a pay raise. If you feel there should be a pay raise, vote it in; if you feel there should not be a pay raise, vote it out. But let us get on with the job of financing the running of our Government in the way that Government ought to be financed. We can only do that if we separate the Congress from the bureaucracy. Vote for the Fisher amendment, put the 7 percent in for the SES. It is the only way the civil service program the Congress voted for will work.

Mr. CHAPPELL. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I am concerned that somehow or other we have come to the conclusion that we as individuals own the congressional seats we occupy. Just since when do we come to that conclusion? The seats we occupy belong to the people of the United States, and they are entitled to have the highest standard set for the people who occupy those seats.

There was so much stir a few years ago about Members of Congress setting their own salaries that a special commission was set up so that Congress would not set that salary. The intent was and is one of comparability between Members of Congress, key members of the executive and judicial branches and their counterparts in the private sectors. That commission was established to set those governmental salaries in amounts equal to those exercising like responsibility in the business community. Now we come along at this time and say "No—because of the idea we might be unpopular in the press and might be misunderstood back home. We now say, in essence, we do not want the Congress of the United States to hold to standards high enough to be comparable with the people out in the private sector." And indeed we appear so selfish, as we look at these little seats, that somehow we own them, ones that we might not occupy beyond today, for one reason or other. We might not occupy them next year for one reason or other, yet we have come to look upon them as our little seats. We best get this selfishness out of it and start thinking about what is the proper standard, what is the proper salary to be paid to the Members of the U.S. Congress and these other 20,0000 officers, the key executives, who run this country for the people.

I am keenly concerned and disturbed that some of the folks who profess to be the strongest advocates of the free enterprise system now try to make this so restrictive that the people who have been successful in the free enterprise system, the people out there who would have the ability to come in here and help balance the budget cannot because they cannot afford it. We attempt to make certain they cannot afford it by restricting them and any outside earned income to $8,500 per year above the congressional salary. We thus urge mediocrity in this body.

What kind of standard are we going to have? What kind of a Congress do you think we are going to have down the road, 10 years, 15 years from now if the salaries of this Congress and the salaries of the judges and others who are involved in this discussion, are going to be held to a mediocre salary—what kind of people do you think we are going to have here?

No, we will not ever get a balanced budget if we are going to keep lowering our standards. We are not going to accomplish those things the gentlemen here are talking about as long as we hold those standards down.

I cannot but imagine our saying to the people of the United States, under our constitutional mandate, that we will set the standard high enough for that seat—not my seat, not your seat, but the people's seats—that we can get competent men from the private sector, the system upon which this Government was commenced and founded, interested and involved enough to come in and help solve some of the problems of this Nation.

We are being pennywise and poundfoolish when we here argue about a congressional salary and the salary of judges and other key executives of this country on the basis of whether or not we will be misunderstood at home or in the press. We must ourselves be understood at home. We will keep the standards high.

We must rise beyond a selfish view and start thinking about the worth of a governmental seat competently filled. Until we do, we will not solve the keen problems for our people.

So, when the votes come, I hope the O'Brien amendment and the others pending will be voted down. I hope we will not downgrade and lower the standards of the congressional and other offices considered here. I hope also we will not lessen our congressional worth by creating the disparities suggested by these amendments.

I hope and trust we will rise above personal concerns and hold for the best talent in our land.

I urge the defeat of the pending amendments and urge passage of the bill.

Mrs. FENWICK. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, we have indeed spent a long time on this issue, but because it deals with one-and-some million out of 240, it does not mean we are not right to do so. It is an important issue. We are talking about principles here, things that matter.

I think all of us were moved by the remarks of the gentleman from Kentucky (Mr. HOPKINS), reminding us of the sense of honor that this House was founded on. Everybody has a different way of looking at things and may arrive at different conclusions, but certainly to hear such words is very fine in the Congress of the United States.

As the Members know, or some of them may remember, I was distressed by the actions of the House last week; but today we are facing a very different situation.

We have an excellent amendment before us, the Fisher amendment, which I hope will pass.

We are voting on the issue openly and squarely, standing up and saying what we believe to be in the public interest. I intend to support the bill. I hope very much that we can somehow make these cost-of-living increases given to us by our vote as Members of Congress, effective in the following Congress. Indeed, this is the law in New Jersey and Michigan and California and Nevada and a number of other States. If we cannot change the bill for parliamentary reasons, then I will still vote for a 5.5-percent raise for the House and 7-percent raise for the others.

I do not think we can call it a raise. It is in effect a cost-of-living increase, and as I said last week, it may be justified. I think it is.

I am particularly pleased if we can break the linkage with the salaries of others, which should never have been started in the first place. I do not think we measure people by money. The importance of a position should not be measured just in money. The honor of serving in this House, elected by the people of this Nation, is far greater than any conferred by appointment. Nothing compares to the honor of serving in this Congress of the United States. That is part of it, too. Whether our wages compare with another, who cares.

The point is, is it adequate? Are we trying to do a decent job for the people we represent? We do not measure things by money in this country. We measure it by usefulness, by earnest concern for the public good, and I think that that is what we are doing here today, and we should have the courage to stand up and vote.

Mr. Speaker, I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I move to strike the requisite number of words.

I wish to address myself to the Peyser amendment, which I think we would be making an enormous mistake if we adopt.

I suggest that there is something bordering—and forgive me—on the criminal, in promising something of value for your vote. That is precisely what the amendment does. It is both a threat and both an inducement. It says, if we vote thus and so, we will get a pay raise, and if we do not vote thus and so, we will not.

I suggest that title XVIII, section 201, fairly bristles with admonitions that such a proposition is highly illegal.

I am sure the spirit in which this amendment was offered was done in a sense of rough justice really, but I suggest that it borders on legitimating a bribe. It borders on promising something of value for your vote. I suggest that that is contrary to the criminal code. I hope none of the Members become an accessory in that action by voting, however well-intentioned, for the gentleman's amendment.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. PEYSER. I thank the gentleman for yielding.

As I am sure the gentleman knows, I have no intention of in any way trying to bring anybody in this Congress to violate the law of the land, nor do I really think that is what is happening.

I think what I am trying to express is a problem that many Members are truly faced with. We have heard it expressed in the well here, and that is it seems to me it is in perfect keeping for certainly those Members who feel this strongly, as Members have very plainly expressed, that they do not want a pay raise, if the majority holds and there is no pay raise voted, my amendment has absolutely no effect.

On the other hand, if the pay raise should pass, I see no reason to penalize those who do not want it.

Mr. HYDE. If I may retrieve my time, a problem of colossal proportions is created. What about the absentees?

Mr. PEYSER. They would not be affected. If everybody wants to walk off the floor, I might say this, under my amendment, those who voted present would not be affected.

Mr. HYDE. Well, I suggest by getting an increase in pay, depending on how one votes, is hardly living up to one's oath.

Mr. PEYSER. Is not the issue though on our pay raise? That is what we are voting on. Why should not it be related to our pay raise?

Mr. HYDE. Mr. Speaker, I yield back the balance of my time.

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Mr. PASHAYAN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I believe that the issue that this Congress is facing on this question is a question of leadership. The people in this country are suffering from inflation. We think we are making a sacrifice somehow by making a compensation of $57,500 a year. The average family of four makes about $18,000 a year.

I would like to suggest it is they who are making the sacrifice in this country, not we here in the Congress.

This Congress has a chance to land a deadly blow to inflation by stopping the profusion of too many dollars. I see the question of this pay raise as a question of whether or not this Congress, in symbolic form, is going to do all it can to solve the problem of inflation in this country.

Symbols are important when they are backed up by action, and the first step in solving inflation can be a grand announcement to the people of this country that we are denying ourselves any pay increase, we are denying ourselves any pay increase as the first important step to solving inflation in this country.

If this body fails to do that, in my view we are failing to take what could be the first step in fighting inflation.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. PASHAYAN. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

I would just point out that last year Congress refused to permit a pay raise for officials and management level personnel and inflation doubled.

Mr. PASHAYAN. It is because we did not follow it up with the proper measures.

I am suggesting we take this as a first step, not as a single step.

If we deny ourselves a pay increase as a symbolic statement to the people of this country that we are going to do all we can do in our power to solve inflation, and then go about the business of stopping the profusion of too many dollars, then we will see the rate of inflation go down.

Mr. PAUL. Mr. Speaker, I move to strike the requisite number of words, and I rise in support of the O'Brien amendment.

Mr. Speaker, I endorse and support the O'Brien amendment. I do not believe we deserve a pay raise at this time.

There has been a lot said in the last several days about how much attention we have been getting over this issue, and many complaints have been made against the media for drawing the attention of the public to this issue.

I happen to think it is a legitimate issue and I think it is very appropriate for them to do so. I see it as an obligation for them because I do believe this pay raise is very symbolic of what is going on in this Nation.

It is sad if we can vote to raise our pay when the rest of the country is in deep trouble economically. I believe this pay raise we are voting on right now is not amounting to very much and is sort of ironic for us to have gone through so much to get it. After taxes it might be as low as $100 a month.

But I do think the more important issue here is that it is an important issue to all of the people, and I think the key point here, and key issue is who is our boss. Are we our own boss? Can we do what we want any time we want? I think the answer is already apparent. When the votes are required by standing or speaking out we are for the pay raise, but when it requires putting our name down and voting, we are against the pay raise, which means when we must answer for our vote and go back to our constituency then we cannot support the pay raise. This means our boss, the people, are speaking, and they are saying that we are not supposed to take a pay raise. I think this is the message—loud and clear and we all know it.

In industry we have bosses who decide when we get a pay raise and it is done on efficiency and effectiveness and obviously if the message coming to us when we have to put our name on the line is we do not deserve the pay raise, I think it is similar to that of a boss turning us down for a poor job done.

I think there is also a psychological importance here as well. The amount of money is not a tremendous amount. It is not going to save us or break us, whether or not we get this pay raise. But psychologically I believe it is very necessary for those individuals who have been voting for big government for so long and brought us to this tremendous economic dilemma we face that they get rewarded; otherwise, it is a rejection of the ideas they have promoted in this Congress for 30 or 40 years. That is what is being rejected, today: not only our pay raise, but the people are rejecting the way the country has been run, the way the economy has been run, and the ideas behind the system of the planned economy. That is what the American people are rejecting.

It is apparent now that it is very important psychologically for those individuals who have voted yes to big government, and yes to the interventionists programs receive approval and not rejection. Endorsement of this program must come with a pay raise, no matter how big or how small it is; but if they do not get the pay raise their whole concept of what they have been promoting for the last several decades is put on the line. I am certain the American people are rejecting those ideas, and are challenging us to the point of whether or not we will accept a market system of economics and a system of individual freedom, and reject this notion that Government should plan the economy and interfere with all of our individual rights. That is what is at stake today. It is not the amount of pay that is at issue. It is the endorsement by the people that the politicians want the very ones who have been voting the programs that have brought us our inflation.

I think last week there were some signs to indicate that possibly we may deserve a pay raise. There were some rejections of bills such as the budget and the Panama Canal, the national debt limit that I think deserve some attention, and possibly the American people would say to us if we do straighten up our act and balance the budget, possibly we then can afford a pay raise for ourselves—not before.

I have introduced legislation that would tie our pay raise to the cost of living. A lot of people were delighted with this because they figured that the cost of living is at 15 or 20 percent and our pay will then go up 15 or 20 percent; but my proposal has been that the pay go down at that rate. I think this would be very educational. I believe we would straighten up very quickly if we thought our income was threatened by our activities here in Congress.

There have been some proposals made, and they may come up later, that will tie our pay to balanced budget, which is a good idea and I will probably endorse this approach as well. But that is not the whole issue. We are not addressing ourselves to the entire issue of inflation; tying our pay raise to the inflation rate instead of the budget would be much better, because there are other reasons we have inflation. Balancing the budget would be a big help in getting rid of the inflation, but it is only half of it.

We create credit, and we expand the currency and the money supply which literally is the inflation for the benefits of banks and big business as well as big government. And until we think of all the reasons the money supply is increased and not just to finance the Government deficits we will not get to the core of the matter and we will fail in our attempt to avoid runaway inflation.

I urge the adoption of the O'Brien amendment—thus rejecting any pay raise at this time.

Mr. DORNAN. Mr. Speaker, I rise to strike the requisite number of words and in support of the amendment.

Mr. Speaker, I wish this debate had taken place in the middle of last week because there have been some very eloquent and thoughtful exchanges. I wish to associate myself with the remarks of the gentleman from Florida (Mr. Chappell); but I regretfully disagree with his final conclusion for reasons of current economic history; that is, crushing inflation.

Also, I certainly wish to associate myself with the eloquent remarks of the gentleman from Kentucky (Mr. Hopkins).

This eloquence, if it had been expressed last week, would have helped to remove the Congress from the arena of ridicule that we suffered on talk shows across this country. We have been feeding grist to the mill of one of America's prime comedians, Johnny Carson. He began his monolog three nights in a row ridiculing this distinguished body.

We all notice that the press never attacks Congressmen or Congresswomen for not working hard. That is one area in which our brothers and sisters in the press concede we excel. We do work hard. We do put in the hours. But this pay level that we have voted ourselves compared to an average $18,000 yearly salary for a family of four in this country, brings us once again into the arena of ridicule. One of our distinguished colleagues, my friend the gentlewoman from New Jersey, trying to make this point of hard work to millions of Americans, pointed out on the NBC national "Today Show" last week that some nameless Congressman in the Longworth Office Building asked the permission of the janitor to sleep in his office. This was purportedly because his pay is so low he cannot put food on his table. The janitor, with all of his supreme authority, supposedly granted this permission because four other Members are also sleeping in their offices.

Now I have slept in my office after coming home from California on the Red Eye several times. But it never occurred to me to ask the janitor for permission or to feel that I was underpaid. I know if I were to give that as a reason for needing more than $57,500, there would be countless constitutents in my district, making do on $18,000 with a family of four, who would say, "Look, I could live in two cities. I would budget $18,000 in one city and $18,000 in the other, that comes to $36,000, and I would still have another $18,000, plus, plus, an extra $3,500 left over." It is a specious argument to say we cannot live on our current money.

I admire the remarks of the gentleman from Florida (Mr. Chappell), in that we should be attracting a higher caliber of person. The big raise was passed 2 years ago because we limited outside income to $8,000. A foolish move.

☐ 1430

Now, according to our House records I am one of the 16 paupers in this House, along with two in the Senate who have no outside income. This year I received a couple of $500 honoraria, so I leave the honored ranks of House proletariat. However, I will not be sleeping under a bridge or regularly in my office with or without a few speech honoraria. But this limit of $8,000 cannot be used as an excuse to continually raise our pay.

The amendment offered by the gentleman from New York (Mr. Peyser) is mischievous because for example, the Speaker does not vote except in tie votes. Will he be asked to come to the well and bravely record his pay raise vote? The recorded absentees today are 34 Members. They include such distinguished people as Ms. Holtzman of New York, Mr. Rosenthal of New York, and Mr. Santini of Nevada, who is probably out there diligently trying to prevent the Strategic Air Command from digging all the MX missile trenches only in his State. A worthy district task.

The American people are not slow to grasp this issue, as it is tied to inflation. Many Members of this House will vote for a raise and pay for it at the polls. But if it goes into effect for all, no voters will go around punishing Members for accepting a pay scale standard to all. It is the collective vote that properly enrages taxpayers.

Remember the story of the distinguished gentleman from Indiana (Mr. Jacobs), who turned back a pay raise and was rewarded by the voters of his district with an enforced 2-year hiatus. The voters do not expect us to serve at varying pay schedules. What happens if we go through this degrading routine next year? We will then have three levels, and then four levels the following year if the Peyser silliness prevails.

Even if some Members feel they are entitled to a raise, we still must look at this issue collectively. We are properly blamed by the American people for inflation, along with most of those high-powered Government executives for whom Mr. Fisher pleads so passionately. This Government simply has to clean up its act at all levels. The Republican National Committee sent me boxes of buttons in 1976 that said, "Clean up Congress."

They did not mean kill roaches in the Rayburn Building or sweep up dust in the cloakrooms. They meant to clean up the heavy and relentless spending. If we do accept the undeserved 5.5 percent raise we will see the biggest flushing out of this House by the taxpayers in years. The target will be those who pay themselves and then continue to finance runaway Government.

Mr. HEFNER. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this is an absolute exercise in futility, and if we added up the time we have spent in this House on the Members' salary, we have spent far more than the millions of dollars it takes to pay the increase. I do not know how I am going to vote on this amendment but I have heard some of the most ridiculous arguments. I have heard Members take the well and say, "We should not have a pay raise because Congress has caused all the inflation, every bit of it." I happen to think escalating costs have caused a great deal of inflation. I have seen Members take the well to talk about inflation. A good point was made a while ago when it was said that we exercised some restraint a couple of days ago by defeating the budget and the debt extension, and the same Members have voted for every increase in the social security budget. They have voted for the food stamp programs and billions of dollars we have added to the defense budget. Then, they told their constituents, "We support defense and we support the social programs."

But, when it comes time to vote for the debt extension, when every American knows that we have got a deficit and it comes time for us to bite the bullet and vote the money, we go back to our districts and say, "I voted against that deficit budget because it was too much. I did not vote for that deficit."

This is absolutely and totally irresponsible. We demean the Congress by going back to our districts and talking about each other. "In our districts there is only one good Congressman, and that is my Congressman."

Today we cannot accuse the Congress of being the cause of all the inflation, and the people who do not vote for the budget or the extension must remember that there are some programs that they have supported. We do not have the luxury of taking every individual part of the budget out and voting on that as, "my part of the budget."

So, I say to the people that say, "I support defense and social programs," unless they vote to bite the bullet and do the things that are necessary to be done, you support nothing. It is ludicrous to say that Congress causes all the inflation.

I do not particularly need a pay raise. I had an editor of a newspaper call me and say, "You people of the Congress are even sillier than usual. If you want a 5.5-percent pay raise, vote it. I am not going to like it and the people are not going to like it, but they are not going to like it if you take 1 percent. They are not going to like it 10 years from now." But to blame the Congress for all our problems is absolutely ridiculous. We should pass this resolution because of the important contents.

CALL OF THE HOUSE

Mr. MURTHA. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 503]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Chappell
Cheney
Chisholm
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

☐ 1450

The SPEAKER. On this rollcall, 374 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

Mr. WHITTEN. Mr. Speaker, I move to strike the requisite number of words.

I have seen lots of law issues tried on side issues. I am sure all Members have, those who are lawyers. If ever there was an example of trying something on side issues, this is it.

Mr. Speaker, this is not a pay raise. The law raised the pay. It was passed. I voted against the law. The Commission recommended. Congress did not have to vote. We have the Federal Pay Comparability Act of 1970. The amount of the cost-of-living increase has been certified by the President. The law calls for the payment. The sole question before us is the appropriation to carry out the law. This is not a change in the law giving an increase in salary.

One year we did not pass it. That was last year.

Mr. Speaker, there was a case heard in the circuit court in Illinois, a Federal case. It is not necessarily binding on the Members of Congress. The court held that the law was firm, that judges were entitled to the pay and the court awarded judgment.

Mr. Speaker, in that decision the point was raised that Congress had not implemented the law; therefore, the law was not binding because the necessary funds were not appropriated. The decision does not necessarily apply in the present case but to repeat my original point, when you do not appropriate to implement a law it does in no way keep it from being a law. Commonsense teaches us that. You are not voting to increase pay, you are voting for an appropriation to carry out a pay raise fixed by law, a pay raise intended to offset the increase in the cost of living.

Mr. Speaker, may I say to my friend from Illinois there is nothing to keep the gentleman from having this apply to the many people who are in retirement, Congressmen and others. Those retirees have been getting increases twice a year. As I have previously pointed out, the Member who retired in 1967 has received a 151-percent increase in retirement pay since he retired.

Members may vote as they see fit. I have been in Congress long enough that it does not mean anything to me. However, the procedure we follow does concern me.

One might ask, if something is owed, why do we put in 5.5 instead of the 12.9 that is due. It is because of the inflationary situation in this country and throughout the world which is so great we thought we should make some effort to slow it down.

Mr. Speaker, if we accept the 5.5, we waive our right to the 12.9 to which we would be otherwise entitled. This is an effort to set an example of slowing down and holding down.

Mr. Speaker, we find our dollars decreased in value 50 percent since 1967. We find that 58 percent of the laws we have on the books now include an escalating clause granting recipients increases in pay commensurate with the increase in inflation.

Mr. Speaker, what this does is speed up the inflation and if something is not done in another 11 years we may find our dollar is worth 20 cents.

While this money is due and payable under the law, we still scaled it back to set an example hoping we will get some legislative committee to study the whole question of automatically indexed programs. We cannot contain inflation by adding to inflation. It is like putting out a fire with gasoline.

Mr. Speaker, if we read the law we will see it is spelled out clearly. The amount is there, it is owed, but we are trying to set an example and we point out that somewhere, somehow, this Congress is going to have to have the nerve to examine this overall picture. We cannot live much longer trying to contain inflation by doubling the rate of inflation.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Speaker, I congratulate the gentleman on his leadership in this matter and admire his commonsense. I would like to associate myself with the gentleman's remarks.

Mr. Speaker, with all due respect to the gentleman from Virginia, I would object to the proposal that we separate the Congress from the top offices in the executive and judicial branches. I, therefore, recommend we vote no on the amendment, no on the substitute, and no on the amendment to the substitute, no on all three.

Mr. WHITTEN. Mr. Speaker, I appreciate very much my colleague's statement. I hope we will take the time to read the very short provision in the bill, read the report, both of which confirm what I have said. By scaling back the amount of our increase we hope to encourage a scaling back all over the Government.

Mr. Speaker, at this point I would insert that portion of the committee bill and report that deals with this matter.

> The Committee notes that in the last two years since Federal executive pay has been frozen, that the consumer price index has risen by about 23 percent and that the purchasing power of the dollar has decreased about 50 percent since 1967. The Committee also recognizes the necessity to take steps to achieve a balanced budget as well as the necessity to slow down and control inflation, which unless controlled will lead to financial disaster.
>
> A balanced budget means a balance of income and outgo. Present conditions are such that it appears that this balance depends on keeping income up while reducing expenditures, particularly that part of expenditures within the annual review and appropriating process of the Congress. Approximately 58 percent of the budget is for programs which have built-in automatic increases to offset inflation, which itself is additional inflation. Our problem is that our rate of inflation is so great that we must take immediate steps to moderate increases and help move toward stability.
>
> One of these places where such laws have taken over is that of Federal executive pay, which under existing law would increase by 12.9 percent.
>
> In an effort to help deal with these problems, the Committee is providing that for the fiscal year 1980, funds available for payment to executive employees, which includes Members of Congress, who under existing law are entitled to approximately 12.9-percent increase in pay, shall not be used to pay any such employee or elected or appointed official any sum in excess of 5.5-percent increase in existing pay and such sum if accepted shall be in lieu of the 12.9 percent due for such fiscal year. This action, sharply decreasing such automatic increases, is taken in an effort to contribute toward the objective of immediately slowing and over a period eventually stopping further inflation. The limitation of 5.5 percent represents a significantly sharp decrease and amounts to only about one-fourth to one-third of the actual rate of inflation during this period. It is hoped that this example will be followed by other parts of the Federal Government, private industry, and State and local government. Unless we slow down, we face disastrous inflation which has wrecked the economy of other nations.

The following is language from the resolution dealing with the pay matter:

> For the fiscal year 1980, funds available for payment to executive employees, which includes Members of Congress, who under existing law are entitled to approximately 12.9 percent increase in pay, shall not be used to pay any such employee or elected or appointed official any sum in excess of 5.5 percent increase in existing pay and such sum if accepted shall be in lieu of the 12.9 percent due for such fiscal year:

Mr. GOODLING. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in support of the amendment to disallow a pay increase for Members of Congress. I should make it clear that this is not because I think Members are undeserving of at least some help in keeping pace with inflation. In spite of the bad image promoted by a few members of the press, I know that the vast majority of my colleagues are hard-working, honest, and dedicated people who earn every penny of their salaries.

I am proud to be a Member of Congress. I think it is one of the most important jobs in the world, and I think it is right that the position be adequately compensated so that the electorate can continue to expect that the men and women who serve here are among the most able.

Moreover, I think justified pay increases can be successfully presented to the American people. People back home understand that if I am paying for two homes, or a home and an apartment, one located in one of the highest priced housing markets in the country: Washington, D.C., that it is a real burden and a real problem. But what angers them, and I think rightly so, is that they have no say in the process. This is why I have consistently voted against pay increases which take immediate effect, even though I am willing to defend some of the proposals on their merits. But equity requires that we give the people, our "bosses" the opportunity to have their say about whether we deserve the increase. Therefore, I think it is essential to delay any increase until the succeeding Congress. Only in this way can constituents decide whether or not the incumbent should benefit.

For this reason, Mr. Speaker, I am voting against any immediate increase, but I am also introducng two bills which I hope will be acted upon this year. The one would make a pay increase of 10 percent effective beginning in the 97th Congress, January 3, 1981, if, of course, there has been no intervening increase. Assuming that fact, Members will have received no increase since 1977. Between January of 1977 and the end of August of 1979, the CPI increased 26.1 percent. It is fair to assume that a year and 3 months from now, January 1981, it will be well over the 30 percent mark. My bill would provide Members an increase of less than one-third the probable inflation rate.

The other bill I am introducing, Mr. Speaker, would liberalize the present $3,000 limitation which Members of Congress can claim as an away-from-home business expense. The bill I am introducing is based on a suggestion made earlier this year by Donald C. Lubick, Assistant Secretary for Tax Policy of the Department of the Treasury. Mr. Lubick was testifying before the Subcommittee on Select Revenue Measure of the Ways and Means Committee. The subject of the hearing was measures relating to the business expenses of State legislators and Members of Congress. My bill affects Members only.

Mr. Lubick noted that the $3,000 limitation, which is only placed on Members of Congress, was enacted in 1952, and that an increase in that limitation is certainly justified. However, rather than eliminating the ceiling altogether, he recommends that the away-from-home expenses be limited to 180 days per year and to the Federal per diem rate, currently $50. Those are the suggestions incorporated in my bill. Of course, the Members claiming the expense could not do so unless the expenses are actually incurred. But the modern-day Congress has averaged more than 6-month sessions for several years. And, according to the Consumer Price Index office of the Department of Labor, the cost of living has increased 178.9 percent since 1952.

Other business men and women are allowed reasonable deductions for their business expenses away from home. We have even amended the law, although it needs to be put on a permanent basis, to permit State legislators more adequate business expense deductions for tax purposes. It is only Members of Congress, in this regard, who are still operating by a rule of one-half century ago. This bill is just putting Members on a reasonably equal par with the rest of the American people in terms of their Internal Revenue Service obligations.

Mr. Speaker, may I reemphasize my conviction that constituents accept that Members of Congress, too, have families to support, as well as other ordinary financial obligations. Reason will, I am confident, persuade them that the salary for public service must be at least sufficient to attract competent legislators. I think the words in the report of the last Commission on Executive, Legislative, and Judiciary Salaries are worth repeating today:

> If we continue down the path in which the politics of survival . . . have required no pay raises at all, we must accept the implications of a government of only the rich, or only the young and untried, or more likely, a government of those who are willing to compromise themselves with political money. The cost of such a government reach beyond the costs of a salary increase; they are incalculable, and to a free people unacceptable.

☐ 1500

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Speaker, I rise in opposition to the pay raise at this particular time.

Mr. Speaker, I am not going to rehash the arguments pro and con on the issue of us giving ourselves a pay raise. Suffice it to say that the arguments on both sides have merit, but I agree with the point of view that a raise for Members should be deferred until the next Congress. In other words, raise congressional salaries, but apply that raise to future Congresses and not ourselves.

Having said the above, I would like to bring up something that I think is entirely relevant to this issue, but has thus far not been discussed. Earlier this year, this body refused to lift the outside earnings limitation on Members of Congress. Those of us who wanted it lifted were soundly defeated, and in reviewing the debate on this issue, the only viable argument in support of the limitation was that earning income outside Congress gave the appearance of a conflict of interest and a neglect of congressional duties. In no way and at no time did anyone who supported the outside earnings limitation present evidence of abuse on the matters of conflict of interest or neglect of duty. Those of us who wanted the limitation ended pointed out the lack of logic in limiting earned income while permitting investment income if our real purpose was to deal with conflicts of interest. That argument was rejected by the majority in this House. We also tried to point out that the "earnings" limitation amounted to trying to regulate how a Member spends his or her time, and I maintained and I still maintain that that is an issue which should rightfully be between us and our own consciences and us and our constituents.

I can not remember one refutation of either arugment which was either logical or reasonable. Thus I concluded then and I conclude now that the only reason we placed a limit on outside earned income was because Congress as a whole was perceived by the public as a pretty mottly crew. We, therefore, placed a limitation on ourselves for appearances sake to improve our public image.

I think there were maybe 80 of us who voted to lift the limitation. I did not get much flak about that vote. I heard from my local Common Cause chapter, but nary a word from my constituents in general.

However, the last time we got a pay raise, my telephones rang off the hook and my mail overflowed with outrage.

I would suggest that this same Congress who was so very concerned over its image that it placed a limit on outside earnings be equally concerned about its image on our pay raise. The public will not swallow it, and our tarnished image will plummet to an all-time low.

For the sake of our own public standing, we had better vote "no."

Mr. YOUNG of Alaska. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Speaker, we have spent many hours in the past 2 weeks on this issue, but for the Members of this body I would like to bring out some facts that may not be apparent to you or to the listening audience that is watching this great debate.

I would like to bring to you the fact that my biggest fear of constantly not reimbursing this body with the proper amount of money necessary to conduct your way of life, whatever it may be, will be that we will finally evolve ourselves into either a total packet of incompetent legislators or the very, very wealthy that can afford to be here.

Now, as the gentleman spoke in this well, we need to solve the inflationary problem. I have been rated as a conservative.

I would like to bring to the attention of the Members at this time that of the 215 people that voted last week against the pay raise, 50 of those made more than $57,500 of unearned income, more than their salary. In fact, some of them made as high as $200,000 of unearned income, not earned, unearned income, with absoluetly no effort put forth, but to clip the coupons and collect the moneys from those areas, either they inherited from or from what areas they had the ability to clip the coupons. That means the elitists are frankly serving the people of this great United States and not those common folk that can represent the true trend of our American way.

Also, let me remind you that of those same 50 people, 25 of them voted to give the Panama Canal away and that I believe amounts to around I think 18 billion some odd dollars. Of that same 50 people, 40 of them voted to fund the U.N. at the full amount and of that same 50 people, 45 of them voted for the HEW budget, the largest in this Congress. If you check that same 50 people, they are the big spenders, the ones that clip the coupons.

So I am asking the American public, the real demagoguery of this whole issue is do they want Congressmen that know how they feel or do they want Congress people that have no concept of the total value of the public whom they serve.

Now, the last time I was in this well I put it very bluntly, and I hope I am trying to bring some facts on this issue. I agree with the chairman, this pay raise issue has been blown totally and completely out of proportion. It is law and you will have an opportunity to vote on three very basic amendments; the Peyser amendment, the Fisher amendment, and the O'Brien amendment.

I am speaking specifically against the O'Brien amendment, because I have said before, it demeans this body and the Members of this body and if anybody would like to check the record of whom I speak, I would welcome you to come look at this record. It is a public record. It is in the congressional report and you can see and understand what I am speaking of about the elitist Congress that we are creating by not voting for the pay raise.

The SPEAKER. The question is on the amendment offered by the gentleman from New York (Mr. Peyser) to the amendment offered by the gentleman from Virginia (Mr. Fisher) as a substitute for the amendment offered by the gentleman from Illinois (Mr. O'Brien).

The amendment to the amendment offered as a substitute for the amendment was rejected.

The SPEAKER. The question is on the amendment offered by the gentleman from Virginia (Mr. Fisher) as a substitute for the amendment offered by the gentleman from Illinois (Mr. O'Brien).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. FISHER. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was refused.

So the amendment offered as a substitute for the amendment was rejected.

The SPEAKER. The question is on the amendment offered by the gentleman from Illinois (Mr. O'Brien).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. O'BRIEN. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

Mr. O'BRIEN. Mr. Speaker, on that I demand a division.

On a division (demanded by Mr. O'Brien), there were—yeas 72, nays 155.

So the amendment was rejected.

The SPEAKER. Are there further amendments?

☐ 1510

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kramer: Page 6, insert before line 13 the following: Notwithstanding any other provision of this joint resolution or any other provision of law, for any month immediately following any month during which the total public debt subject to the statutory debt limit, as reported in the monthly statement of the public debt published by the Department of the Treasury, indicates an increase from the level so reported during the preceding month, no part of the funds appropriated for the fiscal year ending September 30, 1980, by this Act or any other Act may be used to pay the salary of any Member of the Congress at a rate greater than 99 percent of the rate which would be payable without regard to this sentence. For purposes of the preceding sentence, the term "Member of Congress" means any person who holds the office of Senator, Member of the House of Representatives, Delegate to the House of Representatives, Resident Commissioner from Puerto Rico, President pro tempore of the Senate, majority or minority leader of the Senate or the House of Representatives, or the Speaker of the House of Representatives.

Mr. KRAMER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. CONTE. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment.

Mr. CONTE. Mr. Speaker, I reserve a point of order on the amendment.

The SPEAKER. The gentleman from Massachusetts (Mr. Conte) reserves a point of order on the amendment.

The gentleman from Colorado (Mr. Kramer) is recognized for 5 minutes in support of his amendment.

Mr. KRAMER. Mr. Speaker, it is with a bit of anxiety that I rise in front of the Members to offer an amendment that I do not think is going to be too popular. But I do it out of a sense of conviction and out of a sense of having had the opportunity and privilege of serving in this body for 9 months.

I have seen things here that indicate to me that our society is in deep, serious trouble. Inflation is running rampant among American citizens today at a rate of 14 percent, and whether we like it or not—and now that I have become a party to this process by becoming a Member of this body, I, too, am collectively responsible—whether we like it or not, the reason for the inflation that is running rampant is because of the deficit spending policies of this body which we refuse to come to grips with.

I am an advocate of a balanced budget amendment and spending limitations by constitutional amendment. The reason I advocate that is that I have concluded that this body is not capable of disciplining itself in a way that it can say "no" to its constituency without such an external disciplinary measure being imposed upon it.

Mr. Speaker, I hope that the Members of the House will pay attention here so they will know what they are voting on. This amendment would say that at whatever level we set our spending at for our own salaries, whether or not we have a 5½-percent increase or whether we have none, the amount of our pay will be decreased by 1 percent for every month in which the preceding month's debt has increased.

I suggest to the Members of this body that if we cannot externally impose discipline upon ourselves with a constitutional amendment, this approach will be successful in doing that, and within the next 3 or 4 months of the passage of this kind of an amendment we will, indeed, see the deficits leveling off and will see a return to fiscal sanity in this country.

Mr. Speaker, let me say to my fellow Members that I do not come in front of them very often, but when I do, regardless of whether they think so or not, I believe that I have something that is worth hearing. I would very much appreciate the courtesy of the Members if they will allow me to express myself and then they will have an opportunity to vote this up or down.

I speak to the friends that I have on the other side of the aisle. Their own Democratic Research Organization has recognized the truth and validity of what I am saying as to the relationship between deficit spending and where we are taking our country.

The Members have heard these figures reiterated so eloquently up at the microphone in the last 2 hours about the 126-percent increase over the last 10 years, and so forth, and so on, and I ask the Members whether or not we can, indeed, survive another 10 years like the preceding 10. I suggest to the Members that we cannot. Our budget levels are definitely tied to our rate of inflation that we are experiencing in this country, and I quote from the Democratic Research Organization's statement of August 1978 as follows:

> It is not coincidental that in the last ten years the budget was in deficit in all save one year and that the rate of inflation averaged twice the level of the previous ten years.
>
> . . . it is quite evident that inflation is the result of excessive monetary growth . . . (and that) monetary growth in excess of resource growth has been the most dependable result of government deficits . . .
>
> The principal reason deficits lead to inflation is that the deficits are often financed by printing money.
>
> . . . the composition of Federal spending is changing. There is, increasingly, less emphasis on investment related expenditures and more on consumption.

The SPEAKER. The time of the gentleman from Colorado (Mr. KRAMER) has expired.

(By unanimous consent, Mr. KRAMER was allowed to proceed for 2 additional minutes.)

Mr. KRAMER. Mr. Speaker, the gentleman from Missouri (Mr. ICHORD) spoke eloquently and put it succinctly in a way that I cannot:

> We just cannot resist the spending demands of our constituents.

Yes, we can, but we have not. I truly believe that we can if we are willing to ask ourselves to make a sacrifice—not just as taxpayers, because we ask that of all the citizenry in general, but as those special people who should signify ourselves for special sacrifice, because we are at the root of the problem that is really crumbling the structure and the fabric of American society today.

I would like to add one point in closing. I am sure that I, like every other Member of this body, would like to have more money. I am not a person of independent means, and I support myself from what I earn in this body. Unless we can eliminate deficits and thereby ultimately save our American way of life, I am willing to take not only a 1-percent decrease per month, but I am willing to take no salary at all, because I think all of us ought to be willing to make that sacrifice.

Mr. Speaker, I urge the Members, if they are sincerely interested in trying to come to grips with this ravaging inflation that is gripping our land, to support this amendment and watch it work.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. Certainly, I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I note with some interest, in looking over the record, that the gentleman has been moderately consistent—and I think "moderately" is not the wrong adverb—in voting for pay cuts, in voting against committee funding, and so on.

Is it a fact or is it not a fact that as a member of the Committee on Education and Labor, the gentleman has a member of the statutory staff assigned in addition to his other 19 persons?

Mr. KRAMER. Mr. Speaker, that is absolutely correct.

Mr. THOMPSON. That is inconsistent with the gentleman's position.

Mr. KRAMER. Mr. Speaker, let me tell the gentleman why. The reason is that I feel I have to have the resources sufficient to be able to come to grips with the spending habits of the majority party, particularly when the present committee staff assignments are not based on the numerical ratio of the majority and minority members of this body.

Mr. CONTE. Mr. Speaker, I insist on my point of order.

The SPEAKER. The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

Mr. THOMPSON. Mr. Speaker, if the gentleman will yield further, let me ask, does it cost him $19,000 to keep up?

The SPEAKER. The gentleman from Massachusetts (Mr. CONTE) has been recognized.

□ 1520

POINT OF ORDER

Mr. CONTE. Mr. Speaker, I make the point of order that the amendment is not germane.

The amendment deals with the subject of Federal pay and has the purpose of limiting Federal pay. The amendment offered by the gentleman from Colorado (Mr. KRAMER) introduces a new subject of a public debt, a completely new subject of public debt, and a different method of limiting Federal pay, that is, calculated relations between Federal pay and the public debt.

I think on both counts the amendment is not germane, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Colorado (Mr. KRAMER).

Mr. KRAMER. Mr. Speaker, I would like to quote from Deschler's Procedure, chapter 25, section 2.1 and also section 2.3. I think the precedents are very clear that this amendment is germane. I read as follows:

> A joint resolution providing continuing appropriations for departments and agencies of government, to provide funds until the regular appropriation bills are enacted, is not a "general appropriation bill" within the meaning of clause 2 Rule XXI.
>
> The restrictions against unauthorized items or legislation in a general appropriation bill or amendment thereto are not applicable to a joint resolution continuing appropriations, despite inclusion of diverse appropriations which are not "continuing" in nature.

Mr. Speaker, it is my understanding, in talking to the Parliamentarian's office, that a contingency amendment is, indeed, germane, provided that the contingency itself is within the scope of the performance of Congress.

I would ask that the amendment be ruled germane on that basis.

The SPEAKER. The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, what the gentleman in the well read really has nothing to do with the point of order that I am making. I am not making the point of order on the fact that the amendment is legislation on an appropriation bill. I am merely saying that the amendment offered by the gentleman, which has to do with the public debt, ties it in with the public debt, is not germane and is beyond the scope of the pay raise.

The SPEAKER. Does any other Member desire to be heard on the point of order?

Mr. WHITTEN. Mr. Speaker, I join my colleague, the gentleman from Massachusetts, in raising the point that the statements made by the gentleman are correct, but the only thing is, they do not have any application to the point of order as made.

Mr. KRAMER. Mr. Speaker, might I be heard just briefly again?

The SPEAKER. The Chair is ready to rule on the point of order.

The amendment offered by the gentleman from Colorado (Mr. KRAMER) provides a mechanism for measuring the ceiling to be placed on the amount of fiscal 1980 funds which can be available to pay salary increases for Members. The amendment does not in any way directly affect provisions of law relating to public debt levels during fiscal 1980.

As indicated in Deschler's Procedure, chapter 28, section 24.18, the Chair ruled on July 26, 1973 that an amendment which conditions the expenditure of funds in a bill by adopting as a measure of their availability the expenditure during that fiscal year of a comparable percentage of funds authorized by other acts is germane, so long as the amendment does not directly affect the obligation and expenditure of other funds or the administration of other programs.

In the opinion of the Chair, the legislative standard stated in the amendment offered by the gentleman from Colorado as a measure of the amount of pay increase to be paid by fiscal 1980 appropriated funds is an easily ascertainable method of adjusting the availability of those funds in relation to the Federal financial situation as a whole, and is not drafted as a contingency which is dependent upon specific unrelated events or actions of Congress.

The gentleman's point of order is overruled.

Mr. WHITTEN. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, we have heard this debate for 3 days. The amendment before us would do great damage to the existing law concerning pay and I think it would be a great mistake at this time.

I previously outlined why I think the 5.5-percent limitation in the amount that pay would otherwise be increased is appropriate.

I therefore ask for a vote, and I oppose the amendment.

The SPEAKER. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. KRAMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

Mr. KRAMER. Mr Speaker, on that I demand a division.

On a division (demanded by Mr. KRAMER) there were—yeas 22, nays 178.

So the amendment was rejected.

Mr. WHITTEN. Mr. Speaker, I move the previous question on the joint resolution and the amendment thereto to final passage.

The SPEAKER. The gentleman from Mississippi (Mr. WHITTEN) moves the previous question.

Mr. SOLOMON. Mr. Speaker, I have two amendments at the desk.

The SPEAKER. The Chair will advise the gentleman that the previous question has been moved. It is a preferential motion. The Chair will put that motion.

Mr. SOLOMON. Mr. Speaker, I object.

The SPEAKER. The Chair will put that preferential motion. The question is on ordering the previous question.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 158, nays 61.

RECORDED VOTE

Mr. RHODES. Mr. Speaker, I demand a recorded vote.

The SPEAKER. Forty-three Members have arisen. The Chair will vote, making it 44, so there will be a rollcall.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 209, noes 200, not voting 25, as follows:

[Roll No. 504]

AYES—209

Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breaux
Brinkley
Brodhead
Brooks
Burlison
Burton, John
Burton, Phillip
Byron
Chappell
Chisholm
Clay
Coelho
Collins, Ill.
Conyers
Corman
Cotter
Danielson
Daschle
de la Garza
Dellums
Derrick
Derwinski
Dickinson
Dicks
Diggs
Dingell
Dixon
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Evans, Ga.
Evans, Ind.
Fary
Fascell
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Ginn
Gonzalez
Gray
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Horton
Howard
Huckaby
Hutto
Ireland
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kostmayer
LaFalce
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
McCormack
McEwen
McHugh
McKay
Markey
Marks
Mattox
Mica
Mikulski
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Price
Rahall
Rangel
Reuss
Richmond
Roberts
Roe
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Seiberling
Shannon
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Stump
Swift
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Wyatt
Yates
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOES—200

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Bauman
Bedell
Bennett
Bereuter
Bethune
Boner
Bouquard
Bowen
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Carr
Cavanaugh
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
Deckard
Devine
Dodd
Dornan
Dougherty
Edwards, Okla.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Fenwick
Fish
Frenzel
Frost
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Hubbard
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Jones, Tenn.
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McDonald
McKinney
Madigan
Maguire
Marlenee
Marriott
Martin
Matsui
Mazzoli
Michel
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Nelson
Nichols
Nowak
O'Brien
Oakar
Panetta
Paul
Petri
Preyer
Pritchard
Pursell
Quayle
Railsback
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Symms
Synar
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wolpe
Wydler
Wylie
Yatron
Young, Fla.

NOT VOTING—25

Addabbo
Anderson, Ill.
Biaggi
Brown, Calif.
Carter
Corcoran
Donnelly
Fazio
Ferraro
Flood
Gibbons
Holtzman
Mathis
Mavroules
Mikva
Murphy, Ill.
Myers, Ind.
Pashayan
Quillen
Rodino
Rose
Rosenthal
Treen
Winn
Wolff

□ 1540

Messrs. JONES of Tennessee, KOGOVSEK, and SYNAR changed their votes from "aye" to "no."

Mr. VOLKMER changed his vote from "no" to "aye."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Does the gentleman qualify?

Mr. CONTE. I do, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONTE moves to recommit the joint resolution (H.J. Res. 404) to the Committee on Appropriations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 203, not voting 23, as follows:

[Roll No. 505]

AYES—208

Akaka
Alexander
Andrews, N.C.
Annunzio
Anthony
Ashley
Badham
Bailey
Baldus
Barnes
Beilenson
Benjamin
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Chappell
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Daniel, Dan
Danielson
Davis, S.C.
Dellums
Derrick
Derwinski
Dickinson
Dicks
Diggs
Dingell
Dixon
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Garcia
Gaydos
Gephardt
Giaimo
Ginn
Gonzalez
Gray
Green
Guarini
Harris
Hawkins
Hefner
Heftel
Hinson
Holland
Hollenbeck
Horton
Howard
Hughes
Hyde
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kindness
LaFalce
Lederer
Lehman
Leland
Lent
Lewis
Lloyd
Long, La.
Long, Md.
Lott
Lowry
McCloskey
McCormack
McDade
McEwen
McKay
McKinney
Madigan
Marks
Martin
Michel
Mikulski
Mineta
Minish
Mitchell, Md.
Moakley
Moorhead, Pa.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nolan
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Rahall
Railsback
Rangel
Reuss
Richmond
Roberts
Robinson
Roe
Rostenkowski
Roybal
Russo
Sabo
Satterfield
Scheuer
Schulze
Seiberling
Shannon
Simon
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Swift
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Watkins
Waxman
Weiss
White
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wright
Wyatt
Yates
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOES—203

Abdnor
Albosta
Ambro
Anderson, Calif.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bereuter
Bethune
Boner
Brinkley
Broomfield
Brown, Ohio
Buchanan
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Devine
Dodd
Dornan
Downey
Drinan
Edgar
Edwards, Okla.
Emery
English
Erdahl
Ertel
Frost
Fuqua
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harsha
Heckler
Hightower
Hillis
Holt
Hopkins
Hubbard
Huckaby
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Levitas
Livingston
Loeffler
Lujan
Luken
Lundine
Lungren
McClory
McDonald
McHugh
Maguire
Markey
Marlenee
Marriott
Matsui
Mattox
Mazzoli
Mica
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Panetta
Pashayan
Paul
Petri
Pursell
Quayle
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Sawyer
Schroeder
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stack
Stangeland
Stenholm
Stockman
Stratton
Studds
Stump
Symms
Synar
Tauke
Taylor
Thomas
Udall
Vander Jagt
Walgren
Walker
Wampler
Weaver
Whitehurst
Whitley
Whittaker
Williams, Mont.
Wirth
Wolpe
Wydler
Wylie
Yatron
Young, Fla.

NOT VOTING—23

Addabbo
Anderson, Ill.
Biaggi
Carter
Corcoran
Donnelly
Fazio
Ferraro
Flood
Gibbons
Holtzman
Mathis
Mavroules
Mikva
Murphy, Ill.
Myers, Ind.
Quillen
Rodino
Rose
Rosenthal
Treen
Winn
Wolff

☐ 1600

The Clerk announced the following pairs:

On this vote:

Mr. Murphy of Illinois for, with Ms. Holtzman against.

Mr. Addabbo for, with Mr. Donnelly against.

Mr. Wolff for, with Mr. Corcoran against.

Mr. Rodino for, with Mr. Quillen against.

Until further notice:

Mr. Biaggi with Mr. Anderson of Illinois.

Mr. Rosenthal with Mr. Carter.

Mr. Fazio with Mr. Winn.

Ms. Ferraro with Mr. Myers of Indiana.

Mr. Mavroules with Mr. Mathis.

Mr. Rose with Mr. Gibbons.

Mr. HOLLAND changed his vote from "no" to "aye."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REORGANIZATION PLAN NO. 3 OF 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-193)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1979, to consolidate trade functions of the United States Government. I am acting under the authority vested in me by the Reorganization Act of 1977, chapter 9 of title 5 of the United States Code, and pursuant to section 1109 of the Trade Agreements Act of 1979, which directs that I transmit to the Congress a proposal to restructure the international trade functions of the Executive branch.

The goal of this reorganization is to improve the capacity of the Government to strengthen the export performance of United States industry and to assure fair international trade practices, taking into account the interests of all elements of our economy.

Recent developments, which have raised concern about the vitality of our international trade performance, have focused much attention on the way our trade machinery is organized. These developments include our negative trade balance, increasing dependence upon foreign oil, and international pressures on the dollar. New challenges, such as implementation of the Multilateral Trade Negotiation (MTN) agreements and trade with non-market economies, will further test our Government trade organization.

We must be prepared to apply domestically the MTN codes on procurement, subsidies, standards, and customs valuation. We also must monitor major implementation measures abroad, reporting back to American business on important developments and, where necessary, raising questions internationally about foreign implementation. MTN will work—will open new markets for U.S. labor, farmers, and business—only if we have adequate procedures for aggressively monitoring and enforcing it. We intend to meet our obligations, and we expect others to do the same.

The trade machinery we now have cannot do this job effectively. Although the Special Trade Representative (STR) takes the lead in administering the trade agreements program, many issues are handled elsewhere and no agency has across-the-board leadership in trade. Aside from the Trade Representative and the Export-Import Bank, trade is not the primary concern of any Executive branch agency where trade functions are located. The current arrangements lack a central authority capable of planning a coherent trade strategy and assuring its vigorous implementation.

This reorganization is designed to correct such deficiencies and to prepare us for strong enforcement of the MTN codes. It aims to improve our export promotion activities so that United States exporters can take full advantage of trade opportunities in foreign markets. It provides for the timely and efficient administration of our unfair trade laws. It also establishes an efficient mechanism for shaping an effective comprehensive United States trade policy.

To achieve these objectives, I propose to place policy coordination and negotiation—those international trade functions that most require comprehensiveness, influence, and Government-wide perspective—in the Executive Office of the President. I propose to place operational and implementation responsibilities, which are staff-intensive, in line departments that have the requisite resources and knowledge of the major sectors of our economy to handle them. I have concluded that building our trade structure on STR and Commerce, respectively, best satisfies these considerations.

I propose to enhance STR, to be renamed the Office of the United States Trade Representative, by centralizing in it international trade policy development, coordination and negotiation functions. The Commerce Department will become the focus of non-agricultural operational trade responsibilities by adding to its existing duties those for commercial representation abroad, antidumping and countervailing duty cases, the nonagricultural aspects of MTN implementation, national security investigations, and embargoes.

THE UNITED STATES TRADE REPRESENTATIVE

The Trade Representative, with the advice of the Trade Policy Committee, will be responsible for developing and coordinating our international trade and direct investment policy, including the following areas:

Import remedies. The Trade Representative will exercise policy oversight of the application of import remedies, analyze long-term trends in import remedy cases and recommend any necessary legislative changes. For antidumping and countervailing duty matters, such coordination, to the extent legally permissible, will be directed toward the establishment of new precedents, negotiation of assurances, and coordination with other trade matters, rather than case-by-case fact finding and determinations.

East-West trade policy. The Trade Representative will have lead responsibility for East-West trade negotiations and will coordinate East-West trade policy. The Trade Policy Committee will assume the responsibilities of the East-West Foreign Trade Board.

International investment policy. The Trade Representative will have the policy lead regarding issues of direct foreign investment in the United States, direct investment by Americans abroad, operations of multinational enterprises, and multilateral agreements on international investment, insofar as such issues relate to international trade.

International commodity policy. The Trade Representative will assume responsibility for commodity negotiations and also will coordinate commodity policy.

Energy trade. While the Departments of Energy and State will continue to share responsibility for international energy issues, the Trade Representative will coordinate energy trade matters. The Department of Energy will become a member of the TPC.

Export-expansion policy. To ensure a vigorous and coordinated Government-wide export expansion effort, policy oversight of our export expansion activities will be the responsibility of the Trade Representative.

The Trade Representative will have the lead role in bilateral and multilateral trade, commodity, and direct investment negotiations. The Trade Representative will represent the United States in General Agreement on Tariffs and Trade (GATT) matters. Since the GATT will be the principal international forum for implementing and interpreting the MTN agreements and since GATT meetings, including committee and working group meetings, occur almost continuously, the Trade Representative will have a limited number of permanent staff in Geneva. In some cases, it may be necessary to assign a small number of USTR staff abroad to assist in oversight of MTN enforcement. In this event, appropriate positions will be authorized. In recognition of the responsibility of the Secretary of State regarding our foreign policy, the activities of overseas personnel of the Trade Representative and the Commerce Department will be fully coordinated with other elements of our diplomatic missions.

In addition to his role with regard to GATT matters, the Trade Representative will have the lead responsibility for trade and commodity matters considered in the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD) when such matters are the primary issues under negotiation. Because of the Secretary of State's foreign policy responsibilities, and the responsibilities of the Director of the International Development Cooperation Agency as the President's principal advisor on development, the Trade Representative will exercise his OECD and UNCTAD responsibilities in close cooperation with these officials.

To ensure that all trade negotiations are handled consistently and that our negotiating leverage is employed to the maximum, the Trade Representative will manage the negotiation of particular issues. Where appropriate, the Trade Representative may delegate responsibility for negotiations to other agencies with expertise on the issues under consideration. He will coordinate the operational aspects of negotiations through a Trade Negotiating Committee, chaired by the Trade Representative and including the Departments of Commerce, State, Treasury, Agriculture and Labor.

The Trade Representative will be concerned not only with on going negotiations and coordination of specific, immediate issues, but also—very importantly—with the development of long-term United States trade strategies and policies. He will oversee implementation of the MTN agreements, and will advise the President on the effects of other Government policies (e.g., antitrust, taxation) on U.S. trade. In order to participate more fully in oversight of international investment and export financing activities, the Trade Representative will become a member of the National Advisory Council on International Monetary and Financial Policies and the Boards of the Export-Import Bank and the Overseas Private Investment Corporation.

In performing these functions, the Trade Representative will act as the principal trade spokesman of the President. To assure that our trade policies take into account the broadest range of perspectives, the Trade Representative will consult with the Trade Policy Committee, whose mandate and membership will be expanded. The Trade Representative will, as appropriate, invite agencies such as the Export-Import Bank and the Overseas Private Investment Corporation to participate in TPC meetings in addition to the permanent TPC members. When different departmental views on trade matters exist within the TPC as will be the case from time to time in this complex policy area, I will expect the Trade Representative to resolve policy disagreements in his best judgment, subject to appeal to the President.

THE DEPARTMENT OF COMMERCE

The Department of Commerce, under this proposal, will become the focal point of operational responsibilities in the nonagricultural trade area. My reorganization plan will transfer to the Commerce Department important responsibilities for administration of countervailing and antidumping matters, foreign commercial representation, and MTN implementation support. Consolidating these trade functions in the Department of Commerce builds upon an agency with extensive trade experience. The Department will retain its operational responsibilities in such areas as export controls, East-West trade, trade adjustment assistance to firms and communities, trade policy analysis, and monitoring foreign compliance with trade agreements. The Department will be substantially reorganized to consolidate and reshape its trade functions under an Under Secretary for International Trade.

With this reorganization, trade functions will be strengthened within the Department of Commerce, and such related efforts in the Department as improvement of industrial innovation and productivity, encouraging local and regional economic development, and sectoral analysis, will be closely linked to an aggressive trade program. Fostering the international competitiveness of American industry will become the principal mission of the Department of Commerce.

IMPORT REMEDIES

I propose to transfer to the Department of Commerce responsibility for administration of the countervailing duty and antidumping statutes. This function will be performed efficiently and effectively in an organizational setting where trade is the primary mission. This activity will be directed by a new Assistant Secretary for Trade Administration, subject to Senate confirmation. Although the plan permits its provisions to take effect as late as October 1, 1980, I intend to make this transfer effective by January 1, 1980, so that it will occur as the new MTN codes take effect. Commerce will continue its supportive role in the staffing of other unfair trade practice issues, such as cases arising under section 301 of the Trade Act of 1974.

COMMERCIAL REPRESENTATION

This reorganization plan will transfer to the Department of Commerce responsibility for commercial representation abroad. This transfer would place both domestic and overseas export promotion activities under a single organization, directed by an Assistant Secretary for Export Development, charged with aggressively expanding U.S. export opportunities. Placing this Foreign Commercial Service in the Commerce Department will allow commercial officers to concentrate on the promotion of U.S. exports as their principal activity.

Initially, the transfer of commercial representation from State to Commerce will involve all full-time overseas trade promotion and commercial positions (approximately 162), responsibility for this function in the countries (approximately 60) to which these individuals are assigned, and the associated foreign national employees in those countries. Over time, the Department of Commerce undoubtedly will review the deployment of commercial officers in light of changing trade circumstances and propose extensions or alterations of coverage of the Foreign Commercial Service.

MTN IMPLEMENTATION

I am dedicated to the aggressive implementation of the Multilateral Trade Agreements. The United States must seize the opportunities and enforce the obligations created by these agreements. Under this proposal, the Department of Commerce will assign high priority to this task. The Department of Commerce will be responsible for the day-to-day implementation of non-agricultural aspects of the MTN agreements. Management of this function will be a principal assignment of an Assistant Secretary for Trade Policy and Programs. Implementation activities will include:

—monitoring agreements and targeting problems for consultation and negotiation;

—operating a Trade Complaint Center where the private sector can receive advice as to the recourse and remedies available;

—aiding in the settlement of disputes, including staffing of formal complaint cases;

—identifying problem areas for consideration by the Trade Representative and the Trade Policy Committee;

—educational and promotion programs regarding the provisions of the agreements and the processes for dealing with problems that arise;

—providing American business with basic information on foreign laws, regulations and procedures;

—consultations with private sector advisory committees; and

—general analytical support.

These responsibilities will be handled by a unit built around the staff from Commerce that provided essential analytical support to STR throughout the MTN negotiation process. Building implementation of MTN around this core group will assure that the government's institutional memory and expertise on MTN is most effectively devoted to the challenge ahead. When American business needs information or encounters problems in the MTN area, it can turn to the Department of Commerce for knowledgeable assistance.

Matching the increased importance of trade in the Department's mission will be a much strengthened trade organization within the Department. By creating a number of new senior level positions in the Department, we will ensure that trade policy implementation receives the kind of day-to-day top management attention that it both demands and requires.

With its new responsibilities and resources, the Department of Commerce will become a key participant in the formulation of our trade policies. Much of the analysis in support of trade policy formulation will be conducted by the Department of Commerce, which will be close to the operational aspects of the problems that raise policy issues.

To succeed in global competition, we must have a better understanding of the problems and prospects of U.S. industry, particularly in relation to the growing strength of industries abroad. This is the key reason why we will upgrade sectoral analysis capabilities throughout the Department of Commerce, including the creation of a new Bureau of Industrial Analysis. Commerce, with its ability to link trade to policies affecting industry, is uniquely suited to serve as the principal technical expert within the Government on special industry sector problems requiring international consultation, as well as to provide industry-specific information on how tax, regulatory and other Government policies affect the international competitiveness of the U.S. industries.

Commerce will also expand its traditional trade policy focus on industrial issues to deal with the international trade and investment problems of our growing services sector. Under the proposal, there will be comprehensive service industry representation in our industry advisory process, as well as a continuing effort to bring services under international discipline. I expect the Commerce Department to play a major role in developing new service sector initiatives for consideration within the Government.

After an investigation lasting over a year, I have found that this reorganization is necessary to carry out the policy set forth in section 901(a) of title 5 of the United States Code. As described above, this reorganization will increase significantly our ability to implement the MTN agreements efficiently and effectively and will improve greatly the services of the government with regard to export development. These improvements will be achieved with no increase in personnel or expenditures, except for an annual expense of about $300,000 for the salaries and clerical support of the three additional senior Commerce Department officials and a non-recurring expense of approximately $600,000 in connection with the transfers of functions provided in the plan. I find that the reorganization made by this plan makes necessary the provisions for the appointment and pay of a Deputy Secretary, an Under Secretary for International Trade, and two additional Assistant Secretaries of the Department of Commerce, and additional members of the Boards of Directors of the Export-Import Bank and the Overseas Private Investment Corporation.

It is indeed appropriate that this proposal follows so soon after the overwhelming approval by the Congress of the Trade Agreements Act of 1979, for it will sharpen and unify trade policy direction, improve the efficiency of trade law enforcement, and enable us to negotiate abroad from a position of strength. The extensive discussions between Administration officials and the Congress on this plan have been a model of the kind of cooperation that can exist between the two branches. I look forward to our further cooperation in successfully implementing both this reorganization proposal and the MTN agreements.

JIMMY CARTER.

THE WHITE HOUSE, *September 25, 1979.*

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate agrees to the further report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 111) entitled "An act to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977."

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. ZEFERETTI. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4034, with Mr. SEIBERLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, September 21, 1979, section 117 and the remainder of the bill had been considered as having been read and open to amendment at any point. Pending was an amendment offered by the gentleman from California (Mr. DANNEMEYER).

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 62 after line 24 add the following new section, and renumber the succeding sections accordingly.

SEC. 124. Notwithstanding any other provision of this Act subsection (1) of section 7 of the Export Administration Act of 1969 as such section is redesignated by section 104 (a) of the Act, is amended (1) in paragraph (1)—

(A) by striking out clause (A) and inserting in lieu thereof the following: "(A) is exported to another country in exchange for the same quantity of crude oil being exported from an adjacent foreign country to the United States, or", and

(B) by striking out "during the 2-year period beginning on the date of enactment of this subsection"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

"(A) the President makes and publishes express findings that exports of such crude oil, including exchanges—

"(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

"(ii) will, within three months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refineries which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil which is exported, and (II) commensurately reduced wholesale and retail prices of products refined from such imported crude oil;

"(iii) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

"(iv) are clearly necessary to protect the national interest; and

"(v) are in accordance with the provisions of this Act; and

"(B) the President reports such findings to the Congress and the Congress, within sixty days thereafter, passes a concurrent resolution approving such exports on the basis of the findings.

Findings of lower costs and prices described in subparagraph (A)(ii) should be audited and verified by the General Accounting Office at least semiannually.

"(3) Notwithstanding any other provision of this section and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any nation pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before May 1, 1979.

"(4) The limitations of this subsection, and the requirement contained in subsection (u) of section 28 of the Mineral Leasing Act of 1920 that the President make certain findings, shall be effective only during a period in which, as determined by the President, the major oil exporting countries have imposed severe restrictions on the export of oil to the United States.".

Mr. WOLPE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California (Mr. DANNEMEYER), and I would urge my colleagues to attend very carefully to what the Dannemeyer amendment would accomplish.

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The Dannemeyer amendment would effectively allow exports of Alaskan oil to proceed without meeting a single test or condition, not even a national security test. The amendment of the gentleman from California would permit restrictions on the export of Alaskan oil only when, in the language of the amendment, "the major oil exporting countries have imposed severe restrictions on the export of oil to the United States."

In all other circumstances only the oil companies would decide what happens to Alaskan oil and the Congress would have no say whatsoever in its disposition.

The language that was adopted by the Committee on Foreign Affairs, that the gentleman from California seeks to amend, was approved overwhelmingly in a 21 to 9 vote after very thorough consideration and debate. The proposed restrictions on the export of Alaskan oil that are within the bill before you are motivated by two central concerns: first, the need to reduce American dependence on unstable foreign oil supplies; and, second, the desire to see the oil companies honor the promise made at the time of the authorization of the trans-Alaskan pipeline to put in place the domestic infrastructure that would insure that Alaskan oil would be available to domestic American markets.

Mr. Chairman, I want to emphasize there is nothing within the language of the bill before you that flatly prohibits the export of Alaskan oil. The bill simply states that the only acceptable basis for such exports is a showing of direct consumer benefit and a showing that such exports would not adversely affect America's oil supply. The question, really, before the House is whether or not those are unreasonable criteria to impose upon the export of such a critical resource.

Mr. Chairman, the language of the bill as approved by the Foreign Affairs Committee says, further, that the Congress should have a direct and affirmative role in making decisions with regard to this very critical resource.

Mr. Chairman, who would benefit by the oil exports that the gentleman from California would like to facilitate? Certainly not the consumer. It is true, as pointed out by the gentleman from California, that the transportation costs of taking Alaskan oil to Japan would be $2 lower per barrel than the cost presently incurred in transporting Alaskan oil through the Panama Canal. But the cost of transportation does not add a single cent to the price American consumers pay for Alaskan oil because the price of Alaskan North Slope crude oil is already decontrolled. It sells for whatever price the market will bear, regardless of how much—or how little—it costs to get the oil to its destination.

The fact of the matter is that the American consumer stands to gain absolutely nothing by the export of Alaskan oil. Nor would the American national interest be served by such exports, because they would only extend our dependence upon unstable foreign oil supplies.

Only the oil companies stand to gain. It is their argument that they need additional profits to enable them to expand their production on the North Slope and to realize the full potential of the Alaskan field.

Mr. Chairman, there is absolutely no evidence, oil company protestations notwithstanding, that existing price levels and financial incentives are inhibiting North Slope production. In fact, the Alaskan North Slope oil producers recently announced their plans to increase production by 15 percent, to 1.5 million barrels per day by the end of next year. Clearly, current restrictions on Alaskan oil exports are no disincentive whatever to increased production. The simple truth is that we can expect increased production in Alaska because decontrolled Alaskan North Slope oil is enormously profitable, and has been made all the more so by recent OPEC price increases.

At some point, when confronted with the issue of profits and incentives, we have to ask ourselves, "When is enough, enough." In the first quarter of this year, Sohio, the North Slope's largest producer, reported a 302 percent increase in profits over the first quarter of last year. In the second quarter of this year there was a further 70 percent increase. Clearly, the issue is whether we are developing a public policy designed to serve the American public interest or whether we are going to continue an energy policy designed to serve only the interests of the oil industry.

Mr. Chairman, I would urge opposition to the Dannemeyer amendment. It is not in the public interest. It removes any effective congressional role in determining the disposition of Alaskan oil. It will, most importantly, prolong the time when the oil companies will begin to put into place the refinery and pipeline capacity that is so vital to insuring the future domestic use of American oil supplies.

Mr. BARNES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to

the amendment offered by our colleague, Mr. DANNEMEYER. This amendment would effectively gut the committee provisions relating to the export of Alaskan oil.

The Dannemeyer amendment would eliminate the committee requirement that any exchange or swap of Alaskan oil result in lower acquisition costs for refiners and commensurately reduced wholesale and retail prices for consumers in the United States. It would further eliminate the provision that oil exchanged with an adjacent foreign state be refined and consumed in that adjacent foreign state. Therefore, it would allow so-called swaps which benefit only the oil companies.

The Dannemeyer amendment, although appearing to provide for findings of fact, congressional approval and the GAO audit, in reality does not. The conditions and restrictions would not have to be met unless the President determines "that the major exporting nations have imposed severe restrictions on the export of oil to the United States." In other words, under the Dannemeyer proposal, there would be absolutely no restrictions on the export of Alaskan oil unless OPEC imposed another embargo.

Mr. DANNEMEYER would allow exports to proceed without meeting a single test or condition, not even a national security test. In effect, this amendment would totally exclude Congress and the executive branch from important decisions affecting Alaskan oil; the oil companies would have a blank check to export this vital resource.

It seems to me that the only prudent and responsible course of action is to have in place some safeguard restrictions before an embargo goes into effect, not hastily adopted after the fact.

I believe that the language adopted overwhelmingly by the committee, after careful and extensive consideration, is the proper policy. I might add that the Senate adopted a similar provision by a wide margin. The committee provision does not preclude exports or swaps. It simply states that the only acceptable criteria for Alaskan oil exports are a showing of consumer benefit and a showing that such exports would not adversely affect America's oil supply.

The committee language would also create an additional incentive for building a west-to-east pipeline and for retrofitting west coast refineries to handle full Alaskan North Slope production. Another feature of the committee bill is that it requires that Congress play a key role in decisions affecting what happens to Alaska oil. Any export plan must have the approval of both Houses. Under the Dannemeyer proposal, only the oil companies would decide what happens to Alaska oil.

Finally, the bill as reported would reaffirm our commitment to a strong national energy policy. It would allow exports and swaps only if certain tests were met and Congress is given an affirmative role in dealing with these proposals. The Dannemeyer amendment would do neither of these.

I strongly urge my colleague to retain the Foreign Affairs Committee language and reject the Dannemeyer amendment, which I believe is an ill-conceived and misdirected effort.

Mr. ZEFERETTI. Mr. Chairman, will the gentleman yield?

Mr. BARNES. I yield to the gentleman from New York.

Mr. ZEFERETTI. Mr. Chairman, I strongly urge that my colleagues defeat this proposed amendment which would allow for an outright swap of Alaska North Slope oil. I urge that we approve the restrictions on export of Alaska oil as reported by the House Committee on Foreign Affairs.

It is inconceivable to me how we can allow for the export or swap of Alaska oil when it is the pronounced policy of this country to reduce our dependence on foreign oil.

It is vital that we all understand that the exchange of Alaska oil will in no way reduce our dependence on imported oil. In fact, swaps could well have the negative impact of actually increasing our reliance on foreign sources of oil.

We need look no further than to the Iranian oil cutoff for a prime example of how damaging and unwise our continued reliance on foreign sources is. Even if the United States is able to terminate the swap arrangement and to avoid our obligation to ship Alaska oil, our Nation will simply return to day one. We will not have an effective domestic oil distribution and transportation system to move Alaska oil to where it is needed the most; that is, the Midwest and the East.

Mr. Chairman, it is crystal clear to me that allowing the exchange or swap of Alaska oil will be placing an insurmountable obstacle in the way of any long-term solution to our domestic oil distribution problems. By permitting Alaska oil to be exported, we will surely sound the death knell for west-to-east pipelines. Any hope that we may have an efficient and equitable domestic oil transportation system will evaporate. Exporting Alaska oil is the surest way of guaranteeing that proposed pipelines are never built.

Mr. Chairman, we must ask ourselves who is going to benefit from these exports. Surely the oil companies stand to gain, as does the State of Alaska. But, Mr. Speaker, how about the American consumer? What is in the export of Alaska oil for him. The Dannemeyer amendment specifically eliminates the provision that would insure that any exchange or export of Alaskan oil result in a consumer benefit. Any transportation savings will be seen on the oil companies' income statement and not in the consumers' pocketbook.

I also want to point out that the export restrictions such as advocated by my colleagues, STEWART MCKINNEY and HOWARD WOLPE, do not flatly prohibit the exchange of Alaska oil. If Alaska oil is refined and consumed in the adjacent foreign state and will achieve lower oil prices for American consumers, then an exchange in like quantity and quality may take place.

Mr. Chairman, I would like to raise one final point. In most discussions of an Alaska oil swap, proponents have Alaska oil going to Japan in exchange for Mexican oil. This would hardly be an equitable exchange. According to the Cities Service Oil Company, Mexican oil is inferior to Alaska oil. More unleaded gasoline can be produced from a barrel of Alaska oil than from a barrel of Mexican oil. I am sure that the American public would be far from overjoyed at the prospect of an arrangement such as the proposed amendment would allow.

Once again, I urge you to defeat this amendment and to approve the language as reported by the House Foreign Affairs Committee.

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Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it seems very strange to me that we are here arguing this subject once again. The House overwhelmingly passed the McKinney amendment which stopped the exportation of Alaskan oil over 2 years ago. In fact, the House went to the almost unprecedented length of instructing the conferees to stick to the House position.

I appreciate the interest of my colleague, the gentleman from California (Mr. DANNEMEYER) in the issue of Alaskan oil distribution. However, I take strong exception with both the approach and substance of his amendment to remove the restriction on the export of North Slope crude. The effect of the gentleman's amendment would negate the entire purpose of building a trans-Alaskan pipeline and would run counter to our efforts to reduce reliance on foreign oil. The cornerstone of congressional approval for construction of the Alaskan pipeline, the watchword for development of Alaska's North Slope over the last decade and the impetus for constructing new pipelines to carry that oil eastward can be summed up in one word—independence.

We are on the threshold of completing a project that will deliver 2 million barrels of domestically produced oil every day to U.S. refineries. That is 2 million barrels a day that we would otherwise be importing, at exorbitant prices, from the OPEC cartel. Are we now, in the eleventh hour, going to undermine that entire project by exporting nearly a quarter of that oil to Japan?

There is no longer any question of domestic utilization of Alaskan oil. The "glut" no longer exists. Every drop of oil being produced on the North Slope is being refined and consumed in U.S. markets. And, other U.S. refiners are actually looking for more. The explanation is simple. Alaskan oil at any price is a desirable alternative to spot market crude. Are we actually going to consider throwing away the economic and political independence that Alaskan oil offers?

The arguments offered by my colleague in support of his amendment are essentially three: Transportation cost savings;

balance of trade benefits; and the availability of foreign supply. It should be made clear that the export restriction contained in this bill does not prohibit the export of Alaskan crude. If an economic benefit to the consumer can be documented, the Congress could approve a swap. But the consumer benefits will not result from a savings in transportation costs. Those savings will be captured by the Alaskan producers and added to their recordbreaking earnings from the last three quarters. Further, the balance of trade savings that my colleague envisions from a swap cannot make up for the dollars lost due to the difference in price between Alaskan and Mexican crude. Alaskan oil is presently selling for approximately $22 a barrel. Mexican oil is priced over $23 a barrel and Mexico adds a 75-cents-a-barrel surcharge to offset the transportation cost savings derived from buying Mexican rather than Middle East crude. In short, a swap would result in a substantial loss in the balance of payments for each barrel we export.

Furthermore, Mr. Chairman, I doubt that anyone in this Chamber would dispute the fact that the only truly secure oil supply is a domestically produced supply. I am pleased that my colleague's amendment does not advocate the increased use of OPEC oil. Nevertheless, any exchange agreement would necessitate an increase in foreign oil imports.

While the obvious marketability of Mexican oil on the gulf coast makes that source preferable to OPEC supplies, the mere happenstance of common boundaries does not insure supply security. Canada has already announced its intention to eliminate oil exports to our northern tier refineries in the next few years. And Mexico, despite its willingness, was only able to fulfill 60 percent of its export contracts in May and June of this year due to production difficulties. Also, because of its overwhelming reliance on the United States for foreign trade, Mexico's Ministry of Patrimony and Industrial Development (under the firm policy direction of President Portillo), has developed a "2-year program" to reduce the U.S. share of Mexican oil exports from 80 to 60 percent. Such information not only casts legitimate doubts on the security of supply but raises the question of whether the proponents of a swap have bothered to obtain the Mexican Government's view of such a plan.

Finally, the question of national security as regards the transport of Alaskan oil has been raised. Mr. Chairman, the greatest threat to our national security—economically, politically, and militarily—is our continued dependence on other people's oil. We are racing against time in an attempt to free ourselves from that dangerously precarious position. To allow the export of Alaskan oil would undermine any progress we have made in freeing ourselves from the economic stranglehold of foreign producing nations. No defense budget of any size, no amount of troops or arsenal of missiles can protect this country from the threat of continued dependence. Don't talk to me of transportation savings, when the foundation of our economy is in the hands of foreign oil producers. Mr. Chairman, I urge the defeat of this amendment.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I would like to say to the gentleman, I oppose the Dannemeyer amendment. I am concerned about our trade balance, particularly with Japan. We are buying from Japan about $8 billion or $9 billion more than we sell and if they are able to buy American oil, they will liquidate some of that trade deficit. In other words, they will buy American oil and sell more Japanese products in our markets.

Mr. McKINNEY. Mr. Chairman, I would answer the gentleman simply this way. A trade deficit is a trade deficit. And, we would build a trade deficit of a minimum of $1 for every barrel of oil we exported to Japan, because Alaskan oil is currently selling at $22 a barrel. Mexican oil is selling at $23 a barrel, so we would have an automatic deficit of trade with the Mexican Government. It really makes very little difference where the deficit occurs. Uncle Sam would still be losing $1 per barrel of oil.

Mr. VANIK. But in addition to that, it would help the Japanese correct the imbalance of their commerce. They would be buying a very precious raw material from this country and coming back with other products to help to equalize the amount of the trade deficit.

Mr. McKINNEY. This gentleman coming from a highly technical State is not the slightest bit interested in helping the Japanese.

Mr. VANIK. Well, I am with the gentleman in opposing the amendment.

Mr. McKINNEY. I would suggest to the gentleman that once the Japanese allow the Ford Motor Co. and General Motors to have distribution plants and parts warehouses, I would be very interested in a more reliable trade relationship with them.

Mr. VANIK. In the meantime, I do not think we ought to alleviate the deficit by letting them have our oil.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from California.

The amendment does not really create any additional oil for the people of the United States—it does create some additional profit for some oil companies.

But the amendment has a side effect which is likely to blunt our efforts to solve a major trade crisis. The amendment will permit the Japanese to reduce their trade deficit with the United States by about $3 billion per year, thus camouflaging the fact that we still have enormous and serious structural trade problems with that nation. This amendment could be labeled "The Get Japan Off the Hook Amendment."

Last year, our trade deficit with Japan was $11.6 billion. This year, it will probably be about $8.8 billion, and I predict that in the future the deficit may again widen, because of the depreciation of the yen relative to the dollar and because of our domestic energy problems and inflation. In many areas, it is still difficult to impossible to sell American manufactured and agricultural goods in Japan. The staggering trade deficits of the past several years have helped put the public spotlight on Japanese trade barriers—and as a result some of those barriers have been dismantled.

The amendment of the gentleman from California will have the effect of lobbing billions of dollars off our trade deficit with Japan—even though we are making only slow and tedious progress in solving our manufactured and agricultural trade problems with Japan. The amendment will defuse attention from the need to solve our long-range problems with Japan; it will contribute further to turning America into a giant plantation of raw materials for Japan—a plantation that supplies soybeans, phosphate rock, and oil to keep the factories of Japan humming.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I want to take this opportunity to commend the gentleman in the well and to associate myself with his remarks. I rise in opposition to this ill-conceived amendment.

Mr. Chairman, as the debate develops on the critical issue of extending and strengthening the American economy through increased exports, we must be equally cautious concerning exports crucial to our national security. One such area in which the risk in exporting exceeds opportunity is the exportation or "swapping" of Alaskan North Slope oil.

This country has watched its dependence upon imported oil rise from one-third to nearly one-half in less than 7 years. Our daily imports of foreign crude and product is nearly 8 million barrels per day. Our economic lifeblood has become a thick, black liquid which flows via tankers from the revolution-torn Middle East to our coastal ports. Today, this lifeline to our industrialized country's survival is tenuous at best. This great Nation cannot afford to lay bare its petroleum jugular vein to the Ayatollah Khomeini's of the world. Our vulnerability to the OPEC decisionmaking process will only be increased if we do not pass this strong piece of legislation which restricts the swapping of Alaskan oil.

The need to reaffirm our opposition to the exportation of our domestically produced Alaskan oil becomes greater with each increase in OPEC prices. Any swaps of oil will only increase our reliance on foreign imports by as much as 500,000 barrels per day.

In addition, it would eliminate any incentive for the establishment of a domestic delivery system of Alaskan crude to other sections of the country. It would also result in a loss of U.S. maritime jobs.

Let me quote a speech made by this country's Vice President MONDALE when he was a U.S. Senator on the issue of swapping Alaskan oil:

> It seems very strange to me that as we try to do everything we can to deal with the energy problems we have in America that the first significant thing we would do would be to approve a pipeline, the purpose of which is to export massive quantities of U.S. oil outside our borders. That is what has been admitted here. The answer is that we will swap U.S. oil for something else. What is that something else? That something else is the very Middle East oil we have trouble getting today. In other words, we would be back in the frying pan. It seems to me this is utterly suicidal for this country.

Mr. Chairman, I sincerely hope that this continues to reflect the attitude of our administration concerning this critical issue of national security. We must pass this measure with section 107 as reported out of the Committee on Foreign Affairs to insure that our national security will not be adversely affected.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. MCKINNEY) has expired.

(By unanimous consent, Mr. MCKINNEY was allowed to proceed for 3 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding. I want to commend the gentleman for his leadership on this issue. I want to say to the gentleman with regard to the balance of payments, the gentleman has answered that question very well.

I would like to add that there also would be an addition to the balance-of-payments deficit in that the cost of shipping the oil to Japan would be on the deficit side in that we would be using foreign-flag vessels and all that money would go outside of our economy.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a national issue but with a profound regional impact for the Northern Tier States, particularly those in the western Great Lakes area. Winter is fast approaching in our region. Already the thermostats are set at 65 degrees in our homes in Chisholm, Minn. We turned the furnaces on over this past weekend when I was home. The people are beginning to wonder where is the oil coming from now that Canada has put Minnesota refineries on a month-to-month standby basis. Canada is going to decide 1 month how much oil its American market is going to get next month. It is intolerable. The Northern Tier States have a right and an obligation to seek a secure and continuous source of oil. The best place to get that is the North Slope.

The Northern Tier pipeline, the best available hope for assuring that supply of oil, is a matter on which the Interior Department and the President are going to have to make a judgment in the next month. If we allow swaps of oil as proposed in this amendment and undo the Wolpe amendment, we will destroy any possibility of getting that Northern Tier pipeline built. The very substantial commitments of capital required for that project will be turned to other sources.

We must support the committee and stick by its language. A swap of oil is nothing but a delay in the plans to assure a continuous flow of North Slope oil into the Northern Tier States which are so desperately dependent on it, whose oil refineries are built to accommodate this high-sulphur crude oil.

To make our area dependent on some other source of oil is unreasonable.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I am happy to yield to the gentleman from Connecticut, who is the author of this language in the committee bill.

Mr. McKINNEY. Mr. Chairman, I think the gentleman from Minnesota (Mr. OBERSTAR) made a most important statement when he said we must stick with the committee language, because the House has stated that the President can export Alaskan oil if it is economically advantageous if he comes to the Congress and gets our approval. The other body has stated the President can go ahead and do it and we must disapprove.

It is far more important, I think, that the President be forced to come to us and make the case.

I remember this clearly, because at the heeding of the chairman of the committee 2½ years ago I changed my amendment to just a 2-year prohibition because I was promised by the administration and promised by the oil companies that this problem would be solved. Yet here we sit again 2½ years later.

So I admire the gentleman's remarks about sticking completely, strictly, and absolutely with the committee's language, and I hope that never again will I have to confront my good friend, the chairman of the committee, and move that the House instruct, because I know that hurt me and hurt him 2½ years ago when I was forced to do that.

Mr. OBERSTAR. Mr. Chairman, I commend the gentleman's leadership on this important issue.

I raise one final consideration—the effect the amendment would have on employment. If we accept this amendment, we deny the American seaman the benefits of transporting this oil. The Jones Act requires that cargo be moved between American ports by American ships. Shipment of our oil to Japan would not be bound by that requirement. Instead of reducing the balance of payments between the United States and Japan, this oil will help Japan build its industrial might even further.

Mr. Chairman, to insure the movement of vitally needed oil to America's agricultural and industrial heartland, it is vitally important to stick with the committee's language.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, I would like to commend the gentleman from Minnesota (Mr. OBERSTAR) on his remarks and associate myself with them.

During the time I have been in the Congress I have spent much time on the Northern Tier pipeline issue. During the past several weeks the Departments of Agriculture and Energy have pointed out the Northern Tier pipeline proposal to which the gentleman referred is the best and most dependable method for bringing energy to the Northern Tier States, which include, of course, the gentleman's State and my own State of Iowa.

In order to maintain that agricultural heartland and provide heating oil for us in the winter, I think it is essential that we have that energy lifeline. Certainly we are much more anxious to be dependent upon Alaskan oil than we are to be dependent on foreign sources of oil coming through the Gulf of Mexico.

So, Mr. Chairman, I agree with the gentleman from Minnesota (Mr. OBERSTAR), and I commend him for his remarks.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman from Iowa (Mr. TAUKE) for his contribution, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think a little history will serve many of my friends in this body to understand where this prohibitive clause came from as far as exporting oil or swapping oil with Japan is concerned. It originally arose in the pipeline bill, the bill to build the Alaskan pipeline.

The intent was to have an Alaskan line, an American line, with American people and with American oil. That was my amendment. The amendment was adopted by the committee, it was adopted by this House, and it has been in place ever since.

But unfortunately, because of the inactivity of this administration, there have been no ways provided of transporting oil to the Midwest and the east coast. There have been none. In fact, we have what we call in the Committee on Interior and Insular Affairs a fast-track provision, and the administration conveniently excluded the possibility of expediting the process of either the Foothills project, which would take care of the problem of my good friend, the gentleman from Minnesota (Mr. OBERSTAR), or the Northern Tier.

So what we are faced with today, right now, is that there is a considerable quantity of oil going through the Panama Canal. As it goes through the Panama Canal, that raises the price from $2 for transportation costs, as a swap would allow, to $7 or $9, thus increasing the cost to the consumer by a considerable amount.

What this amendment does is, for a short period of time, to agree to an exchange of oil, thus giving the consumer a break and also giving the State of Alaska—and I will say this without any reservation—a good return on its oil in the way of royalty. That is the parochial position I am put in today.

But I would like to bring this to the attention of the Members again: The gentleman from Minnesota (Mr. OBERSTAR) hit the nail right on the head: It is absolutely mandatory that we build a transportation system from the West to the East. If we do not, this country puts itself further into the hole of dependency upon the OPEC nations, because, let me say to my good friends, the oil of this Nation is in the West. It is off the Santa Barbara Channel, it is off the Gulf of Alaska, it is in the Bering Sea of Alaska, it is in the Beaufort Sea of Alaska, and it is in the lands of Alaska.

I say that, although this body did not see the wisdom of allowing the majority of the oil fields in Alaska to be developed. That came about from their lack of knowledge and by listening to those who would convey half truths and conveniently put aside 65 percent of the oil potential in Alaska. I hope that will be rectified in the Senate so that we can have that oil after Prudhoe Bay goes dry in 1985.

I hope also that we will have accomplished a transportation system under an aggressive administration so that the West, the Midwest, and the East are no longer dependent upon the OPEC nations.

The amendment offered by the gentleman from California (Mr. DANNEMEYER) is a short-term amendment, but it gives us an opportunity to give the consumer a break. It gives the consumer who is paying a dollar a gallon a break, and it gives him a chance possibly to have fuel prices back at the price they were prior to the shortage we just experienced this past year.

Mr. Chairman, I am confident in my own mind this would be a short-term solution. But let us keep in mind that the secret of this is the long-term solution, a solution that involves providing a transportation system from the West to the East.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Chairman, the gentleman may not have been here the other day when I entered into a colloquy with my friend, the gentleman from Michigan, that stated we have a refining capacity in the Antilles and in the Virgin Islands, and that 1 refinery there now produces up to 700,000 barrels a day and another can produce 900,000 a day. That is excess capacity now in existence, and it could be retrofitted to the Alaskan sour crude.

Mr. YOUNG of Alaska. It is sad to say, though, that it is going through the Panama Canal, it is sad to say that with the vote on the Panama Canal issue that we had, the situation is very unsure politically, and it is sad to say that it still costs the consumer $9 for transportation to get the oil to the Virgin Islands and the Bahamas. Those are facts; that is not just hearsay.

So if we want to argue the economics of the situation, the swap or the exchange is better for the consumer over the short term. Long range, though, if we look at the long-range program, it would be best to have a pipeline or pipelines built through the northern tier and the southern part of California so we could have the Alaskan crude come into the Midwest and the east coast refineries.

Mr. BONKER. But it seems to me that the language in the Wolpe amendment emphasizes the cost benefit to the consumer. So I think that is an important ingredient in the bill, and I would hate to see that stricken.

The CHAIRMAN. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Texas, who is an expert in the field about which we speak.

Mr. KAZEN. Mr. Chairman, I thank my colleague, the gentleman from Alaska (Mr. YOUNG). Let me ask the gentleman one question, because I want to get this straight in my mind.

We are going to swap Alaskan oil for Japanese oil, and the Japanese get that oil where?

Mr. YOUNG of Alaska. It is my understanding they have worked out a deal with Mexico and also with the OPEC nations.

Mr. KAZEN. Mr. Chairman, let me ask, what kind of a price f.o.b. the United States will the Japanese oil that come to us bring the Japanese?

Mr. YOUNG of Alaska. Mr. Chairman, I cannot truthfully answer the gentleman's question. I cannot answer the question on the exact price because I have not seen it.

Mr. KAZEN. Mr. Chairman, getting into the complexities of the swap and right down to the nuts and bolts, what are we swapping in the way of money?

Mr. YOUNG of Alaska. We are swapping the transportation cost of $2 a barrel to Japan versus the $9 a barrel it costs to bring the oil through the Panama Canal.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield? Perhaps I can answer the question.

Mr. KAZEN. Yes; I would like to get an answer. I would like an explanation of this.

I want to know the present transportation cost as opposed to what kind of transportation cost there will be for Japanese oil f.o.b. the United States.

Mr. YOUNG of Alaska. It is $2 to $3 versus $9. That is my understanding.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, let me give the gentleman my understanding at the current moment, and I want to remind the Members that the "current moment" does not last very long in the oil business.

□ 1640

The current situation is that we would sell Alaskan oil at somewhere in the neighborhood of $22 a barrel. We would receive Mexican oil at somewhere in the neighborhood of $23, plus a 75-cent charge they add. That would be $1.75 basic balance of trade deficit with each barrel exported.

True, the transportation costs are more. However, the transportation costs at the present moment are being borne on Jones bottom ships and being paid to American shipping companies and American workers and, therefore, are self-contained.

However, none of these savings on transportation would go to the American consumer. This is my argument to the gentleman. I understand the gentleman's parochial interest, and I have no desire to put him down; he runs from the State of Alaska. But the only transportation savings would go to the oil companies. Sohio has already announced a 302-percent increase in profits and expect to increase their production shortly.

The CHAIRMAN. The time of the gentleman from Alaska has expired.

(On request of Mr. MCKINNEY and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. YOUNG of Alaska. Mr. Chairman, if I may respond, I have made my statement very clear. This is a parochial position. We are losing a considerable amount of money in the State of Alaska because of the cost factor of shipping our oil. That may not make many of the Members have bleeding hearts, but as a reality we are dealing with a nonrenewable resource that is being consumed by the people of the lower 48, not the Alaskan people, and we believe we should be reimbursed justifiably. It was my amendment that prohibited the export of Japanese oil. If there had been some aggressive leadership in this administration to build the transportation system—that has not occurred.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield, I just wanted to echo the gentleman's sentiments. I think we ought to have a mode of transportation for this oil from the west coast into the United States. I do not want to name names, but the State of California's chief executive raised a lot of questions and put a lot of stumbling blocks in the building of that pipeline into Texas that would have brought the stuff back up here into the Midwest and into the East.

Mr. YOUNG of Alaska. Maybe we will have some brownouts and people will recognize the problem we have.

Mr. KAZEN. Yes; whatever it takes, I hope it happens. But still and all, I want to make sure that if Japan is to get any oil from Mexico, that Mexico agree to deliver it through the pipelines to the United States; otherwise, we will not be able to make any kind of an agreement with Japan or anybody else. Somewhere in the long run it would be detrimental to our consumers. I can understand the gentleman's point of view, and if I were in his place I would do the same thing.

Mr. McKINNEY. Mr. Chairman, if the gentleman will yield, let me back up the gentleman from Alaska in his point. When this whole discussion went forth, when the Alaskan pipeline was built, when we did put in fast-track legislation into the Alaskan pipeline we listened to the oil companies' promise that they would immediately set about building a distribution system. That has not happened.

The CHAIRMAN. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(On request of Mr. McKINNEY and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. McKINNEY. If the gentleman will yield further, finally, after millions and millions of dollars being spent on a pipeline and approvals, we see a sudden attraction of interest on the part of the oil companies on a distribution system. And why, one has to ask himself? Because June 22, 1979, they knew they could get away with their little ploy.

Mr. YOUNG of Alaska. If I may reclaim some of my time to sort of refute what the gentleman said, that is not all necessarily the fact. I can say that they tried to establish that line early in the ball game, but because of 710 permits, of the uncertainty, they reached a point it was no longer economically feasible to build a line for the rest of Prudhoe Bay. Again I must remind my good friend that we do not know if there are going to be any more Prudhoe Bays, and put most of the potential oil fields onshore off limits. So Sohio had to pull out. But they could make—and I make no bones about that—a better return on their dollar by the Japanese swap, but for a short period of time.

Mr. McKINNEY. Would not the gentleman agree that we would have to keep their feet to the fire in order to build this distribution system?

Mr. YOUNG of Alaska. You cannot keep the oil companies' feet to the fire. You have to keep this administration and those States who have impeded the process of a distribution system for the rest of the United States.

Mr. McKINNEY. I agree with the gentleman totally.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

Mr. Chairman, I do not come from Alaska; I come from New Jersey. We are not talking about keeping feet to the fire. The only feet to the fire are going to be the consumers, and that is the truth. Surely, we should have had that pipeline through to Midland, Tex., but we did not get it, because of obstruction of one kind or another, as the gentleman from Texas has alluded to. And we know why. It is commonsense that if you can get an equal amount of oil from Mexico or Venezuela cheaper, landing in Texas and in Louisiana refineries cheaper, we can still insist upon the pipelines being built. Certainly there is going to be trouble, as we know it, as to which route they take. But we are buying now oil from Canada to feed our midwestern refineries, and we should feed them with Alaskan oil. There is no doubt. But this does not have to be forever. Permits take several years.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I had hoped we had finally put this issue to rest. As a matter of fact, I am surprised there is still discussion of the issue when it seems so obvious to me, anyway, that when we have an oil shortage, we should be using our Alaskan oil at home. That feeling has been particularly emphasized by the recent strong public reaction to the sale of oil products to Iran.

Since I have studied the issue of exports of Alaskan oil for some time, all the testimony I have heard and conversations I have had have convinced me that the tougher the provision on Alaskan oil that we can enact the better off we will be.

Let me give you just a couple of reasons: First, any pipeline that is being proposed from the west coast to the middle of this country, with or without a Northern Tier pipeline, I think, will never be built unless it is very clearly understood that it is going to be extremely difficult, if not impossible, to export oil. I am well aware that Sohio has announced abandonment of its plans. But that does not mean they—or some new applicant—cannot decide to go ahead with it or some other pipeline. The Northern Tier pipeline is still very much in the picture.

Second, probably the best argument that was used by the administration, if you believed it, was that if we did not export oil it would preclude an increase in oil production in Alaska.

Very interestingly, early May, Atlantic Richfield Oil Co., which is one of the Alaskan producers, announced it is going to increase its production by 25 percent—300,000 barrels a day—in 1980. Company officials also said they anticipated no serious problems in transporting and distributing the oil to refineries in the continental United States, although transportation under current conditions would be relatively expensive. The present surplus of Alaskan crude oil that cannot be refined on the west coast is shipped through the Panama Canal to refineries in the Southeast.

With regard to the Panama Canal, I am surprised that some of the people who support the administration generally and who support the Panama Canal Treaty are lining up on the wrong side of this issue. Because, if we should export Alaskan oil, it would cut down on the tolls for the Panama Canal, which is not one of the things that has been forecast. And then, American taxpayers are going to have to either dig that money up, tolls are going to have to be increased, or we are going to have a serious problem with Panama. If tolls are increased as a result of export of oil, it will have a very serious adverse effect on the countries of South America, especially western South America. It could easily do more harm than any good from the canal treaty.

Let me mention another thing. Everyone was assured when the Alaskan pipeline was built that the oil would not be exported; it would be used in this country. Substantial investments were made by the American maritime industry to build ships to carry that extra volume of oil from Alaska. The only savings that there really are in shipping oil to Japan is by using foreign ships. If you use foreign ships, that certainly does not contribute to the favorable balance of trade because the money would then go outside of the country, and the considerable investment of the American maritime industry would be lost, or at least substantially impaired.

I would cite another point as well. Many of us met with Prime Minister Ohira, of Japan, when he was in the United States. We are putting considerable pressure on the Japanese to increase their imports of our good, agricultural products as well as manufactured goods. If we sell them hundreds of millions of dollars worth of oil it certainly is going to cut down on their interest in buying more from us. They will be able to say, "We have improved the balance of trade," and, of course, the United States will be left having to buy that oil from someone else—with no change then in our overall balance of trade.

Many environmentalists are opposed to exporting Alaskan crude oil. They have also given further consideration to the question of building new refineries. Their conclusion is that compared to older, polluting refineries, new large refineries using the latest technology are preferable for meeting our domestic oil needs.

This is especially true to meet the requirements of refining our heavy crude resources. Without a prohibition on the export of Alaskan oil, there will be little incentive to proceed with changing existing refineries to be able to process Alaskan oil or the heavy crude which is so abundant in California. It will be interesting to see if the environmental groups continue to endorse such programs once they are actually proposed.

Those who argue that we should allow export of Alaskan oil because there is not enough refinery capacity on the west coast ignore the new refinery being built in Alaska itself. The Alpetco refinery will have the capacity to process 150,000 barrels of petroleum per day, and of that amount, 75,000 barrels of unleaded gasoline will be available for California. That refinery should provide one more incentive for increasing production of Alaskan crude oil.

It is noteworthy that although we were advised several years ago that total west coast refinery capacity was 500,000 barrels per day, such refining capability is now some 830,000 barrels per day.

It is also important to remember that the language in this bill does not automatically prohibit export of Alaskan oil. The conditions to be met are very stringent, to be sure, but they do provide that if benefits can be passed on to the consumer and the refiner, then exports are possible. If those provisions can be met, then a trade could be a good thing. However, until those conditions are met, we should not export Alaskan oil.

Probably the best reason for not exporting Alaskan oil is that if we do not prevent it—or at least preserve that option—if we do not take strong action, I think that the credibility of the American people in the Government of the United States in relation to oil—and how we handle oil—is going to be even more seriously eroded than it already is—if such a thing is possible. I do not know how you go from zero to minus. But that will happen, I can guarantee you, especially when you remember public reaction to export of oil products to Iran.

The bottom line is that if the Congress of the United States is going to have anything to say about oil policy in this country, I think we had better preserve the strong provisions concerning export of Alaskan crude oil that do give the Congress the final say.

□ 1650

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto cease in 7 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for 1 minute each.

(By unanimous consent, Mr. BINGHAM, Mr. LEE, and Mrs. FENWICK yielded their time to Mr. DANNEMEYER.)

The CHAIRMAN. The gentleman from California (Mr. DANNEMEYER) is recognized for 4 minutes.

Mr. DANNEMEYER. Mr. Chairman, the argument has been made that we should not lift this restriction, because it will continue to put heat under the effort to build a pipeline from the north slope of Alaska across Canada in order to bring energy to the northern tier States of our Union. Let us examine that for a moment.

We had a representative of the Department of Energy come before the Committee on Interstate and Foreign Commerce, on which I served some 3 months ago, and tell us that because of land use restrictions and environmental restrictions in this country, we probably cannot build another refinery.

So if we are thinking about building or bringing oil to the northern tier States, we are going to have to ask very clearly and concisely what are we going to do after we get it there. If we think we are going to build a refinery in some place in the northern part of the United States, I do not think that objective has a realistic chance of being attained.

Let me make my position very clear. I am prepared, as a Member of this House, to vote the legislation to build that pipeline, because I think it is badly needed.

But until we get it built, what are we going to do with the oil that we hope to obtain from increased production in the north slope of Alaska?

Currently we are producing 1.2 million barrels a day. It has been estimated that the capacity of that pipeline is some 2 million barrels a day, and we have to ask the question, where is that additional oil going to be used in our system?

Right now, the west coast capacity is some 850,000 barrels a day. About 350,000 barrels a day is going through the Panama Canal, and we are in the ridiculous position today of tankers passing one another in the Panama Canal, one going to Japan from the east coast of Mexico, because Mexico has no shipping port on its west coast.

Now, in 1974, when this amendment first came into our law prohibiting Alaskan oil from being shipped to any place besides the United States, Mexico had 10.09 billion barrels in reserve. In that year it was producing 551,000 barrels a day.

Today, Mexico has 46.5 billion barrels of reserve and is producing 1.6 million barrels per day.

The point is, there are changed circumstances in the last 5 years. These changed circumstances require us at this time on a temporary basis to look at this amendment very seriously because all it says is that we will permit the export of Alaska oil to a foreign country to the extent we are able to obtain it from a contiguous foreign nation, which by definition almost exclusively would be Mexico.

The Mexican oil would be shipped from the east coast to the refineries in the Gulf States of this country, and the oil from Alaska could go to Japan, to the extent of maybe 300,000 barrels a day. That works out to a significant saving to consumers, based on $2 per day of saving and transportation costs of about $219 million a year.

It would improve our balance of payments with Japan to the extent, assuming we would sell 300,000 barrels a day, of $2.19 billion per year. That is a significant reduction of our adverse balance of payments with Japan. It is something I think we should achieve. I ask for an "aye" vote on the amendment.

Mr. GORE. Mr. Chairman, I want to congratulate my colleague for offering this amendment. I do not support this amendment, but I think it is an extremely close question. I am glad he has brought the question up for debate.

I have studied this very carefully. I think there is a great deal of merit in the position he is advocating if we had a true free market in the world trade of oil. I think the amendment surely should pass, but I have decided a "no" vote is indicated on this amendment for the following reasons:

First, the consumers would not benefit at all from the savings effected by the swap.

Second, the increased revenues to the oil companies would not result in additional incentives to step up production in Alaska because the recent OPEC increases which apply to Alaskan production have already increased that incentive enormously.

Third, I think we need to maintain the incentive in this country to reconfigure our refineries to handle the heavy crude oil and create an incentive to build the PacTex pipeline or Northern Tier pipeline so we can get this oil into the parts of the country where we can refine it.

Fourth, I think that a "no" vote is indicated. It is a worthy amendment, regardless.

Mr. LAGOMARSINO. Mr. Chairman, I want to commend my colleagues from California, too, for offering this amendment, although I do not agree with it. I think it should be defeated. I think he has performed a useful purpose in bringing this issue. I think it is an issue worthy of debate. I think there are two main reasons why the amendment should be defeated.

□ 1700

One is that at this time, as I mentioned in my remarks a little while ago, the credibility of the U.S. Government with regard to oil policy is very low. The shipment of oil products in very limited amounts to Iran certainly demonstrated that. I think if we were to embark on a program of exporting Alaskan oil to Japan, while we say we have a shortage, would be very damaging to our credibility and our efforts to get an energy policy into the works.

But I think really the bottom line is the one I mentioned before, and that is if we are going to be involved, we as Members of Congress are going to be involved in the important decisions relating to energy, then I think we certainly should preserve that option with regard to this very important issue. I urge a "no" vote.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Thank you, Mr. Chairman.

I want to correct a possible misunderstanding about Northern Tier pipelines in remarks made earlier. It is not a matter of building new refineries in the upper Midwest. The refineries exist. The question is the cutoff of Canadian crude. The Canadians have put the upper Midwest on a month-to-month allocation.

We have to build a Northern Tier pipeline. We must bring excess Alaskan crude oil to the upper Midwest refineries, which are built to accommodate that high-sulfur sour crude. They can continue operating; we can continue to feed the industrial heartland of the United States.

The decision on building the Northern Tier pipeline is hardly a month away; the Interior Department is about ready to make its decision. The President has the recommendation of former Secretary Schlesinger and of Secretary Bergland to go ahead with the Northern Tier pipeline project. The decision we make today on the question of swapping Alaskan crude can decide whether or not we go ahead with the Northern Tier pipe. I say defeat the Dannemeyer amendment, build the Northern Tier pipeline.

The CHAIRMAN. The question is on the amendment offered gy the gentleman from California (Mr. DANNEMEYER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 61, noes 340, not voting 33, as follows:

[Roll No. 506]

AYES—61

Alexander
Anthony
Archer
Ashley
Aspin
Badham
Bingham
Bolling
Brown, Calif.
Collins, Tex.
Conable
Corman
Crane, Daniel
Crane, Philip
Dannemeyer
Derwinski
Dornan
Duncan, Oreg.
Erlenborn
Evans, Del.
Fenwick
Forsythe
Frenzel
Gingrich
Goldwater
Hagedorn
Hansen
Heftel
Jones, Okla.
Kelly
Kemp
Kindness
LaFalce
Lehman
Lent
McDonald
McEwen
Madigan
Martin
Michel
Nedzi
Paul
Pritchard
Rhodes
Rudd
Satterfield
Scheuer
Schulze
Shuster
Simon
Smith, Iowa
Steed
Symms
Thomas
Van Deerlin
Whittaker
Wilson, Bob
Wirth
Wyatt
Young, Alaska
Zablocki

NOES—340

Abdnor
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashbrook
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Devine
Dicks
Dingell
Dixon
Dodd
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Robinson
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Runnels
Russo
Sabo
Santini
Sawyer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wolpe
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zeferetti

NOT VOTING—33

Addabbo
Anderson, Ill.
Biaggi
Carter
Chisholm
Corcoran
Deckard
Dickinson
Diggs
Donnelly
Fazio
Ferraro
Flood
Gibbons
Holtzman
Lott
Mathis
Mikva
Murphy, Ill.
Myers, Ind.
Quillen
Roberts
Rodino
Rose
Rosenthal
Stockman
Thompson
Treen
Waxman
Wilson, C. H.
Winn
Wolff
Wright

☐ 1710

Messrs. ASHLEY, ALEXANDER, LEHMAN, and NEDZI changed their votes from "no" to "aye."

Messrs. REUSS, HUCKABY, ABDNOR, and ECKHARDT changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1720

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there have been some assertions during debate on this bill to the effect that other House committees share the jurisdiction over this legislation. I simply want to state for the record that there can be no such interpretation of the rules. The rules are absolutely clear. Under rule X, clause 1 (h)(14), jurisdiction over export controls is granted solely to the Committee on Foreign Affairs. That has been the case since 1975. I have examined the jurisdiction of the other committees that have an interest in this legislation and there is no reference in the rules of any kind to export controls or other issues touched upon by H.R. 4034. So there should be no doubt that the Foreign Affairs Committee has sole legislative jurisdiction over export controls, including controls for the purpose of national security which is an essential part of the legislation now before the committee. It is true that one particular bill in this Congress, H.R. 3216, was coreferred to another committee as well as to the Foreign Affairs Committee. The only difference between that bill and the export control bills referred solely to the Foreign Affairs Committee was a provision authorizing funds for the Department of Defense. Such an authorization, of course, is not within the jurisdiction of the Foreign Affairs Committee. But including such a provision in a bill dealing with export controls does not give another committee jurisdiction over export controls, and should not be so interpreted.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this bill.

I wish to take this opportunity to congratulate my colleagues for the excellent work they have done in shaping this legislation to protect our national security interests for exports of military critical technologies and at the same time to provide for greater specificity for the export licensing process, thereby giving business a clearer definition of what to expect in the administration of export controls.

I would also like to point out those provisions which were amended and which reflect the changes I have been seeking since the markup process began in subcommittee last April.

The sections on "findings" and "policy" clarify the necessity of export controls for national security purposes.

The role of the Department of Defense is reaffirmed in the military critical technologies approach to export controls for national security purposes for development of the control list and for review of license applications for national security reasons.

Notwithstanding foreign availability, national security interests will be preserved under export controls and reexport controls will be maintained.

The legislation, as amended, requires negotiations to eliminate foreign availability of critical technologies.

The role of the technical advisory committees is made more explicit with respect to their functions in assisting the Secretary of Defense in decisions related to national security controls.

I would like to add that with regard to the diversion of technology by a consignee to significant military use, this legislation prevents further exports until such diversion is terminated and provides that additional steps as necessary be taken to prevent further military use of such diverted technology.

I also believe that the foreign policy provisions of this bill make a substantial improvement in the existing law and will help to get rid of some of the uncertainty in the business community. Specifically, the provision for congressional review will provide a role for Congress on this important subject.

With the balance this House has struck in preserving the national security interests of our country in exports of technology as well as providing greater certainty to business, I urge my colleagues to vote for this legislation.

Mr. BONKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this bill.

H.R. 4034, the Export Administration Act Amendments of 1979 is the product of several months of work and many more months of study by the Subcommittee on International Economic Policy and Trade. I have the honor of being the ranking majority member of that subcommittee and worked very hard on this legislation. I have always believed that the encouragement of exports must be a national objective; that our export policy must be affirmative. The Export Administration Act is basically a negative instrument. It contains sections where controls are imposed on exports because of national security or foreign policy or short supply considerations. It also contains other sections where licenses for exports are denied for various reasons.

We faced several monumental problems in trying to refrom the export control policy. Our biggest dilemma was how to reconcile the conflicting tendencies between a policy that promoted exports and a policy which maintained those controls that would insure our national security. In my judgment we have achieved that fine balance.

As the subcommittee chairman, Mr. BINGHAM, said recently:

> In the world in which we live, we cannot afford to relax our controls on technology exports which our adversaries could use to reduce the military technology gap which is the key to the superior performance of U.S. weapons systems. At the same time, considering the unprecedented trade deficit which is sapping our economic strength and vitality, we cannot afford to continue controlling products which are being exported by other advanced free-world countries. Nor can we afford inefficiencies and delays in the licensing system which act as needless barriers to exports.

That was another problem we had to resolve. There is no doubt that delays in the licensing decisions have been a major cause for our export loss. Foreign purchasers have come to look upon us as an unreliable supplier because the licensing policy has often been unclear. I believe this bill goes a long way in resolving the licensing issue.

H.R. 4034 is probably one of the most complicated pieces of legislation to come before the Congress in a long time. I participated in the hearings and drafting of new amendments with great care. I was especially interested in finding a way which would give us an export policy that gave the people full economic benefits and yet preserved our dwindling resources. My red cedar amendment is one good example. This is a unique situation that warranted special attention.

Studies have shown that at the present rate of cutting this rare species—redcedar—will be extinct in 8 to 10 years and it takes over 300 years to grow. Because faster growing species such as Douglas fir produce greater economic return, foresters generally do not replace these large, very old western redcedar trees with cedar seedlings. This amendment applies only to logs harvested from State and Federal lands—excluding Indian lands. Virtually all redcedar logs currently harvested and exported from Federal and State lands are from my State. By banning the exports of unprocessed redcedar logs from State and Federal lands we will help to slow down consumption and we will help to preserve a precious nonrenewable resource.

A second good example is the section in H.R. 4034 which strengthens the existing restrictions on the export or swap of Alaska oil. This provision requires the President to demonstrate to the Congress that exporting Alaskan oil will benefit the American consumer. It will also insure that the Congress, as well as the administration, plays a major role in deciding whether or not Alaskan oil should be exported.

Mr. Chairman, let me reiterate, H.R. 4034 is a responsible bill, it addresses all relevant issues, fully protecting our national security while increasing our competitiveness in the world market.

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes, pursuant to House Resolution 286, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Export Administration Act of 1979".

FINDINGS

SEC. 2. The Congress makes the following findings:

(1) The ability of United States citizens to engage in international commerce is a fundamental concern of United States policy.

(2) Exports contribute significantly to the balance of trade, employment, and production of the United States.

(3) The availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

(4) Exports of goods or technology without regard to whether they make a significant contribution to the military potential of individual countries or combinations of countries may adversely affect the national security of the United States.

(5) The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

(6) Uncertainty of export control policy can curtail the efforts of American business to the detriment of the overall attempt to improve the trade balance of the United States and to decrease domestic unemployment.

(7) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

(8) It is important that the administration of export controls imposed for national (and goods which contribute significantly to the transfer of such technology) which (and gods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.

DECLARATION OF POLICY

SEC. 3. The Congress makes the following declarations:

(1) It is the policy of the United States to minimize uncertainties in export control policy and to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by

the President to be against the national interest.

(2) It is the policy of the United States to restrict the ability to export only after full consideration of the impact on the economy of the United States and only to the extent necessary—

(A) to prevent the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States;

(B) to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and

(C) to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.

(3) It is the policy of the United States (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance of a uniform export control policy by all nations with which the United States has defense treaty commitments.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

(5) It is the policy of the United States—

(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person;

(B) to encourage and, in specified cases, require United States persons engaged in the export of goods and technology or other information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person; and

(C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and private industry.

(7) It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on exports from the United States. No action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.

(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States or to the security of those countries with which the United States has defense treaty commitments.

AUTHORITY

SEC. 4. (a) (1) To the extent necessary to carry out the policies set forth in section 3 of this Act, the President, by rule or regulation, may prohibit or curtail the export of any goods or technology, or for the purpose of section 6 information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. In curtailing exports to carry out the policy set forth in section 3(2) (C) of this Act, the President is authorized and directed to allocate a portion of export licenses on the basis of factors other than a prior history of exportation.

(2) (A) In administering export controls for national security purposes as prescribed in section 3(2) (A) of this Act, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may deem appropriate. The President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence.

(B) Rules and regulations under this subsection to carry out the policy set forth in section 3(2) (A) of this Act may provide for denial of any request or application for authority to export goods or technology from the United States, its territories and possessions, which would make a significant contribution to the military potential of any nation or combination of nations threatening the national security of the United States if the President determines that their export could prove detrimental to the national security of the United States. In administering export controls for national security purposes as prescribed in section 3(2) (A) of this Act, priority shall be given to preventing the effective transfer to countries to which exports are controlled for national security purposes of goods and technology critical to the design, development, production, or use of existing or potential military systems, including weapons, command, control, communications, intelligence systems, and other military capabilities, such as countermeasures, which would make a significant contribution to the military potential of any nation or nations which could prove detrimental to the national security of the United States. The Secretary of Defense shall bear primary responsibility for identifying such militarily critical goods and technologies. Taking this fully into account, the Secretary of Commerce, in consultation with the Secretary of Defense, shall review and revise not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, export controls maintained for national security purposes pursuant to this Act for the purpose of insuring that such controls cover and (to the maximum extent consistent with the purposes of this Act) are limited to such critical goods and technologies and the mechanisms through which they may be effectively transferred. Rules and Regulations shall reflect the difficulty of devising effective safeguards which would prevent a nation which poses a threat to the United States from diverting critical technologies to military use, the difficulty in devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the reexport of critical technologies from noncontrolled countries to nations that pose a threat to the security of the United States. Such rules and regulations shall not assume that effective safeguards can be devised.

(C) Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended by the President in accordance with this subparagraph and subparagraph (D). Any such extension and any subsequent extension shall not be for a period of more than one year. When imposing, increasing, or extending export controls for foreign policy purposes pursuant to the authority provided by this Act, the President shall consider—

(i) alternative means to further the foreign policy purposes in question;

(ii) the likelihood that foreign competitors will join the United States in effectively controlling such exports;

(iii) the probability that such controls will achieve the intended foreign policy purpose;

(iv) the effect of such controls on United States exports, employment, and production, and on the international reputation of the United States as a supplier of goods and technology;

(v) the reaction of other countries to the imposition or enlargement of such export controls by the United States; and

(vi) the foreign policy consequences of not imposing controls.

(D) Whenever the President imposes, increases, or extends export controls for foreign policy purposes pursuant to authority provided by this Act, he shall inform the Congress of his action within thirty days and, to the extent consistent with the national interest, make public a report specifying his conclusions with respect to each of the matters considered as provided in subparagraph (C) of this paragraph and indicating how such export controls will further significantly the foreign policy of the United States or fulfill its declared international obligations.

(E) The President shall not impose export controls for foreign policy or national security purposes on the export from the United States of goods or technology which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States. With respect to controls imposed for national security purposes, a finding of foreign availability which is the basis of a decision to grant a license for, or to remove a control on the export of a good or technology, shall be made in writing and be supported by reliable evidence, such as a scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability. Such sworn representations without adequate independent corroboration shall not constitute reliable evidence. Where, in accordance with this paragraph, export controls are imposed for foreign policy or national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available to controlled countries from other countries, the President shall promptly initiate negotiations with the governments of such countries to prevent such foreign availability. In an instance in which such negotiations fail to prevent or secure the removal of such foreign availability and the President requires additional authority to take effective action toward that end, the President shall report fully to the Congress and where appropriate recommend measures to secure the removal of such foreign availability.

(b) (1) Except as otherwise provided in this Act, the Secretary of Commerce shall reorganize the Department of Commerce as necessary to effectuate the policies set forth in this Act. Subject to the authority of the Secretary of Defense under subsection (a) (2) (B) of this section, the Secretary of Commerce shall prepare and maintain a list of goods and technology the export of which from the United States, its territories and possessions, is prohibited or regulated pursuant to this Act. The Secretary shall issue regulations providing for review of such list not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, in order to carry out the policies of this Act, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments with or without oral presentation. Such regulations shall further provide that as part of such review, there shall be an assessment of the availability from sources outside the United States, its territories and possessions, of goods and technology in significant quantities and comparable in quality to those items included on such list. The provisions of this paragraph relating to revisions and changes in such list and assessment of foreign availability apply also to the functions of the Secretary of Defense under subsection (a) (2) (B) of this section. In order to further effectuate the policies set forth in this Act, the Secretary shall establish within the Office of Export Administration a capability for monitoring and gathering information on the foreign availability of goods and technology subject to export control. Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, consistent with the protection of intelligence sources and methods, shall furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration and such Office upon request or where appropriate shall furnish the information it gathers and receives to such departments and agencies.

(2) The Secretary of Commerce shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of the business sector in order to obtain their views on export control policy and the foreign availability of goods and technology.

(c) (1) (A) To effectuate the policies set forth in this Act, the Secretary of Commerce shall establish at least the following three types of licenses in addition to such other types as the Secretary may deem appropriate:

(i) A validated license.

(ii) A qualified general license.

(iii) A general license.

(B) As used in this subsection—

(i) a "validated license" is a license authorizing the export of goods or technology pursuant to an application by an exporter in accordance with rules and regulations issued pursuant to this Act. A validated license may be required for the export of goods and technology subject to multilateral controls in which the United States participates or as determined pursuant to paragraph (2) of this subsection;

(ii) a "qualified general license" is a license authorizing the export to any destination of goods or technology, or a class of goods or technology, subject to the conditions contained in rules and regulations issued pursuant to this Act, including conditions pertaining to approval of the particular consignee and end-use of the goods or technology. The goods and technology subject to control by qualified general license shall be determined pursuant to paragraph (2) of this subsection; and

(iii) a "general license" is a license authorizing the export of a class of goods or technology without specific approval if the export is effected in accordance with the conditions contained in rules and regulations issued pursuant to this Act.

(2) To effectuate the policies set forth in section 3 of this Act, it is the intent of Congress that the use of validated licenses be limited to the greatest extent possible to the control of the export of goods and technology which are subject to multilateral controls in which the United States participates. To the extent that the President determines that the policies set forth in section 3 of this Act require the control of the export of other goods and technology, or more stringent controls than the multilateral controls, he will report to the Congress not later than six months after the date of enactment of this Act, and thereafter in each annual report, the reasons for the need to impose, or to continue to impose, such controls and the estimated domestic economic impact on the various industries affected by such controls. It is further the intent of Congress that export controls which exceed the multilateral controls shall be effected to the greatest extent possible consistent with the purposes of this Act by means of qualified general licenses.

(3) Not later than sixty days after the date of enactment of this Act, the Secretary of Commerce shall establish procedures for the approval of goods and technology that may be exported pursuant to a qualified general license.

(d) (1) (A) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this subsection.

(B) It is the intent of Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other Government agency.

(C) To the extent necessary, the Secretary shall seek information and recommendations from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. These departments and agencies shall cooperate fully in rendering such information and recommendations.

(2) Within ten days after the date on which any export license application is received, the Secretary shall—

(A) send the applicant an acknowledgement of the receipt of the application and the date of the receipt;

(B) submit to the applicant a written description of the procedures required by this subsection, the responsibilities of the Secretary and of other agencies with respect to the application, and the rights of the applicant;

(C) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this subsection;

(D) determine whether it is necessary to submit the application to any other agency and, if such submission is determined to be necessary, inform the applicant of the agency or agencies to which the application will be referred: and

(E) determine whether it is necessary to submit the application to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, if so, inform the applicant of this requirement.

(3) In each case in which the Secretary determines that it is not necessary to submit an application to any other agency for its information and recommendations, a license shall be formally issued or denied within ninety days of the receipt of a properly completed application.

(4) In each case in which the Secretary determines that it is necessary to submit an application to any other agency for its information and recommendations, the Secretary shall, within thirty days of the receipt of a properly completed application—

(A) submit the application together with all necessary analysis and recommendations of the Department of Commerce concurrently to other appropriate agencies, and

(B) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation to be submitted to such other agencies with respect to such application for the purpose of describing the export in question in order to determine whether such documentation accurately describes the proposed export.

(5) (A) Any agency to which an application is submitted pursuant to paragraph (4) shall submit to the Secretary, within thirty days after its receipt of the application, the information or recommendations requested with respect to such application. Except as provided in subparagraph (B), any such agency which does not submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the Secretary to have no objection to the approval of such application.

(B) If the head or acting head of any such agency notifies the Secretary before the expiration of the time period provided in subparagraph (A) for submission of its recommendations that more time is required for review by such agency, such agency shall have an additional thirty-day period to submit its recommendations to the Secretary. If such agency does not so submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the Secretary to have no objection to the approval of such application.

(6) (A) Within ninety days after receipt of other agency recommendations, as provided for in paragraph (5), the Secretary shall formally issue or deny a license. All agency reviews of preliminary decisions and appeals to the appropriate authorities set forth in this Act shall be accomplished within that ninety-day period. In deciding whether to issue or deny a license, the Secretary shall take into account any recommendation of an agency advising on the application in question. In cases where the Secretary receives conflicting recommendations, the Secretary shall, within the ninety days provided for in this subsection, take such action as may be necessary to resolve such conflicting recommendations.

(B) In cases where the Secretary receives questions or negative considerations or recommendations from other agencies advising on an application, the Secretary shall, to the maximum extent consistent with the national security or foreign policy of the United States, inform the applicant of the specific questions raised and any negative considerations or recommendations made by an agency, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

(C) In cases where the Secretary has determined that an application should be denied, at the time of the formal denial, the applicant shall be informed, in writing within five days of such decision of the statutory basis for denial, the policies set forth in section 3 of the Act which would be furthered by denial, and, to the extent consistent with national security and foreign policy, the specific considerations which led to the denial, and of the availability of appeal procedures. In the event decisions on license applications are deferred inconsistent with the provisions of this subsection, the applicant shall be informed in writing within five days of such deferral. The Secretary shall establish appropriate procedures for applicants to appeal such deferrals or denials.

(D) If the Secretary determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, or otherwise to arrive at a decision, the Secretary may extend any time period prescribed in this subsection. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.

(7) (A) Notwithstanding any other provision of this subsection, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

(B) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the Secretary, and confirm in writing the types and categories of transactions which should be reviewed by him in order to make a determination referred to in subparagraph (A). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the Secretary shall notify the Secretary of Defense of such request, and the Secretary may not issue any license or other authority pursuant to such request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subparagraph and, not later than thirty days after notification of the request, shall—

(i) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

(ii) notify the Secretary that he would recommend approval subject to specified conditions; or

(iii) recommend to the Secretary that the export of goods or technology be approved.

If the President notifies the Secretary, within thirty days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country.

(C) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this paragraph, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this subsection.

(D) Whenever the President exercises his authority under this paragraph to modify or overrule a recommendation made by the Secretary of Defense or exercises his authority to modify or overrule any determination made by the Secretary of Defense pursuant to section 4(a) (2) (B) or 4(b) (1) of this Act with respect to list of goods and technologies controlled for national security purposes, the President shall promptly transmit to the Congress a statement indicating his decision, together with the recommendation of the Secretary of Defense.

(8) In any case in which an application, which has been finally approved under paragraph (4), (7), or (8) of this subsection, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such paragraphs, but the Secretary shall notify the applicant of the approval (and the date of such approval) of the application by the Secretary subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review.

(9) The Secretary and any agency to which any application is referred under this subsection shall keep accurate records with respect to all applications considered by the Secretary or by any such agency, including the factual and analytical basis for the decision, together with any dissenting recommendations received from any agency.

(10) The Secretary shall establish appropriate procedures for applicants to appeal denials of export licenses. In any case where the absence of a license approval exists because of agency action or inaction that clearly conflicts with the procedures, standards, or policies of this Act, the applicant may file a petition with the Secretary requesting that such action or inaction be brought in conformity with the appropriate provisions of this Act. When such petition is filed, the Secretary shall determine the validity of the petition and, if valid, shall take appropriate corrective action.

(e) (1) To effectuate the policy set forth in section 3(2) (C) of this Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any goods (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy, or any sector thereof. Such monitoring shall commence at a time adequate to insure that data will be available which is sufficient to permit achievement of the policies of this Act, and shall include the gathering of data concerning the volume of exports indicated under all contracts providing for the export of such goods following the date of the filing of the petition under section 8(a) (1). Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection and in the last two sentences of section 11(c) of this Act.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each item monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(f) In imposing export controls to effectuate the policy stated in section 3(2) (C) of this Act, the President's authority shall include but not be limited to, the imposition of export license fees.

(g) (1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653) (except any such crude oil which (A) is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state to be refined and consumed therein, in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2) (A) (ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President makes and publishes an express finding that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) will, within three months following the initiation of such exports or exchanges, result in (a) acquisition costs to the refiners being lower than the acquisition costs such refiners would have to pay for the domestically produced crude oil in the absence of such an export of exchange and (b) that not less than 75 per centum of the savings shall be reflected in reduced wholesale and retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contract which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are clearly necessary to protect the national interest; and

(v) are in accordance with the provisions of this Act; and

(B) the President reports such finding to the Congress and the report is approved in accordance with paragraph (3).

(3) The report of the findings of the President required by paragraph (2) shall be considered approved, and shall take effect at the end of the first period of sixty calendar days of continuous session of the Congress after such report is submitted, unless the House of Representatives and the Senate adopt a resolution during such period stating that it does not favor such findings. For the purposes of this paragraph—

(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment for more than three days to a day certain are excluded in computing the sixty-day period.

(4) A resolution under paragraph (3) shall be considered in accordance with the procedures established by section 551 of the Energy Policy and Conservation Act.

(5) Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act: *Provided*, That the President promptly notifies Congress of each such agreement.

(h) Petroleum products refined in United States Foreign Trade Zones, or in the United States Territory of Guam, from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to section 3(2)(C) of this Act, except that, if the Secretary of Commerce finds that a product is in short supply, the Secretary of Commerce may issue such rules and regulations as may be necessary to limit exports.

(i)(1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determines that such exercise of authority is required to effectuate the policies set forth in sections 3(2) (A) or (B) of this Act.

(2) Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2)(C) of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (D) that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this paragraph.

(3)(A) The Secretary of Commerce shall transmit to the House of Representatives and the Senate a summary of any proposed exercise of the authority conferred by this section with regard to agricultural commodities.

(B)(i) Except as provided in subparagraph (ii), such proposal shall not become effective if within sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, one House agrees to a resolution of disapproval and at the end of thirty additional such calendar days after the date of transmittal of the resolution of disapproval to the other House of Congress, such other House has not passed a resolution disapproving such resolution.

(ii) Notwithstanding subparagraph (i), if at the end of sixty calendar days of continuous session of the Cogress after the date of transmittal of the proposal to the Congress, neither House has agreed to a resolution of disapproval concerning such proposal, and the committee to which a resolution of disapproval concerning such proposal has been referred has not reported and has not been discharged from further consideration of such a resolution, such proposal shall be effective at the end of such sixty-day period or such later date as may be prescribed by such proposal.

(C) For the purposes of this chapter—

(i) continuity of session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of calendar days of continuous session.

(D) The provisions of this section are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith;

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House; and

(iii) (I) resolutions of disapproval, and resolutions disapproving a resolution of disapproval in the other House shall, upon introduction, be immediately referred by the presiding officer of the Senate or of the House of Representatives to the appropriate standing committee of the Senate or the House of Representatives;

(II) if the committee to which a resolution has been referred does not report a resolution within forty-five calendar days of continuous session of Congress after the date of transmittal of the proposal to which such resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution; and

(III) such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a resolution of disapproval has been reported with respect to the same proposal); and debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees.

An amendment to the motion is not in order.

(E)(i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, consideration of a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

(ii) When the committee has reported or has been discharged from further consideration of a resolution with respect to a proposal, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order.

(iii) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order.

(j) Nothing in this Act or the rules or regulations thereunder shall be construed to require authority or permission to export, except where required by the President to effect the policies set forth in section 3 of this Act.

(k) The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may deem appropriate, except that no authority under this Act may be delegated to, or exercised by, any official of any department or agency the head of which is not appointed by and with the advice and consent of the Senate. The President may not delegate or transfer his power, authority, and discretion to overrule or modify any recommendation or decision made by the Secretary of Commerce, the Secretary of Defense, and Secretary of State pursuant to the provisions of this Act.

(l)(1) Any United States firm, enterprise, or other non-governmental entity which, for commercial purposes, enters into an agreement with an agency of a government in another country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement calling for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report such agreement to the Secretary of Commerce.

(2) The provisions of this subsection shall not apply to colleges, universities, or other educational institutions.

(3) The Secretary of Commerce is authorized to issue such rules and regulations as are necessary to implement the provisions of this subsection.

(m) The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for negotiations with other countries regarding their cooperation in restricting the export of goods and technologies whose export should be restricted pursuant to section 3(9) of this Act, as authorized under section 4(a)(1) of this Act, including negotiations on the basis of approved administration positions as to which goods and technologies should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

(n) The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the "Committee") with a view toward reaching—

(A) an agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such list, and all changes thereto;

(B) an agreement to hold periodic meetings of such governments with high-level representation from such governments, for the purpose of providing guidance on export control policy issues to the Committee;

(C) an agreement to modify the scope of the export controls imposed by agreement of the Committee to a level accepted and enforced by all governments participating in the Committee; and

(D) an agreement on more effective procedures for enforcing the export controls agreed to pursuant to subparagraph (C).

(o) In order to assure that requirements for national security controls are removed when no longer necessary, the Secretary of Commerce shall adopt regulations which eliminate unnecessary delay in implementing decisions reached, according to law, to remove or relax such controls. Consideration shall also be given by the Secretary, where appropriate, to removing site visitation requirements for goods and technology which are removed from the above-mentioned list unless objections described in this subsection are raised.

(p)(1) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue rules and regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

(q)(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand, and such other countries as the President shall designate consistent with the purposes of this subsection 502(b) of the Foreign Assistance Act of 1961, as amended.

DISAPPROVAL OF LICENSE FOR THE EXPORT OF GOODS OR TECHNOLOGY TO COUNTRY WHICH SUPPORTS ACTS OF INTERNATIONAL TERRORISM

SEC. 5. (a) The Secretary of Commerce shall approve no license for the export of goods or technology to any country with respect to which the Secretary of State has made the following determinations:

(1) that such country has demonstrated a pattern of support for acts of international terrorism, and

(2) that the exports in question would make a significant contribution to the military potential of such country or would otherwise enhance its ability to support acts of international terrorism.

(b) The President may suspend the applicability of paragraph (a) of this section with respect to any particular country or any particular transaction if he finds that the national interests so require.

FOREIGN BOYCOTTS

SEC. 6. (a)(1) For the purpose of implementing the policies set forth in section 3(5) (A) and (B), the President shall issue rules and regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of rules and regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary of Commerce.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by rules and regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Rules and regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms on or after June 22, 1978, other than with respect to carriers or route of shipment as may be permitted by such rules and regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such rules and regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such rules and regulations.

(3) Rules and regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) Rules and regulations pursuant to this subsection shall be issued not later than ninety days after the date of enactment of this section and shall be issued in final form and become effective not later than one hundred and twenty days after they are first issued, except that (A) rules and regulations prohibiting negative certification may take effect not later than one year after the date of enactment of this section, and (B) a grace period shall be provided for the application of the rules and regulations issued pursuant to this subsection to actions taken pursuant to a written contract or other agreement entered into on or before May 16, 1977. Such grace period shall end on December 31, 1978, except that the Secretary of Commerce may extend the grace period for not to exceed one additional year in any case in which the Secretary finds that good faith efforts are being made to renegotiate the contract or agreement in order to eliminate the provisions which are inconsistent

with the rules and regulations issued pursuant to paragraph (1).

(6) This Act shall apply to any transaction or activity undertaken, by or through a United States or other person, with intent to evade the provisions of this Act as implemented by the rules and regulations issued pursuant to this subsection, and such rules and regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b) (1) In addition to the rules and regulations issued pursuant to subsection (a) of this section, rules and regulations issued under section 4(a) of this Act shall implement the policies set forth in section 3(5).

(2) Such rules and regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Secretary of Commerce, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the policies of that section. Such person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this paragraph after the date of enactment of this section shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary of Commerce shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies set forth in section 3(5) of this Act.

(c) The provisions of this section and the rules and regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, and any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

SEC. 7. (a) Any person who, in his domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a commodity historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a commodity, may transmit a petition of hardship to the Secretary of Commerce requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary of Commerce shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) Not later than thirty days after receipt of any petition under subsection (a), the Secretary of Commerce shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary deems appropriate.

(c) For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of controls shall reflect the Secretary's consideration of such factors as—

(1) whether denial would cause a unique hardship to the petitioner which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary will take into account:

(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

(B) potential serious financial loss to the applicant if not granted an exception;

(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the commodity under control;

(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular commodity; and

(2) the effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits will not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the petitioner.

PETITIONS FOR MONITORING OR CONTROLS

SEC. 8. (a) (1) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or commodity for which an increase in domestic prices or a domestic shortage has or may have a significant adverse effect on the national economy or any sector thereof may transmit a written petition to the Secretary of Commerce requesting the imposition of export controls, or the monitoring of exports, or both, with respect to such material or commodity.

(2) Each petition shall be in such form as the Secretary of Commerce shall prescribe and shall contain information in support of the action requested. The petition shall include information reasonably available to the petitioner indicating (A) that there has been a significant increase over a representative period in exports of such material or commodity in relation to domestic supply, and (B) that there has been a significant increase in the price of such material or commodity under circumstances indicating that the price increase may be related to exports.

(b) Within fifteen days after receipt of any petition described in subsection (a), the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include (1) the name of the material or commodity which is the subject of the petition, (2) the Schedule B number of the material or commodity as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (3) notice of whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material or commodity, and (4) notice that interested persons shall have a period of thirty days commencing with the date of publication of such notice to submit to the Secretary of Commerce written data, views, or arguments, with or without opportunity for oral presentation. At the request of the petitioner or any other entity described in subsection (a) (1) with respect to the material or commodity which is the subject of the petition or at the request of any entity representative of the producers or exporters of such material or commodity, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the thirty-day period shall be extended to forty-five days.

(c) Within forty-five days after the end of the thirty-day or forty-five-day period described in subsection (b) or within seventy-five days of publication of the petition in the Federal Register, whichever is the later, the Secretary of Commerce shall—

(1) determine whether to impose monitoring or controls or both on the exportation of such material or commodity; and

(2) publish in the Federal Register a detailed statement of the reasons for such determination.

(d) Within fifteen days following a decision under subsection (c) to impose monitoring or controls on the exportation of a material or commodity, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within thirty days following the publication of such notice, and after considering any public comments, the Secretary shall publish and implement final regulations.

(e) For the purposes of publishing notices in the Federal Register and the scheduling of public hearings, the Secretary shall have the authority to consolidate petitions and responses thereto with respect to the same or related commodities.

(f) If a petition has been fully considered under this section and a notice has been published with respect to a particular commodity or group of commodities and in the absence of significantly changed circumstances, the Secretary shall have authority to determine that a petition for monitoring or control of such commodity or commodities does not merit the full consideration mandated under this section.

(g) The procedures and time limits set forth in this section shall take precedence over any review undertaken at the initiative of the Secretary.

(h) The Secretary shall have the authority to impose monitoring or controls on a temporary basis during the period following the filing of a petition under subsection (a) (1) and the Secretary's determination under subsection (c) if the Secretary deems such action to be necessary to effectuate the policy set forth in section 3(2) (C) of this Act. If such authority is used the Secretary shall afford interested persons an opportunity to submit written comments thereon and such comments shall be considered by the Secretary in making the determination required under subsection (c) and in the development of any final regulations.

(i) The authority under this section shall not be construed to affect the authority of the Secretary of Commerce under section 4(e) (1) or any other provision of this Act.

(j) The provisions of this section shall not apply to any agricultural commodity.

(k) Nothing contained in this section shall be construed to preclude submission on a confidential basis to the Secretary of Commerce of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, nor consideration of such information by the Secretary in reaching decisions required under this section. The provisions of this subsection are not intended to change the applicability of section 552(b) of title 5, United States Code.

CONSULTATION AND STANDARDS

SEC. 9. (a) In determining what shall be controlled or monitored under this Act, and in determining the extent to which exports shall be limited, any department, agency, or official making these determinations shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall fully cooperate in rendering such advice and information. Consistent with considerations of national security, the President shall seek information and advice from various segments of private industry in connection with the making of these determinations. In addition, the Secretary of Commerce shall consult with the Secretary of Energy to determine whether, in order to effectuate the policy stated in section 3(2)(C) of this Act, monitoring or controls are necessary with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(b)(1) In authorizing exports, full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provision shall be made for representative trade consultation to that end. In addition, there may be applied such other standards or criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy stated in section 3(2)(C) of this Act, the Secretary of Commerce shall include in the notice published in the Federal Register an invitation to all interested parties to submit written comments within fifteen days from the date of publication of the impact of such restrictions and the method of licensing used to implement them.

(c)(1) Upon written request by representatives of a substantial segment of any industry which produces goods or technology which are subject to export controls or are being considered for such controls because of their significance to the national security of the United States, or whenever he deems appropriate to further the purposes of this Act, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such goods or technology which he determines is difficult to evaluate because of questions concerning technical matters, worldwide availability and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and government, including the Departments of Commerce, Defense, and State, and, when appropriate, other Government departments and agencies. No person serving on any such committee who is representative of industry shall serve on such committee for more than four consecutive years.

(2) It shall be the duty and function of the technical advisory committees established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4(e) with respect to actions designed to carry out the policy set forth in section 3 of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary of Commerce, to present evidence to such committees.

(3) Upon requests of any member of any such committee, the Secretary may, if he determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by him in connection with his duties as a member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the Chairman, unless the Chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this Act. Each such committee shall be terminated after a period of two years, unless extended by the Secretary for additional periods of two years. The Secretary shall consult each such committee with regard to such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Secretary of Commerce, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security and foreign policy, pertaining to the reasons for the export controls which are in effect or contemplated for the grouping of goods or technology with respect to which that committee furnishes advice.

(6) Whenever a technical advisory committee certifies to the Secretary of Commerce that goods or technology are available in fact from sources outside the United States in sufficient quantity and of comparable quality so as to render United States export controls ineffective in achieving the purposes of this Act, and provides adequate documentation for such certification, the Secretary of Commerce shall investigate and report to the technical advisory committee on whether the Secretary concurs with the certification. If the Secretary concurs, the Secretary shall submit a recommendation to the President who shall act in accordance with section 4(a)(2)(E) of this Act.

(d) The Secretary of Defense shall have the same authorities and responsibilities as the Secretary of Commerce under paragraphs (1) through (5) of subsection (c) in order to carry out his responsibilities under this Act.

VIOLATIONS

SEC. 10. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned not more than ten years or both.

(c)(1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(2)(A) The authority under this Act to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of the rules and regulations issued pursuant to section 5(a) of this Act.

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the rules and regulations issued pursuant to section 6(a) of this Act may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the rules and regulations issued pursuant to section 6(a) of this Act shall be made available for public inspection and copying.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(e) Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Nothing in subsection (c), (d), or (f) limits—

(1) the availability of other administrative or judicial remedies with respect to

violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 11. (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46) shall apply with respect to any individual who specifically claims such privilege.

(c) Except as otherwise provided by the third sentence of section 6(b)(2) and by section 10(c)(2)(C) of this Act, information obtained prior to June 30, 1980, under this Act, which is deemed confidential, including Shippers' Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552(b)(3)(B) of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary of Commerce determines that the withholding thereof is contrary to the national interest. Information obtained after June 30, 1980, under this Act may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act shall be withheld from public disclosure unless the release of such information is determined by the Secretary of Commerce to be in the national interest. Enactment of this subsection shall not affect any judicial proceeding commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act had not been enacted. Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under section 4(b), shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.

(d) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 12. (a) Except as provided in section 10(c)(2), the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) It is the intent of Congress that, to the extent practicable, all regulations imposing controls on exports under this Act be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act is issued with immediate effect, it is the intent of Congress that meaningful opportunity for public comment also be provided and that the regulation be reissued in final form after public comments have been fully considered. The Secretary shall include in the annual report required by this Act a detailed accounting of the issuance of regulations under the authority of this Act, including an explanation of each case in which regulations were not issued in accordance with the first sentence of this subsection.

ANNUAL REPORT

SEC. 13. (a) The Secretary of Commerce shall make an annual report to the President and to the Congress on the implementation of this Act.

(b) Each annual report shall include an accounting of—

(1) actions taken by the President and the Secretary of Commerce to effect the antiboycott policies set forth in section 3(5) of this Act;

(2) organizational and procedural changes instituted and any reviews undertaken in furtherance of the policies set forth in this Act;

(3) efforts to keep the business sector of the Nation informed about policies and procedures adopted under this Act;

(4) any changes in the exercise of the authorities of section 4(a) of this Act;

(5) the results of review of United States policy toward individual countries called for in section 4(a)(2)(A);

(6) the results, in as much detail as may be included consistent with the national security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes, required by section 4(a)(2)(B);

(7) action taken pursuant to section 4(b)(1), including changes made in control lists and assessments of foreign availability;

(8) evidence demonstrating a need to impose export controls for national security or foreign policy purposes in the face of foreign availability as set forth in section 4(a)(2)(E);

(9) the information contained in the reports required by section 4(e)(2) of this Act, together with an analysis of—

(A) the impact of the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act or section 812 of the Agricultural Act of 1970;

(B) the worldwide supply of such commodities; and

(C) actions being taken by other nations in response to such shortages or increased prices;

(10) delegations of authority by the President as provided for under section 4(k) of this Act;

(11) the progress of negotiations under section 4(n) of this Act;

(12) the number and disposition of export license applications taking more than ninety days to process pursuant to section 4(d) of this Act;

(13) consultations undertaken with technical advisory committees pursuant to section 9(c) of this Act the use made of advice given, and the contribution such committees made in carrying out the policies of this Act;

(14) violations of the provisions of this Act and penalties imposed pursuant to this Act; and

(15) any revisions to reporting requirements prescribed in section 11(d).

(c) The heads of other involved departments and agencies shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce to complete the annual reports.

DEFINITIONS

SEC. 14. As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term "goods" means any article, material, supply or manufactured product, including inspection and test equipment, and excluding technical data; and

(4) the term "technology" means the information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves.

EFFECTS ON OTHER ACTS

SEC. 15. (a) The Act of February 15, 1936 (49 Stat. 1140), relating to the licensing of exports of tinplate scrap, is hereby superseded; but nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(c) On October 1, 1979, the Mutual Defense Assistance Control Act of 1951, as amended (22 U.S.C. 1611–1613d), is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. (a) Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act for any fiscal year commencing on or after October 1, 1980, unless previously and specifically authorized by legislation.

(b) There are authorized to be appropriated to the Department of Commerce $8,000,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) for fiscal year 1980 to carry out the purposes of this Act, of which $1,250,000 shall be available only for purposes of establishing and maintaining the capability to make foreign availability assessments called for by section 4(b) (1).

(c) There are authorized to be appropriated to the Department of Defense $2,500,000 for fiscal year 1980 to carry out its functions under subsection 4(a) of this Act.

EFFECTIVE DATE

SEC. 17. (a) This Act takes effect upon the expiration of the Export Administration Act of 1969.

(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), or the Export Administration Act of 1969 shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

TERMINATION DATE

SEC. 18. The authority granted by this Act terminates on September 30, 1983, or upon any prior date which the President by proclamation may designate.

MOTION OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BINGHAM moves to strike out all after the enacting clause of the Senate bill, S. 737, and to insert in lieu thereof the provisions of the bill, H.R. 4034, as passed, as follows:

TITLE I—EXPORT ADMINISTRATION

SHORT TITLE

SECTION 101. This title may be cited as the "Export Administration Act Amendments of 1979".

FINDINGS

SEC. 102. Section 2 of the Export Administration Act of 1969 (50 U.S.C. App. 2401) is amended to read as follows:

"FINDINGS

"SEC. 2. The Congress makes the following findings:

"(1) Exports are important to the economic well-being of the United States.

"(2) A large United States trade deficit weakens the value of the United States dollar, intensifies inflationary pressures in the domestic economy, and heightens instability in the world economy.

"(3) Poor export performance is an important factor contributing to a United States trade deficit.

"(4) It is important for the national interest of the United States that both the private sector and the Federal Government place a high priority on exports, which would strengthen the Nation's economy.

"(5) The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

"(6) The uncertainty of policy toward certain categories of exports has curtailed the efforts of American business in those categories to the detriment of the overall attempt to improve the trade balance of the United States.

"(7) The availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

"(8) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

"(9) The export of goods or technology without regard to whether such export makes a significant contribution to the military potential of individual countries may adversely affect the national security of the United States.

"(10) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combinations of countries which would be detrimental to the national security of the United States.

"(11) Minimization of restrictions on exports of agricultural commodities and products is of critical importance to the maintenance of a sound agricultural sector, to achievement of a positive balance of payments, to reducing the level of federal expenditures for agricultural support programs, and to United States cooperation in efforts to eliminate malnutrition and world hunger.".

POLICY

SEC. 103. (a) Section 3 of the Export Administration Act of 1969 (50 U.S.C. App. 2402) is amended by amending paragraph (2) to read as follows:

"(2) It is the policy of the United States to use export controls to the extent necessary (A) to restrict the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the national security of the United States; (B) to restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its international responsibilities, including to restrict exports to countries which violate the principles of the Monroe Doctrine; and (C) to restrict the export of goods where necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.".

(b) Such section is further amended—

(1) in paragraph (5) by striking out "articles, materials, supplies, or information" and inserting in lieu thereof "goods, technology, or other information";

(2) in paragraph (6) by striking out "articles, materials, or supplies, including technical data or other information," and inserting in lieu thereof "goods, technology, or other information"; and

(3) by adding at the end thereof the following new paragraph:

"(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries, which would prove detrimental to the security of the United States and of those countries with which the United States has defense treaty commitments.

"(10) It is the policy of the United States that export trade by United States citizens be given a high priority and not be controlled except when such controls (A) are essential to achieve fundamental national security, foreign policy, or short supply objectives, (B) will clearly achieve such objectives, and (C) are administered consistent with basic standards of due process. It is also the policy of the United States that such controls shall not be retained unless their efficacy is annually established in detailed reports available to both the Congress and to the public, to the maximum extent consistent with the national security and foreign policy of the United States.

"(11) It is the policy of the United States to minimize restrictions on the export of agricultural commodities and products.".

EXPORT LICENSES; TYPES OF CONTROLS

SEC. 104. (a) The Export Administration Act of 1969 is amended—

(1) by redesignating section 4 as section 7;

(2) by repealing sections 5 and 9;

(3) by redesignating sections 6, 7, 8, 10, 11, 12, 13, 14, and 15 as sections 11, 12, 13, 14, 16, 17, 18, 19 and 20, respectively; and

(4) by redesignating sections 4A and 4B as sections 8 and 9, respectively.

(b) The Export Administration Act of 1969 is amended by adding after section 3 the following new sections:

"EXPORT LICENSES; COMMODITY CONTROL LIST; LIMITATION ON CONTROLLING EXPORTS

"SEC. 4. (a) TYPES OF LICENSES.—The Secretary may, in accordance with the provisions of this Act, issue any of the following export licenses:

"(1) A validated license, which shall be a document issued pursuant to an application by an exporter authorizing a specific export or, under procedures established by the Secretary, a group of exports, to any destination.

"(2) A qualified general license, which shall be a document issued pursuant to an application by the exporter authorizing the export to any destination, without specific application by the exporter for each such export, of a category of goods or technology, under such conditions as may be imposed by the Secretary.

"(3) A general license, which shall be a standing authorization to export, without application by the exporter, a category of goods or technology, subject to such conditions as may be set forth in the license.

"(4) Such other licenses, consistent with this subsection and this Act, as the Secretary considers necessary for the effective and efficient implementation of this Act.

"(b) COMMODITY CONTROL LIST.—The Secretary shall establish and maintain a list (hereinafter in this Act referred to as the 'commodity control list') consisting of any goods or technology subject to export controls under this Act.

"(c) RIGHT OF EXPORT.—No authority or permission to export may be required under this Act, or under any rules or regulations issued under this Act, except to carry out the policies set forth in section 3 of this Act.

"NATIONAL SECURITY CONTROLS

"SEC. 5. (a) AUTHORITY.—(1) In order to carry out the policy set forth in section 3(2) (A) of this Act, the President may, in accordance with the provisions of this section, prohibit or curtail the export of any goods or technology subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses described in section 4(a) of this Act.

"(2)(A) Whenever the Secretary makes any revision with respect to any goods or technology, or with respect to the countries or destinations, affected by export controls imposed under this subsection, the Secretary shall publish in the Federal Register a notice of such revision and shall specify in such notice that the revision relates to controls imposed under the authority contained in this section.

"(B) Whenever the Secretary denies any export license under this subsection, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this section. Further, the Secretary shall include in the notice to the applicant of denial of such license what, if any, modification in or restrictions on the goods or technologies for which the license was sought would allow such export to be compatible with controls implemented under this section, or shall indicate in such notice which departmental officials familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions if appropriate.

"(3) In issuing rules and regulations to carry out this section, particular attention shall be given to the difficulty of devising effective safeguards to prevent a country that poses a threat to the security of the United States from diverting critical technologies to military use, the difficulty of devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the reexport of critical technologies from other countries to countries that pose a threat to the security of the United States. Such regulations shall not be based upon the assumption that such effective safeguards can be devised.

"(b) Policy Toward Individual Countries.—In administering export controls under this section, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status, but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may consider appropriate. The President shall periodically review United States policy toward individual countries to determine whether such policy is appropriate in light of factors specified in the preceding sentence.

"(c) Control List.—(1) The Secretary shall establish and maintain, as part of the commodity control list, a list of all goods and technology subject to export controls under this section. Such goods and technology shall be clearly identified as being subject to controls under this section.

"(2) The Secretary of Defense and other appropriate departments and agencies shall identify goods and technology for inclusion on the list referred to in paragraph (1). Those items which the Secretary and the Secretary of Defense concur shall be subject to export controls under this section shall comprise such list. If the Secretary and the Secretary of Defense are unable to concur on such items, the matter shall be referred to the President for resolution.

"(3) The Secretary shall issue regulations providing for continuous review of the list established pursuant to this subsection in order to carry out the policy set forth in section 3(2)(A) and the provisions of this section, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments with or without oral presentation. Such regulations shall further provide that, as part of such review, an assessment be made of the availability from sources outside the United States of goods and technology comparable to those controlled for export from the United States under this section.

"(d) Military Critical Technologies.—(1) The Congress finds that the national interest requires that export controls under this section be focused primarily on military critical technologies, and that export controls under this section be implemented for goods the export of which would transfer military critical technologies to countries to which exports are controlled under this section.

"(2) The Secretary of Defense shall develop a list of military critical technologies. In developing such list, primary emphasis shall be given to—

"(A) arrays of design and manufacturing knowhow;

"(B) keystone manufacturing, inspection, and test equipment; and

"(C) goods accompanied by sophisticated operation, application, or maintenance knowhow,

which are not possessed by countries to which exports are controlled under this section and which, if exported, would permit a significant advance in a military system of any such country.

"(3)(A) The list referred to in paragraph (2) shall be sufficiently specific to guide the determinations of any official exercising export licensing responsibilities under this Act; and

(B) The initial version of the list referred to in paragraph (2) shall be completed and published in an appropriate form in the Federal Register not later than October 1, 1980.

"(4) The list of military critical technologies developed by the Secretary of Defense pursuant to paragraph (2) shall become a part of the commodity control list.

"(5) The Secretary of Defense shall report annually to the Congress on actions taken to carry out this subsection.

"(e) Export Licenses.—(1) The Congress finds that the effectiveness and efficiency of the process of making export licensing determinations under this section is severely hampered by the large volume of validated export license applications required to be submitted under this Act. Accordingly, it is the intent of Congress in this subsection to encourage the use of a qualified general license, in lieu of a validated license, to the maximum extent practicable, consistent with the national security of the United States.

"(2) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a validated license under this section for the export of goods or technology only if—

"(A) the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, under the terms of such multilateral agreement, such export requires the specific approval of the parties to such multilateral agreement;

"(B) with respect to such goods or technology, other nations do not possess capabilities comparable to those possessed by the United States; or

"(C) the United States is seeking the agreement of other suppliers to apply comparable controls to such goods or technology and, in the judgment of the Secretary, United States export controls on such goods or technology, by means of such license, are necessary pending the conclusion of such agreement.

"(3) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a qualified general license, in lieu of a validated license, under this section for the export of goods or technology if the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party, but such export does not require the specific approval of the parties to such multilateral agreement.

"(f) Foreign Availability.—(1) The Secretary, in consultation with appropriate Government agencies and with appropriate technical advisory committees established pursuant to subsection (h) of this section, shall review, on a continuing basis, the availability, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, of any goods or technology the export of which requires a validated license under this section. In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that any such goods or technology are available in fact to such destinations from such sources in sufficient quantity and of sufficient quality so that the requirement of a validated license for the export of such goods or technology is or would be ineffective in achieving the purpose set forth in subsection (a) of this section, the Secretary may not, after the determination is made, require a validated license for the export of such goods or technology during the period of such foreign availability, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination together with a concise statement of its basis, and the estimated economic impact of the decision.

"(2) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a particular country and which meets all other requirements for such an application, if the Secretary determines that such goods or technology will, if the license is denied, be available in fact to such country from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of sufficient quality so that denial of the license would be ineffective in achieving the purpose set forth in subsection (a) of this section, subject to the exception set forth in paragraph (1) of this subsection. In any case in which the Secretary makes a determination of foreign availability under this paragraph with respect to any goods or technology, the Secretary shall determine whether a determination of foreign availability under paragraph (1) with respect to such goods or technology is warranted.

"(3) If, in any case in which the President makes a determination under paragraph (1) or (2) of this subsection with respect to national security, the good or technology concerned is critical to United States national security and, if available to an adversary country, would permit a significant contribution to the military potential of that country, the President shall direct the Secretary of State to enter into negotiations with the appropriate government or governments in order to eliminate foreign availability of such good or technology.

"(4) With respect to export controls imposed under this section, any determination of foreign availability which is the basis of a decision to grant a license for, or to remove a control on, the export of a good or technology, shall be made in writing and shall be supported by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability.

"(5) Whenever the Secretary of State, in consultation with the Secretary, has reason to believe that the availability of any goods or technology from sources outside the United States can be prevented or eliminated by means of negotiations with other countries, the Secretary of State shall undertake such negotiations. The Secretary shall not make any determination of foreign availability under paragraph (1) or (2) of this subsection with respect to such goods or technology until the Secretary of State has had a reasonable amount of time to conclude such negotiations.

"(6) In order to further effectuate the policies set forth in this paragraph, the Secretary shall establish, within the Office of Export Administration of the Department of Commerce, a capability to monitor and gather information with respect to the foreign availability of any goods or technology subject to export controls under this section. The Secretary shall include a detailed statement with respect to actions taken in compliance with the provisions of this paragraph in each report to the Congress made pursuant to section 14 of this Act.

"(7) Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, shall consistent with the protection of intelligence sources and methods, furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration, and such Office, upon request or where appropriate, shall furnish to such departments and agencies the information it gathers and receives concerning foreign availability.

"(g) INDEXING.—In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. Any such goods or technology which no longer meet the performance levels established by the latest such increase shall be removed from the list established pursuant to subsection (c) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other Government agency objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list.

"(h) TECHNICAL ADVISORY COMMITTEES.—(1) Upon written request by representatives of a substantial segment of any industry which produces any goods or technology subject to export controls under subsection (a) or being considered for such controls because of their significance to the national security of the United States, the Secretary shall appoint a technical advisory committee for any such goods or technology which the Secretary determines are difficult to evaluate because of questions concerning technical matters, worldwide availability, and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and Government, including the Departments of Commerce, Defense, and State and, in the discretion of the Secretary, other Government departments and agencies. No person serving on any such committee who is a representative of industry shall serve on such committee for more than four consecutive years.

"(2) Technical advisory committees established under paragraph (1) shall advise and assist the Secretary, the Secretary of Defense, and any other department, agency, or official of the Government of the United States to which the President delegates authority under this Act, with respect to actions designed to carry out the policy set forth in section 3(2)(A) of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary or the Secretary of Defense from consulting, at any time, with any person representing industry or the general public, regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present evidence to such committees.

"(3) To facilitate the work of the technical advisory committees, the Secretary, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the goods or technology with respect to which that committee furnishes advice.

"(4) Whenever a technical advisory committee certifies to the Secretary that goods or technology with respect to which such committee was appointed have become available in fact, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of sufficient quality so that requiring a validated license for the export of such goods or technology would be ineffective in achieving the purpose set forth in subsection (a), and provides adequate documentation for such certification, in accordance with the procedures established pursuant to subsection (f)(1) of this section, the Secretary shall take steps to verify such availability, and upon such verification shall remove the requirement of a validated license for the export of the goods or technology, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination together with a concise statement of its basis, and the estimated economic impact of the decision.

"(i) MULTILATERAL EXPORT CONTROLS.—(1) The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee of the Consultative Group (hereinafter in this subsection referred to as the 'Committee') with a view toward accomplishing the following objectives:

"(A) Agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such agreement, and all changes thereto.

"(B) Agreement to hold periodic meetings of such governments with high-level representation from such governments, for the purpose of discussing export control policy issues and issuing policy guidance to the Committee.

"(C) Agreement to reduce the scope of the export controls imposed by agreement of the Committee to a level acceptable to and enforceable by all governments participating in the Committee.

"(D) Agreement on more effective procedures for enforcing the export controls agreed to pursuant to subparagraph (C).

"(2) The President shall include, in each annual report required by section 14 of this Act, a detailed report on the progress of the negotiations required by paragraph (1), until such negotiations are concluded.

"(j) COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES.—(1) Any United States person who, for commercial purposes, enters into any agreement with any agency of the government of a country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement (to which the United States and such country are parties) calling for the encouragement of technical cooperation, and which agreement is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report such agreement to the Secretary.

"(2) The provisions of paragraph (1) shall not apply to colleges, universities, or other educational institutions.

"(k) NEGOTIATIONS WITH OTHER COUNTRIES.—The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with other countries regarding their cooperation in restricting the export of goods and technology in order to carry out the policy set forth in section 3(9) of this Act, as authorized by subsection (a) of this section, including negotiations with respect to which goods and technology should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

"FOREIGN POLICY CONTROLS

"SEC. 6. (a) AUTHORITY.—(1) In order to effectuate the policy set forth in paragraph (2)(B), (7), or (8) of section 3 of this Act, the President may prohibit or curtail the exportation of any goods, technology, or other information subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, to the extent necessary to further significantly the foreign policy of the United States or to fulfill its international responsibilities. The authority granted by this subsection shall be exercised by the Secretary, in consultation with the Secretary of State and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses issued by the Secretary.

"(2)(A) Whenever the Secretary makes any revision with respect to any goods, technology, or other information or with respect to the countries or destinations affected by export controls imposed under this subsection, the Secretary shall publish in the Federal Register a notice of such revision, and shall specify in the notice that the revision relates to controls imposed under the authority contained in this subsection.

"(B) Whenever the Secretary denies any export license under this subsection, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this subsection, and the reasons for such denial, with reference to the criteria set forth in subsection (b) of this section. Further, the Secretary shall include in the notice to the applicant of denial of such license what, if any, modifications in or restrictions on the goods or technologies for which the license was sought would allow such export to be compatible with controls implemented under this section, or shall indicate in such notice which Departmental officials familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions if appropriate.

"(3) In accordance with the provisions of section 10 of this Act, the Secretary of State shall have the right to review any export license application under this section that the Secretary requests to review, and to appeal to the President any decision of the Secretary with respect to such license application.

"(b) Criteria.—In determining whether to impose export controls under this section, the President, acting through the Secretary and the Secretary of State, shall consider—

"(1) the likely effectiveness of the proposed controls in achieving their purpose, including the availability from other countries of any goods or technology comparable to goods or technology proposed for export controls under this section;

"(2) the compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

"(3) the likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, and on individual United States companies and their employees and communities, including the effects of the controls on existing contracts; and

"(4) the ability of the United States Government to enforce the proposed controls effectively.

"(c) Consultation With Industry.—The Secretary, before imposing export controls under this section, shall consult with such affected United States industries as the Secretary considers appropriate, with respect to the criteria set forth in paragraphs (1) and (3) of subsection (b) and such other matters as the Secretary considers appropriate.

"(d) Alternative Means.—Before resorting to the imposition of export controls under this section, the President shall determine that reasonable efforts have been made to achieve the purposes of the controls through negotiations or other alternative means.

"(e) Notification to Congress.—The President in every possible instance shall consult with the Congress before imposing any export control under this section. Whenever the President imposes any export control with respect to any country under this section, he shall immediately notify the Congress of the imposition of such export control, and shall submit with such notification a report specifying—

"(1) the reasons for the control, the purposes the control is designed to achieve, and the conditions under which the control will be removed;

"(2) those considerations of the criteria set forth is subsection (b) which led him to determine that on balance such export control would further the foreign policy interests of the United States or fulfill its international responsibilities, including those criteria which were determined to be inapplicable;

"(3) the nature and results of consultations with industry undertaken pursuant to subsection (c); and

"(4) the nature and results of any alternative means attempted under subsection (d), or the reasons for imposing the control without attempting any such alternative means.

To the extent necessary to further the effectiveness of such export control, portions of such report may be submitted on a classified basis, and shall be subject to the provisions of section 12(c) of this Act. If the Congress, within sixty days after the receipt of such notification, adopts a concurrent resolution disapproving such export control, then such export control shall cease to be effective upon the adoption of the resolution. In the computation of such sixty-day period, there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain or because of an adjournment of the Congress sine die. The procedures set forth in section 130 of the Atomic Energy Act of 1954 shall apply to any concurrent resolution referred to in this subsection, except that any such resolution shall be reported by the appropriate committees of both Houses of Congress not later than forty-five days after the receipt of the notification submitted pursuant to this subsection.

"(f) Exclusion for Food and Medicine.—This section does not authorize export controls on food, medicine, or medical supplies. It is the intent of Congress that the President not impose export controls under this section on any goods or technology if he determines that the principal effect of the export of such goods or technology would be to help meet basic human needs. This subsection shall not be construed to prohibit the President from imposing restrictions on the export of food, medicine, or medical supplies, under the International Emergency Economic Powers Act.

"(g) Trade Embargoes.—This section does not authorize the imposition by the United States of a total trade embargo on any country. This subsection shall not be construed to prohibit the President from imposing a trade embargo under the International Emergency Economic Powers Act.

"(h) Foreign Availability.—In applying export controls under this section, the President shall take all feasible steps to initiate and conclude negotiations with appropriate foreign governments for the purpose of securing the cooperation of such foreign governments in controlling the export to countries and consignees to which the United States export controls apply of any goods or technology comparable to goods or technology controlled for export under this section.

"(i) International Obligations.—The limitations contained in subsections (b), (c), (d), (f), (g), and (h) shall not apply in any case in which the President exercises the authority contained in this section to impose export controls, or to approve or deny export license applications, in order to fulfill commitments of the United States pursuant to treaties to which the United States is a party, or to comply with decisions or other actions of international organizations of which the United States is a member.

"(j) Existing Controls.—The provisions of subsection (f) and (g) shall not apply to any export control on food or medicine or to any trade embargo in effect on the effective date of the Export Administration Act Amendments of 1979.

"(k) Countries Supporting International Terrorism.—The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate before any license is approved for the export of goods or technology valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations:

"(1) Such country has repeatedly provided support for acts of international terrorism.

"(2) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

"(l) Control List.—The Secretary shall establish and maintain, as part of the commodity control list, a list of any goods or technology subject to export controls under this section, and the countries to which such controls apply. Such goods or technology shall be clearly identified as subject to controls under this section. Such list shall consist of goods and technology identified by the Secretary of State, with the concurrence of the Secretary. If the Secretary and the Secretary of State are unable to agree on the list, the matter shall be referred to the President for resolution. The Secretary shall issue regulations providing for periodic revision of such list for the purpose of eliminating export controls which are no longer necessary to fulfill the purpose set forth in subsection (a) of this section or are no longer advisable under the criteria set forth in subsection (b) of this section.".

(c) The Export Administration Act of 1969 is amended by inserting after section 9, as redesignated by subsection (a) of this section, the following new section:

"PROCEDURES FOR PROCESSING VALIDATED AND QUALIFIED GENERAL LICENSE APPLICATIONS

"Sec. 10. (a) General Responsibility of the Secretary; Designated Official.—(1) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this section for objections by other agencies. The Secretary may not delegate the authority to deny any such application to any official holding a rank lower than Deputy Assistant Secretary.

"(2) For purposes of this section, the term 'designated official' means an official designated by the Secretary to carry out functions under this Act with respect to the administration of export licenses.

"(b) Applications To Be Reviewed To Other Agencies.—(1) It is the intent of Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other Government agency.

"(2) The head of any Government agency concerned with export controls may, within ninety days after the effective date of this section, and periodically thereafter, in consultation with the Secretary, determine the specific types and categories of license applications to be reviewed by such agency before the Secretary approves or disapproves any such application. The Secretary shall, in accordance with the provisions of this section, submit to the agency involved any license application of any such type or category.

"(c) Initial Screening.—Within ten days after the date on which any export license application is received, the designated official shall—

"(1) send to the applicant an acknowledgment of the receipt of the application and the date of the receipt;

"(2) submit to the applicant a written description of the procedures required by this section, the responsibilities of the Secretary and of other agencies with respect to the application, and the rights of the applicant;

"(3) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this section; and

"(4) determine whether it is necessary to submit the application to any other agency and, if such submission is determined to be necessary, inform the applicant of the agency or agencies to which the application will be referred.

"(d) ACTION BY THE DESIGNATED OFFICIAL.—Within thirty days after the date on which an export license application is received, the designated official shall—

"(1) approve or disapprove the application and formally issue or deny the license, as the case may be; or

"(2)(A) submit the application, together with all necessary analysis and recommendations of the Department of Commerce, concurrently to any other agencies pursuant to subsection (b)(2); and

"(B) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation submitted to such other agency with respect to such application.

"(e) ACTION BY OTHER AGENCIES.—(1) Any agency to which an application is submitted pursuant to subsection (d)(2)(A) shall submit to the designated official, within thirty days after the end of the thirty-day period referred to in subsection (d), any recommendations with respect to such application. Except as provided in paragraph (2), any such agency which does not so submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the designated official to have no objection to the approval of such application.

"(2) If the head or acting head of any such agency notifies the Secretary before the expiration of the time period provided in paragraph (1) for submission of its recommendations that more time is required for review of the application by such agency, the agency shall have an additional thirty-day period to submit its recommendations to the designated official. If such agency does not so submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the designated official to have no objection to the approval of the application.

"(f) DETERMINATION BY THE DESIGNATED OFFICIAL.—(1) The designated official shall take into account any recommendation of an agency submitted with respect to an application to the designated official pursuant to subsection (e), and, within twenty days after the end of the appropriate period specified in subsection (e) for submission of such agency recommendations, shall—

"(A) approve or disapprove the application and inform such agency of such approval or disapproval; or

"(B) if unable to reach a decision with respect to the application, refer the application to the Secretary and notify such agency and the applicant of such referral.

"(2) The designated official shall formally issue or deny the license, as the case may be, not more than ten days after such official makes a determination under paragraph (1)(A), unless any agency which submitted a recommendation to the designated official pursuant to subsection (e) with respect to the license application, notifies such official, within such ten-day period, that it objects to the determination of the designated official.

"(3) The designated official shall fully inform the applicant, to the maximum extent consistent with the national security and foreign policy of the United States—

"(A) within five days after a denial of the application, of the statutory basis for the denial, the policies in section 3 of this Act that formed the basis of the denial, the specific circumstances that led to the denial, and the applicant's right to appeal the denial to the Secretary under subsection (k) of this section; or

"(B) in the case of a referral to the Secretary under paragraph (1)(B) or an objection by an agency under paragraph (2) of the specific questions raised and any negative considerations or recommendations made by an agency, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

"(g) ACTION BY THE SECRETARY.—(1)(A) In the case of an objection of an agency of which the designated official is notified under subsection (f)(2), the designated official shall refer the application to the Secretary. The Secretary shall consult with the head of such agency, and, within twenty days after such notification, shall approve or disapprove the license application and immediately inform such agency head of such approval or disapproval.

"(B) In the case of a referral to the Secretary under subsection (f)(1)(B), the Secretary shall, within twenty days after notification of the referral is transmitted pursuant to such subsection, approve or disapprove the application and immediately inform any agency which submitted recommendations with respect to the application, of such approval or disapproval.

"(2) The Secretary shall formally issue or deny the license, as the case may be within ten days after approving or disapproving an application under paragraph (1), unless the head of the agency referred to in paragraph (1)(A), or the head of an agency described in paragraph (1)(B), as the case may be, notifies the Secretary of his or her objection to the approval or disapproval.

"(3) The Secretary shall immediately and fully inform the applicant, in accordance with subsection (f)(3), of any action taken under paragraph (1) or (2) of this subsection.

"(4) The Secretary may not delegate the authority to carry out the actions required by this subsection to any official holding a rank lower than Deputy Assistant Secretary.

"(h) ACTION BY THE PRESIDENT.—In the case of notification by an agency head, under subsection (g)(2), of an objection to the Secretary's decision with respect to an application, the Secretary shall immediately refer the application to the President. Within thirty days after such notification, the President shall approve or disapprove the application and the Secretary shall immediately issue or deny the license, in accordance with the President's decision. In any case in which the President does not approve or disapprove the application within such thirty-day period, the decision of the Secretary shall be final and the Secretary shall immediately issue or deny the license in accordance with the Secretary's decision.

"(i) SPECIAL PROCEDURES FOR SECRETARY OF DEFENSE.—(1) Notwithstanding any other provision of this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

"(2) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the export control office to which licensing requests are made, the types and categories of transactions which should be reviewed by him in order to make a determination referred to in paragraph (1). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the appropriate export control office or agency to which such request is made shall notify the Secretary of Defense of such request, and such office may not issue any license or other authority pursuant to the request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this paragraph and, not later than thirty days after notification of the request, shall—

"(A) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

"(B) notify such office or agency that he will interpose no objection if appropriate conditions designed to achieve the purposes of this Act are imposed; or

"(C) indicate that he does not intend to interpose an objection to the export of such goods or technology.

If the President notifies such office or agency, within thirty days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country.

"(3) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this subsection, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this section.

"(j) MULTILATERAL REVIEW.—(1) In any case in which an application, which has been finally approved under subsection (d), (f), (g), (h), or (i) of this section, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such subsections, but the Secretary shall notify the applicant of the approval (and the date of such approval) of the application by the United States Government, subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review. If such multilateral review has not resulted in a determination with respect to the application within sixty days after such date, the Secretary's approval of the application shall be final and the license shall be issued. The Secretary shall institute such procedures for preparation of necessary documentation before final approval of the application by the United States Government as the Secretary considers necessary to implement the provisions of this paragraph.

"(2) In any case in which the approval of the United States Government is sought by a foreign government for the export of goods or technology pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the Secretary of State, after consulting with other appropriate United States Government agencies, shall, within sixty days after the date on which the request for such approval is made, make a determination with respect to the request for approval. Any such other agency which does not submit a recommendation to the Secretary of State before the end of such sixty-day period shall be deemed by the Secretary of State to have no objection to the request for United States Government approval. The Secretary of State may not delegate the authority to disapprove a request for United States Government approval under this paragraph to any official of the Department of State holding a rank lower than Deputy Assistant Secretary.

"(k) Extensions.—If the Secretary determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, the Secretary may extend any time period prescribed in this section. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.

"(l) Appeal and Court Action.—(1) The Secretary shall establish appropriate procedures for any applicant to appeal to the Secretary the denial of an export license application of the applicant.

"(2) In any case in which any action prescribed in this section is not taken on a license application within the time periods established by this section (except in the case of a time period extended under subsection (k) of which the applicant is notified), the applicant may file a petition with the Secretary requesting compliance with the requirements of this section. When such petition is filed, the Secretary shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

"(3) If, within thirty days after petition is filed under paragraph (2), the processing of the application has not been brought into conformity with the requirements of this section, or, if the application has been brought into conformity with such requirements, the Secretary has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for a restraining order, a temporary or permanent injunction, or other appropriate relief, to require compliance with the requirements of this section. The United States district courts shall have jurisdiction to provide such relief as appropriate.

"(m) Records.—The Secretary and any agency to which any application is referred under this section shall keep accurate records with respect to all applications considered by the Secretary or by any such agency.".

SHORT SUPPLY LICENSE ALLOCATION

Sec. 105. Section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended in subsection (b) by adding the following at the end of paragraph (1): "Such factors shall include the extent to which a country engages in equitable trade practices with respect to United States goods and treats the United States equitably in times of short supply.".

MONITORING OF EXPORTS

Sec. 106. Section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by amending paragraph (1) of subsection (c) to read as follows:

"(c)(1) To effectuate the policy set forth in section 3(2)(C) of this Act, the Secretary shall monitor exports, and contracts for exports, of any good (other than a commodity which is subject to the reporting requirements of sction 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Any such monitoring shall commence at a time adequate to assure that the monitoring will result in a data base sufficient to enable policies to be developed, in accordance with section 3(2)(C) of this Act, to mitigate a short supply situation or serious inflationary price rise or, if export controls are needed, to permit imposition of such controls in a timely manner. Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection.".

DOMESTIC CRUDE OIL

Sec. 107. Subsection (l) of section 7 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended—

(1) in paragraph (1)—

(A) by striking out clause (A) and inserting in lieu thereof the following: "(A) is exported to the territory of an adjacent foreign state to be refined and consumed therein in exchange for the same quantity of crude oil being exported from that country to the United States, such exchange achieving, through convenience or increased efficiency of transportation, lower oil prices described in paragraph (2)(A)(ii) of this subsection for consumers in the United States, or", and

(B) by striking out "during the 2-year period beginning on the date of enactment of this subsection"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

"(A) the President makes and publishes express findings that exports of such crude oil, including exchanges—

"(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

"(ii) will, within three months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refineries which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil which is exported, and (II) commensurately reduced wholesale and retail prices of products refined from such imported crude oil;

"(iii) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

"(iv) are clearly necessary to protect the national interest; and

"(v) are in accordance with the provisions of this Act; and

"(B) the President reports such findings to the Congress and the Congress, within sixty days thereafter, passes a concurrent resolution approving such exports on the basis of the findings.

Findings of lower costs and prices described in subparagraph (A)(ii) should be audited and verified by the General Accounting Office at least semiannually.

"(3) Notwithstanding any other provision of this section and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any nation pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before May 1, 1979.".

UGANDA

Sec. 108. Section 7 of the Export Administration Act of 1969, as redesignated by section 104 of this Act, is amended by repealing subsection (m), as added by section 5(d) of the Act of October 10, 1978 (Public Law 95–435).

PETITIONS FOR MONITORING OR CONTROLS

Sec. 109. Section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d)(1)(A) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes metallic materials capable of being recycled with respect to which a serious inflationary impact resulting from an increase in domestic prices or a domestic shortage, either of which results from increased exports, has or may have a significant adverse effect on the national economy or any sector thereof, may transmit a written petition to the Secretary requesting the monitoring of exports, or the imposition of export controls, or both, with respect to such material, in order to carry out the policy set forth in section 3(2)(C) of this Act.

"(B) Each petition shall be in such form as the Secretary shall prescribe and shall contain information in support of the action requested. The petition shall include any information reasonably available to the petitioner indicating (1) that there has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply and (2) that there has been a serious inflationary impact resulting from a significant increase in the price of such material which may be related to exports.

"(2) Within fifteen days after receipt of any petition described in paragraph (1), the Secretary shall publish a notice in the Federal Register. The notice shall (A) include the name of the material which is the subject of the petition, (B) include the Schedule B number of the material as set forth in the Statistical Classification of Domestic and foreign Commodities Exported from the United States, (C) indicate whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material, and (D) provide that interested persons shall have a period of thirty days commencing with the date of publication of such notice to submit to the Secretary written data, views, or arguments, with or without opportunity for oral presentation, with respect to the matter involved. At the request of the petitioner or any other described in paragraph (1)(A) with respect to the material which is the subject of the petition, or at the request of any entity representative of producers or exporters of such material, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the thirty-day period may be extended for forty-five days.

"(3) Within forty-five days after the end of the thirty or forty-five-day period described in paragraph (2), as the case may be, or within seventy-five days after the publication in the Federal Register, pursuant to paragraph (2), whichever occurs later, the Secretary shall—

"(A) determine whether to impose monitoring or controls, or both, on the exportation of such material, in order to carry out the policy set forth in section 3(2)(C) of this Act; and

"(B) publish in the Federal Register a detailed statement of the reasons for such determination.

"(4) Within fifteen days after making a determination under paragraph (3) to impose monitoring or controls on the exportation of a material, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within thirty days following the publication of such proposed regulations, and after considering any public comments, the Secretary shall publish and implement final regulations.

"(5) For purposes of publishing notices in the Federal Register and scheduling public hearings, the Secretary may consolidate petitions, and responses thereto, which involve the same or related materials.

"(6) If a petition has been fully considered within the past six months under this section and a notice has been published with respect to a particular material or group of materials and in the absence of significantly changed circumstances, the Secretary shall have authority to determine that the petition for monitoring or control of such material does not merit the full consideration mandated under this section.

"(7) The procedures and time limits set forth in this subsection with respect to a petition filed under this subsection shall take precedence over any review undertaken at the initiative of the Secretary with respect to the same subject as that of the petition.

"(8) The Secretary may impose monitoring or controls on a temporary basis after a petition is filed under paragraph (1)(A) but before the Secretary makes a determination under paragraph (3) if the Secretary considers such action to be necessary to carry out the policy set forth in section 3(2)(C) of this Act.

"(9) The authority under this section shall not be construed to affect the authority of the Secretary under the other provision of this Act.

"(10) Nothing contained in this section shall be construed to preclude submission on a confidential basis to the Secretary of Commerce of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, nor consideration of such information by the Secretary in reaching decisions required under this section. The provisions of this subsection are not intended to change the applicability of section 552(b) of title 5, United States Code."

BARTER AGREEMENTS

Sec. 110. Section 7 of the Export Administration Act of 1969, as redesignated by section 104 of this Act, is amended by adding at the end thereof the following new subsection:

"(n)(1) The exportation pursuant to a barter agreement of any goods which may lawfully be exported from the United States, for any goods which may lawfully be imported into the United States, may be exempted, in accordance with paragraph (2) of this subsection, from any quantiative limitation on exports (other than any reporting requirement) imposed to carry out the policy set forth in section (3)(2)(C) of this Act, or imposed by the President under the International Emergency Economic Powers Act (50 U.S.C. App. 1701 et seq.) on account of a threat to the economy of the United States.

"(2) The Secretary shall grant an exemption under paragraph (1) if the Secretary finds, after consultation with the head of any appropriate agency of the United States, that—

"(A) for the period during which the barter agreement is to be performed—

"(i) the average annual quantity of the goods to be exported pursuant to the barter agreement will not be required to satisfy the average amount of such goods estimated to be required annually by the domestic economy and will be surplus thereto; and

"(ii) the average annual quantity of the goods to be imported will be less than the average amount of such goods estimated to be required annually to supplement domestic production; and

"(B) the parties to such barter agreement have demonstrated adequately that they intend, and have the capacity, to perform such barter agreement.

"(3) For purposes of this subsection, the term 'barter agreement' means any agreement which is made for the exchange, without monetary consideration, of any goods produced in the United States for any goods produced outside of the United States.

"(4) This subsection shall apply only with respect to barter agreements entered into after the effective date of the Export Administration Act Amendments of 1979.".

EXPORTS OF HIDES AND SKINS

Sec. 111. Paragraph (1) of subsection (f) of section 7 of the Export Administration Act of 1969, as such section is redesignated by section 104(a) of this Act, is amended by adding at the end thereof the following: "The Secretary of Agriculture shall, by exercising the authorities which the Secretary of Agriculture has under other applicable provisions of law, collect data with respect to export sales of animal hides and skins.".

UNPROCESSED RED CEDAR

Sec. 112. (a) The Secretary of Commerce shall require a validated license, under section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, for the export of unprocessed western red cedar (Thuja plicata) logs, harvested from State or Federal lands. The Secretary shall impose quantitative restrictions upon the export of unprocessed western red cedar logs during the three-year period beginning on the effective date of this Act as follows:

(1) Not more than thirty million board feet scribner of such logs may be exported during the first year of such three-year period.

(2) Not more than fifteen million board feet scribner of such logs may be exported during the second year of such period.

(3) Not more than five million board feet scribner of such logs may be exported during the third year of such period.

After the end of such three-year period, no unprocessed western red cedar logs may be exported from the United States.

(b) The Secretary of Commerce shall allocate export licenses to exporters pursuant to this section on the basis of a prior history of exportation by such exporters and such other factors as the Secretary considers necessary and appropriate to minimize any hardship to the producers of western red cedar and to further the foreign policy of the United States.

(c) Unprocessed western red cedar logs shall not be considered to be an agricultural commodity for purposes of subsection (f) of section 7 of the Export Administration Act of 1969, as such section is redesignatd by section 104(a) of this Act.

(d) As used in this subsection, the term "unprocessed western red cedar" means red cedar timber which has not been processed into—

(1) lumber without wane;

(2) chips, pulp, and pulp products;

(3) veneer and plywood;

(4) poles, posts, or pilings cut or treated with preservative for use as such and not intended to be further processed; or

(5) shakes and shingles.

CIVIL AIRCRAFT EQUIPMENT

Sec. 113. Notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration, in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under the Export Administration Act of 1969. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act. For purposes of this section, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

NONPROLIFERATION CONTROLS

Sec. 114. (a) Nothing in section 5 or 6 of the Export Administration Act of 1969, as added by section 104(b) of this Act, shall be construed to supersede the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

(b) With respect to any export license application which, under the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, is referred to the Subgroup on Nuclear Export Coordination or other interagency group, the provisions of section 10 of the Export Administration Act of 1969, as added by section 104(c) of this Act, shall apply with respect to such license application only to the extent that they are consistent with such published procedures, except that if the processing of any such application under such procedures is not completed within one hundred and eighty days after the receipt of the application by the Secretary of Commerce, the applicant shall have the rights of appeal and court action provided in subsection (k) of such section 10.

VIOLATIONS

Sec. 115. Section 11 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.".

(2) Subsection (b) is amended to read as follows:

"(b)(1) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned not more than ten years, or both.

"(2) any person who is issued a validated license under this act for the export of any good or technology to a controlled country and who, with knowledge that such a good or technology is being used by such controlled country for military or intelligence gathering purposes willfully fails to report such use to the Secretary of Defense, shall be fined the sum equal to the amount of gross profit accrued from the sale of the item or $100,000, whichever is greater, or imprisoned for not more than five years, or both. For purposes of this paragraph, 'controlled country' means any Communist country as defined in section 620(f) of the Foreign Assistance Act of 1961.".

(3) Subsection (c)(2)(A) is amended by striking out "articles, materials, supplies, or technical data or other information" and inserting in lieu thereof, "goods, technology, or other information".

Sec. 116. Subsection (c) of section 12 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended to read as follows:

"(c)(1) Except as otherwise provided by the third sentence of section 8(b)(2) and by section 11(c)(2)(C) of this Act, information obtained under this Act on or before June 30, 1980, which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest.

"(2) Any department or agency exercising any function under this Act may withhold information obtained under this Act after June 30, 1980, only to the extent permitted by statute, except that information concerning licensing of exports filed under this Act shall be withheld from public disclosure unless the release of such information is determined by the head of such department or agency to be in the national interest.

"(3) Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.".

REPORT TO CONGRESS

SEC. 117. Section 14 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended to read as follows:

"ANNUAL REPORT

"SEC. 14. Not later than December 31 of each year, the Secretary shall submit to the Congress a report on the administration of this Act during the preceding fiscal year. All agencies shall cooperate fully with the Secretary in providing information for such report. Such report shall include detailed information with respect to—

"(1) the implementation of the policies set forth in section 3;

"(2) general licensing activities under section 5, 6, and 7;

"(3) actions taken in compliance with section 5(c)(3);

"(4) changes in categories of items under export control referred to in section 5(e);

"(5) the operation of the indexing system under section 5(g);

"(6) determinations of foreign availability made under section 5(f), the criteria used to make such determinations, the removal of any export controls under such section, and any evidence demonstrating a need to impose export controls for national security purposes notwithstanding foreign availability;

"(7) consultations with the technical advisory committees established pursuant to section 5(h), the use made of the advice rendered by such committees, and the contributions of such committees toward implementing the policies set forth in this Act;

"(8) changes in policies toward individual countries under section 5(b);

"(9) actions taken to carry out section 5(d);

"(10) the effectiveness of export controls imposed under section 6 in furthering the foreign policy of the United States;

"(11) the implementation of section 8;

"(12) export controls and monitoring under section 7;

"(13) organizational and procedural changes undertaken to increase the efficiency of the export licensing process and to fulfill the requirements of section 10, including an analysis of the time required to process license applications and an accounting of appeals received, court orders issued, and actions taken pursuant thereto under subsection (l) of such section; and

"(14) violations under section 11 and enforcement activities under section 12.".

RULES AND REGULATIONS

SEC. 118. The Export Administration Act of 1969 is amended by inserting after section 14, as redesignated by section 104(a) of this Act, the following new section:

"REGULATORY AUTHORITY

"SEC. 15. The President and the Secretary may issue such rules and regulations as are necessary to carry out the provisions of this Act. Any such rules or regulations issued to carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) may apply to the financing, transporting, or other servicing of exports and the participation therein by any person.".

DEFINITION

SEC. 119. Section 16 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended—

(1) in paragraph (1) by striking out "and" after the semicolon;

(2) in paragraph (2) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(3) the term 'Secretary' means the Secretary of Commerce.".

EFFECT ON OTHER ACTS

SEC. 120. (a) Section 17 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended in subsection (b) by striking out "section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934)" and inserting in lieu thereof "section 38 of the Arms Export Control Act (22 U.S.C. 2778)".

(b) Effective October 1, 1979, the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611–1613d) is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 121. Section 18 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGISLATIONS.—Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act unless previously and specifically authorized by law.

"(b) AUTHORIZATION.—(1) There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act $7,070,000 for the fiscal year 1980 and $7,777,000 for the fiscal year 1981 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs).

"(2) Of the funds appropriated to the Department of State for the fiscal year 1980, the Secretary of State may use such amounts as may be necessary to carry out the provisions of section 5(k) of this Act.".

TERMINATION DATE

SEC. 122. Section 20 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by striking out "1979" and inserting in lieu thereof "1983".

REFINED PETROLEUM PRODUCTS

SEC. 123. Section 7 of the Export Administration Act of 1969, as amended by section 109 of this Act, is amended by adding at the end thereof the following new subsection:

"(o)(1) No refined petroleum product or residual fuel oil may be exported except pursuant to an export license specifically authorizing such export. Not later than five days after an application for a license to export any refined petroleum product or residual fuel oil is received, the Secretary shall notify the Congress of such application, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export. Such notification shall be referred to a committee of appropriate jurisdiction in each House of Congress.

"(2) The Secretary may grant such license if, within five days after notification to the Congress under paragraph (1) is received, a meeting of either committee of Congress to which the notification was referred under paragraph (1) has not been called, with respect to the proposed export, (A) by the chairman of the committee, (B) at the request in writing of a majority of the members of the committee, or (C) at the request of the Speaker of the House of Representatives or the Majority Leader of the Senate. Any such meeting shall be held within 10 days after notification to the Congress under paragraph (1) is received. If such a meeting is so called and held, the Secretary may not grant the license until after the meeting.

"(3) If, at any meeting of a committee called and held as provided in paragraph (2), the committee by a majority vote, a quorum being present, requests 30 days, beginning on the date of the meeting, for the purpose of taking legislative action with respect to the proposed export, the Secretary may not grant the license during such 30-day period.

"(4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, the Secretary may, after notifying the Congress of an application for an export license pursuant to paragraph (1), grant the license if the Secretary certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that the proposed export is vital to the national interest and that a delay will cause irreparable harm.

"(5) At the time the Secretary grants any license to which this subsection applies, the Secretary shall so notify the Congress, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export.

"(6) This subsection shall not apply to (A) any export license application for exports to a country with respect to which historical export quotas established by the Secretary on the basis of past trading relationships apply, or (B) any license application for exports to a country if exports under the license would not result in more than 250,000 barrels of refined petroleum products and residual fuel oil being exported from the United States to such country in any fiscal year.

"(7) For purposes of this subsection, 'refined petroleum product' means gasoline, kerosene, distillates, propane or butane gas, or diesel fuel.

"(8) The Secretary may extend any time period prescribed in section 10 of this Act to the extent necessary to take into account delays in action by the Secretary on a license application on account of the provisions of this subsection.".

TECHNICAL AMENDMENTS

SEC. 124. (a) For purposes of this section, an amendment which is expressed in terms of an amendment to a section or other provision, shall be considered to be a section, as redesignated by section 104(a) of this Act, or other provision of the Export Administration Act of 1969.

(b) Section 7 is amended—

(1) in the section heading by striking out "AUTHORITY" and inserting in lieu thereof "OTHER CONTROLS;"

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting "(2) (C)" immediately after "section 3" the first time it appears,

(ii) by striking out "articles, materials, or supplies, including technical data on any other information," and inserting in lieu thereof "goods",

(iii) by striking out "articles, materials, or supplies" and inserting in lieu thereof goods", and

(iv) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy stated in section 3(2) (C) of this Act, the Secretary shall include in a notice published in the Federal Register with respect to such restrictions an invitation to all interested parties to submit written comments within fifteen days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking out "(A)" and inserting in lieu thereof "(C)",

(ii) by striking out "of Commerce",

(iii) by striking out "7(c)" and inserting in lieu thereof "12(c)", and

(iv) by striking out "article, material, or supply" and inserting in lieu thereof "goods";

(B) in paragraph (2) by striking out "each article, material, or supply" and inserting in lieu thereof "any goods"; and

(C) by adding at the end thereof the following new paragraph:

"(3) The Secretary shall consult with the Secretary of Energy to determine whether monitoring under this subsection is warranted with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.";

(4) in subsection (f)—

(A) in paragraph (1) by striking out "(B) or (C)" and inserting in lieu thereof "(A) or (B)";

(B) in paragraph (2)—

(i) by striking out "of Commerce" each place it appears, and

(ii) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(C) in paragraph (3) by striking out "clause (A) or (B) of paragraph (2)" and inserting in lieu thereof "paragraph (2) (C)";

(5) in subsection (i) by striking out "(A)" and inserting in lieu thereof "(C)";

(6) in subsection (j)—

(A) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(B) by striking out "of Commerce" each place it appears; and

(7) by striking out subsections (a), (e), (g), (h), and (k), and redesignating subsections (b), (c), (f), (i), (p), (l), subsection (m), as added by section 6(d) (2) of the International Security Assistance Act of 1978, subsection (n), as added by section 109 of this Act, and subsection (o), as added by section 124 of this Act, as subsections (a), (b), (c), (d), (e), (f), (g), (h) and (i), respectively.

(c) Section 8 is amended—

(1) in subparagraph (1) (D) and (5) of subsection (a) by striking out "of Commerce"; and

(2) in subsection (b)—

(A) in paragraph (1) by striking out "4 (b)" and inserting in lieu thereof "6(a)"; and

(B) in paragraph (2) by striking out "of Commerce" each place it appears.

(d) Section 9 is amended—

(1) by striking out "of Commerce" each place it appears; and

(2) by striking out "commodity" each place it appears and inserting in lieu thereof "good".

(e) Subsection (c) (2) of section 11 is amended by striking out "4A" each place it appears and inserting in lieu thereof "8".

(f) Section 12 is amended—

(1) in subsection (b) by striking out "the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46)" and inserting in lieu thereof "section 6002 of title 18, United States Code";

(2) in subsection (d)—

(A) by striking out "quarterly"; and

(B) by striking out "10" and inserting in lieu thereof "14"; and

(3) in subsection (e)—

(A) by striking out "of Commerce";

(B) by striking out "(c)" and inserting in lieu thereof "(h)";

(C) by striking out "articles, materials, and supplies" and inserting in lieu thereof "goods and technology"; and

(D) by striking out the last two sentences and inserting in lieu thereof the following: "The Secretary shall include, in the annual report required by section 14 of this Act, actions taken on the basis of such review to simplify such rules and regulations.".

(g) Section 13 is amended by striking out "6" and inserting in lieu thereof "11".

TECHNICAL AMENDMENTS TO OTHER ACTS

SEC. 125. (a) Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) is amended by striking out "sections 6(c), (d), (e), and (f) and 7 (a) and (c) of the Export Administration Act of 1969" and inserting in lieu thereof "subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1969, and by subsections (a) and (c) of section 12 of such Act".

(b) (1) Section 103(c) of the Energy Policy and Conservation Act (42 U.S.C. 6212(c)) is amended by striking out "(A)" each place it appears and inserting in lieu thereof "(C)".

(2) Section 254(e) (3) of such Act (42 U.S.C. 6274(e) (3)) is amended—

(A) by striking out "7" and inserting in lieu thereof "12"; and

(B) by striking out "(50 App. U.S.C. 2406)".

(c) Section 993(c) (2) (D) of the Internal Revenue Code of 1954 (26 U.S.C. 993(c) (2) (D)) is amended—

(1) by striking out "40(b)" and inserting in lieu thereof "7(a)";

(2) by striking out "(50 U.S.C. App. 2403 (b))"; and

(3) by striking out "(A)" and inserting in lieu thereof "(C)".

SAVINGS PROVISIONS

SEC. 126. (a) All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under the Export Control Act of 1949 or the Export Administration Act of 1969 and which are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act or the amendments made by this Act.

(b) This Act and the amendments made by this Act shall not apply to any administrative proceedings commenced or any application for a license made, under the Export Administration Act of 1969, which is pending at the time this Act takes effect.

(c) This Act and the amendments made by this Act shall not affect any investigation, suit, action, or other judicial proceeding commenced under the Export Administration Act of 1969, or under section 552 of title 5, United States Code, which is pending at the time this Act takes effect; but such investigation, suit, action, or proceeding shall be continued as if this Act had not been enacted.

EFFECTIVE DATE

SEC. 127. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect on October 1, 1979.

(b) The amendments made by section 107 and 108 of this Act shall take effect on the date of enactment of this Act.

(c) Regulations implementing the provisions of section 10 of the Export Administration Act of 1969, as added by section 104 (c) of this Act, shall be issued and take effect not later than July 1, 1980.

DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY

SEC. 128. Section 5 of the Export Administration Act of 1969, as added by section 104 (b) of this Act, is amended by adding at the end thereof the following new subsection:

"(l) DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY.—(1) Whenever there is reliable evidence that goods or technology, which were exported subject to national security controls under this section to a country to which exports are controlled for national security purposes, have been diverted to significant military use, the Secretary shall, for as long as that diversion to significant military use continues—

"(A) deny all further exports to the party responsible for that diversion of any goods or technology subject to national security controls under this section which contribute to that particular military use, regardless of whether such goods or technology are available to that country from sources outside the United States; and

"(B) take such additional steps under this Act as are necessary to prevent, the further military use of the previously exported goods or technology.

"(2) As used in this subsection, the terms 'diversion to significant military use' and 'significant military use' include, but are not limited to, the use of goods or technology in the design or production of any item on the United States Munitions List.".

TITLE II—INTERNATIONAL INVESTMENT SURVEY ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Section 9 of the International Investment Survey Act of 1976 (90 Stat. 2059) is amended to read as follows:

"SEC. 9. To carry out this Act, there are authorized to be appropriated $4,400,000 for the fiscal year ending September 30, 1980, and $4,500,000 for the fiscal year ending September 30, 1981.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

TITLE III—MISCELLANEOUS

SEC. 301. Section 402 of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting "or beer" in the second sentence immediately after "wine".

The motion was agreed to.

The Senate bill was ordered to be read the third time, was read the third time, and passed.

The title was amended so as to read: "A bill to provide for continuation of authority to regulate exports, and for other purposes."

A similar House bill, H.R. 4034, was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 737

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendment to the text of the Senate bill, S. 737, the Clerk be authorized to correct section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 4034.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 737, EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 737, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. ZABLOCKI, FASCELL, BINGHAM, BONKER, PEASE, BARNES, WOLPE, FITHIAN, BROOMFIELD, LAGOMARSINO, FINDLEY, and GILMAN.

PERMISSION TO HAVE UNTIL MIDNIGHT, SEPTEMBER 27 TO FILE CONFERENCE REPORT ON S. 737, EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979, AND MAKING IN ORDER ITS CONSIDERATION ON SEPTEMBER 28 OR ANY DAY THEREAFTER

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that the House conferees have until midnight Thursday, September 27, 1979, to file a conference report on the Senate bill, S. 737, and that it shall be in order to consider the conference report on S. 737 on Friday, September 28, 1979, or any day thereafter, and that said conference report shall be considered as having been read.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, reserving the right to object. I just wanted to ask the gentleman from New York if this permission is granted, will the gentleman assure us that there will be written copies available, since if it is filed after midnight on Thursday and is brought up on Friday, Members may not have the benefit of knowing precisely what has been done.

Mr. BINGHAM. If the gentleman will yield, the gentleman is as familiar with the procedures as I am, probably more so. I cannot assure the gentleman that there will be printed copies available. There will be copies available.

Mr. BAUMAN. But there will be some written copies available for consideration?

Mr. BINGHAM. There will be some written copies available.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

IMPROVING GSA'S CONTRACTING OPERATIONS

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. JOHN L. BURTON. Mr. Speaker, as chairman of the Government Activities and Transportation Subcommittee of the Committee on Government Operations, I am introducing today a bill to redirect and strengthen the General Services Administration in order to reform contract procedures and supervision within the Government. Joining me in sponsoring this legislation is our subcommittee's ranking minority member from Pennsylvania (Mr. WALKER).

Our subcommittee has been investigating aspects of GSA's procurement and contracting activities for more than a year. GSA's new Inspector General and the GSA Task Force in the Justice Department's Criminal Division are proceeding with investigation of individual cases of fraud. The subcommittee is giving close attention to assuring full capability of the Office of Inspector General to carry on the needed audit and investigation work.

Our subcommittee has laid special stress on GSA's major buying program for commercial products. This is the multiple award schedule program, which involves 4 million products, 8,000 yearly contracts, and $2 billion in total purchases for fiscal year 1978.

On May 2, 1979, the General Accounting Office submitted, pursuant to our request, a comprehensive report on the multiple award schedule program. It found that there was little price competition, slight monitoring of items ordered, too many items on the schedules, and too many suppliers. In general, it found that GSA does not have the capability to make sure the Government's interests are protected. Pointing out that these problems were basic and of long standing, GSA recommended major legislative changes:

First. To put GSA under a deadline to accomplish management improvements.

Second. To strengthen GSA's position as a primary supplier of products for Federal agencies.

GAO spoke of GSA's "Service-oriented" approach to satisfying the agencies' individual needs in critical terms, declaring: "Without a fundamental change in its philosophy, GSA management will be unable to correct the current situation."

In view of these and other weaknesses our investigations have disclosed, we are proposing now a bill to lay out new powers and duties of GSA with time limits for action. It will bring about greater involvement of the new Inspector General through special consultative, investigative, and report responsibilities. In receiving a larger and clearer mandate of responsibility and accountability, GSA should be able to evolve the new philosophy which it needs and which since 1949 has been the underlying principle of the Federal Property Act; namely, centralized procurement and supply for the Government.

It is a good sign that GSA's leadership has agreed with the GAO report's findings and recommendations. Its new Administrator reaffirmed GSA's agreement by letter on July 11, 1979.

The proposed bill is the product of much study and discussion. GAO, GSA, the Department of Justice, and the Congressional Research Service have been consulted and many of their helpful suggestions have been incorporated in this bill. Nevertheless, I recognize that further changes may become advisable as hearings develop. I want to emphasize that no honest vendors need fear the impact of this bill since it should help to strengthen their role by reducing their unfair competition from shady practices.

Hearings on this bill will begin October 15, 1979.

The bill's main points are these:

First. Section 1 requires contractors to certify their data. It subjects those who furnish fraudulent or misleading information to special civil penalties, including specific monetary assessments and debarment. The contractor's right to hearing and appeal is spelled out.

Second. Section 2 provides for improved and systematized contract administration. Requirements include detailed record-keeping about decisions, personal accountability for decisions as well as operations, periodic review of contracting practices, and a GSA-centralized contract information system.

Third. Section 3 requires GSA to establish a uniform and regular system of contract audits. It requires the Inspector General to conduct periodic evaluation of agencies' audit resources.

Fourth. Section 4 assures greater economy in the repair or alteration of Government-leased office space. It requires additional Congressional oversight and control of proposed work. It will also provide that the current dollar threshold for congressional review is lower so that such review is less easily circumvented.

It is important that the Congress signal its legislative intent with respect to GSA's contracting problems now. The proposed bill is a major step toward that goal. I hope other Members will want to join me and our ranking minority member, Mr. WALKER, as further sponsors of this legislation.

WE MUST HAVE A LARGER INVESTMENT IN MILITARY SPENDING

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, we will have

another opportunity to agree to a 3-percent real growth in defense spending when the House takes up the second concurrent budget resolution again this week.

This investment is vitally needed for military hardware to help modernize our armed forces, as Edward Luttwak of the Georgetown Center for Strategic and International Studies demonstrated in his column in today's daily newspaper.

Urgent priorities include 125 new warships over the next 5 years, instead of the total of 46 now planned.

We also need 18 new Navy combat aircraft a year to keep pace with attrition, and larger stocks of Air Force spares across the board.

The Army's problems will only be solved by an adequate registration machinery in order to fill its ranks with young men fit to fight in the event of war.

But the Army's urgent needs for a new infantry combat vehicle, new-design tank destroyers, and other hardware have also been shelved owing to ruinous budget stringency.

As a result, Dr. Luttwak noted—

> It is not a U.S.-Soviet nuclear war we have to fear, but rather the steady deterioration of our leverage over world events.

I include his column at this point in the RECORD:

[From the Washington Post, Sept. 25, 1979]

Less and Less for Hardware

(By Edward N. Luttwak)

Nothing could have been more clear than the Kissinger argument: SALT II will merely register the military inferiority of the United States unless prompt action is taken.

Nothing could have been more obfuscating than what followed. How much more money would be needed? Three percent over inflation, the level promised by President Carter but not in fact delivered? Five percent, the increase suggested by Sen. Sam Nunn and others? And on what should the money be spent? Senior figures of the administration, men who had just gone through weeks of bureaucratic agony over excruciating budget-cutting choices, did their best to add to the confusion by claiming that the Pentagon would not know how to spend the money anyway. With their desks littered by service warnings of just how much the forces would be run down as inflation cut into real funding, the administration's loyalists could not stand their ground for very long; they soon explained that it was the "strategic-nuclear programs" that were already fully funded, not the rest.

In fact, Henry Kissinger had made it emphatically clear that, in calling for more spending, his first concern was precisely "the rest"—that is, the Navy, the Air Force and the Army, and not just the Trident missile submarines and the MX missile system, which are indeed fully funded. And there could scarcely be an argument over the reality of those needs, at a time when the Navy is down to 398 ships (from 950-plus 10 years ago, with 600 needed for proper coverage of two oceans), when our ground forces are so constrained for training funds that tank crews in Germany can fire only a single round during a single annual exercise, and when our finest Air Force fighters are kept on the ground because there isn't money for spare parts. Single episodes reveal more than reams of statistics: Pentagon budgeteers have just ordered the Navy to provide the refueling tankers it needs by converting S3 aircraft, instead of buying new tanker versions of the same S3 aircraft. It sounds like plain common sense; tankers, after all, need not be tip-top new, theirs being an undemanding mission that calls for no acrobatics. But in fact this is a real horror story, an extreme example of how painful the budget situation really is: The S3 is not some older transport aircraft, just right for a new lease on life after conversion. It is a brand new anti-submarine aircraft crammed with advanced electronics—a key instrument of one of our very few remaining military advantages, our superiority in submarine detection. As things now stand, the imperative need for carrier-based tankers (without which our Navy fighters would lose much of their effectiveness) could only be made good by ripping out sophisticated electronics to make way for jet fuel.

There are all too many such examples of ruinous stringency, where major capabilities are being sacrificed to save small amounts; the two-way squeeze between manpower costs and inflation leaves less and less for the hardware.

One more source of needless confusion has been the misleading assertion that the Pentagon is already awash with money duly appropriated by Congress but not spent. The congressmen who play this tune would hardly dare to deny their wives housekeeping money on the grounds that they still had some cash in hand. There are bills already in the mail for the Pentagon, too, and there are larger amounts already fully committed where contract negotiations are still not completed. There is now a real danger that the Pentagon might be driven to hasty decisions to avoid an accusation issued by those who have every reason to know better.

Beyond all the obfuscating talk of 1975 dollars and 1980 dollars, current dollars and deflated dollars, authorized funds and appropriated funds, there are harsh facts that will not be talked away. It is time to become serious. The Soviet Union is now very evidently on its way to globalizing its armed strength. Unless effectively discouraged by countervailing force, its new power will make the world an even nastier place for us and our friends. We are spending less than 5 percent of our gross national product on defense, they are spending around 15 percent of theirs, or roughly one-third more than we do in real terms.

The present Carter defense budget does not meet the need. Urgent priorities include a new aircraft carrier this year and another two over the next five years; 25 warships a year for the next five years, instead of the total of 46 now planned; and more Navy aircraft. For the Air Force, larger stocks of spare parts across the board and money for a new all-weather fighter-bomber in lieu of the cheaper daylight-only aircraft now being imposed. (The Russians might be excused for choosing to attack at night or in bad weather, but there is no excuse for equipping our Air Force as if Central Europe enjoyed the weather of Nevada.) For the Marines, old landing craft and amphibious vehicles badly need to be replaced, preferably with fighting vehicles that can meet Russian armor—now to be found all over the world. The Army's problems cannot really be solved by money alone; only conscription will fill its ranks with young men fit to fight a modern war. But it, too, needs money urgently to provide a combat vehicle for the infantry (even the Yugoslavs are ahead of us in that department), new-design tank destroyers and mobile air defense across the board, both guns and missiles.

Finally, the strategic forces: there is much to be said for a cheaper submarine to fit the Trident II missile than the 1,800-ton monsters now slowly being built, but equally there is little merit in relying on ancient B-52s where a new bomber is badly needed; a cut-price B-1 is now available that will be of use for non-nuclear missions over the oceans and as an assault-stopper on land, as well as to deliver nuclear air-ground missiles and plain bombs.

For a 5 percent budget growth fully clear of inflation, we could have all this, and nothing less will do. It is not a U.S.-Soviet nuclear war that we have to fear, but rather the steady deterioration of our leverage over world events. In the recent jamboree that gathered in Cuba, which included most members of OPEC, the "non-aligned" revealed their opinion of the balance of power all too clearly, in their open contempt for American power. It is time to "get with it"

HORRORS, CARIBOU LIKE THAT PIPELINE

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. DEVINE. Mr. Speaker, in the Grand Junction, Colo., Daily Sentinel of September 10, 1979, Bill Hams authorized a great tongue-in-cheek, column. It would be truly a laugher were it not so tragic. A must dissertation of dramatic bureaucratic bungling:

Horrors, Caribou Like That Pipeline

(By Bill Hams)

Things I would never know if I didn't read junk mail:

Two University of Colorado scientists recently discovered that the chemical composition of rain and snow near the Continental Divide is changing drastically—and as could be expected of C.U. scientists working for a federal grant, they are unduly alarmed.

They have found a steady increase in acidity over a three-year period. They say it may have "direct implications" in recreation and forestry. They claim acid rain and snowfall can cause an imbalance or shift in environmental cycles and "we could lose species and abundance of species."

While this acidity is far from eating holes in raincoats, ski boots, woolen sweaters, leather gloves or even nylon drawers, it has the C.U. people upset—It just might stamp out the squawfish, the pokenoe shad, the speckled blister bugs and the uncommon louse wort, all extremely vital to ecologists who smoke pot instead of Luckies. It also might reduce the alkali in the western deserts.

Consolidated Cigar Co. has announced that it has developed an aromaless cigar. It is called the "Flite." There is a rumor that one firm making a rug deodorant will protest to the Federal Trade Commission that an aromaless cigar will damage its market.

If you have an old Parker fountain pen stashed back in your desk someplace it is worth hanging onto. It is now a collectors item despite the fact that Parker Pen Co. says sales of its old-style pens have more than doubled in the last 10 years. The price has beat that. One popular model now goes for $60. Just think, they used to sell for $5.

Remember that Alaskan pipeline the environmentalists fought tooth and nail, because they claimed it might disrupt the lifestyle of the caribou? Well, one reason it cost a bundle was because of the additional engineering required to please the ecologists and "Friends of the Caribou." Special "gates" were created, for example, at the migratory paths of the animals. At those points, the pipeline, which is mostly above ground, was buried, and special measures were taken to prevent its heat from melting the permafrost and turning it into mud.

Now, it turns out, the caribou don't appreciate the efforts of their ecologist friends. They prefer the pipeline above ground. They sleep under it. They play under it, leap over it and enjoy its friendly warmth. You don't suppose (horrors no!) that the snail darter might prefer a lake behind a (ugh) dam?

Thanks to a Denver investigator we finally got the facts on those (gulp) terrible oil company profits and how they compare to the costs of the gulp, Department of Energy.

In 1978 the budget of the DOE was $10.6 billion. In 1979 that budget increased to $12.6 billion, a "windfall" increase of almost 20 percent, paid for by taxpayers.

The Department of Energy employs approximately 20,000 people. Can you think of any other business, agency or organization that needs $630,000 per employee to operate efficiently?

The DOE's budget for 1979 is twice the 1976 earnings of the seven largest oil companies. It represents 12 cents for every gallon of gasoline consumed in a year; a 750 percent larger take than the 1.6 cents of "obscene" profit the oil industry makes on a gallon.

The DOE's budget for 1979 exceeds the 1976 net income of the top 20 oil companies by almost $2 billion. It represents close to $60 for each man, woman and child living in the United States.

How about a windfall levy on the DOE?

It turns out that OSHA really wasn't spawned under a rock by a green toad. It has a genuine human factor although no one knows just who its mother is. Aside from these facts, the father of OSHA is ready to disown his wayward son. But of course that is understandable.

Harrison Williams, a New Jersey Democrat and chairman of the Human Resources Committee in the U.S. House, says OSHA needs substantial overhauling. He should know. He's the father of this little, ah, rascal. A lot of other people would suggest that the "substantial overhauling" needed by OSHA is permanent termination with prejudice.

But, anyhoo, the gutless ones on Capitol Hill plan "substantial hearings" on OSHA's sins and the outlook is for some major changes. Farmers and "Safe" small businesses may be "exempt" from the OSHA idiots. Sen. Frank Church, the Idaho liberal who has somewhat redeemed himself by being a foe of the OSHA goons, proposes to let off firms which have relatively light accident records and have 10 or fewer employees.

Daddy OSHA Williams long has opposed efforts to reform his dastardly son but finally has seen that if he doesn't handcuff this federal juvenile delinquent a congressional combine may electrocute the little malefactor. Just to keep the record straight:

OSHA dimbulbs tried to outlaw mattocks in California. It was touch and go for a spell but the short-handled digging and grubbing tool still is legal.

Los Angeles Times columnist Dick Turpin reports that the California State Division of Occupational Safety and Health tried to fine a landscaping company $125 for allowing an employee to use a mattock while weeding a cloverleaf intersection in San Diego. A state safety engineer charged that to use a mattock, a worker "would have to assume a stooped position in excess of 90 degrees of an upright position unless he were working on a slope," and thus might risk a back injury.

But the company appealed and an administrative law judge for the state OSHA decided the mattock wasn't at fault. The worker, it seems, was pulling weeds by hand and only used the tool when he came to a stubborn plant. So he had to stoop anyway.

Speaking of stoops, try these on for size:

One Waterloo, Iowa, hospital administrator said the handbook that tells him how to cut down on Medicare and Medicaid abuses runs 250 pages. He noted that it would cost up to $100,000 for the first year of running an auditing program to catch cheaters. That's more than the cheaters. take in.

A small wood-finishing plant stopped making nightsticks for military police. Bid description for the single piece of turned wood ran 38 pages.●

□ 1210

LASKY ON CARTER

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, President Carter has retreated from virtually every position he took in the 1976 campaign. You will remember in that campaign we were going to have openness, candor, no conflict of interests. Most recently, he has retreated into the Bunker mentality. I understand he has developed hit lists, he has friends and enemies lists and has computerized these with perfection.

For those of us who never really cared how he rated us anyway it is not that significant but on the other side of the aisle I guess all your favors now are going to be limited. Your standing on this particular computer list is of political importance.

Mr. Speaker, I want to call to the attention of the House a person who I am sure is high on the hit list. He is my good friend, the outstanding American author, Victor Lasky. His book, "Jimmy Carter, the Man and the Myth," is certainly must reading for everybody who wants to understand this latest metamorphose.

I want to include with these remarks a column by Virginia Payette who analyzes this book. I call it to the attention of the House. One is able to early understand the President's Bunker mentality if this book is read.

The column follows:

[From the Dallas Morning News, June 16, 1979]

LASKY ON CARTER

(By Virginia Payette)

If I were John Connally or Ronald Reagan, I would buy up a jillion copies of Victor Lasky's new book and pass one out, free, to anybody who says he plans to vote for Jimmy Carter next year.

If I were Jimmy Carter, I would be beating the bushes for a biographer who could rush into print with something, anything, to prove I am, too, honest, loyal, law-abiding and smart.

Lasky, in *Jimmy Carter, the Man and the Myth,* has done to Carter what he did to Jack Kennedy in *JFK, the Man and the Myth,* and Bobby, when it was his turn to be the *M and M*.

And what he did to just about everybody from FDR to LBJ in *It Didn't Start with Watergate,* wherein he defends the Nixon scandals as no worse than anybody else's and downright puny compared to some.

Lasky, in short, is not kind to Carter. If everything he says is true (and there hasn't been a peep out of the White House yet), it's enough to make a born-again voter lose his religion.

He starts right out with the accusation that "if it didn't start with Watergate, it obviously didn't stop with Watergate." And "it" is a conspiracy of the same kind of lies, cover-ups, shady dealings and political hatchet jobs that the public has come to associate with amost every man who sits in the oval office.

Lasky even includes Nixon in that company, although he still admires him and clings to the belief that he got a bum rap. ("Everybody else did it, too").

He doesn't keep you guessing about his opinion of Carter. In the second sentence on the opening page he lays it out: "He is, undoubtedly, the most amazing man ever to become president of the United States. And he is, undoubtedly, one of the more inept."

From there on, it's all downhill.

"Rarely in the history of the republic," he writes, "has there been an occupant of the Oval Office who demonstrated so quickly an inability to conduct even the simplest affairs of state."

After an uncomplimentary anecdote describing how Cyrus Vance, Zbigniew Brzezinski and Andrew Young mixed it up on foreign policy, Lasky says, "It was as if *The Gong Show* were being taped in Washington."

For 391 pages he takes you along Carter's political career, from his "highly exaggerated" successes as governor of Georgia through the "dirty tricks" he pulled to get the presidency, right up through the criminal investigations of his "dear friend" Bert Lance.

In between, Lasky touches on a few other crises of the past two years: the Vesco attempt to make a deal with the White House . . . the Marston firing . . . the Koreagate cover-up (including Leon Jaworski's "kid-glove whitewash" to Tip O'Neill) . . . Brother Billy and the Fifth Amendment . . . the dumping and subsequent "exoneration" of Dr. Peter Bourne . . . the doublecross of Taiwan . . . etc., etc., etc.

Not once, in any of these situations, according to Lasky, did the president acquit himself honorably. Or carry out "his pious campaign pledge never to lie to the American people."

It is Lasky's contention that Carter juggles the truth every time he gets in trouble . . . every time a friend gets in trouble . . . and every time somebody catches him telling a lie.

What makes the book so depressing is having it all put together for the first time: the accusations and evasions, the untruths and half-truths, the cover-ups and conflicts of interest.

When it's spread out over a period of several years it gets diluted, somehow, to where the latest headline makes you forget about the others.

Compress it into 391 pages and it begins to look like the kind of campaign kit the Republicans will be looking for any day now.

GASOHOL AND GOVERNMENT DO NOT MIX

The SPEAKER. Under a previous order of the House, the gentleman from Montana (Mr. MARLENEE) is recognized for 5 minutes.

● Mr. MARLENEE. Mr. Speaker, while I was pleased with the passage of a gasohol bill from the Agriculture Committee on Tuesday, September 18, I have grave concerns about section 3 of H.R. 3905. According to section 3 of the National Alcohols and Alcohol Fuel and Farm Commodity Production Act of 1979, "if a set-aside is in effect * * * (feed grains must be sold) to the Secretary of Agriculture for use of gasohol production at such amounts as the Secretary may specify, but not more than 10 per centum, of any crop of feed grains produced on such farm."

What this legal mumbo-jumbo means is that if a feed grain set-aside is in effect, and the grower wishes to receive deficiency and other Government payments, the farmer has no choice but to sell up to 10 percent of his crop production to the Government if the Secretary of Agriculture requests it.

In addition, if a set-aside is in effect, the crop must be sold to the Government at the target price level. This sounds like a good proposition until one realizes that the target price for corn has been below the market price for the past 6 months of this year. Farmers would thus be forced to sell corn to the Government for a price less than they could command in the open market.

Section 3 of H.R. 3905 changes the entire structure of the current set-aside program; it matters not whether the producer wants to sell in the current crop year. Perhaps a farmer wants to store the crop and desires no income until the following year. Perhaps he has a variety of management options he wishes to scrutinize. The small farmer's individual management decisions will be usurped by the Government.

While this provision relates only to feed grains, the precedent is set for the forced selling of grain to the Government at a specified Government price. This provision opens the door to a wide range of possibilities of future forced sales of other agricultural products—such as wheat. We have all seen the extension of programs "for the benefit of the farmer."

I strongly urge you to consider section 3 of this bill and how it can affect agriculture in the future. Do we want Government further involved in agriculture and gasohol production, or do we want a free hand in making decisions regarding when we sell our grain and at what price? We need a free hand in agriculture and gasohol production. Secretary Bergland has stated "alcohol distilleries can be achieved without involvement of the Secretary in the buying and selling of feedstocks." I think we all can agree with Secretary Bergland on this issue.

I shall work to amend this section of the bill when it comes to the floor of the House, and I hope to have your support.●

HYDROGEN FUEL DEVELOPMENT AND USE ACT OF 1979

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. Grassley) is recognized for 10 minutes.

Mr. GRASSLEY. Mr. Speaker, today I plan to introduce the Hydrogen Fuel Development and Use Act of 1979. The act is designed to establish a comprehensive program for the research, development, and commercial scale demonstration of technologies relating to the production of hydrogen.

The three main areas of development will be: Coal gasification; solar; and low-head hydroelectric power. Ocean thermal energy conversion is also addressed in the bill, as well as pure hydrogen fuel cells, distribution and storage of hydrogen and vehicular fuel and fuel cell usage.

Hydrogen is the most abundant element in the universe and has been known to man for about two centuries. It was initially used as a buoyant gas, then as a synthetic constituent. At present, hydrogen is used almost entirely as a unique industrial chemical in petroleum processing and in the synthesis of ammonia and methanol. Practically all the hydrogen now produced in this country is manufactured from natural gas and light oils. With the availability of these resources seriously declining, it will be essential that hydrogen be produced from other energy sources if the projected demands are to be met.

The act provides for loan guarantees; price guarantees; 60-month amortization for facilities; and other tax credits for commercial, industrial and residential users.

Mention the word "hydrogen" and most people think of the Hindenburg dirigible disaster and the hydrogen bomb. The significance of that disaster as it relates to hydrogen has been extremely exaggerated. Unfortunately, the Hindenburg and the H-bomb have obscured hydrogen as an energy source. Frankly, from the research we have done on this subject it would appear that hydrogen is no more dangerous, when handled with good commonsense, than natural gas or gasoline. It is for this reason that I have introduced the Hydrogen Fuel Development and Use Act of 1979. Although, one of my staff members has tagged it the hydrogen opportunity program on energy or "HOPE," for the future.

This bill was not conceived without a great deal of research. In fact, after the initial draft, the bill was sent out to individuals in the scientific and business community along with a copy to the Department of Energy, and the Science and Technology Division of the Congressional Research Division of the Library of Congress for their review. Many of their suggestions have been added to the bill where it was appropriate and as a result I feel we have a more solid piece of legislation.

I have not set a dollar limitation on this program because I want to give the committees an opportunity to set a figure after testimony which is neither too high nor too low, but one which will get the job done. So often, we in the Congress throw money at programs without the slightest idea of whether it will get the job done and find ourselves overspending or coming back begging for more. I have faith in the committees giving this bill a fair hearing and authorizing the needed funds.

Hydrogen is the most abundant element in the universe and has been known to man for about two centuries. I believe the time has come to tap this resource. It is nonpolluting, and it would signal to the OPEC nations our intention to break their stranglehold on every nation.

BILLIONS IN WASTE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. Solomon) is recognized for 5 minutes.

● Mr. SOLOMON. Mr. Speaker, one of the most pressing problems facing this country is the economy. We are being asked to make decisions on the national budget, tax cuts, and many other issues near and dear to American hearts and pocketbooks. Time after time, Republicans have suggested easing the economic burden faced by our citizens by reducing taxes. Time after time we have been told that tax cuts would increase the budget deficit and stimulate inflation.

This is nonsense. If we can eliminate what is probably only a small part of the waste, fraud, and mismanagement which is now rampant in the Federal Government, there would be no problem at all.

The Department of Justice has estimated that Federal economic assistance programs susceptible to fraud may range from 1 to 10 percent of expenditures. This means the low-side estimate attributable to fraud in the Federal Government would come to $2.5 billion annually. Or it could be a lot more. It could be as much as $25 billion.

The Republican study committee of the House recently compiled a report identifying almost $11 billion in fraud, waste, abuse, and mismanagement in the Federal Government. And this is only the tip of the proverbial iceberg. All the figures cited in the report are from 1979 General Accounting Office reports and three agency inspector general reports. The GAO admits it cannot discover the full extent of fraud, waste, and mismanagement in Government.

This year's budget for the General Accounting Office is over $5 million. The agency is charged with the sole purpose of auditing the financial and fiscal activities of the Federal Government. Yet many of these reports seem to fall on deaf ears. Many of the reports cited in the study committee's report repeat the same findings year after year. I think it is time the agencies as well as the Congress took a careful look at these identified potential savings. Really, GAO is just asking that the Government use a little commonsense; a commodity that is as scarce in Washington as balanced budgets. If the Congress does not heed the advice of its own professional accounting arm, something is seriously wrong. The taxpayer is not only paying for waste and mismanagement, but he is also paying for an ineffectual attempt to stop it once it is identified.

The point is that savings can be made, tax cuts can be effected, and services can be provided simply by raising the management consciousness of the Federal Government. Moreover, if the advice of the GAO is followed, the American taxpayer will have been spared billions of dollars.

Mr. Speaker, I commend this study to the attention of my colleagues and include it in the Record at this point. I am also including comments on the study which were made by the columnist, Jack Anderson, and by the New York Times·

SPECIAL REPORT: WASTE, FRAUD, ABUSE, AND MISMANAGEMENT IN THE FEDERAL GOVERNMENT

This report represents an analysis of selected reports by the General Accounting Office and Inspector Generals, that identify areas of fraud, waste, abuse and mismanagement in the federal government. The purpose is to show that additional economy in government can be realized without cutting back on services. Rather, what is needed is effective utilization of the resources government entities have at their disposal.

Many of these reports cite problems that have been continuing year after year. In some cases, GAO has produced several reports on a yearly basis citing areas where savings could be made. Evidently, the agencies involved have chosen to ignore GAO's advice, because the inefficiency remains only to be brought up in a subsequent report the following year.

All this inefficiency and abuse represents a tremendous expense to the taxpayer. From the reports considered here alone, we have identified potential savings of $10,862,685,011. At a time when the Congress is considering the shape of next year's budget, a figure this size is hardly one to ignore. It also should be remembered that this figure in no way represents all the fraud, waste and abuse that exists. It only indicates, in a very rough fashion, what has been found so far. Only GAO reports from January, 1979 through August, 1979 were considered, along with three Inspector General reports. A cataloguing of the reports considered follows.

1. Health costs (Medicare, Medicaid) that could be saved through better management and elimination of fraud and abuse: $4,193,000,000. Source: Memorandum from the Inspector General of HEW to the Secretary, May 18, 1978.

2. Savings that could be realized in the Aid to Families with Dependent Children (AFDC) program: $468,000,000. Source: Memorandum from the Inspector General of HEW to the Secretary, May 18, 1978.

3. Savings that could be realized in the Supplemental Security Income (SSI) program: $292,000,000. Source: Memorandum from the Inspector General of HEW to the Secretary, May 18, 1978.

4. Savings that could be realized in the Social Security Administration: $866,000,000. Source: Memorandum from the Inspector General of HEW to the Secretary, May 18, 1978.

5. Savings that could be realized in Student Financial Assistance (SFA) programs: $321,000,000. Source: Memorandum from the Inspector General of HEW to the Secretary, May 18, 1978.

6. Savings that could be realized in the Elementary and Secondary Education Act, Title I program: $97,000,000. Source: Memorandum from the Inspector General of HEW to the Secretary, May 18, 1978.

7. Indirect Cost Negotiations, possible savings: $107,000,000. Source: Memorandum from the Inspector General of HEW to the Secretary, May 18, 1978.

8. Improperly spent grant monies to colleges and universities: $3,500,000. Source: Department of Health, Education, and Welfare, Office of Inspector General, *Annual Report*, March 31, 1979.

9. Savings that could be realized in the Office of Minority Business Enterprises, Department of Commerce: $5,300,000. Source: GAO, "Federal Agencies Can and Should Do More to Combat Fraud in Government Programs", September 19, 1978, No. GGD–78–62.

10. Overpayments in the Department of Labor's unemployment compensation program: $119,000,000. Source: GAO, "Federal Agencies Can and Should Do More to Combat Fraud in Government Programs," September 19, 1978, No. GGD–78–62.

11. Savings that could be realized in the Department of Agriculture's Food Stamp program: $500,000,000 plus. Source: GAO, "Federal Agencies Can and Should Do More to Combat Fraud in Government Programs", September 19, 1978, No. GGD–78–62.

12. Excess and surplus property acquired by GSA (FY 1977). $1,700,000,000 remaining in inventory after some additional property had been disposed of. Source: GAO, "Facilities Acquisition and Management Issues", August 1, 1979, No. LCD–79–327.

13. Misspent HEW grant money to institutions of higher education (FY 1977, differs from the amount referred to in item No. 8): $13,200,000. Source: GAO, "Need for More Effective Audits of Federal Grants and Contracts Administered by Institutions of Higher Education", July 19, 1979, No. FGMSD–79–44.

14. Savings by police forces in the District of Columbia through using civilian and guard employees and improved procurement practices: $3,201,120. Source: GAO, "Police Forces in the District of Columbia Can Improve Operations and Save Money," July 12, 1979, No. GGD–79–16.

15. Savings that could be realized through changes in Medicare claims processing by consolidating intermediary and carrier functions, changing from cost reimbursement contracting to competitive fixed-price procurement, and eliminating costs created by the maintenance of a separate nationwide carrier to process Railroad Retirement Board, Part B beneficiaries: $165,584,593. Source: GAO, "More Can Be Done to Achieve Greater Efficiency in Contracting for Medicare Claims Processing", June 29, 1979, No. HRD–79–76.

16. Cost due to government buying commercial products of a higher quality than needed, lack of price competition in the process. This relates specifically to GSA purchase of common use items of all federal agencies under the multiple schedule award program, under which GSA now operates. Possible savings: $100,000,000 annually. Source: GAO, "Ineffective Management of GSA's Multiple Award Schedule Program—a Costly, Serious, and Longstanding Problem", May 2, 1979, No. PSAD–79–71.

17. Savings that could be realized annually if the GSA replace the sedans in its motor pool on a yearly basis. This savings would be realized in terms of depreciation, maintenance, repair, tire costs, and fuel savings. Savings of $12,700,000. Source: GAO, "Replacing Government Sedans Yearly Would Result in Fuel and Cost Savings", May 8, 1979, No. LCD–78–245.

18. Savings that could be realized in the Agency for International Development: $245,994,093. Source: Efforts to Improve Management of U.S. Foreign Aid—Changes Made and Changes Needed, March 29, 1979, No. ID–79–14.

19. Savings from Air Force field components repair services: $44 million. Source: GAO, "Centralizing Air Force Aircraft Component Repair in the Field Can Provide Significant Savings", March 28, 1979, No. LCD–79–409.

20. CHAMPUS claims, erroneously paid (FY 1976): $12,000,000. Source: GAO letter to Harold Brown, Secretary of Defense, March 16, 1979, No. HRD–79–58.

21. Savings on Department of Defense foreign military sales (reduction in the FY 1978 arms sales ceiling had the correct sales figure been known): $420,000,000. Source: GAO, "The Defense Department's Systems of Accounting for the Value of Foreign Military Sales Need Improvement", March 16, 1979, No. FGMSD–79–21.

22. Government interest reductions as a result of better management of DOD cash holdings overseas: $1,000,000 annually. Source: GAO, "Weaknesses Persist in Defense Overseas Cash Management Program," January 10, 1979, No. FGMSD–79–6.

23. Savings in direct labor hours that could be realized by using serviceable long supply or excess available parts in lieu of repairing parts in two Army depots: $18,000,000. Source: GAO, "The Army Should Use Available Serviceable Parts to Avoid Repairs," January 31, 1979, No. LCD–39–205.

24. Additional savings through the GSA's credit return program (CY–1978): $8,200,000. Source: GAO, "GSA Can Reduce Procurements by Millions If More Material Returns Are Accepted from Federal Agencies," January 5, 1979, No. LCD–78–242.

25. Savings through reductions in flying hour programs—flying for training and transportation—of the Army, Navy, and Air Force (accomplished by substituting in-flight simulators in lieu of airtime, etc.): $124 million. Source: GAO, "The Services Can Further Refine Management of Flying Hours Programs," March 27, 1979, No. LCD–79–401.

26. Savings by instituting the GAO alternative to the present method of paying clothing allowances to military personnel: $10,000,000. Source: GAO, "The Department of Defense Should Adopt New Clothing Allowances," April 20, 1979, No. FPCD–79–12.

27. Increased costs due to the Army's retaining funded personnel spaces after support functions employing them were transferred to other services, which gained new personnel spaces for the increased workloads, in the Pacific: $25,000,000. Source: GAO, "Evaluation of Defense's Comments on a Critical Report: Were Transfers of Army Pacific Support Functions Mismanaged," April 23, 1979, No. FPCD–79–50.

28. Savings from the two major service exchange organizations, the Army and Air Force Exchange Services, through consolidation of the two systems: $1,488,000 annually. Source: GAO, Letter to Representative Jamie L. Whitten, May 22, 1979, No. FPCD–99–60.

29. Savings from operation of the storage and distribution of bulk petroleum products by the Defense Logistics Agency through better transportation practices with respect to Luke Air Force Base, Castle Air Force Base, and Lemoore Naval Air Station: $202,000. Source: GAO, Letter to Harold Brown, Secretary of Defense, June 14, 1979, No. LCD–79–218.

30. Savings through improvement of Department of State traffic management practices (by using GSA instead of private contractors for packing, crating, and related services for goods going overseas): $505,205. Source: GAO, Letter to John M. Thomas, Assistant Secretary for Administration, Department of State, January 12, 1979, No. LCD–8–248.

31. Costs to the U.S. Government not recovered, while required by law to be recovered, because the cost of using government-owned assets on sales from inventory has not been assessed for foreign countries: $10,000,000. Source: GAO, "Efforts to Charge for Using Government-Owned Assets for Foreign Military Sales: Marked Improvement But Additional Action. Needed." June 1, 1979, No. FGMSD–79–36.

32. Savings through substituting civilians for military personnel assigned to morale, welfare, and recreational activities in the armed services: $57,000,000. Source: GAO, "Military Personnel Cuts Have Not Impaired Most Morale, Welfare, and Recreation Activities," July 11, 1979, No. FPCD–79–54.

33. Administrative costs and labor costs incurred by the U S. government identified as direct costs of the Davis-Bacon Act: $715 million. Source: GAO, "The Davis-Bacon Act Should Be Repealed," April 27, 1979, No. HRD–79–18.

34. Department of Energy, uncollected debts: $400,000. Source: Department of Energy, Office of the Inspector General, *Annual Report*, March 31, 1979.

35. Department of Energy, Grant Conserva-

tion Program possible savings: $160,000. Source: Department of Energy, Office of the Inspector General, *Annual Report*, March 31, 1979.

36. Department of Energy, Oil Transfer Pricing Program, potential disallowances: $160,000,000. Source: Department of Energy, Office of the Inspector General, *Annual Report*, March 31, 1979.

37. Department of Energy, outstanding travel advances: $180,000. Source: Department of Energy, Office of the Inspector General, *Annual Report*, March 31, 1979.

38. Department of Energy, Task Force on Compliance and Enforcement, reduction of the cost of a consultant: $72,000. Source: Department of Energy, Office of the Inspector General, *Annual Report*, March 31, 1979.

[Radio/news insert by Jack Anderson, Sept. 18, 1979]

GAO Waste

Most taxpayer's think it's impossible to put a dollar figure on the total of waste, fraud and corruption within the Federal Government. But it may be possible to nail down just how much our bureaucrats are frittering away. So far in 1979, I'd put the figure at almost $11 billion dollars.

That's how much waste and mismanagement was ferreted out by the General Accounting Office during the first nine months of this year. G.A.O. is Congress' chief watchdog agency.

G.A.O. investigators have found that Medicare and Medicaid programs are rife with fraud and stealing. According to totals compiled by the Republican party's study conference, over four billion dollars may have been carelessly lost or stolen in these health care programs.

The General Service Administration corruption scandals continue unabated. G.S.A.'s sloppy bookkeeping and purchasing practices have resulted in $1.7 billion dollars worth of waste. At the Department of Energy, bureaucrats are withholding an incredible $180,000 worth of travel advances, all from your tax dollars.

The bottom line is that we're losing more than a billion dollars a month to the bumbling bureaucrats.

G.O.P. Bloc Lists Billions in Waste

Washington, September 18.—A group of Republican Congressmen today released a listing of what they called $10.8 billion in waste, fraud and mismanagement in the Federal Government. They said that this amount could be cut out of next year's budget without affecting services.

The 38-item listing in the study, prepared for the Republican Study Committee, was culled from 25 General Acounting Office reports released in the last 12 months. The report included 12 cases of military-related waste, nine cases at the Department of Health, Education, and Welfare, five at the Department of Energy and four at the General Services Administration, which acts as the Federal Government's supplier.

"The G.A.O. has done all the oversight work and now it's up to the leadership of Congress to make the cuts," said Representative Steven D. Symms, Republican of Idaho. Mr. Symms said that the committee would issue the study to each of the 117 Republican Representatives who belong to the group and contribute a share of their staff budgets to support it.

"Due to the frequently repetitive nature of the abuses," said Richard B. Dingham, staff director of the committee, "we are assuming that virtually all of these abuses have gone uncorrected, although action may have been taken in a few cases."

Among the defense-related mismanagement cases, the report cited a March 1979 study that concluded that $124 million could be saved by better management of Army, Navy and Air Force flying programs and increased use of flight simulators. Also cited was a July report that said that $57 million could be saved by substituting civilians for military personnel assigned to morale, welfare and recreational activities.

Among the social service abuses, the reports listed a September 1978 study that found $119 million in overpayments from the Department of Labor's unemployment insurance program. A July 1979 report alleged that the Department of Health, Education, and Welfare had misspent $13.2 million in grants to colleges and universities.

EXPORT TASK FORCE ARTICLE NO. 14: SEMINAR ON TRADE FUNCTION REORGANIZATION

The SPEAKER. Under a previous order of the House, the gentleman from Arkansas (Mr. Alexander) is recognized for 30 minutes.

• Mr. ALEXANDER. Mr. Speaker, last week, the House Export Task Force held its fourth seminar on U.S. export policy and performance. This latest seminar dealt with the various approaches currently under consideration to improve the way the Federal Government is organized to make and implement trade policy. The speakers, Charles Morrison, the office of Senator Bill Roth; Robert Russell, Senate Banking, Housing, and Urban Affairs Committee; Eric Hirschhorn, Office of Management and Budget; Bill Morgan, Joint Economic Committee; and Raymond Ahearn, the Congressional Research Service, presented excellent descriptions and analyses of current efforts to remodel the trade functions of Government. The following is a brief fact sheet prepared by Ray Ahearn of the CRS which presents a summary of four trade function reorganization approaches. I recommend it highly to my colleagues:

Summary of Trade Function Reorganization Approaches

I. Department of International Trade and Investment (Roth-Ribicoff, S. 377; Neal, H.R. 3859, and Byrd, W. Va., S. 891; Neal, H.R. 3858).

The Roth-Ribicoff bill would place in one cabinet-level agency responsibility for a wide range of international trade and investment functions. These responsibilities include the coordination of U.S. trade policies, the negotiation of trade agreements, import protection and administration, and export promotion. The bill transfers to the new Department all functions of STR, the Export-Import Bank and the Overseas Private Investment Corporation (OPIC). The international trade and investment functions of the Departments of Commerce, State, and Treasury (including the U.S. Customs Service) would be transferred as well as the International Trade Commission's (ITC) section 337 and tariff nomenclature and statistical reporting functions.

A similar bill (Byrd, W. Va., S. 891) designed to create a Department of International Trade differs from Roth-Ribicoff mainly according to three proposed functional transfers: the Byrd bill transfers the Foreign Agricultural Service from the Department of Agriculture (Roth-Ribicoff does not) but does not transfer any functions from OPIC, Export-Import Bank and the ITC (Roth-Ribicoff does).

II. Reorganized and Preeminent Department of Commerce (Stevenson, S. 1493; and Cannon, S. 1550).

Under the Stevenson bill, which stresses the linkage between technology and international trade, the Department of Commerce would be merged into a new Department of Commerce, Trade and Technology. The new Department would have comprehensive responsibility for industry affairs relating to international trade, export promotion and financing, import monitoring and relief, international investment policy, trade negotiations, and trade policy formulation and coordination. The Stevenson bill transfers to the new Department all the functions of STR and the ITC, while it transfers to and establishes within the Department the Export-Import Bank and OPIC. A variety of functions from four other agencies would also be transferred: (1) State Department activity and responsibility for commercial affairs, international investment policy, and trade negotiations, including commodity agreements; (2) Treasury Department functions in the international trade and investment area, including dumping, countervailing duties and foreign assets control; (3) the Labor Department's trade adjustment assistance function; and (4) the Department of Interior's Division of Interindustry and Economic Analysis.

A second bill introduced on the Senate side (Cannon, S. 1550) is similar to the Stevenson approach in that it (1) emphasizes the linkage between international trade competitiveness and technological innovation, and (2) places primary responsibility for most international trade activities in a renamed Department of Commerce and Trade. The Cannon bill transfers a wider range of international trade and investment functions from a larger number of agencies, but (unlike the Stevenson bill) it leaves STR in charge of trade negotiations.

III. Enlarged Role for Both Commerce and STR (The Administration's proposal and basically Jones-Frenzel, H.R. 4567).

The Administration's proposal expands the functions of both STR and the Department of Commerce, assigning STR primary responsibility for trade negotiations and coordination and the Department of Commerce primary responsibility for trade operations. As part of the proposal, STR would take over the State Department's lead negotiating responsibility for commodity agreements, East-West trade negotiations, and General Agreement on Tariffs and Trade (GATT) representation. A Trade Negotiating Committee, to be chaired by STR, would be established to coordinate operational aspects of negotiations. STR would also chair the Trade Policy Committee which will coordinate all trade policy, including import remedies, East-West trade, international investment policy, international commodity policy, and energy trade.

A reorganized and renamed Commerce Department would focus on operational trade responsibilities. These include export promotion (receiving over 100 commercial officers from State), antidumping and countervailing duty cases (transferred from Treasury), tariff nomenclature and statistics (transferred from the International Trade Commission (ITC)). Section 337 unfair import cases (transferred from the ITC), tariff nomenclature and statistics (transferred from the ITC), non-agricultural aspects of MTN implementation, and national security investigations and embargoes (transferred from Treasury). The Commerce Department will also play a principal role in trade policy development.

The Jones-Frenzel bill (H.R. 4567) is similar to the Administration's proposal in that it attempts to consolidate trade functions within STR and Commerce, but it is more comprehensive in its transfer of functions to the Department of Commerce. The most important differences are that Jones-Frenzel additionally transfers to Commerce the international investment policy function of the Department of State, the international trade and investment functions of the Department of Treasury, the unfair trade practices functions of STR, the adjustment assistance functions of the Department of Labor, and the Division of Interindustry and Economic Analysis within the Department of the Interior. Moreover, both the Export-Import Bank and OPIC are transferred to Commerce while the ITC is established as an independent agency within Commerce.

IV. An Expanded and Independent STR (Long (La.) H.R. 4995).

This approach expands and strengthens the existing office of the Special Trade Representative by creating the Special Trade Agency (STA), which will be an independent agency of the executive branch. STA will be the single agency charged with both coordination and development of U.S. trade policy, including overall export policy. The STA, which will be directed by the Special Trade Representative and limited to a personnel ceiling of 400, will have three permanent offices—one for trade policy and negotiations, one for trade administration and enforcement, and a third for export policy. Each office will be headed by a Deputy Special Trade Representative. The STA's powers would include STR's existing functions, plus State Department functions with regard to bilateral trade agreements, East-West trade and commodity agreements and Treasury Department responsibility for unfair trade practices. In addition, STA will chair a newly created Trade Coordination Council (TCC), which will be housed in the Executive Office of the President. The TCC will have responsibility to coordinate issues that affect international trade, such as antitrust, energy, and tax policy, and foreign investment policy. In addition, H.R. 4995 transfers to the Department of Commerce the commercial activities of the Department of State including commercial attaches.●

□ 1730

FEDERAL GOLDEN DEED AWARD

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise on this occasion, especially after the presumably final vote on such things as the pay consideration bill, not only for the Federal employees and others but Members of Congress.

What was reflected in all of the debate and the main argument militating against successful consideration, all tending to be hypercritical and derogatory, has been the mood now for sometime with respect to the overall aspects of criticism leveled at the Federal level. I have been very fortunate as an American and have been privileged by the citizens of my area to serve in three different levels of government: The local legislative level, city council; the State legislative level, the State senate, and in the U.S. Congress for almost 18 years.

Mr. Speaker, I have had, I think, a unique and a privileged position to evaluate the efficiency, the character, type of and delivery of services on each level. There is absolutely no comparison. It has been an inspiration to serve on the national level because of the challenges that are offered to anybody attempting to represent a constituency and in the furtherance of basic American ideals having to do with what America is all about or our way of life.

Mr. Speaker, I have also had the added privilege of being a first-generation American citizen and, therefore, find there are some things I deeply appreciate that seem to be taken for granted by those who have not had that advantage.

Mr. Speaker, I have found it very discomforting and demoralizing that our last two Presidents including the incumbent, have seized on this entire Federal-employee type of approach. Former President Ford, for example, when he began his campaign in 1976 for reelection, in New Hampshire, made his whole pitch on running against the Federal bureaucracy, in derogatory terms, almost as if he were not the leader of that bureaucracy that he was supposed to be heading and managing. Of course, our incumbent President did pretty much the same thing and has continued. In fact, recommendations have been made, all of them predicated on a very severe, critical and adverse opinion and judgment of the Federal level of service of bureaucracy. Even our colleagues, for example, our Senator from Wisconsin has become famous by his Golden Fleece Award which is predicated on bringing to the attention of the people what he considers to be wasteful or uncalled for activities or expenditures but which in reality are based on bringing about what is tantamount to ridicule on some aspects of activity. In fact, some have even brought lawsuits on the part of those who are considering themselves to be offended.

Mr. Speaker, the main thing is that it is predicated on trying to find out what is wrong, what are the bad things, what are these things we can pick on that show that there is very little value and very little merit to the level of service in our Federal category.

Mr. Speaker, we all have another movement, I think sponsored by some of my colleagues in the House, that are also based on some kind of an award based on what they consider to be needless expenditure in the case of salaries or wage levels because of the Bacon-Davis provisions which have been in the law for decades and which have been under assault always by those who feel that any level having to do with maintaining the standards of Federal pay are wasteful and extravagant.

Mr. Speaker, I am therefore today announcing the creation of an award to be known as the Golden Deeds Award, the Federal Golden Deeds Award.

From the 20th Congressional District, and to seize upon the things that are right, the meritorious, the unusual things that are being done by Federal employees, managers and bureaucrats, if you please, the things that are saving money for the taxpayer and that are performing a level and a degree of service unmatched in any other level of Government, whether it is State, local, or even foreign countries.

Mr. Speaker, the reason for it is that I have had an opportunity to visit, particularly in my district, almost every single one of the federally funded activities, whether they are time honored and ancient institutions such as the military bases, or whether it is relatively new programs that are mostly funded, even though administered locally, but funded by Federal funds.

Mr. Speaker, about 2 weeks ago I had the privilege of once again visiting Lackland Air Force Base. I cannot say in words how inspiring that visit was.

We are fortunate in having an inspired commander, Maj. Gen. William P. Acker, we are inspired by seeing what the airmen and airwomen, noncommissioned, whether they were just plain cadets there at the training school or whether they were basics or whether they were corporals, it was inspiring to see what was done.

Mr. Speaker, the commander told me because of the General Accounting Office review mandated by a Congressman a couple of years ago that the GAO seized upon the poor appearance of Lackland Air Force Base.

Mr. PASHAYAN. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from California (Mr. PASHAYAN).

Mr. PASHAYAN. I wonder whether the gentleman's approach was to make more severe punishment as a means of blunting the crime, or whether you took another approach?

Mr. GONZALEZ. On the contrary. What I am trying to say is I want to capitalize on the constructive aspects, the outstanding performance on some Federal level by Federal employees or agencies, rather than on the bad things. I want to emphasize some of the things that are being done of which little is known.

Mr. PASHAYAN. In other words, making more severe some punishment is not part of your scheme?

Mr. GONZALEZ. Well, punishment is not involved at all, unless you want to consider the Golden Fleece Award of Senator PROXMIRE a punishment, which is what I was referring to awhile ago.

Mr. Speaker, I was talking about the negative approach overshadowing the affirmative; the detrimental, almost to the exclusion of the meritorious, taking the attention of both the Congress and the people.

Mr. Speaker, I had this tour of Lackland and the explanation of the commander of why the whole appearance of the base had been changed by voluntary work on his appeal to them to improve the looks by painting, by reconstructing the interior, refurbishing the interior with their own moneys, because of the fact that insufficient appropriations had been received, because of congressional cutbacks on defense spending, which is contrary to what you read about up here in the East where the Department of Defense is pictured as having a lot of fat and all the money that it asks for and more, and getting it.

Mr. Speaker, when it comes to this basic training camp, the only one of its kind in the Air Force, at Lackland, they could never find enough money to provide the paint and the resources in order to keep up and maintain the appearance of the base. The airmen have done it. In 90 days they have not only the equivalent of better than a quarter of a million dollars' worth of labor and painting but have even done other things in addition that are most inspiring.

Mr. Speaker, I only wish that every fellow American would have a chance to see this and talk to personnel of this character, and talk to the inspired commander, to see for themselves.

☐ 1740

We had a debate recently whether we should have draft registration and the argument was predicated that somehow or other our levels of deficit, that the personnel we are getting now in the voluntary armies, the deficits, well, all we have to do is take a tour of these bases, like Lackland and that impression will be removed forever.

Therefore, I am announcing that my first award of the Federal Golden Deed Award is to Major General Acker and his personnel at Lackland Air Force Base.

ENERGY MOBILIZATION BOARD—ABOVE THE CONSTITUTION?

The SPEAKER. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, I have long supported the concept of fast tracking for critical energy decisions which will help increase our domestic energy supplies and relieve this Nation of its dependence on foreign oil. Therefore I favor the creation of an Energy Mobilization Board as a crucial step in this direction.

But the scope of the new Board's powers presents a set of fundamental questions my colleagues will have to face this fall. Legislation approved by the Commerce Committee would empower the agency's five appointed members not only to set and enforce timetables for key energy decisions, but also to override substantive laws enacted by State legislatures, local city councils, and the Congress.

In a recent article, New York Times columnist, Anthony Lewis termed this concept "utterly contrary to the traditions of American federalism and constitutional democracy." I agree with his assessment, and commend his thoughtful piece to my colleagues' attention.

WHAT PRICE ENERGY?

(By Anthony Lewis)

WASHINGTON, September 12.—It is 1981. The Mobil Corporation announces plans for the country's biggest oil refinery, to be built on the New River in North Carolina.

A Federal law passed by Congress and signed by President Ford in 1976 protects the New River in its natural state. North Carolina laws protect the valley. But the Energy Mobilization Board says the refinery is more important. And under the Energy Act of 1979 the President, on the board's recommendation, can override both state and Federal law in order to build a critical energy facility.

President Reagan orders all contrary Federal laws and local zoning and health regulations overridden. The way is clear for an immediate start on the New River refinery.

A fantastic scenario? No. For the energy bill as it is now taking shape in Congress would allow future Presidents to do exactly that: override democratic decisions, local and national, and put aside the interests of health, safety and the environment.

It is an astonishing concept: one utterly contrary to the traditions of American federalism and constitutional democracy. Another amazing fact is that the idea is being supported by aides to Jimmy Carter, who has repeatedly said he is against any such Presidential power.

On Aug. 2 President Carter said his proposal for an Energy Mobilization Board was designed to "cut out excessive delay" in the approval of energy projects, by removing procedural roadblocks. He said: "With the exception of any new requirements imposed when construction of a critical facility is under way, the board could not waive substantive environmental standards."

But the House Commerce Committee has worked up a bill that would let Presidents nullify state and Federal substantive law that stands in the way of energy projects. And when members of the committee tried to cut back that sweeping authority with amendments, White House lobbyists fiercely and successfully opposed them. Key parts have been played by James C. Free, the Carter liaison man in the House, and Bertram Carp, Deputy Assistant to the President for Domestic Affairs and Policy.

Public health is a central question. For example, present technology for producing oil from oil shale leaves as a byproduct substantial quantities of arsenic. The bill as it now reads in the Commerce Committee would allow a future President to waive the Toxic Substances Control Act and allow an oil shale project to go ahead in, say Colorado, even though there was no effective plan to keep arsenic from poisoning ground water in the area.

That example involves the overriding of a duly enacted Federal statute. Even more surprising, in our constitutional system, would be allowing a President to sweep away state law. If a coal liquefaction plant were to be built in Montana, requiring immense quantities of water, would the people of Montana and nearby states be content to have the crucial and complicated issues of Western water law decided by Washington lawyers?

The powers granted by the pending energy bill worry, among other people, the three leading environmental officials in the Carter Administration. Last week Secretary of the Interior Cecil Andrus, Douglas Costle of the Environmental Protection Administration and Gus Speth of the Council of Environmental Quality sent a memo to the President expressing their concern at Administration lobbying in favor of the bill as it stands.

"Such a posture is not only dangerous but unnecessary to achieve the 'fast track' legislation you outlined in your July 16 energy program," the memo said. It added that the position "undermines our credibility."

The President said this week that he is still against including in the energy bill a general power to override substantive law, state or Federal. Why, then, have his people fought amendments that would remove that unprecedented power from the bill? The House Commerce Committee has now approved the Energy Mobilization Board legislation with the broad waiver authority included.

The answer heard around the Administration is that the lobbying policy was "tactics." The President needs a "strong" bill, it is said. Whatever comes out of this first stage may be weakened later, especially in the Senate, so it is best to start with the "strongest" possible version.

But the tactical premise may be wrong. Senate energy leaders had been chary of any power to brush aside state and Federal law. But now, after the White House failure to stand by the President's stated position, the Senators are moving toward the same sweeping authority as the House bill.

The troubling possibility is that White House aides are prepared to soil Jimmy Carter's impressive record in defending the environment for a short-term political gain. The President wants to "look strong" and has made the energy bill his political test. But when it's all over, will he want to be remembered for having distorted our constitutional tradition and opened the way for unaccountable damage to our health and surroundings?●

ADMINISTRATION'S NATIONAL HEALTH PLAN

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. RANGEL) is recognized for 5 minutes.

● Mr. RANGEL. Mr. Speaker, I am pleased to introduce today, H.R. 5400, the President's proposed National Health Plan. I am certain most Members share my sense of the significance of this moment. We now have before us an administration initiative in an area all of us have come to recognize as one of the major unfulfilled commitments of our society—the creation of a health care system that will assure all Americans, without distinction, of comprehensive protection against the costs of needed health care. But this occasion represents more than just the introduction of another bill—it creates the long-awaited opportunity for this Congress to begin, in earnest, full-scale public debate on this all-important issue of national health insurance.

It has long been my contention that the issue of national health insurance must be confronted in this Congress. I also believe, however, that in addressing this issue the emphasis must be shifted from the conflicting bills and the groups backing them, to the basic underlying issues—the real needs that now exist and the realistic options available to us for meeting those needs equitably and expeditiously.

Achieving a consensus within the Congress, will remain impossible so long as the focus continues to be exclusively on allegedly incompatible differences among competing bills. Historically, our lack of success in moving toward the objective of national health insurance has been due in large part to our political reluctance to recognize the large areas of agreement and our tendency to dwell instead on those few elements in each approach that represent differences. And we have been paying a heavy price for this kind of obstinancy in lost opportunities to achieve a reconciliation of differences and to make a start on the road to comprehensive national health insurance.

But a new opportunity exists today, with the introduction of the President's proposal, to redirect and renew our efforts to achieve the goal of national health insurance. There is, it seems, to me, a willingness on the part of a great many people—including the President—to work within the framework of our current circumstances toward the attainment, at least initially, of something less sweeping than their proposals originally contemplated. We will need to capitalize on this trend if we are to make any progress. And progress is possible, I think, because there is an undeniable public anxiety about the deficiencies of our health care system and a need for renovation and change. It is my contention, in short, that movement toward reconciliation of the several proposals before us is both necessary and possible.

In the coming months, we will have the opportunity to fully examine and debate the President's plan, as well as all the competing plans that have been offered to remedy the long-standing weakness and injustices in our present system. And to assure Members that this debate will not be long in coming, I want to take this opportunity, as chairman of the Ways and Means Subcommittee on Health, to announce my intention to schedule public hearings on national health insurance before the end of this year. I am determined to give a full and fair hearing to all of the alternative proposals and hopefully, through this process, to break the impasse on this issue which has now persisted for more than 30 years.

The obstacles to success are impressive, but not insuperable, and I am convinced that if we seize the opportunity given to us by the President we can begin the important work of designing a system that will make health care available to all.

I am also pleased to have joining with me today in introducing the bill, the distinguished chairman of the Interstate and Foreign Commerce Committee, the Honorable HARLEY STAGGERS, and my distinguished colleague on the Ways and Means Health Subcommittee, the Honorable JAMES CORMAN.

A brief summary of the principal features of the plan are contained in the following letter with which the administration's draft bill was conveyed to the Speaker.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., September 25, 1979.
Hon. THOMAS P. O'NEILL,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed for consideration by the Congress is a draft bill "To establish a national program of protection against medical expenses for all Americans."

The draft bill would establish a national program of protection against medical expenses for all Americans and would address major problems of inflation and inefficiency in the health care financing and delivery system. The National Health Plan under this bill would include three principal components:

Employer Guaranteed Coverage—A program requiring employers to provide all full-time employees and their dependents with health benefits coverage meeting uniform Federal standards;

HealthCare—A new Federal insurance program providing coverage for the aged, blind, disabled, low-income and others who are unable to obtain private coverage at reasonable rates;

Health Systems Reform—Components of the bill designed to enhance competition in the health care sector and reduce excess capacity in hospitals.

This draft bill is structured as a series of closely integrated amendments to existing law, primarily titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act. The draft bill also includes amendments to other authorities, such as those concerned with health maintenance organizations and health planning programs, and to the earned income tax credit provision of the Internal Revenue Code of 1954 . . .

The draft bill would establish the basis for universal health care coverage in the United States. Together, HealthCare—a new program subsuming Medicare and Medicaid—and the requirements for coverage provided through employers would guarantee all Americans coverage for major medical expenses and provide a framework for future program expansions. The draft bill would take effect in fiscal year 1983.

The draft bill would guarantee all HealthCare enrollees and all persons obtaining private coverage through their employers a comprehensive set of benefits, including hospital, physician, skilled nursing facility and other health care services and a package of preventive benefits, including maternity and infant care.

The draft bill would establish requirements for employer-based coverage provided through the private sector. The principal components of this "employer guarantee" are:

Eligibility—Every employer would have to provide health care coverage for all full-time workers (those working at least 250 hours over 10 weeks), their spouses and dependent children.

Benefits and Cost-Sharing—An employer-based plan would have to include, at a minimum, the benefits outlined above and would have to limit out-of-pocket payments (otherwise payable under the plan) to no more than $2500 year year. No cost-sharing could be imposed on prenatal, delivery and infant care services.

Financing and Special Subsidies—Employers would be required to pay at least 75 percent of the cost of a plan meeting the minimum Federal standards. Employers could obtain subsidies for excessive premium costs either by purchasing the minimum mandated coverage from HealthCare at a premium equal to 5 percent of payroll or by applying for an equivalent subsidy to purchase coverage from a private firm. For low-wage workers, the Earned Income Tax Credit would be amended to provide a maximum additional benefit of $150.

Standards for Employer Plans—The Department of Health, Education and Welfare would review and certify private plans to assure that they met minimum requirements. No waiting periods or exclusions could be imposed. Coverage for employees and their dependents would have to continue for 90 days after separation from employment. Various information and disclosure requirements would be established.

Reimbursement: Payment for hospital services would be limited by the Administration's proposed hospital cost containment program. For physicians, plans could use their own schedules of payment. Plans would have to publish rates of payment and furnish enrollees with a list of physicians agreeing to accept these rates as payment in full.

HealthCare would be a new Federal health insurance program which would consolidate Medicare and Medicaid into a single administrative structure and expand coverage to newly-eligible populations. Major features of HealthCare include:

Eligibility: HealthCare would provide health insurance for the aged and disabled, all cash assistance recipients (under the AFDC and SSI programs) and all individuals and families with incomes below 55 percent of the Federal poverty standard. Anyone whose expenses for covered services exceeded the difference between income (minus disregards) and the low-income standard could also obtain complete, subsidized coverage from HealthCare. Individuals or employers who find affordable private coverage difficult to obtain could purchase coverage from HealthCare.

Benefits and Cost-Sharing: HealthCare would provide the comprehensive set of benefits outlined previously. The aged and disabled would have cost-sharing requirements similar to Medicare but their maximum out-of-pocket payment would be limited to $1,250 per year. The low-income population and those who "spend-down" would have no cost-sharing. Individuals and groups could purchase the minimum coverage from HealthCare with a deductible of $2,500. There would be no cost-sharing for prenatal, delivery and infant care.

Financing: HealthCare would be financed through (1) the hospital insurance portion of the Social Security tax; (2) premiums paid by non-poor aged and disabled enrollees equivalent to the current Medicare-Part B premium; (3) State government funds at a rate set to equal 90 percent of each State's payments under Medicare for services covered under HealthCare; and (4) Federal general revenues. Individuals wishing to purchase HealthCare coverage would pay a community-rated premium.

Administration: HealthCare administration would be similar in concept to Medicare. All claims processing would be handled by fiscal agents. The Federal government would determine eligibility for the aged and disabled; the States would handle determinations for AFDC recipients. Eligibility determination for other low-income enrollees would be federally directed, although the States could contract to perform these functions.

Providers and Reimbursement: Payment for hospital services would be on a cost-related basis, limited by the Administration's proposed hospital cost containment program. Physicians would be paid on the basis of a fee schedule, based initially on average Medicare payment levels. All physicians would be required to accept the HealthCare rates as payment in full.

The draft bill would amend the Medicaid program in that acute care services covered under HealthCare would no longer be included in State Medicaid plans. States would continue to provide skilled nursing facility and intermediate care services and other optional Medicaid services for the low-income population. The Federal-State matching rates for financing these services would be unchanged.

The draft bill would also include important provisions for encouraging competition and reforming health delivery:

A national limit on hospital capital spending, allocated among the States, would be established.

Employers would be required to contribute equal dollar amounts towards the cost of all plans they offer. Employees selecting a plan which is less expensive than the employer contribution would receive the difference in salary or fringe benefits.

Employers would be required to offer multiple choice of health maintenance organizations to their employees.

This draft bill represents a sound and realistic approach toward expanding health coverage for the millions of Americans who are now uninsured or have inadequate coverage against the high costs of medical care. The program under the draft bill would address the most pressing health needs of the nation, initiate key cost containment and system reforms and establish a framework which can be built upon in the future.

We urge the Congress to give the draft bill its prompt and favorable consideration. We are advised by the Office of Management and Budget that enactment of the draft bill would be in accord with the program of the President.

Sincerely yours,

Patricia Roberts Harris.●

PRESIDENT CARTER'S NATIONAL HEALTH PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Corman) is recognized for 5 minutes.

● Mr. CORMAN. Mr. Speaker, I am very pleased to join Congressman Charles Rangel, chairman of Subcommittee on Health of the Ways and Means Committee, and Congressman Harley Staggers, chairman of the Committee on Interstate and Foreign Commerce, in introducing President Carter's national health plan.

President Carter has proposed a reasonable, realistic, and responsible next step for national health insurance. It provides the framework and impetus for enactment of a health program in this Congress.

I have come to the conclusion that the objectives of the Health Security Act, H.R. 21, for which I have worked are now best served by supporting the President's program as the means to that goal.

It is clear that a consensus for action on national health is forming and the major participants in the debate are cooperating in a resolution of the differences. In the past, most of the attention has focused on the differences among the major proposals. This attention unfortunately acts to understate the major similarities among the proposals.

Most of the remaining differences relate to the mechanics of the various proposals rather than their basic structure. For example, provisions have been advocated for establishing a national health budgeting process as a cost containment measure or requiring a variety of health plans from which employees choose their coverage. Decisions can be made on these important, but secondary, provisions almost independent of the plan's framework.

The President's plan builds and improves upon the best of the present patterns of delivering and financing health care. The most crucial aspect of the plan is a continuation of the Federal responsibility for the health care of the elderly, disabled, and poor. Medicare and medicaid will be the core of an improved and expanded public insurance program, called Healthcare. Coverage will be provided to 15 million of the most poverty stricken people and made available to all other Americans on the payment of a reasonable premium. Benefits will be improved with catastrophic coverage and a fee schedule for services will be negotiated above which a provider may not charge.

The strengthened role for public, or social, insurance is more constructive than its elimination under a totally private insurance scheme. Most importantly, Healthcare will provide a structure from which to evolve a complete national health insurance program as capabilities and experience permit.

The President's plan makes a major step forward in health care coverage by providing universal coverage for expectant mothers and their infants. This commitment is only proper in 1979, the internationally proclaimed "Year of the Child."

Enactment of President Carter's national health plan will fill the most unconscionable hole in the present insurance patchwork. Specifically, the legislation provides for:

Prenatal care, delivery, and postnatal services to all pregnant women at no cost sharing.

All medical services needed by infants during the first year of life at no cost sharing.

Periodic health assessments to all children up to age 18.

Extra services to children eligible for the public program of Healthcare including routine dental care and prescription drugs.

One of the most common measures of the quality of health care delivery is infant mortality. In the world the United States is consistently outperformed by most of Western Europe, Japan, Canada, and Australia. Infant mortality is 75 percent higher in the United States than in Sweden, which has the lowest rate.

The notable difference between the United States and these foreign nations is that their children benefit from a public health insurance program. Certainly, the mere existence of public insurance is not sufficient to eradicate the many causes of infant death, illness, or injury. However, a public program to deliver and finance maternal and child health does appear to be an essential step.

The quality of child health care is very uneven in this country, varying by such factors as race, residence, family income, and education:

The death rate during the first 5 months of life is four times higher for infants in low-income families, than those in high-income families.

A baby born into a black family is almost twice as likely to die before its first birthday, as one born into a white family.

Only half of all pregnant women with less than 9 years of education sought prenatal care in the first 3 months of pregnancy.

Millions of pregnant women and newborns go without needed preventive and primary care services. Some do not receive these services because they are too poor to purchase them, but not poor enough to qualify for public medical assistance programs. Other poor women and children are not eligible for medicaid because they live in two-parent families and do not meet restrictive State eligibility criteria. Still others go uncovered because they are insured under limited individual policies or because their group plan fails to cover preventive and primary care services.

We know that timely prenatal care results in fewer infant deaths. We know that immunizations and other preventive services can lead to healthier babies. We know that preventive care can save millions in future costs of caring for disabled and handicapped children. And, most important, we know that timely care and treatment can mean the difference between a life of suffering and a life in which every child has an opportunity to reach his or her full potential.

The President's plan insures that all pregnant women and infants are eligible for coverage of basic health services. It requires that all employer-based contracts include pregnancy-related and infant care benefits at no cost sharing by the patient. Poor women and infants enrolled in Healthcare will receive fully subsidized maternal and infant services under the public portion of the plan. Those women and children not covered automatically under the employer mandate or Healthcare, will also be eligible for fully paid pregnancy-related and infant care benefits. In this way, the national health plan insures that no pregnant women or newborn is denied the necessary preventive and primary care services needed to promote normal growth and development.

The failure to enact a comprehensive public health insurance program is most unfortunate. But children should no longer be held hostage in this battle.

I hope that this fall the Ways and Means Committee will begin to draft national health legislation based on the strengths of President Carter's plan.

The major unfulfilled item on the American agenda can be completed in this Congress. Then as the decade of the eighties begins, the people of the United States can join the people of the rest of the industrialized world in enjoying the benefits of public health insurance.●

RESOLUTION OF WELCOME TO POPE JOHN PAUL II ON BEHALF OF HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. Daschle) is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, it is truly distressing to think that Pope John Paul II's visit to Poland could be more easily handled by that Communist government than it is being handled by our country. What an irony that a country where religion is suppressed gives more cooperation to this international religious leader than does the United States, where the pursuit of religious freedom played a vital part in the settling and development of our Nation, and is a cornerstone of our Constitution.

In major cities across the country, the controversy grows daily over who should pay the expenses incurred in handling the expected crowds at the Pope's scheduled stops. Yet, it is not clear why these crowds are viewed as different from the massive crowds who attend hundreds of other mass rallies throughout the year. Who pays for the crowd control costs at antinuclear rallies, and antiwar rallies, at civil rights marches, and at farmers' tractorcades?

I am a strong believer in our Constitution, and I believe in the first amendment, the separation of church and state. But, I believe that principle is somewhat mistakenly applied to the Pope's visit. All of Pope John Paul II's major visits are open to the public. If, through the freedom our Constitution provides, we can use tax moneys to assist these other rallies, and provide for the safety of those involved, then, certainly, we ought to be able to do the same for the Pope's visit to our country.

Like other foreign dignitaries who visit the United States, Pope John Paul II is an international figure of enormous influence; he comes with a message of hope, peace and freedom for all mankind. I, for one, am excitedly awaiting his visit, and I offer the following resolution of welcome on behalf of the House of Representatives. I ask unanimous consent that this resolution be printed in the Record, and urge my colleagues to cosponsor this resolution and join in welcoming Pope John Paul II to the United States:

I also ask unanimous consent to have an article from the September 23 issue of the Washington Post, entitled "In Iowa, the Pope Beats Khrushchev" printed in the Record at this time:

H. Res. 422

Whereas, the pursuit of religious freedom has been vital to the settling and development of our nation, and is a cornerstone of our Constitution; and

Whereas, Pope John Paul II is a world leader of tremendous international influence, who represents the hope of peace and freedom for all mankind; and

Whereas, the Pope comes on a visit of goodwill to all people of all nations, regardless of their religious convictions;

Resolved, That the House of Representatives welcome Pope John Paul II to the United States, and extend him every courtesy, hospitality and friendship appropriate to his visit.

In Iowa, "The Pope Beats Khrushchev"—Farmer's Letter Set Off Papal Visit to Midwest Cornfields

(By Blaine Harden)

Des Moines.—Joe Hays, a blue-eyed farmer who lives just south of here, was watching television news this summer and said to himself:

"Hhhhmmm, that's pretty neat. Pope in the USA."

The farmer then set off a chain of events that Iowans say will affect this state of corn and black dirt forever.

The mayor here is proudly predicting a traffic jam that will stretch for 30 miles. "All the way to Newton," he says.

The businessman who owns the state's tallest building—a modest 36 stories—says the visit "has to be the biggest thing in the history of Iowa."

And an editor at the Des Moines Register says his newspaper is treating the afternoon affair "like the Second Coming."

For four hours on the afternoon of Oct. 4, Pope John Paul II plans to drop by here for a glimpse of America's heartland. Up to a million people, from as far away as California, are expected to be waiting in this city of 194,000 to catch their own glimpse of the Polish-born leader of the world's 700 million Catholics.

The bishop of Des Moines predicts the pope's visit will inspire young men to become priests and turn fallen-away church members into "good Catholics again." There is a pope press conference here nearly every day, an altar for the pope is being made from a century-old white oak corn crib and about 1,500 portable toilets have been summoned from around the Midwest.

The whole shebang, as Iowans say, began July 19 on Joe Hays' kitchen table.

Hays, 39, a devout Catholic who when he was a sophomore in high school attended mass 363 days in one year, sat down there and wrote a letter on plain white paper, begging the pope to come to Iowa.

Hays does not have a copy of the letter any more. "They tell me the pope has it. That's kind of neat. Think of what that thing is worth."

When Hays first wrote the letter, Bishop Maurice Dingman of Des Moines remembers he did not think the request was worth much.

"When the farmer handed it to me and said it was for the pope, I thought to myself, 'What do I do with this?' I didn't want to disappoint this farmer because he was so sincere," recalled Dingman. "Now I know he was more than sincere. He had a premonition."

According to the Vatican, the pope wanted a chance to look at rural America west of the Mississippi during his seven-day, six-city tour of the United States. Dingman said the farmer's letter prompted Vatican advance men to come to Des Moines and check out the facilities.

They were given a tour of this quintessential Midwestern state that ranks 25th in both population and size and produces 10 percent of the nation's food supply. They went to Living History Farms, a 600-acre monument to farming that offers a cow pasture in the shape of an amphitheater. They also visited St. Patrick's Church, a tiny parish located in the cornfields 16 miles southwest of Des Moines.

A local priest, who followed one of the advance men, Bishop Paul Marcinkus, to St. Patrick's said the bishop was ecstatic at the sight of the little, barn-shaped church. "This is lovely. This is really great," the bishop reportedly said.

The Vatican announced that Pope John Paul would stop in Des Moines to say mass at Living History Farms and helicopter over to St. Patrick's for a few prayers and a chance to talk with the Irish-American farmers of the parish.

Word of the pope's visit, which had been rumored for weeks, was announced last month in the Des Moines Register with the banner headline: "Proud Iowa Awaits The Pope."

Iowa, for the most part, has been bursting with pride since the announcement.

"People have always said, 'Where's Iowa?' and 'Where's Des Moines?'" boasted Mayor Dick Olson. "Well, for the next 20 years Des Moines will be a point of pilgrimmage for people to come and say this is where the pope was."

George J. Nahas, a city councilman who is planning to run for mayor this fall, calls the planned visit of the pontiff "the most wonderful, most precious thing that could actually happen."

Twenty years ago Des Moines had its other "biggest event in Iowa history." Nikita Khrushchev, then the 65-year-old leader of the Soviet Union, came to town to look at tractor factories, farms and eat hot dogs. Khrushchev drew 150,000 in four cities.

But Iowans say the Khrushchev was small potatoes compared to the pope.

"The pope beats Khrushchev all to pieces," said Norman Hansen, a retired mechanic who was working in the John Deere tractor factory here when the Soviet premier toured the plant.

"Khrushchev was a big man, but he wasn't the pope," said Hank Bradshaw, a travel writer who lives here. "The pope's the only guy I know who they'll block a freeway for out in this country."

Interstate 80–35, a four-lane highway that cuts horizontally across Iowa just north of here, will be closed on the afternoon of the pope's visit.

The visit of John Paul, however, has not received universal acclamation in this overwhelmingly Protestant state. Iowa's 528,000 Catholics make up only 18 percent of the state's population; the rest are mostly Methodists and Lutherans. By contrast, Maryland is more than half Catholic.

The non-Catholic majority here has pressured city and state officials into keeping offices open on the day of the pope's visit. The decision to close local schools on the day of the visit has been sharply criticized over local radio talk shows.

There also are echoes of the anti-Catholic sentiment that until recent years had been a powerful political force in Iowa.

"He [the pope] may be the Catholic's God, but he's not my God," said a 66-year-old retired rubber worker who asked that his name not be printed. "The pope's not going to see anything here but a crowd. You ask him about farm people after he leaves and he won't know a thing about 'em."

Perry Pecinocsky, the assistant city manager in charge of the pope's visit, said there has been considerable discussion among Protestants over why the pope has created "a big to do."

Linda Ward, a Mormon housewife in West Des Moines, said last week: "If it were Christ that was coming I could see all the excitement."

Yet, the anti-Catholic talk here has been all but drowned out by the clamor and tittering of this smalltown city as it prepares for what one Catholic farm wife calls "the greatest event of several lifetimes."

Unlike officials in Washington, who have become accustomed to handling huge crowds on the Mall, officials in Des Moines say they have no benchmarks to measure how severe crowd and traffic problems may be.

While District of Columbia Deputy Police Chief Robert K. Klotz is worrying about not creating the atmosphere of an "armed camp" when the pope visits Washington on Oct. 6 and 7, officials here say they are worried that when the pope-watching masses drive away from Des Moines in the evening they could take off with all the city's October gasoline supply.

In all of Iowa's 56,290 square miles nowhere is the excitement and worry over the papal visit greater than at St. Patrick's Church, the 111-year-old wood-frame building that for 20 minutes will accommodate the pope.

The church, accessible by a gravel road that cuts through little valleys where the air is heavy with the smell of pigs, is the oldest parish in central Iowa. Its 204 parishioners are descendants of the Irish Catholics who in the mid-1800s fled the Irish potato famine and came West looking for good land.

Last week, after getting official confirmation that the pope would come to their church, the farm families of St. Patrick were besieged by reporters who asked what it all "felt like" and by relatives who telephoned to say they would not mind visiting on Oct. 4.

The church council met last Tuesday night and decided that only church members wearing special badges will be admitted to the 240-seat sanctuary on the day the pope comes. The Secret Service plans then to cordon off the 40-acre church grounds.

In the meantime, church council president

Gary Kiernan said the men of the church will guard it 24 hours a day to keep away souvenir hunters and vandals.

"These farmers can do without a little sleep. It'll get them in shape for the harvest," said Kiernan, who farms 700 acres of corn that he expects to harvest at about the same time the pope is scheduled to arrive.

Other church members have been dispatched to repaint the holy water font and mow the cemetery lawn, wherein are buried men and women from every county in Ireland.

Maurice Lynch, 65, who was born on the 700 acres he still farms, said it still puzzles him that pope would come to Iowa and stop at St. Patrick's.

"I can't see him coming out here. There are so many large cities for him to go to. But I'm going to talk to him. I haven't come up with nothin' yet to say," said Lynch.

Pope John Paul will arrive by helicopter at St. Patrick's and land in a hayfield near the church. John and Marilyn Connor own the hayfield, and, among all the members of St. Patrick's, they appear the least agitated over the papal visit.

"You see, it was all just rumor to start with and being a farmer I don't get excited 'till I see the pope here," said John Connor, who is raising his five children on the 1,000 acres that his great-grandfather settled here in the late 1840s.

Marilyn Connor conducts tours of St. Patrick's nowadays and says it seems "funny" that she and her family have to worry about security and access passes on a farm that "before the pope" wasn't even guarded with a wire fence.

"You know," she says, "when I think about the pope in our little church I'm pretty amazed." ●

A COMMUNITY'S INTEREST IN WORLD PEACE

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. Nelson) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, a strong United States is essential to the defense of freedom and to the maintenance of peace in the world. If we are to be the bulwark of the peace, the American people must have a broader and deeper understanding of the military challenges we face. The Orlando area chamber of commerce is making a significant contribution to this public understanding through the distribution of a statement entitled, "A Community's Interest in World Peace." I wish to commend this statement to our colleagues, and I include the statement, which is being distributed in leaflet form in my district, be included in the Record:

A Community's Interest in World Peace

A DESIRE FOR PEACE IS THREATENED

The Orlando Area Chamber of Commerce, recognizing the importance of a strong military posture, feels every American citizen should be aware of the challenges and threats faced by this nation. The threats come from several sources. Yet they cannot be dealt with unless the citizenry is informed of them. The Orlando Area Chamber of Commerce has attempted to illustrate some of these challenges through consideration and research of many pieces of data.

Unfortunately, this research effort shows the ability of the military to protect and defend our country is deteriorating in both quality and quantity.

The most severe threat to the United States comes from the Soviet Union. The United States, in contrast to the Soviet Union, is existing largely off past investment in military preparedness.

An aging Naval fleet, insufficient in quantity and outdated in much of its weaponry, illustrates this. Every passing day brings reductions in some technological leads or further declines in areas which were already lagging behind the Soviets.

A SHIFT IN THE BALANCE OF POWER

These are the facts:

Soviet development and deployment of its strategic nuclear force

The Soviets are modernizing virtually every component of their strategic nuclear force structure behind the momentum of new systems which are in the field and in production.

They are deploying new inter-continental ballistic missiles carrying up to ten high yield warheads each; they are deploying new submarine-launched ballistic missiles (SLBMS) and new SLBM Submarines and they are continuing development of the BACK FIRE bomber which has inter-continental capability.

INCREASING SOVIET DEFENSE EXPENDITURE

The Soviet Union increases its defense budget four to five percent each year. The budget absorbs 13 percent of the Soviet Gross National Product (GNP) in contrast to the United States defense budget which represents only 5.2 percent of its GNP. Until 1977 the United States was annually reducing military spending.

A RETARDATION OF U.S. MODERNIZATION

reductions, cancellations and by disapprovals

The retardation is characterized by slips, by Congress to continue Minuteman III production, postponement of the MX missile decision, cancellation of the B-1 manned bomber, deferment of the neutron bomb, a reduction by half in the number of new ships to be built over the next five years and slippage in the production of the Trident Submarine with ballistic missile capabilities.

AN ISLAND NATION, DEPENDENT ON A STRONG NAVY

Faced with a dangerous world political situation, United States military forces may be called upon at any moment to preserve this country's independence and territorial integrity. Additionally, the United States is an island nation, its standard of living and economic security dependent on raw materials imported from abroad. Many of these imports have a strategic value as well. The United States also finds it profitable to trade and invest abroad. Imports and exports now total more than $200 billion a year, and U.S. international investments are currently valued in excess of $100 billion.

What these facts equate to is an obvious dependence on the oceans of the world. Without control of the sea, even fast moving and highly technical aircraft are vulnerable to attack from the oceans by our enemies.

Over 40 percent of our petroleum alone comes from external sources, and more than 33 percent of that total is imported from the Persian Gulf. With the United States becoming more and more dependent upon the resources of foreign nations, the continued free use of the seas is imperative to the continued political and economic survival of this nation and all the free nations of the world. But again, the United States is being threatened.

These are the facts:

A SOVIET NAVY FOUR TIMES THAT OF THE UNITED STATES

After a great expenditure of resources, the Soviets have achieved both quantitative and qualitative leadership in several aspects of naval power. This rapid growth has consequently made a considerable impact on international political, economic, ideological and military developments.

SEVERE REDUCTIONS IN THE NAVY'S SHIPBUILDING PROGRAM

Budget reductions by the administration and Congress have cut the Navy's shipbuilding program by about 50 percent. It is no wonder that Admiral S. G. Gorshkov, the Soviet Admiral of the Fleet, has publicly stated that "sooner or later the United States will have to understand it no longer has mastery of the seas."

NO NAVAL BALANCE; NO EFFECTIVE CONTROL

The small size of the U.S. fleet precludes this nation from effectively carrying out its mission of protecting the sea lanes. Historical analysis shows that real powers may be considered as those great nations in history which have based their national political and economic policies chiefly on maritime activities.

THE SEA AS A BED OF NATURAL RESOURCES

The current dependence by the U.S. on the resources of other nations can be considerably lessened by a search for many of these same materials which lie on the floor of our oceans. Yet this search is dependent on one factor and one factor alone--control. Without control of the sea, this goal is a mere dream.

THE BOTTOM LINE

The critical concern in strategic balance is the survivability of our land-based ICBM force, a development which will impose serious strains upon the delicate structure of crisis stability in the early to mid-1980's. The broader threats to stability are the imbalance in personnel and weapons systems and the asymetrical momentum in weapons development and research in both sides' weapons arsenal.

The United States has the material and moral resources to arrest and reverse these dangerous military trends.

We must urge Congress and the President to:

Modernize our strategic nuclear forces to represent a credible strategic deterrent.

Maintain vigorous weapons research.

Maintain a fine cutting edge of military capability both in hardware and manpower.

Pursue a vigorous program of maritime growth.

The United States must maintain the POWER and the WILL to defend and protect our nation and its interests. ●

CAMPAIGN CRISIS—IN KIND CONTRIBUTIONS

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. Wyatt) is recognized for 5 minutes.

● Mr. WYATT. Mr. Speaker, a few months ago the Committee on House Administration solidly rejected H.R. 1, a plan for Federal financing of congressional elections. That should have been the end of the issue, but now we are faced with a back door approach—the Obey-Railsback bill. It too must be rejected.

One of the glaring defects of both H.R. 1 and Obey-Railsback is that neither of these proposals do a thing about "in kind" contributions. And every Member of this House is well aware of these "in kind" contributions.

Virtually every Member has either benefited or suffered from them depending upon his or her position vis-a-vis that of labor union officials. Rather than considering legislation which would only add to this unfair advantage, Mr. Speaker, we should be turning our attention to some of the defects and weaknesses in the present election laws and the Federal Election Commission. An excellent editorial from the Victoria Advocate, Tuesday, August 28, 1979, discusses "in kind" contributions and offers some further thoughts on the subject.

Mr. Speaker, I include the editorial at this point in the Record:

[From the Victoria Advocate, Aug. 23, 1979]

Campaign Crisis

The Federal Election Commission, created to be the guardian of equitable elections, has shown blatant biases and is fast becoming the latest graveyard of electoral reform.

Now comes a bill introduced shortly before Congress adjourned designed to increase the already enormous political clout of union officials—at the expense of ordinary citizens. It would place strict new limits on voluntary campaign contributions. But, it would leave untouched and unlimited Big Labor's continued use of compulsory dues for partisan politics.

This ominous bill was introduced by Rep. David Obey, D-Wis., and Rep. Thomas Railsback, R.-Ill., as an amendment to the Federal Election Commission Authorization Bill.

While the Obey-Railsback Bill would place tight ceilings on direct cash contributions from individual citizens to the candidates of their choice, it would leave the door wide open for union officials to exercise the real political muscle which only they can flex—the notorious "in-kind" contribution.

These contributions come in the form of hordes of paid campaign workers, union-funded telephone banks, carpools and office space, well-financed, partisan get-out-the-vote drives and other such costly, highly effective vote-getting techniques.

The shame of these "contributions" is that they are lavished upon candidates favored by the union bosses but often opposed by union members themselves. And, worst of all, they're funded by union dues.

In short, this bill is a carefully contrived means of forcing candidates to either sell out to well-heeled union officials, or face an underfunded, unfair, one-sided campaign.

Fortunately, there's another bill now being drafted in Congress which could not only prevent the Obey-Railsback perversion, but also could restore essential balance to the federal election process. It represents an opportunity to reverse the trend toward union control of federal election funding. And it could be the last, best hope for putting campaign financing back in the hands of the average Americans from whom it has been taken.

Probably the best version of the draft bill would transfer oversight of political campaigns from the union-controlled Federal Election Commission to the highly-respected, nonpolitical Government Accounting Office. And, more importantly, it would amend the Federal Election Campaign Act to forbid—once and for all—the outrageous use of compulsory dues for partisan political purposes.

The choice is shaping up for Congress. Within a matter of weeks, if they so choose, they can seize the opportunity to restore equity to the electoral process, or they can continue kowtowing to union bosses.●

OPPOSING TRADE PREFERENCES FOR CHILE

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. Panetta) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, on Monday last, I presented testimony in opposition to the granting of special preference to the Government of Chile for the importation of frozen artichoke hearts. I would like to share my remarks on this topic with my colleagues:

Remarks of Representative Leon E. Panetta

I thank the members of the Subcommittee for this opportunity to speak in opposition to the granting of specialized preferences to the government of Chile for the importation of frozen artichoke hearts. Although I generally consider myself a free-trade advocate, I feel that there are compelling reasons for denying Chile's request for removal of the 17½ cent tariff on these products. My objections go beyond the fact that granting the request will seriously impact upon the artichoke industry of California, in particular the small community of Castroville. I'm equally concerned about the larger issue raised by granting special preference to a nation whose record on human rights is clearly disastrous by any reasonable standard.

There is little doubt in my mind that granting this preference would result in severe economic losses to the domestic artichoke industry and in particular to the community of Castroville. Unlike products produced in communities across the nation where the impact of foreign competition would be widely distributed, virtually all of our domestic artichoke production takes place within a 15 mile radius of Castroville. Eliminating the tariff on imported artichokes would deal a crushing blow to our domestic industry that would rest squarely upon the shoulders of this single community.

The very character and heritage of this small town of less than 4,000 people is derived from her artichoke farms. There are few places in the United States, indeed the entire world, that are better suited to the cultivation of artichokes than this region just east of the sand dunes on Monterey bay. The morning fog and consistently cool temperatures of this area combined with its slightly sandy soil make it an ideal environment for growing this thistle-like herb. These traits have earned Castroville the proud title of Artichoke Capitol of the World.

Today there are about 9,600 acres of land around Castroville devoted to the growing of artichokes. The harvest from this crop supplies about 90 percent of the domestic artichokes consumed each year in the United States. Fewer than two dozen growers remain in business today in our area because of the increasing costs of farming. Inflation and foreign competition are key factors in the decline in the number of artichoke growers. To saddle this industry with more foreign competition by granting the request by the government of Chile for preferential treatment of its artichoke products would lead to the further decline of our domestic industry and to severe economic loses for the citizens of Castroville.

In the human rights area, I simply don't believe the time is right to be granting special preference to Chilean products. Chile has an incredible record of violating the human rights standards that the President has said are an esential element of our foreign policy. Just consider the record:

Chile has yet to account for an estimated 2,500 political prisoners who have disappeared since the Junta seized power in 1973.

Chile has refused to extradite General Manuel Contreras and his two DINA (Chilean secret police) accomplices who were indicted by a federal grand jury on August 2, 1978 for the murder of Chilean Ambassador Orlando Letelier and his American companion Robby Moffitt.

Chile has not even allowed the families of political prisoners to bury their own. When 15 bodies of disappeared political prisoners were uncovered in an abandoned calk mine in Lonquen just outside Santiago, Chilean authorities first agreed to let the families bury them, but later had the bodies secretly buried in a common grave on an island off the coast. Eighty military policemen who were found guilty by a civilian judge in the death of these people were granted amnesty pursuant to a decree of March 1978 absolving all military personnel in crimes against political prisoners.

The United States should not in any way encourage the wholesale violation of basic human rights in Chile. Granting the petition at this point in time would send a signal to General Pinochet that he can ignore our insistence to improve the human rights situation with impunity. I don't think we want to send that signal to the countries of Latin America and the world.

In view of this human rights record and the adverse economic impact granting the petition would have on my area, I urge you to retain the 17½ cent tariff on imported frozen artichoke hearts.

Thank you once again for giving me this opportunity to address this important issue.●

HEARING BY SUBCOMMITTEE ON MONOPOLIES AND COMMERCIAL LAW ON SEPTEMBER 27, 1979, ON H.R. 3271, H.R. 4046 THROUGH H.R. 4050

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. Seiberling) is recognized for 5 minutes.

● Mr. SEIBERLING. Mr. Speaker, I wish to announce the Subcommittee on Monopolies and Commercial Law will hold 1 day of hearings on Thursday, September 27, 1979, to consider H.R. 3271 and companion bills H.R. 4046 through H.R. 4050.

These bills would expedite and reduce the costs of antitrust enforcement and amend section 7 of the Clayton Act. The hearing will be held in room 2141, Rayburn House Office Building and will commence at 9 a.m.

Testimony on these proposals will be received from Senator Howard Metzenbaum, Judge Charles B. Renfrew, representatives of the chamber of commerce and the National Association of Manufacturers, and Prof. Eleanor Fox, professor of law at New York University.●

SOUTHWEST COAST CORRIDOR SERVICE ACT

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. Van Deerlin) is recognized for 5 minutes.

● Mr. VAN DEERLIN. Mr. Speaker, a bill, which Mr. Patterson, Mr. Corman, and I are introducing today, directs Amtrak to upgrade the passenger train service between San Diego and Los Angeles and on through the San Fernando Valley. It will establish a modern, high-speed rail corridor for the Southwest similar to the one now nearing completion in the Northeast.

The bill would amend the Rail Passenger Service Act to authorize Amtrak to enter into all necessary agreements with railroads, labor unions, local and State government and private companies to provide for improvements on the line, to be called the "Southwest Coast Corridor."

The goal of the changes is to reduce the running time between San Diego and Los Angeles from the present 2 hours, 35 minutes to 1 hour and 55 minutes, and to extend this high-speed service as far north as Oxnard.

We leave it to Amtrak to decide the means of meeting the goal of modernized service, though it is expected that improvements will include right-of-way fencing, elimination of grade crossings, superelevation of curves, tunnel construction, route realinement and major station alterations. Amtrak is authorized to buy the right-of-way if necessary. Funds sufficient to carry out the work contracted for are authorized.

Amtrak is further directed, within 3 months after the passage of the bill, to submit an interim report of capital requirements to the Congress to allow for early initiation of the appropriations process. Not later than 6 months after passage, Amtrak is directed to report to the Congress in detail on the status of the entire project.

Specific language assures that local and State authority to operate or develop passenger rail service is not adversely affected by the bill. It also directs Amtrak to coordinate closely with the California Department of Transportation in planning the service improvements.

Mr. PATTERSON. Mr. Speaker, the legislation that my colleagues Congressmen VAN DEERLIN and CORMAN are introducing today seeks to improve and expand rail passenger transportation by creating the Southwest Coast Corridor Service. Legislative history on H.R. 3996 amending the Rail Passenger Service Act of 1970 and passed by the House last month makes clear the importance of intercity rail transportation. This type of service is especially critical in the State of California where earlier this year the gasoline shortage and lack of adequate public transportation caused severe disruptions.

It is indisputable that efficient systems of public transportation must command greater attention as a national priority. Clearly, the advantages of operating corridor services should also be explored for other regions of the country. As the Committee on Interstate and Foreign Commerce stated in its report on the Amtrak Reorganization Act of 1979:

> . . . modernized national rail passenger service is of significant public benefit and will assume even greater importance as the energy crisis becomes ever more acute. Evidence of passenger train ridership increases in the face of fuel shortages and price increases is indisputable. Continuing petroleum price increases and supply shortages are likely to result in further dislocations in all sectors of the American economy. Recent trends as well as the 1973-74 Arab oil embargo have demonstrated the necessity of assuring that adequate public transportation is available to cope with burgeoning demand.

The initiative to make necessary changes, as is usually the case, stems from the vigor and work of many individuals. In the State of California those who deserve recognition, among others, for their efforts in pursuing rail passenger service improvements include State Senator James Mills, who is the speaker pro tempore and former chairman of the transportation committee; Supervisor Ralph Clark, chairman of the Orange County Transit District and who was instrumental in the formation of the Tri-County (Orange, San Diego, and Los Angeles) Rail Committee; Supervisor Philip Anthony, of Santa Ana, chairman of the Orange County Board of Supervisors; Supervisor Baxter Ward, member of the Tri-County Committee; Chairman Al Hollinden, of the Orange County Transit Commission; and the many dedicated members of Citizens for Rail California.

All of their efforts are appreciated and my colleagues and I anticipate early hearings on our proposal, at which time its provisions will be reviewed in depth by the Subcommittee on Transportation and Commerce of the Interstate and Foreign Commerce Committee.

Mr. CORMAN. Mr. Speaker, today Congressman PATTERSON and I join Congressman VAN DEERLIN in introducing a bill to amend the Rail Passenger Service Act to create a "Southwest Coast Corridor" passenger train service similar to the Northeast Corridor Amtrak service. This service would run passenger trains from Union Station in Los Angeles to San Diego on schedules of 1 hour and 55 minutes with at least five intermediate stops. This bill includes $5 million to immediately advance the creation of the corridor and directs the extension of the service north through the San Fernando Valley.

The Railroad Revitalization and Regulatory Reform Act of 1976 created the Northeast Corridor and provided both legal and financial authority for Amtrak to purchase rights-of-way, upgrade and construct new track, carriages, and facilities and permit expedited passenger service along the Northeast route. In 1978, the Congress instructed the Department of Transportation in the Amtrak Improvement Act to recommend a national rail passenger system based upon "current and future market and population requirements." The bill introduced today is designed to advance Amtrak's mandate under the 1978 law in a particular and reasonable manner. Designation of the Los Angeles to San Diego route as a corridor should qualify the route for special Federal assistance and constitute a first step toward establishing several national rail corridors in areas of high population density.

Certainly the performance of the Amtrak passenger service on the Los Angeles-San Diego route justifies this move. In fiscal year 1978, 794,000 people rode the trains on this route, representing a 15-percent increase in ridership from fiscal year 1977. The first 10 months of fiscal year 1979 witnessed 871,081 people riding on the trains, making ridership for the year through July 1979, 36.3 percent greater than for the year through July 1978.

In the most recent month for which data is available—July—ridership was up a startling 49.3 percent over the same month in 1978. Using another scale, the average annual passenger miles per train (or annual average ridership) increased 21.5 percent from the year ending in June 1978 through the following year.

These trends suggest that hourly "San Diegan" service might not be unreasonable. Such hourly service would be commensurate with the service of the Northeast corridor on a per capita basis. Already, ridership on the six "San Diegans" now running the Los Angeles to San Diego route is one-half the ridership of the 13 Metroliners on the Northeast corridor. The point is that any way one cuts it, business is booming on the Los Angeles to San Diego passenger train route and it promises to continue its spectacular growth.

Upgrading the Los Angeles to San Diego route would be extremely cost-effective. Of the six "San Diegans," only three are fully federally funded, compared to 40 Amtrak trains on the Northeast corridor fully federally funded. Whereas equipment and facility improvements in the Northeast will run several billions of dollars but improve Metroliner service only by a few minutes between stations, an investment of $50 million will shave 35 minutes from the train schedule between Los Angeles and San Diego and make it possible to extend service through Los Angeles to the San Fernando Valley's 1 million residents without changing trains.

Similarly, upgrading the western coast route would be energy efficient. Despite the Southwest's burgeoning population, the region still suffers a dearth of transportation alternatives to the automobile.

This is even more remarkable in view of the air pollution problems confronting the region. Effectively operated intercity train service, however, can be a major source of fuel savings and air quality improvement. As an example of the fuel savings to be realized, the Los Angeles to San Diego train produces 100 passenger-miles per gallon of fuel. Auto travel and air travel both average less than 20 passenger-miles per gallon. Furthermore, energy effectiveness and traffic congestion relief also go together. One Amfleet train of 18 cars carries 1,400 passengers on a single track. To carry the same number of passengers otherwise would take 11 Boeing 727's or 32 buses in a line 1 mile long or 636 automobiles in a line 20 miles long.

There is yet another reason to invest in the Southwest coast corridor: It is one of the most beautiful rides in the world. The scenery of the southern California coast is legendary and compares favorably with the most scenic areas of the Riviera and other Mediterranean coasts. Trains run so close to the beaches along some parts of the route that surf spray sometimes reaches them. Indeed, someone once ironically suggested that the trains should go slower so as to allow the passengers more time to enjoy the view.

The creation of a Southwest coast corridor would be an intelligent step toward improving the Nation's passenger train service in areas most suited for it. I invite the Members of the House of Representatives and Senate to examine the merits of this proposal carefully and to assist Congressmen VAN DEERLIN, PAT-

Terson, and me in taking the action necessary to make progress in this area. And I commend Congressman Van Deerlin for his imaginative leadership in the effort to realize this worthwhile goal.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

Mr. Addabbo, for today, from 1 p.m. to close of business, on account of official business.

Ms. Holtzman (at the request of Mr. Wright), for today, on account of illness.

Mr. Murphy of Illinois (at the request of Mr. Wright), through Friday, September 28, on account of illness.

Mr. Quillen (at the request of Mr. Rhodes), for September 25 and 26, on account of a death in the family.

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Lee) to revise and extend their remarks and include extraneous material:)

Mr. Marlenee, for 5 minutes, today.
Mr. Grassley, for 10 minutes, today.
Mr. Solomon, for 5 minutes, today.

(The following Members (at the request of Mr. Mavroules) to revise and extend their remarks and include extraneous material:)

Mr. Alexander, for 30 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 15 minutes, today.
Mr. Weaver, for 10 minutes, today.
Mr. Wirth, for 5 minutes, today.
Mr. Rangel, for 5 minutes, today.
Mr. Corman, for 5 minutes, today.
Mr. Daschle, for 5 minutes, today.
Mr. Nelson, for 5 minutes, today.
Mr. Wyatt, for 5 minutes, today.
Mr. Panetta, for 5 minutes, today.
Mr. Seiberling, for 5 minutes, today.
Mr. Van Deerlin, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Lee) and to include extraneous material:)

Mr. Shuster in two instances.
Mr. Wydler.
Mr. Johnson of Colorado.
Mr. Young of Alaska.
Mr. Daniel B. Crane.
Mr. Conte in two instances.
Mr. Findley.
Mr. Kemp in five instances.
Mr. Michel in three instances.
Mr. Bereuter.
Mr. Dannemeyer.
Mr. Davis of Michigan.
Mr. Miller of Ohio in three instances.
Mr. Vander Jagt.
Mr. Goodling.
Mr. Hillis.
Mr. Paul in two instances.
Mr. Green.
Mr. Coleman.

(The following Members (at the request of Mr. Mavroules) and to include extraneous matter:)

Mr. Mazzoli.
Mr. Vento.
Mr. Rodino.
Mr. Guarini.
Mr. Bailey.
Mr. Kildee.
Mr. Rosenthal.
Mr. Waxman.
Mr. Udall.
Mr. Skelton.
Mr. Edgar.
Mrs. Schroeder.
Mr. Traxler.
Mr. Hamilton.
Mr. Ottinger.
Mr. Simon in two instances.
Mr. Shelby.
Mr. Wolff.
Mr. Fuqua in five instances.
Mr. Howard.
Mr. Bonker in two instances.
Mr. Downey.
Mr. Roe in two instances.
Mr. Atkinson.
Mrs. Spellman.
Mr. Boner of Tennessee.
Mr. Stark.
Mr. Daschle in 10 instances.
Mr. Peyser.
Mr. Rahall.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 275. An act for the relief of Leah Mi Cohen.

ADJOURNMENT

Mr. RUSSO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 41 minutes p.m.), the House adjourned until Wednesday, September 26, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2509. A letter from the Secretary of the Treasury, withdrawing the previously transmitted report of a violation of the Anti-Deficiency Act (Executive Communication No. 1266), submitted pursuant to section 3679(1)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

2510. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting notice of various transfers of funds between categories of appropriations to the Department of Defense, pursuant to section 834 of the Department of Defense Appropriation Act, 1979; to the Committee on Appropriations.

2511. A letter from the Director, Peace Corps, transmitting a report of a violation of the Anti-Deficiency Act, pursuant to section 3679(1)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

2512. A letter from the Under Secretary of the Air Force, transmitting a draft of proposed legislation to amend chapter 101 of title 10, United States Code, to authorize the Secretaries concerned to require an applicant for certain advanced education sponsored by the Armed Forces to agree to serve on active duty for a specified period or reimburse the United States for the apportioned costs of the education; to the Committee on Armed Services.

2513. A letter from the President of the United States, transmitting a report on progress toward the conclusion of a negotiated solution of the Cyprus problem, pursuant to section 620C(c) of the Foreign Assistance Act of 1961, as amended (H. Doc. No. 96–194); to the Committee on Foreign Affairs and ordered to be printed.

2514. A letter from the Comptroller General of the United States, transmitting a report on needed improvements to Federal paperwork controls (GGD–79–70, September 24, 1979); to the Committee on Government Operations.

2515. A letter from the Secretary of the Interior, transmitting the 1979 annual report on mining and minerals policy, pursuant to section 2 of Public Law 91–631; to the Committee on Interior and Insular Affairs.

2516. A letter from the Executive Director, President's Commission on Executive Exchange, transmitting a draft of proposed legislation to amend section 209 of title 18, United States Code; to the Committee on the Judiciary.

2517. A letter from the president, Jewish War Veterans U.S.A. National Memorial, transmitting the audit report of the organization for the year ended March 31, 1979, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

2518. A letter from the Comptroller General of the United States, transmitting a report on the need for the Department of Health, Education, and Welfare to better organize its activities relating to obstetric practices (HRD–79–85, September 24, 1979); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Ways and Means.

2519. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to establish a national program of protection against medical expenses for all Americans; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DERRICK: Committee on Rules. House Resolution 404. Resolution amending the Rules of the House of Representatives relating to committee scheduling; with amendment (Rept. No. 96–426, pt. 2). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 3948. A bill to amend the Federal Aviation Act of 1958 to eliminate the age limitation presently imposed on certain pilots of aircraft, and for other purposes; with amendments (Rept. No. 96–474). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 2440. A bill to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970; with amendment (Rept. 96–475). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 424. Resolution providing for the consideration of House Resolution 404. Resolution amending the Rules of the House of Representatives relating to committee scheduling (Rept No. 96-476). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 425. Resolution providing for the consideration of H.R. 5369. A bill to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process (Rept. No. 96-477). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 426. Resolution waiving certain points of order against H.R. 5359, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-478). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 427. Resolution providing for the consideration of Senate Concurrent Resolution 36. Concurrent resolution on the second congressional budget for the U.S. Government for fiscal years 1980, 1981, and 1982. (Rept. No. 96-479). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RODINO (for himself, Mr. Edwards of California, Mr. McClory, and Mr. Hyde):

H.R. 5380. A bill to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1979, for a certain period; to the Committee on the Judiciary.

By Mr. JOHN L. BURTON (for himself, Mr. Walker, Mr. Evans of Indiana, and Mr. Matsui):

H.R. 5381. A bill to amend the Federal Property and Administrative Services Act of 1949 to reform contracting procedures and contract supervision practices of the Federal Government, and for other purposes; to the Committee on Government Operations.

By Mr. ERDAHL:

H.R. 5382. A bill to amend the Internal Revenue Code of 1954 to provide that severance pay resulting from a plant closing shall be subject to tax at reduced rates; to the Committee on Ways and Means.

By Mr. GOODLING:

H.R. 5383. A bill to fix the salaries of Members of the Congress to take effect January 1, 1981; to the Committee on Post Office and Civil Service.

H.R. 5384. A bill to amend the Internal Revenue Code of 1954 to provide that the maximum amount of living expenses which are allowable as a trade or business expense deduction for Members of Congress shall be increased to an amount equal to the Federal per diem rate multiplied by the number of days (but not in excess of 180) the Congress is in session; to the Committee on Ways and Means.

By Mr. GRADISON:

H.R. 5385. A bill to provide that the retroactive change in method of accounting for life insurance companies which is permitted by Revenue Procedure 78-6 may be made for certain closed taxable years; to the Committee on Ways and Means.

By Mr. JEFFORDS:

H.R. 5386. A bill to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States; to the Committee on Education and Labor.

By Mr. LATTA:

H.R. 5387. A bill to amend the Motor Vehicle Information and Cost Savings Act to require the Secretary of Transportation to prescribe passenger motor vehicle frame standards designed to provide passenger motor vehicle occupants with maximum protection in motor vehicle accidents; to the Committee on Interstate and Foreign Commerce.

By Mr. MARLENEE:

H.R. 5388. A bill to amend title II of the Social Security Act so as to modify the criteria respecting certain self-employment income, derived from the sale of certain agricultural or horticultural commodities, for purposes of the social security retirement test; to the Committee on Ways and Means.

By Mr. ROE:

H.R. 5389. A bill to amend the Emergency Petroleum Allocation Act of 1973 to stabilize prices for diesel fuel and No. 2 fuel oil at the respective prices which were in effect January 1, 1979; to the Committee on Interstate and Foreign Commerce.

By Mr. UDALL:

H.R. 5390. A bill entitled "Pacific Southwest Water Yield and Environmental Quality Improvement Act of 1979"; to the Committee on Interior and Insular Affairs.

By Mr. ULLMAN:

H.R. 5391. A bill to amend chapter 42 of the Internal Revenue Code of 1954 with respect to the determination of second tier taxes; to the Committee on Ways and Means.

H.R. 5392. A bill to delay for an additional 2 years the application of the net operating loss rules added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 5393. A bill to improve the electric generating efficiency of joint Federal-civilian pooling practices in Alaska, and for other purposes; jointly to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. ATKINSON:

H.R. 5394. A bill to amend the Internal Revenue Code of 1954 to allow the rapid amortization of federally required capital expenditures; to the Committee on Ways and Means.

By Mr. BEDELL (for himself, Mr. Harkin, Mr. Skelton, Mr. Lott, Mr. Whittaker, Mr. Murphy of Pennsylvania, Mr. Mikva, Mr. Shelby, Mr. Hance, Mr. Buchanan, Mr. Baldus, Mr. Andrews of North Dakota, Mr. Jeffords, Mr. Scheuer, Mr. Dornan, Mr. Bevill, Mr. Dellums, Mr. Panetta, Mr. Weiss, Mr. Bonior of Michigan, Mr. Stangeland, Ms. Holtzman, Mr. Ichord, Mr. Simon, Mr. Downey, Mr. Solarz, Mr. Maguire, Mr. Hagedorn, Mr. Glickman, Mr. Abdnor, and Mr. Heftel):

H.R. 5395. A bill to require that imported meat and meat food products made in whole or in part of imported meat be subjected to certain tests and that such meat or products be labeled "imported" at all stages of distribution until delivery to the final consumer; to require that the cost of conducting such tests, and the cost of conducting certain inspections and identification procedures on imported meat and meat food products, be borne by the exporters of such articles; to require certain eating establishments, which serve imported meat, to inform customers of that fact; and for other purposes; to the Committee on Agriculture.

By Mr. ERTEL:

H.R. 5396. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income interest on deposits in certain savings institutions, and to increase the amount of the exclusion for dividends received by individuals; to the Committee on Ways and Means.

By Mr. FITHIAN:

H.R. 5397. A bill to promote the development of energy from agricultural commodities, forest products, and their wastes and residues, and rural energy conservation practices; jointly, to the Committees on Agriculture, Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, and Science and Technology.

By Mr. FUQUA (by request):

H.R. 5398. A bill to establish a cooperative basic automotive research program within the executive branch to provide for authorizations, and for other purposes; to the Committee on Science and Technology.

By Mr. GRASSLEY:

H.R. 5399. A bill to provide for research, development, and demonstration projects for the production and use of hydrogen as an alternative fuel, to amend the Internal Revenue Code of 1954 to encourage the production and use of hydrogen as a fuel, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, Science and Technology, and Ways and Means.

By Mr. RANGEL (for himself, Mr. Corman, and Mr. Staggers):

H.R. 5400. A bill to establish a national program of protection against medical expenses for all Americans; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. BROWN of Ohio:

H.R. 5401. A bill to provide for a National Afro-American History and Culture Commission, which shall establish the National Center of Afro-American History and Culture, and for other purposes; jointly, to the Committees on Education and Labor and Interior and Insular Affairs.

By Mr. TAUKE:

H.R. 5402. A bill to amend the Internal Revenue Code of 1954 to increase the unified credit against estate and gift taxes to provide that $500,000 of property shall be exempt from such taxes, and to provide an inflation adjustment of such amount; to the Committee on Ways and Means.

By Mr. VAN DEERLIN (for himself, Mr. Patterson, and Mr. Corman):

H.R. 5403. A bill entitled "Southwest Coast Corridor Service"; to the Committee on Interstate and Foreign Commerce.

By Mr. NATCHER:

H.J. Res. 407. Joint resolution authorizing and requesting the President to issue a proclamation designating the week of January 21 through January 27, 1979, as "Junior Achievement Week"; to the Committee on Post Office and Civil Service.

By Mr. ROUSSELOT (for himself, Mr. Gingrich, Mr. Kindness, Mr. Whitehurst, Mr. Dannemeyer, Mr. Symms, Mr. Lagomarsino, Mr. Miller of Ohio, Mr. Dornan, Mr. Lungren, Mr. Robert W. Daniel, Jr., Mr. Badham, Mr. Charles Wilson of Texas, Mr. Burgener, Mr. Grassley, Mr. Brown of Ohio, Mr. Gradison, and Mrs. Holt):

H.J. Res. 408. Joint resolution proposing an amendment to the Constitution of the United States which requires (except during fiscal years during which the United States is at war or during which a suspension is approved) that the annual deficit of the United States be eliminated, which requires tax rates to be reduced to offset the effects of inflation, and which establishes a procedure for the approval of bills or joint resolutions effecting taxes; to the Committee on the Judiciary.

By Mr. WATKINS:

H.J. Res. 409. Joint resolution proposing an amendment to the Constitution of the United States requiring a review by the Congress of each rule and regulation issued to carry out any law and allowing the Congress to approve, modify, or disapprove such rule or regulation; to the Committee on the Judiciary.

By Mr. APPLEGATE:

H. Res. 421. Resolution to express the sense of the House of Representatives that the

United States of America should establish and actively and immediately pursue a national energy plan that emphasizes and demands the use of domestic coal as a means of displacing current foreign energy imports, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DASCHLE:

H. Res. 422. Resolution welcoming Pope John Paul II; to the Committee on Foreign Affairs.

By Mr. PERKINS:

H. Res. 423. Resolution requesting the Secretary of Health, Education, and Welfare to delay issuance of any new final regulations under title I of the Elementary and Secondary Education Act of 1965 until such Secretary has conducted a review of the proposed regulations under such title and has completed a comprehensive revision of such regulations; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GONZALEZ:

H.R. 5404. A bill for the relief of Marcelo Enrile Inton; to the Committee on the Judiciary.

By Mr. SOLARZ:

H.R. 5405. A bill for the relief of Peter E. Kirsch; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

304. By the SPEAKER: Memorial of the Legislature of the State of California, relative to Federal cooperative fire funding; to the Committee on Appropriations.

305. Also, memorial of the Legislature of the State of California, relative to Southern Pacific Transportation Co.'s San Francisco Peninsula commuter service; to the Committee on Interstate and Foreign Commerce.

306. Also, memorial of the Legislature of the State of California, relative to the hazards of tobacco products; to the Committee on Interstate and Foreign Commerce.

307. Also, memorial of the Legislature of the Commonwealth of Puerto Rico, relative to the desire of the people of Puerto Rico to have the right to vote in Presidential elections; to the Committee on the Judiciary.

308. Also, memorial of the Legislature of the State of California, relative to the Federal airport development aid program; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 473: Mr. Courter.

H.R. 605: Mr. Marlenee, Mr. Marks, Mr. Murphy of Illinois, Ms. Oakar, and Mr. Preyer.

H.R. 654: Mr. Frost.

H.R. 1918: Mr. Hyde, Mr. Synar, and Mr. Nolan.

H.R. 1980: Mr. Scheuer.

H.R. 2196: Mr. Daniel B. Crane.

H.R. 3046: Mrs. Smith of Nebraska and Mr. Stenholm.

H.R. 3558: Mr. Volkmer, Mr. Tauke, and Mr. Drinan.

H.R. 3905: Mr. Glickman, Mr. Alexander, Mr. LaFalce, Mr. Mineta, Mr. Moakley, Mr. Kastenmeier, Mr. Kogovsek, Mr. Nolan, Mr. Baldus, and Mr. Marks.

H.R. 3991: Mr. Clinger, Mr. Gramm, and Mr. Neal.

H.R. 4056: Mr. Patterson.

H.R. 4211: Mr. Cavanaugh.

H.R. 4367: Mr. Bedell and Mr. Edwards of Oklahoma.

H.R. 4466: Mr. Cheney.

H.R. 4488: Mr. Patterson.

H.R. 4491: Mr. Scheuer, Mr. Pashayan, Mr. McCormack, Mr. Edwards of California, Mr. Smith of Iowa, Mr. Bedell, Mr. Whittaker, Mr. Downey, Mr. Weiss, Mr. Heftel, Mr. Guyer, Mr. Seiberling, and Mr. Patterson.

H.R. 4631: Mr. Florio.

H.R. 4796: Mr. Benjamin, Mr. Bevill, Mr. Burgener, Mr. Coleman, Mr. Fuqua, Mr. Gingrich, Mr. Hinson, Mrs. Holt, Mr. Jenkins, Mr. Lagomarsino, Mr. Leach of Louisiana, Mr. Leach of Iowa, Mr. Lott, Mr. Mattox, Mr. Mineta, Mr. Montgomery, Mr. Ottinger, Mr. Pepper, Mr. Quillen, Mr. Roe, Mr. Shelby, and Mr. Winn.

H.R. 4905: Mr. Price and Mr. LaFalce.

H.R. 4990: Mr. Hughes, Mr. Jones of Oklahoma, Mr. Lundine, Mr. Seiberling, and Mr. Vento.

H.R. 5038: Mr. Murphy of Pennsylvania, Mr. Patten, Mr. Mitchell of Maryland, Mr. Buchanan, Mr. Yatron, Mr. Bevill, Mr. Perkins, Ms. Mikulski, Mr. Wampler, Mr. Clinger, Mr. Whittaker, and Mr. Cavanaugh.

H.R. 5184: Mr. Benjamin, Mr. Bevill, Mr. Burgener, Mr. Coleman, Mr. Fuqua, Mr. Gingrich, Mr. Jenkins, Mr. Lagomarsino, Mr. Leach of Louisiana, Mr. Leach of Iowa, Mr. Lott, Mr. Mattox, Mr. Mineta, Mr. Ottinger, Mr. Pepper, Mr. Quillen, Mr. Roe, Mr. Shelby, and Mr. Winn.

H.R. 5225: Mr. Jeffries, Mr. Wyatt, Mr. Lott, Mr. Petri, Mr. Kindness, Mr. Solomon, and Mr. Young of Alaska.

H.R. 5326: Mr. Livingston, Mrs. Boggs, Mr. Treen, Mr. Leach of Louisiana, Mr. Huckaby, Mr. Breaux, and Mr. Long of Louisiana.

H.R. 5330: Mr. Kildee, Mr. Coelho, Mr. Glickman, Mr. Bethune, and Mr. Runnels.

H.J. Res. 276: Mr. Archer, Mr. Carr, Mr. Evans of Delaware, Mr. Fish, Mr. Fountain, Mr. Kostmayer, Mr. Markey, Mr. Marriott, Mr. McDonald, Mr. Miller of Ohio, Mr. Natcher, Mr. Oberstar, Mr. Stratton, Mr. Wampler, Mr. Young of Alaska, and Mr. Murphy of Pennsylvania.

H.J. Res. 311: Mr. Murphy of Pennsylvania, Mr. Lederer, Mr. Gray, and Mr. Dougherty.

H.J. Res. 372: Mr. Waxman, Mr. Rodino, Mr. Murphy of Illinois, Mr. Bingham, Mr. Pepper, Mr. Rangel, Mr. Addabbo, Mr. Brodhead, Mr. Gradison, Mr. Flood, Mr. Lagomarsino, Mr. Florio, Mr. Moakley, Mr. Corrada, Mr. Drinan, Mr. Mitchell of Maryland, Mr. Dodd, Mr. Harris, Mr. Stark, Mr. Guarini, Mr. Lederer, Mr. Scheuer, and Mr. Lehman.

H. Res. 292: Mr. Pease, Mr. Wolpe, Mr. Richmond, Mr. Gray, Mr. Fazio, Mr. Vento, Mr. Weiss, Mr. Volkmer, Mr. Edwards of California, Mr. Flood, Mr. Barnes, Mr. Hall of Ohio, Mr. Brodhead, Ms. Mikulski, Mr. Matsui, Mr. Williams of Montana, Mr. Mikva, Mr. Charles Wilson of Texas, Mr. Frost, Mr. Buchanan, Mr. Dellums, Mr. Lehman, Mr. Panetta, Mr. Ottinger, Mr. Baldus, Mr. Santini, Mr. Frenzel, Mr. Fascell, Mr. McHugh, Mr. AuCoin, Mr. Neal, Mr. Kildee, Mr. Anderson of Illinois, Mr. Markey, Mr. Downey, Mr. Solarz, Ms. Holtzman, Mr. Seiberling, Mr. Simon, Mr. Diggs, Mr. McCloskey, Mr. Gephardt, Mr. Bedell, Mr. Tauke, Mr. Stokes, Mr. Glickman, Mr. Weaver, Mr. Wirth, Ms. Oakar, Mrs. Chisholm, and Mr. Kastenmeier.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

200. By the SPEAKER: Petition of Thomas H. Sharp, Jr., Western Springs, Ill., relative to funding for nursing research; to the Committee on Appropriations.

201. Also, petition of Bernard Meade, District of Columbia, relative to redress of grievances; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4839

By Mr. VENTO:

—Add the following new section 202:

Sec. 202. (a) There are authorized to be appropriated such funds as may be necessary to the Department of Energy for the fiscal year ending September 30, 1980, for a study by the Department of Energy to consider exercising the authority granted to the President, and by delegation from him, to the Department of Energy, under section 12(g) of the Emergency Petroleum Allocation Act of 1973, as amended, pursuant to which the Energy Department may reimpose price and allocation controls.

(b) Not later than 15 days from the date of the enactment of this Act the Secretary of Energy shall file a report to both Houses of Congress in which the Secretary shall examine the middle distillate situation and, in so doing, make detailed findings with respect to all matters required to be addressed in findings made pursuant to section 12(d)(1) of the Emergency Petroleum Allocation Act of 1973. In making the report, the Secretary shall examine the middle distillate situation as though he were reaching an initial decision to decontrol the product, and shall, in the report, reach the conclusion that pursuant to the requirements of section 12(d)(1) of the Emergency Petroleum Allocation Act of 1973, such a decision is or is not warranted.

(c)(1) If the Secretary finds in accordance with section 12(d)(1) of the Emergency Petroleum Allocation Act of 1973 that a decontrol decision is not warranted he shall, without regard to any administrative procedural requirements which ordinarily apply to such action, immediately exercise the authority delegated to him under section 12(f) of the Emergency Petroleum Allocation Act of 1973 and order reimposition of price and allocation controls.

(2)(A) The controls the Secretary shall order reimposed pursuant to subsection (c)(1) of this section shall be those which existed at the time middle distillate controls were effectively removed from the Emergency Petroleum Allocation Act of 1973 requirements in 1976, unless the Secretary shall find that any part of such requirements is inequitable or inappropriate, in which case the Secretary shall modify such part as he deems necessary and appropriate; *Provided however*, That the Secretary shall submit a detailed explanation of each such modification to both Houses of Congress pursuant to the Procedures of section 551 of the Energy Policy and Conservation Act, and that such modification shall not take effect if either House of Congress disapproves such modification within 21 days under the Procedures of section 551 of the Energy Policy and Conservation Act.

(B) If the Secretary, pursuant to the requirements of this Act, orders the reimposition of price and allocation controls over middle distillate products, he shall also immediately order such other actions within his authority as may be necessary to alleviate problems caused by the shortage of such products, and, if he deems it necessary and appropriate, he may waive any and all administrative procedures which ordinarily must be followed before taking such actions.

(d) For the purposes of this Act, "middle distillate" and "middle distillate products" shall mean numbers 1 and 2 heating oils, numbers 1-D and 2-D diesel fuels and kerosene.

H.R. 5359

By Mr. JOHN L. BURTON:

—Insert on page 62, after line 7, new section 776:

None of the funds appropriated under this Act may be used for chemical, biological or radiological experiments on non-consenting civilian populations.

By Mrs. SCHROEDER:

To be added to the amendment offered by Mr. DORNAN, add the following new sentence: "Notwithstanding the foregoing, an abortion may be provided if necessary to save the life of the mother, if the pregnancy resulted from rape or incest, or if there is a reasonable certainty that the fetus has a hereditary genetic defect or deformity or a defect or deformity attributable to chromosomal damage in either parent arising from a service-connected disease or disability of such parent.".

By Mr. VENTO:

—To title VII, page 62, add the following new section:

"SEC. 776. None of the funds appropriated by this Act shall be used for the veterinary care or treatment for any non-Department of Defense owned animal (or bird, fish, or reptile) in the United States, its territories or possessions."

—Title VII, page 62, add the following new section:

"SEC. 776. None of the funds appropriated by this Act shall be used for the provision, care or treatment to dependents of members or former members of the Armed Services or the Department of Defense for the elective correction of minor dermatological blemishes and marks or minor anatomical anomalies. The Secretary of Defense shall prescribe regulations to carry out this section."

S. CON. RES. 36

By Mr. GRAMM:

(Amendment in the nature of a substitute.)

—Strike all after the resolving clause and insert in lieu thereof the following:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

(1) the recommended level of Federal revenues is $519,500,000,000, and the amount by which the aggregate level of Federal revenues should be increased is $5,300,000,000;

(2) the appropriate level of total new budget authority is $631,961,000,000;

(3) the appropriate level of total budget outlays is $542,500,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $23,000,000,000; and

(5) the appropriate level of the public debt is $881,900,000,000, and the amount by which the statutory limit on such debt should accordingly be increased is $51,900,000,000.

SEC. 2. The Congress reaffirms its commitment to find a way to relate accurately the outlays of off-budget Federal entities to the budget. The Congress recognizes that by law the outlays of off-budget Federal entities are not reflected in the budget totals, and that in fiscal year 1980, off-budget outlays (and, hence, the off-budget deficit) are estimated to be $16 billion.

SEC. 3. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1979, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $141,200,000,000;

(B) Outlays, $128,587,000,000.

(2) International Affairs (150):

(A) New budget authority, $12,050,000,000;

(B) Outlays, $7,650,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $5,700,000,000;

(B) Outlays, $5,500,000,000.

(4) Energy (270):

(A) New budget authority, $36,266,000,000;

(B) Outlays, $8,801,000,000.

(5) Natural Resources and Environment (300):

(A) New budget authority, $12,525,000,000;

(B) Outlays, $11,600,000,000.

(6) Agriculture (350):

(A) New budget authority, $4,983,000,000;

(B) Outlays, $2,542,000,000.

(7) Commerce and Housing Credit (370):

(A) New budget authority, $6,778,000,000;

(B) Outlays, $2,828,000,000.

(8) Transportation (400):

(A) New budget authority, $19,450,000,000;

(B) Outlays, $18,200,000,000.

(9) Community and Regional Development (450):

(A) New budget authority, $8,900,000,000;

(B) Outlays, $8,100,000,000.

(10) Education, Training, Employment and and Social Security (500):

(A) New budget authority, $31,181,000,000;

(B) Outlays, $30,400,000,000;

(11) Health (550):

(A) New budget authority, $58,767,000,000;

(B) Outlays, $54,200,000,000.

(12) Income Security (600):

(A) New budget authority, $217,658,000,000;

(B) Outlays, $188,795,000,000.

(13) Veterans Benefits and Services (700):

(A) New budget authority, $21,607,000,000.

(B) Outlays, $20,851,000,000.

(14) Administration of Justice (750):

(A) New budget authority, $4,200,000,000;

(B) Outlays, $4,400,000,000.

(15) General Government (800):

(A) New budget authority, $4,400,000,000;

(B) Outlays, $4,200,000,000.

(16) General Purpose Fiscal Assistance (850):

(A) New budget authority, $8,076,000,000;

(B) Outlays, $8,075,000,000.

(17) Interest (900):

(A) New budget authority, $57,438,000,000;

(B) Outlays, $57,438,000,000.

(18) Allowances (920):

(A) New budget authority, $482,000,000;

(B) Outlays, $33,000,000.

(19) Undistributed Offsetting Receipts (950):

(A) New budget authority, –$19,700000,000;

(B) Outlays, –$19,700,000,000.

SEC. 4. The Congress projects the following budget aggregate for fiscal years 1981–82, based on the policies assumed in sections one and three—

(1) the level of federal revenue is as follows:

Fiscal Year 1981: $605,200,000,000;
Fiscal Year 1982: $704,000,000,000;

(2) the level of total new budget authority is as follows:

Fiscal Year 1981: $666,459,000,000;
Fiscal Year 1982: $728,174,000,000;

(3) the level of total budget outlays is as follows:

Fiscal Year 1981: $603,477,000,000;
Fiscal Year 1982: $655,098,000,000;

(4) the amount of surplus in the budget is as follows:

Fiscal Year 1981: $1,723,000,000;
Fiscal Year 1982: $48,901,000,000;

(5) the level of the public debt is as follows:

Fiscal Year 1981: $916,175,000,000;
Fiscal year 1982: $907,700,000,000.

SEC. 5. In 1980, each standing committee of the House of Representatives having jurisdiction over entitlement programs shall include in its March 15 report to the Budget Committee of the House of Representatives specific recommendations as to what changes, if any, would be appropriate in the funding mechanisms of such programs to enable Congress to exercise more fiscal control over expenditures mandated by these entitlements.

Within a reasonable period of time after March 15, 1980 the Budget Committee of the House of Representatives shall submit to the House such recommendations as it considers appropriate based on such reports.

EXTENSIONS OF REMARKS

EXHIBITION OF ART BY DISABLED PERSONS IN WESTCHESTER

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. OTTINGER. Mr. Speaker, I am once again privileged to announce that the annual exhibition of art by disabled persons in Westchester will begin on October 10. At this time I would like to share with my colleagues the background on this exhibit:

A DECADE OF ACCOMPLISHMENT—TENTH ANNUAL EXHIBITION OF ART BY DISABLED PERSONS IN WESTCHESTER

An exhibition A Decade of Accomplishment: Tenth Annual Exhibition of Art by Disabled Persons in Westchester, will open at the Neuberger Museum, State University of New York in Purchase, on October 10th and will continue through November 11, 1979. Sponsored by the Community Outreach Department of the Friends of the Neuberger Museum in cooperation with the Westchester County Office for the Disabled, the exhibition will celebrate ten years of achievement by disabled individuals in the field of visual arts and their contribution to the cultural life of the community. This project has received national recognition.

Richard Manley, Senator Staff Asst., Westchester County Office for the Disabled recently commented, "This tenth annual exhibition, which has been hosted by the Neuberger Museum for the past four years, has enabled untold numbers of individuals

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

within the county the opportunity to be recognized for their artistic ability. Their significant contribution to the cultural life of the community has increased in scope and achievement and we are grateful to the Neuberger Museum for making this occasion possible."

Individuals and craftpersons who are disabled as well as 50 agencies and organizations that serve the disabled will be represented by over 200 works in all art mediums including photography, painting, drawing, sculpture, needlework, ceramics and collage.

For the second consecutive year, The Gil S. Joel Award for Promising Young Artists will be presented. An author and former syndicated columnist and public relations director of United Cerebral Palsy of Westchester, Mr. Joel, formerly of Rye and now of Albuquerque, New Mexico, a founder of the Exhibit, established the award for personal reasons. "When I was thirteen," he says, "I entered a writing contest and won a small cash prize. This incident gave me just enough encouragement to become a writer. Maybe the award I started will likewise inspire other disabled young people to develop their artistic abilities." Mr. Joel was born with cerebral palsy. There will also be ten other prizes to be awarded by a distinguished panel of judges:

Richard Manley: Senior Staff Asst. of the Westchester County Office for the Disabled, Council for the Arts in Westchester Advisory Committee on Accessibility, ECOH (Exploring Cultural Opportunities for the Handicapped) Advisory Board.

June A. Delvalle, OTR: Director of Occupatonal Therapy at United Hospital in Port Chester, author of article "Reading Patterns of the Aged", listed in "Who's Who of American Women" and "Who's Who In the East."

Ronnie Pitman-Gelles: 1972–1979 Curator of Education at the New Orleans Museum of Art, Consultant to the National Endowment for the Arts and National Endowment for the Humanities in developing youth programs, Vice-president of the American Association of Museums, author of "Watermelon" a book on museum education.

Works of Honorable Mention will also receive recognition. A special reception honoring the participating artists and agencies will be held at the Museum on Wednesday, October 10th from 4–6 p.m. The exhibition, which will run through Sunday November 11th, and preview opening have been coordinated by Allison Hirschfeld. Jackie Sheinberg, Coordinator, Community Outreach Department has expressed the hope that the public will visit the exhibition and appreciate the creative accomplishments attained by disabled citizens.●

UAW POSTCARD CAMPAIGN CALLS FOR EFFECTIVE ENERGY PROGRAM

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. KILDEE. Mr. Speaker, a resounding call for passage of an effective national energy program has arrived on Capitol Hill over the last few days from hundreds of thousands of America's workers. The call has come in the delivery of post cards signed by most of the more than 1.5 million members of the United Auto Workers Union nationwide. On their cards they make a statement that dramatically sums up the feeling of frustration among the public today:

> I am fed up with being ripped off by the oil companies and OPEC, and the lack of an effective energy program.

I believe the message on the post cards is an urgent and important one for the future well-being of our country. The message has been especially loud and clear in Michigan's Seventh Congressional District, which I have the honor and privilege of representing. Solidarity House in Detroit estimates that it delivered 80,000 of these post cards to my office, Mr. Speaker, which is more than delivered to any other House Member because I represent more UAW workers than any other House Member. The seventh district encompasses the city of Flint and the surrounding area. It not only is the birthplace of General Motors, but also the scene of the 1936–37 sitdown strike that earned the UAW its first national contract and insured the survival and strength of the union movement.

The UAW members felt strongly enough about this subject to sign the post cards in the plants with their names and addresses. Many personally mailed the post cards, while the bulk have been delivered over the last few days to House and Senate Members by the national UAW headquarters in Detroit.

The message on the post cards asks the Congress to consider the following four points in developing an effective energy program:

> 1. Assure the basic needs for gasoline, heating oil, natural gas and electricity can be met at reasonable prices;
>
> 2. Enact a strong windfall profits tax;
>
> 3. Take control of oil imports; and
>
> 4. Create a public corporation to produce oil and gas on federal lands to provide competition for the oil monopolies.

It is vital that the Congress work hard to develop with the administration an effective energy program before the year's end. The basic point we must keep in mind is that ultimately we must prepare for the fact that oil is not an inexhaustible resource. Efforts to increase oil exploration and production are at best only relatively short-term measures to provide us with the time we need to develop long-range solutions. It is important that we begin now to reserve petroleum-based fuels for essential uses, such as transportation and home heating. This will require a combination of long-range and short-range solutions, including development of alternative sources of energy for those applications which do not require liquid fuels, conversion away from liquid fuels where practical, development of alternative liquid fuels from coal, shale, alcohol, and biomass for use in transportation and the heating of homes, the development of new sources of energy, such as solar, improved Government leadership and monitoring of the Nation's domestically produced and imported petroleum fuels, and voluntary conservation. It is important that we begin to address the problem now, because the market supply of petroleum-based fuels is not likely to be greatly increased here or abroad. A failure to anticipate our future needs could eventually have severe economic consequences.

At the present time we have an energy problem, but not all agree that we are actually facing an energy crisis. The situation presents us with a challenge, but the United States has successfully faced many challenges in the past. I feel that with sufficient fortitude and commitment we can find a solution. In the short range it is likely to require some sacrifice, and it is important that any sacrifice be equitably spread. In the long range it will require the commitment that led to the electrification of the Nation in the early years of this century or the more recent commitment which enabled us to put an American on the Moon.

If our country is to remain strong and independent and able to provide for its people, then the energy situation must be met. This is the reality that the White House and the Congress must face. The President declared a moral equivalent of war on the energy situation on April 20, 1977. Never before has it taken our Nation so long to mobilize for war.

The UAW members are absolutely correct in stating that the time is long overdue for the Congress and the administration to come up with an effective energy program.●

TRIBUTE TO SUPT. QUINTIN CRAMER, OUTSTANDING MICHIGAN EDUCATOR

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. TRAXLER. Mr. Speaker, after 30 years of serving the people of the State of Michigan in education, Quintin E. Cramer will retire from his position as Superintendent of the Essexville-Hampton School System on October 1, 1979. I would like to take a few moments to pay tribute to this outstanding educator and fine American.

Quintin Cramer began his preparation for these three decades of educational service in Akron, Mich., graduating from the Akron High School in 1937. He then received a bachelor of science degree from Michigan State University in 1942, majoring in physical education, with a minor in science and health education.

Between the years of 1942 and 1946 Superintendent Cramer served his country in the U.S. Air Corps, 20th Air Force, being stationed in the States as well as the Mariana Islands, Guam, and Taiwan.

After serving in the Air Corps for 4 years, Superintendent Cramer returned to Akron and worked with his father, Luri Cramer, in the family butcher shop. It was at this time that he married the former Dorothy G. Ruegsegger.

In 1949 Superintendent Cramer began his career in Michigan education, as teacher and coach at Akron High School, becoming that school's principal in 1952. In 1954 he received his master of arts degree in school administration from Michigan State University, and from 1955 to 1961 he served as superintendent of the Akron-Fairgrove Public Schools.

In 1961 Quintin Cramer began 18 years of distinguished service as the superintendent of the Essexville-Hampton School System, aiding the growth of that system from three schools and 1,100 students in 1961 to the present five schools and 2,200 students.

I join the people that Quintin Cramer has served through three decades in praising his creative leadership, and extending our congratulations to Quintin, his lovely wife Dorothy, and their children Nancy and Craig. We send our best wishes for continued success and happiness always.●

NO SHORTAGE OF CRUDE OIL IN THIS COUNTRY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. ROSENTHAL. Mr. Speaker, I wish to bring my colleagues' attention to an article by J. P. Smith which appeared in the Washington Post, September 14, 1979, which relates to an April 1979 Treasury Department analysis and study which concluded that "the cutoff in Iranian crude oil exports did not produce a shortage of crude in this country." Further the study found that "we have seen no evidence that accounts for the massive runup in refined oil product prices during the first quarter of the year (1979), based on increases in crude oil prices during the same period." These conclusions are similar to those which the staff and members of the Commerce, Consumer and Monetary Affairs Subcommittee, which I chair, have found.

I have asked Treasury Secretary G. William Miller for an explanation why this report was not made available to Congress, to the Justice Department, and to the Federal Trade Commission in a timely fashion, so that important public policy decisions could be assisted.

The article follows:

U.S. OIL SUPPLY REPORTED UNAFFECTED BY IRAN CUTOFF

(By J. P. Smith)

A Treasury Department study last April found that the cutoff in Iranian oil exports "has not produced any shortage of crude" oil in the country.

The Treasury analysis, which is at odds with public statements by President Carter and former Energy Secretary James R. Schlesinger, was widely circulated among government agencies last spring.

Following critical comments from other agencies, including the Central Intelligence Agency, Office of Management and Budget, and the Energy Department, the detailed Treasury study was curtailed.

A copy of the Treasury report, "The Implications of the Iranian Crisis for the World Petroleum Situation," was obtained by The Washington Post under the Freedom of Information Act.

The study said that "we have seen no evidence that accounts for the massive runup in refined oil product prices during the first quarter of the year, based on increases in crude oil prices during the same period.

Since December of last year, prices for petroleum products such as gasoline have risen by as much as 60 percent on world markets.

The report said, "A developing U.S. shortage in refined petroleum fuels, particularly unleaded gasoline, was not caused by Iran's crisis."

Rep. Benjamin Rosenthal, chairman of the House Commerce subcommittee on consumer and monetary affairs, has called on Treasury Secretary G. William Miller to find out "why the report has been suppressed and not made available to enforcement agencies, the Congress, and the public," according to a spokesman.

A letter from Treasury to The Post stressed that the 34 page report was a "draft" and at this point represented the view of the authors, Jay G. Polach and Cathryn Goddard, and not the Treasury.

The study argues that, as Iran's more than 5 million barrels of oil a day in exports were replaced by increased production from Africa, the North Sea and other producers, "the quality of available crude supply improved (rather than worsened) in terms of gasoline and mid-distillage yields." In effect, the study said, the output of refined products was enhanced.

The Treasury researchers argue that "as the quality of crude export streams has improved on the international market, a simple and mechanistic quantification—on a barrel per barrel basis—of the impact of the shortfall in Iran's crude exports is obviously misleading."

But at the time, Schlesinger and Carter repeatedly told Congress that as a result of the Iranian shortfall the U.S. was experiencing a nearly 800,000 barrel a day shortage, and the resulting shortage worldwide was from 1.6 to 2 million barrels a day.

Since the Treasury report was curtailed, the CIA and authoritative oil industry sources have said world oil production during the first half of 1979, despite Iran, was at record free-world levels, 5.8 percent higher than last year.

Officials in other cabinet agencies familiar with the study, who asked not to be identified, said it is not inconsistent with the administration's findings in many areas, and the Treasury analysis was viewed as innovative.

The study recommended that "before a model of generalized and acute scarcity in petroleum supplies is adopted as a premise for U.S. international oil policy, more data should be sought from all parties."

In April, the study said, "available data do not support the claim that diminishing crude reserves are the basis of increasing" oil costs. Free world oil reserves were about 590 billion barrels in 1975, and now are listed in unclassified CIA reports as 592 billion, the study said.●

WESTERN WATER PROBLEMS

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. JOHNSON of Colorado. Mr. Speaker, as the attention of this Congress, and the whole Nation, is focused on the issue of energy supply and demand, knowledge of the vast energy potential in the western part of our Nation begins to spread.

Reference is frequently made to the water problem associated with energy development in the West. The limitation of water supply does, indeed, present a problem in energy resource development, just as it does for every other facet of the lives of those who live there. What is seldom understood, however, is that it is not necessarily the availability of water that presents a problem, but the deliverability of that precious resource.

This issue is ably described in an article written by Roland C. Fischer, secretary-engineer of the Colorado River Water Conservancy District. I commend it to my colleagues and all others who wish to gain a better understanding of the water/energy problem that is peculiar to the western part of America.

WATER PROBLEMS FOR ENERGY COMPANIES

(By Roland C. Fischer)

Colorado has sufficient water to protect irrigated agriculture and meet demands of a growing energy industry. However, energy companies may not realize how little water they actually have.

The unrealized shortfall stems from the acquisition by energy companies of agricultural water decrees and the legal constraints on those decrees. In converting those rights to a use such as oil shale development, the energy companies must absorb evapotransportation losses from changes in points of diversion, can take the consumptive use only and can draw water only during the irrigation season.

Thus, an energy company with an agricultural decree may only be able to use half the water shown on the decree and only for three months per year.

Some companies may be able to fulfill total annual needs by constructing storage and filling reservoirs during the three-month period. Energy companies should pay for their own storage.

However, the constraints on agricultural decrees is another in a long line of reasons why the buy-up, dry-up syndrome, which leads to drying up some of the most productive farmland in the country and diminishes one state industry in favor of another, is simply not in the best interests of Colorado.

In the mining and actual production of synthetic fuels, whether coal gasification or liquefaction or oil shale, water is critical.

It is not only required for hydrogenation but for several other steps such as cooling, mining, raw material preparation, waste disposal, revegetation and even wetting down unpaved haul roads.

Estimated consumptive use for standard plants, 50,000 barrels per day of oil shale or 250,000 cubic feet per day of coal gasification, range from 2,000 to 10,000 acre-feet per year depending on which study is selected. Reality is probably closer to the high side.

In addition, an average family of four uses one acre-foot of water per year. An influx of 100,000 people related to the energy industry would consume an additional 25,000 acre-feet per year. That influx started a few years ago.

With these figures, it becomes readily apparent that full scale synthetic fuels development in Western Colorado would mean an additional consumptive use of between 200,000 and 400,000 acre-feet.

Currently we have the water, but we do not have the ability to use it. Furthermore, if we don't provide that ability soon we will lose the water.

Under the Colorado River Compact of 1922 and the Upper Colorado River Compact of 1948, the state of Colorado is entitled to between 800,000 and 1,000,000 acre-feet of water that it is not now using.

The water is not being used because storage projects—reservoirs—have not been constructed in this state with the vigor used in Utah, Arizona and California.

At this time, Arizona and California are establishing communities with a distinct economic interest based on Colorado's share of the river that in the absence of storage here, continues to flow westward. Once an economic interest is established in California on Colorado's share, we will never get the water back and no court in the land will uphold the compacts in the face of an established economic interest.

It seems obvious that it is in Colorado's best interests to take water for energy from Colorado's unused compact share rather than from agriculture. And make no mistake: A major economic power, like the energy industry, has the capability of drying up significant irrigated lands.

Neither purchase of agricultural rights nor intervention by the state or federal governments in regulating or manipulating the use of water represents the answer.

Endless studies, many of which draw unrealistic conclusions based on misinformation, and high-flown pronouncements are not the answer either.

The answer is enlightened leadership from the state and federal governments that will require the protection of agriculture and provision for the energy industry by aggressively seeking the construction of water storage projects and insisting that energy companies pay their share while impact funds and federal monies are used to pay for substantially enlarged water treatment, collection and distribution systems when the expansion is due to filling a national need.

We must move, act and construct now. Each day that we don't the amount of water available for Colorado's future diminishes, as does irrigated agriculture's ability to survive.●

OBEY-RAILSBACK: CAMPAIGN FINANCE ACT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, legislation, offered as an amendment to the FEC authorization bill (S. 832) will soon demand attention by House Members. The votes cast by Members on this legislation, known as the Obey-Railsback amendment, will have grave constitutional implications. There is no legislation currently being considered by the House which more pointedly attacks the freedoms guaranteed by the Constitution and threatens the integrity of our electoral process.

Clearly, the Founding Fathers saw the vital role that interest groups (or factions as they called them) play in the balance of power within the Government. James Madison in "Federalist 10" discussed the inevitability of factions in the political process and the need for these factions to increase in number to avoid the domination of one group over another. In fact, our governing process has come to depend on interest groups to avoid the constant imposition of the will of a single majority on the minority and to allow the minority a voice in the governing of the country.

The stated intent of Obey-Railsback amendment is to limit the involvement of interest groups in the political process. Clearly, this is in direct opposition to the principles upon which this country was founded. On a more pragmatic level, this legislation directs its attention to certain groups, classifying some as "evil" and some as "good." Implicit in the language of the bill is the classification of political action committees as the "evil" interests while political parties are somehow by nature "good."

The influence and involvement of PAC's in the electoral and legislative political arenas has, in fact, increased in recent years. To understand exactly what the meaning of the increase is, it is necessary to understand how PAC's are comprised and how they operate. PAC's are not monolithic, evil, conspirators which engage in pressure politics and clandestine electoral activities as the proponents of this legislation would like us to believe. In fact, PAC's are individual in nature, each with a different objective and each with a different strategy to achieve that objective. PAC's are basically representative institutions that rely on a specific constituency for support. Like political parties, they solicit contributions from that constituency and use the funds raised from these solicitations to express the views of the constituency in the political arena.

PAC's differ from political parties in that they focus their attention on a more parochial issue area. In this way, they attract individuals who might otherwise be disaffected by the political process. There is documented evidence that the power and influence of political parties is declining. In many ways, this decline has paralleled the rise of PAC's. Those constituencies which no longer feel adequately represented by political parties have sought, through the use of PAC's, to influence the political process on their own. This legislation makes political interests other than those of political parties illegitimate.

The three major provisions of this legislation strike at exactly those features of PAC's which make them vital participants in the political process. The first provision attempts to limit the expression of PAC interests by reducing the amount that a PAC can contribute to a campaign in a given election cycle. The current limit of $5,000 per election does not allow a PAC to have an undue influence in a campaign. The average budget of a congressional campaign is well over $200,000 so it is unlikely that a maximum PAC contribution would represent any more than 2 percent of the total budget for a campaign. Under the current limit, a candidate is still required to spend a great deal of time soliciting individual contributions. Some may argue that a candidate already spends too much time on this aspect of campaigning and this provision would only increase that time expenditure.

The second provision would limit the total amount of PAC contributions that a campaign may accept to $50,000. Political scientists have clearly shown that limitations on the availability or expenditure of campaign funds favor incumbents. Challengers would be adversely affected by this provision. Passing legislation to protect incumbent legislators is clearly self-serving and unust.

The third provision would adversely affect both campaigns and PAC's as it attempts to limit the indebtedness over $1,000 for media and direct mail activities to 30 days. This would alter the current system for allocation of resources in campaigns to require almost immediate payment for media and direct mail activities. In addition, it would severely restrict PAC's from soliciting contributions from their constituencies on a direct mail basis. Further, this provision would inhibit new interest groups from establishing themselves because the establishment of constituencies requires a great deal of contact and direct mail is the most efficient way of acquiring this contact. The interpretations of this provision could be broad enough to eliminate effectively the participation of any interests other than political parties.

As they exist today, PAC's are vital institutions that represent constituencies that may not otherwise be represented in the political arena. The Obey-Railsback amendment strikes three blows at the essence of what makes these institutions vital and representative. Beyond the specific implications of this legislation lie the constitutional questions. I oppose this legislation in that it abridges our individual liberties of freedom of expression and compromises the basic principles upon which this country was founded. Mr. Madison would encourage the proliferation of factions or interest groups so as to generate the protection of individual liberties. I call for the defeat of the amendment when it is offered and ask that each Member consider his vote in terms of the grave consequences that this legislation presents.●

CONCERN OVER SOVIET PRESENCE IN CUBA

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. BEREUTER. Mr. Speaker, I would like to call to the attention of my colleagues an article which recently appeared in the Omaha World-Herald. The article was written by Howard Silber, military affairs editor for the World-Herald. Given the current concern over the Soviet presence in Cuba, this news item deserves note.

I include the text of this article in the RECORD following my remarks:

SINGLAUB: JETS IN CUBA BUILT FOR NUCLEAR BOMB: SALT FOE CONTRADICTS CARTER DENIAL

(By Howard Silber)

Former Army Maj. Gen. John Singlaub said Wednesday that some of the Soviet MiG-23 aircraft based in Cuba were designed specifically to deliver nuclear weapons.

The Carter administration has denied that any of the Soviet fighter-bombers were intended as nuclear weapons carriers. An Army general speaking for the Pentagon repeated that denial as recently as last Thursday.

Singlaub, who was forced into early retirement after he spoke out against a plan by President Carter to reduce United States military force levels in South Korea, said in an interview he was told of the presence of the planes that were built for nuclear bombs by former Air Force Secretary Thomas D. Reed.

Singlaub did not indicate how Reed obtained the information but there were reports of the presence of MiG-23s in Cuba prior to his retirement in April 1977.

"We know that at least four of the 31 (MiG-23s known to be in Cuba) are 'D' models, which are designed to carry nuclear weapons internally," said Singlaub, an executive of the American Security Council.

BOMB BAYS

"We have spotted them clearly in a way that we could identify that particular model."

The MiG-23 designation is applied by the Soviet Union to a class of supersonic aircraft. Some variants were designed as interceptors. Others were built with bomb-bays in which nuclear bombs can be carried and armed internally.

Singlaub said last week in an interview published by the Norwich (Conn.) Bulletin there were "nuclear-capable" MiG-23s in Cuba. The newspaper also reported that he spoke of the presence of nuclear missiles in Cuba. The former general denied having made any reference to nuclear missiles.

The other MiG-23s known to be in Cuba can carry nuclear weapons under their wings and are thus "nuclear-capable," he said.

But the D-model is a specific nuclear bomber and the Carter administration has never acknowledged its presence in Cuba.

"It's all well and good for the administration to rationalize away the fact that these are air defense aircraft or something else."●

A TRIBUTE TO TWO DEDICATED POSTAL SERVICE WORKERS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. GUARINI. Mr. Speaker, I am pleased to extend my congratulations to two of my constituents who are retiring after a combined 80 years of service to the U.S. Postal Service in Jersey City.

They are being honored at a testimonial given at the General Joseph Wheeler Post, VFW, by friends and relatives on Saturday evening September 29.

Matthew J. Napiorski was born in Jersey City and comes from an industrious family who have long served the community. He has a total of 43 years' service with the Jersey City Post Office. A resident of Roselle Park, where he resides with his wife, Agnes, and their two children, Rita, a registered pharmacist, and Ronald, a certified public accountant.

A graduate of Our Lady of Czestochowa Church in Jersey City and Dickinson High School, he attended the Juliard School of Music where he mastered the violin.

The Jersey Journal in the following article reports that he walked 50,000 miles to a good life.

Mr. Napiorski has an outstanding record for serving the community in a cheerful, efficient, manner, and his dedication to the prompt delivery of mail will indeed be missed by the many legal and professional offices located at 921 Bergen Avenue, which was his route. I submit the attached article to supply further information.

The other gentleman I wish to pay homage to today is Robert Salerno, who has served for 37 years as a clerk in the Journal Square station.

Robert came to America from Italy when he was 5 years old and became a citizen when his father served in the U.S. Armed Forces in World War I.

He graduated from Public School No. 11 and Lincoln High School and served in the aviation branch of the U.S. Navy during World War II as a machinist's mate.

He resides in Jersey City with his wife, Rose and four children, Ronald, Denise, and twins Richard and Robert. Richard is now following in his father's footsteps as a postal employee. Robert is best known for his special attention to the public while performing his duties as a clerk.

Bob Salerno, whom we honor today, went beyond his normal call of duty while serving the public. His courtesy and competency will be long remembered.

I am pleased to have the privilege of presenting this testimonial to these two men who have performed duties that too many in our Nation accept as routine and commonplace.

It is my opinion that they have served the Postal Service, their families, and their Nation well. Truly they have performed beyond the normal call of their duties.

I appreciate my colleagues joining me in this testimonial wishing them good health and good luck in their retirement.

The article follows:

HE WALKED 50,000 MILES TO THE GOOD LIFE

Matthew J. Napiorski has retired after 43 years and some 50,000 miles of walking as a carrier with the Jersey City Post Office.

Willard Van Pelt, manager of the Journal Square Station, said Napiorski worked 10 years longer than he had to and contributed so much more than he needed to the pension-fund that he's getting back enough for a trip to Europe with his wife Agnes.

Napiorski, who is 65, was born in Jersey City and served with the U.S. Army during World War II, fighting in the battles of Ardennes, Central Europe, Normandy, Northern France and the Rhineland.

He has many decorations and a good conduct medal.

Napiorski, who now lives in Roselle Park, became a carrier in 1936 and bade farewell to his colleagues last Wednesday. His last route was the Trust Company building at 921 Bergen Ave., and the surrounding area, where he worked for five years.

In 1977 he received the city's outstanding "postal services" award.

Van Pelt said the average carrier walks close to five miles a day.●

GREENSBURG MAGISTRATE HONORED

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. BAILEY. Mr. Speaker, on Friday, September 28, 1979, the residents of Westmoreland County and surrounding areas will come together to honor one of their finest citizens. Michael Moschetti, presently a magistrate, living and working in Greensburg, Pa., is a citizen who has dedicated his life to the betterment of all those around him. His ethical and moral character have, through the years, earned the deepest admiration and respect of all those who have come to know him.

It is only appropriate that we should take this opportunity to extend our blessings and voice our appreciation for the kind and unselfish contributions this man has given us all.

I, therefore, commend to you, to the House of Representatives of the United States of America, and to the American people, this brief but sincerely heartfelt recognition on behalf of a truly fine and good man.●

TRIMBLE WILDLIFE AREA

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. SKELTON. Mr. Speaker, on September 6, 1979, I presented testimony to the Subcommittee on Water Resources of the Senate Committee on Environment and Public Works expressing my continuing support for legislation authorizing the Corps of Engineers to acquire Jackass Bend, Mo., as a replacement for the Trimble Wildlife Area. The following is the text of my statement, which today I insert in the CONGRESSIONAL RECORD to make my views on this issue known to my colleagues in the House:

TRIMBLE WILDLIFE AREA

Mr. Chairman, thank you for giving me the opportunity to submit this statement in support of legislation authorizing the Corps of Engineers to acquire a tract of real estate in western Missouri, known as Jackass Bend, to replace the Trimble Wildlife Area. Trimble Wildlife Area will be flooded upon completion of the Smithville Dam and Reservoir.

The bill which authorized the construction of the Smithville Reservoir directed the Corps of Engineers to locate a site for the relocation of the Trimble Wildlife Area which is owned and managed by the Missouri Department of Conservation. A study to determine the most desirable alternative site was carried out by the corps, in cooperation with the Missouri Department of Conservation and the U.S. Fish and Wildlife Service. The Jackass Bend location was one of about 30 sites studied. It lies in the flood plain of the Missouri River in Ray, Jackson, and Clay Counties, about 30 miles east of Kansas City.

After becoming a Member of Congress, I made an indepth study of this proposed relocation and its ramifications. In reaching my decision to support the Jackass Bend site, I found the following factors to be most persuasive:

First. The dislocation problem which usually occurs when the Government takes private land for public purposes is minimal in this instance. Only one family would be required to move, as compared to several in many of the other areas which were considered.

Second. The fact that Jackass Bend is located in three counties will mean that the tax loss will be shared, rather than falling heavily on one county.

Third. As a member of the House Agriculture Committee, I am concerned about taking valuable farmland out of production. However, concessions made by the Corps of Engineers in trimming the boundaries of the original Jackass Bend site have removed much of the prime cropland from the wildlife area. Moreover, some of the land within the wildlife area can continue to be farmed on a share-cropping basis.

In addition, I am aware of demands on our scarce land resources for recreation, conservation, and other purposes. Trimble Wildlife Area has been available to the Greater Kansas City area as a recreational resource since 1949. The Jackass Bend site is within easy driving distance of the greater metropolitan area, thus permitting hunters, fishermen, and other wildlife enthusiasts in the Greater Kansas City area to continue to enjoy these pursuits.

Fourth. Jackass Bend was selected with the full participation of State government; it has the strong support of Governor Teasdale, Senators Eagleton and Danforth, and both Congressmen whose Districts are affected, Congressman Coleman and me. My correspondence and personal contacts indicate that there is broad public support for the site in the area. I would find it impossible to support any site if it were being forced on the State and the public by the Federal Government.

Fifth. In arriving at my decision, I also considered the argument that wildlife from Jackass Bend could cause large amounts of depredation to the adjacent croplands. The corps' supplemental environmental statement admits that an increase in crop depredation is a possible problem. However, steps can be taken to lessen this problem. The availability of food for wildlife within the Jackass Bend area will reduce the necessity for wildlife to range beyond the boundaries to search for food. This will help hold crop depredation on adjoining lands to a minimum. In addition, it should be noted that the wildlife will migrate out of the area before many of the crops are planted and will not return until many of the crops are harvested. Lastly, I have been assured by persons familiar with farming in the vicinity of the Swan Lake National Wildlife Refuge that crop depredation in that area is not so serious as to overcome the benefits that accrue to farmers from the wildlife refuge.

In conclusion, Mr. Chairman, I want to stress that time is of the essence in this matter. The Smithville Dam is nearing completion and cannot be delayed without unnecessarily risking the lives and property of Smithville area residents. Trimble Wildlife Area must be relocated before it is flooded by the reservoir behind the dam. Therefore, let me urge this Subcommittee and the full Senate to approve this authorization.●

ALASKAN FEDERAL-CIVILIAN ENERGY EFFICIENCY SAVINGS ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing legislation entitled the "Alaskan Federal-Civilian Energy Savings Act of 1979." The intent of this bill is to comply, when feasible, with the request of the President to reduce consumption of oil and replace it with other sources of energy such as coal.

Current law forbids the military from selling excess power to private utilities if power is available from another local source. The measure I am introducing would allow the Secretary of any department to sell electric power or to purchase it from private utilities if the agreement will result in reduced rates to civilians and will not increase the utility costs to the Federal consumers.

Mr. Speaker, as you are well aware, due to the strategic location of Alaska, the Federal Government primarily in the form of the military, is a significant force in the Alaskan economy. Due to the fact that the military is such an integral part of Alaska, many communities have grown around military installations. As a result, in many cases the energy systems have duplicated one another.

While the supply and cost of foreign oil was dependable and reasonable, the dual generation system of civilian and military power systems did not pose a problem. Since the early 1970's, however, the supply of foreign oil has been costly and undependable. This country must take steps toward reducing consumption of oil and replace it with coal where possible.

Alaska affords us two examples of how the civilian and military communities can cooperate in promoting the President's policy of reducing oil consumption and increase the use of coal-fired power. Golden Valley Electric Association (GVEA), a publicly owned electrical cooperative serving interior Alaska has made attempts to replace 15 to 20 percent of its oil-based power with excess coal-fired power from a military installation, Fort Wainwright. During the 1973–74 oil embargo, GVEA was allowed to purchase this power from Fort Wainwright, because of the emergency conditions that existed. Since this time, however, the Federal Government has not allowed additional purchases of excess power.

The President has declared that the United States currently faces the "moral equivalent of war" in regard to energy for this country. By reconnecting the system that already exists, GVEA can save approximately 5 million gallons of oil per year. The oil saved here could be used this winter in places where the option of coal-fired power is not available. The benefits of this purchase are significant. This arrangement would result in lower energy costs to GVEA customers. In addition, the Federal Government will profit from the agreement, because the utility has offered to pay for the excess energy at a price halfway between the cost of oil and the coal power. This bill would allow the Secretary of the Army to enter into an agreement for the sale of electric power to GVEA, even though local oil-fired power is available.

In another case, the situation is practically reversed. Kotzebue Electric Association (KEA), a publicly owned electric cooperative has proposed to sell electricity to a neighboring military base. The electric bills in Kotzebue are extremely high. In the winter, temperatures fall to −70 degrees F. The electric bill for lights alone average $880 per year. If the KEA could include the local miliary facility as a customer, then the overall rate per customer would be significantly cheaper. The savings would be in the order of 10 to 20 percent per year to residential users. In addition, the Air Force base would possibly have lower rates. The reason for the lower rate is that because the demand from the Air Force would increase KEA's consumption rate 52 percent. The effect would create a greater efficiency in generation per kilowatt-hour thereby reducing rates for consumers. This bill encourages the Secretary of the Air Force to enter into this agreement with KEA, if a savings can be shown for either party without additional net costs being incurred by either customer.

Mr. Speaker, I urge my colleagues to join with me in eliminating institutional barriers that prevent savings and the efficient use of our energy resources. This bill will assist Alaskans by offering power at a lower rate. It will also benefit Americans who will desperately need oil this winter. It is my sincere hope that we will have the good commonsense to act favorably upon this bill.

A copy of the bill follows:

H.R. —

A bill to improve the electric generating efficiency of joint Federal-civilian pooling practices in Alaska and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be referred to as the Alaska Federal-Civilian Energy Efficiency Swap Act of 1979.

SEC. 2. Findings and Purposes.

(a) Congress finds and declares the following:

(1) Federal and civilian electrical power generating capacity are often duplicative in Alaska.

(2) The appropriate sharing of electricity produced in coal-fired power plants could reduce electrical costs in Alaska to both Federal and civilian consumers.

(3) The severe nature of Arctic and sub-Arctic winters in Alaska creates uniquely high electrical power demands in Alaska during the winter months.

(4) As a result of, among other things, unique weather-related difficulties Alaska public utility rates are the highest in the Nation.

(b) It is therefore declared to be the purpose of Congress in the Act—

(1) to improve the electrical generating efficiency of joint Federal-civilian sharing practices in Alaska;

(2) to increase the use of coal-fired, electrical generating power plants in Alaska; and

(3) to lower the cost of electricity to civilian and Federal users in Alaska.

SEC. 3. Definitions.

As used in this Act, unless the context otherwise requires—

(1) The term "civilian generated electrical power" means any electricity specifically generated for consumption by consumers who are not part of a federally owned facility;

(2) The term "federally generated electrical power" means any electricity specifically generated for consumption by a federal facility including facilities of the Department of the Interior, Department of Commerce, and the Department of Defense; and

(3) The term "Secretary" means the Secretary of any of the Departments of the United States of America including but not limited to the Department of the Interior, the Department of Commerce and the Department of Defense.

SEC. 4. Notwithstanding any other provisions of law, the Secretary concerned or his designee may sell or contract to sell surplus federally generated electrical power produced in Alaska particularly electrical energy produced at coal-fired power plants, without regard to availability of power from other local sources if such action will result in reduced electrical costs to Federal or civilian consumers, and in the case of coal-fired power plants will result in reduced consumption of oil and natural gas. Said energy will be priced at not greater than one-half of the difference between the incremental cost of coal and the oil and/or gas it is designed to replace.

SEC. 5. Notwithstanding any other provision of law, the Secretary concerned shall whenever practicable and consistent with the mandate of a Federal facility in Alaska endeavor to purchase civilian-generated electrical power when the purchase of such power will result in a savings to civilian consumers and will not increase the cost to Federal consumers or will result in a savings to Federal consumers without increasing costs to civilian consumers.

SEC. 6. The provisions of this Act shall apply only to surplus power. Nothing in this Act shall be construed as requiring the Federal Government to design or build future power plants for Federal facilities in order to accommodate the needs of civilian consumers.●

INFLATION IMPACT STATEMENTS: HYPOCRISY IN ACTION

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. DANNEMEYER. Mr. Speaker, "A billion here, a billion there, pretty soon it adds up to real money." While these words are frequently attributed to the distinguished minority leader of the other body, Everett Dirksen, they are even more applicable today than whenever they were spoken. The existence of a half trillion dollar budget and the accumulation of budget deficits to the tune of $248.1 billion over the last 5 fiscal years (including the transition quarter in 1976) are living proof of that.

While such sums of money are difficult for the average American to comprehend, the effects of this type of spending are all too apparent to everyone. They can be summed up in one word—inflation. During the first half of 1979, the inflation rate, on an annual basis, rose 13.4 percent and, with deficit spending persisting, there is little expectation that it will decline substantially in the near future.

Sad to say, this current spurt of inflation is only the third in a series of such spurts. The first came in 1969–70, following a $33 billion deficit spending spree in 1967–68, and featured a doubling of previous inflation and unemployment rates. The second, in 1973–74, followed on the heels of $46 billion in deficit spending in 1971–72 and produced an inflation rate of 12.2 percent and an unemployment rate of 9.2 percent. In response to the former, a former distinguished Member of this body, Harold Froehlich, proposed an amendment to the House Committee Reform Amendments of 1974 requiring that each committee report:

> . . . contain a detailed, analytical statement as to whether the enactment of such bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national economy.

Argued Froehlich, pursuasively as it turned out, passage of the amendment "will force us to focus on inflation" and "will make the House of Representatives more accountable for the impact of its actions on the economy of our Nation." The amendment passed by voice vote and is now part of rule XI of the House of Representatives. A conceptually similar, but more comprehensive (adding regulatory, privacy and paperwork impacts) rule was adopted by that other distinguished national legislative body in February 1977.

From those actions, one could draw the conclusion that Congress, at the very least, wished to warn itself of any inflationary impetus that might exist in a given piece of legislation. Certainly, it was not the intent of rule XI, clause 2 (1) (4) to provide a rationale for passing more big spending bills yet, to look at the record, it would appear the latter is the more accurate description of the effect the rule is having. Not only has the deficit spending hit record proportions since 1975, but looking at this year's legislation, and the accompanying inflationary impact statements, the evidence is strong that the current practice vis-a-vis inflationary impact statements is, at the very least, a cruel joke.

During the first 7 months of the 96th Congress (January 15–August 12, 1979), the House of Representatives passed 71 bills authorizing the expenditure of $63.4 billion and 10 appropriations bills totaling $210.7 billion. As per rule XI, 2(l) (4), each of these measures was required to carry inflationary impact statements yet only one of these statements—on the Panama Canal Treaty implementation legislation (H.R. 111)—admits to a significant inflationary impact and even it claims the extent of the impact cannot be estimated. Three more statements admit to minimal inflationary impact and one to "strictly local" impact but three claim a positive or beneficial impact on inflation even though the associated measures call for an additional $6.7 billion in spending. As for the rest of the bills, they claimed they had no significant inflationary impact whatsoever.

Putting this in perspective, if the current batch of inflationary impact statements are to be believed, appropriations bills in excess of $70 billion, as was the case with both the Labor-HEW and HUD-independent agency appropriations, have less inflationary impact than the $2.187 billion Panama Canal Treaty implementing legislation or even a $2.45 million Indian relocation measure, which was adjudged to have at least a minimal inflationary impact. Likewise, judging from the statement accompanying the military construction appropriation bill (H.R. 4391), one must accept, or so it would seem, the notion that only the direct impact of a given program is relevant and nothing need be said about the relationship of that program to the overall budget deficit, the increase in the money supply initiated by that deficit and the fact that more money chasing fewer goods means higher prices, not just in the program area but all over the country. In short, not only are there no criteria established, or definitions arrived at, for determining what constitutes insignificant, minimal, significant, or beneficial inflationary impact, but the lack of a common methodology points to a deeper problem—a basic lack of understanding of the causes of inflation and how it develops. As a consequence, the inflation impact analysis on each bill, such as it is, varies so widely as to be useless for comparative purposes.

Speaking of analysis, it should not be forgotten that rule XI, 2(1)(4), requires not only the existence of an inflationary impact statement with each bill, but also that it be detailed and analytical. Looking at the 10 appropriations bills and their inflation statements, we find that, taken together, the latter only add up to 171 lines (organized into 27 paragraphs) in the respective committee reports. This means, insofar as detail is concerned, that the average inflationary impact statement is but 2.7 paragraphs, or 17.1 lines, long. For bills that appropriate an aggregate of $210.7 billion in funds, that is not much detail. As for being analytical, the fact that so much money could be appropriated without a single statement finding any evidence of significant inflationary impact speaks for itself.

On authorization bills, the situation is a little different, but not any better. Over the span of 71 bills, calling for outlays totaling $63.4 billion, the average impact statement is 1.6 paragraphs, or 9.3 lines long (depending on how one views it). Thirty-one of these bills are disposed of in five lines or less. Of course, one might argue that bills with little spending involved—which some of those 31 are—do not need a very long or detailed statement. But that is hardly justification for the impact statement covering the $4.29 billion social services and child welfare bill (H.R. 3434), which consisted of one three-line paragraph (just long enough to claim no inflationary impact), or the one for the $3.04 billion AMTRAK Reorganization Act (H.R. 3996), which also has but one three-line paragraph, or the statement associated with the $1.27 billion National Capitol Transportation Amendments (H.R. 3951), which is all of two lines long. Moreover, it should be noted that 3 of the 71 authorization bills (4.2 percent) accounted for 167 of the 660 lines (25.3 percent) of the statements issued. Were you to subtract those three bills out, on grounds that their statements were atypical, the average length of the statements associated with the rest of the bills would drop to 1.34 paragraphs and 7.25 lines. That works out to $112.5 million in authorized spending justified per line of undetailed, nonanalytical inflationary impact statements.

What makes this all the more annoying is the fact that when it is to the advantage of the committee reporting a given bill to claim that it is anti-inflationary, there appears to be no hesitation in, or institutional barrier to, producing a detailed, analytical inflation impact statement. An excellent case in point is the hospital cost containment bill (H.R. 2626) reported by the House Ways and Means Committee on August 1, 1979; not only does its inflationary impact statement argue that that passage of the bill will save between $18.4 to $31.5 billion over the next 5 years, but it goes on to claim that such a savings will reduce the inflation rate 0.25 to 0.4 percent. If projected savings can be specifically related to hoped-for reductions in the inflation rate in that case, then it stands to reason that proposed spending increases can, and should, be specifically related to potential hikes in the inflation rate in all other cases.

Along those same lines, one of the big problems with the inflation impact statements as currently practiced is that they frequently relate a spending program, or increases in a spending program, to the total budget rather than to the budget deficit, which would make a lot more sense. Also, as inferred earlier, since no two inflationary impact statements use the same methodology, to say nothing of sharing the same premises, there is no way to relate the potential impact of one program versus another. If inflationary impact statements are ever to be effective, a more standardized approach is required, both with respect to the statistical information to be included and the analytical tools to be employed. One way to do that might be to assign responsibility for these inflationary impact statements to the Congressional Budget Office (CBO) or the General Accounting Office (GAO) instead of the committees. On the other hand, if the House is not going to be serious about these statements in any event, maybe the best approach would be to do away with them altogether. Certainly, it was not the intent of the sponsor of rule XI, 2(1) (4), or of the House that adopted it, for that rule to be used to assuage concerns about big spending programs.

Unfortunately for all concerned, the problem of reconciling congressional rhetoric about the need to control inflation with positive steps to accomplish that result is anything but new. The Budget Control and Impoundment Act of 1974, which forced Congress to relate authorization and appropriation bills to each other and to overall Federal revenues, expenditures, and deficits was a tentative, and still unproven, step in that direction. But, just as Congress needs to put more teeth into, and take some of the flexibility out of, those target budget ceilings, so too does it need to carry the relationship of spending to deficits one step further and make it more specific. The prime cause of inflation is not Federal spending per se; rather, it is the excess of Federal spending over Federal revenue which, as mentioned earlier, results in more money chasing relatively fewer goods, greater demand, and ultimately higher prices. These deficits are not the result of any single bill but of many bills, large and small, acting like drops in the bucket. Eventually, if the dripping continues long enough, the bucket overflows and people begin to realize Government policy is all wet. Which is another way of saying, "a billion here, a billion there, pretty soon it adds up to real money."

If one needs an example of how difficult it is to break this syndrome and of why strict adherence to both the letter and the spirit of rule XI, 2(1)(4), is essential, one need look no further than the legislative history of H.R. 3633 for a prime case in point. Despite the fact the President had pocket-vetoed a similar bill in 1978, had then recommended an $86 million budget rescission for fiscal year 1979 and finally had requested only $14.7 million (compared to the $103 million the committee recommended) for fiscal year 1980, the House overwhelmingly rejected an amendment that would have reduced fiscal year 1980 spending to the level the President desired and then approved the committee request virtually intact. Now HEW is hardly a paragon of fiscal responsibility and the President's preference for raising taxes rather than cutting spending as a means of balancing the budget is well known so one had to suspect that the case for a program cutback was stronger than usual. Nevertheless, rather than take advantage of putting all the rhetoric we have heard lately into practice, the House accepted the rationale put forth in the inflationary impact statement—to the effect that if we did not spend more money now we would spend more later—and approved the $103 million authorization for fiscal year 1980.

If we are ever to cut Federal spending, and therefore, inflation, episodes like that will not get the job done. To a lesser, but contributary extent, neither will misleading, or inadequate inflation impact statements that make it easier for Members to avoid the politically unpleasant realities that must be faced up to if inflation is ever to be reduced. Detailed analysis of potential inflationary impact is not a complete substitute for cutting spending, any more than sunset legislation or congressional vetoes of agency rulemaking is a complete substitute for cutting Government regulation, but if utilized properly it could be a step in the right direction. At the very least, effective implementation of rule XI, 2(1)(4), might raise the confidence level of the American people with respect to Congress.●

GEORGE RUSNAK

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. WAXMAN. Mr. Speaker, on November 2, 1979, the friends of George Rusnak will pay him a well-deserved tribute at a testimonial dinner in his honor. George is directing representatives of district No. 94, International Association of Machinists and Aerospace Workers, and his many years of work in southern California's labor movement is paralleled by his involvement in many activities for the benefit of his community. The proceeds of the event on November 2 will be devoted to the establishment of a George Rusnak Research Fellowship at the famed City of Hope National Medical Center.

Born in Johnstown, Pa., 61 years ago, in a neighborhood of coal mining families and new Americans, George Rusnak had personal experience of the poverty and deprivation imposed by the Great Depression. He knew what it was to ride the rods of boxcars. At times going hungry, he still made every effort to improve and educate himself. George finally went into the machinist trade, and joined the IAM District Lodge 54 in Cleveland. His hard work and devotion to the labor movement won him the position of business representative in the Burbank lodge in 1956, and his credentials since that time include ranking office and position at every level of IAM activity from local lodge to grand lodge convention. George was named to the first IAM & AW National Electronics Committee, and was the father of California's first electronics apprenticeship program. On January 1, 1976, he became the elected business manager of Los Angeles' IAM District Lodge 94, a respected and significant force in southern California's labor movement.

Standing shoulder to shoulder with George for 42 years has been Anne Rusnak, his schooldays sweetheart. They are the parents of two fine sons, Gary and Daniel.

I ask the Members to join me in appreciation of the many public accomplishments of George Rusnak, and in offering him congratulations on the bestowal of the City of Hope's "Spirit of Life" Award.●

BRITISH PLANS FOR NUCLEAR

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. WYDLER. Mr. Speaker, this July the British Electricity Council proposed their medium term development plan for 1979–86. This plan outlines projections for the United Kingdom's generation of electricity for the next 7 years.

A most interesting aspect of it which I wanted to bring to the attention of the Members of the House is that of their plans for nuclear expansion. In the aftermath of Three Mile Island the Thatcher Government as evidenced by the council plans, remains strongly bullish on nuclear energy and projects expansion of nuclear generating capacity from 3.9 gigawatts to 7.4 gigawatts by 1985. This corresponds to a near doubling of nuclear electricity production from 27 to 49 terawatt hours by 1985 to 1986.

This ambitious plan is based on solid economics and concerns about fuel availability with proper consideration to real environmental problems. I would remind my colleagues that the North Sea oil and gas are presently in plentiful supply, but the British are relatively concerned about the intermediate to long-term needs for electrical power when fossil sources have dwindled.

It is tragic that this Nation of ours cannot move positively in the nuclear direction but continues to vascillate from ambivalence to outright opposition to nuclear power.

I am attaching highlights from the Electricity Council's report:

BRITISH PLANS FOR NUCLEAR

A central task under the Government's Energy Policy and one unique to the industry is that of developing nuclear power against the time when gas and oil supplies will be declining. Two major considerations, which impinge on performance of that task, are, first, the need to ensure the regeneration of the nuclear manufacturing industry together with the restructuring of the Nuclear Power Company and, secondly, the long lead times associated with nuclear investment programmes.

Previous acceptance by government of the industry's proposals on thermal reactor strategy means that the industry is considering both gas and water-cooled reactors (AGR and PWR) to ensure that an effective option for nuclear is established. One immediate result has been the AGR programme for the second half of Heysham and Torness (South of Scotland Electricity Board) which will clearly assist manufacturers. However, the industry is not making an irrevocable commitment to an all-nuclear future, but is ensuring the retention of a valuable and much needed option.

The CEGB will consider further nuclear plant development in the light of the experience gained in developing and specifying the second half of Heysham and the PWR. Although on current estimates nuclear stations are the most economic choice for new generating plants, decisions on major further development will be conditioned not only by the costs emerging from actual tenders but also by the realities of the environmental constraints.

Although there are adequate supplies of uranium in the medium-term, there will be a long-term need to develop fast reactors. The industry is examining carefully the cheapest and most effective method of ensuring that the option of utilising fast reactors could be available at the appropriate time. The question of international collaboration in the development of fast reactors is receiving particular attention.

Reserves of uranium have been found which should be ample to meet the world's needs over the next 20 to 25 years. It is likely that the present modest surplus of world uranium production capacity will increase towards the end of the medium-term with the probable introduction of new uranium producers to the market.

The effect is likely to be a stabilising of prices into the mid-1980's. The CEGB participates in contracts which should cover its needs for uranium supplies and associated fuel cycle services in the medium-term. Total fuel cycle costs are expected to be such that nuclear generation will retain its clear advantage over fossil-fuel generation. However, reprocessing costs will represent an increasing part of the total cost.

Uranium enrichment, fuel fabrication and spent fuel reprocessing are essential aspects of management of the nuclear fuel cycle, and major problems in any of these areas could seriously impede the ability of the industry to contain rises in the cost of electricity.

Notwithstanding the expected easing of the uranium market over the medium term, further emphasis will be directed to long term security through participation in mining and exploration ventures. The CEGB is actively concerned with exploration in Africa, the Americas and Australia. In addition, with the expected long term price rises in uranium there could be a requirement for fast reactors on a commercial basis by the turn of the century and fast reactor development needs to take account of this timescale.●

1980 CENSUS FORMS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mrs. SCHROEDER. Mr. Speaker, I would like to share with my colleagues a letter which I sent to Vincent Barabba, Director of the Bureau of Census, scolding the Bureau for its failure to recognize the value of the work of homemakers in its 1980 census forms.

After examining the long form which will be distributed as part of the decennial census next year, I was appalled to find that the Census Bureau does not think that cooking meals, washing clothes, cleaning a house, and raising a family is real work. Maybe if some of the officials of the Census Bureau ever tried to do the job of the homemmaker, they would not adopt such an insensitive attitude toward this vital social function:

WASHINGTON, D.C.
September 21, 1979.

Hon. VINCENT P. BARABBA,
Director, Bureau of the Census, Department of Commerce, Washington, D.C.

DEAR VINCE: After reviewing the materials you made available to the members of the House Post Office and Civil Service Committee during its oversight hearings on the 1980 Census, I was disappointed to discover that the Bureau of the Census on its Form D-2, does not consider housework at home to be real work. I find it hard to believe that the Bureau is so insensitive to the duties and responsibilities of the homemaker. Come on, it's 1979.

What is the Bureau's definition of "work"? How do you justify the exclusion of the homemaker's services. The fact that housework is not compensated with a weekly paycheck does not negate its value or undermine its replacement cost.

Studies have been done on the replacement cost of the homemaker's services which illustrates its worth. One team of researchers found the following:

REPLACEMENT COST EXAMPLE

Task	Hours per week	Equivalent market job	Wage per hour	Equivalent market value
	(a)		(b)	(c)=(a×b)
Step I—Determine market equivalency weekly wage:				
Meal preparation	16.1	Domestic cook	$3.00	$48.30
House care	11.2	Day worker	3.50	39.20
Clothing care	9.1	Personal service laundry	3.52	32.93
Family care	12.6	Nurses aid or orderly	2.80	35.28
Marketing and management	7.0	Bookkeeper I	3.86	27.02
Total	56.0			181.83

Step II—Determine annual wages: 52 weeks per year×sum of equivalent market value column (52×$181.83=$9,455.16).

Sources: Walker, Kathryn E. and Woods, Margaret E. Time Use: A Measure of Household Production of Family Goods and Services, Center for the Family, Washington, D.C.: American Home Economics Association, 1976, p. 51. Job Service of Iowa, Johnson County, Iowa, Labor Area Wage Survey, 1976, Des Moines, Iowa: Job Service of Iowa, 1977.

A 1972 publication of the Chase Manhattan Bank calculated that the services of an American homemaker are worth $257.53 a week. Following is a breakdown of the average homemaker's tasks, with columns showing the number of hours on the labor market and the value per week:

Job	Hours	Rate	Value
Nursemaid	44.5	$2.00	$89.00
Dietitian	1.2	4.50	5.40
Food buyer	3.3	3.50	11.55
Cook	13.1	3.25	42.58
Dishwasher	6.2	2.00	12.40
Housekeeper	17.5	3.25	56.88
Laundress	5.9	2.50	14.75
Seamstress	1.3	3.25	4.22
Practical nurse	.6	3.75	2.25
Maintenance man	1.7	3.00	5.10
Gardener	2.3	3.00	6.90
Chauffeur	2.0	3.25	6.50
Total	99.6		257.53

It is significant to observe that the above quoted figures were for the year 1972. Since that time, wages have risen enormously.

Juanita Kreps reported that by ignoring household production, measured Gross National Product (GNP) omitted one-sixth of the 1960 national output. (*Sex in the Marketplace: American Women at Work,* Policy Studies in Employment and Welfare, No. 11, Baltimore: The Johns Hopkins Press, 1971). More recently, William Gauger, in 1968, estimated that the in-home production and consumption of final goods and services was a figure equivalent to one-quarter of measured GNP. ("Household Work: Can We Add It to the GNP?" *Journal of Home Economics,* Vol. 65, No. 7, October, 1973). It appears to me that more up-to-date statistics could be available if the Census Bureau counted homemakers.

It would seem advantageous to marketing experts, sociologists, and many others to know the demographics and characteristics of homemakers. If more men were fulltime homemakers, I am sure the Bureau would collect this data.

The Bureau's archaic attitude towards homemakers contributes to the economic isolation surrounding homemakers by further devaluing their labor in the home. This continued attitude towards the homemakers makes it more difficult for them to join the "workforce."

It is equally serious that the homemaker is generally considered to have no "work" experience because no "employer" has been paying the homemaker a direct wage or salary. The homemaker is left with no employment record, no record of promotions, no record of job skills, and no letters of recommendation.

If the Bureau took the lead in considering the homemaker as a member of the labor force, the attitudes of employers may change. Homemakers need to be counted so that society will recognize the value of their services. It is time for all of us to give a second look to the skills and contributions of the homemaker.

Sincerely,

PATRICIA SCHROEDER,
Congresswoman.●

DO WE HAVE A RELIGIOUS TEST FOR JUDGES?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. MICHEL. Mr. Speaker, the Washington Star's evening edition of September 19, carried a story headlined: "U.S. Wants Mormon Judge to Quit ERA Appeal Case."

The story reported that the Justice Department has filed a request to disqualify a Federal judge on the grounds he is a

Mormon and allegedly unable to rule impartially on a challenge to the Equal Rights Amendment.

Mr. Speaker, this request from the Justice Department was described by the Star as "unusual." It is more than unusual—it is, so far as I know, unprecedented. What it amounts to is a religious test for office. If the Justice Department believes it is capable of judging religious qualifications for judges, then the Attorney General should immediately make known the religious criteria he believes should apply in choosing judges.

If a judge wants to disqualify himself, that is one thing. But for the Federal Government to officially proclaim that it has a view concerning one religious preference over another is a dangerous and, I think, unconstitutional move.

The article follows:

UNITED STATES WANTS MORMON JUDGE TO QUIT ERA APPEAL CASE

(By Robert Pear)

The Justice Department has filed an unusual request to disqualify a federal judge in Idaho on the ground that he is a Mormon and therefore allegedly unable to rule impartially on a challenge to the Equal Rights Amendment.

Because U.S. District Judge Marion J. Callister Jr. holds a prominent position in the hierarchy of the Church of Jesus Christ of Latter-day Saints, there exists a "reasonable question" as to his ability to render an impartial decision, the Justice Department said.

An aide to the judge, reached yesterday at his office in Boise, said Callister had no comment, but would rule soon on the disqualification request.

The Idaho lawsuit is the pre-eminent outstanding legal test of a state's right to rescind its ratification of the ERA.

If the courts uphold Idaho's claims, the result would, in effect, doom the amendment, which says: "Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

The Mormon Church, according to the Justice Department's motion, officially opposes both the ratification of ERA and the extension of time allowed for states to approve it.

The church has traditionally excluded women from certain positions in the church hierarchy. "We don't ordain women to the priesthood," said a church spokesman, "but women do have responsible positions in the church."

ERA has been approved by 35 states, three short of the minimum number needed to make it part of the Constitution. Idaho was the fifth state to ratify. The Idaho Legislature approved ERA on March 24, 1972, two days after it was formally proposed by Congress. Five years later Idaho had second thoughts and passed a resolution to repeal its prior ratification.

The state filed suit against the federal government last May in an effort to get official recognition for its vote to rescind. Idaho wants the head of the U.S. General Services Administration, Rowland G. Freeman III, the custodian of government documents, to return its certificate of ratification.

Arizona, which has not ratified ERA, and several legislators from Washington State, which ratified the amendment in 1973, have joined Idaho in its suit.

All contend the proposed amendment became void when the original seven-year ratification period ended in March. Congress voted last October to extend the ratification period to June 30, 1982. Anti-ERA forces contend that Congress had no authority to extend the deadline.●

FREEDOM FOR SOVIET JEWS—A VITAL ISSUE VII

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. UDALL. Mr. Speaker, for the third time this year I would like to focus the attention of the House of Representatives on the plight of the Paritsky family, Jewish "refusniks" living in Kharkov in the Soviet Union.

Alexander and Polina Paritsky and their two children, Darina and Anna, were first denied exit visas back in March 1977, and have been turned down continuously ever since. The Soviet authorities are using the old and tired excuse that Alex Paritsky has been privy to "state secrets" and thus cannot be allowed to leave the country.

Since they applied for permission to emigrate the Paritskys have been subjected to an incredible, almost inhuman amount of persecution and harassment. Anti-Semitic slogans are painted near their apartment. The local newspaper has printed several articles slandering the Paritskys, calling Alex a spy and a traitor, and his wife Polina a prostitute. When Polina wrote a letter to the editor demanding an apology she was called to the local police station and threatened with arrest.

Meetings have been held in the factory where Alex works and in the Paritsky's apartment building where they are condemned, their "treason" is discussed, social ostracism is urged by their neighbors. This harassment extends even to their children, who have been subjected to anti-Semitic taunts at school.

In the latest incident on June 8, Alex Paritsky was physically removed by a KGB officer from a telephone booth in the Kharkov post office. Alex was in the midst of a conversation with a Soviet Jewry worker calling from Boston. As Paritsky was pulled from the booth, the policeman shouted that he was a spy passing secret information. A reporter from the local paper "Kamenogorski" assisted the KGB official. While no charges have been filed against Paritsky, they may result at any time.

The persecution of the Paritskys and of other Soviet Jewish families, such as the Rosenshteins and Fradkins for whom I have also spoken out, appears paradoxical when we realize that the Soviet authorities will allow almost 50,000 Jews to leave the U.S.S.R. this year. That is a record number, but how can the Soviets allow these thousands to leave while forcing several hundred of the long-term "refuseniks" to remain?

The explanation for these contradictory actions can be found in the contradictory goals the Soviet leadership holds. First, they wish to stem the tide of the hundreds of thousands, probably millions of people who wish to either leave the Soviet Union or remove themselves from the authority of the Russian Government. Second, they hope to obtain most favored nation—MFN—status from the United States in order to facilitate their purchase of advanced Western technologies. Third, they wish to show the rest of the world that the U.S.S.R. is an advanced, civilized nation, one that can prove the superiority of the socialist way by hosting the 1980 Olympic games.

To achieve these results is not easy, because in order to obtain MFN status, which is restricted by the Jackson-Vanik amendment, the Soviets must allow a large number of people to emigrate. Yet if they agree to large-scale emigration the U.S.S.R. would lose much of its educated and talented upper-class. And again, if they refuse this permission, it will be obvious to all the world that the Soviet Union is not a very pleasant place to live, that it must retain its citizens by force. And that is not too good for the propaganda mill.

So they allow some Jews to emigrate, but not the leadership. Those who have recently applied for exit visas have better chances for obtaining them then those who have been waiting for years. The activists, the refusniks, the strongly religious, those who have been risking their lives and fortunes by pushing and prodding the Soviet bureaucracy; these people are retained and held up as examples. They are harassed and persecuted, fired from their jobs and subjected to increasingly virulent anti-Semitic campaigns. These are the people we have to help.

The 1980 Olympic games present the Soviet Union with an unprecedented opportunity to show-off to the world, to prove that the U.S.S.R. is capable of hosting the world's largest sporting event. And I am afraid that the very value the Soviets place on the games will cause them to unmercifully harass those Jewish dissidents who might use the Olympics to further their struggles for freedom. The National Council on Soviet Jewry have outlined the safeguards that are needed for the games, including unhampered participation by all athletes and nations in the games, journalistic freedom, nondiscriminatory distribution of tickets, and most importantly, no harassment of Soviet Jews (such as detention, transportation to Siberia, and so forth) before or during the games.

My colleague from New York (Mr. KEMP) has introduced House Concurrent Resolution 180, that would express the sense of Congress that these standards be adopted in the operation of the 1980 Olympic games. However, I am not sure that this is enough. It may be necessary for the U.S. Government to take more serious steps, but that will depend on the actions of the Soviet Union in the months ahead.

There are literally hundreds of thousands of Jews who wish nothing more than to leave the U.S.S.R., possibly millions of other dissident nationalities who want out from under the Soviet umbrella, many who wish to leave Eastern Europe for the liberty and freedom of the West. The East German family that used a home-made hot air ballon to float to freedom just a few weeks ago, at the risk of losing their lives, gives us a striking example of what people will do to escape living under a Soviet-style "democracy." The sad tale of the Soviet refusniks, and the recent defection of three Russian dancers from the Bolshoi ballet again illustrate the emptiness of the Soviet claim to have built a superior society.

These people continue to struggle, continue to fight. The Paritsky's have fought for years for the right to emigrate, and there is no doubt that they understood at every step just what their actions would bring down upon them. The Soviet Union will no doubt continue to claim that such cases are a matter of internal policy, not subject to review by the United States or by any other nation or organization. But I urge my colleagues to keep these people in mind, and to help them in any way possible.●

FOR END TO MIDEAST VIOLENCE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. FINDLEY. Mr. Speaker, America, the national Catholic church weekly, in its September 22 issue published an editorial commenting on the "sorry spectacle" produced in Lebanon by Israeli military attacks.

On September 10 the National Association for the Advancement of Colored People issued a statement calling on the Carter administration to reexamine its policy of no communication with the PLO.

Here are the America editorial and NAACP statements:

"SORRY SPECTACLE" IN LEBANON

It is one of the ironies of the Middle East conflict that defenseless Lebanon, the one Arab state adjoining Israel that has never been involved in the Middle East confrontation, is also the state that is suffering the most from the current hostilities. For three months, Israel has been carrying on a war of attrition against the Palestine Liberation Organization, which, unhappily for the helpless Lebanese, has set up shop in Lebanon. The purpose of Israeli policy, of course, is to keep the P.L.O. on the run, making it impossible for the guerrilla movement to launch its threatened series of terrorist attacks against Israel. The fact that, for four months, the P.L.O. has made no major strike into Israel and the fact that the towns close to the Lebanese border are again living normally indicate that the policy has been successful.

But the cost in Arab, not necessarily Palestinian, civilian lives has been frighteningly high. Whole areas of southern Lebanon have been laid waste. The situation there, as former U.N. Ambassador Andrew Young remarked during his last address to the U.N. Security Council, has become "intolerable." Thousands of Lebanese and Palestinian civilians have been forced to flee their homes. Many have been killed or maimed. As Mr. Young put it: "In recent weeks and months, the sorry spectacle of the slaughter of innocent people through random violence, principally in Lebanon but also in Israel, has been an affront to the conscience of mankind."

In its forays into southern Lebanon, Israel employs three methods; land raids by Israeli troops, aerial bombardment and shelling by land and sea. The first is really the only precise way to pinpoint military targets, but it is also the costliest method for Israel. The second is the least risky but the costliest in Arab civilian lives. The third is also difficult to confine to precise targets, but it seems to disrupt Palestinian plans effectively.

The fact that Israeli raids into southern Lebanon inevitably kill and maim Lebanese and Palestinian civilians is, as Prime Minister Menachem Begin has frankly confessed, a cause for "deep grief and sorrow." Nevertheless, the Begin Government has declared its intent to continue the attacks regardless of what most of the individual Lebanese or Palestinians affected have done, or not done, against Israel. Israel's policy is, in other words, preemptive and not necessarily related to any direct provocation by clearly identified P.L.O. forces.

No less a figure than Israeli Foreign Minister Moshe Dayan, whose job it is to defend Israel's reputation abroad, has expressed his serious misgivings over the policy, not because he is opposed to attacking the P.L.O. where it lives but because the indiscriminate nature of such attacks makes his job as Foreign Minister almost impossible. Even though the P.L.O. may deliberately place its bases and artillery positions close to the civilian population, the civilian casualties that ensue from the Israeli attacks simply cannot be explained away to a less than sympathetic world.

Israel's leaders certainly have the right and duty to defend their country from terrorists, even by preemptive attacks, which are sometimes justified. Retaliatory bombing from the air can be defended, but here the argument moves into a gray area, especially when, as is so often happening today in southern Lebanon, one group of people is paying the penalty for what another group has done or is about to do. Israel is not free to attack indiscriminately Lebanese and Palestinian, whether combatant or noncombatant, on the theory that no matter who is killed or maimed, the P.L.O. is the one who is restrained. This is to answer terrorism with terrorism and is no more acceptable than the terrorism it is designed to counteract.

[Excerpts from the NAACP statement]

IN SEARCH OF MIDDLE EAST PEACE

The NAACP notes with grave concern the unending reality of warfare and violence in the Middle East. This continuing destruction of life and property daily not only threatens to engulf the region once more in full-scale warfare, but it also poses a severe danger to the economies of the U.S. and its principal allies and to world peace.

The NAACP condemns violence of whatever source and calls upon those directly involved to begin immediate, direct contacts and negotiations in search of peace. In this pursuit of peace in the Middle East, the NAACP will, as in the past, work directly with the U.S. government and its representatives in promoting the interests of this nation and its people. At the same time, the NAACP calls upon the U.S. Government not to proscribe or limit the participation of any bonafide Middle East entity in the pursuit of a just and humane settlement of the conflict or causes of conflict in the region.

Four years after former Secretary of State Henry Kissinger entered into a secret agreement with Israel barring direct negotiations by the U.S. with Palestinian officials until the P.L.O. recognized Israel's right to exist, the NAACP finds it imperative to question the continuing wisdom of such an arrangement given present developments and realities. The NAACP therefore calls on the Carter Administration to reexamine this agreement and its ramifications upon U.S. Mideast policy.

The NAACP furthermore calls on the U.S. never to relent in its commitment to the permanent existence of Israel with secure and safe borders.

The NAACP also expresses its support for self determination and a homeland for the Palestinian people that recognizes their fundamental, moral, legal and legitimate rights to a just existence.●

THE AMERICAN LEGION'S LEGISLATIVE PROPOSALS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. HAMILTON. Mr. Speaker, this morning the members of the Veterans Affairs Committee had the pleasure of hearing testimony from the National Commander of the American Legion, Mr. Frank I. Hamilton, Sr. Frank Hamilton is from Greensburg, Ind., in the Ninth Congressional District, which I represent. I would like to insert his testimony to the committee into the CONGRESSIONAL RECORD:

INTRODUCTION BY CONGRESSMAN LEE HAMILTON

It is now my special pleasure to introduce to you Mr. Chairman, and Members of the Veterans Affairs Committee, this year's National Commander of the American Legion, Frank I. Hamilton.

Frank Hamilton is an attorney from Greensburg, Indiana, which is in the Ninth Congressional District that I represent. He was born in Indianapolis, received his B.S. degree from Indiana University and graduated from its School of Law with his LLB and J.D. degrees.

He enlisted in the United States Army Reserve in 1942 and later served with the U.S. Army of Occupation in Japan. He held his commission until 1953 when he resigned with the rank of First Lieutenant. Since this time, he has been extremely active in the American Legion, accumulating nearly 25 years of distinguished service to that remarkable organization. He has held many of the Legion's most prestigious positions including Commander and Vice Commander of Indiana and more recently, Chairman of the National Legislative Commission.

On a local level, Frank Hamilton is very active in a number of civic, fraternal, professional, and service organizations. A model Legionnaire and community man, from his military and American Legion experience, he is well qualified to speak on behalf of American Veterans. He speaks today for veterans as the National Commander of the American Legion; but those of us who have known him, know that he does today only what comes genuinely and naturally for him—because for many years he has been speaking for veterans, pleading their cause, articulating their needs, extolling their contributions to our Nation.

And, it is fair to say, I believe, that this Nation would not have done what it has for the veterans, without the voices of Frank I. Hamilton and other leaders like him.

I am pleased to welcome National Commander Frank I. Hamilton, and to introduce him to the Members of this Committee.

STATEMENT OF FRANK I. HAMILTON, NATIONAL COMMANDER, THE AMERICAN LEGION

Thank you, Lee, for your kind introduction. Mr. Chairman and Members of the Committe, I've known Congressman Hamilton for many years and have valued his counsel and friendship. He is a friend of the veteran and our 9th Congressional District has benefited from his service in Congress. I appreciate your taking time to honor me with this courtesy before the Committee on Veterans Affairs.

Mr. Chairman and Members, permit me

to introduce several guests and those at this table.

In the audience are members of my family, my wife Ethel, my daughter Mary and my son Frank, Jr.

I'm also privileged to present the National President of the American Legion Auxiliary, Mrs. Agnes Kennedy of New York and her officers Mrs. Dora Seymour, National Vice President, Mrs. Mirian Junge, National Secretary and Mrs. Helen Adams, Chairman of the National Legislative Committee.

At the witness table with me is Mr. Bill Lenker, Chairman of the National Veterans Affairs and Rehabilitation Commission and his division director Mr. Robert E. Lyngh; also joining me is Mr. Albert D. Brown, Jr., Chairman of the National Legislative Commission and his division director Mr. Mylio S. Kraja. I am particularly delighted to have with me our Department Commander of South Carolina, the Honorable William Jennings Bryan Dorn, the former Chairman of this House Committee on Veterans Affairs.

Mr. Chairman, our statement has been submitted and I respectfully request that it be made part of the hearing record in its entirety.

I wish now to highlight our statement and in respect of our time limits to then have the opportunity to respond to any questions there may be.

VETERANS MEDICAL CARE PROGRAM

The centerpiece of the veterans benefits program is the medical care program that is operated by the Veterans Administration. The American Legion is keenly aware that without this centerpiece it would be difficult to justify the continuation of the VA as the single agency for the administration of veterans benefits. Which is why the Legion reacts so quickly to perceived danger to the medical care program, and works so hard for the continued improvement of the program.

All of us who are interested in veterans affairs, have been concerned in the recent past, about the future of the VA medical care program. Officials of the Administration, including the President, the VA Administrator and the Chief Medical Director have repeatedly offered assurances as to the future of that program. However, at the same time, these officials have presided over reductions in the system that clearly diminish its ability to meet the demands for care of eligible beneficiaries.

As all of us know, the additional funds that Congress provided in the Fiscal Year 1979 Budget, for the operation of beds, and necessary staff increases, were used instead to fund pay raises for Federal employees. 3,200 beds have been closed down, and more than 6,000 personnel have been eliminated from the Department of Medicine and Surgery during this Fiscal Year. The Administration's proposed Budget for FY 1980, was essentially a straight-line budget, and called for a further reduction of DM&S employees—which would very likely lead to more bed closures.

And while these actions have been taken and projected, the Administration has continued to assure us that they will do more with less. But they are not doing more with less, because we are receiving reports from American Legion Service Officers, and from our own Field Representatives, that veterans are in fact being turned away from hospitals and clinics—veterans with non-service-connected disabilities, who need care.

Congress responded to our expressions of concern, and has provided additional funds in the Appropriations measure for Fiscal Year 1980, to restore 3,800 staff members to the Department of Medicine and Surgery. Let me say quickly, that we are grateful for the additional $76.4 million.

But already, we are faced with the same old story. Under date of July 19, 1979, the Deputy Director of OMB addressed a letter to Senator Proxmire, in which the Administration agreed to the funding of 3,200 personnel. But it expects to recover these costs by a significant reduction of benefits. In H.R. 3892, an Administration measure, travel allowances, over-the-counter drugs, and dental care for Vietnam Era veterans will be reduced. Please note that the largest number of those who will be affected by these reductions are old and poor veterans. This exchange is not what we would call generous.

The American Legion asks Congress not to offset the gains in needed employees by the reduction of benefits for needy veterans. And as to the curtailment of this dental benefit, there is no valid reason that we know of, why the one year eligibility for one-time dental care for Vietnam Era veterans should be reduced to six months. Thousands of veterans have already had the advantage of this benefit. Why deny it to those remaining who may be eligible for it?

As to bed closures, we note that as of June 1979, VA was operating 86,790 beds. Twenty years ago, VA was operating 120,000 beds. That is an elimination of more than 33,000 beds. VA insists that it doesn't need these beds. We agree that some losses were dictated by fire and safety regulations, and the need for more personal privacy for patients. But we are categorically opposed to any more bed losses.

The reduction of the size of the system has gone far enough. VA is faced with an inevitable increase in demand for both inpatient and outpatient care. This increase will stem from the increase in the size of the veteran population, and from the fact that the average age of the remaining WW I veterans is now in excess of 83 years, and the average age of 12.5 million WW II veterans is now 59.5 years; meaning that these WW II veterans are arriving at the time of life when they will be increasingly subject to the catastrophic illnesses that are associated with advancing years. We know that the demand for care is going to increase, and it is essential that VA be able to respond to that demand; which it will not be able to do if it keeps on closing beds. And we have said earlier, VA is already turning veterans away—and that practice will increase if the size of the system continues to be reduced.

We know that the President has recently addressed a letter to Senator Cranston, in which he renews his pledge to maintain a viable medical care program for veterans. We accept the President's word. However, his assurances are not going to bear fruit as long as the size of the system continues to be reduced, and benefits for needy veterans continue to be curtailed. If the President wants a positive response from the veteran constituency, he will have to match his words with deeds in the operation of the veterans medical care program.

Before completing my remarks on the veterans medical care program, I do want to commend VA for certain things that are being done. The American Legion supported the enactment of Public Law 96–22, The Veterans Health Care Amendments Act of 1979. This measure will strengthen VA's effort to assist Vietnam Era veterans who are having readjustment problems, and it will further strengthen the VA's alcohol and drug treatment programs. The problem of alcoholism, especially, is a serious one among veterans of all ages, and VA is deserving of credit for its efforts to deal with this problem. In addition to the provisions of PL 96–22, VA has instituted a pure research program into the causes and effects of alcoholism, and is now in the process of establishing clinical fellowships in the treatment of alcoholics and drug abusers. The benefits of these efforts will extend to the entire American people.

Similarly, VA is expanding its activities in the field of geriatric medicine and gerontology. With an aging veteran population, and an aging national population, these new and exciting programs are to be highly commended. The American Legion strongly supports them.

VETERANS ADMINISTRATION BUDGET

Discussion on the veterans medical care program leads quite naturally to discussion of the VA Budget for Fiscal Year 1980. And even though budget action has been essentially completed by Congress, some observations are indicated.

In the first place, the Budget proposed for VA by the Administration was a straight-line budget. Funding was provided for new construction, but this was for projects that have long been planned and approved. In benefits, other than the curtailments that I mentioned earlier, the only change proposed was a modest 7.8 percent increase in compensation and death benefits for the service disabled and the survivors of the service deceased. Since these are the most deserving category of beneficiaries the Government has, the additional increases Congress signifies intention to provide, in the face of double digit inflation, are strongly indicated, and they have the full support of The American Legion.

We are further grateful for the additional funds that will be provided for health care, and we urge the Congress not to enact the benefits curtailments the Administration has proposed.

The final figure in the Appropriations measure of nearly $20.3 billion should fund veterans programs with reasonable adequacy. This figure does entail some reduction in personnel in the Department of Veterans Benefits. If these reductions result in a generalized delay in delivery of benefits to eligible veterans and their dependents, the Legion will bring the matter to the attention of this Committee, with a request for any necessary personnel adjustments. Most of those who are in receipt of veterans benefits, of whatever category, have urgent need of such benefits—and unusual delays in delivery, by reason of manpower shortages, are unfair, and to be avoided. We trust the Committee will agree with us on this point.

VIETNAM ERA VETERANS

The American Legion has more than 700,000 Vietnam Era veterans presently enrolled in its ranks. We have a strong concern for the welfare of all Vietnam Era veterans, and we have demonstrated that by support of programs to aid their readjustment.

The President also has repeatedly expressed concern for Vietnam veterans in public statements he has made. We note, however, that his Budget proposal for FY 1980 did not include any specific recommendations for improvement in benefits for this generation of veterans.

The American Legion believes there should be an immediate increase in the education and training allowances for those Vietnam veterans who are still in training under the GI Bill. During FY 1978, more than 1.5 million Vietnam veterans continued to receive training under the GI Bill. While it is expected that this number will continue to decline, there will still be a significant number of veterans in education and training programs in FY 1980. They urgently need an increase in the education and training allowances, which were last increased on October 1, 1977. We realize such an increase will cause a budget problem; but it is important that the Government complete its commitment to these veterans by making it feasible for them to complete their education and training programs; and this can only be done if the allowances are realistic in the face of double digit inflation. The American Legion has called for an increase of 15 percent, which we do not consider excessive. We will support any reasonable amount that Congress can agree on.

As required by Public Law 95-202, VA has completed a study of the Vocational Rehabilitation Program, Chapter 31 of the United States Code, and on the basis of that study has proposed legislation to revise and improve the program. The American Legion supports the revision as overdue and necessary.

There is another problem, specifically affecting Vietnam veterans, to which the Government must pay greater attention. And that is the residual effect, on veterans who were exposed to it, of Agent Orange. There was widespread use of this highly toxic herbicide during the fighting in Vietnam. Thousands of U.S. servicemen came in contact with it in the fighting areas. Now, there is a strange apathy evident by the Government in trying to ascertain what the residual effects may be on the health of those exposed.

As a result of pressure from Congress, and others in the nation, the VA has now established a professional level study committee, on which the Legion has representation through its medical consultant. We will certainly work with VA in completing this study. But time is of the essence. Claims are being filed now by Vietnam veterans who believe they have developed disabilities stemming from Agent Orange exposure. Since the use of this substance was an act of war by our Government, we expect VA to pursue an extremely liberal course in considering these claims. If there is the least possible chance that the herbicide has caused any disease, or disabilities of any kind, the VA should pay these claims. The American Legion states categorically that the Government of the United States must accept the consequences of its own actions. It has no right to resolve any doubt in this matter in its own favor. Our most recent National Convention took note of this problem in Resolution No. 158 (District of Columbia), and we intend to take every action necessary to insure the VA does not drag its feet on this issue.

VETERANS DEATH AND DISABILITY PENSION PROGRAM

When former National Commander John M. Carey, appeared before this Committee last September, Public Law 95-588, the Veterans and Dependents Pension Improvement Act of 1978, was in final stages of preparation, and did in fact become law effective January 1 of this year. It has proved to be controversial with many veterans, in comparison with the former pension program, mainly because it does not have as many exclusions. The American Legion has supported the new program because, although it is somewhat more attractive than the earlier programs, it does accomplish two necessary goals. It treats all beneficiaries equally, and it assures the greatest amount of pension for those most in need. In doing so it eliminates some of the anomalies that had crept into the older programs in the course of numerous legislative changes.

Most new programs are not perfect at their inception. Pending a period of experience with the new program, the Legion reserves the right to approach the Congress to seek improvements in the new pension program, as the need for these becomes apparent.

We have already ascertained one significant weakness in the new law—the benefits provided to widows and orphans. These are so restrictive as to be inequitable. Our National Convention last month addressed the problem in Resolution No. 433 (Wisconsin). On the basis of that resolution, we will, in January, submit certain legislative proposals to this Committee. Essentially they will seek to increase the benefit level for widows and orphans to 90% of that paid to veterans, and to strengthen income exclusions in such a way that these beneficiaries will be assured a level of income support that will be meaningful.

SPECIAL PENSION PROGRAM FOR WORLD WAR I VETERANS

On the basis of a mandate from our 1978 National Convention, The American Legion had introduced into this Congres H.R. 2057, a measure that would provide a special pension program for veterans of WW I. That mandate was renewed at our 1979 National Convention.

The American Legion believes these veterans should have a special pension program that is liberal and generous to them, in consideration of their special status.

It was the veterans of WW I who sponsored and helped to develop the broad program of benefits that is now available to the nation's veterans. Many of these benefits, including all of the readjustment programs, were not available to the WW I veterans themselves. Yet they selflessly worked for the welfare of their sons and grandsons, who fought in wars that came after theirs.

Today, there are 600,000 of these veterans surviving. Their mortality curve is high—running at about 4,000 per month. Special attention to their special needs is long overdue. Most of their working years were spent in the midst of the Great Depression, and most of them were not able to acquire enough of the material things of life to see them through their later years.

For all of these reasons, it behooves the nation now to show them a measure of generosity. The American Legion earnestly petitions the Congress to do that.

HEALTH EFFECTS OF EXPOSURE TO IONIZING RADIATION

There is a special problem that affects a considerable number of WW I and post-WW II veterans. That is the effects of exposure to ionizing radiation—or the consequences of the series of nuclear explosions that took place, mainly in the testing of new weapons.

Based on the experience of American Legion Service Officers who are assisting veterans with claims based on radiation exposure, we are able to tell you that there is today a prevalent and clearly defined attitude of reluctance by a number of government agencies, including VA, we are sorry to say, to provide all the information available in government files that will make possible the prompt and fair evaluation of these claims. This attitude by these government operatives ill-becomes this nation.

The development of nuclear weapons was a calculated government policy. The American Legion supported this development in the interest of national defense. Inevitably, many thousands of servicemen were involved. The Legion never expected that the government, having conducted the tests, with attendant exposure of large numbers of servicemen, would then seek to avoid its responsibility for the consequences of its own actions. This is not the American way. Those responsible for this foot-dragging should be called to account by this Committee. The hearings that have been held on this subject to date, were a good beginning. But more needs to be done.

Presently there are significant numbers of former servicemen who have malignancies that may be attributable to exposure to ionizing radiation. Many of their claims have been denied by the VA. Many more are being subjected to lengthy delays. And in many of these cases, the issue is a matter of life and death. The veterans want to get these claims settled before they die, so they will know their survivors will be protected in their entitlement to benefits. The failure of government employees to deal with these matters expeditiously is unjustifiable, and The American Legion protests against it. It isn't only VA. The Defense Department is also involved, as are HEW, NIH, and the NRC. The employees in these agencies who are trying to save the government money at the expense of the government's own victims, should be ashamed of themselves. Our National Convention addressed this problem in Resolution No. 547, and on the basis of that mandate, we intend to pursue this matter vigorously. We hope for the support of this Committee in that effort.

THIRD PARTY REIMBURSEMENT

One of the legislative proposals of the Administration, in the field of veterans affairs, calls for reimbursement to the VA of benefits due on health insurance policies carried by veterans being treated in VA hospitals for nonservice-connected conditions. The Legion's National Convention addressed this matter in Resolution No. 456 (Georgia), on the basis of that mandate we shall oppose the concept of third party reimbursement.

The Administration calculates a savings of some $218 million during FY 1980, by reason of third party reimbursement. This isn't going to happen, which makes the proposal non-productive at the outset.

There is a constitutional question involved here, concerning the interference by Federal legislation into contracts entered into by private parties. This constitutional question is going to have to be settled by the courts, and that is not going to happen during FY 1980.

The cost formula to be used in determining benefits to be paid, is also going to result in long negotiations with the health insurance industry, and possible further litigation. So, neither is the matter of cost formulas going to be settled during FY 1980. Thus, any projected recoveries by the government during the next Fiscal Year are totally unrealistic.

But The American Legion is opposed to third party reimbursement on a further, fundamental basis. The grant of medical care to war veterans was formalized in the World War Veterans Act of 1924. At that time it was a benefit, freely given by the American people, through Congress, to care for the service disabled, and beyond them, to all honorably discharged veterans. The benefit was given in recognition of valuable service rendered during wartime.

In the years intervening since 1924, nothing has happened to change that mandate of the people. Rather, it has been enhanced through the years, in the multitude of legislation Congress has adopted, to strengthen and expand the veterans health care program, to the point that it is today, the finest health care delivery program in the nation. This health program denotes a special relationship between the people and the nation's veterans. To change the nature of the program now would destroy that special relationship.

If third party reimbursement were to become law, then veterans would, in fact, be contributing to the cost of their care, which would place the present medical care benefit on an entirely different basis. We of the Legion don't think the American people want that.

Further, we must add, that if third party reimbursement becomes law, we fear for the ability of all of us to defend the veterans health care program against inclusion in a national health insurance law.

JUDICIAL REVIEW

The recently concluded National Convention of The American Legion continued our long-standing mandate against judicial review of veterans claims.

We are aware that a Senate bill has been reported favorably. However, on the basis of continued study of the issue, we continue to be convinced that veterans and their dependents are receiving a level of consideration of their claims for benefits now, under the liberalized policies of the Veterans Administration, that will not continue should the Federal judiciary become involved, creating an adversary relationship between the claimant and the government, and making the decisions of the adjudicative processes of VA subject to review by Federal judges.

ELIMINATION OF 180 DAYS AWOL AS A BAR TO BENEFITS

Section 3103(a) of title 38 of the United States Code, as amended by Public Law 95–126, establishes a statutory bar to the receipt of benefits by a serviceperson who is AWOL for 180 days. The American Legion supported this measure.

The Administration has effected the introduction, in the Senate, of S. 1041, which would eliminate that bar to benefits. The American Legion, meeting last month, adopted Resolution No. 383 (Minnesota), restating the Legion's support of the statutory bar.

It is our view that entitlement to veterans benefits is an inducement to honest and faithful performance of military duty. Entitlement to such benefits is also an acknowledgment by a grateful American people, of such honest and faithful service. To relax the standards of qualification for benefits is to put a premium on refusal or failure to perform duty. To grant benefits to those who do not perform duty is an insult to those who do so.

We believe the American people have every intention that veterans benefits be reserved for those who served the national interest. Deserters and chronic AWOLs cannot be placed in the same category as those who perform valuable service.

We hope that Congress will not entertain this Administration measure.

VETERANS EMPLOYMENT

The American Legion is appreciative of the fine support it has recevied from Congress in legislation to improve employment programs for veterans. We are also aware that many times it would not have been necessary to appeal to Congress for either legislation or oversight functions of the Department of Labor had implemented legislation promptly and effectively.

I will not go into detail about the past record of the Department of Labor in this regard. I do, however, want to thank the members of this Committee for your most recent help, to assure that there will be funds in the 1980 appropriations bill specifically for support personnel in the Veterans Employemnt Service field staff. To prevent a recurrence of this Department of Labor effort to seriously weaken the veterans employment programs, with the resulting necessity for the Legion to appeal to the friends of veterans in Congress, we are seeking legislation to provide for these positions—which had been routinely provided by the Department of Labor for more than forty years.

This long and recurring history of Department of Labor antipathy for veterans programs has convinced The American Legion that an Assistant Secretary of Labor for Veterans Employment is essential to insure the full implementation of all the measures Congress has enacted to provide comprehensive and effective employment services for the nation's veterans. We fully support H.R. 1816, introduced by Chairman Roberts and the Honorable John Paul Hammerschmidt that is pending before this Committee.

The action of the Senate Committee on Veterans Affairs, requiring a letter of assurance from the Secretary of Labor that the Deputy Assistant Secretary for Veterans Employment would have access to the Secretary, before confirming the current holder of this position, recognizes that such access and status in the Department is crucial to the success of the veterans employment programs. We do not believe the Secretary's assurance in this regard is sufficient to overcome what we believe is an anti-veteran bias in the Department of Labor. Only an Assistant Secretary will be in a position to effectively overcome the bureaucratic roadblocks and diversions in the Department.

One difficulty encountered in placing veterans in employment is that of unnecessary restrictions and narrow definitions of eligible veterans. We strongly support H.R. 3228, introduced by Chairman Roberts and Congressman Hammerschmidt and pending before this Committee. This bill would greatly increase the number of Vietnam and disabled veterans eligible for affirmative action required of Federal contractors for veterans. H.R. 3228 would also delete the 30 percent disability requirement and the stipulation that the Vietnam veteran be discharged from military service within 48 months preceding application for employment.

Mr. Chairman, Members of the Committee:

There are other matters concerning veterans benefits in which The American Legion is interested, and that will require legislative action. We shall approach the Committee about these in the early months of next year. The matters I have discussed today are those we consider to be most important at this time.

Before closing, I would like to offer a few final observations. With some of the Administration proposals and actions, mainly affecting health care programs for veterans, and with certain recent expressions in the public press (for example, a recent editorial in the New York Times, and an article in U.S. News and World Report), it seems clear to The American Legion that we are again beginning to experience that phenomenon of peacetime, the grudging of benefits for veterans.

It is being said again that veterans benefit programs are becoming too expensive; that they are costing too much money, in these times of inflation and of the need for fiscal austerity.

May we point out that in Fiscal Year 1975, veterans benefits and services consumed 5.1% of the Federal Budget. In Fiscal Year 1979, they will consume 3.8%. Whence then the charge of being too costly? Between 1960 and 1978, VA medical programs increased in cost by $4.2 billion. But 3.3 billion of that was inflation. Again, on what basis is the charge made? The programs administered by HEW cost the nation in excess of $180 billion per year. The FY 1980 VA Budget will be $20.3 billion. Is this too much? Most of those who receive veterans benefits, including those in VA hospitals, would be public charges in any case, because they are mostly the poor and the aged. Why is it wrong if they receive assistance in the form of veterans benefits, instead of as wards of the Department of HEW?

Congress has faced up to the need for caution in the income supplement program, through its adoption of PL 95–588, which revised and tightened the pension program. The VA medical care program, while providing needed care for veterans, has benefited the entire American people, through its research and education programs. It is too bad other federally financed health care programs are not as cost efficient and as beneficial to the whole people as is the veterans health care program.

Nothing was said about the future cost of programs in 1942, when 14 million men and women were sent off to serve in WW II. Nor was anything said about future costs when 2.5 million men and women were sent to Southeast Asia, to serve in a war they had nothing to do with starting.

The American Legion is distressed that those with short memories now rise up and say that veterans benefits cost too much. Our organization has said since its founding in 1919 that the cost of war only begins when the shooting stops. These costs are the inescapable consequences of national policy. It is hardly becoming of these complainers to raise their voices now that the wars are over and peace has come.

We do not think the complainers represent the wishes, or the intentions of the American people. For our part, we continue to place our trust in the Congress, which is the true representative of all the people. We see no sentiment here, at this time, to compromise on promises, implicit and explicit, that were made to those who were asked to serve the nation in time of war.

Mr. Chairman and Members, The American Legion appreciates the courtesies extended to us at this annual appearance and wish to compliment you and your colleagues for your dedication to the care of and benefits for veterans of our great nation.

I am well aware that your commitment includes the defense of existing programs and it concerns us that there seems to be an increase of efforts to decrease and eliminate various veterans programs. The American Legion recognizes this contribution on your part.

I wish to further comment on the relationship that exists with our respective staffs—the cooperation with your offices and with Messrs. Willis, Holden, Fleming and all those of the staff of the House Committee on Veterans Affairs.

I further wish to remind you that you are our guests of honor this evening from 5:30 to 7:30 p.m. in rooms B–339 and 340 of the Rayburn House Office Building. This reception is in your honor and the American Leion Auxiliary and Legionnaires here are looking forward along with me in greeting you this evening.●

WHAT AMERICA CAN LEARN FROM JAPAN

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. MICHEL. Mr. Speaker, I believe history will record that one of the most remarkable stories of this century is the rise of Germany and Japan from the ashes of World War II. I find the rise of Japan to be extremely interesting because it is densely populated and without natural resources, yet it has achieved a place in the front rank of world economic powers.

Can the United States learn something from Japan about economic and social progress in a technologically sophisticated society? Prof. Ezra Vogel of Harvard University thinks so. We may not agree with everything the Japanese do or the way they do it, but we should know more about their goals and methods.

Professor Vogel's theories about Japan were the subject of an article published on September 18, 1979, "What America Can Learn From Japan" by Stephen Webbe, which I will insert in the RECORD at this time.

WHAT AMERICA CAN LEARN FROM JAPAN

(By Stephen Webbe)

There probably aren't many sociology professors who can say their latest work has become a best seller in Japan. But Ezra Vogel is one who can: his book "Japan As Number One" is being devoured by the Japanese with all that relentless application they bring to the acquisition of knowledge.

Sales soared to the 150,000 mark in July after Prime Minister Ohira (who thought the book was "awfully good," according to Professor Vogel), recommended it as background reading for the Tokyo summit.

Of course, its title hasn't exactly held it back. But what's gotten the Japanese so thoroughly immersed in the book is the notion that Japan has something to teach its mighty friend and ally. Hence the subtitle: "Lessons for America."

Professor Vogel, Chairman of the Council on East Asian Studies at Harvard University, argues that Japan has dealt more successfully with the basic problems of post-industrial society than any other country. And for this reason, he says, it has much to teach the United States: about information gathering, effective institutions, economic productivity, pollution control, approaches to energy and crime, welfare, and education.

"I am convinced," he writes, "that it is a matter of urgent national interest for Americans to confront Japanese successes more directly and consider the issues they raise."

Some observations from the book that has the Japanese bursting with pride:

Information gathering: "If any single factor explains Japanese success, it is the group-directed quest for knowledge. . . . Organizations . . . gather information from classrooms and golf courses, from conferences and bars, from think tanks and television. . . . The Japanese assume that differences of opinion can best be resolved not by adversary procedures and brilliant argument but by further gathering of information."

Government bureaucrats: ". . . The bureaucracy is granted the prestige and authority necessary to sustain high group morale and achieve a high level of performance. . . . In short, the bureaucratic elite neither reign nor rule but conceive, discuss, persuade, encourage."

Economic productivity: ". . . The large modern Japanese corporation is a highly successful institution . . . not because of any mystical group loyalty embedded in the character of the Japanese race but because it provides a sense of belonging and a sense of pride to workers, who believe their future is best served by the success of their company."

Pollution control: "One of Japan's most imaginative pollution control plans is built on the principle that requires automobile producers to pay an emission tax and polluters to pay the cost of medical care and compensation to victims."

Energy: "The Carter Administration put forth a brilliantly argued, thoughtful plan for dealing with the problem of energy, but it lacked the consensus and support of relevant groups. . . . The Japanese . . . in contrast, consulted closely even with oil companies, working out in conjunction with leaders of the private sector a series of programs for energy conservation."

Crime, welfare, and education: "The maintenance of a centralized authority permits Japan to avoid the overlapping, entangled, inconsistent, unequal, and sometimes totally inadequate programs maintained by American states in matters of welfare, education, crime control, and the like."

Reflecting on Japan's towering stature in today's world, Professor Vogel observes that Commodore Perry, who forcibly opened up trade with the then little-known country in 1854, "would be shocked by what's happening."

And indeed, he probably would. Wrenched from medieval isolation by Western intrusion in the 19th century and prostrated by defeat in 1945 after a disastrous bid to become the master of Asia. Japan is today the world's foremost economic power.

In 1978 it manufactured one and a half times as much per capita as the United States and exported $75 billion more in industrial goods than it imported. If Japan were an American state, Dr. Vogel notes, it would rank fifth in geographical size after Alaska, Texas, California, and Montana. With a population of 115 million (half that of the US), it is the most densely populated major country on earth.

When Professor Vogel left Harvard in 1958 with PhD in Social Relations (and a particular interest in the family and mental health), he had no idea he would become so fascinated with the inner workings of Japan. He chose the country "not because I was a Japan specialist, for my ignorance was vast, but because Japan of all the modern countries seemed most different and hence the most critical for testing hypotheses about modern society."

But after he and his wife immersed themselves in two years of language study, research, and Japanese-style living he found himself "far more interested in Japan itself than in social science generalizations." For the next 20 years, "I could not satiate my curiosity about Japanese society," he writes. It was "a seemingly inexhaustible gold mine for intellectual curiosity."

Harvard's other Japan expert, Edwin O. Reischauer, has predicted that Japan "may well be among the leaders—possibly even the preeminent leader—in finding solutions to the problems that mankind will face in the twenty-first century."

Its economy "is running rings around ours," he declares and suggests that "if the Japanese could learn from us with such profit in the past, perhaps there is something that we now need to learn from them." Professor Vogel's insights in "Japan As Number One," he feels, will help explain "this best organized and most dynamic of all major modern nations."

In a recent interview, from which excerpts are published below, Professor Vogel talked with this reporter about his new book and about contemporary Japan:

Do you think the US will actually learn some of the lessons you suggest Japan could teach it?

Perhaps I'm getting megalomaniac about some of these things, but I think all of them are going to have an impact on the US over the next couple of decades.

Why has the US so far been unwilling to learn from Japan?

The identification with America as being a superior country in the world is so strong that it's annoying to have another country doing so well, and I think we want to find some reason to explain away their success as cheating or dumping.

The other thing is that America has been able to achieve superiority with relatively little study. I mean it's so dominated the world with technology and science since the 1930s, when so many Germans came over here, that we've really gotten out of the habit of studying other languages and cultures. I think we've just gotten into bad habits.

Why do the Japanese have such a tremendous urge to excel?

I'm not sure they have it any more than any other people. In the late 19th century they decided that if they didn't rally they would become colonized like China and Indo-China. And the leaders decided that to rally the people, to make them wake up to the dangers was one of the most important things to do to save their country. Ever since, they have found that to constantly compare Japan to other countries serves as a way to spur on their people to greater effort.

Is excelling a strain, particularly for young people?

It is a strain. But the percentage of psychological problems in Japan is probably not greater than elsewhere, but that's a difficult judgment to make. However, if one looks at suicide rates for youth up through 19, there are something on the order of 800 suicides a year in Japan and about 1,600 in the United States. If you do an analysis of the best social science studies we have, about one-quarter of the Japanese suicides up through age 19 are estimated to be related to educational problems. And there are unquestionably serious problems of school children who over-study.

In a recent poll, 22 percent of those responding said they wanted a "relaxed, carefree life." Are the Japanese wearying of the pace they've set themselves?

No. Well again all these things are a question of balance. The average work week is about 41 hours a week, and that's not all that long. People have a busy life and if you ask them whether they want to lead a more relaxed life, they say, yes, they do, and then you put them down someplace, and they're scurrying around again just like they were before.

I think a lot of them enjoy active lives. For example the farmers only have very small plots, and people continue to work on them in old age, partly, of course, because they need the money. After age 65, something like 18 percent of American men are still employed. In Japan it's over 40 percent.

Apart from their material goals, what spiritual goals do the Japanese have?

That's a question they are asking themselves a lot. It's popular in newspapers and magazines to say that [they] need more of this spiritual side. I spent a year interviewing Japanese business leaders. I don't know that many American business leaders. But the impression I have is that the Japanese business leaders are much more concerned with vision, a broad vision of what's good for humanity. And by that I mean a real concern for people and their value rather than just material benefits.

Is there a women's movement in Japan?

It's fairly minor compared to the women's movement here. It has tended either to be a ridiculous, humorous kind of thing that people poke fun at, where women go out and parade and do one kind of thing or another, or a team effort of local women's groups to get better street lights near the schools, for instance. But the general effort to get more women working, to achieve equal employment conditions—all that's been very weak.

Could Japan be more caring, more generout as a nation? How much foreign aid does it distribute, for instance?

It's one of the lowest. And I think this is likely to be a problem in years ahead. They're trying to raise it though, and I think there's no question they will increase it in the next few years. Foreign aid is generally tied to areas where they have a fairly direct interest, either because they want, say, oil from the Middle East or they want to open up the markets of Southeast Asia. There tend to be more strings attached to their foreign aid than other countries'.

Could it be that Japan's experience with war and natural disaster has given her people a zest for work and play that often appears frenzied in the West?

Because they have had so many calamities they feel terribly vulnerable. Typhoons hit them regularly every fall. They've had earthquakes and fires. Because of these natural disasters they have a much greater sense of fear, of urgency, which leads them, in a way, to respond more as an organized group and to worry and fret more. I guess that's the way they would look at it.

How do the Japanese view their part in World War II today? Do they have a sense of guilt?

They're not as guilty as we would like them to feel. They feel the Japanese military was terrible and deceived the civilian population. To a certain extent they consider the military were dumb for attacking such a big, strong country and getting defeated.

The average American, when he thinks of

Hiroshima, shares a sense of responsibility for what we did. But the average Japanese doesn't share the same feeling of responsibility for Pearl Harbor.

One Japanese television show I saw was a recapping of the race between [aircraft manufacturers] Grumman and Mitsubishi in World War II. The Japanese sent a television crew to the United States and did an extraordinarily thorough job. The conclusion was that the Americans beat them out and they analyzed how it was done.

There are similar radio and television shows about American superiority in spy analysis and information gathering in World War II and why and how America beat them. And they're still re-living that. They're still analyzing. It spurs them on to heightened competition to look back at World War II.

Could militarism rise again in Japan?

I think there will be a steady increase in defense expenditures, but militarism in the sense that the military dominates the society I just can't see. That the military could ever dominate civilian life like it once did just doesn't seem plausible to me.

What I could see is a tighter state with more police, more secret police, and a tightening criticism of deviants and people who are too cosmopolitan and too international. I think that's conceivable.

I think Japan has decided it's more vulnerable to atomic weapons than any other country. It would be wiped out in the first blow. So I think they can't imagine getting nuclear weapons.

Will Japan ever have armed forces commensurate with its economic power?

Well, I think the debate in Japan over the next five years is whether to cross the one percent of GNP mark for military expenditure. Now, in fact, if you count in pensions and things like this, they're probably well over one percent already. In Japan I think the concern is that other countries shouldn't think that Japan has too much of a military.

The Self-Defense Forces are of an extraordinarily high quality. People tell me now that in tanks, for example, that the state of the art tanks are in Japan not the United States, that their tanks are superior. They have a very clever way with the Self-Defense Forces. For example they have a high proportion of officer corps to enlisted men, so that they can expand quickly if they need to.

They try to invest in technology in such a way as to keep up with the latest developments everywhere. So that if they decide to go into any kind of technology they have a capacity to. So in a way they have more capacity to do things than you would think from the proportion of budget they're allotted.

Has the memory of Japan's wartime atrocities, such as the Rape of Nanking in 1937, impeded its economic progress in China and South-East Asia?

These things have impeded Japanese progress. I think it creates limits on the speed with which Japan can move, particularly in China and Manchuria, where you find a lot of opposition to Japan because there were so many Japanese there over such a long period of time. In Korea the nationalism against the Japanese is very virulent, very strong. And I think, for example, the trouble Prime Minister Tanaka had when he went to Indonesia and Thailand several years ago has overtones from World War II.

When Japanese drive around in big cars and dominate the golf courses, and go in with big pots of money . . . and behave like ugly Americans did in the decade before, people say "the ugly Japanese." And when Japan has a very tight-fisted policy about not taking many imports from those countries and has very tight fiscal controls over its home industry, all these factors feed in to the reaction towards Japan.

Herman Kahn and Thomas Pepper don't express great optimism about Japan's economic future in the book they've just published. They talk about the pressing need to initiate massive private investment and private consumption. Do you share their fears?

I think they are still quite optimistic on Japanese growth. They still believe five or six percent growth per year or something of that order. I think what they are advocating is something the Japanese are already doing: building up welfare, the infrastructure, and smaller cities. They're sort of spreading around the wealth they have.

If the US can learn economic lessons from Japan, what lessons can Japan learn from present US economic woes?

They're terribly concerned about such things, of course, and they're constantly on the lookout for ways to avoid them. But I can't think of anything they haven't absorbed. They responded brilliantly to the oil crisis in 1973. I'd bet on their success. If there is an area they could learn from us though, it's in advanced research and development.

Will the 21st century be the "Japanese Century," as some have predicted?

The record of bright, academic thinkers being able to predict major world events beyond 10, 15, 20 years has not been extraordinarily successful, but I think in talking about trends in the next five, 10, 15 years the chances are that Japan will continue to grow stronger, and I think it's going to surpass the United States as an industrial power.●

WALDORF, MD., JAYCEES NAMED BEST IN NATION

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. BAUMAN. Mr. Speaker, the Jaycees have long been known for their active participation in worthwhile causes around the world. As a former Jaycee, I am pleased to announce that the Waldorf, Md., chapter of this fine organization was recently named by them to be the No. 1 chapter in the United States. They received this honor in competition with 9,000 other Jaycee chapters in the United States.

This is a signal honor, and one that reflects highly on the members of the chapter as well as the community that they help every day. It is reassuring to know that the selfless values that the Jaycees and other civic-minded organizations represent is alive and very well in communities like Waldorf. I include at this point in the RECORD an account of the honor accorded to the Waldorf chapter of the U.S. Jaycees which appeared in the Times Cresent of La Plata, Md.

WALDORF JAYCEES VOTED NO. 1

In competition with over 9,000 Jaycee chapters throughout the country, the Waldorf Jaycees have been named the number one chapter in the United States.

President of the U S. Jaycees, Barry Kennedy, announced the selection before 10,000 delegates in the 59th National Convention held in Nashville, Tennessee last week. The awards were made on the basis of the overall excellence of the chapter's efforts in community and individual development and chapter management.

This is the first time that a chapter in Maryland has won the most prestigious award in the Jaycee movement.

Bryan Ramsey, President of the local chapter, said, "We have been selected as the number one chapter in Maryland for six consecutive years and our goal has been to become the best in the United States.

"Our goal was achieved through the sacrifices of hundreds of Jaycees and Jaycee-ettes that spent untold tens of thousands of hours away from their own problems and families in order to make Charles County a better place to live. It was done with the complete cooperation of our local government, business community and the tremendous support of the people of Charles County.

"I said earlier this year that we were the number one chapter in the state because we represent the number one community. We can carry that even further now for we truly feel we represent the best community in the United States."

The Waldorf Jaycees and Jaycee-ettes also were recognized for outstanding places awards for their efforts in Chapter Fund Raising. Chairman Frank Hollewa; Membership Recruitment, Paul Andrews; Personal Growth, Andy Andrews; Youth Assistance, Dick Gregory; and a third place for Health and Safety, Jim Hoke.

The Jaycee-ettes took a first place in the Jaycee assist category chaired by Sharon Andrews, a second place in Health and Safety chaired by Carmen Shea and an honorable mention for the Safetytown Project chaired by Lin Polen.

Paul Polen was recognized as the number one chairman in the country for his work on the CPR program, a project that has been nationwide emphasis by the Jaycees.●

TRIBUTE TO OUR LADY OF CZESTOCHOWA CHURCH ON THE OCCASION OF ITS 70TH ANNIVERSARY

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. CONTE. Mr. Speaker, it is with great pleasure and pride that I am able to inform my colleagues that this coming Sunday, September 30, will mark the 70th anniversary of Our Lady of Czestochowa Parish in Turners Falls, Mass.

I am especially pleased to be able to announce this milestone in the history of this splendid Polish Catholic Parish so close to the arrival of Pope John Paul II.

The history of the Polish Catholic Church and the Polish nation has been described as a 1,000-year record of adversity and triumph. For no country has shown a deeper and more resolute sense of faith and patriotism. And no European nation has been invaded and partitioned more than Poland. Yet the battered and almost extinguished Polish nation has never lost its identity as a nation nor its love of freedom.

The brave and heroic Polish people have watched temporal leaders come and go since Poland converted to Christianity in 966 A.D., but Our Lady of Czestochowa has remained the Queen of Poland. For 1,000 years the Polish Church has suffered alongside the Polish people. The Polish Catholic Church has preserved the Polish language and a rich culture for generations.

Devotion to the Black Madonna of Jasna Gora is central to the identity and faith of Polish people everywhere. Pope John Paul II underscored this fact during his recent pilgrimage home when he said:

> Without Christ it is impossible to understand the history of Poland.

In our own lifetime the word courage comes immediately to mind when we describe Poland. The world shall never forget the heroism of the Polish nation in the battles of World War II. We cannot forget that no nation suffered heavier losses of life and property than Poland. Nor can we forget the Free Polish Army and Air Force who fought so gallantly against Nazis and Stalinists.

The Congress of the United States recalled the systematic genocide of 3 million Poles and 3 million Polish Jews when it recently unanimously passed a joint resolution to commemorate the 40th anniversary of the heroic Polish resistance to the Nazi invasion of Poland on September 1, 1939, and the Warsaw uprising of August 1, 1944.

On July 27, the President signed that resolution with this statement:

> The Polish people have historically earned the respect of freedom-loving people everywhere. . . . These events were a poignant reminder to the world of the power of the human spirit over adversity.

Let no one forget, ladies and gentlemen, that faith helped the Polish people survive the "greatest hell on Earth." That experience has given Poles a unique perspective on the profound issues of human freedom.

In fact, religious and political freedom has been the central issue to the Polish people since at least 1791. While the American nation underwent the pains of birth, the Polish nation adopted on May 3, 1791, a Democratic constitution which proclaimed the rights of man, civil, and religious liberties and the concept that the state serves the people. That document formalized the practice of religious freedom in Poland which dated back to 1246 A.D. when Jews fleeing the inquisition were welcomed to Poland. Indeed, Poland was traditionally a haven to the persecuted—Jews, Tartars, Protestants and Quakers were granted unprecedented protection. But then it has been said "the Polish people were always generous to a fault."

The dedication to the concept of individual freedom in Poland has survived the holocaust as well as Communist oppression. Since 1948 the church in Poland has endured expropriation of property, censorship, and constant harassment. But it has flourished and grown stronger even under the shadow of Soviet tanks.

While the church has no divisions or tanks, it has taught and trained a generation to battle quietly in the belief that the future is in the hands of the young.

When Pope John Paul II returned to his native land in June, he had no armies as have ravaged Poland time and again. Rather, he went as a pilgrim, a patriot and as a man of peace. From the moment Karol Wojtyla kissed his native soil, he stirred an avalanche of trust and affection no political leader in Eastern Europe could dare hope to inspire. This "mountain man," this "apostle of and to the Slavs" preached the consistent theme of Polish history: the dignity of man, the God-given right to lead free and decent lives.

The emotional and massive welcome John Paul received in Poland is one of the most remarkable events of current history.

His presence electrified millions worldwide. His warmth, intellect, and humility have transcended the barriers of religious creed. He has caught the imagination of Catholics and non-Catholics alike. John Paul speaks not only for religious freedom but for all human rights.

Pope John Paul arrives in Boston with this universal message of human rights. Alexandr Solzhenitsyn described him as "a gift from God and a symbol of the times in the battle against communism and atheism." The "earthquake of faith" witnessed in Poland and in Mexico has put Catholicism onto the front pages.

John Paul's simple message to young and old emphasizes the rebirth of old values like religious devotion and family life. As he travels across America John Paul will remind us that moral force is the key to relations between people and nations. If there is a vacuum in world leadership today, it appears Karol Wojtyla is here to fill it.

If he had the time to visit western Massachusetts, John Paul would be proud of the Polish communities and parishes here which date as far back as the 1880's when Poles from "Little" or "Austrian" Poland emigrated to find job opportunities, land, and a free education for their children. He would see that the religious faith, the hard work ethic and the treasury of the Polish cultural heritage is alive and well in Massachusetts.

And he would rejoice in the accomplishments of Polish-American who came here to work the farms and mills of this community. But, most importantly, Pope John Paul would be pleased to know that Polish-Americans in this area have maintained the faith of the old country for 70 years through devotion to the queen of all Poles, Our Lady of Czcestochowa.

However, His Holiness will visit not only the descendants of Kosciuszko, Pulaski, and "Yazstremski," but all Americans. His message will emphasize that pride in one's origins is, in the words of Dr. Brzezinski:

> A positive source of inspiration, binding the past with the present.

While John Paul's mission has a universal appeal, the members of this parish who emigrated here to avoid war and oppression and to find opportunity, and their children, will celebrate Karol Wojtyla's arrival with a sense of joy in their own heritage—pride in being Polish-Americans.

Therefore, on the 70th anniversary of the founding of this parish—dedicated to the queen of Poles—I urge you to listen to the words of Poland's most famous son:

> Let them never forget even after they become Americans, that they are Poles. Be nobly proud of it. Hand it on to future generations.

"Gratulabje" and "Dzenkuje!"●

PORT ANGELES—SUPERTANKER PORT

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. BONKER. Mr. Speaker, in recent weeks Canadian officials have voiced concern over the possible construction of a northern tier pipeline which would most certainly affect their coastline. They oppose the northern tier pipeline which is planned to offload Alaska crude and imported oil in Port Angeles, Wash., across the straights from Vancouver Island in British Columbia.

Last month I attended an interparliamentarian conference for the purpose of discussing energy and fishing issues that concern the two countries. Our Canadian counterparts expressed strong objection to the northern tier pipeline project at that time. I must confess their arguments appeared valid. The Honorable Donald Munro, Member of Parliament from British Columbia, handed me a statement he had prepared on the pipeline issue which I am having printed at this point in the CONGRESSIONAL RECORD.

The statement follows:

PORT ANGELES—SUPERTANKER PORT

I am opposed to the establishment of a supertanker port at Port Angeles or anywhere inside the Flattery-Bonitta Pt. line. My reasons are related to the risk of oil spills within the narrow waters of the Straits of Juan de Fuca and the knowledge that any spill that does occur there (and occur it will, sooner or later) will pollute the shores and beaches of Vancouver Island and the Gulf Islands more than it will the shores and beaches of the Olympic Peninsular. My opposition is also rooted in the knowledge that any such spill, at a certain season of the year, could cause considerable, perhaps irreparable, damage to the salmon resource, much of which in that area is a Canadian resource, as well as to other species. The spin-off effects from these two consequences of an oil spill are enough, on their own, to cause us all to look for alternative methods of delivering oil to the Pacific Northwest and to the "Northern Tier".

I recognize that much of the oil to be delivered to any super-port in the Northwest U.S. will be of U.S. origin, and that the ships delivering it will be able to ply U.S. waters exclusively. I am fully conscious, therefore, that the U.S. can do what it wishes to do within its own domain, and any objections from outside are gratuitous and likely to be disregarded unless it can be demonstrated:

(a) that comparable damage would occur in U.S. waters or on U.S. shorelines, and/or

(b) that a meaningful and practical alternative is available.

It has already been suggested that comparable damage is unlikely to occur to U.S. shorelines (except, possibly, in the San Juan Islands). In U.S. waters, however, depending on the season, considerable damage would occur to the salmon heading for Puget Sound and for spawning streams flowing North and East from the Olympic Mountains. Although the total economic damage on the U.S. side might not be as great as it would be on the Canadian side, when considered in strictly economic terms, the damage to friendly relations by a mishap could possibly strain those relations needlessly. When there are alternatives or options available, it seems unnecessary to run risks that could be avoided.

There are at least three options open at this time to getting feedstock to refineries in the U.S. Northwest and to those in the Northern Tier. These are:

(a) Establishment of the port at Gray's Harbour, at the mouth of the Chehalis River either by monobuoy offshore, or by dredging and the transporting of the offloaded crude by pipeline along an abandoned railway right-of-way Eastward past Olympia to connect up with the Cherry Point (Washington)-Eugene (Oregon) Pipeline.

(b) Adopting the Westcoast Transmission Proposal of the Valdez-Skagway Tanker Route plus the Skagway to Delta Pipeline Route from which point an oil pipeline could parallel the projected Northern Gas Pipeline already awarded to Foothills. The costs on this route seem to be less than the "Northern Tier" route via Port Angeles.

(c) Adopting a third and as yet only partially explored option of branching oil off the Ayeska Pipeline in Alaska at the point where the Prudhoe gasline turns East towards the Yukon, and, following a wholly overland route for oil, parallel the Northern Gas Pipeline to a point in Alberta where Prudhoe Oil could be fed into existing pipelines and reach the markets at which the Northern Tier Route is aiming.

On balance, for cleanliness and control, Option C appeals to me as the most desirable.

Aside altogether from the merits of these alternative routes, there is the problem of how Canada and the U.S. should begin exploring the feasibility of developing a bilateral treaty that would regulate to a considerable degree, all human activities in these waters: fishing (commercial and sports); marine traffic control; safety of life at sea; navigation; standards of ship construction as well as crew-worthiness; pollution standards; compensation for damage from pollution; bilge flushing; to mention only the most obvious. The waters could be designated "bi-national", enabling enforcement measures to be taken by enforcement agencies from either country against a third party; over-fishing and the distribution of catch could be an on-going concern; a pollution compensation fund should be put into place to which users should contribute through a bonding process on entry; ships that do not meet agreed standards of construction and propulsion could be denied access to the waters; ships whose crews do not meet agreed standards of competency could likewise be denied access; traffic control would become obligatory rather than optional, as is now the case; with the bonding system to meet claims for damage (even of fishing gear) infractions could be dealt with expeditiously; violators could be denied second access.

These are some of the practical proposals that I would advocate and support to avoid the dangers to the Straits and the Gulf and the Sound that are inherent in current trends.●

SOVIET UNION REFUSES TO DELIVER INTERNATIONAL MAIL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. SOLARZ. Mr. Speaker, it is a well-documented fact that the Soviet Union is pursuing a systematic policy of refusing to deliver international mail in accordance with its obligations under the International Postal Union and other international agreements. Although aimed primarily at Soviet Jews, the policy has been applied to other Soviet dissident groups as well.

Despite previous administration protests of this Soviet policy, the Soviet Union has failed to alter its policy. This resolution, which I strongly endorse, therefore, not only calls for another unilateral protest by the United States, but also asks the Secretary of State to raise this issue with other member nations of the International Postal Union. It is my hope that a concerted international effort focusing attention on this issue will be effective in persuading the Soviet Union to cease violating the basic right of all of its citizens to receive all of their mail. ●

ZINC-NICKEL OXIDE BATTERY

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. HILLIS. Mr. Speaker, the announcement today by General Motors Corp. of the development of a new zinc-nickel oxide battery which can be used in electric cars is a highly welcomed breakthrough in battery technology. This new battery can propel electric vehicles 30,000 to 40,000 miles. It provides great hopes for the future of electric cars.

Pound for pound the new battery can store 2 to 2.5 times as much energy as conventional lead-acid batteries. With this battery electric vehicles will fill an important niche in our total transportation system in the future. Traveling at speeds of up to 50 miles per hour, small two-passenger electric automobiles may soon carry millions of commuters to and from work every day.

It is with great pride that I noted that a large majority of the research which led to this breakthrough was completed by the employees of Delco-Remy located in Anderson, Ind., which is in my congressional district. In announcing this new development, the president of General Motors Corp., Mr. E. M. Estes, noted that a great deal of research is still required before the batteries can be made available to the public. However, I am convinced after visiting Delco-Remy in Anderson on several occasions, that the company will live up to the task and continue improving the present zinc-nickel oxide battery.

The GM Corp. deserves our recognition for their tenaciousness in developing this new technology. Since the 1960's GM has spent $33 million of its own funds in developing the battery. I am sure millions more will be required before 1985 or 1986 when it is anticipated that the new battery will be sold in electric vehicles on a commercial basis.

In closing, I believe today's announcement illustrates the need to pass H.R. 3718 introduced by Congressman Corcoran and which I have agreed to cosponsor. This measure would establish a formula by which electric vehicles can be figured into the fleet fuel economy average. Under present law, if a manufacturer replaces small gasoline or diesel autos with electric vehicles, that manufacturer's fleet average would be based solely on the larger gasoline or diesel power autos still sold, thus substantially increasing the average. This situation acts as a major disincentive to automobile manufacturers to introduce electric vehicles. It is therefore vital that electric vehicles also be included in determining fleet averages if the Nation is to ever realize the advantages of electric-powered vehicles.

I am inserting in the Record at this point a copy of the statement released today by GM describing in detail the advantages of the zinc-nickel oxide battery.

Statement from General Motors

Washington, D.C.—The General Motors breakthrough on battery technology has been part of a series of major research and development programs on electric vehicles over the past 15 years, at a cost to the Corporation of approximately $33-million.

Three staffs located at GM's Technical Center in Warren, Mich., are involved in the development of electric vehicle technology: GM Research Laboratories, Engineering Staff and Design Staff.

Several GM divisions are involved: GMC Truck & Coach Division, which is manufacturing 35 electric powered vans for American Telephone & Telegraph Company; Chevrolet Motor Division, which is the "lead" GM car division with the responsibility for developing an electric car; Delco Remy Division of Anderson, Ind., which is GM's battery manufacturing division; Delco Products Division of Dayton, Oh., which produces electric motors; Delco Electronics Division of Kokomo, Ind., which manufactures electronics systems and AC Spark Plug Division which designed an electric car instrument cluster.

In 1964, GM's Engineering Staff produced Electrovair I, a Chevrolet Corvair powered by a silver-zinc battery pack. In 1966, it publicly demonstrated a second-generation Electrovair II which matched the performance of a standard piston engine Corvair. It traveled from 40 to 80 miles between recharges.

Also in 1966, Engineering Staff demonstrated electric propulsion with fuel cells in the Electrovan, a modified van with a hydrogen-oxygen fuel cell system specially designed by Union Carbide Corporation, in a cooperative experimental project.

In the late '60s, Engineering Staff developed a trio of two-seater subcompacts, the experimental 512s. One was powered by a 72-volt lead-acid battery pack; the others were gasoline and gasoline-electric hybrids. The electric version of the 512 has been used ever since as a test bed for the latest state of the art in battery packs and electric drives.

Drive motors of Engineering Staff's experimental electrics were developed by GM Research and GM's Delco Products Division. The electric control systems came from Delco Electronics Division. Each component has represented the best in contemporary technology.

Chevrolet Division in 1977 developed the "Electrovette," a Chevette that was powered by 20 12-volt lead-acid batteries.

Beneath the Electrovette's hood are seven major electrical system components. They include a 240-volt DC motor; an on-board computer that is a signal control processor and the system's "brain;" a "chopper" or voltage regulator, which permits the DC motor to run at different speeds; a motor current smoothing reactor; a 110/229 volt AC transformerless charger; a gear box; and an auxiliary battery to power the car's 12-volt lighting, turn signals and windshield wipers.

The Electrovette now has the new zinc-nickel oxide battery pack and is undergoing evaluation tests.

The GM Research Laboratories has been concentrating on advancing the state of the art in battery technology and developing and evaluating several types of advanced electric vehicle drive-trains. It played a major part in improving the performance of the zinc-nickel oxide cells, and is continuing development work on the lithium-iron sulfide battery, a high-temperature cell (800 degrees F. to keep the electrolyte molten). The lithium-iron sulfide battery is viewed as a possible "next generation" battery for electric vehicles.

GM's Design Staff has developed a series of vehicle packaging concepts, and has completed design programs for electric vehicles ranging from small commuter vehicles to small commercial vehicles. They have also constructed a number of fiberglass models for evaluation of design execution, passenger accommodation and manufacturing feasibility.

GMC Truck & Coach began delivering the electric vans earlier this year to the American Telephone & Telegraph Company for use by the Pacific Telephone & Telegraph Company for regular installation and repair operations in the Culver City, Calif., area as part of the U.S. Department of Energy's demonstration project.

The electric van is similar to a conventional GMC van except its power is supplied by 36 maintenance-free lead-acid batteries mounted beneath the load floor. They drive a 216-volt DC motor behind the rear axle.

These are the first electric trucks to be produced by GMC since 1916. Those trucks 63 years ago also used lead-acid batteries. With increasing gasoline prices and the economics of the situation, their time may have come again.●

SEPTEMBER 24, 1945

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. DAVIS of Michigan. Mr. Speaker, several weeks ago we paused to remember and reflect upon the events of August 9, 1945. I doubt that many of my colleagues are aware that yesterday was the anniversary of another event that deserves our attention. On September 24, 1945, the first American troops arrived in Hiroshima and Nagasaki to begin the task of cleaning up their ravaged Japanese cities.

One of my constituents served with the 41st Marine Division that was assigned to Hiroshima to start cleanup activities. Today he is 52 years old and dying of cancer. The particular kind of cancer, multiple myeloma, is rare—so rare that experts say only one case should be found among 4,000 people. The incidence of myeloma in Hiroshima and Nagasaki veterans is at least six times that amount. Any effort by these men to receive service-connected compensation for their disease has been futile. The VA maintains that radiation levels at the time of American occupation were insufficient to have caused biological harm.

Multiple myeloma is only one affliction from which Nagasaki and Hiroshima veterans now are suffering. There is also a high incidence of blood disorder, bone marrow cancers and other ailments. So far, approximately 50 claims for service-connected compensation for the effects of residual radiation exposure have been filed with the VA. None have been allowed.

Thirty of these veterans, along with 10 of their widows, were in Washington yesterday to draw attention to their plight. Sunday they presented a petition to the White House asking the President to help in their fight. I joined them yesterday in a press conference to lend any assistance I can.

President Lincoln stated that the beauty of a grateful American Nation was, "to care for those who borne the battle, and for his widow, and for his orphan". This statement was adopted by the Veterans Administration as its motto. Mr. Speaker, when our Government asks its citizens to serve, it must then accept the responsibility of caring for those who suffer as a result of that service.●

THE UNITED NATIONS RESEARCH INSTITUTE FOR SOCIAL DEVELOPMENT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. BROWN of California. Mr. Speaker, the United States failed in the last several years to provide development assistence to a center of learning it helped create in 1963. I am talking about the United Nations Research Institute for Social Development (UNRISD).

Currently the Senate Foreign Operations Appropriations Subcommittee is considering its recommendations for the coming year, and I urge my esteemed colleagues there to consider the needs of the Institute. I also urge my House colleagues to make known their own views, in the hope that an appropriation of at least $200,000 might be forthcoming, and agreed to by the House in later conference.

I have carefully followed the international situation for years and I am disturbed by what I see, read, and observe. Here we are, we the most fortunate people of this fertile Earth, remaining inactive while 15 million children starve to death every year, including this year, the year of the child. This fact alone suffices to say something about the near depravity of the human condition, especially the condition of those of the human race who have all they need to eat. I am not trying to make you feel guilty but the truth is we have not done even a minimal job in making certain that our limited foreign aid assistance does reach those in most need.

It is precisely because of this need for more social justice, and because UNRISD does serve that cause with remarkable fortitude and daring that I urge you to call upon the Senate's Foreign Operations Appropriations Subcommittee to grant UNRISD $200,000 for this fiscal year. Such assistance from the United States people to a little institute fighting to keep the idea of social justice alive might well be the single, most productive item in our multibillion dollar foreign aid program. Here is how the Institute itself describes its "Studies for Social Change to influence the decisions of those with political and economic power, to complement the efforts of those struggling for social justice":

STUDIES FOR SOCIAL CHANGE TO INFLUENCE THE DECISIONS OF THOSE WITH POLITICAL AND ECONOMIC POWER

UNRISD's mandate is to "conduct research into problems and policies of social development and relationships among various types of social development during different phases of economic growth" (UN Secretary-General's Bulletin ST/SGB/126 of 1 August 1963). The aim of this research is to help the poor and powerless participate in the development process and to benefit from its results.

This is a widely-held objective to which a great deal of effort and resources have already been devoted, But results have fallen far short of expectations. Social injustice, poverty and dependence still haunt the lives of millions of people.

The causes of poverty and the mechanisms that perpetuate it are the subject of continuous controversy and investigation. UNRISD seeks to help clarify the causes and identify the mechanisms, as a basis for appropriate action.

TWO THEMES

Issues of social development that, in the 1950s and early 1960s, were generally considered secondary to those of economic growth, moved into the centre of the development debate in the 1970s. Two themes were repeatedly stressed in one way or another in UN Declarations and Resolutions:

The first is that everyone should enjoy a decent livelihood.

The second is that all groups, and individuals, including those who are now poor and without power, should have the possibility to participate in influencing the decisions that affect their lives.

These two themes—livelihood and participation—that guide the Institute's work are closely related.

Participation of people in their own development is implicit in the very concept of livelihood: hardly anyone would consider a livelihood without some degree of participation as adequate.

And there is no way to determine what constitutes a decent livelihood except by asking the people concerned and involving them in determining what it should be.

Experience has shown that poor people seldom benefit from measures intended to mobilize them to overcome their poverty unless they participate in decisions that determine the allocation of public resources. This means they must share power—if only to ensure that the services, facilities and benefits intended for them do in fact reach them.

For such reasons, UNRISD recognizes that the problems of poverty cannot be tackled effectively without a clear understanding of the politics of poverty in every situation. For example:

Most governments depend primarily on the support of certain classes and interest groups, whose members promote those kinds of national development that enhance their own situation and prospects. The poor and powerless are likely to stay poor until they share in deciding how the national wealth is to be created and distributed.

Measures to redress the international balance of power in favour of poorer countries (such as those proposed to create a New International Economic Order) are insufficient. They must go hand in hand with efforts to modify the balance of power within countries in favour of poor and deprived groups.

The Institute's research therefore goes further and deeper than an evaluation of existing development policies and programmes. It examines the political realities: the decision-making processes in a society and its often conflicting social forces—the organized special interest groups as well as the broader class interests that sanction and support them.

ROLE OF RESEARCH

UNRISD believes that research of this kind can play a positive role to encourage and support social change that will benefit the poor and the powerless.

If we admit that, at best, social science research can merely help to bring a little more clarity into debates on policy issues, and leave it at that, we underrate its potential.

Studies carefully chosen, appropriate research methods adopted and findings formulated and communicated effectively can do more than add another solid brick to the edifice of scholarship. They can increase the opportunities open to governments to adopt and carry out adequate social development policies. They can also assist other agents of change among the various groups that make up a society in bringing about such opportunities.●

REPUBLICANS INSIST ON A NATIONAL DEFENSE SECOND TO NONE

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. SHUSTER. Mr. Speaker, the Republican policy committee, which I have the honor to chair, while not opposing outright defense appropriations bill (H.R. 5359) supports it on a "better than nothing" basis. However, I should like at this point to insert into the RECORD the full text of the policy committee position statement which points out some dangerously inadequate facets of the bill and also points out some potentially ominous shortfalls.

REPUBLICAN POLICY COMMITTEE SUPPORTS STRONG NATIONAL DEFENSE

While the House Republican Policy Committee supports passage of the Defense Appropriations Bill (H.R. 5359) on a "better than nothing" basis, we believe the funding is inadequate to meet the defense needs of this nation.

In tactical aircraft readiness and procurement programs specifically: (1) Secretary of Defense Harold Brown testified before the House Defense Appropriations Subcommittee that the Navy would have to buy about 180 fighter and attack planes each year to keep 12 carrier air wings and three Marine air wings at full strength. President Carter's budget calls for buying 39 Navy tactical aircraft in Fiscal Year 1980. While H.R. 5359 increases this total to 72, it is still woefully inadequate. (2) Secretary Brown also testified in February, 1979, that based on the Administration's five-year budget request, the Navy and Marine Corps will experience a shortfall of over 200 fighter and attack aircraft by 1984. (3) A February, 1979, General Accounting Office report on the combat readiness of U.S. Air Force Europe units found that on a daily average only 45% of authorized aircraft were fully capable of all missions, with an additional 11% capable of either primary or secondary missions. (4) Testimony also shows that, between 1970 and 1978, attrition of Navy and Marine fighter/attack aircraft exceeded deliveries of new aircraft by 453.

In the Navy shipbuilding programs: (1) Admiral Thomas Hayward, Chief of Naval Operations, testified before the House Appropriations Committee on February 13, 1979, stating:

"Our forces are already at an irreduceable level when measured against the demands which would be placed on them in war. Any further significant decline in combatant capability would eat up our existing margin—and given the vagaries inherent in any force balance—could expose us to risks which I do not believe this country wants, or ought to undertake."

(2) To maintain the current level of 540 ships, 20 new ships a year must be delivered. H.R. 5359 provides funds for only 10 ships. The Administration five-year defense plan for FY 1981–85 reportedly calls for an average of nine new ships per year.

(3) Although the number of combatant ships in the active fleet will actually increase over the next few years as ships funded during the Administrations of Presidents Nixon and Ford are completed, a continuation of the Carter Administration shipbuilding policy for ten years or more would result in a Navy of about 350 ships. We seriously question whether a 350-ship Navy would be capable of carrying out the Navy's primary mission of maintaining maritime superiority.

(4) A Library of Congress study completed in May, 1979, analyzes the shipbuilding necessary to sustain the fleet at its present size and composition through the year 2005. In Fiscal 1980 dollars, the average annual cost of such a program would be $7.98 billion, an annual average increase of 41.6 percent over the average annual shipbuilding appropriation for the past ten years. H.R. 5359 appropriates $6.2 billion, a 21-percent shortfall.

Despite these and other data, the Committee report accompanying H.R. 5359 asserts that: "The Committee has no doubt that the funds provided are adequate in amount to finance the military capabilities required by the United States at this time." The Republican Policy Committee joins with the Minority Members of the Defense Appropriations Subcommittee in specifically disagreeing with this assessment.

The Republican and Democrat divergence in defense policy is also reflected in the respective position of each party in the Second Concurrent Budget Resolution for FY 1980. The Democrat sponsored resolution calls for a budget authority of $138.2 billion. The Republican substitute, on the other hand, recommends a budget authority of $141.2 billion an increase of $3 billion. President Carter, under duress from international developments and persuasive Republican arguments, has belatedly acknowledged the superiority of the Republican position by submitting a supplemental defense appropriation request to bring new budget authority in 1980 up to $141.2 billion.

The House Republican Policy Committee believes that the American people have the right to know the facts: The Republican party is committed to insuring that America's defense capability is second to none. Rergettably, this resolve on the part of the Democratic party seems to be sorely lacking.●

REPUBLICANS LEAD FIGHT TO DEFEAT PANAMA CANAL LEGISLATION

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. SHUSTER. Mr. Speaker, I rise today to commend my fellow Republicans in uniting to defeat the Panama Canal Appropriations Act for fiscal year 1980; 125 Republicans—87 percent of the Republicans—voted against this giveaway legislation while 173 Democrats—69 percent of the Democrats—voted in favor of it. Mr. Speaker, this is yet another example of the policies of what is—and has been for over 40 years—regrettably, the majority party in this House.

The American people have the right to know: Republicans will fight giveaway programs while Democrats continue to be the party of big spenders.●

YCC DESERVES CONGRESSIONAL SUPPORT

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. BONKER. Mr. Speaker, I would like to share with my colleagues a letter from the parents of a young man who participated in the Youth Conservation Corps. As you may know, the House recently restored partial funding for this excellent program, although the administration recommended that the YCC receive no new funds for fiscal year 1980.

I know of no better way to demonstrate the value of the YCC than to let this touching letter speak for itself:

SEATTLE, WASH.,
September 11, 1979.

Hon. Representative DON BONKER,
Longworth House Office Building,
Washington, D.C.

DEAR SIR: On August 25th we shared an experience with you that will long live as a bright beautiful day in our memories—my husband's and mine. It was at the dedication ceremony of the Wynoochee Reservoir Trail—Olympic National Forest.

Our 15 year old son, Bill Gehring, was one of the young Y.C.C. people that was involved in the project. We personally want to say "Thanks!" for our son's experience in the Corps. Being a federal program it's rather hard to decide to whom I should address this thanks. Therefore I have decided to express my feelings to you—as one who was involved in the program. If you can pass this on to a person directly associated with the administration of this program, it would be greatly appreciated.

Bill's experience began low and grew into a very special experience that he misses now that it's over. He was homesick the first few weeks. "You can come and get me if you want to", "The only good thing about this place is the food". These were some of the comments in his first letters. We left the decision completely to him—to stay or to come home. He decided to stay. We truly thank and praise the Lord for that decision on his part. He is equally grateful.

Being out in a beautiful but remote area with only the basic essentials of life—food, clothing and shelter—(no movies, stores, T.V., phone, cars, etc. etc.) has helped our young boy to grow into a young man. After the hard work of the summer he feels confident about tackling any job under any conditions. The friends he made, the things they did together were just superb. What more could we parents ask for for our son. Socially he has grown. He is not an out-going person and being accepted by the other enrollees, being part of their fun has meant a great deal for Bill in terms of positive growth. He has also learned much through the environmental education course at the camp. While he doesn't flaunt his knowledge, he shares what he has learned with us. Along with the other people of that camp he has a feeling of ownership for a piece of America—that 10 mile trail.

As far as the future is concerned, Bill talks of joining another camp next summer. . . He has spoken of logging and forestry also as future careers. As you can see, he has also been inspired.

As we think of his experience we often wish that we could have had a similar experience in our younger years. (The Army and 4–H Camp don't quite compare to Y.C.C.)

Even more so, how we are hoping our 3 younger children can one day have this fine experience. I realize the Y.C.C. program is expensive, but I truly feel it is one of the finest things our government can do for youth. We spend untold millions rehabilitating teens and adults. Here's a program of prevention—that can serve to build moral fiber, worthwhile citizenship and high quality character in a young person and ultimately for the good of America. We've seen it personally in our fine son.

We see this as reason enough to continue this fine program. Please pass these hopes and this letter on to those who make decisions for Y.C.C. Please ask them to continue the Y.C.C. program in the future.

Sincerely,

Mrs. David Gehring.●

SHATTER THE SILENCE VIGIL, 1979

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. SIMON. Mr. Speaker, over the past year, many of my colleagues have participated in "Shatter the Silence Vigil, 1979." They have spoken of Soviet Jews who have been sentenced to unnecessarily harsh and long prison sentences. I rise today to bring to your attention the case of Evgeny Baras, a Soviet journalist. Unlike many of the other courageous Soviets who have been included in this vigil, Mr. Baras is not imprisoned. He is, however, bearing the burden of another type of harassment—neither he nor his wife, who is an historical book specialist, have been able to find regular employment. Mr. Baras was born in 1947 and first applied to emigrate in 1973. His request for himself, his wife, children, and his mother, was turned down because it "was not in the interest of the state." There appears to be no evidence supporting the supposition that Mr. Baras or his wife would leave the Soviet Union with any classified or specialized information.

For every Ginsburg or Shcharansky, there are hundreds of Barases who rarely come before the public eye. As a member of the Helsinki Commission I have come to understand the importance of activities such as "Shatter the Silence," and the need to work, case by case, for the release of those who wish nothing more than to pursue religious and intellectual freedom. Our efforts may not be meeting with overwhelming success in terms of the number of Soviets and Eastern Europeans who are being allowed to emigrate, but we are offering invaluable support and visibility to the plight of thousands of people. Mr. Baras sums up far better than I can myself why we must continue to raise the plight of these people on the floor of the House, in the press and in every meeting any of us have with Soviet officials and people.

He recently wrote to a colleage, "We try not to show our anxieties—our lives and those of our friends for the past 4 years have been lived in the past and the future. In spite of all the unpleasantness and the uncertainty which multiplies by the minute, we have not once regretted that we chose this path. We have acquired so many wonderful friends that before we could not have conceived of that we now have no fears for the future. We have rid ourselves of the state of tension and anxiety instilled in us through all of these years, and in its place, there is hope of a different free world. So this is our life."

We must continue to speak out against the present Soviet policy towards emigration and use whatever means we can to bring pressure to bear in order that those such as Evgeny Baras and his family have the opportunity to pursue the religious and professional life of their choosing.●

Rx FOR SHORTAGES: THE FREE MARKET

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. PAUL. Mr. Speaker, I would like to call the attention of my colleagues to an article written by one of my constituents, Mr. Jimmy Spurlock, president of the Texas Pipe-Bending Corp. Although it is brief, the article makes a number of excellent points. I wish the Congress showed as much acquaintance with the principles of economics as Mr. Spurlock does.

The article follows:

Rx for Shortages The Free Market

"Demand and supply in the long run are adjusted and production is directed only by movements of prices; if what should be flexible in the economic system is made rigid, there comes disequilibrium and a breaking strain."—Sir William Beveridge

After six years of rigid government control of our major domestic energy supply sources, "disequilibrium" seems to have become a way of life, and a "breaking strain" becomes an ever-increasing possibility. Even so, there now is a strong push to increase the role of government in the field of energy and in the related field of transportation.

Government clearly is not suited to exercise such control of the economy. But familiarity more often breeds acceptance than contempt.

Vice is a monster of so frightful mein,
As to be hated, needs but to be seen;
Yet seen to oft, familiar with her face,
We first endure then pity then embrace. —Alexander Pope

We have become so familiar with the untoward face of government in our daily lives that we have trouble resisting government's natural tendency to extend its control into regions beyond its proper sphere of concern or its area of competency.

There are many reasons why increased government involvement in our present energy shortfall is the wrong approach and why only the free market offers the means of bringing some semblance of stability and order and genuine accomplishment to this troubled area.

In a truly free economy, all elements that make up the market are free to move both up and down, to expand and contract, to relocate at the instance of natural pressures that are forcing them. In such an economy, prices are free to move with the pressure changes of the consumer supply-demand market, wages are free to move with the pressure changes of the labor market, and profits are free to move with the pressure changes of the competition market. In this infinitely complex and constantly adjusting process, each element is free to adjust to its proper position in the equation to maintain balance between supply and demand.

Whenever a supply-demand imbalance begins to develop, all elements in the equation move with the flow, thereby meeting the developing imbalance step by step. Price increases and price decreases take place in tandem with changes in the supply-demand elements, smoothing out transitions as painlessly as possible.

In any situation where a supply of something "necessary" is being depleted, such as gasoline, as the supply dwindles, a free pricing mechanism constantly adjusts to allocate that dwindling supply. If other factors in this complex system remain fairly constant, the price of this "necessary" item escalates in a natural manner correspondent to the state of the supply. Price then becomes an accurate reflection of the level of supply relative to the consumer demand for the product.

This price escalation brings in its wake the conditions that promote the development of alternate or substitute products. New products are typically expensive in their early stages of development. But as the price of the older product increases, alternate products in their various stages of development become increasingly price-competitive. To the extent that the price of the older product is held at an artifically low level, to that extent the development of alternate products is hindered.

By holding gasoline prices down to an artifically low level, our federal government has delayed the development of practical fuel alternatives, as well as alternatives to today's gasoline-fueled combustion engine. What alternatives would have been seriously researched and funded and what their present stages of development would be are known only to the omniscience of God. But there is no doubt that we would be further down the road to having practical alternatives if price had been allowed to move freely and thereby to exercise its proper meliorating role in the equation. Until now, the development of such alternatives simply has not had sufficient financial incentives.

Government intrusion into the pricing mechanism of the free market causes malfunction of the intricate natural process and forces the natural rhythm of the market into irregular gyrations, like a wheel out of balance. Typically, the controlling government agency's answer to the government-created imbalance is not to remove the misplaced balancing weight, but to place another weight on the wheel to counterbalance: more controls to deal with those problems that the original controls created, or if a small dose of controls aggravates the problem, a larger dose is needed. Hair-of-the-dog syndrome.

The obvious result of government holding the price of a commodity below its natural market level is a short supply of that commodity. A not-so-obvious result is a disastrous misallocation of resources, which compounds the problem.

To provide for us in our necessities is not in the power of government. It would be a vain presumption in statesmen to think they can do it. The people maintain them, and not they the people. It is in the power of government to prevent much evil; it can do very little positive good. . . .—Edmund Burke

The proper role of government in a free market is not to control production or allocation, not to determine what is a "fair" price, not to set limits on profits, not to establish elaborate programs to develop synthetic fuels; rather, it is to see that the rules of the game are observed and that all elements in the free market equation are free to move with the flow. All elements must remain free to give their proper signals so that there will be a proper allocation of resources. Only in this way can the market apply its correctives.

A free market economy, with its flexible, unfettered pricing and profit incentives, is more than a system that creates great wealth for some individuals and prosperity for a nation. It is a problem-solving mechanism. The free flow of changing price relationships identifies the needs and desires of society; and methods to supply those needs and desires are caused to be initiated as capital investment is constantly shifted in search of profit.

Such a market is totally objective. It serves those businesses that are effectively and efficiently supplying the dictates of the consuming public, expressed through millions of individual daily purchases. And those businesses that are not effectively and efficiently supplying those dictates, the free market ruthlessly eliminates. The free market plays no favorites.

Today we have federally mandated thermostat settings and cars lining up at gasoline pumps. There also is much talk of a heating oil shortage this winter. Meanwhile the politicians, the bureaucrats, and the news media berate OPEC, oil companies, "gas guzzlers," fast drivers, and the generally wasteful habits of the American people as the culprits of our present predicament. Largely ignored is the fact that the oil companies have labored under direct government price controls since May of 1973. It has been said that if the government controlled the supply of sand, the Mojave desert would soon run short.

What is the solution to the problem? The President and his advisors and the Congress struggle to develop an "energy policy," the enactment of which would mean, of course, more laws, more planning, more bureaucracy, more money, more controls, more political logrolling, more confusion, and eventually more of everything—except energy. Poor Mr. Schlesinger. He never had a chance. Neither he nor anyone else could possibly have succeeded at the task he had been given. The old African tribes had their witch doctors who could expect to be replaced when their "magic" failed; and now we have our energy czars. We've come a long way, baby!

How shall we allocate resources? What synthetics shall be develop? What transportation alternatives shall we fund? These and other such questions are so fraught with constantly adjusting interdependent conditions that no genius or committee of even the most brilliant planners could come up with political decisions that would offer genuine solution. The larger and more complex a society becomes, the greater is its need for a free economy. The millions of people who live in this nation are making daily decisions for their own personal lives that continuously alter the national economy equation. All-encompassing political decisions, by their very nature, are too rigid to adjust quickly to these variables. Only the free market can do that. The idea that the economy of this nation can be effectively controlled from the top is just another "vain presumption."

The statesman who should attempt to direct private people in what manner they ought to employ their capitals would not only load himself with a most unnecessary attention, but assume an authority which could be safely trusted to no council and senate whatever, and which would nowhere be so dangerous as in the hands of a man who had folly and presumption enough to fancy himself fit to exercise it.—Adam Smith

There are no overnight solutions to the energy problems that we have allowed to accumulate and which now press upon us with such force. At best, we are doomed to pay the consequences of our past folly for years to come.

Cabinet shuffling and fine-tuning of present policies will get us nowhere. Solution in this instance begins with a fundamental change in approach to the problem. The time has come that the American people, the President, and the Congress must realize that our energy problems are too great to be handled by decrees from Washington. These problems are with us today largely because of too many years of too many controls. They cannot now be "controlled" out of existence.

If the politicians are serious about finding solutions, they first must summon the moral courage necessary to level with the American people and admit that the problem is too big for them—then toss the entire energy package into that great, neglected, problem-solving mechanism, the free market. There is no other method adequate for the task.●

BREAKTHROUGH REPORTED ON HURRICANE PLOTTING

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. FUQUA. Mr. Speaker, with two major hurricanes—David and Frederic—having recently been in the news, now seems an appropriate time to pay the tribute due to the fine personnel of the National Oceanographic and Atmospheric Administration, whose timely and accurate forecasting resulted in the saving of an inestimable number of lives along the Atlantic seaboard and the gulf coast.

We have learned much about the nature of hurricanes over the years, but there is still much to be learned about these monstrous and dangerous weather phenomena.

Because my congressional district is exposed to hurricanes, I count myself extremely fortunate to be chairman of the House Committee on Science and Technology which in several ways has an impact on severe weather forecasting.

One of the committee's prime responsibilities in this field, of course, is the authorization and oversight responsibility it has for the National Oceanographic and Atmospheric Administration. The committee has similar responsibility for aircraft development, including the hurricane spotters which so courageously fly into the center of the swirling storm to chart its strength and course. As the committee with authorization and oversight responsibility for NASA, we have impact on the development of weather satellites which so graphically show the formation and intensity of the hurricanes.

And, as the committee with authorization and oversight responsibility for the National Science Foundation, we have been responsible for funding research into more exact severe weather forecasting techniques.

I am proud to report today on what appears to be a significant new breakthrough in determining the projected path of hurricanes.

Under a program supported by the National Science Foundation, scientists at Colorado State University have been studying hurricane movements in the Western Atlantic and the Caribbean between 1961 and 1977.

The recent report by these scientists suggests that projected hurricane trajectories—particularly imminent changes of direction—can be foretold by measuring wind flow on a large scale 300 to 600 miles away from the center of the storm and at heights ranging from a half mile to about 8 miles.

Those of us from districts and States which are frequent targets of hurricanes have grown up with the knowledge that one of their most dangerous features is their tendency to turn suddenly from what seems a set course and to make a landfall scores or even hundreds of miles away from where their trajectory was predicted 24 to 36 hours previously. This unpredictability can have awesome costs in human death, suffering, and property loss.

Dr. William M. Gray of Colorado State University's Atmospheric Science Department said his group's research found that when a tropical storm is going to veer left, winds in the direction in which the storm is currently moving are significantly stronger at upper levels than at lower levels. When winds are stronger at the lower levels, the storm is likely to turn to the right. Straight moving hurricanes do not show such wind speed changes at the different heights, Dr. Gray said.

Dr. Gray said the wind speed differences can be measured by existing weather satellites by tracking clouds.

Accurate forecasting of hurricane landfalls would be a major saving for individuals and for State and local governments. The National Hurricane Center in Miami estimates the average cost per mile of hurricane preparation is $100,000 in the area from Brownsville, Tex., to Key West, Fla. Hurricane warnings are now issued for areas extending 300 miles on both sides of the projected path of a hurricane, putting total cost at about $30 million for each hurricane.●

CONGRESSIONAL SALUTE TO PATERSON LODGE NO. 60 OF NEW JERSEY BENEVOLENT AND PROTECTIVE ORDER OF ELKS, AND ITS GOLDEN ANNIVERSARY SERVICE AWARD MEMBERS

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. ROE. Mr. Speaker, on Saturday, September 29, the Paterson Lodge No. 60, Benevolent and Protective Order of Elks, located in my congressional district, State of New Jersey, will assemble in testimony to its most distinguished members who will be celebrating their 50 years of membership in Lodge No. 60. I know you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to these outstanding citizens who have labored in the vineyard with their brother Elks in many, many social, civic, and charitable endeavors over this past half century in service to our people.

Mr. Speaker, these outstanding members of Elkdom who have served their membership and the people of our community with their leadership endeavors are, as follows:

The Honorable: Charles Villa, Joseph Hinchliffe, Stewart R. Todd, Leo W. Elrich, P. ER. John B. Murphy, Thomas Bax, Franklin Westervelt, Charles A. Veronelli, Dominick Laguosa, Ralph Brustlin, Peter J. Rescigno, William J. Albonica, Gustav Susslin, John V. Campana, Sr., P.D.D., Charles Marx, George E. Klepper, Herman W. Inperatori, Herbert H. Aufille, Cosmo Indiviato, Arnold A. Nunnink, Paul J. Riva, Frederick K. Hearn, Leo J. McCrane, Emil Glatly, Julian V. Hulser, Frank L. Simone, D.D.S., Robert Beggs, William Kernan, J. Hubert Keller, Harry F. Claceys, Harry Scott, Louis Mary, Edward Folio, George J. Ruocco, Sr., John M. Broe, Louis J. Bohl, M.D., Arthur P. Campana, Edgar Tier, and Thomas Tanger.

Mr. Speaker, may I also commend to you the esteemed officers of Paterson Elks BPOE No. 60 who are also exemplary community leaders and highly reputable citizens comprising the Executive Committee of Paterson Elks No. 60, as follows:

The Honorable: Nicholas M. D'Ascheberg, Exalted Ruler, Frank Strassner, Esteemed-leading Knight, Lawrence Fisher, Esteemed-Loyal Knight, Robert Ramaglino, Esteemed-Lecturing Knight, George Triano, Secretary, Joseph J. Wallace, Treasurer, John Golon, Esquire, Donald G. Smith, Chaplain, Patrick Giglio, Jr., Inner-Guard, Joseph La Spada, Tiler, Edward Fedush, Organist, Howard McNeil, Trustee, Walter Mueller, Trustee, Edward J. Ries, Trustee, Thomas J. Ryan, Trustee, Howard E. Lotterman, P.E.R. Trustee, and William J. Rosenberg, Trustee.

Mr. Speaker, the charitable and benevolent activities of the Elks span the needs and concerns of all of our people—young and adults alike—and we are especially proud of their generous contributions to God's special children who are physically handicapped and their national foundation benefits to local area students.

The Paterson Elks BPOE No. 60 is well identified with its devotion to Americanism and patriotism and we are most appreciative of their outstanding work with the Passaic County Elks Cerebral Palsy Center located in my congressional district in Clifton, N.J.

Mr. Speaker, we are all highly aware of, and applaud the vast humanitarian work that is being carried out by the Elks and I appreciate the opportunity to seek this national recognition of the BPOE Paterson Elks Lodge No. 60 for the excellence of their contribution to the American way of life and the American dream.

It gives me great pleasure to commend to you the "golden anniversary" membership of this most prestigious organization who have given willingly and unselfishly of their time in helping to bring happiness and contentment to others through their benevolence and understanding, promulgating the spirit of brotherhood and goodwill throughout our community. We do indeed salute the officers and members of Paterson Lodge No. 60 of the Benevolent and Protective Order of Elks and join with them in honoring their members with 50 years of service which have truly enriched our community, State, and Nation.●

THE FEDERAL ROLE IN TESTING

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. GOODLING. Mr. Speaker, over the last few weeks I have attempted to draw my colleagues' attention to some well-intended but seriously flawed legislation under consideration by the Elementary, Secondary, and Vocational Education Subcommittee. I am referring to legislation which would force standardized testing agencies to report to the Commissioner of Education after each administration of a test on how well the students have performed. The required information must include, among other things, a copy of the test and the corrected answer sheet; a breakdown of student performance by race, income, sex, geographic region; the terms of the testing agency's contract with its customers. In addition, the bill would require that anyone who takes an entry test for college, graduate or professional school is entitled to get a copy of the test, along with their own answer sheet and a copy of the correct answers. Indeed, during testimony, some witnesses have proposed combining the two proposals currently before our subcommittee. This would have the net effect of extending these disclosure procedures to cover any standardized examination used for admission to any occupation or licensed profession in the private sector.

I have argued that the proponents of the proposed Federal testing legislation have not been able to demonstrate that a public emergency exists in connection with the standardized testing process. Since the proposed legislation has been modeled on legislation recently enacted in New York State which is not scheduled to go into affect in New York until January 1980, Congress ought not to act hastily. Indeed, one is shocked by the apparent unwillingness of the proponents of this legislation to allow the genius of federalism to operate in this case. As you know, a major benefit of our Federal system is that State governments can experiment with new ideas and programs without involving the entire Nation. I have seen too many well-intended legislative initiatives end up creating unanticipated hardships and complications for the very people they were designed to serve. How can we be reasonably sure that the proposed disclosure of the actual standardized test questions will produce benefits that will far outweigh the potential negative consequences noted by critics of the legislation? If the idea stands the test of time in New York State, then we can have a basis for a true evaluation of the Federal proposal. I believe that hasty Federal action in a nonemergency situation is not only unwise, it is irresponsible.●

ENGLISH IN OUR SCHOOLS

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. COLEMAN. Mr. Speaker, last year the Congress reauthorized the Bilingual Education Act. The purpose of that act is to bring children less than proficient in the English language the opportunity to gain a proficiency in English in order that all educational opportunities available to English-speaking children not be denied them.

This admirable goal reflects the great commitment that was embodied in the Civil Rights Act of 1964: An integrated society providing equal opportunity to all citizens, regardless of race, color, or national origin.

When the Civil Rights Act of 1964 was enacted, an argument that its mandate of nondiscrimination required separate treatment of non-English-speaking American citizens would have been considered absurd. In 1979, I regret to say, just such an argument is being made, by the Department of Health, Education, and Welfare, and by several courts around the Nation.

The most recent pronouncement relating to bilingual education occurred on July 12, 1979. In a case entitled Martin Luther King Junior Elementary School Children against Ann Arbor School District Board, Judge Charles W. Joiner held that teachers in the school must be instructed in what is being called "black English" in order that the teachers may better understand the students. This seems to me not only an abandonment of common sense, but a step away from the goals of the Civil Rights Act of 1964.

While "black English," which is considered by linguists to be several regionally-based dialects rather than a separate language, is not presently considered a language for purposes of the Bilingual Education Act, I fear that the Ann Arbor decision could lead to that development. Such a development could have tremendous consequences for the future of our country. For this reason, I would like to share an editorial by Marvin Stone of U.S. News & World Report, which outlines some of the major emerging issues involved in bilingual education.

The editorial follows:

ENGLISH IN OUR SCHOOLS

(By Marvin Stone)

A U.S. district judge in Michigan has handed down a decision that could lead to new and pervasive federal intervention in local schools.

So far, it means only that one elementary school in Ann Arbor will have to educate teachers in "black English," so that they can better understand and fairly evaluate students who speak this dialect.

But experience indicates that the eventual result might be a requirement for such students all over the country to be taught in classes that use the dialect—with guidelines and manuals, elaborate forms to be filled out and a network of national and regional monitors.

That may not take place. We hope not. It is close, however, to what has happened with students whose native languages are foreign. Federal controls grow by processes not always seen or understood by the people of the U.S., and it is fair to ask if what the people get is what they really want.

Bilingual-education arguments stem from the Civil Rights Act of 1964, which says:

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

In the Great Society days of Lyndon Johnson, many thought this meant just that you had to treat everybody the same. But the Department of Health, Education and Welfare reasoned that schools must therefore give special aid to non-English-speaking students so that they could take advantage of the education offered.

In 1974 the Supreme Court concurred. And though the Court did not grant it in specific words, HEW took the ruling as authority to require that schools not only teach children to understand English but, meanwhile and for a fairly extended period, teach them general subjects in their original tongues, so they they would not fall behind. Withdrawal of every type of federal aid—even down to school lunches—can be the penalty for violation.

Effects of this approach have brought trauma to school boards and superintendents already wrestling with heavy problems. One Eastern district, for instance, enrolls students speaking 50 foreign languages, about half of these in numbers high enough to come under HEW requirements. The district would be hard put to find teachers of all these languages, and it has estimated the cost of meeting HEW demands at 5 million dollars a year. Local authorities were proud of their program to aid foreign-speakers, but HEW said it would not do.

HEW's bureaucrats have been spreading paper work, uncertainty and disruption. It's time for them to take a new look at the best interests of the children and the country.

Any prospect for teaching in black English lacks unanimous favor among black leaders. Some fear that it would handicap blacks by diminishing their grasp of the standard language they need for advancement.

Surveys fail to prove that a child gets ahead faster if taught in his or her original language. They do show that the child lags in English, lacking the incentive to learn.

Thus, although we share some of the concerns of HEW, we question whether bilingual teaching is inevitable, whether it has to be so widespread or last so long and whether legally or morally the law has to be so drastically interpreted. The country already exhibits tendencies to break up into minorities that speak their own languages and live to themselves. There are persons who hail this as progress toward a plural society, but what it may really amount to is a hodgepodge that can't work together as a nation.

That is why we would like to hope that HEW, in its current review of policy, will try to reverse the trend to separatism: Shorten dependency on bilingual classes and switch the emphasis toward teaching of English.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following votes on Friday, September 14. If I had been present, I would have voted the following:

Rollcall No. 470, no; No. 471, no; No. 472, no.●

THE LESSONS OF NEW YORK CITY CAN BENEFIT THE ENTIRE COUNTRY

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. GREEN. Mr. Speaker, a recent article in the Nation's Cities Weekly, a magazine for people interested in urban problems, outlines the many contributions in approaching urban problems that have come out of New York City. The Big Apple, by virtue of its very size, confronts a wide variety of housing problems, often in advance of the rest of the country, and the lessons it learns can benefit cities across the Nation. I urge that my colleagues review the following article:

ATYPICAL BIG APPLE LEARNED LESSONS OF DESIGN ADMINISTRATION YOU CAN USE

(By William R. Drake)

Can a city as large, as complex and as unique as New York provide useful models for more typical American cities and towns? In the case of local design administration, the answer is yes.

Beginning in the mid 1960s, behind Mayor John V. Lindsay's leadership, and continuing through the Beame and Koch administrations, New York City launched a series of policy, regulatory and administrative initiatives that have had a considerable impact on design quality. The city's objective was to change the decisionmaking process and create incentives for private developers to include facilities, public amenities or esthetic features in both new construction and in the reuse of existing structures.

Mayor Lindsay's first step was to appoint, soon after he took office in 1966, a task force on urban design. The distinguished members of this task force recommended that the city establish a mechanism to face design questions and phase out the existing practice of relying on outside consultants for design guidance.

The immediate result of these recommendations was the creation of an urban design group within the City Planning Commission, a very powerful body. Established with the full support of the mayor and the chair of the planning commission, this group began to experiment with administrative processes that could raise design considerations at the highest policy levels.

The tools and techniques subsequently developed by the urban design group have served as a primer for numerous other cities during the past ten years.

One of the most powerful tools proved to be the zoning code, which has been described by Jonathan Barnett, then the director of the urban design group, as too long "the province of the lawyer, the surveyor and the municipal engineer." In the hands of the urban design specialists, incentive provisions in New York City's zoning ordinance were used as leverage in negotiations with private developers. Restrictions on height, bulk and floor space were modified in return for concessions from the developer providing for plazas and public spaces.

A variation on zoning incentives with impact beyond a specific site was the special zoning district. New York's theater district was the first area designated for special zoning regulation. Zoning incentives providing increased bulk or height and a special permit process stimulated the construction of several stage theaters within new office buildings. The technique of special zoning districts was then applied to a major office center in downtown Manhattan, to the area surrounding the Lincoln Center for the Performing Arts, and to the Fifth Avenue commercial area. In each case the use of special zoning districts helped create a better mix of office, commercial and residential development and far better public spaces than would have been possible without special controls.

Controlling the design of new development was complemented by new approaches to rehabilitation and reuse of existing structures and historic areas. Perhaps the most creative incentive for preservation was the transfer of air rights above an historic structure to adjoining properties. Developers of adjacent properties were offered a portion of the bulk which might have been constructed on the historic site and were permitted to increase the bulk of an adjoining structure.

The urban design group broke ground on several other approaches which cities have (or should) emulate. Joint development of public transit connections to create economic uses, air rights development over rail and highway corridors, citizen participation mechanisms, decentralized design staffs dispersed among city agencies concerned with development, and design review processes were among them. Perhaps most significant in the long run was the city's role in creating a new profession of the urban designer—part architect, part planner, part negotiator, part administrator and coordinator.

As a model, New York's early efforts at urban design administration demonstrated several important principles; political and executive support is crucial; a lead agency is essential; zoning controls and incentives are a logical place to begin; an understanding of the economics of development and a willingness to deal with developers in economic terms is important; the needs of the community must be taken into account and community support can make or break the best conceived design efforts. Finally, and most important, no matter how complex its political and administrative setting, a city that commits itself to design quality can create a better urban environment for the city and its people.●

THE HEAT ON THE FTC

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. STARK. Mr. Speaker, I would like to call to the attention of my colleagues an editorial which recently appeared in the Sacramento Bee regarding the fashionable attacks on the Federal Trade Commission and its chairman, Michael Pertschuk.

A word of caution is probably in order for those Members of the Congress who would use the FTC as a target for budget-cutting and accusations of over-regulation. In our national fight with inflation, when corporate profits are up to five times higher than the wages of the American worker, it will be hard to explain to constituents why the Congress ought to castrate the FTC, which is the only pro-consumer agency in the Federal Government. Very simply, the FTC has, through its various actions, sought to reduce the cost of goods and services for this Nation's oppressed consumers.

Attacking the FTC is a response to the corporate and industry interests whose practices mean higher and fixed prices, reduced competition and fewer choices in the marketplace. If you would want to disable our system of free and honest enterprise, then dismantling the FTC is the best place to start:

THE HEAT ON THE FTC

Congress is awash with proposals to put crippling restraints on the Federal Trade Commission which has become militant under its current chairman, Michael Pertschuk.

Lobbies for businesses affected by commission actions have joined the U.S. Chamber of Commerce and the National Association of Manufacturers in a three-pronged attack that would give Congress the power to veto all FTC regulatory actions; eliminate or reduce FTC funding for "public intervenors," outside groups paid with federal funds to present testimony before the FTC that would not otherwise be given; and stop the commission from proceeding with regulatory actions, rulemakings, investigations and lawsuits against specific business interests.

No less than a dozen amendments have been tacked on to Senate and House bills to authorize next year's FTC budget. Moreover, a group of conservative senators who call themselves the Senate Steering Committee has set up what amounts to an amendment factory. They have all but invited those with grievances against the FTC to suggest additional amendments to the FTC's budget authorization bills.

Critics charge Pertschuk has used federal funds earmarked for intervenors in FTC proceedings to bring in only those whose point of view is identical with that of the FTC. However, a study by the majority and minority staff of the Senate Appropriations Committee contradicts the charge, stating that the intervenor program funds are administered fairly.

There is good reason for Pertschuk's militancy. In past years lobbyists could make peace with the commission directly or go to the White House and have the administration put an arm on the commissioners. Under Pertschuk this is no longer possible. Now business interests are trying to weaken the FTC by going to Congress and, since the business lobbies are riding the crest of an anti-government, anti-bureaucracy, anti-regulatory wave, the FTC has become the whipping boy for any group encumbered by federal regulations.

The FTC's new militancy almost certainly makes the burden of complying with federal regulations, admittedly burdensome in many cases, even more difficult. In light of this, Congress has the obligation to see to it that the regulatory process is reasonable and efficient. To this end, Sen. Wendell H. Ford, D-Ky., who chairs the commerce subcommittee which has authority over the FTC, has scheduled hearings later this month when complaints about the agency will be heard.

By and large, however, the FTC is doing the job it ought to be doing—trying to keep business honest. Although militant federal regulation is not the ideal way of achieving that goal, some businesses have, invited FTC militancy. Until the businesses that the FTC has been concerned about change their policies voluntarily, a militant FTC is needed, not only to protect the consumer but, just as important, to strenghen honest competition and protect the honest competitor in the marketplace.●

ROY SILVER

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. WOLFF. Mr. Speaker, it is with profound regret and deep personal sorrow that I call your attention and that of my colleagues in the House of Representatives to the untimely death of Roy Silver, a dear friend and distinguished journalist with the New York Times.

During his long and dedicated career as a newsman with an unswerving devotion to recording the truth, Mr. Silver lived and worked hard to uphold the highest standards of a free press. He went about his daily reporting tasks to chronicle the people, places, and politics of Long Island with an enthusiasm that was matched only by his sense of accuracy and fair play. His stories and columns truly reflected the Times' credo—"All the news that's fit to print."

My sympathy and thoughts today are with his widow, Marge, and his son and daughter of whom he was so proud, and with his many friends of the "fourth estate" who will miss him very much. The Nassau County pressroom will never seem the same without Roy Silver.●

GROVER C. "ZIP" LITTLE CONSERVATIONIST

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. RAHALL. Mr. Speaker, I wish to take this opportunity to pay tribute to one of the greatest conservationists of our time who passed away yesterday, September 24, 1979, Mr. Grover C. "Zip" Little of Kenova, W. Va.

For the past 20 years, "Zip," as he liked to be called, was active in a number of conservation organizations in my district and throughout my State and our Nation. He was the founder of the mid-Appalachian Environmental Center and a member of the Sierra Club. During the last 10 years he had been a member of the Izaak Walton League, holding such offices as president and field representative.

"Zip" is most noted for his involvement in seeking responsible surface mining laws. A leader in this and many other conservation issues, he always persisted, no matter what or who his opposition was.

He never took full credit for anything he accomplished. By directing the praise toward others "Zip" hoped this would encourage people to work harder. In his profession "Zip" was known as one who had a true feeling of what opinions the public held and most importantly, how a certain goal might be achieved. He possessed a vast amount of knowledge on environmental issues, often being consulted by opinion leaders for his views.

His love for mankind and the beauty of our land did not end with his quest for a clean environment. "Zip" was one of the major forces behind "Green Acres," a school for mentally retarded children and for this he is to be highly commended.

Our reward has been to know and see the work "Zip" has done for us. Let each of us go forth and continue the work that our beloved friend has started. May his family and friends take pride in the high esteem in which "Zip" was held by all who knew and worked with him.●

THE COST-PRICE SQUEEZE CONFRONTING THE FARMER

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. DASCHLE. Mr. Speaker, for many years farmers have been cautioning the country about the problems that will exist if the downward decline of the number of family farmers continues along its present course. Recent Census Bureau statistics indicate the number of farms to be 2.34 million nationwide, down from the high in 1935 of 6.8 million.

The blame for this demise can be laid on a number of different factors, the foremost, perhaps, lies with the cost-price squeeze confronting the family farmer.

General Accounting Office estimates indicate that of the total sales on small farms, nearly 67 cents per dollar is earmarked for operating costs. The same study indicates that only 1 year (1973) did the income received by farmers exceed the income received by off the farm workers.

Further complicating the cost-price squeeze is that of machinery costs and repairs. Today a new tractor or similar priced piece of machinery is more expensive than a typical farm of 30 years ago.

Peter Waletich, one of my South Dakota constituents from Langford S. Dak., recently wrote to me to explain a first-hand experience he had recently with the cost of machinery repairs. I ask that the entire text of Pete's letter be entered into the RECORD so that my colleagues may have the benefit of reading a first-hand experience dealing with the cost-price squeeze and the burden that machinery repair costs places on that squeeze.

The letter follows:

AUGUST 9, 1979.

DEAR CONGRESSMAN: I'm sending you an example of a number one rip-off that happened to me when I purchased some parts for my combine.

I've asked myself, why would there be a difference of $41 for a simple one inch shaft that is 36 inches long with four holes drilled in it.

I know people need a profit in their business to survive, but how much do they need before it becomes classified as greed or a rip-off.

When the parts man told me the price of $52 for this simple shaft it kind of stunned me, but then it made me somewhat inquisitive as to the real value of it. Not being satisfied with this $52 figure, I went to a welding shop where I purchased a one inch by thirty-six inch shaft for seven dollars. In order to get the holes drilled evenly I had to take it to a local machine shop where he drilled the holes for four dollars or a total of eleven dollars as compared to fifty-two. I'm sure that the two places also made a profit on their services.

What really makes me wonder is after reading the enclosed article on the President's salary of the International Harvester Company, why does the International Harvester Company need an excess profit of 472 percent?

How long is the production part of agriculture going to be out front pulling the wagon?

Remember whenever there are more people in the wagon than out front pulling it's going to get bogged down—when this time comes it's going to make the 1930 depression look like Sunday School. Mainly because in 1929 people still wanted and could do a days work for a days salary.

It seems to me farmers need an incentive to work for. Once the incentive or drive is taken away we are heading down the road to high, high food prices. If we are going to let the big conglomerates get a foot hold in the production portion of agriculture plus the high fuel costs, which we have already experienced. Look into the magic ball and tell me who is going to produce the food for our tables ten years down the road at a reasonable price that we Americans can afford to pay.

Now what incentive is there for a young American to go into the production part of agriculture at todays prices?

Sincerely yours,

PETER H. WALETICH.

[From the Wall Street Journal, Dec. 21, 1977]

International Harvester Company (IHC) hires a new president—took Archie R. McCordell away from Xerox. Mr. McCordell is to be paid $460,000.00 per year. This is the small part. He received $1.5 million bonus for coming to Harvester. They loaned him $1.8 million to purchase 60,000 shares of common stock at 6 per cent interest. He doesn't have to repay it at all if certain goals are reached over the next seven years. Mr. McCordell was given an 11-year deferred compensation package. This provides awards of $100,000 at the end of each of his first three years and $175,000 at the end of the next eight years. Also increments will accrue on the awards until paid, of course he loses some of this if he leaves before Nov. 1, 1983, and, of course, Mr. McCordell's moving expenses were paid.●

ELIMINATE THE FUNDING OF "ALL" NOT JUST "MOST" NONTHERAPEUTIC ABORTIONS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. MAZZOLI. Mr. Speaker, when the House takes up the fiscal year 1980 continuing resolution, it is anticipated that an effort will be made to weaken the restrictions on the Federal funding of medicaid abortions.

The language in the resolution, as reported by the committee, will allow medicaid funding of abortions only when the mother's life is in danger.

The only alternative language made in order under the rule is the provision in current law which allows Federal funds to be used for abortions under a variety of conditions limited largely only by the discretion of local authorities and medical personnel. This is basically abortion-on-demand.

We have debated this question many times in this Chamber and each time, the House has remained firm in its support of the principle that taxpayer dollars should not be spent to pay for abortion-on-demand. The House should remain firm in that position today.

While proponents of the milder substitute language claim that this language has drastically reduced the funding of nontherapeutic abortions, the statistics are open to question.

In any event, the House should eliminate the funding of "all" not just "most" of the nontherapeutic abortions.

Finally, I want to emphasize to my colleagues that this is possibly the most important vote we will cast on this question, this year.

While this resolution is effective only until December 31, 1980, the impasse over the fiscal year 1980 HEW appropriations bill makes it likely that the language we approve will govern the medicaid-abortion program for the entire fiscal year 1980.

If the House votes today to support the committee's position then we will have voted to protect the unborn for another year.

I urge the rejection of the amendment.●

CAPITAL COST RECOVERY ACT

HON. EUGENE V. ATKINSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. ATKINSON. Mr. Speaker, today I am introducing a bill which would amend the Internal Revenue Code of 1954 to allow the rapid amortization of federally required capital expenditures. The purpose of this bill is two-fold. First, it will allow businesses to recover capital expended toward the purchase of Federally required equipment. Second, it will hasten industry compliance with Federal standards.

The bill would permit a 12-month amortization period for the depreciation of federally required capital expenditures. There is a provision in the bill which would also permit such expenditures to be claimed as tax credits under the Capital Cost Recovery Act, also being considered by the House of Representatives. The result is that the purchase of federally required equipment is made even more attractive to businesses and even more capital is recovered for such purchases. The recovered capital is then available for reinvestment. This serves to stimulate the economy without increasing inflation.

Besides returning large amounts of capital to industry, the tax breaks offered by this bill will make business and industry more likely to comply to Federal standards as directed by the Environmental Protection Agency, Occupational Safety and Health Administration, and the Department of Energy. Industry compliance in these areas benefits every American. The reasoning behind the tax incentives for compliance is as follows: Since each citizen benefits from compliance with Federal standards, then the entire burden of the cost of compliance should not be borne entirely by the industry. This bill will help industry meet the cost of compliance and the result will be beneficial to everyone.●

THE REVOLT AGAINST KEYNES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. McDONALD. Mr. Speaker, it is always nice to have one's beliefs vindicated in one's own time. Evidently, this is happening to Prof. Friedrich A. Hayek, a leading exponent of the so-called Austrian School of Economics. He is pictured on the cover of Forbes business magazine of October 1, 1979, holding a copy of his most famous book, the Road to Serfdom, with the title used for this item. This is particularly significant since Forbes magazine has wobbled and wandered over the years in its support of the free enterprise system. Von Hayek's message is now being listened to with new respect. He has stressed that socialism in economics, as practiced by Keynes, or socialism in government, a la the national socialism of Hitler or the marxian socialism of communism, both defy the basic law of economics and degrade man and his individuality. The article in Forbes describes Von Hayek's work and his influence on other contemporary economists. Unfortunately, the article does not mention one of the leading American proponents of the Austrian School of Economics, Dr. Hans Sennholz of Grove City College in Pennsylvania. However, the overall content of the article is excellent and I commend it to the attention of my colleagues.

The article follows:

WAVE OF THE PAST? OR WAVE OF THE FUTURE?

(By Lawrence Minard)

We were the forerunners of a new dispensation, we were not afraid of anything.

It was 1938 and John Maynard Keynes was reading aloud to a dozen fellow members of his Bloomsbury set—aesthetes, scholars, artists—some lines from his autobiographical memoir, My Early Beliefs. Keynes' The General Theory of Employment, Interest and Money was now three years in public hands and its impact was enormous. In the lines above Keynes was talking about Bloomsbury, not about the book, but no matter, that's what he believed in: A new dispensation, led by an elite of intellectually beautiful people to rescue the world from its ingrained harmful habits.

Starting in Harvard's economics department and with the American New Deal as a laboratory and, soon, World War II, Keynes' economic doctrine soon conquered the world. Its message was comforting: By simply manipulating overall economic demand, a government could perform what became known in later years as fine-tuning the economy. No longer were politicians helpless before the inexorable twists of the business cycle, no longer were they limited by rigid natural laws in what they could deliver to the voters. Economists—not inexorable forces—were in charge. Keynes himself wouldn't recognize much of what is done today in his name, but there is no doubt that he showed economists and politicians what looked like the way to run the economy like a machine.

Even that avowed conservative Richard Nixon, during his presidency, capitulated to the interventionist doctrine. "We are all Keynesians now," he said.

Nixon's timing was terrible. When he said that, Keynes' star was already waning. The economist's followers had no answers for stagflation—in fact may have been to blame for it.

Only a theory replaces a theory, however. With the Keynesian theory crumbling around us, is there an alternative to Keynes' "new dispensation" for looking at the world?

Increasingly these days, we hear about the conservative (or neoconservative) alternative to Keynesian economics. But that has a warmed-over taste to it; somehow it doesn't satisfy. Perhaps that is because it is so, so second-hand. Thinking such thoughts, the editors of Forbes decided it was time to interview Friedrich August Hayek, who offered the world an alternative to Keynes before the world was ready for such an alternative. To Hayek the economics practiced in the name of Keynes is simply a face of socialism and socialism itself simply a face of totalitarianism.

Born in Vienna in 1899 (his father was a biologist), Hayek was in the direct line of the great Austrian School of Economics. In 1931 he went to Britain to teach at the London School of Economics. There, in the waning years of World War II, he wrote his most famous work, The Road to Serfdom. In it, he warned intellectuals that they were wrong to think of the hated Nazism as a last-ditch defense of privilege by a dying capitalist system. Nazism was, he said, quite simply a peculiar form of socialism—and socialism was the real enemy of free people.

The book was written too soon. Respected but neglected, Hayek moved to the U.S. where he occupied a chair—not in economics but in moral philosophy—at the University of Chicago. Now 80, retired and living in Frieburg, Germany, he still travels, writes and lectures throughout the world. Although he—finally—won a Nobel Prize in 1974, that recognition doesn't give him as much pleasure as does the fact that young intellectuals are beginning to take him seriously. For so long was he relegated to the background—a reactionary footnote to history. Or so the Keynesians and "liberals" thought. Many still do.

A young lady from Forbes recently dropped into Manhattan's E. S. Wilentz's Eighth Street Bookshop, which serves Greenwich Village intellectuals. She asked for a copy of Hayek's The Road to Serfdom. The bearded, blue-jeaned clerk, the very model of the New York liberated young man, sneered. "Why do you want to read that old fascist?"

That kind of intolerance is, of course, typical of the semi-educated young who vaguely believe in socialism without having the slightest notion of what socialism is. What such people refuse to understand is that Hayekian economics is not an apology for big business but a philosophical theory that says societies are like organisms, not like machines.

In his study of what you might call sociological pathology, Hayek has found that the underlying threat facing our relatively free society is not Friedmanism or Keynesianism or any other narrow economic ism. Rather, the threat comes from a way of thinking practiced by everyone from bearded booksellers in Manhattan to chief executive officers of Forbes 500 companies. So-called conservatives are often as guilty of it as liberals and socialists are. Hayek calls this way of thinking "constructivism." He traces its development back to Descartes, Voltaire and Rousseau. Given its roots you might call constructivism the French Disease.

A constructivist thinks that the government can "protect" the U.S. steel industry from the consequences of high U.S. wages, burdensome environmental restrictions and aging plant. To this extent he's right: The government can keep down the inroads of foreign steel. But only by raising costs elsewhere in the economy. Similarly, loudmouthed California radicals can persuade the local government to institute rent controls, but at the cost of drying up the supply of new rental housing.

These government rules on foreign steel and rent control jam out the price signals and lead to excessive economic activity in some areas and some industries. Take the current energy situation. The public demands that it be protected from OPEC extortion. The politicians respond by holding down the price of domestic oil—thus muting the price signals which should have told people to conserve and to seek alternative fuels. People ask the government to do the undoable, and the politicians try to give the public what the public wants. Constructivism! It led to fatuous attempts to legislate a better world as in the Humphrey-Hawkins Bill of a few years back, which sought in effect to make joblessness illegal.

All this might well go under the heading of "the illusion of human omnipotence." At its best, this leads to human striving; it moves mountains. At its worst, however, it leads individuals to think they can remake mankind in whatever image happens to be fashionable at the moment: socialism, fascism, theocracy, matriarchy. Hitler had the illusion he could create a super-race. Stalin sacrificed millions of lives to create a "new man." So did Pol Pot in Cambodia. In our own society, this idea that man can play God leads to such idiocies as forced busing and body counts in Vietnam; manipulate the statistics and change the world. It revolts Hayek.

On this scale, Keynesian constructivism is pretty mild. Logically, though, Friedrich Hayek thinks it is the same fallacy. He believes that societies progress best when the men and women in them are left alone to pursue, within limits, their own self-interests. It was this particular point, says Hayek, that the English Enlightenment thinkers—the intellectual antibodies for the French Disease—understood perfectly well.

It was summed up in 1705 in psychiatrist Dr. Bernard Mandeville's epic economic poem The Fable of the Bees: or, Private Vices, Public Benefits: "The worst of all the multitude/Did something for the common good."

It was summed up a few years later when David Hume, in his frontal assault on the French Rationalists, lauded societies "that are the result of human action, not of human design."

It was summed up yet again in Adam Smith's great The Wealth of Nations phrase: "By directing that industry in such a manner as its produce may be of the greatest value, an individual intends only his own gain, and he is in this . . . led by an invisible hand to promote an end which has no part of his intention. . . . By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it."

Hayek does not particularly prefer one political party over another. He prefers no political party. In the first booklength treatment of Hayek, just off the press, English political scholar Norman P. Barry refers to Hayek's political theory as a theory of antipolitics. It is that, not in the sense that Hayek is an anarchist but rather in the sense that Hayek urges a system of government which exists only to pass and enforce general abstract rules, a government limited in its power to coerce its citizens.

Isn't that what we've got? Hardly, Hayek answers:

"Our modern governments are *unlimited* democracies, where the central government is not confined to enforcing uniform rules of conduct for all, but where every measure of specific interference approved by the majority party is legal. . . . Modern democracies are now in a position where they can grant special privileges to any group—not being limited to general laws, [the State] can benefit any *particular* group. It gets majority support by buying the support of particular interest groups—therefore the whole lobby system. It is bribery and corruption, of course, but fully legalized bribery and corruption."

Bribe the Florida tomato growers by keeping out cheaper and tastier Mexican tomatoes. Bribe the Long Beach, Calif. apartment renters. Bribe people who want to buy houses but don't want to wait until they have saved up the down payment. Bribe the coal miners by forcing the coal companies to agree to an expensive wage settlement. Bribe doctors by making their fees tax-deductible and thus less painful for the patients. Bribe the self-appointed poor people's lobbies with inflationary increases in the minimum wage. Bribe the feminists with artificial job quotas. Something for everybody. Nothing for everybody.

Right now in Iran and Afghanistan we see this constructivism at its most vicious. Khomeini, the theocratic dictator, wants his people to be more zealous in following the precepts of Islam. In neighboring Afghanistan the communist dictator thinks Islam is the opiate of his people. Both men are killing thousands to reconstruct society according to their diametrically opposed designs.

Hayek's answer to constructivism—whether of the Hitlerian or Keynesian mode: Hold government to a minimum. Don't try to do too much. Let society evolve on its own. Societies progress best if the men and women that comprise them are left alone to pursue, within liimts, their own self-interests. If this sounds like a prescription for chaos, it is not. What Adam Smith called "the invisible hand" we now call "feedback loops" or "cybernetics." The design is there. It wasn't drawn by human will but rather by selective evolution. In their greed the robber barons gave us the great railroads and giant steel mills, had government checked their greed more effectively it would have curbed much of their creativity.

It is not easy these days to promote a theory that proclaims the virtues of laissez-faire, laissez-passer capitalism. The so-called liberals and the radicals are against the market economy both in theory and in practice. So-called conservatives are against it in practice if not in theory. People just don't like thinking of themselves and their children at the mercy of something beyond their control, that cold invisible market. The government should do something. As if we weren't all at the mercy of a cold invisible universe.

But what's the alternative? The fact is, Hayekian economics is at root a scheme to prevent collectivism, to keep human society from degenerating into a beehive society. ("I see very little difference between fascism and socialism," Hayek says. It was this belief that led him to write The Road to Serfdom.) Hayek sees in the market order the best way to avoid the return to tribalism represented by societies organized on the basis of humans commanding other humans. The beauty of the market order, says Hayek, is precisely the fact that it is vast and impersonal.

Here's how Hayek puts it:

The order of the market is really a process which arises from our adaptation to the world which we do not know. Everything which we do for the market is determined by circumstances of which we have no information—by the manner in which our raw materials are produced and in which our products are wanted. So we adapt ourselves to events of which we know nothing, and we serve needs of people we do not know. That order does not arise because somebody directs it or tells us what to do. It arises by our being guided by impersonal signals—the prices of the market. The whole thing is a communications system which has arisen without man understanding it but has enabled man to bring about an adaptation of every man to millions of events about which he knows nothing." Hayek has begun calling the market order a catallaxy, a neologism from the Greek meaning both "exchange" and "to turn from enemy into friend." Obviously not everyone will win equally at catallaxy. The market guarantees liberty and equal opportunity—not liberty and equality. There's a huge difference.

"My basic philosophy?" Hayek repeated our question. "That it is not deliberate [human] design but the survival of the successful groups which has produced culture and civilization. We have a perfect example of this right here in Europe: Germany. Why has Germany so prospered that it has become the most powerful nation in Europe? Because 30 years ago it adopted the most liberal [i.e., laissez-faire] constitution imaginable. The 1949 fundamental law and the 1948 abolition of price controls by Ludwig Erhard became the source of the greatest effervescence of any country in a short period we have ever seen in modern times. Here we have a society reascending to a dominant position, because it has chosen a better system than other countries. This seems to me to be a very good confirmation of all I say."

Likewise with Japan, South Korea, Taiwan, Singapore, Hong Kong, Brazil—all instances where the general material welfare (as well as political freedom) is increasing rapidly, precisely because their politicians limit human interference to enforcing general abstract market laws.

"And of course," Hayek adds darkly, "there are the real failures. The best case of complete failure, thanks to too much planning, is India, where every mistake that could be made was made. It gave preference to industrialization without producing a food surplus. There was the ambition to possess its own steel industry and so on for pure prestige reasons. I avoid going to India, because I find it so uncongenial and depressing. It has no prospects whatsoever, largely because of their stupid government policies."

Hayek didn't think much better of Britain's economic policy, until this year's election of Conservative Margaret Thatcher, of whom Hayek says: "I admire her greatly." But he worries her tough economic policies will run into broad-based social opposition: "I cannot judge the extent to which British public opinion will remain behind her in the exceedingly painful measures she would have to get through in order to return to a functioning market economy. Her policies are the right ones, but whether she'll be able to get done what she knows must be done is another question."

Lest the conservatives among us derive too much comfort from Hayek, it is important to remember that his freemarket philosophy opposes all forms of special-interest politics and meddling. Hayek is as much against protecting the U.S. steel industry from foreign competition as he is against proposals to control rents in California. Followed logically, Hayekian economics will upset the oldguard Republicans at their golf clubs as much as it does bearded young people at their coffee houses.

Americans who call themselves conservatives and Republicans like to inveigh against welfare spending and costly red tape. But that didn't stop rightwing Texas oilmen from getting laws passed to keep out cheap foreign oil in the 1960s—to protect their own immediate interests against those of society at large. Hayek calls himself a liberal, and he's against most interference with the marketplace, whether advocated by Senator Kennedy or by the chairman of Chrysler Corp. Hayek agrees with John Stuart Mill, who referred to Britain's conservatives of his day as "the stupid party."

It may surprise FORBES readers to know that Friedrich Hayek is almost as opposed to the monetarism of "my good friend" Milton Friedman as he is to the economics of his late good friend Maynard Keynes. Hayek sees Keynes' economics as just another branch of the centuries-old Quantity Theory school, the school now associated with Milton Friedman but developed in the 1600s by econometrician Sir William Petty and his pupil Sir Isaac Newton.

"It was the Americans, Simon Newcomb the astronomer and his pupil Irving Fisher, who investigated what later became known as aggregates. Friedman goes back to Irving Fisher and the old American tradition of the quantity theory, and Keynes, in this sense, is another branch of the same tradition: He also is a quantity theorist, but modified in an even more aggregative or collectivist or macroeconomic tendency. . . . Friedman had nothing to learn from Keynes."

In fact, says Hayek, Friedman's monetarism suffers from the same kind of methodological flaws (Hayek calls it "scientism" or, in his 1974 Nobel Prize address, a "pretense of knowledge") that Keynesian theory suffers from. Hayek stresses that economics is essentially complex. It cannot in any meaningful way be quantitatively measured in the aggregate. The Quantity Theory is basically correct, he says, but what it tells you is not particularly relevant. It is misleading, perhaps dangerously so, to think in terms of simple functional relations between such constructs as aggregate demand and employment, between the quantity of money and "the general level of prices." Says Hayek:

The whole of macroeconomics [Keynes' and Friedman's] is based on the idea that you can establish simple relationships between measured quantities of certain parts of the economic system. But you cannot deal with complex phenomena in this sense. This is why I say the greatest harm Keynes ever did was to lead to a temporary predominance of macro over microeconomics.

"Keynes preached that you could control unemployment by controlling aggregate demand. But employment does not depend on aggregate demand. Employment depends on resources being adjusted to the distribution of expenditures. So you cannot in the long run control employment by just spending more money. That leads in the short term only to a temporary misdirection of resources and remains effective only so long as you accelerate inflation—it is only when prices come in higher than expected that all the misdirected resources can still be employed where they are. But the allocation to profitable uses is postponed. As a consequence you have an ever-increasing backlog of misapplied resources—misapplied because the price system has not been allowed to operate as the guide to where these resources should be used."

Running faster and faster to keep people in the artificially created jobs, the economy heats up to a higher and higher inflation rate.

If all this is a bit difficult to follow, consider a very simple example. Imagine that Visa or American Express were to do such brilliant selling jobs that 10 million additional American families end up with credit cards. Delighted with their new credit, half of the three-member families decide to go out for dinner once a week, something they couldn't have afforded when they had to pay cash. That's 15 million extra restaurant meals every week. Restaurant owners would be able to raise their prices. The restaurant business would boom. Shoe repair stores and stationery stores would be evicted to make room for new restaurants. The wineglass business would take off like a rocket and factories would be built.

But the day of reckoning comes. The new cardholders must eat at home every day—and stop going to the movies as well—to pay the credit card account. The new restaurants would go broke, the wineglass factories would close down and bartenders and waiters would be laid off. Depression in the restaurant business. Unless, of course, the government decided to head off the recession by giving every credit cardholder a tax credit equal to his last monthly debit, thus postponing—but only postponing—the day of reckoning.

In Hayek's words, not ours:

"If the price system is not determined by genuine demand but rather by pushing additional money into the market, you direct productive efforts to uses which can continue only so long as this inflation continues, and not only so long as it continues, but only so long as it continues to accelerate. The moment you stop accelerating, the economic system will show substantial unemployment. . . . I'm afraid that after the long period of employment in the U.S. you cannot return to a stable position without passing through a period of substantial unemployment.

"Please don't misinterpret me," pleads Hayek. "I am not proposing that we ought to deliberately cause unemployment to stop inflation. It's the other way around: We've placed ourselves in a situation where we cannot return to stability without incidentally causing large-scale unemployment."

In Hayek's scheme it is relative prices that count, not the general level of "all" prices. In our example, the restaurant industry got higher prices and thus overexpanded because it received a false signal caused by the injection of credit. Relative prices got out of hand, leading to creation of too many restaurants and too many wineglass factories. So, relative prices are what it is all about. If housing prices go up relative to other prices, people invest in housing; if demand for coal rises relative to other prices, they invest in coal. You don't invest in "the economy." And that is where the trouble starts. When the government injects demand into the economy, through either direct spending or easy credit, it must inject it at some particular point; it can't spread it evenly. This disturbs the relationship of various prices and changes investment flows.

Suppose the government indirectly subsidizes the housing market in an effort to increase overall demand in the economy. This causes the prices of housing materials, construction labor and used houses to go up. It doesn't matter if there are still unemployed auto workers in Detroit and idle black youths in Manhattan—housing costs still rise. Once housing costs rise, everybody demands more money in order to pay for the more costly housing.

Things aren't any better if the government decides to control inflation by cutting back on spending and on credit. Inevitably, certain parts of the economy are going to bear the brunt and the politicians will hear cries of "foul" and let up. Rightfully so, because the arbitrary withdrawal of demand would only cause a further misdirection of resources.

Hayek says the government should stay out altogether and let the economy find its own equilibrium. (He blames the 1930s' Depression, not on a collapse of the system but on overstimulation of credit in the 1920s, which led to an unsustainable investment boom.) Let the market alone, he says, and let the movement of relative prices signal where resources should be transferred and where withdrawn. Listen to the music of the market. It knows things and senses relationships that even the most elaborate data-processing system couldn't handle.

Despite the current intellectual fad for neoconservatism, Hayek is not optimistic that the trend toward statism, constructivism, socialist-fascism is on the wane. He thinks it still has a way to go. While people are dissatisfied with statism they are still equally disillusioned with free enterprise and laissez-faire. "As to profits and losses," he says, "the ordinary man has no concept anymore. People no longer know the rules of the market." Indeed, how can they? When the oil companies pass on to the consumers the impact of OPEC's price increases, respectable intellectuals tell the public that the oil companies are "ripping them off." When the banks try to protect their depositors by granting only the soundest loans, they are accused of "redlining." Profit is theft. It is not respectable. The prevailing rhetoric is all wrong. We are captives of it. Only a major shock will free us. That shock has not yet occurred, Hayek says.

Will it come from hyperinflation? Double-digit giving way to high double-digit inflation—as in South America? Hayek says no.

"There will likely be more government controls, as the first means of stopping inflation, leading to increasing inefficiency of industry, resulting in increasing dissatisfaction with industry, which will be an accumulating process bringing in more government interference.

"Hyperinflation will not be allowed to come. Before that the government will take control over most prices. So the inflation will end not because the government has stopped inflating, but because the government will dictate prices. Our system is much more likely to be a system of rationing.

"So the first effect will be not that prices are high but that you won't get anything for your money. There will be shortages, and the government will react to that by rationing. And finally you'll have a situation where people no longer buy for money but get only as much as they can get with the little cards the government gives them. They'll return to a war economy.

"It will be an attempt to reduce the whole spontaneous order to an organization, which is the original aim of socialism, and to enforce all this by official action: giving people what government must give them to keep them alive. The productive forces of the market which have given us more and more will disappear. We'll probably be assured of having 60 degrees temperature in our little rooms, but we won't have any choice over how much fuel to use above that. And the same with clothing and food. If you look at the true rationing system, as in Germany at the end of the war, that is probably much more like our near future than an explosive inflation. We'll have the same situation the Germans had in 1944: more money in their pockets than they could use because they couldn't get anything for their money."

If all this sounds unlikely, remember that it was Richard Nixon who gave us peacetime controls and that the polls show most people lean in that direction.

A solution, Hayek has recently decided, would be to eliminate governments' monopolies over money. Return, that is, to the days of Free Banking, when different forms of money were in open competition, and only those forms that people trusted survived—when good money, in other words, drove out the bad.

What good would this do? It would make it more difficult for the politicians to inflate by trying to give everything to everybody. A consequence of their running the printing press would be the discrediting of the currency that they are printing. This may be happening already. Just look at how anxious people are to exchange dollars for anything solid—Mickey Mouse ashtrays, gold bars, overpriced houses. But Hayek realizes that governments would never permit their currencies to be superseded and so suggests instead that we should return to the general rule of fixed exchange rates, as a way to force politicians into line.

A return to the gold standard? Not a good idea, says Hayek: "Gold's value would have to rise too high far too fast."

Still erect and clearminded, Hayek does not, however, think that the human race is going to regress permanently to the new tribalism called socialism. He says:

"You know, when I was a young man only the very old believed in the market. In my middle age almost no one believed in it; we were completely dominated by the statist or socialist views. Now, today, I find that most of my support is coming from the very young. It's almost a complete intellectual shift in relation to the generations.

"Among the young now you find much greater sympathy and understanding of a free system than ever during my life. The only question is whether this intellectual revival is coming in time. Whether it will have any impact on policy during my lifetime—I'm 80—I'm not at all certain."

Neither are we, but there are encouraging signs. The University of Chicago Press, publishers here of Hayek's The Road to Serfdom, reports that the 1944 book now sells 3,000 copies a year, mostly in university towns and university bookstores. "This is a remarkable sale for any old book, especially a 35-year-old one," says a spokesman for the Press. Three thousand books doesn't sound like much and it isn't, but numbers aren't the same as influence. Remember what John Maynard Keynes himself once wrote: "Madmen in authority, who hear voices in the air, are distilling their frenzy from some academic scribbler of a few years back."

Perhaps the day is coming when sane men will be in authority and echoing that rationalist free-market scribbler, Friedrich August Hayek. Stranger twists of intellectual and political fortunes have taken place.●

CONGRESSIONAL SALUTE TO THE PEOPLE OF NORTH HALEDON, N.J., UPON THE CELEBRATION OF THE 50TH ANNIVERSARY OF THE NORTH HALEDON FREE PUBLIC LIBRARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. ROE. Mr. Speaker, on Saturday, September 29 the residents of my congressional district and State of New Jersey will celebrate the 50th anniversary of the founding of the North Haledon Free Public Library. I know that you and our colleagues here in the Congress will want to join with me in extending our heartiest congratulations and best wishes to the distinguished director of 22 years, the Honorable June E. Dougherty, other officers, trustees and community leaders who have actively participated in the organization and administration of this most prestigous educational and cultural center of current and historic collections of literary and artistic materials which have truly enriched our community, State, and Nation.

Mr. Speaker, the exemplary leadership and outstanding efforts of our citizens so important to our quality of life are in the vanguard of the American dream and today we express our appreciation to the people of North Haledon who, through their fidelity, devotion and personal commitment, have provided a haven for knowledge, learning, wisdom and enlightenment for young and adults alike—the North Haledon Free Public Library. I particularly commend to you the current officers and trustees as well as the honor roll of distinguished citizens who have served the library as trustees or ex-officio trustees over this past half century, as follows:

1979 OFFICERS

The Honorable:

Anita Weiss, President;

Betty Klein, Vice President;

Blanche Doorn, Secretary;

Dr. Joseph E. Kutner, Treasurer; and

June E. Dougherty, Director.

1979 TRUSTEES

The Honorable:

John Carbone, Mayor;

Dr. Robert A. Kiami;

Bette Hofer;

Sandra Salway;

Blanche Doorn;

Dr. Joseph E. Kutner;

Betty Klein;

Anita Weiss; and

June E. Dougherty (Ex-officio).

HONOR ROLL TRUSTEES (1929–1979)

Years served

The Honorable:
Acheson, Kathryn, March 1945–June 1946.
Amesbury, Alice, 1934–1944.
Appel, Ernest J., 1929–1958.
Ballentine, William, 1929.
Begg, Annie, 1929–1939.
Blau, Alvin G., 1961–1978.
Botbyl, Edna, 1941–1951.
Brautigam, William, 1930–1931.
Brocker, Harriet F., 1929–1934.
Brocker, Harriet F., 1934–1954.
Brunswick, Frederick, 1929–June 1934.
Burrows, John E., 1956–1958.
Carbone, John, 1979–.
Cosine, Harold, 1951–1956.
De Vries, May, 1957–1960.
Dickinson, Rae, 1951–1959.
Diebler, Frances, June 1974–1977.
Doorn, Blanche, 1978–.
Dougherty, June E., 1957–.
Ellis, Florence, 1949–1951.
Ferber, Phillip, 1938–1940.
Fischer, Frank, Jr., 1958–1960.
Frankovitz, George, 1939–1940.
Geerinek, Louise, 1951–1974.
Gionti, Angela, 1958–1960.
Gionti, Arthur, 1932–1936.
Goeres, Louise, 1943–1948.
Guertin, Lila, 1934–1946.
Halloran, James, 1959–1960.
Hambleton, Alice, 1944–1950.
Hofer, Bette, October 1977–.
Hopkins, Robert, 1941–1942.

Incramona, Martha, 1949–1951.
Kearns, Earl, June 1949–1956.
Kearns, George F., 1932–1940.
Keizer, Garret, 1937–February 1941.
Kiamie, Dr. Robert A., 1976–.
Klein, Betty, 1973–.
Kuiken, Herman, 1954–1955.
Kutner, Dr. Joseph E., 1961–1975.
Kutner, Dr. Joseph E., 1976–.
Levine, Robert, 1959–1960.
Lind, Virginia, October 1954–June 1955.
Lipinski, Rose, 1960.
Lord, Ruth, 1932–1959.
Lyttle, Lee, March 1974–1975.
McGraw, Frank, 1952–1955.
McLaughlin, John, 1934–1937.
Macaluso, Vincent, 1943–1950.
Maynard, Julia P., 1929–1935.
Maynard, Wynfield, 1936–1940.
Meyer, Thelma, July 1955–June 1957.
Ortenzio, Dr. Paul, February 1979–.
Perkins, Mrs. William, 1939–1940.
Pernetti, Vincent, 1957–.
Pitea, Lee, 1957–1958.
Rau, Mrs. Arthur, 1941–1942.
Riley, Alwyn, 1946–1949.
Riley, Mrs. Alwyn, October 1947–June 1949.
Ritchie, Dr. Harold, July 1954–August 1960.
Rolla, Claire, 1952–1954.
Romanelli, Regina, September 1960–March 1961.
Sage, Elsie, 1929–1931.
Salway, Sandra, 1971–.
Sheperd, John M. W., 1929.
Smith, Alfred, 1929–1932.
Spinnler, Charles, 1941–May 1949.
Street, Harry W., 1929–1940.
Sulski, Wilma, March 1972–March 1974.
Sutherland, Grace, 1929–1944, 1946–1947.
Sutherland, Grace, 1961–February 1972.
Tangora, Edward, 1948–1960.
Tanis, Jean D., 1961–1970.
Toll, Frances, 1929–1933.
Unrath, Robert, 1929–1933.
Van Dyke, Ruth, 1941–1945.
Van Gundel, Emily, 1951–1960.
Van Gundel, Emily, 1961–1971.
Van Hook, Delia, 1941–1952.
Van Hook, Delia, 1953–February 1954.
Wagner, Elizabeth, 1945–1952, 1954–1957.
Weeder, Eva, 1946–June 1957.
Weiss, Anita, 1972–
Weiss, Edward G., June 1944–1945.
Wester, Martha, 1956–1960.
Westerveld, Olive, 1951–1954.
Whitehead, John, 1929–1938.
Wiener, Samuel, 1957–1960.
Wolff, Van, 1961–January 1974.
Ziegler, Catherine, January–March 1945.
Zysling, Gary, 1959–1960.

Special plaudits are also extended to the following distinguished citizens who have joined together as the North Haledon Free Public Library 50th Anniversary Committee to commemorate this most historic event:

The Honorable:

Vincent Pernetti, Chairman; Edna Pernetti, Assistant Chairman; Blanche Doorn; June E. Dougherty; Eugenia Esposito; John Heinzelmann; Bette Hofer; Earl Kearns; Helen Kearns; and Betty Klein.

Dr. Joseph E. Kutner; Mildred Lee; Frances Mainardi; Mary-Sue Perconti; Toni Ravo; Regina Romanelli; Walter Symons; Elizabeth Wagner; Anita Weiss; Martha Wester; Mary Wilson; and Sophie Wuester.

Mr. Speaker, the North Haledon Free Public Library is steeped in the history of the community and the devoted services of its citizenry. Its beginnings date back to September 17, 1929 and its incorporation as a free public library span the past 50 years. It was classified as an Association Library from 1929 to 1960. In November 1960 by a referendum vote its classification was changed to a Municipal Library.

The original space for the library was provided in Memorial School by the Board of Education. At the end of the first year of existence, the library already owned 1,365 books and had 387 borrowers. It operated on a part-time basis until 1934 when WPA funds were allocated and the library was open 5 days a week. This financial arrangement continued until 1944 when this support was concluded.

The North Haledon Library Association, aided by financial support from the borough council and board of education, worked tirelessly to provide money to meet the increasing demands on the library. In 1951, the library moved into the old school house on the Memorial School property. Finally, after careful study by a special committee, municipalization of the library was recommended.

It was approved by the voters in November 1960, and the North Haledon Free Public Library was born. The present building that houses the library collection was built in 1964 and officially dedicated in May of 1967.

In 1973, 9 years later, 1,400 square feet was added to our existing building, doubling the book shelving capacity from 20,000 to 40,000 volumes.

The objectives established by the library's administrators are enumerated, as follows:

To assemble, preserve, and administer in organized collections, books and related educational and recreational material in order to promote, through guidance and stimulation the communication of ideas, an enlightened citizenship, and enriched personal lives;

To serve the community as a center of reliable information;

To support educational, civic, and cultural activities of groups and organizations;

To provide opportunity and encouragement for children, young people and adults to educate themselves continuously; and

To seek always to identify community needs and to provide programs of service to meet such needs for young and adults alike.

Mr. Speaker, it is a great pleasure to call this golden anniversary celebration to your attention and seek this national recognition of the people of North Haledon in bringing into fruition, maintaining and expanding its free public library for a communion of understanding, exchange of ideas, recreation and communication on the arts, cultures, and sciences of the past, present, and future, fiction and nonfiction. We do indeed salute the officers and administrators of the North Haledon Free Public Library upon the celebration of their 50th anniversary.●

CONSTITUTIONAL RAMIFICATIONS OF THE OBEY-RAILSBACK BILL

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. VANDER JAGT. Mr. Speaker, I have previously outlined to my colleagues my many concerns about the detrimental effects of the Obey-Railsback bill (H.R. 4970) on our Nation's political process. This legislation is scheduled to be considered as part of the FEC authorization bill (S. 732).

Yet, above and beyond the political ramifications, Obey-Railsback raises serious constitutional questions.

John Nowak, professor of law at the University of Illinois College of Law, and one of the Nation's leading constitutional scholars has prepared an informative constitutional study of Obey-Railsback. Congress far too often passes legislation without considering the constitutional consequences. I would urge all Members of the House to examine Professor Nowak's constitutional analysis carefully before voting on Obey-Railsback.

The study follows:

College of Law,
Champaign, Ill., September 21, 1979.

Hon. Guy A. Vander Jagt,
National Republican Congressional Committee, Washington, D.C.

Dear Representative Vander Jagt: Mr. Mark Goldhaber asked me to communicate to you my concerns regarding the constitutionality of the proposals to limit political committee campaign contributions and the use of candidate funds which currently are contained in H.R. 4970. Unfortunately, the brief time period between Mr. Goldhaber's request and House consideration of H.R. 4970 precludes a detailed analysis of the constitutional issues presented by this proposed legislation. Nevertheless, I would like to outline for you the reasons why I believe that this bill, if enacted, may violate the principles of the First Amendment to the Constitution of the United States.

I will limit my remarks in this letter to my concerns regarding the basic provisions of the original bill, which limit the amount of money that any candidate can receive from nonparty multi-candidate political committees, and the recent addition to the bill, which limits the amount of repayment to candidates for funds loaned to their own campaigns. Of course, more complete analysis of the standards for review of federal legislation touching upon First Amendment interests, and the relative roles of the Supreme Court and Congress in reviewing such proposals, may be found in the constitutional law treaties of which I am an author [Nowak, Rotunda, & Young, Constitutional Law (West Publishing, 1978)].

There can be no doubt that the proposed legislation regulates activity which is protected by the First Amendment. Indeed, it is clear that this bill must be analyzed in terms of three basic principles of the First Amendment and the test for the constitutionality of such legislation which the Supreme Court has adopted to effectuate these principles. First, a legislative act which affects campaign activity in a manner that may restrict political speech or associations must be subjected to the most demanding judicial scrutiny.

The Supreme Court consistently has held that protection of campaign activity is at the heart of the First Amendment, which is designed to protect speech relating to matters of self-government even more strictly than it protects other forms of speech. [See, e.g., *Talley* v. *California*, 362 U.S. 60 (1960) (invalidating restriction on the use of anonymous leaflets); *Mills* v. *Alabama*, 384 U.S. 214 (1966) (invalidating restriction on editorials and certain campaign practices on election day)].

Second, regulations of campaign financing cannot be justified as being merely "time, place, or manner" restrictions on speech. Such restrictions directly limit the amount of political debate that can take place within a campaign by limiting the candidate's ability to secure the means for communicating his views to the public. In *Buckley* v. *Valeo* [424 U.S. 1 (1976)] the Court found that all campaign financing regulations must be subject to strict judicial scrutiny under the First Amendment, even though some limitations on contributions and campaign spending activities might be constitutional.

Third, the fact that the campaign activity of speakers or contributors may be motivated by pure self-interest, rather than concern the good of the entire electorate, does not convert their speech activities into "commercial speech" which would merit lesser First Amendment protection. The Supreme Court in *First National Bank of Boston* v. *Bellotti* [435 U.S. 765 (1978)] found that economically motivated speech activities of corporations which relate to public issues and voting are protected by the First Amendment even though some special restrictions may be placed upon corporate expenditures in relation to a specific candidate campaigns.

From these principles the Supreme Court has derived what might be called the "First Amendment strict scrutiny test" for the validity of legislation touching upon the political process; the test itself is two pronged. Under this test the government must demonstrate that the particular regulation of campaign activity: (1) furthers an important and "content neutral" end of government, and (2) that the means employed to further that overriding government interest is no more restrictive of first amendment activity than is necessary. With these principles in mind, let us look at the basic provisions of H.R. 4970.

In its current form this bill prohibits candidates for the office of Representative (or Delegate or Resident Commissioner) from accepting more than $50,000 in a calendar year from any political committee other than a multicandidate committee of a political party. This restriction is of dubious constitutional status, at best. The $50,000 limitation may be seen as effectively imposing a ceiling on total campaign contributions and candidate expenditures.

In *Buckley* v. *Valeo* the Supreme Court found that contributions to candidates might be reasonably limited in order to fight both the reality and appearance of improper influence by large contributors, but that ceiling on candidate spending was a constitutionally invalid attempt to restrict speech activities in political campaigns.. The Court stated: "a restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of the expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached."

Is this bill merely a restriction on campaign contributions or is it, in practical effect, a ceiling on campaign expenditures? The bill does not place direct restrictions on the amount of campaign contributions made to a candidate by a specific group or individual, problems which are dealt with in a defensible manner by the Federal Election Campaign Act of 1971 and the Federal Corrupt Practices Act.

The proposed law may reduce the role that some political action committees may play in a given election, but it will not further a government interest relating to the "reality or appearance of improper influence stemming from the dependence of candidates on large campaign contributions," which was the only basis accepted by the Supreme Court in *Buckley* for restraining political contributions.

This bill may be seen as imposing an effective ceiling on campaign spending because, as a practical matter, it will limit the amount of money that can come into a congressional campaign. The candidate has four generic sources of campaign funding: (1) his own or his family's resources; (2) contributions from a political party with which he is affiliated; (3) contributions from specific individuals; (4) contributions from multicandidate political committees. It may be contended that this bill leaves open the possibility of unlimited spending because it does not touch upon the first three types of campaign financing.

However, the first three types of campaign financing are inherently limited. Of course, a specific candidate will only have a fixed amount of personal and family resources. The unlimited use of political party funds favors incumbents, and members of major parties, over independent candidates and members of new, minor political parties. Additionally, it is only effective for a political candidate to solicit campaign contributions of an amount substantially greater than the amount required to engage in the basic solicitation.

In other words, it is not cost efficient for candidates to engage in widespread solicitation of $1.00 to $10.00 contributions to their campaign. However, political action committees provide a means for the efficient gathering and distribution of very small contributions from private persons. The proposed legislation will effectively eliminate a major portion of funding from all possible candidates, thereby reducing the amount of money which can be spent in any campaign. Indeed, I would assume that the proponents of the legislation agree with this point; there would be no reason to enact this proposal other than to prohibit a candidate from spending a large amount of money in his campaign as the result of his appeal to a wide variety of political committees. If the legislation in reality imposes an effective ceiling on campaign expenditures, it certainly is unconstitutional under *Buckley*.

The H.R. 4970 limit on the use of political committee contributions also affects the associational rights of private individuals. The First Amendment protects the freedom of association, as well as speech; the freedom of private persons to associate their financial and personal interests in order to promote candidates in specific political campaigns has been unquestioned for many years. Those supporting H.R. 4970 may claim that it does not restrict the freedom of association but only limits the amount of an association's monetary contribution to political candidates (a restriction which would be justifiable under the *Buckley* and *First National Bank of Boston* v. *Bellotti* decisions). However, the bill goes beyond the mere limitation of campaign contributions and directly restrains associational freedom.

To examine that problem one needs only to hypothesize the situation where a congressional candidate has received $50,000 from political action committees when another committee comes on the scene that wishes to donate money to the candidate. Under H.R. 4970 that "extra" political committee would be prohibited from giving even $1.00 to the candidate and all of the persons whose interests are represented by that associational entity are denied the ability to contribute to the candidate. It may be contended that individuals represented by the "extra" committee retain the ability to send their small contributions directly to the candidate.

However, the solicitation or donation of such small contributions realistically may not be attainable. The restricted committee may represent private individuals who can afford to give only a small amount to political campaigns but who wish to give significant support to a number of candidates whose position regarding a specific issue is one which they wish to advance. This freedom of association problem is exacerbated by the allowance of higher limits for contributions received from political parties.

The Supreme Court has consistently taken the position that there must be equality of treatment between groups of various political philosophies and this preference for candidates receiving large amounts of money from political parties seems to violate that principle. There are only two political parties that have the funds to alter the course of a significant number of elections, while there are a great number of political action committees representing individuals interested in specific issues that might wish to help specific candidates with a contribution in excess of the $50,000 limitation.

The Committee has recently added to H.R. 4970 a provision prohibiting candidates for the House of Representatives from receiving repayment in excess of $35,000 from their campaign funds for personal funds or property that they have loaned to the campaign. I assume that proponents of this loan repayment limitation will argue that the limitation has the practical effect of preventing a wealthy candidate from "buying" a seat in the House of Representatives by giving large "loans" to his campaign.

The corresponding constitutional argument, by the proponents of the bill, would be that the limitation only restricts direct contribution practices, which are regulable under the *Buckley* decision. However, neither the practical nor constitutional arguments for this loan limitation will withstand more than superficial analysis. As a practical matter, this bill does not restrict the ability of wealthy individuals to launch or effectively operate campaigns; if a person has great amounts of "discretionary capital" he can simply finance many campaign expenditures without worry of repayment.

Instead, the repayment limitation restricts the ability of a new candidate for the House of Representatives who does not have great personal wealth to challenge an incumbent Representative. The incumbent will have a ready source of funds at the beginning of his campaign because he will have little difficulty in securing funds from political parties, special interest groups, and individual contributors who have supported him in the past.

The challenger is far less likely to have access to initial financing from such groups. The challenger may need to invest a significant portion of his personal finances in the campaigning in order to initiate the campaign. Once the challenger demonstrates that his candidacy is a viable one, he may be able to solicit the contributions necessary to operate the campaign and to repay his initial loan to the campaign fund.

It is difficult to believe that the Supreme Court would disregard the bill's effect of inhibiting challenges to incumbent candidates and hold that this repayment restriction is merely a limitation on campaign financing and contributions. The Court's decision in *Buckley* v. *Valeo* indicates that any limitation on contributions or campaign financing that would pose a significant barrier to independent candidates, or challengers to incumbents, is unconstitutional. The loan repayment restriction added to H.R. 4970 imposes a direct and effective limitation on the use of the candidate's personal resources to finance a campaign despite the fact that the Court in *Buckley* invalidated a limitation on the use of a candidate's personal funds in his political campaign.

Those who support the bill will argue that the candidate is still free to spend his money—he simply cannot receive excessive loan reimbursement. However, given the Supreme Court's requirement that the provision not be designed to protect incumbents and the bill's obvious impact on new candidates, this restriction will be subject to the strict scrutiny test. The provision should fail that test as it is difficult, if not impossible, to identify a governmental interest that would support this direct restriction on the use of a candidate's funds. A "fall back" argument for the loan repayment restriction would be that members of the public who are asked to contribute to a campaign are deceived by loan repayment practices because they do not realize that their contributions will repay candidate loans.

Such an argument will not save the limitation from invalidation under the strict scrutiny test because there is clearly a "less restrictive means" of dealing with this problem. If the Congress considers potential deception of contributors to be a problem meriting its attention, it should consider requiring candidates to disclose to potential or actual contributors the fact that a portion of their contributions will be used to repay loans made to the campaign fund by the candidate. This alternative would eliminate any potential deception while allowing free use of a candidate's personal funds to advance his campaign message.

In closing, I would note that more hearings are needed in order for Congress to evaluate both the constitutionality and wisdom of H.R. 4970. Indeed, I believe that both proponents and opponents of the bill should support a motion to return the bill to an appropriate committee for further hearings for two reasons. First, it is the duty of Congress to consider the constitutionality of proposed legislation and the process through which H.R. 4970 has been considered may not have allowed the members of the Committee, and the full House, to take time to receive and evaluate data and opinions concerning the effect of the bill on First Amendment freedoms.

Second, if this legislation is to withstand judicial review, there will have to be a demonstration by government attorneys that the campaign limitations are necessary to the promotion of an interest of government which outweighs the limitation of First Amendment freedoms. This will be difficult to do unless Congress holds extensive hearings on these bills which detail: (1) the extent to which the $50,000 limit on acceptance of political committee contributions will avoid real or apparent incidences of improper influence on candidates by large contributors; and (2) the extent to which the $35,000 loan repayment provision will avoid deception of members of the electorate or promote other significant ends of government.

Unless a detailed factual basis is provided on these issues, the Act will appear to be no more than an attempt to level the ability of candidates to advance their campaigns by equalizing their opportunity to gain political contributions. Such an end will not support the legislation, for the Supreme Court has said, in *Buckley* v. *Valeo*, that "the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment." Thus, it would appear that the House should give further consideration to both the constitutionality and wisdom of H.R. 4970 before it proceeds to a final vote on the bill.

Yours truly,

JOHN E. NOWAK,
Professor of Law.●

LET US GROW CRUDE OIL AT HOME

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. BROWN of California. Mr. Speaker, one innovative approach to solving our energy shortage is being researched by Nobel Laureate Melvin Calvin at the University of California and centers around the Euphorbia group of plants. These plants grow in all temperature ranges around the world and produce a latex of low-molecular weight that can be used to replace crude oil in many refining processes. Current cost estimates based on test plantings using wild seeds and no agronomic experience with this plant produced a crude oil equivalent at an estimated cost of $30 per barrel, with a rapid decrease in price predicted as improved seed selection increases yields. Some of the most promising varieties of this plant grow in semi-arid areas, giving an added incentive to the commercialization of Euphorbia in the Southwest.

The Agriculture Committee has just passed a $600 million loan guarantee program for alcohol fuels production facilities. The House recently passed a major synthetic fuel production effort. Before we proceed too far in our efforts to deal with our energy shortage, we should begin to look at new approaches such as this one. I urge each of my colleagues to read the following article that explains this unique opportunity to use solar energy to produce crude oil.

ENERGY AGRICULTURE

(By Gene Elle Calvin)

Today's energy crisis can be traced to man's discovery of the uses of fire, to the harnessing of this natural phenomenon, and to the multiple desires he fulfilled through this magic tool.

Once, like other animals, man ate all his food as he found it, as all other animals still do. Once he drew his warmth from the sun, or from shelter in caves or under trees, and he inhabited those parts of the earth where temperatures were hospitable to naked man. Once he ran on his own fleet feet, and knew those parts of the earth where his feet could take him.

During all those years, and for millennia before, the only source of energy was the sun which sent each day more "quanta" than the earth could use. Some of the energy captured by plant life fell to the earth, was incorporated into it, and was slowly transformed and stored as frozen energy—oil and gas and coal. After millions of years, man discovered these hidden vaults, and in a little more than a hundred years man has withdrawn so much of this stored fuel that final depletion is imminent.

FUEL WITHDRAWALS WITHOUT DEPOSITS

These vaults were discovered some two hundred years ago. Until that time, man burned wood to provide his energy. In time, as his numbers multiplied, he denuded the earth for fuel to cook his food and build his shelters, turning forests into deserts and wasteland. At least, if he were prudent, this source of energy could be indefinitely renewable. Afterwards coal, and then oil and gas were discovered; it took only about two hundred years for this accumulation of the millennia to be depleted to the point of scarcity.

Today green plants no longer dominate this subdivided earth, and man counts time in milliseconds, not millennia. Mother Earth can no longer make fossil fuel. Man no longer allows the material to accumulate. For the past hundred years man has been withdrawing stored energy as though the supply were infinite. It has been a decided shock to man to realize that it was not only more expensive to find oil, but that there was increasing evidence that one had to look longer and harder to find it at all. King Hubbert, a geologist with the United States Geological Survey, warned years ago that the supply was decreasing; and his graph of oil discoveries as a function of feet drilled, made in 1974, makes the information clear. He predicted the "peaking" of oil by the year 2000, and the peaking of coal by 2150.

In addition to eventual exhaustion of our current major energy sources, there are new and dangerous economic and political factors. Already it is evident that our nation is held hostage by those nations which have not yet exhausted their fossil deposits. At our present rate of consumption we will have sold our nation, land, and industry to those other nations by the time they have exhausted their reserves. We in the United States, who constitute only 6 percent of the world's population, use more than one-third of the energy consumed by the entire world. One day we may find that our independence was too high a price to pay for extravagant consumption of imported oil. And in that day, neither "we" nor "they" will have any stored energy.

TOMORROW BEGINS TODAY

Today we not only discard more than we use, but in the process we foul our air and water and soil. One day soon we will have to meet all our energy demands with the current incomes from each day's allotment from the sun and from earth's resources, which we carefully use and recycle.

There are still limited reserves of oil and gas and coal that can supply our needs during a transition period, but two factors are certain: the supply is nearing exhaustion, and, equally important, the earth suffers continued damage while we continue to burn our fossil fuels.

In burning fossil hydrocarbons, we release into the air potent carcinogens in dangerous quantities—the benzopyrene inhaled from a cigarette is released into the air we all breathe by every gas- or coal-fired plant and by every car's exhaust. Oil made from coal is ten to twenty times as polluting as petroleum.

A second factor, with less predictable effect, is the continued release of "new" carbon dioxide into the atmosphere in quantities so large that the natural resorption by green plants and the ocean's surface is overwhelmed. Carbon dioxide rises in the earth's atmosphere, collecting in a blanket surrounding the entire earth. This carbon dioxide blanket is transparent to the light rays of the sun, but when these rays strike the earth's surface, some are converted into infrared rays and are bounced off the earth's surface. The carbon dioxide blanket is opaque to infrared rays; the heat is held in, and as a result the earth exists in a massive greenhouse without vents. As the temperature increases, agricultural areas will shift, ice caps will melt; and the interface between land and water will be unavoidably altered.

Precisely how the change will affect the earth is conjectural, but the increase in carbon dioxide in the earth's atmosphere is a matter of continued scientific record. Measuring stations on Mauna Loa, Hawaii; Point Barrow, Alaska; American Samoa; Antarctica; and Sweden record substantially the same increase of 5 percent in the past sixteen years; and by data from growth rings in trees there is an increase of 15 percent from 1890 to 1958. One more problem we leave to future generations!

One final source of energy is hailed as the best answer. It has already met a small part of our need for electricity and may meet further needs, but at what a price!

As I write today, we are in the midst of the "Three Mile Island" incident. It is not the first; and it will not be the last, but perhaps it can be the turning point.

Nuclear fission is not only incredibly expensive, but it poses real threats to the peace of the world, to the life and health of its workers, to people who live near reactors or near the scene of a nuclear accident in planes, railcars, trucks, or near the projected "safe" waste disposal areas. A reactor has a projected life span of some thirty years, after which it must be closed, sealed off, or dismantled, and then guarded—for two hundred years? Two thousand years? No one knows, and those who build them won't be around to supervise!

Each reactor (including those for military use) produces immense quantities of radioactive waste which must be stored and guarded for centuries. We have no safe method for such storage, despite the protestations of the protagonists for at least the past ten years that such disposal was "in process."

With these problems in mind, consider the hazards of locating safe land (safe from runoff water, from contaminated wind, from explosion) for any purpose in the eastern half of the United States, where more than seventy nuclear plants are in operation and more than ninety are under construction. Consider next the problems of our children, and their children!

FUEL FROM TODAY'S SUN

From the beginning, our earth had all the components required for life—to initiate it, to develop it, and to maintain it. It still does, including continued undiminished input of energy. The sun still shines, causing winds to blow, rains to fall, ocean surfaces to warm, and green plants to grow.

All of our energy requirements need not be met by liquid fuel. The sun's daily quanta can be used directly to make electricity by means of solar collectors, solar cells, wind and hydropower, and ocean thermal gradients. Liquid fuel might better be produced in other ways: from the same green plants that produced our storage vaults of coal, oil, and gas, we can today still fill our needs for liquid fuel and chemical feedstocks more cheaply and with infinitely less damage to our earth than from any of the fossil fuel sources.

LIQUID FUEL

Green plants produce two major chemical products: carbohydrates (wood, sugar, starch) and hydrocarbon (rubber and oil). Both can be converted easily into safe and convenient liquid fuel. Both are renewable as long as the sun continues to shine. Both can be burned with a fraction of the aerial pollution of fossil fuel. And both take the carbon dioxide from the air in order to grow and release only the same amount into the air when the product is consumed.

Neither needs to be wastefully consumed to generate steam to turn electric turbines. The only "safe" nuclear reactor, the sun, can do it much better.

ALCOHOL FOR ENERGY

Gasohol has now become an accepted word in our language. While it is currently used to describe a United States mix of 10 percent alcohol, 90 percent gasoline, Brazil is already operating a major fraction of their autos on 20 percent alcohol with gasoline. Brazil, by 1982, expects to operate all cars on this 20 percent mix; and already today several of their most densely populated states have converted to this mix. The mandatory mix will be effective for all cars, except those operated on 100 percent alcohol. Already a fleet of six hundred cars has operated very successfully on 100 percent alcohol for one year, using a small, easily installed converter on an ordinary gasoline engine. This year, at least two automobile manufacturers in Brazil will put on stream models operated on 100 percent alcohol. These cars run equally as well as gasoline models, and they smell better!

Brazil has the largest sugar industry in the world. It had long made ethanol from the molasses left after crystallizing the sugar, but by 1975 that government subsidized the price of alcohol from sugar and assisted in implementing new plantations, mills, and stills which were designated for the production of alcohol from the entire crop produced. Brazil made its decisions early, spurred by the realization that they could supply only about 20 percent of their fossil fuel needs. But they could grow it all!

Several American states, including the front runner, Nebraska, produced alcohol initially from spoiled corn. While the federal government has been willing to subsidize the price of corn by paying farmers to keep land out of production, the roadblocks to government assistance in building (and even permitting) distilleries were overwhelming. Fortunately Yankee farmers are stubborn and resourceful. State legislatures have passed encouraging tax legislation. There is the beginning of evidence of federal commitment as well. Unused land is available for growing energy crops. The United States has only limited ability to grow cane; but corn, cellulosic residue from many crops, wood and wood by-products can all amplify the carbohydrate source for alcohol.

HYDROCARBONS

While only limited land areas are available to grow nonfood carbohydrates, there is an almost unlimited area available for hydrocarbon-producing plants, most of which grow in soils not suited to food crops. These plants produce an oil sufficiently similar to fossil crude to make processing in present oil refineries feasible. Several of our largest oil companies are now experimenting with plantings of several species and with processing methods. There is a large variety of plants that produce latex, which is composed of about one-third oil suspended in water. These plants are found in several families, including Euphorbiaceae, Moraceae, Sapotaceae, Asclepiadaceae, Compositae. One genus of the family Euphorbiaceae, Euphorbia, contains some fifteen hundred species, *all* of which have latex.

Latex-producing plants vary from succulent type trees to exotic flowering vines and shrubs, and they can be found in all temperature ranges, and from semiarid desert to humid tropics. Almost anywhere in the habitable world, some hydrocarbon species exist. In some areas of the world there are many varieties growing in great profusion. Perhaps the best area is the continent of Africa, where forests of Euphorbia spread over the semiarid desert region of Northern Africa, unexploited at this time. Two recorded incidents in the late thirties and early forties describe a harvest of *E. cerulescens* in Algeria by the French, and a comparable harvest of *E. Abyssinica* by the Italians in Ethiopia (Abyssinia). Both of these efforts were directed toward making gasoline; but they were abortive, perhaps because of the political tensions and the limitations of technology. (No information has yet been unearthed as to the fate of these projects.)

Hydrocarbon production is one of the chief industries of Malaysia, where natural rubber is extracted from *Hevea Braziliensis*. This latex is chemically the same as that which produces oil, except that the molecular weight is between five hundred thousand and two million, and the extraction produces a solid with elastomeric properties. A similar hydrocarbon is produced in pilot-plant quantities from wild native guayule in Saltillo, Mexico; and it was produced from goldenrod by Thomas A. Edison in the 1930s. All of these rubbers have been and are being used for a variety of rubber products, including automobile tires.

The hydrocarbon which can be extracted for fuel has a much smaller molecular weight, ranging between a few hundred to a few thousand, and on extraction from latex is a liquid resembling fossil crude oil. It can be treated chemically to make all the products now produced commercially by the petrochemical industry, plus a wide variety of components that are likely to have much higher value as pharmaceuticals.

The great variety of latex-bearing plants has required that some selection be made for development purposes. The criteria included the molecular weight of the hydrocarbon, the climatic limitations of soil, water, and temperature, the growth pattern for suitability for mechanical harvesting, and the native adaptability of the species.

The molecular weight of all the Euphorbias we tested was found to be similarly low (an oil, not a rubber). In addition, various other families and species that grow abundantly in Brazil and Puerto Rico and widely in the United States, including Asclepias (milkweed). *E. cnidoscolus* (favella, spurge nettle), *A. alamanda cathartica, E. lactea,* and *E. trigona,* all have a suitable size distribution of molecular weight.

Milkweed is a familiar weed in almost any area of the United States, but varieties that grow in dry areas of Puerto Rico and Brazil grow as small five- to ten-foot trees, seed easily, and are perennial, growing again if mowed to the ground. The species that are common to the United States are comparatively small.

Many Euphorbias, that is, *ingens, candelabrum, Abyssinica,* grow as trees in native forests in Africa (and in botanical gardens in Southern California, demonstrating their adaptability) in the dry, semiarid desert. These species could probably be tapped like the rubber tree, *Hevea Brasiliensis*. Some of the species grow wild on the dry side of Puerto Rico, where we found *E. lactea* in abundance. A knife point in the trunk produces a five-minute flow of latex! *E. dendroides* we found covering large patches of dry hillside in both Los Angeles and Berkeley. Wild poinsettia and *E. marginata* (snow-on-the-mountain) we found on hillsides in Texas and Oklahoma, and in gardens on Greek islands. *Allamanda cathartica,* a hardy vine, and purple alamanda we found in brackish beach fronts, as well as in gardens and wild areas in Australia, the Southern United States, and Brazil.

We have selected two Euphorbia for plantation and extraction experiments. The first we found in Brazil, and later in the United States, Japan, and Australia; and it exists in Africa and probably all around the world in mild climate. This is *E. tirucalli,* known as the African milkbush, or pencil plant. It grows from three-inch cuttings, and in one year it yields a bush about two feet high and wide. It grows throughout the world as a twenty-foot hedge around cane fields in Brazil, as an ornamental tree in many gardens, as an ornamental plant, and as a wild native plant in Africa. Sensitive to freezing weather, its range is limited to mild climates.

The second is *E. lathyris,* which we found growing wild on our Northern California ranch. This plant is an annual or biennial, and grows from seed to a harvestable four-foot plant in seven months. It is frost-hardy and if not harvested will winter over and continue to grow to seedling maturity the following year.

Both *E. lathyris* and *E. tirucalli* were selected because of their ability to grow in semiarid areas, where rainfall averages eight to ten inches per year. Neither plant requires good soil, and both will thrive in uncultivated rocky areas not suitable to food crops. In the United States we have vast areas of such land in the Southwest. Low-quality grazing land may support only one animal per square mile. These two species thrive, then, on land which is agriculturally nonproductive.

Both species are sturdy and upright in

growth pattern and are adaptable to mechanized harvesting. This is highly desirable because of the quantity of energy our country needs and the toxic components of latex which could make hand harvesting difficult.

TEN BARRELS OF OIL PER ACRE

These two species (plus several others) were experimentally planted in the University of California South Coast Experiment Station in Santa Ana, in November of 1976. Growth data were kept, and monthly extractions were made to determine composition and quantity. By September 1977, the *E. lathyris* (seeded in December, planted outdoors in February) produced by extrapolation ten barrels of oil per acre. This was produced with unselected seed, and no agronomic experience with this species, in deprived soil reserved for analysis of nutrient needs. The plants were preserved for seed production and were harvested in 1978.

The *E. tirucalli* was not harvested in 1977, but by September of 1978 a three-inch cutting, planted in November 1976, yielded a bush weighing roughly two thousand grams, producing the equivalent of fifteen barrels of oil per acre. This plant, in successive years, could be selectively mowed for several crops per year, and on reaching full size, may be suitable for tapping.

Agronomists estimate that these crops could be grown for two hundred dollars per acre. Engineers estimate the cost of extraction from plant to barrel at ten dollars per barrel. With a yield of ten barrels per acre, the cost per barrel would be thirty dollars. This cost estimate is based upon the use of wild, unselected seed and no agronomic experience. While this once seemed like a prohibitive price, in March 1979 Japan paid almost this amount for Iranian oil. Seed companies agree that with simple seed selection the yield can be easily doubled within one year. Further data on preferred planting and harvesting times would increase the yield by another factor.

It is estimated that, even with this current minimal yield, an area the size of the state of Arizona could produce 10 percent of our energy needs. We have millions of miles of nearly barren soil. We have strip-mined land that must be, and is being, reclaimed. We have oil-depleted land lying unused, and some oil companies are actively engaged in experiments on this land.

What's happening to this reasonable and urgent plan? In November of 1976, at the same time we began the plantation in Santa Ana, Sekisui Plastics, Ltd., of Japan, put in a plantation in Okinawa. Their most successful plant was the E. tirucalli, now a wide field of four-foot-high bushes. Nippon Oil also began experimentation. Brazil has a project under way that concentrates on vast acreage too dry for sugar cane. Australia and Africa sought advice well over a year ago. At least three of our largest oil companies, and at least two large chemical companies, are experimenting with both planting and extraction. Diamond Shamrock has a joint project with the University of Arizona.

Research continues on the time for planting, varieties of seed, requirements for water and nutrients, and response to growth stimulators. Since energy agriculture is entirely new, the development parallels the domestication of wild plants for food crops thousands of years ago. Our advantage lies in the level of sophistication that has been attained in both agriculture and science, and in the quality and quantity of aids available. There is no question that simple seed selection could double the yield even in one year. And when agronomic improvements have reached a zenith, plant engineering (including hybridization and, later, tissue culture) to produce the desired hydrocarbon will be well on the way.

If we as a nation were to make a true solar commitment, subsidize new solar industries, and increase incentives, as has been done for years for oil, gas, coal, and nuclear, the time needed to be energy independent would be limited only by the practical problems that we experience: growing seed, building planters and harvesters, seeding and harvesting the land, and extracting new fuel. But as a nation we have no such commitment. Of the total 6-billion-dollar budget authorization to the Department of Energy, 856 million (14 percent) went to fossil fuels, solar energy received 394 million (7 percent), and the balance went to conservation, environmental safety, program planning and management, and geothermal research.

Almost all of the progress in developing this new inexhaustible source of liquid has come from the efforts and funds of private industry, except for funding and facilities provided by the University of California. While every level of government has been advised of the immediate potential, fuel from plants has been considered an exotic notion. But funding for research and development and vast subsidies continued to support oil, coal, and nuclear industries, thus bleeding our economy while developing fuel from sources that are exhaustible, dangerous, inefficient, and costly.

A nation that could mobilize its physicists and engineers to create a new weapon to win a war should not be stymied by the continued need for energy. Energy alternatives have been found and, with government commitment, can be utilized. The heroes this time would be farmers for growing, chemists for processing, and engineers for developing mechanical equipment.

Let's look at one last plan for making our own fuel. As we understand more completely the mechanism by which the green plant uses the quanta of the sun to fix carbon, we will be able to duplicate the process entirely synthetically, producing from water and sunlight gaseous oxygen and hydrogen for unlimited use. Already this research into synthetic fuel production is well advanced in several laboratories in the United States, in Britain, in Germany, and in Japan.

Move over, gas, oil, coal, nuclear. Make room for plants! The sun's shining! ●

MRS. MARCIA KRASNICK PULLS HER OWN WEIGHT

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mrs. SPELLMAN. Mr. Speaker, Theodore Roosevelt, our 26th President, advised that the first prerequisite of a good citizen is that he "be able and willing to pull his own weight."

Tomorrow evening, Mr. Speaker, an outstanding citizen of my district and a very good friend of long standing will be honored not only for "pulling her own weight" but for shouldering the burdens of many, many others. That person is Mrs. Marcia Krasnick.

I want to take just a few minutes today to share with my colleagues in this House the many contributions made throughout the years by this outstanding woman.

Marcia Krasnick has devoted a decade to serving others. Her uncanny abilities to bring together people with divergent views into cohesive units of positive action are legend in our community. Her deft and definitive organizational skills have provided a sound basis for our organization at a time when any other hand at the helm would have caused an erratic course at best. Her knowledge, her willing availability, her judgments have all been tested and found not wanting at all; in fact, those talents were found to be the firm foundation from which our successes sprang.

So many of us would like to be remembered for efforts that have meaningful impact upon people's lives. Marcia leaves us such a legacy, but if she were asked, I know she would list her children, her family as her greatest contributions to our community, and, of course, she is right. But there have been other and equal accomplishments which she has given us and which will bear the benchmark of her achievements for years to come.

With these accolades, one would think Marcia has retired from the active world, not to be involved any more. Of course that could never be so. She has embarked upon yet another career, and there is no question in my mind but that there, too, she will soon be rebuilding, reshaping, and certainly improving those things she touches.

Mr. Speaker, that wise old sage and observer of the political scene, Will Rogers, once said:

> I don't belong to an organized party, I'm a Democrat.

If it were not for the efficiency, effectiveness and unbounded energy level of Marcia Krasnick, we in Prince Georges County might well have served as the role model our beloved Will Rogers was talking about. We all owe Marcia deep gratitude for her years of concern and commitment.

I know the Members of this House join me in wishing her well in her new career. And most of all, Mr. Speaker, I know they will want to join me in offering heartfelt thanks to Marcia Krasnick for allowing so many others to benefit from her unselfish gift of service.●

FEDERAL GRANTS PRODUCE BITTER HARVEST

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, my recent poll of the 22d Congressional District of Illinois included the question, "Are you for less Federal spending even if it means your own community loses Federal grants?"

I was most interested to see how people answered that question. One of the first things I learned upon becoming a Congressman is that those who are opposed to big government and increased Federal spending often take exception to that philosophy when their own pet projects are the ones to suffer from spending cuts.

Therefore, it pleases me that 86 percent of the respondents, 8,152 answered that they are, indeed, opposed to increased Federal spending even at the cost forfeiting local grants.

One of the most insidious aspects of the big spenders' philosophy is that their profligate ways encourage the beneficiaries of their largesse to become dependent upon handouts from "Uncle Sugar." Many a politician has found that cheap promises to special interests translate into votes on election day, and "the public be damned."

The fruit of this reckless sowing of taxpayers' money is, of course, inflation. It is a bitter harvest indeed.

My hometown newspaper, the Danville Ill., Commercial-News, recently editorialized on the folly of scrambling for Federal grants. Although the editorial is directed at State legislators, it provides a valuable insight into how the people lose via Federal handouts. I commend it to the attention of my colleagues.

[From the Danville (Ill.) Commercial-News, Aug. 3, 1979]

"GLITTER" NOT GOLD IN FEDERAL GRANTS

There are signs that state officials are coming to their senses and finally realize the folly of seeing how fast they can grab for federal government handouts.

This is one of the indications from the National Conference of State Legislatures last week in San Francisco—since dubbed the 'Frisco Caper.

As we have said, we are critical of taxpayers being asked to pick up the $72,000 tab for 53 Illinois legislators and 60 other state employees to attend. Certainly, the information could have been absorbed by a small fraction of that group and shared with colleagues at a huge savings in state funds.

But we take comfort in the fact that some good came from the venture.

When legislators from all the states got together in San Francisco, many of them learned, among other things, that the old saying, "All that glitters is not gold," certainly is true in getting grants from the federal government.

They were reminded of an inescapable truth about the cost of taxes going from us to the nation's capital and back. There is always a "service charge" applied, mostly in the name of equalization.

For example, each dollar in federal "aid" that comes to Illinois costs taxpayers in the "sucker state" 26 cents more than that dollar. It's even worse for our Hoosier neighbors who pay $1.43 for each dollar returned.

Conversely, citizens in the District of Columbia fare much better. They get $1 back for each 29 cents paid in federal taxes. And Vermonters trade 53 cents in federal taxes for each dollar in return. Mississippians do about as well, getting a dollar back for each 57 cents.

Figures are from a special formula worked out by the Tax Federation. It figures each state's taxes to support all grant programs as reported by the U.S. Treasury.

Of course, legislators from the "losing" states knew they were in that category before going to San Francisco. But the approach has always been that each state should play the game to the hilt—getting as much as Washington could be pressured to dole out. That was on the premise that the money is going somewhere and it's smart to get as much as possible for your state.

But state officials apparently now realize that the only hope of reducing the gap between what we send to Washington and what we get back is in cutting the total federal grant program. That can be done only by applying for fewer grants. No one state can do this without being a double loser but if it is done on a wide scale, it will help us all.

There also appears to be consensus among the legislative leaders who gathered in San Francisco on reversing another trend.

They were shown how some states have succeeded in loosening the federal government's grip on money gained through grants. By being more assertive, these states have made the feds remove some of the restrictions that had been placed on spending of grant funds.

We urge our state legislators to pursue all these possibilities.●

TRANSPORTATION SYSTEMS EFFICIENCY ACT

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. HOWARD. Mr. Speaker, yesterday I introduced a bill to make our transportation systems more energy efficient.

I am pleased that the chairman of the Committee on Public Works and Transportation, Mr. JOHNSON of California, and the ranking minority members of the full committee and Surface Transportation Subcommittee, Mr. HARSHA and Mr. SHUSTER, respectively, have joined me in introducing this important legislation. There will be a number of additional committee members joining us as cosponsors.

As the chairman of the Surface Transportation Subcommittee, I have been concerned for some time about the need to establish a public transportation trust fund to support a contract authority funding program for capital improvements to our Nation's transit systems.

Over the past 50 years, petroleum has become the lifeblood of our Nation's economy. The growth of our national transportation system has been closely tied to our development of energy and of petroleum in particular. Transportation consumes more than half of every barrel of crude oil used in this country. Coincidentally, the United States obtains half of its oil from foreign imports. Clearly, the transportation sector can make a tremendous contribution to petroleum conservation, and thus to the reduction of imports.

I believe the time is right for the Congress to consider long-term assured funding for our Nation's public transportation systems. Accordingly, the subcommittee I chair, and on which Mr. SHUSTER sits as ranking minority member, held 4 days of hearings in July so that we might develop a record on the issue of a public transportation trust fund.

I realize that the country must pursue increased energy production as well as conservation. Certainly, the circumstances indicate the need for a range of solutions. However, the country cannot place total reliance on increased domestic production of oil substitutes.

While those efforts proceed, in order to maintain our mobility, we will have to improve our public transportation systems so that our citizens will have an alternative to private automobile transportation which will undoubtedly continue to suffer fuel interruptions.

As I indicated, the Subcommittee on Surface Transportation held 4 days of hearings on the establishment of a public transportation trust fund with revenues generated by the windfall profits tax. The testimony presented at these hearings provided overwhelming support for the concept of a public transportation trust fund. Equally important, however, was the evidence presented which showed that the American public is turning to public transportation in greater numbers with each succeeding month, even in areas which did not experience long gas lines.

Another important insight gained from our hearings was the realization that each area of the country has different needs in developing alternatives to the private automobile. What may be the most energy efficient solution for New York, Chicago, and Los Angeles may not be for Rochester, Tulsa, or Salem, Oreg. I believe that there is a tremendous latent demand for public transportation throughout the country—in rural as well as urban areas. In order to satisfy this demand in an efficient and expeditious manner, an assured source of funding at adequate levels is required.

The goal of petroleum conservation necessarily involves improving the efficiency of the transportation systems which our citizens use to fulfill their most basic mobility needs, such as traveling to and from work and school. We must expedite targeted investments in our public transportation systems and in highway facilities which support more efficient automobile use. We must rebuild as well as provide for expansion of our existing bus fleets. We must finance supporting bus facilities, including maintenance facilities and terminal facilities. We must provide for the modernization and expansion of our existing rail facilities. We must support projects which will facilitate carpools, vanpools, and other high occupancy automobile solutions.

I know of no other single action which the Congress could take to support such an effort than the clear and definite commitment of assured support through a dedicated public transportation trust fund.

Therefore, I am extremely pleased to introduce today, along with other members of the Public Works Committee, legislation to establish a public transportation trust fund.

The heart of the bill is title III. This title would create a public transportation trust fund to be derived from 25 percent of the revenue generated by the windfall profits tax. Amounts in the public transportation trust fund would be available for making capital expenditures for public transportation projects and for transportation system projects authorized by the Urban Mass Transportation Act of 1964 or by title 23 of the United States Code.

Title I of the bill would make a number of changes in the Urban Mass Transportation Act of 1964 and title 23 of the United States Code.

Section 101 of the bill would make all authorizations, beginning in fiscal year 1981, under the Urban Mass Transportation Act for section 3 (discretionary grants), section 5(a)(4)(A) (bus formula grants), and section 21 (intercity bus terminals) available for obligation on October 1 of the fiscal year for which authorized. Payments to meet contractual obligations incurred by the Secretary for such programs would be derived from the public transportation trust fund.

Section 102 would broaden 23 U.S.C. 135 (traffic operations improvements) into a new categorical grant program for transportation systems management which would include, but not be limited to, energy conservation projects for, first channelization of traffic; second, improved traffic control signalization; third, preferential treatment for mass transit and other high occupancy vehicles; fourth, passenger loading areas and facilities; fifth, fringe and corridor parking facilities; sixth, encouragement of the use of carpools and vanpools; seventh, bicycle transportation; and eighth, separation of pedestrian and vehicular traffic. Funds authorized under this section could be used at State option to cover 90 percent of project costs, or to increase to 90 percent the Federal share of energy conservation projects advanced under other provisions of title 23, United States Code—such as, section 146 (carpools and vanpools), section 142 (public transportation), section 137 (fringe and corridor parking facilities), and section 217 (bicycle transportation and pedestrian walkways). The present Federal share for these programs is generally 75 percent.

Funds authorized for 23 U.S.C. 135 would be apportioned among the States on October 1 of each fiscal year, first, three-fourths on the basis of urbanized area population, and second, one-fourth on the basis of the primary system formula (one-third land area, one-third route mileage, one-third population). Funds would remain available for obligation for 3 fiscal years following the fiscal year for which authorized. Payments to meet contractual obligations of the United States for payment of its proportional share of project costs would be derived from the public transportation trust fund.

Section 103 would restore to the Secretary of Transportation authority to incur contractual obligations for substitute highway and public transportation projects related to withdrawal of interstate routes under 23 U.S.C. 103(e)(4). Sums obligated for public mass transit projects would be derived from the public transportation trust fund. Sums obligated for highway projects would be derived from the highway trust fund. Obligations for either type currently are paid from general revenues of the Treasury.

Section 104 would provide authorizations from the public transportation trust fund for fiscal years 1981 through 1990 to supplement existing authorizations through fiscal year 1982 for the section 5 bus and section 21 (intercity bus terminals) programs, through fiscal year 1983 for the section 3 discretionary grant program, to provide new authorizations for such programs through fiscal year 1990, and to provide authorizations for transportation systems management for fiscal years 1981 through 1990. Beginning in fiscal year 1981, authorizations in the bill are intended to limit the authority for substitute transit projects under 23 U.S.C. 103(e)(4). Substitute highway projects would remain subject to 23 U.S.C. 103(e)(4), as amended by this bill.

This bill and its amendments to existing law would authorize from the public transportation trust fund a total of $45.5 billion over 10 years to carry out sections 3, 5(a)(4)(A), and 21 of the Urban Mass Transportation Act of 1964, 23 U.S.C. 135, and public mass transportation projects under 23 U.S.C. 103(e)(4). A division of the annual lump-sum authorizations provided in this bill and continuing authorizations from general revenues of the Treasury for public mass transit operating assistance programs would be provided in subsequent legislation.

Title II of the bill deals with another important energy problem which needs to be addressed.

Increased domestic production of alternative energy sources will impact the transportation system itself. For example, truck shipments of coal and increased unit train service over our Nation's rail-highway crossings will require additional funds for these energy-impacted segments of our highway systems.

In fact, a recent Department of Transportation study indicated that transportation could well become a bottleneck on coal production. The coal transportation task force concluded that "large investments will be needed both to add to our existing transport capacity and to replace and maintain the very large complex system already in place" and that "the capability of both the public and private sectors to finance the needed investments in infrastructure and equipment will be sharply challenged." Another DOT study on energy transportation identified almost $10 billion in needs across the country and indicated that the coal road and railroad grade crossing needs were so severe that they required "immediate attention" and could not even wait "enactment of legislation as to the proper type and level of tax that should be imposed in the long run."

The energy security fund is a logical funding source for these programs since an improved energy transportation network is necessary in order to meet our goals for production of coal and synthetic fuel and to minimize the adverse effects of this increased production.

Section 201 authorizes the Secretary to apportion funds for the repair of public roads which have incurred a substantial increase in use as a result of transportation activities to meet national energy requirements. The Federal share of project costs would be 80 percent. For each of the fiscal years 1981 through 1990, there would be $125 million authorized, of which $75 million would be appropriated from the highway trust fund and $50 million from the energy security fund.

Section 202 would authorize the Secretary to make grants for the elimination of rail-highway crossings where there is substantial increase in the use of those rail facilities in transporting coal to meet national energy requirements. The Federal share of project costs would be 80 percent. For each of the fiscal years 1981 through 1990, there would be $125 million authorized, of which $75 million would be appropriated from the highway trust fund and $50 million from the energy security fund.

These provisions are essentially the same as the provisions which passed the House last year in the Surface Transportation Assistance Act of 1978, except that a portion of the funding would come from the energy security fund. Unfortunately, last year's provisions were dropped in conference at the insistence of the Senate.

In closing, Mr. Speaker, I would like to make three additional points. First, I urge early and favorable consideration of title III of the bill by the Committee on Ways and Means. This title is the key to the whole bill.

Second, titles I and II are by no means locked in concrete. The Subcommittee on Surface Transportation will hold more hearings on these titles and will be open to all suggestions for improvement.

And third, support for this bill should not necessarily be construed as support for the windfall profits tax, although I certainly am a proponent of the tax. If there is going to be a windfall profits tax, however, we are all in agreement that a substantial portion of the revenue generated by the tax should be devoted to transportation.●

PLANNING FOR THE FUTURE—A REASONABLE APPROACH TO RESOURCES ALLOCATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. BROWN of California. Mr. Speaker, as we try to meet our current energy and resource scarcity problems, we must consider the importance of planning for future needs. We have important historical precedent in grappling with the need for comprehensive national planning, and many are now conscious of the need to examine those precedents for clues as to our best course for the future.

Prof. Albert Lepawsky of the Department of Political Science, University of California, Berkeley, has written a cogent analysis on planning which we all could benefit from reading. His paper: "Style and Substance in Contemporary Planning: The American New Deal's National Resources Planning Board as a Model" exhibits historically comprehensive support of planning for national resources, going back to the New Deal's National Resources Planning Board (NRPB). He introduced his approach by advising us that the resources allocation theory "came into vogue during the war years of the 1940's and looms today as a promising planning concept for the future." The test of planning, he says, is whether an enduring pattern will emerge. In his "Reappraisal of the New Deal Planning Record," Professor Lepawsky outlines the historical development as follows:

> In the 1930's a large part of public works expenditures was invested in conservation—more precisely the planning and development of its natural resources of land, minerals, energy, and water. The New Deal's conservation program of the highest popularity and priority was the Civilian Conservation Corps (CCC). But it was water resources which provided the New Deal with its prime opportunity for a sophisticated contribution to the planning and development of natural resources. The NRPB linked together water resources development and public works planning. Water resources employed more civil servants in Washington, required more planners in the field, generated more construction projects for the country, invested more capital in the Nation's physical plants, and produced more jobs for the unemployed than did any other of the NRPB's defineable and distinguishable fields of activity.
>
> The NRPB efforts were also directed toward the development of the energy supply for defense industries which evolved into the Roosevelt administrations' overall policies and programs for the pre-atomic era of coal-oil- and hydro-power. The power program embraced the Tennessee Valley Authority (TVA), one of the most favored and most effectually planned undertakings. Thus, says Professor Lepawsky, a feasibility formulae was designed for implementing measuring, allocating economic benefits, government costs and social values in water and resource planning generally.
>
> On environmental planning during the New Deal, the Professor writes that it was broadly defined to embrace even its economic dimensions, and was undertaken in the field of agriculture on a grand scale. From a condition of farm surplus and price instability amidst rural poverty and even hunger, American agriculture was stabilized and transformed into a balanced resource-based national industry. In the depressed condition of American farming during the depression will be found some of the real origins of the later-evolved system of agribusiness and this nation's development as the food basket for the world.
>
> The nation's agricultural economists, he says, where supported by some of the country's most able social scientists at the state agricultural colleges and 'land grant' universities. These agriculturalists gave the country some of the earliest insights into regional planning.
>
> Referring to President Roosevelt addressing a Planning Board's report on 'National Resources, Public-Works,' and 'Land Use' (1934), he quotes FDR:
>
> "I have chosen, in addressing the Congress, to use the term 'National Resources' not as a thing apart, but as something that is interwoven with industry, labor, finance, taxation, agriculture, homes, recreation, good citizenship. The results of this interweaving will have a greater influence on the future American standard of living than all the rest of our economics put together.

Thus, says Professor Lepawsky, the board's 1936 progress report explained that it hoped only to be able to provide a background of coordinated knowledge that will make it easier for the President and Congress to judge the various proposed programs of action with which they have to deal. The NRPB was committed to the altogetherness of everything. It sustained its particular standard of comprehensiveness chiefly by applying it with a sensitive touch in a selective way. In 1937 the board published "Technological Trends and National Policy."

It is Professor Lepawsky's contention that though New Deal planning may not always have been pertinent or entirely prudent, it generally was appropriate for its time. The New Deal planning helped this country face up to its most disastrous depression.

Although he states that in actual achievement economic planning may have been considered to have been the weakest compartment in the entire New Deal portfolio, most of these same fiscal mechanisms are economic devices continued in use today. He refers to the fact that a reversion to the pure or predominant market state is unlikely to last beyond a breaking point which will be reached by the imbalances of resources and inequities in allocations which have been steadily accumulating. He goes on to explain that in 1939 the planning board sponsored a fiscal and monetary advisory board, the New Deal's closest approach to the Council of Economic Advisers, which was finally established in 1946 and which is still functioning today as the country's most trusted economic planning agency.

When we consider the enormous resources allocation problems facing us today, we are, indeed, grateful to Professor Lepawsky for his scholarly paper reminding us of past planning successes.

A modern NRPB would certainly be different in forms and conception from that of the past, but it may be that some reintroduction of formal national planning is the only way to face the stresses of the future.●

NO PARTICIPATION IN THE INTERNATIONAL SUGAR AGREEMENT WITH RUSSIAN TROOPS REMAINING IN CUBA

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. PEYSER. Mr. Speaker, last week, on the Export Administration Act, the U.S. House of Representatives passed my amendment that enables the President to restrict trade to the Soviet Union as long as combat troops remain in Cuba. Specifically, I am talking about the wheat deal presently underway with the Russians. Today I am announcing on the floor that I will be offering an amendment to the sugar bill, when it comes up, that will state that the United States shall not participate in the International Sugar Agreement as long as Fidel Castro's Cuba, which is the major beneficiary, allows Russian combat troops to remain on their soil.

It is time that we started to push shopping-cart diplomacy in order to protect our national interests.●

UNITED STATES ASKS DRIVE TO BAR FAMINE IN CAMBODIA

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. SIMON. Mr. Speaker, as chairman of Members of Congress for Peace Through Law, I would like to insert into the RECORD an article by Dan Oberdorfer and an editorial both from the Washington Post of August 10, 1979. They discuss the very real prospects of a famine in Cambodia and U.S. initiatives in support of an international food aid effort for that war-torn country.

While the United States is legally barred from aiding Cambodia, there may be a loophole for the provision of humanitarian aid to that country. But, at present, the real obstacle to providing food aid to Cambodians is the seeming intransigence of each Cambodian regime in preventing food and medical supplies from falling into enemy hands.

Famine is not selective, it strikes regardless of political beliefs, and must be fought with the same ignorance of politics. We must all forget politics long enough to feed those who are in the midst of this famine, and the United States should continue to work toward an international effort which would aid all Cambodians.

I commend the following article and editorial to the attention of my colleagues:

THE COMING CAMBODIAN FAMINE

Yet another vast—and predictable—human tragedy is brewing in Southeast Asia, and, as in the case of the boat people, it appears that the international community may wait until thousands are dying before taking action to alleviate the suffering. Reports from Cambodia are that the people of that devastated country, who have endured the ravages of the Pol Pot regime and the Vietnamese invasion, may soon face another scourage: famine.

According to the few outsiders who have visited the country in the last few months, Cambodia's agricultural system, already shaky, was reduced to a shambles by the Vietnamese invasion last spring and the ensuing conflict between Vietnamese and Chinese-backed factions. Seed stocks were destroyed, and planting and cultivating interrupted by the fighting. One report says that no more than 5 percent of the fields are under cultivation, and that those that are will yield little because near-starving peasants have eaten the rice seedlings. In short, it is possible that there will be little or no harvest in Cambodia this year. The consequences—in a country whose doctors and hospitals both have been systematically wiped out—could be starvation or death for literally millions. Alternatively, Cambodians may start to head for Thailand en masse: creating an enormous new refugee population and seriously threatening the stability of the already overburdened Thai government.

State Department officials foresaw the coming crisis last spring and have been prodding various international organizations, but with only limited success. Many of those involved doubted the predictions that were being made and wanted more solid information before taking action. Some of the United Nations' agencies are barred from helping because the U.N. recognizes the ousted Pol Pot government and not the Vietnamese-installed government of Heng Samrin. Other agencies, such as the International Red Cross and UNICEF, have been unable to reach an agreement with the Cambodian government that would assure that the food they provide goes to the general population and not to the troops of either faction. This country's ability to provide assistance is hampered—though not foreclosed—by conflicting legislation prohibiting aid to Cambodia. But the major obstacle to averting starvation continues to be indifference in both Hanoi and Peking. Both of those governments remain committed to settling their political struggle, and so far have been unwilling to let the prospect of even massive human suffering upset their plans.

What is needed now is a strong effort to train international attention on this problem before it reaches the proportions of a major calamity. Neither Hanoi nor Peking is likely to be totally impervious to the united force of world opinion. All that is really needed is an agreement to allow an international presence, such as that of the Red Cross, to ascertain the dimensions of the problem and then supervise the distribution of vitally needed food. There has been a surfeit of suffering in Southeast Asia already. This time a remedy is at hand, if only there is the will to use it.

United States Asks Drive To Bar Famine in Cambodia

(By Don Oberdorfer)

The United States appealed yesterday for international humanitarian efforts to forestall a disastrous famine in Cambodia.

A State Department announcement by spokesman Thomas Reston deplored efforts by revival regimes in war-torn Cambodia to gain "political advantage" from relief efforts. No group that impedes the flow of emergency relief can lay claim to representing the aspirations of the Cambodian people, the statement declared.

The United States is barred by law from aiding Cambodia, but State Department lawyers believe there may be a loophole for humanitarian assistance. Consultations about the law have been held with members of Congress, some of whom have been urging vigorous U.S. action to stave off a famine.

The United States stands ready to contribute "within the limits of U.S. law to an international relief effort" under international supervision aimed at aiding all Cambodians, the State Department said.

The statement reiterated a plea made by Secretary of State Cyrus R. Vance to Asian foreign ministers in early July and to Congress in late July. Officials said the U.S. appeal was repeated because of increasingly grim reports of food shortages.

Most of Cambodia is under the control of a Vietnamese-backed regime installed after Hanoi's invasion last Dec. 25. However, the Chinese-backed Pol Pot insurgents are still holding out in remote areas and carrying on daily battles against the Vietnamese.

Efforts by the United Nations, the International Red Cross and several neutral governments to provide food and relief supplies inside Camobdia have been unsuccessful. Each Cambodian regime has attached conditions to the distribution of aid, in an effort to make sure no food or supplies reach the hands of its enemies.

The State Department statement yesterday did not repeat the U.S. call for a political conference to forge a political solution to the Cambodian conflict. Such a negotiated solution is considered remote at present.

American diplomats have held talks at the United Nations and elsewhere to urge an international relief program that could cut through the political and military conflicts to reach the Cambodian people. One suggestion made by Vance was an international committee including representatives of opposing international groups—in this case, both Soviet-aligned and Chinese-aligned nations—to administer a Cambodian food program.

The State Department statement said the United States has contributed $300,000 to the International Committee of the Red Cross to help Cambodian refugees in Thailand, and $325,000 to a private voluntary agency to provide food in the Thai-Cambodian border-area.

The international efforts should be directed at all Cambodian people "irrespective of their location or the political authority under whose control they fall," the statement said.●

HAPPY 125TH BIRTHDAY, ST. PAUL, MINN.

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1979

● Mr. VENTO. Mr. Speaker, happy birthday, St. Paul.

At 125 years, you already have your second wind. You may have a few old buildings, craggy and worn like the wrinkles in an ancient face, but that is a sign of character, not decay.

Your streets and sidewalks may not be as smooth and unscarred as they used to be, but that comes from use, not inattention.

Your spirit has not changed. It is still free and soaring and refuses to succumb to the temptation of thinking "old." You carry your years with dignity and pride.

St. Paulites, perhaps because they are first of all Minnesotans, are tough, strong, hearty people. Their spirit, like yours, transcends spatial barriers. Look outside the edges of St. Paul. You will see the same sparkle, the same courage, the same determination in the smaller communities that bump up against St. Paul's boundary lines. The spirit that permeates St. Paul lifts it above the ordinary. And it is contagious.

I grew up in St. Paul. I was one of the fortunate ones. My neighborhood on the east side was filled with treasures—from the languorous stretches of Swede Hollow to the breathtaking beauty of Lake Phalen at sunset.

All around the city, from the stark bluffs of the west side to the gentle tree-lined streets of Highland Park, kids like me were growing up in a healthy and wholesome environment. It was more like living in a big park than a big city.

There has always been an ongoing argument about St. Paul's status. Does the city have a small-town complex? Is that why we cherish the coziness of Como Zoo, the friendliness of the Saturday morning farmers' market, the never-ending patchwork of garage sales that offer such a wonderful excuse to see neighbors and old friends?

Or is St. Paul, with nearly 300,000 residents and the State capitol, a bona fide big city? Look at the high rise buildings, the boutiques, the sophisticated shops and restaurants. The Cathedral of St. Paul is the center of the Twin Cities Catholic archdiocese. St. Paul has one of the largest enclosed skyway systems in the world. It is a model for many larger cities across the river and across the Nation.

There is no other city quite like St. Paul. It is committed to providing its citizens with the best quality of life. For me, it is an immense honor to represent St. Paul in Congress. If I could, I would invite all of Washington to join me in St. Paul for a walk down Summit Avenue, a ride in the St. Patrick's Day Parade, a picnic on Harriet Island where we could watch the heavily laden barges as they complete their long journey up the Mississippi River to St. Paul, the northernmost point for navigation.

St. Paul has changed. The Federal Government realized the city's potential and some Federal dollars have been committed for needed development and rehabilitation. Strong leadership on the local and State level has helped enlarge the city's parameters.

St. Paul should continue to change. I am sure it will. But growth does not have to be physical. The expansion of the city's soul can manifest itself in many ways—in the laughter of children whose parents decided the city is the best place for them to grow up; in the looks of awe on the faces of tourists as they browse through the historic hill district; in the healthy economic figures which reflect, more than anything else, the trust and confidence of labor and business.

Congratulations, St. Paul, you are 125 years young. And remember—the best is yet to come.●

SENATE—*Wednesday, September 26, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. PROXMIRE).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Our Father-God, in the holy hush of this moment we turn from the pressure of daily duties, from the tumult of the world without, and from the confusion of many voices that we may hear again Thy sure voice making all things new. May we hear Thy word of forgiveness and wisdom. We pray not for security but for strength, not to be delivered from our burdens but for wisdom and grace to carry them.

"Reclothe us in our rightful mind,
In purer lives Thy service find,
In deeper reverence praise."
—WHITTIER.

Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE IMPORTANCE OF UNITED STATES-MEXICAN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, recently Mexico and the United States concluded an important agreement on the sale of Mexican natural gas to the United States. Later this week, President Jose Lopez Portillo of Mexico will be in Washington for an official visit.

The gas sales agreement is a significant milestone in relations with our neighboring nation, and the upcoming visit of President Lopez Portillo ranks as an important and newsworthy event.

But relations between the United States and Mexico should receive our steady attention and not be a matter of interest and concern only when United States-Mexican relations are in the headlines.

I am pleased that President Lopez Portillo is making this visit to the United States. His meetings with President Carter and other officials are part of a series of consultations between Mexican and United States leaders. I hope that this is indicative of the growing importance of the relationship between our two nations.

The natural gas agreement has been the subject of negotiations for several years, and those negotiations have sometimes been acrimonious. But the successful conclusion of the negotiations could set the stage for a very positive era in United States-Mexican relations. Regrettably, those relations have not always been positive.

The growing recognition of the size and importance of Mexico's petroleum resources has caused many in the United States to begin to look at Mexico in a different light. And the impact of oil on United States-Mexican relations will be salutary if it leads to greater respect for and interest in Mexico on this side of the border. But we should not allow the newly recognized importance of Mexico's oil resources to obscure the multiple dimensions of United States-Mexican relations and the many ways in which cooperation, based on mutual respect, can serve the interests of both nations. As Carlos Fuentes, the Mexican novelist and former Ambassador to France, has reminded us, "Mexico is a nation, not an oil well."

We tend to take for granted our good fortune in having Mexico and Canada as continental neighbors. This fortunate situation makes it unnecessary for us to fortify our borders—unlike the situation in many parts of the world.

There are, of course, problems between the United States and Mexico—such as Mexican oil, trade, narcotics traffic, illegal immigration—and it is, in part, to continue the dialog on these problems that President Lopez Portillo is coming to Washington. These are not matters for open conflict between our nations. Rather they are subjects for continuing discussions within a framework of cooperative spirit.

As I noted, the gas agreement could set the stage for a new era in our relationship. This agreement alone will not sustain a strong relationship. The problems of undocumented workers, narcotics traffic, trade, and tariff matters are all issues that must be addressed. I hope that the gas agreement will provide the impetus for progress in these other areas.

Perhaps the greatest need in United States-Mexican relations is for mutual comprehension. For our part, we need to recognize that south of our 2,000-mile common border lies a proud, rapidly growing nation of 70 million people, a land that is the heir of some of the Western Hemisphere's oldest and most highly organized civilizations. Mexico's rich Indian cultures have blended with its Spanish colonial heritage and the results are unique. In our dealings with our neighbors, we must be mindful that there are cultural differences and the weight of history that looks very different, depending on whether it is viewed from south or north of the border.

Let me turn now to four of the major issues that are of common concern to the United States and Mexico today: Immigration, narcotics traffic, trade, and energy.

IMMIGRATION

No issue more clearly demonstrates the need for cooperation to resolve common problems than the question of illegal immigration. It is a problem the roots of which are predominantly economic in nature, but a problem with profound human and social implications on both sides of the border.

It is difficult to define precisely the dimensions of the immigration problem. It is estimated that there are at least 3 to 5 million illegal immigrants in the United States today, with some estimates as high as 8 million. Each year as many as 800,000 people enter the United States illegally, nearly twice as many as enter the country legally. It is estimated that perhaps 90 percent of the immigrants who enter the United States illegally are Mexicans. The problem of estimating the number of illegal immigrants is compounded by the fact that many who cross the border are "repeaters"—persons who have crossed in the recent past and been apprehended, only to cross again.

If it is difficult to judge the size of the problem, it is easier to say who comes and why. The vast majority of illegal immigrants from Mexico are young men and women who come across the border to seek work. Many remain in the United States a year or two and then return to Mexico. Therefore, the illegal immigration problem is essentially the problem of the "undocumented worker." With high population growth and unemployment estimated at 25 to 40 percent, young Mexicans come to the United States in search of a better life, just as waves of immigrants from all parts of the world have done in the past.

We cannot ignore the problems that result from this flow of undocumented workers across the border into the United States. Undocumented workers take jobs away from American workers, especially in the urban and industrial centers such as Chicago and New York that attract growing numbers of illegal immigrants. And the presence in the work force of large numbers of undocumented workers probably depresses wage scales in some sectors of the economy. It should be noted, however, that these undocumented workers apparently fill certain needs in our economy, especially in jobs at the lower end of the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

social and economic scale—jobs which may otherwise be unfilled. Because of their illegal status, undocumented workers are often paid less than the minimum wage or are denied the fringe benefits common in most occupations. And regrettably, some undocumented workers are badly exploited by unscrupulous employers.

In urban areas with large concentrations of undocumented workers, the demand for public services increases. In Los Angeles, Houston, and New York, schools and public health services have large additional costs due to the numbers of undocumented workers who benefit from these services without contributing fully to their maintenance. But some have suggested that the United States may, in fact, derive a net benefit from the presence of undocumented workers—even beyond their labor. Many workers are subject to State and Federal tax withholding; all pay State and local sales taxes, and yet few file for tax refunds or collect from social security. On the whole, the illegal status of these workers makes them reluctant to seek public services. And studies show that relatively few undocumented workers are on welfare.

In some respects, the flow of undocumented workers to the United States represents an economic benefit for Mexico. It helps to reduce the pressure of unemployment, and remittances to relatives in Mexico are an aid to the Mexican economy. But in the meantime, Mexico is drained of a vigorous, productive part of its population; families are uprooted and divided.

Criminality involved in the smuggling of workers across the border has created a major law enforcement problem for Mexico; smugglers, called "coyotes," charge from a few hundred to as much as $1,000 to guide workers across the border and to cities in the United States. And finally, the pattern of immigration has contributed to the growth of Mexico's population in northern cities, such as Monterrey, and in towns along the U.S. border. Dealing with the flow of people across the border is an enormous strain on the resources of these border municipalities.

U.S. policy options to deal with the problem of undocumented workers range from sealing the borders to completely opening the borders to all who wish to enter. Both of these extremes have been rejected for good reasons. We could seal our border as East Germany has sealed its border with West Germany. But if we did this, we would compromise many of the aspects of a free society that we most value. Opening the border to all might result in a flood of immigration that would upset our economic and political system. Therefore, we have sought policies that fall between these extremes, policies that would reduce the scale of illegal immigration without resort to more radical measures. For example, the Carter administration has proposed legalizing the status of undocumented workers already in the United States for some time, tightening the controls over additional entries, and strengthening the penalties for employers of undocumented workers. These proposals and alternatives are now under study by a special commission established by the Congress.

Measures of some kind are necessary even though we must recognize that they deal only with the signs of the problem and not the causes. The causes are to be found in Mexico, in the differences in the level of economic development between Mexico and the United States. In the long term, only the rapid, steady development of the Mexican economy can absorb Mexico's growing population productively. In the next 10 years, some 700,000 persons will be entering the Mexican job market every year, while only 300,000 to 400,000 new jobs are expected each year.

Like other common problems, the question of the undocumented workers can only be solved in active cooperation with Mexico, not through unilateral U.S. policy initiatives. It is in our national interest to assist in Mexico's economic development, because, in turn, it will help us, help our own country.

The Mexican Government has adopted prudent and realistic oil development plans so that the dangers of a too rapid infusion of petrodollars into the Mexican economy can be avoided. The result should be balanced economic growth, paced to Mexico's national needs. Mexico must undertake, and the United States should do what we can, to encourage the use of petroleum revenues to contribute to a pattern of steady growth which will result in a more hopeful life for the Mexican people. Poverty, pollution, rapid population growth are all serious problems that must be dealt with.

NARCOTICS TRAFFIC

One key area of growing United States-Mexican cooperation is the joint effort to control the narcotics traffic across our borders.

Under a United States-Mexican cooperative program, law enforcement officials in our two countries are attacking the drug trade where it is most vulnerable—at its source, in the highlands of Mexico's Sierra Madre, where plants used to make the illegal drugs are cultivated.

Under the program, the Mexican Government is eradicating the opium poppy, a plant used in the production of heroin. Because of action by the Mexican Government, there has been a dramatic, remarkable reduction in the amount of heroin coming into the United States from Mexico. Mexico carries out this function as a responsible member of the international community.

In 1976, 90 percent of heroin in the United States originated from Mexico. The figure now is less than 50 percent. In 1976, heroin accounted for 150 deaths and 1,600 injuries each month in the United States. The figures now are 30 deaths and fewer than 800 injuries.

The United States has funded one-third of the heroin control program in Mexico. The rest came from Mexico. And all of the manpower for the program came from Mexico. This includes the lives of over 30 Mexicans who have died in the enforcement of this program.

There also are cooperative efforts to curb the flow of cocaine and marihuana. It is estimated that the illegal drug traffic between Mexico and the United States has dropped from a $2-billion-a-year activity to something less than half that figure.

The impact of these drugs on the United States should not be underestimated. Deputy Secretary of State Warren Christopher has said that illicit narcotics transactions are costing the American economy $40 billion a year, plus $10.2 billion in social and health costs.

Thus, the Mexican Government is working with our Government to curb a product whose primary detrimental impact is on the United States. This is a service not only to our country, but also to the international community.

These efforts are an example of the kind of cooperation between the United States and Mexico that should occur in other fields.

TRADE

The interdependence of our economies is another reflection of the importance of the bilateral relationship between the United States and Mexico. The geographic proximity between Mexico and the United States makes us natural trading partners. Relatively fast delivery and low transportation costs are among the specific advantages.

Mexico is our largest trading partner in Latin America and our fifth largest trading partner in the world. The United States is the largest trading partner of Mexico; we import approximately three-fifths of Mexico's total exports. About half of Mexico's exports to the United States are agricultural and oil products.

In 1978, U.S. exports to Mexico totaled $6.5 billion. In turn, we imported about $6.1 billion in Mexican goods.

Approximately three-fifths of our exports to Mexico are capital goods and consumer products, especially industrial and transportation equipment.

Differences have arisen between the two countries and are to a large extent the product of the already extensive trading relationship which involves an enormous movement of goods and financial resources.

From the Mexican perspective, there is increasing interest in exporting to the United States more of its winter fruits and vegetables which employ tens of thousands of Mexican workers.

In addition, Mexico would like for the United States to absorb more of its manufactured goods. This results, in large part, from the change in the composition of Mexican exports. In 1971, about 40 percent of Mexico's exports were agricultural commodities and about 40 percent were manufactured goods. Today, agricultural commodities make up only about 20 percent of Mexican exports.

Increased exports of such products to the United States are viewed by the Mexicans as necessary to develop jobs for its growing population. According to some estimates, as much as 40 percent of the Mexican labor force consists of unemployed and underemployed workers. An export strategy is believed to provide one of the best chances of improving this situation.

The critical nature of the unemployment problem in Mexico is a matter of direct concern to the United States, as I will discuss in relation to the issue of illegal immigration. We have an interest in seeing this problem alleviated.

From the U.S. perspective, there is continuing concern that many Mexican markets remain closed to our industrial and agricultural sectors. A broadly inclusive domestic licensing system is in place which protects Mexican firms from foreign competition and thereby limits market entry of many U.S. firms who otherwise could compete successively.

As the recent natural gas accord reached between our two countries suggests, however, the outstanding trading issues between us can be resolved. It will require give-and-take on both sides.

To resolve our differences, the United States may need to absorb higher levels of Mexican manufactured goods.

Considerable progress has already been made toward this end. Since 1971, Mexican exports to the United States have increased an average of 46 percent. For certain manufactured goods, including auto engines, automotive parts, and electrical apparatus, the rate of growth has been even higher.

Likewise, there is need for accommodation on the part of Mexico. Among the possible options would be the easing of non-tariff barriers as well as the step-up in energy exports to the United States.

Furthermore, in the interests of both countries, I would think that there is the potential for major joint ventures in the industrial area.

Through these various steps, I believe that the volume of trade between the United States and Mexico could grow to the benefit of both countries. In the coming decade, trade will be an increasingly important element of the bilateral relationship.

ENERGY

Nothing has served to shape today's view of Mexico in the United States so much as the confirmation of vast petroleum reserves south of the border. Mexico has long been an oil-producing nation, and U.S. oil companies participated in the early development of Mexican petroleum reserves. But in 1938, Mexico nationalized its oil resources, expropriating foreign companies. In effect, Mexico was out of the world market for several decades, and this was an irritant in United States-Mexican relations. Now, Mexico is once again becoming a factor in the world oil market, and we hope to see the old irritants laid aside in a new spirit of cooperation.

The Mexican state oil company, PEMEX, estimates the nation's proven and probable oil and gas equivalent reserves at over 80 billion barrels, with potential reserves of 200 billion. While estimates from other sources vary from these figures, it is generally agreed that Mexico may have reserves that put it into the same category as Persian Gulf oil producers.

Current production is approximately 1.4 to 1.6 million barrels of oil a day and 2.5 billion cubic feet of gas per day. Of this, 440,000 barrels of oil is exported, mostly to the United States. With sufficient capital investment, production could easily increase enough in the future to meet Mexico's own growing demands for energy and to provide an economically important source of exports for the world market.

An important part of the oil production picture in Mexico is natural gas policy, since the gas is produced along with the oil. Indeed, if oil production is to be increased, gas will either have to be burned off; used increasingly to meet Mexico's own energy needs; or piped to the United States. Thus, the importance of the recent agreement signed by the two governments that will allow the sale of 300 to 500 million cubic feet of gas per day to the United States. This kind of agreement not only makes good use of Mexico's gas, it will help to provide the capital the Mexican Government needs to expand oil production. And it will permit increased production without the wasting of so important a resource as natural gas. In other words, the importance of the agreement on natural gas is that it serves the interests of both nations.

A pipeline to carry natural gas to the U.S. border has already been substantially completed as a result of an earlier decision by President Lopez Portillo. Thus, the flow of gas to the North can begin in a relatively short time. The short distances between Mexican oil fields and U.S. gulf coast refiners reduces transportation costs and problems. And the refining characteristics of the Mexican crude oil are apparently very attractive for refining.

But most important to the United States is the fact that oil imports from Mexico can help to reduce U.S. dependence on the OPEC cartel. Mexico is not an OPEC member, nor is it expected to join the cartel, although Mexico is expected to follow the world market prices set by OPEC. By diversifying our sources of oil, the United States can reduce some of our energy vulnerability.

It must be recognized that by turning to Mexico for imports of such a crucial commodity we open a new epoch of interdependence between our two nations. Indeed, some in Mexico have opposed energy ties with the United States because they fear such ties may make Mexico vulnerable to United States pressures. There are some corresponding concerns on the U.S. side, and it seems likely that parallel progress on other issues will be necessary if United States-Mexican energy relations are to develop as we hope they will. I hope that this new phase in energy relations will herald a new era in United States-Mexican relations across the board, with equally positive impact in other areas.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. I thank the Chair.

Mr. President, I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 337 and 338.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—those items are cleared on our Calendar, and we have no objection to proceeding to their consideration and passage.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSPORTATION OF LOTTERY MATERIAL

The bill (S. 947) to amend title 18 of the United States Code to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 1307 of title 18 of the United States Code is amended by striking out "mailing to addresses within" and all that follows through the end of such subsection (b) and inserting in lieu thereof the following: "mailing—

"(1) to addresses within a State of equipment, tickets, or material concerning a lottery which is conducted by that State acting under the authority of State law; or

"(2) to an addressee within a foreign country of equipment, tickets, or material designed to be used within that foreign country in a lottery which is authorized by the law of that foreign country."

(b) Subsection (c) of section 1307 of title 18 of the United States Code is amended—

(1) by inserting "(1)" after "of this section"; and

(2) by inserting "; and (2) 'foreign country' means any empire, country, dominion, colony, or protectorate, or any subdivision thereof (other than the United States, its territories or possessions)" before the period.

SEC. 2. Section 1953 of title 18 of the United States Code is amended—

(1) in subsection (b), by striking out the period at the end of such subsection and inserting in lieu thereof the following: ", or (5) the transportation in foreign commerce to a destination in a foreign country of equipment, tickets, or materials designed to be used within that foreign country in a lottery which is authorized by the laws of that foreign country."; and

(2) by adding at the end the following new subsections:

"(d) For the purposes of this section (1)

'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and (2) 'foreign country' means any empire, country, dominion, colony, or protectorate, or any subdivision thereof (other than the United States, its territories or possessions).

"(e) For the purposes of this section 'lottery' means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. 'Lottery' does not include the placing or accepting of bets or wagers on sporting events or contests.".

ORDER VITIATING ACTION ON S. 947

(Later in the day the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action on Calendar Order No. 337, S. 947, a bill to amend title 18 of the United States Code to allow the transportation or mailing to a foreign country of material concering a lottery authorized by that foreign country, and for other purposes, be vitiated and that the bill be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

The resolution (S. Res. 238) authorizing additional expenditures by the Committee on Rules and Administration for routine purposes, was considered and agreed to, as follows:

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, during the Ninety-sixth Congress, $50,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR HOUSE JOINT RESOLUTION 406 TO BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when House Joint Resolution 406 arrives from the House, it be held at the desk. This is the 120-day extension of the Defense Production Act.

The PRESIDING OFFICER (Mr. BRADLEY). Without objection, it is so ordered.

GERALD FORD TAKES HIS STAND ON SALT

Mr. BAKER. Mr. President, a most important contribution to the continuing national debate on the SALT II treaty has been made today by former President Ford.

In a speech to the National War College, President Ford states his opposition to the new treaty "until and unless we can once again be certain of our strength."

The former President reminds us there are important differences between America's military posture under the Carter administration and the security arrangements that would have existed in a second Ford administration.

With the cancellation of the B-1 bomber, the delay in developing the MX missile and the Trident submarine, the cutting in half of the projected Navy shipbuilding program, and other similar decisions made unilaterally by the Carter administration, the United States is in a substantially weaker position, both strategically and conventionally than it would otherwise have been.

In addition, President Ford points to serious deficiencies within the text of the new treaty itself: Problems of verification, the influence of the protocol on future weapons development, the inclusion of limits on the B-1 and cruise missile while the Soviet Backfire bomber is excluded from the treaty proper, the vague definition of a new weapons system, and other concerns familiar to the Senate.

President Ford has made a carefully reasoned and responsible case, and I commend it to my colleagues on both sides of the aisle and all sides of the debate for their consideration. I ask unanimous consent that the text of President Ford's remarks, as published in this morning's Washington Post, be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

GERALD FORD TAKES HIS STAND ON SALT

I wish to share some of my thoughts regarding the SALT II treaty and America's defense policies. They constitute my first effort at comprehensive public comment on these subjects since leaving the White House in January 1977. I've been there. The responsibilities are awesome. I have weighed these words very carefully.

I have studied the treaty and its accompanying documents in detail. I have been thoroughly briefed by the administration and by those on the other side. I have carefully followed the ongoing debate in the Senate committees. And I am deeply troubled.

Frankly, I am troubled less by the questions in the treaty itself—although there are serious questions—than I am by the air of unreality that seems to accompany some of the debate.

Strategic arms control is of great importance to the United States. I supported the SALT talks in Congress, encouraged them as vice president and pursued them personally as president. We need the SALT process and a good SALT agreement. But neither the SALT talks nor any SALT treaty is an end in itself. It is not the key to all wisdom. It is not a magic answer. Ratification will not bring utopia; rejection will not bring Armageddon.

Just as SALT should never be considered in isolation from the rest of U.S.-Soviet relations, neither should SALT have a higher priority than our national defense program. We must be certain of our strength before we can safely consider SALT limits on it. Let's make certain we get the horse before the cart. It would be catastrophic to reverse the two.

Anyone who recommends a context for the national debate surely should follow his own advice. So, before looking at the particulars of the treaty, let's look at the status of our defense program. Let's try to answer the question: can America be certain of her strength today and during the next decade?

That examination requires a brief history of the evolution of U.S. military strategy in the nuclear age, starting with the initial concept in the '50s—"massive retaliation."

The "massive retaliation" doctrine was based on one simple fact: the United States possessed overwhelming strategic superiority. With it, theoretically, we could presumptively deter and surely control any military conflict with the Soviet Union through the threat of escalation to a nuclear level where the United States was absolutely dominant.

Massive retaliation was a logical response to the frustrations of the early '50s:

In Korea we had achieved our initial objectives, but many people felt that we had become "bogged down" in a situation in which the Communist forces enjoyed a relative advantage.

In Europe we had set NATO force goals which, even if they had been met, would have constituted a severe economic drain.

Even though the United States still enjoyed substantial superiority in its ability to project conventional forces to distant areas of conflict, massive retaliation made good military sense. Put simply, it was a strategy to deter "limited" conflict such as Korea by threatening to respond at a level where both sides knew we would prevail.

The principal problem of "massive retaliation" was its lack of political credibility. A nuclear attack on the Soviet Union seemed so disproportionate a response, and therefore so unlikely a response, to a Soviet provocation at a minor level of conflict that the doctrine of "massive retaliation" could not be counted on to deter local aggression.

So next came steps to add credibility to deterrence by adding flexability to our military arsenal. While retaining absolute dominance in strategic weapons, we deployed tactical nuclear weapons with the NATO forces. And then in the early '60s, we moved further to improve the credibility of the United States and NATO military strategy by "filling in," with conventional military capability, the lower steps of the escalation ladder of military conflict.

We had moved from the concept of massive retaliation to the concept of "flexible response" under which deterence of Soviet aggression would rest, not just on the capacity to devastate the Russian heartland, but to respond to Soviet aggression at any level of conflict. At the conventional level, U.S. forces were to be adequate to deal with modest military incursions and to make obvious the inevitability of a U.S. military response to aggression. They were to be sufficient to force a "pause" in the conflict in which the Soviets would contemplate seriously the consequences of continuing hostilities. Should the U.S.S.R. nevertheless persist in its aggression, the United States could then escalate the conflict to the level of tactical nuclear warfare and, if necessary, to the use of strategic nuclear weapons. Since the United States was unmistakably dominant at both these levels, the Soviet Union was clearly deterred from attack in the NATO area.

As we made these moves toward a flexible response doctrine, the famed "missile gap" occurred. Suddenly, and for the first time, we thought that our absolute dominance in strategic nuclear weapons was imperiled by the apparent intention of the U.S.S.R. to produce ICBMs en masse. Because both our defense and deterrence ultimately rested on that dominance in strategic weapons, we moved quickly to modernize and diversify our strategic force—to make it less vulnerable to the massive Soviet missile force we were told was their plan. The strategic posture we have today—the Triad and even the specific weapons systems, the ICBMs, strategic ballistic missile submarines, and bombers—was largely developed at that time.

The "missile gap" fears were based not on what the Soviets were actually doing, but on what we thought they were capable of doing. Our response to the *perceived* threat ironically proved far more helpful to American security than our reaction to the *actual* Soviet program once we discovered it in the mid-60s. They were not building missiles at the rate we had feared and so we assumed they desired only a modest strategic capability and, unfortunately, we relaxed. Our Minuteman ICBM program was halted well short of the numbers recommended by our military leaders. The notion of targeting their strategic arsenal was rejected in favor of a concept of targeting Soviet cities under a doctrine of "assured destruction" designed to encourage the U.S.S.R. to do the same because it would require only a small Soviet strategic force to achieve.

All in all, it was a formula bound to produce complacency. You start off with total and absolute superiority; then you get scared that the other side is going to catch up and surpass you, so you diversify and modernize; then you realize the other side wasn't doing anywhere near as much as you thought; and so, psychologically, you believe that the overall result is continued assured superiority. The complacency that followed the awareness that there was no real missile gap was the beginning of our problems today.

A separate but related factor which influenced the policy process was the Vietnam War. Aside from the psychological trauma of Vietnam and its impact on U.S. foreign policy, the conflict had a dramatic negative effect on the several force structure decisions which had been made in the early '60s. The war naturally resulted in very high defense budgets, very little of which was devoted to R & D or force modernization, aside from Vietnam-related items. This natural emphasis was underscored by the desire of the administration in the earlier years of the conflict to conduct the war in a manner calculated to have the least visible and disruptive domestic impact. The result was that during a period when Soviet force development was barreling forward, long-range strategic programs in this country were inadequately funded.

But that was not all. The adverse impact of the war on force development and modernization continued even after U.S. involvement had ended. This occurred as a result of the unfulfilled expectation that the end of the war would permit a "peace dividend," releasing large sums of money for domestic budget needs. The pressures which this produced on the defense budget in general and new strategic programs in particular were extreme. The result was that the defense budget continued to decline as a proportion of the national budget and of the gross national product. These difficulties reinforced both the tendency toward a relaxation of military standards and a propensity to avoid analysis of the evolving strategic balance and the unpleasant choices it might reveal.

We got back on track in the mid-'70s. The B1 bomber program was fully funded. The decision was made to go forward with the MX missile. The Trident submarine program was pushed forward. Priority was given to our other strategic programs. And a major shipbuilding program was designed and budgeted. Unfortunately, since the election of 1976, the defense budgets have actually been proportionately reduced and the weapons programs begun in earlier administrations have been halted or slowed down.

Meanwhile, the Soviet Union has never stopped building. It was thought they would be satisfied with a modest "assured destruction" capacity targeted at our cities. They weren't. Then it was rationalized and assumed that psychologically they needed to keep building until they felt they had achieved strategic force equality and that then they would stop. They didn't. Today's perilous picture is where we stand.

At virtually every level of military competition, the United States is either already inferior to the Soviet Union or the balance is shifting steadily against us. We are inferior and falling farther behind in conventional force capability. Our ability to project military power over long distances is still superior to that of the Soviets, but they are rapidly closing the gap. Our dominant position on the seas is vanishing. Our Navy is no longer a two-ocean powerhouse and the Soviets continue to build a blue-water, power-projecting fleet. In NATO, the increasing Soviet advantage in conventional force capability is no longer balanced by our current or proposed theater nuclear weapons.

And, most critical of all for our national military policy is the strategic nuclear superiority on which we have relied since World War II to rectify any force disparities at lower levels. The strategic balance is clearly shifting against us, especially as we look forward to a period of great vulnerability for our entire ICBM force in the early 1980s.

The question we started with was: can America be certain of her strength today and during the next decade? My answer, frankly, is no.

It is an ominous picture. What should we do about it? The essential first step is to recognize that our military policy is increasingly out of touch with reality. Strategic superiority and escalation dominance are no longer available to cover our conventional military shortfalls, which are growing. This is the fact of our present situation, a fact we have been all too unwilling to face openly.

How do we recover? There is, unfortunately, no easy, painless, inexpensive way. Since we can no longer dominate the escalation ladder, we must have forces able to deal adequately with aggression at every level of conflict. In addition, we need to modify our strategic employment doctrine. No president should be forced to choose between the massive destruction of the Soviet Union or surrender. That is an intolerable burden. It is an intolerable choice.

Broader options obviously demand a larger defense program. Our senior military leaders can better set out the program details and precise dollar amounts essential to our needs, although certain steps are obvious:

We need an MX missile.

We need a new strategic bomber.

We need to accelerate the Trident program as rapidly as our facilities will permit.

We need an air defense at least sufficient to prevent the Backfire bomber from counting on a free-ride attack on the United States.

We need to modernize and enhance our strategic airlift capabilities, to enable us to project our military power adequately wherever it may be needed.

We need additional funds to improve command and control, for readiness training and for conventional force modernization.

And we need assured funding for research and development into the future.

This list is not all-inclusive, but it is certainly expensive. The Joint Chiefs of Staff have indicated that a 5 percent real increase in the defense budget for at least the next five years is a minimum figure. I am prepared to accept and endorse that judgment. Let me also point out that I am not a latter-day convert to the kind of defense program I have outlined. The spending which I proposed when I was in office provided for more than a 5 percent annual increase in the defense budget. The present administration's budget for the years 1978 to 1983 have fallen behind my proposals by $66 billion in the critical area of military procurement alone. That difference in military hardware averages out to over 21 percent a year.

Now, if we can't be certain of our strength today and during the next decade, what should we do about SALT and the SALT II treaty?

First, we simply must resist the temptation to think of any SALT treaty as a substitute for summoning the will and the money to make our defense and deterrence forces truly effective. To use SALT as an answer to our defense needs is the most dangerous kind of wishful thinking.

Some may say, indeed some have said, that if we're headed into a tough period militarily, isn't a treaty which limits the Soviet Union's capacity for expansion the best answer? Assuming the Soviet Union fully abides by the treaty, it can help, of course. But the best answer to America's inadequate defense and deterrence forces, with or without a treaty, is to spend the funds necessary to make them adequate to the new realities. That's not an argument against the treaty; it is a plea from one who has shouldered the responsibilities of the office, to assure that America's president will have the military tools essential to deter adventurism and to defend our country.

SALT can never be a substitute for the certainty of our strength.

Second, we should firmly reassert our commitment to the SALT process, but with realistic expectations for that process.

SALT will not eliminate U.S.-Soviet competition. It certainly will not eliminate the threat of nuclear war and surely cannot be expected to reduce greatly the extent of destruction should a war occur. It wil not permit us to cut the defense budget. Neither the United States nor the Soviet Union is prepared to entrust its fundmental national security to any agreement, no matter how carefully crafted.

What then can SALT do? In military terms, SALT can document the competition that exists and will continue.

SALT can improve the stability of the strategic balance, making an unintended resort to war less likely.

SALT may be able to channel the directions of strategic weapons development thus lessening the chances that a crtically destabilizing breakthrough will occur. It may enable us to avoid some defense expenditures which otherwise might be necessary to achieve a satisfactory strategic balance. And in a perilous rivalry SALT does perform a service by providing a process of dialogue.

Compared to some extravagant claims and expectations, these are modest benefits, but they are nonetheless significant and well worth our continued serious efforts. Greater expectations are not realistic. And SALT can perform these services only if we do not ask that it also try to regain at the negotiating table what we have unilaterally given up by not strengthening and modernizing our defense programs.

Just as supporters who claim too much for the treaty should not let their euphoria or their rhetoric get the best of them, opponents who allege too little for the treaty should not forget the fundamental point that there is progress in a responsible process.

Third, let us in the future realize what in recent years we seem to have forgotten—that SALT negotiations, like all negotiations, to be successful, are best undertaken from strength.

The current administration is fond of implying that the current treaty is the product of a continuing negotiating process begun with SALT I under the Nixon administration and furthered through the Vladivostok accord under the Ford administration. They miss the critical point.

The truth is that we negotiated a real breakthrough at Vladivostok with the mutual acceptance of the principle of equivalence. But we negotiated the Vladivostok accord in the full expectation of a significantly stronger American strategic posture than what was actually in effect or programmed when this SALT II treaty was signed.

Many of the overall ceilings in the treaty were first set forth at Vladivostok. But that agreement was reached against a backdrop of a defense program which included such elements as deployment of our MX missile in 1983, deployment of the B1 bomber commencing this year with a production rate of four per month, a strong land-, sea- and air-based cruise missile program, and accelerated Trident program with the first boat to be deployed this year, and a determination to stop and reverse the decline in the share of our national income being allocated to defense. At the time of Vladivostok, our verification facilities in Iran were secure; and the Soviet Union at that time was not embarked on or supporting geopolitical adventures in such places as Ethiopia, South Yemen and Afghanistan. The Vladivostok accord did not solve all the problems confronting us. But it was an agreement based on equality, flexibility and on the certainty of America's strength into the future.

Dealing from strength, our goal was the rapid conclusion of a SALT II agreement, thereby enabling us in SALT III negotiations to deal with remaining intractable issues, such as mutual strategic force reductions.

When the strategic force commitments in place at the time of Vladivostok were cut back in 1977, the certainty of our future military strength was also cut back, and America's negotiating posture for both SALT II and SALT III was weakened.

Fourth, there are a number of specific problem areas in the treaty which should be recognized and hopefully corrected by Soviet agreement or by Senate understandings or reservations.

There are useful elements in the treaty. It does put a cap on some elements of strategic force quantitative competition. The upper limit on numbers of MIRVs per missile is especially worthwhile.

On the other hand, I am concerned at the protocol casting a long shadow over the SALT III negotiations and at the pressures we will certainly face to continue restrictions on cruise missiles beyond the term of the protocol. I disagree with the asymmetric treatment by which peripheral systems such as cruise missiles are included in the treaty while the Backfire bomber is dealt with only in a separate Soviet aside.

There are two aspects of the verification issue which trouble me. The manner of resolution of the issues relating to the encryption of missile telemetry at a minimum invites dispute about what is and what is not essential for treaty verification. I am also disturbed by the so-called "new types" article purporting to limit both sides to one new ICBM. The title appears to be a misnomer at best. The treaty permits the broadest kind of missile modernization to be carried out without hindrance. Both because there is no baseline agreement on the dimensions defined and because the tolerances allowed are too narrow, we cannot adequately verify compliance with this article. While it apparently does constrain changes in MIRV size and numbers, as well as propellant types, the article at the very best can be expected to result in disputes over conformity with its provisions. At the worst, it could permit the Soviet Union to deploy five essentially new missiles.

Fifth, and this is the bottom line, even if the questions about the treaty are adequately answered, I am opposed to the ratification of the treaty until and unless we can once again be certain of our strength. That means that our necessary strategic force improvements should be clearly in process. It means that the overall necessary defense spending increases should be unequivocally included in this year's budget, next year's, and each succeeding year of the five-year plan. It means clear policies should be established by the administration and backed by the Congress in statutory authorization and by the necessary appropriations. These requirements undoubtedly will mean that a final vote on ratification would not happen until well into next year. But the delay will be proved worthwhile if ultimate ratification occurs at a time when we are certain of our strength again.

Let me emphasize the point. Some suggest they are for the treaty on the assumption that the necessary defense spending decisions will be made. That is not my position. My position is that I am against the treaty unless the necessary defense spending decisions have been made and have been written into law. I don't believe vague, short-term or revocable assurances are enough; we must be certain of our strength before we accept limits on it.

In very practical terms, only if the Soviets know there is an unacceptable penalty for violations can they be expected to abide by the provisions of SALT II and stay on the safe side of any uncertainties and ambiguities—*and* be prepared to negotiate seriously on SALT III. The Soviets will not be persuaded either by expressions of goodwill or by pleas for restraint if they believe in their conventional and strategic superiority. They must be convinced by reality that we have other options. Only then will SALT II be a viable instrument and only then will there be any hope of real progress in SALT III.

Many will ask how we can call for a stronger defense program while we face raging inflation, rising unemployment, a recession, a severe energy crisis and a host of pressing domestic problems. The question is reasonable. I do not claim the answer will be easy. But I am not speaking out now from the comfortable vantage point of a sidelines observer. During my term of office, I did increase the defense budget—by 5.8 percent in real terms in FY77 alone, even after substantial congressional cuts. I did get under way a substantial five-year shipbuilding program—providing almost twice the number of ships in the current program—to ensure our naval predominance in the years ahead. I did have under way an MX missile and a B1 bomber program as well as other force improvement packages. And, I was doing this while helping reduce inflation from 12.5 percent to 4.8 percent. It can be done. We *can* afford it; what we cannot afford are self-defeating "guns or butter" arguments.

Let me close with a deep personal concern. My greatest fear for this country is that the obvious danger signals for our economic security will blind our leadership or our people to the more subtle danger signals for our national security.

The danger signals for our economy are all around us. The experts cite the high inflation rates, the high unemployment rates and the high interest rates. The people don't need the experts to tell them they have problems. They live every day with the costs of energy and food and housing. A clear and present economic danger is obvious.

These pressing economic concerns may keep many Americans from recognizing the importance of the SALT and defense debate. There is no everyday statistical equivalent in the national security area to the cost-of-living index. The erosion of a nation's defenses is not obvious at the supermarket. The priority of our defense budget seems a distant concern in gas lines. We certainly don't need any more problems. We all would like to wish them away.

But neither Washington's preoccupation with politics nor our people's preoccupations with the high price of everything must be permitted to obscure a clear and present danger to our national security.

The decisions we make on our defense budget and the SALT treaty are as important as any decisions America has ever had to make. The necessity for economic and energy security is inseparable from a commitment to national military security.

Without the deterrence of an adequate range of military resources, our diplomacy can be hamstrung in the face of Soviet adventurism which potentially further challenges our world-wide energy supply lines.

Without a revitalized, diversified and secure strategic capability, our allies cannot recover their confidence in our overall leadership which is a precondition to recovering their confidence in our dollar.

Without the psychological confidence based on the certainty of our strength, no American president can be certain to deter the kind of conflict that makes economic security irrelevant.

Let me repeat: the necessity for economic and energy security is inseparable from a commitment to national military security. A bold America today is the only sure road to a secure and thriving America tomorrow.

THE IMPORTANCE OF UNITED STATES-MEXICAN RELATIONS

Mr. BAKER. Mr. President, I join the majority leader in expressing my welcome to President Lopez Portillo of Mexico for his visit to this country.

The relationships between the United States and Mexico always have been the very best. We are natural allies, we are friends by instinct and by geography, and it pleases me to see that we will be honored by a formal state visit to the United States by President Lopez Portillo.

I commend President Carter for his recent initiative in undertaking the completion of an agreement between our two countries on the sale of a limited amount of natural gas from Mexico. I think this is a step in the right direction. There is much yet to be done.

Mr. President, I hope that in the years ahead—indeed, in the months ahead—we will see more attention, more careful consideration, more sympathetic consideration of legitimate interests of our two countries, because they are bound together for the future and in the present.

At a future time, I hope to speak further on this subject and to propose that at some point there be convened a North American Common Market Conference to consider the interests of United States, Mexico, and Canada; because there is a community of interests among all three countries that should be examined carefully in light of the demands of our future mutual security and social interests.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader for his comments with reference to the statement I made.

I also have voiced a strong sentiment for the idea of a common market which would be of assistance to analyze, review, and propose recommended actions that would be useful to all three countries—a common market that would include our two neighboring countries, Canada and Mexico.

I was in Canada, in Toronto, during the August recess and spoke there, and during my speech, I stated this position.

So I am glad that the distinguished minority leader has indicated a similar feeling. I hope that both of us can continue to express support for this idea and that we will be joined by others.

Mr. BAKER. I thank the majority leader.

I, too, am excited at the prospect that the majority leader and I might work together to try to formulate a bipartisan approach to this important matter, and I herewith register my desire to do that.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I see the Senator from Wisconsin is on his feet. If I have time remaining, I will be glad to yield it to him.

Mr. PROXMIRE. Mr. President, will the Senator yield me 3 minutes?

Mr. BAKER. I yield whatever time I have remaining to the Senator from Wisconsin.

Mr. PROXMIRE. I thank the Senator.

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 737.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce.

(The amendment of the House is printed in the Record of September 25, 1979, beginning at p. 26173.)

Mr. PROXMIRE. Mr. President, I move that the Senate disagree to the House amendments and agree to the conference requested by the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Proxmire, Mr. Stevenson, Mr. Williams, Mr. Tsongas, Mr. Garn, Mr. Heinz, and Mrs. Kassebaum conferees on the part of the Senate.

THE SENATE CONSIDERS A HISTORIC TREATY

Mr. PROXMIRE. Mr. President, the Genocide treaty is the result of long and exacting negotiations conducted by some of this Nation's most able minds. It has already been the subject of great international debate, and 83 nations are on record as supporting it.

This treaty has been the focus of considerable attention in the United States as well, receiving endorsements from numerous national organizations representing over 100 million Americans. These respected groups include the American Bar Association and the American Civil Liberties Union. Individual supporters of the treaty have included seven presidents of the United States—every President of the United States since Harry Truman when the Genocide Treaty was first adopted by the United Nations.

Our consideration of this treaty affects not only this country and this time, but all of the world and its future as well. The subject is, in effect, the survival of humanity.

I am, of course, speaking of the Genocide Convention. As we prepare to devote our time and attention to the coming debate on SALT II, it is terribly important that we do not allow ourselves to forget this other international agreement. For as complex and controversial as SALT is, the Genocide Convention is simple. It seeks to declare that genocide is a crime, abhorrent to the community of civilized nations.

It is simple, indeed, yet the Genocide Convention is open to our consideration today only because 15 previous Senates, over a period of 30 years, have not been able to find the time, the initiatives, or moral direction to affirm clearly this country's position on such a fundamental issue.

I urge my colleagues, as they use their intellects to consider the merits of SALT, to reflect on their consciences as well and ratify the Genocide Convention.

I thank my good friend from Tennessee for graciously yielding the floor.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, the continuing resolution is being marked up in the Appropriations Committee at this time. I hope it will be possible to get the continuing resolution up for tomorrow, certainly Friday if not tomorrow.

The House of Representatives is expected to send over the debt limit bill today, and I assume that Mr. Long will want that held at the desk.

ORDER TO HOLD H.R. 5369 AT THE DESK

Mr. President, I ask unanimous consent that when H.R. 5369, which is the debt limit measure, comes over from the House of Representatives it be held at the desk pending further action.

Mr. BAKER. Mr. President, we have no objection to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the majority leader yield to permit me to address one matter of which he spoke?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, on the question of the continuing resolution I am advised that there are Members on this side who are under the impression that that matter will be scheduled for Friday and not Thursday, and some of them have made plans now that will be conflicting by consideration of the continuing resolution tomorrow.

I am also advised that there is the prospect at least that we may have to go back to conference, some changes may be made here, or we may have to take some other step to accommodate those changes.

I wonder if the majority leader will consider scheduling the continuing resolution or planning to schedule it on Friday instead of Thursday?

Mr. ROBERT C. BYRD. I would rather not, if I may say so most respectfully to the distinguished minority leader.

First of all, I have personally not indicated that we will go over to Friday;

Second, I wish to see what Mr. Magnuson and Mr. Young, the chairman and the ranking minority member of the Appropriations Committee, recommend.

Third, if we go over to Friday and hit a stump and have to go back, it is my understanding the House of Representatives is going to, at the close of business Friday, go out for a week, and they may start losing their Members early Friday.

So I would rather not indicate that the resolution will go over to Friday. I prefer to leave that, for the moment at least, to the recommendations of Mr. Young and Mr. Magnuson.

Mr. BAKER. All right.

Mr. President, I thank the Senator. I understand that and I also wish to abide by the recommendations of our chairman and ranking minority member on the Appropriations Committee, but I thought I should mention that in view of the fact that there is a subsantial chance that some Members on our side may be heatedly opposed to trying to take it up on Thursday. I did not want the majority leader to be unaware of that.

Mr. ROBERT C. BYRD. I understand.

The problem is a conference could be necessary depending on what action the Senate takes and, with the rapidly approaching deadline of October 1, I think the Senate will have to be guided, I should think, in this instance, by the recommendations of the chairman and the ranking minority member as much as possible.

Mr. BAKER. I agree.

Mr. President, I wanted to make sure my friend, the majority leader, was aware of the complication on this side, and I think that we now must await the recommendation of our respective Members on the Appropriations Committee.

RECESS UNTIL 4 P.M.

Mr. ROBERT C. BYRD. Mr. President, the situation being as it is, with no other measure that can be taken up at the moment and there being problems here and there, I ask unanimous consent that the Senate stand in recess until 4 p.m. today awaiting action by the House of Representatives on the debt limit bill.

There being no objection, the Senate, at 12:24 p.m., recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KENNEDY).

ANNOUNCEMENT OF INTENTION TO CALL UP S. 1075

Mr. ROBERT C. BYRD. Mr. President, it is my intention to call up the drug bill shortly. That bill number is Calendar Order No. 334, S. 1075.

There is a time agreement on that bill, as follows: Time on the bill itself is confined to 1 hour, to be equally divided and controlled by the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Pennsylvania (Mr. SCHWEIKER), with a time limit on any amendment of 30 minutes, a time limit on any debatable motion, appeal, or point of order, if such is submitted to the Senate for its consideration, of 30 minutes, and the agreement is in the usual form.

I am merely waiting on the Republican leader to get to the floor now so I can call up the bill.

I would hope that the Senate could also go into executive session shortly to clear nominations on the Executive Calendar.

So, for the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BOREN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session, for not to exceed 1 minute, to consider all the nominations on the Executive Calendar.

Mr. STEVENS. There is no objection, Mr. President. They are all cleared.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

The second assistant legislative clerk proceeded to read nominations on the Executive Calendar.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

IN THE ARMY

Lt. Gen. Dennis Phillip McAuliffe, to be lieutenant general.

Maj. Gen. Wallace Hall Nutting, to be lieutenant general.

THE JUDICIARY

J. Jerome Farris, of Washington, to be U.S. circuit judge for the 9th circuit.

Betty Binns Fletcher, of Washington, to be U.S. circuit judge for the 9th circuit.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY AND MARINE CORPS

Air Force nominations beginning Ronald D. Aarons, to be major, and ending David G. Wood, to be major.

Army nominations beginning William C. Berryman, to be colonel, and ending Thomas R. Nissen, to be lieutenant colonel.

Army nominations beginning Michael R. Acton, to be major, and ending Michael E. Stevenson, to be lieutenant colonel.

Navy nominations beginning Andrew W. Acevedo, to be ensign, and ending David J. Friel, to be commander.

Marine Corps nominations beginning Frank M. Aichelmann, to be secod lieutenant, and ending Kurt V. Zirkelbach, to be second lieutenant.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the nominees were confirmed en bloc.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if any rollcall vote is ordered on final passage of S. 1075, I ask unanimous consent that that rollcall vote will be put over until tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

DRUG REGULATION REFORM ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 334.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1075) to revise and reform Federal law applicable to drugs for human use, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Drug Regulation Reform Act of 1979".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301).

TITLE I—AMENDMENTS TO FEDERAL FOOD, DRUG, AND COSMETIC ACT

SEC. 101. (a) The Congress finds that drugs manufactured, distributed, and used or investigated intrastate cannot be readily differentiated from drugs manufactured, distributed, and used or investigated interstate. Thus, for effective regulation of interstate commerce, it is desirable that to the extent feasible drugs be federally regulated.

(b) Section 201(b) is amended by striking the period at the end thereof and by adding a comma and the following: "except that in the case of a drug (other than a new animal drug or an animal feed bearing or containing a new animal drug) the term 'interstate commerce' includes (3) commerce that affects the commerce described in clause (1) or clause (2): *Provided*, That where the processing, manufacture, distribution, holding, and dispensing of a drug occur entirely within a single State and such processing, manufacture, distribution, holding, and dispensing have been expressly authorized by the laws of such State, the provisions of this Act shall not apply to such processing, manufacture, distribution, holding, or dispensing.".

SEC. 102. (a) Section 201(e) is amended by—

(1) striking "and"; and

(2) striking the period after "association" and substituting ", and agency of government.".

(b) Section 201(g)(2) is amended by adding at the end thereof the following: "The term also includes a prescription drug in tablet, capsule, or other finished solid form which—

"(1) does not clearly bear the name or trademark of the manufacturer or distributor of the drug on the drug itself,

"(2) meets the same standards of identity, strength, quality, purity, stability, and bioavailability as another prescription drug in such form which has been previously and lawfully introduced into interstate commerce, and

"(3) is identical in color, size, and shape to such other drug.".

SEC. 103. Section 201(p) is repealed.

SEC. 104. Section 301(e) is amended by striking the period at the end thereof and substituting the following: "; or the inclusion of a materially false or misleading statement (including the omission of material information) in any application, report, or other document by any person who had reason to believe that such statement, application, report, or document might be submitted to or inspected by the Secretary under this Act or who submitted such application, report, or document.".

SEC. 105. Section 301 is amended—

(1) by adding in subsection (r) before "device" each time it appears "drug or"; and

(2) by adding at the end thereof the following subsections:

"(s) The violation of any requirement or prohibition imposed by or under section 504 or 506 with respect to a drug in interstate commerce.

"(t) The manufacture for export or exporting of a drug or device in violation of section 801(d).".

SEC. 106. Subsections (a) and (b) of section 303 are amended to read as follows:

"(a) (1) Any person who negligently violates a provision of section 301 shall—

"(A) in the case of an individual, be imprisoned for not more than one year or fined not more than $25,000, or both; or

"(B) in the case of a person other than an individual, be fined not more than $50,000.

"(2) Notwithstanding the provisions of paragraph (1), if any person negligently commits a violation of section 301 after a conviction of that person under this Act has become final, or commits such a violation knowingly or willfully, such person shall—

"(A) in the case of an individual, be imprisoned for not more than three years or fined not more than $50,000, or both; or

"(B) in the case of a person other than an individual, be fined not more than $100,000.

"(b) For purposes of subsection (a), the term 'negligently' means acting without the care, skill, prudence, or diligence, under the circumstances then prevailing, that a prudent person would use if acting in a like capacity and familiar with the matters with which a prudent person in like capacity would be familiar.".

Sec. 107. Section 304(g) is amended by inserting "drug or" before "device" wherever it appears and by inserting after "misbranded" the words "or otherwise subject to seizure".

Sec. 108. Section 501(b) is amended to read as follows:

"(b) (1) If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or it fails in terms of identity, strength, quality, purity, or stability to meet, the standards set forth in such compendium. Such determinations as to identity, strength, quality, purity, or stability shall be made in accordance with the tests or methods of assay set forth in such compendium. Whenever standards of identity, strength, quality, purity, or stability or tests or methods of assay have not been prescribed in such compendium, or such standards, tests, or methods of assay as are prescribed are, in the judgment of the Secretary, insufficient, the Secretary shall bring such fact to the attention of the appropriate body charged with the revision of such compendium, and if such body fails within a reasonable time to prescribe tests or methods of assay which, in the judgment of the Secretary, are sufficient, then the Secretary shall promulgate regulations prescribing appropriate standards, tests, or methods of assay. A drug shall be deemed to be adulterated if its identity or strength differs from, or it fails in terms of quality, purity, or stablity to meet, standards set forth in any regulations promulgated by the Secretary under this subsection, or if tests or methods of assay set forth in any regulations promulgated by the Secretary under this subsection were not used. No drug shall be deemed adulterated under this paragraph if its identity or strength differs from, or it fails in terms of quality, purity, or stability to meet, applicable standards established pursuant to this paragraph if its difference from such standards is plainly stated on its labeling. Whenever a drug is recognized in both the United States Pharmacopeia and the Homeopathic Pharmacopeia of the United States it shall be subiect to the requirements of the United States Pharmacopeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subiect to the provisions of the Homeopathic Pharmacopeia of the United States and not to those of the United States Pharmacopeia.

"(2) If it is a drug which fails to meet appropriate standards of bioavailability, as prescribed by the Secretary. No drug shall be deemed adulterated under this paragraph if its bioavailability fails to meet applicable standards established pursuant to this paragraph if its difference from such standards is plainly stated on its labeling.".

Sec. 109. Section 501(c) is amended to read as follows:

"(c) If it is not subject to the provisions of subsection (b) and its identity or strength differs from, or its quality, purity, stability, or bioavailability falls below, that which it purports or is represented to possess.".

Sec. 110. Section 501(d) is amended to read as follows:

"(d) If it is a drug and any substance has been (1) mixed or packed therewith so as to alter its identity or to reduce its strength, quality, purity, stability, or bioavailability or (2) substituted wholly or in part therefor.".

Sec. 111. Section 502(b) is amended by inserting before the semicolon the following: ", but in the case of a prescription drug, the name and place of business of the manufacturer and distributor".

Sec. 112. Section 502(f) is amended by inserting: ", in the case of a drug intended for use by man, complies with the provisions of section 504 (a), (c), (g), and (m), and in the case of any drug or device," after "Unless its labeling".

Sec. 113. Section 502(k) is amended to read as follows:

"(k) If it is a drug from a batch with respect to which a requirement has been imposed and remains in effect under section 506(e) unless the batch is covered by a certification by the Secretary that it meets all applicable standards of identity, strength, quality, purity, stability, and bioavailability.".

Sec. 114. Section 502(l) is repealed.

Sec. 115. Section 502(n) is amended by—

(1) striking the comma and inserting "and" before "(2)", and

(2) striking the comma and all that follows after "502(e)" the second time it appears and substituting a period.

Sec. 116. (a) The first sentence of section 503(b) (2) is amended by striking the material beginning after "shall" and ending with "bears" and substituting "bear".

(b) The second sentence of section 503(b) (2) is repealed.

Sec. 117. The Act is amended by inserting after section 503 the following new section:

"REQUIREMENTS REGARDING PATIENT AND PHYSICIAN INFORMATION, DRUG PROMOTION, AND PRESCRIPTION SURVEYS

"Sec. 504. (a) Patient Information Labeling.—

(1) General Requirement.—Each person who manufactures, or who distributes under the person's firm or proprietary name, a prescription or a nonprescription drug shall prepare, in compliance with paragraph (2), information labeling for patients respecting the drug. No application submitted under section 505 shall be approved until the patient information labeling required under this subsection has been approved by the Secretary. Each such person shall distribute such labeling to accompany the drug. Persons who dispense the drug shall assure that patients receive such labeling when the drug is dispensed, except as provided in paragraph (4). Each pharmacy shall make available to patients, in a convenient place and in an accessible format, a book containing the information labeling, described in paragraph (2), for the one hundred most frequently sold prescription drugs, as designated by the Secretary.

"(2) Contents of Patient Information Labeling.—Information labeling required by paragraph (1) for patients respecting a drug shall contain—

"(A) a summary of the benefits and risks associated with the use of such drug;

"(B) adequate directions for use, including—

"(i) the purposes or indications for which the drug is intended,

"(ii) the proper method of administration of the drug,

"(iii) precautions to be taken during the use of the drug, and significant side effects and adverse reactions that may result from the use of the drug, as well as instructions for treating or obtaining treatment for side effects and adverse reactions, and

"(iv) warnings against unsafe use of the drug;

"(C) information concerning the proper storage and handling of the drug; and

"(D) any other information which the Secretary determines, pursuant to regulation, to be necessary or useful to inform patients about the risks and benefits associated with the class of drugs, promote the safe and effective use of such class, or protect the public health with respect to the use of such class.

"(3) Exceptions.—(A) Patient information labeling required under paragraph (1) may not, in the case of a prescription drug, be withheld from a patient by a practitioner, or by a pharmacist pursuant to the direction of a practitioner unless the Secretary has determined that, in light of the circumstances relating to the nature, use, or method of administration of the drug, it would be detrimental to the health of patients in some circumstances to deny practitioners the authority to withhold such labeling.

"(B) Patient information labeling required under paragraph (1) may, in the case of a prescription drug dispensed and administered in a hospital or other health or residential care facility, be provided to the patient in a format described in regulations of the Secretary.

"(C) Any requirement regarding patient information labeling which is imposed under this subsection need not be followed in a medical emergency.

"(4) Consultations.—Prior to establishing regulations under this subsection, the Secreary shall consult with representatives of consumers, patients, practitioners, pharmacists, other health care providers, health educators, manufacturers, and other interested persons.

"(b) Posting of Prescription Drug Prices.—(1) In General.—The Secretary may, after consultation with the Chairman of the Federal Trade Commission, require each person selling drugs at retail to post, in the form and manner set forth in regulations, the retail prices of the fifty most frequently sold prescription drugs which are designated by the Secretary, including the price of each proprietary or generic version thereof, but no person selling drugs at retail shall be required to post the prices of drugs which such person in fact does not dispense.

"(2) Preemption.—No State or political subdivision of a State may enact or enforce any law or regulation which prohibits or burdens the truthful posting of the retail prices of prescription drugs as required under paragraph (1).

"(c) Practitioner Information Labeling.—With respect to a prescription drug, the manufacturer or distributor shall prepare information labeling for practitioners respecting the drug and shall distribute such labeling to accompany the drug. No application submitted under section 505 shall be approved until the practitioner information labeling required under this subsection has been approved by the Secretary. Information labeling for practitioners shall contain adequate directions for and other information concerning use of the drug, including information regarding pharmacological classification, indications, clinical pharmacology, dosage and administration, contraindications to use, warnings, precautions, and side effects, so as to permit the prescribing, dispensing, or administration of the drug in a manner that promotes the safe and effective use of the drug.

"(d) Federal Drug Index.—(1) In General.—The opportunity to prepare, publish, and distribute a comprehensive index of prescription drugs and revisions thereof in accordance with the requirements of paragraphs (2) and (3) and applicable regulations established by the Secretary shall be afforded by the Secretary to private organizations for a three-year period following the date regulations are established under this subsection. If after the end of such three-year period the Secretary determines, after notice and an opportunity for an informal hearing, that an index and revisions thereof have not been prepared, published, and distributed in accordance with the requirements of paragraphs (2) and (3) and applicable regulations, the Secretary shall (either directly or, if practical by contract with a private, independent, and qualified organization) ensure that an index of prescription drugs and periodic revisions thereof are prepared in accordance with the provisions of paragraphs (2) and (3), are published under a distinct and suitable name in a form that is as convenient, readable, and practical as feasible for intended use, and are distributed to all practitioners in the United States and to all other appropriate recipients.

"(2) Contents.—Drugs shall be arranged in the index by diagnostic and therapeutic categories and within each category shall be listed by their established names. In the beginning of each category there shall be a general discussion of the drugs listed in the category. The index shall provide for each drug listed the information which is required by this Act to be included in labeling for the drug under section 502 and subsections (a) and (c) of this section. Following the information described above, there shall be included in the index a listing of the proprietary names of drugs which are available. A separate and subsequent listing shall indicate the proprietary names of drugs with the same established names.

"(3) Periodic Revision.—Periodic revision of the index described in paragraph (2) shall maintain insofar as practicable the currency of the contents of the index, and shall be distributed in a timely and regular manner to all practitioners in the United States and to all other appropriate recipients.

"(e) Notification Regarding Risks.—(1) Authority.—The Secretary may by order require that adequate notification regarding a risk posed by a drug be provided to all patients using the drug, to all practitioners and pharmacists who prescribe, dispense, or administer the drug, and to all other persons (including manufacturers, importers, distributors, retailers, and the general public) who should receive notification in order to eliminate or reduce the risk, if—

"(A) the Secretary determines that the drug presents a substantial risk of illness or injury, and

"(B) in the judgment of the Secretary, notification under this section is the most effective practicable means to eliminate or reduce the risk.

"(2) Form of Notification.—An order under this subsection shall require that notification to patients be provided initially by practitioners, and that notification to others be provided in an appropriate form and by the persons and means best suited to eliminate or reduce the risk.

"(3) Consultation Prior to Order.—Before issuing an order under this subsection, the Secretary shall consult with representatives of persons who may be required to provide the notification.

"(f) Education Programs.—The Secretary may publish materials, and otherwise disseminate information, for the public or for health professionals, regarding the safety, effectiveness, and proper use of drugs that will contribute to public and professional understanding of the risks and benefits of drugs, help avoid deception of patients, or otherwise promote the public health.

"(g) Requirements for Promotion Labeling for Prescription Drugs.—(1) Required Contents.—For any prescription drug, promotion labeling issued by or on behalf of the manufacturer of the drug, or any other person under whose firm or proprietary name the drug is being distributed, shall contain—

"(A) a brief summary of information relating to the indications for use, types of dosage forms, side effects, contraindications, and effectiveness of the drug in a manner to assure an adequate and balanced presentation of the information, and

"(B) any other information relating to the use of the drug that the Secretary determines, by regulation, is necessary or desirable to assure an adequate and balanced presentation of the benefits and risks of the drug.

"(2) Prohibited Materials.—For any prescription drug, no promotion labeling issued by or on behalf of the manufacturer of the drug, or any other person under whose firm or proprietary name the drug is being distributed, shall contain indications for use or dosage recommendations for which the drug has not been found to be safe and effective by the Secretary.

"(3) Review of Promotion Labeling.—(A) The Secretary may require that promotion labeling for a prescription drug to be disseminated by or on behalf of the manufacturer of the drug, or any other person under whose firm or proprietary name the drug is being distributed, be submitted by such manufacturer or such other person to and approved by the Secretary prior to its dissemination—

"(i) during the ninety-day period, beginning with the date on which the drug is first promoted; and

"(ii) during a period not to exceed one year following the date on which the Secretary determines, after notice and an opportunity for an informal hearing, that other promotion labeling for the drug substantially violated the requirements of this subsection because such other promotion labeling was false, misleading, or incomplete.

"(B) Within thirty days after the date that proposed promotion labeling is received by the Secretary for approval under subparagraph (A), the Secretary shall either approve the promotion labeling as meeting applicable requirements under section 502 and this subsection or notify the person submitting the promotion labeling of the reasons for disapproval. If no approval or notification of disapproval is given within thirty days, the promotion labeling may be disseminated, provided that any promotion labeling so disseminated remains subject to all applicable requirements of section 502 and paragraphs (1) and (2) of this subsection.

"(C) If notification of disapproval is given under subparagraph (B), the promotion labeling shall not be disseminated and the person submitting such disapproved labeling shall be afforded the opportunity for an informal hearing.

"(4) Exemption for Price Information.—Paragraphs (1), (2), and (3) of this subsection shall not apply to promotion labeling that conveys only information related to prices for prescription drugs, including information related to the availability of, and comparative prices for, two or more versions of the same drug.

"(5) Exemption From Federal Trade Commission Act.—No promotion labeling subject to this subsection shall, with respect to the matters required under this section, be subject to the provisions of sections 12 through 17 of the Federal Trade Commission Act (15 U.S.C. 41).

"(6) Definition.—For the purposes of this subsection, the term 'promotion labeling' means any written, printed, graphic, or other reproduced matter (including audio, visual, or audiovisual communication), accompanying and relating to a prescription drug, which matter is disseminated by or on behalf of the manufacturer or distributor of the drug and is not a label, patient information labeling, or practitioner information labeling.

"(h) Corrective Promotion Labeling.—If, after notice and an opportunity for an informal hearing, the Secretary determines that promotion labeling for a prescription drug violates the requirements of subsection (g) because of any incomplete, false, or misleading statement, the Secretary may require that adequate notification of complete and accurate information regarding such drug be provided to persons who are likely to have read, seen, or heard, the promotion labeling found to be in violation.

"(i) Drug Promotion Requirements.—(1) Gifts.—(A) Except as provided in subparagraph (B), no person who manufactures or distributes (whether or not under its proprietary name) a prescription drug, and no other person acting on behalf of such manufacturer or distributor, may directly or indirectly provide (or cause to be provided) any service for, or transfer (or cause to be transferred) any property (real or personal), including money, to—

"(i) any practitioner, nurse, pharmacist, or other individual engaged in the delivery of health care,

"(ii) any student in a school of medicine, osteopathy, podiatry, dentistry, nursing, optometry, or pharmacy,

"(iii) any member of the immediate family of an individual described in clause (i) or (ii), or

"(iv) any other person,

if the fair market value of such service or property, at the time the service was provided or the property transferred, is more than $10 and such service was provided or such property was transferred (or caused to be provided or transferred) with the intent to influence any person to purchase, prescribe, or dispense one or more particular days. In any proceeding regarding an alleged violation of clause (i), (ii), or (iii) intent to influence shall be presumed and may be rebutted.

"(B) Subparagraph (A) shall not apply to—

"(i) the provision of any service or transfer of any property to the general public or pharmacies with the intent to encourage the general public or pharmacies to purchase a particular nonprescription drug;

"(ii) the transfer of any medical, scientific, or educational materials (limited to written, audiovisual, or graphic material and demonstration models) which—

"(I) inform practitioners about the proper uses of classes of drugs;

"(II) instruct patients in the proper uses of classes of drugs; or

"(III) inform patients about the risks and benefits associated with the use of classes of drugs;

"(iii) the provision of medical, scientific, or educational seminars or lectures which directly relate to informing practitioners about the proper uses of classes of drugs, except that subparagraph (A) shall apply to the cost of transportation, lodging, and meals for a practitioner who attends such seminars or lectures and who is not primarily involved in conducting the seminars or lectures;

"(iv) the distribution of a drug in compliance with paragraph (2)(B); and

"(v) the transfer of any labeling which complies with relevant requirements of subsections (a), (c), (g), and (m) of section 504.

"(2) Free Drug Products.—(A) Except as provided in subparagraph (B), no person who manufactures or distributes (whether or not under its proprietary name) a prescription drug, and no other person acting on behalf of such manufacturer or distributor, may distribute a prescription drug without charge (or at a charge below the fair market vale of such drug) to any person, either by direct distribution of the drug or by other means by which the drug becomes available to any person without charge (or at a charge below the fair market value of such drug).

"(B) Nothing in subparagraph (A) shall be construed to prohibit the distribution of a prescription drug—

"(i) at a discount if such discount is otherwise permitted by law in the sale of drugs;

"(ii) at less than the fair market value at the time of distribution—

"(I) to a person for use in an investigation authorized or required by this chapter;

"(II) to a patient by a pharmacist in response to a written and signed request by a practitioner that the drug be so distributed and which designates the quantity of the drug to be distributed;

"(III) to a practitioner in response to a written and signed request by the practitioner for the drug which designates the quantity of the drug requested;

"(IV) to a charitable organization, for charitable purposes, in accordance with such regulations as the Secretary may have established;

"(V) to an agency of the Federal Government, or a government of any State or political subdivision of a State, for regulatory or enforcement purposes; or

"(VI) in an emergency situation as determined by the Secretary.

"(3) Sponsorship of Educational Activities.—A person who manufactures a prescription drug, or under whose firm or proprietary name the drug is being distributed, or any person acting on behalf of such a manufacturer or distributor, may transfer medical, scientific, or educational materials under the conditions of paragraph (1)(B)(i), or provide medical, scientific, or educational seminars and lectures under the conditions of paragraph (1)(B)(ii), only if it is disclosed to those who receive such materials or participate in such seminars or lectures that the materials are being transferred or the seminars or lectures are being provided by or on behalf of the manufacturer or distributor of such drug.

"(j) Restrictions on Surveys of Prescriptions.—(1) General Rule.—No pharmacist or agent or employee of a pharmacy may disclose or otherwise make available any prescription information to any person except—

"(A) the practitioner who issued the prescription, or another practitioner authorized by the patient to receive such information;

"(B) the patient for whom the prescription was issued, or to the agent of such patient, or, in a medical emergency where the patient lacks the capacity to request disclosure, to a person seeking to address the emergency;

"(C) another pharmacist for the purpose of filling or refilling the prescription;

"(D) an officer or employee of the United States or any State who is acting under authority of law, but only if the prescription information is disclosed or made available to such officer or employee for the performance of official business;

"(E) a person for the purpose of verifying an entitlement to payment for the drug which was the subject of such prescription, but only if the individual for whom the prescription was issued has consented (in such form and manner as the Secretary shall by regulation specify) to the disclosure or making available of the prescription information;

"(F) pursuant to a lawful order of a court; or

"(G) a person who, in accordance with such regulations as the Secretary may have established, has demonstrated to the Secretary an appropriate academic, market, or other research purpose and thereby is authorized in writing by the Secretary to receive the prescription information, but only if such person does not copy or otherwise remove from the prescription information any individually identifiable personal data.

"(2) Subsequent Disclosures.—Notwithstanding any other provision of law, individually identifiable personal data which are disclosed or otherwise made available to a person in accordance with paragraph (1), may not be further disclosed or otherwise made available by any person receiving such information except that—

"(A) a practitioner may disclose or otherwise make available any individually identifiable personal information of the patient for whom such prescription was issued with the consent of such individual;

"(B) an officer or employee described in subparagraph (D) of paragraph (1) may disclose or otherwise make such information available in the performance of official duties;

"(C) a person described in subparagraph (E) of paragraph (1) may disclose or otherwise make such information available for the purposes for which it was originally received; and

"(D) a person described in subparagraph (G) of paragraph (1) may disclose or otherwise make available to any person the results of research, but only if the person described in subparagraph (G) of paragraph (1) does not disclose or otherwise make available to any person any individually identifiable personal data.

"(3) Prohibition Against Obtaining Protected Information.—No manufacturer or distributor (whether or not under its proprietary name) of a drug, and no person acting on behalf of such manufacturer or distributor, may obtain or attempt to obtain any prescription information which under paragraph (1) or (2) may not be disclosed or otherwise made available to such person.

"(4) Definitions.—For purposes of this subsection the term—

"(A) 'prescription information' means information contained in (i) any written prescription, and (ii) written evidence of any oral prescription; and

"(B) 'individually identifiable personal data' means any information or data contained in prescription information which is (i) an individual's name, or (ii) a code, number, or other descriptive data which with reasonable certainty could identify the individual.

"(k) Requirements for Detailing of Drugs.—Each employee or agent of a person who manufactures, or who distributes under its firm or proprietary name, a prescription drug, and any other person acting on behalf of such manufacturer or distributor, shall, when promoting or otherwise giving information respecting such drug in a personal visit to a practitioner, provide the practitioner with the information labeling described in subsection (c).

"(l) No provision of this section which relates to labeling shall be construed to alter the provisions of existing law governing the tort liability of any person.

"(m) In the case of any prescription drug which the Secretary determines may be widely used by specific segments of the population, including children, pregnant women, or the elderly, the labeling for or description of the drug required under subsections (a), (c), (d) (g), and (h) shall state prominently whether the drug has or has not been tested in such segments of the population.".

Sec. 118. Section 505(a) is amended to read as follows:

"Sec. 505. (a) No person shall introduce or deliver for introduction into interstate commerce any drug intended for use by humans unless the person has notified the Food and Drug Administration. Except in the case of a nonprescription drug found to be generally recognized as safe and effective and not misbranded (pursuant to standards for safety, effectiveness, and labeling as contained in title 21, Code of Federal Regulations, part 330.10(a)(4) as in effect on the day preceding the date of enactment of the Drug Regulation Reform Act of 1979, unless such standards are modified pursuant to regulation) by the Food and Drug Administration prior to the date five years (or a later date designated by the Secretary by regulation) after the date of enactment of the Drug Regulation Reform Act of 1979, no person shall introduce or deliver for introduction into interstate commerce any drug intended for use by humans unless the person has filed an application pursuant to subsection (b) and the application is effective with respect to such drug.".

Sec. 119. Section 505(b) is amended by—

(1) ", or, instead of such reports at the discretion of the applicant or if the Secretary so requires by regulation, a comprehensive summary thereof, and of other data in the application prepared in such form as the Secretary shall prescribe, provided that the Secretary may at any time inspect or require the submission of the full reports or designated portions thereof if in the judgment of the Secretary such inspection or submission is needed to carry out the provisions of this Act" before the semicolon at the end of paragraph (1),

(2) striking "and" at the end of paragraph (5),

(3) striking the period at the end of paragraph (6) and substituting "; and", and

(4) adding at the end thereof the following:

"(7) a releasable summary of the data, scientific methodology and other information derived from all investigations that have been conducted to assess the risks of the drug and evaluate its effectiveness and which describes the basis of the conclusion of the applicant that the drug is safe and effective, and which complies with regulations regarding form and content which the Secretary shall issue, but such regulations shall not require that the releasable summary contain (A) information or data in greater detail than would be required of a report for publication in a reputable scientific or medical journal under generally recognized editorial standards of such journals, (B) information relating to investigations not specifically germane to the safety and effectiveness of the drug under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof, (C) information concerning drugs other than the drug to which the application relates, or (D) any material which is exempt from disclosure as a trade secret under section 552(b)(4) of title 5 of the United States Code (including but not limited to full reports of investigations to show that a drug is safe or effective or both; any comprehensive summary submitted to the Secretary pursuant to paragraph (1); manufacturing methods or processes (including quality control procedures); production, sales distribution, or similar data; quantitative or semiquantitative formulae, or inactive ingredients).

Not later than forty-five days after the date on which an application submitted under this subsection is received, the Secretary shall determine whether the application meets the requirements of this subsection. If the Secretary determines that the application meets such requirements, the Secretary shall immediately notify the applicant, and the application shall be deemed to have been filed on the date when the determination was made. If the Secretary determines that the application does not meet such requirements, the Secretary shall immediately notify the applicant in writing of the reasons for such determination (including any determinations which may have been made as to the adequacy of the investigations and tests, whether conducted within or without the United States, which form the basis for the application); and if the applicant so requests, the applicant shall be entitled to an informal hearing on the question of whether the application meets the requirements for filing. If the Secretary fails to make the required determination within forty-five days after the application is received, the application shall be deemed to have been filed on such forty-fifth day. An applicant may at any time submit a modified application, which shall be deemed an original application under this subsection.".

Sec. 120. Section 505(c) is amended to read as follows:

"(c) Upon the filing of an application under subsection (b), the Secretary shall publish a notice in the Federal Register stating that the application has been filed and that the public may inspect and copy those portions of the application described in subsections (b) (2), (3), (6), and (7) excluding any material which is exempt from disclosure as a trade secret under section 552(b) (4) of title 5 of the United States Code (including but not limited to full reports of investigations to show that a drug is safe or effective or both; any comprehensive summary submitted to the Secretary pursuant to subsection (b)(1); manufacturing methods or processes (including quality control procedures); production, sales distribution, or similar data; quantitative or semiquantitative formulae; or inactive ingredients). Thereafter, any person may submit written comments regarding the application. Any person may request that the Secretary hold the hearing described in paragraph (2). Not later than thirty days after the filing of an application under subsection (b), the Secretary shall make available the names of the individuals who shall be responsible for reviewing the application. All required reviews shall be conducted concurrently, to the maximum extent feasible and consistent with the efficient management of the review of an application. Within one hundred and eighty days after the filing of an application under this subsection, or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall either—

"(1) approve the application if he finds that none of the grounds for denying approval specified in subsection (d) applies; or

"(2) give the applicant and, by publication in the Federal Register, other interested parties notice of an opportunity for a hearing before the Secretary under subsection (d) on the question of whether such application is approvable. In notifying an applicant of a final decision to refuse to approve an application under paragraph (1), the Secretary shall set forth in writing the reasons for such refusal. If the drug has not yet been reviewed by an advisory committee pursuant to this subsection, the applicant or another interested party may request in writing, within thirty days after such notice, that the question of whether the application is approvable be considered by an appropriate advisory committee before any hearing is held, or instead of such hearing; and if such a request is made, such question shall be considered and a written recommendation made by an appropriate advisory committee appointed by the Secretary under section 507, but the Secretary may deny the request from a party other than the applicant if the Secretary determines that review by an advisory committee will not contribute substantially to a determination of whether one or more of the grounds specified in subsection (d) applies. If the applicant or another interested party requests in writing the opportunity for a hearing within thirty days after such notice, such hearing shall commence not more than ninety days after the expiration of such thirty days, but the Secretary may deny the request for a hearing of a party other than the applicant if the Secretary determines that such a hearing will not contribute substantially to a determination of whether one or more of the grounds specified in subsection (d) applies. The applicant and other interested parties may participate in the hearing. Any such hearing shall thereafter be conducted on an expedited basis and the Secretary's order thereon shall be issued within ninety days after the date fixed by the Secretary for filing final briefs.

If the Secretary determines, pursuant to paragraph (1) or (2), that a drug would be approved but for the fact that the ground specified in subsection (d)(2) applies, he shall consider whether such ground would continue to apply if one or more of the requirements available under section 506(b) were imposed, and if the Secretary determines that such ground would not continue to apply in such a circumstance and further determines that it is possible effectively to impose such requirement or requirements, he shall approve the drug and impose such requirement or requirements. In approving an application under paragraph (1), or issuing any order under paragraph (2) the Secretary shall set forth in writing, and make available, a statement of the reasons for the Secretary's conclusions with regard to the adequacy of the investigations and tests (whether or not conducted in the United States) which form the basis of the application, the imposition of one or more requirements available under section 506(b), and the drug's safety and effectiveness. If, in response to a notice issued under paragraph (2), an advisory committee review has been conducted, the Secretary shall respond to the recommendations of the advisory committee in setting forth such conclusions. To the extent possible and consistent with the efficient management of the review of an application, reviewers assigned to an application shall not be changed until a final determination is made regarding the approvability of such application. Upon completion of a review, the applicant shall be furnished with the preliminary findings of the review. To the maximum extent feasible and consistent with the efficient management of the review of an application, the Secretary shall ensure that applications are equitably distributed among reviewers, but not necessarily in equal numbers, and shall implement measures, including on-the-job training and consultation, to ensure that all reviews are conducted efficiently and expeditiously.".

Sec. 121. Section 505(d)(3) is amended by striking "and purity" and substituting "purity and stability, and bioavailability".

Sec. 122. Section 505(e) is amended by—

(1) striking "imminent hazard to the public health" and substituting "unreasonable risk of illness or injury to any segment of the population", and

(2) inserting "except to the Commissioner of Food and Drugs: *And provided further*, That prior to suspending any application, whenever protection of the public health so permits, the Secretary shall consult with the manufacturer of the drug and other concerned parties" after "delegated".

Sec. 123. Section 505(e) is amended by striking "and purity" and substituting "purity and stability, and bioavailability".

Sec. 124. The sentence preceding the last sentence of section 505(e)(3) is amended by—

(1) striking "or" before "(3)", and

(2) striking the period at the end of the sentence, and substituting "; or (4) that the applicant has continued to fail substantially to comply with a requirement or prohibition imposed by or under section 504 or 506 after the Secretary has given the applicant written notice of such failure to comply and such failure to comply has not been corrected within a reasonable time after receipt of such written notice.".

Sec. 125. Section 505(f) is amended by—

(1) inserting the figure "(1)" after the letter "(f)", and

(2) adding the following new paragraph at the end thereof:

"(2) The Secretary shall by regulation prescribe an abbreviated application procedure with respect to a drug for which an application has been approved and in effect for seven years in accordance with subsection (c) or (d). Such procedure shall provide that, beginning seven years after such application is approved by the Secretary, a person may submit an abbreviated application which does not contain full reports or a comprehensive summary thereof as described in subsection (b)(1) and that the abbreviated application shall be approved if—

"(A) the drug with respect to which the abbreviated application is filed meets appropriate standards of identity, strength, quality, purity, and stability, and bioavailability and is in compliance with other applicable requirements under this section, and

"(B) such drug has been shown to be bioequivalent.".

Sec. 126. Section 505(i) is amended by—

(1) inserting "(1)" after "(i)";

(2) redesignating paragraph "(1)" as subparagraph "(A)"; and

(3) striking all after subparagraph (A) (as redesignated by this section) and substituting the following:

"(B) the manufacturer or the sponsor of the investigation—

"(i) obtaining from each clinical investigator a signed agreement that persons to whom the drug will be administered will be under the personal supervision of such investigator, or under the supervision of investigators responsible to such investigator, and that such investigator will not supply the drug to any other investigator or to clinics for administration to human beings;

"(ii) requiring that experts using the drug for investigational purposes—

"(I) will inform all persons to whom such drug is administered, and all controls used in connection therewith, or their representatives, of the fact that the drug is being used for investigational purposes, of the benefits and risks which appear to be associated with use of the drug, and of such other matters as the Secretary finds necessary to the giving of informed consent; and

"(II) will obtain the voluntary and informed consent, in writing, of all such persons, or their representatives.

Such informed consent need not be obtained if, before use of a drug, an investigator and a practioner who is not participating in the investigation both determine in writing that an individual is confronted by an imminent life-threatening situation necessitating use of the drug, that informed and voluntary consent cannot be obtained from the individual because of the incapacity of the individual and that time is not sufficient to obtain consent from the individual's representative; but in the event the investigator making these determinations further determines that preservation of the life of the individual requires immediate use of the drug and time is not sufficient to obtain the concurring determinations of a practitioner not participating in the investigation, the determinations made by the investigator shall subsequently be reviewed and evaluated in writing by an independent practitioner;

"(iii) complying with, and requiring all investigators and other persons involved in an investigation to comply with, procedures which—

"(I) protect the health and rights of persons participating in an investigation,

"(II) protect the privacy of participants, including the confidentiality of participant records, and

"(III) assure the accuracy and reliability of information derived from an investigation,

but, consistent with these objectives, no regulation shall prescribe the protocols and methods to be used in any investigation;

"(iv) establishing and maintaining such records, requiring all investigators and other persons involved in any investigation to establish and maintain such records, and making such reports as the Secreatry finds necessary to assure the protection of the health and rights of persons participating in the investigation and to evaluate the safety and effectiveness of the drug; and

"(v) assuring that the drug under investigation will not be promoted or commercialized.

"(2) DRUG RESEARCH INVESTIGATIONS.—(A) The Secretary shall establish regulations for exempting from the operation of the foregoing subsections of this section drugs intended solely for use in investigations (referred to hereafter in this paragraph as 'drug research investigations') involving a small number of humans of normal health, or with the disease, injury, or condition under investigation, which investigations are intended to study the clinical pharmacology of the drug in humans, to assess preliminarily the drug's safety and effectiveness, or to study by use of the drug biological mechanisms in humans. Such regulations shall require any person who intends to conduct a drug research investigation to obtain a registration before dispensing, or allowing to be dispensed, a drug as part of such investigation. Such registration may, at the discretion of the applicant for registration, be obtained from the Secretary in accordance with subparagraph (B) or from the institution where the drug research investigation is to be conducted if such institution has been authorized to issue such a registration by the Secretary in accordance with subparagraph (C).

"(B) An application for registration submitted to the Secretary shall be approved, and such registration issued, unless the Secretary determines that the applicant intends to conduct an investigation which—

"(i) is not within the scope of a drug research investigation as described in this paragraph,

"(ii) will subject human participants to an unreasonable and substantial risk of illness or injury,

"(iii) will fail to protect the health and rights of participants, including the privacy of participants and the confidentiality of participant records,

"(iv) will fail to assure the accuracy and reliability of the information derived from the investigation,

"(v) will fail to comply with the requirements of paragraph (1)(B) (i), (ii), or (v), or

"(vi) will fail to assure the maintenance of records and submission of reports to the Secretary sufficient to assist the Secretary to evaluate the conduct of the investigation.

In the event that such a determination is made, the Secretary shall provide, upon request by the applicant, for review of the determination by an advisory committee appointed under section 507 and, upon request by the applicant, for an informal conference. On the basis of any such review or conference, or both, together with other information available to him, the Secretary shall either reconfirm the determination or approve the application and issue the registration. If no such determination is made within thirty days after receipt of an application for registration by the Secretary, the applicant shall be deemed approved and the registration shall be deemed issued. The Secretary may immediately suspend any registration issued under this subparagraph if he determines that participants in the investigation are being subjected to an unreasonable and substantial risk of illness or injury as a result of the investigation; but if the Secretary so acts, he shall immediately commence proceedings to revoke the registration. After providing the registrant with an opportunity for an informal hearing, the Secretary may revoke any registration issued under this subparagraph if he determines that the conduct of the investigation has not complied with, or does not comply with, any requirement or condition of registration imposed under clauses (i) through (vi), or if the Secretary determines that the application for registration contained any untrue statement of material fact.

"(C) The Secretary shall authorize, upon application, institutions engaged primarily in health care research, teaching, or delivery to issue registrations for and supervise drug research investigations under this paragraph, provided that the Secretary may not so authorize any institution which is substantially engaged in the manufacture or distribution of a drug for commercial purposes or controlled by any person or persons who are substantially engaged in the manufacture or distribution of a drug for commercial purposes, unless, in the case of an institution so controlled, decisions regarding the approval of investigations are made by an independent institutional review board the members and staff of which are not officers, employees, or agents of, or compensated by, such person or persons or any subsidiary thereof. The Secretary may authorize only those institutions which he determines, in accordance with regulations, have adequate standards and procedures regarding—

"(i) avoidance of conflicts of interest between any person who manufactures or distributes a drug for which an application for a registration is submitted and the institution,

"(ii) the approval of applications for registrations under this paragraph,

"(iii) the protection of participants from unnecessary risks of illness and injury,

"(iv) the protection of participant privacy, including confidentiality of records, and

"(v) the accuracy and reliability of information derived from an investigation.

The institution's standards and procedures shall also ensure that the institution will apply and enforce the standards and procedures described in paragraph (1)(B) (i), (ii), and (v) which the Secretary would otherwise directly apply and enforce. Such institutions shall establish and maintain such records, and make such reports, as the Secretary finds necessary to evaluate their performance. The Secretary may immediately suspend authorization of an institution to approve or to supervise a drug investigation or a registration issued by an institution if the Secretary finds that such action is necessary to reduce or eliminate an unreasonable and significant risk of illness or injury to participants. The Secretary may revoke an authorization if he finds, after providing the affected institution with notice and an opportunity for an informal hearing, that the institution does not satisfy the applicable requirements imposed pursuant to this subparagraph. The Secretary may revoke a registration issued by an institution if the Secretary finds, after providing the registrant and the institution with an opportunity for an informal hearing, that the conduct of the investigation has not complied or does not comply with one or more of the requirements described in clauses (i) through (v) of subparagraph (B) or if the Secretary determines that the application for registration contained any untrue statement of material fact.

"(3) DRUG INVESTIGATION ADVICE.—Any person who intends to investigate or is investigating a drug may request that the Secretary provide advice regarding—

"(A) the overall plan for investigating the drug;

"(B) specific protocols or methods to be used in one or more investigations of the drug;

"(C) the results of one or more completed investigations of the drug; and

"(D) the potential acceptability of information that may be submitted.

In response to such a request, the Secretary shall, to the maximum extent practicable, provide advice in writing.

"(4) DRUG INVESTIGATION GUIDELINES.—(A) The Secretary shall issue written guidelines regarding protocols and methods for conducting drug investigations. The Secretary may, upon reevaluation of the information upon which a guideline is based, or in light of new information, amend or revoke any guideline. In the event the Secretary amends or revokes any guideline, the Secretary shall promptly notify any person the Secretary knows, or has reason to believe, may be relying thereon.

"(B) When in effect, guidelines shall represent the formal position of the Secretary regarding protocols and methods, and such guidelines may be relied upon by any person and shall be adhered to by the Secretary. If a person follows a protocol or method in conformity with a guideline, and the Secretary subsequently amends or revokes such guideline pursuant to subparagraph (A), the Secretary shall accept such protocol or method in that case unless he determines that acceptance thereof would be contrary to the public health.

"(C) Notwithstanding subparagraphs (A) and (B), a person is not required to follow any guideline in conducting drug investigations, and may choose to use different protocols or methods.

"(5) INFORMAL PROCEDURE FOR RESOLUTION OF SCIENTIFIC DISPUTES.—The Secretary shall, within three hundred and sixty days after the date of enactment of the Drug Regulation Reform Act of 1979, after consultation with interested groups including health care providers, scientific investigators, manufacturers, and organizations interested in public health, organizations interested in particular diseases, and organizations interested in consumer affairs, and after at least thirty days have been allowed for public comment, promulgate regulations establishing informal and expeditious procedures for the impartial review and resolution of scientific disputes during the course of a drug investigation. In the event that no mutually satisfactory resolution of such a dispute can be reached, the dispute may be referred by the Secretary, on his own initiative or at the request of a person involved in a dispute, to an advisory committee appointed under section 507 for review and recommendation.".

SEC. 127. Section 505(i) is amended by adding the following paragraph:

"(6) The Secretary shall, within three hundred and sixty days after the enactment of the Drug Regulation Reform Act of 1979, after consultation with interested groups including health care providers, scientific investigators, manufacturers, and organizations interested in public health, organizations interested in particular diseases, and organizations interested in consumer affairs, and after at least thirty days have been allowed for public comment, promulgate regulations for exempting from the operation of the foregoing subsections of this section drugs intended primarily for therapeutic use in a small number of patients who have a serious disease, injury, or other health conditions; for whom there is no adequate alternative method of diagnosis, cure, mitigation, treatment, or prevention; and who will not be subjected to an unreasonable risk of illness or injury by the drug. Such regulations shall—

"(A) provide that all patients, or their representatives, give informed and voluntary consent in writing before the drug is administered;

"(B) **protect the privacy of patients, including the confidentiality of patient records;**

"(C) require that patients be under the personal supervision of the practitioners named in a request for an exemption;

"(D) require that the person requesting the exemption establish and maintain records, and make reports to the Secretary, in such form as the Secretary designates;

"(E) assure that the drug will not be promoted or commercialized; and

"(F) provide that applications for exemptions made in an emergency may be oral and shall be handled in an expeditious manner.

No such exemption shall remain in effect longer than three years, but such an exemption may be renewed by the Secretary.".

SEC. 128. Section 505 is amended by adding at the end thereof the following new subsections:

"(k) As used in this section, the term 'safe' means that the health benefits of the drug outweigh the health risks presented by the drug. taking into account the standards, requirements, and conditions applicable to the drug under this section and chapter. In determining whether a drug is safe, the Secretary shall consider, among other things, the following:

"(1) The benefits of the drug and their significance. In considering such benefits, the Secretary shall consider the known effects on the health of patients, and the frequency and magnitude of these effects, that result from the effectiveness of the drug when such patients use the drug under the conditions of use set forth in the labeling for the drug.

"(2) The risks presented by the drug and the significance of such risks. In considering such risks, the Secretary shall consider the known adverse effects upon the health of patients, and the frequency and severity of these effects, that result from the use of the **drug under the conditions of use set forth in the labeling for the drug.**

"(1) As used in this section, the term 'effective' means that a drug, when used in accordance with the conditions of use set forth in the labeling for the drug, will have the effect it is represented in such labeling to have in the diagnosis, cure, mitigation, treatment, or prevention of a disease, injury, or other condition affecting health.

"(m)(1) If the Secretary determines pursuant to subsection (c)(1) or (2) that—

"(A) no grounds exist for denying approval of an application under subsection (d) (1), (2), (3), (4), or (6), but grounds do exist for denying approval of an application under subsection (d)(5);

"(B) the applicant has shown that—

"(i) the drug is intended to be used in the diagnosis, cure, mitigation, treatment, or prevention of a disease, injury, or other condition affecting the health of a human which is life-threatening or severely debilitating or disabling in a significant portion of the patient population affected by that disease, injury, or condition, and

"(ii) for the patient population or any segment thereof, with respect to such disease, injury, or condition—

"(I) no other effective method of diagnosis, cure, mitigation, treatment, or prevention exists, or

"(II) compared to alternative methods of diagnosis, cure, mitigation, treatment, or prevention, the drug offers a major advantage because use of the drug will be significantly safer or provide significantly greater effectiveness, or both;

"(C) **the applicant has shown that delaying approval of the application until adequate and well-controlled clinical investigations (as referred to in subsection (d)) are completed would present significantly greater** risks to patients affected by the disease, injury, or condition in question than would approving the application without those investigations; and

"(D) there is significant evidence, as defined in paragraph (2), that the drug is effective;

then the Secretary shall approve the application, but the drug shall be subject to the restrictions described in paragraph (3), the applicant shall be subject to the requirements described in paragraph (4), and approval of the application shall expire (but may be renewed) pursuant to the provisions of paragraph (5).

"(2) For purposes of this subsection, the term 'significant evidence' means evidence consisting of valid and meaningful scientific investigations, including investigations in animals and well-documented clinical experience and clinical investigations (unless such investigations are not feasible due to an absence of methodology or due to ethical proscriptions on such investigations), conducted by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could be fairly and responsibly concluded by experts, qualified by scientific training and experience to evaluate the effectiveness of the drug involved, that the drug will have the effect it is represented to have in the labeling for the drug when used in accordance with the conditions of use set forth in such labeling.

"(3) As a condition of approval of a drug under this subsection—

"(A) the drug shall be dispensed only by or upon the prescription of a practitioner, and

"(B) the Secretary shall consider whether to impose any additional requirements authorized under the provisions of section 506 (b), and, if the requisite determination described in such section is made, the Secretary shall impose such additional requirements.

"(4) Each person whose application with respect to a drug is approved under this subsection shall be required to—

"(A) establish and maintain, or join in establishing and maintaining, a system for collecting data and information on the use of and experience with the drug,

"(B) continue and complete, or join in the continuation and completion of, adequate and well-controlled clinical investigations to provide substantial evidence for determining whether the drug is effective, unless such investigations are not feasible due to an absence of methodology or ethical proscriptions, and

"(C) submit reports on a periodic basis to the Secretary on findings resulting from systems established pursuant to subparagraph (A) and investigations conducted pursuant to subparagraph (B).

"(5) Approval of an application under this subsection shall expire three years following the date it becomes effective. An application under this subsection may receive a renewed approval, or the Secretary may approve a new application under subsection (c), if the Secretary determines that the applicable grounds for approval still exist (under this subsection) or have been met (under subsection (c)).

"(6) The Secretary shall by order suspend an application approved under this subsection, and shall immediately commence proceedings to determine whether the application should be revoked, if the Secretary determines that grounds for revocation exist. The Secretary shall, after notice and opportunity for a hearing for the applicant, revoke an application issued under this subsection if the Secretary determines that—

"(A) **on the basis of new information, the drug is no longer shown to be safe.**

"(B) **on the basis of new information, the drug is no longer shown by significant evidence to be effective,**

"(C) **for the population group in question, another drug has been approved under section** 505(c) which offers, or non-drug therapy has been demonstrated (in the opinion of experts qualified by training and experience to evaluate the safety and effectiveness of non-drug therapies) to offer, a major advantage compared to the drug which is the subject of the application because use of such other drug or non-drug therapy is significantly safer or provides significantly greater effectiveness, or both, or

"(D) any of the standards, requirements, or conditions imposed under paragraph (3) or (4), or section 560(b) is no longer met or being complied with, as the case may be.

In revoking an application under this subsection, the Secretary shall take affirmative steps to safeguard the health of patients using the drug which is the subject of the application, including steps to minimize disruption of patient therapy, and assist in the orderly transition of patients to alternative forms of care, and to respond expeditiously to requests for exemptions under section 505(1)(6).

"(7) Any hearing on an application considered or approved under this subsection shall be scheduled on a priority basis.

"(n)(1) A drug shall be exempt from the requirements of this section if it complies with the following requirements—

"(A) it was recognized in the official Homeopathic Pharmocopeia of the United States on the date of enactment of this subsection;

"(B) it takes the form of:

"(i) a tincture, aqueous solution or first trituration to be diluted or compounded by a homeopathic practitioner or homeopathic pharmacist as an incident to preparing the homeopathic drug for dispensing to a patient;

"(ii) a subsequent serial dilution of such tincture, aqueous solution, or first trituration in a hydroalcoholic solution (containing ethyl alcohol) or lactose, each stage of dilution being accompanied by succession and (if lactose is the vehicle) trituration; or

"(iii) a finished dosage form capable of being dispensed to a patient, consisting of not more than one-tenth of 1 per centum of the tincture, aqueous solution, or first trituration and not less than 99.9 per centum of the vehicle (hydroalcoholic solution or lactose), or as otherwise specified in the Homeopathic Pharmacopeia of the United States; and

"(C) It is compounded and bears labeling in conformance with the requirements of the Homeopathic Pharmacopeia of the United States.

"(2) Provided, however, the Secretary may, by regulation, revoke the exemption provided in paragraph (1) for a homeopathic drug, and thereafter require that such drug meet the requirements of this section, if the Secretary determines that the homeopathic drug presents a risk of illness or injury to persons using such drug.

"(o) For purposes of this section and section 506, the term 'voluntary and informed consent' means the consent of a person, or the person's representative for purposes of consent, so situated as to be able to exercise free power of choice without the intervention of any element of force, fraud, deceit, duress, or other form of constraint or coercion. Such consent shall be evidenced by an agreement signed by such person, or such representative, and the institution or investigator responsible for the research or another appropriate person. The information to be given in such written agreement shall include the following elements:

"(1) a fair explanation of the procedures to be followed, including an identification of any which are experimental;

"(2) a description of any attendant discomforts and risks reasonably to be expected;

"(3) a fair explanation of the likely results should the therapy fail;

"(4) a description of any benefits reasonably to be expected;

"(5) a disclosure of any appropriate alternative procedures that might be advantageous for the person;

"6) an offer to answer any inquiries concerning the procedures; and

"(7) an explanation that the person is free either to decline to use the drug or to withdraw consent, at any time, and to discontinue participation in any project or activity without prejudicing the person's rights or future care.

In addition, the agreement entered into by such person or representative shall include no exculpatory language through which the person is made to waive, or appear to waive, any legal rights, or to release the institution, investigator, or any responsible person involved in such activity or any agents thereof, from liability for negligence. Any organization, institution, or investigator which engages in research involving human subjects under this section or section 506 shall maintain a permanent record of any such consent and the information provided to persons and shall develop appropriate procedures for assuring compliance with the provisions of this subsection.".

SEC. 129. Section 506 is amended to read as follows:

"DISTRIBUTION AND DISPENSING REQUIREMENTS, POSTMARKETING SURVEILLANCE, FURTHER SCIENTIFIC INVESTIGATIONS, AND BATCH CERTIFICATION

"SEC. 506. (a) (1) In considering whether to approve an application under section 505 (c) (1) or to issue an order under section 505(c) (2), the Secretary shall also consider whether, as a condition of approval of an application or in the event the application is approved, one or more of the requirements described in subsections (b), (c), (d), and (e) shall be imposed. The applicant, or any other person, may submit written comments regarding the imposition of any such requirement. Any party to a hearing held under section 505(d) may also address the question of whether to impose any such requirement. In approving an application, whether under section 505 (c) (1) or (c) (2), the Secretary shall state whether one or more requirements described in subsection (b), (c), (d), or (e) shall be imposed, and shall set forth in writing the reasons therefor. No separate notice or hearing shall be required with respect to the imposition, under this subsection, of a requirement described in subsection (b), (c), (d), or (e).

"(2) In the case of a drug with respect to which a requirement imposed under subsection (b), (c), (d), or (e) will expire, has expired, or has not previously been imposed, the Secretary may propose the renewal or imposition of a requirement under subsection (b), (c), (d), or (e). The Secretary shall provide each registered manufacturer of the drug notice of the Secretary's intention, shall publish such notice in the Federal Register, and shall afford any person requesting a hearing on the matter an opportunity for an informal hearing. The Secretary shall comply with any applicable procedural requirements set forth in subsection (b), (c), (d), or (e), as the case may be. If the Secretary determines that grounds exist as defined in subsection (b), (c), (d), or (e) for the renewal or imposition of a requirement which the Secretary is authorized to impose under such subsection, the Secretary may renew or impose the requirement, subject to the limitations set forth in such subsection. The Secretary shall set forth in writing the reasons for such decision.

"(b) (1) (A) In accordance with the procedure described in subsection (a) and the provisions of this paragraph, the Secretary may impose on a prescription drug a requirement relating to the distribution, dispensing, and administration of the drug.

"(B) No drug may be subjected to requirements authorized by subparagraph (A) unless the Secretary determines that—

"(i) use of the drug presents, in the opinion of experts qualified by training and experience to evaluate the safety and effectiveness of drugs, significant risks to patients or to the public health;

"(ii) because of the significance of these risks, the drug cannot be determined to be safe unless the requirements authorized by subparagraph (A) are imposed on the distribution and dispensing of the drug;

"(iii) such requirements can reasonably be expected to reduce, in a reasonable period of time, the risks referred to in clause (i) sufficiently to permit such drug to be determined to be safe and effective and thereby to permit the drug to be made available for use in appropriate patients; and

"(iv) no other administrative or educational action authorized to be taken by the Secretary under this title or under any other law can reasonably be expected to so reduce such risks.

(C) No requirement imposed under subparagraph (A) may—

"(i) restrict the use of a drug to practitioners with specific training or experience in its use or to practitioners for use in certain facilities unless the Secretary determines that such requirement is necessary for the drug to be determined to be safe; or

"(ii) exclude a practitioner from using a drug solely because the practitioner does not have the training or experience to make the practitioner eligible for certification by a certifying board recognized by the American Board of Medical Specialties or has not been certified by such a board.

"(2) If the Secretary determines that a prescription drug in a particular use involves a risk of serious illness or injury such that it is essential that patients be assured an opportunity to make an informed decision whether to use the drug or be given adequate information to reduce the risk as much as possible, the Secretary shall require that the drug may not be dispensed or administered to a patient unless the voluntary and informed consent of the patient (or the patient's representative) has been received in such form and manner as shall be required in general regulations established by the Secretary.

"(3) No requirement shall be imposed under this subsection unless it has been specifically submitted to and considered by an advisory committee appointed under section 507.

"(4) The health needs and privacy of patients shall be accorded high priority in promulgating requirements under this subsection.

"(5) Not later than two years after a requirement has been imposed under this subsection, the Secretary shall determine whether the grounds upon which he imposed the requirement continue to exist; and if such grounds have changed or no longer exist, the Secretary shall, respectively, modify or remove the requirement. Every two years after such an evaluation has taken place, the matter shall be reevaluated in the same manner.

"(c) (1) In accordance with the procedure described in subsection (a) and the provisions of paragraphs (2), (3), and (4), the Secretary shall impose on the manufacturer of a prescription drug a requirement regarding the surveillance of the use of and experience with the drug—

"(A) at the time an application is approved under this section, if the Secretary determines that such a requirement is necessary or useful in evaluating the continuing safety of the drug; or

"(B) in any other case, if the Secretary determines that such a requirement has become necessary and useful in evaluating the continuing safety of the drug.

"(2) (A) No drug may be subjected to a requirement under paragraph (1) except pursuant to regulations established by the Secretary regarding the circumstances in which, and methods by which, surveillance of drug use and experience would or would not be useful and necessary in evaluating the continuing safety of drugs.

"(B) Regulations shall not be promulgated under subparagraph (A) until the Secretary has—

"(i) received and reviewed the report, if any, of the Joint Commission for Prescription Drug Use, Incorporated;

"(ii) published in the Federal Register, and invited public comment on, such report and the Secretary's review and conclusions regarding it; and

"(iii) received and reviewed the comments of the public in response to the Federal Register publication required in clause (ii).

"(3) (A) In determining whether to require surveillance under paragraph (1), in addition to requiring compliance with relevant regulations established under paragraph (2), the Secretary shall consider—

"(i) the uniqueness of a drug, the dosage form or route of administration of the drug, and the extent of experience with related drugs,

"(ii) the frequency and magnitude of risks identified in existing studies of the drug,

"(iii) the various known pharmacological effects of the drug,

"(iv) the scope and extent of surveillance which will be necessary to gain appropriate data and information,

"(v) the burdens such surveillance will impose on those who must conduct it,

"(vi) the alternatives to surveillance for gathering the data and information, and

"(vii) the extent to which the drug is expected to be used in general, by children, by pregnant women, and by the elderly.

"(B) In requiring surveillance under paragraph (1), the Secretary shall require that each person manufacturing the drug join in establishing and maintaining a system for identifying and collecting data and information regarding the use of, and the experience with, the drug, and make reports to the Secretary regarding the data and information collected. Such a requirement shall specify the purpose for which data and information are to be collected and for which reports on the data and information are to be made.

"(4) No requirement may be imposed under paragraph (1) unless it has been specifically submitted to and considered by an advisory committee appointed under section 507.

"(5) Any requirement imposed under paragraph (1) shall expire five years following the date on which it becomes effective, but may be renewed in accordance with the procedures described in subsection (a) (2) and the applicable provisions of this subsection.

"(d) (1) In accordance with the procedure descrbied in subsection (a) and the provisions of this subsection, the Secretary may require the manufacturer of a prescription drug to conduct one or more scientific investigations—

"(A) to assess the risks of a significant adverse effect of the drug, if the Secretary determines on the basis of scientific information, including information regarding chemically or pharmacologically related drugs, that the drug is known or may reasonably be expected to produce an adverse effect; or

"(B) to evaluate the safety of the drug, including its effectiveness, when used for a purpose or in a manner which is not set forth in the practitioner information labeling for such drug, if the Secretary determines that—

"(i) the drug is known, or can reasonably be expected by experts on drug use, to be used to a significant extent for a purpose or in a manner not initially indicated in practitioner information labeling; and

"(ii) there exists a scientific basis on which experts qualified by scientific training and experience to evaluate the safety and effectiveness of the drug involved could fairly and reasonably conclude that—

"(I) use of the drug for such purpose or in such manner presents a risk of serious illness or injury to persons who so use the drug because of adverse effects or lack of effectiveness; or

"(II) the drug may be safe and effective when used for such purpose or in such manner.

"(2) In requiring investigations under this subsection, the Secretary shall require that each person manufacturing the drug join in conducting the investigations. The Secretary shall provide guidelines on protocols for conducting such joint investigations, and may also specify a timetable by which the joint investigations are to be completed and the results from the joint investigations are to be reported to the Secretary.

"(3) No requirement shall be imposed under this subsection unless it has been specifically submitted to and considered by an appropriate committee appointed under section 507.

"(e)(1) In accordance with the procedure described in subsection (a) and the provisions of this subsection, the Secretary shall require manufacturers of a drug to obtain certification from the Secretary that each batch of the drug meets applicable standards of identity, strength, quality, purity, stability, and bioavailability if the Secretary determines that—

"(A) there is reason to believe that a significant number of individual batches of the drug will not meet one or more of the applicable standards of identity, strength, quality, purity, stability, or bioavailability as described in section 501(b); and

"(B) failure of a batch of the drug to meet one or more of such standards poses a risk of illness or injury to patients, either from adverse effects or as a result of lack of effectiveness.

"(2) In imposing a requirement under paragraph (1), the Secretary shall describe the specific tests, methods of assay, and procedures the Secretary shall use in deciding whether batches of the drug meet the applicable standards of identity, strength, quality, purity, stability, and bioavailability.

"(3) Any requirement imposed under paragraph (1) shall expire at any time designated by the Secretary, or two years after its effective date, whichever first occurs. At a reasonable time prior to the expiration of such requirement, the Secretary shall determine whether the circumstances which justified the imposition of the requirement continue to exist; and if the Secretary so determines, the Secretary shall reimpose the requirement. No requirement shall be imposed under paragraph (1) unless it has been specifically submitted to and considered by an appropriate advisory committee appointed under section 507.

"(4) Upon application by a particular facility or manufacturer, the Secretary shall exempt such facility or manufacturer, in whole or in part, from a requirement imposed under this subsection whenever the Secretary finds, based upon consistent past compliance with applicable standards of identity, strength, quality, purity, stability, and bioavailability, that grounds for such an exemption exist.".

SEC. 130. Section 507 is amended to read as follows:

"ADVISORY COMMITTEES

"SEC. 507. ADVISORY COMMITTEES.—The Secretary may appoint one or more committees to advise with respect to the determinations authorized under this chapter. Each such committee shall be composed of at least five members. In selecting committee members, the Secretary shall consider recommendations from health care providers, scientific investigators, manufacturers, and organizations interested in public health, organizations interested in particular diseases, and organizations interested in consumer affairs. The Secretary shall appoint committee members so that each committee reflects in its composition scientific, health care provider, and consumer interests. At least one-third of each committee shall be composed of members reflecting the interests of patients and consumers.".

SEC. 131. (a) Section 704 is amended by adding at the end thereof the following subsection:

"(f) SUBPENAS.—

"(1) AUTHORITY.—In any matter relating to implementation or enforcement of this Act regarding information that may be false or misleading, an article that may present an unreasonable risk of injury or illness, or an article that may be unapproved, uncertified, adulterated, or misbranded, the Secretary may, by subpena, compel the attendance and testimony of witnesses or require the production of any records (including books, papers, documents, and other tangible things) that may be relevant to the matter. The attendance of witnesses and the production of records may be required in any place in any State or in any territory or other place subject to the jurisdiction of the United States. Witnesses summoned under this section shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

"(2) SERVICE.—A subpena issued under this section may be served by any person designated in the subpena to serve it. Service of a subpena upon a natural person may be made either by a personal delivery or by registered mail or telegraph, or by leaving a copy thereof at the principal office or place of business of the person being served. Service upon a domestic or foreign corporation, or upon a partnership or other unincorporated association which is subject to suit under a common name, may be made either by delivering the subpena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process, or by registered mail or telegraph, or by leaving a copy of the subpena at the principal office or place of business of the officer or agent being served. The verified return by the individual so serving it setting forth the manner of service shall be proof of service, and the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed in accordance with this subsection shall be proof of service.

"(3) ENFORCEMENT.—In the case of contumacy by, or refusal to obey a subpena issued to, any person, any court of the United States within the jurisdiction in which the subpenaed person is an inhabitant, carries on business, or may be found, may compel compliance with the subpena. The court may issue an order requiring the subpenaed person to appear before the Secretary, to produce records if so ordered, or to give testimony relating to the matter. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in such a case may be served in any judicial district in which the person may be found."

(b) The heading for section 704 is amended by adding ", SUBPENAS" at the end thereof.

SEC. 132. Chapter VII is amended by adding at the end thereof the following section:

"PARTICIPATION IN PROCEEDINGS

"SEC. 710. Any person (regardless of the person's position concerning the disposition of the matter) who—

"(a) asks the Secretary in writing to participate in any proceeding under this Act;

"(b) is determined by the Secretary to represent an interest the representation of which will substantially contribute to a fair determination of the proceeding in light of the number and complexity of the issues presented by the proceeding, the importance of widespread public participation, and the need for representation of a fair balance of interests in the proceeding; and

"(c) is determined by the Secretary to have insufficient resources adequately to participate in the proceeding without compensation, in light of the estimated cost of effective participation by such person in the proceeding,

may, pursuant to regulations established by the Secretary, be granted by the Secretary reasonable attorneys' fees, expert witness fees, and other costs of participating in the proceeding. To the extent that the person is capable of bearing part of the cost of participating in a proceeding, the Secretary may award the person no more than the unmet cost.".

SEC. 133. Chapter V is amended by adding at the end thereof the following:

"SEC. 522. (a) GENERAL RULE.—Except as to any requirement established by a State pursuant to State law before the date of enactment of the Drug Regulation Reform Act of 1979, and except as provided in subsection (b), no State or political subdivision of a State may impose on a manufacturer, packer, distributor, or wholesaler, with respect to any drug intended for human use which is subject to the requirements of this Act, any requirement regarding the packaging, label, or, in the case of a non-prescription drug, the labeling of such drug which is in addition to or different from a comparable requirement regarding the packaging, label, or, in the case of a non-prescription drug, the labeling of such drug imposed on a manufacturer, packer, distributor, or wholesaler by or under this Act.

(b) STATE PROPOSALS.—Upon application of a State, the Secretary shall, after notice and opportunity for public comment in an open forum, and within 360 days after the application is submitted, exempt from subsection (a) a requirement of such State or a political subdivision of such State which the Secretary determines would significantly enhance the public health within the jurisdiction of such State or political subdivision and would not impose an undue burden on interstate commerce. If the Secretary has not made a determination on such application within such 360 days, the requirement in question shall be so exempted subject to further action by the Secretary.

"(c) EFFECT ON COMPLIANCE.—In the event that an exemption is granted pursuant to subsection (b), no person who complies with the requirement which is the subject of the exemption shall thereby be in violation of any provision of this Act.".

SEC. 134. Section 801(d) is amended by adding the following new paragraph:

"(3) Notwithstanding the provisions of section 301(d), a drug intended for human use which has not been approved under section 505(c) under this Act may be exported if, in addition to compliance with the requirements of paragraph (1), the Secretary has determined that the exportation of the drug is not contrary to public health and safety and has the approval of the country to which it is intended for export. There is hereby established a Task Force on Drug Export Policy consisting of the Secretaries of Health, Education, and Welfare, State, and Commerce, and the Special United States Trade Representative, or their designees for the purpose of implementing this paragraph. The Task Force shall develop, within one hundred and eighty days after the date of enactment of this Act, a Drug Export Policy Plan which shall, among other factors,

"(A) consider the differing health needs of foreign countries,

"(B) respect the informed benefit-risk assessments of governmental authorities in such countries regarding the importation into, and use within, those countries of drugs not approved in the United States,

"(C) assist national and international efforts to protect and improve the health of all people,

"(D) consider the means by which foreign countries regulate drugs,

"(E) recognize that the manufacture of drugs exported from the United States should be regulated by standards regarding manufacturing requirements and practices that are the same as those applied to the manufacture of drugs approved for use in this country,

"(F) take into account the foreign and economic policies of the United States, and

"(G) suggest the form and nature of the notice and other information which the Commissioner of Food and Drugs should receive from persons seeking to export unapproved drugs.

On the basis of such plan, the Secretary of Health, Education, and Welfare, after consultation with the Secretaries of State and Commerce, shall propose and promulgate regulations to implement this paragraph. Until such time as the Secretary has established final regulations to implement this paragraph and such regulations have become effective, no drug which a person could legally export prior to the effective date of this title shall be removed from interstate commerce by reason of the provisions of the Drug Regulation Reform Act of 1979.".

Sec. 135. Effective Date.—The amendments made by this title shall take effect one hundred and eighty days after the date of enactment of this Act, except as follows:

(1) with respect to the requirements contained in section 504(a) as added by section 117 of this title, the Secretary shall by regulations adopted within three hundred and sixty days after the date of enactment of this Act develop and implement a plan to phase in any new patient information labeling requirements for drugs permitted in interstate commerce, setting priorities according to diagnostic and therapeutic categories, and taking into account the nature of each category of drugs and the extent of use of each category of drugs, and no person shall be deemed to have committed a prohibited act under section 301 of the Federal Food, Drug, and Cosmetic Act by virtue of failure to comply with section 504(a) of the Federal Food, Drug, and Cosmetic Act with respect to a particular drug if no requirement with respect to that drug under section 504(a) has gone into effect; and

(2) a prescription drug (A) permitted in interstate commerce on the effective date of this title, which drug was subject to the Food and Drugs Act of June 30, 1906, prior to the date of enactment of the Federal Food, Drug, and Cosmetic Act of 1938, and is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof, shall be deemed to have an approved application under section 505 of the Federal Food, Drug, and Cosmetic Act, and as such shall be subject to the provisions of section 505 and other sections of the Federal Food, Drug, and Cosmetic Act applicable to drugs subject to section 505, but any action to suspend or revoke the deemed approved application of such a drug shall be based on new evidence evaluated together with previously available evidence.

TITLE II—NATIONAL CENTER FOR DRUG SCIENCE

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

Sec. 201. The Public Health Service Act is amended by inserting after title XVIII the following new title:

"TITLE XIX—NATIONAL CENTER FOR DRUG SCIENCE

"ESTABLISHMENT OF CENTER

"Sec. 1901. (a) There is established in the Department of Health, Education, and Welfare an office which shall be known as the National Center for Drug Science (hereinafter in this title referred to as the 'Center'). The Center shall have a Division of Policy and Research, which shall be responsible for carrying out the functions described in section 1902, and a Division of Clinical Pharmacology and Clinical Pharmacy Training, which shall be responsible for carrying out the functions described in sections 1903 and 1904. The Center shall be under the direction of the Director of the Center (hereinafter in this title referred to as the 'Director') who shall be appointed by the Secretary. The Director shall be classified at grade GS–18 of the General Schedule.

"(b) To implement this title, the Director may, in addition to any other authority available to him, use personnel, equipment, and facilities and other physical resources of the Department of Health, Education, and Welfare. The Director may secure for the Center, for such periods as the Director deems advisable, the assistance and advice of experts and consultants from the United States and abroad in accordance with section 3109, title 5, United States Code, and to compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS–18 as provided in section 5332 of title 5, United States Code, and, while such experts and consultants are so serving away from their homes or regular places of business, to pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently. The Director may hold conferences and meetings, and undertake other activities consistent with the functions of the Center, when appropriate.

"POLICY AND RESEARCH FUNCTIONS OF THE CENTER

"Sec. 1902. (a) (1) In accordance with the procedures set forth in paragraph (2), the Center may, upon request or on its own initiative, conduct and support research, including investigations—

"(A) of the safety and effectiveness of drugs approved by the Food and Drug Administration;

"(B) for the development of drugs for diseases and other conditions of low incidence; and

"(C) to facilitate breakthroughs, in drug science research.

"(2) Prior to conducting or supporting research under subparagraph (B) or (C) of paragraph (1), the Center shall—

"(A) publish, in the Federal Register, a notice which shall contain a statement that the Center intends to conduct or support such research, which notice shall include the objectives of such research, the nature of the drug, if any, which would be the subject of such research, and the reasons why the Director feels he can make the findings required to be made under subparagraph (B);

"(B) permit drug manufacturers, interested agencies of government, and other interested parties the opportunity to comment on the proposed research; and

"(C) find that—

"(i) the research is of special significance; and

"(ii) there is either no or minimal research of a similar nature currently being conducted or currently planned outside of government or by other agencies of government, either directly or by grant or contract.

The Director shall publish, in the Federal Register, the findings described in subparagraph (C).

"(3) The Director shall periodically report on (1) promising areas of and new techniques in drug science research and (2) diseases or other conditions for which current research on drugs is insufficient.

"(b) The Center shall conduct an ongoing program of drug science policy research, either directly or by grant or contract. The Center shall examine the appropriateness of the requirement contained in section 505(d) of the Federal Food, Drug, and Cosmetic Act that 'substantial evidence' of effectiveness means evidence consisting of adequate and well-controlled investigations, and the appropriateness of the regulations, procedures, standards, and criteria relied upon by the Commissioner of Food and Drugs in implementing such requirement, and shall issue a report on its conclusions and recommendations. Such report shall be submitted to the appropriate Committees of Congress by the Secretary, together with the Secretary's comments and recommendations. In addition the Center, in conducting drug science policy research, shall review, analyze, and where appropriate make recommendations and reports regarding the relationship of drugs to the public health, including:

"(1) the impact of regulation on drug innovation and development;

"(2) problems inherent in the analysis of risks and benefits, the formulation of risk versus benefit ratios, and the use of such ratios in approving drugs; and

"(3) methods for improving and accelerating the overall drug research, innovation, development, and approval process and for improving the drug utilization process.

"(c) The Center shall conduct an ongoing review and analysis of the use of drugs in the United States and on the basis of such review and analysis prepare an annual Drug Experience Assessment Report. The report may be on such categories of drugs as the Director determines is appropriate. The report shall include, for the drugs included in the report, a qualitative analysis of the use of such drugs, adverse effects and unanticipated reactions from such drugs, an assessment of the frequency of the occurrence of such effects and reactions, an analysis of the use of such drugs on a regional basis, by specialties of medicine, or any other category of use of such drugs and shall include recommendations for improvement in the use of such drugs.

"(d) Notwithstanding any other provision of this section, the Center shall not participate in comment on any pending matter regarding a drug before the Commissioner of Food and Drugs except at the request of the Commissioner or where research regarding the drug has been supported or conducted by the Center pursuant to subsection (a).

"(e) The Director shall publish and otherwise make available to the public the reports prepared under this section.

"(f) There are authorized to be appropriated to carry out the purposes of this section $5,000,000 for the fiscal year ending September 30, 1981, $7,000,000 for the fiscal year ending September 30, 1982, and $9,000,000 for the fiscal year ending September 30, 1983.

"TRAINING FUNCTIONS OF THE CENTER: GRANTS FOR PROGRAMS IN CLINICAL PHARMACOLOGY AND CLINICAL PHARMACY

"SEC. 1903. (a) (1) From funds appropriated under paragraph (2) the Director may make grants—

"(A) to schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, and nursing and to groups of such schools for—

"(i) the planning, establishment, and operation of new programs; and

"(ii) the expansion of existing programs of training in clinical pharmacology for full-time students (as defined in section 770(c)(2) or 810(d)(2)) enrolled in such schools;

"(B) to training centers for allied health professions for—

"(i) the planning, establishment, and operation of new programs; and

"(ii) the expansion of existing programs of training in clinical pharmacology for students enrolled in such centers; and

"(C) to schools of pharmacy for—

"(i) the planning, establishment, and operation of new programs; and

"(ii) the expansion of existing programs of training in clinical pharmacy for full-time students (as defined in section 770(c)(2)) enrolled in such schools.

"(2) There are authorized to be appropriated for payments under grants under this subsection $3,000,000 for the fiscal year ending September 30, 1981, $4,000,000 for the fiscal year ending September 30, 1982, and $5,000,000 for the fiscal year ending September 30, 1983.

"(b) (1) From funds appropriated under paragraph (2), the Director may make grants to schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, and nursing and to other public and nonprofit private entities for the planning, establishment, and operation of new programs, and for the expansion of existing programs, of continuing education in clinical pharmacology and cliniical pharmacy for physicians, dentists, pharmacists, podiatrists, optometrists, and nurses.

"(2) There are to be appropriated for payments under grants under this subsection $2,000,000 for the fiscal year ending September 30, 1981, $3,000,000 for the fiscal year ending September 30, 1982, and $4,000,000 for the fiscal year ending September 30, 1983.

"(c) (1) From funds appropriated under paragraph (2), the Director may make grants to or enter into contracts with public and nonprofit private entities for demonstration projects to demonstrate new roles for (A) clinical pharmacologists and clinical pharmacists in the practice of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, and nursing and (B) clinical pharmacology in nursing.

"(2) There are authorized to be appropriated for payments under grants or contracts under this subparagraph $1,000,000 for the fiscal year ending September 30, 1981, $1,500,000 for the fiscal year ending September 30, 1982, and $2,000,000 for the fiscal year ending September 30, 1983.

"(d) (1) No grant may be made or contract entered into under this section unless an application therefor has been submitted to, and approved by, the Director. Such application shall be in such form, submitted in such manner, and contain such information, as the Director shall by regulation prescribe. The Director may approve or disapprove any application for a grant or contract under this title but only after consultation with the National Advisory Council on Drug Science established by section 1805.

"(2) The amount of any grant or contract under this section shall be determined by the Director. Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5). Payments of any such grant or contract may be made in advance or by way of reimbursement and in such installments and on such conditions as the Director finds necessary to carry out the purposes of this section.

"TRAINEESHIPS AND FELLOWSHIPS

"SEC. 1904. (a) (1) From funds appropriated under subsection (b) (1) the Director may make grants to schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, and nursing for the provision of traineeships to assist physicians, dentists, pharmacists, podiatrists, optometrists, nurses and other qualified individuals in meeting the cost of obtaining graduate training and research training in clinical pharmacology and clinical pharmacy.

"(2) From funds appropriated under subsection (b) (2), the Director may provide fellowships to physicians, dentists, pharmacists, podiatrists, optometrists, nurses, and other qualified individuals to undertake research at the Center. The Secretary shall provide sabbatical leave in accordance with section 5701(c), title 5, United States Code, and otherwise assist scientists and other qualified individuals (notwithstanding whether such person is classified within the senior executive service) employed by the Department of Health, Education, and Welfare in obtaining such fellowships.

"(3) No grant for traineeships and fellowships may be made under this section unless an application therefor has been submitted to, and approved by, the Director. Such application shall be in such form, be submitted in such manner, and contain such information, as the Director may prescribe. Traineeships and fellowships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Director.

"(b) (1) There are authorized to be appropriated for payments under grants under paragraph (1) of subsection (a) $2,000,000 for the fiscal year ending September 30, 1981, $2,500,000 for the fiscal year ending September 30, 1982, and $3,000,000 for the fiscal year ending September 30, 1983.

"(2) There are authorized to be appropriated for fellowships under paragraph (2) of subsection (a) $500,000 for the fiscal year ending September 30, 1981, $600,000 for the fiscal year ending September 30, 1982, and $700,000 for the fiscal year ending September 30, 1983.

"(c) Traineeships and fellowships provided under this subsection shall include such stipends and allowances (including travel and subsistence expenses and dependency allowances) as the Director may find necessary.

"NATIONAL ADVISORY BOARD

"SEC. 1905. (a) (1) There is established a board to be known as the National Advisory Board on Drug Science (hereinafter in this section referred to as the 'Board'). The Board shall consult with, advise, and make recommendations to the Director with respect to the responsibilities prescribed by this title, and shall review and comment upon the activities of the Center.

"(2) The Board shall be composed of fifteen members appointed by the Secretary, four of whom shall be appointed from the general public to represent the consumers of health care. In determining who shall be a member of the Board, the Secretary shall solicit recommendations from appropriate groups.

"(b) (1) Members of the Board shall be appointed for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be removed, except for cause. Members may be reappointed to the Board.

"(2) Members of the Board (other than members who are officers or employees of the United States), while attending meetings or conferences thereof or otherwise serving on the business of the Board, shall be entitled to receive for each day (including traveltime) in which they are so serving the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule; and while so serving away from their homes or regular places of business. All members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Board shall terminate on September 30, 1983.".

TITLE III—ESTABLISHMENT OF THE FOOD AND DRUG ADMINISTRATION

ESTABLISHMENT

SEC. 301. (a) There is established within the Department of Health, Education, and Welfare an agency to be known as the Food and Drug Administration (hereinafter referred to as the "Administration").

(b) (1) The Administration shall be headed by the Commissioner of Food and Drugs who, except as provided in paragraph (2), shall be appointed by the President by and with the advice and consent of the Senate for a term of five years. The Commissioner shall be paid at a rate prescribed for level III of the Executive Schedule. The Commissioner shall be responsible for the effective administration of the functions, powers, and duties transferred, delegated, or otherwise assigned to him.

(2) The individual who on the date of enactment of this Act holds the office of Commissioner of Food and Drugs, Department of Health, Education, and Welfare, shall be the initial Commissioner of the Administration on the date of enactment of this Act.

POWERS OF THE COMMISSIONER

SEC. 302. The Commissioner is authorized—

(1) to direct and coordinate the activities of the Administration;

(2) to select, appoint, or employ all personnel of the Administration and direct and supervise all personnel so elected, appointed, or employed;

(3) to employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS–18 as provided in section 5332 of title 5, United States Code, and, while such experts and consultants are so serving away from their homes or regular places of business, to pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(4) to appoint advisory committees composed of such private citizens and officials of the Federal, State, and local governments pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act or as the Commissioner determines desirable to advise him with respect to the functions, powers, and duties vested in him and to pay such members (other than those regularly employed by the Federal Government) while attending meetings of such committees, or otherwise serving at the request of the Commissioner, compensation and travel expenses at the rate provided for in paragraph (3) with respect to experts and consultants;

(5) to promulgate such regulations as may be necessary or appropriate for the efficient implementation and enforcement of the functions, powers, and duties vested in him;

(6) to make such investigations as the Commissioner deems necessary to determine whether any person has violated or whether any article is in violation of any provision of the laws which the Commissioner is responsible for enforcing;

(7) to utilize, with their consent, the services, personnel, and facilities of other Federal agencies and of State and private agencies and instrumentalities with or without reimbursement therefor;

(8) to procure such goods and services as may be necessary and to enter into and perform such contracts, leases, cooperative agreements, grants, or other transactions as the Commissioner may determine appropriate, with any agency, or instrumentality of the United States, or with any State, Commonwealth, territory, or possession, or any political subdivision thereof, or with any public or private person, firm, association, corporation, independent testing laboratory, or institution;

(9) to accept gifts and voluntary and uncompensated services on behalf of the Administration for use in carrying out the functions, powers, and duties vested in him notwithstanding the provisions of section 665(b) of title 31, United States Code;

(10) to plan, design, and construct or lease such research, office or test facilities as may be necessary to carry out the functions, powers, and duties vested in him (A) after reasonable efforts to fully utilize the personnel, facilities, and other technical support available in other Federal agencies, (B) when authorized by the Congress to plan, design, and construct or lease such facilities, and (C) subject to the appropriation of funds for this purpose by the Congress;

(11) to designate representatives to serve or assist on such committees as the Commissioner may determine to be necessary or appropriate to maintain effective liaison with Federal agencies and with State and local agencies and independent bodies carrying out programs and activities related to the protection of consumers against injury resulting from the use of products subject to the jurisdiction of the Administration;

(12) to offer training in product safety investigation and test methods, and assist public and private organizations, administratively and technically, in the development of safety standards and test methods;

(13) to conduct research, testing, and preclinical and clinical investigations directly related to the implementation and enforcement of the laws under the jurisdiction of the Administration, and for these purposes to award grants and to enter into contracts for such research, and to obtain materials without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5);

(14) to undertake such other activities as are necessary to carry out the functions, powers, and duties vested in him including those enumerated in other sections of such laws;

(15) to delegate any of the functions, powers, and duties vested in him to other officers or employees of the Administration, except as otherwise provided by law;

(16) to develop ways to actively encourage and promote the discovery and development of new therapies in the United States;

(17) to cooperate with the compilers of the official compendium and to provide them with information concerning the characteristics of drugs; and

(18) upon request, to provide technical assistance to the government of a foreign country regarding the analysis of drug benefits and risks.

DUTIES OF THE COMMISSIONER

SEC. 303. DUTIES OF THE COMMISSIONER.—The Commissioner shall—

(1) enforce the laws which the Commissioner is required under this Act to administer;

(2) publish notice of any proposed public hearing in the Federal Register, and afford a reasonable opportunity for all interested persons to present relevant testimony and data;

(3) upon request, provide technical assistance on legislative proposals directly to committees of Congress;

(4) establish an interdisciplinary epidemiology capability and undertake investigations to facilitate regulatory decisionmaking and to assist in product evaluation and benefit versus risk analysis;

(5) establish or maintain a capability within the Administration to engage in product evaluation, risk versus benefit analysis, hazard detection, test method development, and quality control requirements;

(6) utilize field operations to conduct product evaluation, facilitate detection of conditions associated with products subject to the jurisdiction of the laws which the Commissioner is to administer, which products might lead to disease, injury, or death, to monitor compliance with required levels of safety performance, to report violations, and to assist in any enforcement action taken by him; and

(7) provide for the improved utilization of information systems by the Administration by conducting an evaluation of the existing information systems to determine how they can better serve the needs of employees and reviewers of applications submitted under section 505 of the Federal Food, Drug, and Cosmetic Act and a survey of the needs of employees and reviewers for use in developing or redesigning information systems, and by developing an educational program for reviewers and other Administration employees in the use of information systems. A report on the Commissioner's activities under this paragraph shall be submitted to the Senate Committee on Labor and Human Resources, the Senate Committee on Appropriations, the Interstate and Foreign Commerce Committee of the House of Representatives, and the Committee on Appropriations of the House of Representatives within one year of the date of enactment of this Act.

CONFLICT OF INTEREST

SEC. 304. (a) A consultant shall, within ten days prior to appointment, make a complete disclosure, in such form and manner as the Commissioner may, by regulation require, of financial information, including information pertaining to whether such consultant is currently working or has worked with any person who has filed an application under section 505 of the Federal Food, Drug, and Cosmetic Act. Such disclosure shall include the name and address of each such person, the type of work, and the specific drug with which such consultant was involved. Failure to file a disclosure statement required by this subsection shall result in the disqualification of the proposed appointee.

(b) A consultant shall not substantially participate in any activities of the Administration with regard to any interest of any person with respect to whom such consultant has a financial interest or any product, substance, or other article subject to regulation by the Commissioner with which the consultant has had a financial interest. The prohibition contained in this section may be waived by the Commissioner if the Commissioner determines that the consultant's interest is or was not so substantial as to affect the integrity of the services which the Commissioner expects from the consultant, or if the interest falls within a category of interests which the Commissioner has determined by regulation to be too remote or too inconsequential to affect the integrity of such services, and publishes such determination in the Federal Register.

(c) For purposes of this section, a "consultant" means a member of an advisory board or committee established by the Administration, or an individual who receives remuneration from the Administration and is not an employee of the Administration.

TRANSFER OF FUNCTIONS, POWERS, AND DUTIES

SEC. 305. (a) The functions, powers, and duties vested in the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301), the Federal Import Milk Act (21 U.S.C. 141), the Tea Importation Act (21 U.S.C. 41), and the Fair Packaging and Labeling Act (15 U.S.C. 1451), pursuant to section 12 of Reorganization Plan No. 4 of 1940 and Reorganization Plan No. 1 of 1953, including authority to administer oaths vested in the Secretary of Agriculture by section 2217 of title 7, United States Code, are transferred to the Commissioner.

(b) The functions, powers, and duties vested in the Secretary under section 301 (research and investigation); section 307 (international cooperation); section 310 (health, education, and information); section 311 (Federal-State cooperation); and section 314(f) (interchange of personnel with States) of the Public Health Service Act (42 U.S.C. 241, 241l, 242o, 243, and 246(f)) insofar as such sections relate to food, drugs, devices, cosmetics, electronic products, and other products, substances, or other articles, or functions, powers, and duties of the Commissioner are transferred to the Commissioner

(c) The functions, powers, and duties vested in the Secretary under section 351 of the Public Health Service Act (42 U.S.C. 264) concerning the following products and activities: biologicals (including blood and blood products), interstate travel sanitation (except interstate transportation of etiological agents under 42 CFR 72.25 as in effect on the date of enactment of this Act) food (including milk and food service sanitation and shellfish sanitation); and drugs, devices, cosmetics, electronic products and other items or products regulated by the Commissioner are transferred to the Commissioner.

(d) The functions, powers, and duties vested in the Secretary under section 409(b) of the Federal Meat Inspection Act (21 U.S.C. 679(b)) which relate to the detention of any carcass, part thereof, meat, or meat product of cattle, sheep, swine, goats, or equines are transferred to the Commissioner.

(e) The functions, powers, and duties vested in the Secretary under section 24(b) of the Poultry Products Inspection Act (21 U.S.C. 467(b)) which relate to the detention of any poultry carcass, part thereof, or poultry product are transferred to the Commissioner.

(f) The functions, powers, and duties vested in the Secretary under the Egg Products Inspection Act (21 U.S.C. 1031) are transferred to the Commissioner.

(g) The functions, powers, and duties vested in the Secretary by amendments to the foregoing statutes subsequent to Reorganization Plan No. 1 of 1953 are transferred to the Commissioner.

(h) The functions, powers, and duties of the Secretary under section 501 of the Public Health Service Act (42 U.S.C. 219) to accept offers of unconditional gifts, of other than real property, provided such gifts relate to the functions, powers, and duties of the Commissioner and are of $1,000 value or less and the total costs associated with acceptance of property will not exceed the cost of purchasing a similar item and the cost of normal care and maintenance are transferred to the Commissioner.

(i) The functions, powers, and duties vested in the Secretary under Executive Order 11490, section 1103 as amended by Executive Order 11921, which relate to emergency health functions as they pertain to the operations and functional responsibilities assigned to the Commissioner.

(j) The functions, powers, and duties vested in the Secretary under the second sentence of section 309 of the Public Health Service Act (42 U.S.C. 242n) related to the functions of the Food and Drug Administration (hereinafter referred to as the "Administration"), are transferred to the Commissioner.

(k) The functions, powers, and duties vested in the Secretary of Health, Education, and Welfare under sections 354 through 360F of the Public Health Service Act (42 U.S.C. 263b through 263n) which relate to electronic product radiation control are transferred to the Commissioner.

(l) The functions, powers, and duties vested in the Secretary under sections 351 and 352 of the Public Health Service Act (42 U.S.C. 262 and 263) which relate to biological products are transferred to the Commissioner.

(m) The functions, powers, and duties vested in the Secretary pertaining to section 303 of the Public Health Service Act (42 U.S.C. 242a) which relate to the authorization of persons engaged in research on the use and effect of drugs to protect the identity of their research subjects with respect to drugs scheduled under Public Law 91-513 for which a notice of claimed exemption for an investigational new drug is filed with the Administration are transferred to the Commissioner.

(n) The functions, powers, and duties vested in the Secretary pertaining to section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1241) which relate to the determination of the safety and effectiveness of drugs or to approve new drugs to be used in the treatment of narcotic addicts are transferred to the Commissioner.

(o) The functions, powers, and duties vested in the Secretary pertaining to section 302(a) of the Public Health Service Act (42 U.S.C. 242(a)) which relate to the determination and reporting requirements with respect to the medicinal and scientific requirements of the United States for controlled substances are transferred to the Commissioner.

(p) The functions, powers, and duties vested in the Secretary pertaining to section 303(f) of the Controlled Substances Act (21 U.S.C. 823(f)) which relate to the determination of the qualifications and competency of practitioners wishing to conduct research with controlled substances listed in schedule I of the Act, and the merits of the research protocol are transferred to the Commissioner.

(q) The functions, powers, and duties vested in the Secretary pertaining to provisions of the Controlled Substances Act (21 U.S.C. 801) which relate to the administration of the Federal Food, Drug, and Cosmetic Act are transferred to the Commissioner.

(r) The functions, powers, and duties vested in the Secretary under section 362 of the Public Health Service Act (42 U.S.C. 265) which relate to the prohibition of the introduction into the United States of food, drugs, cosmetics, devices, and electronic products and other items or products regulated by the Administration when it is determined that such prohibition is required in the interest of public health or when such functions relate to the law enforcement functions of the Administration are transferred to the Commissioner.

(s) The functions, powers, and duties vested in the Secretary under section 401(a) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801) are transferred to the Commissioner.

(t) The Secretary may delegate such additional functions to the Commissioner as he from time to time deems appropriate.

TRANSFER OF PERSONNEL, ET CETERA

SEC. 306. All personnel, property, records, obligations, commitments, and unexpended balances of appropriations, and other funds which are used primarily with respect to any office, bureau, or function transferred under the provisions of this Act are transferred to the Commissioner of Food and Drugs. The transfer of personnel pursuant to this Act shall be without reduction in classification or compensation for one year after such transfer, and this provision shall not be construed to impair the authority of the Commissioner to assign personnel during this period to carry out the functions of the Administration most effectively.

SINGLE CAMPUS

SEC. 307. Within two years of the date of enactment of this Act, the Commissioner shall develop a plan regarding the centralization of all the facilities of the Administration into a single location (excluding such regional facilities and project sites as the Commissioner deems necessary). Such plan shall include various cost estimates, and shall be submitted upon completion to the appropriate committees of Congress.

SAVINGS PROVISION

SEC. 308. All laws relating to any office, agency, bureau, or function transferred under this title, insofar as such laws are applicable, remain in full force and effect. Any orders, rules, regulations, permits, or other privileges made, issued, or granted by any office, agency, or bureau or in connection with any function transferred by this title, and in effect at the time of the transfer, shall continue in effect to the same extent as if such transfer had not occurred until modified, superseded, or repealed. No suit, action, or other proceeding lawfully commenced by or against any office, agency, or bureau or any officer of the United States acting in his official capacity shall abate by reason of any transfer made pursuant to this title, but the court, on motion or supplemental petition filed at any time within twelve months after such transfer takes effect, showing a necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the appropriate office, agency, bureau, or officer of the United States.

MISCELLANEOUS

SEC. 309. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(70) Commissioner, Food and Drug Administration.".

(b) Section 5316(43) of such title is repealed.

(c) The Filled Milk Act (21 U.S.C. 61-64) is repealed.

(d) Section 351(f) of the Public Health Service Act is amended to read as follows:

"(f) A violation of this section shall be deemed a prohibited act under section 301 of the Federal Food, Drug, and Cosmetic Act, and be subject to the provisions of chapter III of said Act.".

The PRESIDING OFFICER. On this bill, there is a time limit of 1 hour, to be equally divided between the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Pennsylvania (Mr. SCHWEIKER), with a 30-minute limitation on any amendment, debatable motion, appeal or point of order.

Who yields time?

Mr. KENNEDY. I yield myself such time as I may need.

Mr. President, I am pleased to rise in support of S. 1075, the Drug Regulation Reform Act of 1979, the most comprehensive reform of the Nation's drug law since 1938. This legislation has bipartisan support. It is cosponsored by Senators WILLIAMS, SCHWEIKER, JAVITS, RANDOLPH, RIEGLE, METZENBAUM, EAGLETON, and CRANSTON. It was reported by the Labor and Human Resources Committee by a vote of 13 to 0. That vote was the culmination of an exhaustive 5½-year study of the issues by the committee. During that time, over 35 days of hearings were held, a series of special issue debates took place, and several legislative proposals were discussed in mark-ups which began in the last Congress.

Mr. President, every group with an interest in this legislation has had many opportunities to be heard. Balancing these competing viewpoints has not always been easy, but the final product is far better for the vigorous debates we have been through. I am especially pleased that Mr. Norman Dorsen, the chairman of the Review Panel on New Drug Regulation, which conducted the most extensive, independent analysis of the Nation's drug laws in decades, has enthusiastically endorsed this legislation.

Mr. President, no legislation since I have been chairman of the Health Subcommittee more directly and immediately affects the health of the American people than this. The pharmaceutical industry, which was in its infancy when the 1938 law was enacted, today touches the lives of every man, woman and child in America. In 1977 doctors wrote 1.5 billion prescriptions—an average of seven for every person in America. And over 90 percent of those prescriptions were for products that were not available in 1938. It is astonishing that the basic law which regulates antibiotics, birth control pills, tranquilizers, antihistamines, steroids and many other common drugs, was enacted before these products existed. That law was significantly revised in 1962, but the basic structure of the regulatory process remains as established under the 1938 law.

What then are the major problems this legislation addresses?

First. Too little information is available on how drugs are actually used in practice.

The current regulatory process focuses primarily on the time before a drug is allowed on the market. Once approved, no one—not the FDA, not the drug industry, not the American Medical Association, takes the responsibility to find out how drugs are actually used in practice. Almost all experts agree there is a problem with the way drugs are used in the United States. Studies have shown antibiotics to be overprescribed and misprescribed. Experts believe tranquilizers are seriously overprescribed. Witnesses before the Health Subcommittee estimated that deaths from adverse drug reactions may take between 30,000 and 120,000 American lives a year. Others put the figure much lower. The plain truth is we do not know how many people die from adverse drug reactions. We do not know the extent of misprescribing in this country. We do not know, and we would not know until there is a system of postmarketing surveillance in effect.

This legislation establishes the authority of the FDA to require postmarketing surveillance of prescription drugs. It is the most important feature of the bill. It will enable the medical community and the general public to know how drugs are actually used, so that corrective action can be taken if problems or abuses are discovered.

Not only is this authority essential for improving the use of drugs, it is essential if we are to speed up their development and introduction to the market. Because FDA will be able to monitor a new drug's actual performance in the marketplace and thus spot problems early on, this authority takes some of the burden off the premarket approval process.

The legislation has other provisions designed to help improve the way drugs are used. First, training programs will be supported which improve physician education about drug use, both before and after medical school. Second, more objective information about drugs will be made available to all doctors through a drug index. Third, patient package inserts will be required so that the patient will understand what the drug is, why he or she is taking it, what to watch out for. This should improve patient compliance.

Second. Drugs sometimes take too long to get on the market.

This Nation has the safest, most effective drug supply in the world. Because of our high safety standards compared with other nations, it sometimes takes longer to get a drug on the market here. But that higher safety standard has protected us from a number of disasters which other nations have experienced (of which thalidomide is but one example).

We must not, and we will not, lower that standard. This legislation adheres to it.

But it is also true that the current regulatory process imposes delays that are related to a complex bureaucracy rather than a safety standard. These delays cannot be tolerated.

This legislation, without compromising the safety standard, allows for an acceleration of the drug approval process. It does this in the following ways:

First. There is a significant simplification of the rules governing phase I human testing.

Second. FDA is instructed to provide applicants with advice and written guidelines. Informal procedures are established to resolve scientific disputes.

Third. A special provision governing "breakthrough" drugs has been added. In very special circumstances, where a very serious, life-threatening illness exists and where there are no available treatments, drugs may be marketed through the breakthrough provisions. These drugs must meet all safety standards, and will have to have significant evidence of effectiveness.

Fourth. The drug approval process is tightened.

Fifth. FDA has a more flexible range of authorities at its disposal. This is an exceedingly important provision because it significantly increases the public health protection for the American people and yet, at the same time, would allow drugs on the market that might not get approved today. At the present time, a drug is either approved for general use, or it is disapproved. Under this legislation drugs could be approved for use in limited settings—such as a hospital only, or for use only by doctors trained to use them. Thus, a drug too dangerous for general use, and thus not on the market today, could find its proper, safe niche with limited distribution. And drugs which today are in general use at high risk to consumers could be placed in limited distribution, keeping them available to those who need them but cutting the risk to the general public.

Third. The advertising, marketing and promotional practices of the drug industry need reform.

Today, doctors rely heavily—too heavily—on the drug industry for their information about drugs. The subcommittee was startled to find companies offering gifts and trips to doctors in return for their use of particular drugs. Equally deplorable was the common industry practice of conducting prescription surveys—a practice where detailmen review pharmacists' files to find out what specific drugs doctors are prescribing for their patients. Finally, the subcommittee was surprised to find that billions of free samples, many unsolicited, were being used by detailmen to influence prescribing habits.

As a result of the subcommittee's hearings, the industry adopted a new code of conduct which has been a major step forward. Compliance with the code has been spotty and this legislation codifies the reforms.

Fourth. There are inequities in the current drug approval process.

At the present time, when a second manufacturer wants to compete in a market, all the original tests conducted by the originator of the drug must be duplicated. Human subjects are thus subjected to unethical and indefensible clinical trials, because the outcome of the trials is known in advance.

Research and development is the backbone of the private sector. It is especially important in the pharmaceutical industry. This legislation recognizes the need to protect the innovative company's investment while at the same time largely eliminating duplicate testing. For the first 7 years after a new product is approved the second manufacturer must duplicate all the original data. After the seventh year, the product can be marketed without such a duplication, if they can demonstrate that they make an identical product. Because this is far less costly than duplicative testing, few firms are likely to spend the time and money to repeat the clinical trials. Thus, the originator has strengthened market protection for 7 years, and competitors have a much lower barrier to entry after the seventh year.

Fifth. The drug approval process does not provide for adequate public participation.

At the present time, the drug approval process is virtually closed to meaningful public participation. This legislation changes that. For the first time, summaries of pending applications are to be made available for public review before the decisionmaking process begins. Representatives of the public can participate in all public hearings held to review new drug applications, and at least one-third of all advisory committee members will represent consumers and patients.

Sixth. Current export policy puts the United States at an unfair competitive advantage with other nations.

Under current policy no drug can be exported from the United States unless it is approved for use here. The major exception is antibiotics. Both the current policy, and the exemption from the policy, need to be changed. To limit exports to those products intended for marketing here would be to exclude the development of drugs for diseases that do not exist here. Millions of people around the world die from diseases that never strike in the United States. In addition, drugs which would not be safe enough when judged according to U.S. standards, may present an acceptable risk when judged according to the very different conditions overseas.

We want the drug industry to develop products for Third World countries. We want to be able to compete effectively with other nations—to keep the jobs and factories and activity here. But we want to do that in a way that does not endanger the lives of citizens overseas or here at home. That is the balance we have achieved in this legislation. We will permit the export of drugs as long as the Secretary of Health, Education, and Welfare believes it is not contrary to public health and safety. And this balance will apply to all drugs, even those exempt from any restrictions today.

I believe the net effect of this provision will be to increase the export of American drug products around the world, without compromising public health here and abroad.

Seventh. The Food and Drug Administration has no statutory basis.

No agency of the Federal Government has a more important role in the protection of the public health than the Food and Drug Administration. Not only must it guarantee the safety and effectiveness of the Nation's drugs, it must guarantee that the Nation's food supply is safe and uncontaminated; it must prevent cancer-causing agents from reaching the dinner table; it must protect the people against dangerous and defective heart valves, pacemakers, respirators and other medical devices.

Yet in spite of these responsibilities, the FDA has no statutory basis. The commissioner, one of the most important health officials in the country, is not a Presidential appointee. This legislation establishes FDA's mandate in the law, and upgrades the Commissioner to a Presidential appointee subject to Senate confirmation. It also explicitly vests much of the authority of the act in the Commissioner.

Mr. President, I have briefly highlighted some of the major provisions of S. 1075. There are many others. Taken together, they bring the regulation of prescription drugs into the modern era. They assure the FDA a more flexible range of regulatory alternatives which can be applied throughout the life of a drug. They assure industry real incentives to invest in research and development. They assure consumers a chance to participate in the drug approval process, and they assure all of us that this Nation will continue to have the safest, most effective drug supply in the world.

Mr. President, I urge my colleagues to adopt this landmark legislation.

Mr. SCHWEIKER. Mr. President, I yield myself such time as I may require.

Mr. President, I rise in support of S. 1075, the Drug Regulation Reform Act of 1979.

As the ranking Republican on the Health Subcommittee and the full Committee on Labor and Human Resources, I have been actively involved in the development of this legislation. Particularly at a time when the American people have grown justly suspicious of Government regulation, the objective of regulatory reform proposals must be clear.

In my view, that objective is to eliminate unnecessary regulation and improve the performance of regulatory agencies. In the particular case of drug regulatory reform, key goals should be to encourage innovative research aimed at the development and prompt availability of safe and effective therapies for American consumers, to improve the use of drugs in medical practice, to foster competition in the drug industry, and to alleviate unnecessary burdens which may serve to stifle private sector initiative and delay approval of needed new drugs. As amended and recommended to the Senate by the Labor and Human Resources Committee, S. 1075 is consistent with these principles.

Over the past several Congresses, the Health Subcommittee has devoted much time and effort to an examination of the way drugs are approved and used in this country. Our hearings have uncovered many abuses and deficiencies. Increasingly in recent years, a recurrent theme has been the need to speed up the drug approval process. We have made a lot of progress in understanding the problem and what needs to be done; we have considered—and rejected—several legislative proposals.

In May, I introduced my own drug reform bill. The Drug Regulation Improvement Act (S. 1138). My bill focused specifically on the need to encourage innovative research and expedite the drug approval process, in ways that are consistent with protection of the public health and the safety of participants in drug research. During committee consideration of the present bill. I proposed some 40 amendments, most of which were adopted. The result is a bill I urge my colleagues to support.

I shall highlight some of the key concepts of my bill, all of which have been included in the bill before us, S. 1075 as reported, and other important changes which have been made in this legislation as well. Among the amendments I proposed and the committee accepted were provisions to:

First. Allow for greater use of comprehensive, detailed summaries as the basis for drug approval decisions. Under current procedures, as many as 200 volumes of data and individual case reports must be submitted to FDA.

An application can cover a table 9 feet by 12 feet, in stacks four or five volumes high.

If everyone in FDA spent all their working hours reviewing this material, there would not even be enough time to turn all the pages, let alone carefully evaluate the data.

The use of detailed summaries in lieu of the raw data and lease reports which comprise the bulk of these massive, up to 200-volume applications will cut this tremendous paperwork burden and help streamline new drug application review.

Second. Facilitate new research by beginning to "deregulate" the earliest and safest stages of clinical drug testing, allowing drug sponsors to bypass FDA and seek approval for these early studies from qualified health care institutions without FDA involvement. Only about 1 in 10 of the drugs that are tested is selected for further study and ultimately submitted to FDA for approval. There is a 90-percent dropout rate. These provisions will allow researchers to do a quick preliminary screen and determine which drugs are most promising and merit further development, instead of putting them through the burden of full FDA review and substantial procedural hurdles, only to find out that for 90 percent of the drugs, no applications will be submitted anyway.

Third. Bring the highest level of expertise to bear on FDA decisionmaking in the drug research and approval process by expanding the use of expert advisory committee consultations to help resolve scientific disputes.

Now we have a bottleneck when the FDA and drug sponsors disagree. Research may be stopped for months at a time because they cannot get over some honest scientific disagreement. Having an advisory committee process involving outside experts who render their scientific judgment, which, of course, is strictly advisory to FDA, will help resolve some of these disputes much more quickly.

Fourth. Clarify the responsibilities of FDA reviewers and improve the responsiveness and accountability of FDA, incorporating recommendations developed by the General Accounting Office in its recent review of FDA drug approval procedures. GAO came up with some good suggestions in their review, and several of these are incorporated in specific amendments of mine.

Fifth. Eliminate unnecessary duplicate testing by second manufacturers of previously approved drugs, provided that their products are truly equivalent to drugs FDA has already approved and there has been at least 7 years experience with the drug. The FDA has interpreted existing law to require subsequent manufacturers of drugs which have been approved since 1962 to demonstrate all over again that a drug is safe and effective, even after the original patent expires. This obviously entails high costs and may put human subjects unnecessarily at risk, because human subjects must be used again to test another version of a drug even though we know from the outset that the human subjects will react in a certain way and some may be penalized by having to be put in a control group. It does not make much sense to put humans at risk when we know that a safe and effective drug is available.

Subsequent manufacturers of pre-1962 drugs and antibiotics face no such barrier to market entry. We now waive that requirement and use an abbreviated procedure for the pre-1962 drugs.

The bill as reported, with my amendment, will require some limited human testing, only to demonstrate bioequivalence, not to require duplication of full safety and efficacy testing as required before, but the cost of these bioequivalence studies, approximately $30,000 in most cases, is dwarfed by that of full safety and effectiveness testing, which may exceed $10 million. The bioequivalence requirement is a vital safeguard, so that patients, when there is more than one version of drug with the same chemical formula available, can rely with confidence on the quality and effectiveness of the drug products which they receive. This is particularly critical in light of the growing practice of "generic substitution" under State laws. Removing duplicate testing requirements should foster competition in the industry, redounding to the benefit of American consumers.

Sixth. Insure the protection of trade secrets, including but not limited to raw safety and effectiveness data submitted to FDA; manufacturing methods or processes (including quality control procedures); production, sales, distribution and similar data; quantitative or semiquantitative formulae; and inactive ingredients.

In addition, information relating to new uses or drugs other than the one for which approval is sought will not be released.

I think if we are going to encourage companies to be innovative and spend up to $50 million to develop a new drug—and that is what some of them cost—we have got to give them some assurance that their trade secrets will not be revealed to some competitor, a me-too manufacturer, who could then get, for the price of duplicating information released by the FDA, the benefits of the $50 million which has been expended for trial and error research and development by the pioneer company.

Disclosure of this kind of information, in my view, would be unfair to pioneer firms and have a disastrous effect on drug innovation in this country. These provisions are critical to the preservation of incentives and competition for new drug development. They will help keep the R. & D. base of the pharmaceutical companies, and the scientific work and jobs involved in this country.

Seventh. Eliminate unneeded or overly broad discretionary authorities, particularly in the area of regulating promotional practices, such as advertising preclearance.

Eighth. Set clear criteria which FDA must meet before it can impose post-approval regulatory controls on drugs, making it clear Congress intends these authorities—post-marketing surveillance, post-approval studies, batch certification, and limited distribution—to be used with restraint and not routinely invoked.

Ninth. Delete some proposed new FDA enforcement authorities, such as independent litigating authority and civil penalties, which would have represented an unwarranted expansion of FDA's powers. We have one Justice Department; we do not need a mini-Justice Department at FDA.

Several other provisions of the committee bill also merit mention. S. 1075 relaxes current export policy, which except for antibiotics bans the export of drugs not approved for use in the United States. This will allow American manufacturers to compete more successfully in foreign markets and help prevent the export of American jobs overseas.

It is sort of ironic that we impose our standards on other countries when, in fact, they may have a totally different disease problem. For example, in the field of tropical diseases, other countries may be perfectly willing to market a high-risk drug because they have a different risk-benefit equation. The drug may benefit people who get river blindness in those countries, but we would never approve it in this country because it would not be worth taking any risk, because we do not get the disease here. There would be no benefit here. Under the present law, we do not allow our companies to make drugs like this for use abroad, thus we are denying other countries the benefit of our medical technology and expertise, and also denying our companies the opportunity to compete on a fair basis there with firms from other western countries.

The Park standard of strict criminal liability under the Federal Food, Drug and Cosmetic Act is replaced with a fairer negligence standard. So that violators will no longer be subject to criminal prosecution except in cases of negligent, knowing or willful violations.

Future proliferation of differing or inconsistent State and local drug packaging and labeling requirements is curtailed by provisions designed to promote regulatory uniformity. The bill preempts new State and local requirements in areas within the sphere of FDA regulatory activity unless the requirement is demonstrated to enhance the public health significantly without unduly burdening interstate commerce. This will aid drug manufacturers who do business in several States and relieve consumers of the higher costs which result from the need to comply with a variety of different State and local requirements.

Lastly, the bill explicitly mandates more and better patient information about prescription drugs. Studies have shown that the American people need and want more information about the drugs they use. Patient package inserts can alert patients to possible adverse reactions and encourage the proper use of drugs. Although the PPI requirement will impose some limited additional costs on drug manufacturers and pharmacies, which have been estimated as resulting in an increase to consumers of about 6 cents per prescription. The benefits of better patient information clearly outweigh these costs.

I believe people who take medicines ought to be able to understand what the adverse effects might be, what the contraindications are, and what the complications might be. As a consumer, I would want this right to better information about drugs, and I believe the consumers of America should have this right. This bill mandates it.

In sum, Mr. President, I believe S. 1075 as reported is worthy of support, and I urge its passage.

I particularly want to thank our chairman, Senator KENNEDY, for the fine work he has done in this area. We have worked together on this legislation for 3 to 5 years now in hearings, rewrites, and markups and I believe we now have a finished product we can be proud of.

I also appreciate his willingness to work out many of these thorny and difficult issues and get what I believe is a realistic and practical approach which does many of the things that our committee felt had to be done to move our country ahead in this vital area.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, will the Senator yield to me 5 minutes?

Mr. SCHWEIKER. I yield 5 minutes.

Mr. JAVITS. I first would like to congratulate Senator KENNEDY and Senator SCHWEIKER. This was an extremely thorny bill. I worked on it with Senator KENNEDY when I was ranking member of the Human Resources Committee, a position to which Senator SCHWEIKER succeeded me, and he has done admirably since that time.

Indeed, I introduced my own bill in 1977 on this particular subject, and I think it is really a triumph of negotiation and diplomacy in the Senate that this matter has been finally worked out. So, Mr. President, I believe that the Drug Relation Reform Act, of which I am also a cosponsor, is an important step in the foundation of a drug science policy, a field whose profundities we are just beginning to explore.

The measure we are considering today has profound implications for the way in which pharmaceutical products are developed, approved, and used in this country.

The issues addressed in this bill are fundamental to the health and well-being of the American people, affecting not only the safety of drugs which reach the marketplace, but the speed with which these drugs are approved and the availability of new and experimental lifesaving drugs. In addition, the bill will make the drug approval process more accessible to interested citizens and provide more information to consumers, inspiring public confidence in the regulatory process and enabling consumers to make informed decisions about the drugs they use.

These concerns have been of great interest to me since I introduced my own bill in 1977, and I have worked since that time with the members of the Health Subcommittee to examine the complex and often controversial questions of drug science policy which have arisen through the legislative process. Those questions have received rigorous scrutiny, and I am confident that we have reached a balanced and realistic understanding which meets the needs of consumers, physicians, drug manufacturers, and the FDA alike.

The bill represents a major effort to improve the regulatory process by which new drugs are investigated and approved or disapproved. That process is presently plagued by uncertainty and delay which is detrimental to both manufacturers and the public. If enacted, the Drug Regulation Reform Act would require guidelines to clarify the investigational process and set forth specific criteria for the denial or approval of new drugs. This should greatly enhance the ability of drug manufacturers to meet FDA requirements on a timely basis, and the more unified procedures will allow the FDA to expedite the review of new drug applications. In addition, the bill contains provisions authorizing the approval of drugs for limited distribution permitting FDA to make drugs available under carefully controlled conditions that it would otherwise have to disapprove.

The openness of procedures under this bill, will also be valuable to consumers and manufacturers. Most notable is the provision for public participation in the decisionmaking process, which gives consumers the opportunity for greater representation in proceedings affecting the products they will use. Also, the bill contains a number of provisions that will promote greater communication and understanding between the agency and manufacturers.

Mr. President, I would like to call attention to one of five specific provisions of this bill.

One important feature of the bill on which I have worked for years is the protection of human subjects of experimentation during the testing of new drugs and the requirement of informed consent of patients being administered such drugs. I know the managers of the bill are also very interested in this, and I believe the provisions of this bill admirably deals with the many excesses and injustices done to human beings in prisons and other institutions who were not fully aware that they were the subjects of risky experimentation.

The requirement for patient and physician information about approved drugs offers further protection for consumers.

The bill also guarantees the privacy of participants in drug experiments, and of their medical records. In our increasingly specialized and technological society, I believe the issues of informed consent, patient information, and privacy constitute some of the most critical problems facing Americans today. As you know, I introduced comprehensive medical records privacy legislation earlier this year to address this vital concern.

The National Center for Drug Science established by S. 1075 will be a significant instrument for the on-going examination of questions of drug science policy and will offer a focal point for information about drug risks and benefits which accumulates over the years of drug experience. As such, the center will help to provide continuity in the development of policies which insure the availability of safe, effective, and appropriate pharmaceuticals and pharmaceutical practices which can materially aid the health of the American people.

I am deeply appreciative of the provision, which I authored, and which is included under subsection (c) of section 1902 at page 167 of the bill. This section calls for an ongoing program of drug science policy research in order to examine exactly how this bill will be working in the drug field, and whether it will accelerate or decelerate the rate at which new drugs are approved, as there is great complaint that this is an extremely slow and complicated process today. It also requires assessment of the impact of the regulations promulgated under this bill on drug innovation and development and the methods for improving and accelerating overall drug research as affected by this bill.

Mr. President, I congratulate both managers. I think it is an admirable result after years of effort, and I am pleased to support the bill.

Mr. HATCH. Mr. President, will the Senator yield some time?

Mr. SCHWEIKER. I yield the Senator from Utah 5 minutes.

UP AMENDMENT NO. 570

(Purpose: "Drug Look-Alike Amendment")

Mr. HATCH. Mr. President, I rise in qualified support of this bill, doing so knowing what I believe are its limitations, but also taking into account the best efforts of all of us on the Senate Health Subcommittee to produce a bill representing a reasonable compromise. While sometimes differing over the means with which we would reform the prevailing drug regulatory mechanism, we are certainly united in pursuit of the bill's goals, those being: To speed up the drug approval process in order that new cures be made more available, and made available more quickly;

To increase consumer safeguards against harmful substances, those harmful drugs which we found are usually on the open market inadvertently;

To make uniform what has been often conflicting, archaic and unnecessarily expensive regulatory requirements governing the manufacturing and marketing of drugs, regulations which in their disparity have increased the costs of medicines to consumers above and beyond what would otherwise be the average cost of such drugs in a truly free market;

To reform the present law in order to allow for more drug product exports, a reform very welcome by anyone seriously intent on improving our economy and recognizing the regressive features of prevailing law which discourages American companies from exporting the U.S. pharmaceutical products countries abroad desire and need;

And, to tackle the seemingly impossible task of revising the tangled web of FDA rules and procedures in order that the best interests of both the drug producing company and the buying public are served, and without proving to be a Catch-22 for the one, or an unresponsive bureaucracy to the other.

During the course of both Subcommittee and full Labor and Human Resources Committee consideration of this legislation, I was pleased to have accepted to the bill many of my amendments intended to serve the goals just cited. Curtailing FDA subpena power, and removing from the legislation agency authority to initiate civil penalties and other legal actions were important improvements in the bill, improvements recognizing the proper authority of the Justice Department in these areas. While FDA subpena power was not entirely removed, I believe the reported version includes changes which better serve constitutional propriety and commonsense.

Other changes in the bill will improve the flow of our national commerce, most especially by virtue of an amendment I was pleased to offer with my colleague Senator PELL for regulatory uniformity. This improvement, complemented by safeguards against Federal intrusion in the privacy of private citizens and drug company scientists engaged in vital new drug research will better serve the purpose of encouraging rather than turning away the inspiration and energies of those intent on finding new, better, and more available cures for the benefit of every one of us.

Finally, Mr. President, I join all of my colleagues in extending my thanks to the chairman of our Health Subcommittee, and the ranking member, TED KENNEDY and DICK SCHWEIKER, who once again set high examples in professionalism and reasonableness during the course of what were at times endlessly long working sessions devoted to making gold out of straw. In my opinion we at least ended up with gabardine, not in itself a small accomplishment considering some of the vast array of John's Bargain Store fabric from which too many of our legislative measures are spun.

In closing, Mr. President, I send to the desk the final version of an amendment I originally introduced during the subcommittee consideration of this bill, entitled, "The Substitute Drug Consumer Protection Amendment" to S. 1075. It is an amendment which I revised pursuant to some 11th hour staff work in which my office and Senator KENNEDY's were able to reach an accord on a version which best meets the purposes we mutually seek. My amendment is intended to prevent consumer injury due to the improper use of so-called look-alike drugs, an amendment not intended to interfere with the substitution laws in the various States, and an amendment intended to help rather than hinder the work of pharmacists and the cause of protecting the consumer.

At times, drug capsules or pills have been sold which are so nearly identical in overall appearance to a brand name product, that a form of consumer deception takes place which is comparable to a violation of a patient's right of consent. This is the fault not of the pharmacist or the consumer so much as the vagueness and ill construction of standing law, and the amendment I offer to revise the look-alike drug law language is intended to improve this.

So I call up my unprinted amendment at this time, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 570.

Mr. HATCH. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 89, delete lines 20 to 25, and on page 90, delete lines 1 to 7, and substitute instead the following:

(b) Section 201(g)(2) is amended by adding at the end thereof the following: "The term also includes a prescription drug in tablet, capsule, or other solid finished form that—

"(1) contains the same active ingredients in the same strength as another prescription drug in the same finished form;

"(2) is introduced into interstate commerce after the other drug was lawfully introduced into interstate commerce; and

"(3) is so nearly identical in over all appearance to the other drug as to create a substantial likelihood that ultimate consumers will not be able to distinguish between them."

Mr. HATCH. Once again, the bill we have before us is not everything I would like to see written into law, but then again I have very exacting standards. Armed with the knowledge that we have had so many imperfect bills passed, and so many yet to consider, I urge my colleagues to vote as I intend to do, in favor of S. 1075.

My "look-alike drug" amendment, I think, resolves many of the problems we had in committee, and I think meets the requirements of the Health Subcommittee and its distinguished chairman and ranking minority member. We have had many discussions with them.

Mr. SCHWEIKER. Mr. President, will the Senator yield?

Mr. HATCH. I am happy to yield.

Mr. SCHWEIKER. I certainly support the Senator from Utah. I think this is a good amendment. I also wish to thank Senator HATCH for the work he has done on this bill in subcommittee, and in the full committee as well. He has been very supportive of our efforts to bring out a reasonable measure. I support the amendment.

Mr. KENNEDY. Mr. President, I urge the Senate to accept the amendment. It strikes a balance between the need of thousands of elderly patients to have products familiar to them in appearance, and thus reassuring, and the need to be able to distinguish between competing drug products.

I want to assure the distinguished Senator from New York that the pioneer New York substitution law should not be affected by this. If two products have different marks on them, even though they are the same color, size, and shape, they are not affected.

Mr. JAVITS. Mr. President, does the author of the amendment concur in that statement?

Mr. HATCH. Yes, I do.

Mr. JAVITS. I thank my colleagues, because, just as a matter of information, the New York law says the druggist shall prescribe a generic drug unless the doctor specifies otherwise. So you can see, with the habits of people who take these drugs, especially older people, how important it would be.

I did not want there to be any conflict about this bill; I thoroughly agree with the Senator from Utah and the Senator from Massachusetts, and I am glad that they have drawn the distinction we have discussed here.

Mr. HATCH. I agree with that, and I certainly appreciate the concern of the Senator from New York.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. HATCH. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah (Mr. HATCH).

The amendment (UP No. 570) was agreed to.

Mr. HATCH. I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCHWEIKER. Mr. President, I yield myself 2 minutes.

As a matter of legislative history, I would like to return to the duplicate testing question for a minute. The bill sets up an abbreviated application procedure, after 7 years, for subsequent manufacturers of approved drugs. I think it is very clear that the committee bill intends that this section be used as the primary procedure under which FDA is authorized to waive the requirement of section 505(b)(1) that drug sponsors submit full reports (or comprehensive summaries) of original full safety and effectiveness tests in support of their products, as opposed, for example, to published literature reports. I ask Senator KENNEDY if that is his understanding of the bill.

Mr. KENNEDY. Yes, Mr. President, it is my understanding.

Mr. SCHWEIKER. I thank the Senator.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, the time for the quorum call to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I commend Senator KENNEDY and the Health Subcommittee for taking extensive testimony from consumer groups on the Drug Reform Act, and especially for including representatives of America's older citizens, such as the National Council of Senior Citizens and the National Association of Retired Persons. The need for adequate patient and physician information on over-the-counter drugs and prescriptions is particularly great when the elderly and their doctors try to address the unique problems in selecting or prescribing appropriate medication.

We know that genetic factors play an important part in how any individual reacts to a drug. When you couple this with the changes in body chemistry, rate of absorption, and flow of blood to the heart and liver which come with the normal aging process, we have a very real dilemma in trying to find the right medication at the right dose for the older patient. In addition, an elderly individual often suffers from one or more chronic condition and may be taking several drugs, prescribed by different physicians, for high blood pressure, glaucoma, and so forth. Individualizing the routine drug regimen, as well as choosing over-the-counter remedies or prescribing drugs to treat an acute illness, becomes an extremely complex matter for the physician and patient alike. Most drugs on the market are inadequately tested for effect on the elderly; either young laboratory animals are used or when older human subjects are involved, the range of conditions, age factors, and drug interactions is not broad enough to yield reliable information on dosage and adverse effects. This situation leaves physicians and their older patients alike playing "Russian roulette" with medications.

Mr. President, the testimony at the Health Subcommittee's hearings and the inquiries from doctors to the National Institute on Aging show that physicians and consumers are most interested in having the best possible information on what dosage, side effects, and danger signals they should be looking for when devising an individual drug regimen. S. 1075 goes a long way in requiring the kind of patient and physician information that will help them find the right medication and dosage for the individual. I note that the bill requires drug manufacturers who have tested products on the elderly, pregnant women, and children to include a statement to that effect on all their labeling. What assurances do we have that drugs commonly used by the elderly will be adequately tested for results in the over-65 age group and that the findings on dosage levels and possible side effects will find their way into the information which goes to the doctor and the patient?

Mr. KENNEDY. Mr. President, the Secretary of HEW, in developing regulations to implement the new drug review procedures, will have to consult with consumers, health professionals, manufacturers, and other interested parties on the guidelines. We expect that among those consulted will be the National Institutes of Health, including the National Institute on Aging. The NIA, together with health educators and professionals in geriatric clinical pharmacology, will be able to recommend to the Secretary safeguards which should be included in the guidelines.

Mr. CHILES. Mr. President, I also see that the bill authorizes the Secretary to develop regulations for the private sector to compile a Federal Drug Index, and if private organizations do not proceed within 3 years to prepare this comprehensive reference text for doctors, the FDA will do it. Can we expect the National Institute on Aging and geriatric physicians and pharmacologists to have the same kind of input in the development of guidelines for the index?

Mr. KENNEDY. Yes we can, Mr. President. The proposed regulations will be published in the Federal Register for public comment, and we expect great interest on the part of the National Institutes of Health and other public and private agencies and organizations deal with specialized problems in this area.

Mr. CHILES. I thank the Senator. There are other aspects of the legislation which will benefit older Americans particularly, such as the provisions for pharmacies to post the 50 most-often-prescribed drugs with comparative prices, for the humane use of non-approved drugs in certain special cases, for "breakthrough" drugs to get to the market faster, and for drugs which show an adverse effect to be pulled from the market more quickly. Again, I commend the subcommittee and the Senator for the work that has been done in developing this legislation, which will move toward a more rational drug review process in this country.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

UP AMENDMENT NO. 571

Mr. SCHWEIKER. Mr. President, I send an amendment to the desk and ask its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes an unprinted amendment numbered 571.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that further reading of the amendment to be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 163, line 12, delete everything after the period.

On page 163, delete line 13–16.

On page 163, delete line 17 except for the last word.

Delete page 168, line 10, through page 173, line 6, and insert in lieu thereof the following:

"Title VII of the Public Health Service Act is amended by adding after section 786 the following new sections and headings:

GRANTS FOR PROGRAMS IN CLINICAL PHARMACOLOGY AND CLINICAL PHARMACY

"SEC. 786. (A) (1) From funds appropriated under paragraph (2) the Secretary may make grants—

"(A) to schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, and nursing and to groups of such schools for—

"(i) the planning, establishment, and operation of new programs; and

"(ii) the expansion of existing programs of training in clinical pharmacology for full-time students (as defined in section 770(c) (2) or 810(d) (2) enrolled in such schools;

"B) to training centers for allied health professions for—

"(i) the planning, establishment, and operation of new programs; and

"(ii) the expansion of existing programs of training in clinical pharmacology for students enrolled in such centers; and

"(C) to schools of pharmacy for—

"(i) the planning, establishment, and operation of new programs; and

"(ii) the expansion of existing programs of training in clinical pharmacy for full-time students (as defined in section 770(c) (2)) enrolled in such schools.

"(2) There are authorized to be appropriated for payments under grants under this subsection $3,000,000 for the fiscal year ending September 30, 1981, $4,000,000 for the fiscal year ending September 30, 1982, and $5,000,000 for the fiscal year ending September 30, 1983.

"(b) (1) From funds appropriated under paragraph (2), the Secretary may make grants to schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, and nursing and to other public and nonprofit private entities for the planning, establishment, and operation of new programs, and for the expansion of existing programs, of continuing education in clinical pharmacology and clinical pharmacy for physicians, dentists, pharmacists, podiatrists, optometrists, and nurses.

"(2) There are authorized to be appropriated for payments under grants under this subsection $2,000,000 for the fiscal year ending September 30, 1981, $3,000,000 for the fiscal year ending September 30, 1982, and $4,000,000 for the fiscal year ending September 30, 1983.

"(c) (1) From funds appropriated under paragraph (2), the Secretary may make grants to or enter into contracts with public and nonprofit private entities for demonstration projects to demonstrate new roles for (A) clinical pharmacologists and clinical pharmacists in the practice of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, and nursing and (B) clinical pharmacology in nursing.

"(2) There are authorized to be appropriated for payments under grants or contracts under this subparagraph $1,000,000 for the fiscal year ending September 30, 1981, $1,500,000 for the fiscal year ending September 30, 1982, and $2,000,000 for the fiscal year ending September 30, 1983.

"(d) (1) No grant may be made or contract entered into under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary may approve or disapprove any application for a grant or contract under this title.

"(2) The amount of any grant or contract under this section shall be determined by the Secretary. Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5). Payments of any such grant or contract may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary finds necessary to carry out the purposes of this section.

"TRAINEESHIPS AND FELLOWSHIPS IN CLINICAL PHARMACOLOGY AND CLINICAL PHARMACY

"SEC. 786–B. (a) (1) From funds appropriated under subsection (b) (1) the Secretary may make grants to schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, and nursing for the provision of traineeships to assist physicians, dentists, pharmacists, podiatrists, optometrists, nurses and other qualified individuals in meeting the cost of obtaining graduate training and research training in clinical pharmacology and clinical pharmacy.

"(2) From funds appropriated under subsection (b) (2), the Secretary may provide fellowships to physicians, dentists, pharmacists, podiatrists, optometrists, nurses, and other qualified individuals to undertake research at the Center. The Secretary shall provide sabbatical leave in accordance with section 5701(c), title 5, United States Code, and otherwise assist scientists and other qualified individuals (notwithstanding whether such person is classified within the senior executive service) employed by the Department of Health, Education, and Welfare in obtaining such fellowships.

"(3) No grant for traineeships and fellowships may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary may prescribe. Traineeships and fellowships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

"(b) (1) There are authorized to be appropriated for payments under grants under paragraph (1) of subsection (a) $2,000,000 for the fiscal year ending September 30, 1981, $2,500,000 for the fiscal year ending September 30, 1982, and $3,000,000 for the fiscal year ending September 30, 1983.

"(2) There are authorized to be appropriated for fellowships under paragraph (2) of subsection (a) $500,000 for the fiscal year ending September 30, 1981, $600,000 for the fiscal year ending September 30, 1982 and $700,000 for the fiscal year ending September 30, 1983.

"(c) Traineeships and fellowships provided under this subsection shall include such stipends and allowances (including travel and subsistence expenses and dependency allowances) as the Secretary may find necessary.

On page 173, line 8, change the number "1905" to "1904".

In Title II, wherever the words "National Center" appear or the word "Center" appears, strike these words and substitute "Office".

Mr. SCHWEIKER. Mr. President, I am offering this amendment for the distinguished Senator from Oklahoma (Mr. BELLMON), as well as myself.

This amendment is in lieu of an amendment Senator BELLMON was to offer. It changes the name of the National Center for Drug Science to "Office for Drug Science" and changes the location of the training authorities.

This office is not intended to overlap with any existing programs or with other regulatory responsibilities of the FDA.

Hopefully, this is acceptable to Senator KENNEDY. I believe this is the amendment we discussed a moment ago.

Mr. KENNEDY. Mr. President, this amendment is acceptable, and I hope the Senate will accept it.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. SCHWEIKER. I yield back my time.

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 572

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 572.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, line 15, after "(1)", add: "striking the semicolon at the end of paragraph (1) and substituting:".

On page 159, line 19, change the second "under" to "of".

On page 161, line 5, insert before the comma "and the Special United States Trade Representative".

On page 171, line 4, change "1805" to "1905".

Mr. KENNEDY. Mr. President, this is a technical and conforming amendment.

Mr. SCHWEIKER. Mr. President, I yield back my time.

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I yield

back the remainder of my time on the bill.

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDING OFFICER. If there are no further amendments, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Drug Regulation Reform Act of 1979".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301).

TITLE I—AMENDMENTS TO FEDERAL FOOD, DRUG, AND COSMETIC ACT

SEC. 101. (a) The Congress finds that drugs manufactured, distributed, and used or investigated intrastate cannot be readily differentiated from drugs manufactured, distributed, and used or investigated interstate. Thus, for effective regulation of interstate commerce, it is desirable that to the extent feasible drugs be federally regulated.

(b) Section 201(b) is amended by striking the period at the end thereof and by adding a comma and the following: "except that in the case of a drug (other than a new animal drug or an animal feed bearing or containing a new animal drug) the term 'interstate commerce' includes (3) commerce that affects the commerce described in clause (1) or clause (2): *Provided,* That where the processing, manufacture, distribution, holding, and dispensing of a drug occur entirely within a single State and such processing, manufacture, distribution, holding, and dispensing have been expressly authorized by the laws of such State, the provisions of this Act shall not apply to such processing, manufacture, distribution, holding, or dispensing.".

SEC. 102. (a) Section 201(e) is amended by—

(1) striking "and"; and

(2) striking the period after "association" and substituting ", and agency of government.".

(b) Section 201(g)(2) is amended by adding at the end thereof the following: "The term also includes a prescription drug in tablet, capsule, or other solid finished form that—

"(1) contains the same active ingredients in the same strength as another prescription drug in the same finished form;

"(2) is introduced into interstate commerce after the other drug was lawfully introduced into interstate commerce; and

"(3) is so nearly identical in over all appearance to the other drug as to create a substantial likelihood that ultimate consumers will not be able to distinguish between them.".

SEC. 103. Section 201(p) is repealed.

SEC. 104. Section 301(e) is amended by striking the period at the end thereof and substituting the following: "; or the inclusion of a materially false or misleading statement (including the omission of material information) in any application, report, or other document by any person who had reason to believe that such statement, application, report, or document might be submitted to or inspected by the Secretary under this Act or who submitted such application, report, or document.".

SEC. 105. Section 301 is amended—

(1) by adding in subsection (r) before "device" each time it appears "drug or"; and

(2) by adding at the end thereof the following subsections:

"(s) The violation of any requirement or prohibition imposed by or under section 504 or 506 with respect to a drug in interstate commerce.

"(t) The manufacture for export or exporting of a drug or device in violation of section 801(d).".

SEC. 106. Subsections (a) and (b) of section 303 are amended to read as follows:

"(a)(1) Any person who negligently violates a provision of section 301 shall—

"(A) in the case of an individual, be imprisoned for not more than one year or fined not more than $25,000, or both; or

"(B) in the case of a person other than an individual, be fined not more than $50,000.

"(2) Notwithstanding the provisions of paragraph (1), if any person negligently commits a violation of section 301 after a conviction of that person under this Act has become final, or commits such a violation knowingly or willfully, such person shall—

"(A) in the case of an individual, be imprisoned for not more than three years or fined not more than $50,000, or both; or

"(B) in the case of a person other than an individual, be fined not more than $100,000.

"(b) For purposes of subsection (a), the term 'negligently' means acting without the care, skill, prudence, or diligence, under the circumstances then prevailing, that a prudent person would use if acting in a like capacity and familiar with the matters with which a prudent person in like capacity would be familiar.".

SEC. 107. Section 304(g) is amended by inserting "drug or" before "device" wherever it appears and by inserting after "misbranded" the words "or otherwise subject to seizure".

SEC. 108. Section 501(b) is amended to read as follows:

"(b)(1) If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or it fails in terms of identity, strength, quality, purity, or stability to meet, the standards set forth in such compendium. Such determinations as to identity, strength, quality, purity, or stability shall be made in accordance with the tests or methods of assay set forth in such compendium. Whenever standards of identity, strength, quality, purity, or stability or tests or methods of assay have not been prescribed in such compendium, or such standards, tests, or methods of assay as are prescribed are, in the judgment of the Secretary, insufficient, the Secretary shall bring such fact to the attention of the appropriate body charged with the revision of such compendium, and if such body fails within a reasonable time to prescribe tests or methods of assay which, in the judgment of the Secretary, are sufficient, then the Secretary shall promulgate regulations prescribing appropriate standards, tests, or methods of assay. A drug shall be deemed to be adulterated if its identity or strength differs from, or it fails in terms of quality, purity, or stability to meet, standards set forth in any regulations promulgated by the Secretary under this subsection, or if tests or methods of assay set forth in any regulations promulgated by the Secretary under this subsection were not used. No drug shall be deemed adulterated under this paragraph if its identity or strength differs from, or it fails in terms of quality, purity, or stability to meet applicable standards established pursuant to this paragraph if its difference from such standards is plainly stated on its labeling. Whenever a drug is recognized in both the United States Pharmacopeia and the Homeopathic Pharmacopeia of the United States it shall be subject to the requirements of the United States Pharmacopeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopeia of the United States and not to those of the United States Pharmacopeia.

"(2) If it is a drug which fails to meet appropriate standards of bioavailability, as prescribed by the Secretary. No drug shall be deemed adulterated under this paragraph if its bioavailability fails to meet applicable standards established pursuant to this paragraph if its difference from such standards is plainly stated on its labeling.".

SEC. 109. Section 501(c) is amended to read as follows:

"(c) If it is not subject to the provisions of subsection (b) and its identity or strength differs from, or its quality, purity, stability, or bioavailability falls below, that which it purports or is represented to possess.".

SEC. 110. Section 501(d) is amended to read as follows:

"(d) If it is a drug and any substance has been (1) mixed or packed therewith so as to alter its identity or to reduce its strength, quality, purity, stability, or bioavailability or (2) substituted wholly or in part therefor.".

SEC. 111. Section 502(b) is amended by inserting before the semicolon the following: ", but in the case of a prescription drug, the name and place of business of the manufacturer and distributor".

SEC. 112. Section 502(f) is amended by inserting: ", in the case of a drug intended for use by man, complies with the provisions of section 504 (a), (c), (g), and (m), and in the case of any drug or device," after "Unless its labeling".

SEC. 113. Section 502(k) is amended to read as follows:

"(k) If it is a drug from a batch with respect to which a requirement has been imposed and remains in effect under section 506(e) unless the batch is covered by a certification by the Secretary that it meets all applicable standards of identity, strength, quality, purity, stability, and bioavailability.".

SEC. 114. Section 502(l) is repealed.

SEC. 115. Section 502(n) is amended by—

(1) striking the comma and inserting "and" before "(2)", and

(2) striking the comma and all that follows after "502(e)" the second time it appears and substituting a period.

SEC. 116. (a) The first sentence of section 503(b)(2) is amended by striking the material beginning after "shall" and ending with "bears" and substituting "bear".

(b) The second sentence of section 503 (b)(2) is repealed.

SEC. 117. The Act is amended by inserting after section 503 the following new section:

"REQUIREMENTS REGARDING PATIENT AND PHYSICIAN INFORMATION, DRUG PROMOTION, AND PRESCRIPTION SURVEYS

"SEC. 504. (a) PATIENT INFORMATION LABELING.—(1) GENERAL REQUIREMENT.—Each person who manufactures, or who distributes under the person's firm or proprietary name, a prescription or a nonprescription drug shall prepare, in compliance with paragraph (2), information labeling for patients respecting the drug. No application submitted under section 505 shall be approved until the patient information labeling required under this subsection has been approved by the Secretary. Each such person shall distribute such labeling to accompany the drug. Persons who dispense the drug shall assure that patients receive such labeling when the drug is dispensed, except as provided in paragraph (4). Each pharmacy shall make available to patients, in a convenient place and in an accessible format, a book containing the information labeling, described in paragraph (2), for the one hundred most frequently sold prescription drugs, as designated by the Secretary.

"(2) Contents of Patient Information Labeling.—Information labeling required by paragraph (1) for patients respecting a drug shall contain—

"(A) a summary of the benefits and risks associated with the use of such drug;

"(B) adequate directions for use, including—

"(i) the purposes or indications for which the drug is intended,

"(ii) the proper method of administration of the drug,

"(iii) precautions to be taken during the use of the drug, and significant side effects and adverse reactions that may result from the use of the drug, as well as instructions for treating or obtaining treatment for side effects and adverse reactions, and

"(iv) warnings against unsafe use of the drug;

"(C) information concerning the proper storage and handling of the drug; and

"(D) any other information which the Secretary determines, pursuant to regulation, to be necessary or useful to inform patients about the risks and benefits associated with the class of drugs, promote the safe and effective use of such class, or protect the public health with respect to the use of such class.

"(3) Exceptions.—(A) Patient information labeling required under paragraph (1) may not, in the case of a prescription drug, be withheld from a patient by a practitioner, or by a pharmacist pursuant to the direction of a practitioner, unless the Secretary has determined that, in light of the circumstances relating to the nature, use, or method of administration of the drug, it would be detrimental to the health of patients in some circumstances to deny practitioners the authority to withhold such labeling.

"(B) Patient information labeling required under paragraph (1) may, in the case of a prescription drug dispensed and administered in a hospital or other health or residential care facility, be provided to the patient in a format described in regulations of the Secretary.

"(C) Any requirement regarding patient information labeling which is imposed under this subsection need not be followed in a medical emergency.

"(4) Consultations.—Prior to establishing regulations under this subsection, the Secretary shall consult with representatives of consumers, patients, practitioners, pharmacists, other health care providers, health educators, manufacturers, and other interested persons.

"(b) Posting of Prescription Drug Prices.—(1) In General.—The Secretary may, after consultation with the Chairman of the Federal Trade Commission, require each person selling drugs at retail to post, in the form and manner set forth in regulations, the retail prices of the fifty most frequently sold prescription drugs which are designated by the Secretary, including the price of each proprietary or generic version thereof, but no person selling drugs at retail shall be required to post the prices of drugs which such person in fact does not dispense.

"(2) Preemption.—No State or political subdivision of a State may enact or enforce any law or regulation which prohibits or burdens the truthful posting of the retail prices of prescription drugs as required under paragraph (1).

"(c) Practitioner Information Labeling.—With respect to a prescription drug, the manufacturer or distributor shall prepare information labeling for practitioners respecting the drug and shall distribute such labeling to accompany the drug. No application submitted under section 505 shall be approved until the practitioner information labeling required under this subsection has been approved by the Secretary. Information labeling for practitioners shall contain adequate directions for and other information concerning use of the drug, including information regarding pharmacological classification, indications, clinical pharmacology, dosage and administration, contraindications to use, warnings, precautions, and side effects, so as to permit the prescribing, dispensing, or administration of the drug in a manner that promotes the safe and effective use of the drug.

"(d) Federal Drug Index.—(1) In General.—The opportunity to prepare, publish, and distribute a comprehensive index of prescription drugs and revisions thereof in accordance with the requirements of paragraphs (2) and (3) and applicable regulations established by the Secretary shall be afforded by the Secretary to private organizations for a three-year period following the date regulations are established under this subsection. If after the end of such three-year period the Secretary determines, after notice and an opportunity for an informal hearing, that an index and revisions thereof have not been prepared, published, and distributed in accordance with the requirements of paragraphs (2) and (3) and applicable regulations, the Secretary shall (either directly or, if practical, by contract with a private, independent, and qualified organization) ensure that an index of prescription drugs and periodic revisions thereof are prepared in accordance with the provisions of paragraphs (2) and (3), are published under a distinct and suitable name in a form that is as convenient, readable, and practical as feasible for intended use, and are distributed to all practitioners in the United States and to all other appropriate recipients.

"(2) Contents.—Drugs shall be arranged in the index by diagnostic and therapeutic categories and within each category shall be listed by their established names. In the beginning of each category there shall be a general discussion of the drugs listed in the category. The index shall provide for each drug listed the information which is required by this Act to be included in labeling for the drug under section 502 and subsections (a) and (c) of this section. Following the information described above, there shall be included in the index a listing of the proprietary names of drugs which are available. A separate and subsequent listing shall indicate the proprietary names of drugs with the same established names.

"(3) Periodic Revision.—Periodic revision of the index described in paragraph (2) shall maintain insofar as practicable the currency of the contents of the index, and shall be distributed in a timely and regular manner to all practitioners in the United States and to all other appropriate recipients.

"(e) Notification Regarding Risks.—(1) Authority.—The Secretary may by order require that adequate notification regarding a risk posed by a drug be provided to all patients using the drug, to all practitioners and pharmacists who prescribe, dispense, or administer the drug, and to all other persons (including manufacturers, importers, distributors, retailers, and the general public) who should receive notification in order to eliminate or reduce the risk, if—

"(A) the Secretary determines that the drug presents a substantial risk of illness or injury, and

"(B) in the judgment of the Secretary, notification under this section is the most effective practicable means to eliminate or reduce the risk.

"(2) Form of Notification.—An order under this subsection shall require that notification to patients be provided initially by practitioners, and that notification to others be provided in an appropriate form and by the persons and means best suited to eliminate or reduce the risk.

"(3) Consultation Prior to Order.—Before issuing an order under this subsection the Secretary shall consult with representatives of persons who may be required to provide the notification.

"(f) Education Programs.—The Secretary may publish materials, and otherwise disseminate information, for the public or for health professionals, regarding the safety, effectiveness, and proper use of drugs that will contribute to public and professional understanding of the risks and benefits of drugs, help avoid deception of patients, or otherwise promote the public health.

"(g) Requirements for Promotion Labeling for Prescription Drugs.—(1) Required Contents.—For any prescription drug, promotion labeling issued by or on behalf of the manufacturer of the drug, or any other person under whose firm or proprietory name the drug is being distributed, shall contain—

"(A) a brief summary of information relating to the indications for use, types of dosage forms, side effects, contraindications, and effectiveness of the drug in a manner to assure an adequate and balanced presentation of the information, and

"(B) any other information relating to the use of the drug that the Secretary determines, by regulation, is necessary or desirable to assure an adequate and balanced presentation of the benefits and risks of the drug.

"(2) Prohibited Materials.—For any prescription drug, no promotion labeling issued by or on behalf of the manufacturer of the drug, or any other person under whose firm or proprietary name the drug is being distributed, shall contain indications for use or dosage recommendations for which the drug has not been found to be safe and effective by the Secretary.

"(3) Review of Promotion Labeling.—(A) The Secretary may require that promotion labeling for a prescription drug to be disseminated by or on behalf of the manufacturer of the drug, or any other person under whose firm or proprietary name the drug is being distributed, be submitted by such manufacturer or such other person to and approved by the Secretary prior to its dissemination—

"(i) during the ninety-day period, beginning with the date on which the drug is first promoted; and

"(ii) during a period not to exceed one year following the date on which the Secretary determines, after notice and an opportunity for an informal hearing, that other promotion labeling for the drug substantially violated the requirements of this subsection because such other promotion labeling was false, misleading, or incomplete.

"(B) Within thirty days after the date that proposed promotion labeling is received by the Secretary for approval under subparagraph (A), the Secretary shall either approve the promotion labeling as meeting applicable requirements under section 502 and this subsection or notify the person submitting the promotion labeling of the reasons for disapproval. If no approval or notification of disapproval is given within thirty days, the promotion labeling may be disseminated, provided that any promotion labeling so disseminated remains subject to all applicable requirements of section 502 and paragraphs (1) and (2) of this subsection.

"(C) If notification of disapproval is given under subparagraph (B), the promotion labeling shall not be disseminated and the person submitting such disapproved labeling shall be afforded the opportunity for an informal hearing.

"(4) EXEMPTION FOR PRICE INFORMATION.—Paragraphs (1), (2), and (3) of this subsection shall not apply to promotion labeling that conveys only information related to prices for prescription drugs, including information related to the availability of, and comparative prices for, two or more versions of the same drug.

"(5) EXEMPTION FROM FEDERAL TRADE COMMISSION ACT.—No promotion labeling subject to this subsection shall, with respect to the matters required under this section, be subject to the provisions of sections 12 through 17 of the Federal Trade Commission Act (15 U.S.C. 41).

"(16) DEFINITION.—For the purposes of this subsection, the term 'promotion labeling' means any written, printed, graphic, or other reproduced matter (including audio, visual, or audiovisual communication), accompanying and relating to a prescription drug, which matter is disseminated by or on behalf of the manufacturer or distributor of the drug and is not a label, patient information labeling, or practitioner information labeling.

"(h) CORRECTIVE PROMOTION LABELING.—If, after notice and an opportunity for an informal hearing, the Secretary determine that promotion labeling for a prescription drug violates the requirements of subsection (g) because of any incomplete, false, or misleading statement, the Secretary may require that adequate notification of complete and accurate information regarding such drug be provided to persons who are likely to have read, seen, or heard, the promotion labeling found to be in violation.

"(i) DRUG PROMOTION REQUIREMENTS.—(1) GIFTS.—(A) Except as provided in subparagraph (B), no person who manufactures or distributes (whether or not under its proprietary name) a prescription drug, and no other person acting on behalf of such manufacturer or distributor, may directly or indirectly provide (or cause to be provided) any service for, or transfer (or cause to be transferred) any property (real or personal), including money, to—

"(i) any practitioner, nurse, pharmacist, or other individual engaged in the delivery of health care,

"(ii) any student in a school of medicine, osteopathy, podiatry, dentistry, nursing, optometry, or pharmacy.

"(iii) any member of the immediate family of an individual described in clause (i) or (ii), or

"(iv) any other person,

if the fair market value of such service or property, at the time the service was provided or the property transferred, is more than $10 and such service was provided or such property was transferred (or caused to be provided or transferred) with the intent to influence any person to purchase, prescribe, or dispense one or more particular drugs. In any proceeding regarding an alleged violation of clause (i), (ii), or (iii) intent to influence shall be presumed and may be rebutted.

"(B) Subparagraph (A) shall not apply to—

"(i) the provision of any service or transfer of any property to the general public or pharmacies with the intent to encourage the general public or pharmacies to purchase a particular nonprescription drug;

"(ii) the transfer of any medical, scientific, or educational materials (limited to written, audiovisual, or graphic material and demonstration models) which—

"(I) inform practitioners about the proper uses of classes of drugs;

"(II) instruct patients in the proper uses of classes of drugs; or

"(III) inform patients about the risks and benefits associated with the use of classes of drugs;

"(iii) the provision of medical, scientific, or educational seminars or lectures which directly relate to informing practitioners about the proper uses of classes of drugs, except that subparagraph (A) shall apply to the cost of transportation, lodging, and meals for a practitioner who attends such seminars or lectures and who is not primarily involved in conducting the seminars or lectures;

"(iv) the distribution of a drug in compliance with paragraph (2)(B); and

"(v) the transfer of any labeling which complies with relevant requirements of subsections (a), (c), (g), and (m) of section 504.

"(2) FREE DRUG PRODUCTS.—(A) Except as provided in subparagraph (B), no person who manufactures or distributes (whether or not under its proprietary name) a prescription drug, and no other person acting on behalf of such manufacturer or distributor, may distribute a prescription drug without charge (or at a charge below the fair market value of such drug) to any person, either by direct distribution of the drug or by other means by which the drug becomes available to any person without charge (or at a charge below the fair market value of such drug).

"(B) Nothing in subparagraph (A) shall be construed to prohibit the distribution of a prescription drug—

"(i) at a discount if such discount is otherwise permitted by law in the sale of drugs;

"(ii) at less than the fair market value at the time of distribution—

"(I) to a person for use in an investigation authorized or required by this chapter,

"(II) to a patient by a pharmacist in response to a written and signed request by a practitioner that the drug be so distributed and which designates the quantity of the drug to be distributed;

"(III) to a practitioner in response to a written and signed request by the practioner for the drug which designates the quantity of the drug requested;

"(IV) to a charitable organization, for charitable purposes, in accordance with such regulations as the Secretary may have established;

"(V) to an agency of the Federal Government, or a government of any State or political subdivision of a State, for regulatory or enforcement purposes; or

"(VI) in an emergency situation as determined by the Secretary.

"(3) SPONSORSHIP OF EDUCATIONAL ACTIVITIES.—A person who manufactures a prescription drug, or under whose firm or proprietary name the drug is being distributed, or any person acting on behalf of such a manufacturer or distributor, may transfer medical, scientific, or educational materials under the conditions of paragraph (1)(B)(i), or provide medical, scientific, or educational seminars and lectures under the conditions of paragraph (1)(B)(ii), only if it is disclosed to those who receive such materials or participate in such seminars or lectures that the materials are being transferred or the seminars or lectures are being provided by or on behalf of the manufacturer or distributor of such drug.

"(j) RESTRICTIONS ON SURVEYS OF PRESCRIPTIONS.—(1) GENERAL RULE.—No pharmacist or agent or employee of a pharmacy may disclose or otherwise make available any prescription information to any person except—

"(A) the practitioner who issued the prescription, or another practitioner authorized by the patient to receive such information;

"(B) the patient for whom the prescription was issued, or to the agent of such patient, or, in a medical emergency where the patient lacks the capacity to request disclosure, to a person seeking to address the emergency;

"(C) another pharmacist for the purpose of filling or refilling the prescription;

"(D) an officer or employee of the United States or any State who is acting under authority of law, but only if the prescription information is disclosed or made available to such officer or employee for the performance of official business;

"(E) a person for the purpose of verifying an entitlement to payment for the drug which was the subject of such prescription, but only if the individual for whom the prescription was issued has consented (in such form and manner as the Secretary shall by regulation specify) to the disclosure or making available of the prescription information;

"(F) pursuant to a lawful order of a court; or

"(G) a person who, in accordance with such regulations as the Secretary may have established, has demonstrated to the Secretary an appropriate academic, market, or other research purpose and thereby is authorized in writing by the Secretary to receive the prescription information, but only if such person does not copy or otherwise remove from the prescription information any individually identifiable personal data.

"(2) SUBSEQUENT DISCLOSURES.—Notwithstanding any other provision of law, individually identifiabe personal data which are disclosed or otherwise made available to a person in accordance with paragraph (1), may not be further disclosed or otherwise made available by any person receiving such information except that—

"(A) a practitioner may disclose or otherwise make available any individually identifiable personal information of the patient for whom such prescription was issued with the consent of such individual;

"(B) an officer or employee described in subparagraph (D) of paragraph (1) may disclose or otherwise make such information available in the performance of official duties;

"(C) a person described in subparagraph (E) of paragraph (1) may disclose or otherwise make such information available for the purposes for which it was originally received; and

"(D) a person described in subparagraph (G) of paragraph (1) may disclose or otherwise make available to any person the results of research, but only if the person described in subparagraph (G) of paragraph (1) does not disclose or otherwise make available to any person any individually identifiable personal data.

"(3) PROHIBITION AGAINST OBTAINING PROTECTED INFORMATION.—No manufacturer or distributor (whether or not under its proprietary name) of a drug, and no person acting on behalf of such manufacturer or distributor, may obtain or attempt to obtain any prescription information which under paragraph (1) or (2) may not be disclosed or otherwise made available to such person.

"(4) DEFINITIONS.—For purposes of this subsection the term—

"(A) 'prescription information' means information contained in (i) any written prescription, and (ii) written evidence of any oral prescription; and

"(B) 'individually identifiable personal data' means any information or data contained in prescription information which is (i) an individual's name, or (ii) a code, number, or other descriptive data which with reasonable certainty could identify the individual.

"(k) REQUIREMENTS FOR DETAILING OF DRUGS.—Each employee or agent of a person who manufactures, or who distributes under its firm or proprietary name, a prescription drug, and any other person acting on behalf of such manunfacturer or distributor, shall, when promoting or otherwise giving information respecting such drug in a personal visit to a practitioner, provide the practitioner with the information labeling described in subsection (c).

"(l) No provision of this section which relates to labeling shall be construed to alter the provisions of existing law governing the tort liability of any person.

"(m) In the case of any prescription drug which the Secretary determines may be widely used by specific segments of the population, including children, pregnant women, or the elderly, the labeling for or description of the drug required under subsections (a), (c), (d), (g), and (h) shall state prominently whether the drug has or has not been tested in such segments of the population.".

SEC. 118. Section 505(a) is amended to read as follows:

"SEC. 505. (a) No person shall introduce or deliver for introduction into interstate commerce any drug intended for use by humans unless the person has notified the Food and Drug Administration. Except in the case of a nonprescription drug found to be generally recognized as safe and effective and not misbranded (pursuant to standards for safety, effectiveness, and labeling as contained in title 21, Code of Federal Regulations, part 330.10(a)(4) as in effect on the day preceding the date of enactment of the Drug Regulation Reform Act of 1979, unless such standards are modified pursuant to regulation) by the Food and Drug Administration prior to the date five years (or a later date designated by the Secretary by regulation) after the date of enactment of the Drug Regulation Reform Act of 1979, no person shall introduce or deliver for introduction into interstate commerce any drug intended for use by humans unless the person has filed an application pursuant to subsection (b) and the application is effective with respect to such drug.".

SEC. 119. Section 505(b) is amended by—

(1) striking the semicolon at the end of paragraph (1) and substituting: ", or, instead of such reports at the discretion of the applicant or if the Secretary so requires by regulation, a comprehensive summary thereof, and of other data in the application prepared in such form as the Secretary shall prescribe, provided that the Secretary may at any time inspect or require the submission of the full reports or designated portions thereof if in the judgment of the Secretary such inspection or submission is needed to carry out the provisions of this Act" before the semicolon at the end of paragraph (1).

(2) striking "and" at the end of paragraph (5),

(3) striking the period at the end of paragraph (6) and substituting "; and", and

(4) adding at the end thereof the following:

"(7) a releasable summary of the data, scientific methodology and other information derived from all investigations that have been conducted to assess the risks of the drug and evaluate its effectiveness and which describes the basis of the conclusion of the applicant that the drug is safe and effective, and which complies with regulations regarding form and content which the Secretary shall issue, but such regulations shall not require that the releasable summary contain (A) information or data in greater detail than would be required of a report for publication in a reputable scientific or medical journal under generally recognized editorial standards of such journals, (B) information relating to investigations not specifically germane to the safety and effectiveness of the drug under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof, (C) information concerning drugs other than the drug to which the application relates, or (D) any material which is exempt from disclosure as a trade secret under section 552(b)(4) of title 5 of the United States Code (including but not limited to full reports of investigations to show that a drug is safe or effective or both; any comprehensive summary submitted to the Secretary pursuant to paragraph (1); manufacturing methods or processes (including quality control procedures); production, sales distribution, or similar data; quantitative or semiquantitative formulae, or inactive ingredients).

Not later than forty-five days after the date on which an application submitted under this subsection is received, the Secretary shall determine whether the application meets the requirements of this subsection. If the Secretary determines that the application meets such requirements, the Secretary shall immediately notify the applicant, and the application shall be deemed to have been filed on the date when the determination was made. If the Secretary determines that the application does not meet such requirements, the Secretary shall immediately notify the applicant in writing of the reasons for such determination (including any determinations which may have been made as to the adequacy of the investigations and tests, whether conducted within or without the United States, which form the basis for the application); and if the applicant so requests, the applicant shall be entitled to an informal hearing on the question of whether the application meets the requirements for filing. If the Secretary fails to make the required determination within forty-five days after the application is received, the application shall be deemed to have been filed on such forty-fifth day. An applicant may at any time submit a modified application, which shall be deemed an original application under this subsection.".

SEC. 120. Section 505(c) is amended to read as follows:

"(c) Upon the filing of an application under subsection (b), the Secretary shall publish a notice in the Federal Reigster stating that the application has been filed and that the public may inspect and copy those portions of the application described in subsections (b) (2), (3), (6), and (7) excluding any material which is exempt from disclosure as a trade secret under section 552(b)(4) of title 5 of the United States Code (including but not limited to full reports of investigations to show that a drug is safe or effective or both; any comprehensive summary submitted to the Secretary pursuant to subsection (b)(1); manufacturing methods or processes (including quality control procedures); production, sales, distribution, or similar data; quantitative or semiquantitative formulae; or inactive ingredients). Thereafter, any person may submit written comments regarding the application. Any person may request that the Secretary hold the hearing described in paragraph (2). Not later than thirty days after the filing of an application under subsection (b), the Secretary shall make available the names of the individuals who shall be responsible for reviewing the application. All required reviews shall be conducted concurrently, to the maximum extent feasible and consistent with the efficient management of the review of an application. Within one hundred and eighty days after the filing of an application under this subsection, or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall either—

"(1) approve the application if he finds that none of the grounds for denying approval specified in subsection (d) applies; or

"(2) give the applicant and, by publication in the Federal Register, other interested parties notice of an opportunity for a hearing before the Secretary under subsection (d) on the question of whether such application is approvable. In notifying an applicant of a final decision to refuse to approve an application under paragraph (1), the Secretary shall set forth in writing the reasons for such refusal. If the drug has not yet been reviewed by an advisory committee pursuant to this subsection, the applicant or another interested party may request in writing, within thirty days after such notice, that the question of whether the application is approvable be considered by an appropriate advisory committee before any hearing is held, or instead of such hearing; and if such a request is made, such question shall be considered and a written recommendation made by an appropriate advisory committee appointed by the Secretary under section 507, but the Secretary may deny the request from a party other than the applicant if the Secretary determines that review by an advisory committee will not contribute substantially to a determination of whether one or more of the grounds specified in subsection (d) applies. If the applicant or another interested party requests in writing the opportunity for a hearing within thirty days after such notice, such hearing shall commence not more than ninety days after the expiration of such thirty days, but the Secretary may deny the request for a hearing of a party other than the applicant if the Secretary determines that such a hearing will not contribute substantially to a determination of whether one or more of the grounds specified in subsection (d) applies. The applicant and other interested parties may participate in the hearing. Any such hearing shall thereafter be conducted on an expedited basis and the Secretary's order thereon shall be issued within ninety days after the date fixed by the Secretary for filing final briefs.

If the Secretary determines, pursuant to paragraph (1) or (2) that a drug would be approved but for the fact that the ground specified in subsection (d)(2) applies, he shall consider whether such ground would continue to apply if one or more of the requirements available under section 506(b) were imposed, and if the Secretary determines that such ground would not continue to apply in such a circumstance and further determines that it is possible effectively to impose such requirement or requirements, he shall approve the drug and impose such requirement or requirements. In approving an application under paragraph (1), or issuing any order under paragraph (2) the Secretary shall set forth in writing, and make available, a statement of the reasons for the Secretary's conclusions with regard to the adequacy of the investigations and tests (whether or not conducted in the United States) which form the basis of the application, the imposition of one or more requirements available under section 506(b), and the drug's safety and effectiveness. If, in response to a notice issued under paragraph (2), an advisory committee review has been conducted, the Secretary shall respond to the recommendations of the advisory committee in setting forth such conclusions. To the extent possible and consistent with the efficient management of the review of an application, reviewers assigned to an application shall not be changed until a final determination is made regarding the approvability of such application. Upon completion of a review, the applicant shall be furnished with the preliminary findings of the review. To the maximum extent feasible and consistent with the efficient management of the review of an application, the Secretary shall ensure that applications are equitably distributed among reviewers, but not necessarily in equal numbers, and shall implement measures, including on-the-job training and consultation, to ensure that all reviews are conducted efficiently and expeditiously.".

SEC. 121. Section 505(d)(3) is amended by striking "and purity" and substituting "purity and stability, and bioavailability".

SEC. 122. Section 505(e) is amended by—

(1) striking "imminent hazard to the public health" and substituting "unreasonable

risk of illness or injury to any segment of the population", and

(2) inserting "except to the Commissioner of Food and Drugs: And provided further, That prior to suspending any application, whenever protection of the public health so permits, the Secretary shall consult with the manufacturer of the drug and other concerned parties" after "delegated".

Sec. 123. Section 505(e) is amended by striking "and purity" and substituting "purity and stability, and bioavailability".

Sec. 124. The sentence preceding the last sentence of section 505(e)(3) is amended by—

(1) striking "or" before "(3)", and

(2) striking the period at the end of the sentence, and substituting "; or (4) that the applicant has continued to fail substantially to comply with a requirement or prohibition imposed by or under section 504 or 506 after the Secretary has given the applicant written notice of such failure to comply and such failure to comply has not been corrected within a reasonable time after receipt of such written notice.".

Sec. 125. Section 505(f) is amended by—

(1) inserting the figure "(1)" after the letter "(f)", and

(2) adding the following new paragraph at the end thereof:

"(2) The Secretary shall by regulation prescribe an abbreviated application procedure with respect to a drug for which an application has been approved and in effect for seven years in accordance with subsection (c) or (d). Such procedure shall provide that, beginning seven years after such application is approved by the Secretary, a person may submit an abbreviated application which does not contain full reports or a comprehensive summary thereof as described in subsection (b)(1) and that the abbreviated application shall be approved if—

"(A) the drug with respect to which the abbreviated application is filed meets appropriate standards of identity, strength, quality, purity, and stability, and bioavailability and is in compliance with other applicable requirements under this section, and

"(B) such drug has been shown to be bioequivalent.".

Sec. 126. Section 505(i) is amended by—

(1) inserting "(1)" after "(i)";

(2) redesignating paragraph "(1)" as subparagraph "(A)"; and

(3) striking all after subparagraph (A) (as redesignated by this section) and substituting the following:

"(B) the manufacturer or the sponsor of the investigation—

"(i) obtaining from each clinical investigator a signed agreement that persons to whom the drug will be administered will be under the personal supervision of such investigator, or under the supervision of investigators responsible to such investigator, and that such investigator will not supply the drug to any other investigator or to clinics for administration to human beings;

"(ii) requiring that experts using the drug for investigational purposes—

"(I) will inform all persons to whom such drug is administered, and all controls used in connection therewith, or their representatives, of the fact that the drug is being used for investigational purposes, of the benefits and risks which appear to be associated with use of the drug, and of such other matters as the Secretary finds necessary to the giving of informed consent; and

"(II) will obtain the voluntary and informed consent, in writing, of all such persons, or their representatives.

Such informed consent need not be obtained if, before use of a drug, an investigator and a practitioner who is not participating in the investigation both determine in writing that an individual is confronted by an imminent life-threatening situation necessitating use of the drug, that informed and voluntary consent cannot be obtained from the individual because of the incapacity of the individual, and that time is not sufficient to obtain consent from the individual's representative; but in the event the investigator making these determinations further determines that preservation of the life of the individual requires immediate use of the drug and time is not sufficient to obtain the concurring determinations of a practitioner not participating in the investigation, the determinations made by the investigator shall subsequently be reviewed and evaluated in writing by an independent practitioner;

"(iii) complying with, and requiring all investigators and other persons involved in an investigation to comply with, procedures which—

"(I) protect the health and rights of persons participating in an investigation,

"(II) protect the privacy of participants, including the confidentiality of participant records, and

"'(III) assure the accuracy and reliability of information derived from an investigation,

but, consistent with these objectives, no regulation shall prescribe the protocols and methods to be used in any investigation;

"(iv) establishing and maintaining such records, requiring all investigators and other persons involved in any investigation to establish and maintain such records, and making such reports as the Secretary finds necessary to assure the protection of the health and rights of persons participating in the investigation and to evaluate the safety and effectiveness of the drug; and

"(v) assuring that the drug under investigation will not be promoted or commercialized.

"(2) Drug Research Investigations.—(A) The Secretary shall establish regulations for exempting from the operation of the foregoing subsections of this section drugs intended solely for use in investigations (referred to hereafter in this paragraph as 'drug research investigations') involving a small number of humans of normal health, or with the disease, injury, or condition under investigation, which investigations are intended to study the clinical pharmacology of the drug in humans, to assess preliminarily the drug's safety and effectiveness, or to study by use of the drug biological mechanisms in humans. Such regulations shall require any person who intends to conduct a drug research investigation to obtain a registration before dispensing, or allowing to be dispensed, a drug as part of such investigation. Such registration may, at the discretion of the applicant for registration, be obtained from the Secretary in accordance with subparagraph (B) or from the institution where the drug research investigation is to be conducted if such institution has been authorized to issue such a registration by the Secretary in accordance with subparagraph (C).

"(B) An application for registration submitted to the Secretary shall be approved, and such registration issued, unless the Secretary determines that the applicant intends to conduct an investigation which—

"(i) is not within the scope of a drug research investigation as described in this paragraph,

"(ii) will subject human participants to an unreasonable and substantial risk of illness or injury,

"(iii) will fail to protect the health and rights of participants, including the privacy of participants and the confidentiality of participant records,

"(iv) will fail to assure the accuracy and reliability of the information derived from the investigation,

"(v) will fail to comply with the requirements of paragraph (1)(B)(i), (ii), or (v), or

"(vi) will fail to assure the maintenance of records and submission of reports to the Secretary sufficient to assist the Secretary to evaluate the conduct of the investigation.

In the event that such a determination is made, the Secretary shall provide, upon request by the applicant, for review of the determination by an advisory committee appointed under section 507 and, upon request by the applicant, for an informal conference. On the basis of any such review or conference, or both, together with other information available to him, the Secretary shall either reconfirm the determination or approve the application and issue the registration. If no such determination is made within thirty days after receipt of an application for registration by the Secretary, the application shall be deemed approved and the registration shall be deemed issued. The Secretary may immediately suspend any registration issued under this subparagraph if he determines that participants in the investigation are being subjected to an unreasonable and substantial risk of illness or injury as a result of the investigation; but if the Secretary so acts, he shall immediately commence proceedings to revoke the registration. After providing the registrant with an opportunity for an informal hearing, the Secretary may revoke any registration issued under this subparagraph if he determines that the conduct of the investigation has not complied with, or does not comply with, any requirement or condition of registration imposed under clauses (i) through (vi), or if the Secretary determines that the application for registration contained any untrue statement of material fact.

"(C) The Secretary shall authorize, upon application, institutions engaged primarily in health care research, teaching, or delivery to issue registrations for and supervise drug research investigations under this paragraph, provided that the Secretary may not so authorize any institution which is substantially engaged in the manufacture or distribution of a drug for commercial purposes or controlled by any person or persons who are substantially engaged in the manufacture or distribution of a drug for commercial purposes, unless, in the case of an institution so controlled, decisions regarding the approval of investigations are made by an independent institutional review board the members and staff of which are not officers, employees, or agents of, or compensated by, such person or persons or any subsidiary thereof. The Secretary may authorize only those institutions which he determines, in accordance with regulations, have adequate standards and procedures regarding—

"(i) avoidance of conflicts of interest between any person who manufactures or distributes a drug for which an application for a registration is submitted and the institution,

"(ii) the approval of applications for registrations under this paragraph,

"(iii) the protection of participants from unnecessary risks of illness and injury,

"(iv) the protection of participant privacy, including confidentiality of records, and

"(v) the accuracy and reliability of information derived from an investigation.

The institution's standards and procedures shall also ensure that the institution will apply and enforce the standards and procedures described in paragraph (1)(B)(i), (ii), and (v) which the Secretary would otherwise directly apply and enforce. Such institutions shall establish and maintain such records, and make such reports, as the Secretary finds necessary to evaluate their performance. The Secretary may immediately suspend authorization of an institution to approve or to supervise a drug investigation or a registration issued by an institution if the Secretary finds that such action is necessary to reduce or eliminate an unreasonable and significant risk of illness or injury to participants. The

Secretary may revoke an authorization if he finds, after providing the affected institution with notice and an opportunity for an informal hearing, that the institution does not satisfy the applicable requirements imposed pursuant to this subparagraph. The Secretary may revoke a registration issued by an institution if the Secretary finds, after providing the registrant and the institution with an opportunity for an informal hearing, that the conduct of the investigation has not complied or does not comply with one or more of the requirements described in clauses (i) through (v) of subparagraph (B) or if the Secretary determines that the application for registration contained any untrue statement of material fact.

"(3) Drug Investigation Advice.—Any person who intends to investigate or is investigating a drug may request that the Secretary provide advice regarding—

"(A) the overall plan for investigating the drug;

"(B) specific protocols or methods to be used in one or more investigations of the drug;

"(C) the results of one or more completed investigations of the drug; and

"(D) the potential acceptability of information that may be submitted.

In response to such a request, the Secretary shall, to the maximum extent practicable, provide advice in writing.

"(4) Drug Investigation Guidelines.—(A) The Secretary shall issue written guidelines regarding protocols and methods for conducting drug investigations. The Secretary may, upon reevaluation of the information upon which a guideline is based, or in light of new information, amend or revoke any guideline. In the event the Secretary amends or revokes any guideline, the Secretary shall promptly notify any person the Secretary knows, or has reason to believe may be relying thereon.

"(B) When in effect, guidelines shall represent the formal position of the Secretary regarding protocols and methods, and such guidelines may be relied upon by any person and shall be adhered to by the Secretary. If a person follows a protocol or method in conformity with a guideline, and the Secretary subsequently amends or revokes such guideline pursuant to subparagraph (A), the Secretary shall accept such protocol or method in that case unless he determines that acceptance thereof would be contrary to the public health.

"(C) Notwithstanding subparagraphs (A) and (B), a person is not required to follow any guideline in conducting drug investigations, and may choose to use different protocols or methods.

"(5) Informal Procedure for Resolution of Scientific Disputes.—The Secretary shall, within three hundred and sixty days after the date of enactment of the Drug Regulation Reform Act of 1979, after consultation with interested groups including health care providers, scientific investigators, manufacturers, and organizations interested in public health, organizations interested in particular diseases, and organizations interested in consumer affairs, and after at least thirty days have been allowed for public comment, promulgate regulations establishing informal and expeditious procedures for the impartial review and resolution of scientific disputes during the course of a drug investigation. In the event that no mutually satisfactory resolution of such a dispute can be reached, the dispute may be referred by the Secretary, on his own initiative or at the request of a person involved in a dispute, to an advisory committee appointed under section 507 for review and recommendation.".

Sec. 127. Section 505(i) is amended by adding the following paragraph:

"(6) The Secretary shall, within three hundred and sixty days after the enactment of the Drug Regulation Reform Act of 1979, after consultation with interested groups including health care providers, scientific investigators, manufacturers, and organizations interested in public health, organizations interested in particular diseases, and organizations interested in consumer affairs, and after at least thirty days have been allowed for public comment, promulgate regulations for exempting from the operation of the foregoing subsections of this section drugs intended primarily for therapeutic use in a small number of patients who have a serious disease, injury, or other health condition; for whom there is no adequate alternative method of diagnosis, cure, mitigation, treatment, or prevention; and who will not be subjected to an unreasonable risk of illness or injury by the drug. Such regulations shall—

"(A) provide that all patients, or their representatives, give informed and voluntary consent in writing before the drug is administered;

"(B) protect the privacy of patients, including the confidentiality of patient records;

"(C) require that patients be under the personal supervision of the practitioners named in a request for an exemption;

"(D) require that the person requesting the exemption establish and maintain records, and make reports to the Secretary, in such form as the Secretary designates;

"(E) assure that the drug will not be promoted or commercialized; and

"(F) provide that applications for exemptions made in an emergency may be oral and shall be handled in an expeditious manner.

No such exemption shall remain in effect longer than three years, but such an exemption may be renewed by the Secretary.".

Sec. 128. Section 505 is amended by adding at the end thereof the following new subsections:

"(k) As used in this section, the term 'safe' means that the health benefits of the drug outweigh the health risks presented by the drug, taking into account the standards, requirements, and conditions applicable to the drug under this section and chapter. In determining whether a drug is safe, the Secretary shall consider, among other things, the following:

"(1) The benefits of the drug and their significance. In considering such benefits, the Secretary shall consider the known effects on the health of patients, and the frequency and magnitude of these effects, that result from the effectiveness of the drug when such patients use the drug under the conditions of use set forth in the labeling for the drug.

"(2) The risks presented by the drug and the significance of such risks. In considering such risks, the Secretary shall consider the known adverse effects upon the health of patients, and the frequency and severity of these effects, that result from the use of the drug under the conditions of use set forth in the labeling for the drug.

"(l) As used in this section, the term 'effective' means that a drug, when used in accordance with the conditions of use set forth in the labeling for the drug, will have the effect it is represented in such labeling to have in the diagnosis, cure, mitigation, treatment, or prevention of a disease, injury, or other condition affecting health.

"(m)(1) If the Secretary determines pursuant to subsection (c)(1) or (2) that—

"(A) no grounds exist for denying approval of an application under subsection (d) (1), (2), (3), (4), or (6), but grounds do exist for denying approval of an application under subsection (d)(5);

"(B) the applicant has shown that—

"(i) the drug is intended to be used in the diagnosis, cure, mitigation, treatment, or prevention of a disease, injury, or other condition affecting the health of a human which is life-threatening or severely debilitating or disabling in a significant portion of the patient population affected by that disease, injury, or condition, and

"(ii) for the patient population or any segment thereof, with respect to such disease, injury, or condition—

"(I) no other effective method of diagnosis, cure, mitigation, treatment, or prevention exists, or

"(II) compared to alternative methods of diagnosis, cure, mitigation, treatment, or prevention, the drug offers a major advantage because use of the drug will be significantly safer or provide significantly greater effectiveness or both;

"(C) the applicant has shown that delaying approval of the application until adequate and well-controlled clinical investigations (as referred to in subsection (d)) are completed would present significantly greater risks to patients affected by the disease, injury, or condition in question than would approving the application without those investigations; and

"(D) there is significant evidence, as defined in paragraph (2), that the drug is effective;

then the Secretary shall approve the application, but the drug shall be subject to the restrictions described in paragraph (3), the applicant shall be subject to the requirements described in paragraph (4), and approval of the application shall expire (but may be renewed) pursuant to the provisions of paragraph (5).

"(2) For purposes of this subsection, the term 'significant evidence' means evidence consisting of valid and meaningful scientific investigations, including investigations in animals and well-documented clinical experience and clinical investigations (unless such investigations are not feasible due to an absence of methodology or due to ethical proscriptions on such investigations), conducted by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could be fairly and responsibly concluded by experts, qualified by scientific training and experience to evaluate the effectiveness of the drug involved, that the drug will have the effect it is represented to have in the labeling for the drug when used in accordance with the conditions of use set forth in such labeling.

"(3) As a condition of approval of a drug under this subsection—

"(A) the drug shall be dispensed only by or upon the prescription of a practitioner, and

"(B) the Secretary shall consider whether to impose any additional requirements authorized under the provisions of section 506 (b), and, if the requisite determination described in such section is made, the Secretary shall impose such additional requirements.

"(4) Each person whose application with respect to a drug is approved under this subsection shall be required to—

"(A) establish and maintain, or join in establishing and maintaining, a system for collecting data and information on the use of and experience with the drug,

"(B) continue and complete, or join in the continuation and completion of, adequate and well-controlled clinical investigations to provide substantial evidence for determining whether the drug is effective, unless such investigations are not feasible due to an absence of methodology or ethical proscriptions, and

"(C) submit reports on a periodic basis to the Secretary on findings resulting from systems established pursuant to subparagraph (A) and investigations conducted pursuant to subparagraph (B).

"(5) Approval of an application under this subsection shall expire three years following the date it becomes effective. An application under this subsection may receive a renewed approval, or the Secretary may approve a new application under subsection (c), if the Secretary determines that the applicable grounds for approval still exist (under this subsection) or have been met (under subsection (c)).

"(6) The Secretary shall by order suspend an application approved under this subsection, and shall immediately commence proceedings to determine whether the application should be revoked, if the Secretary determines that grounds for revocation exist. The Secretary shall, after notice and opportunity for a hearing for the applicant, revoke an application issued under this subsection if the Secretary determines that—

"(A) on the basis of new information, the drug is no longer shown to be safe,

"(B) on the basis of new information, the drug is no longer shown by significant evidence to be effective,

"(C) for the population group in question, another drug has been approved under section 505(c) which offers, or non-drug therapy has been demonstrated (in the opinion of experts qualified by training and experience to evaluate the safety and effectiveness of non-drug therapies) to offer, a major advantage compared to the drug which is the subject of the application because use of such other drug or non-drug therapy is significantly safer or provides significantly greater effectiveness, or both, or

"(D) any of the standards, requirements, or conditions imposed under paragraph (3) or (4), or section 506(b) is no longer met or being complied with, as the case may be. In revoking an application under this subsection, the Secretary shall take affirmative steps to safeguard the health of patients using the drug which is the subject of the application, including steps to minimize disruption of patient therapy, and assist in the orderly transition of patients to alternative forms of care, and to respond expeditiously to requests for exemptions under section 505(i)(6).

"(7) Any hearing on an application considered or approved under this subsection shall be scheduled on a priority basis.

"(n)(1) A drug shall be exempt from the requirements of this section if it complies with the following requirements—

"(A) it was recognized in the official Homeopathic Pharmacopeia of the United States on the date of enactment of this subsection;

"(B) it takes the form of:

"(i) a tincture, aqueous solution or first trituration to be diluted or compounded by a homeopathic practitioner or homeopathic pharmacist as an incident to preparing the homeopathic drug for dispensing to a patient;

"(ii) a subsequent serial dilution of such tincture, aqueous solution, or first trituration in a hydroalcoholic solution (containing ethyl alcohol) or lactose, each stage of dilution being accompanied by succession and (if lactose is the vehicle) trituration; or

"(iii) a finished dosage form capable of being dispensed to a patient, consisting of not more than one-tenth of 1 per centum of the tincture, aqueous solution, or first trituration and not less than 99.9 per centum of the vehicle (hydroalcoholic solution or lactose), or as otherwise specified in the Homeopathic Pharmacopeia of the United States; and

"(C) It is compounded and bears labeling in conformance with the requirements of the Homeopathic Pharmacopeia of the United States.

"(2) *Provided, however,* That the Secretary may, by regulation, revoke the exemption provided in paragraph (1) for a homeopathic drug, and thereafter require that such drug meet the requirements of this section, if the Secretary determines that the homeopathic drug presents a risk of illness or injury to persons using such drug.

"(o) For purposes of this section and section 506, the term 'voluntary and informed consent' means the consent of a person, or the person's representative for purposes of consent, so situated as to be able to exercise free power of choice without the intervention of any element of force, fraud, deceit, duress, or other form of constraint or coercion. Such consent shall be evidenced by an agreement signed by such person, or such representative, and the institution or investigator responsible for the research or another appropriate person. The information to be given in such written agreement shall include the following elements:

"(1) a fair explanation of the procedures to be followed, including an identification of any which are experimental;

"(2) a description of any attendant discomforts and risks reasonably to be expected;

"(3) a fair explanation of the likely results should the therapy fail;

"(4) a description of any benefits reasonably to be expected;

"(5) a disclosure of any appropriate alternative procedures that might be advantageous for the person;

"(6) an offer to answer any inquiries concerning the procedures; and

"(7) an explanation that the person is free either to decline to use the drug or to withdraw consent, at any time, and to discontinue participation in any project or activity without prejudicing the person's rights or future care.

In addition, the agreement entered into by such person or representative shall include no exculpatory language through which the person is made to waive, or appear to waive, any legal rights, or to release the institution, investigator, or any responsible person involved in such activity or any agents thereof, from liability for negligence. Any organization, institution, or investigator which engages in research involving human subjects under this section or section 506 shall maintain a permanent record of any such consent and the information provided to persons and shall develop appropriate procedures for assuring compliance with the provisions of this subsection.".

SEC. 129. Section 506 is amended to read as follows:

"DISTRIBUTION AND DISPENSING REQUIREMENTS, POSTMARKETING SURVEILLANCE, FURTHER SCIENTIFIC INVESTIGATIONS, AND BATCH CERTIFICATION

"SEC. 506. (a)(1) In considering whether to approve an application under section 505 (c)(1) or to issue an order under section 505 (c)(2), the Secretary shall also consider whether, as a condition of approval of an application or in the event the application is approved, one or more of the requirements described in subsections (b), (c), (d), and (e) shall be imposed. The applicant, or any other person, may submit written comments regarding the imposition of any such requirement. Any party to a hearing held under section 505(d) may also address the question of whether to impose any such requirement. In approving an application, whether under section 505 (c)(1) or (c)(2), the Secretary shall state whether one or more requirements described in subsection (b), (c), (d), or (e) shall be imposed, and shall set forth in writing the reasons therefor. No separate notice or hearing shall be required with respect to the imposition, under this subsection, of a requirement described in subsection (b), (c), (d), or (e).

"(2) In the case of a drug with respect to which a requirement imposed under subsection (b), (c), (d), or (e) will expire, has expired, or has not previously been imposed, the Secretary may propose the renewal or imposition of a requirement under subsection (b), (c), (d), or (e). The Secretary shall provide each registered manufacturer of the drug notice of the Secretary's intention, shall publish such notice in the Federal Register, and shall afford any person requesting a hearing on the matter an opportunity for an informal hearing. The Secretary shall comply with any applicable procedural requirements set forth in subsection (b), (c), (d), or (e), as the case may be. If the Secretary determines that grounds exist as defined in subsection (b), (c), (d), or (e) for the renewal or imposition of a requirement which the Secretary is authorized to impose under such subsection, the Secretary may renew or impose the requirement, subject to the limitations set forth in such subsection. The Secretary shall set forth in writing the reasons for such decision.

"(b)(1)(A) In accordance with the procedure described in subsection (a) and the provisions of this paragraph, the Secretary may impose on a prescription drug a requirement relating to the distribution, dispensing, and administration of the drug.

"(B) No drug may be subjected to requirements authorized by subparagraph (A) unless the Secretary determines that—

"(i) use of the drug presents, in the opinion of experts, qualified by training and experience to evaluate the safety and effectiveness of drugs, significant risks to patients or to the public health;

"(ii) because of the significance of these risks, the drug cannot be determined to be safe unless the requirements authorized by subparagraph (A) are imposed on the distribution and dispensing of the drug;

"(iii) such requirements can reasonably be expected to reduce, in a reasonable period of time, the risks referred to in clause (i) sufficiently to permit such drug to be determined to be safe and effective and thereby to permit the drug to be made available for use in appropriate patients; and

"(iv) no other administrative or educational action authorized to be taken by the Secretary under this title or under any other law can reasonably be expected to so reduce such risks.

"(C) No requirement imposed under subparagraph (A) may—

"(i) restrict the use of a drug to practitioners with specific training or experience in its use or to practitioners for use in certain facilities unless the Secretary determines that such requirement is necessary for the drug to be determined to be safe; or

"(ii) exclude a practitioner from using a drug solely because the practitioner does not have the training or experience to make the practitioner eligible for certification by a certifying board recognized by the American Board of Medical Specialties or has not been certified by such a board.

"(2) If the Secretary determines that a prescription drug in a particular use involves a risk of serious illness or injury such that it is essential that patients be assured an opportunity to make an informed decision whether to use the drug or be given adequate information to reduce the risk as much as possible, the Secretary shall require that the drug may not be dispensed or administered to a patient unless the voluntary and informed consent of the patient (or the patient's representative) has been received in such form and manner as shall be required in general regulations established by the Secretary.

"(3) No requirement shall be imposed under this subsection unless it has been specifically submitted to and considered by an advisory committee appointed under section 507.

"(4) The health needs and privacy of patients shall be accorded high priority in promulgating requirements under this subsection.

"(5) Not later than two years after a requirement has been imposed under this subsection, the Secretary shall determine whether the grounds upon which he imposed the requirement continue to exist; and if such grounds have changed or no longer exist, the Secretary shall, respectively, modify or remove the requirement. Every two years after such an evaluation has taken place, the matter shall be reevaluated in the same manner.

"(c) (1) In accordance with the procedure described in subsection (a) and the provisions of paragraphs (2), (3), and (4), the Secretary shall impose on the manufacturer of a prescription drug a requirement regarding the surveillance of the use of and experience with the drug—

"(A) at the time an application is approved under this section, if the Secretary determines that such a requirement is necessary or useful in evaluating the continuing safety of the drug; or

"(B) in any other case, if the Secretary determines that such a requirement has become necessary and useful in evaluating the continuing safety of the drug.

"(2) (A) No drug may be subjected to a requirement under paragraph (1) except pursuant to regulations established by the Secretary regarding the circumstances in which, and methods by which, surveillance of drug use and experience would or would not be useful and necessary in evaluating the continuing safety of drugs.

"(B) Regulations shall not be promulgated under subparagraph (A) until the Secretary has—

"(i) received and reviewed the report, if any, of the Joint Commission for Prescription Drug Use, Incorporated;

"(ii) published in the Federal Register, and invited public comment on, such report and the Secretary's review and conclusions regarding it; and

"(iii) received and reviewed the comments of the public in response to the Federal Register publication required in clause (ii).

"(3) (A) In determining whether to require surveillance under paragraph (1), in addition to requiring compliance with relevant regulations established under paragraph (2), the Secretary shall consider—

"(i) the uniqueness of a drug, the dosage form or route of administration of the drug, and the extent of experience with related drugs,

"(ii) the frequency and magnitude of risks identified in existing studies of the drug,

"(iii) the various known pharmacological effects of the drug,

"(iv) the scope and extent of surveillance which will be necessary to gain appropriate data and information,

"(v) the burdens such surveillance will impose on those who must conduct it,

"(vi) the alternatives to surveillance for gathering the data and information, and

"(vii) the extent to which the drug is expected to be used in general, by children, by pregnant women, and by the elderly.

"(B) In requiring surveillance under paragraph (1), the Secretary shall require that each person manufacturing the drug join in establishing and maintaining a system for identifying and collecting data and information regarding the use of, and the experience with, the drug, and make reports to the Secretary regarding the data and information collected. Such a requirement shall specify the purpose for which data and information are to be collected and for which reports on the data and information are to be made.

"(4) No requirement may be imposed under paragraph (1) unless it has been specifically submitted to and considered by an advisory committee appointed under section 507.

"(5) Any requirement imposed under paragraph (1) shall expire five years following the date on which it becomes effective, but may be renewed in accordance with the procedures described in subsection (a) (2) and the applicable provisions of this subsection.

"(d) (1) In accordance with the procedure described in subsection (a) and the provisions of this subsection, the Secretary may require the manufacturer of a prescription drug to conduct one or more scientific investigations—

"(A) to assess the risks of a significant adverse effect of the drug, if the Secretary determines on the basis of scientific information, including information regarding chemically or pharmacologically related drugs, that the drug is known or may reasonably be expected to produce an adverse effect; or

"(B) to evaluate the safety of the drug, including its effectiveness, when used for a purpose or in a manner which is not set forth in the practitioner information labeling for such drug, if the Secretary determines that—

"(i) the drug is known, or can reasonably be expected by experts on drug use, to be used to a significant extent for a purpose or in a manner not initially indicated in practitioner information labeling; and

"(ii) there exists a scientific basis on which experts qualified by scientific training and experience to evaluate the safety and effectiveness of the drug involved could fairly and reasonably conclude that—

"(I) use of the drug for such purpose or in such manner presents a risk of serious illness or injury to persons who so use the drug because of adverse effects or lack of effectiveness; or

"(II) the drug may be safe and effective when used for such purpose or in such manner.

"(2) In requiring investigations under this subsection, the Secretary shall require that each person manufacturing the drug join in conducting the investigations. The Secretary shall provide guidelines on protocols for conducting such joint investigations, and may also specify a timetable by which the joint investigations are to be completed and the results from the joint investigations are to be reported to the Secretary.

"(3) No requirement shall be imposed under this subsection unless it has been specifically submitted to and considered by an appropriate advisory committee appointed under section 507.

"(e) (1) In accordance with the procedure described in subsection (a) and the provisions of this subsection, the Secretary shall require manufacturers of a drug to obtain certification from the Secretary that each batch of the drug meets applicable standards of identity, strength, quality, purity, stability, and bioavailability if the Secretary determines that—

"(A) there is reason to believe that a significant number of individual batches of the drug will not meet one or more of the applicable standards of identity, strength, quality, purity, stability, or bioavailability as described in section 501 (b); and

"(B) failure of a batch of the drug to meet one or more of such standards poses a risk of illness or injury to patients, either from adverse effects or as a result of lack of effectiveness.

"(2) In imposing a requirement under paragraph (1), the Secretary shall describe the specific tests, methods of assay, and procedures the Secretary shall use in deciding whether batches of the drug meet the applicable standards of identity, strength, quality, purity, stability, and bioavailability.

"(3) Any requirement imposed under paragraph (1) shall expire at any time designated by the Secretary, or two years after its effective date, whichever first occurs. At a reasonable time prior to the expiration of such requirement, the Secretary shall determine whether the circumstances which justified the imposition of the requirement continue to exist; and if the Secretary so determines, the Secretary shall reimpose the requirement. No requirement shall be imposed under paragraph (1) unless it has been specifically submitted to and considered by an appropriate advisory committee appointed under section 507.

"(4) Upon application by a particular facility or manufacturer, the Secretary shall exempt such facility or manufacturer, in whole or in part, from a requirement imposed under this subsection whenever the Secretary finds, based upon consistent past compliance with applicable standards of identity, strength, quality, purity, stability, and bioavailability, that grounds for such an exemption exist.".

SEC. 130. Section 507 is amended to read as follows:

"ADVISORY COMMITTEES

"SEC. 507. ADVISORY COMMITTEES.—The Secretary may appoint one or more committees to advise with respect to the determinations authorized under this chapter. Each such committee shall be composed of at least five members. In selecting committee members, the Secretary shall consider recommendations from health care providers, scientific investigators, manufacturers, and organizations interested in public health, organizations interested in particular diseases, and organizations interested in consumer affairs. The Secretary shall appoint committee members so that each committee reflects in its composition scientific, health care provider, and consumer interests. At least one-third of each committee shall be composed of members reflecting the interests of patients and consumers.".

SEC. 131. (a) Section 704 is amended by adding at the end thereof the following subsection:

"(f) SUBPENAS.—

"(1) AUTHORITY.—In any matter relating to implementation or enforcement of this Act regarding information that may be false or misleading, an article that may present an unreasonable risk of injury or illness, or an article that may be unapproved, uncertified, adulterated, or misbranded, the Secretary may, by subpena, compel the attendance and testimony of witnesses or require the production of any records (including books, papers, documents, and other tangible things) that may be relevant to the matter. The attendance of witnesses and the production of records may be required in any place in any State or in any territory or other place subject to the jurisdiction of the United States. Witnesses summoned under this section shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

"(2) SERVICE.—A subpena issued under this section may be served by any person designated in the subpena to serve it. Service of a subpena upon a natural person may be made either by a personal delivery or by registered mail or telegraph, or by leaving a copy thereof at the principal office or place of business of the person being served. Service upon a domestic or foreign corporation, or upon a partnership or other unincorporated association which is subject to suit under a common name, may be made either by delivering the subpena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process, or by registered mail or telegraph, or by leaving a copy of the subpena at the principal office or place of business of the officer or agent being served. The verified return by the individual so serving it setting forth the manner of service shall be proof of service, and the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed in accordance with this subsection shall be proof of service.

"(3) ENFORCEMENT.—In the case of contumacy by, or refusal to obey a subpena issued to, any person, any court of the United States within the jurisdiction in which the subpenaed person is an inhabitant, carries on business, or may be found, may compel compliance with the subpena. The court may issue an order requiring the subpenaed person to appear before the Secretary, to produce records if so ordered, or to give testimony relating to the matter. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in such a case may be served in any judicial district in which the person may be found.".

(b) The heading for section 704 is amended by adding "; SUBPENAS" at the end thereof.

SEC. 132. Chapter VII is amended by adding at the end thereof the following section:

"PARTICIPATION IN PROCEEDINGS

"SEC. 710. Any person (regardless of the person's position concerning the disposition of the matter) who—

"(a) asks the Secretary in writing to participate in any proceeding under this Act;

"(b) is determined by the Secretary to represent an interest the representation of which will substantially contribute to a fair determination of the proceeding in light of the number and complexity of the issues presented by the proceeding, the importance of widespread public participation, and the need for representation of a fair balance of interests in the proceeding; and

"(c) is determined by the Secretary to have insufficient resources adequately to participate in the proceeding without compensation, in light of the estimated cost of effective participation by such person in the proceeding,

may, pursuant to regulations established by the Secretary, be granted by the Secretary reasonable attorneys' fees, expert witness fees, and other costs of participating in the proceeding. To the extent that the person is capable of bearing part of the cost of participating in a proceeding, the Secretary may award the person no more than the unmet cost.".

SEC. 133. Chapter V is amended by adding at the end thereof the following:

"SEC. 522. (a) GENERAL RULE.—Except as to any requirement established by a State pursuant to State law before the date of enactment of the Drug Regulation Reform Act of 1979, and except as provided in subsection (b), no State or political subdivision of a State may impose on a manufacturer, packer, distributor, or wholesaler, with respect to any drug intended for human use which is subject to the requirements of this Act, any requirement regarding the packaging, label, or, in the case of a non-prescription drug, the labeling of such drug which is in addition to or different from a comparable requirement regarding the packaging, label, or in the case of a non-prescription drug, the labeling of such drug imposed on a manufacturer, packer, distributor, or wholesaler by or under this Act.

"(b) STATE PROPOSALS.—Upon application of a State, the Secretary shall, after notice and opportunity for public comment in an open forum, and within 360 days after the application is submitted, exempt from subsection (a) a requirement of such State or a political subdivision of such State which the Secretary determines would significantly enhance the public health within the jurisdiction of such State or political subdivision and would not impose an undue burden on interstate commerce. If the Secretary has not made a determination on such application within such 360 days, the requirement in question shall be so exempted subject to further action by the Secretary.

"(c) EFFECT ON COMPLIANCE.—In the event that an exemption is granted pursuant to subsection (b), no person who complies with the requirement which is the subject of the exemption shall thereby be in violation of any provision of this Act.".

SEC. 134. Section 801(d) is amended by adding the following new paragraph:

"(3) Notwithstanding the provisions of section 301(d), a drug intended for human use which has not been approved under section 505(c) of this Act may be exported if, in addition to compliance with the requirements of paragraph (1), the Secretary has determined that the exportation of the drug is not contrary to public health and safety and has the approval of the country to which it is intended for export. There is hereby established a Task Force on Drug Export Policy consisting of the Secretaries of Health, Education, and Welfare, State, and Commerce, and the Special United States Trade Representative, or their designees for the purpose of implementing this paragraph. The Task Force shall develop, within one hundred and eighty days after the date of enactment of this Act, a Drug Export Policy Plan which shall, among other factors,

"(A) consider the differing health needs of foreign countries,

"(B) respect the informed benefit-risk assessments of governmental authorities in such countries regarding the importation into, and use within, those countries of drugs not approved in the United States,

"(C) assist national and international efforts to protect and improve the health of all people,

"(D) consider the means by which foreign countries regulate drugs,

"(E) recognize that the manufacture of drugs exported from the United States should be regulated by standards regarding manufacturing requirements and practices that are the same as those applied to the manufacture of drugs approved for use in this country,

"(F) take into account the foreign and economic policies of the United States, and

"(G) suggest the form and nature of the notice and other information which the Commissioner of Food and Drugs should receive from persons seeking to export unapproved drugs.

On the basis of such plan, the Secretary of Health, Education, and Welfare, after consultation with the Secretaries of State and Commerce and the Special United States Trade Representative, shall propose and promulgate regulations to implement this paragraph. Until such time as the Secretary has established final regulations to implement this paragraph and such regulations have become effective, no drug which a person could legally export prior to the effective date of this title shall be removed from interstate commerce by reason of the provisions of the Drug Regulation Reform Act of 1979.".

SEC. 135. EFFECTIVE DATE.—The amendments made by this title shall take effect one hundred and eighty days after the date of enactment of this Act, except as follows:

(1) with respect to the requirements contained in section 504(a) as added by section 117 of this title, the Secretary shall by regulations adopted within three hundred and sixty days after the date of enactment of this Act develop and implement a plan to phase in any new patient information labeling requirements for drugs permitted in interstate commerce, setting priorities according to diagnostic and therapeutic categories, and taking into account the nature of each category of drugs and the extent of use of each category of drugs, and no person shall be deemed to have committed a prohibited act under section 301 of the Federal Food, Drug, and Cosmetic Act by virtue of failure to comply with section 504(a) of the Federal Food, Drug, and Cosmetic Act with respect to a particular drug if no requirement with respect to that drug under section 504(a) has gone into effect; and

(2) a prescription drug (A) permitted in interstate commerce on the effective date of this title, which drug was subject to the Food and Drugs Act of June 30, 1906, prior to the date of enactment of the Federal Food, Drug, and Cosmetic Act of 1938, and is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof, shall be deemed to have an approved application under section 505 of the Federal Food, Drug, and Cosmetic Act, and as such shall be subject to the provisions of section 505 and other sections of the Federal Food, Drug, and Cosmetic Act applicable to drugs subject to section 505, but any action to suspend or revoke the deemed approved application of such a drug shall be based on new evidence evaluated together with previously available evidence.

TITLE II—OFFICE FOR DRUG SCIENCE

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

SEC. 201. The Public Health Service Act is amended by inserting after title XVIII the following new title:

"TITLE XIX—OFFICE FOR DRUG SCIENCE

"ESTABLISHMENT OF OFFICE

"SEC. 1901. (a) There is established in the Department of Health, Education, and Welfare an office which shall be known as the Office for Drug Science (hereinafter in this title referred to as the 'Office'). The Office shall be under the direction of the Director of the Office (hereinafter in this title referred to as the 'Director') who shall be appointed by the Secretary. The Director shall be classified at grade GS–18 of the General Schedule.

"(b) To implement this title, the Director may, in addition to any other authority available to him, use personnel, equipment, and facilities and other physical resources of the Department of Health, Education, and Welfare. The Director may secure for the Office, for such periods as the Director deems advisable, the assistance and advice of experts and consultants from the United States and abroad in accordance with section 3109, title 5, United States Code, and to compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS–18 as provided in section 5332 of title 5, United States Code, and, while such experts and consultants are so serving away from their homes or regular places of business, to pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently. The Director may hold conferences and meetings, and undertake other activities consistent with the functions of the Office, when appropriate.

"POLICY AND RESEARCH FUNCTIONS OF THE OFFICE

"SEC. 1902. (a) (1) In accordance with the procedures set forth in paragraph (2), the Office may, upon request or on its own initiative, conduct and support research, including investigations—

"(A) of the safety and effectiveness of drugs approved by the Food and Drug Administration;

"(B) for the development of drugs for diseases and other conditions of low incidence; and

"(C) to facilitate breakthroughs in drug science research.

"(2) Prior to conducting or supporting research under subparagraph (B) or (C) of paragraph (1), the Office shall—

"(A) publish, in the Federal Register, a notice which shall contain a statement that the Office intends to conduct or support such research, which notice shall include the objectives of such research, the nature of the drug, if any, which would be the subject of such research, and the reasons why the Director feels he can make the findings required to be made under subparagraph (B);

"(B) permit drug manufacturers, interested agencies of government, and other interested parties the opportunity to comment on the proposed research; and

"(C) find that—

"(i) the research is of special significance; and

"(ii) there is either no or minimal research of a similar nature currently being conducted or currently planned outside of government or by other agencies of government, either directly or by grant or contract.

The Director shall publish, in the Federal Register, the findings described in subparagraph (C).

"(3) The Director shall periodically report on (1) promising areas of and new techniques in drug science research and (2) diseases or other conditions for which current research on drugs is insufficient.

"(b) The Office shall conduct an ongoing program of drug science policy research, either directly or by grant or contract. The Office shall examine the appropriateness of the requirement contained in section 505(d) of the Federal Food, Drug, and Cosmetic Act that 'substantial evidence' of effectiveness means evidence consisting of adequate and well-controlled investigations, and the appropriateness of the regulations, procedures, standards, and criteria relied upon by the Commissioner of Food and Drugs in implementing such requirement, and shall issue a report on its conclusions and recommendations. Such report shall be submitted to the appropriate Committees of Congress by the Secretary, together with the Secretary's comments and recommendations. In addition the Office, in conducting drug science policy research, shall review, analyze, and where appropriate make recommendations and reports regarding the relationship of drugs to the public health, including:

"(1) the impact of regulation on drug innovation and development;

"(2) problems inherent in the analysis of risks and benefits, the formulation of risk versus benefit ratios, and the use of such ratios in approving drugs; and

"(3) methods for improving and accelerating the overall drug research, innovation, development, and approval process and for improving the drug utilization process.

"(c) The Office shall conduct an ongoing review and analysis of the use of drugs in the United States and on the basis of such review and analysis prepare an annual Drug Experience Assessment Report. The report may be on such categories of drugs as the Director determines is appropriate. The report shall include, for the drugs included in the report, a qualitative analysis of the use of such drugs, adverse effects and unanticipated reactions from such drugs, an assessment of the frequency of the occurrence of such effects and reactions, an analysis of the use of such drugs on a regional basis, by specialties of medicine, or any other category of use of such drugs and shall include recommendations for improvement in the use of such drugs.

"(d) Notwithstanding any other provision of this section, the Office shall not participate in or comment on any pending matter regarding a drug before the Commissioner of Food and Drugs except at the request of the Commissioner or where research regarding the drug has been supported or conducted by the Office pursuant to subsection (a).

(e) The Director shall publish and otherwise make available to the public the reports prepared under this section.

"(f) There are authorized to be appropriated to carry out the purposes of this section $5,000,000 for the fiscal year ending September 30, 1981, $7,000,000 for the fiscal year ending September 30, 1982, and $9,000,000 for the fiscal year ending September 30, 1983.

"NATIONAL ADVISORY BOARD

"SEC. 1903. (a) (1) There is established a board to be known as the National Advisory Board on Drug Science (hereinafter in this section referred to as the 'Board'). The Board shall consult with, advise, and make recommendations to the Director with respect to the responsibilities prescribed by this title, and shall review and comment upon the activities of the Office.

"(2) The Board shall be composed of fifteen members appointed by the Secretary, four of whom shall be appointed from the general public to represent the consumers of health care. In determining who shall be a member of the Board, the Secretary shall solicit recommendations from appropriate groups.

"(b) (1) Members of the Board shall be appointed for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be removed, except for cause. Members may be reappointed to the Board.

"(2) Members of the Board (other than members who are officers or employees of the United States), while attending meetings or conferences thereof or otherwise serving on the business of the Board, shall be entitled to receive for each day (including traveltime) in which they are so serving the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule; and while so serving away from their homes or regular places of business. All members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Board shall terminate on September 30, 1983.".

CLINICAL PHARMACOLOGY AND CLINICAL PHARMACY PROGRAMS

SEC. 202. Title VII of the Public Health Service Act is amended by adding after section 786 the following new sections:

"GRANTS FOR PROGRAMS IN CLINICAL PHARMACOLOGY AND CLINICAL PHARMACY

"SEC. 786A. (a) (1) From funds appropriated under paragraph (2) the Secretary may make grants—

"(A) to schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, and nursing and to groups of such schools for—

"(i) the planning, establishment, and operation of new programs; and

"(ii) the expansion of existing programs of training in clinical pharmacology for full-time students (as defined in section 770(c) (2) or 810(d) (2)) enrolled in such schools;

"(B) to training centers for allied health professions for—

"(i) the planning, establishment, and operation of new programs; and

"(ii) the expansion of existing programs of training in clinical pharmacology for students enrolled in such centers; and

"(C) to schools of pharmacy for—

"(i) the planning, establishment, and operation of new programs; and

"(ii) the expansion of existing programs of training in clinical pharmacy for full-time students (as defined in section 770(c) (2)) enrolled in such schools.

"(2) There are authorized to be appropriated for payments under grants under this subsection $3,000,000 for the fiscal year ending September 30, 1981, $4,000,000 for the fiscal year ending September 30, 1982, and $5,000,000 for the fiscal year ending September 30, 1983.

"(b) (1) From funds appropriated under paragraph (2), the Secretary may make grants to schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, and nursing and to other public and nonprofit private entities for the planning, establishment, and operation of new programs, and for the expansion of existing programs, of continuing education in clinical pharmacology and clinical pharmacy for physicians, dentists, pharmacists, podiatrists, optometrists, and nurses.

"(2) There are authorized to be appropriated for payments under grants under this subsection $2,000,000 for the fiscal year ending September 30, 1981, $3,000,000 for the fiscal year ending September 30, 1982, and $4,000,000 for the fiscal year ending September 30, 1983.

"(c) (1) From funds appropriated under paragraph (2), the Secretary may make grants to or enter into contracts with public and nonprofit private entities for demonstration projects to demonstrate new roles for (A) clinical pharmacologists and clinical pharmacists in the practice of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, and nursing and (B) clinical pharmacology in nursing.

"(2) There are authorized to be appropriated for payments under grants or contracts under this subparagraph $1,000,000 for the fiscal year ending September 30, 1981, $1,500,000 for the fiscal year ending September 30, 1982, and $2,000,000 for the fiscal year ending September 30, 1983.

"(d) (1) No grant may be made or contract entered into under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary may approve or disapprove any application for a grant or contract under this title.

"(2) The amount of any grant or contract under this section shall be determined by the Secretary. Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5). Payments of any such grant or contract may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary finds necessary to carry out the purposes of this section.

"TRAINEESHIPS AND FELLOWSHIPS IN CLINICAL PHARMACOLOGY AND CLINICAL PHARMACY

'SEC. 786B. (a) (1) From funds appropriated under subsection (b) (1) the Secretary may make grants to schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, and nursing for the provision of traineeships to assist physicians, dentists, pharmacists, podiatrists, optometrists, nurses and other qualified individuals in meeting the cost of obtaining graduate training and research training in clinical pharmacology and clinical pharmacy.

"(2) From funds appropriated under subsection (b) (2), the Secretary may provide fellowships to physicians, dentists, pharmacists, podiatrists, optometrists, nurses, and other qualified individuals to undertake research at the Office for Drug Science. The Secretary shall provide sabbatical leave in accordance with section 5701(c), title 5, United States Code, and otherwise assist scientists and other qualified individuals (notwithstanding whether such person is classified within the senior executive service) employed by the Department of Health, Education, and Welfare in obtaining such fellowships.

"(3) No grant for traineeships and fellowships may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary may prescribe. Traineeships and fellowships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

"(b)(1) There are authorized to be appropriated for payments under grants under paragraph (1) of subsection (a) $2,000,000 for the fiscal year ending September 30, 1981, $2,500,000 for the fiscal year ending September 30, 1982, and $3,000,000 for the fiscal year ending September 30, 1983.

"(2) There are authorized to be appropriated for fellowships under paragraph (2) of subsection (a) $500,000 for the fiscal year ending September 30, 1981, $600,000 for the fiscal year ending September 30, 1982, and $700,000 for the fiscal year ending September 30, 1983.

"(c) Traineeships and fellowships provided under this subsection shall include such stipends and allowances (including travel and subsistence expenses and dependency allowances) as the Secretary may find necessary.

TITLE III—ESTABLISHMENT OF THE FOOD AND DRUG ADMINISTRATION

ESTABLISHMENT

SEC. 301. (a) There is established within the Department of Health, Education, and Welfare an agency to be known as the Food and Drug Administration (hereinafter referred to as the "Administration").

(b)(1) The Administration shall be headed by the Commissioner of Food and Drugs who, except as provided in paragraph (2), shall be appointed by the President by and with the advice and consent of the Senate for a term of five years. The Commissioner shall be paid at a rate prescribed for level III of the Executive Schedule. The Commissioner shall be responsible for the effective administration of the functions, powers, and duties transferred, delegated, or otherwise assigned to him.

(2) The individual who on the date of enactment of this Act holds the office of Commissioner of Food and Drugs, Department of Health, Education, and Welfare, shall be the initial Commissioner of the Administration on the date of enactment of this Act.

POWERS OF THE COMMISSIONER

SEC. 302. The Commissioner is authorized—

(1) to direct and coordinate the activities of the Administration;

(2) to select, appoint, or employ all personnel of the Administration and direct and supervise all personnel so selected, appointed, or employed;

(3) to employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS–18 as provided in section 5332 of title 5, United States Code, and, while such experts and consultants are so serving away from their homes or regular places of business, to pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(4) to appoint advisory committees composed of such private citizens and officials of the Federal, State, and local governments pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act or as the Commissioner determines desirable to advise him with respect to the functions, powers, and duties vested in him and to pay such members (other than those regularly employed by the Federal Government) while attending meetings of such committees, or otherwise serving at the request of the Commissioner, compensation and travel expenses at the rate provided for in paragraph (3) with respect to experts and consultants;

(5) to promulgate such regulations as may be necessary or appropriate for the efficient implementation and enforcement of the functions, powers, and duties vested in him;

(6) to make such investigations as the Commissioner deems necessary to determine whether any person has violated or whether any article is in violation of any provision of the laws which the Commissioner is responsible for enforcing;

(7) to utilize, with their consent, the services, personnel, and facilities of other Federal agencies and of State and private agencies and instrumentalities with or without reimbursement therefor;

(8) to procure such goods and services as may be necessary and to enter into and perform such contracts, leases, cooperative agreements, grants, or other transactions as the Commissioner may determine appropriate, with any agency, or instrumentality of the United States, or with any State, Commonwealth, territory, or possession, or any political subdivision thereof, or with any public or private person, firm, association, corporation, independent testing laboratory, or institution;

(9) to accept gifts and voluntary and uncompensated services on behalf of the Administration for use in carrying out the functions, powers, and duties vested in him notwithstanding the provisions of section 665(b) of title 31, United States Code;

(10) to plan, design, and construct or lease such research, office or test facilities as may be necessary to carry out the functions, powers, and duties vested in him (A) after reasonable efforts to fully utilize the personnel, facilities, and other technical support available in other Federal agencies, (B) when authorized by the Congress to plan, design, and construct or lease such facilities and (C) subject to the appropriation of funds for this purpose by the Congress;

(11) to designate representatives to serve or assist on such committees as the Commissioner may determine to be necessary or appropriate to maintain effective liaison with Federal agencies and with State and local agencies and independent bodies carrying out programs and activities related to the protection of consumers against injury resulting from the use of products subject to the jurisdiction of the Administration

(12) to offer training in product safety investigation and test methods, and assist public and private organizations, administratively and technically, in the development of safety standards and test methods;

(13) to conduct research, testing, and preclinical and clinical investigations directly related to the implementation and enforcement of the laws under the jurisdiction of the Administration, and for these purposes to award grants and to enter into contracts for such research, and to obtain materials without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5);

(14) to undertake such other activities as are necessary to carry out the functions, powers, and duties vested in him including those enumerated in other sections of such laws;

(15) to delegate any of the functions, powers, and duties vested in him to other officers or employees of the Administration, except as otherwise provided by law;

(16) to develop ways to actively encourage and promote the discovery and development of new therapies in the United States;

(17) to cooperate with the compilers of the official compendium and to provide them with information concerning the characteristics of drugs; and

(18) upon request, to provide technical assistance to the government of a foreign country regarding the analysis of drug benefits and risks.

DUTIES OF THE COMMISSIONER

SEC. 303. DUTIES OF THE COMMISSIONER.—The Commissioner shall—

(1) enforce the laws which the Commissioner is required under this Act to administer;

(2) publish notice of any proposed public hearing in the Federal Register, and afford a reasonable opportunity for all interested persons to present relevant testimony and data;

(3) upon request, provide technical assistance on legislative proposals directly to committees of Congress;

(4) establish an interdisciplinary epidemiology capability and undertake investigations to facilitate regulatory decisionmaking and to assist in product evaluation and benefit versus risk analysis;

(5) establish or maintain a capability within the Administration to engage in product evaluation, risk versus benefit analysis, hazard detection, test method development, and quality control requirements;

(6) utilize field operations to conduct product evaluation, facilitate detection of conditions associated with products subject to the jurisdiction of the laws which the Commissioner is to administer, which products might lead to disease, injury, or death, to monitor compliance with required levels of safety performance, to report violations, and to assist in any enforcement action taken by him; and

(7) provide for the improved utilization of information systems by the Administration by conducting an evaluation of the existing information systems to determine how they can better serve the needs of employees and reviewers of applications submitted under section 505 of the Federal Food, Drug, and Cosmetic Act and a survey of the needs of employees and reviewers for use in developing or redesigning information systems, and by developing an educational program for reviewers and other Administration employees in the use of information systems. A report on the Commissioner's activities under this paragraph shall be submitted to the Senate Committee on Labor and Human Resources, the Senate Committee on Appropriations, the Interstate and Foreign Commerce Committee of the House of Representatives, and the Committee on Appropriations of the House of Representatives within one year of the date of enactment of this Act.

CONFLICT OF INTEREST

SEC. 304. (a) A consultant shall, within ten days prior to appointment, make a complete disclosure, in such form and manner as the Commissioner may, by regulation, require, of financial information, including information pertaining to whether such consultant is currently working or has worked with any person who has filed an application under section 505 of the Federal Food, Drug, and Cosmetic Act. Such disclosure shall include the name and address of each such person, the type of work, and the specific drug with which such consultant was involevd. Failure to file a disclosure statement required by this subsection shall result in the disqualification of the proposed appointee.

(b) A consultant shall not substantially participate in any activities of the Administration with regard to any interest of any person with respect to whom such consultant has a financial interest or any product, substance, or other article subject to regulation by the Commissioner with which the consultant has had a financial interest. The prohibition contained in this section may be waived by the Commissioner if the Commissioner determines that the consultant's interest is or was not so substantial as to affect the integrity of the services which the Commissioner expects from the consultant, or if the interest falls within a category of interests which the Commissioner has determined by regulation to be too remote or too inconsequential to affect the integrity of such services, and publishes such determination in the Federal Register.

(c) For purposes of this section, a "consultant" means a member of an advisory board or committee established by the Administration, or an individual who receives remuneration from the Administration and is not an employee of the Administration.

TRANSFER OF FUNCTIONS, POWERS, AND DUTIES

SEC. 305. (a) The functions, powers, and duties vested in the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301), the Federal Import Milk Act (21 U.S.C. 141), the Tea Importation Act (21 U.S.C. 41), and the Fair Packaging and Labeling Act (15 U.S.C. 1451), pursuant to section 12 of Reorganization Plan No. 4 of 1940 and Reorganization Plan No. 1 of 1953, including authority to administer oaths vested in the Secretary of Agriculture by section 2217 of title 7, United States Code, are transferred to the Commissioner.

(b) The functions, powers, and duties vested in the Secretary under section 301 (research and investigation); section 307 (international cooperation); section 310 (health, education, and information); section 311 (Federal-State cooperation); and section 314(f) (interchange of personnel with States) of the Public Health Service Act (42 U.S.C. 241, 2411, 242o, 243, and 246(f)) insofar as such sections relate to food, drugs, devices, cosmetics, electronic products, and other products, substances, or other articles, or functions, powers, and duties of the Commissioner are transferred to the Commissioner.

(c) The functions, powers, and duties vested in the Secretary under section 351 of the Public Health Service Act (42 U.S.C. 264) concerning the following products and activities: biologicals (including blood and blood products), interstate travel sanitation (except interstate transportation of etiological agents under 42 CFR 72.25 as in effect on the date of enactment of this Act) food (including milk and food service sanitation and shellfish sanitation); and drugs, devices, cosmetics, electronic products and other items or products regulated by the Commissioner are transferred to the Commissioner.

(d) The functions, powers, and duties vested in the Secretary under section 409(b) of the Federal Meat Inspection Act (21 U.S.C. 679(b)) which relate to the detention of any carcass, part thereof, meat, or meat product of cattle, sheep, swine, goats, or equines are transferred to the Commissioner.

(e) The functions, powers, and duties vested in the Secretary under section 24(b) of the Poultry Products Inspection Act (21 U.S.C. 467f(b)) which relate to the detention of any poultry carcass, part thereof, or poultry product are transferred to the Commissioner.

(f) The functions, powers, and duties vested in the Secretary under the Egg Products Inspection Act (21 U.S.C. 1031) are transferred to the Commissioner.

(g) The functions, powers, and duties vested in the Secretary by amendments to the foregoing statutes subsequent to Reorganization Plan No. 1 of 1953 are transferred to the Commissioner.

(h) The functions, powers, and duties of the Secretary under section 501 of the Public Health Service Act (42 U.S.C. 219) to accept offers of unconditional gifts, of other than real property, provided such gifts relate to the functions, powers, and duties of the Commissioner and are of $1,000 value or less and the total costs associated with acceptance of property will not exceed the cost of purchasing a similar item and the cost of normal care and maintenance are transferred to the Commissioner.

(i) The functions, powers, and duties vested in the Secretary under Executive Order 11490, section 1103 as amended by Executive Order 11921, which relate to emergency health functions as they pertain to the operations and functional responsibilities assigned to the Commissioner.

(j) The functions, powers, and duties vested in the Secretary under the second sentence of section 309 of the Public Health Service Act (42 U.S.C. 242n) related to the functions of the Food and Drug Administration (hereinafter referred to as the "Administration"), are transferred to the Commissioner.

(k) The functions, powers, and duties vested in the Secretary of Health, Education, and Welfare under sections 354 through 360F of the Public Health Service Act (42 U.S.C. 263b through 263n) which relate to electronic product radiation control are transferred to the Commissioner.

(l) The functions, powers, and duties vested in the Secretary under sections 351 and 352 of the Public Health Service Act (42 U.S.C. 262 and 263) which relate to biological products are transferred to the Commissioner.

(m) The functions, powers, and duties vested in the Secretary pertaining to section 303 of the Public Health Service Act (42 U.S.C. 242a) which relate to the authorization of persons engaged in research on the use and effect of drugs to protect the identity of their research subjects with respect to drugs scheduled under Public Law 91–513 for which a notice of claimed exemption for an investigational new drug is filed with the Administration are transferred to the Commissioner.

(n) The functions, powers, and duties vested in the Secretary pertaining to section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1241) which relate to the determination of the safety and effectiveness of drugs or to approve new drugs to be used in the treatment of narcotic addicts are transferred to the Commissioner.

(o) The functions, powers, and duties vested in the Secretary pertaining to section 302(a) of the Public Health Service Act (42 U.S.C. 242(a)) which relate to the determination and reporting requirements with respect to the medicinal and scientific requirements of the United States for controlled substances are transferred to the Commissioner.

(p) The functions, powers, and duties vested in the Secretary pertaining to section 303(f) of the Controlled Substances Act (21 U.S.C. 823(f)) which relate to the determination of the qualifications and competency of practitioners wishing to conduct research with controlled substances listed in schedule I of the Act, and the merits of the research protocol are transferred to the Commissioner.

(q) The functions, powers, and duties vested in the Secretary pertaining to provisions of the Controlled Substances Act (21 U.S.C. 801) which relate to the administration of the Federal Food, Drug, and Cosmetic Act are transferred to the Commissioner.

(r) The functions, powers, and duties vested in the Secretary under section 362 of the Public Health Service Act (42 U.S.C. 265) which relate to the prohibition of the introduction into the United States of food, drugs, cosmetics, devices, and electronic products and other items or products regulated by the Administration when it is determined that such prohibition is required in the interest of public health or when such functions relate to the law enforcement functions of the Administration are transferred to the Commissioner.

(s) The functions, powers, and duties vested in the Secretary under section 401 (a) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801) are transferred to the Commissioner.

(t) The Secretary may delegate such additional functions to the Commissioner as he from time to time deems appropriate.

TRANSFERS OF PERSONNEL, ET CETERA

SEC. 306. All personnel, property, records, obligations, commitments, and unexpended balances of appropriations, and other funds, which are used primarily with respect to any office, bureau, or function transferred under the provisions of this Act are transferred to the Commissioner of Food and Drugs. The transfer of personnel pursuant to this Act shall be without reduction in classification or compensation for one year after such transfer, and this provision shall not be construed to impair the authority of the Commissioner to assign personnel during this period to carry out the functions of the Administration most effectively.

SINGLE CAMPUS

SEC. 307. Within two years of the date of enactment of this Act, the Commissioner shall develop a plan regarding the centralization of all the facilites of the Administration into a single location (excluding such regional facilities and project sites as the Commissioner deems necessary). Such plan shall include various cost estimates, and shall be submitted upon completion to the appropriate committees of Congress.

SAVINGS PROVISION

SEC. 308. All laws relating to any office, agency, bureau, or function transferred under this title, insofar as such laws are applicable, remain in full force and effect. Any orders, rules, regulations, permits, or other privileges made, issued, or granted by any office, agency, or bureau or in connection with any function transferred by this title, and in effect at the time of the transfer, shall continue in effect to the same extent as if such transfer had not occurred until modified, superseded, or repealed. No suit, action, or other proceeding lawfully commenced by or against any office, agency, or bureau or any officer of the United States acting in his official capacity shall abate by reason of any transfer made pursuant to this title, but the court, on motion or supplemental petition filed at any time within twelve months after such transfer takes effect, showing a necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the appropriate office, agency, bureau, or officer of the United States.

MISCELLANEOUS

SEC. 309. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(70) Commissioner, Food and Drug Administration.".

(b) Section 5316(43) of such title is repealed.

(c) The Filled Milk Act (21 U.S.C. 61–64) is repealed.

(d) Section 351(f) of the Public Health Service Act is amended to read as follows:

"(f) A violation of this section shall be deemed a prohibited act under section 301 of the Federal Food, Drug, and Cosmetic Act, and be subject to the provisions of chapter III of said Act.".

Mr. KENNEDY. Mr. President, I move

to reconsider the vote by which the bill was passed.

Mr. SCHWEIKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, many staff members worked long and hard to bring about today's passage in the Senate of S. 1075. It is not possible to mention all of the staff who played important roles, but I would like to thank those who perhaps worked the hardest this session to move the bill forward.

First of all, I want to thank Dr. Lawrence Horowitz, the staff director of the Health Subcommittee, for his tireless pursuit of a better system of drug regulation. Dr. Horowitz has worked for 6 years on the staff—the last few years as staff director—and the crafting of sound drug legislation has been one of his major responsibilities and one of his finest achievements.

I would also like to thank David Riemer, counsel for the subcommittee, for the fine work he has done.

Two members of Senator SCHWEIKER's staff deserve particular recognition: David Winston, the minority staff director; and Mary Frances Lowe, who has been responsible for drug legislation.

I should also like to express my appreciation to Jan Zarro of Senator WILLIAMS' staff; Allan Fox, former administrative assistant to Senator JAVITS; and Ron Docksai, legislative assistant to Senator HATCH.

TREASURY-POSTAL SERVICE APPROPRIATIONS, 1979—CONFERENCE REPORT

Mr. CHILES. Mr. President, I submit a report of the committee of conference on H.R. 4393, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4393) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. CHILES. Mr. President, the conferees met on Wednesday and Thursday of last week and agreed to a bill that is substantially similar to the one passed on the floor of the Senate on September 6, 1979. The Senate passed an appropriations bill for the agencies that fall within the jurisdiction of the Senate Appropriations Subcommittee for Treasury, Postal Service, and general Government which totaled $8,846,646,100. The conferees have agreed to a bill which is $9,368,000 less than the one recommended by the Senate, or $47,554,100 more than the one recommended by the House. The conferees also agreed to delete $2,000,000 in fiscal year 1979 supplemental funds that had been recommended by the Senate for subsidized mailings of political committees. On this particular supplemental item, the conferees agreed to request the Postal Service to calculate the amount expended for this new category of subsidized mail during fiscal year 1979 and submit a request for that amount at a later time.

Mr. President, the conference report was published in the CONGRESSIONAL RECORD of September 24, 1979, and has been available to each Member since that time. A copy of the report (Rept. No. 96-471) is before each Member on his desk.

Mr. President, the one single item that explains the majority of the dollar differences between the bill as passed by the Senate and the bill as recommended by the conferees relates to the Internal Revenue Service. The Senate had added an additional $29,000,000 and 1,500 positions to permit IRS to maintain its audit coverage at 2.24 percent in 1980, or the same audit coverage level that now exists. The conferees agreed to add an additional $15,000,000, instead of the $29,000,000 as recommended by the Senate, for this purpose while directing IRS to maintain its audit coverage at 2.24 percent, achieving that audit coverage level with productivity improvements.

Mr. President, the conferees also agreed to restore $5,700,000 of funds that the Senate had proposed to reprogram away from the Bureau of the Mint's construction account to meet their ongoing operating expenses. This $5,700,000 had been appropriated previously for the construction of new mint facilities and since it has been agreed that new mint facilities will not be constructed, the Senate had proposed use of these funds for more immediate needs. Instead of constructing new facilities the Bureau of the Mint plans to renovate and modernize several of its existing facilities and the conferees agreed to permit the construction funds to remain available to the Bureau of the Mint for this purpose. Before the Bureau of the Mint will be able to spend these funds for renovation and modernization, however, the Agency will be required to submit a plan to the Congress for its review and approval.

Mr. President, an additional change agreed to by the conferees was to restore $5,600,000 of funds to the Secret Service that the Senate had recommended be obtained through reprograming funds previously appropriated for payments to State and local governments for protection of diplomatic missions. The Secret Service has been expending funds in the account for payments to State and local governments for protection of diplomatic missions at the rate of several hundred thousand dollars a year and it was the Senate's view that the moneys could be better used and were more needed to fund ongoing operations. The Senate agreed to permit these balances to remain available for 1 additional year with the understanding that the matter will be reviewed again during the next budget cycle.

Mr. President, I would like to touch on one additional matter. The Senate had proposed to consolidate the two overhead accounts of the General Services Administration into one account. The conferees agreed to defer this matter for 1 year to permit time for additional consideration. In permitting the general management and agency operations and the administrative and staff support services accounts to remain as separate accounts the conferees did not intend to delete the $879,000 included for the Board of Contract Appeals by the Senate. This additional money for the Board of Contract Appeals is, therefore, within the approved totals for Administrative and staff support services account for GSA.

Mr. President, I ask unanimous consent to have printed in the RECORD a table that gives the complete results of the conference in tabular form. The table includes a comparison of the conference agreement with new budget authority made in fiscal year 1979, the estimates for fiscal year 1980, and the amounts approved in the House and Senate versions of the bill.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1980 COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	New BA enacted fiscal year 1979	New BA estimates fiscal year 1980	New BA House fiscal year 1980	New BA Senate fiscal year 1980	New BA conference fiscal year 1980	Conference compared with—			
						Fiscal year 1979 enacted	Fiscal year 1980 estimate	House bill	Senate bill
TITLE I—DEPARTMENT OF THE TREASURY									
Office of the Secretary	31, 300, 000	30, 850, 000	30, 850, 000	30, 550, 000	30, 700, 000	−600, 000	−150, 000	−150, 000	+150, 000
By transfer	(979, 000)					(−979, 000)			
International affairs		22, 752, 000	22, 700, 000	22, 752, 000	22, 726, 000	+22, 726, 000	−26, 000	+26, 000	−26, 000
Federal Law Enforcement Training Center	15, 000, 000	12, 670, 000	12, 670, 000	13, 335, 000	13, 003, 000	−1, 997, 000	+333, 000	+333, 000	−332, 000

Footnotes at end of table.

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1980 COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New BA enacted fiscal year 1979	New BA estimates fiscal year 1980	New BA House fiscal year 1980	New BA Senate fiscal year 1980	New BA conference fiscal year 1980	Conference compared with—			
						Fiscal year 1979 enacted	Fiscal year 1980 estimate	House bill	Senate bill
TITLE I—DEPARTMENT OF THE TREASURY—Continued									
Bureau of Government Financial Operations:									
Salaries and expenses	726,017,000	191,115,000	191,115,000	190,361,000	190,361,000	-535,656,000	-754,000	-754,000	
By transfer	(2,289,000)					(-2,289,000)			
Payment of Government losses in shipment		200,000	200,000	200,000	200,000	+200,000			
Payment to the government of Guam	216,000					-216,000			
Total, Bureau of Government Financial Operations	726,233,000	191,315,000	191,315,000	190,561,000	190,561,000	-535,672,000	-754,000	-754,000	
Bureau of Alcohol, Tobacco, and Firearms	131,722,000	139,000,000	139,000,000	138,482,600	138,482,600	+6,760,600	-517,400	-517,400	
By transfer	(4,900,000)					(-4,900,000)			
U.S. Customs Service	444,059,000	450,157,000	446,857,000	447,457,000	447,457,000	+3,398,000	-2,700,000	+600,000	
Bureau of the Mint	43,000,000	60,647,000	50,580,000	53,347,000	59,047,000	+16,047,000	-1,600,000	+8,467,000	+5,700,000
By transfer	(584,000)					(-584,000)			
Bureau of the Public Debt	183,000,000	183,466,000	183,466,000	183,466,000	183,466,000	+466,000			
Internal Revenue Service:									
Salaries and expenses	142,089,000	142,908,000	142,908,000	142,908,000	142,908,000	+819,000			
Taxpayer service and returns processing	746,188,000	773,160,000	773,160,000	773,660,000	773,660,000	+27,472,000	+500,000	+500,000	
Examinations and appeals	778,609,000	789,711,000	784,000,000	818,711,000	799,000,000	+20,391,000	+9,289,000	+15,000,000	-19,711,000
Investigations and collections	478,069,000	476,711,000	475,000,000	476,711,000	476,711,000	-1,358,000		+1,711,000	
Total, Internal Revenue Service	2,144,955,000	2,182,490,000	2,175,068,000	2,211,990,000	2,192,279,000	+47,324,000	+9,789,000	+17,211,000	-19,711,000
Payment where energy credit exceeds liability for tax	700,000	900,000	900,000	900,000	900,000	+200,000			
U.S. Secret Service	136,114,000	157,000,000	157,000,000	151,400,000	157,000,000	+20,886,000			+5,600,000
By transfer	(3,214,000)					(-3,214,000)			
Fiscal year 1979 supplemental		1,200,000	1,900,000				-1,200,000	-1,900,000	
Total, title I, new budget (obligational) authority, Department of the Treasury	3,856,083,000	3,431,247,000	3,410,406,000	3,444,240,600	3,435,621,600	-20,461,000	+4,374,600	+25,215,600	-8,619,000
Fiscal year 1979 supplemental		1,200,000	1,900,000				-1,200,000	-1,900,000	
TITLE II—U.S. POSTAL SERVICE									
Payment to the Postal Service fund	1,785,176,000	1,697,558,000	1,676,810,000	1,676,810,000	1,676,810,000	-106,366,000	-20,748,000		
Fiscal year 1979 supplemental				2,000,000					-2,000,000
TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT									
Compensation of the President	250,000	250,000	250,000	250,000	250,000				
Office of Administration	7,462,000	11,900,000	11,000,000	7,628,000	7,920,000	+458,000	-3,980,000	-3,080,000	+292,000
The White House Office	17,163,000	18,210,000	18,210,000	18,210,000	18,210,000	+1,047,000			
Executive Residence	2,683,000	2,957,000	2,957,000	2,957,000	2,957,000	+274,000			
Official Residence of the Vice President	1,129,000	233,000	233,000	233,000	233,000	+104,000			
Special Assistance to the President	1,315,000	1,404,000	1,404,000	1,404,000	1,404,000	+89,000			
Council of Economic Advisers	2,042,000	2,075,000	2,075,000	2,075,000	2,075,000	+33,000			
Council on Wage and Price Stability	4,952,000	6,483,000	7,500,000	8,483,000	8,483,000	+3,531,000		+983,000	
Domestic Policy Staff	2,544,000	2,650,000	2,600,000	2,650,000	2,600,000	+56,000	-50,000		-50,000
National Security Council	3,525,000	3,557,000	3,557,000	3,557,000	3,557,000	+32,000			
Office of Mangement and Budget	29,044,000	28,054,000	27,600,000	32,486,000	32,400,000	+3,356,000	+4,346,000	+4,800,000	-86,000
Office of Federal Procurement Policy	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000				
Unanticipated Needs	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Total, title III, new budget (obligational) authority, Executive Office of the President and Funds appropriated to the President	75,109,000	83,773,000	81,386,000	83,933,000	84,089,000	+8,980,000	+316,000	+2,703,000	+156,000
TITLE IV—INDEPENDENT AGENCIES									
Administrative Conference of the United States	1,062,000	1,079,000	1,079,000	1,079.000	1,079,000	+17,000			
Advisory Commission on Intergovernmental Relations	1,698,000	1,654,000	1,654,000	1,654,000	1,654,000	-44,000			
Advisory Committee on Federal Pay	232,000	232,000	232,000	232,000	232,000				
Committee for Purchase from the Blind and Other Severely Handicapped	441,000	481,000	481,000	481,000	481,000	+40,000			
Federal Election Commission	8,293,000	8,646,000		8,646,000	8,646,000	+353,000		+8,646,000	
General Services Administration:									
Federal building fund:									
Appropriation for construction of buildings	21,150,000					-21,150,000			
Appropriation for rental of space				115,000	115,000	+115,000	+115,000	+115,000	

	New BA enacted fiscal year 1979	New BA estimates fiscal year 1980	New BA House fiscal year 1980	New BA Senate fiscal year 1980	New BA conference fiscal year 1980	Conference compared with—			
						Fiscal year 1979 enacted	Fiscal year 1980 estimate	House bill	Senate bill
Limitation on availability of revenue:									
Construction of buildings	(114, 014, 205)	(16, 287, 000)	(18, 787, 000)	(29, 280, 000)	(36, 380, 000)	(−77, 634, 205)	(+20, 093, 000)	(+17, 593, 000)	(+7, 100, 000)
Alterations and major repairs	(200, 000, 000)	(180, 000, 000)	(180, 000, 000)	(144, 570, 000)	(145, 953, 000)	(−54, 047, 000)	(−34, 047, 000)	(−34, 047, 000)	(+1, 383, 000)
Purchase contract payments	(100, 473, 000)	(99, 700, 000)	(99, 700, 000)	(99, 700, 000)	(99, 700, 000)	(−773, 000)			
Rental of space	(520, 137, 000)	(554, 600, 000)	(554, 600, 000)	(577, 900, 000)	(574, 700, 000)	(+54, 563, 000)	(+20, 100, 000)	(+20, 100, 000)	(−3, 200, 000)
Real property operations	(474, 953, 000)	(498, 063, 000)	(498, 063, 000)	(498, 063, 000)	(498, 063, 000)	(+23, 110, 000)			
Program direction and centralized service	(70, 065, 000)	(72, 472, 000)	(72, 472, 000)	(72, 472, 000)	(72, 472, 000)	(+2, 407, 000)			
Total, Federal buildings fund:									
New budget (obligational) authority	21, 150, 000			115, 000	115, 000	−21, 035, 000	+115, 000	+115, 000	
Limitations	(1, 479, 642, 205)	(1, 421, 122, 000)	(1, 423, 622, 000)	(1, 421, 985, 000)	(1, 427, 268, 000)	(−52, 374, 205)	(+6, 146, 000)	(+3, 646, 000)	(+5, 283, 000)
Federal Supply Service:									
Operating expenses	170, 466, 000	143, 028, 000	143, 028, 000	143, 028, 000	143, 028, 000	−27, 438, 000			
General supply fund	10, 000, 000					−10, 000, 000			
Total, Federal Supply Service	180, 466, 000	143, 028, 000	143, 028, 000	143, 028, 000	143, 028, 000	−37, 438, 000			
National Archives and Records Service:									
Operating expenses	75, 938, 000	80, 446, 000	80, 446, 000	80, 446, 000	80, 446, 000	+4, 508, 000			
Records declassification	1, 655, 000	3, 255, 000	3, 255, 000	2, 855, 000	3, 055, 000	+1, 400, 000	−200, 000	−200, 000	+200, 000
Total, National Archives and Records Service	77, 593, 000	83, 701, 000	83, 701, 000	83, 301, 000	83, 501, 000	+5, 908, 000	−200, 000	−200, 000	+200, 000
Automated Data and Telecommunications Service:									
Operating expenses	8, 886, 000	9, 222, 000	8, 900, 000	9, 222, 000	9, 200, 000	+314, 000	−22, 000	+300, 000	−22, 000
Federal telecommunications fund		5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000	+5, 000, 000			
Total, Automated Data and Telecommunications Service	8, 886, 000	14, 222, 000	13, 900, 000	14, 222, 000	14, 200, 000	+5, 314, 000	−22, 000	+300, 000	−22, 000
Federal Property Resource Activities:									
Operating expenses	3, 954, 000	15, 617, 000	43, 453, 000	43, 453, 000	43, 453, 000	+39, 499, 000	+27, 836, 000		
Disposal of surplus real and related property, operating expenses	7, 549, 000	6, 526, 000				−7, 549, 000	−6, 326, 000		
Expenses, Defense Production Act		1, 519, 000					−1, 519, 000		
Stockpile operations		198, 310, 000					−198, 310, 000		
Total, Federal Property Resources Activities	11, 503, 000	221, 972, 000	43, 453, 000	43, 453, 000	43, 453, 000	+31, 950, 000	−178, 519, 000		
Preparedness activities: Federal Preparedness Agency, salaries and expenses	(39, 245, 000)					(−39, 245, 000)			
General activities:									
General management and agency operations, salaries and expenses	15, 532, 000	19, 867, 000	18, 988, 000	104, 758, 000	6, 675, 000	−8, 857, 000	−13, 192, 000	−12, 313, 000	−98, 083, 000
Office of the Inspector General	1, 700, 000			18, 874, 000	18, 874, 000	+17, 174, 000	+18, 874, 000	+18, 874, 000	
Indian trust accounting	2, 715, 000	2, 725, 000	2, 725, 000	2, 725, 000	2, 725, 000	+10, 000			
Allowances and office staff for former Presidents	771, 000	798, 000	798, 000	759, 500	759, 500	−11, 500	−38, 500	−38, 500	
Administrative and staff support services	93, 109, 000	97, 204, 000	97, 000, 000		97, 000, 000	+3, 891, 000	−204, 000		+97, 000, 000
Public services		6, 669, 000	6, 600, 000	6, 669, 000	6, 669, 000	+6, 669, 000		+69, 000	
Total, general activities	113, 827, 000	127, 263, 000	126, 111, 000	133, 785, 500	132, 702, 500	+18, 875, 500	+5, 439, 500	+6, 591, 500	−1, 083, 000
Total, General Services Administration	413, 425, 000	590, 186, 000	410, 193, 000	417, 904, 500	416, 999, 500	+3, 574, 500	−173, 186, 500	+6, 806, 500	−905, 000
Office of Personnel Management:									
Salaries and expenses:									
Appropriation	114, 971, 000	114, 139, 000	114, 139, 000	113, 939, 000	113, 939, 000	−1, 032, 000	−200, 000	−200, 000	
By transfer	(33, 439, 000)	(33, 659, 000)	(33, 659, 000)	(33, 659, 000)	(33, 659, 000)	(+220, 000)			
Government payment for annuitants, employees health benefits	606, 035, 000	626, 509, 000	626, 509, 000	626, 509, 000	626, 509, 000	+20, 474, 000			
Payment to civil service retirement and disability fund	2, 440, 638, 000	2, 411, 104, 000	2, 411, 104, 000	2, 411, 104, 000	2, 411, 104, 000	−29, 534, 000			
Intergovernmental personnel assistance	20, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000				
Total, Office of Personnel Management	3, 181, 644, 000	3, 171, 752, 000	3, 171, 752, 000	3, 175, 552, 000	3, 171, 552, 000	−10, 092, 000	−200, 000	−200, 000	
Merit System Protection Board:									
Salaries and expenses	10, 799, 000	9, 125, 000	10, 500, 000	12, 075, 000	12, 075, 000	+1, 276, 000	+2, 950, 000	+1, 575, 000	
Limitation	(9, 000)	(255, 000)	(255, 000)	(255, 000)	(255, 000)	(+246, 000)			
Office of Special Counsel	1, 430, 000	1, 994, 000	3, 250, 000	4, 516, 000	4, 516, 000	+3, 086, 000	+2, 522, 000	+1, 266, 000	
Total, Merit System Protection Board	12, 229, 000	11, 119, 000	13, 750, 000	16, 591, 000	16, 591, 000	+4, 362, 000	+5, 472, 000	+2, 841, 000	
Federal Labor Relations Authority	10, 182, 000	12, 132, 000	10, 590, 000	12, 132, 000	12, 132, 000	+1, 950, 000		+1, 542, 000	
Total, Federal personnel activities	3, 204, 055, 000	3, 195, 003, 000	3, 196, 092, 000	3, 200, 275, 000	3, 200, 275, 000	−3, 780, 000	+5, 272, 000	+4, 183, 000	
President's Commission on Pension Policy: Salaries and expenses		2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000	+2, 000, 000			
U.S. Tax Court: Salaries and expenses	8, 803, 000	9, 391, 000	9, 391, 000	9, 391, 000	9, 391, 000	+588, 000			

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1980 COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New BA enacted fiscal year 1979	New BA estimates fiscal year 1980	New BA House fiscal year 1980	New BA Senate fiscal year 1980	New BA conference fiscal year 1980	Conference compared with—			
						Fiscal year 1979 enacted	Fiscal year 1980 estimate	House bill	Senate bill
TITLE V—INDEPENDENT AGENIES—Continued									
Department of Defense: Defense Civil Preparedness Agency:									
Operation and maintenance	(77, 000, 000)					(−77, 000, 000)			
Research, shelter survey and marking	(19, 500, 000)					(−19, 500, 000)			
Total, Defense Civil Preparedness Agency	(96, 500, 000)					(−96, 500, 000)			
Total, title IV, new budget (obligational) authority, independent agencies	3, 638, 009, 000	3, 808, 672, 000	3, 621, 122, 000	3, 641, 662, 500	3, 640, 757, 500	+2, 748, 500	−167, 914, 500	+19, 635, 500	−905, 000
Grand total, titles I, II, III, and IV:									
New budget (obligational) authority	9, 354, 377, 000	9, 021, 250, 000	8, 789, 724, 000	8, 846, 646, 100	8, 837, 278, 100	−517, 098, 900	−183, 971, 900	+47, 554, 100	−9, 368, 000
Fiscal year 1979 supplemental		1, 200, 000	1, 900, 000	2, 000, 000			−1, 200, 000	−1, 900, 000	−2, 000, 000
By transfer	(33, 448, 000)	(33, 914, 000)	(33, 914, 000)	(33, 914, 000)	(33, 914, 000)	(+466, 000)			
Limitations	(1, 479, 642, 205)	(1, 421, 122, 000)	(1, 423, 622, 000)	(1, 421, 985, 000)	(1, 427, 268, 000)	(−52, 374, 205)	(+6, 146, 000)	(+3, 646, 000)	(+5, 283, 000)

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The amendments in disagreement will be stated.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

and of which at least $5,300,000 shall be available for the Antidumping and Countervailing Duty Program

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: $59,047,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following:

for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided,* That approval is obtained in advance from the House and Senate Committees on Appropriations.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following:

: *Provided,* That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 701 of title 31 of the United States Code: *Provided further,* That none of the funds made available for official expenses shall be considered as taxable to the President

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

FEDERAL ELECTION COMMISSION: SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Federal Election Campaign Act Amendments of 1976, $8,646,000, of which $400,000 shall be available only for activities, including contract support, of the National Clearinghouse of the Federal Election Commission.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert the following: $1,427,268,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert the following: $36,380,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1981, except funds for projects as to which funds have been obligated in whole or in part prior to such date

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

: *Provided, That funds in the Federal Buildings Funds for Alterations and Major Repairs shall, for prospectus projects, be limited to the amount by project shown in the budget justification therefor, except each project may be increased by an amount not to exceed 10 per centum*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

: *Provided further,* That all funds for alterations and major repair prospectus projects shall expire on September 30, 1981, except funds for projects as to which funds have been obligated in whole or in part prior to such date

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert the following: $1,427,268,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert the following: $6,675,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 55 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $18,874,000: *Provided,* That not to exceed $10,000 shall be available for payment for information and detection of fraud against the government, including payment for recovery of stolen government property.

Mr. CHILES. Mr. President, I believe I have adequately covered the highlights of the conference agreement. If there are no questions, I ask unanimous consent that the Senate concur en bloc in the amendments of the House to the amendments of the Senate numbered 9, 11, 18, 26, 33, 34, 35, 40, 42, 43, 45, 53, 55, and 67.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 67 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 613. (a) No part of any of the funds appropriated for the fiscal year ending September 30, 1980, by this Act or any other Act, may be used to pay the salary or pay of any individual in any office or position in an amount which exceeds the rate of salary or basic pay payable for such office or position on September 30, 1979, by more than the overall average percentage increase in the General Schedule rates of basic pay, as a result of any adjustments which take effect during such fiscal year under section 5343 of title 5, United States Code, if such adjustment is granted pursuant to a wage survey (but only with respect to prevailing rate employees described in section 5342 (a)(A) of that title).

(b) The limitations on the availability of funds imposed by this section shall not restrict the payment of any rate of basic pay which does not exceed $4.22 per hour, if such rate of basic pay would be payable were it not for this section.

(c) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EARNING A PAY RAISE

Mr. HATCH. Mr. President, this afternoon the Senate Appropriations Committee voted unanimously to deny pay raises to Senators and Representatives. I think this is one of the most significant decisions ever made by the committee, and I commend every member for taking this action.

Two weeks ago I introduced legislation, S. 1735, to accomplish this result, and I had planned to offer the substance of the bill as an amendment to the continuing resolution. I think the fact that the members of the Appropriations Committee took the initiative to amend the House action is indicative of the concern we all share. My bill was cosponsored by Senators STONE, GARN, HAYAKAWA, LEAHY, and PRESSLER, and I am sure they are also in strong support of the Appropriations Committee vote. Senators GARN and LEAHY are members of that committee.

The rationale for denying ourselves pay increases is simple and does not require many words of explanation. Whether we like to acknowledge it or not, our constituents sent us a message in 1978, and they are not failing to remind us of it in 1979. Throughout the year I have received a steady stream of letters questioning congressional salaries and perquisites in the context of higher and higher prices and our failure to reduce Federal spending significantly.

If Congress were to receive merit increases in pay, let us take a look at our record and see if we deserve such consideration from our constituents. Congress gave itself a substantial raise in 1977. What have we done since then to warrant another? Not much.

The Federal budget in 1977 was $402 billion. In 1979, midsession, it is $496.8 billion, an increase of almost 25 percent in a 2-year period. The average inflation rate in 1977 was 6.8 percent; it is now over 13 percent. The average price of a gallon of gasoline in 1977 was 50.7 cents, a bargain price compared to the average 87.8 cents a gallon consumers were paying last June and the dollar a gallon they are paying now. In 1977, the price for a pound of hamburger was 87.4 cents. The last time my wife bought groceries for our family it was inching close to the $2 a pound mark.

What about the other aspects of congressional activity? We have yet to adopt an energy policy that makes sense, opting instead to create a new Department of Energy. This new arm of bureaucracy has yet to discover one new barrel of oil and has demonstrated its ability to foul up its own ridiculous allocation system. Also since 1977, the General Accounting Office shocked us with the estimate that between $2.5 and $25 billion is lost to Government every year due to waste and mismanagement. Congress, preoccupied with passing new laws, has neglected its responsibility to monitor the success or failures of existing programs. All along our constituents, the intended recipients of benefits of these various programs, had been telling us that problems still existed and the programs were not working.

I suggest to my colleagues that we ought to earn our pay raises. Our constituents resent the fact that we can increase our salaries just by doing nothing, particularly when there is no guarantee that they will receive a cost-of-living adjustment at all.

Maybe Senators and Representatives have some superior understanding of national affairs that would permit us to make decisions day after day without regard to the views and opinions of our constituents. There may be instances when the trusteeship concept of the often debated "Burkian Dilemma" would apply, but when it comes to gaining back the public's confidence in our decisions, we must be responsive to their message. We have not cut taxes, we have not controlled spending, we have not reduced inflation, and yet we may have raised our salaries 12.9 percent. It is no wonder that the taxpayers are dissatisfied with Congress.

Our approval rating according to recent polls is lower than it has been in years. For us to accept an increase in salary at this point would be to demonstrate our total disregard for our constituents' problems as well as the undeniable reality that their hard-earned tax dollars finance our activity here in Washington.

Again, I applaud the action this afternoon by our colleagues on the Appropriations Committee with respect to this pay raise issue. It is time we stopped passing the buck and acknowledged our culpability for many ill-advised policy decisions, especially our propensity to overspend. If the elected Members of Congress forgo their pay raises, freeing the other categories of employees from suffering the consequences of our decisions, I believe we can go a long way toward restoring the confidence of the American people in their elected representatives. We can indicate in positive terms that we are serious about doing a good job and that we recognize we must listen to the message. I am pleased to support the action of the Appropriations Committee on this point and I urge everyone to do likewise.

REMARKS OF FORMER PRESIDENT GERALD FORD ON U.S. DEFENSE POSTURE AND SALT

Mr. THURMOND. Mr. President, Gerald Ford will make remarks today at Valley Forge, Pa., which will hopefully focus attention on the critical state of U.S. defense preparedness, a subject about which I have spoken often in recent years.

In summary, President Ford becomes the highest public leader, outside of the Joint Chiefs of Staff, who has stated publicly that the United States has allowed its defense posture to fall to such dangerous levels that we will be militarily inferior to the Soviets in the early 1980's.

He not only sharply attacks the defense policies of the Carter administration, but he flatly opposes consideration of the SALT agreement until after these defense weaknesses are addressed.

Mr. President, this country is approaching a strategic missile gap of proportions which will have the most serious consequences. Our weakened position of military power could invite the Soviets to instigate Communist revolutions in any hemisphere. Soviet adventures could even lead to the loss of the oil we need so badly from the Middle East. If that happens, the United States could experience an economic collapse which may require decades to overcome.

Mr. President, these matters are of the most serious consequence. I ask unanimous consent that the remarks of President Ford as published in the Washington Post of today, September 26, 1979, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GERALD FORD TAKES HIS STAND ON SALT

I wish to share some of my thoughts regarding the SALT II treaty and America's defense policies. They constitute my first effort at comprehensive public comment on these subjects since leaving the White House in January 1977. I've been there. The responsibilities are awesome. I have weighed these words very carefully.

I have studied the treaty and its accompanying documents in detail. I have been thoroughly briefed by the administration and by those on the other side. I have carefully followed the ongoing debate in the Senate committees. And I am deeply troubled.

Frankly, I am troubled less by the questions in the treaty itself—although there are serious questions—than I am by the air of unreality that seems to accompany some of the debate.

Strategic arms control is of great importance to the United States. I supported the SALT talks in Congress, encouraged them as vice president and pursued them personally as president. We need the SALT process and a good SALT agreement. But neither the SALT talks nor any SALT treaty is an end in itself. It is not the key to all wisdom. It is not a magic answer. Ratification will not bring utopia; rejection will not bring Armageddon.

Just as SALT should never be considered in isolation from the rest of U.S.-Soviet relations, neither should SALT have a higher priority than our national defense program. We must be certain of our strength before we can safely consider SALT limits on it. Let's make certain we get the horse before the cart. It would be catastrophic to reverse the two.

Anyone who recommends a context for the national debate surely should follow his own advice. So, before looking at the particulars of the treaty, let's look at the status of our defense program. Let's try to answer the question: can America be certain of her strength today and during the next decade?

That examination requires a brief history of the evolution of U.S. military strategy in the nuclear age, starting with the initial concept in the '50s—"massive retaliation."

The "massive retaliation" doctrine was based on one simple fact: the United States possessed overwhelming strategic superiority. With it, theoretically, we could presumptively deter and surely control any military conflict with the Soviet Union through the threat of escalation to a nuclear level where the United States was absolutely dominant.

Massive retaliation was a logical response to the frustrations of the early '50s:

In Korea we had achieved our initial objectives, but many people felt that we had become "bogged down" in a situation in which the Communist forces enjoyed a relative advantage.

In Europe we had set NATO force goals which, even if they had been met, would have constituted a severe economic drain.

Even though the United States still enjoyed substantial superiority in its ability to project conventional forces to distant areas of conflict, massive retaliation made good military sense. Put simply, it was a strategy to deter "limited" conflict such as Korea by threatening to respond at a level where both sides knew we would prevail.

The principal problem of "massive retaliation" was its lack of political credibility. A nuclear attack on the Soviet Union seemed so disproportionate a response, and therefore so unlikely a response, to a Soviet provocation at a minor level of conflict that the doctrine of "massive retaliation" could not be counted on to deter local aggression.

So next came steps to add credibility to deterrence by adding flexibility to our military arsenal. While retaining absolute dominance in strategic weapons, we deployed tactical nuclear weapons with the NATO forces. And then in the early '60s, we moved to further improve the credibility of the United States and NATO military strategy by "filling in," with conventional military capability, the lower steps of the escalation ladder of military conflict.

We had moved from the concept of massive retaliation to the concept of "flexible response" under which deterrence of Soviet aggression would rest, not just on the capacity to devastate the Russian heartland, but to respond to Soviet aggression at any level of conflict. At the conventional level, U.S. forces were to be adequate to deal with modest military incursions and to make obvious the inevitability of a U.S. military response to aggression. They were to be sufficient to force a "pause" in the conflict in which the Soviets would contemplate seriously the consequences of continuing hostilities. Should the U.S.S.R. nevertheless persist in its aggression, the United States could then escalate the conflict to the level of tactical nuclear warfare and, if necessary, to the use of strategic nuclear weapons. Since the United States was unmistakably dominant at both these levels, the Soviet Union was clearly deterred from attack in the NATO area.

As we made these moves toward a flexible response doctrine, the famed "missile gap" occurred. Suddenly, and for the first time, we thought that our absolute dominance in strategic nuclear weapons was imperiled by the apparent intention of the U.S.S.R. to produce ICBMs en masse. Because both our defense and deterrence ultimately rested on that dominance in strategic weapons, we moved quickly to modernize and diversify our strategic force—to make it less vulnerable to the massive Soviet missile force we were told was their plan. The strategic posture we have today—the Triad and even the specific weapons systems, the ICBMs, strategic ballistic missile submarines, and bombers—was largely developed at that time.

The "missile gap" fears were based not on what the Soviets were actually doing, but on what we thought they were capable of doing. Our response to the perceived threat ironically proved far more helpful to American security than our reaction to the actual Soviet program once we discovered it in the mid '60s. They were not building missiles at the rate we had feared and so we assumed they desired only a modest strategic capability and, unfortunately, we relaxed. Our Minuteman ICBM program was halted well short of the numbers recommended by our military leaders. The notion of targeting their strategic arsenal was rejected in favor of a concept of targeting Soviet cities under a doctrine of "assured destruction" designed to encourage the U.S.S.R. to do the same because it would require only a small Soviet strategic force to achieve.

All in all, it was a formula bound to produce complacency. You start off with total and absolute superiority; then you get scared that the other side is going to catch up and surpass you, so you diversify and modernize; then you realize the other side wasn't doing anywhere near as much as you thought; and so, psychologically, you believe that the overall result is continued assured superiority. The complacency that followed the awareness that there was no real missile gap was the beginning of our problems today.

A separate but related factor which influenced the policy process was the Vietnam War. Aside from the psychological trauma of Vietnam and its impact on U.S. foreign policy, the conflict had a dramatic negative effect on the several force structure decisions which had been made in the early '60s. The war naturally resulted in very high defense budgets, very little of which was devoted to R & D or force modernization, aside from Vietnam-related items. This natural emphasis was underscored by the desire of the administration in the earlier years of the conflict to conduct the war in a manner calculated to have the least visible and disruptive domestic impact. The result was that during a period when Soviet force development was barreling forward, long-range strategic programs in this country were inadequately funded.

But that was not all. The adverse impact of the war on force development and modernization continued even after U.S. involvement had ended. This occurred as a result of the unfulfilled expectation that the end of the war would permit a "peace dividend," releasing large sums of money for domestic budget needs. The pressures which this produced on the defense budget in general and new strategic programs in particular were extreme. The result was that the defense budget continued to decline as a proportion of the national budget and of the gross national product. These difficulties reinforced both the tendency toward a relaxation of military standards and a propensity to avoid analysis of the evolving strategic balance and the unpleasant choices it might reveal.

We got back on track in the mid-'70s. The B1 bomber program was fully funded. The decision was made to go forward with the MX missile. The Trident submarine program was pushed forward. Priority was given to our other strategic programs. And a major shipbuilding program was designed and budgeted. Unfortunately, since the election of 1976, the defense budgets have actually been proportionately reduced and the weapons programs begun in earlier administrations have been halted or slowed down.

Meanwhile, the Soviet Union has never stopped building. It was thought they would be satisfied with a modest "assured destruction" capacity targeted at our cities. They weren't. Then it was rationalized and assumed that psychologically they needed to keep building until they felt they had achieved strategic force equality and that then they would stop. They didn't. Today's perilous picture is where we stand.

At virtually every level of military competition, the United States is either already inferior to the Soviet Union or the balance is shifting steadily against us. We are inferior and falling farther behind in conventional force capability. Our ability to project military power over long distances is still superior to that of the Soviets, but they are rapidly closing the gap. Our dominant position on the seas is vanishing. Our Navy is no longer a two-ocean powerhouse and the Soviets continue to build a blue-water, power-projecting fleet. In NATO, the increasing Soviet advantage in conventional force capability is no longer balanced by our current or proposed theater nuclear weapons.

And, most critical of all for our national military policy is the strategic nuclear superiority on which we have relied since World War II to rectify and force disparities at lower levels. The strategic balance is clearly shifting against us, especially as we look forward to a period of great vulnerability of our entire ICBM force in the early 1980s.

The question we started with was: can America be certain of her strength today and during the next decade? My answer, frankly, is no.

It is an ominous picture. What should we do about it? The essential first step is to recognize that our military policy is increasingly out of touch with reality. Strategic superiority and escalation dominance are no longer available to cover our conventional military shortfalls, which are growing. This is the fact of our present situation, a fact we have been all too unwilling to face openly.

How do we recover? There is, unfortunately, no easy, painless, inexpensive way. Since we can no longer dominate the escalation ladder, we must have forces able to deal adequately with aggression at every level of conflict. In addition, we need to modify our strategic employment doctrine. No president should be forced to choose between the massive destruction of the Soviet Union or surrender. That is an intolerable burden. It is an intolerable choice.

Broader options obviously demand a larger defense program. Our senior military leaders can better set out the program details and precise dollar amounts essential to our needs, although certain steps are obvious:

We need an MX missile.

We need a new strategic bomber.

We need to accelerate the Trident program as rapidly as our facilities will permit.

We need an air defense at least sufficient to prevent the Backfire bomber from counting on a free-ride attack on the United States.

We need to modernize and enhance our strategic airlift capabilities, to enable us to project our military power adequately wherever it may be needed.

We need additional funds to improve command and control, for readiness training and for conventional force modernization.

And we need assured funding for research and development into the future.

This list is not all-inclusive, but it is certainly expensive. The Joint Chiefs of Staff have indicated that a 5 percent real increase in the defense budget for at least the next five years is a minimum figure. I am prepared to accept and endorse that judgment. Let me also point out that I am not a latter-day convert to the kind of defense program I have outlined. The spending which I proposed when I was in office provided for more than a 5 percent annual increase in the defense budget. The present administration's budgets for the years 1978 to 1983 have fallen behind my proposals by $66 billion in the critical area of military procurement alone. That difference in military hardware averages out to over 21 percent a year.

Now, if we can't be certain of our strength today and during the next decade, what should we do about SALT and the SALT II treaty?

First, we simply must resist the temptation to think of any SALT treaty as a substitute for summoning the will and the money to make our defense and deterrence forces truly effective. To use SALT as an answer to our defense needs is the most dangerous kind of wishful thinking.

Some may say, indeed some have said, that if we're headed into a tough period militarily, isn't a treaty which limits the Soviet Union's capacity for expansion the best answer? Assuming the Soviet Union fully abides by the treaty, it can help, of course. But the best answer to America's inadequate defense and deterrence forces, with or without a treaty, is to spend the funds necessary to make them adequate to the new realities. That's not an argument against the treaty; it is a plea from one who has shouldered the responsibilities of the office, to assure that America's president will have the military tools essential to deter adventurism and to defend our country.

SALT can never be a substitute for the certainty of our strength.

Second, we should firmly reassert our commitment to the SALT process, but with realistic expectations for that process.

SALT will not eliminate U.S.-Soviet competition. It certainly will not eliminate the threat of nuclear war and surely cannot be expected to reduce greatly the extent of destruction should a war occur. It will not permit us to cut the defense budget. Neither the United States nor the Soviet Union is prepared to entrust its fundamental national security to any agreement, no matter how carefully crafted.

What then can SALT do? In military terms, SALT can document the competition that exists and will continue.

SALT can improve the stability of the strategic balance, making an unintended resort to war less likely.

SALT may be able to channel the directions of strategic weapons development, thus lessening the chances that a critically destabilizing breakthrough will occur. It may enable us to avoid some defense expenditures which otherwise might be necessary to achieve a satisfactory strategic balance. And in a perilous rivalry, SALT does perform a service by providing a process of dialogue.

Compared to some extravagant claims and expectations, these are modest benefits, but they are nonetheless significant and well worth our continued serious efforts. Greater expectations are not realistic. And SALT can perform these services only if we do not ask that it also try to regain at the negotiating table what we have unilaterally given up by not strengthening and modernizing our defense programs.

Just as supporters who claim too much for the treaty should not let their euphoria or their rhetoric get the best of them, opponents who allege too little for the treaty should not forget the fundamental point that there is progress in a responsible process.

Third, let us in the future realize what in recent years we seem to have forgotten—that SALT negotiations, like all negotiations, to be successful, are best undertaken from strength.

The current administration is fond of implying that the current treaty is the product of a continuing negotiating process begun with SALT I under the Nixon administration and furthered through the Vladivostok accord under the Ford administration. They miss the critical point.

The truth is that we negotiated a real breakthrough at Vladivostok with the mutual acceptance of the principle of equivalence. But we negotiated the Vladivostok accord in the full expectation of a significantly stronger American strategic posture than what was actually in effect or programmed when this SALT II treaty was signed.

Many of the overall ceilings in the treaty were first set forth at Vladivostok. But that agreement was reached against a backdrop of a defense program which included such elements as deployment of our MX missile in 1983, deployment of the B1 bomber commencing this year with a production rate of four per month, a strong land-, sea- and air-based cruise missile program, an accelerated Trident program with the first boat to be deployed this year, and a determination to stop and reverse the decline in the share of our national income being allocated to defense. At the time of Vladivostok, our verification facilities in Iran were secure, and the Soviet Union at that time was not embarked on or supporting geopolitical adventures in such places as Ethiopia, South Yemen and Afghanistan. The Vladivostok accord did not solve all the problems confronting us. But it was an agreement based on equality, flexibility and on the certainty of America's strength into the future.

Dealing from strength, our goal was the rapid conclusion of a SALT II agreement, thereby enabling us in SALT III negotiations to deal with remaining intractable issues, such as mutual strategic force reductions.

When the strategic force commitments in place at the time of Vladivostok were cut back in 1977, the certainty of our future military strength was also cut back, and America's negotiating posture for both SALT II and SALT III was weakened.

Fourth, there are a number of specific problem areas in the treaty which should be recognized and hopefully corrected by Soviet agreement or by Senate understandings or reservations.

There are useful elements in the treaty. It does put a cap on some elements of strategic force quantitative competition. The upper limit on numbers of MIRV's per missile is especially worthwhile.

On the other hand, I am concerned at the protocol casting a long shadow over the SALT III negotiations and at the pressures we will certainly face to continue restrictions on cruise missiles beyond the term of the protocol. I disagree with the asymmetric treatment by which peripheral systems such as cruise missiles are included in the treaty while the Backfire bomber is dealt with only in a separate Soviet aside.

There are two aspects of the verification issue which trouble me. The manner of resolution of the issues relating to the encryption of missile telemetry at a minimum invites dispute about what is and what is not essential for treaty verification. I am also disturbed by the so-called "new types" article purporting to limit both sides to one new ICBM. The title appears to be a misnomer at best. The treaty permits the broadest kind of missile modernization to be carried out without hindrance. Both because there is no baseline agreement on the dimensions defined and because the tolerances allowed are too narrow, we cannot adequately verify compliance with this article. While it apparently does constrain changes in MIRV size and numbers, as well as propellant types, the article at the very best can be expected to result in disputes over conformity with its provisions. At the worst, it could permit the Soviet Union to deploy five essentially new missiles.

Fifth, and this is the bottom line, even if the questions about the treaty are adequately answered, I am opposed to the ratification of the treaty until and unless we can once again be certain of our strength. That means that our necessary strategic force improvements should be clearly in process. It means that the overall necessary defense spending increases should be unequivocally included in this year's budget, next year's, and each succeeding year of the five-year plan. It means clear policies should be established by the administration, and backed by the Congress in statutory authorizations and by the necessary appropriations. These requirements undoubtedly will mean that a final vote on ratification would not happen until well into next year. But the delay will be proved worthwhile if ultimate ratification occurs at a time when we are certain of our strength again.

Let me emphasize the point. Some suggest they are for the treaty on the assumption that the necessary defense spending decisions will be made. That is not my position. My position is that I am against the treaty unless the necessary defense spending decisions have been made and have been written into law. I don't believe vague, short-term or revocable assurances are enough; we must be certain on our strength before we accept limits on it.

In very practical terms, only if the Soviets know there is an unacceptable penalty for violations can they be expected to abide by the provisions of SALT II and stay on the safe side of any uncertainties and ambiguities—and be prepared to negotiate seriously on SALT III. The Soviets will not be persuaded either by expressions of good will or by pleas for restraint if they believe in their conventional and strategic superiority. They must be convinced by reality that we have other options. Only then will SALT II be a viable instrument and only then will there be any hope of real progress in SALT III.

Many will ask how we can call for a stronger defense program while we face raging inflation, rising unemployment, a recession, a severe energy crisis and a host of pressing domestic problems. The question is reasonable. I do not claim the answer will be easy. But I am not speaking out now from the comfortable vantage point of a sidelines observer. During my term of office, I did increase the defense budget—by 5.8 percent in real terms in FY77 alone, even after substantial congressional cuts. I did get under way a substantial five-year shipbuilding program—providing almost twice the number of ships in the current program—to ensure our naval predominance in the years ahead. I did have under way an MX missile and a B1 bomber program as well as other force improvement packages. *And*, I was doing this while helping reduce inflation from 12.5 percent to 4.8 percent. It can be done. We can afford it; what we cannot afford are self-defeating "guns or butter" arguments.

Let me close with a deep personal concern. My greatest fear for this country is that the obvious danger signals for our economic security will blind our leadership or our people to the more subtle danger signals for our national security.

The danger signals for our economy are all around us. The experts cite the high inflation rates, the high unemployment rates and the high interest rates. The people don't need the experts to tell them they have problems. They live every day with the costs of energy and food and housing. A clear and present economic danger is obvious.

These pressing economic concerns may keep many Americans from recognizing the importance of the SALT and defense debate. There is no everyday statistical equivalent in the national security area to the cost-of-living index. The erosion of a nation's defenses is not obvious at the supermarket. The priority of our defense budget seems a distant concern in the gas lines. We certainly don't need any more problems. We all would like to wish them away.

But neither Washington's preoccupation with politics nor our people's preoccupation with the high price of everything must be permitted to obscure a clear and present danger to our national security.

The decisions we make on our defense budget and the SALT treaty are as important as any decisions America has ever had to make. The necessity for economic and energy security is inseparable from a commitment to national and military security.

Without the deterrence of an adequate range of military resources, our diplomacy can be hamstrung in the face of Soviet adventurism which potentially further challenges our worldwide energy supply lines.

Without a revitalized, diversified and secure strategic capability, our allies cannot recover their confidence in our overall leadership which is precondition to recovering their confidence in our dollar.

Without the psychological confidence based on the certainty of our strength, no American president can be certain to deter the kind of conflict that makes economic security irrelevant.

Let me repeat: the necessity for economic and energy security is inseparable from a commitment to national military security. A bold America today is the only sure road to a secure and thriving America tomorrow.

ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:11 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce, with amendments; that the House insists upon its amendments and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Zablocki, Mr. Fascell, Mr. Bingham, Mr. Bonker, Mr. Pease, Mr. Barnes, Mr. Wolpe, Mr. Fithian, Mr. Broomfield, Mr. Lagomarsino, Mr. Findley, and Mr. Gilman were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 1037) to establish an actuarially sound basis for financing retirement benefits for police officers, firefighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3384. An act to authorize the disposal of a certain quantity of industrial diamond stones from the National Defense Stockpile;

H.R. 5163. An act to authorize the sale to certain foreign nations of certain excess naval vessels; and

H.R. 5380. An act to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1979, for a certain period.

At 1:11 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 111, an act to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2515. An act to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes;

H.R. 5168. An act to extend certain expiring provisions of law relating to personnel management of the Armed Forces; and

H.J. Res. 406. A joint resolution to extend by one hundred and twenty days the expiration date of the Defense Production Act of 1950.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 167. A concurrent resolution expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning that Government's systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union, that the Department of State should pursue this matter at the diplomatic level with the Soviet Union and other countries, and that the United States delegation to the next Congress of the Universal Postal Union seek the compliance of the Government of the Soviet Union with the Acts of the Universal Postal Union.

The message also announced that the House has passed, without amendment, the following joint resolution:

S.J. Res. 105. A joint resolution to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

At 4:01 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5218. An act to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance; and

H.R. 5369. An act to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process.

At 4:29 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 4393, an act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1980, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 8, 32, 46, and 70 to the bill, and concurs therein; that the House recedes from its disagreement to the amendments of the Senate numbered 9, 11, 18, 26, 33, 34, 35, 40, 42, 43, 45, 53, 55, and 67 to the bill, and concurs therein each with an amendment in which it requests the concurrence of the Senate.

HOUSE BILLS AND CONCURRENT RESOLUTION REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 2515. An act to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3384. An act to authorize the disposal of a certain quantity of industrial diamond stones from the national defense stockpile; to the Committee on Armed Services.

H.R. 5163. An act to authorize the sale to certain foreign nations of certain excess naval vessels; to the Committee on Armed Services.

H.R. 5168. An act to extend certain expiring provisions of law relating to personnel management of the Armed Forces; to the Committee on Armed Services.

H.R. 5218. An act to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance; to the Committee on Foreign Relations.

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 167. A concurrent resolution expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning that Government's systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union, that the Department of State should pursue this matter at the diplomatic level with the Soviet Union and other countries, and that the United States delegation to the next Congress of the Universal Postal Union seek the compliance of the Government of the Soviet Union with the acts of the Universal Postal Union; to the Committee on Foreign Relations.

HOUSE BILL AND JOINT RESOLUTION HELD AT DESK

The following bill and joint resolution were read twice by their titles and held at the desk:

H.R. 5380. An act to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1979, for a certain period.

H.J. Res. 406. A joint resolution to extend by one hundred and twenty days the expiration date of the Defense Production Act of 1950.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 26, 1979, he presented to the President of the United States the following enrolled bill:

S. 275. An act for the relief of Leah Mi Cohen.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents and papers, which were referred as follows:

EC-2219. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to establish an improved program for extra long staple cotton; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2220. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Lower Graded Military Personnel With Families Are Not Suitably Housed But Should Be"; to the Committee on Armed Services.

EC-2221. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1978; to the Committee on Banking, Housing and Urban Affairs.

EC-2222. A communication from the Secretary of the Interior, transmitting, pursuant to law, the 1979 Annual Report on Mining and Minerals Policy; to the Committee on Energy and Natural Resources.

EC-2223. A communication from the Secretary of the Interior, transmitting, pursuant to law, notice of the application of Aminoil USA, Inc., for repayment of excess gas royalties; to the Committee on Energy and Natural Resources.

EC-2224. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on sales of refined petroleum products and retail gasoline for June 1979; to the Committee on Energy and Natural Resources.

EC-2225. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting relating to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2226. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improving Financial Management In The United Nations by Strengthening Audits and Evaluations"; to the Committee on Foreign Relations.

EC-2227. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, additional reports in the series of reports being prepared by the International Bank for Reconstruction and Development, the group of Controller's evaluation reports by the Inter-American Development Bank, and post-evaluation reports by the Asian Development Bank; to the Committee on Foreign Relations.

EC-2228. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a report on the withdrawal of a previously published system of records for the FBI, and details on the new proposed system; to the Committee on Governmental Affairs.

EC-2229. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Streamlining Zero-base Budgeting Will Benefit Decisionmaking"; to the Committee on Governmental Affairs.

EC-2230. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to establish a national program of protection against medical expenses for all Americans; jointly, by unanimous consent, to the Committee on Finance and the Committee on Labor and Human Resources.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of Health, Education, and Welfare, proposing a national program of protection against medical expenses for all Americans, be referred jointly to the Committee on Finance and the Committee on Labor and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-468. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY JOINT RESOLUTION No. 28

"Whereas, The California Fire Incident Reporting System reports that during the year 1976, approximately 50 percent of dwelling fires originated in kitchen, sleeping, hallway, and living areas; and

"Whereas, The State Fire Marshal reports that discarded smoking materials are still one of the major causes of dwelling fires and that 65 percent of reported fire deaths occurred in residences; and

"Whereas, The 1976 California Fire Incident Reporting System reports that 26.1 percent of hospital fires in the state are caused from cigarettes, and 30 percent of fires in those hospitals are caused by abandoned or discarded material such as cigarettes; and

"Whereas, The United States Fire Administration reports that 7,500 persons annually die from fire and smoke; and

"Whereas, The estimated number of fire deaths due to 'dropped cigarettes' total 1,800 annually, an average of five deaths per day; and

"Whereas, The National Fire Protection Association reports the estimated annual amount of dollar loss in the United States due to fires caused by dropped cigarettes totals 1½ to 2 billion dollars; and

"Whereas, Experiments have shown that a freshly lit cigarette will burn continuously for an average of 24 minutes when placed on a flat surface; and

"Whereas, With rare exceptions, it has been shown that a discarded cigarette must burn for approximately five minutes or more before a fire will start; and

"Whereas, Tobacco companies produce fast burning cigarettes by various methods, the most common by adding citrate and phosphate salts to cigarette paper as a burn promoter, by using porous cigarette paper which aids in the burning process, and by adding sodium and potassium nitrate in tobacco to promote burning; and

"Whereas, There are over 20 patents that detail methods for making cigarettes self-extinguish; and

"Whereas, Tobacco companies can modify cigarettes in various ways to produce a self-extinguishing product; and

"Whereas, It is becoming increasingly apparent that in addition to public awareness campaigns and educational programs conducted by governmental agencies, the cigarette industry should produce firesafe cigarettes; and

"Whereas, Tobacco and tobacco products are specifically excluded from the provisions of the Consumer Product Safety Act (15 U.S.C. 2051) and the Federal Hazardous Substance Act (15 U.S.C. 1261); and

"Whereas, Continued disregard of the contribution that the careless use of tobacco and tobacco products, particularly cigarettes, makes to the increasing number of dwelling and hospital fires is inexcusable; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to undertake appropriate legislative action banning the production of any cigarette that does not self-extinguish in five minutes or less and, thereby, establishing safety standards for cigarettes produced and sold in the United States in an effort to bring about a decline in dwelling, hospital, and other cigarette caused fires throughout the United States; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to each member of the Consumer Product Safety Commission, to the Federal Food and Drug Administration, to the Bureau of Alcohol, Tobacco, and Firearms Enforcement of the United States Treasury Department, and to the Secretary of Health, Education and Welfare."

POM-469. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"SENATE JOINT RESOLUTION No. 18

"Whereas, The increase in near misses over California's populated airways and residential neighborhoods has caused great concern with respect to the safety of operation of both commercial and private aircraft; and

"Whereas, California has some of the busiest air traffic corridors in the nation where potential conflicts frequently exist between commercial and private aircraft; and

"Whereas, This state's worst air fatality occurred between a Pacific Southwest Airlines Boeing 727 and a Cessna 172 killing 144 persons near San Diego's Lindbergh Field on September 25, 1978; and

"Whereas, The federally assisted Airport Development Aid Program has been instrumental in establishing a nationwide system of public airports adequate in meeting present and future needs of civil aeronautics; and

"Whereas, This program will soon end its 10-year operation of allocating funds for updated navigational aids, safety equipment, and airport construction to our nation's airports; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California, respectfully memorializes the Congress of the United States to extend the Airport Development Aid Program in a manner that

will assure that the approximately three billion dollars now accumulated in the fund, plus any additional funding, be expeditiously allocated for programs which will meet the pressing air safety needs that exist throughout the country; and be it further

"*Resolved*, That the Legislature of the State of California urges the Congress of the United States to require the Federal Aviation Administration to develop a funds grant system within the Airport Development Aid Program that will give priority to safety related improvements, and to direct the Federal Aviation Administration to work in conjunction with the National Transportation Safety Board in developing a suitable priority system; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-470. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"SENATE JOINT RESOLUTION No. 25

"Whereas, The Southern Pacific Transportation Company petitioned the Interstate Commerce Commission on November 15, 1977, for permission to discontinue the operation of passenger rail commuter service between San Francisco and San Jose and intermediate points; and

"Whereas, On July 6, 1979, an administrative law judge of the commission issued a preliminary affirmative ruling on this petition, and this ruling will become effective unless overturned by the commission or unless local public transit agencies within six months can negotiate a contract for service with Southern Pacific providing for reimbursement of its fully allocated operating deficit of $11.6 million; and

"Whereas, The Counties of San Mateo and Santa Clara and the City and County of San Francisco have jointly allocated $1.05 million to stabilize Southern Pacific commuter fares through a discount ticket program, as authorized by Section 99151 of the Public Utilities Code; and

"Whereas, Testimony by state and local air quality maintenance agencies before the commission during the course of the public hearings held with regard to the railroad's petition for discontinuance agreed that there will be significant detrimental impacts on the environment should the rail service be discontinued and its ridership forced to use motorized highway transportation; and

"Whereas, The present gasoline shortage has resulted in a 40 percent increase in ridership on this commuter rail service during May and June 1979, and discontinuance of this vital transportation service would be inconsistent with federal energy conservation policies; and

"Whereas, The California Department of Transportation and Southern Pacific Transportation Company have been negotiating since 1978 in an effort to arrive at an acceptable contract for service in order to keep this commuter service operating; and

"Whereas, The Metropolitan Transportation Commission has by resolution opposed the discontinuance of this commuter service and has identified this service to be an important link in the regional transportation system in the San Francisco Bay area; and

"Whereas, The Boards of Supervisors of the Counties of San Mateo and Santa Clara and the City and County of San Francisco have also opposed the discontinuance of this commuter rail service; and

"Whereas, The Senate Transportation Committee of California is investigating different alternatives for improving rail passenger service between San Francisco and San Jose; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Southern Pacific Transportation Company is urged to withdraw its petition to the Interstate Commerce Commission for discontinuance of passenger rail service between San Francisco and San Jose; and be it further

"*Resolved*, That the Interstate Commerce Commission is respectfully memorialized to disapprove the decision of the commission's administrative law judge approving such discontinuance of service and to instead support state and regional efforts to negotiate an equitable contract with the Southern Pacific Transportation Company to continue these services; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Interstate Commerce Commission, to the Public Utilities Commission of California, and to the Southern Pacific Transportation Company."

POM-471. A joint resolution adopted by the Legislature of the State of California; to the Committee on Appropriations.

"SENATE JOINT RESOLUTION No. 26

"Whereas, The proposed budget of the President of the United States sets forth a reduction in federal cooperative fire funding from thirty million dollars ($30,000,000) to zero; and

"Whereas, State and federal cooperative fire protection is necessary to a program of adequate fire protection for western lands; and

"Whereas, The President's zero funding proposal would result in an actual increased cost to the federal government for fire protection services now provided by other fire protection agencies, but unavailable due to loss of the cooperative fire protection program; and

"Whereas, The House Committee on Appropriations has recognized the need for the Federal Cooperative Fire Protection Program and has recommended funding of the program, but at a level inconsistent with the needs of an adequate program; and

"Whereas, The Senate Appropriations Subcommittee on Interior and Related Agencies is currently reviewing funding for the program; and

"Whereas, The Federal Rangeland and Renewable Resources Program strongly supports the need for full funding of the Cooperative Fire Protection Program; and

"Whereas, The fire control program of the State of California will be adversely impacted by the impending loss of federal fire suppression support; and

"Whereas, The House of Representatives has augmented the United States Forest Service appropriation by fifteen million dollars ($15,000,000) to replace this lost program; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Senate Appropriations Subcommittee on Interior and Related Agencies is hereby requested to recommend funding for the Federal Cooperative Fire Protection Program in an amount consistent with that recommended in the Rangeland and Renewable Resources Program but, in no event, in an amount less than fifteen million dollars ($15,000,000); and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Members of the Senate Appropriations Subcommittee on Interior and Related Agencies, and to the Governor and chief forestry administrators of the member states of the Western States Legislative Forestry Task Force."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 244. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1308. Referred to the Committee on the Budget.

By Mr. MAGNUSON, from the Committee on Appropriations, with amendments:

H.J. Res. 404. Joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes (Rept. No. 96-332).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 240. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3354.

S. Res. 242. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1398.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations:

Roberts Bishop Owen of the District of Columbia, to be Legal Adviser of the Department of State.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be reported, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. CHURCH, from the Committee on Foreign Relations:

Irving G. Cheslaw, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Trinidad and Tobago.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be reported, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Irving G. Cheslaw.

Post: Ambassador to Trinidad and Tobago.

Contributions, amount, date, and donee:

1. Self, $100, 10/20/78, James C. Corman, Campaign Committee.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

By Mr. CHURCH, from the Committee on Foreign Relations:

John R. Clingerman, of Michigan, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Kingdom of Lesotho.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be reported, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: John R. Clingerman.
Post: Ambassador to Kingdom of Lesotho.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

By Mr. CHURCH, from the Committee on Foreign Relations:

Kenneth M. Curtis, of Maine, to be Ambassador Extraordinary and Plenipotentiary of the United States to Canada.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be reported, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Nominee: Kenneth M. Curtis.
Post: Ambassador—Canada.
Contributions, amount, date, and donee:
1. Self, See attached.
2. Spouse, See attached.
3. Children and spouses names, Angela M. Curtis (daughter), none.
4. Parents names, Harriett T. Curtis (mother), none. Archie M. Curtis (father), (deceased).
5. Grandparents names (deceased).
6. Brothers and spouses names (none).
7. Sisters and spouses names, Rebecca Merideth (sister), Donald Merideth (spouse), none reported. Joyce Curtis (sister), none reported (no spouse).

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions:

1. Self: Kenneth M. Curtis, $50.00, June 1, 1975, Maine Democratic State Committee; $6.00, October 31, 1975, Maine for Muskie Committee; $10.00, November 3, 1975, People for O'Leary Committee; $50.00, May 1, 1976, Maine Democratic State Committee; $50.00, May 26, 1976, Maine Democratic State Committee; $7.00, June 1, 1976, South Portland Democratic State Committee; $60.00, June 28, 1976, Maine Democratic Party; $10.00, August 3, 1976, Joe Brennan Day; $25.00, October 4, 1976, Barton for Congress Committee; $50.00, May 4, 1977, Maine Democratic State Committee; $50.00, July 12, 1978, Maine Democratic State Committee; $50.00, October 16, 1978, Committee to Reelect Senator Hathaway; $10.00, October 31, 1978, Committee to Reelect Sharon Benoit; $178.21, November 2, 1978; Carolyn's (John Quinn for Congress Reception); $50.00, November 6, 1978, Gallen for Governor; $50.00, March 9, 1979, Citizens for Brennan; and $100.00, April 12, 1979, Carter-Mondale Presidential Committee.
2. Spouse: Pauline B. Curtis, $50.00, June 1, 1975, Maine Democratic State Committee; $50.00, May 1, 1976, Maine Democratic State Committee; $50.00, May 4, 1977, Maine Democratic State Committee; and $50.00, July 12, 1978, Maine Democratic State Committee.

By Mr. CHURCH, from the Committee on Foreign Relations:

Thomas W. M. Smith, of Maine, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Ghana.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be reported, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Smith, Thomas W. M.
Post:
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses names, Julia H. M. Smith, none; Ann L. M. Smith, none.
4. Parents, Sarah S. M. Smith, none. Father: deceased; Mother: I. L. L. Smith, $10, 1978, Senator Brooke. $20, 1978, Mr. Frank Hatch.
5. Grandparents names, deceased.
6. Brothers and spouses names, James M. Smith, wife K. A. Smith is separated and soon to be divorced. Data unavailable, but believed to be nil; $25, 1978, Senator Brooke.
7. Sisters and Spouses names, Emily J. M. Cain, none; Thomas Cain, none.

By Mr. CHURCH, from the Committee on Foreign Relations:

Donald R. Norland, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Chad.

(The above nomination from the Committee on Foreign Relations was reported with recommendations that it be reported, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Donald R. Norland.
Post: Ambassador to Chad.
Contributions, amount, date, and donee:
1. Self, Donald R. Norland, none.
2. Spouse, Patricia B. Norland, none.
3. Children and spouses names, Richard B. Norland (age 24); David W. Norland (age 22); and Patricia D. Norland (age 20), none.
4. Parents names, Aletta R. Norland; Norman Norland (deceased), none.
5. Grandparents names, deceased, none.
6. Brothers and spouses names, Robert B. and Armande Norland; Phillip N. and Deloma Norland; Lionel and Donna Norland, none.
7. Sisters and spouses names, Ruth Norland Cline (spouse deceased), none.

By Mr. CHURCH, from the Committee on Foreign Relations:

Nancy V. Rawls, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Ivory Coast.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be reported, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Nancy V. Rawls.
Post: Abidjan, Ivory Coast.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, N.A.
3. Children and spouses names, N.A.
4. Parents names, Eugene Lawrence; and Vivian Perkins Rawls, none.
5. Grandparents names, deceased.
6. Brothers and spouses names, Eugene Lawrence; and Joanne Waxler Rawls, none.
7. Sisters and spouses names, N.A.

By Mr. CHURCH, from the Committee on Foreign Relations:

Richard Noyes Viets, of Vermont, to be Ambassador Extraordinary and Plenipotentiary of the United States to the United Republic of Tanzania.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be reported, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Richard Noyes Viets.
Post: American Embassy Tanzania.
Contributions, none.
1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

By Mr. CHURCH, from the Committee on Foreign Relations:

Francois M. Dickman, of Wyoming, to be Ambassador Extraordinary and Plenipotentiary of the United States to the State of Kuwait.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be reported, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Francois M. Dickman.
Post: Ambassador to Kuwait.
Contributions, amount, date and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses names, Christine D. Andrews, spouse; Raymond Andrews, none; Paul T. Dickman, $5.00, 1978, Dollars for Democrats.
4. Parents names, Henriette L. Dickman (mother); father deceased, $10.00, 1976; $20.00, 1977; $20.00, 1978; $10.00, 1979, President's Club of Democratic Party.
5. Grandparents names, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

By Mr. CHURCH, from the Committee on Foreign Relations:

William D. Wolle, of Iowa, to be Ambassador Extraordinary and Plenipotentiary of the United States to the United Arab Emirates.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be reported, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: William D. Wolle.
Post: Abu Dhabi.
Contributions, amount, date, and donee:
1. Self, William D. Wolle, none.
2. Spouse, Mimmi T. Wolle, none.
3. Children and spouses names, Laila J. Wolle, single; William N. Wolle, single, none.
4. Parents names, William C Wolle; Vivian D. Wolle, none.
5. Grandparents names, deceased prior to 1976, none.
6. Brothers and spouses names, Charles and Kerstin Wolle, none.
7. Sisters and spouses names, David and Carolyn Cox; Mitchell and Janice Nielsen, none.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEINZ (for himself, Mr. HOLLINGS, Mr. MATSUNAGA, and Mr. DECONCINI):

S. 1823. A bill to improve the quality of children's lives through the creation of a National Endowment for Children's Television; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS (for himself and Mr. MORGAN):

S. 1824. A bill to designate the "John D. Larkins, Jr. Federal Building"; to the Committee on Environment and Public Works.

By Mr. NELSON (for himself, Mr. PELL, Mr. ROTH, Mr. CRANSTON, and Mr. PACKWOOD):

S. 1825. A bill to amend the Internal Revenue Code of 1954 to adjust the unified credit against estate and gift taxes to take into account the rate of inflation; to the Committee on Finance.

By Mr. DURENBERGER:

S. 1826. A bill to provide that for purposes of section 165 of the Internal Revenue Code of 1954 losses from Dutch Elm disease shall be treated as casualty; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ (for himself, Mr. HOLLINGS, Mr. MATSUNAGA, and Mr. DECONCINI):

S. 1823. A bill to improve the quality of children's lives through the creation of a National Endowment for Children's Television; to the Committee on Commerce, Science, and Transportation.

NATIONAL ENDOWMENT FOR CHILDREN'S TELEVISION

● Mr. HEINZ. Mr. President, on behalf of myself and my distinguished colleagues Senator HOLLINGS, Senator MATSUNAGA, and Senator DECONCINI, I am reintroducing legislation to create a National Endowment for Children's Television. This bill is the culmination of many months of research on the quality of television programing offered for viewing to this Nation's children and their families and provides the means to stimulate and support the work of artists and educators who seek to improve children's television programing.

Children have a demonstrated appetite for TV. By the time a typical American child enters kindergarten, he or she has spent the same amount of time watching television as it would take to earn a 4-year college degree. Yet when we examine what our children are learning from TV, we are all too often disappointed.

All too often children are bombarded with the televised exploits of space age super heroes and crime fighting cops of every description. Television all too often translates emotions into physical rather than thoughtful behavior, and children learn that most problems can be solved by violence; and those that cannot may be solved by guessing the "secret square" and winning a lifetime of prizes.

Clearly it is time for us to begin to offer our children a wider menu of TV choices. We cannot legislate limited consumption of TV, but we can make the diet more "nutritious." Children's TV programing can be a more positive learning experience than it has been. Quality programing can teach kids to be more critical and discriminating consumers of TV. Quality programing can provide the positive models of verbal and emotional expression necessary for healthy development.

This past year has seen a growing movement by parents, educators, and Government to restrict programing they believe to be detrimental. All we hear today is "ban commercials!" "Ban violence!" "Ban sex!" The average 2- to 11-year-old spends 26 hours per week, 52 weeks a year, exposed to programs which are preparing them for a world that all too often does not really exist. But I do not believe that censorship is the answer, for censorship will not solve the problem. We must take positive steps to help those who can improve the quality of TV our children watch and I believe the creation of a National Endowment for Children's TV will be a major step in the right direction.

Specifically, the endowment would:

Fund research into children's TV, to help us better understand the effects of TV and to try to develop positive responses to TV—responses that would expand, rather than restrict the horizons of youngsters;

Fund workshops, institutes, educational and training programs to develop production skills and offer critical skills necessary for quality programs;

Fund talent and productions of artistic and educational significance, as well as the development of experimental programing which may reasonably be expected to contribute to the quality of TV programing for children;

Support public education projects to assist parents and teachers and all others who are committed to providing our children with excellence in their intellectual and emotional environment, of which TV has become an integral part.

While a few people have focused on the issue of commercials, I am far more concerned about the quality of the programs offered to children during the better portion of their viewing time. I believe our children deserve better than scraps from the table. I believe it is time we supported the talent to produce and develop "positive, worthwhile and beautiful alternatives" to the things we know we do not like.

I had hoped, and had in fact been led to believe that the Carnegie Commission report on the future of public broadcasting which was released earlier this year would propose a solution to the serious shortage of resources presently available for children's programing. For this reason, I delayed reintroduction of this bill to create an Endowment for Children's Television, believing that if specific recommendations for improvement of children's programing were already being put forth, my efforts should more appropriately be directed toward supporting those recommendations. Sadly, aside from offering words of praise for the outstanding work already accomplished by the Children's Television Workshop with "Sesame Street" and the "Electric Company," and for taking note of the instructional accomplishments of the Agency for Instructional Television, no specific initiatives directed toward encouraging the development of quality children's programing were even recommended. In my judgment, this was a serious oversight on the part of the Commission, which will likely assure the continuation of insufficient resources and attention to this critical area of programing. Therefore, I am renewing my efforts on behalf of the Endowment for Children's Television without another moment's delay. We have to stop copping out on our children, and we have to stop now.

Chuck Jones, a well-known producer, has written that children see the world through surprised and wondering and trusting eyes. He went on to say that while there is little we can do to enhance the surprise and the wonder, surely we can strive to sustain the trust.

We have a duty to seek and stimulate excellence in TV on our children's behalf. I believe that a National Endowment for Children's TV can attract imaginative, competent, and compassionate people sensitive to the special needs and vulnerabilities of children. The 27 member national council which will guide the endowment will be drawn from outstanding citizens from every walk of life and every part of the country to assure that the children's programing that is assisted reflects the rich diversity of American life, thoughts and values.

Already I have heard from leaders in the field of children's programing who have expressed their support for the national endowment. Leaders like Joan Ganz Cooney, president of the Children's Television Workshop, producer of Sesame Street and Electric Co., who wrote:

> All of us who work in the field much appreciate your continuing leadership in focusing the attention of the Congress on the needs for more quality programming for children. Please know that you have my support as well as my gratitude.

Or the chairman of the Board of Public Broadcasting Services, Newton N. Minow, who wrote:

> It would not be appropriate for me to offer a specific response about your proposal before consulting with others in public television, especially our elected PBS Board of Directors, and those of our colleagues—such as the Children's Television Workshop—who have exemplified leadership in the field for many years. But I can assure you that we in public television share both your sense of the critical importance of this work to our future and your commitment to its support. We look forward to the introduction of your bill, and stand ready to provide our best counsel and assistance to your staff at any time.

Or James A. Keidich, chairman of the Board of Children's World:

> I am pleased to hear that you will be reintroducing your bill for the creation of a National Endowment for Children's Television. I have long been distressed by the quality of programming that reaches children via the commercial stations, and feel that we have to do something to improve this.

Mr. President, I wish to publicly acknowledge at this time letters of support for this bill received from Ms. Cooney, Mr. Minow, Mr. Leidich, Fred

Rogers of Family Communications, Inc., and star of Mr. Rogers' Neighborhood, Ben L. Hooks, executive secretary of the National Association for the Advancement of Colored People, Russell Karp, president of Teleprompter Corp., Daniel Wilson, Jeff Koppel, president, Pennsylvania Association of Child Care Administrators, Jerome L. Singer, professor of psychology and codirector, Yale University Family Television Research and Consultation Center, Archie Tinelli, field services coordinator for the Allegheny Educational Broadcast Council, Stephen E. Sohonyay, administrator of the Lancaster County Bureau of Children's Services, and many others.

Mr. President, I am especially pleased to be joined again in cosponsorship of this bill by the distinguished chairman of the Subcommittee on Communications, Senator Hollings, whose committee will consider this bill. I wish to thank my colleagues Senator Matsunaga, who also supported the bill as a cosponsor in the last session, and Senator DeConcini. I am indebted to all three for their support of this much-needed legislation to upgrade the quality of television programing produced for children.

Mr. President, I ask unanimous consent that the text of the bill to create a National Endowment for Children's Television be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Endowment for Children's Television Act of 1979".

DECLARATION OF FINDINGS AND PURPOSE AND DEFINITIONS

Sec. 2. (a) The Congress hereby finds—

(1) that American children spend a dominant part of their early lives watching television;

(2) that the programing to which children are exposed through the television medium creates an intellectual and emotional environment which plays a decisive role in shaping individual development and perception; and

(3) that there is currently no national entity through which our society can focus its efforts to help promote excellence in the development of television programing for children.

(b) The Congress hereby declares—

(1) that the encouragement of excellence in the development of television programing for children, while primarily a matter for private initiative, is an appropriate subject of concern for the Federal Government;

(2) that the Federal Government can play a useful and fruitful role in providing economic incentives to artists and educators who seek to improve the broadcast environment to which millions of American children are exposed; and

(3) that, in order for the Federal Government to exercise its obligations and responsibilities in promoting the quality of American children's lives, it is desirable to establish a National Endowment for Children's Television.

(c) As used in this Act—

(1) the term "group" includes any State or other public agency, and any society, institution, organization, association, partnership, or establishment in the United States, except that it does not include a license under title III of the Communications Act of 1934 which is not a nonprofit organization; and

(2) the term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands.

NATIONAL ENDOWMENT FOR CHILDREN'S TELEVISION—ESTABLISHMENT

Sec. 3. (a) There is established a National Endowment for Children's Television (hereinafter referred to as the "Endowment").

(b) (1) The Endowment shall be headed by a chairman, to be known as the Chairman of the National Endowment for Children's Television, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of the office of the Chairman shall be four years and the Chairman shall be eligible for reappointment. The provisions of this subsection shall apply to any person appointed to fill a vacancy in the office of the Chairman. Upon expiration of his term of office, the Chairman shall serve until his successor shall have been appointed and shall have qualified.

(c) The Chairman shall be compensated at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(d) The Chairman, with the advice of the National Council on Children's Television, is authorized to establish and carry out a program of contracts or grants-in-aid to groups or individuals engaged in the creation or production of television programing for children, for the purpose of enabling them to provide or support in the United States—

(1) projects and productions which have substantial artistic or educational significance and which meet high standards of merit making them worthy of broadcast on the television medium for viewing by audiences primarily including children;

(2) projects and productions of an experimental nature which may reasonably be expected to contribute to the quality of television programing for children;

(3) workshops, institutes, and training programs in the field of television programing for children; and

(4) other relevant projects, including surveys, research, planning, and publications relating to the purposes of this subsection.

(e) No payment may be made to any group or individual under this section except upon application therefor which is submitted to the endowment in accordance with regulations and procedures established by the Chairman.

(f) The total amount of any grant to any group or individual pursuant to subsection (d) of this section shall not exceed 50 per centum of the total cost of such project or production, except that not more than 20 per centum of the funds allotted by the Endowment for the purpose of subsection (d) of this section for any fiscal year may be available for grants and contracts in that fiscal year without regard to such limitation.

(g) The Chairman shall prescribe appropriate conditions with respect to grants under this Act which will prevent unreasonable profits from being made from projects or other activities receiving such grants.

(h) Whenever the Chairman, after reasonable notice and opportunity for hearing, finds that—

(1) a group or individual is not complying substantially with the provisions of this section; or

(2) any funds granted to a group or individual under this section have been diverted from the purposes for which they were allotted or paid.

the Chairman shall immediately notify the Secretary of the Treasury and the group or individual with respect to which such finding was made that no further grants will be made under this section to such group or individual until there is no longer any default or failure to comply or the diversion has been corrected, or, if compliance or correction is impossible, until such group or individual repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

(i) It shall be a condition of the receipt of any grant under this section that the group or individual receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel (other than laborers and mechanics with respect to whom labor standards are prescribed in subsection (j) of this section) employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall have the authority to prescribe standards, regulations, and procedures as he may deem necessary or appropriate to carry out the provisions of this subsection.

(j) It shall be a condition of the receipt of any grant under this section that the group or individual receiving such grant furnish adequate assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on construction projects assisted under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have with respect to the labor standards specified in this subsection the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

(k) The Chairman shall correlate the programs of the Endowment, insofar as practicable, with existing Federal programs and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this chapter which can be made by other Federal agencies under existing programs.

NATIONAL COUNCIL ON CHILDREN'S TELEVISION

Sec. 4. (a) There shall be, within the Endowment, a National Council on Children's Television (hereinafter referred to as the "Council").

(b) The Council shall be composed of the Chairman, who shall be Chairman of the Council, and twenty-six other members appointed by the President who shall be selected from among private citizens of the United States who are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in, the education, development, and maturation of children or development of television programing for children.

(c) Each member shall hold office for a term of six years, and the terms of office shall be staggered. No member shall be eligible for reappointment during the two-year period following the expiration of his term. Any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(d) The Council shall meet at the call of the Chairman but not less often than twice during each calendar year. Fourteen members of the Council shall constitute a quorum.

(e) Members shall receive compensation at a rate to be fixed by the Chairman but not to exceed the per diem equivalent of the rate authorized for grade GS–18 by section 5332 of title 5 of the United States Code and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (section 5703 of such title 5) for persons in the Government service employed intermittently.

(f) The Council shall (1) advise the Chairman with respect to policies, programs, and procedures for carrying out his functions, duties, or responsibilities under this Act, and (2) review applications for financial assistance under this Act and make recommendations thereon to the Chairman. The Chairman shall not approve or disapprove any such application until he has received the recommendation of the Council on such application, unless the Council fails to make a recommendation thereon within a reasonable time. In the case of an application involving $17,500, or less, the Chairman may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairman, and provided that each such action by the Chairman shall be reviewed by the Council: *Provided*, That the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year for the purposes of this Act.

AUTHORIZATION OF FUNDS TO BE APPROPRIATED

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.●

● Mr. DECONCINI. Mr. President, I am pleased to join my colleague, the distinguished Senator from Pennsylvania, Mr. HEINZ, in cosponsoring the National Endowment for Children's Television Act.

As concerned parents, many of my constituents have expressed their deep and understandable anxiety about the quality of certain network programing and its potential for damaging their children. Well-publicized studies suggest a strong relationship between overexposure to physical violence and the more subtle forms of aggression via television and the development of antisocial behavior traits in children. Citizen pressure and pleas for responsible programing to broadcasters and networks have produced limited results.

My support of this legislation should not be misinterpreted. I share my colleagues' strong distaste of Government interference in the free expression of ideas and ideals. However, I believe that the American people, generally frustrated in their attempts to elicit favorable consideration of their views, are now looking to the Federal Government to encourage, to the extent possible, a new direction in childrens' programing. We can, through the adoption of this legislation, encourage research, disseminate information, and foster the artistic and educational endeavors of those committed to enhancing the emotional and intellectual development of our children.

In 1977, Mr. President, the Congressional Wives' Task Force undertook a survey of American television and its problems and prospects for our children. I feel their findings and recommendations merit the serious attention and consideration of my colleagues. My wife, Susan, participated in this effort and her advice and counsel has given me a much deeper appreciation of the need for constructive action in this area. It is because of the potential contribution that I feel American television can make that I wholeheartedly support the adoption of this legislation.

I ask unanimous consent, Mr. President, to have the Congressional Wives' Task Force report printed in the RECORD at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

A REPORT ON TELEVISION PROGRAMMING

We are wives of Members of the United States Congress and mothers and grandmothers of children of various ages. As women and parents, and as citizens, we are concerned about the quality of American television, which has a significant impact on American society generally. We are opposed to censorship of television in all its forms, but we believe that every American has a right to demand of the networks that they serve the public interest in better ways than they do now.

The most desirable and least complicated solution for the problem of violence on television would be a solution imposed by the networks themselves. In the continuing absence of such a solution, it falls to the American people to inform the networks of the importance of this problem (through advertiser boycotts, through demands for governmental action, or by other means).

In our survey of American television, we have talked with many people. Among them were:

Congressman Lionel Van Deerlin (D-Cal.), Chairman of the House Subcommittee on Communications.

Mrs. Ann Kahn, National Secretary, Parent Teachers Association.

Commissioner Margita White, Member, Federal Communications Commission.

Dr. Michael Rothenberg, Pediatrician and Psychiatrist, Author.

Debbie First, Action for Childrens Television.

Sander Vanocur, formerly newspaper columnist, Washington Post, now with ABC–TV News.

Bill Leonard, Vice President, CBS, Washington, D.C.

Jack Valenti, President, Motion Picture Association, formerly Special Assistant to President Lyndon B. Johnson.

Barry Jagoda, White House Media Affairs Advisor.

Nicholas Miller, Office of Telecommunications Policy.

Squire Rushnell, Vice President for Childrens Programs, ABC.

Eugene S. Cowen, Vice President, ABC, Washington, D.C.

Lestor Strong, ABC–NY.

Nicholas Johnson, Chairman, National Citizens Committee for Broadcasting, former Commissioner, Federal Communications Commission.

Representatives from WATCH (Washington Action for Childrens Television) and the AMA (American Medical Association).

They have helped us formulate our present views.

Our children and grandchildren like all other American children are fascinated by television and watch it extensively. Unfortunately, they are exposed far too often to low budget programming which relies heavily on the depiction of violence—sometimes real and very cruel, sometimes unreal, sometimes subtly glorified, and sometimes simply mechanical. We think the heavy reliance of American television broadcasters on violence in entertainment programming is an outrage against the young people of America, and is not only a disruptive and negative influence in American society, but could well be defined as a secondary form of child abuse.

There is now substantial evidence that televised violence has serious deleterious effects. The report of the Surgeon General's Scientific Advisory Committee on Television and Social Behavior, issued in 1972, found that a causal relationship existed between televised violence and anti-social behavior. The report was based on twenty-three separate and intensive research studies. Dr. Michael B. Rothenberg, a Seattle psychiatrist, who appeared before us, reviewed fifty studies dealing with the effects of televised violence. The studies involved as many as 10,000 children and adolescents from diverse backgrounds, and they showed convincingly "that violence viewing produces increased aggressive behavior in the young."

The American Medical Association has formally concluded that: "TV's massive daily diet of symbolic violence and crime is an environmental hazard" and "a risk factor threatening the health and welfare of young Americans." A six-year study financed by CBS and conducted in London by William Belson concludes that, out of a group of 1,565 boys, those who watch screen violence for long periods commit 50% more rape and other violence than those whose viewing is limited. Belson acknowledges that TV is not the only factor in violent behavior but says he has been successful in isolating TV as a contributing factor. He urges a "major cutback in the total amount of violence being presented."

We have emphasized our concern for children and adolescents, but we also believe that continuous exposure to televised violence is harmful to people of all ages. There is strong evidence that for some viewers, continuous exposure raises their level of anxiety and fearfulness, and that for others it desensitizes them to real violence.

Today, commercial television puts an excessively disproportionate emphasis on the destructive aspects of life. But we know that television can play a significant positive role in American society. To do so, the networks must provide the American people with programs of higher quality and greater diversity than they now do. We think it is their duty to do so as part of their mandate under the 1934 Communications Act to serve "in the public interest".

As for children's programming, the networks present several fine programs. But we believe that there should be more of them during the Saturday morning hours (when virtually every American child under the age of 11 is watching) and during the late afternoon on weekdays, a period which is now barren of programs for young people.

We also think there should be considerably less violence throughout the networks' entertainment schedule. The networks have announced that this is a season of reduced levels of violence. But we are finding that the networks are still relying on the use of violence as a substitute for quality programming.

As a first step towards better television programming, we have several recommendations:

1. We call upon the executive and stockholders of all three major networks to recognize the special responsibility they have

by virtue of the control they hold over a scarce national resource, and to devote a larger share of network profits to the development and purchase of quality programs.

2. We call for stricter control of advertising directed at children, especially in the area of food advertisements, which often feature products that are devoid of nutritional value, and in fact may possibly be hazardous to proper growth and development when consumed on a regular basis (such as candy and sugar cereals). We must rely on the cooperation of the FTC in this area.

3. We endorse the concept of a Children's Television Network which could be financed by federal funding and/or grants or by a combination of public and private funding.

4. We have concluded that local affiliates should have more time to pre-screen programming they buy from the networks, to enable them to make better judgments and to provide them with sufficient time to find a replacement for objectionable programming.

5. We will actively pursue the appointment of commissioners to the FCC who will represent the interests of viewers rather than those of broadcasters. We hope that President Carter's recent appointees will accept this responsibility.

6. We would promote the development of a private rating system to be published in TV Guide and local newspapers noting the levels of violence in programs, to give people a chance to choose other programs ahead of time, and allowing parents to make responsible decisions as to proper viewing where children are concerned.

7. We ask that the networks use their enormous resources to produce daily after-school programming for children. We ask that local broadcast stations, which broadcast varying types of programs during this time period, co-operate with the networks in such initiatives. We would like to commend ABC for their singularly outstanding efforts in this area.

8. We would support an explicitly limited anti-trust exemption to assist the networks in combining their resources to provide children's programming on at least one network each afternoon on a rotating basis, from the hours of 3 to 6. (A similar recommendation was made in 1961 by then FCC Chairman Minow and approved in principle by Attorney General Kennedy.)

9. Although network executives say that their present programming reflects popular tastes, we submit that public viewing patterns reflect a limitation of choices. We hope interested citizens will express their views directly to the networks, the advertisers and the FCC.●

By Mr. NELSON (for himself, Mr. Pell, Mr. Roth, Mr. Cranston, and Mr. Packwood):

S. 1825. A bill to amend the Internal Revenue Code of 1954 to adjust the unified credit against estate and gift taxes to take into account the rate of inflation; to the Committee on Finance.

ESTATE TAX ADJUSTMENT ACT OF 1979

● Mr. NELSON. Mr. President, in behalf of myself, the Senator from Rhode Island (Mr. Pell), the Senator from Delaware (Mr. Roth), the Senator from California (Mr. Cranston), and the Senator from Oregon (Mr. Packwood), I am today introducing a bill which would adjust the Estate Tax Reforms of 1976 for the inflation which has occurred in the past 3 years. I ask that the bill be appropriately referred, and that it be printed in the Record following my remarks.

WHAT THE BILL WOULD DO

This bill proposes to adjust the Federal estate exemption levels for 1979, 1980, and 1981 to bring them into line with the higher prices caused by inflation. The existing law and the proposals of this bill are compared in the table below:

ADJUSTING FEDERAL ESTATE TAX EXCLUSION FOR INFLATION[1]

	Existing Federal estate tax exclusion		Nelson proposed tax exclusions (adjusted for inflation)	
	Credit	Equivalent exemption	Credit	Equivalent exemption
1979	$38,000	$147,333	$48,200	$179,000
1980	42,500	161,563	58,900	213,000
1981	47,000	175,625	70,700	250,000

[1] Calculations by Congressional Joint Tax Committee based upon projections of the Congressional Budget Office in connection with the Second Budget Resoluion, September 1979.

DANGERS OF INACTION

The table shows that if the exclusion is not adjusted, a farm or business which was valued at $175,625 in 1976 will be worth $249,688 in 1981, subjecting an additional $75,000 to estate taxation. If all of this property were taxable it could result in an increased tax of about $24,000. That is the extent of the "inflation penalty" if the law is not revised.

I submit that it was not the intent of Congress when we passed the 1976 legislation to increase estate taxes on family farms and businesses every year. The additional taxes due because of inflation are very substantial (estimated to total $2½ billion in the next 3 years). These increases might well make the difference between survival and extinction for thousands of family businesses. The problem may not be as serious if the enterprise is passed to a surviving spouse. But it can be critical when it is necessary to transmit a farm or business to children; and the more children, the worse the difficulties.

So, it is not just the individual farm or business that is affected. It is the pattern of land ownership and business ownership in this country. If Congress does not act, the danger is that the present estate tax, inflated because of price increases, can mow down a whole generation of family enterprises before we realize what has happened. That would threaten our entire economic system. If we are going to preserve family ownership of farms and commercial enterprises, we must prevent them from being taxed out of existence at the time they are being passed on to the next generation.

The numbers in the bill have been carefully worked out by congressional tax experts, to allow the estate tax law to keep pace with the general inflation rate in the economy. The increases would be available to all estates to keep them in the same position that Congress intended under the legislation of 1976. However, they are especially needed by farmers and entrepreneurs. Businesses must reinvest the bulk of their profits over the years to remain competitive, and therefore accumulate large amounts of property on which they depend to make a living. An ever-increasing estate tax can force the sale of an enterprise to pay, or avoid payment, of the tax.

BACKGROUND: THE 1976 ESTATE TAX REFORMS

In 1975, the Small Business Committee conducted five days of public hearings devoted primarily to small business estate tax problems.[1] At that time, the Federal estate tax laws had not been revised since 1942. The Senator from Minnesota (Vice President Mondale), the chairman of the Joint Economic Committee (Senator Humphrey), the Senator from Oregon (Mr. Packwood) and I heard testimony from many small business owners, farmers, economists and tax experts that:

> It is long past time for Congress to acknowledge the eroding effect which inflation has had on the $60,000 estate tax exemption.

A Minnesota attorney pointed out that when the $60,000 Federal estate tax exemption was established in 1942:

> . . . a loaf of bread cost a dime, a fine automobile could be purchased for less than $1,000, and good farmland was available for $100 an acre or less. If a man left his wife and children with an aggregate of $100,000 . . . he was thought to have secured their financial future . . .[2]

For many people, 1942 seems a long time ago. Yet it must be remembered a great number of farmers and businessmen who are now at or near retirement age acquired their farms during that era. Thirty or 40 years ago, land could be purchased for less than $100 per acre. At these levels farms and businesses could pass from one generation to another with few estate tax problems. By way of comparison, the national average price for acreage in 1979 is $559; ranging from a low of $100 per acre in New Mexico to a high of over $2,000 an acre in New Jersey.

HOW INFLATION EXPANDS THE SCOPE OF THE LAW

The 1975 hearings proved that the fixed exemption limit under the old tax law was preventing many family farms and businesses from being transmitted from one generation to the other. Studies showed that farms were being sold—either to raise the money to pay estate taxes (which inflation had made a major burden), or to avoid paying these taxes.

Independent companies were being forced to merge into large corporations, because marketable stock could be acquired tax free and many estate tax problems associated with a small business could be dispensed with.

To keep the farm or business in the family would mean running the gauntlet of the law and its administration. Tax authorities would often insist on a far higher valuation of the farm or the business than the heirs believed reasonable under the circumstances. There were long delays and added expense of negotiation, and often lawsuits. These convinced many entrepreneurs to take the quick, painless route—sell out and get out.

Footnotes at end of article.

Our committee reported that, in 1942, the estate tax applied to only 1 estate out of 60. But, by 1976, this had increased to 1 out of 10, significantly broadening the application of the law. Because of inflation, the same farm or business that was worth $60,000 in 1942 had come to be valued at about $175,000. Surviving wives could not sustain themselves on $60,000 of assets. The orderly parents to children was being impaired. We recommended a complete revision of the estate and gift tax statutes to bring them up to date.[3]

In 1976, Congress wisely changed the law. In a major reform, the amount of property exempt from Federal tax was increased from $60,000 to $175,625 so that the exemption would again be equivalent to the 1942 level.[4] By doing this, we made it clear that the estate tax should not be expanded in a way that makes it impossible to continue family enterprises.

The increased exemption was also cast in the form of a "credit" so that small, medium-sized, and large estates all receive equal benefit from the amount of the exclusion.

LAW LAGS BEHIND THE ECONOMY

Because of inflation between 1942 and 1976, it was necessary to triple the Federal estate tax exemption to make it realistic. However, to keep down the budget deficit, it was decided to "phase-in" the new exemption level over 5 years, 1977 and 1981. So, the full $175,625 exemption will only apply to estates of persons who die after January 1, 1981. Lesser exemptions are available before that date.

That phase-in assured that the law would lag behind prices to some extent. That made the continuity of independent business vulnerable to inflation. But the threat has been aggravated by an extraordinary surge in prices during the 3 years since the act was passed. By mid-1979, the increase amounted to another 26½ percent.

Furthermore, business property has been rising even faster than the general inflation rate. Farm property in particular has been increasing almost twice as fast as the general inflation rate during the past 20 years.[5] The average operating farm which was valued at $197,000 in 1976 was worth $251,000 in February, 1979, up 27.5 percent. According to studies done by the University of Wisconsin, the average dairy farm in my own State, with about 36 producing cows, was worth about $167,000 at the time of the 1976 estate tax reforms, and the same farm would now be valued at around $216,000, up 29.7 percent. A typical 40-cow dairy farm, which would have been worth approximately $185,000 in 1976, had increased in value to about $240,000, up 29.7 percent.

According to another recent study by the U.S. Department of Agriculture, the real estate component of the farm climbed in value nationally 45 percent between February 1, 1976 and February 1, 1979. During the same period Wisconsin farm real estate rose a startling 60 percent.[6] The price of acreage now averages $559 nationally, and is over $1,000 in 11 States. I ask unanimous consent that two tables prepared by the Department of Agriculture and showing these values be printed in the RECORD following my remarks.

These are not just statistical or theoretical problems. Between 1945 and 1975, the number of farms in the United States has been cut in half, from 5.9 million to 2.8 million. The committee also found during other hearings this year that nonfarmers now own 40 percent of all U.S. farmland. The amount of land owned by working farmers has dropped 62 percent in the past 25 years.

The same forces are at work in industry. A special study by a Cabinet committee in 1969 revealed that 52 percent of the companies in a growth band of the economy—between $10 million and $25 million in assets—disappeared through mergers in that single year.[7]

Rising prive levels also make it more difficult to replace these enterprises if they go out of business. The Tax Foundation in Washington, D.C., recently showed that the cost of doing business has about doubled in the last decade.[8] It is more difficult to go into business and to stay in business.

WIDER CONSEQUENCES OF OUTDATED ESTATE TAX

We have been told repeatedly that Federal estate taxes are a major cause of this attrition of family farms and businesses. In my view, the consequences go far beyond adversity for the families members who wish to perpetuate the enterprises to which they have often devoted their life's work. I believe that reduced family ownership undermines the social and economic foundations of our country.

Independent, locally owned family enterprises are the backbone of communities across the country. American family farms are the most efficient producers of food in the world[9] and small firms are the most cost-effective in many other industries such as construction, retailing, distribution, and numerous services. This efficiency, productivity, and innovation are the envy of the world in farming and in many lines of commerce. These firms, rooted in their local towns and cities, are also a prime factor in the quality of daily life. Their owners care about their employees and, as statistics show, small businesses are the last to cut employment during a recessionary period. Many owners and their families work long hours in churches, hospitals, clubs and charities. They want to make the community which their relatives and friends call home into a better place to live.

The 1976 reforms recognized this and acknowledged that small business is one of the best anchors of support for self-reliant, independent citizens and for slowing down the concentration of property ownership.

To accomplish these goals, the treatment of small and family farms and businesses adopted in the 1976 act took these significant steps:

First, the estate and gift exemptions were tripled to match the price changes between 1942 and 1976;

Second, inflation adjustment was accepted as the best method of adjusting the estate tax. For example, from 1942 until mid-1976 prices rose about 289 percent. The legislation increased the estate tax exemption by 293 percent;

Third, improvements in the lifetime gift tax exemption—from $30,000 to $100,000—provided encouragement for gifts of family businesses to children wishing to take over while the parents were still capable of giving help during the transition period;

Fourth, recognizing the lack of liquidity in family farms and businesses, particularly after the founder has died, the law permitted an extension of the period for paying the tax from 10 to 15 years. It also provided that during the first 5 difficult years for the new owner, interest only could be paid at a rate of 4 percent on the first $1 million of property.

SMALL ENTERPRISES HARDEST HIT BY ESTATE TAXES

So, the 1976 law provided a modern and, in most areas, satisfactory overall framework to Federal estate and gift taxes.

Some problems remain to be resolved. Inflation accelerated beyond what was foreseen at that time. Carryover basis has emerged as a particularly difficult problem. However, since efforts are already well advanced in this area, my bill does not treat that complex matter.

Between 1976 and 1970, estate tax exemptions have fallen another 26½ percent below the price level.[10] We cannot wait another 35 years to update the law, or even 3½ years. We must keep the law abreast of the economy. Steepening increases in estate taxes because of inflation will only increase the pressure against independent ownership of enterprises, and thus against some of our most cherished values of American life.

An inflation adjustment is called for as fair to all taxpayers, but it is critical especially to small businesses and family farms. They are hit hardest by federal estate taxes for the following reasons:

Because farmers and business owners must typically reinvest the great majority of their earnings in their firms to keep them competitive, they have little cash left over to pay taxes;

Business assets, especially commercial construction, are among the fastest rising prices in the economy, which aggravates the effects of inflation in these cases;

Often the enterprise must be sold as a package so it can retain its economic efficiency;

The earnings value of the business property may be quite low in relation to their value in an estate, particularly since the founder and guiding spirit of the enterprise is no longer around to operate it.

Many people do not realize that the estate tax packs such a terrific wallop,

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Footnotes at end of article.

even when it comes to moderate-sized estates. After the exemptions are exhausted the tax takes about one-third of all property above $150,000. Above $5 million in taxable estate, the Federal estate tax rate is 70 percent.

Not so long ago, the new $175,000 exemption seemed like a great deal of property to protect from the Federal estate tax. Now, in some areas of the country many houses would sell for $100,000. In those places not much room is left for farms or businesses to be passed on to heirs without a wicked bite being taken out by the Federal estate tax.

Recent studies by the Agriculture Department and University of Wisconsin show how much investment is needed to operate an efficient farm or business which produces a modest income.

Agricultural economist, Truman Graf of the University of Wisconsin, testified in July that the average dairy farmer with the 36 milking cows made about $10,800 a year (before taxes) for the 3 years in 1976–78. That is far from affluence—especially in return for a 7-day week all year around.

If all types of farms in my State are considered the average income may be higher. Another university analysis found a net farm income of $12,479 in 1977.[11]

But both of these studies show farm income is less than the average wages of manufacturing workers ($13,085) or construction workers ($15,575) during the same period, where there is no investment.

Thus, if public policy is not attuned to preserving the family and independent enterprises which the owners and their heirs wish to carry on, we could see a massive shift in the direction of large, impersonal, conglomerate enterprise which may do far less for the quality of life in our communities and in our Nation, and in many instances would do less for the productivity and efficiency of our economy.

BILL WOULD RESTORE SITUATION ORIGINALLY INTENDED

In summary, this bill is designed to prevent the law from falling further behind in trying to preserve family ownership of business from one generation to another. The adjustments are meant to leave the family farmer and the independent business person in the same position in 1981 which he would have been in 1942 if inflation had not intervened.

We all hope that inflation can be brought under control. But, even if we reduce the rate of price increases in the future, we must still deal with the inflation that has already taken place.

REVENUE CONSIDERATIONS

Mr. President, I believe that this is a moderate, reasonable and technically sound proposal. I am informed that the revenue effect of the measure would be as follows:

REVENUES INVOLVED*

[In millions]

Calendar year	*Revenue cost*
1979	$473
1980	837
1981	1,331
Total: 3 years	2,641

*Estimates by Congressional Joint Tax Committee.

The Treasury Department would probably characterize these sums as a "revenue loss," but, in my view, they represent an unplanned tax resulting from inflation. I submit that such income would be a "windfall" to the Government from taxes which Congress did not intend.

The estate tax is not a major source of revenue. It only accounts for about 2 percent of U.S. taxes.

In my opinion, our economy and society will gain as much or more revenue from the continuity of employment and enterprise which is provided by family businesses, and the dynamism and community stability they impart.

SUMMARY

A rational estate tax will encourage our citizens who put a lifetime of effort into building a business that they will not have the business taken away from their family by the tax collector.

Adjusting the estate tax levels for inflation is essential to such a policy. This bill would accomplish these adjustments for 1979, 1980, and 1981.

I would invite all who are interested to examine this measure critically. Suggestions for its improvement are most welcome. It is my hope that the bill can be refined during the hearing process and that it can be considered and be enacted into law during this 96th Congress.

FOOTNOTES

[1] See "Impact of Federal Estate and Gift Taxes on Small Businessmen and Farmers," Joint Hearings before the Senate Small Business Committee, the Senate Finance Committee, and Joint Economic Committee beginning Aug. 26, 1975, which resulted in the introduction of S. 2819.

[2] "Impact of Federal Estate and Gift Taxes, *loc. cit.*, Aug. 26, 1975, page 45, et seq.

[3] See "The Small Business Estate and Gift Tax Reform Act," Congressional Record, Dec. 18, 1975, p. S 22683.

[4] "Tax Reform Act of 1976," Public Law 94–455. Approved Oct. 4, 1976; sections 2001–2010, amending various sections of the Internal Revenue Code.

[5] "Farm Real Estate Market Developments," Economics Statistics, and Cooperative Service, U.S. Department of Agriculture, Aug. 1979, page 5.

[6] See Table attached.

[7] "Industrial Structure and Competition Policy," Studies by the Staff of the Cabinet Committee on Price Stability, Jan. 1969.

[8] "U. S. Spends $41,000 for Factory Worker, Double 1963 Figure," monthly Tax Features, Nov.-Dec., 1978, Tax Foundation, Inc., Washington, D.C.

[9] Between 1939 and 1978, farm productivity increased 926.4% in the U.S. "Hard Times Down on the Farm" by James H. Wishart, *Viewpoint*, an I.U.D. Quarterly, third quarter, 1979, page 24 *et seq.*

[10] According to the Congressional Joint Economic Committee, for the period 1961 through 1968, prices rose at a rate of 2.04% per year. In the next 8 years, from 1969 through 1976, this inflation rate tripled to 6.34%. For the last 11 years, coming up to 1979, the average yearly increase is 7.03%.

[11] See "Many Love Wisconsin Farm Life but Fail to Make a Living at it," by Steve Hannah, Milwaukee Journal, Sept. 12, 1979, part 1, page 15.

There being no objection, the bill and tables were ordered to be printed in the RECORD, as follows:

S. 1825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Estate Tax Adjustment Act of 1979".

SEC. 2. (a) Subsection (a) of section 2010 of the Internal Revenue Code of 1954 (relating to unified credit against estate tax) is amended by striking out "$47,000" and inserting in lieu thereof "$70,700".

(b) (1) The table contained in subsection (b) of such section 2010 is amended—

(A) by striking out "38,000" in the item relating to 1979 and inserting in lieu thereof "48,200";

(B) by striking out "42,500" in the item relating to 1980 and inserting in lieu thereof "58,900"; and

(C) by striking out "$47,000" in the caption thereof and inserting in lieu thereof "$70,700".

(2) The heading for such subsection (b) is amended by striking out "$47,000" and inserting in lieu thereof "$70,700".

(c) (1) Subsection (a) of section 6018 of such Code is amended by striking out "$175,000" in paragraph (1) and inserting in lieu thereof "$250,000".

(2) Paragraph (3) of section 6018 of such Code is amended—

(A) by striking out "$175,000" in subparagraphs (C) and (D) and inserting in lieu thereof "$250,000";

(B) by striking out "$147,000" in subparagraph (C) thereof and inserting in lieu thereof "$179,500"; and

(C) by striking out "$161,000" in subparagraph (D) thereof and inserting in lieu thereof "$213,000".

SEC. 3. (a) Subsection (a) of section 2505 of the Internal Revenue Code of 1954 (relating to unified credit against gift tax) is amended by striking out "$47,000" in paragraph (1) and inserting in lieu thereof "$70,700".

(b) (1) The table contained in subsection (b) of such section 2505 is amended—

(A) by striking out "38,000" and inserting in lieu thereof "48,200";

(B) by striking out "42,500" and inserting in lieu thereof "58,900"; and

(C) by striking out "$47,000" in the caption thereof and inserting in lieu thereof "$70,700".

(2) The heading of such subsection (b) is amended by striking out "$47,000" and inserting in lieu thereof "$70,700".

SEC. 4. (a) The amendments made by the first section of this Act shall apply to the estates of decedents dying after December 31, 1978.

(b) The amendments made by section 2 of this Act shall apply to gifts made after December 31, 1978.

TABLE 1.—FARM REAL ESTATE: INDEXES OF AVERAGE VALUE PER ACRE, BY STATE, GROUPED BY FARM PRODUCTION REGION, MAR. 1, 1969, 1972–75 AND FEB. 1, 19767–79 [1]

(1967=100)

State	1969	1972	1973	1974	1975	1976	1977	1978	1979
Northeast:									
Maine	120								
New Hampshire	125								
Vermont	133								
Massachusetts	117	174	198	231	257	278	301	332	365
Rhode Island	120								
Connecticut	121								
New York	114	155	176	233	275	296	313	318	347
New Jersey	130	180	211	278	340	377	377	387	418
Pennsylvania	123	167	201	262	315	350	422	471	537
Delaware	107	134	155	199	242	288	334	374	430
Maryland	125	162	191	227	248	299	316	368	420
Lake States:									
Michigan	110	127	150	174	184	201	256	287	319
Wisconsin	114	148	179	214	240	271	322	381	446
Minnesota	112	127	144	186	242	294	369	413	483
Corn Belt:									
Ohio	110	127	147	184	208	252	331	373	448
Indiana	106	113	131	161	200	244	321	361	415
Illinois	109	116	129	173	209	260	353	390	441
Iowa	111	122	141	189	234	294	397	413	475
Missouri	119	143	160	207	214	241	284	325	364
Northern Plains:									
North Dakota	117	127	142	193	265	310	349	369	413
South Dakota	108	118	130	172	214	241	287	336	380
Nebraska	113	127	145	183	215	271	307	295	360
Kansas	110	118	137	178	211	235	267	270	310
Appalachian:									
Virginia	110	149	171	223	250	278	302	327	386
West Virginia	124	177	211	275	317	398	417	426	498
North Carolina	116	138	164	200	216	232	246	253	299
Kentucky	111	137	153	182	203	239	281	317	374
Tennessee	117	142	167	206	236	251	275	307	338
Southeast:									
South Carolina	125	162	179	238	273	284	311	319	373
Georgia	126	175	201	264	298	299	322	357	386
Florida [2]	109	136	155	200	224	237	253	273	303
Alabama	117	146	167	211	233	258	275	288	328
Delta States:									
Mississippi	118	129	144	182	204	205	217	249	279
Arkansas	123	143	159	186	191	213	238	261	316
Louisiana	110	139	148	174	191	201	218	251	286
Southern Plains:									
Oklahoma	108	131	150	183	212	234	258	284	312
Texas	114	138	156	191	193	213	228	252	282
Mountain:									
Montana	111	142	159	203	237	278	321	355	394
Idaho	116	141	159	203	243	264	296	320	349
Wyoming	102	134	153	191	218	254	273	285	322
Colorado	105	128	152	194	209	244	285	305	369
New Mexico	112	136	151	186	197	206	227	236	253
Arizona	115	159	170	208	211	217	227	237	254
Utah	122	173	186	216	232	261	289	305	326
Nevada	132	213	251	299	299	307	307	341	365
Pacific:									
Washington	121	130	145	160	178	213	249	268	297
Oregon	120	170	187	213	228	242	254	277	302
California	109	112	114	122	133	136	137	155	191
48 States	113	132	150	187	213	242	283	308	351

[1] Includes improvements. (See fig. 5 for map of farm production regions.)

[2] Indexes for 1973–79 are estimated by the average of the percentage change in Georgia and Alabama index value.

TABLE 5.—FARM REAL ESTATE VALUES: AVERAGE VALUE PER ACRE OF LAND AND BUILDINGS AND PERCENT CHANGE FROM THE PREVIOUS YEAR, BY STATE, GROUPED BY FARM PRODUCTION REGION, MAR. 1, 1973 AND 1975 AND FEB. 1, 1977–79

State	Mar. 1, 1973		Mar. 1, 1975		Feb. 1, 1977		Feb. 1, 1978		Feb. 1, 1979 [1]	
	Value	Percent change	Value	Percent change	Value	Percent change	Value	Percent change	Value	Percent change
Northeast:										
Maine	$253	17	$341	13	$400	8	$441	10	$485	10
New Hampshire [2]	404	19	564	14	661		729		802	
Vermont [2]	346	16	462	13	541		597		657	
Massachusetts [2]	766	11	961	10	1,126		1,242		1,366	
Rhode Island [2]	1,124	16	1,500	12	1,758		1,939		2,133	
Connecticut [2]	1,229	11	1,525	9	1,779		1,962		2,158	
New York	356	10	510	15	580	6	589	2	642	9
New Jersey	1,337	9	1,807	14	2,004	0	2,057	3	2,222	8
Pennsylvania	491	17	734	18	978	20	1,092	12	1,245	14
Delaware	645	14	971	20	1,340	16	1,500	12	1,725	15
Maryland	843	15	1,060	8	1,355	6	1,578	16	1,799	14
Lake States:										
Michigan	444	20	553	6	767	27	860	12	955	11
Wisconsin	328	20	434	12	583	19	690	18	807	17
Minnesota	269	12	429	27	652	25	730	12	854	17
Corn Belt:										
Ohio	505	15	706	13	1,121	31	1,263	13	1,516	20
Indiana	494	14	720	22	1,159	32	1,303	12	1,498	15
Illinois	567	9	846	18	1,431	36	1,581	10	1,786	13
Iowa	466	13	719	20	1,219	35	1,268	4	1,458	15
Missouri	294	13	396	3	526	18	602	14	674	12
Northern Plains:										
North Dakota	108	10	195	35	258	13	273	6	306	12
South Dakota	94	8	145	22	194	19	227	17	257	13
Nebraska	193	14	282	17	401	13	385	−4	470	22
Kansas	199	14	296	17	376	14	380	1	437	15
Appalachian:										
Virginia	391	13	558	11	676	9	732	8	864	18
West Virginia	204	18	300	15	391	5	403	2	472	17
North Carolina	461	16	590	7	675	6	694	3	819	18
Kentucky	327	11	427	11	595	18	671	13	792	18
Tennessee	346	15	467	13	545	10	608	12	669	10
Southeast:										
South Carolina	336	7	467	12	529	9	543	3	635	17
Georgia	329	13	474	12	509	7	564	11	609	8
Florida [3]	464	15	685	13	777	7	838	8	930	11
Alabama	267	13	364	10	432	7	452	5	515	14
Delta States:										
Mississippi	270	12	379	11	404	6	464	15	520	12
Arkansas	337	14	419	3	521	12	571	10	691	21
Louisiana	403	6	512	9	581	8	669	15	763	14
Southern Plains:										
Oklahoma	219	13	302	15	365	10	402	10	442	10
Texas	196	13	243	1	286	7	316	11	354	12
Mountain:										
Montana	76	12	112	17	152	15	168	11	186	11
Idaho	229	12	339	18	412	12	445	8	485	9
Wyoming	55	15	80	14	101	7	105	4	119	13
Colorado	137	18	188	7	256	17	274	7	332	21
New Mexico	56	14	78	7	89	10	93	4	100	[4] 7
Arizona	91	6	111	1	120	5	125	4	134	
Utah	141	10	188	10	235	11	248	6	265	
Nevada	74	12	85	0	87	0	97	11	104	
Pacific:										
Washington	273	15	350	14	491	17	528	8	586	11
Oregon	205	10	250	7	278	5	303	9	330	9
California	509	3	653	15	673	1	761	13	936	23
48 States	246	12	339	13	448	16	488	9	559	15

[1] Preliminary.

[2] Average rate of change for the 6 New England States was used to project the dollar values for 1976 to 1979.

[3] Values are based upon an index estimated from the average of the percentage change in Georgia and Alabama index values.

[4] The average rate of change for irrigated and dry cropland and pasture land for the 4 Southwestern Mountain States was used to project the dollar value.●

By Mr. DURENBERGER:

S. 1826. A bill to provide that for purposes of section 165 of the Internal Revenue Code of 1954 losses from Dutch elm disease shall be treated as casualty; to the Committee on Finance.

● Mr. DURENBERGER. Mr. President, I am today introducing a bill to amend the Internal Revenue Code to provide that the destruction of trees from Dutch elm disease shall be treated as a casualty loss deduction for purposes of the Internal Revenue Code.

In the past decade, Dutch elm disease has forced the removal of hundreds of thousands of elm and oak trees at a tremendous economical, environmental, and esthetic cost to all Minnesotans. To encourage municipalities and individuals to actively engage in programs to slow the spread of these diseases and to replant new shade trees, the State of Minnesota has appropriated over $50 million since 1977 to assist municipalities in defraying such program costs. Nonetheless, the financial burden for many individual property owners is still substantial. Perhaps hardest hit are elderly homeowners on fixed incomes with large trees that must be removed.

In many Minnesota cities, homeowners are required by local ordinances and State law to remove diseased trees. According to the rules governing the State shade tree program, all high-risk elm trees must be identified and removed within 20 days of notification. Some cities require even faster removal.

In 1978 alone, close to 100,000 elm trees on private property were marked for removal. The figures for 1977 were even higher. Individual tree removal costs vary considerably from city to city and by the size and location of the tree. The cost of removing one large, difficult-to-reach elm tree can easily exceed $600. Assuming, then, an average removal cost of $175 per tree, homeowners in Minnesota in 1978 spent approximately $17.5 million for diseased tree removal.

Private corporations and foundations have joined local governments and homeowners to combat the destruction caused by shade tree diseases. First National Bank of Minneapolis has been among the leaders in this private effort. The bank has established education and referral programs to help homeowners quickly identify and remove diseased trees and save the healthy trees.

The effects of Dutch elm disease have been felt in every corner of our country. Illinois has already lost about 90 percent of its elms. The disease now is hitting hardest in Iowa, Wisconsin, Colorado, and California. Unless we encourage quick detection and removal, it is not unlikely to expect that every State will be ravaged in the not too distant future.

The damage from Dutch elm disease has already run into the hundreds of millions of dollars. Much of this cost has been borne by the private property owner. This bill will help provide the necessary incentive for these property owners to take quick action to remove diseased trees and save the healthy elms.

Saving the Nation's trees has become a community effort in many cities. The Federal Government must join that effort. Given the high cost and the requirement for prompt removal of diseased shade trees, it is imperative that these homeowners be afforded financial relief through an amendment to the Internal Revenue Code allowing such costs to be designated a casualty loss and deductible for Federal tax purposes.

Mr. President, this bill is needed because the Internal Revenue Service has ruled that in order to qualify for a loss deduction, the casualty must meet a "suddenness test." The U.S. Circuit Court of Appeals for the Sixth Circuit has held that the disease does not meet this test. The court stated that the disease itself is progressive and cannot be considered sudden or unexpected.

The fungus causing the disease is introduced into the tree by the elm bark beetle or through root grafts. Once introduced, the fungus responds by producing tylosis and gums, which together plug the vessels. This restricts the tree's water supply causing the tree to wilt and eventually die. The process may be completed within weeks or be spread over several months depending on the tree's individual susceptibility to the disease.

Shade tree diseases are causing a severe loss to the environment and create a personal hardship for many homeowners. Considering the destruction of these trees a casualty for the purposes of the Internal Revenue Service will encourage property owners to remove the diseased trees and replace them with new trees.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for purposes of section 165 of the Internal Revenue Code of 1954, any loss of property resulting from Dutch Elm disease shall be treated as a casualty loss.

SEC. 2. The provisions of the first section of the act shall apply to losses incurred in taxable years beginning after December 31, 1978.

ADDITIONAL COSPONSORS

S. 76

At the request of Mr. STONE, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 76, to amend the Social Security Act to authorize payment under medicare for certain services performed by chiropractors.

S. 725

At the request of Mr. STONE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 725, a bill to deny Members of Congress any increase in pay under any law passed, or plan or recommendation received during a Congress unless such increase is to take effect not earlier than the first day of the next Congress.

S. 1096

At the request of Mr. STEVENS, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 1096, a bill to amend title 39, United States Code, to provide for an extension of the provisions of section 3626(a) relating to reduced rates.

S. 1179

At the request of Mr. BAYH, the Senator from South Dakota (Mr. McGOVERN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Kentucky (Mr. FORD), and the Senator from Oklahoma (Mr. BOREN) were added as cosponsors of S. 1179, a bill to incorporate the Gold Star Wives of America.

S. 1656

At the request of Mr. KENNEDY, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 1656, the National Fishery Development Act.

S. 1790

At the request of Mr. BAYH, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1790, the Privacy Protection Act.

SENATE JOINT RESOLUTION 39

At the request of Mr. RANDOLPH, the Senator from Ohio (Mr. GLENN) was added as a cosponsor of Senate Joint Resolution 39, a joint resolution to establish the "National Employ the Older Worker Week."

SENATE JOINT RESOLUTION 50

At the request of Mr. STONE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of Senate Joint Resolution 50, a joint resolution proposing a constitutional amendment on the effective date of increase in congressional salaries.

SENATE CONCURRENT RESOLUTION 38

At the request of Mr. HEINZ, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of Senate Concurrent Resolution 38, relating to export credits in the steel industry.

SENATE RESOLUTION 244—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. JACKSON, from the Committee on Energy and Natural Resources, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 244

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1308. Such waiver is necessary because S. 1308, the Priority Energy Project Act of 1979 authorizes appropriations for fiscal year 1980 for the Energy Mobilization Board which would be established by S. 1308.

SENATE RESOLUTION 245—SUBMISSION OF A RESOLUTION TO DISAGREE TO REORGANIZATION PLAN NO. 3 OF 1979

Mr. RIBICOFF (by request) submitted the following resolution, which was referred to the Committee on Governmental Affairs:

S. RES. 245

Resolved, That the Senate does not favor the reorganization plan numbered 3 transmitted to the Congress by the President on September 25, 1979.

● Mr. RIBICOFF. Mr. President, I ask unanimous consent that the message from the President accompanying the submission of Reorganization Plan No. 3, along with the text of Reorganization Plan No. 3 of 1979, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1979, to consolidate trade functions of the United States Government. I am acting under the authority vested in me by the Reorganization Act of 1977, chapter 9 of title 5 of the United States Code, and pursuant to section 1109 of the Trade Agreements Act of 1979, which directs that I transmit to the Congress a proposal to restructure the international trade functions of the Executive branch.

The goal of this reorganization is to improve the capacity of the Government to strengthen the export performance of United States industry and to assure fair international trade practices, taking into account the interests of all elements of our economy.

Recent developments, which have raised concern about the vitality of our international trade performance, have focused much attention on the way our trade machinery is organized. These developments include our negative trade balance, increasing dependence upon foreign oil, and international pressures on the dollar. New challenges, such as implementation of the Multilateral Trade Negotiation (MTN) agreements and trade with non-market economies, will further test our Government trade organization.

We must be prepared to apply domestically the MTN codes on procurement, subsidies, standards, and customs valuation. We also must monitor major implementation measures abroad, reporting back to American business on important developments and, where necessary, raising questions internationally about foreign implementation. MTN will work—will open new markets for U.S. labor, farmers, and business—only if we have adequate procedures for aggressively monitoring and enforcing it. We intend to meet our obligations, and we expect others to do the same.

The trade machinery we now have cannot do this job effectively. Although the Special Trade Representative (STR) takes the lead role in administering the trade agreements program, many issues are handled elsewhere and no agency has across-the-board leadership in trade. Aside from the Trade Representative and the Export-Import Bank, trade is not the primary concern of any Executive branch agency where trade functions are located. The current arrangements lack a central authority capable of planning a coherent trade strategy and assuring its vigorous implementation.

This reorganization is designed to correct such deficiencies and to prepare us for strong enforcement of the MTN codes. It aims to improve our export promotion activities so that United States exporters can take full advantage of trade opportunities in foreign markets. It provides for the timely and efficient administration of our unfair trade laws. It also establishes an efficient mechanism for shaping an effective, comprehensive United States trade policy.

To achieve these objectives, I propose to place policy coordination and negotiation—those international trade functions that most require comprehensiveness, influence, and Government-wide perspective—in the Executive Office of the President. I propose to place operational and implementation responsibilities, which are staff-intensive, in line departments that have the requisite resources and knowledge of the major sectors of our economy to handle them. I have concluded that building our trade structure on STR and Commerce, respectively, best satisfies these considerations.

I propose to enhance STR, to be renamed the Office of the United States Trade Representative, by centralizing in it international trade policy development, coordination and negotiation functions. The Commerce Department will become the focus of non-agricultural operational trade responsibilities by adding to its existing duties those for commercial representation abroad, antidumping and countervailing duty cases, the non-agricultural aspects of MTN implementation, national security investigations, and embargoes.

THE UNITED STATES TRADE REPRESENTATIVE

The Trade Representative, with the advice of the Trade Policy Committee, will be responsible for developing and coordinating our international trade and direct investment policy, including the following areas:

Import remedies. The Trade Representative will exercise policy oversight of the application of import remedies, analyze long-term trends in import remedy cases and recommend any necessary legislative changes. For antidumping and countervailing duty matters, such coordination, to the extent legally permissible, will be directed toward the establishment of new precedents, negotiation of assurances, and coordination with other trade matters, rather than case-by-case fact finding and determinations.

East-West trade policy. The Trade Representative will have lead responsibility for East-West trade negotiations and will coordinate East-West trade policy. The Trade Policy Committee will assume the responsibilities of the East-West Foreign Trade Board.

International investment policy. The Trade Representative will have the policy lead regarding issues of direct foreign investment in the United States, direct investment by Americans abroad, operations of multinational enterprises, and multilateral agreements on international investment, insofar as such issues relate to international trade.

International commodity policy. The Trade Representative will assume responsibility for commodity negotiations and also will coordinate commodity policy.

Energy trade. While the Departments of Energy and State will continue to share responsibility for international energy issues, the Trade Representative will coordinate energy trade matters. The Department of Energy will become a member of the TRC.

Export-expansion policy. To ensure a vigorous and coordinated Government-wide export expansion effort, policy oversight of our export expansion activities will be the responsibility of the Trade Representative.

The Trade Representative will have the lead role in bilateral and multilateral trade, commodity, and direct investment negotiations. The Trade Representative will represent the United States in General Agreement on Tariffs and Trade (GATT) matters. Since the GATT will be the principal international forum for implementing and interpreting the MTN agreements and since GATT meetings, including committee and working group meetings, occur almost continuously, the Trade Representative will have a limited number of permanent staff in Geneva. In some cases, it may be necessary to assign a small number of USTR staff abroad to assist in oversight of MTN enforcement. In this event, appropriate positions will be authorized. In recognition of the responsibility of the Secretary of State regarding our foreign policy, the activities of overseas personnel of the Trade Representative and the Commerce Department will be fully coordinated with other elements of our diplomatic missions.

In addition to his role with regard to GATT matters, the Trade Representative will have the lead responsibility for trade and commodity matters considered in the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD) when such matters are the primary issues under negotiation. Because of the Secretary of State's foreign policy responsibilities, and the responsibilities of the Director of the International Development Cooperation Agency as the President's principal advisor on development, the Trade Representative will exercise his OECD and UNCTAD responsibilities in close cooperation with these officials.

To ensure that all trade negotiations are handled consistently and that our negotiating leverage is employed to the maximum, the Trade Representative will manage the negotiation of particular issues. Where appropriate, the Trade Representative may delegate responsibility for negotiations to other agencies with expertise on the issues under consideration. He will coordinate the operational aspects of negotiations through a Trade Negotiating Committee, chaired by the Trade Representative and including the Departments of Commerce, State, Treasury, Agriculture and Labor.

The Trade Representative will be concerned not only with ongoing negotiations and coordination of specific, immediate issues, but also—very importantly—with the development of long-term United States trade strategies and policies. He will oversee implementation of the MTN agreements, and will advise the President on the effects of other Government policies (e.g., antitrust, taxation) on U.S. trade. In order to participate more fully in oversight of international investment and export financing activities, the Trade Representative will become a member of the National Advisory Council on International Monetary and Financial Policies and the Boards of the Export-Import Bank and the Overseas Private Investment Corporation.

In performing these functions, the Trade Representative will act as the principal trade spokesman of the President. To assure that our trade policies take into account the broadest range of perspectives, the Trade Representative will consult with the Trade Policy Committee, whose mandate and membership will be expanded. The Trade Representative will, as appropriate, invite agencies such as the Export-Import Bank and the Overseas Private Investment Corporation to participate in TPC meetings in addition to the permanent TPC members. When different departmental views on trade matters exist within the TPC as will be the case from time to time in this complex policy area, I will expect the Trade Representative to resolve policy disagreements in his best judgment, subject to appeal to the President.

THE DEPARTMENT OF COMMERCE

The Department of Commerce, under this proposal, will become the focal point of operational responsibilities in the non-agricultural trade area. My reorganization plan will transfer to the Commerce Department important responsibilities for administration of countervailing and antidumping matters, foreign commercial representation, and MTN implementation support. Consolidating these trade functions in the Department of Commerce builds upon an agency with extensive trade experience. The Department will retain its operational responsibilities in such areas as export controls, East-West trade, trade adjustment assistance to firms and communities, trade policy analysis, and monitoring foreign compliance with trade agreements. The Department will be substantially reorganized to consolidate and reshape its trade functions under an Under Secretary for International Trade.

With this reorganization, trade functions will be strengthened within the Department of Commerce, and such related efforts in the Department as improvement of industrial innovation and productivity, encouraging local and regional economic development, and sectoral analysis, will be closely linked to an aggressive trade program. Fostering the international competitiveness of American industry will become the principal mission of the Department of Commerce.

Import remedies

I propose to transfer to the Department of Commerce responsibility for administration of the countervailing duty and antidumping statutes. This function will be performed efficiently and effectively in an organizational setting where trade is the primary mission. This activity will be directed by a new Assistant Secretary for Trade Administration, subject to Senate confirmation. Although the plan permits its provisions to take effect as late as October 1, 1980, I intend to make this transfer effective by January 1, 1980, so that it will occur as the new MTN codes take effect. Commerce will continue its supportive role in the staffing of other unfair trade practice issues, such as cases arising under section 301 of the Trade Act of 1974.

Commercial representation

This reorganization plan will transfer to the Department of Commerce responsibility for commercial representation abroad. This transfer would place both domestic and overseas export promotion activities under a single organization, directed by an Assistant Secretary for Export Development, charged with aggressively expanding U.S. export opportunities. Placing this Foreign Commercial Service in the Commerce Department will allow commercial officers to concentrate on the promotion of U.S. exports as their principal activity.

Initially, the transfer of commercial representation from State to Commerce will involve all full-time overseas trade promotion and commercial positions (approximately 162), responsibility for this function in the countries (approximately 60) to which these individuals are assigned, and the associated foreign national employees in those countries. Over time, the Department of Commerce undoubtedly will review the deployment of commercial officers in light of changing trade circumstances and propose extensions or alterations of coverage of the Foreign Commercial Service.

MTN implementation

I am dedicated to the aggressive implementation of the Multilateral Trade Agreements. The United States must seize the opportunities and enforce the obligations created by these agreements. Under this proposal, the Department of Commerce will assign high priority to this task. The Department of Commerce will be responsible for the day-to-day implementation of non-agricultural aspects of the MTN agreements. Management of this function will be a principal assignment of an Assistant Secretary for Trade Policy and Programs. Implementation activities will include:

Monitoring agreements and targeting problems for consultation and negotiation;

Operating a Trade Complaint Center where the private sector can receive advice as to the recourse and remedies available;

Aiding in the settlement of disputes, including staffing of formal complaint cases;

Identifying problem areas for consideration by the Trade Representative and the Trade Policy Committee;

Educational and promotion programs regarding the provisions of the agreements and the processes for dealing with problems that arise;

Providing American business with basic information on foreign laws, regulations and procedures;

Consultations with private sector advisory committees; and

General analytical support.

These responsibilities will be handled by a unit built around the staff from Commerce that provided essential analytical support to STR throughout the MTN negotiation process. Building implementation of MTN around this core group will assure that the government's institutional memory and expertise on MTN is most effectively devoted to the challenge ahead. When American business needs information or encounters problems in the MTN area, it can turn to the Department of Commerce for knowledgeable assistance.

Matching the increased importance of trade in the Department's mission will be a much strengthened trade organization within the Department. By creating a number of new senior level positions in the Department, we will ensure that trade policy implementation receives the kind of day-to-day top management attention that it both demands and requires.

With its new responsibilities and resources, the Department of Commerce will become a key participant in the formulation of our trade policies. Much of the analysis in support of trade policy formulation will be conducted by the Department of Commerce, which will be close to the operational aspects of the problems that raise policy issues.

To succeed in global competition, we must have a better understanding of the problems and prospects of U.S. industry, particularly in relation to the growing strength of industries abroad. This is the key reason why we will upgrade sectoral analysis capabilities throughout the Department of Commerce, including the creation of a new Bureau of Industrial Analysis. Commerce, with its ability to link trade to policies affecting industry, is uniquely suited to serve as the principal technical expert within the Government on special industry sector problems requiring international consultation, as well as to provide industry-specific information on how tax, regulatory and other Government policies affect the international competitiveness of the U.S. industries.

Commerce will also expand its traditional trade policy focus on industrial issues to deal with the international trade and investment problems of our growing services sector. Under the proposal, there will be comprehensive service industry representation in our industry advisory process, as well as a continuing effort to bring services under international discipline. I expect the Commerce Department to play a major role in developing new service sector initiatives for consideration within the Government.

After an investigation lasting over a year, I have found that this reorganization is necessary to carry out the policy set forth in section 901(a) of title 5 of the United States Code. As described above, this reorganization will increase significantly our ability to implement the MTN agreements efficiently and effectively and will improve greatly the services of the government with regard to export development. These improvements will be achieved with no increase in personnel or expenditures, except for an annual expense of about $300,000 for the salaries and clerical support of the three additional senior Commerce Department officials and a non-recurring expense of approximately $600,000 in connection with the transfers of functions provided in the plan. I find that the reorganization made by this plan makes necessary the provisions for the appointment and pay of a Deputy Secretary, an Under Secretary for International Trade, and two additional Assistant Secretaries of the Department of Commerce, and additional members of the Boards of Directors of the Export-Import Bank and the Overseas Private Investment Corporation.

It is indeed appropriate that this proposal follows so soon after the overwhelming approval by the Congress of the Trade Agreements Act of 1979, for it will sharpen and unify trade policy direction, improve the efficiency of trade law enforcement, and enable us to negotiate abroad from a position of strength. The extensive discussions between Administration officials and the Congress on this plan have been a model of the kind of cooperation that can exist between the two branches. I look forward to our further cooperation in successfully implementing both this reorganization proposal and the MTN agreements.

JIMMY CARTER.

THE WHITE HOUSE, *September 25, 1979.*

REORGANIZATION PLAN NO. 3 OF 1979

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, September 25, 1979, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

REORGANIZATION OF FUNCTIONS RELATING TO INTERNATIONAL TRADE

Section 1. Office of the United States Trade Representative.

(a) The Office of the Special Representative for Trade Negotiations is redesignated the Office of the United States Trade Representative.

(b)(1) The Special Representative for Trade Negotiations is redesignated the United States Trade Representative (hereinafter referred to as the "Trade Representative"). The Trade Representative shall have primary responsibility, with the advice of the interagency organization established under section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872 (hereinafter referred to as the "Committee"), for developing, and for coordinating the implementation of, United States international trade policy, including commodity matters and, to the extent they are related to international trade policy, direct investment matters. The Trade Representative shall serve as the principal advisor to the President on international trade policy and shall advise the President on the impact of other policies of the United States Government on international trade.

(2) The Trade Representative shall have lead responsibility for the conduct of international trade negotiations, including commodity and direct investment negotiations in which the United States participates.

(3) To the extent necessary to assure the coordination of international trade policy, and consistent with any other law, the Trade Representative, with the advice of the Committee shall issue policy guidance to departments and agencies on basic issues of policy and interpretation arising in the exercise of the following international trade functions. Such guidance shall determine the policy of the United States with respect to international trade issues arising in the exercise of such functions:

(A) matters concerning the General Agreement on Tariffs and Trade, including implementation of the trade agreements set forth in section 2(c) of the Trade Agreements Act of 1979; United States Government positions on trade and commodity matters dealt with by the Organization for Economic Cooperation and Development, the United Nations Conference on Trade and Development, and other multilateral organizations; and the assertion and protection of the rights of the United States under bilateral and multilateral international trade and commodity agreements;

(B) expansion of exports from the United States;

(C) policy research on international trade, commodity, and direct investment matters;

(D) to the extent permitted by law, overall United States policy with regard to unfair trade practices, including enforcement of countervailing duties and antidumping functions under section 303 and title VII of the Tariff Act of 1930;

(E) bilateral trade and commodity issues, including East-West trade matters; and

(F) international trade issues involving energy.

(4) All functions of the Trade Representative shall be conducted under the direction of the President.

(c) The Deputy Special Representatives for Trade Negotiations are redesignated Deputy United States Trade Representatives.

Section 2. Department of Commerce.

(a) The Secretary of Commerce (hereinafter referred to as the "Secretary") shall have, in addition to any other functions assigned by law, general operational responsibility for major nonagricultural international trade functions of the United States Government, including export development, commercial representation abroad, the administration of the antidumping and countervailing duty laws, export controls, trade adjustment assistance to firms and communities, research and analysis, and monitoring compliance with international trade agreements to which the United States is a party.

(b)(1) There shall be in the Department of Commerce (hereinafter referred to as the "Department") a Deputy Secretary appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall receive compensation at the rate payable for Level II of the Executive Schedule, and shall perform such duties and exercise such powers as the Secretary may from time to time prescribe.

(2) The position of Under Secretary of Commerce established under section 1 of the Act of June 5, 1939 (ch. 180, 53 Stat. 808; 15 U.S.C. 1502) is abolished.

(c) There shall be in the Department an Under Secretary for International Trade appointed by the President, by and with the advice and consent of the Senate. The Under Secretary for International Trade shall receive compensation at the rate payable for Level III of the Executive Schedule, and shall perform such duties and exercise such powers as the Secretary may from time to time prescribe.

(d) There shall be in the Department two additional Assistant Secretaries appointed by the President, by and with the advice and consent of the Senate. Each such Assistant Secretary shall receive compensation at the rate payable for Level IV of the Executive Schedule, and shall perform such duties and exercise such powers as the Secretary may from time to time prescribe.

Section 3. Export-Import Bank of the United States.

The Trade Representative and the Secretary shall serve, ex officio and without vote, as additional members of the Board of Directors of the Export-Import Bank of the United States.

Section 4. Overseas Private Investment Corporation.

(a) The Trade Representative shall serve, ex officio, as an additional voting member of the Board of Directors of the Overseas Private Investment Corporation. The Trade Representative shall be the Vice Chair of such Board.

(b) There shall be an additional member of the Board of Directors of the Overseas Private Investment Corporation who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall not be an official or employee of the Government of the United States. Such Director shall be appointed for a term of no more than three years.

Section 5. Transfer of Functions.

(a) (1) There are transferred to the Secretary all functions of the Secretary of the Treasury, the General Counsel of the Department of the Treasury, or the Department of the Treasury pursuant to the following:

(A) section 305(b) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(b)), to be exercised in consultation with the Secretary of the Treasury;

(B) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862);

(C) section 303 and title VII (including section 771(1)) of the Tariff Act of 1930 (19 U.S.C. 1303, 1671 et seq.), except that the Customs Service of the Department of the Treasury shall accept such deposits, bonds, or other security as deemed appropriate by the Secretary, shall assess and collect such duties as may be directed by the Secretary, and shall furnish such of its important records or copies thereof as may be requested by the Secretary incident to the functions transferred by this subparagraph;

(D) sections 514, 515, and 516 of the Tariff Act of 1930 (19 U.S.C. 1514, 1515, and 1516) insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979;

(E) with respect to the functions transferred by subparagraph (C) of this paragraph, section 318 of the Tariff Act of 1930 (19 U.S.C. 1318), to be exercised in consultation with the Secretary of the Treasury;

(F) with respect to the functions transferred by subparagraph (C) of this paragraph, section 502(b) of the Tariff Act of 1930 (19 U.S.C. 1502(b)), and, insofar as it provides authority to issue regulations and disseminate information, to be exercised in consultation with the Secretary of the Treasury to the extent that the Secretary of the Treasury has responsibility under subparagraph (C), section 502(a) of such Act (19 U.S.C. 1502 (a));

(G) with respect to the functions transferred by subparagraph (C) of this paragraph, section 617 of the Tariff Act of 1930 (19 U.S.C. 1617); and

(H) section 2632(e) of title 28 of the United States Code, insofar as it relates to actions taken by the Secretary reviewable under section 516A of the Tariff Act of 1930 (19 U.S.C. 1516(a)).

(2) The Secretary shall consult with the Trade Representative regularly in exercising the functions transferred by subparagraph (C) of paragraph (1) of this subsection, and shall consult with the Trade Representative regarding any substantive regulation proposed to be issued to enforce such functions

(b) (1) There are transferred to the Secretary all trade promotion and commercial functions of the Secretary of State or the Department of State that are—

(A) performed in full-time overseas trade promotion and commercial positions; or

(B) performed in such countries as the President may from time to time prescribe.

(2) To carry out the functions transferred by paragraph (1) of this subsection, the President, to the extent he deems it necessary, may authorize the Secretary to utilize Foreign Service personnel authorities and to exercise the functions vested in the Secretary of State by the Foreign Service Act of 1946 (22 U.S.C. 801 et seq.) and by any other laws with respect to personnel performing such functions.

(c) There are transferred to the President all functions of the East-West Foreign Trade Board under section 411(c) of the Trade Act of 1974 (19 U.S.C. 2441 (c)).

(d) Appropriations available to the Department of State for Fiscal Year 1980 for representation of the United States concerning matters arising under the General Agreement on Tariffs and Trade and trade and commodity matters dealt with under the auspices of the United Nations Conference on Trade and Development are transferred to the Trade Representative.

(e) There are transferred to the interagency organization established under section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) all functions of the East-West Foreign Trade Board under section 411 (a) and (b) of the Trade Act of 1974 (19 U.S C. 2441) (a) and (b)).

Section 6. Abolition.

The East-West Foreign Trade Board established under section 411 of the Trade Act of 1974 (19 U.S.C. 2441) is abolished.

Section 7. Responsibility of the Secretary of State.

Nothing in this reorganization plan is intended to derogate from the responsibility of the Secretary of State for advising the President on foreign policy matters, including the foreign policy aspects of international trade and trade-related matters.

Section 8. Incidental transfers; interim officers.

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to the appropriate agency organization, or component at such time or times as such Director shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation originally was made. The Director of the Office of Management and Budget shall provide for terminating the affairs of any agency abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of the reorganization plan.

(b) Pending the assumption of office by the initial officers provided for in section 2 of this reorganization plan, the functions of each such office may be performed, for up to a total of 60 days, by such individuals as the President may designate. Any individual so designated shall be compensated at the rate provided herein for such position.

Section 9. Effective date.

The provisions of this reorganization plan shall take effect October 1, 1980, or at such earlier time or times as the President shall specify, but not sooner than the earliest time allowable under section 906 of title 5 of the United States Code.●

SENATE CONCURRENT RESOLUTION 39—SUBMISSION OF A CONCURRENT RESOLUTION WELCOMING POPE JOHN PAUL II TO THE UNITED STATES

Mr. HEINZ submitted the following concurrent resolution, which was referred to the Committee on the Judiciary:

S. CON. RES. 39

Whereas His Holiness Pope John Paul II is the spiritual leader of 700 million Roman Catholics throughout the world, including 49.6 million in the United States; and

Whereas His Holiness Pope John Paul II is a world leader who has made significant contributions to world peace and understanding; and

Whereas from October 1 to October 7, 1979 His Holiness Pope John Paul II will visit several cities in the United States including Boston, New York, Philadelphia, Des Moines, Chicago, and Washington, D.C.: Now, therefore, be it

Resolved by the House of Representatives (the Senate concuring), That the Congress of the United States of America welcomes His Holiness Pope John Paul II to the United States and extends to him the good wishes of the American people on the occasion of his visit.

● Mr. HEINZ. Mr. President, I am submitting today a concurrent resolution welcoming His Holiness Pope John Paul II on his visit to the United States.

This concurrent resolution is being offered in the House of Representatives by the Honorable LAWRENCE COUGHLIN of Pennsylvania. The resolution recognizes His Holiness Pope John Paul II as the spiritual leader of the world's 700 million Catholics and as a preeminent world leader who has made significant contributions to world peace and understanding.

I ask my colleagues in both Houses of Congress to support this resolution to welcome and extend the good wishes of the American people to the Pope on the historic occasion of his visit.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, the Subcommittee on the Constitution of the Committee on the Judiciary will hold hearings on the proposed amendments to the Constitution to balance the Federal budget on October 4, 1979, at 9:30 a.m. in room 1202, Dirksen Senate Office Building, and October 11, 1979, at 9:30

a.m. in room 1202, Dirksen Senate Office Building.

Anyone wishing to submit testimony for the record should contact Linda Rogers-Kingsbury of the Subcommittee on the Constitution, 102-B Russell Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON NUTRITION

● Mr. McGOVERN. Mr. President, I wish to announce that the Subcommittee on Nutrition of the Agriculture Committee will hold an oversight hearing on diet and cancer on Tuesday, October 2, at 9:30 a.m. Dr. Arthur Upton, Director of the National Cancer Institute (NCI) will present the Institute's diet recommendations on minimizing the risk of cancer.

The subcommittee will hear from invited witnesses only. Anyone wishing further information should contact the committee staff at 224-2035.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I would like to announce that the hearing by the Select Small Business Committee on Oversight of the Small Business Administration's Office of Chief Counsel for Advocacy and Examination of the Mission of SBA scheduled for October 2, 1979, has been canceled.

The committee's hearing on the same subject, scheduled for October 3, 1979, will convene at 9 a.m., instead of the previously announced time of 9:30 a.m., and will include appearances by the witnesses who were scheduled to testify on October 2.●

SUBCOMMITTEE ON ENERGY REGULATION

● Mr. JOHNSTON. Mr. President, the Subcommittee on Energy Regulation of the Committee on Energy and Natural Resources wishes to announce a change in the room number of the hearing previously scheduled on S. 1684, the Domestic Refinery Development and Improvement Act of 1979, on October 15, 1979, from room 3110 Dirksen Senate Office Building to room 6226 Dirksen Senate Office Building, to commence at 9:30 a.m.

Questions about this hearing should be directed to Benjamin S. Cooper or James T. Bruce of the subcommittee staff at 224-9894.●

ADDITIONAL STATEMENTS

THE GRAVE SITUATION IN AFGHANISTAN

● Mr. CHURCH. Mr. President, recent events in Afghanistan are a cause of genuine concern to the international community. The removal by force of President Noor Mohammad Taraki and the seizure of power by Prime Minister Amin have further eroded the regime's precarious position. In these circumstances, the Soviet Union may be tempted to embark on a dangerous escalation of its military involvement in that troubled country. It is a temptation that Moscow would be wise to resist.

Soviet military and economic assistance to Afghanistan has been substantial since the mid-1950's, but it was not until a pro-Soviet Marxist regime seized power in April 1978 that this once nonalined nation came under heavy Soviet influence. By attempting to impose radical Marxist policies on a traditional Islamic society, and by ignoring historic popular Afghan suspicion of Russia, the Taraki regime sparked an insurgent movement that has grown in scope and ferocity despite steadily increasing Soviet support.

The rebellion has spread to 23 of 25 provinces. Defections of army units ranging up to battalion strength have occurred periodically. At times the rebels have won temporary control of provincial centers and they regularly challenge the regime's authority in the countryside.

The overthrow of Taraki by Prime Minister Hafizullah Amin and the dismissal of the last two army members of the cabinet appear to have aroused Soviet fears of a possible backlash against Amin in the Afghan army. The increased readiness of one Soviet airborne division in a Soviet military district adjacent to Afghanistan may reflect either the intention to intervene directly to save the Amin government or to cover the possible evacuation of some 5,000 to 6,000 Soviet officials and dependents.

Soviet leaders face some serious decisions in the coming weeks and months. It they succumb to the creeping military logic that just a little more involvement will defeat the insurgents, they risk becoming bogged down in a Soviet Vietnam that will cost them dearly in blood, money, and international prestige. How are they to explain to the "nonaligned" bloc, and especially to its Islamic members, the involvement of Soviet military forces in yet another bloody Third World "civil war"?

The Afghan people have already suffered grievously from a campaign of brutal repression by the Taraki regime. Moscow should know that the United States and the rest of the international community cannot stand by idly and ignore a Soviet "invasion" of Afghanistan, for whatever purpose.●

THE TAX CUT THAT GOT AWAY

● Mr. DOLE. Mr. President, consumer prices rose another 1.1 percent in August, according to the Department of Labor. The total rise in consumer prices for just the first 8 months of this year is 8.4 percent. The Senator from Kansas regrets to point out that the inflation we have had this year to date has effectively wiped out the tax cut Congress passed last year. By the end of the year, we will have a net increase in taxes. Furthermore, this reckoning of the tax burden does not even take into account the rise in social security taxes that Congress also passed last year. Where has the tax cut gone?

It has gone right back to the Government. When people's incomes keep pace with inflation, the nominal dollar income rises, while the real value of income—measured by purchasing power—stays the same. But the income tax brackets are in fixed dollar amounts, so that a rise in nominal income can push you into a higher bracket and make the marginal rate within each bracket a more significant component of tax liability. The consequence of this is that effective tax rates rise as people catch up with inflation, and total tax liability increases even when real income remains constant. The phenomenon is bracket creep, and it causes "taxflation."

Look at what has happened so far this year. Consumer prices have gone up 8.4 percent, and there are 4 months left in the year. If income keeps pace with just this 8.4-percent inflation, the overall tax liability for American taxpayers will jump by about $12.34 billion. This is the result of bracket creep. The income tax cut that Congress passed last year reduced overall tax liability by about $12.4 billion. Compare the taxflation figure with the tax cut figure, and you will see that the tax cut has vanished. The small amount that remains will be eliminated by this month's inflation, and we will still have 3 months left in the year.

Mr. President, this case of the disappearing tax cut is not a novel occurrence. It has happened before, and it will always happen in periods of high inflation, so long as the structure of the income tax is not altered. But tax cuts should not, and need not, disappear: The people should be able to experience a real tax reduction when Congress takes credit for passing a tax cut. The solution is obvious, and it is long overdue.

The answer is the Tax Equalization Act, S. 12, which I introduced early this year. The Tax Equalization Act would require that the income tax brackets, zero bracket amount, and personal exemption be adjusted according to the percentage rise in the Consumer Price Index. The progressive income tax rates would then correspond to fixed levels of real income, rather than to income stated in nominal dollar amounts. When Congress cut taxes (or raised them), it would be a real change in tax liabilities, and taxpayers would feel the difference. This is not only fairer to the taxpayers, it would clarify Congress' conduct of fiscal policy.

The Tax Equalization Act is needed in these times of high inflation. Only by indexing taxes for inflation can we prevent future tax cuts from disappearing before the eyes of the American people. The public is scrutinizing Congress' control over tax policy ever more closely, and taxpayers will not long tolerate vanishing tax cuts. It is up to Congress to allow truth in taxation by passing the Tax Equalization Act.●

DISTRIBUTION OF ALASKAN OIL

● Mr. BAYH. Mr. President, the problem of developing adequate energy supplies, and the means to deliver them to American consumers, are among the most significant issues facing our country. We have seen domestic production of crude oil and natural gas plummet in the last decade. We have been forced to turn to insecure foreign sources of crude oil in order to satisfy our basic energy requirements. Our substantially increased reliance on foreign sources of petroleum severely threatens both our Nation's security and our economy. The Arab oil embargo in 1973 and the recent supply shortages resulting from the political turmoil in Iran clearly demonstrate the dangers inherent in this increased reliance on foreign sources of oil. Meanwhile, the spiraling costs of imported oil dictated by producing nations have crippled our economy, contributing to continued double-digit inflation.

It is fortunate that just when our reliance on foreign sources of crude oil has increased, the largest reservoir of crude oil ever discovered in the United States is beginning to be developed—the Prudhoe Bay area on the North Slope of Alaska. The trans-Alaska pipeline, completed in 1977, is currently delivering 1.2 million barrels of crude oil per day to tanker facilities at Valdez. This throughput is scheduled to increase to approximately 1.2 million barrels per day by the end of this year. The trans-Alaskan pipeline has an ultimate design capacity of 2 million barrels per day. The State of Alaska contains the greatest promise of additional reserves of crude oil in the United States, enough crude oil to keep the pipeline at or near capacity for many years to come. The proven reserves in Alaska's North Slope have been estimated at 10 billion barrels. In all likelihood, there is probably closer to 30 billion barrels there. However, in the absence of sufficient markets for additional supplies of crude oil, no incentive has existed for increased exploration and production in the State of Alaska.

Mr. President, when shipments of crude oil from Prudhoe Bay began arriving on the west coast of the United States, large quantities of crude oil could not be absorbed by existing west coast refinery capacity, resulting in a surplus of crude oil on the west coast. In order to alleviate this surplus, Alaskan crude has been shipped through the Panama Canal to refineries on the gulf coast: A slow, circuitous, inefficient and expensive way to transport this oil to available refining capacity.

Ironically, just at the time that a surplus of crude oil developed on the west coast, our northern tier and midcontinent States began to experience severe shortages of available supplies of crude oil. These States had traditionally relied upon imports of crude oil from western Canada. However, in 1974, the Canadian Government instituted a program of gradual cutbacks in export volumes of crude oil to the United States. In recent weeks, Canada has announced an acceleration of cutbacks and termination of all exports of light crude oil to American refineries, beginning this winter, because of growing Canadian demand. As a result of this curtailment program, refineries in the northern tier States, including five small independent refineries in my State of Indiana, have had increasing difficulty obtaining sufficient supplies of crude oil to operate their refineries at efficient levels.

Unfortunately, Mr. President, no transportation system currently exists to efficiently move Alaskan oil to energy deficient areas of the Nation. Our only alternative to building these pipelines is to continue to ship Alaskan oil through the Panama Canal, a cumbersome, wasteful and expensive process. Conservatively, this mode of transportation adds $2 to $3 per barrel to the cost of shipping Alaskan oil east. This is not a rational long-term solution to our problems.

The Congress has actively considered ways to resolve these problems for several years. Many of us in the Senate actively supported authorization of a trans-Canadian pipeline to move Alaska crude oil directly to the midcontinent when the trans-Alaska pipeline legislation was before the Congress in 1973. Our view, however, did not prevail. As a result, the Nation now faces serious and growing shortages in the northern tier and midcontinent areas, a continued surplus of supply on the west coast, and continuing pressures to export Alaska oil to Japan.

There has been virtually unanimous agreement for some time that the country urgently needs a west coast to midcontinent pipeline to move crude oil to crude-short refinery centers in the country's agricultural and industrial heartland. This agreement, and the growing urgency of the national need, were reflected in congressional adoption on November 9, 1978, of title V of the Public Utility Regulatory Policies Act of 1978, which I cosponsored along with many of my colleagues. This title resulted from congressional concern over regulatory delays on the Sohio PACTEX project from California to Texas, and on the need for an expeditious review and selection process for a crude oil transportation system to serve the northern tier and Midwest States.

Since the adoption of title V, the Standard Oil Co of Ohio (Sohio) has announced its abandonment of all efforts to construct a west-east crude oil pipeline because of regulatory delay and litigation. Sohio's decision leaves the Nation faced with a surplus of crude oil on the west coast; existing and growing potential for larger crude oil shortages in the northern tier and midcontinent States; and a continued climate of reduced incentives for crude oil exploration and development in California, on the Federal Outer Continental Shelf and in the State of Alaska—the country's most promising area for new oil and gas exploration and production.

NEED FOR ACTION

Mr. President, Sohio's decision underscores the importance of prompt exercise of Presidential authorities under title V. Title V provides an expedited process for Federal review and decisionmaking with respect to application for Federal permits and other authorizations necessary to construct and operate crude oil transportation systems from the west coast to the northern tier and inland States. Four applications were made under title V: Northern Tier Pipeline (totally within the United States); Kitimat Pipeline (totally within Canada); Foothills Pipeline and Trans-Mountain Pipeline (both of which are partially within the United States and partially within Canada). Kitimat has withdrawn itself from consideration by the Canadian Government, which will begin hearings on the Foothills and Trans-Mountain proposals next month. There is clearly no consensus in Canada on this issue, and their consideration is likely to be prolonged.

Federal review of these competing systems under the provisions of title V is now almost complete. A final four-volume environmental impact statement was issued on August 24, 1979. The Secretary of the Interior is preparing his recommendation to the President, after which the President will determine which system or systems will receive the necessary Federal approvals.

Having reviewed the merits of these proposed crude oil transportation systems and their progress to date, I have concluded that a Presidential recommendation for expedited permitting for the Northern Tier Pipeline at this time would be in the Nation's best interest. This decision would involve no waiving of substantive law. Nor would it involve any additional Federal expenditures. Granting expedited permitting to Northern Tier, the only project now ready to test the financial markets, would just remove regulatory uncertainties—which contributed to the demise of Sohio's project—and assure that regulatory drag does not adversely effect or delay financial decisions by investors, or purchase agreements by refiners.

Since the submission of its applications for Federal and State permits and other authorizations in 1977, the Northern Tier Pipeline proposal has received detailed study and review at both the State and Federal levels. The project uses conventional technology and the siting of the port and the routing of the pipeline present no unusual problems. Significantly, the Northern Tier project will be located entirely within the United States. The permitting process for the project in the five States that the system will cross is almost completed. As a totally domestic system, it has significant national defense advantages over its competitors and is immune from delays caused by other nations. Furthermore, during its construction phase, the project will provide domestic employment in the construction, steel and manufacturing industries, as well as other economic benefits, both to States through which the pipeline passes as well as to the entire Nation.

Upon completion, the project will be a high capacity line, providing the ability to move substantial volumes of crude oil to areas where they are most needed, thereby benefiting ultimate consumers with lower price petroleum products. In addition, by eliminating the crude oil surplus on the west coast and providing a market for additional supplies of Alaska and California crude oil, the project will significantly increase the incentives for additional exploration and production of domestic energy resources. In light of the recent failure of the Sohio pipeline project, the Northern Tier project represents a promising alternative to west coast crude oil surpluses while at the same time providing a means of efficiently transporting much-needed crude oil supplies to refineries in the northern tier and inland States. Northern Tier can serve 66 refineries in 23 States, moving over 900,000 barrels per day if expanded to its maximum capacity. Its construction will free space in existing pipelines, permitting mid-Atlantic and New England States to receive more gulf coast oil, instead of imports from the Middle East.

Mr. President, these views are reinforced by the findings of the Departments of Energy and Agriculture in their review of the pending projects. In a recent statement, the Department of Energy summarized its reasons why the Northern Tier project should be approved expeditiously:

> The time has come for construction of a west-to-east crude oil transportation system. Further delay is unacceptable.
>
> Under these circumstances, the project with the least amount of regulatory risk—and therefore potential for delay—is the most desirable. For this reason, the Department of Energy supports moving ahead vigorously with the Northern Tier project. Among all the projects under review pursuant to Title V, it currently commands the highest level of confidence in its ultimate construction. First, it is located entirely within the United States and therefore not subject to the risks and potential delays associated with international negotiations. It is a high capacity line that provides crude oil directly to Northern Tier and midwest refiners. As such, it provides the highest net national economic benefit and is further along in the non-federal permitting process than any other alternative.

The Department of Agriculture concurred, finding that the Northern Tier pipeline project represents the solution to the supply problem in the mid-continent:

> The Northern Tier proposal stands out as the preferred alternative for a number of reasons. It yields the highest net national economic benefits and is consistent with national security interests in that the entire land route is on United States territory. Since no Canadian approval is required, the possibility of adverse impacts on international relations is minimized. The higher initial costs of the Northern Tier route are offset by its greater capability if used at full capacity.

Since October 1973, we have seen the Nation struggle through the energy supply problems caused by OPEC's oil embargo and, most recently, by the political turmoil in Iran. We have seen debates on the merits of various alternative energy sources. Meanwhile, consumer energy costs continue to spiral. What we have not seen is a strong commitment toward permitting the private sector to proceed with the construction of needed conventional energy facilities.

The Northern Tier Pipeline project is now ready to move to the construction stage. It can serve critical national needs. It is entirely within American control. Decisive action by the Department of the Interior and by the President on this project can set the stage for moving the country forward toward greater energy independence at less cost to the consumer.

Mr. President, in order to make the administration aware of the Senate's interest in Presidential action to resolve this dilemma, I have drafted a letter to Secretary Andrus and President Carter, recommending that they approve expedited permitting for the Northern Tier Pipeline project. I urge my colleagues to join with me in signing this letter. Construction of a west to east oil pipeline, which can serve large oil-dependent sections of the country, and distribute all our domestic oil equitably, is one of few quick and cheap options I know of to reduce our dependence on foreign oil.

Mr. President, I submit for the Record the following materials:

1. Letter to Secretary Andrus.
2. Letter to President Carter.
3. An August 21, 1979 memorandum from the Secretary of Energy, Mr. Schlesinger, to the Secretary of The Department of the Interior, Mr. Andrus, conveying the Department of Energy's recommendation that the Northern Tier project be issued permits under Title V of PURPA.
4. An August 15, 1979 letter from Secretary Bergland to Secretary Andrus conveying the Department of Agriculture's recommendation for expediting construction of the Northern Tier project as the preferred alternative under Title V of PURPA.
5. A September 21, 1979 letter to Secretary Andrus from the President of the Fa̍rmers Union Central Exchange, Inc.
6. A Fact Sheet on Northern Tier.
7. A September 20, 1979 Wall Street Journal article entitled "Canada Cuts exports of Light Crude to U.S. for October by 75%".

U.S. Senate,
Washington, D.C., September 25, 1979.
Hon. Cecil D. Andrus,
U.S. Department of the Interior,
Washington, D.C.

Dear Mr. Secretary: We strongly urge you, in the exercise of your responsibilities under Title V of the Public Utility Regulatory Policy Act, to recommend to the President that he approve expedited permitting for the Northern Tier Pipeline project. This project is a vitally needed, all American crude oil transportation system which will provide increased security of energy supplies to the agricultural and industrial sector of the interior states, compensating for the loss of Canadian oil and replacing foreign oil with Alaskan crude.

The Northern Tier Pipeline proposal has received detailed study and review since 1977, when application was initially made for federal right-of-way permits. The project uses conventional technology and the siting of the port and routing of the pipeline presents no unusual problems. In light of the failure of the Sohio project, Northern Tier represents the best chance to fulfill the goals that led to enactment of Title V. Construction could start immediately following receipt of all required federal and state permits.

The Department of Energy recently summarized why the Northern Tier project should be approved expeditiously:

"The time has come for construction of a west-to-east crude oil transportation system. Further delay is unacceptable."

"Under these circumstances, the project with the least amount of regulatory risk—and therefore potential for delay—is the most desirable. For this reason, the Department of Energy supports moving ahead vigorously with the Northern Tier project. Among all the projects under review pursuant to Title V, it currently commands the highest level of confidence in its ultimate construction. First, it is located entirely within the United States and therefore not subject to the risks and potential delays associated with international negotiations. It is a high capacity line that provides crude oil directly to Northern Tier and midwest refiners. As such, it provides the highest net national economic benefit and is further along in the non-federal permitting process than any other alternative."

The Department of Agriculture has agreed on the solution to the supply problem in the mid-continent.

"The Northern Tier proposal stands out as the preferred alternative for a number of reasons. It yields the highest net national economic benefits and is consistent with national security interests in that the entire land route is on United States territory. Since no Canadian approval is required, the possibility of adverse impacts on international relations is minimized. The higher initial costs of the Northern Tier route are offset by its greater capability if used at full capacity."

Since October, 1973 we have seen the nation struggle through the producing nations oil embargo and, most recently, the political turmoil in Iran. We have seen debates on the merits of various alternate energy sources. Meanwhile, consumer energy costs continue to spiral higher. What we have not seen is a strong commitment toward permitting the private sector to proceed with the construction of needed conventional energy facilities.

The Northern Tier Pipeline project is now ready to move to the construction stage. It can and will serve critical national needs. It is within U.S. control. Decisive action before October 15th by your department and by the President on this project can set the stage for moving the country forward toward greater energy independence at less cost to the consumer.

We believe your department has discharged its responsibilities under Title V in evaluating the alternatives. It is now up to you and the President to act. It is our view that the choice is clear: proceed in an orderly manner to authorize and bring into operation the Northern Tier Pipeline.

We appreciate your consideration of this request.

Sincerely yours,
James McClure,
Birch Bayh,
U.S. Senators.

U.S. Senate,
Washington, D.C., September 25, 1979.
The President,
The White House,
Washington, D.C.

Dear Mr. President: We enclose for your information a copy of our letter to Secretary Andrus in which we endorse the recommendations of the secretaries of Agriculture and Energy on the urgent need to approve expedited permitting for the Northern Tier Pipeline.

We concur with their view that the interests of the nation and the constituency in the agricultural and industrial heartland of our country are best served by the prompt authorization of this project. As Secretary Bergland noted, you are in a position to expedite construction of this project because it falls entirely within U.S. jurisdiction.

The constituents in our states look to you for decisive leadership on this matter. We are confident that your action will convey to the American people, and to the producing nations of the world, our national commitment to increase domestic energy production and assure its most efficient transportation and equitable distribution to the regions of greatest need.

We appreciate your consideration of this matter.

Sincerely yours,
Birch Bayh,
James McClure,
U.S. Senators.

Department of Energy,
Washington, D.C., August 21, 1979.
Memorandum for Cecil Andrus.
From James R. Schlesinger.
Subject Title V PURPA Recommendation.

DISCUSSION AND RECOMMENDATION

This memorandum sets forth the Department of Energy's (DOE) recommendations concerning the four west-to-east pipeline proposals currently being evaluated by the Department of the Interior under Title V of the Public Utilities Regulatory Policy Act of 1978 (PURPA).

The United States has delayed the construction of a west-to-east crude oil transportation system for too long. These delays have not involved technological or financing problems, but rather a mass of well intentioned regulatory requirements that, taken together, have made it almost impossible to move a major project through the approval process.

Thus, it is important that Title V of PURPA be used to reach an early resolution of this critical energy transportation issue. Continued delays increase the risk of growing West Coast crude oil surpluses as well as a further diminution of oil imports to the Northern Tier States. Only the willingness of Canada to continue oil imports scheduled for curtailment several years ago has enabled Northern Tier refineries to continue operation. The time has come for construction of a west-to-east crude oil transportation system. Further delay is unacceptable.

Under the circumstances, the project with the least amount of regulatory risk—and therefore potential for delay—is the most desirable. For this reason, the Department of Energy supports moving ahead vigorously with the Northern Tier project. Among all the projects under review pursuant to Title V, it currently commands the highest level of confidence in its ultimate construction. First, it is located entirely within the United States and therefore not subject to the risks and potential delays associated with international negotiations. It is a high capacity line that provides crude oil directly to Northern Tier and midwest refiners. As such, it provides the highest net national economic benefits and is further along in the non-Federal permitting process than any other alternative.

Immediate action on the relevant Federal permits pursuant to a Presidential Decision under Title V of PURPA would allow prompt testing of the financial markets by the Northern Tier pipeline, unencumbered by regulatory uncertainties. It is important that this process be undertaken as soon as possible because Northern Tier's high capital costs could result in some resistance to project financing.

Because there are also attractions associated with several Canadian projects and the financing of Northern Tier has not yet been arranged, the U.S. should be ready to consider these other attractive alternatives if the Canadian government is willing to remove the regulatory uncertainties associated with such projects within a reasonable timeframe.

Among the three Canadian projects, the Kitimat and Transmountain proposals are attractive alternatives because both projects have low capital costs, low transportation charges and a short construction period. The Foothills proposal does not appear competitive because of its high capital and operating costs, and would not be attractive to the U.S. even if Canada granted the necessary approvals in the near future. All the Canadian proposals, however, are subject to the considerable uncertainties associated with international negotiations and unresolved environmental concerns. If the Canadian authorities could act by November 15 of this year to provide either Kitimat or Transmountain or both with the relevant permits, the U.S. also should be prepared as part of the President's Decision to give consideration to the expedited permitting of these projects.

The November 15 date would allow the U.S. to consider either of these proposals in a timeframe consistent with a final Presidential decision by the end of the year—an important deadline if the nation is to avoid further delay. Should a Trans-Canadian project be approved by November 15, it would be consistent with the U.S. time table to allow such a project the opportunity to demonstrate its viability in the financial marketplace.

CONCLUSIONS

The Nation has already delayed the construction of a west-to-east oil pipeline for too long. With the passage of time, construction costs have escalated and crude oil supplies to the Northern Tier have deteriorated. As the project with the highest degree of regulatory certainty, Northern Tier should be issued permits and encouraged to test the financial markets at the earliest possible time. Notwithstanding any Canadian action, it is important that actions designed to test the financing of the Northern Tier project and bring it to the construction stage be undertaken as soon as possible. If the Canadian authorities can remove the regulatory uncertainties associated with Kitimat or Transmountain by November 15, these projects also should be allowed to test the financial markets. A final Presidential Decision should be reached this year and project construction undertaken next year. The Nation cannot afford further delay.

Department of Agriculture,
Office of the Secretary,
Washington, D.C., August 15, 1979.

Hon. Cecil B. Andrus,
U.S. Department of the Interior
Washington, D.C.

Dear Secretary Andrus: Pursuant to your request, I have analyzed the need for a west to east pipeline and have ranked the four proposed systems based on the criteria presented in the document, "West to East Crude Oil Transportation Systems." In brief, I recommend the following:

1. A west to east pipeline is necessary, and construction should be expedited.
2. The Northern Tier proposal is the preferable route, followed by the Trans Mountain, Kitimat and Northwest Energy proposals.

Recent events have served to highlight the vulnerability of the northern tier States to disruptions in crude oil supply. Refineries, particularly those owned by independents and cooperatives, were particularly hard hit. Most agricultural markets are served by a limited number of fuel suppliers. With major oil companies withdrawing from some rural markets, the supply responsibilities have fallen increasingly upon local independent and cooperating refineries, which often have relatively insecure crude oil sources. Canadian crude oil exports, traditionally relied upon by many northern tier refiners, are being phased out. A small deficit is forecast for the Montana-North Dakota region. The apparent surplus in states such as Illinois and Minnesota is heavily based upon foreign crude supplies. This combination of factors contributed substantially to the severe diesel fuel shortages impacting farmers in the northern tier States during the Spring of 1979. The problem persists, particularly in rural States such as Montana.

A west to east pipeline can provide increased security of energy supplies to the agricultural sector in interior States, in effect compensating for the loss of Canadian sources and replacing foreign oil with Alaska crude. This is consistent with stated national energy policy (Criterion 0) and would improve the balance of payments (Criterion I).

The Northern Tier proposal stands out as the preferred alternative for a number of reasons. It yields the highest net national economic benefits (Criterion G) and is consistent with national security interests (Criterion N), in that the entire land route is on United States territory. Since no Canadian approval is required, the possibility of adverse impacts on international relations (Criterion I) is minimized. The higher initial costs of the Northern Tier route are offset by its greater capability if used at full capacity. The important agricultural market in the Great Plains can be served at a lower cost per barrel than by any of the Canadian routes (Criterion C).

Time is of the essence in constructing a west to east route. Planning for the Northern Tier proposal has progressed further than other alternatives, and the weather and terrain are favorable compared to the alternatives for year-round construction (Criterion D). Initial costs of future expansion are lowest among the alternatives. In addition, President Carter is in a position to expedite construction, given that it falls entirely within U.S. jurisdiction.

On the environmental side (Criterion A), no proposal presents clear advantages or disadvantages. The Northern Tier proposal entails a number of crossings through Federal lands. The Forest Service has assessed the environmental effects on lands under its jurisdiction and has indicated that no insurmountable problems exist. The Forest Service is prepared to expedite the permit process on lands under its control, while maintaining well established safeguards and quality control standards.

Finally, the Northern Tier proposal would internalize the benefits of added employment during construction and operation, as well as any accrued benefits to the economy and tax base. It would also be placed strategically to access any future crude oil developments in the northern Great Plains and Mountain States. The study indicates that considerable potential exists in this region.

The alternative proposals to Northern Tier have certain advantages. For example, all three Canadian routes may be able to ship crude oil to Minnesota and Illinois at a lower cost. If the west to east route is not used to capacity, the "cost of being wrong" in the form of higher tariffs is incrementally higher for the Northern Tier route. Given the number of local jurisdictions involved in the Northern Tier route, 160 permits will be required, compared to no more than a dozen for the other options.

Despite such considerations, the merits of the Northern Tier route stand well above other options, given the criteria discussed in the Department of Interior study. I recommend expediting construction of this pipeline to help ensure critical supplies of fuel to the American agricultural heartland.

Sincerely,

Bob Bergland,
Secretary.

Farmers Union Central
Exchange, Inc.,
September 21, 1979.

Hon. Cecil D. Andrus,
Secretary, Department of the Interior,
Washington, D.C.

Dear Mr. Secretary: On behalf of the 500,000 farm family members of Farmers Union Central Exchange, Inc. (CENEX), I want to convey to you our strong support for the Northern Tier crude oil pipeline project pursuant to Title V of the Public Utility Regulatory Policy Act.

CENEX has major investments in three refineries having 240,000 b/d of refinery capacity in Laurel, Montana, McPherson, Kansas, and East Chicago, Indiana. To assure a long-term supply of crude oil at the lowest transportation cost to these refineries, CENEX has made a substantial investment to secure an equity position in the Northern Tier Pipeline Company. This investment was made after a comprehensive review of all competing projects. We are confident that once you have made your recommendation pursuant to Title V and the president has made his decision, you will see many other refiners also seeking to join the project.

As you know, the Canadian government has previously announced that crude oil exports to the United States would be curtailed in 1981 (as recently as 1974 Canadian exports exceeded one million b/d). A September 10, 1979 Wall Street Journal story reports that the "Canadian government is considering reducing or eliminating its net exports of crude oil to the U.S. this winter." A copy of this article is enclosed.

Mr. Secretary, this latest development in Canadian energy policy threatens the agricultural heartland in the northern states CENEX serves. It also dramatically underscores the critical nature of the crude oil supply problem facing Western agriculture and CENEX in meeting agriculture's essential energy needs in our thirteen state operating area. As a major refiner and supplier of petroleum products to our more than 500,000 farm family members, we endorse prompt approval of the Northern Tier pipeline project. The Northern Tier project—by every measure of the nation's best interests—stands head and shoulders above the competing project applications. The Northern Tier project:

Directly serves the states and regions of greatest crude oil need;

Is the most advanced of all alternatives in terms of the federal and state permitting process;

Is totally within and subject to U.S. control and jurisdiction;

Is a large scale efficient system that will, as a new competitive force in the market areas served, provide important long-term consumer benefits;

Enhances national security while at the same time diversifies the nation's crude oil transportation system;

Provides important stimulus to the economy in the form of new employment, domestic steel and equipment manufacture, tax benefits, and secondary effects; and

Is a carefully engineered, environmentally sound project with strong support in the areas served.

Mr. Secretary, CENEX, its 1,500 locally-owned retail cooperatives, and our more than 500,000 farm family members urge you, on the basis of the final environmental impact statement and the record before you, to recommend to President Carter to act decisively to protect our region's most vital interests. This can only be done by the prompt authorization of the Northern Tier Pipeline project.

Sincerely,

J. G. (Jerry) Tvedt,
President.

Northern Tier Pipeline Sheet

The project—A crude oil pipeline, 42 and 40 inches in diameter, 1,500 miles long, extending from Port Angeles, Wash., to Clarbrook, Minn.

Purpose—To take crude oil to refineries in the northern tier, upper Midwest and Great Lakes states. This area formerly used large volumes of Canadian crude which is now sharply curtailed and due to be eliminated entirely by 1982.

Capacity—709,000 barrels per day initially, 933,000 barrels per day ultimately. Estimated that approximately one-half will be Alaskan North Slope crude, now surplus on the West Coast, and the balance Indonesian or other foreign crude.

Route—From a tanker terminal at Port Angeles, Wash., one of the few ports in the U.S. deep enough to handle supertankers up to 300,000 tons, across Puget Sound by underwater pipelines, thence across Washington, Idaho, Montana, North Dakota and Minnesota.

Service area—Through connections with existing crude pipelines, Northern Tier can deliver crude to over 60 refineries, with a total capacity of more than 4 million barrels per day, located in 14 states from Utah to western New York and Pennsylvania.

Cost—Estimated construction cost $1.6 billion, all private capital.

Ownership—Northern Tier Pipeline Co. is a Montana corporation with headquarters in Billings, Mont., and offices in Seattle, Wash., and Washington, D.C. Principal stockholders are U.S. Steel Pipeline Co., Inc. (a subsidiary of United Steel Corp.), MNT, Inc. (a subsidiary of Chicago, Milwaukee, St. Paul, & Pacific Railroad Co.), Westinghouse Pipeline Co. (a subsidiary of Westinghouse Electric Corp.), Farmers Union Central Exchange (CENEX), Western Crude Oil, Inc., MAPCO Inc. and Glacier Park Co. (a subsidiary of Burlington Northern Inc.).

Status—All engineering design and route surveys completed. Applications for necessary permits are pending in applicable federal agencies and the states of Washington, Idaho, Montana and Minnesota. North Dakota has approved the Northern Tier line. Federal agencies are completing final reports on the project. Federal approval expected by Oct. 15, 1979. Construction expected to require about 22 months after permits granted. Northern Tier has already been endorsed by several state legislators, farm groups, labor union officials and, most recently, by the National Governors Association.

[From the Wall Street Journal, Sept. 20, 1979]

Canada Cut Exports of Light Crude to U.S. for October by 75 Percent

Ottawa.—Canada's national energy board decided to slash net exports of light crude oil to the U.S. 75 percent next month, to 14,000 barrels daily from the current 55,000 barrels daily.

The board raised the level of heavy crude exports in October 15 percent to 94,000 barrels daily from 82,000 barrels daily. It said additional supplies of heavy crude may become available in October.

The reduction in light crude exports was taken to bolster supplies in Eastern Canada this winter.

To alleviate the effect on U.S. northern tier refiners dependent on Canadian crude, the board said it would consider increasing mid-continent swaps, in which U.S. crude is piped from Chicago to Ontario and Quebec for Alberta crude piped to the northern tier. About 92,000 barrels a day of such exchanges have been approved for October.

A spokesman for Exxon Corp. said his company's net imports of Canadian light crude would fall to less than 4,000 barrels daily from 8,000 barrels at a refinery in Billings, Mont. To keep its Billings supply stable, Exxon plans to provide Canada with 4,000 barrels a day from other facilities.

A spokesman for Continental Oil Co., which receives about 23,000 barrels daily from Canada, said he expects a reduction to about 6,500 barrels daily. Continental is assessing what to do about the reduction, he said.●

WHAT WE ARE PAYING FOR HEALTH CARE

● Mr. DURENBERGER. Mr. President, in recent years we have seen a number of health care plans bandied about Congress. The sponsors of each of these plans claim that their program will reduce health care costs to the individual and improve the quality of service.

Too often, those claims are exaggerated because the proposals do not attack the root of the problem. Unless we are able to restore competition to the health care industry and until we make the consumer responsible for his or her choices of service, we will have done little to resolve the real cause of skyrocketing health costs.

Edward M. Cramer, president of Broadcast Music, Inc., gives us a clear description of what is wrong with our present system of health care in an article in the Washington Star. I ask that his article be printed in the Record.

The article follows:

[From the Washington Star, Sept. 25, 1979]

What We're Paying for Health Care

(By Edward M. Cramer)

There's a health plan in our future. Whether it bears the imprimatur of President Carter, Senator Kennedy or the American Medical Association, one thing is guaranteed to change: The cost for health care, which exceeded $160 billion in 1977, will rise. But what is unlikely to change is indifference and, worse, the low moral tone evident in the posting, processing and payment of so many medical bills today.

Currently, we have the unscrupulous doctor or hospital kiting charge, aware that the patient has ample insurance coverage. For his part, the patient may not care how high the bill is, since someone else is paying. The attitude seems to be, "I'm not paying for it so what difference does it make?"

Furthermore, the patient, as a layman, cannot be expected to judge the value of services rendered. Faced with indifference and lack of knowledge, the insurer must care enough to know what a legitimate bill should be and to promptly reduce those that are clearly out of line.

Broadcast Music, Inc. (BMI), recently experienced a case in which all of these circumstanes were sadly in evidence.

Though BMI is the world's largest music licensing organization with nearly 60,000 writer and publisher affiliates, it is a relatively small company, with some 325 employees scattered through 11 offices nationwide. We've long taken pride in the excellent coverage offered our people, yet lack of cost containment procedures, coupled with patient indifference, may well erode this coverage as health fees continue to skyrocket.

In a 12-month period, six BMI employees became patients of a certain Manhattan podiatrist (not a physician). During that time, none were hospitalized, though office surgical procedures were performed, none were even absent from work. Nevertheless, insurance claims in astronomical amounts were submitted.

One employee was billed a total of $5,560 for six office visits over a 21-day period. Another was billed $8,035 for eight office visits. A third was charged $6,170 for five visits, including a $3,270 fee for services during the first visit alone.

Substantial portions of the claims were routinely paid by BMI's insurance carrier, internal guidelines never having been established as to what realistic charges should be. Despite the fact that numerous claims were being submitted by the same podiatrist for the same patients, no one at the insurance company recognized the outrageous pattern. Fortunately BMI's insurance coordinator did and reported it to me.

I reviewed the matter and met with insurance company executives. Payment of outstanding claims was then stopped, pending investigation. When payments were ultimately resumed they were made at a far lower rate.

An obvious abuse was stopped and, for the first time, the insurer established "strong claim cost containment guidelines for podiatrist charges." BMI's experience is not isolated.

The present deplorable situation will improve only when patients realize that there is no such thing as "free" medical care, when insurers realize that they are ultimately responsible for the disbursement of policy holders' money and when the professional community makes a determined and continued effort to stop unscrupulous practices and practitioners.

Each and every dollar now being misspent on false claims is a dollar that is wasted and should go for legitimate health care. But is anybody listening? Does anyone care? ●

CBO REPORT ON S. 1308

● Mr. JACKSON. Mr. President, yesterday I filed the report of the Committee on Energy and Natural Resources on S. 1308 (S. Rept. No. 96-331). The bill, as reported by the committee, would create an Energy Mobilization Board to expedite decisions on energy projects which are in the national interest. At the time the report was filed, the committee had not received the report from the Congressional Budget Office on the measure. I now have a copy of the Budget Office report, and I ask that it be printed in the RECORD.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 25, 1979.
Hon. HENRY M. JACKSON,
Dirksen Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 1308, the Priority Energy Act of 1979.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1308

2. Bill title: The Priority Energy Act of 1979

3. Bill status:

As ordered reported by the Senate Committee on Energy and Natural Resources, September 20, 1979.

4. Bill purpose:

This bill establishes the Energy Mobilization Board (EMB) and procedures within the federal government to expedite the review of major non-nuclear energy projects. The bill authorizes the appropriation of the sums necessary to meet the costs of carrying out its provisions.

5. COST ESTIMATE

[By fiscal years; in millions of dollars]

	1980	1981	1982	1983	1984
Estimated authorization level..	2	8	12	12	13
Estimated outlays.............	2	8	12	12	13

Note: The costs of this bill fall within budget function 270.

6. Basis of estimate:

For the purpose of this estimate, it is assumed that this bill will be enacted and that funds sufficient to meet the estimated costs will be appropriated. The bill establishes a four-member Energy Mobilization Board. The bill directs that the members of the board be paid at the executive level I rate ($66,000). The chairman is to be a full-time employee. The remaining members are not expected to be full-time employees and are not to hold other federal positions while serving on the board. In addition, the bill provides for a position of general counsel at executive level III ($52,500) and allows the chairman to appoint an executive director also at executive level III. There is no limit on the size of the board's staff, although no more than 30 noncivil service positions may be created. The EMB is granted a 10-year life.

The estimated cost for fiscal year 1980 is based on the assumption that the four members of EMB, the general counsel, a staff director, and a staff of 50 serve for an average of about 6 months during fiscal year 1980, reflecting the time necessary for appointments and hiring. It is assumed that the average staff salary is $30,000. Overhead costs are estimated to be approximately 50 percent of salaries. Start-up costs for the acquisition of office machines, telephones, and other equipment are estimated to be approximately $500,000, most of which would be incurred in fiscal year 1980.

The estimate for fiscal years 1981 through 1984 is based on the assumption of a personnel requirement of approximately 200 to meet the responsibilities of the EMB and accelerated decision-making by other federal agencies.

The bill also designates the Temporary Emergency Court of Appeals as the court to review actions resulting from the bill. Based on information supplied by the Administrative Office of the U.S. Courts, no significant costs are expected to result unless a large case load occurs.

Because the EMB will require assistance from other federal agencies, such as the Council on Environmental Quality and the Department of Energy, some additional costs to the government appear likely. Based on information supplied by the Office of Management and Budget and several of the relevant agencies, these costs are estimated to be approximately $1 million annually. This assumes the need for up to 20 additional staff members among several federal agencies.

7. Estimate comparison: None.

8. Previous CBO estimate:

The Congressional Budget Office has previously prepared estimates for H.R. 4985 as ordered reported by the House Committee on Interstate and Foreign Commerce, September 12, 1979, and by the House Committee on Interior and Insular Affairs, July 27, 1979. Both versions of H.R. 4985 establish the Energy Mobilization Board. Both authorize the appropriation of $2 million for fiscal year 1980, but do not authorize the appropriation of funds for future years. S. 1308 authorizes the appropriation of funds determined necessary to meet the provisions of the bill. S. 1308 is similar to the House Commerce Committee version of H.R. 4985 in that it does not limit the number of energy projects to be reviewed or the size of the EMB staff. While the project designation and decision procedure for these bills are different, staff requirements are projected to be similar. Consequently, the costs of S. 1308 and the House Commerce Committee version of H.R. 4985 are not projected to be significantly different.

9. Estimate prepared by: Mark Berkman (225-7760).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.●

ANNOUNCEMENT OF POSITION ON AMTRAK CONFERENCE REPORT

● Mr. BOREN. Mr. President, I was not aware that the conference report on the Amtrak appropriation was to be voted on late Tuesday evening. If a rollcall vote had been taken, I would have voted in opposition to this appropriation. My reasons for this opposition to the appropriation for the National Railroad Passenger Corporation are varied and I will attempt to briefly make my feelings known.

When the Department of Transportation's report for the restructuring of the Amtrak passenger system was first announced last January, I was initially concerned because my State was one of the few that would be completely without any rail passenger service if the restructuring took place. I attempted to convey my feelings and concerns to the Secretary of Transportation about the effects to a State left without any rail passenger service. The initial proposed cut in the national system was approximately 43 percent.

These initial efforts to save the train for Oklahoma took place before the effects of the summer gasoline shortage were apparent on the ridership figures for the Nation's trains. When the full impact of the gasoline shortage became apparent, it was with renewed vigor that I attempted to have the train saved. Indeed, Congress also saw the folly of cutting back the trains by 43 percent just when the ridership was experiencing such an increase and the fuel supply was short. The proposed cut was suddenly dropped from 43 precent to from 16 to 20 percent.

However, the Lone Star, which serves Oklahoma, was still scheduled to be cut and was indeed recommended for discontinuance at the August board meeting of the Amtrak Corporation. This action was hard to comprehend since the ridership on the Lone Star had increased by 34 percent, comparing June 1978 with June 1979 figures. The train was consistently leaving Oklahoma City with standing room only and advanced reservations were up to 86 percent of the train's capacity for 2 weeks in advance. There is no way to determine how many potential riders were not able to get through on the constantly busy reservations lines of the Amtrak offices.

Surely, it seemed that with these increases the Lone Star would be saved as a prudent business measure and to support a continued mass transportation system during these times of uncertain fuel supplies. However, it appears that the Lone Star will be sacrificed merely for the sake of cutting the system down. It doesn't seem fair to cut the Lone Star, Oklahoma's only rail passenger service, while continuing to subsidize more than 80 percent of the remaining trains. Why should we cut service just for the sake of cutting somewhere? A more prudent step would be to take a good look at what the increased ridership will mean to Amtrak over a period of time.

Mr. President, according to Amtrak's own projections, the Lone Star would be a better train in 1980 than some of those being saved. Projections for the Lone Star's ridership in 1980 are 102 passenger-miles per train-mile and a projected operating loss of 11.1 cents per mile.

In contrast, Mr. President, some of the trains being saved have poorer figures than the Lone Star. Examples are the Inter-American, which Amtrak predicts will have only 78 passenger-miles per train-mile and will operate at a loss of 13.1 cents per mile, the Pioneer, which will have only 77 passenger-miles per train-mile and will operate at a loss of

8.3 cents per mile, the Cardinal, having only 71 passenger-miles per train-mile and losing 13.5 cents per mile, and the Shenandoah, predicted to have only 26 passenger-miles per train-mile and operating at a loss of 25.7 cents per mile.

Mr. President, based on these figures, it is very hard to comprehend how Amtrak could determine that the Lone Star should be one of the trains discontinued. It just does not make sense and I cannot support this appropriation because I do not think that Amtrak has been fair in their decisions regarding a restructured passenger rail system. Oklahomans are prepared to bear their fair share of sacrifices necessary to balance the budget but this action by Amtrak is a case of blatant discrimination against the State of Oklahoma.●

SMALL BUSINESSES AND INNOVATION

● Mr. BAYH. Mr. President, one of our most distressing national problems is the growing evidence that something has gone seriously wrong with our ability to remain an innovative leader in the international community.

The end of the 19th and the early to mid-20th centuries have witnessed an explosion of inventive genius that is unrivaled in the history of the world. Most of this explosion occurred in America. The result is that life has changed more in the last 80 years than in all of the centuries that preceded them.

We now find ourselves in the uncomfortable position of seeing a number of indications of our ability to innovate, like the productivity rate or the number of patents filed each year, clearly telling us that we are falling behind our international competition in many innovative areas.

One of the reasons for this trend is the increasingly difficult time which an innovative small company has trying to stay afloat in today's world. Unfortunately, many of the drags on small companies are artificially created by the Federal Government.

In order to address part of this problem, I have introduced, along with Senator Dole and 28 of my colleagues, S. 414, the University and Small Business Patent Procedures Act. S. 414 will encourage greater participation in Federal research and development programs by small businesses. Small business concerns presently receive a pathetic 3.5 percent of all Government research contracts, despite their enviable record of being at the cutting edge of new technological development. This meager allocation of resources does not do justice to the unique contribution such industries can make to our economy. Congress must act to redress this inequity.

I have also introduced S. 1679, the Patent Law Amendments Act, which would allow the Patent Office to reexamine contested patents as an alternative to spending the estimated $250,000 which it now costs both parties to a patent suit in the district courts. Obviously, a quarter of a million dollars is a great burden on small businesses trying to defend their patents from infringement by competitors. All too often the burdens in time and money are so great that a small business has little choice but to allow larger companies to infringe on their patented inventions. With the passage of S. 1679 the Patent Office could determine a patent's validity in a matter of months at a cost of not much more than $750. This is the kind of help that the American small business needs and deserves.

I would like to call my colleagues' attention to a recent editorial which appeared in the Washington Star entitled "Has America Lost Its Genius?" I think that this article accurately summarizes the problems that innovative small businesses face today and the contributions that small business has made—and can still make—toward greater productivity. I would also call to my colleagues' attention that Dr. Arthur S. Obermayer, who is quoted in the editorial, testified before the Senate Judiciary Committee on June 6, 1979 and endorsed the University and Small Business Patent Procedures Act both from his personal experience as a small business president and as the Vice President of the American Association of Small Research Companies.

I submit for the Record the text of the editorial.

The editorial follows:

[From the Washington, Star, Sept. 22, 1979]

Has America Lost Its Genius?

How can it be that the land of Thomas Edison, Henry Ford and Alexander Graham Bell—and Xerox and Polaroid—is declining so in technological innovation? No one has a single answer, perhaps, but some recent studies suggest that federal policies are making things harder for small, innovative businesses than they should be.

There is wide agreement that the decline in American research and development (R&D) is serious. It affects jobs, inflation, productivity and the balance of trade. America's ability to innovate will have much to say about all these things, as well as how the nation copes with the energy shortage.

Today, America is no longer the obvious leader in technology. A National Science Foundation (NSF) study showed that the U.S. patent balance declined 47 per cent between 1966 and 1975, with a corresponding 91 per cent increase in foreign-origin patents. It showed that the share of U.S. patents granted to foreign residents more than doubled in 15 years, reaching a level of more than 35 percent in 1975. Since 1970, Japanese patenting has increased more than 100 per cent in almost every major industrial category.

The historic role of small, innovative businesses cast a sharp light on the problem. The NSF concluded, for example, that in the post-World War II period, firms with fewer than 1,000 employees were responsible for half of the "most significant new industrial products and processes." Firms with 100 or fewer workers produced 24 per cent of such innovations—and developed 24 times more major innovations per R&D dollar. Yet these small firms received only 3.5 per cent of federal R&D money.

Such studies are immensely suggestive. Another, by the Massachusetts Institute of Technology Development Foundation, took three groups of companies—"mature" (such as DuPont and General Electric), "innovative" (such as Xerox and Polaroid) and "young, high technology" (such as Data General)—and compared their average annual growth in the years 1969–74. In sales, the mature category grew some 11.4 percent, the middle group 13.2 percent and the high-technology group 42.5 percent.

The MIT report went on to observe that in a five year period, the high-technology companies, with sales equaling only 2 percent of the industry leaders, created almost 35,000 jobs compared to the 25,000 jobs created by mature companies.

In spite of such statistics, small, innovative businesses are not doing well. Has there been a deterioration of the climate needed to encourage innovation?

The House Committee on Small Business released in August a collection of reports on the subject, including draft legislation which proposed increased tax incentives to balance the risks of small-scale R&D research and improvements in the patent system to protect a firm's exclusive rights. It also proposed simplified regulations for R&D procurement awards. (Only about 8 percent of such awards are competitive.)

The reports also tended to fault federal policies, such as regulations which treat large and small firms alike—and which, in effect, discriminate against risk-taking firms. Obviously, regulations and a tax structure which encourage short-term profit at the expense of long-term growth will diminish a desire to take major risks and plan for the future.

It would be pointless here to advocate specific legislative proposals, but perhaps useful to point out again that the tendency to regulate everyone equally can work great unfairness. And it is a bit scary to consider how federal policies may contribute to this, and other, national problems.

There is, we suspect, much truth in the legend of the lone inventor, the productivity of what physicist Freeman Dyson calls the "tinkerer" in "the little red schoolhouse." A General Electric study showed that between 1950–74, high-technology companies had three times the output, twice the productivity and one-sixth the price increases of low-technology firms.

But American genius needs to be nourished, and that nourishment affects nothing less than our future. Dr. Arthur Obermayer of Moleculon Research, Cambridge, Mass., who served on a task force for the Advocacy Office of the Small Business Administration, put it another way:

"It took five years from the Wright Brothers' first flight to convince the U.S. government to buy an airplane from them. Even then, the government was afraid to take a chance on a little guy with a big idea. As a result, all the U.S. airplanes flown in World War I were made in Europe. So far, we have not learned from our mistakes."

America's precipitous R&D decline surely suggests that it is time for us to learn from our mistakes.●

THE FUTURE OF NUCLEAR POWER

● Mr. KENNEDY. Mr. President, I would like to place in the Record today an op-ed article on the future of nuclear power which recently appeared in the Washington Star. It was originally published in the September 10 issue of Fortune. It was written by R. A. Brightsen, a senior executive at the Nuclear Regulatory Commission.

I was impressed first by the fact that this article appeared, and second, by what it said. I hope that this article's appearance signals a new era of openness at the Nuclear Regulatory Commission. For too long at the NRC, any dissent has been equated with antinuclear ravings.

In light of Mr. Brightsen's position and experience, his judgment that the nuclear safety regulatory framework is "seriously defective" and that "luck was a significant factor in averting a nuclear catastrophe at Three Mile Island" must be taken very seriously.

But, this article does not end with this judgment. It goes on to offer a positive program for rectifying the regulating program's defects. I cannot judge the validity of each of his recommendations, but I do believe it is time to debate these types of recommendations.

The nuclear energy debate must move beyond extreme positions to debate part of these types of issues.

Mr. President, I commend this article to my colleagues, and ask that it be printed in the RECORD.

The article follows:

BIG CHANGES ARE NEEDED TO REVIVE NUCLEAR POWER

(By R. A. Brightsen)

Despite some minor accidents and close calls, despite the growth and intervention of environmentalist groups in the reactor licensing process, and despite antinuclear demonstrations, the dramatic growth of commercial nuclear power was unblemished by serious reactor accidents for almost two decades.

This long and impressive safety record has, over the years, been translated for some into a sacred article of nuclear faith—"serious reactor accidents can't happen." It is a mindset that has long been shared by all members of the nuclear club—the reactor vendors, the utilities and most unfortunately, the nuclear regulators, who have been charged by the Congress with the responsibility of protecting the public from the radioactivity hazards inherent in nuclear power.

However, the reactor accident at Three Mile Island dramatically revealed to the American people that the existing framework for the protection of the public against the radiation hazards associated with nuclear power is seriously defective. Deficiencies obviously existed in the reactor system, the capabilities of the people attempting to deal with the problems, the rules promulgated by the federal government, the communications systems, the emergency planning for public protection and the dispersion of responsibility for crisis decision-making among utility and government officials.

Luck was a significant factor in averting a nuclear catastrophe at Three Mile Island. The public will not and should not accept a nuclear power framework that depends upon the good graces of fate.

There should be no mistake as to where we are now—we in the United States have reached the end of Phase I of civilian nuclear power, which lasted 22 years. There will be few, if any, new applications for nuclear power plants by utilities unless and until a new national framework has been constructed for Phase II. We now have a de facto moratorium on new nuclear power plants.

In the period immediately ahead, the Congress, the Nuclear Regulatory Commission, the utilities and the vendors necessarily will be focusing on safety improvements in operating reactors, and on developing band-aids for the present framework for nuclear power. These will include additional training programs for reactor operators, more on-site inspectors, hastily drawn emergency preparedness plans, more regulations and generally more money for NRC.

While quick fixes may contribute to improved public protection and therefore be justified, such a response is basically a superficial business-as-usual program. It will do little to reverse the public's growing apprehensiveness with respect to nuclear power. It is certain to increase the cost of nuclear power and unlikely to alleviate the utilities' increasing uncertainty with respect to regulatory stability.

LOST CAPABILITY

If such quick fixes constitute the total national response to Three Mile Island, the ensuing scenario is predictable. Few, if any, new nuclear power plants will be started, and the spectre of another, more serious accident will be kept vividly alive by the antinuclear forces, further eroding public confidence in nuclear power. Public concern and protest will further delay current construction, and more cancellations will occur. The nuclear power contribution to the nation's electric power requirement will dwindle, and ultimately, economic stagnation will force the federal government to nationalize nuclear power. By then, most, if not all, nuclear vendors will have opted out and dismantled their nuclear capabilities. The nation will have to spend immense sums to rebuild the industrial capacity we now have, or buy nuclear power plants from foreign nations.

The country's need for nuclear power is evident, and the public's need for substantially improved protection from the hazards associated with nuclear technology is equally obvious. There are no energy sources that are risk-free in the real world. Our nation's two main energy sources for the near-term future—coal and nuclear power—both pose real but small risks to the public, if properly managed. If the facts are made available, there is little doubt Americans will agree to accept the risks. What they will clearly not agree to is the deliberate pursuit of energy technologies that fail to utilize approaches that will minimize, to a reasonable extent, the risk factors.

It is evident that our existing framework for the use of nuclear power has failed. A new framework for continued development of nuclear power, with substantially improved radiation protection of the public, clearly is needed. Its principal features should include:

Realignment of the senior management of the NRC to ensure that the agency's leadership and the public's safety do not remain in the hands of those who have been conditioned through no fault of their own to believe that serious reactor accidents cannot happen.

A complete and intensive review of all reactor safety regulations as well as the methods and programs used to implement them. The first objective of such a review would be to ensure that all regulations that make meaningful contributions to public health and safety are in place. The second objective would be the elimination of those rules and programs that contribute marginally or even negatively to public health and safety while bloating the bureaucracy and increasing the costs the public must pay for nuclear electricity. The review should be conducted by a well-balanced panel of highly qualified reactor engineers and radiation specialists representing the federal government, the vendors, the utilities and the public.

The establishment of an elite federal corps of top-flight reactor engineers, to be hired by the utilities from the federal government. Such federal reactor engineers would be on-site and in charge of preventing serious off-site releases of radioactivity.

At Three Mile Island, there were no detailed procedures to follow. Emergency decisions had to be made, some of them within seconds. And they *were* made—by reactor operators with limited education (generally a high-school diploma), whose superficial training could not compensate for their lack of a sophisticated understanding of reactor physics and engineering. The U.S. certainly has an abundance of top-flight nuclear engineers, though few are on the payrolls of electric utilities. To ensure uniformly high competence, training, and discipline, the federal government should establish and maintain an elite, highly paid corps of such professional nuclear engineers, and nuclear utilities should be required to buy their services.

Then, if, despite such highly competent federally provided decision-making; a substantial off-site release should occur, the federal government should bear any financial liability incident to a radioactivity release. The personal injury and property damage insurance provided by the current Price-Anderson Act would no longer be needed.

The establishment of an integrated nationwide federal radiation monitoring system and emergency preparedness plan to minimize radiation exposure of the public in the unlikely event of a substantial off-site release of radioactivity.

Certainly there are variations on this proposed framework, which is basically an industry-government partnership. Undoubtedly the recommended fundamental changes would cause some pain in both the private and federal sectors. But the nation would benefit from such a new approach, for nuclear electric power would be available to sustain and improve the nation's standard of living, and the public would be provided with a substantially improved system for protection.

What is desperately needed is initiative and leadership from both the federal and private sectors. Will the real leaders of Phase II of nuclear power please stand up? ●

THE BETTERMENT OF UNITED SENIORS, INC.

● Mr. MATHIAS. Mr. President, on September 29, 1979, a remarkable organization—the Betterment of United Seniors, Inc.—will be holding its 5th Annual Convention at the University of Maryland Student Union Theater in College Park, Md. I am delighted to have this opportunity to recognize the continuing contributions of this active and enthusiastic organization. Over the past 5 years, BUS has worked on issues of critical importance to senior citizens in Prince George's County, Md. These issues include: Crime, health care, transportation, legal service, rent rebates, nutrition, and nursing homes.

The purpose of the BUS convention is to choose its leaders and to select the issues it will concentrate on in the coming year. This is important work. I and others in public life rely on such organizations for guidance and direction in addressing the concerns of the elderly. And they have not disappointed us.

One of BUS's more recent accomplishments was to elicit a pledge from county officials to open a low-cost dental clinic for the elderly by October 1. This is the fruit of a year of debate. The new dental clinic is scheduled to be opened on a limited basis in the health department-run Paint Branch Health Clinic in College Park. Tentative plans have also been made to open another dental clinic later in the Baden Health Clinic, and eventually to have clinics available at four separate sites.

A local poll conducted by BUS staffers revealed the need for dental care planning. Of 550 seniors surveyed, over 65 percent had serious problems in getting good dental care, primarily because they could not afford it. Fifty-one percent said they had not seen a dentist in 5 years. The seasoned citizens of BUS then went to work to improve this situation and they have.

We in the Congress, who are grappling with a variety of issues that will shape the lives and maintain the dignity of older Americans in this country, are proud to be allied with groups such as BUS.

In order to further the interests of the senior citizens in Maryland, I will hold a forum for senior citizens at the Greater Southeast Community Hospital Auditorium on October 22, 1979, where I look forward to an exchange of views with many groups of senior citizens in Prince George's County. Through this forum, I hope to encourage all senior citizens to take as active a role in government and its processes as the members of BUS are taking. The members of BUS make "Senior Power" a reality in Prince George's County. I salute them on the eve of their fifth annual conference.●

ENERGY CONSERVATION IN EUROPE: WILL WE FALL BEHIND?

● Mr. KENNEDY. Mr. President, on August 2 Senator DURKIN and I, along with eight other cosponsors, introduced a major program of direct grants and loan subsidies designed to increase the energy productivity of the American economy. This program is estimated to save over 4 million barrels of oil per day by 1990. The total outlays over 10 years were estimated to be $58 billion; the total cost is $34 billion. As the memory of the gas lines have receded, more and more questions have begun to be raised about energy proposals. Specifically, some have questioned whether grants for homeowners and businesses to save energy are too generous.

It seems to me that these incentives are not too generous. They save oil at an average cost of about $10 per barrel. The Federal subsidy under this program averages $3.60 per barrel.

Comparing these proposals to the European programs also shows their merit.

The number of conservation programs initiated in the European Council nations since 1975 has jumped 260 percent, from 33 to 87. Only Belgium has reduced its programs. Every other country now has building standards in place for new homes and, except for Belgium and Italy, each offers financial aid for retrofitting existing residences. The same six countries—Germany, France, Denmark, Netherlands, Ireland and United Kingdom—offer varying degrees of financial, technical and information support for industrial conservation.

The following sketches conservation programs undertaken by Canada and those Western European countries which have been the leaders in saving energy.

Denmark aggressively pursues higher levels of energy productivity in its various energy-saving approaches. Tax deductions of 50 percent of the cost of insulation are given on any purchase up to $550. One-quarter of the documented costs for residential retrofits are covered by grants. And the Danish Government gives grants up to 40 percent for industrial process improvements. Included in the $15 million industrial conservation program is an industrial energy advisory service.

The Netherlands plans to spend $240 million annually through 1990 to save energy in homes. A subsidy of 30 percent is given to homeowners for insulation investments of up to $2,000. The average grant is $600, and the average investment is $1,200 per dwelling. Public sector units are given 100-percent loans. The Dutch Government expects that 2.5 million homes will be insulated by the end of the 1980's. In the industrial sector, up to $500,000 per project—a 25-percent subsidy—is available; $1 million is set aside for energy efficiency information for small businesses.

Sweden has the oldest and most comprehensive program of any industrial nation. The Government's support began in 1974, which began in the residential and commercial sectors, was expanded in 1975 to include the industrial sector. The most impressive indication of Sweden's commitment to energy productivity is that it is devoting nearly one-half of its energy budget—$112 million out of $233 million—to conservation programs. In 1975 the program's expansion included a goal of zero energy growth: From 4.5 percent per year to 2 percent by 1985; 1-percent growth by 1990, and no growth after that date, with the proviso that this does not interfere with other economic and social goals.

In the building area, the Swedish Government offers to cover, in the form of grants, 35 percent of the costs for conservation; the remaining 65 percent is covered through a 6-percent loan. The Swedes hope to reduce building energy consumption 0.9 percent per year through 1985. For new buildings new standards will reduce heating loads by 40 percent. In the industrial area, where 57 percent of the funds are channeled, $50 million has been spent to date. The value of oil saved amounts to 16 percent of the investment. The Government offers 35-percent grants to industries, notably the pulp and paper and the iron industries, making process changes. Companies incorporating energy savings techniques in new plants are entitled to 50-percent grants, as well as aid for prototypical or demonstration facilities. The latter two programs comprise 24 percent of the Government's conservation budget, with 17 percent routed to the building sector.

West Germany, with 40 percent of its total energy needs accounted for by building heating load, and with over one-half of the fuel being oil, has concentrated its efforts in the residential and commercial sectors. The 1978 apartment improvement law gives building owners and dwellers an option of taking either a 25-percent grant on conservation improvements of between $1,800 and $5,400. The other option gives both residential and commercial buildings tax-exempt status if conservation or solar improvements are made. Applications for either program are handled by a federally designated state office.

In August 1979, the Federal Government introduced a bill which would amend the above law by passing on costs to tenants, thereby inducing the further reduction of consumption by 20 percent.

The total expenditure for the subsidies is $1.053 billion, and $.9 billion for tax exemptions. In the industrial sector, little has been done beyond giving a 7.5-percent tax credit, due to the downward trend in energy use per output.

Canada, which has the dubious distinction of having the worst per capita consumption of energy of any industrialized nation, has embarked upon an ambitious program to reduce energy use in its residential sector. The Canadian home insulation program, or CHIP, is a 7-year, $1.4 billion, grant program designed to reduce Canadian residential energy use by 30 percent in 70 percent of their homes. Currently, Canadian citizens are applying for this program at the rate of 1,500 to 2,000 applications per day, which is approximately the participation rate necessary to reach their 7-year goal. CHIP began as a pilot program in Nova Scotia, where over one-half of the eligible homes were reached in 1 year resulting in a 15-percent reduction in the Province's consumption.

The United Kingdom program, while not as ambitious as the preceding five countries—its goal is an 8-percent reduction, or 11 million tons, in oil use by 1990—does have an impressive number of programs established to insure that it does meet the goal. A $50-million grant program has been adopted for commercial and industrial conservation, including a 50–50 cost sharing plan for firms adopting consultants' advice. A $150 subsidy is available for a 1-day survey of industrial, commercial or public sector buildings, with detailed surveys made on selected energy intensive industries. For the first year of investments in industrial building conservation, a 100-percent tax allowance is given. Up to 66 percent of private housing insulation costs ($100 maximum) is covered by government grants. Finally, a 10-year, $200 million loan program for public sector housing has begun.●

ADDRESS BY SENATOR MORGAN ENTITLED "NEW DIRECTIONS IN AGRICULTURE"

● Mr. DOMENICI. Mr. President, this last Monday our colleague, Senator MORGAN, addressed an association of particular note for New Mexicans. Dr. Bill Stephens, secretary of the Department of Agriculture in the State of New Mexico, has been elected president of the National Association of State Departments of Agriculture succeeding Jim Graham of North Carolina. Needless to say, New Mexicans are very proud of Dr. Stephens and the national recognition he has achieved.

It was very apropos that BOB MORGAN address this national agricultural group because he has exhibited leadership which extends beyond parochial interests and which is truly national in perception. The Morgan amendment to S. 14 immediately comes to mind as an example. The topic of his discourse was "New Directions in Agriculture." Senator MORGAN dramatically sets a goal of exporting $50 billion worth of American farm products by 1985. His visionary approach and determination in realizing this goal are forcefully expressed in the text of his statement, and I ask it be printed in the RECORD in its entirety and recommend its digestion by the Members.

The statement follows:

NEW DIRECTIONS IN AGRICULTURE

It is an honor for me to join you today to share a few thoughts on agricultural policy with you. It is a special thrill for me to be here with you because of the family farm character of our state's agriculture and because my good friend, Jim Graham, serves as your president.

First, let me say that the National Association of State Departments of Agriculture is rapidly becoming an important organization in the shaping of farm policy in Washington. This is true because you have been blessed with strong leadership and because you have an outstanding Washington staff.

Also, we at the federal level are beginning to work more closely with state officials. Too often in the past, we have assumed that federal policies and programs would be implemented and executed almost as a matter of course. As a result, we all have learned some painful lessons and we are beginning a process of examining, with state officials, how these programs and policies will impact on our citizens.

I am especially pleased that you will have an opportunity to see some of our farms while you are here. You will most likely find that our farms are small and that they are small because of tobacco. It is important that you learn about tobacco because there is so much misunderstanding and misinformation about this great commodity and the best way to get an education is through first-hand experience.

Agriculture and rural development are two of my primary interests in the Senate. My interest stems from the type of state that North Carolina is, because of the fact that I am a farmer myself and because I believe that agriculture is the backbone of the American economy.

I also serve as Chairman of the Rural Housing and Development Subcommittee which has jurisdiction over many of the programs of the Farmers Home Administration.

During my years in the Senate, I have attempted to gain appreciation for national farm policy concerns. When a new Senator comes to Washington, he or she is tempted to vote strictly the interests of his or her state. But to be parochial is to be shortsighted. We must look beyond the borders of our state and see the national importance of agriculture. When one takes a national view one discovers that we have a common interest, an interest that spans from Hawaii to Maine and from Florida to Alaska. We must consider the broad aspects or we will likely suffer the type of divisiveness that will destroy us in the end.

I believe that the most useful purpose I could serve here today is to discuss with you what I believe should be the future directions we should take in farm policy. We know from the devastating experience that we suffered in the Great Depression that the federal government must be involved in agriculture. We must constantly re-examine this involvement, assuring that our policies and programs recognize current realities and maximizes the freedom and rights of our farmers.

A word of caution. The political future for agriculture concerns me. The 1980 Census is going to mean a loss of traditional farm seats in the House of Representatives. Because of the close votes that have occurred in the House in the past few years on farm matters, I think that it is clear that we must rethink our strategy for the political tests that are sure to confront us in the next decade. The old rhetoric, in my opinion, will no longer suffice. We must search for new areas of strength and not continue to articulate the old and familiar platitudes of days past.

Our farm policies must recognize new economic realities, both foreign and domestic. We must meet the challenge that tightened energy supplies portend. And we must develop a consensus about the impact of modern agriculture on the environment, and a consensus regarding the balance of interests between farmers and consumers. These are the areas that we must focus upon, the areas where success or failure will be determined in the future.

One of the difficulties we have in developing farm policy concerns our ability to know how policy should be formulated within the context of emerging economic realities. This is extremely difficult, especially in view of the fact that weather plays a telling role in food and fiber production of the major agricultural nations of the world. Without question, economic factors such as the health of the world economy and the strength of the dollar play an important role to our nation's special interest in the world's food and fiber marketplace.

Despite these elusive and complex challenges, I think that export policy should be placed at the forefront of our farm policy. I think that we should set the goal of exporting $50 billion worth of farm exports by 1985 and demonstrate determination to reach that objective.

I speak of determination because we have not always demonstrated the kind of determination that will be required in the future. Just now, for example, are we beginning to execute the aggressive export promotion programs that we must have.

Also, we have a sad history of trying to use our farm exports for political purposes. I say that this is a sad history because such policy approaches, either through embargoes or through the use of food as a weapon, have been counterproductive. These ill-advised strategies fail because, four years out of five, the world has abundant supplies of food.

One of the difficulties facing farm policy makers is the degree to which farmers, both here and abroad, are insulated from marketplace realities. Because of the interdependent world we live in, such a policy of insulation cannot, for long, be tolerated. The ultimate result is the type of protectionism that will most assuredly lead to international disruption and turmoil.

Now, I cannot deny that there is often a thin line between protectionism and national survival. Policy makers have to be as concerned about the economic welfare of their country as they do about their national defense. What we need to do is to strike a balance between domestic concerns and international realities.

It is clear to me that our farmers would be the benefactor of freer trade. Our farmers have shown many times that they can successfully compete in the world marketplace and protectionism, if anything, hurts our agriculture, not our competitors' agriculture.

Fortunately, the present Administration has recognized this fact. The President, Secretary Bergland, Ambassador Strauss and our entire trade team are to be congratulated for emphasizing agriculture in the recent Multi-Lateral Trade Negotiations. Without their strong efforts, the trade package would have been far less satisfactory from agriculture's standpoint.

The most pressing problem we face in agriculture today is energy. We need energy to power our tractors and implements, to cool and heat our poultry and pork operations, for the marketing of our farm products and for a variety of other farm-related purposes. Beyond the immediate needs of food and fiber production, all rural Americans are extremely energy dependent. Rural people do not have transportation alternatives, for example.

The immediate energy picture is bleak. Sure, the spot shortages of spring and early summer have disappeared. But rural people will soon experience difficulties because of the high cost of distributing energy, especially petroleum, to low population density areas. This was true in the early 1970's. If it were not for farmer cooperatives, many rural areas would have been devastated by shortages.

Two types of energy policies must be pursued in the short-run. First, we must be sure that rural areas receive priority allocation of fuels. Second, we must be sure that decentralized forms of energy production are a part of the nation's energy strategy. This can be accomplished through a number of means, including wood and grain alcohol, biomass conversion, low-head hydroelectric generation and through other sources, all of which can be characterized by decentralization.

Why is decentralization so important? Decentralization needs to be pursued because it means independence for rural people. Senator Talmadge, just last week, offered legislation which is designed to make rural residents 50 percent less reliant on petroleum and natural gas by the year 2000 and I intend to support him in his efforts.

The energy crisis can develop into a blessing. History has shown that man is capable of determining his fate. This crisis should represent for us all both a challenge and an opportunity, a challenge to test our creativity and leadership and an opportunity to provide our citizens with long term stability.

Another matter of concern has to do with the continuing strife between farmers and consumers. This is a relationship that is important now and will be paramount in the 1980's, for all of the reasons I articulated earlier.

This relationship revolves around two dimensions. One part has to do with matters of price, the other with the matter of food safety.

Regarding price, the consumer lobby continues to fight bills in Congress that will benefit farmers. The most current example of this concerns sugar legislation. On this particular issue, I find it important that the Administration is on the side of the farmers. Nonetheless, farm groups expect a difficult struggle getting a bill through the House of Representatives.

Now, I plan to support a sugar bill, even though no sugar beets or cane are grown in North Carolina. I will support sugar because Senators from sugar-producing states have supported commodities important to North Carolina, including tobacco.

Consumers will fight this bill, citing its possible inflationary impact. Let us examine the facts.

It is true that the world price of sugar is below the U.S. price. What consumers fail to understand is that sugar is the most volatile commodity, price-wise, in the world. U.S. growers produce only a small fraction of our needs, the remainder coming from a group of countries that have been marked by political instability.

At present, domestic growers and processors are going out of the business in droves. If we lose our domestic production, we will be at the mercy of the world market. To assess what may happen, one only has to recall that sugar increased from 14 cents a pound to 86 cents a pound during a six-month period in 1974. I submit that consumers will benefit as much as farmers from continued sugar production here in the U.S.

Consumers have yet to fully understand

what comprises food prices. Today, the farmer receives only one-third of the food dollar, a proportion that has been dropping steadily since the Depression. When food prices increased recently, the President sought an explanation. It wasn't the farmers he called to the White House, but food processors and the food chains.

I have a few thoughts on the problem of food safety. Consumers have reacted against chemical additives in our food supply. The most recent example concerns the use of nitrites in meat processing, notably in bacon and other pork products. A meat processor from Minnesota recently used Latin, "sola dosis facit venenum", or "only the dose makes the poison", to describe his reaction to consumer attitudes on this matter. What he was trying to say is that we must use potentially dangerous chemicals to protect public health and that moderate use of chemicals would enhance, rather than damage, the health of our people.

The "food safety" rhetoric hits me two ways. On the one hand, government scientists and regulators must act to assure that we have a safe food supply. Our record in this area is second to none in the world.

On the other hand, consumers have abundant food choices. The average grocery store in America stocks over 10,000 food items. If consumers want to avoid chemicals in food, they can make that choice by exercising their rights in the marketplace.

The best way we can generate consumer understanding is through education, through better communication. Farmers are beginning to invite their urban cousins to see what life is like in Rural America. Farm and commodity groups are attempting to attack this problem through direct advertising in newspapers and over the airways.

Here in North Carolina, we recently tried a different approach. A number of leaders here, including the Governor, Commissioner Graham, and myself, met with key agricultural leaders to develop a tour for key Congressional staff. Less than one month ago, 17 staff people from outside the Deep South boarded a plane in Washington for the trip to North Carolina. Many of these staff people had no firsthand knowledge of agriculture. Two days later, all 17 left with direct experience of what our state's agriculture is all about.

Plans are already being formulated to have this trip again next year. I intend to propose that we invite each individual to spend an entire day with a farm family which will mean an extension of the trip by one day. The additional time would be very worthwhile. The intimate exposure that this day would provide to each person would undoubtedly impress them for the remainder of their lives.

The fact that we are doing this type of exercise in North Carolina is a tribute to agricultural leaders such as Jim Graham. Here in the Tarheel state, we believe in confronting our problems directly and positively, with a sense of confidence that justice and reason will prevail. I certainly would urge each of you to consider such a tour for your state.

Early in my comments I alluded to the likely political difficulties that farm-state Senators and Congressmen will face in the 1980's. I am concerned, even worried. But I am not willing to throw in the towel. Seeing you here today, the leaders of agriculture for the states of our great nation, cannot help but reassure me. We know that we will be challenged in the future, just as we have been in the past. But we can meet these challenges. We can meet them because of the very nature of our free society. We will endure, even thrive, through our strength and our ability to look to the future.

Thank you for this opportunity.●

THE RELEASE OF JACOBO TIMERMAN

● Mr. CHURCH. Mr. President, late yesterday, the Argentine Government released Jacobo Timerman from house arrest, stripped him of his citizenship, and expelled him from the country.

Timerman, a distinguished newspaper editor, had been held under detention and house arrest for 2½ years despite repeated court rulings which found no legal basis for his grossly illegal treatment by the Argentine military government.

There were many protests from throughout the world community against the violations of Mr. Timerman's human rights. I should like especially to commend my colleague, Senator SARBANES, who, as chairman of the Foreign Relations Committee's Subcommittee on Western Hemispheric Affairs, initiated a letter to Secretary of State Cyrus Vance, on October 19, 1977, urging him to raise the issue of Timerman's detention with the President of Argentina, General Jorge Videla.

Just last week, Senator SARBANES arranged for Members of the Senate to meet with Mr. Timerman's wife in a reception room off the Senate floor so that they could learn firsthand the details of his mistreatment.

I have followed Mr. Timerman's persecution for some time. On July 11, 1979, Senators STONE, SARBANES, ZORINSKY, JAVITS, and I wrote a letter to President Carter urging him to intervene on Mr. Timerman's behalf. Senator STONE has been most helpful in bringing this matter to the attention of the Senate and the public at large.

Mr. President, I welcome the news of Mr. Timerman's release and ask that an account of this affair appearing in this morning's Washington Post and the letter of July 11, 1979, be printed in the RECORD.

The material follows:

[From the Washington Post, Sept. 26, 1979]

ARGENTINA RELEASES, EXPELS PUBLISHER JACOBO TIMERMAN

(By Charles A. Krause)

BUENOS AIRES.—Jacobo Timerman, the Argentine newspaper publisher whose arrest and detention for 2½ years became an international symbol of human rights abuses in Argentina, was stripped of his citizenship and expelled from the country late this afternoon.

Timerman was taken secretly from his apartment in central Buenos Aires, where he had spent more than a year under house arrest, to Ezeiza International Airport here and placed aboard a flight to Rome before any official announcement of his departure was made.

According to an official communique issued by the government after Timerman was safely in the air, he left with a "non-Argentine" passport that had an Israeli visa stamped inside. It is expected that Timerman will leave Rome immediately upon his arrival there to rejoin his family in Israel.

[Timerman's wife was in New York visiting her son, Hector, a student at Columbia University, when she received the news.] Hector, 25, told the Associated Press: "We all jumped in excitement when we heard the news. We had talked with my father in the morning, but at that time he didn't know anything."

[The family is expected to join Timerman in Israel on Thursday.]

The secrecy and security surrounding Timerman's expulsion was so strict that not even the publisher's rabbi, Marshall Meyer—the only person in regular contact with Timerman since his arrest in April 1977—knew that Timerman was to be released today.

For Rabbi Meyer, the first hint of what happened came at 5 p.m. when he arrived at Timerman's apartment for a regular visit only to be told by security police that the publisher had taken a sedative and did not want to be disturbed.

Fearing that Timerman had been kidnaped, Meyer said that he rushed to the Israeli Embassy here, where he eventually learned that Timerman was on his way to the airport by helicopter, accompanied by the Israeli charge d'affairs. The official government communique was released at 7:30 p.m.

Timerman's release came less than a week after the Inter-American Human Rights Commission left Argentina at the end of a two-week inspection of the human rights situation here. Among the political prisoners the commission interviewed during its stay was Timerman, whose newspaper, La Opinion, was considered one of the finest in the Spanish-speaking world before Timerman's arrest.

The military continued to operate the newspaper after Timerman's arrest.

Last week, the Argentine Supreme Court made public a recent decision in which it ruled that Timerman should be set free. In July 1978, the court held that the military had no judicial grounds for the publisher's detention.

His release today was viewed by political and diplomatic observers here as a significant victory for President Jorge Videla and those within the Argentine military government who believe that certain concessions must be made in the face of international demands that Argentina improve its record on human rights.

Videla, a retired general who reportedly threatened to resign if Timerman were not released this week, is portrayed by his aides as consistently advocating the end of the extra legal activities. Other observers, however, maintain that he is either a weak president if he cannot control the violence, or has less interest in improving Argentina's human rights record than he says.

It is known that the military was deeply divided over whether to release Timerman. Sources here said Videla told members of the human rights commission that these divisions within the military, especially the Army, made decisions such as releasing Timerman extremely difficult.

Videla reportedly said that many generals still believe that terrorism can only be fought with methods that would be considered serious violations of due process and human rights in much of the world.

Timerman, for example, was initially kidnaped by military security forces and held incommunicado for several days and tortured. He was kept in jail for a year without charges while he was being "investigated" for alleged links to the Montonero urban guerrilla group.

Amid mounting pressure from the Carter administration and many Jewish groups, which saw Timerman's detention without charges as proof of anti-Semitism on the part of the military here, Timerman was finally transferred from prison to house arrest in April 1978.

U.S. SENATE,
Washington, D.C., July 11, 1979.

JIMMY CARTER,
The President, The White House, Washington, D.C.

DEAR MR. PRESIDENT: When you met in Washington with President Jorge Rafael

Videla at the time the Panama Canal Treaties were signed, you discussed with him the situation of Jacobo Timerman, the distinguished Argentine journalist who had been arrested in April 1977. It is our understanding that President Videla assured you that Mr. Timerman would be tried and released if he were found innocent.

Approximately one month after your meeting with President Videla, an Argentine military tribunal found no basis for charging Mr. Timerman with any crime. Despite the assurances you received, Mr. Timerman was not released. He was kept in jail and placed under National Executive Power (P.E.N.). In July 1978, the Timerman case came before the Argentine Supreme Court, under Habeas Corpus action filed by his family. The court found no legal basis for his detention under P.E.N. and ordered his release. Nonetheless he was not permitted to go free. Mr. Timerman was removed from P.E.N. but continued under house arrest as a direct prisoner of the military junta.

In view of the assurances you received from President Videla and the fact that neither the military nor the civilian court could find any cause to try Mr. Timerman, let alone find him guilty of an illegal action, we are writing to ask that you communicate to President Videla your hope that Mr. Timerman will be released promptly so that he may join his children who now live in Israel.

With best regards.

Sincerely,

Frank Church,
Jacob K. Javits,
Richard Stone,
Paul S. Sarbanes,
Edward Zorinsky.●

RELEASE OF JACOBO TIMERMAN

● Mr. SARBANES. Mr. President, newspaper reports today confirm that Jacobo Timerman, the highly respected and courageous journalist who has been detained in Argentina since April 1977, although no charges were ever placed against him, has at last been released. According to these stories, the Government of Argentina has stripped him of his citizenship and expelled him from the country. He is now on his way to Israel where his family lives.

The Timerman case is perhaps the most celebrated of the thousands of human rights cases which have arisen in Argentina in recent years. Until he was summarily taken from his home by armed men nearly 2½ years ago, he edited the prestigious and outspoken newspaper which he had founded in 1968, La Opinion. In a country where thousands of persons were kidnapped and simply disappeared, he was not afraid to speak out against gross violations of basic human rights and of constitutional rights. Nor was he afraid to speak out on behalf of Israel.

For the first year following his arrest, Mr. Timerman was held in prison. He was interrogated and tortured. In April 1978, he was moved from prison and placed under closely guarded house arrest in his Buenos Aires apartment. In the course of his long 30 months' detention, his case was heard by a military tribunal, which exonerated him; subsequently, in July 1978, by the Supreme Court of Argentina which, ruling on a habeas corpus action brought by his family, found no basis for his detention under the national executive power and ordered his release; and again earlier this month, when the Supreme Court found no basis in Argentine law for his detention and one again ordered his release. At no time during this period was Mr. Timerman ever charged with any crime.

On June 17 in New York, Hector Timerman accepted the Hubert H. Humphrey Freedom Prize which the Anti-Defamation League of the B'Nai B'Rith had awarded in absentia to his father. Moving statements concerning the Timerman case and the broader human rights issue which it represented were made at that time by Hector Timerman and by Benjamin R. Epstein, executive vice president of the Anti-Defamation League Foundation and for many years the extraordinarily able executive director of the ADL. The efforts of Rabbi Morton Rosenthal and the Anti-Defamation League of the B'Nai B'Rith have been a most important force in bringing the Timerman case to public attention and keeping it in public focus.

Many Members of Congress in both the Senate and the House of Representatives have taken a personal interest in the campaign to obtain Mr. Timerman's release. Twice members of the Senate Foreign Relations Committee have written letters on his behalf, followed up by a number of direct inquiries. Just last week during their visit to Washington, Mrs. Rische Timerman and her son Xavier met with a large number of Senators, including Senators Church, Pell, Javits, Lugar, Stone, Metzenbaum, Zorinsky, Ribicoff, Baucus, Tsongas, Riegle, Moynihan, Kennedy, Levin, Mathias, Chafee, Pressler, Biden, Leahy and Sarbanes.

Throughout his long ordeal, Mr. Timerman was fortunate to have the unstinting and courageous support of his family. Mrs. Timerman and their son Xavier are currently in the United States, and Hector Timerman is enrolled as a graduate student at Columbia University. Their son Daniel is in Israel with his wife. Even before hearing of her husband's release, Mrs. Timerman had planned to return to Israel and await the birth of her first grandchild. Jacobo Timerman will now be able to join her. The dedicated and persevering efforts of the Timerman family are largely responsible for this result. I salute Mrs. Timerman and the Timerman sons for their great courage, and I shall include in the material following this statement newspaper accounts of their heroic efforts.

Mr. President, at last Jacobo Timerman has been released from the tragic ordeal he should never have suffered. Only recently the Inter-American Commission on Human Rights of the Organization of American States has completed an onsite inquiry into human rights violations in Argentina in which other shocking denials of personal liberty and security have been detailed. One hopes and urges that the release of Mr. Timerman marks the beginning of a return to the rule of the law and a rectification of the violation of human rights which have occurred in Argentina.

Mr. President, I submit for the Record the statements and letters to which I have made reference.

The material follows:

[From the Washington Post, Sept. 26, 1979]

Argentina Releases, Expels Publisher Jacobo Timerman

(By Charles A. Krause)

Buenos Aires, September 25.—Jacobo Timerman, the Argentine newspaper publisher whose arrest and detention for 2½ years became an international symbol of human rights abuses in Argentina, was stripped of his citizenship and expelled from the country late this afternoon.

Timerman was taken secretly from his apartment in central Buenos Aires, where he had spent more than a year under house arrest, to Ezeiza International Airport here and placed aboard a flight to Rome before any official announcement of his departure was made.

According to an official communique issued by the government after Timerman was safely in the air, he left with a "non-Argentine" passport that had an Israel visa stamped inside. It is expected that Timerman will leave Rome immediately upon his arrival there to rejoin his family in Israel.

[Timerman's wife was in New York visiting her son, Hector, a student at Columbia University, when she received the news. Hector, 25, told the Assoicated Press: "We all jumped in excitement when we heard the news. We had talked with my father in the morning, but at that time he didn't know anything."

[The family is expected to join Timerman in Israel on Thursday.]

The secrecy and security surrounding Timerman's expulsion was so strict that not even the publisher's rabbi, Marshall Meyer—the only person in regular contact with Timerman since his arrest in April 1977—knew that Timerman was to be released today.

For Rabbi Meyer, the first hint of what happened came at 5 p.m. when he arrived at Timerman's apartment for a regular visit only to be told by security police that the publisher had taken a sedative and did not want to be disturbed.

Fearing that Timerman had been kidnaped, Meyer said that he rushed to the Israeli Embassy here, where he eventually learned that Timerman was on his way to the airport by helicopter, accompanied by the Israeli charge d'affairs. The official government communique was released at 7:30 p.m.

Timerman's release came less than a week after the Inter-American Human Rights Commission left Argentina at the end of a two-week inspection of the human rights situation here. Among the political prisoners the commission interviewed during its stay was Timerman, whose newspaper La Opinion, was considered one of the finest in the Spanish-speaking world before Timerman's arrest.

The military continued to operate the newspaper after Timerman's arrest.

Last week, the Argentine Supreme Court made public a recent decision in which it ruled that Timerman should be set free. In July 1978, the court held that the military had no judicial grounds for the publisher's detention.

His release today was viewed by political and diplomatic observers here as a significant victory for President Jorge Videla and those within the Argentine military government who believe that certain concessions must be made in the face of international demands that Argentina improve its record on human rights.

Videla, a retired general who reportedly threatened to resign if Timerman were not released this week, is portrayed by his aides as consistently advocating the end of the extralegal activities. Other observers, however, maintain that he is either a weak president if he cannot control the violence, or has less interest in improving Argentina's human rights record than he says.

It is known that the military was deeply divided over whether to release Timerman. Sources here said Videla told members of the human rights commission that these divisions within the military, especially the Army, made decisions such as releasing Timerman extremely difficult.

Videla reportedly said that many generals still believe that terrorism can only be fought with methods that would be considered serious violations of due process and human rights in much of the world.

Timerman, for example, was initially kidnaped by military security forces and held incommunicado for several days and tortured. He was kept in jail for a year without charges while he was being "investigated" for alleged links to the Montonero urban guerrilla group.

Amid mounting pressure from the Carter administration and many Jewish groups, which saw Timerman's detention without charges as proof of anti-Semitism on the part of the military here, Timerman was finally transferred from prison to house arrest in April 1978.

[From the New York Times, September 26, 1979]

ARGENTINE REGIME EXPELS PUBLISHER FOLLOWING COURT ORDER HE BE FREED

BUENOS AIRES, ARGENTINA, September 25.—The Argentine Government today expelled Jacobo Timerman, a newspaper publisher who had been held in detention for 29 months.

The Interior Ministry said that Mr. Timerman, the publisher of the morning independent newspaper La Opinion, was put on an Aerolineas Argentinas flight to Rome with an Israeli visa. The flight, with stops scheduled in Rio de Janeiro and Madrid, left here this afternoon.

The military junta thus complied with an order issued by the country's Supreme Court eight days ago to free Mr. Timerman. The publisher was cleared by a military court in October 1977 of having ties with left-wing subversives but had remained under detention.

Mr. Timerman, a Zionist, had antagonized Argentina's military rulers with his criticism of security methods introduced after the military took power in March 1976 after the overthrow of former President Isabel Martinez de Peron. Mr. Timerman was imprisoned in April, 1977, but was transferred a year later to house arrest.

Born in Russia 56 years ago, he was brought to Argentina at the age of 3 with his parents. He had to be stripped of his naturalized citizenship in order to be legally expelled. His wife and three sons moved to Israel after he was transferred from jail to house arrest in April 1978 and he is expected to join them there.

The Supreme Court's ruling last week ordering Mr. Timerman's release was the second such ruling in little more than a year. In July 1978, the court ruled that there were no judicial grounds for detaining the former newspaper publisher.

The court's ruling coincided with the end of a 14-day visit to the country by the Inter-American Human Rights Commission, which was investigating allegations of the human rights violations in Argentina.

[From the Baltimore Sun, Sept. 26, 1979]

ARGENTINA EXPELS TIMERMAN, PUBLISHER

BUENOS AIRES (AP).—The military government stripped Jacobo Timerman, the publisher of his Argentine citizenship yesterday and expelled him from the country, ending his 29-month imprisonment.

The Interior Ministry said Mr. Timerman was put on an Aerolineas Argentinas flight to Rome with an Israeli visa. The plane, with scheduled stops in Rio de Janeiro and Madrid, left here in late afternoon.

The military junta thus obeyed an eight-day-old Supreme Court order to free its most prominent political prisoner, who was cleared by a military court in October, 1977, of having ties with left-wing subversives but remained detained.

Mr. Timerman, who was born in Russia 56 years ago and came to Argentina with his parents at age 3, had to be stripped of his naturalized citizenship in order to be legally expelled. His wife, Rishe, and their three sons moved to Israel after he was moved from jail to house arrest in April, 1978, and he is expected to join them there.

In New York, Mrs. Timerman, visiting her son, Hector, a student at Columbia University, began sobbing when a reporter told her the news by telephone. She was unable to comment but Hector, 25, said: "We all jumped in excitement when we heard the news. We had talked with my father in the morning, but at that time he didn't know anything."

A spokesman for the Anti-Defamation League of B'nai B'rith, a Jewish organization, said the family planned to join Mr. Timerman in Israel tomorrow.

Because of his stature as publisher of the influential newspaper *La Opinion* and as a Zionist respected throughout Argentina's 350,000-member Jewish community, Mr. Timerman became an international human rights case after his April, 1977, arrest and, according to his famly, torture under questioning.

Exiled Soviet writer Alexander Solzhenitsyn, the Vatican and President Carter, among others, pleaded for his freedom. Critics of the military regime's human rights record often cited his case as evidence of his disregard for the legal process.

Mr. Timerman was questioned about his business association with David Graiver, a young Jewish financier accused of investing the kidnap ransom and bank robbery loot of Argentina's Montonero guerrillas abroad.

A military court found no evidence the publisher had direct financial ties to the left-wing terrorist group.

PRESENTATION TO HECTOR TIMERMAN

(By Benjamin R. Epstein)

I am here representing the family of Dwayne Andreas whose foundation has endowed the Hubert H. Humphrey Freedom Award.

Someone is missing from this luncheon.

He was supposed to be here. He was invited. He just couldn't make it. Not because he didn't want to. He would have loved to be with us.

He's not here because he has been prevented from attending.

Instead, he is in prison. The fact that the prison is his own home does not make it any less a prison because it has become a place of confinement. It is a jail as if its doors were iron gates and its windows barred.

That man who should be here is named Jacobo Timerman.

Although his person is incarcerated in Argentina, his name and fame have crossed international borders. He has come to symbolize the world wide struggle for freedom of the press. Of more than 600 journalists and writers who at this very moment are victims of repressive government action in some 55 countries, he is the most prominent and his case the most outstanding. He is one of 119 Argentinian journalists—the best and brightest of the country's newspapermen—who have been either imprisoned, placed under house arrest, or forced into exile.

Why did it happen to him? Why was he, the founder of two weekly magazines and the independent newspaper La Opinion, dragged from his home by a group of armed men on the morning of April 15, 1977? Why, if no charge was brought against him then or since, did he spend the next year in prison? Why was he tortured and stripped of his civil rights? Why is he under house arrest if the military tribunal which tried him found no evidence linking him to subversion?

The answer to these questions? There has been no answer. So far as anyone can determine he is an Argentinian Jew who has been a conscientious newspaperman doing an exemplary journalistic job which managed to shock and offend the powers that be in Buenos Aires.

I have searched my mind for a parallel in history. Is his case like that of the American, Peter Zenger? Not quite. Zenger was permitted to plead his case and defend his right to press freedom! Timerman did not get his day in court.

Is there a closer parallel to the French Dreyfus case? The unspoken charge against Captain Dreyfus was that he was a Jew. Is it thus with Timerman? But Dreyfus was brought to trial, and though falsely convicted was able to defend himself, to bring the anti-Semitic charges out into the open, and ultimately win his freedom.

Not so with Timerman! He has had no day in court. In fact, the Supreme Court of the Argentine has decreed that there is no basis in law, no charges have been presented, and there are no grounds for detaining him. The anti-Semitism has not come out into the open, but it lurks in the shadow behind the official silence.

Because he is forcibly detained, he cannot be with us to accept the Hubert H. Humphrey Award for his devotion and dedication to a free press. He is absent even though permission for his presence was requested from President Jorge Rafael Videla of Argentina. Regrettably, there has been no answer to this request either.

Therefore, as we did with Anatoly Scharansky who is held in a Soviet Gulag, this presentation must be made in absentia.

Fittingly, a son will stand in for his father.

This is not the first time Hector Timerman, who flew here from Israel, has substituted for his father. He took over the editorship of La Opinion when Jacobo Timerman was arrested, a most courageous act under the circumstances.

He remained in that post until the military junta expropriated the paper and it became apparent that he, too, might be marked for imprisonment.

Fortunately, he was able to leave for Israel, where he now lives.

I hope that soon he and his father will be reunited so that he can pass on to him this very richly merited award that we are now presenting.

STATEMENT OF HECTOR TIMERMAN, UPON ACCEPTING THE HUBERT HUMPHREY FREEDOM PRIZE

For reasons which are publicly known, I've come in behalf of my father to receive and thank you for the Hubert Humphrey award bestowed upon him.

When I told him about his having been awarded such honor, his remark was "Once against Hubert Humphrey comes out to defend a man persecuted for his struggle for freedom".

Political instability and ideological confrontations have always been one of the features in most Latin American countries. Fear and prejudice, passion and vested interest, economic inequality and social frustration have contributed to build up in this continent's countries, which lacking a democratic tradition, a climate of violence which, in the last few years, has grown into terrifying proportions.

And it is in such climate wherein a journalist in Argentina has to cope with the hard, thankless and dangerous task of bringing back a sane attitude, an attitude of peaceful coexistence among citizens, of respect for human rights and of denunciation of violence.

And because, for painful reasons, I have the honor of receiving the award in my father's name, allow me to—modestly but justly—point out that Jacobo Timerman fulfilled this aim fervently and passionately, without letting himself be discouraged by threats both from the right and the left wings.

I know for certain that he had the opportunity to safeguard his own interest, and avoid a painful imprisonment; however, he chose to fight for his principles and the values advocated by him. No other way for someone who decided "to your own self be true" as well as true to the world he believed in.

Jacobo Timerman was imprisoned by the Argentine authorities, charged with numerous and terrible crimes. None, however, could be proved in any way whatsoever by the Military Court which tried him. The military courts said he should be released.

My father has been imprisoned for over two years, and up to this day the authorities in Argentina have been unable to explain the reasons for his arrest. I can tell you he is a political prisoner. But there were not only political reasons which caused my father's arrest and the fact that the same authorities ignored the order for his release, issued by the Supreme Court of Justice, the highest judicial power in Argentina.

There is another conspicuous reason, a well-know one, and one which arose during the frightful questioning he was subject to. Jacobo Timerman is a Jew. Among the absurd humbugs woven about him and the arbitrary, never-proven charges, my father was questioned about his links with the Elders of Zion and his activity in behalf of projects for world dominance by the Jews.

To defend democratic principles was already a serious crime; but for a Jew to do so caused an impact exceeding the acceptance capabilities of some military leaders of Argentina. Only in a country wherein antisemitism is well-rooted where it is attempted to deny to the jews the right to take part, as any other citizen, in the political activities, can official enquirers pose such unheard of questions.

As a member of the Argentine Jewish Community, my father's activity is open and well-known. The newspaper "La Opinion", which he founded and managed up to the time of his arrest, did at all times defend the interests of the country's Jewish community and resolutely waged war against manifestations of antisemitism as well as the restriction of political rights of Jews and their status as a national minority.

In the climate of prejudice and anti-Jewish hostility endured in Argentina, such attitude requires unique daring. According to the criteria of the rulers, his daring could not be left unpunished.

Jacobo Timerman is paying the high, the painful price for such attitude, both as a man and as a Jew.

A contemporary thinker stated that "violence is unlearned"; and my father had chosen the dangerous road of letters.

I thank the antidefamation league of the B'nai B'rith authorities, consistent fighters for human rights and against discrimination, for having decided to bestow the Hubert Humphrey award upon by father as a symbol of persecuted and discriminated men, and as a protest against the conspicuous violation of human rights in Argentina.

OCTOBER 19, 1977.

Hon. CYRUS R. VANCE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: In view of your visit to Argentina next month, we want to express our concerns about the human rights situation there.

As you know, there has been little significant progress in reducing human rights violations and restoring Constitutional guarantees despite the marked decrease in terrorist and subversive activities. Indeed, the Argentine Government has largely eliminated the terrorist threat, at least in comparison to what it was a year ago. Nevertheless, the disappearances and arrests continue at a steady and alarming rate.

In this regard, we wish to draw attention to the particular case of Jacobo Timerman who, until the time of his arrest, was Editor-in-Chief of the Buenos Aires daily *La Opinion*. Mr. Timerman was arrested earlier this year, but, as you know, has not been brought to trial. The circumstances and reasons for Mr. Timerman's arrest have never been explained in a satisfactory way. We are inclined to believe that Mr. Timerman has been detained primarily because of his role as an outspoken editor, particularly on human rights matters.

We hope that when you and members of your party meet with President Videla that you will convey to him and members of the Argentine Government our deep concern about the Timerman case and the highly unsatisfactory human rights situation as we perceive it. Moreover, we ask that you express our doubts about any meaningful improvement in our bilateral relations with Argentina in the absence of significant progress in the human rights area.

We appreciate very much your conveying these sentiments on our behalf to the authorities in Argentina. We are sending a copy of this letter to Ambassador Aja Espil.

Sincerely,

PAUL S. SARBANES,
Chairman, Subcommittee on Western Hemisphere Affairs.
JACOB K. JAVITS,
Ranking Minority Member, Subcommitte on Western Hemisphere Affairs.
CLIFFORD P. CASE.
FRANK CHURCH.
RICHARD STONE.

U.S. SENATE,
Washington, D.C., July 11, 1979.

JIMMY CARTER,
The President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: When you met in Washington with President Jorge Rafael Videla at the time the Panama Canal Treaties were signed, you discussed with him the situation of Jacobo Timerman, the distinguished Argentine journalist who had been arrested in April 1977. It is our understanding that President Videla assured you that Mr. Timerman would be tried and released if he were found innocent.

Approximately one month after your meeting with President Videla, an Argentine military tribunal found no basis for charging Mr. Timerman with any crime. Despite the assurances you received, Mr. Timerman was not released. He was kept in jail and placed under National Executive Power (P.E.N.). In July 1978, the Timerman case came before the Argentine Supreme Court, under Habeas Corpus action filed by his family. The court found no legal basis for his detention under P.E.N. and ordered his release. Nonetheless he was not permitted to go free. Mr. Timerman was removed from P.E.N. but continued under house arrest as a direct prisoner of the military junta.

In view of the assurances you received from President Videla and the fact that neither the military nor the civilian court could find any cause to try Mr. Timerman, let alone find him guilty of an illegal action, we are writing to ask that you communicate to President Videla your hope that Mr. Timerman will be released promptly so that he may join his children who now live in Israel.

With best regards,

Sincerely,

FRANK CHURCH,
Chairman,
Senate Committee on Foreign Relations.
JACOB K. JAVITS,
Ranking Minority Member,
Senate Committee on Foreign Relations.
RICHARD STONE,
U.S. Senator.
PAUL S. SARBANES,
U.S. Senator.
EDWARD ZORINSKY,
U.S. Senator.

[From the New York Times, Sept. 20, 1979]

A FAMILY LIVES UNDER HOUSE ARREST

(By Georgia Dullea)

When the police moved in, with their pistols and their submachine guns, Jacobo Timerman's family was almost grateful. House arrest, they reasoned, was preferable to the imprisonment and torture already endured by the former Argentine publisher, and they were right.

They were wrong, however, to imagine life could somehow go on as always under the surveillance of a dozen uniformed guards—four stationed inside and eight outside their luxury apartment in Buenos Aires. Rische Timerman smiled sadly the other day, recalling how she and her husband had believed they could coexist with his captors "as if nothing had ever happened."

"At first," she said in Spanish, "the police stayed in the kitchen. We had the living room and dining room to ourselves and life was tranquil. But slowly, the situation began to deteriorate. It became degrading. It was as if we were living in an enormous prison, thinking it was our home."

Mrs. Timerman is currently visiting this country to publicize the plight of her husband and thousands of others arrested by the security forces of Argentina's military regime. Her visit here coincides with one to Argentina by the Inter-American Human Rights Commission, which is writing a report on the violations of human rights there for the Organization of American States. In the first week of the inquiry, the commission heard more than 5,000 complaints and found evidence of killing and torture of prisoners in Argentina.

By far the most celebrated prisoner is 56-year-old Jacobo Timerman, an outspoken Zionist and an influential newspaper editor. Mr. Timerman has been under arrest for almost two and a half years, a year of that in various jails, although no formal charges have been made against him and although the Argentine Supreme Court has cleared him of any crime and ordered his release.

To some, the Timerman case symbolizes the state of human rights in Argentina. They suspect that Mr. Timerman is being held, not because of "subversive activities" or "economic crimes," as has been suggested, but because his newspaper, La Opinion, has criticized the Government. They also suspect that he is being held because he is a Jew, although the Government denies allegations or anti-Semitism.

In any case, human rights groups around

the world have rallied on the publisher's behalf. In addition, scores of United States Congressmen have publicly decried his arrest and both President Carter and Secretary of State Cyrus R. Vance have personally appealed to Argentine President Jorge Rafael Videla to free him.

But the appeals have yet to be answered. Mr. Timerman continues under house arrest, guarded by 48 policemen, 12 for each six-hour shift, and now his wife and sons are speaking out. Their story, as told in interviews at the offices of the Anti-Defamation League of B'nai B'rith, had the surreal quality of a Kafka novel.

Mrs. Timerman divides life under house arrest into "two phases." In the first phase, she said, the police stood guard in the kitchen and made few intrusions on the household. Although Mr. Timerman was confined to the apartment, his wife and two of their three sons who were living at home at the time, Hector and Javier, were free to come and go. "The only contact I had with the police was when they opened the door to let me in or out," Mrs. Timerman recalled.

Phase two began when the police took up with the maid. To her dismay, Mrs. Timerman discovered that her husband's few privileges now depended on the maid's "good will." She fired the maid.

The police then turned to the refrigerator, helping themselves to food and beer. The Timermans countered by moving the refrigerator to a bedroom, only to find that the police had taken up residence in the living and dining rooms. Before long, silver, china and paintings were beginning to disappear. The telephone bill became astronomical.

"The house took on a sad, ugly look," Mrs. Timerman said, fingering the gold chain around her neck and glancing at her sons. "The Sabbath candles were missing. The police were taking things. It was no longer our home."

Since then the Timermans have arrived at a truce of sorts with the guards. By converting one bedroom into a den, another bedroom into a dining room and a bathroom into a kitchen, they manage to stay in their half of the apartment. Life, as Mrs. Timerman describes it, is "more tranquil."

This was the happier part of the story the Timermans had to tell as they sat in the office of Rabbi Morton Rosenthal, the Anti-Defamation League's director for Latin American affairs. The sad part was reflected in the 25-year-old face of Hetcor Timerman, who recently accepted the league's Hubert H. Humphrey Freedom Prize in his father's name.

It was Hector, too, who took his father's place as editor, and publisher of La Opinion until it was confiscated by the military, along with his other properties. "The paper has become a propaganda sheet for the Government," Hector said, recalling how its masthead once carried the legend "An Independent Morning Newspaper."

His finger traced an invisible line of type in the air. "Now," he said, "it just says "A Morning Newspaper."

And it was Hector who represented the family in its long and frustrating search for Jacobo Timerman after he was abducted from his home at 2 A.M. on April 15, 1977 by 20 armed men in civilian clothes. A month later Mr. Timerman and his family were reunited in a Buenos Aires jail. His body, 40 pounds lighter, had been devastated by beatings and electric shocks, Hector said, adding that his father surmised that he had been in one of Argentina's secret detention camps.

"He was blindfolded so he doesn't know where it was," the son said. "He only knows that at night he hears the cries—other prisoners, he thinks."

After several weeks in the jail, Mr. Timerman again disappeared. This time the family was even more terrified. His mother would scream every time she heard a police siren, Hector said, and his younger brother, Javier, then aged 16, would sob and call out for his father. When Mr. Timerman reappeared at another jail a month later, both sons were allowed to visit him.

"Look, Papa," Javier said, holding out his report card. "I got the best grades in my class." Jacobo Timerman wept. Then, despite the handcuffs, he signed the report card.

Javier seemed embarrased when the report card incident came up in the interview.

"The report card was not important," he said with a shrug. But Hector disagreed. "The report card was important," he told his brother, gently. "It was important for our father to know that you were in school and that I was working and that our mother was O.K. The report card was a symbol that life was going on for us all."

Today life goes on for the Timermans, as it has for the last 17 months, under armed guard. Only the parents remain in the apartment now. Hector, who lives in New York, will be starting graduate school this fall at Columbia University's School of International Affairs. Javier is a student at Hebrew University in Israel, where his older brother, Daniel, works on a kibbutz.

Mrs. Timerman stayed in Israel for a time to receive psychiatric treatment for the trauma she had endured, but now she says, "I am well and I want to be with my husband."

Hers is one of the few faces he sees nowadays, except for those of the guards and the doctor and the rabbi, who visits once a week. He cannot talk on the telephone to anyone but a relative, she said, and even those calls are censored. He amuses himself by watching old movies on television. "Casablanca" is a favorite. And always he reads the newspapers and the news magazines.

But he no longer reads La Opinion. "No," Mrs. Timerman said. "Never again."

Will he wirte newspaper articles again, if he is freed someday and allowed to go to Israel? "No," Mrs. Timerman said, "but perhaps he will write novels. Fiction is less painful than reality."

[From the Washington Post, Sept. 20, 1979]

HOUSE ARREST—THE SILENCED EDITOR IN ARGENTINA

(By Katherine Ellison)

Early one morning two years ago, soldiers of the Argentine military junta burst into the Timermans' apartment and carried off Jacobo.

Like thousands of others suspected of leftist sympathies, Jacobo Timerman "disappeared." But unlike the others, the Jewish editor of an intellectual daily newspaper surfaced after a year, obviously tortured, still under suspicion but never formally charged with any crime. The junta "released" him to house arrest last year.

Four guards camp out in his kitchen; their guns at the ready. They keep the radio and television blaring, invade the family refrigerator and have badgered Timerman and his wife into two or three small rooms; she cooks on a camp stove installed in a bathroom, just to avoid the noise.

The four guards are there to make sure the ailing 56-year-old journalist doesn't step outside his door, converse with others than his family or sign any documents. "When he first 'disappeared,' I never thought for a moment that he might be tortured. When I saw him again, I couldn't imagine that he had not been," Timerman's wife, Rischa, told reporters yesterday.

"They asked him questions like, 'What's Begin's connection with the (Argentine) terrorists?' and 'Where do the Elders of Zion meet?' " she said.

To those Americans who have never been questioned under torture, Rischa Timerman may be just one more famous foreign wife, trailing mournfully behind Avital Scharansky and Isabel Letelier in their common efforts to bring their husbands' plights to world attention. Each, in turn, has wound up in the United States, trying to shock the public with gruesome images and snatch a little of its influence while it is reeling with pity.

"You may ask how it's possible that after 2½ years, my husband continues to be held, after all the international requests for his release, and after a military court has ruled that he is innocent of any connection with the terrorists," she said at the National Press Club yesterday.

"He campaigned for human rights, he was brave . . ." she said, adding the quick Spanish phrases, one by one, to the slower English efforts of her translator. She urged him on, interrupting, rephrasing, searching the faces of her audience as if by sheer effort she could make them understand.

The press conference was the first stop in a lobbying trip that included a meeting with Pat Derian, assistant secretary of State for human rights and humanitarian affairs, and 25 senators.

After meeting with Mrs. Timerman, Sen. Richard Stone (D–Fla.) placed a call to her husband from the Senate cloakroom.

"I felt it was worth a try, because sometimes it's surprisingly easy to reach Soviet dissidents," he said. "I had a 10 or 15 minute chat with him—he said he was healthy . . . and hopeful now."

Rischa Timerman is tiny but not frail, understated in everything but her probing light-green eyes. A patent well-dressed dignity reveals a moneyed and elegant background—so genteel that she recoils most sharply at "the dirt these guards generate just by being there."

That background—and its accompanying visibility—so far has helped make Jacobo Timerman one of the lucky ones in Argentina, a country where international human rights organizations charge that between 8,000 and 20,000 persons have disappeared. The Argentine government recently paved the way to have them declared legally dead in a blunt tactic to discourage further questioning about their whereabouts. Timerman's international stature has surely prolonged his days, and has given his wife the singular freedom of movement to travel to Washington, where she was immediately claimed as a symbol in proxy.

The Anti-Defamation League put dibs on her in New York; her trip to Washington was in custody of a Spanish-speaking rabbi who ushered her from appointment to appointment, helping her delineate the very serious situation of Jews in her country.

"Hay un clima que no es bueno—there's not a good climate for Jews," she said carefully. "Though they're not yet murdering them in the synagogues. . . ."

True, charges that Timerman is a Zionist have probably not helped his case. But it would be an unfair extrapolation to reduce his case to one of sheer anti-Semitism.

Timerman's house arrest paints a wider picture of the subjection of a whole country, and the sacrifice of its intellectuals and artists in a clumsy quest for political consolidation.

When Argentine President Jorge Videla took power in 1976, vowing to clean out leftist terrorists, among his first victims were psychiatrists.

A series of articles this summer described other victims of the junta: the young engineering student and his baby and pregnant wife, kidnapped a year ago, vanished ever since; the 26-year-old professor's son, imprisoned for the past three years in a 6-by-9 foot cell; the 21-year-old daughter of an established lawyer, picked up one night three years ago while working with a group of nuns in a poor barrio of the capital, never heard from again. . . . The junta has concentrated its attacks not only on leftists but also on the upper classes, and the well educated in general.

As for Timerman, "They don't have a case against him, they just hate eyes searched harder—"*exitoso*—the Washington-based Council on Hemisphere Affairs that does policy studies in Latin America.

"He symbolized the qualities they want to purge—he is too brilliant, he questioned basic institutions, he gave hospitality to the ideas of pioneer thinkers," Burns said.

Although the government originally held Timerman without comment, international pressure eventually forced it to reveal he was being investigated for "economic crimes." The alleged crimes were never officially specified, but stories in Argentina's press made vague references to Timerman's possible association with the then-famous case of Argentine financier David Graiver.

Anxious to prove a connection between Montonero guerrillas and monied intelligentsia that supported the government the military overthrew, the military announced that Graiver, who by then had been killed in a plane crash, had been the Montonero financial adviser.

Many were arrested, few were officially charged and even fewer were convicted—all in secret trials without public representation of evidence—in the much ballyhooed case. Timerman knew many of them and the government did not like Timerman.●

THE RELEASE OF JACOBO TIMERMAN

● Mr. LEVIN. Mr. President, it is with great pleasure that I join my colleagues in taking note of the release by Argentine authorities of Jacobo Timerman. Mr. Timerman, one of Argentina's leading journalists, was the editor and publisher of the major newspaper La Opinion, until he was abruptly kidnapped and imprisoned in April of 1977. Not only was Mr. Timerman never accused formally of any crime but he was in fact exonerated by a military court of the charge of associating with subversive elements, a charge which was never officially made. In April of 1978, Mr. Timerman was released from prison, but was transferred to house arrest, in which situation he remained until yesterday.

Last week the Argentine Supreme Court ordered Mr. Timerman's release, and yesterday he was placed aboard a flight to Rome and given an Israeli visa. Mr. Timerman is an ardent Zionist, and had expressed quite clearly in the past his desire to emigrate to Israel, where his wife and children are already living.

Mr. President, the history of Mr. Timerman's abusive treatment by the military government of Argentina is cause for great concern, but also some small hope. His case is distinguished from those of thousands of other Argentinians, who have also disappeared, many never to reappear, only by his outstanding prominence as a journalist, and by his Zionist commitment. He is more fortunate than many other Argentine citizens who remain in prison or the thousands who have disappeared, probably forever.

The glimmer of hope which emerges from Mr. Timerman's tragic story is the fact that the release comes only days after the Inter-American Human Rights Commission ended a visit to Argentina to investigate allegations of human rights violations. Of course, it is impossible to know for certain what connection exists between that visit and Mr. Timerman's release. But the juxtaposition of events does engender some optimism that international pressure, judiciously applied, has had an effect upon the Government of Argentina, and that if we continue to exert pressure on that and other governments, in appropriate ways, to remedy human rights atrocities of this magnitude, that we may see some progress, and may help to win other victories for the Timermans of this world.●

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the prayer and after the Journal has been approved, Mr. Humphrey be recognized for not to exceed 15 minutes; Mr. Baker be recognized for not to exceed 15 minutes; and I be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. DeConcini precede Mr. Humphrey in the sequence of orders for the recognition of Senators tomorrow for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:15 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders for the recognition of Senators tomorrow there be a brief period for the transaction of routine morning business not to exceed 10 minutes and Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO CONSIDERATION OF HOUSE JOINT RESOLUTION 404 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business tomorrow the Senate proceed to the consideration of the continuing resolution, House Joint Resolution 404.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I reserve only for the purpose of telling the majority leader that as far as I can ascertain that course of action is cleared on this side. We have a number of Members who have indicated their strong preference for beginning this measure as soon as possible proceeding as rapidly as possible. And I, in conversation with the majority leader, understand that we will come in fairly early tomorrow morning.

Mr. ROBERT C. BYRD. 9:15 a.m.

Mr. BAKER. At 9:15 in the morning, and I hope we will proceed as fast as we can with this measure.

Mr. ROBERT C. BYRD. We should be able to get to the resolution by quarter after 10.

Mr. BAKER. I am willing on my part to waive our standing order time in the morning if that will help.

Mr. ROBERT C. BYRD. It is already done, and I did it after having talked with the distinguished minority leader.

Mr. BAKER. I thank the distinguished majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, before we continue, I wish to ask to recover about 5 minutes of the standing order time in the morning to make certain remarks that I have neglected to make.

Mr. ROBERT C. BYRD. Yes.

ORDER REDUCING LEADERSHIP TIME TO 5 MINUTES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders on tomorrow be reduced to 5 minutes each and that the orders for the recognition of Senators then follow on.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 5380 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 5380, the continuing authorization for the Department of Justice, be held at the desk when it is received.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess according to the provisions of the previous order until 9:15 a.m. in the morning.

There being no objection, the Senate at 5:28 p.m., recessed until tomorrow, Thursday, September 27, 1979, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate September 26, 1979:

In the Air Force

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of Section 593(a) Title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Wiley R. Ashley, Jr., [redacted].
Maj. James A. Ahrens, [redacted].
Maj. James C. Baker, [redacted].
Maj. William L. Ball, [redacted].
Maj. John D. Bartrug, [redacted].
Maj. Gerald N. Biggs, [redacted].
Maj. Julian Black, [redacted].
Maj. William R. Canino, [redacted].
Maj. Dennis J. Christman, [redacted].
Maj. Larry L. Clark, [redacted].
Maj. Thomas D. Clemens, [redacted].
Maj. Peter K. Culhane, [redacted].
Maj. Paul R. Desforges, [redacted].
Maj. Richard L. Drinen, [redacted].
Maj. DuWayne A. Ebertowski, [redacted].
Maj. Grant O. Epler, [redacted].
Maj. Raymond N. Fitzgerald, [redacted].
Maj. David S. Graben, [redacted].
Maj. William P. Hagopian, [redacted].
Maj. Richard J. Hart, [redacted].
Maj. R. Clark Higgins, [redacted].
Maj. Roy E. Horton, [redacted].
Maj. David F. Howard, [redacted].
Maj. Ted L. Howell, [redacted].
Maj. William A. Hunzeker, [redacted].
Maj. Larry L. Leach, [redacted].
Maj. Lawrence J. McCarthy, [redacted].
Maj. Marinus M. Opitz, [redacted].
Maj. Jasper E. Patterson, [redacted].
Maj. Alvin P. Perlman, [redacted].
Maj. William H. Phillips, [redacted].
Maj. Lawrence W. Reedy, [redacted].
Maj. Carl D. Scrivener, [redacted].
Maj. Francis D. Searcy, Jr., [redacted].
Maj. Edward L. Sharp, [redacted].
Maj. John R. Shurley, III, [redacted].
Maj. Craig E. Shuler, [redacted].
Maj. Joe S. Smith, [redacted].
Maj. Jeffrey M. Snyder, [redacted].
Maj. Herbert J. Spier, Jr., [redacted].
Maj. Gerald T. Stack, Jr., [redacted].
Maj. James E. Thomey, [redacted].
Maj. Glen W. Van Dyke, [redacted].
Maj. Rishel C. Walker, [redacted].
Maj. Ernest R. Zuick, Jr., [redacted].

CHAPLAIN

Maj. George D. McCurdy, [redacted].
Maj. Arthur J. Perrault, [redacted].
Maj. Warren R. Solberg, [redacted].

MEDICAL CORPS

Maj. Cleo P. Coles, Jr., [redacted].
Maj. Peter H. Goldman, [redacted].
Maj. James M. Hurley, [redacted].
Maj. James P. Norbeck, [redacted].
Maj. Jack H. Oak, [redacted].
Maj. Larry R. Williams, [redacted].

MEDICAL SERVICE CORPS

Maj. Gordon A. Egelseer, [redacted].

In the Army

The following-named officers for promotion in the Army of the United States, under provisions of title 10, United States Code, section 3442 and 3447:

DENTAL CORPS

To be colonel

Ailor, John E., [redacted].
Arroyo, Francisco, [redacted].
Axinn, Sherman, [redacted].
Baggs, Gary A., [redacted].
Balserak, Robert J., [redacted].
Battle, Lucius W., [redacted].
Belasco, John R., [redacted].
Bernier, William E., [redacted].
Biven, Glenn M., [redacted].
Blaho, Daniel M., [redacted].
Bourland, Thomas D., [redacted].
Boyer, Kenneth H., [redacted].
Brady, Robert E., [redacted].
Braun, Edward S., [redacted].
Brown, George O., [redacted].
Brown, Richard T., [redacted].
Brunner, David G., [redacted].
Campbell, Larry D., [redacted].
Carpenter, William, [redacted].
Coleman, Alfred E., [redacted].
Cupero, Hamil M., [redacted].
Dalzell, Daniel P., [redacted].
Davisson, Nelson M., [redacted].
Duet, William J., [redacted].
Eaton, John D., [redacted].
Edington, Ernest M., [redacted].
Ellinger, Harley A., [redacted].
Ellis, Herman B., [redacted].
Fagouri, Edward L., [redacted].
Griswold, William H., [redacted].
Guess, Kenneth D., [redacted].
Hagerman, Jerry T., [redacted].
Hahn, Eitel H., [redacted].
Hansen, Carl A., [redacted].
Hatch, Edward A., [redacted].
Hays, Granvil L., [redacted].
Henry, Samuel W., [redacted].
Herrmann, John W., [redacted].
Hickman, William B., [redacted].
Hobaugh, Don C., [redacted].
Holden, Richard C., [redacted].
Ishimura, Samuel M., [redacted].
Jacobs, Richard C., [redacted].
Johnson, Baxter E., [redacted].
Johnson, Timothy M., [redacted].
Kazlusky, Joseph B., [redacted].
Kempf, Kenneth K., [redacted].
Kenigsberg, Herbert, [redacted].
Kimbrough, William, [redacted].
Kirk, George A., [redacted].
Kotwal, Keki R., [redacted].
Krier, Paul W., [redacted].
Laduzenski, Eugene, [redacted].
Larr, Edwin T., [redacted].
Latta, George H., [redacted].
Leahy, Robret E., [redacted].
Lebeau, Paul, Jr., [redacted].
Lewis, Marlin R., [redacted].
Lyon, Robert E., [redacted].
Masterson, Martin P., [redacted].
Matich, Joseph A., [redacted].
Maupin, Clay C., [redacted].
Mayotte, Richard V., [redacted].
McCoy, Clark H., [redacted].
McCulloch, William, [redacted].
McFatridge, John J., [redacted].
Merritt, Ezra A., [redacted].
Mills, Donald E., [redacted].
O'Connell, Wallace J., [redacted].
O'Connor, Randolph P., [redacted].
Olive, Kenneth A., [redacted].
Peak, Benson W., [redacted].
Peters, Donald D., [redacted].
Pompura, John P., [redacted].
Porst, Edward A., [redacted].
Provant, Deblert R., [redacted].
Reddin, James B., [redacted].
Redmond, Hight S., [redacted].
Roth, Neal A., [redacted].
Salem, John E., [redacted].
Santa, Edward A., [redacted].
Schreck, Gerald G., [redacted].
Shaffer, Edward L., [redacted].
Shimer, Tommy W., [redacted].
Shulski, Fred P., [redacted].
Spano, Donald M., [redacted].
Tempel, Thomas R., [redacted].
Theisen, Frank C., [redacted].
Thompson, David A., [redacted].
Tisot, Frederick J., [redacted].
Tortorelli, Alfred, [redacted].
Traweek, Frank C., [redacted].
Tsaknis, Peter J., [redacted].
Villacara, Alfred A., [redacted].
Ward, James P., [redacted].
Webster, Robert C., [redacted].
Wehmeyer, Thomas E., [redacted].
Welsh, Stephen L., [redacted].
Whitbeck, Peter, [redacted].
White, John C., [redacted].
Woody, Ronald D., [redacted].
Zurek, Dennis J., [redacted].

DENTAL CORPS

To be lieutenant colonel

Aaron, Gerald R., [redacted].
Adams, Abram E., [redacted].
Amsberry, William E., [redacted].
Baer, Charles H., [redacted].
Bechtold, William A., [redacted].
Bergstrom, Thomas N., [redacted].
Bogart, Marc D., [redacted].
Boody, Curtis J., [redacted].
Boyd, Douglas B., [redacted].
Caninocummings, Manuel, [redacted].
Carter, William J., [redacted].
Cavaness, George R., [redacted].
Childress, Robert L., [redacted].
Codd, Joseph D., [redacted].
Coogler, Arthur C., [redacted].
Craig, James A., [redacted].
Dale, Robert A., [redacted].
Deitrick, George H., [redacted].
Dennis, David A., [redacted].
Dewald, Ernest J., [redacted].
Dixey, Robert J., [redacted].
Dixon, James D., [redacted].
Drobotij, Elias, [redacted].
Dunn, Rex M., [redacted].
Emerson, Matthew S., [redacted].
English, Jeryl D., [redacted].
Facius, Peter H., [redacted].
Foerster, Ulrich, [redacted].
Gary, John J., [redacted].
Gluhm, David P., [redacted].
Godat, Ronald F., [redacted].
Harris, Jordan H., [redacted].
Haught, Stephen R., [redacted].
Hoffman, Leonard A., [redacted].
Hondrum, Steven O., [redacted].
Hopkins, Richard W., [redacted].
Hudson, Dean A., [redacted].
Inouye, Kenneth K., [redacted].
Jordan, Robert D., [redacted].
Kaelke, Kerry J., [redacted].
Kahn, Robert C., [redacted].
Keller, David L., [redacted].
Klinger, Brent J., [redacted].
Larson, Randall R., [redacted].
Law, Douglas B., [redacted].
Loers, Wayne W., [redacted].
Maastricht, Richard, [redacted].
McArthur, David L., [redacted].
McCartney, John W., [redacted].
McDowall, John W., [redacted].
McElmurry, Ralph E., [redacted].
Meade, Francis J., [redacted].
Meyer, Kamp R., [redacted].
Meyers, Charles E., [redacted].
Newhouse, Ricney F., [redacted].
Noe, Paul E., [redacted].
Noone, Robert V., [redacted].
O'Neill, Larry J., [redacted].
Oxford, Robert L., [redacted].
Petersen, Robert G., [redacted].
Pflipsen, Ronald F., [redacted].
Plack, William F., [redacted].
Powers, William J., [redacted].
Prucha, Dan M., [redacted].
Ranz, Allan N., [redacted].
Riverahidalgo, Francisco, [redacted].
Rossmann, Jeffrey A., [redacted].
Saddoris, Reginald, [redacted].
Sharbo, Paul W., [redacted].
Shire, Lawrence H., [redacted].
Smith, Ben E., [redacted].
Solomson, Ronald D., [redacted].
Spahn, Robert G., [redacted].
Stalker, William H., [redacted].
Taylor, Steven E., [redacted].
Weller, Rodger N., [redacted].
Wenger, James S., [redacted].
Withrow, Gene, [redacted].
Wong, Marston K. S., [redacted].
Woodruff, Frederic B., [redacted].
Zweig, John E., [redacted].
Zwolensky, John R., [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Jones, Lewis M., [redacted].
Simpson, Gordon T., [redacted].
Tibbetts, Karl A. [redacted].

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3298:

ARMY PROMOTION

To be first lieutenant

Carter, Robert D., [redacted].

IN THE ARMY

The following-named persons for appointment in the Regular Army of the United States, in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be major

Borchert, Lloyd D., [redacted].
Burkholders, Boyd B., [redacted].
Canyock, John G., [redacted].
Cohen, Morton S., [redacted].
Fernandez, Erik, [redacted].
Georgecink, Robert S., [redacted].
George, Robert C., [redacted].
Hicks, Walter G., [redacted].
Johnston, Marion L., [redacted].
Lane, Charles D., [redacted].
Lloyd, Michael T., [redacted].
McDaniel, Lyndon P., [redacted].
Sneed, Robert L., [redacted].
Stewart, Harry E., III, [redacted].
Sweeney, Russell W., Jr. [redacted].
Tinsman, Robert B., [redacted].
Ward, William L., [redacted].
Williams, Donald L., [redacted].
Wilson, Thomas A. [redacted].

To be captain

Aitkenhead, Edward A., [redacted].
Anastasio, Michael A., [redacted].
Anderson, Michael L., [redacted].
Anderson, Michael R., [redacted].
Argersinger, Steven J., [redacted].
Arnold, Norman F., Jr., [redacted].
Avent, Julian G., [redacted].
Ayscue, John A., [redacted].
Babicke, Robert G., Jr., [redacted].
Baggett, Judson B., [redacted].
Baker, Robert Y., Jr. [redacted].
Barber, George F., [redacted].
Bauer, Roger P., [redacted].
Bedard, Dennis B., [redacted].
Benjamin, Richard D., [redacted].
Berger, Fred M., [redacted].
Betts, Donald W [redacted].
Blindauer, Denis M., [redacted].
Block, Bruce A., [redacted].
Booher, Richard H. [redacted].
Booth, Edwin L., Jr. [redacted].
Bowen, Lester R., Jr., [redacted].
Bowling, Jerry H. [redacted].
Bowra, Kenneth R., [redacted].
Brackenridge, Lloyd J. [redacted].
Brazzeal, Richard T., [redacted].
Brown, Aaron P., II, [redacted].
Brown, Barney S. [redacted].
Burky, Robert P. [redacted].
Burkhardt, Robert W., [redacted].
Bush, Robert F. [redacted].
Buthorne, Neil R. [redacted].
Calvaresi, Salvatore P., [redacted].
Campbell, Charles J., [redacted].
Cannon, James C. [redacted].
Cary, Richard D. [redacted].
Chambless, James R., [redacted].
Childress, Richard V., [redacted].
Clagett, David C. [redacted].
Clark, Robert A. [redacted].
Clawson, William R., [redacted].
Clontz, William R [redacted].
Cordell, Elliott W., [redacted].
Cordero, Virgil N., [redacted].
Corliss, Robert J. [redacted].
Correll, James H., II, [redacted].
Cousins, William R., III, [redacted].
Cox, Charles C [redacted].
Cox, Dennis W. [redacted].
Crosby, John W., [redacted].
Culbreth, Roy, Jr., [redacted].
Czibik, John D., [redacted].
Davis, Glenn E. [redacted].
Davis, Gregory M., [redacted].
Dean, David A., [redacted].
Debay, John P., [redacted].
Donnan, Edward F., Jr., [redacted].
Donnellan, Robert F., [redacted].
Downing, Gary D., [redacted].
Dragg, Donald R., [redacted].
Dunigan, John P., [redacted].
Dunn, Michael W., [redacted].
Esposito, Thomas J., [redacted].
Esslinger, John A. [redacted].
Eubanks, Rayford M. [redacted].
Everson, Randolph L., [redacted].
Fiest, Terrance J., [redacted].
Finnegan, Thomas M., [redacted].
Flournoy, John H., Jr., [redacted].
Forster, John R., [redacted].
Gallagher, Edward G., II, [redacted].
Gibson, Charles W. [redacted].
Gill, Arthur J., [redacted].
Gillison, William R., [redacted].
Graham, Frank S., [redacted].
Griffith, John S., [redacted].
Grogan, Jack H., Jr., [redacted].
Grube, Uwe A., [redacted].
Hakes, David H., [redacted].
Hall, David L., [redacted].
Hansen, Thomas A., [redacted].
Harris, Kenneth L., [redacted].
Harrison, Ronald H., [redacted].
Hendon, Woody M., [redacted].
Herres, Fred W. III, [redacted].
Hodges, Edwin M. Jr., [redacted].
Holt, Maxie G., [redacted].
Hunter, Melvin E., [redacted].
Ingersoll, George T., [redacted].
Jarrard, James M., [redacted].
Jaster, Bert E., [redacted].
Jenning, Michael K., [redacted].
Kaplan, Jack Jr., [redacted].
Keel, Colon J. Jr., [redacted].
Kenehan, Douglas J., [redacted].
Keppel, John S., [redacted].
Kim, Theodore Y. [redacted].
Kinder, Stephen P., [redacted].
Kore, Stephen G., [redacted].
Kurtz, James H., [redacted].
Kuykendall, James M., [redacted].
Lago, Gregory R. [redacted].
Langendorf, Mark W., [redacted].
Leach, Daniel R., [redacted].
Lee, Frederick G., [redacted].
Lester, Richard A. [redacted].
Leyde, Vernon R., [redacted].
Litzler, James F., [redacted].
Longenecker, Vickie S., [redacted].
Lucas, Michael A., [redacted].
Lyle, Gregory K., [redacted].
Madsen, Ray E., [redacted].
Marsh, Edward H., [redacted].
Maude, Timothy J., [redacted].
McCarthy, Gerald J., [redacted].
McCormick, Arley H., [redacted].
McDuffie, John M., [redacted].
McElwee, Jerry W., [redacted].
McRae, John L. [redacted].
Melville, Edmond K., [redacted].
Merkel, Charles E., Jr., [redacted].
Milam, Kardyn B., [redacted].
Mitchell, Robert E., [redacted].
Mitchell, Rodney B., [redacted].
Morehead, Ronald W., [redacted].
Morris, Wayne H., [redacted].
Murnock, Donald C., [redacted].
Nell, Theodore W., [redacted].
Nelson, James P., [redacted].
Nelson, Michael A., [redacted].
Neuendorf, Stephen J., [redacted].
Niedringhaus, Larry C., [redacted].
Nowak, Eugene D., [redacted].
O'Connor, Peter R., [redacted].
Paini, William J., [redacted].
Palarino, Rosario N., [redacted].
Pascoe, Michael C., [redacted].
Pate, Terry S., [redacted].
Pelkey, Francis G., [redacted].
Pelton, Johnny R., [redacted].
Perry, Susan P., [redacted].
Petri, Jack M., [redacted].
Potts, Gregory F., [redacted].
Pryor, Charles W., [redacted].
Quain, Dean P., [redacted].
Quirk, John H., [redacted].
Raines, Samuel C., [redacted].
Ramey, Frank L., Jr., [redacted].
Rapier, Stephen L., [redacted].
Raymond, Philip, [redacted].
Reed, Arden M., [redacted].
Remencus, Brooks E., [redacted].
Resau, Thomas W., [redacted].
Reyna, Martin, [redacted].
Ribaudo, Theodore N., [redacted].
Richards, Bruce W., Sr., [redacted].
Rieger, Bernd K., [redacted].
Rivera, Collazo Felix, [redacted].
Roberts, Hayward B., [redacted].
Rouse, Gladston E., Jr., [redacted].
Rowe, Michael B. [redacted].
Roy, Richard N., [redacted].
Ruf, David R., [redacted].
Rusciolelli, Philip C., [redacted].
Ryan, Dennis M., [redacted].
Savage, Dennis M., [redacted].
Schaner, Theodore L., [redacted].
Schenck, Alfred A., [redacted].
Schucht, Larry F., [redacted].
Seligman, Arnold L., [redacted].
Seltzer, Robert N., [redacted].
Semenec, Michael, Jr., [redacted].
Sherman, Jay K., [redacted].
Shuey, Dan A., [redacted].
Silver, Irvin E., [redacted].
Sjue, Christopher S., [redacted].
Slade, Jimmie L., [redacted].
Sleight, Theron L., [redacted].
Sloane, William N., [redacted].
Small, Harry C., Jr., [redacted].
Smith, Alan M., [redacted].
Smith, Stephen L. [redacted].
Sowa, Peter W., [redacted].
Spencer, Ronald M. [redacted].
Stafford, Willard H., Jr., [redacted].
Standifer, Leroy, [redacted].
Stokely, Richard R., [redacted].
Stout, Donald E., Jr., [redacted].
Stuler, Charles R., Jr., [redacted].
Sullivan, Mark S., [redacted].
Sutton, Harold L., [redacted].
Talbott, David L., [redacted].
Taylor, Emmett L., [redacted].
Thomas, James A., Jr., [redacted].
Thompson, Lee, [redacted].
Thompson, Marvin D., [redacted].
Toal, Michael J., [redacted].
Tom, Jeffrey G. F., [redacted].
Trautner, Donald L., [redacted].
Trevino, Visente V., [redacted].
Tripp, Bruce M., [redacted].
Turnage, Larry, [redacted].
Tyson, Joseph M., [redacted].
Vinson, Donald E. [redacted].
Waite, Charles D., [redacted].
Walker, Larry B., [redacted].
Wallace, William J., [redacted].
Walterhouse, Douglas D., [redacted].
Warnhoff, Gary D., [redacted].
Weeks, Waylon L., [redacted].
Weems, Dewey L., [redacted].
Weir, Walter G., [redacted].
Welsh, Kenneth L., [redacted].
Whelan, James L., [redacted].
Whittle, Charles E., [redacted].
Whyte, Timothy M., [redacted].
Wicklander, Eugene R., [redacted].
Wiedewitsch, Jerry L., [redacted].
Williamson, John S., [redacted].
Worrell, Richard D., [redacted].
Worsham, Lushene M., [redacted].

To be first lieutenant

Aldridge, George E., [redacted].
Armstrong, Gordon M., [redacted].
Arrington, Collin E., [redacted].
Balcazar, Patrick J., [redacted].

Bierle, Richard T., [redacted].
Blanchard, Christopher J., [redacted].
Bowidowicz, Peter M., [redacted].
Bracket, Michael L., [redacted].
Brady, Michael J., [redacted].
Bringman, Robert W., [redacted].
Brown, Lawrence C., [redacted].
Brown, Melvin, Jr., [redacted].
Brown, Timothy W., [redacted].
Buggy, Robert J., [redacted].
Cambon, Edward E., [redacted].
Carnes, Donald J., Jr., [redacted].
Cashion, Avery T., III, [redacted].
Cassi, George, [redacted].
Chandler, Kenneth L., [redacted].
Cheatom, Jerry W., [redacted].
Cline, Richard A., [redacted].
Connor, Robert E., Jr., [redacted].
Coulter, John A., III, [redacted].
Courduff, Randall L., [redacted].
Cress, Paul D., [redacted].
Dail, Robert T., [redacted].
Davis, Edwin F., Jr., [redacted].
Dittrich, James F., [redacted].
Edmunds, Jeanette K. [redacted].
Flesher, James A. [redacted].
Foresman, Henry J., Jr., [redacted].
Fundling, Paul G. [redacted].
Gascard, Kathleen G., [redacted].
Gillis, John B., II, [redacted].
Goodman, Jess L., Jr., [redacted].
Gottlieb, Arthur J., [redacted].
Gray, John J., [redacted].
Gula, Richard S. [redacted].
Gurr, Dennis R., [redacted].
Hale, Jerry R., Jr., [redacted].
Halloran, William E., [redacted].
Hammerle, Robert A., Jr., [redacted].
Harkey, William H., [redacted].
Helms, Michael K., [redacted].
Hensley, Willie L., [redacted].
Hogan, Michael, [redacted].
Howell, Gail S. [redacted].
Huss, John D., [redacted].
Hutchinson, John L., [redacted].
Kaniecki, Charles J., [redacted].
Karcher, Donald J., [redacted].
Keady, Kevin J., [redacted].
Kelsey, James M., [redacted].
Kirks, David J., [redacted].
Labrecque, Francois R., [redacted].
Lacey, Robert J., [redacted].
Leonard, Waldron E., III, [redacted].
Linn, Dennis, [redacted].
Linn, Michael T. [redacted].
Lyons, David L., [redacted].
Lyttle, Deborah S., [redacted].
Mapstone, Terry L., [redacted].
Marchetti, Eugene A., Jr., [redacted].
Martin, Brigitte B., [redacted].
Mastin, Wayne A., [redacted].
McAvoy, Richard J., [redacted].
McCord, Robert E., [redacted].
McKown, Gary A., [redacted].
Merritt, Janet L., [redacted].
Mills, David F., [redacted].
Moberly, Robert L., [redacted].
Moore, Lance A., [redacted].
Moran, Dennis C., [redacted].
Morris, William R., [redacted].
Morrison, Linda L., [redacted].
Moschetti, John R., [redacted].
Mulvaney, Michael P., [redacted].
Musser, John B., II, [redacted].
Nagle, John P., [redacted].
Papas, Tony M., [redacted].
Parker, Michael L., [redacted].
Poland, Betty J., [redacted].
Pollett, Carroll F., [redacted].
Porcelli, Peter F., [redacted].
Powers, Ronald K., [redacted].
Ralston, David C., [redacted].
Reaney, David W., [redacted].
Redfearn, John E., III, [redacted].
Reidenbach, David R., [redacted].
Roper, Jane D., [redacted].
Seigler, Robert D., [redacted].
Shulse, James D., [redacted].
Simmeth, Harry G., Jr., [redacted].
Simmons, Hollis E., III, [redacted].
Snelson, William G., [redacted].
Speak, Richard D., [redacted].
Stevens, Jack C., [redacted].
Stolberg, Alan G., [redacted].
Stratton, Christopher D., [redacted].
Striplin, Michael C., [redacted].
Sugg, Parris M., [redacted].
Tatum, Lennon A., IV, [redacted].
Terry, Carol M., [redacted].
Torrance, Thomas E., [redacted].
Troutman, Betty R., [redacted].
Umstaedter, Carol L., [redacted].
Villare, Paul R., [redacted].
Walters, Jimmy L., [redacted].
Watson, Douglas S., [redacted].
Weber, Lynn E., [redacted].
Wegmann, Paula M., [redacted].
Werkmeister, James L., [redacted].
Westwood, John S., [redacted].
Widman, Michael A., [redacted].
Wilde, Dennis C., [redacted].
Williams, Lawrence A., [redacted].
Wondrasek, Alan M., [redacted].

To be second lieutenant

Bradley, Leslie C., [redacted].
King, Charles A., [redacted].
Howery, Jerilynn D., [redacted].

IN THE NAVY

The following temporary lieutenant commanders of the U.S. Navy for permanent promotion to that grade, pursuant to title 10, United States Code, sections 5780, and 5791:

LINE

Abbott, Charles Stevenson
Abraham, Michael, III
Adams, Merchant Stewart
Ackerson, Jeffrey Townsend
Adams, Steve
Adler, Vance Erick
Affeld, Richard Lorman
Airlie, Jack Gibson, Jr.
Alderink, James Wesley
Aldrich, James Hunter, Jr.
Alexander, Samuel John
Allen, Lloyd Edward, Jr.
Allen, Robert Ripley
Allison, Daniel Henry
Allman, John Chelsea, Jr.
Alvarez, Joseph Albert
Ameel, Frederick Donald
Anderson, Gerald Barrett
Andrews, Roger Marshall
Angelina, Peter Gerald
Angstead, Donald Eugene
Aranyos, John Richard
Arcari, Joseph Peter
Arendt, Steven Maurice
Arey, Sheldon Craig
Arje, Andrew Coulter
Arluck, Richard Michael
Armentrout, Charles Edward
Armintrout, Michael Loren
Armitage, Charles Edmund
Armstrong, Douglas McLean
Arntz, Ranald Joseph
Arsuaga, Miguel Jose
Ashby, Gary Lee
Ashford, Richard Frederick, Jr.
Atchison, Thomas Ludwell
Atkinson, Harvey Eugene, III
Aunchman, Leman John, Jr.
Aurand, David Robert
Austin, Gary Lee
Awood, Michael
Badger, Richard Lee
Baggett, Donald William
Bahr, Stephen Messer
Bailie, James Matthew
Baird, Leo James Michael
Baker, Robert William
Baller, Elmer William
Balling, Chris Mark
Balovich, Nicholas Michel, Jr.
Bandy, Robert Frank
Bankert, Harlan Roland, Jr.
Banks, Bruce Christian
Barchi, Richard Henry
Bardsley, George Paul
Barker, Joseph Henry, III
Barker, Timothy Lee
Barkley, Stephen John
Barnes, John Winthrop, Jr.
Barr, Richard Wendell
Barry, Thomas Joseph
Bartel, Edward Donald
Bartholomew, James Clayton
Bartley, Archie Lee, Jr.
Batcheller, Oliver Alden
Batcheller, Peter Lyon
Bateman, James Harold
Bates, Billy Gene
Bates, George MacNider
Bates, John "C", Jr.
Bates, Kenneth Scott, Jr.
Bauer, William Timmons
Baum, Scott Robert
Baumann, Dennis Clement
Beachy, John Scott
Beal, Robert Everett
Beard, Irvin Edgar, Jr.
Beard, Timothy Robert
Beattie, David John
Beaver, Edward Arnold
Beck, Andrew Conrad, II
Beck, Brent Webster
Beck, Melvin Dewayne
Becker, Frederick Joseph, Jr.
Beers, Charles Joseph, Jr.
Begbie, Albert Joseph
Beinbrink, Jeffrey Robert
Beiser, Richard William
Belden, William Ellsworth, Jr.
Belisle, Kenneth Charles
Bell, James Keith
Bell, William Farmer
Bellamy, David Bruce
Benzin, Robert William
Berg, Ronald Victor
Bergen, Laurence Michael, Jr.
Berning, Ronald Charles
Betts, Craig Robert
Bielicki, Dennis James
Bier, Gary Lanar
Biggerstaff, Ronald Owen
Bill, David Spencer, III
Biller, Charles John
Birchmier, Charles Orland
Bird, Walter Dennis
Birkmaier, William Bradford, Jr.
Bishop, Ernest Frank
Bixler, Paul Woodruff
Black, Harold David
Blair, Dennis Cutler
Blakeney, James Houston
Blanchard, Frank Medford, Jr.
Blankinship, Leslie Scott
Blocksom, Roland Daly, Jr.
Boaz, Lowell David
Bodie, Jeffrey George
Boennighausen, Roger Paul
Boggio, John Martin
Bokesch, William Michael
Bone, Theron Carl
Booth, Gregory Seeley
Borich, Michael Stephen
Bortz, Richard Vaughan
Bouck, Dudley Charles
Bourland, Harry Raymond, III
Bowen, James Leroy
Bowenkamp, Robert Donald
Bowers, William Raymond
Bowler, Roland Tomlin Evans, III
Bowles, Hugh Conrad
Bowman, Frank Lee
Boyce, Brian Francis
Boyd, Gerald Glenn
Boyd, John Stuart
Boyd, Robert Michael
Boyer, Robert Frank
Boynton, Robert William, Jr.
Brandenburger, Robert Bruce
Branum, Richard Cline
Breagy, Thomas Joseph
Breidert, William Eugene
Brennan, Lawrence Michael, Jr.
Brennan, Neil Maxwell
Bridges, Wilber Eugene, II
Bright, Philip Graham
Britton, Max "E"

Broadhurst, William Thomas
Broderick, Donald Joseph
Brodsky, Robert Gray
Bronaugh, Welbourne Frederick, Jr.
Brooks, Nicholas George
Brooks, Robert Andrew
Brooks, Robert Emmett
Broome, William Harold
Brown, John Edward
Brown, Michael Eugene
Brown, Oval Dwight
Brown, Patrick Joseph
Brown, Robert Douglas
Brown, Robert MacKenzie
Brown, Stanley Morton, III
Brownley, Lawrence Leroy
Brunson, Richard Alan
Bryant, Franklin Simons
Brydges, Richard Ross
Bubeck, Richard Bailey
Buchanan, Charles Cecil, Jr.
Buchanan, Richard Alan
Bucher, Lawrence Charles
Buck, Robert Maynard, Jr.
Buckingham, James Robert
Buckley, Gerard Francis
Buege, Paul Stephen
Buletza, Peter George
Bulson, Marvin James
Bunch, Gerald Douglas
Bunge, Thomas Edward
Bunton, Ray Lincoln
Burch, John Charles
Burchell, Charles Richard
Burck, Clarence William
Burger, James Carl
Burggren, Peter Charles
Burhans, Nicholas Pegau
Burke, Jerome Joseph, Jr.
Burke, Robert Gifford
Burkhart, James Richard, II
Burkhead, Franklin, Jr.
Burnett, Robert Vernon
Burnett, Roger Allan
Burnett, William Howard
Burns, Franklin Jeffrey
Burns, Joseph Michael
Burns, Kenneth Edward
Burns, William Robert, Jr.
Burton, Herbert Walker, Jr.
Bush, Harold Samuel
Butler, George William
Butterworth, Robert Martin
Buttinger, James David
Byard, Larry Frederick
Byrd, William Joseph
Cahill, David Blake
Cahill, William Henry
Caldwell, Ellis Alton
Calhoun, William McBrayen
Callaghan, James Michael
Callahan, Patrick Anthony
Calnan, Gary Stephen
Calvert, Eric Scott
Cameron, John Frederick
Cameron, Robert Bruce, Jr.
Campbell, Donald Clifton
Campbell, Francis
Campbell, James Graham
Campbell, Ronnie Milton
Canaday, Brent Arnold
Candler, David William
Capute, Joseph Robert
Carbone, Nicholas Daniel
Carey, Edwin Fenton, Jr.
Carlson, David Samuel
Carlson, Edward James
Carlson, James Robert
Carlton, Kenneth Marvin
Carmody, William Oliver
Carpenter, Melvin James, Jr.
Carroll, James Norman
Carroll, James Richard
Carter, Rodger Besley
Carter, William Campbell
Caruso, Michael Jerome
Carver, Richard Leroy
Carver, William Earnest, Jr.
Case, Gary Richard
Casey, Glenn Alton
Cash, Ted Edward
Casmer, Stephen Bruce
Castle, William Kenneth, Jr.
Castor, Ralph Johnson, Jr.
Cazenave, Frederick Frank, Jr.
Cegler, Edmund Carl
Center, William Dillard
Champe, John Elon
Chance, Logan Orin
Chandler, Michael Stewart
Chandler, Thomas Haywood
Charest, Jerry Russell
Chase, Robert Winslow
Cherry, Michael Everett
Chicoine, Rene Joseph
Chown, Donn Melvin, II
Christensen, Paul Elliot
Church, David Earl
Clark, Bartlett Lee
Clark, Richard Allen
Clark, Robert Joseph
Clark, Vander, Jr.
Clark, Vernon Eugene
Clarke, Joseph Dallas, IV
Clarke, Wayne Alan
Clinton, John William
Clothier, Thomas John
Cloyes, Robert Dagwell, Jr.
Cochran, DeFord Eugene
Coffey, William Jackson
Cohen, Jay Martin
Colburn, Herbert Temple
Colley, Donald Vernon
Collins, James Patrick
Collins, Leslie Malcolm
Collins, Martin Kevin
Collins, Wendell Roy
Collins, William Vivian, Jr.
Colomb, Herbert Palfrey, Jr.
Coltrane, Glenn Gray
Combs, Robert Meredith
Comer, Joseph Scotcher
Coneway, Clinton James
Conn, George Richard Werner
Conn, James Loren
Connell, Jack Petersen
Conniff, Robert Joseph
Connor, James Vincent
Cook, Bruce Littleton
Cook, James Ballou, II
Cook, Jon Leslie
Cook, Larry Larue
Coon, James Maynard
Coovrey, Donald Paul
Copeland, William Winston, Jr.
Corcoran, Gerald John
Cordell, Jeryl William
Cornell, Clifford Louis
Cornwall, Orville Lawrence, Jr.
Corry, Vincent Henry
Corso, Dante Joseph
Coumatos, Michael James
Council, George Sloan, Jr.
Courts, David Paul
Coven, Richard Allen
Cover, Martin Luther, III
Covington, Donald Kingsley, III
Cox, Mariner Garnett
Crabtree, Carlton Pierce
Crahan, Gary Michael
Craig, Billy Jack, Jr.
Craighill, John St Clair
Cramer, Michael William
Crane, Melvin Edward
Creamer, George Urb
Creasser, William Nial, Jr.
Creighton, John Oliver
Crenshaw, William Robins, Jr.
Crider, Thomas John
Cripe, Paul Lynn
Criss, Nicholas Rittenhouse, III
Crociata, Joseph Philip
Cronyn, Brian Sullivan
Crosby, Dennis Allen
Crosby, George Robert
Cross, William "V", II
Crowe, Bruce Robert
Crowell, Gary Dean
Crowley, Jarrett Hunter, II
Cruser, Peter Jesse
Cumings, Ronald Anthony
Cummings, David Lee
Current, Max Christian
Currie, Michael Patteson
Curtis, Stephen Edward
Cushman, Charles Whitacre, Jr.
Cwiklinski, Stanley Francis
Dabbieri, Peter Vincent, Jr.
Dadson, James Baker
Dahlinger, Frank William, III
Dail, James Allen
Daly, Thomas Milton
Dameron, Jack Edward
Darnell, Donald Lee
Daughtry, Joseph Sutton, Jr.
Davie, Clinton William
Davis, Charles John, Jr.
Davis, David William, III
Davis, Ernest Lamont
Davis, John Stark
Davis, Joseph Warren
Davis, Kenneth James, Jr.
Davison, John Warner
Dawson, Gerald Hill
Dawson, Larry Eugene
Deal, Leonard Joseph, Jr.
Dearth, Lawrence Charles
Decker, Peter Brennan
Decker, Thomas Richard
Degruy, Charles Monroe
Delello, Nicholas Joseph
Delgado, Robert Edward
Demarest, Harold Raymond, Jr.
Denigro, Joseph Richard
Dennis, Patrick Joseph
Denton, Richard Jackson
Derocher, Paul Joseph, Jr.
Detter, Gary Lee
Devall, Roger Ronald
Dewar, Dorel James, Jr.
Dial, Robert Denio
Dicarlo, Louis Albert
Diel, Harry Allen
Diman, William Louis
Doane, Robert "K"
Dobscha, Frank John, Jr.
Dolan, Harold Alvin
Dollar, Stephen Edward
Dolson, Richard Charles
Donahue, William Charles
Donaldson, Paul Howard
Donaldson, William Stanley
Donnelly, Ambrose Thomas
Donnelly, Robert Jennings
Donnelly, Walter Patrick, Jr.
Donnelly, William Michael
Doran, Walter Francis
Doryland, Adrian Tracy
Dove, Curtis Ray, Jr.
Downing, Donald Allen
Downing, Edward Converse, Jr.
Doyle, Hugh Joseph
Drager, James Michael
Drake, Keland Lawton, Jr.
Draper, John Joseph, III
Dreyer, Gregory Frank
Dries, David Irwin
Driscoll, John Robert, Jr.
Dryer, Ross Edward
Dubois, Vern Allen
Dudley, Scott Bruce
Duffey, John Francis
Dufresne, William Francis
Dulin, James Evans
Dullaghan, William Edward
Duncan, Robert Nelson
Dunn, Ivan Max
Dvorak, James Anthony
Dye, Gary Thomas
Eargle, Terry Paul
Earhart, John Dudley, Jr.
Earl, Dennis Roland
Eaton, Paul Nealon
Eberle, Daniel Joseph
Eckart, James Edward
Eckhoff, Clarence Joseph, Jr.
Eckler, Joseph Francis
Edmondson, Gary Duane
Edwards, David Alan
Edwards, James Edward
Egan, James Edward

Ehrig, William Albert
Eicens, Imants Dzintars
Ellington, James David
Elliott, Larry Roscoe
Elliott, Walter Michael
Ellis, Charles Eugene
Ellis, John Raymond
Ellis, Michael Alden
Ellis, Robert Edward
Ellis, Thomas Christopher
Emerson, George Allen, Jr.
Emery, Robert Hugh
Engel, Ronald Allen
Engle, Robert Allen
English, Robert Hugh
Erickson, John Michael
Erickson, Paul Robert
Erickson, Richard Oscar
Ernest, Larry Lee
Erskine, John Roger
Erwin, Arthur Robert
Eshleman, Donald Eugene
Espy, Frederick Lewis
Estes, Wilson Ray, Jr.
Eubanks, Thomas Irvin
Evans, Kirk Eden
Evans, Samuel Hall
Evans, William Ashley, IV
Ewing, Ward Hubert
Eysenbach, Karl
Faber, Douglas Everett
Fairchild, Lawrence Vernon
Fallen, David Lee
Fallon, William Joseph
Falls, James Sidney
Fantauzzo, Richard Alan
Farlow, Michael James
Farrell, Patrick Francis
Farrell, Richard Kenneth
Farver, Richard Kevin
Fears, John Aaron
Fee, James William
Feeback, Ralph Stanley
Feichtinger, William Michael
Felsinger, Richard Cox
Felt, Robert Yocum
Felty, Joseph William Rowland
Fenn, Richard George
Ferdon, Frank Charles
Ferrell, William Morgan
Field, Michael Edward
Field, Michael Lee
Field, Richard Johns
Fielder, John Randolph, Jr.
Fifer, Richard Michael
Figueras, Raymond James, III
Finch, David Charles
Findley, Joseph Herbert, Jr.
Fini, Wallace Paul
Finley, Thomas Francis, Jr.
Finney, David Haley
Fisher, Dwight Douglas
Fitch, David Atwood
Fitzgerald, John Stephen
Fitzgibbons, Thomas Arthur
Fitzpatrick, John Louis
Flanagan, Richard James
Flegel, Kenneth Christian
Fletcher, Bennie Lyle, III
Floyd, Anthony, III
Foltz, Stanley Charles
Foote, Jerry Lynn
Foster, Edward Stephen
Foster, William Irving
Fox, Franklin Orville
Foxwell, Robert Everett
Friam, Thomas Stewart
France, Robert Timothy
Franklin, Ronald Edward
Franson, William Eric, Jr.
Frantz, James Joseph
Franzitta, Anthony Michael
Fraser, Donald Ross
Fraser, William Donald
Frawley, Larry William, Jr.
Frederick, Jeffrey Con
Frederickson, John Allen
French, Timothy Allen
Frick, Kenneth Edwin
Fritsch, Curtis Paul, III
Froggett, Stephen John
Fuentez, Raymond Marques
Fuller, Robert Thorpe
Fumia, Francis Henry, Jr.
Gabber, Wilhelm Martin
Gaffney, William Alan
Gagne, Gregory Michael
Galbraith, Donald Edward, II
Galloway, James Bruce
Galvin, James Joseph
Gammons, Robert Allen
Gandy, John Milton, III
Garcia, Juan Manuel, Jr.
Garcia, Larkin Enos
Garcia, Roland Albert
Garnar, George Edgar
Gary, Michael Anthony
Garza, Jose Eulalio
Gates, Christopher Gleason
Gautier, William Kirten
Gay, Robert George
Gebeaux, Robert Joseph
Gehr, Thomas Rue
Gehrman, Fred Herman, Jr.
Geismar, Donald David, Jr.
Gentile, David Louis
Gerhardt, Robert Ross
Gertz, Wayne Harvey
Giardina, Thomas Joseph, II
Giblin, James Francis, Jr.
Gibson, Ethan John
Gibson, Terrell Allen
Gilbert, Arthur James
Gilbert, Proctor Joseph, Jr.
Gildea Richard Francis
Giles, Donald Allen
Giles, Wayne Houston
Gillard, James Henry
Gillis, Stephen Herbert
Ginsburg, Peter Arthur
Givens, Todd Williams
Glass, Robert Lee
Glerum, Michael Dennis
Glover, James Redd, Jr.
Gnerlich, Charles Henry
Goddard, Glen Lewis
Godfrey, William Bret
Goedjen, Russell Clarence, Jr.
Goff, Jerry Duane
Gohmann, Barton Charles
Gooding, Leroy Alvert
Goodrich, William Angier
Gordon, Ian Scott
Gordon, John Howard
Gorla, Thomas Wayne
Gorman, Joseph Daniel
Goryanec, George Thomas, III
Gouslin, William Adelbert
Gracie, David Leo
Gragg, Richard Vernon
Graham, Edward, IV
Grandon, Raymond Arthur, Jr.
Granger, William Ernest
Gravatt, Brent Leigh
Gray, Stephen Vern
Gray,Will Phelps
Greenamyer, Richard Doyle
Gregory, Cletis, Jr.
Griffin, David Moss
Griffin, Henry Newbold
Grim, Thomas Harold
Grofcsik, Garry Victor
Grove, John Axtell, II
Guarino, Kenneth Robert
Guilfoil, Thomas Patrick
Gumbert, Ronald Derwood, Jr.
Hack, Theodore Walter
Hackathorn, Dennis George
Hagen, James Burgess
Hahn, Richard Anthony
Haimes, William Stephen
Haley, James Richard
Haley, Mark Christopher
Hall, Ronald Eugene
Hall, Roy Maxwell, Jr.
Halley, Elmer John, Jr.
Ham, Edward Everett, Jr.
Hancock, Thomas William
Hanley, Paul Windsor
Hanley, Wayne Richard
Hanratty, William John
Hansell, Paul Jerome
Hansen, Frederick Douglas
Hansen, George Robert, Jr.
Hanson, "J" Patrick
Hanson, Jeffery Wayne
Harbeson, Richard Finucan
Harford, Joseph Leo
Harnes, James Joseph, Jr.
Harp, Jerry Wayne
Harrington, Daniel Joseph, IV
Harrison, Chester Flynn
Harrison, William Francis
Harsanyi, William Stewart
Hart, Joseph Edward, Jr.
Hartnett, James Thomas
Hartung, Timothy Ryan
Hartz, James Francis
Harvey, Phillip Ivan
Haskins, Michael Donald
Hattan, Robert Leland
Hawk, William Howard
Hawthorne, Robert Earle, Jr.
Hayes, Timothy James
Healy, Martin Joseph
Hearn, Ellison Jasper
Hearn, Robert Vernon
Heaton, Joel Brion
Hedderson, Thomas Michael
Hefkin, Donald Clark
Hefty, William Alton
Heidner, James Charles
Heilig, William White, Jr.
Heinemann, Alfred George, III
Heisig, Alan Louis
Helmsin, Francis Kenneth, Jr.
Henderson, Joseph Kee
Hendricks, Judson Joseph
Hendrickson, Dean Moffet, Jr.
Hendrickson, James
Hendrickson, Larry John
Henry, Gary Roy
Hensley, James Maurice
Herr, Marshall Fredrick
Herrera, Henry Francis
Herring, Edward Leslie
Herrington, David Lynn
Herrmann, Robert Herbert
Hersh, David Sidney
Hershberger, John Louis
Hester, William Glen
Heustis, Robert Leroy
Hewett, Leslie Wilsdon, Jr.
Hewitt, Frank Floyd
Hewlett, Holden Willets
Hiatt, Douglas Grant
Hickok, John Howard
Highfill, Harry Mitchell
Hight, Jimmy Frank
Hildebrand, Charles Louis
Hill, Charles Kenneth
Hill, Roger Benton
Hill, William Frederick
Hill, William McDowell, Jr.
Hills, Norman Anthony
Hinman, Thomas Theodore
Hoberg, Raymond John
Hodge, Jerome Brownlee
Hodson, Paul Raymond
Hofer, Eric Llewellyn
Hoffman, Phillip Stewart
Hoggard, John William, Jr.
Holbrook, Robert Scott
Holden, Harry Franklin, Jr.
Holian, Francis Kevin
Holk, Frederick Arthur, Jr.
Holl, Stephen Trygve
Holland, William Eugene
Holmes, Gordon Lloyd
Holt, James Stephen
Holzapfel, Jon David
Hontz, Edward Brigham
Horn, Maurice Darnell, Jr.
Horn, Noel Paul
Horne, Robert Jackson
Horner, Timothy Francis
Horst, Gary Louis
Hough, James Arthur
Houser, Robert Edward
Howard, Arthur Francis
Howard, Harold Hulon
Howard, Stephen Thomas

Howe, Daniel Bo
Howick, James Francis
Howitt, Leslie Andrew
Hoxie, Stephen Sanders
Hubbs, Phillip Malcolm
Huber, Paul Mikel
Hudson, Charles Edward
Hudson, Gerald Peter
Hudson, Warren Putnam
Huffman, Thomas Bartlett
Hughes, Dwight Sturtevant
Hughes, James Leonard
Hughes, Kirby Edmondson, II
Hulse, Richard Louis
Hulsey, William Jamie
Humphrey, James Smith, III
Hunt, Andrew William, Jr.
Hunt, Edmund Joseph, Jr.
Hunter, William Carrol, Jr.
Hura, Myron
Hurst, Errol Ray
Hutchinson, Thomas Gerald
Hyde, John Wendell
Idsinga, William
Ihlenfeld, David Lawrence
Inman, John Philip
Irelan, Dennis Wayne
Ireland, Robert Louis
Irvine, Pickens William
Irwin, William Jenner
Isban, Michael Andrew
Iselin, Robert Arthur
Jacka, Alan Wayne
Jackson, Earl Joseph
Jacobs, Gerald Keith
Jacobs, James Clark
Jacobson, Richard Lee
James, Gary Douglas
January, Paskell Dean, Jr.
Jaros, Joseph Michael
Jensen, Robert James
Jewell, Charles Norman
John, William Harrison
Johns, Raymond Stanley
Johnson, Adrian Warren, Jr.
Johnson, Donald Howard, Jr.
Johnson, Douglas John
Johnson, Golden Harold
Johnson, Jay Lynn
Johnson, Jerry Lee
Johnson, Jerry Lee
Johnson, Paul Niels Thornton
Johnson, Pierce Jarvis
Johnston, Bruce Alan
Johnston, Richard Howard, III
Johnston, Thomas David
Jonas, Michael Peter
Jones, Arthur Dewayne, III
Jones, Charles Ernest, III
Jones, Charles Ray
Jones, David Morgan
Jones, Edward Michael
Jones, Francis Terrell
Jones, James William
Jones, John Patrick
Jordan, Robert Lucius
Jordan, Ronald Robert
Joslin, Leslie Allen
Joy, Ernest Harriman, II
Joyce, James Emory
Joyce, John Joseph
Joyce, Robert Richardson
Joyce, William Joseph, Jr.
Judd, Steven Edward
Juhl, Douglas Wray
Julian, Benjamin Eugene
Julihn, Lawrence Sumner
Junek, John Filip
Junker, Allan Ernest
Kainer, Edward Lester
Kaiser, Larry Lee
Kane, John Edward
Kanive, Paul Edward
Kapernick, Robert Edwin
Kappel, Leslie George
Kasen, Keith Melvin
Kauffman, Gordon Eddie
Kauffmann, Carl Francis
Kaufhold, Francis Frederick
Kautz, John Ferdinand
Keegan, Lawrence Thomas
Keeley, Robert Martin
Keiser, Ronald Lee
Keith, Larry Brian
Keller, David Brooks
Kelley, Michael Bernard
Kelly, Harold Wayne
Kelly, James Peter
Kelly, John Thomas
Kelly, Lawrence Michael
Kelly, Robert Bolling, Jr.
Kelsey, Robert Joe
Kendrick, Robert Carroll
Kent, Thomas Richard
Kerr, Peter James
Kesson, Charles Edmund, II
Kickhofel, George Charles
Kidd, James Stark Lawrence, Jr.
Kieley, John Joseph, III
Kincaid, Joseph Durward
Kincheloe, James Wilson
Kindle, Mickey Eugene
Kingsley, John Francis
Kirk, Arthur Leroy
Kish, Robert Alan
Klahr, Owen Allen
Klapperich, Donald Harry
Klimchak, Andrew John, Jr.
Kline, Edward Marvin, Jr.
Klinkhamer, David Joseph
Knappe, Douglas George
Knobloch, Earle William
Knott, Gerald Wayne
Knox, James Dennis
Kobylk, Nicholai Slate
Koltz, Bruce George
Koopman, Theodore
Kopp, John Ward, Jr.
Korbet, Michael Thomas
Kowalchik, Sergei Michael
Kowalick, Stephen Joseph, Jr.
Kozuch, Bernard Stanley
Kramer, Steven Barker
Krol, Joseph John, Jr.
Kropf, Wallace Leroy
Krubsack, Robert Louis
Kuhn, Richard Charles
Kupka, Stephen Gregory
Kuykendall, George Ira, Jr.
Labo, Larry Glynn
Labrecque, Robert Joseph
Lackey, Terry Carter
Lajoie, Oliver Michael
Land, Stephen Ross
Lang, Robert Earle
Lareau, Jerome Philip
Larkins, James Marion, Jr.
Larson, David Leroy
Larson, Keith Howard
Larson, Richard Mason
Larson, Robin Cameron
Lash, William Joseph
Lasswell, John Deane
Lauer, Klaus Wilfried
Lauzon, Gilbert Paul
Lavelle, Donald Lewis
Law, Charles Edward
Lawhorn, Robert Martin
Lawless, John Martin
Lawson, Dunbar, Jr.
Lawson, Peter Gray, II
Lawson, Thomas Nelson
Lawver, Allen Eugene
Lear, George Barrett, Jr.
Lee, Earl Cunningham, II
Lee, Lynden David
Lehman, Brian Leroy
Leonard, Fred Parker, III
Leonard, Robert Emory
Letter, Stephen Paul
Leum, Peter Lauritz
Leverette, Ronald Stewart
Lewis, James Crawford
Lewis, Ralph Warren
Lewnes, Christopher
Lichtenwalter, James Edward
Lichtermann, Richard David, II
Lightstone, Robert Martin
Lindfors, Bo Gottfrid
Lindquist, Douglas Wayne
Liner, Bennice Lee
Lingo, Dennis Roy
Linzay, Herman Allen
Lipfert, Ralph Hall
Lium, Rolf Rolfson
Lockwood, Bruce William
Lohden, Frederick Charles
Long, Donald Erskine
Long, Peter Avard Chipman
Loop, David Everett
Lopacinski, James Michael
Lopez, Joseph Delbert
Lorenz, William Frederick, III
Lorren, Lonnie Dwight
Love, Glendel Devon
Lovelady, David Eugene
Lowell, Robert Leroy, Jr.
Loy, Marvel Henry, Jr.
Lubenow, Richard John
Luckman, Thomas George
Lundahl, David Carlton
Lundberg, William Dennis
Lyon, Edward Theodore
Lyons, John Thomas, III
Lyons, Joseph Eugene, Jr.
MacDonald, Douglas Murray
MacKenzie, Donald Kenneth
MacPherson, George William
Madden, Jerome Patrick
Madden, Lewis Dot
Madden, Thomas Francis
Mahew, William Edward, Jr.
Mahlstedt, Paul Williams
Mail, Alan Davison
Mallett, Carl Victor
Malloch, Douglas Clark
Maloney, Elbert Sevier, Jr.
Mandeville, Donald Ernest
Mann, John Edwin
Marfiak, Thomas Fletcher
Marinshaw, Stephen Alfred, Jr.
Marks, Norman Alfred
Marks, William Leon
Marnane, Michael Joseph
Maroon, Jerry Wayne
Marquez, Octavio Jimenez
Marsh, William Thomas, Jr.
Marshall, Gregory Sarver
Martin, Frederick Karl
Martin, Michael Dean
Martin, Michael Louis
Martin, Thomas Gordon
Martineau, Paul William, Jr.
Martinek, Charles Allen
Martinsen, Larry Gene
Martinsen, Raymond Fred
Marzetta, Dante Rudolph, II
Mason, James Rutledge, Jr.
Massicot, William Harvey
Masters, Quentin Steward
Mate, Stanley Sykes
Mattioda, Ronald Lee
Mattis, David William
Matton, Michael Nevitt
Mattox, Walter Charles, Jr.
Maxwell, John Scott
Maxwell, William Haskew
Mayer, Martin Jules
Maynard, James Devere
Mazza, Joseph Dennis
McArthur, Donald Mack, Jr.
McBride, Jon Andrew
McCarthy, William Joseph, IV
McClendon, Robert Pierce, Jr.
McComas, Jon Philip
McConathy, Donald Reed, Jr.
McConnell, John Michael
McCracken, William Lowell
McCrary, Michael Shannon
McCullough, Carl Preston
McCullough, Van Lee
McCumber, Ralph Ray, Jr.
McCurdy, Philip Dean
McDaniel, Edwin Ralph
McDaniel, Garold Stephen
McDonald, Gerald Warner
McDonald, Jerry Ralph
McDowell, Elmer Jay
McFearin, Allen Louis, Jr.
McGann, William Henry, III
McGaughey, James Wilbur, Jr.

McGinlay, Thomas Charles John
McGinnis, Stephen Jack
McGovern, Patrick Daniel
McGrath, James Michael
McGuffey, Artie Taft, Jr.
McKay, Ludwell Howard
McKendrick, John Demille, Jr.
McKenney, Edward Anthony
McKinney, Ronald Lewis
McKnight, Philip Kinsey, Jr.
McLaughlin, Charles Wayne
McMahon, John Patrick
McMahon, John Sherman, Jr.
McMahon, Thomas William
McManamon, Vincent Michael
McNab, John Denise
McPherson, Thomas Lee
McQuiston, Michael Kerry
McWhorter, John Douglas
Meade, Richard James
Mears, Allen Kennard
Mears, Michael Lawson
Meier, Michael Arthur
Meloney, Michael Bruce
Mendenhall, Corwin Guy, III
Merickel, Michael Reilly
Merkel, Sherman John, Jr.
Mero, Kenneth
Messina, Edward Frederick
Miles, Robert James
Millard, Warren James
Miller, Bruce Martin
Miller, Gary Wayne
Miller, Randall Harold
Miller, Roger Lee
Miller, Ronald Dean
Miller, William Cole, III
Miller, William Pearcy
Mills, Pelham Eugene, III
Minor, Donald Anderson
Mitchell, Anthony Edward
Mitchell, John Thomas
Mitchell, John Thomas
Mittendorff, Gerald Ernest
Mobley, Joseph Scott
Mockford, Martin David
Moldenhauer, Ernest William, Jr.
Mollet, Robert Edward
Monaco, Anthony Victor
Monroe, Jerry Melvin
Monson, Randall Charles
Montgomery, George Wynn
Moore, Billy Gene
Moore, Gregory Rayfield
Moore, Richard Warren
Moore, Springer Harbaugh, III
Moore, Thomas Weller
Moore, Timothy Blair
Morgan, Benny Mount
Morgan, Edward Earle
Morris, Ralph Richard
Morrison, Virgil Eugene
Moser, Robert Dayman
Moses, Dale Hopkins
Moynihan, Patrick Joseph, Jr.
Muccia, Daniel Richard
Mueller, Frank Albert, Jr.
Muldoon, Patrick Michael
Mumford, Thomas Frederick
Munger, Edmund Colby
Murdock, Glenn Earl
Murphy, Dennis Edward
Murphy, James Leroy, III
Murphy, Patrick
Murphy, Timothy Aloysius
Murrell, Douglas Monroe
Mushen, Robert Linton, II
Myers, Henry Benjamin, Jr.
Myslivy, Guy Edward
Naber, Michael Edmund
Naile, Thomas Clinton
Nanos, George Peter, Jr.
Natter, Robert Joseph
Neal, Basil Edward, Jr.
Nebiker, Ralph Robert
Neiman, Arthur David
Nekomoto, David Seiji
Nelson, Carl Dean
Nelson, Lawrence William
Nelson, Robert Edward
Nesbit, Thomas Burns
Nesbitt, Howard Wayne
Neville, William Joseph, Jr.
Newkirk, Schirrell Richard
Newton, William John
Nichols, Loring Buttrick
Nicholson, Samuel Thorne
Nick, John Irvin
Nisbet, Robert Earl
Nordean, David Less
Nordgren, Robert Carl
Nordman, Robert William
Norelius, Allen Jay
Norman, Ronald Wayne
Norris, William Leland
Norris, William Lloyd, Jr.
Norton, Arthur Easton
Norton, David Howel
Nosco, Robert Gene
Notz, Frank Peter
Nunno, Thomas
Nygard, Howard Thomas
Oates, John Scott
O'Brien, John Laurence
O'Brien, Michael Francis
O'Connell, Michael Keith
O'Connor, Dennis Joseph
O'Connor, Joseph Michael
Ogle, John Lee, Jr.
O'Grady, James Wadsworth, Jr.
O'Hara, Justin Joseph
O'Hearn, Michael Steven
Ohlert, Edward James
Ohnemus, Donald Pierre
O'Keefe, Thomas Stephen, Jr.
Olbert, Donald Ernest
Oldach, Robert Dorr
Olden, Irvin Leon
Olmstead, Allen John, Jr.
Olsen, Arthur Emanuel
Olsen, Curtis Wayne
Olsen, Richard Allen
Olsen, Sven Ivar
Olsen, Wayne Lewis
Olson, Stephen Robert
Olson, Terry Gene
O'Malley, John Francis
Orvis, James Worthington
Osborn, Kenneth Eugene
Osburn, Vernon Richard
Oser, Eric Leroy
Osiecki, Arthur Eugene
Osterhoudt, Robert Russell
Ostheimer, William "L"
Othic, Francis Eugene
Ott, Christopher Stephen
Overgaard, Raymond Melvin
Overton, Christopher Grasett
Owens, Gregg Ouray
Oyler, Joe Richard, II
Paddock, John Francis, Jr.
Palmer, Burdette Allan, III
Paradis, Michael Patrick
Parish, Philip Walter
Parker, Edward William
Parkes, Norman Michael George
Passmore, Leonard Harrison
Patch, David Alan
Patten, Freddie Joe
Patton, Bernard Warren
Paul, Thomas Walder
Payne, John Scott
Peak, Jack Ronald
Pearson, Larry Glen
Peirce, Gregory Neil
Pelensky, Mark
Penque, Charles Westervel, Jr.
Percival, Robert Clayton
Pergler, Robert Armstead
Perkins, Thomas Morgan
Perkins, Thomas William
Perrin, Clifford Stephen
Perrotta, Joseph William, Jr.
Perry, Albert Kevin
Perry, Clyde McAvoy
Pester, James Leroy
Peszko, David Adam
Peter, Leo Edwin, Jr.
Peters, Robert Keith
Peterson, Carl Marvin, II
Peterson, Gordon Irwin, Jr.
Peterson, John Walter
Petrie, Allen
Pfeifer, Charles Gregory
Pfeiffer, John Francis
Pfeiffer, William Gaines
Pfitzenmaier, Larry David
Phelan, Joseph Francis
Phillips, Glenn Patrick
Phipps, Jeffrey Richard
Phoebus, Ronald Wayne
Pieper, Bruce Allen
Pierce, Paul Gregory
Pierpont, Peter Stewart
Pigoski, Thomas Max
Pillsbury, Seth Clinton
Pinegar, Franklin Anderson, Jr.
Pinz, Bradley Adkins
Piper, Harry Lee
Piper, Jack Lee
Pisz, Robert John
Piwowar, Thomas Michael
Plante, Robert John
Ploeger, Robert Bowers
Plumb, Paul Douglas
Plummer, David Morris
Pocklington, Thomas Philip
Poniatowski, Tadeusz Stefan
Pope, David Lawless
Popek, William Paul, Jr.
Porter, Charles Wayne
Porter, Joel Alan
Porter, John Collier
Porter, Thomas John
Potter, John Everett, II
Powell, James Milton, Jr.
Powell, Richard Allen
Powers, James Arthur, Jr.
Pribula, Stephen Matthew
Price, Leland Herbert
Pritchard, Paul Edward
Prout, James Gregory, III
Prusaitis, Gerald Joseph
Pryor, Edwin Ripley, III
Pursley, Robert Earl, III
Pyetzki, Charles Melvin
Queen, Stephen "J"
Quigley, Michael Dennis
Quigley, Stephen Timothy, Jr.
Quinn, Neal Albert, Jr.
Quinn, Robert Joseph, Jr.
Qurollo, James Victor, Jr.
Raaz, Richard Dean
Radican, William Walter
Rahn, Donald Frederick
Ralston, Gene Duain
Ramsay, Robert Lee, III
Rankin, Charles Robert
Rankin, Robert Eugene
Rawson, Warren Addison, Jr.
Raysbrook, Charles Frank
Razzetti, Eugene Anthony
Reass, Richard Martin
Reed, Maynard Martin
Reinauer, James Richard
Revenaugh, John Timothy
Reynolds, Claude Dale
Reynolds, Felix Michael
Reynolds, Tom Hunter, Jr.
Rhamy, Thomas Lee
Rheinstrom, Gordon Harkness
Rhoades, Alan Sherburne
Rice, Marvin Ronald
Rice, Theodore Lee
Rich, John Shipley
Richard, Jeffrey Luke
Richards, Jesse Morgan, III
Richards, Robert Roger
Richardson, Arthur Fields
Richardson, Forney Norwood, Jr.
Richardson, Murriel Leon, Jr.
Richardson, Robert Lamar
Richardson, Terry Allen
Richmond, Steven Allen
Richt, Harvey Francis
Ries, Kenneth Lee
Riley, Charles William
Riley, Michael Dean
Rinehart, Robert Coleman
Ringwood, Paul
Rist, Austin Michael
Rittenour, Harry Taylor

Ritz, Richard Wilfred
Robb, Warren Alan
Robb, William Stewart, Jr.
Robbins, Thomas Farnsworth
Roberts, Charles Raymond
Roberts, Frank Stewart, II
Roberts, Malcolm William
Roberts, William Albert
Robertson, Terry Gene
Robertson, William Clark
Robinson, Charles Leon
Robinson, Keith Dale
Rockwell, John Hobart, III
Roesh, Donald Richard
Roderick, Clinton Oline
Roffey, Robert Charles
Rogers, George Charles, Jr.
Rogers, Stephen Henry
Roland, John Rogers, Jr.
Rollen, Claude Terence
Rollins, Richard Edward
Romans, Calvin Hubert
Romanski, Paul Arthur
Roop, William Arthur
Rosedale, Burgess Eugene
Ross, Alan Lawrence
Ross, Paul Davidson, Jr.
Rossing, Bruce William
Roth, Milton Dudley, Jr.
Rouse, Francis Clare, Jr.
Rowe, Donald
Rowney, John Victor
Rubel, Carl McHenry
Rueger, Walter Conrad
Ruland, James Kenneth
Rump, Richard Bryant, Jr.
Ruppel, Jack Clyde Louis
Russell, Bayard Warren
Russell, Jerold
Ruys, Ronald Ernst
Ryan, James Jonathon
Ryan, John Roy
Ryan, Norbert Robert, Jr.
Ryon, Roger Lynn
Sabatini, Joseph Francis
Sadauskas, Leonard
Sadlier, Richard Thomas
Saffell, Charles Raymond, Jr.
Sage, Fred Walter, III
Sager, Harold Eugene
Salinas, Daniel, II
Samuels, Michael Willian
Sanders, Robert Tracy
Sansom, Edward Lee
Santoro, David John
Sappington, Merrill Arthur
Sargent, David Putnam, Jr.
Sarich, Ace John
Savage, Wayne Franklin
Scalzo, John Carmine
Schaede, Harry Robert
Schaeffer, Robert Clark
Schalk, William Henry
Scheber, Thomas Keith
Scheerer, Raymond Henry
Scheu, David Robert
Schissler, Paul Frederick, Jr.
Schlein, Paul Barron
Schmidt, William Wallace
Schneider, Edward Thomas
Schneider, Ronald Dale
Schoch, William Leon
Scholl, John Foster
Schottle, Robert Allan
Schranz, Peter Allen
Schrope, Richard Bruce
Schuster, Michael Anthony
Schuyler, James Preston
Schwendinger, Ronald George
Scoggin, Dale Irving
Scott, David Craig, Jr.
Scott, Gary Everett
Scott, Murrel Clifton, Jr.
Scott, Richard Tazewell, Jr.
Scott, Robert Peter
Scott, William Raymond
Scott, William Robert
Scrivener, Orlin Robert
Sears, Everett Edwin
Sears, Jay Allen
Sears, Scott Lowrie
Segars, Roy Lee, II

Sego, Thomas Edward
Seiden, Steven Samuel Sutton
Selfridge, Harry Edward
Seward, Theodore Clark, Jr.
Sexton, Theodore Covert
Shannon, James Okey
Shaw, Herbert Bramwell, III
Shaw, Ralph Howard
Shaw, Robert Earl
Sheedy, Patrick James, Jr.
Sheehan, Daniel Brace, Jr.
Sheeley, Royal Edwin
Sheffield, Terry Randolph
Sheldon, John Trevor
Sheldrick, Ralph Carroll
Shellenberger, Wilmont Nelson
Shelton, Leonard George, Jr.
Shepard, Peter Atwood
Sherer, Wesley Michael
Sherlock, James Carter
Sherman, Marshall Robert
Sherman, Michael Terry
Shewell, Daniel John
Shipe, Edwin Evan, III
Shong, John William, Jr.
Shubert, William Moses, Jr.
Shultz, Robert Joseph, II
Shumadine, William Albert
Sigler, John Fleet
Signorelli, Ignatius Anthony
Silvia, Michael Ferreria
Simard, Paul Joseph
Simkins, Kenneth Ray
Simmons, William Alfred
Simoneaux, Donald Carlton
Singler, Charles Walter
Sinness, Kenneth Robert
Siverling, Robert Charles
Skaar, Gerhard Erling
Skambraks, Herman Louis
Skinner, Thomas Russell
Skjei, Sidney Minard, Jr.
Skroch, Albert Paul, Jr.
Slattery, John Patrick
Smedley, Grant William, III
Smith, Billy Joe
Smith, David Peter
Smith, Donald Lloyd, Jr.
Smith, Douglas Edwin
Smith, James Cornelious
Smith, James Harvey
Smith, James Lawrence
Smith, Michael John
Smith, Raymond Charles, Jr.
Smith, Robert Wayne
Smith, Ronald Ernest
Smith, Thomas Howard
Smith, Thomas Joseph
Smith, Tracy William
Snead, Thomas Shockley
Snodgrass, Carl Edward
Snyder, John William, Jr.
Snyder, Luther William, Jr.
Snyder, William Thomas Daniel
Soares, Paul Louis
Sollenberger, Robert Travis
Solomon, William Emert, Jr.
Sommers, Thomas Andrew
Sosnicky, Andrew Peter
Spahr, John Franklin, III
Spayd, Steven Howard
Speakman, Glendon Caldwell
Spears, Oliver Kelly, III
Specht, Harry Frederick, Jr.
Speed, James Guy
Speidel, David Poor
Spelbring, Daryl Carlton
Spikes, Clayton Henry
Spisso, David Joseph
Stabb, John Albin
Standley, Cecil Edmond
Stanley, David Ian
Stanley, Harold Gene
Stanley, Robert Ray, Jr.
Staudte, Paul Vincent
Steel, James Robert, Jr.
Steenburgh, Charles Joseph
Sterling, Stoughton, III
Stevenson, Robert William
Stewart, John Christopher
Stewart, Joseph Stanley, II
Stewart, William Cole

Stillinger, James Morris
Stillmaker, William James
Story, Robert Garner
Stout, Charles Lawrence, Jr.
Stoutamire, Stoney Lester
Strada, Joseph Anthony
Stratton, Phil Zeh
Strausbaugh, Thomas Ligore
Strawn, William Wesley, Jr.
Street, Ernest Laverne
Strother, John Wayne
Stuart, Jay Clyde
Stumm, Albert Francis, Jr.
Sturm, William Philip
Sulcer, Bert Reid, Jr.
Sulfaro, John James
Sullivan, Donald Lee
Sullivan, George Thomas, Jr.
Sullivan, James Vincent, Jr.
Sullivan, Michael James
Sullivan, Timothy John
Sumnick, John Michael
Surdyk, Michael Gene
Sutton, Mahlon Robert, II
Svendsen, Michael Roy
Swaggart, Kenneth Wayne
Swank, Jeffrey Lee
Swenson, Daniel Austin
Swientek, Francis Martin
Tabbert, Gary Donald
Tafuri, Ronald Robert
Tanber, Terry Neal
Tappan, Benjamin, III
Taylor, Billy Byron
Taylor, Edward James
Taylor, Kermit Allen
Taylor, Malcolm Palmer, Jr.
Taylor, Richard Howard
Temme, Robert Lee, Jr.
Tennant, Donald Alan
Terrill, Thomas Joseph
Tessada, Enrique Augusto, IV
Tetrick, Edward Leslie
Texeira, Antone, Jr.
Thomas, John Morgan
Thomas, Mack Allen, Jr.
Thomas, William Newton
Thompson, Henry Martin
Thompson, John Ralph
Thompson, Ronald Melvin
Thormeyer, Carl David
Thurman, Ronald Jack
Tickle, Harold Joseph
Till, Evon Gardiner, III
Tilson, Paul Evans, Jr.
Timmons, David Richard
Tobin, Roy Wilson
Toedter, Wendel Walter
Torgerson, Larry Peter
Touve, Bruce Norman
Tow, James Dewane
Trafton, Wilbur Cobb
Transue, Michael John
Trautman, Kurt MacGregor
Treis, Robert Enlow
Tritten, James John
Troy, Thomas Gerald, Jr.
Truesdell, William Clare, Jr.
Tryon, Frank Harold, Jr.
Tuck, Charles Marion
Tulloch, Allan Wiley
Turner, Dean
Turner, Guy Foster, Jr.
Turner, Horatio Whitridge, IV
Tye, James Milton, Jr.
Uelses, John Hans
Uhrle, Richard James, Jr.
Uhrin, John Joseph, III
Urbik, Lawrence Walter
Valley, Bruce Leon
Vanderpoel, Eric, II
Vanderwest, James Robert
Vandivort, Walter Derris
Vanpelt, Richard Junior
Vansaun, David
Vansickle, Garth Allan
Vazquez, Frank Xavier
Verhoef, Thomas Tymen
Vidosic, Richard Paul
Villanueva, Zall George, Jr.
Vinson, John Emmanuel
Vion, Charles Pierre

Vivian, William Charles
Vogt, Peter Dixon
Volkman, George Charles, II
Volkwein, Robert Arthur
Volland, Karl Ferdinand, Jr.
Vonsuskil, James David
Voorheis, Gary Martin
Voshell, John Eugene
Votava, Charles Frank, III
Waddell, Ronald Dallas
Waggoner, David Thomas
Wahlig, Leonard Otto
Wainright, Stanley Dean, Jr.
Waite, Robert Clark
Walker, Bill
Walker, Charles Harrison
Walker, David Mathieson
Walker, Robert Joseph
Wallen, William Elbert
Walls, William Hammond
Walsh, David Francis
Walton, William Linwood
Ward, Chester Douglas
Ward, Paul Charles
Warner, Carl Dean
Warner, Michael Dennis
Waschbusch, John Frank
Wasowski, Walter Michael
Wassmer, Douglas Harold
Wasson, Gary Clinton
Waterman, Steven George
Waterman, William Lloyd
Waters, James Luther, Jr.
Watson, David
Watts, Gary Merlin
Webb, Stephen Louis
Weber, Robert Sycks
Weber, Steven David
Webster, Kirwin Shedd
Weeks, Floyston Allan
Weeks, Robert Allen
Wehry, Allen Craig
Weinzapfel, Kenneth Henry
Weir, Marshall Ray
Welch, Daniel Francis
Welch, James Taylor
Weller, Philip Baxter
Wells, John Carroll
Wells, Kent William
Wells, Linton, II
Welsch, James Edward
Welsh, Walter Lee
Welton, Donald Ernest
Welty, Robert William
Wendt, Terrill Jay
Wesh, Francis Reid
West, William Robert
Westby-Gibson, Peter Barry
Westerbuhr, Norman Lee
Westfall, John Charles
Westmoreland, Michael Neal
Whalen, Daniel Patrick
Wheeler, Howard Alvin
Wheeler, William Richard
White, Allen Hardin, Jr.
White, Craig Cameron Lynn
White, David Owen
White, Peter Leroy
Whitehouse, Theodore Wayne
Whittemore, Michael Alan Nye
Wiant, Jeffrie Edwin, Jr.
Wied, Edwin Milton, Jr.
Wiese, Clifford Allen
Wiggins, Joseph Lambert, Jr.
Wilks, Robert Edgar
Willan, Robert Freier
Willems, Robert Cecil
Williams, David Michael
Williams, Gregory Bruce
Williams, Jack Bercaw, Jr.
Williams, James Thomas
Williams, John William, Jr.
Williams, Robert Milo
Williams, Thomas Johns, Jr.
Williams, Thomas Ryland
Williamson, Francis Thomas, Jr.
Williamson, Robert Charles. Jr.
Williamson, Terrence Lyle
Williamson, Walter Edward, Jr.
Wilsbach, Ronald Keith
Wilson, John Franklin
Wilson, Wayne Bruce
Winge, Donald Ernest
Wise, Bobby Gene
Witt, George Stanley
Witt, Theodore Carl William
Wittenberg, Robert Ralph
Woerner, James Paul, Jr.
Wojtkowiak, Daniel Leonard
Wolf, Edward James
Wolf, Robert William
Wolfgang, Earl Dale
Woltz, David Ralph
Womack, Jack Edward, Jr.
Wonicker, William Curtis
Wood, Bruce Victor
Wood, Gordon Leo, Jr.
Wood, Grover Eugene
Wood, Kenneth Arthur, Jr.
Wood, Stephen Carl
Wood, William Allison
Woodall, Stephen Russell
Woodfield, Jeffrey Reynolds
Woods, Robert Allen
Woodson, Walter Browne, III
Woodward, Harlan Wilfred
Woolard, Richard Trusty Patrick
Woolrich, Raymond Dudley
Worthington, Richard Ogle
Woy, Garl William
Wozniak, John Frederick
Wright, Clinton Ernest
Wright, David Lee
Wright, James Earl
Wright, Peter Warren
Wrynn, John Patrick
Wyatt, James Colquitt, III
Wyman, Bruce Dana
Yakeley, Jay Bradford, III
Yarbrough, Earl Clinten
Yates, Cornelius Harrington, III
Yokley, Robert Andrew
Zahalka, Joseph Harold, Jr.
Ziegler, Philip Eugene
Zucker, Clayton George
Zvacek, Robert Dale
Zveare, Dennis Leeth

In the Navy

The following-named lieutenant commanders of the U.S. Navy for temporary promotion to the grade of commander in the various staff corps, as indicated, pursuant to title 10, United States Code, sections 5773 and 5791, subject to qualification therefor as provided by law:

MEDICAL CORPS

Coale, Thomas W.*

CHAPLAIN CORPS

Carson, Bobby C.*

The following-named lieutenants of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the line and various staff corps, as indicated, pursuant to title 10, United States Code, section 5769 (line), 5773 (staff corps), and 5791, subject to qualification therefor as provided by law:

LINE

Robitaille, William J.*

CHAPLAIN CORPS

Kennedy, Michael H.*

Lt. Comdr. Carl L. Mathews,* U.S. Navy, for temporary promotion to the grade of lieutenant commander in the line of the U.S. Navy, pursuant to title 10, United States Code, sections 5787c and 5791, subject to qualification therefor as provided by law.

The following-named lieutenants (junior grade) of the U.S. Navy for temporary promotion to the grade of lieutenant in the line and various staff corps, as indicated, pursuant to title 10, United States Code, sections 5769 (line), 5773 (staff corps), and 5791, subject to qualification therefor as provided by law:

LINE

Anderson, John B.*
Closs, Joseph V.
Hollie, William J.*
Kardos, Andre*
Knight, James W., Jr.*
Knox, Fred D., Jr.
Lanier, Richard C., Jr.
Lenahan, Timothy J.
Locklear, Keith*
Michael, Gilbert S.*
Noble, Richard R.*
Pabst, Richard A.*
Pearson, Perth F., Jr.

SUPPLY CORPS

Baca, David J., III*
Boyd, Robert J.*

NURSE CORPS

Speece, Daniel J.*

The following-named women lieutenants (junior grade) of the U.S. Navy for permanent promotion to the grade of lieutenant in the line, pursuant to title 10, United States Code, sections 5771 and 5791, subject to qualification therefor as provided by law:

Lee, Mary P.*
Tryon, Jodi E.*

CONFIRMATIONS

Executive nominations confirmed by the Senate September 26, 1979:

The Judiciary

J. Jerome Farris, of Washington, to be U.S. circuit judge for the ninth circuit.

Betty Binns Fletcher, of Washington, to be U.S. circuit judge for the ninth circuit.

In the Army

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Dennis Phillip McAuliffe, [redacted], (age 57), Army of the United States (major general, U.S. Army).

The following-named officer to be assigned to a position of importance and responsibility designated by the President under the provisions of title 10, United States Code, section 3066(a) in grade as follows:

To be lieutenant general

Maj. Gen. Wallace Hall Nutting, [redacted], U.S. Army.

In the Air Force

Air Force nominations beginning Ronald D. Aarons, to be major, and ending David G. Wood, to be major, which nominations were received by the Senate and appeared in the Congressional Record on September 5, 1979.

In the Army

Army nominations beginning William C. Berryman, to be colonel, and ending Thomas R. Nissen, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 5, 1979.

Army nominations beginning Michael R. Acton, to be major, and ending Michael E. Stevenson, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 5, 1979.

In the Navy

Navy nominations beginning Andrew W. Acevedo, to be ensign, and ending David J. Friel, to be commander, which nominations were received by the Senate and appeared in the Congrgessional Record on September 5, 1979.

In the Marine Corps

Marine Corps nominations beginning Frank M. Aichelmann, to be second lieutenant, and ending Kurt V. Zirkelbach, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on September 5, 1979.

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*Ad Interim.

HOUSE OF REPRESENTATIVES—*Wednesday, September 26, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, we rejoice in the majesty of Your love to us. We give You praise for the opportunity to be of service to others, for the privilege of living in a free land, and for the satisfaction that comes when we are faithful in our work.

Grant, O Lord, that we will live each day with purpose and dedication and with appreciation to family and friends for support and trust. May cynicism or apathy not overwhelm or false pride of accomplishment dim our mission. Give us the faith to celebrate Your presence and power that we might be worthy stewards of the calling that is ours.

In the name of the Lord, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3996) entitled "An act to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 721. An act to amend the Civil Rights Act of 1957 to authorize appropriations for the U.S. Commission on Civil Rights for fiscal year 1980.

And that the Senate disagreed to the House amendment to the title of the foregoing bill.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3923. An act to amend chapter 25 of title 44, United States Code, to extend for two years the authorization of appropriations for the National Historical Publications and Records Commission, and for other purposes.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 105. Joint resolution to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

The message also announced that the Vice President, pursuant to Public Law 70–770, appointed Mr. PRYOR as a member, on the part of the Senate, of the Migratory Bird Conservation Commission, vice Mr. Haskell, retired.

EXTENSION OF DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION ACT, 1979

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 5380) to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, fiscal year 1979, for a certain period, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the authority, and any limitation on authority, contained in the Department of Justice Appropriation Authorization Act, fiscal year 1979, shall continue in effect with respect to activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) until the effective date of a general authorization Act or the end of the sixtieth day after the date of the enactment of this Act, whichever is earlier.

The SPEAKER. The gentleman from California (Mr. EDWARDS) is recognized for 1 hour.

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is a very simple, very limited solution to a difficult problem.

As the House is aware, the current fiscal year will end on September 30 and the new year—fiscal 1980—will begin next Monday, October 1.

The Justice Department's present authorization, however, will expire with fiscal 1979, and some narrow temporary authority is necessary to give the House a chance to consider the fiscal 1980 legislation.

This bill would do just that—it is a simple 60-day extension of the authorities contained in last year's Justice Department authorization bill. The 1980 appropriation legislation, of course, has already been enacted, but certain authority of critical importance to the daily operation of the Department is not covered by that appropriation bill. This brief 60-day authorization extension is therefore necessary.

One point cannot be emphasized strongly enough: The House needs to manage better its schedule in the future. A year ago, the Justice Department was appropriated before its was authorized. And despite the fact that the Judiciary Committee met its Budget Act deadline by more than a month, this year's situation is the same: The Department has been appropriated, but not as yet authorized.

Mr. Speaker, the Judiciary Committee ordered the authorization bill reported on April 4; it filed its report with the House on April 23. The Rules Committee reported a rule on June 15. And still—more than 3 months later—we have not reached the floor. We are talking about a bill ordered reported by the Judiciary Committee nearly 6 months ago.

However, that is a matter to be corrected in the future. What we need today is this simple bill. Because the authorization bill will not be enacted by October 1, authority to conduct various vital Department activities may not exist after this weekend. The obligation and dispersal of funds for the carrying on of these activities could therefore be jeopardized.

Unless this simple 60-day extension is agreed to, the following problems are posed:

FBI undercover operations. Authority for the FBI to conduct undercover operations in all areas of their investigative responsibilities would expire.

Purchase of firearms and ammunition. Authority to purchase firearms and ammunition for the FBI, INS, DEA, and U.S. Marshals would expire.

Protection of the person of the President of the United States and the Attorney General. Authority to expend funds by the FBI to protect the President and the Attorney General would expire.

Hire of motor vehicles. The authority to hire motor vehicles would expire for DEA's utilization in its undercover operations.

Emergency situations. The Attorney General's authority to expend funds for certain emergency situations would be curtailed.

Payment of rewards. The authority to pay rewards by the FBI, DEA, U.S. Marshals and the Bureau of Prisons would be curtailed.

Supervision of U.S. prisoners in non-Federal institutions. Authority for the U.S. Marshals to expend certain funds to provide for the supervision of U.S. prisoners in non-Federal institutions would be curtailed.

Transfer of prisoners. The authority to permit the U.S. Marshals to bring to

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the United States from foreign countries persons charged with a crime would expire.

FBI Records. The specific authority to expend funds by the FBI to acquire, collect and classify records and exchange them with authorized Federal, State, local and other institutions would expire.

Contract employees abroad. Authority for DEA to employ aliens by contract abroad would not be available.

Drug enforcement related research. DEA authority to conduct research related to enforcement and drug control would expire.

Medical benefits for employees stationed abroad. Certain medical benefits to FBI, INS and DEA employees abroad would expire.

Limitation of service of process by U.S. Marshals. Authority is needed to limit the activities of the U.S. Marshals serving private process.

Insurance for motor vehicles and aircraft operated on official business in foreign countries. Authority for this type of insurance would not be available thereby possibly subjecting the Department to expensive tort claims.

Mr. Speaker, I urge the adoption of this bill.

Mr. Speaker, I yield to the ranking minority member of the Committee on the Judiciary, the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding, and I commend the gentleman from California (Mr. Edwards) for bringing this matter to the House for consideration today.

Mr. Speaker, I fully support this interim legislation made necessary by the House's inability to act on the 1980 authorization even though it was reported by the Committee on the Judiciary last April. The Members will recall that the appropriation legislation for the Department of Justice for fiscal year 1980 has been enacted (Public Law 96–68). However, with the inauguration of the authorization process in the Judiciary Committee last year, many of the authorization issues previously handled by the Appropriations Committee were properly transferred to the Judiciary Committee. Thus in the absence of authorization legislation, many authorizations once contained in the appropriation are no longer in effect. Some of these relate to the FBI undercover operations, FBI protection of the President, the payment of informers, and providing criminal record identification.

I regret that we have been unable to act in regular order and trust that we will be able to do so within the 60-day period contained in this extension.

● Mr. HYDE. Mr. Speaker, I support this bill and its effort to secure, for the next 60 days or until the Justice reauthorization legislation is considered on the floor, the FBI's ability to continue certain undercover investigative operations.

We had hoped that passage of the Justice Department reauthorization would take care of the problem the FBI faces on October 1. Unfortunately, unless this bill is passed, a question will arise as to whether moneys generated by FBI undercover activities must be paid into the Treasury or may be used, as is currently the case, to offset expenses incurred in investigating white collar and organized crime. If this bill should fail to pass, and no other source of revenue is found, the Bureau will have to close many ongoing probes.

I believe that this bill is necessary; I would hope that effective, self-funding law enforcement will not incur anyone's objections.●

● Mr. EDWARDS of California. Mr. Speaker, as my distinguished chairman's remarks indicate, this bill is designed simply to continue the existing authority of the Department of Justice until such time as the House acts on the 1980 authorization bill. The authorization bill contains a number of provisions which provide the Department and its components with certain authority essential to their continued operation.

For example, and of primary importance to me as chairman of the FBI oversight subcommittee, last year's authorization bill gave the FBI certain statutory authorities essential to the operation of the FBI's highly successful undercover activities. The Bureau's undercover program has increased not only in size and scope in the short time it has been in existence but also in quality and sophistication. From breaking up fencing operations and burglary rings the Bureau has moved to organized crime and corruption cases. This is exactly the sort of law enforcement activity my subcommittee has been encouraging the FBI to engage in for the past several years. But without this bill, the Bureau's authority to conduct such operations may expire in a matter of days. The Department's own Office of Legal Counsel has issued a legal opinion indicating that this could well be the case. My subcommittee and I would hate to see this happen simply because the House failed to act on this simple bill.

My distinguished chairman has alluded to some of the other problems which may arise if this bill is not enacted. The Department of Justice has prepared a document cataloging these problems. I would like to insert it in the Record.

This bill, H.R. 5380, is not a substitute for the general authorization bill, which was reported favorably by the House Committee on the Judiciary early last April. It is simply an interim measure to provide continuing authority for the day-to-day operations of the Department of Justice until the House can consider the 1980 legislation. The short-term nature of this temporary extension of the Department's existing authority is designed to assure that the House will consider the 1980 authorization bill in a timely manner.

I urge the adoption of this bill.●

GENERAL LEAVE

Mr. McCLORY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. EDWARDS of California. Mr. Speaker, I wish to point out that the remarks I made were made on behalf of the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. Rodino).

Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MAKING IN ORDER ON TODAY CONSIDERATION OF CONFERENCE REPORT ON H.R. 4393, TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS, 1980

Mr. STEED. Mr. Speaker, I ask unanimous consent that it may be in order on today to consider the conference report on the bill (H.R. 4393) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

CONGRATULATIONS TO CONGRESSMAN MIKVA ON HIS CONFIRMATION TO THE JUDICIARY

(Mr. RUSSO asked and was given permission to address the House for 1 minute.)

Mr. RUSSO. Mr. Speaker, I take this opportunity to congratulate my dear friend and colleague, the gentleman from Illinois (Mr. Mikva), on his confirmation to the Federal Court of Appeals.

Ab is a dear friend; he is a dedicated and a hard-working Congressman; but, more importantly, he is a decent human being. The House, in my estimation, is losing one of its finest Members. Our loss, however, is the judiciary's gain.

I consider his confirmation his last election, and the gentleman from Illinois was highly uncharacteristic. He has had some very close elections in his career, but yesterday he did it in style. He won with 69 percent of the vote. That is his best win ever.

Mr. Speaker, I wish to express my sincere congratulations for both him and his wife, Zoe.

□ 1010

THE ANGELS TRIUMPH

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, for the people of southern California in particular and for baseball fans in general, last night was an historic occasion. For the first time in their 19-year history, the California Angels have won an American League division championship. And, in the process, they have brought a new sense of pride, accomplishment and community spirit not only to their loyal fans but to people throughout the Los Angeles-San Diego corridor, particularly in Anaheim, the home of the Angels.

Of course, it was not easy. Last night's thrilling 4–1 victory over Kansas City culminated a year in which the Angels overcame both injuries and the odds to prevail. That they should do so is only fitting; as one of baseball's earliest expansion teams, the path to the championship has been a long one indeed. But, with admirable perseverance by the Angels organization from owner Gene Autry, to Manager Jim Fregosi, to the members of the team, right down to the clubhouse staff, deserves a big pat on the back for a job well done. On to Baltimore and more of the same.

RELEASE OF JACOBO TIMERMAN

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, it is with pleasure that I rise to inform my colleagues in the House of the release of Jacobo Timerman, one of the most renowned political prisoners in the world today. Mr. Timerman, a well-known Argentine editor, publisher and defender of human rights, was released from custoday late yesterday by the Argentine military government after more than 2 years of imprisonment without charges.

Falling upon the heels of a visit by the Inter-American Human Rights Commission and a decision by the Argentine Supreme Court ordering Mr. Timerman's release, the Argentine Government's decision is a hopeful sign of their commitment to restore the independence of the judiciary and to begin the long process of healing that nation's wounds and restoring democracy.

It was just 1 week ago today that Mrs. Timerman met here in the Capitol with many Members of the House and Senate who have wholeheartedly supported her husband's cause throughout his 2 years of imprisonment. Now, thanks to all of our combined efforts and those of his many friends around the world, Jacobo Timerman has begun his pilgrimage to Israel to rejoin his wife and family and to start a new life.

Mr. Timerman's ordeal began on April 15, 1977, when some 20 armed civilians burst into his Buenos Aires home and spirited him away. Following his arrest, he was held incommunicado and tortured. Thereafter he was stripped of all his political rights, his newspaper and his property. His detention continued for more than 2 years despite the decision of a military tribunal and a supreme court decision clearing him of all charges and ordering his release.

Having used his position as the editor and publisher of one of Latin America's leading newspapers, La Opinion, to attack the excesses and violence of both the right and the left, he made many enemies during Argentina's turbulent war on terrorism.

The worldwide attention that this case drew led to Timerman becoming a pawn in the intergovernmental power struggle that has hampered progress in Argentina since the military takeover. Hopefully, Timerman's release is a signal that the moderate forces within the military government will now prevail over the hardliners and will lead to a new recognition of human rights in Argentina.

JACOBO TIMERMAN

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, in these times of our great concern over inflation, energy, budget resolutions, debt limits, and a host of other important but material issues, there are events that occur which make us reflect on the real importance of our great country. That real importance is freedom. In the face of all the problems that beset this country, we sometimes forget that this freedom is our most precious and most enduring asset.

Yesterday an event which may not seem particularly Earth-shattering in light of the other urgencies that confront us took place in Argentina. Jacobo Timerman, a political prisoner, was released by his captors and allowed to emigrate.

Although Jacobo was an Argentinian citizen, his plight transcends mere national boundaries and exemplifies the ultimate quest of all men and of our great Nation in particular. For he believes in truth, freedom, and the right to speak against those who rule. Nothing could be more in tune with the ideals of this country.

Jacobo Timerman was a journalist, the editor of La Opinion. He is a family man, subject to all of the pressures of protecting his family. He is also a Jew. His plight represents many facets of what is wrong in the world today, and I must report that he is free today largely because of the efforts of the United States.

Along with a number of colleagues in the House, I have waged a campaign to free Mr. Timerman. I visited with him in January of 1978. I saw the horror of his imprisonment and the courage of his defiance. I have met his family and friends and we all agree that he is a true symbol of leadership against oppression. Mr. Speaker, I can report to you today, that our efforts have achieved a great symbolic victory. Embarrassed by their failure to break him and put on the spot by our efforts to secure his release, the Argentine Government has finally allowed Jacobo Timerman to leave.

I am proud of my part in helping this man emigrate from a country that puts freedom behind expediency. Everyone in this House should share in this pride, because it was our collective effort that finally swayed the Argentine courts to allow him to go free.

So when we wonder at times about what we are accomplishing here, we can take great comfort from such events, and realize that we have been able to influence freedom and justice throughout the world.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4360

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 4360, the Underutilized Species Act of 1979.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

UNFAIR ADVANTAGE OF UNDECLARED PRESIDENTIAL CANDIDATE CAMPAIGN COMMITTEES

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, for the past 2 days at this time I addressed the House about the unfair advantage enjoyed by the senior Senator from Massachusetts as an undeclared candidate for the Presidency. His 36 committees are allowed to accept $5,000 in contributions from any individual. Declared candidates' committees—and they can only have one—are allowed to accept from any individual only $1,000. That means the Kennedy effort can accept $180,000 from any individual as against a declared candidate's limit of $1,000.

I also would like to point out to the House that the beneficiary of this unfair advantage is the author of the Senate counterpart of the Obey-Railsback bill which tries to impose limits on spending for congressional campaigns.

I think we should have a little good example from the Senator and his committees before we take up Obey-Railsback in this House. There should be a statement from him, or from his committees, that they will, in aggregate, accept no more than $1,000 from any individual, and that they will return any contributions in excess of $1,000 per individual.

Until such a declaration is made, it would not be reasonable to take up a bill to reduce contribution limits for other candidates.

CAMPAIGN CONTRIBUTION LOOPHOLES

(Mr. EMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERY. Mr. Speaker, when the Committee on Rules met last week to address itself to the question of the consideration of the Obey-Railsback provision, I offered an amendment in the Committee on Rules that would have closed the loophole referred to by my colleague, the gentleman from Minnesota (Mr. Frenzel). Unfortunately, for whatever reason, the Committee on Rules chose to defeat my amendment twice, once on a bipartisan vote of 8 to 6, once on a bipartisan vote 6-to-6 tie under which the amendment failed.

I say "bipartisan" because at least one Democrat, on each occasion, joined with Republican members to recognize the fact that if campaign regulations and procedures are fair for one candidate, they should be the same for all candidates. I think that in this time of concern about the proliferation of political action committees, special interest influence, and campaign contributions from sources that expect something in return, it is only fair that we tie all of these loopholes down so that the American people will know who is electing the President of the United States and who is not.

CONGRESSMAN CONTE PLAYS IMPORTANT ROLE IN RELEASE OF JACOBO TIMERMAN

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, our colleague, the gentleman from Massachusetts (Mr. Conte), has just mentioned the unfortunate incidents around Jacobo Timerman. The gentleman from Massachusetts (Mr. Conte) and our colleague, the gentleman from New York (Mr. Gilman), have done an outstanding job in securing his release. But I would like to say this: The gentleman from Massachusetts (Mr. Conte) was too modest in the part that he played in the release of Mr. Timerman. Because of the assignment that the gentleman and I have on the Subcommittee on Foreign Operations of the Committee on Appropriations, we meet with the State Department on a regular basis. I can tell the Members that the gentleman from Massachusetts (Mr. Conte) never missed an opportunity to apply the pressure, to apply the questions, the probing inquiries, as to why something was not being done to secure the release of Mr. Timerman. So I say that the gentleman from Massachusetts was overly modest. He has done an outstanding job, in securing the release of this gentleman from the Argentine jails.

CHEMICAL, BIOLOGICAL, OR RADIOLOGICAL EXPERIMENTS ON CIVILIANS SHOULD BE BANNED

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, when the military appropriation bill comes up either later this week, or whenever, the gentleman from California (Mr. Miller) and I will be offering an amendment that states:

> None of the funds appropriated under this Act may be used for chemical, biological or radiological experiments on nonconsenting civilian populations.

Mr. Speaker, this amendment results from an exposé by the Washington Post and other newspapers where our city and the communities around San Francisco were guinea pigs in a naval experiment on biological warfare, causing at least one death and several hospitalizations for a very rare strain of pneumonia.

Mr. Speaker, I would urge my colleagues to support such an amendment.

LAST CHANCE TO VOTE NO ON PANAMA CANAL TREATY

(Mr. HANSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANSEN. Mr. Speaker, staying power is the mark of a winner in any human endeavor. Today's vote is the final test of staying power with regard to the Panama Canal Treaty implementation.

From the beginning of this debate, the House has resisted the giving away of the Panama Canal. We defended rightly our constitutional role in the disposition of territory at every step of the way. In response to our constituents, we have resisted the transfer.

And we have been proven right at every step of the way. It is a bitter irony that many treaty proponents in this House have tried to claim opposition to the very transfer which they are to the end attempting to force on the Nation.

There is no doubt that treaty and implementation opponents have carried every point of the debate. We have been right on the dollar costs. We have been right on the economic damage. We have been right on the defense damage. And we have been right that you cannot buy the friendship of notorious Communist revolutionary regimes by paying tribute and giving away our national heritage.

The new conference report denies the Congress control over our territory and continues to impose a cost of hundreds of millions of dollars on American taxpayers. As such, it cannot be accepted.

Everything rides on this one final vote. For the Nation's security, for the people at home, for many good reasons, I hope that this House will vote "no" on today's conference report on the Panama Canal.

CALL OF THE HOUSE

Mr. HUGHES. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 507]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowery
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKay
Madigan
Maguire
Markey
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman

Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1040

The SPEAKER pro tempore (Mr. ASPIN). On this rollcall, 362 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

CONFERENCE REPORT ON H.R. 111, PANAMA CANAL ACT OF 1979

Mr. MURPHY of New York. Mr. Speaker, I call up the conference report on the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the previous order of the House of September 25, 1979, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 24, 1979.)

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 30 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we deal today with an issue of vital security and economic interest to the United States. On July 30, when we reported H.R. 111, the distinguished gentleman from Maryland had a motion passed, a motion to instruct the House conferees when we went to conference with the Senate on this issue. There were specific sections of H.R. 111 that were not to be altered by this express direction of the House. That conference report came back last Thursday.

I ticked off in chapter and verse every position prevailed, and I called the bill one of those sections where the House that came back, the conference report, the "Bauman bill." We called it the "Bauman bill" because the Bauman instructions were kept to the letter.

But, by a very narrow vote with some Members not present, the House rejected that conference report. We then went back to conference on Monday, and today we bring to you "Son of Bauman."

As every father knows, his son is stronger and smarter than the father, and this new conference report which we will call "Son of Bauman" certainly has more muscle in it than the previous conference report. I will give the Members in chapter and verse the strength added to "Son of Bauman".

Last week the members of this House were in an angry mood when they voted against adoption of the conference report on the Panama Canal Treaty implementing legislation. This vote was made in spite of the fact that the House conferees had scored a major victory by substantially preserving in conference the substance and form of the House bill H.R. 111.

While I disagreed with the negative votes of my colleagues on this conference report, I nevertheless have shared with them all along the frustration we as Members of the House of Representatives have felt during the entire treaty process and in the consideration of the conference report last Thursday.

I share the anger addressed at these ill-conceived and poorly crafted treaties.

I share the anger addressed to the Executive and Senate at attempting to circumvent the role of the House of Representatives in the exclusive prerogative of Congress with regard to the disposition of property and territory belonging to the United States as guaranteed by the Constitution.

I share the anger addressed to the Executive in attempting to circumvent the appropriations process of the Congress.

I share the anger at the subversion of the interests of our allies in Central America and the supplying by Panama of U.S.-manufactured guns and ammunition to Marxist revolutionaries.

I share the anger at the anti-U.S. rhetoric emanating daily from the press and media in Panama and the Republic's failure to support the U.S. position at the U.N. and other international forums.

I share the anger at 3,000 Russian troops stationed at our doorstep in Cuba.

Your point has come through loud and clear and I believe that future administrations will think long and hard before attempting to circumvent the constitutional powers of this great body. But, now we no longer have the luxury of giving vent to our anger—we have a more important mission. A time bomb is ticking away and the hour is short. We have a duty and an obligation to perform—we must honor the sacred word of our country. The treaty is the law of the land and, whether we like it or not, it goes into effect on October 1.

On October 1 there will no longer be a Panama Canal Company.

On October 1 there will no longer be a Canal Zone Government.

On October 1 we will have no entity with which to operate the canal unless we pass implementing legislation establishing the Panama Canal Commission, the U.S. Government agency which will operate the canal through the year 2000.

On October 1 there will be no payroll, no schools, no hospitals, and, in short, no legal means of continuing the operation of the canal unless this vital legislation has been passed.

These are some of the consequences, but by no means an exhaustive list, if October 1 arrives without the Congress having enacted legislation to provide for continued operation of the canal under the treaties.

Your message of last week was brought back to the Senate and, I am pleased to report, the Senate conferees receded even further to the position taken by the House. On Monday, the conferees agreed on a second conference report which retained intact the House victory obtained in the first conference report, buttressed by some additional substantive changes:

First. Property transfers. The conference agreement retains the House language requiring authorization by Congress of all property transfers to Panama under the treaty. The bill then does authorize the transfers that the United States has undertaken to make in the treaty but in respect to transfers after October 1 requires, as a prerequisite, a report to the Congress by the President at least 6 months before the transfer identifying the property to be transferred, specifying the reason for the transfer, and certifying the state of compliance by Panama with the 1977 treaty. The bill also meets objections to the prior report expressed during debate on September 20 by providing specifically, as a matter of law, that the Panama Canal shall not be transferred to Panama prior to December 31, 1999.

Second. Payments to Panama. To meet objections to the earlier conference report in respect to the identification of expenditures that must be included in the calculation of the so-called contingency payment to Panama of $10 million under paragraph 4(c) of article XIII of the treaty, the conference report specifically prohibits establishing tolls at rates sufficient to cover that payment. The report also specifically provides that no such payment may be made unless otherwise unexpended funds are first used to pay all costs of implementation of the treaty associated with operation and maintenance of the canal including but not limited to certain transfer costs to which enumeration has been added, for instance, reimbursement of the Treasury for costs incurred by other agencies of the U.S. Government in providing educational, health and other services, aggregating amounts estimated at about $26 million a year.

Third. Composition of Supervisory Board. The conference report restores the provision of the bill, as passed by the House, requiring that the U.S. members of the board include the Secretary of Defense and three members from the private sector, with three of the U.S. board members having backgrounds and experience in U.S. steamship operations, U.S. port operations and U.S. labor matters, respectively.

Fourth. Defense of the Panama Canal. The conference report contains language providing that in the event of an armed attack against the canal, or when, in the opinion of the President, conditions exist which threaten the security of the canal, the Administrator of the Canal

Commission shall, upon order of the President, comply with the directives of the military officer charged with the protection and defense of the canal. In addition to that provision, the explanatory statement of the conference managers makes it clear that the definition of a threat to the security of the Panama Canal includes the circumstance in which foreign combat troops or military forces of another country, other than the United States, are located in Panama. Accordingly, under the language of section 1108 of the conference report, the Panama Canal Administrator, whether a U.S. national to the year 1990, or a Panamanian thereafter, must comply with the orders of the U.S. military commander under these conditions of foreign troop involvement, should the President so decide.

Fifth. Retroactive taxation. The bill as passed by the House made payments to Panama under article XIII(4)(c) of the treaty subject to the condition that retroactive taxes not be imposed on persons and firms in the Canal Zone prior to the effective date of the treaty. The Senate amendment deleted this provision. The conference report adopts language prohibiting the President from acceding to any interpretation of the treaty that would permit such retroactive taxation.

The House conferees have done their job. We have a bill before us which is as strong as possible in preserving U.S. interests without violating the spirit and text of the treaties. We have given the maximum allowable protection to the U.S. taxpayer, while preserving the powers of the House with respect to appropriations and property disposal, as guaranteed by the Constitution.

The hour is late—our duty is clear—we must approve this legislation—a defeat of this bill would be unthinkable, and would not only mean the shutting down of the Panama Canal, but could very well result in the loss of American lives.

I cannot urge strongly enough your consideration and support of this important legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1050

Mr. BAUMAN. I yield myself 5 minutes.

Mr. Speaker, the gentleman from New York has referred to this legislation as the "Son of Bauman." I am not sure what illegitimacy that suggests, but the gentleman from Maryland is not going to claim this legislation as his own. The gentleman from Maryland did not write and sign the treaties that gave away the Panama Canal. James Earl Carter and Omar Torrijos did that. The gentleman from Maryland did not ratify those treaties. A mistaken two-thirds of the other body did that. And the gentleman from Maryland did not bring about the requirement for implementing legislation. The treaties and circumstances did that.

But today we are at the end of the road so far as the obligation of the Congress of the United States, and it is not a very pleasant role for the gentleman from Maryland to have had to sign this conference report for the purpose of bringing it before both of the two Houses so that we can make a final decision. I have differed with some of my colleagues who have opposed this implementing legislation from the beginning in that I have said that at some point implementing legislation had to be passed in order to protect the interests of the United States, and that point is October 1, a few days away.

I am not pleased with the contents of this conference report in every respect, but an earlier version was rejected last week because in a number of ways it did not reflect the feeling of the House. We went back to conference and we attempted to address those points. As a result we have brought about a slight reduction in the overall cost to the American taxpayers. We are not quibbling here. It may be $100 million; it may be $200 million. But remember that this treaty was characterized by the President as not going to cost the U.S. taxpayers anything. That was and is absolutely untrue and we know that.

There was also concern expressed that under the terms of the conference report already rejected, any President, this President, could convey away the entire canal and its operations well before the end of the century. This conference report specifically says that cannot be done, and it is the intention of the conference to uphold that prohibition.

We did strengthen the section against retroactive taxation by Panama of citizens and corporations in the Canal Zone, directing the President not to accede to that. We required, which the bill last week did not require, the placing on the supervisory board of the canal U.S. citizens from the private sector, labor, U.S. ports, shipping, or private business. So the President cannot name five State Department stooges to run the canal operation as he might have wished to do. One of the members of that board will have to come from the Department of Defense.

Most importantly, I would call to the attention of the Members to the provision on page 57 of the conference report in the statement of the managers. It refers to section 1108 of the conference report which deals with a situation in which a security risk or wartime conditions may exist in the canal. At my suggestion the language was added to this statement that it is the intention of the conferees that the phrase "conditions which threaten the security of the canal" is deemed to include any circumstance in which foreign combat troops or military forces other than those of the United States as provided in the canal are located within the Republic of Panama. This is my understanding, and I believe the understanding of the gentleman from New York (Mr. MURPHY). This congressional intent allows a future President or this President to respond by placing U.S. military officers in control of the canal should such an occurrence be brought about at any time. And with 3,000 Soviet troops in Cuba only minutes away from the canal, I do not think that this phrase is at all meaningless.

I do not feel any obligation to vote for this conference report. As I say, the treaties are not mine; the bill before us today is not mine. But I have to advise the House that the gentleman from New York (Mr. MURPHY) is correct. For the continued operation of this canal we need in place some implementing legislation, and this is the only implementing legislation left. We do not really have time to rewrite it. But I do not think we ought to legislate under the threat of blackmail. I do not think anyone ought to tell this House that we must, because of the threat of violence or force, pass this legislation. If it should be passed at all, it should be because it is the last shred of protection for the interests of the United States and our people, not because of any threat. As much as it is disagreeable for me to say, I see no other implementing legislation possible and each Member must cast his vote on that basis.

Mr. ASHBROOK. Mr. Speaker, will my colleague, the gentleman from Maryland, yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank my colleague for his statement. Speaking for many of us who have opposed the Panama Canal treaties, even the concept of the treaties during previous administrations and this administration, I want to rise and give my very strong commendation to the chairman of the committee, the gentleman from New York (Mr. MURPHY), and to my colleague, the gentleman from Maryland (Mr. BAUMAN), who did the very, very best they could under adverse situations. To repeat what has already been said, No. 1, as for the constitutional prerogatives that were properly exercised by the other bodies, the executive and the other legislative body, we have no control over those actions. However wrong, they advised and consented and the treaty is a reality. As the gentleman has indicated, this was not on our terms; it was not on our timetable. It was not even on the philosophy or the policies that the Members of this body would want to adopt. But after saying that, I am reminded sometimes of when back home people criticize a Supreme Court decision or the President, and they say, "Well, what are we going to do about it?" I usually reply with a facetious answer: "We are not voting on it this year." No matter what we think of the Panama Canal treaties, we are not voting on that today. The people should hold the President and the Senators who gave it away accountable at the polls.

I want to say merely to my colleague, the gentleman from Maryland (Mr. BAUMAN) and my colleague, the gentleman from New York (Mr. MURPHY) that under those adverse situations, considering we did not have that much input, we are a little bit as Charlie Halleck used to say, "We are in on the landing; we were not in on the takeoff," and I think after all is said and done, my colleagues have done the very best they could. They ought to have the commendation of every Member of this body for their work. I personally appreciated your patriotic efforts.

Mr. BAUMAN. I thank the gentleman, my good friend from Ohio.

Mr. MURPHY of New York. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Wisconsin (Mr. Zablocki), the chairman of the Committee on Foreign Affairs.

Mr. ZABLOCKI. Mr. Speaker, I rise in strong support of the conference report on H.R. 111. This latest version of H.R. 111 further strengthens the House position and serves to allay the concerns expressed by some Members when the original conference report was considered by the House last week.

I would like again to commend, as I did last week, the House conferees for all of their efforts, and in particular the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from New York (Mr. Murphy). It was through his able leadership and determination that we now have such strong legislation.

□ 1110

I would like also to commend our colleague, the gentleman from Mississippi, the Honorable David Bowen, who served in a dual capacity as a member of the Committee on Foreign Affairs and the Committee on Merchant Marine and Fisheries for the gentleman's diligent efforts and contributions throughout the shaping of this bill. Of course, we must commend the leadership of the loyal opposition, our very fine and esteemed friend, the honorable gentleman from Maryland, Mr. Robert Bauman, for his constructive role. Recognizing we are, as the gentleman stated, at the end of the road. The gentleman from Maryland (Mr. Bauman) to his credit signed the conference report. The gentleman has demonstrated responsibility. I hope that it will not be the gentleman's vote which defeats this legislation today. I hope the gentleman will see fit to vote for this legislation, because we will not have any other implementing legislation.

Mr. Speaker, I wish to associate myself with the remarks of our able chairman, the gentleman from New York (Mr. Murphy) and his assessment of the conference report.

I do not wish to be repetitive, but I think it must be underscored that the new conference report in essence does the following:

First. Adds statutory language to insure that the final transfer of the canal cannot be effected before the year 2000.

Second. Includes the House-passed language providing for representative experience on the Board of the Panama Canal Commission from ports, labor, and shipping.

Third. Assures that all costs of implementation associated with the operation and maintenance of the canal will be fully recovered by the United States before Panama may receive the contingency payment authorized under the treaty.

Fourth. Tracks the treaty provision which prohibits retroactive taxation of American citizens and businesses by Panama.

Fifth. Includes a provision similar to that reported by the Committee on Foreign Affairs, which requires the Administrator of the Panama Canal Commission to comply with Presidential directives issued through the military officer responsible for protection and defense of the canal. Further, the statement of managers makes it clear that this provision applies to any situation in which foreign military forces in Panama threaten the security of the canal.

Mr. Speaker, this conference report responds to the concerns expressed by opponents of the previous conference report, and yet remains within the parameters of the treaties. If this legislation is not passed, we would relinquish those rights accorded to the United States under the treaties, thereby jeopardizing our economic and security interests in the canal. The October 1 deadline is only 4 days away. It is imperative that we pass this measure now—for, if we fail to respond positively, the repercussions could haunt us for a long time to come.

Mr. Speaker, I urge the Members of this body to safeguard U.S. interests by adopting the conference report on H.R. 111.

Mr. BROOMFIELD. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. Yes, I am delighted to yield to the minority leader of the Committee on Foreign Affairs, my dear friend, the gentleman from Michigan (Mr. Broomfield).

Mr. BROOMFIELD. Mr. Speaker, I wish to commend the gentleman in the well, the gentleman from Wisconsin (Mr. Zablocki), the chairman of our committee for his statement. I wish to associate myself with his statement.

I concur in the statement made by the gentleman from New York (Mr. Murphy).

I also want to compliment the gentleman from Maryland (Mr. Bauman) for his excellent role in working out what I think is an extremely important piece of legislation.

Mr. Speaker, on October 1, 1979, the Panama Canal treaties of 1977 enter into force, as approved by the U.S. Senate. I have consistently opposed those treaties and the manner in which they were negotiated and ratified. In fact, if I had been a member of the U.S. Senate, I would have voted "no" on their ratification. In my opinion, they fall short of providing what I consider to be the necessary safeguards for the protection of U.S. interests. Also, I am greatly disturbed by the lack of consultation by this administration and the denial of the proper constitutional role for the House of Representatives in the treaty negotiations and approved process.

However, we are faced with a new reality. Regardless of my personal opinion of the treaties, they have in fact been negotiated with Panama, ratified by the Senate and will take effect on October 1 with or without congressional approval. On that date, all prior treaties will be abrogated and all future U.S. rights to the continued control and operation of the canal depend upon the implementation of the treaties of 1977. Consequently, it is imperative that the House meet its responsibilities and act to preserve and protect those rights by approving the necessary management legislation.

Without implementing legislation, we risk a disruption of canal services. There would be no canal authority to operate the canal. There would be no authority to pay the work force or operate schools and hospitals for U.S. personnel. More importantly, we would have no authority to keep U.S. Armed Forces there and exercise our right under the treaty to maintain U.S. control until the year 2000.

At this time when there is a growing Soviet/Cuban threat in the Caribbean and Central America, we cannot afford to jeopardize our continued control and operation of the canal. According to international law, our failure to implement these treaties, no matter what our opinion of their worth, would unnecessarily risk what rights we have protected. It would, moreover, give Panama an excuse to abrogate the treaties and terminate entirely our participation on October 1.

A closed canal or restricted access to it would have serious economic and security implications for this country. Vast amounts of cargo go to and from the United States via the canal. Thus, a closed canal would disrupt trade, as well as the flow of vital Alaskan oil through the canal to the eastern part of our Nation.

Because of my concern for our economic and security interests, I feel we have an overriding responsibility to protect U.S. treaty rights—now that the treaties are the law of the land—and insure the continued operation of the canal. That responsibility was the paramount concern of the conferees as they reconciled the differences between the House and Senate versions of the implementing legislation.

I am, therefore, gratified that the conference report allows the President to put the canal under U.S. military control if foreign combat troops are placed in Panama. The conference also accepted the House approved appropriated funds agency form for the new canal administration, guaranteeing the Congress a major role in the oversight of canal operations throughout the life of the treaty. Furthermore, the conferees reflected the House concerns over its constitutional role in the transfer of property by requiring that all future transfers under the treaty will be subject to congressional approval.

Mr. Speaker, I support the conference report on the implementing legislation for the Panama Canal treaties.

Mr. ZABLOCKI. Mr. Speaker, I want to thank the gentleman for his comments and again commend the gentleman, too, for his leadership on this very vital issue.

Mr. BAUMAN. Mr. Speaker, I yield 2 minutes to the ambassador from Illinois (Mr. Derwinski).

Mr. DERWINSKI. Mr. Speaker, with the Senate having acted to pass the implementing legislation, this vote in the

House completes the legislative need forced upon us by Senate ratification of the Panama Canal treaties.

Mr. Speaker, I recognize that if this body had had a voice in ratification of the Panama Canal treaties, we might not be faced with the responsibility of fashioning implementing legislation today.

But the fact is, the treaties exist and will be in effect as of October 1. We have a responsibility to carry out the international obligations negotiated by President Carter and approved by the Senate. But we also have the responsibility to maintain the strongest possible defense and the most efficient management of canal operations.

The issue is clear. We have a better bill than passed by the Senate. We achieved as much in conference as the House could expect.

It must also be noted that the gentleman from Maryland (Mr. BAUMAN) insisted that the conference report contain language to allow the President to place the canal under military control if foreign combat troops are placed in Panama. My colleague, Mr. BAUMAN, and I have been disturbed by the friendship between Panama and Cuba, and, therefore, this language would serve to protect the United States if a Cuban or Soviet brigade were brought into Panama.

The key points are these. The canal itself will not be transferred before 1999. Between now and then, any transfers of property will be subject to congressional approval upon 180-days notice from the President.

Our responsibility was to protect the rights of the United States under the treaties. We have insured the smooth and safe operation of this vital waterway. The passage of this bill is in the best interests of the United States.

Mr. Speaker, I have heard the cries of "vote" and after you hear my words of wisdom, I think it will be appropriate that you do vote.

I would suggest that the best interests of the United States, the truly diplomatic vote, the pro-American vote, is to support this conference report.

Earlier the gentleman from New York (Mr. MURPHY) had politely needled our friend, the gentleman from Maryland. I am not quite so sure that the gentleman was accurate in giving all the plaudits to the gentleman from Maryland.

To sum up the whole picture we more than effectively protect the U.S. interests. We want the canal to function on October 1. Passage of this legislation is essential. It is good politics for the United States. It is good diplomacy. It is good military policy and, it also serves our commercial interests.

I would hope we can have, not a narrow vote, but a good strong House vote for this conference report.

Mr. MURPHY of New York. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Speaker, I have a great deal of faith in the fundamental intelligence and patriotism of the American people in their ability to separate the wheat from the chaff, their ability to see what clearly is and is not in the national interest. I think they can and will see very clearly that closing the Panama Canal, bringing our troops home, severing a vital military and economic lifeline of America, is certainly not in our national interest.

A few days ago I heard someone standing here in the well who suggested that in effect we should let Panama try to throw us out of the Canal Zone. I want to assure you that if we do not pass this conference report, it will not be necessary for anyone to throw us out of Panama. We will be ordering our own people home if we defeat this conference report.

Last week we appropriated funds for an agency to be known as the Panama Canal Commission, but that agency is not yet in existence, and it is not possible to expend appropriated funds for a figment of the imagination. That agency will not be created unless and until we approve this conference report. Without the creation of that agency, our 6,000 civilian personnel in Panama will be out of work. They and their families will be unemployed. They will have no place to go but back home to America. I do not think we want that exodus to take place.

By the same token, if we fail to carry out our treaty right and obligation, one which we sought diligently over several years of negotiation, the right to manage, operate and maintain the canal for the remainder of this century, spelled out in article III of the treaty, then clearly we will be in violation of that treaty. We will be in default of our treaty obligation, and under international law the Republic of Panama would be authorized to terminate the treaty. If that tragic event should happen, we would no longer retain the right to keep our military forces in Panama.

I happen to believe that with 3,000 Soviet combat troops in Cuba, this is no time to pack up our bags and pull out of Panama, no time to withdraw our military forces from that critical area.

I sincerely hope that by the year 2000 General Torrijos will not be in a position of responsibility in Panama, and I have every reason to think that will be the case. I sincerely hope that by the year 2000 there will be a great deal more political and economic stability in Panama and in all of Central America. I certainly hope that by the year 2000 there will be no Russian troops in the Caribbean. I hope that by the year 2000 it will not be necessary for us to rely upon the Panama Canal so heavily for our ocean commerce and for the military security of our Nation. I hope that we will have developed alternate routes and methods of transportation between the Atlantic and the Pacific. But for 1979 and 1980 and the two decades thereafter it is essential to every American that we retain the right to administer and defend the Panama Canal, a right we have exercised wisely for 65 years and one that I am confident we will exercise wisely for the next 20.

Mr. Speaker, I believe that the American people can very clearly perceive these facts, and if some of them do not, then it is our duty to help them understand them just as it is our duty to do what is right and what is in our national interest today.

Mr. Speaker, I urge support for this conference report.

Mr. BAUMAN. Mr. Speaker, I yield 6 minutes to the gentleman from Idaho (Mr. HANSEN), who has been one of the leaders in opposition to the treaties.

□ 1110

Mr. HANSEN. Mr. Speaker, I, too, commend the gentleman from New York (Mr. MURPHY) and the gentleman from Maryland (Mr. BAUMAN) and all who have labored long and hard over this agonizing decision.

I am amazed, however, to hear the chairman of the committee say we have to vote for this legislation, or else. Are we nothing but a parrot for the President? Are we nothing but a parrot for the Senate?

We are free men and women and coercion has no place here. Our interests can only be protected if we vote "no" and we should vote "no" because this conference report is little improvement over the one last week which we defeated.

First. Little has been cut from expenses.

Second. Property transfer processes are still virtually uncontrolled.

Third. Retro-tax protection has no teeth.

Fourth. There are no real restrictions against stationing Russian or Cuban troops in Panama.

Fifth. There are no means for withholding transfer of property or payment of funds to Panama if they violate the terms of the treaties.

Mr. Speaker, this is a most historic occasion. Today we will find whether the Members of this great body will have the courage and foresight to head off the startling decline of the United States of America.

Mr. Speaker, make no mistake, the Panama Canal treaties are a rip-off negotiated by big bankers for the benefit of big international bankers to bail out $2 billion in reckless loans given to the Marxist dictator Omar Torrijos. A $20 billion asset and $100 million a year in cash is a quick fix for the dictator and the bankers, but it costs every American family $500.

These terrible treaties also endanger the Nation's oil supply and they endanger our vital sea lanes and waterways.

There is now great hue and cry to set aside the SALT II treaty because of Soviet combat troops in Cuba. Why are the Gerald Fords, the Howard Bakers, the Frank Churches, and the Richard Stones not asking the same set-aside of the Panama Canal treaties? After all, Cuba is between the United States and Panama and between the United States and our oil import supply, and it is the Castro-Torrijos axis now spreading Marxist terrorism throughout the Caribbean.

The irony of the situation is that Senators CHURCH and STONE have protested so loudly about Russians in Cuba but they voted against Senator DOLE's amendment which would have kept the Soviets out of Panama.

And to watch that erosion of principle in this serious matter is most disturbing. We hear of trade-offs for the Tellico Dam. We see parliamentary manuevers and sophistry replace principle. The great article IV fight long waged by the gentleman from New York, the chairman of the committee, is going by the board with hardly a whimper. No wonder the American people are disillusioned with politics.

I cry for the taxpayers and the consumer—the interest rates, the costs, the taxes are unbelievable.

I cry for the school child who believes in America and hopes for the same future we have enjoyed.

We are not giving the Panama Canal to the people of Panama. It is being given to an oppressive dictator who has destroyed their rights and bankrupted their treasury. The people of Panama are not happy and every few days hundreds are chased into the American Canal Zone. Where do they go if we go?

The treaties are locking the chains on the people of Panama and bailing out a hostile dictator and the bad loans of big international banks at the expense of American families.

The issue is not the shadings and double talk of the conference report which is still a copout to the State Department and the Senate.

The real issue is the give away of the Panama Canal.

With Soviet combat troops in the Caribbean—do we dare give away the Panama Canal?

With Castro and Torrijos spreading Marxist terrorism around the Caribbean—do we dare give away the Panama Canal?

With Soviet and Cuban troops standing between us and 75 percent of our oil imports—do we dare give away the Panama Canal?

Those Russian troops are the trainers of Castro's Africa corps.

Those Russian troops are training Marxist terrorists and revolutionaries all over the Caribbean—undermining our most vulnerable area.

Those Russian troops, thanks to Castro and Torrijos, already have the scalps of many old U.S. friends on their belt like Granada and Nicaragua and they are now reaching for El Salvador and Guatemala. And listen to this State Department FBIS report from Colombia on September 20, "Guerrilla action by the Revolutionary Armed Forces of Colombia (FARC) might resume thanks to the announced arrival in the country of groups trained in specialized camps in the Soviet Union and Czechoslavakia."

Will we reward the Russians and Castro and the Marxist bandit Torrijos and the reckless international bankers by giving away the Panama Canal and billions of American dollars?

I want no part of it and, mark my words, those who fail to help stop this tragedy this day will soon regret their part in the betrayal of this great Nation.

The greatest of all issues today is do we have the guts in the United States House of Representatives to do what the American people want—what we know is right—what must be done to preserve this Nation? Do we have the guts to defeat this conference report? I pray that we do.

Mr. MURPHY of New York. Mr. Speaker, will my colleague yield?

Mr. HANSEN. Yes; I do yield to my colleague from New York.

Mr. MURPHY of New York. Mr. Speaker, I want to take this opportunity to express my strong feelings that the gentleman from Idaho has assisted this House in arriving at a very solid and tight conference report. The pressure and the statements the gentleman has just made to this body are shared by many Members of this body. The statement the gentleman has made would be a most eloquent speech to vote against the Treaty of 1977. But we are not considering the Treaty of 1977 today. We are at the last point, the point of no return, of implementing that treaty regardless of its merits.

Mr. Speaker, what we have done today, of course, the gentleman from Idaho has assisted us in doing. He has brought us to the point where we have tightened down. We have tightened down in all of the security areas the gentleman has just mentioned. I would share the gentleman's sentiments on a treaty vote but we must stand on the word of America and vote for this legislation.

Mr. HANSEN. Mr. Speaker, I regret that we do not agree but I thank the gentleman from New York for his kind remarks and many considerations over the months this legislation has been considered.

Let me add this Mr. Speaker.

Staying power is the mark of a winner in any human endeavor. Today's vote is the final test of staying power.

From the beginning of this debate, the House has resisted the giving away of the Panama Canal. We defended rightly our constitutional role in the disposition of territory at every step of the way. In response to our constituents, we have resisted the transfer.

And we have been proven right at every step of the way. It is a bitter irony that many treaty proponents in this House have tried to claim opposition to the very transfer which they are to the end attempting to force on the Nation.

There is no doubt that treaty and implementation opponents have carried every point of the debate. We have been right on the dollar costs. We have been right on the economic damage. We have been right on the defense damage. And we have been right that you can not buy the friendship of notorious Communist revolutionary regimes by paying tribute and giving away our national heritage.

Now despite all the facts, despite all the law, despite all the pragmatic considerations, our only choice today is still the bill of the treaty proponents. Since they have the weaker side of the facts and the law, their biggest weapon has been coercion and erosion. I think it is fair to say that today's vote will in large measure be a test of our staying power.

Our arguments have prevailed. We are in the right. Then how could we lose? We can lose only if we fail to remember that the valdiity of the original perception of the House, that it is the last protection of the people, remains unimpaired; we can lose only if fright overcomes right.

Mr. Speaker, without detracting from any of the other arguments against the conference report, there is the question of whether this House has any legislative function at all. This week, the Senate passed the conference report on the Department of Education. It was the Senate bill. The House bill was simply rejected. Nor is this the first time that we have rolled over to play dead for the other body. Now, after pledges from our conferees that they would be Horatius at the bridge, we are going to vote on the administration bill which originally came here as H.R. 1716.

We play our little charade that we are legislators and then the other body tells us what we may pass. Perhaps this is the time to tell the other body that our votes mean what they say.

Now, Mr. Speaker, the House voted "no" to treaty implementation 203–192.

This week, the House should again vote "no" for the same reasons.

Many voted "yes" when they wanted to vote "no" because of fear—fear that we must have implementation to prevent chaos and reprisal in the Canal Zone on and after October 1.

First, fear of reprisal by another nation is a poor reason to act on any bill of any kind. It is doubly wrong when the matter under consideration will determine relationships both domestic and foreign for many years to come.

Second, in order to assure ongoing control and operation of the Panama Canal after October 1, I have prepared a lawsuit to be filed this week to support continued rejection of treaty implementation legislation:

First. The court will be asked to preserve the status quo, that is, continuation of the Panama Canal Company until such time as Congress shall have finally dealt with the matter of implementation.

Second. The suit will contest the entry into effect of the Panama Canal Treaty of 1977 on the grounds that such treaty cannot go into effect lacking implementing legislation—a position the administration appears to share in view of its coercive drive to force implementation of its own bill under several disguises.

Third. This court action will raise the question of the legality of a treaty which contains contractual disagreements such as the DeConcini reservation on the United States side and the lack of the same reservation on the Panamanian side (Is there a meeting of the minds on the same treaty?).

Fourth. The suit will raise the issue of whether there can no longer be a treaty in view of the violations of neutrality by Panama and its continuing activities as the staging area for Soviet and Cuban terrorism and revolution in the Western Hemisphere.

The attorneys are convinced our case is valid, our standing is solid and our issue is classic.

If the presence of Soviet combat troops in Cuba makes you uneasy, then the new intelligence that this is a highly skilled group which helped organize the Cuban Africa Corps and is training insurgents all over Latin America should disturb you even more.

Despite a toothless pronouncement in the conference report, neither the treaties nor the implementing legislation prevents Soviet or Cuban troops in Panama and the current heavy Russian presence there as advisers and attachés should give us a signal of things to come.

For those who doubt the marxist influence and Soviet activities, let me quote a few excerpts from U.S. State Department Foreign Broadcast Information Service (FBIS) Reports:

> We want to tell the Panamanians that any attack on Panama is an attack on Nicaragua, Interior Minister and Revolutionary Commander Tomas Borge said emphatically here today. (Managua—20 Sept. 1979). Borge is a member of the Supreme Command of the Sandinist People's Army and of the Joint National Directorate of the Sandinist National Liberation Front.
>
> Commander Borge added firmly that if it is necessary to defend the canal with weapons in our hands, we are willing to go to Panama with our Sandinist forces, carrying the rifles of the revolution.
>
> We want our Panamanian companions to tell the people of Panama, to tell General Torrijos, that the slogan of Nicaragua is also applicable to Panama—the slogan of free fatherland or death.
>
> Companero Humberto Ortega Saavedra, the commander of the revolution and member of the Joint National Directorate of the Sandinist National Liberation Front, at a news conference in Managua on Sept. 21, 1979 said: "Therefore, we cannot view the Panamanian problem as a problem exclusive to Panamanians, but we must see it as a problem of Latin Americans, of Central Americans and also of Nicaraguans, because Panama supported and continues to support the Sandinist cause. We cannot leave the Panamanian people alone in their struggle against imperialism."
>
> Bogota, Sept. 20, 1979—Guerrilla action by the Revolutionary Armed Forces of Colombia (FARC) might resume thanks to the announced arrival in the country of groups trained in specialized camps in the Soviet Union and Czechoslovakia, experts noted here today. According to information obtained by the state intelligence servcies, a group of 30 FARC guerrillas returned secretly to Colombia after taking a 4-month course of weapons and military tactics in those two communist countries.

If before the treaty trigger date, the connection between Torrijos, Castro, and the Soviets is flaunted in our faces, what are we to expect after October 1, unless the Congress demonstrates our unwillingness to be treated like fools and patsies?

Mr. Speaker, the people of this Nation are still deeply disturbed about the Panama Canal treaties as is shown by Resolution 524 which was passed at the 61st Annual Convention of the American Legion in August of this year.

> Resolution 524 deplores any and all actions by the U.S. Congress which resulted in U.S. citizens actually paying to give away U.S. property, and urges all U.S. citizens to remember at the polls in 1980 those U.S. Senators and members of the House of Representatives who voted for this infamous transfer. Further, urges the U.S. House of Representatives to continue its dynamic role as "Keeper of the nation's purse" and continue to assert its right to refuse funds which will be required by many agencies of the U.S. Government to implement the Panama Canal Treaties.

The new conference report denies the Congress control over our territory and continues to impose a cost of hundreds of millions on American taxpayers. As such it cannot be accepted. Commonsense tells us that we have been right all along. Now everything rides on this one final vote—for the Nation's security, for the people at home, for many good reasons, we should vote down the conference report.

Mr. BAUMAN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. McCLOSKEY).

Mr. McCLOSKEY. Mr. Speaker, I would like to address my comments to those who feel honestly that the Panama Canal Treaty hurts the national security interests of the United States, and to try to give two reasons why I think those interested in the national security should vote for this conference report.

A former President, President Monroe, once laid down a doctrine that ruled the attitudes of foreign nations toward our hemisphere for many, many years. The Monroe Doctrine, in effect, said that it would be viewed as an unfriendly act if a foreign nation established a military presence in our hemisphere.

Due to the efforts of one man, the gentleman from Maryland (Mr. BAUMAN)—and I think as the chairman just said, perhaps the gentleman from Idaho (Mr. HANSEN) should be added, because of the pressure he brought on the conferees—but because of the influence the gentleman from Maryland (Mr. BAUMAN) and because of the gentleman's viewpoint, if we enact this conference report into law we will be reiterating the Monroe Doctrine. I would call it the Bauman Doctrine, and I want to read to you what will be in this conference report if the President signs the bill:

> . . . under any circumstances in which foreign combat troops or military forces (other than those of the United States as provided in the Panama Canal Treaties of 1977) are located within the Republic of Panama—

At that point the President of the United States has the power to put the Canal Zone under Defense Department administration and control.

Mr. Speaker, in effect this is a reiteration of the Monroe Doctrine. You might call it the Bauman Doctrine of 1979, that if a foreign power should introduce troops into a nation in Central or Latin America, the Panama Canal Defense Treaty permits putting the canal on a defense basis.

Mr. Speaker, it seems to me this is a clear signal to the rest of the world as to how the United States views the canal for security purposes. It would be a fine thing if this House could provide a unanimous vote as a congressional reiteration of the Monroe Doctrine at this time.

Mr. Speaker, the President has not taken this step with respect to Russian troops in Cuba, either at the time of the Cuban missile crisis under President Kennedy or today under President Carter.

We Republicans from time to time have indicated criticism of a Democratic President when we felt that that President did not present a strong face to foreign nations with respect to foreign policy. What could be better than if the Congress of the United States gives a unanimous affirming declaration that we affirm this doctrine that foreign troops should not be located in a neutral country in this hemisphere, and that if so, we are instructing our President that he has the power to take defensive action.

Mr. Speaker, it seems to me for the foregoing reason alone we should try to pass this conference report unanimously.

A second reason lies in the need at this time to demonstrate to the world that our governmental processes work; that when our President negotiates a treaty and the Senate by two-thirds majority ratifies it, we in the Congress can enact legislation to fairly implement it.

☐ 1120

Mr. MURPHY of New York. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. Mr. Speaker, this hopefully will be the last vote that we have on this issue.

I think it is important to review the facts as to who some of the people are who have supported dealing with this issue, putting it aside, and getting on with the work of this House and the Congress and the foreign policy of this Nation. They include William F. Buckley, Gerald Ford, and Henry Kissinger. ROBERT BAUMAN signed this report, as did STROM THURMOND, JOHN WARNER, and JOHN STENNIS—hardly people that one can consider liberal-progressive. But certainly they recognize that we are at a point in this House and in this Nation at this time where we are risking—literally risking—lives of Amercan people in the Canal Zone.

I had thought that the policy of brinkmanship of John Foster Dulles had gone out the window years ago, but we have played this brinkmanship game on Panama so close that this Member is personally scared and fearful for the people we have down in Panama today, 10,000 of them.

We have a tough bill. It got tougher in subcommittee, it got tougher in the full committee, and it was strengthened on the floor of this House. Then it was strengthened in conference. We got 80 percent of what we wanted from the Senate. We went back, and we got more in this last conference. I do not know what more we can ask for.

I would suggest that we consider that there are serious implications to those people we have stationed in Panama today. I would further suggest that politically we consider our votes against this conference report if it fails. How is that vote going to be interpreted if indeed there is violence in the Panama Canal Zone?

The gentleman from Maryland (Mr. Bauman) has indicated that we should not vote on threats that there will be violence, but I do not know how at this point we can take that away or subtract that from our consideration. It is real. It is very, very real.

So, Mr. Speaker, in this last minute I would ask my colleagues to try to recoup some form of grace from this whole episode. I would ask them to support our committee chairman, to support the majority of the members of the conference committee who supported the bill, and to adopt the conference report this morning.

Mr. BAUMAN. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina (Mr. Spence).

Mr. SPENCE. Mr. Speaker, I am against the Panama Canal Treaty and any legislation that would help give the Panama Canal way.

I cannot believe what I have heard here today. As most of you Members know, I only speak on important matters. I do not get emotional too often, but I am concerned about what is happening to this country.

We hear today the same kind of talk we heard before World War I, before World War II, and before every other attempt that has been made to "feed the alligator" and appease our enemies. We have sunk to the low place we have reached, in the eyes of many people in this world today, because we have given in so much that we have been pushed around by everybody, and we invite more of the same thing.

It is like the situation when you are walking down the street with your wife and you meet some person who wants her. He says, "Give her up or I'll fight you," and so you give her up. When do you draw the line?

Let me quote from somebody who knows about these kinds of things. Solzhenitsyn, when he was speaking of the "sickness of the will" in the free world, said this:

> The spirit of Munich prevails in the 20th Century. The timid civilized world has found nothing with which to oppose the onslaught of a sudden revival of bare-faced barbarity, other than concessions and smiles * * *
>
> And tomorrow, you'll see, it will be all right. But it will never be all right! The price of cowardice will only be evil; we shall reap courage and victory only when we dare to make sacrifices.

What has happened to us? What has appeasement gotten us? Where are our real leaders of the past? "Millions for defense, but not one cent for tribute." "54–40 or fight."

If we had the same kind of leaders today that we had in the past, we would not have Torrijos around talking as he is talking about pushing us out of the canal.

Mr. MURPHY of New York. Mr. Speaker, would my colleague, the gentleman from South Carolina, yield?

Mr. SPENCE. Yes, in just 1 minute, after I have finished this point, I will yield.

Mr. Speaker, we hear that this is the only way to insure our continued use of the canal. Treaties, as we ought to know from the painful lessons of history, are lived up to by those kind of people only as long as it is to their advantage to do so. The next man can always say, "I wasn't in office when they made that treaty. I don't agree with it, and so I can't go along with it."

When do we draw the line? When it comes to Alaska? Florida? California? Oregon? Manhattan?

In order to prevent a fight, will we ever draw the line?

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. SPENCE. I will be glad to yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Speaker, at this present time the 75th Rangers Brigade is on its way to Panama, ostensibly for maneuvers in the Inter-American School of the Armed Forces that operates there. I do not think that we have to draw a picture for the Members of this House to understand they are going down there not for a question of appeasement but for a question of enforcing America's responsibilities if we do not act responsibly today.

Mr. SPENCE. Mr. Speaker, I will conclude only by saying that if we pass this legislation, history will prove I am right.

Mr. BAUMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas (Mr. Bethune).

Mr. BETHUNE. Mr. Speaker, the entire Panama Canal issue would not be here at all had it not been for the masterful job of bootstrapping that the President and Senate did throughout the entire process. Misrepresentations were made from the outset about the cost of this project. Misrepresentations were made about the right to defend and about the stability of the government in Panama.

I said earlier this year, and I repeat—and I truly mean it—that I think it has been the worst mistake we have made in some 20 years for the President and the Senate to deliver up these treaties. That is now manifestly clear to me, after all I have heard as a Representative here in this Chamber.

I agree with the gentleman from Maryland (Mr. Bauman) that we need implementing legislation. I agree with the chairman of the committee (Mr. Murphy) on that score. I think it would be the second worst mistake we have made in this country if we did not pass some implementing legislation.

I voted for the original bill on June 21 when it was considered here. My colleague, the gentleman from Arkansas (Mr. Alexander), joined me. That was not a popular vote in the southern States or in Arkansas, and particularly for a brand new Republican in a Democratic State, but I did it because I thought it was the right thing to do.

I voted against the first conference report that came back here, the so-called Bauman bill, because I thought it was a compromise and I thought we ought to send it back to the conference committee and let them rework it.

Now, the "Son of Bauman," as it has been referred to, is not a pretty child, but the fact is, it is the only one we have and there is no time left to do anything about it. We do not have time to produce a "Grandson of Bauman."

So, Mr. Speaker, it seems to me that if we need this bill, if we need implementing legislation and there is no time to produce another bill, then we ought to adopt this conference report. But the simple fact is that it is not going to pass unless some of us here hold our noses and vote for it. That is why I am going to vote "aye" on the conference report.

Mr. MURPHY of New York. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Arkansas (Mr. Alexander).

Mr. ALEXANDER. Mr. Speaker, I would like to take this time to commend the gentleman from Arkansas (Mr. Bethune), who just spoke, and especially the gentleman from Mississippi (Mr. Bowen), who is a member of the committee, for the courage they have demonstrated in standing up and telling the truth to the people they represent.

☐ 1130

Several years ago I conducted a poll in my district to poll my constituents on the question of the proposed Panama Canal Treaty. Approximately 85 percent of the people of my district responded negatively. They were ready for someone to take the stump and stir their emotions against the treaty; they were receptive to being outraged, ready to draw the line and fight for what Americans consider to be our "rights" in the Western Hemisphere.

It would have been very easy to accommodate this political climate. But it is much more difficult to tell the people the truth about Panama to prevent a confrontation and I commend the gentlemen for the courage that they have demonstrated and the leadership that they have shown.

Mr. MURPHY of New York. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Tennessee (Mrs. Bouquard).

Mrs. BOUQUARD. Mr. Speaker, I doubt that any Member of this Chamber has more consistently opposed the transfer of the Panama Canal than I have. I wish it were possible to calculate the number of votes, manhours, and effort that this Congress has put into debate and maneuvering on this issue. But, we are now to the point of simply refusing to accept the reality that U.S. control over the Panama Canal is at an end. In fact, we have stepped over the line of reason and are now threatening what little presence we still maintain in the Canal Zone.

If we fail today to enact this conference report, the President will have no choice but to remove U.S. Forces and personnel from the Canal Zone by October 2. That will create a void into which insurgent forces will move. No Member of this body can honestly say to themselves or to their constituency that a vote against this bill is in the national interest of the United States. Now, our own national security, that of Latin America, and of the Caribbean, will best be served by the enactment of this measure. That is a simple, straightforward statement of a political and legal fact. I wish it were not true, I wish the United States still retained control of the Panama Canal, but wishing does not and will not ever make it so.

It is our responsibility as legislators to protect the vital interests of this Nation. The Panama Canal Treaty is a fact. If we are to avoid even worse consequences for this Nation, we must act responsibly and rationally to protect what little U.S. influence remains, as well as internal stability of the Canal Zone. The only way we can now accomplish that goal is the passage of this bill.

Those of you who in the past have, like myself, opposed the Panama Canal treaties, I think we were right, but we were not successful. We must not compound that loss by shortsighted, counterproductive posturing on this issue.

I urge my colleagues to support the enactment of this conference report on H.R. 111.

CALL OF THE HOUSE

Mr. BOWEN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 508]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Downey
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1140

The SPEAKER pro tempore (Mr. STEED). On this rollcall 374 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

☐ 1150

CONFERENCE REPORT ON H.R. 111, PANAMA CANAL ACT OF 1979

Mr. BAUMAN. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. PASHAYAN).

Mr. PASHAYAN. Mr. Speaker, I rise in support of the conference bill. The 11th hour is now upon this body. There is no time for any more conferences or ideology. What we do here today, or fail to do, will have terrible consequences not only on the position of the United States in Central America, a foremost consideration, but also on the nation of Panama itself. Inaction by the Congress could well have devastating effects.

I have before me a statement by the gentleman from Idaho (Mr. HANSEN) that he intends to initiate another lawsuit, bringing into question the legality of the treaties once again. Hereto, it has been the gentleman's stated position that this body, being an independent branch of the Government from the judicial, is within its right or power to refrain from an earlier Court decision on the treaties. Now my colleague seeks refuge in the judicial system, and I welcome him there, for it has always been my view that the Court has spoken, and spoken finally, on the matter of the treaties. I should therefore like to remind my good friend and this House that the Court has upheld the treaties as legally binding, by stating:

> In deciding that Article IV . . . is not the exclusive method contemplated by the Constitution for disposing of federal property, we hold that the United States is not prohibited from employing an alternative means constitutionally authorized. Our judicial system in deciding this lawsuit is confined to assessing the merits of the claim . . . that in . . . the transfer of property of the United States, the Treaty power as contained in Article II . . . was not legally available to the President. We hold, contrarily, that this choice of procedure was clearly consonant with the Constitution.

That is the law as it stands today, and as it will stand on October 1, the date when the 1903 Treaty dies and these new treaties spring to life.

The important question is whether or not the United States shall maximize its presence and control in Panama in the next 20 years. If we should fail to furnish legislation, this Nation may well be put in breach of treaty in international law. If so, under what auspices are we to remain in Panama with military troops and personnel to operate the canal? Some claim that the Treaty of Neutrality will permit continued military presence. But I cannot see that the breach of a treaty by the United States is an action calculated to maintain neutrality in Panama; to the contrary, it may well contribute to civil agitation, and worse yet, murder and revolution; it may well invite foreign powers to supplicate the Panamanian Government against the United States; it may well cause the flame to be put to the flag of the United States.

No, Mr. Speaker, our course must be steady. I do not want the Panamanians to maintain and operate the canal in the next 20 years. I do want U.S. personnel to operate the canal. I do want the United States to maintain a military presence in Panama, legally and effectively. The very reasons that the opponents of the treaty have urged the United States to keep Panama, are the very reasons that the United States now must maintain its presence in Panama for the next 20 years. At the very least, crude oil from the North Slope in an amount of 300,000 to 500,000 barrels per day is shipped through the canal. Other commodities vital to the bustling industries of our ports are also shipped through the canal. It is important to American interests that we protect this commerce.

More important is the situation, revolutionary in spirit, that now pervades the entirety of Central America and the surrounding seas. I do not know what revolts or revolutions or other forms of outburst and agitation will occur there, but whatever the fire may be, the United States must be there to quench the flame.

I am not any happier with the treaty than is the gentleman from Maryland (Mr. Bauman) whose signature appears on the conference report, and whose vote I hope will follow his signature. But the President and Senate have left us with no choice.

We must act decisively today and our decision must be to keep control and protection of American interests in Panama; anything less would blemish the American adventure espoused by Teddy Roosevelt and other heroes of American history, in whose spirit and toil the Panama Canal, an almost incredible feat, was first built.

Mr. BAUMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Speaker, I rise in opposition to the implementation legislation. I think it is wrong. I still believe we could achieve a better end product by going to another conference.

Let me review the reasons why I feel very strongly the House should return to a conference to insist on certain protections for the United States:

First. The new conference report denies the Congress control over U.S. territory and its disposition.

Second. There are estimates that this transition of control of our canal will cost the American taxpayer at least $3 to $4 billion. That is a high price for American taxpayers to pay for a giveaway.

Third. There should be a firm prohibition against any foreign troops in the Canal Zone. Further the right of the United States to force such troops to leave prior to the year 2000 (committee language saying it should not occur is not enough.)

Fourth. This legislation far exceeds the provisions of the two treaties allowing the executive branch to arbitrarily give up the whole package at any time.

Mr. BAUMAN. Mr. Speaker, I yield the remainder of my time, 2 minutes, to the gentleman from Illinois (Mr. Philip M. Crane).

Mr. PHILIP M. CRANE. Mr. Speaker, there is one portion of our Constitution that all of us should keep in mind as we finally reach the end of this prolix debate. That portion is article IV, section 3, clause 2 of the Constitution which states that Congress shall have the power to dispose of territory and property of the United States.

I do not think there is any debate about the canal and the zone being territory and property of the United States. Moreover, in defining Congress, there is no confusion as to our role and responsibility in finally making the judgment as to whether territory and property shall be given away.

I have heard some discussion about standing behind the commitment of the United States. Well, who are the United States? The American people indicated in polls their overwhelming objection to alienation of the zone and the canal. And the House of Representatives, being the people's body, is a closer reflection of the United States of America than the upper body or the executive branch. That being the case we have as instrumental a role in this whole business as anyone, and we should have been consulted by the President and the Senate before they made any international commitments.

There is historic precedent for this. The House did participate when we alienated property in the zone by giving it to Panama in 1955.

So as we approach this final vote, I would ask my colleagues to keep in mind that we in this body, each and every one of us, are the ones who ultimately will make the decision as to whether our canal is given away. We must think long and hard on our responsibilities to the American people, particularly in light of the comments we have heard by my distinguished colleague from Idaho with respect to alien influences in the Caribbean.

This is not the time that the United States should be retreating, and I would hope the conference report would be rejected.

Mr. MURPHY of New York. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas, the majority leader (Mr. Wright).

Mr. WRIGHT. Mr. Speaker, every Member of this House knows that the question here is not whether we like the Panama Canal treaty. That treaty goes into effect in 5 days whatever we do today.

Most of the Members realize quite fully that enactment of this legislation is necessary in the interest of the United States.

Most of them recognize that this legislation provides our only sure guarantee of continuing a U.S. military presence in the Canal Zone.

Members are fully aware that this very bill allows our President to appoint five of the nine—a majority—on the Board which will govern and manage the canal for the remainder of this century.

□ 1200

Most of the Members of Congress, understanding these facts, want this bill to pass. But, some of them are afraid to vote for it for fear of reprisals from well-meaning but ill-informed citizens. In fact, Mr. Speaker, one extreme right wing group today has blatantly threatened to spend up to a million dollars to defeat any Member who votes for this conference committee report.

And that introduces a question which goes to the very heart of the democratic process.

Almost 25 years ago the late Walter Lippman wrote a little book entitled, "The Public Philosophy." It casts a gloomy forecast for the future of parliamentary democracy throughout the world.

When I first read this book I was stunned and disturbed. I denounced it as too extreme. But today its message comes back to haunt me.

Almost a quarter century ago Walter Lippman suggested that the Western democracies were in danger of what he called a paralysis of government. He characterized elected legislators as insecure and intimidated men whose decisive consideration in the critical international issues was "not whether it was right, but whether it was popular—not whether it will work well and prove itself," he wrote, "but whether the active talking constituents like it immediately." And this, he said, sets a compulsion to make mistakes in foreign policy.

"Over and above their own human propensity to err," he wrote, "democratic officials have been compelled to make the big mistakes that public opinion has insisted upon."

He called this "the malady of democratic States," and concluded that "the malady can be fatal. It can be deadly to the very survival of the State as a free society."

I hope and pray that this unhappy prognosis shall never become the epitaph of our civilization. But this week as we faced this series of critical issues, and particularly today, I see the shadow of its foreboding presence.

In the past week, as I have talked with Members on this particular issue, their answers have come back to me like a repetitious refrain. At least a score, probably 30 Members have said, "Yes, Jim, I understand that. I want that bill to pass. I know it is in the best interest of the United States, but my constituents misunderstand it, and I can't vote for it."

Permit me to say as kindly and gently as I possibly can to those Members who are in this Chamber—and they know who they are: you sell America short. You sell your constituents short. If you did not believe that you, in frank and candid explanation, can show them why this is in America's interest, knowing as you do that it is—if you really do not think they possess the intelligence to understand it—well then. let us face it: You do not really believe in the fundamental premise of a representative democracy.

I do believe in it, still. I think our action today will be a reaffirmation that it still possesses the vitality to do the right thing, popular or not. I believe we will demonstrate that its Members still possess the force of character not to cringe in fear when they know that hostile opinion is mistaken and based upon misinformation, but rather to use their honest judgment and to follow their best informed opinion and to do what is right. I believe we will do that today.

● Mr. ANDERSON of California. Mr. Speaker, as many of our colleagues know, I have consistently opposed the Panama Canal treaties. I think they are a mistake. I thought it was a mistake when President Nixon proposed the idea, when President Ford proposed the idea, and when President Carter proposed the idea. And so time and again I have spoken out against the treaties, and I have voted against measures related to them.

It is the Senate that is constitutionally charged with ratifying treaties entered into by the United States. But, in 1976, I said in the CONGRESSIONAL RECORD that—

> The yielding of any property paid for from appropriated funds, such as the Panama Canal, must be approved by the House as well as the Senate.

If only the House would have had this opportunity.

But the House of Representatives did not have the opportunity. We have, however, had before us for consideration H.R. 111, the Panama Canal Act of 1979. This has been frequently, but perhaps incorrectly, referred to as the legislation which "implements" the canal treaties. What this bill actually does, given the undisputable, irrevocable fact that the treaties take effect on October 1, is assure the continued U.S. involvement in the effective administration of the canal.

Last week, I voted against the conference report on H.R. 111, and the conference report was defeated. It is back before us today, however, with several revisions.

Language has been added allowing the President to place the canal under military control if foreign combat troops are placed in the Republic of Panama. The new report strengthens language precluding the President from accepting any interpretation of the treaties which would permit Panama to impose retroactive taxes on U.S. businesses in Panama. The conference report being voted on today improves the language dealing with U.S. contingency payments to Panama. And finally, it specifically prohibits the canal's transfer to Panama before December 31, 1999.

However, even with these changes, I am against the Panama Canal treaties. But again, the treaties are with us. Nothing that happens today will change that. Today, we are deciding whether or not the United States will play an effective role in the coming transition period.

And today, many Members who have previously been vocal and sincere in their opposition to the treaties, will be supporting the conference report on H.R. 111. I will not be among them. Although improvements have been made in the conference report, it must be clearly understood that many of us are still dissatisfied with the entire situation. Frankly, I now expect the conference report to pass. Discussion of the Panama Canal controversy will, gradually, slip away. We cannot allow it to be said, though, that in the final analysis, all the American people and their Representatives supported the treaty. We do not. We think they are bad. And we regret this day.●

Mr. MURPHY of New York. Mr. Speaker, I yield 5 minutes to the distinguished Speaker of the House, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, this issue has been debated so many times, not only on the floor of this House, but also for weeks and months in the United States Senate. I am well aware of the strong emotional sentiments attached to the issue of the Panama Canal. I recognize that there are members who have had serious reservations, and those who have expressed outright opposition. Yes, and there are those who have spoken with open hostility. These are genuine concerns and anxieties, and I understand them.

A half dozen years ago, DAN ROSTENKOWSKI and I were playing in the Cancer Charity Golf Fund with a fellow by the name of Chi Chi Rodriguez, a little fellow from the Caribbean. After we finished playing golf, we all sat down to talk, and I was amazed at Chi Chi's knowledge of foreign affairs. Many Members can recall that a half dozen years ago, we had a bipartisan foreign affairs policy, where the Congress supported the State Department and the administration, Democratic or Republican.

You know, Chi Chi said:

> Eisenhower has been for the return of the Panama Canal; Nixon has been for the return of the Panama Canal; Kennedy and Johnson have been for the return of the Panama Canal; Jerry Ford has been for the return of the Panama Canal. When are you people ever going to do anything about it?

You know, the interesting factor was that Chi Chi was a golf professional from the Caribbean, and I would have to say that, speaking for myself, and probably DAN felt the same way, the furthest thing from our minds was the Panama Canal.

Chi Chi said:

> You think you have problems with Cuba along the line. This is the spot that is eating at the core of the apple. Don't you realize that this is American imperialism? Don't you appreciate the shabby and shady manner in which you acquired the Panama Canal?

You know, I did not, to be perfectly truthful. I had never given any thought to the Panama Canal. I was just an average Congressman, and I did not really believe that unless one was on the Foreign Relations Committee, one never gave any thought to it. But, we were wondering why our relatives had deteriorated in the Caribbean area where, if rum was manufactured, then America owned all the companies that manufactured rum; if sugar was produced, then we owned all the sugar from the area; if cattle was in abundant supply, then we owned all the cattle, and our troubles in the area were with the presidents or the executives. Our concern really was not with the people. Our concern was to obtain the greatest profit along the line.

The Panama Canal, what does it mean to us? Well, it means a lot, to be perfectly truthful. It means a lot, as to whether we have a Navy that can pass through there. It would cost us nearly $100 billion to put together a two-ocean Navy if the Panama Canal were shut down. Three billion dollars a year are saved by those of us who live in the East because products pass through the canal instead of around Cape Horn. Over 500,000 barrels a day of Alaskan oil go through the canal and up to Houston or other areas of Texas to be refined. Sure, we have had this access all along the line, and we took for granted what an open and accessible canal meant to American and world commerce. We never thought about how disruptions in the use of the canal, or outright operational shutdowns would endanger our national security.

□ 1210

We gave little thought to the pride and rights of the people from whom we acquired the canal.

A long and rancorous debate ensued for months in the Senate, and ultimately, a new treaty was adopted and is now the law of the land. Our Constitution gives that right to the Senate and the basic issue was resolved last year. We cannot rewrite the treaty.

We do have a responsibility to carry out the international obligations of the new treaty. This conference report fulfills those obligations to provide an appropriate mechanism to administer the canal and to insure that it will be open, neutral, secure, and accessible.

I think we have done the right thing. I think we have done the honorable thing for America, and in doing the honorable thing, we will have greater security and a better feeling for the people in the Caribbean area. We will have kept our commitments, and I think we are going to witness a friendlier Western Hemisphere. This is the final hour.

May I say to the Members, in the best interest of our country, I think an aye vote is the right vote.

Mr. MURPHY of New York. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HANSEN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 232, noes 188, not voting 14, as follows:

[Roll No. 509]

AYES—232

Aadabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Barnes
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Derwinski
Dicks
Diggs
Dingell
Dixon
Dodd
Downey
Drinan
Early
Edgar
Edwards, Calif.
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick

Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Garcia
Gephardt
Giaimo
Gibbons
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Hall, Ohio
Hamilton
Harkin
Harris
Hawkins
Hefner
Heftel
Holland
Hollenbeck
Howard
Hughes
Jacobs
Jeffords
Jenkins
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Long, Md.
Lowry
Lundine
McClory
McCloskey
McCormack
McHugh
McKay
McKinney
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.

Murtha
Myers, Pa.
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Roe
Rostenkowski
Roybal
Royer
Russo
Sabo
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Wydler
Yates
Young, Mo.
Zablocki
Zeferetti

NOES—188

Abdnor
Anderson, Calif.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Bennett
Bevill
Brown, Ohio

Broyhill
Burgener
Byron
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.

Dannemeyer
Davis, Mich.
de la Garza
Deckard
Devine
Dickinson
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Evans, Del.
Flippo
Fountain
Fuqua

Gaydos
Gilman
Gingrich
Ginn
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenrette
Johnson, Calif.
Jones, N.C.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.

Lee
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lujan
Luken
Lungren
McDade
McDonald
McEwen
Madigan
Marlenee
Marriott
Martin
Mathis
Mattox
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Natcher
Nelson
Nichols
O'Brien
Oakar
Paul
Perkins
Petri
Quayle
Rahall
Regula
Rinaldo
Ritter
Roberts
Robinson
Roth
Rousselot

Rudd
Runnels
Santini
Satterfield
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Staggers
Stangeland
Stenholm
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—14

Carter
Duncan, Oreg.
Eckhardt
Flood
Hanley

Holtzman
Murphy, Ill.
Myers, Ind.
Quillen
Rodino

Rose
Rosenthal
Treen
Winn

☐ 1220

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Quillen against.

Mr. Hanley for, with Mr. Treen against.

Mr. Duncan of Oregon for, with Mr. Myers of Indiana against.

Ms. Holtzman for, with Mr. Carter against.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PRAISE FOR THE UNITED STATES ROLE IN BUILDING AND MAINTAINING THE PANAMA CANAL

Mr. BAUMAN. Mr. Speaker, just prior to the vote on final passage of the conference report on H.R. 111, the Panama Canal implementation legislation, a speech was made which could not be answered, since all time for debate had expired. The theme of those remarks was that the United States had mistreated the people of the Republic of Panama from the very beginning of our relationship with that nation, that we had allegedly gained control of the Canal Zone through some devious or less-than-honorable means, and that our Nation and its Government had been insensitive to the aspirations of the people of Panama.

Mr. Speaker, any casual student of the history of this issue knows that such remarks are simply not true. Even a cursory reading of the history of the United States-Panamanian relations shows that there would have been no Republic of Panama had it not been for the U.S. Government and its response to a request for assistance from those Panamanians who in 1903 were citizens of what was then a province of Colombia.

The acquisition of the rights to build, maintain, and control the Panama Canal were obtained by the United States through just means, including payment for the land acquired to the new Government of Panama and each of the individual landowners affected, as well as continuous payments since.

There is no doubt that the presence of the Panama Canal has been the major contributor to the economic well-being of the Panamanian people, who have the highest average annual income in all of central America. There is no doubt that the canal would never have been built at all had it not been for the United States and its willingness to do what the French and many others had failed to do.

I believe that the history of the Panama Canal is one of the glorious chapters in our national history, and indeed, that of Panama as well. To denigrate America's role in this undertaking which united the Atlantic and Pacific Oceans is a disservice not only to our country but to the truth as well.

☐ 1230

PROVIDING FOR TEMPORARY EXTENSION OF CERTAIN FEDERAL HOUSING ADMINISTRATION AUTHORITIES

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 105) to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could we hear what the gentleman's explanation is as to why this is necessary?

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am delighted to yield.

Mr. ASHLEY. Mr. Speaker, Senate Joint Resolution 105 would extend through October 31, 1979, the authority of the Secretary of the Department of Housing and Urban Development to insure mortgages or loans under certain

HUD-FHA mortgage or loan insurance programs contained in the National Housing Act, would extend the authority of the Secretary to set the interest rates for FHA-insured loans to enter into obligations to make section 312 rehabilitation loans and would extend the authority of the Government National Mortgage Association to enter into new commitments to purchase mortgages.

The Senate joint resolution would also extend certain authorities of title V of the Housing Act of 1949 through to October 31, 1979, with respect to the Farmers Home Administration rural housing programs.

Under existing law these authorities remain available only through September 30, 1979. The conferees of this year's housing authorization legislation have not completed their consideration. It has been a difficult conference, but it is my expectation that the conferees will conclude their work shortly after the House returns the week of October 9. Mr. Speaker, I know of no serious objections to this 30-day continuing resolution. It is my understanding it is supported by the minority. Mr. Speaker, I urge the adoption of Senate Joint Resolution 105.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, the only necessity for this is the conference on this authorizing legislation is not yet complete?

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I would be glad to yield.

Mr. ASHLEY. Mr. Speaker, that is precisely the reason. It has been a long and rather difficult conference. There are any number of items in dispute. I can look the gentleman in the eye and say that the problem has been that the Senate has been assiduous in defense of his position and so have the House conferees with respect to the House position on a number of important matters.

We have not achieved resolution of the items in disagreement. We will, I am certain, within the period encompassed by this joint resolution.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, the extension of this authority is to the end of October?

Mr. ASHLEY. That is correct.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comments. I appreciate the explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. Ford of Michigan). Is there objection to the request of the gentleman from Ohio (Mr. Ashley)?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 105

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AUTHORITIES

Section 1. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1979" in the first sentence and inserting in lieu thereof "November 1, 1979".

(b) Section 217 of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "October 31, 1979".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1979" in the fifth sentence and inserting in lieu thereof "October 31, 1979".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "October 31, 1979".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "October 31, 1979".

(f) Section 244(d) of such Act is amended—

(1) by striking out "September 30, 1979" in the first sentence and inserting in lieu thereof "October 31, 1979"; and

(2) by striking out "October 1, 1979" in the second sentence and inserting in lieu thereof "November 1, 1979".

(g) Section 245 of such Act is amended by striking out "September 30, 1979" where it appears and inserting in lieu thereof "October 31, 1979".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserting in lieu thereof "October 31, 1979".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserting in lieu thereof "October 31, 1979".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserting in lieu thereof "October 31, 1979".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserting in lieu thereof "October 31, 1979".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

Sec. 2. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709-1), is amended by striking out "October 1, 1979" and inserting in lieu thereof "November 1, 1979".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

Sec. 3. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1979" and inserting in lieu thereof "November 1, 1979".

REHABILITATION LOANS

Sec. 4. Section 312(h) of the Housing Act of 1964 is amended—

(1) by striking out "September 30, 1979" and inserting in lieu thereof "October 31, 1979"; and

(2 by striking out "October 1, 1979" and inserting in lieu thereof "November 1, 1979".

EXTENSION OF RURAL HOUSING AUTHORITIES

Sec. 5. (a) Section 513 of the Housing Act of 1949 is amended by striking out "September 30, 1979" where it appears in clauses (b), (c), and (d) and inserting in lieu thereof "October 31, 1979".

(b) Section 515 of such Act is amended by striking out "September 30, 1979" where it appears in paragraph (b)(5) and inserting in lieu thereof "October 31, 1979".

(c) Section 517(a)(1) of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "October 31, 1979".

(d) Section 523(f) of such Act is amended—

(1) by striking out "October 1, 1979" where it appears in paragraph (f) and inserting in lieu thereof "November 1, 1979"; and

(2) by striking out "September 30, 1979" where it appears in such paragraph (f) and inserting in lieu thereof "October 31, 1979".

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TEMPORARY PUBLIC DEBT LIMIT

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 425 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 425

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 2(l)(6) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5369) to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process, all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendments to the bill shall be in order except the following amendments: (1) pro forma amendments for the purpose of debate; (2) amendments offered by direction of the Committee on Ways and Means or the Committee on Rules, which shall not be subject to amendment except pro forma amendments for the purpose of debate; (3) amendments only changing the date certain on page 2, line 5, or only changing the numerical figure on page 2, line 8, and said amendments shall not be subject to amendment except pro forma amendments for the purpose of debate and germane amendments only changing said date or said figure; (4) the following amendment, which shall not be subject to amendment except pro forma amendments for the purpose of debate: "On page 3, line 12, strike out the words 'and an enrollment'; on page 3, line 21, strike out the word 'Upon' and all that follows through the period on page 4, line 5, and insert in lieu thereof the following: 'Upon the engrossment of such joint resolution it shall be deemed to have passed the House of Representatives and been duly certified and examined; the engrossed copy shall be signed by the Clerk and transmitted to the Senate for further legislative action; and (upon final passage by both Houses) the joint resolution shall be signed by the presiding officers of both Houses and presented to the President for his signature (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.' "; and (5) one motion to strike title II which shall not be subject to amendment except pro forma amendments for the purpose of debate. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, the subject matter of this resolution is popular with no one. Whether one is inclined to vote in favor of this legislation or against it, no one truly enjoys the debate which ensues. Yet here we are again, facing an expiring temporary public debt ceiling.

The Congress of the United States has a legal obligation to provide for the extension of the national debt ceiling without allowing it to lapse. As the distinguished chairman of the Committee on Ways and Means reminded us last week during the floor debate on this issue, we cannot back out of a decision made by the majority will. We have to live up to our commitments. I believe we have no choice but to vote for a bill that will permit our Government to meet obligations legally incurred. I hope that a majority of my colleagues will agree so that we can put this issue to rest and move on to other pressing business of the Nation.

The rule provided by House Resolution 425 is eminently fair. It provides an opportunity for every faction to work its will in the democratic process we follow in this body. The Rules Committee was in agreement on this rule, and I hope the House will approve the resolution making in order H.R. 5369, which provides for a temporary increase in the public debt limit, and makes possible the establishment of the public debt limit in the future as a part of the congressional budget process.

The rule provides 1 hour of general debate equally divided between the chairman and ranking minority member of the Committee on Ways and Means. The first reading of the bill shall be dispensed with, and the bill shall be considered as read for amendment under the 5-minute rule.

This rule is a modified open rule making in order only certain amendments. The selection of amendments give Members of this body ample opportunity to express their variations of opinion and to vote accordingly. Pro forma amendments for the purpose of debate will be permitted with regard to the bill and all specified amendments.

Amendments offered by direction of the Committee on Ways and Means or the Committee on Rules are in order but not amendable. In addition, amendments which change the amount of the figure establishing the temporary public debt limit or the date establishing the duration of the temporary ceiling are in order. These amendments in turn shall be subject to amendment only by germane amendments affecting the limit and the date.

The committee bill provides for a temporary public debt limit of $479 billion from the date of enactment through May 31, 1980. This is a lesser extension and a lesser amount than the House adopted last week in passing the Fisher amendment. Nonetheless, germane amendments to the dollar figure and the time period are in order.

Everyone is aware that the committee bill also provides for a new procedure developed by the gentleman from Missouri (Mr. GEPHARDT) whereby the debt ceiling in the future may be established through the congressional budget process. Various versions of this procedure have been under discussion for a long time.

Through persistence, lengthy consultation, brainpower, and creative imagination, the gentleman has refined a procedure that I hope we all can embrace.

It provides a much more forthright and orderly manner of accounting to the public for our national spending policy—through the congressional budget process. Members of the Committee on Ways and Means and the Committee on the Budget have worked closely and diligently in developing this new procedure. Last year my subcommittee on the rules and organization of the House held hearings on the matter, and it has been discussed in the full committee as well. I am well pleased that the new procedure is ripe for adoption, since the House adopted the Gephardt substitute including the new procedure, in the Committee of the Whole last week.

So as to be completely fair, however, the rule provides that a motion to strike title II of this bill, which is the title amending the rules with the new procedure, is specifically made in order. The motion to strike is not amendable. In addition, the rule specifies that a minor amendment, recited in the rule, may be offered and is not amendable. This amendment would cure some details in the Gephardt procedure concerning engrossment and enrollment. The rule also makes in order one motion to recommit.

In view of the urgent need for action on the legislation made in order by this rule, which extends authority expiring October 1, the rule includes a waiver of clause 2(1)(6) of rule 11, the 3-day layover requirement. As is traditional with debt ceiling bills, which amend the Second Liberty Bond Act, the rule provides a waiver of clause 5 of rule 21, prohibiting appropriations in an authorization bill.

Members are all too familiar with the arguments surrounding the legislation made in order by this rule. There is always a lot of talk about saving money for the taxpayers and holding interest rates down. But I would remind my colleagues that it actually costs millions of dollars when this vital legislation is permitted to lapse. The last time this happened it cost the Government $15 million or more.

Let us therefore unite in favor of this well balanced resolution and get on with the Nation's vital business.

□ 1240

GENERAL LEAVE

Mr. LONG of Louisiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 425, the resolution under consideration.

The SPEAKER pro tempore (Mr. FORD of Michigan). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the question before us today far transcends the issue of a temporary increase in the national debt. We are once again being asked to bail out the Government for not living within its means. In my opinion this is an issue of accountability as much as one of fiscal policy.

At one time the national debt was something to be embarrassed about. It was a realistic accounting of debts incurred by the Government for a major crisis, like World War I. The debt was something that needed to be paid off and most lawmakers had every intention of retiring the debt. Even the first years of the free-spending New Deal era did not destroy this basic respect for the size of the national debt. Many felt that the deficits rung up by Roosevelt were a necessary, but temporary, fix brought on by the severity of the Great Depression.

Over the years following the Second World War the temporary nature of the national debt got lost in the shuffle of academicians who began to view the debt as a necessary annoyance. Fiscal responsibility and the retiring of the national debt began to be outmoded beliefs that the media attributed to ancient Neanderthals. By the time I became a Member of Congress the debt was up to around $200 billion and it had become commonplace to raise the debt limit by $2, $4, or $6 billion just at the asking. The Great Society summoned in a new era on the debt. No longer an annoyance in the minds of policymakers, it became a mark of distinction to have the debt grow, a symbol of how much Government was willing to commit to a quantum leap in social welfare and Federal regulation to meet the goals of the social engineers.

As with any speculative bubble, the national debt had to burst. The phenomenon of stagflation that has settled on the seventies is a direct result of this Congress letting the bubble get out of hand. Today the national debt dries up our Nation's capital markets. Without capital there is no pool of investment to expand the economy. What expansion there is comes from inflation. Part of the inflation cycle is a decline in the supply of available fuels and other raw materials. Unless the law of supply and demand has been repealed, it is inevitable that the prices of the remaining goods will rise as supplies decline. One way to combat this type of inflation is to develop new sources of supply or alternatives that may be more readily available. At this point the national debt and the size of Government come into the formula. With an ailing capital market there is less money for investment. With growing Government regulation, there is too much redtape to provide incentives for what capital investment there is left. It is a cycle that is grinding America into the ground. It is a phenomenon that is delivering the United States into the hands of foreign energy producers and the American taxpayers into the hands of private debt or limited lifestyles.

It does not need to be this way. Accountability is all that is needed to bring this Nation out of the downward spiral that has typified the seventies. The Congress does not need to be bullied by special interests and the half-baked theories of the social engineers. It only has to draw a line and state it will go no further in aiding and abetting America's decline. We do not need a constitutional convention to balance the budget. We do not need zero based budgeting or sunset. We only need the courage to say "no more." In one vote we could shatter the mythology of Keynesian economics.

This one vote could be to lay down the law that there would be no further increase in the national debt, period. To placate those who would whimper about pressing obligations there could be a rise in the debt for the fiscal year, but then, no more. From then on the budgeting cycle would have a restraint to function within. The pie would not grow any more and the prioritizing of issues and programs that has long been neglected by this Chamber would have to occur. The debt could begin to ebb and the private capital markets could once again reassert themselves, making for a healthy, and stable, economy.

This vote will not come today. It was attempted by my colleague from Maryland, Mr. BAUMAN, in February, but the leadership was able to have a closed rule to prevent the confrontation. Today, we will lose the opportunity again. As long as there are closed rules on the debt limit we will have these crisis votes to raise the debt x billions of dollars just before the Government defaults on its obligations. This is not budgeting, it is flim flam to cover the growth of big government. Unless this House acts today the flim flam will be made worse by allowing this House to duck the entire issue of the debt. Unless the provision relating to future debt increases is removed from the bill there will be a built-in escalator for future expansions of the debt.

I ask my colleagues where is the accountability in these actions? Are we not sitting here to be accountable to the voters of this Nation? Where is democracy going to be if we persist in the fiction that our hands are tied? The American taxpayer deserves better treatment than this. The pressing issues of inflation, and energy, need more consideration than how incumbents can duck voting on the root cause of our present problems.

The accountability issue is growing worse. The Congress rules as much by example as by its votes. The decline of accountability in this body has already manifested itself in the bureaucracy. We initially allowed the bureaucracy to get out of hand by delegating first administrative detail and then tough decisions to it. Now we have allowed budgeting to drift off into the Federal triangle. Inspectors General reports and GAO reports go unheeded by the bureaucrats. Administrative savings are ignored. Waste and fraud are at epidemic proportions. Bizarre examples of perfectly good furniture and office machines being thrown out to make way for new purchases are surfacing. Other examples of agencies overspending their budgets in the fourth quarter in order to preserve their claim on increased appropriations are reported by the national media. In all cases the root is that there is no accountability. There is no incentive for savings or for competence. No matter how many reorganizations or civil service reforms are passed the fact remains that until the well runs dry there will always be a ready source of money to gloss over the failures of government and to, in fact, reward them.

This is a total perversion of what built America. At one time we fought a major revolution over the issue of taxation without representation. Today we have taxation without accountability. This is worse than no representation, because the veneer of democracy is maintained. I urge my colleagues to stop this horrible turn of events and vote to keep accountability in Congress and to vote to finally bring to an end this charade known as the temporary debt limit.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague, the gentleman from Ohio (Mr. LATTA), for his statement and for alerting the Members of this body to the fact that there is far more in front of us today in this legislative proposal than just a simple increase in the national debt.

Mr. Speaker, once again the Rules Committee has reported a rule providing for the consideration of a bill to increase the public debt. The rule is labeled "modified open," though in truth the rule is a good deal more closed than open. And once again, the bill includes not only an increase in the public debt limit, but a major change in House procedures, which would abolish the debt limit bill as a separate piece of legislation, and instead attempt to set the debt limit in conjunction with the budget resolution. While this procedural change may at first sound deceptively appealing, in fact there would be major problems in this approach.

First, setting the debt limit as part of the budget resolution just puts one more heavy burden on the budget process. It is extremely difficult to make the budget process work without this additional burden. With it, the budget process may collapse completely. While I realize that many of those advocating this change do not intend that result, the damage to the budget process will be no less real than if it had been intended.

A second problem with this proposed rules change, Mr. Speaker, is that it has never been marked up or reported by the committee of original jurisdiction, namely the Rules Committee. H.R. 5369, the debt limit bill, was referred jointly to the Committee on Ways and Means and the Committee on Rules. The Committee on Ways and Means reported the bill and filed part I of the committee report, dealing with the parts of the bill which falls within its jurisdiction. However, the Rules Committee, never marked up or reported title II of the bill which establishes a new House rule. All the Rules Committee did was vote out a rule making this bill in order. In effect the Rules Committee discharged itself of H.R. 5369, without any consideration of the part of the bill falling in the committee's jurisdiction. Let me stress once again this is not a minor change. We are being asked to add a new rule to the House Rules and make a major procedural change, and the committee of jurisdiction has not held a markup. The argument has been made that a Rules subcommittee held hearings in the last Congress on proposals to set the debt limit as part of the budget resolution. But several of the witnesses in those hearings concluded that the procedures proposed at that time were unconstitutional. Now we have this new proposal which the proponents claim is sufficiently different to get around the constitutional problem. But, who knows? No hearings in the Rules Committee have yet been held on this new proposal.

And Mr. Speaker, the House is not going to have a chance to consider amendments to this proposal, known as the Gephardt proposal, because this rule does not allow floor amendments, except one correcting amendment specified in the rule. The fact that the need for one correcting amendment has been discovered in just the few days since this bill was introduced, leads me to wonder what other correcting amendments need to be made, but will not be discovered until too late to make the change.

In addition to the problems I have mentioned, Mr. Speaker, there is one other reason why we should not abolish separate consideration on the debt limit. In the consideration of the debt limit bills, our attention is focused solely on the amount of debt this country has accumulated. We need to do this from time to time. In budget resolutions, the debt limit figure tends to disappear in a morass of other figures. At least every once in a while we should stop and realize what we are doing to this country, by burdening it with an ever escalating national debt. Better to face the truth than to ignore the problem and hope that it will go away. We cannot escape the truth about this debt by attempting to hide it in the budget resolution. During the consideration of the bill you will have an opportunity to strike this proposed new procedure and I strongly urge you to vote to strike.

Mr. LATTA. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5369) to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5369, with Mr. McHUGH in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

☐ 1250

Mr. ULLMAN. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, we debated this bill in committee last week at some length. I am going to confine my remarks today to the essentials of the bill that we are bringing back and the urgency of getting this matter satisfactorily behind us on this vote today.

This bill before us extends the debt ceiling at those levels under which the Government can operate without serious restrictions to May 31, 1980. We extend the debt ceiling to that level. This requires an additional $49 billion of debt authority.

PUBLIC DEBT LIMIT

At present, the limit on the amount of public debt is $830 billion, and temporary authority to issue $430 billion of this total is available through September 30, 1979. After that date, the temporary authority will expire, and only the permanent authority to issue $400 billion in debt will continue to be available.

In this bill, the Committee on Ways and Means has reported an increase in the debt limit to $879 billion through May 31, 1980. The increase of $49 billion will be sufficient authority to meet borrowing requirements through May 1980, assuming realization of administration estimates of a budget deficit of $29.4 billion in fiscal year 1980 on a trend-line toward virtually a balanced budget in fiscal year 1981—a deficit of only $1 billion.

The debt limit situation is critical right now. It is imperative that the House pass this increase in the debt limit today and enable the Senate to pass the bill by the end of the week.

We must act promptly, if we want to minimize the disruptions, which have already begun, to orderly debt management and to avoid jeopardizing the Federal Government's ability to meet its financial obligations. The Treasury Department already has postponed auctions of $3.25 billion of 2-year notes and $2.5 billion of 4-year notes which were scheduled for Tuesday and Wednesday of this week. They had to be postponed because the maturing notes come due on Sunday, September 30, and the refinanced notes could not be delivered, and dated, until October 1, 1979. The Treasury Department cannot promise to deliver those notes on Monday until it knows that it has the legal authority to do so. The delay also tends to upset the Government securities market, as investors have to determine whether to wait until the notes become available or to seek alternative forms of interest-bearing securities.

A more serious result from failure to enact this bill will materialize next week, that is, when the Treasury will not have the funds with which to pay the bills. The Treasury last week estimated that it would be able to last through Wednesday, October 3, and probably through Thursday, October 4. After that day, it may have to default on payments of the Government's debts. The accuracy of this projection is not important. It does not matter whether the Treasury will run out of money 2 days earlier or 2 days later. The mere prospect of default because Congress fails to make timely adjustments in the debt limit is terrible enough.

INCREASE IN LIMIT ON LONG-TERM BOND AUTHORITY

The committee bill increases the authority of the Treasury Department to issue long-term bonds. Since 1970, Congress has allowed the Treasury Department to issue bonds which carry interest rates above the statutory ceiling of 4¼ percent. This ceiling applies to U.S. debt with maturities longer than 10 years which are held by the public.

At the present time, the exception provides authority for $40 billion of these bonds to be outstanding. The Treasury Department has asked the committee to increase that $40 billion in authority to accommodate the estimated requirements of its financing program for fiscal year 1980.

In the past when the committee has accommodated administration requests for an addition to this exception, the addition has been just enough to meet requirements in the immediate future. The committee has been wary of granting too much authority for long-term bond issues when prudent policy calls for the Government to minimize its participation in the long-term bond market. At the present time, however, the Treasury Department believes that the appropriate debt management policy for the Federal Government is to issue additional long-term debt because it is substantially less inflationary, less costly to the Government, and permits the use of more efficient debt management techniques than short-term debt.

The committee has provided an increase of $10 billion, to a total of $50 billion, which is enough additional authority to meet the administration's plans through May 1980.

SETTING DEBT LIMIT IN BUDGET RESOLUTION

Title II of the bill is the Gephardt amendment to the House rules, and the Second Liberty Bond Act. The amendment will permit the House to treat its approval of a budget resolution also as approval of the public debt limit. Each budget resolution specifies the appropriate public debt limit for the fiscal year covered by the resolution. That debt limit is determined in conjunction with the decisions which set the levels of budget outlays, receipts, credit policy, and other financial adjustments. These are the basic budget decisions, and the change in public debt limit needed for any fiscal year cannot be determined responsibly before the budget decisions have been made. Making the budget resolution the basic vehicle for setting the debt limit clearly is the most appropriate procedure which the House can follow. The Ways and Means Committee retains the jurisdiction to originate a bill under present procedures, which it will exercise at the appropriate time.

The Gephardt amendment establishes a procedure that is consistent with our budgeting procedure that is responsible, very carefully worked out, and, I think, will greatly improve both the way in which we handle this and the image of the House as we exercise our responsibility to both budgeting and to the debt ceiling problem.

The House approved this procedure by a voice vote last week, and I urge the Members to repeat that display of good judgment.

As I said before, the decisions that have gone into this requirement for a debt ceiling increase have been made in the past. We are at the point now where we must meet the obligations of those past decisions. The budgeting process is the way to get a handle on the long-term spending problem of the country.

I think it is very significant that the President, in making his recommendation for a debt ceiling extension, believes that we will be very close to a balanced budget in fiscal year 1981. Fiscal responsibility is a concern that I think is shared by the Members of this body. We deal with that in our budget procedure and in our spending bills. The debt ceiling matter is only a matter of accommodating those decisions that have already been made so that the Government can stay in operation.

Mr. Chairman, there will be one amendment offered by the gentleman from Missouri (Mr. GEPHARDT), a minor technical clarification in the so-called Gephardt amendment.

There is in order under the rule a motion to strike title II, which may or may not be made. I will strongly oppose that, because I think the Gephardt amendment is very important, and then on vote on final passage I urge the Members to support the bill.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Ohio.

Mr. LATTA. I thank the gentleman for yielding.

Mr. Chairman, I want to ask the gentleman a question about the matter of off-budget items. The gentleman served on the Budget Committee as its chairman for quite a period of time and he is familiar with that budget process. I just want to call to his attention that we do not consider off-budget items in the budget process, but in the gentleman's debt ceiling bill he does consider those matters. How does the gentleman resolve this matter? You have about $16 billion in off-budget matters that are not now considered by the Budget Committee that the gentleman must be concerned with as he joins the two together. How does the gentleman propose to handle this problem?

Mr. ULLMAN. Mr. Chairman, let me say to the gentleman that as we move forward in our experience with the budget, it is my hope that we will be able to expand the budget authority to include those off-budget items. The gentleman is no more concerned than I am about this matter. We look at it very carefully each time we handle the debt ceiling. We will do that in making our recommendation to the Budget Committee under the procedures established by the Gephardt amendment. That will be included, and that will be a part of the procedure that we are establishing.

Mr. CONABLE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, here we are again to consider the legislation increasing the public debt limit.

The new debt limit is $879 billion versus $929 billion in the bill which the House rejected last week. On the surface, this appears to be a $50 billion reduction in the debt level. But this reduction was achieved by shortening the duration of the debt limit by 10 months. The debt limit in H.R. 5369 actually reflects the same spending rate as the earlier legislation. On a proportional basis, the debt is identical to what the Treasury Department projected its debt requirement to be through May 31, 1980.

In any other context, such manipulation would be compared to a carnival shell game. But for some curious reason, when it occurs as part of the debt legislation it becomes the excuse for changing a critical number of votes. I think the positive feature of this bill, as it was when it came up before, is not in the amount of debt authorized but the inclusion of the initiative of the gentleman from Missouri (Mr. GEPHARDT) to consolidate the debt ceiling and budget process. I believe this consolidation is a wise move. I welcome it. It is a commonsense change in our method of adjusting the debt ceiling.

Mr. Chairman, I urge support of title II, which effectuates this consolidation.

I urge opposition to the debt ceiling itself.

Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I would again take the floor to urge support of the Gephardt amendment. It seems to me it is a rational way to get out of a bad situation. Under current procedures we take repeated votes for the extension or expansion of the debt limit, most of which turn out to be meaningless because that extension or expansion is turned down. Eventually, because we know we have to pay the bills, we do pass the extension of the debt limit.

It seems to me that there is no good reason to separate the debt limit from the budget whose deficit caused the need to increase that debt limit. Therefore, the Gephardt amendment seems to me to be an ingenious way to link the two. It would also provide a solution to the shelter we give some of our Members to avoid their responsibilities when they vote for a budget resolution and against the debt increase that is necessary to finance it.

So I would urge the defeat of the amendment which seeks to strike the Gephardt amendment from the bill.

Another good feature of this particular expansion is that there is an increase granted in the long-term debt of the Treasury. There is always a problem of balancing the long-term with the short-term debt to get the lowest possible cost for the taxpayers. I think the committee has done a good job in responding to requests by the Treasury to increase the long-term debt.

With respect to whether we should vote for the bill or not, there is still a great reluctance on our side of the aisle to help pass debt increases when we have not been the ones which have incurred the expenses which caused those debt increases. I do not think we are going to see any change on that today. I certainly am not necessarily recommending it to any of my colleagues.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I rise again to try to explain and to urge support for this debt ceiling bill, which includes this new mechanism for including the debt ceiling into the budget process.

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I would start by trying to answer the question raised by the gentleman from Ohio (Mr. LATTA), when he made the point that we have an off-budget question with regard to the debt ceiling number that is in the budget resolution.

I would tell him that the way we now operate is that the Ways and Means Committee sends a debt ceiling number by March 15 to the Budget Committee. That debt ceiling number includes off-budget spending as well as trust fund borrowing, as well as the projection for the direct outlay spending that is projected in that budget resolution. That process would continue as it does now. In the budget process, therefore, room is made in the debt ceiling number for trust fund borrowing and for off-budget spending.

So that the number that comes out of the budget process should appropriately reflect those two items as well as the direct spending that is contemplated in that budget resolution.

Now, obviously, if there are mistakes made, as now, if we make a mistake in estimating when we pass a public debt ceiling, there is always the opportunity for the Ways and Means Committee to come forward and to propound legislation as we do now on the public debt ceiling.

Indeed, I believe that the projections for off-budget spending for trust fund borrowing as well as for direct spending in the budget process will be adequately and appropriately reflected in the figures that would be in the budget resolution and therefore the joint resolution that goes to the Senate for consideration.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Ohio.

Mr. LATTA. I thank the gentleman for yielding.

Even though we disagree on the amendment, let me commend the gentleman for all the hard work he has put in on it.

Let me just indicate what the gentleman said earlier, that the House Committee on Ways and Means, which has jurisdiction over these off-budget items, and so forth, will submit a number to the Budget Committee which does not have jurisdiction over off-budget items, then it becomes the responsibility of the Budget Committee to insert those figures, even though they do not have jurisdiction over it in its budget resolution, which it will report to the House. Is that not what the gentleman is saying?

Mr. GEPHARDT. That is correct.

Mr. LATTA. That seemed like an odd way to get here.

Mr. GEPHARDT. Obviously this is not a usual, orderly process.

Mr. LATTA. I agree with the gentleman.

Mr. GEPHARDT. It is one I submit to the gentleman. We disagree. I understand that. It is designed in my mind to make the process more orderly and more truthful. I realize the gentleman disagrees on that, but that indeed is how the mechanics would work.

Let me also make the Members aware that when we go into the 5-minute rule and the amendatory process, I intend to present a technical amendment, a matter which was brought up by the Parliamentarian in the other body, which had to do with the exact language that was in my amendment. In the original amendment, I said when the number finishes the budget process on the public debt ceiling, that number should be taken by the Clerk of the House and put into a joint resolution and engrossed and enrolled and sent to the Senate.

The Parliamentarian in the Senate very properly pointed out that we do not enroll as well as en gros joint resolutions and send them to the Senate after we pass them, that we only en gros them and that the enrollment takes place after the Senate has considered the matter and we have agreement.

I am going to offer a technical amendment to make it clear that we are only engrossing that joint resolution before we send it over, which is entirely appropriate, under our process and under the Senate process.

I would end my remarks today by reiterating, as I did the other day, that in my mind, this new process with dealing with the public debt ceiling achieves two very important things.

First, it puts the consideration of the appropriate level for the debt ceiling where it legitimately and logically belongs. That is in the context of when we vote for the spending that creates the need to change the debt ceiling.

In my mind, it allows us to put these matters in the wrong place for some of us to tell people that we are really holding down spending when we voted in favor of a budget, but we then vote against the debt ceiling in the name of fiscal austerity.

Lastly, I would say that, having done that, we, I think, make a step forward in cutting down the amount of time that we spend doing unnecessary things.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. GEPHARDT) has expired.

Mr. ULLMAN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. I really think, since the advent of the budget process, the business of addressing the debt ceiling, while it is still vital and important, the way that we do it is an anachronism. It is out of date. It is not conforming with what is obviously the new process that we have in the House.

I believe that, by passing this kind of a change, we will free up time in the House and in our committees to more appropriately deal with the very important matters that indeed determine how much money we spend and how high we have to raise the public debt ceiling.

I thank the chairman of the Ways and Means Committee for his effort through the last 2 or 3 years to try to make this possible. Without his help, without his encouragement, we would not be here today with this process on the floor.

I appreciate the cooperation of the chairman of the Budget Committee, the gentleman from Connecticut (Mr. GIAIMO), for his help, and I appreciate very much the help of the gentleman from New York (Mr. CONABLE) and the gentleman from Minnesota (Mr. FRENZEL) for their support for what many of us believe is an important change in our process.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Oregon.

Mr. ULLMAN. I thank the gentleman for yielding.

I want to commend the gentleman for his leadership in this area and strongly endorse his recommendation that the Gephardt amendment stay in the bill, that we defeat the amendment that would delete it, because it is a very important step forward in congressional responsibility in the handling of the public debt limit.

Mr. GEPHARDT. I thank my distinguished chairman.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

I want to commend my colleague from Missouri for his leadership in this area that in the future we will not be faced with the difficult task of differentiating between the budget resolution and the debt ceiling. I think he has shown great leadership in this issue and many issues to come.

Mr. GEPHARDT. I thank my friend from Missouri.

Mr. Chairman, I yield back the balance of my time.

Mr. CONABLE. Mr. Chairman, I have no further requests for time.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, I realize that this is probably the most frustrating issue that comes before this House several times each and every year. During the some 2½ years that I have had the privilege of serving in the House, I have attempted to rationalize the opposition to this issue, and really it boils down to two things, I believe.

First of all, there is always the political aspect of it. I do not think anyone in this House has anyone writing them asking them to vote to extend the debt limit.

There is no constituency for this type of legislation, obviously. So there are political considerations, and each of us has those considerations.

Second of all, I think that the debate on it may serve one good purpose. That is simply to point out the extent of the total national debt; but as far as the merits of the issue, there is no rational reason that I can find other than the political aspects of it for opposing this legislation each and every year.

As a matter of fact, it has been pointed out time and time again that we really play a game with ourselves. When we have a Republican President in the White House, then many of the Democrats do not feel obligated to vote for the debt limit legislation.

When we have a Democrat in the White House, few, if any, Republicans feel any obligation whatsoever to vote for this legislation. I think that is bad on the part of this House, because all of us in private agree that this has to be done if the Government is going to continue to operate.

Some portion of this 800 billions of dollars was incurred during World War II. Some parts of it was incurred during the Korean war and during the Vietnam war. We are saying by a "no" vote, "I don't want to pay the debts of the United States incurred during World War II or during any of the other conflicts." Some part of this debt comes from defense expenditures.

I join my friends over on the minority in voting for almost every increase in national defense because I truly believe that we desperately need increased expenditures in defense for the protection of our Nation.

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Yet when it comes time, and this is disturbing to me personally, when it comes time to pay the bill, to go on record for paying for that defense, I find that there are no votes on the other side. That is a tragedy, in my opinion, for the House to take that type of a position.

I realize, I represent a conservative district and I have had to confront this issue but I simply have never found a reason to vote against it. I truly believe that if we are to contain Federal spending and to eliminate the need to increase the debt, we really have to look at the appropriation process. But we can never accomplish what we are seeking to accomplish by consistently defeating this bill and coming back to redo it.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield to the gentleman.

Mr. ULLMAN. The gentleman is making a very thoughtful statement. I think the time has come to do what the gentleman suggests. The importance of the debt limit has been totally distorted, not just in the minds of Congressmen, but by a lot of those people who compile voting records who count this a spending bill. Nothing could be further from the truth. That kind of misconception, it seems to me, simply cannot be justified. I commend the gentleman.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. Yes, I yield to the gentleman.

Mr. DICKS. Mr. Chairman, I would like also to compliment the gentleman from Georgia. I think he has made a very accurate and realistic statement about this problem.

As a member of the Appropriations Committee I would just like to point out to the gentleman that the Appropriations Committee is responsible for a portion of the spending, and we are trying our best on all 13 bills to hold down the level of spending.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. ULLMAN. Mr. Chairman, I yield 4 additional minutes to the gentleman from Georgia (Mr. JENKINS).

Mr. DICKS. Mr. Chairman, will the gentleman yield further?

Mr. JENKINS. I yield to the gentleman.

Mr. DICKS. Mr. Chairman, I would say to the gentleman that one of the initiatives this year on the disability legislation that came out of the Ways and Means Committee is also a significant step, because a great portion of the spending in this country is done through entitlement programs for which the Appropriations Committee has little or no control. I would hope the Appropriations Committee and the Ways and Means Committee could get together on some of these things, because I think the responsibilities are shared and are not just the responsibility of one area of the Congress, but two important committees having a dual responsibility. I think if we can do that we can get to the balanced budget which I think those of us who are in the majority, I think both from a liberal viewpoint and a conservative viewpoint, I think is a priority for this country in terms of solid fiscal management and in our efforts to control inflation.

The gentleman is so correct though on the point that we should not defeat this particular bill. This is what we have to do because of things that have been done in the past. The gentleman is absolutely correct, we should support the committee here and pass this debt limitation extension, and then get back to the real job of containing spending through entitlements and appropriations.

Mr. JENKINS. I thank the gentleman for his comments.

I would like to say finally that GAO has reported that because we waited until the last minute last year to extend the debt limit, to pass similar legislation, it actually cost the American taxpayer some $15 million because of our insistence of being on record against extending the debt limit. Some publication ought to print a poll to show how much it really costs this Nation every time we wait until the last minute to give the Treasury Department authority to roll over the debt that this Nation has incurred for many, many decades.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield to the gentleman.

Mr. DICKS. Mr. Chairman, I think the gentleman's point is so well taken. Think of what interest rates have done in the last few weeks. The prime rate has gone up again.

I would bet playing politics with this issue has cost us money at this time, too.

Mr. JENKINS. I understand why everybody wants to be on record against this. However, I think we are making a bad situation for this Nation in constantly making this a floor fight, when all of us know there is no real issue in this legislation.

I would hope that those people who do support the veterans, who support defense, revenue sharing, will share in supporting this bill to pay for those programs.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I am happy to yield to the gentleman.

Mr. CONABLE. Mr. Chairman, I would like to thank my friend for his oft-repeated advice to the minority on this issue. It is always interesting to see what one party advises the other to do, and it is always interesting to see the extent to which the majority urges the minority to be responsible so more of them can vote against something they believe to be largely a matter of party politics.

Mr. JENKINS. I am sure my friend from New York would agree that a debt limit extension bill has to be passed.

Mr. CONABLE. If my friend will permit me to respond, I believe also that there are many issues here of greater party magnitude than this one. I quite agree that we go through this process altogether too much. However, I do not see any reason why on an issue of this sort, given its comparative lack of significance in terms of controlling the fiscal policy of the country, why the minority should be required to let those majority Members who are from marginal districts have the benefit of voting against this bill politically, which you would have us deny to ourselves.

The CHAIRMAN. The time of the gentleman from Georgia has again expired.

Mr. ULLMAN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, let me simply say this, I might have more faith in the position that people take in opposition to this and similar pieces of legislation were it not for the past record and looking at what happened in 1973, where none of the Members from the gentleman's party voted to extend the debt limit. The bill went over to the other body and an amendment was added to it to raise social security benefits by 10 percent. It came back over here and there were only five or six Republicans that then voted against it.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. Yes, I yield to the gentleman.

Mr. CONABLE. Mr. Chairman, the gentleman, the gentleman in the well is now addressing was among those. I believe there were a total of 36 in the House.

Mr. JENKINS. And I congratulate them.

Mr. CONABLE. If the gentleman will continue to yield, of that number a much greater proportion were Democrats than Republicans.

Mr. JENKINS. But the gentleman would agree that suddenly the House changed its position, and to me that indicates that there was no validity to their argument in the first place, because in order to vote for a 10-percent raise in social security benefits everyone quickly decided to vote for the debt limit extension. I simply think this argument is not valid, and I think that the gentleman and I, who agree so often on so many issues, would have to say that this debt limit or a similar debt limit bill has to be passed by this House.

Mr. CONABLE. If the gentleman will continue to yield briefly, I just wish to point out if the gentleman wishes to come to political conclusions about this then he must expect political rejoinders.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I am happy to yield.

Mr. ULLMAN. Mr. Chairman, I think what the gentleman is saying is that this is not and should not be a political matter. When we act on our appropriation bills and our budget resolutions, I see the reason for some Members to let politics influence their voting, but at this point in the process, the spending decisions have been made by majority vote in Congress. We made the decision in the past that brought us to the point now where—if we do not pass this bill—we cannot pay our debts, and we will bring the Government to a grinding halt. I think that is the responsibility of the minority as well as the responsibility of the majority to keep this Government viable.

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Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. CONABLE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment. No amendments are in order except the following amendments:

(1) Pro forma amendments for the purpose of debate; (2) amendments offered by direction of the Committee on Ways and Means or the Committee on Rules, which shall not be subject to amendment except pro forma amendments for the purpose of debate; (3) amendments only changing the date certain on page 2, line 5, or only changing the numerical figure on page 2, line 8, and said amendments shall not be subject to amendment except pro forma amendments for the purpose of debate and germane amendments only changing said date or said figure; (4) an amendment printed in House Resolution 425, which shall not be subject to amendment except pro forma amendments for the purpose of debate; and (5) one motion to strike title II which shall not be subject to amendment except pro forma amendments for the purpose of debate.

The bill reads as follows:

H.R. 5369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TEMPORARY INCREASE IN PUBLIC DEBT LIMIT; EXCEPTION TO INTEREST RATE CEILING ON BONDS

SEC. 101. (a) During the period beginning on the date of the enactment of this Act and ending on May 31, 1980, the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased by $479,000,000,000.

(b) Effective on the date of the enactment of this Act, the first section of the Act of April 2, 1979, entitled "An Act to provide for a temporary increase in the public debt limit, and for other purposes" (Public Law 96–5), is hereby repealed.

SEC. 102. The last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out "$40,000,000,000" and inserting in lieu thereof "$50,000,000,000".

TITLE II—ESTABLISHMENT OF PUBLIC DEBT LIMIT AS PART OF CONGRESSIONAL BUDGET PROCESS

SEC. 201. (a) The Rules of the House of Representatives are amended by adding at the end thereof the following new rule:

"RULE XLIX

"ESTABLISHMENT OF STATUTORY LIMIT ON THE PUBLIC DEBT

"1. Upon the adoption by the Congress (under section 301, 304, or 310 of the Congressional Budget Act of 1974) of any concurrent resolution on the budget setting forth as the appropriate level of the public debt for the period to which such concurrent resolution relates an amount which is different from the amount of the statutory limit on the public debt that would otherwise be in effect for such period, the enrolling clerk of the House of Representatives shall prepare an engrossment and an enrollment of a joint resolution, in the form prescribed in clause 2, increasing or decreasing the statutory limit on the public debt by an amount equal to the difference between such limit and such appropriate level. The vote by which the conference report on the concurrent resolution on the budget was agreed to in the House (or by which the concurrent resolution itself was adopted in the House, if there is no conference report) shall be deemed to have been a vote in favor of such joint resolution upon final passage in the House of Representatives. Upon the engrossment and enrollment of such joint resolution it shall be deemed to have passed the House of Representatives and been duly certified and examined; the enrolled copy shall be signed by the Speaker and transmitted along with the engrossed copy to the Senate for further legislative action; and (upon final passage by both Houses) the joint resolution shall be presented to the President for his signature (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

"2. The matter after the resolving clause in any joint resolution described in clause 1 shall be as follows: 'During the period beginning   and ending   , the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased [or decreased] by $ (and any other provision of law providing for a temporary increase [or decrease] in such limit shall not apply).'; with the first two blanks being filled with the beginning and ending dates of the fiscal year or other period to which the concurrent resolution on the budget just agreed to relates, and with the third blank being filled with a dollar figure equal to the difference between the statutory limit on the public debt as set forth in section 21 of the Second Liberty Bond Act and the appropriate level of the public debt as set forth in such concurrent resolution.

"3. The report of the Committee on the Budget of the House of Representatives accompanying any concurrent resolution on the budget under section 301(d) of the Congressional Budget Act of 1974, as well as the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget, shall contain a clear statement of the effect under this rule that the adoption by both the House and the Senate of such concurrent resolution in the form in which it is being reported (and the adoption of the joint resolution thereupon prepared and enrolled under clause 1) would have upon the statutory limit on the public debt. It shall not be in order in the House of Representatives at any time to consider or adopt any concurrent resolution on the budget (or agree to any conference report thereon) if at that time the report accompanying such concurrent resolution (or the joint statement accompanying such conference report) does not comply with the requirements of this clause.

"4. Nothing in this rule shall be construed as limiting or otherwise affecting the power of the House of Representatives or the Senate to consider and pass a bill which (without regard to the procedures under clause 1) changes the statutory limit on the public debt most recently established under this rule or otherwise; and the rights of Members and committees of the House with respect to the introduction, consideration, and reporting of any such bill shall be determined as though this rule had not been adopted.

"5. As used in this rule, the term 'statutory limit on the public debt' means the maximum face amount of obligations issued under authority of the Second Liberty Bond Act and obligations guaranteed as to principal and interest by the United States (except such guaranteed obligations as may be held by the Secretary of the Treasury), determined under section 21 of such Act after the application of the second sentence thereof, which may be outstanding at any one time.".

(b)(1) Clause 1(v)(5) of rule X of the Rules of the House of Representatives is amended by inserting "(subject to the last sentence of clause 4(g) of this rule)" after "United States".

(2) Clause 4(g) of rule X of the Rules of the House of Representatives is amended by adding at the end thereof the following new sentence: "The views and estimates submitted by the Committee on Ways and Means under the preceding sentence shall include a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt which should be set forth in the concurrent resolution on the budget referred to in such sentence and serve as the basis for an increase or decrease in the statutory limit on such debt under the procedures provided by rule XLIX.".

(c) Clause 8 of rule XXIII of the Rules of the House of Representatives is amended—

(1) by inserting "(except to the extent that the amendment involved is limited by the third sentence of this clause)" after "mathematically consistent"; and

(2) by adding at the end thereof the following new sentence: "It shall not be in order in the House or in a Committee of the Whole to consider an amendment to a concurrent resolution on the budget, or any amendment to an amendment thereto, which changes the amount of the appropriate level of the public debt set forth in the concurrent resolution so reported; except that the amendments to achieve mathematical consistency which are permitted under section 305(a)(6) of the Congressional Budget Act of 1974 may include an amendment, offered by or at the direction of the Committee on the Budget, to adjust the amount of such level to reflect any changes made in the other figures contained in the resolution.".

SEC. 202. The first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) is amended by inserting before the period at the end thereof the following: ", subject to any increases or decreases in such limit which may from time to time be provided by law (through the congressional budget process as described in rule XLIX of the Rules of the House of Representatives or otherwise)".

SEC. 203. The amendments made by this title shall apply with respect to concurrent resolutions on the budget for fiscal years beginning on or after October 1, 1980.

AMENDMENT OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEPHARDT: "On page 3, line 12, strike out the words 'and an enrollment'; on page 3, line 21, strike out the word 'Upon' and all that follows through the period on page 4, line 5, and insert in lieu thereof the following: 'Upon the engrossment of such joint resolution it shall be deemed to have passed the House of Representatives and been duly certified and examined; the engrossed copy shall be signed by the Clerk and transmitted to the Senate for further legislative action; and (upon final passage by both Houses) the joint resolution shall be signed by the presiding officers of both Houses and presented to the President for his signature (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.'"

Mr. GEPHARDT. Mr. Chairman, as I stated in the general debate we need a technical amendment which would take out, in essence, three words from the original copy of my amendment to this bill. Those words are the words, "and an enrollment."

As the amendment originally pointed out, we instructed by the language of the bill, or the Gephardt amendment, the Clerk of the House to take the debt limit figure out of the budget resolution after the conference for the budget resolution had been completed and passed, and to put that into a joint resolution and to send it to the Senate. We, in the instructions, said for the Clerk to engross and enroll the joint resolution and send it to the Senate. The words, "and enrollment" are unnecessary and inappropriate. The usual process is simply to engross and send to the Senate. So, we by this amendment are trying to take that out, those words, and conform this to the usual practice and procedure between the House and the Senate. So, I ask that this technical amendment be approved.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. GEPHARDT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROUSSELOT: On page 2, line 18, strike title II and all that follows through page 7, line 24.

Mr. ROUSSELOT. Mr. Chairman, I rise to strike this title of the bill because I believe that the implementation of this new rule will obstruct a very important part of our responsibility here as the House of Representatives. The Constitution implies very clearly that the House of Representatives, is supposed to take the responsibility for controlling the purse strings. This amendment, as my colleagues have already stated, and this includes my distinguished colleague, Mr. GEPHARDT, the author of the amendment, say that it will make it easier for Members to complete the process. We will "free up our time," is the comment my colleagues use.

Now, whether this House likes it or not, increasing the debt ceiling is another form of taxation. The Treasury has to go out and borrow the money in the market place and use the future credit of the Federal Government. Whether we like it or not, that is the fact. Increasing the debt ceiling is another form of borrowing against future taxes. When this House tries to go around that process by only including in it the budget resolution, in a way I think it will obscure the visibility of that important responsibility of this House—that is increasing the debt ceiling. Sure, that responsibility is tough; sure, it requires time—but it should. It is an important way of providing a substantial amount of funding for the Treasury.

I think it is irresponsible to separate it or to make it easier to pass by including it in a budget resolution. The focus on the debt ceiling will be far less visible.

Now, we have no guarantee that the Senate will comply with what we say here on this rule change. As a matter of fact, they may go ahead and continue to vote on this whole issue twice, both in the concurrent budget resolutions, and the second procedure of requiring a separate vote on a debt ceiling increase.

So, I believe it is wrong to obscure the visibility of this responsibility. Sure, I understand the claim of my colleague from Missouri, "Well, it will free up time. We are too busy." But, are we really too busy for that important responsibility?

This is one of those areas where I think we should be busy and zero in on our responsibility as to what it really means when we increase the debt ceiling. It is hard for me to believe that individuals who have the responsibility of handling their own debt would say, "Well, I will pass that on to the next-door neighbor or somebody else, or we will do it at another time and place."

When we increase our personal debt, that is our individual responsibility. I think the U.S. debt is the responsibility of the House, and I am sorry that we are now thinking of separating it out, or making it easier to raise the debt ceiling by hiding it in the budget resolution. When we come here on this floor during the debate on the debt ceiling some of my friends say "free up the time because we are too busy to be bothered." I realize that it is boring and a lot of Members do not want to pay any attention to it, but that does not relieve us of that responsibility to consider such an increase in the debt ceiling in a meaningful way. A debt increase is also a combination of on-budget items and off-budget items, and we do not really debate those very extensively in the budget resolution.

So, I think we are sliding out from under that responsibility if we accept the Gephardt amendment. Again, I want to say that I compliment my colleague from Missouri in that he has encouraged us to take this issue up. I am not condemning the work and the time and the effort that he has spent in developing and advocating this change, because his effort does focus on the issue, but just because he has worked on it does not mean it is right. I think we would all acknowledge that just because somebody spent a lot of time trying to figure out a way to amend a process and a rule we already have does not make it right. That would be especially true if it relieves us of the responsibility that I think is ours as elected representatives.

Now, some people have said, "Well, this is necessary because some individuals in the House use it as a 'political excuse' to say they are voting against 'big spending' by voting against the debt increase."

Just because certain Members of the House may use it as an irresponsible vote instrument does not mean that it is right to take away the responsibility from the rest of the Members of the House who try to be responsible in the way they look at the vote on the issue.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent Mr. ROUSSELOT was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. I believe that this debt ceiling legislation is a second important discipline and that the Ways and Means Committee should abide by it. The gentleman's amendment states and requires the Ways and Means Committee to look at the deficit requirement and ceiling anyway. Why not have the full House vote on it and discuss it? Just because a lot of people are tired of it and want to shuttle it aside, is not a good reason to eliminate the rule and the responsibility to take the second disciplinary step; that is, to vote on the issue of how much and at what time we should increase or not increase debt ceiling.

I am sure that if we ever got to the place where we could reduce the debt ceiling there would be a lot of people in here who would be most anxious to vote for such a reduction. I do not believe we should eliminate it just because it is painful, as several people have said, or it is trouble or it gets in our way. I do not believe that should be the excuse to eliminate the rule of the House that requires us to look at that increase in the debt ceiling above and beyond the budget process.

□ 1330

One of my good colleagues from Georgia said some people come here and play games with it. That is their fault; that is not mine. I do not consider it playing games. I consider it part of my voting responsibility that I have to my constituency, to this country, as to what we do with that debt ceiling. It is an important issue involving well over $800 billion, a tremendous figure. It is the third or fourth largest item in the budget—that is the requirement of the interest charge that goes with the whole debt—and to say that has little meaning, no meaning, and that we really look at it in other hidden places I think fuzzes over our responsibility. I want to vote on this more than once. I am not afraid of it. I can assure my colleague, the gentleman from Georgia, I do not play games with it, and I think there are a lot of other people in this House who do not.

So, Mr. Chairman, I think this is an important second discipline for the House that is supposed to control "the purse strings." I hope the Members will vote to remove this title from the bill.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. LATTA. I thank the gentleman for yielding. Let me commend the gentleman in the well for offering this amendment. I intend to support it. I think that it is absolutely wrong to be taking this step because, as he has already indicated, I think it does put some discipline on this House and on the Senate, and it makes them realize that they are adopting day after day, as they pass these appropriation bills, figures that eventually will go into that national debt that will have to be reckoned with. Certainly the American people are familiar with that figure.

Mr. ROUSSELOT. I will say to my colleague the American people are indeed very familiar with that huge debt.

Mr. WYLIE. They certainly are, and if we get home and talk to our constituents, they talk about that national debt, and they are talking about the interest, as the gentleman has indicated, on that national debt that they have to pay for.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. LATTA, and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. LATTA. If the gentleman will yield further, they might not be paying anything on that principal that they are passing on to their children and grandchildren and grandchildren's grandchildren, because they are not paying anything on the principal but they are paying on the interest. When they settle up with Uncle Sam to pay up that third highest item in the budget, they are paying on the interest. They cannot escape that, and they are well aware of it. I think the American people are not going to look kindly on any action this House might take to put this matter underneath the rug so that it will be passed very quickly, hopefully in the budget resolution, without directing the attention of the American people to that ever-increasing, yes, ever-escalating national debt that is put on them because of the big-spending habits of this Congress.

I commend the gentleman for offering his amendment, and I certainly will support it.

Mr. ROUSSELOT. I thank my colleague for his remarks.

Let me just conclude by saying that I think it is an important House responsibility. I think we should continue it, and I hope my colleagues will vote to keep the rule as it is. I urge a yes vote on the Rousselot amendment.

Mr. ULLMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, of course I rise in strong opposition to the amendment offered by my friend, the gentleman from California (Mr. ROUSSELOT), but the gentleman from Missouri (Mr. GEPHARDT), the author of the amendment and the prime mover will make the argument against it to the members of this committee and the House. But I want to clarify a point. The gentleman from California (Mr. ROUSSELOT) has said a number of times that a debt ceiling is some form of taxation. Nothing could be further from the truth. It is not a form of taxation. The decisions that determine the debt ceiling today have been made in the past. We have made them in the appropriation process, in every bill we pass or fail to pass in tax legislation, and in our budget resolution; and we have a budget procedure now. We have programed by positive action the results that we have here today. All we are doing today is saying, all right, since we made those decisions in the past, now we are going to pay the bills and accept responsibility for those decisions in the past.

Reference has been made to the comparison to a private individual incurring debt. Here is the proper comparison. An individual goes out and buys on credit and buys on credit, and then when the day for payment comes, he solves his debt problem by just not paying the bills. That is not the responsible way to do it. We have incurred these bills. What we are saying today is only that we will pay those bills. We will do better in the future in the appropriations, spending, and budgeting process, but we have to find a better way to pay the bills to keep this country going.

Let me say the amendment that the gentleman from California (Mr. ROUSSELOT) seeks to strike develops a new procedure that ties down the responsibility. It ties, as it should, the debt ceiling process to the decisions on the budget. That is the proper focus for the responsibility; and the Gephardt proposal is a significant tightening of our budget procedure, a meaningful thing. It is putting the debt ceiling in the right relationship to the spending and revenue process. So I think that the Members of this body on careful deliberation will want to move to tie the debt limit to the spending process and to the budget procedure where it ought to be and do so in a responsible way; I strongly urge the Members to oppose this amendment. Then, I urge them to vote for the debt ceiling, which is a vote to keep this Government viable and pay the bills that we have incurred through our past actions.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield briefly?

Mr. ULLMAN. I will be happy to yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's yielding. I want to comment that I too, have favored the budget process. I have from the beginning. The problem is that the timeliness of which the gentleman speaks has not always been present with the budget process. It has floated around between the House and the Senate with far more difficult timing than even the debt ceiling increase. So to say that somehow by forcing it to be attached to the budget resolution it will be more timely I do not think is a good argument because right now we still have afloat the budget resolution for this House. It is still in limbo, as the gentleman knows.

Mr. ULLMAN. I want to say to the gentleman I am not arguing timeliness; I am arguing the right forum in which to make this decision is in the budget resolution when we are making the overall spending decisions and the overall revenue decisions for the next fiscal year. That is the right forum. That is what we are attempting to do today, and I urge the Members to vote down this amendment.

Mr. GEPHARDT. Mr. Chairman, I move to strike the requisite numbers of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise to oppose the Rousselot amendment which would strike the changes that were made in the bill to institute this new debt limit process. I want to very strongly agree with the gentleman from California (Mr. ROUSSELOT), the maker of the amendment, that the debt ceiling is important. Let there be no fuzzing of that issue, or any indication that I or any of us here believe or are advocating by this amendment that the debt ceiling is not important. Obviously it is a legal act of great consequences. It increases the debt of the United States. It has a lot to do with our budgeting costs. It has a lot to do with interest rates all over the country. It is a meaningful act. We quite agree on that point. Where we disagree is whether or not freestanding public debt limitation is a second discipline in the Congress, and I would submit to the Members it is not a second discipline at all. I would strongly argue and disagree with the gentleman from California (Mr. ROUSSELOT) that this new process would obscure what we are doing. In fact, I would argue very strongly that what we are doing now obscures what is going on, vastly obscures it, because it allows the Members to make the decision to spend and then a few days later or a few months later to say, "I do not want to raise the debt ceiling to accommodate the spending that I have already made."

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

I would like to associate myself with the thrust of the gentleman's remarks. As to procedure I think this anachronism is mischievous. That is the reason I have supported the amendment offered by the gentleman from Missouri (Mr. GEPHARDT) and I oppose an effort to strike it from the bill. I thank the gentleman.

□ 1340

Mr. GEPHARDT. I thank the gentleman from New York for his support of this amendment.

The analogy that was made by the chairman and by the gentleman from California of individuals and how they deal with their own budget, clearly the decision we make in the budget process is just like spending decisions that individuals make.

Mr. Chairman, our process in effect today, would be like someone deciding to go buy a house, signing the contract which is the legal obligation to buy that house, and then going to the closing of the house sale and saying, "I really want the house, I stand behind the legal commitment I have made but I do not want to sign the note to pay the money and I do not want to sign the mortgage."

That is really what we are doing. I would submit it to you that obscures what is really happening and if the gentleman from California is concerned about there being truthfulness and candor in putting the facts on the table, that indeed putting these two procedures together exactly accomplishes that.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentlewoman fom New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I am afraid I will have to support the gentleman because I think that is the sensible thing to do. However, I would like to see so much intelligence, urgency, and eloquence raised on behalf of an entirely different procedure which is that we vote on the budget and decide how much we are going to spend, first, the way any family does, and then fit our priorities into what we think we have to spend. That is the trouble.

Mr. Chairman, what we do, is to do it incrementally, starting at the bottom, adding and adding and adding. Then we hit, with the poor chairman of the Committee on the Budget fighting to hold things down, which he does, and also the gentleman, plus our ranking member, but it is the wrong system. Until we get the support of all the authorities in this House to decide first what we think this country can afford and then decide where that amount is going to be allocated, we will never have commonsense in this House.

Mr. GEPHARDT. Mr. Chairman, I thank the gentlewoman for her comments. I believe through the budget process we are learning how it needs to be adjusted to work more properly. That kind of suggestion, which has been made by the gentlewoman and others, I think is a constructive one that has to be considered by our Committee on the Budget.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman yielding.

Another problem that I see, is that the budget process does not consider the off-budget items. Therefore, what contributes to the need for an increase in the debt will not now be fully discussed.

Part of the increase in the debt many times occurs because of off-budget items.

I would say to my colleagues when and if we ever get the off-budget items in the budget resolution, it would make a better case for what the genleman is saying.

Mr. GEPHARDT. Mr. Chairman, let me say I agree with the gentleman wholeheartedly and I think the change we are here advocating today will heighten the chances that we can make that kind of a change in the budget process. I heartily support it. I have supported it in the Committee on Ways and Means and will continue to support it.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. GIAIMO, and by unanimous consent, Mr. GEPHARDT was allowed to proceed for 2 additional minutes.)

Mr. GIAIMO. Will the gentleman yield, Mr. Chairman?

Mr. GEPHARDT. I certainly will yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Chairman, I rise to

commend the gentleman for what he is here trying to accomplish. I oppose the Rousselot amendment. I recognize the political difficulties here in putting this on the budget resolution. Lord knows we are going to take the budget resolution up, hopefully, tomorrow and we have enough problems passing the resolution without adding anything to it.

Mr. Chairman, I do think it is a cleaner procedure if the issue of the debt ceiling is made a part of the budget process. We make the determination in the budget process anyway as to what the debt ceiling is and I do believe in making that determination we do—it is one of the aggregates we have to establish—I do think we consider the off-budget agencies part of the debt, even though it does not fit into our deficit, but it does fit into the total debt of the United States so to that extent it is part of the obligations of the Government and of the Treasury.

Mr. Chairman, I think it is a cleaner process. I think that is what the gentleman from Missouri is trying to accomplish and the Committee on Ways and Means. It will give us difficulties, it will give us added difficulties in passing a budget, but I believe in the overall we ultimately will have to arrive at a decision. I believe we can do it all in one place rather than separately as we are doing here today. We are here considering debt ceiling today, tomorrow we are considering budget. It will unify the consensus or the lack of consensus. Ultimately we have to make up our minds in this place. The business of the people of the United States demands that we do and I commend the gentleman.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from California (Mr. ROUSSELOT) relative to the off-budget items. I think, clearly, reform in this respect is indicated.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GEPHARDT was allowed to proceed for 3 additional minutes.)

Mr. CONABLE. Will the gentleman from Missouri yield further?

Mr. GEPHARDT. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, it is a fact that just because two reforms are needed does not make one of them bad. I do not believe there is anything inconsistent between what the gentleman is suggesting and what the gentleman from California is also suggesting.

In fact, we have not had an adequate discussion of off-budget items. I would like to see that occur.

Mr. Chairman, I would also like to associate myself with the remarks of the gentlewoman from New Jersey. I completely agree with the gentlewoman, the Budget Reform Act must be made an instrument of fiscal policy to a degree greater than it has been.

Mr. Chairman, I thank the gentleman for yielding.

Mr. GEPHARDT. Mr. Chairman, I agree with the gentleman and thank him for his remarks.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, I see the chairman of the Committee on the Budget is on the floor. The reason I asked for this time was to agree with what the gentleman said. It will make it more difficult, as I pointed out earlier, to pass the budget resolution.

Mr. Chairman, I will ask the chairman of the Committee on the Budget if he does not concur with me that under this procedure in the Committee on the Budget we are going to be handed a figure for the national debt from the Committee on Ways and Means and we will not be able to change that figure.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Connecticut.

Mr. GIAIMO. This is not my understanding. If you can clear that up for me, I will vote with you in support of your amendment if that is not so. It is my understanding they will make a recommendation to us in their report of March 15.

Mr. LATTA. As I understand it, Mr. Chairman, that figure stands and we cannot change it. I think we should have that straightened out.

Mr. GEPHARDT. It is clear within the amendment that, as the Committee on the Budget does often on the floor, in the budget process, the Committee on the Budget can and will be allowed to make amendments to the number as it does many other numbers, to achieve consistency with the action taken by the committee and the floor.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I will yield to the gentleman from Connecticut.

Mr. GIAIMO. We can change the public debt number in the committee as we prepare a resolution.

Mr. GEPHARDT. Certainly that would be a wise thing to do. As you change the numbers for spending from the numbers that were assumed by the Committee on Ways and Means.

Mr. GIAIMO. In other words, if we determine what the revenues and outlays are going to be, and if that changes, what the debt is going to be, we have the right, without going back to the Committee on Ways and Means to change that public debt number. Is that not correct?

Mr. GEPHARDT. That is correct.

Mr. LATTA. Will the gentleman yield further, Mr. Chairman?

Mr. GEPHARDT. I yield to the gentleman from Ohio.

Mr. LATTA. Perhaps we could get the chairman of the Committee on Ways and Means involved in this. As I understood it in the presentation before the Committee on Rules, this question did come up and the Committee on Ways and Means was supposed to retain jurisdiction over that figure.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I will yield.

Mr. ULLMAN. The issue as the gentleman has stated it is correct. We must remember there will be some discrepancy in the debt number and the budget number because of the off-budget expenditures and because of the lending to the trust fund which becomes an additional debt burden. Those will be included in our recommendation but it is my understanding, as the gentleman has suggested, that then the Committee on the Budget has the authority to make that figure conform to whatever budget figure is arrived at.

The CHAIRMAN. The time of the gentleman has again expired.

(At the request of Mr. LATTA, and by unanimous consent, Mr. GEPHARDT was allowed to proceed for 1 additional minute.)

Mr. LATTA. Will the gentleman yield further?

Mr. GEPHARDT. I do yield to the gentleman from Ohio.

Mr. LATTA. In view of what has been said by the chairman of the Committee on Ways and Means, we do really get a confused situation here. If they submit to the Committee on the Budget a figure that does have these off-budget items in it and then we have to adjust that figure in the Committee on the Budget to take them out since we do not have jurisdiction, do we then submit a figure to the House without those figures? Is that what the gentleman says?

☐ 1350

Mr. GEPHARDT. Mr. Chairman, if the gentleman will yield to me, the Committee on Ways and Means on advice of the Treasury Department and others makes a judgment on the amount of public debt ceiling increase necessary to accommodate off-budget spending. As it is now in the budget process, the Budget Committee will take that figure and adjust it as it deems necessary for changes made in the budget process with regard to direct spending on budget. There is no reason today that the Budget Committee cannot change that figure as well if they are made aware of changes in off-budget spending which would require changes in that number. It is a procedure that we practice today.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. GEPHARDT) has again expired.

(At the request of Mr. LATTA, and by unanimous consent, Mr. GEPHARDT was allowed to proceed for 1 additional minute.)

Mr. GEPHARDT. Mr. Chairman, it is a procedure that we practice today and it is a procedure that we would continue to practice. It is simple. It is straightforward. There is no confusion about it. The number that comes from the Committee on Ways and Means is now and can be and should be adjusted by the Budget Committee when we go through the process. If when it is all over the number that winds up in the joint resolution and winds up changing the debt ceiling, if it becomes a number that is not high enough, there is always provision, as I said before, for the Committee on Ways and Means to bring free-standing legislation to affect the public debt.

Mr. LATTA. Mr. Chairman, will the gentleman yield further?

Mr. GEPHARDT. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, let us take a specific case. Today we have a request by the Committee on Ways and Means to increase the debt ceiling, which includes off-budget items of $879 billion. Suppose this new process was in place and that figure is submitted to the Budget Committee. We then have to deduct $16 billion or thereabouts for the off-budget items before it is submitted to the House; is that the procedure that we are going to follow?

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the distinguished chairman.

Mr. ULLMAN. That is included in the figure now. It would be included when the Committee on Ways and Means acted.

It is my understanding that the figure we would send to the Budget Committee would include the off-budget items and the additional debt required for lending to the trust fund. That is in this budget resolution that we have before us today. It would be in the recommendation we would make to the Budget Committee in this procedure under the Gephardt amendment.

Mr. LATTA. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, let me say that I think we have a very confused situation here if this legislation passes, because as the colloquy has just been revealed, the Committee on Ways and Means is going to submit a figure identical to the figure that we would have today and as I understand it from the colloquy, the Budget Committee would not have the jurisdiction to include those off-budget items. So how do we get to the point, and I ask and I will be happy to yield to my chairman, how do we get to the point where we do have $879 billion before the House?

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I will be happy to yield.

Mr. GIAIMO. Let us not try to confuse the situation any more than it is. Lord knows it is confused enough.

Mr. LATTA. It is confused. I am trying to get it clarified.

Mr. GIAIMO. Well, I think it is eminently clear and I think the gentleman knows what it is. The Committee on Ways and Means will make a March 15 report to the Budget Committee. In there they will tell us what their estimate of revenues will be and along with that what their estimate of the debt will be.

I assume your estimate of the debt will be the on-budget debt, the off-budget debt and anything else that you think ought to be in that debt picture. If I am wrong, I wish the chairman of the Committee on Ways and Means would correct me right now.

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, the gentleman is correct.

Mr. GIAIMO. All right. Then we proceed. We get the March 15 reports from all the committees. Then we proceed to put a budget together. Lord knows how we are proceeding right now, as you well know. We are having a devil of a time doing it, as the gentleman well knows.

Mr. LATTA. I have to say Amen to that.

Mr. GIAIMO. The gentleman can say Amen to that and say a couple more Amens tonight and tomorrow morning before we bring it up.

Then we put together a budget. We decide what the priorities of this Nation are. We decide what we are going to have to need in budget authority and in outlays. We make our upgraded assumptions based upon information fed to us by CBO, by OMB, by the Council of Economic Advisors, by econometric models from all over the country, the gentleman knows that. The gentleman is on the committee.

Mr. LATTA. We know that. We understand all that. Let us get back to the budget figure.

Mr. GIAIMO. I am trying to explain it, if the gentleman will yield, and I will get the gentleman some time.

We then make a determination of what we are going to need in outlays, what the revenues will be and what our deficit will be. Then we consider the off-budget items also and their debt and we come up with the fifth aggregate, which is the public debt.

We have the freedom, as I understand it under this legislation, to determine what that debt number will be without having to go back to the Committee on Ways and Means. Is that a correct statement of fact?

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, that is the only way the procedure can possibly work. The gentleman is stating it correctly.

Mr. GIAIMO. Fine; that being the case, I will support the legislation. If it were otherwise and if we had to go through this agony, but the Committee on Ways and Means retained control, then I would be up here not only supporting the gentleman, but I would be fighting for the gentleman's amendment; but that is not the case and it is quite clear that we have the freedom to do this. Therefore, I think it is a more orderly process which the Committee on Ways and Means is trying to accomplish and I think we ought to go ahead with it.

If there is any confusion left in the mind of the gentleman from Ohio (Mr. LATTA), please let me know and I will try to clarify it.

Mr. LATTA. Well, the confusion is that we have been all around Robin Hood's barn, as the old saying goes; but the question comes right back to the $879 billion that they have submitted.

Now, if this matter was in place, would that now be in our budget resolution, $879 billion?

Mr. GIAIMO. I believe it would, if that was the number we decided and voted on in the Budget Committee.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I would be delighted to yield.

Mr. ULLMAN. This number will carry you through to May 31. The budget resolution will come up before that time and in that budget resolution you will make the further extension to the debt ceiling that will have to be made to conform with the decisions in the budget.

Mr. LATTA. Mr. Chairman, let me reclaim my time.

It points out once again that you are going to have a double burden to carry when you have the budget resolution before this House. It has already been indicated that there is $879 billion in this bill. You are going to have to carry that along with the budget resolution itself, which always has a perilous time getting through this House; so we are going to have an extremely difficult job of passing a budget resolution.

Now, if we want the budget process to prevail, I think that we have to turn down this proposal. It has been up before. This is nothing new. It has been up a year ago in a slightly different form. It was discussed in the subcommittee on rules.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. LATTA was allowed to proceed for 1 additional minute.)

Mr. LATTA. Mr. Chairman, the matter of the Committee on Ways and Means relieving itself of the jurisdiction in this area is not new. It did not come up just a year ago. I remember many, many times before the Committee on Rules it was discussed. The Committee on Ways and Means certainly would like to relieve itself of this responsibility, and why I do not know; but I think this is where it belongs, with the Committee on Ways and Means. It is their function to raise the money to pay these taxes. I think that that is where the responsibility for the debt limit is. That goes hand in hand with the job they have to perform.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I will be happy to yield.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding.

I would like to respond to my chairman who feels that increasing the debt ceiling is not another form of taxation. It is, too. It is another way to raise the money for expenditure levels. I do not care what anybody says, someday that is going to have to be paid for.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. LATTA) has again expired.

(By unanimous consent, Mr. LATTA was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, as the gentleman has pointed out, included in our general budget considerations are interest charges to pay for that debt. Now, to believe that it is not another form of taxation is I think hiding our heads in the sand. It is another way of raising money to pay for all those expenditures. True, that is unpleasant to have to vote for that, especially for many of the people that vote for those big expenditures when they come along, because they want all the people back home to believe the wonderful things they are doing for them; but the point is it is another way of paying for it.

I say it is another form of taxation. I think it should be a second discipline on the House to require us to vote on the increase of that debt.

Mr. Chairman, I urge support for my own resolution.

□ 1400

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROUSSELOT).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 11, noes 21.

RECORDED VOTE

Mr. ROUSSELOT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 132, noes 283, not voting 19, as follows:

[Roll No. 510]

AYES—132

Abdnor
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Bereuter
Bethune
Brinkley
Broomfield
Buchanan
Burgener
Butler
Carney
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Corcoran
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Okla.
Emery
Erdahl
Evans, Del.
Gilman
Gingrich
Goldwater

Goodling
Grassley
Grisham
Guyer
Hagedorn
Hammerschmidt
Hansen
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hyde
Ichord
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDonald
Madigan
Marlenee
Marriott
Mathis
Miller, Ohio
Minish
Mitchell, N.Y.
Moorhead, Calif.

Mottl
Neal
Paul
Petri
Pursell
Rinaldo
Robinson
Roth
Rousselot
Rudd
Runnels
Satterfield
Sawyer
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stanton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walgren
Walker
Wampler
Weiss
Whitehurst
Whittaker
Williams, Ohio
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOES—283

Addabbo
Akaka
Albosta
Alexander
Ambro
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard

Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior

Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carr

Cavanaugh
Chappell
Chisholm
Clay
Clinger
Coelho
Collins, Ill.
Conable
Conte
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel

Hightower
Holland
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leath, Tex.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson

Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Ritter
Roberts
Roe
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Santini
Scheuer
Schroeder
Schulze
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Watkins
Weaver
White
Whitley
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—19

Carter
Conyers
Diggs
Erlenborn
Fish
Flood
Hall, Tex.

Hanley
Holtzman
Murphy, Ill.
Myers, Ind.
Nolan
Quillen
Rodino

Rose
Slack
Treen
Waxman
Winn

□ 1410

Messrs. ASPIN, REUSS, and FOUNTAIN changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. McHUGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5369) to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process, pursuant to House Resolution 425, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken and the Speaker announced that the ayes appeared to have it

Mr. CONABLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 219, nays 198, not voting 17, as follows:

[Roll No. 511]

YEAS—219

Addabbo
Akaka
Albosta
Alexander
Anderson, Ill.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Corman
Cotter
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dicks

Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Howard
Hutto
Jenkins

Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCloskey
McCormack
McHugh
McKay
McKinney
Maguire
Markey
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nowak
Oakar
Oberstar
Obey

Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Roe
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
White
Whitley
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Yates
Young, Mo.
Zablocki
Zeferetti

NAYS—198

Abdnor
Ambro
Anderson, Calif.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bereuter
Bethune
Bouquard
Bowen
Breaux
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Byron
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fountain
Frenzel
Gaydos
Gilman
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harkin
Harsha
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Jones, Tenn.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
Madigan
Marks
Marlenee
Marriott
Mathis
Michel
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Neal
Nichols
O'Brien
Pashayan
Paul
Petri
Pritchard
Pursell
Quayle
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Weaver
Weiss
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Wolff
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—17

Carter
Conyers
Diggs
Erlenborn
Fish
Flood
Hanley
Holtzman
Martin
Murphy, Ill.
Myers, Ind.
Nolan
Quillen
Rodino
Rose
Treen
Winn

☐ 1430

The Clerk announced the following pairs:

On this vote:

Mr. Hanley for, with Mr. Erlenborn against.

Mr. Rodino for, with Mr. Quillen against.

Mr. Nolan for, with Mr. Fish against.

Ms. Holtzman for, with Mr. Carter against.

Mr. Conyers for, with Mr. Myers of Indiana against.

Mr. Diggs for, with Mr. Winn against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4389) entitled "An Act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes," and that the Senate agreed to the House amendments to the Senate amendments numbered 3, 16, 21, 62, 64, 65, 78, 127, 139, 140, and 142, the Senate further insisted on its amendment numbered 137 to the foregoing bill.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 737) entitled "An act to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Proxmire, Mr. Stevenson, Mr. Williams, Mr. Tsongas, Mr. Garn, Mr. Heinz, and Mrs. Kassebaum to be the conferees on the part of the Senate.

REFERRAL OF H.R. 5375 JOINTLY TO COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION AND COMMITTEE ON WAYS AND MEANS

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the bill, H.R. 5375, to establish a trust fund for public mass transportation projects, to amend title 23, United States Code, to provide for transportation systems management, and for other purposes, which was initially referred solely to the Committee on Public Works and Transportation, be jointly referred to the Committee on Ways and Means.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

The was no objection.

CONFERENCE REPORT ON H.R. 4393, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS, 1980

Mr. STEED. Mr. Speaker, I call up the conference report on the bill (H.R. 4393) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1980, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. The Clerk will read the conference report.

The Clerk proceeded to read the conference report.

Mr. STEED (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

(For conference report and statement, see proceedings of the House of September 24, 1979.)

The SPEAKER. The gentleman from Oklahoma (Mr. Steed) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. Miller) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. Steed).

Mr. STEED. Mr. Speaker, we bring up today the conference report on one of our major appropriation bills. I think we have worked out, under the circumstances, a very good compromise on the points at issue so that we can present the House today with a very good product, one that carries out almost entirely the express wishes and will of the House.

We have a bill that is over the amount in the House bill when it left, but it is under the amount put in by the other body, and it is considerably under the budget request. It is a half-billion dollars under this same bill a year ago.

We have been able to cope with the automatic workloads the agencies covered in this bill may have to contend with during the coming year. I think we have given them all of the resources they will need which will assure that they can carry on a good, healthy program for the coming year.

As my colleagues know, in the Treasury Department, the Postal Service, and the general agencies most of the work in this bill constitutes what is the heart of the Federal Government. They perform services and collect revenues that create workloads beyond their control, so we feel we have to give them what resources they need to meet these needs that they are commanded by law to perform.

□ 1440

I think that we can rest assured that we have met all these needs. Now, there is one item in here that we have had some difficulty with. It has to do with the item for former Presidents. Of course, I know the House Members realize what the law requires. We have tried to keep in mind how the House feels about it, and also live with what the views of the other body are. I think that we have done the best we can at this point. However, I think it only fair to say that evidence of the attitude of the House would seem to me the signal that our legislative committee would be wise in taking up some consideration of this item, and maybe making some substantial changes in the law, because as long as the law stands as it is, the Appropriations Committee is quite limited in its ability to do anything about it.

We are told by the agencies downtown that under the law as it reads now, most of the things some of the Members would like to have done might be subject to a lawsuit. Therefore, I think it takes a change in the basic legislation to cure some of the objections. We hope that what we have done this year would urge the legislative committee to give the matter some attention so that next year we will not have this difficulty.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, about a year and a half ago this House acted, the Senate acted, and the President signed into law a certain matter affecting tax collection in the Northern Mariana Islands. At this point in the RECORD, hoping that the affected agency will read this suggestion and admonition, at the instance of the majority and minority staffers and leadership of our committee, we drafted for the Northern Marianas language which would trigger off an effective request pursuant to the terms of our bill that is now law, that the IRS begin collecting taxes starting the first of the coming year.

IRS is pretending, I gather, that despite the fact that the law is clear, and despite the fact that our committee drafted the resolution so that there could be no mistake to trigger off an effective request to IRS, they still have not tooled up to proceed with this responsibility.

I merely wanted to alert my dear friend and distinguished chairman of the Appropriations Subcommittee that our subcommittee is going to be heard from if IRS does not understand that they do have a responsibility to comply with the law. I might note that this is not the matter that we had discussed previously, but I wanted the record at this point to reflect our determined interest that IRS comply with Federal law as is on the statute books and as was requested by the government of the Northern Mariana Islands when they passed a law without changing a word that was drafted by our subcommittee, with the interest that we would not be confronted with this silly dilemma we apparently may be confronted with on this very minor but important question.

Mr. STEED. I would like to call the gentleman's attention to the fact that in this report, this bill, we have given the IRS money and extra employees above their request. So, they do have the manpower and the money.

Mr. PHILLIP BURTON. I thank the gentleman and my dear friend from Oklahoma.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, let me for a moment get parochial. There was an item in our bill when it passed the House containing an appropriation for a facility in my district. That facility was the new border station at Laredo, Tex. I ask the distinguished chairman if the appropriation as was contained in the original bill is included in this conference report?

Mr. STEED. The Laredo project in its entirety is in this bill. I am glad the gentleman brings this up, because other Members may have similar problems. I might say that in his case it was made whole, because the legislative committees fiinished work on the prospectus. We have funded all those that got the same treatment the gentleman's did, and as soon as the others come in we will be in a position to do the same thing with them.

Mr. KAZEN. I thank the gentleman. I have just one more question, if the gentleman will yield. I am very interested in the customs personnel, and as usual I hope that the committee has given the Customs Service enough money to employ the personnel that they need to carry on their activities. I know that at this new border station which we are talking about in Laredo we are going to need some more personnel in order to make it a 24-hour station. That station brought in $34 million last year, working only 12 hours at the new bridge because we are shorthanded there. I just want to make sure that the conference report gives the Customs Service enough money to hire the needed personnel down here for a 24-hour-a-day operation.

Mr. STEED. May I say to the gentleman that he knows that in recent years we have several times gone over the budget to give the Customs Service extra money and extra people only to have it frozen down at OMB. We have 200 new people in this bill, and the money to pay for them, and I was assured no later than last evening by the OMB that they will accept this and make available to the Customs Service this additional manpower. So, I do not see any problem in getting the gentleman's needs.

Mr. KAZEN. I want to thank the gentleman and commend him for the wonderful work he has done on this matter.

Mr. STEED. In our report the gentleman will notice that we have insisted that this manpower be dedicated to the inspectional requirements of Customs Service so that this sort of problem will be met.

Mr. KAZEN. I thank the gentleman.

Mr. GINN. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Georgia.

Mr. GINN. Mr. Speaker, I ask the gentleman to yield to ask him a very important question on a provision that means a great deal.

Did the conferees include the additional $879,000 requested by the GSA Board of Contract Appeals in the conference report?

Mr. STEED. Yes, we did. The Senate approved the increase and the House certainly had no intention of disapproving it. The funds we are appropriating for the account of "Administrative and Staff Support Services" is to include an appropriation to the Board of Contract Appeals in the amount of $1,587,000 which includes the additional $879,000.

Mr. GINN. I thank the gentleman.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Speaker, I rise in opposition to the conference report. I do so because the version of an amendment I offered in the House which was finally approved does not reflect my initial intent. Admittedly, the conferees are not responsible for this situation. My amendment to delete the funding for postal subsidiaries to political committees, was amended on the House floor to the point that I could not agree to it, and the Senate subsequently agreed to identical language as that approved by the House. Hence, this was not a matter open for discussion in the conference.

Nonetheless, the way the bill currently reads with regard to availability of special reduced rate bulk mail service for political party committees, it is nothing short of discriminatory. I offered an amendment to delete the funding entirely for that special subsidy. I did so for two simple reasons. First, I was--and remain—convinced that political parties do not fall into the same category as the nonprofit organizations which are intended to benefit from those reduced rates. And, second, the subsidy which was quietly authorized in unrelated legislation last year, has proven exceptionally expensive—much more so than originally anticipated.

Admittedly, the language included in this bill addresses the cost factor by restricting the subsidy to $4 million. But in doing so, the language in the bill is drafted to restrict eligibility for the subsidy to the two major parties—those which qualified for matching funds under the Presidential campaign finance law. Admittedly, we have traditionally been a two-party nation for the most part. But there has also been a history of minor parties representing alternative views. They have had an impact on our history and on governmental policies. And, in fact, from time to time, minor parties have become major parties. By restricting access to Government benefits, we are setting up institutional barriers to the formation of such parties. I by no means agree with the positions of a number of the smaller parties which exist in this country today. I am a Democrat and proud to be one. But I do respect the right of those parties to exist and to receive equal treatment under the laws. That is part and parcel to our system of political freedom, and for that reason I cannot support this conference report.

I do not intend to allow this question to be left unresolved. I was glad to note that the conferees intend to secure specific cost figures from the Postal Service on the expense of this subsidy during fiscal 1979. I have a bill, H.R. 4339, to repeal the subsidy altogether, and I hope the appropriate substantive committee, Post Office and Civil Service, will act favorably on it.

Mr. MILLER of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the conference report before us today we have $8.8 billion for fiscal year 1980. We should keep in mind where we really are, because it looks like we are in better shape than we actually are. We are under the budget by $184 million, but last year we had a one-time only expenditure of $543 million. That was for the payment to HEW for certain social service programs that were claimed to the States. It was necessary by law to make those payments. So, not counting the $543 million one-time payment, what it amounts to is that we are actually over last year's expenditure by approximately $26 million.

We have several important things that were discussed in this bill, first in the subcommittee, then the full committee, then on the floor, and finally in the conference. An interesting item concerns the Presidential nominees that were running, as the Members are aware, in the last Presidential election, the candidates' committees billed the Secret Service for seats on airplanes. The candidates would be hopping from city to city, taking Secret Service people with them, then, the committee would charge the Secret Service for those seats occupied by the Secret Service agents who were there for the protection of that candidate.

□ 1450

In the last Presidential election as a matter of fact, little over $1 million was spent for that purpose. We have attempted to stop that, and this is the best we have been able to do at this time. We have had amendments in that would stop it literally, but that creates a problem for the Secret Service because they are mandated to protect the nominee. They could, in the long run, have to hire another plane, or whatever it would take to follow up the nominee. We now have language encouraging the Secret Service to have the nominee sign a waiver that he does not want the protection and, the Secret Service would not need to send the agents. Or if the nominee does require the protection of the Secret Service, he will, in turn, furnish the seat so that the Secret Service will not have to reimburse the committee. As a matter of fact, we have requested a report from the Secret Service, before the election so that we will be able to make it public. If the committees for the various Presidential nominees actually bill back to the Federal Government, the public will know it. In addition, it is not impossible for someone running for President to receive matching money and use the taxpayers' dollars to lease a plane, and then turn around and double the amount by charging the Secret Service for seats on the plane. They actually make money. So we have attempted to plug that loophole, and I believe by making the report public before the election we will find it will be effective.

We have another item in the bill. This will stop the President from using the $5,000 expense money for himself or for other purposes. Last year about $1,372 of the $50,000 was spent on expenses, and the President was able to collect the balance. That was legal. He did nothing wrong, but nevertheless, now we have language that was presented by the gentleman from Maryland (Mr. BAUMAN) and it is still in the conference report, that will require this money to revert to the Treasury if the President does not use it for expense purposes.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. I want to thank the gentleman for his explanation and also to thank the individual conferees and the chairman of the subcommittee for upholding the House's position. I think it is a wise amendment, obviously—I offered it—and I am glad that the other body accepted it. I think it brings the Presidential expense allowances in line with the same restrictions that the Congress has on their expense allowances, and I do appreciate it.

Mr. MILLER of Ohio. I thank the gentleman.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding. I see today we are in line for many commendations, and I, too, would like to add my words of commendation to my distinguished friend and colleague, the gentleman from Ohio (Mr. MILLER) and to the chairman of the committee, the gentleman from Oklahoma (Mr. STEED). As I review this report, a great amount of the language that the House adopted on the floor was held in conference, and some over the objection of many on the other side. As a matter of fact, it took a couple of votes on the particular amendment I offered, the so-called IRS private school amendment. I think my colleague knows it was knocked out in committee over there. It was put in on the floor 47 to 41, and our conferees steadfastly held in the Senate. I think not only I commend the gentleman, but I know I speak for many millions of Americans who are concerned about the intrusion in the private school sector. We thank the gentleman for his diligent work, and I think commendations are clearly in order.

Mr. MILLER of Ohio. I thank the gentleman from Ohio, and I would like to say at this time that it was on his insistence here on the House floor that the amendment became a part of the bill and still is in the conference report. It is very important to many, many people because it does prohibit the Internal Revenue Service from implementing the proposal dealing with the tax-exempt status for private schools, and many, many people around the country are interested in that. I know I have received mail on this subject and I assume every Member here has. So, on the insistence of the gentleman from Ohio (Mr. ASHBROOK) it will be a proposal to stop the Internal Revenue Service from implementing those regulations on the tax exempt status of private schools.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding. I, too, would like to compliment both the gentleman from Ohio and to specifically say that the Ashbrook amendment was certainly of a great deal of interest in the State of Idaho. We are very delighted that it is part of the bill and that that exemption now will be kept.

I would also like to commend the committee and also my colleague, the gentleman from Idaho in the other body, who put the amendment in on the other side of the Hill which I did in this body, which will limit the harassment that the Internal Revenue Service will be able to give to good, upstanding taxpayers in this country, and make the Internal Revenue Service go by the same rules private debt collectors are asked to operate under, a standard of ethics that this Congress passed a year before on that subject. I look forward to seeing less harassment to all of our constituents on behalf of those who do not deserve harassment, and that the IRS will then get the message that the tax collector can become very abhorrent to the American people, and we hope they will take heed of that section of this bill.

Mr. MILLER of Ohio. I thank the gentleman from Idaho.

There are just a couple more points I would like to make. We heard just a few years ago that the staff of the White House would be reduced by about one-third. In 1977 the budget for the White House Office was $16,530,000, and in this conference report we have $18,210,000. I do not believe that a lot of positions have been abolished, but we have had a lot of shuffling of the deck by an Office of Administration that has been set up in the White House, and it shows that the expense has continued to climb.

There is just one other point I want to make. The Bureau of the Public Debt comes to our subcommittee for their funds to operate. We now have a public debt that is almost $900 billion and we will be paying interest in the neighborhood of $60 billion annually, or about $150 million a day interest on that public debt. It shows also the additional expense that is in this bill just to manage the public debt. In 1970 we had $60 million just to manage the public debt. In the bill this year for fiscal year 1980 we have $183 million just to manage the public debt. At this point I would like to insert material on the debt into the RECORD.

PUBLIC DEBT

[In billions of dollars]

1958	279.7
1959	287.8
1960	290.9
1961	292.9
1962	303.3
1963	310.8
1964	316.8
1965	323.2
1966	329.5
1967	341.3
1968	369.8
1969	367.1
1970	382.6
1971	409.5
1972	437.3
1973	468.4
1974	486.2
1975	544.1
1976	631.9
1977	709.1
1978	780.4
1979 estimate	839.2
1980 estimate	899.0
1981 estimate	940.3
1982 estimate	951.9

FOREIGN HOLDINGS OF U.S. TREASURY SECURITIES

Question. What are the foreign holdings, by country, of U.S. Treasury securities?

Answer. Outstanding amounts of U.S. Treasury securities held by foreigners as of yearends 1976, 1977, and 1978 are as follows:

ESTIMATED TOTAL FOREIGN HOLDINGS OF MARKETABLE AND NONMARKETABLE TREASURY BILLS, NOTES, AND BONDS REPORTED BY BANKS AND BROKERS AS OF SELECTED YEARENDS 1976, 1977, AND 1978

[In millions of dollars]

Country	Dec. 31, 1976	Dec. 31, 1977	Dec. 31, 1978 [1]
Europe:			
Austria	157.1	130.3	52.2
Belgium-Luxembourg	1,137.5	1,211.4	742.1
Denmark	215.5	590.0	1,474.1
Finland	36.4	74.6	49.8
France	3,044.0	3,435.1	6,490.1
Germany	22,275.5	26,001.0	41,086.6
Greece	60.1	75.3	95.1
Italy	1,640.2	4,796.9	3,965.0
Netherlands	2,256.4	2,503.3	2,164.3
Norway	532.9	632.7	791.2
Poland		.6	.7
Portugal	2.4	.2	.3
Spain	1.5	2.2	2.2
Sweden	1,343.1	2,208.6	2,600.3
Switzerland	5,092.3	7,352.9	14,874.1
Turkey	(2)	(2)	(2)
United Kingdom	1,125.1	12,070.6	6,344.3
U.S.S.R.			
Yugoslavia	13.1	9.0	27.1
Other Europe	448.8	489.9	283.5
Total, Europe	39,381.9	61,584.6	81,043.0
Canada	3,446.7	2,334.8	2,510.0
Latin America and Caribbean:			
Argentina	57.1	15.6	.9
Bahamas	13.5	13.4	4.0
Bermuda	14.1	(2)	19.1
Brazil	5.1	2.4	.3
British West Indies	4.0	6.2	12.6
Chile	.2	.3	2.2
Colombia	231.3	483.1	333.6
Cuba			(2)
Ecuador	5.1	18.6	8.5
Mexico	27.9	25.8	27.4
Netherlands Antilles	125.2	176.6	180.6
Panama	22.7	13.7	15.8
Peru	(2)	2.1	(2)
Trinidad and Tobago		17.1	
Uruguay	.1	(2)	(2)
Venezuela	545.5	490.7	153.0
Other Latin America and Caribbean	146.5	157.2	83.0
Total, Latin America and Caribbean	1,198.3	1,422.9	841.0
Asia:			
China:			
Mainland	(2)	(2)	(2)
Taiwan	258.2	211.6	24.8
Hong Kong	152.9	201.3	221.4
India	451.5	774.5	682.7
Indonesia	96.1	128.4	69.0
Israel	3.6	9.1	(2)
Japan	12,397.3	18,633.1	28,864.0
Korea	80.7	436.7	450.1
Lebanon	(2)	(2)	.2
Malaysia		244.9	190.8
Pakistan		41.9	41.4
Philippines	10.2	30.3	12.0
Singapore	594.2	696.7	622.4
Syria			
Thailand	233.5	234.7	356.4
Middle East oil-exporting countries	9,765.8	12,483.9	10,837.7
Other Asia	418.8	75.1	71.2
Total, Asia	24,452.8	35,202.2	42,415.1
Africa:			
Egypt	1.4	75.4	36.9
Ghana		(2)	12.8
Liberia			1.2
Morocco			
South Africa	18.8	46.8	53.6
Zaire	6.2	7.8	10.1
African oil-exporting countries	1,246.8	1,005.7	1,585.2
Other Africa	108.1	101.8	45.3
Total, Africa	1,381.3	1,237.5	1,745.1
Other countries:			
Australia	1,566.7	734.0	447.2
All other	27.0	21.6	8.0
Total	1,593.7	755.6	455.2
Total, foreign countries	71,454.7	102,537.6	129,009.4
International and regional;			
International	5,570.2	5,319.6	5,251.0
European regional			2.7
Latin American regional	135.6	103.3	51.7
Asian regional	5.4	8.9	.2
African regional	23.1	20.0	17.2
Total, international and regional	5,734.3	5,451.8	5,322.8
Grand total	77,189.0	107,999.4	134,332.2

[1] Preliminary.

[2] Less than $500,000.

Source: Department of the Treasury, OASEP/EI/EIS.

FOREIGN HOLDINGS OF U.S. DEBT SECURITIES

Question. What is the composition of Federal debt held by foreign parties? Who holds these instruments?

Answer. The composition of foreign holdings of U.S. Treasury securities was as follows for yearends 1976, 1977 and 1978:

Type of instrument	Dec. 31, 1976	Dec. 31, 1977	Dec. 31, 1978 [1]
Nonmarketable:			
Bills and certificates of indebtedness:			
Dollar	1.7	1.7	7.0
Foreign currency			
Total	1.7	1.7	7.0
Bonds and notes:			
Dollar	19.1	19.3	20.6
Foreign currency	1.5	1.2	1.9
Total	20.6	20.5	22.5
Marketable:			
Bonds and notes [2]	15.8	38.6	43.3
Bills	39.1	47.2	61.5
Total	54.9	85.8	104.8
Total	77.2	108.0	134.3
Official holdings	70.2	108.5	126.1
Banks and other foreigners	1.3	1.8	2.9
International and regional organizations	5.7	5.7	5.3
Total	77.2	108.0	134.3

[1] Preliminary.

[2] Data represent estimated official and private holdings of marketable U.S. Treasury securities with an original maturity of more than 1 year. Data are based on a benchmark survey as of Jan. 31, 1977, and on monthly transactions reports submitted by banks and brokers in the United States.

Source: Department of the Treasury.

INTEREST

[Functional code 900; in millions of dollars]

Programs	1978 actual	1979 estimate	1980 estimate	1981 estimate	1982 estimate
Budget authority:					
Interest on the public debt	48,695	59,800	65,700	68,000	67,800
Other interest:					
Interest on refunds of tax collections	317	321	326	332	337
Interest on loans to the Federal Financing Bank	−2,748	−4,101	−5,504	−5,653	−5,073
Other	−2,297	−3,255	−3,500	−3,552	−3,521
Subtotal, other interest	−4,728	−7,035	−8,679	−8,873	−8,257
Total, budget authority	43,967	52,765	57,021	59,127	59,543

FOREIGN HOLDINGS OF FEDERAL DEBT

[In billions of dollars]

Fiscal year	Interest on debt held by public	
	Total	Foreign
1965	9.8	0.5
1966	10.4	.5
1967	11.6	.6
1968	12.6	.7
1969	14.1	.7
1970	15.6	.8
1971	16.3	1.3
1972	16.6	2.4
1973	18.5	3.2
1974	22.4	4.1
1975	24.7	4.5
1976	28.7	4.4
Transition quarter	7.6	1.2
1977	33.0	5.0
1978	39.2	7.9

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, at the outset I want to compliment my chairman, the gentleman from Oklahoma (Mr. STEED), and my ranking minority member, the gentleman from Ohio (Mr. MILLER), for doing what I think is an outstanding job with a very difficult piece of legislation.

Mr. Speaker, I rise in support of the conference report on the fiscal 1980 Treasury-Postal Service appropriations bill.

The conferees are recommending total appropriations of $8,837,278,100. This is more than a half billion dollars less than the amount appropriated last year, and it is $184 million below the President's budget request.

This bill provides funding for the Department of the Treasury, partial funding for the Postal Service, as well as funding for the White House and related offices, the General Services Administration, the Federal Election Commission, and the agencies which oversee the Federal bureaucracy.

There are no major controversies that I know of in this conference report. Language adopted by the House related to IRS treatment of private schools is included in the report. Language regarding the President's use of his official expenses as adopted by the House is included in the report, with a clarification that such funds, if used for official expenses, are not taxable. And the House provision related to postal costs of political committees is in the report.

In dollar terms, the conference report is $9 million below the Senate bill and $47 million over the House bill, including $16 million for items not considered earlier by the House.

One significant increase accepted by the House conferees will provide additional resources in the amount of $16.7 million to the Internal Revenue Service to curb the growing trend toward a "subterranean economy" which threatens this Nation's admirable record of voluntary tax compliance. Language is included in the statement of the managers directing the IRS to maintain quality audit practices to meet this problem.

House conferees have also agreed to additional funding and manpower for the long-needed cleanup of the General Services Administration. A separate, independent account of nearly $19 million is established for the Office of Inspector General at GSA in order for that office to function without pressure from other offices there.

One of the more difficult issues addressed by the conferees was the funding for activities of former Presidents, and I believe the report contains a reasonable compromise. The conferees reduced President Ford's allowances by $33,000 as he requested, and President Nixon's allowances have been cut by $5,000 for travel and $500 for miscellaneous services. In addition, sense of the Congress language is included in the bill calling for reimbursement to the Government by President Nixon of costs related to improvements to the Casa Pacifica estate in San Clemente.

Mr. Speaker, I urge my colleagues to support this conference report.

□ 1500

Mr. EVANS of Delaware. Will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. I thank the gentleman for yielding.

Mr. Speaker, I ask for this time to first compliment the gentleman from Oklahoma (Mr. STEED) for his tremendous service to this body and to our country over a period of many years in the House of Representatives and also to express my concern about the activities of the Treasury Department, regarding a hearing we had yesterday in the Committee on Banking, Finance and Urban Affairs.

We are holding oversight hearings concerning the activities of the U.S. Mint with specific reference to the Susan B. Anthony coin. I had learned from Treasury's testimony before your subcommittee, that there was to be a report prepared by a treasury task force, to be written by representatives from the Mint, the Bureau of Engraving and Printing and the Federal Reserve, which then was to be forwarded to the Secretary of the Treasury on or about May 1 of this year. The report, a long-range assessment of the U.S. currency and coin system recommended that the $1 bill be withdrawn from circulation to be replaced by the Susan B. Anthony coin. I was told that the report was not ready prior to the hearing.

Mr. Speaker, at those hearings I asked specifically if I could have a copy of the report and was told by the Director of the Mint that it was not yet ready to be released.

Mr. Speaker, within a matter of several hours, I picked up the Washington Star and read about the Treasury Department's recommendation. I am a little concerned about that. I am also concerned that the Treasury Department might be considering eliminating the dollar bill. I think George Washington would turn over in his grave. I just do not think the American people have accepted the coin or that they will accept withdrawing the $1 bill from circulation.

Mr. STEED. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Oklahoma.

Mr. STEED. It is my understanding that changes in the monetary units of this Nation are made only by legislation. I cannot believe they will make any major change in the Mint or in the Bureau of Engraving and Printing or in the Treasury Department without legislative authority. We have funded all these agencies to continue the same production level they have had and as far as I know they will continue to do so. I am sorry the gentleman was unable to get the information. I received a copy of the report some days ago. I have not read the report in detail but I understand this is only a recommendation without authority to be carried out. I would assume something of that sort will receive a lot of attention both in this body and the other body before it ever becomes a fact.

Mr. EVANS of Delaware. Mr. Speaker, I hope in the gentleman's vigilant way, he will keep Treasury's feet to the fire because I really do not think this coin in its present form is ready to replace George Washington and the $1 bill. I fear we are trying to cram something down the people's throats in our usual way in the Federal Government, something they do not need, that they do not want and they cannot afford. The savings to be realized by this coin are predicated on replacing the $1 bill and that was stated repeatedly in the subcommittee hearings by the Governor of the Federal Reserve Board.

Mr. STEED. Mr. Speaker, the only good thing I see about the Susan B. Anthony coin is that it costs less than 4 cents to make. However, it does not appear to be accepted by the people and it is in a great deal of trouble. I do not know whether they can force people to turn to it, by cutting out dollar bills or not, but the Federal Reserve Banks will insist their customers get what they want and I do not think their customers will want to give up the dollar bill, either.

Mr. Speaker, there are a lot of things involved here besides the recommendation.

Mr. CONTE. I want to thank the gentleman from Delaware (Mr. EVANS) for bringing this matter to our attention. I want to associate myself with his remarks. Certainly the chairman and I have done much in the past in regards to printing our currency. I hope the Bureau of Engraving and Printing and the people in charge at Treasury read this record and do not make any move without some legislation going through allowing Congress to work its will on this issue. I am sure that the Congress in no way would want to substitute the Susan B. Anthony coin for the paper dollar.

Mr. MILLER of Ohio. Mr. Speaker, to continue on that particular subject for just a moment we had hearings on the Susan B. Anthony dollar and as the gentleman from Oklahoma (Mr. STEED) has stated, we would make money. As I recall the actual figures, it was about 3.3 cents' worth of metal in each of the Susan B. Anthony dollars and by the time the production costs were added it was still something less than 5 cents apiece, so we made 95 cents on each one. I do not know if it will be successful, but we conveyed the message to the Treasury Department that psychologically, at least, it did not look like it was an advisable thing to do.

Mr. Speaker, the Treasury Department has made 500 million of them. If private industry did such a thing it would go bankrupt, but the Federal Government can make a mistake and come up smelling like a rose. It is possible to put 100 million of these in circulation and the people will hoard them, so we make money. It will be over the cost of production. We could even remove the coins and melt them down and make them a different size and the Federal Treasury would make money. I still try to circulate $2 bills because it would save the taxpayers' money. I also try to circulate the Susan B. Anthony dollar but I will tell you what I have to do. So I will not mix them with quarters and give them out for quarters, I have to keep them in a separate coat pocket. That might be of interest to others. I would hate to give them out for quarters and find out I have lost 75 cents on each transaction.

Mr. Speaker, I am not sure how this will all work out but in the long run I would hope that at least the Treasury will make money, and I feel they will, by the people hoarding the Susan B. Anthony dollar.

Mr. EVANS of Delaware. I would say to the gentleman if people do hoard them and keep them as souvenirs, there is a limit to hoarding. If a number of 600 million or so have already been struck I do not think, until there is some reasonable chance of acceptance by the American people or a glimmer of hope, just a ray of hope, that they will be accepted, that we should continue to mint them until we find they are being accepted by the American people.

☐ 1510

Mr. MILLER of Ohio. That is correct, and that is the message that has been conveyed by the Treasury Department.

Mr. STEED. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 8: Page 5, line 2, strike "$446,857,000" and insert $447,457,000".

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Steed moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 9: Page 5, line 7, insert "and of which $3,300,000 shall be available for the Antidumping and Countervailing Duty Program: *Provided*".

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Steed moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "and of which at least $5,300,000 shall be available for the Antidumping and Countervailing Duty Program".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 11: Page 5, line 16, strike "$50,580,000" and insert "$53,347,000."

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Steed moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$59,047,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 18: Page 8, line 10, strike out "for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act" and insert ": *Provided*,".

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Steed moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following: "for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided*, That approval is obtained in advance from the House and Senate Committees on Appropriations".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 26: Page 11, line 14, strike out "*Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 701 of title 31 of the United States Code.".

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Steed moves that the House recede from its disagreement to the amendment of the Senate numbered 26 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following: ": *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 701 of title 31 of the United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 32: Page 15, line 12, insert ": *Provided*, That there shall be transferred from the Department of Defense to the Office of Federal Procurement Policy the functions performed by the Federal Acquisition Institute, including personnel.".

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Steed moves that the House recede from its disagreement to the amendment of the Senate numbered 32 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 33: Page 17, line 3, insert:

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Federal Election Campaign Act Amendments of 1976, $8,646,000, of which $750,000 shall be available only for activities, including contract support, of the National Clearinghouse of the Federal Election Commission.

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Steed moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"FEDERAL ELECTION COMMISSION

"SALARIES AND EXPENSES

"For expenses necessary to carry out the provisions of the Federal Election Campaign Act Amendments of 1976, $8,646,000, of which $400,000 shall be available only for activities, including contract support, of the National Clearinghouse of the Federal Election Commission."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 34: Page 18, line 10, strike out "$1,423,622,000" and insert "$1,421,985,000,".

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Steed moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert the following: "$1,427,268,000".

The motion was agreed to.

The SPEAKER pro tempore. The clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 35: Page 18, line 11, strike out "$18,787,000" and insert "$29,280,000".

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Steed moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$36,380,000".

The motion was agreed to.

The SPEAKER pro tempore. The clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 40: Page 19, line 11, insert ": *Provided further*, That all appropriations for direct construction projects shall expire on September 30, 1981, except appropriations for projects as to which funds have been obligated in whole or in part prior to such date;".

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Steed moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That all funds for direct construction projects shall expire on September 30, 1981, except funds for projects as to which funds have been obligated in whole or in part prior to such date".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 42: Page 19, line 18, insert ": *Provided*, That appropriations made to the Federal Buildings Fund for Alterations and Major Repairs shall, for prospectus projects be limited to the amount by project shown in the budget justification therefor, except each project may be increased by an amount not to exceed 10 per centum to the extent that savings are effected in other such projects but by not to exceed 10 per centum for each project".

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STEED moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided*, That funds in the Federal Buildings Fund for Alterations and Major Repairs shall, for prospectus projects, be limited to the amount by project shown in the budget justification therefor, except each project may be increased by an amount not to exceed 10 per centum".

The motion was agreed to.

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The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 43: Page 19, line 25, insert ": *Provided further*, That all appropriations for alterations and major repair prospectus projects, shall expire on September 30, 1981, except appropriations for projects as to which funds have been obligated in whole or in part prior to such date;".

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STEED moves that the House recede from its disagreement to the amendment of the Senate numbered 43 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That all funds for alterations and major repair prospectus projects shall expire on September 30, 1981, except funds for projects as to which funds have been obligated in whole or in part prior to such date".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 45: Page 21, line 15, strike out "$1,423,622,000" and insert "$1,421,985,000,".

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STEED moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$1,427,268,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 46: Page 21, line 17, insert ": *Provided further*, That for additional expenses necessary to reimburse the fund established pursuant to Section 210 of the Federal Property and Administrative Services Act of 1949, as amended, for expenditures made under 210(j) of said Act, $115,000 to be deposited to said fund".

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STEED moves that the House recede from its disagreement to the amendment of the Senate numbered 46 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 53: Page 25, line 23, strike out "$18,988,000" and insert "$104,758,000:".

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STEED moves that the House recede from its disagreement to the amendment of the Senate numbered 53 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$6,675,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 55: Page 26, line 5, insert:

OFFICE OF INSPECTOR GENERAL

For the necessary expenses of the Office of Inspector General, $18,874,000: *Provided*, That not to exceed $10,000 shall be available for payment of information and detection of fraud against the government, including payment for stolen government property.

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STEED moves that the House recede from its disagreement to the amendment of the Senate numbered 55 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"OFFICE OF INSPECTOR GENERAL

"For necessary expenses of the Office of Inspector General, $18,874,000: *Provided*, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the government, including payment for recovery of stolen government property."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 67: Page 43, line 9, insert:

SEC. 613. (a) No part of any of the funds appropriated for the fiscal year ending September 30, 1980, by this Act or any other Act, may be used to pay the salary or pay of any individual in any office or position in an amount which exceeds the rate of salary or basic pay payable for such office or position on September 30, 1979, by more than the overall average percentage increase in the General Schedule rates of basic pay, as a result of any adjustments which take effect during such fiscal year (1) under section 5343 of title 5, United States Code, if such adjustment is granted pursuant to a wage survey (but only with respect to prevailing rate employees described in section 5342(a)(A) of that title); or (2) any negotiated agreement pertaining to Government prevailing rate employees to whom section 9(b) of Public Law 92-392 applies.

(b) The limitations on the availability of funds imposed by this section shall not restrict the payment of any rate of basic pay which does not exceed $4.22 per hour, if such rate of basic pay would be payable were it not for this section.

(c) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

Mr. STEED (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STEED moves that the House recede from its disagreement to the amendment of the Senate numbered 67 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 613. (a) No part of any of the funds appropriated for the fiscal year ending September 30, 1980, by this Act or any other Act, may be used to pay the salary or pay of any individual in any office or position in an amount which exceeds the rate of salary or basic pay payable for such office or position on September 30, 1979, by more than the overall average percentage increase in the General Schedule rates of basic pay, as a result of any adjustments which take effect during such fiscal year under section 5343 of title 5, United States Code, if such adjustment is granted pursuant to a wage survey (but only with respect to prevailing rate employees described in section 5342(a)(A) of that title).

(b) The limitations on the availability of funds imposed by this section shall not restrict the payment of any rate of basic pay which does not exceed $4.22 per hour, if such rate of basic pay would be payable were it not for this section.

(c) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

Mr. STEED (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the final amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 70: Page 45, line 4, insert:

SEC. 616. It is the sense of the Congress that, upon the sale of the estate known as Casa Pacifica located in San Clemente, California, former President Richard M. Nixon should reimburse the United States for the original cost of any construction, renovation, improvements, equipment or articles paid for by the Federal Government of the United States, or for the amount by which they have increased the fair market value of the property, as determined by the Comptroller General of the United States, as of the date of sale, whichever is less.

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STEED moves that the House recede from its disagreement to the amendment of the Senate numbered 70 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

GENERAL LEAVE

Mr. STEED. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks, and include tabulations and extraneous material, and that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just under consideration and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

CONFERENCE REPORT ON H.R. 3996, AMTRAK REORGANIZATION ACT OF 1979

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 3996) to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96–481)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3996) to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for three additional years, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—AMTRAK REORGANIZATION

SHORT TITLE

SECTION 101. This title may be cited as the "Amtrak Reorganization Act of 1979".

PURPOSES

SEC. 102. Section 101 of the Rail Passenger Service

(1) by inserting "(a)" immediately before "The Congress";

(2) by striking out "and" after "this purpose;";

(3) by striking out the period after "Railroad Passenger Corporation" and inserting in lieu thereof the following: "; and that rail passenger service offers significant benefits in public transportation for the safe movement of passengers with minimum energy expenditure and represents a significant national transportation asset in time of national emergency or energy shortage."; and

(4) by adding at the end thereof the following new subsection:

"(b) The Congress further finds that—

"(1) inadequately defined goals for the Corporation have denied its board of directors an effective role in guiding the Corporation or in promoting and increasing the number of intercity rail passengers;

"(2) uncertain goals and financial commitment have discouraged the development of effective corporate management;

"(3) uncertainty arising from the lack of specific goals has made the achievement of high employee morale difficult;

"(4) State participation in subsidizing interstate rail passenger service has, for the most part, been unworkable;

"(5) lack of full cooperation by the railroad industry has impeded effective systemwide operation of passenger trains by the Corporation; and

"(6) a greater degree of cooperation is necessary among railroads, the Corporation, States with subsidized service, labor organizations, and suppliers of services and equipment to the Corporation in order to achieve a level of performance sufficient to justify additional expenditure of public funds.".

GOALS

SEC. 103. (a) GOALS FOR AMTRAK.—The Rail Passenger Service Act (45 U.S.C. 501 et seq.) is amended by redesignating section 102 as section 103 and by inserting after section 101 the following new section:

"SEC. 102. GOALS.

"The Congress hereby establishes the following goals for Amtrak:

"(1) Improvement of on-time performance by at least 50 percent within the three-year period beginning on the date of enactment of this section.

"(2) Implementation of schedules which provide a systemwide average speed of at least 55 miles per hour, and which can be adhered to with a degree of reliability and passenger comfort.

"(3) Improvement of the ratio of revenues to operating expenses, with the goal of coverage of at least 44 percent of operating expenses, excluding depreciation, from revenues by the end of fiscal year 1982 and 50 percent by the end of fiscal year 1985.

"(4) Improvement of the feasibility of State-subsidized service through the use of technical assistance panels to coordinate, plan, and implement such service.

"(5) Encouragement of rail carriers to assist in improving intercity rail passenger service.

"(6) General improvement of Amtrak's performance through comprehensive, systematic operational programs and employee incentives.".

(b) TECHNICAL AMENDMENT.—The heading for title I of the Rail Passenger Service Act is amended by inserting "GOALS," after "PURPOSES,".

DEFINITIONS

SEC. 104. Section 103 of the Rail Passenger Service Act, as redesignated by this Act, is amended to read as follows:

"SEC. 103. DEFINITIONS.

"For the purposes of this Act—

"(1) 'Amtrak' means the National Railroad Passenger Corporation created under title III of this Act.

"(2) 'Auto-ferry service' means intercity rail passenger service characterized by transportation of automobiles or recreational vehicles and their occupants.

"(3) 'Avoidable loss' means the avoidable costs of providing passenger service, less revenues attributable thereto, as determined by the Interstate Commerce Commission under the provisions of section 553 of title 5, United States Code.

"(4) 'Basic system' means (A) prior to October 1, 1979, the system of intercity rail passenger service designated by the Secretary under title II and section 403(a) of this Act, and (B) on and after October 1, 1979, the system of intercity rail passenger service designated by the Secretary under section 4 of the Amtrak Improvement Act of 1978 (Public Law 95–421) and approved by the Congress, and service required to be operated under sections 404(d) and 404(e) of this Act and under section 4(g) of the Amtrak Improvement Act of 1978, including changes to such system or service made by the Corporation using the Route and Service Criteria.

"(5) 'Center' means the Performance Evaluation Center established under section 305 of this Act.

"(6) 'Commission' means the Interstate Commerce Commission.

"(7) 'Corporation' means the National Railroad Passenger Corporation created under title III of this Act.

"(8) 'Intercity rail passenger service' means all rail passenger service other than commuter and other short-haul service in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride and commutation tickets, and by morning and evening peak period operations.

"(9) 'Model Program' means a program carried out by the Corporation under section 807 or section 809 of this Act and the employee assistance program established by the Corporation.

"(10) 'Panel' means a Technical Assistance Panel established under section 403(b) of this Act.

"(11) 'Rail carrier' and 'railroad' mean a person providing railroad transportation for compensation.

"(12) 'Regional transportation agency' means an authority, corporation, or other entity established for the purpose of providing passenger service within a region.

"(13) 'Route and Service Criteria' means the Criteria and Procedures for Making Route and Service Decisions established pursuant to section 404(c) of this Act.

"(14) 'Secretary' means the Secretary of Transportation or his delegate unless the context indicates otherwise.".

REDUCED FARE PROGRAM

SEC. 105. Section 305(c) of the Rail Passenger Service Act (45 U.S.C. 545(c)) is amended—

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) Within 90 days after the date of enactment of this paragraph, the Corporation shall establish a reduced fare program for elderly and handicapped individuals.

"(B) For purposes of this paragraph—

"(i) the term 'elderly individual' means a person who has attained the age of 65 years; and

"(ii) the term 'handicapped individual' means any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has record of such an impairment, or is regarded as having such an impairment, but the term handicapped individual does not include any person who is an alcoholic or drug abuser.".

OPERATIONAL IMPROVEMENT PROGRAM

SEC. 106. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by redesignating subsections (f) through (j) as subsections (g) through (k), respectively, and by inserting after subsection (e) the following new subsection:

"(f) The Corporation shall, not later than January 1, 1981, develop and submit to the Congress and to the President a comprehensive plan for the improvement of all intercity rail passenger service provided in the basic system. The Corporation shall commence implementation of such plan as soon as practicable after all or any portion thereof is developed. Such plan shall include—

"(1) a zero-based assessment of all operating practices and implementation of changes to achieve the minimum use of employees consistent with safe operations and adequate service;

"(2) a systematic program for optimizing the ratio of train size to passenger demand;

"(3) a systematic program for trip time reduction on all trains in the basic system;

"(4) establishment of training programs to achieve on-time departures and priorities for passenger trains over freight trains en route;

"(5) adjustment of purchasing and pricing of food and beverages to achieve, as soon as practical after the date of enactment of this subsection, a continuing reduction in losses associated with food and beverage services with a goal of ultimate profitability;

"(6) cooperative marketing opportunities between the Corporation and governmental entities at all levels having intercity rail passenger service; and

"(7) cooperative marketing campaigns sponsored by the Corporation and the Department of Energy, the Federal Highway Administration, and the Environmental Protection Agency.".

REGIONAL MAINTENANCE PLAN

Sec. 107. Section 305(g) of the Fall Passenger Service Act, as redesignated by this Act, is amended to read as follows:

"(g) The Corporation shall, not later than January 1, 1980, establish a Regional Maintenance Plan. Such plan shall include—

"(1) a review panel at corporate headquarters consisting of such members as the President of the Corporation shall designate;

"(2) a systemwide inventory of spare equipment parts by operational regions;

"(3) establishment of the necessary number of maintenance employees per number of cars and locomotives per region;

"(4) establishment of a systematic preventive maintenance program;

"(5) a method for periodic evaluation of maintenance costs, time lags, and parts shortages with appropriate corrective actions; and

"(6) such other elements or activities as the Corporation considers appropriate.".

RAILROAD POLICE

Sec. 108. Section 305(j) of the Rail Passenger Service Act, as redesignated by this Act, is amended by striking out "security guards" each place it appears and inserting in lieu thereof "railroad police" and by striking out "Security guards" and inserting in lieu thereof "Railroad police".

BUY AMERICA PROTECTION

Sec. 109. Sec. 305(k) of the Rail Passenger Service Act, as redesignated by this Act, is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) In addition to the exemptive authority set forth in paragraph (2), the Secretary may, upon application of the Corporation, exempt the Corporation from the requirements of paragraph (1) of this subsection with respect to the purchase of rolling stock or power train equipment if the Secretary determines that such rolling stock or power train equipment, as the case may be, cannot be purchased and delivered in the United States within a reasonable time.".

PERFORMANCE EVALUATION CENTER

Sec. 110. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(l) The Corporation shall establish a Performance Evaluation Center within the Corporation which shall have the responsibility of providing an ongoing review of operations. The Center should evaluate both short-term and long-term operational problems and make recommendations for improvement of operations. Each six months, the Corporation shall submit a report of the Center's activities and recommendations to the appropriate authorizing committees of both Houses of Congress and to the Secretary.".

ADEQUACY OF SERVICE REPORTS

Sec. 111. (a) Reports.—Section 305 of the Rail Passenger Service Act (45 U.S.C. 545), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(m) For purposes of assessing the operational performance of trains, the President of the Corporation shall have the authority to direct the conductor on any Amtrak train to report to the Center any inadequacy of train operation. Adequacy of service reports required under this subsection shall be promptly transmitted to the Center. Each report shall be signed by the conductor and contain sufficient information to locate equipment or personnel failures.".

(b) Repeal.—Section 801 of the Rail Passenger Service Act (45 U.S.C. 641) is hereby repealed.

APPLICABILITY OF OTHER LAWS

Sec. 112. (a) Exceptions to Applicability.—Section 306(a) of the Rail Passenger Service Act (45 U.S.C. 546(a)) is amended by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and" and by adding at the end thereof the following new paragraph:

"(4) the issuance of securities or the assumption of any obligation or liability with respect to the securities of others.".

(b) Through Routes and Joint Fares.—Section 306(j)(2) of the Rail Passenger Service Act (45 U.S.C. 546(j)(2)) is amended by striking out "motor carrier" and inserting in lieu thereof "any domestic or international motor, air, or water carrier".

(c) Pay Periods and Qualifications.—Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is further amended by adding at the end thereof the following new subsections:

"(l) The Corporation shall not be subject to any State or local law relating to pay periods or days for payment of employees. No employee of the Corporation shall be paid less frequently than such employee is paid as of the effective date of this subsection, other than pursuant to an applicable collective bargaining agreement.

"(m) The Corporation shall be deemed to be qualified to do business in each State in which it performs any activity authorized under this Act. In connection with the performance of such activities, the Corporation shall accept service of process addressed by certified mail to the secretary of the Corporation at its principal office and place of business in Washington, District of Columbia. The Corporation shall be deemed to be a citizen of the District of Columbia for the purpose of determining the original jurisdiction of the district courts of the United States in civil actions to which the Corporation is a party.".

REPORTS TO THE CONGRESS

Sec. 113. Section 308(a)(1) of the Rail Passenger Service Act of 1970 is amended to read as follows:

"(a)(1) Not later than the 45th day following the end of each calendar month, the Corporation shall transmit to the Congress and release to the public the following information applicable to its operations for such calendar month:".

UNIFORM CONTRACT

Sec. 114. Section 402 of the Rail Passenger Service Act (45 U.S.C. 562) is amended by adding at the end thereof the following new subsection:

"(g) The Corporation shall enter into a contract with rail carriers on an industry-wide basis to establish rights for the operation of special or charter trains between specific routes and points anywhere in the Nation upon provision of reasonable notice (of not less than seven days) to the carriers involved in the operation of any special or charter trains, except that with respect to rail lines on which rail passenger service has not been operated for the preceding 180 days, reasonable notice under this sentence shall be notice of not less than 21 days. If the Corporation and the rail carriers are unable to reach agreement by January 1, 1981, the Commission shall, upon application by the Corporation, order rail services to be provided under this subsection and shall, consistent with just and reasonable compensation principles, determine within 180 days after such date the proper amount of compensation for the provision of such services and the proper method of prior notification of the schedule and routing of a special or charter train by the Corporation.".

NEW SERVICE

Sec. 115. Route Additions.—Section 403(a) of the Rail Passenger Service Act (45 U.S.C. 563(a)) is amended to read as follows:

"(a) Except as otherwise provided in this Act, after October 1, 1979, all route additions shall be in accordance with the Route and Service Criteria.".

(b) Subsidized Service.—Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is amended to read as follows:

"(b)(1)(A) Any State or group of States, or any regional or local agency, may submit an application to the Corporation requesting the institution of rail passenger service in addition to that service provided in the basic system.

"(B) An application for rail passenger service under this subsection shall be submitted at least 180 days prior to the beginning of the fiscal year in which such service is to be operated, except that an application for service to be operated in the fiscal year ending September 30, 1980, shall be submitted no later than the 60th day following the beginning of such fiscal year.

"(C) Each application by a State or agency for rail passenger service under this subsection shall contain—

"(i) adequate assurances by such State or agency that it has sufficient resources to meet its share of the cost of such service for the period such service is to be provided;

"(ii) a market analysis acceptable to the Corporation to ensure that there is adequate demand to warrant such service;

"(iii) a statement by such State or agency that it agrees to provide 20 percent of the solely related costs of such service in the first year of operation, 35 percent of such costs in the second year of operation, and 50 percent of such costs in each year of operation thereafter; and

"(iv) a statement by such State or agency that it agrees to provide, in each year of operation of such service, 50 percent of the associated capital costs of operating such service.

"(2)(A) The Corporation shall review each application submitted by a State or agency for the institution of service under this subsection and shall convene a Technical Assistance Panel to consider such application if the Corporation determines that—

"(i) the application complies with requirements of paragraph (1)(C) of this subsection; and

"(ii) there is a reasonable probability that the service requested can be provided with the resources available to the Corporation.

"(B) The Corporation shall make its determination under this paragraph, and convene a panel if appropriate, at least 150 days prior to the beginning of the fiscal year in which the service requested is to be operated, except that with respect to an application for service to be operated in the fiscal year ending September 30, 1980, the Corporation shall make its determinations, and convene a panel if appropriate, no later than 30 days after the date such application is submitted.

"(C) Any application submitted by a group of States shall be considered in the same manner as an application submitted by a single State, and not on the basis of whether each State that is a party to such application meets the requirements of paragraph (1)(C) of this subsection.

"(3)(A) Each panel convened by the Corporation to consider an application shall be composed of—

"(i) a State rail planning official from each State that is a party to the application;

"(ii) a representative of the Corporation;

"(iii) a representative from a railroad labor organization representing operating crafts of employees; and

"(iv) a representative from a railroad labor organization representing nonoperating crafts of employees.

"(B) The Corporation shall submit to each panel data projecting the solely related costs and associated capital costs of operating the service under consideration. Each panel shall, no later than 90 days after the date it is convened, consider and make recommendations to the Corporation with respect to—

"(i) appropriate measures for minimizing such costs, including measures such as—

"(I) the assumption by the applicant State or agency of certain responsibilities in connection with the operation of the service under consideration; and

"(II) a reduction in the labor costs of operating such service; and

"(ii) if more than one State is a party to the application, the appropriate manner for allocating such costs among the applicant States.

"(4)(A) After taking into account the recommendations of the panel with respect to rail passenger service requested by a State or agency under this subsection, the Corporation shall enter into an agreement with such State or agency for the institution of such service, in accordance with the funding formula set forth in paragraph (1)(C) of this subsection, if the Corporation determines that such service can be provided with resources available to the Corporation.

"(B) An agreement entered into pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years.

"(C) If more than one application is made for service and all applications are consistent with the requirements of this subsection, but all the services applied for cannot be provided with the available resources of the Corporation, the Board of Directors shall decide in its discretion which application or applications best serve the public interest and can be provided with the available resources of the Corporation, except that a proposal for State support of a service deleted from the basic system in effect prior to October 1, 1979, or the basic system in effect after such date, shall be given preference.

"(5) Prior to instituting any fare increase that applies to service provided under this subsection and that represents an increase of more than 5 percent over a 6-month period, the Corporation shall consult with and obtain the views of the appropriate officials of each State to be affected by such fare increase. The Corporation shall provide the officials of each such State with an explanation of the circumstances warranting the proposed fare increase (such as the unique costs of or demand for the services involved).

"(6)(A) Federal funds available for expenditure under this subsection shall not be in substitution for the average amount of State and local funds expended for the operation of rail services under this subsection in the State for the two fiscal years preceding the fiscal year for which the funds are made available.

"(B) If service provided under this subsection on the date of enactment of the Amtrak Reorganization Act of 1979 is terminated by a State or agency and such State or agency subsequently decides to resume such service, the Corporation shall agree to provide funding at the level provided under the contract in effect on such date of enactment.

"(C) A State may add additional frequencies of service on an existing route. Additional frequencies shall be initiated in accordance with the funding formula described in paragraph (1)(C) of this subsection, without regard to funding ratios then in effect on other frequencies on such existing route.

"(7)(A) Any funds provided by the Corporation under an agreement with an agency pursuant to this subsection which are allocated for associated capital costs and which are not expended during the fiscal year for which they are provided shall remain available until expended.

"(B) An agency entering into an agreement with the Corporation for the operation of service under this subsection shall be entitled to reimbursement for staff services in an amount equal to 1½ percent of the operating losses and associated capital costs.

"(C) The board of directors shall establish the basis for determining the solely related costs and associated capital costs of service operated under this subsection, and the total revenue from such service.

"(8) Not more than five percent of all revenues generated by each particular route operated under the authority of this subsection shall be dedicated to advertising and promotion of such service on a local level.".

(c) REPEAL.—Section 403(c) of the Rail Passenger Service Act (45 U.S.C. 563(c)) is repealed.

(d) COMMUTER SERVICE.—Section 403(d) of the Rail Passenger Service Act (45 U.S.C. 563(d)) is amended—

(1) by inserting "(1)" immediately before "The Corporation";

(2) by inserting immediately after the first sentence thereof the following: "An agreement made pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than two years."; and

(3) by adding at the end thereof the following new paragraphs:

"(2) Any rail passenger service which is operated by the Corporation on January 1, 1979, and which constitutes commuter rail passenger service as defined in paragraph (1) of this subsection shall, until April 1, 1981, continue to be operated by the Corporation and funded in accordance with the method of funding in effect for that service on January 1, 1979. In addition, any rail passenger service which (A) is operated by the Consolidated Rail Corporation, (B) is the subject of an application for discontinuance filed with the Commission before July 15, 1979, and (C) constitutes commuter rail passenger service as defined in paragraph (1) of this subsection shall, until April 1, 1981, be operated by the Corporation and funded by the Corporation in the same manner as service operated under the preceding sentence.

"(3) The Corporation shall, until April 1, 1981, continue to accept commuter based fares for any rail passenger service which it operates and for which such fares are accepted on January 1, 1979. Nothing in this paragraph shall be construed as prohibiting the Corporation or any other railroad from increasing the amount of any fare charged for rail passenger service.".

SERVICE CHANGES

SEC. 116. (a) SERVICE CHANGES.—Section 404(b) of the Rail Passenger Service Act (45 U.S.C. 564(b)) is amended to read as follows:

"(b) After October 1, 1979, all route discontinuances by the Corporation shall be in accordance with the Route and Service Criteria.".

(b) TECHNICAL AMENDMENT.—Section 404 of the Rail Passenger Service Act (45 U.S.C. 564) is amended by striking out

"SEC. 404. DISCONTINUANCE OF SERVICES."

and inserting in lieu thereof

"SEC. 404. SERVICE CHANGES.".

APPLICATION OF ROUTE AND SERVICE CRITERIA

SEC. 117. Section 404(c) of the Rail Passenger Service Act (45 U.S.C. 564(c)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) The Corporation shall conduct an annual review of each long-distance route in the basic system to determine if such route meets the criteria set forth in paragraph (1) of subsection (d) of this section, as adjusted to reflect constant 1979 dollars. If the Corporation determines, on the basis of such review, that a route fails to meet the criteria set forth in such paragraph, the Corporation shall evaluate such route under the Route and Service Criteria. If the Corporation determines, on the basis of such evaluation, that such route fails to meet the Route and Service Criteria, the Corporation shall discontinue the operation of rail passenger service over such route.

"(B) The annual review conducted by the Corporation under subparagraph (A) shall include an evaluation of the potential market demand for, and the cost of providing service on, portions or segments of long-distance routes, and the potential market demand for, and cost of providing service on, alternative routings. The Corporation shall transmit the results of the annual review to each House of the Congress and to the Secretary of Transportation.".

EXCEPTIONS TO APPLICABILITY OF ROUTE AND SERVICE CRITERIA

SEC. 118. Section 404(c) of the Rail Passenger Service Act (45 U.S.C. 564(c)), as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(5) The Route and Service Criteria shall not apply to—

"(A) decisions of the Corporation to increase or, where construction schedules, other temporary disruptive factors, or seasonal fluctuations in ridership so warrant, to decrease frequency of service on existing routes or portions of existing routes or on routes where an additional frequency of service is being tested; and

"(B) rerouting of service between major population centers on existing routes.".

ADDITIONAL QUALIFYING ROUTES

SEC. 119. Section 404 of the Rail Passenger Service Act (45 U.S.C. 564) is amended by adding at the end thereof the following new subsections:

"(d)(1) Where reductions in operating expenses can be obtained, the Corporation shall operate rail passenger service over any long distance route which is recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrak Improvement Act of 1978, with or without any restructuring of such route to serve major population centers as end points or principal intermediate points, in order to maintain a national intercity rail passenger system, if—

"(A) the short term avoidable loss per passenger mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not more than 7 cents per passenger mile; and

"(B) the passenger mile per train mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not less than 150.

Short term avoidable loss per passenger mile calculated by the Corporation for purposes of this subsection shall be based upon consistently defined factors for all types of routes, and such short term avoidable loss and passenger mile per train mile shall be calculated in the same manner for all routes. The Corporation shall make its calculations under this subsection on the basis of the most recent available statistics for a 90-day period, except that the Corporation may also utilize historical data (such as seasonal fluctuations in ridership) as long as such data is adjusted to reflect the most recent available statistics. The Corporation shall, no later than 30 days after the effective date of this subsection, submit a report to the Interstate and Foreign Commerce Committee of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the methodology, equations, factors used, assumptions, and results in connection with the calculation of short term avoidable loss per passenger mile and passenger mile per train mile under this subsection.

"(2) Where reductions in operating expenses can be obtained, the Corporation shall operate rail passenger service over any short-distance route which is recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrak Improvement Act of 1978 with or without any restructuring of such route to serve major population centers as end-points or principal intermediate points, in order to maintain a national intercity rail passenger system, if—

"(A) the short-term avoidable loss per passenger mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not more than 9 cents per passenger mile; and

"(B) the passenger mile per train mile, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not less than 80.

"(e)(1) In order to preserve regional balance in the national intercity rail passenger system and to ensure that long-distance routes recommended for discontinuance by the Secretary pursuant to section 4, of the Amtrak Improvement Act of 1978 which provide service to regions with few population centers in a large geographic area have equal opportunity to qualify for continued operation, the Corporation shall operate a long-distance route in each section of the United States (with sections being determined by dividing the United States into four quadrants) if—

"(A) service is not maintained on any long-distance route in that section under the criteria set forth in subsection (d)(1) of this section; and

"(B) the Corporation determines that (i) a long-distance route exists in that section which has shown and will show improvements in performance under the criteria, set forth in subsection (d)(1) of this section, and (ii) such route shows potential, under such criteria, to warrant maintenance in the system.

"(2) The Corporation shall not continue to operate any route under this subsection if service is provided on a significant part of that route by any other route.

"(3) Service operated on a route under this subsection shall continue to be operated after October 1, 1981, only if such route meets the criteria set forth in subsection (d)(1) of this section: *Provided*, That the Corporation shall continue to operate the Inter-American train to the Mexican border if that train meets the criteria set forth above.

"(f) For the purpose of this section and section 4 of the Amtrak Improvement Act of 1978, the reference to Tampa in table 4-1 at page 4-7 of the Secretary's Final Report to Congress on the Amtrak Route System, dated January 1979, shall be deemed to mean Saint Petersburg.

"(g) Notwithstanding any other provisions of this Act (including the requirements of section 403(d)), the Corporation is authorized, to the extent available resources permit, to operate short-haul trains, on a demonstration basis for the purpose of determining the feasibility and benefits of such services, on additional routes of 200 miles or less which link two or more major metropolitan areas.".

FREE OR REDUCED RATE TRANSPORTATION OF RAILROAD EMPLOYEES

SEC. 120. (a) REIMBURSEMENT RATE.—Section 405(f) of the Rail Passenger Service Act (45 U.S.C. 565(f)) is amended by striking out "The Corporation shall be reimbursed" and all that follows through "in accordance with the agreements," and inserting in lieu thereof the following: "Unless the Corporation and a railroad or group of railroads agree on a different basis for compensation, the Corporation shall, during the 2-year period beginning on the effective date of the Amtrak Reorganization Act of 1979, be reimbursed by each railroad at the rate of 25 percent of the systemwide average monthly yield per revenue passenger mile. Reimbursement at this rate is in lieu of any charges for liability incident to travel of railroad employees eligible for free or reduced-rate transportation and any other costs incurred by the Corporation in connection with free or reduced rate transportation and any other costs incurred by the Corporation in connection with free or reduced-rate transportation. Nothing in this subsection shall preclude the Commission from ordering retroactive relief in any proceeding instituted or reopened after October 1, 1981.".

(b) REPORT.—The Comptroller General shall conduct a study of the free or reduced-rate transportation provided to railroad employees by the National Railroad Passenger Corporation under section 405(f) of the Rail Passenger Service Act. Within 180 days after the effective date of this Act, the Comptroller General shall submit a report to the Congress and to the Interstate Commerce Commission setting forth recommendations regarding the appropriate means for reimbursing the Corporation for the cost of providing such transportation services, taking into account the value of the services being provided.

RETENTION AND MAINTENANCE OF FACILITIES

SEC. 121. Title IV of the Rail Passenger Service Act (45 U.S.C. 561 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 406. RETENTION AND MAINTENANCE OF FACILITIES.

"(a) No facilities of a railroad (including a regional transportation agency) which are used in the operation of rail passenger services by the Corporation on February 1, 1979, shall be downgraded or disposed of without obtaining the prior approval of the Secretary under this section.

"(b) Whenever any railroad intends to downgrade or dispose of a facility referred to in subsection (a) of this section which is not currently being used in the operation of services by the Corporation, such railroad shall first notify the Corporation of its intention to take such action. If, within 60 days after receipt by the Corporation of such notice, the Corporation and such railroad are not able to enter into an agreement for the retention or maintenance of such facility or for the conveyance to the Corporation of such facility or an interest therein, the railroad may apply to the Secretary for approval of the downgrading or disposal of the facility.

"(c)(1) If the Corporation does not object to an application of a railroad to downgrade or dispose of a facility within 30 days after the date such application is submitted, the Secretary shall promptly approve such application.

"(2) If the Corporation makes a timely objection to such an application, the Secretary shall, within 180 days after the date of such objection, determine the costs which the railroad could avoid if it were not required to maintain or retain the facility in the condition requested by the Corporation. If the Corporation does not, within 60 days after the date of the Secretary's determination, agree to pay such avoidable costs to the railroad, the Secretary shall approve such application.

"(d)(1) In electing whether to enter into an agreement pursuant to this section to pay a railroad the avoidable costs of maintaining or retaining a facility, the Corporation shall consider—

"(A) the potential importance of restoring rail passenger service on the route on which such facility is located;

"(B) the market potential of such route;

"(C) the availability, adequacy, and energy efficiency of alternate modes or alternate rail lines for providing passenger transportation to or near the points which would be served by the route;

"(D) the extent to which major population centers would be served by such route;

"(E) the extent to which the provision of service over such route would encourage the expansion of a national intercity rail passenger system; and

"(F) the possibility of increased ridership on lines of railroad connecting with such route.

"(2)(A) In order to prepare for a valid and timely analysis of a facility, after a railroad gives notice pursuant to this section that it intends to downgrade or dispose of such facility, the Corporation shall conduct a survey of population centers with railroad passenger service facilities and shall update such survey from time to time as may be necessary or appropriate. Within 90 days after the date of enactment of this section, the Corporation shall take steps to prepare a survey plan which shall provide for—

"(i) a target completion date for the survey of population centers of not later than 360 days after the ninetieth day after such date of enactment; and

"(ii) a system of collection, compilation, and storage of information gathered pursuant to the survey according to geographic region and according to whether a facility would be a part of a short- or long-haul route.

"(B) The survey should facilitate an analysis of—

"(i) ridership potential by ascertaining existing travel patterns or changing travel patterns which would maximize efficiencies of railroad passenger service;

"(ii) the quality of service of competitors or likely competitors;

"(iii) the likelihood of the Corporation offering service at a competitive fare;

"(iv) opportunities to target advertising and fares to potential classes of riders;

"(v) economic characteristics of railroad passenger service associated with a facility and the extent to which such characteristics are consistent with sound economic principles of short- or long-haul railroad operations; and

"(vi) the feasibility of applying effective internal cost controls to a facility and the route which the facility would serve in order to improve over time the ratio of transportation expenses, excluding maintenance of track, structure, and equipment and depreciation, to passenger revenue.

"(e) For purposes of this section—

"(1) the term 'facilities' means railroad tracks, rights-of-way, fixed equipment and facilities, and real property appurtenant thereto, and includes signal systems, passenger station and repair tracks, station buildings, platforms, and adjunct facilities such as water, fuel, steam, electric, and air lines;

"(2) the downgrading of a facility means a reduction in track classification as specified in the Federal Railroad Administration track safety standards (49 C.F.R. 213), or any other change in such facilities which may increase the time required for a passenger train to operate over the route on which such facility is located; and

"(3) approval of downgrading or disposal under this section shall not be construed as relieving a railroad from compliance with its other common carrier or legal obligations with respect to a facility.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 122. (a) AUTHORIZATION.—Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

"(b)(1) There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

"(A) for the payment of operating expenses, not to exceed $630,900,000 for the fiscal year ending September 30, 1980, and not to exceed $674,900,000 for the fiscal year ending September 30, 1981, of which not less than $1,200,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981, shall be available for the cost of Model Programs;

"(B) for the payment of the costs of capital acquisition or improvements to the basic system, including the payment of expenses for the retention and maintenance of facilities under section 406 of this Act, not to exceed $203,000,000 for the fiscal year ending September 30, 1980, not to exceed $244,000,000 for the fiscal year ending September 30, 1981, and not to exceed $254,000,000 for the fiscal year ending September 30, 1982;

"(C) for the payment of operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act, not to exceed $23,800,000 for the fiscal year ending September 30, 1980, not to exceed $29,000,000 for the fiscal year ending September 30, 1981, and not to exceed $30,000,000 for the fiscal year ending September 30, 1982;

"(D) for labor protection payments required pursuant to section 405 of this Act, not to exceed $30,000,000 for the fiscal year ending September 30, 1980, not to exceed $12,000,000 for the fiscal year ending September 30, 1981, and not to exceed $20,000,000 for fiscal year ending September 30, 1982; and any sums authorized by this subparagraph which remain available after such labor protection payments are made shall be made available to the Corporation for use in the payment of expenses and costs in accordance with subparagraphs (A) and (B) of this paragraph;

"(E) for the payment of the principal of obligations (other than leases) of the Corporation which are guaranteed by the Secretary pursuant to section 602 of this Act, not to exceed $25,000,000 for the fiscal year ending September 30, 1980, not to exceed $25,000,000 for the fiscal year ending September 30, 1981, and not to exceed $25,000,000 for the fiscal year ending September 30, 1982.

"(2) Funds appropriated pursuant to this section shall be made available to the Secretary during the fiscal year for which appropriated, except that appropriations for capital acquisitions and improvements may be made in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation. Funds appropriated are authorized to remain available until expended. Appropriated sums shall be paid by the Secretary to the Corporation for expenditure by it in accordance with (A) the Secretary's budget request as approved or modified by Congress at the time of appropriation, and (B) guidelines established by the Secretary. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.

"(2) Funds appropriated for capital grants pursuant to this subsection shall be paid to the Corporation in each fiscal quarter, and such grants may be used by the Corporation for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of this Act.".

(b) TECHNICAL AMENDMENTS.—(1) Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended—

(A) by striking out "(a)(1)" and inserting in lieu thereof "(a)"; and

(B) by striking out "(2) Funds appropriated for" and all that follows through "of this Act".

(2) Section 602(d) of the Rail Passenger Service Act (45 U.S.C. 602(d)) is amended by striking out "clause (3) of section 601 (a)" and inserting in lieu thereof "section 601(a)(3) or section 601(b)(1)(E)".

EMPLOYEE COMPENSATION AND INCENTIVE COMMISSION

SEC. 123. Title VIII of the Rail Passenger Service Act (45 U.S.C. 641 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 808. EMPLOYEE COMPENSATION AND INCENTIVE COMMISSION.

"(a) The Secretary shall, within 30 days after the date of enactment of this section, name a five-member Employee Compensation and Incentive Commission. The members of the Commission shall be selected on the basis of their knowledge of the railroad industry.

"(b) The Employee Compensation and Incentive Commission shall—

"(1) evaluate the salary paid officers of Amtrak in relation to Amtrak's ability to attract and maintain qualified officers; and

"(2) after consultation with the Corporation and railroad labor organizations, develop a program for improving Amtrak employee incentive and morale, including measures such as the institution of recognition and financial awards for outstanding employees.

"(c) The Employee Compensation and Incentive Commission shall, no later than March 1, 1980, submit recommendations to the board of directors of the Corporation with respect to the matters referred to in subsection (b) of this section. The board of directors shall, within 90 days after the date of submission, notify the Congress of (1) any action it plans to take to implement the Commissions recommendations, and (2) any proposals for additional legislation which the board considers necessary.".

MODEL PROGRAMS

SEC. 124. Title VIII of the Rail Passenger Service Act (45 U.S.C. 641 et seq.) as amended by this Act, is further amended by adding at the end thereof the following new section:

"SEC. 809. MODEL PROGRAMS.

"Not later than October 1, 1979, the Corporation shall, in consultation with railroad labor organizations, develop and implement a Job Placement Program for employees who will be affected by the reduction in work force caused by the implementation of the Secretary's recommendations for the restructuring of routes. Such program shall emphasize the facilitation of reemployment of employees dismissed or dislocated as a result of corporate restructuring. In carrying out its responsibilities under this section, the Corporation shall attempt to reduce labor protection costs and maximize utilization of the employment skills of affected employees. Such program may include job counseling, placement advertising, skills improvement courses, and such other activities as the Corporation considers appropriate to facilitate reemployment of affected employees within or outside the rail industry.".

STATE TAXATION STUDY

SEC. 125. Title VIII of the Rail Passenger Service Act (45 U.S.C. 641 et seq.), as amended by this Act, is further amended by adding at the end thereof the following new section:

"SEC. 810. STATE TAXATION STUDY.

"The Secretary shall conduct a study of the payment of taxes by the Corporation to State and local governments, including the payment of property taxes, sales taxes, gross revenue taxes, fuel taxes, licenses, and other user fees, and any other taxes paid by the Corporation to such governments, and shall make recommendations to the Congress no later than January 1, 1980, concerning the advisability of relieving the Corporation, either in whole or in part, of its obligation to make such payments. In conducting such study, the Secretary shall consider—

"(1) the requirement that the Corporation be operated and managed as a for-profit corporation;

"(2) the certainty that the Corporation will need substantial Federal subsidies for the foreseeable future;

"(3) the demand by States and localities for continued and increased federally funded rail passenger service;

"(4) the benefit to States and localities of rail passenger service directly funded by the Federal Government; and

"(5) the importance to the Nation of maintaining an efficient and reliable national rail transportation system.".

REPORT ON REVENUES AND EXPENSES

SEC. 126. Title VIII of the Rail Passenger Service Act (45 U.S.C. 641 et seq.), as amended by this Act, is further amended by adding at the end thereof the following new section:

"REVENUE REPORT

"SEC. 811. Within 60 days of the end of each fiscal year beginning with fiscal year 1981, the Corporation shall report to the Congress on the ratio of revenue to operating expenses on all routes in the basic system. As part of such report, the Corporation shall specifically identify those train routes which did not achieve a 50 percent revenue-to-expense ratio, and the Corporation shall include statements explaining the reasons which prevented such ratios from being achieved.".

IMPLEMENTATION OF THE NEW ROUTE PLAN

SEC. 127. Section 4(g) of the Amtrak Improvement Act of 1978 (Public Law 95–421) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ": *Provided, however,* That implementation of the Secretary's recommendations which require (1) operation over rail lines not used in intercity passenger service upon the date of approval thereof; (2) use of new facilities; or (3) new labor agreements, may be deferred by the Corporation until any necessary capital improvements in such lines or facilities, or required labor agreements, are made, to permit service that is equivalent or improved service and is consistent with the goals contained in subsection (a) of this section: *And provided further,* That, notwithstanding any other provision of law, pending deferred implementation of such recommendations, the Corporation shall provide substitute service over existing routes which are recommended for restructuring in whole or in part and over other feasible existing routes, without reference to the Route and Service Criteria. Substitute service provided over an existing route under this paragraph shall continue to be operated after October 1, 1981, only if such route meets the criteria set forth in section 404(d)(1) of the Rail Passenger Service Act, as adjusted to reflect constant 1979 dollars; but expecting any short haul route concentrating on commuter ridership.".

INTERMODAL TERMINAL PROGRAM

SEC. 128. The first sentence of section 4(1)(5) of the Department of Transportation Act (49 U.S.C. 1653(1)(5)) is amended by striking out "within two years following the approval of the application for Federal financial assistance under this subsection" and inserting in lieu thereof "within such time period as the Secretary establishes".

GAO STUDY OF DEBT LIMITATION

SEC. 129. Within 180 days after the effective date of this Act, the Comptroller General shall submit a report to the Congress recommending appropriate means for the National Railroad Passenger Corporation to eliminate the obligations of the Corporation that are guaranteed under section 602 of the Rail Passenger Service Act. In developing such recommendations, the Comptroller General shall consider (1) the feasibility of converting such obligations into stock issued by the Corporation, (2) the likelihood of obligation retirement from profits of the Corporation, (3) the ability of the Corporation to continue to carry its debt service within the context of operating subsidies, fairly and accurately reflecting current operating costs, and (4) the extent to which debt incurred by the Corporation prior to the effective date of this Act should be recognized as unrecoverable.

SERVICE ON PORTION OR SEGMENT OF DISCONTINUED ROUTES

SEC. 130. The National Railroad Passenger Corporation shall conduct an evaluation of the possibility of providing rail passenger service on a portion or segment of any route over which service is discontinued on or after October 1, 1979. Such evaluation shall include an examination of the potential market demand for rail passenger service over a portion or segment of any such discontinued route, and the cost of providing such service. The Corporation shall, no later than February 15, 1980, submit a report to both Houses of the Congress and to the Secretary of Transportation setting forth its findings under this section.

MAIL AND EXPRESS REVENUES

SEC. 131. The National Railroad Passenger Corporation shall, in conjunction with the United States Postal Service, determine those mail transportation requirements which can be met by the Corporation and shall develop and submit to the Congress, no later than April 30, 1980, a report setting forth recommendations designed to enable the Corporation to achieve maximum levels of mail carriage and revenues derived from such carriage. Such report shall include the following considerations:

(1) the modification of existing facilities to handle mail and express more efficiently;

(2) the acquisition of modern materials handling equipment and rolling stock;

(3) optimum scheduling;

(4) trains devoted exclusively to mail carriage;

(5) staffing and promotional requirements; and

(6) proposals for such legislative action as may be appropriate.

AMTRAK ROUTE ALLOCATION STUDY

SEC. 132. (a) COST ALLOCATION REPORT.—(1) Not later than April 30, 1980, the President of the National Railroad Passenger Corporation shall submit a report to the Congress on the feasibility of establishing a system of uniform cost allocation for the Corporation which would include—

(A) the avoidable cost by route;

(B) the revenue (including mail and State subsidies, if any) by route;

(C) the fully allocated cost by route;

(D) the number of passengers carried by route;

(E) the avoidable profit or loss by route;

(F) the fully allocated profit or loss by route;

(G) the profit or loss per passenger by route; and

(H) the profit or loss by revenue passenger mile.

(2) For the purposes of this section, the term—

(A) "avoidable profit or loss" means the result of all revenue attributable to a route minus all reasonable and necessary expenses (including use of tracks and other facilities) which would be incurred by a carrier in providing a service which the carrier can establish that it would not incur if such service were not operated, and all other services were continued; such costs shall be restricted to costs solely related to the service and variable portion of common costs which would not be incurred but for the existence of the service; such costs shall exclude fixed common costs, allocation of any common costs which do not vary as a consequence of providing the service, return on investment, rent, and any other costs which the carrier cannot establish that it would not have reasonably and necessarily incurred but for the existence of the service;

(B) "fully allocated profit or loss" means the avoidable costs plus all other costs, other than unallocated costs, allocated to a route according to the Corporation's current accounting practices; and

(C) "unallocated costs" means those corporate interest, general, and administrative costs not assigned to particular routes.

(b) Profit and Loss Report.—(1) The Corporation shall prepare and submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and the Committee on Interstate and Foreign Commerce and the Committee on Appropriations of the House of Representatives not later than April 30, 1980, a report containing—

(A) a profit and loss table by route for the upcoming fiscal year, assuming a 50 percent Government reimbursement of the fully allocated losses experienced by each such route; and

(B) the average ticket subsidy required to show a systemwide public service profit (above and beyond such 50 percent Government reimbursement) for the upcoming fiscal year.

(2) Such reports shall be based on the best possible data available to the Corporation including, but not limited to, historical ridership trends, marketing studies, general economic conditions, ticket pricing policies, levels of services and equipment availability among other factors.

(3) For the purposes of this section, the term "public service profit" means the profit or loss experienced on each route after the Government subsidies (both operating and ticket) are added to such route's revenues.

TITLE II—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c) is amended to read as follows:

"(c) ASSOCIATION.—For the fiscal year ending September 30, 1980, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $28,500,000. Sums appropriated under this subsection are authorized to remain available until expended.".

REPORT ON SPECIAL COURT PROCEEDINGS

SEC. 202. Section 202(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712(e)) is amended by adding at the end thereof the following new paragraphs:

"(3) The Association shall transmit to the Congress, no later than 30 days after the end of each fiscal quarter, a report with respect to the proceedings before the special court to determine the valuation of rail properties conveyed to the Corporation under section 303 of this Act. Each such report shall include—

"(A) a detailed accounting of the Federal funds expended during such quarter in connection with such proceedings, and the purposes for which such funds were expended;

"(B) an explanation of the status of such proceedings, including the prospects for settlement or conclusion; and

"(C) an identification of which responsibilities in connection with such proceedings are being carried out directly by the Association, and which are being carried out by contract with private organizations.".

TRANSFER OF FUNCTIONS; MONITORING

SEC. 203. Section 202 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712) is amended by adding at the end thereof the following new subsections:

"(h) TRANSFER OF LITIGATION.—No later than March 1, 1980, the Association and the Attorney General of the United States shall develop and submit to the Congress a feasibility study for the transfer, to the appropriate department or agency of the Federal Government, of all responsibility for representing the United States in the proceedings before the special court to determine the valuation of rail properties conveyed to the Corporation under section 303 of this Act.

"(i) TRANSFER OF OTHER FUNCTIONS.—No later than March 1, 1980, the Association and the Secretary of Transportation shall develop and submit to the Congress a feasibility study for the transfer of all functions of the Association, other than those referred to in subsection (h) of this section, to the appropriate department or agency of the Federal Government, including the abolition of those functions which will no longer be necessary.

"(j) MONITORING OF CONTRACTORS.—The Board of Directors of the Association shall adopt procedures to insure (1) that contractors, including law firms, provide reports containing written verification of tasks assigned, work performed, time worked, and costs incurred, including periodic status reports on work performed, (2) that such reports are audited by the Association, (3) that no funds are paid to contractors without written reports complying with the requirements of this subsection, and (4) that the Association applies such procedures uniformly to all contractors.".

INSURANCE COVERAGE

SEC. 204. (a) PAYMENT OF PREMIUMS AND BENEFITS.—Section 303(b)(6)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)(B)) is amended by striking out the first and second sentences and inserting in lieu thereof the following:

"(B) The Corporation shall, through the purchase of insurance or otherwise, maintain in effect any medical insurance coverage or so much of any life insurance coverage that does not exceed in death benefits an amount equal to twice the employee's annual salary at the time of retirement or $60,000, whichever is lower, which coverage was maintained by a railroad in reorganization in the region immediately prior to April 1, 1976, and which provides insurance benefits to employees who retired, prior to April 1, 1976, from service with such a railroad. With respect to any such employee whose medical or life insurance coverage lapsed after April 1, 1976, due to nonpayment of premiums, the Corporation shall—

"(i) through the purchase of insurance or otherwise, provide medical insurance benefits or life insurance benefits at the same level as were provided by the employer railroad in reorganization and in effect with respect to such employees immediately prior to April 1, 1976, except that the life insurance benefits so provided shall not exceed in death benefits an amount equal to twice the employee's annual salary at the time of retirement or $60,000, whichever is lower; and

"(ii) assume and pay any claim for such employee (or his personal representative) for any such insurance benefits, if—

"(I) such claim arose during the period beginning April 1, 1976, and ending on the date insurance coverage is provided pursuant to clause (i) of this subparagraph;

"(II) such benefits were not paid by an insurer solely because of the lapse of the insurance coverage during such period,

except that such benefits shall not be paid for any such employee in excess of an amount equal to twice the employee's annual salary at the time of retirement or $60,000, whichever is lower.".

(b) AMENDMENTS TO SECTION 211(h).—Section 211 (h) (a) (viii) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(h) (1) (A) (viii)) is amended to read as follows:

"(viii) amounts required to provide adequate funding for continuation, by the Corporation, of medical and life insurance coverage and benefits for retired employees of railroads in reorganization as required and limited by section 303(b) (6) (B) of this Act.".

(2) Section 211(h) (6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(h) (6)) is amended—

(A) by inserting "(A)" immediately before "Notwithstanding";

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and

(C) by adding at the end thereof the following new paragraph:

"(B) The Association shall have a direct claim, as a current expense of administration of the estate of the railroad in reorganization whose obligations were paid with the proceeds of loans forgiven under this paragraph, equal to the amount by which the loans, plus interest, have been forgiven. Such direct claim shall not be subject to any reduction by way of setoff, cross-claim, or counterclaim which the estate of such railroad in reorganization may be entitled to assert against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States. The direct claim of the Association under this paragraph shall be prior to all other administrative claims of the estate of the railroad in reorganization, except claims arising under trustee's certificates or from default on the payment of such certificates.".

TITLE III—OFFICE OF RAIL PUBLIC COUNSEL

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. Section 10388 of title 49, United States Code, is amended to read as follows:

"§ 10388. Authorization of appropriations

"There is authorized to be appropriated to the Office of Rail Public Counsel to carry out this subchapter not to exceed $1,200,000 for the fiscal year ending September 30, 1980.".

TITLE IV—AMENDMENTS TO THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

EXTENSION OF FINANCIAL ASSISTANCE PROGRAM

SEC. 401. Sections 505(e), 507(a), 507(d), and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(e), 827(a), 827(d), and 829) are amended by striking out "September 30, 1979" each place it appears and inserting in lieu thereof "September 30, 1980".

TITLE V—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 501. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on October 1, 1979.

(b) The amendments made by section 204 of this Act shall be effective as of the date of enactment of Public Law 95–597.

And the Senate agree to the same.

HARLEY O. STAGGERS,
J. J. FLORIO,
JIM SANTINI,
BARBARA A. MIKULSKI,
JOHN M. MURPHY,
MARTY RUSSO,
EDWARD R. MADIGAN,
GARY A. LEE,
Managers on the Part of the House.

HOWARD W. CANNON,
RUSSELL B. LONG,
FRITZ HOLLINGS,
J. J. EXON,
BOB PACKWOOD,
HARRISON SCHMITT,
NANCY KASSEBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3996) to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for three additional years, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—AMTRAK REORGANIZATION

SHORT TITLE (SEC. 101)

Senate amendment

The Senate amendment provides that this legislation may be cited as the "Amtrak Improvement Act of 1979."

House bill

The House bill provides that this legislation may be cited as the "Amtrak Reorganization Act of 1979."

Conference substitute

The conference substitute is the same as the House bill.

PURPOSES (SEC. 102)

Senate amendment

No provision.

House bill

The House bill amended the Congressional Findings and Declaration of Purpose's section of the Rail Passenger Service Act. The House has found many inadequacies in operation of rail passenger service which needs to be addressed by Congress.

Conference substitute

The conference substitute is the same as the House bill.

GOALS (SEC. 103)

Senate amendment

No provision.

House bill

This section provides Amtrak management with clearly defined goals and provides the public with reasonable expectations from Amtrak.

Conference substitute

The conference substitute is the same as the House bill, except that the House provision of 60 miles per hour was changed to 55.

DEFINITIONS (SEC. 104)

House bill

Section 104 of the House bill amended the Rail Passenger Service Act by adding certain new definitions thereto and alphabetizing the definitions in the amended section.

Senate amendment

Section 2 of the Senate amendment amended the Rail Passenger Service Act by adding certain new definitions thereto.

Conference substitute

The conference substitute substantially follows the House bill. However, the definition of the term "Basic System" is clarified by the conference substitute. The revised definition clearly incorporates in the Basic System all of the changes in Amtrak's national system of service confirmed or affected by this legislation in order that Amtrak not be required to operate service under the administrative burden of a multi-tiered Basic System.

MAIL SERVICE

House bill

The House bill allows Amtrak to provide dedicated mail service.

Senate bill

No similar provision.

Conference substitute

House recedes.

REDUCED FARE PROGRAM (SEC. 105)

House bill

Section 106 of the House Bill gave Amtrak the discretionary authority to establish a reduced fare program for the elderly and handicapped. If Amtrak chose to establish the program, the fares were not to exceed 50% of the regular fare on a standby basis or 75% of the regular fare on a reservation basis.

Senate amendment

Section 21 of the Senate bill required Amtrak to establish a reduced fare program for elderly and handicapped individuals. Further, the amendment required that the reduced fare should not exceed "75% of the regular fare for such service." Section 22 of the Senate bill required Amtrak to develop a study on the efficacy of a reduced fare program for the elderly and the handicapped. Section 23 provided that the Federal Railroad Administration would reimburse Amtrak in an amount equal to the difference between the full fare and the reduced fares for the elderly and handicapped individuals up to $4.5 million per fiscal year through FY 1981.

Conference substitute

The conferees have adopted the mandatory Senate approach which will require Amtrak to establish such a program, in lieu of the permissive House provision. The conference substitute does, however, delete that portion of the Senate Amendment which specified the minimum fare reduction. In taking such action, the conferee's do not intend to deprive Amtrak of reasonable management discretion to implement and operate the program. Senate recedes on the study provided in Sec. 22 and on the reimbursement program provided in section 23 of the Senate bill.

OPERATIONAL IMPROVEMENT PROGRAM (SEC. 106)

Senate amendment

No provision.

House bill

The House bill mandates that the Corporation shall develop a comprehensive plan for the improvement of all intercity rail passenger service provided in the basic system not later than January 1, 1981.

Conference substitute

The Conference substitute is the same as the House bill. The conferees agreed that the corporation needs to focus its operational objectives and Congress needs to be provided with the Corporation's analysis and evaluation in a timely manner so as to adequately prepare for the next authorization cycle.

REGIONAL MAINTENANCE PLAN (SEC. 107)

Senate amendment

No provision.

House bill

The House bill mandates the establishment of a systematic, comprehensive, regional maintenance plan not later than January 1, 1980, which includes the establishment of a preventative maintenance program.

Conference Substitute

The Conference substitute is the same as the House bill. One of the most significant problems affecting Amtrak's performance is the poor condition of its equipment. This provision contemplates the reduction of the high maintenance costs now plaguing Amtrak, as well as upgrading the poor condition of Amtrak's equipment.

RAILROAD POLICE (SEC. 108)

Senate amendment

The Senate amendment strikes the term "security guard" each place it appears and substitutes "railroad police."

House bill

The House bill strikes the term "security guards" and "Security guards" each place it appears and substitutes "railroad police" and "Railroad police" respectively.

Conference substitute

The Conference substitute is the same as the House bill.

BUY AMERICA PROTECTION (SEC. 109)

House bill

Section 132 of the House bill provided for the expansion of the Secretary's authority to waive the Buy American provision of the Rail Passenger Service Act to include the purchase of rolling stock and motive power if such equipment cannot be purchased and delivered within the U.S. in a reasonable time.

Senate amendment

No provision.

Conference substitute

Section 109 of the Conference substitute is the same as the House bill. It was not the intent of the conferees to provide for any substantial change in the "Buy America" provisions of statutes governing Amtrak procurement. Adoption of the language of section 132 of the House bill was intended only to alleviate unreasonable shortages of equipment which could not be purchased from U.S. suppliers within a "reasonable" time. It was the conference committee's strong belief that Amtrak equipment purchased with U.S. tax revenues should continue to be returned to the U.S. economy by strongly favoring American suppliers and U.S. labor. Estimates have been made that from 25 to as much as 50 percent of Amtrak procurement directly relates back to federal, state and local tax revenues. It is imperative that these monies remain in the U.S. economy through Amtrak purchases at home.

PERFORMANCE EVALUATION CENTER (SEC. 110)

Senate amendment

No provision.

House bill

The House bill directs Amtrak to establish a performance evaluation center. This Center is to have a problem solving emphasis in addition to its information gathering function.

Conference substitute

The Conference substitute differs from the House bill only with respect to the Corporation submitting the Center's semi-annual report to the Congress rather than the Center submitting that report. The conferees believe that, since the Interstate Commerce Commission will no longer have jurisdiction over Amtrak's adequacy of service, it is even more important that Amtrak have the capability of evaluating its performance on an on-going basis in a coordinated cost effective manner.

ADEQUACY OF SERVICE REPORTS (SEC. 111)

Senate amendment

The Senate amendment did not have a similar provision to subparagraph (a) of the House bill. It did have an identical provision to House subparagraph (b).

House bill

The House bill gives the President of Amtrak the authority to direct the conductor on any Amtrak train to report to the Center any inadequacy of train operation. By providing statutory authority for conductors to report directly to Amtrak, it has the effect of permitting conductors to avoid conflicts of interest between an allegiance to one's employer and good rail service.

Subparagraph (b) repeals section 801 of the Rail Passenger Service Act of 1978 and thus terminates the Interstate Commerce Commission's responsibility to evaluate the adequacy of Amtrak's service.

Conference substitute

The Conference substitute is the same as the House bill.

APPLICABILITY OF OTHER LAWS (SEC. 112)

House bill

Section 114 of the House bill amended the Rail Passenger Service Act to exempt Amtrak from ICC securities jurisdiction, to authorize Amtrak to establish through routes and joint fares with other modes of transportation, to exempt Amtrak from State and local laws relating to pay periods for employees, and to provide that Amtrak shall be deemed to be qualified to do business in each state in which it conducts activities.

Senate amendment

Section 5 of the Senate bill is very similar to section 114 of the House bill. However, the Senate provision established Amtrak as a citizen of the District of Columbia ". . . for purposes of determining the original jurisdiction of the district courts of the United States in civil actions to which the Corporation is a party."

Conference substitute

Conferees agree to the text of Section 114 of the House bill amended by Section 5(m) of the Senate bill which established Amtrak as a citizen of the District of Columbia for the purpose of jurisdiction before the U.S. district court.

REPORTS TO THE CONGRESS (SEC. 113)

House bill

No similar provision.

Senate amendment

Section 6 of the Senate bill amends Section 308(a)(1) of the Rail Passenger Service Act to require the disclosure to Congress and the general public information on ridership and revenues within 30 days following the end of the desired month instead of 80 days which is present law.

Conference substitute

The Conferees agree with the Senate language amended to require disclosure of the information on a prompt basis but specified within 45 days following the end of the month desired.

UNIFORM CONTRACT (SEC. 114)

House bill

The House bill mandates Amtrak to enter into an industry-wide contract with the railroad industry in order to obtain the ability to run charter trains on a reasonable basis. The contract shall provide that Amtrak shall notify a railroad not less than seven days in advance of any proposed charter trip and not less than twenty-one days in advance of any charter trip if the tracks to be used have not been used by passenger trains during the preceding six months. The charter business or flexible scheduling of trains in response to passenger demands has not heretofore been possible for Amtrak because of the difficulty in making run-through arrangements with the numerous rail carriers between points of origin and destination whenever those points were between long distances.

Senate bill

No similar provision.

Conference substitute

The conferees adopt the House provision. It is the intention of the conferees that Amtrak encourage the use of charter trains because such operations can, at a minimum, be run on a break-even basis.

NEW SERVICES (SEC. 115)

House bill

Section 116 of the House bill amended the Rail Passenger Service Act to make technical and conforming changes and to establish a new program for State cost-sharing of intercity rail passenger service. Any State or group of States may apply to Amtrak for new service. The State share is 20 percent of operating costs, 35 percent, and 50 percent respectively for the first, second, and succeeding years of operation. The State share of capital costs is a constant 20 percent.

Following receipt of a qualifying application, Amtrak must convene a Technical Assistance Panel, composed of Amtrak, State, and rail labor representatives, to make recommendations for minimizing costs of new service and allocating costs among participating States. If service can be provided within available resources, Amtrak must operate it. The State share of the costs of existing service would remain at 50 percent.

The House bill also amended the Rail Passenger Service Act to require operation of certain commuter service by Amtrak at present funding levels until April, 1981.

Senate amendment

The Senate amendment was similar in many respects, but did not provide for establishment of Technical Assistance Panels and left the state share of capital costs unchanged at 50 percent. The Senate amendment also provided for State support of a service deleted from the Basic System. The Senate amendment also provided for use of five percent of revenues generated by 403(b) service in advertising and promotion of such service on a local level.

Conference substitute

The conference substitute generally follows the House bill but incorporates several features of the Senate amendment.

The conference substitute retains the House concept of Technical Assistance Panels, but leaves the state share of capital costs of 403(b) service at 50 percent, provides for preference for a State proposal for a service deleted from the Basic System, and provides that not more than five percent of revenues shall be dedicated to advertising and promotion of such service on a local level.

SERVICE CHANGES (SEC. 116)

House bill

Section 117 of the House bill is a technical amendment to the Rail Passenger Service Act.

Senate amendment

No similar provision.

Conference substitute

Senate recedes.

APPLICATION OF ROUTE AND SERVICE CRITERIA (SEC. 117)

House bill

Section 118 of the House bill amended the Rail Passenger Service Act to provide for annual review by Amtrak of each long-distance route in the basic system to determine whether the route met certain economic criteria established elsewhere in the bill.

If Amtrak determines that a long-distance route fails to meet such criteria, the route and service criteria is to be applied for an evaluation of the route.

The House bill also provided that annual review conducted by Amtrak shall include an evaluation of segments of long-distance routes and alternative routings and required Amtrak to submit the results of the annual review to Congress and the Secretary of Transportation.

Senate amendment

No provision.

Conference substitute

The Conference substitute is the same as the House bill, with a technical amendment. The annual review provision is intended to apply only to routes which have been designated as long-distance or long haul routes. The Conferees are aware that the Route and Service Criteria have not functioned as originally intended by the Congress and direct Amtrak to submit to Congress recommendations for new Route and Service Criteria.

Such recommendations shall include appropriate economic criteria that represent a fair method of evaluating the performance and potential of individual trains.

EXCEPTIONS TO APPLICABILITY OF ROUTE AND SERVICE CRITERIA (SEC. 118)

House bill

Section 119 of the House bill amended the Rail Passenger Service Act to provide that the Route and Service Criteria shall not apply to certain Amtrak decisions relating to increases in frequency of service or to rerouting of service between major population centers on existing routes. This provision was intended to give Amtrak appropriate flexibility to make reasonable service modifications without applying the Route and Service Criteria.

Senate amendment

No provision.

Conference substitute

The conference substitute is the same as the House bill.

ADDITIONAL QUALIFYING ROUTES (SEC. 119)

House bill

Section 120 of the House bill amended the Rail Passenger Service Act to require Amtrak, where reductions in operating expenses can be obtained, to operate service over any long-distance or short-distance route recommended for discontinuance by the Secretary of Transportation if the route meets certain specified criteria, based on projected FY 1980 performance. If a quadrant of the nation did not qualify for a long distance criteria train, the House bill provided a long distance train must be added to that quadrant in order to preserve regional balance. Such route would be required to qualify under the criteria, computed with an inflation factor, for continued operating after October 1, 1981.

The House bill also required operation of the Inter-American train to the Mexican border if it qualifies for continued operation and required operation of service beyond Tampa to St. Petersburg.

Senate amendment

The Senate amendment was substantially similar to the House bill, but did not include reference to St. Petersburg service or service to the Mexican border. The Senate amendment also contained a provision authorizing Amtrak to operate short-haul demonstrations on routes of 200 miles or less which link two or more major metropolitan areas.

Conference substitute

The Conference substitute is the same as the House bill, but also includes the Senate provision relating to short-haul demonstration trains.

The Conferees intend that Amtrak have flexibility for all trains qualifying for continued operation under this provision to restructure routes through major metropolitan areas to attract additional ridership.

FREE OR REDUCED RATE TRANSPORTATION OF RAILROAD EMPLOYEES (SEC. 120)

House bill

Section 121 amends the Rail Passenger Service Act to provide that unless Amtrak and a private railroad agree otherwise, Amtrak shall be reimbursed by the railroad for free or reduced-rate transportation of eligible railroad employees at the rate of 50 percent of the system-wide average monthly yield per revenue passenger mile.

Senate amendment

No similar provision.

Conference substitute

Conferees agree that, absent any new agreement between the Corporation and a private railroad to the contrary, Amtrak shall be reimbursed at the rate of 25 percent of the system-wide average monthly yield per revenue passenger mile through October 1, 1981. New Section 120(a) further provides that after that date, nothing in this provision shall preclude the ICC from ordering retroactive relief in any new or existing proceeding.

Further, the Conferees agree that the General Accounting Office shall conduct a study of the railroad employee fare program and report to Congress and the ICC within 180 days of the date of enactment regarding recommendations to reimburse Amtrak for the cost of providing such transportation services.

RETENTION AND MAINTENANCE OF FACILITIES (SEC. 121)

House bill

Section 122 amends the Rail Passenger Service Act to require that a railroad notify Amtrak prior to downgrading or disposing of tracks or facilities formerly used in passenger service which is discontinued pursuant to the recommendations of the Secretary of Transportation. Amtrak is required to prepare a survey plan of population centers with affected tracks or facilities with potential for retention or maintenance. If, after considering certain criteria, Amtrak desires to acquire or preserve such tracks or facilities and a satisfactory agreement with the railroad cannot be reached within 60 days, the railroad may apply to the Secretary, who must determine the avoidable costs to the railroads of such acquisition or preservation. If Amtrak does not agree within 60 days to pay such costs, the Secretary must approve the railroad's request. Separate authorizations of $3 million for each of FY 1980–82 are provided for this purpose.

Senate amendment

Section 17 of the Senate bill is identical to Section 122 of the House bill, however, it is not accompanied by a $3 million separate authorization for each of FY 1980–82.

Conference substitute

The House recedes on the separate authorization through FY 1982. The Conferees agree that Amtrak should fund the program from its capital account up to a $3 million level for each fiscal year through FY 1982 at the discretion of the Board of Directors.

AUTHORIZATION OF APPROPRIATIONS (SEC. 122)

Senate amendment

The Senate amendment provided for a two-year authorization. It included the payment of operating expenses of the basic system, of substitute service trains and commuter service. It authorized $576,300,000 for fiscal year 1980, and $605,000,000 for fiscal year 1981. For the payment of capital costs of the basic system, it authorized $176,000,000 for fiscal year 1980, and $223,000,000 for fiscal year 1981. For labor protection payments required pursuant to section 405 of the Rail Passenger Service Act it authorized $30,000,000 for fiscal year 1980 and $32,000,000 for fiscal year 1981. Any sums remaining from labor protection payments were to be made available for the payment of operating expenses of the basic system, commuter trains and substitute service trains and capital costs of the basic system. For the payment of operating and capital expenses pursuant to section 403(b) of the Rail Passenger Service Act, it authorized $20,000,000 for each of the fiscal years 1981 and 1982. For the payment of the operating expenses of criteria trains, it authorized $40,000,000 for fiscal years 1980 and 1981. For the payment of debt obligations pursuant to section 602 of the Rail Passenger Service Act, it authorized $25,000,000 in the fiscal years 1980 and 1981.

The Senate amendment also provided that capital grants be paid to the Corporation in each fiscal quarter so that such grants might be used by the Corporation for the temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of the Rail Service Passenger Act.

House bill

The House bill provides for a three-year authorization. It included operating expenses of the basic system and operating expenses of communter service, it authorized $522,000,000 for fiscal year 1980, $591,000,000 for fiscal year 1981, and $598,000,000 for fiscal year 1982. For capital costs of the basic system and labor protection under section 405 of the Rail Passenger Service Act, it authorized $230,000,000 for fiscal year 1980, $253,000,000 for fiscal year 1981, and $271,000,000 for fiscal year 1982. For operating and capital expenses of rail passenger service provided pursuant to section 403(b) of the Rail Passenger Service Act, it authorized $25,000,000 for fiscal year 1980, $30,000,000 for fiscal year 1981, and $30,000,000 for fiscal year 1982. For rail banking, it authorized $3,000,000 for each of the fiscal years 1980, 1981, and 1982. For the payment of operating criteria trains and regional balance trains under section 404(d) and (e) of the Rail Service Passenger Act as amended by the House bill, it authorized $50,000,000 for fiscal year 1980, $52,000,000 for fiscal year 1981, and $55,000,000 for fiscal year 1982. For the payment of operating substitute service trains pursuant to section 4(q)(2) of the Amtrak Improvement Act of 1978, it authorized $20,000,000 for fiscal year 1980, and such sums as might be necessary for fiscal year 1981. For the cost of Model Programs, it authorized $1,500,000 for each of the fiscal years 1980, 1981, and 1982.

Conference substitute

The Conference substitute provides for a 2-year authorization for operating expenses and a 3-year authorization for all other categories of the Corporation's funding. A two-year authorization for operating expenses was agreed to by the conferees because of the uncertainty involved in the projection of Amtrak's operating expenses for fiscal year 1982. However, a 3-year authorization was needed for the other categories so that Amtrak would be able to effectively plan its future, purchase equipment, and improve its facilities with the certainty of adequate financing.

The conferees have attempted to provide the Corporation with sufficient operating funds to operate the mandated system and to effectively focus its efforts in a cost-effective manner.

The Conference substitute directs that for operating expenses, the Corporation be authorized $630,900,000 in fiscal year 1980, and $674,900,000 in fiscal year 1981. It further directs that not less than $1,200,000 and not less than $1,000,000 of the operating expenses be allocated to model programs in fiscal years 1980 and 1981 respectively.

The Conference substitute directs that for capital costs, including the retention and maintenance of facilities under section 406 of the Rail Passenger Service Act, the Corporation be authorized $203,000,000 for fiscal year 1980, $244,000,000 for fiscal year 1981, and $254,000,000 for fiscal year 1982.

For the payment of operating and capital expenses of rail service provided under section 403(b) of the Rail Passenger Service Act, the Conference substitute directs that $23,800,000 be authorized for fiscal year 1980, $29,000,000 for fiscal year 1981, and $30,000,000 for fiscal year 1982.

For labor protection payments pursuant to section 405 of the Rail Passenger Service Act, the Conference substitute directs that $30,000,000 be authorized in fiscal year 1980, $12,000,000 in fiscal year 1981, and $20,000,000 in fiscal year 1982. The conferees adopt the Senate provision which permits the Corporation to use surplus funds under this section for either operating or capital expenses.

For payment of the principal of obligations made pursuant to section 602 of the Rail Passenger Service Act, the Conference substitute directs that $25,000,000 be authorized for each of the fiscal years 1980, 1981, and 1982.

The conferees adopt the Senate provision which allows the Corporation to use its quarterly capital grants for the temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of the Rail Passenger Service Act.

EMPLOYEE COMPENSATION AND INCENTIVE COMMISSION (SEC. 123)

Senate amendment

No provision.

House bill

The House bill mandated that a five-member Employee Compensation and Incentive Commission be selected. This Commission was to be charged with the responsibility of evaluating whether Amtrak's salaries are sufficient to attract and maintain qualified officers, and developing an employee incentive program such as the institution of recognition and financial awards and a plan for the payment of individuals on class B stock.

Conference substitute

The Conference substitute incorporates two changes to the House bill. The Corporation is to be consulted as well as labor organizations when the Commission develops its program. The plan for the payment of dividends on class B stock has been deleted.

MODEL PROGRAMS (SEC. 124)

Senate amendment

No provision.

House bill

The House bill establishes a job placement program for Amtrak to assist in job placement for any employees who are affected by the discontinuance of trains.

Conference substitute

The Conference substitute makes two technical changes in the House bill. July 1, 1979, in the first sentence is changed to read October 1, 1979. The second change emphasizes a need to facilitate the need to reemploy unemployed railroad workers. The conferees believe that greater emphasis needs to be placed on continued employment and creative means for job placement.

NATIONAL CARRIER COORDINATION COMMITTEE

Senate amendment

No provision.

House bill

The House addressed itself to the lack of effective coordination between the Corporation and other rail carriers by passing a provision which would establish a national carrier coordination committee. This committee was designed to bring together the Secretary, the President of the Corporation, and the chief executive officers of each carrier having a contract with the Corporation to provide rail service every 6 months to iron out problems and coordinate activities.

Conference substitute

Although the conferees accepted the Senate amendment, this does not diminish the need for effective coordination among rail carriers and the Corporation. The conferees encourage the effective coordination through any expeditious means and recognize that such carriers are suffering from no statutory impediment to achieve the objective of effective coordination.

STATE TAXATION STUDY (SEC. 125)

House bill

Section 128 of the House bill amended the Rail Passenger Service Act to require the Secretary of Transportation to conduct a study of payment by Amtrak of State and local taxes and report to Congress no later than January 1980, on the advisability of exempting Amtrak from all or part of its obligation to pay such taxes.

Senate amendment

No provision.

Conference substitute

The Conference substitute is the same as the House bill.

REPORT ON REVENUES AND EXPENSES (SEC. 126)

House bill

No provision.

Senate amendment

The Senate amendment amended Title VIII of the Rail Passenger Service Act by adding a new section entitled, "Revenue Report", that required Amtrak to report to Congress on the ratio of revenues to total expenses on all routes in the basic system, to specifically identify those routes which did not achieve a 50 percent revenue-to-expense ratio, and to provide an explanation on the reasons which prevented such a ratio from being achieved. Such reports were to be filed within 60 days of the end of each fiscal year beginning with fiscal year 1981.

Conference substitute

The conference substitute follows the Senate amendment but the language "ratio of revenue to total expenses" is changed to read "ratio of revenue to operating expenses". The Conferees agreed that the annual interest expense on Amtrak's outstanding guaranteed loans should not be a factor in the computation of revenue to cost ratio for purposes of meeting the requirements of this provision. However, the Senate conferees have the concern that the revised formula for computing this ratio which excludes interest expense may yield a ratio which presents a misleading revenue gain relative to cost when the real improvement has been less than required. It is therefore the Conferees' intent and expectation that Amtrak will include in the revenue report, statements which explain with some specificity, the net effect of using only operating expenses and excluding interest expense on guaranteed loans in computing the revenue to cost ratio.

IMPLEMENTATION OF THE NEW ROUTE PLAN

House bill

Section 127 of the House bill amended the Amtrak Improvement Act of 1979 to permit Amtrak to defer implementation of certain of the Secretary of Transportation's route restructuring recommendations requiring capital improvements until such improvements may be made and to require Amtrak to provide substitute service over the entirety of existing routes recommended for restructuring in whole or in part, and over feasible portions of routes recommended for restructuring and over which services are not operated on the date of approval of the recommendations. House bill also provided that Amtrak shall continue to operate the substitute service described above after October 1, 1981, only if the route meets certain economic and ridership criteria.

Senate amendment

The Senate amendment contained similar language which permitted but did not require Amtrak to operate substitute service. Further, the Senate language did not require application of the criteria to routes to qualify for continued operation.

Conference substitute

The Conference substitute follows the Senate amendment but requires Amtrak to operate substitute service and requires trains, excepting short-haul trains concentrating on commuter ridership, to qualify under the criteria for continued operation after October 1, 1981.

With respect to alternative or substitute service between Washington, Cincinnati, and Chicago, pending restructuring, Amtrak shall operate trains in such a manner as to maximize short segment and commuter ridership through scheduling, intermodal connections, marketing, and other means.

If such service can be rerouted through metropolitan areas affording greater potential ridership and shorter running times, any assessment of performance should be based on a full year of operation.

INTERMODAL TERMINAL PROGRAM (SEC. 128)

Senate amendment

The Senate amendment has a very similar provision in its bill.

House bill

The House bill altered the requirement under section 4(i)(5) of the Department of Transportation Act which mandates that designs and plans for intermodal facilities under this provision must be completed in two years. The House bill granted the Secretary the authority to establish the proper time-frame for such designs and plans.

Conference substitute

The Conference substitute adopts the House version.

GAS STUDY OF DEBT ELIMINATION (SEC. 129)

House bill

Section 105 of the House bill provided for substitution of preferred shares of stock in the Corporation for its outstanding debt owed to the United States.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the requirement of a study to be done by the Comptroller General and supplied to the Congress within 180 days after the date of enactment for the purpose of ascertaining the best way for the Corporation to be relieved of it debt obligations. The debt obligations of the Corporation were, for the most part, incurred prior to 1973 before Congress converted the financing of the Corporation's capital acquisition program from loans to grants. The unintended effect of the present debt is to add a large interest expense to the Corporation's operating expenses thereby creating the anomaly of the Federal Government having to appropriate additional money for Amtrak in order to service a debt held by the United States. The report by the Comptroller General must consider a number of methods for eliminating the debt to serve the best interests of the Corporation and the United States.

SERVICE ON PORTION OR SEGMENT OF DISCONTINUED ROUTES (SEC. 130)

House bill

Section 131 provided that Amtrak should conduct an evaluation of the possibility of restoring service to routes or portions of routes over which service is discontinued after October 1, 1979. The Corporation is required to report its findings to the Congress and to the Secretary of Transportation no later than February 15, 1980.

Senate amendment

Section 18 of the Senate bill required a similar review. However, the Senate counterpart specified the detailed information required for each route studied.

Conference substitute

Conferees adopt the House provision.

MAIL AND EXPRESS REVENUES (SEC. 131)

House bill

Section 107 of the House bill amended the Rail Passenger Service Act to authorize Amtrak to operate trains which carry mail only.

Section 133 of the House bill provided for a detailed determination by Amtrak in conjunction with the United States Postal Service, of those mail transportation requirements which can be met by Amtrak.

Amtrak was also required to submit to Congress by March 31, 1980, a five-year plan to achieve maximum levels of mail and express traffic and to maximize revenues from such traffic. Following submission of the place, an advisory group on plan implementation was to be established.

Senate amendment

No provisions.

Conference substitute

The House recedes on section 107 of its bill. Under existing law, Amtrak is required to take such actions as may be necessary to increase its revenues from the carriage of mail and express. The Conferees believe that Amtrak has sufficient authority under existing law to undertake operations involving carriage of mail which will improve its financial performance and urge Amtrak to initiate any such carriage which it determines will provide a positive financial result.

The Conferees have also adopted a modified version of section 133 of the House bill. Amtrak, in conjunction with the United States Postal Service, is required to determine those mail transportation requirements that can be met by Amtrak and to submit to Congress, no later than April 30, 1980, a report with recommendations for achievement by Amtrak of maximum levels of mail carriage and associated revenues. This report will enable the Congress to determine whether additional funding or authority may be necessary to achieve such levels.

AMTRAK ROUTE ALLOCATION STUDY (SEC. 132)

House bill

No similar provision.

Senate amendment

Section 18 of the Senate bill provided that the President of Amtrak must establish a system of uniform cost allocation for Amtrak which shall include: 1) the avoidable cost by route; 2) the revenue by route; 3) the fully allocated cost by route; 4) the number of passengers carried by route; 5) the avoidable profit/loss per passenger by route; 6) the fully allocated profit/loss by route; 7) the profit/loss per passenger by route; and 8) the profit/loss by revenue passenger mile. Further, Amtrak is required to transmit to the Congress by February 15, 1980, a report containing a profit/loss table for the upcoming fiscal year and the average ticket subsidy required to show a systemwide public service profit for the upcoming fiscal year.

Conference substitute

The Conferees agree to the Senate Amendment amended to provide for a feasibility study of establishing a system of uniform cost allocatiôn. Further, the congressional report due date is moved to April 30, 1980.

TITLE II—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

AUTHORIZATION OF APPROPRIATIONS (SEC. 201)

House bill

Section 201 of the House bill amends the Regional Rail Reorganization Act of 1973 to authorize appropriations for FY 1980 of $27.2 million to the United States Railway Association for its administrative expenses.

Senate amendment

No Senate provision. However, separate legislation, S. 447, was passed by the Senate and pending before the House at the time of this conference. This separate legislation would have authorized $30 million to the United States Railway Association for its administrative expenses.

Conference substitute

Conferees agreed to provide $28,500,000 for the fiscal year ending September 30, 1980.

REPORT ON SPECIAL COURT PROCEEDINGS (SEC. 202)

House bill

The House bill required the Association to report quarterly to the Congress on the progress of the litigation before the Special Court.

Senate amendment

No provision.

Conference substitute

The conference substitute is the same as the House provision.

TRANSFER OF FUNCTIONS; MONITORING (SEC. 203)

House bill

The House bill required the Attorney General and the Association to develop and submit to the Congress a plan for the transfer from USRA of the litigation before the Special Court. The House bill also required the Secretary of Transportation and the Association to develop and submit a plan for the transfer of all other functions of the Association. The Board of Directors of the Association was also required to adopt procedures to ensure control over all contractors.

Senate amendment

No provision.

Conference substitute

The conference substitute is the same as the House provision with the required plan changed to a feasibility study.

INSURANCE COVERAGE (SEC. 204)

House bill

Section 204 of the House bill would amend section 303(b)(6)(B) of the Regional Rail Reorganization Act of 1973 to make a number of changes in the retiree health and life insurance programs under that section, including the placing of limitations on the maximum amount of life insurance to be provided for retirees and clarifying that the costs of section 211(h) loan funding of the preconveyance retiree life and health insurance premiums and benefits of railroads in reorganization are deemed to be expenses of administration of the respective railroads in reorganization and successor corporations.

Further, section 204 would have restricted the ability of certain estates or their successors to litigate the status of insurance obligations, pursuant to Public Law 95-597.

Senate amendment

No similar provision.

Conference substitute

Conferees.

The Committee wishes to make it clear that the elimination of the House bill's provisions restricting the ability of certain estates or their successors to litigate the status of insurance obligations, pursuant to Public Law 95-597, is intended solely to permit that issue to be settled by the appropriate court, and should not be construed as having any substantive effect on the merits of such litigation. Congress never intended that PL 95-597 should confer on private parties new benefits which they did not already enjoy. Consistent with that intent, the Committee does not wish to interfere with the current litigation.

The insurance program established in section 303(b)(6)(B) and the amendments in this legislation are not intended to create any adverse tax consequences for the recipients of coverage and benefits. To the extent a retired employee of a railroad in reorganization or the beneficiary of such an employee was not subject to any tax on insurance premiums or benefits paid under that railroad's policies, the Committee believes that the tax treatment provisions and benefits paid for those employees under section 303(b)(6)(B) should be the same. Specifically, the death and medical benefits paid on account of claims incurred during a lapse in insurance coverage shall be deemed to have been paid pursuant to their employers' accident or health plans or under its group-term life insurance policy; the life insurance purchased by the Corporation pursuant to this section, whether by payment of a single premium or otherwise, shall be deemed group-term life insurance purchased by their employers; and any medical insurance purchased by the Corporation pursuant to this section shall be deemed to be part of their employers' accident or health plan.

TITLE III—OFFICE OF RAIL PUBLIC COUNSEL

AUTHORIZATION OF APPROPRIATIONS (SEC. 301)

House bill

The House bill provided an authorization of $1,850,000 for the fiscal year ending September 30, 1980.

Senate amendment

No provision. However, separate legislation, S. 448 was passed by the Senate and pending before the House at the time of this conference. This separate legislation would have authorized $500,000 to the Office of Rail Public Counsel and eliminated the Office at the end of fiscal year 1980.

Conference substitute

The conference substitute provides $1,200,000 for fiscal year 1980. The conferees agreed to continue the independent Office of Rail Public Counsel, but serious questions about the effectiveness of the Office have been raised. The Office was intended to provide assistance and representation to those involved in rail matters before the Commission who lacked the resources or expertise to represent themselves, not to be a policy arm of the Commission. The conferees believe that during the next year the Office should conduct its activities in accordance with the statutory mandate.

TITLE IV—AMENDMENTS TO THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 REHABILITATION AND IMPROVEMENT FINANCING

House bill

Section 401 of the House Bill would have made funds under the Railroad Revitalization and Regulatory Reform Act of 1976 section 505 redeemable preference share program available to a greater number of railroads by providing that an applicant railroad need not show that funds are not available from other sources at a reasonable cost if the project to be undertaken results in a significant restructuring.

Senate amendment

No Senate provision.

Conference substitute

The House recedes. The Conferees agreed that it was inappropriate to amend the Title V program to effect a redirection of the program at this time. The Conferees noted that the original purpose of the Title V program was to provide Federal assistance to those marginal railroads which, because of their precarious financial condition, could not secure monies from commercial lending institutions. Because Title V financial assistance is limited to rehabilitation and improvement of exsting rail facilities and can only be used for limited new construction as part of a rehabilitation or improvement project, it is inconsistent with the purpose of the existing program to make Title V assistance available for projects not directly related to rehabilitation or improvement of the existing railroad system.

The Conferees agreed not to recommend any change at this time that would prejudice that original intent by broadening the program to allow for healthy railroads to participate in a limited Federal assistance program. Use of Title V financial assistance in such a fashion might deprive marginal railroads, such as the Milwaukee Road, of Federal assistance vitally needed for rehabilitation and improvement projects. However, in declining to expand the scope of Rehabilitation and Improvement Financing under Title V at this time, the Conferees wish to point out that their current decision should not prejudice consideration of expanding the program during deliberations on future legislation.

EXTENSION OF FINANCIAL ASSISTANCE PROGRAM (SEC. 401)

House bill

Section 402 of the House Bill extends section 505 and other pertinent sections of the Railroad Revitalization and Regulatory Reform Act of 1976 to September 30, 1980.

Senate amendment

Similar provision.

Conference substitute

The conference substitute is the same as the House Bill except that "section 402" is changed to read "section 401".

TITLE V—EFFECTIVE DATES

House bill

Technical amendments.

Senate bill

No similar provision.

Conference substitute

Senate receded.

Harley O. Staggers,
J. J. Florio,
Jim Santini,
Barbara A. Mikulski,
John M. Murphy,
Marty Russo,
Edward R. Madigan,
Gary A. Lee,
Managers on the Part of the House.

Howard W. Cannon,
Russell B. Long,
Fritz Hollings,
J. J. Exon,
Bob Packwood,
Harrison Schmitt,
Nancy Kassebaum,
Managers on the Part of the Senate.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 3996, AMTRAK REORGANIZATION ACT OF 1979, ON THURSDAY OR FRIDAY OF THIS WEEK

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that it may be in order for the House to consider the conference report on the bill (H.R. 3996) to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes, on either tomorrow or the next day at whatever may be the appropriate time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 5359, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1980

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 426 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 426

Resolved, That during the consideration of the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes, all points of order against said bill for failure to comply with the provisions of clause 6, rule XXI, are hereby waived, and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI, are hereby waived: beginning on page 14, line 11 through page 17, line 23; beginning on page 18, line 23 through page 21, line 16; beginning on page 22, line 13 through page 24, line 23; and beginning on page 26, line 17 through page 29, line 23.

The SPEAKER pro tempore. The gentleman from New York (Mr. Zeferetti) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. Lott) for the purposes of debate, and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 426 provides for the consideration of H.R. 5359, the Department of Defense appropriations bill for fiscal year 1980. The rule grants waivers of points of order for failure to comply with clause 6, rule XXI and waives clause 2, rule XXI in specified provisions indicated in the resolution.

Clause 6, of rule XXI prohibits the inclusion in appropriations bills of reappropriations of unexpended balances of appropriated funds. This waiver is necessary because of certain technical language included in the measure.

Clause 2, of rule XXI requires that all appropriations must have an authorization and prohibits the inclusion of legislation in an appropriations bill.

This waiver is needed since the bill includes appropriations for which authorizing legislation has not as yet been enacted. Specifically, provisions involving procurement, research and development, and special foreign currency programs.

Mr. Speaker, the total budget estimate for the Department of Defense and related agencies is about $132,320,565,000. The amounts recommended for appropriation by the committee total $129,513,578,000 in new obligational authority, $160 million in proceeds from foreign sales, and $344.5 million in transfers from other accounts. This reflects an $8.9 billion increase from the fiscal year 1979 appropriations bill.

Mr. Speaker, I would like to commend the Defense Appropriation Subcommittee and its Chairman Congressman Addabbo for the superior work demonstrated in this measure. I have no doubt the recommendations made in this bill will enhance the managerial capabilities within the Department of Defense and at the same time improve our already powerful military forces.

I do, however, have one concern with the bill. On page 7 of the committee report it states and I quote:

> Our most urgently pressing defense need is to get a dollar in value for every dollar spent on defense.

I wholeheartedly agree with this. However, this does not mean we should not be given the opportunity to use some of this money as an economic stimulus, particularly in areas of high unemployment. I speak specifically in regard to the Maybank amendment. This is a provision which was deleted during subcommittee hearings and then reinstated during full committee markup. This amendment will in effect prevent the Department of Defense from procurement practices in high unemployment areas. We are talking about $48.2 billion which can be used to serve the jobless in this country and have a tremendous positive effect on our economy.

Mr. Speaker, when this issue is debated in the House I trust my colleagues will see the wisdom in striking this provision and by doing so playing a positive role in strengthening our economy.

☐ 1530

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution makes in order H.R. 5359, the Department of Defense appropriations for fiscal year 1980. The bill includes appropriations for a number of programs for which annual authorization legislation has not yet been enacted. The necessary authorizing legislation is contained in H.R. 4040 which has passed both the House and the Senate and is now the subject of a conference. Consequently, a waiver of clause 2 of rule XXI is necessary and was granted against specified provisions in the bill. Clause 2 of rule XXI is concerned with the necessity of authorization for an appropriation and prohibits legislation in an appropriations bill.

In addition, the rule includes a waiver of all points of order under clause 6 of rule XXI. This is necessary because of certain technical language included in the bill involving the reappropriation of unobligated balances.

Mr. Speaker, I am pleased to see that the committee did adopt an amendment last week providing an additional $2.1 billion to the fiscal year 1980 appropriations, most of which is allocated to the operation and maintenance appropriation.

However, I must express some concern over the level of funding recommended for appropriations by the committee for our Nation's defense needs. In view of our military position as contrasted with other global powers, it is inconceivable to me that the amount of funds in this year's bill is $15 billion below the funds projected for fiscal year 1980 by President Ford in his fiscal year 1978 budget message. At a time when we most need to be assured of our Nation's defense preparedness, we are providing a level of funding which is lean, at best.

In recent years, the funds appropriated by the Congress have been trimmed to such an extent that I truly question the adequacy of funds being allocated to finance our defense needs. Our commitments remain as important today as they ever were and certainly the military threat our forces face against possible hostilities with the Soviet Union has not decreased. Consequently I must express my concern that this legislation and the funds appropriated by it have the potential for undermining our defense posture in the years to come.

Mr. Speaker, although I would be more pleased to speak in support of a budget which would more adequately meet our defense needs and which would prepare our Nation's military forces for the future, I do support the legislation and the rule making it in order.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

PERMISSION FOR SUBCOMMITTEE ON CONSERVATION AND CREDIT OF COMMITTEE ON AGRICULTURE TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that the Subcommittee on Conservation and Credit of the Committee on Agriculture may sit tomorrow during the 5-minute rule for consideration and markup on a bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. CHARLES H. WILSON of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I think there is at least one case in the bill that we will be hearing this afternoon where there is legislation in an appropriation bill; there can possibly be some others. There is one of particular interest to me. My parlimentary inquiry is: When will the appropriate time be to raise a point of order regarding title VII?

The SPEAKER pro tempore. The Chair will advise the gentleman that the appropriate time would be during the reading of the bill, under the 5-minute rule, when that provision comes up.

Mr. CHARLES H. WILSON of California. When that particular title comes up?

The SPEAKER pro tempore. That is correct.

Mr. CHARLES H. WILSON of California. I thank the Chair.

Mr. ZEFERETTI. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5359, and that I may be permitted to include tables and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1980

Mr. ADDABBO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from Alabama (Mr. EDWARDS) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from Illinois (Mr. ROSTENKOWSKI) as Chairman of the Committee of the Whole and requests the gentleman from New York (Mr. ZEFERETTI) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5359, with Mr. ZEFERETTI (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN pro tempore. Under the unanimous consent agreement, the gentleman from New York (Mr. ADDABBO) will be recognized for 1 hour, and the gentleman from Alabama (Mr. EDWARDS) will be recognized for 1 hour.

The Chair recognizes the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is a great privilege and honor to bring this bill to the floor as the new chairman of the subcommittee, following in the steps of the former chairman of the full committee, Mr. MAHON of Texas. I take this opportunity to thank the new chairman of the full committee, the gentleman from Mississippi (Mr. WHITTEN), for his valuable time and assistance as an ad hoc member of the subcommittee. His 25 years of experience on the Subcommittee on Defense is deeply appreciated and has been of great help. I also wish to thank the ranking minority member of the full committee, the gentleman from Massachusetts (Mr. CONTE), for his valuable help and time to our subcommittee.

Mr. Chairman, the subcommittee has labored hard and long to bring this bill to the floor this afternoon. I thank the ranking minority member of the subcommittee, the gentleman from Alabama (Mr. EDWARDS), and the other members of the subcommittee who have worked with me these past 5 or 6 months for their dedicated and diligent efforts to the Defense Subcommittee.

Mr. Chairman, I am sure I speak for all of the members of the Defense Subcommittee when I tell you that I am very glad finally to be able to bring the defense appropriation bill to the floor today. The preparation of the annual defense appropriation bill is one of the most arduous tasks of the Congress. The sheer magnitude of defense expenditures and the importance of providing for an adequate national defense makes the drafting of this bill a demanding task.

We started the defense hearings on February 7 and concluded them on July 25, with 5 weeks of markup. We recorded 13,000 pages of transcript. The 11 volumes of hearings total more than 9,000 printed pages and I would point out to the Members that none of these volumes includes large numbers of pages of justification material or other filler. They are filled with statements made by witnesses and questions and answers.

The members take their defense responsibilities seriously and try to come to a reasonably good understanding of the programs requested and the basic condition of our Armed Forces. We have a dedicated staff, headed by Ralph Preston, often outnumbered by 100 to 1 by Pentagon specialists.

Once again, as has been the steady trend since the 1960's the defense budget is considerably more than the sum provided for the current fiscal year. The requests which were considered by the Defense Subcommittee totaled $132.3 billion for fiscal year 1980. This compares with $120.9 billion appropriated for fiscal year 1979. The committee recommends the appropriation of $129.5 billion, a reduction of $2.8 billion. When you include transfers from other accounts, the reduction is $2.4 billion.

A change of $2.4 billion is not much of a change in a request of $132.3 billion. It is less than 2 percent. It does not represent a major change in defense direction or in the size or composition of our forces.

But the totals do not represent fully the actions of this committee. There are many areas in which the committee voted to provide more funds for programs than the administration had requested in the budget and other areas in which the committee voted to delete funds from the bill which had been requested by the administration.

Even so, the bill which we present basically funds the program presented by the Department of Defense and the President. The actions of the committee do not represent any drastic changes. They are for the most part managerial in nature and are designed to try to maximize the benefits of our defense dollars. We have not attempted to change the general thrust of the defense request nor the division of the dollars among the military services nor the balance between strategic and tactical forces.

Some of the principal reductions and additions recommended by the subcommittee are listed on pages 5 and 6 of the report. For example, we recommend reductions in the Veterinarian Corps. We recommend a reduction of $51 million and 1,600 positions in management headquarters. We recommend the reduction of $123.4 million in overtime pay. We recommend a reduction of $90 million for the travel of personnel. We recommend an increase of $93 million to keep the strength of the Navy Reserve at approximately the present level. We recommend an increase of $180 million for the development of the AV–8B vertical take-off and landing aircraft for the Marine Corps. We recommend additional funds for three Navy aircraft—the A–6E, F–14 and F–18.

We recommend an increase of $98.1 million for the procurement of 6 A–7K aircraft for the Air National Guard. I am sure that different members are interested in different actions taken by the committee and we cannot discuss all of them at this point. I would point out that in the front of the report there is a table of contents which lists the various programs so that members can readily find the recommended committee actions. I should mention that one of the recommendations of the subcommittee is one with which I personally do not agree. The President requested $1.6 billion for a CVV carrier. The committee approved $2.1 billion for a CVN nuclear powered carrier. The subcommittee recommendation is in line with the votes taken by the House last week on the defense authorization bill in regard to the aircraft carrier.

Mr. Chairman, I wish that we could have gotten this bill to the floor some months ago, but as I just mentioned, the required annual authorization bill just passed the House recently. It will still be some time before that bill completes conference action and is signed into law by the President. So, we will have to proceed, as we have in recent years, on the House floor under a rule waiving points of order because of the lack of authorization.

This is not to my choosing or that of the Defense Subcommittee, but the delay in the authorizing legislation is beyond our control and we must do as well as we can under the circumstances. As you know, the beginning of the new fiscal year on October 1 is imminent so the Defense Department will have to operate under a continuing resolution until this bill is enacted.

I believe that we cannot deny the Pentagon money that is required for essential spending. Our purpose is to provide for national security rather than insist on following form, so I would propose that the House look favorably on most of these requests.

Mr. Chairman, I can absolutely assure you that the bill recommended by the subcommittee provides for adequate funds to maintain the size and strength of our defense establishment required to keep Americans safe and free today and to provide the necessary building blocks for our future defense. My only concern is that the bill provided too much money and that some of the money will be spent wastefully not only to the detriment of the taxpayers and the economy of the country, but to the detriment of the real military strength of the United States.

I have been sorely distressed in recent weeks by the outcries of some of our colleagues on the other side of the Capitol who call for increases of 3 percent or 5 percent real growth in spending for defense without specifying or discussing the programs or projects for which these funds are needed. Dollars alone will not defend us. Soldiers, sailors, marines, and airmen provided with the proper training and the proper weapons that are reliable and work when they need to work will defend us. Not dollars—not dollar levels—not 3 percent—not 5 percent.

Of course, we need to spend money for national defense, and we are doing so in ever increasing amounts, but we must be cognizant of the difference between military strength and defense spending. Let me just give you a story from our subcommittee's hearings 2 weeks ago. We had a reprograming request involving a ship called the "LHA." In the discussion, it came out that the original contract price for the LHA ships had doubled, and the number of LHA ships which we got under the contract was cut in half. This cost increase represented additional defense spending. This represented not a 3-percent increase—not a 5-percent increase—but a fourfold increase. That should make those who measure defense by dollars spent very happy if they follow the rationale they are espousing. But I tell you we will not get any more defense out of the LHA than we would have had if the original contract price had been maintained. In fact, we will get far less defense because we only have half the number of ships.

Now, we have many people calling for large increases in defense spending. There are many who have recently become alarmed at reports of Russian troops in Cuba who fear confrontation and who have advocated quick increases in defense spending as a means of protecting the country. These fears have been magnified by the news media reports that up to 3,000 Soviet combat troops are 90 miles off the coast of Florida.

Our citizens are right to be concerned about the presence of these troops in Cuba although they have been there for most of the last decade. But the removal of these troops will not be accomplished by increasing the defense budget, be it a modest increase or one of massive size. The presence or lack of presence of Soviet troops in Cuba will be resolved by negotiations between the administration and the Soviet Union. Diplomacy, not battle, will resolve that question.

Be it coincidence or intentional leak, this is just one example of the alarmist stories that appears with regular frequency each time a defense appropriations bill nears completion. This year, controversy over SALT II has contributed more than usual concern about defense spending levels.

Let us discuss SALT II for a moment:

Some of our colleagues in the other body have vigorously pursued the position that the price of the strategic arms limitation treaty should be increased in spending on the part of the United States. They point to ever increasing defense buildups on the part of the Soviet

Union. The listener is left to assume that if we increased our defense spending somehow the Russians would not further increase theirs. But there is absolutely no evidence to indicate that this is the case. It is far more likely that if we increase our defense spending, the Soviets will further increase theirs and we would then probably again increase ours, and the classic spiral of arms escalation would occur.

My friends, we need to listen to reason. We need to use our own brains, our own eyes, our own experience, and not always take the word of those who propose one program or another for the defense of this country. We must not fall into the trap of assuming that the Pentagon would not ask for any funds for any purpose which was not absolutely needed for national defense. They are human as we are, and they make mistakes. Many of these mistakes have been well advertised, such as the C-5 aircraft which, in addition to horrendous cost overruns, was constructed with wings so weak that the aircraft cannot today carry anything like the load it was designed to carry and we are engaged in a billion dollar plus program to rewing the C-5 aircraft. They make mistakes like sending almost 300,000 dependents of our military personnel to the front line in Europe. It is good to keep the families together, but the impact on military readiness of our forces and our defense costs is not good and I can assure you that our Soviet opponents do not make the same mistakes.

As I said, some worry that we do not spend enough money on defense. We have too often been overwhelmed by technology and been too willing to buy weapons which on the drawing board and perhaps even on the test range promise fantastic accomplishments, but which when fielded, prove to be so unreliable and so difficult to maintain that they are almost useless. You will recall the Falcon air-to-air missile with which we armed our fighter aircraft when we went to war in Vietnam. Test results indicated that we should get from 95 to 100 percent kills with the Falcon missile against enemy aircraft. In combat, it proved to be less than 10 percent and we discontinued the Falcon.

That is just one small example. Too much of today's technology is so expensive, so sophisticated, so complex that we can neither afford to buy the numbers of weapons which are needed in modern warfare, nor can we maintain the readiness of our forces because of the lack of reliability of these overly complex weapons.

The MX, which will consume at least $30 billion in expenditures and which will use miles and miles of land in the Western part of our country, is one of those programs which must be closely and carefully monitored.

The MX is fully funded in the bill. I do not intend to be overcritical of the Defense Department. It is a huge institution and it utilizes a major part of our Federal expenditures every year. I just want to tell the House that you cannot measure military strength by appropriations alone; that we should not fall into that trap; that we should be wary and independent and thoughtful and try to provide those military forces which will give us real military strength. But we must resist expenditures which not only do not add to our military strength, but often take away from our real military strength.

I would be remiss if I did not mention that by the Defense Department's own estimate at the end of fiscal year 1980, which starts on October 1, the Defense Department will have unobligated balances on hand in excess of $20 billion. Those are funds for which no contract exists. The Department, by its own estimate, will have unexpended balances of in excess of $95 billion. I would remind the House that the Department's estimates of unobligated and unexpended balances at the end of the fiscal year are generally understated and the actual balances usually exceed the amounts of the estimates.

I do not believe we are miserly in our support of national defense objectives. I believe that the bill before us is a good one, the best that hard work and many compromises could devise. I believe that the bill provides the funds needed to keep our country militarily strong. I ask for the House's support of the recommendations of your defense subcommittee.

My colleagues, I bring to you a bill which I support, and the subcommittee supports. I have an amendment later on the Maybank language in the bill, which was discussed earlier by my colleague from New York (Mr. ZEFERETTI), on the rule. I will discuss that in greater detail when the bill is read for amendment.

Under leave to extend, I include a summary tabulation from the committee report:

Agency and item	New budget (obligational) authority, fiscal year 1979 [1]	Revised budget estimates of new (obligational) authority, fiscal year 1980 [2]	New budget (obligational) authority recommended in bill	Bill compared with— New budget (obligational) authority, fiscal year 1979	Bill compared with— Budget estimates of new (obligational) authority, fiscal year 1980
(1)	(2)	(3)	(4)	(5)	(6)
RECAPITULATION					
Title I—Military personnel	$28, 609, 541, 000	$29, 096, 400, 000	$28, 710, 231, 000	+$100, 690, 000	−$386, 169, 000
Title II—Retired military personnel	10, 268, 500, 000	11, 451, 500, 000	11, 451, 500, 000	+1, 183, 000, 000	
Title III—Operation and maintenance	37, 885, 815, 000	42, 710, 571, 000	41, 021, 759, 000	+3, 135, 944, 000	−1, 688, 812, 000
Title IV—Procurement	31, 601, 116, 000	35, 420, 200, 000	34, 941, 741, 000	+3, 340, 625, 000	−478, 459, 000
(Proceeds from foreign sales)			(106, 000, 000)	(+106, 000, 000)	(+106, 000, 000)
(Transfer from other accounts)	(187, 100, 000)		(282, 600, 000)	(+95, 500, 000)	(+282, 600, 000)
Title V—Research, development, test, and evaluation	12, 354, 262, 000	13, 571, 000, 000	13, 318, 553, 000	+964, 291, 000	−252, 447, 000
(Transfer from other accounts)	(15, 000, 000)	(20, 100, 000)	(61, 886, 000)	(+46, 886, 000)	(+41, 786, 000)
Title VI—Special foreign currency program	14, 362, 000	6, 667, 000	6, 667, 000	−7, 695, 000	
Working capital funds	100, 800, 000			−100, 800, 000	
Title VII—General provisions (additional transfer authority, sec. 734)	(750, 000, 000)	(750, 000, 000)	(750, 000, 000)		
VIII—Related agencies	55, 500, 000	64, 227, 000	63, 127, 000	+7, 627, 000	−1, 100, 000
Total, Department of Defense (NOA)	120, 889, 896, 000	132, 320, 565, 000	129, 513, 578, 000	+8, 623, 682, 000	−2, 806, 987, 000
(Proceeds from foreign sales)			(106, 000, 000)	(+106, 000, 000)	(+106, 000, 000)
(Transfer from other accounts)	(202, 100, 000)	(20, 100, 000)	(344, 486, 000)	(+142, 386, 000)	(+324, 386, 000)
Total funding available	121, 091, 996, 000	132, 340, 665, 000	129, 964, 064, 000	+8, 872, 068, 000	−2, 376, 601, 000
(Transfer authority)	(750, 000, 000)	(750, 000, 000)	(750, 000, 000)		
Distribution by organizational component:					
Army	30, 298, 771, 000	32, 872, 600, 000	31, 420, 949, 000	+1, 122, 178, 000	−1, 451, 651, 000
(Transfer from other accounts)	(70, 000, 000)		(113, 600, 000)	(+43, 600, 000)	(+113, 600, 000)
Navy	41, 072, 304, 000	43, 573, 613, 000	43, 579, 717, 000	+2, 507, 413, 000	+6, 104, 000
(Transfer from other accounts)	(15, 000, 000)		(146, 886, 000)	(+131, 886, 000)	(+146, 886, 000)
Air Force	34, 266, 732, 000	38, 686, 800, 000	37, 722, 712, 000	+3, 455, 980, 000	−964, 088, 000
(Proceeds from foreign sales)			(106, 000, 000)	(+106, 000, 000)	(+106, 000, 000)
(Transfer from other accounts)	(117, 100, 000)	(20, 100, 000)	(84, 000, 000)	(−33, 100, 000)	(+63, 900, 000)
Defense agencies/OSD	4, 928, 089, 000	5, 671, 825, 000	5, 275, 573, 000	+347, 484, 000	−396, 252, 000
Retired military personnel	10, 268, 500, 000	11, 451, 500, 000	11, 451, 500, 000	+1, 183, 000, 000	
Related agencies	55, 500, 000	64, 227, 000	63, 127, 000	+7, 627, 000	−1, 100, 000
Total, Department of Defense (NOA)	120, 889, 896, 000	132, 320, 565, 000	129, 513, 578, 000	+8, 622, 682, 000	−2, 806, 987, 000
(Proceeds from foreign sales)			(106, 000, 000)	(+106, 000, 000)	(+106, 000, 000)
(Transfer from other accounts)	(202, 100, 000)	(20, 100, 000)	(344, 486, 000)	(+142, 386, 000)	(+324, 386, 000)
Total funding available	121, 091, 996, 000	132, 340, 665, 000	129, 964, 064, 000	+8, 872, 068, 000	−2, 376, 601, 000
(Transfer authority)	(750, 000, 000)	(750, 000, 000)	(750, 000, 000)		

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[1] Includes amounts in Supplemental Appropriation Act, 1979.

[2] Includes changes proposed in H. Docs. 96-156 and 96-189.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding.

The gentleman from New York (Mr. ADDABBO) is one of my very close friends in the Congress. I want to compliment him first on achieving the chairmanship of this extremely important committee. I want to compliment the chairman on what I think is a good job that his committee has done.

I am on the authorization committee. I have got great concerns in many of the aircraft programs. I am not as hung up on the carrier as some of my other colleagues are from the Committee on Armed Services, but I am supporting the Committee on Armed Services bill. I think that the Defense Appropriations Subcommittee has done as fine a job as could be done in supporting the chairman. The chairman deliberately held up his bill until we completed our bill, which I think is commendable. I think the gentleman has got along as best he could with the authorization bill that came out of the House of Representatives. For this, I want to commend him tremendously.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it has been said around here the Republicans watch chairmen come and watch chairmen go. We have not been able to say that on our defense subcommittee, because George Mahon, bless him, was here for as long as memory of man runneth not to the contrary, but he is now no longer in the House, and we do have a new chairman in the person of the gentleman from New York (Mr. ADDABBO). I guess it is fair to say that when you start a year with a new chairman, there is always a great interest in how he will perform.

We have had our differences. I do not think there is any question about that, but I think I can say without a doubt he has worked very hard. He has proven himself to be a very able chairman. I think he understands the defense needs of this country and I am proud to serve with him.

While we on the subcommittee argue a lot and fuss and fume a lot between ourselves, I think by and large the end product has been a good, credible bill that I am happy to come here today and support on the floor. I say that not suggesting there are not areas where improvements could be made, because there are areas where I wish we had done more.

There are areas where I feel that we have cut more than we should have cut.

BUDGETARY OVERVIEW

Mr. Chairman, for fiscal year 1980, the committee considered a revised request of $132.3 billion in new obligational authority. That figure includes the $2.7 billion budget amendment but excludes the proposed pay supplemental of $2.9 billion, which the committee must consider next year. Thus, we are really looking at a budget request of $135.2 billion. When inflation is taken into account, that request provided roughly 3.4 percent real program growth as compared to last year's appropriations.

Mr. Chairman, at this time, the committee is recommending a total appropriation of $129.5 billion in new obligational authority. Assuming that we approve the pay supplemental in full, that total would increase to $132.4 billion or $11.5 billion over fiscal year 1979 appropriations. That is a 9.5-percent increase.

The Defense Department estimates that inflation will exceed 8 percent next year. Based on the assumption, the Department concludes that fiscal year 1980 appropriations will eventually provide real program growth of only 1.1 percent. There is some controversy concerning this estimate, since it is dependent on inflation rates that may or may not occur next year. If, for example, actual inflation rates turn out to be less than 8 percent, then real program growth would be greater than 1.1 percent.

It should be noted also that any cut we make eats into real program growth first, and once that is consumed, then cuts begin to eat into increases budgeted for inflation.

BUDGET AMENDMENT

Since the budget was put together in late 1978, there has been a sharp upturn in inflation rates, particularly so far as fuel prices are concerned. The operation and maintenance account would have been hard hit if we had not made certain necessary funding adjustments during our full committee markup.

Just a few days ago, the Defense Department submitted a budget amendment totaling $2.7 billion, including nearly $900 million to cover fuel price increases.

We approved $2.1 billion of that amount and added that to our bill in full committee.

We felt that the amount disapproved, $560 million, had not been adequately justified, and all the experts said that if we exceeded the $2.1 billion figure, we would have been bumping up against theoretical ceilings in the budget resolution and left ourselves little or no room to maneuver in conference.

The request for fuel price increases was approved in full.

SPECIFIC RECOMMENDATIONS

When compared to fiscal year 1979 funding, but excluding the supplemental, the bill proposes an $8.6 billion increase. The bulk of that increase—or about $7.4 billion—would be concentrated in the operation and maintenance, procurement, and R. & D. accounts. Those increases will certainly enhance readiness and provide for force modernization in the future, though I believe that the pace of this process must be accelerated.

The committee has been adding money to the bill right along to increase readiness, and this year is no exception. We added funds, for example, for depot-level maintenance and spare parts, and flying and steaming hours have been funded at requested levels.

I would like to describe one instance where we took some positive and significant action to increase combat readiness.

The committee was deeply concerned to learn that a high percentage of F–15 aircraft were routinely unable to perform their assigned mission because of a lack of spare parts, particularly due to a shortage of F–100 engine spares. In 1978, there were 15,474 acts of cannibalization on F–15 aircraft, involving 47,898 maintenance man-hours of work. Cannibalizations are a direct result of inadequate provisions of spare parts, and this is an extremely costly and wasteful way to keep planes in the air.

There is just no way to justify cannibalization of the F–15. It is a new aircraft costing nearly $20 million.

It is a prime asset—our first-line fighter.

In close consultation with the Air Force, the committee has moved to alleviate the very substantial shortfall in funding for spare F–100 engines/modules and engine spares. We have added $106 million to the bill for that purpose. In addition, we have added $30 million in O. & M. funds to accelerate the repair of F–100 engine assets.

If the Air Force starts fully funding spare parts programs in the future, this problem should disappear and give way to much higher aircraft readiness rates.

BUDGET CUTS

When compared to the budget request, the recommended appropriation would constitute a net decrease of $2.8 billion of minus 2.1 percent, distributed among the various accounts as follows: military personnel—$386.2 million or minus 1.3 percent; operation and maintenance—$1.7 billion or minus 4 percent; procurement—$478.5 million or minus 1.4 percent; and R. & D.—$252.4 million or minus 1.9 percent.

Mr. Chairman, I cannot justify all of these cuts. In fact, I opposed many of them, but the committee did make a concerted effort to curtail wasteful practices and activities within the Department, and I wholeheartedly approve of this effort.

Let me cite some examples.

First. DOD has failed to curtail personnel travel, though directed to do so in the past. Those travel costs run about $1.7 billion annually. We are recommending a reduction of $92 million or 8 percent.

Second. There has been considerable abuse and waste and a lack of proper management and control over the use of DOD overtime pay. The request for fiscal year 1980 is $411.3 million. We are recommending a reduction of $116.4 million or 30 percent.

Third. There has been widespread misuse of sick leave and disability retirements within the DOD.

We have found that the services are permitting many civilian employees pending optional retirement to exhaust huge quantities of sick leave prior to retirement.

We have found that approximately 45 percent of all DOD retirements are for disability reasons which compares unfavorably with the 30 percent rate for the rest of the Government (which is also too high in my opinion).

We have found that each year some 300 civilians who retire for disability have previously retired from military service with disability.

To try to curtail these questionable practices, the committee is recommending a reduction of $98 million or 10 percent.

Mr. Chairman, these kinds of cuts can only increase our military strength over the long run, as they will hopefully free up scarce DOD dollars for more useful purposes.

Mr. Chairman, there is one area where I feel that the committee has failed to take advantage of some obvious savings, and this is in its failure to support the proposed consolidation of basic helicopter pilot training. This move would save about $100 million over the next 5 years. I support this proposal by the Department of Defense. I will have more to say about it later on.

There are several other areas where the committee foresees some potential long-term savings and efficiencies that deserve further scrutiny. These are as follows:

(1) OVERSEAS UNIT ROTATION CONCEPT

At present, the Army and Air Force use individual accompanied and unaccompanied overseas tours of duty that tend to be of a longer duration than the Marine Corps', which uses the unit rotation concept with shorter overseas assignments. At comparable costs, the Marines maintain that their approach reduces personnel turnover, improves readiness, and increases family stability at home bases. I would guess that when the cost of supporting dependents overseas with commissaries, hospitals, schools, etc. is taken into consideration, the unit rotation concept would turn out to be a far cheaper way to deploy our troops overseas. We have therefore directed the DOD to test out the feasibility and desirability of this concept.

(2) ACQUISITION OF ADVANCED ENGINES

During the hearings this year, the committee delved into major problem areas in the acquisition of large high-thrust fighter engines.

Since the 1960's, the Defense Department has initiated the development of aircraft engines and airframes concurrently, though it generally takes 12 to 14 years and 1 million engine flight hours to mature advanced fighter engines, whereas airframes can be developed in 4 to 6 years. This has resulted in engines being placed in production long before their development has been completed. This, in turn, has led to component improvement programs (CIP) designed to correct numerous deficiencies identified early in an engine's service life. CIP and attendant modification programs are costing millions of dollars each year.

We also found that in the past, military engine programs have stressed performance at the expense of reliability, maintainability, and durability. This, in turn, has led to the premature adaptation of advanced engine technology. As a result of these practices, we are paying a terrible price in engine operating and support costs.

The F-100 engine, which powers both the F-15 and F-16 aircraft, and the TF-30, which powers both the F-14 and F-111 aircraft, are living examples of all the pitfalls in engine development programs.

The next generation of large, high-thrust engines will be needed in the early 1990's.

If we are to avoid past pitfalls and have a relatively mature engine available for production by 1990 or thereabouts, then the design and fabrication of the early prototype models of that engine needs to get underway without delay.

The committee has made several specific recommendations along those lines all aimed at increasing reliability, maintainability, and durability. And the bottom line is that premature production results inevitably in unnecessarily high maintenance and support costs later.

And this is especially true of the XM-1 tank.

(3) TANKS

If the Army has one great need it is for a new main battle tank in the field. We have been trying for about 18 years to accomplish this, and I find that incredible. So here we are with the new XM-1 tank with more problems than a production model ought to have. We have provided the money for 30 tanks a month, but we said the Army cannot buy more than 10 tanks a month until all the tests are successfully completed. We need a new tank, but we need one that works. I am unwilling to put tanks in the field with our boys in them when we know that the tanks don't meet the "mean miles between failure" test. That is suicide.

And we also know from experience that if we put tanks in the field that are not fully tested we simply compound the problem of readiness and the spare parts budget for the future.

TRENDS IN DOD BUDGET CUTS, FISCAL YEARS 1970–80

Looking back over the last decade, the 2.1 percent overall reduction recommended by the committee is consistent with what appears to be an emerging trend.

The mood in the Congress on defense is changing.

In fiscal year 1970, the Congress made a 7.2 percent reduction in the defense bill—the largest single cut in this decade. For fiscal year 1971–72, cuts of 3–5 percent were imposed. The heaviest concentration of cuts came in fiscal years 1973–76, averaging 6–7 percent. Since then, the trend in budget reductions has been gradually and steadily downward. In fiscal year 1977, Congress trimmed 3.5 percent from the bill; 1978—3.8 percent; then in 1979, it dropped to 2.2 percent; and in 1980 our bill calls for a cut of 2.1 percent.

This seems to be part of a pattern wherein the Congress has been cutting less and less from the defense bill each year, but cutting nevertheless.

At the end of the Vietnam war, the prevailing view held the DOD budget to be bloated and that major reductions were in order. But that view has gradually given way to a new interpretation as evidenced by declining DOD budget cuts—a view that postulates the existence of serious deficiencies within our Defense Establishment in several specific areas. It also says to me that it is wrong to try to place all the blame for inadequate defense spending on this or past administrations. The Congress, very simply, has neither equaled nor exceeded the budget in the last 10 years.

NATO

The fiscal year 1980 budget for defense placed great emphasis on increasing the combat capabilities of our conventional air and ground forces for the defense of NATO along with our strategic nuclear forces, while placing less emphasis on Navy forces and missions. Thus, while the proposed budget projected "real program" growth of about 3 percent for the Air Force and Army combined, if allowances were made for inflation, there would be no growth whatsoever offered in the Navy budget.

The committee supports the plan to strengthen our NATO defense and strategic nuclear postures, but at the same time the message conveyed by the committee's decisions is that we cannot allow any further decline in our naval strength. There needs to be some "real program" growth in the Navy budget as well.

The reason for this is quite simple.

We are a seapower—or we should be. Our dependence on the sea has continued to grow as we have become more involved in the world economy. Yet, as our dependence on the sea has increased, our ability to control the sealanes has come under increasing challenge by the Soviet Union.

As a seapower, the Navy has been a principal instrument for executing our foreign policy.

The crucial foreign policy role played by the Navy in the post-World War II era has been carefully documented in a Brookings Institution study, which surveyed 215 incidents where the United States employed its Armed Forces between 1946 and 1975.

According to the Brookings study—

> The United States has turned most often to the Navy when it desired to employ the armed forces in support of political objectives.

Naval forces participated in 177 of the 215 incidents surveyed, or more than 4 out of every 5. In conclusion, the study states:

> The Navy clearly has been the foremost instrument for the United States' political uses of armed forces; at all times; in all places, and regardless of the specifics of the situation.

And, the reason for this is very simple. The show of naval force in a crisis is the only way available to us without relying on the territory of another country.

It is impressive, it is meaningful, but it is carried out on the high seas without dependence on a foreign country.

The history is clear—a strong Navy must remain an essential part of our national security policy.

We have obviously reached a point where we must either provide more money for the Navy or face up to reduced Navy force levels and missions.

In this year's and last year's bill, our committee has added critically needed funds to the Navy budget.

CONTROVERSY SURROUNDING THE NAVY MISSION

The controversy surrounding the Navy mission and its manifestations in DOD budgets is the single, most important issue in the bill. It is not a new issue. It has been brewing for several years now and the struggle is continuing.

The conflict is between the Defense Department and the Navy over what the future mission of the Navy should be. The conflict is continuing without resolution or any clear sense of direction, and I see it being at the heart of the problem with the Navy portion of the budget.

The Defense Department contends that there has been no change in the Navy mission and that none is planned. The Department acts as if the issue does not exist.

Yet all the detailed budgetary data suggests otherwise. Those figures suggest that actual procurement rates for naval aircraft and ships either are not or will not be adequate to maintain current force levels, and to me, this means an inevitable change in mission somewhere down the road.

The Defense Department is saying one thing and doing another. Someone over there is not facing up to the problem, and in the meantime, our Navy is drifting into decline.

In examining annual Navy budgets as compared to projected 5-year defense plans, one can readily find that vast discrepancies exist between planned versus actual procurement rates for naval aircraft and ships. The Navy is betting on the "come."

This is what happens.

The Navy keeps postponing, or is required to postpone, the allocation of adequate fundnig levels for ships and aircraft, pushing massive sums of money into outyear budgets. Well, it is all piling up out there in what is known as the "bow wave." Then the inevitable will happen. The military will come to the Congress to say that all these ships and aircraft really were not needed anyway—but what they will really be saying is that there is not enough money.

Recent news reports on next year's budget and the new 5-year defense plan (fiscal year 1981-85) bear out this prediction and suggest that the trend is continuing.

The Marine Corps is also involved in the controversy, because its mission has to change as Navy force levels and missions change. Next year I am planning to delve into the roles and missions and future direction of the Marine Corps.

The indecision over the Navy mission has been an open invitation to the committee to reorder funding priorities, even though I do not believe that we should be setting budget priorities. But, in the absence of proper policy guidance in this regard, we find ourselves moving into the vacuum.

If there is to be a clear change in the mission of the Navy and Marine Corps, then let us have it out on the table.

LIBRARY OF CONGRESS STUDIES

Given all the controversy over the Navy mission, I decided at the conclusion of last year's action to undertake detailed studies in what I perceived to be the most critical problem areas—naval aircraft and ship requirements, inventories, and procurement plans and options. Those studies, which were prepared for my use by the Library of Congress, were instrumental in helping me to develop a more systematic approach to the whole problem. Those reports were the subject of much discussion during our deliberations this year.

As a result of that work, I now feel as though I have a much better understanding of the problem, and there is general agreement on the committee—I think—as to what needs to be done. That conclusion is reflected in the committee's recommendations.

AREAS OF MAJOR CONCERN

SHIPBUILDING PROGRAMS

Each year we buy fewer and fewer ships, and the fleet is shrinking in size, and all the information indicates that this trend will continue. For example, when President Ford left office, his 5-year shipbuilding program called for 157 ships to be built, 36 of which would have been funded in the fiscal year 1980 budget. President Carter this year reduced the 5-year program to 67 ships and only budgeted 15 in fiscal year 1980—the same number budgeted last year. Two ships were deleted from last year's program, but the recently approved supplemental providing 4 additional ships would establish a 17-ship program in fiscal year 1979. Most experts agree that we should be building about 20 ships each year.

The bill, as modified by the committee, provides for the construction of only 10 new ships as follows: One Trident submarine, one attack submarine, one aircraft carrier, one Aegis destroyer, and six guided missile frigates. The request included 15 ships. We deleted the five T-AGOS SURTASS ships.

And the future looks grim.

The current 5-year plan (fiscal years 1980-84) includes a total of 67 new ships or about 13 per year, and according to recent news reports, the new 5-year plan (fiscal years 1981-85) calls for only 46 new ships or only about nine per year. Those numbers fall far short of the Navy's needs.

I have been greatly concerned about the trend in shipbuilding. It is serious, and it is continuing. For these reasons, I asked the Library of Congress to conduct a detailed analysis to determine how many and what types of ships we need to be buying in the future and to estimate the cost of such a program.

That study was completed on May 30, 1979, and was discussed at length during our hearings on the shipbuilding program.

I will summarize its principal findings.

First. In order to maintain the current 540-ship Navy through the year 2005, we will need to buy about 400 ships between now and the year 2000 or roughly 19 new ships per year.

Second. The average annual cost to maintain the 540-ship Navy over the next 21 years would be $8 billion in fiscal year 1980 dollars. This compares with an average annual shipbuilding appropriation for the past 10 years of $5.6 billion in fiscal year 1980 dollars. The 42-percent increase in annual shipbuilding appropriations, which would be required to maintain the 540-ship Navy, would constitute a major change in DOD funding priorities.

Third. At present funding levels, Navy ships are more costly than can be afforded in the numbers required to maintain present force levels.

Fourth. A continuation of the present policy for 10 years or more would result in a Navy of about 350 ships.

Fifth. Alternative courses of action include:

First, accept less capability, either by reducing the size of the fleet or designing less capable ships;

Second, increase funding for shipbuilding; or

Third, shift to new concepts and technology.

I have no doubt that we will be shifting to new concepts and technology. That is as it should be. And this may very well mean that we will need fewer ships. But again the Department of Defense needs to lay all that out on the table for the committee to deal with. But for now the handwriting is on the wall.

We are fast headed for a 350-ship Navy, and that is a far cry from the 540-ship Navy of today and the 1,000-ship Navy of 10 years ago.

I question whether a force of that size could continue to carry out the Navy's principal mission of maintaining maritime superiority based on what the committee knows at this time.

AIRCRAFT REQUIREMENTS

The outlook here is equally grim.

The fiscal year 1980 request for naval aircraft procurement including funding for only 39 fighter/attack aircraft, 24 F-14's and 15 F/A-18's. That number would not go far toward meeting the Navy's annual requirement for new fighter/attack aircraft.

According to the Library of Congress, the Navy and Marine Corps need to procure at least 160-200 new fighter/attack aircraft each year merely to offset normal peacetime attrition so as to maintain the 12 active and 2 reserve carrier airwings and 3 active and 1 reserve Marine airwings at their authorized strength and with an acceptable average aircraft age of 7 to 8 years.

RECENT FUNDING HISTORY

In recent years, the Navy has procured far fewer than the required 180 new fighter/attack aircraft per year. In the last five budgets, the Navy has procured an average of only 83 fighter/attack aircraft per year. The number has been decreasing, with the average for fiscal years 1978–79 of only 70 aircraft.

If that downward trend is not reversed through increased annual buys, it will not be possible to maintain 12 active carrier and 3 Marine airwings in the future.

The recent history of appropriations for naval aircraft procurement does not augur well for the future.

CAN FUTURE FUNDING INCREASES BE REALIZED?

Just as in the case of shipbuilding, the Navy is also looking at big cost increases for aircraft procurement in the next 5 years.

The Navy has budgeted $1.4 billion this year for fighter/attack aircraft. That progressively increases in 1984 to $3.5 billion—a whopping 150-percent increase—as buys of fighter/attack aircraft climb from 39 aircraft this year to 210 aircraft in 1984. Plans also call for maintaining that level of procurement into the late 1980's.

The total Navy aircraft procurement budget, including aircraft modifications, is $4 billion this year. That will grow in 1984 to $6.9 billion—an increase of 75 percent.

During the same 5-year period, funding for shipbuilding programs is projected to increase by 40 percent from $6.2 billion this year to $8.7 billion in 1984.

If this plan were fully executed and sustained into the outyears, the Navy and Marine Corps aviation programs would be well on their way to recovery.

I raise the same question I have been raising all year. Where is the DOD and the Navy going to come up with the money needed to carry out this plan?

The Navy cannot do all that needs to be done in this budget because there is only so much money available.

So far no one has been able to tell me where the Navy will get that kind of money 5 years from now if we cannot come up with it today.

The only way it can be done, I am told, is to have average annual growth of 3 to 4 percent in overall funding for the Navy over the next 5 years.

But history suggests that is not going to happen.

Well, this seems to have turned out to be another Navy speech, and I apologize for that. But in my opinion the Navy, of all the services, clearly has the greatest long-range problem. We must face up to that problem now if we are to have a solution for the future.

I could argue all day long about how much is needed in this bill and how much each military branch requires. When we get right down to it, though, I don't believe there is anyone in this Chamber that knows the answer to that question. I certainly do not have the answer. But the problem does cry out for study and consideration and a clear sense of direction.

Well, Mr. Chairman, we have carefully reviewed the budget. We have deleted some items. We have added some, and we have transferred some from one area to another. We did the best we could, but this is not a perfect bill by any stretch of the imagination.

With some of the exceptions noted earlier, I believe this is a good bill. But in the years to come, I also believe we will be called upon to spend even greater sums if we are to respond to the continuing Soviet advances, and if we are to provide funds for our own technological breakthroughs as well as force readiness and modernization. That is why it is so important to make the best use of every defense dollar.

□ 1600

Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. ROBINSON).

Mr. ROBINSON. Mr. Chairman, I would like to echo the comments of our ranking minority member, the gentleman from Alabama (Mr. EDWARDS), in terms of complimenting our new subcommittee chairman and our staff for their unfailing courtesy, for their fairness in dealing with us as a minority in the subcommittee, and for their skill in handling a bill which becomes more difficult each year and is reflected, I am afraid, in the necessity for the increase in the size of our staff as the years go by. This, as usual, has been a difficult year because it has been a transition year. It has been difficult for the chairman; it has been difficult for the membership, because it is not easy when a committee makes a transition from the chairmanship of a man who had been in charge of the committee for as long as George Mahon had to a new chairman with new ideas, new administrative techniques, and with, additionally, substantial additions to the committee in terms of new membership.

To those who would criticize us because of the fact that there is a $2 billion cut, I echo the sentiment of JACK EDWARDS, that certainly we would like to fund all of the needs of the Department of Defense, but I want to tell the Members that we do not find unanimous thinking in the Department of Defense with regard to what those needs might be.

It is always difficult to deal with that situation when we have to come down to reestablishing priorities, and a great deal of work this subcommittee does is in that area of reestablishing priorities as we try to fit the pieces of the puzzle together based on the amount of money that we feel is honestly available and can be portioned out.

To those Members who feel that the bill is too big—and there are some that do—I say to them that if they will look on pages 5 and 6 and see where the cuts and the additions are that have been made in this bill, I think they will have to acknowledge that the committee has made a judgment based on a substantial number of decisions that had to be made, and that it was not made on basis of incomplete information or on basis of a lack of staff work in terms of backing up what we finally came down on as the proper choice.

I would also, to those Members who feel that the bill is not large enough, call to their attention the fact that we know that there is a very substantial supplemental coming down the road, and that before this session of Congress is over we are going to be looking at a great deal of additional money that is going to be necessary to cover the needs that will be discovered as the year moves on and we get into fiscal year 1980. I am very pleased to be able to note that in the interests of this particular Member I am not going to be standing in the well as often in terms of being opposed to the stand that my chairman takes or that my ranking minority Member takes with regard to this bill as I have in a couple of years just past, because in the instance of some of the big ticket items—and I am referring particularly to the nuclear carrier—we are going to find as a consequence of the House action that has already been taken on this matter that the opposition and attitude is greatly different from what it was last year. I am pleased with the fact that we are not looking at a threatened Presidential veto with regard to our bill with respect to this item in this particular instance.

But, our chairman has made much of the Soviet presence in Cuba, and has mentioned that he does not feel that it has any proper impact on this bill as we consider it here today. Well, I do not infer that it has a great deal of reasoned impact on this bill.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield the gentleman whatever time he wants. May I say while I am on my feet that I do that knowing that the gentleman is one of the most able members of our subcommittee, and a man in whom I have the greatest confidence.

Mr. ROBINSON. I thank the gentleman from Alabama for his kind remarks and for the yielding of the additional time.

With regard to the Soviet presence in Cuba and its impact on this bill, I do not suggest that it should have a great deal of impact on this bill, but I do suggest that if we had been applying the proper resources today we should have applied to the bills in more recent years—and I perhaps should go back 10 years ago—that in that case we then would not have those troops in Cuba because it would be understood in the Soviet Union and worldwide that we intended to stand up and fight when and if necessary, and that we would not hold still for having those troops in Cuba.

□ 1610

I regret very much one area of the bill where I think we are not properly covering our responsibility in that we are not considering standby registration for the draft in case of a national emergency. I regret that we are not able to include that in this bill, because I think it is absolutely necessary for our readiness posture and something that we are going to have to do in the future. I regret that the House took the action that it did in eliminating it from the authorizing bill, but I applaud the fact that the nuclear carrier is in this bill. I am confident that it is going to send the signal that has already been mentioned on this floor many times to our prospective enemies with regard to our intent and our ability to defend and keep open the lanes of transport in the oceans of the world around the world as a total. I mentioned that a great deal of the decisionmaking process in our subcommittee is one of reestablishing priorities as suggested by DOD and that sometimes the various agencies of DOD do not agree themselves as to how these priorities should be established.

One of our problems in sorting out these priorities is when they come up here on an annual basis, they do not have the same current priorities as they did last year. If you think this does not confuse the decisionmaking process, then you do not know how difficult it gets after we have gone through those 11 volumes of hearings that have been mentioned to you to sort out and make decisions on a dollar basis with regard to the thousands of items that you will find covered in the 500 pages of this committee report.

Perhaps much of what I have said has sounded critical with regard to the bill but, Mr. Chairman, I am going to vote for it because I think that the committee brings us a good bill, and because the new year is so imminent, I believe it is essential that we move ahead on this largest and most important—I think, in the view of most of the people in this House—of the regular appropriation bills, 13 in number, that come before us.

Mr. Chairman, as a member of the committee, however, I have subscribed, together with other members, to additional views which appear in the report and which reflect our concern over language in the report stating that—

> The funds provided are adequate in amount to finance the military capabilities required by the United States at this time.

I have very substantial doubts that the funding is fully adequate, in terms of the readiness of our national defense establishment.

Readiness is the key word—maximum readiness now, with what we have, or can procure quickly, in personnel and materiel; and an intensive, methodical effort to enhance that readiness, in order that it will be equal to the increasingly potent threats of the years and decades ahead.

We have been slipping.

One by one, our former substantial advantages have been neutralized, and some now are being converted into disadvantages.

The Soviet Union's energetic and impressive buildup of its own offensive and defensive capabilities have combined with our complacency and false economy to bring about this ominous turn.

It is not of our national choice that we are involved in a long-term chess game of incalculable consequences.

The Marxist strategy is geared to the long term, but the circumstances of the present, with their advantages and disadvantages for the grand plan for international communism, are interfaced with that strategy.

Since World War II, we have seen the Soviet Union advance its strategy through military support of so-called movements of national liberation, without significant commitment of its own combat forces.

These adventures have not been fully successful in all instances, but the reverses have been few.

The areas of Soviet domination or influence have grown.

Our power and influence as leader of the free world—and our national will to fill the leadership role—have come into question.

On the chess board, it is a time of probing and testing.

We see the arrogant intrusion of a Soviet combat brigade in Cuba.

Our options to abate this symbolic threat are few and difficult.

Where, and with what effect, might our moves be counteracted elsewhere on the worldwide board?

As the diplomatic efforts continue, might the deactivation, or downgrading, of our naval base at Guantanamo be the price of an accommodation by the Soviet Union?

I sincerely hope not, and so should we all.

When we hear or read that Guantanamo has lost most of its importance as a naval base, we need to return to our maps and refresh our understanding of the defense geography of the Caribbean.

Guantanamo stands out as the sentinel of the Windward Passage, a major gateway to that sea, which was a favored hunting ground of Nazi submarines in World War II.

How convenient to the establishment of the Caribbean as a Soviet lake would be the abandonment to Castro of our base at Guantanamo.

Why am I talking about Guantanamo in connection with this appropriation bill?

Not merely because the modest funding for maintenance of the base is included, but because the presence of the Soviet combat brigade in Cuba, and our responses to that presence, and the Soviet responses to our responses, focus attention on the active Soviet interest in Western Hemisphere affairs, and on our capacity, or lack of capacity, to deal effectively with even more serious intrusions which might come in the future.

We may still hold a few secrets in qualitative defense capacity, but our quantitative capacity is virtually an open book.

And, when we look at the other side, we see great quantity and considerable quality.

The armed might arrayed against Europe by the Warsaw Pact combine is no mirage.

Although certainly not hopeless, the superiority over NATO forces in numbers of personnel, tanks, armored personnel carriers, and artillery is frightening.

Perhaps even more ominous a challenge, however, is to be found in the impressive progress which the Soviet Union is making toward an obvious goal of neutralizing the U.S. Navy's long-held capacity to maintain effective control over vital sea lanes.

The foreword to the latest edition of Jane's Fighting Ships notes, in particular, the development for the Soviet Navy of new classes of surface craft of high sophistication.

There are cited, as examples, a class of large nuclear-powered missile-carrying warships, seemingly comparable in size and fighting power to a class of vessel for which our Navy's plans are shelved at this time; and a large landing platform dock (LPD) class suitable for amphibious operations, plus a big and versatile support ship with substantial armament.

The Soviet Navy is moving ahead purposefully in the development of a potent aircraft carrier force.

In August, the publication, "Aviation Week and Space Technology," published and article including this report:

> Soviet Union is building what U.S. naval experts believe will be its first large-deck, nuclear-powered aircraft carrier at Russian shipyards in the Murmansk area.
>
> At the same time, the Soviets have started sea trials in the Black Sea with a third vessel in its *Kiev* antisubmarine aircraft carrier class.
>
> A fourth *Kiev*-class ship is now under construction in a Black Sea shipyard * * *.

These are sharp straws in a chill wind.

We cannot plan, realistically, to match the numbers of the Warsaw Pact force in being, either as to personnel or as to such basic tools as tanks and guns. We must strive, therefore, for the edge of quality in our ground forces, and the air support for these forces.

And, as the Soviet Navy moves steadily toward a global operational capacity, we cannot tolerate a further erosion of the relative strength of our own Navy.

That is why some of us on the committee have been disturbed by the magnitude of the reductions from the President's requests in several important areas in which significant increases, in real terms, seem to us to be clearly necessary to achieve an order of readiness prudent for these times.

In this connection, we should keep in mind that increases in the budget recommendations yet to be considered will be discounted substantially, by the time the funds become available, through the further skimming by inflation.

The bill reduced the figure for operation and maintenance by well over $1 billion—a rough slash at the heart of readiness.

More than a quarter of a billion dollars was cut from research and development, the generator of the qualitative advantage.

In procurement, while we increased the naval aviation program by two-thirds of a billion dollars, we cut overall defense procurement by almost one-half billion dollars, including reductions in additional buys of our current basic tank, the M60A3, the battleground Pershing missile, and certain command and control equipment.

And, despite the funds provided for Navy and Marine Corps aviation, we cannot be at all comfortable about the outlook. Even with the increases over budget, procurement of 72 tactical aircraft in fiscal year 1980 will be contrasted with the hearing testimony of Secreary of Defense Harold Brown that a buy of about 180 fighter and attack planes a year is necessary to maintain at full strength 12 carrier air wings and 3 Marine air wings.

In the Navy shipbuilding program, hearing testimony states, 20 new ships a year must be delivered to maintain the current fleet level of 540 ships.

The bill provides funds for 10 new ships.

It may be that new and improved ships coming into the fleet in the next few years, under procurements funded during previous administrations, would permit an adequate readiness with less than a 540 total, but the projections of the current administration as to Navy shipbuilding would give us a fleet of about 350 ships 10 years from now.

I am not comfortable with that number for a Navy with global responsibilities for sealane access faces with a large and and growing Soviet "blue water" capability.

Adm. Thomas Hayward, the Chief of Naval Operations, testified before our committee on February 13, 1979, and I believe this statement of his deserves repeating—and our pondering:

> Our forces are already at an irreducible level when measured against the demands which would be placed on them in war.
>
> Any further significant decline in combatant capability would eat up our existing margin—and given the vagaries inherent in any force balance—could expose us to risks which I do not believe this country wants, or ought to undertake.

That statement is applicable not only to the Navy, but also to our overall state of readiness.

Let us pass this bill, but let us not then relax in satisfaction that we have done all that needs to be done at this time to shore up our defenses for the immediate future, and to build an adequate deterrent against reckless aggression for the balance of this century.

There is more that needs to be done, and we ignore it at disservice to our responsibilities, and at peril to our Nation.

Mr. ADDABBO. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman from New York for yielding.

I take this time for the purpose of engaging in a colloquy with the distinguished chairman of the committee. Section 741 of the bill on page 49 states:

> None of the funds appropriated by this Act shall be available for any research involving uninformed or nonvoluntary human beings as experimental subjects.

I was going to propose an amendment to the bill on behalf of myself and the gentleman from California (Mr. MILLER) that would have prohibited use of funds for expenditure for any chemical, biological, or radiological testing that would affect nonconsenting civilian populations. I would ask the chairman if in his view the language in section 741 where it talks about research would include chemical, biological, and radiological testing.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding. I assure the gentleman that it does. All three services have propounded regulations along the line the gentleman has discussed, and that would be covered.

Mr. JOHN L. BURTON. Where it states "involving uninformed or nonvoluntary human beings," that would mean that even if they informed someone that they were going to let deadly nerve gas out in the bay in San Francisco, as long as the people did not volunteer to have such a test placed upon them, the Armed Forces could not do such tests?

Mr. ADDABBO. That is absolutely correct.

Mr. JOHN L. BURTON. I thank the distinguished chairman. Based upon our colloquy, the gentleman from California (Mr. MILLER) and I will not be offering our amendment.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I rise in general support of H.R. 5359, the Defense appropriations bill for fiscal year 1980.

I say in general support because I expect to vote for the bill and I urge my colleagues to do likewise.

But I do have some reservations about the adequacy of the funds to fully meet our defense needs as well as one or two other matters which may be addressed by amendments which I may support.

As to the adequacy of the funds to meet our needs, my views are contained in the additional views in the report, and I would draw your attention to them.

I have some serious personal reservations that some of the cuts in training, subsistence, personnel programs and in other operations and maintenance areas may be counterproductive.

About $1.7 billion was deleted from the administration request for O. & M. While I have no particular quarrel with many of the specific cuts, I do feel that a cut of this magnitude removes much of the flexibility of the Secretary of Defense to put money from lower priority programs to high priority needs. In this bill, we have effectively removed most low priority programs, leaving those which are critical to our defense with little or no option for transfers should the need arise.

There are two levels of defense posture. Procurement programs provide us with the planes and ships and tanks which will not come into the inventory for years in some cases. We could well find ourselves in dire circumstances if present trends in procurement continue.

But defense readiness also has to do with having a well-trained ready force, equipped with well maintained equipment. In this area too, we are deficient. The services are experiencing extreme difficulty in recruiting and retaining personnel. Program cuts in training, morale, welfare and recreation programs, and in other personnel programs do not go to the solving of this problem.

Further, cuts in the operation and maintenance accounts impact directly on maintenance of equipment and facilities.

To a great degree, this bill is held hostage to actions of other committees and of the Congress in authorization and budget resolution restrictions. In addition, we are at the mercy of those who prepare the budget and who appear before us in defense of that budget. Time after time, the committee is told the budget under consideration will do the job, and only careful examination of available data raises any question to the contrary.

In this context, the subcommittee chaired by the gentleman from New York (Mr. ADDABBO) has done an outstanding job. The gentleman from Alabama (Mr. EDWARDS) has contributed greatly to the shape of this bill. All other members of the subcommittee deserve our gratitude and our respect for their work.

But I sincerely believe we may be at the point where hard decisions will have to be more regarding the future direction of our Nation's defenses given the dollar constraints we all want to see imposed on all Federal agencies.

As I said, Mr. Chairman, I feel I can support this bill. It represents the best of the considerable wisdom embodied in the Defense Subcommittee. I urge passage of the bill.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding, and I thank him for his kind words. As I said earlier, considering how busy the gentleman is as the ranking minority member of the full Appropriations Committee, he gave much valuable time to our committee, and we are really grateful for his expertise.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding. I certainly agree with what the gentleman has said about the new chairman of the subcommittee, and I would like to thank the members of the subcommittee for their splendid work and especially for looking after the National Guard Reserve. The chairman of the subcommittee would still be a better chairman if he further takes care of the National Guard Reserve.

Mr. CONTE. I thank the gentleman.

Mr. Chairman, I yield back the remainder of my time.

☐ 1620

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. LEWIS).

Mr. LEWIS. Mr. Chairman, I speak today not as an expert in defense matters even though I have had a long interest in this field since one of my predecessors, Harry Sheppard, worked for so many years in this very area. Rather, I am here today to speak very briefly about a program—an experience in the process this year that I think should be of interest to the people of this country.

Mr. Chairman, people often talk about our spending quickly and easily hundreds of thousands or millions or in this case billions of dollars without a great deal of thought. There was a program in this budget this year that involved the concept the subcommittee had essentially signed off on and the Army was supporting, relating to a national training center, a program that was designed to establish a training system that would save lives if we ever came to the time again where we had to send our men and women into the battlefield.

Suddenly at markup time we found that money gone. I was a bit disconcerted for in my district the program meant only a minor impact upon the community of Barstow, an increase in population of 18 percent, an increase in primary and secondary jobs of 37 percent, an increase in income of well over one-third.

Mr. Chairman, I wondered about that and upon evaluation we found that excellent work by the subcommittee indicated the State of California had some objections and with that objection the money could not be spent this year. They notified us, worked very carefully with us and in a short time we were able to bring the State, the Army and the U.S. Government together.

Mr. Chairman, I stand here today to praise this subcommittee, its chairman, the gentleman from New York (Mr. ADDABBO) and the ranking member, the gentleman from Alabama (Mr. EDWARDS), and their fine staff for their effective work in evaluating the dollars we are putting to work in national defense. In this case, I want it known that the Army thanks you, the people of Barstow express their appreciation for your cooperation and I certainly appreciate the kind of help I have had this year.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ADDABBO, and by unanimous consent, Mr. LEWIS was allowed to proceed for 1 additional minute.)

Mr. LEWIS. I am pleased to yield to my chairman.

Mr. ADDABBO. I thank the gentleman for yielding.

I wish to commend the gentleman. I know he was very interested in this and it is a very important program. The only reason the committee eliminated it originally in the markup is the fact there had been some question in the State of California about the environmental impact statement, and during our markup we did not want to give the Department of Defense money they would not spend. We were happy that prior to the time the bill came to the floor those problems were eliminated. The State has agreed to the needs of the Defense Department and the valuable national training center will be built. I wish it was in my district but I am happy it is in the gentleman's district.

Mr. EDWARDS of Alabama. Will the gentleman yield, Mr. Chairman?

Mr. LEWIS. Certainly, I yield to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Chairman, we felt like we were on the right track in our subcommittee in view of the objections from the State of California. The gentleman in the well got very busy and worked out those problems. He came back with positive answers. It was on that basis we could take the action we took.

I commend the gentleman for his endeavor. It shows that hard work does in fact produce good results and the gentleman has done good work.

Mr. Chairman, I yield 3 minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Chairman, I will just take this time to engage in a bit of colloquy between myself and the chairman of the committee, as a matter of legislative history here.

There are two or three things we are actively presently engaged in, in conference this very afternoon, that will be impacted by what we do in the appropriations bill. One item has to do with the SES, the surface effect ships.

We are in conference with the Senate. We felt, and I feel very strongly, that we have a sunk cost of about $400 million in this program. We started off with a hydrofoil program. We built two prototypes. The Navy then abandoned this effort and went forth with a new concept in the SES, the surface effect ship. We have today built two prototypes and we are supposed to build four, with another prototype, instead of 100 ton, a 3,000-ton vessel and we are about 60 percent down the way. We are having a dialog and difference with the Senate now. I wonder if the chairman could advise the House what the Committee on Appropriations did which might give us some guidance on the authorizing committee. What is in this bill now for the surface effect ships? Could the chairman or anyone speak to that?

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I will be very pleased to yield to the gentleman from New York.

Mr. ADDABBO. In the bill before the House at the present time there are no funds for the SES. The reason there are no funds is that there are funds from last year, from the 1979 budget that are unspent, and we are waiting to see exactly what the Navy is going to do with that money. If the SES is authorized, they can proceed with it using fiscal year 1979 funds.

Mr. DICKINSON. Mr. Chairman, I thank the chairman.

Let me add to that the Senate not only zeroed but they recaptured the $40 million carried over from last year. So far as the action of the other body is concerned there is no carryover from last year to which the chairman referred. I am glad to establish this and make it a part of the record because I think this will be helpful for us in our dialog with the Senate not only in recapturing what was done last year but in coming to some solution or conclusion as to what we are going to do this year.

I did not know if the chairman was aware of this but that is the status of that particular line item.

Mr. ADDABBO. We did not use or transfer the fiscal year 1979 funds because we still feel there may be some use for those funds.

Mr. DICKINSON. As a matter of legislative history, also, I wonder if the chairman could tell me—I realize the gentleman from Alabama, the ranking member, alluded to this—what action did the committee take and what is in this bill with regard to a new or a follow-on development of a diesel engine for possible use in the new XM–1 tank or some other use?

The CHAIRMAN. The time of the gentleman has expired.

Mr. EDWARDS of Alabama. I yield 3 additional minutes to the gentleman from Alabama.

Mr. DICKINSON. I yield to the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. There are funds in the bill before the House for continuing research on the diesel engine.

Mr. DICKINSON. Mr. Chairman, speaking as a member, but not for the Subcommittee on Research and Development of the authorizing committee, we feel very strongly, I feel very strongly, that we should have a follow-on diesel engine. We are always needing a new state-of-the-art engine in development. Whether we talk about aircraft engines or whether we talk about tanks, we need to continually develop and expand and improve on whatever the state of the art is toward engines.

Mr. Chairman, I would hope that whatever we do will not be at the expense of the proposed turbine engine in the XM–1 tank. I was wondering if the chairman or the ranking member could assure me that the money for the follow-on for diesel will not be in lieu or at the expense of the turbine engine that is contracted for in the XM–1 tank.

Mr. ADDABBO. The additional money, $14.2 million, is an accepted line item for diesel-engine research.

Mr. DICKINSON. Would the gentleman from Alabama care to add to that or amplify?

Mr. EDWARDS of Alabama. I certainly would agree that the diesel engine in no way is designed to move in and take the place of the turbine. It is there as an engine that is being developed as the backup in case the turbine does not work. It is also there to be used for other things as may be developed from advanced engine technology.

Mr. Chairman, we are all hoping the turbine works, even those of us who were not for the turbine. We hope it works. We have too much invested in it for it not to work. We are doing all we can in fixes and changes in the amounts appropriated to make it work. If it does not, we have to have an alternative engine to move into its place.

Mr. DICKINSON. I agree with that. I think it depends on with whom you talk. My information is—the information I prefer to believe, at least—is that the testing of the turbine engine has been the most rigorous that any engine program has gone through to date and it has gone through all the wickets, milestones or whatever you care to call it.

□ 1630

They are developing it and they are very pleased with the production. As I recall, AVCO is the manufacturer of the engine, but none of this is now in my district or the gentleman's district. I have no parochial interest. I am just interested in getting a good tank; so I am optimistic about the engine. I think we are doing the prudent thing in developing a new engine as a backup if needed; but I just wanted to establish and make sure that we are not doing it at the expense of the turbine engine.

One other item that I might comment on and develop that I know is of great interest to the gentleman from Alabama, that is the $25 million for the development of an aircraft engine.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. DICKINSON. I was speaking of the $25 million that was in this bill that has not been authorized and appropriated for the advanced development of an aircraft engine on which we had a colloquy on the floor, or I did, with the members of the Committee on Armed Services. As I recall, the gentleman from Alabama was down fighting Hurricane Frederick at the time when we went into this matter, but is it the intent of this committee in putting this money in now that they will go forward with an advanced development and a long-term development to prove the durability and maintenance of a new engine?

Mr. EDWARDS of Alabama. Mr. Chairman, if the gentleman will yield, I think we have to do that if we are going to have the next generation of planes and engines married up in a way that will bring about the greatest durability and reliability.

Mr. DICKINSON. Well, I approve the concept. I understand it. I agree with it. I was just a little disappointed to see that it was appropriated before it was authorized; but I am certainly going to support it.

Mr. ADDABBO. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington (Mr. DICKS), a new member of the subcommitte whose expertise has been a great addition to our subcommittee.

Mr. DICKS. Mr. Chairman, I would like to thank the chairman for his comments.

Mr. Chairman, I just want to pay my respects to the chairman, the gentleman from New York (Mr. ADDABBO) and the ranking minority member, the gentleman from Alabama (Mr. EDWARDS) for having done an outstanding job this year in guiding our subcommittee, and to our very excellent staff. I think the bill that has been reported provides for our national defense. It does not take care of every requirement because we simply do not have the money to take care of every requirement; but I think it goes a long way toward providing real defense for our country. I think it has been prepared in a very thoughtful way. I commend it to the other Members of the House.

Mr. Chairman, the bill the House is considering today is exceedingly important both in providing for our critical national defense needs and as a major part of our efforts to bring the levels of Federal spending under control. As a member of the Defense Appropriations Subcommittee I have had the opportunity to participate in the process of developing this legislation, and in my judgment it does an excellent job of balancing the two objectives of adequate defense and budget austerity.

The bill provides budget authority of $129.96 billion for the coming fiscal year, an increase of approximately $9 billion over the current defense budget. The recommendations of the committee have been developed over 53 days of hearings and a full 5 weeks of markup. There was spirited debate on a number of issues which helped set before us the options available, and aided our determination of what defense capabilities would be actually improved through a given action. The committee's report provides a very thorough analysis of the rationale developed by the committee for its actions.

During consideration of the budget resolution there has been extensive debate over amendments to either increase or decrease defense spending by a set percentage. I want to associate myself with the remarks of the distinguished chairman of the subcommittee when he points out that it is not simply dollars that buy improvements in our national security. Our defense capabilities are increased by wise and prudent application of resources in an efficient manner to real areas of need. Duplication of efforts in research does not give us greater defense. Studying a problem and then restudying it in order to avoid a difficult decision does not improve our national security. Procurement of a weapons system which is not ready to go into production due to technical problems does not increase our capabilities. While I believe it is certainly proper to attempt to establish spending priorities through the budget process I believe just as strongly that the Appropriations Committee has an essential role in recommending the specifics of where we can realize constructive gains through spending.

This bill incorporates literally hundreds of recommendations for improvement of management in the operation of the Department of Defense. These recommendations are based not only on the committee's own investigations but on analyses developed by the General Accounting Office and audit agencies within the Department of Defense. In our best judgment they will help improve the operation of the Department to more cost-effectively achieve our mission assignments.

Some who call for increases in defense spending point out that we spend better than half the defense budget on operations and personnel, and not on weapons systems. I am convinced that the investment we make in personnel is the most valuable one we can make. Soldiers who are not adequately trained; extensive turnovers resulting from a recent decline in compensation and benefits in comparison to both the private sector and inflation; and an inability to attract the specialists we need weaken our defense readiness no matter how new and sophisticated our weapons might be. This bill attempts to address some of these factors. For instance it provides for an equalization of scholarships between Defense and HEW medical programs which should aid in attracting critically needed health professionals. It also approves expansion of reenlistment bonuses to promote retention.

Improved management in the operations and maintenance area will help hold down costs and allow us to divert limited defense dollars to more productive personnel and hardware programs. An initiative which the committee recommends in its report is the elimination of personnel ceilings from the Department. The Department operated in this manner in 1973 and 1974 without an unwarranted increase in personnel. The case against ceilings is made in convincing fashion by the Government Accounting Office in its 1977 report "Civilian Personnel Celings—A Barrier to Effective Manpower Management." Hopefully the Armed Services and Post Office and Civil Service Committees will follow through on the interest they have shown in this area as well.

A number of recommendations in the bill are designed to reduce instances of duplication within the services. This duplication is all too common in studying common problems and in developing systems, such as communications, that are designed to serve all the services. Duplication not only results in wasted money, it also tends to lessen interoperability between the services and thus decreases readiness.

Controls are provided in the supply operations of the Department. While not particularly glamorous, improvements in the management of shelf life items, inventory control, and greater use of commercial items will improve performance and save money. A particular aspect that I have had some interest in is overpricing of small purchase items.

The committee has discovered cases where items which could be made commercially at low cost are often bought at hundreds of times the price on sole source contracts. This bill will further initiatives to report such items through the use of financial incentives for those in the field who identify overpriced items.

Energy conservation is another area where improvements can and must be made. Increases for fuel costs alone in the budget amendment submitted by the President total nearly $900 million. By making better use of simulators, by reducing administrative travel, and by converting to lower cost fuels when available, as provided in this bill, we can reduce unneeded energy expenditures.

This bill also includes funding for continuation of our efforts to improve our conventional warfare capabilities in NATO. Funding is provided for initial procurement of the XM-1 tank pending successful meeting of reliability requirements. The infantry fighting vehicle, battlefield companion to the XM-1 is provided $225 million for its initial procurement. Budgeted funding for the new F-16 fighter, the Roland air defense system, and the NATO AWAC's program is also provided.

Completion of improvements in our NATO conventional capabilities will require several more years and will require considerable further investment. This bill provides a positive step on the road that avoids the temptation to push systems which are just completing their research and development phases. Past experience has shown that these attempts often result in systems which require far more maintenance than anticipated and which are out of operation more than if defects would have been addressed before procurement began.

The bill recognizes the serious shortfall we face in the area of naval aviation and the uneconomical procurement rates for these aircraft which were included in the President's budget. Thus, we have recommended the addition of over $700 million in this area to realize long-term savings and eliminate our shortfall in this area more expeditiously.

Research and development funding in the amount of $180 million for the short takeoff and landing AV-8B, Harrier, is also included despite its absence in the budget. This aircraft is of the highest priority for the Marine Corps and represents the only available vehicle for the further development of V/STOL aircraft for our future naval aviation needs.

Our shipbuilding budget remains an area of special concern for me. This bill provides funding for a nuclear aircraft carrier, an additional strategic Trident submarine, a *Los Angeles* class attack submarine and six *Perry* class frigates among the ships funded.

This bill blocks attempts by the Department to retire 20 naval reserve destroyers and directs the retention of 15 of them through overhaul improvements.

There remains serious question in my mind whether the funds in this area are adequate and I believe that unless the trend of recent revisions in the 5-year plan is reversed, we in the Congress will have to take the initiative in order to insure the adequacy of our naval forces.

In conclusion, Mr. Chairman, I am pleased to have had the opportunity to review this budget in detail. The bill we have reported to the House will provide for our real defense needs in a more efficient manner and I urge support for it by this body.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. TRIBLE).

Mr. TRIBLE. Mr. Chairman, I appreciate the gentleman from Alabama yielding and would take this time to speak about our naval shipbuilding program. More specifically, I want to discuss the nuclear attack submarine procurement program.

The House Defense Authorization Act approved by this House just recently provides for the procurement of two 688 submarines of the *Los Angeles* class in fiscal year 1980. The Defense appropriations bill now before this House provides for just one of these submarines. This fact is a matter of concern to this Member.

The Committee on Armed Services added the additional 688 submarine, on my motion, because of two primary considerations.

First, our national defense strategy requires that we maintain a minimum force level of 90 attack submarines. In order to attain and maintain that minimum force level it will be necessary for the United States to build close to four submarines each year because of the block obsolescence that we face in the 1990's. Unfortunately, the Carter administration asked for only one nuclear attack submarine this year. Unless we procure additional nuclear attack submarines, we simply will not have the submarines our national interests require.

Moreover, it is necessary for us to procure at a minimum two submarines in order to sustain our shipbuilding base. At this time there are two shipyards building nuclear attack submarines. Unless we procure two attack submarines in the next fiscal year, we risk losing the capability to build attack submarines at one of these yards. That would adversely affect our entire shipbuilding program and would dramatically increase costs in the years ahead when we build submarines.

I want to advise my colleagues that the Navy now supports the procurement of two 688 attack submarines in fiscal year 1980. I would like to quote in pertinent part from a memorandum from James Woolsey, the Acting Secretary of the Navy, dated September 17, 1979, to the Secretary of Defense, which states:

> I recommend that the Department of Defense formally support the congressional initiative to add a second SSN in 1980. This action will assist the Navy in complying with your direction to maintain two nuclear submarine shipbuilding sources. Even with this program only marginal capability and minimum competition can be maintained.

This issue is now being addressed by the House and Senate conferees on the Defense Authorization Act. The outcome of that debate will obviously influence the final disposition of this matter in the appropriations legislation now before the House.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. TRIBLE) has expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 additional minutes to the gentleman from Virginia.

Mr. TRIBLE. Mr. Chairman, I bring this matter to the attention of my colleagues on the Committee on Appropriations because I want them to carefully consider the procurement program of nuclear attack submarines and the consequences to our national defense if we fail to procure an adequate number of attack submarines.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I would be happy to yield.

Mr. EDWARDS of Alabama. Mr. Chairman, I think we are all concerned about seeing that the submarines are built. We are concerned about seeing the shipyards in this country active and healthy. We have lost shipyards over the years as the program has waivered from peaks and valleys. We have lost shipyard workers and when we get a program going again we have to train workers again so I think it would be most unfortunate if we found one of our two yards capable of building these ships no longer in business, in this type of business.

The committee has tried to fund these submarines as requested. We await with interest the outcome of the conference between the two Armed Services Committees as to whether you authorize one or two.

I think that should the conference come out with two authorized, then we would be in a position to consider that when we go to conference with the Senate on this bill.

We also know that we are looking very hard at a smaller submarine than the 688. It is anticipated, although there is nothing set in concrete by a long shot, that in about 1983 we could start to build these smaller submarines. As far as I understand, we still intend to complete the buy on the 688, but it would have some impact on the scheduling of both the 688 and the new submarine.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. TRIBLE) has again expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. Chairman, if the gentleman will yield further, we have all that I think to consider. Of course, we have to consider in that equation the impact on the question of two yards building these submarines. I think that is basically the committee's opinion or position on this.

I appreciate the gentleman bringing it to the attention of the House.

Mr. TRIBLE. Well, I appreciate the gentleman's comments. I think this matter should be of great concern to every Member of this body. Not only is our shipbuilding base imperiled, but most importantly, we are simply not procuring the number of ships our national interests require. And purchasing one nuclear attack submarine per year, awaiting the completion of a study now underway which may implement different nuclear attack submarine options or may not, simply is not in our national interests. We must build those ships today. If we are going to attain and maintain a minimum force level of 90 nuclear attack submarines we need to build more boats today.

☐ 1640

Mr. ADDABBO. Mr. Chairman, I yield such time as he may consume to the chairman of the full committee, the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, I take this time for a number of reasons, but I want to start off by saying that I truly appreciate the fine job that has been done by the chairman and the members of this subcommittee. It has been my privilege to work with them for many, many years. I appreciate their work because my own experience goes back a long way on this subcommittee dealing with defense. I recall, in meeting with the recent Commandant of the Marine Corps, General Wilson, I told him that I went back as far as the time when we had a budget for the Marine Corps and they turned back money from the Marine Corps to the Government.

I take the floor here to say that defense is as vital now as it ever was. But real defense is what we need because what we have to spend on defense, as essential as it is, is a drag on the economic well-being of this country.

I hate to see the press and many people in public office approach this matter of defense on the basis of which country is spending the most money, the United States or Russia, and which country is spending the most or the bigger part of its gross national product on defense, this country or Russia. To me that is completely opposite to what we should be talking about.

It is not how much money we spend on defense, it is how much defense we get for our money. I could go on about this subject because back through the years I have had research done on this matter on various occasions. At one time we got the word they had to take a gun off a ship so an admiral could carry an additional car.

I could go into that type of thing, but I will not do it here because the details of those things are not as important as getting into the real crux of this matter.

I think I should say when I take the floor here that I served on this subcommittee during World War II when we were engaged in practically all theaters, and I have learned there is one thing we need to keep in mind. I say this not just because of the importance of this subcommittee and the fine job the members have done in trying to hold things in line but because there have been some public statements made about how to get the Office of Management and Budget and the President to spend more money on defense.

I read where they said now that we have to spend more for weapons. I see where some have said we have got to have this for that purpose and we have got to have that for another purpose, and then we figure it up and find out what the cost is. We know what these things cost.

My colleague, the gentleman from Mississippi (Mr. MONTGOMERY), is very much interested in the Guard and the Reserve. So am I. I feel that in the future we are going to have to do something in the way of changing things to make military service have an appeal to the youngsters of this country. I know that the members of the subcommittee found that we have consistently had to reduce the educational requirements in an effort to try to get people to join the service. We have had to raise the pay, in competition with industry, trying to get people to join the service. We have gradually had to reduce the number of people so it would not show how few people we had.

Speaking for myself, I think the volunteer Army has failed, but by the same token, I feel this is not the time, with some of our foreign policy, that we can take forward steps there.

But the thought I want to leave the Members with for the record here is that anyone who studies this subject will realize that the one thing we have to have to support defense is a sound economy behind us. I would like to say that the record shows that since 1967 the value of the dollar has gone down 50 percent. Fifty-eight percent of the laws we have on the books have got built-in escalation clauses so if inflation goes up, the inflation is added to offset it for the military, so we double the rate of inflation.

So as fine a job as the gentleman from New York (Mr. ADDABBO) has done as subcommittee chairman—and I think he has done an excellent job along with the members of the subcommittee—I want to point out for the record again that our defense spending is one thing and our defense capability is another.

Before I finish, I would like to say that I have always supported the B-1 bomber. I think it is a whole lot better when we have control and can send a man along to show our strength and bring the bomber back instead of turning a missile loose and knowing it cannot be recalled.

I have supported—and I know the subcommittee has—more nuclear submarines. Let me tell the Members why. I was in Finland when the Russians were sending a lot of naval ships there, and when they did that, we would see a whole lot of straightening up in Sweden; we would see a lot of straightening up in that part of the world.

I want us to strengthen ourselves and use those things we can afford to use. I have supported research in new weapons, and the committee has done a good job in this area. But I say we ought to buy only those things we can use, because no one but a crazy man would use some of the exotic weapons we have today.

Mr. Chairman, I want to commend the subcommittee for the fine job the Members have done in getting as much defense as possible for our dollar. I want to say something about the approach we read about in the paper, because some of my colleagues say we have got to spend more money on the Guard and the Reserve, and the Joint Chiefs of Staff have said before the subcommittee that we have to spend more money on defense. We have to have them tell us what we need for defense, and we will find the money.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to my colleague, the chairman of the subcommittee.

Mr. ADDABBO. Mr. Chairman, I think we should point out, as the gentleman has said, that he served as a member of the defense subcommittee and is now the chairman of the full committee, and again we see his great expertise in this area. The gentleman in the well is one of the senior experts of the House on defense questions and defense problems.

The gentleman from Mississippi has had 25 years of knowledge and experience, and his expertise is welcome in our subcommittee. I thank the gentleman for all the time and advice he has given to our subcommittee.

Mr. WHITTEN. Mr. Chairman, I appreciate the statement the gentleman from New York (Mr. ADDABBO) has made, and I want to say to the country that the gentleman from New York (Mr. ADDABBO) has proven to be a very excellent chairman of this subcommittee.

I want to repeat again that we in this country, with the problems we see in connection with money and with our economy, are going to have to be awfully sure we get real defense for the dollars we spend. Our defense needs are not just getting and spending dollars.

One of the things that disturbs me is that although it used to be a great, great thing for folks to be in the intelligence services, with the Central Intelligence Agency for instance, now a man would be almost afraid to volunteer for service in the Central Intelligence Agency or any other such agency. We can imagine requiring a man to forfeit his life before he gives up secrets that might damage his country and then be dragged around later because of something somebody said.

We are in a terrible condition insofar as public support for very essential activities is concerned.

Too often defense spending has been for the purpose of keeping the economy going.

But the situation is such that we had better start giving thought to the defense of this country, and in what area we need to give attention to the Guard and the Reserve.

I want the Members to think about this: In Russia the military makes some contribution to the economy of the country. I have seen Russian troops building telephone lines, building highways, and doing such things that are essential to the country. We are not going to do that for a variety of reasons. But the Guard and the Reserve are at that place where, if we give them first rate equipment and train them, they can use that equipment in their towns and in their communities, and people would want to be in the Guard or in the Reserve. We do not do that.

Mr. Chairman, I want to say again that if it had not been for Members of this Congress, we would not have a Guard or a Reserve or an opportunity for enlistments in the regular service. That is my decided opinion. Over the years the Congress has made it possible for the military to encourage enlistment in the Guard and the Reserve and in the regular service.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I thank the gentleman for yielding.

I would like to endorse the statement the gentleman from Mississippi (Mr. WHITTEN) made dealing with our intelligence community.

Just last week, or perhaps it was 2 weeks ago, we were given a briefing by the Director of the CIA, Adm. Stansfield Turner, and some of the members of the subcommittee were taking him to task and asking, "Why didn't we have better intelligence as to the presence of Russian troops in Cuba? Why didn't we know more about it?" And so forth.

Admiral Turner's answer was in effect what the gentleman from Mississippi has just alluded to. He said that we cannot maintain the integrity or we cannot assure the secrecy due to the leaks from the committee, whether it be from sources within the House, within the Senate, or within the media community itself, nor can we attract people to give human intelligence rather than intelligence from some satellite or photograph, and so forth, because they do not have the respect for or the confidence in the intelligence community that they once had.

People are afraid, if they ever do sign up to work for the FBI, the CIA, or some other intelligence agency, that their cover is going to be blown. Their whole attitude in our intelligence community is that people do not want to be associated with it; they are afraid of it.

So, Mr. Chairman, I think the chairman of the Committee on Appropriations is entirely correct, and I think some in the other body have done a great deal toward discrediting and tearing down the apparatus itself. It is time we turned this thing around and started taking pride in and offering assurance and support to our intelligence community, which is an integral part of our national security.

Mr. Chairman, I thank the gentleman for yielding.

☐ 1650

Mr. WHITTEN. Mr. Chairman, I appreciate the gentleman's statement.

May I say, in defense of the general statement I have made here, I could give the Members book after book where I have developed all of these facts over the years in hearings to support the views that I have. Can the Members imagine—and I will leave this with you—this country getting into such a ridiculous situation that the Marine Corps had to file an environmental impact statement before it could have maneuvers in Alaska? That is the situation we have in this country right now.

Mr. ADDABBO. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, I want to take the opportunity of coming before my colleagues at this time because I am very disturbed over personal experiences that I have just had dealing with the U.S. Army troops in Europe in our NATO command. I felt, Mr. Chairman—and this is the Appropriations Committee we are talking about—when I came back from Europe in the early part of September that the problem perhaps really lay here in the Congress, that we were not making the proper kind of appropriations to support our troops in Europe, our combat troops in Europe.

Frankly, I am not sure at this time as to where the particular problem lies. In Europe I went along the border in East Germany that happened to be the exact same area that I had American troops in World War II when I had the first American troops that faced the Russians in that same exact location that they are in today. There is no question that when my troops were facing the Russians in 1945, they were far more prepared, obviously, to do combat than the troops that are there today. That is very understandable. But my problem is that the troops that I saw there today are troops that, under any stretch of the imagination, are not combat-ready troops, even though that is what they are indicated to be.

Mr. Chairman, those troops fire in live ammunition the artillery and their tank weapons twice a year. I found tank drivers and gunners who had not fired live ammunition in over 10 months. I found forward observers who in over a year had not observed live ammunition. These are the men who happened to be right on the so-called front line of the American defenses in that section.

I found that the situation that existed when I met with the general staff there and the generals in charge of training for all of the European forces, American European forces in NATO, at first they were saying that: First, they had inadequate supplies of ammunition; and, second, they recognized that they had inadequate lands to work on and areas to train in.

It just seems to me that it is going to fall on this Congress and on this Government to do something about these men that we have in those frontlines. The whole object of training in the infantry where I served was to provide the type of training that would see the man through the first day of combat. From then on, presumably, he knew how to survive. I am saying, Mr. Chairman, that these men today do not know enough how to survive, which is my concern, and I want to feel very sure that it is not because of action that we are taking on this appropriation bill that can in any way be attached to that particular problem.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the gentleman bringing these facts to the attention of the committee. The subcommittee also has been over that part of Europe and has met with the people in the field, and we have discussed the matter in full with the Department of Defense.

This bill before the Congress today adequately supplies the money for training and for ammunition. As a matter of fact, we have just had to increase money for storage of ammunition. We have so much ammunition here and we are producing more. So there is sufficient ammunition but insufficient storage facilities. So far as training grounds are concerned, yes, our host nations—not us or our Government—have restricted training areas. So we are carefully looking at that. The Members heard earlier this afternoon we are creating a national training center so realistic conditions can be created here, so that where we are deprived by our host nations from training areas, we will be doing that extra training here. So there are funds within this appropriation bill to give us adequate training and the ammunition that is needed.

Mr. PEYSER. I appreciate the statement of the chairman, and I do feel that it is going to fall on the Congress and the members of the appropriate committee and interested Members to stay on top of this particular situation and see what is happening with our Armed Forces.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

(By unanimous consent, Mr. BAUMAN was allowed to speak out of order.)

I HATE TO SAY I TOLD YOU SO

Mr. BAUMAN. Mr. Chairman, I take this time simply to inform my colleagues of the House of some information that I have just obtained from Panama. It appears that the celebration on October 1, which is planned by the Panamanian Government, at which time hundreds of thousands of Panamanians have been invited to march into the Canal Zone to celebrate the end of American sovereignty, will have a new star amongst its ranks if he accepts the invitation. I have just been informed that Gen. Omar Torrijos, the dictator and true ruler of Panama, has invited Fidel Castro, the Communist ruler of Cuba, to join him, along with Vice President MONDALE and many others who may be there for the celebration. Some of us warned you.

Mr. EDWARDS of Alabama. Mr. Chairman, I have no further requests for time.

Mr. ADDABBO. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; $9,668,294,000.

AMENDMENTS OFFERED BY MR. DICKINSON

Mr. DICKINSON. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered as read and considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. DICKINSON: On page 2, line 10, delete "$9,668,294,000", and insert in lieu thereof "$9,669,894,000".

On page 2, line 18, delete "$6,809,305,000", and insert in lieu thereof "$6,801,705,000".

On page 3, line 2, delete "$2,093,100,000", and insert in lieu thereof "$2,092,500,000".

On page 7, line 10, delete "$9,781,832,000", and insert in lieu thereof "$9,799,832,000".

On page 7, line 21, delete "$13,134,875,000", and insert in lieu thereof "$13,123,575,000".

On page 15, line 1, delete "$982,837,000", and insert in lieu thereof "$983,537,000".

On page 57, strike lines 8 through 11, and renumber all subsequent sections accordingly.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. ADDABBO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes, had come to no resolution thereon.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1603

Mr. EDWARDS of Oklahoma. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor from H.R. 1603.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

THE COSTS OF FEDERAL REGULATIONS

(Mr. WATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WATKINS. Mr. Speaker, I rise today to talk about Federal regulations and our duty to our constituents. The two go hand in hand because no day goes by that our constituents—every one of them—are not affected by Federal regulations.

Regulations have gotten completely out of hand. Congress passes the laws and the bureaucrats write the rules and regulations to carry out those laws—and Mr. Speaker, there are times the two look like night and day.

I am submitting as a part of my statement today a brief summary of findings resulting from some of the studies that have been done on the costs of Federal regulations, but I think some of those costs are worth mentioning here.

The Washington University Center for the Study of American Business has submitted the most frightening figures I have seen to date. The center estimates the aggregate cost of Federal regulations for fiscal year 1979 may come to more than $100 billion. That is almost $500 for every person in the United States or $2,000 for a family of four.

And the Federal Paperwork Commission estimated that 1 year's worth of Government documents would fill 11 new Washington monuments. Both of those figures, Mr. Speaker, are almost beyond belief—and Congress cannot say its hands are clean in this matter.

Congress should be reviewing each rule and regulation proposed by an agency to carry out a law. We owe it to the people to make sure the agencies follow congressional intent when rules are handed down to implement laws because in effect, those rules are the law.

Another figure worth mentioning at this point comes from the Congressional Budget Office, which estimated earlier this year that it would be possible for both the House and Senate to review rules and regulations proposed by Federal agencies for $2 million in the coming fiscal year. Comparing $2 million to an estimate of $100 billion is like comparing a spring breeze to an Oklahoma tornado.

As you know, Mr. Speaker, many Members of this legislative body are concerned about the growth of Federal regulations and the staggering costs involved. The concern is worth our time and our work. My personal concern is the reason for the constitutional amendment that I introduced yesterday.

My proposal says Congress "shall review" each rule and regulation issued to implement a law "before the rule or regulation becomes effective." The proposed constitutional amendment further provides that Congress "may approve, modify or disapprove" proposed agency rules and regulations.

Congress is accountable to the people; Congress was elected by the people; it is our duty to see that the laws passed by Congress are carried out appropriately. We should not leave any of our duty to the bureaucrats.

Mr. Speaker, I hope you and my other colleagues in the House will join me in this effort. It is well worth our time.

COST OF GOVERNMENT REGULATIONS AND PAPERWORK

Various groups have taken a look at the amount of Federal paperwork done for whatever the reason. The estimates often vary, depending on which agencies were studied. There also is a problem in trying to determine exact figures. Listed below, however, are a few of the most quoted studies:

The Federal Paperwork Commission has estimated that 1 year's worth of Government documents would fill 11 new Washington monuments or 51 major league stadiums. The Government spends almost $20 billion a year just to print, process and store its own forms. Included are 4,400 different Federal forms that businessmen must fill out each year—or a total of 10 billion sheets of paper requiring more than 143 million man-hours.

The Office of Management and Budget estimates businesses spend 787 million man-hours each year filling out reports for the Federal Government at an estimated annual cost of $11.5 billion. The Paperwork Commission estimated the cost at $25 billion, however.

The General Accounting Office also has studied the paperwork problem, although the study could not deal with 78 percent of Federal reporting requirements because they are not subject to GAO or OMB clearance. Even with that limitation, GAO found the remaining 22 percent cost U.S. businesses 69 million hours a year and at least $1 billion. GAO said the Federal Communications Commission is the "burden" champion with four reports requiring from 2,000 to 5,772 hours to complete.

The most frightening figures come from the Washington University Center of the Study of American Business, which found the aggregate cost of Federal regulation for fiscal year 1979 may come to more than $100 billion—or almost $500 for each person in the United States or almost $2,000 for a family of four.

According to center studies: The cost of operating Federal regulatory agencies is rising more rapidly than the Federal budget as a whole, the gross national product or the population. Outlays are showing a growth of 115 percent over the last 5-year period.

Federally mandated safety and environmental features increased the price of the average passenger car by $666 in 1978 or an aggregate of $10 billion.

Regulatory requirements at all levels of government added an average of $2,000 to the cost of a new house in 1977, resulting in an aggregate cost to new homeowners of $4 billion.

Approximately $10 billion of new private capital spending each year is going to meet governmentally mandated environmental, safety and similar regulations, which has resulted in a loss of about one-fourth (25 percent) of the potential annual increase in productivity.

The center says, "the 1970's has been a period of growth in regulation unsurpassed since the New Deal 1930's," and adds that regulations cut across all industries. Fifty-five separate independent agencies and organizations within executive departments administer Federal regulations. Overall current regulatory expenditures are nearly six times the 1970 level of expenditures and current staffing for regulatory activities is nearly three times the 1970 level.

On the other side of the coin, the Congressional Budget Office estimated in June of this year that it would be possible for both the House and Senate to review proposed rules and regulations for $2 million in the coming fiscal year, assuming 4,000 proposed rules a year and 1 to 2 staff days per rule for review.

□ 1020

MIDDLE EAST SITUATION REQUIRES DELICATE HANDLING

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, it is sometimes difficult to tell whether the news media is having a love affair with an individual or that the individual has a love affair with the media.

I am making reference to an individual who has presumed to interject himself into foreign policy decisions of this Nation, who has gone to the Middle East and has called the Israeli Prime Minister a racist. He has not been elected by anyone to do this, nor is he an official of the U.S. Government.

It seems to me when there is a very sensitive, delicate balance in peace in the Middle East that self-serving persons should not voluntarily, gratuitously interject themselves.

I would suggest that the Justice Department, if they have the guts to do so, examine this condition as it relates to the Logan Act, a copy of which is quoted from title 18, United States Code, section 953, as well as the history of the act.

§ 953. Private correspondence with foreign governments

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct or any foreign government or of any officer or agent thereof, in relation to any disputes or controveries with the United States, or to defeat the measures of the United States, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

This section shall not abridge the right of a citizen to apply, himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects.

(June 25, 1948, ch. 645, 62 Stat. 744.)

THE LOGAN ACT

When in 1798 a Philadelphia Quaker named Logan went to Paris on his own to undertake a negotiation with the French Government with a view to averting war between France and the United States, his enterprise stimulated Congress to pass "An Act to Prevent Usurpation of Executive Functions,"[3] which ,"more honored in the breach than the observance," still survives on the statute books.[4] The year following John Marshall, then a Member of the House of Representatives, defended President John Adams for delivering a fugitive from justice to Great Britain under the 27th article of the Jay Treaty, instead of leaving the business to the courts. He said: "The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations. Of consequence, the demand of a foreign nation can only be made on him. He possesses the whole Executive power. He holds and directs the force of the nation. Of consequence, any act to be performed by the force of the nation is to be performed through him."[5] Ninety-nine years later a Senate Foreign Relations Committee took occasion to reiterate Marshall's doctrine with elaboration.[6]

□ 1700

ENERGY MOBILIZATION BOARD—MAJOR ENERGY-RELATED FIRMS OPPOSE SUBSTANTIVE WAIVER POWERS

The SPEAKER pro tempore (Mr. MURTHA). Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, the breadth of the powers accorded to the proposed Energy Mobilization Board under legislation recently reported by the Commerce Committee, is a matter of growing concern not only to many of my colleagues, but also to a wide variety of groups outside the Congress. Last week, an important statement of opposition to the Energy Mobilization Board's proposed authority to waive substantive State and local laws came from a quarter I imagine many will find surprising.

On September 21, the Western Regional Council, a confederation of 43 firms engaged in energy-related businesses, announced its opposition to legislation which would authorize the Board to override substantive provisions of State and local statutes. A number of these firms are directly involved in the development and commercialization of new energy technologies. They, along with other energy firms I have consulted recognize the fundamental dangers of allowing five appointed men and women to exercise virtually unlimited power in energy decisionmaking.

The Western Energy Council is composed of the following firms:

Amax, Inc. Climax Molybdenum
Amoco Production Co.
Anaconda Co.
Arizona Public Service Co.
Cities Service Co.
Colorado Interstate Gas Co.
Colorado National Bank
Denver & Rio Grande Western R.R. Co.
Envirotech
Ernst & Ernst
First National Bank in Albuquerque
First National Bank of Denver
Hobbs Pipe & Supply Co.
Homestake Mining Co.
Husky Oil Corporation
Idaho Power Company
Ideal Basic Industries
IML Freight, Inc.
Inspiration Consolidated Copper Co.
Johns-Manville Corporation
Kemmerer Coal Co.
Kennecott Copper Corp.
Montana Power Co.
Morrison-Knudson Co., Inc.
Mountain Bell
Mountain Fuel Supply Co.
Nevada Power Co.
Northwest Energy Co.
Occidental Oil Shale
Phelps Dodge Corporation.
Public Service Co. of Colorado
Public Service Co. of New Mexico
Calvin L. Rampton
Rocky Mountain Energy Co.
Sierra Pacific Power Co.
Snowbird Corporation
True Drilling Co.
United Bank of Denver
Utah Power & Light Co.
Valley National Bank
Westmoreland Coal Co.●

LEGISLATIVE PROGRAM

(Mr. EDWARDS of Alabama asked and was given permission to address the House for 1 minute.)

Mr. EDWARDS of Alabama. Mr. Speaker, I ask for this time for the purpose of inquiring of the gentleman from Illinois (Mr. ROSTENKOWSKI) the program for the balance of the week.

Mr. ROSTENKOWSKI. If the gentleman will yield, the program is as follows:

On Thursday we will consider the House concurrent resolution, the second budget resolution for fiscal year 1980; a conference report on the Department of Education Authorization Act; we will then return to H.R. 5359, the defense appropriations, and complete consideration on that.

There is also the possibility of H.R. 2795, the International Travel Act authorizations, with votes on amendments and conclusion of the bill; and H.R. 3642, emergency medical services reauthorizations, with votes on amendments and on the bill.

Mr. EDWARDS of Alabama. I did not hear the gentleman mention the FEC authorization bill. Is it not on this week?

Mr. ROSTENKOWSKI. The gentleman did not mention the FEC authorization bill; therefore, that is why the gentleman from Alabama did not hear it.

Mr. EDWARDS of Alabama. I thank the gentleman for clearing that up. I was afraid I was hard of hearing there for a minute.

Mr. ROSTENKOWSKI. As of this moment, it is not being considered by the leadership to be on the floor this week.

Mr. EDWARDS of Alabama. I thank the gentleman.

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted as follows to:)

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Ms. HOLTZMAN (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. NOLAN (at the request of Mr. WRIGHT), after 1:30 p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BURLISON), to revise and extend their remarks and to include extraneous matter to:)

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[3] This measure is now contained in 18 U.S.C. § 953.

[4] *See Memorandum on the History and Scope of the Law Prohibiting Correspondence with a Foreign Government*, S. Doc. No. 696, 64th Congress, 2d Sess. (1917). The author was Mr. Charles Warren, then Assistant Attorney General. Further details concerning the observance of the "Logan Act" are given in E. Corwin, *The President: Office and Powers, 1787–1957* (New York: 4th ed. 1957), 183–184, 430–431.

[5] 10 *Annals of Congress* 596, 613–614 (1800).

[6] S. Doc. No. 56, 54th Congress, 2d Sess. (1897).

Mr. WIRTH, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. WEAVER, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MILLER of Ohio, and to include extraneous material, on the conference report on H.R. 4393 in the House today.

Mr. BAUMAN, immediately after the vote on the conference report on H.R. 111, Panama Canal Act of 1979.

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous matter:)

Mr. YOUNG of Alaska in two instances.
Mr. MAVROULES.
Mr. FRENZEL in five instances.
Mr. PAUL.
Mr. ERLENBORN.
Mr. RITTER.
Mr. MICHEL.
Mr. DANIEL B. CRANE.
Mr. ROUSSELOT.
Mr. SYMMS.
Mr. FINDLEY.
Mr. KEMP.
Mr. GREEN.
Mr. CORCORAN.

(The following Members (at the request of Mr. BURLISON) and to include extraneous matter:)

Mr. MAVROULES.
Mr. MURPHY of New York.
Mr. EDGAR.
Mr. HAMILTON in three instances.
Mr. STEWART.
Mr. FITHIAN.
Mrs. BOGGS.
Mr. MAGUIRE.
Mr. MICA in five instances.
Mr. LONG of Maryland.
Mr. HANCE.
Mr. SIMON in four instances.
Mr. PEYSER.

ADJOURNMENT

Mr. BURLISON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 4 minutes p.m.), the House adjourned until tomorrow, Thursday, September 27, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2520. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to establish an improved program for extra long staple cotton; to the Committee on Agriculture.

2521. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of an export license for major defense equipment sold commercially to Malaysia (transmittal No. MC-26-79), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2522. A letter from the Assistant Secretary of the Treasury for Legislative Affairs, transmitting various project performance audit reports prepared by the International Bank for Reconstruction and Development, pursuant to section 301(e)(1) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

2523. A letter from the General Counsel and the Chairman of the National Labor Relations Board, transmitting notice of a proposed amendment to the Board's system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2524. A letter from the Secretary of the Interior, transmitting notice of the proposed refund of $16,504.30 in royalty payments to Aminoil USA, Inc., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953, as amended; to the Committee on Interior and Insular Affairs.

2525. A letter from the Chairman, Securities and Exchange Commission, transmitting the annual report of the Commission for fiscal year 1978; to the Committee on Interstate and Foreign Commerce.

2526. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting reports for the month of June 1979, on changes in market shares of refined petroleum products and of retail gasoline, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

2527. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting the annual report of the Immigration and Naturalization Service for fiscal year 1977; to the Committee on the Judiciary.

2528. A letter from the General Counsel of the Navy, transmitting a report on the investigation of allegations of discrimination at the Naval Regional Contracting Office, Long Beach, Calif., pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

2529. A letter from the Comptroller General of the United States, transmitting a report recommending that after assigning on-base housing on the basis of military necessity, such housing be assigned based on need (CED-79-92, September 25, 1979); jointly, to the Committees on Government Operations and Armed Services.

2530. A letter from the Comptroller General of the United States, transmitting a report on needed improvements to the United Nations financial management (ID-79-56, September 24, 1979); jointly, to the Committees on Government Operations and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 3949. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize the Secretary of Transportation to require tire manufacturers, in certain circumstances, to provide public notice of tire defects; with amendment (Report No. 96-480). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS. Committee of conference. Conference report on H.R. 3996 (Rept. No. 96-481). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PHILIP M. CRANE:

H.R. 5406. A bill to amend the Fishery Conservation and Management Act of 1976 to prohibit the trapping of certain fish, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. DOUGHERTY (for himself, Mr. DERWINSKI, and Mr. MURTHA):

H.R. 5407. A bill authorizing continuing appropriations for the Lithuania Legation; to the Committee on Foreign Affairs.

By Mr. MADIGAN (for himself, Mr. SEBELIUS, Mr. DUNCAN of Tennessee, Mr. TRAXLER, Mrs. HECKLER, Mr. JACOBS, Mr. MOORE, Mr. COELHO, Mr. BROYHILL, Mr. JOHNSON of Colorado, Mr. ANDREWS of North Dakota, Mr. RAILSBACK, Mr. O'BRIEN, Mr. CORCORAN, Mr. LOTT, Mr. COLEMAN, Mr. WHITTAKER, Mr. MARLENEE, Mr. HOPKINS, Mr. ERDAHL, Mr. SOLOMON, Mr. GRASSLEY, Mr. FINDLEY, and Mr. NOLAN):

H.R. 5408. A bill to amend the Internal Revenue Code of 1954 with respect to the special valuation of farm property for purposes of the estate tax; to the Committee on Ways and Means.

By Ms. MIKULSKI:

H.R. 5409. A bill to amend the Internal Revenue Code of 1954 to provide that the standard mileage rate for use of a passenger automobile which may be used in computing the charitable contribution deduction shall be the same as the standard mileage rate which may be used in computing the business expense deduction; to the Committee on Ways and Means.

By Mrs. SPELLMAN:

H.R. 5410. A bill to amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify (or take all reasonable steps to notify) the spouse of that election; to the Committee on Post Office and Civil Service.

By Mr. STAGGERS (for himself, Mr. BROYHILL, Mr. DINGELL, and Mr. SCHEUER) (by request):

H.R. 5411. A bill to authorize the funding of fuel economy technology assessment programs; to the Committee on Interstate and Foreign Commerce.

By Mr. STEWART:

H.R. 5412. A bill to amend the Comprehensive Employment and Training Act to make certain extensions in the period of eligibility for public-service employment; to the Committee on Education and Labor.

By Mr. STOCKMAN (for himself, Mr. GRAMM, Mr. KEMP, Mr. LOEFFLER, Mr. DERWINSKI, Mr. WHITEHURST, Mr. STANGELAND, Mr. QUAYLE, Mr. FRENZEL, Mr. PHILIP M. CRANE, Mr. COLLINS of Texas, Mr. DEVINE, Mr. LEE, Mr. ROTH, Mr. GINGRICH, Mr. SPENCE, Mr. LOTT, Mr. DAVIS of Michigan, Mr. SAWYER, Mr. VANDER JAGT, and Mr. MOORE):

H.R. 5413. A bill to amend certain Federal regulatory statutes affecting automobiles in order to reduce the cost to the consumer of achieving the goals established in such statutes, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. VENTO:

H.R. 5414. A bill to amend title XVI of the Social Security Act to eliminate the provisions which presently attribute the income and resources of parents to their children for purposes of determining the eligibility of such children for SSI benefits; to the Committee on Ways and Means.

By Mr. CHARLES WILSON of Texas:

H.R. 5415. A bill to provide that aliens employed in the United States shall not be entitled to vote in certain elections conducted among members of labor organizations unless such aliens have been naturalized as citizens of the United States; jointly, to the Committees on Education and Labor and Interstate and Foreign Commerce.

By Mr. YOUNG of Alaska (for himself, Mr. TREEN, Mr. BIAGGI, Mr. LENT, Mr. JEFFORDS, Mr. WHITEHURST, Mr. SYMMS, and Mr. LOTT):

H.R. 5416. A bill to promote the transfer of various fisheries technologies and techniques, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. HANSEN (for himself and Mr. SYMMS):

H.R. 5417. A bill to exempt the Milner Dam from certain requirements of the Federal Power Act (16 U.S.C. 807), and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PHILLIP BURTON:

H. Con. Res. 191. Concurrent resolution to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail; to the Committee on Interior and Insular Affairs.

By Mr. BROOKS (by request):

H. Res. 428. Resolution to disapprove Reorganization Plan No. 3, transmitted by the President on September 25, 1979; to the Committee on Government Operations.

By Ms. FERRARO:

H. Res. 429. Resolution commending Pope John Paul II, and welcoming him to the United States; to the Committee on Foreign Affairs.

By Mr. MURPHY of New York:

H. Res. 430. Resolution to provide for the further expenses of investigations and studies to be conducted by the Committee on Merchant Marine and Fisheries; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MITCHELL of New York presented a bill (H.R. 5418) for the relief of Rev. Anthony Petel, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 810: Mr. LOTT.

H.R. 1000: Mr. PAUL.

H.R. 2279: Mr. HANSEN, Mr. CONTE, and Mr. SAWYER.

H.R. 2997: Mr. COLEMAN and Mr. SOLARZ.

H.R. 3614: Mr. COUGHLIN and Mr. ROSTENKOWSKI.

H.R. 3981: Mr. BRINKLEY.

H.R. 4646: Mr. AKAKA, Mr. ALEXANDER, Mr. APPLEGATE, Mr. BEVILL, Mrs. BOUQUARD, Mr. BOWEN, Mr. BREAUX, Mr. DASCHLE, Mr. FLIPPO, Mr. FOWLER, Mr. GINN, Mr. GUARINI, Mr. HEFNER, Mr. HINSON, Mr. HOLLAND, Mr. LEDERER, Mr. LEHMAN, Mr. MAZZOLI, Mr. NELSON, Mr. NICHOLS, Mr. PEPPER, Mr. PRICE, Mr. RAHALL, Mr. SHUSTER, Mr. EMERY, Mr. JONES of Tennessee, Mr. ANTHONY, and Mr. KOGOVSEK.

H.R. 4943: Mr. HUGHES.

H.R. 4970: Mr. FITHIAN and Mr. FORD of Tennessee.

H.R. 5048: Mr. BUTLER, Mr. DAN DANIEL, Mr. FISHER, Mr. TRIBLE, Mr. WHITEHURST, Mr. PHILLIP BURTON, Mr. CARR, Mr. DOWNEY, Mr. GIBBONS, Mr. MAGUIRE, Mr. OTTINGER, Mr. REGULA, Mr. RODINO, Mr. SEIBERLING, Mr. SOLARZ, Mr. STARK, Mr. UDALL, Mr. WON PAT, Mrs. SPELLMAN, and Mr. EDWARDS of Oklahoma.

H.R. 5114: Mr. SHUMWAY, Mr. BADHAM, Mr. LENT, and Ms. FERRARO.

H.R. 5182: Mrs. BYRON, Mr. FISHER, and Mr. FAUNTROY.

H.R. 5308: Mr. CORCORAN, Mr. FINDLEY, Mr. SOLOMON, Mr. TAUKE, Mr. VOLKMER, Mrs. BOUQUARD, Mr. CLEVELAND, Mr. CHENEY, and Mr. NEAL.

H.R. 5330: Mr. LOTT and Mr. BURGENER.

H.J. Res. 68: Mr. AMBRO, Mr. ANNUNZIO, Mr. BRODHEAD, Mr. BURGENER, Mr. JOHN L. BURTON, Mr. CAMPBELL, Mr. DANIEL B. CRANE, Mr. DECKARD, Mr. ERLENBORN, Mr. ERTEL, Mr. EVANS of Indiana, Mr. FITHIAN, Mr. FOLEY, Mr. GARCIA, Mr. GILMAN, Mr. GOODLING, Mr. HAMILTON, Mr. LEWIS, Mr. LOEFFLER, Mr. LONG of Maryland, Mr. MCHUGH, Mr. MAGUIRE, Mr. MICHEL, Mr. MOORE, Mr. MYERS of Indiana, Mr. PATTEN, Mr. PATTERSON, Mr. PAUL, Mr. PERKINS, Mr. QUAYLE, Mr. RAILSBACK, Mr. RINALDO, Mr. ROYBAL, Mr. ROYER, Mr. SATTERFIELD, Mr. SHARP, Mr. SHUSTER, Mr. STOCKMAN, Mr. STUMP, Mr. TREEN, Mr. VANDER JAGT, and Mr. WYDLER.

H.J. Res. 300: Mr. HYDE.

H. Con. Res. 83: Mr. ADDABBO, Mr. ASHBROOK, and Mr. LENT.

H. Con. Res. 134. Mr. DOUGHERTY.

H. Con. Res. 183: Mr. GLICKMAN and Mr. ROUSSELOT.

DELETION OF SPONSORS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1603: Mr. EDWARDS of Oklahoma.

H.R. 4360: Mr. HUGHES.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5359

By Mr. KRAMER:

—Page 62, after line 7, add the following new section:

SEC. 776. None of the funds appropriated by this Act may be used to reduce the personnel, support, or equipment levels at any United States naval installation or facility at Guantanamo Bay, Cuba, or to reduce any military functions which are primarily supported by such installation or facility.

By Mr. MILLER of California:

—Insert on page 62, after line 7, new section 776:

None of the funds appropriated under this Act may be used for chemical, biological or radiological experiments on non-consenting civilian populations.

EXTENSIONS OF REMARKS

THE NEED FOR AN OIL-SPILL SUPERFUND—PART II

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. MURPHY of New York. Mr. Speaker, the urgency of problems associated with oil pollution has been underscored in recent weeks by several casualties.

On June 30, the container ship *Sea Speed Arabia* ran aground off Staten Island, resulting in the discharge of 100,000 gallons of diesel oil that virtually surrounded Staten Island and polluted the waters of upper and lower New York Bay. Beaches and parks were closed and marine life was damaged many miles from the origin of the spill.

On July 19, the supertankers *Aegean Captain* and *Atlantic Empress* collided off the coasts of the island nation, Trinidad and Tobago. Both ships were holed, creating a gigantic oil spill that only chance took out to sea instead of onto the resort beaches so vital to the economy of the islands. The *Atlantic Empress* sank several days after the collision, taking with her to the bottom the oil trapped in intact cargo tanks. She was the largest ship in history to sink.

Most recently, in the first week of August, oil from the Mexican oil well IXTOC I, which suffered a blowout on June 3, reached the waters and beaches of South Texas. The well has been discharging oil at a rate of 10,000 to 30,000 barrels a day into the Gulf of Campeche. No end is in sight. By the time the well is capped and the oil disperses, the pollution may well affect the waters and beaches of all the States on the Gulf of Mexico, as well as the rich fishing grounds offshore. This situation was described in more detail in my remarks appearing in the CONGRESSIONAL RECORD of September 19, 1979, at page 25440.

These recent disasters emphasize the need for prompt action on H.R. 85, a bill to provide a comprehensive system of liability and compensation for oil-spill damage and removal costs. Had H.R. 6803, the predecessor of H.R. 85, been enacted into law last October, U.S. citizens suffering damage from the Staten Island spill and the IXTOC I incident would now have quick and effective means to obtain compensation.

H.R. 85 represents the distillation of several years of deliberations on this matter by the Congress and by the administration of three Presidents. The subject of an oil pollution superfund, in all its ramifications, has been thoroughly studied, analyzed, and debated. The need for such a compensation system is abundantly clear. The time has now arrived—indeed is overdue—for final legislative decisions on an oilspill superfund, decisions that should be made as rapidly as procedures of the Congress and the press of other business will allow.

This clear course of action should not be allowed to become impeded by hurried

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

proposals to broaden the scope of an oilspill superfund to encompass other substances and other types of pollution problems. In this respect, the Committee on Merchant Marine and Fisheries has signified its clear intention to deal with liability and compensation for pollution discharges in a comprehensive way but in discrete legislative packages.

The administration earlier this year submitted proposed legislation to provide a comprehensive system of liability and compensation for oil spill damage and removal costs. As committee chairman, I introduced this proposal by request as H.R. 3441. This bill was taken into account by the committee in its markup of H.R. 85. Subsequently, after the committee had reported H.R. 85, the administration submitted additional proposed legislation. This proposal was more sweeping in its scope, subsuming the administration's earlier proposal on oil, and adding detailed provisions to provide a system of response, liability, and compensation for releases of hazardous substances and hazardous wastes—that is, chemical waste dumps.

As committee chairman, I joined with Chairman JOHNSON of the Committee on Public Works and Transportation to introduce the new administration proposal by request as H.R. 4566.

Of course, my introduction of the bill by request does not signify my acceptance of the bill's multiform contents or of its statutory configuration. Further, I believe that H.R. 85 should not be delayed while we consider the plethora of new issues raised by the administration's "ultrafund" proposal.

That does not mean that our committee will not move ahead on hazardous substances; in fact, the Subcommittee on Coast Guard and Navigation already has held hearings on liability and compensation aspects of hazardous substances transported in the marine mode. We will give hazardous substances the same searching and methodical scrutiny as formerly we have given oil. But, while committees of pertinent jurisdiction consider issues involved with hazardous substances and chemical waste dumps, let us move rapidly and resolutely to pass oilspill superfund legislation. The tough, long-term preparatory work has been done, and the matter is ripe for dispositive legislative action.

The concept behind H.R. 85 is simple and straightforward. This bill would establish a comprehensive compensation and liability regime for oil pollution damage. It would streamline claim procedures, claims to be made firstly against the polluter and secondly against a backup fund where the polluter refuses or is unable to pay or cannot be identified. It would facilitate cleanup of oil pollution by creating incentives for the polluter to act promptly and by providing a ready source of federally administered funds, less limited than now exists, for use by Federal and State agencies in cases where the polluter does not institute satisfactory cleanup measures.

A "superfund bill" should provide a means to assure compensation where only inadequate and fractional means now exist. While superfund legislation can have some indirect effect in preventing pollution from vessels and facilities, that should not be viewed as its principal purpose. Environmental protection is best achieved by a direct attack on the root sources of pollution.

Such an approach is exemplified by measures such as the Port and Tanker Safety Act of 1978, the International Tanker Safety and Pollution Prevention Protocols of 1978, and the Coast Guard regulations already published, which implement the act and the protocols. These measures establish new high standards for oil tankers, together with a strict enforcement regime. In contrast, H.R. 85 is designed to facilitate cleanup and to provide a ready remedy for those injured by oil pollution when it does occur, despite strict preventive measures in force.

What we seek is legislation that will provide adequate and timely relief for those affected by oil pollution. This includes individuals harmed by oil pollution from any source. It includes the Federal Government, which uses its resources to clean up the oil and restore the environment to its prespill condition. And it means State and local governments that assist in cleanup and act in the capacity of trustees for natural resources.

In this light of what the bill is and what it is not, major features of H.R. 85 fall into perspective. These features, including Federal preemption provisions, limits of liability, and claims procedures, are the result of long and careful consideration. The features mesh to form sound, workable, and internally consistent legislation. H.R. 85 deserves wide support as it moves through the legislative process leading to enactment.

H.R. 85 is presently before the Committee on Public Works and Transportation. The Subcommittee on Water Resources has scheduled a hearing on the bill for later in this month. I look forward to the results of the committee's consideration of the bill. I am sure that the close cooperation and mutual purpose that were enjoyed by the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation while working together on H.R. 6803 last session will continue in our joint efforts on H.R. 85. In concert, our two committees can report to the House a bill deserving prompt passage by this body, and early and favorable consideration in the other body.

Events have demonstrated that we need this legislation. The Congress should respond accordingly.●

ENERGY BIND BY GOVERNMENT DECREE

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. ERLENBORN. Mr. Speaker, when talking about our energy bind, it is easy to blame the oil industry, or consumers, or the Arab Sheiks. It is easy, too, to blame them for this summer's gasoline shortage. As noted economist Milton Friedman suggested in a June article, however, that is like blaming the obstetrician for the baby.

Dr. Friedman goes on to explain in the article how the Federal Government decreed our energy bind, and how Government can free us from that bind. He also reminds us of the natural law of supply and demand: When the price of a product—any product—is low, shortages are often created. When the price goes up, supplies increase. Then, of course, in a free market, when prices are allowed to seek their own levels, supplies are stable.

I commend Dr. Friedman's article to my colleagues, along with one written about the same time by M. Stanton Evans. They will be helpful in explaining to the people we represent just who is responsible for our energy dilemma and what must be done to restore our energy independence.

[From Newsweek magazine, Sept. 26, 1979]

BLAMING THE OBSTETRICIAN

(By Milton Friedman)

The explanations of the energy crisis and gasoline shortage that gush forth from government officials, newspaper reporters and TV commentators are tantamount to blaming the obstetrician for the baby.

A rapacious oil industry did not produce the gasoline shortage. Wasteful consumers did not produce the gasoline shortage. Hard winter did not produce the gasoline shortage. Not even Arab sheiks produced the gasoline shortage.

After all, the oil industry has been around for a long time—and has always been rapacious. Consumers have not suddenly become wasteful. We have had hard winters before. Arab sheiks have desired wealth as far back as human memory runs.

Why now? The subtle and sophisticated people who fill the newspaper columns and the airwaves with such silly explanations of the gasoline shortage seem never to have asked themselves the obvious question: why is it that for a century and more before 1971, there were no energy crises, no gasoline shortages, no problems about fuel oil—except during World War II?

There is an energy crisis, there are gasoline lines, for one reason and one reason only. Because government has decreed that there shall be. Of course, government has not done so openly. The President never sent a message to Congress asking it to legislate an energy crisis and long gasoline lines. But he who says A must say B. The government, beginning with President Nixon on Aug. 15, 1971, imposed maximum prices on crude oil, gasoline at retail and other petroleum products. And, unfortunately, the quadrupling of crude-oil prices by the OPEC cartel in 1973 prevented those maximum prices from being abolished when all others were. Maximum legal prices for petroleum products—that is the key element common both to World War II and the period since 1971.

Economists may not know much. But we know one thing very well: how to produce surpluses and shortages.

Do you want a surplus? Have the government legislate a minimum price that is above the price that would otherwise prevail. That is what we have done at one time or another to produce surpluses of wheat, of sugar, of butter, of many other commodities, and, most tragically, of teen-age labor. The minimum wage is a legislated price above the price that would otherwise prevail for the labor of many teen-agers. Like every minimum price, it enhances the amount supplied and reduces the amount demanded, and so produces a surplus, in this case of unemployed teen-agers.

Do you want a shortage? Have the government legislate a *maximum* price that is *below* the price that would otherwise prevail. That is what New York City and, more recently, other cities have done for rental dwellings, and that is why they all suffer or will soon suffer from housing shortages. That is why there were so many shortages during World War II. That is why there is an energy crisis and a gasoline shortage.

There is one simple way to end the energy crisis and the gasoline shortage tomorrow—and I mean tomorrow and not six months from now, not six years from now. Eliminate all controls on the prices of crude oil and other petroleum products. The gasoline lines would melt faster than the snows of winter.

Other misguided policies of government and the monopolistic behavior of the OPEC cartel might keep petroleum products expensive, but they would not produce the disorganization, chaos and confusion that we now confront.

Gas would cost less: And, perhaps surprisingly, this solution would reduce the cost of gasoline to the consumer—the *true* cost. Prices at the pump might go up a few cents a gallon, but the cost of gasoline today includes the time and gasoline wasted standing in line, and hunting for a gas station with gas, *plus* the $10.8 billion annual budget of the Department of Energy, which amounts to around 9 cents per gallon of gasoline.

Why has this simple and foolproof solution not been adopted? So far as I can see, for two basic reasons—one, general, the other, specific. To the despair of every economist, it seems almost impossible for most people other than trained economists to comprehend how a price system works. Reporters and TV commentators seem especially resistant to the elementary principles they supposedly imbibed in freshman economics. Second, removing price controls would reveal that the emperor is naked—it would show how useless, indeed harmful, are the activities of James Schlesinger and his 20,000 employees. It might even occur to someone how much better off we were before we had a Department of Energy.

[From National Review Bulletin]

AT HOME

(By M. Stanton Evans)

Motorists of a conspiratorial turn of mind who think the recent shortage of gasoline was contrived are basically correct. In fact, there is no shortage of petroleum or other energy resources in the United States, at least not in the sense of natural depletion. As Representative Steve Symms (R., Idaho) points out, we have, at current rates of consumption, "enough crude oil to last us for 84 years. Enough natural gas to last us for four hundred years. Enough coal to last us for six hundred years. Enough oil shale to last us for three hundred years. Enough uranium to last us for 120 years. Enough geothermal energy to last us for two hundred years."

With these reserves awaiting us, it should be obvious that we have no natural shortage. From which it follows that our problems are man-made. The only error in the popular assumption of conspiracy is in identifying the culprit. It is not the oil companies that have created the shortage, but the Federal Government. Since 1971, indeed, the government has done everything in its power to create the present shortfall of energy supplies and virtually nothing to avoid it.

The basic error of federal policy was the imposition of price controls. When the Nixon price guidelines were lifted from everything else in 1973, they were maintained on petroleum products, including crude oil production and the pump price of gasoline (and, for slightly different reasons, natural gas). It is no accident that the petroleum shortage has become a chronic problem in the United States since the enactment of controls, although it had never been a problem before.

The result of controls that hold the price of a commodity below its market level is twofold: to encourage consumption, and to discourage production. Needless to remark, that is a perfect formula for shortage. The Mideast oil embargo and price manipulations of the past few years are not the causes of this condition but symptoms of it. Having choked off our ability to produce, we are increasingly dependent on the Arabs. The oil shieks have used our folly to their advantage; we have to pay what they demand for their supplies because we have so effectively slowed production of our own.

It is almost incredible when you think of it, but the United States in the past five years—allegedly pursuing "Project Independence"—has become more reliant on Mideast oil than ever. Through most of the 1970's, in a time of rising energy demand, U.S. crude oil production has been declining at a rate of about 4% a year. The gap between supply and demand has to be made up by imports. In 1973, before the government energy planners really hit their stride, we imported 35% of our oil consumption needs. Now, with five years of planning behind us, we import approximately 48%—most of it from the Organization of Petroleum Exporting Countries (OPEC) cartel.

Not content with price controls as a method of creating shortage, the planners have laid on a crazy-quilt of additional regulations that are supposed to make the situation better, but in reality make it worse. One such is the so-called "allocation" program, a form of rationing designed to divide up the government-created scarcity. Unfortunately, the allocations have been made on the basis of consumption patterns in 1972—or seven years ago (an approach not changed until March 1 of this year). Areas that have experienced substantial growth in the interim, such as California, have therefore come up even shorter than would otherwise be the case. Hence the gas lines and attendant uproar.

Add to this the "entitlement" program, intended to equalize costs among refiners. Simplified, the idea here is to have refiners with access to low-priced domestic crude make payments to those who must import. The ironic result is yet another service to the oil sheiks—forcing U.S. refiners to subsidze the sky-high Mideast prices (now around $18 a barrel) even though they don't partake of Arab oil. As Professor Clay La Force of UCLA observes, "the entitlements program pays for about one-fifth of the current . . . per barrel OPEC price. Foreign sellers of crude oil have revenues increased by about $7 billion per year; OPEC gets about $5.5 billion of this."

There are still other steps the government has taken to create the present problem, including environmental controls preventing construction of new refineries (none built in twenty years on the East Coast, only one nationwide in the past six years), mandated use of unleaded gas (which takes more petroleum than leaded), a presidential cutback on gas production to step up the supply of fuel oil for next winter, and orders from Secretary of Energy James Schlesinger preventing spot purchase of crude oil on world markets this spring.

On the last-named point the *Washington Post* observes: "Schlesinger hoped this would put downward pressure on soaring profits. The effort failed, and the Administration now is reversing its signals to the major oil companies. Meanwhile, refiners say they wish they had more crude oil inventories and would now if Schlesinger had not coerced the United States to bear the brunt of the crude shortage."

Finally, add in the regulatory measures that have forced conversion from coal and natural gas to oil and stalled development of nuclear power—forcing increased reliance on petroleum—and the government "energy program" would seem to be complete. It's hard to think of anything that might have been done to create the current shortage that the energy planners have left undone.●

CLOSE UP PROGRAM

HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mrs. BOGGS. Mr. Speaker, for many years now I have been an active booster of the Close Up Foundation. I believe very strongly in this program which provides firsthand opportunities for our young people to learn about the political process. I know that many other Members of Congress, particularly the gentleman from Kentucky Mr. PERKINS, the gentleman from Minnesota Mr. FRENZEL and the members of the Louisiana delegation share my enthusiasm as have Senators BOB MORGAN and DAVE DURENBERGER in the other body.

I must confess that I have been awed, in the past, by the fine State and local Close Up programs that have been established and expanded in North Carolina, Minnesota and other areas. Today I am pleased to share with my colleagues the news that the Close Up program is expanding in New Orleans. A new civics Close Up program has been developed by the Orleans Parish school system in cooperation with the Close Up Foundation which I feel will add greatly to the knowledge young people need today to understand the workings of our democratic system of government.

I insert in the RECORD an article describing this new program:

[From the New Orleans Times-Picayune, Sept. 16, 1979]

CLASS CLOSE-UP LOOK AT CIVICS

How does the federal government work?

Hundreds of New Orleans public high schoolers will find answers to the question through a credit course in civics that is being proposed by the social studies section of the Orleans Parish School System for a curriculum offering, probably next fall.

The course, now in its planning stage, is the first Civics-Close Up Program to be presented by a local school district and will give participants a full credit toward high school graduation requirements, says John A. Jones Jr., supervisor of social studies for the school system.

It is expected to serve as a model for other local school districts throughout the nation, says Jones, who is designing the course with Dr. Adams Koroma, assistant superintendent for curriculum, and an advisory council composed of Councilman Sidney Barthelemy, parents, teachers and students.

On Sept. 20 at Loyola University, the advisory council will outline plans for including the course in the high school curriculum before a group of more than 200 business and political leaders.

The Close Up Foundation of Washington, D.C., program, which includes distribution of printed materials and a one-week trip for students to the nation's capitol, has been in effect in New Orleans since 1971, but it has not been an integral part of the public high schools' civics curriculum, explains Jones.

"Now we want a credit course for our students," says the administrator, who believes that a better understanding of the role of the federal government is essential to better citizenship.

"How can we expect our students to vote intelligently, to read about issues concerning business and labor, and to listen to national leaders when young people are so far removed from learning experiences of seeing and studying the sites of the executive, judicial and legislative branches which affect their life?" he asks.

"And how can we expect pride to grow when very few of our students ever have the opportunity to meet federal leaders face-to-face?" he questions.

Jones came up with a way to combine the Close Up trip to Washington with a one-semester civics class at every high school, with participants signing up for the course well in advance.

It is this new Close Up and civics link which he and his advisers want to explain to the business and political community to solicit ideas and to seek financial support in the form of scholarships.

In meetings last spring and during the summer, the advisory council met to outline a suggested curriculum.

Every high school, says Jones, will have a selected social studies teacher who will coordinate the program designed for 550 high school students, primarily at the 11th grade level. These teachers will work with classes limited to 25 students.

Precise guidelines are being developed such as requirements for students and written student-parent or guardian commitment next spring for the 1980 fall semester.

Students will be required to raise money for their trips through jobs or through scholarships based on merit and need.

They also will be required to read and study in depth the special materials being prepared for them on various facets of the federal government and its jurisdiction.

"Civics students today do study about the federal government," says Jones, "but not in the same intensive way as the method we are preparing for this special class.

"We want our students who're going to get a close-up look at Washington to be equipped with proper knowledge and skills and to be able to digest, discuss and apply their observations on returning to school. We want them to get involved in the course," adds Jones.

It's not just visiting Washington.

"We're emphasizing the interrelationship of the three branches of government through the inquiry method," the supervisor notes, commenting that "investigation will also be directed toward the impact of non-government organizations on governmental activity and the decision-making process."

Jones believes that once students are aware of the activities of the federal government and the influence of the Republican form established by the Constitution and based on the Social Contract theory, they are bound to become more interested in their rights of input into the process.

He also believes that the new Civics-Close Up program will play a role in the New Orleans community.

"As our students demonstrate their understanding of a democracy in written and oral class presentations throughout the semester, they will take more interest in political issues at the local and state levels, too," says Jones.

"Hopefully," he says, "they'll develop an appreciation and respect for our form of government, a tolerance for opinions which differ from their own, and a reliance to accept responsibility of citizenship."

Thursday's meeting at Loyola's Dana Center will give Jones, Dr. Koroma, the advisory council and Terry Judd of Washington, D.C., community coordinator for the national foundation, opportunity to explain the intent of the school system.

"We'll be asking for assistance in helping the new program reach its full potential," says Jones, who points out that some 10th and 12th grade students may join in the Washington trip but they will not be a part of the full-credit civics class.

"Our teachers who have participated in past Close Up experiences will assist in serving as initial teacher coordinators and in aiding other participating civics teachers," he notes.

The class begins in an election year which should make the experience of learning about the federal government in detail "especially meaningful to our students," says Jones, who cites that Johns Hopkins University, Baltimore, also is offering an in-service course on the undergraduate and graduate levels for interested teachers nationwide, giving both credit and tuition waivers to those who want to become part of the Close Up program.●

YOUTH CITED FOR LIFE-SAVING ACTION

HON. KENT HANCE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. HANCE. Mr. Speaker, I would like to call to the attention of the House an incident in my home 19th Congressional District in Texas in which the quick action of a young man saved the life of an infant. The youth displayed tremendous courage and poise under pressure and I feel he deserves the recognition for his action by the Congress of the United States. The young man's name is Dale Sides of Brownfield, Tex., and the following is an excerpt from the Brownfield News which details his life-saving action.

SIDES IS RECOMMENDED FOR MEDAL OF MERIT

A local Boy Scout who has undergone first aid training and CPR, will be recommended for the Boy Scouts of America's Meritorious Action Award, Medal of Merit for his actions in saving the life of a 14 month old infant May 28.

Mike Sides, 17 year old son of Mr. and Mrs. Dale Sides of 1301 S. Pecos, was home alone at about 6:30 p.m. Monday, May 28, when he heard someone pounding on his door. By the time Mike answered the door, a young neighbor girl, Denean Pool, had already left the Side's door and was running down the sidewalk.

Mike called to her and asked what she wanted. Denean told Mike to "Come quick! She's choking! She's dying! At that time the girl's sister, Delaine came running out of their house across the street carrying a baby in her arms. Mike and Delaine met in the middle of the street and the girl handed Mike the baby, shouting, "She's dying!"

Calling upon training he had received as part of his Scouting activities, Mike performed the Heimlich Maneuver on the child, which started the child coughing and forced a small piece of candy out of the child's throat. The Heimlich Maneuver is a method used to dislodge objects in a choking victim's throat by pressing on the abdomen, forcing air out the victim's throat to dislodge the foreign object.

Mike told the girls to call an ambulance, but by the time the ambulance arrived, Mike had the child sitting on the hood of his car, alive and well. Attracted out of their homes by the commotion, neighbors Jack Pinson and Mr. and Mrs. Mike Rector, assisted Mike in removing the candy from the child's mouth.

The baby, Sara Peterson, is the daughter of Mr. and Mrs. Steve Peterson.●

REPRESENTATIVE MORGAN MURPHY COMMENTS ON "GRAYMAIL"

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. SIMON. Mr. Speaker, our colleague from Chicago, MORGAN MURPHY, recently had some comments on the editorial page of the Chicago Tribune.

What MORGAN MURPHY talks about and talks about with good commonsense, is the problem of "graymail."

Whether Congress accepts the Biden version, the Rodino version, or the Murphy version, what our colleague tells us makes a great deal of sense.

The article follows:

TRIALS CAN BE HELD WITHOUT RISKING NATIONAL SECURITY

(By Rep. MORGAN MURPHY)

This summer I introduced legislation aimed at dealing with the growing problem of "graymail." Graymail refers to a criminal defendant's threat at his trial to demand or disclose classified materials that he claims would exonerate him. While this sensitive information often has no relevance to the issues of the case, the government must frequently drop its prosecution for fear that the disclosure of the documents will harm the national security. [Government prosecutors have dubbed the defendant's action "graymail" because they view it as a pressure-tactic similar to "blackmail."]

Graymail has occurred not only in the prosecution of persons alleged to be spies, but in cases involving break-ins and mail openings by intelligence agents, the bribing of foreign officials by U.S. corporations, and the giving of false testimony to Congress about U.S. intelligence activities abroad. It has even figured in murder and narcotics trials.

Without a procedural mechanism to balance the interests of national security with the interests of justice, the prosecution of these kinds of cases will continue to be hindered or prevented altogether.

To minimize the government's disclose-or-dismiss dilemma, intelligence officials, prosecutors, and civil libertarians—whose views often clash on this type of issue—got together to formulate a response. As a result, the bill I have introduced has the general support of the Justice Department and the American Civil Liberties Union. It is intended to prevent illegitimate graymail without infringing on a person's right to demand relevant information for his defense.

The bill would require a criminal defendant to notify the court and the government of all motions and arguments requiring the disclosure of classified information. Then, at a closed, pretrial hearing—with defense and prosecution present to make their arguments about the need for such disclosure—the court would rule on the admissibility and relevancy of the information. [The bill would not alter the existing standards for determining relevance or admissibility.]

Once the judge made this ruling, the government could decide whether to pursue the prosecution. In some instances, if the trial judge determined that the defendant's rights would not be injured, the court order that a specific item of classified material be replaced by a summary of the information. If the judge rules that the classified information is admissible and may not be summarized, and if the government still objects to disclosure on national security grounds, the court could dismiss the indictment.

The judge would also be allowed under the bill to take action short of dismissal, such as dismissing certain counts of the indictment of prohibiting the testimony of certain government witnesses.

For its part, the government would be required to provide the defendant with pretrial notice of the evidence and witnesses it intends to use to challenge the defendant's arguments based on the classified information.

In the event that the Justice Department decides to drop a prosecution, it would have to spell out in writing its reasons for doing so to members of the House and Senate Intelligence Committees.

The purpose of this provision is not to second-guess prosecutorial decisions, but to ensure that the classified material being protected is vital to the national security and not simply embarrassing to the government.

The closed, pretrial hearing would differ substantially from the closed hearings recently approved by the Supreme Court as a way to protect defendants from prejudicial publicity. As the New York Times correctly observed: "Legislation to combat graymail would result in more public trials, not fewer. The choice is between a closed hearing that may permit a trial to take place, and no hearing or trial at all."

Currently there are three bills before Congress aimed at curbing the graymail problem. Besides my own, two bills have been introduced—one by Sen. Joseph Biden [D., Del.] of the Senate Intelligence Committee, and one by Rep. Peter Rodino [D., N.J.], who is sponsoring the Justice Department's proposal. Though there are some substantive differences between the bills, all reflect the general agreement worked out by intelligence officials, prosecutors, and civil libertarians.

While graymail abuses cannot be completely eliminated, the proposals before Congress will go a long way toward reducing the problem. Passage of such legislation will represent an important step in holding lawbreakers accountable to the rule of law, while protecting the national security and American civil liberties.●

SOVIET TROOPS IN CUBA—WHERE DO WE DRAW THE LINE?

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, I have recently heard people argue that since the United States has overseas bases, the presence of Soviet combat troops in Cuba is the equivalent situation.

Another argument raised in some quarters is that the 3,000 armed Soviet troops represent no danger to the United States, as this force is far too small to mount an invasion.

Both of these are simplistic rationalizations for accepting overt Soviet aggression.

Seymour Weiss, the former Director of the State Department's Bureau of Politico-Military Affairs during the 1962 Cuban missile crisis, has penned a superb analysis of these superficial arguments. He shows exactly why we should be concerned.

I urge all of my colleagues to read Mr. Weiss' comments, published in the September 19, 1979, issue of the Wall Street Journal:

TAKING SALAMI SLICES IN CUBA

(By Seymour Weiss)

Why are Soviet ground forces in Cuba and how should the U.S. react?

One hears rationalizations reminiscent of those advanced by a minority during the Cuban missile crisis, i.e., that the Soviet troop presence is no serious threat to the U.S. The enormous political and military consequences associated with this Soviet presence are subordinated to the simplistic view that 3,000 Soviet troops could not invade the United States. Another superficial argument is that the U.S. has no ground for complaint since we have forces stationed in Europe. This view conveniently overlooks the fact that:

The U.S. is an insular power separated by 3,000 miles of ocean from its major allies against whom the Soviets have massed an enormous military threat. Conversely the U.S. is not threatening Cuba (it seems only yesterday that Carter sought to normalize relations).

U.S. forces in NATO are not training Europeans to foment revolution around the world.

Both sides' major alliances are an accepted part of the status quo while this introduction of Soviet troops is one in a series of Soviet attempts to challenge the existing status quo.

How then does one explain the Soviet action?

First, the presence of Soviet troops releases Cuban forces to support Communist revolutions around the world. Some tens of thousands of Cubans are overseas. By insulating Cuba from a possible U.S. reaction, Soviet forces make it possible for Cuban troops to pose even greater challenges for U.S. interests in the Middle East, Africa and elsewhere. Indeed it frees Cuban military forces for intervention within the Western Hemisphere itself.

THE CASUALTY CONCERN

As director of the State Department's Office of Politico-Military Policy (later renamed) during the Cuban missile crisis. I helped develop a contingency plan for an air attack against missile sites in the event that the naval quarantine failed to force the Soviets to withdraw their missiles from Cuba. One concern of U.S. policymakers was that such an attack would inevitably result in casualties to Soviet forces. Although U.S. policymakers were prepared if necessary to accept the inevitability of Russian casualties, they did so with reluctance. Now that the world-wide military balance is changing in favor of the U.S.S.R., how much stronger would be the reluctance to launch an attack against Cuba with thousands of Soviet troops present?

Another role which these Soviet forces fill is to prop up Castro. Under the Brezhnev Doctrine the Soviets assert a right to intervene in the affairs of "socialist" states. Castro has stated Soviet forces in Cuba are equipped to join Cuban forces "in defense" of the country. In 1963 Kennedy said "we would not accept a Hungary in Cuba; the use of Soviet troops against Cubans" to support Castro was unacceptable. What is our position today?

Finally, Cuba offers a strategically located base to the U.S.S.R. It threatens the Panama Canal, through which the U.S. moved 25 warships in the 1962 crisis. Attack submarines can threaten the U.S. shipping of supplies to our allies in Europe. It provides important intelligence and communication facilities and airfields which can handle bombers, military transports and fighters.

Viewed in a broader perspective, the drama unfolding in Cuba was predictable. The Soviets have been taking "salami slices" in Cuba for years. Soviet submarines of almost every type including diesels with ballistic missiles have visited Cuba. Only nuclear subs with ballistic missiles have not visited Cuba. Soviet Bear Bombers configured as reconnaissance aircraft have flown intelligence gathering missions out of Cuba. Soviet-flown MIGs have long been in Cuba and now the Soviet ground combat forces. While the administration strains to explain away this growing Soviet presence it is simultaneously cutting U.S. naval and amphibious forces which would be stretched thin in a major conflict even without having to deal with a Soviet base in Cuba.

We have tolerated these salami-slicing tactics apparently on the grounds that the agreement reached at the culmination of the 1962 missile crisis only precluded the Soviets from stationing "offensive" forces in Cuba. But President Kennedy also made clear at the conclusion of the missile crisis that Cuba could not be used "for the export of aggressive Communist purposes." What has happened to that principle?

We should harbor no illusions: As Soviet military power grows and as U.S. power continues to decline, a continued reaching out of Soviet influence is to be expected. To Americans, events in Angola, the Horn of Africa, Afghanistan and South Yemen may well seem remote and unrelated to U.S. interests. But those events were simply a forerunner to what we are now seeing in Cuba. Soviet bases which threaten the vital Persian Gulf oil lifeline and bases in Cuba are part of a larger pattern.

The Soviets have made their purposes quite clear. They intend to extend their influence, if not their hegemony, as far as their military power will permit. What is new is that they apparently judge their power sufficient to permit movement to within 90 miles of the U.S. coast.

It was inevitable that SALT would be related to the Cuban problem. Unfortunately the issue is being posed inappropriately. Warnings are advanced that there is no chance for SALT passage if the brigade is not withdrawn. Is one to imply that conversely SALT should be passed if the Soviets oblige us by removing their troops? And will advocates of SALT as a fully verifiable treaty—from "the first day," the President said—explain how 3,000 Soviet troops went undetected or unreported for so many years, if indeed that was the case?

The administration has refused to recognize any linkage between Soviet international misbehavior and SALT. Henry Kissinger has pointed out the absurdity of this position. The long trail of Soviet international troublemaking, which Cuba serves only to underline, makes it clear that there is presently no basis for entering into a solemn treaty with the U.S.S.R. on so vital a matter as strategic arms.

WHERE DO WE DRAW THE LINE?

If the administration does not act vigorously, it is a certainty that the Soviet brigade will be just another slice of the salami. Larger ground forces, more aircraft, doubtless supported by significant naval forces and naval bases, are in prospect. If, as some are rationalizing, the 3,000 combat troops are no threat to the U.S., what is the level of Soviet force which justifies a challenge? If President Kennedy had procrastinated at the time of the Cuban Missile Crisis, those missiles would still be in Cuba, modernized and increased in numbers.

The U.S. should insist on immediate withdrawal of all Soviet combat forces, ground, air and naval from Cuba.

Would the Soviets accede to our demands as they did in 1962? Some think not. If that is the case, all the more reason that we draw the line now. One positive result might be to help generate a new political consensus about our foreign and security policy requirements. As Senator Nunn has said in a different context, there is evidence that we have been tranquilized to the point where U.S. military budgets no longer provide for defense of our national interests. The Senator's view seems borne out by our demonstrated impotence 90 miles from our shore.

The wistful, manifestly unfulfilled hope that the U.S. can anticipate significant cooperation with the U.S.S.R. under a policy of detente must be reassessed in the light of Soviet actions such as those in Cuba.●

THE TIME TO RESURRECT CAPITALISM

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. ROUSSELOT. Mr. Speaker, too often we hear the voice of woe and despair dwelling on the failings of our economic system. It is a false voice, for it does not address the many blessings and strengths of our system.

In fact, of course, the free enterprise system has delivered for the United States the most productive, bountiful economy in the world's history. It has produced a standard of living for America's working men and women which is, frankly, unparalled.

It is my belief, however, that we do indeed face an economic crisis if we continue on our present course of stifling the free market system. Unless we change our ways, we will kill the golden goose. The system which has benefited us so much will cease to function.

Recently, Mr. Gordon Van Vleck, president of the California Chamber of Commerce, delivered an address which forecfully argues the case for a strong free enterprise system. The title of his thought-provoking speech is "The Time to Resurrect Capitalism." It is an important message for America's leaders as well as her public.

Mr. Speaker, I would like to share this message with my colleagues:

THE TIME TO RESURRECT CAPITALISM

(Remarks by Gordon Van Vleck)

Secretary Kreps, Governor Brown, members of the Host Committee, honored guests. There is a time for every speech, and I think it's time for this one. It's time someone took off the gloves and said some things which need saying. These essence of my talk is simple: America is on the ropes and we'd better roll up our shirt sleeves and set about getting this country back on track. I know of no better antidote than a strong dose of plain, old-fashion capitalism.

I'm not one to mince words. That has been the brand on my year as president of the California Chamber, and I still have five months left to speak out on issues that matter to me. Americans and businessmen—you in the audience—are getting a raw deal, both abroad and at home. This country runs on money generated by free enterprise, not dialogue produced by politicians and government officials. In recent years, the volume of words has been matched only by the volume of tax dollars flowing into government coffers to fund a corpulent bureaucracy and social programs spending this country into bankruptcy. And if you add the political hot air to the hot water this country is in, couple that with our seizure of inaction, then it's going to be a scalding experience soon for everyone—whether in the pay line, the gas line or the welfare line. And one thing is certain, unless we act to free ourselves of government constraints, there won't be a shortage of lines!

In past years, business and government leaders at this forum frequently have spoken of "golden opportunity and personal challenge" to heal a variety of national and state ills. In light of conditions today, those words ring hollow, and I intend to break with a tradition that has neither instilled a vision nor prompted sufficient action among the leaders of business gathered under this roof.

America is now reeling under a series of blows that threaten to bring us down to defeat and despair. Staggered by the energy shortage and the combination of unchecked inflation, an anarchy of over-regulation and irresponsible government spending, the capitalistic foundation we've built this nation on threatens to disappear and take the republic with it. I'm telling you nothing new, nothing you haven't heard on radio, television or in the papers. However, rational analysis and cool deliberation—unless coupled with action—is a formula for inaction and a disastrous policy when everyday citizens have lost faith and confidence in the mechanisms that run the country. The polls tell the story in blacker tones with each passing day, but I don't need surveys to tell me how I feel as I see the business I've worked a lifetime to build threatening to slip through my hamstrung fingers for the second time within a decade. I'm tired of words and inaction. I know it's time to resurrect capitalism.

Almost no one would argue that one of the underlying causes of inflation, which is riddling the economic stability of America, is government spending. Former Secretary of the Treasury, William Simon, in his book, A Time for Truth, noted, and I quote, "It took us a hundred and seventy-one years to get a federal budget of a hundred billion dollars a year. That was 1960. Within nine years, we had reached two hundred billion dollars and four years later gone over three hundred billion dollars. And two years from now, if present trends are not reversed, we will reach four hundred billion dollars. The very existence of our free economy depends on getting government spending under control." Unquote.

As sobering as that prediction was, it could not hold a candle to reality. Simon gave us until 1980 to reach that bloated state, but recent newspaper accounts tell us that Congress trimmed $6 billion from President Carter's proposed budget and set a "target" budget of $532 billion for fiscal year 1980. The rate of our descent is much faster than Simon foresaw. A balanced federal budget is an accounting nicety, but it won't solve our inflation woes; only a real dollar reduction can do that.

What angers me the most about this spiraling inflation is the framework of economic unreality in which the government chooses to operate. As a consumer and businessman, my economic decisions are based on the steely-eyed necessity of what I can afford, not on how much I can go in the hole. I stretch my available resources to the breaking point and yet, after government does that, it blindly looks for new ways to spend money it doesn't have. It creates its own credit; it should concentrate on creating some creditability! Governor Ronald Reagan hit the nail on the head when he told those of you here in 1974, and I quote, "We often hear the phrase 'uncontrollable spending' when the federal or state budget is being discussed. What that really means is spending mandated by some previous statute which government accepts as unchangeable. There is no government program which should be exempt from constant review and cancellation if common sense indicates it is not worth its cost to the taxpayer." Unquote. A recent government economic report that inflation could be solved in 18 years is tacit admission that government can't control its own voracious appetite; like an acknowledged junkie whose fix is another tax dollar. By comparison, President Eisenhower solved an inflation crisis in 18 months—after he severely cut back federal government spending. The precedent exists, but the political will doesn't and that may be the most serious threat to the future of America.

The resurrection of capitalism is crucially linked to solving America's energy problems and policy deficiency. I, for one, am not deluded that the current shortage and dependency on foreign oil isn't real. A Mobil Oil Corporation white paper called the "Dangerous Decade" put the facts into focus, "Our America of 1979 is a handcuffed giant, blessed with an abundance of potential energy resources that will take years of hard and costly effort to make usable. Meanwhile, frustrating delays in the formulation of a rational and comprehensive national energy policy have increased U.S. dependence on foreign oil, making our nation ever more hostage to foreign countries. This so outrages many Americans that they find it hard to adapt to the changed situation and look instead for someone to blame for the passing of cheap and abundant energy." To my mind, placing blame is counterproductive. Everyone of us must shoulder our share of the burden until, by the force of our demands, we pull our country back from the brink of democracy's demise. And don't let anyone tell you that the effects of the energy shortage are limited to the users of gasoline and heating oil. A California Chamber poll of business last April asked the pointed question: Are energy supply problems having an adverse impact on your business today? Fifty-four percent answered "yes" and, of those, seven percent indicated they were being forced out of business, with the rest citing delayed expansion and operational cutbacks as effects of the shortage. That's not competition forcing businesses to close, that's an artificial situation which is tampering with the ebb and flow of free enterprise dynamics.

When faced with a problem, businessmen leave no stone unturned in building a solution. Unfortunately, the leadership of this country sees fit to erect a whole host of barriers to possible solutions. In recent weeks right here in California, we have been dangerously close to demanding more electricity than we can generate. And yet we have such projects as New Melones and Diablo Canyon that are completed and ready to go and yet they can't be brought on line. It's a shame political necessity has to stand in the way of oil deregulation, energy development investment programs and a consistent national policy. The President did not propose tapping private industry and proven technology to alleviate our energy problems. Instead, he proposed creation of two new government agencies and the imposition of $142 billion in new taxes. I know . . . you know . . . government leaders know . . . what has to be done, but a collective lack of will prevents it.

Sixty-one years ago, Winston Churchill laid the problem out in its baldest terms, "The times are hard and rough, and every man and every woman must choose their part and play it with all their might. Personal interests, party interests, class interests, sectional interests—all these will have to take second place to national interests if we are to get 'round the corner without disaster."

I'm not going to suggest to you the truth of this assessment; if you can't see it for yourself, you're just so much deadweight the country can't afford to carry. This can be the showcase for a resurrection of capitalism; turning the energy industry loose to insure America's energy stability and independence. And that means severing the regulatory shackles government has erected through the decades.

Regulation is a major cause of capitalism's stagnate condition. It is the sole reason for the growth of government as we know it today. Having government protect us from ourselves may be an overworked cliche, but I've met enough bureaucrats in my day to know that the "protection racket" is the biggest game in town.

Regulation stifles operations, boosts costs through the entire manufacturing-selling cycle, and interrupts the capitalistic dynamics of supply and demand. Where are the incentives to develop new resources and build new plants? Where are the incentives to bring a less expensive item to the marketplace and capture a greater share of consumer demand, when watchdogs are peering over your shoulder, giving directions, every step of the way? Nowhere, that's where!

A recent congressional Joint Economic Committee report stated, "Inflation is the real problem, regulation is a major cause of inflation, and the nation's economic malaise stems from an inadequate supply of goods rather than from excessive consumer demand. What this means is that if business is given the proper incentives, productivity will rise and prices will go down." Simple. Neat. And true. But the chances for getting the proper incentives through the 96th Congress and the White House are less than optimistic. The anarchy of regulation touches every facet of American life; a smothering web of confusion, disorder and cross-purpose. I can cite you chapter and verse on outrageous statistics, but even that is part of the overall bureaucratic conspiracy—protection from the government itself.

The size of the problem is enormous. The visible federal spending to run the regulatory agencies has zoomed from $745 million in 1970 to $4.8 billion this fiscal year. Compliance is the other side of the coin. During this year, American business and industry will spend upwards of $100 billion to comply, report and process government regulations. That means at a cost of $500 per person in this country. Talk about hidden taxes!

In terms of capital formation, productivity, new jobs, and innovation, government regulation is slowly and grindingly snuffing out the candle of capitalism. It is my firm conviction that it must be stopped. The delicate relationship of a government serving its people versus people serving the government has been dangerously tipped. To strengthen the flame of capitalism, we must act to shed the burden of regulation.

Steps are being taken by a few concerned citizens who haven't been misled. While the phenomenon of Proposition 13 was the voice of angry taxpayers, its subconscious foundations ran to a much deeper fear—government is not responsible, and to save the republic, we must seize our power back. Well, an angry gesture at the polls may have been the first blow, but a combination is needed now and in 1980.

Americans and Californians must continue to rectify past political abuses by changing the law through the election process. As always, the heart of the problem is money. Now that Proposition 13 shortened the supply, the second approach needs to be implemented, structuring the allocation of that supply. That's where Paul Gann's Spirit of 13 spending limitation initiative comes in. As Proposition 4 on the November ballot, the Spirit of 13 will put an additional leash on government growth and give business time to reassert the values and rewards of capitalism. I urge you to support it with your dollars and then help get out the vote on November 6th.

The second step is to change the face of government itself. If we do this, put responsible people in government, people who understand the need to resurrect capitalism, then the obstacles to its rebirth will be removed before America is past the point of no return. Business dabbling in politics has generally been a taboo, though our visibility in fighting them on their own ground has heightened considerably in the past two years. I'm not talking about "dabbling" . . . I'm talking wholesale change. Change without political labels, change that holds to one and only one credo—capitalism can do the job.

Not overnight, but soon enough, a responsive government could chuck the majority of its regulatory functions, and by trimming back government spending, ease inflation and spur free enterprise growth. The job is not easy, in fact, it will take people of incredible courage, people of rock solid commitment. Our task is to find them, and put them in office to shoulder the burden of resurrecting our capitalistic society. I have faith we can do it.

Finally, I have this to say: America, you and I, would best be served if government got off our backs. And if they don't, the day will come when, by necessity, they are thrown off. The choice is theirs now, only because we put it in terms of choice, and not an ultimatum.

Thank you.●

FLORIDA SILVER HAIRED LEGISLATURE'S CATASTROPHIC ILLNESS INSURANCE PLAN

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. MICA. Mr. Speaker, it is my pleasure to present to the Congress the Florida Silver Haired Legislature's Memorial No. 97. Each year representatives from all over the State of Florida are elected to participate in the Silver Haired Legislature in Tallahassee.

This year, the chairman of the Palm Beach County delegation to the legislature, Mr. David I. Cohen, introduced the following memorial regarding a catastrophic illness insurance proposal for people of all ages. I have already contacted the House Subcommittee on Health and the Environment regarding this memorial and take this opportunity to share it with all Members of Congress.

With the President submitting his national health insurance proposal to the Congress this month, I urge my colleagues to look at all proposals which would bring needed health care to Americans. I feel this memorial deserves the attention of the entire Congress and submit it to you for your consideration:

MEMORIAL No. 97

A memorial to the Congress of the United States relating to catastrophic illnesses; providing catastrophic illness protection for residents of all ages; providing appropriation; providing an effective date.

Whereas, public concern over what has been popularly termed catastrophic health care costs has increased in recent years, and

Whereas, the growth of private insurance with extremely high coverage limits the adoption on some states of public catastrophic health insurance plans, and

Whereas, the introduction of several catastrophic health insurance bills in the United States Congress is a sign of this increased concern, and

Whereas, a large percentage of people are residents of nursing homes for 6 months or longer, at a large cost of money, and approximately 50 percent of that cost is paid directly by consumers and

Whereas, residents of nursing homes have moderate incomes and the expense is large, not only in absolute terms, but also relative to income, and

Whereas, Congress has not come to any decision, admitting that National Health Insurance is in a state of confusion, and

Whereas, consumers have three major sources of assistance in meeting the cost of health care: private insurance, public programs, and tax subsidies, and

Whereas, collectively, these sources significantly reduce the percent of medical expenses that are paid directly by the consumer, but problems still remain, and

Whereas, coverage is uneven in that many consumers are totally without either public or private protection; certain services are excluded from coverage; some insurance plans do not adequately cover high medical expenses; and tax subsidies do not effectively assist lower income persons or families, and

Whereas, the lack of adequate basic insurance coverage for almost one-third of families and persons with incomes below the national median and the failure of both the public and private health insurance programs to cover types of services results in two kinds of catastrophic out-of-pocket expenses; the cost of long term care for the aged and average or normal expenses that consume an unreasonable proportion of low-income families' resources, and

Although Medicare may cover a large portion of hospital costs incurred, people of all ages can experience high out-of-pocket expenses for non-hospital services, and the results can be "catastrophic."

Be It Resolved by the Silver-Haired Legislature of the State of Florida:

That the Silver-Haired Legislature of the State of Florida does hereby make application to the Congress of the United States to provide protection against catastrophic illness for United States citizens of all ages.

Be it further resolved that the Congress of the United States provide appropriation for such protection, and be it further resolved that the Congress of the United States establish an effective date therefor.●

BALTIC DISSIDENTS DEMAND SELF-DETERMINATION

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. BARNES. Mr. Speaker, on August 24, 1979, a group of 45 citizens from Latvia, Lithuania and Estonia appealed to the Soviet Union, East and West Germany, and the United Nations for self-determination for the Baltic republics, asserting that their lands were annexed illegally under the 1939 nonaggression pact between Nazi Germany and the Soviet Union.

They chose that particular day to issue their statement to Western reporters since it was the 40th anniversary of the pact that swept the formerly independent Baltic States under the domination of the Soviet Union.

Andrei Sakharov and other Soviet dissidents as well as official monitors of the Helsinki human rights accords supported the statement of the Baltic citizens.

But, in the past month, there has been no further word of these Balts in the news media. Why are they silent? Have they been arrested? Imprisoned?

Mr. Speaker, I am hopeful that public attention will continue to be focused on the fate of this group so that they will be protected from harm in their pursuit of self-determination.●

NORTH PACIFIC FUR SEALS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, many members have received an information package from the Friends of Animals which alledgedly reports on the Pribilof Island seal harvest. Other Members may have seen full-page newspaper advertisements sponsored by the same group which appeared in a number of newspapers. All of these contend that the U.S. Government is subsidizing the slaughter of fur seals in the Pribilof Islands.

I think it is time that we look more closely at this propaganda that is being given to the Members of this body.

In recent testimony before the National Marine Fisheries Service, Mr. Mike Zacharof, vice president of the St. Paul Island Village Corp., analyzed the supposed $9.3 million cost of the annual fur seal harvest. I would like to share that analysis with you.

First of all, approximately $5,457,000 consists of one-time, rather than annual payments, for such things as housing, studies by the Corps of Engineering, payment under the Alaska Native Claims Settlement Act, and a cargo ship which was sold, rather than given, to the residents of the Pribilof Islands. This leaves a subtotal of $3,843,000.

Second, a number of payments are made annually that have absolutely nothing to do with the fur seal harvest. These include HEW school funds, Department of Agriculture studies for the entire Aleutian Island chain, and maintenance funds for a Coast Guard LORAN navigation station on the Pribilofs. This total of $993,967, when subtracted from the previous subtotal, leaves $2,849,033. This latter amount represents the costs to the United States of the seal harvest.

However, some funds can be added in, including rent and utility costs paid by the Aleuts, receipts from sale of seal pelts, and payments made by the Aleut workers to the Federal retirement system. When these factors are considered, the cost is approximately $1.2 million. Broken out as a per worker salary, this would mean $6,521.74 per worker per year, a salary considerably less than that received by most people in the country. Yet, if Friends of Animals had their way, even this paltry sum would be denied the Aleut people.

Mr. Speaker, it is unconscionable that this well-heeled special interest group has the audacity to remove the sole source of employment of a group of American citizens and at the same time open our North Pacific fur seal population to destruction at the hands of foreign nations who would be happy to resume pelagic sealing. While I respect the gentleman from New York's (Mr. WOLFF) desire to protect the fur seals, he is barking up the wrong tree. I urge you to refrain from sponsoring his bill (H.R. 5033) and work instead to extend the existing treaty which protects our seals.●

BLAME THE GOVERNMENT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. PAUL. Mr. Speaker, Dr. John J. McKetta, professor of chemical engineering at the University of Texas at Austin, recently wrote a most eloquent and down-to-earth analysis of our energy problems for the Houston Chronicle.

Government straitjackets have succeeded in almost immobilizing our petroleum, coal, and nuclear energy sectors. The restraints belong on the politicians, consumerists, and bureaucrats who have brought us to this mess, not on the productive private economy.

If Dr. McKetta is right—and I fear that he may be—and our standard of living declines, thanks to Government meddling in energy, then it is important that the American people know who is to blame. Not oil companies, not Arabs, not coal miners, not nuclear engineers—but Congress, the bureaucracy, and the Ralph Naders and Jane Fondas.

I would like to draw this perceptive essay to my colleagues attention, in hopes that it might have some effect.

The article follows:

No Way To Win!

(By John J. McKetta)

I want to tell you a story. It's not a true story, but it's a story whose parallel all of us have witnessed before.

Our local high school had not lost a football game for at least three years. Friday was a big game with our arch rival. On Thursday, while our team was practicing, the debating team had a meeting about overemphasis on football. They were unhappy because most of the people go to football games; they don't come to hear the debaters. Most of these debaters weighed less than 100 pounds and most of them did not like football. Here are some of their discussions.

Football is injuring too many players. To prevent this we are going to demand that our team members wear armor made of metal.

Which is the best play—the touchdown or the first down? The argument went on for a long time. They finally decided that no play our team makes will count unless it attains a first down. If it isn't first down, the other team gets the ball automatically.

The forward pass is the biggest gamble in football. The national average is that one out of every 219 forward passes is an interception that goes for a touchdown. So, we will absolutely not permit our team to throw any forward passes.

Fairness! In debate we are fair. We want fairness for football games too. So our opponents are to be told what play we are running and where we are going to run it.

Well, the debating team went on to tell the principal about their demands. They argued with the principal and the principal argued back. But who is going to win an argument with the debating team? So the principal lost. The principal told the new rules to our coach the night before the game.

The coach fainted. He was revived and then he argued. He lost the argument and was fired. The teacher of the debate team, Ms. Dogood, replaced the coach.

BEHIND, 98–0

Now it's Friday afternoon. It is fourth quarter, two minutes left to play, and the game is almost over. We are behind a little: 98–0. All the students in the grandstand are asking: "Why aren't our boys trying? What's going on? Can we win? Do we have any chance? Can we possibly win during this last two minutes?"

No way! No way! Even if you took all the restrictions off, our team cannot make 99 points in the last two minutes The story is senseless. But I've seen it happen. Exactly that kind of story but in a different arena—the energy arena!

The debaters and the principal represent extremists who pressure legislators. The metal armor is the zero risk that some extremist groups are demanding in the United States. They want zero risk. They know it is impossible. But they are going to insist on it. The no-pass rule comes from Ralph Nader and other antinuclear people. They have eliminated one of our possible plays to win the game.

The best-play rule represents the extreme environmentalists, the anti-coal people, etc.

Telling the opponent each play, the fairness rule, was used by the U.S. Congress and the Federal Power Commission to set a low fixed-price on energy.

There is no way to win the energy game! No way to have energy self-sufficiency or to decrease the high cost of imported energy during your lifetime. I predict that by 1985, even if the public forces government to remove all the senseless, inflexible regulations we now have, the United States is going to have horrible sacrifices energywise. But we have to try to force changes, or we will lose every game from now on. We could even lose the stadium, the school, everything. We must pass sensible rules now.

HUGE TAX PLAN

It is well known that we are in a terrible energy mess, but only a few people realize that there is no solution during our lifetime. By this I mean that we will not have the luxurious use of energy during the next 35 to 40 years that we have today.

Most of the people who understand the energy problem are disappointed, confused and appalled with President Carter's so-called energy plan (instead, it was really a huge tax plan). They are also disappointed with the mysterious, seemingly anti-United States voting record of the U.S. Congress in energy policies. Current policies of energy pricing and over-regulation of industry will mean disaster for the United States in less than 10 years.

Many wishful thinkers have been led to believe we will have energy self-sufficiency by 1985. I predict that at the current rate of energy demand growth, the U.S. will have a severe recession brought about by the lack of domestic energy by 1985. In fact, there will be an energy shortage in the United States by 1985 that will make your hair curl. Most of this is because of the shortsightedness and lethargy of our Congress in energy matters.

FANTASTIC DEMANDS

Our energy supply is in trouble. We just cannot meet the fantastic energy demands through the year 2000 without yearly increasing the energy imported from outside our borders. Today over 45 percent of oil used in the United States is imported.

Almost everyone in this country, with the exception of one group, finally became aware of the energy crisis in October 1973 when the oil embargo was imposed by the OPEC countries. That one group was your U.S. Congress. Do you know that your Congress has not put an extra drop of energy into your supply tanks since that date? By this I mean that none of the legislation that they have passed helped to improve our domestic energy situation. In fact, many of the new governmental regulations have decreased the supply of domestic energy.

Sometimes it seems that this country's politicians and environmentalists are linked together in a plot to bring America to eventual disaster by making domestic energy expansion impossible. I believe that the problems of higher taxes, price controls, threat of excess profit penalties, embargoes on leasing or operating in favorable coastal areas, and rigid, excessive environmental requirements serve only as roadblocks in efforts to explore for new reserves or to build new facilities.

GROWING DEPENDENCE

In 1978 we paid other countries over $44 billion for oil and natural gas. So far this year we are importing oil and gas at a much higher rate. You might think that at least that's progress. We haven't doubled the amount of imports. But in the larger sense, these figures don't spell progress at all—they spell failure—failure and potential disaster for a nation which simply should not spend that much money for imported energies.

Although we continue to be less dependent on imported oil than are Western Europe or Japan, that dependence is growing. Within the last three years the amount of imports of Middle Eastern oil was doubled. Canada, once our largest oil and gas supplier, wisely decreased exports of petroleum to the United States in order to conserve supplies for her own domestic use.

This increasing dependence on imported oil will mean only greater risks of another embargo, and more intimidation in the conduct of foreign policy, which jeopardizes our entire nation.

How in the world could the wealthiest and most powerful nation on Earth allow itself to be boxed into a corner like this? The reasons include the senseless, inflexible governmental regulations and the extreme demands of the environmentalists. We now have so many roadblocks to expanded production that the energy industry is practically inert because of governmental laws and red tape. Despite the continued warning from experts, the Federal Power Commission has been required for more than 20 years to keep the wellhead price of natural gas at extremely low levels in order to hold down the prices for consumers. These controls decreased the incentives for the development of new domestic supplies so that, just as we predicted in the early 1960s, there is much less natural gas than we need today. Instead of learning from this horrible natural gas control experience, we repeat our mistakes in the oil industry.

Again, we can predict the results: By keeping the prices of natural gas and domestic oil at ridiculously low levels, we are forcing consumers to buy more expensive foreign products from foreign oil and gas sources because we are producing so much less of our own oil and gas.

MINING LIMITED

Companies trying to use more coal are having troubles. While one branch of government is starting to order more plants to use coal, other branches take action that will eliminate a million tons from the market. Expanded production is being held up by rules limiting strip mining and a moratorium on leasing federal coal lands.

While the domestic use of coal is limited by too-strict clean air rules, at the same time the export of coal to Germany and Japan is being promoted by our government with the result that the eastern U.S. reserves are being used for foreign consumers who bid up the price, making the fuel more expensive to Americans.

In the midst of this tremendous energy crisis it's difficult to believe that the coal consumption in the United States today is lower than it was 30 years ago. Most of this is because of rules issued by government agencies.

It's necessary for us to triple the amount of coal that we use by 1990. We must find a way to produce this much coal, and we must be allowed to consume this much coal if we wish to free ourselves of the increasing import.

A SAD STORY

In the field of nuclear energy, the story is again a sad one. This country was the pioneer in the development of nuclear power. Yet today we require up to 13 years to build a nuclear power plant in the United States while it takes only 4½ years in Europe or Japan. Why? Again, because of excessive governmental regulations! Incidentally, the very first one in the United States was built in less than four years at Shippingport, Pa.

Many of you will recall the story that way back in 1889 something was bothering Thomas Edison. He wrote an article for the North American Review (Vol. 149, 1889, p. 632) warning the public about what he perceived as a major public danger.

"My personal desire would be to prohibit entirely the use of alternating current," Edison wrote. "They are as unnecessary as they are dangerous. I can therefore see no justification for the introduction of a system which has no element of permanency and every element of danger to life and property."

Now, from the vantage point of our alternating current world 90 years later, it is apparent that this great person either was unexplainably wrong in principle, or he failed to anticipate the technology that put alternating current electricity into nearly universal use across the United States. We solved the alternating current hazard—we can solve the new hazards.

Everyone admits that radiation can be dangerous and electricity can be dangerous. But reasonable people will take moderate risks for great benefits, small risks for moderate benefits, and no risks if there are no benefits. Our policy makers must learn that the world is risky, and that the problem isn't whether something is safe, but what the risks are, and whether the benefits are worth those risks.●

ELECTION LAW DEFORM

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. FRENZEL. Mr. Speaker, today's editorial on the Obey-Railsback bill gives the clearest description of its adverse effects on our election processes.

The editorial follows:

BEHIND THE BACK DOOR

Advocates of public financing of congressional elections couldn't get in through the front door. Earlier this year their bill, H.R. 1, was overwhelmingly rejected by a 17 to 8 vote in the House Administration Committee. Unable to make it through the usual legislative procedure they are now trying a back door approach by drying up other sources of campaign funds.

Their current vehicle is the Obey-Railsback Amendment, to be offered on the House floor this week as a nongermane amendment to a bill authorizing appropriations for the Federal Election Commission. The amendment would greatly reduce the amount a candidate for the House can accept from individual Political Action Committees and place a limit for the first time on the total amount a candidate can receive from all PACs.

It is increasingly expensive to get elected. Strict limits are already in place on the amount individuals can contribute to political campaigns; if the same can be placed on PACs it won't be long before politicians desperate for re-election money turn to public financing—or so the self-appointed guardians of the public interest seem to hope.

We are unconvinced that taxpayer-financed political campaigns would make the politicians more responsible to the people. Somehow making election independent of any combination of constituent interests doesn't seem the way to make politicians answerable to the people. The federal bureaucracy already hands the Congress much of its legislative agenda, and it has successfully infringed congressional control over the purse strings by designing the budget that the Congress passes. Giving bureaucrats the power to hand out political campaign money seems to be a way of making Congress even more responsive to the federal establishment.

The evidence seems clear enough that PACs have increased grassroots political participation, making it more difficult for politicians to run over constituent interests. On the other hand, studies by impartial scholars have concluded that public financing and campaign contribution limits have reduced popular participation in the political process.

Before Congress takes any steps to restrict PAC campaign contributions, it should hold hearings and carefully consider the evidence concerning grassroots participation in politics. The Obey-Railsback approach is an attempt to end-run the congressional committee process—that is, it's a back door approach. Before Congressmen reach out for that enticing federal hand dripping campaign money, they should consider whether they want to be in the hands of the people or the arms of the federal bureaucracy.●

ENERGY FROM BIOMASS

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. FITHIAN. Mr. Speaker, in our wide-ranging search for new sources of energy, we have been lead from the Arctic Circle to the Yucatan; from the icy reaches of the North Sea to the plans for power satellites in the vast wasteland of outer space.

But in our continuing search for new sources of energy, we must not forget an energy source at our very doorstep—energy from biomass.

I am inserting for the benefit of my colleagues an outstanding summary of the potential for fuels from biomass taken from the Harvard Business School's distinguished report, "Energy Future"—Stobaugh and Yergin, Edit, Random House, 1979—with the hope that it will bring our search for energy alternatives closer to home.

In the course of the next few days, I will be introducing legislation to develop and promote biomass energy, including Senator TALMADGE's Agricultural, Forestry, and Rural Energy Act and my own Biomass Research and Development Authorization Act. As this legislation is introduced, I will be seeking your cosponsorship and support of these measures which will help fulfill the great promise of biomass energy for our Nation.

The article follows:

WOOD AND WASTE: OLDER THAN ROMAN POOLS

An ideal solar collector has already been designed. Requiring virtually no maintenance, it is economical and nonpolluting; it uses an established technology and it stores energy. It is called a plant.

Indeed, organic matter from plants and animals, or biomass, constitutes another near-term and accessible form of solar energy. Photosynthesis, occurring naturally worldwide, stores more than ten times as much energy annually in plant form than is consumed by all mankind. But very little of this energy is tapped, particularly in the developed countries.

This has not always been the case. Less than a century ago, wood was the United States' principal fuel. As recently as 1900, wood accounted for 25 percent of the country's total energy, but by 1976 it provided less than 1.5 percent, or about .5 million barrels per day. And most of the 1.5 percent—.4 mbd—came from the forest products industry, which burns tree wastes. By comparison, 8 percent of Sweden's and 15 percent of Finland's energy needs are met by wood.

True, the theoretical potential of biomass is very large, but within the continental United States, most of the land suitable for biomass production is legally withdrawn from timber harvesting or is already used to produce food, feed, fiber, or timber. Thus, only about 20 percent—400 million acres—is commercial forest land that can really be considered available for fuel. Even 20 percent would make for the equivalent of 3 million barrels a day. Achieving this contribution, however, could still encounter opposition from environmentalists. Another 1.5 mbd is economically recoverable from municipal solid and liquid waste and from animal manure; this recovery would also help to solve the problem of what to do with the waste generated in America.

There are several different methods for *bioconversion*, which is the term for the transformation of biomass into usable energy. One is the simple direct burning of solid wood or other plants. The second is the conversion of biomass into a liquid. Brazil, for instance, has a goal of replacing 20 percent of its gasoline with alcohol derived from plant matter, primarily sugar cane, by 1980. A third method is a biological process in which bacteria break down organic waste into methane gas. Considerable research is now going on to develop new sources of biomass, such as quick-growing plants, that would provide greater energy intensities.

But for the remainder of this century, wood and related waste products will continue to be the United States' principal source of domestic biomass. There are three major markets where the potential 3 mbd of additional wood and wood waste could be consumed: the forest products industry, residential wood heating, and industrial firms and utilities that employ coal-fired boilers.

Today the main consumer of wood for energy generation is the forest products industry, which derives 45 percent of its total energy needs from burning bark and mill waste, primarily. But the industry could become totally self-sufficient in about a decade without great difficulty by burning additional quantities of wood and wood waste, thus saving an additional million barrels of oil a day equivalent.

Another major market for wood could be residential wood heating. Sales of wood stoves have been booming since the oil embargo. One survey estimates that the number of installed wood stoves has increased from one million in 1974 to as many as five million in 1978. If the new stoves' wood-burning capacity were used at the same rate as the old capacity, a fivefold increase in home wood consumption—from .1 mbd to .5 mbd—would be realized. Sustaining the present level of sales of about one million stoves a year would mean that capacity would increase at the rate of one quad—10^{15} BTU equals one quad, or about half a million barrels of oil daily—every five years.

But there are, of course, short-term limits to supplies of wood and waste. If every American household installed a wood stove, the demand might rise to the oil equivalent of 7 mbd of wood and forest waste. This considerably exceeds the near-term supply of about 3 mbd of wood and forest wastes that may be obtainable annually without resorting to sophisticated forest-management techniques and new tree species.

But will this biomass forest yield be used? Economics will again be a major determinant. The problem can be illustrated by looking at a third category of potential use—industrial firms and utilities that presently employ coal-fired boilers. Wood and dry crop wastes have an energy content of about 16 million BTU per ton. By comparison, coal—wood's old rival and still, for many purposes, its principal competitor ranges from 16 million BTU per ton for Western coals to 25 million BTU per ton for the good Eastern coals. In other words, wood is roughly competitive with Western coal. However, the economics of any further comparison are influenced by two offsetting factors: Coal is easier to transport and to use than wood and dry crop waste; coal, however, is a notoriously bad pollutant, whereas wood contains, on the average, less than one tenth of the sulfur content of coal.

Yet the constraining effects of both factors can be dealt with. Coal pollution can be greatly reduced by adding scrubbers. And the difficulty in transporting wood can be significantly reduced by compressing it into half-inch-diameter wood pellets that are more convenient to handle than coal. Such being the case, the cost of both processes must be included in any fair economic comparison. Without sulfur scrubbers, the cost of both fuels is comparable ($32 per ton delivered, or $2 per million BTU for wood and Western coal, or $1.30 per million BTU for Eastern coal). But this price for wood can be obtained only if the consumption point, the pelletizing plant, and the forest source are all within a few hundred miles of each other. At longer distances the economics generally favor coal. But when the costs of sulfur scrubbing are included ($15 per ton), shipping the wood pellets becomes economical over an additional several hundred miles. A full comparison must be more elaborate, but the important point is that, under many circumstances, wood and dry crop wastes can compete with coal.

The pelletizing described above is the key to wood's competitiveness as an industrial boiler fuel. Only if wood is pelletized can it be used as a substitute in a somewhat modified coal-fired system, and pelletizing also simplifies transportation and storage. Burning pelletized wood can be economical. One firm in Tennessee installed a $2.3 million boiler capable of firing 500 tons of pellets or wood chips per day, and has found that the savings in conventional fuel costs provided a payback of less than five years. A utility in Vermont, Burlington Electric, generates one third of its electricity production with wood pellets in a wood-chip burner. (In Hawaii, sugar cane residues are used not only to make process steam and electricity for sugar mills, but also to provide almost 20 percent of total utility power on the island.)

Pelletizing is not only economical, its technology is also simple and familiar. The basic process is at least twenty years old, and the equipment and techniques are very similar to those employed in agricultural feed manufacture. Although only a few firms are now active in pelletizing, interest is picking up. According to an executive of a pelletizing systems manufacturer, "Only a year ago it was difficult to get people to talk to us. Now even the large firms are calling."

Wide diffusion of pelletizing would require substantial supplies of raw biomass, necessitating either the management of present forests for fuel source or the establishment of large "energy plantations" devoted to the growing of energy crops. The latter constitutes one of the best hopes for long-term renewable energy, and it is beginning to attract considerable interest. However, two barriers stand in the way. The first is cost. For energy plantations, biomass would represent the main income, not a supplementary one, as for timberlands. When forest economics are analyzed on the basis of cutting down the entire tree for energy, the cost of pelletized wood triples to $5 or $6 per million BTU. But research in improved tree cultivation and tree species could reduce this cost by half during the next decade.

The second obstacle is land—a great deal of which would be required for large energy plantations. According to one estimate, to produce the oil equivalent of 10mbd, a billion acres would be needed, which is all the commercial forest land in the United States. But improved techniques could reduce the amount of land required.

There is much to recommend wood and forest waste as a source of energy. The process of growing trees is familiar, the economics are attractive in many situations, pollution is low, and storage capability is inherent. In the short term, the oil equivalent of 3 mbd of energy may be achieved by the increased use of wood and wood waste in residential heating and in the forest products industry. In the longer term—twenty-five years or more—four times as much energy may be available from this source via a system of energy plantations.

The other major near-term biomass source is municipal and animal wastes, which a biological process can turn into perhaps an additional 1.5 mbd of useful energy. Organic waste can be transformed into a low-BTU gas, containing methane. In less sophisticated forms, the technology has been used in sewage-treatment plants since the turn of the century. One of the best examples of the methane approach is the innovative system designed and managed by Biogas of Colorado, which "harvests" the manure produced by 40,000 head of cattle at a huge feedlot in Lamar, Colorado, and converts the waste into enough methane to provide half the fuel for a 50 megawatt power plant.

Federal energy policy should encourage bioconversion research, especially for small and medium-scale products. A major effort is needed to familiarize foresters, farmers, and businessmen with the benefits and potential of biomass. Bioconversion incentives should also be incorporated into utility regulations.

Today, biomass has strong regional rather than national support and interest. California's Energy Resource Conservation and

Development Commission, for example, funded a demonstration of a biomass gas producer from an old Swedish design, even though the federal government backed out. Federal programs should encourage, not discourage, such innovative activity at the regional level.

Meanwhile, large biomass projects, such as energy plantations, may not have an impact in this century. But well-developed, locally based technologies could provide 6 percent of U.S. energy needs by the end of the century, as opposed to less than 2 percent today.●

NAVY FOGGED BAY AREA WITH BACTERIA

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. JOHN L. BURTON. Mr. Speaker, I include an article from the Washington Post of September 17, 1979, in connection with the amendment, which I intend to offer, that was referred to in my 1-minute speech today.

NAVY FOGGED BAY AREA WITH BACTERIA

(By Bill Richards)

In an experiment designed to determine both attack and defense capabilities with biological weapons, a Navy ship blanketed San Francisco and its neighboring communities with a bacteria-laden smog for six days in 1950, according to U.S. military records.

The records concluded that nearly every one of San Francisco's 800,000 residents was exposed to the cloud released by a Navy ship steaming up and down just outside the Golden Gate bridge.

The aerosol released by the ship contained a bacteria known as serratia, which was thought harmless by the military at the time but which has been found since to cause a type of pneumonia that can be fatal.

The Defense Department documents and related interviews yesterday indicate that the Army, which sponsored the testing, never revealed the nature of the experiments despite an outbreak in San Francisco at that time of serratia-related pneumonia.

The documents were released recently to the family of Edward Nevins, a retired San Francisco pipefitter who died during the serratia pneumonia outbreak. Eleven other cases of the disease were confirmed at Stanford University Hospital at the time, but all those victims survived.

Nevins' children, grandchildren and great-grandchildren are suing the Army for $11 million. The suit charges that Nevins, 75, died as a result of exposure to the bacteria let loose during the military experiment.

The nature and size of the biological warfare experiment in San Francisco raises questions about similar open-air tests that the Army disclosed in 1977 it had conducted on 239 occasions between 1949 and 1969.

In its 1977 testimony to the Senate health subcommittee, the Army said that 80 of the 239 tests included some sort of disease-producing agent. The tests were conducted in Washington, New York City, Key West and Panama City, Fla., and San Francisco.

An Army spokesman said yesterday he could not determine immediately whether the spraying was similar in all the cities to that done off San Francisco.

According to the documents released to the Nevins family, a Navy auxiliary mine-laying vessel spent six days cruising just outside of San Francisco Bay. Crewmen on the ship released an aerosol contaminated with bacillus globigii and serratia marcescens.

A report, which was classified at the time, said the threefold objectives of the tests were:

"To study the offensive possibilities of attacking a seaport city with a BW (biological warfare) aerosol generated from a ship or other source located some distance off shore.

"To attempt to measure the magnitude of the defensive problem presented by (a) above.

"To gain additional data on the behavior of BW aerosol as it is borne downwind."

The report said the spray covered 117 square miles of San Francisco and neighboring areas. "Nearly all of San Francisco received 500 particle minutes per liter," the report said.

"In other words, nearly every one of the 800,000 people in San Francisco exposed to the cloud at normal breathing rate . . . inhaled 5,000 or more fluorescent particles," the report said.

"Any other area," the report continued, "having a steady wind and a degree of atmospheric stability comparable to San Francisco is vulnerable to a similar type of attack and there are many such areas in the U.S. and elsewhere."

The spraying took place between Sept. 20 and Sept. 26, 1950. The 1951 Army report does not mention it but cases of serratia pneumonia, a rare disease, began appearing almost immediately. Nevins died Nov. 1, 1950, at the old Stanford Hospital in San Francisco.

Nevins' grandson James, a San Francisco attorney, said yesterday that the Army did not notify his family of the reason for the death and apparently did not tell officials at Stanford Hospital.

"In 1951 the doctors at the hospital who treated Edward Nevins and the others wrote an article in the archives of internal medicine expressing puzzlement over the outbreak of such a rare disease," said Jerrold Ladar, the attorney for the family in the case.

The Nevins family found out about the experiment in an article in the Long Island newspaper Newsday in 1976, Ladar said. "All they knew before that was that Nevins went into the hospital for a successful hernia operation and ended up dying a very painful death with clear evidence of serratia in his blood and urine samples."●

PERSONAL EXPLANATION

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. MAVROULES. Mr. Speaker, on Tuesday, September 25, 1979, I missed several votes, including the voice vote on the 5.5-percent congressional pay raise.

This was due to the untimely death of a dear friend and associate, Regina Falkowski, who managed one of my district offices, and whose funeral I attended on Tuesday.

Had I been present, Mr. Speaker, I would have voted against the pay raise, as I have done in the past.●

CANCELLATION OF IRANIAN ARMS PURCHASES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of any colleagues correspondence I have had with the Department of Defense regarding the cancellation earlier this year by Iran of several billion dollars in arms sales agreements. I asked the Department of Defense to comment on a report by the General Accounting Office, published July 25, 1979, entitled "Financial and Legal Implications of Iran's Cancellation of Arms Purchase Agreements." The report makes several recommendations on how to deal with potential termination costs of U.S. foreign military sales by foreign purchases.

According to GAO:

> The Iranian government cancelled and/or the Defense Department reduced about $10.6 billion of Iran's about $12.6 billion in undelivered foreign military sales orders.

Since the Arms Export Control Act, which is the statutory mechanism under which the U.S. foreign military sales program is carried out, does not require that all foreign customer costs be available at all times to cover potential cancellation costs of a foreign sales agreement by a foreign government, the cancellation of these sales by Iran raises many legal and financial questions concerning the potential liability of the U.S. Government. The GAO report made several recommendations on how to deal with the implications of arms sales cancellations and contains a useful chart on the activities of the Iranian Trust Fund from April 1977, an update of which is provided in the Department of Defense's letter.

The Department of Defense states that legislation to require FMS customers to provide full termination costs for all purchases, as suggested by GAO, would create substantial and time-consuming technical difficulties that might affect other aspects of the FMS program and complicate relations with other FMS customers.

The correspondence follows:

WASHINGTON, D.C.,
September 4, 1979.

Lt. Gen. ERNEST GRAVES,
Director, Defense Security Assistance Agency,
The Pentagon, Washington, D.C.

DEAR GENERAL GRAVES: In its report entitled "Financial and Legal Implications of Iran's Cancellation of Arms Purchase Agreements," the General Accounting Office (GAO) makes several findings and recommendations on the legal authority of the Department of Defense and the procedures employed by the Department in the matter of the cancellation of arms sales agreements concluded between the United States and Iran. I would appreciate your comments on the GAO findings and recommendations.

In particular, I would like your opinion of GAO's recommendation that the Arms Export Control Act should be amended to require foreign governments to pay, in advance, amounts sufficient to cover, at any time, all costs and damages associated with their arms purchases, including potential termination costs. I would like to know what specific steps are being taken by the Department of Defense to have sufficient funds to cover potential termination costs on other foreign military sales and to prevent the United States from being liable to aid U.S. arms contractors for any unpaid balances.

Finally, Appendix V of the GAO report contains a schedule of the Iranian trust fund activity for the 26-month period from April 1977 to May 1979. I would like you to verify the accuracy of this information as well as provide me with an update of the fund's activity on a quarterly basis.

With best regards.

Sincerely yours,

Lee H. Hamilton,
Chairman, Subcommittee on Europe and the Middle East.

Defense Security Assistance Agency,
Washington, D.C., September 21, 1979.

In reply refer to: I-8914/79.

Hon. Lee H. Hamilton,
Chairman, Subcommittee on Europe and the Middle East, Washington, D.C.

Dear Mr. Chairman: Thank you for the opportunity to present my views on the report by the General Accounting Office (GAO) titled "Financial and Legal Implications of Iran's Cancellation of Arms Purchase Agreements".

Department of Defense (DOD) policy long has been to maintain sufficient Foreign Military Sales (FMS) trust fund reserves to meet all potential FMS financial liabilities, including termination costs. As of June 30, 1979, there was $3.4 billion of foreign deposits reserved in the trust fund to cover potential termination liability costs.

We have recognized, partially as a result of the Iranian experience, the need for improvement in the procedures used to assess charges for termination liability reserves. We therefore have published detailed instructions which provide better guidelines for the calculation of estimated termination costs by our Military Departments. This will improve our capability to calculate more accurately the amount of funds required for this purpose. However, these cost estimates require continual revision as the procurement programs unfold in detail, which in turn generate revisions in the trust fund deposit requirements. We are concerned that new legislation guidelines could require a degree of exactness in these estimates which is greater than is technically possible and which would be at the expense of the management of other aspects of the FMS program. The technical difficulties plus the requirement for extraordinary management to produce finite estimates is apparently recognized by the GAO since, during the four months that their auditors reviewed the DOD actions taken with respect to Iranian cancellations, they chose not to update the DOD termination liability estimate mentioned on page 8, Appendix 1 of the report. This observation should not be construed as criticism of the report, but rather to indicate that the undertaking of such an effort to update the estimate must have been recognized as quite time consuming.

We are also concerned that new legislation could complicate relations with FMS purchasers. The cancellation of the Iranian program is without precedent in both its magnitude and its abruptness. We believe that remaining FMS purchasers could misconstrue legislation requiring advance payment for possible termination costs. Such purchasers are, by and large, friends and close allies with an unquestionable commitment to payment of FMS obligations. To incorporate into legislation our policy of requiring advance payments for possible termination costs risks creating misunderstandings with those very nations which are least likely to cancel their FMS programs.

For the above reasons, we do not believe that new legislation is necessary to insure the continued maintenance of termination liability reserves.

With respect to Annex V of the GAO report, we have verified and updated the information. The update is attached. We will provide you continuing quarterly reports in the format at Appendix V, beginning December 31.

We hope that this will be helpful to you and the members of the subcommittee. I would be pleased to discuss the matter personally with you, if you should desire.

Sincerely,

Ernest Graves,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

SCHEDULE OF IRANIAN TRUST FUND ACTIVITY

[As of the last day of each month]

	Deposits	Disbursements	Balance
May 1979	$219,776	[1] $61,979,247	[1] $282,752,596
June 1979	632,050	138,192,537	145,192,108
July 1979	2,932	[2] −421,021,289	566,216,328

[1] Data in appendix V were estimated; values shown here are actual.

[2] Negative value is due to refund of $490,500,000 by U.S. Navy in connection with its purchase of 4 Spruance class destroyers originally scheduled for Iran. ●

HOWARD SHUMAN PENS TRIBUTE TO PAUL DOUGLAS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. SIMON. Mr. Speaker, one of the giants of the U.S. Senate in this century was Senator Paul H. Douglas.

His administrative assistant, Howard Shuman, now administrative assistant to Senator William Proxmire, has written a fitting tribute to Senator Douglas which has appeared in Challenge, the Magazine of Economic Affairs.

The article deserves much wider circulation, and I hope my colleagues will read it.

And, I hope Howard Shuman, who rendered great service to Senator Douglas and is doing the same for Senator Proxmire, will consider using these same writing skills one of these years to do a really fine biography of Senator Douglas who continues to stand as a symbol of rectitude and justice.

Paul Howard Douglas

(By Howard Shuman)

For anyone who worked with Paul Howard Douglas it is impossible to write about him without indulging in hagiography. To know him and to share in his civic battles was to love him. He invoked from his comrades in conflict and his staff an intensity of work and a depth of loyalty unique in my experience.

The author of *The Theory of Wages* (1934), which he said was ". . . my chief claim to scholarly distinction" and more than a dozen other books, both economic and political, Paul Douglas combined a massive intelligence with great strength of personal character.

On "Paul's Wall" over the couch in his senatorial office hung portraits of his heroes—Abraham Lincoln of Illinois, Jane Adams, Old Bob La Follette, George Norris, John Peter Altgeld (Illinois' greatest Governor), and Clarence Darrow who, though less saintly than the others, was there because he was Douglas' friend and a champion of the underdog.

Douglas might have added the portrait of another of their stature who was also his hero. In 1952, the Eastern establishment, who than had a veto over the presidential candidates of both parties, wanted him to run as the Democratic candidate for President and offered him a million-dollar campaign war chest if he would do so. Douglas, who long before had decided the Senate was the zenith of his ambitions, nevertheless went to New York to be interviewed at a gathering of bankers, publishers, and financiers. In answering the question, who was his boyhood hero, he averred with a certain enthusiasm and detail that it was Eugene Victor Debs. That stopped the Douglas bandwagon.

Saintly he was and honest. Before his secretary was permitted to say to phone callers that he was out of the office, he would literally step out into the hallway of the old Senate Office Building. Because of the oath he had to sign that he knew nothing of the various citizens' campaign funds raised on his behalf, he would leave the room whenever the subject was discussed. When he traveled by plane, he would be the last one on and the last one off, patiently waiting at the end of the line, never misusing his senatorial station to gain special privilege. He loathed the head table at Democratic dinners and made a point of working the crowd while lesser officials sat in splendor above the audience and ate.

He seldom referred to himself as "Senator" and never as "Doctor." He answered the phone with, "This is Mr. Douglas," and his staff always referred to him affectionately as "Mr. D."

As a Senator and politician he may have mellowed in his later years. We were once looking at an old picture taken of him in the 1930s. He was dressed in academic gown, thumbs in his vest, and nose held high at a haughty angle. He looked at himself and proclaimed, "I don't like that fellow."

Often he could not bring himself to tell a white lie even to avoid offending. I was present when the Chairman of the Federal Reserve Board, William McChesney Martin, came to Douglas' office to say that a number of people had reported some uncomplimentary Douglas comments about Martin's monetary policies. Martin said he was certain Douglas had not said them but wanted to hear the denial from the Senator himself. Instead of agreeing politely, Douglas turned to him and said, "I don't remember saying those things. But since I've thought them many times, I probably said them."

On other occasions he was more diplomatic. In 1966 a man who wanted to be appointed a federal judge sent Mr. Douglas an enormous campaign contribution—several thousand dollars. Mr. Douglas returned the check with a note saying that in view of the man's wish to be appointed a judge it would be improper to accept it. The man persisted and sent the check back with a note saying there was no connection between his desire to be a judge and his massive contribution. Mr. Douglas replied again. "I know there is no connection between your candidacy and your generous contribution, but since other people might think so I am returning your check."

Douglas was a convert to the Society of Friends and took his responsibilities seriously. He rose early, and routinely he spent the first half hour of the day meditating in the Quaker fashion. Late one afternoon after a tumultuous morning hearing with George Humphrey, the selfmade industrialist, ultraconservative, and boorish Secretary of the Treasury under Eisenhower, Douglas said to me in an informal moment, "I hate the Republicans. I hate George Humphrey." It was so casual I forgot it. The next morning, promptly as I arrived, he called me into his office. Very seriously he repeated the previous day's comment. "I've been thinking about that," he said. "I apologize, I shouldn't have said it or thought it. I must not have hate in my heart."

His spirit of selflessness went far beyond these incidents. He joined the Marines as a private at age 50 during the Second World War. He went through basic training at Parris Island and was selected the best "boot" in the camp. He was allowed to go overseas on condition that he not take part in combat. Yet, as adjutant of the First Marine Division he exposed himself to enemy fire daily when his division was in combat and routinely volunteered for stretcher-bearing duty. While the men wondered about that "old grey-headed fellow rushing around like crazy up there," he won the Bronze Star at Peleliu. At the Naha-Shuri line in Okinawa he was wounded while working as a medic for K Company and was brought back to a first aid station located in a cave on the palisades where, covered with dirt and blood, he lay bleeding dangerously from the wound in his left upper arm. According to Chaplain Berman of the Sixth Marine Division, which fought next to the First Division at the Naha-Shuri line, Douglas, badly hit, identified himself as a private, rather than a major, his actual rank. "When I asked Douglas why he had indicated he was a private," wrote Berman, "he told me he didn't want to get any special consideration or treatment."

At Peleliu Douglas survived hand-to-hand combat in a cave with a Japanese sniper who had killed two Marines on successive days. He wrote in his autobiography, *In the Fullness of Time*, "As I came out, covered with mud and blood, the thought went through my head that perhaps the fellow was a professor of economics at the University of Tokyo. What a world it is that causes each of us to seek the other's life."

Mr. Douglas had a loathing for sham and pretense. As a graduate student at Harvard, he had often been deeply offended by Professor Frank W. Taussig, who routinely tried to put him down, and by the snubs of some of his supercilious student colleagues. Later in life, in a Harvard speech, he took great pleasure in detailing the white collar rogues and thieves Harvard had spawned, and quoted with a certain verve, much to the shock and chagrin of President Conant, the Old English quatrain. "The law locks up both man and woman who steals the goose from off the Common; but lets the greater felon loose, who steals the Common from the goose."

His attitude toward Harvard helps to illuminate an event in his life which he said could have ruined his career.

At one of the Pacific battles where his beloved Marines were under intense fire, he ordered a Navy doctor to the front lines to attend the wounded. The man refused. He said he was a Harvard Medical School graduate with training too valuable to risk his life. Incensed by his refusal, Douglas took out his weapon, pointed it at the doctor's head, and marched him to the front lines. Years later he told me he still shuddered when he thought about it: he had been so outraged that he had been prepared to shoot the man if he refused again.

All this explains why he was offended when some of his political brethren wore their war wounds on their chests. Even in a desperate political situation on the Friday before his defeat in the 1966 election he refused to give a speech drafted by that superb craftsman John Bartlow Martin, in which the repeated punch line was. "Tell that to the Marines." He sent me off to draft a new one only an hour before he addressed a vast throng in Chicago's Loop at the climax of the huge traditional Democratic parade.

He often commented that civic courage called for greater character than military courage. "When I was a Marine", he said, "the Japanese were shooting at my body. In the Senate they are after my soul."

Paul Douglas had many careers. He was first and foremost a teacher and economist. He took great satisfaction when in later life the Cobb-Douglas production function was vindicated after the derision it encountered when it was first published in 1928. As a pathbreaking explanation of the relative constancy of the shares of capital and labor in national income, this function is now widely used in theories of income distribution, production, and growth. "The work never received a favorable word from my old colleagues, whose criticism had, indeed, been severe," he wrote. And therein, too, lies a tale.

Whenever I wrote an article for him he would, unlike most politicians, insist not only on putting my name on it but on listing it first. I would demur and tell him the magazine did not want an article by his anonymous administrative assistant but by a United States Senator. Reluctantly he would switch the order of names, but he was always faithful not only in using my name but in giving me the honorarium if I had done the work. This practice grew out of the contempt he felt for numerous academic colleagues who plagiarized the work of their graduate students and proffered it as their own. I believe this is why mathematician Cobb's name was placed first on that seminal economic work. With Douglas' generosity of spirit, he would have reasoned that "C" comes before "D" in the alphabet.

Long before he entered the Senate, Paul Douglas was an idealist, citizen reformer, and man of action. He helped write the original Social Security Act. He was in New York at the time of the Triangle fire, a disastrous blaze that broke out in a garment factory in lower Manhattan in 1911. Because of it he joined forces with the International Ladies' Garment Workers' Union in their organizational efforts. He and Arthur Goldberg were the only two outside intellectuals who helped organize the United Steel Workers. The Steel Workers never forgot this. They rewarded Goldberg by hiring him as their attorney, and remained politically loyal to Paul Douglas when lesser men and institutions treated him and his causes as orphans. They backed his fierce fight to save the Indiana Dunes as a National Lakeshore and fought at his side in his 1966 election defeat.

He was a Chicago Alderman (he often noted that that experience was the training ground for political combat with Lyndon Johnson and Robert Kerr), a fighting Marine, and a United States Senator, but fundamentally he remained a teacher. In the Senate, on the political stump, and at Democratic Party rallies, he was the expositor and simplifier. He quoted poetry, had an apt phrase from Bartlett or a classical sally for the occasion, and used clear examples and simple props to make his points.

He illustrated military waste by holding up in the Senate a simple light bulb socket which we bought for 25 cents, but for which the Navy had paid $21.10. Once his staff had to restrain him from taking a meat cleaver and a scalpel onto the Senate floor to illustrate the difference between intelligent and meat-axe efforts to cut the budget. As he spoke he roamed from one side of the Senate chamber to the other, or up and down the aisles at a political meeting occasionally pressing his point by slapping the thigh of a male member of the audience sitting on the aisle, as he did to his students in his classes at the University of Chicago.

When campaigning in central Illinois he would explain to Democratic street corner crowds and court house lawn rallies in heavily Republican areas that what they were up against was not the G.O.P., but the glaciers. Chicago, Cook County, and the lower third of the state south of the Taylorville moraine were Democratic. North of Springfield it was hard-boiled, tough-minded, right-wing, Goldwater Republican country. "When the glaciers receded," he would say, "they left thick black mud. The black mud turned into fertile prairies. The fertile prairies created prosperous farmers. And prosperous farmers are Republicans. It's not your fault we're the minority party here," he would say. "Blame it on the glaciers."

His phenomenal intelligence was exemplified by almost perfect recall. He could lecture for an hour making sequential points in faultless grammar without a note. In his late seventies he complained that he felt it necessary to have a short outline when he spoke. (Most people half his age would never venture into an important occasion without one.)

His tastes and abilities were catholic. I was with him when, in an effort to get the British to remove their restrictions against our cars and chickens, he quoted Cobden and Bright to the Chancellor of the Exchequer, astounded Swiss newsmen with his knowledge of the history of their cantons, sought out Michelangelo's Madonna of Bruges on the altar of Notre Dame in that medieval city, and in perfect German entreated a spontaneous gathering of several hundred people in the plaza before City Hall in Berlin to stand firm against the Russians at the time of the Berlin Wall in 1961. They cheered.

At one stage in his life he had systematically swatted up American political and constitutional history, chemistry, physics, mathematics, Italian art, English and American poetry, and a host of other subjects in addition to economics and economic history. He knew the details of the Constitution, the views of the Founding Fathers, and the history of the Supreme Court. He was both scholar and man of action.

Only moments before he was to give his presidential address to the American Economic Association in Chicago in 1947 he was informed by Colonel Jacob Arvey that he had been selected as the Democratic nominee for the Senate. He turned to his wife Emily and quoted the lines from *Othello*, "Oh, now forever/Farewell the tranquil mind." But that was no farewell. His election may have ended the tranquil life but it did not end his intellectual career. In the Senate he applied his professional economic skills to the critical analysis of public works projects, subsidies for lead and zinc, sugar bills, maritime subsidies, fiscal policy, reclamation projects (where he compared the spending of over $2,000 an acre to reclaim land on the Upper Colorado River project on which to grow crops of hay worth $100 an acre, to growing bananas on Pike's Peak), restrictive tariffs, social security, welfare, housing, and medicare issues.

He was the father of the 1951 Federal Reserve-Treasury Accord. In 1960, as Chairman of the Joint Economic Committee of Congress, he oversaw the massive study on employment, growth, and prices and thrust into prominence economists like Otto Eckstein, Warren Smith, and Charles Schultze. When canvassing for a staff director, Mr. Douglas called Jacob Viner at Princeton to ask for a recommendation. Douglas wanted a young man—he feared an older, established economist would run out of gas—and asked Viner for his brightest and ablest postdoctoral student. The answer was Eckstein, whom Douglas interviewed, hired, and helped launch on his spectacular career.

Douglas said Paul Samuelson was his most brilliant student and confessed that Samuelson and a small group of contemporaries had kept him on his toes with their questions as no other students had done.

Douglas was an environmentalist and consumer advocate before the words were in common use. He coined the phrase, "A liberal need not be a wastrel," and was critical of those fellow economists so caught up in macroeconomics that they failed to discriminate between good and bad spending. He saved the Indiana Dunes from the ravages of both the steel companies and the Indiana politicians. He not only wrote a book on *Ethics in Government*, but practiced it by returning any gift (except a book) worth more than $2.50. At the same time he was very forgiving of the sins of his colleagues. "A Senator is confronted with more temptations in a year than most people are in the course of a lifetime," he said.

With Bill Proxmire as his floor lieutenant, he blocked the attempt by Everett Dirksen to overthrow the One Man-One Vote decision. Needing one-third plus one to prevent cloture and the desecration of that great decision, in the end Douglas and Proxmire got two-thirds while Dirksen was left with one-third of the votes. While his use of the filibuster may seem inconsistent with his leadership of the fight for majority rule in the Senate, he justified using it to stop bad bills as long as it remained in the rules. "I do not intend to disarm unilaterally," was his view.

Douglas' relationships with Dirksen were generally friendly, if aloof, but this was not the only time they differed on a great issue. While Douglas was one of a handful of Senators with the courage to back Senator Ralph Flanders' early resolution against Joe McCarthy, Dirksen became McCarthy's floor leader and defense lawyer during the McCarthy censure debate.

It says something about the Senate at the time that it memorialized both the defender of Joe McCarthy and the leader of the segregationists in that body (Senator Richard Russell) by naming the two present office buildings for them.

Douglas was the floor leader in 1956, 1957, and 1960 for the civil rights bills to enforce voting rights and the right of minorities under the Fourteenth Amendment to eat in restaurants, stay at hotels and motels, and use public parks. While Douglas and his allies were ignominiously defeated initially—Johnson crushed them with a 76 to 6 vote in 1956—every key provision Douglas proposed finally became law in 1964 and 1965.

For example, in 1960 Douglas and Senator Javits of New York proposed an amendment to the Civil Rights bill to send federal registrars into those states where the right of blacks to vote was denied. Majority Leader Lyndon Johnson moved and Minority Leader Everett Dirksen seconded the successful motion to table and hence kill that amendment. Five years to the day later, Johnson, as President sent the identical language to the Senate and Senator Dirksen introduced it. Both then took credit for the bill and publicly preened themselves on the passage of this measure which they had originally opposed.

In 1951, with Joe Pechman as their expert, Paul Douglas and Hubert Humphrey launched the first Senate attempt to reform the tax code. Although success in this area has been slower than in most, ultimately even the hardy depletion allowance succumbed in part to their persistent efforts.

Douglas wrote the first Truth in Lending bill, drafted the Depressed Areas legislation (whose name was changed to Area Redevelopment, since no place was willing to be called depressed), and shepherded the public housing provisions of the landmark 1949 Housing Act through the Senate.

His hearings and research studies on the $1.00 minimum wage led to its passage without a vote. The Eisenhower administration proposed 90 cents. The AFL–CIO had commitments for $1.25 from a large nucleus of liberal Democratic and progressive Republican Senators. Douglas' detailed showing that $1.00 was the right figure persuaded the Republicans, who did not want to offend the administration, and the Democrats, who did not want to go back on their pledge, to allow the $1.00 figure to pass on a voice vote. It was a victory for objectivity over emotion, and at the time a considerable plum for an idealistic professor turned politican.

Paul Douglas' support of the Vietnam War was a mistake. That, along with the civil rights marches in Chicago in the hot summer of 1966 ("We're going to march until every white man in the suburbs votes Republican," was the perverse battle cry of Rev. Mr. James Bevel), and the murder of his opponent's (Charles Percy's) daughter played a far larger part in Douglas' ultimate defeat than his age (74). But his support of the war sprang from no mean or unworthy feeling. Its source was the same fundamental conviction in support of collective security which led Douglas to oppose Hitler and Mussolini in the 1930s. Even when facing defeat Douglas refused to hedge on Vietnam, as he refused to hedge on open housing. His opponent pandered to the prejudices of the bigots by claiming at the penultimate moment of the campaign that Douglas went too far in supporting an open housing bill which candidate Percy himself had actively embraced only a few months before when Douglas introduced it.

Douglas was never short of enemies. Year after year the lead sentence in a *Chicago Tribune* article would read "Senator Paul H. Douglas (D-Ill.), who supported a Socialist candidate for President, said today . . ." and it has recently been revealed that in 1941 the FBI put his name on a list of persons whose arrest and custodial detention might be necessary in time of war and maintained minutely detailed files on his political views until at least 1964.

Actually, Mr. Douglas went to Russia in 1927, interviewed Stalin and Trotsky, and drafted a scathing report on Soviet violations of civil liberties. In the 1930s he fought the Communist's Party's attempt to take over numerous progressive domestic groups. He spoke out against the Hitler-Stalin Pact of 1939, the litmus test for an opponent of the party line, and was denounced by a Communist daily in his own 5th Ward.

And although he supported Norman Thomas in 1932 because Hoover's policies were a disaster and Roosevelt was proposing a balanced budget at the depth of the depression, Mr. Douglas never joined the Socialist Party. He told me many times that because he believed in the diffusion of economic power he could not sign the required party pledge to support the ownership and control of the means of production by the state.

Mr. Douglas delighted in showing visitors to his office two pictures on each side of his inner office door. One was a print of Holbein's Erasmus. The other was a drawing of Sir Thomas More. He would point out that like himself, both had been professors. Like himself, Sir Thomas More went into politics, but Erasmus stayed out. He would relate how More's head was chopped off but Erasmus kept his. Then he would ask his guest in mock solemnity, "What is your advice? Should a professor go into politics and lose his head, or stay out?"

When he was defeated he gave each of us a token remembrance. His personal secretary got the print of Giorgione's *Tempest* which hung over her desk. He gave me the reproduction of Holbein's Erasmus and the drawing of Sir Thomas More.

Paul Douglas' life and career exemplify the standard set by Justice Oliver Wendell Holmes in his Memorial Day speech in 1884: "As life is action and passion it is required of a man that he should share in the passion and action of his time at peril of being judged not to have lived." ●

A LANDMARK DAY FOR THE ALLENTOWN-BETHLEHEM-EASTON AIRPORT

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. RITTER. Mr. Speaker, the Allentown-Bethlehem-Easton Airport is commemorating a half century of ever-expanding service to the Lehigh Valley with an 8-day celebration that will conclude with a gigantic air show on October 6–7, 1979.

My district of Lehigh and Northampton Counties is justifiably proud of this showpiece facility, which has grown from a grassy plot in 1929 to a 90-acre facility today. It is one of the few airports born in that period which is still serving airlines from its original location.

John Henry Leh, an Allentown businessman, is the sole surviving member of that group which had the vision to form the airport.

Mr. Leh and the Lehigh and Northampton Airport Authority, which administers the airport, hail the dedication of Wilfred M. "Wiley" Post, Jr., who has unselfishly given of his time and his effort and has served as airport manager since 1937.

Mr. Leh and Mr. Post are truly pioneers of American aviation.

A–B–E Airport is a key hub for air service. Five airlines—USAir (formerly Allegheny), Eastern, United, Altair, and Suburban—serve the airport.

Approximately 650,000 passengers will have enplaned or deplaned at A–B–E in 1979. The benefits to my district's economy have been tremendous.

The airport has kept pace with the aviation industry's growth. The new, three-story terminal complex, costing $11 million, was placed into service on December 15, 1975. The longest of the airport's three runways is 7,600 feet, enabling scheduled airlines to operate without restrictions and allowing larger charter operators to land and take off.

As an example of A–B–E's role in the Lehigh Valley's economic growth, there were more than 131,000 flights recorded at the airport in 1978. Sophisticated safety equipment has been added continually as demands have grown at the airport. The most recent addition is the new automated radar terminal system which enables traffic controllers to maintain safer communication between ground and air. Radar images, under this system, carry altimeter readings on control screens, assuring pilots an added dimension in safety.

Already on the drawing boards are plans for future improvements. These include a new maintenance building and development of general aviation needs for the nearly 100 planes, corporate and private, based at the airport.

The Lehigh Valley's future can almost be gaged by the airport's success. And the future seems to hold unlimited promise.

Mr. Speaker, today I join with the half million citizens of the Lehigh Valley, as well as with the thousands of other citizens who have used the airport for business or pleasure, in expressing our pride in the many people who have built and served the airport over the years. Its role goes far beyond merely transportation. A–B–E Airport is a hub of the Lehigh Valley, and one of our area's greatest success stories.●

TESTIMONY OF SOLAR LOBBY

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. EDGAR. Mr. Speaker, today, during hearings before the Public Buildings and Grounds Subcommittee, we heard some creative testimony from the Solar Lobby. I share Joan Shorey's comments in hopes that more active oversight might be developed at the Department of Energy and in Congress on these important issues. The statement follows:

TESTIMONY OF JOAN SHOREY OF THE SOLAR LOBBY

I thank you for the opportunity to appear before you today. I am here as a representative of the Solar Lobby, a non-profit organization formed over a year ago in response to the Sun Day, May 1978 clarion call for our country's transition to solar energy. Solar Lobby now has over 30,000 supporters. We have an active Washington Office and an expanding political network comprised of state and local leaders from the solar community.

During the 95th Congress Solar Lobby worked extensively on the Domestic Policy Review, which resulted in the President's declaration that the U.S. will obtain 20% of its energy from solar sources by the year 2000. We also strongly supported the Photovoltaic Research Development and Demonstration Act of 1978. During this 1st session of the 96th Congress, Solar Lobby has been very actively involved in the development of a strong Solar Bank Act, increasing the tax credits for both residential and commercial solar systems as well as expanding the IRS' interpretation of solar systems to include substantive passive solar energy provisions.

Another of the Lobby's highest priorities has been the oversight both of existing legislative programs and the tracking of regulations called for by recently enacted legislation. I have been particularly involved in this oversight and regulatory procedure, and I certainly stress the importance and necessity of hearings such as you have scheduled these two days.

The Federal Energy Initiative Title V of the National Energy Conservation Policy Act establishes a substantive foundation for a strong conservation and solar Federal program. The mandate is there. The opportunities to encompass solar heating and cooling and electrical generation in our Federal household are many. The procedures are articulated. Yet, practically nothing has happened.

It is essential that this committee specifically examine two fundamental problems that lie at the root of this inexcusable inaction. One is the inability of the management of the Department of Energy to implement the provisions of Title V according to the clearly expressed mandates of the legislation. The other is the failure of the proposed regulations to abide by Congressional intent. You must not allow Title V to waft away as it seems to be doing. Congressional surveillance is sorely needed.

During my work these past months three serious flaws in DOE's ability to cope with this legislation have surfaced over and over again. First, within the Office of Conservation and Solar Applications, the conservation and solar divisions are ineffectively coordinated. Second, staffing for specific solar energy responsibilities is totally inadequate. For instance, two programs with $100 million budget authorizations are each managed by one in-house staff member. And finally, support from the top echelon of DOE for even a bare bones Federal Energy Initiative program is minimal.

The report from the April 24 and 25 hearings of the House Government Operations Committee highlights some of this scandalous behavior and includes supporting memoranda. In addition, you will be hearing from the GAO about questions raised in several recent reports regarding the management of these Federal Solar and Conservation Building Programs.

Meantime, I would like to give you a rough idea of how these administrative faults and pressures have affected the drafting of the regulations called for in Title V.

Four specific proposed rules have been published in the Federal Register: The Federal Energy Management and Planning Programs; Procedures for Preliminary Audits and Guidelines for Building Plans, the Life Cycle Cost Methodology, the Solar in Federal Buildings Demonstration Program, and the Regulations to Monitor and Assess the Performance and Operation of Photovoltaic Systems under the Federal Photovoltaic Utilization Program. I will submit comments on these proposed rules for the record, if I may.

A few examples illustrate how necessary it is for you to be sure your congressional interests are truly reflected in the regulatory process and to pound the table and agitate bastions of DOE when they are not.

To begin, Part 3 section 547 calls for each Federal agency to conduct preliminary energy audits of all Federal buildings under its jurisdiction with 30,000 or more square feet and with 1,000 or more but less than 30,000 square feet. From these audits Federal agencies are to select those buildings most appropriate for retrofit measures for energy conservation and solar technology.

The preliminary energy audit guidelines were published in the April 26, 1979 Federal Register. But only buildings under 30,000 square feet are to be evaluated using solar criteria in the energy audits. Since these preliminary audits establish the first cut for candidate buildings to begin the retrofit program for both conservation and solar energy use, the exclusion of solar criteria from a sizable stock of the Federal store is plainly against the legislative intent. It is an omission however that would seem an easy issue to rectify. DOE nevertheless, claims it is too difficult, too expensive and that reports are already in for buildings over 30,000 square feet, even though these assessments were done prior to NECPA and before solar energy criteria were a part of the Federal Energy Management Program. Reluctance remains rampant. Why? And why did this omission occur in the first place?

One answer is that the Conservation Division, with scant input from any solar staff, drafted the rules. And the other answer is that the top management of DOE does not support a strong leadership role for its agency in terms of seeking compliance from other federal agencies in implementing the provisions in Title V. This latter point was rather dramatically documented in a DOE Memo that suggested that the Federal Energy Management Program "be as simple and light handed on the agencies as man can devise". Another memo questioned whether DOE should continue to "play the minimum role . . . the minimum we must do to stay out of jail." To my knowledge there is still no comprehensive solar and conservation preliminary energy audit despite the fact that this disregard of congressional intent has been brought to DOE attention by public comment and congressional inquiry.

For a second example of inadequate support for the Title V provisions, look to the management and coordination of the Demonstration of Solar Heating and Cooling in Federal Buildings, Part 2 of Title V.

This demonstration program calls for a $100 million program. And here is where a single person has had the responsibility for initiating the program and drafting the regulations. Money from this program should surely be spent in conjunction with the provisions of the Energy Conservation and Solar Energy Federal Buildings, Part 3 of Title V. But the proposed rules contain no hint that there is to be any coordination at all between the two demonstration programs. Indeed, instead of establishing means of meshing these responsibilities in DOE, the rules for this solar demonstration program indicate that once the program is under way, the management will be turned over to NASA.

As it stands, Section 549 of Part 3 requires each Federal Agency preparing and submitting requests to Congress for the authorization and appropriation of funds to identify in a separate line item those funds requested for the retrofit or initial costs of construction attributable to energy conservation or utilization of solar energy.

I certainly hope this committee will pay special attention to the substance and frequency of these line items. They will indicate to you the commitment of federal agencies to solar and conservation. They can serve as DOE's report cards on Title V. Examine them closely.

A third example of DOE's timidity in bringing forward Title V's provisions is its handling of the life-cycle cost methodology called for in section 545 of Part 3 of Title V.

A life-cycle cost evaluation, as you are aware, is particularly important for solar energy where the initial costs may be higher than conventional energy but the eventual payback lower. The subsidies given other fuel sources, the marginal costs of conventional fuel, and price escalation projections must all be taken into account when the economics of solar versus conventional fuel is evaluated. These considerations should be a part of a life-cycle cost methodology. But the proposed rules establishing the life-cycle cost criteria leave out several. I am submitting testimony on these particular issues previously submitted by the Center for Renewable Resources.

What the proposed rule for a life-cycle cost procedure does incorporate however, is the 10% discount rate established in 1972 by OMB for Federal procurements. And it is an error.

The legislative mandate requesting this life-cycle costs methodology does call for the consultation of DOE with the Office of Management and Budget. But it is certainly not meant to sanction a procedure developed in 1972 before it was widely understood that a special economic evaluation should be related to solar and energy conservation. Surely the drafters of NECPA asked for a new formula. But it is like moulding saw dust to get the top DOE cadre to overthrow outdated strictures.

Several memoranda have been circulated within DOE to set specific discount rates for solar energy applications apart from this 1972 provision. In addition, a letter signed by 15 Senators and 32 Congressmen was sent on July 5th to Secretary Schlesinger raising substantive questions about the provisions of the proposed rule on life-cycle costs and questioning the applicability of the existing OMB discount rate. Moreover the Office of Technology Assessment sent a letter to Senator Durkin commenting on the proposed rule. I urge this Committee to address this issue.

Commenting on regulations is often a joyless task—and one performed without a large body of supporters. But how necessary it is. It has certainly been a revelation to me these past months to see how far afield the proposed rules can be from what are seemingly clearly established Congressional mandates.

I heartily support committees such as yours that take an active interest in exactly what happens to legislative provisions in the rulemaking process.

The NECPA's Title V, as well as past initiatives dealing with conservation and solar energy use in Federal buildings, have simply not been pursued with any vigor or substance by the Department of Energy or the Administration as a whole. It is a tragedy. Congress asked the Federal Government to move into the forefront of energy conservation and solar energy use in its own plentiful and visible stock of buildings. Legislative provisions are there. Apt regulations could set it all in motion. But it seems like Sisyphus pushing a rock up a hill: Progress never seems to take place. Perhaps this committee can assure a forward-moving Federal Initiative. I hope so and offer any further help that Solar Lobby can provide in moving and overturning the rocks in the way. Thank you for allowing me to have my say here today.●

A GOOD BILL FOR THE FISHING INDUSTRY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, on July 31, 1979, I introduced H.R. 5035, the Fisheries Advanced Technology Transfer Act, with 15 cosponsors. Today, I am reintroducing identical legislation with an additional seven cosponsors.

My reason for doing so is simple: During the past 2 weeks, the Subcommittee on Fisheries and Wildlife Conservation and the Environment has been holding hearings on H.R. 4360, a piece of legislation which will, in my opinion, negate the benefits of our 200-mile fisheries conservation law. As one witness remarked to the subcommittee, the U.S. fishing industry neither wants nor needs the program proposed in H.R. 4360. H.R. 4360 will allow, under a regulatory mechanism that has not been fully explained, foreign fishing vessels to fish within our 200-mile zone to teach U.S. fishermen how to fish. This is patently ridiculous! The U.S. fishing industry has already taken advantage of the 200-mile law to move into underdeveloped fisheries. We have seen reductions in foreign quotas of pollock, herring, and cod. The North Pacific Fishery Management Council will meet shortly to examine the tanner crab fishery and is expected to ban all foreign fishing for tanner crab because U.S. fishermen are capable of fully utilizing the resource. At least one fishing company on the east coast has invested over $2 million in new vessels to catch Atlantic squid. Our fishermen do not need foreign vessels to teach them how to fish.

One potential problem that has been identified is the transfer of foreign technology to U.S. fishermen. There is some indication that the U.S. fishing industry would develop more rapidly if technology currently available in foreign nations was brought to the United States. My bill will accomplish that without allowing foreign vessels within our 200-mile zone. It provides for a 6-month study by the Department of Commerce of the technology that may be available and a 2-year program on a shared cost basis that will introduce that technology to the U.S. fishing industry through workshops, seminars, and test projects. My bill has been endorsed by the National Federation of Fishermen, the Alaska Shrimp Trawlers Association, and numerous individual fishermen and processors. These same individuals and groups oppose H.R. 4360.

I think that we can, and will, have a stronger domestic fishing industry. However, we in the Congress should not delay fisheries development by bringing foreign vessels in to once more rape our resources.●

FIGHTING INFLATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, September 26, 1979, into the CONGRESSIONAL RECORD:

FIGHTING INFLATION

Inflation is the nation's most serious problem. The following are some of the steps I believe we should take to reduce inflation:

FISCAL AND MONETARY POLICY

Fiscal and monetary restraint is necessary to curb excess demand. The policy of regular deficits in the federal budget (only one surplus in 20 years) must be ended. However, we must cut deficits gradually because too abrupt a move could cause major economic dislocations.

Government expenditures should be reduced as a percentage of the gross national product. The total impact of government spending on the economy should be diminished.

The growth of the money supply must be carefully monitored to avoid inflation-generating surges of credit. Reduced deficits would ease pressure on the Federal Reserve to adopt expansionary monetary policies. Federal borrowing in private-sector money markets would then be lessened as we slowed growth in the money supply and moved toward a policy of steady money growth.

Indexation of taxes and government programs (based on the Consumer Price Index, or CPI) is itself inflationary, so it should be avoided to the extent possible.

When federal revenues are sufficient for a tax cut, such a cut must be designed to boost productivity (e.g., by accelerated depreciation write-offs), investment, and savings.

PRODUCTIVITY

Spending for research and development should be increased, and deregulation should be used to revive the discipline of the marketplace.

Federal regulatory policy must be reformed to ensure that worthy goals are met at the lowest possible cost. The number and complexity of regulations must be reduced, and every regulation must be subjected to a rigorous cost-benefit analysis.

The hard-core unemployed should be converted into productive citizens through special "targeted" employment programs. Emphasis should be placed on private-sector jobs.

COMPETITION

Competition must be promoted because it forces prices down. Incentives must be used to stimulate the growth of small business, and antitrust activity must be intensified.

Trade barriers should be lowered or removed. Protectionism should be resisted because greater protection means less competition and more inflation.

ENERGY POLICY

We must shake off our dependence on foreign oil. The astronomical increase in oil price in recent years, brought about in large measure by the oil cartel, has sent inflationary shocks through the economy. Programs to diminish the use of oil, both by conservation and the development of substitute fuels, are essential.

EXPORTS

Exports should be increased because a loss of exports weakens the dollars, and every depreciation of the dollar is inflationary. The United States is the world's largest exporter, but just barely. We rank 15th among exporters on a per capita basis.

HOUSING

Housing costs must be cut through state and local government action to simplify building codes, work rule standards, and other regulations. The federal government must permit extra cutting of timber on its lands, a practice in line with principles of sound forest management.

FEDERAL MEASURES

The federal government should not be an inflationary price setter. Postal rates should not rise more rapidly than the CPI (as they have an in recent years), and federal agencies which regulate rates should confine increases to levels at or below the rate of inflation.

A subminimum wage for youthful workers must be enacted by Congress, both to reduce labor costs and to make productive a segment of the population which is comparatively unproductive.

The CPI should be revised since the present method of calculating it overstates both food and housing costs. Because of indexation, an artificially high CPI itself causes inflation.

INFORMATION AND EDUCATION

The President must take the lead in explaining time and again to the American people the dangers of unchecked inflation, and a report must be made on the inflationary impact of every proposal made by the President and the Congress.

Intensive education should be used to break the psychology of inflation.

My suggestions offer no solace to those who look for a single, simple solution to the problem of inflation. However, I am persuaded that the assault on inflation must take place on a variety of fronts. My list is not all-inclusive, but I do believe this: if we can muster the political will to take these steps, we will be surprised by a sharply reduced rate of inflation.●

PERSONAL EXPLANATION

HON. BENNETT M. STEWART

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. STEWART. Mr. Speaker, yesterday, as a member of the Transportation Appropriations Subcommittee of the House Appropriations Committee, I was inspecting the latest safety activities of the Federal Railroad Administration. As a result, I missed two votes. Had I been present, I would have voted "aye" on roll No. 500 and "aye" on roll No. 501.●

AMERICAN CITIZENSHIP CONFERRED ON 31 RESIDENTS OF MARYLAND SECOND CONGRESSIONAL DISTRICT

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. LONG of Maryland. Mr. Speaker, it is with particular pleasure that I congratulate 31 residents of Maryland's Second Congressional District who have chosen to become American citizens, with all of the responsibilities that freedom and citizenship entail. I hope that you will join me in welcoming these new Americans and extend to them our wishes for a happy and prosperous life in the homeland we love. They are as follows:

Mr. Vladimir N. Zolotoochin.
Mrs. Despina Kondylas.
Mrs. Cleofe C. Vanhook.
Mr. Young Sei Lee.
Miss Susana Maria Flores Alinsod.
Mrs. Adriana F. Alinsod.
Mr. Ramdial Toolsee.
Mr. Horn-Wen Wang.
Mr. Gholamali Delkohoon
Mr. Soon Jin Kim in behalf of Yuri Kim.
Mr. Dean Edward Mills in behalf of Stephen R. Mills.
Mrs. Entona Farmer.
Mrs. Momena Ramjohn.
Mr. Sang Muk Lee.
Mr. Che Young So.
Mr. Robert J. Cameron in behalf of Jacqueline Eveline Cameron.
Mrs. Soon Jin Kim in behalf of Maria Eco Kim.
Mr. Joachim F. Fuks.
Miss Amonrath Chittchang.
Mr. Mathuram Santosham.
Mrs. Clare Ann McDonald.
Mrs. Elizabeth C. Cameron.
Mrs. Ferial F. Marzouk.
Mr. Tewfik Y. Marzouk.
Mr. Syed M. Naseem.
Mrs. Mary M. Tiburzi.
Mr. Sung B. Hue.
Mr. Ram Dev Rai Sood.
Mr. Song Won Pak.
Mrs. Kyong Hae Pak.
Mrs. Maria C. Ridgley.●

INSURING WOMEN—SEPARATE AND UNEQUAL POLICIES

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. LELAND. Mr. Speaker, the widespread race discrimination and sex discrimination practiced by insurance companies is a blot on our Nation and a burden on the economic well-being of millions of persons. Such discrimination in insurance is imposed not only against persons seeking to obtain insurance policies and contracts, but also in the terms, conditions, requirements, and benefits available to those who have been able to obtain insurance coverage of some sort.

Congress has failed to tackle the problems of race and sex discrimination in insurance—until this year, when our colleague, Representative JOHN D. DINGELL, of Michigan, introduced his bill, H.R. 100, to prohibit discrimination in all forms of insurance on the basis of race, color, religion, sex, or national origin. That bill now has over 60 cosponsors, and I am glad to say that I am one of them.

The current October 1979 issue of Working Women, a national publication devoted to the concerns of the millions of women who work in our country, contains an excellent article describing some of the extensive discriminations against women in connection with their insurance needs, and how the Dingell bill, H.R. 100, seeks to remedy that problem.

I believe that this article will help Members of this House and the Congress, as well as many other readers of the CONGRESSIONAL RECORD, to obtain a better understanding of the problem and what the Dingell bill will do. I insert the article at this point in the RECORD:

INSURING WOMEN: SEPARATE AND UNEQUAL POLICIES

(By Ann O'Shea)

Charging that "the business of insurance is rife with discrimination," Congressman John Dingell (D, Michigan) introduced his nondiscrimination-in-insurance bill (HR 100) earlier this year. If passed, the bill will cause a virtual revolution in the insurance industry, particularly for women, since discrimination based on sex is the most pervasive and flagrant form of unequal treatment in insurance.

Discrimination affects not only the rates women pay for insurance, but whether certain kinds of insurance are even available to women and the terms and conditions under which any insurance is available. Classification by gender has been the industry's standard, traditional method of determining risk. For most types of insurance, females almost always are considered to be higher risks than their male counterparts.

Last year, the US Civil Rights Commission held hearings on discrimination in insurance. Here are some of the inequities facing women in disability, health, life and pension insurance that were detailed in the hearings.

DISABILITY INSURANCE

Until 1972, the California Insurance Code permitted insurance companies to refuse disability payments for injuries resulting from "war, suicide, hallucinatory drugs and organs peculiar to females." California was not alone and, in fact, was one of the few states where any type of disability coverage was available to women—on any terms, at any price. Disability discrimination applied to both group employment and private policies and was rationalized on the grounds that women were dependent on men and any income they might earn was not crucial to them or their families. Since 50 percent of all women today work and more than 60 percent of those women do so because they are single, divorced, widowed or separated or in order to raise their family income to $10,000 a year, that contention no longer has an actuarial leg to stand on.

Even when disability insurance was available to women, coverage for any disabling effects of pregnancy or pregnancy-related conditions was excluded almost universally. Pregnancy, the insurance industry contended, was a condition that was "voluntary and unique to women," and thus women alone should bear the burden. The Supreme Court upheld the constitutionality of such restrictions, ruling that "exclusion of pregnancy [from disability plans] is not gender-based discrimination," since men were not covered for the risks of pregnancy either. Yet these same exclusionary policies included benefits for vasectomies, circumcisions and prostate conditions.

Last year Congress amended the 1964 Civil Rights Act's prohibition against sex discrimination in employment to include discrimination on the basis of pregnancy or pregnancy-related (except abortion) conditions. That amendment was an enormous step forward for women, but as far as insurance is concerned, it affects only employment group policies, not private group or individual policies.

The amendment does not eliminate other inequities found in the conditions and costs of disability insurance. For example, disability insurance for all insured persons is subject to three time variables: (1) the waiting period, the length of time for which an individual must be disabled before he or she can collect benefits; (2) the benefit period, the maximum time for which the insured is paid benefits; and (3) the basic period, the time for which the insured is deemed completely unable to perform the duties of his or her chosen occupation. (Once the basic period has expired, the insured must prove that he or she is unable to perform the functions of *any* job in order to continue to collect for the remaining benefit period.)

According to a report published by the Women's Equity Action League, prepared by Naomi Naierman and Ruth Brannon, health analysts for ABT Associates, a consulting firm based in Cambridge, Massachusetts, waiting period are usually much longer for women than for men, while benefit periods are almost universally shorter for women. The length of the benefit period is supposed to be determined according to the risk inherent in the insured's occupation: Men in the least-hazardous occupations can obtain policies providing ten-year benefit periods, women in the same occupations usually are limited to two-year periods. And, while women in the most-hazardous jobs are excluded from coverage entirely, similarly employed men are covered for two years. Thus, women in the least-hazardous occupations are limited to the same coverage available to men in the most-hazardous jobs, or are excluded altogether. The reason seems to be that the insurance industry suspiciously views women workers as shirkers and possible cheats. Until 1975, North American Reassurance Company's underwriters manual expressed the common assumption that "if a woman has disability coverage, the temptation exists to replace her earnings with an insurance income once work loses its attractiveness."

Furthermore, while the basic period for men is generally five years, it is only two years for women. Barbara Shack of the New York Civil Liberties Union described the result of the discrepancy this way: "After two years, a female neurosurgeon with failing eyesight would be expected to perform the duties of a chambermaid, while a similar male would receive coverage for five years."

On a basic disability plan, according to the Naierman-Brannon report, men can receive benefits equal to two-thirds of their salary, up to $1,000 a month; women are often restricted to a maximum of $[illegible]00 per month. Yet women often are charged 150 percent more for the same or less coverage.

HEALTH INSURANCE

As with disability insurance, health-insurance policies more often than not exclude pregnancy from coverage. According to a 1975 Health Insurance Institute study, 56.4 percent of all new health-insurance group policies do not include maternity benefits. Despite the fact that there are important public policy reasons for providing both disability and health insurance coverage for pregnancy, the insurance industry claims that if pregnancy were included in either health or disability policies, the cost of insurance would be prohibitive. Yet the Citizens Advisory Council on the Status of Women reported that a large, unidentified insurance company has determined that if employer group coverage included pregnancy in both medical and disability insurance policies, the premium payable by a group with 40 percent of its members being female would be increased by only 10 percent.

Not only are women unlikely to collect maternity benefits, they are not likely to collect insurance for the medical costs of sterilization, contraception or other birth-control measures, and many policies exclude any gynecological disorders from coverage.

Health insurance, even without maternity benefits, is virtually without exception substantially more expensive for women than for men, on grounds that women use more health services than men. Statistics bear this out (maternity care accounts for most of the extra use), but there is also data that suggest that, overall, men's claims may be more expensive than women's.

Higher premiums can affect more than women's pocketbooks. Some major insurance companies increase their group health premiums if the benefits on women represent 11 percent or more of the total benefits. This sort of practice does not serve as an inducement to the employment of women.

LIFE AND PENSION INSURANCE

Life insurance is the only type of personal insurance for which women may pay less than men. But even here, aside from the various options that are not made available to them, women are discriminated against. Premiums for women are based usually on a three-year setback, which means that women pay the same rate as men who are three years younger than they, because women as a group tend to live longer than men. But since women, on the average, live six to nine years longer than men, if strict actuarial principles were followed, their premiums should be based on at least a six-year setback.

The other side of the life-expectancy insurance coin shows up in pension and annuity plans. Because the average woman lives longer than the average man, women either must contribute more than men do to their pension plans prior to retirement or receive lower monthly benefits after retirement. The insurance industry insists that it all comes out even in the end, since the average woman will live longer to collect than the average man. Representative Dingell describes this rationalization as a "distortion of the 'average' woman and 'average' man."

The Congressman's point was demonstrated in a recent Supreme Court case, *Los Angeles Department of Water and Power* v. *Manhart*, in which the insurance company presented figures concerning male/female survival experience in order to justify the rationale for requiring female employees to make greater payments than men employees to the pension plan. The figures indicated that of 100,000 men and 100,000 women retiring at age 65, 13,807 more males than females died between the ages of 66 and 80. But, as Dingell points out, the insurance company's figures also show that 86,193 men had the same death age as 86,193 women—that is, over 86 percent of the women could be paired at death age with over 86 percent of the men. But because less than 14 percent of the women lived longer than the men, all women receiver lower monthly and lower lifetime retirement benefits than all the men. The Supreme Court ruled in the *Manhart* case that this unequal treatment violated Title VII of the 1964 Civil Rights Act, which "precludes treatment of individuals as simply components of a . . . sexual . . . class," since "there is no assurance that any individual woman . . . will actually fit the generalization."

As Dingell noted when he introduced his bill, the very purpose of insurance is to spread risks. And although insurance policies, to be fair, must discriminate between groups that are subject to greater risks and those that present smaller risks, the insurance industry traditionally has differentiated across the board by use of gender classification, with women automatically considered to be greater risks than men. Other criteria such as smoking and drinking habits, general health, family medical history, occupational and recreational activities and so on, have been disregarded in favor of classification on the basis of sex.

Computing rates, benefits and risks on the basis of gender is a simple and convenient method for the insurance companies. There is only one easy-to-ascertain variable the insurer has to take into account rather than several variables. Although convenient for insurance companies, this method results in gross inequities in the treatment of women.

Dingell's bill, if it becomes law, will eliminate discrimination on the basis of sex in the rates charged, the availability and terms of various kinds of coverage and the benefits conferred. The bill is expected to receive considerable opposition from the insurance industry, one of the most powerful lobby groups in Washington. It won't be an easy task, but the bill's supporters are hopeful that sex discrimination in insurance policies finally can be stamped out.●

THE SKI PATROL CHARTER FIGHT; WHY THEY NEED IT—FAST

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. KEMP. Mr. Speaker, in February I introduced H.R. 2279, a bill granting a Federal charter to the National Ski Patrol System. The companion bill, S. 43, introduced by Senator ORRIN HATCH, has over two-thirds of the Senate body supporting it.

The National Ski Patrol (NSPS), a nonprofit organization with a membership of over 23,000 has been serving the winter sports communities since it was first organized in 1938. This volunteer group has provided meritorious service and significant contributions to winter sport enthusiasts throughout the United States. However, unless certain steps are taken in the near future the NSPS may have to curtail its important work.

Briefly, the NSPS is asking Congress to grant it a Federal charter since its activities are clearly national in scope and the plethora of the various State filing requirements is causing a huge financial and personal drain on the organization. Each State requires reports, registration and filing fees. The NSPS has neither the funds nor the personnel to meet these official requirements. As a result the patrol may be required to scale down its operations.

The bill does not authorize or anticipate any Federal subsidy; nor does it relieve the NSPS from Government accountability. A Federal charter enacted by Congress, however, would save thousands of dollars now expended by the patrol to prepare a wide variety of forms and pay the accompanying fees. This charter would make the NSPS directly accountable to Congress and the Federal Government for financial reporting, taxes and other requirements and would operate as a nonprofit and nonpartisan organization.

It is important that the NSPS can continue to operate at full strength. I hope all my colleagues in the House of Representatives recognize the merits of this legislation and the special needs of this fine organization and join me and the following cosponsors of this measure.

Cosponsors of H.R. 2279—National Ski Patrol Federal Charter are:

Austin Murphy, 212 CHOB, Pennsylvania.
Toby Roth, 1008 LHOB, Wisconsin.
Dan Marriott, 1133 LHOB, Utah.
Robert Lagomarsino, 1117 LHOB, California.
Bill Young, 2453 RHOB, Florida.
Bill Whitehurst, 2427 RHOB, Virginia.
Norman D'Amours, 1503 LHOB, New Hampshire.
Jim Johnson, 2242 RHOB, Colorado.
Ray Kogovsek, 501 CHOB, Colorado.
Richard Cheney, 427 CHOB, Wyoming.
Jim Jeffords, 1510 LHOB, Vermont.
Doug Walgren, 117 CHOB, Pennsylvania.
Arlen Erdahl, 1017 LHOB, Minnesota.
Ken Kramer, 1724 LHOB, Colorado.
Bob Dornan, 419 CHOB, California.
Lawrence Coughlin, 306 CHOB, Pennsylvania.
Ben Gilman, 2454 RHOB, New York.
Marjorie Holt, 2434 RHOB, Maryland.
Jim Hanley, 239 CHOB, New York.
Barry Goldwater, 2240 RHOB, California.
John LaFalce, 225 CHOB, New York.
Henry Nowak, 1514 LHOB, New York.
Dan Lungren, 1313 LHOB, California.
Stan Lundine, 430 CHOB, New York.
Larry Winn, 2416 RHOB, Kansas.
Pat Schroeder, 2437 RHOB, Colorado.
Steve Symms, 2244 RHOB, Idaho.
Charles Pashayan, 1427 LHOB, California.
Robert Roe, 2243 RHOB, New Jersey,
James Courter, 324 CHOB, New Jersey.
Lester Wolff, 2463 RHOB, New Jersey.
George Hansen, 1125 LHOB, Idaho.
Silvio Conte, 2300 RHOB, Massachusetts.
Harold Sawyer, 123 CHOB, Michigan.

Mr. Speaker, I commend to my colleagues the following excerpts from a brief by the legal counsel, Walter Gregg. The article appeared in the September 1949 issue of Skier and provides specific details about the comments I have just made.

The article follows:

THE SKI PATROL CHARTER FIGHT; WHY THEY NEED IT . . . FAST

Substantial reasons support the National Ski Patrol System's application and request for a Federal Charter.

A Federal Charter would provide the necessary legal basis for this national volunteer training and service organization which has been providing skilled first aid and toboggan rescue for injured skiers, winter and mountain search and rescue operations during hazardous weather emergencies, avalanche control to prevent catastrophes in public ski areas, and nation-wide programs to promote safety and reduce accidents in skiing and other winter sports as a free public service to Americans who have been enjoying winter sports in ever increasing numbers and greater safety since 1938. National Ski Patrolers, trained to the Advanced First Aid standards of the American Red Cross supplemented with Emergency Winter First Aid and Rescue training on a nationally supervised basis are men and women from all walks of American life, who give freely of their recreational time to carry out the purposes of the National Ski Patrol.

Without a Federal Charter a considerable portion of volunteer time must be devoted to paperwork to meet the many varying registration and reporting procedures governing non-profit corporation activities in each of the many winter sports states.

Standards for the granting of Federal charters for non-profit corporations have been adopted by committees of Congress, but the National Ski Patrol System Inc. has more than met the minimum standards required. The NSPS is a New York not-for-profit corporation. This corporation has operated continuously since the date of incorporation in 1948 up to and including this date.

The NSPS is a corporation operating not only within the United States but also in several foreign countries where US military forces are stationed. It is a non-profit organization supported almost entirely by the dues and contributions of its own membership. With the exception of a very few full and part-time employees, (nine in number) almost all of the 24,000 to 25,000 members of the organization furnish their services in varying capacities on a strictly volunteer basis.

To further illustrate the uniqueness, the United States Forest Service, with whom the NSPS is affiliated, has found it necessary to discontinue avalanche control programs which it formerly took responsibility for in many parts of the country. Although the Forest Service is continuing in the field of training and education for avalanche control, it is no longer active in the control aspect of avalanches. Accordingly, the NSPS is the only organization presently engaged in avalanche control and is the only organization which, in the foreseeable future, will be involved in such work.

Furthermore, members of the NSPS serve in many search and rescue operations, working hand-in-hand with other rescue organizations, including, but not limited to, local law enforcement agencies, the American Red Cross and others.

The NSPS is at the present time operating in many states and foreign countries and is unable to comply with the various reporting requirements imposed by law in these jurisdictions. It is, with three or four exceptions, carrying on without compliance with these requirements. It is believed that those jurisdictions which are aware of the activities and have not, as yet, "come down on the NSPS" are allowing an opportunity to get its house in order. Some state officials queried on this point have stated that if a Federal charter is issued the NSPS would then be in a position to operate within those states in the same manner in which the American Red Cross operates, i.e., as a Federally chartered organization, and thus exempt from that state's registration and annual reporting procedures. It is doubtful that those states will tolerate continued activities in the absence of such registration and annual reporting if a Federal charter is not granted.

If the situation does arise whereby these states will no longer tolerate continued existence in the absence of such registration and reporting on an annual basis the NSPS will then have no alternative but to cease to exist.

The NSPS patrol activities, now with the advent of the nordic patrols, moves even deeper into lands controlled by the United States Parks Service and the United States Forest Service, and as a consequence, it will have ever increasing contact with these governmental bureaus, commissions, and departments: In addition it should be noted that this organization does not now receive, nor has it ever received, any subsidy or fee of any kind from tax dollars at a Federal, state or local level.●

MARJORIE BENTON COMMENTS ON SALT II

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. SIMON. Mr. Speaker, during the recess I had a chance to catch upon some of my reading, and I came across an article on SALT II by Marjorie Craig Benton that is worth the attention of my colleagues.

She was one of our U.S. delegates to the U.N. session on disarmament and has shown above average interest and knowledge and leadership on the whole question of arms control.

I urge my colleagues to read her statement.

SALT II

(By Marjorie Craig Benton)

The debate over the Salt II treaties has been going on for years. It has been blindingly complicated and the average citizen has been left completely baffled. Because of the complexity of the agreements, it is easy to select specific issues and items, ignore others and come out with "convincing" arguments against the new treaties.

I think it is important to concentrate on the main points of the treaties. First, it must be understood that the treaty imposes limits not on the missiles themselves, but on the launchers—that is, the ground silos, the submarines and the long range bombers. The treaty will for the first time, limit each side to equal numbers of strategic arms—initially, the level will be at a total of 2400 delivery vehicles each. This figure will later be reduced to 2250 and within that total a maximum number of 1320 mirved weapons will be allowed (Mirv means those missiles that are armed with more than one warhead each). Under these provisions, the Russians will have to dismantle approximately 250 systems. The U.S. won't have to dismantle any.

There is agreement to limit the number of warheads per missile to the maximum number thus far tested on that type of missile. This reduces by more than half the number of weapons the Soviets could eventually have mounted on their ICBM's.

Both sides have agreed to provide each other with testing and performance data on their delivery systems.

Both sides pledge not to interfere with each other's "national technical means." It is strongly believed that the Salt II agreement can be verified by these means, including photo reconnaissance satellites and other technical measures. No significant violation of the treaty could take place without the United States detecting it. Appropriate action could take place before any adverse impact on the strategic balance could take place. A U.S.-U.S.S.R. Standing Consultative Commission (SCC) has been set up as a continuing forum to deal with questions of interpretation and compliance. During the last five years, compliance monitoring and SCC consultations have become an integral part of the Salt process.

I think it is important to consider what would happen if we do not verify the treaties.

I believe the United States would slip back quickly into a cold war atmosphere with the U.S.S.R. Salt II is now the central theme of our relations with the Russians.

If there is no Salt II treaty, our intelligence estimates that the Soviets, just with the momentum of their present program, could deploy some 500 more nuclear delivery systems by 1985 The United States could match such a build-up, but at a price tag of approximately $30–70 billion. The net effect of this would be an unrestrained and costly strategic arms competition without any increase in military security.

And, finally, in the absence of Salt, other nations contemplating the acquisition of nuclear weapons would have stronger reasons—believable or not, to pursue their goals.

I ask for your support of these treaties because they are clearly in our national interest. The treaty will both enhance our national security and, at the same time, limit strategic arms competition. We need to act now, the next round of problems in the area of strategic arms is already pressing on us.●

THE RELEASE OF YACOBO TIMERMAN

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. DRINAN. Mr. Speaker, it was with a great deal of joy that I learned today of the release of Yacobo Timerman, the influential editor and publisher of the Argentine daily La Opinion, who has been in official detention without formal charges for the last 29 months. In November 1976, I traveled to Argentina on a factfinding mission with Amnesty International. It was then that I met Yacobo Timerman and realized the great talent that this man devoted to his work.

Timerman's original arrest was made on the basis of an article printed in his paper in early 1977 in which he accused the chief of the armed forces in Buenos Aires of anti-Semitic conduct. Timerman was "viciously and violently tortured" after his arrest, says his son, Hector, who has been instrumental in raising his father's case in international circles. In October 1977, the military tribunal declared that there were no charges with which to hold Timerman, and in July of the following year, the Supreme Court decided that his original arrest in April 1977 was illegal—the first time such action was taken in Argentine court history. In the meantime, Timerman was transferred from prison to his home and kept under house arrest. Earlier this month, the Argentine Supreme Court once again ruled unanimously that the military junta should release Timerman.

Timerman has been flown to New York to be reunited with his wife and son before traveling on to Israel where his family will now settle. His release marks the culmination of an international campaign by the U.S. Government, Israel, Jewish organizations around the world, and many concerned Members of Congress who drew attention to his case. I am most relieved by his release and know that he can now build a new life in Israel with his family. I commend the Members of this body who have spoken out in the past and urge them to continue to speak out on behalf of all the missing and disappeared persons that remain in Argentina. Timerman's release is a major step forward, but we all know that, unfortunately, Argentina still falls short of meeting fundamental standards of human rights.●

THE PLO: A FACT OF LIFE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. FINDLEY. Mr. Speaker, there is a growing recognition in this country that the PLO is a factor which the United States will have to consider as it seeks to promote peace in the Middle East. This recognition should lead us to realize that it is time for the United States and the Palestine Liberation Organization to open a dialog. The objective of this dialog should be PLO acceptance of Israel and its integration into the peace process.

I recommend the following New York Times magazine article by Christopher Wren which thoughtfully makes an argument for the United States to begin talking to the PLO.

[From the New York Times Magazine, Sept. 9, 1979]

CONFRONTING THE PLO

(By Christopher Wren)

Yasir Arafat, chairman of the executive committee of the Palestine Liberation Organization, likes to show visitors in Beirut a statuette of an Aztec, emphasizing that the Palestinians will not be swept into extinction as were those ancient Mexicans. And, he makes clear, the P.L.O. is the chief preventive force.

Created by Egypt and other Arab states 15 years ago, the P.L.O. embraces an assortment of rival political and guerrilla factions. The question of how seriously the P.L.O. deserves to be taken has been raised anew by the latest United Nations Security Council debate over the rights of nearly four million Palestinians—nearly half living under Israeli authority. The United States had promised Israel not to deal with the P.L.O. until it accepted the United Nations resolution recognizing Israel's right to exist. When Andrew Young, the acting American delegate to the United Nations, resigned last month over the disclosure that he had met with a P.L.O. representative in New York, the issue of the P.L.O. was projected into American domestic politics.

Still, a variety of indirect contacts has already taken place between the P.L.O. and Washington, primarily through Saudi Arabia and, more recently, through other Western diplomats at the United Nations. After the American Ambassador to Lebanon, Francis Meloy Jr., was assassinated in June 1976, the security officers of the American Embassy in Beirut were authorized to keep in contact with their P.L.O. counterparts.

American diplomats stationed in the Middle East invariably find themselves rubbing shoulders with the P.L.O., though they are instructed to keep their distance. "You don't walk anywhere without meeting a Palestinian and you don't ask for his credentials," explained a senior diplomat.

But a dialogue with the P.L.O. implies an admission that it has something to offer toward a solution and this means ultimately conceding the P.L.O. its mantle of legitimacy. Whenever the United States has looked for an opening, it has not only been promptly chastised by Israel for breaking faith but also been rebuffed by P.L.O. officials themselves. Few issues in American foreign policy are as emotionally loaded as this one.

The case against recognizing the P.L.O.. articulated by Israel and its partisans for almost two decades, holds that there is no point in talking to the P.L.O. because it is bent solely upon the destruction of Israel. The language of the P.L.O.'s charter speaks of creating a democratic Palestinian state on the territory of Palestine. But Israel's interpretation could be termed sound inasmuch as Palestinians themselves have viewed Article 27 as calling for the demise of Israel. Last January, the Palestine National Council which is the quasilegislature of the P.L.O., reaffirmed in Damascus that "armed, political and popular struggle in the occupied lands form the cornerstone of its policy" and demanded "the rejection of all capitulationist solutions as offered by the United States."

To the Israelis, the real intentions of the P.L.O. have been exemplified by its terrorist tactics—hijackings, market bombings, rocket attacks, the massacre of Israeli athletes at the 1972 Munich Olympics and the slaughter of schoolchildren at Maalot in 1974. Israel's Prime Minister, Menachem Begin, has been emphatic about the P.L.O.: "The most barbaric organization since the Nazis."

Some Palestinians, recalling Mr. Begins' own early years as a terrorist, have told me that they have only taken a cue from his Zionist underground group, the Irgun Zve: Leumi, which was responsible, among other acts, for the massacre of several hundred men, women and children in the Arab village of Deir Yassin in 1948. When the self-styled Eagles of the Palestinian revolution seized the Egyptian Embassy in Ankara last July, Israel cited it as proof that the P.L.O. was a "bunch of murderers." Yet it was a P.L.O. mission that talked the terrorists into giving up. While some Palestinians have become less sympathetic toward such terrorism abroad, popular support for operations against Israel itself seems undiminished.

The subject of terrorism and the P.L.O. came up repeatedly when Shafik al-Hout, a P.L.O. official in Beirut, made a three-week lecture tour in the United States over Israeli objections last spring. Mr. Hout replied that "if terrorism is to be condemned, let it be an unprejudiced condemnation. . . . To deny our people the right to repatriation and self-determination, and to condemn us to destitution forever, and at the same time ask us to remain silent, that would be impossible. It would be hypocrisy."

There have been indications in recent years that the P.L.O. might acknowledge the existence of Israel if the Palestinian right to self-determination were also accepted. In 1974, the Palestinian National Council expressed support for the establishment of a Palestinian state on any land "recovered" from Israel, suggesting for the first time that the P.L.O. might settle for the West Bank and Gaza Strip.

Yasir Arafat told the New York Times columnist Anthony Lewis last year that the "only possible solution" was a Soviet-American guarantee for both Israel and a Palestinian state. The P.L.O. leader has dropped similar hints to American congressmen. But with his usual backtracking, Mr. Arafat told a recent rally in Beirut that "if the Palestinian state is to be a gift from Carter, we don't want it" and bragged that "our state will be established through our guns."

The ambiguity seems intended, for Mr. Arafat has been cautious about outdistancing his shaky consensus. According to one Cairo insider, Mr. Arafat had agreed in 1977 to accept the Security Council Resolution 242, which affirms Israel's right to exist, provided there was some understanding on Palestinian rights, but the P.L.O.'s executive council overruled him. Said an American official, "Arafat has come pretty close to making a statement that we'd call adequate."

The sticking point for the Palestinians on Resolution 242, which also calls for Israel's withdrawal from Arab land occupied in the 1967 war, is that it alludes to the Palestinians only in vague terms of "a just settlement of the refugee problem." In August 1977, Secretary of State Cyrus R. Vance recognized publicly that the P.L.O. had difficulties with Resolution 242 because it viewed them as nothing more than refugees.

"I think the policy makers in Washington have realized that Resolution 242 is outdated," said a European diplomat in the Middle East. "The Palestinians are a problem not in terms of refugees but of their national identity. The P.L.O. has said time and again that 242 is totally unacceptable if their rights are not included. The P.L.O. is being asked to recognize Israel when Israel has made it very clear that it will never recognize the P.L.O."

A senior American diplomat with whom I spoke doubted that the resolution, which took five months to negotiate, could be changed. "It is the only thing that all these Arab states and Israel have accepted. It is the basis for the peace treaty and for what we are doing in the autonomy negotiations." In fact, Israel warned recently that if Resolution 242 were altered, it would consider the Camp David accords, which were based on the resolution and in turn form the groundwork for the Egyptian-Israeli peace treaty, null and void.

But the American official noted that "the pragmatists in the P.L.O. are sending out word that it might accept Resolution 242 with some additions recognizing Palestinian rights. I think we have to treat it very seriously." One possible compromise may be to pair the resolution with another existing United Nations resolution supporting Palestinian rights.

The P.L.O. is obviously unwilling to play its trump card, the acknowledgment of Israel's existence, if it gets nothing in return. And Israel has been consistent in its adamant refusal to have anything to do with the P.L.O. Moreover, with an American Presidential election campaign only months away, Mr. Carter would have to weigh any P.L.O. opening against the inevitable protests from Israel and its supporters.

The Israeli argument is that any peace overture from the P.L.O. would only be a stratagem to get a Palestinian state in the West Bank and Gaza Strip and that this entity, with ties to the Soviet bloc and to other radical regimes in the area, would pose a threat to Israel's existence.

The Carter Administration has already expressed doubts about letting a sovereign Palestinian state emerge and moderate Arab states, such as Saudi Arabia and Jordan, which profess support for the idea, would be unlikely to let the radicals take over for fear that could destabilize the entire region.

Mr. Arafat, however, told Anthony Lewis, "Assume that a Palestinian state has been founded. Would you believe that a state which is going to start from zero for the establishment of its institutions, its economy, culture, social problems—would such a state be able to form any serious threat against Israel?"

Even the Soviet Union which is anxious to maintain a Middle East foothold, has been cautious about its links with the P.L.O., for all the professions of support. Though Mr. Arafat first visited Moscow in 1968, the P.L.O. was not invited to open an office there until 1974 and did not get around to doing so until 1977.

To Israel's other objections must be added yet one more reservation—that inviting the P.L.O. into the peace discussions might undo all the painstaking compromises that paved the way to the Egyptian-Israeli peace treaty. The Camp David accords studiously ignored the P.L.O. "I don't see how the P.L.O. could be brought into the Camp David framework," said the European diplomat. "U.S. recognition of the P.L.O. would imply willingness to abandon the Camp David process in favor of a more comprehensive approach."

Predictably enough, Israel does not want the P.L.O. sitting in on its Palestinian autonomy talks with Egypt. Neither, it turns out, does President Anwar el-Sadat, who has virtually severed links with the organization over its hostility to his peace initiative. Mr. Sadat has derided the P.L.O. leadership as "nightclub militants," an epithet that took on fresh bite when Zuheir Mohsen, chief of the P.L.O.'s military department, was gunned down by assassins this summer after an evening at the roulette tables in Cannes on the French Riviera.

The problem is that the autonomy negotiations mired down even before they opened in late May, largely because of the inability to find any Palestinian alternative to the P.L.O. Prominent Palestinians in the West Bank and Gaza Strip are unwilling to get involved without the P.L.O.'s sanction. This is partly for fear of reprisal. Sheik Hasham Huzandair, one of the few Palestinian notables to back Mr. Sadat's peace policies, was stabbed to death outside his home in Gaza last June, and nervous colleagues stayed away from the funeral. But Palestinians living under Israeli occupation also feel that the talks are little more than a fig leaf for a bilateral peace between Egypt and Israel if the P.L.O. is not involved. "The only body that can represent us is the P.L.O. and nobody else," said Karim Khalaf, who was elected Mayor of the West Bank town of Ramallah on an openly pro-P.L.O. platform.

Against these considerations must be weighed the mounting argument in favor of dealing realistically with the P.L.O., which over the years has survived not only military retaliation from Israel but also the trauma of bloody defeats in 1970 and 1971 by the Jordanian Army and another in 1975 at the hands of the Syrian Army in the Lebanese civil war, emerging with a measure of widening international acceptance.

Abdel Mohsin abu Maizar, a member of the P.L.O.'s executive committee, boasted to me that "the P.L.O. is not only a political or military institution. What happened to us in Jordan in 1970 and Lebanon in 1975 would have been enough to demolish us. The P.L.O. means the national rights of the Palestinian people. The P.L.O. means the unity of the Palestinian people."

The overwhelming Palestinian backing for the P.L.O. has extended well beyond the refugee camps and guerrilla garrisons. Israeli policies like the establishment of Jewish settlements in the occupied West Bank and tough security controls have managed to push local Arab residents into the arms of the P.L.O. "As long as the Israelis offer us nothing, why should anyone consider a split with the P.L.O.?" Aziz Shehade, a Palestinian lawyer in Al Bireh, asked me. "The P.L.O. has lately gained more support on the West Bank because they have expressed more reasonableness. There's no longer any difference between moderates and the P.L.O.

There are signs that the P.L.O. may even be speaking for many Arabs within Israel itself. A survey released in June by Sami Samouh of the Jewish-Arab Center of Haifa University reported that half of the Israeli Arabs still did not recognize Israel's right to exist and that a clear majority favored the establishment of an independent Palestinian state.

The P.L.O.'s appeal is most evident among young Palestinians living under the Israelis. Nafez Nazzal, a Palestinian-American who taught at Bir Zeit University on the West Bank before the Israelis closed it, told me last summer that "99.9 percent" of his students supported the P.L.O. "To them, the P.L.O. is their dignity, their identity, their loyalty. The P.L.O. achieved international recognition of the Palestinian people."

Starting with the Arab summit at Rabat in 1974, the Arab world has formally recognized the P.L.O. as the only legitimate representative of the Palestinian people and accorded the organization full membership in the Arab League. Even Mr. Sadat, for all his differences with the P.L.O., has not renounced the Rabat decision.

A Jordanian official in Amman explained why his country had rejected an invitation from Camp David to help supervise a transition to self-government in the West Bank. "We agreed in Rabat not to represent the Palestinians and to accept the P.L.O. as their sole representative. Therefore our position is not to talk for the Palestinians but to talk in support of any position that they take. We cannot consider ourselves a party to negotiations without the P.L.O. being represented," he said.

Even some Israeli politicians have conceded the sigificance of the P.L.O. Foreign Minister Moshe Dayan created a flap last February when he said of the P.L.O. that "we cannot deny their position or their value" in the Middle East. The next day, Mr. Dayan explained that he was not advocating negotiation but said that "it is impossible to ignore the position of the P.L.O. in the conflict and its influence on the Arab states."

The P.L.O. may be becoming as adept at diplomacy as it is at terrorism, for it scored some political coups this summer in Western Europe. To Israel's outrage, the Austrian Chancellor, Bruno Kreisky, and the former West German Chancellor Willy Brandt sat down and talked with Mr. Arafat in Vienna in July. At a press conference later, Mr. Brandt defended their meetings by contending that "Palestinian self-determination cannot be thrown into the same pot as seeking the destruction of the state of Israel." Mr. Kreisky told reporters that "the situation in the Middle East is no longer a matter of Israel and Arabs only. It is a question of world peace."

That same month in Paris, the French Foreign Minister, Jean Francois-Poncet, received Farouk Kaddoumi, head of the P.L.O.'s political department. Jurgen Möllemann, a key aide to the West German Foreign Minister, Hans Dietrich Genscher, visited Mr. Arafat in Beirut. The impact of such meetings has been largely psychological, since none of the countries represented has formally recognized the P.L.O. Switzerland discouraged a similar call from Mr. Khaddoumi after protests from local Jews. But such events suggest that there is a declining tolerance in the world for the American position. After Andrew Young resigned, he admitted that he found it "kind of ridiculous" not to talk to the P.L.O., which enjoys observer status at the United Nations.

Other developments in the Middle East have whetted the P.L.O.'s self-confidence. Recognition by the new regime in Iran, which welcome Mr. Arafat as its first official guest, has given the P.L.O. a maneuverability beyond the limits of traditional Arab patrons like Syria and Iraq. The P.L.O.'s financial status has been buttressed by an allocation of $150 million annually over the next 10 years from the Bagdad conferences of Arab states opposing the Egyptian-Israeli peace treaty.

Ironically, Israel's military strikes also seem to have benefited the P.L.O., which showed that it could withstand massive search-and-destroy missions during the Israeli invasion of southern Lebanon in March 1978 Previously, the P.L.O.'s image had 1978. Previously, the P.L.O.'s image had the Lebanese civil war and after being upstaged by Mr. Sadat's peace initiative. According to reports in Beirut, there are now a third more Palestinian guerrillas and weapons in Lebanon than before the Israeli invasion.

Probably the most alarming case made for dealing with the P.L.O. is that it will forestall any cutoff in Arab oil supplies to the United States. This summer, Saudi Arabia boosted production by one million barrels daily to 9.5 million barrels to offset cutbacks elsewhere in the Arab world. According to reports given credence in Cairo diplomatic quarters, the Saudis did so as part of a carrot-and-stick strategy worked out in consultations with the P.L.O. to make the Americans confront the Palestinian issue more directly.

Consequently, any cutback in oil from Saudi Arabia is bound to be interpreted as blackmail. But the Arab viewpoint is that the United States has been dodging the realities of the Middle East too long and must be shown that its real self-interest lies beyond Israel's frontiers. "Other Arabs give us the benefit of the doubt but they don't think we're effective. They think we get cold feet and run up the white flag whenever the Israelis complain," said an American official.

It has been argued that failure to talk to the P.L.O. because of its philosophy perpetuates an inconsistency in American foreign policy. Thus, on the other hand, the United States has cultivated its ties with the Soviet Union to encourage a minimum level of civilized behavior from the Kremlin leadership. In a more analogous situation, the Carter Administration has tried to moderate between the white-dominated regime in Zimbabwe Rhodesia and the pro-Marxist African guerrillas committed to toppling it. It has tried to defuse the confrontation between Morocco and the Polisario Front in the Western Sahara. "Almost every national liberation group is welcome in the United States except the P.L.O.," pointed out an American diplomat.

On the eve of the Egyptian-Israeli peace treaty, President Carter said that Washington wanted "direct relations" with the Palestinians but admitted that he had a "problem" with the P.L.O. However, Mr. Carter said, if the P.L.O. dropped its opposition to Security Council Resolution 242 and acknowledged Israel's existence, the United States would "immediately start working directly with that organization."

Were the Carter Administration to soften this precondition and offer a dialogue, the prospect of American recognition would, diplomats expect, touch off a possibly violent power struggle within the P.L.O. over how moderate the response should be. "There would be splits, backbiting and assassinations, but what would emerge would be smaller and more cohesive," said a Western observer.

It remains to be seen whether Mr. Arafat could successfully reconcile the conflicting interests of four million Palestinians. The biggest opposition to a negotiated settlement would probably come from original refugees of 1948 who cling to the dream of return. The "rejection front" within the P.L.O., led by George Habash of the Popular Front for the Liberation of Palestine, would undoubtedly try to sabotage it. But, said a Palestinian official in the Jordanian Government, "I think the mainstream is prepared to accept the idea of recognizing Israel if they can have their own state."

Some Western experts contend that it is in the American interest to deal with the P.L.O. now, while the moderate faction led by Mr. Arafat is in charge. His group, Al Fatah, is believed to represent three-quarters of the guerrilla forces. The rising young generation of leaders is known to be more radical and militant.

In the end, the overriding argument for talking to the P.L.O. may be its studiously enigmatic nature itself. Too often, it has successfully obscured its intentions behind a smokescreen of ambiguous rhetoric. Would it ever be willing to let Israel live undisturbed in return for a viable Palestinian homeland? Is there a sufficient wellspring of moderation within the P.L.O. that it can be transformed into an honest negotiating partner and advance the Palestinian cause through a peaceful settlement? The questions should be intended not to bring the P.L.O. to heel but to seek a broader Arab acceptance of Israel's legitimacy together with overdue remedies for the sufferings of the Palestinian people. As Andrew Young put it, "Conversation does not mean recognition," and it need not begin as such. But such a dialogue seems the only way of finding out whether the United States and the Palestine Liberation Organization have anything in common to contribute toward a fair and durable peace.●

DECONTROL MORE CAPITAL INCENTIVES FOR THE PETROLEUM INDUSTRY?

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. MAGUIRE. Mr. Speaker, since the President announced his intention to decontrol the price of domestically-produced petroleum, my Energy and Power Subcommittee has heard a litany of endorsements for this highly inflationary proposal from a series of oil industry executives and the American Petroleum Institute. By far the most astonishing component of the plea for higher oil industry profits is the claim that the industry lacks the necessary incentives to explore for new supplies of energy.

This argument has been persuasively refuted by several studies, among them, "Capital Resources and Requirements for the Petroleum Industry," produced for the Department of Energy. I wish the advocates of decontrol within DOE had read the report which said in part:

> There would be a strong presumption toward the position that the industry not only receives an adequate incentive for new discoveries, but generates sufficient capital at the domestic wellhead to fuel all of its domestic exploration, development, and production expenditures.

The oil companies are diverting this income away from investments which would increase our energy supplies. Instead, they are putting their money into department stores, copper mines, electric companies, and the like. Horizontal diversification "for a strong America," I suppose the public relations departments would say.

Our distinguished colleague from the other body, Senator HOWARD METZENBAUM, contributed a thoughtful article to the Sunday "Week in Review" section of the New York Times which summarized his arguments for S. 1246, the Clayton Act amendments barring further horizontal diversification by the major oil companies. As a cosponsor of Representative UDALL's companion bill in the House, I would urge my colleagues to read the Metzenbaum article which follows below.

[From the New York Times, Sept. 16, 1979]

CURBING THE OIL COMPANIES' APPETITES

(By Howard M. Metzenbaum)

"Great cash-flow machines, expected to float into the early 1980's on a sea of cash."

That is how one observer has described the major oil companies, whose combined cash flow last year was an astounding $26 billion. In addition, decontrol is expected to bring the industry an extra $49 billion to $80 billion by 1985 in after-tax revenues on top of its exceedingly high profits.

These huge cash accumulations have resulted from special favors given to no other industry: special tax writeoffs, foreign tax credits, decontrol, government policies bent to help increase prices, and ultimately, an unholy alliance with the oil-producers' cartel. Tax privileges alone have given major oil companies exceedingly low tax rates, some even as low as 1 percent.

Why have these favors been granted? Over the years we have been told time and time again that incentives are needed to stimulate increased exploration and production. Certainly, in the light of today's energy problems, no one can deny that more domestic production is one of the cornerstones of energy independence.

But, to paraphrase the advice of a former Attorney General, it is much more enlightening to "watch what they do and not what they say."

What they have done is to try to buy major segments of the economy by spending billions of their profits on companies operating in such unrelated fields as department stores, box manufacturing, copper and nonferrous metals, land development, timberland and forest products, life insurance, medical supplies, health care, chemicals—and the list goes on. (Gulf Oil may have taken the brass ring with its attempted acquisition of Ringling Brothers Barnum & Bailey Circus.)

And this appetite for acquisitions can only grow as decontrol and higher prices hand the majors even greater cash surpluses. As one investment analyst has predicted:

"By the late 80's we would expect close to one-quarter of the listed resource-chemical companies to be merged or acquired (by big oil companies). We would anticipate that two or three of the top 10 timber-owning companies would be bid for. We would also expect at least a quarter of the larger nonferrous (copper, lead, zinc, silver and gold) mining companies . . . to be bought out by the oil companies."

These acquisitions don't create energy, new jobs or productive capacity. They simply transfer control of some of our nation's biggest enterprises to an unjustly enriched oil industry. Some recent acquisitions actually reduced energy output. After the oil majors took over three of the biggest coal companies, their annual coal production dropped between 1972 and 1977 by 25 percent, while production in the rest of the industry rose by 24 percent.

The fact is that big oil is not doing all it can to develop oil and gas resources. Exploration expenditures by the top eight oil companies in 1977 were about the same as those by the very smallest oil companies. And the industry spent only 8.6 percent of its profits on research and development, a small fraction of what other industries spent.

In order to encourage the oil companies to use these "seas of cash" on energy development and to prevent their buying up even more of the American economy, Senator Edward M. Kennedy and I, along with 16 other senators and 55 of our House colleagues, have introduced S–1246. It prohibits the 16 largest oil companies, who control 70 to 80 percent of our crude oil capacity, from acquiring any corporation with assets of $100 million or more for the next 10 years, which is when the energy crisis will be at its worst. It will encourage them to concentrate on oil development. Or—if they do not want to diversify into nonenergy areas—to do it either through internal expansion or by acquiring companies under $100 million. In both cases, it would increase competition and growth. Under an Administration proposed amendment, the ban would be lifted if the acquisition would actually improve competition.

The big oil companies obviously oppose this bill. But their own arguments prove how much it is needed.

In these pages a few weeks ago, one industry spokesman said S–1246 "would create an industrial ghetto—an isolated cadre of formerly successful companies scraping to stay alive while the rest of the industrial world passed them by."

"Scraping to stay alive?" The oil majors? One of the only two industries that continued to earn high profits in the second quarter? Just because for 10 years they won't be able to buy up the world's largest corporations?

Who is kidding whom?

Oil spokesmen also say the legislation is unnecessary because the industry is highly competitive and not a major political or social force. Both assertions are not supported by the facts.

The industry is tightly intertwined in horizontal and vertical integration, pipeline ownership, interlocking directorates, joint ventures at home and abroad, to say nothing of a close working relationship with the Organization of Petroleum Exporting Countries. Its lobby in Washington has obtained an array of special privileges second to none. In fact, I feel justified in saying that the oil companies have more political clout than either the President or Congress. Oil company involvement in alternative energy sources provides a graphic example of the noncompetitive problem. Oil companies own two of the largest four national coal producers, 14 of the 20 largest coal reserve holders, two of the top three uranium producers, four of the top seven domestic companies with uranium milling capacity and three of the four largest uranium reserve holders.

The industry also claims that S–1246 will somehow cut off oil company access to capital markets. The real-world fact is that big oil companies rely significantly less on the capital markets than they do on their own huge internal cash flow. Even for the external capital these 16 companies do need over the next 10 years, they don't need to diversify. The big oil companies will remain enormously profitable investments during the next decade. There could be no better proof than the market performance of oil company stocks.

As a matter of fact, these acquisitions could hurt a company's creditworthiness. Mobil's bond rating, for example, fell from Triple A to Double A after its acquisition of Marcor. And Sun's investment in Becton-Dickinson certainly won't produce a yield comparable to its oil and gas investments.

And even if diversification were necessary to assure access to capital markets, S–1246 does not preclude diversification, but only giant acquisitions. Indeed, internal expansion may be more profitable as Exxon admitted in the Federal Trade Commission suit against its attempted $1.2 billion acquisition of the Reliance Electric Company.

In essence, the industry wants it both ways. It justifies the immense windfall profits from decontrol in the name of energy development. But recent history shows instead that it will use these profits to buy up large nonenergy related businesses.

Simply stated, S–1246 is a needed update of the original Sherman Act, which incidentally, was a response 89 years ago to the power of—who else?—big oil.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. CORCORAN. Mr. Speaker, due to a previous commitment in my State yesterday, I was unable to be present and voting on a number of matters before the House. Had I been present, I would have voted in the following way:

Rollcall No. 500: Under suspension of the rules, H.R. 5163, which authorized the sale to certain friendly foreign nations of certain excess naval vessels, "yea."

Rollcall No. 501: Under suspension of the rules, H.R. 5218, which amended the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance, "yea."

Rollcall No. 502: Under suspension of the rules, House Concurrent Resolution 167, expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning that Government's systematic nondelivery of international mail addressed to certain persons residing within the U.S.S.R., "yea."

Rollcall No. 504: On a motion that the previous question be ordered on House Joint Resolution 404, making continuing appropriations for the fiscal year 1980, "no." I would have voted "no" on this motion because there were several Members who desired to offer amendments to this resolution and this motion would prevent them from offering them.

Rollcall No. 505: On final passage of House Joint Resolution 404, I am paired against this resolution and would have voted "no" on it if I had been present. This was the fourth in the series of votes on pay raises this year. I had earlier voted against three attempts to raise the pay of Congressmen.

Rollcall No. 506: On an amendment offered that sought to remove the restrictions on the sale of Alaskan crude oil to foreign countries to the extent that the same quantity of crude oil is being exported from an adjacent foreign country to the United States, "no." I am a cosponsor of a bill which would prohibit the exporting of Alaskan oil abroad.●

HEALTH CARE AND COMPETITION

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Ms. MIKULSKI. Mr. Speaker, in this time of spiraling health costs, we face a substantial challenge to develop a fair and effective national health policy. Opening the health care system to true competition, emphasizing preventive health care, and lower cost alternatives to the present system must become part of our policy planning today if all Americans are to enjoy access to quality health care tomorrow.

My strong belief in this issue spurs me to share with my colleagues an article I wrote which was published in the Baltimore Sun on September 18, 1979. It was originally drafted to respond to a previous article by Senator Richard Schweiker, but I believe the issues raised deserve further consideration. I am inserting the article in the Record and I commend it to the attention of all Members.

The article follows:

Health Care and Competition

(By Barbara A. Mikulski)

Washington—Senator Richard Schweiker claimed in The Sun recently [September 5, Opinion Commentary] that the answer to the problems of our health care system is to rely on "competition." This sounds extremely attractive. After all, we're all in favor of more competition, less regulation and the spirit of individual enterprise. Unfortunately, competition as described by the senator has become a code word for a very narrow health care system—an oligopoly of prepaid health care plans which would actually narrow the choices available to the American public. I believe we can do better.

It is true that there are prepaid plans and Health Maintenance Organizations (HMOs)—including some in Baltimore—which provide excellent service right now. There are outstanding examples of HMOs which have reduced the cost of care in their communities while maintaining a high level of services. But I believe that we would make a grave mistake if we adopted competition among HMOs as the centerpiece of our national health policy. Those economists who have suggested such an approach are ignoring inconvenient realities in favor of a theoretical abstraction.

One such reality is that the population of the United States is getting older and older. Demographic data indicate that a quarter of the population will soon be over 65 years of age, and an increasingly large proportion of this group will be over 75.

To state blithely (as the senator did) that we can meet our health care needs for the last quarter of the Twentieth Century by manadating, in the face of population patterns, that employers offer three different kinds of health care plans is equivalent to designing a new suburb based on expanding kindergartens, or investing in a fleet of 10-cylinder limousiness. It ignores the very real needs of a heterogeneous nation in favor of an ideological conclusion—that an ailing health care system can be cured by a massive dose of "the free market."

While planning may be an unpopular word, the fact is that planning for health care is absolutely essential. No one would carry on even a small business in today's economy without adequate planning of needs and resources, both short term and long term. Every health care expenditure, whether necessary or not, is ultimately paid for by the consumer, in the form of ever-rising hospital, insurance and medical bills, but there was little effective action to hold back on unneeded expenditures until state planning bodies like the Health Systems Agency and regulatory agencies like the Maryland Hospital Cost Review Commission took the lead.

Citizens of Maryland can be proud of the record of our state. Our experience demonstrates that high quality health care can be maintained in a cost-conscious atmosphere, and that a fair, rational, consistent planning process does work to the public benefit.

Now our challenge is to apply these same principles to national health policy. For a start, I believe that the same rules should apply to everyone. If hospitals like Johns Hopkins and Mercy have to live by rules, so should all health care providers. For example, an unnecessary CAT scanner installed in a suite of doctors offices costs just as much as the same scanner in the hospital across the street—but right now physicians' offices are exempt from the rules which require a demonstration that the purchase of such expensive equipment is needed.

True competition in health care undoubtedly would be in the national interest; but it has to mean more than just the conversion of individual doctors to corporations entitled to write prescriptions.

Real competition would mean that consumers get honest and adequate information about their choices and that they can choose from a variety of suppliers. I believe that our system of financing health care should allow for competition within the full range of modes for prevention and treatment. American health care consumers should be able to choose to receive service from nurse-practitioners, nurse-midwives, occupational therapists and other health care professionals.

One of the most encouraging phenomena in American health care right now is the growing interest by so many people in good health and good nutrition. The steady change in eating and drinking habits, and in regular exercise, has the potential to do more for the level of good health in this country than any government action.

It is time that we designed a health care system that takes this interest into account. We should be encouraging people to use the assistance of nutritionists and community health educators who work toward the prevention of disease, instead of discouraging them as we do now by withholding reimbursement for their care and counsel.

Our present reimbursement system is skewed in favor of physicians, hospitals and the most expensive kinds of treatment. We ought to be putting more emphasis on prevention, home health care and lower cost alternatives.

There is ample evidence already of the benefits offered by alternative health care providers. For example, in the Kaiser Permanent Health Plan in California, nurse anesthetists provide the necessary services at five medical clinics, with a physician anesthetist on the staff always available for consultation. The total cost for this coverage is less than would be required to maintain two physician anesthetists even if they constantly rotated among the clinics.

And the quality of care, as expressed by patient satisfaction, is high. A Congressional Budget Office report last spring stated that practitioners spend significantly more time with their patients, seeing 60 per cent as many patients in an hour as a physician and delivering high quality health care at two-thirds to four-fifths the cost.

At the very least, federal regulations must stop hindering this kind of competition among health care providers. We should be wary of any change in the system which claims to be for more competition but does not allow for competitive modes of practice.

The answer to the health care needs of Twentieth Century Americans is not to reinvent Nineteenth Century economics. Instead, we should insist on opening up our present system to real competition. We should look for ways to bring more and better health care information to the public, and enable consumers to choose the kind of care that suits their personal circumstances.

Such a system would take into account the different needs and preferences among regions of the country and age groups. It would put the emphasis where it truly belongs—upon enabling Americans to choose freely from a variety of accessible health care alternatives at a cost we can afford.●

CAMBODIANS STARVE: WHAT WILL WE DO?

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. SIMON. Mr. Speaker, one of the persons who regularly disturbs our comfort and bothers our conscience is columnist Mary McGrory.

I walk into my office on a marvelous fall day, with pleasant thoughts about the world, when suddenly Mary McGrory starts telling me about starving people in Cambodia. It is such an easy problem to ignore, and fortunately there are people like Mary McGrory in this world who will not let us ignore the realities of suffering—suffering that is needless, suffering that can be prevented.

How the House can accept a position that no food will go to starving, desperate people, I do not know.

Somehow we must disturb ourselves. Somehow we must do something. The administration must lead, and some of us in Congress must demand such leadership.

I remember a Herblock cartoon of more than a decade ago which showed a U.S. official on top of a huge pile of surplus grain, and some hungry Indians below the pile. The officials were denying them food and Herblock captioned the cartoon, "The Sermon on the Mount."

How accurate a portrayal that must seem to many people. This fiscal year we are paying American farmers $600 million not to produce food in what we call a set-aside. If we can spend that kind of money on paying people not to produce food, we ought to be able to spare a few dollars to rescue the world's desperately hungry.

I am inserting the McGrory column for my colleagues to read:

"CANDIDATES FOR NOBEL PEACE PRIZE" SHOULD TAKE A LOOK AT CAMBODIA

A number of "candidates for the Nobel Peace Prize," Dean Rusk's contemptuous phrase for those who tried to end the Vietnam war outside of official channels, are moving across the landscape these days.

We have the example of the black ministers who have just flown in from, or are flying out to, Beirut, bent on inducing Yasser Arafat to get a moral shave and a haircut.

Sen. Frank Church of Idaho, in standing up to the Russians and SALT, is trying to evict Soviet troops from Cuba. Sen. Jesse Helms of North Carolina dispatched a couple of aides to the London conference on Zimbabwe Rhodesia.

All the meddlers profess to be working for world peace.

But where are they on the appalling tragedy unfolding in Cambodia, where possibly 2 million people are facing death by starvation in the immediate future.

Says Lincoln Bloomfield, the new refugee and human rights expert on the National Security Council, "Famine is predictable; the probability is almost 100 percent."

And the world seems ready to stand aside and watch it happen.

Since we do not have diplomatic relations with Cambodia's masters, the Marxist rulers of Hanoi, we do not know for a certainty the dimensions of the tragedy.

PLANTINGS ARE SKIMPY

But we do know from aerial photographs that the skimpy plantings in Cambodia make starvation inevitable.

Even in comparatively happier times, Cambodia did not take a census. In 1975, the population was thought to be about 6.9 million. Under the official butchery practiced by Pol Pot, the successor to "our" Lon Nol regime, 1 million or even 2 million were slaughtered. The State Department estimates that there are 4 million Cambodians left, half of whom will starve to death.

The State Department makes this grisly estimate from the food request submitted to the U.N.'s World Food Program by the Vietnamese puppet ruler of Cambodia, Heng Samrin: 162,000 tons of rice, 8,100 tons of cooking oil and 15,000 tons of sugar.

To meet this need, only a trickle of supplies has been delivered. Oxfam, a private British agency, recently landed 65 tons of relief supplies, and UNICEF, 110 tons of powdered milk and medicine.

Correspondents from Canada and Western Europe report scenes of mass suffering. In one hospital ward with 100 children, 80 had malaria. Beri-beri and diarrhea are rampant.

President Carter would like to help, but the law governing Food for Peace, for which the Cambodians are excruciatingly eligible, requires an international presence to monitor distribution. The regime will not permit this. The fear is that food intended for the inhabitants will be diverted to Vietnamese troops, who are even now engaged in an offensive to put down the remnant's of the Pol Pot regime.

YOUNG PRESSED ISSUE

Some Carter intimates, notably Andrew Young, erstwhile U.N. ambassador, have pressed the president to recognize Vietnam so we could at least obtain first-hand information about the Cambodians and their fellow-sufferers, the boat people.

But others argue that recognition would merely sanction the Vietnamese invasion of Cambodia and the brutal expulsion of ethnic Chinese.

Geopolitically, we do not wish to offend Vietnam's enemy, China, or to give aid and comfort to Vietnam's friend, Russia.

As the Vietnamese continue their military operations, more refugees will be dragging themselves across the roads to Thailand. In months past, the Thais have driven the Cambodians back across the border at gunpoint.

Now, says the State Department, there is "reason to hope" that the Thais won't do that any more. The only stated reason is that they have not been doing it lately.

The land refugees have much less visibility than the boat people. The boat people, if they make it across the China Sea, may eventually find permanent asylum abroad.

The most that can be done for the Cambodians is to set up food depots at the Thai border and hope they're strong enough to get there. The U.S. government has made a grant to the Catholic Relief Service for this purpose.

But the "candidates for the Nobel Peace Prize" are not focussing on these horrors.

RUMPELSTILTSKIN RAGE

All we hear about Cambodia is noisy dialectic. Former Secretary of State Kissinger is in a Rumpelstiltskin rage over a book written by William Shawcross, *Sideshow: Kissinger, Nixon and the Destruction of Cambodia*, an analysis of the Kissinger-Nixon policies of secret bombings and other machinations that produced, according to Shawcross, the ruin of a once-lovely land.

Kissinger, who is more accustomed to adulation than attack, has responded by calling Shawcross' charges "obscene."

That word should be reserved for what is happening in Cambodia today. It is infinitely more important than what is happending to Kissinger's reputation.

Maybe when Walter Fauntroy and Jesse Jackson have made peace in the Middle East, and Frank Church has reduced the threat of invasion of Florida, and Jesse Helms has averted civil war in Africa, they might like to consider what could be done for people with bloated bellies and vacant eyes.

It is a fit subject for public clamor.●

PRESTON JONES

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. PICKLE. Mr. Speaker, a few all-too-short years ago I was privileged to have playwright Preston Jones at a luncheon here in the Capitol attended by some of the Texas congressional delegation, Speaker Carl Albert, Majority Whip JOHN BRADEMAS, and others. If ever there was a feast of love and appreciation, that was it, for Mr. Jones had warmed the hearts of all of us who had seen his plays, especially "The Texas Trilogy." His humor and his humanity were boundless. In his modest way he seemed a little overcome at the depth of feeling shown for him—but it was we who were overcome by this much-needed voice for the people. New York did not quite understand him—but that was New York's loss. And now his death is all our loss.

The Washington Star eulogized Mr. Jones, and I would like to share their comments with my colleagues.

The editorial from the September 25 Star follows:

[From the Washington Star, Sept. 25, 1979]

PRESTON JONES

The death of Preston Jones last week at 43 robs the American theater of one of its most promising talents. But somehow the theft seems especially shocking here, where Mr. Jones experienced the greatest triumphs of his all-too-brief career. An actor at the Dallas Theater Center who didn't begin writing until his late 30s, Mr. Jones surprised himself and much of the theater world with *A Texas Trilogy*, three plays about life in Bradleyville, a fictional West Texas town which changing times and the four-lane highways had left to the tumbleweed.

Arena Stage was the first theater outside Texas to recognize Mr. Jones' extraordinary potential when it staged *The Last Meeting of the Knights of the White Magnolia* in 1975. A year later, the Kennedy Center revived "Magnolia" and gave sterling productions to the other two plays in the trilogy, *Lu Ann Hampton Laverty Oberlander* and *The Oldest Living Graduate*. Their success was instantaneous with critics and public alike. The Kennedy Center engagement was extended to an unprecedented 16 weeks and could have run longer, had Broadway not beckoned.

Broadway, as it turned out, was less enthusiastic. Critics there found the plays too small, too regional, too folksy for their tastes, and callously rejected them. New York's provincialism has probably never been more in evidence. With characteristic jocularity, Mr. Jones laughed off the Broadway failure, saying: "Hell, we were the longest running Texas trilogy in history." Still, failure hurt.

In another era, that might have been it. Instead, the regional theaters rallied to Mr. Jones' side, ignoring Broadway's verdict and making him one of the most popular American playwrights of the 1970s. At a time when critically-approved playwrights have given us despairing images of mankind, Mr. Jones seems to have come closer to the images most Americans hold of themselves and their neighbors: decent beings doing their best to make a life. Mr. Jones' characters were common folk, but he rendered them with uncommon vividness. They could be funny, but he never made them look foolish. If they sometimes shredded English grammar, they often produced poetry in the process.

"All my characters are mosaics—bits of people I've known and talked to. *Listened* to, mostly," he once told *The Star's* David Richards. "That's one thing you must do as a playwright. Listen a lot. And what's always struck me about those people is their forthrightness and their honesty."

It is futile to speculate on what Mr. Jones might have written if time, which he once called "that ———," had let him live. The temptation is to say that his best works lay ahead of him, if only because playwrights are usually late bloomers. One thing is certain: At 43, Preston Jones had a lot more listening to do.●

PRESIDENT FORD SPEAKS OUT ON SALT II

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. MICHEL. Mr. Speaker, former President Gerald R. Ford has made a thoughtful and incisive speech concerning SALT II. I recommend it to the attention of our colleagues and of all Americans.

At this time, I insert in the RECORD, "Gerald Ford Takes His Stand on SALT", from the Washington Post, September 26, 1979.

GERALD FORD TAKES HIS STAND ON SALT

I wish to share some of my thoughts regarding the SALT II treaty and America's defense policies. They constitute my first effort at comprehensive public comment on these subjects since leaving the White House in January 1977. I've been there. The responsibilities are awesome. I have weighed these words very carefully.

I have studied the treaty and its accompanying documents in detail. I have been thoroughly briefed by the administration and by those on the other side. I have carefully followed the ongoing debate in the Senate committees. And I am deeply troubled.

Frankly, I am troubled less by the questions in the treaty itself—although there are serious questions—than I am by the air of unreality that seems to accompany some of the debate.

Strategic arms control is of great importance to the United States. I supported the SALT talks in Congress, encouraged them as vice president and pursued them personally as president. We need the SALT process and a good SALT agreement. But neither the SALT talks nor any SALT treaty is an end in itself. It is not the key to all wisdom. It is not a magic answer. Ratification will not bring utopia; rejection will not bring Armageddon.

Just as SALT should never be considered in isolation from the rest of U.S.-Soviet relations, neither should SALT have a higher priority than our national defense program. We must be certain of our strength before we can safely consider SALT limits on it. Let's make certain we get the horse before the cart. It would be catastrophic to reverse the two.

Anyone who recommends a context for the national debate surely should follow his own advice. So, before looking at the particulars of the treaty, let's look at the status of our defense program. Let's try to answer the question: can America be certain of her strength today and during the next decade? That examination requires a brief history of the evolution of U.S. military strategy in the nuclear age, starting with the initial concept in the '50s—"massive retaliation."

The "massive retaliation" doctrine was based on one simple fact: the United States possessed overwhelming strategic superiority. With it, theoretically, we could presumptively deter and surely control any military with the Soviet Union through the threat of escalation to a nuclear level where the United States was absolutely dominant.

Massive retaliation was a logical response to the frustrations of the early '50s:

In Korea we had achieved our initial objectives, but many people felt that we had become "bogged down" in a situation in which the Communist forces enjoyed a relative advantage.

In Europe we had set NATO force goals which, even if they had been met, would have constituted a severe economic drain.

Even though the United States still enjoyed substantial superiority in its ability to project conventional forces to distant areas of conflict, massive retaliation made good military sense. Put simply, it was a strategy to deter "limited" conflict such as Korea by threatening to respond at a level where both sides knew we would prevail.

The principal problem of "massive retaliation" was its lack of political credibility. A nuclear attack on the Soviet Union seemed so disproportionate a response, and therefore so unlikely a response, to a Soviet provocation at a minor level of conflict that the doctrine of "massive retaliation" could not be counted on to deter local aggression.

So next came steps to add credibility to deterrence by adding flexibility to our military arsenal. While retaining absolute dominance in strategic weapons, we deployed tactical nuclear weapons with the NATO forces. And then in the early '60s, we moved to further improve the credibility of the United States and NATO military strategy by "filling in," with conventional military capability, the lower steps of the escalation ladder of military conflict.

We had moved from the concept of massive retaliation to the concept of "flexible response" under which deterrence of Soviet aggression would rest, not just on the capacity to devastate the Russian heartland, but to respond to Soviet aggression at any level of conflict. At the conventional level, U.S. forces were to be adequate to deal with modest military incursions and to make obvious the inevitability of a U.S. military response to agression. They were to be sufficient to force a "pause" in the conflict in which the Soviets would contemplate seriously the consequences of continuing hostilities. Should the U.S.S.R. nevertheless persist in its aggression, the United States could then escalate the conflict to the level of tactical nuclear warfare and, if necessary, to the use of strategic nuclear weapons. Since the United States was unmistakably dominant at both these levels, the Soviet Union was clearly deterred from attack in the NATO area.

As we made these moves toward a flexible response doctrine, the famed "missile gap" occurred. Suddenly, and for the first time, we thought that our absolute dominance in strategic nuclear weapons was imperiled by the apparent intention of the U.S.S.R. to produce ICBMs en masse. Because both our defense and deterrence ultimately rested on that dominance in strategic weapons, we moved quickly to modernize and diversify our strategic force—to make it less vulnerable to the massive Soviet missile force we were told was their plan. The strategic posture we have today—the Triad and even the specific weapons systems, the ICBMs, strategic ballistic missile submarines, and bombers—was largely developed at that time.

The "missile gap" fears were based not on what the Soviets were actually doing, but on what we thought they were capable of doing. Our response to the *perceived* threat ironically proved far more helpful to American security than our reaction to the *actual* Soviet program once we discovered it in the mid-'60s. They were not building missiles at the rate we had feared and so we assumed they desired only a modest strategic capability and, unfortunately, we relaxed. Our Minuteman ICBM program was halted well short of the numbers recommended by our military leaders. The notion of targeting their strategic arsenal was rejected in favor of a concept of targeting Soviet cities under a doctrine of "assured destruction" designed to encourage the U.S.S.R. to do the same because it would require only a small Soviet strategic force to achieve.

All in all, it was a formula bound to produce complacency. You start off with total and absolute superiority; then you get scared that the other side is going to catch up and surpass you, so you diversify and modernize; then you realize the other side wasn't doing anywhere near as much as you thought; and so, psychologically, you believe that the overall result is continued assured superiority. The complacency that followed the awareness that there was no real missile gap was the beginning of our problems today.

A separate but related factor which influenced the policy process was the Vietnam War. Aside from the psychological trauma of Vietnam and its impact on U.S. foreign policy, the conflict had a dramatic negative effect on the several force structure decisions which had been made in the early '60s. The war naturally resulted in very high defense budgets, very little of which was devoted to R & D or force modernization, aside from Vietnam-related items. This natural emphasis was underscored by the desire of the administration in the earlier years of the conflict to conduct the war in a manner calculated to have the least visible and disruptive domestic impact. The result was that during a period when Soviet force development was barreling forward, long-range strategic programs in this country were inadequately funded.

But that was not all. The adverse impact of the war on force development and modernization continued even after U.S. involvement had ended. This occurred as a result of the unfulfilled expectation that the end of the war would permit a "peace dividend," releasing large sums of money for domestic budget needs. The pressures which this produced on the defense budget in general and new strategic programs in particular were extreme. The result was that the defense budget continued to decline as a proportion of the national budget and of the gross national product. These difficulties reinforced both the tendency toward a relaxation of military standards and a propensity to avoid analysis of the strategic balance and the unpleasant choices it might reveal.

We got back on track in the mid-70s. The B1 bomber program was fully funded. The decision was made to go forward with the MX missile. The Trident submarine program was pushed forward. Priority was given to our other strategic programs. And a major shipbuilding program was designed and budgeted. Unfortunately, since the election of 1976, the defense budgets have actually been proportionately reduced and the weapons programs begun in earlier administrations have been halted or slowed down.

Meanwhile, the Soviet Union has never stopped building. It was thought they would be satisfied with a modest "assured destruction" capacity targeted at our cities. They weren't. Then it was rationized and assumed that psychologically they needed to keep building until they felt they had achieved strategic force equality and that then they would stop. They didn't. Today's perilious picture is where we stand.

At virtually every level of military competition, the United States is either already inferior to the Soviet Union or the balance is shifting steadily against us. We are inferior and falling farther behind in conventional force capability. Our ability to project military power over long distances is still superior to that of the Soviets, but they are rapidly closing the gap. Our dominant position on the seas is vanishing. Our Navy is no longer a two-ocean powerhouse and the Soviets continue to build a blue-water, power-projecting fleet. In NATO, the increasing Soviet advantage in conventional force capability is no longer balanced by our current or proposed theater nuclear weapons.

And, most critical of all for our national military policy is the strategic nuclear superiority on which we have relied since World War II to rectify any force disparities at lower levels. The strategic balance is clearly shifting against us, especially as we look forward to a period of great vulnerability for our entire ICBM force in the early 1980s.

The question we started with was: can America be certain of her strength today and during the next decade? My answer, frankly, is no.

It is an ominous picture. What should we do about it? The essential first step is to recognize that our military policy is increasingly out of touch with reality. Strategic superiority and escalation dominance are no longer available to cover our conventional military shortfalls, which are growing. This is the fact of our present situation, a fact we have been all to unwilling to face openly.

How do we recover? There is, unfortunately, no easy, painless, inexpensive way. Since we can no longer dominate the escalation ladder, we must have forces able to deal adequately with aggression at every level of conflict. In addition, we need to modify our strategic employment doctrine. No president should be forced to choose between the massive destruction of the Soviet Union or surrender. That is an intolerable burden. It is an intolerable choice.

Broader options obviously demand a larger defense program. Our senior military leaders can better set out the program details and precise dollar amounts essential to our needs, although certain steps are obvious:

We need an MX missile.

We need a new strategic bomber.

We need to accelerate the Trident program as rapidly as our facilities will permit.

We need an air defense at least sufficient to prevent the Backfire bomber from counting on a free-ride attack on the United States.

We need to modernize and enhance our strategic airlift capabilities, to enable us to project our military power adequately wherever it may be needed.

We need additional funds to improve command and control, for readiness training and for conventional force modernization.

And we need assured funding for research and development into the future.

This list is not all-inclusive, but it is certainly expensive. The Joint Chiefs of Staff have indicated that a 5 percent real increase in the defense budget for at least the next five years is a minimum figure. I am prepared to accept and endorse that judgment. Let me also point out that I am not a latter-day convert to the kind of defense program I have outlined. The spending which I proposed when I was in office provided for more than a 5 percent annual increase in the defense budget. The present administration's budgets for the years 1978 to 1983 have fallen behind my proposals by $66 billion in the critical area of military procurement alone. That difference in military hardware averages out to over 21 percent a year.

Now, if we can't be certain of our strength today and during the next decade, what should we do about SALT and the SALT II treaty?

First, we simply must resist the temptation to think of any SALT treaty as a substitute for summoning the will and the money to make our defense and deterrence forces truly effective. To use SALT as an answer to our defense needs is the most dangerous kind of wishful thinking.

Some may say, indeed some have said, that if we're headed into a tough period militarily, isn't a treaty which limits the Soviet Unon's capacity for expansion the best answer? Assuming the Soviet Union fully abides by the treaty, it can help, of course. But the best answer to America's inadequate defense and deterrence forces, with or without a treaty, is to spend the funds necessary to make them adequate to the new realities. That's not an argument against the treaty; it is a plea from one who has shouldered the responsibilities of the office, to assure that America's president will have the military tools essential to deter adventurism and to defend our country.

SALT can never be a substitute for the certainty of our strength.

Second, we should firmly reassert our commitment to the SALT process, but with realistic expectations for that process.

SALT will not eliminate U.S.-Soviet competition. It certainly will not eliminate the threat of nuclear war and surely cannot be expected to reduce greatly the extent of destruction should a war occur. It will not permit us to cut the defense budget. Neither the United States nor the Soviet Union is prepared to entrust its fundamental national security to any agreement, no matter how carefully crafted.

What then *can* SALT do? In military terms, SALT can document the competition that exists and will continue.

SALT can improve the stability of the strategic balance, making an unintended resort to war less likely.

SALT may be able to channel the directions of strategic weapons development, thus lessening the chances that a critically destabilizing breakthrough will occur. It may enable us to avoid some defense expenditures which otherwise might be necessary to achieve a satisfactory strategic balance. And in a perilous rivalry, SALT does perform a service by providing a process of dialogue.

Compared to some extravagant claims and expectations, these are modest benefits, but they are nonetheless significant and well worth our continued serious efforts. Greater expectations are not realistic. And SALT can perform these services only if we do not ask that it also try to regain at the negotiating table what we have unilaterally given up by not strengthening and modernizing our defense programs.

Just as supporters who claim too much for the treaty should not let their euphoria or their rhetoric get the best of them, opponents who allege too little for the treaty should not forget the fundamental point that there is progress in a responsible process.

Third, let us in the future realize what in recent years we seem to have forgotten—that SALT negotiations, like all negotiations, to be successful, are best undertaken from strength.

The current administration is fond of implying that the current treaty is the product of a continuing negotiating process begun with SALT I under the Nixon administration and furthered through the Vladivostok accord under the Ford administration. They miss the critical point.

The truth is that we negotiated a real breakthrough at Vladivostok with the mutual acceptance of the principle of equivalence. But we negotiated the Vladivostok accord in the full expectation of a significantly stronger American strategic posture than what was actually in effect or programmed when this SALT II treaty was signed.

Many of the overall ceilings in the treaty were first set forth at Vladivostok. But that agreement was reached against a backdrop of a defense program which included such elements as deployment of our MX missile in 1983, deployment of the B1 bomber commencing this year with a production rate of four per month, a strong land-, sea- and air-based cruise missile program, an accelerated Trident program with the first boat to be deployed this year, and and a determination to stop and reverse the decline in the share of our national income being allocated to defense. At the time of Vladivostok, our verification facilities in Iran were secure; and the Soviet Union at that time was not embarked on or supporting geopolitical adventures in such places as Ethiopia, South Yemen and Afghanistan. The Vladivostok accord did not solve all the problems confronting us. But it was an agreement based on equality, flexibility and on the certainty of America's strength into the future.

Dealing from strength, our goal was the rapid conclusion of a SALT II agreement, thereby enabling us in SALT III negotiations to deal with remaining intractable issues, such as mutual strategic force reductions.

When the strategic force commitments in place at the time of Vladivostok were cut back in 1977, the certainty of our future military strength was also cut back, and America's negotiating posture for both SALT II and SALT III was weakened.

Fourth, there are a number of specific problem areas in the treaty which should be recognized and hopefully corrected by Soviet agreement or by Senate understandings or reservations.

There are useful elements in the treaty. It does put a cap on some elements of strategic force quantitative competition. The upper limit on numbers of MIRVs per missile is especially worthwhile.

On the other hand, I am concerned at the protocol casting a long shadow over the SALT III negotiations and at the pressures we will certainly face to continue restrictions on cruise missiles beyond the term of the protocol. I disagree with the asymmetric treatment by which peripheral systems such as cruise missiles are included in the treaty while the Backfire bomber is dealt with only in a separate Soviet aside.

There are two aspects of the verification issue which trouble me. The manner of resolution of the issues relating to the encryption of missile telemetry at a minimum invites dispute about what is and what is not essential for treaty verification. I am also disturbed by the so-called "new types" article purporting to limit both sides to one new ICBM. The title appears to be a misnomer at best. The treaty permits the broadest kind of missile modernization to be carried out without hindrance. Both because there is no baseline agreement on the dimensions defined and because the tolerances allowed are too narrow, we cannot adequately verify compliance with this article. While it apparently does constrain changes in MIRV size and numbers, as well as propellant types, the article at the very best can be expected to result in disputes over conformity with its provisions. At the worst, it could permit the Soviet Union to deploy five essentially new missiles.

Fifth, and this is the bottom line, even if the questions about the treaty are adequately answered, I am opposed to the ratification of the treaty until and unless we can once again be certain of our strength. That means that our necessary strategic force improvements should be clearly in process.

It means that the overall necessary defense spending increases should be unequivocally included in this year's budget, next year's, and each succeeding year of the five-year plan. It means clear policies should be established by the administration and backed by the Congress in statutory authorizations and by the necessary appropriations. These requirements undoubtedly will mean that a final vote on ratification would not happen until well into next year. But the delay will be proved worthwhile if ultimate ratification occurs at a time when we are certain of our strength again.

Let me emphasize the point. Some suggest they are for the treaty on the assumption that the necessary defense spending decisions will be made. That is not my position. My position is that I am against the treaty unless the necessary defense spending decisions have been made and have been written into law. I don't believe vague, short-term or revocable assurances are enough; we must be certain of our strength before we accept limits on it.

In very practical terms, only if the Soviets know there is an unacceptable penalty for violations can they be expected to abide by the provisions of SALT II and stay on the safe side of any uncertainties and ambiguities—and be prepared to negotiate seriously on SALT III. The Soviets will not be persuaded either by expressions of goodwill or by pleas for restraint if they believe in their conventional and strategic superiority. They must be convinced by reality that we have other options. Only then will SALT II be a viable instrument and only then will there be any hope of real progress in SALT III.

Many will ask how we can call for a stronger defense program while we face raging inflation, rising unemployment, a recession, a severe energy crisis and a host of pressing domestic problems. The question is reasonable. I do not claim the answer will be easy. But I am not speaking out now from the comfortable vantage point of a sidelines observer. During my term of office, I did increase the defense budget—by 5.8 percent in real terms in FY77 alone, even after substantial congressional cuts. I did get under way a substantial five-year shipbuilding program—providing almost twice the number of ships in the current program—to ensure our naval predominance in the years ahead. I did have under way an MX missile and a B1 bomber program as well as other force improvement packages. And, I was doing this while helping reduce inflation from 12.5 percent to 4.8 percent. It can be done. We can afford it; what we cannot afford are self-defeating "guns or butter" arguments.

Let me close with a deep personal concern. My greatest fear for this country is that the obvious danger signals for our economic security will blind our leadership or our people to the more subtle danger signals for our national security.

The danger signals for our economy are all around us. The experts cite the high inflation rates, the high unemployment rates, and the high interest rates. The people don't need the experts to tell them they have problems. They live every day with the cost of energy and food and housing. A clear and present economic danger is obvious.

These pressing economic concerns may keep many Americans from recognizing the importance of the SALT and defense debate. There is no everyday statistical equivalent in the national security area to the cost-of-living index. The erosion of a nation's defenses is not obvious at the supermarket. The priority of our defense budget seems a distant concern in the gas lines. We certainly don't need any more problems. We all would like to wish them away.

But neither Washington's preoccupation with politics nor our people's preoccupation with the high price of everything must be permitted to obscure a clear and present danger to our national security.

The decisions we make on our defense budget and the SALT treaty are as important as any decisions America has ever had to make. The necessity for economic and energy security is inseparable from a commitment to national military security.

Without the deterrence of an adequate range of military resources, our diplomacy can be hamstrung in the face of Soviet adventurism which potentially further challenges our worldwide energy supply lines.

Without a revitalized, diversified and secure strategic capability, our allies cannot recover their confidence in our overall leadership which is a precondition to recovering their confidence in our dollar.

Without the psychological confidence based on the certainty of our strength, no American president can be certain to deter the kind of conflict that makes economic security irrelevant.

Let me repeat: the necessity for economic and energy security is inseparable from a commitment to national military security. A bold America today is the only sure road to a secure and thriving America tomorrow.●

CONCERNS ABOUT THE FISCAL YEAR 1980 DEFENSE APPROPRIATIONS BILL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. KEMP. Mr. Speaker, the fiscal year 1980 Department of Defense appropriation bill has been the product of months of work by the Defense Subcommittee. Regrettably, it falls far short of the mark when measured against our security requirements. The budget falls far below the figure recommended by the previous administration, and reflects the sharp reductions this administration has made in strategic programs such as MX, which has been delayed by more than 2 years, as well as major reductions in naval shipbuilding.

These reductions have been made in the context of a vigorous national debate about the desired level of investment in defense. The President refused to support the 3-percent growth rate he was nominally pledged to support, and has rejected Senator NUNN's suggestion of a 5-percent growth rate in defense. In fact, the discussion about the growth rate in defense expenditure misses the point: it matters little how much we spend on defense; only what defense we purchase for our national investment makes a difference.

The defense program, whether it is President Carter's proposed fiscal year 1980 defense budget, or his slower growth fiscal year 1981 defense program does not contain the programs needed to assure the Nation of an adequate defense in the 1980's. The Nation's defense problems will only be successfully met if we resolve to get the most defense per dollar—including procuring defense products and services at the lowest cost in a competitive environment—and focus our defense investment on programs which hold out promise of meeting the military threat posed to our forces by the Soviet Union. I am appending my comments on the fiscal year 1980 defense appropriations bill contained in the committee's report.

REPORT

The funds recommended for appropriation by this Committee are inadequate to meet the nation's defense requirements for Fiscal Year 1980. The funds recommended by this Committee are $15.0 billion (TOA) below the funds recommended in this FY 78 budget message for FY 80 by President Ford. Since President Ford left office, the funds approved by the Congress (including this Committee's FY 80 recommendations) have been $28.4 billion in the aggregate below the amount recommended by the previous administration. Nevertheless, there has been no major reduction in U.S. alliance commitments, nor has there been any attenuation of the military threat our forces face in the event of hostilities with the Soviet Union that could justify such a massive series of reductions. Yet, except for selected procurement accounts, the Committee's recommendation proposes reductions which will undermine the ability of the armed forces to respond to a major military contingency for years to come.

THE MILITARY THREAT

A fundamental weakness of the Committee's review of the FY 80 defense budget is the failure to weigh the recommendations proposed against the military threat the budget is intended to address. Witnesses before the Subcommittee on Defense provided considerable detail about the evolution of the threat posed to U.S. forces. Illustrative changes in the magnitude of the threat include:

Improvement in the effectiveness of Soviet armor on the most advanced Soviet main battle tank, the T–72;

The upgrading of Soviet tactical air power from a force dominated by the air defense mission to one which increasingly emphasizes the ground attack role;

The introduction of two new medium range theater nuclear delivery systems, the SS–21 and SS–22;

The development of a new tank, the second main battle tank developed by the Soviet Union within the decade, the T–80, scheduled for deployment within the next two years;

The deployment of a second aircraft carrier, the *Minsk*, and the unambiguous introduction of nuclear propulsion to the Soviet surface navy with the development of a nuclear-powered cruiser;

The increase in the tank strength of Soviet divisions deployed in Eastern Europe to 415 per Tank division, a number significantly greater than the holdings of their American armored division counterpart;

The expected doubling of Soviet multiple warhead loadings in their submarine force within the next few years—the one realm of strategic arms competition where the U.S. had a substantial numerical advantage;

The development of a new (fifth) generation of ICBMs, two new submarine launched ballistic missiles, and three new bomber types, all carried out simultaneously by the Soviets.

The aforementioned developments are illustrative of the swiftly changing character of the threat posed to U.S. forces. Indeed, a recently published study of the RAND Corporation cites the estimate that the Soviets have invested more than $100 billion more than the United States in defense in less than ten years. Investment disparities of the magnitude year-in and year-out have eroded the relative military power of the United States to the point where the Joint Chiefs of Staff concede that the U.S. will lose "essential equivalence with the Soviets by the early 1980s."

Despite these foreseeable consequences,

Committee decisions appear to be immune from assimilating the consequences of the growth of Soviet military power. If the U.S. defense budget were to grow at a five percent annual rate, and the Soviet defense budget continues to grow at the rate estimated by CIA, it will take 42 years for U.S. defense investment to catch up to that of the Soviet Union. At the three percent rate of growth proposed by the President, the U.S.-Soviet chasm will grow. Such yawning disparities in the prospective military power of the U.S. and the Soviet Union cannot fail to have eventual adverse diplomatic consequences for the United States.

REDUCTIONS IN OPERATIONS AND MAINTENANCE

Funds for Operations and Maintenance (O&M) provide for the readiness of U.S. forces. With active armed forces of ever diminishing size, the state of operational readiness of the forces is a matter of particular concern. Discussions with military officials responsible for the operation of U.S. forces indicate many areas where O&M funding is inadequate to maintain the highest order of military proficiency. Funding of the Navy and Air Force Flying Hour program has been so inadequate as to have a detrimental effect on the retention of air crew members in both services. Reductions in O&M nevertheless amount to $1.18 billion from the President's request. Although many of the reductions recommended are made with justification, no serious attempt was made to provide adequate funding for a host of areas inadequately funded in O&M accounts. Only $299.4 million increases were recommended by the Committee, while reductions of $1.488 billion were recommended by shifting savings to these accounts. As a consequence, the readiness of U.S. forces will suffer due to the Committee recommendations if they are enacted into law for the coming fiscal year.

RESEARCH AND DEVELOPMENT

Expenditures for military research and development provide the basis for an American response to future military threats. As the consequences of more than a decade of disinvestment in defense eroded our current military potential compared to that of our primary adversary, the Soviet Union, the significance of R&D has grown. The fewer forces we are able to deploy, the greater the importance of maintaining or gaining a technological advantage to offset Soviet numerical superiority.

Such technological superiority has been at the very core of U.S. military power since World War II. The rapid gains the Soviet Union has made since the early 1970s in both strategic and general purpose force programs reflect their more ambitious investment program in military R&D. Yet the Committee's recommendations serve to diminish the ability of the U.S. to maintain, or in some cases, regain technological superiority. The Committee has recommended a net reduction of $210 million in R&D. More than one-third of the reduction ($79.1 million) has been taken from the Technology Base. The ability of the U.S. to remain abreast of advanced technology will be compromised by the reductions made. The disappointing pattern of inadequate advances in many areas of military equipment by the time it is ready for procurement will inevitably be continued when R&D programs are underfunded in relation to the pace of technological advances needed to maintain our security.

PROCUREMENT

Despite the fact that the armed forces suffer from a wide range of procurement deficiencies, the Committee has recommended a net reduction in procurement of $100.16 million from the President's request—a request substantially truncated from the budget request his predecessor recommended for the same fiscal year. The armed forces have an ammunition deficiency in excess of $15 billion; the Navy has sufficient aircraft to equip only 9 of its 12 operational aircraft carriers; the Air Force lacks sufficient aircraft to equip its 26 active wings; the gross underfunding of naval shipbuilding will inevitably mean a far smaller naval force to face undiminished commitments in the decade ahead. The failure to procure weapon systems in adequate quantities has diminished the military capability of our active and reserve forces, led to high unit cost procurement, and has reduced the responsiveness of the military-industrial base to respond to a future mobilization contingency.

The continuous decline of American military power should be a serious concern to the Congress, and should be reflected in greater evidence of initiative and independence in fulfilling its Constitutional responsibility to "raise an Army and Navy." With the singular exception of its insistence upon nuclear propulsion for a new aircraft carrier, the Committee has focused upon making marginal reductions in hundreds of defense programs whose cumulative effect is to deprive the defense establishment of the resources needed to deter war, or if deterrence fails, to successfully wage war. A forthright Committee interest in enhancing the military power of the United States would better serve the national interest than the current passion for reducing its military power.

JACK F. KEMP.●

READINESS OF AMERICAN TROOPS IN EUROPE

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. PEYSER. Mr. Speaker, during the August recess of Congress I was privileged to represent this body at the North Atlantic Alliance inspection tour of NATO defense forces in Western Europe. Frankly, my findings on the training and combat preparedness of American troops in Europe are quite disturbing. I would like at this time to insert into the RECORD the report I wrote on the inspection tour. Copies of this report have been sent to the President, Defense Secretary, Harold Brown; Secretary of the Army, Clifford L. Alexander, Jr.; and Mr. Zbigniew Brzezinski, assistant to the President for National Security Affairs.

The report follows:

COMBAT READINESS OF AMERICAN TROOPS IN EUROPE

I have had an opportunity during the past week to observe and talk with some of the officers and men in our NATO forces in Europe. These are men and women from the rank of general down to private. They are all soldiers who are doing their utmost to carry out the assignment we have given them of defending Europe. The spirits of the men and women in the ranks are good and the caliber of our officers is excellent.

A critical problem exists however—a problem that unless rectified can make our efforts in NATO useless, and jeopardize the lives of our fighting men. The problem simply stated is this:

1. Insufficient training ammunition;
2. Inadequate training areas.

Our men who are on the front line facing Russian troops, tanks, and artillery are not combat ready. They do not have the proficiency in weapons, in maneuvering, in forward observing for tanks and artillery, or in the kinds of skills they need to stay alive on the first day of combat.

It is the Command decision, based on shortages of ammunition, that all troops should fire only twice a year and with limited numbers of rounds. Due to troop rotations, many men fire their weapons no more than once a year. A typical example is demonstrated by a platoon that fires only one round of anti-tank ammunition a year (Dragon). Efforts are made to simulate firing conditions, but you cannot effectively fire a .22 caliber bullet and keep pretending it is a 105 mm. shell, I have been told by top command officers that money has been taken from ammunition budgets to pay increased fuel and electric bills. We have a shortfall of at least 30 percent in training ammunition in Europe today. Unless platoons, companies, and battalions can have ammunition for maneuvers and work on real battle situations, many American soldiers could lose their lives unnecessarily.

As for training areas, we have too few that are suited for the kind of troop maneuvering necessary to reach combat efficiency. Our government is going to have to bring political weight to bear on the countries involved to get more training areas. If the defense of Europe is as important to all of us as I believe it is, and if we believe that our soldiers should have a fighting chance, then we cannot tolerate this situation. I am personally calling on the President as Commander-in-Chief of our Armed Forces, the Secretary of the Army, our top Generals responsible in the Defense Department, and the Chairman of the Armed Services Committees in the House and Senate to immediately look into the matter and take the necessary steps to bring about a change. Perhaps with the billions upon billions of dollars that we are spending on defense, our priorities have gotten mixed up. The American soldier has proven himself to be the best soldier in the world. It is up to us to see to it that he can maintain that standard.

I assure you I will not consider voting for either a draft or registration until I am convinced that our men and women will have the tools that will give them a fighting chance. In the era when United States strategic arms strength prevailed, deficiencies at the conventional level might have been tolerable, but with the advent of strategic parity, as codified by the proposed Salt II treaty, inadequacies in conventional defense capabilities are magnified and cannot be tolerated. Thus, it is especially vital that the glaring deficiencies which I have observed be quickly set straight.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 27, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 28

8:00 a.m.

Energy and Natural Resources

To hold hearings on the nomination of John C. Sawhill, of New York, to be Deputy Secretary of Energy.

3110 Dirksen Building

9:00 a.m.

Commerce, Science, and Transportation
Consumer Subcommittee

To continue oversight hearings to examine the enforcement and administrative authority of the Federal Trade Commission to regulate unfair and deceptive trade practices.

235 Russell Building

Judiciary

To continue hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

9:30 a.m.

Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee

To hold hearings on S. 828 and H.R. 3951, bills authorizing funds through fiscal year 1987 to the Washington Metropolitan Area Transit Authority for the construction of the rapid transit system for the national capital region.

3302 Dirksen Building

Select on Small Business

To resume hearings on export assistance programs, administered by the Small Business Administration.

424 Russell Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Environment and Public Works
Environmental Pollution and Resource Protection Subcommittees

To resume joint markup of S. 1480, 1325, and 1341, bills to provide for the adequate and safe treatment of hazardous substances being released into the environment.

4200 Dirksen Building

Finance

Business meeting, to continue consideration of H.R. 3919, to impose a windfall profit tax on domestic crude oil.

2221 Dirksen Building

Select on Indian Affairs

Business meeting, to mark up S. 668, to allow the Cow Creek Band of the Umpqua Indians of Oregon to file a claim with the U.S. Court of Claims for alleged failure of the United States to fulfill treaty obligations.

5110 Dirksen Building

10:30 a.m.

Select on Indian Affairs

To hold hearings on S. 1682, to authorize the Indian trust land comprising Wapato Point on Lake Chelan, Washington, to be leased for up to 99 years by the Wapato family; and H.J. Res. 199, to correct certain land descriptions as contained in Public Law 95-498, providing that certain public lands be held by the United States in trust for the Santa Ana Pueblo Indians.

5110 Dirksen Building

11:00 a.m.

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommitte

To resume hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.

6226 Dirksen Building

OCTOBER 1

9:30 a.m.

Appropriations
Interior Subcommittee

Business meeting, to consider H.R. 4930, making appropriations for fiscal year 1980 for the Department of the Interior and related agencies.

S-128, Capitol

Energy and Natural Resources
Energy Regulation Subcommittee

To resume oversight hearings on S. 1684, to provide for the development, improvement, and operation of domestic refinery capabilities.

3110 Dirksen Building

Labor and Human Resources
Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry
Environment, Soil Conservation, and Forestry Subcommittee

To hold oversight hearings on the planning and program development process of the Forest and Rangeland Renewable Resources Planning Act of 1974, to emphasize amounts and location of resource availability over the next several years, and to provide recommendations to the Administration on possible program levels.

322 Russell Building

2:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 2

9:30 a.m.

Agriculture, Nutrition, and Forestry
Nutrition Subcommittee

To hold oversight hearings to review the National Institutes of Health research proposals relating to nutrition and environment, and recommendations to develop clinical nutrition research units in an effort to seek treatments and cures for dietary diseases.

324 Russell Building

Commerce, Science, and Transportation

To hold hearings on the effect of economic regulation of the motor carrier industry on service to small and isolated communities.

235 Russell Building

Environment and Public Works
Nuclear Regulation Subcommittee

To hold hearings on the response of the Nuclear Regulatory Commission relative to the Three Mile Island accident.

4200 Dirksen Building

Judiciary

Business meeting, to consider pending nominations and legislation.

2228 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry
Environment, Soil Conservation, and Forestry Subcommittee

To continue oversight hearings on the planning and program development process of the Forest and Rangeland Renewable Resources Planning Act of 1974, to emphasize the amounts and location of resource availability over the next several years, and to provide recommendations to the Administration on possible program levels.

457 Russell Building

*Energy and Natural Resources
Energy Conservation and Supply Subcommittee

To hold hearings on Amendment No. 388, to provide incentives for industrial, commercial, and residential energy conservation, to S. 1308, proposed Energy Supply Act, and S. 1800, to facilitate energy efficiency in residential buildings.

3110 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee

To hold hearings to investigate alleged misclassified nuclear weapons information.

3302 Dirksen Building

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee

To hold hearings on S. 1681, to require that a contractor on a Federal public construction project submit a notarized statement at the beginning and the end of each contract with respect to the wages and fringes to be paid or which have been paid on the project.

1318 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee

To hold hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

4232 Dirksen Building

2:30 p.m.

Select on Ethics

Closed business meeting.

S-206, Capitol

OCTOBER 3

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1656, to promote the development of a strong domestic fishing industry, by strengthening the provisions of the Saltonstall-Kennedy Act which established a reserve fund to support fisheries development projects.

235 Russell Building

Environment and Public Works
Nuclear Regulation Subcommittee

To continue hearings on the response of the Nuclear Regulatory Commission relative to the Three Mile Island accident.

4200 Dirksen Building

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

Labor and Human Resources
Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

9:45 a.m.

Governmental Affairs
Intergovernment Relations Subcommittee

To resume hearings on S. 878 and 904, bills to simplify the administration of national policy requirements applicable to Federal assistance programs to State and local governments.

1114 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Governmental Affairs

Energy, Nuclear Proliferation, and Federal Services Subcommittee

To hold hearings on S. 794, to allow for a smoother operation of the consultation procedures established by the Postal Reorganization Act of 1970 between top management of the U.S. Postal Service and an organization of postal supervisory employees, in the planning and development of pay policies and other programs relating to supervisory employees.

357 Russell Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To continue hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

6226 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To mark up S. 1177, to establish a partnership between the Federal Government and the States in the planning and provisions of mental health services.

Room to be announced

OCTOBER 4

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit and Rural Electrification Subcommittee

To hold hearings on S. 1465, proposed Farm Credit Act Amendments.

322 Russell Building

Judiciary

Constitution Subcommittee

To resume hearings on proposals advocating a balanced Federal budget or restricting in some way the growth of Federal outlays which include S.J. Res. 2, 4, 5, 6, 7, 9, 10, 11, 13, 16, 18, 36, 38, 45, 46, and 56.

1202 Dirksen Building

9:30 a.m.

Judiciary

To resume hearings on S. 1246, to protect against the growth of a monopoly power among major petroleum companies, and to encourage oil companies to invest profits back into oil exploration, research, and development.

2228 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To resume oversight hearings to examine the enforcement and administrative authority of the Federal Trade Commission.

235 Russell Building

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To continue hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

4232 Dirksen Building

OCTOBER 5

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agriculture Credit and Rural Electrification Subcommittee

To continue hearings on S. 1465, proposed Farm Credit Act Amendments.

322 Russell Building

Commerce, Science, and Transportation

Consumer Subcommittee

To continue oversight hearings to examine the enforcement and administrative authority of the Federal Trade Commission.

235 Russell Building

9:30 a.m.

Agriculture, Nutrition, and Forestry

Foreign Agricultural Policy Subcommittee

To hold hearings on proposed sales of American grains to the Soviet Union.

457 Russell Building

Judiciary

To resume hearings on S. 1722 and 1723, bills to reform the Federal criminal laws and streamline the administration of criminal justice.

2228 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Judiciary

Constitution Subcommittee

Business meeting, to consider S. 506, to provide the Department of Housing and Urban Development with new enforcement powers to insure compliance with statutes guaranteeing equal access to housing in the United States.

Room to be announced.

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To continue hearings on proposed authorization for fiscal year 1981 for programs under the Higher Education Act.

4232 Dirksen Building

Joint Economic

To hold hearings on the employment-unemployment situation for September.

1318 Dirksen Building

OCTOBER 9

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit and Rural Electrification Subcommittee

To resume hearings on S. 1465, proposed Farm Credit Act Amendments.

322 Russell Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 10

9:00 a.m.

Energy and Natural Resources

To hold hearings on H.R. 3756, authorizing funds for fiscal years succeeding fiscal year 1980, to provide a medical care and environmental research program for the Marshall Islands, resulting from U.S. nuclear weapons tests, and to administer and enforce certain taxes and customs duties in the Northern Marianas Islands, Guam, the Virgin Islands, and American Samoa; and H.R. 3758, to stipulate that U.S. income tax laws will not become effective in the Northern Marianas Islands as a local territorial income tax until January 1, 1982.

3110 Dirksen Building

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To resume hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

1318 Dirksen Building

OCTOBER 11

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To hold hearings on S. 531, to allow State-inspected meatpacking plants which meet Federal requirements, to sell their product to federally-inspected plants for further processing, which will increase both competition and efficiency throughout the meat industry, and help put an end to the destruction of the smaller plants.

322 Russell Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To continue hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

4232 Dirksen Building

2:00 p.m.

Environment and Public Works

Water Resources Subcommittee

To resume hearings on S. 1241, authorizing funds through fiscal year 1981 for water resources projects, and to restructure our Federal water resource policy.

5110 Dirksen Building

OCTOBER 12

10:00 a.m.

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold hearings on S. 1637, to modify the existing oil and gas leasing system on public lands.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To continue hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

4232 Dirksen Building

OCTOBER 15

2:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 16

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Foreign Relations

To hold hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2nd sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2nd sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2nd sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2nd sess.).

4221 Dirksen Building

OCTOBER 17

8:00 a.m.

Labor and Human Resources

Child and Human Development Subcommittee

To hold oversight hearings on the implementation of older American volunteer programs by ACTION agencies.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Foreign Relations

To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2nd sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2nd sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2nd sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2nd sess.).

4221 Dirksen Building

OCTOBER 18

10:00 a.m.

Energy and Natural Resources

To hold hearings on S. 1699, and Amendment No. 395 to S. 1308, measures to expand the existing energy impact assistance to State and local governments contained in the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95–620) to reflect recent legislative initiatives to foster greater domestic energy production.

3110 Dirksen Building

Foreign Relations

To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2nd sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2nd sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2nd sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2nd sess.).

4221 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 19

9:30 a.m.

Energy and Natural Resources

To continue hearings on S. 1699 and Amendment No. 395 to S. 1308, measures to expand the existing energy impact assistance to State and local governments contained in the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95–620) to reflect recent legislative initiatives to foster greater domestic energy production.

3110 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

OCTOBER 23

10:00 a.m.

Labor and Human Resources

To hold oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training, and educational programs.

4232 Dirksen Building

OCTOBER 24

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on S. 829 and 1644, bills to provide for Federal management of a 20-year coordinated program in weather modification within the Department of Commerce.

235 Russell Building

10:00 a.m.

Labor and Human Resources

To continue oversight hearings to explore youth issues for the coming decade, focusing on the Federal role in public sector employment, training, and educational programs.

4232 Dirksen Building

OCTOBER 25

9:30 a.m.

Veterans' Affairs

To hold joint oversight hearings with the House Committee on Veterans' Affairs on admission policies to Veterans' Administration's medical care facilities.

345 Cannon Building

OCTOBER 26

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings in S. 829 and 1644, bills to provide for Federal management of a 20-year coordinated program in weather modification within the Department of Commerce.

235 Russell Building

10:00 a.m.

Joint Economic

To resume hearings on the Consumer Price Index figures and inflationary trends.

5110 Dirksen Building

OCTOBER 29

9:30 a.m.

•Veterans' Affairs

To hold hearings on S. 1523 and H.R. 4015, bills to provide the capability of maintaining health care and medical services for the elderly under the Veterans' Administration.

5110 Dirksen Building

OCTOBER 31

9:30 a.m.

Select on Small Business

To hold hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessability of information released by such services.

424 Russell Building

NOVEMBER 1

9:30 a.m.

Select on Small Business

To continue hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessability of information released by such services.

424 Russell Building

NOVEMBER 14

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government

235 Russell Building

CANCELLATIONS

OCTOBER 5

10:00 a.m.

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To resume oversight hearings to examine alleged fraud and mismanagement practices in the General Services Administration.

3302 Dirksen Building

OCTOBER 15

9:30 a.m.

•Energy and Natural Resources

Energy Regulation Subcommittee

To continue hearings on S. 1684, to provide for the development, improvement, and operation of domestic refinery capabilities.

3110 Dirksen Building

SENATE—*Thursday, September 27, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God, Quest of the ages and Hope of the world, we beseech Thee to hear us as we pray for ourselves, our Nation, and all mankind. Turn all hearts to Thee. Remove from our minds hatred, prejudice, and contempt for those who are not of our own race or color, class or creed; that departing from everything that estranges and divides, we may by Thee be brought into unity of spirit, in the bond of peace. Guide us, strengthen us, uphold us, protect us as we strive to do Thy work until we arrive at that kingdom which is on Earth as it is in heaven. Amen.

• This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., September 27, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Howell Heflin, a Senator from the State of Alabama, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized for not to exceed 5 minutes.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if there is no objection, I yield 3 minutes to the Senator from Wisconsin.

STUDY OF SHERPA GUIDES AND THE ORTHODOX BUDDHIST RELIGION GETS SEPTEMBER FLEECE OF THE MONTH AWARD

Mr. PROXMIRE. Mr. President, I am giving my Fleece of the Month Award for September to the National Science Foundation for spending $39,600 to study "Himalayan Mountaineering, Social Change, and the Evolution of (the Buddhist) Religion among the Sherpas of Nepal." It has often been said that the Government is foolish enough to send taxpayers' money to the ends of the Earth. Now the NSF has done it. Funding this study raises the question of priorities. The Government is not required to fund every study on every subject in the world. Is this trip really necessary?

The Fleece of the Month Award is given for the biggest, most ironic, or most ridiculous example of excessive spending for the period.

The study is a part of the NSF's anthropological science program under which the NSF requested $7.4 million for fiscal year 1980, which was $800,000 and 12.1 percent more than the estimated spending for fiscal year 1979.

ISSUE RAISED IN HEARINGS

I first raised the issue about this study in the Appropriations Committee hearing on the NSF budget. The NSF argued for the study and provided additional information for the record. Further detailed information about it has been asked for and received since those hearings.

The purpose of the project is to determine what, if any, connection there is between Sherpa involvement as mountaineering guides, which began early in the 20th century, and the contemporaneous rise of more orthodox Tibetan Buddhist religious practices in Nepal. The project director proposed to spend the first 6 months of 1979 in Nepal and the last 6 months at a university in the United States. The researcher proposed to study the interaction of mountaineering, society, and religion by carrying out household surveys, interviews with village residents and mountaineers, research into libraries and archives in Buddhist monasteries, and a study of recent religious tests and rituals.

The original proposed budget included $19,697 for salaries, wages, and fringe benefits for the principal investigator (including small amounts for clerical and graduate assistance); $7,313 for travel to Nepal and return; $250 for a tent; $395 for a down jacket, down sleeping bag, and a mattress; $90 for lanterns; and $75 for cooking gear.

In defense of the NSF and the researcher, it is clear that the latter would not live high on the hog in the Himalayan Hilton but would more likely be roughing it on the stone floors of the monasteries.

OVERHEAD COSTS

Additional funds requested included $3,587 for materials and supplies and other direct costs, and $14,576 for "indirect costs." The latter is the overhead routinely charged by universities and research institutions. In this case it was 74 percent of the salaries, wages, and benefits.

It illustrates how lucrative Government funds are to institutions. In this case it was a questionable amount for the researcher proposed to spend the first 6 months in Nepal where overhead charges could not appropriately be charged to the researcher's academic institution. The NSF reduced this amount to $8,253, cut the travel funds to $1,750, and reduced the total from $49,983 to $39,600.

The project is being undertaken by an obviously highly qualified researcher who speaks the language fluently and has built a solid foundation of information about the Sherpa's and their culture through previous studies of the Sherpa society in Nepal.

OBJECTION TO USING TAXPAYERS MONEY FOR PROJECT

I have no objection as such to a study of Sherpa mountaineering and its possible connection to the rise of local Buddhist celibate monasteries any more than one could object to R. H. Tawney's "Religion and the Rise of Capitalism" or Max Weber's "The Protestant Ethic and the Spirit of Capitalism," although I doubt very much if the literary style of the NSF study will or could rival that of Professor Tawney. I do not believe in censorship.

What I object to is the use of taxpayer's money at a time of rampaging inflation to send researchers half way around the world to study what is at best an esoteric question. There may be no relationship at all between Sherpa's moving to a cash economy as a result of their mountaineering endeavors and the advent of a more orthodox Buddhist religion.

Measured against needed Government programs is this study not at the bottom end of the list of priorities for which the hard pressed taxpayer's money should be spent? Should it not more appropriately be funded by either a religious order or a private foundation or university?

Is there no limit to the subjects which are now said to be the responsibility of the Federal Government to pursue?

TIME FOR A CHANGE

Mr. PROXMIRE. Mr. President, in the autumn of 1949 the world was still reeling from the horrible disclosures out of Nuremberg of Nazi atrocities.

The United Nations General Assembly had just adopted the Genocide Convention, which declared that genocide was a crime intolerable to a civilized world. The United States, in its role as an international champion of human rights, had been instrumental in the U.N. debate.

The convention had been signed by the President, and in the autumn of 1949 its ratification awaited only the "advice and consent" of the Senate.

Today, unfortunately, the world still is not free from the spectre of heinous crimes against great masses of humanity.

The responsible world community, as represented by the 83 signatories of the convention, still is adamant in its condemnation of genocide. The United States still considers itself to be an international champion of human rights.

The convention still awaits even the full consideration of the Senate.

This is truly a sad record for this body. We have allowed our dedication to human rights to be questioned by our friends and slandered by our enemies. We have allowed 30 years to pass without taking our rightful place at the forefront of this noble cause.

Surely, it is time for us to end this inaction. I urge prompt ratification of the Genocide Convention.

Mr. President, I thank my good friend.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader, the Senator from Tennessee, is recognized.

THE ROLE OF SENATOR HELMS AT THE LONDON CONFERENCE ON RHODESIA

Mr. BAKER. Mr. President, I have been watching, with some increasing dismay, the role which the Department of State has adopted with regard to the efforts of the distinguished senior Senator from North Carolina, Mr. HELMS, to find out what is happening at the London Conference on Rhodesia.

We have been treated to a series of news stories and editorial columns about the alleged interference of two of Mr. HELM's aides at the negotiations in London—stories which evidently had their origin in State Department assertions that the British Foreign Minister, Lord Carrington, had complained to Secretary Vance about the presence of the Helms aides in London. Mr. HELMS has—quite rightly, I think—defended his decision to send observers to the conference on the need to get firsthand information, undiluted by State Department perspectives, about what is happening there. The distinguished Senator is not the only Member of this body who has expressed skepticism about the objectivity of State Department information on Rhodesia, as well as on other topics.

I believe that the Senator's skepticism was well justified by the events which followed. The Secretary of State himself called the distinguished chairman of the Foreign Relations Committee to relay the supposed British "concern"—a call that was made after every reporter in town working a diplomatic beat already had heard the story. Frankly, I am surprised at Secretary Vance's personal involvement in so trivial an affair. But I am even more surprised that the story appears to be as fabricated as the leak. As Senator HELMS reported on this floor last Thursday, Lord Carrington's Under Secretary of State and his personal assistant both called the Senator from London to assure him categorically that no protest or complaint had been made. Indeed, Lord Carrington himself told CBS-TV News in New York that he had made no complaint in the matter.

Yet despite the British denials, the story goes on and on, yet the Secretary of State has made no apology—an apology which I think should be directed to the Senate, as well as to the Senator from North Carolina. There are, after all, two aspects to the matter. The first is the right of the Senate to know what is going on in foreign affairs. Although the executive branch is charged with the conduct of foreign affairs, the Senate participates directly in executive powers. Foreign Affairs are mentioned only three times in the Constitution. Two of those times grant the Chief Executive such powers only with the advice and consent of the Senate—namely, the ratification of treaties and the appointment of ambassadors. While there is a clear precedent that the Senate does not participate in negotiations, there is an equally clear precedent that both Members of this body and their staffs have the right to firsthand observation of the situation in any critical area. Almost all the Members and a good many staff have made many trips to talk to foreign personalities for firsthand observation and analysis. We could not perform our Senate duties properly unless we had such information.

Mr. President, I would add also that the distinguished Senator from North Carolina is a member of the Foreign Relations Committee. He is my colleague on that committee; and while we do not always agree on every issue that comes before the committee, in the short length of time that he has been a member he has become highly respected for his hard work and effective initiatives. Indeed, he has become an outstanding spokesman for a creative point of view that was, I fear, too little heard in our deliberations in the past. He has, therefore, an urgent need for the kind of information he sent his aides to get.

It is also interesting that Senator HELMS became closely involved in the transatlantic negotiations at the direct invitation of President Carter. As a result of the Senator's leadership on the Rhodesian issue in this Chamber, the President expressed a desire to meet Bishop Muzorewa, and personally asked the Senator to invite the Prime Minister of Zimbabwe-Rhodesia to the United States. This had to be done indirectly because of the known attitude of the State Department toward the Bishop. It was because of the President's personal request that Mr. HELMS entered into direct discussions with the British Prime Minister, Mrs. Thatcher, and with Bishop Muzorewa. Despite his continuing interest in developments, the Senator was not able to arrange his schedule to attend the London conference personally because the Senate was in session. That is why he sent his aides to talk to No. 10 Downing Street and to the Rhodesian delegation.

All of this makes it even more disturbing that the Secretary of State should allow himself to become a party to an untruth, and fail to apologize when the facts became publically known.

The Wall Street Journal has charged that the motive of the State Department was to try to influence the conferees on the 1980 defense authorization bill, which contains in the Senate version an amendment sponsored by the distinguished Senator from Virginia, Mr. BYRD, which would lift Rhodesian sanctions. As the Journal said:

> Since Senator HELMS was one of its principal backers, embarrassing him on the Rhodesian issue is one way to lobby against the amendment. And since the conferees are in session, the leaks were ideally timed to influence the decision.

And another outstanding newspaper, the Richmond Times Dispatch, has said editorially:

> Such inept and duplicitous maneuvering is no way for an American State Department to attempt to sway public opinion and a skeptical Congress. The embarrassing circumstances of this "leak" may indeed splash discredit back upon the Carter administration.

Mr. President, I hope that the Secretary and his staff will take note of the situation and begin to make amends for their conduct.

Mr. President, I ask unanimous consent that the editorials from the Wall Street Journal and the Richmond, Va., Times Dispatch be printed in the RECORD at the conclusion of my remarks.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 24, 1979]

INTERFERING WITH CONFERENCES

Last Thursday The Washington Post carried a front page story reporting that Secretary of State Vance had received a "very serious" complaint from his British counterpart, Lord Carrington, that two aides of Senator Jesse Helms (R., N.C.) had interfered at a crucial point in the Rhodesian negotiations underway in London. The notion was that they had encouraged white Rhodesian leader Ian Smith, and had thus impeded a solution.

The New York Times carried a story of similar import. The alleged interference has since been castigated by various editorialists and commentators.

The only problem with these stories is that they have been "categorically denied" by the British Foreign Office and Lord Carrington. This was duly reported by the Post in a story on page 14 under the headline "Helms Denies Aides Meddled in Talks." And indeed, the Senator reports that both Richard Luce, British Undersecretary for Foreign Affairs, and Roderick Lyne, private secretary to Lord Carrington, assure him that no protest was made to Washington.

According to the Post, the State Department more or less sticks to its story, saying that while it did not "receive a formal complaint" it was "aware of the British concern." Also, U.S. officials "strongly suggested that their British colleagues were practicing diplomatic understatement to avoid an open fight with the conservative Republican Senator." It seems the U.S. State Department is accusing Her Majesty's Foreign Office of telling a fib.

Something is going on here. We can understand that the Post and others have an obligation to report what the State Department tells them, though it seems to us the Carrington denials deserved greater prominence. But there is something a bit too preposterous about the original story. Ian Smith, who has been defying the whole world for years, is going to be swayed by a couple of Senate aides? And the London conference, where the guerrilla groups are refusing to budge an inch, is going to be blocked by this refusal? Whatever the basis for the State Department's leaks, what are they up to?

Well, we suspect they're intended to interfere with a conference—not the one in London, but one in Washington, between the House and the Senate. Conferees are currently meeting on the 1980 defense authorization bill. The Senate included an amendment lifting economic sanctions against Rhodesia, and House conferees have to decide whether to accept it. Since Senator Helms was one of its principal backers, embarrassing him on the Rhodesia issue is one way to lobby against the amendment. And since the conferees are in session, the leaks were ideally timed to influence the decision.

We hope that when the conferees make this decision, they at least know the whole story.

[From the Richmond (Va.) Times, Sept. 25, 1979]

The Fabricated "Leak"

In its effort to force participation by Marxist guerrillas in a democratic government for Zimbabwe Rhodesia, the Carter State Department has resorted to a trivial attempt to discredit a conservative American Senator.

Last Thursday, *The Washington Post*, its journalistic rainbuckets poised to capture a State Department "leak," reported that Secretary of State Cyrus R. Vance had "received a 'very serious' complaint" from Lord Carrington, the British foreign secretary, that two aides to Sen. Jesse Helms, R-N.C., had interfered in delicate negotiations among parties to the current London constitutional conference on Rhodesia. Mr. Vance personally called Senate Foreign Relations Committee Chairman Frank Church to protest the aides' presence in London, while the State Department's sieve spilled out the rumor that the senator's assistants were encouraging white Rhodesian leader Ian Smith to resist concessions to the guerrillas, and thus impede a settlement.

The British Foreign Office, which has been leading the Carter administration in its approach to the Rhodesian question, can't seem to recall having made any complaint at all about Mr. Helms' agents in London. Both the chief assistant and the private secretary to Lord Carrington told Sen. Helms Thursday that no such protest had been made. Whereupon State Department spokesman Hodding Carter conceded that Secretary Vance had not, after all, received a "formal complaint."

"We were aware of the British concern," Mr. Carter said in a rather feeble explanation for his agency's new found urge to fabricate British foreign policy.

Such inept and duplicitous maneuvering is no way for an American State Department to attempt to sway public opinion and a skeptical Congress. The embarrassing circumstances of this "leak" may indeed splash discredit back upon the Carter administration.

On the face of things it is absured to suggest that a couple of aides to the junior minority party member on the Foreign Relations Committee would be the key to Ian Smith's continued intransigence. Mr. Smith has been resisting the urgings and threats of world powers for many years now without a thought to how Republican senators or Tar Heel voters regarded his policies. Mr. Helms said he dispatched his assistants to observe the London conference because "I don't trust the State Department on this issue." One wouldn't be surprised if some chary British diplomats and Washington journalists are beginning to share the senator's distrust.

The State Department spilled its less-than-true story in the hope that it would help convince Congress to refrain from acting according to its own sense of justice in southern Africa. Although Rhodesia has installed a freely elected, black majority government, the United States persists in being the only world government strictly to enforce economic sanctions against the African nation. Even as the London conference slumbers on, the cynical guerrillas having made meaningless "concessions," House and Senate conferees will be debating in the coming fortnight whether to accept Virginia Sen. Harry Byrd's proposal to drop the sanctions.

The Byrd amendment, attached to the defense authorization bill, ought to be adopted. Congress has every right, and much good reason, to let President Carter and all the parties to the Rhodesian negotiations know that it opposes a continued policy of isolating democratic moderates while coddling Marxist guerrillas.

Mr. STEVENS. Mr. President, the remainder of the time I want to yield to the Senator from New Hampshire.

Mr. President, I ask unanimous consent that the time for Senator Domenici and Senator Humphrey be switched and that Senator Humphrey be given the remainder of Mr. Baker's time on this side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from New Hampshire is to be recognized for 15 minutes plus the time that has been added.

SENATE CONCURRENT RESOLUTION 40, SENATE CONCURRENT RESOLUTION 41, AND SENATE CONCURRENT RESOLUTION 42—SUBMISSION OF CONCURRENT RESOLUTION RELATING TO THE PRESENCE OF SOVIET TROOPS IN CUBA

Mr. HUMPHREY (for himself, Mr. Thurmond, Mr. Goldwater, Mr. McClure, and Mr. Helms) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. Con. Res. 40

Whereas the Soviet Union has sent and is maintaining combat troops and their support units in Cuba;

Whereas the presence of such troops and their support units violates the understandings which have been established between the United States and the Soviet Union;

Whereas the Soviet presence in Cuba constitutes a threat to the National security of the United States and the security of the Western Hemisphere;

Whereas the President has not indicated his intention to insist on the expeditious removal by the Soviet Union of its combat troops and their support units from Cuba; and

Whereas the President has not invoked the principles of the Monroe Doctrine; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President, in his communications with the Government of the Union of the Soviet Socialist Republics, insist on the expeditious removal of Soviet combat troops and their support units from Cuba and that the President notify the Congress that he has made such communication.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. HUMPHREY (for himself, Mr. Thurmond, Mr. Goldwater, Mr. McClure, Mr. Helms, and Mr. Armstrong) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. Con. Res. 41

Whereas in 1962 the Soviet Union sent nuclear missiles and combat troops into Cuba;

Whereas in exchange for the removal of Soviet nuclear missiles and combat troops from Cuba in 1962, the United States agreed to remove its Jupiter C missiles from Turkey and agreed not to try to overthrow the communist regime of Fidel Castro;

Whereas the Soviet Union has again sent and is maintaining combat troops and their support units in Cuba;

Whereas it is not in the interest of the United States to make concessions to the Soviet Union each time the Soviet Union chooses to begin a buildup of military forces in Cuba; and

Whereas United States representatives are engaged in discussions with Soviet representatives respecting the withdrawal of the Soviet combat troops currently in Cuba; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President—

(1) in his communications with the Government of the Union of Soviet Socialist Republics, should insist on the expeditious removal of Soviet combat troops and their support units from Cuba and should not agree, in writing or orally, to any military or political concessions in exchange for such removal; and

(2) should notify the Congress of his agreement with the policy expressed in paragraph (1).

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. HUMPHREY (for himself, Mr. Thurmond, Mr. Goldwater, Mr. McClure, and Mr. Helms) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. Con. Res. 42

Resolved by the Senate (The House of Representatives concurring), That it is the sense of the Congress that—

(1) for a period of one year after the date of adoption of this resolution the President should prepare and transmit at intervals of 30 days to the Congress a report identifying the military capabilities and deployment of Soviet military personnel in Cuba, together with his appraisal of the mission performed by such personnel; and

(2) at intervals of one year after the date of adoption of this resolution the President should prepare and transmit to the Congress a report setting forth—

(A) the amount and nature of Soviet military assistance to the armed forces of Cuba during the preceding year; and

(B) the military capabilities of such armed forces.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. HUMPHREY. Mr. President, on Tuesday Soviet Foreign Minister Andrei Gromyko dismissed as artificial U.S. concern over the presence of Soviet combat troops in Cuba.

In a speech before the United Nations General Assembly, Mr. Gromyko went so far as to accuse the United States of launching, "a campaign against Cuba in the course of which all sorts of falsehoods are being piled up concerning the policies of Cuba and the Soviet Union."

He attacked U.S. concern over Soviet troops in Cuba as "falsehoods" and "propaganda" and accused U.S. leaders who have expressed concern about the presence of these troops as "quasi-politicians."

I guess I am one of them, parenthetically.

Gromyko stated further that it was high time that the United States "admit this whole matter is artifical and proclaim it to be closed."

This, Mr. President, is the same Gromyko who, 17 years ago, looked President Kennedy squarely in the eye and denied that Soviet offensive missiles were in Cuba. Gromyko told President Kennedy at that time:

> As to Soviet aid to Cuba, I have been instructed to make it clear—as the Soviet Government has already done—that the purpose of this assistance is to contribute solely to the defense capability of Cuba and to the development of its peaceful economy . . . The training by Soviet specialists of Cuban nationalists in handling defense armaments is by no means offensive. If it were, the Soviet Government would have never become involved.

Gromyko's lies during the Cuban missile crisis were compounded by false assurances given by Khruschev to then Attorney General Robert Kennedy and to U.S. Ambassador to the Soviet Union, Foy Kohler, that Soviet military aid to Cuba was purely defensive.

Mr. President, Gromyko is lying to us again. We are being fed the same line Gromyko gave the Kennedy administration in 1962.

There is absolutely no basis for doubting that the Soviet Union has a fully equipped and fully manned combat brigade in Cuba. It is a proven fact. In 1962, Mr. Gromyko challenged President Kennedy to produce evidence of Soviet missiles in Cuba. We did, in the United Nations, and later, as the offensive missiles were withdrawn from Cuba, Soviet sailors obligingly pulled tarpaulins off the stacked missiles on the decks of Soviet vessels. U.S. air reconnaissance thus produced photos of the missiles for all the world to see. We can also produce evidence to show the presence of Soviet combat troops in Cuba today.

Mr. President, I submit, with Senators THURMOND, McCLURE, GOLDWATER and HELMS as cosponsors, three resolutions concerning the Soviet Union's military presence in Cuba. The first expresses the sense of the Congress that "the President, in his communications with the Government of the U.S.S.R., insist on the expeditious removal of Soviet combat troops and their support units from Cuba and that the President notify the Congress that he has made such a demand."

The second resolution expresses the sense of the Congress that the President in his negotiations with the Government of the U.S.S.R.—not agree in writing or orally, to any military or political concessions in exchange for the removal of those Soviet combat troops in Cuba. This resolution is sponsored by the previously mentioned Senators and Senator ARMSTRONG.

The third resolution expresses the sense of the Congress that, for a period of 1 year, the President prepare and transmit to the Congress every 30 days a report on the capability and deployment of Soviet military personnel in Cuba. In addition, the resolution calls on the President to make an annual report to Congress on the amount and nature of Soviet military assistance to Cuba as well as on the military capability of the Cuban Armed Forces.

Mr. President, despite the Carter administration's recent attempt to toughen its stand on the issue, President Carter continues to argue that the presence of Soviet troops in Cuba does not represent a threat to the security of the United States.

While it may be true that the Soviet troops in Cuba do not represent a direct combat threat against the territory of the United States, they do represent a very grave threat to our overall security and foreign policy interests in this hemisphere, because who can doubt that if we allow them to station this brigade in Cuba, they will not follow that up with further combat units?

The Soviets obviously are testing the water to find out whether or not the United States will tolerate a stepped-up foreign military presence in the Western Hemisphere. They are also demonstrating to the world that they are capable of projecting conventional power up to our very doorstep. They are, moreover, trying to desensitize the American people about a Soviet military presence in the Western Hemisphere. If left unchallenged, the Soviets will surely increase their overt military presence in Cuba and, inevitably, prepare to move Soviet forces into other countries in this hemisphere.

Equally important, the Soviet combat troops in Cuba buttress the Havana government while Castro performs Moscow's dirty work in Africa. The Soviet troops provide much more than valuable training functions. They help protect Castro from domestic unrest or even coup attempts while his main forces are fighting in Africa with Soviet backing. More subtly, the presence of Soviet troops on Cuban soil prevents the United States from responding firmly to Cuban troop movements in Africa and even in Latin America because such action would invite Soviet countermoves to protect their own troops in Cuba.

Mr. President, the controversy over the presence of Soviet combat troops in Cuba has been alive for weeks. Administration negotiations with the Soviets have produced only insults and lies from the Kremlin. At this time, Mr. President, we are not even sure that the administration is gearing its policy toward the only acceptable solution to the problem—the complete withdrawal of Soviet combat troops and equipment from Cuba. We are not even certain that the President is making this demand.

Secretary Vance has said merely that the status quo is not acceptable.

The first resolution would require the President to make such a demand.

Reports in the press today, for example, reveal that the State Department is still hoping for "a compromise" on this issue with the Soviet Union, which underscores the need for the second resolution.

Mr. President, there is no room for compromise on this issue. The Soviet Union, not the United States, is at fault in this situation.

The Carter administration must not offer the Soviets any concessions in order to arrive at some face-saving resolution to this problem.

My distinguished colleagues will remember that during the 1962 Cuban missile crisis, the United States agreed to withdraw its Jupiter C missiles from Turkey and, most importantly, agreed not to cooperate with any effort to overthrow Castro, in exchange for the Soviets to withdraw their missiles from Cuba.

I fear, for example, that the President may be considering options whereby he would reduce or terminate our presence in Guantanamo in exchange for a Soviet withdrawal or some lesser settlement.

Mr. President, the American people do not want the United States to make concessions to the Soviets in return for the withdrawal of their troops from Cuba. Otherwise, we will have allowed the Soviets to establish Cuba as a trap which can be baited time and again by the Soviets. We must not let ourselves be caught each time the Soviets bait the trap. We must not allow them to force the United States each time to make concessions just to preserve the status quo ante. If we give an inch on Guantanamo, or on anything else the Soviets may ask us to give up in return for their withdrawal of combat troops from Cuba, we will have lost the exchange.

The second resolution is designed to avoid this pitfall and to warn the President that the Congress will not stand for any "compromises" with the Soviet Union that call for the United States to make concessions with the Soviet Union.

Finally, Mr. President, during the course of the debate over the Soviet military presence in Cuba, concern has been expressed that insufficient intelligence resources have been devoted to Cuba or that the higher echelons of the administration were not paying sufficient attention to intelligence reports about the Soviet military buildup in Cuba.

The third resolution is designed to insure that—whatever transpires with respect to the Soviet troop issue—the Soviet Union's military activities in Cuba will be closely monitored and that the Congress will be well informed on this vital issue.

In summary, Mr. President, many

Members of this body on both sides of the aisle have expressed far-reaching concern over the implications of allowing Soviet combat troops to remain in Cuba as well as allowing the Soviet Union to turn Cuba into a fortress for communism in our own hemisphere.

The Senate has a constitutional role in setting U.S. foreign policy. These three resolutions, while not binding on the President, will strengthen his hand in dealing with the Soviets. And if U.S. negotiators are tempted to acquiesce in the continued presence of these Soviet combat troops, the resolutions will strengthen our negotiators' spines.

The ACTING PRESIDENT pro tempore. Without objection, the concurrent resolutions will be received and appropriately referred.

RECOGNITION OF SENATOR DOMENICI

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized for not to exceed 15 minutes, under the previous order.

Mr. DOMENICI. I thank the Chair.

S. 1827—URANIUM MINERS COMPENSATION ACT OF 1979

Mr. DOMENICI. Mr. President, we have all heard and read much in the media during the past several months about the health problems of our Nation's first uranium miners, those who mined during the 1950's and 1960's when the Atomic Energy Commission was the sole procurer of uranium for defense purposes.

Mr. President, on August 30, 1979, I chaired a hearing of the Senate Special Committee on Aging in Grants, New Mexico, the heart of uranium country, to learn firsthand about these problems as they have come to affect my own constituents.

Many of the miners of the 1950's and 1960's are constituents of mine in New Mexico.

During the hearing, I received testimony from afflicted uranium miners from grants and from the Navajo Nation, their families, local government officials, health experts, workmen's compensation attorneys, mine safety and health experts, and representatives from the mining companies and the unions.

Unfortunately, much of what we have read about this subject in the press is true. Significant numbers of uranium miners who extracted uranium from the Colorado Plateau, and from other early uranium producing States, are paying the price today for the inadequate safety and health standards that were then in force. I asked the afflicted miners to contrast for me the situation in the early mines with existing conditions. Almost to a man they responded that there was no comparison, from a health and safety standpoint, between the deplorable conditions in the early uranium mines and the markedly improved situation in the uranium mines of today.

The price these men paid, and are still paying, was and is a high one. Excessive numbers of them have contracted various types of cancer and respiratory impairments as the direct result of their employment in poorly ventilated mines.

Furthermore, it was uncovered at the Grants hearing that many of our early miners have "fallen through the cracks" of existing State workmen's compensation systems, and that they and their families are not being adequately compensated for their mine-related illnesses, and in many instances they are not being provided with adequate health care.

Mr. President, we all know that workmen's compensation is the institutional means of protecting workers from industrial accidents. But when it comes to these early miners in the four corners States of the Colorado Plateau it is obvious to me that many "fell through the cracks" and are not receiving compensation for various technical reasons.

It is my opinion that we, the Federal Government, owe our Nation's first uranium miners and their survivors more than just a moral debt. We owe them decent medical care and a measure of financial security. The legislation I am introducing today will set up a totally federally-financed mechanism for providing compensation to uranium miners who are disabled by cancer and respiratory diseases resulting from overexposure to radiation and dust during the early days of uranium mining. Compensation will also be provided to the survivors of our early afflicted miners.

The bill will be administered by the Department of Health, Education, and Welfare, specifically the Social Security Administration, with the Secretary prescribing regulations for determining whether a miner is totally disabled due to a radiation or dust-induced disease and whether the disease was related to uranium mine employment.

Under my legislation, which is a revised version of a bill I introduced during the last Congress, S. 3199, an afflicted uranium miner who worked for 3 years or more in one or more uranium mines prior to the implementation of Federal standards in mid-1971 is potentially eligible for benefits. Compensable diseases include lung cancer, bronchial cancer, lymphatic cancer, pulmonary fibrosis, silicosis, and any other disease which the Secretary concludes is radiation or dust-induced and which resulted from uranium mine employment. Underground miners, surface miners, millers, and any other individual who work in or on the premises of a uranium mine or uranium milling facility in the extraction or preparation of uranium are potentially eligible for benefits. Survivors of miners who worked for 3 or more years prior to implementation of Federal standards are also potentially eligible for benefits under the act.

Benefits payable under the legislation will be set at the following levels:

> Miner or widow, $304.74 per month; 1 dependent, $457.11 per month; 2 dependents, $533.30 per month; and 3 dependents, $609.48 per month.

This benefit schedule will be adjusted annually to reflect changes in the GS–2 wage base. Benefits received under the act are not subject to Federal income tax. Benefits will be offset by any moneys received through workmen's compensation, unemployment compensation, or disability insurance received as the result of a radiation or dust-induced disease.

Moneys received as the result of a tort claim, either against the Government or against a private employer, will also be offset against payments received under this legislation.

Any miner eligible for benefits under this act shall be furnished with necessary services, appliances, and supplies prescribed or recommended by a qualified physician if the Secretary concludes that they are likely to cure the miner or lessen the extent or degree of his disability. The miner may select his own physician, in accordance with the Secretary's regulations, and may be furnished necessary and reasonable expenses incident to securing such services, appliance and supplies. The bill also authorizes contracts and grants for the construction, purchase and operation of fixed-site and mobile clinical facilities for the analysis, examination and treatment of afflicted miners.

Furthermore, the measure sets up two notification programs. One of these systems is designed to warn early miners of the health hazards to which they were exposed during the 1950's and 1960's. The other program is designed to notify potential beneficiaries of their eligibility for benefits under this act. Such notification programs must be written or broadcast in simple and direct language and, where applicable, translated into the native language of the individuals to be notified.

The average uranium miner of today has a good income, works in a safe and healthful environment, has a nice home, good insurance, and benefits awaiting him should he need them. But the uranium miner of two decades ago never had those things. I believe that it is time to get the job done with respect to our early miners, get something passed, and take care of an era that we do not want to go back and relive. The legislation I am proposing today is designed to achieve that goal.

Mr. President, it is very difficult to draw up a bill which covers all circumstances. This measure is an improvement over the bill I introduced in the last Congress. I hope the appropriate committee will conduct hearings, and, if the bill is in need of further refinement, I stand ready to assist in any way I can.

I want to take this opportunity to acknowledge the fine work that Senators

HATCH and KENNEDY have done in this area, and to thank them for their continuing interest in this area, and to thank them for their continuing interest in this issue. I look forward to working closely with them and the members of their staff on this issue in the coming months.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD, and that it be appropriately referred.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uranium Miners Compensation Act of 1979".

FINDINGS

SEC. 2. (a) The Congress finds that—

(1) morbidity and mortality rates among uranium miners who worked in the Nation's uranium mines prior to the full implementation of the final regulations promulgated pursuant to the Federal Metal and Nonmetallic Mine Safety Act prior to its repeal under the Federal Mine Safety and Health Act of 1977 which were published in the Federal Register on December 8, 1970 are excessively high;

(2) promulgation of, enforcement of, and compliance with, health and safety standards prior to the full implementation of the final regulations promulgated pursuant to the Federal Metal and Nonmetallic Mine Safety Act prior to its repeal under the Federal Mine Safety and Health Act of 1977 were not adequate to prevent excessively high rates of subsequent mortality and morbidity;

(3) It is anticipated that this excess of disease and death among uranium miners who unknowingly were exposed to unusually high levels of radiation will increase with the passage of time due to the long latent period associated with the manifestation of such diseases and deaths;

(4) existing workmen's compensation laws in most States do not provide adequate benefits to afflicted uranium miners or to their survivors due to strict statutes of limitations and unrealistic burden of proof requirements which do not take into account the long latency period of radiation-induced diseases;

(5) although the primary diseases manifest by uranium miners are radiation-induced, uranium miners also manifest dust-induced diseases, appearing as pulmonary and respiratory impairments and terminating usually in pulmonary fibrosis, silicosis or corpulmonale;

(6) under existing workmen's compensation laws in most States, uranium miners and their survivors are often not provided compensation benefits for disability or death resulting from dust-induced latent diseases arising out of employment in the mines;

(7) it is the responsibility of the Federal Government, the sole contractor of uranium for defense purposes until 1968, to establish a mechanism for providing adequate benefit levels to uranium miners and their survivors, and to assume full financial liability for all costs incurred under this mechanism;

(8) there are a significant number of uranium miners today who are totally disabled due to a radiation-induced or dust-induced latent disease rising out of employment in one or more of the Nation's uranium mines; and

(9) many uranium miners whose deaths were due to radiation-induced latent disease or who were totally disabled by radiation-induced or dust-induced latent disease at the time of their deaths are survived by dependents.

(b) It is the purpose of this Act to ensure that adequate benefits are provided by the Federal Government to those uranium miners whose disability resulted from radiation-induced or dust-induced latent disease contracted as the result of employment in mines prior to the full implementation of the final regulations promulgated pursuant to the Federal Metal and Nonmetallic Mine Safety Act prior to its repeal under the Federal Mine Safety and Health Act of 1977, and to the survivors of miners who had been afflicted, and died from, radiation-induced or dust-induced latent disease.

SEC. 3. For purposes of this Act—

(a) the term "dependent" means—

(1) a child as defined in subsection (h) of this section without regard to subparagraph (2)(B)(ii) thereof; or

(2) a spouse who is a member of the same household as the miner, or is receiving regular contributions from the miner for his support, or whose spouse is a miner who has been ordered by a court to contribute to his support, or who meets the requirements of section 216(b)(1) or (2) or section 216(f)(1) or (2) of the Social Security Act. The determination of an individual's status as the "spouse" of a miner shall be made in accordance with the determination of a wife, husband, widow, or widower under section 216 (h)(1) of the Social Security Act as if such miner were the "insured individual" referred to therein. The term "spouse" also includes a divorced spouse who has been married to such individual for a period of 10 years immediately before the date the divorce a vinculo matrimonii became effective, and who is receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or is receiving substantial contributions from the miner (pursuant to a written agreement), or there is in effect a court order for substantial contributions to his support from such miner;

(b) the term "Secretary" means the Secretary of Health, Education, and Welfare;

(c) the term "radiation-induced disease" includes lung cancer, bronchogenic cancer, cancers involving the respiratory or lymphopoietic system, and any other disease which the Secretary concludes is radiation-induced and which resulted from employment as a uranium miner;

(d) the term "dust-induced latent disease" includes pulmonary fibrosis, silicosis, and corpulmonale, and any other disease which the Secretary concludes is a dust-induced latent disease which resulted from employment as a uranium miner;

(e) the term "miner" means any individual who worked in or on the premises of a uranium mine or uranium preparation facility in the extraction or preparation of uranium. Such term includes underground and surface uranium miners, uranium millers, and individuals engaged in maintenance and repair of such facilities;

(f) the terms "widow" and "widower" include the spouse living with or dependent for support on the miner at the time of his death, or living apart for reasonable cause or because of his desertion, or who meets the requirements of section 216(c)(1), (2), (3), (4), or (5) or 216(g)(1), (2), (3), (4), or (5), and section 216(k) of the Social Security Act, who is not married. The determination of an individual's status as the "widow" or "widower" of a miner shall be made in accordance with section 216(h)(1) of the Social Security Act as if such miner were the "insured individual" referred to therein. Such term also includes a surviving divorced spouse who is divorced a vinculo matrimonii from an individual who has died who for the month preceding the month in which the miner died, was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or was receiving substantial contributions from the miner (pursuant to a written agreement) or there was in effect a court order for substantial contributions to his support from the miner at the time of his death;

(g) the term "total disability" has the meaning given it by regulations of the Secretary of Health, Education, and Welfare for claims under this Act subject to the relevant provisions of subsections (b) and (d) of section 6 of this Act, except that—

(1) in the case of a living miner, such regulations shall provide that a miner shall be considered totally disabled when a radiation-induced or dust-induced latent disease prevents him from engaging in gainful employment requiring the skills and abilities comparable to those of any employment in a mine or mines in which he previously engaged with some regularity and over a substantial period of time;

(2) such regulations shall provide that (A) a deceased miner's employment in a mine at the time of death shall not be used as conclusive evidence that the miner was not totally disabled; and (B) in the case of a living miner if there are changed circumstances of employment indicative of reduced ability to perform his usual uranium mine work, such miner's employment in a mine shall not be used as conclusive evidence that the miner is not totally disabled;

(3) such regulations shall not provide more restrictive criteria than those applicable under section 223(d) of the Social Security Act; and

(4) the Secretary, in consultation with the Director of the National Institute for Occupational Safety and Health, shall establish criteria for all appropriate medical tests under this subsection which accurately reflect total disability in uranium miners as defined in subparagraph (1); and

(h) the term "child" means a child or a step-child who is—

(1) unmarried; and

(2)(A) under eighteen years of age; or

(B)(i) under a disability as defined in section 223(d) of the Social Security Act;

(ii) which began before the age specified in section 202(d)(1)(B)(ii) of the Social Security Act, or, in the case of a student, before he ceased to be a student; or

(C) a student.

The term "student" means a "full-time student" as defined in section 202(d)(7) of the Social Security Act, or a "student" as defined in section 8101(17) of title 5, United States Code. The determination of an individual's status as the "child" of the miner or widow or widower, as the case may be, shall be made in accordance with section 216(h) (2) or (3) of the Social Security Act as if such miner, widow, or widower were the "insured individual" referred to therein.

SEC. 4. (a) The Secretary shall, in accordance with the provisions of this Act, and the regulations promulgated under this Act, make payments of benefits in respect of total disability of any miner due to a radiation-induced or dust-induced latent disease, and in respect of the death of any miner whose death was due to a radiation-induced or dust-induced latent disease or who at the time of his death was totally disabled by a radiation-induced or dust-induced latent disease, if such miner was employed for at least three years in one or more uranium mines prior to the full implementation of the final regulations promulgated pursuant to the Federal Metal and Nonmetallic Mine Safety Act prior to its repeal under the Federal Mine Safety and Health Act of 1977.

(b) The Secretary shall by regulation prescribe standards for determining for purposes of subsection (a), whether a miner is totally disabled due to a radiation-induced or dust-induced latent disease and for determining whether the death of a miner was due to a radiation-induced or dust-induced latent disease. Regulations required by this subsection shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of this Act, and in no event later than the end of the third month following the month in which this Act is enacted. Final regulations required for implementation of any amendments to this Act shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of such amendments, and in no event later than the end of the fourth month following the month in which such amendments are enacted. Such regulations may be modified or additional regulations promulgated from time to time thereafter.

(c) For purposes of this section—

(1) If a miner who is suffering or suffered from a radiation-induced disease was employed for three years or more in one or more uranium mines prior to the full implementation of the final regulations promulgated pursuant to the Federal Metal and Nonmetallic Mine Safety Act prior to its repeal under the Federal Mine Safety and Health Act of 1977, there shall be a rebuttable presumption that his radiation-induced disease arose out of such employment.

(2) If a deceased miner was employed for three years or more in one or more uranium mines prior to the full implementation of the final regulations promulgated pursuant to the Federal Metal and Nonmetallic Mine Safety Act prior to its repeal under the Federal Mine Safety and Health Act of 1977, and died from a radiation-induced disease, there shall be a rebuttable presumption that his death was due to a radiation-induced disease.

(3) If a miner who is suffering or suffered from a dust-induced latent disease was employed for three years or more in one or more uranium mines prior to the full implementation of the final regulations promulgated pursuant to the Federal Metal and Nonmetallic Mine Safety Act prior to its repeal under the Federal Mine Safety and Health Act of 1977, there shall be a rebuttable presumption that his dust-induced latent disease arose out of such employment.

(4) If a deceased miner was employed for three years or more in one or more uranium mines prior to the full implementation of the final regulations promulgated pursuant to the Federal Metal and Nonmetallic Mine Safety Act prior to its repeal under the Federal Mine Safety and Health Act of 1977, and died from a dust-induced latent disease, there shall be a rebuttable presumption that his death was due to a dust-induced latent disease.

(5) In the case of a miner who dies on or before the date of the enactment of this Act who was employed for three years or more in one or more uranium mines prior to the final regulations promulgated pursuant to the Federal Metal and Nonmetallic Mine Safety Act prior to its repeal under the Federal Mine Safety and Health Act of 1977, the eligible survivors of such miner shall be entitled to the payment of benefits, at the rate applicable under section 5(a)(2), unless it is established that at the time of his death such miner was not partially or totally disabled due to a radiation-induced latent disease. Eligible survivors shall, upon request by the Secretary, furnish such evidence as is available with respect to the health of the miner at the time of his death.

(d) Nothing in subsection (c) shall be deemed to affect the applicability of subsection (a) in the case of a claim where the presumptions provided for therein are inapplicable.

SEC. 5. (a) Subject to the provisions of subsection (b) of this section, benefit payments shall be made by the Secretary under this part as follows:

(1) In the case of total disability of a miner due to a radiation-induced or dust-induced latent disease, the disabled miner shall be paid benefits during the disability at a rate equal of 60 percent of the minimum monthly payment to which a Federal employee in grade GS–2, who is totally disabled, is entitled at the time of payment under chapter 81 of title 5, United States Code.

(2) In the case of death of a miner due to a radiation-induced or dust-induced latent disease or of a miner receiving benefits under this Act, benefits shall be paid to such miner's widow or widower (if any) at the rate the decreased miner would receive such benefits if he were totally disabled.

(3) In the case of the child or children of a miner whose death is due to a radiation-induced or dust-induced latent disease or of a miner who is receiving benefits under this Act at the time of his death, or who was totally disabled by a radiation-induced or dust-induced latent disease at the time of his death, in the case of the child or children of a widow or widower who is receiving benefits under this Act at the time of such widow's or widower's death, and in the case of any child or children entitled to the payment of benefits under paragraph (5) of section 4(c), benefits shall be paid to such child or children as follows: If there is one such child, he shall be paid benefits at the rate specified in paragraph (1). If there is more than one such child, the benefits paid shall be divided equally among them and shall be paid at a rate equal to the rate specified in paragraph (1), increased by 50 percent of such rate if there are two such children, by 75 percent of such rate if there are three such children, and by 100 percent of such rate if there are more than three such children, except that benefits shall only be paid to a child for so long as he meets the criteria for the term "child" contained in section 3(g), and no entitlement to benefits as a child shall be established under this paragraph for any month for which entitlement to benefits as a widow or widower is established under paragraph (2).

(4) In the case of an individual entitled to benefit payments under paragraph (1) or (2) of this subsection who has one or more dependents, the benefit payments shall be increased at the rate of 50 percent of such benefit payments, if such individual has one dependent, 75 percent if such individual has two dependents, and 100 percent if such individual has three or more dependents.

(5) In the case of—

(A) the dependent parent or parents of a miner whose death is due to a radiation-induced or dust-induced latent disease, or of a miner who is receiving benefits under this part at the time of his death, or of a miner who was totally disabled by a radiation-induced or dust-induced latent disease at the time of death, and who is not survived at the time of his death by a widow or a widower or a child;

(B) the dependent surviving brothers or sisters of such a miner who is not survived at the time of his death by a widow, widower, child, or parent;

(C) the dependent parent or parents of a miner (who is not survived at the time of his or her death by a widow, widower, or a child), who are entitled to the payment of benefits under paragraph (5) of section 4(c); or

(D) the dependent surviving brothers or sisters of a miner (who is not survived at the time of his or her death by a widow, widower, child, or parent) who are entitled to the parent of benefits under paragraph (5) of section 4(c);

Benefits shall be paid under this part to such parents, or to such brothers, sisters, at the rate specified in paragraph (3) (as if such parents or such brothers or sisters, were the children of such miner). In determining for purposes of this paragraph whether a claimant bears the relationship as the miner's parent, brother, or sister, the Secretary shall apply legal standards consistent with these applicable to relationship determination under title II of the Social Security Act. Benefits shall be payable under this paragraph to a brother or sister only if he or she is—

(A)(i) under eighteen years of age, or

(ii) under a disability as defined in section 223 (d) of the Social Security Act which began before the age specified in section 202 (d)(1)(B)(ii) of such Act, or in the case of a student, before he ceased to be a student, or

(iii) a student as defined in section 3(h) of this Act, or

(E) who is, at the time of the miner's death, disabled as determined in accordance with section 223(d) of the Social Security Act, during such disability. No benefits to a sister or brother shall be payable under this paragraph for any month beginning with the month in which he or she receives support from his or her spouse, or marries. Any benefit under this paragraph for a month prior to the month in which a claim for such benefit is filed shall be reduced to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such claim, the Secretary has certified for payment for such prior months. As used in this paragraph, "dependent" means that during the one year period prior to and ending with such miner's death, such parent, brother, or sister was living in the miner's household, and was, during such period, totally dependent on the miner for support. Proof of such support shall be filed by such claimant within two years after the date of the enactment of this Act, or within two years after the miner's death, whichever is the later. Any such proof which is filed after the expiration of such period shall be deemed to have been filed within such period if it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof within such period. The determination of what constitutes "living in the miner's household," "totally dependent upon the miner for support," and "good cause," shall for purposes of this paragraph be made in accordance with regulations of the Secretary. Benefit payments under this paragraph to a parent, brother, or sister, shall be reduced by the amount by which such payments would be reduced on account of excess earnings of such parent, brother, or sister, respectively, under section 203(b)(1) of the Social Security Act, as if the benefit under this paragraph were a benefit under section 202 of such Act.

(6) If an individual's benefits would be increased under paragraph (4) of this subsection because he or she has one or more dependents, and it appears to the Secretary that it would be in the interest of any such dependent to have the amount of such increase in benefits (to the extent attributable to such dependent) certified to a person other than such individual, then the Secretary may, under regulations prescribed by him, certify the amount of such increase in benefits (to the extent so attributable) not to such individual but directly to such dependent or to another person for the use and benefit of such dependent. Any payment made under this paragraph, if otherwise valid under this Act, shall be in complete settlement and satisfaction of all claims, rights, and interests in and to such payment.

(b) Notwithstanding subsection (a), benefit payments under this section to a miner or such miner's widow, widower, child, parent, brother, or sister shall be reduced, on a monthly or other appropriate basis, by an amount equal to any payment received by such miner or such miner's widow, widower, child, parent, brother, or sister under the workmen's compensation, unemployment compensation, or disability insurance laws of his State on account of the disability of such miner due to a radiation-induced or dust-induced latent disease, and the amount by which such payment would be reduced on account of excess earnings of such miner under section 203 (b) through (l) of the Social Security Act if the amount paid were a benefit payable under section 202 of such Act. This Act shall not be considered a workmen's compensation law or plan for purposes of section 224 of such Act.

(c) Benefits payable under this Act shall be deemed not to be income for purposes of the Internal Revenue Code of 1954.

(d) (1) In the case of an individual, who prior to filing a claim for benefits under this Act, has on account of the disease on which such claim is based received compensation or damages from an employer or other person (under a governmental program or agency) based on a tort claim, the benefit payments to such individual under this section shall be reduced (but not below zero) in accordance with regulations of the Secretary for each month until the aggregate of such reductions equals the amount of such compensation or damages so received; except that such reductions shall be made, in the case of any individual, only to the extent that, considering the financial circumstances and needs of the claimant, the making of such reductions would not defeat the purposes of this Act nor be against equity and good conscience.

(2) In the case of an individual, who after having received benefit payments for one or more months under this Act, receives compensation or damages on account of the disease on which such payments are based from an employer or other person (including a governmental program or agency), such individual shall be liable to repay to the United States (and the United States shall be entitled to recover from such individual) an amount equal to whichever of the following is the lesser (A) the amount of the compensation or damages received by such individual, or (B) an amount equal to the aggregate of the benefit payments which such individual has received under this Act for all months prior to the month after the month such amount was so received by him. If the amount of such compensation or damages is in excess of the amount of the recovery provided for in the preceding sentence, the benefit payments payable to such individual under this Act, beginning with the month immediately following the last month included within the period with respect to which recovery is so provided for, shall be reduced (but not below zero) in accordance with regulations of the Secretary for each month until the aggregate of such reductions equals the amount of such excess; except that such reductions under this sentence shall be made, in the case of any individual, only to the extent that, considering the financial circumstances and needs of the claimant, the making of such reductions would not defeat the purposes of this Act nor be against equity and good conscience.

(3) Whenever an amount of compensation or damages (based on the death or disability of a miner), referred to in paragraph (1), is received by one individual who is eligible for benefits under this Act, an appropriate portion of such amount (as determined under regulations of the Secretary) shall be regarded, for purposes of paragraphs (1) and (2), to have been paid to another individual who is eligible (on the basis of death or disease of such miner), if and to the extent that such other individual shared in or benefitted from such amount (as determined under such regulations).

SEC. 6. (a) No payment of benefits shall be made under this Act except pursuant to a claim filed therefor, in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe.

(b) In carrying out the provisions of this Act, the Secretary shall to the maximum extent feasible utilize the personnel and procedures he uses in determining entitlement to disability insurance benefit payments under section 223 of the Social Security Act, but no claim for benefits under this Act shall be denied solely on the basis of the results of a chest roentgenogram. In determining the validity of claims under this Act, all relevant evidence shall be considered, including, all relevant medical tests, any medical history, evidence submitted by the claimant's physician, or the claimant's spouse's affidavits, and in the case of a deceased miner, other appropriate affidavits of persons with knowledge of the miner's physical condition, and other supportive materials. Where there is no medical or other relevant evidence in the case of a deceased miner, such affidavits shall be considered to be sufficient to establish that the miner was totally disabled due to a radiation-induced or dust-induced latent disease or that his death was due to a radiation-induced or dust-induced latent disease. Unless the Secretary has good cause to believe that an autopsy report is not accurate, or that the condition of the miner is being fraudulently misrepresented, the Secretary shall accept such autopsy report concerning the presence of a radiation-induced or dust-induced latent disease and the stage of advancement of a radiation-induced or dust-induced latent disease. Claimants under this Act shall be reimbursed for reasonable medical expenses incurred by them in establishing their claims. For purposes of determining total disability under this Act, the provisions of subsections (a), (b), (c), (d), and (g) of section 221 of the Social Security Act shall be applicable. The provisions of sections 204, 205 (a), (b), (d), (e), (g), (h), (j), (k), (l) and (n), 206, 207, and 208 of the Social Security Act shall be applicable under this Act with respect to a miner, widow, widower, child, parent, brother, sister, or dependent, as if benefits under this Act were benefits under title II of the Social Security Act. Each miner who files a claim for benefits under this title shall upon request be provided an opportunity to substantiate his claim by means of a pulmonary and respiratory evaluation or by any other appropriate medical evaluations needed to substantiate radiation or dust-induced latent disease.

(c) No claim for benefits for dust-induced latent disease under this section shall be considered unless the claimant has also filed a claim under the applicable State workmen's compensation law prior to or at the same time his claim was filed for benefits under this section, except that such filing shall not apply in any case in which the filing of a claim under such law would clearly be futile because the period within which such a claim may be filed thereunder has expired or because dust-induced latent diseases are not compensable under such law, or in any other situation in which, in the opinion of the Secretary, the filing of a claim would clearly be futile.

(d) No miner who is engaged in uranium mine employment shall (except as provided in section 4(c) (3)) be entitled to any benefits under this Act while so employed. Any miner who has been determined to be eligible for benefits pursuant to a claim filed while such miner was engaged in uranium mine employment shall be entitled to such benefits if his employment terminates within one year after the date such determination becomes final.

(e) No benefits under this Act shall be payable for any period prior to the date a claim therefor is filed.

(f) No benefits shall be paid to residents of any State, which, after the date of the enactment of this Act, reduces the benefits payable to persons eligible to receive benefits under this Act, under its State laws which are applicable to its general work force with regard to workmen's compensation, unemployment compensation, or disability insurance.

(g) No benefits shall be payable to a widow, parent, brother, or sister under this Act on account of the death of a miner unless—

(1) benefits under this Act were being paid to such miner with respect to disability due to a radiation-induced or dust-induced latent disease; or

(2) any such individual is entitled to benefits under paragraph (5) of section 4(c).

(h) The United States shall furnish to any miner eligible to receive benefits under this Act, the services, appliances, and supplies prescribed or recommended by a qualified physician, which the Secretary considers likely to cure, give relief, or reduce the degree or period of disability. Such services, appliances, and supplies shall be furnished—

(1) whether or not disability has arisen; and

(2) by or on the order of United States medical officers and hospitals, or, at the miner's option, by or on order of physicians and hospitals designated or approved by the Secretary.

The miner may initially select a physician to provide medical services, appliances, and supplies, in accordance with such regulations and instructions as the Secretary considers necessary, and may be furnished necessary and reasonable transportation and expenses incident to securing such services, appliances, and supplies.

SEC. 7. (a) The Secretary of Health, Education, and Welfare is authorized to issue such regulations as he deems appropriate to carry out the provisions of this Act. Such regulations shall be issued in conformity with section 553 of title 5 of the United States Code, notwithstanding subsection (a) thereof.

(b) Within 120 days following the convening of each session of Congress the Secretary of Health, Education, and Welfare shall submit to the Congress an annual report on the subject matter of this Act.

(c) Nothing in this title shall relieve any operator of any uranium mine of the duty to comply with any State workmen's compensation law, except insofar as such State law is in conflict with the provisions of this Act and the Secretary by regulation, so prescribes. The provisions of any State workmen's compensation law which provide greater benefits than the benefits payable under this Act shall not thereby be construed or held to be in conflict with the provisions of this title.

SEC. 8. (a) The Secretary is authorized to enter into contracts with, and make grants to, public and private agencies and organizations and individuals for the construction, purchase, and operation of fixed-site and mobile clinical facilities for the analysis, examination, and treatment of radiation-induced and dust-induced latent diseases and impairments. The Secretary shall coordinate the making of such contracts and grants with the Director of the National Institute for Occupational Safety and Health.

(b)(1) The Secretary is authorized to make research grants to public and private agencies and organizations and individuals for the purpose of devising simple and effective tests to measure, detect, and treat radiation-induced and dust-induced latent diseases and impairments. The Secretary shall coordinate the making of such contracts with the Director of the National Institute for Occupational Safety and Health. Any grant made pursuant to this subsection shall be conditioned upon all information, uses, products, processes, patents, and other developments resulting from such research being available to the general public, except to the extent of such exceptions and limitations as the Secretary may deem necessary in the public interest.

(2) The Secretary and the Secretary of Labor in consultation with the Director of the National Institute of Occupational Safety and Health are authorized to jointly enter into contracts with, and make grants to, private organizations and individuals with demonstrated expertise in health problems of uranium miners, to evaluate the effects of the allowable radiation exposure of four working level months as stipulated by the Mine Safety and Health Act Amendments of 1977 upon the health of uranium miners.

(c) The Secretary and the Secretary of Labor in consultation with the Director of the National Institute of Occupational Safety and Health shall undertake, through appropriate organizations, groups, and uranium mine operators, to notify individuals who are likely to be eligible for benefits of the availability of such benefits. Such notification shall include a program to inform miners who may not have yet contracted a radiation-induced or dust-induced latent disease of the hazards to which they had been exposed. Such notification programs shall provide such information in simple and direct language and, where applicable, translate such information into the native language of the individuals to be notified.

(d) There is hereby authorized to be appropriated for the purpose of subsection (a) of this section such sums as may be necessary for each fiscal year. There are hereby authorized to be appropriated for the purposes of subsections (b) and (c) of this section such sums as are necessary to carry out such subsections.

SEC. 9. (a) No operator of any uranium mine shall discharge or in any other way discriminate against any miner employed by him by reason of the fact that such miner is suffering from a radiation-induced or dust-induced latent disease. No person shall cause or attempt to cause an operator to violate this section. For the purposes of this subsection the term "miner" shall not include any person who has been found to be totally disabled.

(b) Any miner who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section, or any representative of such miner may, within ninety days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Each hearing examiner presiding under this section shall receive compensation at a rate not less than that prescribed for GS-16 under section 5332 of title 5, United States Code. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein.

(c) Whenever an order is issued under this subsection granting relief to a miner at the request of such miner, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary to have been reasonably incurred by such miner for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing the violation.

(d) Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining any benefit or payment under this Act shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than $1,000, or by imprisonment for not more than one year, or both.

(e) The Secretary shall by regulation require employers to file reports concerning miners who may be or are entitled to benefits under this Act, including the date of commencement and cessation of benefits and the amount of such benefits. Any such report shall not be evidence of any fact stated therein in any proceeding relating to death or total disability due to a radiation-induced or dust-induced latent disease of any miner to which such report relates.

(f) Any employer who fails or refuses to file any report required of such employer under this section shall be subject to a civil penalty of not more than $500 for each such failure or refusal.

SEC. 10. Any individual whose claim for benefits under this Act is denied shall receive from the Secretary a written statement of the reasons for denial of such claim, and a summary of the administrative hearing record or, upon good cause shown, a copy of any transcript thereof.

SEC. 11. The Secretary shall, immediately following the end of each fiscal year, report to the Congress concerning the implementation of this Act. Such report shall include an account of the activities, accomplishments and progress of the benefits program established by this Act.

The ACTING PRESIDENT pro tempore. It will be appropriately referred.

Mr. DOMENICI. I thank the Chair and I yield back the remainder of my time.

THIRTY-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a 30-minute recess and that the time be charged against the minority leader and the majority leader under the order's entered yesterday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the Senate, at 9:39 a.m., recessed until 10:09 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. EXON).

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. BAKER. Mr. President, I thank the Chair.

Mr. President, I believe at this moment the distinguished majority leader is conferring with former President Ford, and to facilitate that for a few more moments and to get all of our colleagues together before we commence consideration of the pending business, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the majority leader.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 15 minutes with Senators permitted to speak therein 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

GM'S NEW BATTERY AND ENERGY INDEPENDENCE

Mr. ROBERT C. BYRD. Mr. President, General Motors Corp. announced on September 25 that it has achieved a major technological breakthrough with the development of a new battery. Mr. E. M. Estes, GM's president, predicted that the new battery makes electric cars commercially practical.

Improved ability to store electricity cheaply has obvious implications for the development of electric vehicles. But it also is important in improving the feasibility of wind and water power.

The wind does not blow all the time, and electrical usage is not necessarily at its peak when windmills are generating at maximum capacity. Improved, lower cost batteries are necessary to bridge the gap between peak output and peak usage.

The battery which GM announced with few technical details is made with zinc and nickel oxide instead of conventional lead and sulfuric acid. Since they can reportedly store 2½ times as much electrical charge as conventional batteries, they dramatically improve the range of electric cars.

Electric vehicles offer the opportunity to dramatically reduce air pollution, particularly in urban areas like Los Angeles, Denver, and Washington where the automobile is the major source of air pollution.

They can also provide a weapon as important to our national security as diesel-powered tanks by helping us move from our dangerous dependence on imported oil.

Electric vehicles can be run on coal—coal which generates in powerplants electricity which people can obtain by plugging their cars into outlets in their garages. Transportation is the single greatest consumer of liquid fuels. Nonliquid fueled vehicles could provide a significant source of conservation of our domestic oil as well as a natural way to decrease our foreign oil consumption.

Recent OPEC price increases sent shock waves through our economy which we are now feeling and which we will continue to feel for some time to come.

It seriously aggravated our inflation problem. It worsened our trade deficit. It generated surplus foreign exchange in the hands of OPEC which runs the risk of destabilizing the international monetary system.

Dependence on foreign sources for nearly 50 percent of our liquid fuel supplies leaves us vulnerable to potential political and military upheavals which are beyond our control. A prolonged cutoff of a significant amount of our foreign supply would not only devastate our economy, it would create frightening international tensions.

The longer we take to move from foreign dependence, the more we expose ourselves to the risks of economic vulnerability and military confrontation.

Improved battery technology, through its potential impact on vehicles and alternative energy generation, is an essential step toward energy independence. Those who participate in this effort are to be applauded.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CONTINUING APPROPRIATIONS, 1980

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of House Joint Resolution 404, which the clerk will report.

The legislative clerk read as follows:

> A joint resolution (H.J. Res. 404) making continuing appropriations for the fiscal year 1980, and for other purposes.

The Senate proceeded to consider the joint resolution, which had been reported from the Committee on Appropriations with amendments.

Mr. MAGNUSON. Mr. President, this continuing resolution contains 10 of the 13 appropriations bills, namely: Agriculture, Defense, D.C., Foreign Operations, Interior, HEW and Labor, Legislative, Military Construction, Transportation, and Treasury-Post Office.

Several of these appropriation bills are in the process of being enacted. Two of them are still in conference. Yesterday we agreed to the conference report on the Treasury-Post Office bill.

Many of these bills are being held up for lack of authorizing legislation. That is particularly true with reference to defense and military construction. Foreign operations is now ready to be submitted to our full committee. I do not have an up to date on Interior, but it will be ready shortly.

Labor-HEW is all through except for the perennial problem on abortion. We are trying to get the House to agree to last year's compromise. But everything else is agreed to except the abortion issue.

The House contemplated the continuing resolution would be effective until December 31. The Senate should reduce the time element to October 31, believing that we would have most of our appropriation bills done by that time.

The State-Justice and Energy and Water Development bills have been signed into public law.

HUD is the only remaining bill and the House has it on their calendar to adopt the conference report today.

This is a huge resolution. There are some controversial issues involved—mostly legislation on appropriations bills.

Time is critical. The fiscal year ends on Sunday night.

So I am hopeful that the Senate will direct itself to this resolution, and get it passed as soon as possible today, so that we might have, if possible, a conference late today or tomorrow on it, and we might be able to resolve the matters between the Senate and the House.

I doubt that we can, because we are faced with another proposition: That the House intends to go on a recess beginning tomorrow night. That would take them into the new fiscal year. If they went for a week of recess, they would not get back until the 9th, and the 10th is when many of the wages and payrolls would be in serious jeopardy; and I hate to see this go right up to the deadline. So I am hopeful, I repeat, that we can get at this matter.

There are several new items in the Senate bill that we agree are legislation on appropriation bills, but that seems to be the name of the game around here—when you cannot get anything through a legislative committee, you tack it on an appropriation bill. When the legislative committee is stalling, either on authorizations or legislative matters, then it comes on an appropriation bill.

So we have two big legislative items on this bill. One is the pay raise for Members of Congress, and the other is abortion. The other matters are mainly emergency items that we put in the bill to take care of some emergencies that are happening and need to be taken care of before the Appropriations Committees finish their work on the regular bills.

PAY

The pay issue for Members is a difficult one.

By a vote of 23 to 0 the committee agreed to continue the freeze on the pay of Members of Congress at the current rate, which has been in effect since March 1, 1977.

Last year, the Congress adopted a "freeze" that prevented a 5.5-percent cost-of-living increase from going into effect for Members and all Federal employees that were in the executive pay level.

This year, the cost-of-living increase that the President has approved for Federal employees is 7 percent.

That 7-percent cost-of-living increase will go into effect October 1 for all Federal employees.

What our committee did, in adopting the special proviso on page 6 of the bill (lines 7 to 15):

Continued to freeze the pay level for all Members of Congress at $57,500.

And it reduces from 7 to 5.5 percent the cost-of-living increase that will be allowed about 22,000 Federal employees who are in that executive pay level range.

Technically—the "legal" pay level for Members and all executive pay level employees went up last year 5.5 percent, only the "freeze" Congress adopted last year prevented the increases.

This year, that "legal" pay level for Members and all executive pay level employees will go up another 7 percent.

The provisions contained in this bill, limit the actual pay any of those Federal employees can receive. They limit other executive level employees to a 5.5-percent increase—and continue the freeze for Members of Congress.

ABORTION

On the abortion issue, section 117 of the bill merely continues the current law into fiscal 1980 for those appropriation bills that currently have any limitations on the funding of abortions.

The issue is raised by language adopted

on the Labor-HEW bill, the Defense Department appropriations, the District of Columbia appropriations, and the Foreign Operations.

The limitations contained in section 117 would apply to those four appropriations and are the same as current law that applies to the Defense Department and to Labor-HEW during fiscal 1979.

The limitations are exactly the same as Congress finally adopted last year.

The limitations are exactly the same as the Senate has approved already this year—several times—in reference to the Labor-HEW bill.

Right now—on those four bills dealing with fiscal 1980—there are at least three different sets of limitations on abortion.

If the Congress is to have any limitations on appropriations they should be uniform. They should be consistent.

Section 117 is consistent with current law, and applies that same law across the four appropriation bills involved in the abortion issue at this time.

It is the same set of limitations adopted Monday by the Senate on a vote of 57 to 31.

Mr. President, the Senator from North Dakota (Mr. Young) probably has a statement he would like to make. I yield to him.

Mr. YOUNG. I thank the Senator from Washington.

Mr. President, I would like to add a few comments relative to the continuing resolution before us today, in addition to those already made by our distinguished chairman, the Senator from Washington (Mr. Magnuson).

This year, as usual, the Congress is behind schedule in passing annual authorization and appropriations bills. This was highlighted when we took up the second concurrent budget resolution and the Senate had passed only 7 of the 13 annual appropriations bills. The Budget Control Act envisioned that the annual authorization and appropriations bills and the second concurrent budget resolution would be passed prior to the commencement of the new fiscal year.

The House of Representatives, as usual, has been delayed in passing appropriations bills, which has made it impossible for the Senate Appropriations Committee to report and take to the floor as many bills as possible by this time. The Senate, as I mentioned a moment ago, has passed seven of the annual appropriations bills—Agriculture, Energy and Water Development, HUD-Independent agencies, Labor-HEW, State-Justice-Commerce-Judiciary, Treasury-Postal Service, and District of Columbia—and four bills are now pending in the committee—Military Construction, Foreign Operations, Interior, and Transportation—while two bills have yet to be passed by the House of Representatives—Legislative Branch and Defense.

The new fiscal year 1980 commences at midnight Sunday. The Appropriations Committee has been waiting on the House to pass this continuing resolution since last week. However, as we all know, it has been tied up over the pay increase for Members of Congress and the executive levels of Government. So now we find it necessary to provide continuing authority for programs and activities funded in 10 major appropriations bills including Agriculture, Defense, District of Columbia, Foreign Operations, Interior, Labor-HEW, Legislative Branch, Military Construction, Transportation, and Treasury-Postal Service. Also, the committee had to consider certain programs which were not included in the regular bills at the time they were considered due to legislative authorization.

In view of the above, the committee reported out a continuing resolution yesterday that will provide the authority for the agencies contained in the appropriations bills that I have enumerated to continue to pay personnel and carry on continuing programs starting with the new fiscal year.

The committee addressed two controversial issues, of which I am sure all the Members are aware by now, as well as a number of other issues, including the necessary Senate housekeeping items which were not contained in the House bill. Specifically, the committee, as the distinguished chairman has mentioned, unanimously agreed to exclude the Members of Congress from any pay raise. The pay raise would be permitted as provided in the House bill of 5.5 percent for all other parts of Government in the executive levels at $47,500 per year and above.

The second controversial issue was abortion. The House bill contained the so-called Hyde language. The committee, by a vote of 14 to 13, agreed to the language that was voted on last week by the Senate in the Labor-HEW appropriations conference report. This is the same issue that faced the Congress last year and again this year on the Labor-HEW, District of Columbia, Defense, and Foreign Operations bills.

Mr. President, this continuing resolution is necessary and it needs to be expedited if the various agencies of Government are to be allowed to function normally until the regular appropriations bills are passed. It is important that this resolution be enacted before October 1, which is this coming Monday. If this resolution is not enacted, Members of Congress, Federal judges and employees of the Federal Government where salaries have been limited will automatically increase 12.9 percent.

Some of these increases could be rescinded, but there are some, like the Federal judges who I understand, would automatically get this 12.9 percent increase and that could not be rescinded because of provisons in the Constitution. So if we want to maintain the level of salaries in this bill, it is very important that this be enacted by this weekend.

Mr. MAGNUSON. Mr. President, I do not now that there are any amendments to the bill except one or two, but I ask unanimous consent at this time that the committee amendments be agreed to en bloc. The bill as thus amended would be considered as original text for the purpose of further amendment and no points of order be considered waived.

Mr. CANNON. Mr. President, reserving the right to object, I should like to ask, as a parliamentary matter, if the committee amendments are agreed to en bloc, would that lock section 115 into the bill?

The PRESIDING OFFICER. It still would be subject to a point of order or amendment.

Mr. CANNON. It would still be subject to a point of order or amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. MAGNUSON. Mr. President, no points of order are waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments are as follows:

On page 4, line 24, strike "and in the manner as provided in H.R. 4390, entitled the Legislative Branch Appropriation Act, 1980, as reported June 7, 1979 (except as to executive salaries which are covered subsequently) and such amounts";

On page 6, line 7, after "percent" insert a colon and the following:

Provided further, That notwithstanding any other provision of law, none of the funds appropriated by this joint resolution or any Act for the fiscal year 1980 may be used to pay the salary of any individual in any office or position the salary for which is subject to adjustment under section 601 (a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) at a rate which exceeds the rate of salary payable for such office or position on September 30, 1978.

Any additional payment under existing law is not to be construed as an increase in salary or emoluments within the meaning of Article I, Section 6, Clause 2 of the Constitution, except that:

(1) Any Member of Congress, whether he voted to confirm or not to confirm the appointment any judge appointed during the 96th Congress to the United States Court of Appeals for the District of Columbia, or whether he abstained from, or was not present for such vote, may bring a civil action in the United States District Court for the District of Columbia or in any United States District Court in the State he represents to contest the constitutionality of the appointment and continuance in office of said Circuit Judge on the ground that such appointment and continuance in office is in violation of Article I, Section 6, Clause 2 of the Constitution;

(2) The designated United States District Courts shall have exclusive jurisdiction, without regard to the sum or value of the matter in controversy, to determine the validity of such appointment and continuance in office;

(3) Any action brought under this section shall be heard and determined by a panel of three judges in accordance with the provisions of section 2284 of title 28, United States Code. Any appeal from the action of a court convened pursuant to such section shall lie to the Supreme Court; and

(5) Any judge designated to hear any action brought under this section shall cause such action to be in every way expedited.

For purposes of this subsection, H.R. 4390, as reported June 7, 1979, shall be treated as appropriating $12,500,000 under the headings "OFFICE OF TECHNOLOGY ASSESSMENT," "Salaries and Expenses": $36,849,000 under the headings "BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED", "Salaries and Expenses"; $205,300,000 under the headings "GENERAL ACCOUNTING OFFICE", "Salaries and Expenses"; $13,117,000 under the headings "CONGRESSIONAL BUDGET OFFICE", "Salaries and Expenses"; and $50,707,000 under headings "JOINT ITEMS", "Official Mail Costs".

On page 8, line 21, beginning after the period, strike through and including page 9, line 2;

On page 9, line 16, after "Act" insert a comma and "except that activities under title XV of the Public Health Service Act shall be conducted at not to exceed an annual rate of $188,717,000";

On page 10, line 8, insert "activities of the Federal Trade Commission;";

On page 12, line 3, strike "December 31, 1979" and insert "October 31, 1979";

On page 14, beginning with line 14, insert the following:

SEC. 111. Notwithstanding section 106 or any other provision of this joint resolution—

(a) effective October 1, 1979, the allowance for administrative and clerical assistance of each Senator from the State of Minnesota is increased to that allowed Senators from States having a population of four million but less than five million, the population of said State having exceeded four million inhabitants;

(b) effective October 1, 1979, the allowance for administrative and clerical assistance of each Senator from the State of Texas is increased to that allowed Senators from States having a population of thirteen million but less than fifteen million, the population of said State having exceeded thirteen million inhabitants;

(c) effective with the fiscal year ending September 30, 1980, section 117 of the Second Supplemental Appropriations Act, 1976 (2 U.S.C. 61f–1a), is amended by striking out "$25,000" and inserting in lieu thereof "$92,000"; and

(d) effective October 1, 1979, the Sergeant at Arms and Doorkeeper of the Senate may appoint and fix the compensation of two operators at not to exceed $12,663 per annum each; six Assistant Mail operators at not to exceed $12,096 per annum each; a Requisition and Receiving Clerk at not to exceed $13,608 per annum; a Maintenance and Rental Clerk at not to exceed $13,608 pre annum; a State office Repair Clerk at not to exceed $13,608 per annum; and two Auditors at not to exceed $14,931 per annum each.

SEC. 112. During the fiscal year ending on September 30, 1980, the total amount which may be obligated to travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the Government shall not exceed an amount which is $750,000,000 less than the total amount proposed therefor in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921. The Director of the Office of Management and Budget shall allocate the reduction in such proposed total amount among the departments, agencies, and instrumentalities of the executive branch and shall report on such allocation to the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 113. Funds available under the Department of Justice Appropriation Act, Fiscal Year 1979 (Public Law 95–431) for support of United States prisoners shall be available as follows:

(a) The Attorney General is authorized to use the appropriation "Support of United States Prisoners" to enter into contracts or cooperative agreements to assist the government of any State, territory, or political subdivision thereof, for the necessary physical renovation, and the acquisition of equipment, supplies, services, or materials required to raise the level of conditions of confinement and facility services of any substandard facility which confines Federal detainees.

(b) This section shall apply only insofar as it is not inconsistent with section 4006 of title 18, United States Code.

(c) Authority provided by this section shall be available from September 26, 1979, and all obligations incurred in anticipation of the authority provided in this section are hereby ratified and confirmed if otherwise in conformance with the provisions of this section.

SEC. 114. Notwithstanding the provisions of the paragraph entitled "Capital Outlay" in title II of the District of Columbia Appropriation Act, 1978, providing for the expiration of certain authorizations and the lapse of certain funds for capital outlay projects, the authorization for the capital outlay project involving the construction of phase I of the downtown permanent campus of the University of the District of Columbia located north of Mount Vernon Square and the funds appropriated in connection therewith by the District of Columbia Appropriation Act, 1978, shall, subject to the last proviso of such paragraph, expire on September 30, 1980, unless funds have been obligated in whole or in part prior to such date.

SEC. 115 (a) Section 3(e) of Public Law 91–663 is amended by adding at the end thereof the following:

With respect to a railroad which filed a petition in bankruptcy during fiscal year 1978, during the period October 1, 1979 through May 1, 1980, certificates shall be issued without regard to the limitations of this subsection and subsections (a), (b), and (c) hereof, for the purpose of continuing service on the railroad's system, at the level in effect on May 1, 1978.

(b) Section 5(h)(2)(A) of Public Law 89–670, as amended, is further amended by striking "but has not yet" and inserting in lieu thereof "or has".

SEC. 116. None of the funds contained in this Act shall be used for the reorganization of the Alaska Railroad Office of the Chief Counsel, Office of Real Estate or Office of Financial Planning, or for the consolidation of those Offices into the Office of the Alaska Railroad General Manager.

SEC. 117. Notwithstanding any provision of this joint resolution, none of the Federal funds provided by this joint resolution or provided for fiscal year 1980 by any other Act for the District of Columbia, Foreign Assistance and Related Programs, the Departments of Labor and Health, Education, and Welfare, or the Department of Defense shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Nor are payments prohibited for drugs or devices to prevent implementation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

SEC. 118. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

COMMITTEE AMENDMENTS TO CONTINUING RESOLUTION

● Mr. HOLLINGS. Mr. President, there are two changes in House Joint Resolution 404 that come under the jurisdiction of the State, Justice, Commerce Subcommittee. The most noteworthy is with regard to our recommendation to treat the Federal Trade Commission the same as the other agencies. The other is with regard to the facilities improvement program of the U.S. Marshals Service.

The House decided on a separate continuing resolution (House Joint Resolution 402) for the Federal Trade Commission because of the controversy surrounding that agency. That resolution is for 45 days and was designed to force out an authorization for appropriations, that has been lacking for 2 years. House Joint Resolution 402 was a compromise by the House Appropriations Committee after their State—Justice Committee originally proposed a continuing resolution specifically prohibiting FTC activities in the automobile industry, Exxon case, agricultural cooperatives and trademarks.

The committee has provided for the Federal Trade Commission in this joint resolution in order to treat the Commission in the same manner as other agencies instead of by the separate and limited form of House Joint Resolution 402. This authority will continue appropriations for those program areas contained in the Federal Trade Commission's 1979 appropriations. The Commission is expected to continue to observe the directions concerning children's advertising, agricultural marketing orders, life insurance, and the auto industry investigation in the committee's report accompanying the Commission's 1979 appropriations.

This authority, by definition, merely continues the Commission's approved operations pending the resolution by the legislative committees of the long-delayed appropriation authorization and does not authorize the Commission to delve into new program areas.

At the present time the Senate Commerce Committee is holding oversight hearings on the Federal Trade Commission, after deferring floor action on S. 1020, a bill that will authorize FTC's 1980 appropriation. Several more days of hearings are scheduled. Our action clearly indicates that an authorization bill must be before the Congress promptly.

The committee has also included a new section 113 to provide authority for the U.S. Marshals Service to honor commitments already made for improving local jails. The recommended language modifies the Department of Justice Appropriations Act for fiscal year 1979 to allow these projects to be funded from appropriations already available to the Department.

On April 27, 1978, the Marshals Service initiated a facilities improvement program (FIP) designed to improve conditions in local jails which were contracting with the Marshals Service to provide housing for Federal prisoners. The FIP provided grants to contract jails for specified improvement necessary to bring the jails into compliance within recognized detention facilities standards.

During fiscal year 1978, the Marshals Service obligated $183,554 for three specific FIP projects and $79,691 during fiscal year 1979. On June 13, 1979, the FIP was discontinued after the Justice Department's Office of Legal Counsel found that the Marshals Service did not have statutory authority to make grants for improvements in contract jails. Prior to this decision, the Marshals Service had announced improvements to five jails amounting to $1,250,000 which could not be obligated because of the legal counsel's opinion. The language inserted in the joint resolution will enable the Marshals Service to honor those commitments to the extent they are otherwise ready for funding.●

Mr. SASSER. Mr. President, I shall make only a few brief remarks regarding items in the continuing resolution which originated in the Legislative Branch Subcommittee.

As the Members may know, the continuing resolution, as approved by the House, funds most legislative branch activities in fiscal year 1980 at the level approved by the House Appropriations Committee. That level is, in the aggregate, $82 million below the President's budget estimate.

The Senate Appropriations Committee, in its action on the continuing resolution, took issue with the House-approved level of funding in several areas.

NET DECREASE BELOW HOUSE

First, the level approved by the Senate Appropriations Committee for the legislative branch for fiscal year 1980, is a net decrease of $3.6 million below the level approved by the House. This is $85 million below the President's budget for the legislative branch.

SOME INCREASES AND DECREASES

Within the total approved by the Senate Appropriations Committee, there are some recommended increases and decreases.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

The committee has provided a $2.6-million increase over the House level for books for the blind and physically handicapped. This will bring the program up to the $36.9 million level recommended in the fiscal year 1980 President's budget and extend the program to an additional 37,000 blind or physically handicapped persons. Currently 535,000 individuals are served under the House level, which is the same level as the previous year.

OTHER INCREASES

The committee has also partially restored House approved cuts in the budgets of the General Accounting Office ($10 million) the Congressional Budget Office ($1 million) and the Office of Technology Assessment ($3.1 million).

OFFSETTING DECREASE

The increases made by the committee over the House are more than offset by a reduction of $20 million in official mail costs. A portion of this decrease is due to savings from improved mail presort capabilities funded in this resolution in the office of the Senate Sergeant at Arms. Another major portion of the reduction is based on the recommendation of the very able chairman of the Legislative Branch Subcommittee of the House Appropriations Committee (Mr. BENJAMIN). This latter reduction was identified by the chairman of the House subcommittee subsequent to approval of H.R. 4390 which is the basis of the continuing resolution for the legislative branch. Upon approval of a new legislative branch appropriation bill, the House Subcommittee included a $5 million reduction in official mail costs of the House. That reduction has been included in the continuing resolution and is reflective of the diligence of the chairman of the House Appropriations Subcommittee (Mr. BENJAMIN) in identifying and eliminating unnecessary and wasteful spending.

SENATE HOUSEKEEPING ITEMS

The committee has included language in section 111 relating to several housekeeping items of the Senate which are explained fully in the report accompanying the continuing resolution. Among these items is approval of six positions in the Office of the Senate Sergeant at Arms which are required to implement a presort mail process for newsletters and other large volume mailings which will save the Senate in excess of $6 million a year in mailing costs.

REDUCTION OF TRAVEL AND TRANSPORTATION

The committee has included language in section 112 to reduce by $750 million the amount which may be obligated for travel and transportation in the executive branch during fiscal year 1980. This amendment is cosponsored by 28 Members of the Senate. The amendment is similar to an amendment to the first concurrent resolution on the budget designed to cut back on government travel and filmmaking which was adopted April 25, 1979, by a vote of 83 yeas, 0 nays. The amendment was cosponsored in committee by the distinguished and able chairman of the committee (Mr. MAGNUSON.)

In fiscal year 1978, the Office of Management and Budget (OMB) estimates that the Federal Government spent $6.7 billion for travel and transportation. For fiscal year 1979, OMB estimates these costs rose to $7.5 billion. The latest figures indicate that the President's budget includes over $8 billion for travel and transportation costs. This includes $3.1 billion for travel of persons and roughly $4.9 billion for non personnel transportation. Using $380 as a standard cost of a trip (based on experience at the Congressional Budget Office) and dividing that sum into the total fiscal year 1980 "transportation of persons" budget of $3.1 billion yields approximately 8 million Government financed trips a year.

Dividing that by 365 days per year yields 22,000 Government financed trips a day, every day of the year, Saturdays, Sundays, Christmas, and New Year's Day. This means there are probably more than 20,000 Federal Government employees in the air at any one time—and this does not even count the non-Government employees who are traveling on Federal grants or contracts.

The amendment recommended by the committee would reduce the $3 billion included in the fiscal year 1980 President's budget for travel and transportation to an amount of $7.25 billion, which is 3 percent below the current rate of expenditure, and 9 percent below the President's budget request. This should eliminate approximately 3,000 of the 22,000 Government-financed trips per day.

I urge my colleagues to support these committee approved amendments which were initiated by the Legislative Branch Subcommittee and approved by the full Committee on Appropriations.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield to me?

Mr. MAGNUSON. I yield to the Senator from West Virginia.

TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time agreement on House Joint Resolution 404, the pending matter, as follows:

That there be 1 hour for debate on the resolution, to be equally divided between Mr. MAGNUSON and Mr. YOUNG; that there be a 30-minute time limitation on any amendment, with the following exceptions: 1 hour on an amendment by Mr. HELMS dealing with the pay raise; 1 hour on an amendment by Mr. CANNON dealing with the Milwaukee Railroad; 1½ hours on an amendment by Mr. BUMPERS which deals with the Clinch River Breeder Reactor; no time limit on any amendment which would change the termination date of the resolution; and no time limit on any amendment which goes to the provision on page 6, lines 7 through 15.

Mr. CANNON. Mr. President, reserving the right to object, the distinguished majority leader stated 1 hour on my amendment. I propose to raise a point of order, so I should like to have 30 minutes on a point of order. If the point of order is sustained, then I shall not need the time on the amendment.

Mr. ROBERT C. BYRD. Mr. President, I add the proviso that the agreement be in the usual form as to the division and control of time.

Mr. MAGNUSON. We cannot debate a point of order.

Mr. CANNON. Mr. President, I can talk to it first and, as I said, I want 30 minutes.

Mr. ROBERT C. BYRD. Yes, Mr. President, with the proviso that Mr. CANNON be allowed 30 minutes, equally divided, on a point of order which he may raise.

Mr. YOUNG. Reserving the right to object, there is one provision that I am concerned—maybe I did not hear the majority leader correctly— on which there will be no time limit. Was that on the termination date?

Mr. ROBERT C. BYRD. On any amendment which would change the termination date of the resolution.

Mr. YOUNG. That means we could debate it until next week.

Mr. STEVENS. No, Mr. President, it means if someone offers an amendment to change that, there would be no time limitation on that.

Mr. YOUNG. If someone wanted to move to amend it this way, there would be no limit on time on the amendment.

I would have to object to that.

Mr. MAGNUSON. My suggestion is to make it a half hour. If anyone offers an amendment on the date, a half hour divided.

Mr. YOUNG. Mr. President, I would like to have some kind of limit, the same as we have on the others.

Mr. ROBERT C. BYRD. With regard to the provision which I included in connection with any amendment to change the termination date, I change that provision in the request to provide as follows: That no such amendment be in order.

Mr. STEVENS. To change the date of October 31?

Mr. ROBERT C. BYRD. Yes, no such amendment to change the date of the resolution be in order.

Mr. STEVENS. Reserving the right to object, just so that we understand, that means that the same provision would apply with regard to the provisions dealing with the amendment that I added in committee yesterday. It is my understanding that there will be no amendment offered in that regard. I just want to make sure that the Senator from North Dakota understood that the same provision is in this agreement, that there would be no time limit involved if anyone does move to change the provisions of the amendment that I offered in committee. Would the Senator object to that, also?

Mr. YOUNG. No, I agree with the distinguished acting minority leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, because of the necessary haste in getting this matter to the floor, there is a printing error in the resolution as reported by the committee. On page 8, lines 10 through 21 are shown in italic as a committee amendment. This printing error should be corrected and Members should know that lines 10 through 21 on the page are House text and no change was made by the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I suggest that this be a live quorum.

The PRESIDING OFFICER. Debate is not in order during a quorum call.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. STEVENS. I object to that.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I do object.

The PRESIDING OFFICER. Objection is heard by the Chair.

The clerk will continue to call the roll.

The second assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 5]

Baker
Baucus
Byrd, Robert C.
Cannon
Chiles
Exon
Magnuson
McGovern
Nelson
Stevens
Young

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DeConcini), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Hawaii (Mr. Matsunaga), the Senator from Rhode Island (Mr. Pell), the Senator from Maryland (Mr. Sarbanes), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. Chafee), the Senator from Arizona (Mr. Goldwater), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

The PRESIDING OFFICER (Mr. Morgan). Are there any Senators in the Chamber who have not voted and who wish to do so?

The result was announced—yeas 89, nays 1, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—89

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
McClure
McGovern
Magnuson
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—1

Weicker

NOT VOTING—10

Chafee
DeConcini
Goldwater
Inouye
Kennedy
Mathias
Matsunaga
Pell
Sarbanes
Talmadge

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the time taken up by the rollcall and the quorum call not be taken out of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

If no one yields time, the time will be charged against both sides equally.

UP AMENDMENT NO. 573

(Purpose: To amend section 115 of reported bill)

Mr. MAGNUSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. Magnuson) proposes an unprinted amendment numbered 573:

On page 17, line 23, in section 115 of such bill, strike "May 1, 1980," and insert in lieu thereof "November 30, 1979."

Mr. MAGNUSON. Mr. President, this is an amendment to House Joint Resolution 404 making the continuing appropriations. In section 115 of such bill, strike "May 1, 1980," and insert in lieu thereof "November 30, 1979" instead of December 1, 1979.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. CANNON. Mr. President, the date just offered by Senator Magnuson in the amendment to insert November 30, 1979, in lieu of May 1, 1980, is acceptable to me as chairman of the committee.

I may say that we have a very serious problem here concerning the Milwaukee Railroad, and I appreciate Chairman Magnuson's concern when he offered the amendment yesterday to the appropriations bill.

The railroad is approaching now a state of cashlessness and it is important that Congress move promptly to enact necessary legislation.

Supplementary rail service assistance funds will be made available to impacted States under S. 1781. That bill was introduced by Senator Magnuson, together with Senators Jackson, Baucus, Melcher, and McGovern on September 20, 1979, and has already been ordered favorably reported from the Commerce Committee. Similar legislation has been introduced in the House.

The Commerce Committee is also considering legislative proposals, including possible amendments to the Emergency Rail Services Act, and labor protection measures.

I note that Chairman Florio and Senator McGovern have drafted a number of the legislative proposals which will be introduced in the near future. I have had an opportunity to briefly review those proposals, and I can state that I am generally in agreement with much of that legislation which is proposed.

Mr. McGOVERN. Mr. President, will the Senator yield at that point?

Mr. CANNON. Yes, I yield.

Mr McGOVERN. I want to express my appreciation——

Mr. NELSON. Mr. President, may we have order? I cannot hear the dialog.

The PRESIDING OFFICER. Yes. May we have order? Senators who wish to converse will please retire to the cloakroom. Staff members will please be seated.

The Senator may proceed.

THE MILWAUKEE RAIL CRISES

Mr. McGOVERN. Mr. President, I would like to express my appreciation to both Senators CANNON and MAGNUSON for their efforts to preserve Milwaukee rail service.

Over a year ago, the Milwaukee surfaced their preliminary reorganization plans which called for the elimination of all of their rail service between Minneapolis and the west coast. My State of South Dakota was faced with an economic disaster. We stood to lose over 1,000 miles of rail branchline service as well as our only mainline trackage. The loss of such service would have meant that our farmers would be without adequate transportation for their commodities to the west coast, service to Minneapolis would become minimal. Even more important, the largest coal-fired generating plant in the entire region would have no means to obtain coal—and would be forced to shut down. No other State served by the Milwaukee faced greater difficulties.

This is not to say other States have not been impacted by the Milwaukee's proposals. Every State served from Indiana to the west coast faced the loss of some service. States such as Washington and Montana were confronted with the abandonment of all Milwaukee trackage, although both States possessed mainline service from other carriers.

The initial reorganization plan of the bankrupt carrier called for the reduction of its system by more than 75 percent. Through diligent negotiation on the part of several States and Members of Congress, the total trackage to be eliminated was reduced to approximately 6,000 miles. Still, such a reorganization is unprecedented in the history of the United States.

Despite the fact that no other railroad has ever proposed such a drastic plan of reorganization, many observers including the Department of Transportation were content to say that the marketplace was effecting an adeqeuate reorganization.

Such observations completely ignored the serious problems of employee protection under the bankruptcy proceedings, as well as the critical hardships placed on shippers throughout the system who are dependent on the Milwaukee for their livelihood.

Perhaps even more importantly, these observations ignored the critical role our Nation's railroads must play in our country's energy future. In direct conflict with the railroad industry's need to trim its present system—to abandon marginal track and equipment—is our country's need to conserve energy. The transportation sector of our economy consumes more energy than any other sector—and railroads are the most energy efficient means of freight transportation. The centerpiece of any transportation energy policy must be to provide incentives to allow for a shift in the movement of goods and services to the most energy efficient transportation mode. For freight, this shift must be to our rails.

In light of our precarious energy situation, the Congress must take a closer look at the Milwaukee's reorganization. We must also examine the Rock Island as well as the marginal railroads which may be candidates for future bankruptcies.

I know that Senator MAGNUSON, the distinguished chairman of the Senate Appropriations Committee, shares my concern, and I appreciate his efforts to preserve Milwaukee rail service. While I am in complete agreement with the intent of his amendment to the continuing resolution, there is no assurance that the Milwaukee will be able to maintain existing operations as required. The amendment specifically directs the Milwaukee to maintain all existing levels of service—systemwide—until May 1, 1980. Because the railroad cannot internally generate the funds necessary for continued operations, the amendment also provides for the drawdown of emergency loan funds, under the Emergency Rail Services Act of 1970.

Unfortunately, even if a billion dollars of these loans were made available to the Miwaukee, it is doubtful that the carrier could use the funds for months to come if ever.

While I cannot speak for the Milwaukee's creditors, I believe their past action speaks for itself. In all previous attempts by the Milwaukee to obtain these emergency loan funds, the creditors have used every legal avenue to block the drawdown of the funds.

The basic argument of the creditors may have some validity. It is their belief that every new debt incurred by the Milwaukee which provides for the continuation of all service under Milwaukee ownership, is an unconstitutional erosion of their assets. The position of the Milwaukee trustee is that any effort to maintain the status quo, removes the Milwaukee another step away from ever completing a reorganization plan. While I do not agree with all of the arguments of the creditors and the trustee, their position must be closely examined.

The bottom line is that if the Magnuson amendment is enacted, and if the creditors follow their past actions, the result of the amendment would be disastrous to the entire Milwaukee Railroad. If the railroad is required to maintain all operations for the next 8 months, and the railroad runs out of cash—and the creditors prevent the drawdown of emergency rail service assistance funds, we have defeated our purpose.

I share the concerns of the Senator from Washington and I support the intent of his efforts, to find a mechanism that will not jeopardize the entire rail system.

I believe an equitable compromise can be achieved.

It is my understanding that Senator CANNON, chairman of the Senate Commerce Committee, has had the opportunity to review legislation which has been developed by Congressman FLORIO and myself, which would ease the restructuring problems faced by the Milwaukee.

This proposal provides incentives for the continuation of rail service on the Milwaukee. Specifically, the bill provides assistance to other railroads, to shipper organizations, and other financially responsible persons to take over segments of the Milwaukee.

The legislation also increases the funding in the Emergency Rail Service Assistance Act, to provide for emergency operating funds, for both the Milwaukee and the Rock Island. The bill also establishes comprehensive protection for disadvantaged employees of the Milwaukee.

I have been advised that Senator CANNON has reviewed this proposal and is in agreement with the major provisions of the bill. In light of the problems which could result under the amendment we are considering today, I would like to request that the Senator from Nevada examine this proposal in the Senate Commerce Committee as quickly as possible, report a bill to the floor within the next several weeks, and that action on the Senate floor would be taken before we recess later this year. I also hope that the needs of Senator MAGNUSON can be incorporated into this proposal.

I deeply appreciate the efforts of both Senator CANNON and Senator MAGNUSON to find some way to preserve as much of the Milwaukee rail service as is feasible. I think we are faced with one of the most serious, maybe the most serious, railway crises that have confronted this country in its history. We not only have this bankruptcy on the Rock Island, and other lines in our part of the country in critical condition, and all of this at a time when the country needs to be turning to the most energy-efficient form of transport possible which, in the case of heavy freight, is the rails.

I believe it is possible to work out, I will state to the Senator from Washington and the Senator from Nevada, an equitable compromise on this matter. It is my understanding that the Senator from Nevada, the chairman of Commerce Committee, Senator CANNON, has had the opportunity to review the draft legislation that has been developed by Congressman FLORIO and myself which was designed to ease the restructuring problems faced by the Milwaukee.

This proposal would provide practical incentives for the continuation of rail service on the Milwaukee, and specifically the bill provides assistance to other railroads and to shipper organizations and other financially responsible persons to take over segments of the Milwaukee.

The legislation also increases the funding in the Emergency Rail Services Assistance Act to provide for emergency operating funds for both the Milwaukee and the Rock Island, two important lines that are in bankruptcy.

I have been advised that the Senator from Nevada (Mr. CANNON) has reviewed the proposal and is in general agreement with the major provisions of the bill in the light of the problems that could result under the amendment we are considering today.

I would like to request that the Senator from Nevada examine this proposal in the committee as quickly as possible and report a bill to the floor within the next few weeks, and that action on the Senate floor will be taken before we recess later this year. I hope the needs of Senator MAGNUSON can be incorporated in that proposal.

I am wondering if the distinguished chairman of the Commerce Committee agrees with that course of action.

Mr. CANNON. I might say to my colleague that I do agree with what he has stated. Expedited action is certainly very essential in view of the embargo authorized yesterday by Judge McMillan to commence on November 1, 1979, and that is what we would be saying by the amendment that Senator MAGNUSON has now proposed.

I can assure the Senator that the Milwaukee legislation is a top priority item within our committee, and we will move immediately so that the legislation can be enacted within the time frame the Senator has suggested.

We have a number of alternative provisions that we can and will consider. For example, a possible amendment of the rail assistance formula under the DOT Act.

We have under consideration as a possible alternative, changes in the Emergency Rail Services Act of 1970 to delete the requirement that a railroad be expected to become self-sustaining if the President or other designated official declares a national or regional transportation emergency.

Another alternative would be the amendment of the directed service provision to provide that the involved carrier can be directed to provide service over its own lines without a 6-percent profit because, under the legislation now in existence, they can direct service by carriers other than the bankrupt but they must provide a 6-percent profit. If, under current law, they direct the service to be conducted by the bankrupt railroad, you are giving them a guaranteed profit when they cannot make the profit as it now stands, so it would just be a clear subsidy.

Labor protection provisions to provide that the estate should pay the moving expenses of displaced employees which, if they were able to pay their traveling expenses, would lessen the burden on the displaced employees.

The possible changes in the bankruptcy law to apply the new provision, section 1170, to the Milwaukee Railroad and to the Rock Island that would permit the court to authorize abandonment without a prior decision by the ICC, which is often a pacing item in these matters.

On the 4R Act, to amend section 505 (b)(2) to permit title V funds to be made available in the purchase and rehabilitation of lines from a bankrupt carrier without consideration of funds available to the acquiring carrier from other sources. That might also be another alternative that we can and will look at.

Also, of course, the last, and certainly not the least but more expensive to the taxpayer, will be the issue of whether we wanted to authorize additional appropriations in these areas.

Mr. McGOVERN. Mr. President, if the Senator will yield momentarily further, I support the objective Senator MAGNUSON is trying to get at. I think the problem of relying on that is that it is but a short-term measure and, judged on the basis of past history, the creditors of the Milwaukee line, if they are ordered to operate the entire system even with a Government loan, are probably going to go into court and tie up that money, and meanwhile the financial problems continue to worsen.

So I am reassured that the chairman of the committee is prepared to move on a more fundamental and comprehensive solution to the problem, and I want to commend him for it.

Mr. CANNON. I may say that the Senator has made a very good point. It is quite possible that the creditors might not be willing to accept a loan which would provide for the continuation over the entire system as distinguished from the core system itself because a lot of that system really cannot be justified.

Mr. McGOVERN. I think what it does is jeopardize the viability of the railroad finances, and we would end up with the creditors moving in court to paralyze the action.

Mr. BAUCUS. Mr. President, will the Senator yield?

Mr. CANNON. Yes, I yield.

Mr. BAUCUS. I would like to clear up a few points which are not fully understood. The problem here is the plight of the Milwaukee Railroad. The railroad is in very tough financial shape. We must find some way to keep a viable national transportation system operating, including the railroads.

The problem is that legislation sometimes passes quickly, and sometimes not so quickly. That is why we have included Milwaukee provisions in the continuing resolution.

I commend the chairman of the Commerce Committee for acting expeditiously in getting the bill I sponsored through last May which addressed the Milwaukee problem.

The problem is we are not sure what is going to happen in the House. We do not know whether they are going to act, or when. There is a special urgency because the bankruptcy judge ruled yesterday that on November 1 a large portion of the Milwaukee may be embargoed and directed service initiated.

Western States are going to suffer dramatically and drastically if the embargo goes into effect. The West will be abandoned; it is that simple. We are therefore trying to find a way that western service can continue. We have an obligation to try to find a way to save the Pacific coast extension.

My proposal is to give a group a reasonable chance to come forward with a reasonable plan for reorganizing the railroad. We have to be reasonable in our deadlines. The bills that Senators McGOVERN and CANNON have mentioned are bills which have very tight termination dates. The Florio bill over in the House provides December 1 as the date within which the proposal has to be submitted and March 1 as the date the plan must be implemented.

We all know it takes more than a few days, a few weeks, or a couple of months for a massive undertaking such as acquiring all or a portion of a railroad. You do not do that overnight; it takes time.

My point is that any legislation we pass here, and which we hope will be passed by the House and become law, should have a reasonable date for enacting an alternative plan: not March 1, but a later date.

The proposal Senator MAGNUSON and I are supporting will save the Government and taxpayers money.

ICC Chairman O'Neal says it will cost $50 million to direct service on western lines until May. The Milwaukee core will require an additional $30 million in ERSA loans for that period of time. The $50 million is money down the drain, which cannot be repaid.

Also, there are tremendous technical problems with directed service. The ICC has directed service once, and on only 100 miles of railroad. The Milwaukee involves thousands of miles. Can you imagine the difficulties and problems the ICC will have when it tries to direct service over thousands of miles of track with no experience in doing something of that magnitude?

Senators should remember that ERSA loans are potentially and probably repayable. This is a second reason why the proposal we are discussing is preferable to directed service.

I would like to clear up the impression that the creditors would not accept ERSA loans. Our legislation reduces the priority of these loans. That makes it somewhat less likely that the Government will be repaid, but also means the creditors have less reason to object.

Milwaukee assets are worth $900 million and the liabilities are at present about $500 million. That gives a $400-million cushion so the claims of creditors will be protected.

Mr. President, the trustee's embargo proposal may help the core States. That is fine; I think the core States should be helped. But I am asking that we in the Senate and the House craft legislation and pass it to help not only the core States, but also the Western States.

With that in mind, Mr. President, I hope that the Senate will act expeditiously on comprehensive Milwaukee legislation.

I thank the chairman.

Mr. CANNON. Mr. President, may I say, in response to the Senator from Montana, that we are certainly aware of his concerns. We are equally as concerned, and will do everything we can to find a reasonable and equitable solution to this problem; and I can assure him we will work toward that end.

Mr. MELCHER. Mr. President, will the Senator from North Dakota yield me 3 minutes?

Mr. MAGNUSON. Mr. President, I yield myself such time as I may need on the bill.

Mr. President, the purpose of a continuing resolution is to maintain the status quo. That is exactly what section 115 of House Joint Resolution 404 is intended to do. The basic issue section 115 addresses is whether Congress and the Interstate Commerce Commission are the responsible bodies for determining the future and structure of the Nation's rail system. In the case of the Milwaukee Road, a bankruptcy judge yesterday claimed the unprecedented power to determine the structure of that road. I believe that action to be illegal and I am assured that the ICC intends to appeal. In the meantime, it is essential that the status quo be maintained until this important issue of national rail policy can be addressed in the Congress and before the ICC.

The Milwaukee Road has filed an abandonment petition before the ICC. Public hearings are scheduled to provide workers, shippers and affected communities an opportunity to appear and testify on the effects of this proposed abandonment. Just to provide my colleagues with some perspective on this matter, I would point out that the Milwaukee Road abandonment petition contemplates the most massive elimination of rail service in the history of this country. This is an action that should not be taken lightly and it is certainly not a matter to be determined in a bankruptcy proceeding in Chicago.

Section 115 will allow Federal loans, until November 30, 1979 that will be repaid by the Milwaukee Road. By that time, the ICC will have completed its actions. That is the way Congress intended these matters to proceed. Yesterday the ICC ordered directed service over the Rock Island. Directed service is without a doubt a more expensive alternative than further Federal loans. It should be remembered that even ConRail was able to repay the loans that were made to it.

I expect that the Milwaukee Road will be fully able to repay any further loans that are made between now and May 1.

This morning I received a letter from Daniel O'Neal, the chairman of the Interstate Commerce Commission. The ICC has only had one past experience with directed service. That order covered 100 miles. Yesterday's order involving the Rock Island involves over 7,000 miles. Since the ICC is the only agency with experience dealing with directed service, I would urge that my colleagues give close attention to Chairman O'Neal's letter which clearly indicates that directed service is a less attractive and more expensive alternative than Federal loans.

Mr. President, the ICC chairman, has clearly stated that the Federal loans to the Milwaukee railroad are less expensive than the direct service. I ask unanimous consent that his letter, which is very succinct and deals with the matter in some depth, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

INTERSTATE COMMERCE COMMISSION,
Washington, D.C.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN MAGNUSON: In the letter that you sent me today you ask for my opinion on the amendment to the continuing resolution which would provide ERSA funding to the Milwaukee Railroad through May 1, 1980. You also ask for an estimate of the cost differences between continued ERSA funding for the Milwaukee Road and directed service over the Milwaukee Road lines between October 1, 1979, and May 1, 1980. Third, you ask to what extent ERSA funding of the Milwaukee would affect the Commission's ability to perform its responsibilities in reviewing Milwaukee reorganization plans in a timely manner particularly in view of the fact that directed service has now been ordered over the Rock Island Railroad.

First, let me state as a general matter that the Commission has always maintained the view that directed service of a railroad should be viewed as a last resort. In our judgment, it is likely to be the most costly method by which the Federal government can maintain railroad service where a railroad fails to generate sufficient cash for operations. The reason that directed service is more costly as a general proposition is because the Federal government must reimburse the directed rail carrier for any losses in the operation of a railroad and must also pay the directed rail carrier a reasonable profit based on gross revenues. The Commission has determined reasonable profit to be approximately 6 percent of revenues.

In our budget request, submitted recently to the Congress, we estimated that the cost of directed service over the non-core portion of the Milwaukee Railroad to be approximately $50 million for 240 days. This would cover service over essential lines outside of this core. If service was directed over the entire system (essential lines, both core and non-core) for 240 days, the estimated cost would be approximately $81 million. If the east-west main line were to be operated, an additional $12.5 million would be required, thus making the total $93.5 million for the entire system, all lines.

The above costs are comprised of two elements: the cost of operations (the difference between revenues and expenditures) and the payment to the directed carrier(s) of a reasonable profit. We have determined reasonable profit to be 6 percent of gross revenue. In the situations cited above, the reasonable profit for running the non-core portion is estimated to be $10 million; for running the entire system, $19.5 million. Thus, if the reasonable profit figure was subtracted, the cost to the government of directed service over the entire system would be about $70 million and for the non-core about $40 million.

It is important to note that the above estimates were made in June and have not been corrected for inflation. We understand that the Trustee in bankruptcy and the Bankruptcy Court would require funds from the Federal government for core operations. The Trustee has indicated his approval of an application for $30 million of ERSA monies. Thus, if service is directed only over the non-core portion of the railroad, we would anticipate $50 million from the Federal government in directed service funds plus $30 million in ERSA funds. I do not know how much of the $30 million would be consumed for operations in 240 days.

It is important to keep in mind in weighing the advantages and disadvantages of the different approaches to recognize that directed service is a grant program. ERSA on the other hand is a loan program. Even Penn Central repaid the ERSA loans that it received some years ago. The reason that those funds were repaid of course was that the statute placed the ERSA loan, backed by Trustee certificates, at a very high priority. Thus, those loans had to be paid back before many of the other debts of the bankrupt carrier could be satisfied. Of course, to the extent that ERSA loans are reduced in priority, the risk that those loans would not be repaid is increased. As of October 1, 1979, the FRA will have discretion to accept less than highest priority for ERSA. Such discretion was deemed necessary to make such loans acceptable to bankruptcy courts that must protect the interests of creditors. Of course, with any loan, even at low priority, there remains a chance that at least a portion of the money will be repaid to the Federal government. There is no such possibility for directed service money.

Insofar as ERSA money is used to offset railroad losses or to finance railroad rehabilitation, there is no reason to believe that the use of ERSA loans would be any more expensive than directed service grants. But the directed service grant must also absorb a reasonable profit. All else being equal, directed service grants must cost the Federal government more than ERSA loans.

Even assuming that substantial additional ERSA loans were made available to the Milwaukee Trustee, it is reasonable to expect that the Milwaukee creditors will challenge every attempt by the Trustee to draw ERSA funds. The creditors have raised these challenges in the past and are likely to continue to challenge ERSA funds (even if subordinated) if they believe continued operation of the railroad would in any way erode the estate. The creditors have yet to gain court acceptance of the challenge. But, the court might at some point agree with the creditors, especially if the government insists upon a high priority for the ERSA loans. It is possible, then, that even if ERSA funds are made available, the Milwaukee might not draw down the funds.

Now let me respond to your third question about the affect of ERSA loans on the Commission's ability to process the Milwaukee reorganization plan. I am confident that the Commission does have the capacity to dispose of the reorganization proposals of the Milwaukee regardless of whether or not there is a directed service order on the Milwaukee and on the Rock Island at the same time. However, this agency does have very limited resources and we do not welcome the prospect of having to administer directed service over two large railroads simultaneously.

Sincerely yours,

A. DANIEL O'NEAL,
Chairman.

Mr. MAGNUSON. I want it clear that our action today, regardless of the date—and I am glad that the Senator from Nevada has agreed to this compromise—should make it clear that Congress and the ICC intend to determine the future structure of the Milwaukee, rather than a bankruptcy judge. I understand that the ICC is going to appeal the order of yesterday on the grounds that it is illegal for a bankruptcy judge to determine the routes or abandonment of routes. I think this makes it clear that for at least 60 days the bankruptcy judge's decision will be held in abeyance, and that will give us a chance for Congress to act.

I am aware that the Commerce Committee will take as quick action as they can on it. I happen to still be a member of the Commerce Committee, and I am going to pursue that line when I go to the meetings. I am sure that the Senator from Nevada realizes the seriousness of this situation. It is very serious, and can throw hundreds of people out of work. It has everybody stirred up out in our area.

There is another boxcar shortage going on, and they blame that on the Milwaukee. Some of the Milwaukee cars are not moving at all, waiting to see what is going to happen; and I think this is a good solution to the matter.

I agree with the Senator from South Dakota and the Senator from Nevada that there are several options, but we are going to have to make some move, and, as the junior Senator from Montana says, if only the House will take some action, we will be on our way. I do not know what is happening over in the House lately, but we will see what we can do to stir them up a little bit.

I yield 5 minutes on the bill to the Senator from Montana (Mr. Melcher).

Mr. MELCHER. I thank the chairman. I will not use all the 5 minutes.

I want to reemphasize the remarks that have been made by my colleague from Montana (Mr. Baucus) and further address those problems. In facilities for shipments of grain and coal from the West, we are seriously lacking.

Without the Milwaukee, we are going to be that much worse off, so it is very important. We must have the continued service of the Milwaukee, not just in the so-called core area recommended by the trustee, but also in those points west of Miles City to the west coast. Without that continued service, the freight movement of grain, first of all, will be seriously hampered. Grain is waiting at these elevator points throughout Montana and throughout the Dakotas for shipment. It is waiting now. The business is there. It seems ironic that at the very time when there is more business than can be handled, the Milwaukee is in bankruptcy court, seeking to fold.

Much of the grain out of the Dakotas and out of my State of Montana goes to the Northwest, to export points in Washington and Oregon. Unless the Milwaukee continues to run to the west coast, freight rates on grain are going to skyrocket. It will be almost a captive market for the Burlington-Northern. Aside from ability to meet the demand, which is not adequate at this time, even with the Milwaukee, we are also going to face the prospect, in years to come, if the Milwaukee continues to operate to the west coast, of higher and higher freight rates for the grain shipments.

In addition, the Department of Energy is now struggling to complete its report on the coal-haul operations that are necessary in our region. That is the Fort Union coal deposit embracing parts of North Dakota, Montana, and Wyoming. Until their report is finalized, until proper projection can be made of coal-haul needs in the coming years, we are not going to know how badly we need the Milwaukee. It is clear now, based on either of two projections that the Department of Energy has for additional production of coal in that region, that the supplies of both coal-haul cars and power are not enough to meet that demand with the Burlington-Northern alone. So it is not just a problem that faces us in our particular States, it is a national problem on both the grain and the coal-haul that is essential for the well-being of this country. Therefore, it is very important that the Senate and also the House respond to these needs to make sure the Milwaukee continues operation on full track.

I thank the chairman for yielding to me.

Mr. YOUNG. Mr. President, I yield myself 2 minutes on the bill. Then I yield 3 minutes to the Senator from South Dakota.

I want to make a comment to the chairman of the Committee on Commerce. We are in a serious situation with respect to transportation in the whole upper Midwest States area and Montana. The freight rate on wheat now is over $1 a bushel from Minot, N. Dak., to the west coast. Even with these high rates, grain cars are not available most of the time. Most grain elevators have been blocked most of the time. In recent years now, they have had this great coal development. Over six trainloads of coal go through Bismarck, N. Dak., each day. That is from western North Dakota where the veins are about 10 to 12 feet deep. The best veins of coal are along the Milwaukee Road, especially in North Dakota, 30- to 50-feet-deep coal veins. Somehow, some way, unless we can keep these railroads moving, we are going to paralyze that whole area of the United States. I do not think we can afford to do that as a nation.

I yield 3 minutes to the Senator from South Dakota.

Mr. NELSON. Mr. President, I would like to commend the Senator.

The PRESIDING OFFICER. On whose time?

Mr. NELSON. Will someone yield me 2 minutes?

Mr. YOUNG. I yield 2 minutes to the Senator from Wisconsin.

Mr. NELSON. I thank the distinguished Senator from North Dakota. I commend the distinguished chairman of the Committee on Appropriations and the distinguished chairman of the Committee on Commerce for reaching a compromise.

Mr. President, I believe the whole idea of a railroad system is fundamental to the transportation system of America and we have to come up with ways to continue the system. I am delighted that there is an agreement that will give the committee on Commerce until November 30 to address itself to the legislation that is pending before it and bring something out to the floor.

I am concerned about the issue raised by Senator McGovern in his colloquy with Senator Cannon on the question of the creditors challenge. I note a response in the letter of Daniel O'Neal, chairman of the Interstate Commerce Commission, and I read into the Record that one paragraph:

> Even assuming that substantial additional ERSA loans were made available to the Milwaukee Trustee, it is reasonable to expect that the Milwaukee creditors will challenge every attempt by the Trustee to draw ERSA funds. The creditors have raised these challenges in the past and are likely to continue to challenge ERSA funds (even if subordinated) if they believe continued operation of the railroad would in any way erode the estate. The creditors have yet to gain court acceptance of the challenge. But, the court might at some point agree with the creditors, especially if the government insists upon a high priority for the ERSA loans. It is possible, then, that even if ERSA funds are made available, the Milwaukee might not draw down the funds.

I think there is a high risk here and I think the compromise agreement reached between the two distinguished chairmen is the best approach for the time being.

Mr. YOUNG. Mr. President, I yield 3 minutes to the Senator from South Dakota. I ask unanimous consent that the time that I yielded to the Senator from Wisconsin be charged to the amendment rather than on the bill. I understand that I have 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I thank the Senator from North Dakota.

Mr. President, I commend Senator Young, Senator Magnuson, my colleague, Senator McGovern, and Senator Cannon on the initiative they have taken to provide emergency additional rail service funds for continuation of the Milwaukee Railroad, which is of such critical importance to South Dakota. In fact, I think Senator Young's remark that it would paralyze the area very much summarizes the situation that we have.

Having joined my colleagues earlier this year in sponsoring legislation to provide additional Federal assistance for continuing operations, I certainly share the intentions of Senator Magnuson and Senator Young in introducing this measure. However, I have strong reservations about the serious financial difficulties that could result from imposing such a large loan obligation on the railroad. I understand that there is a compromise underway to provide emergency rail assistance funds until November 30 only. I shall be pleased to support such a compromise. We must provide emergency Federal aid to avoid immediate massive abandonments along Milwaukee lines until a comprehensive proposal for more permanent solutions can be worked out.

We are trying to prevent a wholesale bailout by the Federal Government, but the Milwaukee Railroad must not be abandoned until a workable plan is in place to provide for the needs of shippers and employees dependent on the railroad.

I have written a letter to the Secretary of Transportation, Mr. Goldschmidt, today regarding the Federal bankruptcy court decision permitting termination of service on a great percentage of Milwaukee lines, assuming that the railroad will find itself in a cashless position on November 1, 1979. The embargo will affect about 65 percent of trackage in South Dakota at a time when movement of harvested grain is most essential.

Presently, the Senate Commerce Committee, on which I serve, is working on a legislative solution which will include provisions to encourage the purchase by other railroads of lines subject to abandonment, to provide assistance for rehabilitation of weak lines, to protect employee concerns, and to study the viability of other ownership arrangements.

I believe that it is most vital that we provide incentives and assistance for the purchase and rehabilitation of threatened lines in the Milwaukee system. We must also insure increased Federal aid through the State rail programs in order to allow shippers to undertake short line operations. Cooperatives of shippers and other rail users must be allowed to retain access to major rail arteries and to national rail networks.

I have introduced legislation to promote rail cooperatives and will be working to include the priorities I have outlined in legislation being drafted in the Commerce Committee.

Until this legislation is complete, it is vital that essential rail operations along the Milwaukee road lines are not interrupted.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER. I yield back my time to the Senator from North Dakota.

Mr. MAGNUSON. Mr. President, unless there is any more to be said, I yield back the remainder of my time.

Mr. YOUNG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, before we go to the next amendment——

Mr. STONE. Mr. President, I offer an amendment and ask for its immediate consideration.

Mr. MAGNUSON. Will the Senator withhold his amendment for a few minutes?

Mr. STONE. Yes, Mr. President.

Mr. MAGNUSON. May we proceed on another matter for about 15 minutes?

Mr. STONE. I would like to inquire of the distinguished chairman, is it a matter of 15 or 20 minutes or less?

Mr. MAGNUSON. Yes.

Mr. LAXALT addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. LAXALT. Mr. President, I thank the floor managers for yielding me the time for a few moments to make some observations.

Mr. BAKER. Will the Senator yield for just a moment?

Mr. LAXALT. Certainly.

Mr. BAKER. Mr. President, I ask unanimous consent that the time consumed by the Senator from Nevada not be charged against either side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LAXALT. I thank the leaders.

THE FAMILY PROTECTION ACT, S. 1808

Mr. LAXALT. Mr. President, I have requested this time to address a subject of the utmost importance to our society: The future of the American family. The family as an institution is so basic, so fundamental that it is hard to imagine it being under attack. Nevertheless it is, and this morning I would like to discuss the nature of this attack as well as S. 1808, the Family Protection Act which I have introduced to help meet it.

IMPORTANCE

It is no exaggeration to say that the family is one of the fundamental cornerstones of our entire Judaeo-Christian tradition. From my own religious training, I remember the Fourth Commandment being quite explicit, *Honor thy father and thy mother: that thy days may be long upon the land which the Lord thy God giveth thee.*

The New Testament also speaks eloquently on the subject as in Ephesians (chap. VI, verse 1): *Children, obey your parents in the Lord: for this is right.*

Mr. President, for myself I would like nothing better than to keep the family above the political fray, to leave it to our religious and spiritual leaders who have supported it so well for so long. But the family is now facing social and political threats of such magnitude as to compel a political defense. This is the principal purpose behind my introduction of S. 1808, the Family Protection Act.

Let us look for a minute at the American family as a social institution. The family as I see it, is the basis of our very existence as a nation; it is the bedrock upon which our whole Nation as well as our society is based.

Admittedly, a good deal of this belief is the product of personal experience. As the son of an immigrant sheepherder, raised along with my three brothers and two sisters, by a deeply religious mother in the hard times of the depression in the West, I know what a close family is. And I know how important it is to our Nation to have many such units knit together into communities, towns and cities across this broad land of ours.

Theodore Roosevelt put it best in a message to the Congress on December 3, 1906, when he said:

> When home ties are loosened; when men and women cease to regard a worthy family life, with all its duties fully performed, and all its responsibilities lived up to, as the life best worth living; then evil days for the commonwealth are at hand.

Mr. President, this is among the most important of fundamental truths. As a conservative, I have a natural tendency to support traditions and institutions such as the family which have stood the test of time, and to oppose trendy innovations and social engineering which tinker with the very fabric of our society for the sake of sheer novelty.

And, what institution has been around longer or performed more successfully than the family? Historically whether one looks at the people's communes in Red China in the 1950's, the socialist utopian experiments of the 19th century or anywhere else for that matter, one finds only abject failure for any society which has attempted to organize itself in a way which supersedes the family. This is a lesson which I believe today's social engineers would do well to heed.

Nor do I see family protection as a partisan or a philosophical issue. The widely acknowledged strength of our system of government and our society is pluralism. Unlike our totalitarian opponents, we are not brittle. We are not inflexible. We are not all pressed into the procrustean mold of an overweaning government bureaucracy, and we should not be.

Not that anyone around here is openly proposing to bring this about. I think the dangers are more subtle than that. A strong family, like a sound State and local government, profitable cooperatives, and viable labor unions, are taken as given in this body in the sense that no one openly questions their desirability. Indeed, the fundamental soundness of the family, its "untouchableness," if you will, has even made its way into the senatorial lexicon. For one Senator to say to another concerning a piece of legislation that it is "motherhood" means that it is utterly acceptable on its face and that no reasonable opposition is to be expected.

Then why am I here this morning? If the family is so important, if attacking it is viewed as almost sacrilegious, then why do we need a Family Protection Act? Why cannot we leave defense of the family, if indeed it requires any defense at all, to our Nation's moral, religious and spiritual leaders and keep the politicians out of it?

THREATS

Personally, I would like nothing better. Yet, it is becoming increasingly apparent that the Federal Government itself, although ostensibly aiming at helping the family, is often working counter to its best interests.

Particularly in the last decade, the Federal Government has taken upon itself to become involved in American family life in a multitude of ways, and as I see it, this involvement has frequently been disruptive.

Let me cite just a couple of examples. The federally subsidized health and welfare guarantees for the elderly, although beneficial in some ways, have also brought about reduced interaction between elderly parents and children. Consequently, although the elderly have more independence from their children than they previously enjoyed, Federal sources have contributed to lessening concern by the younger generation for their parents and their needs thereby opening an unnecessary and unfortunate gap between them.

In addition, the medicare system, which provides only very limited reimbursement for the costs of caring for the elderly by their own families in their own or relatives' homes, has actively encouraged placement of the elderly in outside institutions away from their families. Clearly this discourages the American family from fulfilling its responsibilities toward its elderly members.

On the other end of the age spectrum, the aid to families with dependent children (AFDC) is also disruptive to family life. This program provides financial assistance to low-income children deprived of a parent's support who meet certain eligibility requirements. Under AFDC, because cash assistance is not available to intact low-income families in which the father is employed full-time at a low wage, a family can increase its overall income if the low-wage earning father leaves the family. Although the evidence is inconclusive as to whether this kind of family splitting is deliberately done to attain welfare eligibility, it is clear that there is a financial incentive to do so.

Just as there is a financial disincentive for a low-wage earning father to return to the family unless he has significantly increased his income, there is no financial incentive for a low-wage earning unmarried father to marry the mother of his child for the same reason.

Finally, the Federal role in education is perhaps the most disruptive in its impact on the family. The growth of the Federal presence in the educational process continues and this year the Federal Government will spend more than $22 billion on education in over 300 different programs scattered among 40 different Federal agencies.

Beyond even these impressive dollar amounts, the Federal role in educational research and development of curriculums has increased notably in the past decade. A number of Federal programs support and control, in varying degrees, projects for developing curriculums and teaching materials. The Federal Government has also taken over the traditionally local job of developing new textbooks, curriculums, and methods of instruction among local districts.

This over-intervention by the Federal Government is a serious threat to the family. Many of today's parents cite feelings of helplessness and frustration who feel that they have little control over their own and their children's lives. In addition, many feel that the educational system has excluded them from their children's learning process making it more difficult for them to keep track of their children's education.

It is my belief that the time has come to reverse this unfortunate trend. The time has come to bring federal agencies to their senses when it comes to family matters, and I believe S. 1808, the Family Protection Act, is one means toward that end.

The goal of my bill is simple: To strengthen the family. It will do this by providing for the family as the basic social unit in our Nation. As I see it, family members should decide crucial issues for themselves instead of leaving them to the Government. Parents will be encouraged to stay with their children, to actively participate in their children's educational, moral, and religious upbringing. Children will be encouraged to care for their aged parents. All generations will be encouraged to live together and share living experiences, enriching the lives of each member.

Mr. President, I have little doubt that, with a little encouragement, there will be a rebirth of the American family. Even given all the governmental and societal pressures that have the effect of tearing families apart millions of families stay together, grow and greatly contribute to full lives of their members and to our Nation as a whole. With just a little help—just removing the governmental barriers and allowing the traditional family roles to reassert themselves—I am convinced that we will see a renaissance of the family and the resultant gains for all Americans.

Turning to specifics, the Family Protection Act has over 35 major provisions; 17 of these revolve around education—reflecting the fact that the Federal Government has usurped the States', localities', and parents' historical influence in education—more than in any other area. Schools in this country are becoming closed fortresses to parents, taking away their children by day without their consent, or many times even their knowledge, as to the governmentally mandated curriculums. The historic cooperation between parents and school boards in establishing and running schools is gone, replaced by a monolithic educational establishment which looks upon the parents with hostility.

The Family Protection Act prohibits any Federal funds to go to States unless they allow voluntary prayer in schools. The act forbids funding unless parents can participate in decisions relating to the study of religion. It allows parents to visit public schools and inspect their children's school records and allows parents to review textbooks prior to use in the classrooms. My bill would also withhold funds to any program that teaches children values that contradict demonstrated community beliefs or to buy any textbooks that denigrate, diminish or deny the historically understood role differences between the sexes.

In addition, the Family Protection Act would reserve the States the rights to set attendance requirements, teacher qualifications requirements, and the right, with parental consultation, to limit or prohibit intermingling of the sexes in sports or other school-related activities, free of Federal interference. The bill would eliminate most of the detailed Federal aid-to-education programs with the accompanying bureaucracies, rules, and control and would, instead, provide bloc grants to the States from the Federal Government. The bill would exempt private schools from the National Labor Relations Board supervision and would prohibit the Internal Revenue Service from being arbitrary and capricious in granting or withdrawing tax-exempt and tax-deductible status of these schools. Finally, the Family Protection Act would encourage parents to save for their children's education by allowing a $2,500 deduction from gross income, if the amount is deposited in a savings institution for their children's education.

In another area, the Family Protection Act seeks to reverse Federal tax policy that discriminates against family groupings. There are nine changes in the tax code in this bill. Each is designed to encourage families to care for each other. I have never understood why, for example, taxpayers are not allowed a deduction if they keep their aged parents in their home. This forces marginal income families to not care for their elderly relatives and, instead, pushes the elderly on society. The logic behind this escapes me. It saves no money—an elderly person living in a Government-supported nursing home costs many times more than the credit. And, no one can tell me that an elderly person gets better care in an institution than living at home with his or her family. Yet our tax policy penalizes the multigenerational family unit.

I wish I could say that this is the only example of tax policy running counter to family unity. But, unfortunately, Mr. President, it is only one of many. The marriage penalty is widely known as is the shortfall in the coverage of the pension IRA accounts for spouses who are outside the labor force. These examples, and many others, demonstrate that in one of its most forceful ways, the taxing power, the Government is setting up the individual as a central unit of our society at the expense of the family.

S. 1808 would reverse this trend. In addition to the family savings for education, it would end the marriage penalty by allowing married taxpayers to file individual returns instead of paying the higher married rates. The act also allows taxpayers to increase retirement IRA accounts for their nonemployed spouses. It expands the child care credit to cover not only working parents, but also parents involved in volunteer efforts. It allows an extra exemption in the year a child is born or adopted and three times the exemption if the child adopted is handicapped or otherwise hard to place. It provides either a credit or a deduction for taxpayers with aged relatives living with them. Finally, it sets up a parental support account—taxpayers can deduct up to $1,500 a year if the money is placed in a financial institution to care for their elderly relatives.

Beyond education and tax, the Family Protection Act would change several other antifamily provisions in the United States Code. To be honest, Mr. President, I feel like the little Dutch boy with only 10 fingers to plug up hundreds of holes in the dike. However, I hope I can curb some of the most harmful provisions and perhaps set in motion a movement of support for the family.

Some of these other provisions include:

A limit on Federal agency regulations of institutions and activities run by religious groups;

A legal presumption in the Federal Code in favor of the parents' role in supervising and determining the religious or moral formation of their children;

Allowing the States the crucial role in carrying out programs dealing with the problems of child abuse, spouse abuse and juvenile delinquency;

Prohibiting Federal funding for contraceptive, V.D. treatment or abortion services to an unmarried minor unless there is an attempt to notify the parents;

Restricting the activities of the Legal Services Corporation in the areas of divorce, abortion, gay rights, and school desegregation; and

Prohibiting voluntarily unemployed students from receiving food stamps.

Mr. President, this is the essence of S. 1808, the Family Protection Act. It is a large bill. Each part is focused on restoring a part of the historical position of the family in our society. It is designed as a return to the basics—family, education, religious and moral training of our young—that have served our Nation so well in the past. But it is forward looking and it is positive legislation. It is my hope that through this and other measures, the 1980's will see a new dawning of the family in American life.

Mr. President, I thank the floor managers for allowing me this time out of order, and I thank the leader for permitting me the opportunity to speak.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. LAXALT. I yield.

Mr. BAKER. Mr. President, I express my appreciation to the Senator from Nevada for calling our attention to this matter, which is timely to this debate—indeed, it is timely to any debate. It is a matter of fundamental importance to the country.

I am grateful for the Senator's leadership in this field, and he provides that leadership in many other fields.

Mr. LAXALT. I thank my leader.

CONTINUING APPROPRIATIONS, 1980

The Senate continued with the consideration of House Joint Resolution 404.

UP AMENDMENT NO. 574

(Purpose: To require that no pay raise for a Member of Congress may take effect until the Congress after the Congress in which it is authorized)

Mr. STONE. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. STONE), for himself and Mr. THURMOND, proposes an unprinted amendment numbered 574.

Mr. STONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . (a) Section 601 (a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding paragraph (1) and (2) of this subsection, section 225 of the Federal Salary Act of 1967, or any other provision of law, an individual referred to in paragraph (1) may not have his rate of pay increased—

"(A) by or under any law passed during a Congress;

"(B) under paragraph (2) of this section (except to the extent subparagraph (A) of this paragraph applies);

"(C) under recommendations taking effect under section 225 of the Federal Salary Act of 1967 which were transmitted by the President during a Congress;

unless such increase is to take effect not earlier than the first day of the next Congress.".

(b) The amendment made by subsection (a) shall apply with respect to laws passed by either House of Congress after April 30, 1977, and alternative plans and recommendations regarding pay transmitted by the President after such date.

Mr. STONE. Mr. President, what is the time limitation on this amendment, under the previous order?

The PRESIDING OFFICER. One-half hour, equally divided.

Mr. STONE. Mr. President, I believe this amendment will go a long way toward solving the current controversy over how salaries of Members of Congress should be handled in the future.

This amendment would prevent Members from receiving salary increases during the Congress in which the increase is enacted. In other words, the amendment provides that a general election must fall between the time when a congressional pay increase is voted upon and the time when it takes effect.

Whatever we decide to do—and I hope this year, as the inflation rate continues to spiral, my colleagues in both Houses follow the lead of the Senate Appropriations Committee and turn down a pay raise—regardless of that, this pay raise controversy is going to keep recurring every Congress because despite the obvious need to turn down a pay raise, like under the present circumstances, there is no question that congressional salaries need periodic adjustments in the future, just like salaries of everyone else.

But voters are convinced and taxpayers are convinced that we forget that they are the ones picking up the tab. And no wonder. In 1975, Congress voted to tie its pay to that of general schedule Federal employees for the simple reason it wanted to receive automatic, annual cost-of-living increases. With the taxpayers reeling from the effects of the recession at the time, the timing and method could not have been worse. People back home felt we had pulled a fast one on them.

They still feel that way, and that is why we need to give them an opportunity to express themselves before an approved pay hike takes effect. Because I feel so strongly about this issue, I and others refused our 1975 and 1977 pay raises until after general elections took place.

Obviously, Congress must always take ultimate responsibility for increasing Members' salaries. This amendment would not take away that responsibility, but it would give the general public an opportunity to express their views on the salary hikes for all Members of Congress and for one-third of each Senate before such an increase takes effect.

This is not a new concept. The fact of the matter is that it was offered by James Madison and debated by Mr. Sedgwick, Mr. Gerry, and others at the beginning of our legislative process in 1789.

Madison said:

> There are several minor cases enumerated in my proposition in which I wish also to see some alteration take place. That article which leaves it in the power of the legislature to ascertain its own emolument is one to which I allude. I do not believe that this is a power which in the ordinary course of government is likely to be abused. Perhaps of all the powers granted it is less likely to abuse. But there is a seeming impropriety in leaving any set of men without control to put their hand into the public coffers, to take out money to put in their pockets. There is a seeming indecorum in such power which leads me to propose a change.

And then he proposed this change.

Since 1975 I have offered this and reoffered this Madison constitutional amendment which went out at the same time as the Bill of Rights and received just short of sufficient ratification of the number of States to take its place in the Bill of Rights. I offered it and reoffered it as well as cointroducing with Senator Taft of Ohio a bill with the same legislative provision as the Madison constitutional amendment.

I shall quote one sentence from an opponent of this approach in those 1789 debates. Mr. Sedgwick remarked once more that the proposition had two aspects which made it disagreeable to him:

> One was to render a man popular to his constituents; the other to render the place ineligible to his competitor.

He was outlining then the conflict between allowing raises so that those of limited means could serve in Congress as against the obvious support that constituents would give through holding pay raises down until a future time. That is the conflict that we face. And it is a balanced approach to take the approach that the Members of the 75th Congress would only offer pay adjustments for the Members of the 76th Congress, and so on.

And I really believe that that approach would take nine-tenths of the fire out of the controversy that takes place every time that a pay adjustment is offered by ourselves for ourselves instead of for our successors. And although only one-third of the Senate is up in each general election, generally speaking most of the States have at least one Senator up in the election and all of its Congressmen up and this issue can be faced then, but even more importantly at the time that it is legislated people will know that they will have a share in the analysis of whether this is the right time to do it.

Mr. President, I am glad to yield to the Senator from Utah.

Mr. GARN. I thank the distinguished Senator from Florida.

Mr. President, I rise in support of this amendment.

When I first ran for public office in Salt Lake City more than 12 years ago I made a statement at that time that never while I served in public office would I ever vote for a pay increase for myself while I was an incumbent, no matter how much inflation hurts, no matter how much financial problem we may have. We all knew what the salary was when we ran for a particular office and if we did not want to serve for that salary we should not have run.

So I feel very strongly that we should not under any circumstances, regardless of the need, vote ourselves an increase while we are incumbents.

We face the situation once again. We faced it two or three times since I have been here, the conflict between this principle and the fact that there are some necessities with the inflated economy that puts a pinch on all of us.

The example I wish to use in support of Senator STONE's amendment is when I was mayor of Salt Lake City I announced we would hold a public hearing as required by law on a pay increase for the mayor and the city commissioners. The hearing room in the Salt Lake City Commissioner's chambers was not only jammed, there was not even standing room. There was not standing room only left. And we had people almost hanging from the chandeliers and in the hallway to protest the raising of our pay.

I said:

> Ladies and gentlemen, you may not be aware that the purpose of this hearing is to raise our pay but not until 2½ years from now after the next election. We may or may not be here. It would take effect in January of 1975.

And I made the comment that I did not know whether I would still be mayor at that time or not. As it turned out I was not. I was here in the Senate and was no longer the mayor of that city and did not realize that raise, but that is the point. You raise it if the necessity is there after a future election when the people, your constituents, can decide whether you are worth that much money or not, and whether they want you to serve and to pay you that much.

When this announcement was made only about 10 people stayed in the hearing. They were simply not interested. They recognized there was a need but there was no objection if it was done after a future election where they had the opportunity to express their will.

Mr. STONE. So does the Senator say that maybe as much as 90 percent of the fire in this controversy is the constituents' feeling they do not want their representatives to do it for themselves but they do not mind doing it for the institution after they have a chance to express themselves?

Mr. GARN. From personal experience I do not think there is any doubt about that. The major objection is that it is done while we are incumbents for ourselves and unfortunately many times, not this year—it is open and above board—but has been done rather sneakedly trying to keep the people from finding out.

Mr. STONE. Yes.

Mr. GARN. So if you do it openly, above board, in the future after we have had to face reelection, I am sure that you take most of the animosity out of it. I just do not believe that we should raise our own pay while we are in a term.

Mr. STONE. I thank the distinguished Senator from Utah.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. STONE. I yield to the distinguished Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding, because I want to associate myself with the remarks of the Senator from Utah. That really the essential wrong was that we knew what the pay was when we were elected to this job. We asked for it, and we ought not to be voting ourselves a pay increase during that period of time.

I recognize the Senate is a continuing body, two-thirds are always here after the next election, and we cannot quite tidily fit ourselves into that, but I would have been offering language to defer any pay increase for Members of Congress until January 1981 except that you cannot do that on a continuing resolution that affects only 1980.

But I think the idea of saying that Members of Congress should not benefit by their own actions directly, and increasing their pay, is an appropriate response. Whatever does occur ought to occur prospectively, after the voters have had a chance in an election to determine who is going to sit in this legislative body.

Mr. STONE. I thank the distinguished Senator.

I yield to the distinguished senior Senator from West Virginia.

Mr. RANDOLPH. I am grateful for the opportunity to make a comment in reference to the matter under consideration. I disagree with the theory that Members of this body should not vote on an increase or a decrease in pay which would become effective during the same session of Congress.

I am the only serving Member of the Senate who has voted to decrease his pay. I did that in 1933 as a Member of the House of Representatives when we cut our pay by $500. Of course, the amount that we cut from at that time was not large, as you would understand.

I feel that a mistake is made when we allow some supposedly blue ribbon committee, special commission, or presidential program to determine the salaries of the Members of Congress.

The responsibility is ours, and whether pay legislation comes in an election year or in a year after the decision is ours to make. We have been chosen by the people. We are here as responsible Senators, so we have the responsibility to vote yes or no on the pay raise that is currently in the Senate.

I think you run away from the issue, and I say that kindly, when you say, "A certain time is all right but another time is wrong."

We must however, show restraint when our personal salaries are involved.

Mr. STONE. I thank the distinguished Senator from West Virginia.

I yield to the distinguished Senator from Utah.

Mr. HATCH. I also want to associate myself with the remarks previously made in favor of Senator STONE's amendment. The distinguished Senator from Florida is doing a great favor by bringing this up because I think it is an intelligent way to approach salary or pay raises. I feel very strongly about this.

With our country in the economic plight it is in, with the House raising the debt limit for the second time this year, and the first time, as I understand it, if I recall correctly, it was from $798 billion to $830 billion, and now it has gone up even further, according to the House, and on top of that during the week when inflation has hit 13 percent and the prime interest rate is up so high, and when we have so many difficulties confronting the American people, whose life savings are being eroded by the inflationary causes in our society, and whose life savings have been eroded by a Congress unresponsive to the desires of most of the people to balance the Federal budget, and also to resolve some of this country's financial problems, now is hardly the time to vote ourselves a pay raise.

The Senator's amendment makes a great contribution. I would like to be listed as a cosponsor, and I ask unanimous consent to be so listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I would just like to add that I offered a bill or filed a bill to prevent any pay raise to Members of Congress, not preventing it to other people but to Members of Congress, because until we do the job we should do I do not think we deserve a pay raise. It may be a little more harsh than some of my colleagues feel, but I feel very strongly about this issue.

Mr. STONE. I thank the distinguished Senator from Utah.

I ask if the distinguished manager of the bill, the distinguished chairman, is prepared to consider this amendment.

Mr. MAGNUSON. Mr. President, this is a continuing resolution. It is only to allow the Government programs to continue because we did not finish in time or will not finish in time for October 1. We have a time limitation on it. The House made it December 31 because they were not so sure that the Defense Department would have its authorization on the defense bill, which always drags on anyway. But this will expire as the appropriation bills are enacted.

I have every reason to believe, and the Senator from North Dakota and the Senator from Idaho believe, that we will within the next 30 days finish most of the bills.

The House put a lot of things in this bill. It is getting so around here that I think we ought to abolish all the legislative committees and just have the Appropriations Committee and the Budget Committee, that is all. Every piece of legislation where they cannot get it done ends up on an appropriation bill.

But the House did put in a pay raise or agreed to a pay raise of 5.5 percent for all executive level employees, including Members of Congress. The Senate committee voted to knock that increase for Members out by a vote of 23 to 0.

Mr. STONE. Terrific.

Mr. MAGNUSON. Twenty-three to zero. That is the first time I have seen that many agree to anything down there. So this bill—and it is an amendment by the Senator from Alaska and myself—will allow the 5.5-percent pay raise to go to all other executive level employees, but eliminate Members of Congress.

I agree with the Senator from Florida on this. I have never voted for a pay raise during my time of office. We have to set an example, and I agree with what has been said by the Senator from Idaho and the other Senators.

A point of order could be made on this amendment because there is no specific money in the bill for a Member's pay raise, no money at all. Even with all the hullabaloo about a pay raise it does not really belong in the bill, but I think it is a good amendment, and I am willing, if the Senator from North Dakota is willing, to take it to conference. At least it will be a warning. I will not agree we will keep it in conference, because I just do not know.

Mr. STONE. I think that is fair enough.

Mr. MAGNUSON. But it will be a warning that the Senate is not going to agree to a pay raise that takes place or is going to take place during the term of office.

I could not agree more with the premise that when a man seeks the office of Senator or Congressman or any public office he seeks it at the pay as of the time that he seeks the office, and, therefore he should not raise it during that term. So I am willing to take this to conference if the Senator from North Dakota is.

Mr. YOUNG. Mr. President, if the Senator will yield, it is legislation on an appropriation bill which I dislike very much. But it is a good amendment. I voted against a pay raise, as the Senator knows, being among the 23. But this makes it doubly sure that I will not get a pay raise. I am not running when my term of office expires, so this will make sure that I will not benefit by a pay raise.

Mr. STONE. I yield back the remainder of my time.

Mr. MAGNUSON. May I suggest to the Senator from Florida that he submit this amendment again to the proper legislative committee.

Mr. STONE. Right.

Mr. MAGNUSON. And see if they will act on it because I will vote for it, and I am glad to take it to conference.

Mr. STONE. I thank the Senator.

I ask unanimous consent that Senator McCLURE, Senator GARN, and Senator MORGAN be added as cosponsors, and I yield back my time.

Mr. MAGNUSON. I would like to be a cosponsor.

Mr. STONE. And the distinguished floor manager, Senator MAGNUSON.

Mr. MAGNUSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. MAGNUSON. I suggest the absence of a quorum and I ask unanimous consent that the time not be taken out of our time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered. The Senator from North Carolina is recognized.

Mr. STONE. Mr. President, will the Senator yield?

Mr. HELMS. I am delighted to yield to the Senator from Florida.

Mr. STONE. Mr. President, I move to reconsider the vote by which the previous amendment was adopted.

Mr. YOUNG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 575

(Purpose: To decrease salaries if Federal budget is not balanced)

Mr. HELMS. Mr. President, I have an unprinted amendment which I send to the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

Mr. HELMS. Mr. President, in this case I ask that the entire amendment be read.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 575:

At the appropriate place, insert the following new section:

SEC. . If for any fiscal year beginning after September 30, 1979, the total Federal budget outlays exceed total Federal revenues, then—

(1) no increase in any salary or rate of pay shall take effect during the next fiscal year under section 5305 of title 5, United States Code, or under any other provision of law with respect to which an adjustment to salary or rate of pay is made by reference to such section, and

(2) effective with the first pay period beginning on or after the first day of the next fiscal year, the salary or rate of pay of each office or position with respect to which an adjustment is made under such section 5305 or such other provision of law shall be decreased by an amount equal to the amount of such salary as of the last day of the fiscal year multiplied by a fraction—

(A) the numerator of which is the amount such outlays exceeded such revenues, and

(B) the denominator of which is the amount of such outlays.

Mr. HELMS. Mr. President, the Senator from North Carolina has followed closely, as I presume most other Americans have, the weeklong squabble in the House of Representatives over a proposed 5.5-percent pay raise for Members of Congress and other top Federal officials.

Yesterday the Senate Appropriations Committee had its turn, and voted to cut Congress out of the pay raise, amidst screams of anguish from some Members of the House of Representatives. The issue of the pay raise apparently will be left to House-Senate conferees.

Mr. President, if the economic conditions of this counrty were better, and if the Senate and the House of Representatives had been more frugal in their spending of the taxpayer's money, and if the Government of the United States had been managed on a sound basis, with a balanced budget and a sound dollar, then I do not believe Members of Congress would be so timid about voting a salary increase for themselves. But none of those conditions has prevailed, Mr. President, and as a result, if a poll were taken among the outraged citizens of this country, it undoubtedly would reveal that the $57,500 salary paid to each Member of the House and each Member of the Senate is more than the vast majority of citizens feel we are worth.

I do not know why this should surprise anyone in the Senate or in the House. Congress has been pretty adroit at insulating itself from the agony of inflation—an inflation that Congress itself has caused. Thus, Congress has sent an engraved invitation to the American people to look with disfavor upon us, and I do not blame the people.

Federal pay raises are proposed every year by the President of the United States, and under the little soft-shoe routine that is followed around here, if Congress does not reject these pay raises, if Congress does not prohibit them, if Congress does not tinker with the amounts, then those raises automatically become law.

Mr. President, some Members of the House and some Members of the Senate say that this is a good system. I do not agree with that, but they say it. They lament that we suffer from the effects of inflation.

Why not? Congress caused it. Mr. President, there is the one compelling question: Who is responsible for the devastating inflation that has crippled the American economy? This is a question that is more and more often coming to the minds of the citizens of this country. And the answer is—the big-spending practices of the Federal Government.

So the people are upset. Why should they be otherwise? We talk about the low showing in the polls of the President of the United States, but we do not talk so much about the fact that Congress rates even lower in the estimation of the American people.

We have to face up to it sometime, and today, in my judgment, is the day to face up to it. The responsibility lies right here where we work, with the Senate of the United States, with the House of Representatives, and downtown and all around the executive branch, the myriad of bureaucrats spread out all across this country—everybody who makes the decisions to spend other people's money; politicians and bureaucrats who come up with little concoctions and little schemes to spend even more tax money, dashing it out just as if it grew on trees.

Oh, Mr. President, for a generation now the political game has been to spend and spend and tax and tax, and now we have come to the end of the road. There is no way to delay the agony of an honest confrontation with reality.

It is so easy, Mr. President, to spend somebody else's money. When Congress authorizes the spending of billions upon billions of the tax dollars of the American people—billions more than the Federal Government takes in year after year—and that has been going on for decades—of course it is an engraved invitation to devastating inflation. There have been some of us who have been preaching this for a long time.

But the Keynesians said, "Oh, the Federal debt does not matter; we just owe it to ourselves."

Well, the heck it does not matter. We see now that when the Federal Government goes into debt by, say, $30 billion, as it is doing this year, more inflation is inevitable. When are we going to confront that simple economic fact of life?

I say that today is the day.

The American people perceive the automatic pay increase scheme—and I use that word "scheme" advisedly—as designed to reward the very people most responsible for the enormous Federal debt, which is, as anybody who knows anything at all about simple arithmetic clearly understands, almost the sole cause of the inflation which is plaguing the American people.

Now, we get to the amendment which is pending. A lot of people are not going to like it, but it is something that we have to do somewhere, sometime; and there is no better time to do it than now.

This amendment would have no practical effect on a pay increase for this year, assuming that there is one—and I hope there will not be. But assuming that there is a pay increase, this amendment will not affect the paychecks of Federal bureaucrats and Congressmen, Senators, or anybody else who works for the Federal Government during fiscal year 1980.

What this amendment proposes is to reduce salaries automatically when the total Federal budget outlays exceed total Federal revenues for any fiscal year beginning after September 30, 1979. In other words, when we spend more than we take in, then, if you work for the Federal Government, you had better watch out, because, beginning with the first paycheck after the end of this fiscal year, you are going to pay for your extravagance and your profligacy.

Specifically, this amendment would permit no increase in any salary or rate of pay under section 5305 of title V, U.S. Code, or under any other provision of law with respect to which an adjustment to salary or rate of pay is made by reference to such section, if the Federal budget is not balanced.

Also, effective with the first pay period beginning on or after the first day of the next fiscal year, the salary or rate of pay for each office or position with respect to which an adjustment is made under section 5305 or such other provision of law shall be decreased by an amount equal to the amount of such salary as of the last day of the fiscal year, multiplied by a fraction the enumerator of which is the amount such outlays exceeded such revenues and the denominator of which is the amount of such outlays.

In simple language, Mr. President, this proposes that up and down the Federal payroll, if, as, and when we do not have a balanced budget approved by Congress for fiscal year 1980, then everybody is going to have his pay reduced during fiscal year 1981 by the same percentage that this Congress fails to balance the Federal budget. This is the "fair play" amendment—fair play to the American taxpayers.

In other words, for example, if the budget deficit next year amounts to 6 percent of total budget outlays, then salaries would be automatically reduced with the first paycheck at the beginning of the next fiscal year by 6 percent. I believe, Mr. President, once all of the bureaucrats, and all of the employees, and all the Members of the Senate, and all the Members of the House realize it is going to cost them, there will be the greatest economy wave that the Federal Government has ever seen.

So this might be called the "put up or shut up" amendment. I will be interested to see how Senators vote on it. A vote to table the amendment is a vote against the amendment. We are going to get a rollcall vote, one way or the other. I want to see how Senators will vote. I'll be even more interested in how Senators try to explain their vote against this amendment.

Oh, we all go home and we tell our people, "I favor balancing the Federal budget." Then we get back up here and these enormous appropriations bills roll through the Senate like Blalock's bull. It is so easy to spend somebody else's money.

This is the put-up-or-shut-up amendment.

This is a type of automatic pay scheme, Mr. President, but it is the reverse of a pay increase scheme. I believe the American people will wholeheartedly endorse this concept, because the citizens of this country are crying out for a Federal budget that is balanced. As a matter of fact, some 30 States have already called in one way or another for a constitutional amendment mandating a Federal balanced budget. If this little amendment that I have sent forward today is approved, I predict that we shall witness an unprecedented effort by Congress in the weeks ahead to vote out a balanced budget for fiscal year 1980.

At a minimum, we will have taken a stand. And when we go back to our States, whether it is North Carolina, Florida, Georgia, Alabama, Oregon, or Washington, or whatever, the people are going to know how sincere, how genuine we are when we orate about a balanced Federal budget.

I do not want anybody to tell this Senator from North Carolina that economies cannot be instituted and practiced and achieved throughout the Federal Government, particularly in the legislative bureaucracy of the Federal Government. We talk about the bureaucracy downtown, but I suspect that on a percentage basis, the greatest growth of bureaucracy in Washington, D.C., has been in the Congress of the United States. I think I can supply figures to substantiate that.

I point out that this amendment would have no bearing on the salary of the President of the United States, because the Constitution specifically prohibits the reduction of his salary during his term of office. At the same time, I say to President Carter, "Sir, you have promised this Nation a balanced budget. That promise has not yet been fulfilled. But, sir, you are not bound by this amendment, yet I urge you to comply voluntarily with it."

Perhaps President Carter would be a little more encouraged to recommend a balanced budget to Congress if he voluntarily complied with the terms of this amendment. It would hit his pocketbook. But, as I say, the Constitution prohibits us from touching the President's salary, and I do not intend to do that. But I do want to send a signal to the President. I want to send a signal to everybody in Congress, to every bureaucrat, to every employee having anything whatsoever to do with the spending or wasting of Federal dollars, that this has got to stop.

Now, having said all that, Mr. President, I must say that I hope there will be no salary increase this year.

If there is, I reiterate that this amendment now pending would have no effect on it.

This amendment does, however, serve notice on the entire Government to get its house in order before the next fiscal year. It is a warning to everybody concerned that if the house is not brought into order, then every individual receiving a salary check from the Federal Government is going to pay for it percentagewise.

If we honor the desires and wishes of the American people and approve a balanced budget for the coming year, this amendment, of course, would not take effect. It would not be needed.

So I say, Mr. President, that the choice is up to us. It is well for all of us to tighten our belts and to feel the discipline of putting brakes on Federal spending. If we live up to the faith and trust that we accepted when we ran for this office, then we will do it. I do not say it will be easy. But nobody promised the Senator from North Carolina a rose garden when he put his name on the line to be a candidate for the U.S. Senate.

I think we need to be more responsible to the people who sent us here. That is the purpose of this amendment.

Mr. President, I yield now to my friend from Nebraska (Mr. Exon) for 3 minutes.

Mr. MAGNUSON. How much time is there, Mr. President?

The PRESIDING OFFICER. The Senator from Washington has 30 minutes left. The Senator from North Carolina has 13 minutes left.

Mr. EXON. Mr. President, I thank my friend from North Carolina for yielding.

I certainly wish to compliment him. I say that I agree with the thrust of what he is trying to do here. In fact, I have had an amendment drawn now for several days that would tend to do about the same thing.

I am not sure what his amendment does, but my amendment would not have reduced the salaries of the Congressmen or top Federal officials. It would have prevented any increase until we do, indeed, balance the Federal budget.

I think something like this is in order. I did not offer it, or intend to offer it at this time, because I am not certain it is germane, other than an expression of the Senate.

I think that during the discussion we have had here this morning, we would have to agree that this matter is not binding.

At a proper time, I will be offering an amendment that I have briefly outlined here to put it into the law that there will be no increase in the salaries of Representatives or U.S. Senators, or the top-level echelon in Government, until we balance the Federal budget.

Why do I say that? Because I believe the Congress of the United States is, in essence, the board of directors, if you will, of a very large corporation, the largest corporation we have in the world. I would think that if we were operating an ordinary corporation and if the board of directors of that corporation had not been able to balance income or outgo for a number of years, the board of directors should be changed.

Therefore, I do believe the thrust of the statements from the Senator from North Carolina are extremely well taken.

In this regard, I hope that as one Member of the Senate I have remained consistent in that position through my service on the Budget Committee, through the defense of the Budget Committee recommendations on the floor of this Senate, including the defense budget.

I have noticed from time to time what, at least, I consider as some deviation of policy by some Members of the U.S. Senate who want to balance the budget, "except for." I want to balance the budget of the Federal Government, period.

The Record will show that a few days ago on the floor of the Senate I stood here with 11 other Members of the Senate in support of an amendment that would have increased defense spending without boosting the deficit above what it is, or is going to be for 1979, as we effect the 1980 budget.

Be that as it may, I think we must keep focusing on the proposition that unless we have the courage to take the actions here with regard to the total Federal spending, we are never going to balance the Federal budget. I think awareness is critically important in this area.

I also noticed that some of the organizations we have relied upon historically to help us balance the Federal budget have not responded as I think they should.

I got a letter the other day from people in the U.S. Chamber of Commerce. They stated we should put off balancing the budget until 1982. Mr. President, I would suggest we better keep our eye on the ball.

I will be offering my amendment at a proper time, regardless of the outcome on the vote on the Helms amendment.

I appreciate the fact that the Senator from North Carolina is going to ask for a rollcall vote on this amendment. Whether or not it is particularly effective, it certainly would give us an indication and a sense of the U.S. Senate, so to speak, on this matter, which I think is critically important.

I thank my friend from North Carolina for yielding, and I thank the Chair.

Mr. HELMS. I thank my friend from Nebraska.

He, indeed, as the saying goes, has hung in there on the question of Federal spending.

I yield to the Senator from Utah for 3 minutes.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I really want to compliment the distinguished Senator from North Carolina for the ingenuity in bringing up this amendment, because all it basically says is that we are going to decrease our salary in the U.S. Senate, and I guess elsewhere, as a matter of fact, in the Federal Government, as a contribution toward balancing the budget, until we do.

I think that is a very good provision.

As I read it, with about a $30 billion deficit next year against about $600 million in expenditures, that would come out to about a 5 percent pay cut, rather than a pay increase.

I think that is probably the least what we should cut because we probably deserve considerably less than what we are getting as a result of having increased the difficulties of the budget, the difficulties in national debt, having increased the debt ceiling limitation as much as we have, and having run us into approximately $800 billion of debt in the last number of years.

It has been incredible how the growth of the Federal Government occurred in the last 10 years. It has been an explosion like never before.

We are alternating between stagflation and inflation, and I think the problem is government. I think the problem is the Congress, plus the bureaucracy which we have created and failed to oversee.

Mr. President, I would like to be added as a cosponsor of the amendment of the distinguished Senator from North Carolina.

I think it is an ingenious amendment and long overdue. Perhaps, it would be very helpful for the people of this country that we not only not get a pay increase at this time when we have not done the job, but take a pay cut, rather than a pay increase.

I thank the Senator from North Carolina.

Mr. HELMS. I thank the distinguished Senator and am pleased to add him as a cosponsor of the amendment.

I reserve the remainder of my time.

Mr. STEVENS. Will the Senator from Washington yield me some time?

Mr. MAGNUSON. I will yield, but I want to ask the Senator from Utah a question.

Mr. HATCH. I do not have any time, but I will be happy——

Mr. MAGNUSON. I will yield on my time.

Did not the Senator vote for the budget resolution?

Mr. HATCH. Did I vote for the budget resolution?

Mr. MAGNUSON. Yes.

Mr. HATCH. No, I did not.

Mr. MAGNUSON. The Senator did not?

Mr. HATCH. I did not. I do not recall that I did.

Mr. MAGNUSON. I mean the $28 billion deficit.

Mr. HATCH. No, I did not. I thought that was too much.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MAGNUSON. As I understand the amendment of the Senator from North Carolina, it would not take effect in this year's budget.

Mr. HELMS. I beg the Senator's pardon.

Mr. MAGNUSON. I understand that the Senator's amendment would not take effect in this year's budget, that it is projected to next year's budget.

Mr. HELMS. It takes effect the first pay period after the end of fiscal year 1980 if the budget has not been balanced.

Mr. MAGNUSON. And this is a measure that is only for less than 60 days, is it not? Is not the Senator assuming a lot?

Mr. HELMS. No, I am not assuming a lot. I am stating facts—to put up or shut up on the issue of balancing the Federal budget.

Mr. YOUNG. This is a 30-day measure.

Mr. MAGNUSON. It is a 30-day measure, as a matter of fact.

Mr. HELMS. We do not need 30 days.

Mr. MAGNUSON. This is a prime example of legislation on which the Senator from North Carolina should go to the proper committee.

I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I commend my good friend from North Carolina on his very ingenious amendment.

However, as one who has had the duty of being on the Post Office and Civil Service Committee and now on the Governmental Affairs Committee—and having spent a considerable portion of my time in the civil service—I think that this amendment would penalize the wrong people. It assumes that the people who carry out the instructions of the President and Congress are the people who cause the deficits.

The deficits start right here and are exacerbated by what the President does. I see no reason why we should penalize the people who are hired to administer our laws and for carrying out our own intent. That is what this amendment would do.

Second, I think my good friend the Senator from North Carolina does not give us credit for what has been done. In the space of 4 years, we have reduced the deficit from $66 billion annually to around $30 billion this year; and we are dedicated—I think those of us on the Appropriations Committee have demonstrated this—to getting the budget in balance.

To say we have to do it in 1980 is an impossibility. There is no way we could balance the budget by 1980, without severely impinging upon the defense efforts of this country. We made the change in the budget resolution last week. I think all of us who really are sincere about the concept of the status of our defense voted to increase the deficit because we needed to increase spending for defense.

The only way we could achieve what the Senator from North Carolina wants to do would be to decimate completely the defense forces of the United States, because the only controllable expenditures we really have in the budget are in the area of manpower and the area of new equipment spending.

In addition, the cost of living increases associated with the areas of social security and pension benefits are mandated by the acts already on the books. The Senator from North Carolina would say that those increases would have to be rescinded if we do not balance the budget by the end of 1980. Again I say that I think it is an ingenious concept. It is not a bad concept, if one looks in the right direction.

Alaska has a law that provides that if a judge has a case before him for more than 6 months, he has to certify and give the reasons, which must be acceptable to a board, as to why he has not made the decision, or he cannot collect his pay until he makes the decision. The Senator is not far from that.

We are trying to give an incentive to people to balance the budget, but we already took the Members of Congress out of this. I do not think the Senator is going to take the President out of this. This proposal does not affect the President.

So the two entities that really control the extent of Government spending are immune from this, and the Senator is going to penalize the civil service and the members of the military. This affects the military. This means they would not receive their 7 percent pay increase.

We are talking about why we do not have greater enlistment. Are we going to tell the people who are entering the military that if they enter this year and we do not balance the budget by October 1, 1980, they will lose 7 percent of their pay?

I think my good friend has the germ of a good idea, and I would like to work with him on it. However, to use the vernacular, this ain't the place to do it.

We did our job on this. We took out the Members of Congress, and I do not think the Senate should penalize the people who administer the laws because we continue to have deficits.

Further, I hope that sometime we will start looking at what really is the cause of inflation in this country. In this Senator's opinion, inflation is more directly tied to the scope of the consumer credit that hangs over our market today, this fantastic bubble of personal credit that far exceeds the ability of our country to repay in the period of our current recession.

It impacts much more on inflation than does Government spending at this time.

There are some people who believe that the best thing the President could do would be to spend the money we already have made available to him. He has an amount of money in the pipeline that has been authorized and has not been expended; and if that would start turning over, perhaps people would earn enough money to repay the consumer spending, and it would take that bubble out of the economy. That is something I will discuss with the Senator some other time.

However, this is not the way to do it. This would penalize the people who are serving the military, serving the executive branch. The military pay raise is tied to this pay raise. I see the Senator shaking his head. They do not get their pay raise unless the executive branch gets their pay raise.

I think this would go contrary to what the Senator from North Carolina would support, and that is a strong defense effort. The only way I know in which to balance the budget in 1 year would be to reduce severely the controllable expenditures of the United States, and there are more controllable expenditures in the defense budget than in any other budget. HEW certainly does not have the extent of controllables that the defense budget has.

I believe this is the wrong place to give this germ a chance to grow. I would be happy to help the Senator get a nice seed going in the right direction to accomplish the same purpose. I invite him to study what we did in Alaska which gets our decisions made in a timely fashion.

Mr. MAGNUSON. I will be glad to join the Senator from North Carolina in getting the budget balanced. We in the Appropriations Committee are going to show a great record. We will be approximately $9 billion under the President's budget. We are working toward it, and we reduced the deficit from over $66 billion to $30 billion.

I wonder how the Senator's amendment might affect the cost-of-living clauses for social security, SSI, pension funds, or the employees in those departments.

I believe, as does the Senator from Alaska, that this is the wrong time to bring up this matter, on a 30-day measure. The Senator from North Carolina is assuming a lot. He is like the Budget Committee—full of assumptions about what may or may not happen. This is subject to a point of order, on the amendment.

Mr. STEVENS. Because of the timeframe, I hope we will not become involved in points of order and germaneness and that sort of thing. If the Senator has no objection, when the time of the Senator from North Carolina has expired, it will be my intention to move to table—if that meets with the approval of the Senator from Washington.

Mr. MAGNUSON. All right.

Mr. HELMS. That would suit me.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Seven minutes and 26 seconds.

Mr. HELMS. Mr. President, it is a common thing around here that any time one brings up legislation designed to cut Federal spending or to balance the budget, it is not the right time and it is not the right bill. Never have I seen the right bill on which to put an amendment to balance the Federal budget.

As for adversely affecting the defense capability of this country, this amendment absolutely will not do that.

Mr. MAGNUSON. Mr. President, will the Senator yield for a question?

Mr. HELMS. I yield, on the Senator's time.

Mr. MAGNUSON. Has the Senator submitted his proposal to the legislative committee, the proper committee?

Mr. HELMS. The Senator's microphone is too far from him, and I cannot hear the Senator.

Mr. MAGNUSON. Has the Senator submitted his proposal to the legislative committee, the proper committee?

Mr. HELMS. Time and time again. I have had a balance-the-budget bill and all sorts of related bills, and they never see the light of day. The Senator from Washington knows that. The legislation goes to the committee and that is the end of it.

Mr. MAGNUSON. Why pick on the Appropriations Committee for all this stuff, if the Senator cannot get it through legislatively or he is frustrated about it?

Mr. HELMS. It is almost impossible to get a piece of legislation even considered by a committee around here. I will not debate the Senator on that.

Mr. MAGNUSON. Then, some of these legislative committees are not doing their job.

Mr. HELMS. They may be doing the job the way they want to do it, but it certainly has not produced anything to stop excessive Federal spending.

Mr. President, as I said over and over again in my preliminary remarks, this amendment if adopted, if this signal is sent to the bureaucracy, to the bureaucrats, to everyone who has anything to do whatsoever with spending of taxpayers money, you are going to see the darnedest economy wave that ever hit the Federal Government. The spenders, you see, will know that it will cost them to continue this excessive, deficit spending.

I am reminded of a story that Sam Ervin once told about the alcoholic down in North Carolina who drank so much that his hands shook uncontrollably. He asked another fellow: "How much liquor do you drink in a day?"

The other fellow said: "I drink about a pint a day."

And the alcoholic said: "I spill that much trying to get the bottle to my mouth."

That is the way it is in the Department of Health, Education, and Welfare. Did they not admit they threw away $7 billion in 1 year? They admitted that. I do not think there is an agency or a department, anyone connected with the Federal Government, who could not save 10 percent of what is allocated.

Of course, this amendment will not affect social security. In fact, this amendment need not go into effect if we do what we promise our constituents we are going to do every time we make a speech back home. If we balance the Federal budget, all will be fine. It is just as simple as that. We are going to put up or shut up on this amendment.

Mr. President, I reserve the remainder of my time.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. MAGNUSON. I yield to the Senator.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I wish I knew of some way to walk behind all the people spilling so much down there. That is all I tell my friend from North Carolina. But this will not catch any of the spillage at HEW. It would penalize too many people.

Again, I think we can work it this way. Maybe the people who make the mistake should lose their pay, not just their pay raise but their pay. We can work on something like that. But I do not believe we should use a meat ax to penalize all those people who are working hard because some people make mistakes.

Unless the Senator has some further statement, if he will yield back his time, I shall make a motion to table this amendment.

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time.

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes and 41 seconds remaining.

Mr. HELMS. I thank the Chair.

Mr. President, I say once again this is not going to hurt anyone—if we get about the business of balancing the Federal budget. It will, in fact, restore stability to America. It will lead to an economy wave in the Federal Government, and the Lord knows that we have been needing that for a long time.

I hope the Senator from Alaska is not suggesting that there is not waste in the Defense Department. There may be, somewhere, a stronger advocate of our defense system than the Senator from North Carolina, but I have not seen one. Nonetheless I will be the first to acknowledge that they waste a lot of money just like any other Government agency.

Certainly that giant monstrosity known as Health, Education, and Welfare does. They admit $7 billion.

All we need to do is tighten up, just like the average family has to do, like the average small business has to do when it is running out of money.

With that, Mr. President, I am glad to yield back the remainder of my time so my friend can move to table my amendment.

Mr. MAGNUSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HELMS. Mr. President, has time been yielded back?

Mr. STEVENS. Yes.

Mr. HELMS. OK.

The PRESIDING OFFICER. All time has been yielded back.

Mr. HELMS. Very good.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, with the agreement of the managers of the bill, I ask unanimous consent that this quorum call be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, it is my intention to make that motion to table the amendment of the Senator from North Carolina at 1:15 p.m.

Mr. President, there are some Senators, we are informed, who are out of the building and have to be notified to get back. So I intend to give notice that at 1:15 p.m. I shall make the motion to table.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Is it now in order for me to move to table the amendment offered by the Senator from North Carolina which would make this pay raise for the executive branch and others entitled to it not effective if we do not balance the budget in 1980?

The PRESIDING OFFICER. All time has been yielded back, and the motion to table the amendment is in order.

Mr. STEVENS. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska to lay on the table the amendment of the Senator from North Carolina.

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DECONCINI) and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Maryland (Mr. MATHIAS), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 63, nays 32, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—63

Baucus
Bayh
Bellmon
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
Culver
Durenberger
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Levin
Long
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Muskie
Nelson
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Stennis
Stevens
Stevenson
Stewart
Talmadge
Tsongas
Warner
Weicker
Williams
Young

NAYS—32

Baker
Boren
Byrd,
Harry F., Jr.
Church
Cochran
Danforth
Dole
Domenici
Exon
Garn
Goldwater
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Laxalt
Leahy
Lugar
McClure
Nunn
Pressler
Proxmire
Schmitt
Schweiker
Simpson
Stafford
Stone
Thurmond
Tower
Wallop
Zorinsky

NOT VOTING—5

Armstrong
DeConcini
Mathias
Moynihan
Packwood

So the motion to lay on the table was agreed to.

Mr. MAGNUSON. I move to reconsider the vote by which the motion was agreed to.

Mr. YOUNG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. ARMSTRONG. Mr. President, I wish to announce that I was off the floor and unable to participate in the last rollcall. Through a misunderstanding, I was not summoned to vote. Had I been here, I would have voted against tabling the motion of the Senator from North Carolina.

I thank the Senator for yielding.

ORDER OF PROCEDURE

Mr. MORGAN. Mr. President, I desire to send forth an amendment.

Mr. MAGNUSON. Mr. President, the Senator from Arkansas has an amendment. Does the Senator from North Carolina want to withhold his amendment?

Mr. MORGAN. How long will the Senator from Arkansas take?

Mr. BUMPERS. We have a time agreement of an hour and a half. It will probably take about all of it.

How long does the Senator from North Carolina want?

Mr. MORGAN. I imagine about 10 minutes.

Mr. BUMPERS. I shall be happy to defer to the Senator from North Carolina.

Mr. MAGNUSON. I yield to the Senator from North Carolina.

UP AMENDMENT NO. 576

Mr. MORGAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment of the Senator from North Carolina.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 576:
>
> On page 5, line 14, and on page 6, lines 4 and 7: Strike "5.5" whenever it appears and insert "0" in lieu thereof.

Mr. MORGAN. Mr. President, I shall take only a few minutes. My amendment would strike the salary increase contained in our bill for the senior employees in the executive branch of Government, a raise of 5.5 percent.

I feel very strongly about that, just as I do the congressional raise. Just shortly after Dr. Arthur Burns left office, I heard him make a recommendation which I thought, at the time, was a little out of line. He suggested that, in order to encourage and set an example for the American people, perhaps the President and Members of Congress and other high-paid officials might voluntarily take a salary decrease. Now I believe it was a pretty good suggestion. I realize that there are a lot of people in the upper levels of Government who say that they cannot afford to go on serving without a pay raise and that we are going to lose a lot of people. Well, I say that I have a lot of applicants in my office for Federal judgeships and none of them has ever asked me the salary or compensation for it.

Mr. President, I am opposed to any provision in House Joint Resolution 404 which would provide for a 5.5-percent pay increase for Members of Congress and senior executive branch employees. I rise in opposition to the proposed pay raise even though I realize that there has been 20-percent inflation since our last pay raise in March 1977.

Mr. President, the No. 1 concern of the public in this country today is inflation. Every time I go back to North Carolina, which is every weekend, I am asked about two problems—excessive Federal regulation and inflation. People raise other concerns, but these are the two issues I have to deal with week after week after week.

I believe the congressional response to these two problems has been ineffective. Rather than reducing unneeded Federal regulation by writing more specific statutes and reducing the discretionary authority of the bureaucracy, we fall back on alternatives which are clearly less preferable, and sometimes constitutionally questionable. We pass alternatives such as legislative vetoes, Senator BUMPERS' regulatory reform amendment (which I actively supported), and Federal assistance to help pay for additional administrative costs.

Our response to inflation has been equally weak. Instead of taking the hard steps that are necessary to reduce inflation, we write automatic inflation adjustments into law, provide for open-ended authorizations, and increase the pay of high level civil servants and officials whose salaries are sufficient to permit adaptation to inflation.

Mr. President, I submit that no person in the salary bracket I am talking about would be unduly hardshipped. All have sufficient wiggle room within their budgets. I believe it would certainly be a symbol to the American people that we in Congress are practicing what we preach.

Adjusting to inflation by lessening the short-term impact simply aggravates the problem in the long run. Every response to inflation that increases pay, benefits, or prices simply adds to the next month's inflation. And worse, this problem feeds on itself until we have spiraled ourselves into double-digit inflation, like we had in 1974 and will have again this year, and triple-digit inflation like they have had for many years in many South American and Middle Eastern countries. If we do not do something about this, if we do not nip this inflation before it gets worse, we are going to have social divisions and problems that will strike at the very fabric of our society.

Between July 1967 and October 1978 we had a total of 100-percent inflation, which is another way of saying the dollar was halved in value. Our previous period of 100-percent inflation was between May 1919 and July 1967. In other words, it took the dollar 48 years to be reduced by one-half before 1967, and just 11 years after that to do it again. Since last October, inflation has been about 12 percent and it looks like it is getting worse.

If we brought inflation under control, I would have little objection to enacting a reasonable salary increase. But this process of inflation, then adjustment, more inflation, and more adjustment, must be stopped some time.

Mr. President, a few years back I publicly expressed reservations about the automatic adjustment of social security benefits. Friends told me it was dangerous to raise the subject, but events have proved me right. We have put these automatic inflation adjustments into the program and as a result, while we have greatly reduced the pressure from the elderly to do something about inflation, we have practically driven the social security system into bankruptcy.

In procurement contracts, we constantly readjust the dollar value for "unanticipated" inflation, thereby pacifying many businesses. In recent years, student aid benefits have been effectively adjusted for inflation each year. Medicare and medicaid pay the doctors and hospitals whatever they ask for—in effect, another automatic inflation adjustment. The distinguished chairman of the House Appropriations Committee pointed out, during House debate on this issue, that in 58 percent of the laws we have built-in escalation clauses, and he did not even start to talk about the programs that are, in effect, automatically adjusted each year.

Mr. President, we have to stop this business of simply adjusting to inflation, and get down to the business of stopping inflation.

We have to cut Government spending, find ways to increase worker productivity, and reward businesses that make capital investments in the economy. We have to control our oil imports, stop excessive Federal regulation, and so forth. And above all, we have to set an example, and that means to forgo this pay raise.

Mr. President, I appreciate the financial troubles that some of my colleagues are having, the feeling that Congressmen deserve higher pay, and the problems some senior members of the executive branch of Government have.

I have frequently expressed concern over the risk of creating a situation where only millionaires can afford to run for and be in Congress, or to hold high positions in Government. But this pay raise at this time is a bad idea, it sets a bad example for the public, whom we keep urging to make sacrifices to overcome inflation. For this reason, I strongly urge my colleagues to vote against this congressional and senior executive branch pay raise.

Mr. President, I entered full-time public service in 1969 as attorney general of my State. The salary at that time was $20,000. I had just earned $60,000 the year before as a practicing lawyer. But I can say that the rewards I have received from public service far exceed any material gains I ever made in the private sector.

I feel that most of the people who occupy these high positions reap the same kind of rewards and feeling of self-satisfaction. Somewhere we have to say we are going to quit the cycle of raising the salaries to meet inflation, which causes more inflation, and which then brings new calls for raising salaries.

I am being consistent because I voted every time since I have been in the Senate for the lowest pay raise I could vote for under the law. I have also accepted the President's recommendations for the lower pay raise the past 2 years not because I do not think civil servants are entitled to more money and that they should earn more money, but because somewhere we have to make a beginning. Since we are asking the public to make sacrifices, let us at least make a real beginning with these high-level people.

Mr. President, I ask unanimous consent to add the Senator from North Dakota (Mr. BURDICK) and the Senator from South Carolina (Mr. THURMOND) as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I reserve the remainder of my time.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am looking for the Senator from Washington. I would like to have him yield me some time. I am sure he would yield, if he were here.

Mr. YOUNG. I will yield to the Senator.

Mr. STEVENS. I thank the Senator from North Dakota.

Mr. President, if the amendment were adopted Congress would be faced with a real but obscure threat to the continued functioning of the Federal Government. Like it or not, a relatively large and powerful Federal Government is here and is likely to stay for a while. Whether or not we decided to deregulate certain industries or make nominal spending cuts in different programs, the Government will retain its significant position in the daily lives of every American, probably for as long as any of us are around here. I am one who believes we should do what we can to reduce the size of the Federal Government. Assuming then that this is the case, to insure a healthy economy, a strong defense, and a secure environment, the Government must function efficiently and effectively. The only way to maintain the efficiency of any organization such as the Federal Government is to recruit and retain highly qualified managers.

However, Mr. President, because of arbitrary annual pay caps such as the one proposed here and tightened restrictions on outside earnings and outside employment, the Federal Government is encountering severe shortages of qualified top personnel in many of its agencies.

To appreciate the gravity of the problem, let me relate some facts:

First. In the last 10 years, the Consumer Price Index has risen 99 percent. To compensate for this, average salaries for private sector managers have risen 105 percent. However, in the same time span, GS–18 salaries have risen only 42 percent, executive schedule salaries have risen 31 to 35 percent and executive level I salaries have risen only 10 percent.

Second. Since 1977, the purchasing power for executive schedule employees has decreased 20 percent.

Third. If no pay raise were given to the supergrades this year, over 29,000 executive branch employees ranging in responsibility from GS–15 step 6 through executive level V will be earning the same amount.

Fourth. Salaries for Federal executives are much lower than those received by many executives in private industry, large labor unions, Government-related organizations and education institutions.

Fifth. Not only do the paycaps limit salary, but also, life insurance coverage and retirement benefits are held arbitrarily low. A GS–18 who retired as of September 30, 1978 after 30 years of service, would lose $14,000 worth of life insurance coverage and $6,000 a year in an initial annuity. This causes a rash of early retirements since many employees can do better by retiring now, if eligible, and receiving health annuity and taking a substantial paying private job.

Sixth. In 1975, when a similar pay ceiling situation occurred, 19.5 percent of all eligible employees retired; however, 46.8 percent of all eligible executives whose salary was frozen retired. That is almost one-half of the eligible executive work force.

Here are some stores of specfic situations that the Federal Government has recently encountered:

First. In 1978, the chief actuary's position, GS-18, for a large Federal agency was vacant for a long period after 30 of 55 individuals referred to the agency turned the position down for financial reasons, including 4 of the 9 finalists.

Second. The Assistant Administrator of GSA's Office of Acquisition Policy recently retired to become Director of Government Business Relations in the Boeing Co. The executive reports that he decided to leave because the Senior Executive Service's promised increase in pay was not likely to materialize. He felt that Congress was destroying the trust of Government executives by not insuring them a raise would follow once they opted to join the Senior Executive Service.

Third. The position of Associate Director of OPM for Compensation remained open for 7 months. It was offered to several private sector compensation experts, who all declined because of inadequate salary. The position was filled from inside the Government by an able executive, who did not, however, have private sector compensation expertise.

Fourth. The Director of the Army Material Systems Analysis Agency recently retired. He cited the paycap as a key reason. The executive was immediately employed in the private sector at a salary which, coupled with his pension, doubled the income he was receiving.

Fifth. The Technical Director of the Natick Development Center (Army) just retired. He gave the paycap as his reason and has gone to work in the private sector.

Sixth. The General Counsel of the Corps of Engineers retired, citing the paycap as a reason for leaving.

Seventh. A laboratory in the Army Development and Readiness Command attempted to hire an expert in the treatment of burns; he declined and went to Harvard at a much higher salary.

Eighth. Several positions in the Corps of Engineers, including the Chief of Policy in the Office of the Chief of Civil Works, are vacant. Promotions were offered and declined because the move to Washington with no compensating salary increase was unacceptable.

Ninth. The chairman of the Armed Services Board of Contract Appeals left to take a job with a private law firm. He gave the paycap as his reason for leaving.

Tenth. A number of Federal judges have left the bench because of unnaturally low incomes—including the former Attorney General, Griffin Bell, who is well known, left the Court of Appeals in the Fifth Circuit, specifically citing low pay as the reason.

Mr. President, these few examples show the seriousness of the problems we face. Studies have suggested that the last time the Federal service suffered a protracted salary freeze, the most able and rapidly promoted executives were the ones leaving. Statistics also show that because Federal salaries are not competitive with the private sector, efforts to recruit the highly talented are seldom successful. Hence, positions remain vacant for long periods and are often filled from inside the Government, sometimes at a sacrifice of appropriate qualifications.

Mr. President, what the myriad of examples and statistics prove is that if the Federal Government is to recruit and retain top quality personnel, it must offer near comparable incentives as those in the private sector. Decreased purchasing power, coupled with several levels of responsibility earning the same income, is, however, an obvious disincentive to attract talented employees and clearly is not the way to run an efficient organization.

Mr. President, I have a fact sheet dealing with the loss of pay.

An executive eligible to retire presently loses $2,000 a year for life by remaining in the Federal service for an additional year, if the Senator's amendment is adopted. However, if the employee remained 2 years, he would lose $5,000.

So this amendment would accelerate the resignations from Federal service. The turnover will double.

More than 29,000 employees all of whom are earning the same income, as I mentioned, will earn no additional income for a year. They will stay at the 1977 level if this amendment is adopted. They are the people from GS-15, step 6, who did not receive their pay increase last time, plus those who would be impacted this time.

As I indicated, the executive salaries in the Federal Government are up 35 percent and the executive Schedule I salaries are up only 10 percent in the last 10 years, while the cost of living is up almost 100 percent.

Mr. President, I ask unanimous consent to have this fact sheet printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, I believe that if the Senate will study some of these facts, as to the impact of this amendment upon the executive branch and the judiciary, we can come to no conclusion other than that we cannot urge efficiency in Government. We cannot urge them to manage the Federal Government in a manner that will reduce expenditures, and at the same time deny the pay raise to the executive branch.

One of the reasons the management proficiency is declining is that we have not been able to keep the qualified managers. This is what I call the exit from the middle level of the executive branch. Those who are at the midpoint in their career will be told, if we do not raise the pay this time, that they are not going to get a raise for at least a year more. They will have been denied a pay raise for at least 1 year. Who in his right mind would not seek another position, under those circumstances?

That is what happened before. The statistics are clear as to what happened the last time Congress did this.

I urge the Senate not to impose a pay freeze upon the executive branch and the judicial branch merely because we, ourselves, feel that we should deny ourselves a pay increase.

Incidentally, if circumstances were different, I would not support that, either. However, under the circumstances, the measure before us, by my motion, denies the pay raise to Members of Congress.

I urge the Senate to reject the amendment of Senator MORGAN.

EXHIBIT 1

FACT SHEET

1. $2,000 loss.—An executive eligible to retire presently loses $2,000/year for life by remaining in the Federal service for an additional year. If he remained two years, he would lose $5,000/year.

2. Turnover doubled.—The last time the service suffered a protracted salary freeze, turnover doubled in the group with frozen salaries.

3. 29,000 employees.—More than 29,000 Executive Branch employees ranging from Executive Level V to GS-15 Step 6 will earn the same income if no increase.

4. Cost of living up 100 percent, executive salaries up 35 percent.—In the last 10 years the consumer price index has risen 99 percent. Private sector manager salaries are up 105 percent. Executive Schedule I salaries are up 10 percent, Executive Schedule II-V up 31-35 percent, GS-18 up 42 percent.

5. Ethics Act restrictions.—New disclosure requirements and restrictions on conflict-of-interest and post service employment has made the recruitment and retention situation worse.

6. Promotion and transfers stymied.—If the raise is denied this October, 21 rates of pay will be locked in at $47,500 eliminating incentives for promotion and transfers to high cost of living areas or undesirable posts.

7. Purchasing power down.—The purchasing value of Executive pay rates is 20 percent down since March, 1977.

8. Destruction of the SES.—The Senior Executive Service was a central provision of Civil Service Reform. Almost all of those eligible entered the SES, giving up job security in return for the promise of greater incentives. The pay freeze continues to lock SES members in at a low salary.

9. Salaries in 100 top companies.—In 1977 a study of 100 top companies revealed that average salary for a chief executive officer was $471,000; second highest paid officers were $327,000; and third highest paid officers were $273,000.

10. Private salaries.—Conference Board.

Area	Chief executive officer	2d highest paid	3d highest paid
Manufacturing (746 companies)	$241,000	$165,000	$130,000
Retail trade (88 firms)	184,000	135,000	119,000
Commercial banking (287 banks)	100,000	70,000	55,000
Insurance (179 carriers)	105,000	74,000	60,000

The Executive Compensation Service of the American Management Association reported in its "Top Management Report—1977/1978" that the average total compensation (salary plus bonus) for chief executive officers in 1977 in surveyed companies with sales of $200 million to $500 million and where the chairman was serving as the chief executive officer ranged from $137,000 in the wholesale and retail trade area to $207,500 in the durable goods manufacturing area.

11. Labor union salaries.—In 1977, presidents of 36 top labor unions averaged $68,500. Chairman of the National Labor Relations Board receives $52,500.

12. Loss of life insurance and retirement benefits.—A GS–18 loses $14,000 of insurance coverage based on their comparability salaries. For a GS–18 retiring as of September 30, 1978, after 30 years of service, his annuity would be about $6,000 a year less than if the employee had received the comparability salary amount.

13. Annuities higher than salaries.—As of January 1979 over 2,400 annuitants who retired after 1970 receive more in annuities than they received while still working. Twelve annuitants receive over $47,500 and had final salary rates under $47,500.

14. The 1981 Quadrennial Commission adjustment of 40 percent.—In 1981 a quadrennial adjustment of about 40 percent will be required if lost purchasing power is to be restored, assuming salaries have not otherwise changed.

15. Professionals exit.—Before March, 1977, a similar situation existed. The same pay extended from mid GS–15s to Executive Level V. During that time the Government experienced a mass exodus of scientists, attorneys, doctors, and other professionals.

Mr. YOUNG. Mr. President, I yield myself 3 minutes.

I support the position taken by the Senator from Alaska, and I will give two or three reasons.

Most career employees of the Federal Government, including those in Congress, are not wealthy. There probably are very few. In fact, I do not know of any millionaire among career employees. In the Senate we have quite a few millionaires and most are pretty well fixed with respect to outside income.

Let me give a personal experience, as an example how badly inflation has affected everyone and especially here in the District.

My wife and I have had a modest type apartment, with two bedrooms and bath, rent about $540 a month. Recently, as with most apartments in Washington have gone condominium or cooperative, it has become a cooperative. We had to buy or move. So we decided to buy, even though we will be here only another year, and we hope to sell it afterward.

Anyway, in order to buy that now we signed a contract for 30 years at a cost of over $1,000 a month, at 10-percent interest.

That is the kind of thing that the average employee of the Federal Government is up against. In my own case with outside income I can afford it, but think of having to pay over $1,000 a month for the next 30 years. That gives you a little idea of why these employees need the cost-of-living increase.

Mr. MORGAN. Mr. President, I yield to the Senator from Idaho (Mr. CHURCH).

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, I shall vote for the amendment offered by the distinguished Senator from North Carolina because I oppose a pay raise not only for Congress but also for other top-level Government officials.

Our country is suffering through the worst inflation since 1947, currently running at an annual rate of more than 13 percent. With everyone scrambling for higher wages, higher prices, and higher profits, this is the time for the Federal Government to set an example of restraint.

Those on the Federal payroll who can best afford to do without more money are the top-level officials in the legislative, executive, and judicial branches of the Government. To hold all of them to their present pay would permit the President to urge the adoption of a similar policy for the high-salaried executives of large corporations. A pattern of voluntary restraint might thus emerge that could slow down this inflation and bring some measure of relief to the entire country.

The PRESIDING OFFICER. Who yields time?

Mr. MORGAN. Mr. President, just one final word: I had given considerable thought to providing in my amendment that no one in excess of $40,000 could receive a pay raise. It is not because it will not work hardships. Of course, as the Senator from Alaska pointed out, it is going to work some hardships. The question is what will cause the greater hardship.

I just feel very strongly that, unless we do something, this inflation is going to continue to get worse. We know it is going to get worse. At least this is a symbolic gesture.

I am ready to yield back my time.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. MORGAN. I yield.

Mr. CANNON. I associate myself with the Senator's remarks. I think there is no question but what it will produce a hardship on some of those people involved. But the greater hardship will be imposed on people who are retirees, social security recipients, people on fixed income who have no way of combatting the tremendous inflationary pressures that are on us today. I think that this would be a good example and would set a pattern that might be followed in other areas and would perhaps help us economize to the point it would help us get at this very vicious problem of inflation.

Mr. MORGAN. I thank the distinguished Senator.

Mr. President, I say to the Senator that during the August recess I went shopping one day with my wife and I was astounded at the increase in prices. I made the comment to one of my friends standing there that I was not so sure but if I were just an average citizen, instead of a public officeholder, that I would not vote against every one in office with the idea that maybe a new crowd could do better. I think we are going to have that kind of rebellion if we do not do something.

Mr. THURMOND. Mr. President, will the Senator yield a minute and a half?

Mr. MORGAN. I am glad to yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from North Carolina. I have already joined him as a cosponsor on this amendment.

I simply say that now is not the time, in my opinion, to be raising salaries. Now is the time to reduce spending and show the American people that we are interested in them as taxpayers. Now is the time to show the retired people and those on fixed incomes that we in Congress are interested in them and are aware of the effects of inflation on their ability to make ends meet. I think it would be a great mistake if we increase salaries, whether it is for Congressmen or other Federal Government executives, because I think it is going to be very detrimental to the fight against inflation.

I hope the amendment of the Senator from North Carolina will pass, and I am very pleased to join him as a cosponsor. It is my opinion that you can get 10 people to fill every job in this Government at the salaries we are now paying. I, therefore, urge adoption of the amendment.

Mr. STEVENS. Mr. President, will the Senator from North Dakota yield to me again?

Mr. YOUNG. I yield.

Mr. STEVENS. Mr. President, I shall respond to the statements that have been made briefly and then it is my intention to make a motion to table this amendment after the Senator from North Carolina indicates he wants to yield back his time, of course.

Mr. President, there is no question but that the people of the country are opposed to pay increases. But, this is a cost-of-living adjustment. It is a cost-of-living adjustment for the people in question on their 1977 income. These are the people who were denied their cost-of-living increase in 1978 compared to 1977.

Now there is also a 7-percent increase for those in the civil service. Those people are the people who were not impacted last time. We are talking about the GS–15 and below who gets the 7 percent.

I can think of nothing that would cause more inefficiency in Government and result in increased taxpayers' cost more than having the exodus from Government similar to the one that was caused the last time we tried this. When we put a freeze on executive pay at this level, there were wholesale retirements and resignations from the Government and the net result was we just did not have the capable managers to manage the billions and billions and billions of taxpayer's dollars that these people must handle in accordance with the directions laid down by Congress and under the supervision of the President.

Mr. President, we have here a letter from President Carter. This is not a partisan matter. He is in support of these pay increases for the executive branch and for the top people in Congress and Federal judges.

We have a similar letter written by Director Alan Campbell of the Office of Personnel Management.

I urge the Members of the Senate to consider that we also have a letter from the arm of the Congress, the General Accounting Office, which similarly points out the necessity for these pay increases.

I shall ask that these letters be printed in the RECORD at this point and urge you particularly to take into account the statement of the Comptroller General of the United States. He does work under the legislative branch and in a letter to Senator PERCY he again has called attention to the problems which occur in the executive branch if there is a pay freeze on the cost-of-living adjustment. This is not a salary increase. It is a cost-of-living adjustment.

I shall also ask that the letter be printed in the RECORD from Senator RIBICOFF and Senator PERCY sent to the Appropriations Committee, for the Governmental Affairs Committee, stating the position of that committee concerning the necessity for this cost-of-living adjustment to be enacted.

Mr. President, I ask unanimous consent that these four letters be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. I hope people will keep in mind we are also talking about a pay freeze on the judiciary. There is a district court decision which says that a similar action we took a few years ago in denying the increases to the Federal judiciary was unconstitutional, and that is on its way up through the courts. We, incidentally, through the bill that is before the Senate, will give to them their 5.5 percent, and one of the strange impacts of this legislation is they will have to start their litigation all over again if they want to file suit to challenge the action of Congress in not giving them the 7 percent as well.

Let me point out again to my friend, if we do not get a bill passed by Sunday, the 12.9 percent goes into effect and we will never be able to reduce that for the judges. If it once goes into effect, you cannot reduce the salary of an incumbent judge. So we have to get this pay bill rider to the continuing resolution enacted by Congress by at the latest Sunday night.

It is my hope that the Senate will table this amendment and will act in accordance with the recommendations of the people in the executive branch to whom we have entrusted the responsibility for the setting the pay of the Federal workers.

I ask unanimous consent to have printed in the RECORD the article from the U.S. News & World Report which shows the relative position of Federal workers in the pay brackets. There is a schedule showing gainers and losers in real pay in this inflationary period. It shows that Federal workers are ranked just above schoolteachers in keeping up with inflation. They are way at the bottom of the list, both of them.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHO'S AHEAD, BEHIND IN RACE WITH PRICES

Wages in some occupations have outraced inflation. But, despite big pay hikes, the buying power of most workers is on the decline.

Despite generous wage increases, inflation cut the average American worker's buying power by more than a dollar a day over the past year.

Government studies show that private-sector workers earned an average of $221.40 a week in July—a 7.2 percent increase of $14.85 over the previous year. After-tax earnings rose by $13.13 to $195.98 a week.

Yet these increases failed to keep pace with an 11.3 percent increase in consumer prices during the same period. Result: The real purchasing power of the average worker declined by $7.53 a week.

The biggest losers were employes of the manufacturers of cigarettes, autos and tires—all of whose weekly salaries were reduced by sharp cutbacks in overtime hours in those industries. The hours of work also declined in brewery, stone, clay, glass and leather-goods manufacturing. In most industries, these cutbacks in hours worked preceded layoffs.

Farmers advance. Farmers survived inflation better than any other group of workers in the past year. Their weekly earnings jumped 23 percent to $245.96 as a result of rising crop prices. After inflation and taxes, the average farmer was $17.13 a week ahead of a year ago.

Three other groups—meatpackers, metal miners and aluminum workers—enjoyed more modest gains in their purchasing power over the past year. These workers owe their good fortune to a slight increase in working hours in those industries. Yet a weekly raise of $48.52 for aluminum workers produced a real gain of only $3.22.

Social Security recipients have lost 59 cents a week in real buying power over the past year, even though their benefits were increased 9.9 percent in July to compensate for inflation. Federal retirees, who are expecting a 6.9 percent raise in their October checks, have lost $3.20 a week to inflation.

Over all, there have been more losers than winners in the current battle against inflation.

GAINERS AND LOSERS IN REAL PAY

	Average weekly pay before taxes	Gain in pay from year ago	Change in real pay after allowing for higher prices, taxes [1]
THOSE KEEPING UP			
Farm operators	$245.96	$45.96	+$17.13
Meatpackers	317.94	40.56	+6.86
Metal miners	372.04	42.37	+4.23
Aluminum workers	421.18	48.52	+3.22
AND THOSE FALLING BACK			
Social security recipients	64.42	5.80	−.59
Metal-can workers	411.21	41.92	−.94
Steelworkers	429.09	44.11	−1.50
Aircraft workers	343.05	31.41	−2.50
Laundry workers	141.11	11.31	−2.78
Toy-factory workers	170.17	12.02	−2.89
Retired Federal workers	168.44	13.89	−3.20
Oil and gas-production workers	361.99	31.57	−3.70
Nonelectric-machinery workers	305.03	25.73	−4.15
Food processors	253.26	20.68	−4.24
Instruments workers	249.69	19.98	−4.56
Coal miners	434.70	41.11	−4.74
Leather-goods workers	156.40	10.52	−4.82
Bank employees	161.81	9.24	−4.87
Textile workers	188.40	13.17	−5.05
Wholesale-trade workers	249.85	19.36	−5.09
Rubber workers, except tires	227.45	16.44	−5.88
Retail clerks	142.52	8.44	−5.92
Metal-products workers	276.21	20.25	−6.31
Clothing workers	149.46	8.73	−6.33
Fully disabled veterans	227.58	16.17	−6.87
Medical-supplies workers	208.03	12.43	−8.09
Lumber workers	242.87	15.04	−8.17
Furniture workers	193.54	11.02	−8.22
Papermill workers	305.16	20.73	−8.27
Chemical workers	315.74	21.75	−8.33
Shoe-factory workers	150.22	7.35	−8.33
Oil-refinery workers	433.01	36.25	−8.56
Printing-and-publishing workers	257.74	15.11	−9.19
Sporting-goods workers	180.10	6.66	−9.42
Electrical-equipment workers	247.35	13.57	−9.73
Stone, clay, and glass workers	284.00	17.10	−9.74
Local bus drivers	290.37	17.29	−10.19
Federal workers	355.67	21.96	−10.39
Schoolteachers	289.23	15.25	−11.78
Construction workers	349.65	19.98	−12.09
Telephone workers	309.10	14.99	−13.26
Brewery workers	424.15	28.64	−13.71
Electric and gas-utility workers	334.93	16.32	−13.99
Tire-factory workers	347.33	11.67	−18.56
Auto workers	378.98	9.75	−23.58
Cigarette-factory workers	312.76	−1.49	−26.66

[1] Figures on change in real pay are changes after Federal income and social security taxes and adjustment for the rise in consumer prices. Assumes a family of 4 for tax purposes, except for retired Federal workers, who are assumed to be married couples. Social security recipients and fully disabled veterans pay no taxes.

Note: Latest available weekly pay usually June 1979. Farm operators often include family members instead of individual workers.

Sources: USN & WR table—Basic data: U.S. Departments of Labor, Agriculture, and Health, Education, and Welfare; Veterans' Administration; Office of Personnel Management; Nationa Education Association.

EXHIBIT 1

THE WHITE HOUSE,
Washington, D.C., September 18, 1979.
Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the U.S. House of Representatives, Washington, D.C.

To Speaker Tip O'Neill: Within the next few weeks, the House of Representatives will be dealing with the issue of pay raises for the Members of Congress. Its decision will directly affect the pay of Federal judges and top managers in the Executive Branch.

If no action is taken, the pay rates for the top officials in the Executive Branch will go up by nearly 13 percent next month. An increase of this size is clearly unacceptable, in view of the sacrifices we are asking of everyone in the Nation in our battle with inflation.

On the other hand, I do not think a continued absolute freeze on the pay of Federal officials is acceptable. For the last ten years, their pay rates have lagged behind changes in our economy, and there has been no increase at all since March 1977, at the start of this Administration.

One of the principal goals of this Administration has been to strengthen the quality of Federal program management, and the Civil Service Reform Act recognizes the importance of financial incentives in spurring outstanding performance. I am concerned that a continuation of the absolute freeze on Federal managers' pay will be harmful to these efforts.

My concern stems from such other consideration as these:

The great bulk of these executives are career people who experienced 7 years of frozen salaries prior to the 1977 raise. It would be very demoralizing for these employees—upon whom much of the success of government programs depends—to find that they are in for another long period of pay freezes.

Many of the career executives are eligible for retirement and will find it economically very advantageous to retire if salaries remain frozen while retirement incomes (which are indexed to the CPI) increase rapidly. We may face a serious drain of our ablest and most experienced executives.

We may find it more difficult to recruit senior executives from the private sector, as our executive pay rates fall further and further behind comparable private sector salaries.

Employees at 5 pay levels—GS-15 to Executive Level V—are now paid at the same rate. Since these employees' responsibilities vary substantially, this produces disturbing inequities. This condition will worsen each year that executive salaries are frozen while GS rates are not. For example, 9,000 more employees will reach the common ceiling this October if executive rates are not raised.

Both the Congress and the President share a responsibility for the long-term viability of the salary-setting system. We should recognize that, in a time of inflation, we must make reasonable annual adjustments. Otherwise, the quadrennial commission that deals with major salary adjustments will have to propose salary increases so large as to be politically unrealistic.

Therefore, I strongly urge that the House take favorable action when it considers pay legislation, allowing an increase of not more than 7 percent for top officials in the Executive Branch. Reducing the 13 percent increase which would otherwise occur to that level would clearly indicate that Federal officials are sharing the burden of the fight against inflation, while recognizing their legitimate needs.

Sincerely,

JIMMY CARTER.

OFFICE OF PERSONNEL MANAGEMENT,
Washington, D.C., September 18, 1979.
Hon. WARREN G. MAGNUSON,
Chairman, Senate Appropriations Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee will soon be considering the issue of pay raises for Members of Congress, top managers in the Executive Branch, top staff people in Congress, and Federal judges.

If no action is taken, the pay rates for the top officials in the Executive Branch will increase by nearly 13 percent next month. This would be an unacceptable increase in view of the sacrifices we are asking of everyone as we battle inflation.

However, a continued absolute freeze on the pay of top managers in the Executive Branch should also be rejected. In my responsibilities as Director of the Office of Personnel Management, I have continually seen the devastating impact of the freeze during recent years in terms of lowered morale, difficulties in retention of top managers, and difficulties in recruitment of top officials.

A continued freeze on salaries would be particularly harmful at this time because the passage of the Civil Service Reform Act last year, with your strong assistance, emphasized the importance of financial incentives in spurring outstanding performance among Federal program managers. Top Federal officials who joined the newly established Senior Executive Service—and, as you know, nearly 96% of those eligible did join SES—did so with the understanding that they would receive financial rewards for outstanding performances, and not merely because of their positions. A continued freeze would mean, though, that most of them would receive the same salaries as they did when they joined SES, which would certainly work against one of the objectives of Civil Service Reform.

A few facts can highlight the negative impact of a continuing freeze on the pay of top Federal officials:

The great bulk of these executives are career people who experienced 7 years of frozen salaries prior to the 1977 raise. It would be very demoralizing for these employees—upon whom much of the success of government programs depends—to find that they are in for another long period of pay freezes.

Many of the career executives are eligible for retirement and will find it economically very advantageous to retire if salaries are to remain frozen while retirement incomes (which are indexed) mount rapidly. We may face a serious drain of our ablest and most experienced executives.

We will also find it more difficult to recruit senior executives from the private sector, as our executive pay rates fall further and further behind comparable private sector salaries.

Employees at 5 pay levels—GS-15 to Executive Level V—are now paid at the same rate. Since these employees' responsibilities vary substantially, this produces disturbing inequities. This condition will worsen each year that executive salaries are frozen while GS rates are not. For example, 9,000 more employees will reach the common ceiling this October if executive rates are not raised.

Newly joined members of the Senior Executive Service, who had to give up much of their job security to join SES, would be denied their financial incentive for being in SES with a continued pay freeze. The creation of the SES is an exciting opportunity for improved Federal management which will make Federal programs more efficient and more cost effective. A continued freeze on the pay of those in SES, however, would almost certainly lessen the prospects for the SES to work as well as it might.

For all of these reasons, I urge the Appropriations Committee members and the full Senate to allow a pay increase for top Federal officials of a maximum of 7 percent. This would be substantially below the 13 percent increase that would otherwise occur, indicating that top Federal officials are willing to share the burden in the fight against inflation. But it would also improve morale among top Federal managers, create some flexibility in the pay of top officials, and allow the SES to function effectively using financial rewards as a major incentive for improved performance.

Sincerely,

ALAN K. CAMPBELL,
Director.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., July 20, 1979.
Hon. CHARLES H. PERCY,
Ranking Minority Member,
Committee on Governmental Affairs,
U.S. Senate.

DEAR SENATOR PERCY: I would like to bring to your personal attention a long-standing problem which has had a major adverse impact on the morale, recruitment, and retention of our top Federal executives and which could severely hamper achievement of the high goals we expect from the Senior Executive Service. This problem was highlighted in the enclosed GAO report, which you may not have seen, entitled "Annual Adjustments—The Key to Federal Executive Pay" (FPCD-79-31, May 17, 1979).

The report points out that salary compression is now a problem for about 12,400 top executives. The top two steps of GS-15, the top seven steps of GS-16, all GS-17s and GS-18s, and Executive Level V and equivalent positions all receive the same salary despite wide differences in levels of responsibility. If a pay increase is not provided for executives this October, the number of positions affected will increase even more.

In my many years of Government service, both here at GAO and in the old Bureau of the Budget, I have seen the effects of this problem first hand. As you know, the salaries of top Federal executives historically have been frozen at the same level for many years and then abruptly raised a substantial amount in one year—usually in recognition that a crisis has developed. We lose talented people because they cannot continue to remain in public service when their potential in the private sector becomes so much greater. Recruiting becomes a problem and many key managerial positions go unfilled.

The morale of those who stay can hardly be enhanced when subordinates two, three, and four levels removed are making the same salary. In some cases, retirees can be making as much or more than individuals who remain on the job; semi-annually adjusted annuities can be more attractive to employees than infrequently adjusted salaries. As our report points out, some retired employees receive annuities in excess of $47,500—the current General Schedule ceiling amount.

Sporadic raises usually alleviate the problem for a few years but it soon reappears. For example, the ceiling on the General Schedule was raised from $39,600 to $47,500 in early 1977. Just before this raise, 20,000 Federal executives were paid the same salary. That number sharply decreased in 1977, but has now risen to 12,400 and will continue to climb if there is no relief.

The Congress attempted to deal with this problem in the Executive Salary Cost-of-Living Adjustment Act of 1975 (Public Law 94–82) under which Federal executives were to receive the annual comparability adjustments given to General Schedule employees. Since the law was enacted, executives have been denied all but one such adjustment. I believe this is partially due to the link between congressional and executive salaries and can only be rectified by eliminating this linkage.

Inadequate salary levels, irregular adjustments, and distorted pay relationships are serious problems that the Congress needs to do something about. I will not dwell further on these problems as they are discussed at length in our May report. I continue to believe that these problems would be alleviated if the Congress were to adopt the recommendations in our report and again sincerely urge that—

annual adjustments under Public Law 94–82 be allowed to take effect, and

the practice of linking congressional and executive salaries be discontinued.

I trust that you share my concern with the seriousness of this problem and urge your support in its resolution. I am ready to meet with you for a further discussion of this important issue.

Sincerely yours,

ELMER B. STAATS,
Comptroller General
of the United States.

U.S. SENATE,
Washington, D.C., September 19, 1979.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: It has come to our attention that the Appropriations Committee during its mark-up on September 20 will consider a continuing resolution which may include provisions regarding the salaries of Members of Congress and high-level officials of the executive branch. We are writing to urge that in reviewing these matters, the Committee give careful consideration to the potential impact of its decisions on the newly created Senior Executive Service.

The SES was created under the Civil Service Reform Act of 1978 in order to introduce personnel management techniques which have long been successful in the private sector to the Federal civil service. Under the new law, senior government managers must be held directly accountable for the success or failure of programs within their responsibility. The price of unsatisfactory performance is demotion or removal from the Service. There are no appeals to actions based on performance in the SES. Superior performance, on the other hand, is to be rewarded by advancement in position and pay without regard to seniority.

As Members of the Committee responsible for this important legislation, we believe that agency heads will have the flexibility needed to more effectively manage their resources and programs. At the same time, we anticipate that it will provide increased incentives for superior performance and enhance the ability of the Federal government to attract and retain the most qualified executives. We are concerned, however, that any action to cap the pay of executives may seriously undermine these objectives of the civil service reforms.

At the present time, more than 90 percent of the members of the Senior Executive Service are affected by the current pay cap. An extension of this cap could render meaningless any action taken to advance or possibly even to demote an individual for performance because, for most, there would be no immediate effect on salary. Furthermore, another pay cap could result in the misuse of the authority to award SES bonuses. The result, we fear, is that satisfactory performance—rather than exceptional performance—may be rewarded in order to regain flexibility lost by a pay cap. Lastly, we feel that an extension of the pay cap could encourage more officials to leave government service and hinder our ability to attract executives of the highest quality. In its August 31 report, the President's Advisory Committee on Pay estimated that the gap in pay between the public and private sector ranges from 18 percent at GS–16 to 24 percent at GS–18. Even a 5.5 percent increase would not substantially reduce the gap (12 percent at GS–16 to 18 percent at GS–18).

It is our hope that you will consider these issues during your deliberations on the continuing resolution.

With best regards,

Sincerely,

ABE RIBICOFF,
CHARLES H. PERCY.

● Mr. RIBICOFF. Mr. President, the Senate must consider the impact of this amendment on the civil service reforms—particularly the newly created Senior Executive Service.

The SES was created under the Civil Service Reform Act of 1978 in order to introduce personnel management techniques which have long been successful in the private sector to the Federal civil service. Under the new law, senior Government managers must be held directly accountable for the success or failure of programs within their responsibility. The price of unsatisfactory performance is demotion or removal on performance in the SES. Superior performance, on the other hand, is to be rewarded by advancement in position and pay without regard to seniority.

As chairman of the committee responsible for this important legislation, I believe that agency heads will have the flexibility needed to more effectively manage their resources and programs. At the same time, I anticipate that it will provide increased incentives for superior performance and enhance the ability of the Federal Government to attract and retain the most qualified executives. I am concerned, however, that action to deny the pay raise for executives may seriously undermine the objectives of the civil service reforms.

At the present time, more than 90 percent of the members of the Senior Executive Service are affected by the current pay cap. An extension of this cap could render meaningless any action taken to advance or possibly even to demote an individual for performance because, for most, there would be no immediate effect on salary. Furthermore, another pay cap could result in the misuse of the authority to award SES bonuses. The result, we fear, is that satisfactory performance—rather than exceptional performance—may be rewarded in order to regain flexibility lost by a pay cap. Finally, Mr. President, I believe that an extension of the pay cap will encourage more officials to leave Government service and hinder our ability to attract and retain executives of the highest quality. In its August 31 report, the President's Advisory Committee on Pay estimated that the gap in pay between the public and private sector ranges from 18 percent at GS–16 to 24 percent at GS–18. Even this 5.5-percent increase will not substantially reduce the gap in pay between the public and private sector. At GS–16 the pay gap will be 12 percent and at GS–18 the gap will be 18 percent with this increase.●

Mr. MORGAN. Mr. President, I have been trying to expedite this matter by yielding back my time. I will be glad to try again.

Mr. STEVENS. I move to table the amendment of the Senator from North Carolina.

Mr. MORGAN. I ask for the yeas and nays.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. LEAHY). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska to lay on the table the amendment of the Senator from North Carolina. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DECONCINI) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber wishing to vote who have not voted?

The result was announced—yeas 67, nays 30, as follows:

[Rollcall Vote No. 316 Leg.]

YEAS—67

Baker
Baucus
Bellmon
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Dole
Domenici
Durenberger
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield
Heinz
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Moynihan
Muskie
Nelson
Pell
Percy
Pressler
Proxmire
Pryor
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young

NAYS—30

Armstrong
Bayh
Boren
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Church
Danforth
Exon
Garn
Goldwater
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jepsen
Laxalt
Leahy
Metzenbaum
Morgan
Nunn
Randolph
Stone
Talmadge
Thurmond
Zorinsky

NOT VOTING—3

DeConcini
Mathias
Packwood

So the motion to lay on the table was agreed to.

Mr. MAGNUSON. I move to reconsider the vote by which the motion was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 577

(Purpose: Delete funds for Clinch River Breeder Reactor)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Arkansas (Mr. BUMPERS), for himself and Mr. HATFIELD, Mr. BRADLEY, Mr. CRANSTON, and Mr. MELCHER, proposes an unprinted amendment numbered 577:
>
> On page 8, lines 14 through 21, strike Subsection (e) in its entirety.

Mr. BUMPERS. Mr. President, this amendment is not a fight over breeder reactors. I do not care whether Members of the Senate are for breeders or against breeders. That is not the issue in this amendment. The issue is whether or not the Senate wants to continue spending $15 million a month on the Clinch River breeder reactor project, which was first authorized by Congress in 1970, at which time, Congress estimated the cost of that project to be $699 million.

The question is not whether the Clinch River is going to be built, because it is not. It is dead.

The Energy Committee debated this as vigorously as any issue we have ever debated earlier this year and voted, 10 to 8, to kill it, for a very simple reason. I could use a lot of descriptions, like obsolete, out of date, not safe. The best description I can give is one from former Secretary of Energy James Schlesinger—who has never been noted for his antinuclear stance—he called it a turkey.

If you vote for this amendment, you are voting to save $15 million per month, plus whatever the increased termination costs will be if we allow it to go on another year. After you vote to terminate the project, there will still be $569.9 million in the energy and water development appropriations bill, which was signed by the President yesterday, for breeder research.

Look at the charts. The United States has spent almost as much on breeder research through the years as all the other nations of the world combined, $3.36 billion through 1977. France, often noted as the paragon of breeder reactors, because of its Phoenix reactor, during that same period of time spent $1.5 billion. The Federal Republic of Germany spent $1.03 billion, and Japan spent $828 million.

We have been the leader, and properly so, in the amount of money spent on breeder research.

Mr. President, although I am personally opposed to breeders, because I do not think we have to make that decision right now, that is not the issue in this amendment. This amendment does not touch on the issue of whether or not the United States wants to embark on a plutonium society.

The issue is that we have wasted and, if we do not vote "yea" on this amendment, we shall continue to waste $15 million a month, as one Senator said in debate, "to hold the team together."

Mr. President, where are the benefits of spending $15 million a month to hold a team together when we could turn the team loose and put them in gas cooler breeder research, water cooler breeder research, or anywhere the United States will get some return for its money. It is a simple matter of cost effectiveness.

There are Senators in this Chamber who favor breeders and they will vote nay on this amendment, because they say if you vote "yea," you are sending a message to the people of the country and the rest of the world that we are killing all breeder research. Nothing could be farther from the truth. I might, someday, vote for breeders, but I can say that I am not ready to do it just yet. The best study that has been done on breeders was by the Mitre Corp. under a grant from the Ford Foundation. Let me give a few of the conclusions reached in that report.

"On the basis of our analysis," they say, "we conclude that there is little advantage in terms of economics or energy supply assurance in early commercial introduction of LMFBR's. Introduction of the breeder may be deferred for 10, 20, or more years without seriously affecting the economic health or energy security of the United States. As long as there is a world market in low-enriched uranium, a similar conclusion appears to apply to other countries. The social costs associated with breeder introduction argue strongly for deferral."

Mr. President, let me get back to the Clinch River breeder reactor specifically. The architectural engineers for that project are Burns & Roe. An internal memo from that firm surfaced a couple of years ago and, as you remember, Mr. President, stirred quite a bit of controversy in this body. The engineers for the Clinch River breeder reactor, Burns & Roe, stated the following in an internal memorandum:

> The project schedule will be missed by at least 2 years based on events today. The project capital cost is estimated as likely to be exceeded. The site selected is likely to be very costly to prepare and could even be unsuitable.

They say:

> We'll also have to take our positions in documented ways which provide the least chance for adverse information to come into the possession of those who desire to kill the LMFBR project.

If the Senators want me to translate that, it says that this project is a turkey, but let us be very careful about the way we handle these in-house memos or our adversaries will get them.

I used to have a rule, when I was Governor of my State, "Don't even send me a memo that you would not want to see on the front page of every paper in the State, because that is where it will wind up."

You would think people would eventually learn that, but Burns & Roe obviously did not. I am happy to bring you the report from the people who are charged with the responsibility of engineering the Clinch River project. They are saying, in effect, not only is it going to be excessively costly, but the site may even be unsuitable; but let us not tell anybody.

Look at the figures. Since 1972, we have spent $777 million. I ask my colleagues to weigh that figure for just a moment; $777 million we have spent on a project that was originally estimated to cost a total of $699 million and not one shovelful of dirt has been turned; not one. Nor will one ever be turned. If we want to keep the team together, I remind the Senators, at $15 million or more a month, vote "nay" on this amendment.

The costs to terminate the project will be close to $265 million to $270 million.

That is a bundle. That beats today's projected cost of keeping the project, which is estimated at $2.5 billion. And for what? To prove this country is macho? To prove they are not the only ones who can build a breeder? To prove to the Soviet Union we can build breeders?

What do we have when we get through spending $2.5 billion? The same old turkey that is referred to in the report—nothing.

For every month we delay terminating this project, those termination costs are going up.

The GAO completed a study on this project, and they had some favorable things to say about it, but they were all based on the economics of it. Even the economics of that study are no longer applicable because the costs have gone up since that study was done.

In 1970 when we authorized that project, we were estimating a 7-percent annual growth in demand for electricity to be generated by nuclear power. Every year those projects have gone down and, now they are down by 40 percent because the demand has gone down. The estimated decline is continuing because we will conserve more in this country.

Then there are those who say we have to have breeders because our uranium reserves are running out.

In 1971, when the Clinch River project was authorized, we thought we only had a few years of uranium supply left. Now the projections of known reserves of uranium have almost tripled.

Let us talk about safety. I do not want to spread the threat of Three Mile Island all over the floor of the Chamber because, as I say, I want to keep the argument on a plain budgetary restraint basis.

However, there is a safety factor involved in the Clinch River project. The Department of Energy said just this year in reference to whether we ought to build the Clinch River, as opposed to some newer breeder:

> CRBR versus a newer breeder. The breeder plant now being designed has the option of using newer safety technology than is found in the CRBR. Safety improvements available to a new breeder but not to CRBR include "pool" design, safer core design, better materials for the reactor vessel internals, and improved designs for intermediate heat exchanges and steam generators.

Listen to this:

> The experience of Three Mile Island will have implications for the design of future reactors. The breeder plant now being designed will accommodate these lessons more readily than will a reactor designed nearly a decade ago.

That is not terribly profound. We do not have to be broken out with brilliance to know that, of course, the research going on right now is far in advance of Clinch River.

It is a simple case of cutting our losses. We can recognize that we have a design on our hands that is marginal, or totally obsolete. We have a chance to save millions of dollars, and we all know we have more proliferation-resistant materials coming on.

We have technology to make our uranium produce 20 percent more fuel than it has been producing. We have the ability to retrofit our light water reactors to use 15 percent less uranium.

Hopefully, in the not too distant future, we will have developed proliferation-resistant uranium fuels for our light water reactors.

We will be debating the SALT Treaty and we will hear predictions of Armageddon, and I will be one preaching that because I believe in it. If that is not worrisome enough, think about the proliferation of plutonium breeders all across the country, embarking on a project that ends where? Will it end with a terrorist on top of the Empire State Building with a little nuclear bomb he built himself?

I read about 30 pounds of enriched uranium missing just last week. We cannot account for it.

Yesterday, at North Anna, they had a little radiation down there, but no harm to human life. It sounds like a replay of Three Mile Island. Who believes it? We do not know whether to believe it or not.

The Governor of Arizona had the National Guard control the atomic plant there because of a radiation leak.

That all happened in the past 24 hours, and we want to produce more plutonium through breeder reactors?

As the Senator from New Hampshire said, there are those who want to put a breeder in every closed gas station in America.

I am not trying to frighten anybody about a plutonium society. I think we will build breeders. I think they will be safe breeders. I think they will be proliferation-resistant breeders. I think there will be a cost-benefit ratio we can all accept.

But I want somebody to tell me why we want to keep spending $15 million a month to keep some team together. That is a lot of money to keep a team together.

Mr. President, 2 weeks ago I stood right here and offered an amendment I never thought I would offer. It was not literally an across-the-board cut of the budget but it was often construed as that because we all have an abhorrence for voting across-the-board cuts around here on authorization and appropriations bills.

I offered that $2.5 billion cut in the budget in the areas I thought the waste was most visible and without resulting in any undue economic hardship on anybody.

But I lost that, 54 to 41, and it was because people still do not want across-the-board cuts.

Mr. President, I said then and I say again now, every time we pinpoint something, they say, "We can't cut here." There was an argument made that day, "Well, this is good, in a way, but why penalize these people? We are going to balance the budget in 1981."

Are we?

If we cannot cut $2½ billion out of $530 billion, less than one-half of 1 percent, will we cut $30 billion out next year?

I came back to this Chamber and picked out something that is just about as outrageous a waste of our money as I have seen—$15 million a month.

This project has nine lives. We have debated it ever since I came to the Congress. Not a shovelful of dirt has been turned, and we have spent more than $700 million, and here is what is left: If Senators vote with me, here is how much we are going to spend in 1980 for breeder research:

Fuel cycle research and development, $30 million; gas-cooled breeders, $26 million; liquid metal fast breeder reactor research, which is exactly what Clinch River is, $442.5 million.

Water cooled breeder, $60 million; program direction, $11.4 million.

Does that look like a diminution of interest in breeder research in this body?

Finally, Mr. President, I have seen some egregious cases of legislating on appropriations bills. The only reason we have continuing resolutions presented to this body is that the committees either have not authorized the ensuing years' authorizations or the Appropriations Committee has not appropriated money; and we do this as a stopgap maneuver so that on October 1 the Government does not come to a halt. That is all it does. It just keeps Government functioning because the committees have not done their work.

The Energy Committee has done its work, and it killed this project by a vote of 10 to 8, after a bloody fight, and that bill is on the calendar right now.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. JOHNSTON. The Energy Committee's action was taken on the Bumpers amendment, was it not?

Mr. BUMPERS. It was.

Mr. JOHNSTON. And the Bumpers amendment provides not only for termination but also for the testing of the pumps and components, as well as preliminary design on the new project, does it not?

Mr. BUMPERS. The amendment I offered in the committee?

Mr. JOHNSTON. Yes.

Mr. BUMPERS. That is correct.

Mr. JOHNSTON. And that requires $180 million, does it not?

Mr. BUMPERS. I am not sure of the figure.

Mr. JOHNSTON. The Senator would not disagree if I told him that the figure in the amendment, if I recall correctly, was $180 million? That is in the ballpark, at least, is it not?

Mr. BUMPERS. I suppose it is. I assume your staff member knows what the figure is.

Mr. JOHNSTON. I thank the Senator.

Mr. BUMPERS. The Energy Committee debated this long and loudly and voted to terminate the project.

One of the first things the President of the United States said after his inauguration in 1977 was that he wanted this project killed. He has indicated a strong interest in it.

On the other hand, he talked to the Senator from Idaho and the Senator from New Mexico one night at the White House and assured them that breeder research in this country would go forward, and even I disagreed with him and really got quite angry with him about that, and he has kept his promise. There is $569 million in the energy and water development bill for breeder research, and he signed the bill yesterday.

This continuing resolution has no right to include a project which the authorizing committee has already torpedoed. The authorizing legislation terminating this project is simply waiting for this body's consideration.

Mr. President, I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, it seems to me that the Senator's argument, as articulate and persuasive as the Senator is—and he is one of the more articulate and persuasive speakers in the Senate—is the most cogent statement I have heard as to why we should keep in this language.

The reason comes from what the Senator has just stated in his answer to my question, and that is that the Senate Energy Committee has authorized $180 million, which is what we spent last year, for three things: First, the termination of this program; second, the testing of components; and third, the design of a new and alternative breeder.

Mr. President, the language in this bill which the Senator from Arkansas seeks to strike is this:

> Such amounts as may be necessary for fiscal year 1980 for the Department of Energy operating expenses . . . to carry out the breeder demonstration project—

This is the key language:

> or project alternative approved by Congress in authorizing legislation.

Let me repeat that. This provides for the continuation of the breeder program "or project alternative approved by Congress in authorizing legislation."

Mr. President, if the Senator from Arkansas is serious about his amendment, which carried in the Energy Committee by a vote of 10 to 8, and I believe he is serious about it—he got a vote of 10 to 8 in the Energy Committee, so he must be—then this provides the money to fund the motion of the Senator from Arkansas.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. I yield.

Mr. HATFIELD. I understand that the Senator is reading from page 8.

Mr. JOHNSTON. I am reading from page 8; that is correct.

Mr. HATFIELD. What are the authorized alternatives?

Mr. JOHNSTON. "Or project alternative approved by Congress in authorizing legislation."

Mr. HATFIELD. What are such that have been authorized or have been approved by Congress?

Mr. JOHNSTON. Right now, Congress

has gone on record, and the authorizing legislation right now is Clinch River.

If Congress changes its mind, as the Senator from Arkansas says it will—he has said that the breeder reactor is dead, dead, dead. Well, it is not dead, dead, dead until Congress says it is. But the Senator from Arkansas says Congress is ready to change its mind because the Senate Energy Committee has accepted the Bumpers amendment by a vote of 10 to 8; and if we accept that amendment then you have to have $180 million for it.

So it seems to me that what the Senator from Arkansas is saying is, "Give me my amendment, give me my alternative, but don't fund it, because I'm really not serious about my amendment."

Frankly, I opposed the Senator from Arkansas because I did not think the project for alternative breeder technology was sufficiently clear. I had sponsored an amendment the year before which did have a clear alternative, which said we should decide on an alternative and build it.

Nevertheless, the amendment by the Senator from Arkansas provides for that alternative, provides for the testing of what we have now, and for the termination of the program.

Mr. President, it is as clear as the noonday Sun on a cloudless day that if you are going to offer a project alternative, you have to fund it, and that is what this does.

The Senator from Arkansas says we are the undisputed leader in the world on breeder technology. You have to believe in the tooth fairy and be smoking something to believe that.

Seven years ago, the French completed the Phoenix reactor. It has been operating for 7 long years. Phoenix is a 250-megawatt breeder reactor. It has been operating for 7 years. Clinch River is only a 380-megawatt reactor. If we finish it, it probably will take another 2 or 3 years; and if we finish it, we will be about 10 years behind the French—not to mention the fact that the French already have designed and put in construction super-Phoenix.

I have seen that construction, Mr. President. I have seen what they are doing. With a 1,200-megawatt breeder reactor going up in France, with the walls rising hundreds of feet in the air, with the whole thing designed, with hundreds of workers out there on the ground, if anyone thinks that the state of the art in this country is ahead of that, it is absurd.

It is true that we have spent more money than France. We have spent more money than the Federal Republic of Germany. And what do we have to show for it? We have some plans and we have a team. Unless we let them finish what they are about, we are not going to have anything to show for it 3 to 5 years from now.

In fact, if we approve this amendment, we will see more than a billion dollars go down the drain. We already have invested $780 million. The General Accounting Office says that termination costs would be $865 million, or a total of $1.7 billion.

What the Senator from Arkansas wants to do is to throw away $1.7 billion, not with the turn of the first spade of ground. Indeed, he will come in next year and say, "Yes, we're way ahead of the French. Look at our black line. It's a longer line."

I do not doubt that we have wasted more money than the French. Mr. President, it is one of my greatest frustrations about this country that we are not able to do anything any more. I used to think about the French as sort of high-living, fun-loving, hearty, wine-drinking, joie de vivre Frenchmen, and I thought of Americans as tough, can-do doers, and movers and builders. But it is not that way any more.

Americans are now bureaucrats, delayers, lawsuit filers, money wasters, studiers, and anything but builders. I mean it is classic to me the argument about breeder reactors. Here our friends over in Europe, the Germans, the French, others in Europe are also spending money; Japan, Russia, all these countries are proceeding ahead with a nuclear program. Full speed ahead they are proceeding. This country is virtually knocking the nuclear program in the head and all the while the clock ticks.

We read in the paper this morning where the Saudi Arabians objected to a strategic petroleum research program which the President of the United States and many of us on the Energy Committee have said is the most important program for the strategic survival of this country. We have said that. But do you know what, Mr. President? The Saudis objected to that. And do you know what? We have quit filling the strategic petroleum research program, according to the Washington Post, because the Saudis objected.

Do you know what that means for a great nation to alter its plans on what it considers to be the most important program it has because the Saudis object? And the article goes on to say they have good reason to object; they have gone along with us, and all of that.

But we are so energy dependent. Our whole prospect for energy is so difficult that I am reminded of a passage from Herman Wouk's book, "War and Remembrance," because to me it kind of sums up what may be happening to this country. Wouk talked about Singapore in World War II, how they built the guns overlooking the straits between the South China Sea and the Indian Ocean, the biggest guns ever built to that date, millions of dollars expended, and the British in their colonial grandeur thought that they had had Singapore absolutely impervious to any attack because they thought it was inconceivable that any attack would come down the Malay Peninsula.

So while during the war they proceeded with high tea in the afternoon and the trooping of the regimental colors and those other great things that the British did in their colonial days, the Japanese advanced down the Malay Peninsula and soon Singapore fell without those great guns ever having been fired once.

Wouk said when a great empire falls that it is not as the sun setting on a clear azure day where it goes down below that horizon; palpably, perceptibly you can see it inch down below the horizon. He says, no. A great empire falls as the Sun setting on a cloudy day, where you never really know where that sunset began or where it ended; all you know is that the night has descended.

The night has descended on the British colonial empire. I fear as well that we are in that pre-night condition in this country with respect to energy. If you look at the figures, you look at the Department of Energy forecast NEP-2, national energy plan 2, they tell you we have a projected consumption, a need, of 119 quadtrillion Btu's of energy by the year 2000. One hundred nineteen quadtrillion Btu's is 50 percent less than the growth rate that we have sustained in this country for the last 25 or 30 years. But they say we can do with 119 quads, that we can save that much energy, and then NEP-2 projects out where that energy is coming from. It says oil and gas are going to stay steady at about 20 quads. It says coal must grow greatly from about 15 quads to 38 quads. It says that renewable resources, including solar, woodburning, biomass, et cetera, can grow from the present 4 quads to about 9 or 10 quads, and it says that nuclear energy must more than quintuple from 3 quads at present to 16 quads.

Mr. President, you are never going to get that 16 quads from nuclear energy and you are never going to get that 58 quads from coal at the rate we are going. I can tell you it is not going to happen. The breeder reactor is part of that picture. It is part of that picture for nuclear because the people who would invest $2 billion in a nuclear plant say we have to be sure of fuel, not today. They are telling you we know there is plenty of fuel today, but the plant is not going to be ready for 10 years. That is when they worry. They are worried about 10 years from now up until 50 years from now because the expected life of a nuclear plant, of $2 billion in cost, is about 40 years. They have to have fuel for, in effect, 50 years from now and their projections are that we need fuel and that we are not going to have it without a breeder reactor. That is what all this is about. If we build this breeder reactor—I think we should—we are going to produce power for a city of 100,000 people, but more important, we are going to demonstrate a technology and learn about breeder technology so that we can go to the next generation, so that perhaps we can close our gap with the French to about 10 years, so that perhaps we can stay only 10 years behind them.

If we do not build our Clinch River it is going to be more than 10 years. If you think we are not more than 10 years behind the French, Mr. President, I just invite you to go see what the French have going. We are more than 10 years behind. We have some pumps that work probably pretty well, we think.

Part of the Bumpers amendment he does not want to finance because he wants us to pass this amendment and take the money away that would finance his amendment that passed the Energy Committee, but part of the money there is to test the pumps. It is like putting a motorboat motor in a big washtub and saying it is going to work out on the lake and it is going to go 40 miles an hour and you are going to be able to tell everything about it. I think it is important to test these pumps. The only way really to test them is to put them in this closed vessel and let them operate and train your operators and find out how you operate with liquid metal, in this case sodium.

Sodium is so volatile, Mr. President, that you even expose it to the air and it bursts into flames. It is capable of exploding. And you are talking about a process so delicate that you take this hot liquid sodium and put it through a heat exchanger which means you put it very close to other pipes and vessels and pieces of metal containing water and if the two should leak and merge in the slightest bit, the water and the sodium, you have an explosion and a fire. That is why it is so important to build this Clinch River program and find out how it works because you see this happened to the French. They had a couple of fires when they started up their Phoenix reactor. Remember Phoenix is 280 megawatts and the same generation of size as Clinch River.

After they operated it for a while they had to go back and change the design of some of their basic components because it did not quite work and it led to fires and it led to danger.

Indeed, with our light-water reactors we built our first commercial reactor in Shippingport, Pa., in 1957, and we still have not gotten all the bugs out as Three Mile Island attests. So you do not just build something and then have it completely prove itself. You have to build it, operate it, test it, and retest it.

Mr. President, I do not see how anyone, frankly, can look at the nuclear option and reject it for this country.

Secretary Schlesinger, just quoted by Senator BUMPERS, made an outgoing speech as Secretary of Energy lamenting the very difficult problem of this country, and in making remarks that foretold the possible decline of this country as a great country, because of two things, our inability to get together on coal, to get a policy that works, where we can use it, and our inability to make a decision on nuclear power, and use it, and this is very much a part of the picture.

You kill Clinch River and you do not even authorize, you do not even give, money for an alternative, and you have put another nail in the coffin of nuclear power.

I do not believe the Senate or a majority of the Senate wants to do that, Mr. President, I really do not, because with all the possible dangers of nuclear power—and there are some, and you cannot belittle Three Mile Island and say no one was killed, no one was injured, no one was radiated—even though those things may be true, there was a flirting with disaster there that was too close for those of us who make serious policy, and we look forward to the Kemeny Commission which may be able to tell us how to redesign those things.

Technologically this country has the power to redesign around those things, and we know that. But in spite of the dangers, Mr. President, you put nuclear power up against any alternative, and it is probably the best. It is safer and cheaper. We are told, the Tennessee Valley Authority tells us, that their reactors, their nuclear reactors, have been cheaper than coal, and they have got them both at TVA, 7 to 8 mills for nuclear and 10 to 11 mills for coal. Those figures have changed, they have gone up, but that is a historic record.

So, Mr. President, how we can look at the alternatives and say we do not need nuclear I do not know. I will tell you, Mr. President, I believe this as surely as I am standing in this spot that one of the big alternatives to nuclear power in this country is economic stagnation because energy and the GNP have been in a death grip for the last 25 or 30 years, with trends that are less than a half percentage point apart, with energy growth at more than 3 percent a year, GNP growth at 3.6 percent a year, and they have gone up together.

I hope we can break them apart through conservation, through other things. I hope the Department of Energy is right when it says that we can save 50 percent from that trend.

But, Mr. President, I do not want to save the other 50 percent through unemployment and through a permanent state of recession in this country. With the kind of situation we have now, with only the mildest of recessions, only the mildest of unemployment, only the mildest of economic discomfort, it is almost a revolution politically, and I hate to see what will happen when we really get shut down on energy, as we may in the years ahead if we do not have nuclear power.

To sum it up, Mr. President, and to make my first point, which is really the simple one, and which is really the total answer to all this, without all the pyrotechnics about nuclear yes or no or Three Mile Island, or all of these things, the very simple argument is that this language funds either a continuation or a termination or a Bumpers amendment that has passed the Energy Committee by a vote of 10 to 8, and if you take out the language, then you cannot continue because you do not have the money, and you cannot go the Bumpers direction because you do not fund that either.

I think the way to go, Mr. President, is not to add additional termination language in an appropriation bill. That is for the authorizing committee. Let us be guided by what the authorizing committee does and by what this floor does with respect to authorizing legislation.

Mr. President, I yield to my colleague from Tennessee.

Mr. BAKER. Mr. President, 5 minutes will be adequate.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I yield to the Senator from Montana for a unanimous-consent request.

Mr. MELCHER. I thank the Senator from Tennessee.

Mr. President, I ask unanimous consent that Gary Kimble of the Energy Committee staff have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the Chair. I will not prolong this debate. My colleagues know where I stand on the development of the Clinch River breeder. We have discussed this issue on the floor a number of times, and it would be redundant to try to develop the rationale and justification for this demonstration plant, according to my concepts and convictions, at this time.

Mr. President, at a time when our country is demanding action to assure our energy security, it hardly needs saying that the last thing we need is more indecision and even a step backward in the development of one of the most important potential energy resources this country has. Along with coal, the breeder reactor quite simply may have to run this country in the next century. Mr. President, we are not here today to discuss options; we are discussing survival of our way of life.

The Congress has repeatedly made clear its support for a vigorous breeder reactor research and development program. The Senate Committee on Energy and Natural Resources has unanimously reported a bill which authorizes $360 million for liquid metal fast breeder reactor development, consonant with the program supported by the administration. The House has by a wide margin, again authorized funds to continue the LMFBR program.

The question of how best to proceed in developing that program so essential to our energy future has been constantly with us over the past 2 years. But a clear consensus has emerged in the Congress that LMFBR development must be continued. Last year, in circumstances similar to those today, the Senate voted overwhelmingly in favor of continuing appropriations for the Clinch River project.

That consensus on the LMFBR has developed with good reason. The breeder reactor, and our substantial, but not inexhaustible coal reserves, are the only proven resources capable of meeting our electrical energy requirements in the next century. Breeder reactors can extend our uranium resources by 60 times. The energy value of uranium already mined and above ground—the byproduct of our enrichment operations—can only be used in breeders, and is roughly equal to our total unmined coal resources. This resource represents an energy equivalent at least three times the total OPEC oil reserves.

Coincidentally, the recent breakthrough announced by General Motors in its electric vehicle development program offers a glimpse of what the future will require of our electrical generating capacity as we approach the 21st century.

The substantial majority of experts in LMFBR technology continue to believe that the Clinch River breeder reactor is a necessary, prudent, and appropriate step in the development of our domestic breeder reactor capability. Indeed, it is vital if we are to maintain our competitive position in the face of the vigorous French, British, and Soviet efforts.

While these are views which I share, they are views on which reasonable men among the distinguished Members of this body have disagreed. I will address these issues in detail at the appropriate time, when the Senate considers the authorizing legislation for the Department of Energy. The President himself last year stated that the necessary expedient of a continuing appropriation is not the appropriate forum for debating this matter.

I concur with the President's assessment of the proper forum for debate on the Clinch River issue. I do not wish to consume the valuable time of this body in a debate that will simply be repeated when we consider the DOE authorization.

So Mr. President, my distinguished colleagues, the essential issue today is quite simple. We are being asked to maintain a viable breeder reactor development program until such time as Congress again speaks with clarity on this issue. The Clinch River breeder reactor project is the keystone of our breeder program. We cannot discard that vital element of the LMFBR effort, or surely the entire structure will collapse. Good intentions or paper projects will not preserve the critical pool of skilled manpower and advanced technology required for a credible breeder program.

In lieu of alternative authorizing legislation, the Clinch River project remains, in principle and in fact, the LMFBR program in the United States. The language of the House resolution encompasses the range of opinion on this issue. It continues funds "to carry out the breeder reactor demonstration project or project alternative approved by Congress in authorizing legislation." I urge your support of that language.

Mr. President, the Clinch River project has been controversial since its early stage. It has been the subject of intensive floor debate for many years. It has been challenged in every authorization and appropriation bill almost from the beginning, and I expect the future of the Clinch River project is still in doubt. I even represent, Mr. President, that, at the appropriate time and under circumstances that I think are suitable, I am willing to consider some moderation or modification of this project. But, Mr. President, not today, not on a continuing resolution.

A matter of this importance that has been one of the pillars of America's long-term energy program ought not to be disturbed in the process of a continuing resolution to authorize appropriations that will extend until sometimes in November or December. We shortly will have a DOE authorization bill, and everything I know suggests that this project will be up again in the DOE authorization bill. Next year we are going to have hearings on a new authorizing bill and on new appropriations, and it will be up again then.

Mr. President, the project, frankly, I think, deserves more than the short shrift that we would give it if we interrupt its progress and its future in the course of the consideration of a continuing appropriation resolution.

Mr. President, I do not think we have options in energy. I think we have got to do everything we know how to do. I think our energy appetite is so voracious and our society and civilization depend to such an extraordinary extent on the availability of energy, to produce more and distribute that new wealth more equitably, that we are under an obligation to try to develop and then to demonstrate even the most exotic and advanced new energy systems, and Clinch River then becomes a test of our resolve and determination in that respect. Do we have the national resolve and determination to develop those new energy sources, whether they are fusion reactors or liquid metal fast breeder reactors or thermal breeder reactors, or something I never dreamed of or heard of before?

Keep in mind, as I am sure my colleagues will, that Clinch River is not a production machine; it is a demonstration project. We are trying to demonstrate the feasibility, the desirability, and the safety of America's technology in this advanced new energy system. If it were a 1,000 megawatt or a 1,200 megawatt machine like the Super-Phoenix, the arguments might be entirely different. But it is not. It is a demonstration project and it is a suitable, it is a prudent, it is a desirable demonstration of the state of the art, consistent with American technological advancement.

Mr. President, this is not the time to disturb that commitment of resources, that statement of policy for our energy future, in this interim measure, a continuing resolution.

So I hope, Mr. President, that the motion to table the Bumpers amendment, which may be offered, will be supported or in any event that the Bumpers amendment will be defeated.

Mr. President, I ask unanimous consent, if I have time remaining, to yield, if I may, to the distinguished ranking minority member of the Appropriations Committee.

Mr. YOUNG. Mr. President, this is one of the unique new possibilities in the field of energy that I do not think should be discontinued on a continuing resolution. Our committee had no hearing on this whatever, and no evidence at all. We have some members on the committee, of course, who are well-posted and well-informed on this new breeder reactor, but to me this offers a great promise for the future that should have more consideration than it can get on a bill such as this, that expires a month from now on October 31.

Mr. BUMPERS. Mr. President, I yield the Senator from Oregon such time as he may need.

Mr. HATFIELD. Mr. President, I thank the Senator from Arkansas.

I would like to make this one observation before I comment on the issue at hand, and that is that it is a rather interesting thing that recently we have gotten into two code issues relating to the State of Tennessee, namely, Tellico Dam and now the Clinch River breeder reactor. I suggest that about as much exaggeration has been made on the Clinch River breeder reactor as there was made on both sides of the argument on the Tellico Dam and the snail darter.

But I would like to say to the Senator from Louisiana that I, too, having read Herman Wouk's book, I think the Senator from Louisiana has provided us with a very accurate description of the Clinch River breeder reactor project, namely, that it is the guns of Singapore, in that they were the wrong technology for the wrong purpose, and this is what we are engaged in with the Clinch River breeder reactor. We have a program that is not going to produce the technology we need. It is not going to produce new technology. What we are going to do is demonstrate that we are like drunken sailors, throwing money at anything because we raise the great issue of energy requirements or the energy needs of this Nation. I know of no white elephant we could create more effectively since the Union Station bicentennial visitor center program. To me, that represented one of the great white elephants, at least in my time in the Senate.

We have not abandoned the breeder reactor program. I must say to my good friend from Louisiana, if the whole nuclear energy program depends on the Clinch River breeder reactor, then I am more fully persuaded than ever that it is the wrong way to be going. I have been less than enthusiastic about nuclear energy anyway, and I must say that he has persuaded me with new vigor to oppose it, if this is the cornerstone, if this is our hope. If this is what we are building our future expectations for nuclear power on, the Clinch River breeder reactor, then indeed it is a false hope, and I might say, if the French are involved and we are in competition with them, it might be analagous to the Maginot Line.

I would like to remind the Senate that we have now in the fiscal year 1980 appropriations bill, $559 million for breeder research and a breeder program. When there is raised on the floor here the implication that somehow if we abandon this illegitimate child called the Clinch River breeder reactor, somehow we are going to be childless, or will have dissipated our whole family tie to the breeder program, that is fallacious. It is wrong.

Mr. Bumpers has already indicated that we have, in the 1980 budget, $442.5 million in operating expenses for a liquid metal fast breeder reactor program without the Clinch River breeder reactor project, and I would add we have another $117 million in that same budget for capital equipment and construction projects under the breeder category. Let us not be misled that somehow if we do not take this kind of step today, and undergird and continue this commitment to a white elephant program, we have somehow abandoned our whole breeder program. We still have the biggest such program in the world.

I think it is interesting that the President of the United States, a man committed to nuclear power, and the former Secretary of Energy, Mr. Schlesinger, who is committed to nuclear power, both have indicated support for the termination of this white elephant.

I cannot understand how we get ourselves locked into these oversimplifications of using code words.

Today we are engaged again, like we so often get into in military appropriations, with the word "money." Money spells our objective; money equals goals.

Mr. President, money is but a tool toward a goal. Money is not an end in itself. We can throw all the money in the world at this program and it will not develop us any more technology than what we have at hand. The keyword is not money, it is technology—new technology—not to continue down an old road and do nothing but replow the same old furrows. This project will cost us another $2 billion.

Mr. President, the economics would even belie intelligence, if you stop to think about it, for those who support the Clinch River breeder reactor. We have put $700 million into this. It takes another $1.9 billion to complete it, to a tune of more than $2 billion for the total project. It would cost us, if we terminate it, about $1.5 billion. We are in a Catch-22, if you want to look at it from pure economics. But the key is, what do you have if you complete it?

The proponents cannot claim that we would have anything we do not already have. We are locked into that code kind of mentality that money equals energy, and somehow those words elicit from us a certain fear or a certain kind of hysteria, so that we propose to rush in with more potsful of moneys to throw on the altar in some kind of great sacrifice for the cause of energy, when we are not looking analytically at what we are really engaged in.

I suggest that what the Senator from Arkansas and I are attempting to do in this amendment is not to stop breeder research, it is to get us off this white elephant.

I would say also to the Senator from Louisiana, when he makes his argument in which he obviously did not answer my question with respect to page 8, and that is on the language "or project alternative approved by Congress in authorizing legislation," that we have made no approval of any alternative project, so we are being asked to appropriate for an unauthorized, unapproved alternative. Talk about legislating on appropriations; I would suggest that we might even be subject to a point of order on this. I am not going to call for it at this point, until I find out privately from the Parliamentarian what this is.

Mr. JOHNSTON. The answer is "No".

Mr. HATFIELD. Well, at least I would like to raise the question.

So I would suggest that we be very careful about how we expend the money. Let me reassure my friends and colleagues once again that money itself is not the goal; technology should be the goal, and that merely throwing more money at this does not in itself create any new technology or any new solution for our energy needs.

Mr. JOHNSTON. Is the Senator aware that GAO has stated that this project would generate $4 billion in revenue from the sale of electricity over its life?

Mr. HATFIELD. Yes. If we are trying to develop an energy project, that is one thing. But to try to justify this on the basis that we are going to lose an opportunity for new technology development, because this is so vital in our total national technology goals, that is the wrong justification. If this is a development project for the State of Tennessee, then let us present it on that basis.

Mr. JOHNSTON. Mr. President, before I yield to the Senator from Tennessee (Mr. SASSER), I just want to make this point: The Senator from Oregon has talked about economics. GAO has found that this project will generate $4 billion, over its life, in electricity sales. According to the Senator from Oregon, it will take $1.9 billion to complete the project.

We spend $1.2 billion to complete, we get back $4 billion in revenues. In addition to that, the main purpose we accomplish is to demonstrate a technology which must be demonstrated.

Mr. President, I yield 2 minutes to the distinguished Senator from Tennessee.

Mr. SASSER. I thank the distinguished manager of the bill for yielding.

Mr. President, last year the Congress provided $172.4 million for the breeder reactor demonstration project on the continuing resolution for fiscal year 1979.

When this occurred, everyone applauded, including the administration, which has been in the forefront in opposition to this Clinch River breeder reactor. But even the administration said this was the most responsible way of proceeding.

Well, we are proceeding in exactly the same fashion today and everyone is saying that this is an erroneous way of proceeding.

I would just like to repeat the words of the President when he signed last year's continuing resolution:

> In a constructive step, this bill provides that decisions on the Clinch River breeder project—or possible alternatives—will be determined in the Department of Energy authorization bill, the appropriate place to resolve this issue.

Mr. President, I agreed with the President of the United States in what he said then and I agree with him today.

The continuing resolution before the Senate today preserves the options of the Congress. It clearly places the ultimate fate of the breeder reactor on the authorizing legislation where it should be.

However, at the present time, the authorized breeder reactor project is the Clinch River demonstration plant. In the absence of the Congress passing a new authorization—to terminate Clinch River or authorize an alternative project—the funds in the continuing resolution must go to continue Clinch River. This has been upheld in opinions of the Comptroller General of the United States.

So I say to my colleagues that we are proceeding in a responsible manner. We are proceeding exactly the same way we proceeded last year.

Mr. President, I have supported Clinch River since my election to the Senate, and I continue to support the project. Clinch River should be built. We must preserve this energy option.

Much has been said about this project, and I would like to set the record straight on some of these issues.

Clinch River does not move this country toward a plutonium economy. Clinch River is only a demonstration plant. It is not a commitment to the commercialization of the breeder technology. It is, as the GAO has stated, "the next logical step in providing the information needed to make a decision on possible consideration in the years ahead."

Some would lead us to believe that none of the scientific community supports Clinch River. But the General Accounting Office, in its most recent report, indicates continuing strong support in the scientific community. And I remind my colleagues that when the administration appointed its own Blue Ribbon Review Committee, made up of some of the best energy experts in the country, that Committee came out in favor of the Clinch River project, saying, "We conclude that such a demonstration plant is essential." And that "the CRBRP is a necessary and essential step." This was the opinion of the administration's own team of advisors.

Mr. President, the opponents of Clinch River would lead us to believe that this is not a cost-effective project. It is true that costs have increased. I would say that a major reason that costs have increased is because of the delaying tactics of the project's opponents. In fact, over $400 million of the increased cost is directly attributable to the current stalemate over whether the project should be continued.

Currently, we have invested almost $800 million in this project. Are we just going to throw away a billion dollars of tax dollars?

If Clinch River is terminated, this Congress will be asked to come up with another $900 million just to terminate the project. So I say to my colleagues that if we halt funding for this project: If we terminate Clinch River at this juncture we will have thrown $1.7 billion of the taxpayers' money right out the window.

Mr. President, Clinch River is a good investment. The net plant revenues, according to the Department of Energy, would be about $4.4 billion for the life of the plant. As my colleagues are aware, a breeder reactor produces more fuel than it consumes. The fuel produced by Clinch River after 30 years of operation would be worth about $8.1 billion.

So, Mr. President, that is a return of $12.5 billion on an investment of $2.6 billion. I think we can safely say that Clinch River has a favorable benefit-to-cost ratio.

If we terminate this project, we will be abdicating our international leadership role in the energy area. Already we are far behind the Soviet Union, Japan, France, and Great Britain in this technology. These countries already have operating breeder demonstration plants. In the nonproliferation area, terminating Clinch River accomplishes nothing, particularly since other countries are going ahead with their programs.

Mr. President, we are told that we do not need Clinch River because there is no need to extend our uranium resources; the opponents of Clinch River tell us that this Nation has enough uranium. But I say to my colleagues, "Tell me any resource we have enough of." The GAO has pointed out that there are strong differences of opinion on the amount of possible uranium resources that may be found. Last year, the National Academy of Sciences reported that there is a 97 percent probability that the U.S. uranium resources are less than the estimates of the Department of Energy. I point out also that the current proven reserves identified by the Department of Energy are adequate only to meet the lifetime fuel requirements for nuclear plants which are already built or committed for construction. Further, a recent GAO study concluded that DOE may have overestimated the domestic uranium resource base by as much as 20 percent by not recognizing losses incurred in the processing of uranium ore into nuclear fuel. So I hope my colleagues will be wary of those who would lead us to believe that we have enough uranium without the breeder to extend this resource.

I also point out that the breeder can utilize the stockpiles of U-238 which are stored at the Nation's gaseous diffusion plants in Oak Ridge, Portsmouth, and Paducah. If used in breeders, these stockpiles can be worth literally trillions of dollars. And they are equivalent in energy to all the known coal reserves in the United States. Cancel the breeder and these resources are lost forever.

The opponents of Clinch River say that the design is obsolete and that the plant is too small. But the GAO surveyed the scientific community on this point and found "no one who was able to provide any specific facts indicating that any components or design features were obsolete."

In fact, the administration's Blue Ribbon Review Committee said in strong terms that "a demonstration plant of the approximate size of Clinch River is necessary." And that "the design basis is current."

I caution those who are interested in skipping the Clinch River demonstration plant in favor of a bigger, better breeder. It is bad business to leapfrog technology. It could lead to serious economic consequences and reduced public confidence in the safety of the larger plant. To leapfrog this technology now could quite possibly destroy the breeder option for the future.

Mr. President, the Three Mile Island accident has demonstrated that we must take great care in our nuclear development program. The Clinch River project is designed as a demonstration plant. Clinch River must be built if we are to demonstrate to the public that breeder reactors can be operated safely, reliably and cost effectively.

The opponents of the language on the continuing resolution are trying to go through the back door and terminate Clinch River. This is not the time to decide that. The continuing resolution should be passed as it has been passed by the House and the Committee on Appropriations. The amendment of the distinguished Senator from Arkansas should be defeated.

I urge its defeat.

Mr. BUMPERS. Mr. President, I yield 3 minutes to the Senator from Massachusetts.

Mr. TSONGAS. I thank the Senator for the time.

Mr. President, to make one point clear, the administration is opposed to the Clinch River breeder reactor. It came before the Energy Committee and so testified. The blood extracted for that apparently is a commitment to proceed with a breeder prototype technology within 2 years. I do not happen to agree with that, but the administration is opposed to the Clinch River breeder reactor.

Who would be for it? It certainly cannot be any engineer, because it is an obsolete technology. Anyone who is seriously interested in the development of a breeder should know that to have this, as the Senator from Arkansas characterized it, "turkey" out there as the lead item on breeder technology would be the last thing anyone in favor of breeder technology would want. I for one, though I am not intrigued by the breeder and hope we skip over it, have voted for breeder technology development. If you want the breeder, you should not have the Clinch River breeder as your lead item.

Second, it would not be anybody who is concerned about proliferation. Of all the breeder technologies, this is the worst. Here we are, a country that talks about nonproliferation, and we want to go ahead with the worst possible breeder technology relative to proliferation. The Department of Energy has done a lot of research on other breeder technologies that are less proliferation prone. We are all adults here, with obviously limited life spans, but we also have children who are going to live in this world we are creating. If anyone is concerned about the world we leave behind, I hope that the Clinch River will not be part of that world.

It seems to me that the Clinch River is the kind of Quemoy and Matsu of breeder technology.

I assume, even though it is a hopeless case, that those who see a justification for the technology want to hang on because of the symbol. Quemoy and Matsu have gone the way of all flesh, as will this breeder, and it is time we recognize that and not ask the American taxpayer to endure any more.

I thank the Senator from Arkansas for yielding me time.

Mr. McCLURE. Mr. President, will the Senator from Louisiana yield to the Senator from Idaho?

Mr. JOHNSTON. I yield 5 minutes to the distinguished Senator from Idaho.

Mr. McCLURE. Mr. President, I want first to commend the Senator from Louisiana for what I think was a brilliant opening statement in regard to the opposition to this amendment. He summarized many of the arguments in a fashion which I shall not attempt to improve upon. I commend him for that statement and I commend the reading of that statement to those who doubt and who need to be persuaded with respect to the breeder program and the Clinch River breeder in particular.

Mr. President, if there is one thing that concerns me about this country, it is our inability to come to a decision about anything. To argue against the Clinch River breeder reactor, and that is not really the issue today, is like saying that Wilbur Wright should not have flown until he was able to fly an SST.

If Three Mile Island taught us anything, if there is any lesson we should have learned, it is that we had better proceed carefully, cautiously, step-by-step, with these sensitive technologies, that we not jump over untested technologies on the assumption that they are obsolete in favor of something else that has not been tried without learning the lessons in the intermediate steps. That, I think, is the lesson that is abundantly clear from Three Mile Island. I hope we learned that lesson.

It is so clear that that should be applied to the breeder reactor program that I have to wonder whether or not the people who are opposed to the Clinch River breeder reactor are not really opposed to ever building one. This language in this appropriations measure, the continuing resolution, simply says that whatever is authorized by Congress—and now there is only one that is authorized by Congress. There are those who promise that there will be some other, some time in the future. But if anybody is aware at all of what has been going on in this country over the last several years, it is that we cannot do anything, that there are opponents to every single alternative that is brought up. Those opponents, far too often, either carry the day in the legislative halls or in the courts.

We have built a whole series of negatives around our energy options and we have not yet found a way to move forward. Certainly, it is not just the dollars spent, because a lot of those dollars have been spent well on things that others have not done. We are, perhaps, more sensitive to the need to engineer in a way which is environmentally safe and is technologically provable before something is built. We are more concerned about the restrictions that are placed on licenses, and that requires us to develop a technology more slowly and more surely, so that when we get to the point of commercialization or the actual construction, even, of a demonstration plant, it will pass muster with the NRC.

That is what this debate is all about: Will we have a program or are we going to stop and allow the people who are opposed to growth in our society, who really want to lower the standard of living for everyone, are we going to allow them, by default, to have their way?

I think it is significant that the people who want a no-growth economy already have all they want. So they are not denying themselves something they want, they are denying to everyone else what those others want.

(Mr. STONE assumed the chair.)

Mr. McCLURE. Mr. President, there are people in our society who are not satisfied with the status quo, because they do not have their share. They want to have the opportunity to grow in a growing economy.

Mr. President, I have made reference a number of times in the past to the statement made by the NAACP in December 1977, in which they specifically rejected the no-growth philosophy as it would affect their people, because they were not going to be satisfied with the status quo. They know that if they are going to have the opportunity to do better, they must do better in a growing society; that they cannot expect to do better at the expense of those who already enjoy the benefits of this society, they must do better by sharing in a growing society. They are entitled to that hope. That is the dream that America has held out to people over hundreds of years that we have existed. That is why underprivileged and underdeveloped countries all around the world still look to the United States as the leader. Are we to renounce that now by saying, "No, don't look to us any more, we don't have any promise for the future?"

Mr. President, I think that is the fundamental debate with respect to this technology.

We are now looking at synthetic fuels. We know we can make synthetic liquids out of coal at about $46 a barrel. That is not to say we will not spend those dollars to demonstrate the technology because we know we must move forward in that technology, too.

But let me just say one thing about one of the promises of the breeder reactor, and a little bit of background, very briefly.

First of all, experimental breeder reactor No. 1, which is now a national historic facility administered by the National Park Service, exists in my State of Idaho. It is there because we had a demonstration program to demonstrate some technology, an experimental breeder reactor. The first atomic reactor to put electricity into a commercial electrical grid was experimental breeder reactor No. 1, and that was in 1954.

The second EBR 2, which is still in operation, just celebrated its 10th anniversary at higher levels of efficiency and on-line time, although it is an experimental facility, than commercial reactors do. This is not totally unknown.

I would say that we cannot afford a light water reactor system in this country, a nuclear powerplant that uses the kind of power we have today, and throw away the spent fuel elements.

That throw-away fuel cycle must be the most environmentally unacceptable of any alternative choice we have. How can we waste 98 percent of the potential energy in any resource in this country and do that on the basis of being environmentally responsible?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JOHNSTON. How much time remains?

The PRESIDING OFFICER. Seven minutes.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, we have on hand depleted uranium, that is uranium that has been processed and the waste set aside.

I am not talking about the spent fuel rods; but depleted uranium in canisters, that is a disposal problem, has enough energy in it if we had a breeder reactor program to give us 100 quads of electrical energy for the next 110 years, and that 100 quads of electrical energy compares to the 78 quads we consume today.

We are being asked to throw away a technology that has that kind of promise because people say that we do not need it now. We do not need synthetic fuels now. We do not need more oilfields now. We do not need more gas wells now. We do not need more coal now. We certainly do not need any other biomasses now because there are not any gas lines at the gas stations today. But we need it for the future of this country and for the security of this Nation, and it will not happen if this Senate votes "no" on some of the most environmentally acceptable and most promising technologies available to us today.

Mr. President, this is not the time and the place to debate the Clinch River argument completely. But we have already agreed to move forward on some of the other items in the budget. It seems to me that the time to debate the Clinch River issue fully and decide it must be when the Department of Energy authorizing bill reaches the floor, not in the continuing resolution, particularly when we must get this resolution through, and through conference with the House, and the House has repeatedly voted for the continuation of this present project.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, all those parliamentary arguments about whether this is legislation on an appropriation or whether we are actually appropriating before we authorize—which we most certainly are—could be finalized and points of order raised, but I think everybody is willing to vote on this issue.

I hope everybody will vote on the basis of whether they want the Clinch River breeder project to continue, not whether we will have a breeder research program.

The Senator from Idaho just referred to EBR 1, our first experimental breeder reactor. We talked about the success of that. But the report says the success of that was marred by a meltdown, in 1955, because an operator failed to shut the reactor down during a test.

That was our first breeder reactor.

What does the architect-engineer of the Clinch River breeder say about the project? In the memo I referred to earlier, they said:

> The Clinch River site selected for the demonstration plant is one of the worst sites ever selected for a nuclear powerplant, based on its topography and rock conditions.

The worst site ever selected.

What else did they say? This is not Senator BUMPERS talking. This is Burns and Roe, the architect-engineer on this particular breeder project. They went on to say:

> Notwithstanding the above, in spite of the job Burns and Roe does, the issues we raise, and the record we document, most actions on the project are out of our control, and it is already clear that the project results will be extremely poor.

Now, what do we have to do? They said that the project manager has privately advised Burns and Roe to get out of the project now, because it does not have a chance of success and could harm us badly.

That memo was written in 1976 and we have been pouring $15 million a month into this project ever since.

The Senator from Louisiana says that we will be 10 years behind the French. That is true. We can spend $2½ billion to complete this project and when we are finished we will be 10 years behind the French.

I thought the Senator from Massachusetts made a very compelling, persuasive, cogent argument when he said that the most ardent proponent of breeder reactors in the United States ought to vote for this amendment to kill this project.

I do not know of anything that will leave as bad a taste in results for breeders as the completion of this project.

But, Mr. President, I can say with assurance that this project is never going to be finished.

It was authorized in 1970, we spent over $700 million and not one shovelful of dirt has turned.

If we decided to put $1 billion there today, and said, "Gentlemen, we want this finished on a crash basis," we would be lucky to get a shovelful of dirt turned in 2 years. When we got through with it, under the best estimates of the Senator from Louisiana, it would generate $4 billion worth of electricity over the life of the project.

Look at the economics of the project. If it is going to cost $2.6 billion to finish it today and it would be 2 years before we turn the first shovel of dirt, what do we think the final cost is going to be? This says nothing of what it will cost to operate it for 40 years in order to generate $4 billion worth of electricity.

What we will have is 100-percent loss on a markedly inferior project and one the Department of Energy says is unsafe.

Do not lose sight of the fact that we have $569.9 million remaining in breeder research after you terminate their project.

Why would we build a breeder reactor before the fast flux test facility in Washington even told us the best fuel to use?

As to the Phoenix reactor in France, which everybody talks about, it is right up there with the Concorde in technology. They had a component failure on that project. They shut it down for a year, because of component failures. Do you know how fast it is breeding? It is breeding about 50 percent of its capability.

If you want to try to emulate that and be 10 years behind it, go ahead and sink $15 million a month into this project.

The Senator made a comparison between GNP and the use of electricity. The GNP in this country continues to climb, and the demand for energy goes down, and that will continue, because we will conserve more and more energy in this country. We have the time and we should take it, and we should use it to build the fastest, best, safest design we can come up with.

Finally, Mr. President, when we consider the fact that 9 years have elapsed since we started on this and we spent more than $700 million and nothing happens, it reminds me of a story by Chet Lauck, a citizen of my State, who used to be a Lum of Lum and Abner.

He told me about two fellows in Pine Ridge, Ark. One had a horse, and the other offered him $150 for the horse. He said, "I couldn't part with that horse at all. We grew up together. I have raised him from a colt, and I love him like my brother."

The other man said, "I'll give you $250."

Finally, he decided that was too good an offer to refuse, and he sold it. That night, he got to thinking, "If that horse is worth $250 to him, he's sure worth that much to me."

He went back the next day and said, "I would like to buy that horse back. I'll give you $350 for it." The fellow figured that he would make a hundred dollars overnight, and he said, "You can have it."

That night, he got to thinking about it and he thought, "If that horse is worth $350 to him, he knows something I don't know." So he went back the next day and said, "I'd like to buy that horse back, and I'll give you $500."

This went on, and they got the price of the horse up to $3,000.

Finally, one of them sold the horse to a third party, and when the other fellow came back to buy the horse, he was told, "I am sorry, but I sold it to another party." So he said, "Why would you do a thing like that? We were both making a good living off him." (Laughter.)

Everybody seems to be making a good living off this Clinch River project. The cost just keeps going up. It is the same old project it was when it started, which Burns and Roe said we should get out of right now and cut our losses and the loss of our reputation.

That is what the U.S. Senate should do today. It should vote for this amendment and cut our losses and get on to something meaningful.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I have heard on the floor of the Senate and elsewhere, a number of times, a statement which has absolutely no support and is absolutely untrue. That statement is this: That this is outmoded technology. It simply is not true.

This is a liquid metal fast breeder reactor, and the only other two technologies I know of are molten salt and gas cooled. Nobody is going molten salt and gas cooled. The British, at Dune Ray, are going liquid metal. The French, at Phoenix and Super Phoenix and Rhapsody, are going liquid metal. The Russians are going liquid metal. Nobody is going gas cooled or molten salt.

So far as the design is concerned, which is a pot type reactor, everybody is going in that direction.

Mr. President, to the extent that there are innovations in the core, in the heat exchangers, in the liquid metal pump, and all those things, those parts, if there are improvements, can be designed and interchanged, and that is the very reason for finishing this project.

This country has spent $15 billion since the first embargo on energy—$15 billion for energy supply R. & D. What do we have to show for it? For the most part, a lot of studies, a few solar vortag systems which are producing electric energy at about 70 times the cost you can get it off the grid. We have a lot of bureaucracy out there, also. But we have finished almost nothing. Here we are getting ready to stop another project.

It seems to me that is the story of the United States—start and stop; start something and stop it before you finish. We will be stopping a project in which we will have invested some $1.7 billion.

Even taking the figures of the Senator from Oregon, which is $1.9 billion to finish, I can tell Senators that that is a pretty small figure compared with the $84 billion the President wants to spend on synfuels. But take the Senator's figure of $1.9 billion. There is not one scintilla of evidence, not even a suggestion or a whisper, that GAO is wrong when they say that $4 billion of revenue will be generated by the project.

If you just take economics and leave everything else aside, you spend $1.9 billion and you generate $4 billion. I have stated that time and time again.

Tell me where that is wrong, I say to my friend from Arkansas. Is GAO wrong? Is the Senator from Oregon wrong about the $1.9 billion cost? I think that is a pretty good deal—just economics alone—because it generates the electricity for a hundred thousand homes.

Beyond that, if no electricity were to be generated, we need this breeder reactor to demonstrate the technology to tell about fuel cores, about what is the best configuration, what is the best chemical combination of a fuel core, what is the best technology for a pump, for the liquid sodium, what is the best way to clean the liquid sodium, and how do you get an even burn with your core, with your different fuel runs? How do you use the power in the most economical way?

Finally, Mr. President, let me make the central point of the whole thing: This really is not a Jane Fonda cosmic apocalypse argument about nuclear or nonnuclear. It is an argument about the House language. The House language says that this money is provided either to continue Clinch River, to terminate Clinch River, or to go to a project alternative approved by Congress.

If Senators want to go for the Bumpers alternative, which he has offered and which has been agreed to in the Energy Committee by a vote of 10 to 8, they should vote to table the amendment, because the House language will fund the Bumpers alternative. If Senators want to continue, then they also vote to table the Bumpers amendment.

The PRESIDING OFFICER. The time of the Senator on the amendment has expired.

Mr. BUMPERS. Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes and 45 seconds.

Mr. BUMPERS. Mr. President, I ask this rhetorical question: If this project is worth anything, why has it not been built? It certainly has not been for the lack of money. We have poured money into that project to the tune of $700 million. That is what the whole thing was supposed to cost. And we have done nothing. Why has nothing happened?

If Senators vote "no," the amendment will be back here a year from now, and we will put another $150 million or $200 million into the project. The next year, if Senators vote "no," we will put in another $100 million.

The Senator talks about technology. The president of Rand Corp., D. B. Rice, said we have no business moving to demonstration of breeder reactors in this country at this time because our components are not ready. That is no Johnny-come-lately. That is the president of the Rand Corp. who said that. Dr. Theodore Taylor of Princeton, says the thorium breeder is infinitely superior to the LMFBR.

And that is just any old LMFBR. That is not the Clinch River project which everyone including the Department of Energy and the President recognizes is inferior and will be inferior the day it is built.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. BUMPERS. I yield.

Mr. JOHNSTON. Is the Senator aware that in the thorium reactor, thorium is a fuel and thorium fuel can be used in Clinch River?

Mr. BUMPERS. No, I do not believe that is true either. I would almost bet that is not true.

Mr. JOHNSTON. I bet you that horse.

Mr. BUMPERS. It has to be tested first in the fast flux test facility. We have not allowed them to test anything yet. We do not even know what fuel would be best for it.

All I am trying to do is to say we have an opportunity to quit throwing money at the problem. We are dealing with the politics of the problem, and we are being financially irresponsible in the process.

I ask my colleagues to do something that I think is sensible and shows restraint.

The Senator from Louisiana says it is costing $1.9 billion. That does not count the $700 million we already put into it. We are talking about $2.6 billion if we were going to go full blast today.

You could not finish that project for $4 billion in the next 10 years any more than you could fly to the Moon by stretching your arms out.

Mr. President, I ask that my colleagues support the amendment.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment offered by Senators BUMPERS and HATFIELD which would delete funding for the

Clinch River Breeder Reactor project. At a time when this Nation needs to be moving forward to develop energy supplies for the present and the future, I believe it is most unwise to kill this project.

The Clinch River project is designed to develop a nuclear fuel reactor that will be far more fuel-efficient than present reactors. Mr. President, U.S. supplies of uranium usable for nuclear fuel are limited. At the same time, I remain convinced that nuclear power offers the best possibility of filling the gap in our energy needs for the remainder of this century. In view of the fact that U.S. and world supplies of uranium are being depleted, I believe that the continued development of this breeder reactor is an essential component in a sensible nuclear energy policy for America.

Mr. President, we need to go forward with the development of nuclear energy, while at the same time incorporating every reasonable safeguard in reactor design and improved safety measures in reactors operation. It is also imperative that the Federal Government promptly develop a policy for the wise management and disposal of nuclear reactor waste. Additionally, we need to develop this breeder reactor technology, and for these reasons, I urge that the Senate defeat this amendment.

Mr. JOHNSTON. Mr. President, I move to lay on the table the amendment of the Senator from Arkansas, and I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment of the Senator from Arkansas. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DECONCINI) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The PRESIDING OFFICER (Mr. LEVIN). Are there other Senators in the Chamber wishing to vote?

The result was announced—yeas 64, nays 33, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—64

Armstrong
Baker
Bayh
Bellmon
Bentsen
Boren
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Danforth
Dole
Domenici
Durenberger
Eagleton
Exon
Garn
Goldwater
Gravel
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Laxalt
Long
Lugar
Magnuson
McClure
Morgan
Moynihan
Nunn
Percy
Pressler
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—33

Baucus
Biden
Boschwitz
Bradley
Bumpers
Chafee
Cohen
Cranston
Culver
Durkin
Ford
Glenn
Hart
Hatfield
Kassebaum
Kennedy
Leahy
Levin
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Muskie
Nelson
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Tsongas

NOT VOTING—3

DeConcini
Heinz
Packwood

So the motion to lay on the table Mr. BUMPERS' amendment (UP No. 577) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington. The Senate will be in order. Will the Senate please be in order so that we can hear the Senator from Washington?

Mr. MAGNUSON. There are several Senators who have asked me whether we are going to finish this bill tonight. We are. We must finish this bill tonight because we are working on a deadline. I do not know of any other amendments except one by the Senator from Iowa who has an amendment.

I do not know if there are any important amendments after that. Senator MELCHER has an amendment. I would imagine that we could get through with this joint resolution in an hour. I hope so, because we must pass the joint resolution tonight so we can have a conference in the morning, because the time runs out on Sunday, October 1, and the House is threatening to take a recess. So I am hopeful——

The PRESIDING OFFICER. Will the Senator suspend for a moment? The Senate will be in order.

Mr. MAGNUSON. I am hopeful that we can arrive at a conclusion on the conference tomorrow.

I now yield to the Senator from Iowa, who has an amendment.

UP AMENDMENT NO. 578

(Purpose: to prohibit the Federal funding of abortions except where the life of the mother is endangered)

Mr. JEPSEN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Iowa (Mr. JEPSEN), for himself, Mr. ZORINSKY, and Mr. EAGLETON, proposes an unprinted amendment numbered 578.

Mr. JEPSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on line 19, page 18, strike: "or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Nor are payments prohibited for drugs and devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. JEPSEN. Mr. President, the continuing resolution providing for fiscal year 1980 appropriations in excess of $247 billion which is before this body is now in jeopardy of being deadlocked and its passage in doubt because of a difference between the House and Senate which relates primarily to the Labor/HEW appropriation for federally funded abortions.

Accordingly, I intend to strike the language that was added by the Senate Appropriations Committee which provides for funding of abortions beyond those which are necessary to save the mother's life—genuinely therapeutic abortions. It has become quite clear over the last few years, and the House of Representatives has time and time again indicated, that only in that case should the taxpayers become involved in the unenviable business of funding abortion.

It is absurd to think that the Senate of the United States would hold almost the entire Federal Government hostage for what is clearly abortion on demand and not representative of the public's position on this sensitive question.

The first ever audit of the fiscal year 1978 and 1979 law, as reported by UPI, on September 5, 1979, the same law which the Senate now proposes—has shown all too dramatically that the law has proven totally unenforceable and impossible to administer. In this audit, in Pennsylvania, it was shown that $1.5 million was improperly spent. Assuming even a $300 price tag on an abortion, that would mean 5,000 abortions alone in Pennsylvania. Obviously with a figure like that, we are talking about elective abortion or abortion on demand.

If you are genuinely opposed to funding elective abortions with tax dollars, and are looking for a solution to the current impasse with regard to all of these important appropriations, I urge my colleagues to support my amendment. In this way then we can forgo a long and arduous debate on abortion and facilitate the orderly operation of the Federal Government.

Mr. President, I reserve the balance of my time.

I yield to the distinguished Senator from Oregon (Mr. HATFIELD).

Mr. HATFIELD. I appreciate the Senator's yielding.

Mr. President, I associate myself with the remarks of the Senator from the great State of Iowa at this point in behalf of his amendment.

This is not a subject that is easy to debate in many ways, because of the injection of so much emotion on both sides of the issue. But I would like to say to the Senator that I think he has very eloquently stated a proposition that really comes down to a question of human rights.

I have applauded President Carter many times for his commitment to human rights in the field of international politics, but I think it is a rather interesting dichotomy that many of our colleagues who also support the President in his quest to broaden human rights across the world will then take actions to restrict human rights here at home.

I feel that we really are striking at the very foundation of our society when we take action that denigrates and makes unimportant human life. I do not care what kind of arguments are used, we basically are engaged in the demeaning and denigrating the value of human life.

It is interesting that in some States this same fetus that has so little value in the actions of Congress and the Supreme Court can inherit property. It has that much status, that they give it property rights. Yet we are not willing to give it basic human rights, when it comes to protection and the right to be born.

I happen to take a liberal point of view on this whole question of abortion. I say that in the classical sense, because any movement in history that has attempted to extend rights to human beings and to protect human rights has usually been based on a liberal political philosophy, whereas the conservative approach, which is usually represented by the monarchist point of view, would centralize power in the hands of a few and restricting the rights of the people.

Really, we have some interesting labels attached today to positions on this issue. But regardless of whether we attach a philosophical label or not, we are still engaged in an activity that denigrates the rights of a human fetus.

So I am very much concerned that we face up to it, and not cloud it over with a lot of ballyhoo, a lot of excuses, and a lot of rationalization.

I would like to close my remarks by saying that I support all the alternatives that I know of to make this whole question of abortion a moot issue. You know, it is not a question of abortion or not to have an abortion, but it is really a question of looking at the alternatives.

I support the idea of providing for sex education. I support the proposition of providing for contraception, contraceptive devices, making them easily available, so that even though my particular moral code may not be practiced by others, at least there is an alternative to abortion, namely, contraception.

So I do not think it is a matter of just either/or; it is a matter of options which we can provide, and provide as an alternative to the taking of human life, the killing of fetuses. I say to the Senator that he is courageous in offering this amendment, and I am proud to be associated with him.

Mr. ROBERT C. BYRD. Mr. President, I believe this request has been cleared all around.

I ask unanimous consent that, other than the pending amendment and an amendment to be proposed by Mr. MELCHER, since I know of no other amendment, I ask unanimous consent that upon the disposition of those amendments no further amendments be in order and no further debate or motions, and that the joint resolution go to third readings and final passage.

The PRESIDING OFFICER. Is there objection? The Chair hearing none, it is so ordered.

Who yields time?

Mr. JEPSEN. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Iowa has 8½ minutes remaining.

Mr. JEPSEN. Does the distinguished Senator from Alaska desire time?

Mr. STEVENS. I beg the Senator's pardon?

Mr. JEPSEN. Do you want time?

Mr. STEVENS. No, I thank the Senator. We wanted it for the request of the majority leader.

Mr. MAGNUSON. We have time on this side.

Mr. JEPSEN. I have time remaining. I yield 2 minutes to the distinguished Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, President Carter has diagnosed for this country the illness of spiritual malaise. I think all of us can agree with that diagnosis. The country is in a period of spiritual malaise; how could it otherwise, when the processes of Government have been turned upside down?

Our Republic was founded to protect life, liberty, and the pursuit of happiness, or, as John Locke said, life, liberty, and property. Today we have the Government redistributing property instead of protecting it—redistributing it through the IRS. We have the Government not protecting our property, but enslaving us with pounds, reams, and tons of new rules and regulations every day. What is more important than either of those two matters, we have the Government facilitating the taking of human life—unborn, innocent human life—through the collection of taxes.

It is no wonder that this country is sick and the purposes of Government have been perverted. I hope our colleagues today will take a step toward rectifying that situation.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JEPSEN. Mr. President, I call for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JEPSEN. I yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, on this abortion issue, here we are once again.

Section 117 of the bill merely continues the current law into fiscal 1980 for 30 days for those appropriation bills that currently have any limitations on the funding of abortions.

The issue is raised by language adopted on the Labor-HEW bill, The Defense Department appropriations, the District of Columbia appropriations, and the foreign operations bill.

The limitations contained in section 117 would apply to those four appropriations and are the same as current law that applies to the Defense Department and to Labor-HEW during fiscal 1979.

The limitations are exactly the same as what the Congress finally adopted last year.

The limitations are exactly the same as the Senate has approved already this year—several times—in reference to the Labor-HEW bill.

Right now, on those 4 bills dealing with fiscal 1980 there are at least three different sets of limitations on abortion.

If Congress is to have any limitations on appropriations they should be uniform, they should be consistent.

Section 117 is consistent with current law, and applies the same law across the four appropriation bills involved in the abortion issue at this time.

It is the same set of limitations adopted Monday by the Senate on a vote of 57 to 31.

Mr. President, here we go again. The issue does not belong on this bill at all. If I had my way, I would not touch abortion one way or another on appropriations bills and, in particular, an appropriations bill that is a continuing resolution. I understand the purpose of continuing resolution is to only continue the status quo until we can finish the regular appropriations bills.

The result is that here, today, the Senator from Iowa and everybody else is bringing up the same old story. Now, I guess, we are going to have to have a vote on it again.

There is no use debating the issue. It has been debated on the Senate floor so many times. Mr. President, 2 years ago, we had 28 votes on abortion on appropriations bills, when it does not even belong on appropriations bills at all. It is legislation on an appropriations bill, in its very essence.

I do not know how often we have to go through this but I guess that we have to go through it again. So I am willing, unless the Senator from North Dakota has something to say, to yield back my time.

Mr. STEVENS. Will the Senator yield to me for 30 seconds?

Mr. MAGNUSON. Yes.

Mr. STEVENS. I want to be sure everyone understands that this is the same language the Senate voted on 2 days ago. We have voted on it four times this year. It is the same language, for a 30-day period. We can deal with it.

Mr. MAGNUSON. For a 30-day period, consistent with a continuing resolution. There are at least, three different limitations dealing with abortions on four bills.

Mr. STEVENS. I am talking about the language that is in the bill as reported by the committee, not the language offered by my good friend from Iowa.

Mr. MAGNUSON. It is the language that is in the bill.

I yield back the remainder of my time, so I guess the clerk can call the roll.

Mr. President, I move to lay the Jepsen amendment on the table.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion to lay the amendment of the Senator from Iowa on the table.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Oregon (Mr. PACKWOOD), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. PRESSLER) would vote "nay."

The PRESIDING OFFICER. Is there any Senator who has not voted?

The result was announced—yeas 55, nays 36, as follows:

[Rollcall Vote No. 318 Leg.]

YEAS—55

Baucus
Bellmon
Bentsen
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Culver
Glenn
Gravel
Hart
Hayakawa
Heflin
Hollings
Inouye
Jackson
Javits
Kassebaum
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Simpson
Stafford
Stevens
Stevenson
Stewart
Talmadge
Tower
Tsongas
Wallop
Weicker
Williams

NAYS—36

Armstrong
Biden
Boren
Boschwitz
Cochran
Danforth
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Garn
Goldwater
Hatch
Hatfield
Helms
Huddleston
Humphrey
Jepsen
Johnston
Laxalt
Long
Lugar
McClure
Melcher
Proxmire
Randolph
Roth
Schweiker
Stennis
Stone
Thurmond
Warner
Young
Zorinsky

NOT VOTING—9

Baker
Bayh
DeConcini
Eagleton
Heinz
Kennedy
Morgan
Packwood
Pressler

So the motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JEPSEN. Mr. President, I ask unanimous consent that the name of the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, had I been present at the last vote, I would have voted "nay" on the Jepsen amendment. I ask unanimous consent that the RECORD so indicate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the only amendment which is now in order is an amendment by the Senator from Montana.

Mr. MAGNUSON. Mr. President, I understand that the amendment by the Senator from Montana is the last amendment.

UP AMENDMENT NO. 579

(Purpose: To insure equitable continued rail passenger service in the United States on the Amtrak system on those routes proposed to be dropped which are higher on the criteria basis than trains being retained in the system under the restrictive authority)

Mr. MELCHER. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STEVENSON). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER), for himself and Mr. WEICKER, Mr. YOUNG, Mr. DOLE, Mr. BOREN, Mr. BURDICK, Mr. DURENBERGER, Mr. BAUCUS, Mr. STEWART, and Mr. MAGNUSON, proposes an unprinted amendment numbered 579.

Mr. MELCHER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 10, immediately after the word "authority" insert the following: "except the restrictive authority shall not apply to passenger trains operating on routes comprising the present AMTRAK system which have been projected by AMTRAK for the fiscal year 1980 to have a higher passenger mile per train mile or avoidable loss per passenger mile criteria than have any other train(s) presently operating on the AMTRAK system and which train(s) will be retained in the system regardless of quadrant or category, except those routes recommended for restructuring in whole or in part by the Department of Transportation shall be retained under the restrictive authority and the Buffalo-Detroit segment in the Department of Transportation plan shall be implemented on November 15, 1979 without curtailing the level of service on the Lakeshore as it existed on the date of the passage of this resolution".

Mr. MELCHER. Mr. President, this amendment is a straightforward effort to assure that some of the trains on Amtrak that are due to be discontinued as of October 1 will continue in operation. It is a straightforward, honest effort to make it the will of Congress that there be the opportunity for train riders throughout the country to continue to have the chance, during the life of this continuing resolution, to ride those trains.

The amendment is structured to direct the Department of Transportation to continue operating those trains that meet the PM/TM and available cost per passenger mile criteria on trains as good or better than the rest of the trains on Amtrak that are being continued in operation.

It is because we have adopted a quadrant system which modifies the Department of Transportation's plan for Amtrak that some trains that have been running better than others this summer and based on reservations are projected to run better during the fall and winter we offer this amendment. Because of the structuring of the quadrant system, some trains which have high ridership and which actually meet the cost criteria that the Department of Transportation are being cut while some of the trains that will be retained, do not. Because of this we find it necessary to offer this amendment.

Mr. President, this amendment today to the continuing resolution is intended to assure that the Amtrak system is based on merit and true utilization of the objective criteria which we have already recognized. This action is needed pending the outcome of a lawsuit filed in Montana by the Railway Labor Executives' Association, Congressman PAT WILLIAMS and I asking Judge W. D. Murray in Butte, Mont., for a temporary restraining order.

Ridership on this train is high by our own criteria. People seeking space on the North Coast Hiawatha are being turned away by the thousands. Specifically, for the week of August 13–19, space denials on the Hiawatha totaled 9,095. In June and July (the most recent months for which Amtrak information is available), the Hiawatha had passenger mile per train mile ratios of 162 and 162.8, respectively, and these numbers are low because Amtrak includes part of the North Star figures in with the Hiawatha. The North Star patronage compared to the Hiawatha is worse and it therefore reduced the Hiawatha's numbers. These ratios exceed the 150 level required in the recently passed Amtrak authorization. The Hiawatha's avoidable loss is also very close to the required 7 cents per passenger mile.

Together, these figures show retention of the ridership induced by the fuel crisis; they further indicate that the Hiawatha may produce a higher than anticipated PM/TM ratio.

The litigation I mentioned is proceeding in an effort to require further analysis of the Hiawatha by Amtrak and DOT before the train is removed from the route structure.

Mr. President, much discussion has been made of the criteria, the passenger per train mile and avoidable loss per passenger mile. Well I think we ought to let the chips fall where they may and be sure that these criteria are in fact really used.

I would like my fellow Senators to know the depth of the commitment to the Hiawatha that exists in the Northern Tier States.

Amtrak has projected a PM/TM for the next fiscal year of 140 yet this projection never took into account the fact that new equipment was to be put into action on this route, this next year. They, therefore, did not calculate the decreased costs that would occur from the operation of these cars nor did they calculate any increase in ridership that would most certainly occur from the use of this new equipment which even DOT does when they calculate their numbers. Yet, Mr. President, the people of the Northern Tier States continue to ride Amtrak trains because the price of gasoline is pushing them to ride trains. The PM/TM has remained strong, people are being turned away. And this is on a long-distance train with an ontime performance of 3.8 percent down from a nonspectacular performance in 1978 of 18.5 percent. Only two other long-distance trains have a worse ontime performance.

You might normally think that the people in the Northern Tier States would say goodbye to bad rubbish. Well they do not. They do not because they do not have much choice in the type of mode on which they can travel. They simply go back maybe not liking it, but go back because they have no alternative.

Another interesting fact, Mr. President, is that no person other than the Attorney General of the United States has standing to sue to insure that there is fair implementation of the criteria. That is why it is critical that Congress give direction to insure that the criteria upon which the Congress sought to structure the Amtrak system is in fact utilized.

It has been widely represented that the authorization bill represents an objective solution to the route structure problem wherein several of the best trains on DOT's hot list were saved and the worst trains were allowed to die. In fact, based on the promises that were made, it appears that five trains heavily patronized are being killed and several of the system's weaker trains are being saved.

It is my contention that the political nature of the emerging route structure means that my amendment would in fact be less political.

What follows is a route-by-route discussion of the routes to be killed and the ones whose salvation played a key role in securing support for the compromise:

I. CHICAGO-TEXAS

Amtrak has settled on an inter-American segment with a Temple-Houston leg added to protect the most sensitive portion of the Lone Star which would be discontinued. Although the Inter-American has recently shown hefty percentage increases in ridership, the Lone Star consistently has had higher ridership. The July ridership figures—most recent to come from Amtrak—show it at 233,186 compared to the Inter-American's 25,524. The selected May data compiled for DOT show the Lone Star at 102 PM/TM, the Inter-American at 78.

The Inter-American would undoubtedly be improved by gaining Houston and losing Laredo, but this would not change the fact that the Lone Star has a superior route between Chicago and Ft. Worth/Dallas. Presumably the Lone Star would be analyzed with the same Laredo/Houston legs as the Inter-American, so it boils down to comparing the Kansas City/Oklahoma City routing with the St. Louis/Little Rock routing. The Lone Star is used by some people connecting between California and Texas, using the Southwest between Newton, KS, and points west. The Inter-American would be further weakened if the National Ltd.—with which it connects at St. Louis—deprives it of traffic from Indianapolis, Dayton, and Columbus. The Lone Star has benefitted from an attractive 4:10 p.m. departure time from Chicago—allowing connections from all major eastern points, as well as permitting Chicagoans to have a near-full business day.

The Inter-American departs Chicago at 11:15 a.m. missing connections from Detroit, Cleveland, Upstate New York, and New England. (Changing the schedule would cause other more severe problems.)

Finally, please note that neither existing route is totally acceptable to Texas. What is needed is a direct route south from Dallas to San Antonio and Houston, since Dallas has 90 percent of the area's market (Ft. Worth only 10 percent). If the Inter-American is the only train to survive, satisfactory intra-State service in Texas would probably mean elimination of Ft. Worth service. With the Lone Star, on the other hand, Fort Worth could continue to have service both north and south (albeit less direct south) after the Dallas problem is solved.

II. PACIFIC NORTHWEST

There are two routes at issue here: the Pioneer running Seattle-Portland-Boise-Ogden-Salt Lake City, and connecting in Ogden with the San Francisco Zephyr to and from Denver-Omaha-Chicago; and the North Coast Hiawatha running Seattle-Spokane-Billings-Fargo-Minneapolis-Chicago three times per week.

The promises here are very clear: Pioneer will stay, Hiawatha will go, notwithstanding Amtrak's PM/TM projections of 77 and 140 respectively.

The Hiawatha is unique among trains on the hit list in that it does not represent a further drain on equipment. The present compromise, in line with the DOT report, apparently anticipates daily service on the northern Montana (Empire Builder) route in the peak seasons. If Amtrak can field equipment for daily Chicago-Seattle service during the peaks, it can certainly do so year round. Thus this boils down to the question of whether one operates daily on the northern route or, as at present, tri-weekly northern and tri-weekly southern. The present operation obviously costs more to keep stations open, but not in equipment.

Furthermore, the elimination of daily service between Minneapolis and Seattle would mean Amtrak would lose its mail contract between those cities. This would also be the first time in modern history when daily daylight service between Chicago and Minneapolis would not be provided.

III. CHICAGO-FLORIDA

This service has been criticized since the inception of Amtrak because Atlanta is not served. However, the Floridian had 6,868 space denials for August 13–19.

The fact remains that ridership today fills the train and the agents at Montgomery and Birmingham frequently have to turn away passengers. The train is an important link in Amtrak's sparse national network because it represents the only reasonably direct way to get between Chicago and the Southeast; the alternative is via Washington, D.C. Furthermore, a faster schedule would mean more vital points served at unmarketable hours—Jacksonville is already 5:25 a.m. south and 12:40 a.m. north, and a tighter schedule would push it further into the middle of the night. The key Orlando station now has perfect times: 9:05 a.m. south and 8:50 p.m. north; these would slip toward Jacksonville's less desirable times under a faster schedule.

Finally, the present Louisville-Nashville segment would probably be operated no matter what route the train took in Georgia and Indiana, and discontinuing service there would present one additional hurdle to overcome in any future restoration move. L&N freight congestion and/or lack of cooperation have long hindered attempts to move this train into Atlanta as well as establishing New Orleans-Jacksonville service.

IV. THE NATIONAL LIMITED

This train operates New York-Philadelphia - Harrisburg - Pittsburgh - Columbus-Dayton-Indianapolis-St. Louis-Kansas City. It feeds passengers both to and from the Inter-American at St. Louis and to the Southwest Ltd. and Lone Star at Kansas City. It reportedly serves a larger total population than any other single Amtrak route. Although track conditions need further improvement, it has some of the longest straight alinements in the United States through Ohio, Indiana, and Illinois. It is the only train in Indianapolis, which Amtrak will need to get cars in and out of its major maintained facility at nearby Beech Grove. It appears running a special shop train from Chicago would cost $200,000/year and result in cars being held out of service longer for shop work in contrast with the present. The National now makes it possible to run cars in and out of Beech Grove either direct to St. Louis or New York daily. The National is also a key mail route for Amtrak. Currently New York-Dallas mail car is operated via the National and Southwest, if the National survives, this car would survive as well (presumably being switched to the Inter-American if the Lone Star is dropped).

The National is the only train to serve five Pennsylvania points (Lewistown, Huntingdon, Tyrone, Latrobe, and Greensburg) and service to the new Johnstown station would be cut from two trains to one if the National is dropped.

V. NEW YORK-FLORIDA

These trains as a group are the strongest performers among all the long-distance trains. The two targets, "Champion" and "Silver Meteor", were estimated for fiscal year 1980 at 179 and 232 PM/TM, respectively.

VI. THE WEST VIRGINIA STORY

Under the final DOT plan, only Harpers Ferry and Martinsburg were to get service. However, the Shenandoah and Cardinal are being maintained under special provisions which my amendment is not intended to touch.

The following chart shows projections for fiscal year 1980 based on two official sources: Statistics on trains excluded from the DOT plan are the recent Amtrak estimates; statistics on the trains in the DOT plan are from March DOT estimates for operation of the entire system.

Train	Avoidable loss per passenger mile (cents) (projected for fiscal year 1980)
National Ltd. (New York/Washington-Kansas City)[1]	7.5
North Coast Hiawatha (Chicago-Billings-Seattle)[1]	7.9
Pioneer (Salt Lake City-Seattle)	8.3
Lone Star (Chicago-Wichita-Dallas/Houston)[1]	11.1
Inter-American (Chicago-Little Rock-Laredo)	13.1
Floridian (Chicago-Miami/St. Petersburg)[1]	13.4
Cardinal (Washington-Charleston, W. Va.-Chicago)	13.5
Hilltopper (Washington-Roanoke-Ashland, Ky.)[1]	25.0
Shenandoah (Washington-Parkersburg-Cincinnati)	25.7

	PM/TM (fiscal year 1980 estimate)	Percent ridership increased from June 1978 to 1979[2]
Montrealer (Washington-Montreal)	257	36
Coast Starlight (Los Angeles-Seattle)	252	36
Silver Meteor (New York-Charleston-Miami)[3]	232	34
Southwest Ltd. (Chicago-Albuquerque, L.A.)	201	27
Broadway Ltd. (New York/Washington-Chicago)	189	36
Champion (New York-Columbia-St. Petersburg)[3]	179	34
Crescent (New York-Atlanta-New Orleans)	174	7
Sunset Ltd. (New Orleans-Los Angeles)	172	32
Palmetto (New York-Charleston-Savannah)	166	25
Lake Shore Ltd. (New York/Boston-Chicago)	165	23
Empire Builder (Chicago-Havre-Seattle)	157	1
San Francisco Zephyr (Chicago-San Francisco)	148	46
Panama Ltd. (Chicago-New Orleans)	144	30
North Coast Hiawatha (Chicago-Butte-Seattle)[1]	140	(4)
National Ltd. (New York/Washington-Kansas City)[1]	103	34
Lone Star (Chicago-OK-Dallas-Houston)[1]	102	34
Inter-American (Chicago-AR-Laredo)	78	40
Pioneer (Seattle-Salt Lake City)	77	40
Floridian (Chicago-Miami/St. Petersburg)[1]	75	69
Cardinal (Washington-Charleston, W. Va.-Chicago)	71	49
Hilltopper (Washington-Richmond-Ashland)	29	20
Shenandoah (Washington-Parkersburg-Cincinnati)[1]	26	11

[1] Trains to make their final trips Sept. 30 under Amtrak plan. (Cardinal and Shenandoah await conference committee action.)

[2] PM/TM increases were generally even higher.

[3] Champion would die; Meteor would get St. Petersburg leg. Resulting Meteor projected for 262 PM/TM but would be 282 if enough equipment was available to meet demand.

[4] Only available figure is 9 percent for "Hiawatha" and Chicago-Twin Cities portion of "North Star" combined. "Hiawatha" alone would be higher.

I offer the amendment on behalf of myself and Mr. STONE, Mr. BAUCUS, Mr. BURDICK, Mr. RANDOLPH, Mr. WEICKER, Mr. YOUNG, Mr. DURENBERGER, and Mr. DOLE.

Mr. MAGNUSON. Mr. President, will the Senator add the chairman's name?

Mr. MELCHER. I am delighted to add the chairman.

Mr. President, I ask unanimous consent that Mr. MAGNUSON's name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. It is because of the changing conditions that affect the country with the high price of energy, the high price of fuel, we find that these trains all summer long, have been filled and that Amtrak had a very difficult time accommodating the people that wanted to ride on them. We find it absolutely essential to continue for a few months the opportunity for these people to ride on them.

As to the effect on trains of the quadrant system, for instance, my own quadrant in the Northwest, based on the criteria that was adopted when we passed the authorization bill, two trains will remain, the Empire Builder and the Pioneer.

The Northwest is a big area but because of that restriction the Department of Transportation will be forced to drop the Hiawatha. The Hiawatha is filled at about 145 or 150 passengers and that is the way it has been running all summer. It is now running over half full right now even though this is a rather slack month for Amtrak. While reservations were being taken by Amtrak the Hiawatha was projected to be between two-thirds and half full 3 to 13 weeks in advance.

I understand that the hour is late in terms of maintaining the present Amtrak system. I understand that the Senate gets a little bit tired of this subject coming up, but it is so important for those people who must ride trains in order to get from here to there that we provide them this opportunity. My cosponsors and I therefore beg the indulgence of the Senate to agree to this very straightforward and honest amendment, it meets the test of satisfying the public's interest in riding on trains. It meets the challenge that we face in this country of maintaining as much as we can of our passenger train service, and I think that is highly necessary in light of the circumstances that we face with rising fuel costs.

Mr. President, I reserve the remainder of my time, unless the Senator from Missouri wishes to ask me a question.

Mr. DANFORTH. Mr. President, I wish to make a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. This amendment is not in order because it constitutes legislating on an appropriations bill.

Mr. CANNON. Mr. President, if the Senator will yield, will the Senator withhold that until after I may make a brief statement?

Mr. DANFORTH. I withhold.

The PRESIDING OFFICER. The point of order is not in order until the time on the amendment is used or yielded back.

Mr. CANNON. Mr. President, who has the time in opposition?

Mr. YOUNG. If the minority has any time, I am glad to yield it to the Senator from Missouri.

Mr. CANNON. Will the Senator yield me 3 minutes?

Mr. DANFORTH. If I have the time, Mr. President, I am happy to yield 3 minutes to the Senator from Nevada.

Mr. CANNON. Mr. President, it is very disappointing to see that the Senator from Montana is offering this amendment today.

The Amtrak legislation was given a great deal of time this session in the Commerce Committee, and we carefully examined the administration's proposal to reduce the system by 43 percent. Now eventually the Commerce Committee, this Senate body, and the House of Representatives worked out a cut-back, a modification in that proposal, that represented a 20-percent reduction in the total Amtrak system. As a matter of fact, the Senate adopted the Amtrak conference report on September 25, and the House of Representatives will probably act today on the conference report.

So at this stage it is rather staggering to expect that the Senate should turn away from the hard work and thoughtful consideration that was put into working out a difficult compromise, a compromise that provides an opportunity for every potentially viable train to demonstrate it can make it financially or at least that it enjoys strong public support, the kind of support that is demonstrated by a good level of ridership.

Since the Senator's amendment would alter the structure of the Amtrak system to be effective October 1, 1979, as approved in the conference report by this body on September 25, the Senator by this amendment is attempting to legislate on an appropriation bill, and my colleague from Missouri is going to make a point of order. I think it is clear, that that point of order has been sustained in many prior instances on proposals such as this in attempting to legislate on an appropriation bill.

The pending amendment would change the route system that was designated by the Amtrak Improvement Act of 1979, as amended, and the amendment clearly changes existing law and would require the Secretary of Transportation and the Amtrak board of directors to perform affirmative acts.

This amendment does not enjoy the exception of being a technical amendment because it would change the structure of the Amtrak system as it exists today.

In 1975 Congress authorized that all changes in the Amtrak system would be accomplished by following the route and service criteria authorized in the Amtrak Improvement Act of 1975, as amended by the Amtrak Improvement Act of 1978.

There is no question but what this would, of course, be a limitation on the bill.

I thank the Senator for yielding to me. I do not know that I need to add anything further. I am satisfied that the Senator's point of order will be sustained when he makes it at the time when time on the amendment is used.

I thank the Senator for yielding.

Mr. MAGNUSON. Mr. President, I yield 4 minutes to the Senator from Oklahoma.

Mr. BOREN. I thank the chairman.

Mr. President, I am proud to support and cosponsor this amendment to the continuing resolution which would seek to keep the present Amtrak system intact. As evidenced by my statement concerning the conference report on the Amtrak appropriation, I am unable to comprehend why the Amtrak Corp. chose to discontinue the Lone Star train which is the only remaining rail passenger service for the State of Oklahoma, while continuing others. The original act cut the national system by approximately 43 percent, but in the end the cut was reduced to only 16 percent, and it was made in a most discriminatory fashion.

Mr. President, according to Amtrak's own projections, the Lone Star would be a better train in 1980 than some of those being saved. Projections for the Lone Star's ridership in 1980 are 102 passenger-miles per train-mile and a projected operating loss of 11.1 cents per mile.

In contrast, Mr. President, some of the trains being saved have poorer figures than the Lone Star. Examples are the Inter-American, which Amtrak predicts will have only 78 passenger-miles per train-mile and will operate at a loss of 13.1 cents per mile, the Pioneer, which will have only 77 passenger-miles per train-mile and will operate at a loss of 8.3 cents per mile, the Cardinal, having only 71 passenger-miles per train-mile and losing 13.5 cents per mile, and the Shenandoah, predicted to have only 26 passenger-miles per train-mile and operating at a loss of 25.7 cents per mile.

Mr. President, based on these figures, it is very hard to comprehend how Amtrak could determine that the Lone Star should be one of the trains discontinued. It just does not make sense and I do not intend to vote for this appropriation because I do not think that Amtrak has been fair in their decisions regarding a restructured passenger rail system. Oklahomans are prepared to bear their fair share of sacrifices necessary to balance the budget but this action by Amtrak is a case of blatant discrimination against the people whom I represent in the Senate, and I would assume we could find many other examples in other States that would bear out the fact that this is a pattern of discrimination in determining these cuts on a national basis.

As I pointed out in an earlier statement, the figures on the projected ridership and operating loss of the Lone Star are better than some of the trains that have been scheduled for continuance. What this says to me, Mr. President, is that the Amtrak Corp. is not serious in their efforts to provide the best form of mass transportation that they can. I intend to support this amendment because I think it is highly inappropriate to cut back service on trains during these times of high ridership and uncertain and costly fuel supplies.

Mr. President, just today Amtrak reported that for the third month in a row they had carried more than 2 million passengers. They further reported that the number of people unable to find seats on the trains may have been as high as 1.8 million. Amtrak has carried a record 19.6 million passengers this year, a record for the corporation.

Mr. President, with these figures in mind, does it make any sense whatsoever to discontinue trains, especially trains that are better statistically than some of those proposed to be saved? I submit that it does not make any sense and in fact will operate to eventually do away with the passenger train as a mode of mass transportation in the future. It is going to cost a lot more in the future to get back into the passenger train business than it would cost to exercise some restraint right now and maintain the present system so that all the effects of the gasoline situation can be evaluated. I urge my colleagues to support this amendment in the interest of the people who utilize these trains.

Mr. DANFORTH. Mr. President, in August by a vote of 65 to 35 this body agreed to a compromise worked out by a number of us under the leadership of Senator LEAHY. The compromise was to the effect that trains would be continued provided they would meet two criteria.

One criterion was that they would average 150 passenger miles per train mile. The other criterion was that they would have no more than a 7-cent per passenger-mile per train-mile subsidy.

The effect of Senator MELCHER's amendment, if it were in order—and I do not believe it is in order—would be, in substance, to continue five trains in operation, each of which fails to meet the bulk of the criteria agreed on by the Senate just last month by a vote to 65 to 35. In fact, these trains do not even come close to meeting either of those criteria.

Mr. President, precisely the same arguments that prevailed last month would prevail today. No facts have been presented which change any of the arguments that were made on the prevailing side in August and, therefore, Mr. President, I think this is just rehashing exactly the same question.

I am prepared to yield back the remainder of my time if there is nobody else who wants to speak against the amendment.

Mr. CANNON. Mr. President, will the Senator yield me 1 more minute?

Mr. DANFORTH. Yes.

Mr. CANNON. I simply point out that there is no provision for funding this action if it were passed by Congress. The cost, it is estimated that the cost, would range from $40 million to $60 million. So I do not know where the money is going to come from. There is no funding in the bill that would cover it. The funding is very specific on the Amtrak charges.

I thank the Senator for yielding.

Mr. DANFORTH. Mr. Speaker, if there are no other speakers in opposition——

Mr. GLENN. Mr. President, will the Senator yield me 2 minutes.

Mr. DANFORTH. Certainly.

Mr. GLENN. Mr. President, the vote on the Melcher amendment which would, in effect, retain all of the, most of the, present Amtrak system, with the exception of the very highly subsidized Floridian, is not an easy one for me. However, I intend to vote "no" on the merits of this amendment.

It is true that for 1 month the National Limited in Ohio, which serves central Ohio east to west, would be continued. However, the amendment also includes language which would, in effect, eventually eliminate the Lakeshore Limited which serves the metropolitan areas of Cleveland, Lorain, Elyria, and Toledo, because it puts into effect the direct train service between Buffalo and Detroit, which serves exactly the same market, and even runs Amtrak outside the United States. It runs it across Canada, and it takes our market that now runs along northern Ohio.

For those reasons, Mr. President, I plan to vote against the Melcher amendment.

I thank the Senator for his time.

Mr. MELCHER. Mr. President, I am ready to yield back the remainder of my time. I just want to state, to quiet the fears of the Senator from Ohio, that the language will permit the Niagara to run, and it is based on State cooperation. We know the amendment has no effect on other trains in Ohio such as the Lakeshore.

While we are aware that if we kept this on for a full year, it costs between $40 million and $60 million, we think it would be money well spent.

We are also aware that this is a continuing resolution, so we know we would have to work out other things with the Department of Transportation in the next 60 days.

We are talking about a small amount of money, and we are hoping the Senate will give us that opportunity, and I encourage an affirmative vote on the amendment.

Mr. STONE. Mr. President, this past August, the Senator from Montana and I, along with 33 other Senators, sought to postpone for 1 year any cuts in the Amtrak route system. We failed. I still think we were right in that fight.

At the end of August, the Amtrak Board of Directors approved staff recommendations as to which trains would be kept over and above the basic DOT system. While those recommendations did not fall as heavily on Florida as they could have, they did result in the loss of the Floridian and the loss of one frequency on the New York to Florida route from Jacksonville north.

I continue to believe that if given better equipment, a sensible routing and good scheduling, the Floridian could be a viable part of the Amtrak system. June 1979 ridership on the Floridian was up 69 percent over June of last year. The October to June increase over that same period last fiscal year is 28 percent. Think what could happen to those statistics if the train went to Atlanta and Indianapolis.

One aspect of the Floridian that needs to be addressed is if that route is completely eliminated, rail travel from Florida to any place in the Nation, other than the eastern seaboard, will require a train trip to Washington, D.C., which, of course, means Floridians will have no realistic rail service to the West and Midwest. I have written Alan Boyd, the President of Amtrak, asking that the Birmingham-Jacksonville segment of that route be retained. Retention of this segment would link Florida to the Crescent, which makes Atlanta and New Orleans accessible by rail and opens up most points west and north of New Orleans. If you want to talk about regional needs, here is one. No rail service from Florida, our eighth most populous State, to the west or north (except along the east coast). I hope Amtrak will seriously consider this proposal if our efforts fail here today. I ask unanimous consent that the text of my letter to Boyd be printed in the RECORD.

As to the New York to Florida routes, as I predicted, Amtrak's projections for 1980, show both the Champion and the Silver Meteor meeting the passenger mile per train mile criteria devised by the House and Senate. Combining those two trains, as Amtrak recommends, will overburden that train, as Amtrak acknowledges. There will be more riders than that one train can handle and easily enough to merit the retention of both trains. But there is only so much money in the pot and the House and the Senate saw fit to devise other ways to bring trains into the system that will not do as well as those two New York to Florida trains. This is unfair. Unfair to the riders and unfair to the taxpayers.

No Amtrak authorization or appropriations bill has yet passed the Congress. Without a statute modifying the DOT plan, that plan will go into effect next Monday, October 1.

I urge my colleagues to support the Melcher amendment. It will make sure that the trains the people are riding will be kept. It will make sure no steps are taken to implement the DOT plan are taken.

● Mr. BAUCUS. Mr. President, I am pleased to join my colleague from Montana in offering this amendment. Without its passage, several Amtrak routes will be eliminated the first of next month, despite the fact that their ridership continues to far outstrip that of other trains scheduled to be retained in the passenger rail system.

The North Coast Hiawatha, which crosses the vast expanses of the northwest, is a prime case in point. Boardings this summer far exceeded the ridership criteria set by Congress for route retention. This continues to be the case with advance reservations being booked at unprecedented levels—demonstrating graphically the public's interest and need for the continuation of this service.

It is only fair that those routes now receiving expanded passenger support be allowed to remain in operation as long as that support continues. I see no signs, Mr. President, that our gasoline supply problems have been permanently solved, nor that price levels have yet stabilized. Alternatives to use of the family car must be kept intact, and I call on my colleagues in the Senate to listen to those citizens who have indeed been voting—not at the ballot box, but at Amtrak ticket counters—for the retention of those routes which have shown significant increases in public support, both by setting new records for actual use during the last few months as well as advance bookings for the future.●

Mr. MELCHER. I yield back the remainder of my time if the opposition is ready to make the motion.

Mr. DANFORTH. Mr. President, I yield back the remainder of my time and I make a point of order that this amendment is not in order.

Mr. MELCHER. Mr. President, I raise the question of germaneness.

The PRESIDING OFFICER. The question of germaneness having been raised, the Chair, as it must, under rule XVI, paragraph 4, submits the question to the Senate.

Mr. MELCHER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Is the point of order well taken? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from North Carolina (Mr. MORGAN), the Senator from New Jersey (Mr. BRADLEY), and the Senator from South Dakota (Mr. McGOVERN) are necessarily absent.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

Mr. DANFORTH. Regular order, Mr. President.

Mr. CANNON. Regular order.

Mr. DANFORTH. Regular order, Mr. President.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who have not yet voted, who wish to do so?

Mr. McCLURE. Mr. President——

The PRESIDING OFFICER. On this vote——

Mr. McCLURE. Mr. President, Mr. President——

The PRESIDING OFFICER. The yeas are 43——

Mr. McCLURE. Mr. President——

The PRESIDING OFFICER. The Senator from Utah.

Mr. McCLURE. Idaho, Mr. President.

The PRESIDING OFFICER. I beg the Senator's pardon.

Mr. McCLURE. Yea.

The yeas and nays resulted—yeas 44, nays 44, as follows:

[Rollcall Vote No. 319 Leg.]

YEAS—44

Baucus
Boren
Boschwitz
Bumpers
Burdick
Church
Cranston
Dole
Domenici
Durenberger
Durkin
Ford
Goldwater
Gravel
Hatch
Hatfield
Heflin
Inouye
Jackson
Javits
Levin
Magnuson
Matsunaga
McClure
Melcher
Metzenbaum
Moynihan
Nelson
Pressler
Pryor
Riegle
Roth
Sasser
Schmitt
Schweiker
Simpson
Stewart
Stone
Thurmond
Tsongas
Wallop
Weicker
Williams
Young

NAYS—44

Armstrong
Bentsen
Biden
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Culver
Danforth
Exon
Garn
Glenn
Hart
Hayakawa
Helms
Hollings
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Long
Lugar
Mathias
Muskie
Nunn
Pell
Percy
Proxmire
Randolph
Ribicoff
Sarbanes
Stafford
Stennis
Stevenson
Talmadge
Tower
Warner
Zorinsky

NOT VOTING—12

Baker
Bayh
Bellmon
Bradley
DeConcini
Eagleton
Heinz
Kennedy
McGovern
Morgan
Packwood
Stevens

The PRESIDING OFFICER. On this vote the yeas are 44 and the nays are 44. The amendment is therefore, on a tie vote, held nongermane.

Under the previous order, there will now be a third reading.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

Mr. MAGNUSON. Will the Senator withdraw that for a minute?

Mr. MATHIAS. I withdraw it.

Mr. MAGNUSON. Mr. President, this is the last vote. The unanimous consent request was that we would have third reading on the bill. I do not know whether we want a rollcall on the continuing resolution, or not. I do not need one.

But there is an emergency matter has to be taken care of.

Mr. SCHMITT. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct.

The Senate will be in order.

Mr. MAGNUSON. It involves the problem in HUD in which we thought when they made up the continuing resolution that HUD should be exempt on the theory it was going to be resolved before we got to this bill.

Apparently, there is some difficulty. So, to be sure, the Senator from Maryland is going to submit an amendment including HUD. That is what it is.

Now, I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Senator from Maryland be allowed to submit an amendment at this point.

Mr. LONG. I object, Mr. President. I do not know what it is. Reserving the right to object——

Mr. MAGNUSON. I just explained it. I explained it twice. It is to include HUD in it.

Mr. LONG. I have no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is in order.

UP AMENDMENT NO. 580

Mr. MATHIAS. Mr. President, I thank the distinguished chairman of the Appropriations Committee for asking the Senate for permission to offer this amendment.

It is a very simple amendment. It is made necessary by the fact that we have an unexpected disagreement.

The PRESIDING OFFICER. Would the Senator send the amendment to the desk so it can be stated?

Mr. MATHIAS. Necessary by the fact that there is an unexpected disagreement between the Senate and the other body in the matter of the HUD conference report.

The PRESIDING OFFICER. If the Senate will withhold, the clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 580:
>
> On page 11, after line 21, insert the following:
>
> "(j) Such amounts as may be necessary for projects or activities provided for in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980 (H.R. 4394), at a rate of operations, and to the extent and in the manner, provided for in such Act as reported from the committee of conference on August 2, 1979, notwithstanding the provisions of section 106 of this joint resolution: *Provided*, That those programs on which the committee of conference has failed to reach agreement shall be funded at the lesser of the amounts approved by the House or Senate.".

Mr. MATHIAS. Mr. President, the amendment is self-explanatory. It will simply keep veterans benefits and the other important programs from lapsing if the disagreement between the Senate and the other body is not resolved.

Mr. DURKIN. Will the Senator yield for a question?

Mr. MATHIAS. Yes.

Mr. DURKIN. Does this just apply to the veterans programs?

Mr. MATHIAS. No. Anything in HUD or independent agencies appropriations bill. That would be Veterans, Science Foundation, NASA, EPA, a variety of things.

Mr. DURKIN. I cannot even get HUD to return my phone calls. I am not too interested in helping HUD.

Mr. MATHIAS. Well, there are many. VA is in the same boat.

Mr. PROXMIRE. Mr. President, HUD is not this at all. As an agency, it is only NASA, and because NASA has to get this accommodation, the effect on the VA and others would be serious. We cannot get this in the continuing resolution now.

Mr. MAGNUSON. It is merely adding this into the continuing resolution.

Mr. DURKIN. I have no quarrel helping the veterans. As the only member of the Appropriations Committee and also on the Veterans' Committee, I do not want to interfere with that.

Mr. MATHIAS. I am sure the representatives of HUD here in the galleries heard the Senator's message. I think his phone will be ringing.

Mr. DURKIN. If that is the case, my problem is solved.

Mr. MAGNUSON. Mr. President, we accept the amendment.

Mr. YOUNG. We accept it.

Mr. MAGNUSON. I yield back the remainder of my time.

Mr. MATHIAS. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 580) was agreed to.

Mr. THURMOND. Mr. President, I rise to make a few relevant comments regarding House Joint Resolution 404, the continuing appropriations resolution for fiscal year 1980.

First of all, Mr. President, it concerns me that Congress has allowed a situation to develop where it becomes legally necessary to enact this legislation in order for certain Federal Government programs to continue to operate. Congress has had 9 months in which to complete action on all appropriations bills. That ought to have been ample time. Certainly the typical American lay citizen would think so. Unfortunately, Congress has not acted expeditiously or, in my opinion, responsibly on the people's business. As of today, only 2 of the 13 regular appropriations bills have been signed into law, and several have yet to even be considered by the House. I hasten to add, however, that not all of the fault lies with the Congress, because I understand the executive branch agencies have not been prompt in sending Congress the President's budget requests for a number of programs. Thus, the fault lies with both Congress and the President.

Mr. President, as I recall, one of the reasons why Congress, several years ago, changed the fiscal year for Federal governmental operations from July 1-June 30 to October 1-September 30 was to give Congress additional time in which to complete action on appropriations bills before the end of the fiscal year. It appears now, however, that we are slipping back into the same pattern. The voters do not understand this, and frankly, I do not either. Accordingly, Mr. President, I urge the Congress and the President to exercise a greater degree of responsibility in the appropriations process, so that these continuing resolutions will not become a routine necessity in the future.

A second important concern that I have with regard to this continuing appropriations bill is the pay raise issue. In the form reported by the Senate Appropriations Committee, the legislation provides for a 5.5-percent pay raise for judges, Cabinet members, and upper-level civil servants. The committee has recommended no pay increase for Members of Congress, while the House provided in its version of the resolution that Congress would also receive the 5.5-percent raise.

Mr. President, I commend the Senate Appropriations Committee for its action in removing Members of Congress from the list of those who will receive this pay raise. I regret, however, that the committee did not go further and delete the pay raise for all of those in the upper echelons of Government. Mr. President, I am cognizant of the fact that Members of Congress, Cabinet officials, judges, and other top-level Government personnel have not had a pay raise in some time and that inflation affects them, also. On the other hand, I think most would agree—and certainly this is the prevailing sentiment among the American public—that high-level Government officials are compensated very well for their work, even without a pay raise. Furthermore, I have always considered Government employment as an opportunity for public service, not as a position in which to advance one's economic wealth. Most importantly, Mr. President, it is my judgment that Government employees, especially those at the very highest levels, have a responsibility to set an example of restraint in salary demands, especially in periods of high inflation such as we are now experiencing.

Yesterday's Washington Post carried the report of House action approving the 5.5-percent increase. On the same page, the Post reported that the Consumer Price Index had risen another 1.1 percent in August. The rate of inflation has been going up at the rate of 12.7 percent for the last 3 months. These figures are precisely the reason why we in Congress should not vote to increase our own compensation, and they also, in my opinion, suggest that it would be wise to hold the line on top salary levels in all three branches of the Federal Government.

The money for a pay raise comes from the taxpayers, Mr. President—from people, the majority of whom make much less than we do now.

The average family of four makes $18,000 a year. On that income, they must cope with the rising cost of food, clothing, and housing, plus the rising burden of taxation. Mr. President, I have a family and I know what it costs to provide for them. I also know that Washington is an expensive place to live, but, a Senator or a Congressman makes $57,500, more than twice the income of the average family.

How can we call on the American public to "bite the bullet"—to bear inflation, recession, high unemployment, and tight credit—if we are not willing to "suffer" a little as well? I use the word "suffer" advisedly, because I doubt that the average man would believe that anyone could "suffer" on an income of $57,500 a year.

By declining to give ourselves and other top-level Government officials a pay raise, we would take a step in the right direction. Government spending has contributed a great deal to the double-digit inflation that is plaguing the American economy. Reductions in spending must be made where we can, and I believe holding the line on salary levels would be an excellent place to start.

Mr. President, I realize that the majority of Senators are probably not in accord with my view that all upper-echelon Government officials should forgo a pay raise at this time, as evidenced by the defeat of the amendment of Senator Morgan, which I cosponsored, and the Helms amendment earlier today. Because of the deep concerns that I have on the need to set a firm example throughout the Federal Government on the matter of salary and wage restraint, I supported both amendments, and since they were defeated, I intend to vote against this continuing appropriations resolution.

Mr. ROBERT C. BYRD. Mr. President, this will be the last rollcall vote today, once this matter is disposed of.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. MAGNUSON. I yield back the remainder of my time.

Mr. YOUNG. I yield back the remainder of my time.

Mr. MAGNUSON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been yielded back. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Arizona (Mr. DeConcini), the Senator from Missouri (Mr. Eagleton), the Senator from Massachusetts (Mr. Kennedy), the Senator from North Carolina (Mr. Morgan), and the Senator from South Dakota (Mr. McGovern) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) would vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Rhode Island (Mr. Chafee), the Senator from Kansas (Mr. Dole), the Senator from Pennsylvania (Mr. Heinz), the Senator from Oregon (Mr. Packwood), and the Senator from Alaska (Mr. Stevens) are necessarily absent.

The PRESIDING OFFICER (Mr. Baucus). Are there any other Senators who wish to vote?

The result was announced—yeas 76, nays 11, as follows:

[Rollcall Vote No. 320 Leg.]

YEAS—76

Baucus
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
Domenici
Durenberger
Durkin
Exon
Ford
Glenn
Gravel
Hart
Hayakawa
Heflin
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—11

Armstrong
Boren
Church
Garn
Goldwater
Hatch
Hatfield
Helms
Laxalt
Proxmire
Thurmond

NOT VOTING—13

Baker
Bayh
Bellmon
Chafee
DeConcini
Dole
Eagleton
Heinz
Kennedy
McGovern
Morgan
Packwood
Stevens

So the joint resolution (H. J. Res. 404) was passed.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I move that the Senate insist upon its amendments, request a conference with the House of Representatives on the disagreeing votes thereon, and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. Baucus) appointed Mr. Magnuson, Mr. Robert C. Byrd, Mr. Inouye, Mr. Huddleston, Mr. Sasser, Mr. Leahy, Mr. Young, Mr. Hatfield, Mr. Stevens, Mr. Mathias, and Mr. Weicker conferees on the part of the Senate.

AUTHORIZATION FOR APPOINTMENT OF ADDITIONAL CONFEREES—HOUSE JOINT RESOLUTION 404

Mr. MAGNUSON. Mr. President, I also ask unanimous consent that I may be allowed to add to the conferees tomorrow morning when we meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONSIDER CERTAIN MEASURES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, the Senate proceed to the consideration of Calendar Order No. 326, on which there is a time agreement; and that, upon the disposition of that measure, the Senate proceed to the consideration of the debt limit measure.

Mr. STEVENS. That is the fuel efficiency measure?

Mr. ROBERT C. BYRD. Yes, 326.

The PRESIDING OFFICER. There being no objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that, on Monday, Mr. President, with the understanding that no votes will occur on this measure on Monday and that no votes will occur in any event on any measure on Monday prior to 6 p.m., following the orders for the two leaders under the standing order, the Senate proceed to the consideration of Calendar Order No. 344, which is the Energy Mobilization Board bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 30 minutes and Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from South Carolina.

SALT II: A PARTIAL REMEDY

Mr. THURMOND. Mr. President, the merit of SALT II has been heatedly debated for many months, and its worth will continue to be a subject of controversy for some time to come.

A recent editorial by WSPA television in Spartanburg, S.C., deals with this vital issue and offers some interesting observations on the SALT debate.

Mr. President, in order to share this editorial, "SALT II: A Partial Remedy," with my colleagues, I ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

SALT II: A Partial Remedy

There is a danger that the Second Strategic Arms Limitation Talks will be seen as a kind of tranquilizer by the American people. They may think problems with the Soviet Union are being brought under control with the proposed SALT II agreement. SALT II is at best a partial remedy since it covers only offensive nuclear weapons. The tremendous military advantage the Russians enjoy in Europe in conventional weapons would not be off-set with this new arms treaty. Their impressive array of tanks, planes, and divisions of infantry could still penetrate Western Europe.

A growing consensus is emerging from the Senate Salt hearings, that may permit the SALT treaty to be approved in some form, but only if our defense spending is increased so that we can maintain our over-all strategic position. Georgia Senator Sam Nunn even announced he would vote for SALT II if defense spending was increased 5 percent for the next five years. Other opponents such as retiring NATO Chief, General Alexander Haig, have softened their opposition in the face of possible increased defense spending. And Defense Secretary, Harold Brown and the Joint Chiefs of Staff are on record as insisting on increased defense spending even if SALT II is approved. In WSPA's opinion, our economic woes must not be allowed to blind us to the even greater problem of our survival. That survival is best guaranteed if the U.S. has an adequate deterrent to the USSR's power.

SENATOR DOLE RECEIVES NCOA "L. MENDEL RIVERS AWARD FOR LEGISLATIVE ACTION"

Mr. THURMOND. Mr. President, yesterday evening I had the distinct pleasure of joining the president and international board of directors of the Noncommissioned Officers Association of the United States of America in a reception honoring my good friend and colleague from Kansas, Senator Bob Dole.

Senator Bob Dole was the recipient of the prestigious NCOA 'L. Mendel Rivers Award for Legislative Action." This award is presented annually by the 180,000 plus member organization to a national legislator who displays outstanding merit in the legislative arena.

As the first recipient of this distinguished award in 1972, I want to commend the Noncommissioned Officers Association for selecting the most deserving legislator for this cherished award. Senator Dole has truly demonstrated his commitment to insure the best for one of America's truly front lines of defense, the enlisted servicemen and women of our Armed Forces. Senator Dole has worked closely with the NCOA and other service organizations in providing excellent service to both soldier and citizen of this great country.

Again, I commend the NCOA for its excellent service to the enlisted personnel of our armed services and a hearty congratulations to Senator Dole for being honored with this distinguished award.

REMARKS BY SENATOR CRANSTON AT THE 61ST NATIONAL CONVENTION OF THE AMERICAN LEGION

Mr. THURMOND. Mr. President, on August 22, 1979, our colleague and distinguished chairman of the Committee on Veterans' Affairs (Mr. Cranston) was honored by the American Legion at their 61st Annual National Convention in Houston by being named as the recipient of the American Legion Award for Distinguished Public Service. This award reads: "* * * in recognition of his contributions to the Nation, his promotion of world peace, and his advocacy on behalf of those who fought to achieve that peace." It is a pleasure to serve with Chairman Cranston on the Committee on Veterans' Affairs and to work with him and other committee members to improve benefits for veterans and their dependents.

Mr. President, at the time Senator Cranston accepted this award, the highest that the American Legion bestows, he made several remarks about the accomplishments of the Veterans' Affairs Committee which I would like to share with my colleagues. Of particular import was his release of an August 17, 1979, letter from President Carter, responding to the chairman's letter relating the concerns of the major veterans' organizations to proposed cutbacks in the VA's medical program. In that response, the President expressed his support for an independent VA medical care program and his intent to improve the health care system. I am hopeful that the President and his administration will live up to his commitment.

Mr. President, I ask unanimous consent that the complete text of Senator Cranston's remarks be printed in the Record at this point followed by the exchange of letters with the President on the future of the VA medical system.

There being no objection, the material was ordered to be printed in the Record, as follows:

REMARKS OF SENATOR ALAN CRANSTON

Thank you Commander Carey for that very generous introduction.

I'm delighted and honored to address your national convention today. It's wonderful to be part of this gathering.

Let me say right now that I long ago enlisted in the struggle to cut waste and needless spending by the federal government and to reduce the budget deficit and move toward a balanced budget.

But I will not do so at the risk of breaking America's honorable promises to men and women who have given so much in military service to this nation.

Those promises will not be broken.

Not while I have a voice to speak out.

Not while the American Legion, of which I am proud to be a member, and the other great veterans' organizations are alive and active.

Therefore, to those few bureaucrats in Washington who believe that the way to balance the federal budget is to deprive veterans of fair treatment I say: Not now, not ever.

To those doubters and defeatists who argue that this year we have to give up the struggle for expanded services and new programs for veterans, regardless of the need for them, I say: Not now, not ever. We are not quitters!

To those who say we have to give up the fight to maintain and expand an independent system of first-rate medical care for veterans because of budget constraints, I say: Not now, not ever.

I say to you that we can't build a sound economy, let alone a stable society, on the miseries of our Nation's veterans.

We can't have the kind of Nation we have always known and always fought for—a proud, decent and progressive nation—if we turn away now from our commitment to those who risked their lives and sacrificed their careers to serve when their country needed them.

In the last Congress, the American Legion once again proved itself an outstanding champion of veterans' legitimate rights. You have an outstanding staff in your Washington office; and I and other members of the Committee consult with them frequently and listen to them closely because they are knowledgeable and effective—and because they speak for the 2.7 million members of this very fine organization. We, of course, work most closely with Mylio Kraja, Ed Lord, and Bob Lyngh; and I want to congratulate them on their truly outstanding work.

The American Legion has been of tremendous assistance to those of us in the Senate and in the House involved in veterans' affairs. Together, we've accomplished many things.

During the last Congress, we greatly improved the Veterans' Administration pension program for veterans and their survivors—a major American Legion goal.

Together, we increased VA compensation payments by 7.3 percent for more than two-and-a-quarter million disabled veterans and more than 366,000 survivors of decreased veterans and servicemen.

Together, we provided a new monthly allowance for beneficiaries who are so disabled that they are confined to their homes.

Together, we collaborated in expanding education benefits, housing assistance, and burial payments for veterans and their survivors.

That's very well, you might say, but that was the last Congress.

What's going to happen now to veteran programs?

Well, already this year we've put in place new programs and new initiatives to help veterans and their families.

I assure you we're doing much more than merely holding the line on past accomplishments.

After eight years of fighting for a national program of readjustment counseling for Vietnam-era veterans, we've finally enacted legislation I first introduced way back in 1971.

Beginning on October 1, VA counselors will provide long-overdue readjustment help for the last of the Vietnam warriors who need it.

In that same bill we successfully expanded authority for alcohol and drug abuse treatment, and we set up a new program of preventive health care for service-connected veterans.

These are important new initiatives, in a year when conventional wisdom holds that it is politically impossible to create new programs regardless of need.

And that's not all we are doing.

Two weeks ago the U.S. Senate passed an 11.1-percent increase in veterans' compensation benefits.

Some say that this is not the year to increase and expand GI Bill benefits for younger veterans.

But two weeks ago the Senate Veterans' Affairs Committee that I chair voted 9–1 to give thousands of Vietnam-era veterans who are unemployed, or who never finished high school, another three years in which to use their GI Bill benefits.

Our Committee also is committed to push hard in this session of Congress for a 7-percent cost-of-living increase for GI Bill beneficiaries.

I know we can count on your help in fighting for that increase.

We are also working hard on two unique kinds of problems that affect veterans exposed to certain special hazards during their service.

First, the Committee recently held hearings on the difficult problems that veterans who were present at atomic bomb tests in the 50's are having with disability claims for cancer and other serious illnesses that may have resulted from their exposure to radiation. A number of very positive steps resulted from that hearing, including preparation by the VA of special written standards for developing these claims, a step that the American Legion considers necessary and helpful.

Also, the Departments of Defense and Energy have agreed to declassify and make publicly available documents relating to the testing programs that should help veterans or their survivors present their claims for this type of disability. Although many significant problems remain, I think we've made a good start in dealing with the problem.

Second, the Committee recommended and the Senate has passed legislation to require an important, scientific study of the long-term health effects of Agent Orange. This study should help provide answers that are badly needed in order to respond fairly to the claims of many Vietnam veterans that their serious illnesses resulted from contact with this deadly chemical contaminant.

On another front, the House Ways and Means Committee has approved an amendment to the hospital cost containment bill that would bring the VA under the proposed HEW cost containment program. Your National Commander, Jack Carey, immediately spoke out against this amendment, and I want to congratulate him and you for the effective leadership that the Legion has shown on this issue. Let me assure you here and now that the members of the Committees on Veterans' Affairs in both Houses—with your strong help—will never let a proposal like that become law.

We must, of course, do all we can within the VA system to control and contain costs without sacrificing the quality of care and its availability for those who need it.

We are also continuing our efforts to cut out waste and abuse in all veterans' programs, and to guarantee that those programs work effectively—for the veteran's benefit.

I have heard it said—and I know you have heard it too—that fiscal austerity is ruining the veterans' health-care system in this country.

I just don't believe that.

I have seen the VA health-care system improve tremendously since 1969, when I first assumed the Chairmanship of the old Veterans' Affairs Subcommittee in the Senate.

In those days, VA hospitals were overwhelmed with great numbers of war wounded returning from Vietnam.

I helped lead investigations into reports of neglect and generally substandard conditions in VA hospitals, and we've added 50,000 new hospital workers since then.

There is still room for improvement, of course, but I think we now have a health-care system for veterans that we can all be proud of.

Let me again say that I am totally committed to a strong, independent VA medical system.

I will do everything in my power—now and in the future—to maintain that system, and to assure that its ability to provide quality care to our Nation's veterans is protected.

Even this year, when budgets across the board must be lean and austere—and they must be because this is a time to tighten our belts—the VA's budget is the highest we have ever known—$21 billion.

The budget for health care is $5.8 billion—a more than $300 million increase over last year. Yet, we all know that there are still some critical shortages in VA hospital staffing.

To remedy this problem, the Senate very recently acted on a bill to hire 3,800 additional staff in the VA health-care system. The House of Representatives—at the insistence of my good friend and colleague, Ray Roberts, with whom I'm honored to share the wonderful Distinguished Public Service Award you've just presented to me—had already voted for this personnel increase.

With these additional personnel, the VA's staff-to-patient ratio will be at an all-time high next year. That's progress, not retreat!

I'm also fighting to guarantee, by law, that funds for additional medical personnel will never again be waylaid and diverted and spent for other purposes—as they have been in the past—in fact, just this past year!

That practice has got to stop!

I tell you this morning that it will stop!

Despite these accomplishments, I know the American Legion and other veterans' organizations see a grave threat to the VA health-care system; and there is evidence to support those concerns.

So I laid it on the line directly to the President. In a letter I wrote him this summer, I spelled out the deep concerns that you have, asked for his answers to them, and told him that I am strongly and totally opposed to any effort to dismantle or diminish the effectiveness of the VA health-care system. I told him, as I've told you, that I would be absolutely relentless in my support of a strong and vital nationwide, independent system of VA medical care facilities.

This morning, I have a development to announce to you on this point.

I have just received a response from the President of the United States to the concerns I relayed to him on your behalf. In an August 17 letter, this is what President Carter had to say:

"I welcome this opportunity to respond to [the] . . . concerns [of the major veterans' organizations] and reemphasize my strong support for the VA health and benefit system."

That's not a bad start, but there's more.

"The policy of my Administration", the President writes, "is to continue to honor our nation's historic commitment to provide medical care through the VA to those who served their country in our Armed Forces, and especially to those disabled while in that service . . . [We] recognize the special role and importance of our VA medical system and its dedicated personnel."

Not bad! But here's what I think is the critical sentence in the President's letter:

"The continued presence of an independent, progressive system of VA hospitals to carry out this commitment is essential. "

Now, I told the President about reports of a plan to reduce the VA system to 35,000 beds or some other number. "No", the President says, "Not true". And I quote:

"In particular there are absolutely no plans to reduce the number of beds within the VA hospital system to any arbitrary number, nor to require the VA in the future to operate under a straight-line or decremental budget."

But, you may ask, will the system continue to improve and grow? Jimmy Carter responds: "Yes".

He told me:

"I further intend to improve the quality of medical care through increased efficiencies throughout the system [and] . . . increasing emphasis on non-hospital care such as ambulatory care, in-home care and nursing home care. Further, we anticipate continued growth in the number of patients treated, both inpatient and outpatient."

What about the ever-increasing number of elderly veterans and the needs of non-service-connected veterans? Will those be taken into account by this Administration?

The President responds:

"The emphasis on alternatives to hospitalization will allow the VA to increase bed capacity for long-term care." A significant expansion of nursing beds is under construction."

Will there be more staffing, and what about construction? Twice President Carter makes clear that he's all for continuation of the VA's progress in its construction program. And twice he indicates his support for improvements in VA staffing in order to improve the quality of VA health care.

I think it's a strong statement, a welcome statement, a long-overdue statement by the President of the United States. I believe it should help allay many of the concerns which you and your able representatives have been expressing about the future of the VA health care system.

If the President writes this, it must be his policy.

I know it is Max Cleland's policy.

But we've all been around long enough to know better than to take anything at face value and stop there. We know there are others in the Administration—they're there in every Administration—who don't subscribe to these policies. Who don't want a strong, independent VA hospital system.

Most of them now reside in OMB which use to be BOB. Any way you spell it, it means trouble for the VA.

Thus, we've got to continue to be alert, continue to be strong, continue to be certain that the policies set at the top aren't sabotaged on their way to the veterans and their families.

Max Cleland and Jimmy Carter can't make good policy into good programs. They need our help, our vigilance to see that what's supposed to happen, does happen.

So, with our shoulders squared to the task, together we will continue to see that America's veterans enjoy the rights and privileges that they have earned and that are due them.

I accept with humility the Distinguished Public Service Award that you have given me today, knowing that "distinguished service" to America's veterans is the very essence of the American Legion.

We of the American Legion have set the standard, the benchmark for service, against which all others' efforts must be measured.

Service to our country's veterans is our purpose, our aim, and, for the past 60 years, our clear accomplishment together.

Let us now renew the pledges that have bound us as a Nation through so many struggles and so many years.

We have promises to keep: to ourselves, to each other, to our children, to our country.

I know the American Legion will do its part.

You can count on me to do mine, as a fellow Legionnaire, and as Chairman of the Senate Veterans' Affairs Committee.

U.S. SENATE,
Washington, D.C., July 18, 1979.

Hon. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to inform you of concerns expressed to me recently by representatives of the major veterans' organizations (American Legion, Veterans of Foreign Wars, Disabled American Veterans, AMVETS, and Paralyzed Veterans of America) relating to your Administration's actions regarding the Veterans' Administration's hospital and medical care system and to express my views to you on these concerns. Specifically, the various veterans' organization representatives indicated to me their unified concern that your Administration has a "grand design" to dismantle the VA hospital system and is actively engaged in efforts to undercut our Nation's long-standing commitment to provide medical care through the VA to those who served in our armed forces.

In support of this contention, the veterans group representatives pointed to the following:

The substantial reduction in VA hopsital beds in the past year;

Administration plans, as described recently at a meeting in Little Rock, Arkansas, by a VA official, to close an additional 13,000 acute care beds and convert 3,000 other such beds to chronic care beds within the next five to seven years;

Covert O.M.B. plans ultimately to reduce the total number of beds in the VA hospital system to 35,000;

The reductions in personnel for the VA's Department of Medicine and Surgery required by fiscal year 1979 budget cutbacks;

Continued suggestions from some in the Administration that veterans should be included within any national health insurance plan and that existing VA medical facilities should be converted for use in conjunction with a program of general national health care;

A statement attributed to you by a VA Assistant Chief Medical Director that "the VA, in the future, would have to operate under a straight line or decremental budget . . . [so that] new demands placed on the agency must be met within current dollars" (quoted from the minutes of the meeting of the VA's Special Medical Advisory Group, October 2–3, 1978).

All of these factors reinforce the veterans' organizations' very strong and common concern that the VA medical care system's ability to provide quality care and to meet the needs of eligible veterans is being jeopardized and that this entire health-care system is in significant danger of being eliminated. In addition, the veterans' organization representatives noted their perception that, despite increases in the Federal budget over the past decade, the VA's share of the total Federal budget has decreased each year.

The concerns and allegations expressed by these veterans' organizations are very serious and very strong, and I would appreciate having your personal views on these matters at your earliest convenience. As I am sure you know, I am strongly and totally opposed to any effort to dismantle or diminish the effectiveness of the VA health-care system. I am deeply committed to the fulfillment of our Nation's obligation to provide priority medical care to our veterans, most especially to those disabled in the course of their service. This commitment cannot be met by anything less than a strong and vital nationwide system of VA medical care facilities; and I will be relentless in my support of the continuation of that system.

In this regard, I would note that a VA health-care system reduced to only 35,000 beds would not only fail to meet the health care needs of our Nation's veterans but would be patently unable to provide the beds for wartime injured as conceived as part of the Nation's wartime contingency plans. Although I pray that such a use of the beds will never be required, I think it is important to note this factor in the context of the veterans' organizations' concerns.

I would appreciate having your views on these matters at your earliest convenience.

With best wishes,

Cordially,

ALAN CRANSTON,
Chairman.

THE WHITE HOUSE,
Washington, D.C., August 17, 1979.

Hon. ALAN CRANSTON,
U.S. Senate, Washington, D.C.

To CHAIRMAN ALAN CRANSTON: I appreciate your bringing to my attention the expressed concerns of the representatives of the major veterans' organizations concerning our Veterans Administration hospital and medical care system. I welcome this opportunity to respond to those concerns and reemphasize my strong support for the VA health and benefit system.

The policy of my Administration is to continue to honor our Nation's historic commitment to provide medical care through the VA to those who served their country in our armed forces, and especially to those disabled while in that service. The continued presence of an independent, progressive system of VA hospitals to carry out this commitment is essential. I further intend to improve the quality of medical care through increased efficiencies throughout the system. I am disturbed by any misperceptions of this policy that may have developed. In particular, there are absolutely no plans to reduce the number of beds within the VA hospital system to any arbitrary number, nor to require the VA in the future to operate under a straight-line or decremental budget.

Meeting our Nation's obligation to veterans in an effective manner will require flexibility so that the VA medical care program can accommodate the changing needs of our veteran population and provide for the development and use of new methods of treatment. This policy calls for increasing emphasis on non-hospital care such as ambulatory care, in-home care and nursing home care. Further, we anticipate continued growth in the number of patients treated, both inpatient and outpatient. The emphasis on alternatives to hospitalization will allow the VA to increase bed capacity for long-term care. In implementing this policy, my Administration plans, within the resources available to it, to provide necessary construction funding and such staffing levels as will permit continued improvements in quality of care. Moreover, the VA health care policies are consistent with my concerns for our Nation's overall health needs, and recognize the special role and importance of our VA medical system and its dedicated personnel.

I believe that this approach for the VA hospital and medical care system will strengthen the program by making it more efficient and by making the system more sensitive to the needs of the service-connected veteran, the aging veteran, and those veterans who are unable to defray the cost of medical care.

To this end, together, we have instituted a new service-connected, priority program in VA hospitals and increased the emphasis on the needs of aging veterans. A significant expansion of nursing beds is under construction. Legislation has also been proposed and enacted to meet the special needs of Vietnam-era veterans; after ten years, the psychological readjustment program is finally underway. Staffing ratios in VA hospitals continue to be improved. The Department of Medicine and Surgery budget of $5.8 billion this year is the highest in VA history and is more than three-and-a-half times the $1.6 billion appropriated for VA medicine in FY 1970. It includes $495 million for hospital and related construction, or more than seven times the construction budget of less than a decade ago.

Max Cleland meets regularly with representatives of the major veterans' service organizations and he will be glad to discuss further my policy for the VA medical care program with them and to respond to any specific questions that may arise. I am proud of the job Max has done as Administrator and for the very special sensitivity he has brought to the VA system.

I appreciate your concern for, and support of, the needs of this Nation's veterans. Your leadership in this area is widely known and respected. I look forward to our working together on these and other issues in the future, as we have in the past.

Sincerely,

JIMMY CARTER.

Mr. THURMOND. Mr. President, I thank the majority leader very much.

Mr. ROBERT C. BYRD. Mr. President, I yield now to the Senator from New York.

RELEASE OF JACOBO TIMERMAN

Mr. JAVITS. Mr. President, the Argentine Government has now seen fit to allow Jacobo Timerman to leave that country. This is a victory, in my judgment, for everyone who loves freedom, especially the people of the United States and perpetuates the tradition of the individual liberty of the people of Argentina.

Mr. President, I take this opportunity to express my great pleasure at the successful resolution of the case of Argentinian publisher Jacobo Timerman and to extend to Mr. Timerman and his family my heartfelt best wishes and my hope that his new life in Israel will bring him the liberty, peace and fulfillness that this brave man so richly deserves.

Let us hope too that the action taken by the Argentinian Government this past Tuesday, in allowing Mr. Timerman to leave the country, rather than being a single act is but a first step on the road to the full restoration of the rule and observance of law in Argentina, a goal espoused by Argentina's own President, Jorge Videla, in his talks last week with members of the Inter-American Human Rights Commission. In acceding to the unanimous decision of the Argentine Supreme Court that Mr. Timerman legally could not be held, the members of the Argentine Government hopefully have accepted as well the legal limit thus set by the court on the powers of arbitrary arrest. Let us convey to the Argentine Government our earnest wish that this week's events will be followed in close succession by other actions—including the public charge or the release of the 1,500 other political prisoners the government admits holding—that will signal the beginning of a new respect for human rights in Argentina and especially for that most crucial right of all, the right of due process. In this way the tradition of individual liberty of the people of Argentina may be asserted and validated.

ED NOBEL ON ALASKAN LANDS

Mr. STEVENS. Mr. President, it is extremely unfortunate that the debate over the final disposition of Alaska's Federal lands has been perceived as environmentalists versus big oil. This oversimplification is unwarranted and leads to the polarization of those who have every reason to work together. It has always been my position that we can provide a high amount of environmental protection while allowing the reasonable development of Alaska's vast natural resources.

But, what is particularly unfortunate about this gross simplification is that it tends to ignore those who are most directly affected by the decision which Congress must make—Alaskans. Alaskans have no intention of drilling tremendous oil wells or "raping" the land. We are simply people who live and work in a State which is almost wholly owned by the Federal Government. Alaskans depend on the land for their livelihood. They came to Alaska to enjoy the full freedom of a frontier—only to find the bureaucracy of the Federal Government invading their backyards.

Mr. President, I hope that as the debate on the Alaska lands issue continues, my colleagues will stop to think of those who call Alaska home. One of these Alaskans is Ed Nobel of Glennallen. Recently, Replay magazine did their "Thumbnail Sketches" on Mr. Nobel. I think that my colleagues will find this of interest. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ED NOBEL

Yes, the night can really be up to six months long in the legendary land of snow and ice. Everything's bigger in Alaska, the land and forest, wilderness and sky. And, the vending routes take a hell of a lot longer to cover. In fact, one can get confused when talking with Ed Nobel and son Robert of Glennallen Vending in Glennallen, Alaska; you might think you're conversing with a stereotypical Texan on the "bigness" of his state. "Why, I could fit two thirds of the Continental U.S. in Alaska, and still have room to wiggle my ears! and no! we don't live in igloos" Ed told us.

Ed was born in 1924 in Sunbury, Penn. and lived there until the 10th grade when he decided Uncle Sam needed him more than the school system. He joined the Navy in 1941, before Pearl Harbor, and retired 20 years later as an aircraft mechanic, first class. For a short time, Ed was a gas station owner/operator in Washington, D.C., but the 40 mile trip to and from work each day proved to be too much. He decided to relocate to a new and expanding area of the country. Alaska was tempting. It was a new state, he'd been there in the service, and Glennallen seemed sure to eventually be a hub of accelerated growth.

"You could tell just by looking at the map that a lot would grow from here," said Ed. "Now we're sitting on 17 million acres of rich land that some peanut farmer decided to make into a national monument."

Ed did not want to dwell on a bitter political discussion, but the national park issue is a sore spot for many in the state. The land there is valued an inch to a continental U.S. foot, probably because of the expense of heating. It's good land, with much industrial potential, that is not developed because of pollution and wildlife regulations. Industry reportedly cannot occur within fifty miles of parkland borders, and there's little or no fishing or hunting. Close to more than a third of the state is so earmarked and it has heavily contributed to high unemployment problems.

Glennallen itself is located 250 miles southeast of Fairbanks, 120 miles north of Valdez, 180 miles west of Anchorage and 148 miles from the Canadian border village of Tok. The town has 400–500 inhabitants and is split almost down the middle by the Alaskan Pipeline. "The terrain is a lot like driving through the Nevada desert," Ed's son Robert told RePlay. "In some places on the route, there are homestead sites every 5 to 10 miles. Often for 10 to 20 mile stretches you won't see anything except trees by the side of the road. Every 30 to 40 miles there are roadhouses, you know, mom and pop places with gas, a store and motel. The air's real clean."

Ed set up a gas business in Glennallen in 1961, folksy and very family. His place became a hangout for many of the townspeople, some of them owners of business in town themselves. He had a soda vending machine at the station which did well in the place. A few people asked Ed if he could get them similar machines. After installing his first one, Ed discovered, "Hey, there's money in this!" Pretty soon a new courthouse went in, and wouldn't you know, the magistrate wanted a pop machine. "It just kept on going like this," said Ed, and the business grew steadily for ten years.

Ed and Robert continued to work food and drink vending machines and gradually got into music and games a few years later. Ed said he was selling service, and was able to routinely visit stops operators found difficult to reach regularly. "Funny, over the years I've discovered what the good product is," said Ed. "I use exclusively Vendo and National candy machines. They're good names." Ed's music route is exclusive Rowe and for a unique reason. "I've always had to be careful with machine purchases throughout the route because they're not made to handle erratic electricity. Rowe is. Many, many locations actually make their own electricity by means of a generator on-premise. Sudden power surges blow out machines and boards. Because of this, I can't get warranties on any of my machines, and they can't be serviced in Alaska."

According to Robert, routes in and around town are covered each or every other week. "Outside of town, to Summit Lake (halfway to Fairbanks, 120 miles) which is a local call, for instance, they're visited about once a month" he said. "It can take all day to visit three locations. We can be out for weeks."

Because of the distribution problem in Alaska and the high new game prices, Glennallen Vending uses primarily used, reshopped games. Ed says he's quite proud of son Robert who's been able to repair countless games without benefit of diagram schematics. ' just picked up a 'Computor Space' for $125 with a fiberglass case that had been sitting in an operator's warehouse for five years said Robert. He knows it will be a route favorite.

Ed and his family operate a gameroom, Foos-Pin-Pool, about five miles from the vending headquarters. Wife Beatrice and sons Billy (18) and Johnny (14) open the room after school at three, bring in dinner and take turns watching the place. Ed and Robert look forward to the day when Johnny, who exhibits a good deal of mechanical inclination, will join them in the route side of the operation.

Gameroom pinball pricing is one for 25 cents, three for 50 cents, three balls with a lock-out at five games. They had some problems with break-ins, so they went to token play and haven't had a problem since. In fact, they successfully use the token locally for a little bit of educational incentive. If school kids bring in their report cards, they get two tokens for every 'A', and a 'B' is good for one. If it's your birthday, you get four!

Both games and music have a much longer life in Alaska. "We've had a 'Solar City' in the gameroom for well over a year," said Robert, "and it's still steadily played. 'Sprint' has really been a great game, too." Records can hang on for six months to a year, which does present a programming problem. 'Indian Reservation', for instance, is probably the most popular route cut, because of the population.

"I've not heard most of the records I've ordered," claimed Robert. "All I had to go by was the 'Midnight Special', and that's been cancelled. We don't even get American Bandstand, and what we do get on TV is three weeks old." It's true of most of the region: it's about a month behind the rest of the country on all programming. The Anchorage TV station, KNI, receives taped programming from networks here, airs the material, then repacks and sends it on the Fairbanks, where Glennallen receives it via repeater bounce. According to Robert, " 'Midnight Special' was the first place I heard Blondie's 'Heart Of Glass'," a big hit in Alaska. By the way, disco is happening there, not in the form of establishments, but the music is very popular. Using mostly trade charts, Robert programs it in the gameroom jukebox and watches the response. He's having some trouble with suppliers though, and half-orders on records are quite common.

There's one Christian radio station in the area, run by the Central Alaska Mission. They censor all records before airplay, so profane or undesirable material won't slip out over the air. They've been on the air since the '64 quake and every evening they have a time slot called 'Caribou Clatter' where personal messages of townsfolks (it's the only place in the country that allows this) are aired to relatives, employees or friends out of telephone contact. A trucker out in the wilderness can be asked by his wife via the rig's AM radio to pick up a loaf of bread for supper. Needless to say, the populace is fairly locked into this station and its programming, so its playlist says much for juke favorites there.

Business is good for the Nobels between the routes, station and gameroom. It's good work, but Ed doesn't see any dramatic increase in business activity in the coming years. He and his family love the land. It's beautiful. But they hope the awakening of political attitudes might ease the situation and bring about some expansive changes in the future. Parkland is great, but when it directly affects your livelihood, you think twice.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

REPORT OF DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 111

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, and the Committee on Labor and Human Resources, jointly, pursuant to order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report four new deferrals of budget authority totalling $61.9 million and a revision to one previously transmitted deferral increasing the amount deferred by $3.8 million. These items involve the Departments of Agriculture and Commerce and the Railroad Retirement Board.

The details of each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *September 27, 1979.*

REPORT OF THE ALASKA RAILROAD—MESSAGE FROM THE PRESIDENT—PM 112

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I transmit herewith the annual report for fiscal year 1978 by the Secretary of

Transportation on the operations and activities of The Alaska Railroad, as required by The Alaska Railroad Act of March 12, 1914.

Jimmy Carter.

The White House, *September 27, 1979.*

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 11:07 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 111. An act to provide for the operation and maintenance of the Panama Canal under the Panama Canal Treaty of 1979, and for other purposes; and

S.J. Res. 105. Joint resolution to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

The enrolled bill and joint resolution were subsequently signed by the President pro tempore (Mr. Magnuson).

At 2:05 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 721) to amend the Civil Rights Act of 1957 to authorize appropriations for the U.S. Commission on Civil Rights for fiscal year 1980; and that the House recedes from its amendment to the title of the bill.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4612. An act to amend title XVI of the Social Security Act to maintain for an additional three years the current program of preventive services, referral, and care management for disabled children receiving SSI benefits.

The message further announced that the House has agreed to Senate Concurrent Resolution 36, a concurrent resolution revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982, with an amendment; that the House insists upon its amendment to the resolution and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Giaimo, Mr. Ashley, Mr. Stokes, Mr. Simon, Mr. Mineta, Mr. Jones of Oklahoma, Mr. Solarz, Mr. Wirth, Mr. Panetta, Mr. Nelson, Mr. Gray, Mr. Latta, Mr. Conable, Mr. Regula, Mr. Frenzel, and Mr. Shuster were appointed managers of the conference on the part of the House.

At 5:16 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 210) to establish a Department of Education.

At 5:43 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 3996, an act to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes; and that the House recedes from its disagreement to the amendment of the Senate to the title of the bill, and concurs therein.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 4394, making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 4, 7, 9, and 45 to the bill, and concurs therein; that the House recedes from its disagreement to the amendments of the Senate numbered 2, 22, and 27 to the bill, and concurs therein each with an amendment in which it requests the concurrence of the Senate; and that the House insists upon its disagreement to the amendment of the Senate numbered 12 to the bill.

The message further announced that the House has agreed to the following concurrent resolution, in which it asks the concurrence of the Senate:

H. Con. Res. 192. A concurrent resolution directing the Clerk of the House to make a correction in the enrollment of the bill H.R. 3996.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 4612. An act to amend title XVI of the Social Security Act to maintain for an additional three years the current program of preventive services, referral, and care management for disabled children receiving SSI benefits; which was referred to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION HELD AT THE DESK

The following concurrent resolution was read by title and held at the desk:

H. Con. Res. 192. Concurrent resolution directing the Clerk of the House to make a correction in the enrollment of the bill H.R. 3996.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, September 27, 1979, he presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 105. Joint resolution to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

Morris Abram, of New York, to be Chairman of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

(The above nomination from the Committee on Labor and Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. CHURCH, from the Committee on Foreign Relations:

Jean Lande Hennessey, of New Hampshire, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI:

S. 1827. A bill to provide benefits to uranium miners and their dependents, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CHURCH (for himself and Mr. McClure):

S. 1828. A bill to exempt the Milner Dam from certain requirements of the Federal Power Act (16 U.S.C. 807), and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TSONGAS:

S. 1829. A bill to establish a community energy efficiency program; to the Committee on Energy and Natural Resources.

By Mr. MATSUNAGA (for himself, Mr. Jackson, Mr. Church, Mr. Inouye, Mr. Bumpers, Mr. Ford, Mr. Durkin, Mr. Metzenbaum, Mr. Melcher, Mr. Tsongas, Mr. Bradley, Mr. Hatfield, Mr. McClure, Mr. Weicker, Mr. Domenici, Mr. Stevens, Mr. Bellmon, Mr. Wallop, Mr. Chiles, Mr. Stone, and Mr. Randolph):

S. 1830. A bill to provide for a research, development, and demonstration program to achieve the early commercialization of ocean thermal energy conversion systems, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 1827. A bill to provide benefits to uranium miners and their dependents, and for other purposes; to the Committee on Labor and Human Resources.

(The remarks of Mr. Domenici when he introduced the bill appear earlier in today's proceedings.)

By Mr. CHURCH (for himself and Mr. McClure):

S. 1828. A bill to exempt the Milner Dam from certain requirements of the Federal Power Act (16 U.S.C. 807), and for other purposes; to the Committee on Energy and Natural Resources.

HYDROELECTRIC POWER FROM MILNER DAM

● Mr. CHURCH. Mr. President, today I am introducing legislation designed to facilitate the construction of a hydroelectric generation plant on the Milner Dam project in southern Idaho.

The Milner Dam is a privately owned irrigation diversion dam on the Snake River. The Twin Falls Canal Co. and the North Side Canal Co. jointly owned this facility and have been seriously studying the feasibility of building a powerplant to generate electricity during the winter time. The owners propose to install a generating capacity of 60,000 kilowatts by diverting water into the upper reaches of the canal. The water would then be released through penstocks to a powerplant located at the bottom of the canyon below the canal.

Developing additional hydroelectric power is a national priority. The owners of this dam are not seeking taxpayer financial assistance in building this project. However, this meritorious project will not be built unless the legislation I am introducing today is approved by the Congress.

Projects like this cannot proceed without a license from the Federal Energy Regulatory Commission. The owners have filed a preliminary permit application which has been rejected without prejudice by the FERC. The matter in issue is the recapture provisions of the Federal Power Act.

The Federal Power Act provides for Federal recapture of licensed projects at the expiration of the 50-year license period. If the canal companies comply with FERC regulations in seeking a license, they will be required to include in the project description the dam, the upper segment of their canal and other facilities to be privately built to make this project work. Understandably, the owners of this private facility do not desire to see their past investment in the dam and their proposed investment in power generating facilities lost to them 50 years hence.

Mr. President, the bill I am introducing today does not amend the Federal Power Act. This legislation will solely operate to exempt the proposed Milner Dam project from the working of the Federal Power Act recapture clause. In the case of this project, this should be done so that this privately owned dam can be put to work generating electricity without taxpayer funding.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding any other provision of law, the proposed Milner Dam Project, Federal Energy Regulatory Commission Numbered 2899—Idaho-Twin Falls Canal Company and North Side Canal Company, shall be deemed to consist only of water regulation and conveyance facilities and powerplants to be hereafter constructed and located outside of existing irrigation facilities, together with power transmission facilities, and related appurtenant works not now in existence and necessarily hereafter constructed for the generation and distribution of hydroelectric power, and only such hereafter constructed facilities shall be subject to the provisions of Section 14 of the Federal Power Act (16 U.S.C. 807).●

Mr. McCLURE. Mr. President, I am pleased to join my colleague in introducing this measure which will encourage and expedite the production of additional, needed, hydroelectric power in our State. It is, in my judgment, a positive and important step toward addressing the Nation's energy shortage in a most efficient way by allowing people to help themselves to produce the power they need.

The Twin Falls Canal Co. and the North Side Canal Co., in Idaho, are presently evaluating the possibility of constructing a powerplant on the south side of the Snake River below Milner Dam, which they jointly own. The dam would divert water into the Twin Falls main canal, which would be enlarged for approximately 1.3 miles. The water would then be released through penstocks to a powerplant located adjacent to the river 250 feet below the canal on the canyon floor. The project is feasible, and the parties are anxious to begin.

They have filed an application for a preliminary permit to proceed with the Federal Energy Regulatory Commission Thus far, the Federal Energy Commission's staff has taken the position that not only must the expanded 1.3 miles of the Twin Falls main canal be within the defined project, but that Milner Dam itself must also be included within the project description.

Mr. President, as you know, the recapture provisions of the Federal Power Act would allow the Federal Government to recapture the project at the end of 50 years. If recapture were to occur at the end of the license period, the Federal Government would acquire both Milner Dam and the first 1.3 miles of the canal.

Milner Dam has always been privately owned and used primarily for irrigation diversions. The proponents of the powerplant proposal do not want to change that; and if the dam and canal must be included in the project description, the project simply will not fly. The potential power will be lost, since the dam owners do not want to risk the possibility of irrigation diversions being subordinated to diversions for power in the future if recapture occurs.

I believe their fears are justified since the importance of irrigation water in the west parallels the need for additional energy production as a matter of national policy. In this instance, both those priorities can be served very simply. The thrust of this proposal is merely to exempt Milner Dam from inclusion in the project description. This is necessary to assure the farmers and ranchers reliant on irrigation water from Milner Dam that the dam will not be lost to them in the future.

Mr. President, I believe this sort of initiative should be encouraged. I hope this measure will be taken up and approved as rapidly as possible.

By Mr. TSONGAS:

S. 1829. A bill to establish a community energy efficiency program; to the Committee on Energy and Natural Resources.

COMMUNITY ENERGY EFFICIENCY ACT OF 1979

Mr. TSONGAS. Mr. President, today I am introducing the Community Energy Efficiency Act of 1979. It provides grants to cities and counties for efforts to make energy use more efficient. Like the Conservation Bank approved unanimously by the Senate Banking Committee last week, this act is a new initiative that recognizes energy conservation as a cost-effective, neglected alternative to imported oil.

About 60 percent of U.S. energy consumption takes place in cities. Municipal services such as transportation, water, and sewers consume energy directly. Local policies also affect energy use indirectly, in areas such as zoning, building codes, parking, and education.

The Community Energy Efficiency Act of 1979 aims to catalyze local energy planning. It helps to insure that local laws, policies, and decisions are consistent with this country's inevitable shift to renewable resources. The act encourages local groups to create answers to our energy crisis.

THE PLAN

This bill provides grants for basic planning, followed by grants for advanced planning and for capital investments. The amount awarded at each stage is based on population and on need for heating and cooling. The grants will total $5 billion over the next 5 years.

A grant application for basic planning must include targets for energy conservation. There must be a program to amend local land use controls such as building codes and permits and transportation controls to boost conservation and renewable resource development. The local program must promote public understanding of the importance and practicality of energy conservation and renewables. Efforts to help low-income residents are a particular priority.

A recipient of a basic grant can apply for a larger advanced planning grant after making significant progress. A recipient must move into the expanded grant phase by the end of the program's third year.

A community program under an expanded grant continues the activities of the basic program. The expanded program includes adoption of an ordinance to facilitate the use of solar systems in the community, and conservation standards for residential and commercial properties. It must include a transition plan to reduce current petroleum use, and a contingency plan for energy emergencies. The city or county also must develop a budget that uses existing Federal and State programs to implement energy efficiency and renewable resource projects.

In both phases of the community energy action program, recipients must make grants available to neighborhood organizations for special energy projects. These projects could promote community outreach programs or provide grants for energy conservation and renewable resource projects.

Funding for the basic and expanded planning grants would total $2 billion over 5 years, beginning at $300 million in the first year and increasingly by $50 million for each subsequent year.

Cities and counties at the advanced planning stage are eligible for investment grants. These allow investment in conservation and renewable technologies appropriate to individual communities. They may be awarded for city block demonstration projects; low-head hydro development, district heating development, urban waste-based energy production facilities, industrial-residential cogeneration, solar energy systems development, weatherization of low-income housing; building retrofit programs, and neighborhood energy projects. These grants would total $3 billion over the next 5 years.

This bill also provides $4 million per year for "documentation and distribution grants." These would be awarded to local governments whose proposed publications offer a unique contribution to knowledge in the field of energy efficiency. A local energy reference center would be established as a clearinghouse for these publications and for other related information and data.

ENERGY EFFICIENCY AND CITIES

Mr. President, local governments must take the lead in planning and executing the inevitable transition to energy efficiency and renewable resources. Opportunities for conservation and renewables depend on local conditions—one reason why cities and counties should lead these efforts.

Energy efficiencies and renewable resources are diverse and decentralized. That is part of their promise, but it is also a partial cause of their neglect. Potential energy efficiencies are everywhere, and therefore they seem less prominent and promising than a "macho" march into synthetic fuels—no matter what the price in dollars and environmental dangers.

The cause of energy conservation also is plagued by the false argument that energy use must correlate positively with GNP. The Council on Environmental Quality and the Energy Project of the Harvard Business School agree that energy consumption can be cut by 30 to 40 percent by the year 2000. Expert studies by such groups as Resources for the Future, the Ford Foundation, and the National Academy of Sciences conclude that this goal can be met without hurting economic growth.

"Energy Future," the recent report of the Harvard project, states:

> Conservation may well be the cheapest, safest, most productive energy alternative readily available in large amounts.

A study last year by the Massachusetts energy office found that economically efficient conservation in New England could create 500,000 jobs, increase economic production by $2 billion per year, and cut energy costs by $1.4 billion a year by 1985.

The facts are clear. Conservation and renewables represent our energy future, and they are ready now. Many Massachusetts cities and counties have taken steps in the right direction. The Community Energy Efficiency Act can give more permanence and comprehensiveness to efforts in Massachusetts and across the country.

Examples of local energy leadership in Massachusetts follow:

Springfield, Mass., has several active committees working on different energy-related problems. One group is monitoring energy use in city buildings, and has managed to reduce the city's annual fuel oil use by 4 percent (171,000 gallons) this year. Another committee is dealing with the problems of renters displaced by apartment closings caused by high utility costs.

Arlington, Mass., has cut energy costs by 25 percent in the past 2 years—a savings of 259,000 gallons of fuel oil—without major capital investments. The emphasis has been on accountability and monitoring the results.

Quincy, Mass., is pursuing a program of preliminary energy audits of schools and municipal buildings. The results will be submitted to the State energy office by October 5. If potential savings of at least 20 percent are indicated, the Quincy energy program will seek funds for technical audits—the next step in the retrofit application process.

Boston recently started a municipal energy management plan, which aims to reduce the city's energy use by 30 percent over the next 3 years. It involves computer monitoring of high energy use in 30 city-owned buildings, and energy audits—particularly for senior citizens' housing.

Over 400 cities nationwide have some type of energy conservation staff, at varying levels of funding. What we need—what they need—is a comprehensive, nationwide program.

The Community Energy Efficiency Act is intended to stimulate discussion and debate. Several important issues still need to be resolved. Among them are the proper role of the Department of Energy and the Department of Housing and Urban Development, the appropriate mechanism for State coordination, and the phasing of the three grant programs.

The U.S. Conference of Mayors and the National League of Cities have worked closely with me in drafting this legislation. I appreciate their continuing efforts on behalf of this important bill.

Mr. President, energy efficiency can and should be a criterion in all aspects of local planning. Local governments can save our energy in many ways. They can give incentives to landlords for making property improvements that save energy. They can protect access to solar energy. Localities can reduce transportation needs by land use planning, and by decentralizing city services and putting them into the neighborhoods. Transportation policies for cars (and carpools), mass transit, and bicycles affect energy consumption. Cities and counties can help arrange for cogeneration facilities and other inducements to business. A comprehensive energy efficiency program also should include public education and energy emergency plans. Energy must now be figured into municipal decisionmaking, but it is no longer a constant. Now it is always a variable.

Some of our Nation's local governments are on the energy efficiency initiative, but all must do more. The Community Energy Efficiency Act complements the Conservation Bank in bringing all segments of American society toward energy solutions. Planners and homeowners, bankers and low-income renters, civic leaders and industrialists must join forces to get our money's worth of energy and security.

Mr. President, I ask unanimous consent to have printed in the RECORD information prepared by the U.S. Conference of Mayors and the National League of Cities about current initiatives for energy efficiency and renewables in cities.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INFORMATION

ALBUQUERQUE, N. MEX.

As part of its community energy conservation program, the city of Alburquerque has a 15 member citizens committee appointed by the Mayor to advise him on all energy related issues. This committee has developed an 11 point plan for energy conservation, which will serve as the blueprint for an information program to city residents. In line with this program, the city has designated a display trailer to be used at public schools, which identifies a number of ways to conserve energy.

In other energy programs, Albuquerque is working on an evaluation of zoning ordinances to ensure solar access. It has also established a land-use policy to discourage additional sprawl by filling in those areas of the city not yet developed. The city has also been encouraging the use of low technology solar heating systems, and has two solar heated buildings, one with a payback period on the system of 4 months, the other with a payback of less than 4 years.

ANN ARBOR, MICH.

The city of Ann Arbor has established an Energy Advisory Group composed of several employees of city departments, which provides technical and planning support to the energy coordinator for all city energy programs. The energy staff is now conducting building audits. Future programs will center around energy management for existing buildings, vehicle fleet, street lighting, employee awareness and information dissemination, and general contigency plans to deal with energy supply shortages.

Preliminary energy audits in 43 city-owned facilities are complete with summaries of energy systems consumption of fuel and electricity for the past year, energy systems capacity, and building structure characteristics and occupancy factors.

A total energy plan for existing city facilities has been prepared for the Mayor, City Council, City Administrator, and Department of Management Personnel. An energy management program has started to identify and classify all no-cost and minimal cost operations and maintenance changes which have the potential to save a minimum of 20% of building energy consumed.

ATLANTA, GA.

The City of Atlanta recently adopted a comprehensive energy management plan called Program for Atlanta to Conserve Energy (PACE). The policy and programs are designed to reduce energy consumption in all city government operations and facilities, and are expected to result in significant savings for the city, both in energy and dollars.

The PACE program commits the city to efficient energy usage throughout its government functions. The policy specifies that the City will set informal energy consumption goals, purchase energy efficient equipment and materials, use the most current energy conservation techniques, maintain and opcrate city buildings to consume minimum amounts of energy, conduct energy audits of all city buildings, promote solid waste energy conservation systems, and pursue innovative use of alternative technologies.

Atlanta is sponsoring community awareness programs throughout the school system and through neighborhood planning units. In addition the city is working with the Georgia Power Company in conducting energy audits in city buildings and holding energy conservation seminars for city employees.

BALTIMORE, MD.

The city of Baltimore is already well known for its innovative approaches to energy conservation. In 1977, the Baltimore city school system was ranked as one of the leaders in energy conservation in Maryland. Since then, Baltimore schools have embarked on a further program of policy enforcement and equipment modification, which has resulted in a 6 percent ($300–400,000) reduction in energy costs in fiscal 1978. An 18–20 percent reduction ($1,500,000) in energy usage is projected for fiscal 1979, based on data for the first nine months of the year.

Baltimore operates the first commercial-scale waste-to-energy pyrolysis system which converts municipal solid waste to a low BTU gaseous fuel, with process steam sold to a Baltimore Gas and Electric Company district heating facility. A four-week test run processing 600–650 tons per day resulted in a daily average income of $4,300 from the sale of steam. The city is now considering the recovery of methane from existing landfills, and is in the data-collecting stage.

BIRMINGHAM, ALA.

In response to the energy crisis, the city of Birmingham established an energy committee with the task of developing methods to reduce energy consumption in city services and the community by 15–20%. The group is made up of 9 members of the community. At present the city is attempting to upgrade the building code to include energy conservation techniques. Also, in conjunction with the Regional Planning Association, the city has established an ongoing vanpool and carpool program, and is working on a computer match system for citizens interested in carpooling. The main focus of the citizens energy committee is to adopt a more energy efficient policy for city buildings.

BOISE, IDAHO

The most vital energy conservation program in Boise is the planned geothermal development in the city. The City of Boise's program to harness geothermal energy will heat eighteen city, state, Federal and private buildings, eight square blocks of an urban renewal area (the new Downtown Mall), and the campus of Boise State University. Heating a total of two million square feet of building space, the system will reduce fuel costs by 25 percent and save the equivalent of 20,000 barrels of oil per year. A parallel program administered by Warm Springs Hot Water District will develop a separate geothermal heating system for residential areas. The total program costs will be $15 million.

Boise has two citizens' energy committees with about 75 members each, set up in conjunction with geothermal development and the Downtown Mall. One group focuses on transportation issues; the other on alternative energy sources, including conservation measures. The committees are very active, and meeting attendance is high.

In addition to the downtown geothermal program, Boise operates a carpool and vanpool matching system. Participants to date include five major corporations, and city, county, state and federal employees.

The downtown development has provided Boise citizens with a unique opportunity to learn about not only geothermal energy, but other energy conservation measures and alternative energy sources as well. The high interest in the community is reflected in the information requests to the city libraries, state library, and the city Geothermal Office. The city plans to produce a documentary movie about geothermal energy to serve as an educational and publicity tool for the general public, local government and private business.

CLEARWATER, FLA.

The city of Clearwater, Fla, began energy conservation efforts in 1975, focusing on two major consumption areas—city vehicles and street lighting. By 1977 the vehicle fleet program resulted in a 31 percent increase in fleet miles per gallon, saving 175,000 gallons of fuel ($80,000).

These programs were brought under centralized control with the creation of a city Energy Office in 1977. The Office set as its goal, reduction ". . . of the city's energy consumption by 25 percent without compromising the safety or health of the public or the efficiency of the city's employees." Program results include an estimated savings of $150,000 per year from the building retrofit and efficiency program—a reduction of 3 million kilowatt hours per year. The home energy audit program has been discontinued due to the loss of CETA workers who performed the audits, but during the program, 750 homes were audited. These homes averaged a use of 2000 kilowatt hours per month prior to audits, and reduced use by 15 percent as a result of audit improvements. A plan to convert to high pressure sodium streetlights is estimated to save another 3 million kilowatt hours per year.

DAYTON, OHIO

The city of Dayton has been actively involved in a community energy conservation effort since 1977. Dayton is one of 17 local governments in the United States chosen to participate in the Comprehensive Community Energy Management Program (CCEMP) sponsored by DOE. This program is designed to help local communities identify, evaluate and implement energy conservation methods and to manage local energy supply and use.

As a result of the CCEMP grant, Dayton was able to formulate a citizens committee of 22 members from all walks of life. The committee is subdivided into a steering committee and an action committee which discuss energy policy actions for both private and public groups, and will play a key role in the development of a comprehensive, long term energy policy.

There are two basic components of the program: energy auditing and projecting consumption levels for both public and private consumption up to the year 1985 to determine supplies and to prevent shortfalls.

In addition, the city of Dayton in conjunction with its congressional representative has established energy workshop seminars to discuss nuts and bolts techniques of energy conservation for citizens. Also, the city has a mini-computer to centralize lighting in municipal buildings and schools.

DENVER, COLO.

The city of Denver is developing an overall comprehensive plan for city energy use. This plan when implemented will address the energy impact of all facets of city planning including zoning and land use. This plan also will address the development of a citizens advisory committee on energy. At present the city has an in-house energy committee, which is developing a plan for cutting back city government energy usage by 10 percent within each department. The city also has developed an extensive van pool program and is cooperating with the state government on a computer match system for citizens interested in carpooling.

GREENSBORO, N.C.

The city of Greensboro operates an employer-based carpooling system, which was initiated in November, 1977. Beginning with municipal employees, the program has now expanded to include major city businesses. In March, 1979, the city contacted the area's top 24 companies. So far, 17 companies have responded positively, with a range of from 56% to 69% of their employees expressing interest in participating in the program. Twelve of these companies are now carpooling, while the remainder are completing the computer matching process. These companies employ from 500 to 5,000 employees each. The city plans in the future to include smaller employers in the program, as well as employment centers such as the downtown area.

In 1977, the city initiated one of the nation's most effective home audit programs. City firefighters, already familiar with home construction, were trained by the local utility to conduct residential energy audits. Such an approach ensures much higher acceptance by homeowners without any diminution in fire protection or greatly increased cost to the taxpayer. The firemen collect the raw data, have it analyzed by the city's utility staff to determine what energy conservation measures are called for, and return in two to three weeks with the results of the analysis. Homeowners are also provided with a "how-to" booklet on energy conservation prepared by the city and a flier from the Greensboro Jaycees explaining the civic group's insulation assistance fund for those who cannot afford to have the work done themselves. To date, 14,000 homeowners have been contacted, and 12% have accepted.

HARTFORD, CONN.

The city of Hartford has developed a comprehensive approach that touches all levels of municipal policy, including zoning, land use, transportation, economic development, and education.

Hartford established a citizens energy corporation hire and train unemployed city residents to retrofit existing structures (both city owned and private). In addition to the energy corporation, the city has set aside funds to create a community based economic development corporation that will manufacture and install solar energy collectors. Once the programs are in place, the city expects to provide between 200 and 225 jobs for city residents. This effort will produce an added benefit of helping city residents lower their energy consumption and costs.

Also, the city is involved in an effort to minimize automobile traffic downtown. It is considering the feasibility of closing a series of streets to cars. Only pedestrians, buses, and emergency vehicles would have access to these streets. Hartford also has had much support for its park and ride programs, designed to offer cheaper and faster public transportation than the automobile.

KANSAS CITY, MO.

Involvement of Kansas City citizens in energy conservation programs began in 1974 with "Operation Button-Up". During its two years of operation, the program was responsible for circulation of more than two million mail inserts with utility bills, development of a lecture kit and speakers bureau, production of several radio and television public service announcements, work with the Kansas City Star on a special energy edition, development of a fall home tour featuring energy conservation, placement of several articles in regional magazines on the benefits of energy conservation, and creation of a Button-Up kit that enabled homeowners to assess their own needs for home energy conservation.

Operation Button-Up has been followed up by several other programs directed to homeowners—the home weatherization program and two energy demonstration and conservation homes. The weatherization program improved over 1,395 homes by July, 1979, with an average investment of $450 per home. The program evaluation shows that average fuel consumption has decreased by 21.95%, the average dollar savings per house is $71.61, and the average return on investment is 4.9 years. The demonstration homes are two older houses that have been retrofitted with energy saving appliances, insulation and other energy conservation measures to provide the public with testing of conservation features, training in "how-to" measures, and examples of the savings possible using energy conserving measures.

Kansas City also has an extremely successful carpool and vanpool program. A carpool matching program begun in 1974 elicited interest from one-quarter of the city employees. Vanpools were added in 1978. Five vans are operating at present. Also in 1978, a ride-sharing grant from the Department of Energy enabled the city to expand the vanpool matching program to area corporations.

LOS ANGELES, CALIF.

During the 1972–73 embargo, Los Angeles cut overall energy consumption by 20 percent under a voluntary cutback program. City conservation programs have since been enhanced. Monthly electrical consumption reports show some departments have decreased usage to under the rates during 1972–1973.

In 1978 and 1979, the Airport cut energy use to 7.5 percent below embargo rates. The Water and Power department was 15.8 percent below, and the Harbor department was 52.8 percent below. Other departments added new buildings but increased usage to only 6.2 percent above embargo rates.

Vehicle fuels consumption for the first nine months of fiscal year 1979 is five percent below the rate for the previous 11 months. Twenty-six vehicles are using gasohol, and the city is seeking to expand this program. Three buildings are to be dedicated shortly, all using solar systems: a firehouse (to be the prototype for all future Los Angeles firehouses); an office building; and a demonstration single family house.

LOUISVILLE, KY.

The City of Louisville has set itself the goal of reducing energy consumption by 6.8 percent by 1981 over the base year of 1976. Efforts to reach this goal include transportation programs and information programs.

Transportation programs include a 50 percent subsidy of mass transit fares for city employes, free parking lots for city employee carpools, and an innovative city bus system. The bus system includes double-deck buses to increase passenger miles per gallon. Ridership is up an estimated 18 percent over last year.

Louisville participates actively in the Jefferson County Energy Commission. The Energy Commission provides community residents with energy conservation information. Recent projects include a survey of local businesses to determine which had undertaken exemplary energy conservation measures. A list of those local businesses which have implemented energy conservation measures was distributed to citizens, along with estimates of energy savings. Awards were given for the most outstanding efforts. The Jefferson County Energy Commission also prepared a brochure listing all energy-related businesses (e.g., insulation sales and installation, solar products and installation), which has been distributed to the public. Other publicity efforts include an audiovisual program shown to several thousand people each year, radio and television talk shows on energy, and an energy seminar co-sponsored by Indiana University.

METROPOLITAN MIAMI/DADE COUNTY, FLA.

Energy conservation efforts in Metropolitan Miami/Dade County, Fla., began in 1973–1974 in response to the gasoline crisis. The most significant program developed at that time was a gas rationing program, which remains in effect today. Under the program, coupled with increased maintenance and a switch to smaller city fleet cars, the city vehicle fleet gasoline consumption in 1978 was 37 percent lower than in 1972. A Comprehensive Energy Management Program (CEMP) was adopted in December, 1977, and the Dade County Planning Department developed a report, "Energy Conservation: Proposed Goals and Policies," for review by the Board of County Commissioners in July, 1979. The payoff for major planning efforts in Dade County comes in the form of electricity and gasoline consumption savings, as these are the two primary energy sources. In 1976 Dade County consumed about one-half a billion kilowatt hours of electricity. The conservation program put into effect in 1977 is estimated to have saved one hundred and thirty million kilowatts that year. This savings converts to 216,607 barrels of crude oil, or $2.8 million at the 1977 prices.

NEW ORLEANS, LA.

New Orleans began a moderately successful Energy Conservation Program in 1973. An Energy Management Program was subsequently mandated in 1978, and a Citizens' Committee for Energy Management was formed to assist in the planning for the Management Program. The City Energy Management Task Force has proposed a broad program that would encompass such areas as conservation, alternative energy sources, development of local unconventional energy sources (such as geopressurized natural gas), and such administrative policy areas as zoning and building codes and rate restructuring. The City of New Orleans has a municipal utility, New Orleans Public Service, Inc. (NOPSI), which can provide the kind of support for municipal energy management experienced by other cities with municipal utilities such as Seattle and Portland. NOPSI now provides the bulk of information on energy conservation distributed to New Orleans citizens, and offers a home audit service.

OAKLAND, CALIF.

The city of Oakland, Calif. operates a wide-ranging energy conservation program, including a centralized maintenance facility for fire and police vehicles, a passive solar design for a new recreation center, exploring cogeneration, and using more open windows rather than air conditioning in city buildings. The most significant program is the retrofit of city street lights. The program involves converting the 23,563 lights in Oakland's system to high-pressure sodium vapor lamps from mercury-vapor lamps. While maintaining lighting levels in accordance with recommended standards, the new system will use 55 percent less electricity than the old (which comprised 70 percent of city electrical expenditures).

The total conversion to this new lighting technology will reduce the annual cost of the service 75 percent—from $2,040,000 to $503,000 per year. This is a savings of 17 million kilowatts per year.

PORTLAND, ORE.

The city of Portland has just passed a comprehensive city energy plan with a goal of decreasing energy use throughout the city by 30 percent by 1995. The projected savings from this reduction for the city and its residents is about $126 million a year based on current prices. The program itself was developed through a citizen energy policy committee composed of representatives from business, labor, industry, government and neighborhood groups. The city also developed information and education programs to notify citizens of the plan. Newspapers, radio and television were used for this outreach program, as well as a series of 35 briefing sessions throughout the city with neighborhood business, industry and others. This comprehensive plan will cover all areas of city planning which might impact on energy.

Besides this comprehensive city plan, Portland has a number of energy programs already in place. Life-cycle costing has been made a consideration in all purchasing decisions by the city government. Half of one-percent of the city's general funds and other special funds have been set aside for energy conservation investments—which currently yields about $700,000 a year for energy conservation projects on the part of city departments, such as better building insulation and a heat recovery unit for the city paint shop.

ROCKVILLE, MD.

The City of Rockville's city-wide energy conservation efforts have been supported by an Energy Advisory Committee which draws upon the pool of technical expertise available in the city. The Committee provides advice on all energy plans and proposals such as the consideration of methane recovery from city landfill sites and purchase of dual fuel cars for the city fleet.

The Rockville Energy Office operates an energy information center to respond to citizen inquiries as well as producing a newsletter column, a slide show on home energy conservation, and seminars for residents and local businesses. The office held an Energy Fair to coincide with Sun-Day to promote energy activities. Programs offered by the city include weatherization of low-income homes and home energy audits conducted by the local utility. The office is working in cooperation with the County on a vanpool program.

Current projects include an evaluation of energy conservation measures to be incorporated in the redevelopment of the town center, solar heating for city swimming pools, and development of a solar access zoning code. Present building codes are written to incorporate energy conservation measures in new buildings.

SAN ANTONIO, TEX.

The city of San Antonio is developing mechanisms for coping with energy issues as a whole. A Comprehensive Residential Management Program (CRMP) is being drafted to include not only energy conservation and alternative energy sources, but solid waste disposal possibilities such as refuse-derived fuel and wastewater management issues. A proposal has been sent to the Department of Energy for support of a complete revision of building and zoning codes to encourage energy conservation and alternative energy sources through siting, solar access zoning, etc. Under this proposal, a citizens' energy commission would be instituted with the assistance of local university.

A major community energy education program is conducted by the city utility. In addition to supply information, the utility conducts audits of residences and commercial buildings.

The City provides a carpool computer matching service, and is adding a vanpool service as well. City employees receive subsidies for bus commuter fares.

SEATTLE, WASH.

The city of Seattle is in the process of implementing perhaps one of the most advanced energy building codes in the country. This code is expected to result in an overall reduction in projected electricity usage of about 8 percent by 1990. A citizens advisory committee on energy usage has responsibility for recommendations to the city in energy management and planning. Seattle's municipal utility has a citizens advisory group as well. In light of possible heating oil shortages this winter, Seattle is in the process of developing contingency plans for actions the city can take to help residents affected by shortages and high prices of heating supplies.

Seattle also has developed a number of other innovative programs in the area of energy conservation and alternative technologies. For example, the city is leasing solar equipment to the community through the municipal utility. There also are many other solar incentive programs and demonstrations. The city has developed a free ride zone in the downtown area to encourage residents not to bring their cars into the area.

ST. PAUL, MINN.

The city of St. Paul, Minnesota coordinates energy conservation efforts through a strong system of district councils—seventeen "mini-city halls"—which review and comment on all city functions such as licensing and zoning. The city has recently applied for a Department of Energy grant to revise the building and zoning codes to encourage increased energy conservation. The designation of appropriate lots for underground or solar construction now is conducted with the assistance of the district councils. The councils distribute energy conservation information, such as the results of the infrared thermography flyover conducted in 1977 to demonstrate the sources of heat loss in residential and commercial buildings in St. Paul. One of the district councils will be holding an Energy Fair this October, which will provide information on energy conservation and alternative energy sources. It will provide exhibitors a place to display and demonstrate energy conservation products.

The city has been encouraging energy conservation through several other means, including a vanpool program which is working through employers. The 3M corporation offered the first of these company-sponsored vanpool programs in 1973, which has grown to 100 vans serving more than 1,000 of the company's 10,000 employees. The city plans to complement the existing vanpool programs with a downtown shuttle which will ferry passengers from fringe parking lots to downtown work and shopping areas. The mayor rides the bus once a week as an example.

By Mr. MATSUNAGA (for himself, Mr. Jackson, Mr. Church, Mr. Inouye, Mr. Bumpers, Mr. Ford, Mr. Durkin, Mr. Metzenbaum, Mr. Melcher, Mr. Tsongas, Mr. Bradley, Mr. Hatfield, Mr. McClure, Mr. Weicker, Mr. Domenici, Mr. Stevens, Mr. Bellmon, Mr. Wallop, Mr. Chiles, Mr. Stone, and Mr. Randolph):

S. 1830. A bill to provide for a research, development, and demonstration program to achieve the early commercialization of ocean thermal energy conversion systems, and for other purposes; to the Committee on Energy and Natural Resources.

OCEAN THERMAL ENERGY CONVERSION RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

Mr. MATSUNAGA. Mr. President, together with the Senator from Washington (Mr. Jackson), the Senator from Idaho (Mr. Church), the Senator from Hawaii (Mr. Inouye), the Senator from Kentucky (Mr. Ford), the Senator from Arkansas (Mr. Bumpers), the Senator from Ohio (Mr. Metzenbaum), the Senator from Montana (Mr. Melcher), the Senator from Massachusetts (Mr. Tsongas), the Senator from Oregon (Mr. Hatfield), the Senator from Idaho (Mr. McClure), the Senator from Connecticut (Mr. Weicker), the Senator from New Mexico (Mr. Domenici), the Senator from Alaska (Mr. Stevens), the Senator from Oklahoma (Mr. Bellmon), the Senator from Wyoming (Mr. Wallop), the Senators from Florida (Mr. Chiles and Mr. Stone), and the Senator from West Virginia (Mr. Randolph), I am today introducing legislation to provide for the establishment of an expanded and intensified research, development, and demonstration program on ocean thermal energy conversion (OTEC) within the Department of Energy.

The Ocean Thermal Energy Conversion Research, Development and Demonstration Act, which we are proposing, is intended to accelerate the acceptance of OTEC as an alternative, clean, renewable source of baseload energy available to the people of the United States.

Of all the feasible energy alternatives, the ocean is a solar energy source which remains constant in its capability, whether it be in the bright sunlight during the daytime, or in the pitch darkness of a starless night.

It is an energy source which knows scarcely any seasonal variations in capability. It requires no extraneous energy storage facility because the whole ocean serves as a huge solar heat collector and does its own storing. Furthermore, in terms of air and water quality, energy from the ocean would be clean, and essentially pollution free. Most importantly, the "fuel supply" is virtually inexhaustible and inflation-proof!

Before ocean thermal energy conversion technology can satisfy a significant part of our energy needs, however, a number of critical issues must be addressed. These issues include technical, institutional and regulatory impediments to future OTEC systems, and ways to overcome such obstacles.

Significant strides have been made toward the resolution of such issues. Just a few years ago, the OTEC program was mostly directed to theoretical studies, paper investigations and basic research. Today, it has become a hardware program with excellent possibilities for early construction of demonstration plants followed by rapid commercialization.

Illustrative of this fact is the recent, historic event at Ke-Ahole Point in Hawaii. As I am sure you are aware, Mr. President, I am referring to the recent start-up of MINI-OTEC, the world's first closed-cycle, self-sustaining ocean thermal energy conversion system operating at sea.

We know that no further scientific breakthroughs are needed and that the basic technology is already available to build a full-scale OTEC plant; but complex engineering and cost problems remain to be solved before widespread application can be realized.

I am confident, however, that solutions to these problems are almost within our grasp and that we should now move rapidly toward successful design, construction, and operation of early pilot plants using the best available science and engineering.

The bill that we are introducing today is directed at the early accomplishment of these objectives. As in the development of other alternative energy sources, the Federal Government must be an active participant in order to expedite matters. To achieve this end, several important initiatives are set forth in the bill to insure successful commercialization. First, the bill commits the Nation to demonstrate OTEC electrical or energy product equivalent capacity by establishing goals of 100 megawatts by the year 1986 and 500 megawatts by the year 1989. Second, to assure that these goals are achieved, the Department of Energy is required to prepare a comprehensive plan and program to be submitted to the Congress for review. Also, the bill sets a national goal of 10,000 megawatts of OTEC capacity by 1999 and directs the Department of Energy to develop a commercialization plan that will permit realization of this goal. Additionally, an Ocean Thermal Energy Conversion Advisory Committee would be established to assess and evaluate implementation of the programs mandated by the bill.

We believe this bill represents a prudent, but aggressive, approach to achieving the early utilization of the ocean's thermal energy for meeting our Nation's energy needs.

Mr. President, I wish to thank every cosponsor of the bill for joining me in this truly historic effort and ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, This Act may be cited as the "Ocean Thermal Energy Conversion Research, Development and Demonstration Act".

FINDING AND PURPOSES

Section 1. (a) The Congress finds that—

(1) the supply of nonrenewable fuels in the United States is slowly being depleted;

(2) alternative sources of energy must be developed;

(3) ocean thermal energy is a renewable energy resource that can make a significant contribution to the energy needs of the United States;

(4) a strong and innovative industry committed to the commercialization of ocean thermal energy conversion must be established; and

(5) it is in the national interest to accelerate efforts to commercialize ocean thermal energy conversion.

(b) Therefore the purpose of this Act is to—

(1) demonstrate by 1986 at least 100 megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems;

(2) demonstrate by 1989 at least 500 megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems;

(3) reduce, by the end of fiscal year 1993, the average cost of electricity or energy product equivalent produced by installed ocean thermal energy conversion systems to a level competitive with conventional energy sources; and

(4) establish as a national goal 10,000 megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems by the year 1999.

COMPREHENSIVE PLAN AND PROGRAM

Sec. 2. (a) The secretary is authorized and directed to prepare a comprehensive plan and program for the conduct of the research, development and demonstration activities under section 3 and 4. Such plan and program shall include at a minimum—

(1) a detailed description of the functional organization of the program management;

(2) a presentation of the program strategy, including identification of milestones and critical paths, which will be used to achieve the purposes of this Act;

(3) a program implementation schedule with associated budget requirements;

(4) risk assessments;

(5) supporting research needed to solve problems which may inhibit or limit development of ocean thermal energy conversion systems; and

(6) an analysis of the environmental acceptability of ocean thermal energy conversion facilities.

(b) The Secretary shall transmit such comprehensive plan and program to the Congress within 9 months after the date of the enactment of this Act.

RESEARCH AND DEVELOPMENT

SEC. 3. (a) The Secretary shall initiate research or accelerate existing research in areas in which the lack of knowledge limits development of ocean thermal energy conversion systems in order to achieve the purposes of this Act.

(b) The Secretary shall conduct evaluations, arrange for tests, and disseminate to developers information, data, and materials necessary to support the design efforts undertaken pursuant to section 4. Specific technical areas to be addressed shall include, but not be limited to—

(1) interface requirements between the platform and cold-water pipe;

(2) cold-water pipe deployment techniques;

(3) stationkeeping requirements; and

(4) energy delivery systems, such as electric cable or energy product transport.

(c) The Secretary shall, for the purpose of performing his responsibilities pursuant to this Act, solicit proposals and evaluate any reasonable new or improved technology, a description of which is submitted to the Secretary in writing, which could lead or contribute to the development of ocean thermal energy conversion system technology.

DEMONSTRATION

SEC. 4. (a) The Secretary is authorized to initiate a program to design, construct and operate ocean thermal energy conversion facilities of sufficient size to demonstrate the technical and economic feasibility of utilizing the various forms of ocean thermal energy conversion to displace nonrenewable fuels.

(b) The specific goals of the demonstration program shall include at a minimum—

(1) the demonstration through a phased expansion of at least 200 megawatts of electrical capacity or energy product equivalent with an operating capacity of 100 megawatts by the year 1986;

(2) the demonstration by 1989 of 500 megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems;

(3) the delivery of baseload electricity to utilities located on land or the production of commercial quantities of energy product; and

(4) the continuous operation of each demonstration facility for a sufficient period of time to collect and analyze system performance and reliability data.

(c) To facilitate development of a strong industrial basis for the commercialization of ocean thermal energy conversion system technology, at least two independent parallel demonstration projects shall be competitively selected to achieve the goals of this Section.

COMMERCIALIZATION

SEC. 5. (a) The Secretary is authorized and directed to prepare a comprehensive commercialization plan that will permit realization of the 10,000 megawatt national goal by 1999. Such plan shall include at a minimum—

(1) the identification of the efforts necessary to establish a sufficient industrial infrastructure to meet the national goal;

(2) analysis of the necessary government actions to aid the industry in minimizing and removing any legal and institutional barriers such as establishment of a single regulatory authority, designation of a lead agency, or other means; and

(3) an assessment of the necessary government actions to assist in eliminating economic uncertainties through financial incentives, such as loan guarantees, price supports, or other inducements.

(b) The Secretary shall transmit such comprehensive commercialization plan to the Congress within 3 years after the date of enactment of this Act.

(c) As part of the competitive procurement initiative for design and construction of the demonstration projects authorized in Section 10, each respondent shall include in its proposal (1) a plan leading to a full-scale, commercial facility based on the proposed demonstration system; and (2) the financial and other contributions the respondent will make toward meeting the national goal.

PROGRAM SELECTION CRITERIA

SEC. 6. The Secretary shall, in fulfilling his responsibilities under this Act, select programs and set priorities which are consistent with the following criteria:

(a) realization of energy production costs for ocean thermal energy conversion systems that are competitive with costs from conventional energy production systems;

(b) encouragement of projects for which contributions to project costs are forthcoming from private, industrial, utility or governmental entities for the purpose of sharing with the Federal Government the costs of purchasing and installing ocean thermal energy conversion systems; and

(c) promotion of ocean thermal energy conversion facilities for coastal areas, islands and isolated military institutions which are vulnerable to interruption in the fossil fuel supply.

ADVISORY COMMITTEE

SEC. 7. (a) There is hereby established an Ocean Thermal Energy Conversion Advisory Committee, which shall, at a minimum, study and advise the Secretary with regard to—

(1) implementation and conduct of the programs established by this Act;

(2) definition of ocean thermal energy conversion system performance requirements for various user applications; and

(3) economic, technological, and environmental consequences of the deployment of ocean thermal energy conversion systems;

(b) The Committee shall be composed of at least seven members appointed by the Secretary from industrial, academic, financial, and legal organizations and such other entities as he deems appropriate. The appointments shall be made within 90 days after enactment of this Act. The Chairman of the Committee shall be elected from among the members thereof.

(c) The heads of the Departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Committee in carrying out the requirements of this section and shall furnish to the Committee such information as the Committee deems necessary to carry out this section.

(d) The Committee shall meet at least 4 times annually notwithstanding Sec. 10 (e) and (f) of Public Law 92–463, until such time as the demonstration program goals in Section 4 are met.

(e) The Committee shall prepare and submit annually to the Secretary a report. Such report shall include at a minimum—

(1) a summary of the Committee's activities for the preceding year;

(2) an assessment and evaluation of the status of the programs mandated by this Act; and

(3) suggestions for improvements in the comprehensive plan and program described in Section 2.

(f) The Secretary shall provide sufficient staff and other support as necessary to enable the Committee to carry out the functions described in this section.

REPORTS

SEC. 8. (a) As a separate part of the annual report submitted pursuant to section 801 of the Department of Energy Organization Act (Public Law 95–91), the Secretary shall submit to Congress an annual report of activities pursuant to this Act. Such report shall include—

(1) a current comprehensive plan and program for implementing this Act;

(2) an evaluation of the state of ocean thermal energy conversion system research and development in the United States;

(3) a description of the contracts and grants made under this Act;

(4) an analysis of the progress made in commercializing ocean thermal energy conversion system technology; and

(5) suggestions for improvements in ocean thermal energy conversion system research and development, including recommendations for legislation.

DEFINITIONS

SEC. 9. As used in this title, the term

(a) "ocean thermal energy conversion" means a method of converting part of the heat which is stored by the sun in the surface layers of the ocean into electrical energy or energy product equivalent.

(b) "energy product equivalent" means an energy carrier such as ammonia, hydrogen or molten salts used to transport ocean thermal energy conversion generated energy to shore for use in generation of electricity or as an energy-intensive commodity; and

(c) "Secretary" means the Secretary of Energy.

AUTHORIZATON OF APPROPRIATION

SEC. 10. (a) There is hereby authorized to be appropriated to carry out the purposes of this Act, in addition to any amounts made available for such purposes pursuant to other Acts, the sum of $25,000,000 for operating expenses for the fiscal year ending September 30, 1980.

(b) Funds are hereby authorized to be appropriated to carry out the purposes of Section 4 of this Act for plant and capital equipment as follows:

Project 80–ES–12, Ocean Thermal Energy Conversion Demonstration Plants with a combined capacity of at least 100 MWe or the energy product equivalent, sites to be determined, conceptual and preliminary design activities only, $15,000,000.

ADDITIONAL COSPONSORS

S. 1179

At the request of Mr. BAYH, the Senator from Nevada (Mr. CANNON), the Senator from Maryland (Mr. SARBANES), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Utah (Mr. GARN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of S. 1179, a bill to incorporate the Gold Star Wives.

S. 1788

At the request of Mr. Lugar, the Senator from Tennessee (Mr. Sasser) was added as a cosponsor of S. 1788, a bill to amend the National Consumer Cooperative Bank Act to provide for a small business representative on the Bank's Board.

S. 1800

At the request of Mr. Bradley, the Senator from Alaska (Mr. Stevens) and the Senator from Montana (Mr. Melcher) were added as cosponsors of S. 1800, a bill to facilitate energy efficiency in residential buildings.

SENATE JOINT RESOLUTION 39

At the request of Mr. Randolph, the Senator from Arkansas (Mr. Pryor) and the Senator from New Hampshire (Mr. Humphrey) were added as cosponsors of Senate Joint Resolution 39, a joint resolution to establish the "National Employ the Older Worker Week."

SENATE JOINT RESOLUTION 101

At the request of Mr. Inouye, the Senator from Louisiana (Mr. Long), the Senator from Maryland (Mr. Sarbanes), the Senator from Oregon (Mr. Packwood), and the Senator from Alaska (Mr. Gravel) were added as cosponsors of Senate Joint Resolution 101, authorizing the President to designate the seven calendar days beginning October 7, 1979, as "National Port Week."

AMENDMENT NO. 212

At the request of Mr. Schmitt, the Senator from Kentucky (Mr. Huddleston) was added as a cosponsor of amendment No. 212 intended to be proposed to S. 1020, the Federal Trade Commission Authorization bill.

AMENDMENT NO. 443

At the request of Mr. Javits, the Senator from South Carolina (Mr. Hollings), the Senator from Indiana (Mr. Bayh), the Senator from Massachusetts (Mr. Tsongas), and the Senator from Connecticut (Mr. Weicker) were added as cosponsors of amendment No. 443 intended to be proposed to S. 1204, the Child Health Assurance Act.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources has scheduled a hearing on several conservation proposals which have been referred to the committee including "the energy productivity amendments to S. 1308," (Amdt. No. 388), "the residential energy efficiency program of 1979," (S. 1800), and "the Conservation Bank Act," (S. 932, title IV).

The hearing will be held on Tuesday, October 2, 1979 in room 3110 of the Dirksen Senate Office Building. The hearing has been organized as a series of panels which will appear at the following tentative times:

Administration panel, 10 to 11 a.m.
Utility panel, 11 to 12 a.m.
State/city panel, 2 to 3 p.m.
Consumer/small business, 3 to 4 p.m.
Industrial/business, 4 to 5 p.m.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources will hold a hearing on H.R. 3756, legislation authorizing appropriations for certain insular areas of the United States, and H.R. 3758, amending section 601 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States.

The hearing will be held on October 10, 1979, at 10 a.m., in room 3110 of the Dirksen Senate Office Building, Washington, D.C.

Anyone wishing to submit testimony into the record of this date may do so by sending it to Mr. James Beirne, Committee on Energy and Natural Resources, 3106 Dirksen Senate Office Building, Washington, D.C. 20510. Telephone contact is (202) 224-2564.●

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON SMALL BUSINESS

Mr. MORGAN. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Select Committee on Small Business be authorized to meet during the session of the Senate today to hold a hearing on the examination of health care financing administration's impact on small business health care provisions.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MORGAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a markup session on synthetic fuels legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PARKS, RECREATION, AND RENEWABLE RESOURCES

Mr. MORGAN. Mr. President, I ask unanimous consent that the Parks, Recreation, and Renewable Resources Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on the RARE II proposals.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FORMER PRESIDENT FORD'S POSITION ON SALT II

● Mr. HUMPHREY. Mr. President, former President Gerald Ford yesterday presented a reasoned and reflective statement on his position with respect to the treaty to limit strategic weapons (SALT II).

While admitting that there are useful elements in the treaty now under consideration in the Senate, Mr. Ford is also realistic when he states his position of opposition to the treaty "unless the necessary defense spending decisions have been made and have been written into law."

He said—and I quote:

> Let me emphasize the point. Some suggest they are for the treaty on the assumption that the necessary defense spending decisions will be made. That is not my position. My position is that I am against the treaty unless the necessary defense spending decisions have been made and have been written into law. I don't believe vague, short-term or revocable assurances are enough; we must be certain of our strength before we accept limits on it.

It is a thoughtful analysis of our past and present strategic position. It spells out in no uncertain terms the advantages that the Soviet Union has undertaken in strategic advancement over the past decade, despite SALT I.

In effect, Mr. Ford is calling upon this Nation to consider what its own strategic planning will be in the future before ratifying SALT II.

He is correct when he says that no President should be forced to choose between the massive destruction of the Soviet Union or surrender.

> That is an intolerable burden. It is an intolerable choice.

The former President outlines the specific needs for a larger defense program. They include:

An MX missile, a new strategic bomber, the need to accelerate the Trident program as rapidly as our facilities will permit, the need for an air defense at least sufficient to prevent the Backfire bomber from attacking the United States and the need to modernize and enhance U.S. strategic airlift capabilities, thereby enabling the United States to project our military power adequately wherever it may be needed.

Former President Ford concludes that the decisions we make on our defense budget and the SALT II treaty will be as important as any decision America has ever had to make.

These decisions go to the heart of U.S. economic and energy security which become inseparable from a commitment to national military security.

Mr. President, I commend the statement by former President Ford to my colleagues, and ask that the entire statement be printed in the Record.

The statement follows:

[From the Washington Post, Sept. 26, 1979]

Gerald Ford Takes His Stand on SALT

I wish to share some of my thoughts regarding the SALT II treaty and America's defense policies. They constitute my first effort at comprehensive public comment on these subjects since leaving the White House in January 1977. I've been there. The responsibilities are awesome. I have weighed these words very carefully.

I have studied the treaty and its accompanying documents in detail. I have been thoroughly briefed by the administration and by those on the other side. I have carefully followed the ongoing debate in the Senate committees. And I am deeply troubled.

Frankly, I am troubled less by the questions in the treaty itself—although there are serious questions—than I am by the air of unreality that seems to accompany some of the debate.

Strategic arms control is of great importance to the United States. I supported the SALT talks in Congress, encouraged them as vice president and pursued them personally as president. We need the SALT process and a good SALT agreement. But neither the SALT talks nor any SALT treaty is an end in itself. It is not the key to all wisdom. It is not a magic answer. Ratification will not bring utopia; rejection will not bring Armageddon.

Just as SALT should never be considered in isolation from the rest of U.S.-Soviet relations, neither should SALT have a higher priority than our national defense program. We must be certain of our strength before we can safely consider SALT limits on it. Let's make certain we get the horse before the cart. It would be catastrophic to reverse the two.

Anyone who recommends a context for the national debate surely should follow his own advice. So, before looking at the particulars of the treaty, let's look at the status of our defense program. Let's try to answer the question: can America be certain of her strength today and during the next decade?

That examination requires a brief history of the evolution of U.S. military strategy in the nuclear age, starting with the initial concept in the '50s—"massive retaliation."

The "massive retaliation" doctrine was based on one simple fact: the United States possessed overwhelming strategic superiority. With it, theoretically, we could presumptively deter and surely control any military conflict with the Soviet Union through the threat of escalation to a nuclear level where the United States was absolutely dominant.

Massive retaliation was a logical response to the frustration of the early '50s:

In Korea we had achieved our initial objectives, but many people felt that we had become "bogged down" in a situation in which the Communist forces enjoyed a relative advantage.

In Europe we had set NATO force goals which, even if they had been met, would have constituted a severe economic drain.

Even though the United States still enjoyed substantial superiority in its ability to project conventional forces to distant areas of conflict, massive retaliation made good military sense. Put simply, it was a strategy to deter "limited" conflict such as Korea by threatening to respond at a level where both sides knew we would prevail.

The principal problem of "massive retaliation" was its lack of political credibility. A nuclear attack on the Soviet Union seemed so disproportionate a response, and therefore so unlikely a response, to a Soviet provocation at a minor level of conflict that the doctrine of "massive retaliation" could not be counted on to deter local aggression.

So next came steps to add credibility to deterrence by adding flexibility to our military arsenal. While retaining absolute dominance in strategic weapons, we deployed tactical nuclear weapons with the NATO forces. And then in the early '60s, we moved to further improve the credibility of the United States and NATO military strategy by "filling in," with conventional military capability, the lower steps of the escalation ladder of military conflict.

We had moved from the concept of massive retaliation to the concept of "flexible response" under which deterrence of Soviet aggression would rest, not just on the capacity to devastate the Russian heartland, but to respond to Soviet aggression at any level of conflict. At the conventional level, U.S. forces were to be adequate to deal with modest military incursions and to make obvious the inevitability of a U.S. military response to aggression. They were to be sufficient to force a "pause" in the conflict in which the Soviets would contemplate seriously the consequences of continuing hostilities. Should the U.S.S.R. nevertheless persist in its aggression, the United States could then escalate the conflict to the level of tactical nuclear warfare and, if necessary, to the use of strategic nuclear weapons. Since the United States was unmistakably dominant at both these levels, the Soviet Union was clearly deterred from attack in the NATO area.

As we made these moves toward a flexible response doctrine, the famed "missile gap" occurred. Suddenly, and for the first time, we thought that our absolute dominance in strategic nuclear weapons was imperiled by the apparent intention of the U.S.S.R. to produce ICBMs en masse. Because both our defense and deterrence ultimately rested on that dominance in strategic weapons, we moved quickly to modernize and diversify our strategic force—to make it less vulnerable to the massive Soviet missile force we were told was their plan. The strategic posture we have today—the Triad and even the specific weapons systems, the ICBMs, strategic ballistic missile submarines, and bombers— was largely developed at that time.

The "missile gap" fears were based not on what the Soviets were actually doing, but on what we thought they were capable of doing. Our response to the perceived threat ironically proved far more helpful to American security than our reaction to the actual Soviet program once we discovered it in the mid-'60s. They were not building missiles at the rate we had feared and so we assumed they desired only a modest strategic capability and, unfortunately, we relaxed. Our Minuteman ICBM program was halted well short of the numbers recommended by our military leaders. The notion of targeting their strategic arsenal was rejected in favor of a concept of targeting Soviet cities under a doctrine of "assured destruction" designed to encourage the U.S.S.R. to do the same because it would require only a small Soviet strategic force to achieve.

All in all, it was a formula bound to produce complacency. You start off with total and absolute superiority; then you get scared that the other side is going to catch up and surpass you, so you diversify and modernize; then you realize the other side wasn't doing anywhere near as much as you thought; and so, psychologically you believe that the overall result is continued assured superiority. The complacency that followed the awareness that there was no real missile gap was the beginning of our problems today.

A separate but related factor which influenced the policy process was the Vietnam War. Aside from the psychological trauma of Vietnam and its impact on U.S. foreign policy, the conflict had a dramatic negative effect on the several force structure decisions which had been made in the early '60s. The war naturally resulted in very high defense budgets, very little of which was devoted to R & D or force modernization, aside from Vietnam-related items. This natural emphasis was underscored by the desire of the administration in the earlier years of the conflict to conduct the war in a manner calculated to have the least visible and disruptive domestic impact. The result was that during a period when Soviet force development was barreling forward, long-range strategic programs in this country were inadequately funded.

But that was not all. The adverse impact of the war on force development and modernization continued even after U.S. involvement had ended. This occurred as a result of the unfulfilled expectation that the end of the war would permit a "peace dividend," releasing large sums of money for domestic budget needs. The pressures which this produced on the defense budget in general and new strategic programs in particular were extreme. The result was that the defense budget continued to decline as a proportion of the national budget and of the gross national product. These difficulties reinforced both the tendency toward a relaxation of military standards and a propensity to avoid analysis of the evolving strategic balance and the unpleasant choices it might reveal.

We got back on track in the mid-'70s. The B1 bomber program was fully funded. The decision was made to go forward with the MX missile. The Trident submarine program was pushed forward. Priority was given to our other strategic programs. And a major shipbuilding program was designed and budgeted. Unfortunately, since the election of 1976, the defense budgets have actually been proportionately reduced and the weapons programs begun in earlier administrations have been halted or slowed down.

Meanwhile, the Soviet Union has never stopped building. It was thought they would be satisfied with a modest "assured destruction" capacity targeted at our cities. They weren't. Then it was rationalized and assumed that psychologically they needed to keep building until they felt they had achieved strategic force equality and that then they would stop. They didn't. Today's perilous picture is where we stand.

At virtually every level of military competition, the United States is either already inferior to the Soviet Union or the balance is shifting steadily against us. We are inferior and falling farther behind in conventional force capability. Our ability to project military power over long distances is still superior to that of the Soviets, but they are rapidly closing the gap. Our dominant position on the seas is vanishing. Our Navy is no longer a two-ocean powerhouse and the Soviets continue to build a blue-water, power-projecting fleet. In NATO, the increasing Soviet advantage in conventional force capability is no longer balanced by our current or proposed theater nuclear weapons.

And, most critical of all for our national military policy is the strategic nuclear superiority on which we have relied since World War II to rectify any force disparities at lower levels. The strategic balance is clearly shifting against us, especially as we look forward to a period of great vulnerability for our entire ICBM force in the early 1980s.

The question we started with was: can America be certain of her strength today and during the next decade? My answer, frankly, is no.

It is an ominous picture. What should we do about it? The essential first step is to recognize that our military policy is increasingly out of touch with reality. Strategic superiority and escalation dominance are no longer available to cover our conventional military shortfalls, which are growing. This is the fact of our present situation, a fact we have been all too unwilling to face openly.

How do we recover? There is, unfortunately, no easy, painless, inexpensive way. Since we can no longer dominate the escalation ladder, we must have forces able to deal adequately with aggression at every level of conflict. In addition, we need to modify our strategic employment doctrine. No president should be forced to choose between the massive destruction of the Soviet Union or surrender. That is an intolerable burden. It is an intolerable choice.

Broader options obviously demand a larger defense program. Our senior military leaders can better set out the program details and precise dollar amounts essential to our needs, although certain steps are obvious:

We need an MX missile.

We need a new strategic bomber.

We need to accelerate the Trident program as rapidly as our facilities will permit.

We need an air defense at least sufficient to prevent the Backfire bomber from counting on a free-ride attack on the United States.

We need to modernize and enhance our strategic airlift capabilities, to enable us to project our military power adequately wherever it may be needed.

We need additional funds to improve command and control, for readiness training and for conventional force modernization.

And we need assured funding for research and development into the future.

This list is not all-inclusive, but it is certainly expensive. The Joint Chiefs of Staff have indicated that a 5 percent real increase in the defense budget for at least the next five years is a minimum figure. I am prepared to accept and endorse that judgment. Let me also point out that I am not a latter-day convert to the kind of defense program I have outlined. The spending which I proposed when I was in office provided for more than a 5 percent annual increase in the defense budget. The present administration's budgets for the years 1978 to 1983 have fallen behind my proposals by $66 billion in the critical area of military procurement alone. That difference in military hardware averages out to over 21 percent a year.

Now, if we can't be certain of our strength today and during the next decade, what should we do about SALT and the SALT II treaty?

First, we simply must resist the temptation to think of any SALT treaty as a substitute for summoning the will and the money to make our defense and deterrence forces truly effective. To use SALT as an answer to our defense needs is the most dangerous kind of wishful thinking.

Some may say, indeed some have said, that if we're headed into a tough period militarily, isn't a treaty which limits the Soviet Union's capacity for expansion the best answer? Assuming the Soviet Union fully abides by the treaty, it can help, of course. But the best answer to America's inadequate defense and deterrence forces, with or without a treaty, is to spend the funds necessary to make them adequate to the new realities. That's not an argument against the treaty; it is a plea from one who has shouldered the responsibilities of the office, to assure that America's president will have the military tools essential to deter adventurism and to defend our country.

SALT can never be a substitute for the certainty of our strength.

Second, we should firmly reassert our commitment to the SALT process, but with realistic expectations for that process.

SALT will not eliminate U.S.-Soviet competition. It certainly will not eliminate the threat of nuclear war and surely cannot be expected to reduce greatly the extent of destruction should a war occur. It will not permit us to cut the defense budget. Neither the United States nor the Soviet Union is prepared to entrust its fundamental national security to any agreement, no matter how carefully crafted.

What then *can* SALT do? In military terms, SALT can document the competition that exists and will continue.

SALT can improve the stability of the strategic balance, making an unintended resort to war less likely.

SALT may be able to channel the directions of strategic weapons development, thus lessening the chances that a critically destabilizing breakthrough will occur. It may enable us to avoid some defense expenditures which otherwise might be necessary to achieve a satisfactory strategic balance. And in a perilous rivalry, SALT does perform a service by providing a process of dialogue.

Compared to some extravagant claims and expectations, these are modest benefits, but they are nonetheless significant and well worth our continued serious efforts. Greater expectations are not realistic. And SALT can perform these services only if we do not ask that it also try to regain at the negotiating table what we have unilaterally given up by not strengthening and modernizing our defense programs.

Just as supporters who claim too much for the treaty should not let their euphoria or their rhetoric get the best of them, opponents who allege too little for the treaty should not forget the fundamental point that there is progress in a responsible process.

Third, let us in the future realize what in recent years we seem to have forgotten—that SALT negotiations, like all negotiations, to be successful, are best undertaken from strength.

The current administration is fond of implying that the current treaty is the product of a continuing negotiating process begun with SALT I under the Nixon administration and furthered through the Vladivostok accord under the Ford administration. They miss the critical point.

The truth is that we negotiated a real breakthrough at Vladivostok with the mutual acceptance of the principle of equivalence. But we negotiated the Vladivostok accord in the full expectation of a significantly stronger American strategic posture than what was actually in effect or programmed when this SALT II treaty was signed.

Many of the overall ceilings in the treaty were first set forth at Vladivostok. But that agreement was reached against a backdrop of a defense program which included such elements as deployment of our MX missile in 1983, deployment of the B–1 bomber commencing this year with a production rate of four per month, a strong land-, sea- and air-based cruise missile program, an accelerated Trident program with the first boat to be deployed this year, and a determination to stop and reverse the decline in the share of our national income being allocated to defense. At the time of Vladivostok, our verification facilities in Iran were secure; and the Soviet Union at that time was not embarked on or supporting geopolitical adventures in such places as Ethiopia, South Yemen and Afghanistan. The Vladivostok accord did not solve all the problems confronting us. But it was an agreement based on equality, flexibility and on the certainty of America's strength into the future.

Dealing from strength, our goal was the rapid conclusion of a SALT II agreement, thereby enabling us in SALT III negotiations to deal with remaining intractable issues, such as mutual strategic force reductions.

When the strategic force commitments in place at the time of Vladivostok were cut back in 1977, the certainty of our future military strength was also cut back, and America's negotiating posture for both SALT II and SALT III was weakened.

Fourth, there are a number of specific problem areas in the treaty which should be recognized and hopefully corrected by Soviet agreement or by Senate understandings or reservations.

There are useful elements in the treaty. It does put a cap on some elements of strategic force quantitative competition. The upper limit on numbers of MIRVs per missile is especially worthwhile.

On the other hand, I am concerned at the protocol casting a long shadow over the SALT III negotiations and at the pressures we will certainly face to continue restrictions on cruise missiles beyond the term of the protocol. I disagree with the asymmetric treatment by which peripheral systems such as cruise missiles are included in the treaty while the Backfire bomber is dealt with only in a separate Soviet aside.

There are two aspects of the verification issue which trouble me. The manner of resolution of the issues relating to the encryption of missile telemetry at a minimum invites dispute about what is and what is not essential for treaty verification. I am also disturbed by the so-called "new types" article purporting to limit both sides to one new ICBM. The title appears to be a misnomer at best. The treaty permits the broadest kind of missile modernization to be carried out without hindrance. Both because there is no baseline agreement on the dimensions defined and because the tolerances allowed are too narrow, we cannot adequately verify compliance with this article. While it apparently does constrain changes in MIRV size and numbers, as well as propellant types, the article at the very best can be expected to result in disputes over conformity with its provisions. At the worst, it could permit the Soviet Union to deploy five essentially new missiles.

Fifth, and this is the bottom line, even if the questions about the treaty are adequately answered, I am opposed to the ratification of the treaty until and unless we can once again be certain of our strength. That means that our necessary strategic force improvements should be clearly in process. It means that the overall necessary defense spending increases should be unequivocally included in this year's budget, next year's, and each succeeding year of the five-year plan. It means clear policies should be established by the administration and backed by the Congress in statutory authorizations and by the necessary appropriations. These requirements undoubtedly will mean that a final vote on ratification would not happen until well into next year. But the delay will be proved worthwhile if ultimate ratification occurs at a time when we are certain of our strength again.

Let me emphasize the point. Some suggest they are for the treaty on the assumption that the necessary defense spending, decisions will be made. That is not my position. My position is that I am against the treaty unless the necessary defense spending decisions have been made and have been written into law. I don't believe vague, short-term or revocable assurances are enough; we must be certain of our strength before we accept limits on it.

In very practical terms, only if the Soviets know there is an unacceptable penalty for violations can they be expected to abide by the provisions of SALT II and stay on the safe side of any uncertainties and ambiguities—and be prepared to negotiate seriously on SALT III. The Soviets will not be persuaded either by expressions of goodwill or by pleas for restraint if they believe in their conventional and strategic superiority. They must be convinced by reality that we have other options. Only then will SALT II be a viable instrument and only then will there be any hope of real progress in SALT III.

Many will ask how we can call for a stronger defense program while we face raging inflation, rising unemployment, a recession, a severe energy crisis and a host of pressing domestic problems. The question is reasonable. I do not claim the answer will be easy. But I am not speaking out now from the comfortable vantage point of a sidelines observer. During my term of office, I did increase the defense budget—by 5.8 percent in real terms in FY77 alone, even after substantial congressional cuts. I did get under way a substantial five-year shipbuilding program—providing almost twice the number of ships in the current program—to ensure our naval predominance in the years ahead. I did have under way an MX missile and a B1 bomber program as well as other force improvement packages. And, I was doing this while helping reduce inflation from 12.5 percent to 4.8 percent. It can be done. We can afford it; what we cannot afford are self-defeating "guns or butter" arguments.

Let me close with a deep personal concern. My greatest fear for this country is that the obvious danger signals for our economic security will blind our leadership or our people to the more subtle danger signals for our national security.

The danger signals for our economy are all around us. The experts cite the high inflation rates, the high unemployment rates and the high interest rates. The people don't need the experts to tell them they have problems. They live every day with the costs of energy and food and housing. A clear and present economic danger is obvious.

These pressing economic concerns may keep many Americans from recognizing the importance of the SALT and defense debate. There is no everyday statistical equivalent in the national security area to the cost-of-living index. The erosion of a nation's defenses is not obvious at the supermarket. The priority of our defense budget seems a distant concern in the gas lines. We certainly don't need any more problems. We all would like to wish them away.

But neither Washington's preoccupation with politics nor our people's preoccupation with the high price of everything must be permitted to obscure a clear and present danger to our national security.

The decisions we make on our defense budget and the SALT treaty are as important as any decisions America has ever had to make. The necessity for economic and energy security is inseparable from a commitment to national military security.

Without the deterrence of an adequate range of military resources, our diplomacy can be hamstrung in the face of Soviet adventurism which potentially further challenges our worldwide energy supply lines.

Without a revitalized, diversified and secure strategic capability, our allies cannot recover their confidence in our overall leadership which is a precondition to recovering their confidence in our dollar.

Without the psychological confidence based on the certainty of our strength, no American president can be certain to deter the kind of conflict that makes economic security irrelevant.

Let me repeat: the necessity for economic and energy security is inseparable from a commitment to national military security. A bold America today is the only sure road to a secure and thriving America tomorrow.●

FOREIGN OWNERSHIP OF AMERICAN FARMLAND

● Mr. BAYH. Mr. President, I was shocked to read in yesterday's Wall Street Journal a front page story entitled "Pieces of America—Real Estate Purchases by Foreigners Climb, Stirring Wide Debate." The subheadline says that the volume of foreign purchases of Amercan real estate is much higher than anyone had previously estimated.

I have been personally involved in the controversy over the desirability of allowing foreigners to purchase our farmland because I am the author of S. 334, the Family Farm Antitrust Act, which would prohibit foreigners and large domestic nonfarm corporations from buying our farms. During hearings before the Subcommittee on Antitrust and Monopoly on July 17, 1979, I was told by a representative of the Department of Agriculture that there was no need for any particular concern over foreign purchases of farmland because a USDA study indicated that only 2.25 percent of all farmland purchases between January 1, 1977, and June 30, 1978, had gone to foreigners.

The July 30, 1979, GAO study of foreign land purchases found that rather than the 2.25 percent of farm sales that the Department claimed reflected the foreign purchases of farmland, these investments actually accounted for 8 percent of the farmland purchased in the counties surveyed by the GAO. Now we find that as a result of the disclosures of foreign farm purchases required by the Agricultural Foreign Investment Disclosure Act of 1978 that even the much higher GAO estimate of foreign purchases made from January 1, 1977, through June 30, 1978, has seriously underestimated the scope of the problem. For example, in Georgia where the GAO reported 44,200 acres purchased by foreign investors, the disclosures to the USDA show 277,000 acres owned by foreigners. I would like to call to my colleagues attention that reputable farm groups like the National Farmers Union have charged that many foreign investors are ignoring the requirements that they disclose their holdings and many others are filing incomplete returns. Domestic companies handling requests of their foreign clients to buy our farmland have in some instances refused to disclose to the USDA the names and nationalities of their clients who have already made such purchases.

The Wall Street Journal article is an excellent summary of the new findings which are telling us quite clearly that this problem is even more serious than the advocates of controls for foreign investments, like myself, have thought. With evidence that even these alarming disclosures are based on incomplete filings I am afraid that unless the Congress acts quickly to address this problem we might find ourselves in a very serious situation.

The Family Farm Antitrust Act also addresses the problem of large domestic nonagricultural corporations that are increasingly viewing farmland as a good investment and a source of tax benefits. The combined pressures from foreign investors and big businesses are heating up the already inflated prices of farmland. In my own State of Indiana the price of farmland has gone up 299 percent in the last 9 years. The amount of farm debt is getting ready to go through the ceiling. Indiana is now the sixth ranking State in farm debts and I am afraid that if we enter a serious recession—which many are now predicting—we will see most of the young farmers who have mortgaged their futures in order to get into operation forced into bankruptcy. I am sure that the foreign investors and large, nonagricultural corporations would not be hesitant to capitalize on such a situation and increase their holdings on our farmland. We should all remember that agriculture is the source of most of our wealth as a nation. To allow this rich asset to pass into the hands of foreign investors is the height of folly. I hope that my colleagues will give renewed attention to the provision of the Family Farm Antitrust Act in view of these new revelations.

I submit for the Record the text of the Wall Street Journal article.

The article follows:

Real-Estate Purchases By Foreigners Climb, Stirring Wide Debate

(By Jim Drinkhall and Janet Guyon)

Miami.—One of the biggest office buildings in Florida, the smoky-colored, steel-and-glass One Biscayne Tower here, is owned by a Saudi Arabian businessman, Abdul Latif Jameel, who bought it last May for $49 million.

One of the largest residential-commercial-industrial complexes anywhere, the billion-dollar, 3,200-acre development of nearby Homestead, Fla., is owned by Canadians.

The most expensive home here in Dade County, measured either by total price ($1.2 million) or price per square foot ($160), is a five-bedroom, six-bath home in Coral Gables owned by Mohammed Y. Bedrawi, another Saudi Arabian businessman.

As demonstrated by these examples of foreign ownership in just one county, a great deal of American real estate is being bought by foreign investors. Much of it is farm land.

Federal agencies, businessmen and financiers generally see such foreign buying as a boon to the economy. They say that the inflow of capital creates jobs and reduces the U.S. balance-of-payments deficit. But farmers, state leaders and some Congressmen say that when foreigners bid for American land, they drive up prices and the land climbs beyond the reach of the American farmer. They also say that the purchase of large tracts by foreigners reduces competition in farming and contributes to higher food prices.

NO LETUP IN SIGHT

While volume figures are scarce, the foreign purchases appear to dwarf some earlier estimates. The U.S. Department of Commerce had put last year's real-estate acquisitions by foreigners at $1 billion nationwide. But a more recent study by Mira Wilkins, a professor at Florida International University, puts the 1978 figure at well over $1 billion for that one state alone.

Another study indicates an even more hectic pace this year. According to real-estate consultant Charles Kimball, foreign purchases of Dade County real estate totaled $421 million in the first six months of 1979 and are likely to exceed $1 billion for the year. Mr. Kimball says he reviewed every real-estate document filed in Dade County in the six-month period.

While Dade County is one of the nation's hot spots for foreign investment, there are many others, including Texas. "I've never seen anything like it. Foreign-investor activity here is virtually feverish," says David M. Cummings, owner of Associated Investment Properties, a real-estate brokerage and investment concern in Houston. "We can't get enough property for them." Mr. Cummings, referring to a recently published report that foreigners own more than $200 million of office buildings in downtown Houston, calls it "a considerable understatement."

In Los Angeles, 13 of the largest downtown buildings have been sold to foreigners. The 13 include the 42-story Crocker Plaza, bought by Japanese interests this month for $79 million, according to real-estate sources.

RURAL SALES TALLIED

Compared with such spectacular urban purchases, rural sales to foreigners have gone almost unnoticed. But the figures trickling in to the Agriculture Department from thousands of county courthouses under a new federal disclosure law have produced a virtual Texas gullywasher. They drown earlier totals like those compiled by the General Accounting Office.

A GAO report submitted July 30 to the Senate Agriculture Committee says that of the 13.2 million farm and timberland acres sold or leased in 10 states between January 1977 and June 1978, foreigners acquired some 515,000 acres, or about 4%. The study arrived at these figures by analyzing the real-estate transactions in 148 farm counties and then projecting them statewide.

Of the 10 states surveyed, those where foreigners acquired the most farm land were Montana, California and Georgia, according to the GAO projections. The other states in the survey were Arkansas, Illinois, Iowa, Kansas, Pennsylvania, Texas and Washington.

The continuing Agriculture Department filings, which started becoming available only late last month, show higher totals in the 10 states. The GAO report now is outdated, of course, but it may have underestimated foreign holdings in any case.

In Georgia, where the GAO survey showed 44,200 acres controlled by foreigners, the Agriculture Department filings thus far put the figure at 277,000 acres. Included in that total are 168,000 acres controlled by London-based Bowater Corp, Ltd., a paper and building-products concern, and 45,000 acres controlled by Abitibi Paper Co. Ltd., Canada's largest forest-products concern.

Filings for other states show that Bowater owns or leases about a million acres in six other Southern states, and that Abitibi controls another 40,000 acres in South Carolina and Michigan.

The GAO said that in Texas, foreigners owned 36,000 acres, but the Agriculture Department filings put their holdings at over 153,000 acres. In Montana, the GAO survey showed 118,200 foreign-owned acres; the Agriculture filings show 158,000. The GAO's California figure was 151,000 acres; the Agriculture filings for the state now stand at 210,000 acres, most of it concentrated in agriculturally rich Kern, Fresno and San Joaquin counties.

The Agriculture filings, which provide the most comprehensive analysis yet of the extent of foreign ownership of U.S. farm land, are certain to add more fuel to an already emotional debate over foreigners' owning a piece of America.

Already, on the basis of previous, limited studies, Iowa has passed a law that prohibits foreigners from buying Iowa farm land starting in 1980. Actually, of Iowa's 36 million farm acres, only 15,700 are owned by foreigners, according to the Agriculture filings to date. Most of the land was purchased in parcels costing under a million dollars by Germans, the nationality largely responsible for settling Iowa in the first place.

Nine other states have such bans: Minnesota, Oklahoma, Missouri, Connecticut, Indiana, Kentucky, Mississippi, New Hampshire and Nebraska. About a dozen more have some limit on foreign purchases. Other states, including California and Texas, are seeking to pass such laws. Oklahoma's attorney general ruled last week that the state's 1907 constitution bars alien corporations from owning property in the state; he thus raised the specter that millions of dollars of foreign-owned property could be confiscated.

While farmers' opposition to foreign ownership of farm land is based largely on the belief that cash-rich foreigners are driving up the price of land, no one has yet compiled much evidence to show whether that is true. The GAO report suggested that foreigners hadn't consistently paid more for land than U.S. buyers.

INFLOW CALLED BENEFICIAL

Last year, an agricultural economist with the Federal Reserve Bank in Kansas City said that only 2 percent to 3 percent of farm land usually changes hands each year. Of that, he said, two-thirds is bought by present operators, "not leaving very much for the nonresident." Further, he said foreign capital was beneficial because it appeared that farming's capital demands exceeded its ability to meet them through retained earnings or borrowings.

Even so, some legislators are trying to pass laws that would plug tax loopholes that benefit foreigners. One recent estimate is that about $140 million annually is lost through foreigners' using capital-gains tax maneuvers.

One specific target of both bills is the tax treaty between the U.S. and the Netherlands Antilles, a popular Caribbean tax haven. A Netherlands Antilles company pays no capital-gains tax on real-estate sales; and dividends out of real-estate profits paid by such a company to foreign shareholders are also exempt from taxes.

A recent Agriculture Department study shows that because of these tax incentives, these shareholders can pay 12% to 15% more for land than a U.S. individual or corporation and still get the same net return. The Agriculture filings indicate that about 20% of foreign-owned farm land is owned by Netherlands Antilles firms.

LOAN AGENCY PROPOSED

One of the most extreme remedial legislative proposals comes from Michigan Congressman John Conyers, who would like to see a federal loan agency underwrite the purchase of American properties by public institutions when private investors don't show any interest. Without such a policy, he says, "we shall see the free-enterprise system sold out for the short-term profit." Mr. Conyers says he hopes the legislation will prevent "significant assets" from falling into foreign hands.

But many financial observers, such as Miami lawyer Marshall Langer, a specialist on tax havens, says that foreigners "will continue to buy U.S. real estate regardless of whether Congress closes the loopholes."

The motives for foreign investment in U.S. real estate appear to have little to do with fluctuations in interest rates or in the value of the dollar. The overriding reason seems to be faith in the fundamental economic strength of the U.S. and in its political stability.

"This is a very attractive investment climate where the rules of the game are known and the laws are on the books for everybody to read," says Saudi businessman Ghaith Pharaon, in explaining his many U.S. investments.

John McMahan, a San Francisco real estate consultant who helped fashion that agriculture disclosure law, agrees. "The economic and political stability here favors any type of investment," he says.

LATIN-AMERICAN CHANGES

Most Latin Americans, for instance, have seen their governments change on a fairly regular basis; each time another regime falls, the U.S. gets a new invasion of capital from the surrounding countries.

"I'm finding a great deal of middle-class Central Americans coming in (to the real estate market) right now wondering if they can have a roof over their heads if, like many Nicaraguans, they feel they're obliged to leave," says Owen S. Freed, a Miami lawyer who says his firm arranged about $35 million of foreign real estate purchases last year.

Foreign real estate buying isn't only an American concern. Last week the French Communist Party demanded that the French National Assembly investigate farm and timberland purchases by foreigners. The Communist motion said that foreigners—mostly European—bought more than 177,000 acres between 1966 and 1977, driving up land prices and making it impossible for young French farmers to buy farm land.●

FEDERAL SPENDING LIMITATION

● Mr. HEINZ. Mr. President, I would like to call to the attention of my colleagues an important article that recently appeared in Enterprise, the Journal of the National Association of Manufacturers. In a clear and concise fashion, this article explains the function of the Heinz-Stone constitutional amendment, Senate Joint Resolution 56, which is designed to place a limit on Federal spending.

Senator Stone and I anticipate continued and increasing support for the amendment. Recently, Representatives Barber Conable and Ed Jenkins introduced this amendment in the House of Representatives.

I am confident that, as the benefits of this approach become more widely known and understood, there will be strong public pressure for the adoption of the Heinz-Stone constitutional amendment to limit Federal spending.

I ask that the article be printed in the Record.

The article follows:

Move in Congress To Curb Spending

Congress at last seems willing to do something about federal spending. This burst of receptiveness to taxpayers' demands is long overdue, Sens. Heinz and Stone tell NAM in this Q. & A.

There's a spate of proposals on Capitol Hill to bring government down to size. The senators describe how their Senate Joint Resolution 56 will slow the growth of government and trim both spending and waste.

They say that nothing has been able to curb government's voracious appetite, that we must now resort to a constitutional amendment.

Q. What does this amendment do?

A. Heinz. A few years ago, a popular political slogan was "Send Them a Message." Well, the American people have been trying to send a message to Washington for a long time now—a message that says government should slow down, limit spending and cut waste. Unfortunately, that message seemed to get lost for a few years, but it was delivered in the 1978 elections.

Simply, this amendment would limit the incerase in federal spending to a percentage equal to the percentage increase in the gross national product. If the inflation rate exceeds 3 per cent, however, the amendment would apply additional limits on the overall growth of federal outlays.

Stone. I joined in introducing this amendment because I believed it would put our economy back on the road to prosperity by keeping more money in the hands of those who earn it. This amendment limits the growth of federal spending by setting a ceilling on how much more the federal government will be allowed to spend every year. The formula says that next year's government spending can't grow faster than this year's production, as measured by the gross national product.

Q. Why does the nation have to go the route of a constitutional amendment?

A. Stone. For the past 50 years, the government has been soaking up more and more of our nation's wealth. This saps the vitality of our economy, encourages inflationary policies and hurts the welfare of all citizens. Over the years, numerous attempts have been made to either limit federal spending or to force the Congress to balance the budget. The much-heralded establishment of the congressional budget process in 1974 was such an attempt to bring needed discipline to Congress. While some progress has been made, we still have large federal deficits. The budget deficits are even larger now than before 1974. What we need then is an objective mechanism to force the President and Congress to limit what the federal government can spend.

I believe that the only effective way that we can control government spending is through a constitutional amendment.

Heinz. The reason a constitutional amendment is needed to limit government spending is because the costs of government programs are not clearly visible but the benefits from government spending are concentrated and very visible to the beneficiaries. In other words, there is an effective constituency for every government program. As a result, objective analysis of the costs and benefits of federal programs has not been effective in controlling the level of spending.

Q. Why not enact a statutory limit on spending?

A. Stone. A statutory limit is inadequate for the same reason the Budget Act of 1974 is inadequate. Legislation is just too easy to change. A constitutional amendment will impose the fiscal discipline on Congress that present procedures do not, and ensure that Congress does not change the limits all too easily.

Heinz. A constitutional amendment is not a cure-all but the alternatives have not worked. An amendment permits citizens to indicate how much of their income should be spent by the public sector. Then it's up to the elected officials to establish spending priorities. Certainly citizens have a right to impose spending limitations and government must operate within that limit. I am convinced that our amendment is the best way yet devised to limit spending. It not only starts with bipartisan support, but should have the strong support of the American people.

Q. What's wrong with the balanced budget approach?

A. Heinz. There's nothing wrong with a balanced budget. In fact that is the goal we hope to achieve with this amendment. However, balancing the budget could mean raising taxes to finance increases in federal spending. Our amendment, on the other hand, would balance the budget gradually by controlling the amount the government could command.

Q. Isn't such an amendment inflexible?

A. Stone. On the contrary, our amendment is far more flexible than any other approach that has been proposed. Within the overall spending limit, the Congress and the President are not constrained in setting policies to maximum growth. Also, if three-quarters of the Congress can agree, it can also raise the federal spending base from what future increases are calculated. Finally, in times of severe emergency, this amendment would allow federal spending to exceed the limits outlined in the main provision of the amendment.

Q. Won't restricting spending make a recession deeper if one hits?

A. Heinz. No. There is a built-in countercyclical feature in this amendment that would have the effect of allowing increased spending in times of recession and decreased spending in times of excessive growth. GNP figures for the previous year are available by the time the second congressional budget resolution is due in September. This 21-month lag time between changes in the GNP and changes in the federal budget would make the budget counter-cyclical to the economic cycle.

Q. How does this amendment fight inflation?

A. Stone. By eliminating waste and inefficiency. Also the formula of the amendment would induce Congress to seek out a set of economic policies which would control inflation by decreasing federal spending growth when inflation is greater than 3 percent annually. When inflation exceeds that 3 per cent rate, spending is limited to a percentage of the increase in the gross national product minus one-fourth the difference between the inflation rate and 3 per cent.

In other words, if Congress lets inflation get more out of hand than it already is, its ability to spend will be severely curtailed.

Q. Does this amendment limit the growth of the federal government?

A. Heinz. It sets limits on how fast government can grow by setting limits on how much government can spend, without putting any limits on the general growth of the economy.

Q. How does this amendment reduce the onerous burden of taxes?

A. Stone. Rather than putting the increased revenue brought by economic growth or inflation into expansion of the federal government, this amendment would allow Congress to use the increase to reduce taxes, retire part of the national debt, or both.

Q. How is this amendment designed to help the average taxpayer?

A. Heinz. It will encourage a reduction in the rate of inflation, allow Congress to reduce taxes outright or institute other changes in the national tax structure, stimulate economic growth and reduce the amount of national wealth which flows to the federal government rather than back to the economy. This amendment will be a major weapon against inflation and lead to a balanced budget, while also preserving the flexibility we need to respond to all our economic problems and national emergencies.

Q. If the amendment had been in effect in the past 10 years, how would things be different?

A. Stone. Over the past 10 years, the cumulative deficit has increased by $271 billion. Had our amendment been enacted in 1969, we would have accumulated, instead, a surplus of $22 billion.

Also, if this amendment had been in effect since 1969, the federal government could have been held to the 19 per cent share of the gross national product that the federal budget took up in the years between the Korean war and the Vietnam war instead of the 22 per cent it currently absorbs.

Q. How will this amendment help the elderly, the poor and others living on fixed incomes?

A. Heinz. Inflation does the most damage to the financial situations of those on fixed incomes. By restricting federal spending the amendment attacks one of the leading causes of that damaging inflation. The inflation clause of the amendment also adds pressure for further reductions in the rate of inflation through quite a variety of additional methods.

Q. How does this amendment protect the states from having to assume an increased financial burden in the wake of reduced federal spending expansion?

A. Stone. Federal aid to the states is protected by maintaining the federal aid programs which already exist for a specified grace period of six years. It also prohibits federal action to shift the financial burden of programs to the states.

Q. Will this amendment help in any significant way to eliminate the national debt?

A. Heinz. By allowing Congress a choice of what to do with any surplus that does develop, the amendment makes it possible for Congress to funnel money into retiring the national debt. Had our amendment been enacted 10 years ago, the national debt would not have been more than $800 billion as it is today but rather only $335 billion. Our amendment would gradually pay off the national debt, and provide a double benefit by reducing the interest we pay on the debt from the present $57 billion, the third largest category of expenditures in our federal budget.

Q. Why should the American people and business support this amendment?

A. Stone. The American people will support the Heinz-Stone amendment because it promotes a stable economy with stable prices, more private sector employment and a dollar that is stronger both here and abroad. It would mean that as we look toward old age we would know that our savings are enough to see us through. Since it would spur employment opportunities in the private sector, I hope members of the business community will give S.J. Res. 56 their full support.

SUMMARY OF SENATE JOINT RESOLUTION 56

Section 1. An increase in total outlays (budget and off-budget) in any fiscal year will be permitted equal to the percentage increase in nominal gross national product for the calendar year which ended prior to the beginning of the fiscal year. If the inflation rate for that calendar year is in excess of 3 percent, the permitted spending increase would be reduced by one-fourth of the percentage by which the inflation rate exceeds 3 per cent.

Section 2. An excess of revenues over outlays in any fiscal year shall be used to reduce the public debt.

Section 3. When the President declares an emergency, the Congress by a two-thirds vote of both Houses may authorize the specific amount of requested funds in excess of the spending limit for that fiscal year.

Section 4. Congress, with the approval of three-fourths of both Houses, may initiate a change in the limit on total outlays described in Section 1. The change would be effective the next fiscal year.

Section 5. Total federal grants to state and local governments for the first six years after ratification of this article shall not be a smaller fraction of total outlays than the last three fiscal years prior to ratification. After this, if such grants became a smaller fraction of total outlays than before, the total spending limit that is described in Section 1 must be decreased by an equivalent amount.

Section 6. The Congress may not require directly or indirectly that state and local governments engage in any additional activities without providing compensation equal to the additional costs.

Section 7. The effective date of this article is the first fiscal year beginning after its ratification.

Section 8. Congress shall have power to enforce this article by appropriate legislation.●

ENERGY ASSISTANCE FOR THE ELDERLY

● Mr. CHILES. Mr. President, the Senate Committee on Aging recently held hearings on "Energy Assistance for the Elderly." The hearings focused on the various energy assistance proposals for the low income and the elderly, including the administration's proposal; bills of Senators Javits, Mathias, Weicker, Biden, Heinz, Williams, and Nelson; the FOMAC report (Fuel and Oil Marketing Advisory Committee of the Department of Energy); and various State assistance programs. The purpose of the hearings was to analyze the proposed forms of assistance and the delivery systems and determine which methods could best meet the needs of the elderly.

This week, Senator Domenici, the ranking minority member of the Committee on Aging, and I presented testimony before the Senate Labor and Human Resources Committee at their hearings on energy assistance. Our testimony was a compilation of the information learned from the Committee on Aging's hearings and our analysis of the energy assistance proposals. Senator DOMENICI and I wish to share this testimony with our colleagues and ask their support of early passage of an energy assistance program for this coming winter and the future. I ask that our testimony be printed in the RECORD.

The testimony follows:

TESTIMONY OF SENATORS LAWTON CHILES AND PETE V. DOMENICI

Good morning. Senator Domenici and I are pleased to be here this morning to share with you the recommendations of the U.S. Senate special committee on aging with regard to an energy assistance program.

The committee on aging has documented the impact of rising energy costs on our older Americans through a series of hearings over the past few years. Major points to be highlighted from those hearings include:

Elderly persons on limited incomes pay a much higher percentage of their income on energy costs than do other age groups; last winter many elderly paid 30 percent of their income on energy costs and this winter it is projected that some will pay as high as 50 percent;

Elderly persons are far more susceptible to weather related health problems such as hypothermia and heat prostration and must have sufficient heating and cooling in order to combat such problems;

When faced with continually rising utility bills, many elderly living on fixed incomes from social security, SSI, and other pensions, must actually make decisions about whether to pay for food or medical costs or to pay their energy-related bills; and,

Elderly persons often live in older, substandard housing which is usually not well insulated, resulting in loss of heat and air conditioning and thus higher utility bills.

The hearings have shown us what the impact of rising energy costs is for the elderly. Now, we must deal with a solution to these problems which are not going to fade away, and can only grow worse.

Last week, the Senate Committee on Aging held a hearing on "energy assistance for the elderly." This hearing was held the day after President Carter announced his proposal for low-income energy assistance, one of several plans studied by the committee. Others include the proposals by you, Mr. Chairman, Senators Javits, Nelson, Weicker, Mathias, Biden and Heinz. Many of our members participated in the hearings and had long discussions with the administration, Senator Javits and other witnesses about how the various energy assistance proposals would benefit the elderly. All of our members are concerned about the fact that winter and cold weather is fast approaching and we must act very quickly in order that our elderly will have the assistance they need for this November through March. At the same time, we must lay the groundwork for an effective and efficient energy assistance program for the future.

Although the members of the Committee on Aging may differ about what form of assistance to provide and what delivery system to use, they do agree on several major points which a national energy assistance program should include, and we'd like to share them with you this morning.

First, a national energy assistance program's allocation formula and benefit levels should be weighted to take into consideration the specific weather-related health needs of the elderly. As mentioned earlier, elderly persons face greater health dangers when exposed to extreme heat and cold and these needs should not be overlooked in the distribution formulas:

Energy assistance for this winter and the future should be provided on a timely basis and not as a related reimbursement for unpaid bills which in the past has resulted in considerable physical and emotional trauma for the elderly. During the past several years, we have all heard horror stories about many elderly people who were faced with continually rising utility bills, threats of service shut-off, and difficult choices about what can be paid and not paid this month. Such stressful situations should be avoided as much as possible by providing for benefits to be paid monthly or at least before notices for shut-offs occur;

Congress should act expeditiously with the administration in securing adequate funding for this winter's assistance program. Both the House and Senate budget resolutions make provisions for an expanded program. Therefore, actions on a supplemental to the soon to be enacted $250 million appropriation for crisis intervention for this winter should be taken by both the administration and Congress as soon as possible;

Whatever form of assistance is decided upon—whether it be direct cash assistance, fuel coupons, tax credits, or vendor payments, the administration should be directed to include a detailed explanation about what the payment or credit is intended to do and when and how frequently it will be provided. This will help to avoid confusion and false expectations by elderly recipients who already receive two or more benefit checks and might be led to believe this is going to be an on-going, monthly addition to their income or a reduction in their bills;

Allocations to the States and payment levels to the recipients should be based as much as possible on the actual energy costs of the region and expenses of the household. In other words, the allocation formulas should be weighted to give consideration to all utility rate increases within the States. Benefits to recipients should be calculated as much as possible on the household income and need, as energy bills are determined by household usage not by the number of "individuals" or "couples" who reside under one roof;

The National Energy Assistance Program's eligibility level should be based on the BLS lower living standard income level (instead of the poverty level) as it reflects increases in the cost-of-living and differences in incomes by region, family size and urban and rural areas;

An extensive outreach effort should be exercised by the administering agency and department to reach more of the potential recipients. This means going beyond the SSI, AFDC, and food stamp rolls and locating elderly who might not participate in other programs but are certainly eligible for energy assistance and willing to participate in such a program. States should be encouraged to utilize existing State and area agencies on aging, employment agencies, volunteer organizations and aging organizations to assist in a thorough effort to locate eligible elderly recipients;

A national energy assistance program should be flexible enough to allow those states with energy assistance programs to be able to substitute their structure and delivery system for the Federal model. Such allowance should only be given if the State supplemented its program with the Federal assistance and did not replace State assistance with the Federal payments; and

A total energy assistance program should be coordinated to the greatest extent possible with a weatherization program to assure that conservation of energy in the future could be realized if the homes of the low income and elderly are made more secure and insulated. This would also result in less need for the energy assistance payments if the homes are weatherized and. therefore, use less energy for heating and cooling. Experts claim that a few hundred dollars spent in insulation can cut consumption of fuel by as high as 50 percent.

Mr. Chairman, these are our recommendations for a National Energy Assistance Program. Your committee has several bills before you to consider and your task is not an easy one. But, in making these important decisions, we ask that you remember that many elderly do not have a choice about paying for higher prices. The rest of us can juggle our accounts and skimp here and there to meet rising costs. While we all complain about the June OPEC price increases, we'll still end up paying the higher prices. Our elderly cannot. They simply do not have the flexibility in their budgets to accommodate such inflationary demands. The Congress and the administration must cooperate to develop the best possible program to assist our elderly in meeting these price demands and action must be taken soon. The Committee on Aging is willing to assist you in the development of this plan and we thank you for your time and consideration of our recommendations.●

STORMING BUREAUCRACY'S BATTLEMENTS

● Mr. HATFIELD. Mr. President, the Federal bureaucracy has been a frequent target of criticism from citizens who have too often found it unresponsive or incompetent. Maintaining efficiency and dedication within the bureaucracy is a formidable challenge to senior Presidential appointees, as well as lower level supervisors, many of whom are part of the problem.

Last year, the Congress dealt with a key factor in this problem—how to insure that supervisors have a workable mechanism to discharge an employee who does not meet satisfactory performance standards, while protecting employees from abritrary or politically based removals. Statistics had shown that the balance between these two objectives had shifted too far in the direction of protecting the nonperforming employee. The Civil Service Reform Act removed some procedural barriers to dismissals of nonperforming emplovees and changed the standard of proof the Government was required to establish in dismissing an employee from a "preponderance of the evidence" to "substantial evidence." It is yet too early to judge the efficacy of these amendments.

Robert Wesson, a professor of political science at the University of California at Santa Barbara, suggests a different approach. Wesson, who is also a senior research fellow at the Hoover Institution on War, Revolution, and Peace at Stanford University, would have Federal employees hired for specified periods, such as 6 to 12 years, rather than for indefinite periods. At the conclusion of the specified period, the employee could be reappointed at a higher level if warranted, transferred to another field without loss of accrued benefits, or simply let go if his or her performance did not warrant reappointment. In Wesson's view, only the employees with strong records would be reappointed, and the tremendous uphill battle now required to rid the bureaucracy of nonperformance would be eliminated.

Mr. President, I believe that Professor Wesson's ideas will be of interest to my colleagues, and I ask that an article he recently wrote for the Baltimore

Sun, entitled "Storming Bureaucracy's Battlements," be printed in the Record.

The article follows:

Storming Bureaucracy's Battlements

(By Robert Wesson)

Bureaucrats are assuredly decent people, by and large, and all big organizations have a bureaucratic set-up, but "bureaucracy" and "bureaucratic" have become virtual cuss words.

Official bureaus and departments collect taxes and issue drivers' licenses fairly expeditiously, but almost everyone who has tried to get something out of the routine from the apparatus has a tale of mixed-up responsibilities, unanswered mail confusion, runarounds or simple incompetence.

"Bureaucracy" has become a synonym for formalistic, nitpicking, immobile, lethargic organizations, overstaffed and self-drowned in oceans of paper. Moreover, the bureaucratic organization is a major political force with a vested interest in the spending and regulation that justify its existence and jobs.

Those who live by the public purse form the largest of all pressure groups, strategically concentrated where the representatives of the people meet to allocate funds; no other lobby is so strong as that of the public servants. Once a regulatory agency has been set in place or a program started, it becomes a vested bureaucratic interest, and moving a mountain is necessary to abolish it.

Congress finds it harder to question the bureaucrats' case because it has developed a bureaucracy of its own. The bureaucratic tendency is always to maximize and complicate programs, to develop more and more forms to be processed and permits to be secured and to reward itself in the process. If there are two ways to perform a task, the one requiring more personnel is favored by the experts whose services will be needed.

For such reasons, Washington has become a great center of wealth and luxury, while anyone who wishes to produce and sell or construct anything must spend more and more manhours on inherently unproductive paperwork.

For such reasons, the share of the national income spent by government has seemed inexorably to grow not only in the United States but also in a large majority of countries. It is difficult to imagine that Americans would really choose to have government spend over a third of their income for them—or that the British and Scandinavians really want 50 to 60 per cent of their income to go for the services government provides. Hence, the American public has reacted with a sledgehammer approach of trying to limit taxation or mandate a balanced budget, hoping thus to compel the bureaucracy to be less profligate.

A ceiling on spending is little help, however, toward making the apparatus more efficient. Inefficiency seems practically built into the administrative machine because there are no real standards for performance. No government department goes bankrupt because of mismanagement. It has no worry about showing a profit or meeting a payroll; it is like a corporation whose stockholders are almost totally voiceless and whose revenues are unrelated to performance.

Within it, there is pressure for service not to the public but to the department. Careers advance by seniority and ingratiation with superiors. It is disadvantageous for the civil servant to exhibit obvious brilliance because this amounts to an attack on the organization, making waves and showing up mediocrity. The proper bureaucrat can always keep himself and an indefinite number of subordinates busy with more consultations, reports and studies, for which more innocent outsiders can be called upon to fill out more forms.

So far as the faults of the bureaucracy arise from the mere size of the organization, the only obvious remedy is so far as possible to restrict the sphere of official action. Large corporate bureaucracies suffer many of the same vices of official apparatuses. But the shortcomings and distortions of the governmental apparatus are exacerbated and magnified by a special characteristic of bureaucracies and lifetime tenure.

Theoretically, employees under civil service can be dismissed for cause. But, in practice, they are virtually unremovable. The requirements of hearings, procedures and documented proofs are such that a manager will hardly ever undertake to fire anyone. It costs far too much time, and energy and is too disruptive, and the outcome is uncertain. The easier remedy is to try to transfer the lazy, incapable, or otherwise difficult body to another unsuspecting department.

Removals are difficult not only because of involved procedures but also because the organization is loyal to those who belong to it. No one likes harshness, especially if he might conceivably be the next victim. Whistleblowers may get the boot, but who wants to hurt someone whose only real sin is drawing a salary for pretending to work?

Consequently, a position once acquired in most public apparatuses, state and local as well as federal, becomes after a probationary period a sort of possession with guaranteed lifetime status and income. The results are manifold and dismal.

By the Peter Principle, the burceaucrat runs on the ladder until he reaches a position for which he is incompetent; thereafter he sits in place, becoming ever more inert while his pay continues gradually to grow by seniority. Having security and the assurance of a good pension, by staying in one place, the bureaucrat is discouraged from ever trying anything different.

The official identifies increasingly, as years go by, with the bureau or department to which he is wedded, to which he owes all and with which his future rests. The important questions become not how well one serves the purposes for which the organization was created but how one stands with the organization, whose routines are the way of life of its members.

An official is superior both to legislators and politically appointed superiors in that he knows the insides of the department as they never can, and he stays on indefinitely while they come and go. He can always defeat them by outlasting them; the feelings of one's immediate superior are infinitely more important than the wishes of the president. Hence, the permanent public servants become in effect masters and makers of policy, against whose interests or desires elected officials can do little.

Life tenure arose historically from the effort to establish a professional, nonpolitical public service. The good fight, the civic struggle of progressive-minded Americans through the Nineteenth Century was to get away from the corrupt and corrupting spoils system, whereby victorious politicians repaid their political debts and rewarded the faithful by giving them the jobs.

It was obviously necessary, for a properly functioning government, to hire on the basis of merit and to protect the public servants from being dismissed to make room for a politician's hangers-on. Revulsion against abuses led to the Pendleton Act of 1883, which placed a small percentage of federal employees under civil service rules, and coverage was, step-by-step, extended in succeeding presidencies. Now the war has been won; an incoming President can replace only about 11,000 of the administration that is theoretically his.

Security of employment was a goal taken for granted when the main concern was the separation of the civil service from politics, obviously, the more permanent the employees, the better insulated from political pressures. But there is no real reason for lifetime tenure in public employment, and now the civil service suffers not from insecurity but from excessive security.

The problem cannot be met simply by making removals easier. This could hardly be successful, because the organization protects its own and also because it would open the door to injustices and arbitrary actions. It would be more effective to appoint persons for reasonably long but limited periods depending upon the character of their specialty, perhaps for 6 to 12 years.

To subject job-holders after a certain period to automatic review, permitting them to change (without loss of accrued benefits) or to be reappointed at a higher level if qualified, should do much to mitigate the vices of the calcified and self-centered department.

The bureaucracy would become more reflective of society, and the threatening gulf between the two would be narrowed. There would be less incentive to empire building, more reason to think of the work to be performed. The bureaucracy would be less inert, more open to change and to new ideas.●

WE NEED A PIPELINE

● Mr. BAYH. Mr. President, I would like to alert my colleagues to an article which appeared in the New York Times just this morning. This article pointed out the consequences that the sharp cutbacks in Canadian crude oil supplies would have on energy supplies this winter especially in the northern tier and Upper Midwest States.

Mr. President, at the beginning of this month, Canada was exporting 55,000 barrels of light crude oil a day to the United States. This amount, however will be significantly reduced, to 14,000 barrels a day by the end of this month. While this may seem like a small amount, Mr. President, it is a substantive amount in the northern tier States along the Canadian border. Our American companies now complain that this reduction means a virtual shutoff of supplies.

Earlier this week I circulated a letter to my colleagues urging Secretary Andrus to recommend that the President grant expedited permitting to the northern tier pipeline, an option provided to President Carter under last year's energy package. If this recommendation is made and executed, Northern Tier can be delivering oil to the heartland of our country by 1982—when the Canadians may have cut us off completely, and foreign supplies may be much more expensive.

Mr. President, I request that the following New York Times article be printed in the Record.

The article follows:

Canada Oil Cutback Worries Midwest

(By Richard D. Lyons)

Washington, September 26.—Oil refiners in the upper Middle West say that they are becoming increasingly concerned that sharp cutbacks in supplies of Canadian crude oil will disrupt energy supplies this winter in the border states of Montana, North Dakota Minnesota and Wisconsin.

Earlier this month, the Canadian National Energy Board announced that it would reduce exports of crude oil to the United States, but American companies are now complaining that the reduction amounts to a virtual shutoff.

The refiners involved include the Exxon Corporation, the Murphy Oil Corporation, Conoco Inc. and the Farmer's Union Central Exchange, which collectively operate five refineries in Montana, Minnesota and Wisconsin.

These refineries were taking most of the 55,000 barrels of light crude a day that Canada was exporting to the United States at the start of the month. Canadian officials here confirmed today, however, that this amount will be reduced to 14,000 barrels a day by the end of the month and that even this amount might have been stopped but for the fact that under current transportation arrangements it can only be shipped in one direction, south.

While the amount of oil is relatively small—40,000 barrels a day is only one half of 1 percent of total American imports—it is a significant amount in the so-called northern tier states along the Canadian border.

Richard Hames, an official of Farmer's Union in St. Paul, said its refinery in Laurel, Mont., required 40,000 barrels a day, half of which had been coming from Canadian supplies.

"We are adjusting by buying spot market crude and trading it with eastern Canada, but we're paying $38 a barrel or so, and at those prices it is difficult to be competitive," he said. Farmer's Union serves 1,500 local cooperatives in 15 states.

Officials of Murphy Oil and Conoco voiced similar complaints.

"Sure we're worried," said Paul Bilger, vice president for manunfacturing at Murphy in El Dorado, Ark. He said that the company's refinery at Superior, Wis., had been running 33,000 barrels a day, 10,000 of it Canadian crude.

"We're retaining heating oil supplies in the Duluth-Superior area and northern Michigan at our terminal there, and reducing the flow to our terminal in western Michigan and terminals in southern and eastern Wisconsin, and Minneapolis because we feel that it would be easier for those areas to get supplies from elsewhere," Mr. Bilger added.

Conoco operates refineries in Billings, Mont., and Wrenshall, Minn., with a total capacity of 70,000 barrels a day. They have a complicated system of swap arrangements with the Canadians. Corporate officials said that the fact that Canadian supplies would eventually be cut off altogether was well known, but the sudden timing had not been counted on.

For their part, Canadian officials said crude supplies were very short in both eastern and western Canada.

"Our fields have been producing flat out since April, but demand has continued to rise, creating a very tight situation," a Canadian official said.

A spokesman for Exxon said supplies to its refinery in Billings would be cut by only about 4,000 barrels a day, but be acknowledged that consumers in the area "were getting jittery because every little bit helps."●

INFLATION TAX PENALTY DISCOURAGES SAVING

● Mr. DOLE. Mr. President, increasingly the country is shifting to a "buy now" mentality. People are reluctant to put money away for the future when they see the value of their dollars declining every month due to high inflation. Most people cannot qualify for the high rates of return associated with some types of investments, or are unwilling to accept the high risks involved in others. As a result, there is little incentive to save—there are few savings options available that can keep up with inflation, much less get ahead of the inflation rate.

The consequence of this is that the rate of savings in our country has dropped to 5.4 percent of personal income. By contrast, Japan has a savings rate of 18 percent of personal income. It may not be a coincidence that Japan anticipates an inflation rate of 7.4 percent this year, as opposed to an expected rate over 13 percent in the United States. Our citizens are buying tangible goods or spending on services rather than trying to plan for an uncertain future. A consumption-oriented society is not unusual in periods of high inflation, but what are the consequences for the future?

A reduction in savings means a cutback in sources of credit, higher interest costs for borrowed funds, and constriction of business expansion. Without an adequate savings base, lending institutions cannot finance new businesses or the upgrading of old ones. When people are reluctant to save, an inevitable result is the reduction of capital formation, which is needed to maintain a healthy, growing economy. On the other side of the equation, high rates of consumption cause prices to be bid up, further aggravating the inflationary trend.

Mr. President, we need to eliminate disincentives to saving if we are to break out of the inflationary cycle. People will maintain their "buy now" attitude until they see a sign that Government is serious about stopping inflation, and until they feel some easing of the burden that inflation imposes on them. The first important step toward reversing current trends would be for Congress to pass the Tax Equalization Act, S. 12, introduced by the Senator from Kansas.

The Tax Equalization Act would eliminate a major disincentive to saving by stopping tax increases that are caused by inflation. When people see their tax burden rise in real terms as a consequence of inflation, they feel more anxious about their ability to stay ahead, and less certain about the future value of their income. As a result, their expectation of continued high inflation is reinforced, and they have all the more reason to get the most out of their present dollar income.

The Tax Equalization Act would end this disincentive to saving by adjusting the tax brackets, zero bracket amount, and personal exemption by the percentage rise in the Consumer Price Index for the previous fiscal year. As the tax system is now structured, people who earn higher nominal incomes as a result of inflation are pushed into higher tax brackets. Yet at the same time, inflation causes their real income, measured by purchasing power, to stay the same or even decline. The result is that taxpayers pay an effective higher tax rate each year as they try to keep pace with inflation. When the Government exacts a tax penalty in addition to the burden of inflation, it is no wonder that our citizens live for today rather than plan for tomorrow.

Mr. President, the Tax Equalization Act would put a stop to the Government's inflation tax penalty and restore some sense of stability to our citizens. If we are to return to the path of stable economic growth, we must restore to our citizens an expectation of sound fiscal management and a sense that, through productivity and thrift, they can better their lot in the future. This is a simple message and not a new one, but it is one that we have ignored for too long. We can begin to rectify the situation by passing the Tax Equalization Act.●

ONLY THE GOVERNMENT IS GETTING "WINDFALL PROFITS"

● Mr. GRAVEL. Mr. President, earlier this month an open letter from Mr. Jerry McAfee, chairman of the board of the Gulf Oil Corp., to President Carter was published in the New York Times.

The letter correctly points out that:

First. The proposed "windfall profits" tax is not a tax on profits at all, but rather an excise tax;

Second. Of the additional revenues accruing to major oil companies from deregulation, some 60 percent will be paid in taxes even without the so-called windfall profits tax proposal;

Third. A synthetic fuels program, enhancement of mass transit, and fuel cost assistance to the poor all can be paid for through this normal taxation of deregulated oil;

Fourth. Private industry can use the capital which the administration proposes to tax away better than the Government can in solving our Nation's energy problems.

Mr. President, I heartily agree with Mr. McAfee's letter, and I hope my colleagues will read it. I ask that the article be printed in the Record.

The article follows:

Gulf Oil Corporation,
Pittsburgh, Pa., August 29, 1979.

The President,
The White House,
Washington, D.C.

Dear Mr. President: During your recent Mississippi riverboat trip and on other occasions, you have rendered an important service in calling the nation's attention to the severity of our energy problems. By encouraging conservation and wiser use of our energy resources, by reaffirming your determination to decontrol domestic crude oil prices gradually over the next two years, and by urging the development of alternate energy sources for the long term future, you have pointed the way toward a comprehensive energy policy for the United States.

Unfortunately, these commendable efforts have been marred by insisting that the so-called "windfall profits tax on the oil companies" is the key to success in coping with the energy crisis and by implying that because the oil industry is opposed to this proposed tax we are also against the development of alternate energy sources and other solutions to the problem. Nothing could be further from the truth! On the contrary, we strongly support the development of all domestic energy resources; but we believe most sincerely that the proposed tax is both unnecessary and counter-productive.

In an effort to set the record straight and to put the matter in perspective, through this open letter I would like to call your attention to the following facts:

1. In a very real sense, we already have in place a "windfall profits tax" system—otherwise known as income tax, severance tax, royalties, and other Federal and State

levies. This tax system will put into government treasuries about 60 percent of the additional revenues which will result from decontrol.

2. It is estimated that this existing tax system over the next ten years (depending on the level of world oil prices and other pertinent factors) will yield a windfall to the government—some say it is the only windfall involved—greater than the $142 billion which you have stated is required to finance the programs you have proposed: governmental support of synthetic fuel projects, enhancement of mass transit facilities, and fuel-cost assistance to low-income citizens.

3. The proposed crude oil excise tax (erroneously called the "windfall profits" tax) proposed by the Administration and passed in somewhat modified form by the House would increase the "government take" from the 60 percent it will be under existing laws to about 80 percent of the additional revenues arising from decontrol. The issue, therefore, is not whether the incremental revenues should be subject to tax but whether the tax rate should be 60 percent or 80 percent.

4. The real question which should be addressed is simply: "Who can better utilize this 20 percent increment of the revenues in providing the nation's energy supply both short term and longer term?" There may be those who honestly believe that the Federal government is the best means for effectively employing these funds; if such there be, they are certainly entitled to hold and express their views. I, for one, emphatically disagree and sincerely believe that the track record of the oil industry over many years of peace and war provides convincing proof that the best use of this capital can and will be realized if it is left in the hands of private industry.

5. On several previous occasions I have publicly committed Gulf Oil to reinvest the additional funds made available to us through decontrol in energy-related projects so long as they show promise of economic viability. I repeat that commitment here and now. While I can speak only for Gulf I have reason to believe that a similar intention is widely shared in the petroleum industry. In general, we can and will spend the great bulk of whatever we are allowed to retain in our on-going efforts to provide the energy our nation needs both now and in the future; but obviously we can't spend money we don't have.

In the final analysis, it is up to the American people—acting through the Administration, the Congress, and other governmental entities—to decide how hard they want the U.S. oil industry to work in finding and developing both conventional and alternate energy sources. The "signal from the bridge" which the industry has been given for many years by the price controls and other restrictions under which we have been operating is "half speed." Under your proposed program, the signal might be increased to as much as "three-quarters speed." With full decontrol, no additional tax, freedom from undue institutional impediments, and access to prospective areas, the signal would be "full speed ahead." I submit that the situation facing our nation, which you yourself have so clearly and forcibly described as the "moral equivalent of war," cries out for nothing less than a "full speed ahead!" response.

As one of my industry colleagues publicly observed a short while ago, "We are not part of the energy problem, Mr. President; we are part of the solution."

Sincerely,

JERRY MCAFEE.●

ENERGY MOBILIZATION BOARD ACT OF 1979

● Mr. ROTH. Mr. President, I am pleased to join with my distinguished chairman of the Government Affairs Committee as a principal sponsor of S. 1806 to create an Energy Mobilization Board.

This bill has two key purposes. First, it expedites decisionmaking at the Federal, State, and local level to get our country moving on priority energy projects which will make us energy independent again. Second, and most importantly, it preserves State and local powers—indeed, our entire Federal system—against encroachment by the Federal Government.

Federal regulation, whether regulation of energy projects or whatever is strangling the growth and productivity of our Nation. For example, a coal mine operator must obtain permits under at least 30 separate Federal statutes before he can get the first shovel of coal out of the ground. Anyone who wants to explore the Outer Continental Shelf for oil and gas off the Atlantic Coast has to fight through a regulatory maze involving four different departments and at least 15 different sub-Cabinet and independent agencies.

As a principal sponsor of sunset and regulatory reform legislation, I am well aware the seamless web of Federal redtape and bureaucracy is delaying the development of our huge alternative energy resources—the resources that belong to us lock, stock, and barrel, and not OPEC.

For this reason, at the Federal level I believe we desperately need a mechanism for balancing and expediting the demands of conflicting Federal regulatory agencies which oversee critical energy projects. The Energy Mobilization Board established by our bill will do this job and is not significantly different in that respect from the proposals by the administration and the Senate Energy Committee.

On the other hand, I am alarmed the administration may be turning the creation of the Mobilization Board into a power grab against our State and local governments. On the House side, the administration has lobbied for and the Commerce Committee has approved giving the Board the power to actually waive Federal, State, and local laws whenever it feels like it.

On the Senate side, the Energy Committee with administration support has tentatively approved giving the Board the power to substitute its own decision for the decisions of State and local governments on such strictly local issues as zoning, land use planning, and building permits.

Not only would these radical moves turn the clock back on 10 years of consensus building on national environmental goals, it would turn the clock back on 200 years of consensus in our Constitution on the separation of powers between our national Government and our State and local governments.

By trying to make the States out as bad guys and the Federal bureaucracy as good guys, the administration is turning our federal system upside down. There is no question all regulatory processes—State and local as well as Federal—need to be streamlined and expedited if we are to get going on our critical energy projects. There is no question we need certainty—a quicker yes—or no, if you will—at all levels of government on energy projects if we are to achieve energy independence. But I strongly oppose the notion we need the Federal Government to ride roughshod over local zoning boards, county commissions, city councils and State environmental agencies in order to get an expedited decision—whether yes or no—on these projects.

In a comprehensive study of State energy facility siting, the National Governors Association has explored the sources of energy project delays. It concludes—

> State actions or inactions are generally not the cause of energy project delay.

The Governors conclude, on the contrary, Federal agencies are the most significant cause of delays.

Similar studies by the Nuclear Regulatory Commission and the Congressional Research Service back up these conclusions.

I ask that the Governors report be printed in the RECORD at this point.

The report follows:

STATE INITIATIVES IN EXPEDITING ENERGY FACILITY SITING REVIEW PROCEDURES

Several current legislative proposals, including that of the Administration, would override state laws and regulations based on the belief that state regulatory processes have been a significant cause of delays in the siting of major energy facilities. This white paper analyzes the validity of that belief by presenting the states' record in energy facility siting.

FEDERAL PERMITTING—OVERLAPS AND INADEQUATE COORDINATION

Several recent studies have examined the performance of state and federal agencies in permitting energy facilities. The Nuclear Regulatory Commission conducted a series of studies of both nuclear and non-nuclear facilities in 1977 entitled "Improving Regulatory Effectiveness in Federal/State Siting Action" which concluded that state site examination activities were not a significant source of delay in certifying proposed facilities. In contrast, the study found that federal agencies were inconsistent in their implementation of regulations and in the application of statutory authority. Offices within this same federal agency often issued conflicting directives. The study also found the multiplicity of federal permitting agencies led to significant coordination problems which it termed "a serious deficiency of the present process, a deficiency which must be remedied before the system could be fairly deemed effective." The NRC study recommended a series of changes; principal among these the creation of a federal siting council which could deal with all federal activities related to energy facility siting. While NRC did not recommend granting authority to the council to waive federal statutes, it did suggest granting power to set timetables for federal decisions and coordinating federal decisions with state and local decisions.

STATE SITING PROGRAMS

The siting of energy facilities is a controversial and extremely complex process. The construction and operation of large energy facilities impose large economic, social and environmental costs on surrounding communities and often impact those at a distance. There was a period when such projects were viewed as providing unblemished benefits for local and state economies. Any comprehensive analysis of the totality of a facility's impact was deemed unnecessary. Those days have passed.

State analyses conducted within the context of site review programs have brought attention to the full social costs of a project, and have emphasized the need to deal with the social, economic and environmental consequences of a facility's construction and operation.

State site review processes are generally equal to, and in many cases, are superior to federal reviews. Any diminution of state responsibility by unwise federal legislation that seeks to override or preempt state authority can damage the comprehensive analysis of project suitability without corresponding benefit.

As was pointed out in the recently completed Northwest Energy Policy Project Study, sponsored by the Pacific Northwest Regional Commission, "There is a tangle of jurisdictional oversight, a plethora of internal conflicts in legislation and an uncertain relationship with programs in the federal agencies. In both the Pacific northwest and the nation, the framework of the older institutional energy-related arrangements is increasingly unworkable."

States have and are responding to the necessity of streamlining and making site selection and suitability procedures more effective. There are numerous ways in which the federal government can be supportive of these efforts: by providing needed assistance, and improving its own in-house review capabilities, rather than by seeking a heavy-handed, inappropriate, unmanageable, and perhaps unconstitutional preemption of state authority and responsibility. The questions posed in meeting the nation's demand for energy can be more effectively resolved through cooperative action and improved federal administrative systems. What is sorely needed at present is a corresponding federal initiative which would improve the federal response to site analysis questions paralleling state efforts over the past several years.

CONSOLIDATION OF SITE ANALYSIS PROCEDURES

A number of states have moved aggressively to integrate their siting procedures starting with Washington State in 1970 when that state adopted a comprehensive site examination system through the establishment of a state site energy facility site evaluation council. The legislature created this state body as a one-stop process for the rapid identification and resolution of relevant issues. Following this action many other states have taken aggressive action to make their siting program more responsive to the needs of their citizens. A principal objective has been to reduce bureaucratic delays with respect to site certifications and permits. These state efforts have centered on analyzing the significant effects of proposed major energy facilities on natural resources, the State and local economy, pollution (air, water, and land), community facilities and services, and individual impacts. A number of states have followed Washington's example and created one-stop siting mechanisms. Not all states have shown equal interest in dealing with siting questions, but most states have developed coordinative mechanisms to more effectively deal with multi-agency interests. In recent years, the track record for states in meeting this problem has been favorable, particularly in comparison with federal efforts. The states of Oregon, Wyoming, New York, Florida, Washington, California, Maryland, Massachusetts, Ohio, Wisconsin, Montana and Iowa have been leaders in making major changes in their siting programs.

TIME SCHEDULES FOR ACTION

In recent years, states have attempted to speed up the processing of site suitability certificates and permits to allow construction and operation of major energy facilities through the placing of statutory or administrative time limits for agency action. While the time limits vary, the basic rationale for statutory scheduling is to prevent unnecessary delays in administrative reviews and enhance timely decisionmaking. Differing conditions within states have resulted in differing time limits. The typical time limitation ranges from 12 to 18 months. Some states have shorter periods. In Arizona and Maine, the time allowed is 180 days. In the former state, a hearing is held not more than 60 days after notice is first given. The certificate must be issued or denied within 180 days after the application has been filed with the Power Plant and Transmission Line Siting Committee.

Oregon has a two year time frame, North Dakota six months to a year, South Dakota and Washington, 12 months, and Wisconsin, 18 months. In Wyoming, the Industrial Siting Council has a 180–630 day period for review and decision. In practice, however, Wyoming has never exceeded 285 days in making a decision. California has established two separate 180 day reviews; one for the designation of an appropriate site, and the other to determine the suitability of an energy facility. In some states, there is no specified statutory review time restriction, but there is an expectation that the analysis of an application will take place in a reasonable time. In Ohio, for example, review takes from six months to one year, although this is not a statutory directive.

Where circumstances warrant, extensions of these statutory or administrative time limits are allowed on the basis of: orders of a state agency, agreement between the applicant and lead state agency, good cause, failure of the applicant to submit the required materials in a timely manner, availability of new data or information affecting the siting decision, or some other unusual circumstance. However, the overall intent of states is to adhere to strict schedules of review and to make final decisions as soon as is appropriate.

Relying on state governments' knowledge and expertise could assist federal agencies in the licensing of energy facilities. While the proposed legislation is not directed at nuclear installations, it is useful to note that in Washington State, the Energy Facility Site Evaluation Council, considered exhaustively the application for twin reactors at the Skagit River site in Northwest Washington and recommended that the Governor approve the application for a site certificate. The Governor approved the recommendation, concluding the proceedings as required under state law. Those actions were taken in the latter part of 1976. The nuclear power plant is still not under construction, three years later. At the present time, there still are administrative proceedings underway by the NRC dealing with issues that were addressed by the state years ago. This case is illustrative of many situations in which comprehensive state analysis and decision based upon that information and data does not conclude the bureaucratic process which energy facility sponsors must follow. The inevitable results of such delays add heavily to the costs of the plant and impacts negatively on the scheduling and availability of needed energy.

Overlapping and duplicative procedures continue to exist, to the detriment of sound and timely decisionmaking. The states strongly support the need for increased federal attention and action to better interrelate and coordinate their responsibilities and to properly recognize the ability of states to conduct effective project feasibility reviews. Consultation and coordination with the Governors and the appropriate administrative agencies can significantly improve siting decisions without the imposition of the proposed Administration presumed "improvements" which may, by interfering in traditional and constitutional state authority, only compound and make existing difficulties more severe.

STATES WITH IDENTIFIED TIME LIMITS FOR CERTIFICATION OF MAJOR ENERGY FACILITIES

State and time frame:

Arizona, hearing to be held not more than 60 days after notice. Certificate issue or denied 180 days after filing of application.

California, two 18 month procedures: a) notice of intention (site alternatives); and b) application for site/facility.

Florida, 14 months.

Georgia, varies with particular permit program.

Kansas, 90 days, plus the required hearing time for energy facility permits.

Maine, 180 days.

Massachusetts, one year (Siting Council), no specified time for other State agencies.

Minnesota, need Certificate 6 months; site certificate one year; specific design permits, unspecified.

Missouri, Air Quality Permit, 60 days; water quality, minimum of 45 days; no discharge permitted until 180 days after permit is issued.

Montana, two years.

New Jersey, in most cases, 90 days for permits.

North Carolina, six months.

North Dakota, six months to one year.

Ohio, one to one and one/half years (not statutory).

Oregon, up to 2 years.

South Dakota, 12 months.

Washington, 12 months.

Wisconsin, 18 months.

A CASE STUDY OF TIMELY STATE DECISION MAKING: THE MISSOURI BASIN POWER PROJECT

A recent study by Missouri Basin Power Project, detailed the timely performance of the State of Wyoming in siting the 1,500 megawatt, $1.3 billion coal-fired electric generating facility at Wheatland, Wyoming. This facility is designed to serve base load power requirements during the 1980's for six participating consumer-owned bulk power suppliers serving municipalities and rural cooperatives in 8 neighboring states.

The Missouri Basin Power Project is complex and expensive, involving the acquisition of water, the construction of a dam and reservoir, and the construction of the generating plant and major transmission facilities. This project is subject to some 31 permits and/or certificates which must be acquired for construction and operation of the facility, of which 24 are state permits. A number of intervenors, including the Sierra Club and the Laramie River Conservation Council, objected to the Missouri Basin Project and used the state permitting process and judicial appeal to stop it. Nonetheless, all state permits and certificates were granted expeditiously, and the project received its final go-ahead only 14 months after its first application under the state's Industrial Development and Siting Act.

The major permits and certificates issued by the State of Wyoming include:

Certificate of Public Convenience and Necessity, Public Service Commission. Applied for February 1975; issued June 1976. This permit considered need for power, cost of power, availability of water, and feasibility of transmission.

Air and Water Pollution Permits, Department of Environmental Quality. Applied for February 1975; issued December 1975. These permits considered effects of the project on regional air and water quality.

Industrial Siting Permit. Applied for December 1975; issued April 1976. This permit, which allowed the initiation of construction, was issued in less than 5 months. It considered the availability of water, long-range socioeconomic impacts of the projects including its effects on agriculture and government services, environmental effects, and the geologic suitability of the site.

COMPLETENESS OF APPLICATIONS

While states vary in approach, generally the date an application is received by a state is the date upon which the designated time periods begin to run. Some advocates of stronger federal action, including the authority to preempt state processes and decisions, point to the fact that the deadlines for action are not always adhered to and that decisions are consequently unnecessarily delayed. One of the assumptions made is that when an application is received by a state, it includes all the information that a state needs to carry out its responsibilities. Often this is not the case. Ordinarily, supplemental information is needed from an applicant after filing, or an application is submitted with the understanding that the project sponsor will be providing more data as it becomes available. During the analysis period, additional information is often required by state siting agencies in order to proceed.

An example in Washington State illustrates this point. In July 1976, the Northern Tier Pipeline Co. submitted an application for construction of an oil port and pipeline from that state into the northern interior states to make crude oil available to those refineries that would have no supply alternatives once Canadian crude oil exports to the United States are stopped. That initial application was so lacking in information that the state Energy Facility Siting Council initially determined that it could not even accept it for processing. Upon further consideration, however, the Council concluded that it would accept the application upon condition that the company supply the needed data and documentation so that adequate state review and analysis could proceed. During the review process, the state siting agency is required under state law to make a determination that an application for an energy facility covered by the act is complete for purposes of state review. That determination was finally made by the Council in early summer 1979, three years after initial submission by the applicant. This three year period was not caused by the delaying activities of the state administrative process, but rather by the fact that essential information necessary for the application to be properly examined was not in hand. The intent of state law assumes that with sufficient information available at the time an application is received by the state, processing could commence.

The State Siting Council has extended its consideration of Northern Tier's application three times at the applicant's request for a total of two and one-half years. Some 17 months after the original filing, the company acknowledged that the state did not have sufficient information to make a decision. The Council at one point recommended that an expedited schedule be adopted, but this was not acceptable to the company. As a result, the state has had to repeat a number of procedural steps because of changes in the application. These include land use and zoning hearings in several counties of the state through which the pipeline would be constructed. Hearings originally were conducted in 1976, then again in 1978 after changes were made by the applicant. In July 1979, a repetitive set of hearings were begun due to pipeline route changes requested by the company. The applicant has been quite candid, in this instance, in admitting that the delays have not been due to the state procedures. In fact, the company has stated that the state could not have taken any action to speed up the process.

This example points up the serious dangers involved in requiring states to meet a mandatory timetable set by a federal Energy Mobilization Board, as proposed by the Administration. In this case, Washington State would have had to appeal to the Mobilization Board for repeated extensions of the decision deadline in order to retain sufficient time for a decision on a complete application and to avoid the intervention by the EMB and a hasty preemptive federal decision. The additional bureaucratic loops that would be occasioned by the Administration's proposal would simply have added to delays rather than expediting the siting process. The Administration's proposal would build in an incentive for states to simply reject applications to avoid the bureaucratic procedures with the EMB over extensions, etc. The state later on could reopen the proceeding once the project was no longer on the "fast track." This too, would cause further delays in siting the project, contrary to the desired speedup goal. In addition, the applicant could use the mandatory federally-determined deadline as a means to obtain concessions from the state on the completeness issue, particularly if the state were basically in favor of the proposed project because of the benefits it promised for the area.

It should be noted that delays also occur because of citizen intervention though the state often receives the blame for the delay. The State of Oregon completed its site analysis and certification for the Pebble Springs nuclear facility in less than one year. Litigation brought by private citizens delayed the licensing for several years and forced the state to reopen the siting process. Yet, this is often cited as an example of state delays in permitting.

In sum, any presumed evidence that states and their administrative systems are improperly delaying the resolution of issues or the processing of project proposals needs to be carefully and critically examined to determine the exact cause. States have little desire to make decisions on major siting issues without first obtaining sufficient information and analysis to support a reasoned decision. The notion that the federal government can mandate a better and quicker decision assumes either that those working at the federal level have greater intelligence and competence in these matters or a stronger desire to solve this nation's energy problems. Both conclusions are suspect.

STATE ACTION TO ACCELERATE SITE REVIEWS

Under applicable state law, also in Washington State, the sponsor of three 500 megawatt coal-fired steam electric generating stations at Creston, Washington, requested that the State Energy Facility Site Evaluation Council prepare a potential site study. The purpose of the study is to evaluate the potential impacts of the site and to identify and analyze those effects and impacts which may:

1. Preclude the siting of the plant;

2. Require substantial mitigation to enable satisfactory siting;

3. Need to be addressed in detail in order to have a complete application for a site certification agreement.

The study is not construed as an advance environmental impact analysis since it is limited to adverse impacts and negative factors. It is assisting the state and the applicant in determining whether or not there are substantial problems that would make the pursuing of a formal application inappropriate. Early identification and analysis of negative factors will improve the entire site analysis and certification process. The study includes a number of significant factors:

Avian Biology, Agriculture, Recreation, Sewage and Water, Solid Waste, Cultural Resources, Terrestrial Biology, Transportation, Air Quality, Hydrology, Fisheries, Aesthetics/Noise, Geology, Water Quality, Flood Risk, Socioeconomics.

The state anticipates that there will be no major barriers to the project, identified in the advance site study. The conduct of this study could reduce the time for application processing by six months. It is estimated that it may only take six months after the submission of the application to prepare for the required contested case hearing, which would give sufficient time for the preparation of the environmental impact statement. A decision could be rendered four months later, and submission to the Governor for his decision would take place well within the statutory guidelines. The state also has embarked on discussions with principal federal agencies to determine the most effective way of preparing the EIS. It is likely that there will be agreement on the designation of a lead agency for the preparation of the EIS that would fulfill the requirements of both the state and federal agencies, thereby avoiding the waste of resources in duplicating the analysis.

STATE/LOCAL RELATIONSHIPS IN THE SITING PROCESS

There is substantial concern on the part of state governments that units of local government be strong participants in the energy facility siting process. States feel that the strength of a proposal depends largely upon how well the impacts on a site-specific area are to be mitigated.

Local units of government commonly are parties to the siting process. In Washington State, the unit of local government in which the facility is to be located becomes a part of the siting council during its deliberations. Conformance to local planning and zoning and other regulations is usually expected. Several states do have provisions for dealing with an overriding state interest after efforts are made to work out an accommodation with local governments. Typically, detailed study is undertaken to determine whether local plans or regulations were unreasonably restrictive. Local governments are encouraged to work with states on siting problems.

REVIEW ENVIRONMENTAL FACTORS

There has been an assumption by some that the federal government can make more timely and more comprehensive analysis of the environmental impacts of proposed energy facility projects than can state governments. This assumption is not borne out in the experience of a number of states. In the State of Maryland, for example, there is a strong record that indicates that the federal government cannot match the local experience, reliability and accuracy of a state's environmental and socioeconomic determinations without the conduct of an extremely expensive and duplicative detailed site investigation program. In nuclear power plant siting, for example, it would be difficult for the Nuclear Regulatory Commission to conduct the detailed investigations of the type Maryland makes at every location throughout the state. As has been articulated by the state, "Site specificity is the key to avoiding superficial efforts to protect single components of an ecosystem without causing other environmental dislocations. The ecological community of plants and animals is too varied. The state is best suited to know for a particular site what data and information needs to be collected, the frequency, degree of precision and accuracy of the data, and the availability of competent local scientists to interpret the data."

As a result of extensive field studies of aquatic impact, Maryland officials were able to identify needed changes in plant design early in the review process for a nuclear plant that was not identified by federal agencies. This work far exceeded an oversimplified federal analysis which treated an estuary as a lake. Other examples revealed that federal agencies lacked awareness of the significance of the impact of groundwater withdrawal and relied on obsolete data. These and other situations were not the result of either incompetence or lack of ability. They result from the inherent difficulties which can be avoided if states have the basic responsibility for carrying out site-specific reviews. Imposition of a federal takeover will not make the system work better. States are the logical unit of government to deal with environmental and socioeconomic impacts. The federal government can be involved to the extent that there is an overriding national interest (e.g., the safety of nuclear plants).

CONCLUSION

The Governors have long supported the need for federal coordination with the states and for a central federal siting authority such as is embodied in the concept of the Energy Mobilization Board. However, granting meat-axe like authority to the Board in dealing with state and local governments overlooks a number of more effective and less Draconian measures.

The following opportunities for improvement in federal/state siting are available:

Close federal/state consultation and concurrence on the designation of priority energy projects and the setting of decision timetables;

Clear statutory authority for joint federal/state development of environmental assessments and impact statements (states have long favored delegation of federal environmental reviews to states).

Greater reliance on joint hearings and concurrent reviews;

Expanded technical assistance to states and federal support for the development of state energy mobilization boards;

Greater access for states to federal information.

The Administration appears to have bypassed these opportunities in favor of a more simplistic effort to focus attention on time deadlines and rapid decisionmaking. As noted earlier, such an approach merely builds in an incentive to say no to energy projects rather than encouraging improvements in state/federal coordination. States have for the past ten years concentrated on strengthening their review programs by emphasizing the integration, consolidation and coordination of state agency permits. This has resulted in a more comprehensive and timely review of the relevant issues. To focus solely on tightening decision deadlines and waiving state laws begs the far more significant question of how to rationalize the permitting process.

The National Energy Plan and its specific program elements pursue the principal objective that the federal government should provide a clear and consistent statement of energy policies and program with clear and consistent rules and regulations emanating therefrom. To carry out this objective, the states must be included as partners and not perceived as combatants, antagonists or obstacles in that process. What is sorely needed is not confrontation with state interests and concerns, but an accommodation that leads to good, timely and effective decisions.

The legitimate frustration with the existing complex array of regulatory authority and activity in energy facility siting should not be permitted to result in the choice of state inadequacies as a major scapegoat. An end to the regulatory tangle is a laudable goal, but efforts should be focused where reform is needed most—in the federal administrative sector.

Mr. President, the energy companies apparently agree with this conclusion. Last July the junior Senator from Florida and I wrote the major and independent petroleum companies, asking them to list the regulatory obstacles which most impede exploration and development of our energy resources. Over 70 percent of those who have responded—and over 40 companies have responded—listed various Federal regulations as their principal obstacles.

Mr. President, our bill preserves State and local rights without affecting the powers of the Board to expedite priority energy projects. Section 19 provides that, if a State or local government fails or refuses to make a decision according to the deadlines set by the Board, the Board by means of expedited action in State or Federal court can order the State or local government to make the decision. This method of enforcing the deadlines set by the Board respects the constitutional boundaries in our Federal system—unlike the administration proposals which allow the Federal Government to substitute its decision for that of the State and local governments.

If the Energy Mobilization Board is to work, if it is to really speed up our energy projects without adding a whole new layer of bureaucracy, it must contain three critical elements.

First, it must expedite and bring certainty to decisionmaking. Our bill does this by empowering the Board to designate priority energy projects, set schedules for Federal, State, and local decisions on these projects and require completion of all Federal agency decisions on the projects within 12 months of application. Our bill also provides expedited judicial review of critical Board decisions to insure the interest of the public as well as affected parties is fairly but expeditiously represented. In this respect our bill is not significantly different from other proposals.

Second, the Board must be accountable for its decisions. Our bill does this by making the Board a special executive agency whose members serve at the pleasure of the President. In addition, our bill provides expedited judicial review of the Board's decisions and a 5-year sunset provision.

I have insisted the Board be an executive agency rather than an independent regulatory agency. I believe there is a desperate need for accountability in the regulatory process and for a method of establishing responsibility for the actions of the regulators. To this end, I have introduced S. 1545, the Accountability in Regulatory Rulemaking Act of 1979, which gives the President, acting in concert with the Congress, the responsibility for making the critical balancing choices which are becoming more and more necessary in our increasingly complex regulatory system. This "Presidential balancing" mechanism would insure that someone is held accountable for the "headless fourth branch of government."

In the same way, I intend that making the Energy Mobilization Board responsible to the President as well as making its decisions open and on the record will render the Board truly accountable.

However, I would have serious reservations about making the Board so responsible to the White House in one case: If the Board in any way were empowered to substitute its judgment for that of Federal or State independent regulatory agencies, on questions which have been explicitly delegated by Congress or State or local legislatures to their collective expertise. For example, accountability does not mean FERC or any State utility commision should be subject to political pressure by the President or to veto by the Board regarding the details of the rates allowed specific energy projects. On the other hand, deadlines for the completion of ratemaking proceedings are exactly what FERC and the public utility commisions should be accountable to the Board and President for.

Finally, the Board must preserve State and local rights. By preserve, I mean the Board must conform to the separation of powers among the branches of the Federal Government and between the Federal Government and the States and local governments. It can neither usurp the legislative function reserved to Congress nor usurp the local rights reserved to States and local governments. Here is where we differ substantially from other proposals.

Our bill allows the Board to enforce its deadlines through expedited court action instead of substituting its judgment for the constitutionally protected judgment of State and local governments on strictly local matters.

Our bill does not permit the Board to waive Federal, State, or local laws. Instead our bill leaves questions concerning environmental barriers to energy projects—such as the Clean Air Act, the Clean Water Act, the ocean dumping law, and State water law—right where they belong: In Congress and the State and local legislatures.

Mr. President, I ask that resolution by the State and local energy task force, a group of the major State and local government associations, be printed in the RECORD at this point. This resolution regarding the Energy Mobilization Board was presented to President Carter as the consensus position of such groups as the National Governors Association, the National Association of Counties, the League of Cities, the Conference of State Legislatures, and others.

The resolution follows:

CONSENSUS POSITIONS OF STATE/LOCAL ENERGY TASK FORCE

I. ENERGY MOBILIZATION BOARD

1. All organizations support the concept of an Energy Mobilization Board and support expediting the federal permitting process.

2. With a few notable exceptions, state and local governments have not been the source of delay in the siting of major energy projects.

3. All organizations agree that states and local governments should:

A. Work in close consultation with a federal EMB to develop concurrent reviews, joint hearings, consolidated data collection efforts, etc.;

B. Retain authority over the final determination of decision deadlines; and

C. Retain authority over state/local siting and permitting decisions without fear of preemption

4. All organizations who have had an opportunity to address the EMB proposal strongly oppose the Dingell bill because of its provision for waivers of substantive and procedural provision of state and local laws. The Administration's support for this, even if simply a matter of legislative tactics, deeply concerns all of us.

Mr. ROTH. Mr. President, the States and local governments must make the commitment to join together with the Federal Government in getting our critical energy projects built as quickly and efficiently as possible. This commitment demands extraordinary cooperation among the Governors, the State legislatures, the city and county leaders, and all Americans. If the State and local governments fail, they risk exactly the big Government, bureaucratic powergrab contained in some of the proposals now before Congress. Congress and the American people cannot get the job done alone; the States must join in the entire endeavor if we are to prove our Federal system really does work.

Our Energy Mobilization Board bill makes substantial reforms in our regulatory process while at the same time preserving the constitutional powers of our States and local governments. It expedites our critical energy projects, it brings certainty and accountability to energy regulation. It gets our country moving toward energy independence, but it is only a beginning. For the rest of our energy policy, Mr. President, the buck stops here. We have a big job ahead of us. Let us get on with it.●

BRAZIL'S EXAMPLE ON ALCOHOL FUELS

● **Mr. BAYH.** Mr. President, as we make decisions about alternative energy sources in the weeks ahead, I think it would be instructive to look at the experience of Brazil in this area. As many of my colleagues are aware, Brazil has made a major national commitment to increased reliance on alcohol fuels—not as an experiment, but as a government policy which has moved into high gear.

The President of Brazil now travels in an alcohol-powered automobile. Gasohol, a 20-percent alcohol, 80-percent gasoline mixture in Brazil, is the automotive fuel in Brazil today, and the plan for the future is for exclusive reliance on alcohol as the basic auto fuel.

The Brazilian Government has actively backed this effort to reach energy self-sufficiency. It has guaranteed that crops to produce needed alcohol supplies will be available. Conventional government vehicles are being replaced with alcohol-fueled cars.

This commitment has produced results, Mr. President. Alcohol production is up dramatically in Brazil. Private industry has joined the effort, and auto manufacturers—American auto manufacturers included, I might add—expect to produce a quarter of a million alcohol-fueled vehicles per year starting in 1980.

An article appearing in the September 19 edition of the Washington Post describes the developments in Brazil in some detail. I ask unanimous consent that this article be reprinted in the Record at this point for the information of my colleagues.

The article follows:

Brazil Promotes Pure Alcohol as Alternate Fuel

(By Larry Rohter)

Rio de Janeiro.—Brazilian President Figureiredo now rides to all official functions in a Ford LTD limousine that runs on pure alcohol. The other day he was photographed driving an alcohol-powered Beetle on the streets of Brasilia.

Within months, the first chief of state to use an official car running on pure alcohol will be joined by thousands of his fellow-citizens. Gen. Figureiredo and the head of the Brazilian Association of Automobile Manufacturers are scheduled to sign an agreement Wednesday aimed at putting 1.7 million alcohol-powered cars on the highways over the next five years.

The accord is the latest step in the government's ambitious, long-term plan to end dependence on costly imported oil. Brazilian cars already run on gasohol, a mixture of 20 percent alcohol with gasoline and the ultimate aim is for pure ethyl alcohol to be the basic auto fuel.

Under the agreement, auto manufacturers in Brazil are to produce at least 250,000 alcohol-powered vehicles a year for the domestic market, beginning in 1980. (Another 500,000 existing cars are to be converted.) Signatories to the accord include the local subsidiaries of General Motors, Ford, Volkswagen and Fiat.

"What Brazil has come up with here is a way of saving the automobile," says Prof. Jose Goldemberg of the University of San Paulo, former president of the Brazilian Society of Physicists. "When the world's oil supplies run out, the car will be obsolete unless an alternative fuel supply is ready."

The Brazilian government is to guarantee that production of sugar cane, which when refinery yields the alcohol, will be sufficient to supply the cars. It is to replace its entire official fleet of conventional cars with alcohol-powered autos.

The alcohol program has been a top energy priority here since the 1973 oil crisis. Rising prices and the oil supply crunch triggered by the Iranian crisis have accelerated the Brazilian drive for energy independence.

Brazil currently has six million cars and a growing industry that produces more than a million vehicles annually. Government statistics have predicted that the 1979 oil-import bill will reach $7.5 billion.

As a result of the government drive, ethyl alcohol output here already has jumped from 169 million gallons in 1975 to an estimated 910 million gallons this year—more than total alcohol consumption in the rest of the world.

The Brazilian goal is to produce at least 2.75 billion gallons a year by 1985. To achieve that target, the government program calls for investments of $11 billion in distilleries and other alcohol-related projects through 1984.

"Brazil is the only country in the world that has already made official an alternative energy program based on alcohol," said General Motors to Brazil President Joseph Sanchez. "The government has reacted in a realistic and rational manner," to the energy crisis.

At General Motors' plant in Sao Paulo state, the first 252 alcohol-powered vehicles rolled off the assembly line last week destined for a government agency. Early next year, GM will begin mass producing its alcohol-powered vehicles for the public.

GM says its new motor, developed in Brazil by an international technical team and capable of running on gas, alcohol, or a combination of the two, is the first "multifuel engine." To restructure its Brazilian operation and expand production, GM plans to invest $500 million here during the next four years.

By 1982, GM expects to be manufacturing 30,000 of its multifuel engines at the revamped Brazilian plant. Of that total, all but 80,000 will be earmarked for export to Britain, Japan, West Germany and Australia.

A General Motors spokesman here said, however, that the company has "no plans at present" to export the four-cylinder multifuel engine to the United States or to manufacture it at the company's parent plant in Michigan.

"Theoretically, there are no barriers that would prevent us from selling or making our line of alcohol-fueled vehicles and engines in the U.S.," said Jairo Lottle of GM. "It's just not in our plans at the moment."

Ford do Brasil, which later this month will begin mass-producing an alcohol-powered version of the LTD and two other models in its 1980 line, also says that it does not envision exports to the United States in the near future. Production is aimed at meeting local demand first.

"At this point, it doesn't depend as much on us as the Brazilian government," said engineering and technical chief Mauro Borghetti. "If they provide the infrastructure that assures there will be enough alcohol to go around, we'll make the cars."

To encourage consumers to switch to alcohol-powered autos, the government has already instituted a series of incentives. Credit restrictions and taxes have been eased for purchasers of alcohol-fueled vehicles and as of Jan. 1, drivers of cars running on pure alcohol will be exempted from the current prohibition on weekend fuel sales.

The biggest boon to users of alcohol comes in filling the car's tank. Government decrees have established a pump price of 87 cents a gallon for alcohol—as opposed to $1.86 a gallon for regular gasoline and $2.98 for high-test. The government says the cost of producing the alcohol is 70 cents per gallon.

Inventive public relations exercises also have been undertaken in an effort to win public confidence. On Sept. 7, Brazil's independence day, 170 race drivers participated in an alcohol-only auto race, held at the same Rio autodrome where the annual international Grand Prix takes place.

"I see nothing but advantages to be gained from using alcohol as a fuel," said the winning driver, Arthur Bragantini, after the race. "The engines perform better, and since the motor temperature is lower, last longer."

Similar conclusions were reached by participants in a road test sponsored earlier this month by the automotive magazine Quatro Rodas. Results of the four-day trial indicated that "the performance of alcohol-powered cars is as good as, if not better than, that of conventional automobiles."

Involved in the 62,000 mile road test were the Volkswagen "Passat" (Dasher) and Fiat's 147 model. Average mileage for the participating cars was 27.3 miles per gallon.

Such figures lead some Brazilians to think they have found, if not an answer to the energy crisis, at least a partial solution. Already, delegations from the Philippines, Africa and Central and South America have sent delegations to investigate possibilities of adopting their auto fleets to run on alcohol with Brazilian-designed technology.●

RSVP TO THE RESCUE

● **Mr. COCHRAN.** Mr. President, the State of Mississippi has been plagued by natural disasters this year, first the Easter flood which affected many parts of the State, and then Hurricane Frederic which ravaged the Mississippi gulf coast and parts of south Mississippi.

In the aftermath of these disasters senior citizens participating in the retired senior volunteer program (RSVP) were mobilized in a matter of hours to help staff disaster centers located in the victimized counties.

The first disaster occurred on April 14 when Mississippi's Pearl River and its tributaries overflowed. During a 12-day disaster period 410 RSVP volunteers in Columbus, Vicksburg, Jackson, and Simpson County contributed more than

1,600 hours, working in 24-hour shifts, manning disaster centers. The RSVP volunteers assisted flood victims in filling out forms for food stamps, housing and insurance claims. Other volunteers manned phones. In Simpson County 40 volunteers cooked meals for flood victims.

The second disaster, Hurricane Frederic, crashed into the gulf coast and southeast Mississippi on September 12. RSVP volunteers on the coast and in Jones County provided disaster assistance efforts, staffing disaster centers helping in form preparation and phone calls.

I commend these senior citizens in my State who unselfishly gave their time to help launch a successful rescue effort in the wake of these perilous events.

In my opinion RSVP is one of the most beneficial Federal programs established for older Americans. The program was created almost a decade ago to provide a variety of meaningful opportunities for persons of retirement age to participate fully in the life of their community through significant service.

Since then the RSVP has become a vital organ in the community assisting nonprofit private and public community organizations in providing a variety of social services. RSVP volunteers donate time and expertise that many organizations cannot afford to purchase and in many cases could not otherwise provide.

For example, in Oxford RSVP volunteers are making home visits to elderly shut-ins performing personal tasks for them that they are unable to do for themselves. In Vicksburg volunteers are working in a child abuse program, while in Clarksdale senior citizens are serving as teacher's aides to slow learners. Many RSVP volunteers around the State are serving as librarians in schools.

In Tupelo, RSVP volunteers are performing an important community service. They are tornado watchers for the National Weather Service. After a tornado hit Tupelo without warning last year, injuring 18 persons, the Lee County Civil Defense asked for tornado spotters.

RSVP volunteers quickly donated their service. Last January volunteers began keeping a weather diary. At different times during a day they check wind direction, cloud formation, rain gages, and changes in temperature. When the weather appears sinister, the local police are notified, who in turn call the National Weather Service in Jackson.

Besides volunteering their time to help protect Lee County citizens from tornadic storms, the RSVP is now working on obtaining a much-needed radar station for the city of Tupelo.

In my State 3,300 persons are demonstrating the success of RSVP. In addition to individual and self fulfillment, it is clear that the local community, and the Nation as a whole, is benefitting from these services.

As a former member of the House Aging Committee, I worked to insure that all Federal programs affecting senior citizens met their needs. In the Senate my interest in this segment of the population has not waivered.

Trying to improve the opportunities for productive and meaningful work is one of the best ways our Government can show its sincere interest in upgrading the quality of life of our older citizens.●

WHY THE WEST IS ANGRY

● Mr. BAUCUS. Mr. President 2 weeks ago the Department of Housing and Urban Development announced that it was imposing a moratorium on Federal housing funds and financing of single-family homes in two Montana counties until radiation tests are conducted on private and public residences. In just 2 weeks the HUD ruling—affecting Silver Bow and Deer Lodge counties—had a devastating impact on the economic and social fabric of these communities.

The immediate effects on Butte and Anaconda are obvious: Construction on Federal housing projects has come to a halt, and homeowners are experiencing unjustifiable delays in obtaining FHA insurance. Even though the long-range consequences are perhaps less evident, they are no less severe. For example, it is likely that HUD's ruling will influence the approval of applications for Federal housing projects for some time to come.

Butte is striving to achieve a community renaissance. Revitalization efforts are underway. But now, Butte's economic future may be less secure. The Federal decision will impede these earnest efforts to stimulate economic and community development.

The September 17 issue of Newsweek magazine chronicled the rise of the angry West toward the Federal Government. The West is organizing to make its voice felt in the development of policy which bears heavily on her States.

Is it any wonder that the West is angry when the Federal Government continues to render insensitive, bureaucratic decisions without regard to the impact they will have on people's lives?

Is it any wonder that the West is angry when decisions directed at two counties in one State are formulated at the Federal level without the input and guidance of local and State officials?

Is it any wonder that the West is angry when the Government fails to provide concrete evidence justifying its decision?

I submit to you that the HUD moratorium represents a graphic example of unjustified Federal intervention. The decision is fueling the fires of the angry West.

Let me tell you what I know about the events preceding the HUD announcement. Working with the Environmental Protection Agency, the Montana State Department of Health and Environmental Sciences has been conducting extensive tests to determine levels of radiation in Butte residences. Elevated levels of radiation have been discovered in some homes.

The source of the radiation and the remedial action is unknown. The Department of Health knows that some forms of phosphate slag used in building construction materials are emitting dangerously high levels of radiation. The Department of Health concedes however, that the slag is not the only contributor; rather, experts suspect that low-level uranium deposits underground may constitute the major source behind the high radioactivity found in some private residences.

The Department of Health is completing an exhaustive study of the Butte radiation situation. The results of the study will not be known for at least 1 year. The results will be critical in our efforts to look for remedial solutions.

This is a grave situation and my interest in protecting the residents of Butte from potential health hazards is undiminished. But the preliminary results are so serious that we must wait until all the evidence is in before taking hasty action.

But the Department of Housing and Urban Development is using inconculsive evidence in requiring that all existing Federal housing construction and proposed construction be subject to sophisticated radiation testing and must not exceed a 0.02 radon level.

My letters to the Department of Housing and Urban Development requesting responsible answers to fundamental questions remain unanswered. I am, therefore, unsatisfied with the reasons prompting the HUD restrictions on Federal money. I am disappointed that neither myself nor the two affected communities have been consulted. I am distressed that we do not have the facts and that HUD is doing nothing to dispel the rumors that are beginning to circulate in Butte and Anaconda.

I will be meeting with HUD and EPA officials on Friday. I expect that HUD can show reasonable evidence in support of their actions. I expect that HUD can tell me how they weigh the economic needs of a community with suspected health hazards. And if they deem the health hazard of significant magnitude, what remedial steps can be taken to ameliorate the hazard. These are fair and responsible questions.

A precedent is being discretely established by the Department of Housing and Urban Development. Many communities may be similarly affected in the future. At the very least, we owe an explanation to the people of Butte and Anaconda. Their lifetime investments depend upon it. At the very most, we must determine the adequacy of the procedures and the legitimacy of the ruling to place conditions, without warning, on Federal financial involvement in our communities.

I request that a copy of my recent letter to Secretary Moon Landrieu with a list of questions attached be printed in the RECORD.

The material follows:

U.S. SENATE,
Washington, D.C., September 24, 1979.

Hon. MOON LANDRIEU,
Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR MOON: On Friday, September 21, my Administrative Assistant, R. Stephen Browning, spoke with your Special Assistant for Housing, Anna Hooker, in connection with the Department's failure to respond to my September 13 letter to you and EPA Administrator Costle. The letter concerned the Department's decision to impose a moratorium on all Federal funds for

Silver Bow and Deer Lodge counties in Montana.

HUD's decision had an immediate effect on the economic and social fabric of Butte and Anaconda. The failure of HUD to take immediate steps to resolve the situation and justify its action to the residents of these counties is fueling a crisis atmosphere.

It was suggested during the phone conversation Friday that I deliver to you a second list of questions that remain unanswered. It seems to me that the magnitude of the HUD decision on the people of Butte and Anaconda warrants your prompt attention. I will be in touch with you to receive the answers on these questions and to discuss the Department's future plans to stimulate development in Silver Bow and Deer Lodge counties.

With best personal regards, I am

Sincerely,

MAX.

Attachments.

QUESTIONS

1. Why does my letter of September 13 to you and the Administrator of the Environmental Protection Agency remain unacknowledged and where are the materials I requested?

2. Who in HUD, both in the Denver Regional Office and in Washington is coordinating the effort to determine the radiation level in both multi-family projects and single family homes?

3. In June my Butte staff was assured that HUD was not considering imposing a moratorium on Butte. My staff was told that any change in HUD policy would be discussed with them first. This never happened. Why?

4. Why has no one from HUD contacted my Washington office to apprise me of the events leading up to the decision and the actions HUD intends to take?

5. On what substantive evidence is HUD basing its decision?

6. What concrete evidence exists which supports the inclusion of Deer Lodge County in the moratorium?

7. Is HUD working to expedite the EPA fly-over of Silver Bow and Deer Lodge counties?

8. HUD granted a $65,000 grant to the State Department of Health and Environmental Sciences to conduct radiation testing in residences in Butte and Anaconda. The State Health Department is capable of conducting only 16 tests per week. This will not satisfy the demand created as a result of the HUD decision. What other means exist to assist Montana in conducting the radiation tests?

9. Under what mandate or authority was HUD operating when it rendered its decision to withhold all Federal funds and financing for these two Montana counties? What precedent exists to justify the HUD action?

10. On what grounds is HUD requiring the homeowner to absorb the cost of a radiation test before issuing FHA insurance?

11. Specifically, which HUD projects are affected by the HUD moratorium?

12. Will the Montana Department of Health and Environmental Sciences findings on elevated levels of radiation in Silver Bow County influence the Department of Housing and Urban Development's decision on approving applications for Section 8, Section 202, and other HUD programs in the future?

13. The HUD decision may have a devastating economic impact on Butte and Anaconda. Does the Federal agency attempt to balance community economic needs with considerations of potential hazard?

14. What criteria, if any, does HUD use to restrict Federal funding for housing and other investment in areas of potential hazard?

15. What Federal activity exists to help remedy problems of the magnitude posed by the Butte-Anconda situation? ●

L. MERCER SMITH

● Mr. MATHIAS. Mr. President, the civil rights debates of the decade of the sixties and the enactment of legislation to eliminate discrimination from our national life are often described as a bright hour in our modern history. But all of the words uttered in Congress and all of the laws printed in the statute books would have been futile if there had not also been business leaders of vision and understanding ready to implement the spirit and the letter of the law.

The late L. Mercer Smith of Baltimore was one of the businessmen who helped make a dream come true. As president of the Chesapeake & Potomac Telephone Co. of Maryland, he had one of the largest payrolls in the State and was directly responsible for the welfare of thousands of employees. He not only gave his own company the leadership necessary to improve equality of opportunity, but undertook to help the whole community follow the same positive course. He was one of the founders of Baltimore's Voluntary Council for Equal Opportunity Employment and he worked hard for its goals in his State as well as in his company.

This was only one of the many ways in which Mercer Smith served his neighbors, because he was an active participant and leader in a broad spectrum of business, professional, and social welfare organizations. In many cases he was chosen as president or chairman, but in every case he invested his ideals and personal integrity in the causes in which he was working.

I can testify personally to his dedication to a task once he had assumed it. He believed that politics was a proper responsibility for a complete citizen and he took an active role in several of my campaigns. I appreciate his help, but more importantly I shall never forget the spirit with which he gave it and the wisdom and counsel that accompanied it.

His talent and competence were evident to all who knew him and most of all to those in his own company who knew him best. He worked in various capacities in the Bell system, culminating in his election as president of C. & P. of Maryland in 1960. He guided the company through 11 years of unprecedented growth and expansion.

Like many creative people, he enjoyed a vacation or a moment of relaxation. In those moments, his famous smile was apt to be always flashing across his face helping others to enjoy the day, too.

The families of men who are busy in public affairs are sometimes forgotten or given a back seat. Mercer Smith always let you know how much he loved his family and how much they meant to him. Mrs. Mathias joins me in expressing our very personal sense of loss to Mrs. Smith and to their children and grandchildren.●

ENERGY DEVELOPMENT PROJECT DELAYS: LESSONS DERIVED FROM SIX CASE STUDIES

● Mr. STAFFORD. Mr. President, several weeks ago when it became apparent that the Senate would soon be considering legislation to expedite the decisionmaking process for energy proposals, I asked that the Library of Congress prepare several case studies. These have now been completed, and I will shortly ask unanimous consent that a summary of these case studies be printed in the RECORD.

As many Senators know, the Senate Committee on Energy and Natural Resources has been reviewing S. 1308, the so-called fast track energy legislation. This bill, which has now been reported from committee and is expected to be brought to a vote in the very near future, would create an Energy Mobilization Board authorized to cut through redtape for priority energy projects. This bill contains several provisions which are likely to be the subject of floor amendments. Indeed, some Senators, including myself, have offered a substitute for the entirety of S. 1308. It is certain, therefore, that the Members of the Senate will be forced to review many of the details contained in S. 1308. I believe that these case studies prepared by the Library of Congress will be helpful to the Members in deciding what position they will take on not only the Energy Mobilization Board proposal itself, but competing alternatives.

Because of space limitations, I am asking only that the summary of these case studies be printed in the RECORD at this time. However, those who wish to study the documents in their entirety may do so in room 4200 of the Dirksen Senate Office Building. I am asking that these be printed as committee documents of the Committee on Environment and Public Works, but that may take 10 days to 2 weeks.

Mr. President, I ask that the document in question be printed in the RECORD.

The document follows:

ENERGY DEVELOPMENT PROJECT DELAYS

At the request of the Senate Subcommittee on Environmental Pollution, we undertook a review of delays in non-nuclear energy development projects. This review focuses on ascertaining the causes of delays in selected energy projects, with a view toward providing background on the need for and implications of proposed "fast track" legislation.

We selected the following energy projects for review:

1. Kaiparowits—a large, coal-fired, minemouth electric generating facility located in Utah, originally proposed in 1962 and finally abandoned in 1976.

2. Dickey-Lincoln—a hydroelectric project, originally authorized in 1965, on the St. Johns River in Maine; bills both to fund construction and to deauthorize the project are pending before Congress.

3. Eastport refinery—proposed in 1973 to be built in Maine, the project at present is stymied, in part because of EPA's rejection of certain permits.

4. Hampton Roads refinery—proposed in 1975 to be built in Virginia, the project is at present awaiting a decision by the Corps of Engineers.

5. SOHIO pipeline (PACTEX)—proposed in 1975 as a route for transporting excess Alaskan crude oil to the Gulf States area,

the project was abandoned in 1979 after delays in approval reportedly pushed its completion date beyond the time when costs could be expected to be recovered, based on expected oil supplies.

6. Oil shale—leasing programs began in 1971, but progress has been slow and commercial production is not expected before 1983.

These six cases were chosen for reasons of convenience, familiarity, and diversity. It is not suggested that they are representative or nonrepresentative of any particular type or class of regulatory problems.

When assessing these case studies in terms of their implications for "fast track" proposals, two caveats are necessary:

1. The case studies are of projects that were proposed in a period of innovation and flux in environmental statutes and regulations. Consequently, there has been a problem of "moving targets," and planning these projects has been particularly difficult. It is possible that environmental statutes and regulations are maturing, and that for the next several years changes in requirements will be fewer and less burdensome; nevertheless, the case studies are illustrative of the sorts of regulatory problems cited as justifying the "fast track" concept.

2. Extracting the actual implications of environmental regulations on these projects is made difficult by other unsettling forces affecting planners. The economy, so stable during the 1960s, has changed in puzzling and unpredicted ways. And energy prices and availability, taken for granted in the 1960s, have become major uncertainties. As a result, many planning assumptions, particularly concerning rates of growth of energy demand and rates of inflation, have been disrupted. These energy and economic uncertainties to some extent are compounded by any environmentally caused delays, since if the time required to obtain various construction and environmental permits is extended, economic considerations may cross a threshold that would not otherwise have been reached. But to some extent it is probably also true that environmental controls have been the whipping boy for other negative economic forces.

Given these caveats, a review of the case studies points to two basic conclusions: first, that it is difficult to attribute the delay or foreclosure of construction of energy development facilities solely to substantive Federal environmental protection laws; and second, that usually it appears that a general lack of consensus on the need for the project, at least as proposed, underlies the difficulty promoters of the projects have faced in trying to obtain necessary regulatory approvals.

1. For each of the six case studies, factors other than environmental statutes appear important in causing delays.

For Kaiparowits, changing environmental requirements, particularly air pollution control requirements, did substantially disrupt planning; however, at the same time changes in the economy and energy demand were also important.

For Dickey-Lincoln, present delays can be attributed to Congressional hesitation to authorize funding for the project; it may be that some of that reluctance stems from environmental considerations, but it is Congress which is in a position to decide whether it should go ahead.

For the Eastport Refinery, the proposal is at present stopped because of the rejection of a permit on the grounds approving it would violate the Endangered Species Act; however, there is every reason to believe that numerous other probable roadblocks to the project exist, including international considerations that would transcend domestic environmental protection constraints.

For the Hampton Roads refinery, the proposal is at present awaiting a final decision on a key permit.

For the SOHIO pipeline (PACTEX), the working out of new air pollution regulatory procedures was a major cause of delay; however, at the time the project was abandoned these had been overcome, and it appears that environmental requirements would not have foreclosed construction; this, then, is a case where delays caused the economics of a project to cross a threshold of unacceptability.

For oil shale development proposals, the issue is one of developing new technologies; environmental controls are but one of the uncertainties affecting their development.

In short, although environmental considerations have been important constraints on the proposers of these projects, they have not been the sole constraints. In fact, the case studies suggest that the regulatory hangups suffered by these projects most often arise from underlying doubts about the projects, and that these doubts have often found their readiest expression in regulations based on environmental considerations.

2. In some of the cases, the underlying uncertainty arises from the doubt about the need for the project at all, in others it arises from uncertainty about siting, about alternatives, or some other aspect of the proposal. Of course, for virtually any proposal, someone will have objections or criticisms: but the more that this type of uncertainty is present, the more objectors there are likely to be and the greater their legitimacy. Most importantly, the greater the doubts, the more likely it is that critics will find sympathetic ears among decisionmakers. This, combined with the multitude of regulations and of governmental interests involved, increases the probability that a veto or holdup will occur at one or more of the numerous decision points.

Two of the case studies shed light from different angles on the nature of this source of delay: the PACTEX proposal illustrates that when consensus on the need for a project exists, it does move ahead; the Dickey-Lincoln project illustrates that when consensus does not exist, the absence of regulatory holdups does not mean it will automatically go ahead.

The SOHIO pipeline proposal was widely perceived as being in the national interest. Much of the delay concerned how to implement new procedures, but some hardline objectors existed, too. However, the general consensus that the project should go forward was reflected in a number of ad hoc efforts to clear roadblocks; and a bill passed the California legislature to resolve litigation challenging approval of the project. It appears that the underlying consensus in favor of the project was sufficient to get most of the roadblocks cleared (albeit too late for the economics of the project to be sustained).

In the Dickey-Lincoln case, the roadblock is legislative, not regulatory. And in this arena where, presumably, action by consensus would be possible without the project having to run the regulatory maze, funding is still iffy. It appears, then, that consensus for (or against) the project is lacking, so it languishes—just as are so many projects lost in the regulatory maze.

This illustrates that where an underlying consensus is lacking, projects will not necessarily go forward even if there are no significant regulatory hurdles; or put the other way, the delays of the regulatory hurdles generally seem to reflect a genuine uncertainty about the proposal. Indeed, it appears that environmental requirements have become a convenient and effective point of access to decisionmaking for critics of individual energy projects, whether on environmental or on social, economic, philosophical, or other grounds. When clear agreement on the national essentiality of any particular project is lacking, achieving final approval becomes exceedingly difficult—in either the regulatory or the legislative arenas. Once a critical level of consensus is reached, however, relief is likely to be forthcoming. The opportunity for Congress to clear the way for energy projects is illustrated by the enactment of the TransAlaska Pipeline Act.●

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar, and at the request of Mr. Muskie I ask unanimous consent that the Senate proceed first to consider the nomination of Mr. Kenneth M. Curtis, of Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of Kenneth M. Curtis, of Maine, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

Mr. MUSKIE. Mr. President, I rise to speak in favor of the nomination of Kenneth M. Curtis of Maine, as U.S. Ambassador to Canada. I think the quality of this appointment will measure up to our State motto: "Dirigo."

I have known Ken Curtis on both a personal and political basis for some 20 years. There is no one in public life for whom I have greater affection and respect and admiration. He served as legislative assistant to Congressman James Oliver; as Director of the Area Redevelopment Administration in the Department of Commerce during the 1960's; as Maine's Secretary of State in the midsixties, and as Governor of Maine for 8 years. Ken served as Governor of Maine during some very dramatic and challenging years. He demonstrated without question that he was up to the challenge.

Ken impresses people first in his qualities as a human being. He chooses to use the soft glove to press for his deep convictions in an effective way.

No one in public life in Maine today is more widely respected and loved than Ken Curtis. And that admiration for Ken extends to our Canadian neighbors, with whom Maine residents share a rich heritage. Ken has been involved in United States-Canadian issues for many years. He established a State department of Canadian affairs. He served as a member of the International Joint Commission. I cannot think of anyone who better combines the talents, interests, and personality necessary to be an outstanding Ambassador.

I ask unanimous consent to insert in the Record Governor Brennan's letter to the Senate Foreign Relations Committee on behalf of Mr. Curtis.

There being no objection, the letter was ordered to be printed in the Record, as follows:

State of Maine,
Office of the Governor,
Augusta, Maine, September 26, 1979.

Hon. Frank Church,
Chairman, Senate Foreign Relations Committee, Washington, D.C.

Dear Mr. Chairman: It is a source of great pride to me, as Governor, and to all residents of Maine that President Carter has nominated Kenneth M. Curtis to be our next Ambassador to Canada.

Rarely has a nomination been so warmly received and praised by the people of Maine, regardless of political persuasion.

As a former Governor of Maine, Kenneth Curtis dealt extensively with officials of the neighboring Canadian provinces over a period of eight years. He developed a sensitivity to the problems that confront even the friendliest of neighbors and a fine appreciation for the nuances of U.S.-Canadian relations.

I can think of no one who is better equipped, in background and personality, to not only maintain our harmonious relations with Canada but also to help strengthen these relations, especially in the areas of current concern to this country in the field of energy production and supply.

Ken Curtis combines great energy, compassion and leadership with another attribute that will serve him and his country well in this important assignment. I refer to his great natural diplomatic ability and his capacity to handle both issues and people with common sense and uncommon decency.

I feel confident that Kenneth M. Curtis will serve the United States with the dedication and wisdom that have characterized his service to the State of Maine. It is an auspicious appointment that holds the promise of even brighter days ahead in U.S.-Canadian relations.

Sincerely yours,

Joseph E. Brennan,
Governor.

Mr. MUSKIE. Mr. President, I could not write a better tribute to Governor Curtis than that.

I would like to also say a word about another Maine citizen, Thomas W. M. Smith, who has been nominated as U.S. Ambassador to Ghana. Although Mr. Smith was born in Massachusetts—which is the only black mark against him—he owns a farm in Readfield, Maine, which has been in his family for generations.

Mr. Smith's record as a career Foreign Service officer is impressive, and I am sure he possesses the experience and qualifications that are most applicable to his new responsibilities.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE. Mr. President, I ask that the President be notified of the Senate's action respecting this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining nominees be considered and confirmed en bloc.

The following nominees were considered and confirmed en bloc:

DEPARTMENT OF STATE

Roberts Bishop Owen, of the District of Columbia, to be legal adviser of the Department of State.

Irving G. Cheslaw, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Trinidad and Tobago.

William D. Wolle, of Iowa, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

Francois M. Dickman, of Wyoming, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Kuwait.

John R. Clingerman, of Michigan, to be Ambassador Extraordinary and Plenipotentiary of the United States of American to the Kingdom of Lesotho.

Nancy V. Rawls, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ivory Coast.

Richard Noyes Viets, of Vermont, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Thomas W. M. Smith, of Maine, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

Donald R. Norland, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the nominees were confirmed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified immediately of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 5369

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—this has been cleared I believe on the minority side—that there be a time limitation on the debt limit measure, H.R. 5369, of 4 hours to be equally divided between Mr. Long and Mr. Dole.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER REDUCING LEADERS' TIME TO 5 MINUTES ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow the time of the two leaders or their designees be reduced to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF MR. HARRY F. BYRD, JR., MR. STONE, AND MRS. KASSEBAUM ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the two leaders or their designees on tomorrow Mr. Harry F. Byrd, Jr., be recognized for not to exceed 10 minutes, and that Mr. Stone and Mrs. Kassebaum be recognized each for not to exceed 15 minutes, and in whatever order meets their convenience.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I believe the order has already been entered that the Senate will then proceed to the fuel efficiency bill on tomorrow following the recognition of orders; am I correct?

The PRESIDING OFFICER. The Senator is correct.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Orders Nos. 346, 340, 342, and 347.

The PRESIDING OFFICER. Without objection, the Senate will return to legislative session.

BUDGET ACT WAIVER

The resolution (S. Res. 240) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3354, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 3354, a bill to authorize appropriations for fiscal year 1980 for the Department of Energy for the conservation, exploration, development, and use of the naval petroleum and oil shale reserves.

Such a waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

It was impossible for the Committee on Armed Services to properly review and give adequate consideration to H.R. 3354 before the May 15, 1979, deadline due to the press of other priority legislation, namely S. 428, the annual military procurement authorization bill; and S. 1319, the military construction authorization bill.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 3354 as reported by the Committee on Armed Services.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATIONS FOR EXPLORATION, DEVELOPMENT, AND USE OF NAVAL PETROLEUM RESERVES AND NAVAL OIL SHALE RESERVES

The Senate proceeded to consider the bill (H.R. 3354) to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes, which had been reported from the Committee on Armed Services with an amendment on page 2, beginning with line 14, strike through and including line 17, and insert in lieu thereof the following:

SEC. 2. (a) Section 7422(c) of title 10, United States Code, is amended by deleting the last sentence of paragraph (1).

(b) Section 7432 of title 10, United States Code, is amended to read as follows:

"§ 7432. Authorization for appropriations

"(a) There are authorized to be appropriated such sums as may be necessary, to remain available until expended, for the expenses of—

"(1) exploration, prospecting, conservation, development, use, operation, and production of the naval petroleum reserves as authorized by this chapter;

"(2) production (including preparation for production) as authorized by this chapter, or as may hereafter be authorized; and

"(3) the construction and operation of facilities both within and outside the naval petroleum reserves incident to the production and the delivery of petroleum, including pipelines and shipping terminals.

"(b) Contracts under this chapter providing for the obligation of funds may be entered into for a period of five years, renewable for an additional five-year period; however, such contracts may obligate funds only to the extent that such funds are made available in annual appropriations.".

(c) Unappropriated balances of receipts in the naval petroleum reserves special account on the date of enactment of this section, and all other moneys accruing to the United States thereafter under chapter 641 of title 10, United States Code, shall be deposited into miscellaneous receipts of the Treasury.

(d) The table of sections at the beginning of chapter 641 of title 10, United States Code, is amended by striking out

"7432. Naval petroleum reserve special account."

and inserting in lieu thereof the following:

"7432. Authorizations for appropriations."

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS TO THE CONSUMER COOPERATIVE BANK ACT

The bill (S. 1788) to amend the National Consumer Cooperative Bank Act to provide for a small business representative on the Bank's Board, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 103(a) of the National Consumer Cooperative Bank Act is amended—

(1) by striking out "thirteen" in the first sentence and inserting in lieu thereof "fifteen";

(2) by striking out "seven" in the third sentence and inserting in lieu thereof "eight";

(3) by inserting after the third sentence the following: "The President shall appoint one member of the Board from among proprietors of small business concerns, as defined under section 3 of the Small Business Act, which are manufactuers or retailers. The member of the Board appointed in accordance with the preceding sentence shall not be subject to the resignation and termination provisions of subsection (b)."; and

(4) by striking out "104" in the last sentence. (b) Section 103(b) is amended—

(1) by striking out the third sentence thereof and inserting in lieu thereof the following: "Two additional members of the Board designated by the President (who shall be members who had been appointed by the President) shall resign at the annual meeting occurring after the time when the amount of paid-in capital attributable to the class B and class C stock equals or exceeds eight-fifteenths of the total amount of paid-in capital of the Bank. An additional member of the Board designated by the President (who shall be a member who had been appointed by the President) shall resign at the annual meeting occurring after the time when the amount of paid-in capital attributable to the class B and class C stock equals or exceeds three-fifths of the total amount of paid-in capital of the Bank.";

(2) by inserting after "Five" in the next to the last sentence "of the".

(c) Section 103(d) of such Act is amended by striking "all" in the first sentence and inserting after "five" the words "of the";

(d) The second sentence of section 103(h) of such Act is amended by striking out "Until" and inserting in lieu thereof "The member of the Board appointed from among proprietors of small business and, until".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The move to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 242) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1398, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1398. Such waiver is necessary because S. 1398, the Industrial Equipment Efficiency Act of 1979, authorizes appropriations for fiscal year 1980 of $3,000,000 which was not included in the committee's submission to the Budget Committee.

Compliance with the deadlines of the Congressional Budget Act of 1974 was not possible by May 15, 1979, as the legislation was introduced in response to the Organization of Petroleum Exporting Countries crude oil price increases that occurred after May 15.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Mr. ROBERT C. BYRD. Mr. President, I understand the minority has cleared Calendar Order 341, and I, therefore, ask unanimous consent that the Senate proceed to the consideration of that calendar order.

The bill (H.R. 3920) to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENDING EXPIRATION DATE OF THE DEFENSE PRODUCTION ACT OF 1950

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 406.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution, H.J. Res. 406, to extend by 120 days the expiration date of the Defense Production Act of 1950.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that House Joint Resolution 406 be considered as having been read the first and second times, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the joint resolution.

The joint resolution (H.J. Res. 406), was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TO CONTINUE THE DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION ACT, FISCAL YEAR 1979, FOR A CERTAIN PERIOD

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5380.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

H.R. 5380, an act to continue in effect any authority provided under the Department of

Justice Appropriation Authorization Act, fiscal year 1979, for a certain period.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, this bill continues in effect any authority or any limitation on the authority provided under the Department of Justice Appropriation Authorization Act for fiscal year 1979 for 60 days or until the fiscal year 1980 authorization act is enacted, whichever is earlier. I am advised that this request is supported by Mr. THURMOND.

The bill (H.R. 5380) was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENTS OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 756.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 756) entitled "An Act to authorize appropriations for the Office of Federal Procurement Policy for fiscal years 1980 through 1984", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SHORT TITLE; REFERENCE

SECTION 1. (a) This Act may be cited as the "Office of Federal Procurement Policy Act Amendments of 1979".

(b) As used in this Act, the term "the Act" means the Office of Federal Procurement Policy Act.

POLICY, FINDINGS, AND PURPOSE

SEC. 2. (a) Paragraph (2) of section 2 of the Act (41 U.S.C. 401(2)) is amended by inserting immediately before the semicolon at the end thereof the following: ", and eliminating fraud and waste in the procurement process".

(b) Section 3 of the Act (41 U.S.C. 402) is amended to read as follows:

"FINDINGS

"SEC. 3. (a) The Congress finds that economy, efficiency, and effectiveness in the procurement of property and services by the executive agencies will be improved by simplifying and consolidating the procurement regulatory system.

"(b) The purpose of this Act is to establish an Office of Federal Procurement Policy in the Office of Management and Budget to develop a system of uniform procurement policies, regulations, procedures, and forms for executive agencies and to recommend changes in existing administrative and legislative requirements in order to implement that system.".

DEFINITION

SEC. 3. Section 4 of the Act (41 U.S.C. 404) is amended by inserting "(a)" immediately after "SEC. 4." and by inserting at the end of such section the following new subsection:

"(b) As used in this Act, the term 'procurement' includes all stages of the acquisition process, beginning with the process for determining a need for property and services through to the Federal Government's disposition of such property and services.".

AUTHORITY AND FUNCTIONS

SEC. 4. (a) Section 6(a) of the Act (41 U.S.C. 405(a)) is amended to read as follows:

"SEC. 6. (a) The Administrator shall provide overall leadership in the development and implementation of procurement policies and the coordination of programs to improve the quality and performance of procurement personnel. The Administrator shall develop for submission under section 8(a) a uniform procurement system which shall, to the extent he considers appropriate and with due regard to the program activities of the executive agencies, include uniform policies, regulations, procedures, and forms to be followed by executive agencies—

"(1) in the procurement of—

"(A) property other than real property in being;

"(B) services, including research and development; and

"(C) construction, alteration, repair, or maintenance of real property; and

"(2) in providing for procurement by recipients of Federal grants or assistance of items specified in clauses (1)(A), (1)(B), and (1)(C) of this subsection, to the extent required for performance of Federal grant or assistance programs.".

(b) Section 6(c) of the Act (41 U.S.C. 405(c)) is amended to read as follows:

"(c) The Administrator shall develop and propose a central management system consisting of the Office of Management and Budget, the General Services Administration, and procurement offices in executive agencies to implement and enforce the uniform procurement system described in subsection (a) of this section.".

(c) Section 6(d) of the Act (41 U.S.C. 405(d)) is amended to read as follows:

"(d) The functions of the Administrator shall include—

"(1) reviewing the recommendations of the Commission on Government Procurement to determine those recommendations that should be completed, amended, or rejected, and to propose the priority and schedules for completing the remaining recommendations;

"(2) developing a system of simplified and uniform procurement policies, regulations, procedures, and forms;

"(3) establishing criteria and procedures for an effective and timely method of soliciting the viewpoints of interested parties in the development of procurement policies, regulations, procedures, and forms;

"(4) promoting and conducting research in procurement policies, regulations, procedures, and forms, through the Federal Acquisition Institute, which shall be located within the Office and directed by the Administrator;

"(5) establishing a computer-based information system for collecting, developing, and disseminating procurement data which takes into account the needs of the Congress, the executive branch, and the private sector;

"(6) recommending and promoting, through the Federal Acquisition Institute, programs of the Office of Personnel Management and executive agencies for recruitment, training, career development, and performance evaluation of procurement personnel;

"(7) developing, for inclusion in the uniform procurement system to be submitted under section 8(a), standard contracts and contract language in order to reduce the Government's cost of procuring goods and services as well as the private sector's cost of doing business with the Government; and

"(8) providing leadership and coordination in the formulation of executive branch positions on legislation relating to procurement.".

(d) Section 6(e) of the act (41 U.S.C. 405(e)) is amended—

(1) by striking out "to be authorized or prescribed by him"; and

(2) by inserting immediately before the period at the end thereof the following: ", through implementation of the uniform procurement system".

(e) Section 6 of the act (41 U.S.C. 405) is further amended by inserting at the end thereof the following new subsections:

"(h) Until the effective date of legislation implementing a uniform procurement system, the Administrator may, with the concurrence of the Director of the Office of Management and Budget, issue policy directives, in accordance with existing law, for the purpose of promoting the policies set forth in paragraphs (1) through (6) of section 2 of this act.

"(i) No final rule or regulation of any executive agency relating to procurement shall be promulgated within four years after the date of enactment of this subsection unless the Director of the Office of Management and Budget certifies that such rule or regulation is not inconsistent with the policies set forth in paragraphs (1) through (6) of section 2 and is not inconsistent with any policy directives issued pursuant to subsection (h). The Director shall, within 30 days after receipt of a statement of intention to promulgate such a rule or regulation (accompanied by a copy thereof), provide the certification described in the preceding sentence or notify the agency of the inconsistency or inconsistencies which are the basis for denial of such certification.

"(j) Nothing in this act shall be construed—

"(1) to impair or affect the authorities or responsibilities conferred by the Federal Property and Administrative Services Act of 1949 with respect to the procurement of automatic data processing and telecommunications equipment and services or of real property; or

"(2) to limit the current authorities and responsibilities of the Director of the Office of Management and Budget.".

RESPONSIVENESS TO CONGRESS

SEC. 5. (a) Section 8(a) of the Act (41 U.S.C. 407(a)) is amended to read as follows:

"SEC. 8. (a)(1) The Administrator shall keep the Congress and its duly authorized committees fully and currently informed of the major activities of the Office of Federal Procurement Policy, and shall submit a report thereon to the House of Representatives and the Senate annually and at such other times as may be necessary for this purpose.

"(2) At the earliest practicable date, but in no event later than one year after the date of enactment of the Office of Federal Procurement Policy Act Amendments of 1979, the Administrator shall transmit to the House of Representatives and the Senate his proposal for a uniform procurement system. Such proposal shall include a full description of the proposed system, projected costs and benefits of the system as proposed, and short- and long-term plans for implementation of the system, including schedules for implementation. At the same time, the Administrator shall transmit a report on the recommendations of the Commission on Government Procurement specified in section 6(d)(1) of this Act.

"(3) At the earliest practicable date, but in no event later than one year after presentation of the proposal described in paragraph (2) of this subsection, the Administrator shall propose to the House of Representatives and the Senate recommended changes in legislation relating to procurement by executive agencies. If the Administrator deems it necessary, these recommendations shall include a proposal for a consolidated statutory base for procurement by executive agencies.

"(4) At the earliest practicable date, but in no event later than the submission of the legislative recommendations described in paragraph (3) of this subsection, the Administrator shall present a proposal for a management system described in section 6(c) to implement and enforce the uniform procurement system.".

(b) Section 8 of the Act (41 U.S.C. 407) is further amended—

(1) by striking out "any major policy or regulation prescribed under section 6(a)" in subsection (b) and inserting in lieu thereof "any policy prescribed under section 6(h)";

(2) by striking "or regulation" each place it appears in such subsection; and

(3) by striking out "any major policy or regulation" in subsection (c) and inserting in lieu thereof "any policy".

EFFECT ON EXISTING REGULATIONS

Sec. 6. Section 10 of the Act (41 U.S.C. 409) is amended to read as follows:

"EFFECT ON EXISTING REGULATIONS

"Sec. 10. Procurement policies, regulations, procedures, or forms in effect as of the date of enactment of the Office of Federal Procurement Policy Act Amendments of 1979 shall continue in effect, as modified from time to time, until repealed, amended, or superseded pursuant to the adoption of the uniform procurement system described in section 6 of this Act.".

AUTHORIZATION OF APPROPRIATIONS

Sec. 7. Section 11 of the Act (41 U.S.C. 410) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out the provisions of this Act, and for no other purpose, $3,000,000 for the fiscal year ending September 30, 1980, and for each of the three succeeding fiscal years; and one-third of the funds appropriated for any such fiscal year shall be made available to the Federal Acquisition Institute for the performance of its functions under this Act."; and

(2) by striking out "Government Operations" in the second sentence and inserting in lieu thereof "Governmental Affairs".

DELEGATION

Sec. 8. Section 12(a) of the Act (41 U.S.C. 411(a)) is amended by striking out "direction of Federal procurement policy and to prescribe policies and regulations to carry out that policy" and by inserting in lieu thereof "leadership in the development of Federal procurement policy".

ACCESS TO INFORMATION

Sec. 9. Section 14(b) of the Act (41 U.S.C. 412(b)) is amended by striking out "establishing" and inserting in lieu thereof "developing".

CONFORMING AMENDMENTS

Sec. 10. (a) Sections 201(a)(1), 201(c), and 206(a)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)(1), 481(c), 487(a)(4)) are each amended by striking out "subject to regulations" and inserting in lieu thereof "subject to policy directives".

(b) Section 602(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(c)) is amended by striking out "except as otherwise provided by the Office of Federal Procurement Policy Act, and".

EFFECT ON OTHER LAW

Sec. 11. The provisions of the Act as amended by this Act shall supersede the provisions of section 222 of the Act of October 24, 1978, entitled "An Act to amend the Small Business Act and the Small Business Investment Act of 1958" (41 U.S.C. 405a) to the extent they are inconsistent therewith.

EFFECTIVE DATE

Sec. 12. Except to the extent otherwise provided therein, the amendments made by this Act shall take effect on October 1, 1979.

Amend the title so as to read: "An Act to amend the Office of Federal Procurement Policy Act, and for other purposes.".

UP AMENDMENT NO. 581

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate concur in the House amendments with several clarifying amendments en bloc. I understand these amendments are acceptable to the House.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd) proposes an unprinted amendment numbered 581:

Strike section 2 of the House amendment and insert in lieu thereof the following:

"Sec. 2. Strike section 2 of the Act (41 U.S.C. 401) and insert in lieu thereof the following:

"DECLARATION OF POLICY

Sec. 2. It is declared to be the policy of Congress to promote economy, efficiency, and effectiveness in the procurement of property and services by and for the executive branch of the Federal Government by—

(1) promoting the use of full and open competition in the procurement of products and services;

(2) establishing policies, procedures, and practices which will require the Government to acquire property and services of the requisite quality and within the time needed at the lowest reasonable cost;

(3) improving the quality, efficiency, economy, and performance of Government procurement organizations and personnel, and eliminating fraud and waste in the procurement process;

(4) avoiding or eliminating unnecessary overlapping or duplication of procurement and related activities;

(5) avoiding or eliminating unnecessary or redundant requirements placed on contractor and Federal procurement officials;

(6) identifying gaps, omissions, or inconsistencies in procurement laws, regulations, and directives and in other laws, regulations, and directives, relating to or affecting procurement;

(7) achieving greater uniformity and simplicity, whenever appropriate, in procurement procedures;

(8) otherwise promoting economy, efficiency, and effectiveness in Government procurement organizations and operation;

(9) coordinating procurement policies and programs of the several departments and agencies;

(10) minimizing possible disruptive effects of Government procurement on particular industries, areas, or occupations;

(11) improving understanding of Government procurement laws and policies within the Government and by organizations and individuals doing business with the Government; and

(12) promoting fair dealing and equitable relationships among the parties in Government contracting."

Amend Section 4(c) of the House Amendment by striking paragraph (5) therein, and inserting in lieu thereof, a new paragraph (5), which shall read as follows:

"(5) establish, through the Federal Procurement Data Center, which shall be located in the General Services Administration and acting as executive agent for the administrator, a computer-based information system for collecting, developing, and disseminating procurement data which takes into account the needs of the Congress, the executive branch, and the private sector;"

Strike Section 4(d) of the House Amendment and insert in lieu thereof; the following:

"(d) Section 6(e) of the Act (41 U.S.C. 405(e)) is amended to read as follows:

"(e) In the development and implementation of the uniform procurement system the Administrator shall consult with the executive agencies affected, including the Small Business Administration and other executive agencies promulgating policies, regulations, procedures and forms affecting procurement. To the extent feasible, the Administrator may designate an executive agency or agencies, establish interagency committees, or otherwise use agency representatives or personnel to solicit the views and the agreement, so far as possible, of executive agencies affected on significant changes in policies, regulations, procedures and forms."

Strike Section 4(e) of the House Amendment and insert in lieu thereof; the following:

"(e) Section 6 of the Act (41 U.S.C. 405) is further amended by inserting at the end thereof the following new subsections:

"(h)(1) Until the effective date of legislation implementing a uniform procurement system, the Administrator may, with the concurrence of the Director of the Office of Management and Budget, issue policy directives. in accordance with existing law, for the purpose of promoting the development and implementation of the uniform procurement system or for the purpose of promoting the policies set forth in paragraphs (1) through (8) of Section 2 of this Act. Such policy directives shall be followed by executive agencies.

(2) Any policy directives issued pursuant to paragraph (1) may require executive agencies to issue implementing regulations which shall be in accord with the criteria and standards set forth in such policy directives."

"(i) Until the effective date of legislation implementing a uniform procurement system, the Director of the Office of Management and Budget shall deny or rescind the promulgation of any final rule or regulation of any executive agency relating to procurement if the Director determines that such rule or regulation is inconsistent with the policies set forth in paragraphs (1) through (8) of Section 2 of this act or is inconsistent with any policy directives issued pursuant to subsection (h).

(j) Nothing in this Act shall be construed—

(1) to impair or affect the authorities or responsibilities conferred by the Federal Property and Administrative Services Act of 1949 with respect to the procurement of automatic data processing and telecommunications equipment and services or of real property; or

(2) to limit the current authorities and responsibilities of the Director of the Office of Management and Budget.

Strike Section 6 of the House Amendment and insert in lieu thereof, the following:

"Sec. 6. Section 10 of the Act (41 U.S.C. 409) is amended to read as follows:

"EFFECT OF EXISTING REGULATIONS

"Sec. 10. Procurement policies, regulations, procedures, or forms in effect as of the date of enactment of the Office of Federal Procurement Policy Act Amendments of 1979 shall continue in effect, as modified from time to time by the issuing offices on their own initiative or in response to policy directives issued under 6(h) until repealed, amended, or superseded pursuant to the adoption of the uniform procurement system described in section 6 of this Act."

Section 7 of the House Amendment is amended by striking "$3,000,000" and inserting in lieu thereof "$4,000,000."

● Mr. CHILES. Mr. President, earlier this year I introduced S. 756, a bill to extend the authorization of the Office of Federal Procurement Policy. S. 756 passed the Senate in May and passed the House, with amendments, earlier this month.

The legislation is supported by the administration, the General Accounting Office, business, and labor.

The purpose of the Senate amendments is to state more explicitly what the authority of the Office will be during the next 4 years. The House amendment establishes as a top priority for OFPP the development and implementation of a uniform procurement system. This system, which would ultimately embrace statutes, regulations, policies, and procedures, would modernize and simplify the system through which the Federal Government spends $90 billion each year. We concur with the distinguished chairman of the House Government Operations Committee in recognizing the importance of such a project.

The House amendment provided that OFPP would have the authority to issue policy directives. The purpose of the Senate amendments is to clarify this authority. It makes it clear that OFPP policy directives shall be followed by executive agencies, and clarifies the nature of such policy directives.

In the past, OFPP has used policy letters as the vehicle for establishing important initiatives. For instance, OFPP used a policy directive letter to establish uniform regulations governing organizational conflicts of interest in procurement and use policy directive letter to implement the Contract Disputes Act of 1978.

These two instances are indicative of the nature and scope of the policy directives which OFPP will be able to promulgate under section 6(h) of S. 756.

OFPP's authority to issue policy directives would be in furtherance of specified policy objectives in S. 756 or of the development and implementation of the proposed uniform procurement system.

Mr. President, there are several other perfecting amendments to this legislation. I would like to submit for the RECORD a brief explanation of each of these amendments.

OFPP's authorization expires this weekend so it is important that we act promptly on this legislation.●

The amendment was agreed to.

Mr. ROBERT C. BYRD. I move that the Senate concur in the House amendments as amended.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. TOWER. I move to lay that motion on the table.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

Mr. STEVENSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

EXPORT ADMINISTRATION ACT OF 1979—CONFERENCE REPORT

Mr. STEVENSON. Mr. President, I submit a report of the committee of conference on S. 737 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 737) to provide authority to regulate exports, to improve the efficiencies of export regulation, and to minimize interference with the ability to engage in commerce, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the printing requirement be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. STEVENSON. Mr. President, the conferees of the House and Senate on S. 737 have reached agreement on the Export Administration Act legislation. This bill must be passed today in order for the President to sign the legislation before the current export control authority expires this Sunday, September 30, 1979.

The conferees agreed to accept most of the provisions of the Senate bill, S. 737. The Senate Banking Committee reported S. 737 unanimously on May 15 and the Senate adopted the bill by a vote of 74 to 3 on July 21. The bill contains authority to control exports where such controls will advance our national security and foreign policy interests or alleviate economic distress due to domestic short-supply conditions.

The legislation includes improved procedures for processing export license applications. The procedures were contained in the Senate bill and follow closely the recommendations of the National Governors Association.

S. 737 would establish a new export control statute, the Export Administration Act of 1979, superseding the 1969 act. S. 737 incorporates many provisions of the 1969 act, but also makes extensive improvements to insure that export control authority is exercised with maximum efficiency and controls confined to those necessary to achieve important national purposes.

Mr. President, S. 737 would establish an export control policy which protects vital security and foreign policy interests without unnecessarily restricting U.S. exports. It would reduce the number of controlled items and focus national security controls on technologies and related products critical to military systems. It would set criteria which the President must consider before imposing export controls for foreign policy purposes. It would reduce paperwork by establishing licenses under which multiple shipments could be made to a specified purchaser for a stated end use. It would expedite interagency review by requiring agreement in writing on types and categories of applications requiring interagency referral and setting a 30-day deadline for returning comments to the Commerce Department. It would insure final decisions on all applications within a maximum of 180 days.

S. 737 requires that export controls maintained for national security purposes be reviewed by the President every 3 years in the case of controls maintained cooperatively with other nations and every year in the case of unilaterally maintained controls. Priority in administering such controls is to be given to preventing exports of militarily critical goods and technology and the Secretaries of Commerce and Defense are required to review and revise such controls to insure they are focused upon and limited to the maximum extent possible consistent with the purposes of the bill, to militarily critical goods and technology and the mechanisms through which they may be effectively transferred.

S. 737 requires that foreign availability of goods and technology subject to export controls be determined both with respect to controls maintained for foreign policy purposes and those maintained for national security purposes. If the goods or technology are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, the President shall not impose export controls unless he determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States. If the President decides to maintain export controls despite foreign availability, he is required to initiate negotiations with other governments to try to remove such foreign availability.

S. 737 would not interfere with the President's ability to respond immediately to foreign policy crises. The President could decide that one, several, or all of the factors were not relevant to imposing export controls in a given situation. He could also impose export controls before it is known whether foreign availability exists.

Moreover, controls could be continued if they were inconsistent with these factors or if it later became apparent that foreign availability does exist. These factors are to be taken into consideration, but they are not conditions which must be met. Controls may be continued notwithstanding foreign availability if the President determines that failure to do so would be detrimental to U.S. foreign policy.

The conference adopted the language of the House bill which provides that, in developing the list of military critical technologies primary emphasis shall be given to arrays of design and manufacturing know-how, keystone manufacturing, inspection and test equipment, and goods accompanied by sophisticated operation, application, or maintenance know-how, which would permit a significant advance in the military system of a country to which exports are controlled.

The version of the bill that had been passed by the Senate provided that priority shall be given to goods and technology critical to the design, development, production, or use of existing or potential military systems, including weapons, command control, communications, and intelligence systems and other military capabilities, such as countermeasures, which would make a significant contribution to the military potential of an adversary nation.

In accepting the House language, there was no intent to reduce the scope of coverage of military critical technologies. Thus, the conference bill covers technologies and goods which transfer know-how which would enable a significant advance in an adversary nation's military system, in the broad sense of the term as was defined in the Senate bill. Also, no substantive difference was intended by the use of the term "significant advance" in the conference bill rather than "significant contribution" which was used in the Senate bill.

Mr. HEINZ. Mr. President, today I am proud to join with my esteemed colleague, the chairman of the Subcommittee on International Finance, Adlai Stevenson, to urge passage of the conference report on S. 737, the Export Administration Act of 1979, the purpose of which is to streamline and make more responsive the Nation's export control policy.

At the hearings which have been held on export controls during this Congress and the previous one, I heard almost unanimous condemnation by exporters and expert witnesses of our Nation's export control process. An overwhelming body of evidence was adduced to demonstrate that current export control policy is inconsistent, plagued by uncertainty and vagueness, indeed threatening to undermine our reputation as a reliable supplier in the world marketplace. The administration's response to those accusations was weak and unconvincing.

When the original Export Control Act was adopted after World War II, America was the world's technological leader. Unilateral controls were sufficient, and where they were not, we could threaten aid cut-offs to compel our allies to apply export controls we devised. This is no longer the case. Our preeminent position in the world economy has eroded. The ability of U.S. industry to compete in the world marketplace is declining. Our once substantial lead in technology has been overtaken in significant areas: Machine tools, power turbines, reactors, jet aircraft, naval vessels. Many of tomorrow's critical technologies are being developed today in Japan and Europe.

Our Nation's edge in high technology (as well as agriculture and other industrial goods) is a precious resource for jobs and capital growth which we must aggressively promote in foreign markets. Each time a license is denied for insufficient cause, or delayed to the point where customers are discouraged and begin to look elsewhere, that precious resource is squandered. Worse still, there is a multiplier effect, in which potential exporters lose their enthusiasm for the process and potential importers of U.S. goods decide that they had better turn to other, more reliable sources for their needs, in some cases despite the U.S. edge in quality or technology.

Mr. President, we are ill-served by the current system which causes seemingly endless delays and uncertainty on licenses before granting them. The conference version of S. 737, which we are voting on today would go a long way toward remedying that situation.

The message I have received from exporters is not that they are asking for a removal of restraint. Rather, what they want—and what this bill provides—is a streamlined and predictable export control policy, which can be used as a reliable guide to marketing and long-term commitments.

Mr. STEVENSON. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the report was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLARIFICATION OF TIME LIMITATION AGREEMENT ON DEBT LIMIT MEASURE, H.R. 5369

Mr. ROBERT C. BYRD. Mr. President, as to the time agreement anent the debt limit measures. there is an overall limitation of 4 hours, and it is the intent, and I state it now, that that 4 hours cover amendments, motions, appeals, and points of order. That is 4 hours overall.

Will the Chair rule on that, so it will be clear?

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there are three orders for the recognition of Senators on tomorrow. The Senate will come in at 10:15 a.m. This would mean it will be about 11 o'clock when the Senate proceeds to take up the fuel efficiency measure, which is under a time agreement, and which is identified as Calendar Order No. 326. On that measure, there is 1 hour on the bill and 30 minutes on amendments, debatable motions, appeals, or points of order, if such are submitted to the Senate.

On the disposition of that bill—and I assume there will be a rollcall vote in connection therewith—the Senate will take up the debt limit bill under a 4-hour time agreement. There will undoubtedly be a vote or votes on that, I should think, and conceivably the Senate could be in session until 5 or 6 o'clock tomorrow.

There may be conference reports and/or other measures cleared for action. So this would indicate there would be rollcall votes tomorrow.

RECESS UNTIL 10:15 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10:15 a.m. tomorrow.

The motion was agreed to; and at 6:22 p.m. the Senate recessed until tomorrow, Friday, September 28, 1979, at 10:15 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 27, 1979:

Department of State

Roberts Bishop Owen, of the District of Columbia, to be Legal Adviser of the Department of State.

Irving G. Cheslaw, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Trinidad and Tobago.

William D. Wolle, of Iowa, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

Francois M. Dickman, of Wyoming, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Kuwait.

John R. Clingerman, of Michigan, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Lesotho.

Kenneth M. Curtis, of Maine, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

Nancy V. Rawls, of Florida, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ivory Coast.

Richard Noyes Viets, of Vermont, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Thomas W. M. Smith, of Maine, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

Donald R. Norland, of New Hampshire, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committe of the Senate.

HOUSE OF REPRESENTATIVES—*Thursday, September 27, 1979*

The House met at 10 a.m.

The Most Reverend Jerome A. Pechillo, T.O.R., D.D., auxiliary bishop, Archdiocese of Newark, N.J., offered the following prayer:

Heavenly Father, bless those who serve this great Chamber. Bless them for the humility they show when calling upon You for help and assistance. Instill in them a deep reverence for the laws handed to Moses. May they comprehend that these laws contain the basic rights on which we all depend—the freedom which our hearts crave.

Heavenly Father, broaden their knowledge to serve faithfully the people who place unlimited confidence in them. Give each a capacity to live and legislate for the betterment of all.

We thank You for the talents You have endowed these public servants. Inspire them with the memory of the great patriots who have served faithfully in this illustrious Chamber.

Heavenly Father, may each Member treasure his office, not as an elected position, but as a ministry to serve our country and the people of our great Nation.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on September 25, 1979, the President approved and signed a bill of the House of the following title:

H.R. 4388. An act making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4393) entitled "An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1980, and for other purposes," and that the Senate agreed to House amendments to Senate amendments numbered 9, 11, 18, 26, 33, 34, 35, 40, 42, 43, 45, 53, 55, and 67 to the foregoing bill.

BISHOP JEROME A. PECHILLO

(Mr. GUARINI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUARINI. Mr. Speaker, it is my pleasure today to welcome the man who so eloquently led us in prayer this morning. Since 1976, Bishop Jerome A. Pechillo has been the episcopal vicar of Hudson County, the area which comprises most of the 14th Congressional District which I am privileged to represent. As an auxiliary bishop of the Archdiocese of Newark, Bishop Pechillo offers inspired leadership and compassionate guidance to the areas' over 1½ million Roman Catholics. As vicar of Hudson County, Bishop Pechillo oversees the 64 parishes which have 26,500 children attending their parochial schools.

Bishop Pechillo is also former provincial of the Franciscan Fathers of the United States, a post to which he was elected in 1956. The bishop is a graduate of Bishop Loughlin High School in Brooklyn, and he completed his theological studies at the Catholic University here in Washington, D.C.

Ordained to the priesthood on June 10, 1947, at the National Shrine of the Immaculate Conception, Bishop Pechillo is known as a "people priest" because he has served as the prelate of Paraguay from 1961 to 1976. In this capacity he worked in an area covering 21,500 miles and served over 280,000 people who lived in extreme poverty. The bishop is a member of the third order of St. Francis and has served God and man with devotion and sensitivity for more than 30 years in an exemplary fashion.

Bishop Pechillo, on behalf of my colleagues in the House, I thank you for being here with us in the morning, sharing your guidance and giving us your blessing.

CIVIL RIGHTS COMMISSION AUTHORIZATION ACT OF 1979

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 721) to amend the Civil Rights Act of 1957 to authorize appropriations for the U.S. Commission on Civil Rights for fiscal year 1980, with Senate amendments to the House amendments thereto, and concur in the Senate amendments to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendments, as follows:

Page 1, after line 3, of the House engrossed amendments, insert:

SEC. 2. Section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c) is amended by inserting at the end the following:

"(g) The Commission shall continue to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution involving Americans who are members of eastern- and southern-European ethnic groups and shall report its findings to the Congress. Such report shall include an analysis of the adverse consequences of affirmative action programs encouraged by the Federal Government upon the equal opportunity rights of these Americans.".

Page 1, line 4, of the House engrossed amendments, strike out "SEC. 2." and insert "SEC. 3.".

Resolved, That the Senate disagree to the amendment of the House of Representatives to the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I do so for the purpose of asking my friend and the distinguished gentleman from California precisely what is being done here so the Members will know.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I am glad to yield to the gentleman.

Mr. EDWARDS of California. Mr. Speaker, S. 721 represents a compromise between the House and Senate passed versions of the fiscal year 1980 authorization request for appropriations to the U.S. Commission on Civil Rights. As set forth, it contains no controversial provisions and is acceptable to the Judiciary Committee members of both Houses.

The Senate has agreed to the House ceiling on appropriations, rather than the open-ended version originally set forth in S. 721. The House is asked to agree to the amendment offered by Senator HELMS directing the Commission to continue its appraisal of the laws and policies regarding discrimination against Americans of eastern and southern European descent.

Mr. ASHBROOK. I would say to my friend further that there was some degree of interest in an amendment offered by Senator LEAHY. Could my colleague tell us what happened to that amendment?

Mr. EDWARDS of California. If the gentleman will continue to yield, that amendment was deleted.

Mr. ASHBROOK. I thank my colleague for that information.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The House receded from its amendment to the title of the Senate bill.

A motion to reconsider was laid on the table.

AMBASSADOR PETER JAY'S CALL FOR PEACE INITIATIVES IN IRELAND TOO LATE

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, Peter Jay, the former British Ambassador to the United States throughout his tenure remained conspicuously silent about the Northern Ireland issue. In fact, it might be better stated that he was largely negative and hostile to efforts which I and others in this Congress have made on behalf of involving the United States in a peace process.

It therefore came as a major surprise for me to see in last Friday's Christian Science Monitor a brief news story highlighting an interview which Peter Jay gave in July. In it he called for a united Ireland and in general called for some peace initiatives to be undertaken concerning Ireland.

Today is the second anniversary of the founding of the Ad Hoc Congressional Committee for Irish Affairs. In that time it has grown in size and stature. Our membership stands at 130. We have succeeded in elevating the Irish issue from obscurity to a viable and visible national and international issue. However I must wonder—if Peter Jay had been this positive while Ambassador—would we not be closer to peace in Ulster today?

□ 1010

WE ARE CREATING NEW DEPARTMENT OF HEALTH AND HUMAN SERVICES

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, later today we are scheduled to address the concerns about the conference report on the Department of Education. I thought the membership should be aware that we are not only going to be addressing the idea of a Department of Education, but also the creation of a new Department of Health and Human Services.

In going through the conference report last night, I discovered that we are not only reorganizing a Department of Education, but we are actually reorganizing that Department of Health and Human Services as well, because we are assigning new duties in this conference report to that new Secretary of Health and Human Services.

I ask the Members to read section 510 of the bill so that they will know that what we are doing is endorsing the welfare and health bureaucracy of this country carte blanche. By reorganizing the Department of Education we are creating a Department of Health and Human Services, not just in name, but with new duties.

INCREASED MONEY SUPPLY CAUSE OF INFLATION

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, interest rates are a hot subject in Washington these days, and no wonder. The record-high prime rate of 13¼ percent and discount rate of 11 percent have made even the most unsophisticated realize that something is drastically wrong.

But just what these high rates actually mean seems to be a mystery to those in charge in this city. This tells me something about why a solution to inflation has been so elusive.

The New York Times 2 days ago complained bitterly about the "tight" monetary policy of our new Fed Chairman, and charged that he has "a leaden foot on the monetary brakes."

In the Senate Banking Committee yesterday Chairman Volcker was praised for his tight monetary policy, and his use of high interest rates to fight inflation.

Recently in this Chamber a member of the House Banking Committee condemned high interest rates as the cause of inflation, insinuating that a lowering of these rates would go a long way toward solving the problem.

The truth is that the money supply, as measured by the monetary base, has increased during the last month at the astounding rate of 15.1 percent. We are inflating—increasing the supply of money and credit—at a record rate, and this is why interest rates are also at record rates.

Until we realize that rising interest rates and prices are caused by inflation, and not the other way around, our patchwork financial and monetary policies will only continue to add to our problems, instead of solving them.

UNDECLARED KENNEDY CAMPAIGN TAKES UNFAIR ADVANTAGE

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, for the past 3 days I have advised the House on the unfair advantage available to undeclared candidates for the Presidency which exist as a loophole in the election campaign laws.

The Senate sponsor of the Obey-Railsback amendment and his independent committees still have made no statement that they would observe the rules which govern other declared candidates, and therefore will be wallowing in unfair advantage.

The Kennedy committees are obviously enjoying life in a loophole, collecting huge sums that are illegal for declared candidates. Meanwhile, the potential candidate is still trying to reduce contributions for the rest of us while his own committees collect more and more.

I think it unseemly to cry for reform from a position deep within the loophole.

CAN'T FIND AN ANSWER? APPOINT A COMMITTEE

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, I read in the morning paper where President Carter is putting together a blue ribbon committee or committees in order to determine what to do with the critical situation of combat troops discovered in Cuba. At the first indication that those troops were there, the effort on the part of the administration was to suggest, "Well, they have been there a long time."

Thereafter, it was determined both from former President Nixon as well as former President Ford, that there were indeed no combat troops in Cuba during their administrations. So, President Carter and his advisers backed off.

Mr. Speaker, one of the most common things to do here in this Government when one does not have an answer is to appoint a committee, and I think this is probably what is going on with President Carter. He will appoint this blue ribbon advisory committee and turn his back on the problem and hope it will go away. It is time to exercise leadership from the White House.

RESIGNATION FROM HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following communication, which was read:

WASHINGTON, D.C.,
September 26, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House.

DEAR MR. SPEAKER: I hereby tender my resignation as Representative in Congress from the 10th Congressional District, Illinois, effective 5:00 p.m., September 26, 1979. I am enclosing a copy of the wire to that effect that I have sent to Governor James Thompson of Illinois. I respectfully request that it be spread upon the records of the House.

The years that I have spent as a Member of this great body have been the most fulfilling and exciting years of my life. While I look forward to my new tasks as a Judge in the U.S. Court of Appeals for the District of Columbia, I will always treasure those special associations with the very special people who make up the United States House of Representatives. Thank you, Mr. Speaker.

Sincerely,

ABNER J. MIKVA.

WASHINGTON, D.C.,
September 26, 1979.

Hon. JAMES THOMPSON,
Governor of Illinois,
State House No. 207,
Springfield, Ill.

I hereby tender my resignation as Representative in Congress from the 10th Congressional District, Illinois, effective 6:00 p.m. (Eastern Daylight Time), September 26, 1979. Serving in this office has been the highest privilege that can be given to any citizen. I will always treasure it.

ABNER J. MIKVA.

PROVIDING FOR CONSIDERATION OF SENATE CONCURRENT RESOLUTION 36, SECOND BUDGET RESOLUTION, FISCAL YEARS 1980, 1981, AND 1982

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 427 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 427

Resolved, That upon the adoption of this resolution it shall be in order to consider the concurrent resolution (S. Con. Res. 36) revising the congressional budget for the United States Government for the fiscal years 1980, 1981, and 1982, in the House.

The SPEAKER pro tempore (Mr. DAVIS of South Carolina). The gentleman from South Carolina (Mr. DERRICK) will be recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only I yield the customary 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 427 provides for the consideration in the House of Senate Concurrent Resolution 36, revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982.

Last week the House considered and amended the House concurrent resolution on the budget for fiscal year 1980, House Concurrent Resolution 186, but failed to pass it. In order to expedite the consideration of this important legislation, this rule makes in order consideration of the Senate-passed budget resolution in the House. The rule, however, does provide the House another opportunity to vote for its own version of a concurrent resolution on the budget by adopting an amendment to the Senate budget resolution.

Under the 1-hour rule, the chairman of the Budget Committee, Mr. GIAIMO, will be recognized to offer a slightly modified version of the budget resolution that the House failed to agree to. It is my understanding that this amendment further decreases outlays by $400 million and reduces the deficit to $28.9 billion. The details of this amendment will be explained by the chairman of the Budget Committee.

Should the amendment offered by Mr. GIAIMO fail of passage, it is my understanding that the ranking minority member of the Budget Committee, Mr. LATTA, will be recognized for 1 hour to offer the Republican substitute resolution on the budget as an amendment to the Senate budget resolution.

If Mr. LATTA's amendment fails on passage, the Speaker may recognize other Members to offer alternative amendments to the Senate resolution until such time as the House adopts an amendment or the previous question on the Senate budget resolution is moved.

Mr. Speaker, in light of the importance of adopting a concurrent resolution on the budget for fiscal year 1980, I urge my colleagues to begin its consideration by adopting House Resolution 427.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this rule. It makes in order consideration in the House of Senate Concurrent Resolution 36, the Senate-passed version of the second concurrent budget resolution for 1980. If the rule is adopted, the Speaker will then recognize the chairman of the Budget Committee, who will offer an amendment in the nature of a substitute which will be debated under the 1-hour rule.

No amendments may be made to the chairman's substitute unless he yields specifically for the purposes of an amendment—something the chairman assures me he has no intention of doing. At the end of that hour we will vote on the chairman's substitute for the Senate-passed budget resolution. If it should pass, then the House will have adopted its version of a second budget resolution; no further amendments would be in order and the House would seek a conference with the other body. However, should we be successful in defeating the chairman's substitute, I am assured that the Chair will recognize me as the ranking minority member of the Budget Committee to offer an amendment. In that case, I would control the time under the 1-hour rule. Again, no amendments to my substitute would be in order unless I yielded for that purpose. In the event the substitute I offered was defeated, the Chair would then recognize some other Member for purpose of offering a substitute or an amendment. Finally, the House will have an opportunity of voting on Senate Concurrent Resolution 36 as passed by the Senate, with or without any amendments adopted in the House.

As ranking member of the Budget Committee, I can report that we were consulted by the chairman prior to his seeking this rule. All seven minority members of the Budget Committee present at the meeting agreed to support the rule request so long as we received assurances that should the chairman fail in his effort to amend the Senate resolution, we would immediately be recognized for purposes of proposing our substitute. This assurance was received.

I appreciate that the Members of this body are reluctant to accept this type of modified-closed rule—or, as the chairman of the Budget Committee would probably call it, a modified open rule. The only other time a budget resolution was defeated on the House floor—it was the first resolution for fiscal year 1978, considered in May 1977—the Budget Committee reported out a new resolution which was then taken up in the Committee of the Whole House under the standard 5-minute rule. I believe there are several compelling reasons not to do that this time.

First, we are now just 4 days from the start of the new fiscal year. It is unrealistic to expect we can adopt a conference report on the budget prior to October 1, but at the very least the House should have passed its version of the budget by that date. Second, the House must pass a number of necessary bills prior to the start of the fiscal year, and I do not believe much would be gained by repeating a prolonged debate on the budget. We all know the issues.

While I support adoption of this rule, I want to make it absolutely clear that my support extends only to the rule and not to the Senate Concurrent Resolution 36 or the substitute amendment by the chairman of the Budget Committee which this rule makes in order.

No one needs be reminded that only 1 week ago House Concurrent Resolution 186 went down to a much-deserved defeat because the Budget Committee wanted this House to accept a budget which capitulated to the big spenders in nearly every area except the one where more funding was needed; namely, national defense. The resolution called for $17 billion more spending than had been approved only 4 months earlier in the first resolution—an increase of $53 billion over 1979. The deficit is $6 billion above the first resolution. The door would have been closed on balancing the budget in 1981. Taxes were to be allowed to rise to the highest level in peacetime. Those of us in this House who are opposed to unwarranted and unnecessary deficit spending simply could not agree with the Budget Committee's figures.

Today, the majority on the Budget Committee returns with practically the same resolution the House defeated last week with a couple of cosmetic changes. They have taken the $549 billion budget they first recommended to us and reduced spending by a miniscule seven one-hundredths of 1 percent and expect us to accept this as fiscal responsibility. If the amount of the outlay reduction was not bad enough, look at the sources of this $400 million and you will see that absolutely nothing is cut:

First, $200 million comes by adjusting downward the budget for Public Law 480, Food for Peace, to the level contained in the House-passed appropritions bill. That adjustment should have been made before the committee brought the budget resolution to the floor in the first place;

Second, $100 million comes from a reestimate of how fast EPA will spend out its construction grant money. This amount is not being saved, it is merely pushed into the subsequent fiscal year—1981; and

Third, the final $100 million is really a revenue increase, reflecting the fact that higher Treasury interest rates on securities held by Federal Government trust funds will result in higher earnings by these funds.

To come back to the House with these noncuts after 213 Members made it clear the deficit was too high seems incredible to me. For those who joined in opposing the second budget resolution, please take a long hard look at what the chairman will be recommending. There is absolutely no reason—I repeat, no reason—to change your vote this morning unless you can somehow bring yourself to believe a seven one-hundredths of 1 percent reduction in the Federal budget is a significant change.

If you give us the opportunity, I plan to offer a substitute similar to that proposed last week, the principal features of which are:

Spending of $529.8 billion—an increase of $33.6 billion over 1979;

A $20 billion tax cut beginning January 1; we urge the cuts be concentrated in areas which would increase personal savings and encourage capital investment and other productivity improving measures;

A deficit of under $20 billion; and

A 5-year budget-economic plan which results in a balanced budget in 1981 and a total reduction in the tax burden of $170 billion over this 5-year period.

Let me concentrate on the tax cut for a moment, because I have seen various "Dear Colleague" letters floating around which claim any tax cut would be inflationary. Let us look at the facts: First, the combination of inflation pushing taxpayers into higher tax brackets, another boost in social security taxes, and higher energy prices will reduce our citizens' purchasing power next year by approximately $60 billion. The tax cut we propose—$20 billion in calendar 1980—will therefore merely keep taxes from rising as fast as they otherwise would. Second, fundamental changes must be made in our tax system if we expect people to save money and private enterprise to invest in new capital equipment. The current rate of inflation—in excess of 13 percent—should come as no surprise to anyone if you consider that unit labor costs are climbing at a rate in excess of 10 percent and productivity is declining at a rate of nearly 3 percent. The way to increased productivity and lower inflation is more savings and investment, and to get that we must lower the almost insurmountable barriers in the tax system. Productivity will not increase and inflation will not go down under the committee's formula of throwing hundreds of thousands of people out of work and forcing those with jobs to pay higher taxes.

In conclusion, Mr. Speaker, I urge my colleagues to support this rule, defeat the substitute offered by the chairman of the Budget Committee, and to support the substitute I will offer.

□ 1030

Mr. Speaker, I have one request for time. I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I am opposed to this rule. I intend to oppose the previous question so that I can offer an open rule at the proper time. I regret that I have to differ with my colleague, the gentleman from Ohio, but I think the principle involved in this procedure is very important. We have been repeatedly told by the gentleman from Connecticut and those who have been so enamored of the budget process that it is highly important that both Houses of the Congress get their fiscal priorities in order, not only in the target resolution early in the session, but in the final resolution of the budget which should take effect on October 1 for the new fiscal year.

I am aware that we are up against a time bind; but the rule proposed is one of the most restrictive rules that can be offered in the House. It leaves to the discretion of the chairman of the committee involved, in this case the gentleman from Connecticut (Mr. GIAIMO), the absolute right to permit any amendments or to permit no amendments.

Now, I understand that there has been a private agreement arrived at which was aired fully in the Committee on Rules yesterday that if the substitute of the gentleman from Connecticut (Mr. GIAIMO) fails, the chair will probably recognize the gentleman from Ohio (Mr. LATTA).

But what happens to the rights of the rest of the Members of this House? The gentleman from Texas (Mr. GRAMM) wishes to offer a substitute. The gentleman from Virginia (Mr. FISHER) who has on several occasions offered substitutes, wanted also to offer a substitute. Their rights are precluded.

Now, if we are to come to the end of the road on the budget process and to be told that this very important resolution is to be treated in a manner such as this, I think it makes a mockery of the entire budget procedure. There are legitimate issues to be raised by Members who may not even be members of the Budget Committee and they ought to have that right. Unless we defeat the previous question and adopt an open rule, I do not see how that right can be vindicated. I know the convenience of the Members seems to be served by shortening the duration of debates on important issues. There is a very beguiling argument which says that the House should just shut all debate off and vote up or down and do not worry about everyone else's rights. If that trend is to be pursued in this House, we face a serious diminution of the rights of not only the individual Members, but of the collective rights of the American people who send us here. If this is the first step in cutting down debate cutting off the right to offer amendments, then we will see other attempts. If we do not start somewhere in opposing this kind of dictatorial rule on the floor of the House and in the Committee on Rules, we will soon regret it.

I personally will not be a party to it, no matter what guarantees are offered.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to my colleague, the gentleman from Ohio.

Mr. ASHBROOK. Well, I thank my colleague for yielding. What the gentleman is saying in effect is that this is virtually a gag rule? I thought we were moving away from gag rules and out into the open light where we would really have a participatory democracy, at least for Members of Congress.

Now, I have no real brief against my good colleague, the gentleman from Connecticut who is singularly favored by this rule. Maybe if we only allow one person on the other side to control, maybe the gentleman should be that one; but as the gentleman says, what is the principle of it? Let us go through that again. Is the gentleman the only person who can determine for the collective body here, all 435 of us, what will be amended, what will be offered or what will not be offered; is that what the gentleman is saying?

Mr. BAUMAN. This rule makes in order the consideration of the budget resolution in the full House and under the precedents of the House which govern such a situation the committee chairman is the one who controls the time. He also controls whether he will yield for amendment or not; so it is not the House that will decide what amendments will be considered, it is the gentleman from Connecticut and that is an absolute power vested in him. If his substitute is defeated, then the Chair decides who will next be recognized to offer his amendment. We have been told that the Chair would be disposed to recognize the gentleman from Ohio. At that point he becomes the dictator of the parliamentary situation. Only he can yield for debate or for amendment; so what we are doing is delegating to one Member of the House the total rights of all the Members of the House. That is wrong.

Mr. ASHBROOK. Mr. Speaker, if my colleague will yield further, the gentleman is a member of the Committee on Rules. I wonder if the gentleman could advise this Member, who is not a member of the Committee on Rules what has happened to the so-called reform movement that started several years ago and seemed to have such a bright future. Is this a part of the trend now? I thought we were moving toward openness and more debate.

Mr. BAUMAN. Someone has said that reform is the last refuge of scoundrels. I do not in any way indicate that people involved in this arrangement today fit that classification. I am sure they are well motivated by the feeling that the budget issues have been debated and the House should settle it once and for all. There is some attractiveness to that argument, but the gentleman is correct. It is our rights that are being cut off. I was not aware that reform meant the sunset of the rights of Members.

Mr. ASHBROOK. Mr. Speaker, if my colleague would yield further, I know we observed several times in the past year or so, facetiously admittedly, that the floor of the House is an extremely poor place to legislate and I suppose this is in keeping with that growing tradition, that we do not legislate on the floor, that it is done somewhere else where decisions can be made by fewer and fewer people.

The SPEAKER pro tempore (Mr. BOLAND). The time of the gentleman from Maryland has expired.

Mr. LATTA. Mr. Speaker, I yield 1 more minute to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would have to say that there is a deeper problem involved in this restrictive rule. You see, we have been told that this Congress is out of control, that the majority leadership can no longer guarantee votes will be there for passage of things like the budget resolution; so the offered solution is not to provide leadership or forge a coalition that would meet the concerns of the American people in wanting reduced budgets and lower deficits; no, the solution is change the rules, gag the Members, take away their rights, force them to vote on an issue up or down and do not let them have any say. That is what passes for reform in this House. Gag rules are offered to meet the basic institutional and political problems, and here we see one today.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to my colleague, the gentleman from Ohio.

Mr. ASHBROOK. For one parting shot, you know, most of us are on campus often. We are asked the difference between a conservative and a liberal. My stock answer usually is that a liberal when he views the problems of our country usually comes up with the solution of taking away a certain amount of freedom. This would seem to fit into that particular pattern.

Mr. BAUMAN. The gentleman is correct.

☐ 1050

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from West Virginia.

REQUEST FOR PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT TODAY DURING 5-MINUTE RULE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be allowed to sit today during the 5-minute rule.

The SPEAKER pro tempore (Mr. BOLAND). Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, will the gentleman from West Virginia (Mr. STAGGERS) tell us what the subject of the committee's deliberations will be?

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, the subject of the deliberations is H.R. 4962, child health care.

Mr. BAUMAN. Mr. Speaker, I am told that the minority members of the Committee on Interstate and Foreign Commerce wanted an objection raised to this meeting, and as I understand it would take 10 Members to prevent that sitting; is that correct?

Mr. STAGGERS. Mr. Speaker, I think that is the rule.

The SPEAKER pro tempore. The gentleman is correct.

Mr. BAUMAN. Mr. Speaker, I object.

Mr. MAGUIRE. Mr. Speaker, will the gentleman from Maryland yield?

Mr. BAUMAN. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Speaker, I just wanted to clarify the matter for the gentleman from Maryland (Mr. BAUMAN). The impression which I have is that only one Member of the minority in the Committee on the Republican side wishes the committee not to meet.

Mr. BAUMAN. That is not my understanding and, Mr. Speaker, I will object.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard. Other objectors to the request will stand and remain standing.

(Mr. HOPKINS, Mr. HYDE, Mrs. HOLT, and Messrs. ASHBROOK, SHUSTER, REGULA, LATTA, GINGRICH, WALKER, LAGOMARSINO, MOORHEAD of California, and BURGENER also objected.)

The SPEAKER pro tempore. A sufficient number have objected.

Objection is heard.

The Chair recognizes the gentleman from South Carolina (Mr. DERRICK).

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to the gentleman from Maryland (Mr. BAUMAN) and on the subject of those Members who still believe in the budget process, let me state that I am one of those Members who feel that the budget process is one of the most significant reforms that this body has enacted in the last decade. And it has worked.

To say that this rule is unfair, that it cuts any Members off, is ludicrous. This rule was very carefully crafted. It was agreed to by the distinguished gentleman from Ohio (Mr. LATTA) on the minority side.

We are trying to expedite the passage of the budget of the United States of America. We have the Senate concurrent resolution before us merely as a vehicle.

The Speaker will recognize the gentleman from Connecticut (Mr. GIAIMO) to offer his substitute, which is primarily the Democratic substitute and which is primarily the resolution as dealt with last week, with the exception of a $400 million reduction in outlays, bringing the deficit down to $28.9 billion.

We will then have an opportunity for 1 hour to debate this amendment in the form of a substitute. We will have the opportunity to thoroughly debate it. Then we will have an opportunity to vote it up or down.

Should that fail—and I do not think it will, but the possibility is there—it is my understanding that the Speaker will recognize the gentleman from Ohio (Mr. LATTA) to offer his substitute, and he will have 1 hour to fully debate it. Then there will be a vote up or down.

Should that fail, the Speaker would have the option of recognizing several other Members who may wish to offer amendments in the form of substitutes—and there are several—or the previous question may be moved at that time. All of those failing, we would then have an opportunity to vote on the Senate concurrent resolution that is before us.

I can think of no fairer way to do this, considering the fact that we are just 2 or 3 days from the beginning of fiscal year 1980, and it is imperative that we get this budget resolution passed.

If we do not pass this budget resolution in the next 2 days, I fear for the process itself because next year someone will say it will be so easy to let it lapse and not pass the budget resolution until after October 1. And then the following year it will be a little further away, and then after awhile somebody will say, "Why bother with it at all?" This House would then have lost what is in my opinion one of the greatest reforms of this decade—a real opportunity to bring some reason to the finances of the Federal Government.

So, Mr. Speaker, I ask the Members to let us move ahead with this rule, and let us proceed with the consideration of the Giaimo substitute and, if not that, then the Latta substitute. Let us get this matter behind us.

Mr. LATTA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I agree with the statement just made by the gentleman from South Carolina (Mr. DERRICK), and I certainly urge the House to adopt this rule.

Notwithstanding what my good friend, the gentleman from Maryland (Mr. BAUMAN), and my good friend, the gentleman from Ohio (Mr. ASHBROOK), had to say about this rule, I do not know of any way we could craft a rule that gives any more freedom than we have here. If Members have a substitute or have any amendments to offer to the Senate concurrent resolution that is before us, all they have to do is vote against the Giaimo substitute and against our substitute and offer one of their own, and that would be completely in order under the rule. At that point the Speaker can recognize these Members, and if they want to strike out every figure in the Senate concurrent resolution, they can do so.

I do not know what could be more fair. It is just a matter of trying to craft a procedure here that will expedite the passage of this concurrent resolution. It should be passed, as I pointed out, before October 1.

So, Mr. Speaker, I urge the Members to support this rule and get on with the consideration of the Giaimo substitute.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 289, nays 119, not voting 25, as follows:

[Roll No. 512]

YEAS—289

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Coelho
Coleman
Conte
Conyers
Corman
Cotter
Coughlin
D'Amours
Daniel, Dan
Danielson
Daschle
de la Garza
Dellums
Derrick
Devine
Dicks
Dingell
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia,
Gaydos
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
LaFalce
Latta
Lederer
Lehman
Leland
Lent
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roe
Rosenthal
Rostenkowski
Roybal
Rudd
Runnels
Russo
Sabo
Santini
Sawyer
Scheuer
Seiberling
Shannon
Sharp
Shuster
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Taylor
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weiss
White
Whitehurst
Whitley
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—119

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Bereuter
Bethune
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Cheney
Cleveland
Clinger
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
Derwinski
Dickinson
Dornan
Duncan, Tenn.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Fenwick
Forsythe
Frenzel
Gilman
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Hammerschmidt
Hansen
Hinson
Horton
Jacobs
Jeffords
Jeffries
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDonald
McEwen
Marlenee
Marriott
Martin
Michel
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
O'Brien
Pashayan
Paul
Petri
Quillen
Ritter
Robinson
Roth
Rousselot
Royer
Satterfield
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stump
Symms
Tauke
Thomas
Trible
Vander Jagt
Walker
Wampler
Weaver
Whittaker
Wilson, Bob
Wydler
Young, Alaska
Young, Fla.

NOT VOTING—25

Ambro
Anderson, Ill.
Anthony
Beard, Tenn.
Blanchard
Bowen
Carter
Collins, Ill.
Deckard
Diggs
Dixon
Flood
Hefner
Holtzman
Johnson, Colo.
Kostmayer
Murphy, Ill.
Roberts
Rodino
Rose
Shelby
Treen
Whitten
Winn
Wyatt

☐ 1100

Messrs. MARTIN, WYDLER, and MITCHELL of New York changed their votes from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FOUR NEW DEFERRALS OF BUDGET AUTHORITY AND REVISION TO ONE PREVIOUSLY TRANSMITTED DEFERRAL—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–195)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report four new deferrals of budget authority totaling $61.9 million and a revision to one previously transmitted deferral increasing the amount deferred by $3.8 million. These items involve the Departments of Agriculture and Commerce and the Railroad Retirement Board.

The details of each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *September 27, 1979.*

ANNUAL REPORT FOR FISCAL YEAR 1978 BY SECRETARY OF TRANSPORTATION ON THE ALASKA RAILROAD—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I transmit herewith the annual report for fiscal year 1978 by the Secretary of Transportation on the operations and activities of The Alaska Railroad, as required by The Alaska Railroad Act of March 12, 1914.

JIMMY CARTER.

THE WHITE HOUSE, *September 27, 1979.*

SECOND BUDGET RESOLUTION, FISCAL YEARS 1980, 1981, AND 1982

Mr. GIAIMO. Mr. Speaker, pursuant to House Resolution 427, adopted today, I call up for immediate consideration in the House the Senate concurrent resolution (S. Con. Res. 36) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982.

The Clerk read the title of the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 36

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby determines and declares pursuant to subsection 310 of the Congressional Budget Act of 1974, that in order to achieve a balanced budget in fiscal year 1981 and deficit reductions in fiscal year 1980, the following reconciliation instruction is appropriate:

The allocation pursuant to section 302(a) of the Budget Act to the Committee on Appropriations for all legislation within its jurisdiction shall not exceed $388,000,000,000 in budget authority and $341,600,000,000 in outlays as assumed in this budget resolution. If some rescission of appropriations proves necessary to prevent any regular or supplemental appropriation for fiscal year 1980 exceeding the ceilings provided in this section, the Committee on Appropriations shall report legislation to rescind the necessary amounts.

Pursuant to section 310 of the Congressional Budget Act of 1974, the Committees on Agriculture shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

Pursuant to section 310 of the Congressional Budget Act of 1974, the Committees on Armed Services shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $250,000,000 in budget authority and are instructed to report promptly recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committee on Finance and the House Committee on Ways and Means shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $300,000,000 in budget authority and $1,400,000,000 in outlays and are instructed to report promptly recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committee on Governmental Affairs, the House Committee on Government Operations, and the House Committee on Post Office and Civil Service shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in outlays and are instructed to report promptly recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the legislative jurisdictions of those committees which would require reductions in spending or appropriations and which are sufficient to accomplish the reduction required by this section.

Pursuant to section 310 of the Congressional Budget Act of 1974, the Committees on Veterans' Affairs shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

Pursuant to sections 300 and 310 of the Congressional Budget Act of 1974, the committees specified herein shall report the recommendations required by this resolution within thirty days after Congress completes action on this resolution, but not later than November 1, 1979.

SEC. 2. The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1979, October 1, 1980, and October 1, 1981:

(a) the recommended level of Federal revenues is as follows:

Fiscal year 1980: $514,700,000,000;

Fiscal year 1981: $603,600,000,000;

Fiscal year 1982: $658,400,000,000;

and the amount by which the aggregate levels of Federal revenues should be increased or decreased is as follows:

Fiscal year 1980: +$2,000,000,000;

Fiscal year 1981: +$9,700,000,000;

Fiscal year 1982: −$38,700,000,000;

(b) the appropriate level of total new budget authority is as follows:

Fiscal year 1980: $636,600,000,000;

Fiscal year 1981: $661,700,000,000;

Fiscal year 1982: $744,000,000,000;

(c) the appropriate level of total budget outlays is as follows:

Fiscal year 1980: $546,300,000,000;

Fiscal year 1981: $596,800,000,000;

Fiscal year 1982: $649,100,000,000;

(d) the amount of the deficit or surplus in the budget which is appropriate in the light of economic conditions and all other relevant factors is as follows:

Fiscal year 1980: −$31,600,000,000;

Fiscal year 1981: +$6,800,000,000;

Fiscal year 1982: +$9,300,000,000;

(e) the appropriate level of the public debt is as follows:

Fiscal year 1980: $890,700,000,000;

Fiscal year 1981: $916,800,000,000;

Fiscal year 1982: $946,700,000,000;

the amount by which the temporary statutory limit on such debt should be accordingly increased is as follows:

Fiscal year 1980: $60,700,000,000;

Fiscal year 1981: $86,800,000,000;

Fiscal year 1982: $116,700,000,000.

SEC. 3. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (b) and (c) of the preceding subsection of this resolution, the Congress hereby determines and declares pursuant to subsection 310(a) of the Congressional Budget Act of 1974 that, for the fiscal years beginning on October 1, 1979, October 1, 1980, and October 1, 1981, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are respectively as follows:

(a) National Defense (050):

Fiscal year 1980:

(A) New budget authority, $141,200,000,000;

(B) Outlays, $130,600,000,000.

Fiscal year 1981:

(A) New budget authority, $159,800,000,000;

(B) Outlays, $145,600,000,000.

Fiscal year 1982:

(A) New budget authority, $180,400,000,000;

(B) Outlays, $163,300,000,000.

(b) International Affairs (150):

Fiscal year 1980:

(A) New budget authority, $13,100,000,000;

(B) Outlays, $8,300,000,000.

Fiscal year 1981:

(A) New budget authority, $14,000,000,000;

(B) Outlays, $8,700,000,000.

Fiscal year 1982:

(A) New budget authority, $14,900,000,000;

(B) Outlays, $8,700,000,000.

(c) General Science, Space, and Technology (250):

Fiscal year 1980:

(A) New budget authority, $5,900,000,000;

(B) Outlays, $5,700,000,000.

Fiscal year 1981:

(A) New budget authority, $5,900,000,000;

(B) Outlays, $5,800,000,000.

Fiscal year 1982:

(A) New budget authority, $5,600,000,000;

(B) Outlays, $5,700,000,000.

(d) Energy (270):

Fiscal year 1980:

(A) New budget authority, $41,000,000,000;

(B) Outlays, $7,000,000,000.

Fiscal year 1981:

(A) New budget authority, $4,700,000,000;

(B) Outlays, $7,600,000,000.

Fiscal year 1982:

(A) New budget authority, $24,200,000,000;

(B) Outlays, $9,500,000,000.

(e) Natural Resources and Environment (300):

Fiscal year 1980:

(A) New budget authority, $12,700,000,000;

(B) Outlays, $11,900,000,000.

Fiscal year 1981:

(A) New budget authority, $13,400,000,000;

(B) Outlays, $12,700,000,000.

Fiscal year 1982:

(A) New budget authority, $14,100,000,000;

(B) Outlays, $13,500,000,000.

(f) Agriculture (350):

Fiscal year 1980:

(A) New budget authority, $5,000,000,000;

(B) Outlays, $2,600,000,000.

Fiscal year 1981:

(A) New budget authority, $4,800,000,000;

(B) Outlays, $3,200,000,000.

Fiscal year 1982:

(A) New budget authority, $3,900,000,000;

(B) Outlays, $3,600,000,000.

(g) Commerce and Housing Credit (370):

Fiscal year 1980:

(A) New budget authority, $6,800,000,000;

(B) Outlays, $3,000,000,000.

Fiscal year 1981:

(A) New budget authority, $5,900,000,000;

(B) Outlays, $3,500,000,000.

Fiscal year 1982:

(A) New budget authority, $6,200,000,000;

(B) Outlays, $3,200,000,000.

(h) Transportation (400):

Fiscal year 1980:

(A) New budget authority, $19,500,000,000;

(B) Outlays, $18,600,000,000.

Fiscal year 1981:

(A) New budget authority, $21,700,000,000;

(B) Outlays, $19,800,000,000.

Fiscal year 1982:

(A) New budget authority, $20,400,000,000;

(B) Outlays, $20,800,000,000.

(i) Community and Regional Development (450):

Fiscal year 1980:

(A) New budget authority, $8,900,000,000;

(B) Outlays, $8,400,000,000.

Fiscal year 1981:

(A) New budget authority, $9,900,000,000;

(B) Outlays, $9,200,000,000.

Fiscal year 1982:

(A) New budget authority, $9,500,000,000;

(B) Outlays, $9,600,000,000.

(j) Education, Training, Employment, and Social Services (500):

Fiscal year 1980:

(A) New budget authority, $29,700,000,000;

(B) Outlays, $30,500,000,000.

Fiscal year 1981:

(A) New budget authority, $30,400,000,000;

(B) Outlays, $30,000,000,000.

Fiscal year 1982:

(A) New budget authority, $30,300,000,000;

(B) Outlays, $30,000,000,000.

(k) Health (550):

Fiscal year 1980:

(A) New budget authority, $58,800,000,000;

(B) Outlays, $54,200,000,000.

Fiscal year 1981:

(A) New budget authority, $70,500,000,000;

(B) Outlays, $61,100,000,000.

Fiscal year 1982:

(A) New budget authority, $82,100,000,000;

(B) Outlays, $68,100,000,000.

(l) Income Security (600):

Fiscal year 1980:

(A) New budget authority, $216,600,000,000;

(B) Outlays, $188,700,000,000.

Fiscal year 1981:

(A) New budget authority, $242,200,000,000;

(B) Outlays, $211,300,000,000.

Fiscal year 1982:

(A) New budget authority, $273,400,000,000;

(B) Outlays, $234,700,000,000.

(m) Veterans Benefits and Services (700):

Fiscal year 1980:

(A) New budget authority, $21,200,000,000;

(B) Outlays, $20,600,000,000.

Fiscal year 1981:

(A) New budget authority, $21,900,000,000;

(B) Outlays, $21,400,000,000.

Fiscal year 1982:

(A) New budget authority, $22,800,000,000;

(B) Outlays, $22,700,000,000.

(n) Administration of Justice (750):

Fiscal year 1980:

(A) New budget authority, $4,200,000,000;

(B) Outlays, $4,400,000,000.

Fiscal year 1981:

(A) New budget authority, $4,400,000,000;

(B) Outlays, $4,500,000,000.

Fiscal year 1982:

(A) New budget authority, $4,500,000,000;

(B) Outlays, $4,500,000,000.

(o) General Government (800):

Fiscal year 1980:

(A) New budget authority, $4,400,000,000;

(B) Outlays, $4,200,000,000.

Fiscal year 1981:

(A) New budget authority, $4,700,000,000;

(B) Outlays, $4,400,000,000.

Fiscal year 1982:

(A) New budget authority, $4,900,000,000;

(B) Outlays, $4,600,000,000.

(p) General Purpose Fiscal Assistance (850):

Fiscal year 1980:

(A) New budget authority, $9,300,000,000;

(B) Outlays, $9,300,000,000.

Fiscal year 1981:

(A) New budget authority, $8,200,000,000;

(B) Outlays, $8,600,000,000.

Fiscal year 1982:

(A) New budget authority, $8,200,000,000;

(B) Outlays, $8,200,000,000.

(q) Interest (900):

Fiscal year 1980:

(A) New budget authority, $58,100,000,000;

(B) Outlays, $58,100,000,000.

Fiscal year 1981:

(A) New budget authority, $60,900,000,000;

(B) Outlays, $60,900,000,000.

Fiscal year 1982:

(A) New budget authority, $62,300,000,000;

(B) Outlays, $62,300,000,000.

(r) Allowances (920):

Fiscal year 1980:

(A) New budget authority, —$100,000,000;

(B) Outlays, —$100,000,000.

Fiscal year 1981:

(A) New budget authority, —$100,000,000;

(B) Outlays, —$100,000,000.

Fiscal year 1982:

(A) New budget authority, $0;

(B) Outlays, $0.

(s) Undistributed Offsetting Receipts (950):

Fiscal year 1980:

(A) New budget authority, —$19,700,000,000;

(B) Outlays, —$19,700,000,000.

Fiscal year 1981:

(A) New budget authority, —$21,500,000,000;

(B) Outlays, —$21,500,000,000.

Fiscal year 1982:

(A) New budget authority, —$23,900,000000.

(B) Outlays, —$23,900,000,000.

The SPEAKER pro tempore. The gentleman from Connecticut (Mr. Giaimo) is recognized for 1 hour.

GENERAL LEAVE

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Concurrent Resolution 36.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GIAIMO

Mr. GIAIMO. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Giaimo: Strike all after the resolving clause and insert in lieu thereof the following:

That, the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

(1) the recommended level of Federal revenues is $519,250,000,000, and the amount by which the aggregate level of Federal revenues should be increased is $5,050,000,000;

(2) the appropriate level of total new budget authority is $631,807,000,000;

(3) the appropriate level of total budget outlays is $548,175,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $28,925,000,000; and

(5) the appropriate level of the public debt is $885,825,000,000, and the amount by which the statutory limit on such debt should accordingly be increased is $55,825,000,000.

Sec. 2. The Congress reaffirms its commitment to find a way to relate accurately the outlays of off-budget Federal entities to the budget. The Congress recognizes that by law the outlays of off-budget Federal entities are not reflected in the budget totals, and that in fiscal year 1980, off-budget outlays (and, hence, the off-budget deficit) are estimated to be $16,000,000,000.

Sec. 3. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1979, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $138,156,000000;

(B) Outlays, $128,587,000,000.

(2) International Affairs (150):

(A) New budget authority, $12,593,000,000;

(B) Outlays, $8,522,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $5,833,000,000;

(B) Outlays, $5,662,000,000.

(4) Energy (270):

(A) New budget authority, $36,266,000,000;

(B) Outlays, $8,801,000,000.

(5) Natural Resources and Environment (300):

(A) New budget authority, $12,525,000,000;

(B) Outlays, $11,926,000,000.

(6) Agriculture (350):

(A) New budget authority, $4,983,000,000;

(B) Outlays, $2,542,000,000.

(7) Commerce and Housing Credit (370):

(A) New budget authority, $6,778,000,000;

(B) Outlays, $2,828,000,000.

(8) Transportation (400):

(A) New budget authority, $19,610,000,000;

(B) Outlays, $18,651,000,000.

(9) Community and Regional Development (450):

(A) New budget authority, $8,991,000,000;

(B) Outlays, $8,289,000,000.

(10) Education, Training, Employment and Social Services (500):

(A) New budget authority, $31,391,000,000;

(B) Outlays, $31,371,000,000.

(11) Health (550):

(A) New budget authority, $58,767,000,000;

(B) Outlays, $54,715,000,000.

(12) Income Security (600):

(A) New budget authority, $217,658,000,000;

(B) Outlays, $188,795,000,000.

(13) Veterans Benefits and Services (700):

(A) New budget authority, $21,607,000,000;

(B) Outlays, $20,851,000,000.

(14) Administration of Justice (750):

(A) New budget authority, $4,269,000,000;

(B) Outlays, $4,468,000,000.

(15) General Government (800):

(A) New budget authority, $4,484,000,000;

(B) Outlays, $4,301,000,000.

(16) General Purpose Fiscal Assistance (850):

(A) New budget authority, $9,076,000,000;

(B) Outlays, $9,075,000,000.

(17) Interest (900):

(A) New budget authority, $58,038,000,000;

(B) Outlays, $58,038,000,000.

(18) Allowances (920):

(A) New budget authority, $482,000,000;

(B) Outlays, $58,038,000,000.

(19) Undistributed Offsetting Receipts (950):

(A) New budget authority, —$19,700,000,000;

(B) Outlays, —$19,700,000,000.

Sec. 4. The Congress projects the following budget aggregates for fiscal years 1981–1982, based on the policies assumed in sections 1 and 3—

(1) the level of Federal revenues is as follows:

Fiscal year 1981: $605,200,000,000;

Fiscal year 1982: $704,000,000,000;

(2) the level of total new budget authority is as follows:

Fiscal year 1981: $666,459,000,000;

Fiscal year 1982: $728,402,000,000;

(3) the level of total budget outlays is as follows:

Fiscal year 1981: $603,477,000,000;

Fiscal year 1982: $655,098,000,000;

(4) the amount of surplus in the budget is as follows:

Fiscal year 1981: $1,723,000,000;

Fiscal year 1982: $48,902,000,000;

(5) the level of the public debt is as follows:

Fiscal year 1981: $916,175,000,000;

Fiscal year 1982: $907,700,000,000.

Sec. 5. In 1980, each standing committee of the House of Representatives having jurisdiction over entitlement programs shall include in its March 15 report to the Budget Committee of the House of Representatives specific recommendations as to what changes, if any, would be appropriate in the funding mechanisms of such programs to enable Congress to exercise more fiscal control over expenditures mandated by these entitlements.

Within a reasonable period of time after March 15, 1980, the Budget Committee of the House of Representatives shall submit to the House such recommendations as it considers appropriate based on such reports.

Mr. GIAIMO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object.

The SPEAKER pro tempore. The gentleman will state his reservation.

Mr. ROUSSELOT. Why does the gentleman from Connecticut want to dispense with the reading?

Mr. GIAIMO. Because I believe I can explain the differences in it, wherein it differs from the first budget resolution on the floor last week and with which I know the gentleman from California is eminently familiar.

□ 1110

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, could the gentleman tell us the basic differences between this substitute budget resolution and the previous resolution he offered a week ago?

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Speaker, I was going to do that as soon as we expedited the reading of the amendment.

Mr. ROUSSELOT. As the gentleman knows, the Members have not had a lot of time to review his changes. Since this relates to what is going to happen in the Federal Government for the whole year of 1980 some of us would like to know what the changes are, even though the gentleman states he will explain it, and I think it is important to know the basic differences now.

Mr. GIAIMO. If the gentleman will yield further, we have reduced the deficit and we have reduced outlays which we had in the resolution last week by $400 million.

Mr. ROUSSELOT. $400 million?

Mr. GIAIMO. And that reduces the deficit to $28,925 million. We did that by reducing outlays by $200 million in the international affairs function to reflect an administration budget request for a Food for Peace supplemental which is lower than originally anticipated. We saved $200 million there in outlays.

We have reduced the outlays in the natural resources and environment function by $100 million to reflect estimated shortfalls experienced in the past in the long lead time in Environmental Protection Agency programs.

We reduced outlays by $100 million in the undistributed offsetting receipts function to reflect recent estimates of interest payments received by the trust fund which will be higher because of inflation. We added $300 million to budget authority, and nothing to outlays in education, training, employment and social services to accommodate an anticipated supplemental appropriation for the basic education opportunity grant program. Because of a better administrative handling of this program we are able to accommodate greater budget authority without accompanying outlays.

Mr. ROUSSELOT. I thank the gentleman.

Further reserving the right to object, was there any change in the gentleman's revenue estimates?

Mr. GIAIMO. There was not.

Mr. ROUSSELOT. So the gentleman is staying with the revenue estimates of the committee as opposed to the questions raised by the chairman of the Ways and Means Committee, the gentleman from Oregon (Mr. ULLMAN)?

Mr. GIAIMO. If the gentleman will yield, I cannot answer that question in the form in which the gentleman put it. If the gentleman would want to separate the question I will be happy to answer it. There is no disagreement between the Budget Committee and the Ways and Means Committee with the revenue numbers.

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, last week the gentleman received a letter from the gentleman from Oregon (Mr. ULLMAN), chairman of the Committee on Ways and Means, relating to the committee estimates of revenues. Did the gentleman prevail or did the gentleman from Oregon (Mr. ULLMAN) prevail?

Mr. GIAIMO. I think we both prevailed because we are both reasonable men and we were able to work out what appears to be a disagreement and, in fact, is not. There will be no problem in accommodating the revenues in miscellaneous and trade measures which the Ways and Means Committee is looking forward to accommodating.

Mr. ROUSSELOT. Further reserving the right to object, what the gentleman says is that those are the only basic changes as the gentleman has enumerated?

Mr. GIAIMO. Those are the only changes in the resolution.

Mr. ROUSSELOT. I thank the chairman for his description.

Mr. Speaker, there obviously is only the minutest difference between this so-called new budget resolution and the one that was defeated last week.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The SPEAKER pro tempore. The gentleman from Connecticut (Mr. GIAIMO) is recognized for 1 hour.

Mr. GIAIMO. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the amendment, which is one that has been agreed to by an overwhelming majority of the Budget Committee. It is a refinement of one previously reported by the Budget Committee, a refinement which has reduced the projected deficit by $400 million to below $29 billion.

More than that, this amendment—the new proposal for the second budget resolution—is fair. It is balanced. It is realistic.

It may not be exactly what all of us would prefer. We all would like a lower deficit. We all would like less inflation, too. And many of us want to protect the programs in which we ourselves are seriously and deeply interested in. Some of us want more for defense. Others want more for social programs. Some think transportation needs more funding. And so on.

We have sought to balance all the needs and interests.

We cannot wish away inflation. We can, however, demonstrate restraint so that we do not feed the fires of inflation. This we have done. Aside from energy, defense and the entitlement programs, there is no real growth in the budget resolution we are proposing.

Bear in mind that the economy that we seek to influence without prudence and restraint also leads us. Inflation increases our social security payments and those to veterans and other retirees. The business slowdown that we are experiencing is leading to higher unemployment. While we see an early economic recovery, we know that higher unemployment means higher unemployment compensation payments and more food stamp expenditures. These are economic facts of life.

These economic facts of life, along with increased payments of interest to service the debt and some estimating differences account for the heavy increases in outlays over those which were projected in the first budget resolution.

To pretend that the spendout rates of procurement programs, the payments of interest on the debt, and that cost-of-living increases will not take place is to pretend that facts are not facts. It is to be totally unrealistic.

In addition to these increases due to the economy, there is about $6.5 billion in outlays for new initiatives. These include: $2.6 billion for the energy program including synthetic fuels; $1.1 billion for military readiness; $400 million for refugees; $400 million for targeted fiscal assistance for communities hardest hit by high unemployment, and $300 million to fund a 7-percent cost-of-living pay raise approved by the President instead of the 5.5 percent we had projected in the first resolution. Even then, we have provided a 30-percent absorption rate for pay of Federal employees.

Now let me say a special word about defense. The amendment we have before you contains about $3 billion less in budget authority and $2 billion less in outlays than that approved by the other body. As many of you know, I am a member of the Defense Appropriations Subcommittee, one of its more frugal members. I take a back seat to no one when it comes to paring the military spending. Now, I know that we must provide some real growth in readiness. The increase we have provided in this resolution is necessary, but modest.

Since the vote of last week on the second budget resolution, we have trimmed $400 million from spending outlays and from the deficit. We have taken $200 million to reflect House action on the appropriation for food for peace. We have taken another $100 million from EPA construction grants due to a late reestimate. And we have cut the deficit by $100 million to reflect higher payments of interest to various trust funds. In addition, we have added $300 million in budget authority for the basic educational opportunities program to protect that program without adding to the deficit.

So, total outlays are now $518.175 billion and budget authority is $631.8 billion.

The revenue floor in our resolution now is $519.25 billion. This is $10.25 billion higher than the first resolution. Inflated oil prices, resulting in higher profits, plus the windfall profits tax, foreign tax credits and administrative management savings, account for the increase from the first resolution.

What are the alternatives to this resolution? There are several, and they are all unrealistic.

There is the Latta substitute, which has been prepared by the ranking minority member of the Budget Committee. It would have you believe that you can drasticallly cut programs at this late date in the congressional year and then offer a tax cut in the midst of a business slowdown and raging inflation and have results that are good for the country. It would be bad, very bad, for the country. It is unrealistic.

There is a balanced budget substitute waiting in the wings. It is one with which you are all very familiar. Few in this body consider it seriously. It should not be taken with any seriousness.

And there are other schemes. You can hear talk of cutting spending by a half percent, or a full percent, or by some special amount like $6 billion. And they are all unrealistic. Ninety-eight percent of the appropriations are passed in the House. And you do not really want to gut programs at this time.

What would you cut? Defense? Highways? Veterans' programs? Social Security? Education? Health? Mass transit? Energy initiatives?

To those of you who want to cut spending, I urge that you go to work on the legislative savings that we have suggested. Or devise others that will effect real savings in spending. I urge you to go to work on entitlement programs and bring them in line instead of having them multiply and multiply, growing geometrically and remaining immune from budget cutting. I urge you to work on appropriations to insure that fraud, waste and abuse is rooted out.

From time to time we are reminded that there is no such thing as a free lunch. There also is no such thing as a free ride. There is no magic formula or magic amendment that will wipe out a deficit or cure inflation or make unemployment disappear.

If my amendment is defeated, others will offer amendments that will offer their versions of a free ride. All are unrealistic. If you keep voting amendments down, you will have before you the Senate-passed resolution. And its deficit is higher than the one now before you.

There are people who believe that the Congress is undisciplined and will not accept the restraints of a real budget. Those who vote higher entitlements and appropriations and who vote against legislative savings and reforms add to the misimpression.

The budget process offers real hope. It shows that we can be fair, balanced, realistics, and compassionate while we work toward a balanced budget.

The amendment before you is the best effort of the Budget Committee, which is fairly representative of this House. It provides the restraint that we must have, the discipline that we need so much while continuing the business of government in perilous times.

I strongly urge that you weigh the facts, that you put aside any pipedreams, that you stop looking for magic wands and that you join the Budget Committee in adopting realistic, fair, and compassionate binding budget aggregates—those that are contained in our resolution, which is the amendment before you. I urge you to vote "aye."

Let me urge that the Members protect this budget process which is so fragile and so delicate in this House. I do not like a $28 billion deficit. I do not like a $23 billion deficit. I would like to see a surplus, as would everyone in here, and as would the American people.

But we have a responsibility. We have a responsibility to provide for the common defense, and that means heavy defense expenditures. We have a responsibility to look after the welfare, the general welfare of our people, whether it be in education, in housing, in highways, for the elderly, or for those who need our assistance in the health fields, all of which are legitimate areas of Government interest that we cannot turn our back on for the American people.

The realities of the economy, the realities of the marketplace will dictate what the deficit will be. Help us to get inflation down, help us to get the economy back on a recovery road and the deficit will not be $28 billion, it will get down to zero, or near zero in 1981.

That is the truth. That is the reality.

Members are going to hear that we should not accept this resolution, that the deficit is too high, or that this is wrong with it or that other thing is wrong with it. It is a balancing of varying priorities and frequently conflicting priorities.

□ 1120

You have got to compromise your priorities as a legislative body to accommodate the other person's point of view and interest also. There will be those who will tell you that they have substitutes which are better than this. You will hear about a Gramm substitute, which purports to have a deficit of $23 billion. I submit that this is pie-in-the-sky kind of accounting. He adds $3 billion in budget authority for defense, and not one penny in outlay in defense. That is totally unrealistic and cannot be supported by the Congressional Budget Office, by OMB, by any of the economists or budgeteers who are familiar with actual governmental programs spend-out. If you provide moneys for a program, known as budget authority or obligational authority, it is going to have a result on outlay.

You cannot—you cannot leave budget authority the same, as we do in most instances in our resolution, but reduce your outlay levels, thereby resulting in a lower deficit. This is what the Gramm amendment does. It is totally unrealistic, and I urge that you not consider it.

The Republican substitute, or the Latta substitute, which calls for the most inflationary thing we could possibly do at this time, to cut taxes by $20 billion, feeding the flames of inflation even more than they are today, robbing from the peoples' pockets every day they go to the grocery store or to the merchandise store, robbing from their pockets the money which you supposedly would save for them by a tax reduction, is a cruel hoax upon the American people. Secondly, the Latta-Republican substitute would purport to cut spending by $20 billion, and I submit that if you cut spending by $20 billion you would be gutting all kinds of programs which are essential to our people. You would have to gut the defense program, also, whether you realize it or not; but even more seriously than that, you would create economic chaos in this land of ours. Lord knows, we have enough economic problems as it is.

The budget resolution is a balanced one, and I urge its adoption.

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I yield for purposes of debate only to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Speaker, I would like to support the gentleman and support him strongly. I do not suppose there is a resolution that could be brought to this floor that everyone would not have some problems with. I think each one of us has some problems with the entire budget process, but to me it is one of the most encouraging things that has happened in the Congress in a long time, and I will support it.

Mr. GIAIMO. Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I listened with a great deal of interest to the comments just made by our able chairman, talking about how cruel inflation is. I must agree with that statement, but I certainly disagree with him as to the major cause of inflation. We are talking about just a little tax cut for the American people of $20 billion beginning in calendar year 1980 and this is supposed to be inflationary? Why this will not even permit the American taxpayer to catch up with the inflation that has been caused by the spending ways of this Congress—controlled by his party in this fiscal year.

As I pointed out on this floor yesterday, the national debt has increased during the 1970's by more than $400 billion and this has been brought on by the inflationary deficit spending of this Democrat-controlled Congress. Many of us have been telling the American people for a long time what the main cause of inflation is, but for some reason they have not gotten the message. But, I believe as I read my mail and as I read the newspapers, more and more people are coming to realize that the deficit spending habit of this Congress is the real culprit.

Here, the substitute resolution being presented is typical—Mr. Speaker, may we have order?

The SPEAKER pro tempore. The gentleman is absolutely right. The Chair would advise the gallery that the rules of the House prohibit any outward display of emotion.

Mr. LATTA. Thank you, Mr. Speaker.

The substitute resolution being presented has only minuscule changes from the defeated resolution and calls for $53 billion more spending—I emphasize that—$53 billion more spending than in fiscal year 1979. And, our good chairman tells us that we are cutting programs when in fact our substitute would increase spending by $33 billion over fiscal year 1979. We are seeking to restrain this awesome growth of the Federal Government as we know we cannot get the votes to hold the spending to the fiscal year 1979 levels.

We would put some restraints on the runaway spending of this Congress. We would reduce the deficit. Incidentally our good chairman said something about a $28 billion deficit proposed by his new resolution. Let me say that it is $28.9 billion. If I were rounding, I believe I would round at $29 billion, but it sounds lower to say $28 billion. The planned deficit for fiscal year 1980 is actually $28.9 billion.

Now, we cannot agree to that deficit and that much spending on our side of the aisle. And what are the proposed changes which will make this proposition different from the one that the House rejected just last week? First of all, $200 million of that $400 million comes out of the Food for Peace program, and it merely adjusts—get this—it merely adjusts that figure downward to what the House has already agreed to in the appropriation bill. Now, they certainly cannot claim credit for any kind of an adjustment there, and that is half, half of the $400 million they are talking about.

What is the remaining $200 million? One hundred million dollars comes from what? A reestimate of how fast EPA will spend out construction grant money in fiscal year 1980, and certainly if they have any money left they will spend it out in 1981. The final $100 million comes from a real gimmick brought on by their inflation and rising interest rates. It has been brought on primarily by the spending ways of the majority, and the Treasury must now pay higher rates for borrowing out of the trust funds—and I have reference to the social security trust fund and others. These add up to the $400 million minuscule reductions they bring to the House and ask us to approve. I think not. I think not.

If we want to do something about cutting back on the expenditures of this Government for fiscal year 1980, the only way we can do it is to reject the chairman's inconsequential reductions, to which I have just alluded, so that we can take up our substitute containing meaningful reductions. If that substitute is voted down, members can offer other amendments to the concurrent resolution passed by the Senate, or we can take up the balanced budget resolution of the gentleman from California (Mr. Rousselot).

□ 1130

Or we can take up the Fisher amendment, or we can take up the Gramm substitute. But certainly if we agree to the substitute being proposed by the gentleman from Connecticut (Mr. Giaimo), the chairman of our committee, all doors are closed for any further action.

Mr. Speaker, I could not disagree more with the presentation my good chairman has made here this morning. I could not urge more strongly that the House once again show its good judgment and defeat his substitute resolution in order that we can make some meaningful reductions in next year's spending proposals.

Mr. GIAIMO. Mr. Speaker, for purposes of debate only I yield 2 minutes to the gentleman from Texas (Mr. Gramm).

Mr. GRAMM. I thank the chairman.

Mr. Speaker, in May we voted on a budget resolution that gave us a deficit of $20.9 billion. I came here committed to balance the budget, but I thought that was reasonable progress and I voted for it. We went to conference with the Senate. We came out with a $23 billion deficit. I came here committed to balance the budget, but I thought that was reasonable and I voted for it. Last week we considered a budget resolution with a deficit that was 38 percent higher than we had in May, and I could not go home and tell people that I voted for that, and I voted "no."

We have heard the chairman talk about inflation and the rise in the deficit it has produced. Inflation has gone up, but the only problem with that argument is that under the progressive income tax system, tax collections have gone up more than inflation, 21.5 percent faster. In fact, Government will grow as a result of the inflation, and the resources of our Government will expand. Revenues are up $10.5 billion from the first concurrent budget resolution. The reason the deficit is up $6 billion is because spending is up $16 billion.

My alternative, which I will offer if you vote this resolution down, does not cut a single program when technical adjustments made by the committee and the Senate are taken into account. It simply takes the $10.5 billion growth in revenues, pays increased interest, pays for increased income security entitlement programs, and funds important programs in energy and defense. I do not think that is irresponsible; I think that is reasonable. That is living within the constraints we face. That is setting the priorities where the American people want them.

I urge those of you who believe we need to stay within striking distance of fulfilling the President's commitment to balance the budget in 1981 to vote no on the Giaimo substitute so that we might vote on a reasonable substitute; a substitute which I think represents the relative priorities of the American people; a substitute that does not cut one single program below the level of the first concurrent budget resolution; a substitute that sets priorities and lives within our budget.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. Shuster).

Mr. SHUSTER. Mr. Speaker, there is a mystery movie making the rounds of the country called, "The Seven Percent Solution." What we have here today from our distinguished chairman is the "One-Tenth of One Percent Solution," but it is no mystery, Mr. Speaker. Instead it is a charade.

We have before us a substitute budget resolution which, if you compare it to the original resolution which came from the majority on the Committee on the Budget, reduces budget authority by less than one-tenth of 1 percent, reduces outlays by one-tenth of 1 percent, and if you take not those figures but rather compare this substitute to the budget resolution as amended on this floor, the comparison is even worse. The difference is seven one-hundredths of 1 percent. I think that the American people can see through this charade.

This substitute is no substitute at all. It is virtually the same, and I would suggest to the 213 Members of this body who voted against the original budget resolution, this so-called substitute is an insult to the intelligence of the 213 Members who voted against the budget resolution which we previously had before us. One-tenth of 1 percent is no substitute. Seven one-hundredths of 1 percent is no real change at all.

The only minuscule changes are in international affairs, natural resources, and education and training as far as spending is concerned. In a nutshell, Mr. Speaker, if you voted against the original resolution, how in the world can you justify switching your vote now to support a substitute which has changes in it which are less than one-tenth of 1 percent? It is a charade; it is cosmetic; it is not going to fool the American people. I urge the Members who voted against the original budget resolution to cast their votes against this charade so that we then might proceed to address the various alternatives to bring about real reform and real reduction in Government spending.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

Our good friend and courageous chairman of the committee, the gentleman from Connecticut (Mr. Giaimo) has said that he sees an end to the recession in which we are now presently engaged. Does the gentleman see any figures in this resolution that would give him any confidence that unemployment in this country is not going to continue to go up if we keep on this steady spend-as-you-go course of higher taxes and more inflation and more slowdown in the economy?

Mr. SHUSTER. The gentleman from New York makes an excellent point. He is absolutely correct.

Mr. GIAIMO. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. Simon) for purposes of debate only.

Mr. SIMON. Mr. Speaker, one of our colleagues, the gentleman from Missouri (Mr. Bolling) may have been accurately or inaccurately quoted in the newspaper a couple of months ago describing this as "the most gutless Congress that he can remember." I do not know whether that is an accurate quotation or not. What I do know is that sometimes it takes a little courage to do the responsible thing, and when we come to voting on this, we had better not just hold our finger to the wind and ask where public opinion is, we ought to be asking what the national need is.

I hear these speeches that have a hollow ring when we examine the facts. We talk about a $16 billion increase—$10 billion of which we have absolutely nothing we can do about, including $2.5 billion more for interest, $1.2 billion more for unemployment compensation. And we can tick the other items off. There were some policy changes which account for the additional $6 billion—$2.6 billion more for energy initiatives; an increase for military readiness, $1.1 billion; a 7-percent pay increase; $400 million for refugees, and a few other items. Congress has already decided to move ahead on these matters. We ought to be moving toward some stability in fiscal and monetary policy and I suggest to you that this budget resolution we have before us provides us that opportunity. I am less optimistic than the chairman of this committee that in 1981 we will achieve that balanced budget. I think by 1982 we can, but I think when you add the shortfall that inevitably comes each fiscal year our deficit will be appreciably below the $28.9 billion figure in this resolution. I urge support of the resolution.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentlewoman from Maryland (Mrs. Holt).

Mrs. HOLT. Mr. Speaker, the gentleman from Pennsylvania is absolutely right. This resolution is so slightly different from the resolution that we defeated here on September 19 as to be a waste of time to even consider. Under this resolution, stagflation, the economic disease of the 1970's, would continue if we accept the 1980 budget resolution proposed by the Budget Committee majority.

Tax revenues would increase by more than $50 billion, imposing an additional drag on productive economic activity.

The Federal Government would borrow almost $30 billion to finance its 1980 budget deficit, and off-budget agencies are expected to borrow another $16 billion. Government borrowing is a direct transfer of investment capital to consumption. It also applies pressure for inflationary rates of monetary expansion.

The Budget Committee majority is recommending that the errors of the 1970's be continued in the 1980's. It is a story of rapidly rising debt and taxes, of stimulating consumption at the expense of production, of low saving and sluggish investment. The consequence is roaring inflation.

The proposed 11-percent growth rate of Federal spending is intolerable. The soaring debt is intolerable. The rising tax burden is intolerable. The failure of the Budget Committee majority to exercise any serious fiscal discipline is obvious.

This budget resolution is almost identical to the one we defeated last week, but we hear that the leadership has it greased this time. I hope that is not true. We should defeat this product and move on to formulate a real budget.

We should slow the growth rate of Federal spending to less than 7 percent, reduce the budget deficit to less than $20 billion, and allow a tax cut of $20 billion.

This is another step to reduce inflation, cut taxes, revive the productive sector of the economy, and create greater employment opportunities for the American people.

The problems of the economy cannot be cured in 1 year. We should have years of fiscal restraint and tax cuts.

We can slow the rate of growth without being mean to the poor. The basic income support programs can remain intact. We do not have to cut any help to the needy.

We should not be starting any new social programs because I remind the House, that spending on social programs has increased by more than 300 percent in the past decade.

We should be giving top priority to national defense, which has been neglected so badly for 10 years that we approach a condition of dangerous weakness as has been clearly established in the SALT II debates.

If the Budget Committee and the House would exercise some discipline, draft a tight budget, force the committees to reconcile their differences, we could get this great country with its strong economy back on a sound fiscal track, pay our debts, strengthen our dollar and restore some stability to the free world.

Mr. GIAIMO. Mr. Speaker, for purposes of debate only I yield 3 minutes to the gentleman from Maryland (Mr. Mitchell).

Mr. MITCHELL of Maryland. Mr. Speaker, I voted against the second concurrent budget resolution. I did so because I thought the priorities were still not straight. Today I shall vote for the second concurrent budget resolution. It is not that it satisfies me at all, it does not. The priorities are still not straight.

The reason I am shifting my vote is relatively simple. Based upon the economic data that we have been looking at, examining in the Joint Economic Committee and other committees, we are now in the first stage of a recession. Based upon that data that is available to me and to the Members of this House, that recession is going to be longer and deeper than was anticipated, initially.

Mr. Speaker, what that will mean is that those who are already unemployed, those who already have an insufficiency in terms of housing, in terms of all the basic needs of our society, would be hurt further if we passed a more stringent kind of budget resolution.

Already we are going to add on to the ranks of the unemployed simply because of the fact that we are in recession, but should we accept the resolution of the other body or some of the amendments which will be offered on the floor—I hope they will not be offered because I hope we will pass this—what we will be doing is putting the squeeze on those who have already been almost squeezed to death.

We are talking about the working poor, or the unemployed, the guy who is in the working-poor class and is still trying to send his child to college, not being able to do it if he is squeezed any further in terms of an even tighter budget.

We are talking about the situation we confront right now where for the first time in 10 years we have fallen below 400,000 housing units for the poor, the working poor, and the middle class. Tighten this budget some more and you are going to fall much further below that.

Some in America are doing well. We are going to eat a good lunch. We have a comfortable home in which to live. With some effort we are getting our kids through college and for those it does not appear there is suffering in this Nation, but there is. There is deep and dismal suffering. I suggest, even though it is a painful experience to me, though I am not at all satisfied with the process, I as one Member of this House simply refuse to add on to the burden of those who are hurting so badly in our Nation.

Mr. WEISS. Mr. Speaker, would the gentleman yield?

Mr. MITCHELL of Maryland. I yield briefly to the gentleman from New York.

Mr. WEISS. The gentleman's eloquent statement echoes some of my own concerns and sentiments and I am still struggling to come to a conclusion on this matter.

I thank the gentleman for yielding.

Mr. Speaker, the revised version of the second budget resolution before us today seems to me to typify the flaws and failures inherent in the entire congressional budget process.

From the point of view of a Member representing an urban district with enormous unmet social and economic needs, the budget process itself—quite apart from the actual resolution—simply is not serving the interests of the people.

Consider for a moment the situation in which we find ourselves today.

The House, for a variety of reasons, last week rejected the second budget resolution. The committee then made a few minor and largely cosmetic changes in the resolution which in no way address the fundamental deficiencies in the fiscal 1980 spending plan. Now, if we again reject what is essentially an unchanged resolution, we will be faced with the two even less acceptable possibilities.

We will run the risk of adopting an irresponsible Republican substitute or we may wind up endorsing the Senate resolution which is considerably worse than the inadequate proposal made by our own budget committee.

What kind of a choice is that?

Is this really the way in which we should design a Federal budget—pick the lesser of three evils and hope for the best?

Under the current budget process, intelligent, and substantive consideration of basic choices is practically impossible. What it guarantees is practically limitless military spending no matter how excessive no matter how inflationary. At the same time forces unendurable sacrifices and unending shortchanging in dealing with the most basic survival needs of the American people.

For example, nationwide unemployment rates may well surpass 8 percent in 1980—which means, at least, 8 million Americans out of work. Yet this budget actually reduces the number of jobs under the CETA program by 200,000.

Responsible legislating? A process that is in the interests of our constituents? An effective way of developing a positive alternative to Presidential recommendations?

Obviously not.

This budget process works against the best interests of our people and it should be discarded. Only in that way can we begin to consider, through the normal authorization and appropriation process, the merits of programs with the urgency and flexibility which the needs of the Nation demand.

Mr. GIAIMO. I yield 1 minute to the gentleman from New York (Mr. Weiss) for purposes of debate only.

Mr. WEISS. Mr. Speaker, at this time I would be glad to yield back the time to the distinguished gentleman from Maryland.

Mr. MITCHELL of Maryland. I thank the gentleman for yielding.

Mr. Speaker, I want to share the sentiments of the gentleman from New York (Mr. Weiss). I am going through the same kind of anguish. This is not the kind of priority I would like to see established in this Congress. Yet, I have to look at what is real. I would hope the gentleman and my other friends would consider the political realities.

Mr. WEISS. Mr. Speaker, my concern, of course, is with the process itself. I appreciate the hard work the distinguished chairman has undertaken with this committee, but the whole budget process, it seems to me, works against the best intests of the very needy that the gentleman from Maryland has referred to.

Mr. MITCHELL of Maryland. Will the gentleman yield further?

Mr. WEISS. Of course, I would be pleased to.

Mr. MITCHELL of Maryland. I have problems with the process but the reality is the process is in place, the hour is upon us. What are we going to do? Are we going to add to the burdens of those who are already suffering or are we going to at least try not to put more people into a position of suffering?

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. Kemp).

Mr. KEMP. Mr. Speaker, I hope my friend from Maryland (Mr. Mitchell), will be able to stay in the Chamber, because I want to speak to the vital issue to which he spoke.

The gentleman made a very eloquent statement and I find myself in agreement with much of what he has said, particularly his concern about suffering through an economic decline.

The American people—not only the working poor and the unemployed, but all the American people—are going to suffer under this budget in the terms articulated by my friend, the gentleman from Maryland. The current budget resolution to which we are being asked to vote raises taxes, slows down the economy, raises unemployment, encourages inflation, and raises interest rates higher and higher. We should take steps now to prevent all this from happening. That is what this debate is about.

Mr. Speaker, the report on the second concurrent resolution prepared by the Committee on the Budget and the analysis prepared by the Congressional Budget Office both actually defend higher interest rates. Now if anyone thinks he can fight inflation by raising interest rates by squeezing the small business community, by squeezing the people who want to buy homes, and by squeezing the American economy into slower growth, he is only kidding himself. Who can fully estimate the suffering, in human terms, caused by a budget resolution that accepts as a premise higher unemployment and slower growth as a means of fighting inflation?

I think the gentleman and I agree that contrary to the planned premise of the majority party's budget unemployment is not a solution to inflation—the answer is not to slow down the economy.

Check the unemployment figures and interest rates in the report. Check the statement of the gentleman from Connecticut (Mr. Giaimo) when he stood on the floor of the House and suggested that somehow he sees a light at the end of the tunnel in terms of an economic recovery. The fact is the economy is a mess and we are being asked to vote for "steady as you go."

Mr. Speaker, does the gentleman from Maryland really concur in the chairman's belief that we can see our way out of this recession? I do not see it. The Budget Committee figures do not show it. The Budget Committee shows unemployment going from 5.7 to 7.2 percent. That is almost 2 million more unemployed and steady as you go, means tragedy for the Northeast and the unemployed, and it will not cure inflation.

Mr. Speaker, I am disappointed that the press has reported the debate in Congress, by centering on the size of the deficit.

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It is not the size of the deficit, but the size of the economy that we should be talking about. The argument should not be over how high the deficit should be, but over the committee's planned reduction of economic opportunity in this country. The argument should not be over taxes and where they are today and our modest attempt to reduce them to prevent the effect of a deepening recession on our people. The argument really is how far Congress is going to go in 1980 under a budget that will allow taxes to increase on the American people—all people—by $36 to $40 billion.

The gentleman from Connecticut says that the modest tax cut of the Republican Party is going to cause chaos. Today we have 13-percent inflation, 13½-percent interest rates, and unemployment going up. If a "steady as you go" policy with those statistics is not chaos already, I do not know what is. I suggest the gentleman take his figures and check the economy and he just might want to vote with us in favor of increased economic growth.

I ask for a vote against this budget of despair and a vote later for our attempts to restore some hope and opportunity to our economy by cutting taxes to encourage more production and jobs.

Let me take a minute to discuss further some of the mistakes being made today by the majority party and its budget resolution.

The Keynesian view of inflation held by the congressional budget is causing mistakes in congressional policies.

Despite the tremendous failures of Keynesian-based policies, the CBO and other economic advisory groups continue to consider tax rate reductions as inflationary, while ignoring the "supply-side" effects. CBO still seems to think of a "tax cut" only in terms of the number of dollars it dumps into the economy or "puts into consumer pockets." This is supposed to stimulate demand alone and thus would, in their estimates, produce too sudden a surge in consumer spending creating the inflationary situation of too many dollars chasing too few goods.

Even accepting the limitations of this thinking, what is the net effect of the tax cut contained in the Republican substitute? In the coming year alone, social security tax increases and the tax increase from inflation will—as it pushes people into higher tax brackets—total $25 to $30 billion. Yet the Republican substitute contains a tax cut of only $20 billion. So how can a $5 to $10 billion tax increase for the American people generate "wild inflation," even accepting CBO's analysis?

The theory behind the Republican tax cut is not simply that it offsets, partially, a tax increase. Rather, it reduces marginal tax rates to increase the return on additional work, saving, investment, and production—providing the incentive to get our economy moving again at a higher, more efficient level of growth.

VII. SUPPLY SIDE THEORISTS VIEW OF INFLATION

There clearly is only one reason for inflation: Government's policy toward the dollar. Inflation is not caused by workers working, business doing business, producers producing, or consumers consuming. Inflation is a decline in the value of the currency. Goods are not getting spontaneously more expensive any more than they would suddenly grow if Government shortened the official length of an inch. The average price level rises exactly to the degree that the Federal Reserve's monetary policy devalues the dollar.

For example, we did not have any net

inflation in this country for more than a century. The wholesale price index was exactly the same in 1930 as it was in the year 1800. This is because throughout this time, Government guaranteed a constant value for a dollar.

But if the goal of monetary policy ceases to be to maintain the dollar's value, as it has in the past decade, the question is, how can we reduce inflation with a given monetary policy?

The answer is that inflation means not only too much money created, but too few goods produced. The best way to explain that is that fiscal and monetary policies in our economy have been backwards for more than a decade. Monetary policy is supposed to prevent inflation, and fiscal policy is supposed to promote the economic growth that pays for Federal spending. Instead excessively high tax rates and unnecessary regulation are deliberately slowing down the economy and increasing the demand for Federal spending.

Given this situation, what is the Federal Reserve supposed to do? If money is loose, inflation increases and simply pushes everyone into still higher tax brackets, further decreasing output. If money tightens, it hastens the recession, but with lower output, inflation remains unaffected.

The answer is that Congress needs to establish an anti-inflationary economic growth policy, grounded in supply side theory. Today we are faced with a recession, projected large increases in unemployment, rising inflation, and chronically unbalanced Federal budgets. There is only one way to reduce inflation and unemployment at the same time: a combination of monetary and spending restraint on the "demand side" of the economy and incentives for production and expansion on the "supply side."

We need to enact immediately supply-side measures to encourage saving, investment, employment, and production. And one of the best ways to do this is to increase the after-tax reward on the next dollar individuals earn, save, or invest—that is to lower tax rates as provided for in the Republican substitute.

As for controlling spending, I am sure all of my Republican colleagues are devoted to today's congressional efforts to control unnecessary spending. Yet today we are in our third recession in a decade. By the most optimistic estimates, several million more Americans will lose their jobs during 1980. Anyone who thinks we can reduce the deficit if unemployment rises as predicted is dreaming.

In the last two recessions, revenue dropped in real terms each time unemployment increased. For each 1 million workers put out of work, the Federal deficit widens $20 billion because of lost revenue and higher spending on unemployment relief. By this formula, what we face in the next 2 years is a widening of the Federal deficit to $50 to $60 billion. That is, unless Congress enacts an economic growth policy to prevent unemployment.

The last President who thoroughly understood this relationship between unemployment and budget deficits was John F. Kennedy. In the early 1960's he proposed a tax package similar to the Republican substitute today:

> Our present choice is not between a tax cut and a balanced budget. The choice, rather, is between chronic deficits arising out of a slow rate of economic growth, and temporary deficits stemming from a tax program designed to promote fuller use of our resources and more rapid economic growth. . . . The purpose of cutting taxes, I repeat, is not to create a deficit but to increase investment, employment, and the prospects for a balanced budget.

Mr. GIAIMO. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, I do not think there is any question that the budget process was one of the most significant reforms adopted by the Congress. The very essence of the budget process is compromise and balance and without that you do not have a budget process. There is not a Member in this institution who does not have his or her own view as to what this kind of budget ought to look like. There are those who support a significant tax reduction. There are those who would support a significant increase in defense spending. There are those who would support a significant decrease in defense spending. There are those that would support a cut for both defense and social spending in order to reach a reduced deficit; but every one of those proposals, as meritorious as they may be, every one of those proposals jeopardizes the delicate balance that is involved in the budget process.

The Budget Committee has tried to consider those divergent views in the defense side, in protecting vital domestic programs, in energy, in education, and health care and in moving toward trying to reduce the deficit. We are talking about a deficit figure in this resolution that is $10 billion less than the second budget resolution that was adopted last year. We are talking about a budget resolution that is over $3 billion less than what the Senate has adopted; so we are moving in the right direction. It is important to recognize that this process is one of balancing various views. If you vote your own particular viewpoint regardless of the need for compromise then indeed you will probably vote no; but in so doing, you will jeopardize the budget process. If, on the other hand, you believe that a reasonable effort has been made to balance the divergent views of the various Members and that balance is, indeed, the heart and soul of the budget process and the only way it will survive in the Congress, then I urge you to vote for the Giaimo amendment.

Mr. REGULA. Mr. Speaker, I first want to agree with my colleague, the gentleman from California, that the budget process is a vital technique. I think it is working well. The fact that we are having this debate, even the fact that the resolution was defeated last week, is indicative that people are thinking about the impact of this budget and that in all of this process we are attempting to establish our Nation's priorities.

I would like to address myself to two points, that one of the goals of the budget process is to bring fiscal discipline to this body. I would point out that in comments before the Budget Committee in testimony, now Secretary of the Treasury, then Chairman of the Federal Reserve Board William Miller, said:

> In my view, the task of reducing the Federal share of GNP should begin now. I believe we should strive to reduce the Federal Government's share of GNP from more than 22 percent at present to 20 percent or so over the period of 5 to 7 years. As you will note in chart 6 submitted to you with my testimony, this kind of reduction would merely return us to the share of Government activity that existed in the early 1960's. It would, therefore, be a very reasonable undertaking.

Mr. LATTA. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Speaker, the budget resolution before us does not achieve that object. If you look at the history of the budget as a percent of the GNP, we find that in the seventies it was just above 20. It escalated to a peak of 23, and what we have here proposed is 21.9 percent, a far cry from the goal that Secretary Miller outlined for us. At this point I include the attached chart to show the pattern of growth in the budget:

Outlays as a percent of GNP

1970	20.5
1971	20.7
1972	20.9
1973	20.0
1974	19.9
1975	22.9
1976	23.1
1977	22.5
1978	22.6
1979	22.1
1980 (estimated)	21.9

By contrast, the Republican substitute proposes to increase outlays 6.8 percent rather than the 11 percent in increases in outlays as provided in the substitute before us and thereby reduce the outlays in the proposed fiscal year 1980 budget to 21.2 percent of the GNP.

In other words, we are proposing to move in the direction of the goal of reaching 20 percent, which should be our objective.

Second, I would point out that there is no reconciliation language in this resolution before us, even though the Budget act in section 310 subsection C provides for it. We have ignored this requirement of the law. I think it is time that if we are going to achieve the objectives of having a sound, responsible fiscal policy, that if we are going to achieve fiscal discipline in what we do in this body, that we need to adopt the language of the reconciliation process.

I applaud the Senate in that respect, because they provide in their resolution as follows:

> That the Congress hereby determines and declares pursuant to subsection 310 of the Congressional Budget Act of 1974 that in order to achieve a balanced budget in fiscal year 1981 and deficit reductions in fiscal year 1980, the following reconciliation instruction is appropriate.

The Senate resolution language does provide for reconciliation, which is essential for a responsible budget.

It is vital that we get this language in our resolution if we hope to provide the American people with responsible fiscal policies.

Mr. GIAIMO. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I urge my colleagues to support the committee budget resolution. I recognize that all of us have disagreements with this resolution. I certainly do. The deficit is higher than I would prefer. The deficit is higher than the May budget resolution; but when you look at the specifics of this resolution the reasons for that higher deficit fall into three major categories. First of all, interest and energy costs were higher than we predicted in the May resolution. If we are going to maintain a military readiness, we are going to have to pay the $1.8 billion more in energy costs to do that.

The second major reason was because of policy changes. For example, the pay raise was 7 percent instead of 5½ percent as we had in the May resolution. Also we provided money for the energy program.

The third major reason for the higher deficit is due to the refusal of the Congress to cut back on certain programs with which I disagree, such as revenue sharing to the States. The first budget resolution said revenue sharing would be cut out, but since then the House and the Senate have spoken and said we are going to fund that program. Also programs such as CETA, title VI, countercyclical fiscal assistance programs with which I disagree have been approved by the House and/or the Senate. Therefore, those funds are going to be spent and that has to be included in the budget resolution.

The most important goal to keep in mind is that we preserve the budget process, that we maintain a spending limitation, a ceiling.

What concerns me is that we have basically four alternative substitutes to the committee resolution. None of these alternatives for either partisan or parochial reasons, none of these alternatives in my judgment can command majority support. If we vote down the committee bill just in order to have a chance to vote for one of our pet budget substitutes, then I fear we will end up with no budget resolution whatsoever, no budget discipline whatsoever. Then we will be going home for our Columbus Day work recess, and all we can report is that we were able to raise salaries, we were able to raise the debt limit, but we were not able to put into place a spending ceiling for the fiscal year that will start while we are home talking to our constituents. It is highly important that we keep this budget discipline and this budget process.

Now, even though the budget deficit is higher than I would prefer, I can report two positive steps which I think will be important in helping us, if not insuring that we can balance the budget next year. One deals with the Regula amendment, which is part of this budget resolution, and which is the first step toward getting a handle on the entitlement programs, the so-called uncontrollable parts of this budget which we are going to have to curb if we are ever going to seriously try to balance the budget.

Mr. KEMP. Mr. Speaker, will the gentleman yield for a question?

Mr. JONES of Oklahoma. When I am through.

The second important agreement is the fact that the leadership has again guaranteed that after this recess we will have a vote on our amendment to the Budget Act which will put an overall spending limitation, which I hope will limit Federal spending to 20 percent of GNP.

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We will be able to have that limitation in place before we consider next year's budget. If we are truly for fiscal discipline, we should be able to pass that next month and have that in place before we deal with the fiscal 1981 budget. I think, with those two things, we will be able to go about balancing the budget.

Mr. Speaker, the budget process today is under attack, and it is under attack from the left, from the right, and from those who are interested in partisan politics. Let us put those interests aside and pass this resolution.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I thank the gentleman for yielding me this time, and I take the time for the purpose of asking a question of the chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO).

I ask the committee chairman, how much leeway is there in your substitute between the revenue floor and the projected revenue ceiling in order for the House to be able to consider new tax legislation which during the fiscal year 1980 might well reduce revenues?

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the committee chairman.

Mr. GIAIMO. Mr. Speaker, the gentleman is aware of the problem. The fact is that the estimate of current revenues in the base is below the revenue estimate in the budget resolution, because of the scorekeeping provisions which we use and which the Parliamentarian uses in the House. Until the Committee on Ways and Means would enact some revenue-raising legislation which could be properly scored by the Parliamentarian—such as, for example, the windfall profits tax of $2.8 billion, which is still not scored becasue it has not gone through the other body until such time the committee would be below the revenue estimate in the budget resolution.

Therefore, the committee would have a problem bringing out a revenue reduction bill such as the $100 million miscellaneous revenues bill, which the committee wants to bring out, and the trade bills which the committee is considering.

Mr. MOORE. Mr. Speaker, what I want to know is if there is any leeway.

Mr. GIAIMO. Does the gentleman want an explanation, or does he not?

Mr. MOORE. Mr. Speaker, I only have 2 minutes, and I am asking the gentleman, is there any leeway or not under the gentleman's substitute budget resolution?

Mr. GIAIMO. There will be leeway if the Committee on Ways and Means gets a waiver of the Budget Act, which we have assured the committee it will get.

Mr. MOORE. Will the gentleman support the waivers?

Mr. GIAIMO. We will support the waivers. I have given a letter to that effect to the committee. As a practical matter there will be no problem with that legislation.

Mr. MOORE. Mr. Speaker, let me ask the gentleman, if the Committee on Ways and Means makes in order a substitute, would the gentleman support whatever rule the Committee on Ways and Means asks for waiving section 311?

Mr. GIAIMO. Mr. Speaker, I will support waivers which the chairman of the Committee on Ways and Means will request me to support dealing with the matters I have just discussed.

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from Louisiana (Mr. MOORE) has expired.

The Chair will state that each side has 9 minutes remaining.

The Chair recognizes the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is not just a fight over the deficit or the budget process or numbers. I think it is time that we tie the budget to people.

When we talk in terms of billions, it does not make a great deal of sense back home, but when we talk about the lives of real Americans and what this budget says about American lives in the future, then I think people can understand.

What we are talking about here is this: We are talking in the majority resolution about a $379 tax hike to a family of four with a median income of $18,900, and we are talking about 6,200 unemployed people in the average congressional district. That is not according to Republican figures but according to the figures of the Federal Reserve Board. We are talking about higher taxes, higher interest rates, higher unemployment, higher inflation, and the continuing decay of our economic structure.

We believe, with the resolution we will offer, if the majority resolution is defeated, that it is possible to do better in managing the Government. We believe it is possible to squeeze out waste so that we spend less. We believe it is possible to restrain spending increases, to cut taxes, and to save jobs.

I think it is time for the Members of this Congress to take responsibility for what we do here in Congress. One Member said during the pay raise fight that we all go home and run against the institution of Congress. We say, "The Congress does bad things, but we mean well."

Today in this House we are considering an economic policy, and the buck stops here.

When our citizens ask us if we voted for higher taxes and we voted for the majority substitute, simple honesty should require us to say, "Yes."

When our citizens ask us if we voted for higher interest rates and we voted for the majority substitute, simple honesty should require us to say, "Yes." And finally, Mr. Speaker, when our citizens ask us, "Did you vote to make 6,200 Americans unemployed," if we voted for the majority substitute, simple honesty should require us to say, "Yes."

Mr. GIAIMO. Mr. Speaker, I reserve the balance of my time at this moment.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. HOPKINS).

Mr. HOPKINS. Mr. Speaker, I am not a member of this committee, and as a matter of fact I'm not even an economist. But I read what the economists say and what they do, and, frankly, I think the greatest economist who ever lived was Dr. Ludwig Von Mises. I think most economists would agree with that. He was, in my opinion, the economist's economist.

Dr. Von Mises not only understood the laws of economics but he understood people. He understood sociology and history. He asked, what do the people think? What are their attitudes? You see, that is a very important part of the economy. No system will work if the people are not considered. That is a point that the gentleman from New York (Mr. KEMP) has made very well in every speech I have heard him make.

I think that the greatest book Dr. Von Mises ever wrote was entitled "The Anti-Capitalistic Society," and I want to read to the Members just one line from that book, and I want you to understand this. Dr. Von Mises could care less whether you are a conservative or whether you are a liberal or whether you are a Republican or whether you are a Democrat or whether you are a Methodist or a Baptist, or whatever. He could care less about what you are. He is simply giving us an objective, scientifically arrived at economic fact. Here is what he said:

> The people of the United States are more prosperous than the inhabitants of other countries, because their government embarked later than the governments in other parts of the world upon the policy of obstructing business.

Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I believe that my colleague, the gentleman from Pennsylvania (Mr. SHUSTER), and others have already established that there is no real difference in the alternative that our colleague, the gentleman from Connecticut (Mr. GIAIMO), is offering us and the budget resolution just voted down last week. It is basically the same resolution we had before us a week ago.

The real difference between what the gentleman from Connecticut (Mr. GIAIMO) is offering us and what we will have if we get to the counterproposal of the gentleman from Ohio (Mr. LATTA) is this: If we are for big taxes, we will be sure to vote for the resolution offered by my colleague, the gentleman from Connecticut (Mr. GIAIMO), because taxes will automatically increase by $30 billion under the Giaimo budget proposal. If you are for big taxes, you will vote for the Giaimo resolution.

If you are for high unemployment, you will vote for the gentleman's resolution (Mr. GIAIMO) because there is going to be 7.2 percent unemployment.

If you are for higher interest rates, you will vote for the resolution of the gentleman from Connecticut (Mr. GIAIMO), because that is what is going to happen. Even the Budget Committee back-up economic assumptions show higher interest rates for the Giaimo resolution. We would have higher interest charges because we are going to have a very high level of debt just to finance that new debt.

If you believe that it is OK to let Federal expenditures go way up, you will vote for the Giaimo resolution. There will be a tremendous increase in Federal expenses.

If you want to go back home and tell your constituents, especially your taxpayers—roughly 220,000 in each district—that you are for higher level of Federal expenditures, because your constituents are going to have to pay the taxes for the new expenditures and that is not producing more jobs, it is not producing more plants, and it is not producing all the things we tell them back home we are for, because the Giaimo resolution will slow down the economy, then you will vote for the gentleman's resolution.

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The costs of Government will go up substantially. If you like higher Government costs you will vote for the Giaimo resolution.

My colleague, the gentleman from Ohio, will offer an amendment that does not cutback programs; it merely restrains the increases in Government in a proper way, the way everybody else has to do it except the Federal Government, because it just prints the money to make up for it.

So I say that the Latta substitute is a budget resolution for people. It cuts taxes by $20 billion, and we know we are going to cut taxes next year because it is a political year. We have just been trying to fool everybody here that you are not going to cut taxes. You know you will come back and do it next year because it is 1980, a political year. We know that. You are just carrying on the game here as we talk about the Giaimo resolution with no tax cuts.

My colleague, the gentleman from Maryland (Mr. MITCHELL) has said that we are in "the first stage of a recession." The worst thing he can do then is vote for the Giaimo resolution. That will make the recession worse. And their own figures of the committee say so. You will have higher recession if you vote for the Giaimo budget resolution.

My colleague, the gentleman from Ohio, does have a $20 billion across the board tax cut for all citizens. And do you mean to say that you want to go back and say you voted for higher taxes, more unemployment, higher interest charges, and a slow economy? I have heard my colleague, the gentleman from Maryland, come to the well of this House very properly and say that we are increasing interest charges by this legislation or that, you are really voting for higher interest charges if you vote for the Giaimo resolution. And make no mistake about it, there is hardly a dime's worth of difference between the Giaimo resolution of today and the one you just voted down, many of you, a few days ago.

I also want to say that the Senate resolution is substantially different because their spending levels are lower. Quite a bit lower. The Senate also disagrees, as the gentleman from Oregon (Mr. ULLMAN) did last week in a letter to Mr. GIAIMO—he stated the revenue estimates were very misleading. He says there is a real difference of opinion on the way the committee has arrived at its revenue estimates, and we have the letter to show that fact. The chairman Mr. GIAIMO has the letter also. We have the letter to show that the gentleman from Oregon (Mr. ULLMAN) disagrees with the revenue estimates of the Budget Committee.

I urge my colleagues to vote down the Giaimo resolution and vote for the Latta substitute.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

Mr. Speaker, I support the position the gentleman is taking, and I oppose the committee budget.

Mr. Speaker, earlier this week, we learned that inflation in the month of August raised consumer prices by 1.1 percent, a yearly rate of 13.4 percent. These 1-percent increases have occurred every month this year, and there is a strong likelihood that the 1979 inflation rate will be the highest in our Nation's history.

Not only does this terrifying rate of inflation make consumer purchases more costly, it leaves consumers with less real money than before with which to pay those high prices. This is because people who get pay raises designed to protect their paychecks against inflation are pushed up into higher marginal tax brackets.

For example, a family of four with a 1979 income of $21,014 will need at least $23,241 in 1980 to compensate for 9-percent inflation. This pay raise, however, pushes their taxes from $2,508 to $3,043 and their payroll taxes from $1,288 to $1,425. The result? In real spending power, their $2,227 pay raise is really a cut of $270 if there is only 9-percent inflation and even more if inflation cranks along at 13 percent.

These are the kinds of numbers that make a tax cut imperative. People are losing ground every day in their struggle against inflation. Many families have no more discretionary spending which can be cut. They are now cutting back on the basics of their existence.

Even the rather substantial tax cut advocated by Republicans in their "budget of hope" will not put consumers ahead in terms of spending power. It will only help them keep pace. It will lessen the budget's fiscal drag on our economy, but not eliminate it.

Our Nation's economic policymakers seem to have forgotten or ignored the plight of consumers who have to deal daily with the impact of inflation. Just last weekend, the Secretary of the Treasury was quoted by the Associated Press as saying that if Government spending is reduced, "then as [tax] revenue catches up, we have the possibility of turning back a 'dividend' to the people in the form of tax cuts."

His statement is saying quite simply that the Government intends to let revenues ride right up to the sky on the inflation escalator. Then when taxes are taking more of our gross national product and personal income than ever before in our Nation's history, a small percentage will be turned back to the people in the guise of a tax "cut."

I do not think that is what most people mean by a tax cut. Revenues which were $402 billion in 1978 are charted for $519,250 million in 1980 under the Budget Committee's proposal. The administration anticipates revenues of over $650 billion in 1982. Who could possibly be fooled by a statement that cutting back by $15 billion or so from these astronomical levels amounts to a cut? Not the taxpayers, you can be sure of that.

Mr. Speaker, the Republican budget provides a modest, but genuine, tax cut for fiscal 1980. It is not enough to put poeple very far ahead of where they are today in terms of spending power. But at least it does not let them slip any further behind. A vote for our budget will be a vote for genuine, not counterfeit, tax relief.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. Latta) has 1 minute remaining.

Mr. GIAIMO. Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. Kemp).

Mr. KEMP. Mr. Speaker, could the gentleman from Connecticut (Mr. Giaimo) tell us how he has made the judgment that the recession to be half over or almost over? The gentleman told us earlier today that there was light at the end of the economic tunnel. Could the gentleman tell us what economic index he is using to make that projection?

Mr. GIAIMO. If the gentleman will yield, I go on the information which I receive, the best information possible—nothing is guaranteed to be accurate when we look into the future, but we hope that it is—information which we receive from the Council of Economic Advisers, from the economists at CBO, from the economists at Treasury, and from independent economic analysts. The indications seem to be, as far as they can tell, that it will be a mild recession. It may change. It may get worse. I hope it will not.

Mr. KEMP. Is unemployment climbing to 7.2 percent a mild recession to the people who are unemployed?

Mr. GIAIMO. The gentleman knows that is a specious question. I know that the gentleman has discovered unemployment at a late date in life——

Mr. KEMP. Just as the gentleman has recently discovered fiscal responsibility.

Mr. GIAIMO. This Member has been concerned about inflation and fiscal responsibility for many years.

Mr. KEMP. Mr. Speaker, my record speaks for itself and I refuse to yield further.

● **Mr. VANIK.** Mr. Speaker, following up my colloquy with Chairman Giaimo of the Committee on the Budget when we last considered the second budget resolution on September 19, 1979, I insert in the Record a letter from Chairman Giaimo addressed to Chairman Ullman of the Committee on Ways and Means regarding House consideration of miscellaneous tax and trade bills involving revenue losses. This legislation includes bills which suspend or terminate duties, or which involve minor tax adjustments as well as new trade agreements which may be submitted for the consideration of the House.

September 27, 1979.

Hon. Al Ullman,
Chairman, Committee on Ways and Means, House of Representatives.

Dear Chairman Ullman: During the debate last week on the Second Current Budget Resolution, I had the opportunity to discuss with you and several of your Subcommittee Chairmen the need to provide for consideration of a number of small or miscellaneous revenue and tariff bills, including possible approval of trade agreements with the People's Republic of China and others.

As I indicated at the time, the Budget Resolution provides for $100 million for miscellaneous tax and tariff bills and an additional $100 million for other trade resolutions to be used by the Ways and Means Committee. The Ways and Means Committee itself will determine the allocation of this total amount within the Committee.

As I also indicated, I will support the placing of these various tax and tariff bills on the suspension calendar, or, if a rule is required, will support waivers of points of order relating to budget requirements (provided the cumulative total of these various bills does not exceed the $200 million allocation).

These waivers and the support of placing these bills on the suspension calendar, of course, do not imply any position by the Committee or its members as to the merits of the various bills or on their final passage.

Sincerely yours,

Robert N. Giaimo.●

Mr. GIAIMO. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the amendment in the nature of a substitute.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. Giaimo).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by elecronic device, and there were—yeas 212, nays 206, not voting 15, as follows:

[Roll No. 513]

YEAS—212

Addabbo
Akaka
Albosta
Alexander
Ambro
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
Bailey
Baldus
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Carr
Chisholm
Clay
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Gonzalez
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hance
Hanley
Harkin
Hawkins
Heftel
Holland
Howard
Hubbard
Hughes
Hutto
Ichord
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Luken
McCormack
McHugh
McKay
Maguire
Markey
Mathis
Matsui
Mattox
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roe
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Watkins
Weiss
Whitley
Whitten
Williams, Mont.
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—206

Abdnor
Anderson, Calif.
Andrews, N. Dak.
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Barnard
Bauman
Beard, R.I.
Bereuter
Bethune
Bowen
Breaux
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Byron
Campbell
Carney
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Fisher
Fithian
Forsythe
Frenzel
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Harris
Harsha
Heckler
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Huckaby
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Lundine
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mavroules
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Neal
O'Brien
Obey
Pashayan
Paul
Petri
Pickle
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Wampler
Waxman
Weaver
White
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—15

Anderson, Ill.
Anthony
Beard, Tenn.
Carter
Collins, Ill.
Diggs
Flood
Hefner
Holtzman
Johnson, Colo.
Murphy, Ill.
Roberts
Rodino
Rose
Treen

☐ 1230

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Beard of Tennessee against.

Mr. Diggs for, with Mr. Carter against.

Mr. KOSTMAYER changed his vote from "nay" to "yea."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the Senate concurrent resolution, as amended.

The Senate concurrent resolution, as amended, was concurred in.

REQUEST FOR APPOINTMENT OF CONFEREES ON SENATE CONCURRENT RESOLUTION 36, SECOND BUDGET RESOLUTION, FISCAL YEARS 1980, 1981, AND 1982

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate concurrent resolution (S. Con. Res. 36) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

With the delaying action of the gentleman, we will send the matter to the Committee on Rules.

AUTHORIZING SECRETARY OF INTERIOR TO PROVIDE FOR COMMEMORATION OF EFFORTS OF GOODLOE BYRON

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the further consideration of the bill (H.R. 5419) to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Goodloe Byron, late a United States Representative from the State of Maryland, should be afforded appropriate recognition for his long and continuing interest in conservation, outdoor recreation, physical fitness, and the protection of the Nation's natural and scenic resources. Goodloe Byron took an early and leading interest in the protection of the Maryland segment of the Appalachian Trail as a Member of the Senate of Maryland and continued his efforts to provide for the protection of the entire Appalachian Trail for public use and enjoyment during his service in the Congress of the United States. As a member of the National Scenic Trails Advisory Council, he encouraged recognition of the value of scenic trails as outdoor recreation resources attractive to all segments of the public.

SEC. 2. The Secretary of the Interior is authorized, in cooperation with the Appalachian Trail Conference and the State of Maryland, to design and erect at a suitable location along the Maryland segment of the Appalachian Trail an appropriate marker in commemoration of the outstanding contributions of Goodloe Byron towards the protection of the Appalachian Trail for the use and enjoyment of the American people in perpetuity.

● Mrs. HOLT. Mr. Speaker, approximately a year ago we lost our good friend and colleague, Goodloe Byron, a quiet gentleman remembered by all of us as kindly in manner, diligent in the work of the House, and devoted to work for his constituents.

A feature of this good man's life was his lifelong love for the beautiful hills and valleys of his native western Maryland. They were part of his spirit.

As a member of the Maryland Senate and later as a Member of this House, he demonstrated an abiding and passionate interest in protection of the Appalachian Trail. He wanted to preserve this opportunity for other Americans to know the beauty and joy that he experienced in unspoiled nature.

For this reason, Mr. Speaker, I am honored to cosponsor the legislation which would authorize a memorial to Goodloe Byron along the Maryland segment of the Appalachian Trail. It would recognize his contributions to the protection of the trail for the use and enjoyment of the American people.

It should be noted that the entire Maryland delegation is cosponsoring this legislation to create a fitting memorial for this man who is remembered by us with highest esteem.●

The bill was ordered to be engrossed and read a third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON SENATE CONCURRENT RESOLUTION 36, SECOND BUDGET RESOLUTION, FISCAL YEARS 1980, 1981, AND 1982

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate concurrent resolution (S. Con. Res. 36) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut? The Chair hears none, and appoints the following conferees: Messrs. Giaimo, Ashley, Stokes, Simon, Mineta, Jones of Oklahoma, Solarz, Wirth, Panetta, Nelson, Gray, Latta, Conable, Regula, Frenzel, and Shuster.

SOCIAL SECURITY SERVICES FOR CHILDREN RECEIVING SSI BENEFITS

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 4612) to amend title XVI of the Social Security Act to maintain for an additional 3 years the current program of preventive services, referral, and case management for disabled children receiving SSI benefits.

The Clerk read the title of the bill

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I do so only for the purpose of allowing the gentleman from Oregon to explain what is being done here.

Mr. DOWNEY. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman.

Mr. DOWNEY. This is $30 million, which will continue the program of supplemental security income for crippled and disabled children. The current authorization for the program ends on September 30, 1979, and unless we reauthorize it, we will not have a program for infants and children up to 6 years of age, which 90 percent of this program is aimed at, for medical services, for prosthetic devices, and that sort of thing.

Mr. ASHBROOK. I thank my colleague.

Under my reservation I would yield to my colleague from California.

Mr. ROUSSELOT. Mr. Speaker, as my colleague is aware, this bill merely extends, for 3 years, the already existing SSI blind and disabled children's services program. Continuing current law, $30 million annually would be allocated to the States to provide counseling, medical rehabilitative, and social services for blind and disabled children under the age of 16. This program has been in place since January of 1974 but has not been fully funded nor given the opportunity to demonstrate its effectiveness. For this reason, I endorse H.R. 4612 and urge my colleagues to vote for the "Downey's Kids" bill.

I would say to my colleague from Ohio that this passed out of the committee unanimously, and believe it or not I supported it and am on the record for trying to help crippled children. I want the gentleman to know that.

Mr. ASHBROOK. Wonders never cease.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1615 of the Social Security Act is amended by redesignating the second subsection (c) as subsection (e), and by striking out "October 1, 1979" in paragraph (1) of such subsection (e) and inserting in lieu thereof "October 1, 1982".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3996, AMTRAK REORGANIZATION ACT OF 1979

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 3996) to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes.

The Clerk read the title of the bill.

□ 1240

The SPEAKER. Without objection, the Clerk will read the statement in lieu of the report.

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of September 26, 1979.)

Mr. STAGGERS. Mr. Speaker, I withdraw the conference report at this time.

CONFERENCE REPORT ON S. 210, DEPARTMENT OF EDUCATION ORGANIZATION ACT

Mr. BROOKS. Mr. Speaker, I call up the conference report on the Senate bill (S. 210) to establish a Department of Education.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 21, 1979.)

The SPEAKER. The gentleman from Texas (Mr. BROOKS) will be recognized for 30 minutes, and the gentleman from New York (Mr. HORTON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference agreement that we bring before the House today carries out the basic purpose of the bill the House passed last July. It creates a Cabinet-level Department of Education to provide more efficient administration of the wide variety of education programs now scattered throughout the Federal Government.

The agreement follows closely the organizational structure of the House bill. It also tracks the House bill on the programs to be transferred to the new Department. There was only one major difference here—the Senate bill transferred the nursing and health professions student loan program and the House did not. The Senate receded and that program remains in the Department of Health, Education, and Welfare.

The conference agreement contains a strong prohibition against any interference by the Department of Education in education matters that are now the responsibility of State and local authorities. The section, which borrows from both bills, states affirmatively that establishment of the Department will neither increase Federal authority nor diminish State and local responsibility. The language has the strong support of the National School Boards Association and the National Conference of State Legislatures, groups made up of officials who are most directly concerned with the preservation of State and local control of education.

The agreement also combines provisions from both bills in placing strict limits on the number of personnel that the new Department will be able to employ. The House bill called for a reduction of 800 full-time permanent positions by the end of the Department's first year of operations. The Senate had no reduction in personnel but provided that Congress would set annual personnel limits. The conference agreement adopts the Senate approach on annual personnel limitations and also mandates a reduction of 500 full-time positions by the end of the first year. This provision will give Congress control over the growth of the Department and make sure it does not become another runaway bureaucracy.

The agreement provides further congressional oversight and control over the Department by incorporating, without change, the legislative veto provision that was in the House bill.

Those are the essential features of the conference agreement. Now, for what is not in it. Several amendments were added to the House bill during floor consideration that dealt with matters outside the organization of the new Department. These were highly controversial amendments, raising questions of national policy that went far beyond the scope of the House bill as it was reported by the Government Operations Committee. There were no comparable amendments in the Senate bill, and the Senate conferees were adamant in their refusal to accept them.

Mr. Speaker, the conference procedure is designed to settle differences between the House and Senate for the enactment of legislation that a majority of both Houses has found to be in the national interest. The overriding responsibility of the House conferees on this occasion was to bring back a bill that will create a viable and efficient Department of Education.

I should add, Mr. Speaker, that the subject matter of these disputed amendments is covered extensively in existing laws, court decisions, and the Constitution. The policies established by those laws and court rulings will be controlling on the Department of Education, just as they are on all other activities of the Federal Government.

In closing, Mr. Speaker, I would emphasize the following points:

First. This bill will make one person, a Secretary of Education, responsible and accountable for Federal education programs;

Second. The bill will consolidate over 150 Federal education programs under one roof and is expected to save as much as $100 million through elimination of duplication and improved administration.

Third. It provides for more involvement of State and local officials in the Federal Government's education programs;

Fourth. The bill contains rigid personnel limitations to insure there is no unchecked growth in Government bureaucracy;

Fifth. It reduces Federal Government personnel in these programs by 500 people; and

Sixth. It gives the Federal Government a chance to run its education programs efficiently and economically for the benefit of 60 million American students, parents, and teachers.

This agreement is a worthy product of the conference procedure and it deserves the support of the House.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of the conference report on S. 210, the Department of Education Organization Act of 1979.

This legislation has been thoroughly explored in the Committee of the Whole House through some 25 hours of general debate.

The conference report draws on the best provisions of the Senate and House bills. Ambiguities have been eliminated and accommodations have been reached on a number of differences while retaining the essential purposes of both House and Senate provisions.

There were serious disagreements over several highly controversial amendments that had been added by the House during floor consideration of the bill. Most of the disputed amendments did not deal with matters related to the organization of the Department, but rather with matters of national policy which are set forth in a number of existing laws, court decisions, and the Constitution. The Senate conferees insisted on the deletion of those provisions not directly related to the establishment and organization of the Department.

As a reading of the conference report makes clear, neither House prevailed on all the points of difference in the two bills—but that is the nature of a conference. The report represents a middle ground between the House and Senate bills which allows us to achieve the central purpose of creating an organizational structure to improve administration of Federal education programs. The conference report is a solid piece of legislation which I hope will attract the support of those concerned with improving the management of Government.

There has been a lot of public discussion of this reorganization proposal as a whole and the House amendments in particular. Unfortunately, little of that discussion has focused on the fundamental issue involved, which is simply the effective management of Federal education programs.

Freed of controversial amendments involving matters extraneous to the task of reorganization, this legislation presents a simple issue. Members can vote for the proposed reorganization or they can vote against it and retain the status quo. Votes can be cast for bringing some organizational sense to the administrative chaos that now exists in the education portion of HEW or votes can be cast against the reorganization and thus perpetuate the same inefficient, ineffective, costly, and bureaucratic arrangement we now have. I urge you to vote for improved management; for this badly needed reorganization.

Such legislation is necessary because HEW is too large to effectively manage the programs assigned to it. The budget for HEW is the third largest in the world. The organizational structure is so complicated and stratified that it is impossible to get things done. Buried in this HEW bureaucracy is the Office of Education. In the last 12 years there have been 14 Commissioners of that office. That fact alone speaks volumes about how serious the deterioration of the management of important Federal education programs has become.

Under the current structure in HEW, planning and operational decisions are not sufficiently coordinated, and functions are duplicated in the various components of the bureaucracy. Passage of this legislation will provide us with a much simplified administrative structure. That in itself will improve management.

The creation of this new Department will reduce the size of the bureaucracy. The conference report requires that by the end of its first year of operation the number of full-time positions transferred to the new Department be reduced by 500. The Department will not be allowed to grow unless specified by Congress. Further, the conference report contains a provision which insures continuing congressional oversight and control over the size of the Department's work force. In a provision unprecedented for domestic agencies, the report requires that each appropriation act set an annual limitation on work-years for the Department's personnel.

The creation of this new Department will produce a clear savings of between $15 and $19 million—more than enough to offset the expected transition costs of $10 million. In addition, the Office of Management and Budget estimates potential savings of $100 million in the long run through improved financial management and audit systems geared specifically to education.

The legislation expressly, specifically, and clearly addresses the issue of Federal involvement in education policy. The conference report states affirmatively that establishment of the Department shall neither increase Federal authority nor diminish State and local responsibility. This language, from the Senate bill, is strongly supported by the National Conference of State Legislatures—a group made up of the officials who are most directly concerned with preservation of State and local control of education.

In summary, the main benefit in creating this new Department is improved management. The legislation does not create any new education programs. It does not set any new education policy. It does not create a new education bureaucracy. In fact, it reduces the bureaucracy. The legislation does not interfere in any way with State and local control of education. The legislation is designed to end duplication and fragmentation in the administration of the Federal education effort, and to establish clear accountability within the Government for that administration.

The benefits of improved management of Federal education programs will be many. There will be less redtape and better service to States, localities, educational institutions, and students. The time required to develop budget and legislative proposals will be substantially reduced. There will be far better coordination between the education programs in the new Department and those remaining outside it. Finally, there will be a single, highly visible official, accountable to the President and the public. for the effective managment of the Federal education effort.

For these reasons I urge a favorable vote on this important legislation.

□ 1250

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Speaker, I wish to add my support for this conference report on the Department of Education. I want to commend particularly the conferees on their work. They have produced legislation that strengthens the American tradition of local control of education. A Department of Education as envisioned in the legislation now before us would reduce the number of offices and the amount of time necessary to process funds to school districts. At the same time the conference report recognizes "the rights of States and local governments and public and private educational institutions in the areas of educational policies."

I want particularly to commend the distinguished conferees and the chairman (Mr. BROOKS) because of the concern that they have expressed to provide equal access of all Americans to educational opportunities. I am pleased at the language in this bill regarding equality of access of educational opportunities. I think we should note, Mr. Speaker, precisely what it says, that this language "is not intended to change or affect existing law or judicial precedent."

Finally, as an educator I want to commend the conferees for proposing legislation that when enacted will guarantee that education receive the attention it deserves. A Secretary of Education will increase the visibility, the accountability, and the coordination of programs that train and teach the American people.

Mr. Speaker, I urge an aye vote on this conference report. I hope that the Congress today will accept the opportunity to create a Department of Education that will work with officials in the cities and towns across this country to improve both the quality of education and access to education of all of our citizens.

Mr. HORTON. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, here we are again with a reorganization bill to create a new Department. We had one not too long ago, a bill to create the Department of Energy, and I heard the same claims then that I hear today. It was going to provide more efficiency. It was going to consolidate programs. It was going to make Government work better and be more responsive. I believed that then. A lot of us believed that, and we created the Department of Energy. And what has happened? I think we all know. I have heard Member after Member in the Halls of the House say what a mistake we made to believe those claims. "Fool me once, shame on you; fool me twice, shame on me." That is an old saying, and I think it is one we had better believe. We have been fooled once. Do not be fooled again.

What is this fight about? It is about the future course of education in the United States. We recall earlier this year the Vice President of the United States said that it is a shame we are the only Western industrialized country that does not have a Ministry of Education. To that I say, thank God. We have had a long history of local control of education, and it is something that has helped to foster education, help it grow until we have the best educational system in the world here in the United States. It has shortcomings. I think we can all agree to that. But the shortcomings are not based on a lack of central control. The strength of our system is based on the lack of central control. Why do I think that central control will come about by the creation of this Department? I think it is obvious on its face. There are those who say we will not have policymaking out of this Department. What is a department of the Federal Government meant to do? Establish policy. And if there is a Department of Education, it is going to be establishing policy for education in the United States. How will they do that? Very simply. They already have the pattern. We have watched categorical aid grow by leaps and bounds over the last 10 or 15 years. Categorical aid by its very nature is narrow, special-purpose grants tightly controlled by rules and regulations drawn here by the Office of Education. If we create a Department of Education, the only way we can go is to have more rules and regulations, more categorical aid, more central control over education from the Department of Education in Washington. There are those who say, "Oh, there are safeguards in the bill."

□ 1300

There were some safeguards put in the bill. Let me call attention to one sponsored by the gentleman from Texas (Mr. HANCE) and the gentleman from Missouri (Mr. SKELTON). They offered it here on the floor of the House at a time when the sponsors to this legislation were telling us how they wanted the Federal Government not to control local decisionmaking in education. That amendment said there could be no cutoff of funds for the purpose of imposing Department of Education decisions relative to curricula, program of instruction, administration, personnel, the selection of library resources, text books, and other instructional materials except where specifically authorized by law, when that was offered by Hance and Skelton, the managers of the bill said, "Yes, of course, that is what we mean that is what we want and your amendment really states it better; we accept it." The amendment was accepted by voice vote here on the floor of the House.

Mr. Speaker, what happened to that amendment in the conference? Without debate, the managers of the House conferees moved to recede from that amendment. They accepted it on the floor of the House. They told us then there would never be any imposition by the Federal departments that would interfere with local control but then they went to conference and they sold out the House and got rid of the amendment that they accepted here.

Mr. Speaker, we had another amendment that was meant to limit Federal control over education and that was the Ashbrook amendment. It was so noncontroversial it was adopted by a voice vote. What happened? When we went to conference the House conferees moved to recede.

Mr. Speaker, I am here to tell you now if you vote for this conference report you are voting for Federal control of education and that is what some people in this country want, but we should not.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise in opposition to the Department of Education conference report.

I opposed the legislation in subcommittee, in the full committee—where it carried by a single vote, and on the floor of the House—where it squeaked by with a 4-vote margin.

I oppose this legislation because it is unwise, unnecessary, and potentially dangerous.

It is unwise because good government would indicate fewer rather than more Cabinet-level departments. For years this country got along with eight or nine departments. No new departments were created after 1913 until recent years when we apparently felt that in order to solve problems we must create departments to do so—Health, Education, and Welfare, Housing and Urban Development, Department of Transportation, Department of Energy, and now, a new Department of Education.

Not only is this legislation unwise, it is unnecessary. If there is inefficiency in the education portion of HEW, it can be corrected internally without the creation of a new superstructure of bureaucracy.

More serious than the fact that this legislation is unwise and unnecessary is the fact that it is potentially very dangerous.

We should not create a department unless we want to use it to establish a national policy, for example, a State Department to establish a foreign policy, a Defense Department for a defense policy, or an Agriculture Department for a farm policy.

If there is one thing that I do not want to see in the United States, it is a national education policy.

Historically, traditionally, and wisely, education policy has been left to local institutions, State institutions, and private institutions.

The result has been the preservation of freedom and a rich variety of education policies that have been the envy of the world.

Let us not abandon that rich variety for the bland pabulum or the danger of mind control that could come with a single national education policy.

Let us reject this conference report.

Mr. HORTON. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Mr. Speaker, to me today is a dark day for what we are doing with this conference report on the Department of Education. We are doing something that the vast majority of the people of this country do not want and feel strongly that we do not need.

You know, it is incongruous to me that in his campaign our President ran against the Washington establishment. He ran against the bureaucracy. He assured the people he was going to reduce the size of the bureaucracy and yet here we are creating another Cabinet level.

Mr. Speaker, my colleague, the gentleman from Pennsylvania (Mr. MOORHEAD) stated what this bill purports to do, as far as efficiency in management of education is concerned, can be done by a simple act of reorganization within the present structure of HEW. The purpose of the Cabinet post is really policy. Many words are written into this legislation to assure that we do not get into establishing Federal policy in education.

Mr. Speaker, those who control the purse strings write the policy. If they do not write it in a certain way, they can write it by withholding money and withholding dollars. It has been said that we are the only major industrial nation without a Federal Ministry of Education. That is true. That is by design. The framers of the Constitution in their wisdom realized that education should be a local issue, that education should meet the needs on a local level, be formulated by local people with concern for their children and the education of their children.

Mr. Speaker, there are those in this country who think education is the responsibility of the State and the Government but the real responsibility for education is with the family and with the home and on the local level.

Mr. Speaker, many of us regret the vote we cast in the last session creating a Department of Energy for all those efficiencies of management and consolidation it was going to bring. Well, we are going to regret this vote even more for what it is going to do to education in this country.

Mr. ABDNOR. Mr. Speaker, will the gentleman yield?

Mr. STANGELAND. I yield to the gentleman from South Dakota.

Mr. ABDNOR. Mr. Speaker, when the House narrowly passed H.R. 2444 in July, we all knew that certain of the amendments we had added in an attempt to improve the bill would be targeted for elimination in conference.

To stress the importance of our amendments we gave the House managers some specific instructions—instructions which have been totally disregarded.

Quite frankly, Mr. Speaker, I am appalled at the conference report we are being asked to approve. Not only has every important amendment added by the House been eliminated or gutted, but we are entering into whole new areas of reorganization never anticipated by the House section 510, specifically, areas which go far beyond any reasonable scope of a Department of Education.

I must compliment my colleagues from both sides of the aisle, who had the courage to withhold their signatures from the conference report.

Mr. Speaker, we do not have a conference report—we have a sell-out. Unfortunately, we are selling out the children of this Nation. It is their education that is in the balance.

This conference report well justifies the fears of many of us who are worried about erosion of local control, about costs, about bureaucratic growth, about politicization, about exclusion of so many programs, about academic freedom, about the future of our Nation's tradition for educational excellence.

This conference report is not aimed at achieving efficiency, effectiveness and economy in education. It is aimed only at fulfilling a campaign promise to one particular group.

The children of this Nation should not be the pawns in any campaign promise.

But if we approve this conference report, they will be.

I urge my colleagues to join me in voting down this report.

Mr. STANGELAND. Mr. Speaker, I urge a no vote on this conference report and yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I take this time for the purpose of engaging the chairman of the Committee on Government Operations in colloquy.

Mr. Speaker, a number of us are very concerned about the preservation of local control in our schools. During the initial consideration of this bill I was successful in having an amendment adopted which clarified and reinforced the language of section 103. The Skelton amendment did this by prohibiting the proposed Department of Education from withholding funds from any educational institution, school, or school system on the basis of any Department requirements relating to curriculae, program of instruction, administration, personnel, and the selection of library resources, text books, or other instructional materials, except, of course, where specifically authorized by law.

Mr. Speaker, I am distressed that this important amendment was not included when the measure came out of conference.

Mr. Speaker, my question is this: What kind of guarantee do I have and do the Members of the House have on the adopted language that is there, that would provide and assure us that Federal control is not going to ride roughshod over the prerogatives of the State and local school districts?

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, section 103 of the conference report combines important provisions of both the House bill and the Senate bill, prohibiting Federal control of education. It takes from the Senate bill the specification that establishment of the Department shall not increase Federal authority or diminish State and local authority. In addition, the conference report adopts the language of H.R. 2444 as reported by the House Committee on Government Operations, specifying local educational prerogatives over which the Secretary or other Department officers may not exercise direction, supervision, or control except to the extent authorized by law.

□ 1310

This provision, combined with the legislative history that has been compiled in both Houses during their consideration of this bill, clearly insures that local control of education will be continued.

Mr. SKELTON. Mr. Speaker, once again, I must reiterate my concern over protecting the role of local jurisdictions in determining educational policies. We are dealing with this country's most valuable resource, that is our children.

Let me ask this: Is it the intent of the language of section 103(b) of this conference report to accompany the Senate bill (S. 210) that funds provided under any program administered by the Secretary or the Department may not be suspended, terminated, or otherwise withheld from any educational institution or school system which does not comply with Department directives in these areas except where authorized by law?

Mr. BROOKS. The conference report clearly indicates the intention of the Congress that the rights of State and local governments and public and private educational institutions are to be protected and that the establishment of the Department of Education shall not increase the authority of the Federal Government over education, nor diminish the responsibility reserved to State and local school systems.

Mr. SKELTON. Mr. Speaker, I appreciate the gentleman yielding on this, for making this legislative history that we hope will be kept and adhered to.

Mr. HORTON. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I would like to make a couple points about this conference report, because I think it is important to understand what it is we are voting on. I think we ought to understand, first of all, that this conference report is the proponents' document. There was not one member of the conference committee who opposes this bill who signed this document; so what is in this document is essentially the work of the proponents of this Department. It should be considered that way.

Now, it is said that this document contains a simple reorganization that is designed to promote educational efficiency. Except that when we had the Department of Energy before us, we were told exactly the opposite, we were told then that when you create a department you are, in effect, making new policy, that the creation of that department would move energy policy in a new direction.

Now we are told something different when it is the Department of Education.

We were also told that this does not make any policy changes, but yet when you look within the document you find that the Secretary is authorized with the stroke of his pen to eliminate things like the Office of Non-Public Education. If that is not a policy change, then I have trouble understanding what policy changes are all about. This document is full of exceptions. We just heard a long discourse here about local control, and there is strong local control language in here. Read it. Boy, it sounds great; except that it ends in these words, the exception is: "Except to the extent authorized by law."

We can authorize anything by law. What that says is that you can continue to federalize this department.

Mr. ERLENBORN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Yes, I would be glad to yield.

Mr. ERLENBORN. Mr. Speaker, the bill as it passed the House said "except as authorized by statute." This was changed to say "except as authorized by law," so that it would include rules and regulations. Now they can cut off funds based on rules and regulations only.

Mr. WALKER. Mr. Speaker, I thank the gentleman for that clarification, because I think that is absolutely right.

Also, this bill supposedly contains strong limitations on increased personnel within the Department, except students and disadvantaged youths, full-time, part-time experts, and consultants. That covers practically everybody. It is an exception within this thing.

The Quayle amendment that was adopted in this House said that we were going to cut the number of personnel in this Department by 800 people. This bill makes it 500, but then has that exception.

Already the proponents of this Department are talking about expanding the size. I have a letter written by the President of the United States in which he is already talking about adding a new Assistant Secretary to this Department. The bill has not even cleared Congress and they are already adding high level, top echelon bureaucrats.

Also, if you take a look at this document, you will find that within this document we are not creating one department, we are creating two departments. We are creating a Department of Education and then we are also creating a Department of Health and Human Services.

You say, well, it is just renaming HEW, except for one thing. If you will also take a look, you will find that we are giving that new Department, that Health and Human Services Department, new duties and those new duties are involved with the handicapped; but nevertheless, it is a reorganization, what you have is two new Departments growing in size.

Then I think we ought to take a look at the amendments that were added by this House, the amendments that have been described in the press and on this floor as controversial amendments. There is the amendment dealing with school prayer. That is not controversial. The American people, 85 percent of them, support it.

The amendment dealing with antiquotas. That is not controversial to the American people. Seventy-five to 80 percent of them support antiquota legislation.

Antibusing, antiabortion were added. They were considered controversial amendments that were taken out in the conference committee.

Well, the substance of those amendments was important. It was important to me. I offered a couple of them, but also what was important is what it should tell you about this bill, what it should tell you about this Department, because what it now tells you is that this Department is going to be antiprayer. It is going to be probusing. It is going to be proabortion and it is going to expand into areas of social concern in exactly the opposite direction from which the American people want to go; so please, please study the conference report, take it for what the proponents say it is. If this conference report, if this bill had been brought to the House in this form when we originally considered it, it would have been run off the floor; but it is brought back now as a fait accompli. It is the Senate bill. It is the bill of the other body and if you take a look when they debated this conference report, you will find out that in the other body they congratulated themselves for passing their bill.

Now, that should tell us something, too; so please, please do not reject this conference report just for what people like me and the rest of the opponents are telling you is wrong with it; reject this conference report because of what the proponents tell you is right with it.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. ROSENTHAL).

Mr. ROSENTHAL. Mr. Speaker, I think it is regrettable that we do not have an opportunity to fully, completely and fairly deal with this bill within the constraints of a 1-hour debate. In the history of the Republic, 14 Cabinet-level departments have been created. We may or may not create one this afternoon. If it is created, it will not be on the merits. It will be because this has been the most intensely lobbied reorganization bill that has ever appeared in Congress. There is nobody who is really for this new Department in this Chamber. Everybody who says they are going to vote for it say, "Well, I made a commitment or a promise to some people back in the district."

Others of us say, "Well, we want to pass this bill because we don't want to embarrass the President."

Very few people have analyzed the theory of management that goes into the creation of new departments. In the past 30 years, there have been three studies appointed by three different Presidents; the Second Hoover Commission, the Heineman Commission and the Ash Council. All three of them had the best and most superbly equipped people to review Government organization and structure. They said one thing in unison, "Reduce the number of departments, have departments organized around broad missions, integrate professional skills."

And the one thing they said you should not do, do not create departments for one profession or one clientele group.

The creation of this Department violates every modern-day management pronouncement and rule in the book. I do not see how we can face ourselves if we are serious about our legislative responsibilities.

I do not want to embarrass the President. I would be willing to keep all the teachers in the country happy; but the price is too high. This is not a price we can pay once out of 14 times in 200 years.

□ 1320

This was a bad idea when it was conceived, it was a bad idea when it passed the House by four votes, and I hope this idea will be defeated here today.

Additionally, let me say that the conference took liberties which no conference committee has a right to do. They have added section 413 which unilaterally gives this new Secretary the opportunity to terminate, to eliminate, and to discontinue over a dozen programs that are on the statute books today, including the Office of Bilingual Education, the Teachers Corps, the Community College Unit, the National Center for Education Statistics, the National Institute of Education, the Office of Consumer Education, and half a dozen others.

Mr. Speaker, no matter what anyone says here today, that is in the conference report, the Secretary has that authority, and nobody can say anything to the contrary.

The SPEAKER pro tempore (Mr. DICKS). The time of the gentleman from New York (Mr. ROSENTHAL) has expired.

Mr. ROSENTHAL. Mr. Speaker, will the gentleman from New York (Mr. HORTON) yield me additional time?

Mr. HORTON. Mr. Speaker, I do not have much time left, but I will yield 1 additional minute to the gentleman from New York (Mr. ROSENTHAL).

Mr. ROSENTHAL. Mr. Speaker, I am delighted that my beloved colleague, the gentleman from New York (Mr. HORTON) has been so kind and generous.

Mr. Speaker, I ask the Members, please, please read the conference report. I ask them to read the language on page 19, section 413. In no uncertain terms they enunciate the hit list, and that is a hit list of programs that may be discontinued. Let me read the language to the Members. This is the language in paragraph (b)(1) of this subsection:

> The Secretary may, in accordance with paragraph (2) of this subsection, consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

We have given the Secretary authority to terminate and to eliminate programs enacted by law. This is the broadest authority we have ever delegated in any reorganization bill. No matter what anyone says here on this floor this afternoon, we cannot take away from or modify or change this language.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I would like to ask the committee chairman a question.

The gentleman from New York (Mr. ROSENTHAL) has suggested that the conferees accepted the Senate approach of listing programs that would be open for administrative elimination. This is a concern shared by many of us.

Could the gentleman from Texas (Mr. BROOKS) tell us whether or not the Secretary will have authority to eliminate programs under section 413?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, that is absolutely incorrect. Neither the House bill, the Senate bill, nor the conference has permitted the administrative elimination of programs.

Mr. ROSENTHAL. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. Mr. Speaker, I will ask the gentleman this question:

In section (b)(2) we find the language saying that whatever it is the Secretary can do can only be done "upon the expiration of a period of ninety days after the receipt by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary * * *"

I presume that the conferees anticipated that that would have to be a meaningful notice.

Is it fair to interpret that section to mean 90 legislative days so that we would in fact have an opportunity to act?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, that would certainly be my interpretation, I will say to the gentleman from Michigan (Mr. FORD).

Mr. ROSENTHAL. Mr. Speaker, will the gentleman yield?

Mr. HORTON. Mr. Speaker, if the gentleman will yield, that is also my understanding, 90 legislative days.

Mr. FORD of Michigan. Mr. Speaker, I share the concerns expressed by the gentleman from New York (Mr. ROSENTHAL), but with that assurance from the majority leaders of the House committee, I am satisfied and will support the conference report.

Mr. ROSENTHAL. Mr. Speaker, will the gentleman yield for a question.

The SPEAKER pro tempore. The time

of the gentleman from Michigan (Mr. Ford) has expired.

Mr. ROSENTHAL. Mr. Speaker, will the gentleman from New York (Mr. Horton) yield further time to me?

Mr. HORTON. Mr. Speaker, I am afraid I have no further time to yield to the gentleman.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. Michel).

Mr. ROSENTHAL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from New York.

Mr. ROSENTHAL. Mr. Speaker, the gentleman from Michigan (Mr. Ford) raised the question of the Secretary's authority to carry out the termination of programs. I will respond to the gentleman from Texas (Mr. Brooks) and the gentleman from New York (Mr. Horton) and say that all we have is an option for notice, but we have no opportunity to do anything about it.

Can anybody tell us what the real facts are? Since nobody can, I suggest that the Members read page 19 of the conference report and find out for themselves.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from New York (Mr. Rosenthal) for his very valuable contribution.

Mr. Speaker, as I listen to the points being raised on both sides of this debate, I am reminded of the words of an old popular song:

> I know each word, because I've heard that song before . . .

We have all heard this song before, have we not? We have through an interminable debate arguing about a Department of Education, the single most irrelevant issue in American education today.

We should be discussing the important education issues. We should be discussing why scholarly studies show that compensatory education programs have minimal benefit at best, although we continue to pour billions of tax dollars into them.

We should be discussing why public confidence in the people who run public schools is the lowest in 6 years, according to a recent Federal study.

We should be studying the negative impact of Federal intervention in local school affairs.

We should be discussing the recent U.S. News & World Report article which reads: "Calls To Upgrade Education Are Reaching Fever Pitch."

We should be talking about mathematical skills declining in the past 5 years among students in the age group of 9, 13, and 17.

Federal programs of the 1960's aimed at wiping out illiteracy have failed, says the Ford Foundation. But we do not talk about that.

We should be talking about the fact that scholastic aptitude tests are down again despite predictions that 1979 would show an upturn.

In short, we should be talking about what is really wrong with education, and what can be done about it.

But instead, we have taken up numerous hours of debate on a Department of Education. The establishment of a new department is irrelevant to the needs of American children. Those who support it do so with a singular lack of enthusiasm, as if they wish to show that they recognize the bureaucratic folly they defend.

We are avoiding the hard issues of education. We have avoided them for too many years. We pat ourselves on the back, spending tax dollars for something we call "education," but we have little idea whether those Federal dollars are doing any good or not. We should be asking ourselves the tough questions.

But what do we do? Do we debate these issues? Of course not. We spend our time arguing over a department that nobody can honestly say is absolutely necessary, a department that should be called "the Special Interest Memorial Prize of 1979."

Mr. Speaker, I urge all my colleagues to take a long, hard, last look at the conference report, as suggested by my friend, the gentleman from New York (Mr. Rosenthal), and vote against it. It would not do the children any good. It would not do the taxpayers any good. It would not do the parents any good. It will expand the Federal bureaucracy. It will expand Federal control and interference in local affairs, the very last thing the American people want. That is what we are voting on, and that is what we are voting for if we adopt this conference report.

So, Mr. Speaker, I ask you, what good is it? A vote against this conference report, let me say to my friends, is indeed a vote for American children. Once this silly idea is consigned to the oblivion it richly deserves, let us have the courage to admit that the Federal Government does not know what it is doing in education, and we had better go back to square 1 and begin all over again.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. Stokes).

Mr. STOKES. Mr. Speaker, I rise in support of the conference report. Mr. Speaker, as a supporter of a Cabinet-level Department of Education, I am pleased to find that my colleagues on the conference committee agreed to drop all of the anticivil rights measures that were added to the bill by this body. Amendments prohibiting busing for desegregation, forbidding numerical quotas in affirmative action measures, and denying abortions to Department personnel had no place in a bill that is simply designed to reorganize the Federal Government so as to give greater priority to educational issues. Neither did a provision allowing prayer in public schools. Unfortunately, I am not comforted by the mere removal of these amendments by the conferees. Had it not been for the extensive lobbying of civil rights groups, I am certain that the anticivil rights moods of the Congress would have prevailed.

I am aware that substitute language for the Walker affirmative action amendment was adopted. The language states:

> There is a continual need to insure equal access for all Americans to educational opportunities of a high quality, and such educational opportunities should not be denied because of race, creed, color, national origin, or sex.

Unfortunately, the real need and intent of affirmative action has been disguised in this Congress by a focus on numbers and quotas. In reality, affirmative action is any effort to end discrimination. It includes many activities which are not at all controversial. It included notifying minority and women's groups about job openings and student placement possibilities, advertising those openings and placement possibilities, and developing and implementing recruiting procedures aimed at women and minorities as well as other qualified applicants.

The conference language is not a prohibition on numerical measures of any kind. It is merely a statement of principles which should guide the new Department in its efforts to provide equal educational opportunity to everyone. In fact, the conference report even goes so far as to state that nothing in the substitute language is intended to change or affect existing law or judicial precedent in the area of affirmative action. For this reason, I consider the actions of my colleagues to be supportive of the need for affirmative action.

I am not suggesting that Congress should not be concerned about the appearance or tone of sex or race conscious employment and admissions programs that include the controversial concept of numerical goals and time tables. We all know that historically quota systems have been used to exclude people. Rigid quota systems are not, therefore, a desirable part of affirmative action. Goals, on the other hand, are targets for inclusion of people previously excluded. Goals are an attempt to estimate what an institution's faculty and student body would look like if there were no illegal discrimination based on race or sex. Attempts to achieve this end should not be labeled as reverse discrimination or as a relaxation of admission criteria. Rather, they should be viewed as action necessary to remedy past discriminatory practices.

Some of my colleagues would contend that with the passage of antidiscrimination and civil rights laws in the 1960's and 1970's, the ability of minorities and women to compete on an equal basis for jobs has improved. This is not true. A report by Robert B. Hall, director of research for the National Urban League, entitled "The Widening Economic Gap" amply demonstrates the fallacy of such arguments. Mr. Hall shows that the income gap between white and black families has continued to grow. Between 1975 and 1977, the ratio of black-to-white family income dropped to 57 percent from 62 percent, the largest gap during the decade. The living standards of middle-income blacks are being eroded by inflation and recession faster than the standards of whites. While the proportion of families with incomes of $15,000 or more increased among whites from 56 percent to 57 percent, the proportion of black families in that category decreased from 31 percent to 30 percent. Blacks obtained one of the smallest shares of new private sector jobs. Over half, or 53 percent, of such jobs created from 1974 to 1977 went to Anglo women, 26 percent went to white men, 12 percent were obtained by Hispanics, while only 5 percent went to blacks and Asian Americans. Finally, white high school dropouts have lower unemployment rates, 16.7 percent than black youths with some college education, 21.4 percent. Those dropouts have about the same unemployment rate as black college graduates, who suffer 16.5 percent unemployment.

Given these findings, the Congress has an obligation to uphold affirmative action laws, and demand that they be implemented. For this reason, the Department of Education conferees have taken the appropriate step at this juncture. They have decided to allow the department to conduct its civil rights enforcement mandates without exception, letting existing law prevail as it relates to affirmative action.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. Fuqua).

Mr. FUQUA. Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, I might point out that those critics of the new Department who have maintained that it is going to lead to Federal control and domination of education are sadly misled. Clearly, throughout the whole bill and the report, it is very evident that local and State control remains.

While it obviously does not contain every provision approved by this House, including several provisions I supported during floor consideration, I believe it does represent a true compromise with the Senate and is worthy of our vote and support.

During the conference committee meeting, we were faced with several difficult decisions. The resolution of the major differences with the Senate were not easy to work out but we did our best to uphold the spirit of the House-passed version and, while there have been language differences in some instances, the spirit remains as strong as ever.

Those critics of the new Department who maintain that it will lead to Federal domination of education are sadly misled. Clearly, throughout this legislation, we have stated time and time again our commitment to retaining local and State control over the education decisionmaking processes.

All this bill does is take a myriad of Federal programs, organize them in a comprehensible way and provide us with a Cabinet-level department which is needed to provide direction for Federal education programs. That point cannot be emphasized too much—we are consolidating and reorganizing only those programs already run by the Federal Government or providing Federal funds for local and State school systems.

This is not a new authorization or appropriations bill. We are not initiating any new programs or providing for expanded Federal involvement.

The importance of education is often overshadowed within Health, Education, and Welfare and we need to recognize, nationally, the tremendous importance of education. The simplified organizational structure will permit local and State school officials, Congress, and the public to recognize who is responsible for particular programs. As it stands now, it is far too easy for someone to "pass the buck" within HEW so that we never know who made the final decision affecting an educational program.

Mr. Speaker, all of the Members are, at this point, aware of the particulars of the programs which will comprise the Department of Education. The question is simply one of whether or not we will streamline Federal programs and bring some measure of efficiency to federally supported education projects or if we will continue to permit education to stagnate in the bog which is HEW.

It is my opinion that education for our young people deserves much greater attention than it has received at the national level and we owe it to the future of education in this country to take the "E" out of HEW and let it stand alone.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. Bonior).

Mr. BONIOR of Michigan. Mr. Speaker, I rise in strong support of the conference report.

To vote against this legislation because the conferees have not included everything that was in the House-passed version, would be to pass up an opportunity to make tremendous improvements in the way Federal education programs are administered.

The conferees have retained our provision that guarantees local control of education, and this seems to be the biggest single objection to a separate department. I heartily applaud the inclusion of "the Intergovernmental Advisory Committee on Education" which will serve to coordinate the efforts of the several levels of Government involved in the education of our children.

By processing regulations faster, by eliminating layer upon layer of bureaucracy and redtape, by eliminating at least 500 positions by the end of the first fiscal year after the act becomes effective, and by bringing these Federal education programs under one roof, we are making our Federal support services more available to serve local needs. This is the way it should be. Can you imagine being employed by a local school system and trying to deal with regulations issued by 160 different Federal programs, which are flung far and wide across the Federal landscape?

One cannot object to this bill by claiming that it creates bureaucracy because it does not. We have the opportunity to put into effect a mechanism that will, first, save the taxpayers at least $20 million annually; second, will cut costly and frustrating redtape; and third, will give education a deserved recognition by the executive branch. I propose that we take that opportunity rather than ignore it. We owe it to the taxpayers. We owe it to our local educators. And we owe it to our children.

Mr. HORTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. Hagedorn).

Mr. HAGEDORN. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, one of the principal goals that I have as a Member of Congress is to try to decrease that amount of Federal control over the lives and activities of Americans. Since our Nation was first started, certain matters have been the chief responsibility of citizens in their own community or State. Education has been one of these matters and if anything is needed, it is less Federal control, not more. Therefore, I must oppose this bill to create a separate Federal Department of Education.

If this legislation is passed, those who vote for this bill and the President by signing it will be promoting more Federal control over education and will be establishing a Govenment agency that will mean a decline in the influence of local, community and State interests in the educational welfare of the children of our Nation. Regardless of any comments in the conference report, in the Congressional Record or anywhere else, mere statements of congressional intent will not prevent those who run the new Department from encroaching into local and State educational affairs.

The principal reason why this bill has been promoted so heavily by the Carter White House is because of a campaign promise made to the National Education Association in exchange for badly needed campaign help in 1976. The President is faced with the need for secure and guaranteed union help in his reelection bid so he desperately wants the help of NEA once again. Without overwhelming efforts by NEA, this bill never would have even been reported from the Government Operations Committee. We certainly do not need the new department and we definitely do not want it being controlled and run by NEA and other groups that claim to represent education. The welfare and future of our children depend on adequate and appropriate programs on the local and State level and they must not be allowed to become the political, social, and cultural pawns in a chess game of power played out of Washington.

One of the arguments used by supporters is that the legislation's wording has prohibited increased Federal control over education. Past experience should be sufficient evidence that this is not going to be enough to stop any increased power that the new Department of Education officials want to exert. The Federal bureaucracy has time and time again gone beyond congressional mandates, recommendations, and stated intent in other bills so anyone who believes the legislative mandate in this bill will prevent such an increase in power should be made to account for this delusion once the power grab starts.

The conference committee only called for the elimination of 500 overhead positions, 300 less than the position taken by the House. The House-passed cap of 18,000 Department employees also was removed.

Therefore, the original bill that passed the House by only four votes has been gutted of its amendments by the conference committee. This is easy to understand when one looks at the Members that the congressional leadership placed on this conference committee. The makeup of the conference committee was heavily weighted in favor of the administration position so any amendments designed to cut down on the power of the department received little or no consideration in conference. What we are left with and what we will be voting on today is a piece of legislation that will be almost exactly what the administration, the NEA and congressional leaders want—a bill that will cause greater Federal control over the education of our Nation's children and will create a department that will become the power plaything of those who are more interested in their professional careers and power struggles than in the educational needs of our youth.

I cannot in good conscience support any bill of this type that will cause even more damage than has already been done by the present Federal bureaucracy involved with education. The power to manage is the power to control. With more highly paid bureaucrats being required to manage the new department, there will be a greater desire on their part to increase their control over educational matters in order to justify their existence. Without adequate demonstration of control, their $50,000 jobs might be in jeopardy. Rather than spend money on their salaries and their schemes for spending Federal money, more emphasis should be place on getting Federal dollars down to the State and local level and to leaving the use of these funds to the discretion of local school districts.

Time and time again, it has been shown that local communities know what is best for their particular location. The State of Minnesota has an educational system second to none in the Nation and we do not want, need, desire or look forward to having the Federal Government promulgate more and more regulations that could only serve to lower the high standards that our State is so proud of promoting. Rather than being forced to go along with what the Federal Department of Education feels is best for the Nation, we would rather be left alone and have others look to us for a sterling example of how an educational system should be operated.

Mr. HORTON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I think we know that what we are doing here is playing out a real charade. The only thing that is missing is the wink.

In the old days, when they were going to take the "rubes," they would look at them and wink ahead of time so they would know what is going to happen. That would say to them, "I don't really mean it. You know it is all in fun."

The only thing missing today is the wink.

We have two types of voters here that the "rubes" out there are going to be watching. First, we have those who voted against the conference report the last time, with all the improving amendments we had added in the House. If they could possibly vote for this now, they are going to be asked, "What in the world did your vote mean in the first place? Who were you kidding then?"

The second group will be those who voted for it because these many amendments were in it. They rationalized that we had cleaned it up pretty well. Now they are all taken out. Are they going to be able to capitulate and all of a sudden vote for this monstrosity? Are they going to wink at the taxpayer? Are they going to wink at the American people and say, "The earlier votes were for you, but this vote is for the bureaucracy?" Will they say, "We gave one vote to our constituency and one vote to the bureaucrats?" I think the voters will see through this charade.

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As always, there are the people and there are the organized lobbies. The organized lobbies are out to get the votes today. The rubes got the votes when it went through the House, because that is when it was a good show. "Oh, vote for all of these amendments for local control." It was great in the RECORD but that slate is being wiped clear today. The conference report, if adopted, will assure Federal control.

I was there in 1965 when all of these professions were made that there would be no intrusion of the Federal Government into local school districts. If the Members believe there will be no intrusion in the local school district as a result of consolidating power in the hands of bureaucrats whose only desire is to fasten more control over the American people, then you may well believe in the tooth fairy, too.

Oh, how we listened to that "Oh, there will be no control."

We asked, "What's this?" When pointing out the time bombs which were planted in that 1965 landmark Federal aid bill. "Well, that is a criteria." We would be told.

"What is the difference between control and criteria?"

"Well, we have to set up criteria."

We used to ask Mr. Celebreeze, who was then Secretary of HEW, "What does this mean? You said there would be no controls."

"Well, that is a guideline."

"What is a guideline?"

"Well, we set up certain guidelines to spend the money. It is no control, mind you; just guidelines, just criteria."

Yes, we are playing to two audiences today, one, the American people, the taxpayers, the other, the organized lobbyists and the bureaucrats.

I think the people will be interested to know who you vote for, the bureaucrats and the lobbyists, or the American people.

Once again the House has caved in to pressure from the Senate and from special interests to come up with a conference report that has little if any resemblance to what this Chamber passed in July. By overwhelming votes this House added a number of major provisions to the House version that established needed safeguards against uncontrolled Government regulation over education. The conferees rejected every one of these necessary safeguards with a minimum of debate.

It is incredible that such a landmark piece of legislation would so totally disregard the input of one House of Congress. The intention of the conferees is clear. They have bowed to the powerful education lobbies to create a vehicle for the nationalization of this Nation's education systems. In looking over the conference version of the bill there is not one provision to hinder the wholesale usurption of local control over education.

On the matters of school prayer, forced busing, abortion, quotas, and regulatory reform, the House version was just written off. This indicates, at least to me, that the days of the neighborhood school and parental rights over their children's education are numbered. It may take 10 years, maybe more, but if this conference report is adopted there will come a day when some faceless bureaucrat in Washington has more say over how a child will be educated than that child's own parents. This bill is the blueprint for Federal tyranny.

Many of us have followed this legislation since the Government Operations Committee began consideration of the bill back in 1977. Throughout the debate of this issue in the House I have heard two opposite characterizations of this new Department. One set of selling points state that the new Department is a modest proposal to streamline the vast array of education programs and will have no effect on local control of education, in fact, the argument is that it will strengthen local control. The other set of selling points is quite different. It says that the new Department is a major step toward giving education a greater prominence in the Federal Government. This line of support expresses the need for a powerful and centralized Department that can move toward expanding the role of the Government in education in order to achieve any number of newly created social goals.

There is only one Department authorized in this bill. There cannot be both a minor administrative change and a major policy shift embodied here. Unless I am mistaken, I think there has been a highly successful attempt to fog the issue enough to allow a coalition to squeak this monstrosity through amidst the confusion. I oppose this ploy. The education of this Nation's children is far too important to make policy this way.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. CHAPPELL).

Mr. CHAPPELL. Mr. Speaker, I have been concerned about this legislation, about what power the Department might have with reference to the curriculum for the overseas schools, and I rise to ask of the chairman if it is the intent of this legislation to put the overseas schools, insofar as curriculum, on exactly the same basis as our domestic schools.

Mr. BROOKS. If the gentleman will yield, that is our intention.

Mr. CHAPPELL. I have a commitment from the President that this is his intent in the legislation, that those schools, insofar as curriculum is concerned, will be exactly on the same basis as that of the domestic, and I read this portion of his letter which would indicate his intention:

> We believe that the principle of local control of curriculum and other affairs should apply to overseas schools just as to schools in this country. The new department will work to strengthen, and will in no way seek to weaken this basic principle for all schools, overseas and domestic.

Do I understand, then, very clearly from the chairman, that the intent of this legislation is to in no wise give to this department the authority to set the curriculum, but that it will be done, in essence, by the equivalent of local boards overseas insofar as those schools are concerned?

Mr. BROOKS. That is my understanding.

Mr. CHAPPELL. And it is the gentleman's intent?

Mr. BROOKS. It is my intent.

Mr. HORTON. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. QUAYLE).

Mr. QUAYLE. Mr. Speaker, we have heard a great deal of discussion on how we are not going to have more Federal involvement, and during the debate I had a simple amendment that would insure that we would not have more Federal involvement. It placed a reasonable cap on the number of employees that the Department of Education could have.

This passed by 263 to 158. It was a fairly solid vote; 18,000 employees would be allowed to go to the Department of Education.

I realize there was a lot of pressure on the Senate side. Unfortunately, this amendment was gutted, and there is no cap, nor a reasonable limitation on the amount of employees. So all of this rhetoric that we are hearing about of no further Federal control over education is simply hogwash. It is not true, and if it had been true we would have kept a reasonable cap on the number of limitations.

Mr. Speaker, I hope that we will vote down this conference report.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Speaker, I rise in opposition to this conference report and urge my colleagues to join me in rejecting what I consider to be one of the most ill-advised and blatantly special interest pieces of legislation to have come before the House during my 14 years here.

Simply put, a new Cabinet Department of Education in the Federal Government will grow and grow, cost and cost, and dictate and dictate to school authorities.

Let me remind the Members that this bill has twice barely survived defeat on this side of the Capitol. It was reported out of the Government Operations Committee by only one vote and it passed the House initially by a scant four votes.

For those of us like myself who sit on the Government Operations Committee and have concerned ourselves with this legislation from the start, it has been a long, hard-fought—and, regrettably, sometimes bitter—battle. I have found myself on the other side from my chairman—and esteemed good friend for over 26 years—the gentleman from Texas (Mr. BROOKS) as well as some other members of the committee with whom I have worked closely and harmoniously for a long time. Basically, however, we have disagreed agreeably.

I say emphatically that I hope no matter how the final vote on this legislation goes, our committee will heal whatever wounds there are and go on about our legislative business with the high degree of cooperation which has marked the overwhelming majority of our deliberations through the years.

Getting back to the matter immediately at hand, I have opposed this legislation at every step of the way in this Congress—in committee and on the floor. Time and further study of the issue since the House passed its version of the bill have not caused me to modify my views in strong opposition to it.

As public schools have reopened around the country this fall, more concerns and fears have been expressed than ever before about teacher strikes, about violence in the schools, about functional illiteracy, about declining test scores, and about wise and efficient use of tax dollars for education. No one can point to one factor and say it alone is the reason for all the troubles afflicting public education.

However, it appears that as Federal involvement in all areas of education has increased dramatically over the past several years, the overall quality of public education has decreased concurrently. If it were possible to quantify and plot out all the many complicated variables in the equation, we just might find a verifiable relationship there. That is something we all should think about as we continue to consider this legislation.

While I have always supported and will continue to support our valuable supplementary Federal aid to education programs, I fear that passage of this legislation may well lead to ultimate Federal control of public education. The quality of education itself will continue to suffer as more and more educational policy is dictated by bureaucrats in Washington who answer primarily to the special interest groups who put them there and keep them there.

During floor debate on this bill in July, I said that there was not one single provision in it which would benefit students—the only legitimate consumers of education in our country. I cannot recall a single student or parent who does not have a vested special interest in this legislation coming to me and asking me to support it.

For weeks last spring while this bill was before the Government Operations Committee, the lobbyists were lining up at my office door to see me and were sending in mail and position papers by the handful. What I heard and read mostly were key buzzwords designed to convince me to vote for the bill—words of art like "streamline," "consolidate," "coordinate," "efficiency," "manageable," "accountable," "merge," and so forth.

In this regard, it occurs to me that the education of our children is in a special program category all by itself. Those terms simply ought not apply to education in the same way they apply to other categories of Federal programs.

The difference is that in most Federal aid programs, other than in the education field, we are dealing with adults as the chief beneficiaries. We can provide Government loans or grants or benefits for adults, but—and this is the important thing—the adults themselves take actions personally which are among the final steps in the chain. For example, they apply for their insured home loans. They redeem their food stamps. They make applications for municipal water projects. They see the minimum wage reflected in their earnings. They seek out Government-supported health care.

Education, on the other hand, is vastly different. We are dealing for the most part with children or young adults who do not yet possess the maturity or the judgment to seek out things on their own. The bottom line is that education must be provided, not provided for.

When we provide something for adults, those eligible can freely choose whether to seek or accept whatever is being offered. However, most students, particularly those at an early age, do not have the discretion to make reasoned and rational choices.

Instead, their education must be provided. Otherwise, we are left with a generation of undereducated citizens. Regrettably, human instincts do not generally lead people to educate themselves fully.

It is a little like the old adage that you can lead a horse to water but you cannot make it drink. We can set up Government programs, we can publicize them and lead people to them, but we cannot make people take or accept them.

In education, we have no choice if we are to have an educated citizenry. We have to educate our children affirmatively, because for the most part they will not do it by themselves for themselves. We have to educate through persuasion and with patience. We have to guide our children, lead them, and direct them to the vast and unchartered worlds of knowledge and understanding. And we have to remember that people learn better when they are being or have been properly educated first.

In order to educate properly, we need to maintain diversity in our approaches. We need to keep decisionmaking at the local level and in the classrooms where our educators can make professional decisions which take into account the individual and special needs of each and every child in each and every classroom.

If our education aid programs were

like other Federal programs in which we crank out benefits and eligibility information to any and all who want to apply and who meet the program criteria, we could stand to have more formal consolidation and merger and coordination in the delivery of services.

In education, however, we do not need or want machine-like efficiency or standardized objective criteria for instruction. In education, we deal with minds. We deal in large part with subjective influences which can quickly and easily turn a child on to learning—or turn him off, perhaps permanently. We deal with techniques of instruction which are best decided on an individual and decentralized basis by teachers and other local officials. In other words, doing to our education programs what the proponents of this legislation urge—coordinate, consolidate, merge, and so forth—could well be, in fact, harmful. True, passage of this legislation would give the National Education Association and other special interest groups a great deal more power and influences in electoral politics, but I doubt that many Members of this body are that beholden.

Mr. Speaker, in my district in North Carolina, and I am sure around the Nation as well, there are countless numbers of teachers who consider it their God-given purpose in life to teach and mold young minds. They want to teach the liberal arts, language, science, mathematics, fine arts, and the other areas of instruction to young people just beginning life. They want to create knowledge and awareness. Their main reward is in seeing accomplishment, mastery, and success. To be sure, their paychecks purchase the material things necessary to sustain life and health. But their most important payoff comes in knowing that they have done their job well—that they have satisfied their calling.

The proponents of this legislation have argued that there are adequate safeguards in it to insure local control of educational policymaking—in the form of findings, purposes, legislative history, and so on. However, those of us who have had some experience dealing with Washington bureaucrats know that statements of findings and purposes, as well as legislative history, are like a lot of things: they sound good and probably read even better, but together with pocket change they will usually buy you a cup of coffee at the corner drugstore and little else.

I would hope that what a majority of the Members of this body want is to continue Federal supplementary aid to education in a limited and responsible form—but to do so in a way carefully calculated to insure the best possible quality education for all our children. We do not need a separate, Cabinet-level Department of Education in the Federal Government. We do not need the mechanism for Federal dictation and control of education which is embodied in the conference report before us today. Let us give our State and local education officials and teachers—and our students—a resounding vote of confidence by defeating this legislation.

If we adopt this conference report, I am satisfied that in the not-too-distant future, many of you who vote for it will say to yourselves: "Why did I do it? Why did I do it? I knew better, or I should have known better."

Mr. Speaker, I want to bring to the attention of the Members an article from Reader's Digest, published in November 1978, and entitled "The NEA: A Washington Lobby Run Rampant." The initial point in the article is "The drive for power, nationwide, by this huge and aggressive teachers union provides a classic study of how special-interest politics can overwhelm the public interest."

Let me read just a few excerpts:

> By the early '70s, a "Young Turk" faction had gained control of the NEA. They wrote a new constitution compelling the payment of national dues, drove out most of the administrators who were also members, dispensed with the trappings of a "professional organization" and launched into full-scale unionism . . . A succession of NEA presidents have proclaimed its aims:
>
> "We are the biggest potential political striking force in this country," said Catharine Barrett in 1972. "And we are determined to control the direction of education.
>
> "We must reorder Congressional priorities by reordering Congress," Helen Wise told NEA political fund-raisers in 1974. "We must defeat those who oppose our goals."
>
> Promised current NEA president, John Ryor, "We will become the foremost political power in the nation."

These are direct statements, my colleagues, from those who are the prime force behind this legislation.

Here is a paragraph containing a statement attributed to Terry Herndon, then executive director of NEA:

> What is NEA's ultimate goal? Herndon is blunt: "To tap the legal, political and economic powers of the U.S. Congress. We want leaders and staff with sufficient clout that they may roam the halls of Congress and collect votes to reorder the priorities of the United States of America."

Let me give the Members one other statement—from the writer of the article itself. It is a good conclusion:

> If the alliance now building among Capital Hill politicians, the White House and the NEA's power brokers continues to grow, decisions for America's teachers—and for pupils, parents and taxpayers, too—will more than ever be made by a permanent Potomac power elite. Which would deliver a mortal blow to our traditional system of grassroots control of education.

Mr. Speaker, I must say that many of the statements and conclusions in the Reader's Digest article do not apply to the teachers of my district and State. On the whole and with very few exceptions, North Carolina's educators are responsible professionals whose primary interest is the welfare of their students, not partisan politics. However, I want to include the entire article at this point so that my colleagues and other interested people might have the benefit of the facts and views therein:

THE NEA: A WASHINGTON LOBBY RUN RAMPANT

(BY EUGENE H. METHVIN)

"Teachers in 1976 earned an A in advanced politics!" exclaimed John Ryor, president of the National Education Association, as he addressed the 1977 national convention of his 1.8-million-member union.

And a well-earned A it was. NEA sent 265 members to the 1976 Democratic National Convention, more than any other organization in the nation. That November, NEA endorsees won in 291 of 349 House and Senate contests. For the first time, NEA endorsed a Presidential candidate, Jimmy Carter; and after his victory, President-elect Carter made a prompt personal thank-you call to Ryor. Carter's campaign manager, Hamilton Jordan, said enthusiastically, "The massive support from teachers was crucial to our winning. We turned to the NEA for help and it delivered nationwide."

Now President Carter has delivered for the NEA. Last spring, he formally asked Congress to create a separate Department of Education—a cherished NEA goal—and raised his overall budget so as to make available a record $12.9 billion for federal aid to education, a 46-percent increase since he came into office.

Yet the President appears to understand the problem. "The fight against inflation," he said in a recent speech, "becomes nearly impossible when special-interest lobbyists are successful." Well, certainly the NEA lobbyists were successful, and the political payoff they earned dramatically demonstrates why President Carter has now admitted he will not fulfill his promise to balance the federal budget by 1980. And why, instead, deficits and inflation are soaring, imposing the equivalent of a ten-percent tax on every dollar American families spend this year. It also demonstrates why every American voter needs to bone up on "advanced politics" as practiced by the NEA.

Warns Rep. John Ashbrook (R., Ohio), a veteran member of the House Education and Labor Committee: "An integral part of the NEA design is to siphon ever more control of public education from the grass roots to Washington, closer to its own powerful lobbying influence, farther from the parents and taxpayers who elect the school boards and pay the bills."

YOUNG TURKS

Fifteen years ago, the NEA was chiefly a staid coffee-and-doughnuts professional association. Most state and local affiliates did not require members to pay dues. "Strike" was generally a dirty word. But then the American Federation of Teachers (AFT) mounted a militant challenge, and teacher walkouts erupted across the nation. In 1968, afraid it might lose the whole teaching profession to the AFT, the NEA backed its first full-fledged strike.

By the early '70s, a "Young Turk" faction had gained control of the NEA. They wrote a new constitution compelling the payment of national dues, drove out most of the administrators who were also members, dispensed with the trappings of a "professional organization" and launched into full-scale unionism. Using militant strike action, the new NEA has won collective bargaining for 5000 of its 12,000 locals, and leaped headlong into national political campaigns. A succession of NEA presidents have proclaimed its aim:

"We are the biggest potential political striking force in this country," said Catherine Barrett in 1972. "And we are determined to control the direction of education."

"We must reorder Congressional priorities by reordering Congress," Helen Wise told NEA political fund-raisers in 1974. "We must defeat those who oppose our goals."

Promised current NEA president, John Ryor, "We will become the foremost political power in the nation."

At NEA headquarters, five blocks from the White House, Ryor and executive director Terry Herndon, a 39-year-old former teacher, now lead 1.8 million of the nation's 2.2 million public-school teachers. Already they outnumber all other public-employee unions by far, and among all unions trail only the No. 1 Teamsters. With its affiliates, NEA has a combined annual budget of $250 million, more than ten times that of the AFL-CIO. And Ryor and Herndon oversee 1436 professional field organizers, who kept the political and legislative machinery well-oiled.

TEACHER POWER

When Herndon became NEA's executive director in 1973, he set about building a huge political machine. One project was to beef up the newly formed Coalition of American Public Employees (CAPE), an umbrella group including the American Federation of State, County and Municipal Employes (AFL-CIO) and several other public-employee unions. Financed largely by NEA, CAPE has organized chapters in 21 states to promote political and legal action. And, come election time, CAPE orchestrates the march of its unions' four million members into political work.

Campaign consultant Matt Reese, hired to help NEA develop its "teacher clout," marveled at the potential: "Teachers are the ideal political organization. They're in *every* precinct." Indeed, NEA averages 4000 members in each Congressional district—and many elections turn on smaller margins than that.

Since 1972, NEA professionals have run an estimated 30,000 teachers through "political-action workshops," in some cases giving them graduate-study credit for taking the program. The union offers political candidates privileged access to these trained battalions. In every state, the NEA has set up political-action committees (PACs). At election time, screening committees quiz candidates, and once PAC endorses a candidate, its chairman uses the NEA "talent-inventory" files to provide campaign managers with volunteers for every imaginable task, from stuffing envelopes and manning telephone banks to chauffeuring voters to the polls. "We can elect friends of education and un-elect foes," boasts Ryor.

Is he right? Sen. Claiborne Pell (D., R.I.), chairman of the Senate education, arts and humanities subcommittee, candidly admits that he owes his 1972 re-election to "teacher power": "Before they arrived, I was a two-to-one underdog. Then an army of teachers began knocking on thousands of doors and making thousands of phone calls, and I won by 33,000 votes. You can be sure," he concludes, "that I will continue to fight in Washington for a better deal for education."

A GOOD THING

The teachers' special capacity for organizing and motivating people is awesome—and there is money, too. In 1976, NEA-PAC and the state PAC's funneled an estimated $3 million into federal, state and local campaign coffers, with notable effect. For example, the Michigan Education Association helped elect three-fourths of its chosen candidates for the House by pouring $138,000 into their campaigns—$36,000 more than the giant United Auto Workers, long the biggest powerhouse in Lansing.

Writing in the NEA's official journal, the *Reporter*, Ryor has urged every teacher to contribute to the 1978 Congressional campaign: "We've got a good thing going politically. Let's keep it going." By August, NEA-PAC had raised $536,000 to ladle out before Election Day. And NEA's state and local PACs have raised an estimated $2.5 million for their own war chests.

CALLING THE TUNE

What is NEA's ultimate goal? Herndon is blunt: "To tap the legal, political and economic powers of the U.S. Congress. We want leaders and staff with sufficient clout that they may roam the halls of Congress and collect votes to re-order the priorities of the United States of America."

NEA's drive for a Cabinet education department is part of this reordering. As a separate, Executive Branch pipeline into the budget process, such a department would help to achieve the aim of swelling the federal share of the nation's education spending to a third of the total. NEA's campaign-aid dispensers would also be better able to influence state and local officials.

For example, in 1976 then-Senator Walter Mondale (D., Minn.)[1] and Sen. Alan Cranston (D., Calif.) sponsored an obscure, complex provision that now appears as part of a 161-page law called the Education Amendments of 1976. This provision, largely written by NEA, authorized a new three-year-grant program of up to $203 million for "teacher centers" that would take responsibility for local in-service teacher training and curriculum development. The hooker: Each center had to be run by a "policy board" manned by a majority of teachers (meaning, almost everywhere, NEA members). Neither Senate nor House seems to have held a single hearing to find out whether such centers actually need federal financing—or why Washington should try to induce elected school boards to turn over their own statutory duties to non-elected union officials. Crowed the NEA: "For the first time, federal law has cut teachers into policymaking."

DEMOGRAPHIC DYNAMITE

Fueling the NEA's turn to political militancy are radical changes in the composition and prospects of the nation's 2.2 million public-school teachers. In the 15 years between 1961 and 1976, there were relatively few senior teachers from the low-birth years of the 1930s to replace retirees. The gap was eventually filled by young teachers born in the postwar baby boom. But just as these eager fledglings began to pour out of college, school enrollments dropped in response to post-1961 birth declines.

This was a sure-fire demographic recipe for explosion. For several years, school boards avoided reductions. But in 1975-76 they issued layoff notices to 61,000 teachers. Some were rescinded as the boards scraped up additional funds, but the notices had sent a chill through all teachers. That school year, strikes hit a record 203, most of them led by the NEA.

Although the current school year began with 20,000 fewer teachers than last year, public schools now employ 177,000 *more* teachers than in 1969-70, for 2.7 million *fewer* pupils. Says a National Institute of Education school-finance expert: "For years, policy-makers have been told, 'More kids cost more money.' Now they're asking, 'Why don't fewer kids cost *less* money?' "

To counter this pressure, the NEA is demanding that class size be limited to 15 pupils (the current mean is 25). This move would require hiring hundreds of thousands of additional teachers. NEA also wants a national $15,000-a-year minimum salary for starting teachers with bachelor's degrees, rising to $34.500 in ten years for those with master's degrees.

"Teachers are more dependent than ever on their ability to concentrate power on the federal decisionmakers," proclaims Herndon. "One thing no school board can manufacture is money." But Congress can and does manufacture money, especially when surrounded by special pleaders with political muscle. The legislators can cry "aye" on appropriations "for education," without voting for taxes to pay the bill; those "taxes" then come via inflation.

POWER ELITE

Americans—and teachers above all—should look carefully before rushing headlong to the Potomac power brokers for educational salvation. Of course, the NEA can more easily move a few dozen key Capitol Hill committeemen, whose election campaigns it has backed, than it can move 50 state legislatures and 16,000 school boards. But is this really in the best interests of teachers?

In his 1976 nomination-acceptance speech, President Carter declared, "Too many have had to suffer at the hands of a political and economic elite who have shaped decisions and never had to account for mistakes." If the alliance now building among Capitol Hill politicians, the White House and the NEA's power brokers continues to grow, decisions for America's teachers—and for pupils, parents and taxpayers, too—will more than ever be made by a permanent Potomac power elite. Which would deliver a mortal blow to our traditional system of grass-roots control of education.

Mr. HORTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. Treen).

Mr. TREEN. Mr. Speaker, I rise in opposition to this legislation.

I am opposed to the creation of a separate Department of Education, not because I am opposed to improving public education in America, but precisely because I want to see vast improvements in the quality of education. Creating a new Cabinet department will lead to greater and greater control of education by the Federal Government. Education is the responsibility of local and State governments. Keeping education administration as close to home as possible insures a greater degree of parental influence and helps preserve diversity of educational programs, both highly desirable objectives.

Can anyone plausibly deny that a Federal Department of Education, in the pattern of all Federal agencies, would grow into a huge and monstrous bureaucracy? We have the evidence provided by our Nation's entire history. Even more convincing, the conference committee removed certain provisions added by the House designed to try to protect the principle of local control.

Furthermore, inasmuch as the Federal Government is the least efficient provider of services, there is certain to be monumental waste in this new bureaucracy.

Mr. HORTON. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Speaker, I rise in opposition to the so-called Department of Education bill. All these arguments about "no Federal control" is so much Alice-in-wonderland dreaming. We were told the same thing about the Department of Energy and OSHA. You can list agency after agency where we have been promised firmly there would be no Federal control. It turns out exactly the opposite way. If you like the Department of Energy, you will just love this new Department of Education. I hope those Members who have complained about those overregulations, unfair regulations, interference by the Federal Government, after voting for this redtape bureaucracy for this called the Department of Education will well remember this day for if such an agency is created, they must bear the burden of knowing they are the ones who help build the monster of which many Members warned. You will have every education bureaucrat in Washington looking down on your school districts, and you will be back here complaining about the rules and regulations that are made possible under this legislation.

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[1] Mondale's brother is an NEA state president turned full-time union organizer.

Mr. Speaker, I urge a "no" vote.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. Ratchford).

Mr. RATCHFORD. Mr. Speaker, I rise in support of the conference report.

As one of the original sponsors of the Department of Education bill, I stand here today to say that I think the conference report and the work done by the conferees deserves our support.

Why do I say that? First of all, for too long in this country education has not received the recognition at the Federal level that it deserves, and I think recognition is extremely important.

Second, the whole question of structure. We need a clean line of responsibility, we need a clean line of accountability, we need a clean line as far as budget is concerned; and we do not have it under the current arrangement with HEW.

Third, it would make HEW more manageable. Under the current set-up, we have health, we have welfare, and education really does not have a voice or an element of responsibility in the structure as it now exists.

Fourth, this is the approach at the State level. It has worked at the State level, it has worked at the local level, and, clearly, it will work at the Federal level.

Mr. Speaker, from the point of view of structure, from the point of view of accountability, from the point of view of management, from the point of view of the recognition critically necessary for education at the Federal level, this conference report deserves our full support.

□ 1340

Mr. BROOKS. Mr. Speaker, I yield myself one-half minute.

I would say in response to an inquiry from my good friend, the gentleman from California (Mr. Roybal) about bilingual education and minorities, this conference creates an Office of Bilingual Education and Minority Languages Affairs. There is no question about it. It is created by this conference, despite some misstatements by some people. It cannot be abolished.

Page 19 of the report deals with the abolition of organizational entities established by this act. You cannot abolish it. It is going to be in there. It is going to stay. I wanted my friend from California (Mr. Roybal), and those like myself who are interested in bilingual education opportunities, to know that.

Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Edwards).

Mr. EDWARDS of California. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I am pleased that the conferees, in working out the differences in the House and Senate version of the Department of Education bills, have decided to drop all of the anticivil rights measures that were adopted by the House. These amendments prohibiting abortion, busing, and encouraging school prayer are not appropriate additions to a reorganization bill. I am especially pleased that the "antiaffirmative" language has been removed. I believe the original language, offered by Mr. Walker, was particularly dangerous and inappropriate.

Affirmative action is merely an effort to end discrimination. Mr. Walker, himself, has repeatedly stated he is not an opponent of affirmative action. Affirmative action programs include many activities which are not controversial. Activities such as notifying minority and women's groups about job openings, advertising such openings, rather than relying on word-of-mouth notification, and developing recruiting procedures aimed at women and minorities, as well as other qualified applicants, is desirable and necessary to an effective affirmative action program.

Unfortunately, most of the debate that Congress engages in focuses on numbers and quotas. This kind of debate has a way of disguising the real need and intent of affirmative action. I am not suggesting that Congress should not be concerned about the appearance or tone of sex or race-conscious employment and admissions programs that include the controversial concept of numerical goals and timetables. We all know that quota systems have been used historically to keep people out. Rigid quota systems are not, therefore, a desirable part of affirmative action. Goals, on the other hand, are targets for inclusion of people previously excluded. Goals are an attempt to estimate what the employer's work force would look like if there was no illegal discrimination based on race or sex. Attempts to achieve this end should not be labelled as reverse discrimination or a relaxation of admission criteria, rather, they should be viewed as action necessary to remedy past discriminatory practices.

In the few cases where insensitive employers and administrators have implemented poorly designed affirmative action programs, the results have fostered misunderstanding and hostility. The congressional response to such incompetence and poor administration should not be the destruction of affirmative action. That would not be an appropriate solution.

For this reason, the Department of Education conferees have taken the appropriate step at this juncture, and they should be congratulated. They have decided to allow the Department to conduct its civil rights enforcement mandates without exception, letting existing law prevail as it relates to affirmative action.

Mr. HORTON. Mr. Speaker, I yield 30 seconds to the gentleman from Alabama (Mr. Dickinson).

Mr. DICKINSON. Mr. Speaker, I rise to express my strong opposition to the creation of the Federal Department of Education, the second new super Federal Bureau to be proposed in as many years.

We already have one new DOE, the Department of Energy, and in its almost 2 years of existence—with 20,000 employees and having already spent $20 billion—that new Department has not produced 1 pint of gasoline or 1 new kilowatt of electrical power. All the Energy Department has done is add confusion and expense to an already disastrous energy crisis.

My belief is that the proposed new DOE—the Department of Education—will do the same for education that the new Energy Department has done for energy—more confusion, costs and lost freedom and control by the States and localities.

Education should be a local matter. However, once the new Department is in existence and begins to dole out dollars to those who go along with what the bureaucrats want, or withhold money from those who refuse, we will witness the demise of the American concept of local control and direction of our children.

With this new Department you will see the forced conformity of public education throughout America—yes; we are creating for ourselves and our people, a czar of Education. This czar will watch his Department grow and expand and, like his predecessor at the Department of Energy, will find his staff spending more time shuffling paper, making irrelevant policy and being courted by special interest groups and less time working to improve the quality of education in our country.

How can bureaucrats in Washington determine what is best for our children in cities and towns of Alabama or any other State in America? Bureaucrats do not have to worry about being held accountable to the people for their actions. The fact that 75 percent of the people in this country favor school prayer will be meaningless to them, and I doubt that many of them will have ever spent any time observing our educational system today or will ever care to do so.

Right now, in many eastern European countries, every child is studying the same subject from the same book—which is, of course approved by the government bureaucrats—at the same time. Is that what our founders wanted when they wrote the Constitution? This DOE, like the other one, will only be another step toward moving away from the democratic ideals our country was founded upon.

Mr. HORTON. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. Rudd).

Mr. RUDD. Mr. Speaker, I voted against this legislation when it first came before the House on July 11.

I will vote against the conference report today, and urge my colleagues to do so also. Even though the original bill, H.R. 2444, was, in my view, undesirable, even that version was far preferable to the recommendation of the conference with which we are confronted today.

I believe originally, as I do now, that a Federal Department of Education will inevitably encroach on the prerogatives of our Nation's local and State officials who have historically been responsible for the education of our Nation's children. This interference and control will take place despite well-intended efforts in the House-passed bill to prevent it.

Our local and State officials should not be further directed or controlled by a narrowly focused, special interest Federal education bureaucracy, far removed from the unique needs and situations facing parents, teachers, and school officials in many diverse local jurisdictions throughout the country.

One of the greatest strengths of our system of government, as envisioned by our Founding Fathers, is the freedom which it allows among the individual States to adopt policies which best address the specific needs and priorities of their own people. This is particularly true in the field of education—where needs are different from one area to another—and I hope that it will remain so.

During initial consideration of the legislation, the House wisely added several eminently helpful provisions which sought to insure that the new Department of Education, if established, would be limited in several important respects.

Unfortunately, these safeguards have been eliminated by the conference, and make the legislation all the more unacceptable.

On June 11, for instance, the House voted 227 to 135 to prohibit funds from going to promote busing as a form of desegregation. This provision was a continuation of longstanding House sentiment on the issue. Yet this prohibition was totally eliminated by the conference.

The House also voted overwhelmingly, 255 to 122, on June 11 to provide that one of the purposes of the Department would be to permit in all public schools providing elementary or secondary education a daily opportunity for prayer or meditation, participation in which would be on a voluntary basis. This provision was also dropped entirely in conference, despite the obvious strong sentiments of the House on the issue.

During initial consideration of the measure, the House also adopted amendments which would insure that regulations adopted by the Department of Education should not have the standing of a Federal statute. This safeguard, too, has been eliminated by the conference.

The House added two amendments to insure that the Department of Education did not become entangled in the abortion controversy. Unfortunately, these provisions have also been removed from the conference report.

A provision to insist that quotas on race and sex not be implemented by the new Department—which passed 227 to 126 on June 12 and which the House insisted upon on July 17 by 214 to 202—has been watered down to the point of nonexistence by the conference.

Thus all of these important amendments that were passed in the House were removed during the conference with the Senate. These amendments provided for crucial safeguards against any expansion of Federal control over local education. Their deletion from the bill serves as additional reasons why the House should reject the conference report establishing a Federal Department of Education.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. Jenrette).

Mr. JENRETTE. Mr. Speaker, I had the pleasure of working with the chairman of the Committee on Government Operations in our preparation of the bill. I strongly support the conference report and strongly urge the Members to vote in favor of the adoption of the report. And thus bring to America a stronger educational program.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished majority leader, the gentleman from Texas (Mr. Wright).

Mr. WRIGHT. Mr. Speaker, 18 years ago, President John F. Kennedy in his education message to the Congress said, "Education is the keystone in the arch of progress."

Mirabeau B. Lamar, the first President of the Republic of Texas, said, "A cultivated mind is the guardian genius of democracy."

Each week, Newsweek magazine carries in its masthead the slogan, "A well-informed public is America's greatest security."

We have the same promise on no less authority than the Holy Scriptures, wherein we are told, "You shall know the truth, and the truth will make you free."

What each of these things says to us is that education and democracy are inseparably interlinked. One cannot thrive without a very liberal smattering of the other. Where education is stifled, democracy suffers. Where freedom is thwarted, there can be no true education.

I have heard education referred to here today as a special interest. I think it is quite the reverse of that. Education is the one quite general interest to this Nation of ours.

If we are to see how far we have come as a nation, we need to pause and ponder where our founders set out to go. In at least one important respect, I think our goal as a Nation differed from that of any other society. We set out neither to enthrone the aristocracy and perpetuate it as a ruling class, nor to destroy the nobility. Rather, we set out to expand it until it could be enjoyed by the humblest of our citizens.

Unlike the French and Russian revolutions that began with the idea to install a dictatorship of the proletariat and do away with the nobility, we decided that we would create a society in which all could aspire to the aristocracy, not by dubious virtue of birth, but by the privilege of being a citizen of this land. We dreamed of a land in which the humblest child might have as a birthright a free public education equal to that which prince or potentate might elsewhere receive. We hoped that none would be restrained or restricted by what his or her parents had attained, nor restrained by what Government would permit, but that each individual might become the greatest and the best and the highest to which that individual could aspire. That is education. Education stands at the very center of the march of human progress in this country.

It makes sense to me that we take these functions so very vital to the lifeblood of our Nation and honor them, dignify them by the recognition of their importance in and of themselves.

Certainly I see no harm in a Department of Government devoted exclusively to the education of America's youth. It still will leave the Department of HEW the biggest in all of the Government.

I suggest to my colleagues that a department which today is expected to manage $171 billion probably has too much to try to direct efficiently. By taking this one out, and placing a ceiling on the permissible number of the new departments' employees, I think we shall have stricken a blow against the growth of bureaucracy as well.

Ordinarily I do not get excited about department structure. I have frankly never thought these changes in and of themselves to be of great significance. Organizational charts usually leave me cold. I do not believe that this change will make things either very much better or very much worse. But I do believe that education is a function of sufficient importance in our society to warrant the distinction which this move symbolizes.

Mr. BROOKS. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. Mr. Speaker, H. G. Wells once said:

> Human history becomes more and more a race between education and catastrophe.

I was reminded of that observation as I raced to the floor from the airport in order to vote to create a Department of Education that some of our colleagues would label a catastrophe.

Rather than consent to the criticism that creating such a department would be catastrophic, I support the conference report and urge my colleagues to vote likewise.

In this legislative era when battles to shift congressional sentiment are waged with post cards as weapons, when almost any proposal calling for changes in the status quo evokes howls of disapproval and predictions of doom, I hope we can rise above hyperbole here today and consider the obvious merits of the legislation before us.

While the specific question we must decide is whether to create the new Department of Education or not, two other fundamental and philosophical issues confront us. I speak of authority and responsibility.

Those who oppose this proposal have charged that the Federal Government has no authority to invade the domain of the local school under a Department of Education. Such arguments, Mr. Speaker, ignore the fact that almost 10 percent of all moneys spent on education are Federal dollars. Granted, in proportion to the total contribution of State and local government, our share is small. Yet, the influence we have on what occurs in our Nation's schools is out of size compared to our fiscal contribution.

You need only examine the impact that title I of the Elementary and Secondary Education Act has had on increasing the learning opportunities for disadvantaged children to know that the Federal role in education is important, is extensive, and is growing.

You need only to witness the barriers that are falling both figuratively and literally to our handicapped children to know that Federal laws such as the Education of All Handicapped Children Act have created significant changes in attitudes and practices toward the handicapped.

Thus, to assert that a new Department would threaten local schools by expanding the Federal presence is to ignore the already considerable Federal role in national education policy and practice.

Yet, this role has not been discharged ideally. Complaints from teachers, administrators, and school board members are numerous regarding the conflicting policy guidelines, the straitjacketing regulations, and the reams of paperwork that they are subjected to.

If we are to clear up what is increasingly becoming a mess in terms of our Federal education policies, I believe quite strongly that we must clean up the mess that exists within the Federal educational establishment.

Presently, at HEW, authority for education is diffused among the Secretary of HEW, the Assistant Secretary for Education, and the Commissioner of Education. With so many chiefs, I doubt very much any one figure has the authority to put that house in order. And, where no authority exists, no responsibility is assumed. That in itself is a problem we must solve.

A step toward establishing clear authority for educational policy at the Federal level and toward making certain that those in authority are indeed responsible for their actions can be taken if we vote for this legislation.

Under a Department of Education, the Secretary of Education would be the person appointed by the President who would have the authority to make Federal education policy clear and understandable but he or she would be most responsible for any misdirections and missteps in the administration of that policy. We need this kind of management if we hope to have a chance to unravel the bureaucratic ball of string that exists at HEW.

Ultimately, Congress itself must recognize its authority to establish Federal education policies and must assume its responsibility to insure that the preeminence of local decisionmaking is preserved.

No Department of Education by itself can overtake the preserve of the local schools without the consent of Congress; no Department of Education itself can create new directions in American education without the consent of that same Congress.

Therefore, we, today, should shoulder our responsibility by consenting to create that Department of Education which will give American education the visibility it deserves; but at the same time, we should be made aware that, in doing so, we will bear a responsibility to oversee that Department to insure we will retain the essence of an educational system that is so uniquely American.

Mrs. FENWICK. Mr. Speaker, is there any time left on either side of the aisle?

The SPEAKER pro tempore (Mr. FOLEY). I would advise the gentlewoman from New Jersey (Mrs. FENWICK) there is no time left on the minority side. The gentleman from Texas (Mr. BROOKS) has 2½ minutes.

Mrs. FENWICK. Would the gentleman from Texas yield me 1 minute?

Mr. BROOKS. I yield 30 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I appreciate my colleague's most gracious kindness, but I would like to speak most strongly against this Department of Education. We have been told that we should watch the example of France. In France this minute, at 10 o'clock in the morning, in every third grade, every single class is at the same page in the same book because they have a centralized education system. This is the system we are against in this country. We have flourished with independent, variated, locally based, locally controlled education, and we do not want a great big central bureaucracy, burgeoning with expense for the public year after year.

● Mr. GOLDWATER. Mr. Speaker, I ask my colleagues in the House to take a minute to think back to the 1976 Presidential campaign, to the theme of candidate Jimmy Carter, who pledged that, if elected, he would reorganize government in Washington—he would push for limiting the Federal role in public programs—he would restore to the respective States and local jurisdictions their rightful authority to administer their own affairs.

For those of you who have not noticed, the 1980 political season is starting awfully early. No doubt it is because of this very measure we are considering right now. A 13th cabinet-level department? This is an example of scaling down the bureaucracy? This is what Jimmy Carter meant when he said he was going to shake things up in this town?

There is an excellent editorial in this morning's Wall Street Journal in which a Member of this body is quoted as saying that "the idea of an Education Department is really a bad one. But it's NEA's top priority. There are school teachers in every congressional district and most of us don't need the aggravation of taking them on."

Let me tell my unnamed colleague, whomever it may be—if you think you are going to have aggravation by not helping Jimmy Carter make this political payoff—just wait until this $14 billion superschoolboard gets rolling. Just wait for the superintendents of your local school districts, the principals, the parent-teacher associations—just wait for the aggravation you will get from them. I can hear their complaints now: Regulations on how to help Johnny with his reading problem; guidelines on how to help Sally with her learning disability—18,000 bureaucrats in Washington are going to tell local officials 3,000 miles away how to run their schools?

This House worked its will on H.R. 2444. By large majorities we wrote into the bill language to prohibit the use of quotas, to prevent busing, to restrict abortions, to provide opportunities for voluntary school prayer, and to limit the growth of the new Department. Our conferees were dealing with a deck stacked against them. This proposal did not have my support from the time it saw the light of day, and by passing this conference report, we will be reneging on our mandate—our clear affirmation to the other body—that we want certain policies implemented if the American people are forced to swallow this $14 billion monstrosity.

My friends on the other side of the aisle—I need not explain why the President of your party is at so low an ebb in the opinion polls. He swore there would be an end to growth in Government if he was elected. His insistence on this politically motivated Department illustrates perfectly why his nomination is threatened. It is the responsibility of this House to carry out the promise of limited Government. Reject this conference report outright and let us never see anything like it again.

[From the Wall Street Journal, Sept. 27, 1979]

WHY THE CONGRESS IS PRODUCING ANOTHER DOE

(By Albert R. Hunt)

WASHINGTON.—The specter of "single-issue" politics raises images of anti-abortionists, gun lobbyists or save-the-snail-darter advocates demanding that politicians adhere to their narrow interests.

An even more vivid illustration of single-issue politics, however, is currently confronting Congress, and it involves neither raving ideologues nor fringe subjects. The issue is creation of a new Department of Education; the proponents are the nation's secondary and elementary school teachers, represented by the eminently respectable National Education Association.

And the controversy over establishing a 13th Cabinet department to administer more than $14 billion of federal programs and 18,000 employees is steeped in single-issue politics.

"The idea of an Education Department is really a bad one," admits one liberal House Democrat, who insists on anonymity. "But it's NEA's top priority. There are school teachers in every congressional district and most of us simply don't need the aggravation of taking them on."

That view typifies the rationale in pushing this legislation through Congress; first, the measure passed the Senate 72 to 21 but last summer made it through the House by only four votes. This week the Senate overwhelmingly adopted the final conference committee report; with the political pressure escalating, the House is expected also to approve the report and the Education Department will become a reality.

Some educators find this regrettable. The American Federation of Teachers (a much smaller NEA rival), many school administrators and numerous university officials oppose the concept of a separate Education Department but the NEA, which expects to dominate any new department, has much more political clout than these other organizations.

The NEA started flexing those muscles in 1976 when, for the first time, it endorsed a presidential candidate: Jimmy Carter. While House political operatives believe the active assistance of school teachers was critical in states such as Ohio, which Mr. Carter carried by only 11,000 votes of more than four million cast.

Thus, from the beginning, the White House viewed the Education Department chiefly as a legitimate political payoff. Moreover, the beleaguered President undoubtedly is counting on NEA support again next year; already, the teachers' political action committee has recommended endorsing the President for reelection. Further, Carterites see possible political gains with some of the top appointments in any new department.

NEA also exercises its clout on Capitol Hill. In 1976, the association made contributions of more than $675,000 to 310 House and Senate candidates. The NEA's influence is bipartisan. Success in the House was possible with the support of 35 GOP members. The department was supported in the Senate by minority leader Howard Baker of Tennessee and even such fearless foes of new bureaucracy as conservative Republicans Jake Garn of Utah and Strom Thurmond of South Carolina.

Of course, supporters insist a strong substantive case exists for a separate Education Department. Carter Budget Director James McIntyre argues a new consolidated department could more "effectively manage" over 150 federal education programs. Democratic Rep. Elliott Levitas of Georgia even contends the new department "means less government and less bureaucracy."

It's also noted that most other major countries have a separate ministery of education. If the U.S. followed suit, proponents argue, it would focus much needed visibility and prominence on education. A new department "will help to get important education issues the attention which they deserve at the national level," maintains Democratic Rep. Robert Edgar of Pennsylvania.

None of this is very persuasive. Unlike other countries, the U.S. education system is predominantly local in nature. As for any significant consolidation gains, the fact is that 95 percent of the new department's budget involves programs currently within the Department of Health, Education and Welfare. The dream of less government with a new department flies in the face of NEA's stated goal to boost the federal contribution of spending for secondary and elementary education to 33 percent from 8 percent.

But the most telling criticism comes from Rep. Benjamin Rosenthal, one of few House liberals to oppose the measure. Since World War II, he says, there have been three blue-ribbon panels to study government organization: the 1949 Hoover Commission, the Heineman Commission in 1967 and Ash Commission in 1971.

The New York Democrat notes that these commissions reached several common conclusions: the number of Cabinet-level departments should be reduced, departments should be organized around broad missions and government should resist creating departments for "single-issue groups."

The proposed Education Department fails all these tests. "It runs counter to every accepted theory of administrative management over the past 50 years," Rep. Rosenthal complains. And he professes to be "quite surprised that an administration that came into office dedicated to reforming governmental structure and improving its efficiency and quality would have even recommended this kind of an idea."

But it's doubtful such logic will prevail. More likely, most lawmakers will stay in the good graces of the NEA and next year remind voters of their support for education. And President Carter will hope the NEA's backing will count more than any memories of his 1976 pledge to reduce the number of government agencies.

There's one risk here, though. What if the Department of Education comes anywhere close to rivaling the performance of its immediate predecessor in reaching Cabinet-level status? That's the Department of Energy.●

● Mrs. SCHROEDER. Mr. Speaker, voting against the Department of Education is a very painful thing for me to do because so many good friends are on the other side. As chair of the Civil Service Subcommittee I have been very frustrated by the fumbling way the Department of Energy has been created. We still do not have that agency together and I really question whether we should take on any other new agencies at this time. I could ramble on with these arguments but many others have made them more eloquently than I can.

There is another reason I cannot vote for the Department of Education. As a parent, the education of my children is the most important concern I have. I want it left at the local level. I do not feel the President of the United States who is to protect the free world, protect the United States, quarterback our foreign policy, the currency, national health policies, welfare policies, labor and employment issues, come up with an energy policy, deal with public lands, create trade policies and on and on has time to also deal with education policies. I prefer those decisions be left to mayors, Governors and school boards. They are not quite so overloaded with issues.

I think the Federal Government should only write checks. All policy should be made and implemented locally. We are driving local schools crazy with Federal forms and all the redtape. Denver is a case in point, where schools were desegregated, then we lost our title I Federal money because they said you no longer have poverty impacted schools. The money did not follow the child. So my city got penalized for doing the right thing. Such inconsistent policies would not be tolerated in local forums yet get buried in Washington. I want decisions about my children made by local officials I can hold directly accountable. I do not want them to be able to duck and say "the Feds made us do it." No matter what anyone says, the Department of Education will not just write checks to local school boards. They will meddle in everything. I do not want that.●

● Mrs. CHISHOLM. Mr. Speaker, during consideration of the conference report on the separate Department of Education, S. 210, today in the House, I want to draw my colleagues attention to a new amendment adopted by the House/Senate conferees. I should emphasize that H.R. 2444, the bill which passed the House by a vote of 210 to 206, contained a number of detrimental social policy amendments. Among those amendments was a provision introduced by Representative ROBERT WALKER to prohibit the use of "rules, regulations, standards, guidelines and orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex."

The Walker amendment as originally drafted would have had a devastating impact on the separate Department's ability to carry out Federal affirmative action efforts, and went considerably further than the Court's position mandated in Regents of the University of California against Bakke or United States against Weber. For example, a major portion of the Federal civil rights enforcement scheme involves HEW's responsibility to eliminate discrimination in federally funded programs and Government contracts pursuant to title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, and Executive Order 11246. The sweeping language of the original Walker proposal would have barred appropriate and legitimate approaches by the Federal Government to carry out these mandated duties specified in civil rights legislation enacted by the Congress.

For these reasons and due to the overbreadth of coverage contained in the Walker measure, the conferees wisely chose to eliminate this language. This action was consistent with the conferees treatment of the other social policy amendments which were also removed in conference. To clarify the proposed Department's ability to insure equal educational opportunity, the conferees adopted the following language:

Section 101(2)—

> There is a continual need to ensure equal access for all Americans to educational opportunities of a high quality, and such educational opportunities should not be denied because of race, creed, color, national origin or sex.

The report further states:

> The substitute language is not intended to change or affect existing law or judicial precedent.

I want to make clear for the record that this legislation before the House today in no way establishes any new congressional policy with regard to affirmative action. This proposal contains no restrictions on the Federal Government's use of numerical devices or measures associated with action to remedy past discrimination. The legislative history on S. 210 must be perfectly clear and unambiguous on this point.●

CALL OF THE HOUSE

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 514]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boner
Bonior
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1400

The SPEAKER pro tempore (Mr. FOLEY). On this rollcall 384 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 210, DEPARTMENT OF EDUCATION ORGANIZATION ACT

Mr. BROOKS. Mr. Speaker, I yield such time as remains to the distinguished and able Speaker of the House, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, we are all working in Government together. What is the toughest job in Government? No question, it is that of President of the United States.

What is the second toughest job in Government? Last week, it was that of Speaker.

But overall, it is that of Secretary of Health, Education, and Welfare. How many programs does that Department have? Literally thousands and thousands and thousands of programs. It is unbelievable, the size; and yet, in the 45 meetings that the President's Cabinet had last year, the word "education" or the problem of education was brought up only once.

What is the greatest asset this Nation has? Education is the greatest asset this Nation has. And yet, what has happened? Public confidence in our educational system is the lowest it has ever been, less than a 30-percent positive rating. Rightly so. The aptitude tests scored by American high school graduates today are the lowest in 10 years. Illiteracy exists among those who have been awarded diplomas—yes, even in institutions of higher education like colleges and universities.

Widespread teacher dissatisfaction exists, and teachers are leaving the field of education at an unprecedented level on a daily basis. I know this to be true because I had a daughter who was Teacher of the Year in Virginia. She gave up her job because of the discipline, because of the violence, because of the vandalism, and because of public and parental apathy toward the problems in the classroom.

I have always been supportive of the principle of local control in education, and I remain dedicated to that principle. But, with public confidence in education as low as it is, I believe that the Department of Health, Education, and Welfare is an inefficient structure—an inefficient structure to manage the educational needs of this Nation. To retain education in this gigantic bureaucratic structure between health and welfare is to render a disservice to this Nation.

I think we should take education out of HEW and give the priority it requires as an independent Cabinet office. Educational needs must be placed under one management, a single management responsive to the school districts at home, responsive to the parents and to the Congress.

I believe that is what is needed to correct the faults and problems of education which I have seen along the line. We must be ever mindful in this day and age, that the greatest asset to America has been its educational system and the development of its young people. Let us not let that development falter. Let us improve upon it, and let us get back to the standards of educational excellence of which this Nation is capable.

We need a special Department of Education. We are doing it in the best interests of ourselves, of our children, and of our Nation's educational future. I hope that we adopt this conference committee report.

☐ 1410

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Mr. ERLENBORN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 215, nays 201, not voting 17, as follows:

[Roll No. 515]

YEAS—215

Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Aspin
Atkinson
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Benjamin
Bevill
Biaggi
Blanchard
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chappell
Clausen
Clay
Coelho
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Dicks
Dixon
Dodd
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Giaimo
Gingrich
Ginn
Gonzalez
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel

Hillis
Holland
Hollenbeck
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Leach, Iowa
Lehman
Leland
Levitas
Long, La.
Lowry
Lujan
McCormack
McKay
Madigan
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mica
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Mottl
Murphy, Pa.
Murtha
Natcher
Neal
Nolan
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Reuss
Rinaldo
Rodino
Roe
Rostenkowski
Roybal
Runnels
Russo
Santini
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Spellman
St Germain
Stack
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vento
Volkmer
Watkins
Weaver
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yatron
Young, Alaska
Young, Mo.
Zablocki

NAYS—201

Abdnor
Addabbo
Ambro
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Badham
Bafalis
Bailey
Bauman
Beilenson
Bennett
Bereuter
Bethune
Bingham
Boggs
Boland
Breaux
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Cheney
Chisholm
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conyers
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dingell
Donnelly
Dornan
Duncan, Oreg.
Early
Edwards, Ala.
Edwards, Okla.
Emery
Erlenborn
Evans, Del.
Fary
Fenwick
Ferraro
Forsythe
Fountain
Frenzel
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Glickman
Goldwater
Goodling
Gradison
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harsha
Hightower
Hinson
Holt
Hopkins
Hyde
Ichord
Jacobs
Jeffries
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McHugh
McKinney
Marlenee
Marriott
Martin
Mazzoli
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, N.Y.
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Nedzi
Nelson
Nichols
Nowak
O'Brien
Obey
Pashayan
Paul
Peyser
Quayle
Railsback
Regula
Rhodes
Richmond
Ritter
Robinson
Rosenthal
Roth
Rousselot
Royer
Rudd
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Treen
Trible
Vander Jagt
Vanik
Walgren
Walker
Wampler
Waxman
Wylie
Yates
Young, Fla.
Zeferetti
Williams, Mont.
Winn
Wyatt
Wydler
Weiss
White
Whitehurst
Whittaker

NOT VOTING—17

Anthony
Beard, Tenn.
Bolling
Carter
Collins, Ill.
Diggs
Findley
Flood
Green
Holtzman
Johnson, Colo.
LaFalce
Murphy, Ill.
Roberts
Rose
Solarz
Staggers

☐ 1420

The Clerk announced the following pairs:

On this vote:

Mr. Anthony for, with Mr. Roberts against.

Mrs. Collins of Illinois for, with Mr. LaFalce against.

Mr. Diggs for, with Ms. Holtzman against.

Mr. Staggers for, with Mr. Solarz against.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 404, CONTINUING APPROPRIATIONS FOR 1980

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on House Joint Resolution 404, making continuing appropriations for fiscal year 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

INTERNATIONAL HUMANITARIAN RELIEF PROGRAM FOR THE PEOPLE OF CAMBODIA

Mr. WOLFF. Mr. Speaker, I offer a resolution (H. Res. 431) calling on the Socialist Republic of Vietnam, the authorities in Phnom Penh and the United Nations to join in an international humanitarian relief program for the people of Cambodia, and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the resolution, as follows:

H. Res. 431

Whereas approximately three million Cambodians have already perished within the borders of their own country; and

Whereas an estimated three million surviving Cambodians now face death through starvation and disease; and

Whereas 80 percent of the children of Cambodia are reported to be suffering slow death through malnutrition; and

Whereas only a massive, immediate international humanitarian relief program will produce sufficient food and medicine to prevent the unspeakable from being spoken for the second time in our century—the death by state policy of six-million human beings; and

Whereas the authorities in Phnom Penh and the Socialist Republic of Vietnam must cooperate in effectively organizing and carrying out an international humanitarian relief program for the Cambodian people: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the President should direct our Ambassador to the United Nations to seek an emergency agenda item before the General Assembly to inaugurate an emergency food and medical relief program for the people of Cambodia. This program would be carried out by recognized international relief organizations, under United Nations sponsorship, with the full financial support of the member nations, and the full cooperation of the authorities in Phnom Penh, and the Socialist Republic of Vietnam.

Mr. WOLFF. Mr. Speaker, yesterday, the Subcommittee on Asian and Pacific Affairs voted unanimously to request the President to direct our Ambassador to the United Nations to seek immediate General Assembly action on the need for massive food and medical relief to the people of Cambodia.

Today, comes news that a tentative agreement between UNICEF, the International Red Cross, and the authorities in Phnom Penh has apparently been worked out, and that there are hopes that a permanent, long-term agreement will follow.

While tenuous, given past performances by Vietnam, the sponsor of the Phnom Penh regime, this agreement must be given all possible support. Far from rendering unnecessary General Assembly action, such action now becomes mandatory if we are to secure the UNICEF/Red Cross agreement.

Reaching agreement is but the first step; the people of Cambodia, who are literally starving to death, will only be saved by prompt delivery of massive amounts of food and medicine. This can only happen if the international community mobilizes its resources behind the United Nations promptly and fully.

Mr. Speaker, my remarks to the Subcommittee on Asian and Pacific Affairs yesterday when introducing the resolution did not take into account the agreement we now are happy and relieved to see announced. But the situation I describe remains the fact of life—the fact of death—for the people of Cambodia.

On June 18, the House voted 336 to 0 backing our subcommittee resolution calling on the United Nations to convene a Geneva conference on the plight of the Indochinese refugees. With this vehicle, we were able to work closely with the Secretary General, Mr. Waldheim, and to participate at the Geneva Conference itself, to see that the humanitarian concerns of the Congress and the American people were fully represented.

Now, we face an even worse human tragedy, if that is possible, in Cambodia, one moreover which threatens the stability of all of Asia. For if the famine in Cambodia goes unchecked, not only will the bulk of the population face death by starvation, but the refugee situation in Southeast Asia, particularly in Thailand, will reach catastrophic proportions.

Accordingly, today, I urge the House to support our resolution, so that the United Nations will know of our deep and continuing commitment to the humanitarian principles which have all along governed our policies toward the people of Cambodia.

I would also like to submit for the Record a column from today's New York Times by Anthony Lewis, which serves as an excellent outline of the current situation in Cambodia, and also in the region.

As Mr. Lewis points out, the renewed Vietnamese drive against the Pol Pot remnants raises serious concerns about renewed hostilities between Vietnam and China. Should that happen, the Sino-Soviet situation could well be exacerbated. None of these events would be desirable, all would threaten stability in Asia as a whole.

Mr. Lewis' conclusion is that the best move at present for the United States is to "call for an immediate international conference on the human situation in Cambodia." We quite agree, and our resolution of yesterday, which we now ask the House to join, calls for such action.

As I said yesterday prior to our hearing on another human tragedy which has gone largely unnoticed—the plight of 180,000 Afghan refugees who have fled into Pakistan:

Statement by the Hon. Lester Wolff, Chairman, Subcommittee on Asian and Pacific Affairs

UNITED NATIONS MUST ACT ON EMERGENCY FOOD AND MEDICAL AID TO CAMBODIA

The death rattle of the Cambodian people is echoing throughout the world, and yet there has been no successful move to act. The Socialist Republic of Vietnam and its client in Phnom Penh have thus far refused to allow an international relief effort.

Thus, Vietnam is becoming an unwitting accomplice of the deposed Pol Pot regime. Three million Cambodians died under the Khmer Rouge—half a people. Now, the inability of the international community to mount a relief effort condemns the remaining half—three million people—to death by starvation and disease.

Now, today Cambodia is the land of the living dead. Unless there is agreement by Vietnam and the authorities in Phnom Penh to allow an effective international relief effort to be carried out, Cambodia will truly become the land of the dead.

Accordingly, we call on the United Nations General Assembly to immediately convene an emergency agenda item on the Cambodian tragedy. Simple agreement to begin a relief effort is but the first step, effective implementation of the agreement must also be assured.

The question is not who runs Cambodia, or who should represent Cambodia on the world stage. The people of Cambodia are dying. That is all we must consider now, that is all we have time to consider. The people of Cambodia have no food. They have no medicine. Their seed rice is gone, they have no harvest to look forward to. Eighty percent of their children are now in the death-grip of malnutrition.

As it did at Geneva, when the crisis of the Indochinese refugees was at last acted upon by the international community, so too must the world community now band together and demand that Vietnam and the authorities in Phonm Phen agree to cooperate in carrying out their humanitarian responsibilities as a member of that community.

If the tragedy of Cambodia is allowed to run unchecked, the ultimate obscenity will have been committed—the murder of an entire race. The unspeakable—the death of six million human beings because of deliberate state policies—will have been spoken for the second time in this century.

This must not happen. We cannot allow it to happen. Yet, without the world community acting together, we can do nothing.

Cambodia: Time To Act

(By Anthony Lewis)

Boston, Sept. 26.—Two million Cambodians—perhaps half the surviving population of that ravaged land—are going to die of starvation and disease in the next few months unless massive help from outside can get to them. That is the estimate of doctors and relief workers who have visited there recently.

Even a world numbed to the statistics of war and natural disaster should be moved by the fate of the Cambodians. The pictures of children with the look of concentration camp victims are before us. What those people have suffered and are suffering justifies a word that should not be cheapened by overuse: holocaust.

According to the experts, it would take an airlift of 600 tons of rice a day, starting immediately, to avert famine. There would have to be large amounts of medicine and relief teams, and trucks to distribute the supplies in a country stripped of its human and physical infrastructure.

All that could be done. Oxfam and UNICEF and the Red Cross and other agencies are ready to move. The U.S. and other governments would provide food and money. But political obstacles are preventing action.

The Heng Samrin Government, installed in Phnom Penh by invading Vietnamese forces last winter, has refused visas to relief workers—and even revoked some visas. Last week the regime angrily denounced the distribution of food, at the border with Thailand, to Cambodian civilians who were not under its control.

The signs are growing that Vietnam is using starvation as a weapon in the effort to consolidate its hold on Cambodia and destroy the remnants of Pol Pot's Khmer Rouge forces. Vietnam wants any Western aid for Cambodia to come through its agents and be distributed to those within its control. The effect would be to abandon to starvation the large areas where its control is contested—as much as 80 percent of the country according to some reports.

The Vietnamese this week apparently launched the dry-season military offensive in Cambodia that American officials have been predicting. The renewed fighting, together with the obstruction of aid from abroad, threatens to bring final disaster on what was an extraordinarily fruitful land until war engulfed it ten years ago. Correspondents report that rice was not even planted this summer because of the political turmoil.

Starvation is not the limit of what the situation in Cambodia threatens. There could be extremely grave political consequences, for the region and the world. State Department officials concerned with the problem see these as some of the possibilities:

More Cambodians may try to escape into Thailand, which already has 100,000 Cambodians and 120,000 other refugees in camps. The fighting could also spill over into Thailand and increase the strains on its stability.

China, which resolutely supports the Pol Pot forces, could react to a new Vietnamese offensive by taking punitive military action itself: a move into Laos, for example, or another direct assault on Vietnam. There are reports that Chinese officials told Vice President Mondale, during his recent visit, of their intention to respond strongly to any Vietnamese drive in Cambodia.

The Soviet Union, Vietnam's ally, might not keep hands off if China moves into Vietnam again. The Russians are deeply engaged in Cambodia, ferrying Vietnamese troops there in Soviet planes and helping with logistics.

"Cambodia is very serious for all of us," a high American official said the other day. "The weakest state in Asia, because of its weakness, is the point of greatest danger. The events there, if mishandled, have a chance of setting off a chain reaction."

What can the United States do to head off threatening disaster, human and political? The Carter Administration's reluctant answer is: not much. It stands ready to offer relief but thinks the time is not ripe for larger diplomatic action because the parties involved are committed to another round of fighting. President Carter himself has had little to say.

The gloomy U.S. estimate may be realistic. But we do not want to tell ourselves, if the worst happens, that we stood by and wrung our hands. And I think there is something more dramatic that the United States, Japan and the West Europeans can attempt now. That is to call for an immediate international conference on the human situation in Cambodia.

World action on the boat refugees from Vietnam showed that public feeling and political pressure could make a difference. After an international conference, Hanoi did back off. Here again is a situation when world outrage could matter. A conference would have to focus at first on the imminent threat of famine. But that problem is so connected with the political struggle over Cambodia that there might be ways to move on to the larger issue.

The President of the United States and men who hope to succeed him in office are spending much of their time these days worrying about the threat of a few thousand Soviet soldiers in Cuba. They might spare a thought, and some words out loud, for the fate of five million Cambodians.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WELCOMING POPE JOHN PAUL II TO THE UNITED STATES

Mr. ZABLOCKI. Mr. Speaker, I offer a resolution (H. Res. 412), resolution of welcome for Pope John Paul II, and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the resolution, as follows:

H. Res. 412

Whereas Pope John Paul II is a moral leader and a force for good in the world community; and

Whereas, he is an advocate for world peace and disarmament, goals shared by men and women of all nationalities; and

Whereas, Pope John Paul's visit to his homeland of Poland was a beacon of light for all those who hope for an end to the repression of religious and other freedoms that has befallen Eastern Europe; and

Whereas, this country has as one of its founding principles the freedom of all to celebrate the worship as they may choose; now: Therefore, be it

Resolved, by the House of Representatives, That we do welcome Pope John Paul II to the United States and extend to him all the courtesies, all the warmth, and all the hospitality appropriate to his visit.

Mr. ZABLOCKI. Mr. Speaker, House Resolution 412 is a resolution which welcomes Pope John Paul II to the United States. It is fitting and proper that the House take this action on the eve of the Pope's historic visit to the United States.

It deserves the unanimous support of the House of Representatives.

Pope John Paul is already recognized as one of the great leaders in the universal quest for international peace, human rights, and dignity of the individual.

In this quest, the Pope has already visited Mexico and Poland in order to advance the principles of religious freedom, international human rights, and the resolution of conflict through peaceful means. Prior to his arrival in the United States he will have carried that same message to the people of Ireland.

We are, needless to say, deeply honored that the Pope will now bring his message of peace and good will to the United States. I think my colleagues will agree that it is particularly fitting that this foremost moral and religious leader will be coming to the United States, a country whose founding principles reflect the values for which the Pope so courageously speaks out.

Although Pope John Paul's visit will take him to many parts of our country, from New York City to the town of Cumming, Iowa, I am particularly pleased that he has also chosen to come to Washington, D.C. On Saturday, October 6, following outdoor receptions at the White House, Pope John Paul and President Carter will meet privately. At that time, I am sure, these two world leaders will exchange thoughts and ideas regarding their joint effort for human dignity and world peace. On Sunday afternoon, October 7, his pontifical mass on the Mall will conclude a full day of special meetings and addresses at Catholic University.

Unfortunately, time limitations and logistical problems will prevent His Holiness from meeting with the Members of Congress in a joint session. Nevertheless, we will have the opportunity to meet the Pope at a congressional White House reception on Saturday afternoon, October 6. It is an extraordinary opportunity, and I know that my colleagues are looking forward to that meeting.

Mr. Speaker, I ask the Members of the House to join Mr. MAZZOLI, myself, and the more than 60 cosponsors of House Resolution 412 in extending a warm and heartfelt welcome to Pope John Paul II by unanimously approving this resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks at this point in the RECORD on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO FILE REPORT ON H.R. 3173, INTERNATIONAL SECURITY ACT OF 1979

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be permitted to file a conference report on the bill H.R. 3173, the International Security Act of 1979, during the recess.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CONFERENCE REPORT ON H.R. 4394, HUD/INDEPENDENT AGENCIES APPROPRIATIONS, 1980

Mr. BOLAND. Mr. Speaker, I call up the conference report on the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 2, 1979.)

The gentleman from Massachusetts (Mr. BOLAND) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. COUGHLIN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

☐ 1430

Mr. BOLAND. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, we bring back to the House today the conference report on the 1980 HUD-independent agencies appropriation bill. As in past years, the conferees were confronted with several difficult issues. Of course, that is to be expected in a complicated bill of this size with so many diverse programs. I am happy to report that we reached agreement on all but two of the issues in conference. Before I discuss those two exceptions, I want to sum up what the bill contains.

The total amount of this conference report is $71,834,684,000. The House passed this bill on June 27 with a total of $71,963,475,000. The Senate passed the bill on July 27 and approved a total of $71,930,247,000. The conferees have brought back a bill that is under both the House and Senate approved bills and $980,554,750 below the budget request.

Turning to specifics, the conference agreement has approved $33,461,988,000 for the Department of Housing and Urban Development. We are recommending the budget estimate of $1,140,661,000 of new annual contract authority and $26,680,128,000 of new budget authority to be made available for HUD's subsidized housing programs. Based on the economic assumptions used by the Department in developing this budget, this level of funding will be sufficient to reserve up to an additional 296,000 subsidized housing units in fiscal year 1980. However, some housing experts believe the estimated cost per unit is understated and the number of housing units provided will be closer to 260,000. The ultimate number of subsidized housing units that can be reserved with the funds provided depends on the average cost per unit and the section 8 unit mix between new and substantial rehabilitation and existing.

Let me make a few comments about the section 8 housing mix. This year, fiscal year 1979, the number of families that could receive housing assistance was reduced by approximately 40,000 because the Department changed the section 8 housing mix based on updated housing assistance plans. The number of existing units was decreased. This total decrease occurred because new and substantial rehabilitation costs more per unit than does existing. For fiscal year 1980, in an attempt to increase the number of families receiving assistance, the House-passed bill contained language that changed the mix of units assisted from the proposed level of 66 percent for new and substantial rehabilitation and 34 percent for existing to 60 percent for new and substantial rehabiliation and 40 percent for existing. While the language regarding the mix was deleted in conference, I am still concerned about the number of families being assisted. I hope the new Secretary will not further reduce the number of subsidized housing units than can be provided with the funds available by changing the mix. I would expect that the Department, in times of severe budget restraint, would on its own initiative want to provide more subsidized housing within the same number of dollars by reserving more existing units.

In other major program areas within HUD, the bill includes $3,900,000,000 for the community development grants program, $675 million for the urban development actions grants program, $830 million for the section 202 housing for the elderly and handicapped fund, and $135 million for the section 312 rehabilitation fund.

The bill includes $4,660,242,000 for the Environmental Protection Agency, of which $1,260,242,000 is for operating programs of the agency and $3,400,000,000 is for the wastewater treatment construction grants program.

In connection with the construction grants program, the House and Senate reports gave differing guidance with respect to the administration of the advanced wastewater treatment (AWT) program. The House requires that the Administrator review all AWT projects above $2 million, while the Senate establishes the cutoff at $3 million. The EPA has asked that the incremental cost cutoff be set at that figure of $3 million, and we have no objection to that request.

A total of $441,930,000 is approved for the new Federal Emergency Management Agency, $996,250,000 for the National Science Foundation, $6,854,924,000 for general revenue sharing, and $74,000,000 for the National Consumer Cooperative Bank. Also, the bill contains $20,331,055,000 for the numerous programs of the Veterans' Administration.

The conferees were unable to reach agreement on two issues, and let me discuss these briefly at this time.

First, the House did not approve any funds for a new livable cities program in the Department of Housing and Urban Development. The Senate provided $3 million to begin this new program. I understand that my good friend, the gentleman from Ohio (Mr. STOKES), a member of the subcommittee, will offer a preferential motion to recede and concur with the Senate position. I do not believe we should be starting a livable cities program in HUD. The Department has its hands full trying to pull together a workable national housing program. If we add to that burden by putting HUD in the arts business, we are going to be making a very big mistake.

The other item which the conferees could not agree on concerns NASA's research and development account. In a nutshell, the Senate restored most of the $23 million House reduction and added funds for five programs, some new and some enhanced, which were not requested by the administration. To me, it does not make sense to start new programs or enhance existing program levels when NASA's major program, the Space Shuttle, is experiencing another serious shortfall in funding. At the proper time, I will offer a motion to recede to the Senate position and add in the $23 million, but earmark those funds for the Space Shuttle only.

At that time I will also add language limiting project Galileo development subject to approval of the Appropriations Committees. We are taking that approach because of recent developments which will result in a 75 percent cost overrun for Galileo. In view of another significant requirement of from $200 to $300 million for shuttle funding in 1980, I believe this is the most responsible and prudent course of action to take.

Mr. Speaker, I had hoped that we could have settled all the differences between the House and the Senate on the bill in conference, but that was not to be the case. Some issues require further guidance from this House and from the other body. That is why we bring these two items back in disagreement. The two issues that I have talked about fit that very mold, and I am sure both will be discussed further when we get to the amendments in disagreement.

Mr. Speaker, I will include in the remarks a table on each item, the comparison with 1979, and the actions of both House and Senate.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY, HUD—INDEPENDENT AGENCIES APPROPRIATION BILL, 1980 (H.R. 4394)

[Note.—All amounts are in the form of appropriations unless otherwise indicated.]

						Conference action compared with—			
Agency and item (1)	New budget (obligational) authority fiscal year 1979 [1] (2)	Budget estimates of new budget (obligational) authority fiscal year 1980 [2] (3)	New budget (obligational) authority recommended in House bill (4)	New budget (obligational) authority recommended in Senate bill (5)	Conference action (6)	New budget (obligational) authority fiscal year 1979 (7)	Budget estimates of new budget (obligational) authority fiscal year 1980 (8)	House bill (9)	Senate bill (10)
TITLE I									
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
HOUSING PROGRAMS									
Annual contributions for assisted housing (contract authority)	24,395,848,000	26,680,127,750	26,680,128,000	26,680,128,000	26,680,128,000	+2,284,280,000	+250		
Increased limitation for annual contract authority	(1,322,297,000)	(1,140,661,275)	(1,160,474,000)	(1,140,661,000)	(1,140,661,000)	(−181,636,000)	(−275)	(−19,813,000)	
Rent supplement		−200,000,000		−200,000,000	−200,000,000	−200,000,000		−200,000,000	
Housing payments (appropriation to liquidate contract authority)	(4,460,000,000)	(5,529,000,000)	(5,529,000,000)	(5,529,000,000)	(5,529,000,000)	(+1,069,000,000			
Housing for the elderly or handicapped fund (authority to borrow)	800,000,000	800,000,000	800,000,000	860,000,000	830,000,000	+30,000,000	+30,000,000	+30,000,000	−30,000,000
Congregate services program	10,000,000		10,000,000	10,000,000	10,000,000		+10,000,000		
Payments for operation of low-income housing projects	727,000,000	741,500,000	741,500,000	741,500,000	741,500,000	+14,500,000			
Troubled projects operating subsidy	74,000,000	82,000,000	77,000,000	82,000,000	79,500,000	+5,500,000	+2,500,000	+2,500,000	+2,500,000
Federal Housing Administration fund	352,290,000	194,850,000	194,850,000	194,850,000	194,850,000	−157,440,000			
Government National Mortgage Association									
Emergency Mortgage purchase assistance:									
Recapture of repayments	(1,000,000,000)					(−1,000,000,000)			
Special assistance functions fund:									
Authority to borrow	500,000,000					−500,000,000			
Recapture of repayments	(1,500,000,000)	(2,000,000,000)	(2,000,000,000)	(2,000,000,000)	(2,000,000,000)	(+500,000,000)			
Payment of participation sales insufficiencies	20,477,000	16,971,000	16,971,000	16,971,000	16,971,000	−3,506,000			
Total, Government National Mortgage Association	520,477,000	16,971,000	16,971,000	16,971,000	16,971,000	−503,506,000			
Total, housing programs	26,879,615,000	28,315,448,750	28,520,449,000	28,385,449,000	28,352,949,000	+1,473,334,000	+37,500,250	+167,500,000	−32,500,000
COMMUNITY PLANNING AND DEVELOPMENT									
Community development grants	3,750,000,000	3,900,000,000	3,900,000,000	3,900,000,000	3,900,000,000	+150,000,000			
Urban development action grants	400,000,000	675,000,000	400,000,000	675,000,000	675,000,000	+275,000,000		+275,000,000	
Comprehensive planning grants	53,000,000	40,000,000	35,000,000	50,000,000	42,500,000	−10,500,000	+2,500,000	+7,500,000	−7,500,000
Rehabilitation loan fund	230,000,000	130,000,000	140,000,000	130,000,000	135,000,000	−95,000,000	+5,000,000	−5,000,000	+5,000,000
Urban homesteading	20,000,000					−20,000,000			
Total, community planning and development	4,453,000,000	4,745,000,000	4,475,000,000	4,755,000,000	4,752,500,000	+299,500,000	+7,500,000	+277,500,000	−2,500,000

See footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY, HUD—INDEPENDENT AGENCIES APPROPRIATION BILL, 1980 (H.R. 4394)—Continued

[Note.—All amounts are in the form of appropriations unless otherwise indicated.]

						Conference action compared with—			
Agency and item	New budget (obligational) authority fiscal year 1979[1]	Budget estimates of new budget (obligational) authority fiscal year 1980[2]	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	Conference action	New budget (obligational) authority fiscal year 1979	Budget estimates of new budget (obligational) authority fiscal year 1980	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION									
Housing counseling assistance	9,000,000	9,000,000	9,000,000	9,000,000	9,000,000				
Neighborhood self-help development program	5,000,000	15,000,000	10,000,000	10,000,000	10,000,000	+5,000,000	-5,000,000		
Livable cities program		5,000,000		3,000,000			-5,000,000		-3,000,000
Total, neighborhoods, voluntary associations and consumer protection	14,000,000	29,000,000	19,000,000	22,000,000	19,000,000	+5,000,000	-10,000,000		-3,000,000
POLICY DEVELOPMENT AND RESEARCH									
Research and technology	57,500,000	53,000,000	49,000,000	50,300,000	49,650,000	-7,850,000	-3,350,000	+650,000	-650,000
FAIR HOUSING AND EQUAL OPPORTUNITY									
Fair housing assistance		3,700,000	3,700,000	3,700,000	3,700,000	+3,700,000			
MANAGEMENT AND ADMINISTRATION									
Salaries and expenses	269,458,000	296,002,000	288,377,000	281,002,000	284,189,000	+14,731,000	-11,813,000	-4,188,000	+3,187,000
By transfer, FHA funds	(250,255,000)	(255,118,000)	(255,118,000)	(255,118,000)	(255,118,000)	(+4,863,000)			
Total, title I, Department of Housing and Urban Development:									
New budget (obligational) authority	31,673,573,000	33,442,150,750	33,355,526,000	33,497,451,000	33,461,988,000	+1,788,415,000	+19,837,250	+106,462,000	-35,463,000
Appropriations	5,977,725,000	6,162,023,000	5,875,398,000	6,157,323,000	6,151,860,000	+174,135,000	-10,163,000	+276,462,000	-5,463,000
Contract authority	24,395,848,000	26,480,127,750	26,680,128,000	26,480,128,000	26,480,128,000	+2,084,280,000	+250	-200,000,000	
Authority to borrow	1,300,000,000	800,000,000	800,000,000	860,000,000	830,000,000	-470,000,000	+30,000,000	+30,000,000	-30,000,000
Appropriation to liquidate contract authority	(4,460,000,000)	(5,529,000,000)	(5,529,000,000)	(5,529,000,000)	(5,529,000,000)	(+1,069,000,000)			
Increased limitation for annual contract authority	(1,322,297,000)	(1,140,661,275)	(1,160,474,000)	(1,140,661,000)	(1,140,661,000)	(-181,636,000)	(-275)	(-19,813,000)	
Limitation on corporate funds to be expended	(250,255,000)	(255,118,000)	(255,118,000)	(255,118,000)	(255,118,000)	(+4,863,000)			
TITLE II									
INDEPENDENT AGENCIES									
AMERICAN BATTLE MONUMENTS COMMISSION									
Salaries and expenses	7,425,000	7,603,000	8,136,000	7,603,000	7,603,000	+178,000		-583,000	
CONSUMER PRODUCT SAFETY COMMISSION									
Salaries and expenses	42,940,000	41,776,000	41,250,000	40,600,000	40,600,000	-2,340,000	-1,176,000	-650,000	
DEPARTMENT OF DEFENSE—CIVIL									
Cemeterial Expenses, Army									
Salaries and expenses	5,100,000	7,943,000	8,326,000	7,611,000	8,326,000	+3,226,000	+383,000		+715,000
ENVIRONMENTAL PROTECTION AGENCY									
Salaries and expenses	457,419,000	520,319,000	506,748,000	515,319,000	513,319,000	+55,900,000	-7,000,000	+6,571,000	-2,000,000
Research and development	218,819,000	239,568,000	233,568,000	232,568,000	233,568,000	+14,749,000	-6,000,000		+1,000,000
Abatement, control, and compliance	524,145,000	540,688,000	475,809,000	515,592,000	508,892,000	-15,253,000	-31,796,000	+33,083,000	-6,700,000
Buildings and facilities	1,063,000	1,425,000	1,425,000	1,425,000	1,425,000	+362,000			
Construction grants:									
Appropriation	4,200,000,000	3,800,000,000	3,400,000,000	3,400,000,000	3,400,000,000	-800,000,000	-400,000,000		
Appropriation to liquidate contract authority	(1,400,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(+100,000,000)			
Scientific activities overseas (special foreign currency program)	2,500,000	4,000,000	2,000,000			-2,500,000	-400,000,000	-2,000,000	
U.S. Regulatory Council		3,238,000	2,238,000	3,238,000	3,038,000	+3,038,000	-200,000	+800,000	-200,000
Total, Environmental Protection Agency	5,403,946,000	5,109,238,000	4,621,788,000	4,668,142,000	4,660,242,000	-743,704,000	-448,996,000	+38,454,000	-7,900,000
EXECUTIVE OFFICE OF THE PRESIDENT									
Council on Environmental Quality and Office of Environmental Quality	3,026,000	3,126,000	3,026,000	3,126,000	3,126,000	+100,000		+100,000	
Office of Science and Technology Policy	2,496,000	2,900,000	2,725,000	2,625,000	2,625,000	+129,000	-275,000	-100,000	
Total, Executive Office of the President	5,522,000	6,026,000	5,751,000	5,751,000	5,751,000	+229,000	-275,000		

See footnotes at end of table.

Agency and item (1)	New budget (obligational) authority fiscal year 1979[1] (2)	Budget estimates of new budget (obligational) authority fiscal year 1980[2] (3)	New budget (obligational) authority recommended in House bill (4)	New budget (obligational) authority recommended in Senate bill (5)	Conference action (6)	Conference action compared with— New budget (obligational) authority fiscal year 1979 (7)	Budget estimates of new budget (obligational) authority fiscal year 1980 (8)	House bill (9)	Senate bill (10)
FEDERAL EMERGENCY MANAGEMENT AGENCY									
Disaster relief, funds appropriated to the President	386,105,000	193,600,000	193,600,000	193,600,000	193,600,000	−192,505,000			
Emergency planning, preparedness and mobilization	129,348,000	139,121,000	131,121,000	129,621,000	129,621,000	+273,000	−9,500,000	−1,500,000	
Hazard mitigation and disaster assistance	132,517,000	125,709,000	119,109,000	118,709,000	118,709,000	−13,808,000	−7,000,000	−400,000	
Total, Federal Emergency Management Agency	647,970,000	458,430,000	443,830,000	441,930,000	441,930,000	−206,040,000	−16,500,000	−1,900,000	
GENERAL SERVICES ADMINISTRATION									
Consumer Information Center	1,162,000	1,364,000	1,315,000	1,315,000	1,315,000	+153,000	−49,000		
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Office of Consumer Affairs	1,732,000	1,861,000	1,861,000	1,861,000	1,861,000	+129,000			
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION									
Research and development	3,477,200,000	3,822,500,000	3,799,500,000	3,822,500,000	3,822,500,000	+345,300,000		+23,000,000	
Construction of facilities	147,500,000	157,600,000	156,100,000	156,100,000	156,100,000	+8,600,000	−1,500,000		
Research and program management	936,469,000	964,900,000	954,500,000	964,500,000	959,500,000	+23,431,000	−5,000,000	+5,000,000	−5,000,000
Total, National Aeronautics and Space Administration	4,561,169,000	4,945,000,000	4,910,500,000	4,943,500,000	4,938,500,000	+377,340,000	−6,500,000	+28,000,000	−5,000,000
NATIONAL COMMISSION ON AIR QUALITY									
Salaries and expenses	2,000,000	6,000,000	5,000,000	5,500,000	5,500,000	+3,500,000	−500,000	+500,000	
NATIONAL CONSUMER COOPERATIVE BANK									
Salaries and expenses	1,500,000	8,900,000	7,000,000	8,900,000	7,950,000	+6,450,000	−950,000	+950,000	−950,000
Self-help development	1,000,000	20,000,000	17,000,000	17,000,000	17,000,000	+16,000,000	−3,000,000		
Total, National Consumer Cooperative Bank	2,500,000	28,900,000	24,000,000	25,000,000	24,950,000	+22,450,000	−3,950,000	+950,000	−950,000
NATIONAL CREDIT UNION ADMINISTRATION									
Central liquidity facility (authority to borrow)		500,000,000	300,000,000				−500,000,000	−300,000,000	
NATIONAL INSTITUTE OF BUILDING SCIENCES									
Salaries and expenses	750,000	750,000	718,000	750,000	750,000			+32,000	
NATIONAL SCIENCE FOUNDATION									
Research and related activities	827,000,000	915,300,000	896,800,000	915,300,000	906,050,000	+79,050,000	−9,250,000	+9,250,000	−9,250,000
Science education activites	80,000,000	84,700,000	84,700,000	84,700,000	84,700,000	+4,700,000			
Scientific activities overseas (special foreign currency program)	4,000,000	6,000,000	5,500,000	5,500,000	5,500,000	+1,500,000	−500,000		
Total, National Science Foundation	911,000,000	1,006,000,000	987,000,000	1,005,500,000	996,250,000	+85,250,000	−9,750,000	+9,250,000	−9,250,000
NEIGHBORHOOD REINVESTMENT CORPORATION									
Salaries and expenses		9,500,000	9,500,000	12,000,000	12,000,000	+12,000,000	+2,500,000	+2,500,000	
SELECTIVE SERVICE SYSTEM									
Salaries and expenses	7,830,000	9,825,000	7,830,000	7,830,000	7,830,000		−1,995,000		
DEPARTMENT OF THE TREASURY									
Payments to State and local government fiscal assistance trust fund	6,854,924,000	6,854,924,000	6,854,924,000	6,854,924,000	6,854,924,000				
Office of Revenue Sharing, salaries and expenses	7,200,000	6,337,000	6,237,000	6,237,000	6,237,000	−963,000	−100,000		
New York City loan guarantee program, administrative expenses	1,050,000	1,034,000	1,034,000	1,022,000	1,022,000	−28,000	−12,000	−12,000	
Investment in National Consumer Cooperative Bank	1,000,000	60,000,000	50,000,000	48,100,000	49,050,000	+48,050,000	−10,950,000	−950,000	+950,000
Total, Department of the Treasury	6,864,174,000	6,922,295,000	6,912,195,000	6,910,283,000	6,911,233,000	+47,059,000	−11,062,000	−962,000	+950,000

See footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY, HUD—INDEPENDENT AGENCIES APPROPRIATION BILL, 1980 (H.R. 4394)—Continued

[Note.—All amounts are in the form of appropriations unless otherwise indicated.]

Agency and item (1)	New budget (obligational) authority fiscal year 1979 [1] (2)	Budget estimates of new budget (obligational) authority fiscal year 1980 [2] (3)	New budget (obligational) authority recommended in House bill (4)	New budget (obligational) authority recommended in Senate bill (5)	Conference action (6)	Conference action compared with— New budget (obligational) authority fiscal year 1979 (7)	Conference action compared with— Budget estimates of new budget (obligational) authority fiscal year 1980 (8)	Conference action compared with— House bill (9)	Conference action compared with— Senate bill (10)
VETERANS' ADMINISTRATION									
Compensation and pensions	10, 706, 700, 000	11, 201, 800, 000	11, 201, 800, 000	11, 201, 800, 000	11, 201, 800, 000	+495, 100, 000			
Readjustment benefits	2, 445, 700, 000	2, 278, 535, 000	2, 278, 535, 000	2, 278, 535, 000	2, 278, 535, 000	−167, 165, 000			
Veterans insurance and indemnities	5, 750, 000	5, 400, 000	5, 400, 000	5, 400, 000	5, 400, 000	−350, 000			
Medical care	5, 374, 374, 000	5, 659, 117, 000	5, 671, 119, 000	5, 696, 215, 000	5, 683, 700, 000	+309, 326, 000	+24, 583, 000	+12, 581, 000	−12, 515, 000
Medical and prosthetic research	122, 847, 000	122, 847, 000	127, 847, 000	122, 847, 000	122, 847, 000			−5, 000, 000	
Medical administration and miscellaneous operating expenses	47, 058, 000	48, 024, 000	47, 606, 000	47, 606, 000	47, 606, 000	+548, 000	−418, 000		
General operating expenses	631, 675, 000	592, 790, 000	584, 967, 000	588, 392, 000	587, 392, 000	−44, 283, 000	−5, 398, 000	+2, 425, 000	−1, 000, 000
Construction, major projects	365, 560, 000	317, 292, 000	317, 292, 000	317, 292, 000	317, 292, 000	−48, 268, 000			
Construction, minor projects	86, 345, 000	73, 072, 000	72, 633, 000	72, 633, 000	72, 633, 000	−13, 712, 000	−439, 000		
Grants for construction of State extended care facilities	10, 000, 000	5, 000, 000	5, 000, 000	10, 000, 000	7, 500, 000	−2, 500, 000	+2, 500, 000	+2, 500, 000	−2, 500, 000
Grants for construction of State veterans cemeteries		5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000	+5, 000, 000			
Assistance for health manpower training institutions	104, 905, 000					−104, 905, 000			
Grants to the Republic of the Philippines	500, 000	1, 700, 000	1, 700, 000	1, 000, 000	1, 350, 000	+850, 000	−350, 000	−350, 000	+350, 000
Total, Veterans' Administration	19, 901, 414, 000	20, 310, 577, 000	20, 318, 899, 000	20, 346, 720, 000	20, 331, 055, 000	+429, 641, 000	+20, 478, 000	+12, 1565, 000	−15, 665, 000
Total, title II, independent agencies:									
New budget (obligational) authority	38, 366, 634, 000	39, 373, 088, 000	38, 607, 949, 000	38, 432, 796, 000	38, 372, 696, 000	+6, 062, 000	−1, 000, 392, 000	−235, 253, 000	−60, 100, 000
Appropriations to liquidate contract authority	(1, 400, 000, 000)	(1, 500, 000, 000)	(1, 500, 000, 000)	(1, 500, 000, 000)	(1, 500, 000, 000)	(+100, 000, 000)			
TITLE III									
CORPORATIONS									
Federal Home Loan Bank Board:									
Limitation on administrative expenses	(17, 650, 000)	(18, 984, 000)	(18, 359, 000)	(18, 359, 000)	(18, 359, 000)	(+709, 000)	(−625, 000)		
Federal Savings and Loan Insurance Corporation (limitation on administrative expenses)	(31, 928, 000)	(33, 566, 000)	(33, 466, 000)	(33, 466, 000)	(33, 466, 000)	(+1, 538, 000)	(−100, 000)		
Total, t tle III, corporations	(49, 578, 000)	(52, 550, 000)	(51, 825, 000)	(51, 825, 000)	(51, 825, 000)	(+2, 247, 000)	(−725, 000)		
RECAPITULATION									
Grand total, titles I, II, and III:									
New budget (obligational) authority	70, 040, 207, 000	72, 815, 238, 750	71, 963, 475, 000	71, 930, 247, 000	71, 857, 684, 000	+1, 817, 477, 000	−957, 554, 750	−105, 791, 000	−72, 563, 000
Appropriations	44, 344, 359, 000	45, 035, 111, 000	44, 183, 347, 000	44, 590, 119, 000	44, 547, 556, 000	+203, 197, 000	−487, 555, 000	+364, 209, 000	−42, 563, 000
Contract authority	24, 395, 848, 000	26, 480, 127, 750	26, 680, 128, 000	26, 480, 128, 000	26, 480, 128, 000	+2, 084, 280, 000	+250	−200, 000, 000	
Authority to borrow	1, 300, 000, 000	1, 300, 000, 000	1, 100, 000, 000	860, 000, 000	830, 000, 000	−470, 000, 000	−470, 000, 000	−270, 000, 000	−30, 000, 000
Appropriations to liquidate contract authority	(5, 860, 000, 000)	(7, 029, 000, 000)	(7, 029, 000, 000)	(7, 029, 000, 000)	(7, 029, 000, 000)	(+1, 169, 000, 000)			
Increased limitation for annual contract authority	(1, 322, 297, 000)	(1, 140, 661, 275)	(1, 160, 474, 000)	(1, 140, 661, 000)	(1, 140, 661, 000)	(−181, 636, 000)	(−275)	(−19, 813, 000)	
Limitation on corporate funds to be expended	(299, 833, 000)	(307, 668, 000)	(306, 943, 000)	(306, 943, 000)	(306, 943, 000)	(+7, 110, 000)	(−725, 000)		

[1] Includes all supplementals.

[2] Includes the following budget amendments:

H. Doc. 96–108: Department of Housing and Urban Development: Urban development action grants	$275, 000, 000
H. Doc. 96–124: National Aeronautics and Space Administration: Research and development	220, 000, 000
H. Doc. 96–156: Environmental Protection Agency:	
Salaries and expenses	$2, 571, 000
Abatement, control and compliance	19, 429, 000
H. Doc. 96–164: Federal Emergency Management Agency: Hazard mitigation and disaster assistance	6, 114, 000
H. Doc. 96–168: Veterans Administration: Medical care	64, 378, 000

Mr. COUGHLIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report which we bring before you today provides $71.8 billion in new budget authority, if the House figures are used for items in disagreement, for the Department of Housing and Urban Development and the 20 independent agencies and offices that are in this bill.

The House bill, passed on June 27, 1979, provided about $72 billion. The Senate bill, passed on July 27, 1979, provided $72.1 billion. The conference report being brought to you today is below the figures in both the House and the Senate bills.

I might say that the conference report would have been for a much larger sum were it not for the very able, distinguished subcommittee chairman, the gentleman from Massachusetts (Mr. BOLAND). Under his leadership, the House conferees were generally successful in maintaining this body's positions. Where the conferees were not successful, one can safely bet that it was a bargaining chip the chairman counted on using, anyway.

For the Department of Housing and Urban Development, the bill provides $1,140,661,000 in annual contract authority for federally assisted housing.

The House had proposed changing the mix of new and substantially rehabilitated versus existing units in the section 8 program, but on this the House conferees did recede to the Senate position, keeping the mix at 66–34, as requested by the Department of Housing and Urban Development.

The House conferees also receded on the addition of $275 million for urban development action grants. That sum had been struck on a point of order during House consideration of the bill since it was not authorized.

An amendment in disagreement, as the chairman had pointed out, is the one on the livable cities program. Both the majority and the minority ask that the House position providing no money be upheld. There will be more discussion about this letter.

The bill contains $4,660,000,000 for the Environmental Protection Agency. The lion's share of this money is for wastewater sewerage treatment construction grants. The House conferees agreed with the Senate in providing $19.4 million for identification and investigation of hazardous waste-dump sites.

For the National Aeronautics and Space Administration, the research and development funds will be considered as an amendment in disagreement.

The Senate and the House made cuts in different programs. The House, while anticipating saving $23 million, should earmark this for the Space Shuttle, as the chairman has proposed.

The bill contains some $906 million for the National Science Foundation, which is the only agency that provides substantial support for basic research in our Federal Government.

In the Veterans' Administration, the conferees agreed that the $76,380,000 added by the House and the Senate for 3,800 health care personnel be used for existing programs.

Further agreement was reached that an additional $12,581,000 be available for new medical programs of the Veterans Health Care Amendments of 1979.

I hope that the House will support the Appropriations Committee and this conference report.

Mr. Speaker, I will be happy to yield to the very distinguished ranking minority member of that committee, the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I want to thank the gentleman from Pennsylvania. I, too, want to compliment the chairman of the subcommittee, the gentleman from Massachusetts (Mr. BOLAND); the ranking minority member, the gentleman from Pennsylvania (Mr. COUGHLIN), for their fine work in bringing out this conference report.

I urge the House of Representatives to adopt the conference report and also to support the subcommittee chairman in regard to the livable cities program. This is a brandnew program and has no business being in this bill this late in the session when we are beginning a new fiscal year only in the next few days, and also I support the chairman in regard to earmarking $23 million in NASA for the Space Shuttle program, rather than starting out some new launch mission.

Mr. COUGHLIN. Mr. Speaker, I thank the gentleman from Massachusetts.

I yield back the balance of my time.

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Mr. BOLAND. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. TRAXLER), a distinguished member of the subcommittee.

Mr. TRAXLER. Mr. Speaker, I thank the distinguished subcommittee chairman for yielding me this time.

Mr. Speaker, I take this opportunity to rise in strong support of the conference report and of the position of the chairman of the subcommittee as outlined in his opening statement.

Most particularly, I rise to commend the chairman of the subcommittee, the gentleman from Massachusetts (Mr. BOLAND), and my good friend, the distinguished gentleman from Pennsylvania (Mr. COUGHLIN), the ranking minority member.

In order to put this in perspective, I should ask the Members to please note that we had some 38 days of hearings, we have one Cabinet level agency in the subcommittee, HUD, and we had some 20 independent agencies that are part of this budget, including EPA, NASA, the Veterans' Administration, and the National Science Foundation; all very important to the people of this Nation.

This bill before us represents nearly 14 percent of the total Federal budget. Let me say, in commending these two gentlemen, the gentleman from Massachusetts (Mr. BOLAND) and the gentleman from Pennsylvania (Mr. COUGHLIN), for their fine leadership, that I believe everything has been done that is humanly possible to wring out every ounce of waste and inefficiency and to get as much fiscal responsibility into this bill as possible. Surely, with the time and the effort these two gentlemen and the subcommittee have given, they deserve the gratitude of the Members of this body.

Mr. BOLAND. Mr. Speaker, I yield such time as he may desire to the distinguished gentleman from Rhode Island (Mr. BEARD).

Mr. BEARD of Rhode Island. Mr. Speaker, I thank the gentleman very much for yielding this time to me.

Mr. Speaker, I rise in support of the conference report on H.R. 4394, HUD-independent agencies appropriations. This legislation would address the much needed goals of the Federal Water Pollution Control Act by providing $3.4 billion for the EPA construction grant program.

I would like to briefly review for my colleagues the severe sewage treatment problems existing in Rhode Island and ask you to join me in supporting the HUD-independent agencies appropriations.

Providence presently is discharging chlorinated raw sewage into the bay due to the breakdown of the sewage treatment plant. Construction is underway to bring the plant back up to minimum standards. It should be emphasized that the present construction totally financed with an $8.5-million bond issue approved by Providence residents, will not substantially improve the plant over the past levels of treatment. It is designed only to bring it back into working condition. The Department of Environmental Management believes that judicious expenditures as estimated on preventative maintenance over the past 10 to 15 years prior to the breakdown would have obviated the need for this huge repair effort. The construction should be completed in September and the plant operational by the end of November.

In addition to this repair operation, the Providence treatment plant needs to be upgraded to provide adequate secondary treatment and expanded to meet present and future needs. Even with the upgrading and expansion, this system would continue to discharge raw sewage into the bay following heavy rainstorms because of the combined sewer overflows. It is estimated that the total cost of upgrading and expanding the treatment plant would be at least $95 million and the cost of correcting the combined sewer overflow problems at least $100 million. The expenditures would be split, under current procedures, 75 percent to the Federal Government, 15 percent to the State, and 10 percent to the city. The $200 million figure is minimum, and estimates as to total costs range as high as $400 million. There would be additional costs for land acquisition which under current regulations would have to be met completely by the city of Providence.

It should also be noted that the Providence system, although the major contributor, is not the only source of raw sewage in Upper Narragansett Bay. The cities of Pawtaucket and Central Falls presently have combined sewers which overflow during the same storms which affect Providence. The city of East Providence and the town of Bristol, in recent weeks, have experienced overflows from pumping stations during storms due to inadequate sewers. Blackstone, Mass., contributes raw sewage via the Blackstone River, but is scheduled to tie into the Woonsocket system in coming years. The cities of Attleboro and North Attleboro both contribute partially treated sewage via the Ten Mile River, but their facilities are also undergoing upgrading. Coventry has several sources which contribute raw sewage directly into the Pawtuxet River and during very heavy rainstorms, West Warwick has overflows from sewer pumping stations.

Based on the clear needs of Rhode Island and many other States, I strongly urge my colleagues to reaffirm our commitment to the goals of the Federal Water Pollution Control Act and support the HUD-independent agencies appropriations bill.

Mr. BOLAND. Mr. Speaker, if the gentleman will yield, let me say that I want to thank the distinguished gentleman from Rhode Island (Mr. BEARD) for his comments and also for his support of this conference report.

As the gentleman has indicated and as the membership of the House knows, the surveys and investigations staff report of the Committee on Appropriations recommended no funding for the construction grants program in 1980.

The concern of a great number of the Members of this House, such as the gentleman from Rhode Island, demonstrated there is a clear need in communities like Providence and in the Narragansett Bay area for construction grants funds. Based on that need and that strong support from a number of the Members concerning funding for the construction grants program, the committee recommended $3.4 billion. That amount was in the House-passed bill and was also recommended by the Senate.

Mr. Speaker, I yield such time as he may require to the distinguished gentleman from Ohio (Mr. Stokes), a member of the subcommittee.

Mr. STOKES. Mr. Speaker, I thank the distinguished subcommittee chairman for yielding this time to me.

Mr. Speaker, I take this time merely to apprise the House of the fact that at the proper time I will be offering a motion that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein.

The purpose of my motion will be to provide $3 million for the livable cities program in fiscal year 1980.

The House did not have any money in the bill for this new program. The Senate does have $3 million in the Senate bill for the program.

The effect of my motion, which will be a preferential motion, will be that the House recede and concur in the Senate amendment, and I hope at that time the House will support my preferential motion.

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I am delighted to yield to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. REUSS. Mr. Speaker, I thank the gentleman for yielding.

I would just like to say briefly that I intend to support the initiative of the gentleman from Ohio (Mr. Stokes), not because I am particularly anxious to spend $3 million and certainly not because I want to cut across the bow of the excellent leadership on the Committee on Appropriations, but because as chairman of the Committee on Banking, Finance and Urban Affairs, which was the parent of this program, I feel that it is a sincerely intended and dollarwise program.

This program enables neighborhood people to have a few of the good things of life coming from a Federal program. The Federal initiative, I believe, is well taken, and I do not believe that it is duplicated by other programs.

Here we have, of course, the National Endowment of the Arts, which makes our art treasures available to the people, but when we want to build a little wooden structure so that people do not get wet while they are waiting for a bus or when we want to build a little kiosk for the kids, something that helps make a livable city, that is what this program is all about.

Mr. Speaker, I think the Federal seed money engenders a very good leverage, and it is a good investment, so I commend the gentleman from Ohio (Mr. Stokes) and assure him that I will be supporting him in his motion.

Mr. STOKES. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. Reuss) very much for his remarks.

I might say additionally that as a member of this subcommittee, I have great respect and admiration for my distinguished chairman, the gentleman from Massachusetts (Mr. Boland). It is a great honor to serve on this subcommittee.

My sole reason for offering this particular preferential motion is because of the dire need of our cities for revitalization. I think this is one of the kinds of programs that do help in the push to revitalize our cities.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I am delighted to yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, I appreciate the gentleman's yielding to me.

I, too, at this point want to express my support for the gentleman's motion. I will be supporting him in his effort.

It seems to me this is a very inexpensive way of funding the work of HUD and providing for economic development and neighborhood revitalization. Rather than costing the Federal Government money, I think this is money that would come back manyfold when we see the results of the revitalization of our neighborhoods. So I commend the gentleman from Ohio (Mr. Stokes) for offering his motion.

Mr. STOKES. Mr. Speaker, I thank the distinguished gentleman from New York (Mr. Weiss) for his remarks, and I yield back the balance of my time.

Mr. BOLAND. Mr. Speaker, I yield such time as he may desire to the gentleman from Iowa (Mr. Harkin).

Mr. HARKIN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I also rise in support of this conference report. I would, however, like to point out at least one item that my Subcommittee on Transportation, Aviation, and Communication of the Committee on Science and Technology has been involved with, and that is the issue of the variable cycle engine.

NASA did in fact this year request $5 million for this program. Our subcommittee and the full committee added $8 million for the variable cycle engine. However, the Senate in its authorization added $4 million, and the conferees from the authorizing committees agreed to the Senate position of adding $4 million for that program.

In this conference the Senate had added the $4 million in the appropriations for the variable cycle engine. Our conferees did not agree, and so that is a matter in disagreement.

I would say that I am thankful that we did get full funding at the $5 million level for the NASA request for the variable cycle engine. I am glad at least that we will be able to continue our base line program in that field.

I would, however, like to have seen the additional $4 million, because that money was to have gone into a basic area that concerns all of us in terms of aircraft operations around airports, and that is the noise control program.

The variable stream control engine is a new design. It is a new design concept engine that we hope will be the next generation of engines, not only perhaps for our subsonic craft but also in case we do go ahead with the supersonic aircraft.

The variable stream control engine and the design control it incorporates holds a lot of promise for not only better fuel utilization in jet aircraft but for better noise suppression in and around airports.

So, Mr. Speaker, while I am grateful to the chairman of the subcommittee for supporting the NASA request for $5 million, I am hopeful that as we continue on the base line program in the next year, we will be able to get some additional funds next year for further development of the variable stream control engine.

Mr. BOLAND. Mr. Speaker, if the gentleman will yield, let me say that I appreciate the remarks of the gentleman from Iowa (Mr. Harkin). I know of his intense interest in the variable cycle engine.

As the gentleman has indicated and as the committee has reported, the conference report does carry $5 million for this program. The Senate added $4 million, and there will be an effort made to reduce that.

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The position of the House conferees was that that ought to be reduced by $4 million and the budget request maintained. As the gentleman from Iowa has indicated, he hopes that perhaps next year, in the 1981 budget, we can add additional funds for this program. This subcommittee believes it to be an important one. The problem that we have this year, of course, is that we think that the No. 1 priority within NASA is the space shuttle program, and this subcommittee, hopefully, is going to reserve all of the funds it possibly can for that particular program.

Mr. HARKIN. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

Mr. Speaker, I certainly agree that that is the No. 1 priority.

Mr. BOLAND. I thank the gentleman from Iowa.

Mr. COUGHLIN. Mr. Speaker, I have no further requests for time.

Mr. BOLAND. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 2: Page 2, line 11, strike out "$37,500,000" and insert "$50,000,000".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Boland moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert: "nor more than $50,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk

will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 4: Page 3, line 4, insert:

RENT SUPPLEMENT

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is reduced in fiscal year 1980 by the uncommitted balances of authorizations provided for this purpose in Appropriation Acts.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 7: Page 5, line 17, insert "*Provided*, That assistance payments to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 9: Page 8, line 8, strike out "$400,000,000" and insert "$675,000,000,".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 12: Page 9, line 21, insert:

LIVABLE CITIES PROGRAM

For contracts, grants, and other assistance, not otherwise provided for, as authorized by the Livable Cities Act of 1978 (Title VIII, Housing and Community Development Amendments of 1978, Public Law 95–557), $3,000,000, to remain available until September 30, 1981.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House insist on its disagreement to the amendment of the Senate numbered 12.

PREFERENTIAL MOTION OFFERED BY MR. STOKES

Mr. STOKES. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. STOKES moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. BOLAND) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. COUGHLIN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. I thank the gentleman for yielding.

Mr. Speaker, the purpose of my motion is to provide $3 million for the livable cities program in fiscal year 1980. The livable cities program is an exciting new program which would, for the first time, integrate the arts into community development and revitalization efforts. This program was authorized by the Congress at $5 million in fiscal year 1979 and $10 million in fiscal year 1980.

The livable cities program would provide small sums of money to individuals and neighborhood groups to generate cultural, historical, and artistic activities. The authorizing legislation provides that only those innovative and specific projects which are linked to a conservation or revitalization neighborhood strategy, or which directly benefit the residents of low- or moderate-income neighborhoods, may be funded.

There has been a great deal of discussion about this program among members of the HUD-Independent Agencies Appropriations Subcommittee. When the issue of whether or not to provide funding for the livable cities program first arose in the subcommittee, my amendment to provide $5 million for the program in fiscal year 1980 was defeated only by a 6-to-6 tied vote.

One of the major points of contention at subcommittee markup concerned the issue of whether the Department of Housing and Urban Development is the appropriate agency to administer this program. In my reading of the authorizing legislation, it is clear that the Congress intended the livable cities program to be a joint endeavor between the Department of Housing and Urban Development and the National Endowment for the Arts. Indeed, neither HUD nor the National Endowment for the Arts, functioning alone, is an appropriate mechanism to administer this program. HUD has been designated as the lead agency to administer the program primarily because of its commitment to and experience in designing and implementing programs intended to assist neighborhood revitalization. The role of the National Endowment for the Arts is to provide judgments on the artistic merits of projects submitted for funding. Thus, the livable cities program does not put HUD in the arts business. It merely broadens the scope of HUD's redevelopment efforts to include artistic activities.

Another point of contention concerns whether other programs, currently in existence, could accomplish the goals of the livable cities program. The fact is that other broader community development programs, such as HUD's community development block grants, are already seriously overextended. In addition, arts projects tend to be squeezed out when competing against other types of community development projects. Furthermore, while a few of the programs operated by the National Endowment for the Arts do reach the community level, none of them has as its primary function neighborhood revitalization. In fact, the arts endowment receives hundreds of applications from community groups seeking to use the arts. The arts endowment has not seen fit to fund these groups because its orientation is toward support of professional opera and dance companies and other groups which are trying to establish themselves as professional arts organizations. The National Endowment for the Arts agrees that the goals of the livable cities program—community revitalization—are not and should not be the focus of its programs.

While $3 million does not represent a significant amount of money in the context of a $70 billion appropriations bill, the livable cities program has the potential for giving many urban and rural communities new spirit and life by giving people an opportunity to take pride in their neighborhoods. The livable cities program would address this key human element. I believe that this program should at least be given a chance to prove its worth. I urge this House to adopt my motion.

Mr. BOLAND. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Louisiana (Mrs. BOGGS), a member of the subcommittee.

Mrs. BOGGS. Mr. Speaker, I am very pleased that the chairman of our subcommittee, the gentleman from Massachusetts (Mr. BOLAND), has allotted me this time. Before I speak to the program at hand, however, I would like to compliment the gentleman from Massachusetts (Mr. BOLAND), the gentleman from Pennsylvania (Mr. COUGHLIN), all of the members of the subcommittee and the members of the staff for coming forth with a really remarkable bill to address many of the problems that are under the jurisdiction of this subcommittee.

Mr. Speaker, I rise in support of my colleague's (Mr. STOKES) motion for a small but promising new initiative—the livable cities program of the Department of Housing and Urban Development. The $3 million appropriation for this meritorious fledgling effort has been reported out of conference in disagreement. Although the House position has been to deny this small amount of funding but I hope we will change that today for the program has many strong advocates both in this House and in the other body.

The livable cities program would build on the bricks and mortar assistance so important to the revitalization of our cities and rural communities. It represents a new kind of effort to rekindle the spirit of neighborhoods and communities. The quality of life in these areas is every bit as crucial to true, lasting revitalization as quality of housing or services—and Federal assistance efforts must reflect this recognition.

Livable cities is an extremely modest effort—$3 million—for grants to community-based nonprofit groups to encourage cultural and artistic activities in low- and moderate-income neighborhoods. As the gentleman from Ohio has said, as authorized in last year's housing authorization bill, the program would be administered by HUD with the cooperation and assistance of the National Endowment for the Arts in evaluating grant applications. In its essence, this is a neighborhood program. It represents the first effort to harness artistic and cultural assistance funds to work in targeted, distressed neighborhoods. The Arts Endowment is enthusiastic about working under the direction of HUD to apply the benefits of artistic endeavor to areas struggling to overcome decay and blight. HUD is eager to inject this new, promising component into its programs to assist, uplift, and rebuild.

We have all witnessed the drab unpleasantness of community decay. We have all seen some of the depressing, poorly maintained housing projects our taxpayer's Federal dollars have bought. We are aware of the helplessness and hopelessness of many of the residents. We know of the problems of crime, unemployment, poverty, lack of training, education, and direction which complicate revitalization efforts. But we can no longer just recognize these realities. We must begin to direct our assistance in ways that will address them, not skirt around them.

The livable cities program offers us a small positive investment in the long-term success of our other housing and community development efforts. I cannot stress this point enough—it is an investment in insuring that the positive gains of bricks and mortar programs will last and that neighborhoods will truly come alive again.

It is important to note that there is no existing program which would address the goals of the livable cities program. This is a program to encourage community artistic and cultural activity, not to fund projects of artistic excellence. Current NEA programs reward and support high caliber achievement. Community development block grant programs in most areas are used extensively to support basic services and are severely overextended.

In addition to our extremely important housing and community development programs, we must as one of my constituents in the central city neighborhood has said breathe soul into our neighborhoods and communities.

Mr. Speaker, I urge you to support the motion offered by Mr. STOKES.

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Mr. BOLAND. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on Appropriations, the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I appreciate this time.

I would just like to call attention to why I take this stand here today to support the efforts of my colleague from Ohio.

I come from a town that is 50 percent black, 50 percent white. My county is a similar proportion. I grew up in an atmosphere that causes me to feel that I have a lifetime of knowledge of some of these problems, problems not restricted by color but usually by economic conditions.

Prior to coming here today, I had the Library of Congress and others develop a list of the billions of dollars of housing projects that have failed in the United States, in St. Louis, and in just about every city all around the Nation, including the city of Washington.

I could not help but think how things could have been different, if somebody would just give a little attention, and help provide those things that make living just a little easier—a place to gather around—a place to have some community spirit. If we could have saved 1 housing project out of 100, it would have been 10 times more valuable than the amount of money involved here.

Recently—and I am proud when I say it—about 3 weeks ago we had homecoming for former black citizens of our town. We had about 40 percent as many visitors as people in the town.

I live in the county seat of Charleston, about 80 miles out of Memphis. At the homecoming our former citizens were welcomed by the mayor, the head of the school, the former postmaster, by N. A. Boclair, one of our distinguished black members of the town board. There were people from 18 States back home. They had a good time while they were there. I can take you over an area which I know, and point out to you where a little pride can pay dividends. It is nice to be in an area where people pay a little attention and people receive a little consideration. It makes people proud to return. It is surprising how a small effort can set in motion a bigger one. It spreads from one place to the other.

Some years ago I served on the Appropriations Subcommittee for Government Corporations.

I had an investigation conducted of the housing projects of this country. In my service I have also been on the Interior Subcommittee where I have supported the arts and humanities and programs of that type. They are wonderful, but they are not geared to what we need here, in my opinion. I would hope that, notwithstanding—and I hate to differ with my good friend and colleague who is next to me on the committee, with whom I have served all these years—but I do think my experience enables me to say to the Members that this would be one of the best investment they have ever made; if we can just save one out of hundreds of housing projects where we have spent billions of dollars. So many of these projects have just been destroyed, with the doors and windows gone and declared unlivable, some of which are right here around Washington.

At this point, I am going to put in the RECORD the hometown paper story on the homecoming of our former citizens. I would like to see the rest of the country get along as well as we do.

Thank you, Mr. Speaker.

The article referred to follows:

[From the Charleston (Miss.) Sun-Sentinal, Sept. 6, 1979]

CHARLESTONIANS RETURN FOR VISIT

The Fourth Annual Charleston Day seems to have been a great success.

According to Lucy Boyd, a member of the reservation committee, a total of about 1500 visitors were expected. By Thursday of last week, people from 18 states had registered.

Former Charlestonians began arriving during the first part of the week, staying with friends and family in the area.

The kick-off event for Charleston Day festivities was a picnic followed by a motorcade down Main Street early Saturday afternoon.

Saturday evening saw the Neighborhood Facility jammed to capacity with people enjoying records and dancing.

Sunday's activities included a community worship service at New Town Church. In the afternoon, a crowd of nearly 500 attended a banquet in the cafeteria at the Charleston Middle School and moved to the gymnasium for the Charleston Day Program which followed and which concluded the planned activities.

The program featured solos by Miss Carolyn Jones, Mrs. Ola Mae Barnes Lacey, and Mrs. Leola Perkins Carmichael. Charleston Mayor Morris Pritchard welcomed former Charlestonians to the city. Retired Postmaster Riley Sheley reminisced about his boyhood days and his relationships with Black companions in those days.

Mrs. Bonnie Smith Gardner presented a welcome on behalf of Black businesses; David Alford, principal at the Charleston Middle School, on behalf of the East Tallahatchie School District; Rev. James Brock, on behalf of the area churches; and James D. Buckley, on behalf of the Masonic family.

The highlight of the Charleston Day Program was Dr. Ethel Johnson Greene, professor at Northeastern Illinois University and co-director of the Race Desegregation Training Institute of Chicago School Personnel.

Dr. Greene credited her success to three things: having been taught the Tallahatchie County Training School, having been taught to respect her elders, and to Anna Ross, who taught in Tallahatchie County schools from 1939 through 1967, and encouraged her to continue her education.

N. A. Boclair, chairman of Charleston Day, thanked Mayor Pritchard for his help in coordinating the weekend activities and cited the many areas in which the Charleston black community has led the state and nation in "first" for blacks.

The program concluded with the presentation of plaques to N. A. Boclair for his constant help and support and to Dr. Greene for her inspiration. Flowers were also presented to Mrs. H. B. Beale, a retired teacher, who helped to educate many of those in attendance.

Following the theme of the program, "Flowers while you live" flowers were presented to all present at the close of the program.

It was announced that the 1980 Charleston Day will be held in Ohio.

Mr. BOLAND. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. SABO).

Mr. SABO. Mr. Speaker, it is with some reluctance that I rise to express an opinion different than my friend, the chairman of the full Committee on Appropriations and the distinguished gentleman from Ohio, and gentlewoman from Louisiana (Mrs. BOGGS).

I wish I could believe that $3 million would make our cities liveable. I did a little math. Our State is about 2 percent of the Nation. Two percent of $3 million would be about $60,000. We have eight congressional districts in our State. That should mean that my congressional district would receive about $7,500.

If I assume because my district is a city district that we would get a little bit more than our percentage share of the State total, maybe my district's share of this program would be $10,000 or $12,000.

I assume that quite easily 10 percent of the total would go at the Federal level to administer the program. I am sure that another 10 percent would go to administer it locally, if for no other reason for people buying airplane tickets to fly down to Washington to see how their grant-in-aid was coming. So it would be down to less than $10,000, the most optimistic estimate, on dollars available to make my city a liveable city. I just frankly do not have that degree of optimism.

You know, I think as we look at a variety of programs, and I am a person willing to spend dollars if I think they are well spent, in my judgment we would do more for people in cities throughout this country if we added $3 million to virtually any other programs in this budget rather than starting the funding of this new program.

I think it is important as we develop programs that we try to develop a few that work well.

Within this budget there are a whole host of other programs. We have substantial funding for troubled projects, to redo housing projects throughout the country. We have funds for developing community-based programs.

I just think that all of these programs do substantially more for making our cities liveable, good places to be, than this new little Federal categorical program.

I would urge the House to support the chairman of our subcommittee in supporting the original position of the House. In my judgment, that would lead to much stronger and sounder programs in the years ahead.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, I appreciate very much the arguments advanced by the gentleman from Minnesota.

He is precisely right. We went to conference and agreed on a number of the items, and when we came to this particular item, livable cities, I queried the Senate conferees on whether or not there were some other programs in the Senate bill that they would prefer.

There was an expression made by one of the conferees that he would like to see additional moneys for the Neighborhood Reinvestment Corporation. We funded that corporation with $9.5 million in our bill. The Senate increased it to $12 million. The House conferees unanimously agreed to increase that amount to $12 million.

That is a program that is really tied to the neighborhoods. I think it is tremendously beneficial and will help in the very areas in which the distinguished chairman of the full Appropriations Committee mentions.

☐ 1510

I might also say that some of the reasons advanced by the distinguished chairman of the full Committee on Appropriations for this program, to make public housing areas and projects more livable, I would say we are doing that under a number of programs. As a matter of fact, a program which was passed last year, the Heritage Conservation and Recreation Service, does precisely that. It moves into these neighborhoods and provides the kind of recreational facilities that these neighborhoods are in need of.

So there are many other programs that take care of the very problems the Members who support this particular amendment say occur in neighborhoods. We are trying to do that. I think we are doing it successfully and I appreciate the gentleman yielding.

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. SABO. I am glad to yield to the gentleman.

Mr. McDADE. Mr. Speaker, I want to commend the gentleman for his statement. I think he expresses this problem and what it is about most forcefully. I want to associate myself with his remarks and those of the chairman.

The Heritage Conservation Recreation Service is funded at a level of about $800 million. We began a new program this year for parks that is over in the Department of Interior's appropriation to establish urban parks, to fund them at a level of about 80 percent Federal to try to get at this problem of quality of life.

I think both gentlemen are absolutely correct. There are already well-financed programs in the National Endowment for the Arts, the Heritage Conservation and the new urban parks program, a host of them that can accomplish this. If this money goes in I believe what the gentleman in the well says is absolutely accurate, it will be used up in administration and it will raise hopes, and then dash them. I hope the House will draw the line here, as my chairman says, and stand fast.

Mr. BOLAND. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Speaker, I thank the distinguished chairman for yielding.

I rise in opposition to the preferential motion and I encourage my colleagues to vote no. I do this with perhaps regret because it is rare that I ever find myself in disagreement with the persons who espouse the other side of this argument. They are my dearest friends.

Obviously $3 million will only again put us back into the politics of disillusionment because the number of applicants that will file for these fundings obviously will far exceed $3 million, or even the $20 million that is authorized in the enabling legislation.

For those reasons alone I would vote no. Three million dollars will not do the job, it will only raise expectations and hopes on the part of people across these United States that here is a program that will do something for them when, indeed, $3 million cannot possibly do anything other than to generate hundreds and hundreds of applications.

Second, let me say, in my opinion, this is not an appropriate program for the Department of Housing and Urban Development. If we are going to insist on this kind of program I would encourage my colleagues to seek funds in the National Endowment for the Arts. This is the area in which they ought to be involved. We want to encourage HUD to zero in on better management practices and to operate the programs that they now have in the most efficient manner. Now is not the time to start new spending programs.

I would encourage my colleagues to vote no on the preferential motion.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I will be pleased to yield to the distinguished chairman of the full committee.

Mr. WHITTEN. I will say to the gentleman, my very good friend, that he and I have worked closely together on another subcommittee and I know the gentleman is familiar with the wonderful results that we have had on the Agriculture Subcommittee with nutrition aides. Nutrition aides are average, everyday people who are welcomed into homes to help the underprivileged in many of our cities, and it has worked wonderfully. We might say that it is about the same thing as an extension agent.

So I would say when we talk about the Arts Endowment and the Interior Department, there is just as much difference there as there is between a home demonstration agent that would deal with one group of people and a nutrition aide, the program for which the gentleman and I helped start some years ago for our northern cities, and which has worked like a charm.

Mr. TRAXLER. I would say that it is always difficult for me to disagree with the gentleman's logic, in this instance I think he is totally correct on the nutrition aides.

However, we on the subcommittee do want to resist this additional responsibility and this new spending initiative.

Mr. COUGHLIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am reluctant to rise in opposition to the amendment sponsored by my distinguished friend from Ohio and supported by the distinguished gentlewoman from Louisiana, and particularly supported by the chairman of the full committee. But I am reminded a little bit of a song that begins "Another Opening, Another Show."

That is what we are really talking about here. It is another categorical grant program. This will be the first time it will be funded. We will be opening the door to more and more money in a program that is covered by many, many other programs.

I am all for revitalization of the cities, just as are my friends. In fact, I have a part of the great city of Philadelphia in my congressional district. Certainly we need revitalization and we would like to have that kind of revitalization funding.

But let us look at the facts because this program, indeed, does duplicate the functions of so many other programs that we already have on the books.

The same kind of function that could be done under this program could be done with community development block grants, and those funds are on the books. The local communities can choose to use them pretty much as they see fit.

We just had an urban development action grants program, it is another new program just put in, and funds under that program could be used for purposes that kind of fit into this program.

We have general revenue sharing on which we send money from the Federal Treasury back to the States and the local communities for use as they see fit, and that could be used for this. Many of those communities are in a much better fiscal position than this Federal Government.

We have the National Endowment for the Arts which sponsors various different kinds of programs that would duplicate the kind of thing that the livable cities program is talking about in HUD.

The distinguished chairman has said that this program does not belong in HUD and, indeed, it does not belong in HUD. We are supposed to be, in HUD, in the business of building housing, of developing communities, and not of essentially providing the kinds of artistic programs that are contemplated here.

The gentleman from Minnesota was right on target when he said, if we are going to put $3 million in this program and we are going to set up the bureaucracy to administer it, we can surely bet that no city is going to get very much money. That $3 million is not going to go very far toward making any city any more livable. It will just make a lot of bureaucrats happier and have a lot more money.

Mr. STOKES. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I am happy to yield to my colleague from Ohio.

Mr. STOKES. I thank the gentleman for yielding. The gentleman, in his remarks, has commented that he felt that this type of a program is one that belongs to the National Endowment for the Arts. I wonder if the gentleman is aware of the fact that Mr. Livingston Biddle, Chairman of the National Endowment for the Arts, has written a letter to me in which he says, and I quote:

> We have been working with HUD for many months to craft this new initiative which can be of such importance to low and moderate income neighborhoods in the Nation's cities and in rural areas. We are convinced that HUD's efforts at revitalization can be enhanced through the use of the arts, and we are very glad to be associated with this endeavor.

The gentleman is aware of that?

Mr. COUGHLIN. I am certainly aware of that because Mr. Biddle happens to be an old friend and former constituent and someone whom I have known for many years. Yet, I think it is important to look at the question of having the same kind of a program funded under any one of a numbered programs that are already on the books, rather than starting a new program which every city will have to apply for money from it, and they will all come in with grant applications, and very few of them will get any funding. It will raise expectations, they will not get money, there will not be enough money to really do anything in this program, and it seems to me that we should not get into that.

Mr. STOKES. If the gentleman will yield further, would the gentleman also agree that the community block grant program, as it is presently known and as we understand the function of it, is already, to a large degree, overextended, and that this was basically why a new program of this type would actually complement the community block grant program and therefore should not be a part of that program.

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Mr. COUGHLIN. It seems to me that the position of the community block grant program was that interested cities and local communities had the option to decide on their own priorities, to decide on where they want to spend the money. If they want to spend the money for the purposes that are designed in the livable cities program, that is their first priority. They can spend the money for that. There is no reason why they cannot, so there is no real need for this program. If that is what the cities want, that is what they could have with the community block grant programs, UDAG funds, general revenue-sharing funds, and many other programs we have.

Mr. Speaker, I reserve the balance of my time.

Mr. BOLAND. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Weiss).

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to my colleague from New York.

Mr. BINGHAM. Mr. Speaker, I thank the gentleman for yielding. I rise in enthusiastic support of the motion offered by the gentleman from Ohio (Mr. Stokes).

Mr. Speaker, I rise in support of Mr. Stokes' motion to recede and concur with the Senate amendment to this bill which provides $3 million for the livable cities program.

Revitalizing our cities is an urgent, national task. No one knows better than those of us from the Bronx how very difficult and complex this can be, and how vitally necessary. This bill does provide substantial Federal aid for bricks and mortar, but this is clearly not all there is to the redevelopment of a city or a community. There must be a human element, and the livable cities program is designed to energize neighborhood residents themselves for the task of redevelopment.

It will use the arts as a tool to activate neighborhood revitalization, with an emphasis on economic revitalization. That is its primary goal. It will provide matching grants to eligible applicants to create more livable environments and expand cultural and economic opportunities, particularly for low- and moderate-income residents. It will provide seed money as matching grants, so it will generate much more than the $3 million appropriated here.

If we are serious about redeveloping our cities, then we must help urban residents themselves to participate in that redevelopment, restoring their local pride and sense of place. This modest program can help bring alive our cities through the creativity and inspiration of the people.

I urge my colleagues to vote to recede and concur with the Senate.

Mr. WEISS. Mr. Speaker, I appreciate the gentleman from Massachusetts yielding to me.

Mr. Speaker, I rise in support of the motion to recede and concur with the Senate on funding for the livable cities program.

This worthwhile and innovative effort would use the arts as a catalyst for spurring economic development, for creating a more humane living environment, and for enlarging the cultural opportunities available to residents of low- and moderate-income neighborhoods in need of revitalization and conservation.

Through its support for specific locally generated project, the program would encourage participation by minorities, older people and disadvantaged residents in creative activities. The proposal would likewise involve community groups and local officials in the planning process for arts projects. This provision will insure that initiatives to restore or preserve a neighborhood accurately reflect local needs and preferences.

Livable cities would be a cooperative endeavor between the Department of Housing and Urban Development and the

National Endowment for the Arts. Through the resources and expertise of each agency, this program has the exciting potential to bring dying urban areas to life, to instill a new sense of community pride and identity to residents of low-income neighborhoods, and to create a more attractive and livable environment which all members of the community can equally share and enjoy.

Some of my colleagues may argue that HUD should not be involved in arts activities in any manner. But this proposal in no way contradicts HUD's mission—instead, it would equip the agency with a relatively inexpensive and extremely promising way of accomplishing its economic development and neighborhood revitalization goals.

All of us, I think, realize that the arts bring a most beneficial aesthetic and spiritual dimension to our lives. Surely our neighborhoods would profit from this consideration alone. As Atlanta's mayor, Maynard Jackson, has observed:

> The arts are the very highest expression of urban life * * * they reveal us to ourselves. They show us who we are and where we are going, whether as a neighborhood, a city or a nation. The arts are an expression of community identity in its highest form.

But, the arts can contribute much more. It is becoming increasingly obvious that they often serve as a pragmatic incentive for economic development and community renewal.

The Soho District in New York City offers an excellent example of the way in which creative enterprises can rejuvenate a decaying community. Only a few years ago, this section of lower Manhattan was little more than a collection of abandoned warehouses and deserted streets. Following the influx of artists to Soho in search of reasonably priced living and working quarters, the neighborhood is today one of the most prosperous, exciting and attractive in the city.

The $3 million Senate appropriation for this program is indeed a very modest and singularly promising investment in livable cities. The Nation can fairly expect to receive economic returns greatly in excess of this small allocation. Citizen groups in local communities are infrequently the recipients of Federal or even State and municipal funds. The magnitude of unmet neighborhood needs is further increased today by the prospect of continued inflation, higher unemployment and austere local budgets which are barely adequate to fund the most basic services.

I strongly urge my colleagues to support this motion so that communities throughout our country can participate in a unique program fusing local arts activities with neighborhood revitalization. We must provide our citizens with every opportunity to improve and enrich the quality of life and I believe that livable cities enables us to do this at a very small cost.

Mr. BOLAND. Mr. Speaker, I rise in opposition to the preferential motion.

Mr. Speaker, first of all it is with great reluctance that I rise in opposition to the motion offered by my friend from Ohio (Mr. Stokes). He has served for many years on this subcommittee, and he serves with distinction. He has been a stalwart supporter of the committee's action, has always been a very hard worker in the committee, and I appreciate his efforts. This is about the only area in which we have disagreed, I think, in the number of years we have served together. So, it is with some anguish that I oppose the preferential motion.

I only have a couple of comments to make. I know the gentleman from Ohio indicated that the community development block grant program was overextended. I might say that particular program had around $800 million in unobligated funds at the beginning of fiscal year 1979. It seems to me that if it has that substantial amount of money unobligated, the program is not overextended.

But, there is no doubt about the fact, as has been indicated by the gentleman from Minnesota (Mr. Sabo) and the distinguished ranking minority member of the subcommittee, the gentleman from Pennsylvania (Mr. Coughlin), that community development block grant funds are used in neighborhoods for precisely the kinds of programs targeted under the livable cities program. As the gentleman from Ohio has said, when the subcommittee marked up the bill it was a 6-to-6 tie, and he almost won it. That indicates, of course, his popularity and the degree of confidence that the subcommittee has in him. The same motion was offered in the full committee, and it was defeated by a vote of 27 to 11.

Now, with respect to the National Endowment for the Arts, the 1980 budget justification for the expansion arts program carries this notation:

> The National Endowment for the Arts responded in 1971 with the creation of an expansion arts program to help meet the need for arts at the grass roots level. Quickly this new program became a fund source for a wide variety of projects which had one thing in common; they were rooted not in traditional cultural institutions, but in neighborhoods from which they had sprung; whether a Puerto Rico barrio in New York or an isolated hill town in Tennessee.

So, the expansion arts program in the Endowment for the Arts is precisely targeted to the neighborhoods, and I support that. It has been my contention, as it is the contention of this subcommittee, that that is the place where it belongs. The Department of Housing and Urban Development has a myriad of problems in trying to solve some of the very difficult matters that attach to housing—I think it tries hard and I think it succeeds very well in most instances. But, if we are going to impact the Department of Housing and Urban Development with this kind of program, I think we are undercutting its ability to do the job that has to be done and ought to be done in order to save some of our cities.

The livable cities program was a program that was conceived as an urban initiative by the administration. We do provide some of the initiatives in this particular budget. We provide $10 million for neighborhood self-help development and an additional $275 million for the urban development action grants.

The original livable cities program proposal called for 20 million. The authorization in the housing and community development bill for fiscal year 1979 is $5 million and $10 million in 1980. And so, if we look at the authorization and what might be requested, I think we can come to the absolute conclusion that it might be $3 million this year, $10 million next year, and who knows, in 1982—$40 million, $50 million? That is the way it grows every time we start a new program.

Now, if there were no programs that were targeted toward doing precisely what the livable cities program hopes to do in neighborhoods I would support the program, but there are a number of them. They have all been enumerated by the gentleman from Pennsylvania (Mr. Coughlin), by the gentleman from Michigan (Mr. Traxler), the gentleman from Minnesota (Mr. Sabo), and the gentleman from Pennsylvania (Mr. McDade).

The SPEAKER pro tempore. The time of the gentleman from Massachusetts has expired.

Mr. COUGHLIN. Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee.

Mr. BOLAND. Mr. Speaker, I appreciate the gentleman yielding to me.

The Endowment for the Arts put together a package of materials supporting the $3 million for the livable cities program. But frankly, I am disturbed that such a letter and package of material was put together by the Endowment for the Arts and sent out under a "Dear friends" caption signed by Paul Asciolla, Federal Agency Liaison, National Endowment for the Arts. The material described all of the great and good things that the livable cities program would do if the outcome of the vote we are about to take is favorable. That is an absolute violation of the basic law with respect to lobbying by an agency on this kind of program or any program, for that matter.

Let me read from the Department of the Interior and Related Agencies Appropriation Act of 1979, section 304:

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> No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete, in accordance with 18 U.S.C. 1913.

I think we have a right to express our concern over the actions of the National Endowment for the Arts and I so express it here. The chairman of the Subcommittee on Interior of the Committee on Appropriations, who funds the Endowment for the Arts, the distinguished gentleman from Illinois (Mr. Yates) agrees with my position on it. I would hope that the National Endowment for the Arts and those responsible for running that particular endowment would adhere to the law that is on the books, not only in the Interior Appropriations Act but also in basic law.

Mr. STOKES. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I am delighted to yield to the gentleman from Ohio.

Mr. STOKES. I thank my distinguished subcommittee chairman for yielding to me. On that point I would just like to say that when Congress enacted the authorizing legislation which created the livable cities program, it marked the first time in the history of the Congress that the Congress had set up this kind of a program where they had designated two official agencies of the U.S. Government to work in concert for the purpose of carrying out a program of this type. This is contained in the legislative history of the authorizing legislation, and it would seem to me that such an agency having been so designated by the Congress in the enacting legislation would certainly have a right to pursue what Congress has already requested by legislation.

Mr. BOLAND. I appreciate the gentleman's remarks. I do not agree with his statement on it.

My complaint is that there is a violation of the law by the Endowment of the Arts, and I would hope that the Endowment of the Arts would not do it again.

Finally, let me complete my argument against the preferential motion by simply saying that the livable cities program is not needed and it should not be started. If we fund it, we are starting down the road again on a categorical grant program. The 1974 Housing and Community Development Act got away from categorical grants. We wrapped up seven categorical grants into the community development block grant program. This is a categorical grant program, and if we start it now, we are going to continue it into the years ahead. In my judgment, it is the kind of a program that ought not to be in the Department of Housing and Urban Development.

I appreciate the gentleman from Pennsylvania's yielding to me.

Mr. COUGHLIN. Mr. Speaker, I have no further requests for time.

Mr. BOLAND. Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Ohio (Mr. STOKES).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. STOKES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 128, nays 278, not voting 27, as follows:

[Roll No. 516]

YEAS—128

Addabbo
Akaka
Anderson, Calif.
AuCoin
Bailey
Barnes
Beilenson
Benjamin
Biaggi
Bingham
Boggs
Bonior
Brademas
Brodhead
Burton, John
Burton, Phillip
Carr
Chisholm
Clay
Conyers
Cotter
Danielson
de la Garza
Dellums
Dingell
Dixon
Dodd
Donnelly
Dougherty
Drinan
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Del.
Ferraro
Fisher
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Garcia
Gephardt
Giaimo
Gonzalez
Gray
Green
Guarini
Hall, Ohio
Hawkins
Heckler
Hollenbeck
Horton
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Lowry
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mavroules
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, N.Y.
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Pease
Pepper
Perkins
Pritchard
Rahall
Rangel
Reuss
Richmond
Rodino
Roe
Rostenkowski
Russo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Slack
Smith, Iowa
Solarz
Stack
Staggers
Stark
Stewart
Stokes
Studds
Vanik
Vento
Waxman
Weaver
Weiss
Whitehurst
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wirth
Wolpe
Yates
Zeferetti

NAYS—278

Abdnor
Albosta
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Bedell
Bennett
Bereuter
Bethune
Bevill
Boland
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fithian
Flippo
Foley
Forsythe
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
Madigan
Marlenee
Marriott
Martin
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Neal
Nelson
Nichols
O'Brien
Panetta
Pashayan
Patterson
Paul
Petri
Peyser
Pickle
Preyer
Price
Quayle
Quillen
Railsback
Ratchford
Regula
Rinaldo
Ritter
Robinson
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Sabo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Volkmer
Walker
Wampler
Watkins
White
Whitley
Whittaker
Wilson, Bob
Wilson, Tex.
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—27

Alexander
Anthony
Beard, Tenn.
Blanchard
Bolling
Carter
Collins, Ill.
Davis, S.C.
Diggs
Fish
Flood
Holtzman
Huckaby
Johnson, Colo.
Lent
Lundine
Mathis
Murphy, Ill.
Pursell
Rhodes
Roberts
Rose
Rosenthal
Treen
Walgren
Winn
Wolff

□ 1550

Mr. RICHMOND and Mr. ZEFERETTI changed their votes from "nay" to "yea."

Mr. STUMP changed his vote from "yea" to "nay."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. BOLAND).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows.

Senate amendment No. 22: Page 15, line 22. Strike out "$2,238,000" and insert "$3,238,000.".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "3,038,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 27: Page 19, line 20: Strike out "$3,799,500,000" and insert "$3,822,500,000,".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert: "*Provided*, That no funds may be obligated for development of separate orbiter and probe missions in Project Galileo, without the prior approval of the Committees on Appropriations, $3,822,500,000 including a reserve of $23,000,000 for Space Shuttle which shall not be available without the prior approval of the Committees on Appropriations".

Mr. BOLAND. Mr. Speaker, let me explain the rationale behind my proposed amendment by painting a little of the background that brings us to this particular point. The House Committee on Appropriations recommended all of NASA's request for research and development in the fiscal year 1980 budget, with the exception of three items: $15 million for thrust augmentation for the Space Shuttle; $5 million for space flight operations and $3 million for computer purchases. Those three items total $23 million and represent the House reduction below the budget.

The Senate restored the full $23 million, but shifted the funds to a number of new program thrusts and existing program enhancements.

First, the Senate added $2 million to initiate development of a multispectral resources sampler that would ultimately fly on a Landsat satellite.

The Senate also added $4 million to initiate development of a National Oceanic Satellite System. Also, the ongoing programs for the development of a variable cycle engine, advanced rotor craft technology and energy technology were increased by $4 million, $5 million and $2 million, respectively.

Finally, the Senate restored $5 million for shuttle thrust augmentation; $3 million for computer purchases and $1 million for space flight operations.

When we went to conference with the other body, the House proposed to restore the full $23 million reduction, but would make it available only as a reserve for the shuttle. Why did we do that? We did that simply because the shuttle will now require at least $200 million more in 1980 than is currently available in this bill.

I might also point out that $200 million is not included in either version of the Second Budget Resolution as passed by the Senate or the House. So we are going to be faced with a supplemental in 1980, on top of the $220 million budget amendment that is included in this bill.

I feel that in view of these continuing serious funding and technical problems with respect to the Space Shuttle, now is not the time to be adding funds to start new programs or to enhance existing programs above budget levels requested by NASA.

In proposing that $23 million we place in reserve for the shuttle, however, we have already indicated to the Administrator that we have no objection to NASA programing $3 million from some other activity for computer purchases.

The other problem that we addressed in this amendment deals with Project Galileo. That mission is designed around two spacecraft, an orbiter and a probe, that were scheduled to be launched to Jupiter in January of 1982.

The simple fact is that the launch can no longer take place at that time, because the shuttle will not be capable of carrying the payload.

Now NASA is proposing that the Galileo mission be split into two flights in January of 1984, a 2-year delay. That proposal will result in roughly a $225 million or 75 percent cost overrun. I do not believe that the Congress should be placed in the position of having to acquiesce to that $225 million overrun without some review of the Galileo program. It requires it and it needs it. It would be possible, for example, to fly only the orbiter as part of that mission and delay the probe until 1988. I believe that option is one we need to look at carefully, especially in view of the significant cost overruns occurring in the Space Shuttle program.

For that reason, my amendment includes language that would prevent the initiation of development of a split orbiter and probe mission without first having the approval of the Appropriation Committees.

I want to make it clear that the language is intended to hold up any contracts that would initiate development of a split mission to Jupiter in 1984.

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I am delighted to yield to the distinguished gentleman from Florida, who serves with distinction as chairman of the Committee on Science and Technology.

Mr. FUQUA. Mr. Speaker, I appreciate the gentleman yielding.

I would like to ask a couple questions in order to clarify the intent of the Project Galileo language which the gentleman has proposed. Does the committee intend for this language to cause NASA to terminate any existing contracts presently in existence for the Galileo work?

Mr. BOLAND. No; the intent is to prevent NASA from taking steps to commit the Congress irrevocably to a newly defined dual launch mission. Before we commit that mission, the appropriate committees need the opportunity to assess the new proposal and its increased costs. What would be accomplished by this provision is that NASA could not use these appropriations to award new contracts for hardware development of separate orbiter and probe spacecraft.

Mr. FUQUA. I appreciate that, and I also want to ask the gentleman if I understand correctly that NASA could continue the design work, and with development, so long as the development activities are not tied to the dual launch concept?

Mr. BOLAND. The gentleman from Florida is precisely correct in his understanding.

Mr. FUQUA. Mr. Speaker, I want to assure the gentleman, if the gentleman will yield further, that I share his concerns related to potential cost increases associated with the dual launch mission.

The Committee on Science and Technology will consider the implications of such a mission in some hearings that we will be scheduling in the middle of next month, in October.

□ 1600

Mr. Speaker, I would also like to ask for some clarifying language relating to the thrust augmentation program. It is my understanding the prohibition does not include any further funds toward a program of thrust augmentation which does not commit the Government to any specific contracts for hardware?

Mr. BOLAND. Mr. Speaker, in response to the gentleman's question, let me say that we have no objection to NASA's going ahead with using some funds for design work already in progress in this area. We would like to have NASA, however, touch base with us on 1980 funds for this purpose, in view of the fact that we cut the full $15 million for this activity for this year.

Mr. FUQUA. Mr. Speaker, I appreciate the gentleman's comments and his answer, and I support the motion.

The SPEAKER pro tempore. The Chair will inquire, does the gentleman from Pennsylvania (Mr. COUGHLIN) desire to use time?

Mr. COUGHLIN. Mr. Speaker, the distinguished subcommittee chairman has explained very well the position of the conference committee and of the minority as well on this question, and I will need to use no further time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. BOLAND).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the final amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 45 : Page 40, line 20, insert:

SEC. 410. No part of any appropriation for the fiscal year ending September 30, 1980, contained in this or any other Act shall be used to contract with private firms to provide plant care or watering services.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 4394, as well as the Senate amendments reported in disagreement, and that I may be permitted to include tables, maps, and other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL MIDNIGHT THURSDAY, OCTOBER 4, 1979, TO FILE REPORTS ON H.R. 5386, H.R. 2222, AND H.R. 4774

Mr. ASHBROOK. Mr. Speaker, on behalf of the chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS), I ask unanimous consent that the Committee on Education and Labor may have until midnight Thursday, October 4, 1979, to file reports on H.R. 5386, a bill to amend the Higher Education Act of 1965; H.R. 2222, a bill to amend the National Labor Relations Act; and H.R. 4774, another bill to amend the National Labor Relations Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONFERENCE REPORT ON H.R. 3996, AMTRAK REORGANIZATION ACT OF 1979

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 3996) to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 26, 1979.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER pro tempore. The gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report represents a good compromise on the differing House and Senate versions of this legislation. There were a few differences between the two versions, but these were generally minor, because the Senate adopted a substitute to their committee-passed bill on the Senate floor. That substitute was virtually identical to the bill that had previously passed the House by the overwhelming vote of 397 to 18 on July 25.

This legislation will authorize needed appropriations for Amtrak's operating expenses for fiscal years 1980 and 1981 and for all other categories of Amtrak funding for fiscal years 1980 through 1982. A 2-year operating expense authorization was agreed upon by the conferees to provide for better oversight over Amtrak. The conferees agreed upon a 3-year authorization for capital costs and other funding to enable Amtrak to plan for the future more effectively, to plan its purchases of equipment and its facilities rehabilitation program.

The report also authorizes appropriations for fiscal year 1980 for the U.S. Railway Association and for the Office of Rail Public Counsel. Compromise funding levels were agreed on in both cases.

Mr. Speaker, members of our committee and of the conference committee have spent a great many hours on this legislation and have endeavored, I think successfully, to put together a bill that will improve Amtrak for the future. In particular, Congressman FLORIO, the subcommittee chairman, and Congressman MADIGAN, its ranking minority member, deserve special recognition for their efforts.

Mr. Speaker, this legislation recognizes that the 43-percent cut in the Amtrak system recommended by the former Secretary of Transportation was a myopic response to meeting our Nation's growing energy problems. Rail passenger service is by far our most fuel-efficient mode of passenger transportation.

I supported a moratorium on discontinuance of any Amtrak service pending an evaluation of Amtrak's skyrocketing ridership increases and the relation of those increases to the long-term likelihood of a continuing and worsening pattern of gasoline price increases and shortages. This legislation provides for a reduction in the Amtrak system through use of certain economic and ridership criteria.

There is some doubt as to whether the criteria would have continuing validity as time progresses, as to various regions of the country, and as to various classes of trains.

The conference committee intends that these criteria are to be applied in 2 years to long-distance regional balance trains continued under section 119 of the report and to substitute service trains, under section 127, with the clear exception of short-haul routes concentrating on commuter ridership, or routes recommended for restructuring in part. However, Amtrak should examine the proposition of the continuing validity of these criteria in its implementation of section 117, providing for annual review of long-distance routes.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I should like to review some of our key conference issues and explain how they were resolved.

The Senate authorized an appropriation of $500,000 for the Office of Rail Public Counsel. The House bill authorized an appropriation of $1,850,000 for fiscal year ending September 30, 1980. The conferees agreed to authorize $1,200,000 for the office.

The House bill required Amtrak to issue nonvoting preferred stock to the Government for the purpose of satisfying its outstanding debts created under section 602 of the Rail Passenger Service Assistance Act. These debt obligations were incurred before Congress converted the financing of the Corporation's capital acquisition program from loans to grants. These debt payments create a situation where the Federal Government is just shifting back and forth between the Department of Transportation and Treasury. Although the Senate bill was silent in regard to debt financing, the conferees agreed that, in lieu of the preferred shares provision, the Comptroller General is to study this issue and recommend to Congress within 180 days the best way for the Corporation to be relieved of its debt to Treasury.

The House authorized Amtrak for a 3-year period. The Senate authorized Amtrak for a 2-year period. A 2-year authorization for operating expenses was agreed to by the conferees. A 3-year authorization was agreed to for capital expenditures so that Amtrak will be able to effectively plan its future, equipment purchases, and improve its facilities with the assurance of adequate financing.

One of the problems Amtrak faced was a system too large for the funds it was allocated. The funding levels in the conference report are sufficient to operate the congressionally mandated system and includes money for two programs which the House proposed but the Senate did not.

The first, model programs, is a program to assist employees in finding new employment if their jobs were terminated as a result of Amtrak's route restructuring. The second, rail banking, will preserve track so that it will not be downgraded on discontinued lines.

The conference agreed to accept a 50–50 State-Federal sharing for financing capital improvements of 403(b) trains.

Both the House and the Senate agreed that regional balance trains must meet the criteria set forth in the bill by October 1, 1981. However, substitute service trains did not sunset by October 1, 1981, under the Senate bill, but did sunset by October 1, 1981, in the House bill if such trains did not meet the criteria. The House position prevailed.

The conference agreed to require Amtrak to implement a mandatory reduced fare policy for the elderly and handicapped.

I am particularly pleased to report that the Senate agreed to adopt all but one of the programs designed to improve rail service which the House bill contained.

These include an operational improvement program required to be developed by the Corporation not later than January 1, 1981. Amtrak is directed to establish a performance evaluation center which will promptly gather important information and offer solutions to problems within Amtrak's system. The House regional maintenance provision has been adopted so that Amtrak's service and rehabilitation of equipment will be expedited. The conference bill provides for employee incentive programs.

Mr. Speaker, several States have filed court actions against Amtrak to perpetuate train service in their area. With the enactment of this bill, Congress has ratified the process used by the Secretary in restructuring Amtrak and has modified his restructuring where it was clearly in the public interest to do so. The enactment of this bill into law should lay to rest any questions of congressional intent.

Mr. Speaker, I urge the House to approve this conference report.

Mr. STAGGERS. Mr. Speaker, I have no requests for time on this side.

The SPEAKER pro tempore. Does the gentleman from Illinois (Mr. MADIGAN) desire to yield time?

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take this time for the purpose of also singling out the gentleman from New York (Mr. LEE) and commending him for the hard work he has done on the Amtrak bill throughout our congressional deliberations.

The gentleman from New York is a first term Member, but he has taken a special interest in these problems and has been a very effective member not only of our subcommittee but also of the conference committee. Like the gentleman from West Virginia (Mr. STAGGERS), he has clearly demonstrated a sincere interest in railroad issues.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Speaker, I have asked the gentleman to yield just for the purpose of making an inquiry.

It is my understanding that in some of the recent press releases about the performance of Amtrak there was some discussion that they had restored a train called the Cardinal. Is that true?

Mr. MADIGAN. Mr. Speaker, I would respond to the gentleman by saying that the Cardinal was always in the Senate bill. It is included in the conference report as a train that must meet the criteria that is applied to the system by October of 1981. If the Cardinal does not meet that criteria by that date, then the Cardinal will be discontinued under the terms of the conference report language.

Mr. DEVINE. Mr. Speaker, if the gentleman will yield further, has the record of the Cardinal in the past year or so met the criteria that has been set down by former Secretary Brock Adams?

Mr. MADIGAN. Mr. Speaker, I cannot answer the gentleman honestly, because I do not honestly know what the ridership figures are for that train or any other train. My suspicion is that it has not met the criteria.

Mr. DEVINE. Mr. Speaker, the reason I asked that question is this—and perhaps the chairman of the committee could respond—a train that went through my district, one called the National Limited, did not meet the criteria, and this Member of Congress, the senior member on the committee, did not raise any objection to its being discontinued, because it did not meet the criteria.

☐ 1610

However, it is difficult for me to explain to my constituency why a train that runs well through West Virginia, which happens to be that of the majority leader in the Senate, why that would be retained when it did not meet the criteria any more than did the National Limited. Perhaps the chairman of the committee could answer that question.

Mr. MADIGAN. Mr. Speaker, I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, in reply to the gentleman from Ohio, I would like to repeat what my colleague from West Virginia said. The Cardinal has been sold out in recent days and weeks.

If the gentleman from Illinois (Mr. MADIGAN) would yield to my colleague, the gentleman from West Virginia (Mr. RAHALL), perhaps he would have a statement on that point.

Mr. MADIGAN. I yield to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Speaker, I do not know whether in past years the particular train mentioned, the Cardinal, has met the criteria that has been set out in this conference report. In recent months I would say it most definitely has, because the train has been sold out.

The gentleman mentioned that the train also happens to go through the State of the majority leader of the other body. I might mention that that is true, but there is also another train that goes through the majority leader's State that is cut out, that being the Hilltopper.

So I would remind the gentleman that we did not keep all of the train service in West Virginia. We did lose some of it, and we were able to keep that train that does meet the criteria today. Ridership has been increasing to the point where it is sold out.

Mr. MADIGAN. Mr. Speaker, if I may reclaim my time, I think there is another distinction to be made. The Cardinal is one, I believe, of several trains that is included in the conference report under what is called substitute service trains, which are trains that are being continued subject to the criteria pending their rerouting by the Amtrak system. The Cardinal is one. I do not know the name of the other trains. But trains going out of Chicago in my State of Illinois were discontinued and in the gentleman's State of Ohio, trains that were discontinued are not substitute service trains where there is any proposed rerouting being considered.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. FLORIO), who has been a most diligent and effective member of the subcommittee and its chairman, I might add.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Speaker, in amplification of the point that was just made by the gentleman from Illinois (Mr. MADIGAN), as all of us know, the Senate version of this authorization did specifically include a particular train without reference to the criteria. The conference report has insured the fact that every train has to be measured up against the criteria. It is true that there is a classification of trains that are restructured trains, that is, trains to be rerouted. Some of those trains are given 2 years within which to get under the criteria. At the end of that period of time all trains must be under the criteria or they are eliminated.

So I think the major principle that this House stood for is embodied in the conference report; that is to say that there is an objective standard that all trains are required to meet or they will not be continued. The restructured trains are trains concerning which there will be a route realinement. And while that realinement or rerouting is being put into operation, those trains will be continued. But at the end of the 2-year period, when that realinement is made, or if the realinement is not made, those trains that do not measure up to the criteria will be eliminated.

So I think if the concern of the gentleman from Ohio is about the integrity of this system, the integrity of this system is preserved under the conference report.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Speaker, I think that the question I was going to propound to my distinguished friend, the gentleman from Illinois, has been answered, and that was the question of whether or not there is anywhere set down stated criteria and we know which trains have qualified, which have not, which have had a waiver, where the rules have been rewritten. I know in my area there have been quite a few questions that have been raised on this very subject. The gentleman may have answered that. But I was just wondering whether the rules were changed in the process to allow a certain number of lines to meet a changed criteria, or whether that 2-year target is something that is definite. I know that I have trouble answering many of the same questions of my constituents.

I would ask my colleague, first of all, if there is such a list where we know which trains do not meet the criteria but nevertheless are continuing.

Mr. MADIGAN. Mr. Speaker, in responding to the gentleman, I would first like to reacquaint him with the criteria, which is that the train, first of all, must average 150 passenger miles per train-mile and, second, it must have an avoidable loss no greater than 7 cents per passenger mile. It is reasonable to expect that not every train is going to meet that criteria.

I could only presuppose at this point, because I have limited basis in fact, which trains would be in and which trains would not be in; and, consequently, I am not prepared to give you a list. But I do presuppose that there are trains in the gentleman's State and trains in my State that will not be continued. However, as the gentleman from New Jersey has said, and as I would repeat, irrespective of what trains are continued under this system, every train, as the system continues to run in future years, must meet this criteria, and any train that does not, under the terms of this conference report, is subject to termination on October 1, 1981. As stated in the conference report, the only routes which are exempted from this criteria are short-haul routes concentrating on commuter ridership.

Mr. ASHBROOK. If the gentleman will yield further, for those of us who are not intimately involved, I would only ask one question. I assume what the answer is in advance, but we look up to the gentleman and the other Members who are there from day to day. I assume, from what the gentleman is saying in his support of the conference report, that the gentleman does feel that whatever criteria have been applied have been applied fairly and will continue to be applied fairly in the future.

Mr. MADIGAN. To assure the gentlemen that the criterial are to be applied fairly, I would like to cite a sentence from the conference report. Section 119 states, "Short term avoidable loss per passenger mile calculated by the corporation for purposes of this subsection shall be based upon consistently defined factors for all types of routes, and such short term avoidable loss and per passenger mile shall be calculated in the same manner for all routes." Furthermore, Amtrak must submit a report to Congress within 30 days of enactment of this statute describing "the methodology, equations, factors used, assumptions, and results in connection with the calculation of short term avoidable loss per passenger mile and passenger mile per train mile".

I have had a great many conversations with President Boyd, the new president of the Amtrak system, who is a resident of my State and who impresses me as being a conscientious and forthright man, and he tells me that he intends to tighten the system up, try to make it a reliable and responsive public transportation system. I believe that he will do that. I believe that this bill provides him for the first time an opportunity to have a system that is a reasonable system, running trains, in all probability, where the people are who want to ride them. I think the future of Amtrak looks better under the terms of this conference report than it has at any time since the system was established.

Mr. ASHBROOK. I thank my colleague for his assurance and for that information.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

Mr. Speaker, I received a letter from a constituent concerning a train in Montana, which is not my State, the Hiawatha, running to a town called Bozeman, apparently jammed with people. This was in August and September when my constituent was out there.

The survey made ending in June 1979 showed that that train was 7 cents and a bit over per mile and 140 rather than 150 passengers, and that, therefore, we checked to find out what was happening, because the constituent wanted the information. I imagine there must be some relative out there, or something.

We were told that it was canceled, because it did not meet the criteria.

It seems to me that if you are taking a passenger survey on a place like Bozeman, Mont., you probably would find that from June 15 to September 15 would give you very different figures than March, April, and May.

Mr. MADIGAN. I believe I can respond.

Mrs. FENWICK. What has happened to the Hiawatha?

Mr. MADIGAN. I suspect that this may be one of those trains that experiences a cyclical performance because of seasonal ridership. Under the terms of this bill, that train could be continued if it meets the criteria. If it does not meet the criteria, but the management of Amtrak wanted to continue that train on a seasonal basis, just during that tourist season when the ridership is so high, that is a management decision and, under the terms of this bill, they could continue that train on a seasonal basis. Or if they wanted to do it, they could continue any segment on that train on any kind of basis that they wanted to. To go one step further, the language of this conference report encourages the Amtrak management to look at the possibility of running trains like that on a charter basis. That is one of the things we are trying to encourage.

Mrs. FENWICK. If I understood correctly, no train is going to be canceled for 2 years until they complete this passenger survey; is that true?

Mr. MADIGAN. No, that is not correct. The trains that do not meet the criteria by October 1 of this year will be discontinued. Other trains that do not meet that criteria will be continued if they are running on a temporary basis or while some rerouting, that is under plan, has not been completed.

Mrs. FENWICK. Yes, I understood that. But I thought the gentleman said later, in response to the gentleman from Ohio (Mr. ASHBROOK), that nobody had been canceled yet.

Mr. MADIGAN. They could all be continued if they comply with the conference report criteria. That is what I said to the gentleman from Ohio

Mrs. FENWICK. This one does not.

Mr. MADIGAN. If it does not meet the criteria, it is going to be discontinued, but even then it could be continued, some segment of it, or on a seasonal basis or on a charter basis.

Mrs. FENWICK. I thank the gentleman.

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Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Speaker, I would like to point out that this conference report includes the vast majority of provisions adopted in the House version of the Amtrak authorization.

Most importantly, the conference report adopts the principle of the House bill that the economic and ridership criteria shall be applied to all trains in the Amtrak system. The Senate version of the bill did not apply the criteria across the board, but this conference report includes the House provision that the criteria shall be applied to all trains in the system.

As importantly, the conference report adopts the House authorization levels for operating funds. We have provided sufficient funds to operate reliable and efficient service on all of the retained Amtrak routes. We are no longer telling Amtrak to run a system without enough money to do so.

The level of authorization for capital for the next 3 years is also at the House level. This will allow Amtrak to go out and purchase the equipment which it so desperately needs. The certainty of adequate capital funding for 3 years is critical if we are to have an effective rail passenger system. We have heard much about Amtrak's desperate need for new equipment, and this capital authorization will allow them to resolve this problem.

This authorization recognizes that Amtrak is here to stay and that an effective rail passenger system is important to this country. If we are to expand the system in the future into markets where there is demand, this money is essential. The system cannot be maintained or expanded without adequate operating funds and sufficient equipment.

There are other improvements in the Amtrak system which were included in the House bill and are reflected in this conference report. The 403(b) program is expanded and the required State share reduced for the first 2 years of operation. I am told by Amtrak that they have already heard from several States who want to operate 403(b) trains and have committed State funds.

One of the items which was not included in the conference report is the conversion of Amtrak's debt to the United States into preferred stock issued to the United States. Instead, we have substituted a provision calling on the Inspector General to make recommendations to the Congress on how this debt should be disposed of. It is a silly exercise to authorize money from the Federal Treasury each year to repay money owed to the Federal Government. The interest expense on this debt distorts Amtrak's operating costs. I am hopeful that the General Accounting Office will recommend a method of eliminating this debt immediately so as to protect the Federal investment in Amtrak but relieve us of the burden of authorizing funds for Amtrak each year to retire this debt.

I believe this conference report reflects almost entirely the House version of the Amtrak authorization. It is a recognition by the Congress that the Amtrak system is important to this country, but that trains should run where people are willing to ride them.

I understand that there are several lawsuits outstanding against Amtrak challenging the action of the Amtrak Board of Directors in reducing the Amtrak system in response to the criteria in both the Senate and House bills. The criteria are sound and I believe Amtrak has responded to the mandate of the Congress. I hope the action of the Amtrak Board in response to this legislation will not be thwarted.

I want to thank my colleagues who have worked hard on this legislation, and I urge the adoption of the conference report.

Mr. STAGGERS. Mr. Speaker, I will be on my own time, if I might, because I want to yield to the gentleman from Kansas (Mr. GLICKMAN).

Mr. MADIGAN. I might say I have been standing here doing all this, because the gentleman from West Virginia had yielded back his time. I will yield the balance of my time to the gentleman from West Virginia.

Mr. STAGGERS. I would say the gentleman from Illinois (Mr. MADIGAN) has done a very good job in answering all the questions and explaining the bill, and he usually does an excellent job in trying to be helpful always.

Mr. Speaker, I also want to compliment again all the members and their staffs of the Commerce Committees of both bodies who were involved in working on this legislation. It was developed in a spirit of bipartisan cooperation by all concerned, particularly the gentleman from Illinois (Mr. MADIGAN) and the gentleman from New York (Mr. LEE). I reiterate my belief that it truly puts Amtrak on the right track both now and for the future to provide highest quality rail passenger service to the American people.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. GLICKMAN.)

Mr. GLICKMAN. Mr. Speaker, I would like to ask a question of the chairman of the subcommittee, and it relates a little bit to the inquiry that was made by the gentlewoman from New Jersey.

I would like to have the chairman's thoughts on the ability of Amtrak to reinstate terminated routes, which Amtrak has made the preliminary decision that do not meet the criteria, should it be subsequently determined that any of these routes do, in fact, meet the criteria set in this legislation, and that subsequent analysis could either be done through administration action or judicial review.

Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New Jersey.

Mr. FLORIO. Within the confines of the authorization and the other appropriations, there is great flexibility given to the management of Amtrak. As a matter of fact, that was one of the major points of the legislation, to provide more managerial flexibility to Amtrak to put trains where people are going to use them.

Over and above that, within this conference report there is a whole host of different management tools and other approaches to try to put trains back where people use them. I make reference specifically to the 403(b) program, a program that we have already received some feeling from States that they are interested in using, so that there is a great opportunity for trains to be restored.

Mr. GLICKMAN. I have one specific question. The mandatory nature of the problem is what I am specifically referring to. If a judge should determine or through some other mechanism determine that a train that was cut meets the passenger-lost-per-mile criteria that is contained in the bill, would Amtrak have an obligation under the statute forthwith to reinstate such route?

Mr. FLORIO. I think, if the gentleman will yield further, he is confusing the legislative authority with the judicial authority. If a court found, and I find it very difficult to believe that a court is going to exercise its judicial authority to start imposing administrative or legislative dictates on an administrative agency, that Amtrak was wrong and ordered Amtrak to do something, we have had Mr. Boyd take the position on a number of occasions that he will abide by the law. Certainly we would expect him to abide by the law.

Mr. GLICKMAN. One final question: If Amtrak itself found some of these discontinued trains, through more recent computations, do, in fact, meet the criteria, they would clearly have the ability to reinstate the routes; is that a correct statement?

Mr. FLORIO. They would have the ability. They have in fact been monitoring the latest information that they have available and are continuing to make those monitoring observations right up to the first of October.

Mr. GLICKMAN. I thank the gentleman. He has answered my question.

Mr. Speaker, I intend to cast my vote in support of this conference report on the Amtrak Reorganization Act, but I only do so with considerable misgivings and because of the fact that next week the administration's proposed 43-percent cutback in the Amtrak route system would go into effect without it.

We need rail service in this country, and we need it more and more as our reliance on foreign petroleum increases. We cannot tell people they are going to have to rely on forms of mass transit 1 minute and the next tell them we are canceling service which they are finally beginning to use. The administration's plan was shortsighted, and it must be stopped. This bill goes part way, but it does not go far enough. There are a number of routes where ridership has been on the upswing that, as a result of decisions made last month by the Amtrak Board of Directors, will be terminated next week under provisions of this bill. Within the framework of our entire energy picture, that just does not make good sense. Nonetheless, by saving a number of the trains planned for termination, this bill is an improvement over the administration plan, and for that reason I will vote for its adoption.

There are two points which I want to bring to the attention of my colleagues here in the House which particularly trouble me. They both relate to a train which serves my district, the Lone Star, but beyond my admitted parochial interest in that train, I am concerned that these problems could relate to other routes as well.

First, some of the trains being saved have poorer statistics in terms of ridership and short-term avoidable loss than the Lone Star. In fact, while Amtrak's projections for the Lone Star were 102 passenger-miles per train mile and operating losses of 11.1 cents per mile, another route which is expected to be retained under this legislation had ridership of only 26 passenger-miles per train mile and a short-term avoidable loss of 25.7 cents per passenger mile. That does not strike me as being a system based on facts and figures and not politics.

Second, in conjunction with a court proceeding in progress today in my home State of Kansas in which a number of States are seeking an injunction against implementing the route cuts next week, the office of the attorney general of the State of Texas has done an extensive analysis of the calculations used in developing Amtrak's ridership and short-term avoidable loss projections for fiscal 1980. The findings of the Texas attorney general point to discrepancies in those calculations. In fact, that analysis indicates that the Lone Star would be a criteria train under this legislation. As we know, the Amtrak Board of Directors' decisions last month do not reflect that judgment. What will happen with the court proceedings in my State or any of the others which are pending across the country is still unclear, but I can tell you that I for one hope an injunction will be ordered. In any event, when such discrepancies exist as to the validity of the Amtrak projections, I would certainly hope that the cutbacks would not be implemented October 1 and that clarification of the calculations will be secured before service is terminated.

Mr. MADIGAN. Mr. Speaker, I have no further requests for time. I urge support of the conference report, and I yield back the balance of my time.

Mr. STAGGERS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves that the House recede from its disagreement to the amendment of the Senate to the title of the bill and concur therein.

The motion was agreed to.

A motion to reconsider was laid on the table.

DIRECTING CLERK OF THE HOUSE TO MAKE CORRECTION IN ENROLLMENT OF H.R. 3996, AMTRAK REORGANIZATION ACT OF 1979

Mr. STAGGERS. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 192) directing the Clerk of the House to make a correction in the enrollment of the bill, H.R. 3996, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 192

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 3996), to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for three additional years, and for other purposes, the Clerk of the House of Representatives shall make the following correction: in section 102 of the bill, insert "Act (45 U.S.C. 502) is amended—" immediately after "Rail Passenger Service".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1980

Mr. ADDABBO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ADDABBO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5359, with Mr. FLORIO (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee rose on Wednesday, September 26, 1979, the Clerk had read through line 10, page 2. Pending were amendments offered en bloc by the gentleman from Alabama (Mr. DICKINSON).

Mr. ADDABBO. Mr. Chairman, I rise in opposition to the amendment.

The amendment touches on about 10 different lines within the entire defense budget making adjustments between Army and Navy training funds. What the amendment attempts to do is to consolidate the undergraduate helicopter training.

Normally, this could save money, but under the consolidation all we are doing is moving the training from one location to another. There is no closing of any base. The training must continue.

The Navy has particular needs as far as their pilots are concerned, because they do operate at sea. Therefore, Mr. Chairman, I rise in opposition to the amendment of the gentleman from Alabama (Mr. DICKINSON).

Mr. LEE. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1640

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the notice quorum call will have a minimum of 15 minutes to report their presence. The call will be taken by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 517]

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Broyhill
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Devine
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Levitas
Lewis
Livingston
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Richmond
Rinaldo
Ritter
Robinson
Roe
Rostenkowski
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1700

The CHAIRMAN. Three hundred and fifty-three Members have answered to their names, a quorum is present, and the Committee will resume its business.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. DICKINSON) for 10 minutes.

Mr. DICKINSON. Mr. Chairman, this is not a new issue to many of us here because this is the fourth year this matter has been debated and voted upon in this Chamber. I ask the indulgence of those who sat through the debate before because none of the facts are changed and the need is still there. My remarks may be to some extent repetitious but there are Members in the Chamber who are new to this debate and it is to these Members I address my remarks today.

Mr. Chairman, stating this as simply as I can, this amendment would consolidate all basic—and I stress basic, Mr. Chairman—helicopter training for the armed services, under the Army. After receiving basic training then the student pilots would go back to their respective services for any advanced training which might be required.

Mr. Chairman, the Army owns 75 percent of our helicopters and the Army trains all Army pilots, it trains all Air Force helicopter pilots, it trains all NATO and foreign student helicopter pilots. The facilities are there. The pilot instructors are at Fort Rucker in my district, and it simply makes sense not to duplicate instructor personnel, equipment and facilities, and simulators by having one group for the Navy and one group for the rest of the services.

Mr. Chairman, my amendment is supported by the President, the Office of Management and Budget, the Secretary of Defense, the Secretary of the Navy, the Commandant of the Marine Corps, and the Secretary of the Army. This will save approximately $100 million in the next 5 years while giving superior basic training to helicopter pilots.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise in support of the amendment.

This is a matter we have debated now for 4 years. In that time, nothing has changed except we have had new studies piled on top of old studies, each saying the same thing; we can save tens of millions of dollars if we consolidate helicopter pilot training.

It seems that every year we face this question, the House approves consolidation, and last year the conferees were instructed to hold to the House position. And each year, the votes and the instructions notwithstanding, the conferees recede to the Senate and the costs go on as before.

I have supported this amendment in the past, Mr. Chairman, and I see no need to prolong the debate. I urge adoption of the amendment and I hope this year we will stick with our position in conference, and start saving the taxpayers millions of dollars a year.

Mr. DICKINSON. Mr. Chairman, I would like to give a little background here. Let me first confess to a parochial interest. Fort Rucker is in my district. I represent Fort Rucker as best I know how.

However, Mr. Chairman, I would feel just as strongly and vote the same way if this facility was in Kansas, California or anyplace else because it is right.

Mr. EDWARDS of Alabama. Mr. Chairman, would the gentleman yield?

Mr. DICKINSON. I would be very pleased to yield to my colleague from Alabama.

Mr. EDWARDS of Alabama. You know, we have a fair chance—I do not want to lay my neck on the line—we have a fair chance to get out of here tonight and finish this bill if we can keep some order in the House and get the debate moving.

Mr. Chairman, I would urge those of my colleagues who would like to get this bill behind them to sit here quietly and hear the debate.

Mr. DICKINSON. Mr. Chairman, I thank my colleague.

Mr. Chairman, let me say this issue goes back to 1965 when the General Accounting Office made a recommendation to eliminate fixed-wing training for undergraduate helicopter students in all the services. That was the beginning of it. Then there was the OSD staff report, then a GAO report. There have been studies and studies and studies. Whenever someone wants to kill something they ask for a study.

Mr. Chairman, growing out of this subject matter we have had a study by the Department of Defense, we have had a study by the General Accounting Office, we have had a Defense audit survey and this year, just this year, the General Accounting Office has again made another study of the same thing. I have a copy of a part of the report written to Senator STEWART of Alabama by the General Accounting Office which sets out the fact that, again by their study, a minimum of $63 million will be saved, and this is on the conservative side, over the next 5 years.

Mr. Chairman, we will hear the remark, "Well, the Navy has to do it differently because they fly over water."

□ 1710

Well, the fact is, and listen to this, please, this is very important, within the syllabus that the Navy has been pursuing, less than 2 hours of the entire flight training program that the Navy has been offering its pilots has been over water. Under the proposed syllabus that the Secretary of the Navy has approved, there is more over-water training that will be offered, there is more flight time training to be offered to Navy students by Navy instructors under the proposed plan than the students have been receiving in the past under the old plan.

The point is that they will get better training. The heads of the Department of Defense acknowledged that this is so. It will save millions of dollars. It will avoid a duplication of effort and it just makes commonsense.

Now, just recently Senator NUNN chaired a hearing in the Senate on this same question. I was one who appeared to testify, but I want to quote to you a statement by a Marine colonel who was there to testify. His name is Col. Walter Ledbetter, U.S. Marine Corps, and he was introduced by Secretary of the Navy at that time Graham Claytor, who very strongly supports this. The colonel says:

> As the Secretary said, I have been in command of five different squadrons, four of them helicopter squadrons. I have commanded a helicopter aircraft group. I am fixed and rotary wing qualified, and qualified in every rotary wing aircraft inventoried in the Marine Corps and in a number of the fixed wing aircraft I am qualified.
>
> I am in total agreement with the consolidation.

He said:

> I have made three trips to Fort Rucker and to Pensacola to compare the training. I was in charge of aviation studies and analysis in Headquarters, Marine Corps, under General Miller. I was sent down to Rucker and to Pensacola to compare the training in 1977. I went with four other Marine Colonels. One was strictly a fixed wing pilot. The other four of us were both rotary and fixed wing qualified. Two were Commanding Officers of air groups. One worked at program analysis at the second level. We all five concurred that the training at Fort Rucker was far superior to the training we get in Pensacola. I just went down to Pensacola, Corpus Christi, and Fort Rucker in March to look again.

And this is testimony just 2 months ago.

> I still agree with what I wrote in 1977. The training given at Fort Rucker is far superior to the training given at Pensacola.
>
> I will give you some examples. Over-water flight is one of the things which has been a hangup here.

This is the Marine Corps talking.

> The over-water syllabus at Pensacola is less than two hours out of a 192 hour syllabus. The proposed 195–50 syllabus we would get at Fort Rucker with 50 hours of service-peculiar training would give us more over-water training if we wanted it. We can get anything in that 50 hours we desire.

He went on to say, and I would paraphrase here, he went on to say that cost aside, regardless of the cost, he as an experienced Marine aviator would rather have the training that is being offered at Fort Rucker by the Army than that presently being offered by the Navy.

You will hear debated, well, you have got to do it differently because you are flying over water. Let me emphasize again, we are talking only about basic helicopter training for undergraduate students. They go and learn to fly a helicopter. After that, they go back to their parent service and the service, if they want them to learn to fly and land on a carrier deck, on a destroyer deck, if they want them to fly over water, whatever they want to require, that service can do it.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

(By unanimous consent, Mr. DICKIN-

SON was allowed to proceed for 2 additional minutes.)

Mr. DICKINSON. Mr. Chairman, in the Vietnam war 75 percent of all helicopter missions were flown by the Army. All Air Force helicopter pilots are today trained by the Army and they go back to the Air Force for any additional training that they need. The expertise is there. There is nothing wrong with the training. It is superior training. It will save, according to the General Accounting Office, and that is the fourth study that has been made, and each one says approximately $100 million will be saved by not duplicating the facilities, it will save money and as I said at the beginning, the President as Commander in Chief is for it. He has made the studies. The OMB is for it. The Secretary of Defense is for it. The Secretary of the Navy is for it. The Commandant of the Marine Corps is for it.

I would hope that a majority of us will vote for it again just as we have for the past 3 years, because it is just commonsense, regardless where it is located.

Mr. HUTTO. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I would be very pleased to yield to my good friend and colleague, and neighbor from Panama City, the gentleman from Florida (Mr. HUTTO).

Mr. HUTTO. Mr. Chairman, does the gentleman in the well still contend that there is $100 million savings in this consolidation?

Mr. DICKINSON. I contend that there has been nothing to dispute the four studies, the three that I alluded to plus the new one by the GAO that I hold in my hand, that estimates a $63 million savings; but they say that is on the conservative side and they have not got all the figures from the Navy that they asked for last March.

Mr. HUTTO. Mr. Chairman, if the gentleman will yield further, is it not true that every year they have had a different figure and they have consistently come down; and is it not also true that in their costing they have not amortized any Army helicopters or equipment, they have not taken that into consideration?

Mr. DICKINSON. In answer to the gentleman's question, it is true that in every study they have made there have been approximately the same costs projected that will be savings, which is around $100 million, including the one just finished and furnished to the gentleman from Florida (Mr. CHAPPELL) and Mr. WHITE 2 days ago.

Mr. CHAPPELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I can understand why my good friend, the gentleman from Alabama (Mr. DICKINSON) is interested in moving the project to his district, as well as I can understand the interest of my good friend, the gentleman from Florida (Mr. HUTTO) in retaining it in his.

I am not going to get into those specifics. I will rather talk about the facts that must be brought to the attention of this House.

Now, first of all, I suggest to you that if we wait another year, the reports we get will show us savings if the Navy keeps it. Why do I say that? Because just a couple of years ago we heard it said from these studies that we could save $150 million. Then last year they said no, we can save $100 million.

Now, this year the "studiers" say we can save $63 million over a 5-year period.

I suggest to you if we wait until next year they will show a savings if we leave it in the Navy based upon what statistics can do and how they are applied.

That brings me to the specifics that we ought to be looking at here and that is whether or not we have any savings. The truth of the matter is when you take the methodology that has been established by the GAO in determining whether or not you have any savings, I submit to you that you do not have any savings; but it will cost us $26 million more over the next 5 years to transfer it to Army. Twenty-six million dollars more than if we leave it at Pensacola under the jurisdiction of the Navy.

Now, let us look at the figures, and I am using figures that I have gone over with the Comptroller General, Mr. Staats and his staff as late as yesterday afternoon. Let us start with what they propose to be roughly a $63 million savings over 5 years; but now, commonsense tells you that there are some things you have to take into account if you are going to determine whether or not you have any cost savings.

First of all, they list as a cost to Navy for foreign student training $10.9 million.

☐ 1720

That is a reimbursable item. Navy is reimbursed under the law by foreign governments.

How in the world can anybody who wants to be fair with the analysis charge that as a cost against Navy? It simply cannot be done.

Let us look at another one. They charge five T-34C's to the Navy in this 5-year program under the cost. The truth of the matter is that also is a reimbursable item, and it simply cannot be charged to the Navy cost and it cannot be considered a savings under consolidation.

Let us look at another one. They charge $11 million for maintenance of the H-1 and the H-57. They say the savings are due to contract maintenance at Rucker. The truth of the matter is that the Secretary of Defense has already told the Navy to go to contract maintenance: If it retains the training program. That means, whether Navy training is at Fort Rucker or at the Navy base at Pensacola, we are going to have the same cost savings, that same $1 million. We cannot charge it as a cost to Navy. It has to come off of what they consider to be the savings.

When we go through all pertinent items, such as the ones I have just gone through, we find that there is $47 million, under any reasonable analysis that any experienced analyst would use, that has to drop off of the $63.3 million supposed savings. That brings us down to a maximum of $17.5 million savings.

But here is the kicker in it, and here is the one that is easy to understand. It is as simple as two times two. They charge in this 5-year program all of the cost, $63 million, for aircraft procurement. They do not amortize it over the 15 years, as any experienced analyst would do or as any fair-minded analyst would do. That is $63 million.

Here is a capital asset that has to be carried and apportioned over a 15-year period.

The CHAIRMAN. The time of the gentleman from Florida (Mr. CHAPPELL) has expired.

(By unanimous consent, Mr. CHAPPELL was allowed to proceed for 2 additional minutes.)

Mr. CHAPPELL. Mr. Chairman, to continue, when we take that into account, apportion it over the 15-year life cycle, as is fair and proper in costing capital investments, it then costs us $24.53 million to consolidate. That is what the cost is to consolidate.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Chairman, I want to commend the gentleman from Florida (Mr. CHAPPELL) for his analysis of this proposed consolidation.

Without getting into the details which the gentleman has expressed, let me say that I have also looked at this consolidation since this is the third time in my short congressional career that this matter has come up.

This is not an administration plan. The best I can determine, this is an idea of some bureaucrats in the Pentagon that developed in the previous administration and has carried over into this administration, and they will not let go of it. But the Congress has expressed itself each of these times, and we have not agreed with the bureaucrats.

As I have studied this, I feel there is neither a savings in dollars, as the gentleman from Florida (Mr. CHAPPELL) has pointed out, nor is there a savings in fuel. As a matter of fact, as I see it, there is going to be more fuel used by the consolidation, more gallons of gasoline and more energy, than if the two separate schools are maintained.

So, Mr. Chairman, I would urge that the House of Representatives follow the dictates of Congress and not those of the bureaucrats and vote down this amendment.

Mr. CHAPPELL. Mr. Chairman, the gentleman from Oklahoma (Mr. JONES) is eminently correct.

Just to give the Members one example of this, under the consolidation plan the training hours to be flown in a helicopter will be increased about 80 hours. This means an increased cost for these hours to a cost of approximately $170 an hour to operate a helicopter from approximately $30 per hour to operate the fixed wing trainer now used by the Navy for most of those hours.

The CHAIRMAN. The time of the gentleman from Florida (Mr. CHAPPELL) has again expired.

(By unanimous consent, Mr. CHAPPELL was allowed to proceed for 2 additional minutes.)

Mr. CHAPPELL. Mr. Chairman, I wish to make one final point. I urge the Members to vote down this amendment.

What has been alluded to here is that all the service secretaries are for this plan. Let me say to the Members that they are. The Secretary of the Army is for it because the Secretary of Defense told him he had to be for it. The Secretary of the Navy is for it because the Secretary of Defense told him he had to be for it. The Secretary of the Air Force is for it because the Secretary of Defense told him he had to be for it.

But the Navy, which does the training, the professional Navy, is absolutely opposed to it. They do not get an increase in the quality of training under this plan; to the contrary, they get a decrease in the quality of training, and an increase in costs.

So, Mr. Chairman, I urge the defeat of the amendment.

Mr. HUTTO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let me say to my colleagues that this proposal has been before the Congress for years. The Congress has said, "No." It has been before the Committee on Appropriations a number of times, and again the Committee on Appropriations has said, "No." So I ask the Members to vote down this amendment.

In its report language the Committee on Appropriations has told the Defense Department to get on with the job of training Navy and Army helicopter pilots in their own programs. The committee recognizes the vast differences. The distinguished chairman of the Subcommittee on Defense of the Committee on Appropriations, the gentleman from New York (Mr. ADDABBO), said earlier that there was a difference between the Army mission and the Navy mission.

The promoters of this proposal to consolidate have held this out to be something that will save a lot of money. Last year I believe they said that $100 million would be saved over a 5-year period, and now they say that this is not so. The figures have fluctuated so much that I do not really know for sure what they are this year. The last figure I heard was about $60 million.

The fact is that it is going to be less expensive in the long run and more cost effective to train helicopter pilots in their respective service programs. Let me give the Members a few reasons why this is so.

It is imperative that we save all the energy we can in this country. In the Navy program at White Field the pilots are trained in both rotary and fixed wing at 190 hours. This is fewer hours than prescribed in the Army syllabus, which proposes 195 hours for rotary training only. In the fixed wing portion of the program, with 190 hours, the Navy uses a T–34C, the aircraft which has been mentioned, and this consumes a little more than a third of the fuel that is consumed by the Army helicopter. This averages out to about 2 million gallons of fuel as a savings per year by keeping the Navy program where it is.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. HUTTO. I yield to my friend, the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, as I understand it, all of the Army does not want this consolidation; is that correct?

Mr. HUTTO. Mr. Chairman, the official position is that they want it, and my friend, the gentleman from Alabama, mentioned those who were for it. This, of course, comes under the DOD; it is a DOD proposal. But if we ask the uniformed Navy man and if we ask some of the Army personnel, they will tell us, no, they do not want it.

Mr. SKELTON. Mr. Chairman, let me ask the gentleman this:

The gentleman said something about a dollar savings. Is it true there would be a cost savings if there were a consolidation? Would the gentleman explain that?

Mr. HUTTO. There would not, not in the long run.

As I had mentioned earlier, when I was questioning my friend, the gentleman from Alabama, a lot of costs were not figured in this proposal. They amortized the Navy aircraft over the 5-year period, and as the gentleman from Florida (Mr. CHAPPELL) so ably pointed out, it should have been done over a 20-year period.

They did not amortize the Army helicopters at all. They did not allow for the purchase or replacement of the Army helicopters.

Mr. SKELTON. Mr. Chairman, let me ask the gentleman this last question:

The gentleman alluded to this, and I am sure Members have gone into detail on it, but is it a fact that there is a difference between the Navy and Army helicopter-type training?

Mr. HUTTO. There is, absolutely.

Again, as my friend, the gentleman from Alabama, pointed out there is not much need for training over water, but there is some, and it is necessary for the Navy pilot to be able to land on a moving target, a ship. And I submit to the Members that there is no gulf or ocean near Fort Rucker, Ala.

Mr. SKELTON. Mr. Chairman, I thank the gentleman.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. HUTTO. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I have been listening carefully to the gentleman, and I think he makes a persuasive case for his argument.

The fact is that there are a lot of areas where we can save money. I do not really believe this is one of the areas where we are going to find there is a savings. I think the missions are distinct, and the training should be distinguished.

Mr. Chairman, I want to thank the gentleman from Florida (Mr. HUTTO) for his very able presentation.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. HUTTO. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman very much for yielding.

Mr. Chairman, I appreciate the comments of the gentleman from Florida, and I agree with him. I think the gentleman is absolutely correct.

Mr. Chairman, I question this entire concept of unifying all the services and having them all under one roof. If there is anything wrong with the training program, then they have all of the services trained wrong.

I think what we have seen with the unified management, is that we get a lot of generals who come down here and they get so politicized that they do not always tell the Members of Congress what is really on their minds.

It seems to me that naval aviation has had a long and proud heritage in this country. It has been very different and significantly different than Army aviation or the mission of the United States Air Force. I think we are making a tremendous mistake by taking away some of the pride that we have in the U.S. Navy, Marine Corps team.

☐ 1730

The CHAIRMAN. The time of the gentleman from Florida (Mr. HUTTO) has expired.

(On request of Mr. SYMMS and by unanimous consent, Mr. HUTTO was allowed to proceed for 1 additional minute.)

Mr. SYMMS. Mr. Chairman, if the gentleman will yield further, I would just like to close by saying that the esprit de corps that has developed in naval aviation, the U.S. Marine Corps, and the Navy is very worthwhile as a good example for all aviation. I think that that needs to be started and instilled in those young aviators at a young age and train all the way through, so that they do know what their mission is and where they are going. It is a mistake to try to put them all together. The savings, when this is all over, will be absolutely meaningless to the taxpayer. I say these comments in no way to lessen my respect for the men and women of the U.S. Army or U.S. Air Force—nor is there any Member of Congress whom I respect more than Mr. BILL DICKINSON—but I cannot agree that the naval aviation program be turned over to the U.S. Army.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. HUTTO. I yield to the gentleman from New York.

Mr. PEYSER. I thank the gentleman for yielding.

Mr. Chairman, I want to congratulate the gentleman. I think the point that my friend, the gentleman from Idaho (Mr. SYMMS) has made, of the morale of the Navy and their flying is something that is worthwhile. Does the gentleman agree with that?

Mr. HUTTO. That is true.

Mr. PEYSER. I think we ought to continue on that basis.

Mr. WHITE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I have the highest respect for the gentleman from Alabama (Mr. Dickinson). If it was a vote for him, I would certainly vote for him. But as to the consolidation of the helicopter training, I have two elements to add to this debate, which I think we must consider. The first is the nature of the training between the Navy, the Marine Corps and the training of the Army. The Navy trains in order to navigate over water where there are no fixed points of reference and must land, as was said by the gentleman from Florida, on a moving deck. This is an integral part of their training. I think it is important that they begin from the commencement of their training how to navigate without fixed references and on moving decks.

The second point, of course, is that the helicopter training in the Marines and in the Navy presently encompasses fixed-wing training. This is for the purpose of weeding out those who are not actually appropriate for air training. If this training is consolidated at Rucker, it is said and it is shown by those who have investigated it, that the fixed-wing training will be phased out and there will only be helicopter training without the fixed-wing training; thereby you will be losing that opportunity to train the person in fixed-wing adequacy in air and also this weeding out process which saves millions of dollars to the U.S. Government, weeding out those who will not be appropriate to the training.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I do not know how many times I have to say this to try to make the point. The Navy itself today dedicates less than 1 percent of its time for flying over water. If they need them to fly over water, they can go back and give them all of the advanced training they want to. Out of the 195 hours the Navy presently gives, less than 2 hours is given flying over water, if then. And, secondly, this is just basic training. Then they go back to their own service and they can build their own esprit de corps, they can be a part of the Navy, a part of the Air Force, a part of whatever. This has nothing to do except the basic helicopter training, and then they go back to their services.

Mr. WHITE. Mr. Chairman, I will say to the gentleman that the trouble is that those pilots you train in the Navy and Marine environment and include the mode of landing on aircraft carriers from the inception.

Mr. DICKINSON. No, you do not. The Navy does not do that today is what I am trying to tell the gentleman. They have never done that.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with what the gentleman from Texas (Mr. White) has said. I think the idea of consolidating helicopter training between the Navy and the Air Force makes about as much sense as though we consolidated the operations at Corpus Christi and at Langley Field. These are two different types of aircraft operation. It does not matter whether it is helicopter or fixed-wing. It is an entirely different environment. If you are going to teach somebody to fly with the Navy, you have to have a different type of approach than flying with the map of the earth, as they do down at Fort Rucker. They do a great job down there, but I think we ought to keep them separate. I think this is in the best interest of our national defense.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I feel almost like I could follow the old joke and hold up one finger for the first point, and everybody would cheer because they know what the argument is, and hold up two fingers for the second point, and everyone could boo because they know what that one is.

We have heard this before. We have argued time after time. I do not like the position I am in, formerly between my good friend Bob Sikes and my good friend, the gentleman from Alabama (Mr. Dickinson), and now between my good friend, the gentleman from Florida (Mr. Hutto) and my good friend, the gentleman from Alabama (Mr. Dickinson). It is not a parochial matter. It is simply not a parochial matter. The question is whether you can save legitimate money that we so desperately need in defense in other areas.

One of the biggest problems we have in defense is trying to cut out waste and so we can get down to the bare muscle and have a good defense of this country.

We talk about training over water and training on moving vessels. Perhaps the Members have heard this before, if they have listened, but every time the *Lexington* is off in repair or overhaul they do not get training on a moving vessel. It might interest the Members to know that in a very few months the *Lexington* is going off for 9 months of overhaul, and then what are those Navy fellows going to do? The truth is that we are talking about basic training, learning how to fly a helicopter. It is just that simple. And once they have learned how to fly helicopters, then they go into their own branch of the service for their advanced training and do those things that they need to learn for the particular branch of the service that they are in. We keep hearing today, as we have heard before, that there is not going to be any savings; it is really going to cost more money. The experts have looked at this thing time after time after time, and nobody yet has refuted the many studies that have been made showing upwards to $100 million savings in bringing about this consolidation.

I hope this is the end of the argument. Four years is enough. But I will remind the Members that the House has voted every time it has had a chance 2 to 1 in favor of consolidation of basic helicopter training. Two to one. The only time the House did not vote on it was when we did it in the committee, and it did not come before the House. Last year we even voted by a substantial margin to instruct the confereees to stand fast, and the conferees once again chickened out once they got in the conference.

Mr. HUTTO. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Florida.

Mr. HUTTO. Mr. Chairman, the gentleman from Alabama will admit, I believe, that they have changed the figures every year. They have consistently come down. The gentleman will also admit that the GAO has admitted they have not figured in the Army costs which we have mentioned earlier here.

Mr. EDWARDS of Alabama. The gentleman has made that point in his earlier remarks. I would agree that every time it gets studied it varies a few million dollars here and there. The study that we have been talking about today, which I understand that the gentleman from Florida (Mr. Chappell) has, and that Senator Stewart has, shows a clear saving of $63 million. But the footnote says:

> Very clearly as of this date the adjustments to the Navy's cost data have not been completed. We continue to believe the net effect of the adjustments should result in a net 5-year savings from consolidation of more than $63.3 million.

Year after year after year this thing has come up, and the savings continue to be massive. It is sinful to waste this kind of money when we could be putting it into other things that the military needs.

Mr. Chairman, I urge a vote for the amendment.

Mr. ADDABBO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the committee would ask for a "no" vote. We have discussed this matter in committee. There is no real savings.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Alabama (Mr. Dickinson).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of Alabama. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 131, noes 244, not voting 58, as follows:

[Roll No. 518]

AYES—131

Anderson, Ill.
Andrews, N. Dak.
Archer
Ashbrook
Aspin
Badham
Bauman
Bereuter
Bethune
Bevill
Broomfield
Broyhill
Buchanan
Burgener
Butler
Carney
Carr

Cheney
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Devine
Dickinson
Dingell
Dougherty
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Okla.
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Fisher
Fithian
Flippo
Forsythe
Frenzel
Gilman
Goldwater
Gore
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hamilton
Hammerschmidt
Heckler
Hillis
Holt
Hopkins
Hyde
Ichord
Jeffries
Kramer
Latta
Leach, Iowa
Lee
Lewis
Loeffler
Lujan
Lungren
McClory
McDade
McEwen
McKinney
Marlenee
Marriott
Martin
Michel
Moore
Moorhead, Calif.
Moorhead, Pa.
Myers, Ind.
Nedzi
Nichols
O'Brien
Pashayan
Paul
Pease
Petri
Pritchard
Pursell
Quayle
Quillen
Rinaldo
Ritter
Robinson
Rousselot
Royer
Runnels
Russo
Sawyer
Schroeder
Schulze
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Stark
Studds
Tauke
Taylor
Thomas
Trible
Van Deerlin
Vander Jagt
Vanik
Walker
Wampler
Weaver
Whitehurst
Wilson, Bob
Wyatt
Yates

NOES—244

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Atkinson
Bafalis
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Byron
Chappell
Clausen
Clay
Clinger
Coelho
Conyers
Corman
Crane, Daniel
Crane, Philip
D'Amours
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Dicks
Dixon
Dodd
Donnelly
Dornan
Downey
Drinan
Edgar
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Findley
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Gonzalez
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hollenbeck
Horton
Howard
Hubbard
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Levitas
Livingston
Long, Md.
Lott
Lowry
Luken
McCormack
McDonald
McHugh
McKay
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Railsback
Rangel
Regula
Richmond
Rodino
Roe
Rostenkowski
Roybal
Rudd
Sabo
Santini
Satterfield
Scheuer
Seiberling
Sensenbrenner
Shannon
Simon
Skelton
Slack
Smith, Iowa
Snowe
Solarz
Solomon
Spellman
Stack
Staggers
Stenholm
Stewart
Stokes
Stratton
Stump
Swift
Symms
Synar
Thompson
Traxler
Udall
Ullman
Vento
Volkmer
Watkins
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolpe
Wright
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—58

Alexander
Anthony
Ashley
AuCoin
Barnard
Beard, Tenn.
Bolling
Bonker
Brown, Ohio
Campbell
Carter
Cavanaugh
Chisholm
Cleveland
Collins, Ill.
Cotter
Danielson
de la Garza
Diggs
Duncan, Oreg.
Fish
Flood
Ford, Mich.
Goodling
Hinson
Holland
Holtzman
Huckaby
Johnson, Colo.
Kindness
Lent
Lloyd
Long, La.
Lundine
McCloskey
Madigan
Minish
Murphy, Ill.
Ratchford
Reuss
Rhodes
Roberts
Rose
Rosenthal
Roth
Sebelius
St Germain
Steed
Stockman
Treen
Walgren
Waxman
Williams, Ohio
Wilson, C. H.
Winn
Wolff
Wydler
Wylie

□ 1750

The Clerk announced the following pairs:

On this vote:

Mr. Roth for, with Mr. Steed against.
Mr. Campbell for, with Mr. Ashley against.
Mr. Cleveland for, with Mr. Reuss against.
Mr. Kindness for, with Mr. Barnard against.
Mr. Lent for, with Mr. Hinson against.
Mr. Wydler for, with Mr. Anthony against.

Messrs. SOLOMON, ANDREWS of North Carolina, SATTERFIELD, and BREAUX changed their votes from "aye" to "no."

So the amendments were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read:

The Clerk read as follows:

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under sections 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on active duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $272,500,000.

Mr. PANETTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to commend the Defense Appropriations Subcommittee, and in particular the distinguished chairman of that subcommittee, Mr. ADDABBO, for again recognizing the important role of the Defense Language Institute, located in my district in Monterey, Calif.

I rise today to bring to the attention of this House and, in particular, the Defense Appropriations Subcommittee, a very serious problem at the Defense Language Institute. Despite Department of Defense assurances to the subcommittee that the program at DLI is being strengthened, I have been informed that the Army's Training and Doctrine Command has announced that 83 positions will have to be deleted in fiscal year 1980 to meet end-strength requirements. At the same time, however, an augmentation is being considered for fiscal year 1981 which, if approved, would be greater than the planned reduction for fiscal year 1980. I believe it would be contrary to the interests of the Defense Language Institute and the country to impose an 83-position reduction in fiscal year 1980 and then turn around in fiscal year 1981 with a personnel increase.

The President's Commission on Foreign Language and International Studies has spent a full year explaining the status of foreign language and international studies in this country. This work has uncovered many alarming shortcomings in our national capability to understand and communicate with the world beyond our borders. The Commission's recommendations are now being finalized for submission to the President in October. I believe the planned reduction at the Defense Language Institute would signal a retreat in the foreign language field at a time when the President's Commission is urging a redoubled national commitment to foreign languages.

Indeed, the proposed augmentation for fiscal year 1981 is necessary for DLI to meet its 5-year training development program. It makes little sense to reverse that position in fiscal year 1980 with a reduction. This has caused additional chaos and confusion at DLI without contributing to the long-run efficiency of that program. I believe the proposed augmentation for fiscal year 1981 is the best way to go. The planned reduction in force for 1980 should be reversed.

Mr. Chairman, I had planned to offer two amendments to the Defense Appropriations bill for fiscal year 1980. One would have prohibited the expenditure of funds for carrying out a reduction in force at the Defense Langauge Institute. The other addressed a very real and pressing problem which involves the priorities within the Office of the Secretary of Defense. As some of you may know, the Assistant Secretary of Defense for Communications, Command, Control and Intelligence is the nominal "primary functional sponsor" of the defense foreign language program. However, that office does not have sufficient staff to handle the job. Consequently, many decisions made at the Army's Training and Doctrine Command or at Department of Army level are not known to the Defense Language Institute's primary functional sponsor within the Office of the Secretary of Defense. My amendment, had I offered it, would have set aside sufficient funds for the purpose of providing adequate staff to give the Defense Language Institute that high-level attention it deserves within the Office of the Secretary of Defense.

I have not offered these amendments today because the distinguished chairman of the Defense Appropriations Subcommittee has assured me that his subcommittee supports the strengthening of the program at the Defense Language Institute. I appreciate his support, because I believe many of our recent failures in the intelligence field, in Iran, in Afghanistan, and in Cuba, can be traced at least partly to inadequate attention to foreign language training among our Intelligence, Defense, and State Department personnel. We need to understand and communicate with people of other countries if we are to be warned in advance of adverse developments and if we are to avoid foreign policy blunders in the future. To keep our finger on the pulse of world events requires improved knowledge of the world and its people. Foreign language is the key to that knowledge.

So I speak today, not simply as the representative whose congressional district may be adversely affected by a reduction in force, I speak as one who truly believes the national interest is ill served by shortsighted reductions in foreign language training for military and intelligence personnel at a time when our commitments abroad will require constant alertness and constant readiness. The defense foreign language program should be spared these cuts, and I urge the Defense Department to consider these points when setting manpower and budgetary priorities affecting the foreign language program. I also welcome the support of the Defense Appropriations Subcommittee for this position.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the chairman of the subcommittee.

Mr. ADDABBO. I thank the gentleman for yielding and appreciate his bringing this matter to the attention of the Members.

The subcommittee has gone into this question in great detail. We are also deeply concerned.

The reason for the possible RIF of 87 personnel was the Leach amendment which required reductions within all Federal agencies. We believe a mistake was made by DOD in allocating such a reduction to this program.

They have promised our subcommittee that there will be a 27-percent increase in students in this program over the fiscal year 1978 level.

☐ 1800

We will join with the gentleman in urging the Secretary of Defense not to make any reduction, and to proceed with his agreement with our subcommittee, which will be an increase of 27 percent in this program.

Mr. PANETTA. I thank the chairman for his courtesy.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $3,231,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $9,781,832,000, of which not less than $457,100,000 shall be available only for the maintenance of real property facilities.

AMENDMENT OFFERED BY MR. WHITE

Mr. WHITE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITE: On page 7, line 10, strike out "$9,781,832,000" and insert in lieu thereof "$9,791,832,000".

Mr. WHITE. Mr. Chairman, I rise to offer this amendment to the fiscal year 1980 defense appropriations bill. The bill itself contains insufficient funding to provide for continuation of the graduate medical education programs of the Army, and for continued operation of all eight Army medical centers.

My amendment would add funds necessary to restore and maintain an essential professional health organization through graduate medical education and its enhancement on recruitment and retention of health professionals. The sum is $10 million.

The availability of specialized training is the prime attraction for young physicians. We know through our hearings in the Armed Services Committee that we are having a difficult time attracting and retaining doctors. This is one of the biggest problems in the service today. It certainly puts us in a very difficult position in the event we have to operate under emergency conditions or in war. In that event, we could not adequately take care of casualties.

Specialized training helps to retain young medical officers. This is not classroom training, but on-the-job training under the supervision of experienced physicians, and it provides direct medical care in the process.

This training pool of physicians provides an instant source to draw on for emergency deployment. What I am saying is, by removal of the $10 million as the committee has done, we are eliminating many of the graduate students who are training in military hospitals for military use, and some, of course, later on to go into other medical service. This pool—and I am talking about the graduate medical education trainees—provides referral care for patients which is not and could not be made available at every post or station. The facilities are in place. No further construction is needed at this time. We need only to operate them to maintain the training concept which can be done more effectively and with more military responsiveness than trying to contract this out with civilian institutions.

These facilities which will be closed under the bill are Brooke, Letterman, and Fitzsimmons, although they are not specifically mentioned. The probable result would be that these institutions, which have high-grade military student trainees, would be forced to close down and the trainees would be forced to leave, because they do not have adequate courses to take care of the personnel. These students, who are absolutely necessary to the operation, will be forced to leave. These centers are located near transportation networks and skilled personnel, and provide expansion capability and access in the event of mobilization.

Failure to maintain this kind of training will result in a decrease in the standard of medical care of the Army and the ability of the Army to respond to emergency action or war. As I go through military hospitals, I find a plea to augment the medical training program. They say, "Give us better education; give us training in our program because we are having great difficulty in attracting fine students from the medical schools at the present time.

Too many other institutions are competing and giving the type of training necessary to upgrade their profession. If we cut this money, we are dealing a serious blow to trainees coming into the military service at a time when we are most critical in our need for physicians.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to my colleague from Texas.

Mr. KAZEN. Mr. Chairman, I wish to associate myself with the remarks of the gentleman in the well. At the present time, the Medical Corps is 20 percent below its actual needs. They have 4,100 physicians, but they need 5,273. If they do not have 1,500 in intern residency, they cannot meet the mobilization requirements. I cannot for the life of me see how any committee of this Congress would attempt to cut out any funds for the Burn Center at Brooke General Hospital or the other two hospitals that by inference will be cut out under the provisions of this bill unless the gentleman's amendment is adopted.

Mr. WHITE. It is self-defeating.

Mr. KAZEN. It certainly is. The statistics will show that 20 percent of those people who are trained by the services remain in the service, while only 2 percent of the doctors that come in who are already graduates come into the service. At a time when we need doctors, we certainly should not be cutting them off.

The Burn Center at Brooke General Hospital is the best known burn center in the world. As I recall, about three or four years ago when that terrible, terrible airplane crash took place in the Canary Islands between those two 747's, the few survivors that were brought out of there were flown directly to Brooke. We are served in the civilian sector by that hospital, and people from both the military and from the civilian sectors from all over the world are brought to Brooke General Hospital.

Mr. Chairman, I say to you that instead of cutting back on that type of an institution, we should be adding to it, because we can darn sure do more to get more doctors in that type of institution.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the White amendment. The position of the committee as expressed on page 33 of the report, is unwise, unfortunate, and unwarranted. The committee is telling the Army to plan on the closure of the three major medical centers, without regard to anything other than its perception of how these centers should be located.

The fact is that these medical centers each serve as the most basic resource for physician training in the Army. Without these centers, the whole training effort is undermined, and with it the medical program itself becomes endangered. Rather than trim unnecessary foliage, the committee is striking at the very taproot of Army medicine.

Not only are the medical centers the prime training place for Army physicians; they are the places that provide highly specialized care that simply cannot be given in any other setting. There are small cities, and even big cities, that will have a number of excellent small hospitals—so does the Army. But throughout the land, there are great teaching hospitals that offer specialized knowledge, specialized care, and highly sophisticated equipment that simply cannot and should not be placed in anything other than a regional center for medical science. That is, likewise, the function of the eight Army medical centers.

At Brooke Army Medical Center, for instance, there is the original, and still greatest burn treatment center in the country. It would make no sense to arbitrarily close down an irreplaceable center like this, which provides last-resort care, and other specialized types of care that can be offered in no setting other than a regional reference hospital—which is what Brooke and every other medical center is.

But the committee recommends, even demands that these centers be reduced by an arbitrary amount. If this is done, the whole basis of Army graduate medical training programs will crumble, and the ability of the Army to provide for the medical skills it needs will be cut off. What is more, the whole essential organization of the Army Medical Service, which provides for specialized treatment in the most efficient and economical way possible, will be permanently impaired if not destroyed outright.

This may seem a small matter in a budget of billions. But it is not a question to be considered lightly. I urge that the committee not embrace a misguided plan that will gravely damage the Army's medical service program and end up imposing huge new cost burdens in future years. I support the amendment of my colleague from Texas (Mr. WHITE) and I urge its adoption.

□ 1810

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I will be delighted to yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding. I also want to associate myself with the remarks of the gentleman in the well and ask him if it is not true that all studies, including a DOD-HEW-GAO study just several years ago, show that it is cheaper to train in the service than it is outside of the service?

Mr. GONZALEZ. Yes. Not only that study, but every one that has ever been made. It is just unbelievable that this would be done. Of course, it was done in the mark-up session with nobody's knowledge that I know of other than just a handful in the subcommittee. But the gentleman is absolutely correct. That is a fact.

Mr. KAZEN. I thank the gentleman.

Mr. LOEFFLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the White amendment. I wish to associate myself with the remarks of my colleagues from Texas.

Mr. Chairman, the Brooke Army Medical Center is a $50 million installation which has been supported by the community of San Antonio, and has been a part of our military service for 101 years. Presently it provides 678 beds which have been over 90 percent occupied during its tenure. It provides 100 percent of all tertiary care and much of the secondary care for Fort Hood, Fort Polk, and Fort Sill, serving some 84,000 active-duty troops stationed in the immediate area. It is the only geographically accessible source of specialized treatment, including cardiac care, burn care, respiratory problems, cancer, and exotic infections. As a training hospital, Brooke Army Medical Center acts as a basic training camp for specialists who are dependent upon retirees for variety and case load. Brooke has a cadre of the best medical specialists in the country who would choose retirement rather than transfer to low-grade medical facilities where their expertise would be wasted. Medical centers such as Brooke demand availability of patients for treatment, not just troops.

The whole concept of major medical facilities being placed strictly where troops are available versus where retirees are available is wrong. Active-duty troops do not have incidence and variety of illness as great as retirees. Again, availability of patients for treatment should be the test, not merely location of active troops.

Mr. Chairman, I urge my colleagues to support the White amendment. I yield back the remainder of my time.

Mr. ADDABBO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment. The amendment adds $10 million to the hospital operations program. The hospital operations program has been increased by $100 million for fiscal year 1980. There is no mention, nor any indication by the subcommittee or by any action of the legislation before us, that requires that Brooke Hospital or any other hospital be closed. We are speaking of a period of several years. If these hospitals are utilized, and if they shall be further utilized, then they should remain open, but there is $100 million more in this year's bill than there was in last year's bill for this very program.

What we are trying to do is to help insure that Army doctors are located where Army troops are located. By law it is these troops and their dependents who have precedence in receiving available needed benefits. Yet, the statistics in the report clearly show Army doctors are not assigned on the basis of where the active duty personnel are located. The Navy and the Air Force are in a far better position than the Army in this regard.

Thirty-five percent of Army physicians are either teaching or participating in education programs while about 20 percent of Navy and Air Force doctors are so employed.

Some changes are needed and we asked the Department of Defense for a plan to make such changes.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding. Then what is the meaning of the committee report on page 34 where the subcommittee says, after talking about the phaseout program that the committee wants to go through with:

> To provide the Army an incentive to start this phaseout, the Committee is recommending a reduction of $10,000,000. The Committee will replace the $10,000,000 through a future reprograming action or as a part of the fiscal year 1980 supplemental if and when a plan is submitted for the phaseout of a portion of the Army's poorly located medical centers.

Now I ask the gentleman, is this not blackmail really to say to the Army, "By golly, you phase out these institutions." And by inference we have the dates for these three hospitals, Brooke, Fitzsimmons, and Letterman, that are the object and the target of this language.

Mr. ADDABBO. The committee in the past has continually asked the Department of Defense to look at all medical facilities. If they are underutilized, then a plan should be presented for some phaseout. If they prove to us that they are utilized, then they should not be phased out.

There is no action by this reduction that requires Brooke or any other hospital to close.

Mr. KAZEN. Then what is the meaning of this language?

Mr. ADDABBO. We want the Department of Defense to take a very careful, hard look at the utilization of these dollars. We received a $100 million increase over last year. Are the facilities being properly used? If not, let us know what you are going to do to properly use those dollars. If some hospitals are going to be phased out, then come up with a plan to show us which ones and why they will be phased out. There is nothing in the language to say they must be phased out, whether they should be phased out, or when they should be phased out.

Mr. KAZEN. Of course not. The gentleman is taking away $10 million from them.

Mr. ADDABBO. I reclaim my time. The gentleman has already addressed the committee. We have said we will restore the $10 million if the Army comes back with a plan showing that these hospitals should not be phased out.

Mr. KAZEN. If the gentleman will yield further, it says, "If and when a plan is submitted for the phaseout."

Mr. ADDABBO. The gentleman knows DOD. If they come back and prove that the hospitals should not be phased out, then we will take another look.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Texas.

Mr. WHITE. I thank the gentleman for yielding. We in the Armed Services Personnel Subcommittee and the Compensation Subcommittee have been working diligently trying to find the incentive in order to keep physicians in the service. We have, for instance, in the authorization bill an extension of bonus that has been extended to other aspects of medical service as to certain positions so as to keep them in. We give them variable incentive pay. We have all these things. I am delighted that the gentleman has called to our attention the question of these three hospitals, and I assure the gentleman we will go forward in interrogating the medical authorities to determine whether or not these hospitals are being properly utilized. We prefer to do it in a legislative manner instead of slicing off and saying, "We will slice off $10 million if you do not come up with a plan." Let the $10 million be restored, and I give you my word we will go forward and diligently try to determine whether or not these hospitals are being utilized.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the requisite number of words. I will say one thing, Mr. Chairman: The Brooke Army Medical Hospital is certainly well represented here today, and I admire the fact that these gentlemen are concerned about that hospital. That is a very unique hospital, and I would venture to say with the military bases in the general area that nobody is going to touch that hospital. But I say to the gentlemen who have been speaking here that it is very hard to justify Army hospitals where you are only serving perhaps 18 percent of active-duty troops and everybody else you serve is retired, or dependents of, or some other category that is entitled to get into an Army hospital.

All we are trying to do is encourage the construction or use of hospitals where the troops are located. We must not turn these Army hospitals into welfare institutions. Put them where the troops are for their use. The doctors will serve there as well as they will serve anywhere else.

We found too many instances where the Army has tried at least to make an effort to redirect its hospital program putting the hospitals where the troops are, and they run flat right into the middle of a buzz saw in the committees of this Congress, and they feel political pressure, and they back down. So we have these same old hospitals in the same old cities not serving the troops. That is what this is all about, and all we have tried to say is, look, we are going to cut $10 million out of this $4.5 billion budget for military medical programs to try to get their attention so, hopefully, they would at least come back with a plan in the fiscal year 1980 supplemental that we can look at. They know and we know whatever they come back here with, they are going to catch a lot of flack, but we are trying to give them a little backbone, and that is all this $10 million cut is. If they show some backbone, they will get the $10 million, and you can call that whatever you want to call it. But we spend too many dollars in this country on defense, and we are not getting anything for it. That is why we have done what we have done.

□ 1820

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Texas.

Mr. WHITE. I thank the gentleman for yielding.

Two points I wish to make. First you have gotten our attention, the attention of the Committee and we will go forward. Secondly, there is an erosion of benefits and an erosion of opportunities in the service today which is really hurting morale.

In the doctor areas, if we show we are cutting or even talking about cutting this particular medical training program, then I think you are going to find even more wondering whether or not this is the type of career they should follow and we will have even more erosion and more loss of military doctors.

Mr. EDWARDS of Alabama. Mr. Chairman, to say that to the Fourth Mechanized Infantry Division at Fort Carson, Colo., near Colorado Springs, where they have such a ramshackle old building for a medical center, they have to fly those folks into Fitzsimmons Medical Hospital in Denver where they are handling very few active duty troops, that is what we are talking about. Put the hospitals where the troops are and you will have a happier military, in my opinion.

Mr. Chairman, I urge defeat of this amendment.

Mr. KRAMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment and will make my remarks brief.

I am deeply disturbed by a trend which I see developing to curtail the benefits available to the Nation's military—both active duty and retired—in the name of cost savings. The direction in which the committee is pushing the Secretary of Defense and the Department of the Army through the report language on this issue would ultimately lead to reducing the availability of medical care to the men and women who have served their country in uniform, and I oppose that drift. At a time when one of our most serious problems with respect to our national defense is manpower—when the services are unable to reach their recruiting goals and are losing increasing numbers of trained and competent personnel—it is the height of folly to propose reducing the availability of principal benefits which act as an incentive to recruitment and retention. And, it is reprehensible to suggest to those who have already served and retired in anticipation of the continuation of benefits which they contracted for and earned that those benefits will now be reduced.

It is true that the committee report does not designate any particular facility as a target for a future phaseout, but it is no great secret that the committee has had its sights set on certain medical facilities, and by this report language the committee is positioning to move to close those facilities in the future. It is true that the report language does not mandate that the Army act immediately to close any medical facilities, but it does direct that the Army submit a plan to start phasing out two or three medical centers. The committee is not asking for a report giving the pros and cons on phasing out certain facilities, but is demanding a plan for the initiation of such a phaseout.

And the committee further "encourages" the submission of such a plan by cutting the budget by $10,000,000 until such a plan is submitted. I guess this is a hammer with a carrot attached. I think we could pretty safely assume that once such a plan were submitted, the committee would promptly move to act on that plan and initiate the phaseout.

While I generally favor an incentive approach to accomplish a desired objective, I believe this particular effort inappropriate in that it penalizes the Army and forces the direction of resources which are already scarce in areas which may not be of highest priority. Second, as I have noted above, the general notion of further reducing the availability of medical facilities for active and retired military personnel at a time when manpower is such a critical issue is self-defeating. Admittedly, military personnel costs are high, but by logical extension of the argument that we need to cut back on military personnel costs by cutting out essential benefits, we can reduce those costs to nothing when we reduce the volunteer military to that level.

I am already receiving up to 10 letters a week from constituents complaining that they cannot receive the medical care to which they are entitled as active duty and retired military personnel and dependents. I am also starting to receive letters from physicians who are refusing to accept further patients under CHAMPUS because the payment levels have been set too low. Now, the committee is directing the Army to effectively begin the process to phase out two or three medical facilities in this country which serve the military, thus further reducing the availability of medical care for these people who have served their country.

In short, I believe the committee's charge is ill-directed; the approach ill-conceived; and I hope the gentleman's amendment will be adopted. While I too would like to see maximum utilization and efficiency in defense programs as in all others, I think there are other ways than reducing medical care availability.

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know that the gentleman from Alabama did not mean to infer that our retired personnel receive charity when they go into a military hospital. Now, this I know the gentleman did not mean.

Mr. EDWARDS of Alabama. Will the gentleman yield, Mr. Chairman?

Mr. KAZEN. Certainly I will yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Certainly I did not mean to imply that. It was an improper use of words. What I am saying is, the purpose of an Army hospital is to serve the troops. There are other hospitals and other facilities that can serve in the major cities where you have retired people located. That is all we are saying.

Mr. KAZEN. I am glad the gentleman straightened it out because I understood the gentleman to say that serving the retirees, those people who have been retired, who kept their bargain with this country and served under the conditions under which they entered the service, and then have the U.S. Government welch on the benefits they are to receive is a sad state of affairs.

Now these hospitals, every one of them, have been training these doctors that are needed in these places where the gentleman says the troops are. This is where they train and they are sent out there. Where are they going to come from if you do not train them in these hospitals? This is all we are saying.

Mr. Chairman, if the gentleman is correct, the gentleman from Alabama (Mr. Edwards) as well as the distinguished chairman of the subcommittee, in the way they interpret the language, I certainly do not approve and I leave it up to the committee to interpret it.

If what the gentleman says he wants to do, the word "phase-out" should never have been in this report. It should have been a review if that is what you want. Call the attention of the Army to what they are doing, work up a plan, come back in here, review their situation and let us look at it, but that is not what the report says. The report says the $10 million will be given back only when a plan is submitted for the phase-out, for the phase-out of a portion of these hospitals. That is what your language says.

Up on top of page 34 of your report you say the committee believes it is time for the Secretary of Defense to direct the Secretary of the Army to submit a plan to start phasing out. Submit a plan directing them. Submit to start what? No reviewing for us to look at. No. To start phasing out two or three of these centers.

Now, that is your report, gentlemen. That is not what you purport to show this Committee, trying to redo this work. If this is what you meant you should have put in the report.

The way I read it, Mr. Chairman, and this is the only way this Committee can read and interpret it, is that you are really withholding the $10 million. Actually, I call it blackmail. You do not get it back until you come in here with a plan to phase out. Not to review, but to phase out these institutions.

I say that this should not happen and I say that the White amendment should be adopted.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Yes, certainly, I will be delighted to yield.

Mr. EDWARDS of Alabama. As I said earlier, you can call it whatever you want. I do not call it blackmail.

Mr. KAZEN. Do you not agree with the language?

Mr. EDWARDS of Alabama. Let me say this: I would agree that "phase-out" is probably a poor choice of words. I would confess error if that is the proper term here in that regard.

However, Mr. Chairman, I think what we were trying to say—and perhaps we said it in a way that we should not have—we are waiting and we have been waiting to see a plan to try to rectify this mislocation of hospitals as far as the troops are concerned. If "phaseout" is too strong, then I would agree with the gentleman because we are not trying to force them to phase out a particular hospital. We are trying to see a plan showing how they will rectify it.

Mr. KAZEN. I wish the report had been written the way the gentleman says it should have been written, but this directs the Department of Defense to start phasing out, to bring in a plan and start phasing out. That is a mandate from this Congress if we let this bill go through. There is absolutely nothing that the Army can do itself but follow the mandate we give them.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the House Committee on Government Operations, Subcommittee on Legislation and National Security, chaired by the distinguished full committee chairman, the gentleman from Texas (Mr. Brooks), held hearings on the Letterman Hospital, the Letterman Army Institute of Research, when it first came down. We were thinking of either closing Letterman Hospital or Oak Knoll Hospital in the bay area. Letterman Hospital, I would say the taxpayers paid up to $30 million not too many years ago just to bring it into the modern day.

Mr. Chairman, they then talked about phasing it out and the report of the subcommittee indicated it made no sense to phase out Letterman Hospital at the same time the Department of Defense was talking about spending some $40 million additional to take a base hospital and make it an Army medical center some 40 miles or less than an hour's drive from the Letterman Hospital location. They felt it made sense to keep the one hospital, not build a new hospital, and that has been the direction that the Surgeon General thought was the wiser.

Mr. Chairman, perhaps the chairman of the Committee on Appropriations could respond to this: What I am afraid of is, by putting this freeze in this $10 million reduction you are going to start a self-fulfilling prophecy. They are losing people, they are losing slots, they cannot keep personnel at Letterman Hospital. That I know about. Pretty soon the care and treatment runs down and, therefore, the amount of people they take care of diminishes and, therefore, you have fait accompli, a hospital that will phase out.

Mr. Chairman, I think the freeze of this $10 million, in effect, is going to guarantee the phasing out rather than a study. There is a very exhaustive study done. In fact, I think I sent to your subcommittee the findings of the Committee on Government Operations on this matter, that it was in the interests of the taxpayers to keep Letterman open rather than refurbishing another hospital 20 miles away and building a new hospital 40 miles to 50 miles away.

All I am afraid of—and I would like to have the gentleman's response—is that the freeze is going to guarantee diminution of treatment, diminution of care, then a diminution of service and then you might as well phase it out.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from New York.

Mr. ADDABBO. The reduction of $10 million will in no way affect that. There is, as I said earlier, an increase of $100 million for hospital operations. We have $4 billion in this program. We are asking them to take a careful look at all the programs they have going, see what the best utilization is of Army facilities.

Mr. Chairman, they must come back to the committee. We will be coming back to the Congress. We all will be looking at this very carefully. What we want to do is get their attention.

Mr. Chairman, I have gone through this agony, as has the gentleman in the well and the gentleman from Texas, many years ago when the St. Albans Naval Hospital in my district was closed down. They made a study. Part of that hospital remained open as a naval hospital. Part of it went to the Veterans' Administration.

Mr. Chairman, we want to look at these hospitals. Are they being fully utilized? Can we keep the doctors in the service? In many of these institutions, if they are not fully utilized the doctors will not stay there because they are not getting sufficient practice.

☐ 1830

Mr. JOHN L. BURTON. Well, what I would say to the distinguished chairman is that on Letterman, originally they called for a study, there is a study on Letterman. There is a congressional committee that did a report on Letterman in looking at it, not from keeping the base open or closed, but from the standpoint of expenditure of taxpayer dollars, it made sense to keep it open. That study is in the hands of the committee. The Army has looked at this.

The CHAIRMAN. The time of the gentleman from California (Mr. John L. Burton) has expired.

(By unanimous consent, Mr. John L. Burton was allowed to proceed for 3 additional minutes.)

Mr. JOHN L. BURTON. That study has been made and I am wondering why the committee does not have that study before them, whether the Department of the Army has not given it to you or what.

Mr. ADDABBO. We have seen part of that study, but we are also telling the Department of the Army to read that into their studies and come back with a plan for not Letterman, not for Brooke, but for all their hospitals.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield to the distinguished author of the Good Deeds Award.

Mr. GONZALEZ. Mr. Chairman, I thank my distinguished colleague. I rise for the purpose of following this dialog and asking a question of the distinguished chairman of the subcommittee. The gentleman keeps saying that this does not mandate anything, that it does not compel a closing and that it is just a temporary withholding of $10 million.

The plain meaning of the words as acknowledged by the distinguished ranking minority member indicates a mandate. It says, "When and if you come in with a plan to reduce by three of these centers"—it does not say if, maybe or a study. It says, "Phase out three." When you do that, you are not asking for a study. You are not giving any discretionary room for a study. You are mandating a phasing out.

Now, will the gentleman tell us that the gentleman agrees with the ranking minority member that perhaps the gentleman does not mean phaseout in this language in the report?

Mr. ADDABBO. Mr. Chairman, if the gentleman will yield further, what is meant by the language in the report, and it speaks for itself, is that they must come up with a plan, if they cannot show that there is a need for all facilities, for a phaseout.

The gentleman from Texas (Mr. KAZEN) is stressing this mandate. I have been on this committee for over 12 years. I have yet to see DOD consider report language as a full and absolute mandate. We are trying to get their attention, and maybe we will get their attention, to see if they are properly spending $4 billion without wasting it.

Mr. JOHN L. BURTON. Mr. Chairman, if I can reclaim my time, it is the gentleman's reading of the language, regardless of the statement that it does not mandate a phaseout, but if there is a study made by the Department of the Army and they come back and say this facility should remain open and here are the facts and the figures, that then the money is going to come?

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has again expired.

(By unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 2 additional minutes.)

Mr. ADDABBO. Mr. Chairman, if the gentleman will yield further, if they show us they are looking into the program and they are definitely carefully studying it and they are coming up with a plan, the plan need not call for the closing out of A, B, C, and D, they get back their $10 million.

Mr. JOHN L. BURTON. So that the strict language as it is read in the committee report is not exactly as strict as it reads?

Mr. ADDABBO. There is no hospital mentioned in the report. There is a study requested. There is nothing to require any hospital closing.

Mr. JOHN L. BURTON. I would accept the chairman's intent of what the report means and it means that no phaseouts are mandated.

I would like to ask if a report is made, a study is made, it reports to your committee, your committee would be able to act rather expeditiously if the gentleman felt that was the purpose.

Mr. ADDABBO. Again, if the gentleman will read in the report, it says over several years. This is not going to happen tomorrow. We are going to give them plenty of time to look at this and make a study and come back.

Mr. JOHN L. BURTON. We are going to give them plenty of time, but in effect, you are holding them and cutting them off.

Mr. ADDABBO. So they will look at this $4 billion program.

Mr. JOHN L. BURTON. Mr. Chairman, if the gentleman will, the freeze guarantees that they are going to go downhill and when they go downhill, they will end up going down the tube.

Mr. ADDABBO. The reduction only guarantees one thing, that they must carefully look at this. They must come back and report to us. They must have a plan at that time.

Mr. JOHN L. BURTON. They will not have to cut their staffing standards?

Mr. ADDABBO. They will have to do nothing, except come back with a report and a study of what can be done and what cannot be done, but they must look at it.

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has again expired.

(At the request of Mr. KAZEN, and by unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. Mr. Chairman, will the gentleman yield to me for just a minute?

Mr. JOHN L. BURTON. Yes, I would be delighted to yield.

Mr. KAZEN. Mr. Chairman, I just want to correct something on the record here. The chairman of the committee keeps saying that I am saying something that is not in the report.

Let me invite the gentleman to follow the reading of the report. On page 34, the very first sentence:

> The committee believes that it is time for the Secretary of the Defense to direct—

Now, if that is not a mandate, if the word "direct" is not in there, then I apologize to the gentleman; but I read the word "direct" and "direct" is a directive. It is a mandate.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to my friend.

Mr. ADDABBO. It directs the Secretary of the Army to submit a plan. It does not direct him to close out a hospital. It does not direct him to do anything, but to submit a plan. That is what we are discussing.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman. I am reassured that the gentleman does not want to work a hardship.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WHITE).

The question was taken; and on a division (demanded by Mr. ADDABBO) there were—ayes 15, noes 18.

RECORDED VOTE

Mr. WHITE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 217, noes 147, not voting 69, as follows:

[Roll No. 519]

AYES—217

Abdnor
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Applegate
Archer
Ashbrook
Atkinson
Bafalis
Bailey
Barnes
Bauman
Beard, R.I.
Beilenson
Bennett
Bevill
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Brown, Calif.
Broyhill
Buchanan
Burgener
Burton, John
Burton, Phillip
Byron
Carney
Chappell
Cheney
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Corman
Coughlin
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dixon
Dornan
Dougherty
Drinan
Duncan, Tenn.
Eckhardt
Emery
English
Ertel
Evans, Ga.
Fascell
Fazio
Fithian
Flippo
Florio
Foley

Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hance
Hanley
Hansen
Harris
Hawkins
Hightower
Holt
Hopkins
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kazen
Kildee
Kogovsek
Kramer
Lagomarsino
Leach, La.
Leland
Levitas
Livingston
Loeffler
Long, Md.
Lowry
Lujan
Luken
McClory
McCloskey
McCormack
McDonald
McKinney
Maguire
Markey
Marlenee
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica

Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Mottl
Murphy, N.Y.
Myers, Ind.
Natcher
Neal
Nichols
Oakar
Ottinger
Panetta
Pease
Pepper
Perkins
Pickle
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Rodino
Rousselot
Roybal
Runnels
Satterfield
Schroeder
Seiberling
Shelby
Slack
Smith, Nebr.
Snyder
Spellman
Spence
Stack
Staggers
Stangeland
Stark
Stenholm
Stockman
Stokes
Stratton
Stump
Swift
Symms
Synar
Taylor
Udall
Ullman
Van Deerlin
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—147

Addabbo
Akaka
Albosta
Andrews, N. Dak.
Annunzio
Aspin
Badham
Baldus
Bedell
Benjamin
Bereuter
Bethune
Biaggi
Bingham
Boland
Brademas
Brodhead
Burlison
Butler
Carr
Collins, Tex.

Conable
Conte
Corcoran
Courter
Crane, Daniel
Dannemeyer
Devine
Dingell
Donnelly
Downey
Duncan, Oreg.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Erlenborn
Evans, Del.
Evans, Ind.
Fary
Fenwick
Ferraro

Findley
Fisher
Forsythe
Frenzel
Gaydos
Gephardt
Giaimo
Gibbons
Gradison
Green
Grisham
Hamilton
Hammerschmidt
Harkin
Harsha
Heckler
Hefner
Heftel
Hollenbeck
Jones, Okla.
Kastenmeier

Kelly
Kemp
Kostmayer
LaFalce
Latta
Leach, Iowa
Lederer
Lee
Lehman
Lewis
Lott
Lungren
McDade
McEwen
McHugh
McKay
Marks
Marriott
Michel
Mikulski
Miller, Ohio
Moakley
Moffett
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Pa.
Myers, Pa.
Nedzi
Nelson
Nowak
O'Brien
Oberstar
Obey
Pashayan
Patten
Patterson
Paul
Petri
Peyser
Preyer
Quayle
Railsback
Regula
Richmond
Rinaldo
Ritter
Robinson
Rostenkowski
Royer
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schulze
Sensenbrenner
Shannon
Sharp
Shumway
Shuster
Simon
Smith, Iowa
Snowe
Solarz
Solomon
Stewart
Studds
Tauke
Thomas
Thompson
Traxler
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Weiss
Whitten
Yates
Yatron

NOT VOTING—69

Alexander
Anthony
Ashley
AuCoin
Barnard
Beard, Tenn.
Bolling
Broomfield
Brown, Ohio
Campbell
Carter
Cavanaugh
Cleveland
Collins, Ill.
Conyers
Cotter
Crane, Philip
D'Amours
Davis, S.C.
de la Garza
Diggs
Dodd
Erdahl
Fish
Flood
Ford, Mich.
Garcia
Hillis
Hinson
Holland
Holtzman
Horton
Huckaby
Ireland
Johnson, Colo.
Kindness
Leath, Tex.
Lent
Lloyd
Long, La.
Lundine
Madigan
Minish
Murphy, Ill.
Murtha
Nolan
Ratchford
Reuss
Rhodes
Roberts
Roe
Rose
Rosenthal
Roth
Sebelius
Skelton
St Germain
Stanton
Steed
Treen
Trible
Walgren
Williams, Ohio
Wilson, C. H.
Winn
Wolff
Wydler
Wylie
Young, Alaska

☐ 1850

Mr. FORD of Tennessee and Mr. COLEMAN changed their votes from "no" to "aye."

Messrs. ALBOSTA, RICHMOND, and McDADE changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

● Mr. LENT. Mr. Chairman, as one who has long been concerned with our national defense needs and as one who has consistently voted for a strong national defense, I commend the members of the Appropriations Committee for making a number of needed improvements over the administration's budget request to meet our defense requirements. While admittedly there remain many areas to be addressed if we are to adequately strengthen our overall defense posture, I am nonetheless gratified that the committee has confronted the shortage of attack and fighter aircraft we face as we move into the 1980's by stepping up procurement of the F-14 Tomcat fighter aircraft.

I find it absolutely incredible that the current administration again this year budgeted for only 24 F-14's, rather than the necessary and certainly more economical procurement of 36 per year. Current Navy plans call for total procurement of 521 F-14's, and some 330 F-14's have been delivered to the Navy through August of 1979. However, it is greatly disturbing to note that the procurement rate trend over recent years has been decreasing—a trend which is not only costly to the American taxpayer, but detrimental to our Navy's efforts to sustain the needed number of squadrons without depleting the current inventory. I think the American people should know that reducing the F-14 procurement rate from 36 per year to 24 per year as requested by the Carter administration increases the per plane cost by $2.4 million and increases the total program costs by $593 million. Recent F-14 Phoenix fleet exercises have clearly demonstrated the remarkable capability of this weapon system against multiple targets, and we must not ignore the improvements in this aircraft's capability as production improvements and flight experience continues. Thus, I am gratified that, as last year, the committee in its wisdom has again responded to the advice of naval experts and agreed that the administration's proposed production of two per month of these sosphisticated aircraft is neither cost effective nor responsive to our naval air requirements. I wholeheartedly endorse this funding to maintain production at a rate of 36 per year, and commend the committee for providing advance procurement funding to produce another 36 aircraft during fiscal year 1981.

Mr. Chairman, I also wish to alert my colleagues to the committee's work on two other programs which are vital to our national defense.

I refer to funding for 6 EF-111A aircraft modification kits to incorporate this tactical jamming system into this new electronic warfare aircraft. Our Air Force has identified the EF-111A tactical jamming system as the key element in the defense suppression mix. It is essential for offensive operations, and it cannot be replaced by substitute means. Thus, I am gratified that procurement of EF-111A's will proceed in an efficient and cost effective manner under this legislation.

The A-6E intruder aircraft production line must be maintained, and this view is also reflected in the legislation we are considering today. The Intruder is the only all weather/night attack aircraft in the free world. I am greatly disturbed that an artificial "surplus" in the A-6 aircraft has been created by reducing squadron size from 12 to 10 aircraft. Without continued funding to maintain this production line, we would have to initiate a new aircraft development program to maintain the superior capability offered by the A-6E, whose capability is not challenged, and for which we currently have no reserve. Continued production of the Intruder clearly represents the most cost effective way to maintain Navy and Marine Corps all-weather attack capability.

Mr. Chairman, I trust the President will respect the action we are taking here today. At a time when the American people are questioning U.S. defense capabilities overall, I urge my colleagues to support this legislation which should help us get back on track to providing for our national defense requirements.●

The CHAIRMAN. The Clerk will read:

The Clerk read as follows:

SEC. 724. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000, shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fiber or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that a satisfactory quality and sufficient quantity of any article of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 814 of the Department of Defense Appropriation Authorization Act, 1976: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of renewing economic dislocations: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

Mr. ADDABBO (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read through line 19 on page 43.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there any points of order to that portion of the bill which is considered as read? The Chair hears none.

AMENDMENT OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ADDABBO: Page 43, beginning on line 12, strike out "*Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations:".

The CHAIRMAN. The gentleman from New York (Mr. Addabbo) is recognized for 5 minutes in support of his amendment.

Mr. ADDABBO. Mr. Chairman, I move that the Committee do now rise.

☐ 1900

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Rostenkowski, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes, had come to no resolution thereon.

FURTHER MESSAGE FROM THE SENATE

A further mesage from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 404. Joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes.

The message also announced that the Senate insists upon its amendments to the joint resolution (H.J. Res. 404) entitled "An act making continuing appropriations for the fiscal year 1980, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Magnuson, Mr. Robert C. Byrd, Mr. Inouye, Mr. Huddleston, Mr. Sasser, Mr. Leahy, Mr. Young, Mr. Hatfield, Mr. Stevens, Mr. Mathias, and Mr. Weicker to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 404, CONTINUING APPROPRIATIONS, 1980

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 404), making continuing appropriations for the fiscal year 1980, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

Mr. LEVITAS. Mr. Speaker, I reserve the right to object.

The SPEAKER. The gentleman will state his objection.

Mr. LEVITAS. Mr. Speaker, I wish to direct a question to the distinguished chairman of the Appropriations Committee.

It is my recollection that the House passed two continuing appropriations bills, one dealing specifically with the Federal Trade Commission for a period of 45 days and the other with the additional agencies and programs until December 31, if I remember correctly.

My question is, What is the status of the FTC continuing appropriation with the restriction and time limitations?

Mr. WHITTEN. If the gentleman will yield, my understanding is oral, but I believe it is accurate. On the other side, the resolutions were consolidated and FTC was put in with the other items that were added in the continuing resolution. I am also advised this afternoon they put HUD in with the rest of it, too.

Mr. LEVITAS. Further reserving the right to object, Mr. Speaker, I understand that the Federal Trade Commission authorization or continuing appropriations has been put into this bill, that is now back over here, and it is for 30 days, but without the restrictions that were imposed.

Mr. WHITTEN. That is my understanding.

Mr. LEVITAS. Mr. Speaker, I withdraw my reservation of objection.

Mr. THOMPSON. Mr. Speaker, I reserve the right to object.

The SPEAKER. The gentleman will state his objection.

Mr. THOMPSON. Mr. Speaker, I ask my distinguished friend, the gentleman from Mississippi (Mr. Whitten), on the continuing resolution, there being two of them, I understand, the colloquy between the gentleman from Georgia (Mr. Levitas) and the chairman, if one of them includes pay increases for Members of Congress and others, does it?

Mr. WHITTEN. If the gentleman will yield, of course my understanding is that none of them includes a pay increase.

Mr. THOMPSON. It is a pay decrease?

Mr. WHITTEN. That is right.

Mr. THOMPSON. It is not picking anyone's pocket for those who do not want to get it.

Mr. WHITTEN. The provision that was written by the House is retained in the Senate bill. The tieback to the original law, as I understand, has been stricken.

Mr. THOMPSON. Mr. Speaker, further reserving the right to object, is there any connection between this and the authority that our distinguished colleagues in the other body have given themselves to earn $25,000 in unearned income in the year?

Mr. WHITTEN. May I say to my colleague, I believe my information is accurate, but it is oral. It is my understanding that the action on the other side of the Capitol takes care of judges and everybody except Senators and Congressmen with regard to the provision for pay; further, that they in no way change the date in which the outside income would be limited on the other side of the Capitol, postponed until 1983, I believe. That is my understanding.

Mr. THOMPSON. I gather, further reserving my right to object, that the Members of the other body having to make commitment for 6-year leases and so on on property here, might possibly need the liberty to earn that much more income which, of course, at the current rate of taxation, would amount, theoretically, at least, to a $12,500-a-year raise per Member, who could accomplish that? Is that correct?

Mr. WHITTEN. The gentleman is asking me whether it is correct. I will have to agree the gentleman is good at diagnosis.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees: Messrs. Whitten, Boland, Natcher, Slack, Duncan of Oregon, Charles Wilson of Texas, Benjamin, Conte, Michel, and McDade.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 404, CONTINUING APPROPRIATIONS, 1980

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 96–486) on the resolution (H. Res. 440) waiving certain points of order against the conference report on the joint resolution (H.J. Res. 404) making continuing appropriations for fiscal year 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1885, AMENDING CIVIL SERVICE RETIREMENT PROVISIONS FOR CERTAIN EMPLOYEES OF BUREAU OF INDIAN AFFAIRS

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 96–483), on the resolution (H. Res. 437) providing for the consideration of the bill (H.R. 1885) to amend civil service retirement provision as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3580, RURAL DEVELOPMENT POLICY ACT OF 1979

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 96–484), on the resolution (H. Res. 438) providing for the consideration of the bill (H.R. 3580) to provide for establishment and coordination of rural development policy and to extend for 2 years the authorization of appropriations for carrying out title V of the Rural Development Act of 1972, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 341, REQUIRING CONTINUATION OF RAIL SERVICE BY CHICAGO MILWAUKEE, ST. PAUL & PACIFIC RAILROAD

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 96–485) on the resolution

(H. Res. 439) providing for the consideration of the joint resolution (H.J. Res. 341) to require continuation of rail service by the Chicago, Milwaukee; St. Paul & Pacific Railroad for a period of 45 days, which was referred to the House Calendar and ordered to be printed.

PRESIDENT DESERVES COMMENDATION OF CONGRESS FOR SIGNING INTO LAW THE ENERGY AND WATER DEVELOPMENT APPROPRIATION BILL

(Mr. BEVILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEVILL. Mr. Speaker, Tuesday the 25th of September, President Carter signed into law H.R. 4388, the energy and water development appropriation bill for fiscal year 1980.

I am sure that the Members of this body are well aware of the tremendous pressure the President had upon him to veto this legislation. After full consideration of the merits of H.R. 4388 the President determined that the proper action to take was to sign into law this important appropriation bill.

I think the President deserves the commendation of the Congress and the American people for his wise action in signing into law legislation that provides an adequate and fiscally responsive level of funding for the development of our natural resources and our energy research and development programs.

MORE ON THE M. L. KING CENTER "WHERE'S THE MONEY GOING?"

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, a couple of weeks ago, I inserted in the RECORD, an investigative article which exposed the Martin Luther King Center in Atlanta as an alleged taxpayer-financed ripoff. Les Kinsolving, the editor and publisher of the Washington Weekly, has dug a little deeper and his investigation has raised a few more questions.

I think the taxpayers have a right to know what is happening to their money. I think they would like to know why there has been no audit of this project, and why Federal contributions to the center have increased dramatically since the inauguration of President Carter. I have initiated an investigation of my own and hope to be able to report my findings shortly. If the Carter administration is not interested in following up on these questions, somebody else should take the initiative.

At this point in the RECORD, I would like to insert the Kinsolving article. I urge my colleagues to read it:

ATLANTA'S M. L. KING CENTER: "WHERE'S THE MONEY GOING?"

(By Lester Kinsolving)

No one can reasonably blame Mrs. Coretta King for having a complaint last Winter with the Attorney General of New York.

For according to the New York Times, the Rev. Alfred Sharpton, a 24 year-old Brooklyn Pentacostal minister, had arranged a New York Hilton banquet commemorating Dr. King, listing several black leaders as sponsors—without their permission.

Writing under the letterhead of "The Urban Leadership Coalition," the Rev. Mr. Sharpton allegedly solicited $500 donations from a number of leading New York corporations one of whom was the F. W. Woolworth Co. When Woolworth officials contacted the Rev. Ralph Abernathy and Adam Clayton Powell, Jr., of CBS, both men disclosed that their names had been used without their permission. On Mrs. King's complaint, the Attorney General's charity fraud division launched an investigation to try to determine what has become of the proceeds from this banquet. Richard Feldman of this division has told Washington Weekly that the investigation is still actively conducted.

Back in Atlanta, however, Mrs. King's own Martin Luther King Jr. Center for Social Change is currently evoking demands for financial accountability from reporter Boyd Lewis of WABE, who broadcast an 11 minute expose last March over National Public Radio. Atlanta magazine has also conducted an investigation of the King Center, while an expose published by the Florida Times-Union, in Jacksonville, has been entered in the Congressional Record, by Rep. John Ashbrook, R-Ohio.

Among other things, Times-Union writer Ken Englade reports: "Center officials refused to answer questions about a quarter of a million dollar payroll . . ." (At King Center, spokesman Steven Klein told WW: "I told him we have 55 employees. But when he asked about the size of their salaries. I told him it's none of his damn business. He wouldn't tell me the size of his salary, so why should we.")

"Center officials refused to explain why Mrs. King's honoraria for speeches are not reflected in the Center's tax returns, although she claims the money all goes to the facility." (Klein referred the question to either the Center's treasurer, Mrs. Christine King Ferris, or to King Center's accountant, J. L. Tatum of Atlanta. But Tatum, during a brief telephone interview, explained "We do not discuss our clients. We have nothing to hide. We have filed all the required reports and as far as I know, Mrs. King doesn't receive a salary." Reporter Boyd Lewis recalled, however, that "An amount varying from $40,000 to $70,000 each year is allocated to 'The President's Office'—but there's no breakdown. Then there was an additional fund, for 'Peace, Non-violence and Brotherhood' which, in 1976–77, amounted to $87,000 and which goes to 234 Sunset Ave., which is where Mrs. King lives." Lewis also recalled having telephoned King Center Treasurer Ferris "23 times, and she never returned my calls. I saw her once and she told me to phone her at the office."

"None of the grants to the King Center have ever been audited." (Klein: "Two guys from HEW checked this out and found they were not only in order, but the 'best set of books we've ever seen.' When asked who were the "two guys from HEW," Klein replied: "I don't know." When asked what is the total amount paid to Mrs. King, Klein answered: "I honestly don't know.")

"The money raised by the King Center—a total of almost $6 million in the past ten years—where has it gone?" (Klein: "We have a day care center; a literacy action reading academy; an archives project for Dr. King's papers; the Presidents' Program to handle Mrs. King's speeches; and the January Program, to bring public figures to Atlanta to observe Dr. King's birthday. That's quite expensive." When asked how expensive, Klein replied: "I don't know.")

"Reports show the King Center received a total of $101,000 in Federal money from the time it was created, shortly after the assassination, until 1978. Then, after President Carter assumed office, the federal grants increased dramatically. In 1977: $181,000; In 1978: $237,500. Mrs. King denied (President) Carter's office has influenced the grants." (Klein: "That is true. But other civil rights organizations have benefitted far more financially than we have. Jesse Jackson just received a $700,000 grant, while SCLC just got $3 million.")

King Center spokesman Klein went on to question the objectivity of reporter Lewis of WABE, who has worked for six years for black newspapers, because: "He hangs around the SCLC. (Southern Christian Leadership Conference)." Klein also explained: "We have gotten money that they (the SCLC) feel should have gone to them."

When asked about this charge of "hanging around the SCLC," Lewis laughed and replied: "I hang around anywhere there is a story. But when you begin asking certain questions about the King Center, they begin trying to link you with the assassins. The annual report which I was provided by Klein was not this year's—which was due last January, and is late. It was last year's, I was told I couldn't have them."

Lewis went on to explain:

"This King Center for Social Change is a multimillion dollar organization—which provides no explanation as to what will be changed, or who is going to do the changing."

"On Oct. 18, there will be a groundbreaking for 'Freedom Hall'—which campaign you may remember was launched from the White House by Mrs. King, with Henry Ford as the chairman."

"Only last week, after Coretta went about the country urging Carter's reelection, the Department of Commerce came through with a $2 million grant. Federal dollars do seem to flow as she endorses Jimmy."

Larry Wood, editor of Atlanta magazine, told WW that one of the magazine's contributing editors, Robert Coram, has completed the first draft of a 10,000-word story on the King Center, which is presently being edited "for possible inclusion into our December edition." Wood added: "I've known for some time that there is a story to be reported, but Coram didn't want to rewrite this article, so we will."

At The Atlanta Constitution, the city desk revealed that reporter Carol Ashkinaze had been investigating the King Center. Ashkinaze confirmed this, but added: "I can't go into that any further."

The Constitution's managing editor, Edward Sears, when asked about the Florida Times-Union's story on the King Center, commented:

"They're well ahead of us on that."

When asked if he had ordered reporter Ashkinaze not to report or investigate further, editor Sears replied with apparent annoyance:

"That's our business. It's an internal matter."

At the Atlanta Journal, the city's other daily newspaper, writer Dick Williams agreed the story was of interest because "For a couple of years, both blacks and whites have been asking where the money goes."

Williams disclosed that he had been investigating the King Center, but that when Boyd Lewis had made his report on the Center over National Public Radio, he had put his investigation aside for possible use in the future.

The Cox family, which owns both the Atlanta's daily newspapers as well as top ranking radio and TV stations, was honored by President Carter who appointed Ann Cox Chambers as U.S. Ambassador to Belgium. (Earlier, Candidate Carter had angrily denounced the practice of Presidents appointing ambassadors who were substantial contributors to campaign funds, and who had no diplomatic experience.)

With no exposure from Atlanta's leading—and Cox-owned—media, the King Center For Social Change may continue as a sacrosanct recipient of rewards from Washington—as Coretta King continues her tax-exempt campaigning for the reelection of Jimmy Carter.

GOVERNMENT PLOTS TO ABOLISH THE $1 BILL

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the Treasury and Federal Reserve just revealed that they plan to abolish the popular $1 bill. This heavy-handed attempt to take money out of American wallets must be stopped.

Last year Congress authorized the smaller-sized Susan B. Anthony dollar in place of the bulky, little-used Eisenhower dollar. The Anthony coin went into circulation July 2, 1979, and there have been many complaints that the coin is easy to confuse with the quarter. To investigate this, the Banking Subcommittee on Consumer Affairs, of which I am chairman, and the General Oversight and Renegotiation Subcommittee held joint hearings. At the hearings, and from speeches and studies that came to our attention, it became clear that the Treasury and Federal Reserve plan to force Americans to use the new coin and unpopular $2 bill in place of the $1 bill.

I have no objection to the new coin. Its use by the public we are told could save the Government money. But I resent the attempt to force the coin down American's throat. Imagine how long McDonald's would stay in business if it offered hamburgers, but then stopped making them because too many people wanted them. Most businesses are glad to have to meet demand for a popular product. The bureaucrat's response is to meet demand by removing the popular product.

If America wants to use the new dollar coin, it will be a success. But that success must come because people choose to use the coin. Freedom is one of the great values of this land. George Washington was important in leading the fight for that freedom and establishing the new United States. It is ironic that his portrait on the $1 note could become a casualty of Government action to restrict that freedom.

The ranking minority member of the Consumer Affairs Subcommittee, THOMAS B. EVANS of Delaware, and myself, have sent a letter to every Member of the House inviting them to join us in cosponsoring legislation that will preserve America's freedom in the matter. Our bill, "The Dollar Bill Preservation Act" insures that the Treasury and Federal Reserve will not discontinue the $1 bill without getting express congressional authorization. This bill will guarantee that this decision affecting all Americans will be made after full public consideration by Congress, not in agency hideaways by self-appointed Government experts.

This is an opportunity for Congress to tell the Treasury and Federal Reserve to get their hands out of American pockets and wallets. It is time to remind these agencies and bureaucrats that they are here to serve the people and not the other way around.●

THE 14TH CENTENNIAL OF ISLAM

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 5 minutes.

● Mr. HAMILTON. Mr. Speaker, I plan to introduce today a concurrent resolution honoring the 14th Centennial of Islam. I understand it is the intention of Senator STONE, chairman of the Middle East Subcommittee of the Senate Foreign Relations Committee, to introduce the same resolution in the other body.

November 21, 1979, will mark the 14 hundredth anniversary of the founding of Islam. This event will be commemorated throughout the world, including most all nations of the world where Muslims live.

November 21, 1979, will also mark the beginning of an American ecumenical commemoration marking this important event. It is hoped that this resolution and a Presidential proclamation can be presented at that time.

President Carter is already on record encouraging the participation and attention of all Americans to this centennial celebration. He said in a letter dated May 7, 1979:

> In honoring an important world faith and culture we do honor to our own traditions of tolerance and compassion.

As part of the American ecumenical commemoration, a preparatory committee was formed and a national committee to honor the 14th Centennial of Islam is now in the process of being established. The Honorable Lucius D. Battle, former U.S. Ambassador to Egypt and former Assistant Secretary of State, is serving as chairman of our national committee and the American effort is also supported by former Deputy Assistant Secretary of State and former U.S. Ambassador to Cyprus and Yemen William Crawford, who will be working with the national committee.

The work of our national committee offers a unique opportunity for us:

To show appreciation for the cultural legacy we received from Islam;

To improve our understanding of a richly rewarding culture;

To emphasize the ethical and moral traditions we share:

To show respect for valuable old friends and to invite new ones; and

To join a celebration of national and international religious dimensions.

The national committee is in the process of organizing a year-long calendar of events in the arts, humanities, and sciences in an effort to foster understanding among peoples by honoring the contributions of Islamic civilization and culture to mankind. Three aspects of Islam should receive attention:

Islam as a fact of the past and its historical role in the shaping of our culture;

Islam as a fact of the present and its crucial role in the affairs of both developed and developing nations; and

Islam as a fact of the future.

The question of the future is: How can Western societies best foster constructive, purposeful, and expanding relationships with Islamic peoples for our mutual benefit and for the benefit of mankind?

Mr. Speaker, I hope that my colleagues join me in wishing this national committee success in its endeavors over the coming year and that they will join me in supporting this resolution honoring the 1,400th anniversary of the founding of Islam.●

ENERGY MOBILIZATION BOARD SUBSTANTIVE WAIVER POWERS—AN UNNECESSARY ASSAULT ON FEDERALISM

The SPEAKER. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, 2 weeks ago the Commerce Committee approved legislation which has the potential to make a major contribution to easing this Nation's dangerous dependence on foreign energy sources. There is widespread agreement both within and outside the Congress that Government redtape—endless agency proceedings, hearings, reports—are a major stumbling block to rapid development of new domestic energy resources. There is also an emerging consensus that creation of a national Energy Mobilization Board to cut through that redtape and speed the energy decisionmaking process is long overdue. I concur in that view and have worked for the enactment of such a measure since the early days of this session.

But in reviewing the Energy Mobilization Board legislation which emerged from the Commerce Committee, I must emphasize the word potential, because the committee's approach incorporates a provision which constitutes an unnecessary and counterproductive attack on our Federal system—a provision which could slow rather than accelerate energy resource development.

I am referring, of course, to the authority the bill would grant to the EMB to override the substantive provisions of State, local, and Federal law subject only to a one-House veto. This provision, which authorizes the Board to abrogate the decisions of elected representatives at all levels of government, is a growing source of concern to Members of the House, and to a variety of groups across the country, including major firms engaged directly in the development and commercialization of new energy technologies.

I and a number of my colleagues fought unsuccessfully during committee consideration of the measure for more reasonable—and constitutional—limits on the Board's authority. After the Commerce Committee acted, we filed a summary of our concerns in the committee report. Since my other colleagues in the House are likely to be faced with key decisions on these issues in the coming week, I would like to give them the benefit of our thinking by including in the RECORD our views:

SUPPLEMENTAL VIEWS OF REPRESENTATIVES TIMOTHY E. WIRTH, ANDREW MAGUIRE, RICHARD L. OTTINGER, EDWARD J. MARKEY, AL SWIFT, ANTHONY T. MOFFETT, JAMES J. FLORIO, HENRY A. WAXMAN, BARBARA A. MIKULSKI, JAMES H. SCHEUER, DOUG WALGREN, AND TOM CORCORAN

In the name of energy development and administrative efficiency the committee has reported legislation establishing an Energy Mobilization Board which holds as much promise for delay as it does for expedition of decisions. It sets a dangerous precedent for our federalist system of government, while unnecessarily threatening a series of fundamental statutory protections which Congress has passed over the last decade. Despite our strong support for "fast-track" decision making on priority energy projects and the development of synthetic fuels, we cannot support the broad waiver attributes in this bill.

There are several other elements of the legislation to which we object, but they pale when compared to the unprecedented authority granted here to the Energy Mobilization Board to waive almost any State, county, local or Federal procedural or substantive requirement which "presents" or "may present" an "impediment" to "the implementation of a Priority Energy Project" (subject only to Presidential approval and a one-House veto). The potential pre-emption of all State and local law, and the ceding of this authority along with that of the Federal Government to a five-member appointed board, should only stem from a clear finding by Congress that emergency action is required to rectify a disastrous situation. No such showing has been made.

A NEED FOR TOTAL WAIVER AUTHORITY?

From our personal experience in resolving project disputes, and from the written and oral reports the Subcommittee on Energy and Power has received, it is clear that procedural reforms are necessary, particularly to force agencies to act with the dispatch that our national energy problems require. There are few in the Congress, the administration, or the general public who have argued to the contrary. Thus, there is general agreement, in which we join, that the EMB should be empowered to set binding decision timetables for Federal, State, and local agencies. Similarly, there are other procedural requirements which stand in the way of efficient, timely decisions. These, too, should be streamlined.

We should not, however, mislead ourselves or our constituents into believing that procedural delays by government are the sole, or even the major, cause of delays in completion of energy projects. Construction difficulties, equipment supply, and labor problems have also been significant contributing factors. We cannot control these; we can compress timetables and procedures.

Beyond timetables and procedures, is there a record for the need to waive substantive law? Where is the overwhelming evidence of a problem, and the clear definition of a solution, that Congress should require before taking any serious legislative action, much less an unprecedented delegation of authority such as the one contemplated here?

The answer is simple. There is none.

The President saw no evidence of such a problem, and did not ask for this authority. In fact, he has specifically and repeatedly disclaimed an intent to seek substantive waiver powers for the EMB. The Department of Energy has taken the same position. In July of this year, DOE produced a report which concluded that waiver of substantive laws was not necessary to establish a major synthetic fuels industry. DOE's Assistant Secretary for Environment, Ruth Clusen, under whose aegis this report was prepared, confirmed this position in testimony before a Science and Technology energy subcommittee this month.

On September 5, Secretary of the Interior Cecil Andrus, Environmental Protection Agency Administrator Douglas Costle and Gustave Speth of the President's Council on Environmental Quality wrote to the President objecting to substantive waiver and arguing that the Administration should have supported the Wirth Amendment instead.

There are, of course, those outside of Congress who have long sought to weaken or eliminate the Clean Air Act and similar crucial public health statutes. They support substantive waiver as a back-door method of chipping away at these hard-won protections. It is interesting to note, however, that there has been remarkably little pressure from the energy industry for this provision, and industry opposition to substantive waivers is now emerging based on a practical analysis of the legal tangle this bill would create which would by itself cause significant delays.

From time to time, mention has been made of the Sohio pipeline problems but that is one project, not a national pattern demanding sweeping legislation. Moreover, we should remember that it was a waiver of the usual careful review of alternatives which preceded the construction of the Alaskan oil pipeline to Valdez, thereby pouring Alaskan oil into the West Coast and necessitating a pipeline to remove some of that glut to the Midwest where it was needed all along.

Of course, it would be easier to build anything if all permits necessary at all levels of government were ignored. But that is not the point. The question must be: "Is it necessary?"

The problem with substantive waivers of requirements passed after a project gets underway is somewhat different. The justification for this second substantive waiver authority provided by this bill (and one which the Administration does advocate) is speculative. According to the bill, the EMB may propose waivers of substantive requirements passed after a Project Decision Schedule is promulgated if they *"may present"* an "impediment" to a project. The reasoning behind this broad provision is faulty for several reasons, although the problem of changing the rules in mid-stream is a valid concern which needs to be addressed. First, the authority is not subject to any standards governing how such a decision should be made. Second, we are embarking on a major synthetic fuels development program, but we do not know many of the environmental and health problems this will raise nor will the regulations for several highly relevant statutes be issued before the first wave of these plants has begun.

Finally, are we willing to say that if a plant is built and we subsequently find that the industry, DOE, EPA and others miscalculated in their original requirements (or such protections were waived, and carcinogens are being emitted) a city or state should have no recourse if the EMB and the President disagreed? This bill says yes. In the face of a crash synfuels development plan "fast-tracked" or waived through the permitting process it is especially important that government at all levels retain the authority to deal with health and other hazards which may only appear after construction and operation has begun.

There is a convincing record for procedural reforms; no such record has been established for waivers of any substantive requirement. What is it, then, that the Committee has done? And what are the implications of this grave action? Our opposition to substantive waivers arises from several related problems.

AN ATTACK ON FEDERALISM

This bill represents a frontal assault on the careful balance of responsibilities between the various levels of government in our federalist system. Our concerns here are both parochial and national at the same time. Some of us represent states which will be heavily impacted by oil shale and coal development. The problems this bill presents, however, could arise in any state. Leaving constitutional questions aside for the time being, how can we justify on public policy grounds the elimination of a state, county, or local entity's authority to protect its citizens? Does an appointed five-member board have sufficient expertise in Western water issues, Long Island's acquifier pollution, or Los Angeles' air quality to decide when a waiver is in the public interest? Should we allow this Board to take away a state's right to require energy companies to ease the enormous socio-economic impact of a major projects even though these may inconvenience a company, and therefore arguably "impede" a project?

This bill has understandably provoked a storm of protest from governors, state legislators, local officials and their national organizations. It is they who will have to deal with the impact of these projects on their populations, yet we are threatening to take away the limited tools they have, and in all cases are encouraging applicants to stall and avoid compliance with a state and local agencies in the hope that the EMB will waive those requirements a "impediments" to swift implementation of a project.

AN ABOUT-FACE IN CONGRESSIONAL POLICY

Since our arrival in Congress, we have seen the fruits of an enormous effort by this institution to reassert the authority it had gradually ceded to the President and the Executive Branch. Through the War Powers Act, the Budget and Impoundment Control Act, and similar actions, large and small, we have expressed our dissatisfaction with the growth of Executive Branch Power at the expense of Congress and excessive independence by agencies unguided by clear Congressional requirements. Yet, in a total about-face this Committee has handed the President and his five appointees enormous power, not only over all federal law, but also over state and local requirements as well.

Waiver determinations by the EMB and the President are subject to only the vaguest limitations ("in the national interest and . . . would not unduly endanger the public health and safety"), which Sec. 183(a) makes virtually unreviewable by a court.

THE WAIVER AUTHORITY IS UNCONSTITUTIONAL

We are greatly troubled that the Board will be treading upon a wide variety of important constitutional values. The creation of this Board with these powers threatens to undermine the ability of states and localities to function effectively, and delegates to the President virtually unrestricted and unaccountable powers.

Even if we are ultimately proven wrong by the Supreme Court, the certainty of the constitutional challenges to any waiver of substantive law means that the lengthy process of resolving these questions in the courts may well negate whatever value the EMB could have had in forcing faster decisions.

The Board's authority to recommend a waiver of state and local laws intrudes upon states "Tenth Amendment rights and exceeds appropriate federal authority under the Commerce Clause. The form of this override violates constitutionally-protected state rights because the power of the federal government under the Commerce Clause to regulate the permitting of energy projects is not unlimited. Describing the limits imposed by the Tenth Amendment, Justice Marshall said in *Fry* v. *United States*, 421 U.S. 547 (1975): "Congress may not exercise power in a fashion that impairs the States' integrity or their ability to function effectively in a federal system." The Committee bill allows for the direct regulation of state and local agencies by the federal government, and intrusion that we believe is clearly prohibited by the Constitution.

In the recent case of *National League of Cities* v. *Usery*, 426 U.S. 846 (1976), the Supreme Court struck down a federal law which directly regulated maximum hour and minimum wage provisions paid public employees by states and localities. The Court held that Congress, acting under the Commerce Clause, could not interfere with traditional aspects of state sovereignty, such as the policy choice as to structure of pay scales. The lesson of this case is that Congress can seek to have states adopt minimum wages for their employees by means of extending some federal incentive or withholding some federal benefit, but it cannot directly regulate important attributes of state sovereignty.

This bill strikes at the heart of state and local governance by allowing the EMB to regulate directly the procedure and the substance of the decision-making. Federal waivers of state and local zoning, health, or environmental protection laws present the clearest case of direct "interference with the integral governmental functions of these bodies" in protecting health and safety. *National League of Cities* at page 851. The approach taken by Sec. 185 violates our established constitutional framework of Federal-State relations.

The most fundamental constitutional flaw in this bill is that the grant of authority to the President to waive "impending state, local or federal laws, subject only to a one-House veto, amounts to an excessive and therefore unconstitutional delegation of legislative power to the Executive Branch, because of the lack of standards and safeguards. When it comes to making one of the most critical decisions under the bill, namely the waiver of any state, federal or local law posing a substantial "impediment" to project approval, this bill provides virtually no standards to guide the far-ranging discretion of the Board and the President. In which circumstances, for example, should a substantive law be allowed to deny project approval, as contemplated by Sec. 184 (b), and in which should the Board and the President move to override such law, as empowered in Sec. 185? This, of course, is an extremely serious choice. Not only may it involve the sacrifice of important protections but also such an override may tread upon constitutional values. Yet, the Executive Branch is simply given "blank check" authority under this bill.

Under the Constitution, Congress may not delegate legislative power to the President without sufficient specificity to guide his actions. *Yalcus* v. *United States*, 321 U.S. 414 (1944). As noted, this bill gives the President vast discretion to pick and choose among "impeding" laws, allowing some to operate, waiving others, all without any guidance from the bill. In reviewing such expansive delegations, courts have said that certain safeguards are vital. In particular, as the court stated in *Amalgamated Meat Cutters* v. *Connally*, 337 F. Supp. 737 (D.D.C. 1971), the availability of judicial review and the applications of the Administrative Procedure Act are vital "components of fairness" in assessing whether a delegation has been unconstitutionally excessive. In this case, of course, the bill expressly exempts from meaningful judicial review virtually every action of the Board and the President, including waivers under Sec. 185. The vast discretion delegated the President by the bill thus becomes unreviewable and unaccountable. There is no assurance, for example, that a record has been made or that evidence exists that, indeed, a law does present substantial impediment to project approval before it is waived.

Also critical to the avoidance of excessive delegation is the development of self-limiting standards by the Executive to guide his broad discretion. *Amalgamated Meat Cutters* at page 759. But there is no requirement in this bill for the issuance of any rule which will further define when waivers will be sought. Waiver decisions may thus be made time and time again on a purely *ad hoc* basis, with this little check on executive discretion beyond whatever statement of reasons he wishes to give under Sec. 185(a)(3).

Our concern about the bill's excessive delegation of power is not alleviated by the provision for a one-house veto because in these circumstances the one-house veto is not an adequate safeguard. In the customary situation where there is a one-house veto of agency regulations, each house reviews the effectiveness of an agency in implementing the specific mandates of particular laws passed by the Congress. Thus, there are usually some definite standards against which to measure the agency action and some expertise on the subject has developed from the Congressional review. In dramatic contrast to the familiar type of one-house veto, however, the review established by this bill means that Congress may have to charge rapidly into the unknown if it wishes to pass judgment on the President's action within the few legislative days permitted. The President will be overriding state and local procedures as well as state and local substantive law. Procedures may vary greatly, of course, depending upon local traditions and practices and so naturally will the substance of these laws, adjusting to extremely varied natural conditions and hazards. For meaningful review of these waivers, Congress will have to investigate and master these state and local laws, see what values are being protected by them and balance such loss against the value of the project to be approved. This is not a review which Congress can accurately undertake in 60 days if we wish to be fair to the states and localities which have carefully crafted their laws over time. There simply should not be an override of substantive laws in this hasty fashion. Moreover, the chances of careful legislative review will be lessened in the face of the predictable atmosphere created by the President's decision to seek a waiver. The allowance of a one-house veto does not adequately check the vast and unprecedented power we have delegated here to the Executive branch.

In addition, there are serious questions about the constitutionality of a one-house veto in this bill in any situation. These questions have not been fully litigated as yet, but these veto requirements usually arise in the context of an action within a defined program. Constitutional arguments against this mechanism are enormously strengthened by its application as the sole legislative action (or inaction) in the face of changes in almost any federal, state or local law.

A Practical problem with substantive waivers

Those whose overriding concern is the expeditious implementation of energy projects should carefully consider the practical impact of this legislation. As ARCO Coal—a subsidiary of Atlantic Richfield—a company deeply involved in oil shale development in Colorado, pointed out to Rep. Tim Wirth in a letter of August 29, 1979:

Regarding the question of EMB authority to waive current substantive laws, ARCO is deeply concerned that plenary authority given the Board to override federal, state and local laws might, on balance, be more harmful than helpful. Indiscriminately issued, substantive waivers could be used to circumvent legitimate requirements protective of the public health, welfare and the environment. In addition, time consuming litigation over constitutional issues would only serve to delay project development.

This view is not now universal, but as the Department of Justice pointed out, there is little precedent to guide the courts in this field, so we can be certain that the EMB's substantive waivers will be carried to the Supreme Court whenever they are used.

COMPETITIVE AND BUSINESS IMPACTS

The waiver can only be used on a project by project basis. We do not believe the Committee fully considered the competitive impact, the possibility for political abuse, and the retarding effect on new energy ventures from uncertainty in the market, caused by these provisions.

Is it intended that all shale facilities be excepted from water quality requirements? Or only one? How will this choice be made? If only one is chosen for this treatment, how can competition be fair?

One of the enormous problems with our energy regulatory system today is that it lends itself to favoritism, intended or not. It also distorts market decisions. We are repeating the mistake here on a grand scale. It is simple to conceive of a company which will refuse to make large capital investments unless or until it receives preferred treatment. This could easily rise to the level of amicable extortion of waivers: "No waiver of the state siting process and stack emission requirements; no plant investment." Why invest in expensive pollution control technology when well-played energy poker may produce a waiver? Why invest in synfuels when a competitor may later be given an enormous advantage with both fast-track decisions and substantive waivers?

THE WIRTH AMENDMENT

We reassert our belief in the need for a procedural "fast track" for priority energy projects. The issue is how this should be done. As we have demonstrated, the Committee bill creates enormous practical, policy and constitutional problems. We believe it will bog down projects in litigation over the powers conferred on the EMB.

Therefore, we strongly supported the Wirth Amendment during the Committee's consideration of the legislation. Avoiding the waiver morass, that amendment would have confirmed the EMB's authority to set binding action timetables for all federal, state and local agencies, and also would have allowed the EMB to consolidate review of applications and hearings among and between agencies at all levels of government, all without Congressional review.

When this legislation comes to the floor we will support amendments which are consistent with this position: procedural streamlining, mandatory timetables, but no substantive waiver authority. Our position goes to the heart of the problem: slow, uncoordinated decision-making.

We should have sensible legislation that addresses the issues of procedural delay, but our energy problems are difficult enough without guaranteeing the plethora of law suits that will result from the waiver authority of Sec. 185. The legislative thicket is already complicated enough without introducing fundamental constitutional issues. Most important, our responsibility as legislators must not be sacrificed in the rush to "do something", no matter what the cost.

Timothy E. Wirth, Andrew Maguire, Richard L. Ottinger, Edward J. Markey, Al Swift, Anthony T. Moffett, James J. Florida, Henry A. Waxman, Barbara A. Mikulski, James H. Scheuer, Doug Walgren, and Tom Corcoran.●

FILING FEE: AN OBSTACLE TO PRIVACY ACT PROTECTIONS

The SPEAKER. Under a previous order of the House, the gentleman from

Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

● Mr. CAVANAUGH. Mr. Speaker, last year the Congress passed the Right to Privacy Act which was designed to protect the privacy of customer's bank and other financial records from unwarranted intrusion by the Federal Government. An important feature of that legislation permits a customer to challenge, in court, Government access to his records.

Many Members of Congress were concerned that we were placing too large a burden on the individual by requiring him to initiate court action. In a key compromise, the Justice Department agreed to simplified filing procedures permitting a customer to file an objection with a minimum of paperwork.

Unfortunately, a major obstacle to this eased filing procedure has arisen. Last February 27, on the floor of the House several Members joined me in clarifying the intentions of the Congress that—

> Citizens who wish to avail themselves of their rights under the Right to Financial Privacy Act should not suffer excessive expense in lodging their objection to a government authority's obtaining their records from a financial institution.

At that time we were hopeful that the Administrative Office of the U.S. Courts would be able to calendar such filings on the court's miscellaneous docket and thus avoid the higher filing fees for other actions. It appears now that our effort was unsuccessful. As of October 1, 1979, the fee for filing actions in the U.S. courts will go up from $15 to $60. This steep increase threatens to frustrate individuals in asserting their new rights under the law.

Therefore, I, along with Congressmen ST GERMAIN and MCKINNEY, am introducing two bills today which seek to establish the same filing fee for customer challenges under the Financial Privacy Act as are required for the filing of writ of habeas corpus, which by statute is $5. One bill is an amendment to the Right to Financial Privacy Act, falls within the Banking Committee's jurisdiction, while the second, which amends title 28, falls within the jurisdiction of the Judiciary Committee. It is my hope that one of the committees will be able to expedite the consideration of the legislation. The bills accomplish the same result, of providing a procedure that will not discourage citizens from exercising their new rights.●

INTRODUCING COMPOSITE TRADE AND TARIFF BILL

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, I am today introducing a composite trade and tariff bill which incorporates eight miscellaneous trade bills that were favorably reported by the Subcommittee on Trade to the full Committee on Ways and Means on September 20. The bills and their sponsors are as follows:

H.R. 4800 (Mr. Drinan), to extend duty-free treatment to synthetic tantalum/columbium concentrate.

H.R. 4385 (Mr. Neal), for the relief of Wake Forest University, Winston-Salem, North Carolina.

H.R. 4147 (Supersedes H.R. 3565) (Mr. Guarini), to amend the Tariff Schedules of the United States to provide a temporary suspension of the duty on certain alloys of cobalt.

H.R. 3352 (Messrs. Rostenkowski and Conable), to provide for the temporary suspension of duty on the importation of fluorspar.

H.R. 3207 (Mr. Rostenkowski), to suspend the duties on certain bicycle parts and accessories until the close of June 30, 1983.

H.R. 4954 (Supersedes H.R. 3993) (Mr. Duncan of Tennessee), to continue until the close of June 30, 1982, the existing suspension of duties on manganese ore (including ferruginous ore) and related products.

H.R. 4935 (Supersedes H.R. 3110) (Messrs. Jenkins, Fowler, and Schulze), to amend the Tariff Schedules of the United States to provide a duty on certain items relating to models of household furnishings and accessories, and miniature houses.

H.R. 4680 (Mr. Jenkins), to amend the Tariff Schedules of the United States with respect to the definition of rubber.●

NATIONAL PUBLICATIONS ACT OF 1979

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 15 minutes.

● Mr. THOMPSON. Mr. Speaker, last June 21 members of the Committee on House Administration joined me and the distinguished chairman of our Printing Subcommittee (Mr. HAWKINS) in introducing H.R. 4572, a bill that would make long-overdue reorganizational changes into the structure and functions of the Government Printing Office. In my remarks on that date (RECORD, pages 16071–16073), I outlined the case for this bipartisan measure that would make the first real substantive changes in title 44 since the Printing Act of 1895. An identical bill was also introduced in the other body by the distinguished chairman of the Senate Rules and Administration Committee, Senator CLAIBORNE PELL of Rhode Island.

Hearings were held on this legislation in July, with testimony being presented by a wide range of witnesses representing all points of view of the publishing, information, paper, and printing industries, librarians, Government communicators, and outside witnesses, as well as the Public Printer and most recent former Public Printer. Many constructive amendments were proposed at these hearings and after their conclusion to clarify certain language of the bill, to make modifying changes in the structure proposed, and to otherwise strengthen and improve the legislation. Staff redrafting efforts during August have produced the clean bill which we are introducing today as the "National Publications Act of 1979." This bill contains some two dozen amendments to H.R. 4572 and also expands certain portions of the original bill and makes other substantive and technical modifications, as well as changes in the definition portion of the measure. This new version will serve as the vehicle for our committee markup sessions.

Mr. Speaker, the "National Publications Act of 1979" is an important measure that will help bring about greater economy and efficient management in the provision of a wide variety of printing and information distribution services for the Congress and executive agencies.

The measure will also make possible more efficient machinery for the dissemination to the public of vast amounts of information produced by various governmental entities. The national depository library system is upgraded and strengthened. More cost-efficient methods for information management are provided. Congress is given a more flexible role in determining its own printing requirements. A newly established commission of experts appointed by the President will provide policy direction for the new National Publication Agency (formerly the Government Printing Office—GPO). While the new publications agency will be within the executive branch, it will be an independent establishment. It will bring new and enlightened information management capability, as well as greater administrative efficiency. Its regulations will be subject to review and veto, however, by Congress and the President. The rights of present GPO employees will be fully protected and guaranteed by law in a modern labor-management relations program. Contracting and procurement authority of the new agency is streamlined and additional safeguards are provided to protect small businesses. The present operational role of the Joint Committee on Printing in the enforcement of the current provisions of title 44 is delegated to the new agency and the Joint Committee itself will be abolished.

Mr. Speaker, for the information of those persons who have become familiar with the provisions of H.R. 4572, the earlier version of this legislation, I include at this point a memorandum that describes the major changes in our new bill over earlier language, along with a brief description of the impact of these amendments and the rationale involved. The memorandum follows:

CHANGES AND MODIFICATIONS TO H.R. 4572 EMBODIED IN NEW VERSION

1. The title "Public Printing Reorganization Act of 1979" has been changed to "The National Publications Act".

Rationale: Although partly cosmetic, the understanding of the term "Printing Reorganization" represented too narrow a focus of both the functions of the Agency and the purposes of the bill. Quite simply, a whole lot more than "printing" is involved.

2. A definition of "distribution" has been added. (The definition was previously inserted in the Congressional Record of July 10, 1979 (page 17944).)

Rationale: The new definition narrows the focus of the term to include only sales programs which lack specific statutory authorization. Those with statutory authority may continue unimpeded. Agency sales programs which lack statutory authority must be justified to the new National Publications Agency (NPA) (section 702(b)), or the NPA may designate an officer of the agency as a sales agent (section 704(c)), or the program will be discontinued. The elimination of many duplicative sales programs (individual agencies and GPO) should reduce costs and increase efficiency. The ability of agencies of government to print and give away publications is unchanged. The definition also includes distribution made for the depository library system and distributions made by the NPA at the request of another government entity.

3. A definition of "Government entity" is added. (This definition was also included in

the July 10, 1979 Congressional Record (page 17944).)

Rationale: The amendment merely clarifies who is eligible to designate depository libraries (section 707(c)) and who is required to designate information resources managers (section 1101(a)).

4. The definition of "public document" is sharpened. In H.R. 4572, the term would have encompassed any reproduction for public use of the specified categories of publications. The new version limits "public documents" to those items reproduced by a governmental entity for official use.

Rationale: Under H.R. 4572 there was a great deal of confusion about how much material would be covered. The new definition eliminates those matters which may have been produced as a result of research funded by government grants.

5. The title of the entity which will control government publications is changed from the Government Printing Office to the National Publications Agency.

Rationale: In consonance with the change made in the title of the Act, the focus of the matters involved is broadened and therefore the name of the entity is changed to correspond.

6. The newly created and designated National Publications Agency is explicitly defined as an independent agency in the executive branch of government, which will be subject to all existing statutes, regulations and other administrative orders which affect the executive branch offices.

Rationale: There was some confusion whether the Freedom of Information Act, Administrative Procedures Act, etc., were applicable to the National Publications Agency. It always was intended that they should apply unless otherwise specified in the Act; the matter is now made clear.

7. The term "Board of Directors" is changed to the term "Commission".

Rationale: Although without substantive import, the change precludes the National Publications Agency being viewed as a government corporation (e.g., Amtrak, the Post Office) and more appropriately designates the NPA as a regulatory and service body (e.g., GSA, FCC).

8. A subsection is added establishing the power of the NPA to utilize the private sector for printing or distribution services.

Rationale: It was always thought that contracting authority was inherent among the NPA functions, but the new subsection makes it explicit.

9. In H.R. 4572, when the Board of Directors (now the Commission) prescribed a regulation, the two Congressional committees of jurisdiction were given 10 legislative days in which to veto that regulation. In the revised bill, this same power is extended to the President.

Rationale: The executive branch was critical of its lack of input or control over the NPA. The Presidential power to veto regulations should allay the major part of the criticism.

10. The ability to veto regulations by both the Congressional committees and the President is effective in whole or in part.

Rationale: The whole body of a number of regulations need not be vetoed simply because of a singularly ill-chosen word, comma, or individual regulation.

11. The staff of the Commission (former Board of Directors) is statutorily limited at not to exceed 15 in number.

Rationale: The Commission's need for staff should not exceed immediate personal administrative and clerical help. The bulk of administrative, clerical, legal and other staff is already in place in the other divisions of GPO. There is no necessity to create a new, large bureaucracy.

12. Labor-management relations are spelled out in detail encompassing a number of suggestions made by the current Public Printer and the trade unions involved. To a very large extent, the present system has been reserved.

Rationale: When H.R. 4572 was introduced, specific language to govern labor-management relations was not finalized.

13. Procurement of property and services by the new NPA will be spelled out in greater detail.

Rationale: H.R. 4572 had maintained the current broad exemption which GPO enjoys from the Federal Property and Administrative Services Act of 1949. On reconsideration of the matter, it was felt that except for a few special circumstances, there was no justification for such a broad exemption, especially in light of the shifting of the NPA (GPO) from the legislative to the executive branch.

14. The requirement that the logo "Produced at Government Expense" should appear upon all materials printed by the government is altered. The logo will now only be required upon matter which is not otherwise readily identifiable as a government publication.

Rationale: There is no necessity to place the logo on matters whose title or masthead may clearly indicate the issuing governmental entity. The change should save a considerable amount of money.

15. Publications which are given away free to the public must make a disclosure of the issuing government entity, the Appropriations Act providing the funds, and the cost of the document. (The definition was inserted in the July 10, 1979 Congressional Record (page 17944).)

Rationale: Such requirements are intended to make issuing entities more conscious of the matters on which they are spending money. Greater awareness should result in less waste through duplicative or only marginally useful publications.

16. All of the regulations and waivers of regulations of the Joint Committee on Printing will expire one year after the effective date of the Act.

Rationale: To ensure that agency printing plants and other independent functions granted to agencies through JCP waivers will be examined within a reasonable time, a definite date upon which these authorizations will cease is prescribed. Agencies must justify the continued existence of such exemptions to the NPA on the basis of efficiency and cost effectiveness to the government.

I also include at this point in the Record a section-by-section analysis of the new bill we are introducing today. The analysis follows:

Section-By-Section Analysis

Section 1 of the bill provides that the legislation may be cited as the "National Publications Act of 1979".

Section 2 of the bill repeals the existing chapters 1 through 13 of Title 44, United States Code and inserts in lieu thereof the new chapters 1 through 11. The newly designated chapters are as follows:

CHAPTER 1—GENERAL PROVISIONS

Section 101 contains definitions of terms used in chapters 1 through 11 of title 44:

(1) The term "distribution" in this legislation applies to public document sales programs which have no statutory authority and any other distribution services requested on a reimbursable basis by a government entity. In this legislation, "distribution" also applies to making public documents available to the depository library program.

Thus, only those sales programs established by regulation, administrative authority, or by means other than law are subject to the provisions of this Act. No free (without direct charge to the recipient) distribution programs of governmental entities are affected except the depository library program distribution.

(2) The term "Government entity" means: in the executive branch of government a department, agency, office, or independent establishment; in the judicial branch: a court of the United States, the Judicial Conference of the United States, the Federal Judicial Center and the Administrative Office of the United States Courts; and in the legislative branch of government, the House of Representatives, the Senate, the General Accounting Office, the Library of Congress, the Cost Accounting Standard Board, the Congressional Budget Office, the Architect of the Capitol, and the Office of Technology Assessment.

The use of the words "other authority" in the executive branch definition of "Government entity" is intended to allow the designation of major bureaus or divisions of executive departments and agencies as "Government entities" for the purpose of establishing depository libraries (Chapter 7) as title 44 now permits and assigning an information resources manager (Chapter 11).

(3) The term "Member of Congress" includes a Senator, Member of the House of Representatives, and a Delegate or Resident Commissioner to the Congress of the United States.

(4) The term "printing" means any process whereby multiple copies of printed matter are produced. The term does not include production by typewriter or by a standard office copying machine which is capable of only limited production. It is expected that the National Publications Commission will define "limited production" (as the JCP Regulations do today) and from time to time will revise such definition in light of the state of printing technology and the cost and benefit of the government.

(5) The term "public document" means any of the variously named media which are reproduced for official use by a Government entity. The intent is that any matter which is developed, created or produced either by, or under the direct aegis of, the Federal Government, and which is reproduced in multiple copies by the government, shall be a public document. All matter generated by employees of the government as part of their official duties and reproduced for official use by a Government entity shall be a public document. Matter generated under contract with a private person for official use of a Government entity shall be a public document whether or not the reproduction was done by the NPA.

Excluded from the definition of "public document" is matter which is required for administrative or operational purposes and is without public interest or educational value. Thus, internal working papers and similar matter which is not intended for public dissemination, such as personnel records, are not to be considered "public documents". Similarly, matter which is properly classified to protect our national security shall not be considered a "public document".

"Public Document" as used in these eleven chapters to title 44 does not include any scientific or scholarly research unless such work is for official use of government entity. For example, an article written by a university professor who receives funds from the National Science Foundation or the National Endowment for the Humanities to support his research is not ordinarily a "public document". Only when the research or study is intended to be used for official purposes of a government entity would the report or scholarly tome be a public document subject to the provisions of this Act. The general rule is that when the government funds the research, writing, publishing, or similar processes the fruits of such efforts are not a public document. Conversely, when the government funds a product (e.g., a study, book, or report) for official use it is a public document under this Act.

However, nothing in this definition is intended to affect the definition of "public document" found in the Freedom of Information Act nor is it intended to affect any of the manners or procedures wherein documents or materials are made available under the FOIA. Nothing in this section or in the Act as a whole is intended to affect the applicability or the holding of a copyright on any material as prescribed by the copyright laws.

(6) The term "public printing services" means all printing services, binding and related services, including procurement of printing services from the private commercial sector, the purchase or lease of printing equipment and operation of printing facilities furnished either wholly or partly at Government expense for any government entity. The term includes all printing and related services which is done by or done for the Government.

(7) The term "State" includes each of the States, the District of Columbia, Guam, and the Virgin Islands, unless a specific textual reference provides otherwise.

CHAPTER 3—NATIONAL PUBLICATIONS AGENCY

Section 301 creates an entity which is to be known as the National Publications Agency (NPA), as the successor to the Government Printing Office. The National Publications Agency is to be an independent establishment as that term is defined by section 104 of Title 5, United States Code. Except as otherwise provided in this Act, the NPA shall be subject to all laws, regulations, executive orders and policy directives respecting independent establishments and the Executive Branch. Such statutes as the Freedom of Information Act, Administrative Procedures Act and the Privacy Act are among those laws specifically intended to be applicable to the activities of the NPA.

Section 302—Establishment and duties of Commission

Section 302(a) creates a Commission which (1) consists of seven voting members and three non-voting members and (2) is responsible for the policy direction and overall operation and management of the NPA. The Commission establishes the policies of the NPA in consonance with the directives of this Act.

Section 302(b) delineated the duties to be performed by the Commission. The Commission shall:

(1) Develop policy for the provision of public printing services and the distribution of public documents throughout the Federal government. Such policies shall only be prescribed, however, after appropriate consultation with existing governmental information clearing houses and technical information centers. Such consultations are intended to foster cooperation and to facilitate avoidance of duplication of services and other wasteful practices which now occur.

(2) Assure that public printing services and distribution of public documents are accomplished in the most efficient and effective manner. Cost to the government shall be a prime consideration in assessing efficiency and effectiveness.

(3) Make use of private commercial sources for the provision of public printing services and distribution of public documents where the Commission deems appropriate. Use of the private sector may take the form of contract or other arrangements where it is determined by the Commission to be the most efficient, effective, cost-effective or otherwise most appropriate method for providing the service. Special consideration is to be given small business concerns, continuing present GPO practices.

(4) Supervise, coordinate and direct the policies which affect the organization, operation, and other matters of the National Publications Agency.

(5) Implement and abide by the policies established by section 310 of this Act, regarding labor-management relations.

(6) Prescribe after consultation with the Librarian of Congress bibliographic and indexing standards which insure reasonable access to and retrieval of public documents. It is recognized that a variety of indexing standards exist today, some with valid justification. It is expected that the Commission will take cognizance of such existing standards and will prescribe fully compatible standards to the extent that efficiency and reason allow.

(7) Provide printing services and distribution of publications as may be requested by the United States Capitol Historical Society, the Supreme Court Historical Society and the White House Historical Association. Such services are to be provided in order to facilitate the invaluable historical and preservation services of these societies. However, such services are to be provided only on a reimbursable basis.

(8) Provide for the sale of duplicate reproducibles from which public documents are printed. Such reproducibles would include duplicate stereotype or electrotype plates, or electronic or magnetic tapes as well as any other medium capable of reproduction. Such sales are intended to facilitate the broadest possible dissemination of government information continuing current statutory authority (44 U.S.C. 505).

(9) Furnish ink, glue and other supplies to other Government entities on a reimbursable basis. Such supplies are to be limited, however, to specialty items manufactured by the NPA and which are not readily available elsewhere. Nothing in this section is to be construed as to permit the NPA to manufacture or supply items which are commonly available on the commercial market. Nothing in this section is to be construed as to allow the NPA to interfere with the common supply functions of the General Services Administration.

(10) Fix standards for paper and other materials used in the production of public documents. Such standards should prescribe both minimum and maximum allowable qualities in order to avoid waste both through unacceptable substandard materials as well as through uncalled-for extravagance.

(11) Provide for furnishing paper and envelopes to other Government entities. This section continues the statutory mandate of the current section 1121 of Title 44, which prescribed that GPO furnish such material to all government offices in the District of Columbia. Such paper and envelopes normally can be purchased at a lower cost to the government when purchased in bulk.

Section 303—Voting members of Commission

Section 303(a) provides that the voting members of the Commission shall be appointed by the President, subject to confirmation by the Senate. Each voting member shall be chosen based upon ability, background, training and experience.

Section 303(b) provides that a voting member of the Commission may be removed from his position by the President, after notice is given and a hearing is held, upon the grounds of neglect of duty or malfeasance in office. Mere disagreement with the policies or objectives of the President or his Administration are not appropriate grounds for dismissal.

Section 303(c) provides that the President shall name one of the voting members to be the Chairman of the Commission, who also will function as the chief executive officer of the National Publications Agency.

Section 303(d)(1) of the voting members of the Commission, other than the Chairman, one member each shall be chosen from four distinct sources. The sources will be:

(A) the printing and reproduction industries;

(B) organized labor;

(C) the library community; and

(D) the publishing and information industries.

The four groups were chosen as representative of major areas affected by the National Publications Agency. It is expected that they will bring to the Commission technical and other specialized knowledge gleaned from years of experience which will be invaluable in the deliberations of the NPA.

At the same time it is recognized that to a certain extent a degree of tension exists between the various groups represented. In many instances the groups should be in ideological competition as they represent the interests of their constituencies as well as the government. It is felt that such competition will be healthy and will foster the fullest exchange of ideas and discussion of issues which are involved in the government's printing and publications policies.

Two other voting members of the Commission shall be chosen from sources other than those specifically named. The two voting members from other sources will add independence of thought and balance to the commission's deliberations.

It is not intended that any of the named groups should be overrepresented on the Commission.

Section 303(d)(2) provides that the Chairman of the Commission may be chosen from any source. The Chairman therefore may have experience in any of the four named sources or in any other area.

Section 303(e)(1) provides for the term of office and other particulars of service of the voting members of the Commission other than the Chairman. These six voting members will:

(A) be appointed to terms of three years;

(B) be eligible for reappointment;

(C) serve as necessary to perform the functions of the Commission;

(D) be paid on a per diem basis.

These members will serve on a "part-time" basis in order that their ties to their represented professional communities, as well as to the world at large shall remain strong and intact. This is a conscious attempt to avoid a common malady among bureaucrats which results in their losing sight of every day life and the impact their actions may have. It is expected that these voting members of the Commission will maintain their professional positions from which they were selected. It is recognized that during the initial weeks or months of the NPA, the duties of the members will require more than intermittent service. However, once this initial adjustment period is over and the bulk of the regulations guiding policy are issued, intermittent service shall be sufficient. The creation of a new, full-time, and large bureaucracy is not intended.

Section 303(e)(2) provides for the term of office of the Chairman of the Commission, who shall:

(A) be appointed to a five year term;

(B) not serve more than one complete term as Chairman;

(C) be a full-time employee of the National Publications Agency and will maintain no other employment.

The additional duties to be performed by the Chairman, above and beyond those of other voting members of the Commission, require full-time employment. The longer term of office is in recognition of the fact that for a top level, talented individual to accept such a post would likely require a commitment of more than three years. Conversely, the limitation of serving only one term of office is intended to avoid the stagnation or ineffective leadership which may result from a chairman holding office for too long a period. The limitation also insures significant opportunity for new, presumably different, leadership of the NPA at regular intervals.

Section 303(e)(3) establishes a sequence of staggered terms of office for the six voting members of the Commission other than the Chairman. Only two members' terms will expire in any year thereby insuring continuity of leadership. The President shall determine which members will initially be appointed for two, three, and four year terms.

Section 303(f) provides that in the event of a vacancy on the Commission, prior to the expiration of a term of office, an appointment of a successor shall be only for the remainder of such term. It is further provided that any voting member of the Commission, including the Chairman, may serve until his successor has taken office.

Section 303(g) provides that vacancies on the Commission shall be filled in the same manner as the original appointment. This section is intended to keep the balance of representation reflected in the original appointments throughout the life of the Commission. For example, if a vacancy should occur in the position occupied by the representative of the library community, the person appointed to fill the vacancy also must be chosen from the library community. However, the section should not be interpreted to mean that the Chairman, if he has initially been chosen from among one of the four designated sources, must always be chosen from that source.

Section 304—Nonvoting members of Commission

Section 304(a) provides for nonvoting members of the Commission.

The three nonvoting members are to be:

(1) the Chairman of the Committee on House Administration of the House of Representatives, or his delegate.

(2) the Chairman of the Committee on Rules and Administration of the Senate, or his delegate and

(3) the Director of the Office of Management and Budget or his delegate.

Section 304(b) provides that a "delegate" may be any member, officer or full-time employee of each of the respective entities as either of the Chairmen or the Director may indicate.

Section 305—Procedures of Commission

Section 305(a)(1) provides that the Chairman shall preside at meetings of the Commission. It further provides that three voting members shall constitute a quorum for the conduct of routine business. Routine business would include, but not be limited to, receiving testimony and discussing policy of any kind affecting the matters before the Commission. However, for any final decision of the Commission to be valid, it must be approved by the affirmative vote of four voting members. This section is intended to preclude the Commission conducting business with only a minority of the Commission members represented, thereby insuring all voting members a role in the decisionmaking process.

Section 305(a)(2) provides that the Commission may designate any other voting member of the Commission to be Acting Chairman during the absence of the Chairman. Such Acting Chairman shall perform all of the functions of the Chairman during the Chairman's absence.

Section 305(b) provides that the Commission shall meet at least once in each month, when called by the Chairman, and when a majority of the voting members of the Commission request a meeting.

Section 305(c) provides that the Commission may adopt an official seal for the National Publications Agency which shall receive appropriate judicial notice.

Section 306—Pay of Commission

Section 306(a) provides that members of the Commission, except the Chairman, are to be paid at a per diem rate equivalent to level III of the Executive Schedule on those days in which they are engaged in Commission business.

Section 306(b) provides that the Chairman of the Commission shall be paid a salary equivalent to level II of the Executive Schedule.

Section 306(c) provides that members of the Commission who are otherwise full-time officers or employees of the government shall not receive any additional compensation by virtue of service as a member of the Commission. This means, for example, that neither the Chairman of the Committee on House Administration, nor the Chairman of the Committee on Rules and Administration, nor the Director of the Office of Management and Budget, nor anyone serving as the delegate of these officials under section 304, shall receive NPA additional compensation from the NPA on account of such service. It further means that should any other voting member of the Commission be chosen from existing government employees, their compensation will not be increased by the NPA solely on account of service on the Commission.

Section 307—Regulations of Commission

Section 307(a)(1) provides that the Commission may prescribe, in accordance with the Administrative Procedures Act, such regulations as are necessary to carry out its functions.

Section 307(a)(2) provides that after completion of the procedures prescribed by the Administrative Procedures Act any regulation promulgated by the Commission must be submitted for a period of ten legislative days to the President, the Committee on House Administration, and the Committee on Rules and Administration, who will have the opportunity to veto any such regulation.

Section 307(b)(1) defines a "legislative day" as a calendar day on which both the House of Representatives and the Senate are in session.

Section 307(b)(2) defines the term "regulation" for the purposes of section 307 as either a single, several regulations, or series of regulations. This allows vetoes of the regulations in whole or in part.

Section 308—Staff of Commission

Section 308(a)(1) provides that the Chairman of the Commission, with the approval of the Commission, may appoint up to 15 staff personnel to directly support the immediate operations of the Commission. Fifteen is intended to reflect a reasonable assessment of the amount of direct administrative and clerical assistance necessary for the members of the Commission. Other, more extensive staff support is available in the various divisions of the NPA.

Section 308(a)(2) provides that the personnel appointed to directly support the Commission, may be appointed without regard to existing competitive service laws and regulations, and may be paid without regard to established General Schedule pay rates. However, none of the personnel selected under this section may be paid in excess of the pay rate applicable to a GS-18 employee on the General Schedule.

Section 308(b) provides that the Chairman, with the consent of the Commission, and in accordance with applicable law, may procure the services of experts and consultants to support the functions of the National Publications Agency. However, the rate of pay to such individuals hired under this section shall not exceed, on a daily basis, the per diem rate of pay payable to a GS-18 employee on the General Schedule.

Section 309—Administrative services in the National Publications Agency

Section 309(a) establishes the position of Director of Administration within the National Publications Agency. The Director of Administration is to be chosen by the Chairman, with the approval of the Commission. The Director of Administration is to be chosen on the basis of professional background and experience in management of a large organization. The Director shall:

(1) be responsible for all administrative, support and other common services of the NPA;

(2) report to, and be under the supervision of the Chairman, and

(3) carry out the policies of the Commission.

Section 309(b) provides: (1) that the Director of Administration shall be appointed without regard to existing competitive service laws and regulations, and (2) that the rate of pay for the Director of Administration shall be at Level IV of the Executive Schedule.

Section 309(c) provides that the Director of Administration shall have the authority to employ the personnel necessary to carry out his functions. Except as is otherwise provided by the labor-management relations section of this Act, the appointment of such persons shall be in accord with civil service laws and regulations.

Section 309(d) provides that the Director of Administration may appoint special police officers for the protection of the National Publications Agency. If authorized by the Chairman, such officers may: (1) bear and use firearms in the line of duty; (2) make arrests for violations of Federal and state laws, and (3) enforce regulations prescribed by the Commission. Jurisdiction of such special police officers in premises occupied by or under control of the National Publications Agency shall be concurrent with that of the law enforcement agencies where the premises are located. The authority to bear and use firearms, make arrests for violation of law, and enforce regulations of the Commission shall be effective only insofar as the actions pursuant to the authority are for the security, protection, or control of the personnel or property (both real and personal) of the National Publications Agency.

Section 310—Labor-management relations

Labor-Management relations are governed by principles of collective bargaining, arbitration and third party resolution of grievances, following either existing law (i.e., "The Kiess Act") or the procedures adopted by the Joint Committee for the resolution of disputes. Essentially, labor and management are responsible for negotiating wages, benefits, and working conditions (except certain provisions of Title 5, USC, which cannot be negotiated such as anti-discrimination provisions). When labor and management fail to reach an agreement via collective bargaining, a third party umpire or arbitrator selected by the parties will have final authority to resolve all outstanding issues.

Section 311—NPA revolving fund

The current section 309 of Title 44 has been revised to update the technical language and to incorporate all divisions of NPA into the fund. Previously, the statute did not provide for the Superintendent of Documents to participate in the fund.

The very nature of the NPA is to perform services on a reimbursable basis. This requires some method for financing operations until reimbursements are made The revolving fund simply allows the NAP, as GPO did, to operate on a business-like basis, similar to other governmental entities such as the Department of Housing and Urban Development which has 23 such funds, the House of Representatives which has 5, and the Senate which has 4 revolving funds.

Section 312—Audits of the National Publications Agency

The Comptroller General is required to audit the activities of the NAP during FY '82 and at least every three years thereafter to insure third party review of the operation of the NPA.

Section 313—Procurement of property and services

Except for printing services, paper and real property, all property and services for the NPA shall be acquired in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

Section 314—Transmittal of copies of reports, budget estimates, and requests to the Congress

To insure the independent nature of the NPA, this section provides that any report, budget estimate or budget request submitted to the President or the Office of Management and Budget shall be concurrently transmitted to the Congress. Neither the Executive Branch nor the Legislative Branch, therefore, should retain exclusive control over the budget of the NPA. It is envisioned that as other regulatory bodies are similarly required to concurrently transmit their budgets to both the President and the Congress, both branches will have an equal opportunity to review and shape the operation of the NPA in consonance with the respective interests of the President and the Congress.

CHAPTER 5—PUBLIC PRINTING SERVICES

Section 501—Director of Production Services

Section 501(a) establishes the position of Director of Production Services within the National Publications Agency. The Director of Production Services is to be chosen by the Chairman, with the approval of the Commission. The Director of Production Services is to be chosen on the basis of professional background and experience in management of printing or similar operations. The Director shall:

(1) be responsible for public printing services in the NPA;

(2) report to, and be under the supervision of the Chairman;

(3) carry out the policies of the Commission.

Section 501(b) provides: (1) that the Director of Production Services shall be appointed without regard to existing competitive service laws and regulations, and (2) that the rate of pay for the Director of Production Services shall be at Level IV of the Executive Schedule.

Section 501(c) provides that the Director of Production Services shall have the authority to employ the personnel necessary to carry out his functions under this Act. Except as is otherwise provided by the labor-management relations section of this Act, the appointment of such persons shall be in accord with civil service laws and regulations.

Section 502—Use of National Publications Agency for public printing services

Section 502(a) provides that all public printing services for the federal government shall be provided through the National Publications Agency in accordance with regulations prescribed by the Commission, except for those matters controlled by Congress pursuant to Section 901 of this Act. This section establishes control and oversight responsibility of the NPA over all printing operations of the Federal Government.

Section 502(b)(1) provides that regulations controlling public printing services shall include provisions for waivers from the control granted to the NPA in section 502(a). Such waivers may be granted by the Director of Production Services at the request of the head of a Government entity but only for a limited period of time as specified by the Director. It is not intended that open-ended (indefinite) waivers should be granted; all waivers should be subject to appropriate periodic review. Waivers may be granted: (1) to contract directly with the private sector if such contract is necessary to meet a requirement which cannot be satisfied by the NPA, or if the contract will result in a cost savings to the Government; (2) for the establishment of field printing plants to be operated by Government entities other than the NPA if based upon demonstrable cost savings or upon the requirements of national security; and (3) to a private person who agrees to bear all of the costs of production and distribution of the document required by the government, including sufficient copies for the depository library system. The only advantage accruing to a private person who qualifies for the third waiver category is that such person will be the first publisher of the material instead of the NPA. The intent of this section is to provide a substantial cost savings to the government in the event that a private publisher envisions sufficient advantage in initial publication. Such person will not be given copyright over the material nor in any way preclude other persons from further reproduction of the material.

Section 502(b)(2) provides an appeals process for those cases in which the Director of Production Services denies a request for a waiver. Within five business days after receipt of the request, the Director of Production Services must state in writing his reasons for denying the waiver.

A denial of a waiver request may be appealed to the Chairman within ten days after the denial. The Chairman will have three business days in which to decide an appeal. The decision of the Chairman will be final.

Section 503—Permanent public documents

Section 503 provides that public documents which are of a permanent or lasting value which are supplied to officers and employees of the Government for their official use shall bear a legend "Property of the United States Government". Examples of such documents are the volumes of the United States Code or other substantial reference books which maintain their usefulness and value over a long period of time and should remain a part of the office or employment involved. This section is intended to preclude the expropriation of such documents by officers and employees of government, including retiring Members of Congress.

Section 504—Material reproduced at Government expense

Section 504 provides that any material that is printed or otherwise reproduced at Government expense, and which is not otherwise readily identifiable as a product of the Government, shall bear the legend "Produced at Government Expense." It is intended that such an identification tag on Government materials will cause the producers of Government information to better assess the usefulness or advisability of producing duplicative or marginally-useful publications. If taxpayers who are the consumers of such materials are made aware of what the Government is producing, a sense of accountability may be heightened. Further, it is intended that all materials reproduced on Government owned or leased photocopy machines are included within the scope of this section. It is intended that such identification of reprocessed matter will help decrease unofficial and unauthorized use of Government copying machines for personal purposes, which is estimated to be significant.

CHAPTER 7—DISTRIBUTION OF PUBLIC DOCUMENTS

Section 701—Director of Distribution Services

Section 701 establishes the position of Director of Distribution Services within the National Publications Agency. The Director of Distribution Services is to be chosen by the Chairman, with the approval of the Commission. The Director of Distribution Services is to be chosen on the basis of professional background and experience in management of public or private operations engaged in similar distribution functions as the National Publications Agency.

The Director shall be responsible for maintaining a complete collection of public documents. This collection is intended to serve as a lending library of last resort for the depository library system, providing a copy of any public document requested by a member library of the depository system. This collection should heighten discretionary selection process by depository libraries in the first instance by allowing them to select and use far more effectively only those public documents useable by their respective constituencies. The collection allows the libraries to be selective without forfeiting access to any public documents. However, as a library of last resort, depository libraries should use this collection only when needed documents cannot be provided from another member library. The present system of "choose it or lose it" causes many libraries to choose marginally useful documents at great expense both to the Superintendent of Documents and to the libraries themselves.

Additionally the Director is responsible for oversight, inspection and support of depository libraries. Oversight and inspection should include a regular review and assessment of each library's ability to appropriately use public documents and provide the public access for them required by section 707(e)(1). Support of depository libraries may include professional services such as training, assistance for or provision of various mechanical, electronic or other materials which assist the libraries in the provision of access to the public documents. Support may also include financial assistance when specifically authorized by law.

The Director is also responsible for international exchange of public documents in cooperation with the Librarian of Congress and the Archivist of the United States. This section takes cognizance of the various programs and agreements of exchange which have been worked out by the Library of Congress and the National Archives. Therefore, the Director will not independently initiate new exchange programs.

The Director will report to, and be supervised by the Chairman, and will carry out his functions in accordance with the policies prescribed by the Commission.

Section 701(b) provides that: (1) the Director of Distribution Services shall be appointed without regard to existing competitive service laws and regulations, and (2) the rate of pay for the Director of Distribution Services shall be at Level IV of the Executive Schedule.

Section 701(c) provides that the Director of Distribution Services shall have the authority to employ personnel necessary to carry out his functions under this Act. Except as is otherwise provided by the labor-management relations sections of this Act, the appointment of such persons shall accord with civil service laws and regulations.

Section 702—Use of National Publications Agency for distribution of public documents

Section 702(a) provides that all distribution (as defined by section 101) of public documents shall be provided by the National Publications Agency in accordance with regulations prescribed by the Commission, except for those matters controlled by Congress pursuant to section 901 of this Act.

Section 702(b)(1) provides that the regulations controlling the distribution of public documents under section 702(a) shall include provisions for waivers from the express control of distribution granted to the NPA. Such waivers may be given when the Government interest requires, either in terms of cost savings or of more efficient and effective dissemination of the information. Such waivers may include the distribution of documents by individual Government entities, by private booksellers or distributors, or by any other organization which will satisfactorily distribute the documents in the Government interest. Waivers shall be given only for periods of limited duration. No open-ended waivers are contemplated and all waivers shall be subject to appropriate periodic review. Waivers shall be granted upon application of the head of the Government entity involved.

Section 702(b)(2) provides an appeals process for those cases in which the Director of Distribution Services denies a request for a waiver under section 702(b)(1). If the Director of Distribution Services denies a request for a waiver, he must, within five business days after receipt of the request, state in writing his reasons for denial.

A denial of a waiver request may be appealed to the Chairman within ten days after the denial. The Chairman will have three business days in which to decide such an appeal. The decision of the Chairman will be final.

Section 703—Additional copies of public documents for sale

Section 703 provides that pursuant to appropriate regulations prescribed by the Commission, the Director of Production Services shall, at the request of the Director of Distribution Services prepare or procure additional copies of public documents for sale by the Director of Distribution Services. The section places the responsibility for the maintenance of a public document sales program upon the Director of Distribution Services. He shall assess the demand for documents and at the earliest possible time, and in advance of actual production where possible, shall make an appropriate request for copies from the Director of Production Services. The Director of Production Services thereupon shall cause to be produced the additional copies required or in the case of documents produced pursuant to the waiver provisions of section 502, shall procure sufficient copies from the producing entity to meet the request of the Director of Distribution Services. In order that costs be kept to a minimum it is anticipated that NPA regulations should require those Government entities who produce public documents pursuant to waiver shall coordinate their plans with the Director of Distribution Services. Cooperation is essential for an effective sales program.

Section 704—Prices for sales of public documents

Section 704 provides that the Commission shall prescribe regulations concerning the price of public documents. Such regulations shall provide that the price at which a public document is sold shall be not less than the cost of production and distribution. While a precise assessment of exact costs may be difficult to ascertain, nevertheless, the assessment of cost shall be as near to precision as possible. Such calculation of cost shall follow all appropriate costing guidelines prescribed for the Government such as AO–76, except that overhead for buildings and land shall not be factored in.

Pricing each document at not less than the cost production and distribution is intended to eliminate the current averaging of cost practice at the Government Printing Office. The averaging of cost has resulted in popular documents having higher than actual costs in the sale price to support the sales of less popular documents which are sold at prices lower than actual costs. Henceforth, it is intended that each document shall stand upon its own demand in the market place to the greatest extent practicable.

Section 704(b) provides for exceptions to the requirements of full-cost sales of public documents provided for in section 704(a). Section 704(b)(1) provides that upon a determination by either the National Publications Commission or by the issuing Goverment entity that the public interest so requires, a public document may be offered for sale at a cost below the actual cost of production. In an instance where such a sale price below costs is decided upon, the deficit incurred between the cost of production and the sale price must be paid to the Director of Distribution Services for return to the revolving fund. If the determination is made by the Commission, sufficient funds as appropriated to the NPA for such a purpose must be transferred to the revolving fund. If a Government entity makes the determination for a sale of a document at less than cost, then the issuing entity must provide sufficient funds to make up the deficit.

This section reflects a realization that certain publications of the Government may be particularly valuable, yet, if offered for sale at full cost, would be prohibitively expensive and not receive appropriate distribution. An example of such a publication is the *Congressional Record* which is currently sold at a subscription rate substantially less than cost. Under the provisions of this bill if the Congress determines such reduced rates are desirable in the future, then the Congress, from legislative branch appropriations, will have to provide sufficient funds to the Director of Distribution Services to meet the shortfall.

Section 704(b)(2) provides that discount prices on public documents may be allowed for book dealers or other quantity purchasers of public documents.

Discount sales are contemplated upon the knowledge that commercial sellers may in some instances be more effective in dissemination of certain government information and thereby perform a valuable government service.

Section 704(c) provides that the Director of Distribution Services may designate any officer or employee of the Government as a sales agent for public documents upon a written agreement with the head of the Government entity involved. This section is in effect a limited form of waiver from distribution requirements which are covered by section 702(b). The Director of Distribution Services may initiate the arrangement where it is in the public or the Government's interest to promote accessibility of public documents.

Section 705—Index and catalog of public documents

Section 705(a) provides that the Director of Distribution Services shall maintain a comprehensive cumulative index of public documents. This section reflects the necessity of having a full and complete listing of all public documents. Without such a centralized listing of all such documents, any information dissemination system will be fragmented, incomplete and will ill-serve its user community (the taxpayers). He also shall prepare and issue a periodic catalog which lists the prices and locations where the documents may be obtained. No specific interval for the periodic catalog is specified since available technology can make retrieval of such information instantaneous even today. Therefore, the Director, in consonance with regulations prescribed by the Commission, shall determine what is the most efficient and effective procedure for issuance of such a catalog.

Section 706 provides that receipts from the ment entity furnish the Director of Distribution Services whatever information is required in order to adequately compile a complete index and issue a catalog.

Section 706—Amounts received from sales

Section 705(b) requires that each Governsale of public documents shall be deposited in the NPA revolving fund, except that receipts in excess of costs of production and distribution shall be deposited in the U.S. Treasury as miscellaneous receipts.

Section 707—Depository libraries

Section 707(a)(1) provides that the Director of Distribution Services shall make available to all depository libraries all public documents. Depositories may select as many or as few documents as they choose. However, audio-visual materials shall be available only on a lending basis. There is no apparent necessity in allowing various depository libraries to establish extensive film collections. The lending program shall be run in consonance and cooperation with the National Audiovisual Center and contemplates depositories acting as the agents of the NAC. User fees and charges of the NAC will be paid for by funds allocated to the NPA for the support of the depository library program. He also shall provide reference, referral and support services to depository libraries with respect to public documents. It is expected that the Director of Distribution Services will devise various cooperative programs in training, lending and other support procedures to maximize the professional ability of depositories to facilitate public access to government information.

Section 707(a)(2) provides that when public documents are made available to depository libraries under 707(a)(1), the Director of Distribution Services shall provide the widest degree of choice both as to format—that is, paper, microform, on-line, etc.—and as to the source of such documents. For example, if the Director determines that it is more advantageous, cost-effective, useful or efficient to procure such documents from private commercial firms, then such sources may be utilized.

Section 707(b) provides that each Member of Congress may designate two libraries in his or her congressional district (Representatives) or state (Senators). Such designations continue existing law and provide an adequate basis for appropriate geographic distribution of depositories.

Section 707(c) provides that the head of each Government entity may designate one library of such entity as a depository library. This provision, in consonance with the definition of "Government entity" does not preclude the head of a large entity from designating more than one depository in major bureaus or other sub-units of an entity where such additional designations are useful and efficient.

Section 707(d) provides depository library designation for (1) the specifically-named military-educational institutions; (2) the library of each land grant college; (3) the library of the highest appellate court of each State, upon request; (4) the library of each accredited law school, upon request; (5) the State library of each State.

Section 707(e)(1) provides that each library designated as a depository must meet certain criteria in order to receive and maintain such a designation. Each such librar must be able to provide adequate custod and service of the public documents and insure free public access to them. The Directo of Distribution shall conduct periodic inspection and continuing oversight of all depositories in order to ensure compliance.

Section 707(e)(2) provides that in making a designation under section 707(b), a Member of Congress may not select a library in an area which is already adequately served by the depository library system.

Section 707(f) defines the term "accredited law school" for the purposes of depository library designation. The definition continues the language and concept embodied in current law.

Section 708—Information to be specified in free public documents

Section 708(a) provides that publications which are given away without direct charge to the recipient must contain certain information. The information must include the name of the issuing entity, the appropriations act providing the funds for its production and distribution, and the amount reflecting price which would have been charged if the publication were sold. The intent of this section is to promote accountability through disclosure of information pertinent to the cost of production.

Section 708(b) provides that the information required by 708(a) does not need to be added on documents which are supplied without charge to the depository library program.

CHAPTER 9—PUBLIC PRINTING SERVICES AND DISTRIBUTION OF PUBLIC DOCUMENTS FOR THE CONGRESS

Section 901—Control of public printing services and distribution of public documents for the Congress

Section 901(a)(1) provides that the Committee on House Administration and the Senate Committee on Rules and Administration shall have the authority to control by regulation the public printing services and distribution of public documents and other materials for their respective bodies. However, public documents of the Congress shall be available to the depository library system.

Section 901(a)(2) provides that the Committee on House Administration and the Senate Committee on Rules and Administration shall have the authority to control by joint regulation public printing services and distribution of public documents and other materials relating to and for the use of both bodies. However, public documents of the Congress shall be available to the depository library system. This section addresses matters such as the style and format of such joint publications as the *Congressional Record*.

Section 901(b) provides that the regulations prescribed by the Committees under section 901(a) shall address the production of the documents specifically named in Chapter 9 and such other materials as are necessary to meet the needs of Congress.

Section 902—Use and payment of public printing services and distribution of public documents for the Congress

Section 902 provides that all public printing services and distribution of public documents for the Congress must be (1) for official purposes only, and (2) paid for from funds appropriated for Congress for official purposes.

Section 903—Congressional Record

Section 903(a) provides that the National Publications Agency shall prepare both a daily and permanent edition of the *Congressional Record*. The *Record* shall include (1) a substantially verbatim report of the proceedings, (2) a daily index and appropriate cumulative indexes arranged by subject and by Member, (3) a daily digest consisting of a brief summary of the scheduled Congressional activities for the day and (4) a statement of the forthcoming legislative program as well as scheduled committee meetings and hearings. This section largely continues existing Joint Committee on Printing regulations on the *Record*, but includes the new feature providing indexes which will help make the *Record* a far more easily used working tool.

Section 903(b) provides that the daily edition of the *Record* shall be made available as soon as is possible on the day following the date of the proceedings.

Section 903(c) provides that the *Record* be mailed at rates commensurate with rates available to those of other newspapers or periodicals which have paid subscription lists.

Section 904—Congressional Directory

Section 904 provides that there shall be prepared by the National Publications Agency the Congressional Directory, which shall be made available as early as possible during the first session of each Congress. This section continues present law except that only one edition per Congress will be produced in order to save the cost of a largely duplicative edition for the second Congressional session.

Section 905—Miscellaneous congressional documents

Section 905 provides specifically for the printing of an enumerated list of public documents relating to the Congress. This list does not preclude in any way the preparation of other materials, but simply states the essential character of the documents involved. It is felt that these documents represent the minimum of what the Congress needs to function properly. Most of the list is carried over from current law and includes (1) bills and resolutions, (2) Acts of Congress, (3) treaties, (4) the Journals of the House and the Senate, (5) the Senate Manual and the House Rules and Manual, (6) United States Statutes at Large, (7) franks and envelopes of Members of Congress and (8) the Biographical Directory of the American Congress.

CHAPTER 11—INFORMATION RESOURCES MANAGEMENT

Section 1101—Information resources managers

Section 1101(a) provides that the head of each Government entity shall designate from among existing officers and employees of the entity an information resources manager. The information resources manager shall be responsible for (1) coordination with the Director of Production Services of public printing services for the entity, (2) certification of the Director of Production Services that printing requested by the entity is authorized by law and necessary to public business, (3) coordination with the Director of Distribution Services of distribution of public documents for the entity, (4) furnishing such information as the Director of Distribution Services requires to properly compile a comprehensive index of Government publications and a periodic catalog as is mandated by section 705, and (5) assuring compliance of the entity involved with the requirements of this title.

Section 1101(b) provides that each information resources manager shall report directly to and be under the control of only the head of the entity involved with regard to the duties which are to be carried out as information resources manager. This section is not designed to interfere with agency managerial organization charts, but rather is intended to place the position of accountability for these matters at a high level. The delegation of responsibility internally is not precluded, but the focal point of accountability will be the information resources manager.

Section 1102—Requirement for certification of necessity

Section 1102 requires that the Director of Production Services may not perform any printing services for an entity until certification from the information resources manager is received with regard to authority under law and necessity, as is prescribed by section 1101(a)(2).

Section 3(a) of the bill conforms the table of chapters of title 44 United States Code to reflect the changes made by this bill.

Section 3(b) of the bill repeals existing chapters 17 and 19 of title 44.

Section 4 of the bill requires an annual authorization of appropriations to carry out the functions required by this bill. Currently, the Government Printing Office as a part of the legislative branch of Government does not have to undergo an authorization process.

Section 5(a) of the bill provides that except as otherwise indicated by this bill all of the functions of the current Government Printing Office are transferred to the National Publications Agency (as created by section 301 of title 44 as enacted by section 2 of this bill). Further, all of the management functions of the Joint Committee on Printing are transferred to the National Publications Agency.

Section 5(b) of the bill provides that except as otherwise provided the oversight functions performed by the Joint Committee on Printing are transferred to the appropriate legislative committees of jurisdictions in the House of Representatives and in the Senate.

Section 6 of the bill transfers all of the financial commitments and obligations and other matters with respect to the Government Printing Office revolving fund, to the newly created National Publications Agency revolving fund. This section effects a financial continuity from the GPO to the NPA.

Section 7 of the bill provides that the original submission of regulations by the National Publications Agency shall be a comprehensive body of regulations which will outline a workable program. The intent is to prevent the submission of fragmented or piecemeal regulations which would not allow for adequate review of the full context of the NPA's policies. Such body of regulations shall be subject to the same Congressional and Presidential review period as is described in section 307. The regulations prescribed under this section shall not take effect prior to the effective date of the Act.

Section 8 of the bill transfers the personnel of the Government Printing Office, the personnel of the Joint Committee on Printing who index the ***Congressional Record,*** **and** all financial obligations, property, assets and liabilities including appropriations, to the National Publications Agency.

Section 9 of the bill provides for the abolition of the Government Printing Office, and further provides that all references to GPO or its statutory officers in current laws, regulations, resolutions or Executive orders shall be considered as referring to the National Publications Agency or its officers.

Section 10 of the bill provides for the abolition of the Joint Committee on Printing and further provides that all references to the JCP in current laws, regulations, resolutions or Executive orders shall be considered as referring to the appropriate committees of oversight in the House of Representatives and the Senate. All of the records of the Joint Committee on Printing are to be transferred to the appropriate Congressional committees except that records which are concerned with the management functions of JCP shall be made available to the National Publications Agency in a manner provided for by the committees.

Section 11 provides that GPO printing plant workers and JCP indexers of the *Congressional Record* shall not be fired or reduced in pay or in grade as a result of the transfer of functions to the National Publications Agency under this Act.

Section 12 of the bill provides a variety of technical and conforming amendments which are intended to create a uniformity of treatment of departments, agencies and entities of Government as regards printing and distribution of public documents. The changes for the most part eliminate from the law special statutory exemptions from Title 44. Unless there is an overriding need or special circumstance surrounding such exemptions (such as the ability of the CIA to continue to print without NPA oversight) the exemption has been removed.

Section 13(a) of the bill provides that all rules, regulations, determinations or agreements which are in effect on the effective date of this act shall remain in effect until changed by the NPA or the committees of Congress involved.

Section 13(b) provides that notwithstanding the general continuation of matters under section 13(a) all regulations or waivers of regulations of the Joint Committee on Printing will cease to have effect one year after the effective date of the Act.

Section 13(c) provides that all legal causes of action or legal matters pending at the time of enactment of this Act shall maintain the same degree of validity as before.

Section 14 of the bill provides that the effective date of the Act shall be January 1, 1981. However, any time after the date of enactment, the members of the Commission may be nominated and appointed. Also, following such appointments, the initial comprehensive body of regulation to govern the operations of the NPA may be prescribed. With the approval of the Office of Management and Budget, funds made available to the GPO may be used to pay the compensation and expenses of the Commission members until such time as funds are otherwise made available.

Mr. Speaker, I hope that Members will take the time to study this important message that will have such a positive and far-reaching effect on the Federal Government's information access policies, public printing, and dissemination activities. It is action that is many years overdue. It deserves our enthusiastic support.●

CETA EXTENSION BILL

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. STEWART) is recognized for 5 minutes.

● Mr. STEWART. Mr. Speaker, I am today introducing a bill which will amend the Comprehensive Employment and Training Act of 1978 to extend the amount of time that a participant may spend in the public service employment program. My amendment would extend a participant's time in the PSE program from 78 weeks to 104 weeks. In areas where the rate of unemployment has exceeded the national rate of unemployment for the previous 3 months, a participant who faces termination may continue in the CETA PSE program for an additional 26 weeks.

Presently there are many indicators that show that the overall unemployment rate is on the rise and that the country is on the verge of recession. On September 30, 1979, the termination of more than 200,000 CETA PSE employees will only add to our recessionary problems. In the city of Chicago approximately 5,200 PSE employees' jobs are due to be terminated. These terminations are bound to have a more than adverse effect on the economy in Chicago.

Sixty-seven percent of those PSE employees in Chicago to be terminated are minorities, many of whom were considered structurally unemployed before they were employed through the CETA program.

Mr. Speaker, I want you to understand that I know CETA is not a permanent jobs program. Like many of you, I hope that this program will be phased out as the economy and the unemployment rate improve. However, I will not stand idly by while this situation exists. Nor, I think should the Congress.

I would like to stress most of all that the PSE jobs provided in many areas throughout the country do not give participants adequate job training to provide them with marketable skills in order to enter private sector employment. So, when a CETA participant's term of employment has ended he or she is right back where he or she started—looking for a job with no marketable skills.

Many CETA participants affected by the terminations also indicated that many jurisdictions were not complying with the spirit of the law because these jurisdictions in effect have been ignoring transitioning and counseling procedures that were mandated by the law.

Yes; I truly want to see every person provided gainful employment within the private sector, but the present economic situation will not allow for it. If we live up to the spirit of the Humphrey-Hawkins Full Employment Act of 1978 and teach the structurally unemployed marketable skills, those individuals on the CETA rolls will be able to make a smooth transition to private sector employment.

In conclusion I want to say that I do not want to see the more than 200,000 CETA PSE employees put back out on the streets. This would only help fuel a bad unemployment situation that already exists. Let us give these employees a little more time and demand that the Labor Department and the prime sponsors make a concerted effort to place these PSE employees in unsubsidized private sector jobs. Mr. Speaker, I urge the adoption of my bill.

DR. IOSIF BEGUN

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. DOWNEY) is recognized for 5 minutes.

● Mr. DOWNEY. Mr. Speaker, I have spoken before in this House about the plight of Dr. Iosif Begun, a Soviet citizen living in exile in his own country. I am sorry to say that Dr. Begun's situation has not improved. He is still forced to live thousands of miles from his wife and his son Boris. This man is a highly skilled engineer and a teacher of the Hebrew language, but he is forced to work in extremely primitive conditions as an electrician in the far northern area of the Soviet Union. His application for a teaching permit was turned down long ago by Soviet authorities, because, as he was told, Hebrew is not a recognized subject for study in the Soviet Union.

Iosif Begun now lives in what the Soviet courts call internal exile. This is a uniquely Soviet punishment in which an individual is sent thousands of miles away from his home and family to exist in a frozen wasteland for years at a time. A person in internal exile has lost everything that is dear to him despite the fact that he is not in prison and there are no bars on his windows. It is a particularly cruel punishment because of its very ambiguity.

What did Iosif Begun do to merit such harsh treatment? Well, he came to live in Moscow with his wife and son. He did this without a permit, and in the 19th century shadow world of Soviet society this is a crime. I often wonder if life for the ordinary people of Russia was really that much different under the czars than it is today in the new society of residence permits, travel permits, and internal exile. In any case, Dr. Begun was sentenced to 3 years of internal exile for wanting to live with his wife and child.

His wife, Alla Drugova, was allowed to visit her husband this summer, but the generosity of the Soviet authorities did not extend to providing living accommodations for her when she arrived. She found her husband, a doctor of science, working in extremely cold and dirty conditions and living in a dormitory apartment with four other manual laborers. It must have been difficult for her to think of living conditions in the winter months when temperatures reach 40° below zero. In August she returned to her home in Moscow without her husband.

What crimes have Iosif Begun and Alla Drugova committed that they should be forced to endure this kind of life in the final quarter of the 20th century? Apart from Iosif's desire to live in Moscow with his family, they can only blame their difficulties on the fact that they are educated, culturally and politically aware, and they are Jews. Iosif Begun took an interest in Jewish culture and history, and helped organize the 1977 Moscow Culture Symposium. In another country he would be giving lectures to young people, perhaps writing books, and practicing his craft as an engineer. In the Soviet Union today he is classed as a criminal and condemned to internal exile.

Unfortunately it is the treatment of Iosif Begun and other dissidents, intellectuals and Jewish citizens of the Soviet Union which we, as Members of Congress, must continually bear in mind in our dealings with that country. As they come closer to being our equals in many technical fields, the appalling gap between their concept of freedom and human rights and ours becomes ever more noticeable to us and to the rest of the world.●

SHATTER THE SILENCE, VIGIL 1979

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, I would like to bring to your attention the demoralizing dilemma which faces the Jews in the Soviet Union seeking asylum. Not only are they being harassed in the form of denial of employment and any type of political freedom, but they are also victims of a hypocritical denial of any basic human rights under the Soviet pretenses of perfect lawfulness.

The Helsinki Final Act of 1975 has been dodged and evaded by the Soviet Union, for it was supposedly intended as an aid in increasing the Soviet Jewish emigration movement. One prime example of this seemingly insurmountable plight can be seen through the eyes of Abba Taratuta, who was once a respected mathematician, but has now been demoted to elevator maintenance. He and his wife Ida, a schoolteacher, and their artistically talented son Misha have been denied asylum repeatedly since 1973 under the legally nebulous grounds of "state security." For this troubled family a rapidly diminishing ray of hope remains.

Other families share their prayers and anxieties, but with the continuation of the Soviets' ambiguous policies toward these people; namely, in the form of the Helsinki accords, and even the Soviet Constitution, Soviet Jews face the ongoing plight of oppression and virtually no basic human rights, which affects every aspect of their lives. I ask that you find in your heart compassion for the Taratuta family, and join me in a commitment to help Soviet Jews.●

MARITIME EDUCATION AND TRAINING ACT OF 1979

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. Murphy) is recognized for 10 minutes.

● Mr. MURPHY of New York. Mr. Speaker, today I have introduced the most comprehensive piece of legislation concerning maritime education and training in the history of the Merchant Marine and Fisheries Committee.

U.S.-flag merchant vessels can be no better than the officers that operate them. Deck officers navigate and control the ship, and engineering officers operate the engine room and keep the ship's mechanical and electrical systems working.

The U.S. Coast Guard regulates and administers the licensing of merchant marine deck and engineering officers. To qualify for a deck or engineering officer's license, a person must be a U.S. citizen; meet the Coast Guard's age, physical, and sea experience standards; and pass a comprehensive written examination. The original licenses are third-mate and third-assistant engineer, and the top licenses are master and chief engineer. The Coast Guard has established standards and requires written examinations for each licensing grade.

There are presently four sources of new Merchant Marine officers: The U.S Merchant Marine Academy; the six State maritime colleges or academies; the Calhoon MEBA School, and the "Hawsepipe." The Hawsepipe is a nautical term used by the maritime industry to refer to unlicensed seamen who, through self-study and on-the-job training, work their way up through the ranks, meet the Coast Guard's licensing criteria, and thereby receive their original deck or engineering officer's license.

The Merchant Marine Act, 1936, as amended provides that U.S.-flag merchant vessels shall be operated by trained and efficient persons. Pursuant to that act and other statutes, the Federal Government is actively engaged in various maritime education and training programs.

Section 216 of the Merchant Marine Act, 1936, mandates that the Secretary of Commerce maintain the U.S. Merchant Marine Academy at Kings Point, N.Y., for the instruction and preparation of officers for the merchant marine. The Academy provides a 4-year undergraduate program which leads to a bachelor of science degree and to a merchant marine license as third mate or third assistant engineer. Academy attendees are enrolled as midshipmen in the U.S. Naval Reserve, and, if eligible, are commissioned upon graduation as ensigns in the Naval Reserve. The Academy currently has an enrollment of about 1,100 students and graduates approximately 230 new merchant marine officers annually.

The Maritime Academy Act of 1958 authorizes the Secretary of Commerce to assist and cooperate with States in the operation and maintenance of maritime academies or colleges for the training of merchant marine officers. There are currently six schools participating in the program. They are located in California, Maine, Massachusetts, Michigan, New York, and Texas. With the exception of the school in Michigan, all offer 4-year undergraduate programs leading to a bachelor of science degree and a Coast Guard license as third mate or third assistant engineer. Graduates may also be commissioned as ensigns in the Naval Reserve. The school in Michigan offers a 3-year program with an associate of science degree, and its graduates receive either a first class Great Lakes' pilot's license or third assistant engineer's license from the Coast Guard. The State academies or colleges currently have a total enrollment of about 2,500 cadets and graduate approximately 500 new merchant marine officers a year.

The Calhoon MEBA Engineering School was established in Baltimore, Md., by the National Marine Engineers' Beneficial Association, AFL–CIO, the Nation's largest labor organization representing ship's engineering officers. The school trains students to become engineering officers in a 3-year program. Because there is no naval science training at the school, graduates are currently not eligible to become Naval Reserve officers. The Calhoon MEBA Engineering School currently has an enrollment of about 300 students, and graduates about 90 third-assistant engineers each year. However, the school could graduate approximately 200 third assistant engineers per year if an emergency demanded, without having to change the length of the course currently being taught.

In addition to the training provided at the U.S. Merchant Marine Academy and the State maritime academies or colleges, the Maritime Administration of the Department of Commerce has for a number of years provided safety related training, consisting of courses in radar, loran, gyrocompass, and firefighting, which are available to all active and entry rating merchant seamen and inland waterway personnel, at their regional training centers.

Mr. Speaker, as you can see, the area of maritime education and training is complex. Additionally, there had been a longstanding controversy over the extent to which the United States should rely on the Federal and State maritime academies or on union schools for the trained personnel needed by the U.S.-flag merchant marine; and over the extent to which the Federal Government should subsidize education in the different categories of institutions. Therefore, when I became chairman of the Merchant Marine and Fisheries Committee in the last Congress, one of the first things I did was appoint an Ad Hoc Select Subcommittee on Maritime Education and Training, with the Honorable Gerry E. Studds of Massachusetts as chairman (the Studds committee). The Studds committee also included the Honorable Mario Biaggi of New York; the Honorable Carroll Hubbard, Jr., of Kentucky; the Honorable Leo C. Zeferetti of New York; the Honorable Barbara Mikulski of Maryland; the Honorable Don Young of Alaska; and the Honorable David F. Emery of Maine.

I directed the Studds committee to study these problems in depth with a view to introducing remedial legislation in the Congress.

Over a 2-year period, the Studds committee held hearings and made an exhaustive study of problems associated with the Federal role in maritime education and training. Subsequently, a comprehensive report (serial No. 95–E) was submitted by the Studds committee to the Merchant Marine and Fisheries Committee. At this time, I would like to again commend my colleague from Massachusetts, and the other members of the committee who worked so hard to produce this very valuable report.

With the advent of the 96th Congress, I again appointed an Ad Hoc Select Subcommittee on Maritime Education and Training, with the Honorable Les AuCoin of Oregon as chairman (the AuCoin committee). The following Members serve on the AuCoin committee: The Honorable Don Bonker of Washington; the Honorable Norman E. D'Amours of New Hampshire; the Honorable Daniel K. Akaka of Hawaii; the Honorable John B. Breaux of Louisiana; the Honorable Don Young of Alaska; the Honorable David F. Emery of Maine; and the Honorable Robert W. Davis of Michigan.

For months now, the AuCoin committee has been working on draft legislation that would implement the recommendations of the Studds committee report. The Maritime Education and Training Act of 1979 is the result of their labors.

Mr. Speaker, this bill would recodify the existing provisions of law concerning maritime education and training that are currently set forth in the Merchant Marine Act, 1936, the Maritime Academy Act, 1958, the Civilian Nautical School Act, and the numerous other provisions of law scattered throughout title 46 of the United States Code. Additionally, the above recodified statutes have been amended to implement the recommendations of the Studds committee. Most of these amendments pertain to the operations of the U.S. Merchant Marine Academy at Kings Point, N.Y.; and the six State maritime academies or colleges located in Maine, Massachusetts, New York, California, Texas, and Michigan. As so amended, the recodified statutes are set forth as a new title, title XIII, in the Merchant Marine Act, 1936.

Chairman AuCoin plans to hold comprehensive hearings on the bill in the near future. As in any recodification, the bill closely conforms to existing law. However, the provisions implementing the Studds committee recommendations are intended to promote a full and fair hearing on the various issues involved. I am confident that based on the information developed at these hearings the AuCoin committee will be able to improve upon the bill I am introducing today.

Mr. Speaker, I am very pleased to introduce this bill today, and wish to commend again both the Studds committee and the AuCoin committee for their outstanding work in developing this legislation.●

Mr. AuCOIN. Mr. Speaker, I am honored today to join my colleague from New York, Congressman John M. Murphy, the distinguished chairman of the Committee on Merchant Marine and

Fisheries, in introducing the Maritime Education and Training Act of 1979.

This landmark legislation deals comprehensively with the Federal role in educating and training merchant marine officers. The United States needs a strong merchant marine, both in peacetime as one of the major seagoing nations of the world as well as in time of war to provide an essential naval auxiliary capability.

To have a strong merchant marine requires an adequate supply of well-trained deck and engineering officers. The goal of this legislation is to provide for this supply of officers in an orderly, timely, and responsible fashion.

As chairman of the Ad Hoc Select Subcommittee on Maritime Education and Training, I have been working on drafting this bill since February in close cooperation with Congressman Murphy.

In the 95th Congress, the subcommittee was chaired by Congressman Gerry Studds of Massachusetts. Under his astute leadership the subcommittee conducted a far-reaching examination of maritime education and training in the United States, resulting in the Oversight Report on the Federal Government's Role in Merchant Marine Officer Education (serial No. 95–E).

The legislation being introduced today implements the recommendations of the oversight report, and thereby accomplishes two very important objectives. The first is a complete recodification of statutes dealing with merchant officer education. Previously, these provisions have existed in a variety of laws. This legislation brings these provisions together consistently into a single act. The second objective is to incorporate into law the large number of remedial changes detailed in the oversight report.

The subcommittee will conduct extensive hearings in the near future. The legislation being introduced today provides a framework and point of departure. It is an important step. As Chairman Murphy has pointed out, the hearings will lead to refinement of the bill.

Two issues in particular that the hearings will examine are the nominations and appointment procedures at the U.S. Merchant Marine Academy and the seagoing obligations of graduates from both the U.S. Merchant Marine Academy and the six State maritime academies. There have been abuses in the past in these areas. The abuses will be corrected.

This legislation is the most complete and thorough attention ever accorded maritime education and training. This legislation is important and significant. I look forward to its speedy passage.

PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Ms. Ferraro) is recognized for 5 minutes.

● Ms. FERRARO. Mr. Speaker, due to the President's trip to New York Tuesday I was unavoidably absent from the House. Had I been present I would have voted as follows:

On rollcall No. 500, to authorize the sale to certain foreign nations of certain excess naval vessels: "yes."

On rollcall No. 501, to authorize special Caribbean hurricane relief assistance: "yes."

On rollcall No. 502, expressing the sense of Congress that the President should express the disapproval of the American people of interruption of mail sent to the Soviet Union: "yes."

On rollcall No. 504, ordering the previous question during consideration of House Joint Resolution 404: "yes."

On rollcall No. 505, on final passage of House Joint Resolution 404, making continuing appropriations for fiscal 1980 and providing for a congressional pay increase: "no."

On rollcall No. 506, an amendment to H.R. 4034, the Export Administration Act, to remove the restriction on the sale to foreign nations of Alaskan oil in some cases: "no." ●

H.R. 1776 HONOR ROLL—MORE THAN A MAJORITY

The SPEAKER. Under a previous order of the House, the gentleman from Georgia (Mr. Levitas) is recognized for 5 minutes.

Mr. LEVITAS. Mr. Speaker, I rise today to inform the Nation and the leadership of this House that more than a majority of the Members of the House have now become cosponsors of H.R. 1776, the Administrative Rule-Making Control Act. Specifically, 225 of our colleagues have thus far joined the H.R. 1776 honor roll. By doing so, these Members have signaled their intention to help reaffirm the authority of the Congress to write our laws.

A veritable tidal wave of support is now overwhelming the opposition to the legislative veto.

I believe that the citizens of our country will be pleased to learn that they have now been joined by a majority of the Members of this body in the effort to restore to the Congress its lawmaking authority. Our constituents have been the ones who have suffered under the laws written and imposed by unelected bureaucrats, and they have made it clear that they want this situation to end. They want their laws made by people they can see, talk to and vote for or against; they want their laws made by the Congress. And now they have new hope because more than a majority of the House have joined in this effort.

This fact should also be noted by the leadership of the House. It should serve as a signal that the time has come to take action, not just talk, on H.R. 1776. The House has already added the legislative veto to over a dozen pieces of legislation, but this piecemeal, albeit essential, approach leaves us with a hodgepodge of authority when uniformity is needed. The Congress should have the power to review and consider all of our laws, both the statutes themselves and the regulations written under them. H.R. 1776 will give Congress that authority.

The question is still a simple one but a fundamental one: Who makes the laws in this country, the elected Congress or the unelected bureaucracy?

The legislative veto, as embodied in H.R. 1776 would simply allow the elected Congress to review and, if necessary, veto any rule or regulation, having the force of law, issued by the unelected bureaucracy.

The House leadership must now recognize the wide base of support for H.R. 1776. Both in the House and with the public at large, this support crosses regional, ideological and partisan lines. We cannot and should not ignore the will of a majority of our people or the will of a majority of our colleagues. It is time to put an end to legislating by administrative fiat.

It is time to act on H.R. 1776. We will be watching what happens. The American people will be looking to see the dispatch with which their desires and those of a majority of the House are given effect under our system of representative Government.

The following is a list of those Members who have joined the H.R. 1776 honor roll. I welcome our other colleagues to add their names to this list:

H.R. 1776 Honor Roll

Mr. Abdnor, Mr. Alexander, Mr. Albosta, Mr. Ambro, Mr. Anderson (CA).

Mr. Andrews (ND), Mr. Andrews (NC), Mr. Anthony, Mr. Applegate, Mr. Archer.

Mr. Atkinson, Mr. AuCoin, Mr. Badham, Mr. Bafalis, Mr. Barnard.

Mr. Bauman, Mr. Benjamin, Mr. Bennett, Mr. Bereuter, Mr. Bethune.

Mr. Bevill, Mr. Blanchard, Mr. Boner (TN), Mr. Bonior (MI), Mrs. Bouquard.

Mr. Bowen, Mr. Breaux, Mr. Brinkley, Mr. Brodhead, Mr. Brown (OH).

Mr. Broyhill, Mr. Buchanan, Mr. Burgener, Mr. Butler, Mrs. Byron.

Mr. Campbell, Mr. Carr, Mr. Cavanaugh, Mr. Chappell, Mr. Clausen.

Mr. Cleveland, Mr. Coelho, Mr. Coleman, Mrs. Collins (IL), Mr. Corcoran.

Mr. Coughlin, Mr. Courter, Mr. Crane (IL), Mr. D'Amours, Mr. Daniel, Dan (VA).

Mr. Daniel, Robert (VA), Mr. Dannemeyer, Mr. Daschle, Mr. Davis (SC), Mr. Derwinski.

Mr. Devine, Mr. Donnelly, Mr. Dornan, Mr. Dougherty, Mr. Duncan (TN).

Mr. Duncan (OR), Mr. Edwards (OK), Mr. Emery, Mr. English, Mr. Erdahl.

Mr. Evans (GA), Mr. Evans (IN), Mr. Evans (DE), Mr. Fazio, Mrs. Fenwick.

Ms. Ferraro, Mr. Findley, Mr. Fish, Mr. Fithian, Mr. Flippo.

Mr. Forsythe, Mr. Fountain, Mr. Fowler, Mr. Frenzel, Mr. Frost.

Mr. Fuqua, Mr. Gaydos, Mr. Gephardt, Mr. Gilman, Mr. Gingrich.

Mr. Ginn, Mr. Glickman, Mr. Goldwater, Mr. Gradison, Mr. Gramm.

Mr. Grassley, Mr. Grisham, Mr. Gudger, Mr. Guyer, Mr. Hagedorn.

Mr. Hall (TX), Mr. Hamilton, Mr. Hance, Mr. Hansen, Mr. Hefner.

Mr. Heftel, Mr. Hightower, Mr. Hinson, Mr. Holland, Mr. Hollenbeck.

Mrs. Holt, Mr. Hopkins, Mr. Hubbard, Mr. Huckaby, Mr. Hughes.

Mr. Hutto, Mr. Hyde, Mr. Ichord, Mr. Ireland, Mr. Jacobs.

Mr. Jeffries, Mr. Jenkins, Mr. Jenrette, Mr. Jones (TN), Mr. Jones (OK).

Mr. Jones (NC), Mr. Kemp, Mr. Kildee, Mr. Kindness, Mr. Kramer.

Mr. Lagomarsino, Mr. Leach (IA), Mr. Leach (LA), Mr. Leath, Mr. Lee.

Mr. Lent, Mr. Livingston, Mr. Lloyd, Mr. Loeffler, Mr. Long (MD).

Mr. Lott, Mr. Lujan, Mr. Luken, Mr. Lungren, Mr. Madigan.

Mr. Marriott, Mr. Martin, Mr. Mathis, Mr. Mattox, Mr. Mazzoli.

Mr. Mavroules, Mr. McDonald, Mr. McKay, Mr. McKinney, Mr. Mica.

Ms. Mikulski, Mr. Mineta, Mr. Mollohan, Mr. Montgomery, Mr. Moore.

Mr. Mottl, Mr. Murphy (PA), Mr. Myers (IN), Mr. Neal, Mr. Nedzi.

Mr. Nichols, Mr. Nolan, Mr. Nowak, Mr. O'Brien, Mr. Panetta.

Mr. Pashayan, Mr. Patterson, Mr. Pepper, Mr. Price, Mr. Pritchard.

Mr. Quayle, Mr. Rahall, Mr. Ratchford, Mr. Regula, Mr. Roberts.

Mr. Robinson, Mr. Roe, Mr. Rose, Mr. Roth, Mr. Rousselot.

Mr. Rudd, Mr. Runnels, Mr. Russo, Mr. Santini, Mr. Schulze.

Mr. Sensenbrenner, Mr. Sharp, Mr. Shelby, Mr. Shumway, Mr. Skelton.

Mr. Slack, Mrs. Snowe, Mr. Snyder, Mr. Solomon, Mrs. Spellman.

Mr. Spence, Mr. Stangeland, Mr. Steed, Mr. Stockman, Mr. Stump.

Mr. Synar, Mr. Symms, Mr. Tauke, Mr. Thomas, Mr. Trible.

Mr. Volkmer, Mr. Walker, Mr. Watkins, Mr. White, Mr. Whitehurst.

Mr. Whitley, Mr. Whittaker, Mr. Williams (OH), Mr. Wilson (CA), Mr. Wilson (TX).

Mr. Winn, Mr. Wolff, Mr. Wolpe, Mr. Won Pat, Mr. Wyatt.

Mr. Wylie, Mr. Yatron, Mr. Young, (AK), Mr. Young (MO), Mr. Zeferetti.

THE MISADVENTURES OF THE RADICAL MINORITIES

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 60 minutes.

● Mr. ASHBROOK. Mr. Speaker, the average hardworking, productive, and patriotic American must be sickened by the specter of radical, vocal minorities traveling around the country and the world, engaging in diatribes against our country, lining up with terrorists and assassins and openly exploiting anti-American interests. Even worse, the media seems to give regular play to the leftists who ply their trade in a 1979 version of George Orwell's 1984 "doublethink." Remember that George Orwell told us that war is peace, slavery is freedom and ignorance is strength.

Content in the belief that most Americans either do not care or cannot understand the true nature of their misadventures, militant and radical minorities are on the march just about everywhere it would seem. Their game is not merely one of mischief. They are playing for big stakes and we should recognize that.

When you see Jesse Jackson or the Southern Christian Leadership Conference (SCLC) arm in arm with terrorists, Jane and Tom Hayden trying to revive their pro-Communist Vietcong mission in a whirlwind tour of the 50 States and our ingrate Ambassadors to the United Nations flat out telling us that they relate to the Third World and not the good old U.S.A., it makes you realize that the doublethink has arrived. Their tired brand of radicalism is being packaged, in doublethink fashion, as imaginative, democratic and above all, as working for peace.

I have been calling this to the attention of the vast majority of people who do not associate with this leftist tripe. Most of these leftists and their organizations could not muster a corporal's guard if it were not for their glorification in the press.

Take the SCLC. That notorious group has never had anything other than agitation going for it. They have lined up with every leftist group and cause in the country and until recently their little band was about defunct. Then they hit on a bright idea of being world leaders and negotiators. They should have been laughed back into oblivion but, alas, one night in August they emerged on television as spokesmen—whoever made them spokesmen for anything or for anyone—who were sitting down with Yasser Arafat, one of the real murderers and charlatans of our time, plying their trade as troublemakers in the sensitive Mideast. This time international, not just regional or national troublemaking.

Arafat is the man who is proud to kill innocent people at the Munich Olympics or on any street corner. The Israelis properly have little or nothing to do with him. Have you noticed the one concession these politically inspired emissaries tried to get from him and could not. Think of it, just the concession that a country, namely Israel, has the right to exist. Not asking much for anyone with even a passing interest in human rights but this self-appointed group of misguided missionaries of radicalism could bow and scrape before him as if he were some sort of new god.

They could pause in Libya and give the Martin Luther King Medal to that bloody dictator, Colonel Khadafy, whose main contribution to Mideast peace is his continuing effort to assassinate Sadat. As the Dayton Daily News wrote in their September 23 editorial:

> It is one thing to listen to the little Hitlers and Stalins of the world and another to honor them. Col. Khadafy came to power not by brotherly love but by the gun which he loves to use and his regime has sponsored and advocated killing and hatred throughout the Middle East and elsewhere.

Fine as far as it goes, what the Dayton Daily News does not tell you is the simple historic fact that these minority groups use "brotherly love" or civil rights or humanitarian concerns as the cover for their deception and then cozy up to terrorists, Communists, subversives or any radical enemy of this country under the protective cover of those code words. They can be safe in the knowledge that CBS, the New York Times, and all those other great sentinels of the first amendment will either look the other way or refuse to print the truth.

Just this past Sunday the New York Times started another rewriting of history, this time about J. Edgar Hoover. Now they will paint him as a tyrant, enemy of the people and so forth. Will they apply that same attention to Martin Luther King or to a Jane Fonda or Jesse Jackson. You can bet they will not. Will you ever get from their reports a true appraisal of their perfidy. Of course not.

I have no real problem, as the Dayton Daily News does, with Colonel Khadafy receiving the Martin Luther King Medal from the SCLC. The three fit like a glove. King was the great expert in doublethink in this century, carrying on the same deceptive illusion that he was inspired by divine motive while on other levels working with our Nation's enemies and fostering anti-Americanism, a hatred of the police and Government. The SCLC is in that tradition and their duplicity can be understood if you only study their infamous history.

Then there is Mayor Jackson of Atlanta who raised funds for another terrorist murderer, Joshua Nkomo, who proudly boasts of shooting down unarmed civilian planes. Nkomo is cheered when he calls for killing and terrorism in a commencement address in the South.

Expect no decency or Americanism from these leftist minorities or the foreign demagogues they promote. They have made their program perfectly clear. They are part of a militant group in our country which is pleased when OPEC raises their oil prices to the United States. They are pleased when Nigeria threatens to cut off our oil. They want us to fail and are working for that failure, economically and domestically at home as well as internationally.

Now this very week we have the additional misadventures of minority groups in going straight to the President of Mexico to lobby for the interests of illegal aliens in this country. Think of that. Tell me how that helps the hardworking steelworker in Lorain or the farmer in Ashland. One of these days the steelworker in Lorain and the farmer in Ashland will wake up to the realization of what these enemies of our system are doing to them and to our country.

As if this were not bad enough, enter Tom Hayden and Jane Fonda. Now there is a real pair of Americans. Nothing short of a Soviet America would satisfy them. Their misadventures would add comic relief if it were not for the fact that they are being taken seriously by all too many.

Their mission is to spread the same anti-American diatribes which they made when working against our country and for our enemies a decade ago. Sad to say, much of this misadventure is being financed by colleges through honorariums. Talk shows regularly lionize them and give them a forum to promote their doublethink.

I remember 13 years ago when I heard Dick Gregory, the sick comedian, urging a college audience in my district to tear this country down, brick by brick. I was sickened that they took his radical rhetoric in stride. He is still out there, plying his same anti-American trade. He went to Cleveland earlier this month and told an audience that desegregation will work "even if they have to kill those white folk." Or another sick comedian, Richard Pryor, urging blacks to go to Africa to kill whites.

A TELLING BENCHMARK

There is one telling benchmark that the good American out there should follow in trying to understand all of this deception as the radical minorities pursue their misadventures at home and abroad. They honor those who tear down freedom, who oppose our American system and systematically work for our destruction. Jane Fonda will attack America at the drop of an isotope but she will be strangely—or not so strangely silent—when a Soviet satellite drops in

Canada with dangerous nuclear radiation.

They will honor those who riot in New York but shed not a tear or care a bit for the fireman or policeman's wife who mourns her husband, lost in a riot. They care not a bit for the pilot's wife and family when he is shot by the terrorist but let the terrorist die and they will march in mourning. The left is the same all over the world and the American left identifies with other leftists time after time, issue after issue, and technique after technique. Let the Soviet Union call for a ban on testing in the atmosphere and the American leftists march to the same tune. Now their tune is antinuclear and watch them toe that line.

An anti-Israel and pro-PLO stance is the Communist line now. Watch the American left line up for Arafat. Of course, there will always be some distinguished and fine Americans who are pro-PLO and pro-Arafat or antinuclear. I am not speaking of them. I am referring to that gaggle of anti-American leftist minority groups which has consistently marched to the distant drummer from Moscow.

Note how all of these minority groups adhere to those who propose violence as a solution to problems they perceive to confront us. Violence is being made credible by the left. Conservatives have always opposed it and we continue to oppose it. Beware of the traveling minorities in and out of our country who advance the cause of terrorism and violence. Be even more careful of those who do it under the guise of civil rights or humanitarian concerns.●

PERSONAL EXPLANATION

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. HANLEY. Mr. Speaker, I was unavoidably detained from Washington yesterday afternoon, September 26, on official Post Office and Civil Service Committee business. I returned to the Chamber too late to cast my vote on rollcall No. 509, agreeing to the conference report on H.R. 111, the Panama Canal Act of 1979. Had I been present I would have voted "aye."

I would have voted "no" on rollcall No. 510, the Rousselot amendment to the temporary public debt limit bill and "aye" on rollcall No. 511, final passage of that measure.

The House voted last week on both the Panama Canal bill and the public debt ceiling bill. At that time I was present in the Chamber and voted for both measures. I also served as a conferee on the Panama Canal bill.●

REPORT OF THE SELECT COMMITTEE ON ASSASSINATIONS

(Mr. STOKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. STOKES. Mr. Speaker, as the former chairman of the Select Committee on Assassinations, I rise to bring to the attention of my colleagues information that they might find of interest. The final report of the committee as well as its hearings with appendices are available from the Government Printing Office. I have received a number of inquires about them. I include in the RECORD at the conclusion of my remarks the address that interested persons should write and the stock numbers and prices for the various volumes.

Mr. Speaker, I also want to report to the House on another matter relating to the work of the committee. I have been in touch with the Attorney General's office and have arranged to meet with him to discuss what actions the Department of Justice will take in response to the recommendations of the committee. That meeting will take place after the various divisions of the Department have had the opportunity to analyze our work. I will report to the House the results of our meeting.

Mr. Speaker, turning again to another subject, the work of the committee has not been received without controversy. That is to be expected in a free society. I regret to inform the House, however, that I see a pattern developing of uninformed criticism. It is to be particularly regretted that some of this criticism stems from individuals associated with the Warren Commission. The committee did not reach a harsh judgment on the work of the Commission, even though the committee concluded that the Commission was in error on the question of conspiracy in the President's death. The committee concluded:

> [C]riticism leveled at the Commission had often been biased, unfair, and inaccurate . . . [T]he Committee believed that the prevailing opinion of the Commission's performance was undeserved. (Final Report, p. 257)

The committee also observed:

> Contrary to the allegations of some critics, the Commission was not part of a sinister Government cover-up of the truth. The Committee found that the Commission acted in good faith, and the mistakes it made were those of men doing the best under difficult circumstances. (Final Report, p. 258)

Nevertheless, public criticism has been made of the committee's report that reflects such a profound lack of understanding of the report and its underlying evidence that I am moved to say to our critics the obvious: First read, then criticize.

In this connection, I would like to draw to the attention of my colleagues three recent attacks on the report and replies made to them by the committee's former chief counsel.

I include the following in the RECORD: A list of the volumes of the committee's report; and a series of articles and letters dealing with the report.

SUPERINTENDENT OF DOCUMENTS, U.S. GOVERNMENT PRINTING OFFICE, WASHINGTON, D.C.

Title	Stock No.	Price
Investigation of the Assassination of Martin Luther King, Jr., hearings:		
Vol. 1	052-070-04768-2	$4.25
Vol. 2	052-070-04769-1	4.75
Vol. 3	052-070-04770-4	5.00
Vol. 4	052-070-04844-1	4.00
Vol. 5	052-070-04875-1	5.75
Vol. 6	052-070-04876-0	5.00
Vol. 7	052-070-04877-8	6.90
Vol. 8	052-070-04878-6	5.75
Vol. 9	052-070-04898-1	4.75
Vol. 10	052-070-04899-9	5.50
Vol. 11	052-070-04900-6	4.50
Vol. 12	052-070-04897-2	3.25
Vol. 13	052-070-04976-6	6.50
Investigation of Assassination of John F. Kennedy, hearings:		
Vol. 1	052-070-04903-1	5.25
Vol. 2	052-070-04904-9	4.75
Vol. 3	052-070-04905-7	5.50
Vol. 4	052-070-04906-5	5.00
Vol. 5	052-070-04907-3	6.00
Vol. 6	052-070-04977-4	6.50
Vol. 7	052-070-04978-2	7.50
Vol. 8	052-070-04979-1	7.50
Vol. 9	052-070-04980-4	14.00
Vol. 10	052-070-04981-2	5.50
Vol. 11	052-070-04982-1	9.00
Vol. 12	052-070-04983-9	11.00
Legislation and Administrative Reform, hearings:		
Vol. 1	052-070-04908-1	5.25
Vol. 2	052-070-04944-8	7.00
Findings and Recommendations of House Assassinations Committee (final report; H. Rept. 95-1828, pt. 2)	052-071-00590-1	6.50
Total		172.15

[The Kennedy Assassination]

THE SECOND-GUNMAN SYNDROME

(By David W. Belin)

On Friday December 29, 1978 the House Select Committee on Assassinations published its "Summary of Findings and Recommendations." The orchestration was perfect. The release was embargoed "until 12:00 midnight, Saturday December 30, 1978 or for publication in A.M. editions of newspapers dated Sunday December 31, 1978."

The Committee wanted to make sure every Sunday morning paper in the United States carried a front-page story on the dramatic conclusion it had reached: There was an unseen second gunman standing in an area known as the grassy knoll who according to the Committee, fired a single shot at President Kennedy. Although the shot was from close range it missed President Kennedy; it missed Governor Connally and everyone else in the presidential limousine; it even missed the limousine. Nevertheless, a second gunman automatically meant that there was a conspiracy in the assassination of President Kennedy.

To be sure the Committee was forced to conclude, as did the Warren Commission, that it was Lee Harvey Oswald who fired the shots that struck President Kennedy and Governor Connally. This was confirmed in the first section of the findings of the House Select Committee on Assassinations:

I. Findings of the Select Committee on Assassinations in the Assassination of President John F. Kennedy in Dallas, Texas, November 22, 1963.

A. Lee Harvey Oswald fired three shots at President John F. Kennedy. The second and third shots he fired struck the President. The third shot he fired killed the President.

1. President Kennedy was struck by two rifle shots fired from behind him.

2. The shots that struck President Kennedy from behind were fired from the sixth-floor window of the southeast corner of the Texas School Book Depository Building.

3. Lee Harvey Oswald owned the rifle that was used to fire the shots from the sixth-floor window of the southeast corner of the Texas School Book Depository Building.

4. Lee Harvey Oswald, shortly before the assassination had access to and was present on the sixth floor of the Texas School Book Depository Building.

5. Lee Harvey Oswald's other actions tend to support the conclusion that he assassinated President Kennedy.

But then the Committee went on to state, in the next division of its summary:

> B. Scientific acoustical evidence establishes a high probability that two gunmen fired at President John F. Kennedy. . . .

When I first read the newspaper reports of the conclusions of the Select Committee, I was shocked at how readily the Committee had swallowed hook, line, and sinker, the erroneous testimony of the so-called acoustical experts. They initially claimed there was a 50 per cent possibility that a second gunman fired at President Kennedy. Later, this was changed to a 95 per cent possibility. But regardless of whether they say it was a 50 per cent possibility or a 95 per cent possibility, the truth is to the contrary. There was no second gunman.

The only gunman seen at the time of the assassination was the gunman whom witnesses saw fire from an upper-story window of the Texas School Book Depository (TSBD) Building. When the police went inside to search the building and came to that window, which was located on the southeast corner of the sixth floor, they found three cartridge cases. As the police continued their search in the TSBD Building, they found a rifle, stuck between cartons of books near the back stairway on the sixth floor. Irrefutable ballistic evidence proved that the cartridge cases found by the assassination window came from that rifle, to the exclusion of all other weapons in the world.

Similarly, inside the presidential limousine there were two ballistically identifiable fragments of the bullet that struck President Kennedy's head. These bullet fragments came from that rifle. At Parkland Memorial Hospital there was a nearly whole bullet that dropped off Governor Connally's stretcher. This bullet came from that rifle.

Who owned the rifle? Lee Harvey Oswald. It was relatively easy to trace the ownership of the rifle through the serial number. The Warren Commission obtained copies of the order blank used to purchase the rifle through the mail. It was in Oswald's writing. We had copies of the postal money order used to pay for the rifle. This was in Oswald's writing. The rifle was shipped to Oswald's post office box.

There was another weapon shipped to that same post office box. This was the pistol used in the murder of Dallas Police Officer J. D. Tippit, which occurred approximately 45 minutes after the assassination of President Kennedy. I have called the Tippit murder the "Rosetta Stone to the solution of President Kennedy's murder."

A Dallas citizen, Johnny Calvin Brewer, who worked in a shoestore near the scene of the Tippit murder, was the key witness in the apprehension of Oswald. He heard about the murder on the radio, then heard police sirens coming down the street and a suspicious-looking person duck into his store-front area and stay there until the police sirens ebbed. Then the person, who turned out to be Oswald, left the shoestore and sneaked into the Texas Theater, a few doors away. Brewer followed Oswald into the theater and had the cashier call the police.

When the police arrived, the house lights were turned on, and Brewer pointed out Oswald. As policemen approached, Oswald pulled out a revolver. Carrying a concealed gun is a crime. The fact that Oswald had such a weapon on his person and drew it in those circumstances is, in itself, highly suspicious.

Irrefutable scientific evidence proved that this revolver, to the exclusion of all other weapons in the world, was the weapon that discharged the cartridge cases that witnesses saw the murderer of Officer Tippit toss away as he left the scene of the murder. In addition there were six eyewitnesses who saw Oswald either at the Tippit murder scene or running away from it, gun in hand, and who conclusively identified Oswald as the gunman.

The combination of Oswald's actions at Brewers shoestore and in the theater, coupled with the scientific ballistics testimony linking this gun with the murder of Tippit, coupled with the positive identification by six independent eyewitnesses, makes the solution to the Tippit murder an open-and-shut case. There can be no doubt that Lee Harvey Oswald killed Officer Tippit.

After Oswald was apprehended at the Texas Theater, he was taken to the Dallas police station and interrogated. Of the School Book Depository employees who were inside the building at the time of the assassination, Oswald was the only one who fled the building after the assassination.

During the course of his interrogation, Oswald claimed that he did not own the rifle found on the sixth floor of the TSBD Building. As a matter of fact, he claimed he did not own any rifle at all. The Warren Commission, in searching Oswald's possessions in a garage in the Dallas suburb of Irving, where Marina Oswald was staying with the Paine family, found a picture of Oswald with a pistol and a rifle and also found a negative of the picture, as well as Oswald's camera. When Oswald was confronted with the picture showing him holding a rifle, he claimed that it was not a genuine photo, but rather was a composite with his head on someone else's body.

Oswald lied, as he lied about other key matters in the course of his interrogation. When one has a photographic negative and a camera, it can be determined whether or not that particular negative came from that camera. Incontrovertible scientific evidence confirmed the fact that this picture of Oswald holding the rifle was taken with Oswald's camera, to the exclusion of all other cameras in the world. (Marina Oswald admitted in testimony before the Warren Commission that she took the picture.)

Meanwhile, no one saw a gunman firing from the grassy knoll area—although people were in a position to see the grassy knoll area at the time of the assassination. The area was searched and no cartridge cases were found. Finally, there was the overwhelming medical evidence that all the wounds to Governor Connally and President Kennedy came from bullets fired from behind—not from the right front, where the grassy knoll area was located. Governor Connally's physicians unanimously agreed. The physicians performing the autopsy on President Kennedy unanimously agreed.

Assassination sensationalists were not satisfied with these conclusions. As a result, in 1968 Attorney General Ramsey Clark appointed a panel of physicians to re-examine the autopsy photographs, X-rays of President Kennedy, various moving pictures and other pictures taken at the time of the assassination, and other evidence pertaining to the death of President Kennedy. This panel unanimously confirmed the findings of the Warren Commission that all the shots that struck President Kennedy came from behind.

Assassination sensationalists still were not satisfied, and at the time of the Rockefeller Commission's investigation they asserted that there were CIA agents conspiratorially involved in the assassination of President Kennedy. In support of this claim, these people asserted that a gunman had fired at President Kennedy from the front and that at least one shot struck Kennedy from the front. An independent panel of physicians selected by the Rockefeller Commission reviewed the evidence once again. They unanimously reached the same conclusion: All the shots that struck President Kennedy and Governor Connally came from behind.

The first chairman of the House Select Committee on Assassinations—Congressman Henry Gonzalez—fell victim to the misrepresentations of assassination sensationalists, asserting, at the outset, that a second gunman had fired at President Kennedy. The House Select Committee obtained yet another set of experts to re-examine all the evidence. After months of investigation, the House Committee was forced to conclude that the Warren Commission was right: all the shots that struck President Kennedy and Governor Connally came from behind and were fired by Lee Harvey Oswald's rifle from the sixth-floor southeast-corner window of the TSBD Building.

In the face of this overwhelming array of evidence, one wonders why it was that at the very end of a multi-million-dollar investigation the House Select Committee suddenly adopted the testimony of purported acoustical experts to reach the erroneous conclusion that a second gunman had fired at President Kennedy.

Even if there were not overwhelming evidence to the contrary, common sense would question this testimony. It is based on the single assumption that there was a police motorcycle at Dealey Plaza whose microphone was stuck open and acted as a transmitter to the police radio tape at the Dallas police headquarters.

Now, if the microphone had in fact been stuck open, and if the motorcycle had in fact been located at Dealey Plaza—i.e., at the scene of the assassination—not only would the microphone have recorded the shots, but it would have recorded other loud noises as well. Immediately after the shots, the motorcade accelerated sharply, and police sirens started blaring as it sped toward Parkland Memorial Hospital. Yet, on the recorded tape there is no sudden sound of motorcycles revving up shortly after the so-called shots. There is no sudden sound of police sirens screeching as the motorcade started to race toward Parkland Memorial Hospital. According to Harold S. Sawyer, a member of the House Assassinations Committee, police sirens are not heard on the tape until approximately two minutes after the sounds which the acoustical experts claim are the shots. Furthermore, when the police sirens are heard, they appear to be approaching, cresting, and then receding.

Congressman Sawyer, who has filed a dissent to the Committee's "Summary of Findings and Recommendations," also points out that the tape (which is really a "Dictabelt") also contains the faint sound of chimes. No chimes have been found that were in use at or near the scene of the assassination on November 22, 1963. On the other hand, there was one set of chimes which was regularly used at the time of the assassination in an area between Dealey Plaza and Parkland Memorial Hospital. When this is coupled with the sequence of the sirens' noise and the lack of the sound of revving-up motorcycle engines on the tape, it is consistent with the possibility that if there was a motorcycle with a stuck microphone, it was located far away from the assassination scene. This possibility is enhanced because the police recording of channel 1 shows that there was indeed a motorcycle with a stuck microphone located far away from Dealey Plaza.

However, let us assume that the tape was made from the stuck microphone of a motorcycle at Dealey Plaza. Before jumping to the conclusion that there was a second gunman, one must first examine the assumptions upon which the acoustical experts predicated their conclusions. If those assumptions were wrong, as they were, then the whole acoustical house of cards collapses.

For instance, in order for the acoustical experts' basic assumptions to be correct, you have to assume that not only was there a motorcycle in the motorcade whose microphone was stuck open, but that the policeman used the other channel, channel 1, instead of channel 2, the channel designated for use by the motorcade. Furthermore, the acoustical experts, in performing their tests, had to assume that the motorcycle was at a certain location at the time of the shots, and there is no positive corroborating physical evidence for this assumption.

Moreover there is a fundamental error underlying the entire reconstruction by the acoustical experts. It is demonstrated by the moving-picture film of the assassination taken by amateur photographer Abraham Zapruder. Each frame of this film was numbered. A reconstruction of the assassination by the Warren Commission moved the presidential limousine down the street frame by frame. Not only were pictures retaken of this movement from the Zapruder location, but pictures were also taken through the telescopic sight of the assassination weapon from the southeast-corner window of the sixth floor of the Texas School Book Depository Building.

This reconstruction showed that between Zapruder frames 166 and 210 there was a tree whose branches and foliage almost entirely obscured the gunman's view of the target, except for a brief opening at frame 186. Other evidence showed that the foliage was virtually the same at the time of the reconstruction as it had been at the time of the assassination. After frame 210, there was a clear shot. The camera speed was 18.3 frames per second.

Despite the fact that it was virtually impossible for Oswald to see his target between frames 186 and 210, the acoustical tests were done on the basic assumption that the shot that passed through President Kennedy's neck and then struck Governor Connally was fired from the sixth floor of the TSBD Building between frames 190 and 200 on the Zapruder film. (Eventually frame 195 was used as a benchmark.) In making this assumption, the Committee staff ignored the common sense practicality that the gunman would not fire when his view was almost entirely obstructed by a large oak tree, and when less than one second later there would be a clear view of the target—a view that would continue without any further obstruction. Furthermore, the motorcade was moving relatively slowly—only 11 miles an hour—and the presidential limousine was less than two hundred feet away from the assassination window.

In essence, then, the acoustical tests were thus constructed to try to force a square peg into a round hole by means of highly implausible assumptions.

House Committee members Samuel Devine and Bob Edgar have, like Congressman Sawyer, indicated that they have great reservations about the second-gunman theory. In particular, Congressman Edgar has consulted outside acoustical experts and has raised serious questions concerning the conspiracy conclusions of the majority of the Committee and its staff.

There is yet additional evidence which refutes the second-gunman fiction of the House Committee. For instance, as I summarized during a February 4, 1979, appearance on Meet the Press, there were two impulses on the tape, approximately a second apart, which the acoustical experts say represented the shot that first struck President Kennedy through the back of the neck and then passed through to hit Governor Connally. The impulse on the tape that is attributed to the so-called second gunman—assuming that the tape was made in Dealey Plaza—is less than a second from the fatal shot that struck President Kennedy's head. When one takes into consideration the reverberations of sound bouncing off the high buildings surrounding Dealey Plaza, the so-called third and fourth shots were really the impulse from the fatal shot that struck the President and a second impulse from the reverberations, similar to the two impulses from the first shot that struck the President.

Since the beginning of the Committee's investigation, I have repeatedly offered to come to Washington to testify before that Committee in an open public hearing. As recently as January 19, I offered to go to Washington at my own expense to testify and stated that I could show that the acoustical experts' testimony was wrong. But the Committee never saw fit to call either one of the two Warren Commission counsel assigned to what we called Area II: the determination of who killed President Kennedy and who killed Dallas Police Officer J. D. Tippit. In the course of my work with the Warren Commission, I had more first-hand contact with the key witnesses and the physical evidence than anyone else in the world. Moreover, I had served in 1975 as Executive Director of the Rockefeller Commission investigating the CIA, where one of the issues was whether the CIA was conspiratorially involved in the assassination of President Kennedy.

I wanted to testify before the Committee in an open public hearing for several reasons. First, I believed I could make a major contribution because of my background and experience. Also, I am very much concerned about the credibility of government in general, including the credibility and standing of Congress in the minds of the American people. I believed I could help to ensure that the investigation and final report of the House Select Committee on Assassinations would stand the test of history.

To be sure, some of the conclusions of the House Committee are accurate: Lee Harvey Oswald was the lone gunman who fired the shots that struck President Kennedy and Governor Connally. He also killed Dallas Police officer J. D. Tippit. Neither the CIA, the Secret Service, nor the Federal Bureau of Investigation was in any way conspiratorially involved in the assassination.

However, some of the Committee's conclusions are inaccurate—and particularly the conclusion that there was a second gunman firing from the grassy knoll. I am confident that examination of the entire record of the House Committee will not substantiate the theory of a second gunman. Nonetheless, when this inaccuracy is ultimately recognized, as I am certain it will be, in no way should the issue be forgotten, because the real import of the hasty adoption of the second-gunman theory is not just that the Committee was wrong. Rather, the crucial issue is why the Committee was so wrong.

I believe there are two major reasons:

1. Almost all the investigation and hearings of the Committee were conducted behind closed doors. The press did not have an opportunity to review and report to the American people what was taking place over the twenty-month multi-million-dollar investigation, except for some orchestrated public hearings in the fall of 1978.

2. The House Select Committee on Assassinations, like virtually all congressional committees, relied too heavily on its staff. It was the staff that basically led the Committee to reach its erroneous second-gunman conclusion.

One may ask why the staff was so intent on finding a second gunman when the record as a whole did not sustain such a conclusion. One possible hypothesis is that this enabled it to kill three birds with one stone. From a financial standpoint, this conclusion justified the expenditure of millions of dollars by the Committee. From a psychological standpoint, it enabled the staff, consciously or subconsciously, to justify its own two years of work. From a political standpoint, it took the heat off the Committee and its staff, because even though they said the FBI and the CIA were not involved, they did find a conspiracy, and they stated that their alleged second gunman was unknown. This statement left the door open for continued attacks on the CIA and the FBI. In essence, the finding of a second gunman was a sop to the group of assassination sensationalists led by Mark Lane and Robert Groden, who for years have been proclaiming Oswald's innocence in books, radio and television programs, and lectures on college campuses across the country.

There is some corroboration for this hypothesis as to why the Committee came to the second-gunman conclusion. For instance, there was great deference paid to assassination sensationalists during the course of the entire investigation. There have been suggestions that some of these people may have been paid as consultants to the Committee, although I do not know this to be the fact. However, I do know that one of the leading Warren Commission critics, Robert Groden, was given the opportunity to testify in an open public hearing, and that I was denied that same opportunity even though in recent years I have been called the leading defender of the Warren Commission report.

In addition, we know that in its findings of conspiracy the Committee and its staff made a very important distinction between possible pro-Castro and anti-Castro involvement. With reference to the anti-Castro Cuban groups, the Committee's December 29, 1978 "Summary of Findings and Recommendations" states:

"The Committee believes, on the basis of the evidence available to it, that anti-Castro Cuban groups, as groups, were not involved in the assassination of President Kennedy, *but the available evidence does not preclude the possibility that individual members may have been involved*." [Emphasis supplied]

On the other hand, with reference to involvement of the Cuban government or pro-Castro groups, the conclusion of the Committee was merely that:

"The Committee believes, on the basis of the evidence available to it, that the Cuban government was not involved in the assassination of President Kennedy."

In other words, despite the fact that Oswald was an avowed Marxist and for years had professed great admiration for Castro both orally and in writing, the Committee made no reference to the possibility of pro-Castro groups being involved, nor did it even state that "the available evidence does not preclude the possibility that individual members may have been involved," as it did with anti-Castro groups. The difference is particularly important in light of the determination by the Committee that it "is unable to identify the second gunman or the extent of the conspiracy."

However, although some people have expressed to me their belief that all or some portions of this hypothesis may be true, it is purely a matter of conjecture, and I would not adopt it as my own personal view. Rather I believe that the staff was just plain wrong, and that in its haste to meet various deadlines it failed to take into consideration the overall record.

When, on November 22, 1975, I called upon Congress to reopen the Warren Commission investigation, I stated that there were two major reasons underlying my request:

1. I was confident them, as I am now, that a thorough independent investigation would reach exactly the same conclusion reached by the Warren Commission: the conclusion that, beyond a reasonable doubt, Lee Harvey Oswald killed both President John F. Kennedy and Dallas Police Officer J. D. Tippit. I believed that a confirmation of this correct conclusion of the Warren Commission would greatly contribute to a rebirth of confidence and trust in government.

2. I knew that a thorough and objective reopening of the Warren Commission investigation by Congress would vividly illustrate the processes by which the American public

at times can be misled by sensationalism, demagoguery, and deliberate misrepresentation of the overall record—techniques that have been used by virtually all of the most vocal Warren Commission critics. I thought that the exposure of these techniques to the public could be one of the most important results of the Congressional reopening of the Warren Commission investigation.

Now I must conclude that perhaps an even more important problem has been exposed—the dangers of secret proceedings coupled with excessive reliance on committee staffs by the Senate and the House.

In a recent column James Reston wrote that congressional staffs are like an "unelected hidden legislature":

Over the years these staff members have taken on more and more responsibility—so much so that in some cases they not only seem to assist their masters but to replace them. Staff members not only write speeches but conduct hearings, draft legislation, write committee reports, negotiate conference compromises between the House, mobilize public opinion, and advise lawmakers on how to vote.

In recent years, they have even been conducting investigations at home and abroad, sometimes on their own, without the presence of their chiefs. And with the rise of subcommittees, each with its own staff, the congressional staff bureaucracy has grown even faster than the Civil Services in many of the Executive departments.

When the staff of so important a committee as the House Select Assassinations Committee can allow an investigation of nearly two years to culminate in a hasty and erroneous conclusion, backed up by badly tilted evidence, one wonders what are the unseen consequences for the American people if the dozens of other committee and subcommittee staffs, preparing studies on national defense, taxes, inflation, education, health, agriculture, business, foreign policy, etc., are similarly failing to apply high standards of objectivity and thoroughness in their investigations and reports.

I would suggest that the issue of the "hidden legislature" is one which must be given high priority as we head into the last twenty years of this century. The need for examination is particularly great when the staffs operate behind closed doors—without the check and balance of a free press.

In reflecting upon my service as counsel to the Warren Commission and Executive Director of the Rockefeller Commission, I have developed a deep conviction that there is far too much secrecy in government. It was a mistake for the Warren Commission to hold all of its hearings in secret. When I served as Executive Director of the Rockefeller Commission, I requested that the Commission hold open meetings whenever classified matters were not subject to discussion. Unfortunately, my request was turned down by a majority of the members of the Commission.

Our Constitution provides for a checks-and-balances system of government. We all know of the inter-relationships among the Executive, Legislative, and Judicial Branches. However, during the past two hundred years of our history, there has developed as an essential part of our free society a fourth check and balance, which interlaces with and reinforces the traditional Legislative-Executive-Judicial interrelationships. This fourth check is a free press and the ability of that press to report to the American people the basic facts about the operations of their government.

Toward the end of its investigation, the House Committee staff finally contacted me and asked that I testify in a nonpublic hearing when neither members of the Committee nor members of the press were present. I refused to appear behind closed doors and explained my position in a letter to the Committee and its staff. I concluded my letter with the following statement:

". . . Because I believe so strongly in the need for this fourth check and balance, I frankly do not want to participate in any secret hearing where members of the press are not allowed. I do not necessarily believe that every single one of your hearings should have been open to the public, but I believe there is much over the past year and a half that could have been open to the public, that was not. For me to now appear in a secret hearing would be to give support to a course of action that I believe to be unsound and against the best interests of the people in a free society."

The second-gunman syndrome of the staff of the House Select Committee on Assassinations is demonstrative evidence of how a congrssional staff can go wrong. Let us hope that even if the final report of the House Committee is modified, we will have learnt a lesson from the initial "Summary of Findings and Recommendations." That lesson is that we should curb the continued growth of power of congressional staffs, and we should do everything we can to prevent excessive secrecy in the operation of our government.

SELECT COMMITTEE ON
ASSASSINATIONS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., May 6, 1979.

EDITOR,
National Review,
New York, N.Y.

DEAR SIR: David Belin's piece, "Kennedy Second Assassin, The $6 Million Myth," (National Review 27 April 1979) is right out of Lewis Carroll. Like the Red Queen, he apparently believes in verdict before evidence. When he read a newspaper report on 29 December 1978 that the House Select Committee on Assassinations had concluded that there was a second gunman in Dealey Plaza shooting at the President, he knew "the truth (was) to the contrary. There was no second gunman."

I find it difficult to understand how Mr. Belin could be so certain of his facts if he had not reviewed the evidence on which the Committee based its judgment. And he could not have so reviewed it by then, or since, for it will not be finally published until the latter part of June, 1979. An unbiased verdict on the work of the Committee, therefore, is not yet possible.

When I accepted the position of Chief Counsel to the Select Committee in June of 1977, I restudied the 1964 Warren Commission Report and closely examined its 26 volumes of supporting documents (the Select Committee will publish, along with its final report, approximately 30 volumes of materials on Kennedy and King cases), and I did not reach a personal judgment about the validity of the Warren Commission's work until the Committee had completed its investigation.

It is useful to review the irresponsibility of Belin's piece. First, Belin suggests the acoustical experts hired by the Committee are "so-called" or "purported" experts. Had he reviewed the Committee's record he would have found that the expertise of our acoustical witnesses had been repeatedly accepted in court, including in the Kent State prosecutions and the analysis of the Watergate tapes.

Second, Belin suggests only one gunman was "seen." Here he misleads his readers with a half truth. A variety of witnesses "heard" the sound of shots from the grassy knoll, including a Dallas Police Department officer and a Secret Service agent in the motorcade. In addition, a young couple on the knoll dropped to the ground at the time of the third shot from behind them, since they knew they were in the second gunman's line of fire. Other witnesses saw traces of smoke rise from the treed area, where the acoustical experts say the third shot was fired from behind a wooden fence.

The Warren Commission was unwilling to credit this testimony in 1964, since it could not then be corroborated. The Acoustical evidence developed by the Committee in 1978 provides that corroboration; it now calls for a new evaluation of the 1964 evidence.

Third, Belin points out that no cartridge case was found behind the fence. Why should it be when only one shot was fired?

When Oswald fired one shot at General Walker on 10 April, 1963, no cartridge case was found, yet the Warren Commission did not use that fact to doubt the reality of the Walker shooting.

Fourth, Belin questions if the tape recording records sounds from Dealey Plaza. Why are crowd noises not audible? The microphone was mechanically insensitive to them. Why are not sirens heard immediately after the assassination? H.B. McLain, the officer with the stuck mike, did not leave the Plaza with the motorcade, and the sirens do not appear on the tape until he catches up with it on the Freeway on the way to the hospital. Why are chimes heard on the tape? The officer's mike did not have exclusive control over the police receiver at headquarters. Other mikes, if they had stronger signals, could also record sounds on the tape.

Having asked questions about the other sounds on the tape, Belin leaves his readers with the suggestion that the stuck mike may have been elsewhere, but he does not offer an explanation of how four shots were recorded over the mike. No one has suggested that someone was shooting somewhere else in Dallas that day. Moreover, the acoustical "fingerprint" (the echo structure of the supersonic bullet and the muzzle blast of the gun in the urban environment of the Plaza) of the four shots is unique, as "scientifically irrefutable" as handwriting analysis and the ballistics evidence he relies on in incriminating Oswald. For the sound recorded on the tape to have been recorded from somewhere other than Dealey Plaza, the other place would have to have looked exactly like Dealey Plaza. Two people don't have the same handwriting; two guns don't have the same ballistic characteristics. Two places do not have the same echo structure.

Fifth, Belin says there is no "positive corroborating physical evidence" that the motorcycle was in the right place at the right time. Wrong. Photographs of McLain in the right place at the right time appear in our hearings (Vol. V, pp. 704–20).

Sixth, Belin suggests that Oswald would not have fired, as he must have according to the acoustical evidence, at Kennedy at Z frame 195, since a large oak tree would have obstructed his view.

Several points need to be made. He misleads his readers when he speaks of a "tree." (Apparently, also, he has never seen a child run behind a picket fence. While the child is "obstructed", he can be clearly seen as he runs; the mind's eye fills in the details. Still pictures taken through the scope of a rifle mislead). In addition, the Committee's ballistics experts suggest the shot would probably have been easy to pull off using the open iron sight, a possibility not considered in 1964. In any event, the acoustical evidence, in fact, points to the area around Z frame 185–88, not 195, as the time of the trigger pull of the second shot. The Warren Commission Report (p. 101) prints a photo of a break in the *foliage* at Z frame 186. Belin is wrong again.

Seventh, Belin suggests that the two shots (numbers three and four) are really one shot and its echo. Here the question of expertise is relevant. When Belin qualifies in court as an acoustical expert, I will pay attention to his expert opinion. Common sense, however, provides an easy answer to his suggestion. What he is really saying is that the experts confused an echo with the primary sound. The only trouble with that suggestion is that shot number three from the grassy knoll can not be an echo of shot number four from the Depository, since even a four-year-old child (including my own) knows that primary sounds precede, not follow, their echoes.

Eighth, Belin complains that he was not permitted to testify before the Committee in public session. Several points need to be made. Belin was given an opportunity to appear in executive session or by deposition. If he had chosen to do so, he could have made his deposition public. Other Warren Commission counsel, including the general counsel and his principal assistant, saw nothing wrong with this procedure. In addition, all members of the Commission and the general counsel, in fact, appeared before the Committee in public session, something Belin knows full well, since he appeared with former President Ford, who was a member of the Commission. The Committee decided not to call Belin as a witness in a public session because it felt that he offered little to the Committee. He had already written a book, which he had forwarded to the Committee and the staff. (I read it). He had nothing new to say. He did not play a particularly key role in the work of the Warren Commission.

His testimony about the workings of the Commission would have been cumulative. The Committee had already heard from most of his fellow staff counsel. In addition, his testimony about the basic facts of the Kennedy assassination was second hand. The Committee preferred to get its facts first hand.

Ninth, Belin offers a theory as to why the Committee went wrong; he blames it on the staff, and says that the Committee's work was conducted in secret. Several points need to be made.

I have been associated with the work of Congressional Committees for almost twenty years. No Committee that I have ever worked with was more democratic, knowledgeable, or more in control of its own processes than the Select Committee on Assassinations. Belin libels able men like Stokes and Devine of Ohio, Preyer of North Carolina, Dodd and McKinney of Connecticut, Fithian of Indiana, Sawyer of Michigan and Fauntroy of the District of Columbia, who labored hard on both cases. Indeed, the Select Committee was more democratic, knowledgeable, and more in control of its processes than was the Warren Commission. I make that judgment based on a two year study of the Warren Commission and personal experience with the Select Committee. Belin's suggestions to the contrary cannot be similarly rooted in fact, since he has not made any study of the processes of the Select Committee. His theory is like so much of what he complains about on the part of Warren Commission critics; it is not based on fact.

Belin's secrecy comment is ironic. The Warren Commission held one day of public hearings. Belin, who was Executive Director of the Rockefeller Commission, was not able to persuade his own Commission to do much better. In fact, the Select Committee held almost forty days of public hearings on the evidence gathered in its two year investigation of the Kennedy and King cases, where the Committee's work was open to public scrutiny.

The Committee's investigation was not held in public for reasons that are only too obvious. The reputations of living and dead men were at stake. The Committee had a duty to evaluate its evidence before it was made public. Belin knows the character of many of the allegations in the Kennedy case. Even though they are irresponsible, they had to be checked out, at least confidentially. Would he have had the Committee do otherwise?

Finally, it is ironic that the area that Belin complains about most was, in fact, largely conducted in public. The tape and its preliminary evaluation became public in July 1978 at the time of the Committee's refunding. The acoustical reconstruction in Dallas in August 1978 was done with the media held back, but none the less present. The September public hearing that produced the 50-50 testimony was the first cut at analysis of the August acoustical evidence. The work was finished in October and November and the 95% plus data developed; it was made public in December. The Committee's processes were deliberate and largely public in the crucial area. What else could the Committee have done?

Lastly, Belin grumbles that the Committee "suddenly" made up its mind at the last minute. The Committee had the basic acoustical evidence in July. It knew *then* what it portended. It all depended on what the final verdict of the scientists was. That came in November. When should the Committee have made up its mind, except at the end when all the evidence was in?

When President Ford appeared before the Committee on 21 September, 1978, accompanied by Mr. Belin, he was asked by Congressman Devine why the work of the Warren Commission had fallen on such hard times. The President identified three reasons. First, he said that its critics had "deliberately or negligently misled the American people by misstating facts and omitting crucial facts. . . ." Second, he suggested that many people were cynical. Third, he observed that people had not read the report.

I suggest that Mr. Belin should take the advice of his client. The Select Committee should be accorded, at least from former Warren Commission staff members, better treatment than they themselves received. Mr. Belin ought to do better in the future.

Sincerely,

G. Robert Blakey,
Chief Counsel and Staff Director.

THE CASE AGAINST A CONSPIRACY

(By David W. Belin)

In early December 1978, the members of the House Select Committee on Assassinations were reviewing copies of a preliminary draft final report. After nearly two years of work and the expenditure of $5.8 million, they had concluded that Lee Harvey Oswald was the lone gunman who had killed President Kennedy, wounded Texas Governor John Connally and killed Dallas Police Officer J. D. Tippit. There was no conspiracy.

It was a report based on an investigation conducted in almost total secrecy, except for a few weeks of public hearings carefully orchestrated by G. Robert Blakey, chief counsel of the committee staff.

Less than three weeks later, one of the biggest flip-flops in recent Congressional history occurred. The 600-plus-page report was rejected and on Friday, December 29, 1978, the committee approved a nine-page Summary of Findings and Recommendations, which concluded that although Oswald was the assassin, there was a conspiracy involving an unseen second gunman. This invisible person supposedly fired a single shot from an elevated portion of land known as the grassy knoll, located to the right front of the Presidential limousine. According to the committee summary, this shot missed President Kennedy.

Although the location of the claimed second gunman was barely 100 feet from the Presidential limousine, the invisible shot also missed Governor Connally and everyone else in the Presidential limousine; it even missed the limousine.

Who was this second gunman? Why would he fire only once? Why were no cartridge cases found? The committee reverted to its cloak of secrecy, merely promising a final report around the first of April. That deadline was not met because Blakey and the remaining members of the staff were having trouble with their second-gunman theory.

Three members of the committee did not agree with the second-gunman theory, which was predicated almost solely on the testimony of acoustical experts. Earlier an expert had asserted a 50 percent degree of certainty in his conclusions. In the middle of December, two new experts came forward and declared, along with the original expert, that they were 95 percent certain. Despite the continuing doubts of three members of the committee, the change in the experts' opinion from 50 percent certainty to 95 percent was the cause of the flip-flop. Having served as counsel to the Warren Commission, I know that regardless of whether the acoustical experts say they were 50 percent certain or 95 percent certain, they are nevertheless wrong: There was no second gunman.

In the first place, all of the physical evidence points to a single gunman. Only one gunman was seen at the time of the assassination, and witnesses saw him fire from the sixth-floor window of the Texas School Book Depository. Three cartridge cases were found by that window; a nearly whole bullet was found at Parkland Memorial Hospital on Governor Connally's stretcher; and two ballistically identifiable portions of the bullet that struck President Kennedy's head were found inside the Presidential limousine. Ballistic evidence proved those cartridge cases, the bullet and the bullet fragments all came from Oswald's rifle, which was found by the back stairway of the sixth floor of the Book Depository. His palmprint was on the rifle, his fingerprints were on the paper bag used to carry the rifle into the building, and he matched the physical description given by a witness who had seen the gunman take aim and fire the last shot.

Oswald had ordered the rifle through the mail and had had it shipped to his post-office box in Dallas—the same place his pistol had been shipped to. He was apprehended with the pistol in his possession. This was the weapon he used to kill Dallas Police Officer J. D. Tippit on November 22, 1963, approximately 45 minutes after the assassination of President Kennedy. Six eye witnesses conclusively identified Oswald as the gunman at the Tippit murder scene, or the man running away from the Tippit murder scene with gun in hand.

In contrast, the acoustical evidence rests on a number of implausible assumptions. For instance, if the Dallas police tape is a genuine tape of the assassination, why did it not pick up the sound of motorcycle engines revving up as the motorcade sped toward Parkland Hospital? Why are police sirens not immediately heard? Why does one hear the faint sound of chimes, although no chimes were found to be in use at or near the scene of the assassination?

But even assuming the tape is genuine, the theory of the acoustical experts rests upon false assumptions made when the initial acoustical data were taken, including the location of the motorcycle at the time the first shot was fired.

However, I believe there is an issue of far greater importance than the technicalities of the acoustical evidence. That issue concerns the ramifications of a secret Congressional investigation coupled with excessive delegation of powers to the committee staff. The House Select Committee on Assassinations is a microcosm of this compound problem. The committee's erroneous conclusion concerning Jack Ruby is the most vivid example of the pitfalls of this process.

In The New York Times of Sunday, June 3, Wendell Rawls Jr. reported that, according to a "committee source," the final report "will contend" that Jack Ruby "stalked"

Lee Harvey Oswald from the hours immediately after the assassination until he killed Oswald on the Sunday morning following the assassination, and that both Ruby and Oswald had contacts among organized crime figures. According to the source, "There is a substantial body of evidence, a web of circumstantial evidence, to connect the death of the President to elements of organized crime" and the efforts of organized crime to retaliate against President Kennedy and his brother Robert Kennedy who was Attorney General and who was undertaking substantial law-enforcement efforts against organized crime.

Rawls also reported that "the committee discounts Ruby's statement before his own death that he had killed Oswald so that the President's widow would be spared a return to Dallas, where she might be forced to relive the shattering moments of the assassination as a witness at Oswald's trial." The committee asserts that the story was "concocted by his lawyer."

It seemed the perfect end for the investigation. Who would defend organized crime? And, more particularly, who would defend Jack Ruby, now that he is dead?

If there had been a full series of public hearings, the allegations of Ruby's involvement in a conspiracy could never have been seriously sustained because of the testimony of one person—a rabbi who was living in Dallas at the time of the assassination and who is the most important living witness on the issue of possible involvement of Jack Ruby in a conspiracy.

His name is Rabbi Hillel Silverman. Rabbi Silverman did not know Jack Ruby very well before the assassination, but after Ruby shot Oswald he visited Ruby in the Dallas County Jail on an average of once or twice a week and became extremely close to him.

During the investigation of the Warren Commission, while Ruby was alive, Rabbi Silverman could not be called upon to testify because the intimate conversations between a minister, priest or rabbi and his congregant are privileged. However, that prohibition did not necessarily bind the House Select Committee on Assassinations, now that Ruby is dead. Yet—and this is hard to believe, but it is nevertheless true—the committee staff, during the entire multimillion-dollar, two-year investigation, did not even try to take Rabbi Silverman's testimony. He would have testified had he been called.

Let us go back to Monday, Nov. 25, 1963, after a weekened of national bereavement following the assassination of President Kennedy. The place was the Dallas County Jail, a relatively unfamiliar location for Rabbi Hillel Silverman to be calling upon a member of his Conservative congregation. The bronzed, handsome rabbi of Congregation Shearth Israel in Dallas did not relish the task. Nevertheless, he felt an obligation to call upon Jack Ruby, who, the day before, had committed a murder witnessed by millions of Americans on their television screens.

The name of Jack Ruby's victim, of course, was Lee Harvey Oswald, who on the previous Friday, Nov. 22, had murdered both President John F. Kennedy and Dallas Police Officer J. D. Tippit.

Police had started to grill Ruby before he was able to reach a lawyer. Ruby told Rabbi Silverman that he remembered telling one of the policemen on Sunday, "I was afraid that Mrs. Kennedy would be asked to return to Dallas for the trial." That single statement contradicts the claim of the House committee staff that Ruby's story was "concocted" by his lawyer.

There are many other facts which also contradict the conclusions of the House committee. For instance, late on Friday night after the assassination, Ruby went to the Dallas police station and walked into a press conference where Oswald was being interviewed. "Had I intended to kill him," Ruby said, "I could have pulled my trigger on the spot, because the gun was in my pocket."

The next day, Ruby viewed a telecast from New York City on which a Rabbi Seligson was preaching on Kennedy and the assassination. Ruby found this very moving—so much so that he dressed, went to his car, and drove to the site of the assassination, where he walked by the wreaths that had already been placed there.

Ruby told Rabbi Silverman about reading in the Sunday newspaper that Jacqueline Kennedy might have to come back for the trial of Lee Harvey Oswald.

Shortly before 11 a.m. on that Sunday morning, Jack Ruby left his apartment building to go to the downtown Western Union office to wire some money to one of his employees, "Little Lynn," who lived in Fort Worth. According to Rabbi Silverman, Ruby was under the impression that Oswald had already been transferred from the city jail to the county jail, but when he saw people and policemen standing around the police station he decided to return after he wired the money at Western Union.

The time stamp at the Western Union office was 11:17 a.m. The ramp from the street leading down to the basement where Oswald was to get into a vehicle for transfer was barely a half block away.

Ruby left the Western Union office, was able to gain access to the ramp when a policeman's back was turned, and walked down the ramp into the basement area where members of the press were congregated waiting to see Oswald appear. Within a minute or two—at 11:21 A.M.—Oswald, flanked by police officers, stepped out of the basement elevator and walked through the dark corridor toward the area where Ruby and members of the press were standing.

It all happened very quickly. Flash bulbs and strobe lights temporarily blinded the police escort. Ruby generally carried a gun, and when he saw Oswald, he took out his gun and pulled the trigger. The police wrestled Ruby to the floor and he cried out, "I am Jack Ruby."

From that first visit on Nov. 25, Rabbi Silverman tried to see Ruby once or twice a week, until Silverman left Dallas to accept a pulpit in Los Angeles in July 1964. Whenever Rabbi Silverman discussed with Jack Ruby why he had shot Oswald, the answer in essence was the same: in order to save Mrs. Kennedy from having to come back for the trial of Lee Harvey Oswald.

There were many in Dallas—undoubtedly a majority—who believed that the murder of Oswald was part of an overall conspiracy to assassinate President Kennedy. Frankly, when I first came to Washington in early January 1964 to serve as assistant counsel to the Warren Commission, I was anxious to investigate such a possibility. It was not very farfetched to assume that Ruby had killed Oswald in order to silence him, particularly since Ruby was a person who had contacts with organized crime. The possibility was enhanced because Robert Kennedy as Attorney General had declared war on the underworld.

Therefore, on one of my first trips to Dallas, I visited Rabbi Silverman on an informal basis. We had become friends the previous summer on a study mission to Israel. As one friend to another, I told Rabbi Silverman that I recognized that what was said in the intimacy of his conversations with his congregant was privileged, but I wondered whether or not he had any question about the existence of a possible conspiracy. Silverman was unequivocal in his response: "Jack Ruby is absolutely innocent of any conspiracy."

I asked Rabbi Silverman if he was certain of this. "Without a doubt," he replied. Although the tone of his voice was most convincing, and although I realized that Rabbi Silverman had probably become closer to Jack Ruby than any other person in the world, I nevertheless wanted some additional corroboration beyond the investigation by the Warren Commission. The most obvious possibility was a polygraph, or lie-detector, examination.

Inside the Warren Commission, we had already had a major debate about the use of a polygraph. I had expressed to my colleagues my own suspicions that there might have been a conspiracy. For instance, the "single-bullet theory"—which has been corroborated by the House Assassination Committee—grew out of an attempt on my part to prove that there was more than one gunman. Eventually, after analyzing all of the evidence, I determined that indeed there was only one gunman and that that gunman was Lee Harvey Oswald. The medical experts of the House Assassination Committee, as well as an independent panel of medical experts selected by Attorney General Ramsey Clark in 1968 and an independent panel selected by the Rockefeller Commission in 1975, corroborated the fact that all of the shots that struck President Kennedy and Governor Connally came from behind. The House committee corroborated the conclusion of the Warren Commission that the bullet that struck Governor Connally first passed through President Kennedy's neck.

Another area I was concerned about was possible knowledge of conspiracy or involvement in a conspiracy of Marina Oswald, the assassin's widow, and Jack Ruby. I wanted both to undergo polygraph tests, and I started with Marina.

In a written memorandum, I pointed out some inconsistencies in interviews with Marina with the F.B.I. and I also stated that a substantial portion of her testimony was not subject to ordinary tests of credibility because it concerned their life together in Russia. I also said that if under a polygraph examination it was to be shown that "Marina had not been truthful in her testimony, it could throw an entirely new light on aspects of the investigation."

A majority of the staff lined up against me. One member undertook research to prove the limitations of the test and to prove that one could not blindly rely upon test results. In rebuttal, I admitted that the polygraph test had limitations, but I argued that in large part those depended upon the qualifications and competency of the polygraph examiner. Although a lie-detector test may not be admissible in a court of law, we were not in a legal proceeding but rather we were undertaking an investigation, and I urged that we use the polygraph as an investigative aid. Chief Justice Warren sided with the majority of the staff, and my request was denied.

Once the commission had decided against using a polygraph for Marina Oswald, I knew there was no possibility that the commission would consider asking that Jack Ruby undergo a lie-detector test. Therefore, I decided to take matters into my own hands.

Without the knowledge of Chief Justice Warren or anyone else connected with the Warren Commission, I approached Rabbi Silverman directly. I told him that even though he was convinced that Ruby was not involved in a conspiracy in the assassination, the world would never be convinced unless Ruby took a polygraph examination. I also told him that the Warren Commission would never ask Ruby to submit to one and that the only way this could be accomplished would be to have Ruby himself make that request of the Warren Commission.

Rabbi Silverman, of course, had a major dilemma. On the one hand, Ruby was represented by legal counsel and it was up to the lawyers to decide whether or not Jack Ruby would submit to the test. The test could undermine the legal defense of temporary insanity. On the other hand, Rabbi Silverman was absolutely convinced that Ruby was innocent of any conspiracy, and he recognized that a polygraph examination would be a major step in convincing the people of Dallas.

In April 1964, Rabbi Silverman discussed his dilemma with me. My position was very simple: Ruby had already been convicted of murder. The situation could not be much worse. Surely, if he was innocent of any conspiracy, he should come forward and volunteer to take the test.

Finally, Rabbi Silverman agreed to try to persuade Jack Ruby to ask for the test to coincide with his testimony before the Warren Commission.

On June 7, 1964, Earl Warren and Gerald Ford went to the Dallas County Jail to interrogate Jack Ruby. At the beginning of Ruby's testimony, he said, "Without a lie-detector test on my testimony, my verbal statements to you, how do you know if I am telling the truth?"

His attorney interrupted him and said, "Don't worry about that, Jack." But Ruby was not to be denied, and he continued, "I would like to be able to get a lie-detector test or truth serum of what motivated me to do what I did at that particular time. . . . Now, Mr. Warren, I don't know if you got any confidence in the lie-detector test and the truth serum and so on."

Chief Justice Warren replied, "I can't tell you just how much confidence I have in it, because it depends so much on who is taking it, and so forth. But I will say this to you, that if you and your counsel want any kind of test, I will arrange it for you, I would be glad to do that, if you want it. I wouldn't suggest a lie-detector test to testify the truth. We will treat you just the same as we do any other witness, but if you want such a test, I will arrange for it."

And Ruby replied, "I do want it."

Ruby then described to Chief Justice Warren his actions during the weekend of the assassination, which culminated in his killing Lee Harvey Oswald. Just as he had told Rabbi Hillel Silverman about watching the eulogy by a rabbi on television on Saturday morning, Nov. 23, Ruby told Chief Justice Warren:

"He went ahead and eulogized that here is a man that fought in every battle, went to every country, and had to come back to his own country to be shot in the back," and Ruby started crying. After regaining his composure, he continued and told about reading a letter to Caroline on Sunday morning in the newspaper. "And alongside that letter on the same sheet of paper was a small comment in the newspaper that, I don't know how it was stated, that Mrs. Kennedy may have to come back for the trial of Lee Harvey Oswald. That caused me to go like I did. I don't know, Chief Justice, but I got so carried away. And I remember prior to that thought that there has never been another thought in my mind; I was never malicious toward this person. No one else requested me to do anything. I never spoke to anyone about attempting to do anything. No subversive organization gave me any idea. No underworld person made any effort to contact me. It all happened that Sunday morning.

"The last thing I read was that Mrs. Kennedy may have to come back to Dallas for trial for Lee Harvey Oswald, and I don't know what bug got ahold of me. I don't know what it is, but I'm going to tell the truth word for word."

Ruby then went into some detail about how he happened to be at the scene. After telling about how he had gone down the ramp into the police station basement. Ruby said, "You wouldn't have enough time to have any conspiracy. . . . I realize it is a terrible thing I have done, and it was a stupid thing, but I just was carried away emotionally, do you follow that?"

Chief Justice Warren replied, "Yes; I do indeed, every word."

Ruby then continued, "I had the gun in my right hip pocket, and impulsively, if that is a correct word here. I saw him, and that is all I can say. I didn't care what happened to me. I think I used the words, 'You killed my President, you rat.' The next thing, I was down on the floor".

In the words of Ruby, "I wanted to show my love for our faith, being of Jewish faith, and I never used the term, and I don't want to go into that—suddenly the feeling, the emotional feeling came within me that someone owed this debt to our beloved President to save her the ordeal of coming back. I don't know why that came through my mind."

As a matter of fact, although Ruby told Chief Justice Warren that he didn't "want to go into that," and although Ruby was not particularly religious, Rabbi Silverman in a conversation with me recently said that when he first asked Ruby to tell him what happened, Ruby replied, "I did it for the Jews of America."

In his testimony before Chief Justice Warren and Gerald Ford, Ruby added one more facet to his story: "A fellow whom I sort of idolized is of the Catholic faith and a gambler. Naturally, in my business you meet people of various backgrounds.

"And the thought came, we were very close, and I always thought a lot of him, and I knew that Kennedy, being Catholic, I knew how heartbroken he was, and even his picture—of this Mr. McWillie—flashed across me, because I have a great fondness for him.

"All that blended into the thing that, like a screwball, the way it turned out, that I thought I would sacrifice myself for the few moments of saving Mrs. Kennedy the discomforture of coming back to trial."

Warren asked Ruby whether or not he knew Oswald. Ruby replied, "No."

Ruby was asked whether or not he knew Dallas Police Officer J. D. Tippit, who was murdered 45 minutes after the assassination by Oswald. Ruby said there were three Tippits on the force, but the one he knew was not the one who was murdered on Nov. 22. Ruby maintained, "I am as innocent regarding any conspiracy as any of you gentlemen in the room, and I don't want anything to be run over lightly."

Six weeks later, on July 18, 1964, the Warren Commission made arrangements to have Ruby's testimony taken before a court reporter while Ruby was undergoing a lie-detector test. The man administering the test was one of the ablest in the field, F.B.I. polygraph operator Bell P. Herndon.

At the very last minute, Ruby's chief counsel, Clayton Fowler, tried to stop the test. He told Arlen Specter, the representative from the Warren Commission, that Ruby had changed his mind. But Specter was not to be denied and had the court reporter start transcribing what was taking place. Reluctantly, Fowler admitted, "He says he's going to take this test regardless of his lawyers, and he says, 'By God, I'm going to take the test.'"

What did the test show? According to the test results, Ruby's testimony before the Warren Commission was the truth. Also, according to the test results, Ruby answered the following questions truthfully:

Q. Did you know Oswald before Nov. 22, 1963?

A. No.

Q. Did you assist Oswald in the assassination?

A. No.

Q. Between the assassination and the shooting, did anybody you know tell you they knew Oswald?

A. No.

Q. Did you shoot Oswald in order to silence him?

A. No.

Q. Is everything you told the Warren Commission the entire truth?

A. Yes.

Q. Did any foreign influence cause you to shoot Oswald?

A. No.

Q. Did you shoot Oswald because of any influence of the underworld?

A. No.

Q. Did you shoot Oswald in order to save Mrs. Kennedy the ordeal of a trial?

A. Yes.

Q. Did you know the Tippit that was killed?

A. No.

In 1975 there was a rebirth of interest in the whole question of President Kennedy's assassination. A majority of the American people, it appeared, did not believe in the conclusions of the Warren Commission, and in November of that year I called for Congress to reopen the investigation of the assassination. I said that any thorough, objective investigation would reach the same conclusion as the Warren Commission, that Lee Harvey Oswald was the lone gunman who killed President Kennedy and Officer Tippit. I believe that a confirmation of this finding would contribute to renewed confidence and trust in government, and I also believed that it would illustrate the processes by which the American public at times can be misled by sensationalism, demagogy and deliberate misrepresentation of the overall record. Virtually all of the Warren Commission critics have used such techniques, and I thought exposing them to the public could be one of the most important results of the Congressional reopening of the Warren Commission investigation.

At that time, I also said that an objective, thorough investigation would disclose that Jack Ruby was innocent of any conspiracy. I believed that because of my discussions with Rabbi Silverman, coupled with Ruby's testimony, the absence of any direct evidence linking Ruby with a conspiracy, the results of the polygraph examination, and because of one other factor, a happenstance, that changed the course of history.

Oswald was scheduled to be transferred from the city jail at the police station to the county jail several blocks down the street at approximately 10 a.m. on Sunday, Nov. 24. Before the scheduled transfer, he was to undergo the third of a series of interrogations by Capt. Will Fritz, the head of the homicide section of the Dallas Police Department, and representatives of the Secret Service and the F.B.I.

If no one else had joined the group, Oswald would have been transferred on schedule, long before Jack Ruby ever got downtown. However, another person entered the interrogation room Sunday morning. He was Postal Inspector Harry D. Holmes, and he had helped the F.B.I. trace the money order that Oswald used to purchase the rifle with which he killed President Kennedy. Holmes had also helped the F.B.I. trace the ownership of the post-office box that the rifle (and the pistol that Oswald used to kill Officer Tippit) was shipped to.

When I took Inspector Holmes's testimony, I asked him: "Just what was the occasion of your joining this interrogation? How did you happen to be there?"

Holmes replied: "I had been in and out of Captain Fritz's office on numerous occasions during this two-and-a-half-day period.

"On this morning I had no appointment. I actually started to church with my wife. I got to church and I said, 'You get out. I am going down and see if I can do something for Captain Fritz. I imagine he is as sleepy as I am.'

"So I drove directly on down to the police station and walked in, and as I did, Captain Fritz motioned to me and said, 'We are getting ready to have a last interrogation with Oswald before we transfer him to the county jail. Would you like to join us?'

"I said, 'I would.' "

After Captain Fritz, the representative of the Secret Service, and also an F.B.I. agent who was present, finished their interrogation of Oswald, Captain Fritz turned to his friend, Postal Inspector Holmes and asked whether or not Holmes wanted to interrogate Oswald. While the invitation from Captain Fritz was highly unusual, Holmes jumped at the opportunity, and the interrogation continued for another half hour or more.

Ruby shot Oswald approximately five minutes after he, Ruby, left the Western Union office. Had Inspector Holmes continued on to church with his wife that morning and not at the last minute joined the interrogation session with Oswald, the length of interrogation would have been shortened by more than half an hour. Jack Ruby would never have had the opportunity to kill Oswald.

In early June 1979, when I read for the first time that the House Committee staff was asserting that Ruby may have been involved in a conspiracy and that Ruby's lawyers "concocted" his claim that he shot Oswald in order to save Mrs. Kennedy the ordeal of coming back to Dallas, I immediately wrote Chairman Louis Stokes of the House Select Committee on Assassinations. As I had done on previous occasions going back to March 9, 1977, I asked for an opportunity to appear before the House Select Committee in a public session. Chairman Stokes never replied to my initial letter. I wrote him and the other members of the committee on Nov. 22, 1977, and I received a reply from Representative Richardson Preyer, chairman of the subcommittee dealing with the assassination of President Kennedy. Congressman Preyer wrote: "Bob Blakey and I have discussed your appearance before the committee and he assures me that he plans to invite you."

Finally, in July 1978, a committee staff member requested that I come to Washington to appear, not before the committee but before members of the staff in a closed hearing. I have had long experience with closed hearings, going back to my service as counsel to the Warren Commission in 1964 and in 1975 as executive director of the Rockefeller Commission investigating the C.I.A. I felt it was a mistake for the Warren Commission to hold all of its hearings in secret, and I specifically requested that the Rockefeller Commission hold open meetings when classified matters were not under discussion. Unfortunately, my request was turned down by a majority of the members of that commission. Like the members of the Warren Commission, they wanted everything to be contained in one final report rather than released piecemeal.

I reviewed this by telephone with the staff of the House committee and then wrote a letter, with copies to each member of the committee, in which I declined to appear in a secret session. In that letter, I concluded: "I happen to have a deep philosophical conviction of the need for more openness in government and particularly the opportunity for a free press to report on the activities of government wherever possible.

"I do not necessarily believe that every single one of your hearings should have been open to the public, but I believe there is much over the past year and a half that could have been. For me now to appear in a secret hearing would be to give support to a course of action that I believe to be unsound and against the best interests of the people in a free society.

"Therefore, I must respectfully decline your request to appear at a secret meeting where neither the press nor members of the committee are present. However, I would be very happy to come to Washington to appear in an open public hearing before your entire committee. I believe that there is a major contribution that I can make because of my background and experience (although I am naturally disappointed that I was not called earlier when I believe I could have made an even greater impact before your investigation was substantially completed)."

The committee staff was adamant in its position. They said there was not enough time for me to appear before the committee, and they also refused to have any public hearings other than those that were personally orchestrated by the staff. Finally, in an effort to break the logjam, I agreed to appear before the staff, rather than the committee itself, as long as it was an open hearing. However, from firsthand experience with the Warren Commission and Rockefeller Commission, I know (and advised the members of the committee) that the depositions or testimony of witnesses where committee members are not present does not have nearly the impact that testimony before the committee itself does. Blakey refused to allow members of the press to be present at a staff meeting; therefore, I did not appear.

Assassination sensationalists were permitted to testify before the committee and were included in the limited public hearings, where they made their many false claims. But the committee never gave me a corresponding opportunity, although in recent years I have been called the leading defender of the Warren Commission Report. I know that there were many areas where I could have made a major contribution to the committee if I had had the opportunity to appear, particularly because of my unique position as the only person in the world who served with the Warren Commission who also served with the Rockefeller Commission and saw everything in the files of the C.I.A. concerning the assassination of President Kennedy.

Based upon my experience in two of the most widely publicized commissions of this century, it is my firm conviction that one of the greatest dangers to our freedom is excessive secrecy and the harm it does to the vital check-and-balance system of a democratic society. The way Congressional staffs work today compounds the problem. These staffs, in the words of James Reston, have become like "hidden legislatures," operating beneath the surface, conducting investigations in the name of, and on behalf of, elected representatives who themselves do not have enough time to perform the work. The staff members feed questions to the representatives, write reports in the name of the representatives, and lead the elected representatives of the people down a primrose path until it is too late for the representatives to do anything.

The House Select Committee on Assassinations is a microcosm of Capitol Hill. I know that the report of the House Select Committee on Assassinations will not stand the test of history. When people examine such failures as the absence of any testimony from Rabbi Silverman, the failure to consider the happenstance of Postal Inspector Holmes missing church that fateful Sunday morning, and all of the other inadequacies that will come to light, the folly of the multimillion-dollar supersecret investigation will become clear to all.

This report should stand as a perpetual monument to the tinderbox combination of excessive powers of Congressional staffs, combined with the excessive dangers of ultrasecret investigations.

Only through a vibrant free press can these dangers be overcome. And they must be overcome if this country is to be able to deal effectively with the national problems facing our society over the next 20 years and beyond.

Cornell Law School,
Ithaca, N.Y., July 25, 1979.

Editor,
New York Times Magazine,
New York, N.Y.

Dear Sir: David Belin's piece ("The Case Against Conspiracy," 7/15/79) is out of Carroll's *Alice in Wonderland*. As the Red Queen, he believes in verdict before evidence; he "knew" the Select Committee on Assassinations was wrong about a second gunman shooting at President Kennedy *before* he read the Committee's Final Report. Those interested in the truth should read the Report. Mr. Belin's piece reflects prejudice and seriously misleads through half-truths and false statements.

First, Mr. Belin suggests that the Committee's finding was based "almost solely" on acoustic testing, yet he does not review the *additional* evidence. On the other hand, when he observes that the physical evidence (other than the acoustical) points to a single gunman—it does not negate a second gunman—he sets out additional testimony. Mr. Belin, therefore, presents a distorted picture. In fact, a policeman, a Secret Service agent, a Korean War veteran (over whose head the third shot was fired), among others, said they heard the knoll shot. Others saw smoke. (Modern guns do emit white gases.) Footprints were also found behind the knoll fence, and a policeman accosted, but released an individual behind the fence, who identified himself as a Secret Service agent, even though no agents acknowledged having been there.

Second, Mr. Belin initially questions: why no cartridge case? If only one shot is fired, no case need be ejected. Why only one shot? Oswald's third shot hit the President's head .7 of a second after the second gunman fired. Obviously, the knoll gunman thought he had killed Kennedy. Why fire again? Why no motorcycle sounds on the tape of the race to Parkland? They are, in fact, present. Why no police sirens heard immediately? The officer remained in the Plaza for a time. Why a chime? The police headquarters receiver could record sounds from more than one mike. The chime was elsewhere. Mr. Belin then suggests the motorcycle itself was elsewhere, even though the Committee published photos of the officer in the Plaza in the right place at the right time, and the authenticity of the tape is established by other scientific evidence, as noted fully in the Report.

Third, questioning the Committee's rejection of Ruby's supposed motive: to save Mrs. Kennedy from having to return for a trial, Mr. Belin suggests Ruby was not part of a conspiracy. Rabbi Silverman's testimony that Ruby told him he had told a policeman of the motive before he saw his lawyer may be accepted without question. (Special Agent Sorrels so told the Warren Commission.) In fact, Ruby probably lied to his Rabbi and Agent Sorrels about his true motive. But Silverman's or Sorrel's testimony is not determinative of the ultimate issue. The Committee only found that Ruby's 1967 note to his second lawyer suggests that the motive was false, not that it was wholly fabricated by the first lawyer.

Fourth, to underwrite the motive story, Belin points to a 1964 polygraph, given by one of the FBI's "ablest". He does not note that Ruby was diagnosed as a "psychotic depressive" and that the FBI, in fact, recommended that the Commission not rely on the test, a recommendation the Warren Commission followed. Did Belin fail to read the Warren Report, too? Since Belin did not read our Report, he also did not know that our experts re-evaluated the 1964 test and found that it was not only invalidly administered, but invalidly interpreted. In fact, it showed deception.

In November 1966, Ruby granted a filmed interview to the press; he was scheduled for retrial in February. He said: "Everything pertaining to what's happened has never come to the surface. The world will never know the true facts of what occurred: my motive. . . ." He added, ". . . [T]he people who [have] . . . so much to gain . . . [will] never let the true facts . . . come . . . to the world." Unless the Kennedy investigation is pursued further, Ruby may turn out to be right; he was for 15 years.

Belin's individual errors could be documented further, but his major charges also require response. Belin complains that the Warren Commission did not have its day in Court; he was not permitted to testify in public session in the Commission's defense. Belin was given an opportunity to appear in executive session or by deposition; he could have made his deposition public. Other Warren Commission lawyers, including its general counsel, followed this procedure. All members of the Commission and the general counsel, in fact, appeared before the Committee in public session, something Belin knows, since he appeared with former President Ford, a member of the Commission. Belin was not called as a witness in a public session because a review of his work showed that he had little to offer. He did not play a key role in the work of the Commission. His testimony about the facts of the assassination was secondhand. The Committee preferred its facts firsthand.

Next, Belin offers a theory as to why the Committee went wrong; he blames it on the staff and that the Committee's work was conducted in secret.

I have been associated with the work of Congressional Committees for almost twenty years. No Committee that I have ever worked with was more democratic, knowledgeable, or more in control of its own processes than the Select Committee. Indeed, the Select Committee was probably more democratic, knowledgeable, and more in control of its processes than was the Warren Commission. Witness the dissents to the work of the Committee, but not the Commission. I make that judgment based on a two-year study of the Warren Commission and personal experience with the Select Committee. When did Belin conduct a similar study of the Committee? He has not even read our report.

Belin's secrecy comment is ironic. The Warren Commission held one day of public hearings. Belin, who was Executive Director of the Rockefeller Commission, was not able to persuade his own Commission to do better. The Select Committee held almost forty days of public hearings on the evidence gathered in its two-year investigation of the Kennedy and King cases, where the Committee's work was open to public scrutiny. Each of the issues he criticizes were, in fact, raised in public hearings.

The Committee's investigation was not held entirely in public for obvious reasons. Classified information was involved. Reputations were at stake. The Committee had a duty, under House Rules, to evaluate its evidence before it was made public. Belin knows the character of the allegations in the Kennedy case. Even though many of the allegations have proven to be irresponsible, they had to be checked out, first confidentially. Would he have had the Committee do otherwise?

Last, Belin grumbles that the Committee made up its mind at the last minute. The Committee had the basic acoustical evidence in July. It knew then what it portended. It all depended on what the final verdict of the scientists was. That came in November. When should the Committee have made up its mind, except at the end when all the evidence was in?

When President Ford appeared before the Committee he was asked why the work of the Warren Commission had fallen on such hard times. First, the former President said that its critics had "deliberately or negligently misled the American people by misstating facts and omitting crucial facts. . . ." Second, he suggested that many people were cynical. Third, he observed that people had not read the report.

The Select Committee should be accorded, at least from former Warren Commission staff members, the same they themselves would have wished to have received. I suggest that Mr. Belin should heed the advice of his client.

Sincerely,

G. ROBERT BLAKEY,
Professor of Law, Cornell Law School.
(Former Chief Counsel and Staff Director, Select Committee on Assassinations.)

THE JFK CONSPIRACY THEORY DOESN'T HOLD UP

(By Shanin Specter)

The House Assassinations Committee was charged with informing the American public, once and for all, of the facts of the murders of John Kennedy and Martin Luther King. Yet, it appears their report will only exacerbate the very problems the committee sought to eradicate: lingering public concern and doubt over these watershed events of the troubling 1960s and mistrust in the ability of the government to find an answer to the argument over who killed John Kennedy.

The big story of the House report is the conclusion that President Kennedy was "probably assassinated as a result of a conspiracy." What is the evidence for this conclusion? The only hard evidence of a second gunman is the results of a complex acoustics study.

The study was conducted on a scratchy recording that was made when a police motorcycle whose microphone was stuck open transmitted the sounds of the assassination to the police radio tape at the Dallas police headquarters. The study concluded that of the dozens of impulses on the tape, four of these impulses represent shots fired at the presidential limousine: the first, second and fourth from Oswald's lair and the third from the grassy knoll. From this, the conspiracy conclusion was born.

Although the acoustics study is a scientifically-derived body of data, there is little precedence indicating how to contextualize this arcane evidence in light of the other evidence. That is, without the benefit of the application of similar studies in the past, how do we evaluate its possible defects and judge its relative weight among all the evidence?

The other evidence is sharply inconsistent with the acoustics study. Neither a second gunman nor his gun was seen by the more than 100 persons in position to see. His identity or possible involvement with Oswald has never been discovered.

No known impact was made by the bullet upon the presidential limousine, its occupants or anyone or anything else, even though its target was only about 25 yards away. Although this series of non-entities does not prove there was no second gunman, it does put into perspective the quantity of evidence of a conspiracy.

It is interesting to note that the evidence that Oswald acted alone is so strong that the House Committee's draft final report, written before the testimony of the acoustics experts, stated that "there is insufficient evidence to find there was a conspiracy."

While the evidence of a conspiracy is tenuous, the evidence that Oswald was the assassin is irrefutable. To the committee's credit, they conducted a series of ballistic, photographic, forensic and trajectory studies that prove that President Kennedy and Governor Connally were struck by exactly two bullets, both fired by Oswald.

It should be noted that these studies were precisely those sought by critics of the lone assassin viewpoint. Thus, though the committee's conclusion was "conspiracy," the preponderance of its findings, including affirmation of the single-bullet theory, are consistent with the Warren Commission's findings.

Furthermore, the term "conspiracy" has unwarranted ominous implications. The term conspiracy has widely varying meanings, most of which connote an institutionally based effort. For this, there is no evidence. While collusion to break the law is, in legal terms, a conspiracy, the purpose of the House Assassinations Committee was to inform us on the facts of the assassination. By the use of the term conspiracy, the committee does a disservice to the understanding of the American public.

Beyond the need to place the acoustics evidence in proper perspective, there is a real question as to whether the evidence is dependable. While the acoustics experts were asked only to isolate which impulses on the tape were shots and whether their origin was the grassy knoll or the Texas School Book Depository, their conclusions imply a scenario of the assassination. That is, the tape provides a timepiece for the assassination.

The acoustics analysis holds that the second shot occurred 1.66 seconds after the first, the third 5.83 seconds after the second and fourth .82 seconds after the third.

Because of the Zapruder film, a motion picture of the assassination, was running at 18.3 frames per second and because President Kennedy was struck in the head by the fourth shot in frame 313, one can count backward and closely approximate the moments in the film when the other shots were fired.

If the acoustics experts were wrong about which impulses were shots, they stand a good chance of being wrong in stating which impulses were shots and from where they originated. Thus, if we are to accept this study—and with it, the conspiracy conclusion—then we must accept the scenario of the assassination it necessarily implies. There are three major problems with this scenario.

First, the committee has concluded that the second shot was the one that passed through both President Kennedy and Governor Connally. Although the evidence is irrefutable that one bullet did do this, it could not have been fired at this time. According to the acoustics study, the second shot occurred 6.65 seconds before the fourth.

A little multiplication and subtraction yields the conclusion that the second shot should have impacted at or near frame 191. A look at frame 191 and those surrounding it shows that Governor Connally's wrist was well above his chest, almost to his neckline, at this moment. But, the bullet exited approximately 4 inches below his right nipple and entered his wrist travelling downward. Fifteen or so frames later, Connally's wrist is substantially lower. It is at this point, or somewhat later, when Connally is obliterated from view by a sign, that it is likely he was shot.

Second, the acoustics study concludes that two shots were fired from the area of Oswald's perch within 1.66 seconds of each other. Unless there were two gunmen firing from the window (a frighteningly complicating concept for which there is no evidence), we must conclude that Oswald fired those two shots.

FBI expert testimony to the Warren Commission indicated that Oswald's rifle could not be reaimed and refired in less than 2.3 seconds. Speaking before the House Assassinations Committee on Dec. 29, 1978, Chief Counsel Blakey said: "Preliminary tests are sufficient to cast into serious doubt the previously established time and intervals." That evening the committee reached its conclusion. Blakey believed that tests not yet conducted would demonstrate that Oswald could have fired twice with a hit on the second shot within 1.66 seconds.

However, in an internal memorandum to committee members dated March 22, 1979, Blakey stated that of six test shooters, including "four expert marksmen," firing a total of 35 shells, "no one achieved this degree of proficiency." Thus, not only does it appear unlikely that Oswald fired twice with a hit on the second shot within 1.66 seconds, it may be humanly impossible to do so. If Oswald did not fire those shots, then the impulses thought to be shots were not shots. This simply negates the credibility of the acoustics study and its conclusions.

Third, a reconstruction in 1964 by the Warren Commission showed that between frames 166 and 210 there was an oak tree whose branches and leaves obscurred Oswald's view of his target, except for a brief opening at frames 185–186. As was noted above, the acoustics study places the second shot at frame 191.

Thus, the acoustics study necessarily implies that Oswald fired blindly and hit his target. This illogical behavior is magnified when one considers that Oswald had an unimpeded stretch of approximately 100 yards and several seconds in which to kill the President, beginning a mere second later.

It seems clear that the necessary implications of the acoustics study are not consistent with a reasonable scenario of the assassination of President Kennedy. Thus, it appears doubtful that the acoustics experts were correct in concluding that a shot originated from the grassy knoll.

Why did the committee conclude there was a conspiracy? Congressman Robert Edgar, a dissenter from the conclusion, may have put it best when he said: "We did a great job up to the last moment, when in our focus on the acoustics we failed to give proper weight to other findings of the investigation."

(Shanin Specter assisted Congressman Robert Edgar in his work on the House Assassinations Committee. He is the son of Arlen Specter, the former Philadelphia District Attorney and counsel to the Warren Commission, which investigated the Kennedy assassination.)

Cornell Law School,
Ithaca, N.Y., July 30, 1979.

Mr. Edwin Guthman,
Editor, The Philadelphia Inquirer,
Philadelphia, Pa.

Dear Mr. Guthman: Shanin Spector's piece ("The JFK Conspiracy Theory Does Not Hold Up," (7/23/79)) does an injustice to the work of the Select Committee on Assassinations; it also raises questions about his objectivity and competence.

I

The continued, almost exclusive concentration by Spector and others on the conspiracy conclusions of the Select Committee ignores other important findings and recommendations. The Committee also concluded, for example, that no governmental agency, foreign or domestic, was involved in either the President's or Dr. King's murder; and it made a variety of valuable recommendations, including the preparation of a "White Paper" by the Department of Justice to settle doubts about the acoustical study, and the enactment of charter legislation by the Congress to prevent another harassment campaign by the F.B.I. similar to that conducted against Dr. King.

II

Spector's piece also misstates the Kennedy conspiracy conclusion; it did not, in fact, rest on the acoustical study alone. The Final Report explicitly premises the conclusion on four factors: 1) an inadequate 1964 conspiracy investigation that precludes reliance today on its no conspiracy finding; 2) a finding of associates, who had the motive to murder the President, of Oswald and Ruby who were unknown or unappreciated by the Warren Commission; 3) the inability of the Committee to rule out the complicity of certain individuals; and 4) the scientific fact of two shooters. Reading Spector's piece, I wonder if he read the Final Report, an indispensable prerequisite to discussing it, much less criticizing it.

III

Contrary to Spector's assertion, no evidence is "sharply inconsistent" with the acoustical study. Proving that Oswald shot the President, does not prove that another was not also involved. In addition, it is a half-truth to say that no one "saw" the second gunman. In fact, a policeman, a Secret Service Agent, and a Korean veteran (over whose head the third shot was fired)—among others—said they "heard" the shot from the knoll as well as the shots from the Depository. Others "saw" smoke on the knoll. (Modern guns do emit white gases.) Finally, footprints were found behind the knoll fence, and a policeman accosted a suspicious person behind the fence, who identified himself as a Secret Service agent, even though *no* agent acknowledges being in that area. As Spector does not note, these facts, too, put the Kennedy conspiracy finding "in perspective."

IV

The Committee itself acknowledged that the term "conspiracy" had varying meanings and might be misunderstood, as Specter comments. Yet it also observed, rightly I believe, that it had a duty to be candid. If two persons acted in concert to assassinate the President, that was a "conspiracy," no matter how unpleasant the word sounds. To have used some euphemistic variation would have been an unfortunate attempt to sugarcoat the truth. (We have enough of sugarcoating by government now. That—and not the truth—is the cause of mistrust of government.) No one who reads the Final Report—something I recommend to Specter as well as others who seek the truth—will fail to understand the proper sense in which the term was used.

V

Specter is right in saying that acceptance of the acoustical study implies the acceptance of its assassination scenario. But he is egregiously wrong in describing it. Specter's calculations are, for example, imprecise; they apparently do not reflect such distinctions as average running time of the camera, corrected time of the tape, and time of trigger pull as opposed to time of impact. According to the acoustical study, the first shot, not noted by Specter, occurred around Zapruder frame 156–161. It is, as such, consistent with Governor Connally's testimony, rejected by the Warren Commission, that he heard the first shot, reacted to it, but was not hit by it. Connally can, in fact, be seen in the film to turn to his right at 162–167. (The startled reaction of a little girl can also be seen in the background.)

The second shot occurred around 188–191. Contrary to Specter, Connally's wrist is *not* in sight during these frames, much less high on his chest; from the configuration of his shoulder and arm, the wrist appears to be on the Governor's lap, right where it should be to receive the impact of the second shot. Specter has apparently not only not read the Report, he has not carefully studied the film.

Expert F.B.I. testing in 1964 indicated the rifle could be repeatedly shot at between 2.3 and 2.25 seconds, using the telescopic sight. Using the open iron sights, however, it is possible, though difficult, to shoot the weapon at a much faster pace. (I did it myself in 1.5) With familiarity with the weapon, which Oswald had, accuracy can be added to speed; it is hardly "humanly impossible" to shoot the weapon as the acoustical study indicates it was shot.

Specter also misleads his readers in discussing the tree. Apparently, he has never seen a child run behind a picket fence. While the child is "obscured," he can be clearly seen as he runs; the mind's eye fills in the details. In any event, the trigger pull was probably 187, not 191, which is near to, if not right at, the break in the foliage. The acoustical study, therefore, hardly implies "blind firing," as Specter suggests.

VI

When former President Ford appeared before the Committee, he was asked why the work of the Warren Commission had fallen on such hard times. (80% of the American people do not believe Oswald acted alone.) The former President said its critics had "deliberately or negligently misled the American people by misstating facts and omitting crucial facts . . . ." He also noted that people had not read the Warren Commission's Report. Mr. Specter's piece seems to be following in that tradition. It also seems to be less an objective study of the work of the Committee than an effort to vindicate a father; it also calls into question the quality of the staff work that supported Congressman Edgar's dissent to the Committee's conspiracy conclusions.

Sincerely yours,
G. Robert Blakey,
Professor of Law,
(Former Chief Counsel and Staff Director, HSCA.) ●

☐ 1910

GENERAL LEAVE

Mr. MAVROULES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of the special order speech today by the gentleman from New York (Mr. Murphy).

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CONFERENCE REPORT ON S. 737

Mr. BINGHAM submitted the following conference report and statement on the bill (S. 737) to provide authority to regulate exports, to improve the efficiencies of export regulation, and to minimize interference with the ability to engage in commerce.

Conference Report (H. Rept. No. 96–482)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 737) to provide authority to regulate exports, to improve the efficiencies of export regulation, and to minimize interference with the ability to engage in commerce, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

Section 1. This Act may be cited as the "Export Administration Act of 1979".

FINDINGS

Sec. 2. The Congress makes the following findings:

(1) The ability of United States citizens to engage in international commerce is a fundamental concern of United States policy.

(2) Exports contribute significantly to the economic well-being of the United States and the stability of the world economy by increasing employment and production in the United States, and by strengthening the trade balance and the value of the United States dollar, thereby reducing inflation. The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

(3) It is important for the national interest of the United States that both the private sector and the Federal Government place a high priority on exports, which would strengthen the Nation's economy.

(4) The availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

(5) Exports of goods or technology without regard to whether they make a significant contribution to the military potential of individual countries or combinations of countries may adversely affect the national security of the United States.

(6) Uncertainty of export control policy can curtail the efforts of American business to the detriment of the overall attempt to improve the trade balance of the United States.

(7) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

(8) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.

(9) Minimization of restrictions on exports of agricultural commodities and products is of critical importance to the maintenance of a sound agricultural sector, to achievement of a positive balance of payments, to reducing the level of Federal expenditures for agricultural support programs, and to United States cooperation in efforts to eliminate malnutrition and world hunger.

DECLARATION OF POLICY

Sec. 3. The Congress makes the following declarations:

(1) It is the policy of the United States to minimize uncertainties in export control policy and to encourage trade with all countries with which the United States has diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest.

(2) It is the policy of the United States to use export controls only after full consideration of the impact on the economy of the United States and only to the extent necessary—

(A) to restrict the export of goods and technology which would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States;

(B) to restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and

(C) to restrict the export of goods where necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.

(3) It is the policy of the United States (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance of a uniform export control policy by all nations with which the United States has defense treaty commitments.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

(5) It is the policy of the United States—

(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person;

(B) to encourage and, in specified cases, require United States persons engaged in the export of goods or technology or other information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person; and

(C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and private industry.

(7) It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on exports from the United States. No action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.

(9) It is the policy of the United States to cooperate with other countries with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States and of those countries with which the United States has defense treaty commitments.

(10) It is the policy of the United States that export trade by United States citizens be given a high priority and not be controlled except when such controls (A) are necessary to further fundamental national security, foreign policy, or short supply objectives, (B) will clearly further such objectives, and (C) are administered consistent with basic standards of due process.

(11) It is the policy of the United States to minimize restrictions on the export of agricultural commodities and products.

GENERAL PROVISIONS

Sec. 4. (a) Types of Licenses.—Under such conditions as may be imposed by the Secretary which are consistent with the provisions of this Act, the Secretary may require any of the following types of export licenses:

(1) A validated license, authorizing a specific export, issued pursuant to an application by the exporter.

(2) A qualified general license, authorizing multiple exports, issued pursuant to an application by the exporter.

(3) A general license, authorizing exports without application by the exporter.

(4) Such other licenses as may assist in the effective and efficient implementation of this Act.

(b) Commodity Control List.—The Secretary shall establish and maintain a list (hereinafter in this Act referred to as the "commodity control list") consisting of any goods or technology subject to export controls under this Act.

(c) Foreign Availability.—In accordance with the provisions of this Act, the President shall not impose export controls for foreign policy or national security purposes on the export from the United States of goods or technology which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States.

(d) Right of Export.—No authority or permission to export may be required under this Act, or under regulations issued under this Act, except to carry out the policies set forth in section 3 of this Act.

(e) Delegation of Authority.—The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may consider appropriate, except that no authority under this Act may be delegated to, or exercised by, any official of any department or agency the head of which is not appointed by the President, by and with the advice and consent of the Senate. The President may not delegate or transfer his power, authority, and discretion to overrule or modify any recommendation or decision made by the Secretary, the Secretary of Defense, or the Secretary of State pursuant to the provisions of this Act.

(f) Notification of the Public; Consultation With Business.—The Secretary shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of the business sector in order to obtain their views on export control policy and the foreign availability of goods and technology.

NATIONAL SECURITY CONTROLS

SEC. 5. (a) AUTHORITY.—(1) In order to carry out the policy set forth in section 3(2)(A) of this Act, the President may, in accordance with the provisions of this section, prohibit or curtail the export of any goods or technology subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses described in section 4(a) of this Act.

(2)(A) Whenever the Secretary makes any revision with respect to any goods or technology, or with respect to the countries or destinations, affected by export controls imposed under this section, the Secretary shall publish in the Federal Register a notice of such revision and shall specify in such notice that the revision relates to controls imposed under the authority contained in this section.

(B) Whenever the Secretary denies any export license under this section, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this section. The Secretary shall also include in such notice what, if any, modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls imposed under this section, or the Secretary shall indicate in such notice which officers and employees of the Department of Commerce who are familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restriction, if appropriate.

(3) In issuing regulations to carry out this section, particular attention shall be given to the difficulty of devising effective safeguards to prevent a country that poses a threat to the security of the United States from diverting critical technologies to military use, the difficulty of devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the reexport of critical technologies from other countries to countries that pose a threat to the security of the United States. Such regulations shall not be based upon the assumption that such effective safeguards can be devised.

(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In administering export controls for national security purposes under this section, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President considers appropriate. The President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence.

(c) CONTROL LIST.—(1) The Secretary shall establish and maintain, as part of the commodity control list, a list of all goods and technology subject to export controls under this section. Such goods and technology shall be clearly identified as being subject to controls under this section.

(2) The Secretary of Defense and other appropriate departments and agencies shall identify goods and technology for inclusion on the list referred to in paragraph (1). Those items which the Secretary and the Secretary of Defense concur shall be subject to export controls under this section shall comprise such list. If the Secretary and the Secretary of Defense are unable to concur on such items, the matter shall be referred to the President for resolution.

(3) The Secretary shall issue regulations providing for review of the list established pursuant to this subsection not less frequently than every three years in the case of controls maintained cooperatively with other countries, and annually in the case of all other controls, in order to carry out the policy set forth in section 3(2)(A) and the provisions of this section, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments, with or without oral presentation. Such regulations shall further provide that, as part of such review, an assessment be made of the availability from sources outside the United States, or any of its territories or possessions, of goods and technology comparable to those controlled under this section. The Secretary and any agency rendering advice with respect to export controls shall keep adequate records of all decisions made with respect to revision of the list of controlled goods and technology, including the factual and analytical basis for the decision, and, in the case of the Secretary, any dissenting recommendations received from any agency.

(d) MILITARILY CRITICAL TECHNOLOGIES.—(1) The Secretary, in consultation with the Secretary of Defense, shall review and revise the list established pursuant to subsection (c), as prescribed in paragraph (3) of such subsection, for the purpose of insuring that export controls imposed under this section cover and (to the maximum extent consistent with the purposes of this Act) are limited to militarily critical goods and technologies and the mechanisms through which such goods and technologies may be effectively transferred.

(2) The Secretary of Defense shall bear primary responsibility for developing a list of militarily critical technologies. In developing such list, primary emphasis shall be given to—

(A) arrays of design and manufacturing know-how,

(B) keystone manufacturing, inspection, and test equipment, and

(C) goods accompanied by sophisticated operation, application, or maintenance know-how,

which are not possessed by countries to which exports are controlled under this section and which, if exported, would permit a significant advance in a military system of any such country.

(3) The list referred to in paragraph (2) shall be sufficiently specific to guide the determinations of any official exercising export licensing responsibilities under this Act.

(4) The initial version of the list referred to in paragraph (2) shall be completed and published in an appropriate form in the Federal Register not later than October 1, 1980.

(5) The list of militarily critical technologies developed primarily by the Secretary of Defense pursuant to paragraph (2) shall become a part of the commodity control list, subject to the provisions of subsection (c) of this section.

(6) The Secretary of Defense shall report annually to the Congress on actions taken to carry out this subsection.

(e) EXPORT LICENSES.—(1) The Congress finds that the effectiveness and efficiency of the process of making export licensing determinations under this section is severely hampered by the large volume of validated export license applications required to be submitted under this Act. Accordingly, it is the intent of Congress in this subsection to encourage the use of a qualified general license in lieu of a validated license.

(2) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a validated license under this section for the export of goods or technology only if—

(A) the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, under the terms of such multilateral agreement, such export requires the specific approval of the parties to such multilateral agreement;

(B) with respect to such goods or technology, other nations do not possess capabilities comparable to those possessed by the United States; or

(C) the United States is seeking the agreement of other suppliers to apply comparable controls to such goods or technology and, in the judgment of the Secretary, United States export controls on such goods or technology, by means of such license, are necessary pending the conclusion of such agreement.

(3) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a qualified general license, in lieu of a validated license, under this section for the export of goods or technology if the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party, but such export does not require the specific approval of the parties to such multilateral agreement.

(4) Not later than July 1, 1980, the Secretary shall establish procedures for the approval of goods and technology that may be exported pursuant to a qualified general license.

(f) FOREIGN AVAILABILITY.—(1) The Secretary, in consultation with appropriate Government agencies and with appropriate technical advisory committees established pursuant to subsection (h) of this section, shall review, on a continuing basis, the availability, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, of any goods or technology the export of which requires a validated license under this section. In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that any such goods or technology are available in fact to such destinations from such sources in sufficient quantity and of sufficient quality so that the requirement of a validated license for the export of such goods or technology is or would be ineffective in achieving the purpose set forth in subsection (a) of this section, the Secretary may not, after the determination is made, require a validated license for the export of such goods or technology during the period of such foreign availability, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination together with a concise statement of its basis, and the estimated economic impact of the decision.

(2) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a particular country and which meets all other requirements for such an application, if the Secretary determines that such goods or technology will, if the license is denied, be available in fact to such country from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of sufficient quality so that denial of the license would be ineffective in achieving the purpose set forth in subsection (a) of this section, subject to the exception set forth in paragraph (1) of this subsection. In any case in which the Secretary makes a determination of foreign availability under this paragraph with respect to any goods or technology, the Secretary shall determine whether a determination of foreign availability under paragraph (1) with respect to such goods or technology is warranted.

(3) With respect to export controls imposed under this section, any determination of foreign availability which is the basis of a decision to grant a license for, or to remove a control on, the export of a good or technology, shall be made in writing and shall be supported by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability.

(4) In any case in which, in accordance with this subsection, export controls are imposed under this section notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available from other countries to countries to which exports are controlled under this section and that such availability can be prevented or eliminated by means of negotiations with such other countries, the President shall promptly initiate negotiations with the governments of such other countries to prevent such foreign availability.

(5) In order to further carry out the policies set forth in this Act, the Secretary shall establish, within the Office of Export Administration of the Department of Commerce, a capability to monitor and gather information with respect to the foreign availability of any goods or technology subject to export controls under this Act.

(6) Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, shall, consistent with the protection of intelligence sources and methods, furnish information to the Office of Export Administration concerning foreign availability of goods and technology subject to export controls under this Act, and such Office, upon request or where appropriate, shall furnish to such departments and agencies the information it gathers and receives concerning foreign availability.

(g) Indexing.—In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. Any such goods or technology which no longer meet the performance levels established by the latest such increase shall be removed from the list established pursuant to subsection (c) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other department or agency of the United States objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list. The Secretary shall also consider, where appropriate, removing site visitation requirements for goods and technology which are removed from the list unless objections described in this subsection are raised.

(h) Technical Advisory Committees.—(1) Upon written request by representatives of a substantial segment of any industry which produces any goods or technology subject to export controls under this section or being considered for such controls because of their significance to the national security of the United States, the Secretary shall appoint a technical advisory committee for any such goods or technology which the Secretary determines are difficult to evaluate because of questions concerning technical matters, worldwide availability, and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and Government, including the Departments of Commerce, Defense, and State, and, in the discretion of the Secretary, other Government departments and agencies. No person serving on any such committee who is a representative of industry shall serve on such committee for more than four consecutive years.

(2) Technical advisory committees established under paragraph (1) shall advise and assist the Secretary, the Secretary of Defense, and any other department, agency, or official of the Government of the United States to which the President delegates authority under this Act, with respect to actions designed to carry out the policy set forth in section 3(2)(A) of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary or the Secretary of Defense from consulting, at any time, with any person representing industry or the general public, regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present evidence to such committees.

(3) Upon request of any member of any such committee, the Secretary may, if the Secretary determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by such member in connection with the duties of such member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the chairman, unless the chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this subsection. Each such committee shall be terminated after a period of two years, unless extended by the Secretary for additional periods of two years. The Secretary shall consult each such committee with respect to such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Secretary, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the goods or technology with respect to which that committee furnishes advice.

(6) Whenever a technical advisory committee certifies to the Secretary that goods or technology with respect to which such committee was appointed have become available in fact, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of sufficient quality so that requiring a validated license for the export of such goods or technology would be ineffective in achieving the purpose set forth in subsection (a) of this section, and provides adequate documentation for such certification, in accordance with the procedures established pursuant to subsection (f)(1) of this section, the Secretary shall investigate such availability, and if such availability is verified, the Secretary shall remove the requirement of a validated license for the export of the goods or technology, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination together with a concise statement of its basis and the estimated economic impact of the decision.

(i) Multilateral Export Controls.—The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the "Committee") with a view toward accomplishing the following objectives:

(1) Agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such agreement of the Committee, and all changes thereto.

(2) Agreement to hold periodic meetings with high-level representatives of such governments, for the purpose of discussing export control policy issues and issuing policy guidance to the Committee.

(3) Agreement to reduce the scope of the export controls imposed by agreement of the Committee to a level acceptable to and enforceable by all governments participating in the Committee.

(4) Agreement on more effective procedures for enforcing the export controls agreed to pursuant to paragraph (3).

(j) Commercial Agreements With Certain Countries.—(1) Any United States firm, enterprise, or other nongovernmental entity which, for commercial purposes, enters into any agreement with any agency of the government of a country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement (to which the United States and such country are parties) calling for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report the agreement with such agency to the Secretary.

(2) The provisions of paragraph (1) shall not apply to colleges, universities, or other educational institutions.

(k) NEGOTIATIONS WITH OTHER COUNTRIES.—The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with other countries regarding their cooperation in restricting the export of goods and technology in order to carry out the policy set forth in section 3(9) of this Act, as authorized by subsection (a) of this section, including negotiations with respect to which goods and technology should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

(l) DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY.—(1) Whenever there is reliable evidence that goods or technology, which were exported subject to national security controls under this section to a country to which exports are controlled for national security purposes, have been diverted to significant military use in violation of the conditions of an export license, the Secretary, for as long as that diversion to significant military use continues—

(A) shall deny all further exports to the party responsible for that diversion of any goods or technology subject to national security controls under this section which contribute to that particular military use, regardless of whether such goods or technology are available to that country from sources outside the United States; and

(B) may take such additional steps under this Act with respect to the party referred to in subparagraph (A) as are feasible to deter the further military use of the previously exported goods or technology.

(2) As used in this subsection, the terms "diversion to significant military use" and "significant military use" means the use of United States goods or technology to design or produce any item on the United States Munitions List.

FOREIGN POLICY CONTROLS

SEC. 6. (a) AUTHORITY.—(1) In order to carry out the policy set forth in paragraph (2)(B), (7), or (8) of section 3 of this Act, the President may prohibit or curtail the exportation of any goods, technology, or other information subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, to the extent necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations. The authority granted by this subsection shall be exercised by the Secretary, in consultation with the Secretary of State and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses issued by the Secretary.

(2) Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended by the President in accordance with subsections (b) and (e). Any such extension and any subsequent extension shall not be for a period of more than one year.

(3) Whenever the Secretary denies any export license under this subsection, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this subsection, and the reasons for such denial, with reference to the criteria set forth in subsection (b) of this section. The Secretary shall also include in such notice what, if any, modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls implemented under this section, or the Secretary shall indicate in such notice which officers and employees of the Department of Commerce who are familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions, if appropriate.

(4) In accordance with the provisions of section 10 of this Act, the Secretary of State shall have the right to review any export license application under this section which the Secretary of State requests to review.

(b) CRITERIA.—When imposing, expanding, or extending export controls under this section, the President shall consider—

(1) the probability that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

(2) the compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

(3) the reaction of other countries to the imposition or expansion of such export controls by the United States;

(4) the likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, on the international reputation of the United States as a supplier of goods and technology, and on individual United States companies and their employees and communities, including the effects of the controls on existing contracts;

(5) the ability of the United States to enforce the proposed controls effectively; and

(6) the foreign policy consequences of not imposing controls.

(c) CONSULTATION WITH INDUSTRY.—The Secretary, before imposing export controls under this section, shall consult with such affected United States industries as the Secretary considers appropriate, with respect to the criteria set forth in paragraphs (1) and (4) of subsection (b) and such other matters as the Secretary considers appropriate.

(d) ALTERNATIVE MEANS.—Before resorting to the imposition of export controls under this section, the President shall determine that reasonable efforts have been made to achieve the purposes of the controls through negotiations or other alternative means.

(e) NOTIFICATION TO CONGRESS.—The President in every possible instance shall consult with the Congress before imposing any export control under this section. Except as provided in section 7(g)(3) of this Act, whenever the President imposes, expands, or extends export controls under this section, the President shall immediately notify the Congress of such action and shall submit with such notification a report specifying—

(1) the conclusions of the President with respect to each of the criteria set forth in subsection (b); and

(2) the nature and results of any alternative means attempted under subsection (d), or the reasons for imposing, extending, or expanding the control without attempting any such alternative means.

Such report shall also indicate how such controls will further significantly the foreign policy of the United States or will further its declared international obligations. To the extent necessary to further the effectiveness of such export control, portions of such report may be submitted on a classified basis, and shall be subject to the provisions of section 12(c) of this Act.

(f) EXCLUSION FOR MEDICINE AND MEDICAL SUPPLIES.—This section does not authorize export controls on medicine or medical supplies. It is the intent of Congress that the President not impose export controls under this section on any goods or technology if he determines that the principal effect of the export of such goods or technology would be to help meet basic human needs. This subsection shall not be construed to prohibit the President from imposing restrictions on the export of medicine or medical supplies under the International Emergency Economic Powers Act. This subsection shall not apply to any export control on medicine or medical supplies which is in effect on the effective date of this Act.

(g) FOREIGN AVAILABILITY.—In applying export controls under this section, the President shall take all feasible steps to initiate and conclude negotiations with appropriate foreign governments for the purpose of securing the cooperation of such foreign governments in controlling the export to countries and consignees to which the United States export controls apply of any goods or technology comparable to goods or technology controlled under this section.

(h) INTERNATIONAL OBLIGATIONS.—The provisions of subsections (b), (c), (d), (f), and (g) shall not apply in any case in which the President exercises the authority contained in this section to impose export controls, or to approve or deny export license applications, in order to fulfill obligations of the United States pursuant to treaties to which the United States is a party or pursuant to other international agreements.

(i) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before any license is approved for the export of goods or technology valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations:

(1) Such country has repeatedly provided support for acts of international terrorism.

(2) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

(j) CRIME CONTROL INSTRUMENTS.—(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary only pursuant to a validated export license.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia or New Zealand, or to such other countries as the President shall designate consistent with the purposes of this subsection and section 502B of the Foreign Assistance Act of 1961.

(k) CONTROL LIST.—The Secretary shall establish and maintain, as part of the commodity control list, a list of any goods or technology subject to export controls under this section, and the countries to which such controls apply. Such goods or technology shall be clearly identified as subject to controls under this section. Such list shall consist of goods and technology identified by the Secretary of State, with the concurrence of the Secretary. If the Secretary and the Secretary of State are unable to agree on the list, the matter shall be referred to the President. Such list shall be reviewed not less frequently than every three years in the case of controls maintained cooperatively with other countries, and annually in the case of all other controls, for the purpose of making such revisions as are necessary in order to carry out this section. During the course of such review, an assessment shall be made periodically of the availability from sources outside the United States, or any of its territories or possessions, of goods and technology comparable to those controlled for export from the United States under this section.

SHORT SUPPLY CONTROLS

SEC. 7. (a) AUTHORITY.—(1) In order to carry out the policy set forth in section 3 (2)(C) of this Act, the President may prohibit or curtail the export of any goods subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. In curtailing exports to carry out the policy set forth in section 3(2)(C) of this Act, the President shall allocate a portion of export licenses on the basis of factors other than a prior history of exportation. Such factors shall include the extent to which a country engages in equitable trade practices with respect to United States goods and treats the United States equitably in times of short supply.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy set forth in section 3(2)(C) of this Act, the Secretary shall include in a notice published in the Federal Register with respect to such restrictions an invitation to all interested parties to submit written comments within 15 days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.

(3) In imposing export controls under this section, the President's authority shall include, but not be limited to, the imposition of export license fees.

(b) MONITORING.—(1) In order to carry out the policy set forth in section 3(2)(C) of this Act, the Secretary shall monitor exports, and contracts for exports, of any good (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Any such monitoring shall commence at a time adequate to assure that the monitoring will result in a data base sufficient to enable policies to be developed, in accordance with section 3(2)(C) of this Act, to mitigate a short supply situation or serious inflationary price rise or, if export controls are needed, to permit imposition of such controls in a timely manner. Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each item monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(3) The Secretary shall consult with the Secretary of Energy to determine whether monitoring or export controls under this section are warranted with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including, but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(c) PETITIONS FOR MONITORING OR CONTROLS.—(1)(A) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes metallic materials capable of being recycled with respect to which an increase in domestic prices or a domestic shortage, either of which results from increased exports, has or may have a significant adverse effect on the national economy or any sector thereof, may transmit a written petition to the Secretary requesting the monitoring of exports, or the imposition of export controls, or both, with respect to such material, in order to carry out the policy set forth in section 3(2)(C) of this Act.

(B) Each petition shall be in such form as the Secretary shall prescribe and shall contain information in support of the action requested. The petition shall include any information reasonably available to the petitioner indicating (i) that there has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply, and (ii) that there has been a significant increase in the price of such material or a domestic shortage of such material under circumstances indicating the price increase or domestic shortage may be related to exports.

(2) Within 15 days after receipt of any petition described in paragraph (1), the Secretary shall publish a notice in the Federal Register. The notice shall (A) include the name of the material which is the subject of the petition, (B) include the Schedule B number of the material as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (C) indicate whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material, and (D) provide that interested persons shall have a period of 30 days commencing with the date of publication of such notice to submit to the Secretary written data, views, or arguments, with or without opportunity for oral presentation, with respect to the matter involved. At the request of the petitioner or any other entity described in paragraph (1)(A) with respect to the material which is the subject of the petition, or at the request of any entity representative of producers or exporters of such material, the Secretary shall conduct public hearings with respect to the subject of the petition, in which case the 30-day period may be extended to 45 days.

(3) Within 45 days after the end of the 30- or 45-day period described in paragraph (2), as the case may be, the Secretary shall—

(A) determine whether to impose monitoring or controls, or both, on the export of such material, in order to carry out the policy set forth in section 3(2)(C) of this Act; and

(B) publish in the Federal Register a detailed statement of the reasons for such determination.

(4) Within 15 days after making a determination under paragraph (3) to impose monitoring or controls on the export of a material, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within 30 days following the publication of such proposed regulations, and after considering any public comments thereon, the Secretary shall publish and implement final regulations with respect to such monitoring or controls.

(5) For purposes of publishing notices in the Federal Register and scheduling public hearings pursuant to this subsection, the Secretary may consolidate petitions, and responses thereto, which involve the same or related materials.

(6) If a petition with respect to a particular material or group of materials has been considered in accordance with all the procedures prescribed in this subsection, the Secretary may determine, in the absence of significantly changed circumstances, that any other petition with respect to the same material or group of materials which is filed within six months after consideration of the prior petition has been completed does not merit complete consideration under this subsection.

(7) The procedures and time limits set forth in this subsection with respect to a petition filed under this subsection shall take precedence over any review undertaken at the initiative of the Secretary with respect to the same subject as that of the petition.

(8) The Secretary may impose monitoring or controls on a temporary basis after a petition is filed under paragraph (1)(A) but before the Secretary makes a determination under paragraph (3) if the Secretary considers such action to be necessary to carry out the policy set forth in section 3(2)(C) of this Act.

(9) The authority under this subsection shall not be construed to affect the authority of the Secretary under any other provision of this Act.

(10) Nothing contained in this subsection shall be construed to preclude submission on a confidential basis to the Secretary of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, or to preclude consideration of such information by the Secretary in reaching decisions required under this subsection. The provisions of this paragraph shall not be construed to affect the applicability of section 552(b) of title 5, United States Code.

(d) DOMESTICALLY PRODUCED CRUDE OIL.—(1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to section 208 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) (except any such crude oil which (A) is exported to an adjacent foreign country to be refined and consumed therein in exchange for the same quantity of crude oil being exported from that country to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign country and reenters the United States) may be exported from the United States, or any of its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President makes and publishes express findings that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) will, within three months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refiners which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil in the absence of such an export or exchange, and (II) not less than 75 percent of such savings in costs being reflected in wholesale and retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are clearly necessary to protect the national interest; and

(v) are in accordance with provisions of this Act; and

(B) the President reports such findings to the Congress and the Congress, within 60 days thereafter, agrees to a concurrent resolution approving such exports on the basis of the findings.

(3) Notwithstanding any other provision of this section or any other provision of law, including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any country pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before June 25, 1979, or to any country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency.

(e) Refined Petroleum Products.—(1) No refined petroleum product may be exported except pursuant to an export license specifically authorizing such export. Not later than five days after an application for a license to export any refined petroleum product or residual fuel oil is received, the Secretary shall notify the Congress of such application, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export. Such notification shall be made to the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) The Secretary may not grant such license during the 30-day period beginning on the date on which notification to the Congress under paragraph (1) is received, unless the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that the proposed export is vital to the national interest and that a delay in issuing the license would adversely affect that interest.

(3) This subsection shall not apply to (A) any export license application for exports to a country with respect to which historical export quotas established by the Secretary on the basis of past trading relationships apply, or (B) any license application for exports to a country if exports under the license would not result in more than 250,000 barrels of refined petroleum products being exported from the United States to such country in any fiscal year.

(4) For purposes of this subsection, "refined petroleum product" means gasoline, kerosene, distillates, propane or butane gas, diesel fuel, and residual fuel oil refined within the United States or entered for consumption within the United States.

(5) The Secretary may extend any time period prescribed in section 10 of this Act to the extent necessary to take into account delavs in action by the Secretary on a license application on account of the provisions of this subsection.

(f) Certain Petroleum Products.—Petroleum products refined in United States Foreign Trade Zones, or in the United States Territory of Guam, from foreign crude oil shall be excluded from any quantitative restrictions imposed under this section except that, if the Secretary finds that a product is in short supply, the Secretary may issue such regulations as may be necessary to limit exports.

(g) Agricultural Commodities.—(1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by the Secretary of Agriculture to be in excess of the requirements of the domestic economy except to the extent the President determines that such exercise of authority is required to carry out the policies set forth in subparagraph (A) or (B) of paragraph (2) of section 3 of this Act. The Secretary of Agriculture shall, by exercising the authorities which the Secretary of Agriculture has under other applicable provisions of law, collect data with respect to export sales of animal hides and skins.

(2) Upon approval of the Secretary, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed to carry out the policy set forth in section 3(2)(C) of this Act subsequent to such approval. The Secretary may not grant such approval unless the Secretary receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (D) that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary may issue such regulations as may be necessary to implement this paragraph.

(3) If the authority conferred by this section or section 6 is exercised to prohibit or curtail the export of any agricultural commodity in order to carry out the policies set forth in subparagraph (B) or (C) of paragraph (2) of section 3 of this Act, the President shall immediately report such prohibition or curtailment to the Congress, setting forth the reasons therefor in detail. If the Congress, within 30 days after the date of its receipt of such report, adopts a concurrent resolution disapproving such prohibition or curtailment, then such prohibition or curtailment shall cease to be effective with the adoption of such resolution. In the computation of such 30-day period, there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.

(h) Barter Agreements.—(1) The exportation pursuant to a barter agreement of any goods which may lawfully be exported from the United States, for any goods which may lawfully be imported into the United States, may be exempted, in accordance with paragraph (2) of this subsection, from any quantitative limitation on exports (other than any reporting requirement) imposed to carry out the policy set forth in section 3(2)(C) of this Act.

(2) The Secretary shall grant an exemption under paragraph (1) if the Secretary finds, after consultation with the appropriate department or agency of the United States, that—

(A) for the period during which the barter agreement is to be performed—

(i) the average annual quantity of the goods to be exported pursuant to the barter agreement will not be required to satisfy the average amount of such goods estimated to be required annually by the domestic economy and will be surplus thereto; and

(ii) the average annual quantity of the goods to be imported will be less than the average amount of such goods estimated to be required annually to supplement domestic production; and

(B) the parties to such barter agreement have demonstrated adequately that they intend, and have the capacity, to perform such barter agreement.

(3) For purposes of this subsection, the term "barter agreement" means any agreement which is made for the exchange, without monetary consideration, of any goods produced in the United States for any goods produced outside of the United States.

(4) This subsection shall apply only with respect to barter agreements entered into after the effective date of this Act.

(i) Unprocessed Red Cedar.—(1) The Secretary shall require a validated license, under the authority contained in subsection (a) of this section, for the export of unprocessed western red cedar (Thuja plicata) logs, harvested from State or Federal lands. The Secretary shall impose quantitative restrictions upon the export of unprocessed western red cedar logs during the 3-year period beginning on the effective date of this Act as follows:

(A) Not more than thirty million board feet scribner of such logs may be exported during the first year of such 3-year period.

(P) Not more than fifteen million board feet scribner of such logs may be exported during the second year of such period.

(C) Not more than five million board feet scribner of such logs may be exported during the third year of such period.

After the end of such 3-year period, no unprocessed western red cedar logs may be exported from the United States.

(2) The Secretary shall allocate export licenses to exporters pursuant to this subsection on the basis of a prior history of exportation by such exporters and such other factors as the Secretary considers necessary and appropriate to minimize any hardship to the producers of western red cedar and to further the foreign policy of the United States.

(3) Unprocessed western red cedar logs shall not be considered to be an agricultural commodity for purposes of subsection (g) of this section.

(4) As used in this subsection, the term "unprocessed western red cedar" means red cedar timber which has not been processed into—

(A) lumber without wane;

(B) chips, pulp, and pulp products;

(C) veneer and plywood;

(D) poles, posts, or pilings cut or treated with preservative for use as such and not intended to be further processed; or

(E) shakes and shingles.

(j) Export of Horses.—(1) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, or any of its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Secretary, in consultation with the Secretary of Agriculture, may issue regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

FOREIGN BOYCOTTS

Sec. 8. (a) Prohibitions and Exceptions.—(1) For the purpose of implementing the policies set forth in subparagraph (A) or (B) of paragraph (5) of section 3 of this

Act, the President shall issue regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the imports of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipment as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such regulations.

(3) Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) This section shall apply to any transaction or activity undertaken, by or through a United States person or any other person, with intent to evade the provisions of this section as implemented by the regulations issued pursuant to this subsection, and such regulations shall expressly provide that the exception set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b) Foreign Policy Controls.—(1) In addition to the regulations issued pursuant to subsection (a) of this section, regulations issued under section 6 of this Act shall implement the policies set forth in section 3(5).

(2) Such regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Secretary, together with such other information concerning such request as the Secretary may require for such action as the Secretary considers appropriate for carrying out the policies of that section. Such person shall also report to the Secretary whether such person intends to comply and whether such person has complied with such request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary, considers appropriate for carrying out the policies set forth in section 3(5) of this Act.

(c) Preemption.—The provisions of this section and the regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, or any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

Sec. 9. (a) Filing of Petitions.—Any person who, in such person's domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a good historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a good, may transmit a petition of hardship to the Secretary requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) Decision of the Secretary.—Not later than 30 days after receipt of any petition under subsection (a), the Secretary shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary considers appropriate.

(c) Factors To Be Considered.—For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of export controls shall reflect the Secretary's consideration of factors such as the following:

(1) Whether denial would cause a unique hardship to the petitioner which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary shall take into account—

(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

(B) potential serious financial loss to the applicant if not granted an exception;

(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the good under control;

(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular good.

The effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits shall not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the petitioner.

PROCEDURES FOR PROCESSING EXPORT LICENSE APPLICATIONS

SEC. 10. (a) PRIMARY RESPONSIBILITY OF THE SECRETARY.—(1) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this section.

(2) It is the intent of the Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other department or agency of the Government.

(3) To the extent necessary, the Secretary shall seek information and recommendations from the Government departments and agencies concerned with aspects of United States domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall cooperate fully in rendering such information and recommendations.

(b) INITIAL SCREENING.—Within ten days after the date on which any export license application is submitted pursuant to subsection (a)(1), the Secretary shall—

(1) send the applicant an acknowledgment of the receipt of the application and the date of the receipt;

(2) submit to the applicant a written description of the procedures required by this section, the responsibilities of the Secretary and of other departments and agencies with respect to the application, and the rights of the applicant;

(3) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this section;

(4) determine whether it is necessary to refer the application to any other department or agency and, if such referral is determined to be necessary, inform the applicant of any such department or agency to which the application will be referred; and

(5) determine whether it is necessary to submit the application to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, if so, inform the applicant of this requirement.

(c) ACTION ON CERTAIN APPLICATIONS.—In each case in which the Secretary determines that it is not necessary to refer an application to any other department or agency for its information and recommendations, a license shall be formally issued or denied within 90 days after a properly completed application has been submitted pursuant to this section.

(d) REFERRAL TO OTHER DEPARTMENTS AND AGENCIES.—In each case in which the Secretary determines that it is necessary to refer an application to any other department or agency for its information and recommendations, the Secretary shall, within 30 days after the submission of a properly completed application—

(1) refer the application, together with all necessary analysis and recommendations of the Department of Commerce, concurrently to all such departments or agencies; and

(2) if the applicant so requests, provide the applicant with an opportunity to review for accuracy and documentation to be referred to any such department or agency with respect to such application for the purpose of describing the export in question in order to determine whether such documentation accurately describes the proposed export.

(e) ACTION BY OTHER DEPARTMENTS AND AGENCIES.—(1) Any department or agency to which an application is referred pursuant to subsection (d) shall submit to the Secretary, within 30 days after its receipt of the application, the information or recommendations requested with respect to such application. Except as provided in paragraph (2), any such department or agency which does not submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the Secretary to have no objection to the approval of such application.

(2) If the head of any such department or agency notifies the Secretary before the expiration of the time period provided in paragraph (1) for submission of its recommendations that more time is required for review by such department or agency, such department or agency shall have an additional 30-day period to submit its recommendations to the Secretary. If such department or agency does not submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the Secretary to have no objection to the approval of such application.

(f) ACTION BY THE SECRETARY.—(1) Within 90 days after receipt of the recommendations of other departments and agencies with respect to a license application, as provided in subsection (e), the Secretary shall formally issue or deny the license. In deciding whether to issue or deny a license, the Secretary shall take into account any recommendation of a department or agency with respect to the application in question. In cases where the Secretary receives conflicting recommendations, the Secretary shall, within the 90-day period provided for in this subsection, take such action as may be necessary to resolve such conflicting recommendations.

(2) In cases where the Secretary receives questions or negative considerations or recommendations from any other department or agency with respect to an application, the Secretary shall, to the maximum extent consistent with the national security and foreign policy of the United States, inform the applicant of the specific questions raised and any such negative consideration or recommendations, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

(3) In cases where the Secretary has determined that an application should be denied, the applicant shall be informed in writing, within five days after such determination is made, of the determination, of the statutory basis for denial, the policies set forth in section 3 of the Act which would be furthered by denial, and, to the extent consistent with the national security and foreign policy of the United States, the specific considerations which led to the denial, and of the availability of appeal procedures. In the event decisions on license applications are deferred inconsistent with the provisions of this section, the applicant shall be so informed in writing within five days after such deferral.

(4) If the Secretary determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, the Secretary may extend any time period prescribed in this section. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.

(g) SPECIAL PROCEDURES FOR SECRETARY OF DEFENSE.—(1) Notwithstanding any other provision of this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever the Secretary of Defense determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

(2) Notwithstanding any other provision of law, the Secretary of Defense shall determine in consultation with the Secretary, and confirm in writing the types and categories of transactions which should be reviewed by the Secretary of Defense in order to make a determination referred to in paragraph (1). Whenever a license or other authority is requested for the export to any county to which exports are controlled for national security purposes of goods or technology within any such type or category, the Secretary shall notify the Secretary of Defense of such request, and the Secretary may not issue any license or other authority pursuant to such request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider any notification submitted by the Secretary pursuant to this paragraph and, not later than 30 days after notification of the request, shall—

(A) recommend to the President that he disapprove any request for the export of the goods or technology involved to the particular country if the Secretary of Defense determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

(B) notify the Secretary that he would recommend approval subject to specified conditions; or

(C) recommend to the Secretary that the export of goods or technology be approved.

If the President notifies the Secretary, within 30 days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country.

(3) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this subsection, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this section.

(4) Whenever the President exercises his authority under this subsection to modify or overrule a recommendation made by the Secretary of Defense or exercises his authority to modify or overrule any recommendation made by the Secretary of Defense under subsection (c) or (d) of section 5 of this Act with respect to the list of goods and technologies controlled for national security purposes, the President shall promptly transmit to the Congress a statement indicating his decision, together with the recommendation of the Secretary of Defense.

(h) MULTILATERAL CONTROLS.—In any case in which an application, which has been finally approved under subsection (c), (f), or (g) of this section, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such subsections, but the Secretary shall notify the applicant of the approval of the application (and the date of such approval) by the Secretary subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review. If such multilateral review has not resulted in a determination with respect to the application within 60 days after such date, the Secretary's approval of the license shall be final and the license shall be issued, unless the Secretary determines that issuance of the license would prove detrimental to the national security of the United States. At the time at which the Secretary makes such a determination, the Secretary shall notify the applicant of the determination and shall notify the Congress of the determination, the reasons for the determination, the reasons for which the multilateral review could not be concluded within such 60-day period, and the actions planned or being taken by the United States Government to secure conclusion of the multilateral review. At the end of every 60-day period after such notification to Congress, the Secretary shall advise the applicant and the Congress of the status of the application, and shall report to the Congress in detail on the reasons for the further delay and any further actions being taken by the United States Government to secure conclusion of the multilateral review. In addition, at the time at which the Secretary issues or denies the license upon conclusion of the multilateral review, the Secretary shall notify the Congress of such issuance or denial and of the total time required for the multilateral review.

(i) RECORDS.—The Secretary and any department or agency to which any application is referred under this section shall keep accurate records with respect to all applications considered by the Secretary or by any such department or agency, including, in the case of the Secretary, any dissenting recommendations received from any such department or agency.

(j) APPEAL AND COURT ACTION.—The Secretary shall establish appropriate procedures for any applicant to appeal to the Secretary the denial of an export license application of the applicant.

(2) In any case in which any action prescribed in this section is not taken on a license application within the time periods established by this section (except in the case of a time period extended under subsection (f)(4) of which the applicant is notified), the applicant may file a petition with the Secretary requesting compliance with the requirements of this section. When such petition is filed, the Secretary shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

(3) If, within 30 days after a petition is filed under paragraph (2), the processing of the application has not been brought into conformity with the requirements of this section, or the application has been brought into conformity with such requirements but the Secretary has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for a restraining order, a temporary or permanent injunction, or other appropriate relief, to require compliance with the requirements of this section. The United States district courts shall have jurisdiction to provide such relief, as appropriate.

VIOLATIONS

SEC. 11. (a) IN GENERAL.—Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.

(b) WILLFUL VIOLATIONS.—Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned not more than ten years, or both.

(2) Any person who is issued a validated license under this Act for the export of any good or technology to a controlled country and who, with knowledge that such a good or technology is being used by such controlled country for military or intelligence gathering purposes contrary to the conditions under which the license was issued, willfully fails to report such use to the Secretary of Defense, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned for not more than five years, or both. For purposes of this paragraph, "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

(c) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—(1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(2)(A) The authority under this Act to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of the regulations issued pursuant to section 8(a) of this Act.

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the regulations issued pursuant to section 8(a) of this Act may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the regulations issued pursuant to section 8(a) of this Act shall be made available for public inspection and copying.

(d) PAYMENT OF PENALTIES.—The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(e) REFUNDS.—Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition of the penalty. Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) ACTIONS FOR RECOVERY OF PENALTIES.—In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) OTHER AUTHORITIES.—Nothing in subsection (c), (d), or (f) limits—

(1) the availability of other administrative or judicial remedies with respect to violations of this act, or any regulation, order, or license issued under this act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this act, or any regulation, order, or license issued under this act; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 12. (a) GENERAL AUTHORITY.—To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949 or the Export Administration Act of 1969, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) IMMUNITY.—No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of section 6002 of title 18, United States Code, shall apply with respect to any individual who specifically claims such privilege.

(c) CONFIDENTIALITY.—(1) Except as otherwise provided by the third sentence of section 8(b)(2) and by section 11(c)(2)(C) of this Act, information obtained under this Act on or before June 30, 1980, which is deemed confidential, including Shippers' Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest. Information obtained under this Act after June 30, 1980, may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act shall be withheld from public disclosure unless the release of such information is determined by the Secretary to be in the national interest. Enactment of this subsection shall not affect any judicial proceeding commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act had not been enacted.

(2) Nothing in this Act shall be construed as authorizing the withholding of information from the Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.

(d) REPORTING REQUIREMENTS.—In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

(e) SIMPLIFICATION OF REGULATIONS.—The Secretary, in consultation with appropriate United States Government departments and agencies and with appropriate technical advisory committees established under section 5(h), shall review the regulations issued under this Act and the commodity control list in order to determine how compliance with the provisions of this Act can be facilitated by simplifying such regulations, by simplifying or clarifying such list, or by any other means.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 13. (a) EXEMPTION.—Except as provided in section 11(c)(2), the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) PUBLIC PARTICIPATION.—It is the intent of the Congress that, to the extent practicable, all regulations imposing controls on exports under this Act be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act is issued with immediate effect, it is the intent of the Congress that meaningful opportunity for public comment also be provided and that the regulation be reissued in final form after public comments have been fully considered.

ANNUAL REPORT

SEC. 14. (a) CONTENTS.—Not later than December 31 of each year, the Secretary shall submit to the Congress a report on the administration of this Act during the preceding fiscal year. All agencies shall cooperate fully with the Secretary in providing information for such report. Such report shall include detailed information with respect to—

(1) the implementation of the policies set forth in section 3;

(2) general licensing activities under sections 5, 6, and 7, and any changes in the exercise of the authorities contained in sections 5(a), 6(a), and 7(a);

(3) the results of the review of United States policy toward individual countries pursuant to section 5(b);

(4) the results, in as much detail as may be included consistent with the national security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes required by section 5(c)(3);

(5) actions taken to carry out section 5(d);

(6) changes in categories of items under export control referred to in section 5(e);

(7) determinations of foreign availability made under section 5(f), the criteria used to make such determinations, the removal of any export controls under such section, and any evidence demonstrating a need to impose export controls for national security purposes notwithstanding foreign availability;

(8) actions taken in compliance with section 5(f)(5);

(9) the operation of the indexing system under section 5(g);

(10) consultations with the technical advisory committees established pursuant to section 5(h), the use made of the advice rendered by such committees, and the contributions of such committees toward implementing the policies set forth in this Act;

(11) the effectiveness of export controls imposed under section 6 in furthering the foreign policy of the United States;

(12) export controls and monitoring under section 7;

(13) the information contained in the reports required by section 7(b)(2), together with an analysis of—

(A) the impact on the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act or section 812 of the Agricultural Act of 1970;

(B) the worldwide supply of such commodities; and

(C) actions being taken by other countries in response to such shortages or increased prices;

(14) actions taken by the President and the Secretary to carry out the antiboycott policies set forth in section 3(5) of this Act;

(15) organizational and procedural changes undertaken in furtherance of the policies set forth in this Act, including changes to increase the efficiency of the export licensing process and to fulfill the requirements of section 10, including an analysis of the time required to process license applications, the number and disposition of export license applications taking more than 90 days to process, and an accounting of appeals received, court orders issued, and actions taken pursuant thereto under subsection (j) of such section;

(16) delegations of authority by the President as provided in section 4(e) of this Act;

(17) efforts to keep the business sector of the Nation informed with respect to policies and procedures adopted under this Act;

(18) any reviews undertaken in furtherance of the policies of this Act, including the results of the review required by section 12(d), and any action taken, on the basis of the review required by section 12(e), to simplify regulations issued under this Act;

(19) violations under section 11 and enforcement activities under section 12; and

(20) the issuance of regulations under the authority of this Act, including an explanation of each case in which regulations were not issued in accordance with the first sentence of section 13(b).

(b) REPORT ON CERTAIN EXPORT CONTROLS.—To the extent that the President determines that the policies set forth in section 3 of this Act require the control of the export of goods and technology other than those subject to multilateral controls, or require more stringent controls than the multilateral controls, the President shall include in each annual report the reasons for the need to impose, or to continue to impose, such controls and the estimated domestic economic impact on the various industries affected by such controls.

(c) REPORT ON NEGOTIATIONS.—The President shall include in each annual report a detailed report on the progress of the negotiations required by section 5(i), until such negotiations are concluded.

REGULATORY AUTHORITY

SEC. 15. The President and the Secretary may issue such regulations as are necessary to carry out the provisions of this Act. Any such regulations issued to carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) may apply to the financing, transporting, or other servicing of exports and the participation therein by any person.

DEFINITIONS

SEC. 16. As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term "good" means any article, material, supply or manufactured product, including inspection and test equipment, and excluding technical data;

(4) the term "technology" means the information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves; and

(5) the term "Secretary" means the Secretary of Commerce.

EFFECT ON OTHER ACTS

SEC. 17. (a) IN GENERAL.—Nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) COORDINATION OF CONTROLS.—The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(c) CIVIL AIRCRAFT EQUIPMENT.—Notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration, in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under this Act. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act. For purposes of this subsection, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

(d) NONPROLIFERATION CONTROLS.—(1) Nothing in section 5 or 6 of this Act shall be construed to supersede the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

(2) With respect to any export license application which, under the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, is referred to the Subgroup on Nuclear Export Coordination or other interagency group, the provisions of section 10 of this Act shall apply with respect to such license application only to the extent that they are consistent with such published procedures, except that if the processing of any such application under such procedures is not completed within 180 days after the receipt of the application by the Secretary, the applicant shall have the rights of appeal and court action provided in section 10(j) of this Act.

(e) TERMINATION OF OTHER AUTHORITY.—On October 1, 1979, the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611–1613d), is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGISLATION.—Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act unless previously and specifically authorized by law.

(b) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

(1) $8,000,000 for each of the fiscal years 1980 and 1981, of which $1,250,000 shall be available for each such fiscal year only for purposes of carrying out foreign availability assessments pursuant to section 5(f)(5), and

(2) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.

EFFECTIVE DATE

SEC. 19. (a) EFFECTIVE DATE.—This Act shall take effect upon the expiration of the Export Administration Act of 1969.

(b) ISSUANCE OF REGULATIONS.—(1) Regulations implementing the provisions of section 10 of this Act shall be issued and take effect not later than July 1, 1980.

(2) Regulations implementing the provisions of section 7(c) of this Act shall be issued and take effect not later than January 1, 1980.

TERMINATION DATE

SEC. 20. The authority granted by this Act terminates on September 30, 1983, or upon any prior date which the President by proclamation may designate.

SAVINGS PROVISIONS

SEC. 21. (a) IN GENERAL.—All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under the Export Control Act of 1949 or the Export Administration Act of 1969 and which are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act.

(b) ADMINISTRATIVE PROCEEDINGS.—This Act shall not apply to any administrative proceedings commenced or any application for a license made, under the Export Administration Act of 1969, which is pending at the time this Act takes effect.

TECHNICAL AMENDMENTS

SEC. 22. (a) Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) is amended by striking out "sections 6 (c), (d), (e), and (f) and 7 (a) and (c) of the Export Administration Act of 1969" and inserting in lieu thereof "subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1979, and by subsections (a) and (c) of section 12 of such Act".

(b)(1) Section 103(c) of the Energy Policy and Conservation Act (42 U.S.C. 6212(c)) is amended—

(A) by striking out "1969" and inserting in lieu thereof "1979"; and

(B) by striking out "(A)" and inserting in lieu thereof "(C)".

(2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3)) is amended by striking out "section 7 of the Export Administration Act of 1969" and inserting in lieu thereof "section 12 of the Export Administration Act of 1979".

(c) Section 993(c)(2)(D) of the Internal Revenue Code of 1954 (26 U.S.C. 993(c)(2)(D)) is amended—

(1) by striking out "4(b) of the Export Administration Act of 1969 (50 U.S.C. App. 2403(b))" and inserting in lieu thereof "7(a) of the Export Administration Act of 1979"; and

(2) by striking out "(A)" and inserting in lieu thereof "(C)".

INTERNATIONAL INVESTMENT SURVEY ACT

SEC. 23. (a) Section 9 of the International Investment Survey Act of 1976 (22 U.S.C. 3108) is amended to read as follows:

"AUTHORIZATIONS

"SEC. 9. To carry out this Act, there are authorized to be appropriated $4,400,000 for the fiscal year ending September 30, 1980, and $4,500,000 for the fiscal year ending September 30, 1981.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

MISCELLANEOUS

SEC. 24. Section 402 of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting "or beer" in the second sentence immediately after "wine".

And the House agree to the same.

That the House recede from its amendment to the title of the bill.

CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
JONATHAN B. BINGHAM,
DON BONKER,
DONALD J. PEASE,
MICHAEL D. BARNES,
HOWARD WOLPE,
FLOYD FITHIAN,
WM. BROOMFIELD,
PAUL FINDLEY,
Managers on the Part of the House.
WILLIAM PROXMIRE,
ADLAI STEVENSON,
HARRISON A. WILLIAMS,
PAUL TSONGAS,
JOHN HEINZ,
NANCY L. KASSEBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

FINDINGS

The Senate bill stated that the ability of U.S. citizens to engage in international commerce is a fundamental concern of U.S. policy.

The House amendment stated that a large trade deficit weakens the value of the dollar, intensifies inflation, and heightens world economic instability; that poor export performance contributes to the trade deficit; that it is in the national interest to place a high priority on exports; and that minimization of restrictions on agricultural exports is of critical importance.

The committee of conference agreed to combine the Senate and House provisions.

POLICY

The Senate bill stated that it is U.S. policy to minimize uncertainties in export control policy, and to restrict exports only after full consideration of domestic economic impact.

The House amendment stated that it is U.S. policy to restrict exports to countries violating the principles of the Monroe Doctrine; that exports not be controlled unless they are essential, effective, administered in accordance with due process, and justified in annual reports; and that restrictions on agricultural exports should be minimized.

The committee of conference agreed to combine the Senate and House policy statements, with the exception of the House reference to the Monroe Doctrine.

In deleting specific reference in the House amendment to the Monroe Doctrine, the conferees noted that the precise terms of that doctrine are unclear, and that section 3(b) of the act, making it U.S. policy to restrict exports "to further significantly the foreign policy of the United States * * *" encompasses the full range of U.S. foreign policy goals. It seemed inappropriate, therefore, to single out this historical element of U.S. foreign policy for particular emphasis. The conferees, however, do not wish to preclude use of the authorities of this act as a response to foreign military activities in the Western Hemisphere in contravention to U.S. foreign policy interests if the President determines that such a response is appropriate and consistent with the provisions of this act.

AUTHORITY

The Senate bill retained the basic authority of the act for the President to regulate any export to carry out policies of the act.

The House amendment retained the basic authority of the act, but separate of the authority to impose national security, foreign policy, and short supply controls into three different sections.

The committee of conference agreed to the House provision.

ALLOCATION OF LICENSES UNDER SHORT-SUPPLY CONTROLS

The House amendment provided that factors on the basis of which licenses are allocated shall include the extent to which a country engages in equitable trade practices toward the United States and treats the United States equitably in times of short supply.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

POLICY TOWARD INDIVIDUAL COUNTRIES

(a) The Senate bill provided that export control policy toward individual countries shall be reviewed every 3 years in the case of multilateral controls and annually with respect to unilateral controls.

The House amendment provided that policy toward individual countries shall be reviewed periodically.

The committee of conference agreed to the Senate provision.

(b) The House amendment required denial of export licenses to any party responsible for diversion.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment specifying that the provision only covers diversions that are in violation of the terms of an export license and that additional steps may be directed to the party responsible for the diversion.

The committee of conference expects that the executive branch will institute procedures that assure that export licenses for controlled goods or technology will clearly specify that such goods and technology will be used only for uses which would not make a significant contribution to military potential. If the exported goods or technology is diverted to a significant military use in violation of license conditions, the President will be required to take appropriate actions. This provision is not intended to limit in any way the President's discretion under the act to take appropriate action to terminate diversion of exported items to military use even if such diversion does not technically constitute a violation of license conditions. Obviously the President's freedom of action to protect U.S. national security is not constrained in situations in which, through oversight or negligence, the Government fails to specify conditions of end-use of exported or licensed goods or technology.

LICENSE DENIALS

The House amendment, in cases of license denials, required the Secretary to notify the applicant of modifications which would permit approval of the application, or indicate officials with whom the applicant could consult about modifications.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

CRITICAL TECHNOLOGY

The Senate bill required that priority be given to preventing transfer of critical goods and technology, that the Secretary of Defense shall bear primary responsibility for identifying critical goods and technology, and that the Secretary of Commerce, in consultation with the Secretary of Defense, shall review and revise controls for the purpose of insuring that they cover and, to the maximum extent are limited to, critical goods and technology.

The House amendment found that controls should be focused primarily on, and implemented for, critical goods and technology, and required the Secretary of Defense to develop a list of critical technologies, which shall be completed and published by October 1, 1980, and become part of the Commodity Control List.

The committee of conference agreed to the House provision, with an amendment adding the Senate language regarding review of the control list and approval of the list by other agencies.

TERMINATION OF FOREIGN POLICY CONTROLS

The Senate bill provided that the President must extend foreign policy controls annually or they will expire.

The House amendment did not contain a comparable provision.

The committee of conference agreed to the Senate provision.

CRITERIA FOR FOREIGN POLICY CONTROLS

The Senate bill stated criteria that the President shall consider before imposing, increasing, or extending foreign policy controls.

The House amendment provided similar criteria.

The committee of conference agreed to combine the Senate and House provisions.

ALTERNATIVE MEANS

The Senate bill required the President to consider alternative means to further the purposes of foreign policy controls.

The House amendment required the President to determine, before imposing foreign policy controls, that reasonable efforts have been made to achieve their purposes through alternative means.

The committee of conference agreed to the House provision.

CONSULTATION WITH INDUSTRY

The Senate bill required regular consultation with industry on export policy and foreign availability.

The House amendment required the Secretary of Commerce to consult with affected U.S. industries before imposing foreign policy controls.

The committee of conference agreed to combine both the Senate and House provisions.

CONSULTATION ON FOREIGN POLICY CONTROLS

(a) The Senate bill required the President to inform Congress when imposing, increasing, or extending foreign policy controls, and to justify such actions to the public to the extent possible.

The House amendment did not contain a comparable provision.

The committee of conference agreed to the Senate provision.

(b) The House amendment required the President to notify Congress whenever he imposes a foreign policy export control, and to report to Congress on the reasons for the control and on his compliance with the requirements of the act in imposing the control, and provided that the control shall cease to be effective upon adoption of a concurrent resolution of disapproval within 60 days.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment removing the provision for a congressional veto by concurrent resolution.

In agreeing to eliminate the House provision for congressional veto by concurrent resolution of new forms of export controls for foreign policy purposes, the conferees emphasized their expectation that the executive branch would consult fully with Congress prior to employing any such controls, and agreed to give further consideration to a congressional veto mechanism in subsequent legislation in the event prior consultation on foreign policy controls proved inadequate under the provisions of this act.

EXCLUSION FOR FOOD AND MEDICINE

The House amendment provided that foreign policy control authority does not authorize controls on food and medicine, and stated the intent of Congress that foreign policy controls should not be applied to exports which would meet basic human needs.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment to make the exclusion apply only to medicine and medical supplies.

TRADE EMBARGOES

The House amendment provided that foreign policy control authority does not authorize total trade embargoes.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the Senate position.

However, the conferees agreed that, although certain authorities provided in this act are used to help implement total U.S. economic embargoes against several countries, authority for such embargoes is contained exclusively in section 5(b) of the Trading With the Enemy Act and in section 5(b) of the International Emergency Economic Powers Act. The conferees confirmed the fact that this act is not intended to constitute authority to impose total economic embargoes, but felt this was sufficiently clear that it was unnecessary to so provide in the act itself.

INTERNATIONAL OBLIGATIONS

The House amendment provided that certain limitations on foreign policy control authority shall not apply to the imposition of controls pursuant to certain international obligations.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment confining the coverage of the provision to treaties and international agreements.

FOREIGN POLICY CONTROL LIST

The House amendment required that items subject to foreign policy control be identified as such on the list. The Secretary of State, with the concurrence of the Secretary of Commerce, is responsible for identifying items to be controlled for foreign policy purposes.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment changing the language on periodic revision of the control list.

In adopting the House language requiring identification of control list items subject to controls for foreign policy purposes, the conferees emphasized that all controlled items could continue to be included in a single list. The purpose of this provision is to assure that exporters may distinguish goods and technology controlled only for foreign policy purposes from those subject to control for national security purposes only, or for both national security and foreign policy purposes.

FOREIGN AVAILABILITY

The Senate bill provided that the President shall not impose national security or foreign policy controls on items where there is foreign availability in significant quantity and in quality comparable to availability from the United States, unless he determines that the absence of controls would be detrimental to national security or foreign policy.

The House amendment, with respect to national security controls, required the Secretary of Commerce to review foreign availability on a continuing basis, and to remove validated license controls on, and approve license applications for, items which the Secretary determines to be available in fact from foreign sources to such an extent that controls would be ineffective, unless the President determines that the absence of controls would be detrimental to national security, in which case the President must publish that determination, its basis, and its estimated economic impact. With respect to foreign policy controls, the House amendment required the President to attempt to negotiate for the cooperation of foreign governments in controlling exports which the United States controls for foreign policy reasons.

The committee of conference agreed to accept the Senate general policy provision regarding foreign availability and the detailed House provisions with regard to national security controls and to foreign policy controls. The committee of conference agreed to delete the Senate provision requiring the President to ask for additional authority to secure cooperation in eliminating foreign availability should negotiations fail. In deleting this Senate provision, the committee of conference in no way wishes to imply that the President cannot invoke his existing authority to secure cooperation in the event that negotiations to eliminate foreign availability are unsuccessful. If the President believes that he requires additional authority to take effective action to that end, the committee of conference expects the President to advise the Congress and recommend appropriate legislation.

NATIONAL SECURITY CONTROL LIST

The Senate bill provided that the Secretary of Commerce shall prepare and maintain the control list; the Secretary of Defense has primary responsibility for identifying critical technologies.

The House amendment provided that the Secretary of Commerce shall establish and maintain the list. The Secretary of Defense has primary responsibility for identifying items for inclusion on the list. Those items on which the Secretaries of Commerce and Defense concur would comprise the list.

The committee of conference agreed to the House provision.

The conferees intend this provision, as well as the provision agreed to with respect to the creation of a list of critical technologies, to serve to clarify the respective roles of the Secretary of Commerce and the Secretary of Defense in the list maintenance and review processes, but not to change fundamentally the current sharing of responsibilities between these two officials and their respective Departments. The conferees intend that the existing array of responsibilities for the administration of export controls within the executive branch remain unchanged and impose no new constraints on export licensing. The Secretary of Commerce retains the responsibility for maintaining the export control list; and, the responsibility of the Secretary of Defense to identify critical goods and technologies for possible inclusion on that list is made clear. If the Secretary of Defense and the Secretary of Commerce fail to concur with respect to inclusion of items on the list, the matter is referred to the President for resolution.

LIST REVIEW

The Senate bill required that the control list be reviewed every 3 years for multilateral controls and annually for unilateral controls.

The House amendment provided for continuous review of the list.

The committee of conference agreed to the House provision with an amendment adopting the Senate language on the period for review of control list.

In adopting the Senate's provision that the control list be reviewed every 3 years in the case of multilateral controls and annually in the case of unilateral controls, the conferees expressed the hope and expectation that such a specific mandate for control list review would prove more compelling than the less definite House provision calling for "continuous" review. Annual review of unilateral controls would insure a more frequent review of those controls than is now provided.

NOTIFICATION TO PUBLIC

The Senate bill required the Secretary of Commerce to keep the public fully apprised of changes in export control policy and procedures.

The House amendment required the Secretary of Commerce to publish any revision of the control list in the Federal Register and to specify whether it applies to national security or foreign policy controls.

The committee of conference agreed to combine the Senate and House provisions.

TYPES OF EXPORT LICENSES

The Senate bill required establishment of a validated license, a qualified general license, a general license, and such other types of licenses as the Secretary of Commerce may deem appropriate.

The House amendment authorized the establishment of the same three types of licenses and such others as the Secretary considers necessary; the definitions of the licenses are somewhat different from those in the Senate bill.

The committee of conference agreed to the House provision, with technical changes simplifying the distinctions between the types of licenses.

USE OF EXPORT LICENSES

The Senate bill stated the intent of Congress that validated licenses be required insofar as possible only for items subject to multilateral controls. Use for other items must be reported to Congress annually. The Senate bill also stated the intent of Congress that qualified general license be used as much as possible for other items, and required establishment of procedures for qualified general license within 60 days of enactment.

The House amendment stated the intent of Congress to encourage use of qualified general license to the maximum extent practicable. The House amendment also provided that, insofar as possible, validated license shall be limited to items subject to multilateral controls which require the specific approval of the parties to the controls, to items monopolized by the United States or to items where the United States is seeking comparable controls by other countries, and that a qualified general license shall be used for items subject to multilateral controls but exportable at U.S. discretion.

The committee of conference agreed to the House provision, with an amendment adopting the Senate language on establishing procedures for approval of items that can be exported with a qualified general license, and allowing more time for establishing those procedures.

PROCEDURES FOR PROCESSING LICENSE APPLICATIONS

(a) The Senate bill required the Secretary of Commerce to consult with other agencies on licensing decisions; required a determination by the Secretary of Commerce within 10 days on whether an application must be submitted for multilateral review; provided 90 days for the Secretary of Commerce to approve or disapprove any application which does not require interagency review; and provided 90 days, following interagency review, for the Secretary of Commerce to resolve interagency disagreements and issue or deny a license.

The House amendment provided that authority to deny license applications may not be delegated below the level of Deputy Assistant Secretary; provided that any agency may determine the types of applications it wishes to review, and required the Secretary of Commerce to submit such applications to such agency; provided 30 days for the Secretary of Commerce to approve or disapprove any application which does not require interagency review; and provided three 30-day stages for consideration of license applications following interagency review: first, by Department of Commerce licensing officials; second, by the Secretary of Commerce; and third, by the President. If any agency appeals the licensing decision at any stage, the application goes to the next stage.

The committee of conference agreed to the Senate provision.

(b) The Senate bill required the President to notify Congress whenever he overrules a licensing recommendation made to him by the Secretary of Defense.

The House amendment did not contain a comparable provision.

The committee of conference agreed to the Senate provision.

(c) The House amendment provided a 60-day time limit for multilateral review of U.S. licensing cases and for U.S. review of other countries' licensing cases.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision with an amendment providing a national security waiver for the 60-day period and a notification procedure if the waiver is used.

(d) The Senate bill required records on information regarding the basis for and any dissent from an export license decision.

The House amendment did not contain a comparable provision.

The committee of conference agreed to the Senate provision with an amendment removing certain requirements for the record-keeping.

(e) The Senate bill provided that applicants may petition the Secretary of Commerce requesting that licensing action be brought into conformity with requirements of the act.

The House amendment provided that, whenever an action on an application is not taken within the time limit specified, the applicant may petition the Secretary of Commerce for compliance with such time limits. If the Secretary does not take corrective action within 30 days or if such action has been taken but the Secretary does not so notify the applicant, the applicant may bring an action in U.S. District Court.

The committee of conference agreed to the House provision.

SHORT-SUPPLY MONITORING AUTHORITY

The Senate bill authorized short-supply monitoring, including data gathered under the new petitioning process.

The House amendment stated the same authorization, except the House amendment made no reference to data gathered pursuant to petitions for monitoring or controls.

The committee of conference agreed to the House provision.

EXPORTS OF CRUDE OIL

(a) The Senate bill permitted the export of oil after a period of 60 calendar days of congressional session unless both Houses of Congress adopt a concurrent resolution of disapproval.

The House amendment would permit the export of oil only if Congress passes a concurrent resolution approving such export within 60 days.

The committee of conference agreed to the House provision.

(b) The House amendment stated that there should be a General Accounting Office (GAO) audit of any Presidential finding that export would lower refinery costs and wholesale and retail prices.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the Senate position.

In deleting the provision of the House bill requiring audit by the GAO of certain Presidential findings, the conferees noted possible difficulties for the GAO to perform such an audit, and the unlikelihood that the President would, in fact, make findings of lower costs and prices resulting from a proposed export of Alaskan oil. The action of the conferees, however, is not intended to preclude or inhibit any Member or committee of Congress from requesting the GAO to perform such an audit if and when the President were to issue such findings.

(c) The Senate bill exempted any country with which the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act, and any country with which the United States entered into bilateral oil supply agreement prior to June 25, 1979, provided Congress is promptly notified of such agreements.

The House amendment exempted any country with which the United States entered into a bilateral oil supply agreement before May 1, 1979.

The committee of conference agreed to the Senate provision, with an amendment clarifying that Alaskan oil can be shared pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency. The exemption from export restrictions of any oil exported pursuant to a bilateral agreement is intended by the conferees to apply to the various interrelated arrangements and agreements between the United States and Israel entered into on March 26, 1979, in conjunction with the Treaty of Peace Between Israel and Egypt, and the subsequent agreement under which the United States will supply oil to Israel under circumstances specified in the agreement for 15 years (including the 5-year period covered by the United States-Israel oil arrangement of September 1, 1975).

The intent was expressed in House debate on this provision that it should not have the effect of prohibiting Alaskan crude in excess of 1.2 million barrels per day from being refined in the Netherland Antilles provided all end products of such refining are provided to the United States and the consumer benefit and all other requirements of this act are fulfilled.

EXPORTS OF REFINED OIL PRODUCTS

The House amendment prohibited the export of refined oil products, except after a period for congressional review and action and except for exports to a country of 250,000 barrels or less in a year and included a waiver of the provision if vital to the national interest.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment changing the period of delay to 30 days after notification of Congress, with authority for the President to waive the 30-day delay. The provision would apply not just to fully refined oil products, but also to partially refined oil products and to middle distillates.

HIDES

The House amendment stated that the Secretary of Agriculture shall collect data on export sales of animal hides and skins.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

CONGRESSIONAL APPROVAL OF AGRICULTURAL SHORT-SUPPLY CONTROLS

The Senate bill required a report to the Congress of any proposed use of authority to control export of agricultural commodities. Such proposed control would become effective only after 60 calendar days of continuous congressional session if neither House has passed a resolution of disapproval, or after one House had disapproved within 60 days and the other House disapproved such disapproval within an additional 30 days.

The House amendment retained existing law which requires notification to Congress of imposition of export controls on agricultural commodities for short supply or foreign policy purposes. Such controls cease if, within 30 days, Congress passes a concurrent resolution of disapproval.

The committee of conference agreed to the House provision.

DELEGATION OF AUTHORITY

The Senate bill authorized the President to delegate authorities conferred by the act, except to any official not confirmed by the Senate and except for any authority to overrule or modify a decision or recommendation of the Secretary of Commerce, State, or Defense.

The House amendment repealed a similar provision in existing law.

The committee of conference agreed to the Senate provision.

INDEXING

The Senate bill directed the Secretary of Commerce to adopt regulations to eliminate unnecessary delay in implementing decisions to remove or relax controls, and to consider removing site visitation requirements for goods removed from controls.

The House amendment authorized the Secretary of Commerce, where appropriate, to provide for annual increases in performance levels of licensed goods and technology and to remove from the list those goods and technologies which no longer meet such performance levels unless another government agency objects and the Secretary determines controls should be continued.

The committee of conference agreed to the House provision, with an amendment to include the Senate language on site visitation. The indexing provision is not intended to authorize the automatic decontrol of goods and technologies in accordance with prior projections of obsolescence. The committee of conference expects that, prior to effectuating any scheduled removal or relaxation of a control, a current appraisal will be made to assure that prior projections have actually materialized. The committee of conference also wishes to make it clear that the indexing provision is in no way to be interpreted to authorize decontrol of items which are obsolete by U.S. standards, but would nevertheless make a significant contribution to the military potential of the Soviet Union or other adversary nation.

EXPORT OF HORSES

The Senate bill retains the existing provision of law prohibiting export of horses by sea except by waiver of the Secretary of Commerce based upon determination that horses are not being exported for purposes of slaughter.

The House amendment repealed a similar provision of existing law.

The committee of conference agreed to the Senate provision.

CRIME CONTROL

The Senate bill authorized the President to add other countries to the existing list of countries exempted from the requirement of validated license for export of any crime control and detection instruments.

The House amendment retained existing law which exempts only NATO countries, Japan, Australia, and New Zealand.

The committee of conference agreed to the Senate provision.

BARTER

The House amendment authorized exemption from any short supply or national emergency controls of goods exported pursuant to a barter agreement provided the Secretary of Commerce makes certain findings regarding the effects of such a barter agreement.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment removing the exemption for barter agreements from national emergency controls.

RED CEDAR

The House amendment contained a provision prohibiting, after a 3-year phase-out period, the export of unprocessed western red cedar harvested on State or Federal lands. Exports during the 3-year phase-out period are to be allocated on the basis of prior history of exports and other appropriate factors.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

TERRORISM

The Senate bill prohibited the approval of a license for the export of a good or technology to any country, if the Secretary of State has made the following determinations:

(1) The country has demonstrated a pattern of support for actions of international terrorism; and

(2) the export would make a significant contribution to the military potential of the country or would enhance its ability to support international terrorism.

The Senate bill also permitted a Presidential waiver of the prohibition if he determines that it is in the national interest to permit the export.

The House amendment included a similar provision with the same determinations, but instead of a prohibition, required that the House Foreign Affairs and the Senate Foreign Relations Committees be notified before issuance of a license for the export of a good valued at more than $7 million.

The committee of conference agreed to the House provision with an amendment changing the notification to the Senate Foreign Relations Committee to a notification to the Senate Committee on Banking, Housing, and Urban Affairs.

CIVIL AIRCRAFT EQUIPMENT

The House amendment provided that any product which is standard equipment in civil aircraft and is an integral part of such aircraft, and which is to be exported to a country other than a controlled country, shall be subject to the Export Administration Act rather than to the Arms Export Control Act.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

It is the intent of the conferees that civil training aircraft below 600 horsepower now subject to control under the Arms Export Control Act, as well as larger aircraft with certain integral components now subject to control under the Arms Export Control Act, shall henceforth be transferred to and subject to control only under the Export Administration Act. The conferees noted, however, that this provision should not be implemented in such a manner as to ease restrictions on the sale of any aircraft to South Africa.

NONPROLIFERATION CONTROLS

The House amendment stated that nothing in new sections 5 and 6 of the Export Administration Act shall be construed to supersede the procedures pursuant to the Nuclear Non-Proliferation Act of 1978. New section 10 (licensing procedures) of the Export Administration Act shall apply, when consistent, to export licenses referred under the procedures established pursuant to section 309(c) of the Nuclear Non-Proliferation Act, to the Subgroup on Nuclear Export Coordination or any other interagency group. If a decision is not rendered under these procedures within 180 days, the applicant shall have the right of appeal and court action provided for in this bill.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

PETITIONS FOR MONITORING OR CONTROLS

The Senate bill (1) established a formal procedure by which petitions can be filed with the Secretary of Commerce for consideration of monitoring or export controls on any material or commodity for which an increase in domestic prices or a domestic shortage has or may have a significant adverse effect on the national economy or any sector thereof; (2) stated that if a petition has been considered and in the absence of significantly changed circumstances, the Secretary may determine that a subsequent petition does not merit consideration; (3) stated that if necessary, the Secretary may impose temporary monitoring or controls during the consideration of a petition, and interested persons shall have an opportunity to comment on such actions; and (4) specifically stated that the procedure did not apply to any agricultural commodity.

The House amendment (1) contained a similar provision regarding the procedure by which petitions can be filed with the Secretary of Commerce, except that the House provision pertained only to metallic material capable of being recycled and with respect to which they may be a significant adverse effect on the national economy or any sector thereof because of serious inflationary impact due to increased prices or a domestic shortage resulting from exports; (2) included a similar provision regarding the consideration of subsequent petitions in the absence of significantly changed circumstances, except that it limited this authority to a period of 6 months following the consideration of a petition; and (3) contained a similar provision regarding the imposition of temporary monitoring or controls during the consideration of a petition, except it did not specifically provide for comment by interested persons.

The committee of conference agreed to the House provision with an amendment removing the reference to inflationary impact due to increased prices in the end product.

CONSULTATIONS AND STANDARDS

The Senate bill retained from existing law the provision that, in determining what shall be controlled or monitored, consultations shall be held with other governmental departments and agencies, and with private industry.

The House amendment deleted this provision from the act.

The committee of conference agreed to the House provision.

ENERGY CONTROLS

The Senate bill retained the provision of the act which required the Secretary of Commerce to consult the Secretary of Energy with respect to monitoring of exports related to energy, and added to the provision the same consultation requirement with respect to the imposition of export controls on energy related exports.

The House amendment retained the provision regarding monitoring without adding the reference to export controls.

The committee of conference agreed to the Senate provision.

PRIVATE CHANNELS

The Senate bill retained the provision of the existing act which provided that, in authorizing exports, full utilization of private competitive trade channels shall be encouraged.

The House amendment deleted this provision from the act.

The committee of conference agreed to the House provision.

TECHNICAL ADVISORY COMMITTEES (TAC'S)

(a) The Senate bill retained the provisions of the act authorizing technical advisory committees to advise the Secretary of Commerce.

The House amendment retained the same provision and added that the TAC's shall also advise the Secretary of Defense.

The committee of conference agreed to the House provision.

(b) The Senate bill retained the provision of the act which authorizes reimbursement of expenses incurred by members of the TAC's.

The House amendment deleted this provision from the act.

The committee of conference agreed to the Senate provision.

(c) The Senate bill retained the provision of the act which provides that each TAC shall elect a chairman and shall meet at least every 3 months, unless the chairman determines otherwise, and each TAC shall be terminated after 2 years unless the Secretary determines otherwise.

The House amendment deleted this provision from the act.

The committee of conference agreed to the Senate provision.

(d) The Senate bill stated that upon certification of foreign availability by a TAC, the Secretary shall investigate and report to the TAC on whether the Secretary concurs with the certification. If the Secretary concurs, the Secretary shall submit a recommendation to the President who shall act in accordance with section 4(a)(2)(E) of the Senate bill relating to foreign availability determinations.

The House amendment stated that upon such certification of foreign availability, the Secretary shall take steps to verify such availability, and upon such verification shall remove the requirement for a validated license, unless the President determines that the absence of controls would prove detrimental to the U.S. national security, upon which decision the President shall publish his determination along with a statement of its basis and its estimated economic impact.

The committee of conference agreed to the House provision, with a technical amendment.

(e) The Senate bill provided that the Secretary of Defense shall have the same authorities and responsibilities as the Secretary of Commerce with respect to the establishment and receiving of advice from TAC's.

The House amendment did not contain a comparable provision.

The committee of conference agreed to the House position.

VIOLATIONS

The House amendment stated that any person who is issued a validated license and who willfully fails to report a diversion shall be fined the sum of the profit from the sale or $100,000, whichever is greater, or imprisoned for up to 5 years.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment specifically tying the provision to violations of the conditions of an export license and changing the fine to five times the value of the export or $100,000, whichever is greater.

CONFIDENTIALITY

The Senate bill provided that the enactment of the new confidentiality provision shall not affect any judicial proceeding under section 552 of title 5, U.S. Code (Freedom of Information Act) to obtain access to boycott reports submitted prior to October 31, 1976 which was pending on May 15, 1979.

The House amendment provided in its savings provisions, that nothing in this act shall affect any investigation, suit, action, or other judicial proceeding commenced under the Export Administration Act or the Freedom of Information Act which is pending when this act takes effect.

The committee of conference agreed to the Senate provision with the understanding that nothing in this act restricts the publication of boycott reports, including voluntary periodic surveys made by U.S. corporations of their foreign subsidiaries.

SIMPLIFYING DOCUMENTATION

(a) The Senate bill moved from this section of the Act to the section detailing in the annual report the requirement for a report on action taken to reduce the cost of recordkeeping and export documentation.

The House amendment retained this reporting requirement in this section, which requires that the report be made in the first annual report made after the action is taken.

The committee of conference agreed to the Senate provision.

(b) The House amendment retained, with technical changes, the provision in the act requiring the Department of Commerce to seek ways to facilitate compliance with the act by simplifying the rules and regulations, or clarifying the export control lists.

The Senate bill repealed this provision.

The committee of conference agreed to the House provision.

ADMINISTRATIVE PROCEDURES

The Senate bill stated that it is the intent of Congress that there be a meaningful opportunity for public comment on all regulations imposing controls on exports before those controls take effect.

The House amendment did not contain a comparable provision.

The committee of conference agreed to the Senate provision.

ANNUAL REPORT

The Senate bill required an annual report on the implementation of the act. The annual report called for in the Senate bill required the following items not included in a similar House amendment: (1) efforts to keep the business sector informed about policies and procedures; (2) delegations of authority by the President under section 4(k) of the Senate bill; (3) the progress of negotiations with COCOM under section 4(n) of the Senate bill; and (4) revisions to simplify reporting requirements prescribed in section 11(d) of the Senate bill.

The House amendment required that an annual report on the administration of the act during the preceding fiscal year be submitted no later than December 31. The House annual report required the following item not included in the Senate bill: the effectiveness of export controls imposed under section 6 for foreign policy purposes.

The committee of conference agreed to combine the Senate and House provisions.

DEFINITIONS

The Senate bill included a definition of "goods" and of "technology".

The House amendment included a definition of the "Secretary".

The committee of conference agreed to both the Senate and the House provisions.

REGULATORY AUTHORITY

The House amendment contained a separate section stating that the President and the Secretary may issue rules and regulations, and that they may apply to the financing, transporting, or other servicing of exports.

The Senate bill did not contain a separate section for this authority.

The committee of conference agreed to the House provision.

AUTHORIZATION OF APPROPRIATIONS

(a) The Senate bill authorized $8 million for fiscal year 1980.

The House amendment authorized $7.070 million for fiscal year 1980 and $7.777 million for fiscal year 1981.

The committee of conference agreed to combine the two provisions into a 2-year authorization, with $8 million authorized for each fiscal year.

(b) The Senate bill stated that $1.250 million of that sum shall be available only for establishing and maintaining the capability to make foreign availability assessments.

The House amendment did not contain a comparable provision.

The committee of conference agreed to the Senate provision, with an amendment making it applicable for both fiscal years 1980 and 1981.

(c) The Senate bill authorized $2.5 million for the Department of Defense for fiscal year 1980 for the purposes of carrying out its functions under section 4(a).

The House amendment did not contain a comparable provision.

The committee of conference agreed to the House position, with the understanding that funding for this purpose should be made available within the limits established in the regular Department of Defense authorization.

(d) The House amendment stated that the Secretary of State may use funds appropriated to the Department of State to carry out the provisions of section 5(k) of the act.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the Senate position.

EFFECTIVE DATE

The House amendment stated that the amendments made by sections 107 (domestic crude oil provision) and 108 (repealing the boycott of Uganda) shall take effect on the date of enactment of this act.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the Senate position.

EFFECTIVE DATE OF PROCEDURES

The House amendment delayed the effective date of the new export licensing procedures under new section 10 until July 1, 1980.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision, with an amendment to make January 1, 1980 the effective date for the regulations implementing the procedures for petitioning for monitoring or controls of certain metallic materials.

SAVINGS PROVISION

The House amendment stated that the provisions of this act shall not apply to any administrative proceedings or any application for a license pending at the time this act takes effect.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

INTERNATIONAL INVESTMENT SURVEY ACT

The House amendment authorized $4.4 million for fiscal year 1980 and $4.5 million for fiscal year 1981 for implementation of the International Investment Survey Act.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

PUBLIC LAW 480

The House amendment added "beer" to the provision in Public Law 480 that allows the authorities of the act to be used for promotion of export of wine.

The Senate bill did not contain a comparable provision.

The committee of conference agreed to the House provision.

CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
JONATHAN B. BINGHAM,
DON BONKER,
DONALD J. PEASE,
MICHAEL D. BARNES,
HOWARD WOLPE,
FLOYD FITHIAN,
WM. BROOMFIELD,
PAUL FINDLEY,
Managers on the Part of the House.
WILLIAM PROXMIRE,
ADLAI STEVENSON,
HARRISON A. WILLIAMS,
PAUL TSONGAS,
JOHN HEINZ,
NANCY KASSEBAUM,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. HOLTZMAN (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. GINGRICH (at the request of Mr. RHODES), for September 28, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEE) to revise and extend their remarks and include extraneous material:)

Mr. ASHBROOK, for 60 minutes, today.

(The following Members (at the request of Mr. MAVROULES) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. HAMILTON, for 5 minutes, today.
Mr. WIRTH, for 5 minutes, today.
Mr. CAVANAUGH, for 5 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. THOMPSON, for 15 minutes, today.
Mr. STEWART, for 5 minutes, today.
Mr. DOWNEY, for 5 minutes, today.
Mr. WYATT, for 5 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. MURPHY of New York, for 10 minutes, today.
Ms. FERRARO, for 5 minutes, today.
Mr. LEVITAS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. STOKES, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $3,956.50.

(The following Members (at the request of Mr. LEE) and to include extraneous matter:)

Mr. PHILIP M. CRANE in two instances.
Mr. DERWINSKI in three instances.
Mr. MCCLOSKEY in three instances.
Mr. LAGOMARSINO in two instances.
Mr. CLAUSEN.
Mr. LENT.
Mr. HOLLENBECK in two instances.
Mr. BROOMFIELD.
Mr. RUDD.
Mr. CHENEY.
Mr BETHUNE in two instances.
Mr. FINDLEY in two instances.
Mr. GOLDWATER.
Mr. YOUNG of Alaska.
Mr. SOLOMON.
Mr. EMERY.
Mr. GILMAN.
Mr. ABDNOR in seven instances.
Mr. FORSYTHE.
Mr. QUAYLE.
Mrs. SNOWE.
Mr. STANTON in two instances.
Mr. DOUGHERTY in three instances.
Mr. ANDERSON of Illinois in two instances.
Mr. MCCLORY.
Mr. ASHBROOK in three instances.
Mr. RITTER.

(The following Members (at the request of Mr. MAVROULES) and to include extraneous material:)

Mr. BEARD of Rhode Island.
Mr. SOLARZ.
Mr. GUARINI in four instances.
Mr. FOWLER.
Mr. MINETA.
Mr. CARR.
Mr. EDGAR.
Mr. GORE.
Mr. VANIK.
Mr. BEILENSON.
Mr. MCDONALD in five instances.
Mr. SHELBY in two instances.
Mr. LELAND.
Mr. RODINO in two instances.
Mr. FISHER in two instances.
Mrs. SPELLMAN.
Mr. SIMON.
Mrs. SCHROEDER in two instances.
Mr. MOORHEAD of Pennsylvania in two instances.
Mr. MOFFETT.
Mr. WOLFF.
Ms. MIKULSKI.
Mr. BALDUS.
Mr. DRINAN.
Mr. HARKIN.
Mr. ZEFERETTI.
Mr. HANLEY in two instances.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly an enrolled bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 111. An act to provide for the operation and maintenance of the Panama Canal under the Panama Canal Treaty of 1977, and for other purposes.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolution of the Senate of the following titles:

S. 210. An act to establish a Department of Education, and for other purposes;

S. 721. An act to amend the Civil Rights Act of 1957 to authorize appropriations for the U.S. Commission on Civil Rights for fiscal year 1980; and

S. J. Res. 105. Joint resolution to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 111. To provide for the operation and maintenance of the Panama Canal under the Panama Canal Treaty of 1977, and for other purposes.

ADJOURNMENT

Mr. MAVROULES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 15 minutes p.m.), the House adjourned until tomorrow, Friday, September 28, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2531. A letter from the Assistant Secretary of Health, Education, and Welfare for Education, transmitting the fourth annual report of the Advisory Council on Education Statistics; to the Committee on Education and Labor.

2532. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during August 1979, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

2533. A letter from the Secretary of the Interior, transmitting notice of the bidding systems to be used and the tracts to be offered in OCS Lease Sale No. 42, pursuant to section 8(a) (8) of the Outer Continental Shelf Lands Act, as amended; to the Committee on Interior and Insular Affairs.

2534. A letter from the Comptroller General of the United States, transmitting a report assessing zero-base budgeting as a tool for analysis and decisionmaking (PAD–79–45, September 25, 1979); jointly, to the Committees on Government Operations and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BINGHAM: Committee of conference. Conference report on S. 737 (Rept. No. 96–482). Ordered to be printed.

Ms. CHISHOLM: Committee on Rules. House Resolution 437. Resolution providing for the consideration of H.R. 1885. A bill to amend Civil Service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies (Rept. No. 96–483). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 438. Resolution providing for the consideration of H.R. 3580. A bill to provide for establishment and coordination of rural development policy and to extend for 2 years the authorization of appropriations for carrying out title V of the Rural Development Act of 1972 (Rept. No. 96–484). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 439. Resolution providing for the consideration of House Joint Resolution 341. Joint resolution to require continuation of rail service by the Chicago, Milwaukee, St. Paul, & Pacific Railroad for a period of 45 days (Rept. No. 96–485). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 440. Resolution waiving certain points of order against the conference report on House Joint Resolution 404. Joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes (Rept. No. 96–486). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON (for himself, Mrs. Byron, Mr. Barnes, Mr. Bauman, Mrs. Holt, Mr. Long of Maryland, Ms. Mikulski, Mr. Mitchell of Maryand, Mrs. Spellman, Mr. Sebelius, Mr. Udall, Mr. Clausen, Mr. Seiberling, Mr. Harris, and Mr. Fisher:

H.R. 5419. A bill to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RHODES:

H.R. 5420. A bill to reform the system for establishing the pay for Members of Congress, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ANDREWS of North Carolina:

H.R. 5421. A bill to amend the Internal Revenue Code of 1954 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions; to the Committee on Ways and Means.

By Mr. CAVANAUGH (for himself, Mr. St Germain, and Mr. McKinney):

H.R. 5422. A bill to amend section 1110(a) of the Right to Financial Privacy Act of 1978 to permit a customer of a financial institution to challenge in district court access to financial records with payment of the same filing fee that is required for an application for a writ of habeas corpus; to the Committee on Banking, Finance and Urban Affairs.

H.R. 5423. A bill to amend section 1914(a) of title 28 of the United States Code to permit a customer of a financial institution to challenge in district court access to financial records with payment of the same filing fee that is required for an application for a writ of habeas corpus; to the Committee on the Judiciary.

By Mr. THOMPSON (for himself, Mr. Hawkins, Mr. Nedzi, Mr. Brademas, Mr. Annunzio, Mr. Gaydos, Mr. Jones of Tennessee, Mr. Mollohan, Mr. Van Deerlin, Mr. Minish, Mr. Mendel Davis, Mr. Rose, Mr. John L. Burton, Mr. Peyser, Mr. Ratchford, Mr. Fazio, Mr. Frenzel, Mr. Gingrich, Mr. Campbell, and Mr. Conable):

H.R. 5424. A bill to amend title 44, United States Code, to provide for improved administration of public printing services and distribution of public documents; to the Committee on House Administration.

By Mr. COELHO:

H.R. 5425. A bill to provide that any increase in the rate of pay for Members of Congress proposed during any Congress shall not take effect earlier than the beginning of the next Congress; to the Committee on Post Office and Civil Service.

By Mr. CONABLE:

H.R. 5426. A bill to amend title II of the Social Security Act to provide that the tax-equivalent payments which States are required to make under their agreements with respect to covered State and local employees for any month may be made at any time within 30 days after the close of such month; to the Committee on Ways and Means.

By Mr. ERTEL (by request):

H.R. 5427. A bill entitled the "Science and Technology Research and Development Utilization Policy Act"; jointly, to the Committees on Science and Technology and the Judiciary.

By Mr. FITHIAN:

H.R. 5428. A bill to provide for research and development programs to increase the utilization of biomass; jointly, to the Committees on Agriculture, Interstate and Foreign Commerce, and Science and Technology.

By Mr. GUARINI (for himself, Mr. Rodino, Mr. Gray, Mr. Scheuer, Mr. Gephardt, and Mr. Davis of South Carolina):

H.R. 5429. A bill to amend the Department of Education Organization Act to establish an Office of Private Education; to the Committe on Education and Labor.

By Mr. MOTTL:

H.R. 5430. A bill to amend the Communication Act of 1934 to require the Federal Communications Commission to collect certain financial information from commercial broadcast station licensees and to make such information available for public inspection; to the Committee on Interstate and Foreign Commerce.

By Mr. MURPHY of New York:

H.R. 5431. A bill to amend the Shipping Act, 1916, so as to redefine the term "independent ocean freight forwarder"; to the Committee on Merchant Marine and Fisheries.

By Mr. NOLAN:

H.R. 5432. A bill to amend the Internal Revenue Code of 1954 to make certain changes in the carryover basis provisions which were added by the Tax Reform Act of 1976, and for other purposes; to the Committee on Ways and Means.

By Mr. PATTERSON (for himself, Mr. Corman, and Mr. Van Deerlin):

H.R. 5433. A bill to amend title 10, United States Code, to eliminate certain limitations imposed on excess profits arising from any contract with any military department of the United States for the construction or manufacture of all or part of any complete aircraft or any contract with the Secretary of the Navy for the construction or manufacture of all or part of any complete naval vessel, and for other purposes; to the Committee on Armed Services.

By Mr. PETRI:

H.R. 5434. A bill to amend part A of title IV of the Social Security Act to reduce from 6 to 3 the maximum age of a child on account of whom a mother or other caretaker relative receiving aid to families with dependent children may claim an exemption from registration under the WIN program; to the Committee on Ways and Means.

By Mr. REGULA:

H.R. 5435. A bill to amend section 46 of the Internal Revenue Code of 1954 to provide that the investment tax credit will apply to research and development expenditures; to the Committee on Ways and Means.

By Mr. SANTINI:

H.R. 5436. A bill to provide for the cession and conveyance to the States of federally owned unreserved, unappropriated lands, and to establish policy, methods, procedures, schedules, and criteria for such transfers; to the Committee on Interior and Insular Affairs.

By Mr. SMITH of Iowa (for himself, Mr. Andrews of North Dakota, Mr. Whitley, Mr. Hamilton, Mr. Williams of Montana, Mr. Traxler, Mr. Erdahl, and Mr. Nolan):

H.R. 5437. A bill to protect the public health by providing flexibility in the regulatory process to prevent the occurrence of botulism if prohibition of nitrites and nitrates becomes necessary and would be warrented by studies of their carcinogenicity or other toxic effect; jointly, to the Committees on Agriculture and Interstate and Foreign Commerce.

By Mr. STOKES:

H.R. 5438. A bill to provide a special program for financial assistance to national community-based organizations of demonstrated effectiveness, in order to provide 1 million new jobs and job training opportunities for structurally unemployed and unemployable youth; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. SWIFT (for himself, Mr. Foley, Mr. McCormack, Mr. Pritchard, Mr. Bonker, Mr. Dicks, Mr. Lowry, Mr. Marlenee, Mr. Williams of Montana, Mr. Abdnor, Mr. Daschle, and Mr. Smith of Iowa):

H.R. 5439. A bill to amend section 5 of the Department of Transportation Act relating to rail service assistance; to the Committee on Interstate and Foreign Commerce.

By Mr. TREEN (for himself, Mr. Hyde, Mr. Hagedorn, and Mr. Symms):

H.R. 5440. A bill to limit the jurisdiction of the courts of the United States in matters relating to abortion; to the Committee on the Judiciary.

By Mr. VANIK:

H.R. 5441. A bill to amend the Tariff Schedules of the United States with respect to the tariff treatment of certain articles; to the Committee on Ways and Means.

By Mr. WEAVER:

H.R. 5442. A bill providing for the conveyance of certain amphibious landing craft to the Coos County Sheriff's Office, Coos County, Oreg.; to the Committee on Ways and Means.

By Mr. ANDERSON of Illinois (for himself and Mr. Solarz):

H.R. 5443. A bill to authorize a special program of humanitarian assistance for the people of Cambodia, to be carried out by public and private international agencies; to the Committee on Foreign Affairs.

By Mr. ANNUNZIO (for himself, Mr. Evans of Delaware, Mr. Blanchard, Mrs. Spellman, Mr. Goldwater, Mr. Mitchell of New York, Mr. Hanley, Mr. Leach of Louisiana, Mr. Mollohan, Mr. Neal, Mr. Ottinger, Mr. Clinger, Mr. Devine, Mr. Dickinson, Mr. Fish, Mr. Hyde, Mr. Kemp, Mr. Lagomarsino, Mr. Mottl, Mr. Minish, and Mr. Derwinski):

H.R. 5444. A bill to provide that no officer or employee of the United States shall retire, cancel, destroy, or keep out of circulation any Federal Reserve note in the denomination of $1; to the Committee on Banking, Finance and Urban Affairs.

By Mr. COELHO:

H.R. 5445. A bill to repeal section 1(b) of the act of June 3, 1960, to authorize the Secretary of the Interior to construct the San Luis unit of the Central Valley project, California, to enter into agreement with the State of California with respect to the construction and operation of such unit, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. COLLINS of Texas:

H.R. 5446. A bill to provide for the conversion of the U.S. Postal Service into a privately owned and operated entity; to the Committee on Post Office and Civil Service.

By Mr. EDWARDS of California (for himself and Mr. Hyde):

H.R. 5447. A bill to correct technical errors in and clarify certain provisions of Public Law 95–598; to the Committee on the Judiciary.

By Mr. ENGLISH:

H.R. 5448. A bill to authorize the Secretary of Agriculture to lease real property, including office space, storage space, and other building space, and for other purposes; jointly, to the Committees on Agriculture and Public Works Transportation.

By Mr. GREEN:

H.R. 5449. A bill to provide for the reimbursement of State and local governments for providing certain protection with respect to certain foreign diplomatic missions located in the United States and with respect to certain foreign officials; to the Committee on Foreign Affairs.

By Mr. HINSON:

H.R. 5450. A bill to amend the Age Discrimination in Employment Act of 1967 to provide that individuals who are 40 years of age or older shall be protected by the provisions of such act, and for other purposes; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

By Mr. MURPHY of New York (for himself and Mr. AuCoin):

H.R. 5451. A bill to provide for education and training in maritime subjects; to the Committee on Merchant Marine and Fisheries.

By Mr. STANTON:

H.R. 5452. A bill to permit products of U.S. origin to be reimported into the United States under informal customs' entry procedures; to the Committee on Ways and Means.

By Mr. ADDABBO (for himself and Mr. Zeferetti):

H.J. Res. 410. Joint resolution welcoming His Holiness Pope John Paul II on his visit to the United States; to the Committee on Foreign Affairs.

By Mr. HAMILTON:

H. Con. Res. 193. Concurrent resolution honoring the Fourteenth Centennial of Islam; to the Committee on Foreign Affairs.

By Mr. WOLFF (for himself, Mr. Mica, Mr. Yatron, Mr. Solarz, Mr. Guyer, Mr. Pritchard, and Mr. Goodling):

H. Res. 431. Resolution calling on the Socialist Republic of Vietnam, the authorities in Phnom Penh, and the United Nations to join in an international humanitarian relief program for the people of Cambodia; to the Committee on Foreign Affairs.

By Mr. BEARD of Rhode Island:

H. Res. 432. Resolution expressing the sense of the House of Representatives that the remains of an unknown American who lost his life while serving in the Armed Forces of the United States during the Vietnam era should be located at the earliest opportunity in order that such remains may, with all appropriate honor and ceremony, be buried in the Memorial Amphitheater of the National Cemetery at Arlington, Va.; to the Committee on Veterans' Affairs.

By Mr. ENGLISH:

H. Res. 433. Resolution to encourage the more effective marketing of agricultural commodities by farmers; to the Committee on Agriculture.

By Mr. FAZIO (for himself, Mr. Ratchford, Mr. Sabo, Mr. Dixon, Mr. Benjamin, Mr. Guarini, Mr. Vento, Mr. Coelho, Ms. Ferraro, Mr. Burgener, Mr. Oberstar, and Mr. Kogovsek):

H. Res. 434. Resolution amending the Rules of the House of Representatives to postpone for 1 day the final vote on any bill or resolution which was amended in the Committee of the Whole, in order to give Members an opportunity to analyze the amendment or amendments made; to the Committee on Rules.

By Mr. FAZIO (for himself, Mr. Ratchford, Mr. Sabo, Mr. Dixon, Mr. Oberstar, Mr. Burgener, Ms. Ferraro, Mr. Coelho, Mr. Vento, Mr. Guarini, Mr. Benjamin, Mr. Cleveland, and Mr. Kogovsek).

H. Res. 435. Resolution amending the Rules of the House of Representatives to require that a portion of any time allocated for general debate on a bill or resolution be utilized for such debate on the bill or resolution in its final form; to the Committee on Rules.

By Mr. FAZIO (for himself, Mr. Ratchford, Mr. Sabo, Mr. Dixon, Mr. Kogovsek, Mr. Benjamin, Mr. Guarini, Mr. Vento, Mr. Coelho, Ms. Ferraro, Mr. Burgener, and Mr. Oberstar):

H. Res. 436. Resolution amending the Rules of the House of Representatives to require that at least 500 copies of any proposed floor amendment be made available for use by Members on the floor before such amendment is actually offered; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 5453. A bill for the relief of Chi Vingh, Ngo, Wu Feng Jun Yu, and Kinh Quoc Ngo; to the Committee on the Judiciary.

By Mr. LLOYD:

H.R. 5454. A bill for the relief of Connie Brown; to the Committee on the Judiciary.

By Mrs. SMITH of Nebraska:

H.R. 5455. A bill for the relief of Estella Chan, doctor of medicine; to the Committee on the Judiciary.

H.R. 5456. A bill for the relief of Rogelio Narvaez, doctor of medicine, and his wife, Perlita Narvaez, doctor of medicine; to the Committee on the Judiciary.

By Mr. STAGGERS:

H.R. 5457. A bill for the relief of Sarah O. Loot, M.D., Jesse L. Loot, M.D., and Brian O. Loot; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

309. The SPEAKER presented a memorial of the Legislature of the State of California, relative to the California National Guard members' farm and home loan program, which was referred to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 264: Mr. Akaka, Mr. Addabbo, Mr. Albosta, Mr. Barnes, Mr. Blanchard, Mr. Boland, Mr. Bonior of Michigan, Mr. Brown of California, Mr. Burgener, Mr. Carr, Mr. Corcoran, Mr. D'Amours, Mr. Diggs, Mr. Ertel, Mr. Fazio, Mr. Ford of Michigan, Mr. Frost, Mr. Gore, Mr. Gray, Mr. Hughes, Mr. Jacobs, Mr. Jeffords, Mr. LaFalce, Mr. Lowry, Mr. Maguire, Mr. Matsui, Mr. Murphy of Pennsylvania, Mr. Patterson, Mr. Pepper, Mr. Seiberling, Mr. Vento, Mr. Weaver, Mr. Weiss, Mr. Williams of Montana, and Mr. Wirth.

H.R. 1173: Mr. Corcoran.

H.R. 1411: Mr. Howard.

H.R. 1603: Mr. Erlenborn, Mr. Dannemeyer, Mr. Trible, Mr. Hubbard, Mr. Natcher, Mr. Findley, Mr. Philip M. Crane, and Mr. Hillis.

H.R. 1644: Mr. Reuss, Mr. Myers of Pennsylvania, Mr. Gingrich, Mr. Daschle, Mr. Luken, Mr. Williams of Ohio, Mr. Hanley, Mr. Long of Maryland, Mr. Dougherty, and Mr. Loeffler.

H.R. 1785: Mr. Gingrich, Mr. Brown of Ohio, Mr. Mica, Mr. Leach of Louisiana, Mr. Paul, Mr. Butler, Mr. Brinkley, Mr. Walgren, and Mr. Hillis.

H.R. 1880: Mr. Bereuter and Mr. Sebelius.

H.R. 2191: Mr. Stokes.

H.R. 3532: Mr. Rangel.

H.R. 3557: Mr. Marks.

H.R. 3558: Mr. Gaydos and Mr. Bereuter.

H.R. 3718: Mr. Hillis.

H.R. 4235: Mr. Philip M. Crane.

H.R. 4398: Mr. Butler and Mr. Cavanaugh.

H.R. 4497: Mr. Abdnor, Mr. Burgener, Mr. Carter, Mr. Cleveland, Mr. Conte, Mr. Emery, Mr. Murphy of Pennsylvania, Mr. Oberstar, Mr. Symms, Mr. Whittaker, and Mr. Young of Alaska.

H.R. 4549: Mr. Solomon.

H.R. 5040: Mr. Ford of Tennessee, Mr. Mitchell of Maryland, Mr. Rangel, Mr. Fauntroy, Mrs. Chisholm, Mrs. Collins of

Illinois, Mr. Leland, Mr. Dellums, Mr. Dixon, and Mr. Stewart.

H.R. 5129: Mr. Loeffler.

H.R. 5243: Mr. Murphy of New York, Ms. Mikulski, Mr. Carney, and Mr. D'Amours.

H.R. 5278: Mr. Coelho.

H.R. 5413: Mr. Rousselot, Mr. Symms, Mr. Young of Alaska, Mr. Satterfield, Mr. Robert W. Daniel, Jr., and Mr. Paul.

H.J. Res. 69: Mr. Bafalis.

H.J. Res. 230: Mr. Vento.

H.J. Res. 372: Mr. Beilenson, Mr. Mineta, Mr. Vento, and Mr. Downey.

H. Con. Res. 150: Mr. Goodling.

H. Con. Res. 179: Mr. Oberstar, Mr. Stark, Mr. Won Pat, Mr. Barnes, Mr. Kemp, Mr. Lehman, Mr. Whitehurst, Mr. Conte, Mr. Frost, Mr. Leach of Iowa, Mr. Panetta, Mr. Richmond, Mrs. Spellman, and Mr. Downey.

H. Res. 412: Mr. Nolan, Mr. Russo, Mr. Bailey, Mr. Kramer, Mr. Kindness, Mr. Bereuter, Mr. Fauntroy, Mr. Lungren, Mr. Lee, Mr. Flood, Mr. Traxler, Mr. Jacobs, Mr. Kemp, Mr. Yatron, Mr. Frost, Mrs. Holt, Mr. Young of Missouri, Mr. Neal, Mr. Mitchell of Maryland, Mr. Hance, Mr. Hinson, Mr. Atkinson, Mrs. Boggs, Mr. Lent, Mr. Benjamin, Mr. Panetta, Mr. Matsui, Mr. Mottl, Mr. Gradison, Mr. Forsythe, Mr. Leach of Iowa, Mr. Cavanaugh, Mr. Dougherty, Mr. Royer, Mr. Wolff, Mr. Mitchell of New York, Mr. Quayle, Mr. Gudger, Mr LaFalce, Mr. Blanchard, Mr. Alexander, Mr. Anderson of California, Mr. Tauke, Mr. Wylie, Mr. Murphy of Pennsylvania, Mr. Rangel, Mr. Derwinski, Mr. O'Brien, Mr. Corrada, Mr. Solarz, Mr. D'Amours, Mr. Fithian, Mr. Kazen, Mr. Rinaldo, Mr. Erdahl, Mr. Markey, Mr. Annunzio, Mr. Patten, Mr. Brodhead, Mr. Guarini, Mr. Barnes, Mr. Hyde, Mr. Donnelly, Mr. Rodino, Mr. Lagomarsino, Mr. Duncan of Oregon, Mr. Leach of Louisiana, Mr. Walgren, Mr. Corcoran, Mr. Giaimo, Mr. Kogovsek, Mr. Patterson, Mr. Roth, Mr. Whitehurst, Mr. Scheuer, Mr. Mathis, Mr. Boner of Tennessee, Mr. Coelho, Mr. Clausen, Mr. Pepper, Mr. Lott, Mr. Glickman, Mr. Nowak, Mr. Burgener, Mr. Frenzel, Mr. Hughes, Mr. Jeffords, Mr. Van Deerlin, Mr. Obey, Mrs. Fenwick, Mr. Brademas, Mr. McEwen, Mr. Moakley, and Mr. Vento.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2061

By Mr. BROWN of California:

—Page 228, strike out lines 10 through 17, and insert in lieu thereof the following:

"Sec. 1001. There are authorized to be appropriated for the purposes of carrying out the functions of the Bureau of Justice Statistics $40,000,000 for each of the fiscal years ending September 30, 1980, 1981, 1982, and 1983. There are authorized to be appropriated for the purposes of carrying out the functions of the National Institute of Justice $25,000,000 for each of fiscal years ending September 30, 1980, 1981, 1982, and 1983. Of the total amount appropriated for parts B and C, at least 45 per centum shall be set aside for the programs of the Bureau of Justice Statistics. There is authorized to be appropriated for parts D, E,".

H.R. 5359

By Mr. KRAMER:

—Page 62, after line 7, add the following new section:

Sec. 776. None of the funds appropriated by this Act may be used to reduce the number of personnel assigned to, or the support or equipment levels at, any United States naval installation or facility at Guantanamo Bay, Cuba, below the number of such personnel, or such support or equipment levels, on September 30, 1979, or to discontinue or reduce any military functions which were primarily supported by such installation or facility on September 30, 1979.

EXTENSIONS OF REMARKS

PROBLEM OF AMERICAN PRODUCTIVITY

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

• Mr. GREEN. Mr. Speaker, for some time I have shared the concern of many other Members of the House that American productivity is failing to keep pace with other industrialized nations of the world. In a speech yesterday in Los Angeles, Willard C. Butcher, president of the Chase Manhattan Bank, addressed this issue and cited some alarming figures. Mr. Butcher charged that if this productivity gap continues, by 1985 it will cost each American household—in today's money—about $7,700 annually. During his remarks, Mr. Butcher went on to suggest several steps which might be taken in order to begin to increase in a relative sense our country's productive rate and I would like to share the text of this speech with my colleagues at this time:

Closing Our "Productivity Gap": Key to U.S. Economic Health

I thank the chairman for those kind words. I must say I have always found the people of this state to be most friendly. Sometimes, almost too friendly!

About a year ago, I gave a speech in California, and several folks came up afterwards to say how much they enjoyed the talk. One elderly lady seemed overly enthusiastic.

"Mr. Butcher," she said, "I do hope you plan to reprint that speech." I told her we had no such plans that I knew of. But she was so insistent that I finally smiled and said: "Perhaps it will be reprinted someday—maybe posthumously."

"Well," she replied, "I just hope it's soon!"

My topic today is one on which our nation must act *soon*. I can think of no subject more crucial to our economic health as a nation or our material prosperity as a people than that which I plan to address this afternoon.

It is a subject that may carry the cure for the vicious inflationary spiral that afflicts us * * * help return us to the road of real economic growth * * * and hold our chief hope for a better quality of life for us and our children.

It is the subject, ladies and gentlemen, of American productivity. To me, it is a subject that, at the same time, provokes concern * * * fear * * * and hope.

My concern is that for the past 10 years, the United States has had the lowest rate of productivity growth of any modern industrial nation. My fear is that if this trend continues, our standard of living will steadily sink and our nation will become a second-rate industrial power before this century ends. My hope is that all Americans and especially the business community will not only awaken to the peril of our dismal productivity performance—but also take action to head off the danger we face.

This afternoon, I'd like first to analyze productivity: then examine a few of the factors that have contributed to our current condition; and finally, talk about the actions that we must support if we are to turn this nation around and get it back on the path to prosperity.

Productivity. The very word itself is maligned or misunderstood. It conjures up feelings of:

Beating the workers a little harder * * *.

Squeezing them to produce more * * *.

And then firing them when they do.

The real definition of productivity, however, is simply output over input; the relationship between total physical output of a factory, an industry or a nation and one or more of the factors of input—labor, invested capital, materials or the effort and ingenuity of management. Stated another way, productivity is the sum and substance of the vitality of a nation's economy.

In the United States, declining productivity growth has led directly to higher prices * * * higher unemployment * * * lower real pay * * * and a loss of competitiveness in world markets. In other words, our current productivity problem is the Achilles Heel of our nation's economy.

Look at the numbers to see how far we've fallen.

Until 1970, productivity growth in the private economy averaged over 3 percent a year. In the 70's, however, productivity growth has been battered—dipping to 1.8 percent per year for the period 1970 to 1978.

Last month, the Joint Economic Committee of Congress announced that in the second quarter of this year, productivity in the non-farm private business sector declined at an annual rate of nearly 6 percent. That's the largest drop since the government began keeping such records in 1947.

What does this decline mean to the average American? In a word, plenty. Or, more appropriately, lack of plenty.

For one thing, it means the wage increases demanded and secured by the American worker these days are not worth the payroll checks they're printed on. Rather, they are, as a recent Chase advertisement put it—nothing more than a "grand illusion"—hopelessly devoured by inflation's voracious appetite.

For another thing, had we maintained a 3 percent productivity growth rate during the 70's, real U.S. output would now be $400 billion higher. And imagine what that would mean in our struggle to fight poverty * * * develop alternative energy sources * * * build our productive capacity * * * and thereby hasten a better quality of life for our people.

It also would mean more personal income for each and every American—about $4,000 more per household this year. By 1985, if this "productivity gap" continues, it will cost each American household—in today's money—about $7,700 annually.

Seven thousand, seven hundred dollars in lost income! That's enough money each year to buy a new car * * * pay for a year of college * * * or support an average family's food bill.

Internationally, the implications are just as severe. Americans have grown accustomed to believing that our living standard is un-

• This "bullet" symbol identifies statements or inserti ons which are not spoken by the Member on the floor.

matchable throughout the world. But according to the American Productivity Center in Houston, if current trends continue, both Japan and West Germany will pass us in overall productivity during the 1980's.

The message in all this is clear. If we do not take action at once to accelerate productivity growth and close our "productivity gap", the average American will see his relative standard of living drastically reduced in the decade immediately ahead.

And that, in a nutshell, is our productivity problem. To solve it, will require nothing less than a fundamental change in our country's economic direction.

Let me suggest four interrelated areas that demand our immediate attention to create such fundamental change:

1. The first is the need for increased capital investment.

This is pivotal in the productivity equation. Increased capital investment leads to increased productivity which, in turn, leads to further increases in capital. And so it goes.

Despite enormous and growing needs for capital formation in this country—around $4 trillion during the next decade—the U.S. capital stock has risen by a paltry 3 percent per year over the past five years. That's half the rate of the preceeding decade.

From 1960 to 1976, the average capital investment for new plant and equipment as a percent of GNP was lower in the United States than in any other industrial nation. Today, the average U.S. plant is 20 years old—8 years older than the equivalent German plant and more than 10 years older than the equivalent Japanese plant.

Stated simply, the wealth of a nation—and therefore the well-being of its people—is its capital. And capital can only be derived through government surplus, personal savings and, most of all, corporate profits.

And today, those profits are, in a word, inadequate. That's right. I said inadequate profits. When adjusted for inflation, corporate profits are below 1960 levels. And despite political cries that profits are "obscene" or a "windfall"—the truth is that today's profits are insufficient to meet our country's expanding capital needs.

Now, what can we do about it? I think several things.

Certainly tax policy—the kind that encourages investment and discourages consumption—must be part of any solution. For one thing, let's take a hard look at the effect of marginal tax rates on increased productivity. For another, let's examine thoroughly the Value Added Tax—a consumption-oriented tariff that is a major source of government revenue in Western Europe. Congress is now reviewing how we might use a similar VAT—as an alternative to existing taxes and hopefully, as an enhancement to capital investment and productivity.

Related to tax policy is the need for stable U.S. economic policies—particularly in the energy area. These will help relieve business of its current uncertainty about the future of its investments.

Finally, if our nation is to become really productive again, we must stifle the obscene rhetoric about "obscene profits". Winston Churchill once observed that it was "a socialist idea that making profits is a vice. The real vice is making losses." That's one message we must make sure is not lost on our legislators.

2. A second factor to spur U.S. productivity improvement is increased research and development.

Traditionally, the U.S. has been the world's leader in developing and applying new and innovative technologies. But lately, U.S. investment in R&D has lagged badly:

Over the last several years, our percentage of GNP for research and development has declined, while the same percentages in Japan and West Germany have increased.

The ratio of R&D to output reached its U.S. peak of 3 percent in 1964 and has since dropped steadily—reaching just over 2 percent last year. That translates to an R&D cut of $10 billion per year.

Today, overseas competitors account for nearly 40 percent of the patents issued in the U.S.—double the number just 20 years ago.

While private industry has historically provided about 1 percent of GNP for research and development—today's R&D is, to a large degree, "defensive" in nature; designed solely to comply with government regulations. Such research does virtually nothing to aid productivity performance.

Now, what can we do about lagging U.S. R&D?

As with capital, we can adjust tax policy—extend coverage of the investment tax credit to include R&D, for example, or grant special R&D incentives. Most important, we can redirect research toward productive purposes and away from counterproductive, regulation-inspired "defensive" ones.

3. And that brings me to my third requisite to improve productivity: the need to reduce government over-regulation.

The sins of over-regulation have, by this time, been well documented. Over-regulation causes inefficiencies. It hurts incentives and innovation. It discourages risk-taking. It diverts capital from productive to non-productive uses. And it has unleashed a Niagara of paperwork that not only inundates offices and swamps executives, but threatens to capsize and sink the private enterprise system.

Indeed, over-regulation has become the cause celebre of every politician from the State House in Sacramento to the White House in Washington. But perceiving a problem and doing something to solve it are two different things.

I'm reminded of the story of the operatic recital at the White House during the term of President Coolidge. The nervous soprano was trying her best to please the First Family, when one of the guests asked the President what he thought of the singer's execution. Coolidge looked the fellow straight in the eye and said, "I'm all for it!"

Most of today's legislators say they are "all for" reducing regulation—but their actions reveal quite another story. In my own industry, for example, 1978 saw more banking regulation and legislation than at any time since the 1930's. No wonder Chase's economists have pegged the price the public pays for government regulation at over $100 billion each year.

Clearly, we need decisive action to limit over-regulation and encourage productivity. Here are a few suggestions:

Let's introduce "economic impact statements"—regulation-by-regulation—to ensure that bureaucrats examine closely regulatory costs and their associated benefits.

Let's modify so-called "enabling legislation" to make Congress itself responsible for the standards and objectives of regulation—especially after it creates a regulatory agency.

Let's adopt a goals-oriented approach to regulation—with government telling us not how to do things but rather what it wants accomplished.

And let's eliminate the disincentives to business and investment that regulations bring about; release the shackles on our companies and leave the marketplace free to channel innovation into profitable and productive and socially-desirable directions.

Finally, let's continue—you and I—to speak out loudly and lucidly against the rising tide of over-regulation. I'm pleased to note that concerned institutions from The Chase Bank to The Business Roundtable to the American Bar Association have helped focus public attention on reforming runaway regulations.

We've made some headway in the battle, but we must not relent. As concerned business men and business women, we must continue to apply public pressure on government to relinquish the regulatory stranglehold that has become a major impediment to American productivity.

4. A fourth and final challenge to productivity lies squarely at the door of management and labor.

As critical as productivity growth is to the future of our nation, almost incredibly, the concept remains—at least to some degree—an epithet to labor and an enigma to management.

Most managers, in fact, can't define it, don't measure it, don't plan for it and don't understand it. And that's tragic. In one Bureau of Labor statistics study of productivity gains for 15 manufacturing industries, the U.S. ranked last in 12 categories and next to last in the remaining three. In non-manufacturing industries, our performance is even worse, with the service sector—printing and publishing, retail food stores, insurance companies, and, yes, banks—the worst of the lot.

To get at this problem, we must, as managers, begin immediately to plan, implement and measure productivity in our own companies.

At Chase for example, one such recent program—designed to convert a volume-oriented processing unit to a more efficient and productive operation—yielded heartening results. Through the combination of increased accountability * * * strategic automation * * * heightened training and development * * * and improved information feedback—we successfully increased our revenues and lowered our costs, while improving service quality. The simple lesson we learned was that productivity is one of the only controllable variables left to management. Or as Peter Drucker once put it, "Productivity is the first test of management's competence."

Now, what about the role of labor in increasing productivity?

Much has been written about the disappearing "work ethic" in this country. With inflation and taxes literally disposing of disposable income—little wonder that the average worker is disillusioned. But productivity is not the worker's enemy.

On the contrary, most studies indicate that increased productivity leads to more, not fewer, jobs in our economy.

In 1977, the Commerce Department found that high technology companies created jobs 88 percent faster than other firms and realized productivity growth rates of almost 40 percent.

Another study at General Electric showed that over a 24-year period, high technology industries increased employment by almost 3 percent per year, while low technology industries with low productivity formed jobs at a dismal 0.3 percent rate.

No, productivity is not labor's nemesis. In point of fact, when workers' wage gains exceed productivity increases—no one really benefits and everyone suffers from higher prices.

Productivity improvement, on the other hand, can benefit both wages and profits. It paves the way to new jobs, higher real income, lower inflation and, most of all, a more prosperous standard of living for all of our people. As the American Federation of Labor put it in a formal declaration in 1919:

"The increased productivity of industry is a most potent factor in the ever increasing struggle of the workers to raise their standard of living. The importance of this factor must steadily increase * * *."

Put another way, the most compelling force we possess to improve our standard of living while at the same time fight inflation may very well be—increased productivity.

When Jack Kennedy was President, he compared America's growing economy to "a rising tide that lifts all the boats." Today, our ship of economic growth has sprung a serious leak. But "the report that the ship is sinking," as economist Joseph Schumpeter once put it, is not necessarily "defeatist."

As I see it, we have two options. Number one, we can go down with the ship. Or number two, we can man the productivity pumps that will get us back on course toward economic growth and a better quality of life.

Our task, to be sure, is not an easy one.

Rarely in our history, as the Joint Economic Committee noted last month, have we been beset by such a raft of seemingly insoluble economic problems. But no other economic system has ever achieved anything like the abundant wealth that the private enterprise system and steadily increasing productivity have brought to the people of this country.

This great system has been our legacy. How you and I answer the economic challenges that confront us today will largely determine whether our children will share in this bountiful legacy tomorrow.●

MR. ERNEST E. RIGHETTI'S 46 YEARS OF DEDICATED SERVICE TO THE COMMUNITY OF SANTA MARIA, CALIF.

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the fact that one of the most public-spirited citizens of our day, Mr. Ernest E. Righetti, has decided to step down from his position as school board trustee after 46 years of service. I would like to take this moment to honor, celebrate, recognize, and commend the 46 selfless, loyal years of service and dedication by Ernest E. Righetti to the community of Santa Maria, Calif.

Mr. Righetti has served as trustee on local school boards, beginning with his 27 years as Orcutt District trustee. From 1946–63, Ernie served on the high school board, and from 1946–79, for 33 years, he was trustee on the board of Alan Hancock College. For 29 of these years, he served as chairman of that board.

Mr. Righetti has touched the lives of countless individuals and has shared his wisdom professionally and personally from student to educator.

A longtime resident of Santa Maria, Ernie graduated from Santa Maria High in 1921. For more than 50 years, he has been a member of the County Cattlemen's Association, the Elks Club, the Rancheros Vistadores, and the Al Malaikah Shrine Temple. He has served on the Santa Barbara County committee for school district organization since 1941.

Mr. Righetti also serves as chairman of the advisory board of the Bank of America for Santa Maria. He is currently president of the Santa Maria Valley Resource Conservation District. For 8 years, from 1969–77, he was a member of the county fair board.

Ernie Righetti's countless years of service and dedication to the people, to the quality and future of Santa Maria remain with us an inspiration for the years ahead. My good friend, Ernest Righetti, shows all of us how far and effectively the efforts of a single man, wise and gifted, can reach.●

THE VALUE-ADDED TAX: AN ECHO

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, often when listening to debate on new and innovative proposals to solve our problems, I feel like I am standing in an echo chamber. Things keep coming back that were said earlier. They are no better today than when first uttered, but they still keep bouncing back. In the case of the value-added tax—VAT—it did not solve the problems of overtaxation in 1973 and it will not solve the same problem in 1979. In 1973, VAT was supposed to replace property taxes; today it is proposed to replace social security taxes. When will the Federal Government stop looking for substitute taxes and realize that America wants fewer taxes, not different taxes? I urge each of my colleagues to read the following speech and article from the 1973 debate on VAT. VAT sounds a little more hollow every time it bounces back in our faces:

VALUE-ADDED TAX IS NOT THE ANSWER

Mr. Speaker, in recent days there have been calls for a new kind of tax, the value added tax. These calls come at a time when the American people have shown at the polls that what they desire is lower taxes and less governmental interference in their lives, not more.

The advocates of the value added tax argue that this tax will replace property taxes, not be imposed in addition to existing tax burdens. The history of taxation, however, has shown us almost beyond a doubt that taxes never go down. Government, in its continuing quest for new funds, never relaxes its hold on existing sources of revenue.

What the value added tax is, essentially, is a national sales tax, levied in proportion to the goods and services produced and sold. It is also a concealed tax, for the VAT is levied at each step of the way in the production process: on farmer, manufacturer, jobber and wholesaler, and only slightly on the retailer.

When a consumer pays a 7-percent tax on every purchase, he is indignant and resentful toward government. But if the 7-percent tax is hidden and paid by every firm rather than just at retail, the inevitably higher prices will be blamed, not on the Government, but on grasping businessmen and avaricious trade unions.

The late Frank Chodorov explained clearly the desire of Government for hidden taxation:

It is not the size of the yield, nor the certainty of collection which gives indirect taxation (read: VAT) preeminence in the state's scheme of appropriation. Its most commendable quality is that of being surreptitious. It is taking, so to speak, while the victim is not looking.

Discussing the value added tax, Prof. Murray Rothbard, author of a number of important books, including Man, Economy and the State, and a professor of economics at Brooklyn Polytechnic Institute, notes that—

VAT allows the government to extract many more funds from the public—to bring about higher prices, lower production and lower incomes—and yet totally escape the blame, which can easily be loaded on business, unions, or the consumer as the particular administration sees fit.

A common criticism is that the VAT, like the sales tax, is a regressive tax, falling largely on the poor and the middle class, who pay a greater percentage of their income than the rich.

Professor Rothbard states, however, that VAT is in many respects worse than the sales tax:

Every business firm will be burdened by the cost of innumerable record-keeping and collection for government. The result will be an inexorable push of the business system toward "vertical mergers" and the reduction of competition.

The VAT will, in addition, have a negative effect on employment. Professor Rothbard declares that:

In the first place, any firm that buys, say machinery, can deduct the embodied VAT from its own tax liability; but if it hires workers, it can make no such deduction. The result will be to spur over-mechanization and the firing of laborers. Secondly, part of the long run effect of VAT will be to lower the demand for labor and wage incomes, but since unions and minimum wage laws are able to keep wage rates up indefinitely, the impact will be a rise in unemployment.

I wish to share Professor Rothbard's thoughtful analysis of the value added tax, which appeared in Human Events of March 11, 1972, with my colleagues, and insert it into the RECORD at this time:

THE VALUE-ADDED TAX IS NOT THE ANSWER

(By Murray N. Rothbard)

One of the great and striking facts of recent months is the growing resistance to further taxes on the part of the long-suffering American public. Every individual, business, or organization in American society acquires its revenue by the peaceful and voluntary sale of productive goods and services to the consumer, or by voluntary donations from people who wish to further whatever the group or organization is doing. Only government acquires its income by the coercive imposition of taxes. The welcome new element is the growing resistance to further tax exactions by the American people.

In its endless quest for more and better booty, the government has contrived to tax everything it can find, and in countless ways. Its motto can almost be said to be: "If it moves, tax it!"

Every income, every activity, every piece of property, every person in the land is subject to a battery of tax extortions, direct and indirect, visible and invisible. There is of course nothing new about this: what is new is that the accelerating drive of the government to tax has begun to run into determined resistance on the part of the American citizenry.

It is no secret that the income tax, the favorite of government for its ability to reach in and openly extract funds from everyone's income, has reached its political limit in this country. The poor and the middle class are not taxed so heavily that the federal govenment, in particular, dares not try to extort even more ruinous levies.

The outraged taxpayer, after all, can easily become the outraged voter. How outraged the voters can be was brought home to the politicians last November, when locality after locality throughout the country rose in wrath to vote down proposed bond issues, even for the long-sacrosanct purpose of expanding public schools.

DEFEAT IN NEW YORK

The most heartening example—and one that can only give us all hope for a free America—was in New York City, where every leading politician of both parties, aided and abetted by a heavily financed and demagogic TV campaign, urged the voters to support a transportation bond issue. Yet the bond issue was overwhelmingly defeated—and this lesson for all our politicians was a sharp and salutary one.

Finally, the property tax, the mainstay of local government as the income tax is at the federal level, is now generally acknowledged to have a devastating effect on the nation's housing. The property tax discourages improvements and investments in housing, has driven countless Americans out of their homes, and has led to spiraling tax abandonments in, for example, New York City, with a resulting deterioration of blighted slum housing.

"Government, in short, has reached its tax limit; the people were finally saying an emphatic 'No!' to any further rise in their tax burden. What was ever-encroaching government going to do? The nation's economists, most of whom are ever eager to serve as technicians for the expansion of state power, were at hand with an answer, a new rabbit out of the hat to save the day for Big Government."

They pointed out that the income tax and property tax were too evident, too *visible*, and that so are the generally hated sales tax and excise taxes on specific commodities. But how about a tax that remains totally *hidden*, that the consumer or average American cannot identify and pinpoint as the object of his wrath? It was this deliciously hidden quality that brought forth the rapt attention of the Nixon Administration, the "Value Added Tax" (VAT).

The great individualist Frank Chodorov, once an editor of HUMAN EVENTS, explained clearly the hankering of government for hidden taxation: "It is not the size of the yield, nor the certainty of collection, which gives indirect taxation [read: VAT] preeminence in the state's scheme of appropriation. Its most commendable quality is that of being surreptitious. It is taking, so to speak, while the victim is not looking.

"Those who strain themselves to give taxation a moral character are under obligation to explain the state's preoccupation with hiding taxes in the price of goods." (Frank Chodorov, *Out of Step*, Devin-Adair, 1962, p. 220.)

The VAT is essentially a national sales tax, levied in proportion to the goods and services produced and sold. But its delightful concealment comes from the fact that the VAT is levied at each step of the way in the production process: on farmer, manufacturer, jobber and wholesaler, and only slightly on the retailer.

The difference is that when a consumer pays a 7 per cent sales tax on every purchase, his indignation rises and he points the finger of resentment at the politicians in charge of government; but if the 7 per cent tax is hidden and paid by every firm rather than just at retail, the inevitably higher prices will be charged, *not* to the government where it belongs, but to grasping businessmen and avaricious trade unions.

While consumers, businessmen and unions all blame each other for inflation like Kilkenny cats, Papa government is able to preserve its lofty moral purity, and to join in denouncing all of these groups for "causing inflation."

It is now easy to see the enthusiasm of the federal government and its economic advisers for the new scheme for a VAT. It allows the government to extract many more funds from the public—to bring about higher prices, lower production and lower incomes—and yet totally escape the blame, which can easily be loaded on business, unions, or the consumer as the particular administration sees fit.

The VAT is, in short, a looming, gigantic swindle upon the American public, and it is therefore vitally important that it shall not pass. For if it does, the encroaching menace of Big Government will get another, and prolonged, lease on life.

One of the selling points for VAT is that it is supposed only to replace the property tax for its prime task of financing local public schools. Any relief of the onerous burden of the property tax sounds good to many Americans.

But anyone familiar with the history of government or taxation should know the trap in this sort of promise. For we should all know by now that taxes never go down. Government, in its insatiable quest for new funds, never relaxes its grip on any source of revenue.

You know and I know that the property tax, even if replaced for school financing, will not really go down; it will simply be shifted to other expensive boondoggles of local government. And we also know full well that the VAT will not long be limited to financing the schools; its vast potential (a 10 per cent VAT would bring in about $60 billion in revenue) is just too tempting for the government not to use it to the hilt, and, in the famous words of New Dealer Harry Hopkins: "to tax and tax, spend and spend, elect and elect."

Let us now delve more deeply into the specific nature of the VAT. A given percentage (the Nixon Administration proposal is 3 per cent) is levied, not on retail sales, but on the sales of each stage of production, with the business firm deducting from its liability the tax embodied in the purchases that he makes from previous stages. It is thus a sales tax hidden at each stage of production, from the farmer or miner down to the retailer.

A "REGRESSIVE" TAX

The most common criticism is that the VAT, like the sales tax, is a "regressive" tax, falling largely on the poor and the middle class, who pay a greater percentage of their income than the rich. This is a proper and important criticism, especially coming at a time when the middle class is already suffering from an excruciating tax burden.

The Nixon Administration proposes to alleviate the burden on the poor by rebating the taxes through the income tax. While this may alleviate the tax burden on the poor, the middle class, which pays most of our taxes anyway, will hardly be benefited.

"Furthermore, there is a more sinister element in the rebate plan: for some of the poor will get cash payments from the IRS, thereby bringing in the disastrous principle of the guaranteed annual income (FAP) through the back door."

But the VAT is in many ways far worse than a sales tax, apart from its hidden and clandestine nature. In the first place, the VAT advocates claim that since each firm and stage of production will pay in proportion to its "value added" to production, there will be no misallocation effects along the way.

But this ignores the fact that every business firm will be burdened by the cost of innumerable record-keeping and collection for the government. The result will be an inexorable push of the business system toward "vertical mergers" and the reduction of competition.

Suppose, for example, that a crude oil producer adds the value of $1,000, and that an oil refiner adds, another $1,000, and suppose for simplicity that the VAT is 10 per cent. Theoretically, it should make no difference if the firms are separate or "integrated"; in the former case, each firm would pay $100 to the government; in the latter, the integrated firm would pay $200. But since this comforting theory ignores the substantial costs of record-keeping and collection, in practice if the crude oil firm and the oil refiner were integrated into one firm, making only one payment, their costs could be lower.

VERTICAL MERGERS

Hence, vertical mergers will be induced by the VAT, after which the Anti-Trust Division of the Department of Justice would begin to clamor that the free market is producing "monopoly" and that the merger must be broken by government fiat.

The costs of record-keeping, and payment pose another grave problem for the market economy. Obviously, small firms are less able to bear these costs than big ones, and so the VAT will be a powerful burden on small business and hamper it gravely in the competitive struggle. It is no wonder that some big businesses look with favor on the VAT!

There is another grave problem with VAT, a problem that the Western European countries which have adopted VAT are already struggling with.

In the VAT, every firm sends its invoices to the VAT embodied in its invoices for goods bought from other firms. The result is an irresistible opening for cheating, and in Western Europe there are specific firms whose business is to write out fake invoices which can reduce the tax liabilities of their "customers." Those businesses more willing to cheat will then be forced in the competitive struggle of the market.

A further crucial flaw exists in the VAT, a flaw which will bring much grief to our economic system. Most people assume that such a tax will simply be passed on in higher prices to the consumer. But the process is not that simple. While, in the long run, prices to consumers will undoubtedly rise, there will be two other important effects: a large short-run reduction in business profits, and a long-run fall in wage incomes.

The critical blow to profits, while perhaps only "short-run," will take place at a time of business recession, when many firms and industries are suffering from low profits and even from business losses. The low-profit firms and industries will be severely hit by the imposition of VAT, and the result will be to cripple any possible recovery and plunge us deeper into recession. Furthermore, new and creative firms, which usually begin small and with low profits, will be similarly crippled before they have scarcely begun.

The VAT will also have a severe, and so far unacknowledged, effect in aggravating unemployment, which is already at a high recession rate. The grievous impact on unemployment will be twofold. In the first place any firm that buys, say, machinery, can deduct the embodied VAT from its own tax liability; but if it hires workers, it can make no such deduction. The result will be to spur over-mechanization and the firing of laborers.

Secondly, part of the long-run effect of VAT will be to lower the demand for labor and wage incomes; but since unions and the minimum wage laws are able to keep wage rates up indefinitely, the impact will be a rise in unemployment. Thus, from two separate and compounding directions, VAT will aggravate an already serious unemployment problem.

Hence, the American public will pay a high price indeed for the clandestine nature of the VAT. We will be mulcted of a large and increasing amount of funds, extracted in a hidden but no less burdensome manner, just at a time when the government seemed to have reached the limit of the tax burden that the people will allow. It will be funds that will aggravate the burdens on the already long-suffering average middle-class American. And to top it off, the VAT will cripple profits, injure competition, small business and new creative firms, raise prices, and greatly aggravate unemployment. It will pit consumers against business, and intensify conflicts within society.

One of Parkinson's justly famous "laws" is that, for government, "expenditure rises to meet income." If we allow the government to find and exploit new sources of tax funds, it will simply use those funds to spend more and more, and aggravate the already fearsome burden of Big Government on the American economy and the American citizen.

The only way to reduce Big Government is to cut its tax revenue, and to force it to stay within its more limited means. We must see to it that government has less tax funds to play with, not more. The first step on this road to lesser government and greater freedom is to see the VAT for the swindle that it is, and to send it down to defeat.●

A CHICAGO DOCTOR'S VISIT TO A SOVIET HOSPITAL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. DERWINSKI. Mr. Speaker, the Greek Star is widely regarded in the Chicago area for its excellent accounting of activities in the Hellenic community as well as for its objectives and diverse reporting on foreign affairs. In the September 20 edition of this newspaper, Dr. Angelo P. Creticos, medical director of the Henrotin Hospital in Chicago, reports on conditions he found while visiting Soviet hospitals. I wish to insert his article for the Members' attention:

CHICAGO DOCTOR VISITS SOVIET HOSPITALS; FINDS CONDITIONS DEPLORABLE

(By Angelo P. Creticos, M.D.)

(Dr. Creticos is the Medical Director of Henrotin Hospital in Chicago.)

The Medical Director (head doctor) is also the administrator. At this hospital the average nurse's salary is about $200–$225 per month. The average physician's salary is $250–$300. Our In-Tourist Russian guide made $300 a month. The garbage collector of the suburb made $450–$500 a month.

We were informed by our head doctor that about 87 percent of Russian physicians are women. They have a permanent staff of 300 physicians on that 1,500 bed hospital and have another 100–150 physicians who are in specialty or refresher training.

The areas we were taken to at this Moscow hospital included the operating rooms. There were 8 of these but 4 were shut down for repair and only one operation was in progress that morning while we were there. We were not allowed into the inner area to observe and this was understandable.

We were then taken to the x-ray department where all the floors were wooden planks which were uneven and did not fit tightly together. The floor was badly stained with blood which apparently they could not clean out. The equipment was outdated. They had new units on order including a C.T. body scanner from Siemens and expected this delivered before the Olympics. Again, our visit was at about 11 a.m. and there wasn't a single patient or technician around.

Our next stop was Physical Therapy where there is heavy concentration on equipment and modalities of treatment. They are very heavy users of electrical stimulation and ion treatment. The equipment was very old and the diathermy was especially antique. They apparently use biofeedback quite a bit. Again there were almost no patients in this large physical therapy facility.

We were then ushered into the pulmonary treatment facility. Here they use oxygen to a great extent with patients sitting at a machine and breathing deeply aerosolized oxygen vapor. These devices were set up over sinks so that patients can expectorate directly into the sink and continue with their treatment. We completed our visit to this hospital with some of our group visiting the dining room for the employees. The flies, heat and generally poor housekeeping caused them to terminate this visit quickly.

Our next hospital was in Yerevan, Armenia, a city of about 1.2 million people. This hospital was two years old and appeared to be in worse condition than the one in Moscow. It had an 800-bed capacity and about 900 employees. It was also an emergency hospital.

The staff at this hospital was much more cordial and relaxed—probably reflecting the ethnic character of the area. We all noted once we got into Armenia that the people were more relaxed and smiled and seemed to go about their work with a greater air of relief and indifference. It certainly appeared to us that the Armenians regarded this area as a self sufficient country just attached to Russia.

We were able to visit the Intensive Care Unit of this hospital. They call it the "re-animation" unit. In order to go into the area we were obliged to put white "booties" on over our shoes so that we don't take bacteria into the re-animation unit. However, we brought all the bacteria on the wet dirty booties.

Once inside we noted there were 24 I.C.U. beds—all empty—all army cot type steel frame tubing and all with chipped paint. The monitoring equipment was adequate and abundant. When asked where were all the patients, we were again advised people were on vacation and no one gets sick in summer. Yet this was an Emergency Hospital. We did note, however, that although we had to put booties on, the flies seemed to have no restrictions. Again, the windows were without screens and the unit was without airconditioning so that flies came in at will.

While giving us a summary of this unit, we noted the head doctor walked freely into the unit without booties. I asked our guide to ask him how could he come into the unit in appropriate attire while we were required to wear booties. The guide refused to ask the question, saying only he was the Director, as if the bacteria had been informed of this.

The leaking and rusting sinks were again noted—and especially noted was that broken doors, windows, etc. were left that way. There was again a large wing of this hospital that was closed for reconstruction. Again, the mortar and stone seemed to be crumbling and the stone did not seem to line up properly. Again the Emergency Room ramp was hardly used while we were there so that we again wondered how busy the place actually was.

The director was a neurosurgeon so he proudly took us to his division. There was a postoperative patient who had his subdural hematoma drained the day before, and this patient thrashed about in the narrow bed and we were concerned he would fall out. There were no side rails and when we asked about them we were advised that they did not need them since somebody was with the patient all the time. What actually happens is that the patient's family is obligated to stand a 24-hour watch over their relative until such time as the patient can ambulate and care for himself.

The third hospital was in Baku—the capital of the Moslem state. Baku has 1.5 million people and the hospital we saw was responsible for the medical care of the employees of the Caspian Steamship Line only. It consisted of about 400 beds and it was 17 years old. It appeared to be in much better physical shape than the other two hospitals noted above even though it was considerably older.

Areas that we were shown were clean, but stark, and in general beds were empty. However, there were several rooms where the panels on the upper one half of the door were broken. On tiptoeing and looking into the opening we could see terrible overcrowding of patients with nine patients in an area that properly should house only four.

The plumbing in this hospital was by far the worst of the three hospitals visited and again the problem is one of poor construction and almost no maintenance. Likewise, the housekeeping was poorer than in the others. We not only noted an abundance of flies, especially in the employees' cafeteria area, but also several cats inside the hospital feasting off the employees' long food tables.

In the I.C.U. we did see one patient who was recovering from myocardial infarction. The monitor equipment appeared quite adequate; in fact the I. C. U. appeared fairly nice except for the army style tubular frame beds. The cardiologist was young and appeared well trained.

As with the other hospitals, reconstruction was under way. However, we were lucky in that we were ushered into a newly reconstructed surgical suite. There was one long large room, actually housing two operating room tables so that two separate types of surgery could be done at the same time! Airconditioning was provided by three window units! We were all appalled. Again, no surgery was being done and patients were hard to find.

I have been asked by many "how good is the medical care in Russia?" I can't rightfully answer this since we did not actually evaluate patient records and talk with patients. However, based upon my observations of the hospitals I would have to conclude that medical care is highly compromised. I believe the following true anecdote will shed additional light on this question.

A member of our party suffers from severe arthritis and is on steroids now for several years. As a result, he is Cushinoid and has diabetes and is on insulin. At the Moscow airport he fell on arrival and badly skinned his right leg. Once all were processed through customs and we got to our hotel at least five hours had elapsed.

Once he was settled in his room the emergency service was called. They dispatched a doctor in an ambulance and she came to see the man in his room. Upon seeing his wound she realized it needed debridement. She proceeded to remove from her pocket an unsheathed scalpel. She blew on the blade and proceeded to remove the dead tissue without applying any antiseptic to the wound and without a sterile scalpel. As the patient writhed in pain she introduced the group to a new anaesthetic. She pulled from her pocket a round plastic teething ring, shoved it into the patient's mouth and showed him how to bite down on it. She proceeded with her debridement of the wound and when finished wiped the scalpel with some towel and put it back into her pocket unsheathed. Then she removed the teething ring from his mouth, waved it in the air to dry and put it into a plastic bag and put it into her pocket. Then she applied some sort of anaesthetic to the wound, wrapped it and left. By some miracle the wound did not get infected. However, whether he eventually comes down with hepatitus remains to be seen.●

TALLAHASSEE POLICE CHIEF RETIRES: OUTSTANDING ADMINISTRATOR; FINE MAN

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. FUQUA. Mr. Speaker, it is my great pleasure today to commend to your attention the career of a fine law enforcement officer who is about to end his career.

Police Chief Robert G. Maige of the Tallahassee Police Department exemplifies all the qualities of dedication, decency, and determination which comprise the ideal policeman.

Chief Maige has demonstrated time and again to the citizens of Florida's capital city that he is not only a knowledgeable and innovative police administrator but a compassionate human being.

A policeman's lot is not an easy one, but Chief Maige has walked the tightrope between compassion for his fellow man and his duty to uphold the law in such a manner as to bring credit not only to himself but the entire Tallahassee Police Department and the image of law enforcement in general.

Chief Maige was born in Leon County, which includes Tallahassee, in 1913 and worked on the family farm until he was 23 when he accepted a job as a jailer for Leon County.

Two years later he accepted a position as night patrol officer with the Tallahassee Police Department, a job which in those days allowed only 2 nights off a month and required the patrolman to work shifts from 8 p.m. until 6 a.m.

Since that time Chief Maige has been a Tallahassee city policeman continuously except for a break of some 2½ years for military service during World War II.

In 1947, Chief Maige was promoted to sergeant and placed in charge of one of the department's three shifts. He was promoted to lieutenant in the detective division in 1950. He rose to captain in 1953. He became assistant chief in 1962 and became police chief on September 1, 1968.

With Chief Maige's retirement on September 30, Tallahassee will lose the services of a valued and distinguished public servant.

It is with real pride that I commend Chief Robert Maige's career to my colleagues and at the same time thank him for his contributions to making my own State's capital city one of the finest and safest places to live.●

TRIBUTE TO WILLIAM HOTALING

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. HOLLENBECK. Mr. Speaker, Mr. William Hotaling, who has compiled 25 years of distinguished service as the Borough of Cresskill, N.J. clerk, has retired from his position. I wish to join borough officials and residents of Cresskill in paying much-deserved tribute to Mr. Hotaling in recognition, not only of the longevity of his service, but of his significant contributions during the past quarter of a century.

During his tenure, and due in great part to his efforts, the borough constructed a new department of public works building, a library, and a firehouse. A sewer system was planned and developed. County bus service was extended to borough residents, and the roads and the educational system were steadily improved to keep pace with Creskill's needs.

It has been my great personal and professional privilege to work with Mr. Hotaling, and I extend to him my gratitude for his assistance to me, my commendation for his fine record of service, and my very best wishes for happiness and good health in his retirement.●

AMENDING THE 1934 VINSON-TRAMMELL ACT

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. PATTERSON. Mr. Speaker, the Vinson-Trammell Act of 1934, limits profits on shipbuilding and aircraft contracts to 10 percent and 12 percent, respectively. These limits, moreover, apply to all such contracts in excess of $10,000. To exacerbate the paperwork problem entailed in covering contracts from a $10,000 floor, subcontractors at any level hired by the prime contractor would also be required to comply with the act. These are among the most glaring problems with the Vinson-Trammell Act. In short, it represents a bureaucratic nightmare.

The Vinson-Trammell Act was superceded by the Renegotiation Act of 1951. However, when the Renegotiation Board was phased out earlier this year, Vinson-Trammell came back into force. It has not been implemented by the Internal Revenue Service for more than 20 years. Yet because the Agency is mandated by existing law to reimplement the 1934 Act, proposed regulations must be written.

To enforce the act as it is now written would be unwise. It would involve more than 10,000 additional audit reports annually, creating in excess of 500,000 pieces of paper. In order to implement the 1934 Act, IRS would have to increase its work force by almost 1,500 revenue agents, clerks, and support staff. The cost of such new hiring and administration could easily exceed $120 million of taxpayer funds.

The solution: Mr. Speaker, now is the appropriate time to revise the Vinson-Trammell Act. Earlier this year, two separate measures were proposed.

H.R. 3623 introduced by Congressman MINISH, would reestablish a renegotiation-like process within the Internal Revenue Service. This approach will certainly raise issues similar to those encountered in the debate last year against renegotiation, and thus I fear such approach will not be successful because it is inefficient and bureaucratic.

H.R. 3254 introduced by Congressman MCCLOSKEY would simply repeal Vinson-Trammell's profit ceilings for shipbuilding and aircraft construction contracts, and allow unjust profits at public expense.

These proposals introduced by two of our distinguished colleagues represent both ends of the spectrum. It appears to me that the costs of administering H.R. 3623 may be just as prohibitive as reinstating the 1934 Act. While H.R. 3254 is simple—a straight repeal—it raises policy concerns which cannot be answered adequately by pointing to the existence of other procurement regulations.

Therefore, I am today introducing legislation which represents the middle ground between H.R. 3623 and H.R. 3254. Let me explain my bill briefly.

First, the shipbuilding and aircraft contract profit ceilings of 10 percent and 12 percent, respectively, would be repealed. Second, all noncompetitive Department of Defense contracts in excess of $5 million would be subject to a profit ceiling of 15 percent and deductions for amounts earned under value engineering and performance incentive provisions of the contract would be permitted. Third, first-tier subcontractors would be subject to the act only if the subcontract is let noncompetitively and if the subcontract exceeds $5 million. Fourth, the Secretary of Defense is instructed that regulations on the implementation of this act must minimize paperwork requirements in order to contain compliance costs. Fifth, losses on noncompetitive Defense Department contracts, regardless of the contract price, would be allowed as a credit against excess profits owed. In the event of a contractor net loss situation, a 4-year carryforward is permitted. Sixth, this program would be subject to a 5-year sunset date and annual reports to Congress by the Secretary of Defense will be required. Seventh, the act repeals current profit limitations as of October 1, 1976, the date when the Renegotiation Board's authority to review new contracts expired. The new profit monitoring program, however, would not be effective retroactively to that date but as of 120 days after the date of enactment.

Mr. Speaker, in closing I would remind my colleagues that the substitute I propose for the 1934 Vinson-Trammell Act is an objective and mechanical process which is easy to administer and targets large and noncompetitive contracts for regulation. It is my understanding that the cost to DOD of implementing this program would be less than $500,000 per year and that returns to taxpayers during the first year of the new program could exceed $25 million.●

A TRIBUTE TO EDWIN LINK

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. GOLDWATER. Mr. Speaker, 50 years ago, Edwin A. Link perfected what he called an "efficient aeronautical training aid," built in the basement of his father's organ and piano factory in Binghamton, N.Y. From this "pilot maker"—a cockpit mounted on pneumatic bellows—grew a whole new industry which this year celebrates its golden anniversary. It is with great pleasure and pride that I join the people who honor Ed Link on this occasion. Inventor, businessman, explorer, and philanthropist, Ed's story is a tribute to what a creative imagination—and a lot of hard work—can accomplish.

Link's aviation trainer "got off the ground" in 1934 when Ed piloted his plane to a meeting with the U.S. Army Air Corps to discuss the problems it was having flying the mail in bad weather. It was a foggy day, but Ed arrived on schedule, explaining that he had learned instrument flying in his trainer. The Air Corps promptly ordered six. These "blue boxes," as they were called, came into their own during World War II, when over 10,000 were produced—training more than 500,000 airmen.

Long distance flying is taken for granted now—a computer ticket, a martini, a snooze and you are there. But several decades ago, the practicality of long flights had to be proven by aviator pioneers, who launched their planes into skies that were far less predictable than they are now. It was Ed Link's trainer, and his later development of night flying and navigation aids, that made pilots more of a match for the hazards in the sky. Increasingly sophisticated versions of the first flight trainer have taken man from relatively simple Earth-bound flights to the complex simulation of outer space. As such, they are helping to develop a safer and more carefully planned program for accomplishing our future goals in air and in space.

Ed Link's little airplanes never left the ground. Yet, his imagination, and the aviation industry, has continued to soar. Today, I and many Members of the Congress congratulate Ed Link for an invention which pioneered the field of flight simulation. Tomorrow, I am sure Ed will discover other worlds to conquer.●

SOME NEW LIGHT ON THE PRODUCTIVITY QUESTION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, our Nation's productivity performance, the source of so much legitimate concern, may not be as bad as our official statistics indicate. Productivity has always created problems of measurement, but those problems have apparently been magnified in an era of inflation, with the result that our productivity improvement has probably been understated.

Productivity, or output per hour worked, is derived by matching labor input against total production. The difficulty arises in measuring the production side of this equation. The "physical" or "real" volume of production is calculated in our basic national accounts by first finding the dollar value of production and then adjusting for higher prices, or inflation. If there is any error in the inflation correction used, there is a corresponding error in the measurement of real output and hence in productivity.

The recent depressing figures showing that our economy-wide productivity has actually declined so far this year are based on this kind of calculation, derived from the Commerce Department's gross national product accounts. Some economists, such as Alan Greenspan, have begun to express doubts that these productivity figures are accurately portraying what is happening, based on other evidence.

Fortunately, for an important part of our economy—manufacturing—there is a more precise measurement of actual output, contained in the Federal Reserve Board's index of industrial production. This counts as far as possible actual units produced, not the "deflated" dollar value of production.

Recently George Terborgh, formerly the widely respected research director of the Machinery and Allied Products Institute, has compared manufacturing productivity performance over almost 30 years using the two different measures—and GNP and the Federal Reserve Board production index. The results are striking. Two main conclusions emerge from his study.

First, productivity improvement in manufacturing has been better over the whole period since 1951 when the physical output measure is used, and this is particularly the case in the present decade, when the concern over productivity has mounted.

Second, the divergence between the two measures becomes noticeable only at times of significant inflation, suggesting that inflation is the culprit in the measurement problem. In the period from 1958 to 1965, when there was practically no inflation, the two series on productivity move together. But since 1965, the beginning of our era of inflation, the physical volume series shows that manufacturing productivity has risen about 48 percent while the GNP series shows it rising only about 31 percent, a difference of more than 1 percent a year.

Mr. Terborgh raises what he calls a "haunting question"—whether the process of inflation adjustment, which clearly imparts a downward bias to the manufacturing productivity figures, has the same effect across the economy as a whole.

It is clear by any measure that there has been a productivity slowdown in some sectors, such as in mining and public utilities where new government regulations have probably played a role. Our concern about productivity is warranted, for it remains the key to a higher standard of living. The Subcommittee on Economic Stabilization of the Banking Committee, of which I am chairman, will continue to follow the Government's efforts in this broad area. But there may be some comfort in the awareness that we are probably not in such bad shape as we have thought.●

AL SCHIESEL

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. HOLLENBECK. Mr. Speaker, December 31, 1979, marks both the end of the year and the end of an era in Secaucus, N.J., municipal government. On this date, Mr. Al Schiesel will retire after 46 years of service to the town. I join town officials and residents in paying much deserved tribute to Mr. Schiesel, not only for the longevity of his service, but for its high quality over the nearly half century span.

Mr. Schiesel began his career in government as a caseworker in the Secaucus Welfare Department in 1933 and rose to the position of welfare director.

His service was interrupted by World War II for a 3-year period during which he distinguished himself in defense of our Nation. Mr. Schiesel was awarded Army combat stars for action in the Battle of the Bulge, the Battle of the Rhineland, and the Battle of Central Germany.

He returned to Secaucus as assistant town clerk and assumed his present position as town clerk in 1946.

As clerk, Mr. Schiesel has been the keeper of town records, documenting the community's transition from a rural to an urban center, and he has worked hard to insure that the development has progressed in orderly fashion according to plan. To this end, Al Schiesel has served in a voluntary position for the past 23 years as a member of the Secaucus planning Board. In addition, he functions as tax searcher and register of vital statistics.

A public servant in the truest sense of the word, Mr. Schiesel has been responsible for smooth continuity in local government. He has assured that, on a day-to-day basis, Borough Hall stands ready to respond to the needs of her citizens. He will be missed.

I am proud of my association with Al Schiesel, and I know my colleagues in Congress join with me in extending all good wishes for success in his future endeavors.●

TIMERMAN FREED

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. LENT. Mr. Speaker, I would like to direct the attention of my colleagues to an occurrence on September 25, 1979, that is heartening to all those who champion the cause of human rights. I refer to Argentina's release of Jacobo Timerman, internationally famous journalist and defender of human rights, after having been detained under house arrest for 2½ years.

As editor and founder of the leading Argentine newspaper, La Opinion, Mr. Timerman was a strong advocate of human rights and was quick to denounce the violations of these rights as he witnessed them in his own country. Consequently, in April of 1978, Jacobo Timerman was kidnaped by military security agents and held without charges despite a ruling of the Argentine Supreme Court holding his detainment "unconstitutional." His unjustified imprisonment became an international symbol of human rights abuses in Argentina, until his long-awaited release this week.

Mr. Timerman's freedom was granted less than 1 week after the Inter-American Human Rights Commission, a commission of the OAS, visited Argentina and met with many political prisoners, including Jacobo Timerman. I commend the Government of Argentina and President Jorge Videla for taking this much-needed step toward the restoration of human rights and freedom of emigration. President Videla has spoken many times of his dedication to the principles of human freedom, and has advocated an end to the extralegal governmental activities; it is gratifying that the President has supported his words with action.

The case of Jacobo Timerman acts as a catalyst to bring the cause of international human rights once more to the attention of the world. We who work for the principles declared at the Helsinki Commission of 1975, view this case as a striking example of why we must never rest in our efforts in behalf of human rights. We must continue to do all in our power to aid those courageous defenders of human rights such as Ida Nudel, Anatoly Shcharansky, and many others who seek only the freedom to express their views and practice the religion of their choice in the country of their choice. It is through these efforts that we continue to bring the weight of public opinion to bear on those governments which attempt to suppress human rights.

The release of Jacobo Timerman is further proof of the effectiveness of such efforts. It should encourage all who fight for the cause for human rights to work even harder to free others who suffer a fate similar to that of Jacobo Timerman. As we witness the joyous reunion of Mr. Timerman with his wife and two sons in Israel, we pray that soon other prisoners of conscience will follow Mr. Timerman in finding the freedom that they all seek with such courage and devotion.●

WORLD WAR I PENSION STILL NEEDED

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. ANDERSON of California. Mr. Speaker, in June of last year, we tried on the floor to get a pension for veterans and widows of World War I. Since that time, more than 70,000 of those veterans have died. The letters I have received since that time, from the over 80 years of age veterans and widows, contain a mixture of encouragement and despair. The proportion of despair is increasing. More than 90 percent of the World War I veterans are dead. The feeling among those remaining is that a just pension will not be enacted until it is no more than a meaningless token and only a few hundred are still alive to receive it.

In the current, September, issue of the Torch, published by the Veterans of World War I, Inc., is an editorial which I would like to share with my colleagues, and also with the White House, the Veterans' Administration, and the Office of Management and Budget:

PENSION AND MR. CARTER

Signs are multiplying that Veterans' groups are unhappy with the Carter administration's handling of veterans' affairs. Editorials and news articles in virtually every veterans' publication have blasted at adverse actions of the Administration.

Veterans seeking hospital or medical treatment have been turned away from VA hospitals with suggestions that they approach Medicare, Welfare organizations or private doctors. These are not rumors. Torch has received letters from numerous War I veterans citing turndown because their trouble was not service connected. Don't forget these veterans turned down were in their 80's. Even the pension laws consider a veteran disabled if he is over 65 and on short income.

The Administration's Bureau of Budget and Management is working to eliminate hospital beds and care to cut money. In fact, the VA has used for other purposes money intended for beds and medical care.

It is small wonder that the President is losing veterans' support.

Although it would not rectify the hospital-medical situation, Mr. Carter could regain a segment of ex-service people's support by a simple step that in the long run would be inexpensive. The thought we have in mind is that he could come out for a pension to give the dwindling band of War I veterans partial equity with the vast sums bestowed on later veterans True, it would be of specific help to only World War I veterans, but it would strike a chord of sympathy in the ranks of later service people who are aware that VWWI led in the fight for the GI bill that gave them vast benefits.●

THE BIOMASS RESEARCH AND DEVELOPMENT AUTHORIZATION ACT OF 1979

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. FITHIAN. Mr. Speaker, I am today introducing legislation in the House—the Biomass Research and Development Authorization Act of 1979—designed to develop and promote one of our Nation's most promising, yet neglected, sources of energy.

The bill I am introducing today was originally drafted as an amendment to H.R. 3000, the Department of Energy's fiscal year 1980 authorization bill. At the urging of Chairman OTTINGER of the Subcommittee on Energy Development and Applications, the proposal has been redrafted as a separate bill. Chairman OTTINGER has graciously offered to hold hearings on this bill which have been tentatively scheduled for October 16.

THE NEED FOR LEGISLATION

Of all DOE's renewable energy programs, biomass development has been the most trouble-ridden by administrative and fiscal problems. Yet, biomass' potential to meet U.S. and world energy needs puts it in a class by itself.

According to the administration's domestic policy review of solar energy, wood, and other forms of biomass currently contribute between 1.8 and 2.4 quads of the Nation's 78 quad energy budget. By 2000, biomass is projected to contribute more energy than any other renewable source: 3.1 quads in the $25 per barrel base case, 4.4 quads in the $32 per barrel base case, 5.5 quads in the intermediate base case, and 7 quads in the high base case.

The Harvard Business School's recent report, "Energy Future," concluded that well developed, locally based biomass technologies could provide 6 percent of United States energy needs by the year 2000, rather than the 2 percent they provide today. Stressing the need for Federal support for small and medium scale biomass projects, the report concluded that a major Federal effort to familiarize foresters, farmers, and businessmen with the benefits and potential of biomass is now needed.

Biomass' promise remains unfulfilled partly because biomass programs—particularly those centered on near-term applications—are underfunded and partly because program management has been inadequate. Some of the impediments to biomass development could, however, be eliminated, and all could be alleviated. Making this resource live up to its awesome potential requires allocating additional funds and bringing together a DOE staff with the skills and determination needed to redress neglect of a major energy source.

Assumptions about biomass development:

First. Biomass is a major, ongoing supply option with short-term dividends, not a minor resource of little immediate use.

Second. A Federal investment in research and development of biomass is perhaps the best energy investment we can make. No other energy technology offers the promise of such a prompt and bountiful return on our research and development dollar.

Third. Most of biomass' near-term—up to 5 years—potential rests in the use of agricultural residues, forestry wastes, and wood for direct combustion.

Fourth. Liquid synthetic fuels—including alcohol for gasohol—can be obtained from biomass feedstocks using familiar processes which can provide economical substitutes for gasoline.

SUMMARY OF BIOMASS RESEARCH AND DEVELOPMENT AUTHORIZATION ACT

The Biomass Research and Development Authorization Act seeks to roughly double the size of Federal expenditures for biomass research, development, and demonstration. A total of $75.6 million would be added to biomass development programs administered by the Department of Energy (DOE) and the Department of Agriculture (USDA) for fiscal year 1980, as illustrated by the following chart:

	Added fiscal year 1980 budget authority [1]
Department of Energy:	
Conservation and Solar [2]	$19.8
Energy Technology [2]	30.4
Department of Agriculture	25.4
Total	75.6

[1] Figures in millions of dollars.

[2] Biomass programs within the Department of Energy are split between the Assistant Secretary for Conservation and Solar Applications and the Assistant Secretary for Energy Technology.

SECTION-BY-SECTION ANALYSIS

TITLE I—DEPARTMENT OF ENERGY FUNCTIONS

Sec. 101. General Provisions.

Sec. 102. Power Systems.—Authorizes a total of $16.3 million ($12.4 for Conservation and Solar and $3.9 for Energy Technology) to initiate programs within DOE to develop, demonstrate, and commercialize near-term bioconversion applications using agricultural and forest residues. Specifically, it is proposed that $3.1 million be spent to support the design and implementation of safety and performance standards for residential food heating systems (expected to be used in 15 million residences by 1985), to support the development of advanced high-efficiency stoves, and to support the implementation of the proposed wood stove tax credit. $10.2 million will fund the development and demonstration of low-btu gasification units in industrial and agricultural applications. This program was originally proposed as a part of DOE's Fossil Fuels Utilization Division. Program documents indicate that 4 quads of energy could be produced annually by 1985 if the program were implemented. DOE, oblivious to the program's potential, decided to cut it in FY 1980.

Sec. 103. Gasohol Technology Development.—Authorizes a total of $7.0 million (all for Energy Technology) to provide additional support for DOE's research and development programs for ethanol fermentation. Although DOE's FY 1980 budget request reflects a slight increase in fermentation research, this increase does not adequately support the technology, considering its near-term potential. The $7.0 million increase would support further research and development of such near-term concepts as acid hydrolysis, enzymatic hydrolysis, and on-farm fermentation.

Sec. 104. Integrated Farm Systems.—Authorizes a total of $3.5 million (all for Conservation and Solar) to support the development and implementation of programs which integrate food, feed, and fuel production. Particular attention will be given in the design studies and development projects funded under this section to comparing integrated farms with conventional farms as to net energy efficiency, energy conservation, net profit, and soil and water conservation effectiveness. DOE is directed to coordinate these activities with USDA's Science and Education Administration.

Sec. 105. Anaerobic Digestion.—Authorizes a total of $2.3 million (all for Energy Technology) to support development work on on-farm anaerobic digestors which, it is estimated, could provide .3 quads of energy in the near-term and can have significant regional economic and environmental impacts. This program element will be administered in coordination with the Integrated Farm Systems program (see Sec. 104) and with USDA. At least $2.0 million will be passed-through to USDA's Agency for Rural Development.

Sec. 106. Advanced Pyrolysis Research and Development.—Authorizes a total of $4.0 million (all to Energy Technology) to provide support for programs to develop fast throughout pyrolysis systems having high reaction rates and potentially high efficiencies. The objection of these programs is to develop bio-mass conversion technologies capable of producing ethylene which can be converted to ethanol, acetylene, and other petrochemical feedstocks which will replace fossil fuels. These programs will be administered by the Assistant Secretary for Energy Technology in cooperation with the Office of Energy Research. At least $2.0 million will be reprogrammed to the Office of Energy Research.

Sec. 107. Basic Biomass Research.—Authorizes a total of $4.1 million (all to Energy Technology) to support projects investigating gas phase kinetics, catalysis of biomass, and other promising areas of basic and applied thermochemistry research. The results of this research could add greatly to the scientific understanding of bioconversion and result in many engineering breakthroughs. The programs authorized in this section will be administered in coordination with the DOE Office of Energy Research and the National Science Foundation. At least $3 million will be passed through or reprogrammed to the Office of Energy Research and the National Science Foundation.

Sec. 108. Agricultural Resource Utilization Research and Development.—Authorizes a total of $13.0 million (all to Energy Technology) to develop and demonstrate biomass feedstock cultivation and harvesting systems suitable for near-term application. The focus of this program is to develop supply systems capable of delivering feedstock to energy users in an economically and environmentally acceptable fashion. Relatively little research has been done in this area by DOE or USDA. Particular emphasis will be given in this program to integrating agriculture and energy programs and policies. At least $4.0 million will be passed through to USDA.

TITLE II—DEPARTMENT OF AGRICULTURE FUNCTIONS

Sec. 201. General Provisions.

Sec. 202. Commercialization.—Authorizes a total of $8.4 million to provide additional support to USDA and DOE efforts to commercialize a wide range of biomass technologies. Although DOE recently chose wood combustion and gasification as being ready for commercialization and has designated a resource manager to oversee the commercialization program, almost no funds or staff have been allocated to this program. Moreover, DOE has taken a narrow view in choosing only wood combustion as a commercializable biomass technology. For these reasons, $8.4 million is earmarked for a comprehensive commercialization activity supporting a host of near-term bioenergy applications including fermentation, gasification of forest and agricultural residues, and direct combustion in utility and industrial applications. This program will complement the technology development effort contained in Sec. 102 of this act, previously discussed. The Department of Agriculture will give special attention to integrating commercialization initiatives with the Department of Energy and at least $4.4 million should be passed-through to DOE.

Sec. 203. Forest Resource Utilization Research and Development.—Authorizes a total of $17.0 million to establish energy-related markets for residues resulting from conventional forest harvest and stand treatment operations. Low cost harvesting equipment will be developed and demonstrated capable of removing non-merchantable and merchantable biomass from a variety of forest regions. Particular attention will be given to integrating forest and energy programs and policies and bringing the potential wood supplies together with potential wood fuel users in the private sector. At least $8.0 million will be passed through to the Department of Energy for joint commercialization activities. The Forest Resource Utilization Research and Development program is to dovetail with the Commercialization program (see Sec. 202, above) by focusing developing and implementing a forest waste and residue supply infrastructure.

SYNOPSIS OF POTENTIAL BIOENERGY IMPACTS

By 1985, 6.6 to 9.7 quads can be produced from biomass annually. This is equivalent to displacing almost 5 million barrels of oil per day, or over 12 percent of present energy use.

Up to 4.7 billion gallons of gasoline can be directly displaced with synthetic biomass fuels—ethanol. At this level, almost 50 billion gallons of gasohol would be produced, or about 50 percent of present gasoline consumption.

MAXIMUM POTENTIAL WOOD FUEL/FEEDSTOCK RESOURCE

[Quads per year [1]]

	1978	1990	2000
Near term:			
Unused mill residues	0.6	0.3	
Logging residues	1.7	2.0	
Noncommercial timber reservoir	1.5	1.5	
Annual mortality	1.5	1.6	
Surplus growth	3.1	1.9	
Surplus noncommercial forests	.9	.9	
Total potential	9.3	8.2	
Long term (2000 and after):			
From near-term resources			5.4
Silvicultural energy farms [2]			4.5
Total potential			9.9
Environmental thinnings and intensive forest management could add up to 8 quads per year to above resources	(8.0)		

[1] Estimates by MITRE.

[2] Assumes energy farms fully established by 2000.

MAXIMUM POTENTIAL AGRICULTURE FUEL/FEEDSTOCK RESOURCE

	1985 maximum potential energy
Near term:	
Field/crop residues	1.0–1.6 quads per year.[1]
Confined animal manures	.4 quads per year.[2]
Agriculture processing wastes and MSW.	.660 billion gallons (ethanol equivalent).
Crops	4.04 billion gallons [3] (ethanol equivalent).
Total	1.8–2.4 quads (28.8 billion gallons (ethanol equivalent).

[1] Alich, Inman, "An Evaluation of the Use of AG Residues as an Energy Feedstock," SRI, July 1976.

[2] Electric Power Research Institute, "Biofuels: A Survey," EPRI ER-746-SR, June 1978.

[3] Statement of Alvin L. Alm, Assistant Secretary for Policy and Evaluation before the U.S. House of Representatives, Committee on Agriculture, May 1979.

NEAR-TERM MARKET PENETRATION FOR BIOMASS

Technology	Sector	Fuel resource	Maximum potential energy impact by 1985 [1] [2]
Direct combustion to steam	Industry	Wood residues	1.7–2.0 quads per year.
Cogeneration	Industry/utility	do	.3–1.1 quaas per year.
Direct combustion to electricity	Utility	do	.01– .2 quads per year.
Gasification	Industry	do	2.2–3.0 quads per year.
Direct combustion to space heat	Residential	do	.5–1.0 quads per year.
Anaerobic digestion	On-farm	Animal manure	.3– .4 quads per year.
Gasification	do	Agricultural residues	1.3–1.6 quads per year.
Fermentation	Industry/on-farm	Crops	3.0–4.7 billion gallons per year (ethanol equivalent).
Total			6.6–9.7

[1] Mitre, Technical Inputs to Phase II Commercialization Readiness Assessment, U.S. D.O.E. Draft, March 1979.

[2] Broadened Program Plan, U.S. DOE, Residue and Waste Fuels, February 1978. ●

THE JACKSON HOLE AIRPORT

HON. RICHARD BRUCE CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. CHENEY. Mr. Speaker, I disagree with the current Department of the Interior policy that the Jackson Hole, Wyo., airport should eventually be moved elsewhere. The airport should remain right where it is, and it should be maintained and improved in such a way as to continue to provide much-needed service to the citizens and economy of the Teton County area.

I would like to insert in the Record a statement presented at a recent hearing in Jackson concerning Boeing 737 jet service to that airport:

The Jackson Hole Airport

In 1969 the National Park Service offered the Jackson Hole Airport an option to renew its lease for another twenty years, until April 28, 1995. A portion of that option for renewal states, ". . . the Jackson Hole Airport provides air access to Grand Teton National Park, thereby serving the United States in its management and development of the park and the public in its use and enjoyment of the park, all to the interest and benefit of the United States." I am pleased to agree with the National Park Service on that point, and would like to suggest that for a variety of reasons, the Airport can serve the management, development, and public use of the Park better once 737 jet service is allowed.

To begin with, this country is in the midst of a long-term energy crisis. I don't have to tell you that last summer was a rough one for the tourist industry. People were understandably reluctant to take their cars far from home for fear they would not be able to buy gasoline. I'm sure none of us wants that to happen again. One way to keep it from happening is for this country to develop a responsible energy policy, and one piece of that policy has got to be the use of mass transit. Given the geographical location of Jackson, air travel is one form of mass transit that makes a lot of sense.

When considering the conservation of energy, it is important to highlight two points about the use of 737's. According to the draft Environmental Impact Statement, they are twenty-five percent more fuel efficient than the Convair 580's currently in use. They are also capable of carrying twice as many passengers as the 580. To be able to move twice as many people with twenty-five percent less fuel makes a lot of sense in today's energy conscious world.

It is fortunate that the more efficient 737's are available because the Convair 580 equipment is wearing out and, I am told, is becoming increasingly costly to maintain. A Frontier spokesman recently told me that they intend to phase the aircraft out of their fleet over the next few years. Since the length of the Jackson airport runway limits types of equipment that can use the facility, we are fortunate that the 737 is available to replace the Convair.

In addition to being a more fuel efficient airplane which can operate within the limits imposed by the Jackson Airport, the 737 will contribute positively to the economic well-being of the region by stimulating tourist travel on the newer, more modern aircraft. Most of the people in this region rely heavily on tourism for their livelihood and I do not see any reason for unnecessarily threatening that livelihood by forbidding jet service into Jackson, unless the airplane would foul the environment and threaten the beauty of the Park.

And that leads me to a consideration of the fears most often expressed by those who oppose jet service into Jackson. There seem to be three primary objections: noise, air pollution, and the specter of a future "jetport." The draft EIS seems to answer the first two objections adequately. The study concludes that takeoff produces the most noise and that the cumulative takeoff noise differences between the Convair 580 and the proposed B737 "average less than one decibel unit for all distances." The study also points out that light general aircraft create more racket than the 737's, which will be equipped with hush kits.

As far as air pollution is concerned, the study determined that "the proposed operation (of 737's) does not exceed the National Ambient Air Quality Standard. Therefore, it does not significantly deteriorate the air quality . . ." Obviously, if one is looking to minimize air pollution in the area, it is the automobile which must be considered, not the jet airplane.

The third objection, the possibility that the airport may become a mammoth jetport, is unfounded in fact. Secretary Andrus has denied an extension of the runway, which would be necessary to handle the really large planes. The runway itself, which is rated to handle a maximum of 110,000 pounds of landing weight, would also need to be upgraded to accommodate large jet aircraft. In effect, then, the "jetport" issue is a false one.

I do want to make it clear that I think it is very important to responsibly regulate air traffic in and out of the airport so that noise and air pollution are kept at a minimum. We must guard against allowing air traffic to grow unabated to the point that it disturbs wildlife and upsets the ecological balance of the area. I do not want to see that happen and am sure no one else does either. What I do want to see is the development of air service that will enhance the use and enjoyment of the Park but will also keep noise and air pollution to a minimum. The draft EIS under consideration at this hearing indicates that modified B737 aircraft can provide efficient, timely, comfortable jet service while responsibly protecting the Park environment. As a result, I support the approval of 737 service into the Jackson Hole Airport.●

TWENTY-FIFTH ANNIVERSARY OBSERVANCE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. BROOMFIELD. Mr. Speaker, on September 30, the people and the city of Walled Lake, Mich., will be observing the 25th anniversary of the signing of their city charter. That charter set the foundation for the city's past quarter-century of planned growth and development which has made it one of the outstanding communities in my district and in the State.

In paying tribute to both the people and the city for their achievements, we should also recognize their elected officials and professional administrators. Through their dedication, wisdom and excellent leadership, they have served the people well to insure a future that continues to be bright and prosperous.

This tradition of good government is continued through their Mayor, Gaspare LaMarca; the City Council members, Miss Heather Hill, Mr. Cameron Rose, Mr. Donald Lee, Mr. Walter Lewandowski, and Mr. Thomas Brookover; and their city manager, Mr. Peter Parker.

Mr. Speaker, I congratulate the people of the city of Walled Lake, and wish them continued success in the coming years.●

DELETE THE MX PROGRAM FROM THE MILITARY AUTHORIZATION BILL

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. CARR. Mr. Speaker, 2 weeks ago the gentleman from California (Mr. Dellums) offered an amendment to delete the MX program from the military authorization bill. Unfortunately his amendment did not succeed. During the debate the MX was defended on the grounds that, in its absence, Soviet first strike capability would leave the United States unable to respond since 10 million Soviets would be killed as opposed to 100 million Americans. This is incorrect in all explicit and implicit aspects. Most importantly for the issue at hand, the presence or absence of MX does not affect the issue one way or the other. Let us examine the issue one point at a time.

First, the fatality figure is wrong. It is based on a study by T. K. Jones of the Boeing Corp., which involves a number of incorrect assumptions. These errors are revealed in an analysis by Alfred Liberman of the Arms Control and Disarmament Agency which was submitted to the R. & D. Subcommittee of the House Armed Services Committee. I insert this analysis at this point in my remarks. It should be pointed out that the impartial and very capable analysis by the Office of Technology Assessment estimated Soviet fatalities at 50 to 100 million in the absence of evacuation, which is the only way a Soviet surprise attack could be conducted.

The analysis follows:

Critique of T. K. Jones' Computation of Soviet Fatalities

(Submitted by Alfred Lieberman, chief, Office of Operations Analysis)

In testimony before the Joint Committee on Defense Production on November 17, 1976, Mr. T. K. Jones of the Boeing Aerospace Company stated that ". . . 98 percent of the Soviet population would survive. . ." or 5 million would be fatalities in an all-out nuclear war. Although he did not explain the methodology by which he arrived at this remarkable conclusion, the Office of Operations Analysis of ACDA has been able to evaluate the methodology in his subsequent study, "Effect of Evacuation and Sheltering on Potential Fatalities from a Nuclear Exchange," August 15, 1977, which asserts, "Full evacuation using Soviet civil defense guidelines coupled with expedient shelters reduces fatalities to about 10 million." It is this report which is apparently the analytical basis for the widely repeated assertion that there would be only 10 million Soviet fatalities in a nuclear war.

The methodology by which Mr. Jones arrives at his result apparently is as follows. Taking the Soviet population at 280 million and the area of the Soviet Union at 8.6 million square miles, he then makes the following assumptions.

Assumption 1. 61 million people are estimated to be uniformly scattered over the 6.3 million square miles of the least inhabited rural part of the Soviet Union. These 61 million people are simply left out of his calculations.

Assumption 2. 87 percent of the 139 million people living in the cities are evacuated and they as well as the remaining 80 million rural people are all uniformly scattered over the remaining 2.3 million square miles of the Soviet Union. The 17.4 million people that remain in the cities are uniformly sheltered in the 14,100 square miles of urban area.

Assumption 3. All the people that remain in the cities are protected by 150 psi shelters with fallout protection, PF of 6,000. All the people in the evacuated areas are protected by 7 psi shelters with fallout protection, PF of 200.

Assumption 4. The entire U.S. retaliatory attack with the weapons that survive a Soviet first strike are used in a barrage attack on the Soviet Union. This attack could cover an area of 2,900 square miles with 150 psi overpressure and an area of 92,000 square miles with 7 psi overpressure.

Based on these assumptions, Mr. Jones makes the following calculations:

1. The total urban fatalities in the urban areas are computed by taking the ratio of the 150 psi lethal area to the total urban area (2,900/14,100) and then multiplying it by the number of persons remaining in the cities after 87 percent have evacuated (139 × .13) = 17.4 million). The total number of urban fatalities obtained by this procedure is 3. 58 million.

2. Rural fatalities are computed in a similar manner. The lethal area in the rural area is 92,000 square miles minus the 14,100 square miles of city area or 77,900 square miles. This is divided by the total rural area of 2.3 million square miles and multiplied by the total number of persons (280 minus 61 that are excluded by assumption #1 minus 17.4 that remain in the cities for a total of 201.6 million). This procedure leads to a total of 6.68 million rural fatalities.

3. The number of fatalities obtained from the procedure then are 3.58 million urban plus 6.68 million rural for a total of 10.3 million.

The problem with this procedure is simply that the four basic assumptions are invalid. In particular, the first two asumptions that drive the results need to be examined Mr. Jones does not cite a data source for assumption. No. 1, an assumption which is incorrect as there are not 61 million people scattered over the 6.3 million square miles that are located outside the 2.3 million square miles of the rural and urban areas of the Soviet Union. This 6.3 million square miles is in fact essentially uninhabited. The second assumption that people are uniformly spread over the urban and rural areas is totally unrealistic since it completely disregards the fact that population is distributed in a highly non-uniform manner. No evacuation plan can distribute the population uniformly over the entire area.

With regard to assumption No. 3, Mr. Jones in his study grossly exaggerates the number of shelter spaces, the hardness of the shelters and the fallout protection in both the urban and the rural areas. He ignores the intelligence data on numbers and hardnesses of shelters; and, with respect to fallout protection, he ignores human behavior and the habitability of the shelters. Finally, assumption No. 4 represents a very inefficient way to apply weapons in an attack. A barrage attack implies little or no knowledge of the targets under attack. This would not, of course, be the case in a U.S. retaliation against the Soviet Union.

Nevertheless, if we accept Mr. Jones' invalid third and fourth assumptions and redo his calculations taking into account the actual distributions of urban and rural populations, we obtain a totally different answer which indicates that the consequences of nuclear war are far more serious than Mr. Jones suggests.

From our knowledge of the non-uniformity of the urban population, we know that the densest 2,900 square miles of the total urban area contains 80 percent of the urban population as opposed to 21 percent when it is assumed that persons are spread out uniformly over the entire area. Therefore, the number of urban fatalities from this one change would increase to almost 14 million compared to less than 4 million in the Jones calculations.

With respect to rural fatalities, a realistic calculation would first of all include the 61 million persons excluded in Mr. Jones' calculation to give a total of 262.6 million rural residents and evacuees. Again on the basis of how the rural population is actually distributed and assuming that the hosting of evacuees will keep the distribution proportionately unchanged, our data shows that 77,900 square miles of rural area contains 18 percent of the ex-urban population. Lethal overpressure placed over this most densely populated area by U.S. retaliatory weapons would produce about 47 million fatalities as compared to less than 7 million under Mr. Jones' assumptions.

Thus with changes only in the distribution of population Mr. Jones' 10 million fatalities become 61 million.

The fallacy of assuming a uniform density throughout the Soviet Union of 86 persons per square mile after evacuation has taken place can be further illustrated by the following example. The table below presents the population in the 10 most populated areas of the U.S.S.R. The table shows that the densities stay far above the 86 per square mile of the Jones study for this large segment of the Soviet population.

POPULATION DENSITY TO 57.5 STATUTE MILES (50 NMI. RADIUS CIRCLE AROUND EACH OF THE 10 MOST POPULATED SOVIET AREAS

City	Persons per square mile	Cumulative population (millions)	Cumulative area (square miles)
Moscow	1, 263	13	10, 446
Leningrad	497	18	20, 892
Tashkent	378	22	31, 337
Kiev	371	26	41, 783
Kharkov	296	29	52, 229
Tbilisi	266	32	62, 675
Gorky	242	35	73, 121
Kuibyshev	236	37	83, 567
Minsk	227	39	94, 012
Sverdlovsk	208	42	104, 458

The data in this table is by itself sufficient to disprove the 10 million fatalities from the Jones study. Of the 42 million people in these ten areas, 25 million live in the cities, a total area less than 1,500 square miles, and the other 17 million live in the surrounding areas around these cities. If we now make Mr. Jones' assumption that 87 percent evacuate and the remaining 13 percent are sheltered to 150 psi, we find 3 million sheltered in the cities and 39 million in the rural areas. If we now do Mr. Jones' simplistic barrage attack calculations with only one-half of the U.S. retaliatory capability, we would have a 150 psi overpressure coverage of 2,900/2=1,450 square miles and a 7 psi overpressure of 92,000/2−1,450=44,550 square miles. These overpressures would then result in 3 million urban fatalities plus 44,550/104,000×39 million or 17 million rural fatalities for a total of 20 million fatalities. This simple example illustrates that with only ½ of the U.S. forces targeted against the 10 largest cities, 20 million persons can be killed even if Mr. Jones' methodology is used. These two examples—the 20 million fatalities by merely barraging the area around 10 of the largest cities or the 61 million fatalities by taking into account where the people actually live—illustrate the weakness on the quality of Mr. Jones' estimates.

It is recognized, of course, that many uncertainties exist in these kinds of calculations; however, the ACDA estimate of 25 to 35 million Soviet fatalities in the first few weeks following the attack is a reasonable lower bound. Over the longer term additional millions of lives would be lost as a result of such factors as injuries, disease and starvation. It is also important to keep in mind the fact that these losses are incident to a U.S. attack on military and industrial targets. If the U.S. weapons were all ground burst to maximize fallout and if U.S. reserve weapons were targeted against concentrated pockets of people, then total Soviet fatalities would climb to near pre-evacuation levels.

ACDA is not the only agency whose results differ radically from those of Mr. Jones. A Department of Defense analysis showed that Soviet fatalities after a U.S. response in the mid-1980s would be as high as 55 million with the population evacuated.

Second, neither side targets population. If either side were to change its targeting philosophy, which could easily be done on short notice, fatalities would rise dramatically. In addition, long-term fatalities are highly dependent on wind direction and velocity, and on other long-range effects including sanitation and epidemic. When all of these are considered, the margin for error in total fatality estimates is many times larger than any difference between the two sides.

Third, the alleged choice between attacking Soviet cities and doing nothing is false. We can and should attack Soviet economic and political targets selected for minimum population loss. In order to do this, we simply do not need MX. In fact, we do not need ICBM's at all. We need assured survivable retalitatory capability. This is what we get from our missile submarines. The air-breathing leg adds to this, with cruise missiles giving us a devastating capability against any civil defense industrial hardening on which the Soviets may choose to waste money. Survivable ICBM's would add convenient insurance on the insurance on the insurance, but the triple protection is certainly not necessary.

If any one doubts what I say, I refer you to the OTA study which found we could absorb a Soviet first strike taking out most of our Minutemen and all of our nonalert bombers and submarines, and still retaliate with a blow which would destroy 70 to 80 percent of the Soviet economy and "remove that nation from a position of power and influence for the remainder of this century." If this is not deterrence, I cannot imagine what is.

Fourth, the alleged capability of the MX to retaliate against Soviet silos is a mirage. It will not work. They will not be such fools as to watch their missiles go up in smoke when they have the option of launching under attack. Any attempt to use MX to limit damage to our cities would have the effect of assuring that this damage occurred.

Fifth, there is some utility in destroying fired reloadable silos. The cruise missile is quick enough for this mission, and is far better suited to it than MX.

In summary, MX does nothing for us we cannot do otherwise. It is nothing more than technology creating its own requirement as it picks the pocket of the American taxpayer.●

THE FEDERAL GOVERNMENT'S FAILURE TO CONSERVE ENERGY IN FEDERAL BUILDINGS

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. EDGAR. Mr. Speaker, J. Dexter Peach, from the General Accounting Office, made some strong statements regarding the Federal Government's failure in the area of energy conservation in Federal buildings. I share these comments in hopes that the administration will take a more aggressive leadership role in the area of energy conservation. His statement follows:

ENERGY CONSERVATION IN FEDERAL BUILDINGS: THE DEPARTMENT OF ENERGY'S ROLE

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE: GAO welcomes the opportunity to be here today to discuss with you the results of our examinations of the Department of Energy's (DOE) efforts to manage Federal energy conservation. During the past two years we have issued numerous reports in this area. A synopsis of these reports is included as Attachment I. Our testimony will focus on two aspects—energy conservation in Federal buildings and facilities and the use of solar technology in such buildings and facilities.

LACK OF A NATIONAL ENERGY CONSERVATION PROGRAM

Before discussing DOE's efforts in these two areas, let me spend a few moments addressing the Nation's continuing reluctance to develop an effective energy conservation strategy. Our reliance on crude oil imports has increased substantially in recent years and could reach 12 or 13 million barrels per day by 1985.

Last winter's Iranian oil cutoff is only one of a series of events which jarred our complacency. More recently, indications of vastly higher prices for, and shortages of, home heating oil for the winter and predictions of gasoline lines next spring underscore the importance of moving forward in the energy conservation area.

The Nation must face up to the reality that we can not continue to rely on short-term crisis management in the energy area and that now is the time to get our energy conservation act together.

We believe a strong, coordinated national energy conservation program can not only mitigate the adverse impacts of future Iranian-type situations, but more importantly it would reduce the likelihood of oil embargoes being used as a weapon against the United States. Further, a strong conservation program is also needed to allow an orderly transition to renewable resources. In a February 13, 1979, letter to the Chairmen of energy-related Committees and Subcommittees we highlighted the following three overriding problems which, in our opinion, must be solved before the Nation will achieve any significant level of energy conservation:

A lack of specific planning and direction from the Government in the energy coservation area. We have reported that the Federal Government has not developed an overall energy conservation strategy for the Nation. While DOE generally agreed with our position, no strategy has been forthcoming.

The failure to develop in a timely manner, and have approved by the Congress, emergency energy conservation gasoline rationing plans.

The absence of an aggressive, coordinated effort by the Government to conserve energy in its own operations and facilities.

In view of the importance of enrgy conservation as part of the Nation's energy policy, let me discuss briefly the need for Federal conservation efforts.

THE NEED FOR FEDERAL ENERGY CONSERVATION

The Federal Government has a unique opportunity not only to conserve vast amounts of energy but to serve the Nation as an example by aggressively pursuing conservation throughout its many and varied operations. Today, the Government is the Nation's largest single energy user, accounting for over 2 percent of U.S. energy consumption. This represents the equivalent of about 282 million barrels of oil worth almost $4 billion a year. This energy is used within the Federal sector by almost six million people, in more than 400,000 buildings, and in operating more than 650,000 vehicles of all types.

In addition, the Government uses much energy indirectly through other activities. A RAND Corporation study indicates that from 4 to 7 percent of total national energy consumption is in support of the Government's purchase of goods and services. Consequently, the Federal Government can exert influence far beyond its relative size and overall consumption level.

To date, most Federal Government energy savings have been achieved through relatively simple measures such as reducing equipment operating hours, adjusting thermostats, turning off lights, and some actions to retrofit existing buildings to make them more energy efficient. DOE has reported that Federal energy use between 1973 and 1975 was reduced by over 26 percent. Since 1975, however, energy reductions have not been so dramatic. In fact, the most current data reported by DOE shows that between 1976 and 1977 there was an increase in Federal energy use of over 2 percent. This upward trend in energy use indicates to us that the Federal Government is not doing enough to conserve energy.

CONSERVATION IN FEDERAL BUILDINGS AND FACILITIES

We believe the Federal Government's efforts to conserve energy in its buildings and facilities have not achieved their full potential largely because DOE has made an insufficient commitment to the Federal Energy Management Program. This program is the Government's response to its own need to manage and control energy use. DOE has failed to fulfill the planning requirements mandated by legislation and executive orders and has failed to fully embrace its role in Federal energy conservation, as envisioned by the Congress.

The Energy Policy and Conservation Act (Public Law 94–163), dated December 22, 1975, requires the President to develop and implement a 10-year plan to reduce energy use in Federal buildings. This plan is to include mandatory lighting efficiency standards, mandatory thermal efficiency standards and insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation. Executive Order 11912, issued in April 1976, and amended by Executive Orders 12003 in July 1977 and 12038 in February 1978, requires DOE to develop the plan called for by the law. Further, Executive Order 12003 establishes energy reduction goals of 20 percent for existing buildings and 45 percent for new buildings. Each of these legislative and executive actions clearly implies strong management and policy direction with respect to energy conservation in Federal buildings and facilities. As of today, however, almost four years since the law was passed, the Federal Government has no approved 10-year plan for its buildings and facilities.

DOE has declined to take a leadership role in promoting conservation within the Federal Government. The result is a fragmented Federal Government energy conservation approach with needless duplication of effort among agencies. For example, we reported that duplicate testing has occurred because no single agency is responsible for coordinating evaluations of energy conserving devices. We found that one device for increasing the efficiency of some air conditioners has been separately evaluated and found effective by GSA, the Air Force, and the Navy. DOE declined to accept responsibility for coordinating evaluations of such energy saving products.

With respect to the selection and funding of energy conservation projects in Federal buildings, our work has shown that some of the most effective conservation projects have not been funded and that energy conservation funds have been used for other purposes. Prior to FY 1979 agencies were generally permitted to request and use funds as they determined appropriate. We found instances where funds requested by DOD and GSA for energy conservation were used for projects in other areas. For example, DOD has used about 20 percent, or $68 million, of the funds provided for its Energy Conservation Investment Program for other purposes. We have recommended that DOE seek legislation which provides that all such funds be appropriated to DOE or that requires agencies to identify and dedicate within their budgets the specific funds to be used for energy conservation projects.

In November 1978, the Congress enacted the National Energy Conservation Policy Act (Public Law 95–619). This Act, for the first time, requires each agency to conduct energy audits for identifying Federal building retrofit projects and to request budget funds for such projects on a line item basis. While we believe that line item budgeting called for in the new energy legislation is beneficial, it will not guarantee that funds requested for energy conservation projects will be restricted for such use. An agency could request funds in the name of energy conservation and thereafter, in the absence of some legislative restriction, such as a line item in an appropriation act, reprogram the funds for other purposes. We believe that central project approval and funding through DOE would provide more assurance that energy conservation funds are being optimized and effectively used.

Although DOE has not fulfilled its planning responsibilities, individual Federal agencies have implemented energy conservation measures and have reported energy savings. The Department of Defense in 1976 established a multi-year Energy Conservation Investment Program to retrofit its existing facilities to make them more energy efficient. Funding for the entire program is projected to be over $1 billion and DOD expects this effort to reduce energy use in its existing buildings by 12 percent. This is a substantial part of the 20 percent energy reduction goal required by Executive Order 12003.

THE SOLAR IN FEDERAL BUILDINGS DEMONSTRATION PROGRAM

With respect to the use of solar technology, DOE has developed neither a comprehensive plan nor a strategy to guide solar energy efforts in Federal buildings. Further, DOE does not appear to be giving the Federal buildings solar program the support necessary to achieve its ambitious objectives.

The President proposed in his National Energy Plan that the Federal Government demonstrate its confidence in solar technology by undertaking a 3-year program of up to $100 million for the installation of solar equipment in Federal buildings. The purpose of the Solar in Federal Buildings Demonstration Program was to give the Federal Government a leadership role in reducing the consumption of conventional fuels and demonstrating the feasibility of widespread solar energy use. The National Energy Conservation Policy Act authorized up to $100 million for this program.

In his June 20, 1979, message on solar energy that was sent to the Congress, the President set a national goal of meeting 20 percent of the country's energy use with solar and renewable resources by the end of this century. The Solar in Federal Buildings Program was cited as demonstrating the Federal Government's confidence in solar systems and setting an example for other energy users. Under this program, the President expects that an estimated 350 solar systems will be placed in Federal buildings and facilities by the end of fiscal year 1980.

These legislative and executive actions clearly imply strong leadership responsibilities with respect to energy conservation and the application of solar technology in Federal buildings and facilities. However, based on our review of the many conservation and solar programs for Federal buildings, we believe that DOE is not fully embracing these responsibilities and that the Solar in Federal Buildings Demonstration Program will be implemented in isolation from other conservation and solar efforts for Federal buildings.

Program activities within DOE to promote energy conservation are separate from those to demonstrate the use of solar energy in Federal buildings. Although these programs are located under the Assistant Secretary for Conservation and Solar Applications, no effective coordination exists. The offices responsible for conservation in Federal buildings are not working closely with the offices responsible for the promotion of solar energy.

Further, DOE's March 1979 draft of the 10-year plan for energy conservation in Federal buildings, and its proposed rules for life cycle cost analyses and preliminary energy audits, give limited and somewhat conflicting guidance to agencies on the use of solar technology. DOE's draft 10-year plan does not present the use of solar technology as a viable conservation option. The draft plan indicates that one strategy for achieving energy savings in Federal buildings is the substitution of renewable resources (principally active solar collector retrofit projects) for conventional fuels. However, the draft plan requires that agencies only consider the use of solar devices and seems to unduly emphasize that present solar collector costs and efficiencies make all but hot water heating prohibitive from the life cycle cost criterion for retrofit projects for existing buildings. The draft plan does not recognize that a special funding mechanism, the Solar in Federal Buildings Demonstration Program, is in existence and could possibly be used to fund the solar costs above the cost effectiveness limitations.

DOE's proposed rules for preliminary energy audits of Federal buildings, issued on April 26, 1979, also appear to contradict the intent of the National Energy Conservation Policy Act to promote retrofit projects which include energy conservation measures and solar technology. Moreover, the rules, as drafted, will not fulfill the President's expectations that these audits will identify the extent to which the Federal Government can use solar equipment beyond applications already underway. The rules provide that only limited data would be collected for the larger Federal buildings (those with 30,000 or more gross square feet), whereas extensive data would be collected for smaller Federal buildings (those with less than 30,000 gross square feet). We believe that the data requirements should be consistent for all buildings, regardless of size, in order to maximize the impact that the use of solar technology can have.

We are concerned that DOE does not appear to be fully committed to the Solar in Federal Buildings Demonstration Program even though it represents a significant commercialization effort. Not only is DOE failing to develop the program in the context of a larger, more comprehensive Federal Buildings efforts, but we believe it is also not giving this program its full support. The Department is relying on external resources, the National Aeronautics and Space Administration (NASA), for basic management and staff support functions, rather than developing an in-house capability and the technical expertise to develop and implement future programs.

Further, DOE has not requested the full funding authorized by the Congress under NECPA, nor an extension of the program to the 3-year period originally proposed by the President.

DOE NEEDS TO FULFILL ITS PROGRAM MANAGEMENT AND LEADERSHIP RESPONSIBILITIES

We are concerned about the lack of direction and overall management effort that DOE is giving to the Federal conservation program. In this regard, DOE is apparently confused over the role it is to play. This role should be clear, since one reason for establishing DOE, as stated in the DOE Organization Act (Public Law 95-91), was to achieve effective management of Federal energy functions including coordinating energy policies and promoting energy conservation measures.

In spite of such legislation, the Department has consistently refused to undertake the role of leader and manager for Federal energy conservation efforts. DOE stated this position in commenting on one of our reports. We recommended that DOE coordinate the evaluation of energy saving devices, establish demonstration projects using those devices in Federal buildings, and publicize the results of such projects. While some DOE program staff thought demonstration projects would be good, DOE's official response to our report was that representatives of OMB and certain DOE management officials have taken the position that DOE should have no role in "coordinating" or "managing" agency energy conservation efforts.

DOE noted that this position was obviously inconsistent with our perception of its role as a strong central manager of federal energy conservation activities and stated that until this issue is settled, it could not positively respond to our recommendations. We believe that if DOE's position is inconsistent with our perception of its role, then its position is also inconsistent with the law.

We believe one reason that the Federal Energy Management Program has lacked overall direction is that DOE has not provided adequate organizational emphasis and funding for the program. Initially, the program was established to manage the Government's overall energy conservation program. Under DOE, however, the program has not been accorded an organizational status which enables it to do much more than collect, compile, and report on Federal energy consumption data.

When we criticized DOE's lack of emphasis of the Federal Energy Management Program, DOE replied that it was meticulously examining its programs and activities and that this would result in the proper organizational structure and staffing levels for accomplishment of assigned responsibilities. We noted that this examination resulted in a 20 percent reduction in the budget request for fiscal year 1980 and the loss of two staff members.

Public laws, executive orders, and presidential memoranda dealing with energy, envision and authorize a strong, structured energy conservation program within the Federal sector. If DOE continues to ignore its responsibility, mandated requirements will never be met. We believe that DOE should effectively serve as the lead agency for energy conservation throughout the Federal Government, and should make this point known to other agencies and departments.

In conclusion, Mr. Chairman, we believe that the Federal Government needs to conserve energy, that its program for doing so is in disarray, and that DOE must accept the responsibility. We have continually reported what we believe to be the major problems, but DOE has not taken corrective action. We are concerned that DOE's lack of leadership and its failure to aggressively pursue energy conservation planning is causing the Government to miss energy conservation opportunities. To put it in perspective, if the Federal Government were to save 20 percent of its total energy use, which we believe is feasible, it could reduce the Nation's energy demand by the equivalent of over 150,000 barrels of oil a day—about 31 percent of the Nation's shortfall resulting from the cutoff of oil imports from Iran.

That concludes my statement, Mr. Chairman. I would be happy to respond to questions.●

WHY VA PROGRAMS WORK

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. ABDNOR. Mr. Speaker, the success or failure of any of our Government programs to a large degree rests on the shoulders of those who administer the programs at the local level.

This is particularly true of those working with the programs of the Veterans' Administration. South Dakota has been privileged to have exceptionally fine veterans service officers. Since 1946 Leroy Kadinger has been serving our veterans with a special dedication and sensitivity. He has been repeatedly cited for his fine work, most recently by the Disabled American Veterans.

I commend their citation to the attention of my colleagues:

LEROY W. KADINGER

Leroy Kadinger, Legal Rating Specialist in the Adjudication Division, United States Veterans Administration Regional Office in Sioux Falls, South Dakota, has just been awarded the Disabled American Veterans National Commanders Award for outstanding and unselfish service to veterans. Larry Bouska, National Service Officer, presented this important National Commanders Award to Mr. Kadinger during ceremonies at the DAV Chapter No. 1 in Sioux Falls. Mr. Glenn Alred, Jr., the Veterans Administration Medical Center Director, was in the audience, as well as many other officials from the Veterans Administration, several hundred DAV members and their wives, and Mr. Kadinger's family.

Mr. Kadinger served his country in World War II as a member of the United States Army. His specialties were Military Law and Investigations. He was appointeed an Adjudicator at the Veterans Administration Regional Office in Sioux Falls, South Dakota, on July 3, 1946. His legal background made him an ideal selection for this appointment, having completed Law School at the University of South Dakota and the U.S. Army Adjutant General School while in the Army.

The U.S. Veterans Administration awarded the Individual Superior Performance Award to Mr. Kadinger, first in 1956 and again in 1977. In 1972, Mr. Kadinger received the Veterans Administration Group Superior Performance Award.

The Disabled American Veterans is extremely proud of Leroy Kadinger, who has shown the "light and the way" to thousands of veterans of "all wars" who have benefitted from his counsel and understanding.●

WINDFALL PROFITS TAX

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, this Congress is in the process of constructing a windfall profits tax. This piece of legislation is one of the most calculated and punitive measures ever levied upon private industry in the history of this great country.

The House-passed version of the windfall profits tax directly affects one-third of America's crude oil reserves. The Sadlerochit Reservoir of the Prudhoe Bay field on the North Slope of Alaska contains a substantial portion of the energy reserves of the United States. Taxing this area will create a tremendous disincentive for additional investment into the North Slope.

Prudhoe Bay is not fully developed. Thus far, only about $4 billion has been invested for the development of this domestic reserve. The total projected expenditure will be approximately $19 billion. The amount of additional expenditure however, depends upon the outcome of the windfall profits tax bill.

This Congress should not punish industry for developing an area that contains 30 percent of proven U.S. reserves. As responsible representatives of the people, we should not deprive the good citizens of our Nation of much needed oil by retroactively taxing the North Slope, a region that provides this Nation with 15 percent of all U.S. production.

The proposed windfall profits tax is a signal to industry. It is a signal that says Government will penalize those who are willing to take a chance, those who are contributing to the energy supply of this Nation. The development of Prudhoe Bay has only begun. Only the east end of the reservoir has been developed. The west end of the field has yet to be tapped. Such activity on the west end is a marginal operation due to the high risks and high cost; however, this area contains approximately 700 to 800 million barrels of oil for Americans.

Development of Prudhoe Bay is an expensive operation. Many people have the impression that industry is receiving a disproportionate amount in the rate of return they receive from activity on the North Slope. Prudhoe Bay is not an excessively profitable operation when all things are considered in terms of necessary investment costs. The rate of return on investment is approximately 15 percent with no windfall profits tax and at the upper tier ceiling price of oil. When one considers the risk involved, I do not think the rate of return is outrageous.

The State of Alaska will also be damaged by the windfall profits tax on Alaskan oil. The House-passed version exempted States who dedicate the revenues from royalties and for educational purposes. Alaska does not specifically earmark money for education; however, massive amounts of money are furnished for support of education. The constitution of the State of Alaska does not provide for the dedication of such moneys, thus the language contained in the House version of the windfall profits tax discriminates against Alaska because it does not conform to the language of the bill.

Mr. Speaker, it is time to wake up and take some productive action in addressing our energy problem. We should take a positive approach, not a punitive one. Those who place the total blame upon the oil companies for the current predicament do so only because of their failure to look past the myriad of Federal regulations prohibiting the development of energy resources in this country. I feel a positive response to the energy problem is needed. We need to encourage, not discourage, production of energy in the United States.●

SHATTER THE SILENCE, VIGIL 1979—ON BEHALF OF SAUL AND HANA GORELIK

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. BEILENSON. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on the House floor entitled "Shatter the Silence" on behalf of Soviet Jewish families and individuals who are being forcibly detained in the U.S.S.R. as a result of the Soviet Government's repressive immigration policy.

Today, I would like to bring the plight of Saul and Hana Gorelik to the Members' attention. The Goreliks have been alone since 1976 when their sons, Alexander and Moshe were allowed to emigrate to Israel. The Goreliks first applied for permission to emigrate to Israel more than 5½ years ago and their requests for exit visas have been consistently denied. Their desire to emigrate to Israel so that they may be reunited with their sons is especially heightened at this time due to Hana Gorelik's declining health.

It is my belief that the granting of exit visas by the Soviet Union to the Goreliks would not only indicate to the world that country's compliance with the Helsinki accords, but would also affirm its desire to ameliorate relations between our two great nations. In addition, such action would demonstrate the Soviet Union's humanitarian concern by allowing the Goreliks to spend their remaining years with their sons.

I am deeply concerned over the Soviet Union's disturbing treatment of its Jewish citizens and ask that it abide by its international commitments by relaxing restrictions on immigration policies. I look forward to the day when there is no longer any need for such pleas—the day when families can be reunited in Israel.●

FREE TO CHOOSE

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. RUDD. Mr. Speaker, I am grateful to the National Federation of Independent Business for informing me about a public television series with Dr. Milton Friedman, which will be broadcast over 10 successive weeks by PBS stations starting on January 11, 1980.

Called "Free To Choose," this program will feature one of America's best known and most engaging economists in programs about stopping inflation, protecting the consumer, the government bureaucracy and its relation to our daily lives, and how to safeguard personal freedom and happiness.

One myth that the program immediately explodes is the permanent existence of inflation. Dr. Friedman, a Nobel Prize-winning economist, says we do not have to accept or expect inflation, and why.

Another program summarized in one sentence by Dr. Friedman:

> What is the basic problem of the United States today? The problem is that government interference is threatening to strangle the true source of our achievement.

Dr. Friedman will take us to Hong Kong for a firsthand look at that country's factories, which are not controlled by government, and where wages have increased fourfold after adjustments for inflation since World War II.

"Free To Choose" was based upon subjects selected by Dr. Friedman as the best illustrations of the damage that is done when government intervenes in the normal marketplace activity. The series was produced and filmed without a written script, thus emphasizing Dr. Friedman's relaxed and warm personality in order to make the programs more interesting and informative.

Mr. Speaker, this series promises to be one of the highlights of public affairs television programing during 1980.

I would like to include in the RECORD at this point a personal statement of Dr. Friedman describing the series' purpose and his reasons for involvement in the project, as well as a tentative schedule and program guide for the benefit of those who will want to watch it:

FREE TO CHOOSE

(In the following statement, Milton Friedman explains the purpose of "Free to Choose," a television program that will air over most PBS stations on Friday evenings at 9 p.m., beginning Jan. 11, 1980.)

I feel strongly that America is at a critical point in its history. For the past fifty years, we have been moving away from the fundamental principles that made this a great country, the fundamental principles of freedom: relying on the individual, keeping government in its place, keeping government as an umpire. We have to find a way to prevent government from continuing to take over more and more control of our lives.

About fifty years ago, shortly after the Great Depression started, government came to play a larger and larger role in our lives. We shifted from an emphasis on individual responsibility to an emphasis on social responsibility. The fundamental forces that made this country great—the productivity, the ingenuity, the energy—are still with us, and they have been with us over that fifty years. But at the same time, we have [become] an over-governed, over-regulated society.

We have been moving down the road that Friedrich Hayek called the road to serfdom. We do not have to continue down that road. We can be the masters of our own destiny. In order to stop going down that road, we have to go back to some of the basic principles that underlie our nation.

THE GREAT DEPRESSION

The third program [in the series] will deal with the Great Depression. It was the event that persuaded the public, wrongly in my opinion, that capitalism had failed and that government had to step in. That is a great myth because what really produced the Great Depression was not the failure of capitalism, but the failure of government, the failure of the Federal Reserve System, which permitted the monetary structure to collapse.

CREATED EQUAL

Another [program] we call "Created Equal," which deals with the modern pursuit of egalitarianism. "All men are created equal," says the Declaration of Independence. That used to mean that people were equal in the eyes of the law. It came to mean that people should have equal opportunity. But more recently, it's been meaning that everybody should have equal income. We show in the program how that approach fundamentally threatens the preservation of freedom.

PLUGGING THE DRAIN

More and more people have become disillusioned about the possibility of solving our problems simply by throwing more tax money at them. More and more people have come to recognize the fallacy of trying to solve problems by spending somebody else's money. Nobody spends somebody else's money as carefully as he spends his own. But also, in order to spend somebody else's money, you first have to take it away from him. That means that force is at the very bottom of the modern paternal state.

These views are becoming more widely accepted. There is a change in the intellectual climate. As a result, for the first time in many years, I believe we have a real hope of changing the course of events, of getting our country back on the track toward greater human and individual freedom.

I do not know whether we can succeed in this venture. I do know that there is no task more important for this country, and for the world, than ending the growth of government and enabling the United States to be what it has been: a beacon for free men throughout the world.

PROGRAM GUIDE

Free to Choose is a production of WQLN, Public Communications, Erie, Pa. The programs will air on most PBS stations on Friday evenings at 9 p.m., beginning Jan. 11. However, check with your local PBS station for the exact scheduling in your area.

January 11: "The Power of the Market"—Dr. Friedman explains how the free market coordinates the activities of millions of people who are strangers to each other. This program was shot on location in Hong Kong—one of the freest markets in the world—where the government has deliberately chosen not to direct the economy.

January 18: "The Tyranny of Control"—What should a modern government do to protect its domestic industries from competition with cheaper, foreign-made products? Nothing, says Friedman. In India, he shows how central economic planning has failed, condemning millions to poverty.

January 25: "Anatomy of Crisis"—Here, Friedman explains the real causes of the Great Depression and shows that far from representing a failure of capitalism, it represents a failure of government.

February 1: "From Cradle to Grave"—Friedman discusses the welfare mess: recipients treated like children, bureaucrats wasting money, the exorbitant taxes it causes, and the fraud that occurs. He presents his solution: the negative income tax.

February 8: "Created Equal"—The shift in thinking from the idea that equality means that everyone should start in the same place to the idea that everyone should end in the same place contains one of the gravest threats to freedom. Friedman explains why.

February 15: "What's Wrong with Our Schools?"—There is no relation between what parents and others pay in taxes and the quality of education. American children receive, says Friedman. Schools should compete for students, and parents should be free to choose the schools their children attend.

February 22: "Who Protects the Consumer?"—Government regulations and agency watchdogs lead directly to increased costs for the consumer, when the free market and competition would lower prices and improve quality, emphasizes Friedman. Most "consumer protection" protects only closed groups of producers while it increases the importance of bureaucratic organizations.

February 29: "Who Protects the Worker?"—The answer, says Friedman, is the existence of alternative employment opportunities in a free market, the competition among employers for the workers' skills and talents.

March 7: "How to Cure Inflation"—Friedman visits a ghost town and a tobacco field to show what money is and how it works. Then he visits the U.S. treasury to shout, "Stop the presses!" He emphasizes that inflation is the inevitable result when the quantity of money (printed and regulated by government) grows faster than goods and services are produced.

March 14: "How to Stay Free"—We are to blame for the evils of too much government, says Friedman. Americans must stop looking to government, at whatever level, as a major source of goods, services, and subsidies.

DR. MILTON FRIEDMAN

Dr. Milton Friedman has long been an untiring advocate of the free-market system. He received the 1976 Nobel prize in economics for his cumulative work in the development of certain techniques of statistical analysis in economics and for his contribution of monetary theory to economic science.

His viewpoint has become widely known through his column in Newsweek magazine. He also occupies a position on the research staff of the National Bureau of Economic Research.

He serves as the Paul Snowden Russell Distinguished Service Professor of Economics at the University of Chicago and as a Senior Research Fellow at the Hoover Institution, Stanford University.

Officially and unofficially, he has advised a number of political figures on economic affairs.

Friedman has also authored numerous books and articles on monetary theory and economics. His most popular works include Capitalism and Freedom and There's No Such Thing as a Free Lunch.●

INNOVATIVE PROGRAMING

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. FOWLER. Mr. Speaker, the role of the media in shaping the image of ourselves and our neighbors is well known. Television, in particular, can serve as a vivid mirror of both the best and worst in our American culture. Today, I am proud to rise to commend the efforts of Atlanta's WSB-TV in the field of innovative community programing. WSB's production of the "Phillips Saga," which tells the story of a black Atlanta family, serves as an example of how positive a reflection television programing can be.

Critics, educators, and community leaders have all voiced concern over the caliber of dramatic and comic roles offered blacks in commercial television. In response to the need for positive portrayals of black family life, Mr. Walt Elder of WSB-TV initiated the Phillips project some 2 years ago. Working with local actors, writers, musicians, and production technicians, Mr. Elder developed a program that is refreshingly honest and sincere in tone. While chronicling the lives of the owners of a family newspaper, the "Phillips Saga" shows us that locally produced drama can do more than entertain; that it can, in fact, serve as a creative means to bring our communities closer together.

As the television industry searches for new approaches to fulfill its obligation to community service, the example of Mr. Elder and his colleagues at WSB-TV should be noted. I am proud of their accomplishments in the production of the "Phillips Saga," and these efforts should act as a catalyst for even greater achievements in community programing throughout our Nation.●

SOLOMON EXPRESSES OPPOSITION TO SALT II TREATY

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. SOLOMON. Mr. Speaker, I rise to express my opposition to the SALT II treaty signed by President Carter and Soviet Premier Leonid I. Brezhnev in Vienna, Monday, July 18, 1979, and presently undergoing deliberation by the U.S. Senate for the following reasons: First, the Soviet Union has repeatedly shown that it views such agreements as a means to enhance their strategic position relative to the United States; second, the United States so compromised its bargaining position that SALT II can only be viewed as an act of appeasement; and third, the strategic imbalance codified in SALT II would provide the Soviet Union with the means to hold the American people hostage to Soviet nuclear blackmail in the event of a crisis.

Mr. Speaker, 11 days after assuming office, President Truman told Soviet Foreign Minister V. M. Molotov that United States-Soviet relations "could be only on a basis of the mutual observation of agreements and not on the basis of a one-way street." Molotov said, "I have never been talked to like that in my life." Truman replied, "Carry out your agreements and you won't get talked to like that again."

Like earlier times, the Soviet Union has been violating, if not the letter, then certainly the "spirit of an agreement"—

the SALT I treaty—and in so doing has added significantly to their objective of obtaining a war-fighting, war-surviving, war-winning strategic nuclear capability against the United States. The United States, lacking the courage and determination of a President Truman, has resorted to petty legalisms in order to justify Soviet noncompliance. Let me explain.

Under SALT I, both the United States and the Soviet Union agreed to allow the modernization and replacement of ICBM launchers by no more than 10–15 percent of their dimensions. The United States interpreted this to mean 10–15 percent of either the length or the diameter of the launcher—and so argued to the Senate during ratification. The Soviet Union, however, interpreted this to mean 10–15 percent of both the length and the diameter. When this became a public issue, Secretary of State Kissinger replied:

> I think it is at least open to question whether the United States can hold the Soviet Union responsible for its own statements when the Soviet Union has asserted that it does not accept this interpretation.

Thus, the Soviet Union was allowed to replace the SS–11, a light missile, with the heavy SS–19.

Mr. Speaker, the SS–19 poses a grave threat to the security of the United States. Recently, Aviation Week and Space Technology reported the testing of the SS–19 ICBM with an accuracy equal, if not better, than the best in the U.S. arsenal. The London-based International Institute of Strategic Studies reported last month that this accuracy is now being deployed on a massive scale. Combined with greater throw weight and far larger warheads, the SS–19 will soon give the Soviet Union the capability to gravely threaten substantial portions of the U.S. land-based ICBM force. And, sadly enough, this has happened because the United States lacked the courage to insist that this deployment violated the "spirit of the agreement."

Let there be no mistake—this is not a singular incident. Similar situations could be discussed with regard to the following: First, construction of special purpose silos—launch control facilities; second, Soviet dismantling and destruction of replaced ICBM launchers; third, mobile ICBM's; fourth, testing of air defense radars and/or missiles, in particular the SA–5 Griffon and SA–2 Guideline, "in an ABM mode"; fifth, development and testing of mobile ABM radars; sixth, installation of an ABM radar at Kamchatka Peninsula; seventh, inaccurate reporting of Soviet dismantling of excess ABM test launchers; eighth, covered facilities and concealment; ninth, concealment at test ranges; tenth, blinding of U.S. reconnaissance satellites; and eleventh, development of an antisatellite system.

Mr. Speaker, how much military advantage the Soviet Union has gained by these measures is unclear. What is clear is that because of them the SALT process has become a sham.

A further reason I am opposed to the SALT II Treaty as it presently stands, Mr. Speaker, is because in my judgment it is an act of appeasement.

Mr. Speaker, the original objectives embodied in the March 1977 SALT II proposal were designed to provide the United States with an enhanced security by providing: First, a treaty of indefinite duration; second, equal limits for the United States and the Soviet Union on offensive nuclear capabilities; third, crisis stability; and fourth, true reductions. None of these objectives have been met.

First, instead of a treaty of indefinite duration, the United States has settled for a short-term pact to end in 1985 at a time when the strategic balance between the United States and the Soviet Union is likely to be least favorable to the United States.

Second, the United States has abandoned the objective of equality. Notwithstanding the gross limits for both sides of 2,250 strategic nuclear launch vehicles and 820 MIRV'ed ICBM launchers, there is a startling imbalance.

The Soviet Union is permitted 308 heavy ICBM's—SS–18's—while the United States is permitted none.

Only the Soviet Union can deploy the full 820 MIRV'ed ICBM launchers by the time the treaty lapses because President Carter has closed down the Minuteman production line.

The United States will be permitted no more than three warheads on each MIRV'ed ICBM. The Soviet Union is permitted—and is expected to have—4 on each SS–17, 6 on each SS–19, and 10 on each SS–18. While the United States can build a new missile with 10 MIRV's during the course of the treaty, none will be deployable before its expiration.

The 300–400 new supersonic Backfire bomber which the Soviets will have by 1985 and which can strike targets anywhere in the United States are not counted under SALT II. The aging B–52 bomber—those deployed as well as those consigned to the graveyard—and the B–1 prototypes are counted.

Third, SALT II does not contribute to crisis stability because it places the Soviet Union in a position to destroy 90 percent of our ICBM's with an expenditure of a fifth to a third of its ICBM's. Even assuming the survival of our submarines-at-sea and most of our bombers on alert, the remaining U.S. strategic power would be hopelessly outmatched by the Soviet Union's retained war-making capability.

Fourth, SALT II will not provide true reductions.

The number of warheads will increase for the Soviet Union by 3 times while the United States' will increase by one-half.

The area destructive capability of Soviet weapons will increase by one-half while the United States' will increase by one-fourth.

Hard-target capability will be less than one-eighth that of the Soviet Union and this deficiency will be compounded by the fact that they have double the number of hard targets with each being on the average twice as hard as ours.

Mr. Speaker, in recounting these vast inequities. I cannot help but be reminded of the words spoken by Winston Churchill in 1938:

> Poor England! Leading her free careless life from day to day, amid good-tempered parliamentary babble, she followed, wondering, along the downward path which led to all she wanted to avoid. She was continually reassured by the leading articles of the most influential newspapers, with some honourable exceptions, and behaved as if all the world were as easy, uncalculating and well-meaning as herself.

Finally, Mr. Speaker, this treaty, if passed by the Senate, would place the Soviet Union in a position to hold the American people hostage to Soviet nuclear blackmail in the event of a crisis.

Since the middle to late 1960's when Robert McNamara was Secretary of Defense, America's strategic doctrine has been based on the premise that American security is best assured when both sides can inflict "unacceptable damage on the other." To insure the success of this doctrine, U.S. leaders made a conscious policy decision to open the American people, and their cities and industries, to nuclear destruction. This policy was called mutual assured destruction (MAD).

Mr. Speaker, this policy has become less mutual and less assured and in my judgment is an immoral act unparalleled in American history. To look for security in a situation where the lives of 240 million Americans are consciously held hostage—especially when it is becoming increasingly clear that the Soviet Union is preparing to win a nuclear conflict with the United States—is unimaginable, but it is true.

Even more frightening is the fact that the United States today even lacks the basic requirements for a doctrine of mutual assured destruction, namely, invulnerable strategic weapons. The increase in throwweight and accuracy of Soviet ICBM's, along with a massive MIRV'ing program, has undermined the survivability, and hence the credibility, of U.S. land-based ICBM's. No longer can we be assured that the major component of America's ability to deter a Soviet attack is safe from destruction. No one disagrees any longer that by the early 1980's, the American Minuteman force will become 90 percent vulnerable. And yet, no attempt was made during the negotiations on SALT II to limit the size of Soviet ICBM's or to insist upon compensations for the United States.

Mr. Speaker, because of these invulnerabilities, the United States will be unable to standup to the Soviet Union in a crisis situation. The United States will have no choice but to submit to Soviet nuclear blackmail.

Mr. Speaker, in his remarks delivered at the signing of the SALT II treaty President Carter said: "The most powerful currents of history have often been the ones that swept nations to war." I concur with that remark. But, I would wish to remind the House that "the most powerful currents" attending the onslaught of World War II—and dramatically symbolized in Munich—was appeasement, an event which the famous English poet T. S. Eliot says left him with "a feeling of humiliation from which one does not recover" because it raises doubts "of the validity of civilization."

Events today are not dissimilar. All

over the globe, and in our decisions on strategic and conventional weapons, the United States retreats, defers, delays, or cancels. Considerable world-wide uncertainty exists whether the United States will continue to maintain its alliance commitments. Doubts are being expressed whether America will continue to persevere in the face of a determined adversary. Ultimately, the world is beginning to question whether the United States will have the ability in the very near future to conduct a truly independent foreign policy.

To a dangerous extent, our national will to survive in the face of adversity has eroded.

Alexander Solzhenitzyn, in his 1972 Nobel Prize lecture, fiercely indicting our times, said:

> The spirit of Munich is not a thing of the past. . . . It is the everyday state of those who have given in to the desire for well-being at any price. . . . Such people choose to be passive and to retreat, just so their normal lives may last a bit longer.

Mr. Speaker, the policies embedded in the recently signed SALT II treaty are not policies of peace. They are policies of appeasement. And as such, they are not the policies desired by the American people. For throughout this great and proud land stirs the realization that the price you pay for your cowardice will be all the worse and that now is the time to regain in our courage so that our children may live in peace with freedom and honor.●

ENERGY CONSERVATION

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. EMERY. Mr. Speaker, I would like to take this opportunity to call attention to what I feel is an innovative and responsible approach to the need for energy conservation. Maine's largest bank, Casco Bank & Trust Co., and the Maine Audubon Society have sponsored a joint education and financial incentive program to promote energy conservation.

As legislators, we are all aware of the tremendous task of educating the public about the nature of our energy problems. Even after a general awareness is achieved, however, known solutions are often lost in the confusion surrounding the total issue. In a statewide lecture program and specially developed catalog, Maine Audubon attempts to answer questions about energy conservation priorities, insulation, and the numerous devices currently marketed which claim to save energy. The lectures and catalog will attempt to focus the public's attention on conservation as an alternative energy source.

As a followup to the Maine Audubon Society's educational efforts, Casco Bank & Trust Co. is offering reduced rates on energy-related home improvement loans. Rates will be reduced by 2-percentage points on loans over $1,000 and by 6-percentage points on loans under $1,000. These financial incentives are aimed at making energy conservation easier and more attainable.

I heartily applaud this joint effort which sets Maine at the forefront in energy awareness and responsiveness. I truly believe that it is initiatives of this nature which will ultimately allow us to adequately deal with our Nation's energy problems. By involving the private sector and prominent environmental organizations in a cooperative partnership, our country can quantify its problems and work step-by-step toward our common goal—energy independence.

I call attention to the following remarks by Mr. Jack Daigle of Casco Bank & Trust Co.:

JACK DAIGLE AT MAINE AUDUBON PRESS CONFERENCE

When the Maine Audubon Society approached us early this summer with a plan for sponsoring an energy conservation program, we welcomed the idea enthusiastically. We know that we are going to have to rely less and less on fossil fuels, and look to alternative sources of energy. And, one of our most important alternative energy sources is conservation.

Translated into everyday terms, "conservation" means that we won't need to use as much fuel if we make the best use of the fuel we have. It means finding effective ways to use less heat and hot water, while keeping reasonably warm and comfortable. And here, the key word is "effective". We are surrounded these days by all kinds of talk about woodburning stoves, insulation methods, alternative energy sources, and energy-saving devices. Somehow, we've got to sift through all this to determine what works and what doesn't—otherwise we'll end up spending more money on our attempts to save fuel than the cost of the fuel itself.

That's where the Maine Audubon Society has an effective "track record". These people are recognized authorities on energy-saving techniques and how they apply to our Maine climate. They've spent a lot of time and research on the safest, most efficient wood heating systems . . . ways to insulate a house properly . . . new solar heating methods, and how the average Maine homeowner can use them. To help people make informed decisions, they've produced a catalog called "The Maine Audubon Society Buyers' Guide to Home Energy Savings", and we at Casco are proud to have sponsored its development and printing. The catalog will be distributed free of charge at our Casco branches.

In addition, the experts at Maine Audubon have developed a series of three excellent lectures on the subjects of wood heating, insulation and solar energy. These lectures, also sponsored by Casco Bank, will be held here in Greater Portland . . . as well as Augusta, Auburn, Biddeford, South Paris, and Bath. A complete list of times and places is in the flyer included with your kit. People may attend these lectures at no cost, just by picking up tickets at any of our Casco offices in these six areas. Those who attend the lectures also may obtain copies of the "Guide to Home Energy Savings".

That's the educational part of this program. But once we've learned what steps to take in energy saving, we've got to pay for them. And, for the next 90 days, now now through December, Casco is offering reduced rates on energy-related home improvement loans to credit-worthy borrowers. As of September 17th, the rate will be 12 percent for all qualified home improvement loans. This rate, of course, is subject to change, depending on market conditions during the coming months. Our current rate on regular home improvement loans, which is 14 percent, will be lowered by two percentage points, which means, for example, that on a five-year home improvement loan of $3,000, a person will be able to save about $185 in interest costs. For smaller home improvement loans of less than $1,000, there will be an even more dramatic rate reduction, of six percentage points. So, interest on a two-year $750 loan, for example, which is now 18 percent will be reduced to 12 percent and would cost a customer about $51 less than usual.

We are also having a premium promotion which you'll hear more about in our newspaper and T.V. ads. I won't go into any details except to say that our gifts are somewhat different from the items normally associated with bank promotions. These gifts are directly related to energy conservation; they've been endorsed by the Maine Audubon Society, and we hope that by offering them, we'll help make energy conservation methods easier and more popular.●

SHATTER THE SILENCE VIGIL, 1979

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mrs. SPELLMAN. Mr. Speaker, I rise today in support of those many Soviet Jews who have suffered untold terrors at the hand of their Soviet oppressors. I am pleased to join many of my colleagues who have participated in the "Shatter the Silence Vigil, 1979" sponsored by Congressman HOWARD in conjunction with the Union of Councils for Soviet Jewry.

In 1975, 35 nations signed the Helsinki Final Act, which committed the 35 signatory nations to pursue policies consistent with basic principles of human rights, including the reunification of divided families whose members live in different countries, religious freedom, minority rights, and free travel between countries.

There are certain human rights which extend beyond internal jurisdictions. These internal rights were reaffirmed in the Helsinki agreements, and they are so essential to the very existence of humanity that this Congress must retain its determination to assure these rights for all, and speak out against their denial. Although I am greatly encouraged by the record emigration of 4,711 Jews this August, the Soviet Union continues to disregard the human rights provisions of the Final Act.

Today, I bring to my colleagues' attention the case of Yuli Kosharovsky, a 37-year-old radio electronics engineer. As one of early leaders of the Soviet Jewry movement he moved to Moscow in 1970 where he now lives. Because of his outspoken stance on emigration, he has been subjected to KGB threats, harassment, and arrest. It has now been 7-long years since his application for emigration was refused. In the fall of 1976 he was incarcerated for 15 days. This occurred during the widespread arrests and beatings in Moscow in connections with sit-ins at the Supreme Soviet by Jews seeking visas and/or written explanations for their repeated refusals.

Despite all the harassment, Yuli has persisted in hosting a scientific seminar in his apartment for more than 2 years to bring refusnik-scientists who have long been unemployed up-to-date in their respective fields. In an incredible act of bravery, he was one of 250 Soviet Jews who signed an appeal directed to the Knesset and to all Jewish communities throughout the world.

I am again moved to ask Soviet officials the same question I asked over and over again during my trip there earlier this year. Why do you do this to your people? Sadly, the question remains unanswered.

I wish to thank Congressman HOWARD for his efforts in coordinating this year's vigil. It is my most sincere hope that this initiative will help to end the plight of Yuli Kosharovsky. Only through the release of this man and other Soviet prisoners of conscience can we be convinced of Soviet sincerity on this critical issue of human rights.●

PERSONAL EXPLANATION

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. FORSYTHE. Mr. Speaker, during the past 4 months is was necessary for me to be absent from Washington because I was recovering from surgery. I regret that I could not be here to cast my votes, but I would like to take this opportunity to make public how I would have voted had I been present:

Rollcall No. 152. H.R. 39. Alaska lands. Udall substitute amendment (H.R. 3561) to create 125.4 million acres of national parks, wildlife refuges, and forests in Alaska. May 16, 1979. I would have voted "no."

Rollcall No. 153. H.R. 39. Alaska lands. Passage of the bill. May 16, 1979. I would have voted "no."

Rollcall No. 154. H.R. 10. Rights of the institutionalized. Adoption of the rule providing for House floor consideration of the bill. May 16, 1979. I would have voted "yes."

Rollcall No. 155. S. 869. Ethics in Government Act amendments. Adoption of the rule providing for House floor consideration of the bill to clarify certain provisions in the 1978 Ethics in Government Act. May 16, 1979. I would have voted "yes."

Rollcall No. 157. Procedural motion. Loeffler motion to approve the House Journal of Wednesday, May 16, 1979. May 17, 1979. I would have voted "no."

Rollcall No. 158. H.R. 111. Panama Canal. Adoption of the rule providing for House floor consideration of the bill to provide for the operation and maintenance of the Panama Canal through the year 1999 and to implement the provisions of the Panama Canal Treaty. May 17, 1979. I would have voted "yes."

Rollcall No. 159. Procedural motion. Kramer motion to approve the House Journal of Thursday, May 17, 1979. May 21, 1979. I would have voted "no."

Rollcall No. 160. H.R. 4011. Small business Administration. Adoption of the rule providing for House floor consideration of the bill to authorize $5.3 billion for Small Business Administration programs for fiscal 1980–82. May 22, 1979. I would have voted "yes."

Rollcall No. 161. H.R. 4011. Small Business Administration. Marriott amendment to limit applications for the Small Business Development Center pilot program to States or State agencies; require existing SBDC's to refer applicants to private consultants when applicable; and establish State advisory boards to monitor the program. May 22, 1979. I would have voted "yes."

Rollcall No. 162. H.R. 4011. Small Business Administration. Hinson amendment to lower interest rates on homeowner loans to 1 percent on the first $10,000 borrowed and 3 percent on amounts between $10,000 and $55,000. May 22, 1979. I would have voted "yes."

Rollcall No. 163. H.R. 4011. Small Business Administration. Passage of the bill to authorize $5.3 billion for Small Business Administration programs for fiscal 1980–82. May 22, 1979. I would have voted "yes."

Rollcall No. 164. House Concurrent Resolution 107. Fiscal 1980 budget target. Giaimo motion to approve the conference version of the resolution revising binding fiscal 1979 budget totals and setting fiscal 1980 targets as follows: For 1979: $559.2 billion in budget authority, $494.45 billion in outlays, $461 billion in revenues, and a $33.45 billion deficit; for 1980: $604.05 billion in budget authority, $532 billion in outlays, $509 billion in revenues, and a $23 billion deficit. May 23, 1979. I would have voted "no."

Rollcall No. 165. H.R. 10. Rights of the institutionalized. Passage of the bill to authorize the U.S. Attorney General to initiate lawsuits in Federal courts to safeguard the rights of persons confined in State prisons, mental institutions, and nursing homes. May 23, 1979. I would have voted "yes."

Rollcall No. 166. H.R. 3914. District of Columbia Metro construction. Passage of the bill to remove the authorization ceiling for funding the District of Columbia share of construction costs for the Capital area subway system, Metro. May 23, 1979. I would have voted "yes."

Rollcall No. 167. H.R. 3404. Treasury draw authority. Adoption of the rule providing for House floor consideration of the bill to extend the authority of the Treasury to obtain cash to meet short-term needs. May 23, 1979. I would have voted "yes."

Rollcall No. 168. H.R. 3404. Treasury draw authority. Passage of the bill to extend for 2 years the authority of the Treasury to obtain cash to meet short-term needs. May 23, 1979. I would have voted "yes."

Rollcall No. 170. House Concurrent Resolution 107. Fiscal 1980 budget target. Giaimo motion to concur in the Senate amendment to the budget resolution to revise binding fiscal 1979 budget totals and set fiscal 1980 targets as follows: For 1979: $559.2 billion in budget authority, $494.45 billion in outlays, $461 billion in revenues, and a $33.45 billion deficit; for 1980: $604.4 billion in budget authority, $532 billion in outlays, $509 billion in revenues, and a $23 billion deficit. May 24, 1979. I would have voted "no."

Rollcall No. 171. S. 869. Ethics in Government Act amendments. Adoption of the rule providing for House floor consideration of the bill to provide certain clarifications of the 1978 Ethics in Government Act. May 24, 1979. I would have voted "yes."

Rollcall No. 172. S. 869. Ethics in Government Act amendments. Eckhardt substitute amendment, to the Kindness amendment, to restrict former high-level Federal employees for 2 years from assisting in representing anyone before their previous agencies and to limit the automatic coverage of the 1-year ban on contacting a former agency to former executive-level employees. May 24, 1979. I would have voted "no."

Rollcall No. 173. S. 869. Ethics in Government Act amendments. Passage of the bill to clarify and soften restrictions on post-Federal-Government employment. May 24, 1979. I would have voted "yes."

Rollcall No. 174. S. 7. Veterans' health care. Adoption of the conference report on the bill to establish a new program of psychological counseling and other readjustment assistance for Vietnam-era veterans, make changes in other veterans' health care programs and require approval of congressional Veterans' Affairs Committees before funds could be appropriated for major Veterans' Administration medical facility construction, renovation or leasing. May 30, 1979. I would have voted "yes."

Rollcall No. 175. H.R. 4035. Special Egyptian-Israeli aid. Passage of the bill to authorize $4.8 billion for fiscal 1979 in special economic and military assistance to help Egypt and Israel implement the Middle East peace treaty. May 30, 1979. I would have voted "yes."

Rollcall No. 176. H.R. 2575. Department of Defense fiscal 1979 supplemental authorization. Dellums amendment to prohibit further development of the MX missile and of its basing system. May 31, 1979. I would have voted "yes."

Rollcall No. 177. H.R. 2575. Department of Defense fiscal 1979 supplemental authorization. Bedell amendment to prohibit further development of a specific basing system for the MX missile unless the Secretary of Defense certified to Congress that it was "consistent with national security interests." May 31, 1979. I would have voted "yes."

Rollcall No. 178. H.R. 2575. Department of Defense fiscal 1979 supplemental authorization. Passage of the bill authorizing $1,321,900,000 in supplemental funds for programs of the Department of Defense in fiscal 1979. May 31, 1979. I would have voted "no."

Rollcall No. 179. H.R. 4015. Veteran Senior Citizen Health Care Act. Satterfield motion to suspend the rules and pass the bill to establish demonstration centers of geriatric research, education, and clinical operations within the Veterans' Administration. June 5, 1979. I would have voted "yes."

Rollcall No. 180. H.R. 3875. Housing and community development amendments. Ritter amendment to transfer $200 million from the authorization for the urban development action grant program to the community development block grant program, June 5, 1979. I would have voted "yes."

Rollcall No. 181. H.R. 3875. Housing and community development amendments. Neal amendment to make up to 20 percent of urban development action grant funds available to cities and urban counties that have at least one area of severe poverty. June 5, 1979. I would have voted "yes."

Rollcall No. 182. H.R. 3875. Housing and community development amendments. Boner amendment to extend eligibility for urban development action grants to any urban county that contains at least one area of severe poverty and had a population of at least 50,000 persons prior to 1960. June 5, 1979. I would have voted "no."

Rollcall No. 183. H.R. 3464. SSI disability benefits. Passage of the bill to provide incentives to encourage disabled recipients of supplemental security income benefits to return to work. June 6, 1979. I would have voted "no."

Rollcall No. 184. H.R. 4289. Fiscal 1979 supplemental appropriations. Fish amendment to provide an additional $125 million for discretionary capital grants for urban mass transportation. June 6, 1979. I would have voted "no."

Rollcall No. 185. H.R. 3875. Housing and community development amendments. Ashley motion that the House resolve itself into the Committee of the Whole to consider the bill to amend and extend various Federal housing programs. June 6, 1979. I would have voted "yes."

Rollcall No. 186. H.R. 3875. Housing and community development amendments. Hansen amendment to eliminate Davis-Bacon prevailing wage requirements for Indian housing and for residential housing rehabilitation projects carried out by neighborhood nonprofit organization. June 6, 1979. I would have voted "yes."

Rollcall No. 187. H.R. 3875. Housing and community development amendments. Ashley motion that the House resolve itself into the Committee of the Whole to consider the bill to amend and extend various Federal housing programs. June 7, 1979. I would have voted "yes."

Rollcall No. 188. H.R. 3875. Housing and community development amendments. Panetta amendment to reduce paperwork by compiling, and subsequently consolidating and simplifying, forms used in Federal housing programs. June 7, 1979. I would have voted "yes."

Rollcall No. 189. H.R. 3875. Housing and community development amendments. Duncan amendment to prevent social security cost-of-living increases from being counted as income when calculating rent in assisted housing. June 7, 1979. I would have voted "yes."

Rollcall No. 190. H.R. 3875. Housing and community development amendments. Campbell amendment to delete language authorizing the Secretary of Housing and Urban Development to issue cease-and-desist orders prohibiting the sale or lease of property by a developer who violated the antifraud provisions of the Interstate Land Sales Act. June 7, 1979. I would have voted "yes."

Rollcall No. 191. H.R. 3875. Housing and community development amendments. Passage of the bill to amend and extend various Federal housing programs. June 7, 1979. I would have voted "yes."

Rollcall No. 192. H.R. 2444. Department of Education. Adoption of the rule providing for House floor consideration of the bill to establish a Cabinet-level Department of Education. June 7, 1979. I would have voted "no."

Rollcall No. 193. H.R. 2641. Civil Rights Commission. Adoption of the rule providing for House floor consideration of the bill to authorize $14 million for the U.S. Civil Rights Commission in fiscal 1980. June 8, 1979. I would have voted "yes."

Rollcall No. 194. H.R. 3347. Treasury Department international affairs. Adoption of the rule providing for House floor consideration of the bill to authorize $22.4 million for international affairs functions in the Treasury Department in fiscal 1980. June 8, 1979. I would have voted "yes."

Rollcall No. 195. H.R. 2641. Civil Rights Commission. Sensenbrenner amendment to reduce authorizations for fiscal 1980 for the U.S. Civil Rights Commission to $11,372,000 from $14,000,000. June 8, 1979. I would have voted "yes."

Rollcall No. 196. H.R. 2641. Civil Rights Commission. Passage of the bill to authorize $14 million for the U.S. Civil Rights Commission for fiscal 1980. June 8, 1979. I would have voted "yes."

Rollcall No. 197. H.R. 2374. Olmstead National Historic Site. Passage of the bill to authorize the establishment of the Frederick Law Olmstead National Historic Site in Massachusetts and for other acquisitions in the national park system. June 8, 1979. I would have voted "yes."

Rollcall No. 198. H.R. 3347. Treasury Department international affairs. Passage of the bill to authorize $22,375,000 for international affairs functions of the Treasury Department for fiscal 1980. June 8, 1979. I would have voted "no."

Rollcall No. 199. Procedural motion. Ashbrook motion to approve the House Journal of Friday, June 8, 1979. June 11, 1979. I would have voted "no."

Rollcall No. 200. H.R. 2444. Education Department. Brooks motion that the House resolve itself into the Committee of the Whole for consideration of the bill to establish a Cabinet-level Department of Education. June 11, 1979. I would have voted "yes."

Rollcall No. 201. H.R. 2444. Education Department. Erlenborn amendment to change the name of the proposed department to the Department of Public Education. June 11, 1979. I would have voted "no."

Rollcall No. 202. H.R. 2444. Education Department. McCloskey amendment to establish an independent Office of Education instead of a Cabinet-level department. June 11, 1979. I would have voted "yes."

Rollcall No. 203. H.R. 2444. Education Department. Walker amendment to make one of the purposes of the proposed Education Department to permit daily opportunities for voluntary prayer and meditation in public schools. June 11, 1979. I would have voted "no."

Rollcall No. 204. H.R. 2444. Education Department. Kramer amendment to state the intent of Congress to limit future budget authority of the proposed department to the existing funding for the programs transferred into it, with allowance for annual increases related to rises in the Consumer Price Index. June 11, 1979. I would have voted "yes."

Rollcall No 205. H.R. 2444. Education Department. Ashbrook amendment to state that no provision of law would authorize the proposed Department to require a school district to undertake busing of schoolchildren to achieve racial balance as a condition for receiving Federal assistance. June 11, 1979. I would have voted "yes."

Rollcall No. 206. H.R. 2444. Education Department. Brademas motion that the House adjourn and meet at 11 a.m. on June 12. June 11, 1979. I would have voted "yes."

Rollcall No. 207. Procedural motion. Sensenbrenner motion to approve the House Journal of Monday, June 11, 1979. June 12, 1979. I would have voted "no."

Rollcall No. 208. House Resolution 198. Parren J. Mitchell election challenge. Adoption of the resolution to dismiss the election challenge brought against Representative PARREN J. MITCHELL. June 12, 1979. I would have voted "yes."

Rollcall No. 209. H.R. 2444. Education Department. Brooks motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to establish a Department of Education. June 12, 1979. I would have voted "yes."

Rollcall No. 210. H.R. 2444. Education Department. Walker amendment to add to the purposes of the bill the goal of insuring that no one be denied access to education opportunities because of racial or sexual ratios or quotas. June 12, 1979. I would have voted "yes."

Rollcall No. 211. H.R. 2444. Education Department. Erlenborn amendment to delete from the bill the transfer of Defense Department overseas dependent schools to the proposed Department. June 12, 1979. I would have voted "yes."

Rollcall No. 213. H.R. 2444. Education Department. De la Garza substitute amendment, to the Garcia amendment to establish an Office of Bilingual Education and Minority Languages Affairs in the proposed Department. June 12, 1979. I would have voted "yes."

Rollcall No. 214. H.R. 2444. Education Department. Garcia amendment as amended, to establish an Office of Bilingual Education and Minority Languages Affairs. June 12, 1979. I would have voted "no."

Rollcall No. 215. H.R. 2444. Education Department. Marlenee amendment to provide that the Assistant Secretary for Vocational and Adult Education of the proposed Department establish a unified rural family education program. June 12, 1979. I would have voted "yes."

Rollcall No. 216. H.R. 2444. Education Department. Miller amendment to delete from the bill the transfer of the Rehabilitation Services Administration and National Institute of Handicapped Research to the proposed Education Department and to establish within the Department of Health and Human Services an Assistant Secretary for the Handicapped. June 12, 1979. I would have voted "no."

Rollcall No. 217. H.R. 2444. Education Department. Walker amendment to require that each executive level official appointed in the proposed Department have been a schoolteacher or administrator for at least 18 of the 24 months preceding his or her nomination. June 12, 1979. I would have voted "no."

Rollcall No. 218. H.R. 2444. Education Department. Ashbrook amendment to delete the authority of Assistant Secretary for Civil Rights to collect data relating to civil rights laws, to select employees, and to enter into contracts. June 12, 1979. I would have voted "no."

Rollcall No. 220. H.R. 2444. Education Department. Erlenborn amendment to delete from the bill language authorizing the proposed Department to provide information about education and related opportunities directly to students, parents, and communities. June 12, 1979. I would have voted "yes."

Rollcall No. 221. H.R. 2444. Education Department. Quayle amendment to delete language in the bill providing for five officers in the proposed Education Department with duties to be assigned by the Secretary. June 12, 1979. I would have voted "yes."

Rollcall No. 223. H.R. 4390. Legislative branch appropriations, fiscal 1980. O'Neill motion to order the previous question on adoption of the rule providing for House floor consideration of the bill to appropriate $952,878,400 for the House and related congressional agencies in fiscal 1980. June 13, 1979. I would have voted "no."

Rollcall No. 224. S. 429. Defense Department fiscal 1979 supplemental. Price motion that the conference committee meetings between the House and Senate on the fiscal 1979 Defense Department supplemental authorization bill be closed when classified information was discussed, but that any Member of Congress would be eligible to attend meetings of the conference. June 13, 1979. I voted "yes."

Rollcall No. 225. H.R. 4390. Legislative branch appropriations, fiscal 1980. Murtha amendment to lower to 5.5 percent from 7 percent the ceiling provided in the bill on any salary increase that could be paid during fiscal 1980 to any employee of the Federal or District of Columbia governments whose salary was $47,500 or more as of September 30, 1978. June 13, 1979. I would have voted "yes."

Rollcall No. 226. H.R. 4390. Legislative branch appropriations, fiscal 1980. Erlenborn amendment to reduce to $37,448,260 from $39,418,800 the fiscal 1980 appropriations for House Members' official expenses. June 13, 1979. I would have voted "no."

Rollcall No. 227. H.R. 4390. Legislative branch appropriations, fiscal 1980. Passage of the bill to appropriate $952,878,400 for the House and related congressional agencies in fiscal 1980. June 13, 1979. I would have voted "yes."

Rollcall No. 228. H.R. 4388. Energy and water development appropriations, fiscal 1980. Adoption of the rule providing for House floor consideration of the bill to authorize $10.7 billion for energy and water development programs in fiscal 1980. June 13, 1979. I would have voted "yes."

Rollcall No. 229. H.R. 2444. Education Department. Brooks motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to create a Department of Education. June 13, 1979. I would have voted "yes."

Rollcall No. 231. H.R. 2444. Education Department. Waxman amendment to delete from the bill transfer of health professions and nursing student assistance programs to the proposed department. June 13, 1979. I would have voted "yes."

Rollcall No. 233. H.R. 2444. Education Department. Jeffords amendment to transfer job training programs under titles II, III, and IV of the Comprehensive Employment and Training Act to the proposed Department. June 13, 1979. I would have voted "yes."

Rollcall No. 234. H.R. 2444. Education Department. Harkin amendment to delete from the bill the transfer of science education programs from the National Science Foundation to the proposed Department. June 13, 1979. I would have voted "yes."

Rollcall No. 235. H.R. 2444. Education Department. Dickinson amendment to delete from the bill transfer of the employees of the overseas military dependent schools of the Department of Defense to the proposed Education Department. June 13, 1979. I would have voted "yes."

Rollcall No. 236. H.R. 2444. Education Department. Kildee amendment to delete from the bill transfer of Indian education programs from the Bureau of Indian Affairs to the proposed Department. June 13, 1979. I would have voted "yes."

Rollcall No. 237. H.R. 2444. Education Department. McClory amendment to delete from the bill transfer of criminal justice education programs from the Law Enforcement Assistance Administration to the proposed Department. June 13, 1979. I would have voted "yes."

Rollcall No. 238. H.R. 2444. Education Department. Goodling amendment to add to the bill transfer of Head Start programs to the proposed Department. June 13, 1979. I would have voted "yes."

Rollcall No. 239. H.R. 2444. Education Department. Obey motion to strike the enacting clause of the bill. June 13, 1979. I would have voted "yes."

Rollcall No. 240. H.R. 4388. Energy and water development appropriations, fiscal 1980. Bevill motion that the House resolve itself into the Committee of the Whole for consideration of the bill to appropriate fiscal 1980 funds for energy and water development programs. June 14, 1979. I would have voted "yes."

Rollcall No. 241. H.R. 4388. Energy and water development appropriations, fiscal 1980. Johnson amendment, to the Dodd amendment, to require that expense funds paid by the Federal Government to an intervenor in Federal Energy Regulatory Administration proceedings whose side lost be paid by the intervenor to the respondent. June 15, 1979. I would have voted "yes."

Rollcall No. 242. H.R. 4388. Energy and water development appropriations, fiscal 1980. Dingell substitute amendment, to the Dodd amendment, to set a limit of $550,000 on the amount of funds that could be used to pay the expenses of intervenors. June 15, 1979. I would have voted "no."

Rollcall No. 243. Procedural motion. Ashbrook motion to approve the House Journal of Thursday, June 14, 1979. June 15, 1979. I would have voted "no."

Rollcall No. 244. House Resolution 291. Inquiry on energy situation. Dingell motion to table the resolution to direct the President to provide Members of House with information on crude oil and refined petroleum supplies. June 15, 1979. I would have voted "no."

Rollcall No. 245. House Resolution 291. Inquiry on energy situation. Adoption of the resolution to direct the President to provide Members of the House with information on crude oil and refined petroleum supplies in the United States since January 1, 1978. June 15, 1979. I would have voted "yes."

Rollcall No. 246. H.R. 4388. Energy and water development appropriations, fiscal 1980. Bevill motion that the House resolve itself into the Committee of the Whole for consideration of the bill. June 15, 1979. I would have voted "yes."

Rollcall No. 247. H.R. 4388. Energy and water development appropriations, fiscal 1980. Cavanaugh amendment to delete $6 million from construction funding for the O'Neill unit, in northern Nebraska, of the Pick-Sloan Missouri Basin project. June 15, 1979. I would have voted "no."

Rollcall No. 248. H.R. 4388. Energy and water development appropriations, fiscal 1980. Brown amendment to delete $5.3 million in construction funding for a desalinization plant near Yuma, Ariz. June 15, 1979. I would have voted "no."

Rollcall No. 249. House Resolution 321. Southeast Asia refugee crisis. Adoption of the resolution to express the sense of the House of Representatives that the President should urge the Secretary General of the United Nations to take appropriate measures to deal with the needs of refugees fleeing from Indochina. June 18, 1979. I would have voted "yes."

Rollcall No. 250. H.R. 4388. Energy and water development appropriations, fiscal 1980. Glickman amendment to add $5 million to appropriations for the Nuclear Regulatory Commission for onsite inspectors at nuclear powerplants. June 18, 1979. I would have voted "yes."

Rollcall No. 251. H.R. 4388. Energy and water development appropriations, fiscal 1980. Kostmayer amendment to delete language in the bill restricting to licensing operations the duties of additional employees of the Nuclear Regulatory Commission, thus giving discretion to the Commission for assigning responsibilities of the new employees. June 18, 1979. I would have voted "yes."

Rollcall No. 252. H.R. 4388. Energy and water development appropriations, fiscal 1980. Weaver amendment to prohibit use of Nuclear Regulatory Commission funds for issuance of operating licenses for a nuclear powerplant in a State which had not submitted an emergency evacuation plan to the NRC. June 18, 1979. I would have voted "no."

Rollcall No. 253. H.R. 4388. Energy and water development appropriations, fiscal 1980. Passage of the bill to appropriate $10,685,930,000 for fiscal 1980 operations of the Energy Department, Army Corps of Engineers, Interior Department, Bureau of Reclamation, and seven independent agencies and commissions. June 18, 1979. I would have voted "yes."

Rollcall No. 254. H.R. 4391. Military construction appropriations, fiscal 1980. Passage of the bill to appropriate $3,481,991,000 for military construction programs of the Defense Department for fiscal 1980. June 18, 1979. I would have voted "no."

Rollcall No. 255. H.R. 4387. Agriculture appropriations, fiscal 1980. Whitten motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to appropriate $16,700,000,000 for fiscal 1980 for the Department of Agriculture. June 18, 1979. I would have voted "yes."

Rollcall No. 256. H.R. 4387. Agriculture appropriations, fiscal 1980. Passage of the bill to appropriate $16,700,815,000 in fiscal 1980 for the Agriculture Department and related agencies. June 19, 1979. I would have voted "yes."

Rollcall No. 257. House Resolution 239. Petroleum reserve exploration. Adoption of the resolution to disapprove the administration's plan not to spend $1,792,000 for exploration and drilling for oil in the national petroleum reserve in Alaska. June 19, 1979. I would have voted "yes."

Rollcall No. 258. H.R. 2444. Education Department. Brooks motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to establish a Department of Education. June 19, 1979. I would have voted "yes."

Rollcall No. 260. H.R. 2444. Education Department. Fascell amendment to prevent the proposed Department, during the first 8 months of its existence, from withholding funds from a State because of failure to comply with legal requirements for operating certain programs through a single organizational unit. June 19, 1979. I would have voted "yes."

Rollcall No. 261. H.R. 2444. Education Department. Walker amendment to require the proposed Department to inform local education agencies of proposed regulations and to withdraw the regulations if a majority of the agencies stated in writing that they opposed them, except for regulations concerning civil rights. June 19, 1979. I would have voted "yes."

Rollcall No. 262. H.R. 111. Panama Canal Treaties implementation. Murphy motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to provide for the operation and maintenance of the Panama Canal and to implement the Panama Canal treaties approved in 1978. June 20, 1979. I would have voted "yes."

Rollcall No. 263. H.R. 111. Panama Canal treaties implementation. Bethune motion to strike the bill's enacting clause, and thus kill the treaty implementing legislation. June 20, 1979. I would have voted "no."

Rollcall No. 264. H.R. 111. Panama Canal treaties implementation. Murphy amendment to the Hanley amendment, to restore the original language in the bill providing for special retirement, pay, and other benefits to U.S. Panama Canal employees. June 20, 1979. I would have voted "yes."

Rollcall No. 265. H.R. 111. Panama Canal treaties implementation. Biaggi amendment to prohibit the annual payments to Panama called for under the 1978 canal treaties unless Panama settled all outstanding expropriation claims by American companies. June 20, 1979. I would have voted "yes."

Rollcall No. 266. H.R. 111. Panama Canal treaties implementation. Murphy amendment to the Hansen amendment to restore the original language in the bill dealing with annual payments to Panama from canal revenues, property transfers to Panama and U.S. costs in implementing the 1978 canal treaties. June 20, 1979. I would have voted "yes."●

GASOLINE RATIONING—NOW

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. McCLOSKEY. Mr. Speaker, of the 462,000 people I represent, the most perceptive analyst of United States and world energy supplies and trends is Laut R. Wade of Menlo Park. Mr. Wade recently ventured some thoughts on the need for immediately rationing liquid fuels which I find both persuasive and worthy of consideration by our House colleagues:

GASOLINE RATIONING—NOW

If gasoline rationing had been started in 1974, when the first gasoline lines appeared, how different our economic situation would be today. The dollar would still be strong, and inflation would not be the menace it is. That the United States had to reduce its non-essential consumption of energy has been known for years. The gasoline shortage that is now upon us is not something that is going to go away in a few months, or even years; liquid fuels for transportation usage could be in short supply for the balance of the century. Too late though it is, we must have gasoline rationing—now. All that is open to debate is the system to be selected.

Leading the parade of warning signals has been our inability to discover as much crude oil as we have produced; in only 3 of the 34 years since the end of World War II did additions to our reserves exceed our withdrawals from them. At the end of 1970 our proven liquid hydrocarbon reserves—crude oil and natural gas liquids—amounted to 44,656,000,000 barrels; at the end of 1978 they were down to 31,917,000,000 barrels. In the past 8 years alone we withdrew from our reserves 12.7 billion barrels more than we added to them.

In the first half of the 20th century the United States was a net exporter of crude oil and petroleum products. In 1948 we became a net importer; that was 31 years ago. In 1978 we imported 2,266,000,000 barrels of crude oil and 723,000,000 barrels of petroleum products, for a total of 2,989,000,000 barrels at an average cost of around $14 per barrel. We should not have imported so much petroleum, which means we should not have used so much; it accelerated the depreciation of the U.S. dollar and the domestic rate of inflation.

Natural gas was first discovered in the United States in 1821, crude oil in 1859. For 158 years we have been exploring for hydrocarbons. Over 2,600,000 holes have been drilled into the crust of the earth, some almost 6 miles deep, inside our territorial boundaries. Most of the onshore sedimentary basins, in which hydrocarbons may be found, have been pretty thoroughly tested.

All but a small part of our proven hydrocarbon reserves were discovered and declared commerical when crude oil sold for under $3.50 per barrel at the wellhead, and natural gas sold for under 20c per thousand cubic feet. Since 1974 there has been no lack of price incentive to explore; there is presently no limit on what can be charged for newly discovered crude oil, and the permitted selling price has been over $10 a barrel for years. As a result there has been no lack of exploratory effort, all available drilling rigs having been active for some time. The number of exploratory wells drilled, and the total exploratory footage drilled, have increased over 50% since 1973.

Despite this, in 1978 only around 200 million barrels of oil were discovered in new fields while we were drawing down our reserves by 3 billion barrels. Most of our additions to reserves in that year were from known accumulations, the higher prices prevailing making additional volumes economically recoverable. The plain truth is that, outside Alaska, we have not been making many big discoveries for several decades. Our only real hope for such in the future is in Alaska or offshore, the very areas where environmental groups oppose any exploration or production.

Primary energy exists in three forms—solid, gaseous and liquid. In the United States liquid hydrocarbons have been accounting for close to half of our total energy consumption. We have reserves of solid energy adequate for centuries, and we can manage our supplies of gaseous energy; our problem is centered on liquid hydrocarbons of which we have been using 6,800,000,000 barrels annually.

Around a quarter of the energy we use is consumed in the transportation sector. Essentially all the fuels used for transportation are liquids. All but a minor proportion of these are petroleum products—gasoline, diesel oil, jet fuels, bunker C etc.—manufactured from crude oil and natural gas liquids, commodities in short supply worldwide as well as in the United States.

The four basic necessities are food, clothing, shelter and gasoline. When a shortage of necessities develops no civilized society allows price to do the rationing. Some system insuring that all who need gasoline get their minimum essential requirement at a fair price must be selected. In the sellers' market which exists in gasoline today each handler is charging what the traffic will bear, or whatever the legal maximum is, at each stage of production and distribution, which is pacing the rate of inflation afflicting everyone. The only way to end a sellers' market is to bring demand down to the level of supply, which is what rationing does. It should bring a sizeable dip in the prices of all liquid fuels, and the cost of transportation of goods and people, once a system becomes fully effective.

The "white market" gasoline checking system, widely discussed during the 1974 shortage, appears to be the most efficient of any rationing proposals. It utilizes a network already in place and offers the best hope of minimizing cheating and underworld activities.

First, the government makes a determination of the amount of crude oil and petroleum products that will be imported, based upon the availability of imports and the condition of the nation's balance of payments.

Second, the government sets a target for the production of all liquid fuels used for transportation, based on the total feedstocks that will be available from domestic production and imports.

Rationing of diesel fuel, aviation fuels etc. would be separate from gasoline rationing.

The available gasoline is divided into the two pools—one for essential uses and one for non-essential uses.

The non-essential pool is allocated pro rata among all those with a social security number, regardless of whether they own a motor vehicle, power boat, airplane or any other gasoline driven machinery. Allotments would probably be calculated quarterly. Today recipients of social security payments can have their payments made directly to the financial institution of their choice. This would have to be mandatory with gasoline credits in order to avoid abuse of the system.

Financial institutions would issue check books for gasoline accounts similar to those for dollar deposit accounts; in addition to carrying name and address gasoline checks would show driver's license number and the license plate numbers of vehicles likely to be driven.

On paying for gasoline the purchaser would concurrently write out a check for the gallonage and give it to the retailer. The total of his gasoline checks would determine how many gallons the supplier could deliver to the retailer, and the checks would be turned over to him. The supplier would then turn his gasoline checks over to his financial institution which would put them in the same clearing house system now used for money checks. Severe penalties for overdrafts would probably include the lifting of a driver's license in the event of repeated violations. At the start some cheating is doubtless inevitable, but with vigorous enforcement this should in due course become minimal.

A completely free market in gasoline checks would exist, with everyone free to buy or sell gasoline checks at any price. Financial institutions would make a market in gasoline checks, and a broker's profit for doing so. They would issue cashier's gasoline checks to buyers rather than hand endorsed checks over to their customers. Assuming the unit used in allocation was 10 gallons, financial institutions would also make change in 1 gallon and 5 gallon cashier's checks.

The pool for essential uses would be divided into "business" and "personal." Presumably most businesses would have a record of their past gasoline consumption which could be used as one basis for allocations. Businesses, as well as individuals, would be free to trade in the white market although it might prove to be necessary to establish some limits.

The major task would obviously be establishing the minimum essential gasoline needs of each of those in the personal pool. Obviously minimum requirements would have to be under the cognizance of local boards. The friction that would inevitably be generated should be minimized by the safety valve in the existence of a free market in gasoline checks; the basic ration would not be the limit of the amount of gasoline available to the individual if minimal needs proved to be greater than the assigned amount.

Since gasoline rationing will be a way of life for many years this system should in due course shake down and provide as equitable a distribution as is humanly possible. The coupon system, used during World War II, was widely abused and is not a viable alternative; there were no computers then, and only a computer system in being makes possible a gasoline checking system.

Any rationing system involves more paperwork and a larger bureaucracy; this price is small when compared with the alternative—billions of man hours spent in gasoline lines, sporadic violence and the unacceptable burden that would be loaded on the lower income groups if no rationing system existed. As the Caterpillar advertisements proclaim: "There are no simple solutions. Only intelligent choices."

We are not running out of energy. We have run out of time.

All of our natural resources—not just oil and gas—are finite except for renewable resources such as plants and animals. The hydrocarbons the world has been consuming so voraciously over the past century and a half were accumulated over a period of around 500,000,000 years, being largely energy from the sun captured by the leaves of plants over this interval. Some day our annual energy consumption will be limited to the amount of the sun's energy that we capture in that year, but that day will be many generations away.

We do not know precisely the quantity of hydrocarbons remaining in the earth's crust, nor what percentage of what remains we will be able to recover. Enormous new reserves will be found while improved technology will permit greater recovery from known reserves, but we will still be short of cheap conventional hydrocarbons.

We will develop new sources of energy, but the lead times can run upwards of 10 years. The time to have started a crash program was 10 years ago. Some members of Congress attempted to get a National Energy Policy established as early as 1970.

A program—Project Independence—was presented to the Congress in 1974. Not until the closing days of 1978 did the first step toward a comprehensive National Energy Plan get on the statute books on the federal level. The history is one of neglect, not of lack of information.

The longer we delay getting an efficient gasoline rationing system in place the more seriously our economy and our personal lives will be disrupted when it is finally forced on us in desperation. Rather than signaling the end of our lifestyles rationing is the only means of maximizing their duration. Even if we have to limit our consumption of liquid energy for an extended period it would still be possible for us to increase our total energy consumption.

Everyone has a stake in minimizing the transitional gap. Even after a consensus has been established as to how we should ration gasoline it will take months for any system to become operational. Already no scheme could be effective before 1980. The decision to ration gasoline must be made—now.●

A TRIBUTE TO THE CALIFORNIA ANGELS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. PATTERSON. Mr. Speaker, last night a dramatic event in the history of Orange County, Calif., occurred when the California Angels baseball team captured the American League Western Division championship. The Angels, who make their home at Anaheim Stadium, in Anaheim, have withstood the rigorous pressures of a close and sustained pennant race, and have proven themselves worthy champions. The Angels also demonstrated a surprising depth of talent as they suffered injuries to several key players during the season.

Certainly a large degree of tribute should be paid to Gene Autry, the colorful owner and chairman of the board of the Angels who fulfilled his promise to mold a championship team. Also, my friend, A. E. "Red" Patterson, assistant to the chairman of the board of the Angels, and general manager E. J. "Buzzie" Bavasi deserve high praise for their skill and determination to make the Angels a real winner.

But more than anything else, I believe the manager, coaches, and team members deserve the most credit for the Angels remarkable achievement, and I would like to cite their names for you today:

Jim Fregosi, manager; Bob Clear, Jimmie Reese, Larry Sherry, Bobby Knoop, Darren Johnson, Willie Aikens, Jim Anderson, Don Baylor, Bert Campaneris, Rod Carew, Bobby Clark, Willie Davis, Tom Donohue, Brian Downing, Dan Ford, coaching staff.

Rolph Garr, Bobby Grich, Larry Harlow, Carney Landsford, Rick Miller, Rance Mulliniks, Merv Rettenmund, Joe Rudi, Dickie Thon, Don Aase, Mike Barlow, Jim Barr, Ralph Botting, Mark Clear, Dave Frost, Chris Knapp, Dave LaRouche, John Montague, Nolan Ryan, Frank Tanana, team roster.

With all due respect to my colleagues from Baltimore, I would like all of you to join me in honoring the California Angels and wish them luck in the upcoming playoffs.●

ANDY CUNNINGHAM MARKS HIS 40,000TH RACE CALL

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. STANTON. Mr. Speaker, it was recently brought to my personal attention that on the evening of October 4, 1979, Mr. Andy Cunningham will mark his 40,000th race call at Northfield Park in Northfield, Ohio.

Andy Cunningham is a living legend in the United States in this profession. He has been associated with the sport of racing, both thoroughbreds and harness, for 49 years. During this period he has worked at 19 tracks in 7 different States. Throughout the years, he has been honored by Governors, mayors, and other officials for his outstanding contributions to this sport.

Several years ago, Gov. James A. Rhodes of Ohio presented a plaque to him changing his title from Golden Voice of Racing to Golden Voice of Safety. This was due to the fact that Andy Cunningham had contributed his time and many talents to the subject of highway safety in the State of Ohio.

On this coming Thursday evening, Mr. Cunningham will be honored after the eighth race for reaching this milestone in his career. I wish to take this opportunity to extend my personal congratulations to Andy Cunningham. Our association covers a span of 31 years since I met him at the Painesville Raceway in Painesville, Ohio shortly after World War II.

Mr. Speaker, I know that my many colleagues here in the House join me in extending to Andy Cunningham every best wish for many more years as the Golden Voice of Racing. He is the type of person that has made harness racing one of the finest sports in the world.●

CLEAR CHANNEL STATION WSM PROVIDED VITAL HURRICANE INFORMATION

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. GORE. Mr. Speaker, clear-channel radio stations have been essential to providing valuable broadcasting services to millions of Americans since this country's broadcasting system was established 45 years ago. Clear channel stations, like WSM in Nashville, are particularly important to people living in those small towns and rural areas where local radio service is either limited or nonexistent.

Currently, the Federal Communications Commission is considering a proposed rule to limit the broadcast coverage of clear channel stations. I believe this is a very shortsighted proposal. It would deprive many Americans in underserved areas of important programing—news, weather, agriculture reports, highway information, and the like—which cannot be provided by small, local radio stations. The loss of this service under the FCC proposal would allow the creation of a very small number of new AM radio stations but, incredibly, 50 percent of the land area of the United States would be deprived of all night-time radio signals.

For that reason, I have supported an alternative proposal to narrow the spacing on the AM band between radio stations in order to create new opportunities for local radio service. I believe this proposal is both technically and economically feasible for the broadcasting industry. It could result in the creation of several hundred new radio stations in the United States without restricting the broadcast coverage of existing clear channel stations, and without depriving rural Americans of night-time service.

One of the questions which the FCC is studying is whether or not clear channel stations provide public service programing to the distant areas where their signal reaches. Earlier this month, when Hurricane David swept along the coast of the southeastern United States, clear channel station WSM broadcast vital information on the location of the hurricane to thousands of listeners in Georgia and South Carolina. Even though WSM's studios in Nashville were hundreds of miles away from the storm, the radio station's management instantly recognized their obligation to provide the people of their coverage area with this important information.

I think WSM's experience gives an important perspective on the FCC proposal and will be useful as the Congress considers legislation, such as H.R. 1913, introduced by my colleague from Tennessee, Congressman BONER, which I am cosponsoring, to prevent the FCC from cutting back the clear channel stations. A columnist for the Athens, Ga., Daily News, has written about the importance of WSM's service to the people of Georgia. I insert his remarks at this point:

[From the Athens (Ga.) Daily News, Sept. 6, 1979]

SAVANNAH: WSM TO THE RESCUE

(By Billy Dilworth)

SAVANNAH.—Thousands in Savannah brought out candles Tuesday night and they had not eaten by candlelight in years. For some, it was a first.

Mrs. Anne Palmer of Van Nuys Boulevard had been without electricity since 6 a.m. when the forerunner of Hurricane David brought down power lines and decommissioned water lines and a state of emergency existed.

"All we got down here is rain and high winds and they reached 90 miles an hour at the beach 15 miles away," she told us.

"The one comforting thing is WSM Radio in Nashville," she expressed. "I'm listening to Chuck Morgan now and they've got a good signal. All the Savannah radio and TV stations are off the air, except one, and it's broadcasting a baseball game, would you believe?"

Within another 10 minutes, Chuck Morgan was proclaiming the powerful 50,000-watt Nashville station as "Your Hurricane Watch Station."

We gave Chuck a live report on the air at eight minutes before midnight and talked about 15–20 miles per hour winds in Northeast Georgia and we read a dispatch just in from the National Weather Service in Athens regarding thunderstorm activity between Thomson, Ga., and Central, S.C.

Chuck seemed impressed his station was indeed getting multi-thousands of listeners along the storm's path.

At 12:20 a.m., a lady called in from Townsend, Ga., between Brunswick and Savannah, and told how the edge of Hurricane David knocked out lights and caused all sorts of havoc on Tybee Island. She related how Tybee's police chief was critically injured in a head-on crash "while he was doing his job."

WSM was rolling with the storm.

At 12:49 a.m., a call came into Chuck's studios from a listener in Beaufort, S.C., where the main thrust of the storm struck just hours before.

An automobile salesman, who appeared to be quite knowledgeable, told the radio audience how the force of 60 and 70 mph winds tossed many objects around like matchsticks and how water was covering the streets and affecting condos and the like on exclusive real estate patches like Fripp Island and Hilton Head miles below.

The Beaufort caller explained that Interstate 16 was "in bad shape and not many people are traveling" and told how the town of Hardeeville, near Savannah, was struck just before the winds and the rains moved across Beaufort.

The Chuck Morgan Show was on the move.

Later, as the night wore on, the storm moved on and Hairl Hensley, who mans the early morning shift at WSM, took over where Chuck left off.

"We had calls from the people at Myrtle Beach who had no radio contact of their own and were listening to us," Hensley explained in a telephone call at his home Wednesday afternoon. "I think it was good that we were able to help and feed all the information available."

Calls bounced in from people from throughout the storm's path and the good news was that no one had been killed—as of that moment.

The good news from the bad-news storm, which will go down on record as a giant killer because of the Dominican Republic, is that WSM Radio in Nashville, Tenn., demonstrated beyond a shadow of a doubt Tuesday night that clear-channel stations are just as vital in 1979 as they were during World War II days in the 1940s.

Len Hensel, station manager, Al Voecks, program director, and Opry manager Hal Durham ought to be proud of their station and their staff.

Some people slept a lot better Tuesday night because they knew what was going on.

And knowledge, either garnered through storms or illness, helps a lot.

"Storms Never Last, Do They, Baby?" was a giant record for beautiful Jessi Colter. It must have been played a thousand times on WSM.

Tuesday night, the song was more than an exercise or a ritual.

Thankfully, because of WSM and the good Lord and the elements, it ended just like Jessi said.●

THE INCREASED NEED FOR CRUDE OIL CONTROLS

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. MOFFETT. Mr. Speaker, I would like to call my colleagues' attention to the following article which appeared in the Washington Star on September 25.

The Department of Energy has found that decontrolled domestic oil is selling at prices significantly higher than the OPEC ceiling. Newly discovered oil in July, for instance, sold for an average of $26 a barrel, compared to the cartel ceiling price of $23.50 and the average imported price of $23.07. It is $8 per barrel less than the administration predicted in May.

This information indicates quite clearly that earlier estimates of the cost of oil decontrol are quite low since they were based on domestic oil rising to OPEC levels instead of surpassing them as has occurred. For example, the Congressional Budget Office study projecting increased producer revenues of $209.7 billion between 1979 and 1985 was based on a projected price of $23.50, a price already exceeded by decontrolled domestic oil.

I urge my colleagues to consider the added costs to the economy from decontrol in light of this information and to support efforts to restore consumer protection devices through crude oil decontrol.

The article follows:

SOME DECONTROLLED U.S. OIL MORE COSTLY THAN OPEC'S

(By Ross Evans)

Uncontrolled domestic oil prices have been rising significantly faster than the cost of imports, new Energy Department figures show, and some U.S. oil is now among the most expensive in the world.

Much of the decontrolled U.S. oil is of a higher, more expensive quality than the import average. But that difference alone apparently is not enough to account for the margin above the world price, government economists said.

The figures, released yesterday, plot an uncertain trend that could raise the stakes of President Carter's plan to decontrol all U.S. oil. They undermine a common assumption in the debate over decontrol—that domestic prices would rise to the world level set by OPEC—by showing that U.S. prices can go even higher.

From May to July, as the latest round of official OPEC price increases began to take effect, the actual cost of imports to U.S. refiners rose 22 percent. The average cost of domestic oil already free of controls, about one-third of U.S. production, went up 30 percent in the same period.

Some categories of U.S. crude were priced several dollars over the highest official world prices. So-called "newly discovered" oil, which Carter decontrolled as of June 1, cost U.S. refiners almost $26 a barrel, nearly $3 more than the average import cost and about $8 more than the administration predicted in May.

Energy Department analysts said the gap that appeared in June and July, the most recent months for which figures are available, apparently stems from a recent and puzzling development in world oil trading.

Prices and activity on the volatile world "spot market," where oil is traded freely without ties to contract prices, have gone up and stayed up since early summer. The spot market, where prices have been running about $12 a barrel above official contracts, now accounts for about 10 percent of world oil trades.

The result, one department economist noted, has been the creation of a "two-tier" world market. Prices for much of the decontrolled domestic production "seem to split the difference" between the two world prices, he said, instead of settling at the official world level.

The July figures show that the "newly discovered" oil Carter decontrolled June 1 was the most expensive class of oil purchased by U.S. refiners.

That oil cost refiners, and ultimately consumers, $25.87 a barrel, nearly twice the $13.76 it would have brought without decontrol and close to $3 above the $23.07 average paid for imports.

In decontrolling "newly discovered" oil, which means oil from fields already found but not producing during 1978, the administration predicted in May that it would bring a "market price" of only $18 a barrel this year.

That estimate, based on projections of OPEC prices, turned out to be low partly because the oil cartel soon raised its prices much higher than predicted. The gap was widened further, however, because the domestic price rose even faster than OPEC's.

"Newly discovered" oil still accounts for a small amount of U.S. production, 1.2 percent in July at a rate of 94,000 barrels a day. Thus the $12-a-barrel increase allowed by decontrol so far averages out to only about 0.17 cents per gallon in the cost of oil products passed through to consumers.●

THE CRISIS OF WESTERN CIVILIZATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. McDONALD. Mr. Speaker, one of the clearest thinkers of this century is Percy Greaves, an economic consultant, writer, and lecturer. He is a long-time student of the greatest economist of our time, Ludwig von Mises and worked as a professor with von Mises.

Mr. Greaves is the author of two excellent books, "Understanding the Dollar Crisis," (Western Islands Publishing), and "Mises Made Easier." He makes a consistent plea against "vulture economics," a defect common in much of the libertarian writings and especially among some precious metal advocates. In short, Percy Greaves makes the point that personal assets become meaningless if individual freedoms are lost and tyranny reigns.

"The Crisis of Western Civilization" by Greaves was first published in Gold Newsletter, volume VIII, No. 5 (May 1979), edited by James Blanchard, III and reprinted in the August 1979 edition of the newspaper, the American. His understanding of historic trends, tragic political subterfuges, and background events make his latest work important reading for my colleagues. His article follows:

THE CRISIS OF WESTERN CIVILIZATION

(By Percy L. Greaves, Jr.)

Since the advent of World War I, the world has been marching into an ever deepening social and economic morass. There have been ups and downs in the trend; but over the last fifty years, inflation and political hamperings of the marketplace have been accelerating at an ever faster pace. Few doubt that trouble lies ahead. A market society is a tough, pliant community, but there is a limit to the abuse it can take. If it is not allowed to mend and correct political devastations every once in a while, it must eventually be suffocated beyond short term resuscitation.

Few informed persons will quarrel with the above statements. Yet few, even among "conservatives," have any realization of the seriousness of the present situation. Many foresee a gloomy period ahead. Some see another 1929. Others see a runaway inflation. Still others foresee deflation and there are even a few who advocate deflation as a correction for our past inflation. The market is flooded with books that attempt to tell their readers how they can save themselves or even profit from the dark days ahead. Many of these contain helpful hints. The wiser authors are cautious when it comes to their detailed recommendations for financial survival or the formation of future fortunes. In most of this "alarming" literature, there is an almost silent implication that the gloomy days ahead are only a dark tunnel through which we must pass safely before we break out into the sunshine of a new and brighter prosperity in which it is assumed private property and market processes will again prosper.

No one knows the future. Every person, every official, every nation is a variable. All such variables can and do change their actions and reactions, often without prior announcement or indication. Human beings, both private citizens and public officials, alter their actions, even their long-planned ones, when they realize that current conditions are not those they had planned or foreseen.

The economy is thus in a constant ferment or turbulence. Few of us can know exactly what the President may propose in his next speech or action. There are strong indications that not even he knows what he will say, do, or propose the week after next. This is largely because he has little or no basic understanding of economics. He is continually surprised by the necessary consequences of prior political interferences. He also seems to be totally unaware of the instantaneous corrections that take place in a free and unhampered market wherein all participants constantly shift their actions to meet the ever-changing demand and supply conditions for millions of goods and services.

Not knowing what officialdom will next propose, we cannot foresee the reactions of the public, the Congress or of foreign governments and their peoples. This increased uncertainty makes it more and more difficult to make personal plans. This unfortunate situation has now been going on ever since those now alive reached maturity. So, by force of circumstances, we have been led deeper and deeper into a dark "forest" where our economic vision grows dimmer and dimmer. We see a lot of politically-planted trees blocking the paths of economic progress. What we see, hear and read in the public media provide only a few rays of light on our present predicament and rarely present the freedom position.

The real catastrophe, which so few realize and take into consideration, is that the free market ideology, on which this country was built, is dead or at least asphyxiated almost beyond revival in our times. Profits earned in the service of our fellow men are considered a public disaster. Successful investors are deemed to be public enemies who must be expropriated by another turn of the tax screw. Every unfortunate development, be is a politically created energy crisis or the higher cost of hospital care, is met by another hampering law, tax or control. Debates center on the form of the political intervention or how many voters must be subsidized to keep the present party in power. Hardly anyone mentions a move toward freer markets or an end to the political manipulation of the quantity of money pumped into the economy.

This revolution in public thought has been growing for more than a century. By 1936, Franklin D. Roosevelt was able to ride the tide to his first reelection. He put off the denouement of the economic failure of the New Deal by taking us into war—a war he financed by the political creation of dollars. Since then, our successful politicians have learned to maintain their popularity by the creation of more and more dollars which, for years, were as good as gold to foreigners or their governments. Since 1971, this has no longer been so. So it is becoming more and more evident to even the more obtuse that the dollar is worth less and less with each passing payday. As a result, there is a greater recognition that something unpleasant is ahead. Each group foresees ruin for its members if its political favors are curtailed. Politicians advocate balanced budgets without any serious suggestions about how it is to be done. Expenditures are sacrosanct and higher taxes on the masses are considered impossible. So we continue to inflate the quantity of dollars our politicians distribute to their favorites.

With each passing election we have more and more helpless persons living on the earnings of fewer and fewer productive families. There are signs we may have passed the point of no return, with the politically privileged outnumbering those who realize they pay the bills. Taxes and inflation have dried up new productive investments. To preserve wealth, savings must be placed in non-productive investments. So the welfare state bubble will have to burst. "Conservatives" are aware of this. Most of them fear a recession or depression. They make their personal plans accordingly, hoping they can weather the storm. Some even hope they can profit from the catastrophe if they pick the right investments at the right time and place.

While no one can foresee the details of what lies ahead, we can, upon reflection, realize it is not just a passing storm of a few months or years from which we shall then emerge into sunny skies. What we face is quite likely a debacle of civilization. The ideology of self-reliance and responsibility that built this country is dead.

When the prior political manipulation of dollars produced the 1929 depression, those who lost their jobs took what work they could find. They canvassed their neighborhoods looking for any kind of work or sold apples on the street corners. Those with jobs helped out their more unfortunate relatives or neighbors. The malinvestments and malemployments built up by the political inflation of dollars had to be corrected. Left alone, the market would have made the necessary adjustments in a reasonably short time. Market pressures would have guided capital and workers to where they were most needed. Under free market conditions, the unsatisfied needs of the public would soon have been met.

Unfortunately, the politicians in power would not permit this painful transition made necessary by the political monetary manipulations of the 1920s. They encouraged people to think the government could compel employers to pay higher than market wages by granting privileges to labor unions and subsidizing the resulting unemployment. Our citizenry has been slowly but surely led to believe the government can prevent depressions (which they actually cause) and that the government can take care of the unemployed until jobs can be created that will pay all workers what they have become encouraged to expect. Labor union members are permitted to demand and obtain wage rates that reduce sales and employment in their industry. Higher than market wage rates for some mean lower than market wages or unemployment for others. Unfortunately, those locked out of the higher paying jobs do not see it that way. They wait for politicians to provide jobs paying higher than free market wage rates. While waiting, they take "unemployment insurance," food stamps and even welfare. Competitive goods are shut out from abroad. Public employees have built-in increases with unbelievable fringe benefits and, in many cases, retirement on half pay after twenty years on the public payroll. Thus, the burden on taxpayers mounts.

REACTION TO CRISIS—DICTATORSHIP AND WAR

Reflect for a moment on the attitude of the beneficiaries of political privileges and subsidies. What will be the thoughts and actions of those on welfare when their checks will no longer support them in idleness? What will be the attitude of the unemployed when government checks will no longer sustain them? What about those living on "social security" or college students supported by taxpayers? What about government employees and retirees? What about those who now fashion the minds of our children in our "public" schools and colleges? What will be the reaction of union members when the welfareless unemployed struggle to compete for their jobs with offers to work for less than union wage rates?

Will millions of privileged citizens accept a peaceful return to free market principles? Or will they demand that politicians seize the wealth of the successful, nationalize industry and provide both jobs and incomes under a dictatorship? What will the teamsters do if every youth or black who can drive a truck tries to compete for their jobs by offering to work for half the rates their unions now extort for their members from consumers via their employing intermediaries?

Reason and history would seem to indicate there may be violence. Reason and history would seem to indicate that an uprising may have to be put down by a force, and that could easily evolve into a dictatorship and a complete police state with controls and rationing replacing market processes and incentives. This is not beyond the realm of possibility.

Look at another possible scenario, one that political leaders have often followed in the past. When domestic problems become too great for them to handle, they direct public attention toward some foreign troubles and then lead us into war. They then ask for unity at home while fastening more inflation and statist controls on a public ready to accept patriotic sacrifices in times of war. Domestic failures are forgotten while the inflation machine operates at high speed and politicians excoriate profiteers. Hitler did it. So did Roosevelt. Truman aped his predecessor. It was the failures of New Deal policies which led Roosevelt to divert public attention by Lend-Lease and two secret ultimatums to Japan and Truman to create a "police action" in Korea. Yet both men are often hailed as "great" Presidents.

Our present administration has several foreign trouble spots it could choose to enter. Most prominent is the Middle East. But there is also the African chaos to which we contributed and the Far East problems we created by forcing Japan to stop her opposition to the Communist infiltration on the Asiatic mainland. Since then, we have been underwriting socialism and communism all over the world.

Since socialist and communist nations are inherently weak economically, these countries are bound to collapse. Few of them could stand without our aid. Should we stop pouring out our billions or should the dollar become worthless, we may become their common enemy. Another world war is not beyond the realm of possibility.

MORE INFLATION AND KEYNESIANISM

We can still hope and pray that we may yet attain economic sanity. Yet there is no sign of it in high places. The Economic Report of the President is built on more inflation and a continuation of the Keynesian mirage that organized workers can be satisfied by a gradual inflation of the quantity of dollars. The President flays and seeks to tax the oil industry which badly needs to be made more attractive to more investors. The Joint Economic Committee of the Congress issued a unanimous report endorsing economic sophistries. So-called "conservatives" are demanding a Constitutional Amendment requiring a balanced budget. Few seem to realize that such budgets are only estimates which can be manipulated at will. Even honest politicians cannot foresee the revenues and expenditures of the future with any reliability. These same "conservatives" do not dare unite on an Amendment which would stop the political creation of dollars, prohibit socialist "transfer payments" or limit the Federal Government's powers to interfere with the productive efforts of our citizens.

Whether it be war or domestic chaos and violence, the chances of a future Hitlerian form of government are strong possibilities. In either case, individual freedom is apt to suffer and it is quite likely that private property will be only nominal at best. The rich or well-to-do will be public enemies and their chances of enjoying their wealth may become similar to those of the successful German Jews when Hitler faced his crisis.

SURVIVAL STRATEGIES

It is all very well to own some gold and junk silver for the intermediate period. It may well prolong your family's survival. It is better yet to have some stores of basic food and a place of refuge far from the maddening crowd. Important as these investments are, personal wealth will be of little use when the market system breaks down and millions become desperate. If we are truly to save ourselves, our children and our grandchildren, we must save the market ideology and sanctity of private property. Without that we will all become helpless. Accumulated wealth will either attract the lawless or a new legal order will take it by political confiscation.

So if we are really interested in surviving the dark days that the political anti-economic measures of the last half-century have made inevitable, we must devote more time, money and effort to saving the market system wherein those who save and invest in productive enterprises are respected and their property protected. Such property can be profitable only if it is used to produce what consumers will voluntarily buy at prices covering costs. If a market system does not arise out of the ashes of a half-century of inflation and political hamperings of enterprise, none of us will be able to live in our own homes safe from the visions of George Orwell's "1984."

There is no way to save ourselves or our wealth without saving the system which produced our past prosperity. This means that more of us must become familiar with the free market principles expounded by the late Ludwig von Mises. Once we have mastered them, we must teach them to our children and all who will listen. For without a more widespread understanding of our dire need for the protection of private property, free market processes and a market selected money (gold), the good ship "United States" will founder and sink in a cold sea in which few can swim to safety.●

SYNTHETIC FUELS TECHNOLOGY FROM THE INDUSTRIAL POINT OF VIEW

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, Dr. Bernard S. Lee, president of the Institute of Gas Technology, recently delivered a speech on synthetic fuels technology from the industrial point of view at a symposium in Denver, Colo.

In those remarks, Dr. Lee emphasized the necessity for the United States to move rapidly ahead in the development of a viable synthetic fuels industry. He pointed out that the true cost of imported oil is really between $40 and $55 per barrel, or about $7 to $9.50 per million Btu. On this basis, practically all of the alternative fuel technologies available and under development would be cost effective immediately.

Dr. Lee also emphasized the importance of developing coal and shale resources in the Eastern United States. He makes a compelling case throughout his speech that the United States can, indeed, develop a substantial synthetic fuels capacity by 1990.

I wish to point out to the House of Representatives that studies by the Institute of Gas Technology helped provide the justification for H.R. 3930, the landmark synthetic fuels legislation passed by the House by a vote of 368 to 25 on June 26.

The text of his speech follows:

SYNTHETIC FUELS TECHNOLOGY FROM THE INDUSTRIAL POINT OF VIEW

(By Bernard S. Lee)

I am very pleased to be back with you today, two years after I addressed this Symposium in July 1977 in Chicago. Technological aspects of instrumentation and control will be well covered in the excellent program and the previous speaker has presented an overview from the government viewpoint of RD&D on fossil fuel technology. Therefore, I will try to examine some of the basic policy and economic issues which will affect the development of synthetic fuels from an industrial viewpoint.

I am dismayed by the lack of a national commitment to develop secure domestic energy supplies. While we sit on huge domestic fossil energy resources which, if utilized, would last us hundreds of years, we continue to allow our nation to suffer the increasing burden of dependence on insecure oil imports.

Despite a gasoline shortage this summer, tight heating oil supply for the coming winter, and the mounting trade deficits, compounded by a hiatus in adding to our refinery capacity and building new power plants, we have yet to see the first shovel in the ground to build commercial synfuel plants based on our nation's bountiful domestic energy resources. While countries with lesser resources have moved and are doing what they can to increase energy supplies, our policymakers are still mired in arguments as to whether synthetic fuels are competitive with imported oil and whether we should wait for solutions that won't cost money or hard effort. Well, there aren't any such free solutions! Many people stir up public opposition by shouting that the President's synthetic fuels program is too costly because of its $88 billion price tag over the period of 1979 to 1990. Yet do these people tell the public that for each million barrels of oil we import per day, and today we import 8 times that, at a constant cost of $20 per barrel, the price to Americans is $88 billion over the same 12-year period? Opponents to synthetic fuels piously point their fingers at the possibility that synthetic fuels development may cost more because of inflation and cost overruns. But do they remind the public that imported oil has not exactly stood still, that it has gone from $14 to $21 per barrel in the first six months of this year alone?

We are not yet in a position to apply marginal cost economics as a criterion for selecting energy options. We can apply marginal cost economics and a free market approach to international trade in television sets, automobiles, steel and machinery, for all of which we have commercial production capability in this country, so that with respect to these commodities we are in a posture of "potential independence" from imports. At any time, if independence on imports becomes unacceptable, we have the full capability of producing these goods domestically. But the same capability has not yet been developed with respect to energy, and until it is, we will have only worsening energy dependence and growing trade deficits and inflation, leading not only to economic chaos but also to a loss of national security.

The importation of oil from OPEC countries does not fall under the rules of a normal free market approach. Not only is the demand just moderately price-elastic, but more importantly, the supply is determined by the production policies of the OPEC members and not by normal economic considerations. Therefore, as the price of oil rises, the supply not only may not increase, but in fact decrease to return the same revenue to the OPEC countries. This trend is already established in the current actions by the OPEC nations of adjusting production to keep the market tight and the price high. Thus, it is totally out of place to use a free-market approach to determine the appropriate time for launching a synthetic fuels industry when there is no free market.

I mentioned a moment ago the widely prevalent belief that synthetic fuels are not competitive with imported oil. This would seem to be true when the posted price of imported oil, say $20 per barrel, is compared with the estimated cost of synthetic fuels, generally in the range of $25 to $50 per barrel oil equivalent. However, the results of preliminary studies carried out at IGT indicate that reasoning based on this relationship is fallacious. We took a look at the major external costs associated with oil imports. Before proceeding, let me define the meaning of role of externalities. When a cost or benefit is incurred by someone other than the producer or buyer, it occurs outside the market transaction and is thus an externality. An external cost occurs when part of the cost of producing or using a good must be paid by someone other than the firm which produced it or the individual who consumed it. Prices, thus do not always reflect all the cost incurred in producing or using a product. For example, manufacturers poured smoke relatively freely into the air when they did not have to pay the cost of environmental cleanup. Externalities create the case for government intervention to either set standards to end the externalities or to set payments on the market transaction such that those who incur external costs are compensated or those who incur external benefits contribute in a market transaction.

The United States in largely the last decade has passed a series of environmental protection laws which have lessened the externalities of indigenous energy supplies. The external costs are now part of the firm's production costs and are reflected in the market price or the direct cost. For example, the price of coal from strip mines now includes a charge to cover the cost of reclaiming the land. Land reclamation has been made part of the firm's costs by public policy. The externalities, in the jargon of the economist, have been internalized. Many new energy technologies such as SNG from coal have had many of the externalities associated with air, water, or land pollution made part of the production costs. Thus, the U.S. has seen the direct cost of these energy sources rise rapidly while the external costs have largely disappeared.

The consumer of imported oil is largely spared the external costs, and the external costs are not felt by the consumer when he makes his market transaction. Thus, the cost of imported oil is lower than if the cost reflected associated externalities of inflation, unemployment, and national risks. This causes a biased cost comparison leading the consumer to overconsume oil imports in much the same fashion that the manufacturer once polluted the air. The United States needs to expand the principle of externalities to include foreign oil imports.

To summarize the study, IGT estimated the externalities of reducing oil imports: improved trade balance, lower oil prices, added real dollar output through decreased dollar leakages to foreign countries and decreased supply disruption costs due to less dependence on imported oil. These externalities, when added to the base cost of the imported oil, indicate a true cost of imported oil between $40 and $55 per barrel, or about $7 to $9.50 per million Btu. On this basis, practically all of the alternate fuel technologies available and under development would be cost effective immediately.

The President has proposed a program to reduce substantially the nation's dependence on oil imports by 1990. The program is ambitious, but, in my opinion, achievable, if the nation approaches this program with a total commitment and mobilization of its human, technical and financial resources. I believe the American people understand the energy crisis and are ready to respond to the challenge of solving the energy problem on a permanent basis through the development of domestic energy resources.

The two mainstays of a realistic energy policy are expanded energy supply and increased energy conservation. The nation needs both. Those who claim that conservation alone can solve the energy problem for the long term mislead the public and do themselves and the nation irreparable disservice.

It is imperative to begin immediately the energy supply options, especially synthetic fuels, because it takes long lead-times plus large capital to develop these options. The gaining of several years of time by concerted action now can more than pay for the cost of development, given the true cost of imported oil and recognition of the fact that it will cost even more in the future.

Although the President's program deals with large-scale commercial deployment of various technologies to achieve a substantial oil import reduction, it is also imperative that well-planned programs for research, development and demonstration be continued to maintain the flow of technological innovations and improvements. The President's program establishes the mechanism for launching the synthetic fuels industry on a broad front. This vital step in no way diminishes, and in fact demands greater emphasis upon, the need for solid research and development to support the massive commercialization effort.

The supply segment of the President's program contains two major elements which I wish to address. These are (1) the development of 2.5 million barrels per day of oil substitutes with liquids and gases from coal, peat, oil shale, biomass and unconventional gas; and (2) the requirements to cut utility consumption of oil by 0.75 million barrels per day.

I have outlined a program that would achieve these targets through two waves of deployment. The first wave consists of deploying several commercial plants using currently available technologies, while simultaneously deploying demonstration plants for a number of advanced technologies to establish their commercial viability. The second wave will then come in the mid-80's for deploying commercial plants based on demonstrated advanced technologies. Those first-wave commercial plants will continue to be feasible because of the cost escalation during the time period while advanced technologies are being demonstrated. These plants will also provide a real reference for production cost, performance and environmental data. The second-wave commercial plants will be more efficient and economical than the first wave and will be the basis for the competitive growth of the synthetic fuels industry.

In my program, I have indicated the number of demonstration and commercial-size plants needed as well as when and where these should be deployed. The number of plants represents the number of commercial-size units. Some locations may support more than one unit. Similarly, a demonstration plant can be expanded to a commercial-size plant at the same site. Specifically:

As to the split between gaseous and liquid fuels, since (1) gaseous fuels can be substituted directly for oil in essentially all stationary applications, (2) gas represents a finished product of high form value, and (3) the cost of gas production is lower than that of liquids, IGT recommends that at least half of the target goal be synthetic gases.

IGT recommends that the fossil resources in the East be strongly emphasized because:

(a) The recoverable bituminous coal resource in the East is at least as great as that of lignite or subbituminous coal in the West, and similarly for Eastern shale relative to Western shale.

(b) Water is much more available in the East.

(c) Markets are much closer to the points of production in the East.

(d) The skilled manpower pool and manufacturing resources are greater in the East.

To fully utilize coal, both high- and medium-Btu gasification plants should be onstream. Medium-Btu gas plants can economically serve industrial users concentrated within a relatively small radius, while high-Btu gas plants can be connected to the existing natural gas transmission and distribution network to serve residential, commercial and industrial users.

In the area of oil shale, the President's target of 0.4 MMB/D oil equivalent by 1990 can be achieved by simultaneously developing shale resources both in the West and in the East to produce both high-Btu gas and liquids. The Eastern shale resources, in addition to being close to the population centers, with much more water availability, have a more favorable shale chemical composition that minimizes leaching, and should be developed via advanced hydrogen retorting technologies.

The President's targets for biomass and unconventional gas appear reasonable.

To achieve a 50% reduction of oil use in utility boilers, a logical approach is to replace oil with clean fuel gas from Eastern coal, since many of these boilers are concentrated in the East. At least half of the President's target should be met by making use of advanced gasification and combined-cycle technology that not only provides clean fuel but also higher efficiency of power generation.

In summary, total synthetic gases, both high- and medium-Btu, to provide oil substitutes and to reduce the use of oil in utility boilers amounts to 1.14 MMB/D oil equivalent by 1990. The total synthetic liquids—from coal, oil shale, and biomass—amounts to 1.0 MMB/D oil equivalent. Table 1 summarizes the 1990 synfuels plant deployment I have outlined. The capital investment, in 1979 dollars, excluding mining investment, would be about $90 billion for synthetic fuels production. This figure is very close to that proposed by President Carter for the Energy Security Corporation.

A massive commitment of financial and human resources will be necessary to carry out this ambitious program. Since time is short, action must start immediately to resolve the regulatory and institutional constraints. A rational and workable balance between environmental and energy goals must be established and maintained. The adversary stance of government and private industry must be reversed to one of mutual cooperation. If we can accomplish these objectives and start developing a synthetic fuels industry, the benefits will increase commensurately with the commitment. The security of energy supply will increase, our national defense posture will be strengthened, the price rise of imported energy will be moderated, and the U.S. can formulate and implement national and international policy free of the constraints imposed by overdependence on foreign energy supplies.

Let me close by citing what Astronaut (now Senator) John Glenn said during an address to a joint session of Congress in 1962: "People are afraid of the future, of the unknown. If a man faces up to it and takes the dare of the future, he can have some control over his destiny. This is an exciting idea to me, better than waiting to see what's going to happen."

We as a nation must take this attitude and make the move to synthetic fuels now.●

A TRIBUTE TO MR. OWEN S. RICE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. LAGOMARSINO. Mr. Speaker, it is my privilege to bring to the attention of my colleagues the retirement of Mr. Owen S. Rice, Santa Maria, Calif., from his position as trustee on the Allan Hancock Joint Community College District Board of Trustees. Vice-president of the district since the early 1960's, Mr. Rice is now completing his 30th year as college trustee. At this moment I would like to publicly praise Mr. Rice for his invaluable contributions to the community of Santa Maria not only in the area of education, but also in the area of agriculture.

The Rice family settled in the Santa Maria Valley in 1868, and Owen Rice has continued to serve its citizens in numerous ways. Involved in agriculture as a rancher and owner of several local food processing plants, Mr. Rice has dedicated years of service to the agricultural industry.

He was president of the California Beet Growers Association for 13 years, Director of the Federal Land Bank for the tricounties, and has membership in the California Growers Governing Board and the CCG's Agriculture Education Foundation.

Once again, I would like to honor and praise Mr. Rice for the years of wisdom and experience he has offered and dedicated to the Santa Maria community, and to the tricounties.●

SHATTER THE SILENCE—VIGIL FOR SOVIET JEWRY, 199

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, again I rise to bring to the attention of my colleagues the plight of Pavel Peretzovich Abramovich and his family. Pavel is a formerly respected electronics engineer who was fired from his job when he applied for visas to emigrate to Israel. Since then he has been teaching Hebrew. That is a remarkable task in a country where it is nearly impossible to obtain textbooks, training, or the official recognition accorded teachers of other foreign languages. Pavel is one of a small band of heroic figures who, having been denied the opportunity to pursue their trained professions, pursue their beliefs, and convictions at great personal risk to themselves and their families.

For 8 years Soviet authorities have refused to grant the Abramovich family emigration visas. Their request for explanation has always been "State interests." Nothing else. Pavel has been threatened several times with being tried for "parasitism." That is an odious classification applied to those who do not hold a job officially recognized by the Soviet Government. Teaching Hebrew is not considered a job. The Abramovich family is but one of the Soviet families constantly subjected to harassment based on fabricated pretenses. Simply put, the Soviet policies are blatantly anti-Jewish.

Since we have acquiesced to the Soviet Union in allowing the 1980 Summer Olympics to take place in Moscow, we have given the Soviets an excuse to intensify their campaign against their Jewish population. Persecutions throughout the U.S.S.R. have increased as the authorities move to insure there will be no "embarrassments" during the Olympics. Jews are prime candidates for these dragnets, especially those who are involved with Jewish culture or who speak in opposition to the official position.

The United States is the world's foremost advocate of freedom. It is our duty and responsibility to make the Soviet Union aware that we oppose their actions. By speaking out we draw attention to the issue. We must all speak out loudly and frequently. If we do not, there is little hope for people like the Abramovich's. I am hopeful that continuing public pressure will result in the Abramovich family being allowed to immigrate from the Soviet Union.●

GROWING CONCERN WITH THE SOVIETS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. FINDLEY. Mr. Speaker, there is a growing concern across the United States with Soviet aggressive intentions and actions worldwide. This concern existed prior to the current tensions over the presence of Soviet troops in Cuba. It is the result of a relentless Soviet military build-up over the past decade and of Soviet interference in the internal affairs of nations in Africa, Asia, and the Middle East.

This concern is now expressing itself in the strong American opposition to the continuation of the Soviet troop presence in Cuba.

I would like to call to the attention of my colleagues the following "Resolution on Troops in Cuba" adopted by the Madison County Board, Madison County, Ill., on September 19, 1979. It is a thoughtful resolution which expresses the increasing anxiety of Americans about the U.S.S.R. and its aims. I would like to commend the members of the Madison County Board: Nelson Hagnaver, S. Harold Roberts, Morris Miles, William L. Little, and William H. Haine.

The resolution follows:

RESOLUTION ON TROOPS IN CUBA

Whereas, the Chairman of the Senate Foreign Relations Committee has reported that there are two to three thousand Soviet troops now stationed in Cuba, ninety miles off the coast of the United States, and

Whereas, this is a clear violation of the Monroe Doctrine and a violation of the spirit, if not the letter, of the Kennedy-Khrushchev Agreement of 1962, under which the Soviets promised not to send offensive forces into Cuba, and

Whereas, it is reliably reported that a principal purpose of these Soviet troops is to supervise sophisticated electronic surveillance of the United States, and it is apparent that the Soviet troops are a direct threat to the independence of other Latin American countries, and

Whereas, if the United States does not insist on the immediate removal of Soviet troops from Cuba, the Kremlin will believe we are a "paper tiger" and will then confront us with vital challenges to our national survival by sending offensive missiles, Backfire bombers, and/or nuclear missile-firing submarines to Cuba.

Now, therefore, be it resolved that the County Board of Madison County call on our President, Jimmy Carter, to demand and secure the immediate removal of all Soviet troops from Cuba.

And, be it further resolved that a copy of this Resolution be forwarded to Jimmy Carter, President of these United States of America; Cyrus R. Vance, Secretary of State; Thomas P. O'Neill, Speaker of the House; John J. Rhodes, Minority Leader of the House; Robert C. Byrd, Majority Leader of the Senate; Howard H. Baker, Jr., Minority Leader of the Senate; Adlai E. Stevenson III and Charles H. Percy, Senators from the State of Illinois; and to Paul Findley, United States Representative from the 20th District of the State of Illinois; and to Melvin Price, United States Representative from the 23rd District of the State of Illinois.●

JIM OAKLEY HONORED

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. SHELBY. Mr. Speaker, I want to take this opportunity to honor one of the finest and most deserving journalists working in Alabama today.

I am speaking of Jim Oakley, Jr., editor and publisher of the Centreville Press, which I am happy to say is in my congressional district. I am also pleased that I number Mr. Oakley among my best friends.

Mr. Oakley was recently paid a singular honor by his peers with election as president of the Alabama Press Association.

Jim was born James William Oakley, Jr,. in Centreville, Ala., on July 12, 1935. He is married to the former Shirley Narramore, of Tuscaloosa, Ala., and has three children, James Michael, 21, William Joseph, 20, and Melanie Kay, 15. He is the son of Roberta McCowan Oakley and the late James William Oakley, Sr.

Mr. Oakley was educated in the Bibb County public schools and graduated from Bibb County High School in 1953. He graduated from the University of Alabama in 1958 with an AB degree in journalism. In college he was a member of the Theta-Chi social fraternity, and Sigma Delta Chi Journalism Honorary Fraternity.

Mr. Oakley's distinguished career in public service began in 1961 when he became Bibb County tax collector, a post he held until 1973. He was an original member of the Alabama Commission on Higher Education and was elected vice-chairman in 1979.

On October 1, 1972, Mr. Oakley became editor and publisher of the Centreville Press.

Mr. Oakley has also served as Bibb County coordinator for Gov. George C. Wallace and the late Gov. Lurleen B. Wallace, is past president of the Kiwanis Club of Centreville, a member of the Zamora Shrine Temple, the Masons, Elks, charter member of the Cahawba Falls Country Club, and Southern Methodist Church of Centreville.

Mr. Oakley was elected as a delegate to the 1972 Democratic Convention pledged to George Wallace and has served a term on the State Democratic Executive Committee.

He is a member of the Board of Directors of the Peoples Bank of Centreville, the Troy State University Board of Advisers to the Hall School of Journalism, the Board of Advisers of the University of Alabama School of Journalism, and a former member of the Board of Directors of the Alabama Press Association, as well as former vice president. Mr. Oakley is currently serving as president of the Alabama Press Association.

And, I might add, Jim Oakley holds one final honor—that of one of the most respected journalists in the State of Alabama.

It is my pleasure to honor him here today on the floor of the U.S. House of Representatives.●

TAX CREDIT FOR WOOD-BURNING STOVES

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mrs. SNOWE. Mr. Speaker, I would like to once again bring to the attention of my colleagues the urgency of enacting meaningful tax credits for the purchase and installation of wood-burning stoves. I would also call attention to the fact that the Senate Finance Committee has recently taken action in support of providing a tax credit on the purchase of such stoves.

I find it disappointing that this House, however, has not taken similar action, and I fear that this inaction may stem from a pervading view that wood-burning is more of a romantic notion of energy rather than a realistic one.

I assure my colleagues that this is not the case. I also assure my colleagues that tax inducements for wood-burning stoves will not require us to "post guard dogs around our trees," as at least one member of this body has been quoted by Time magazine as having observed.

As we are all well aware, residents throughout many parts of this Nation face a very unpredictable fuel situation this coming winter. What some of my colleagues apparently do not seem to realize is the fact that wood provides a viable energy alternative for many of these individuals. An astonishing 46 percent of the homeowners in Maine burned firewood during the winter of 1977–78. An average of 3.6 cords of wood was burned by each household which represents an annual equivalent oil savings of 685 gallons per home, and an average of $283 per home. Given the annual average income in Maine of $5,700, these figures are especially significant as this tax credit would provide vital relief for middle- and low-income persons who will face the brunt of this winter's crisis. It is only too evident that we need to be gearing our energy measures toward those individuals who can ill afford to experience escalating energy costs.

The Government, the citizenry, and the energy producers have a shared responsibility for the solution of the energy crisis. The people of Maine and New England are making extraordinary efforts to meet their responsibilities in finding that solution. I ask my colleagues to act now to help by enacting meaningful tax credits for wood-burning stoves in order that we may increase our reliance on plentiful, local, renewable energy resources.●

SHATTER THE SILENCE, VIGIL 1979

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. HANLEY. Mr. Speaker, I am proud to participate in "Shatter the Silence, Vigil 1979," which seeks to draw attention to those Soviet Jewish families and individuals who wish to emigrate from the U.S.S.R., but are unable to as a result of the restrictive emigration policies of the Soviet Government.

Under the Helsinki Final Act of 1975, the U.S.S.R., as a signatory, committed itself to a policy of respect for basic human rights, including the unification of families with members living in more than one country, religious freedom, and free travel between nations.

The Soviet Government has, unfortunately, failed to maintain human rights and emigration policies consistent with the Final Act.

In last year's "Vigil for Freedom," I brought to your attention the case of Lev Gendin, a 38-year-old electronics engineer from Moscow. Lev was dismissed from his job immediately after applying for an emigration visa to Israel in 1971. His wife of 3 months, Aviva Klein-Gendin, was alone granted a visa. Today, she tirelessly works for the freedom of her husband.

Lev has been continually harassed by the Soviet state since his attempt to emigrate. He has been assaulted by KGB agents, and has served more than 160 days in prison.

He has been denied employment befitting his education, and has been forced to accept menial labor positions to survive.

Most recently, Lev was summoned to Lifortova Prison in December 1978, by the KGB. He was interrogated, and refused to give the handwriting sample the KGB wanted for comparison with allegedly "anti-Soviet" documents they had found in another prisoner's cell. He was detained for a time, and released.

In August of 1979, Lev was arrested in Novgorod, where his internal passport was arbitrarily taken away from him. He managed to escape, and shortly after was seen by friends in Moscow. Now, Lev has been forced into hiding and fearing exile to Siberia if he is caught.

The denial of emigration visa to and subsequent persecution of Lev Gendin shows the callous disregard in which the Soviet Government holds the principles of human rights guaranteed in the Final Act. We must continue to make our dissatisfaction with this situation known, and strive to assist all those who seek the basic freedoms denied to Lev and Aviva Gendin.●

BEN FRANKLIN ON THE PUBLIC GOOD

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mrs. SCHROEDER. Mr. Speaker, this was one of the best letters I have seen on SALT. I hope Senators waivering will read it:

BEN FRANKLIN ON THE PUBLIC GOOD

(By C. C. Goen)

Senators pondering SALT II might do well to reread Benjamin Franklin's views of the newly framed Constitution for the United States. In his closing speech to the Constitutional Convention on Sept. 17, 1787, at the conclusion of its deliberations, Franklin said:

"I confess, that I do not entirely approve of this Constitution at present; but, Sir, I am not sure I shall never approve it; for, having lived long, I have experienced many instances of being obliged, by better information or fuller consideration, to change my opinion, even on important subjects, which I once thought right but found to be otherwise. . . .

"Thus I consent, Sir, to this Constitution, because I expect no better, and because I am not sure that it is not the best. The opinions I have had of its errors I sacrifice to the public good. I have never whispered a syllable of them abroad. Within these walls they were born, and there they shall die.

"If every one of us, in returning to our constituents, were to report the objections he has had to it, and endeavour to gain partisans in support of them, we might prevent its being generally received, and thereby lose all the salutary effects and great advantages resulting naturally in our favor among foreign nations, as well as among themselves, from our real or apparent unanimity.

"Much of the strength and efficiency of any government, in procuring and securing happiness to the people, depends on opinion, on the general opinion of the goodness of that government, as well as of the wisdom and integrity of its governors. I hope, therefore, for our own sakes, as a part of the people, and for the sake of our posterity, that we shall act heartily and unanimously in recommending this Constitution, wherever our influence may extend, and turn our future thoughts and endeavors to the means of having it well administered.

"On the whole, Sir, I cannot help expressing a wish that every member of the Convention who may still have objections to it, would with me on this occasion doubt a little of his own infallibility, and, to make manifest our unanimity, put his name to this instrument." (Source: *The American Enlightenment*, edited by Adrienne Kock; New York: George Braziller, 1965).

Benjamin Franklin won his plea, and the Convention voted "unanimous consent." Our senators may not reach unanimity on the present SALT treaty, but at least they could heed Franklin's admonition to doubt their own infallibility and consider the common good—of the whole world.●

SACRIFICE FREEDOM

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. QUAYLE. Mr. Speaker, an important and thought-provoking editorial was recently published by the Carroll County, Ind., Comet which underscores the results of too much Government and the adverse impact which it has had on the free market system. The editorial accurately reflects what has happened in regard to energy supplies as a result of Government price controls.

Under leave to extend my remarks in the RECORD, I include the editorial for the attention of my colleagues:

SACRIFICE FREEDOM

If it seems curious that the only commodity now under government price control is petroleum, and the only product currently in short supply is gasoline—a derivative of petroleum—consider the Tenth Pillar of Economic Wisdom, expressed by the American Economic Foundation (AEF):

"The productivity of the (society's tools—that is, the efficiency of the human energy applied in connection with their use—has always been highest in a competitive society in which the economic decisions are made by millions of progress-seeking individuals, rather than in a state-planned society in which those decisions are made by a handful of all-powerful people, regardless of how well-meaning, unselfish, sincere and intelligent those people may be."

Despite this economic maxim, there remains sentiment in the United States for more government involvement in the economy. There is a willingness among many to sacrifice personal freedom for the security of state control.

The success of this country is the result of the insistence of free men and women on the right to make the decisions which benefit themselves. As the AEF explains, "State planners, working for the collective benefit of the entire society, have no incentive except idealism."

Of course, when the state plans, some person or persons must assume the dictatorial role. "Every orderly economy must have a dictator," says AEF. "Under government planning—it is the bureaucrat. Under free market planning it is the all-powerful free customer who must be kept satisfied if the planning is to be successful and profitable."

Then, the AEF analysts make a most interesting observation: "Were it not for one offsetting fact, the power of the customer over the worker would be tyranny. This fact is simple: in the economy as a whole, the customer and the worker are the self-same person. As hard-boiled customers, we force ourselves (on the pain of unemployment) to produce the things we want at the price we want to pay. And this 'punishment and reward' goes on every day every time a customer walks into a store."

The free market system will work, but only if it is permitted to function without the impediment of excessive government controls. Those who argue otherwise cite current shortages, rising inflation rates and shrinking purchasing power to "prove" that free enterprise is gouging Americans. It is the controls already imposed which have distorted the system. By reducing government involvement in the economy—and our personal affairs—the vitality of the free market will be restored.—By Richard DeVos and Jay VanAndel.●

PANAMA CANAL TREATIES

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. BETHUNE. Mr. Speaker, hundreds of hours have been spent on H.R. 111 in subcommittee, at the full committee level, and here on the floor of the House. I give my sincere commendation to the committee chairman (Mr. MURPHY) and the conservative gentleman from Maryland (Mr. BAUMAN), the ranking minority member of the committee, who worked diligently in the shaping of this bill and sided with many of us who were dead set against the Panama Canal treaties. Their able leadership and determination showed the President and the Senate that we meant business, that we meant to hold the line on this implementing legislation.

Since there is no way we in the House can undo the treaties we were limited to the question of keeping the implementing legislation to the absolute minimum.

On June 21 and again on July 30, we instructed the House conferees to defend our position and stick to the barebones language of the House bill. Last week, we voted down the first conference report to H.R. 111, which has been referred to as the "Bauman" bill, because the conferees did not stick with the House instructions or Mr. BAUMAN's demands for a strong bill. For me, that compromise was totally unacceptable, and I voted against it. We defeated the "Bauman" bill, and sent it back to conference. Now, we have before us the "Son of Bauman," an agreement with more muscle than its predecessor. The gentleman from Maryland, who is also the chairman of the American Conservative Union, says it is the best bill we are going to get and that we need implementing legislation so that we can keep our troops there and keep competent American people in the Canal Zone to operate the canal until the year 2000. He very ably put it this way:

(September 26, 1979)

Mr. BAUMAN. Mr. Speaker, the gentleman from New York has referred to this legislation as the "Son of Bauman." I am not sure what illegitimacy that suggests, but the gentleman from Maryland is not going to claim this legislation as his own. The gentleman from Maryalnd did not write and sign the treaties that gave away the Panama Canal. James Earl Carter and Omar Torrijos did that. The gentleman from Maryland did not ratify those treaties. A mistaken two-thirds of the other body did that. And the gentleman from Maryland did not bring about the requirement for implementing legislation. The treaties and circumstances did that.

But today we are at the end of the road

so far as the obligation of the Congress of the United States, and it is not a very pleasant role for the gentleman from Maryland to have had to sign this conference report for the purpose of bringing it before both of the two Houses so that we can make a final decision. I have differed with some of my colleagues who have opposed this implementing legislation from the beginning in that I have said that at some point implementing legislation had to be passed in order to protect the interests of the United States, and that point is October 1, a few days away.

I am not pleased with the contents of this conference report in every respect, but an earlier version was rejected last week because in a number of ways it did not reflect the feeling of the House. We went back to conference and we attempted to address those points. As a result we have brought about a slight reduction in the overall cost to the American taxpayers. We are not quibbling here. It may be $100 million; it may be $200 million. But remember that this treaty was characterized by the President as not going to cost the U.S. taxpayers anything. That was and is absolutely untrue and we know that.

There was also concern expressed that under the terms of the conference report already rejected, any president, this President, could convey away the entire canal and its operations well before the end of the century. This conference report specifically says that cannot be done, and it is the intention of the conference to uphold that prohibition.

We did strengthen the section against retroactive taxation by Panama of citizens and corporations in the Canal Zone, directing the President not to accede to that. We required, which the bill last week did not require, the placing on the supervisory board of the canal U.S. citizens from the private sector, labor, U.S. ports, shipping, or private business. So the President cannot name five State Department stooges to run the canal operation as he might have wished to do. One of the members of that board will have to come from the Department of Defense.

Most importantly, I would call to the attention of the Members to the provision on page 57 of the conference report in the statement of the managers. It refers to section 1108 of the conference report which deals with a situation in which a security risk or wartime conditions may exist in the canal. At my suggestion the language was added to this statement that it is the intention of the conferees that the phrase "conditions which threaten the security of the canal" is deemed to include any circumstance in which foreign combat troops or military forces other than those of the United States as provided in the canal are located within the Republic of Panama. This is my understanding, and I believe the understanding of the gentleman from New York (Mr. MURPHY). This congressional intent allows a future President or this President to respond by placing U.S. military officers in control of the canal should such an occurrence be brought about at any time. And with 3,000 Soviet troops in Cuba only minutes away from the canal. I do not think that this phrase is at all meaningless.

Right from the beginning, when the House first considered the Panama Canal implementing legislation on June 21, I outlined the history of my position on this issue as I supported the conservative Montgomery-Hansen amendment which tried to cut down the expense of the legislation:

(June 21, 1979)

Mr. BETHUNE. Mr. Chairman, I rise in strong support of the amendment of the gentleman from Mississippi to put a little honesty into this legislation.

Long before I became a candidate for Congress, I was invited to attend a White House conference on the Panama Canal. That was in September of 1977. At the time, I was just a country lawyer from Searcy, Ark., 50 miles north of Little Rock. I, along with 60 other taxpayers, attended a briefing in the State Dining Room at the White House. Ambassador Linowitz, Mr. Brzezinski, and the President of the United States, among others, made talks to us in support of the Panama Canal.

We were told that there would be no cost to the American taxpayer. We were told that Torrijos was a reasonable man and a responsible person. We were told that the United States, by entering into the Panama Canal treaties, would show magnanimity to the world by its willingness to deal fairly with small countries.

At the conclusion of the meeting, the President asked us, if we agreed with him, to go home and help him explain the treaties to the American people.

I went home and publicly told the people of Arkansas that I thought the President was trying to do the right thing. I was encountered with immediate hostility. The people challenged the President's statement that the treaties would not cost the American taxpayers. They were not only upset with the fact that we were transferring an enormous asset to the Panamanians—they simply did not believe the President's statement that the taxpayers would not have to pay money to implement the Panama Canal treaties.

I defended the President. I told the people in Arkansas that I was relying on information that was given to me personally by the President of the United States in the State Dining Room of the White House. I told them that if we cannot rely on information received under such circumstances, that we in this country were in trouble.

I stuck with the President throughout my campaign for Congress. Even though my district is in the South, and I was a Republican running in a Democratic State, I stuck with the President. I am sure that I lost votes. I stood by the notion that the President would not lie to the people.

Now, based on what I know and what I learned in the secret session here in the House of Representatives, I truly believe that the Panama Canal treaties are the worst mistake that this Government has made in the last 20 years, and perhaps in the history of the country.

The Senate failed the people.

The President failed the people.

It is a shame to say, but the President did deceive Americans that day, there in the White House. He freqnently brags that he started his Panama Canal campaign with only 8 percent of the people in favor of the treaties. He points out that he has since mobilized enough support to pass the treaties. If the President had done that fairly and squarely, without deceiving the people, I would applaud him. But the fact is, he deceived the people. He pulled himself up by his bootstraps. He garnered support for the treaties by misrepresenting the facts.

I yesterday heard a Member I respect very much say that the minority party should not attack the President as I am doing here, because it demeans the office. If the minority should not attack a majority President, then I ask, who would attack the President? If I, a representative of 500,000 people, cannot speak the truth here on the floor of the House of Representatives when I have personal knowledge of a matter, then the country really is in trouble. I am reminded of Jeremy Bentham's poignant inquiry—"Whence this fear of the truth?"

Part of the truth, however, is that the treaties did pass the Senate. In analyzing our role in this matter there has been much talk about constitutional prerogative, the rights of Members of the House of Representatives, rubberstamping, the rights of the people, and so forth.

There is no real question here about our rights or our prerogatives. We do not have to do anything. We do not have to rubber-stamp the treaties. We do not have to vote for or against the bill or any of the amendments that have been offered here.

We are free to do whatever we want to do.

The question here today is, what is our responsibility? I suggest that if we feel constrained, or boxed in, or frustrated, it is not because our rights have been narrowed. It is because we see that our responsibility is to implement the treaties, and we do not like it, and our people do not like it.

I said earlier that the treaties are the worst mistake we have made in 20 years—and I believe that.

But I also believe that failure to pass barebones implementing legislation would be the second worst mistake in 20 years.

I voted for the Hansen amendment, and I voted for all the other amendments including this one that sends a clear signal to the President and to the Senate that we expect honesty from the administration; and, that we want a bill that will be the absolute minimum possible under the treaties.

I also voted for the amendments because I want us to have a strong position when we go to the conference with the Senate. The Murphy bill, H.R. 111 is not, in my judgment, the minimum that we can do under the treaties. But I assure you, Mr. Chairman, that it is the maximum that I will do. If the bill comes back from the conference committee materially different from H.R. 111 I will vote against it.

That is why I support the amendments. Let us get the best bill we can get, but finally, finally let us vote for barebones implementation.

I see it as our responsibility to vote for implementation because if the canal is going to be given to Panama, I want to make certain that our troops are there for the next 20 years, and I want to make certain that we have competent people there to operate the canal so that our commerce will not be negatively affected.

I do not like to be put into the position of voting for implementing legislation, because the treaties were a mistake; furthermore it seems that I am contributing to the error that was made by the President and the Senate. My constituents do not like it either. But, in my mind, I know that it is the responsible thing to do and I believe my constituents will agree with me on that score.

It is essential that we have a presence in Panama for the next 20 years, and the barebones legislation that we are trying to work out seems to me to be the only way that we can assure an American presence in the canal for the next 20 years. We need our troops there, and we need people there who can competently operate the canal. If we do not pass some sort of implementing legislation we will not have that assurance.

A month later, after the Senate had weakened our bill by adding more of the President's language, and as the House prepared to instruct its conferees, I said:

(July 31, 1979)

Mr. BETHUNE. Mr. Speaker, on June 21 I voted for the implementing legislation, H.R. 111. I also voted for the Hansen and Montgomery honesty amendments, because I did not believe that H.R. 111 was the minimum that we could do, and still discharge our responsibilities. But, I did believe and I do believe now, that H.R. 111 was the maximum that we should do. After that day's proceedings I advised the committee chairman that I had done all that I could do on the House bill.

I did that in good faith. As the gentleman from Illinois said, I stuck my neck out on that issue. But, I do not think in all honesty that the bill would have gotten my vote, and

I do not think it would have passed this House, had the representation not been made over and over that H.R. 111 would remain intact, and that we would fight for it when we got to the conference committee. So, I want to make the point again that if this implementing legislation comes back to the floor in a more liberalized form, or closer to the President's position, that I shall vote against it.

On September 20, the first conference report was presented to the House for consideration—a vastly different bill than what we had originally passed. Despite the insistence of our conferees, many of the House provisions had been drastically altered, or removed altogether, and in good conscience, I could not vote for this report. I urged my colleagues to defeat it, too:

(September 20, 1979)

Mr. Bethune. Mr. Speaker, as best I can tell, there are some three classes of Members: Those who are for the treaty and for implementation; those who are against the treaty and against implementation; and those who are against the treaty and for implementation because they feel it was the responsible thing to do. I am in that last category. I voted to implement the treaty, even though it ruffled the feathers of my constituents in Arkansas.

We were the swing votes that passed this bill. We were persuaded by the arguments that America could somehow be welshing if we did not vote to implement. We were treated to the majority leader's notion on that subject, complete with an old Mexican saying about how Americans are known for keeping our word in their country.

We were persuaded by the argument, that we need to keep control as long as possible, keep our troops there, keep competent people there to operate the canal.

Well, now, it is not a question now of welshing. It is not a question of keeping people there or maintaining control, because the House bill that we passed would have done that.

The majority leader tells us it would have done it. The chairman of the committee tells us that our bill would have taken care of these things. Even the gentleman from Mississippi pledged to us that the bill we passed would have done that.

The fact is that the Senate changed our bill. They liberalized it.

So the question now is, why pass more than the minimum legislation? Why more than the bare bones bill that we did pass?

It seems to me if you vote now for more than the minimum bill that we passed, you either agree with the treaty, or you think we need to do more, or you want somehow to accommodate the Senate. I know the President and the Senate would like to have us adopt some of their thoughts. They passed the treaty and they now know it was a mistake. Misery loves company. They want us to participate with them. They want us to put our seal of approval on this document.

I would like to commend the chairman who has worked long and hard and has been most candid with all of us throughout this entire debate; but I think we ought to reject this compromise and send it back to conference. If the conference will send us back our bill, then I think we should approve it. I think it is time to quit compromising on this.

During final debate of the second conference report, I took to the floor and said, once again:

(September 26, 1979)

Mr. Bethune. Mr. Speaker, the entire Panama Canal issue would not be here at all had it not been for the masterful job of bootstrapping that the President and Senate did throughout the entire process. Misrepresentations were made from the outset about the cost of this project. Misrepresentations were made about the right to defend and about the stability of the government in Panama.

I said earlier this year, and I repeat—and I truly mean it—that I think it has been the worst mistake we have made in some 20 years for the President and the Senate to deliver up these treaties. That is now manifestly clear to me, after all I have heard as a Representative here in this Chamber.

I agree with the gentleman from Maryland (Mr. Bauman) that we need implementing legislation. I agree with the chairman of the committee (Mr. Murphy) on that score. I think it would be the second worst mistake we have made in this country if we did not pass some implementing legislation.

I voted for the original bill on June 21 when it was considered here. My colleague, the gentleman from Arkansas (Mr. Alexander), joined me. That was not a popular vote in the southern States or in Arkansas, and particularly for a brand new Republican in a Democratic State, but I did it because I thought it was the right thing to do.

I voted against the first conference report that came back here, the so-called Bauman bill, because I thought it was a compromise and I thought we ought to send it back to the conference committee and let them rework it.

Now, the "Son of Bauman," as it has been referred to, is not a pretty child, but the fact is, it is the only one we have and there is no time left to do anything about it. We do not have time to produce a "Grandson of Bauman."

So, Mr. Speaker, it seems to me that if we need this bill, if we need implementing legislation and there is no time to produce another bill, then we ought to adopt this conference report. But the simple fact is that it is not going to pass unless some of us here hold our noses and vote for it. That is why I am going to vote "aye" on the conference report.●

NATIONAL DAIRY WOMAN AND MAN OF THE YEAR AWARD

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. BALDUS. Mr. Speaker, on Wednesday, October 3, Arlene Becher of Berne, Ind., Robert Rumler of Brattleboro, Vt., and Keith King of Oneida, Ill. will receive the 1979 National Dairy Woman and Man of the Year Award at the World Dairy Expo in Madison, Wis.

These individuals have been nominated and selected by their peers nationwide. I am pleased to have this opportunity to call attention to their outstanding contributions to the dairy industry.

Arlene was selected for this award for her contribution to the Nor-Lene Holstein farm operated by her and her husband, Norman. In particular, she has managed all the business functions of the farm partnership while raising the family, giving foreign guests tours of the farm, and devoting her spare time to the Extension Homemakers for 18 years.

Robert Rumler is being recognized for his contribution to the advancement of the Holstein-Friesian breed. Under his leadership, the Holstein-Friesian Association of America has built up the largest dairy breed registry and witnessed an unprecedented growth in exports. Bob is also a highly respected agricultural writer, having contributed articles to many State and national journals.

Keith King, in addition to owning the Nation's top-producing registered milking-shorthorn herd, has been a judge at every major milking-shorthorn show in the United States and Canada, as well as at numerous shows abroad. He was chairman of the group that organized one of the largest artificial insemination breeding cooperatives in the Nation.

In closing, I would like to congratulate Arlene, Bob and Keith for their industry, dedication and achievements.●

NORTH SAN GABRIEL DAM AND LAKE GEORGETOWN

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. PICKLE. Mr. Speaker, on Friday, October 5, it will be my distinct honor and pleasure to participate in the dedication of a dam in the 10th Congressional District of Texas. A host of distinguished guests, including U.S. Labor Secretary Ray Marshall, will gather at the new facility on the north fork of the San Gabriel River in Williamson County, just a few miles from the county seat of Georgetown.

Subject to formal action by the House and Senate, the new project will be named the North San Gabriel Dam and it will create a new body of water, called Lake Georgetown.

The dam is being built to control flood waters on the San Gabriel, which has a lengthy history of devastation around many communities in the San Gabriel River watershed. While the new facility creates a safer environment, it also creates a beautiful 1,310-acre lake and 1,330 acres of parkland. Instead of flooding, Williamson County can bloom, due in part to the vast recreational and flood control features of this new dam.

Conceiving a dam and building such a massive project is no easy or rapid task. It takes years of planning, observation, and close cooperation with Federal, State, and local agencies.

At the dedication, we will pause to remember the names of several outstanding community leaders who helped spearhead the effort, culminating with the opening of this progressive new facility. For 30 years, the idea of controlling the San Gabriel flood waters has been the active goal of several citizens. Their names shall be memorialized inside the new administration visitor's center at the dam site.

Two of the names on this special list are two of my predecessors, former Members of Congress from the 10th District of Texas, who served this country so admirably in other positions. Both the late President Lyndon B. Johnson, and Federal Judge Homer Thornberry, now on senior status on the Fifth U.S. Circuit Court of Appeals, made the case originally for this dam during their years in public service. The other community leaders who worked hard to help us coordinate the plans and appropriate the funds for construction include the following:

Judge Sam Stone*, Owen W. Sherrill*, J. T. Atkin, Lee Black, F. E. Buchholz, J. H. Compton, O. A. Englebrecht*, Charles Forbes, Ed Harris, Sr.*, Dr. George Hester*, Don Scarbrough, and John Sharpe*.

These men were determined, persistent and dedicated. Our area owes a vote of thanks. I must also pay my respect to Col. Walter Wells, who then served as district engineer of the Corps of Engineers in Fort Worth. Colonel Wells, now general manager of the Brazos River Authority, worked with me in developing a plan of construction that finally met the approval of all groups in the county. That is no small undertaking, when you consider that Georgetown, Granger, and Taylor were all involved. These men were the "pioneers," the "pathfinders," who worked so hard to help Williamson County.

I take particular personal pride in knowing that this project was authorized and funds appropriated during my tenure in Congress. I am convinced this dam will save millions of dollars in possible flood damage, provide our Central Texas citizens with a wonderful new park area and provide much needed water, which is already in high demand. October 5 will be a happy day for many of us.●

THE SECOND ANNIVERSARY OF THE AD HOC COMMITTEE FOR IRISH AFFAIRS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. WOLFF. Mr. Speaker, today marks the second anniversary of the formation of the Ad Hoc Committee for Irish Affairs. As one of the founders of this committee, I have seen it grow from a meager few to 130 members.

I take particular pride in our chairman, Mario Biaggi, in his courage, his dedication and his unflagging commitment to the restoration of peace, justice, and human rights in strife-torn Northern Ireland. That, my colleagues, is the goal of our ad hoc committee.

The tragedy of Northern Ireland cries out plaintively for solution. The continued bloody violence cannot and will not solve the brutal dilemma in which each side is enmeshed today. Violence begets only violence and the extremists of either side offer no solution—only more violence. There has been enough killing in Ireland. It must stop.

If this compassionate Nation of ours can concern itself over the denial of human rights in so many nations of the world, how can there continue to be maintained a conspiracy of official silence as to the blatant and judicially determined violations in the north of Ireland?

Our committee is dedicated to conducting a free and open forum where the voices of all the Irish people can be heard. We are dedicated to rendering our moral support in the quest for a just solution to a problem that has generated violence for over 400 years. We have made a moral commitment in this quest for peace and justice. We will not retreat from that commitment. We will not stand silent.

We urge all to join with us and support our efforts. We need your participation to bring an end to death, destruction, and violence in one small portion of our world.●

STATEMENT OF INTRODUCTION—STANTON CUSTOMS PROCEDURE BILL

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. STANTON. Mr. Speaker, in an era of unprecedented balance-of-payments deficits, unemployed resources at home, and an unstable dollar abroad, increasing our sales abroad has become one of this country's most important priorities. Yet, it is easy to cite numerous instances where our law or policy acts to frustrate attempts to improve U.S. export performance. Exporters are faced with an array of restrictions on where and how they can sell their products abroad. Oftentimes these restrictions are well intended and are aimed at fulfilling important national and foreign policy goals. But the sum total of their impact has been a significant negative effect on the U.S. balance of payments and on the performance of our export industries.

One such problem has resulted from a service-after-sale situation. Take for example the case where a piece of equipment is shipped by the foreign purchaser back to the American manufacturer for service or modification. When the shipment reaches U.S. port, Customs holds the shipment pending the payment of duty or a determination that no duties apply. If Customs had the manpower to inspect the shipment of American-made equipment, they would conclude no duties were owed since duties are not applied to goods of U.S. origin, and the shipment could be released to the importer immediately. This, however, is not the situation.

Due to the enormous workload—and due to the absence of any legal basis for varying these entry procedures—Customs holds virtually all shipments—even shipments where no duties would apply—until a formal application for their release is filed and approved. This inevitably involved considerable time and can involve the expense of hiring a customs broker or other fees. To a small U.S. exporter who is interested in giving his foreign customers quality service for his equipment, this delay and expense incurred by the foreign buyer can lead to the loss of the sale. That is bad for the company as well as the country.

I am introducing a bill today to rectify this problem. The bill would amend U.S. customs law to permit products of U.S. origin to be reimported into the United States under informal Customs procedures. If adopted, this amendment should eliminate a needless burden and expense on purchasers of U.S. products while not resulting in any loss of revenues to the Treasury. I urge the committee of jurisdiction to move quickly on this measure.●

A MAN FOR ALL SEASONS, RICHARD J. HUGHES

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. RODINO. Mr. Speaker, perhaps once in each generation—if they are lucky—the people of a State realize that they have been served by a leader of extraordinary integrity and excellence.

The people of the State of New Jersey are lucky, because they have been served by such a leader. He is Richard J. Hughes.

His career in public service has been so richly varied that it is difficult to decide now how to identify him. "Judge Hughes," "Governor Hughes," and "Justice Hughes" would all be accurate.

The progression of Richard Hughes' career has been steady and sure. He served as Mercer County judge for 4 years. He was a superior court judge for 5 years. He was Governor of New Jersey for 8 years, from 1961 to 1969. And he was chief justice of the New Jersey Supreme Court from 1973 until August 9 of this year.

Richard Hughes retired on that date not by choice, because he is an individual who would always choose an active role. He left the Superior Court simply because of a State law requiring retirement of judges at age 70.

In all of his roles of service and leadership, Richard Hughes set unmatched standards of honesty, dedication and effectiveness.

His service has always been distinguished by an eagerness to work hard, by natural skills as an administrator, by courage to take on tough responsibilities and to make hard decisions, by an intelligent prudence to approach the complexities of government, society, and the law with calm, unflamboyant deliberation.

Richard Hughes and his career stand as beacons of bright hope to all who care about—and occasionally despair for—our American system of government and law.

He is a man of immense wisdom, of warm humor and of becoming modesty in his attitude toward himself. I hope and expect that he will find some new role to continue to offer those qualities in service to the people of New Jersey.

I must add one additional observation

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*Deceased.

of a personal nature. Dick Hughes has been not only an ally in government, but also a personal friend to me for many years. I am privileged to know him as a fine human being of generosity and loyalty.

Some of the highlights of Richard Hughes' career—particularly as chief justice—are noted in an article in the Newark Star-Ledger and in an editorial in the New York Times. I wish to share the contents of that article and editorial with my colleagues and with readers of the CONGRESSIONAL RECORD:

Hughes Retirement From Court To Cap a Colorful Career

(By Herb Jaffee)

An era in New Jersey officialdom will formally come to an end on Thursday. Aug. 9 when Richard J. Hughes, a former two-term governor must retire as chief justice of the State Supreme Court.

For a generation Hughes has been a major force in state public affairs and Democratic Party politics, ever since his spectacular rise in 1961 from relative obscurity to win the governorship beating out a favored Republican opponent in "Harry Truman style."

But he openly acknowledges his unhappiness at leaving the court, after serving more than five and one-half years as the state's fourth chief justice. Some of Hughes' years on the bench were more tumultuous for the court than any during his eight years as governor.

"I'll admit that I have some mixed feelings," he said yesterday from a vacation retreat in Florida.

"But the Constitution says I have to go, so the best way to do it is with a good feeling that I'm leaving behind me a very fine and very effective court."

The New Jersey Constitution mandates that all judges must retire before their 70th birthday. On Friday, Aug. 10 Hughes will become 70—and for all practical purposes his career as a public official will end.

However, Hughes will by no means retire to a rocking chair. "I expect to be active, and I will make my future plans known soon," he said. Hughes reportedly will return to the practice of law.

"I think a statement my wife, Betty, made as we were ready to leave Moven at the end of my governorship might be appropriate here," Hughes said in summing up his years as head of the state judicial system:

"It's occasionally been a headache, but it's never been a bore."

Hughes also had considerable praise for the qualifications of his successor, Robert N. Wilentz, whom he will swear in at 3 p.m. this Thursday in the State Museum Auditorium in Trenton. Wilentz' term as chief justice will formally become effective on Aug. 10.

"I'm pleased with the choice of the new chief justice. I have great confidence in his ability," Hughes said.

He added that he will shortly issue a final report to the Legislature and Gov. Brendan Byrne on the achievements of the Supreme Court since he took the oath on Dec. 18, 1973.

"My report will also outline what still remains to be done. I can say that one of the major priorities before the court is the need to straighten out the matrimonial litigation problem. That will be a big job for the new chief justice," Hughes said, referring to the inordinate congestion and delays in the matrimonial courts.

Hughes' strongest contributions to the judiciary have come from his political background and his ability to negotiate favorably with the Legislature, the Governor and the bar.

He innovated the first address by a chief Justice before a joint session of the Legislature, at a time when he felt it was "the only way" to get raises for the judges, explain the urgency for a referendum to unify the court system, and instill the reasoning for new court programs.

Hughes was appointed to lead the Supreme Court after the death of Pierre Garven, who served only six weeks. But he has constantly placed himself subservient to the two previous chief justices who were among the most highly and nationally recognized jurists of their time.

Shortly after his surprise nomination as chief justice by former Gov. William T. Cahill, a Republican, Hughes said it would never be his intention to even attempt to emulate the scholarly approaches of Arthur Vanderbilt, the first chief justice under New Jersey's present Constitution, or Joseph Weintraub.

"Under our State Constitution, the chief justice has two roles—to lead the Supreme Court and to administer the entire judiciary. I think I can contribute heavily in the administrative area," Hughes said in 1973, referring to his experience gained as the state's chief executive from 1961 to 1969.

Hughes did indeed fulfill that promise. During his years as chief justice many refinements were implemented in the state's judicial and legal systems

In fact, he has been referred to as "the man for his times," because it was during the years of the Hughes court that the present litigation explosion materialized, necessitating new systems, programs and concepts to keep pace with the sharp growth of activity in the courts.

Despite the cold atmosphere of a Legislature that had not yet forgotten the fact that the Supreme Court forced it to enact an income tax, Hughes was successful with his legislative address, just as he was successful in championing the court's needs through the innovation of news conferences.

Judicial press conferences were unheard of in New Jersey and are so rare nationwide that a legal affairs reporter from Washington once asked to be notified in advance of the next Hughes news conference, "just to attend such a thing."

But Hughes never pretended to be a judicial scholar in that framework, and what the court lacked in the number of weighty decisions it easily made up in controversy.

Three decisions handed down by the Hughes court were of major national concern while a fourth resulted in one of the most consequential matters ever forced into law in New Jersey by a court.

"We merely upheld the State Constitution in ordering the thorough and efficient education be properly funded," Hughes explained in reference to the decision that brought about a state income tax after years of heated debate in the Legislature, and between the Legisature and three governors, including Hughes.

"We didn't care about an income tax," he said of the court. "We said if we can't finance the schools in accordance with the Constitution, we'd have to close the schools. Out of respect for the Constitution, we didn't see how we could have done anything differently."

Hughes wrote the opinion in the Karen Ann Quinlan case which affirmed the right of a terminally ill and comatose patient to "die with dignity."

He said the precedent-setting opinion "clarified judicially a practice that has been going on in which a decent doctor would decide not to give a blood transfusion or revive a dying patient. A good deal of unnecessary pain was caused for . . .

In a case which was upheld by the U.S. Supreme Court's unwillingness to alter the New Jersey court's decision, the Hughes court upheld a trial judge's ruling that ordered New York Times reporter Myron Farber to jail for refusing to turn over his notes and other data in the murder trial last year of Dr. Mario Jascalevich.

"Even if there had been a First Amendment privilege, the Sixth Amendment would have to prevail," Hughes said of the Farber case. "If you don't have that fair public trial, you don't have anything. None of those rights would be worth anything at all."

The other case of national significance, while decided by the Hughes court, was in reality a carry-over from the Weintraub court. Known as the "Mt. Laurel decision," and written by retired Associate Justice Frederick Hall, the decision was hailed across the country as a major breakthrough in discriminatory residential zoning.

In the nearly four years between the time Hughes' governorship ended and his appointment to the Supreme Court was confirmed, he practiced law in Newark and became a national activist for more humane prison conditions. As chairman of an American Bar Association committee on corrections reform, Hughes toured the country and spoke out constantly for changes.

He came to the court as an acknowledged "dove," but his position began to harden soon afterwards, to the point that Hughes emphasizes his conversion to a "hawk" especially on juvenile crime.

Another Hughes innovation is the final report he will present to the Governor and Legislature of his accomplishments and of the courts' future needs. Weintraub was the only other chief justice ever to retire, and he never made known any such report.

But in his administrative capacity and in the Supreme Court's constitutional role as regulator of the activities of the bar, Hughes has been by far the most active and innovative chief justice.

He has paved the way for television and still cameras in the courtroom, the broadening of specialization procedures in the practice of law, guidelines for lawyer advertising, and a system for screening the ability and competence of trial judges.

Hughes also implemented a system of lay participation on ethics and fee dispute committees involving the public's complaints of lawyer practices. The Hughes court also approved higher annual mandatory contributions by all lawyers for the Client Security Fund, which provides compensation for victims of fraudulent acts by lawyers.

One of Hughes' basic goals when he undertook the position of chief justice was to "bring the courts closer to the people. I believe we have succeeded in that, but there's much more to be done.

"I'm convinced the new chief justice has the ability to carry on."

Then, with a typical comment reflective of Hughes' sense of humor, he added:

"Don't write any eulogies. I'm not dead yet. I hope to remain quite active for a while."

The Honorable Mr. Hughes

Richard Hughes, the Chief Justice of New Jersey's Supreme Court and twice the governor, won't surprise anybody if he finds ways to help his state for years to come. But yesterday he removed his robes for the last time. He is 70 years old and by law, had to retire.

Justice Hughes has certainly earned tranquility, for he has led a public life of great activity. Recently, he took 65 judges on a tour of Rahway State Prison. "I want them to see where people go when they sentence them," he said. The act was typical of the man, whose concern is not only for the written law but for the wider system it is meant to serve.

The Hughes court divided more often than it did before Mr. Hughes arrived, but it was also bolder. In the Mount Laurel case, it outlawed exclusive zoning; developing communities must now provide for all income groups. The court pressured a timid legislature to create a more equitable system for public school financing, and to enact the state's first income tax. And the Hughes court spoke as one voice when it had to, as in the controversial decision that allowed the parents of Karen Quinlan to disconnect their comatose daughter from a respirator. That decision set standards for the entire nation.

Justice Hughes's finest legacy, however, may rest in the reforms he sponsored for the state's criminal justice system. He installed the nation's first program for evaluating judges, placed laymen on disciplinary panels for lawyers and tried to reduce disparities in criminal sentences. And in 1977, alarmed by the resignation of three judges who could no longer tolerate their low pay, he delivered an unusual "state of the judiciary" message to the legislature that earned an immediate pay increase for New Jersey's jurists.

That trip to the legislature seemed appropriate; the former governor had been there many times before. Indeed, it symbolized the unusual fact that Mr. Hughes's political experience shaped his view of the court—to which he brought compassion and the same penchant for innovation that had marked his governorship.●

THE SCLC EMBRACES THE PLO TERRORISTS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. ASHBROOK. Mr. Speaker, many of our colleagues were shocked to learn that the Southern Christian Leadership Conference had invited Yassar Arafat the leader of the terrorist Palestine Liberation Organization to visit the United States and speak at a series of meetings. I am not surprised. No one would if they knew the SCLC record. I remember that SCLC even back in the days when it was headed by Martin Luther King was involved with individuals and groups that marched to the tune of a Soviet drummer. Those who saw the documentary entitled "The Soviet Connection" on television this week know that the PLO marches to the tune of that same drummer.

I remember when the FBI was ordered by Attorney General Robert Kennedy to wiretap the SCLC and King because of their association with the Communist Party and some Communist advisers. One of these was Hunter Pitts O'Dell, a member of the Communist Party National Committee. He is also called Jack O'Dell and is now an adviser to Jesse Jackson, another newfound friend of the PLO. I call my colleagues' attention to the hearings of the House Assassinations Committee re Martin Luther King, Jr., volume VI, page 188, for the orders issued by Bobby Kennedy to wiretap King and the SCLC.

Arafat is ineligible to enter the United States to make the series of speeches planned by SCLC. He is barred by our laws. The Congress this year reiterated that ban by specifically citing PLO as a group not covered by the McGovern amendment, which lets a variety of other subversives, Communists and terrorists into our country.

SCLC is true to its tradition of alliances with enemies of the United States—in fact all of western civilization. SCLC and the PLO should be repudiated by all Americans.●

DOES DR. KOORNHOF REPRESENT MORE THAN A SLENDER MINORITY IN SOUTH AFRICA'S RULING AFRIKANER "BREUTERBOND"?

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. McCLOSKEY. Mr. Speaker, on September 6, 1979, I inserted into the Record an article by Mr. Aryeh Neier in the Nation magazine strongly questioning South Africa's twin policies of "apartheid" and "denationalization." In the past 2 weeks, interestingly enough, several South African leaders have indicated a willingness to address Mr. Neier's criticism that South African changes in their apartheid laws were merely window dressing to detract Western attention from the "denationalization" policy. It would seem that there may have been an attitudinal shift among some South African leaders, including Dr. Piet Koornhof, Minister of Cooperation and Development. Dr. Koornhof, who favorably impressed a number of us when he visited Washington a few weeks ago, recently stated that South Africa was on the verge of making important adaptations in order to survive. He has advanced the theme that policy must be adapted to the demands of the day, and that between 30,000 and 40,000 nonwhite workers would have to be added to the highly skilled labor force per year by the end of the century. From these he suggested that a new skilled black middle class would arise, and he concluded that cooperation and development would be key words during the balance of this century.

It is hard to say whether Dr. Koornhof represents more than a slender enlightened minority in South Africa's ruling Afrikaner "Breuterbond," but his words and actions should be watched with careful interest in the months ahead. It was Dr. Koornhof who last year responded to congressional concern over Crossroads by ordering at least a temporary halt to the bulldozing of that black community of squatters seeking family togetherness in violation of one of the more outrageous laws of the apartheid system.

For some time we have been receiving unofficial signals from South Africa that their more enlightened leaders accept the fact that denationalization is doomed as a policy and that substantial changes in the apartheid laws will be necessary in order to retain Western support.

If Dr. Koornhof's positions are upheld within the South African Government, it may lend credence to the arguments of those who feel that American business practices are a constructive force towards ending apartheid rather than a destructive force shoring up the continuance of apartheid. We will have to wait and see.●

CHRISTOPHER COLUMBUS DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. RODINO. Mr. Speaker, when I first came to Congress I began fighting for a national holiday commemorating the courageous voyage of Italian explorer Christopher Columbus nearly 500 years ago. On June 28, 1968, nearly 20 years after I began my mission, President Lyndon Johnson signed the Monday Holiday Act into law and made Columbus Day a national, public holiday.

Americans will celebrate Christopher Columbus Day on October 8 this year. While Americans of Italian origin take special pride in this day, it is a time for all of us, regardless of our ethnic heritage, to look within ourselves and take note of the stock from which we come. Whether we are Americans of Italian descent, as I am, or German, Chinese, Irish, Polish, Latvian, Spanish, African, or other heritage, there is a mood about Columbus Day that exalts these traditions. For they are derived from the most cherished cultures from all over the globe. Each heritage is a priceless strand woven into the rich, resplendent tapestry of American culture.

Columbus' story is the story of America, a nation of immigrants. As the great Spanish-American philosopher George Santayana wrote:

> Columbus found a world and had no chart,
> Save one that faith deciphered in the skies;
> To trust the soul's surmise
> Was all his science and his only art.

Columbus truly was the prophecy of the America to come—of the immigrant who uprooted himself from his homeland in search of a land of opportunity, of freedom, of justice—a land to which so many turn for asylum and hope.

Columbus Day recognizes the importance of our roots as individuals to the greatness of our Nation—a nation forged from so many nations and so many people.

Mr. Speaker, the citizens of New Jersey's 10th Congressional District will celebrate Columbus Day with an annual parade on October 7, beginning in my home city of Newark. I will join the legendary baseball star Joe Di Maggio, who is this year's parade grand marshal, and Ace Alagna, who is publisher of the Italian Tribune News and parade coordinator, at this very festive event. I want to salute the dedicated efforts by Mr. Alagna and many others who work each year to make Newark's parade a success.

Mr. Speaker, I ask my colleagues to join me in celebrating their ethnic heritages and our rich American culture on Christopher Columbus Day.●

COLUMNIST PROVIDES GOOD ADVICE ON VIETNAM

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. SIMON. Mr. Speaker, recently, the Washington Post ran a column by Stanley Karnow which suggests it makes eminent good sense for the United States to recognize Vietnam.

He is absolutely right.

This does not in any way mean approval of those things which the Government of Vietnam does with which we disagree. But, it is in our strategic interest from a security viewpoint, and it is in our interest economically to recognize that country. In addition, there are obviously all those cultural advantages from exchange between countries.

I hope the administration will show the courage to move in this sensible direction.

The article follows:

TIME TO RECOGNIZE HANOI

(By Stanley Karnow)

There is very little to comend Vietnam's communist rulers. They are aggressive, xenophobic and inflexible, and their record on human rights as demonstrated in their brutal expulsion of unwanted people is dismal.

But with all this, it seems to me that the Carter administration ought to reopen negotiations aimed at establishing formal diplomatic relations with Hanoi regime—for reasons that essentially serve American interests.

In other words, I submit, nothing is to be gained by rejecting the Vietnamese however despicable they may be. On the other hand, a good deal may be gained by extending them recognition.

For one thing, a matter of principle is involved. Diplomatic ties do not signify approval, but simply imply recognition that a government controls its own territory.

So it is pointless to ostracize Vietnam when America maintains links with equally unsavory regimes in Asia, Africa and Latin America. Positive strategic considerations, moreover, add weight to the argument in favor of reaching some kind of accommodation with Hanoi.

Over the past year, Vietnam has slid deeper and deeper into the Soviet camp—so much so that it has become almost entirely dependent on the Kremlin for economic and military aid. This reliance on Moscow has antagonized China, which perceived Vietnam to be a Soviet base.

The available evidence indicates, though, that elements within the Hanoi hierarchy would like to dilute Vietnam's dependence on the Russians.

Despite pressure, for instance, the Vietnamese continue to deny to the Soviet Union any permanent use of the former U.S. naval facilities at Da Nang and Cam Ranh Bay. Soviet transport aircraft shuttle around Indochina, but only to move troops and supplies for the Vietnamese.

This suggests that an American presence in Hanoi might provide the Vietnamese with an opportunity to shift away from their close ties with the Soviet Union, which would benefit both the United States and China.

Another factor in the equation is the future of Cambodia, which has become a Vietnamese satellite. Tensions in the area are unlikely to abate until Cambodia's real independence is restored, perhaps under its former leader, Prince Norodom Sihanouk.

But the chances of a Cambodian compromise being achieved under present conditions are remote. Here again, a full-time American mission in Hanoi might be an advantage in getting talks of some sort started.

It is plain, meanwhile, that the Vietnamese leadership itself has been split over how to proceed toward the United States. According to specialists here, Premier Pham Van Dong and Foreign Minister Nguyen Co Thach have been pushing for a deal with the Carter administration, while the Communist Party boss, Le Duan, has opposed any change in position.

In an apparent effort to embarrass his internal rivals, Thach claimed last month that negotiations with the United States had been going on since June. The State Department denied his assertion, but his statement nevertheless reflected a desire to see talks resume.

Actually, the Vietnamese themselves muffed the chance for relations with the United States at the beginning of the Carter administration by demanding that America award them some $3 billion in war reparations.

That demand stiffened resistance in Congress, which not only resolved that Vietnam receive no reparations, but also barred U.S. funds from going to Hanoi through international organizations.

The Vietnamese retreated from that demand by the summer of last year, but it was too late by then to get the process regenerated.

The Carter administration was edging toward normalization of relations with China at the time, and the president could not plausibly court additional political risks at home by pursuing the Vietnam card as well.

Besides, the Vietnamese damaged their own cause by invading Cambodia and by hounding thousands of ethnic Chinese as well as their own citizens to flee Vietnam, thereby creating the refugee crisis that still blights their reputation.

Within recent weeks, however, the Vietnamese have been striving to look respectable. They have pledged to make the refugee exodus more "orderly," and they have hinted at the possibility of a compromise on the Cambodia question.

In my estimation, therefore, they are signaling to the Carter administration that they want to return to the conference table—and their signal is worth a response.

The domestic political costs to the president of such a gesture would be minimal, since his principal foes, Edward Kennedy and Jerry Brown, hardly would challenge him on this issue.

Thus, the administration has room for maneuver on the question, and it can initiate steps that in the end would contribute to the stability of East Asia.●

CAMPBELL KIDS

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. MINETA. Mr. Speaker, I would like to call your attention to the fact that Campbell, Calif., is the youth baseball capital of the country. On August 24, 1979, the Campbell Little League All Stars won the national championship and became the runner-up for the world championship. Two days later, the Campbell-Moreland Pony League All Stars became the world champions, successfully defending the title they won in 1978.

The Campbell-Moreland Pony League all-star team represents the finest 13- and 14-year-old baseball players from Campbell and West San Jose, Calif. Team members included Randy Nishijima, Dennis Gilligan, Dave Yates, Dan Watari, Tim Bottomley, Joray Marrujo, Chris Gettler, Steve Koontz, Dave Bryant, Craig Trinidad, Con Maloney, Cameron Comick, Tom Gricus, Brad Ceynowa, and Bob Pogue. The team was managed by Lou Bacho and coached by Chuck Calhoun.

Campbell-Moreland also set several Pony League world series firsts when they became the world champions in August. They are the first team in Pony League history to win the championship in consecutive years and the only team ever to win the championship three times.

These fine athletes are world champions in every sense of the word, on the field and off. They exhibited good sportsmanship, and played the best that they could. On Sunday, October 7, 1979, these young men are being honored for their achievements at a dinner sponsored by the Campbell community.

Mr. Speaker, I ask you and my colleagues in the U.S. House of Representatives to join me in congratulating an outstanding team on a superb season. These Campbell kids are No. 1 in the world, and Campbell, Calif., is proud of them.●

CHARLIE THAMES HONORED

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. SHELBY. Mr. Speaker, I rise today to honor a very special person on the occasion of his retirement after years of labor both in support of his family and the public.

I am speaking of Mr. Charlie Thames, a constituent of mine and longtime family friend, who lives in Bessemer, Ala., and who is retiring September 28, 1979, at the still young age of 86. Charlie Thames was born on January 11, 1893, in Chilton County, Ala., and attended public schools in Chilton County while working on his father's farm until 1910.

Mr. Thames entered the American work force in 1910 when he worked as a machinist apprentice in Birmingham for 4 years. Following that training, he worked for Woodward Iron Co. in Bessemer and then U.S. Steel for a decade.

On January 15, 1929, Mr. Thames came to work at the Bessemer Courthouse as a circuit court bailiff. He rose through the "ranks" at the courthouse over the years and served variously as deputy probate judge, constable, and finally, as deputy tax assessor.

Today he is retiring from that most vital post after years of dedicated service to his community, State, and Nation.

Mr. Thames is married to Grace Hammonds Thames and the couple is looking forward to a long and happy retirement.

And I just want to add my own congratulations and wishes for a bright and productive future for this most deserving individual.●

H.R. 4367 THE VETERANS' OBLIGATED PERIOD OF SERVICE COMPENSATION ACT

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. DOUGHERTY. Mr. Speaker, I rise to urge my colleagues to give their support to the House resolution to deny benefits to military personnel who fail to complete their initial term of obligated service.

H.R. 4367, introduced by my esteemed colleague from Tennessee, Mr. BEARD, seeks to resolve the problem of attrition during first-term enlistments.

As a member of the House Armed Services Committee, I am all too familiar with the manpower shortage problems facing our Armed Forces. The present rate of separation during first term enlistment is 40 percent. The All-Volunteer Force cannot survive under this heavy rate of attrition.

H.R. 4367 is directed toward those individuals who either become separated through some fault of their own, or are victims of expeditious discharges. In the first case, loss of benefits would be an incentive to stay with the service. In addition, H.R. 4367 would seek to modify the current flagrant use of expeditious discharge as a convenient mechanism for dropping undesirable personnel from a unit—servicemen who would otherwise be reassigned to duties more fitting to their capabilities.

In the recent debates on registration, this august body heard abundant documentation on the threatening manpower shortage in the military. H.R. 4367 seeks to resolve the manpower shortage at the greatest source of attrition—during the first-term enlistment.

The savings from this bill would be realized in terms of funds presently expended for recruiting and training individuals to replace the vacancies created by first-term separations. A recent General Accounting Office report states that the total Deparment of Defense costs due to first-term attrition equaled $3.8 billion for the years 1974 through 1977. One-half of this is due to service-connected disabilities which would not be affected by H.R. 4367. The remaining half could yield a savings potential of $500 million per year.

In summary, I draw a parallel with the private sector where just and necessary benefits accrue after reasonable amounts of time. In the military services, this is 180 days. We cannot in conscience provide lifelong medical and veterans benefits to men and women who have broken their obligations to the military. In these times of financial accountability we must address this waste on behalf of our people.

In conclusion, I encourage my fellow Members to reflect on these figures and join the 58 cosponsors in supporting H.R. 4367.●

TRAGEDY IN TIMOR

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. HARKIN. Mr. Speaker, the news today is full of tragic stories about Vietnam's "boat people," who leave their homeland to face an uncertain future in their crumbling boats on the high seas. There is another group of people whose future is equally uncertain, though their case has not been brought to our attention by the press. According to the Indonesian Assistant of Defense and Security of the Regional Territory of East Timor, nearly half the population of East Timor, a small section of Indonesia, has disappeared since 1974, 1 year before Indonesia waged war against them. What has happened to over 300,000 people? Thousands of East Timorese have died, and are dying, as a result of the barbaric actions of the Indonesian army. In addition, Indonesian bombs have destroyed this primitive agricultural area, and thousands more are dying of hunger and disease. I would like to insert into the RECORD, for the edification of my colleagues, a discussion of this tragedy, as reported by the Asian Bureau Australia Newsletter, a publication by concerned Catholic human rights advocates.

The newsletter follows:

TIMOR'S CONTINUING TRAGEDY

Indonesian government reports have claimed since early in 1976 that the situation is 'close to normal', but information from church and Timorese sources indicate that the tragedy of Timor has simply entered another, and increasingly desperate phase. In their thousands, people are coming down from the hills. Many die when they come. Their homes, clans and crops have been destroyed over the years of the war. Yet until the last moment they have kept to the mountains. There they are Timorese. Desperate for food, clothes and medicine they cross to Indonesian control not knowing what it means.

But there too, food and medicine are scarce. In the area around Dili, the crop is a complete failure. The season has been a bad one with insufficient rain during the growing season for the required harvest of corn. 'The food situation is far from good, one commentator reported.

The displaced people flooding into the towns of East Timor, without shoes, or tools, or cooking utensils, face a lean and tragic kind of "normality."

WHERE ARE THE PEOPLE

Statistical information from the Indonesian Assistant of Defense and Security of the Regional Territory of East Timor recorded the following population figures in October 1978.

Catholics	255, 417
Protestants	4, 354
Confucians	——
Moslems	661
Animists	68, 839
Total number	329, 271

In 1974, one year before the war, the diocese of Dili recorded the population of Portuguese Timor as follows:

Catholics	220, 314
Protestants	2, 550
Confucians	5, 660
Moslems	133
Animists	460, 112
Total number	688, 769

These statistics are shocking and puzzling. Whatever their shortcomings the figures indicate a drastic decrease in population. Where are the other 359,498 people?

A few thousand have migrated to Portugal and Australia. A large number withdrew into the mountains after the Indonesian invasion in December 1975. Some of these were killed in military actions. They have died or they are still in the mountains.

MAJOR OFFENSIVES

Recently the Indonesian armed forces launched major offensives against Fretilin forces. According to reports, one commenced in September 1977 and involved the injection of an additional 15,000 troops into the Timor campaign. This operation was given no publicity whatever by Indonesian authorities. Its existence appears to have been leaked to the Australian press from local Defense Department sources, but it was also credibly reported by Fretilin.

Messages from non-Fretilin sources in Dili gave some inkling of the full horror of the campaign. A priest wrote: After September the war was intensified. Military aircraft were in action all day long. Hundreds of human beings die daily, and their bodies are left as food for the vultures. If bullets don't kill us we die from epidemic disease; villages are completely destroyed. The war is entering its third year and no end is in sight. The barbarities (understandable in the stone age), the cruelties, the looting, the shooting of people without any justification, are now part of everyday life in Timor. Total insecurity and the terror of being arrested is our daily bread . . . Fretilin troops who surrender are disposed of. For them there is no prison.

During 1978, the military strength of Fretilin was steadily eroded in the face of the continuing isolation of the forces of the Democratic Republic of East Timor, the starvation and disease caused by war, and particularly by Indonesian air attacks on the rich food-producing mountain valleys. The decline in the fortunes of Fretilin culminated in the killing of their President, Nicolau Lobato, on the morning of 31 December 1978, in a valley near Turiscai. In spite of the fact that for some two years official Indonesian spokesmen had been claiming that Fretilin had been reduced to 'some roving bands', the killing of Lobato was received in Jakarta with some rejoicing. According to the Indonesian daily, 'Kompas', the killing of the Timorese leader was the culmination of an operation which commenced on 11 December and involved the use of 2,500 troops who were whisked from place to place by helicopters.

Fighting continues in several areas. 'Up until Easter 1979', one report states, 'the Ermera district was not yet quiet and safe'. Even after Easter some military have been reported killed in fighting. On 26 March 1979 the Military Command of East Timor was officially ended by the Indonesian Minister of Defense and Security. In the beginning of April, some warships left Dili with a few battalions that had completed their duties in East Timor. But immediately after their departure, some new battalions arrived to take their place.

MANY THOUSANDS DIE

Many thousands have died of hunger and disease. Recent reports indicate widespread malnutrition. Small towns and villages are depopulated. Everywhere people are burying their dead.

The appalling physical condition of the refugees is due to the fact that several hundred thousand Timorese have kept to the mountains where the resistance has been based, or gone there to escape the brutal treatment meted out on the local population by Indonesian troops. They had few medical supplies and no doctors to treat the thousands of casualties resulting from Indonesian bombing and military actions. Another obvious reason for their poor physical condition would have been the fact that for more than a year Indonesian forces had been destroying the crops in the mountain valleys which had been a major source of food available to these people.

Despite the vast numbers killed, it seems unlikely that the figures quoted reflect an accurate count of the population of East Timor. In official statistics, or in village prayer books, the bodies of the dead are counted. But living people are harder to trace and despite Indonesian claims of peace and order, it seems very possible that thousands of Timorese in mountain areas are now simply not counted. The Indonesian administration does not reach them. Many people continue to resist or evade the Indonesians.

MORE REFUGEES: MORE CORPSES

According to the Assistant of Defence and Security of the East Timor Territory the total number of displaced persons in rural and urban areas is over 300,000—a number equaling the vast majority of the recorded population!

There is an influx of refugees to major towns. There are estimated to be 17,861 displaced persons in the capital Dili, 37,449 in Maliana on the western plains, an incredible 69,799 in the small town of Viqueque, in an area where the 'Indonesian army is still on the alert against armed resistance. Reportedly, 300 people die each month among the refugees of Ermera. In spite of a state subsidy of five million US dollars and the availability of supplies in Dili, the Indonesian Red Cross is unable to carry out an efficient program. Lack of transportation is the big bottleneck. Unfortunately, supplies, stored in the godown of Dili, promote manipulation, black market and the like. Medicines are sold in the shops for prices only very few can afford to pay. The death toll is so high that people started using the expression 'The more refugees, the more corpses'.

FIVE METERS OF BANDAGE

The numbers of refugees are still increasing since each day there are new arrivals coming down from the mountains. They come back in extremely dire conditions, practically naked and starving to death.

They have already lost many friends and relatives. They hope to find something to eat. When the food does not materialize they become very disappointed. If there is any food at all, it is very little and very late. Which makes the whole aid program of care for refugees actually meaningless.

In February 1979 the government's health centre in Maubisse, for example, had a supply of 300 pills of cloroquin and five metres of bandage. But according to the health officers everyday 150 patients come for treatment. At the same time there were medicines for sale in the Chinese shop. However, people could not afford to pay for them. In the middle of March, five tons of corn arrived in Maubisse. More than 6,000 people had been waiting for the corn during five weeks. It is ironical that aid is provided in small quantities and with long delays. No wonder that people start complaining that the Indonesian authorities want them to die off by hunger and disease. All over the area one hears rumours about aid manipulations by the regional government. Many kinds of clothes and medicines are for sale in the shops in Dili. What happens to the food supplies?

Those who attempt to aid refugees are placed in an invidious position, as they buy rice for hungry people at inflated prices on the black market. Are they thieves or saviours?

BACK TO SCHOOL

During the war, most schools were closed. Some were destroyed or damaged in the fighting. Others had no teachers, or no pupils. Some school buildings were taken over for use by the army.

In 1979 a foreign visitor to a primary school found the teacher happy and proud to demonstrate recent successes. Her small students rose to their feet to sing a patriotic song in Indonesian—a foreign language, until now, for speakers of Tetun and Portuguese. It was an achievement for them to sing 'Indonesia Raya' and an achievement to stand too. The visitor was shocked to see the worst effects of malnutrition he had witnessed in his extensive travels in Asia.

Indonesian teachers seem unaware of the cultural implications of their presence. Experience of Indonesians as colonial masters in Irian Jaya has shown a lack of appreciation of the social and cultural situation of the people.

Under the Portuguese the church has been the main agent of education in East Timor. They are now reluctant to seek Indonesian subsidies for church schools, and the Indonesian administration is pushing ahead with its own plans for educational reconstruction. The attitude of the Timorese church is critical in determining the effect on the people of Indonesian education policy.

During the years of fighting, the Indonesian government has seldom taken risks in its selection of visitors permitted access to East Timor. Even before the invasion a tight control was maintained on access to information. Most Indonesian citizens have heard only heroic accounts of the victories of their army. They read propaganda of an enthusiastic welcome given by the Timorese to their Indonesian liberators. They have accounts of administrative matters such as the establishment of health centres, removed from the total context of war.

Now, however, a greater number of civilians have obtained entry, and the complexities of the situation are gradually being revealed. There is an element of shock in the discovery by Indonesian people of the long, brutal and costly nature of the military campaign in Timor and the effects now being suffered by the Timorese people.●

A CONGRESSIONAL RESOLUTION WELCOMING POPE JOHN PAUL II

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. ZEFERETTI. Mr. Speaker, each of us is well aware of the upcoming visit of Pope John Paul II to the United States. I know I speak for the vast majority of my colleagues in anxiously anticipating the honor of the Pope's presence on American soil.

Therefore, I have joined my esteemed friend and colleague, Representative Joseph Addabbo, in introducing a resolution extending an official welcome to His Holiness on behalf of the U.S. Congress. Mr. Addabbo and myself were among those chosen as Special Representatives of the President to attend the investiture and inaugural Mass of the Pope in October of last year.

Pope John Paul II is the spiritual leader of nearly 50 million American Roman Catholics and he enjoys the respect of millions of people of every religious denomination around the globe. Although he was invested just a short time ago, His Holiness has already distinguished himself as a dynamic advocate of peace and fellowship among all nations.

We are indeed honored by this happy and blessed event, and I urge my colleagues to act expeditiously on this official welcome to the Holy See.●

PAY RAISE FOR FEDERAL EXECUTIVES AND MEMBERS OF CONGRESS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. FISHER. Mr. Speaker, for the time being the difficult question of a pay raise for Federal executives and Members of Congress has been settled by the House. It now goes to the Senate for action. On a very close vote the House has approved a continuing appropriation resolution that includes a pay raise of 5.5 percent for high-level employees and Members. Although my preference is to delay the effective date of any pay raise for Members of Congress until after the next election, I did vote for this resolution. I thought that the need for a pay raise for some 22,000 senior executives and judges was more important than denying the raise to 535 Representatives and Senators.

During the debate on the resolution I tried to decouple the pay of Members from that of the much larger number of nonelected officials. I offered an amendment that would have given high-level executives a raise of 7 percent—the same as all others in Government will receive. If that amendment had passed, then the question of whether to go forward with a raise for Members could have been voted on separately. I believe that this is the appropriate way to handle the pay issue and I would have liked to establish that as a precedent. Until this matter is settled, the House will be doomed to making a spectacle of itself each year as is goes through contortions trying to get a raise for itself without having to vote the raise in a clear, unambiguous way. By avoiding separate votes for Members and executives pay, the House places in jeopardy the orderly and efficient conduct of the Federal Government.

Unfortunately my amendment was defeated. Without the separation of the two pay raises, I could not vote for a raise for the executives unless I also voted for a raise for Members. This seemed to be the responsible course of action under the circumstances.

I will continue to work for a separation of the issues and for a delayed raise for Members. The raise for Members should not go into effect until after an intervening election. I support legislation to put this principle into effect. I also support strict limits on outside earnings for Members. The justification for periodic pay increases for Members is enhanced when Members refrain from potentially conflicting outside employment for pay. I hope that we can avoid future divisive debates over pay by agreeing to these changes in the process.●

THE CLOSET SOCIALISTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. McDONALD. Mr. Speaker, while there may be a resurgence of conservative thinking on economic matters in the United States today, that is not true in all parts of our society. In spite of the great preponderance of evidence to the contrary, many persons still feel Government ownership of industry is the answer to our problems. They do not call themselves socialists, but this is what they are. Anthony Harrigan in a recent editorial for the U.S. Industrial Council Bulletin, dated October 1, 1979, discussed this phenomena as it relates to statements by William Winpisinger, president of the International Association of Machinists and Aerospace Workers.

Mr. Harrigan's editorial follows:

> THE CLOSET SOCIALISTS
>
> (By Anthony H. Harrigan)
>
> Who is a socialist? This is a question often posed by editorialists and ordinary citizens. The vast majority of Americans recognize socialism as an economic and social disaster, and are eager for the country to avoid it. Therefore, big-spending politicians and labor union ideologues usually are reluctant to wear the socialist label.
>
> Socialism is a real force, in American political life, however. The Congress is full of closet socialists. The labor movement also is loaded with union officials who secretly favor government ownership of the means of production.
>
> Some of the once-secret socialists are coming out of the closet. The most notable example is William Winpisinger, president of the International Association of Machinists and Aerospace Workers. He has openly declared for socialism in America.
>
> In an interview published in *The Washington Post* July 7, Mr. Winpisinger said:
>
> "If a guy who believes America can never fulfill its promise to its people without somewhere coming to grips with public ownership of its essential resources and or services, or production that's absolutely essential to the welfare of our people, then I'm a socialist and I think everybody should be."
>
> While it's tragic that anyone in a powerful union post is dedicated to a regimented economy, Mr. Winpisinger at least deserves high marks for frankness. He would have the government take over the assets of millions of shareholders in thousands of companies. Incidentally, it's worthwhile noting that there are far more shareholders in the United States than union members.
>
> If Mr. Winpisinger's dream became reality, the economy of the United States would be Sovietized. State operation of mines and factories would be substituted for private ownership and management. That's socialism. One wonders what would be the fate of labor unions in a society where government owned and controlled essential resources, services and production.
>
> Leaving aside the inefficiencies of a socialist economy—witness the disastrous record of Britain's nationalized industries, there's the more fundamental issue of freedom. Modern history shows that personal liberty can't survive where the state controls the means of production. Regimentation of the economy leads to regimentation of society. Freedom is extinguished by the inevitable extension of bureaucratic domination to totalitarian control.
>
> Americans find it hard to believe that socialism could be established in the United States. That a very powerful union leader would openly confess his commitment to socialism indicates that the doctrines of state control are gaining wider acceptance in some circles.
>
> Moreover, there's the danger that socialism will be imposed on the American people in disguised form. The energy crisis is affording many opportunities to people in government who are eager to take control of private enterprise from owners and managers.
>
> In both houses of Congress, there have been suggestions that the nationalization of the oil industry should be considered. That's a socialist notion.
>
> Sen. Howard Metzenbaum wants the government to establish an agency to make all oil purchases abroad. President Carter has proposed an Energy Security Corporation that could be the entering wedge for nationalization of energy industries.
>
> Totalitarianism doesn't necessarily come, as it did in Nazi Germany, accompanied by jack-booted stormtroopers. Socialism can result from a failure to arrest the imperial ambitions of government bureaucracies. It can even result from well-intentioned, though mistaken, efforts to solve national problems, such as the energy crisis.
>
> Socialism, however, is the antithesis of freedom. Therefore, every effort must be to combat socialist doctrines, as they are preached by union leaders such as William Winpisinger.●

TUG AND CREW CITED FOR PREVENTING CATASTROPHIC FIRE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. GUARINI. Mr. Speaker, I am pleased today to make a report to my colleagues concerning the heroism by a tug and her crew which prevented a catastrophic loss in the Bayonne, N.J., area, of the 14th Congressional District that I represent.

A few weeks ago the Nation's highest U.S. maritime industry safety award was presented to the tug, *Houma II*, and its crew, for the prompt, heroic action taken in Newark Bay to extinguish a fire and avert an explosion aboard a loaded fuel barge.

That action won this year's top honors in the Ship Safety Achievement Award Contest sponsored by both the American Institute of Merchant Shipping (AIMS), the national U.S.-flag shipowners association based in Washington, D.C., and the marine section of the National Safety Council, which represents maritime industry and Government safety leaders throughout the country.

At a luncheon sponsored at the Whitehall Club in New York, Government representatives and Texaco officials from White Plains, N.Y., were present when framed certificates "in recognition of highly meritorious service beyond the call of duty" were given to the master of the *Houma II*, Capt. Richard H. Riley, and the tug's five crew members who participated in the rescue. Capt. Harry N. Pappas, manager of Texaco's U.S. fleet, accepted a plaque on behalf of his company, the tug's owner.

Presenting the award were Rear Adm. W. M. Benkert, USCG (Ret.), president of AIMS, and Capt. S. Fraser Sammis, chairman of the National Safety Council's marine section and president of the National Cargo Bureau, Inc. The ceremony also included the presentation of the National Safety Council pennant, symbolic of heroic action on the world's sea lanes and our Nation's waterways. The *Houma II* now proudly flies its "Green Cross of Safety."

Receiving citations were:

Capt. Richard Riley, master, a native of Brooklyn, N.Y., who presently resides in Old Saybrook, Conn.;

William J. Morrissey, mate, a resident of Jersey City, N.J.;

Edward M. Joseph, chief engineer, a native of Taunton, Mass., presently residing in New Bedford, Mass.;

William M. Hayes, deckhand, a resident of Tamarac, Fort Lauderdale, Fla.;

Donald D. Zupko, relief deckhand, a native of Perth Amboy, N.J., and present resident of Middletown, N.J.;

Joseph Monteiro, cook, a native of New Bedford, Mass., and present resident of Salem, N.H.

In recounting the rescue, Rear Admiral Benkert praised the selfless performance of the crew of the *Houma II*, who recognized the potentially dangerous situation quickly and acted to avoid a disaster. The tug was at the Texaco docks in Bayonne during the early morning hours of October 15, 1978, when the *Toledo Sun*, a barge loaded with gasoline outbound from Newark Bay, experienced an engine explosion that resulted in a fire aboard the vessel and subsequent loss of power.

The crew of the *Houma II* saw the barge on fire drifting toward the Texaco docks and heard a distress signal being sounded. Immediately realizing the far-reaching effects should the loaded barge strike the docks, Captain Riley proceeded to maneuver the *Houma II* directly toward the flaming vessel. The crew, assisted by two other responding tugs, then worked to keep the fire away from the barge's loaded cargo tanks, while pulling the *Toledo Sun* away from the dock and storage area.

Rear Admiral Benkert said in concluding his narrative:

> Skillful and courageous action by the crew of the *Houma II* during this emergency succeeded in averting a possible catastrophe in Newark Bay, and excellent firefighting training and vessel maneuvering prevented the otherwise probable loss of life and vessel.

Mr. Speaker, while my congressional duties did not permit me to attend, my resident secretary Neil J. Carrol did represent me at the award ceremony. And, I am pleased that my colleagues are joining me today to salute these men and the *Houma II* in their valiant service "far beyond their normal call of duty." ●

THE J. M. MURRAY CENTER FOR THE HANDICAPPED

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. HANLEY. Mr. Speaker, the goal of virtually every American citizen is to enjoy life, liberty, and the pursuit of happiness. When the mental and physical development of individuals does not allow normal societal functioning, special care must be taken to involve them and give them a sense of participation, a sense of that "pursuit of happiness."

In Cortland, N.Y., this special care is provided by the J. M. Murray Center for the Handicapped.

Representatives of industry and Government, and people of the community will gather to help celebrate the dedication ceremony at the John M. Murray Center for the Handicapped Inc., on Saturday, September 29, 1979. The newly constructed vocational rehabilitation facility is situated on 9 acres of land on Route 281 (West Road) in Cortlandville, N.Y.

The John M. Murray Center is a private, nonprofit agency established to provide a vocational training and work environment for less able adults. The program services provide a 5-week diagnostic vocational evaluation of individual strengths and weaknesses with standardized instruments and job samples; these sample assignments simulate the actual operations as they occur in industry and business. At the end of the evaluation period, goals for the individual workers may vary from immediate placement to a stay at the center to work on specific problems via work adjustment training.

This work adjustment training program is designed to provide the workers with the ability to acquire acceptable work habits in their own social, cultural, and vocational environments. The production department utilities both sub and prime contracting as primary tools of rehabilitation. This approach provides the workers with situations in which realistic demands are made of them. Special jigs and fixtures are designed for less able workers allowing for more productive and competitive situations in which the workers can feel they are worthwhile participants in the economic processes of their community. Other training components of the production department are shipping and receiving, janitorial-custodial, printing, and upholstery. Between 1974–79, 77 clients were placed in competitive employment within the community.

The establishment of this center began in rented quarters of the old Marathon Line Building on Water Street in Homer. The facility was then known as the Cortland Workshop. One of the workshop's founders, a businessman and charter member of the board of directors, Mr. John M. Murray, gave generously of his time and talents. After his death in 1973, as an acknowledgement of his concern and service, the Cortland Workshop changed its name to the J. M. Murray Center for the Handicapped, Inc.

In 1970, as the demand for more services increased and the number of workers grew, the John M. Murray Center moved to rented quarters at 206 South Main Street, Homer, N.Y. In 1973, the work activity center program was established. Due to limited space, the program was housed in the rented basement of the Cortland-Madison B.O.C.E.S. building.

Through these years, the clients and staff experienced overcrowding and deplorable working conditions, especially during the winter months. With the help of the Department of Education—Office of Vocational Rehabilitation—the New York State Department of Mental Health and Developmental Disabilities, the Appalachin Regional Commission, and the board of directors of the John M. Murray Center, Inc., the clients and staff of both centers are now housed under one roof in proper facilities.

The uniqueness of this center lies in the fact that it is self-supporting; 70 percent to 80 percent of the funds needed to support and maintain quality services is provided through area industry and business. Subcontracting and prime manufacturing are the real vehicles which allow our people to be partially or totally self-sufficient while they provide a valuable service to area industries.

The J. M. Murray Center as a vocational rehabilitation facility is still growing, not only in terms of its additional services to industry and business, but in its rehabilitation of less able adults to take their place, both in and out of the center, as contributing citizens in society.

I know that my colleagues share with me in congratulating the fine efforts of all those associated with the J. M. Murray Center.●

OUTER CONTINENTAL SHELF

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. CLAUSEN. Mr. Speaker, the Select Committee on the Outer Continental Shelf recently held field hearings in San Francisco, Calif., regarding lease sale No. 53. The proposed sale would open the offshore areas to oil and gas exploration.

Residents of our northern coastal communities are deeply concerned over the potential risks drilling and related operations could pose to the fishery, recreational, and tourism pursuits of our coastline communities.

The select committee has submitted its findings and recommendations to Interior Secretary Cecil Andrus. I am inserting the full text of my testimony and the committee's findings for the benefit of my colleagues:

TESTIMONY BY CONGRESSMAN DON H. CLAUSEN

Mr. Chairman, I appreciate your invitation to participate in the select committee's hearings regarding the impact of OCS lease sale No. 53. I would like to commend you for responding to our request and scheduling hearings here in California so that you can hear directly from the people who will be the most affected by the lease sale. I understand that you will also be looking into the extent to which the Federal agencies involved are properly carrying out the OCS Lands Act Amendments passed in 1978. I applaud you for your diligence in undertaking this oversight function. It is a difficult and complex issue.

My congressional district runs from Sonoma County, just north of us, to the Oregon border and falls entirely within the boundaries of lease sale No. 53. Three areas off our coast have been identified as "high interest" areas in which industry and government experts believe oil and gas supplies can be found. These areas are the Eel River Basin off the coast of Humboldt County, Point Arena Basin located off Mendocino County, and Bodega Basin to the north of us off the coast of Sonoma and Marin Counties.

As you can well imagine, we are deeply concerned about what drilling in these areas will mean for the future of our coastal communities.

We have an absolutely spectacular coastline which in terms of pristine quality and sheer beauty matches any coastline anywhere. We are opposed to any activity on the Outer Continental Shelf which would threaten the environmental integrity of our coast. After many years of negotiations and hard work, we, through the legislative efforts of your Merchant Marine and Fisheries Committee, were successful in gaining enactment of the 200 mile fishing limit. As a result, our ocean fishing industry is beginning to recover from years of over-fishing by foreign fleets. Our domestic processors are also benefiting from the protection given us by the 200 mile limit.

We all recognize there is a need for establishing a program of adequate and strategic oil reserves. I believe the North Coast of California's off-shore area should be a prime candidate for designation as a reserve.

We should identify and qualify the amounts of oil, set the area aside as a "sanctuary" for traditional fishing and recreational pursuits and preserve the known quantities of oil and gas to be used only in times of national emergency or a threat to our national security—in keeping with our national strategic reserve requirements.

I am pleased to see that your witness list includes supervisors from Marin County, Humboldt County, Sonoma County, Mendocino County, and Del Norte County. It is my understanding that they will testify against leasing off their coastlines. In fact, every single board of supervisors in the sale area have voted to oppose lease sale No. 53. They have also been active in providing detailed and specific environmental and economic information about the impact of OCS drilling on their communities to the Department of Interior and other agencies.

We are in the midst of developing and implementing a comprehensive investment program to enhance our anadromous fisheries, particularly our salmon runs and in our efforts to diversify our economy on the North Coast, we are attempting to expand our tourism industry. All of these businesses would be directly threatened by any environmental damage to the coast. Let me stress that we are not concerned solely about the aesthetics of oil and gas production on the Outer Continental Shelf. We are concerned about our natural resources and those industries which rely on them. Our communities are dependent upon these businesses both directly and indirectly for a large portion of our jobs. From the estimates I have received as to the oil and gas resources which lie off our coast, I am of the opinion that they are not of sufficient quantity to justify our undertaking and the risks involved in their development.

I have with me the most recent data from the U.S. Geological Survey. Their estimates of the oil potential in the sale area indicate that it may contain 548 million barrels of oil. Based on daily domestic consumption of 8.5 million barrels per day, this works out to a total resources equivalent of only about a 60 day supply. USGS estimates the natural gas potential to be 621 billion cubic feet. Based on a national annual consumption of 19.3 trillion cubic feet of natural gas, the entire supply of gas available from the whole lease sale area is equivalent to less than a two week supply for the Nation.

In conclusion, I look to this committee's leadership in exercising a tough oversight of the Department of Interior's actions. We must work together to see that the law is adhered to both to the letter and in the spirit in which it was written. I believe we have begun this process with this hearing and, again, Mr. Chairman, I thank you for your appearance here today, and for allowing me to make this opening statement.

U.S. HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON OUTER CONTINENTAL SHELF,
Washington, D.C. September 19, 1979.

Hon. CECIL D. ANDRUS,
Secretary of the Interior,
Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: As you know, on August 29 and 30, 1979, the House Select Committee on the Outer Continental Shelf held extensive field hearings in San Francisco and Point Reyes, California, on the implementation of the Outer Continental Shelf Lands Act Amendments of 1978 (OCS Act) and proposed lease sale No. 53.

The Committee heard a wide range of views on the Northern and Central California lease sale and the implementation of the OCS Act from Members of Congress, Department of the Interior, the Department of Energy, State witnesses, environmental groups, local county supervisors, and fishing interests, all of whom differed markedly on whether the OCS Act is being properly carried out in preparing for sale No. 53.

State, local, and environmental witnesses were nearly unanimous in their opposition to the sale and their belief that they have not been afforded the chance to make meaningful submissions regarding the leasing decisions involved in the sale. For example, commenting on the five-year leasing program and sale No. 53, Mr. Gregory Fox, Senior Energy Advisor, Governor's Office of Planning and Research, stated:

". . . the spirit of consultation and close cooperation which were the hallmarks of lease sale No. 48 does not seem to be continuing."

Mr. Michael Fischer, Executive Director, California Coastal Commission, testified that:

". . . If the Interior Department were following Congress' mandate in the OCS Lands Act Amendments, so many representatives of local governments and environmental groups would not have to be before you at these hearings to oppose lease sale No. 53. . . . Interior has failed to follow the letter and the intent of the OCS Lands Act Amendments . . . a year ago the Secretary of the Interior should have delayed this sale and . . . much of the proposed sale area should be deleted from the National five-year OCS Leasing Schedule. The history of lease sale No. 53 is the history of lop-sided implementation of the OCS Lands Act. . . . We continue to express our extreme dissatisfaction with the limited role provided to the states under Interior's procedures."

Among other things opponents of the sale contend the following:

First, there is a concern that several necessary environmental studies have not been funded by the Bureau of Land Management, and that some of the studies initiated will not be completed in time for their results to be utilized in making leasing decisions.

Second, objections have been raised by the inclusion of such a wide area in one lease sale, particularly since there is a question as to whether the resource potential in some of the basins justifies undergoing the environmental and other risks involved. Exxon ranks the area as low in oil and gas potential.

Third, it was pointed out that because of refining and transportation problems, the West Coast "oil glut" would be exacerbated by development in the sale No. 53 area. California urged that its increased contribution to the Nation's energy be first directed towards the development of abundant heavy oil onshore.

Fourth, severe weather conditions of the Northern and Central California area increase the risk of oil spills, and testimony from the United States Coast Guard affirmed that current oil spill clean-ups would be marginally effective in prevailing sea and weather conditions.

Fifth, State representatives condemned Interior's refusal to submit the Secretary's leasing decision to the "consistency requirements" of the Federal Coastal Zone Management Act.

Sixth, concerns about the risks of geohazards were reaffirmed by USGS testimony, which suggested that adequate time was not available under the present schedule to properly analyze seismic hazards.

Seventh, the air quality impacts of OCS development are of deep and genuine concern to the State of California, which feels that Interior's proposed air quality regulations will not adequately weigh the cumulative impact of offshore development on onshore air quality.

Eighth, it is widely charged that Interior has not afforded local governmental units and environmental groups an opportunity to make meaningful submissions prior to leasing decisions. They argue that the negative nomination process is ineffective and tract selection is largely impelled by industry and USGS resource potential estimates.

Ninth, local fishing interests state that the impacts on commercial fishing have not been given adequate study or attention.

Tenth, it is feared that OCS development will adversely affect endangered species and areas already protected by law or proposed for marine sanctuary designation, such as the Farallon Islands and the Monterey Bay area.

Eleventh, concerns are raised about onshore impacts, including the potential impacts of a large oil spill on the fishing, tourism and recreation pursuits, and air quality impact.

Twelfth, aesthetic concerns have been raised.

As you know the OCS Act seeks to enhance State and local participation in OCS decision making. Your policies in the past have been exemplary in that regard. However, lease sale No. 53 presents a crucial test, and a failure to properly adhere to congressional intent could prompt a legal challenge of the sale.

In March, 1979, Mr. Secretary, you were reported to have stated the following regarding opposition to certain aspects of sale No. 53:

"I would say they have valid concerns and complaints about potential damage of that sale and which leases should be left out. . . . There is the possibility that sale No. 53 might be slipped in the schedule if it does not prove up. . . . If it is disallowed, I would substitute in that time frame another sale so that the energy needs of America wouldn't slip."

Based on the testimony the Committee has received in San Francisco and Point Reyes, we have concluded that the lease sale in its present lease configuration demands especially close scrutiny by both the Select OCS Committee and the Executive Branch.

Accordingly, we urge you to consider the findings of the Committee and the following recommendations:

The Interior Department should proceed with all deliberate speed to complete the necessary environmental studies on the lease sale area, with particular attention given to the adequacy of seismic studies underway;

If necessary, a contingency sale should be considered and scheduled in the event that sale No. 53 is delayed;

Areas off Northern and Central California should be considered separately in balancing resource potential and energy needs with State, local, and environmental officials; and that development be presently considered only in high resource potential areas;

Top priority should be given to the merits of holding areas of lease sale No. 53 as a petroleum reserve; to be used only in time of a national security emergency;

We endorse the acceleration of heavy oil development onshore in California, and the enhancing of refining capacity through retrofitting;

High priority should be given to solving the West Coast petroleum transportation problem, and interagency efforts on this matter should commence immediately;

NOAA's State Participation Grant should be fully funded and supported by the Administration; and

Finally, the Interior Department should consider calling for industry nominations first to ease the burden of State and Local Government.

We look forward to a continuing dialogue with you on this vital matter. The OCS Committee has consistently supported expedited OCS development, albeit in a proper and environmentally sound manner, and the Committee reiterates its confidence in the effectiveness and integrity of OCS administration during your incumbency. For that reason, we reserve judgment as to the ultimate merits of sale No. 53, confident that you will reach a reasoned and acceptable decision once you have weighed all the facts, especially those adduced at our California hearings.

We would appreciate it if you would personally involve yourself in early lease sale No. 53 decisions, and we look forward to learning your preliminary reaction to the foregoing findings.

Sincerely,

John M. Murphy, Chairman; William J. Hughes, Member; Bo Ginn, Member; David E. Bonior, Member; Gerry E. Studds, Member; George Miller, Member; Leo C. Zeferetti, Member; Don H. Clausen, Member of Congress, Committee on Interior and Insular Affairs.●

THE MX SHELL GAME

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. DRINAN. Mr. Speaker, an amendment to delete funding for the MX missile will not be offered to the Department of Defense Appropriation bill for fiscal year 1980, under discussion today. On two previous occasions this session, MX funding has been called into question by the gentleman from California (Mr. DELLUMS). Twice, these efforts to examine the wisdom of embarking, full speed ahead, on a $30- to $40-billion defense scheme to construct a mobile intercontinental ballistic missile system were defeated by a majority of the Members of this body. Yet the debate in this country on the merits of the MX is far from over.

Today, there are many questions about the Department of Defense plans that have yet to be satisfactorily answered. What will the final price tag of the MX be? Will the race track basing mode be environmentally sound? Will mutual deterrence between the two superpowers be assured with the MX missile? Why is not the current system adequate to meet a probable Soviet threat? How will the Soviets react to U.S. plans to construct the MX system? Will the Soviets build an MX of their own? Are there less-costly alternatives to the expensive MX? And ultimately, do we need the MX missile system?

Mr. Speaker, the Department of Defense bill includes $670 million to continue the MX program for the coming fiscal year. I submit that there are many more questions to be answered before the United States ought to embark on this program at this time.

These sentiments were appropriately stated in an editorial that appeared in the Worcester Telegram on September 13, 1979.

The editorial follows:

THE MX SHELL GAME

President Jimmy Carter has given his approval to the proposed MX missile system, a $30 billion to $60 billion undertaking designed to make the United States more secure from the threat of Soviet nuclear attack.

Since there is doubt that the thing can ever be made to work, and even more doubt that it would contribute one iota to national security if it were put in place, the MX deserves a lot more scrutiny from the American people than it has got so far.

The concept blessed by the president would mount 200 intercontinental ballistic missiles on railroad cars on a huge tract of federal land in the West. The missiles on their cars would be shunted from time to time into different silos, more than 4,000 of which would be available. The idea would be to keep the Soviets guessing; they would never know where the missiles were located, and thus would be unable to wipe the missiles all out in any first strike by their own missiles.

The fear is that our 1,024 fixed base Minuteman missiles may become vulnerable to a Soviet sneak attack some time in the next 10 years. That is a possibility, but the likelihood that the Soviets would do anything to trigger a counter nuclear blast against them seems remote. They have less risky ways to push their goals by means of conventional arms.

The name of the strategic game being played by the two great superpowers is "mutual assured destruction," or MAD. It is also known as mutual deterrence, but MAD seems appropriate, especially as it applies to the MX.

It is time for some fresh thinking on the matter of national defense. We need to examine whether the enormously expensive, high-technology approach is really protecting the nation's future.

In the current Atlantic, James Fallows describes some of the white elephants of the high technology syndrome—tanks costing $2 million apiece that don't work if dust gets in the engines, elaborate radio and radar installations that break down after every five or 10 hours of use, super-sophisticated air-to-air missiles that worked in Vietnam combat only 8 percent of the time, submarines that cost close to $1.7 billion apiece, leaving little money for anything else on the Navy list.

Fallow thinks that the MX proposal is the ultimate absurdity—a weapon system designed for fantasy land rather than the real world of protecting our vital interests.

It would make far more sense, he says, to concentrate on submarines—not enormous budget-busting Tridents, but much smaller subs, some powered by diesel-electric combinations. We are putting too many of our eggs in too few baskets, he argues. We need to spread our risks out.

After all, what is the more likely prospect: a Soviet nuclear attack on the United States or increased Soviet pressure on Western Europe and the Middle East, backed up by strong conventional forces? Which eventuality should we worry about most?

Retired military men, including Gen. Maxwell Taylor and Admiral George H. Miller, go even further. Since the main targets for Soviet missiles are our aging Minuteman missiles, they argue, why not remove the Minuteman from American soil? "Move all U.S.-based nuclear weapons to sea . . . in subs and ships," says Miller. The Soviets even under some future fanatic, would then have far less motive to attack the continental United States.

The MX proposal is more proof, if any were needed, that the SALT II treaty is a hollow shell. In fact, Carter may have proposed it more to sweeten up the chances of SALT passage by the Senate than for anything it will add to our national security.

Fallows says that our national defense thinking has been too much dominated by the analysts and technological visionaries who have become mesmerized by the theory of weaponry. What we need is a fresh approach toward the real threats to our national security.

The MX deserves more study.●

REACT NOW

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. FINDLEY. Mr. Speaker, REACT is a term not familiar to many people. But to stranded motorists as well as victims of highway accidents, the organization it represents provides desperately needed help—and occasionally life saving assistance—in their hour of need. REACT is an acronym for the Radio Emergency Associated Citizens Teams, an organization of citizen band radio operators who volunteer their services to promote highway safety and to maintain emergency communications in the event of other disasters.

Established in 1962, there are now 2,000 communities across the country with local REACT chapters—including several in most congressional districts. Total REACT membership exceeds 50,000 volunteers who contribute over 50 million free manhours. Since its formation, REACT teams have handled an estimated 75 million emergency calls, reporting more than 17 million highway accidents. Other volunteer efforts include participation in Red Cross training courses so that members will be better able to deal with emergency situations until assistance arrives, as well as the initiation of the REACT safety break time, a program under which teams serve over 1 million cups of coffee and other refreshments annually to holiday weekend travelers along the Nation's highways.

Americans owe a great debt of gratitude to their local REACT teams, who are often the first on the scene of an accident and who can quickly summon an ambulance and other emergency service. For that reason, I have introduced House Joint Resolution 276, a resolution authorizing the President to proclaim the month of November 1979, as National REACT month.

List of cosponsors follows:

Douglas Applegate (Ohio).
Bill Archer (Tex.).
Edward P. Beard (R.I.).
Bob Carr (Mich.).
James C. Cleveland (N.H.).
James M. Collins (Tex.).
Silvio O. Conte (Mass.).
Glenn English (Okla.).
Thomas B. Evans (Del).
Paul Findley (Ill.).
Floyd J. Fithian (Ind.).
Hamilton Fish, Jr. (N.Y.).
L. H. Fountain (N.C.).
Martin Frost (Tex.).
Sam Gibbons (Fla.).
Benjamin M. Gilman (N.Y.).
Tennyson Guyer (Ohio).
Lee H. Hamilton (Ind.).
James J. Howard (N.J.).
Henry Hyde (Ill.).
Harold T. Johnson (Calif.).
Ed Jones (Tenn.).
Peter H. Kostmayer (Pa.).
John J. LaFalce (N.Y.).
Claude Leach (La.).
Thomas G. Loeffler (Tex.).
Edward R. Madigan (Ill.).
Edward J. Markey (Mass.).
Dan Marriott (Utah).
Larry McDonald (Ga.).
Clarence E. Miller (Ohio).
Austin J. Murphy (Pa.).
John P. Murtha (Pa.).
William H. Natcher (Ky.)
James L. Oberstar (Minn.).
Ron Paul (Tex.).
Carl D. Pursell (Mich.).
Nick J. Rahall II (W. Va.).
Fernand J. St Germain (R.I.).
Jim Santini (Nev.).
David E. Satterfield III (Va.).
Gerald B. H. Solomon (N.Y.).
Gerald Stangeland (Minn.).
Samuel S. Stratton (N.Y.).
Morris K. Udall (Ariz.).
Charles Wilson (Tex.).
William C. Wampler (Va.).
Jim Weaver (Oreg.).
Don Young (Alaska).●

PANAMA CANAL IMPLEMENTING LEGISLATION

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. MICA. Mr. Speaker, the vote which was taken yesterday on the Panama Canal implementing legislation conference report goes to the very heart of the democratic process. The question which each Member of Congress had to ask himself was: Will we use our honest judgment and do what is right, or will we do what is immediately popular?

I have gone on record as opposing the Panama Canal treaties and earlier this year joined my colleagues in cosponsoring House Resolution 22, which expresses the sense of the House against disposition of any property in the Canal Zone. It is my feeling that the Panama Canal treaties are not the proper course for our Nation to follow. I would have preferred to keep the canal and have no new treaties at all.

Unfortunately, the President and the Senate by virtue of their actions in signing and ratifying the treaties, left the House of Representatives with only two choices: First, we could have passed the necessary enabling legislation to insure that we will run the canal until the year 2000 or second, we could have defeated this legislation and give the canal away to Panama this year.

It was my feeling that the House should do everything possible to guarantee that the enabling legislation, H.R. 111, include the necessary and proper protections for American interests in the Canal Zone. I voted against the original conference report which was defeated last week because I was not satisfied that the bill adequately insured America's presence in Panama. It was only after the subsequent inclusion in the conference report of stronger assurances of our interests in the Canal Zone, that I felt I could support it.

On October 1 of this year, 3 days away, the old Panama Canal treaties which authorize us to operate the canal will be rendered null and void. At that point in time, the only legal authority we will have to remain in Panama is contained in the new treaties.

Failure to pass the revised conference report would have caused the United States to breach its new treaty responsibilities and obligations. This breach of the treaties would have nullified all remaining authority for the United States to run the canal and keep our forces there.

The consequences of a canal closure, which would have likely followed this event, would have been devastating economically to my State and to the Nation. Nationwide, consumer prices would go up as a result of higher transportation costs by $2.7 billion a year and we would have to spend an additional $87 billion just to maintain our naval strength at its present level because of the additional transit line from one ocean to another.

H.R. 111 will allow the United States to keep possession of the canal until the end of the century, keep American technicians running it, keep our troops there to protect it and keep the right thereafter to insure neutrality. It will open access and insure security for the canal, along with the right for our warships to go through ahead of the vessels of other nations.

H.R. 111 will give no U.S. tax revenues to Panama and will lose no revenues for the Treasury. In fact, it will continue to bring interest payments into the Treasury from our own investments in Panama for the next 20 years to the extent that we will at the end of that period have made a profit of $382 million on all of our nonmilitary outlays in Panama since 1903. This bill also will allow no property transfers without the consent of both Houses of Congress, and it will hold canal toll increases to a very modest level.

Unfortunately, certain organizations opposing this legislation have led some to believe that defeat of this bill would enable us to keep the canal forever. That is totally wrong and damaging to our Nation's best interests.

I believe that very few Floridians and very few Americans would have supported the immediate giveaway of the canal. Passage of this legislation was in the best interests of our taxpayers' pocketbooks, the military security of our people, and the economic stability of our Nation. It is my sincere hope that my constituents will understand this issue and respect my decision.●

A TRIBUTE TO KURT SALMON

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1979

● Mr. McCLORY. Mr. Speaker, this community and this Nation have lost a noble citizen, a most successful business leader and a patron of the arts in the passing of Kurt Salmon.

Kurt Salmon rose to become a leading management consultant and the founder of Kurt Salmon Associates, Inc., with offices in Washington, D.C.

When Kurt Salmon died on September 12 at the age of 69, he left a heritage of achievement in the consulting profession as well as in many other activities which his life touched.

According to information which has come to my attention, I have learned that Kurt Salmon was born in Cologne, Germany and educated at the University of Cologne and the Textile School of Chemnitz; he immigrated to this country in 1930. After 5 years as a stylist, resident engineer and plant manager for May Hosiery Mills in Nashville, Tenn., he started a one-man consulting practice. By applying industrial engineering principles like methods analysis, time study and plant layout, he was able to improve productivity and reduce costs for his apparel manufacturing clients in the Midsouth. Generally a low level of manufacturing efficiency and professional management prevailed in the garment industry for that period, and Mr. Salmon encountered resistance at first.

His methodical approach and tactful low-key persistence brought results, however, and Mr. Salmon's practice began to grow. His earlier work helped to introduce new systems for organizing production flow in apparel sewing rooms, and these analytical approaches spread into other manufacturing areas, as well as into other company activities such as distribution, information systems, and marketing. Mr. Salmon once characterized his firm's attainment of leadership in the development of modern apparel manufacturing as resulting from an emphasis on having each professional staff member function "as a sort of specialist-generalist, offering a sheep-to-shop counseling service."

In recognition of his contribution to the industry, Mr. Salmon has been described as a "symbol of the concept of professionalism in apparel management." The Kurt Salmon Chair of Apparel Management was established at the Philadelphia College of Textiles and Science upon his retirement as chairman of the board of Kurt Salmon Associates in 1974.

By that time Kurt Salmon Associates had grown to an international consulting organization of over 200 professional staff mmebers, operating on five continents. Today, the company is involved in marketing, general management, training, systems, data processing, production engineering, physical distribution, and materials utilization.

In addition to his activities in apparel and textiles where he was active on many industrial committees, Mr. Salmon served as a president of the Association of Consulting Management Engineers (1969–70), and was a founder and director of the Institute of Management Consultants. In recent years, he was asked to serve as special adviser to the Department of Commerce and the Office of Management and Budget. In 1979 he received the Management Consultants Award for Excellence of the North American Conference of Management Consultants. Also, this year, the honorary doctor of textiles degree was conferred upon him by the Philadelphia College of Textiles and Science.

Mr. Salmon's reputation for detail and his insistence upon quality and professionalism—expressed in the phrase "we are more concerned with the quality of our work than with any other factor"—are legendary throughout the company he founded and the industry. His personal interests nicely counterbalanced his business activities. He was an art collector, pianist, opera lover, classical scholar and a formidable punster.

Mr. Speaker, Kurt Salmon is survived by his devoted wife, Lula Maye, as well as four children. In addressing these remarks in the U.S. House of Representatives today, I do at the same time wish to express my respect and deep sympathy to Mrs. Salmon and to other members of the family.●

BONA FESTE IN EASTON

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. RITTER. Mr. Speaker, there are few areas in Pennsylvania, or for that matter the whole United States, where ethnic pride is as important as it is in Easton, and in the entire Lehigh Valley.

No other natural resource—not our steel or farm products, or anything else of value in Northampton or Lehigh Counties—makes us richer than our love and respect for the mother countries from which our parents and ancestors came.

And no people are more justifiably proud than the thousands of Italian-Americans who live in the Easton area—the largest ethnic community in the Lehigh Valley and deeply proud of it.

Mr. Speaker, Saturday, October 6 marks a day when every Lehigh Valley resident can "be" Italian. It is the Bona Feste celebration, and I am honored and delighted to have been invited to join my many friends in the Easton Italian-American community.

The accomplishments of Italian-Americans are well-known and admired—after all, this is a Nation named after an Italian. They do not need retelling. But I do want to add one personal note.

In trying to encourage everyone in the Lehigh Valley to see the brilliance of our ethnic cultures, it has become obvious to me time and again that without the color and warmth and strength of our Italian heritage here, Easton and the Lehigh Valley would be missing something valuable beyond explaining.

So let me praise the Easton-Northampton County Columbus Organization, Inc., for the work they have done to help keep the Italian culture alive in Easton. Let me also praise the many fine organizations within this framework, such as the Knights of Columbus, the Sons of Italy, the Sons of Italy Ladies' Lodge, the Holy Cross Society and its Ladies Auxiliary, the Castel DiLucio Society and its Ladies Auxiliary, and the Circle of San Placido.

Finally, Mr. Speaker, let me conclude by saying a word about Columbus Day itself.

Columbus Day is far more than an Italian-American holiday alone. It is even more than just another national holiday. Columbus Day celebrates our beginning—not in the sense of a political beginning, as in the case of the revolution, but our beginning as a "New World."

Before the beginning of political freedom, before the beginning of colonial and national unity, before the beginning of economic power, there was a more basic beginning. It was a beginning of understanding on the part of Europe of the staggering potential of that "sleeping giant," the New World. That beginning was made possible by the handful of explorers, of whom Christopher Columbus was the most famous, who committed their lives and fortunes to a vague, magnificent hope on the other side of an unknown ocean.

Such explorers were men of unlimited faith in God and unimaginable courage. And in the end, they triumphed.

So today, as the people of Easton enjoy themselves celebrating, I call upon the U.S. Congress to join in honoring the vision of the "Great Explorer." He was the first Italian to make America his life's dream—but fortunately, not the last. Columbus still lives today in all of us. I wish Easton Bona Feste and Bona Fortuna.●

DO NOT LET AOA KILL MEALS ON WHEELS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Ms. MIKULSKI. Mr. Speaker, I would like to make my colleagues aware of a very serious problem. The meals on wheels programs throughout the country are actually endangered by the regulations proposed by the Administration on Aging.

I do not believe the Administration on Aging has captured the intent of Congress in the writing of these proposed regulations, and I am deeply concerned over the possible consequences if the regulations are not changed.

During my 15 years as a social worker in Baltimore I worked with many senior citizens and learned of the myriad of problems they encounter as they age. For the millions of elderly persons living on fixed incomes, financial burdens compound the problems they encounter—agism, isolation, housing, and transportation problems. Fortunately, obtaining food need no longer be on this list.

Because I am very aware of the problems of the elderly poor, I am quite encouraged about the expansion of social services available to them. It is heartening to see the title VII congregate meal and meals on wheels programs operating in Baltimore, a reflection of their counterparts throughout the country. The congregate programs give seniors the opportunity to obtain hot meals in the company of their peers. While servicing the nutritional needs of the elderly, a tremendously valuable social function is performed. I often visit the eating together sites in my district, and the participants are doing much more than just eating together. They are talking together, laughing together, and sharing memories and hope.

Equally encouraging to me are the excellent meals-on-wheels programs. In Baltimore we have several particularly fine programs. Over 1,250 persons are served daily by Baltimore volunteer home delivery programs. Almost 70 percent of the volunteers who deliver the meals are elderly themselves, and these people, through their generosity and community spirit, serve over 600,000 meals a year to homebound Baltimoreans. They have identified a genuine community need—assisting the homebound elderly in achieving a nutritionally sound diet. Without Federal funds, they began meeting that need on a dependable and regular basis.

Because of their fine work, demand for the services of meals on wheels has been increasing. Last year the demand increased by over 12 percent in Baltimore.

That is why, when in 1978 the Congress decided that the Government should give a hand and participate in the feeding of the homebound, I was very pleased. Along with many of my colleagues I believed that this would lead to an expansion of their services. I believed the additional Federal moneys should enable meals on wheels to expand services in rural and hard-to-reach areas; to serve additional customers; provide for a much-needed fuel subsidy for volunteers; and to expand the delivery potential through the purchase of necessary vehicles. Instead, the proposed regulations would classify meals-on-wheels programs as only vendors for meal delivery service. This would limit its growth in other areas, and restrict the invaluable services it already provides.

As they now read, the proposed regulations would significantly alter the network of nutrition services to the elderly. Section 1321.147(c)(1) states:

> The area agency may only award funds for home delivered meals to a service provider that also provides congregate meals.

In its attempt to achieve coordination the Administration on Aging has gone too far and has changed what I believe to be the intent of Congress. Why cannot congregate meal sites continue to provide congregate meals, and meals-on-wheels continue to provide home-delivered meals?

Area Agencies on Aging can and have been providing all the coordination necessary. These agencies were created by law in 1973 to be the local units which would award funds for social services to the elderly. They are charged with the coordination of area plans for the elderly, transportation and home services, and legal services. The 1978 amendments to the Older Americans Act added social services, nutrition, and multipurpose senior center programs to their jurisdiction.

The area agencies are the logical ones to dispense funds to both the congregate and meals on wheels programs. Charging the congregate sites with the delivery of homebound meals creates another layer of bureaucracy. The proposed regulations would also put existing meals on wheels programs in direct competition with congregate programs and even commercial caterers for Federal dollars. Instead of improving the system, the proposed regulations will create disharmony where was once partnership.

To worsen the situation the proposed regulations do not make any mention, when addressing how home delivered meal services are to be chosen, of the extra beneficial services now being performed by meals on wheels volunteers. They provide social contacts for the clients, help clients establish eligibility for other kinds of assistance, provide nutrition education, arrange transportation, write letters and follow up on client emergencies. Last year meals on wheels of central Maryland followed up on 55 client emergencies where police, physicians or ambulances were called in. The volunteers provide much more than a hot meal every day. They are a lifeline.

The regulations make no provision for the above nonnutrition related services, nor for the recruitment and training of deliverers.

Another problem with section 1321.147(c)(1) is that it would make it impossible for any home delivered meals services to receive funds, in areas of the country where no congregate center exists.

Another area of the proposed regulations which concerns me is section 1321.147(2)(d) which states:

> The provider of home delivered meals must assure the availability to participants of at least one hot meal a day, seven days a week.

The Older Americans Act 1978 amendments mandate something a little different. The legislation reads, "The Commissioner shall carry out a program for making grants * * * for the * * * operation of nutrition projects for older individuals which, 5 or more days a week, provide at least one home delivered meal per day."

I feel the proposed regulation requirement of meals 7 days a week should be an option, available to meet a bona fide need. However, 7-day a week delivery when not completely necessary could actually reduce the client's contact with family, friends and neighbors who presently assume the responsibility on the 2 days meals are not delivered. I would urge that frequent screening be done to determine whether 7-day service is necessary. If so, services should be provided on this basis.

Mr. Speaker, I believe that the Administration on Aging has been drawn off course. Meals on wheels programs have been efficiently serving the elderly population for 25 years, with little or no help from the Federal Government. The programs have solicited funds from clients, charities and other private sector sources, and have performed a service which would have cost the Government billions of dollars to provide. Thousands of our elderly citizens have avoided costly institutionalization.

Unlike other areas of food distribution, the work of establishing Government participation in the home delivered meals area already had a tremendous headstart. The Government did not have to forge new paths as it did at the inception of other food programs like WIC, food stamps, and the school lunch programs.

We have a foundation from which to build. Now, I am afraid that the proposed AOA regulations will knock the foundation out from under us, destroying years of work. The goal of the Congress to maximize public and private resources to meet the needs of the aged is in a clear danger of being subverted by the Administration on Aging's own regulations.

I would have unequivocably opposed the legislation if I had known how it would be interpreted by the Administration on Aging.

Rather than thanking the meals on wheels people for what they have done, the proposed regulations ignore them. There is no mention of giving first consideration to voluntary programs despite the fact that Public Law 95-478 clearly states that each area agency should give consideration to organizations which "will maintain efforts to solicit voluntary support."

I have circulated amongst my colleagues in the House a letter of comment to Commissioner Robert Benedict of the Administration on Aging. The letter urges the Commissioner to change section 1321.147(c)(1) and to give the home delivered meals programs the flexibility of applying for Federal moneys on their own. I have received an overwhelming response to this letter.

I hope that all of my colleagues will express their interest to the Administration on Aging, because these regulations have far-reaching effects.•

TRAVELING ACTS: DEMAGOGUERY 1979

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

• Mr. ASHBROOK. Mr. Speaker, in times of national crisis, it is not uncommon to witness dramatic increases in political demagoguery. Hard times usually bring radicals of all types streaming out of the woodwork. I think it is important to note the historical importance of the latest upsurge in radicalism which has been so recently splashed across the front pages of newspapers all over our country. The very worst types of demagogs usually rise to the top during periods of turmoil. When a society is struggling, some are willing to listen to anybody who proposes a solution, no matter how inane that solution might be.

Andy Young is barely out of office, yet he has already announced that he will continue to work for the recognition of the Arab terrorist front, the Palestine Liberation Organization. Jane Fonda and Tom Hayden are on the loose again, stumping for the concept of "economic democracy," whatever they mean by that. Jesse Jackson is riding high on the shoulders of terrorists who chant: "Jackson. Arafat." All the while, the news media tramps along with these roadshows making sure that the whole Nation is aware of the transpiring events.

Mr. Speaker, these radicals are moving in like hunters stalking their prey. They sense that the time is right for another demagog and they are jockeying for position. If we play along with them, if we recognize them, if we fawn over them, we are only playing into their hands. History will bear me out. Jane and Tom have been quiet for awhile. The war is over. Now, they are going after nuclear power and economic democracy. Andy Young had been quiet for several years following the civil rights battles of the 1960's. Until President Carter recognized him, he was merely an ineffective Member of Congress whose leftist ideology was ignored by most of his colleagues. Jesse Jackson has been quiet, too, waiting for the right time. And now, he is back.

George Will, the renowned conservative columnist, has written a brilliant article on the much-publicized increase in leftist roadshows. It is very perceptive and very accurate. I urge my colleagues to read it:

[From the Washington Post, Sept. 27, 1979]

TRAVELING ACTS

(By George Will)

If you are being a bad citizen, reading novels when you should be reading newspapers, you are missing important doings in progressive circles: doings like the travels of Walter Fauntroy, Tom Hayden and Jane Fonda.

If the nation gives full congressional representation to the District of Columbia, Rev. Fauntroy may one day be Sen. Fauntroy. For now, he is the District's non-voting congressional delegate. And he is one of the (in his words) "men of God" in the Southern Christian Leadership Conference delegation that dropped in on Yasser Arafat in Beirut. Fauntroy went there to suggest that the leader of the Palestine Liberation Organization adopt a "moratorium" on violence. Fauntroy probably assumes that the hurly-burly of the terrorist's life has prevented Arafat from considering the virtue of not putting bombs in Jerusalem marketplaces.

When the Israeli government refused to be a prop in the SCLC roadshow, headlines used the word "snub," as in:

"Israeli Government Snubs SCLC"

That is a bit like:

"Pope Snubs Rolling Stones"

But SCLC's magical mystery tour rolled along musically. The SCLC folks have been criticized for linking arms and singing "We Shall Overcome" with Arafat, a quite candid killer whose professed aim is to overcome, and extinguish, Israel. But critics should understand SCLC's problem.

When, last summer, Jimmy Carter said the Palestinian cause was like the U.S. civil rights movement, he incited SCLC, a husk left over from the civil-rights movement, to do publicly what Carter's administration has the inclination, if not the nerve, to do: embrace the PLO. (And I would like, in passing, to defend Carter against the charge that this was just another blunder. I think he knew exactly what he was doing.)

Furthermore, SCLC, like any down-at-the-heels carnival, has a perfect right to change its act when public attention begins to flag. Anyway, the concept of "civil rights" issues has become blurred at the edges. Indeed, it has no edges. All causes try to derive dignity from baptizing themselves "civil rights" issues.

The issue of nuclear power probably will be next. Which brings us to Tom Hayden and Jane Fonda.

"There are people," wrote Sainte-Beuve, "whose watches stop at a certain hour and who remain permanently at that age." Hayden and Fonda, two stopped watches, are off on a 32-city tour to try to get the 1960s ticking again. Their message is the normal stuff of the radical left, to wit:

The government is hideously corrupt, inefficient, extortive, manipulative, alienating, etc., etc., etc., and the way to improve America is to extend the power of government in commerce, industry, medicine, agriculture, education, etc., etc., etc.

The American left is, at all times, a bitter factional dispute looking for an excuse to happen. Today the fox of jealousy is gnawing at the gizzards of those on the left who resent the show-biz slickness with which Havden and Fonda garner publicity.

But it really is not the acme of good taste for jealous leftists to refer to them as Mork and Mindy. Hayden and Fonda just understand the relative importance of entertainment and intellect in progressive politics.

Robert Redford must know too. He recently gave a talk on solar energy to a large audience, and this was the first question from the audience: In "Butch Cassidy and the Sundance Kid," did you and Paul Newman really jump off the cliff or did stunt men do it?

America's radical left is forever panting toward the tape in races never won, but it has Grantland Rice's attitude, sort of: it matters not whether you win or lose, but how good the music is. So the Hayden-Fonda tour will prove what it proved the other day in a New York park. Given good enough weather and enough entertainers, you can draw a crowd and call it a "political outpouring."

At the New York rally, some veteran troupers (Ralph Nader, Bella Abzug, etc.) vowed to right life's more glaring wrong, which this month is nuclear power. The scene called to mind Lear raging on the health, if you can imagine Lear accompanied by banjos.

Among the entertainers was, of course, folk singer Pete Seeger. Causes come and causes go, but for 30 years there have been two fixtures at such hootenannies: Seeger and the ghost of Henry Wallace.●

CIVIL LIBERTIES AND THE POPE'S VISIT

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. DOUGHERTY. Mr. Speaker, the rejoicing which has and rightfully should accompany preparations for the visit of His Holiness Pope John Paul II to the American people next week has been marred by the misdirected efforts of a few individuals and groups for whom freedom of religion implies the absence thereof.

Last week, Mr. Adrian Lee, columnist for the Philadelphia Evening Bulletin, offered an analysis of the situation in the City of Brotherly Love. I found his insights valuable and would like to share them with my colleagues:

BITTER AFTERTASTE OVER A PLATFORM

(By Adrian Lee)

The aftertaste is bitter, sour. In the wake of the truce in the papal-platform rumble, there's the distinct feeling among Catholics that they, their church, their religion, were waylaid and mugged. If phone calls to this column are any index, they feel as if they had been zapped at the very moment they were most distracted, most involved in planning an event of great importance and historic significance, not merely to themselves but their city.

In this unwary moment, with all their energies diverted elsewhere, they see themselves ambushed by the American Civil Liberties Union and a goodly segment of the press. What lingers in the Catholic consciousness is not the image of a city rejoicing in the good fortune of its Catholic population, but a cry of, "Pay up, for the platform, or else." As if (as one caller put it), Catholics were "trying to get away with something," as if the city had never built a platform for a religious organization, as if the church was seizing on the Pope's visit to upset the Constitution and pick the public pocket.

In all this, no effort by the most agitated critics to review the record for precedents, no check of the 395 platforms the city has erected so far this year for celebrations, festivals, parades and, it turns out, for religious observances. None of the sustained platform hammering and sawing seems to have penetrated to the ears of the ACLU. Or, if it did, it didn't move them to inquire whether in all the oratory, music and invective to issue from these city-built stages, there was, occasionally, the unconstitutional "taint" of prayer.

A check of the records where most big public events are held—Independence Hall—would have shown it wasn't the first time, that the city has built platforms behind Independence Hall, and up the Mall for religious observances of one kind or another before. Among them what has come to be the annual lighting of the menorah, the eight Hanukah candles, by the Lubavitcher Center, a congregation of Hasidic Jews, and a one-shot, 1978 rally by Concerned (black) Clergy for motherhood, as personified by Charlie Bowser's mother (among others), which, according to National Park Service personnel, started off with prayers, hymns, and turned into "what sounded like a 'Vote Bowser' rally." Whatever, these are by no means the only religious observances the city has assisted, in line with what seems to be a general policy of supporting public demonstrations and rallies so long as they don't get political or stand to make the sponsor a bundle of money—no scams and ripoffs.

The organizations cited above are not singled out because they're unique or out of the ordinary, but because they are typical. The aid requested and furnished in those and other cases ran from platforms and sound systems, to installing electric sockets so organizations bringing their own sound equipment can plug in to the Independence Mall power supply. Like the International Society for Krishna Consciousness of Philadelphia, Inc. (the mystic "Hare Krishnas" with the familiar saffron-colored robes and shaved heads); in their application for a July 22, 1978 Independence Mall rally, they asked for (and got) electricity.

Coinciding, calendarwise, with the Christian Christmas-New Year's season, the Lubavitcher's Hanukah festival is one of the more joyous, colorful Mall events of the city's religious year. It features a menorah perhaps 12 feet high (transported to the Mall and erected at Lubavitcher expense) next to the platform for rabbis, musicians and city dignitaries. Substitute the Pope's Oct. 3 altar and lofty cross for the Lubavitcher's huge menorah, and save for the fact that one is next to the city-erected platform, the other on top (a difference the ACLU is free to make the most of), the situations are identical. The Lubavitcher Society pays for its menorah, and as set forth from the beginning, long before the ACLU suit, the Catholic Church pays for its altar and the cross towering over it.

The ACLU was quick to get its lawsuit in; if it had been equally quick with the record, it might have convinced a goodly number of Catholics that ACLU doesn't stand for "Anti-Catholic Litigation Union."●

INTRODUCING THE CAMBODIAN RELIEF BILL

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. ANDERSON of Illinois. Mr. Speaker, last year, I released in the CONGRESSIONAL RECORD the stark and horrifying testimony of Cambodian refugees who had fled the destruction and death that accompanied the "social engineering" practiced by the Khmer Rouge.

At the time I publicized these statements, there appeared to be very little that civilized nations could do to stem the tide of terror that swamped Cambodia and culminated in the deaths of millions of helpless Cambodians. The regime of Pol Pot had few connections with the outside world, and for all intents and purposes, Cambodia or Democratic Kampuchea, as its new rulers so ironically call it, existed in an almost precivilized state. It seemed as if all people of good will could do was to watch as a human society was literally obliterated.

Since last year, as incomprehensible as it may seem, the situation in Cambodia has deteriorated. Vietnam's invasion may have swept Pol Pot from power, but his replacement, the regime of Heng Samrin, has done little or nothing to improve the fate of Cambodia's people. As a result, the nation's agricultural base has deteriorated. Only 10 percent of the land normally under cultivation is now productive. In essence, Cambodia is today faced with mass starvation.

We cannot stand idly any longer. Efforts have begun to reach agreement with the contending parties in Cambodia on the urgent matter of an international food relief effort. Progress has been limited in terms of securing agreement on a distribution scheme within Cambodia, but I believe that the obstacles can be surmounted if international resolve to aid the people of Cambodia is strong.

The United States should be a leader in this effort. Given its rich agricultural resources and its long humanitarian tradition, America can no longer avoid involvement in such a desperate emergency situation.

Therefore, I am introducing legislation to authorize a special relief program which will enable the President to make arrangements with private and public international organizations for U.S. contributions to famine assistance efforts.

Obviously, many difficulties remain to be overcome. Yet, we cannot be deterred from our goal. We would be accomplices in a crime of silence to do otherwise.●

SHATTER THE SILENCE VIGIL: THE GENNADY KHASSIN FAMILY

SPEECH OF

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1979

● Mr. SOLARZ. Mr. Speaker, it is my privilege today to once again speak out in support of Gennady Khassin and his family who have been denied the right to immigrate to Israel by the Soviet Government.

Gennady Khassin was a prominent mathematician, the author of 4 textbooks and 16 scholarly articles which have been widely published and which are available abroad, until 1976 when he first applied for permission to emigrate to Israel to be reunited with his mother. Since that time he has been formally unemployed and has supported himself through the teaching of Hebrew which the Soviet Government does not consider a profession. This struggle to provide a livelihood for himself and his family has led to his repeated arrest and prosecution for being a "parasite."

In addition, earlier this month he attempted to visit members of his family in Odessa and was arrested and imprisoned for being in that city without a residency permit, despite the fact that his was to have been only a brief visit. Mr. Khassin was supposed to have been released on September 21, but no confirmation of this fact has been received.

No actual word has been received from the Soviet Government to explain why Gennady and Natasha Khassin and their family cannot leave the Soviet Union. Natasha has been active in the women's movement, and has been arrested several times herself in connection with various demonstrations that have taken place over the past year. She has been promised an appointment with the Administrator of the Interior but has not heard anything since making her request in May.

Despite the many problems that have plagued them since they first attempted to leave the Soviet Union, the Khassin family remains strong in their desire to emigrate to Israel. Their case is but one more sad example of the policies of the Soviet Union toward members of the Jewish faith who ask little more than the right to be reunited with their families, to hold the positions for which they are trained and qualified, and to follow the teachings of their faith. They continue in search of the opportunity to live in peace and freedom.

I would once again like to commend the courage and strength of Gennady and Natasha Khassin and I hope that this small effort will help them in their efforts to emigrate and that next year will find them safely reunited in Israel. I would also like to take this opportunity to once again call upon the U.S.S.R., as a signatory of the Helsinki Accord, to live up to the promises of the basic principles of human rights which are outlined in that agreement—particularly the guarantees of the reunification of families, religious freedom, and the right of citizens to free travel.●

SENATE—*Friday, September 28, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Reverend Donal M. Squires, chaplain, lieutenant colonel, U.S. Air Force (retired), Fairmont, W. Va., offered the following prayer:

O God, almighty and eternal, without whom no nation can be great, make us mindful of Thy presence, eager to do Thy will, and willing to walk in Thy way.

Deliver us from disagreements which make us disagreeable, from differences which make a difference in our associations, and from resentments which ruin our relationships.

Make us adequate for every adjustment we have to make, ready for every responsibility we have to carry, and equal to every emergency which comes our way.

In the midst of busy days, may we not forget Thee or be unmindful that we are here to serve Thee and our people. For we ask it in Thy name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 28, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. ROBERT C. BYRD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. PROXMIRE). Under the previous order, the majority leader is recognized for not to exceed 5 minutes.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the minority leader is recognized for not to exceed 5 minutes.

Mr. STEVENS. Mr. President, I wish to reserve my time and yield it to the Senator from Kansas (Mrs. KASSEBAUM) to add to her 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, the request of the acting Republican leader will be granted.

The Chair recognizes the Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. Mr. President, I ask unanimous consent that 2 minutes of the majority leader's time be yielded to the Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Mr. PRYOR assumed the chair.)

GENOCIDE AND HOMICIDE

Mr. PROXMIRE. Mr. President, the Genocide Convention enjoys the support of a great number of Americans, from many diverse segments of our population. Religious groups, professional groups, civic organizations, and many others have given the treaty their overwhelming endorsements.

There have also been responsible objections to the treaty, usually raised on technical grounds. Time after time, these objections have been successfully rebutted by careful consideration of the convention and its legislative history.

One such objection is rooted in article II of the convention. Genocide is defined as the commission of certain specified acts, such as murder, with the "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group." As each individual constitutes a part of such a group, critics have contended that the treaty makes no distinction between genocide and the murder of one person.

Mr. President, these critics are wrong. As reprehensible as any homicide is, it does not in itself constitute genocide, even if the crime is the result of racial or religious bigotry. The legislative history of the convention makes it clear that genocide must include the intent to destroy the entire group concerned.

As Dean Rusk testified in 1950:

> The convention does not aim at the violent expression of prejudice which is directed at individual members of groups.

Instead, the convention is a joint statement by the community of civilized nations condemning the violent extermination of great numbers of individuals belonging to a particular group. It is long past due for this Nation to join in this statement, and I strongly urge the Senate to ratify the convention.

Mr. President, I notice there has been a proposal to provide for a museum on the holocaust. I think that is a superb proposal. I warmly support it.

But I think we should recognize that holocaust is simply another word for genocide and recognize that, if we really want a memorial to do something effective about that horrible crime that Hitler perpetrated, we should pass the Genocide Convention.

Mr. President, I yield back the remainder of my time to the majority leader.

RECOGNITION OF SENATOR KASSEBAUM

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, the Senator from Kansas is here and I have yielded her our time.

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas (Mrs. KASSEBAUM) is recognized for not to exceed 15 minutes.

SALT II TREATY—EX. Y, 96–1

AMENDMENT NO. 446

(Ordered to be printed and to lie on the table.)

Mrs. KASSEBAUM. Mr. President, in my short time in this body I have tried to be observant. Following my intuition and the advice of more senior or former members, I have attempted to choose with care the issues I address in this Chamber. Today, I am going to address an issue which, if left completely to my free choice, I would not otherwise seek to influence. While I do not wish to be an interloper on a matter of the magnitude of arms limitations, I feel that it is incumbent on me to make an effort at continuing the SALT debate.

In the press, we have read varying descriptions, often from the same source, of Soviet troops in Cuba as posing no military threat to the United States; as a Soviet manuever that is insensitive to U.S. interests; and, as a major, growing obstacle to SALT II. We have been treated to predictions that there is no chance for SALT's passage while the status quo continues; that there are not sufficient votes for ratification while Soviet troops remain in this hemisphere; and that the Cuban issue will halt even committee consideration of the treaty.

Mr. President, I think we are observing the phenomenon of self-fulfilling prophecy. This kind of behavior is unbecoming to the world's most deliberative body. Without doubt, Madison's remonstration in the Federalist Papers is relevant here. In paper No. 37, Madison wrote:

> It is a misfortune, inseparable from human affairs, that public measures are rarely investigated with that spirit of moderation which is essential to a just estimate of their real tendency to advance or obstruct the public good.

Surely the current debate on Cuba is just such a misfortune.

A Soviet combat capability in Cuba, even if it presents no military threat, represents an unacceptable, aggravating intrusion upon the public's peace of mind. That capability is, at minimum, an affront and an embarrassment to America's foreign policy. The true measure of this situation lies somewhere on a spectrum starting with "nuisance" and ending with "clear and present danger." In short, I agree, and am committed to assuring, that the status quo cannot remain static.

But what, Mr. President, is the public measure, as Madison puts it, that we will advance as a remedy to this unacceptable situation? The public measure to date has been that the Senate has unofficially delayed and imperiled ultimate discussion of the second strategic arms limitation treaty. Is this being done "with that spirit of moderation" that allows us to calculate the "real tendency to advance or obstruct the public good?" I do not think so, nor do I think the American public thinks so.

I have been uncommitted on SALT II. I will discuss my views on the treaty's merit in the near future. For now, Mr. President, I want to confine myself to the impact of Cuba on the SALT process. It seems to me that both ratification proponents and opponents can reach a consensus on the question of whether debate should proceed. I would like to tentatively offer a mechanism around which such a consensus might grow.

When I rose to speak today, I mentioned that I have tried to be observant. One observation that is relevant to the Cuban connection is that we frequently, and usually on the most serious matters, do not debate issues on the floor until they have become "sure things." There is a good practical rationale for not taking unnecessary chances on passage. There is surely a good argument that the Senate should not waste time on measures that do not stand a chance of passage. But the practice of waiting until a sufficient number of votes have been flatly committed to a measure before it comes to the Senate, before it comes to a vote, is a disturbing new direction in this body. It is reminiscent of that scene in "Alice in Wonderland" in which the characters are confused about whether the verdict comes before or after the trial. It is a practice which contributes to the declining value of persuasive rhetoric and candid public debate. It is an obstacle to honest deliberation.

Mr. President, I am not doubting the sagacity of our leadership nor prejudging its determinations. I am not urging treaty proponents to rush willy-nilly into immediate floor consideration of the SALT II treaty. I am not asking the administration to ignore the unofficial vote counts and plunge into a possibly self-defeating Senate debate. What I am seeking is to restore some calm to the debate, get it moving again, and ask my colleagues on both sides of SALT to have some confidence in the institutions of the U.S. Senate and free debate.

In preparing the amendment I am submitting today, I sought advice on when debate might be expected to begin, if ever, and how long debate would last. Estimates were that the ratification debate might be the Senate business by mid-November. I was told that that debate might last anywhere from 2 or 3 weeks to 5 or 6 weeks. That strikes me as a sufficient amount of time, given the intensity of Senator's attention to SALT issues over the course of the past year, to fully air the merits of the treaty and even some peripheral issues. It strikes me as sufficient time to judge the developing situation in Cuba and relate that situation, as is the want of many Members, to the treaty. It seems a sufficient amount of time for the administration to alter the status quo and a sufficient amount of time to judge the public acceptability of the then alerted status quo. It probably even permits time for Congress to play a role in constructing an answer to the Cuban question.

Today, I am proposing a course that will allow us to proceed with genuine debate on the treaty before it is too late—before our pessimistic predictions take on a life of their own and become self-fulfilling prophecies. To opponents of the treaty I am offering a mechanism that will allow them to bring a satisfactory resolution to the Cuban situation as it relates, in their view, to SALT. To those who are uncommitted but find it difficult to maintain their position in light of the Cuban situation, I am offering productive moderation.

Mr. President, as in executive session, I send to the desk an amendment to the resolution of ratification which embodies a reservation to the SALT treaty. In essence the reservation prevents the treaty from taking effect until such time as the President certifies that the Soviet Union has no combat capability located in Cuba. The President, under the strictures of this reservation, would also be required to communicate to the Soviet Union that the future existence of a combat capability in Cuba could jeopardize the continuation of the SALT process.

It is not my intention to call for consideration of this reservation if an appropriate resolution of the Soviet combat situation has been agreed upon before debate concludes on the treaty. If the Cuban issue has been satisfactorily dealt with through firm and unilateral action on the administration's part, I would vote against my reservation as an unnecessary encumbrance on a treaty that might otherwise advance U.S. interests even marginally.

If SALT opponents believe that the treaty should be defeated on its merits, let them state their case in open debate before the Senate. If they see a way of resolving the Cuban issue, I urge them to begin work on that resolution. If opponents want more than is provided by action between now and a vote on ratification then my amendment offers them that opportunity. If those treaty proponents who see some linkage between the Cuban debate and the SALT debate have confidence in themselves and merits of SALT, then my reservation offers a way around the obstacle they themselves have placed in the path of the ratification debate.

Mr. President, I think the SALT treaty should be brought to the floor promptly. I think it should be debated and judged on its merits. I think we owe it to the reputation of the Senate to deal directly with difficult issues. I think we owe it to the Nation to judge whether our people are more secure, our defense stronger, our strategic priorities more orderly, and our allies more protected with or without the second arms limitation treaty. To fail in even attempting to make such a judgment will be more than a missed opportunity; it will be a failure of courage.

Mr. STEVENS. Mr. President, will the Senator yield?

Mrs. KASSEBAUM. I yield.

Mr. STEVENS. Mr. President, the Senator from Kansas has made a very important point in the Senate this morning, in terms of a careful, measured analysis of the situation. She certainly has made a valid suggestion: that if the combat troop brigade problem in Cuba has not been resolved by the time the treaty is voted upon, a reservation should be considered to give the President the authority she suggests.

I point out to the Senator from Kansas that when we were in a meeting with the President a week ago, I inquired of him, Secretary Brown, Secretary Vance, and Mr. Brzezinski as to whether the United States had requested permission from Cuba to take a look at these troops, to ascertain whether or not they were, in fact, combat troops, from observation on the ground, and I was told that that request had not been made.

I hope that the impact of the reservation of the Senator from Kansas would be that if the troop problem has not been resolved by the time the treaty is debated and considered on the floor of the Senate, this authorization and requirement, as her amendment provides, that the President certify that there are no combat troops in Cuba—no combat capability, I believe she said—would require an actual inspection on the ground in order to determine it.

I believe it is time we faced up to the situation and asked the Cubans and the Soviets for permission for our experts to take a look at these troops, to determine what they are, because the debate rages even again this morning in the newspapers and on the wire services as to the question of whether or not these are, in fact, combat troops. We say they are, and the Soviets and the Cubans say they are not.

A quick and easy way to resolve this question would be to request them to allow us to send our experts to Cuba to take a look at these troops on the ground and find out what their role is, what their capability is, and have them face us directly, right there, and try to explain to us why a combat brigade is not a combat brigade.

I think this is one way we might deal with the problem, if we are to get to the consideration of the treaty this year.

I congratulate the Senator from Kansas.

Mrs. KASSEBAUM. I thank the Senator from Alaska.

Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator not yield back her time for the moment? Will she yield to me?

Mrs. KASSEBAUM. I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I have had my confidence in the character of this body strengthened in listening to the speech by the gentlelady from Kansas. She has spoken in a way that contributes to the national debate, contributes to perhaps a calming of the near hysteria that appears to have been created in some quarters with respect to Soviet troops apparently long located but only recently identified in Cuba.

I did not hear all of her speech, but I heard parts of it in my office; and I noted with interest that she suggested that too much of the current debate on Cuba creates self-fulfilling prophecies. I think she is 100 percent on target.

I saw last night that the Security Council was meeting, and it is meeting again this morning. I do not know what to make of all this. I have been informed as to what is developing. That is not to say that it is necessary that I be informed. But too many things have been said and done that have created an air of apprehension, urgency, and crisis.

The distinguished Senator from Kansas believes that we should have faith in the Senate's ability to deliberate and to reach a considered judgment. She does not advocate rushing into debate tomorrow.

Sometimes I wonder whether people have been listening to what has been said. One would get the impression that the debate started yesterday on the Senate floor or would start tomorrow or next week or even the week after next. There has been no indication by the Senate leadership that that is imminent.

The Senate Foreign Relations Committee will continue to conduct its very thorough work. I hope that, in the meantime, the committee will mark up the treaty and report it to the Senate.

As I understand the statement of the Senator from Kansas, she feels that there may be some waiting for enough votes declared for SALT before beginning deliberations. In this regard, I say to the distinguished Senator that that is not the case precisely at this moment.

There will be time enough to count the votes and they probably will never be fully counted until the roll is called. But she is quite right in not asking us to plunge into self-defeating debate. She wants calmness restored to the process. That is the way it should be—calmness in this situation.

I have been in one or two crises here in my 27 years in Washington. I have never seen anything in this situation that appears to me to be a crisis. Certainly there should be no connection between that treaty and what is happening in Cuba.

The benchmark I have maintained from the beginning is and should be: Is this treaty in the interest of the United States? If it is not in the interest of the United States, then it should be rejected, Cuba aside. If it is in the interest of the United States, the security interests of the United States, then it should be approved with whatever resolutions and understandings appear to be appropriate and necessary.

And if it is in the interest of the United States, then it should not become the hostage or the victim of a pseudo-crisis that has erupted upon the discovery and identification of a few hundred Soviet troops in Cuba, apparently long there on an island on which the United States also has a few hundred personnel in a military force.

Mr. President, I am concerned about two or three things here. I have not definitely made up my mind finally on the treaty and will not do so until I have studied the report of the Intelligence Committee, read the transcripts of the Armed Services Committee and the Foreign Relations Committtee's hearings. I am inclined to support the treaty. But it is a little bit like having an option on the purchase of a house, having a 90-day option. I may purchase the house on the 90th day or I may turn down the sale. But I want to keep the option open, so that on the 90th day I may exercise it. So I do not want to see the treaty go down the drain without debate by the Senate on its merits. I think that option should be kept open.

To hold the treaty hostage or to connect it by some unnatural umbilical cord to a handful of Soviet troops in Cuba is to crush, nay, crack an egg with a sledgehammer. It is like taking one of my violins and swatting at a fly. The violin is broken into smithereens and the fly gets away. So we can end up losing on both the SALT treaty and on the issue of troops in Cuba.

I can be as hardnosed, as bullheaded, and as firm as anyone else can be. And I have made my share of anti-Soviet statements. I voted against the 1964 test ban treaty. I spoke out against Soviet adventurism in Africa and elsewhere. I have condemned the Soviets for suppression of dissidents, and I have been just as anti-Communist as anyone in this Chamber. I have my credentials. They are cleared good on that score. And I can be as firm in Cuba as can anyone else.

But I think we should stop, look, and listen and not let the situation be distorted to the extent that we destroy a treaty which may be in the interest of this country and which deals with strategic nuclear systems and has not one thread of connection with Soviet troops in Cuba. We may destroy that because of political glaucoma that obscures our wider vision of the Nation's interest in bringing about some eventual limit on strategic nuclear weapons.

So, Mr. President, I am encouraged by the address that has been made by the distinguished Senator from Kansas. She has correctly perceived the situation as it is. She has advocated going ahead in due time, not in haste, with the debate on the treaty. But she has also advocated not delaying it. I say she is correct. The Senate and the American people are entitled to hear the debate on this treaty.

So my compliments to her, and I will look forward to reading the speech in its entirety. I will not comment on the amendment that she offered at this point, but it certainly is not without reason that might require a change or two, but at least she is thinking positively.

Mr. President, I yield the floor.

Mrs. KASSEBAUM. I thank the majority leader for his kind and thoughtful remarks.

I share with him the great pride we take in the history of the Senate and its precedents that guide us in dealing with these issues. I am sure that under his objective leadership, we will have a prompt and full debate.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine business and Senators may speak therein up to 10 minutes and that the period be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER VITIATING RECOGNITION OF CERTAIN SENATORS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders for the recognition of Mr. STONE and Mr. HARRY F. BYRD, JR., be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for transaction of routine morning business be extended for an additional 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS UNTIL 11:18 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 10:48 a.m., recessed until 11:18 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HEFLIN).

INDUSTRIAL EQUIPMENT ENERGY EFFICIENCY ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1398, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1398) to establish energy efficiency standards for industrial equipment.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Industrial Equipment Efficiency Act of 1979".

DEFINITIONS

SEC. 2. Amend section 340 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) by adding to the end thereof the following new paragraphs:

"(8) The term 'energy efficiency standard' means a performance standard—

"(A) which prescribes a minimum level of energy efficiency for a type or class of electric motors or pumps that are industrial equipment, and

"(B) which includes any other requirements which the Administrator determines is necessary to assure that such covered equipment is in compliance with the standard.

"(9) The term 'new industrial equipment' means industrial equipment the title of which has not passed to a purchaser.

"(10) The term 'standby energy efficiency standard' means an energy efficiency standard which although promulgated, does not become effective until the Secretary removes it from its standby status.

"(11) The term 'small business' means that term as defined by the Small Business Administration.".

STUDY OF ELECTRIC MOTORS AND PUMPS

SEC. 3. Amend section 342 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) by (a) striking the following words in subparagraph (a)(1)(A): "of energy used, method of manufacture," and inserting in lieu thereof: "and amount of energy used, method of manufacture, achievable levels of energy efficiency,".

(b) Deleting subparagraph (a)(1)(B).

(c) Striking everything after the word "evaluation" in paragraph (a)(2) and inserting in lieu thereof a period.

TEST PROCEDURES

SEC. 4. Amend section 343 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) by (a) deleting paragraph (a)(1) and inserting in lieu thereof the following:

"Within 9 months from the date of submission to Congress of the industrial equipment evaluation required under section 342 (a), the Secretary shall—

"(i) determine for which classes or types of covered equipment he will prescribe test procedures, and

"(ii) prescribe such test procedures in accordance with the following provisions of this section.".

(b) Amending paragraph (a)(2) by inserting after the word "designed" the following: "in consultation with manufacturers of affected industrial equipment and technical societies (that the Secretary deems appropriate)".

(c) By inserting at the end of subsection (b) an additional paragraph (3) to read:

"(3) take into consideration appropriate test procedures currently in use by the industrial equipment industry.".

LABELING REQUIREMENTS

SEC. 5. Amend section 344 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) by (a) deleting subsection (a) and inserting in lieu thereof:

"(a)(1) Within 9 months from the date of submission to Congress of the industrial equipment evaluation required under section 342(a) the Secretary shall—

"(i) determine for which classes or types of covered equipment he will prescribe labeling rules, and

"(ii) prescribe such labeling rules in accordance with the following provisions of this section.".

(b) Amending paragraph (e)(1)—

(1) by deleting the word "Before" and inserting in lieu thereof the word "In";

(2) by deleting the dash after the word "shall" and adding thereafter the following: "comply with section 553 of title 5, United States Code, but he shall—";

(3) by deleting the period at the end of subparagraph (B) and adding the following: "and a transcript shall be kept of any oral presentations, and".

(4) by adding an additional subparagraph (C) to read:

"(C) consult with manufacturers of the affected types or classes of covered equipment.".

STANDBY ENERGY EFFICIENCY STANDARDS FOR ELECTRIC MOTORS AND PUMPS

SEC. 6. (a) Section 345 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) is renumbered as section 349 everywhere that it appears in part C of that Act.

(b) A new section 345 is inserted in the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) to read as follows:

"STANDBY ENERGY EFFICIENCY STANDARDS FOR ELECTRIC MOTORS AND PUMPS

"SEC. 345. (a)(1) The Secretary shall, not later than May 1, 1982—

"(i) determine for which classes or types of electric motors and pumps that are covered equipment as identified under section 342(a)(1), he will prescribe standby energy efficiency standards, and

"(ii) prescribe by rule, such standby energy efficiency standards.

"(2) A standby energy efficiency standard may not be removed from its standby status and made effective except as provided under section 348.

"(b) Any standby energy efficiency standard shall be prescribed in accordance with the following procedure:

"(1) The Secretary shall (i) publish in the Federal Register an advance notice of proposed rulemaking which specifies the type or class of electric motors or pumps to which the rule will apply, and (ii) invite interested persons to submit, within 90 days after the date of publication of such advance notice—

"(i) written or oral presentations of data, views, and argument as to the proposed level of energy efficiency, and

"(ii) proposed standby energy efficiency standards applicable to such type or class.

"(2) A proposed rule which prescribes a standby energy efficiency standard for a type or class of electric motors or pumps may not be prescribed earlier than 120 days after the date of publication of advance notice of proposed rulemaking for such class.

"(3) A rule prescribing a standby energy efficiency standard for a type or class may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such class. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or amendment thereto) shall not apply to any electric motors or pumps the manufacture of which was completed prior to the effective date of the rule or amendment as the case may be.

"(c) A standby energy efficiency standard may exempt from the requirements small business manufacturers with respect to whom the Secretary determines imposition of the requirements may cause a serious economic hardship, except that this exemption shall not exclude from coverage of the standard more than 10 percent of the production of covered equipment to which the standard applies.

"(d) The Secretary shall not promulgate standby energy efficiency standards for any type or class of electric motors or pumps that is industrial equipment unless he has determined that—

"(1) improvements in energy efficiency are technologically feasible and economically justified with respect to such class; and

"(2) significant energy savings will likely result from such standard.

"(e)(1) Standby energy efficiency standards for electric motors and pumps prescribed pursuant to this section shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified. Such standby standards may be phased in over a period of years as determined by the Secretary.

"(2) In determining whether a standard is economically justified under paragraph (1), the Secretary shall determine that the benefits of the standard exceed its burden based upon a weighing of the following factors:

"(A) the economic impact of the standard on the manufacturers and on the purchasers of the equipment subject to such standard;

"(B) the savings in operating costs throughout the estimated average life of equipment in the type (or class) subject to such standard which is likely to result from the imposition of such standard;

"(C) the total projected energy savings likely to result directly from the imposition of the standard;

"(D) the increase in the initial charge for, and the expenses of maintenance, repair, or use of, such equipment which is likely to result from the imposition of the standard;

"(E) any lessening of the utility or the performance of the equipment likely to result from the imposition of the standard;

"(F) the impact on competition determined in writing by the Attorney General to be likely to result from the imposition of the standard;

"(G) the need of the Nation to conserve energy; and

"(H) any other factors the Secretary considers relevant.

For purposes of subparagraph (F), the Attorney General shall, not later than 60 days after the publication of a proposed rule prescribing an energy efficiency standard, make a determination of the impact, if any, on competition which would be likely to result from the implementation of such standard and transmit such determination in writing to the Secretary, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published in the Federal Register.

"(f) The standby energy efficiency standard may be expressed as a nominal efficiency standard defined such that the minimum efficiency standard equals the nominal efficiency standard minus 10 percent of the difference between 100 percent and the nominal efficiency standard.

"(g) Any standby standard established under this section may be modified if the Secretary—

"(1) determines that technological changes so warrant, and

"(2) publishes such determination in the Federal Register together with a basis and justification for such modification.".

MARKET PENETRATION TARGETS FOR HIGH EFFICENCY MOTORS AND PUMPS

SEC. 7 (a) Section 346 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) is renumbered as section 350 everywhere that it appears in part C of that Act.

(b) Insert a new section 346 in such Act to read as follows:

"MARKET PENETRATION TARGETS FOR HIGH EFFICIENCY MOTORS AND PUMPS

"SEC. 346. (a) The Secretary shall by October 1, 1981, establish a market penetration schedule for high efficiency motors and high efficiency pumps for each standard classification of electric motors and pumps identified pursuant to 345 (a) (1).

"(b) (1) For purposes of this section, high efficiency motors and high efficiency pumps are those electric motors and pumps which meet or exceed, as indicated on the label provided pursuant to section 344, an efficiency level for each type or class of electric motors and pumps which the Secretary determines, based on his consideration of the following criteria:

"(A) the efficiency achievable with the best available technology and materials that are available and suitable for incorporation in the production of that type or class of electric motors or pumps, and

"(B) the additional costs attributable to the use of such materials and technology in the design and construction of electric motors and pumps, and

"(C) the effect of such additional costs on the market demand for electric motors and pumps.

"(2) The Secretary may express the efficiency level described in paragraph (1) as a nominal efficiency level.

"(3) The Secretary may authorize the manufacturers of a high efficiency motor or high efficiency pump as defined in this subsection, to include on the label furnished pursuant to section 344, a statement that such motor or pump is certified to be a high efficiency motor or high efficiency pump, as the case may be.

"(c) For purposes of this section the market penetration schedule shall specify, as a target expressed as a percentage, the ratio of all manufacturers' sales of high efficiency motors or high efficiency pumps compared to all sales of electric motors or pumps of that type or class, with respect to each quarter of each of the following 5 years, beginning with the last quarter of calendar year 1981. In establishing such market penetration schedule the Secretary shall consider the following criteria:

"(1) The potential market for high efficiency motors and pumps.

"(2) The production capacity for high efficiency motors or pumps.

"(3) The national need to conserve energy.

"(4) Any other criteria which the Secretary deems appropriate.

"(d) Any target established under this section may be modified if the Secretary—

"(1) determines that changes in market conditions or technological developments so warrant, and

"(2) publishes such determination in the Federal Register together with a basis and justification for such modification.".

REPORTING REQUIREMENTS

SEC. 8. Insert a new section 347 in the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) to read as follows:

"REPORTING REQUIREMENTS

SEC. 8. Insert a new section 347 in the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) to read as follows:

"SEC. 347. (a) The Secretary shall notify all manufacturers of covered equipment of the requirements of this Act.

"(b) The Secretary shall prepare, publish, and make available for use in complying with the reporting requirements under subsection (c), forms which shall be designed in such a way as to avoid imposing an undue burden on any firm.

"(c) The chief executive officer (or an individual designated by such officer) of each firm notified pursuant to subsection (a) shall report to the Secretary on a quarterly basis (as determined by the Secretary) on the firm's sales of electric motors and pumps for which market penetration schedules are established, if that firm has such sales. Such report shall contain such information as the Secretary determines is necessary to measure the extent to which the market penetration schedules are being achieved.

"(d) The information in such report shall not be made available to the public, but the Secretary shall report quarterly to the Congress and to the public on the aggregated results of such reports.".

TRIGGER FOR IMPOSITION OF STANDBY ENERGY EFFICIENCY STANDARDS

SEC. 9. Insert a new section 348 in the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) to read as follows:

"TRIGGER FOR IMPOSITION OF STANDBY ENERGY EFFICIENCY STANDARDS

"SEC. 348. If, based on the reports received pursuant to section 347, the Secretary determines that any market penetration schedule, established under section 346 and averaged by weighted sales volume over the preceding 4 calendar quarters is not achieved with respect to a type or class of electric motors or pumps, then the Secretary shall remove the stand-by energy efficiency standards from their standby status with respect to that type or class and make those standards effective as of the date 180 days after he publishes his determination in the Federal Register.".

ADMINISTRATION, PENALTIES, AND ENFORCEMENT

SEC. 10. Amend section 349 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) and as renumbered by section 6 of this Act (a) by striking in paragraph (1) the words "and 324" and inserting in lieu thereof ", 324, and 325".

(b) By striking in paragraph (1) the words "and 344" and inserting in lieu thereof "344, and 345".

(c) By inserting at the end thereof a new paragraph (5) to read:

"(5) violations of section 347 shall be treated as violations of section 332(3).".

SEC. 11. Section 350 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) and as renumbered by section 7 of this Act, is amended by (a) inserting at the end of subsection (a) the following new paragraphs:

"(3) with respect to electric motors and pumps that are covered equipment, $3,000,000 for each of fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982; and

"(4) with respect to all other types of industrial equipment, $1,000,000 for each of fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982.".

(b) Deleting everything appearing after the colon in paragraph (b) (2) and inserting in lieu thereof the following:

"PART C—CERTAIN INDUSTRIAL EQUIPMENT

"Sec. 340. Definitions.
"Sec. 341. Purpose and coverage.
"Sec. 342. Study of electric motors and pumps and other industrial equipment.
"Sec. 343. Test procedures.
"Sec. 344. Labeling requirements.
"Sec. 345. Standby energy efficiency standards for electric motors and pumps.
"Sec. 346. Market penetration targets for high efficiency motors and pumps.
"Sec. 347. Reporting requirements.
"Sec. 348. Trigger for imposition of standby energy efficiency standards.
"Sec. 349. Administration, penalties, and enforcement.
"Sec. 350. Authorization of appropriations.".

The PRESIDING OFFICER. Time for debate on this bill is limited to 1 hour, to be equally divided and controlled by the Senator from Ohio (Mr. METZEN-

BAUM) and the Senator from New Mexico (Mr. DOMENICI) with 30 minutes on any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that was allotted to Mr. DOMENICI under the order be transferred to Mr. WEICKER.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTION AND ENROLLMENT OF H.R. 3996

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House of Representatives, House Concurrent Resolution 192, be laid before the Senate

The PRESIDING OFFICER laid before the Senate a message from the House on House Concurrent Resolution 192, directing the Clerk of the House to make a correction in the enrollment of the bill H.R. 3996.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 192) was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDUSTRIAL EQUIPMENT ENERGY EFFICIENCY ACT OF 1979

The Senate continued with consideration of the bill.

Mr. WEICKER. Mr. President, amid the continuing debate on energy, today we shall be considering a very simple, inexpensive proposal which will create nearly 700,000 barrels of oil a year by enhancing the use of high-efficiency industrial equipment.

S. 1398, the Industrial Equipment Efficiency Act, is the step-child of a bill approved by Congress in the 95th session which required the Secretary of Energy to report to Congress on the feasibility of establishing mandatory minimum efficiency standards for industrial pumps and motors. That study will be before Congress early next spring.

What this bill intends to do is to take the results of that study and, rather than suggest mandatory standards, develop standby efficiency standards for those classes of pumps and motors where it is feasible. Along with the standby efficiency standards, the bill will require the Secretary, in consultation with the motor manufacturing industry, to develop a market penetration schedule for the sale of these high-efficiency motors and pumps. If the manufacturing industry falls behind in projected sales of high-efficiency motors, the standby efficiency standards will be put into effect.

Mr. President, I have supported this legislation, as I have other conservation proposals, as a necessary element of our national energy policy. Like other efforts to trim back energy consumption, we have heard a great deal of complaining and bickering as to who is going to get slapped with a bill. Cab drivers do not like rationing. Environmentalists do not like coal production. Oil dealers do not like gas conversion. And motorists cannot stand anything that will cut into their vacations. No one is willing to bite the bullet and pull in the belt when all indications are that we all should be moving toward less energy consumption—if not to assure its availability, surely to keep down its price.

This bill, Mr. President, is one of the mildest conservation proposals imaginable. Efficiency standards will be set only for select classes of pumps and motors where existing technology has shown them to be available. Standards will be established in terms of a nominal efficiency standard and the Secretary has the discretion to withdraw standards for categories which he feels are unreasonable. Both the test procedures and the market penetration schedule must be made in consultation with the industry and technical societies and must take into consideration test procedures currently in use by the industry. Manufacturers will be required to report quarterly on the percentage of sales of high efficiency motors against all their sales, but standby efficiency standards will not be invoked unless the industry as a whole fails to meet the projected market penetration for four consecutive quarters.

In addition Mr. President, I would like to point out that the Department of Energy now staffs an office for commercialization of high efficiency industrial equipment and is working closely with the manufacturing industry in achieving the goals this bill will insure are met.

Why then is it so important that we pass this bill? Mr. President despite our previous attention to industrial equipment there has been a general decline in efficiency for small pumps and motors over the last 15 years. There are at this time over 50 million small electric motors which consume 26 percent of the total electric power generated in this country. About 43 percent of that amount is consumed by the industrial sector. With new technologies and increased marketing of existing high efficiency equipment, by the year 2000 we could see 32 percent of the market replaced with motors which are nearly 50 percent more efficient.

While it is difficult to project exact energy savings in any program, DOE estimates that this bill could save 0.4 quads or 187,000 barrels of oil equivalent a day by 1985.

Mr. President, it has already been mentioned that this bill is a revision of a mandatory pump and motor measure passed by the Senate 2 years ago. I personally do not see how this body with any clear sense of our energy problem could reverse itself on a proposal which demonstrates substantial energy savings. Particularly when the real meat of the bill has been taken out and has been tailor fit for the industry. If we cannot show our support for a bill as innocuous as this—but as important to our energy conservation efforts—we ought to forget passing anything as important as a synthetic fuels program.

Mr. President, that concludes my opening statement.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that Rick Wilson of my staff, together with Dan Dreyfus, Mike Harvey, Richard Grundy, Jim Bruce, and Ben Cooper of the staff of the Senate Committee on Energy and Natural Resources, be granted privileges of the floor during the consideration of S. 1398.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I am very pleased to join and work with Senator WEICKER, who has made a statement in connection with the proposed legislation. His has been a strong voice for conservation for as long as I have known him in the Senate.

Mr. President, the need for energy conservation in this country has never been greater than it is right now.

In April of 1977, President Carter labeled the effort to conserve energy the "moral equivalent of war." Since then, the world price of crude oil has increased by nearly one-half; and since then, our consumers have experienced first-hand just how unreliable the supply of gasoline can be.

Congress responded to President Carter's initiative by enacting the National Energy Act of November 9, 1978. Since then, our energy situation has deteriorated badly. The price of home heating oil has almost doubled. The supply of home heating oil has become a major national concern. Nuclear energy, through a narrowly-averted catastrophe, has proven itself to be an unreliable source for the future energy needs of the Nation. And we have learned that even the price of other energy sources will follow the price of OPEC oil. The Mexican natural gas deal with the United States will peg future gas prices to world oil prices, and of course new natural gas prices are likely to follow suit.

Finally, as we look to the future for new energy resources, we find our options are limited. This Congress will consider spending over $80 billion for fuels that will not appear in quantity for at least 15 years. Their environmental cost is uncertain, if not incalculable.

It was true in 1977 and it is even truer today—energy conservation is still the cheapest source of energy available to us, and certainly it is the safest, most environmentally benign of any energy source.

In 1977, I introduced a package of mandatory energy conservation amendments to the National Energy Act. One of them was a provision requiring mandatory energy efficiency standards for industrial equipment. Mr. President, the Senate Committe on Energy and Natural Resources adopted that provision as an amendment to S. 2057. The Senate adopted that provision on September 13, 1977, as part of H.R. 5037.

However, in conference on the National Energy Act, the House, which had no similar provision, watered the bill down. Under the measure adopted, the Secretary is authorized to prescribe test procedures and labeling rules for industrial equipment. However, the provision for mandatory efficiency standards for industrial equipment was deleted in conference.

Mr. President, recently, with the support of a number of Members, I introduced another package of mandatory energy efficiency measures, because, for all the reasons I have previously stated, we must get on with serious energy conservation in this country.

Incidentally, President Carter has since given Congress another reason why mandatory conservation provisions are necessary. The President has announced that he will use his existing authority to restrict the importation of petroleum into this country. The result of this policy, if the ceiling is reached, will inevitably be higher prices for energy and restricted supply for consumers, the commercial sector, and industry as well. Thus, we have an additional reason for mandatory energy conservation.

One of the mandatory energy conservation measures that we introduced was S. 1398, the Industrial Equipment Efficiency Act of 1979. Cosponsors were Senator JACKSON, chairman of the Energy Committee, and Senators HATFIELD, WEICKER, KENNEDY, LEAHY, BRADLEY, and TSONGAS. In its form as introduced, it would have restored the provisions which the Senate approved 2 years ago and which were deleted in conference at the insistence of the House. In its original form, the bill provided for imposition of mandatory energy efficiency standards on industrial equipment.

However, I should point out that the administration did not support the bill as introduced. What emerged from committee to the floor is a revised bill that has the support of the administration, a bill that the committee adopted by a majority of over 2 to 1, and a bill that is considerably less of an imposition on the industrial equipment manufacturers than what the Senate adopted 2 years ago. Two years ago, foreign oil was $14.50 per barrel instead of the current price of $20.77 per barrel.

What does S. 1398 do? The heart of this bill is quite simple. In a nutshell, as long as the manufacturers of industrial motors and pumps offer industry the option of purchasing premium, high-efficiency motors and pumps whose sales gradually increase in total market share along a target schedule, no mandatory efficiency standards will be imposed. Mandatory standards would be imposed only if the manufacturers of this industrial equipment fail to do what they claim to be doing anyway. Even then, the Secretary of Energy has discretion as to which categories of motors or pumps will be sujbect to mandatory standards. Let me elaborate.

The Secretary of Energy is authorized to set mandatory energy efficiency standards for categories of electric motors and pumps which he selects. These standards, if imposed, would apply to every motor or pump in that category. These standards, however, are not automatically imposed. Rather, they remain in a standby status. The Secretary of Energy will also define what is known as "high efficiency motors and pumps"— that is, premium motors and pumps with efficiencies considerably higher than standard motors and pumps. The Secretary will also define for each category of high efficiency motors or pumps a "market penetration schedule." This is only a target for the manufacturers to achieve that indicates how fast these efficient motors and pumps should increase in their total market share.

The market penetration schedule is specified by calendar quarter over a 5-year period. If for four successive calendar quarters a category of motors or pumps fails to achieve the market penetration target, the standby mandatory energy efficiency standards will be imposed on that category of motors or pumps.

What are the potential benefits of this bill? What will it achieve?

In 1985 electrical motors will consume 26 percent of all the electricity generated in this country. By improving the efficiency of motors only 5 percent, savings of 150,000 barrels of oil equivalent per day can be generated.

The situation with pumps is similar. A 60–70 percent improvement in efficiency is possible with some pumps. One analyst put the potential energy savings at 130 million barrels per year of oil equivalent. Together, the potential energy savings from improved efficiency in motors and pumps amounts to 285,000 barrels of oil equivalent per day. Not only are these savings large, but they come at a price equal to buying oil at roughly $6.50 per barrel in 1985. Thereafter, the price drops even lower.

Mr. President, the need for reducing our dependence on imported oil has never been clearer. Indeed, the need to reduce our use of all forms of energy is imperative. Yet, this Congress and this administration has shown little willingness to support mandatory conservation, despite our energy problems.

Today in my opinion is a marked day. This bill is an important beginning for mandatory conservation, and I urge my colleagues to support this effort with their vote here today.

Mr. President, I ask unanimous consent that a section-by-section analysis of S. 1398 be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 2. Definitions

The intent of this section is clear.

Section 3. Study of electric motors and pumps

Subsection (b) deletes the requirement that the study to be performed by the Secretary of Energy under existing law will include a determination as to the practicability and effects of requiring certain classes of electric motors and pumps to meet performance standards establishing minimum levels of energy efficiency.

Subsection (c) deletes the requirement that the Secretary include recommendations for legislation in his report to Congress.

Section 4. Test procedures

Subsection (a) directs the Secretary to select the classes or types of covered equipment for which he will establish test procedures and to prescribe those test procedures within a specific time period. This provision is a substitute for existing law which merely authorized the Secretary to establish test procedures after having conducted the evaluation under section 342.

Subsection (b) requires that any test procedures will be designed in consultation with manufacturers to the industrial equipment to which the test procedure will apply and to consult with technical societies whom the Secretary deems appropriate.

Subsection (c) requires the Secretary of Energy before prescribing any final test procedures to take into consideration appropriate test procedures currently in use by the industrial equipment industry.

It is anticipated that the test procedures established in section 343 of the EPCA, as amended, will serve as the basis for any labeling rules developed under section 344 and any standby energy efficiency standards that are developed under section 349 for electric motors and pumps.

Section 5. Labeling requirements

Under existing law, the Secretary of Energy is authorized to prescribe a labeling rule after having prescribed a test procedure for that equipment. Subsection (a) changes existing law so that the Secretary is required to determine the classes or types of equipment for which he will prescribe labeling rules and to prescribe those rules within a specified time period.

Subsection (b) requires the Secretary in prescribing labeling rules to comply with the informal rulemaking requirements of Section 553 of title 5, U.S. Code; to keep a transcript of oral presentations on proposed rules; and to consult with manufacturers of the kinds of industrial equipment affected by the proposed rule.

Section 6. Standby energy efficiency standards for electric motors and pumps

This section requires the Secretary to select the classes or types of electric motors and pumps for which he will prescribe standby energy efficiency standards and to prescribe them in accordance with certain specified procedures. A small business exemption is included in this section. The Secretary may not prescribe a standby energy efficiency standard unless he makes certain determinations which are enumerated in this section.

The Secretary is permitted to express the standby energy efficiency standard as a "nominal efficiency standard" that incorporates a margin of error.

Section 7. Market penetration targets for high-efficiency motors and pumps

This section directs the Secretary to establish a market penetration schedule for a subcategory of motors or pumps known (and defined by the Secretary) as "high efficiency motors" or "high efficiency pumps". This subcategory is defined for each category of electric motors or pumps for which the Secretary determines he will prescribe standby energy efficiency standards. The criteria which the Secretary will consider in defining high efficiency motors or high efficiency pumps are contained in this section. The Secretary may express the "high efficiency" level as a "nominal efficiency" using the same methodology as that contained in section 345(f).

The market penetration schedule is a goal expressing the gradually increasing market share which a type of high efficiency motors or pumps is targeted to achieve over time, compared to sales of all motors or pumps in that same category of motors or pumps. Such schedule will be expressed as the market share of the high efficiency product for each calendar quarter over 5 years and so the schedule will consist of a series of market share data points over that period of time.

This section also enumerates the criteria that the Secretary shall consider in establishing the market penetration schedule.

Section 8. Reporting requirements

The intent of this section is clear.

Section 9. Trigger for imposition of standby energy efficiency standards

This section describes the conditions under which a standby energy efficiency standard may be removed from standby status and made effective. Specifically, the Secretary will compute the market share of the high efficiency motors and pumps, averaged by sales volume per quarter for the preceding four calendar quarters. He will compare that average market share to the respective market penetration schedule also averaged over the preceding four calendar quarters.

Section 10. Administration, penalties, and enforcement

Section 10 incorporates the same provisions (sections 328 through 336) on rules, authority to obtain information, exports, imports, prohibited acts, enforcement, injunction enforcement, citizen suits, and administrative procedure and judicial review as are applicable to the appliance efficiency standards program (part B) of the Energy Policy and Conservation Act, as amended.

References to section 349 are actually references to what was section 345 of the Energy Policy and Conservation Act (EPCA), as amended, before this section was renumbered as section 349.

Subsections (a) and (b) of this section result in any references in sections 328 through 336 of EPCA to the sections on test procedures, labeling, energy efficiency standards of the appliance efficiency standards program of EPCA (part B) referring as well to the sections on test procedures, labeling, and standby energy efficiency standards of this act.

Subsection (c) serves to make any violations of the reporting provisions (section 8) of this act subject to the same sanctions as apply to those who fail to permit access to, or fail to make the requisite reports under the appliance standards program in EPCA, as amended.

Section 11. Authorization of appropriations

The intent of subsection (a) is clear.

Subsection (b) makes technical changes.

Mr. BOSCHWITZ addressed the Chair.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield to the Senator from Washington.

Mr. JACKSON. The Senator from Minnesesota was here first. Go ahead.

Mr. METZENBAUM. I yield to the Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, if the Senator will answer one or two questions. I do not quite understand how this is going to be imposed. These are going to be standby rules? Is that right?

Mr. METZENBAUM. They will be standby rules. The Secretary of Energy will set minimum efficiency standards for selected categories of electric motors and pumps. He will also define what is a "high efficiency motor" and a "high efficiency pump" and he will also set a market penetration progression table which the industry will be expected to live up to. If they fail to live up to it for four consecutive quarters, then and only then do the mandatory standards come into play.

Mr. BOSCHWITZ. The mandatory aspects, in effect, come into play right away, do they not? In a sense, if you establish certain criteria, the industry will thereby have to coordinate its effort to those criteria; otherwise, it certainly will come into violation of the act, I presume.

Mr. METZENBAUM. No. There will not be market penetration targets that any one particular manufacturer or any particular group of manufacturers would be in violation of. These are targets for the entire industry. So we are talking about a gradual market penetration rate for high efficiency products that would be applicable to the industry as a while, and the day after the bill is enacted no particular motor manufacturer or pump manufacturer would be obligated to act. The actual fact is the Secretary would set the minimum efficiency standards and set the market penetration target schedule for high efficiency motor and pumps, but these efficiency standards would be kept on a standby basis and ready to move.

Mr. BOSCHWITZ. As a realistic matter, by establishing a standard and by establishing a time table, are you not thereby imposing those standards on the industry? Can the industry use its own standards—is that what you are saying—and beat the Government?

Mr. METZENBAUM. The industry testified before our committee that they will meet the standards. There is no question that the industry can and will meet the standards. But, on the other hand, there is no question about——

Mr. BOSCHWITZ. If the Senator will yield, why does the industry in that case oppose this legislation?

Mr. METZENBAUM. I think it is sort of a knee-jerk reaction of being opposed to any Federal legislation. In every instance in which we come forward to talk about mandatory conservation measures in this Congress, there has been opposition because no one wants anyone to interfere with their method of doing business. But the fact is that it will not hurt the industry.

The fact is the industry can comply. The fact is the industry is moving in that direction, but I think that this will make it a certainty that the industry will indeed totally move in that direction.

Mr. BOSCHWITZ. I will yield but I wish to ask one or two other questions after the Senator from Washington concludes his remarks.

Mr. METZENBAUM. I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I commend Senator METZENBAUM for the dedicated effort he has made to move energy conservation legislation through Congress. This bill before us today, S. 1398, which I cosponsored, is but one of a series of bills he has introduced to exploit our cheapest and most reliable energy source, namely energy conservation. The Industrial Equipment Efficiency Act of 1979, if enacted, would insure that our industrial sector is offered electric motors and pumps that are energy efficient.

Mr. President, the manufacturing sector of this Nation uses approximately 35 percent of all the electricity consumed in the Nation. Of the total amount of electricity used by manufacturers of durable goods—such as lumber, stone, primary metals, fabricated metals, machinery, and transportation equipment—about 79 percent of this electricity is consumed by their industrial electric motors.

For manufacturers of nondurable goods—such as food, textiles, paper, chemicals, petroleum, and rubber—industrial electric motors account for 70 percent of the total electricity consumption.

Consider it another way, if you look at all the electricity consumed by all electric motors throughout the Nation, industrial motors use 45 percent of that total. So in addressing industrial motors we are talking about very large amounts of electricity. Similarly, pumps are widely used throughout the industrial sector and normally are driven by electric motors.

DOE estimates that energy efficient industrial motors could save 0.1 quad by 1985 and 0.4 quad of energy by 1990. One quad is 472,000 barrels per day of oil equivalent. By comparison, that is equal to the future energy savings DOE attributes to solar-heated hot water and industrial process heat in the industrial sector. The potential energy savings of more efficient pumps is 130 million barrels of oil per year or 350,000 barrels per day.

I remind my colleagues that 2 years ago in the National Energy Act we adopted a more stringent version of this bill, which the House conferees accepted only in part. This bill, S. 1398, is different than what the Senate passed before. This bill has considerably more flexibility in it. If S. 1398 works as intended, then no mandatory standards will be imposed on these motor and pump manufacturers. Any standards will remain in a standby status. If these industrial equipment manufacturers expand their efforts begun in 1976 to offer to industry highly efficient motors and pumps, and if they meet the market penetration targets for high efficiency motors and pumps, then this bill will only impose some reporting requirements on the motor and pump manufacturers.

The measure adopted by the Senate 2 years ago was far more direct. It mandated the imposition of efficiency standards on industrial motors and pumps. From the industry's viewpoint they should view this bill as a much better approach.

Mr. President, the administration supports this bill; the Committee on Energy and Natural Resources passed it by an overwhelming margin, and I encourage my colleagues to adopt it.

I yield back such time as I may have remaining.

Mr. METZENBAUM. What is the time situation?

The PRESIDING OFFICER. The Senator from Ohio has 28 minutes and the Senator from Connecticut has 18½ minutes.

Mr. BOSCHWITZ. Mr. President, will the Senator yield to me?

Mr. METZENBAUM. I am sorry.

Mr. BOSCHWITZ. Will the Senator yield?

Mr. METZENBAUM. How much time?

Mr. BOSCHWITZ. Six, 7 minutes.

Mr. METZENBAUM. No problem.

Mr. BOSCHWITZ. Mr. President, I rise to oppose this legislation. Perhaps I can engage Senator METZENBAUM in a colloquy. It is my understanding that the industry has made the largest part of the savings which have already occurred in the whole field of energy. I just do not understand why we now have to burden the machine electric pump and motor manufacturers with new regulations and new acts when these manufacturers are moving, I understand, very rapidly in the direction of energy conservation. So I oppose the bill on the basis that, indeed, the industry is conserving without this Government prodding.

It is interest to note that in 1976, 3 years ago, there was only one motor manufacturer that had a line of energy-efficient motors. Today, virtually every major manufacturer produces an efficient line of motors and, as a result, great progress has been made in that area.

Also, if I am not mistaken, there is a study going on presently, I believe, by Arthur D. Little Co. of Boston under the auspices of the Department of Energy to determine whether or not these kinds of regulations are really necessary.

So I ask the Senator from Ohio whether or not this legislation is necessary, and why at this time when a study is underway do we have to undertake a measure such as this?

Mr. METZENBAUM. First of all, the study will not be back at a very early point, and I think there is a sense of urgency.

I would like to point out to my good friend from Minnesota that the testimony of the National Electrical Manufacturers Association before our committee, by Mr. Falk, was as follows:

> It is true they have not taken a significant part of the marketplace. The marketplace has dictated these requirements. I think it is something less than 5 percent of the marketplace that covers high efficiency motors.

In that same connection, I would like to point out what the Arthur D. Little report did state:

> Historically, motors have been purchased predominantly pretty much as commodities with little consideration being given to characteristics other than enclosure requirements, price, and supply.
>
> The industrial and commercial end-user is largely unaware of efficiency variations in commercially available motors and thinks of them as being very similar. His purchasing habits reflect these attitudes as well as the desire to purchase the highest quality (largely translates to reliability) motor at the lowest possible price.
>
> Motors are typically purchased by nontechnical personnel from approved vendor lists which are largely compiled from past experience on price, reliability, and ready supply. The purchasing agent purchases the lowest priced, approved motor that has the desired HP rating, design type, and enclosure.
>
> Approximately 50% of all motors sold are purchased by Original Equipment Manufacturers (OEM's)—manufacturers of pumps, blowers, machine tools, and a myriad of other equipment ultimately supplied to end-users complete with motors. An OEM quite obviously is not very interested in efficiency—he won't be paying the power bill. He is interested in reliability and durability as he must warrant his machinery. Additionally, the end-user almost universally will accept purchased equipment without questioning the characteristics of its motor(s).
>
> While there is evidence that these viewpoints and habits are gradually changing, there obviously is a lot of inertia in the existing system. Change wholly in response to the changing economic pressure will undoubtedly come slowly.

Mr. BOSCHWITZ. Will the Senator yield further, Mr. President?

Mr. METZENBAUM. That is from the Arthur D. Little report.

Mr. BOSCHWITZ. Well, Mr. President, I also note that the National Electrical Manufacturers Association states that for the past 2 years the sales of high-efficiency motors have increased by a factor of 10, which is a great deal of progress. Having been involved with a good deal of machinery and with a good deal of equipment that I have bought in my business career, that has been put in by the original equipment manufacturers that the Senator speaks of, I know they make quite a point about efficiency of motors and efficiency of their equipment. So I think the industry is moving ahead rather rapidly.

In 1976, there was only one motor manufacturer producing an energy-efficient line. Today virtually everyone of them, in 3 short years, produce such a line. The total number of motors being sold in this country that are energy-efficient, according to the statistics I have, which vary from those of my good friend from Ohio, have increased from zero to 15 percent, which is a remarkable growth.

I think, very frankly, if the Department of Energy or some other department of the Government now decides it is going to write regulations and set standards, the usual thing will happen that I have seen in the 9 short months that I have been down here: This legislation will probably slow the development of energy-efficient type motors. It will probably slow the eventual bringing of energy-efficient motors to the marketplace.

There is no question that if in a period from 1976 to 1979 energy-efficient motors go from zero to 15 percent into the market, which are the figures I have, and that certainly was not the period of the major increase in energy costs, now with energy rising still faster, certainly that trend will heighten.

Mr. METZENBAUM. Mr. President, will the Senator from Minnesota yield for a question?

Mr. BOSCHWITZ. Sure.

Mr. METZENBAUM. Since the National Electrical Manufacturers Association in June of this year testified there was only a 5 percent market penetration as far as high-efficiency motors are concerned, I am curious to know what is the source for the 15 percent figure.

Mr. BOSCHWITZ. The source is a background statement, that were prepared for me by a Minnesota manufacturer, Gould, Inc. That is where I received that kind of information.

Interestingly enough, the cost premium, they tell me, of such electrical motors is now somewhere between 10 and 27 percent. That is the cost premium of the energy-efficient motor.

There is no question in my mind that if we write some regulations, if we set some target dates, if we establish some goals, or we get some type of qualifications on those manufacturers, that those differences in premiums are going to increase still more and make it more and more difficult to market those motors.

If there is a trend that is heightening at such a rate it would seem to me, Mr. President, that we should not at this time enter the Government into this process, as much as I am for the idea of conservation——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that I may have as much time as is necessary to complete my statement.

Mr. METZENBAUM. I object.

Mr. WEICKER. I object. I will take a minute to explain to the distinguished Senator from Minnesota that there is a limitation on the amount of time required here. It is divided between the Senator from Ohio and myself. I will be glad to accommodate the distinguished Senator from Minnesota but not to the extent of as much time as he might require or any other Member speaking on this bill.

I would like to find out if there are others, and I believe there are, who would like to go ahead and comment.

Mr. BOSCHWITZ. Mr. President, will the Senator yield for 3 more minutes?

Mr. WEICKER. I will yield 1 more minute to the Senator from Minnesota.

Mr. President, I will object, and I ask for the yeas and nays on this matter.

I object because I simply do not feel that the idea of now imposing new regulations, a whole new set of regulations upon the industrial equipment business, is really a way to save energy, or really a way to hasten energy independence.

I would call this the Industrial Equipment Burden Act of 1979, not the Industrial Equipment Efficiency Act. I ask for the yeas and nays.

The PRESIDING OFFICER. On the bill?

Mr. BOSCHWITZ. On the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 582

(Purpose: To require the Attorney General to determine the anticompetitive effect of proposed energy efficiency standards)

Mr. DOMENICI. Mr. President, I have an amendment which I send to the desk, and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 582:

On page 22, line 21, insert the following new sentence: "If the determination by the Attorney General under subparagraph (F) reflects an anticompetitive impact upon competition the Secretary shall withdraw such proposed energy efficiency standards.".

Mr. DOMENICI. Mr. President, I have discussed this amendment with the distinguished manager for the majority, the original sponsor of the bill, and with the Senator from Connecticut, who is managing on our side.

Let me just say that both have indicated that it is acceptable. I certainly would expect my good friend from Ohio to accept it, because he is always trying to determine whether or not some act around here or by the Government is going to create some anticompetitive situation, or, contrariwise, is constantly insisting that whatever is occurring in the American economy be as competitive as possible. I am just borrowing one of his techniques in saying that if the U.S. Attorney General finds that this measure may have an anticompetitive impact, then the Secretary will withdraw the energy efficiency standards.

Since this is a very complex field, and we are really not sure what might happen, I think this is a good protection for the American people, and I hope it will be accepted and made a part of the bill.

I reserve the remainder of my time.

Mr. METZENBAUM. Mr. President, as I understand it, there is separate time available on the amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. I yield myself such time as is necessary.

I am gled the Senator from New Mexico is offering this amendment. I think it is an excellent amendment. I think it reflects, certainly my own veiws, and that it reflects the views of the majority, and is subject only to acceptance by my respected friend from Connecticut in behalf of the minority side.

I am prepared to accept the amendment.

Mr. WEICKER. Mr. President, I also rise to commend the distinguished Senator from New Mexico. I think the amendment clearly improves the legislation, and I am happy to support it.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. DOMENICI. I yield back the remainder of my time.

Mr. METZENBAUM. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (UP No. 582) was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, the Senator from Ohio has called attention to the significant energy savings potential to be realized by encouraging the use of energy-efficient motors. I am convinced, however, that S. 1398 in its present form will have the reverse effect of freezing progress which is now occurring in terms of improving the efficiency levels of electric motors.

A number of factors are already serving to accelerate conversion to more efficient motors within the industrial sector. These factors include the commercialization program for efficient electric motors now being conducted by DOE; and the increasing cost of electricity, now rising at an annual rate of 16 percent.

In testimony on S. 1398, Douglas Harvey, Director of the Office of Industrial Programs for DOE, suggested that such factors would result in a 74-percent market penetration of energy-efficient motors by 1990. Progress toward such a goal is already evidenced by the fact that the industry's efficiency averages today exceed those DOE had projected in 1976.

If S. 1398 is enacted, it would remove from our consideration any future review of the study of electric motors and pumps now being conducted for DOE by the A. D. Little Co., as authorized by the last Congress in the National Energy Conservation Policy Act. It is important to bear in mind that this study was not authorized in an effort to postpone mandatory energy-efficiency standards, but rather to reflect, in the considered judgment of both Houses, the complexity of a market which encompasses some 2,000 motor types and classes, and tens of thousands of different applications. Such a situation affecting a $24 billion industry requires careful study. In 8 months the Secretary of Energy will report the results of this study.

This comprehensive review, with which the industry is fully cooperating, will provide all parties concerned a far better understanding of the costs and practicability of promulgating energy efficiency standards. Until we are able to view this situation in its total context, our action would be premature. Congress must retain authority to review the recommendations of the Secretary of Energy when they are delivered as scheduled in May 1980, prior to taking any action which would directly affect an industry which in effect drives American business.

Recent experiences should instruct us not to be too hasty to delegate substantial authority to an agency of government without good reason, or with insufficient guidelines.

Significant conservation is now being achieved at a substantial cost savings to industry without the imposition of regulation. If we enact the pending measure, it is estimated that the cost to government alone to develop standards as prescribed would be at least $200 million, and the cost to industry to design, tool, and put into production a line of efficient motors according to government standards would be in excess of $300 million.

DOE has estimated that such additional regulatory costs could raise the price of motors to consumers an additional 50 percent. We are obligated, given these initial projected expenditures, to consider whether to provide the Secretary with the authority to mandate standards without our full and complete review.

Mr. President, current market trends are in the direction of energy efficient motors. Government regulations for industrial equipment are unnecessary. I urge my colleagues to save the industrial equipment industry from excessive government regulation by voting against S. 1398.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. WEICKER. Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator has 17 minutes remaining.

Mr. WEICKER. Mr. President, I rise again in support of the legislation sponsored by the distinguished Senator from Ohio. Let me say at the outset that no one has been more in the forefront of conservation than has the distinguished Senator from Ohio. This is not a very popular subject, especially when you put the word "mandatory" in front of "conservation." It is not popular at all in Congress, or anywhere in the United States.

But clearly voluntarism does not work. All one has to do is take a look at the balance-of-payments deficit to see that voluntarism does not work. Our oil bill is ever increasing; voluntarism does not work.

Conservation is the key. It is the only immediate source of energy available to this country. I am sure manufacturers do not like it; I am sure that the driving public does not like it, and that Senators and Congressmen do not like it. We all have our bone to chew in the area of conservation.

Yet without it, it is impossible to achieve any sort of energy policy or energy independence. That is the bottom line. Never mind the inconvenience that will be caused. Inconvenience is a recession. Inconvenience is a weakened dollar. Inconvenience is a balance-of-payments deficit. That is tough stuff.

Never mind the inconvenience to manufacturers, the inconvenience to the driving public, or the inconvenience to politicians. The time has come to get very hard nosed about what it is that confronts us as a nation: a direct threat to the security of this Nation, be it military or be it economic. It is a direct and a very real and tangible threat.

Until everyone is a part of the solution, and all Americans can identify themselves as such, there is no solution. That includes the corporate world, it includes unions, it includes the American people. It includes everybody.

So far the only people who have been inconvenienced in this country have been the poor, the elderly, the thousands on fixed incomes who, believe me, have been rationed by price, and who have borne the entire conservation burden for this Nation. I think it is time that the blessed of this Nation, the strongest elements of our society, share the burden of conservation, not just the weakest.

This is a minimal measure. It is minimal. I have stood here and gotten flattened on mandatory conservation when it came to gasoline rationing. I have seen the President flattened when he just asked for standby authority for rationing.

Are we going to do anything? Or is this just supposed to be political hot air, as opposed to generating energy policy for this country?

The additional production that the Nation is looking for will not come about until the year 2000 from the esoteric solar-geothermal mix. Not until the year 2000. The supposed additional fossil fuel supply generated by decontrol and deregulation, even that is 5 to 10 years off. The only immediate solution to the need for extra energy is conservation.

If you want to bankrupt this Nation, if you want to put us into a depression, if you really want to blow our national security to hell, all we have to do is continue the way we are going right now, paying anything that is charged and having no self-discipline whatsoever as a nation. If we continue that course, then we are through.

It is time that self-interest got put aside in this Chamber, and that we have the guts to put our necks on the line. Believe me, I think the American people would appreciate that, rather than not knowing what we have as a policy, but feeling the penalty attached to no policy at all.

So I hope that this bill will pass. As I have said before, God help the United States of America if as mild a measure as this cannot find its way past the floor of the U.S. Senate, which is supposedly leading this country out of this crisis.

The PRESIDING OFFICER (Mr. Pell). Who yields time?

Mr. METZENBAUM. Does the Senator from Minnesota care to be heard further?

Mr. BOSCHWITZ. No.

Mr. METZENBAUM. Mr. President, let me say a final word. I yield myself such time as necessary. I have about 3 minutes left, do I not?

The PRESIDING OFFICER. A little over 3 minutes.

Mr. METZENBAUM. Mr. President, this is a mild measure, and I agree with the Senator from Connecticut that it is not as far as we should go. It is not even as far as we went 2 years ago. But it is movement in the right direction.

The American people, in my opinion, are prepared to accept mandatory conservation measures. The American people have not indicated that they are timid about carrying their fair share of the burden. They just do not believe in carrying that burden by price alone. They are willing to accept their responsibility with mandatory conservation measures. And I have talked about mandatory conservation measures throughout the entire length and breadth of my State, and of many other States as well. With no exception, people indicate their support. But here, in Congress, day in and day out, as we have fought for mandatory conservation measures, we have been frustrated.

Two years ago, we passed a number of mandatory conservation measures that were included in legislation we sent to the House. I am proud to say that I, Senator Weicker, and others supported those amendments through the legislation. It went to the House but, in the conference committee, unfortunately, with the assistance of the administration, those mandatory conservation measures were resisted. They were turned back. They were deleted at the conference committee level.

Now, I am happy to say, the administration is speaking in louder and stronger terms about mandatory conservation measures. This morning, we reported out for confirmation the name of John Sawhill to be Deputy Secretary of Energy. I have some questions with respect to Mr. Sawhill, but I voted for his nomination. I have no questions whatsoever with respect to his dedication to mandatory conservation measures.

I hope that that will mean that now this administration will be prepared to bite the bullet, will be prepared to stand up for the hard measures. The American people are willing. It is the administration, it is the politicians, it is those who are concerned that somebody might not like it.

Somebody might not like a lot of things, but the fact is that the people want leadership. I am not going to say that this is the ultimate answer, that this is a panacea, that this answers all the questions. Far be it from me to even suggest it. But it is a step in the right direction, and I hope every Member of the U.S. Senate sees fit to vote affirmatively for this legislation.

Mr. STEVENS. Mr. President, I have a question I would like to direct to my good friend from Ohio. As he probably knows, the climate in my State is classified as arctic or subarctic. The temperatures experienced there have quite an effect on motors of any kind and those motors, most of which are manufactured in the lower 48, must often be modified or specially designed to operate under Alaska weather conditions. Would the language of section 6(b) of this bill, sections 345(d) and (e)(2)(E) of the Energy Policy and Conservation Act as proposed to be amended, provide an exemption for equipment operating in arctic and subarctic climates if imposition of these standards would result in a lessening of performance efficiency?

Mr. METZENBAUM. Yes, the intent of the committee in including this language was to take into account unique circumstances, including those the Senator describes which exist in Alaska, and exempt equipment if application of the standard results in the lessening of performance efficiency in arctic or subarctic Alaska, or elsewhere.

Mr. STEVENS. I thank the Senator. I just wanted that clarified.

RECESS FOR VISIT TO THE SENATE BY JACQUES CHABAN-DELMAS, PRESIDENT, FRENCH NATIONAL ASSEMBLY, AND MAYOR OF BORDEAUX

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes so Members may greet the President of the National Assembly of France, Mr. Jacques Chaban-Delmas.

There being no objection, the Senate, at 12:13 p.m., recessed until 12:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Pell).

INDUSTRIAL EQUIPMENT EFFICIENCY ACT OF 1979

The Senate continued with consideration of the bill.

Mr. METZENBAUM. Mr. President, I am prepared to yield back the remainder of my time, unless there is anyone else who cares to be heard.

Mr. WEICKER. I am prepared at this time to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

All time has been yielded back. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from Arkansas (Mr. Bumpers), the Senator from Arizona (Mr. DeConcini), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), the Senator from West Virginia (Mr. Randolph), and the Senator from Connecticut (Mr. Ribicoff) are necessarily absent.

I further announce that the Senator from Nebraska (Mr. Exon) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) and the Senator from West Virginia (Mr. Randolph) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Kansas (Mr. Dole), the Senator from Oregon (Mr. Packwood), the Senator from South Dakota (Mr. Pressler), the Senator from Pennsylvania (Mr. Schweiker), the Senator from Wyoming (Mr. Simpson), and the Senator from Wyoming (Mr. Wallop) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. Wallop) and the Senator from Kansas (Mr. Dole) would each vote "nay."

The PRESIDING OFFICER (Mr. Zorinsky). Are there any other Senators in the Chamber who have not voted?

The result was announced—yeas 43, nays 39, as follows:

[Rollcall Vote No. 321 Leg.]

YEAS—43

Baucus
Bentsen
Bradley
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
Durkin
Ford
Hart
Hatfield,
Hollings
Huddleston
Jackson
Javits
Johnston
Laxalt
Leahy
Levin
Long
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Pell
Riegle
Sarbanes
Stennis
Stevenson
Stewart
Stone
Talmadge
Tsongas
Weicker
Williams

NAYS—39

Armstrong
Boren
Boschwitz
Byrd,
Harry F., Jr.
Chafee
Cochran
Cohen
Danforth
Domenici
Durenberger
Eagleton
Garn
Glenn
Goldwater
Gravel
Hatch
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Lugar
McClure
Morgan
Percy
Proxmire
Pryor
Roth
Sasser
Schmitt
Stafford
Stevens
Thurmond
Tower
Warner
Young
Zorinsky

NOT VOTING—18

Baker
Bayh
Bellmon
Biden
Bumpers
DeConcini
Dole
Exon
Inouye
Kennedy
Magnuson
Packwood
Pressler
Randolph
Ribicoff
Schweiker
Simpson
Wallop

So the bill (S. 1398), as amended, was passed as follows:

S. 1398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Industrial Equipment Efficiency Act of 1979".

DEFINITIONS

SEC. 2. Amend section 340 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Conservation Policy Act (Public Law 95–619) by adding to the end thereof the following new paragraphs:

"(8) The term 'energy efficiency standard' means a performance standard—

"(A) which prescribes a minimum level of energy efficiency for a type or class of electric motors or pumps that are industrial equipment, and

"(B) which includes any other requirements which the Administrator determines is necessary to assure that such covered equipment is in compliance with the standard.

"(9) The term 'new industrial equipment' means industrial equipment the title of which has not passed to a purchaser.

"(10) The term 'standby energy efficiency standard' means an energy efficiency standard which although promulgated, does not become effective until the Secretary removes it from its standby status.

"(11) The term 'small business' means that term as defined by the Small Business Administration.".

STUDY OF ELECTRONIC MOTORS AND PUMPS

SEC. 3. Amend section 342 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) by (a) striking the following words in subparagraph (a)(1)(A): "of energy used, method of manufacture," and inserting in lieu thereof: "and amount of energy used, method of manufacture, achievable levels of energy efficiency,".

(b) Deleting subparagraph (a)(1)(B).

(c) Striking everything after the word "evaluation" in paragraph (a)(2) and inserting in lieu thereof a period.

TEST PROCEDURES

SEC. 4. Amend section 343 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) by (a) deleting paragraph (a)(1) and inserting in lieu thereof the following:

"Within 9 months from the date of submission to Congress of the industrial equipment evaluation required under section 342 (a), the Secretary shall—

"(i) determine for which classes or types of covered equipment he will prescribe test procedures, and

"(ii) prescribe such test procedures in accordance with the following provisions of this section.".

(b) Amending paragraph (a)(2) by inserting after the word "designed" the following: "in consultation with manufacturers of affected industrial equipment and technical societies (that the Secretary deems appropriate)".

(c) By inserting at the end of subsection (b) an additional paragraph (3) to read:

"(3) take into consideration appropriate test procedures currently in use by the industrial equipment industry.".

LABELING REQUIREMENTS

SEC. 5. Amend section 344 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) by (a) deleting subsection (a) and inserting in lieu thereof:

"(a)(1) Within 9 months from the date of submission to Congress of the industrial equipment evaluation required under section 342(a), the Secretary shall—

"(i) determine for which classes or types of covered equipment he will prescribe labeling rules, and

"(ii) prescribe such labeling rules in accordance with the following provisions of this section.".

(b) Amending paragraph (e)(1)—

(1) by deleting the word "Before" and inserting in lieu thereof the word "In";

(2) by deleting the dash after the word "shall" and adding thereafter the following: "comply with section 553 of title 5, United States Code, but he shall—";

(3) by deleting the period at the end of subparagraph (B) and adding the following: "and a transcript shall be kept of any oral presentations, and".

(4) by adding an additional subparagraph (C) to read:

"(C) consult with manufacturers of the affected types or classes of covered equipment.".

STANDBY ENERGY EFFICIENCY STANDARDS FOR ELECTRIC MOTORS AND PUMPS

SEC. 6. (a) Section 345 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) is renumbered as section 349 everywhere that it appears in part C of that Act.

(b) A new section 345 is inserted in the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) to read as follows:

"STANDBY ENERGY EFFICIENCY STANDARDS FOR ELECTRIC MOTORS AND PUMPS

"SEC. 345. (a)(1) The Secretary shall, not later than May 1, 1982—

"(i) determine for which classes or types of electric motors and pumps that are covered equipment as identified under section 342(a)(1), he will prescribe standby energy efficiency standards, and

"(ii) prescribe by rule, such standby energy efficiency standards.

"(2) A standby energy efficiency standard may not be removed from its standby status and made effective except as provided under section 348.

"(b) Any standby energy efficiency standard shall be prescribed in accordance with the following procedure:

"(1) The Secretary shall (i) publish in the Federal Register an advance notice of proposed rulemaking which specifies the type or class of electric motors or pumps to which the rule will apply, and (ii) invite interested persons to submit, within 90 days after the date of publication of such advance notice—

"(i) written or oral presentations of data, views, and argument as to the proposed level of energy efficiency, and

"(ii) proposed standby energy efficiency standards applicable to such type or class.

"(2) A proposed rule which prescribes a standby energy efficiency standard for a type or class of electric motors or pumps may not be prescribed earlier than 120 days after the date of publication of advance notice of proposed rulemaking for such class.

"(3) A rule prescribing a standby energy efficiency standard for a type or class may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such class. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or amendment thereto) shall not apply to any electric motors or pumps the manufacture of which was completed prior to the effective date of the rule or amendment as the case may be.

"(c) A standby energy efficiency standard may exempt from the requirements small business manufacturers with respect to whom the Secretary determines imposition of the requirements may cause a serious economic hardship, except that this exemption shall not exclude from coverage of the standard more than 10 percent of the production of covered equipment to which the standard applies.

"(d) The Secretary shall not promulgate standby energy efficiency standards for any type or class of electric motors or pumps that is industrial equipment unless he has determined that—

"(1) improvements in energy efficiency are technologically feasible and economically justified with respect to such class; and

"(2) significant energy savings will likely result from such standard.

"(e)(1) Standby energy efficiency standards for electric motors and pumps prescribed pursuant to this section shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified. Such standby standards may be phased in over a period of years as determined by the Secretary.

"(2) In determining whether a standard is economically justified under paragraph (1), the Secretary shall determine that the benefits of the standard exceed its burden based upon a weighing of the following factors:

"(A) the economic impact of the standard on the manufacturers and on the purchasers of the equipment subject to such standard;

"(B) the savings in operating costs throughout the estimated average life of equipment in the type (or class) subject to such standard which is likely to result from the imposition of such standard;

"(C) the total projected energy savings likely to result directly from the imposition of the standard;

"(D) the increase in the initial charge for, and the expenses of maintenance, repair, or use of, such equipment which is likely to result from the imposition of the standard;

"(E) any lessening of the utility or the performance of the equipment likely to result from the imposition of the standard;

"(F) the impact on competition determined in writing by the Attorney General to be likely to result from the imposition of the standard;

"(G) the need of the Nation to conserve energy; and

"(H) any other factors the Secretary considers relevant.

For purposes of subparagraph (F), the Attorney General shall, not later than 60 days after the publication of a proposed rule prescribing an energy efficiency standard, make a determination of the impact, if any, on competition which would be likely to result from the implementation of such standard and transmit such determination in writing to the Secretary, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published in the Federal Register. If the determination by the Attorney General under subparagraph (F) reflects an anticompetitive impact upon competition the Secretary shall withdraw such proposed energy efficiency standards.

"(f) The standby energy efficiency standard may be expressed as a nominal efficiency standard defined such that the minimum efficiency standard equals the nominal efficiency standard minus 10 percent of the difference between 100 percent and the nominal efficiency standard.

"(g) Any standby standard established under this section may be modified if the Secretary—

"(1) determines that technological changes so warrant, and

"(2) publishes such determination in the Federal Register together with a basis and justification for such modification.".

MARKET PENETRATION TARGETS FOR HIGH EFFICIENCY MOTORS AND PUMPS

SEC. 7. (2) Section 346 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) is renumbered as section 350 everywhere that it appears in part C of that Act.

(b) Insert a new section 346 in such Act to read as follows:

"MARKET PENETRATION TARGETS FOR HIGH EFFICIENCY MOTORS AND PUMPS

"SEC. 346. (a) The Secretary shall by October 1, 1981, establish a market penetration schedule for high efficiency motors and high efficiency pumps for each standard classification of electric motors and pumps identified pursuant to 345(a)(1).

"(b)(1) For purposes of this section, high efficiency motors and high efficiency pumps are those electric motors and pumps which meet or exceed, as indicated on the label provided pursuant to section 344, an efficiency level for each type or class of electric motors and pumps which the Secretary determines, based on his consideration of the following criteria:

"(A) the efficiency achievable with the best available technology and materials that are available and suitable for incorporation in the production of that type or class of electric motors or pumps, and

"(B) the additional costs attributable to the use of such materials and technology in the design and construction of electric motors and pumps, and

"(C) the effect of such additional costs on the market demand for electric motors and pumps.

"(2) The Secretary may express the efficiency level described in paragraph (1) as a nominal efficiency level.

"(3) The Secretary may authorize the manufacturers of a high efficiency motor or high efficiency pump as defined in this subsection, to include on the label furnished pursuant to section 344, a statement that such motor or pump is certified to be a high efficiency motor or high efficiency pump, as the case may be.

"(c) For purpose of this section the market penetration schedule shall specify, as a target expressed as a percentage, the ratio of all manufacturers' sales of high efficiency motors or high efficiency pumps compared to all sales of electric motors or pumps of that type or class, with respect to each quarter of each of the following 5 years, beginning with the last quarter of calendar year 1981. In establishing such market penetration schedule the Secretary shall consider the following criteria:

"(1) The potential market for high efficiency motors and pumps.

"(2) The production capacity for high efficiency motors or pumps.

"(3) The national need to conserve energy.

"(4) Any other criteria which the Secretary deems appropriate.

"(d) Any target established under this section may be modified if the Secretary—

"(1) determines that changes in market conditions or technological developments so warrant, and

"(2) publishes such determination in the Federal Register together with a basis and justification for such modification.".

REPORTING REQUIREMENTS

SEC. 8. Insert a new section 347 in the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) to read as follows:

"REPORTING REQUIREMENTS

"SEC. 347. (a) The Secretary shall notify all manufacturers of covered equipment of the requirements of this Act.

"(b) The Secretary shall prepare, publish, and make available for use in complying with the reporting requirements under subsection (c), forms which shall be designed in such a way as to avoid imposing an undue burden on any firm.

"(c) The chief executive officer (or an individual designated by such officer) of each firm notified pursuant to subsection (a) shall report to the Secretary on a quarterly basis (as determined by the Secretary) on the firm's sales of electric motors and pumps for which market penetration schedules are established, if that firm has such sales. Such report shall contain such information as the Secretary determines is necessary to measure the extent to which the market penetration schedules are being achieved.

"(d) The information in such report shall not be made available to the public, but the Secretary shall report quarterly to the Congress and to the public on the aggregated results of such reports.".

TRIGGER FOR IMPOSITION OF STANDBY ENERGY EFFICIENCY STANDARDS

SEC. 9. Insert a new section 348 in the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) to read as follows:

"TRIGGER FOR IMPOSITION OF STANDBY ENERGY EFFICIENCY STANDARDS

"SEC. 348. If, based on the reports received pursuant to section 347, the Secretary determines that any market penetration schedule, established under section 346 and averaged by weighted sales volume over the preceding 4 calendar quarters is not achieved with respect to a type or class of electric motors or pumps, then the Secretary shall remove the standby energy efficiency standards from their standby status with respect to that type or class and make those standards effective as of the date 180 days after he publishes his determination in the Federal Register.".

ADMINISTRATION, PENALTIES, AND ENFORCEMENT

SEC. 10. Amend section 349 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) and as renumbered by section 6 of this Act (a) by striking in paragraph (1) the words "and 324" and inserting in lieu thereof ", 324, and 325".

(b) By striking in paragraph (1) the words "and 344" and inserting in lieu thereof "344, and 345".

(c) By inserting at the end thereof a new paragraph (5) to read:

"(5) violations of section 347 shall be treated as violations of section 332(3).".

SEC. 11. Section 350 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by section 441 of the National Energy Conservation Policy Act (Public Law 95–619) and as renumbered by section 7 of this Act, is amended by (a) inserting at the end of subsection (a) the following new paragraphs:

"(3) with respect to electric motors and pumps that are covered equipment, $3,000,000 for each of fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982; and

"(4) with respect to all other types of industrial equipment, $1,000,000 for each of fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982.".

(b) Deleting everything appearing after the colon in paragraph (b)(2) and inserting in lieu thereof the following:

"PART C—CERTAIN INDUSTRIAL EQUIPMENT

"Sec. 340. Definitions.
"Sec. 341. Purpose and coverage.
"Sec. 342. Study of electric motors and pumps and other industrial equipment.
"Sec. 343. Test procedures.
"Sec. 344. Labeling requirements.
"Sec. 345. Standby energy efficiency standards for electric motors and pumps.
"Sec. 346. Market penetration targets for high efficiency motors and pumps.
"Sec. 347. Reporting requirements.
"Sec. 348. Trigger for imposition of standby energy efficiency standards.
"Sec. 349. Administration, penalties, and enforcement.
"Sec. 350. Authorization of appropriations.".

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that S. 1398, as passed, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEMPORARY PUBLIC DEBT LIMIT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 5369, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5369) to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process.

The PRESIDING OFFICER. Time on H.R. 5369, including amendments, motions, appeals, and points of order shall be limited to 4 hours, to be equally divided between and controlled by the Senator from Louisiana (Mr. Long) and the Senator from Kansas (Mr. Dole).

1-HOUR RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 hour, without the time being charged to either side.

There being no objection, at 12:36 p.m., the Senate recessed until 1:36 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Boren).

TEMPORARY PUBLIC DEBT LIMIT

The Senate continued with the consideration of H.R. 5369.

Mr. LONG. Mr. President, I move that the Senate proceed to the consideration of H.R. 5369, the public debt limit measure.

The PRESIDING OFFICER. The bill is currently pending.

Mr. LONG. Mr. President, I ask unanimous consent that Mr. Robert Shapiro, Mr. James Wexler, and Mr. Michael Stern have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, the Senator from Virginia wishes to make a statement, and I ask unanimous consent that he be recognized for 12 minutes, without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia is recognized, without the time being charged to either side.

Mr. HARRY F. BYRD, JR. I thank the Senator from Louisiana.

THE 41ST ANNIVERSARY OF THE MUNICH AGREEMENT

Mr. HARRY F. BYRD, JR. Mr. President, tomorrow is the 41st anniversary of the historic Munich agreement, which is now known to have played a major part in events leading to World War II. During that war, millions of people throughout the world lost their lives, principally Germans, Russians, Japanese, and Americans.

The lessons taught by history are inevitably forgotten. But perhaps 41 years is not so far in the past that the recollection of those events will not serve a useful purpose.

Forty-one years ago tomorrow, four powerful world leaders concluded their conference in Munich, Germany. The leaders were Adolf Hitler, the German dictator; Benito Mussolini, the Italian dictator; Premier Edouard Daladier of France; and the man for whom the Munich agreement is remembered, Prime Minister Neville Chamberlain of Great Britain.

Those leaders met in Munich in an effort to develop a formula for world peace. Hitler was threatening war—having already marched into the Rhineland and followed that by taking over Austria.

The European leaders concluded that the best way to prevent war was to give to Hitler's Germany a part of Czechoslovakia. The agreement to do that was signed 41 years ago today.

Neville Chamberlain returned to Britain and told Englishmen that he had bought "peace in our time." Chamberlain was hailed throughout Britain and the entire Western World. He was regarded as a hero. The Munich Agreement was acclaimed as a great step for peace and good relations among nations—a great step, in fact, for détente.

I have found it instructive to review what was said of the Munich Agreement at the time it was concluded. I find it remarkable the parallel which can be drawn between interpretation of those events at that time and interpretations of present events in our own time.

First, the joint statement of Hitler and Chamberlain at the final Munich conference is significant:

> We regard the agreement signed last night (September 29, 1938) and the Anglo-German Naval Agreement as symbolic of the desire of our two peoples never to go to war with one another again.

The feeling of euphoria can almost be felt today when the statements of Chamberlain to a rejoicing Britain are analyzed. At Heathrow Airport near London immediately upon his return, Chamberlain stated:

> For the second time in our history, a British Prime Minister has returned from Germany bringing peace with honor.

Again, Prime Minister Chamberlain, speaking to a large crowd outside Number Ten Downing Street:

> Go home and get a nice quiet sleep. I believe it is peace for our time.

This sentiment of self-satisfaction which so clearly dominated British reaction to the Munich Agreement was present throughout Western Europe and in America.

A front-page editorial in Paris-Soir on September 30, 1938, heralded:

> Peace, Peace, Peace. The world can breathe again: We can still live. Out of this terrible crisis . . . France . . . emerges with her head high . . . and the prospect of new collaboration.

There was indeed prophecy in these words.

On his departure for Munich, Chamberlain—searching for agreement at any price, for peace at any price—recalled that:

> When I was a little boy, my mother told me, if at first you don't succeed, try, try, try again.

He quoted Hotspur in "Henry IV":

> "Out of this nettle, danger, we pluck this flower, safety." These were indeed laudable goals, but the quest for the flower of safety led, as we now know, to the nettle of danger, death, and near defeat.

But at that time, Mr. President, few saw what the future would hold. The New York Times was in the forefront in lack of perception. The Times reported on September 29, 1938:

> His Majesty's government desired to impress the seriousness of the situation upon the German government without the risk of further aggravating the situation by any formal representations which might have been interpreted by the German government as a public rebuff. . . .
>
> Whatever views we may have had about Premier Mussolini in the past, I believe everyone will welcome his gesture. He has been willing to work with us.

That charming passage was in a news story. The following day, a Times editorial stated that matter with even more concern for appeasement of dictators and aggressors:

> Let no man say that too high a price has been paid for peace in Europe. . . . Let no man say it would have been better to resist. . . . Let no man say that the statesmen of Britain and France were out-traded in the bargain they have struck until he has attempted to add the total of the price they might have had to pay in death and destruction spread across the face of Europe, in whole cities laid waste by high explosives and seared with poison gas, in broken and mangled bodies of women and their children, in the unleashing of passion and hatred, in the tremendous strain which modern war imposes on the resources of all nations, victors as well as vanquished, in the risk it holds for the kind of civilization we enjoy, perhaps in the complete collapse of that civilization. . . .

Now, the Washington Post had the same perception of Munich. The Post carried this in its editorial of September 30:

> After three weeks for which history shows no parallel, constructive peace is being made. War is averted. Peace . . . is . . . confirmed. . . . It is a healthy sign that the agreement worked out at Munich is one of compromise. . . . Hitler has been forced to compromise. . . . For the first time Hitler has set a definite limit to his territorial ambitions. For the first time, in a word, Hitler has been forced to yield. Outside of Germany, the dictator has ceased to dictate. . . . The moderation shown at Munich yesterday indicates that tremendous urge for a constructive world in which all men of good will may join. . . .

But I think that an editorial which appeared in the London Times on September 30, 1938, perhaps best summarizes the prevailing view of the Munich Agreement. The Times drew this comfort from Chamberlain's policy:

> Munich has always been a great place for amusement and for gaiety . . . it cannot but seem a good omen that one of the most momentous discussions in the history of the world should be taking place in a city so famous for her beauty, for her amenity, and for her happy nature."

But Munich, indeed famous for her beauty, for her amenity, and for her happy nature, has become a symbol of defeat and was an omen for war.

Now, amid this acclaim and praise of the Munich Agreement, one man stood alone.

One man—at the height of the praise being bestowed on Neville Chamberlain—one man had the courage and foresight to make known his own judgment that the Munich Agreement was a disaster for England and all free nations. He was to prove—in the short period of 11 months that a majority view—however overwhelming, is not always right.

Winston Churchill told Englishmen that:

> You have lost a war without firing a shot.

His language was direct. His reasoning was accurate, and his meaning was clear. England had suffered a tragic diplomatic defeat.

Winston Churchill thundered in the Parliament and throughout his native land that the Munich agreement not only would not prevent war but indeed would lead toward war because it was not soundly based and would not stand the test of time.

He stated that it is impossible to appease power-mad dictators. So he strongly opposed the Munich agreement which almost everyone else everywhere acclaimed and applauded. But no one listened to Mr. Churchill. Eleven months went by and Adolf Hitler decided that, having achieved what he wished in regard to Czechoslovakia, he then wanted to take over Poland.

So on September 1, 1939, Hitler sent his armies into Poland. Two days later Great Britain and France declared war, and World War II began.

I think there are many lessons that can be learned from this. I think one lesson is that we must be very careful as to what foreign policy decisions a country might make, how trusting a nation should be. Another lesson is that appeasement is not a reliable route to peace. Still another lesson is that regardless of how popular a course of action, a program, or a policy might be at one particular time, that does not at all mean that such a policy is soundly based or will stand the test of time.

Popularity does not necessarily equate with soundness.

I happen to believe that Winston Churchill is the greatest man of the 20th century. But I also believe that Neville Chamberlain was just as sincere, just as conscientious, just as patriotic, just as anxious to do what was best for England and for world peace as was Churchill.

As I see it, it was not a question of motive, it was a question of judgment; which course of action—which policies and programs—would stand the test of time; which course would lead away from war instead of leading toward war.

Mr. Chamberlain embraced one viewpoint, Mr. Churchill another.

On this 41st anniversary of that momentous event which occurred in Munich, I think it is well to reflect a bit.

It occurs to me that it was not unlike many of the problems we face in the Congress. I am speaking not just of defense matters, military matters, but I am speaking also of domestic programs. Just because a program happens to be a popular one at a particular time does not mean that the program is a good one.

I think it is important, and, indeed, I feel that those of us in Congress who have the responsibility of representing 220 million Americans have the deep responsibility, to be sure that the programs and policies that we enunciate here are soundly based programs and ones which will stand the test of time. In my view too much of what Congress has done in recent years has been unsound and indeed totally reckless, especially in excessive spending and in the centralization of power in Washington.

I applaud Mr. Churchill for his foresightedness. I applaud Winston Churchill for having the courage to stand alone—to stand alone at that period in world history when not only his own native land but the entire world was virtually unanimous in acclaiming the propriety, the appropriateness, and the success of the Munich Conference.

It is interesting to note, I think, how fleeting is political power and what can happen in such a short period of time.

Neville Chamberlain, on September 29, 1938, was the dominant figure in his own country, a hero to his own countrymen, and a hero to most of the world.

And yet in less than 13 months Neville Chamberlain had been put out of office and the lone voice of the old bulldog named Winston Churchill was then called upon to lead his nation in its darkest hour. More than any single individual, Mr. Churchill saved England from what came quite close to being the irresistible power of Hitler's Germany, a power nurtured by continued appeasement.

I say again that, while I regard Winston Churchill as the greatest man in the 20th century, I also believe that Mr. Chamberlain was just as patriotic, just as sincere, and just as conscientious as was Mr. Winston Churchill. It was not a question of motive, but a question of judgment.

That is the way I see many of the problems we must deal with in Congress. Never do I question the motives of the Members of Congress. It is only in the field of judgment that I frequently take issue with many of my colleagues.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Louisiana.

TEMPORARY PUBLIC DEBT LIMIT

The Senate continued with the consideration of H.R. 5369.

Mr. LONG. Mr. President, the outstanding public debt limit will expire at the end of this week, and it is essential that Congress act promptly to provide the administration with the debt authority it will need to pay the Federal Government's bills as they come due. This bill, H.R. 5369, deals in title I with this requirement and one matter which relates to debt management. Title II is the Gephardt amendment to the House rules which will permit the House to set the debt limit when it approves budget resolutions.

PUBLIC DEBT LIMIT

At present, the limit on the amount of public debt is $830 billion, and temporary authority to issue $430 billion of this total is available through September 30, 1979. After that date, the temporary authority will expire, and only the permanent authority to issue $400 billion in debt will continue to be available.

In this bill, there is an increase in the debt limit to $879 billion through May 31, 1980. The increase of $49 billion will be sufficient authority to meet borrowing requirements through May 1980, assuming realization of administration estimates of a budget deficit of $29.4 billion in fiscal year 1980 on a trend-line toward virtually a balanced budget in fiscal year 1981—a deficit of only $1 billion.

The debt limit situation is critical right now. It is imperative that the Senate pass the bill before the end of the week.

We must act promptly, if we want to minimize the disruptions, which have already begun, to orderly debt management and to avoid jeopardizing the Federal Government's ability to meet its financial obligations. The Treasury Department already has postponed auctions of $3.25 billion of 2-year notes and $2.5 billion of 4-year notes which were scheduled for Tuesday and Wednesday of this week. They had to be postponed because the maturing notes come due on Sunday, September 30, and the refinanced notes could not be delivered, and dated, until October 1, 1979. The Treasury Department cannot promise to deliver those notes on Monday until it knows that it has the legal authority to do so. The delay also tends to upset the Government securities market, as investors have to determine whether to wait until the notes become available or to seek alternative forms of interest-bearing securities. Delays are expensive to the Federal Government. When adoption of the debt limit last spring was delayed until April 2, the Treasury incurred costs which the General Accounting Office estimated as high as $15 million.

A more serious result from failure to enact this bill will materialize next week, that is, when the Treasury will not have the funds with which to pay the bills. The Treasury last week estimated that it would be able to last through Wednesday (October 3) and probably through Thursday (October 4). After that day, it may have to default on payments of the

Government's debts. The accuracy of this projection is not important. It does not matter whether the Treasury will run out of money 2 days earlier or 2 days later. The mere prospect of default because Congress fails to make timely adjustments is bad enough.

INCREASE IN LIMIT ON LONG-TERM BOND AUTHORITY

The bill increases the authority of the Treasury Department to issue long-term bonds. Since 1970, Congress has allowed the Treasury Department to issue bonds which carry interest rates above the statutory ceiling of 4¼ percent. This ceiling applies to U.S. debt with maturities longer than 10 years which are held by the public.

At the present time, the exception provides authority for $40 billion of these bonds to be outstanding. The Treasury Department has asked Congress to increase that $40 billion in authority to accommodate the estimated requirements of its financing program for fiscal year 1980.

In the past when the Senate has accommodated administration requests for an addition to this exception, the amount has been just enough to meet requirements in the immediate future. The Senate has been wary of granting too much authority for long-term bond issues when prudent policy calls for the Government to minimize its participation in the long-term bond market. At the present time, however, the Treasury Department believes that the appropriate debt management policy for the Federal Government is to issue additional long-term debt because it is substantially less inflationary, less costly to the Government, and permits the use of more efficient debt management techniques than short-term debt.

I recommend that the Senate concur in the House decision to provide an increase of $10 billion, to a total of $50 billion, which is enough additional authority to meet the administration's plans through May 1980.

SETTING DEBT LIMIT IN BUDGET RESOLUTION

Title II of the bill is the Gephardt amendment to the House rules and a conforming amendment to the Second Liberty Bond Act. I stress it has no effect on Senate rules and procedures. The amendment will permit the House to treat its approval of a budget resolution also as its approval of the public debt limit. Each budget resolution now specifies the appropriate public debt limit for the fiscal year covered by the resolution. That debt limit is determined in conjunction with the decisions which set the levels of budget outlays, receipts, credit policy, and other financial adjustments. These are the basic budget decisions, and the change in public debt limit needed for any fiscal year always has been set with the budget decisions which already have been made clearly in mind.

The Ways and Means Committee will retain its jurisdiction to originate a bill as it does under present procedures, if the public debt limit must be changed without requiring simultaneous action on a new budget resolution.

In conclusion, let me remind the Senators that it is critically important that the public debt limit bill be approved today so that the Treasury may be allowed to continue paying the Nation's bills as they come due.

I also would like to present to the Senators some tables about Federal Government debt in relation to the economy and to total debt outstanding. I always have found the tables instructive, and I hope that they will be equally as useful to other Senators.

Mr. President, I have had prepared at my request these tables by the Office of Management and Budget showing the amount of public debt owed down through the years, and showing certain trends with regard to the public debt, the per capita debt, and the gross national product.

I ask unanimous consent that the tables be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LONG. The first table compares the growth in Federal debt with the growth in the economy, as measured by gross national product (GNP). From 1954 through 1978, the last year for which actual data is available, gross Federal debt increased from $270.8 billion to $780.4 billion which is an increase of 188 percent above the 1954 level. In the same period, GNP increased from $363.6 billion to $2,061.6 billion, a level that is 467 percent above 1954. Relative to GNP, gross Federal debt was 74.5 percent in 1954 and 37.9 percent in 1978; the relationship was reduced virtually in half in that period.

In table 2, gross Federal debt is shown in total and per capita. Over the period from 1954 through 1978, gross Federal debt increased 188 percent above the 1954 level and 115 percent above the 1954 level of gross Federal debt per capita. In other words, population increased faster than the total Federal debt.

Federal debt as a percentage of net indebtedness in the United States fell from 44.1 percent to 18.9 percent—by more than half—from 1954 through 1978. State and local government debt has been virtually stable during the same period, and private debt has increased from 48.3 percent to 72.2 percent—an increase of about 50 percent.

However undesirable it may be for the Federal Government to go into debt, we must recognize that its indebtedness has grown far less than has private debt and may have contributed to the growth in the private sector.

EXHIBIT 1

TABLE I.—COMPARISON OF TRENDS IN FEDERAL DEBT AND GROSS NATIONAL PRODUCT

[Dollar amounts in billions]

Fiscal year	Debt outstanding, end of year					GNP	Debt held by public as percent of GNP
	Gross Federal debt	Held by					
		Federal Government accounts	The public				
			Total	Federal Reserve System	Other		
1954	$270.8	$46.3	$224.5	$25.0	$199.5	$363.6	61.7
1955	274.4	47.8	226.6	23.6	203.0	380.0	59.6
1956	272.8	50.5	222.2	23.8	198.5	411.0	54.1
1957	272.4	52.9	219.4	23.0	196.4	432.7	50.7
1958	279.7	53.3	226.4	25.4	200.9	442.1	51.2
1959	287.8	52.8	235.0	26.0	209.0	473.3	49.7
1960	290.9	53.7	237.2	26.5	210.7	497.3	47.7
1961	292.9	54.3	238.6	27.3	211.4	508.3	46.9
1962	303.3	54.9	248.4	29.7	218.7	546.9	45.4
1963	310.8	56.3	254.5	32.0	222.4	576.3	44.2
1964	316.8	59.2	257.6	34.8	222.8	616.2	41.8
1965	323.2	61.5	261.6	39.1	222.5	657.1	39.8
1966	329.5	64.8	264.7	42.2	222.5	721.1	36.7
1967	341.3	73.8	267.5	46.7	220.8	774.4	34.5
1968	369.8	79.1	290.6	52.2	238.4	829.9	35.0
1969[1]	$367.1	$87.7	$279.5	$54.1	$225.4	$903.7	30.9
1970[2]	382.6	97.7	284.9	57.7	227.2	959.0	29.7
1971	409.5	105.1	304.3	65.5	238.8	1,019.3	29.9
1972	437.3	113.6	323.8	71.4	252.3	1,110.5	29.2
1973[3]	468.4	125.4	343.0	75.2	267.9	1,237.5	27.7
1974	486.2	140.2	346.1	80.6	265.4	1,359.2	25.5
1975	544.1	147.2	396.9	85.0	311.9	1,457.3	27.2
1976[4]	631.9	151.6	480.3	94.7	385.6	1,624.7	29.6
TQ	646.4	148.1	498.3	96.7	401.6	1,718.5	30.0
1977	709.1	157.3	551.8	105.0	446.8	1,845.7	29.9
1978	780.4	169.5	610.9	115.5	495.5	2,061.6	29.6
1979	829.1	186.9	642.2	(5)	(5)	2,287.8	28.1
1980 estimate	892.2	207.1	685.1	(5)	(5)	2,510.1	27.3
1981 estimate	941.7	240.2	701.5	(5)	(5)	2,781.3	25.2
1982 estimate	966.3	290.2	676.1	(5)	(5)	3,092.9	21.9

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[1] During 1969, 3 Government-sponsored enterprises became completely privately owned, and their debt was removed from the totals for the Federal Government. At the dates of their conversion, gross Federal debt was reduced $10.7 billion, debt held by Government accounts was reduced $0.6 billion, and debt held by the public was reduced $10.1 billion.

[2] Gross Federal debt and debt held by the public increased $1.6 billion due to a reclassification of the Commodity Credit Corporation certificates of interest from loan assets to debt.

[3] A procedural change in the recording of trust fund holdings of Treasury debt at the end of the month increased gross Federal debt and debt held in Government accounts by about $4.5 billion.

[4] Gross Federal debt and debt held by the public increased $0.5 billion due to a retroactive reclassification of the Export-Import Bank certificates of beneficial interest from loan assets to debt.

[5] Not available.

Source: Office of Management and Budget.

TABLE II.—GROSS FEDERAL DEBT AND PER CAPITA DEBT

Fiscal year	Gross Federal debt (billions)	Gross Federal debt per capita
1954	$270.8	$1,661
1955	274.4	1,654
1956	272.8	1,615
1957	272.4	1,584
1958	279.7	1,599
1959	287.8	1,618
1960	290.9	1,610
1961	292.9	1,595
1962	303.3	1,626
1963	310.8	1,642
1964	316.8	1,651
1965	323.2	1,663
1966	329.5	1,676
1967	341.3	1,718
1968	369.8	1,842
1969	367.1	1,811
1970	382.6	1,867
1971	409.5	1,978
1972	437.2	2,094
1973	468.4	2,226
1974	486.2	2,294
1975	544.1	2,548
1976	631.9	2,937
1977	709.1	3,270
1978	780.4	3,571
1979 [1]	829.1	3,765
1980 [1]	892.2	4,016
1981 [1]	941.7	4,200
1982 [1]	966.3	4,269

[1] Estimate.

Source: Office of Management and Budget.

TABLE III.—PERCENT DISTRIBUTION OF NET INDEBTEDNESS

[Fiscal years]

	Federal	State and local	Private	Federal plus State and local
1954	44.1	7.6	48.3	51.7
1955	41.7	8.1	50.2	49.8
1956	38.6	8.4	53.0	47.0
1957	36.1	8.7	55.2	44.8
1958	35.2	9.1	55.7	44.3
1959	34.0	9.3	56.7	43.3
1960	32.1	9.6	58.3	41.7
1961	30.9	9.8	59.3	40.7
1962	29.9	9.9	60.2	39.8
1963	28.7	9.9	61.4	38.6
1964	27.1	9.9	63.0	37.0
1965	25.6	9.9	64.5	35.5
1966	24.0	9.9	66.1	33.9
1967	22.9	10.0	67.1	32.9
1968	22.8	9.8	67.4	32.6
1969	21.1	10.1	68.8	31.2
1970	20.1	10.1	69.8	30.2
1971	19.8	10.4	69.8	30.2
1972	19.2	10.3	70.5	29.5
1973	18.2	9.9	71.9	28.1
1974	16.7	9.8	73.5	26.5
1975	17.7	9.5	72.8	27.2
1976	19.4	9.3	71.3	28.7
1977	19.3	9.1	71.6	28.4
1978	18.9	8.9	72.2	27.8

Source: Office of Management and Budget.

Appendix tables IV through XII, which follow, provide historical comparisons of the levels of debt incurred by individuals and corporations in the private sector and by Federal, State, and local governments in the public sector. The tables show gross and net debt in total and in per capita amounts and their relationships to gross national product (tables III, IV, and V for gross debt and tables VI, VII, and VIII for net debt). Table IX relates Federal debt to population and prices. Table X relates privately held Federal debt to GNP, and table XI shows annual changes in per capita GNP.

Generally, the levels of Federal debt have declined relatively to total amounts of private and public debt. The percentages of Federal debt to total gross or net debt have declined since World War II peaks reached in 1945 or 1946. Low ratios were reached in 1974 and have increased somewhat since then. Nevertheless the 1976 ratios are about equal to the same ratios for 1934 or 1935.

TABLE IV.—ESTIMATED GROSS GOVERNMENT AND PRIVATE DEBT, BY MAJOR CATEGORIES

[Dollar amounts in billions]

Year	Private [1]			State and local	Federal [2]			Total gross debt	Percent Federal of total
	Individual	Corporate	Total		Public	Agency	Total		
1929	$72.9	$107.0	$179.9	$17.8	$16.3	$1.2	$17.5	$215.2	8.2
1930	72.8	107.4	179.2	18.9	16.0	1.3	17.3	215.4	8.1
1931	64.9	100.3	165.2	19.5	17.8	1.3	19.1	203.8	9.4
1932	57.1	96.1	153.2	19.7	20.8	1.2	22.0	194.9	11.3
1933	51.0	92.4	143.4	19.5	23.8	1.5	25.3	188.2	13.5
1934	49.8	90.6	140.4	19.2	28.5	4.8	33.3	192.9	17.3
1935	49.7	89.8	139.5	19.6	30.6	5.6	36.2	195.3	18.6
1936	50.6	90.9	141.5	19.6	34.4	5.9	40.3	201.4	20.1
1937	51.1	90.2	141.3	19.6	37.3	5.8	43.1	204.0	21.2
1938	50.0	86.8	136.8	19.8	39.4	6.2	45.6	202.2	22.6
1939	50.8	86.8	137.6	20.1	41.9	6.9	48.8	206.5	23.7
1940	53.0	89.0	142.0	20.2	45.0	7.2	52.2	214.4	24.4
1941	55.6	97.5	153.1	20.0	57.9	7.7	65.6	238.7	27.5
1942	49.9	106.3	156.2	19.2	108.2	5.5	113.7	289.1	39.4
1943	48.8	110.3	159.1	18.1	165.9	5.1	171.0	348.2	49.2
1944	50.7	109.0	159.7	17.1	230.6	3.0	233.6	410.4	57.0
1945	54.7	99.5	154.2	16.0	278.1	1.5	279.6	449.8	62.2
1946	59.9	108.3	169.2	16.1	258.9	1.5	260.4	445.7	58.5
1947	69.4	128.9	198.3	17.5	255.4	.7	256.1	471.9	54.3
1948	80.6	139.4	220.0	19.6	251.6	1.0	252.6	492.2	51.4
1949	90.4	140.3	230.7	22.2	256.1	.8	256.9	509.8	50.4
1950	104.3	167.7	272.0	25.3	255.4	1.1	256.5	553.8	46.4
1951	114.3	191.9	306.2	28.0	258.1	.8	258.9	593.1	43.7
1952	129.4	202.9	332.3	31.0	266.2	.8	267.0	630.3	42.4
1953	143.2	212.9	356.1	35.0	273.8	.9	274.7	665.8	41.3
1954	157.2	217.6	374.8	40.2	277.2	.8	278.0	693.0	40.2
1955	180.1	253.9	434.0	46.3	279.1	1.5	280.6	760.9	36.9
1956	195.5	277.3	402.2	50.1	275.5	1.7	277.2	800.1	34.7
1957	207.6	295.8	503.4	54.7	274.2	3.2	277.4	835.5	33.3
1958	222.9	312.0	534.9	60.4	282.2	2.3	284.5	879.8	32.4
1959	245.0	341.4	586.4	66.6	288.7	5.7	294.4	947.4	31.1
1960	263.3	365.1	628.4	72.0	287.7	6.4	294.1	994.5	29.9
1961	284.8	391.5	676.3	77.6	293.6	6.9	300.5	1,054.4	28.5
1962	311.9	421.5	733.4	83.4	300.2	7.8	308.0	1,124.8	27.4
1963	345.8	457.1	802.9	89.5	306.0	8.1	314.1	1,206.5	26.0
1964	380.0	497.3	877.4	95.5	314.3	9.1	323.4	1,296.3	24.9
1965	424.6	551.9	976.5	103.1	317.2	9.8	326.9	1,406.5	23.2
1966	454.7	617.4	1,072.1	109.3	325.6	14.0	339.6	1,521.1	22.3
1967	489.1	672.9	1,162.0	117.3	341.8	20.1	361.9	1,641.0	22.2
1968	529.3	779.1	1,308.4	127.2	356.2	15.1	371.3	1,806.9	20.5
1969	566.2	912.7	1,478.8	137.9	367.4	13.8	381.2	1,997.9	19.1
1970	600.0	997.9	1,597.9	149.2	388.3	12.5	400.8	2,147.8	18.7
1971	667.5	1,087.8	1,755.3	167.0	423.4	11.0	434.4	2,356.6	18.4
1972	763.9	1,214.3	1,978.2	181.2	448.4	11.8	460.2	2,620.7	17.6
1973	854.4	1,390.5	2,244.9	196.1	469.1	11.6	480.7	2,921.7	16.5
1974	922.1	1,546.4	2,468.5	214.7	492.7	11.3	504.0	3,187.2	15.8
1975	994.4	1,626.1	2,620.5	229.6	576.7	10.9	587.6	3,437.7	17.1
1976	1,106.8	1,781.7	2,888.5	246.4	653.5	11.3	664.8	3,799.7	17.5
1977					718.9	10.2	729.2		

[1] Private corporate debt includes the debt of certain federally sponsored agencies in which there is no longer any Federal proprietary interest. The debt of the following agencies are included beginning these years: FLB's in 1949; FHLB's in 1951; FNMA-secondary market operations, FICB's and BCOOP's in 1968. The total debt for these agencies amounted to $0.7 billion on Dec. 31, 1947, $3.5 billion on Dec. 31, 1960, $38.8 billion on Dec. 31, 1970, $78.8 billion on Dec. 31, 1975, and $81.4 billion on Dec. 31, 1976.

[2] Total Federal securities includes public debt securities and budget agency securities.

Note: Detail may not add to totals because of rounding. Real GNP is in constant 1972 dollars. Real per capital debt expressed in 1967 prices (i.e., Consumer Price Index for all items).

Source: Federal debt, Treasury Department; other data, Bureau of Economic Analysis, Commerce Departmet.

TABLE V.—ESTIMATED PER CAPITA GROSS GOVERNMENT AND PRIVATE DEBT [1]

[Amounts in dollars]

Year	Private [2]			State and local	Federal [3]			Total gross deb
	Individual	Corporate	Total		Public	Agency	Total	
1929	599	879	1,477	146	134	10	144	1,767
1930	583	873	1,456	154	130	11	141	1,750
1931	523	809	1,332	157	144	10	154	1,643
1932	457	770	1,227	158	167	10	176	1,561
1933	406	736	1,142	155	190	12	201	1,499
1934	394	717	1,111	152	226	38	264	1,526
1935	391	706	1,096	154	240	44	284	1,535
1936	395	710	1,105	153	269	46	315	1,573
1937	397	700	1,097	152	290	45	335	1,584
1938	385	669	1,054	153	303	48	351	1,557
1939	388	663	1,051	154	320	53	373	1,578
1940	400	671	1,071	152	339	54	394	1,617
1941	415	728	1,143	149	432	58	490	1,783
1942	369	785	1,154	142	799	41	840	2,136
1943	356	804	1,159	132	1,209	37	1,246	2,537
1944	365	785	1,150	123	1,660	22	1,682	2,954
1945	389	708	1,098	114	1,980	11	1,990	3,202
1946	422	770	1,192	113	1,824	11	1,835	3,140
1947	480	891	1,370	121	1,765	5	1,770	3,261
1948	548	947	1,494	133	1,709	7	1,716	3,344
1949	604	937	1,540	148	1,710	5	1,715	3,404
1950	685	1,101	1,786	166	1,677	7	1,684	3,637
1951	738	1,239	1,977	181	1,666	5	1,672	3,829
1952	821	1,288	2,109	197	1,690	5	1,695	4,001
1953	894	1,329	2,223	218	1,709	6	1,715	4,156
1954	964	1,335	2,299	247	1,700	5	1,705	4,251
1955	1,085	1,530	2,616	279	1,682	9	1,691	4,856
1956	1,157	1,642	2,799	297	1,631	10	1,641	4,737
1957	1,207	1,720	2,927	318	1,594	19	1,613	4,858
1958	1,275	1,784	3,059	345	1,614	13	1,627	5,031
1959	1,378	1,920	3,298	375	1,623	32	1,656	5,328
1960	1,457	2,021	3,478	399	1,592	35	1,628	5,504
1961	1,550	2,131	3,682	422	1,598	38	1,636	5,740
1962	1,672	2,260	3,932	447	1,609	42	1,651	6,030
1963	1,827	2,415	4,243	473	1,617	43	1,660	6,375
1964	1,981	2,592	4,572	498	1,638	47	1,685	6,755
1965	2,185	2,840	5,026	531	1,633	50	1,682	7,239
1966	2,313	3,141	5,454	557	1,656	71	1,728	7,739
1967	2,461	3,386	5,848	590	1,720	101	1,821	8,258
1968	2,637	3,882	6,519	634	1,775	75	1,850	9,003
1969	2,794	4,503	7,297	680	1,813	68	1,881	9,858
1970	2,929	4,871	7,799	728	1,895	61	1,956	10,483
1971	3,224	5,254	8,478	807	2,045	53	2,098	11,382
1972	3,658	5,814	9,472	868	2,147	56	2,203	12,548
1973	4,061	6,609	10,669	932	2,229	55	2,825	13,886
1974	4,352	7,298	11,649	1,013	2,325	53	2,379	15,041
1975	4,657	7,615	12,272	1,075	2,701	51	2,752	16,099
1976	5,145	8,282	13,428	1,145	3,038	53	3,090	17,663
1977					3,316	47	3,364	

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[1] Per capita debt is calculated by dividing debt figures by population of conterminous United States. Beginning 1949, population includes Armed Forces overseas, Hawaii and Alaska.

[2] Private corporate debt includes the debt of certain federally sponsored agencies in which there is no longer any Federal proprietary interest. The debt of the following agencies are included beginning these years: FLB's in 1949; FHLB's in 1951; FNMA-secondary market operations, FICB's and BCOOP's in 1968. The total debt for these agencies amounted to $0.7 billion on Dec. 31, 1947, $3.5 billion on Dec. 31, 1960, $38.8 billion on Dec. 31, 1970, $78.8 billion on Dec. 31, 1975, and $81.4 billion on Dec. 31, 1976.

[3] Total Federal securities includes public debt securities and budget agency securities.

Note: Detail may not add to totals because of rounding. Real GNP is in constant 1972 dollars. Real per capita debt expressed in 1967 prices (i.e., Consumer Price Index for all items).

Source: Federal debt, Treasury Department; other data. Bureau of Economic Analysis, Commerce Department.

TABLE VI.—GROSS GOVERNMENT AND PRIVATE DEBT RELATED TO GROSS NATIONAL PRODUCT

Year	Gross national product (billions)	Ratios of debt to gross national product							
		Private [1]			State and local	Federal [2]			Total gross debt
		Individual	Corporate	Total		Public	Agency	Total	
1929	$$103.4	$70.5	$103.5	$174.0	$17.3	$15.8	$1.2	$17.0	$208.1
1930	90.7	79.2	118.5	197.6	20.9	17.7	1.5	19.1	237.5
1931	76.1	85.4	131.9	217.2	25.7	23.4	1.8	25.2	268.0
1932	58.3	98.0	164.9	262.9	33.9	35.7	2.1	37.8	334.5
1933	55.8	91.4	165.6	257.0	35.0	42.7	2.7	45.4	337.2
1934	65.3	76.3	138.8	215.1	29.5	43.7	7.4	51.1	295.5
1935	72.5	68.6	123.9	192.5	27.1	42.3	7.8	50.0	269.5
1936	82.7	61.2	109.9	171.1	23.7	41.6	7.2	48.8	243.5
1937	96.7	52.9	93.3	146.1	20.3	38.6	6.0	44.6	210.9
1938	85.0	58.9	102.2	161.1	23.4	46.4	7.3	53.7	238.0
1939	90.8	56.0	95.6	151.6	22.2	46.2	7.6	53.8	227.5
1940	100.0	53.1	89.1	142.1	20.3	45.1	7.3	52.3	214.5
1941	124.9	44.6	78.1	122.6	16.1	46.4	6.2	52.6	191.2
1942	158.3	31.6	67.2	98.7	12.2	68.4	3.5	71.9	182.7
1943	192.0	25.5	57.5	82.9	9.5	86.5	2.7	89.1	181.4
1944	210.5	24.1	51.8	75.9	8.2	109.6	1.5	111.0	195.0
1945	212.3	25.8	46.9	72.7	7.6	131.0	.8	131.7	211.9
1946	209.6	28.6	52.2	80.8	7.7	123.6	.8	124.3	212.7
1947	232.8	29.9	55.4	85.2	7.6	109.8	.4	110.1	202.8
1948	259.1	31.2	53.9	85.0	7.6	97.2	.4	97.5	190.0
1949	258.0	35.1	54.4	89.5	8.7	99.3	.4	99.6	197.6
1950	286.2	36.5	58.6	95.1	8.9	89.3	.4	89.7	193.6
1951	330.2	34.7	58.2	92.8	8.5	78.2	.3	78.5	179.7
1952	347.2	37.2	58.5	95.8	9.0	76.7	.3	77.0	181.6
1953	366.1	39.2	58.2	97.3	9.6	74.8	.3	75.1	181.9
1954	366.3	43.0	59.5	102.4	11.0	75.7	.3	75.9	189.2
1955	399.3	45.2	63.6	108.7	11.6	19.9	.4	70.3	190.6
1956	420.7	46.5	66.0	112.4	12.0	65.5	.5	65.9	190.2
1957	442.8	46.9	66.9	113.7	12.4	62.0	.8	62.7	188.7
1958	448.9	49.7	69.6	119.2	13.5	62.9	.6	63.4	196.0
1959	486.5	50.4	70.2	120.6	13.7	59.4	1.2	60.6	194.8
1960	506.0	52.1	72.2	124.2	14.3	56.9	1.3	58.2	196.6
1961	523.3	54.5	74.9	129.3	14.9	56.2	1.4	57.5	201.5
1962	563.8	55.4	74.8	130.1	14.8	53.3	1.4	54.7	199.6

Year	Gross national product (billions)	Ratios of debt to gross national product							
		Private [1]			State and local	Federal [2]			Total gross debt
		Individual	Corporate	Total		Public	Agency	Total	
1963	$594.7	$58.2	$76.9	$135.1	$15.1	$51.5	$1.4	$52.9	$202.9
1964	635.7	59.8	78.3	138.1	15.1	49.5	1.5	50.9	204.0
1965	688.1	61.7	80.2	142.0	15.0	46.1	1.5	47.5	204.4
1966	753.0	60.4	82.0	142.4	14.5	43.2	1.9	45.1	202.0
1967	796.3	61.4	84.5	145.9	14.7	42.9	2.5	45.4	206.1
1968	868.5	60.9	89.7	150.7	14.6	41.0	1.7	42.8	208.0
1969	935.5	60.5	97.6	158.1	14.7	39.3	1.5	40.7	213.6
1970	982.4	61.1	101.6	162.7	15.2	39.5	1.3	40.8	218.6
1971	1,063.4	62.8	102.3	165.1	15.7	39.8	1.0	40.9	221.6
1972	1,171.1	65.3	103.7	168.9	15.5	38.3	1.0	39.3	223.8
1973	1,306.3	65.4	106.4	171.9	15.0	35.9	.9	36.8	223.7
1974	1,412.9	65.3	109.4	174.7	15.2	34.9	.8	35.7	225.5
1975	1,528.8	65.0	106.4	171.4	15.0	37.7	.7	38.4	224.9
1976	1,706.5	64.9	104.4	169.3	16.9	38.3	.7	39.0	222.7
1977	1,890.4					38.0	.5	38.6	

[1] Private corporate debt includes the debt of certain federally sponsored agencies in which there is no longer any Federal proprietary interest. The debt of the following agencies are included beginning these years: FLB's in 1949; FHLB's in 1951; FNMA-secondary market operations, FICB's and BCOOP's in 1968. The tot?l debt for these agencies amounted to $0.7 billion on Dec. 31, 1947, $3.5 billion on Dec. 31, 1960, $38.8 billion on Dec. 31, 1970, $78.8 billion on Dec. 31, 1975, and $81.4 billion on Dec. 31, 1976.

[2] Total Federal securities includes public debt securities and budget agency securities.

Note: Detail may not add to totals because of rounding. Real GNP is in constant 1972 dollars. Real per capita debt expressed in 1967 prices (i.e., Consumer Price Index for all items.)

Source: Federal debt, Treasury Department, other data; Bureau of Economic Analysis, Commerce Department.

TABLE VII.—ESTIMATED NET GOVERNMENT AND PRIVATE DEBT BY MAJOR CATEGORIES

[Dollar amounts in billions]

Year	Private [1]			State and local	Federal [2]	Total net debt	Percent Federal of total
	Individual	Corporate	Total				
1916	36.3	40.2	76.5	4.5	1.2	82.2	1.5
1917	38.7	43.7	82.4	4.8	7.3	94.5	7.8
1918	44.5	47.0	91.5	5.1	20.9	117.5	17.8
1919	43.9	53.3	97.2	5.5	25.6	128.3	20.0
1920	48.1	57.7	105.8	6.2	23.7	135.7	17.5
1921	49.2	57.0	106.2	7.0	23.1	136.3	17.0
1922	50.9	58.6	109.5	7.9	22.8	140.2	16.3
1923	53.7	62.6	116.3	8.6	21.8	146.7	14.9
1924	55.8	67.2	123.0	9.4	21.0	153.4	13.7
1925	59.6	72.7	132.3	10.3	20.3	162.9	12.5
1926	62.7	76.2	138.9	11.1	19.2	169.2	11.4
1927	66.4	81.2	147.6	12.1	18.2	177.9	10.3
1928	70.0	86.1	156.1	12.7	17.5	186.3	9.4
1929	72.9	88.9	161.8	13.6	16.5	191.9	8.6
1930	71.8	89.3	161.1	14.7	16.5	192.3	8.6
1931	64.9	83.5	148.4	16.0	18.5	182.9	10.2
1932	57.1	80.0	137.1	16.6	21.3	176.0	12.2
1933	51.0	76.9	127.9	16.3	24.3	168.5	14.5
1934	49.8	75.5	125.3	15.9	30.4	171.6	17.8
1935	49.7	74.8	124.5	16.1	34.4	175.0	19.7
1936	50.6	76.1	126.7	16.2	37.7	180.6	20.9
1937	51.1	75.8	126.9	16.1	39.2	182.2	21.6
1938	50.0	73.3	123.3	16.1	40.5	179.9	22.6
1939	50.8	73.5	124.3	16.4	42.6	183.3	23.3
1940	53.0	75.6	128.6	16.4	44.8	189.8	23.7
1941	55.6	83.4	139.0	16.1	56.3	211.4	26.7
1942	49.9	91.6	141.5	15.4	101.7	258.6	39.4
1943	48.8	95.5	144.3	14.5	154.4	313.2	49.3
1944	50.7	94.1	144.8	13.9	211.9	370.6	57.2
1945	54.7	85.3	140.0	13.4	252.5	405.9	62.3
1946	59.9	93.5	153.4	13.7	229.5	396.6	57.9
1947	69.4	109.6	179.0	15.0	221.7	415.7	53.4
1948	80.6	118.4	199.0	17.0	215.3	431.3	50.0
1949	90.4	118.7	209.1	19.1	217.6	445.8	48.9
1950	104.3	142.8	247.1	21.7	217.4	486.2	44.8
1951	114.3	163.8	278.1	24.2	216.9	519.2	41.8
1952	129.4	172.3	301.7	27.0	221.5	550.2	40.3
1953	143.2	180.9	324.1	30.7	226.8	581.6	39.0
1954	157.2	184.1	341.3	35.5	229.1	605.9	37.9
1955	180.1	215.0	395.1	41.1	229.6	665.8	34.5
1956	195.5	234.1	429.6	44.5	224.3	698.4	32.2
1957	207.6	249.1	456.7	48.6	223.0	728.3	30.7
1958	222.9	262.0	484.9	53.7	231.0	769.6	30.1
1959	245.0	287.0	532.0	59.6	241.4	833.0	29.0
1960	263.3	306.3	569.6	64.9	239.8	874.3	27.5
1961	284.8	328.3	613.1	70.5	246.7	930.3	26.6
1962	311.9	353.5	665.4	77.0	253.6	996.0	25.5
1963	345.8	383.6	729.4	83.9	257.5	1,070.8	24.1
1964	380.1	417.1	797.2	90.4	264.0	1,151.6	23.0
1965	424.6	463.2	887.8	98.3	266.4	1,252.5	21.3
1966	454.7	517.8	972.5	104.7	271.8	1,349.1	20.1
1967	489.1	562.6	1,051.7	112.8	286.4	1,450.8	19.7
1968	529.3	653.0	1,182.3	122.7	291.9	1,596.8	18.3
1969	566.2	764.7	1,330.9	133.3	289.3	1,753.4	16.5
1970	600.0	836.1	1,436.1	144.8	301.1	1,881.9	16.0
1971	667.5	911.2	1,578.7	162.7	325.9	2,067.3	15.8
1972	763.9	1,016.7	1,780.6	178.0	341.2	2,299.8	14.8
1973	854.4	1,166.5	2,020.9	192.3	349.1	2,562.3	13.6
1974	922.1	1,299.4	2,221.5	211.2	360.8	2,793.5	12.9
1975	994.4	1,365.4	2,359.8	222.7	446.7	3,028.8	14.7
1976	1,016.8	1,496.1	2,602.9	236.3	515.8	3,354.9	15.4
1977					572.5		

[1] Private corporate debt includes the debt of certain federally sponsored agencies in which there is no longer any Federal proprietary interest. The debt of the following agencies are included beginning these years: FLB's in 1949; FHLB's in 1951; FNMA-secondary market operations, FICB's, and BCOOP's in 1968. The total debt for these agencies amounted to $0.7 billion on Dec. 31, 1947, $3.5 billion on Dec. 31, 1960, $38.8 billion on Dec. 31, 1970, $78.8 billion on Dec. 31, 1975, and $81.4 billion on Dec. 31, 1976.

[2] Borrowing from the public equals gross Federal debt less securities held in Governmen accounts (a unified budget concept .

Note: Detail may not add to totals because of rounding. Real GNP is in constant 1972 dollars. Real per capita debt expressed in 1967 prices (i.e., Consumer Price Index for all items .

Source: Federal debt, Treasury Department; other data, Bureau of Economic Analysis, Commerce Department.

TABLE VIII.—ESTIMATED PER CAPITA NET GOVERNMENT AND PRIVATE DEBT[1]

[Amounts in dollars]

Year	Private [2]			State and local	Federal [3]	Total net debt
	Individual	Corporate	Total			
1916	356	394	750	44	12	806
1917	375	423	798	46	71	915
1918	431	455	887	49	203	1,139
1919	420	510	930	53	245	1,228
1920	452	542	994	58	223	1,275
1921	453	525	978	64	213	1,256
1922	462	532	995	72	207	1,274
1923	480	559	1,039	77	195	1,310
1924	489	589	1,078	82	184	1,344
1925	515	628	1,142	89	175	1,406
1926	534	649	1,183	95	164	1,441
1927	558	682	1,240	102	153	1,494
1928	581	715	1,295	105	145	1,546
1929	599	730	1,329	112	136	1,576
1930	583	726	1,309	119	134	1,562
1931	523	673	1,196	129	149	1,475
1932	457	641	1,098	133	171	1,402
1933	406	612	1,018	130	194	1,342
1934	394	597	992	126	241	1,358
1935	391	588	978	127	270	1,375
1936	395	594	989	127	294	1,410
1937	397	588	985	125	304	1,414
1938	385	565	950	124	312	1,386
1939	388	562	950	125	325	1,401
1940	400	570	970	124	338	1,431
1941	415	623	1,038	120	420	1,579
1942	369	677	1,045	114	751	1,910
1943	356	696	1,051	106	1,125	2,282
1944	365	677	1,042	100	1,525	2,668
1945	389	607	997	95	1,798	2,890
1946	422	659	1,081	97	1,617	2,794
1947	480	757	1,237	104	1,532	2,873
1948	548	804	1,352	115	1,463	2,930
1949	604	793	1,396	128	1,453	2,977
1950	685	938	1,623	143	1,428	3,193
1951	738	1,058	1,796	156	1,400	3,352

Footnotes at end of table.

TABLE VIII.—ESTIMATED PER CAPITA NET GOVERNMENT AND PRIVATE DEBT[1]—Continued

[Amounts in dollars]

Year	Private[2]			State and local	Federal[3]	Total net debt
	Individual	Corporate	Total			
1952	821	1,094	1,915	171	1,406	3,492
1953	894	1,129	2,023	192	1,416	3,631
1954	964	1,129	2,094	218	1,405	3,717
1955	1,085	1,296	2,381	248	1,384	4,013
1956	1,157	1,386	2,543	263	1,328	4,135
1957	1,207	1,448	2,655	283	1,297	4,235
1958	1,275	1,498	2,773	307	1,321	4,401
1959	1,378	1,614	2,992	335	1,357	4,684
1960	1,457	1,695	3.153	359	1,237	4,839
1961	1,550	1,787	3,338	384	1,343	5,064
1962	1,672	1,895	3,567	413	1,360	5,339
1963	1,827	2,027	3,854	443	1,361	5,658
1964	1,981	2,174	4,154	471	1,376	6,001
1965	2,185	2,384	4,569	506	1,371	6,446
1966	2,313	2,634	4,948	533	1,383	6,864
1967	2,461	2,831	5,293	568	1,441	7,301
1968	2,637	3,254	5,891	611	1,454	7,956
1969	2,794	3,773	6,567	658	1,427	8,651
1970	2,929	4,081	7,010	707	1,470	9,185
1971	3,224	4,401	7,625	786	1,574	9,984
1972	3,658	4,868	8,526	852	1,634	11,012
1973	4,061	5,544	9,605	914	1,659	12,178
1974	4,352	6,132	10,484	997	1,703	13,183
1975	4,693	6,444	11,136	1,051	2,090	14,293
1976	5,145	6,955	12,100	1,098	2,398	15,596
1977					2,641	

[1] Per capita debt is calculated by dividing debt figures by population of conterminous United States. Beginning 1949, population includes Armed Forces overseas, Hawaii, and Alaska.

[2] Private corporate debt includes the debt of certain federally sponsored agencies in which there is no longer any Federal proprietary interest. The debt of the following agencies are included beginning these years: FLB's in 1949; FHLB's in 1951: FNMA-secondary market operations. FICB's and BCOOP's in 1968. The total debt for these agencies amounted to $0.7 billion on Dec. 31, 1947, $3.5 billion on Dec. 31, 1960, $38.8 billion on Dec. 31, 1970, $78.8 billion on Dec. 31, 1975, and $81.4 billion on Dec. 31, 1976.

[3] Borrowing from the public equals gross Federal debt less securities held in Government accounts (a unified budget concept).

Note: Detail may not add to totals because of rounding. Real GNP is in constant 1972 dollars. Real per capita debt expressed in 1967 prices (i.e., Consumer Price Index for all items).

Source: Federal debt, Treasury Department; other data, Bureau of Economic Analysis, Commerce Department.

TABLE IX.—NET GOVERNMENT AND PRIVATE DEBT RELATED TO GROSS NATIONAL PRODUCT

Year	Gross national product (billions)	Ratios of debt to gross national product					
		Private[1]			State and local	Federal[2]	Total net debt
		Individual	Corporate	Total			
1929	$103.4	$70.5	$86.0	$156.5	$13.2	$16.2	$185.6
1930	90.7	79.2	98.5	177.7	16.3	18.2	212.1
1931	76.1	85.4	109.8	195.1	21.1	24.4	240.5
1932	58.3	98.0	137.3	235.3	28.5	36.6	300.3
1933	55.8	91.4	137.8	229.2	29.3	43.6	301.9
1934	65.3	76.3	115.7	192.0	24.4	46.6	262.9
1935	72.5	68.6	103.2	171.8	22.3	47.5	241.4
1936	82.7	61.2	92.0	153.2	19.6	45.6	218.3
1937	96.7	52.9	78.4	131.2	16.7	40.6	188.4
1938	85.0	58.9	86.3	145.2	19.0	47.7	211.8
1939	90.8	56.0	81.0	136.9	18.1	47.0	201.9
1940	100.0	53.1	75.7	128.7	16.5	44.9	189.9
1941	124.9	44.6	66.8	111.4	12.9	45.1	169.3
1942	158.3	31.6	57.9	89.4	9.8	64.3	163.4
1943	192.0	25.5	49.8	75.2	7.6	80.5	163.2
1944	210.5	24.1	44.8	68.8	6.7	100.7	176.1
1945	212.2	25.8	40.2	66.0	6.4	119.0	191.2
1946	209.6	28.6	44.7	73.2	6.6	109.5	189.3
1947	232.8	29.9	47.1	76.9	6.5	95.3	178.6
1948	259.1	31.2	45.7	76.9	6.6	83.1	166.5
1949	258.0	35.1	46.1	81.1	7.5	84.4	172.8
1950	286.2	36.5	49.9	86.4	7.6	76.0	169.9
1951	330.2	34.7	49.7	84.3	7.4	65.7	157.3
1952	347.2	37.3	49.7	86.9	7.8	63.8	158.5
1953	366.1	39.2	49.5	88.6	8.4	62.0	158.9
1954	$366.3	$43.0	$50.3	$93.2	$9.7	$62.6	$165.5
1955	399.3	45.2	53.9	99.0	10.3	57.6	166.8
1956	420.7	46.5	55.7	102.2	10.6	53.4	166.1
1957	442.8	46.9	56.3	103.2	11.0	50.4	154.5
1958	448.9	49.7	58.4	108.1	12.0	51.5	171.5
1959	486.5	50.4	59.0	109.4	12.3	49.7	171.3
1960	506.0	52.1	60.6	112.6	12.9	47.4	172.8
1961	523.3	54.5	62.8	117.2	13.5	47.2	177.8
1962	563.8	55.4	62.7	118.1	13.7	45.0	176.7
1963	594.7	58.2	64.6	122.7	14.2	43.3	180.1
1964	635.7	59.8	65.7	125.5	14.3	41.6	181.2
1965	688.1	61.7	67.3	129.0	14.3	38.7	182.0
1966	753.0	60.4	68.6	129.2	13.9	36.1	179.2
1967	796.3	61.4	70.7	132.1	14.2	36.0	182.2
1968	868.5	60.9	75.2	136.1	14.1	33.6	183.9
1969	935.5	60.5	81.7	142.2	14.2	30.9	187.4
1970	982.4	61.1	85.1	146.2	14.7	30.6	191.6
1971	1,063.4	62.8	85.7	148.5	15.3	30.6	194.4
1972	1,171.1	65.2	86.8	152.0	15.2	29.2	196.4
1973	1,306.3	65.4	89.3	154.7	14.6	26.7	196.1
1974	1,412.9	65.3	92.0	157.2	14.9	25.5	197.7
1975	1,528.8	65.0	89.3	154.4	14.6	29.2	198.1
1976	1,706.5	64.9	87.7	152.5	13.8	30.2	196.6
1977	1,890.4					30.3	

[1] Private corporate debt includes the dcbt of certain federally sponsored agencies in which there is no longer any Federal proprietary interest. The debt of the following agencies are included beginning these years: FLB's in 1949; FHLB's in 1951; FNMA-secondary market operations, FICB's, and BCOOP's in 1968. The total debt for these agencies amounted to $0.7 billion on Dec. 31, 1947, $3.5 billion on Dec. 31, 1960, $38.8 billion on Dec. 31, 1970, $78.8 billion on Dec. 31, 1975, and $81.4 billion on Dec. 31, 1976.

[2] Borrowing from the public equals gross Federal debt less securities held in Government accounts (a unified budget concept).

Note: Detail may not add to totals because of rounding. Real GNP is in constant 1972 dollars. Real per capital debt expressed in 1967 prices (i.e., Consumer Price Index for all items).

Source: Federal debt, Treasury Department; other data, Bureau of Economic Analysis, Commerce Department.

TABLE X.—ESTIMATED FEDERAL DEBT RELATED TO POPULATION AND PRICES

[Amounts in dollars]

Year	Outstanding Federal debt			Per capita Federal debt[1]			Real per capita Federal debt		
	Gross[2]	Net[3]	Privately held net[4]	Gross[2]	Net[3]	Privately held net[4]	Gross[2]	Net[3]	Privatel held net y[1]
1929	17.5	16.5	16.0	144	136	131	281	265	256
1930	17.3	16.5	15.8	141	134	128	292	269	266
1931	19.1	18.5	17.7	154	149	142	354	342	327
1932	22.0	21.3	19.4	176	171	155	451	437	396
1933	25.3	24.3	21.9	201	194	174	513	492	443
1934	33.3	30.4	28.0	264	241	221	657	600	551
1935	36.2	34.4	32.0	284	270	251	688	654	607
1936	40.3	37.7	35.3	315	294	275	752	704	658
1937	43.1	39.2	36.6	335	304	284	776	706	658
1938	45.6	40.5	37.9	351	312	291	837	744	695
1939	48.8	42.6	40.1	373	325	306	893	780	733
1940	52.2	44.8	42.6	394	338	321	934	802	761
1941	65.6	56.3	54.0	490	420	403	1,059	909	871
1942	113.7	101.7	95.5	840	751	705	1,661	1,486	1,394
1943	171.0	154.4	142.9	1,246	1,125	1,041	2,388	2,156	1,995
1944	233.6	211.9	193.1	1,682	1,525	1,390	3,156	2,863	2,608
1945	279.6	252.5	228.2	1,990	1,798	1,624	3,653	3,299	2,981
1946	260.4	229.5	206.1	1,835	1,617	1,452	2,841	2,504	2,248
1947	256.1	221.7	199.1	1,770	1,532	1,375	2,522	2,183	1,960
1948	252.6	215.3	192.0	1,716	1,463	1,304	2,384	2,032	1,811
1949	256.9	217.6	197.7	1,715	1,453	1,320	2,427	2,056	1,867
1950	256.5	217.4	196.6	1,684	1,428	1,291	2,252	1,909	1,725
1951	258.9	216.9	193.1	1,672	1,400	1,246	2,109	1,767	1,573

Year	Outstanding Federal debt			Per capita Federal debt[1]			Real per capita Federal debt		
	Gross[2]	Net[3]	Privately held net[4]	Gross[2]	Net[3]	Privately held net[4]	Gross[2]	Net[3]	Privately held net[1]
1952	267.0	221.5	196.8	1,695	1,406	1,249	2,119	1,758	1,562
1953	274.7	226.8	200.9	1,715	1,416	1,254	2,131	1,759	1,558
1954	278.0	229.1	204.2	1,705	1,405	1,252	2,128	1,754	1,563
1955	280.6	229.6	204.8	1,691	1,384	1,234	2,102	1,720	1,534
1956	277.2	224.3	199.4	1,641	1,328	1,180	1,983	1,605	1,426
1957	277.4	223.0	198.8	1,613	1,297	1,155	1,892	1,521	1,356
1958	284.5	231.0	204.7	1,627	1,321	1,170	1,876	1,523	1,349
1959	294.4	241.4	214.8	1,656	1,357	1,207	1,881	1,542	1,372
1960	294.1	239.8	212.4	1,628	1,327	1,175	1,823	1,486	1,316
1961	300.5	246.7	217.8	1,636	1,343	1,185	1,820	1,494	1,319
1962	308.0	253.6	222.8	1,651	1,360	1,194	1,815	1,495	1,313
1963	314.1	257.5	223.9	1,660	1,361	1,183	1,795	1,472	1,279
1964	323.4	264.0	224.0	1,685	1,376	1,183	1,801	1,470	1,264
1965	326.9	266.4	225.6	1,682	1,371	1,161	1,764	1,438	1,217
1966	339.6	271.8	227.5	1,728	1,383	1,157	1,753	1,403	1,174
1967	361.9	286.4	237.3	1,821	1,441	1,194	1,793	1,419	1,176
1968	371.3	291.0	238.9	1,850	1,454	1,190	1,739	1,367	1,119
1969	381.2	289.3	232.1	1,881	1,437	1,145	1,666	1,265	1,014
1970	400.8	301.1	239.0	1,956	1,470	1,166	1,643	1,234	979
1971	434.4	325.9	255.1	2,098	1,574	1,232	1,705	1,279	1,001
1972	460.2	341.2	269.9	2,203	1,634	1,292	1,732	1,284	1,015
1973	480.7	349.1	268.6	2,285	1,659	1,276	1,650	1,198	922
1974	504.0	360.8	280.1	2,378	1,703	1,322	1,531	1,096	851
1975	587.6	446.3	358.2	2,752	2,090	1,677	1,655	1,257	1,009
1976	664.8	515.8	418.5	3,090	2,398	1,945	1,773	1,376	1,116
1977	729.2	572.5	470.8	3,364	2,641	2,171	1,810	1,422	1,170

[1] Per capita debt is calculated by dividing debt figures by population of conterminous United States. Beginning 1949, population includes Armed Forces overseas, Hawaii, and Alaska.

[2] Total Federal securities includes public debt securities and budget agency securities.

[3] Borrowing from the public equals gross Federal debt less securities held in Government accounts (a unified budget concept).

[4] Borrowing from the public less Federal Reserve holdings.

Note: Detail may not add to totals because of rounding. Real GNP is in constant 1972 dollars. Real per capita debt expressed in 1967 prices (i.e., Consumer Price Index for all items).

Source: Federal debt, Treasury Department; other data, Bureau of Economic Analysis, Commerce Department.

TABLE XI.—PRIVATELY HELD FEDERAL DEBT RELATED TO GNP

Year	Gross national product	Privately held debt[1]	Ratio of debt to GNP	Year-to-year price changes[2]
1929	$103.4	$16.0	15.5	------------
1930	90.7	15.8	17.5	−6.0
1931	76.1	17.7	23.3	−9.5
1932	58.3	19.4	33.3	−10.2
1933	55.8	21.9	39.3	.6
1934	65.3	28.0	42.9	2.1
1935	72.5	32.0	44.2	3.0
1936	82.7	35.3	42.7	1.3
1937	96.7	36.6	37.9	3.2
1938	85.0	37.9	44.7	−2.7
1939	90.8	40.1	44.2	−.4
1940	100.0	42.6	42.7	1.0
1941	124.9	54.0	43.3	9.8
1942	158.3	195.5	60.4	9.3
1943	192.0	142.9	74.5	3.2
1944	210.5	193.1	91.8	2.2
1945	212.3	228.2	107.5	2.3
1946	209.6	206.1	98.4	18.6
1947	232.8	199.1	85.6	8.7
1948	259.1	192.0	74.2	2.6
1949	258.0	197.7	76.7	−1.8
1950	286.2	196.6	68.7	5.9
1951	330.2	193.1	58.5	6.0
1952	347.2	196.8	56.7	.9
1953	366.1	200.9	54.9	.7
1954	$366.3	$204.2	55.8	−.4
1955	399.3	204.8	51.3	.4
1956	420.7	199.4	47.4	2.9
1957	442.8	198.8	44.9	3.1
1958	448.9	204.7	45.7	1.8
1959	486.5	214.8	44.2	1.5
1960	506.0	212.4	42.0	1.5
1961	523.3	217.8	41.7	.7
1962	563.8	222.8	39.6	1.3
1963	594.7	223.9	37.7	1.7
1964	635.7	227.0	35.8	1.2
1965	688.1	225.6	32.8	2.0
1966	753.0	227.5	30.3	3.4
1967	796.3	237.3	29.9	3.0
1968	868.5	238.9	27.6	4.7
1969	935.5	232.1	24.9	6.1
1970	982.4	239.0	24.4	5.5
1971	1,063.4	255.6	24.0	3.4
1972	1,171.1	271.1	23.1	3.4
1973	1,306.3	270.4	20.7	8.8
1974	1,412.9	280.1	19.8	12.2
1975	1,528.8	358.2	23.4	7.0
1976	1,706.5	418.5	24.5	4.8
1977	1,890.4	470.8	24.9	6.8

[1] Borrowing from the public less Federal Reserve holdings.

[2] Measured by all item Consumer Price Index, December to December basis.

Note: Detail may not add to totals because of rounding. Real GNP is constant in 1972 dollars. Real per capita debt expressed in 1967 prices (i.e., Consumer Price Index for all items).

Source: Federal debt, Treasury Department; other data, Bureau of Economic Analysis, Commerce Department.

TABLE XII.—CHANGES IN PER CAPITA REAL GROSS NATIONAL PRODUCT

Year	GNP in (billions of 1972 dollars)	GNP per capita (constant 1972 dollars)[1]	GNP per capita, change from year ago	
			Constant 1972 dollars	Percent
1929	314.7	2,584	------------	------------
1930	385.1	3,129	544	21
1931	263.3	2,123	−1,006	−32
1932	227.1	1,819	−303	−14
1933	222.1	1,769	−50	−2
1934	239.3	1,894	125	7
1935	261.0	2,051	157	8
1936	297.1	2,320	269	13
1937	310.8	2,413	92	4
1938	297.8	2,294	−118	−4
1939	319.7	2,443	148	6
1940	343.6	2,591	148	6
1941	396.6	2,962	370	14
1942	454.6	3,358	936	13
1943	527.3	3,842	483	14
1944	567.0	4,082	239	6
1945	559.0	3,980	−101	−2
1946	477.0	3,361	−618	−15
1947	468.3	3,236	−124	−3
1948	487.7	3,313	76	2
1949	490.7	3,276	−36	−1
1950	533.5	3,504	227	6
1951	576.5	3,722	218	6
1952	598.5	3,799	76	2
1953	621.8	3,882	83	2
1954	613.7	3,764	−117	−2
1955	654.8	3,946	181	4
1956	668.8	3,960	13	------------
1957	680.9	3,959	------------	------------
1958	697.5	3,885	−73	−1
1959	720.4	4,051	165	4
1960	736.8	4,078	27	------------
1961	755.3	4,112	33	------------
1962	799.1	4,284	172	4
1963	830.7	4,390	105	2
1964	874.4	4,557	167	3
1965	925.9	4,765	208	4
1966	981.0	4,991	225	4
1967	1,007.7	5,071	80	1
1968	1,051.8	5,241	169	3
1969	1,078.8	5,323	82	1
1970	1,075.3	5,249	−74	−1
1971	1,107.5	5,349	100	1
1972	1,171.1	5,607	258	4

Footnotes at end of table.

TABLE XII.—CHANGES IN PER CAPITA REAL GROSS NATIONAL PRODUCT—Continued

Year	GNP in (billions of 1972 dollars)	GNP per capita (constant 1972 dollars)[1]	GNP per capita, change from year ago	
			Constant 1972 dollars	Percent
1973	1,235.0	5,869	262	4
1974	1,217.8	5,747	−122	−2
1975	1,202.1	5,629	−118	−2
1976	1,274.7	5,926	297	5
1977	1,337.6	6,169	243	4

[1] Per capita debt is calculated by dividing debt figures by population of conterminous United States. Beginning 1949, population includes Armed Forces overseas, Hawaii, and Alaska.

Note: Detail may not add to totals because of rounding. Real GNP is in constant 1972 dollars. Real per capita debt expressed in 1967 prices (i.e., Consumer Price Index for all items).

Source: Federal debt, Treasury Department; other data, Bureau of Economic Analysis, Commerce Department.

Mr. LONG. Mr. President, I ask unanimous consent that Mr. Al Buckberg of the joint committee staff be permitted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that I may be permitted to suggest the absence of a quorum with the time being equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

Who yields time?

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that I be permitted to proceed under the time previously allocated to the Senator from Kansas (Mr. DOLE).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, the two most significant economic developments of this week are that Congress is on the verge of passing another gigantic increase in the national debt, an increase, as I understand, as proposed in the bill before us, of some $49 billion, and that this week the Consumer Price Index has been reported to be rising at an annual adjusted rate of over 13 percent.

Of course, it is obvious to all of us in this Chamber, at least the handful of us who have come to the Chamber to mourn the national debt increase and those of use who have come to celebrate it, if indeed there be any such, that these are not unrelated events, but in effect they are either, one, the cause of the other, or, as in my judgment, both symptoms of a deeper underlying malaise that is affecting our country.

This is my seventh year in Congress, my first here in the Senate but my seventh in Washington, and I remember vividly my sense of horror when I was first called upon to vote on raising the debt limit, which stood at just $436 billion when I came here. I do not know what level the national debt may have stood at when the distinguished chairman of the Finance Committee arrived in Washington, but I suppose it was maybe $5 billion or $10 billion; I do not know whether the chairman recalls, but it was a very low number in those days.

It seems to me that before we rush into passing this resolution and imposing another $49 billion of debt on our countrymen, that we might well reflect on where we are going. I would like someone to stand up and explain when we are going to get this budget into balance and when we are going to begin to consider seriously the effect we are having on the country.

For the first 8 months of this year, the Consumer Price Index has risen at a seasonally adjusted annual rate of over 13 percent. At that rate of inflation, I point out to my colleagues, prices double every 6 years. Just yesterday, the Department of Labor reported that consumer prices soared 1.1 percent last month, the eighth consecutive month with a rise approximating 1 percent in the Consumer Price Index. The August rise lifted the index 11.8 percent above August 1978, the biggest rise for any 12-month period since 1974.

I am sure it is clear to every one of us in the room, Mr. President, that no family, no working man or woman, no business, not even the Government of the United States itself, can keep pace with that kind of increase in the cost of living. Inflation is making us all poorer.

Inflation, however, is not a mysterious phenomenon. There are many in this body who, from time to time, have attempted, it seems to me, unnecessarily to complicate the causes of inflation. It is not caused by weather, or acts of God; it does not fall like the gentle dew from heaven. It is in fact caused by the deliberate and considered policies of the Government of the United States, by the annual deficit, which we have inflicted upon the country year after year. Inflation did not spring upon us suddenly in the dark of night. It has been with us throughout this decade and for many of the years before that.

Since 1967, the Consumer Price Index has advanced with grim speed, from 100 in that year to 116 in 1969, 161 in 1975, 195.4 last year, and now to 216.

Inflation is the result of too much money chasing too few goods. We have been printing dollars faster than we have been producing goods and services. As a result, prices of the goods and services we do produce have been going up and up.

This simple, incontrovertible truth should not require scientific proof. However, I should like to call the attention of the Senate to the thoughts of Albert Burger, writing in the December 1978 issue of the economic journal published by the Federal Reserve Bank of St. Louis, which has provided a very thoughtful analysis of this phenomenon.

Mr. Burger compared the rates of inflation with the rate of increase in the money supply and, lo and behold, he discovered that the rate of inflation in any given year is the same as the average rate of growth of the money stock for the preceding 5 years.

Since 1971, the Burger formula has been off target in only 2 years: in 1972, when wage and price controls artificially and only temporarily depressed the rate of inflation, and in 1974, when the OPEC increase in the price of oil sent a one-time shock wave through the economy. Except for those two instances, the Burger formulation, the Burger comparison of the money supply increase and the rate of inflation, has been remarkably accurate. The parallel has been very close.

The money supply has surged 380 percent since 1960, while the economy, expressed in terms of real gross national product, has grown less than 90 percent. The result, of course, is double-digit inflation.

What has all this to do with the measure pending before us? Well, of course, the increase in the money supply is caused precisely by the budget deficits, which are reflected in this national debt ceiling increase. I expect to hear it argued sometime during the course of this debate that, after all, the time to be concerned about deficit spending is not when we have the debt limit increase before us, but when we have the spending bills before us, or when we have the budget resolution before us. But, Mr. President, it seems to me that, more than at any other time, this issue, this vote on the debt limit increase, is the ultimate expression of financial policymaking by the Congress of the United States.

There are loopholes in the budget process. There are off-budget items. There are ways by which the Congress can avoid meeting head on at any other time the consequences of our action. But the final summation of our fiscal wisdom or folly is summed up in our action on the national debt.

So it seems fair to me, Mr. President, to say that a vote for this resolution, for the increase of $49 billion in the national debt, is truly a vote for inflation.

There may be some who will object to that characterization, but I think there is no other fair interpretation that can be put on it. If we are serious about controlling inflation, we must control Federal spending. If we intend to do that, we have to hold the line on the national debt. So I am one of those who will vote against this resolution, and I hope, myself, that it will be defeated. I do not necessarily expect that to be the case, but I should like to take just a moment to explore the possible consequences of the defeat.

I imagine there are those who would be horrified by that possibility. They would point out that the operations of Government would grind to a halt until some compromise could be worked out. I do not think that that is necessarily a catastrophic development. If we should defeat this resolution, I would anticipate that, over the weekend and in the next several days, compromises could be struck which would include a reduction in the projected level of 1980 fiscal year spending in order to make it possible for us to eliminate entirely, or at least to moderate, the increase in the national debt over the next 12 months.

There are two other matters I would like to call to the attention of the body, Mr. President. First of all, the increase suggested by this resolution well exceeds the projected budget deficit for next year. I should like to ask if the chairman of the Committee on Finance would confirm for me the reason for that. It is my understanding, Mr. President, that we are projecting a budget deficit increase of some $35 billion, yet we are asking for a debt limit increase of $49 billion; and that the difference between those two figures, the $14 or $15 billion of slack, is actually in off-budget items that require, if we permit them to go forward, the higher toll of debt that is more than is expected in the budget process.

Mr. LONG. That includes the Federal Financing Bank and a number of credit programs that are off-budget items, as the Senator has suggested.

Mr. ARMSTRONG. I appreciate having that confirmed and I hope other Members have the same fears that I do. What I understand is that they are over the budget process, that even if we achieve a balanced budget through our so-called budget process, we can still have large increases in our national debt. It underscores and emphasizes, I think, the debt increase itself. It is truly the ultimate expression of policy on financial matters by Congress.

Last but not least, Mr. President, I note with dismay that the House of Representatives has included in this resolution a title which amends the rules of the House. I just want to point that out in passing. I am not going to offer a motion on it. I thought briefly of moving to strike title II of the bill because it seems to me most unfortunate for the House to involve the Senate in their own internal rulemaking process. I have some doubt about the wisdom of the rules which they are imposing on themselves, but the main thing is I just hate to have the Senate, in effect, be asked to approve of this process.

Upon reflection, I think that, perhaps, it is such an exotic point that perhaps few Senators would want to vote to interfere in the business of the House. For that reason, I do not intend to offer an amendment. But on the chance that some historian, years from now, will be reading this RECORD, I just say that that is a bum idea that the House has come up with, and I wish they had done it by House resolution, as they have the undoubted power to do, rather than involving it in this legislation.

Mr. President, for these reasons, and with the belief that controlling inflation is the most important problem facing the country and the conviction that a vote for further increases in the national debt is a vote for a further burden of inflation on the people of this country, I intend to vote against this resolution and urge my colleagues to do likewise.

Mr. DOLE. Mr. President, again, Congress must act to raise and extend the temporary limit on the public debt. The proposal before us would increase the temporary debt limit by $49 billion through May 31, 1980. The total limit on the national debt will then be $879 billion. We are fast approaching a cumulative debt of a trillion dollars.

DEBT LIMIT NOT A RESTRAINT

We must admit that the debt limit is not a meaningful restraint on Government spending. It is an occasion to ratify the deficit run by the Federal Government, lest the U.S. Treasury be unable to meet its obligations. The need to act on the debt limit does give us an opportunity to review the Government's fiscal policies and remind ourselves that, as the public debt mounts, fuel is added to inflation and the value of each dollar earned by our citizens declines.

This is the second such opportunity we have had this year. As my colleagues may recall, on March 21 of this year, with this distinguished Senator from Colorado (Mr. ARMSTRONG), I offered an amendment to the debt limit legislation. The amendment provided that, beginning with fiscal 1981, there could be no further debt limit increase unless the second concurrent resolution on the budget provided for a balanced or surplus budget, or unless more than two-thirds of both the House and Senate agreed to a resolution that projects a deficit. This proposal unfortunately was turned down by the Senate, despite the very considerable effort on its behalf made by the distinguished Senator from Colorado (Mr. ARMSTRONG). It would have provided a positive first step toward a balanced budget, while allowing flexibility in permitting an override by two-thirds of both Houses. The proposal would also have provided an early opportunity to implement the Byrd amendment to Public Law 95–435, which set the goal of a balanced budget by fiscal year 1981.

The present limit on the public debt expires after this week. Unless Congress completes action on the debt limit, the Treasury may be forced to postpone scheduled note offerings. More seriously, prolonged delay in acting on this proposal could result in loss of interest the Treasury could otherwise earn, and could eventually bring the Government to default on its obligations.

It is deeply unfortunate that we are again put in the position where time pressures preclude a detailed review of how the big spenders have brought us once more to the brink of default.

Nevertheless, those of us who are committed to fiscal responsibility do not want to cause the Treasury to incur any avoidable costs, and for this reason we ought to expedite this legislation.

NEED TO BALANCE BUDGET

But we ought not to let this action pass without stressing once again why present procedures are inadequate to restrain Federal spending and put the burden of proof on those who advocate deficit finance. Without a forthright and unflinching determination to balance the budget, we will continue to set new records for the national debt each year. It is unacceptable to count on increased tax revenues to moderate the deficit. We must find a way to reduce the role of the Federal Government in the Nation's economy. Otherwise the spending decisions made by this Congress will perpetuate our economic stagnation.

PEOPLE WANT FISCAL RESTRAINT

The ever-recurring need to raise the debt ceiling points up the Government's failure to give an adequate response to the popular demand for fiscal responsibility. Already 28—or 30—I am not sure which States have passed resolutions that direct Congress to convene a Constitutional Convention under article V to draft a budget-balancing amendment. Polls have shown that more than 80 percent of the American people favor such an amendment. Yet as things stand we in Congress remain unwilling or unable to take the long view, and our day-to-day spending decisions add up to a deficit increase that no one professes to want. The big spenders have much to answer to the American people for.

The Subcommittee on the Constitution, chaired by my distinguished colleague from Indiana, has held hearings on proposed amendments to balance the budget. Further hearings are scheduled in the next few weeks. As the sponsor of one such amendment, Senate Joint Resolution 5, the Senator from Kansas would urge that the subcommittee report action on these proposals. Certainly they have been around long enough, and we are sufficiently familiar with the thrust of these proposed amendments to take responsible, reasoned, and informed action.

CONGRESS' OBLIGATION

Mr. President, I suggest that my colleagues who fear the possible outcome of a Constitutional Convention consider also their obligation to the public. Earlier in this century, the States claimed the right to elect by direct popular vote the Members of the U.S. Senate. Then as now, nearly two-thirds of the States, as required by article V, petitioned the Congress for a convention. Before the issue was joined, Congress reported the proposal that was subsequently ratified as the 17th amendment.

I do not say that we must bow to every form of pressure, but it is a rare occasion when there is such a broad public consensus as now exists in favor of a balanced-budget amendment. This consensus carries all the more weight when we confront the inadequacies of the legislative process in reforming fiscal policy. The historical record dramatizes these inadequacies very vividly.

I might also suggest, a balanced budget amendment would give those of us who have responsibility to the people and are subjected to daily political pressures, some support in restraining Government spending. It is hard to take the "me" out of economy, and an amendment would give us, I think, substantial support toward spending restraint by fixing restrictions on our budget decisions in the Constitution.

I would suggest we go back and look at history.

WHY WE MUST REVERSE SPENDING GROWTH

Fifty years ago total governmental expenditures at all levels comprised 10 percent of our gross national product. By last year the same figure reached nearly 38 percent of GNP. This explosive increase bears no relation to increased productivity, and it is dominated by Federal spending. Over the last 17 years, Federal outlays have increased 400 percent, from about $100 billion to approximately $500 billion. All this while the national debt has been growing. From $383 billion in 1970, the national debt has more than doubled to $830 billion. Now we will raise that figure by another $49 billion just to finance our debt needs through next spring.

These figures tell us the story of what has happened but not of the consequences. They are not pleasant to contemplate, and they are the responsibility of this Congress. Federal taxes drain an ever-larger share of our gross national product. As inflation propels our citizens into higher tax brackets, taxes take a larger share of their personal income, while their purchasing power stagnates. The tax burden slows investment and productivity. Meanwhile, Federal budget deficits guarantee continued inflation. As the Government pumps more money into the economy to finance the deficit, the value of each dollar declines, since there are more dollars in circulation available to bid up the nominal price of the same number of goods. The Federal Reserve faces the unhappy choice of allowing the money supply to grow unchecked, or allowing interest rates to rise until credit demands—all but the Government's—are restrained. Government borrowing also drives out demands for capital that would otherwise be made by the private sector.

Put these results together and you see substantial disincentives to economic growth, encouragement of panic-buying and high wage demands, and an array of uncertainties that dampens the stock market. Why, in the face of this dismal picture, can we not break out of the cycle of deficit spending?

FREE FISCAL POLICY FROM POLITICS

Here we come to the core of the problem: The political process. Each Federal spending program has a constituency that relies on Federal support and pressures Congress to protect its interests. These various interests, often in conflict with one another, have the net impact of bringing Congress to increase overall spending. For better or worse, this is what the political process is all about—competing interests leading to a consensus. But the outcome—persistent deficits—is a betrayal of the trust given us by the public as a whole. The budget reconciliation process moves in the right direction, but as we have seen, it too, is subject to political maneuvering.

This is not wrong; it is inevitable in a representative democracy. But it tells us that the answer to our fiscal problems—the only answer—is to take long-range fiscal policy out of the daily political process. That is what a constitutional amendment would do.

My proposal—Senate Joint Resolution 5—has the virtue of combining a spending limitation with the requirement of a balanced budget. It also allows Congress essential flexibility by allowing an override by two-thirds vote of both Houses, so long as that is done only 4 out of every 9 years. Over a 3-year period, taxing and spending would be reduced to a limit of 18 percent of gross national product. Finally any deficit must be repaid in 4 years.

The Senator from Kansas believes that Senate Joint Resolution 5 meets the demands of the people and of the economy, while permitting, indeed encouraging, Congress to undertake long-range economic planning. At the same time, Congress retains adequate flexibility to accommodate day-to-day contingencies. There are other worthy proposals before the Congress that set similar goals. The point we must not forget is that a long-range solution is demanded by the public and by our economic dilemma. We will raise the debt limit yet again, and will have accomplished nothing more than to save the Government from embarassment.

Commitment to a balanced budget would do that job much better, and we who advocate constitutional action to achieve that goal believe it is a responsible—perhaps the only responsible—course to follow in these times. There is no excuse for continuing to allow a burgeoning deficit, and my colleagues must judge for themselves whether the spending programs they have voted for reflects the true wishes of their constituents. I believe the American people want us to cut the deficit, quit raising the debt limit, and interfere less in their lives. But we must be realistic and choose the path most likely to achieve those goals. The Senator from Kansas believes that constitutional restraint on the budget is the answer.

It would seem to me that sooner or later this Congress, as I hope, will respond to the demand of the public. It also seems to the Senator from Kansas that understanding, as we all do, the nature of the political process and of the so-called special interests, as the interests of the State of Kansas are of special interest to me, we should also realize that we all have the same pressures, we all have the same desires, and no one wants to say "No."

But if we had a constitutional amendment in place and we had that mandate for restraint and discipline, I must say again, and underscore the point, that it would strengthen our hand in dealing with the problem of deficit finance.

The net result would be a lower inflation rate, reduced Government spending, a leaner Government, a more responsive Government and, hopefully, in the long run, less cost to the American taxpayer and the American taxpayer is deserving of our sympathy in this time of spiraling inflation.

Mr. President, I ask unanimous consent to have printed in the Record the consequences that occurred in the past when we delayed action to raise the debt limit.

There being no objection, the material was ordered to be printed in the Record, as follows:

CONSEQUENCES OF DELAY IN ACTING TO RAISE THE DEBT LIMIT

To date:

September 26 and 27: Treasury postponed auction of $3.25 billion in two-year notes and $2.5 billion in four-year notes. (Debt limit expires Sunday so Treasury can't guarantee Monday delivery of notes.)

Next week:

October 1 (Monday): Temporary debt limit will have expired and limit reverts to permanent ceiling of $400 billion.

$5.3 billion in maturing securities could not be refinanced.

October 4 (Thursday): $6 billion in maturing weekly bills could not be financed.

October 5 (Friday): The U.S. government would default on its obligations, debt, and otherwise (including payroll).

For example, although social security checks are mailed October 3, the money might not be there when they are presented for payment, depending on what reserves Treasury has set aside.

Mr. DOLE. Mr. President, I think this indicates why even those of us who seek to make the case for a balanced budget, now that we have that opportunity, can agree that we should also avoid aggravating the situation caused by expiration of the debt limit. Our case is in the Record, but beyond that, as I said earlier in my statement, I think we also have a responsibility to avoid any unnecessary cost to the Treasury and, in effect, to the American taxpayer. Our ultimate responsibility is, as always, to the taxpayer.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. LONG. I yield 15 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Virginia.

FEDERAL SPENDING AND THE DEBT CEILING

Mr. HARRY F. BYRD, JR. Mr. President, the Senate is now considering a $49 billion increase in the debt ceiling through May 31, 1980.

The increase in Federal borrowing represents the failure of Congress and the administration to get spending under control.

More spending has created the need for more federal debt and has provided more inflationary pressures in the economy.

Next year, from next week through September 1980, the Federal Government will need to finance $60 billion of new debt issues. This is new borrowing at the rate of $5 billion per month.

In addition, Treasury rollover—namely refinancing—of old debt issues will amount to $200 billion.

This borrowing has a direct impact upon our Nation's ability to combat inflation. The money to pay for our spending must come from somewhere. It will come from public purchases and Federal Reserve openmarket operations.

To the extent the Federal Reserve purchases our public debt, we will be paying our bills with newly created money—printing press money.

I am sure every American household would like to operate in this manner: Whatever it wants, it buys; then it pays the bill from a checking account which is overdrawn without any requirement that it ever be in balance.

The inevitable result of our lack of fiscal discipline is inflation. Pressure is placed upon the Federal Reserve to accommodate Government spending.

The extent to which the Federal Reserve purchases Treasury debt, it will increase the money supply, thereby depreciating the dollar. If the Federal Reserve does not accommodate the massive Treasury borrowing in the next fiscal year, interest rates will continue to be high.

Either way the American people lose.

In addition, massive Treasury borrowing will compete with other public borrowing, thereby lessening the capital available for the private economy.

This is the dilemma which the Federal Government has created through its failure to exercise fiscal discipline.

The current economic condition of our Nation shows the disastrous consequences of continued deficit spending by the Government.

Inflation has risen sharply. At the beginning of the year, the administration projected a 7.4 percent of inflation for 1979. It now estimates a rate of 10.6 percent for the year, an increase above the original estimate of 3.2 percentage points.

This projection may be low. The current rate of inflation, according to the most recent Labor Department figures, is close to 13 percent for 1979 to date.

Inflation is, and in my opinion will continue to be, this Nation's major domestic problem.

The decision which Congress makes about spending and the size of the Federal debt are extremely significant with regard to our ability to reduce inflation.

In addition, increases in Federal spending, translated into an increase in the size of the Federal debt, create a heavy interest burden for the American taxpayer. Gross interest on the Federal debt in fiscal year 1980 will be $67.6 billion.

That $67.6 billion is greater than the total receipts of the Federal Government in its Federal funds budget for the year 1959. The $67.6 billion of interest charges represents a 600-percent increase in interest payments since 1963.

This $67 billion, Mr. President, buys no military equipment. It pays no Government salaries. It is not being used to advance the welfare programs. It is not being used for education. It is not being used for the health programs. It is going to those who hold the bonds of the Federal Government.

That $67 billion of interest is being paid out to bondholders, many of whom are foreigners.

Sixty-seven billion dollars is such a gigantic figure that the Senator from Virginia has a difficult time comprehending it. But I can comprehend this figure better: Of every personal and corporate income tax dollar paid into the Federal Treasury, 20 cents goes to pay the interest on the Federal debt.

When the taxpayers pay their taxes to the Federal Government, 20 cents of every dollar they pay goes to pay the interest charges on this country's gigantic debt. Even this estimate of $67.6 billion for the upcoming fiscal year may be low because of now higher interest rates caused by inflation. The Government itself is now paying 10.5 percent when it goes into the money markets.

If we hope to achieve a prosperous economy in which the well-being of American citizens improves in real dollars, we must break the vicious cycle of more Government spending, more Federal borrowing, bigger debts, and more inflation.

Some Members of Congress say, "Don't worry about the deficit. Don't worry about the spending, all you need to do is to add it to the debt. Nobody has to pay it." Of course, I think that is ridiculous. In the first place, as I mentioned earlier, there are tremendous interest charges on this debt—$67.6 billion in the upcoming budget.

The poor record of exercising fiscal discipline in the past of Congress and the administrations in power, both Republicans and Democrats, has convinced me of the need to enact a constitutional amendment requiring a balanced budget. That is the only way you will get any discipline in this Government.

There is growing support for requiring the Federal Government to balance its budget. Thirteen joint resolutions requiring a balanced budget are now pending in the Committee on the Judiciary, and a number of similar resolutions have been introduced in the House of Representatives.

At the same time, there is a widespread feeling that the rate of increase in Federal spending must be curbed. At least three constitutional amendments, and I believe several bills, have been introduced to impose a limit on Federal outlays.

I favor a balanced budget. I share the concerns of those Senators and Representatives who seek to put a cap on the runaway spending of the Government. Spending has been increasing at a rate of 9 to 14 percent a year—a 9- to 14-percent-a-year increase in the cost of Government.

With the cost of Government going up 9 to 14 percent a year, what else can we expect except continued high inflation that is eating into every wage earner's paycheck and into every housewife's grocery dollar?

Earlier this year, I introduced Senate Joint Resolution 79 which requires a balanced budget except in those years when both Houses of Congress, by a two-thirds vote, set aside the requirement, because of a national emergency; it also requires that Federal spending in any fiscal year shall not exceed 20 percent of the previous calendar year's gross national product.

I realize that the statutory debt ceiling reflects prior spending decisions. The most effective way to reduce this spending is a constitutional amendment for a balanced budget. I shall vote against this increase in the statutory debt ceiling.

Mr. President, Congress through the years—and I think now—has taken lightly this question of the Nation's finances.

The public, the best I can judge, is taking the matter much more seriously than are their representatives.

It is to me significant that the national debt has doubled in the past 8 years. Yes, the national debt has doubled in 8 years. It means that in 190 years of our history as a Nation 50 percent of the debt was created;and the other 50 percent has been created in a period of 8 years.

Mr. President, I ask unanimous consent to print in the Record certain tables of figures.

There being no objection, the tables were ordered to be printed in the Record, as follows:

NATIONAL DEBT IN THE 20TH CENTURY[1]

[Totals at the end of fiscal years; rounded to the nearest billion dollars]

1900	1	1927	19	1954	271
1901	1	1928	18	1955	274
1902	1	1929	17	1956	273
1903	1	1930	16	1957	272
1904	1	1931	17	1958	280
1905	1	1932	19	1959	288
1906	1	1933	23	1960	291
1907	1	1934	27	1961	293
1908	1	1935	29	1962	303
1909	1	1936	34	1963	311
1910	1	1937	36	1964	317
1911	1	1938	37	1965	323
1912	1	1939	48	1966	329
1913	1	1940	51	1967	341
1914	1	1941	58	1968	370
1915	1	1942	79	1969	367
1916	1	1943	143	1970	383
1917	3	1944	204	1971	409
1918	12	1945	260	1972	437
1919	25	1946	271	1973	468
1920	24	1947	257	1974	486
1921	24	1948	252	1975	544
1922	23	1949	253	1976	632
1923	22	1950	257	1977	709
1924	21	1951	255	1978	780
1925	21	1952	259	1979[2]	839
1926	20	1953	266	1980[2]	899

[1] Gross Federal debt.

[2] Estimated figures.

Source: Office of Management and Budget.

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT FOR FISCAL YEARS 1959-80, INCLUSIVE

[Prepared by U.S. Senator Harry F. Byrd, Jr., of Virginia]

[In billions of dollars]

Year	Receipts	Outlays	Surplus (+) or deficit (−)	Debt interest
1959	65.8	77.0	−11.2	7.8
1960	75.7	74.9	+.8	9.5
1961	75.2	79.3	−4.1	9.3
1962	79.7	86.6	−6.9	9.5
1963	83.6	90.1	−6.5	10.3
1964	87.2	95.8	−8.6	11.0
1965	90.9	94.8	−3.9	11.8
1966	101.4	106.5	−5.1	12.6
1967	111.8	126.8	−15.0	14.2
1968	114.7	143.1	−28.4	15.6
1969	143.3	148.8	−5.5	17.6
1970	143.2	156.3	−13.1	20.0
1971	133.8	163.7	−29.9	21.6
1972	148.8	178.1	−29.3	22.5
1973	161.4	187.0	−25.6	24.8
1974	181.2	199.9	−18.7	30.0
1975	187.5	240.1	−52.6	33.5
1976	201.1	269.9	−68.8	37.7
1977	241.3	295.9	−54.5	41.9
1978	270.5	332.0	−61.5	48.7
1979[3]	317.1	363.3	−46.2	60.1
1980[2]	340.4	387.9	−47.5	67.6

[1] Interest on gross Federal debt.

[2] Estimated figures.

[3] Mid-session review, July 20, 1979.

Note: The interest in the national debt is greater than the total general funds receipts of 1959—and only slightly less than the total cost of government that year.

Source: Office of Management and Budget.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS 1964 THROUGH 1979, INCLUSIVE

(Prepared by U.S. Senator Harry F. Byrd, Jr.)

(In billions of dollars; rounded and revised)

Fiscal year:	Amount appropriated
1964	6
1965	7
1966	10
1967	13
1968	15
1969	16
1970	17
1971	22
1972	27
1973	32
1974	36
1975	37
1976	44
1977	53
1978	53
1979*	58
1980**	60

*Net after reduction of $0.3 B in FY/79 and $0.5B in FY/80 for elimination of fraud and abuse.

**Conference agreement.

August, 1979.

SOURCE.—Senate Appropriations Committee.

ANNUAL FOOD STAMP EXPENDITURES FOR FISCAL YEARS 1965 THROUGH 1979, INCLUSIVE

[Prepared by U.S. Senator Harry F. Byrd, Jr., of Virginia]

[In millions of dollars]

Year	Outlays	Budget authority
1965	34.4	55.6
1966	69.5	100.0
1967	114.1	139.5
1968	184.7	184.9
1969	247.8	279.9
1970	576.8	596.9
1971	1,567.8	1,666.2
1972	1,909.2	2,285.0
1973	2,207.5	2,495.7
1974	2,844.8	2,995.4
1975	4,559.0	4,869.4
1976	5,632.0	5,196.4
1977	5,398.8	5,506.2
1978	5,498.8	5,618.4
1979[1]	7,064.5	6,759.1
1980[1]	8,612.0	8,555.7
Total	46,561.7	47,304.3

[1] Estimates.

Source: Department of Agriculture.

U.S. GOLD HOLDINGS, TOTAL U.S. RESERVE ASSETS, AND U.S. GOVERNMENT LIQUID LIABILITIES TO FOREIGNERS

[Prepared by U.S. Senator Harry F. Byrd, Jr., of Virginia]

[Selected periods, in billions of dollars]

	Gold holdings	Total assets	Liquid liabilities
End of World War II	20.1	20.1	6.9
Dec. 31, 1959	22.8	24.8	19.4
Dec. 31, 1970	10.7	14.5	48.0
Dec. 31, 1973	11.7	14.4	93.6
Dec. 31, 1974	11.6	15.9	120.3
Dec. 31, 1975	11.6	16.2	127.4
Dec. 31, 1976	11.6	18.7	152.5
Dec. 31, 1977	11.7	19.3	193.8
Dec. 31, 1978	11.7	18.7	243.3

Source: U.S. Treasury Department.

Mr. HARRY F. BYRD, JR. Mr. President, on another subject but dealing with the legislation at hand; namely H.R. 5369, I shall address several parliamentary inquiries to the Chair and then I shall ask to be printed in the RECORD a letter from the Parliamentarian.

Mr. President, the legislation before the Senate besides increasing the ceiling on the public debt by $49 billion contains a very unusual provision. It changes by legislation the Rules of the House of Representatives insofar as the way that it handles the legislation dealing with the public debt.

I think that from the House point of view it would not be desirable for one reason. I understand the political realities and why it is considered to be desirable by the House of Representatives. The House of Representatives does not want to face the votes each year as to whether or not the debt should be increased. But the undesirable aspect I think from the point of view of the House of Representatives is that this will become a statute, will become a law, and in order to repeal it, assuming the House of Representatives wants to change its mind at some later date, it would require the signature of the President. But be that as it may, that is a House matter. I am concerned——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARRY F. BYRD, JR. I ask the chairman to yield additional time for a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Louisiana yield additional time for a parliamentary inquiry requested by the Senator from Virginia?

Mr. LONG. I yield 10 additional minutes.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. I do not expect to object to what the House of Representatives has done in regard to its own rules provided that does not impact on the procedures which we have in the Senate. I will put this in the form of a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. Mr. President, as I understand it, the pending legislation if adopted will not in any way change the methods, procedures, and responsibilities of either the Finance Committee of the Senate or the Senate itself. I put that in the form of a parliamentary inquiry.

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian that the Senator is correct, that the legislation before the Senate would not change any of the procedures now in place in the Senate.

Mr. HARRY F. BYRD, JR. Mr. President, an additional parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. My second inquiry is: If the pending legislation is enacted, will any legislation sent to the Senate from the House of Representatives dealing with the subject of the public debt and the increase in the public debt be handled by the Senate in the same manner or under the same rules of procedure which exists at this moment prior to enactment of the pending legislation?

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian that the Senator is again correct.

Mr. HARRY F. BYRD, JR. I thank the Chair.

An additional parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. The Senate in its wisdom, if the pending legislation is enacted, will have the right if it so desires to amend in any way the Senate might see fit any debt limit or any legislation affecting the national debt that might be sent to the Senate from the House of Representatives.

The PRESIDING OFFICER. The Chair dare not speak to the amount of wisdom, but with respect to procedure the Senator is correct.

Mr. HARRY F. BYRD, JR. I was hopeful that the Chair would say that the Chair assumes that the Senate always acts with wisdom, an assumption, however, that is not held by the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is always refreshing.

Mr. HARRY F. BYRD, JR. I thank the Chair.

I have a letter from the Parliamentarian which I ask unanimous consent be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 26, 1979.

Hon. HARRY F. BYRD, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: We have reviewed the proposal contained in H.R. 5369, relative to the "establishment of statutory limit on the public debt," and have concluded that with the removal from that provision of the references to "an enrollment," as is recommended by H. Res. 425, which is the rule under which the bill will be considered, there is absolutely nothing in the provision that would change the usual Senate procedure on a measure dealing with the debt limit.

In the ordinary course of events, it would still be referred to the Committee on Finance, would be subject to amendment, and if amended, the differences with the House would be reconciled in the usual manner.

We think this also would have been the case if the references to enrollment had been left in, but to be absolutely sure, we recommended their removal and it appears that the House will accede to the recommendation.

With hope that this satisfies your needs, I am

Sincerely,

MURRAY ZWEBEN,
Parliamentarian.

Mr. HARRY F. BYRD, JR. I thank the Chair and the distinguished chairman of the Finance Committee.

Mr. THURMOND. Mr. President, will the Senator yield me 7 minutes?

Mr. LONG. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 88 minutes remaining.

Mr. LONG. I yield the Senator 7 minutes.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, once again we are faced with an attempt to increase the public debt limit. This bill would increase the public debt limit to $879 billion through May 31, 1980. It seems as though we are constantly being asked to more deeply mortgage the future of this country. Everyone talks about inflation, and everyone promises to fight it, but when we have an opportunity to do something about inflation, many people are afraid to act. One of the best ways to control inflation is to end our deficit financing and control runaway Federal spending.

Recent polls show that the public's confidence in Congress is at a record low. Is there any wonder that only 1 out of every 8 Americans thinks that Congress does a good job? Is there any wonder that Americans refuse to put their trust in a Congress which fails to deal with their number one concern—inflation? This attempt to increase the public debt ceiling is symptomatic of the misguided economic policies of our Federal Government. While we talk in numbers, which all too often lose any real meaning, our actions result in a real impact on the paycheck of all Americans. We refuse to act to limit Federal spending, but the rest of the country is forced to bear the price of our inaction.

Mr. President, I do not know of anything more important that Congress could do than balance the budget. I have advocated this year after year.

In 1965, I introduced my first resolution calling for an amendment to balance the budget. The Federal Government had just experienced deficits in 6 of the prior 7 years, and I could see the writing on the wall. Many in Congress at that time argued that a constitutional amendment was too harsh a step to take and that we could regain our fiscal responsibility through voluntary efforts. Consequently, my proposal and similar ones in succeeding Congresses went virtually nowhere.

Mr. President, there is some light at the end of the tunnel. There is a bipartisan effort in this Congress to come to grips with the problem of our runaway inflation by amending the Constitution. This effort indicates a basic awareness that this country must get back on the track of sound fiscal responsibility. It also represents a fact that has become altogether too clear—Congress apparently cannot voluntarily control its spending.

Whether it is done immediately, which it ought to be, or whether it is done over a period of several years, Congress should begin to balance the budget and make payments on the national debt.

I believe the record will show that we have not balanced the budget but one time—one time—in the last 20 years. Is there a citizen in this country or a corporation in this country that can stay in business operating on such a basis? I do not think so. And this Government cannot keep on doing it either.

I feel that Congress should have the courage either to increase taxes and let the people feel it—which would lead to a movement to stop this spending—or to stop the spending itself.

Mr. President, the fact that we must face the problem of again increasing our national debt limit is indicative of the fact that the administration and Congress have been unable to voluntarily control Federal spending. This adds even more impetus to the move for a constitutional amendment to control Federal fiscal policy. I am pleased that hearings on this issue are scheduled to begin the first week in October before the Senate Judiciary Subcommittee on the Constitution, of which I am a member. I am hopeful that the various proposals for a balanced-budget constitutional amendment will be thoroughly considered, and that Congress can soon send a proposed amendment to the States for ratification.

In the meantime, I think it is most unwise to approve another $49 billion increase in the national debt. I urge the Senate to reject this proposal and take a significant step toward the restoration of fiscal responsibility in this Nation.

I wish to thank the distinguished Senator for yielding time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. JEPSEN. Mr. President, I ask unanimous consent to use the time that has been allotted to the senior Senator from Kansas (Mr. DOLE), and I have his permission.

The PRESIDING OFFICER. Will the Senator kindly state how much time he wishes to use.

Mr. JEPSEN. The Senator from Iowa asks for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. JEPSEN. Mr. President, last week we approved a budget resolution providing for outlays of $546.3 billion and a deficit of $31.6 billion. It is therefore not surprising that we are here today to raise the Federal debt limit again, by another $49 billion.

This is the second time this year we have gone through this exercise and I know that no one likes it. In fact, the House apparently dislikes it so much that it has dispensed with any further consideration of increases in the debt limit by incorporating it into the budget resolution. I would certainly hope that the Senate does not follow the House action. I think it is very important that we use these occasions to focus attention on the ever-increasing level of Government spending. If we truly wish to avoid going through this exercise then all we have to do is balance the Federal budget, thus eliminating the necessity for further increases in debt.

Those from the other side of the isle will probably respond by saying that we are moving toward budget balance, that the fiscal 1981 budget will, in fact, be balanced. I agree that if you take the numbers contained in the budget resolution at face value a balanced budget in 1981 seems to be feasible. However, the budget resolution makes some highly unrealistic assumptions in its effort to demonstrate to the Congress and the American people that a balanced budget will be achieved.

For one thing, the resolution assumes that revenues will be obtained from a windfall profits tax without asuming any expenditures for new energy projects. We had a discussion about this matter when the Senator from Kansas (Mrs. KASSEBAUM) moved to delete $2 billion in assumed windfall profits tax revenues from the fiscal 1980 budget total. It was voted down, apparently because the Senate prefers a dishonest budget total with a lower deficit than an honest budget total with a higher deficit.

Mr. President, I do not think we fool the American people when we pull these kinds of tricks with the budget. They may not understand the difference between on-budget outlays and off-budget outlays—putting more spending into off-budget categories is another good trick for pretending to reduce spending—and they may not understand the difference between budget authority and budget outlays, but they do know excessive spending when they see it. They rightly put the Congress in the same category as the drunken sailor home on leave who spends his money like there is no tomorrow. The only difference is that the sailor is spending his own money while we are spending other people's.

Frankly, I am tired of hearing how the Budget Committee, the Appropriations Committee and all the other committees have gone over the budget with a fine-tooth comb and we are totally unable to find any waste or any way that savings could be made.

Everyone knows that even in the most efficiently administered program there is probably 10 percent waste. And of course, most Federal programs are terribly administered. Hardly a day goes by that we do not read some new horror story in the press about wasted tax money. Just this morning the Washington Post reported that 1 out of every 5 firms that have received aid under a special Government program to aid minorities and the disadvantaged served as a front for white contractors. Here are a few other examples taken from the news recently:

From the Washington Post, April 9, 1979, we learn that the Department of Health, Education, and Welfare spent $108,678 to celebrate its 25th birthday and then lied about the cost, telling the public that only $15,000 was spent.

From the Washington Post on March 18, 1979, we learn that HEW only misspent $565 million in two of its largest welfare programs during the first 6 months of 1978.

According to testimony by the General Accounting Office before the Senate Budget Committee $8.2 billion could be saved if the Federal Government adopted all of the GAO cost-saving and efficiency promoting recommendations.

From the New York Times on August 16, 1979, we find out about the mad scramble which takes place within Federal departments and agencies to spend money before the fiscal year runs out. According to one unnamed bureaucrat, it goes like this:

> What happens is that small units of 10 to 100 people throughout the government are suddenly asked if they can quickly spend several hundred or several thousand more dollars. Those who find legitimate ways to soak up these funds are looked upon as creative managers. If they work fast, they can go back for more, as long as they can spend it before the fiscal year ends.
>
> For this reason, a lot of seasoned bureaucrats keep a stack of proposals, for various amounts, in a desk drawer. Some of these are pet projects that would never have passed muster earlier, some are gimmicks pure and simple, and others, I suppose, are for truly worthwhile activities.

The list could go on and on, but I think that the point is well made that there is incredible waste in the Federal budget. Why can we not do something about it?

One reason, I am always told, why we cannot cut spending is because three-quarters of the budget is "uncontrollable." In other words, the spending is mandated by law and all we can do is sign the checks. Well, I think that this is baloney. There is no such thing as uncontrollable spending. We can change the law, we can cut the appropriations, we can force efficiency upon wasteful departments and agencies, and we can do the oversight job that is expected of us. All it takes is the willingness to do something different than just go along with the special interests and the status quo.

This brings me to another point. Many people say that all we have to do to control spending is to enact sunset laws, and this will solve all our problems. I am reminded of the fact that President Carter said the same thing about zero-based budgeting. We all know what that has accomplished: nothing. In my view we already have a sunset mechanism in place. Appropriations must be voted upon every year for most programs and they must be reauthorized every few years as well. So it seems to me that sunset laws cannot accomplish anything when we are already unwilling or unable to use the existing system to its potential.

The final point I would like to make about the balanced budget question is this: A budget can be balanced one of two ways. We can either cut spending or increase taxes. Unfortunately, the Congress and the administration are following the latter course.

To this statement I am sure that someone will say that the Congress has no intention of raising taxes on the American people and they will point to the fact that individual income taxes as a percentage of GNP or personal income tends to remain constant. However, I would point out that because inflation increases income tax revenues two-thirds faster than the rate of inflation that present rates of inflation will increase the tax burden dramatically in future years unless taxes are cut by an equally substantial margin. Furthermore, I would note that although the percentage tax burden has tended to remain constant in the aggregate that there have been tremendous changes in the composition of the tax structure. In particular, there has been a vast increase in marginal tax rates on all Americans and the tax burden has been shifted upward on to those with middle and upper incomes. Liberals applaud such action but I would remind them that because of inflation last year's middle income is today's lower income and last year's high income is today's middle income.

According to the Joint Committee on Taxation the median family income in 1965 was $8,272 per year. This family paid approximately $789 in Federal taxes, both income and social security. This amounted to 9.5 percent of family income. By 1981, the median family income will be $22,456 per year, with the same purchasing power that $8,272 had in 1965. In other words, there is no real increase in gross family income. However, the 1981 median family will pay $3,924 in Federal taxes, or 17.5 percent of family income. Thus, by just keeping up with the rate of inflation the median family is considerably worse off in real, after tax terms.

At this point I ask unanimous consent to have printed in the RECORD a table showing the increase in tax burden on the median family of four from 1965 to 1981.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—FEDERAL INCOME AND SOCIAL SECURITY TAXES FOR A FAMILY OF 4 WITH $17,105 IN 1975[1]

Year	Income	Federal income tax	Effective income tax rate	Social security tax	Federal income and social security taxes	Effective Federal tax rate
1965	$8,272	$615	7.	$174	$789	9.5
1966	8,509	649	7.6	277	926	10.9
1967	8,754	685	7.8	290	975	11.1
1968	9,122	[2] 794	8.7	343	1,137	12.5
1969	9,612	[3] 891	9.3	374	1,265	13.2
1970	10,181	[4] 896	8.8	374	1,270	12.5
1971	10,618	919	8.7	406	1,325	12.5
1972	10,969	933	8.5	468	1,401	12.8
1973	11,651	995	8.5	632	1,627	14.0
1974	$12,929	[5] $1,063	8.2	$756	$1,819	14.1
1975	14,111	1,234	8.7	825	2,059	14.6
1976	14,925	1,308	8.8	873	2,181	14.6
1977	15,888	1,471	9.3	929	2,400	15.1
1978	17,105	1,678	9.8	1,035	2,713	15.9
1979	18,918	1,838	9.7	1,160	2,998	15.8
1980	20,678	2,123	10.3	1,268	3,391	16.4
1981	22,456	2,431	10.8	1,493	3,921	17.5

[1] Assuming that income changes as does the Consumer Price Index and that deductible expenses are 23 percent of income. The CPI is assumed to rise by 10.6 percent in 1979, by 9.3 percent in 1980, and by 8.6 percent in 1981.

[2] Including a $55 surcharge.

Including a $81 surcharge

[4] Including a $22 surcharge.

[5] Including a $118 tax rebate paid in May 1975.

Source: Joint Committee on Taxation.

Mr. JEPSEN. Frankly, I do not think that the Congress properly understands the attitude of the American people's demand for a balanced budget. The American people do not want the budget balanced at all cost or by having their taxes raised. They are really just saying to the Congress that it must abide by the same rules that they must abide by. An individual cannot spend more than he takes in year after year without going bankrupt. Individuals cannot print money to pay their debts, as the Federal Government does. And they understand far better than the Congress does that there is no such thing as a free lunch.

I am sure that many other Senators share my disappointment in the budget process. I am inclined to believe that rather than aiding the Congress in reducing spending the budget process has made things worse. This is because the Congressional Budget Office and the budget committee staff seem to be the last bastions of outmoded Keynesian economic thinking. Keynes, you may remember, was one who believed that there was such a thing as a free lunch. He said that the government could spend and spend to its heart's content and that this was not only not harmful to the economy but quite good for it.

This thinking remains fixed in the budget process. Every year the CBO comes out and tells us that if we attempt to reduce the deficit too much that this will bring on a recession, unemployment and all kinds of other horrible things. In the face of such dire predictions who could have the determination to cut the deficit down to a more reasonable level?

For their part, the CBO and the Budget Committee tell us that they do not necessarily favor high levels of spending and deficits. It is just that the almighty computers and econometric models tell us what will happen. Well the computers also told us what would happen if California passed proposition 13. They said that the economy of the State would collapse, that there would be heavy unemployment, and that the State government would soon be bankrupt. Not only were these predictions wrong, they were 180 degrees off the mark. California is now in the midst of an economic boom, employment is up, and State tax revenues are up too. In other words, those people who have been telling us that high tax rates are killing our economy and that we can have high economic growth and more tax revenue with lower tax rates were proven to be exactly correct.

I am told that soon we may finally be able to break the stranglehold that Keynesians have on the econometric models. Just the other day Prof. Arthur Laffer, known for the famous Laffer Curve, unveiled a new model based entirely on incentive effects of changes in tax policy. I sincerely hope that the CBO, the Budget Committee, the Library of Congress, the Treasury, and everyone else will quickly obtain the use of this model. I for one would be extremely interested to see how it predicts the outcome of some of the tax and spending policies we pursue in Congress.

In closing I will just say that we are unquestionably entering a new era in economic policy and the Congress had better recognize it. The people are sick and tired of big government solutions to every problem. They are sick of inflation, high taxes, and Government regulations. As one of my constituents told me recently, all they want is an adequate national defense, to have their mail delivered on time, and for the Government to get its cottonpicking hands out of their pockets.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Iowa for his very provocative and interesting comments. I think he is exactly right. He has described what the people of America want.

We have had one other request for time, by Senator Hatfield.

(Mr. LEVIN assumed the chair.)

Mr. LONG. Mr. President, I will speak for a moment. I yield myself such time as I may require.

Mr. President, I have listened with interest to the cries of alarm in this Chamber, and I can understand the feelings of Senators. I have heard the same type of speeches many times. I just want to put a little ray of hope for America in the Record at this point, to let people know that all is not lost, that the Sun will rise again tomorrow, that the United States will still be here, that we will still be a very great country, and that the Nation is not coming to an end, and neither is the world coming to an end.

Just to put a ray of light and hope into this Record, I know that we had a lesser debt in 1945 at the end of World War II, but we had a lot less income with which to pay. Back at that time the national debt actually exceeded the gross national product. (This can be seen in table IX of the tables at the end of my first statement on this bill.)

That would be hard, I would think, for any of the Senators who have spoken with great alarm here today to quite visualize. You would think that back at that time, when the national debt actually was 119 percent of the gross national product—mind you, that was not the gross debt, it was the net Federal debt held outside of Government accounts at that point, Mr. President—you would think that the Senate would have just given up. You would not think it could have carried on at all, but that we would just have declared ourselves out of business and liquidated.

But, no, sir, those brave men persevered; the Nation went on and prospered, and our income grew. I must confess that our debt also grew, but we find ourselves today in a situation where the gross national product is much greater than it was. The gross national product is about six times what it was at that time, and our income is about six times what it was at that time.

Adjusted for inflation, I must admit it is not that good. The amount of the increase in income is less impressive then, but the basic trend is still evident. I am not here to advocate inflation. I am not here to advocate debt. I sponsored a resolution or an amendment, which is now law, saying that we are going to try to balance the budget. But my point is that because our productivity grew, our population grew, and our wealth grew, even after allowing for the increase in our gross national product—inflation which is a major portion, agreed—was such however, that our national debt is 30 percent of our gross national product. Just think: what we owe now is only one-fourth of what we make, compared with what it was in World War II, just before this Senator came to the U.S. Senate.

Let me just make another comparison. Let us assume that you were making $21,000 back at that time and you owed, let us say, $24,000. That is pretty bad. You would have owed more than a year's income. On the other hand, 30 years later you owed more than that, a lot more money—let us assume that, 30 years later, you owed $60,000. That would be a disaster, except for the fact that, by that time, you have $180,000 a year income.

What if you had $180,000 income? Mind you, I am talking about income you can keep, after-tax income. Well, if you have that kind of income and you owe $60,000, that is not nearly as serious a matter as it was back at the time when your income on an annual basis was less than your debt.

So, let the record show that, during the last 40 years, the Nation has prospered. Admittedly, there have been some recessions. Fortunately, there has not been any real depression. We have managed to run our economy in such a way that we have managed to meet the various problems that have confronted us. And, yes, there have been wars. I wish that that had not been necessary. But we thought at that time that it was necessary to fight for things we hold dear in this world. And that helped to bring about the situation that we have with regard to our debt.

But the basic point is that on the whole, the Nation has prospered. The Nation has grown. The Nation's income has grown.

So, here we are, the greatest Nation on the face of the Earth, the wealthiest Nation on the face of the Earth, with more liberty and freedom for our people than any place on Earth. We actually permit our people freedom to denounce the President of the United States, the Chief Justice of the Supreme Court, and any other official, and still freely walk the streets. Other nations as great as this in population do not dare permit their people these kinds of freedoms.

So here we are, the greatest Nation on the face of the Earth, the wealthiest Nation on the face of the Earth. Yet, I heard speakers today who would urge us to declare bankruptcy, refuse to pay our debts on the theory that the greatest Nation on the face of the Earth is unable to pay; we have run up all these debts and we cannot pay.

We are better able to pay than anybody, anybody on God's green Earth, Mr. President.

I heard Senators suggest that we must now announce that we have concluded that we cannot make it any longer. Well, tell that to the Marines. Do not tell that to this Senator.

We are a great, powerful Nation; we can do just about anything we want to do if we have the courage and the dedication to just get with it and see it through. I do not find the same dismal forecast for America as do some.

Mr. President, I think, sometimes, that maybe we ought to pay off the national debt, not just over a long period of time; just get rid of it and pay it off sometime soon. Let me show you how it can be done if you want to pay it: Just put an assessment on people who have wealth. There is no sense in trying to do that by putting it on welfare clients. Fifteen percent of our people have 80 percent of the net worth in this country. Just assess them. They would be very unhappy about that. Those are the people, by the way, to whom the debt is owed. They would be very unhappy about that.

But, if you would give them a nice big cut in their inheritance tax, they would be glad to cooperate.

If we follow through, after they help us pay some of it off, and give them a big cut in their income tax so they would make it right back. Give them some relief from double taxation of corporate income, that will help them make it back. You would be surprised how easy you could talk to those people, providing that you do not take it back away from them by tax legislation.

Let me say further, Mr. President, the very people to whom these speeches are made—that the Government is out of business, we are broke, the world is coming to an end—the very people to whom those speeches appeal are those who would be the most disappointed if we did not pass this particular resolution. Why do I say that? Because they are the people holding these securities.

Imagine how it would shake the financial capitals of the whole world, if those people who hold these Government bonds woke up one morning and found out that the U.S. Senate and the House of Representatives had been so silly, so totally lacking in responsibility, that we had refused to pay our honest debts. Here the leader of the whole capitalist world is now going to refuse to pay its debt.

How long could we hold out with that? We could hold out just long enough for the post office to miss its first paycheck to its emyployees. We might hold out long enough until grandma did not get her welfare check. We could not hold out a month before the public would say, "You silly fools, pay us the money you owe us; otherwise I am going to vote you out of office."

At the best, we could hold out about a month at the longest before there was some kind of confrontation between the President and the Congress. The President would say to the people, "Go write to those fellows. Tell those silly people, we have had enough of this foolishness. We want you to go ahead and pass the debt limit bill and whatever else is necessary to help us pay our obligations."

So I say, Mr. President, while it is nice to say that we cannot go any further because the world has come to an end, it is just as well to recognize that we are not in that bad shape. We are still a very great country, and this debt that we owe is not going to destroy us. It is within our capability to manage it. Others have managed debts that are much more burdensome compared to what they have had to work with. I am sure this Nation will survive for a long time to come.

Mr. DOLE. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Who yields time?

Mr. BENTSEN. Mr. President, I ask the manager of the bill for 3 minutes.

Mr. LONG. I yield to the Senator.

ADMINISTRATION ACCORD WITH AFL–CIO ON INFLATION AND ECONOMIC POLICY

Mr. BENTSEN. Mr. President, I would like to take this opportunity to congratulate the administration and the leadership of the AFL–CIO for entering into this important agreement. I could not agree with my friend from Florida more when he says that we need to understand that inflation and unemployment are interrelated problems. I congratulate labor for recognizing this reality.

When inflation rates go up, the real purchasing power of consumers goes down. That means consumers buy less, which means firms sell less, which means firms produce less, which ultimately leads to lay-offs and high unemployment. It is also true that recessions which produce job lay-offs discourage firms from investing and that leads to less future productivity which leads to high costs and that leads to inflation. Inflation and unemployment are interrelated problems which have to be attacked simultaneously.

I applaud this accord because it recognizes that fact. I believe we have to have a disciplined fiscal policy to combat inflation. I believe that trying to spend our way out of recessions leads to inflation which ultimately produces high unemployment.

I have been urging this administration to consider a tax cut. While the administration has not yet decided to move in that direction, it does spell out in this national accord its views that tax cuts when they are proposed should be targeted to the improvement of productivity. I couldn't agree more.

The unhappy state of our economy has become the No. 1 political issue in America. There is an uneasy feeling that we are drifting; that we are no longer in control. We are deeply frustrated and perplexed by an epidemic of economic enigmas that simply does not respond to the conventional remedies.

For years we have been listening to the economists debate our problems. The Keynesians say the monetarists are wrong, the monetarists say the Keynesians are wrong. As far as I am concerned, the only valid conclusion is that they are both right about each other. Many of the old ideas just are not working.

As we examine the economic history of the past 30 years there is, however, one trend on which there can be no debate. Ever since World War II, when we have seen hard times on the horizon, we have reacted by embracing expensive, inefficient policies with but one purpose: Increased demand in the system. We have gradually become a nation of demand junkies.

In recent years we have seen these policies become more expensive and less effective.

Sure, we recover from our recession, but at what cost? We recover with levels of unemployment, inflation, and demand higher than when the recession began. We ratchet up the baseline and restart the cycle.

That is inflation, and that is bad enough. But during the same period—with the exception of President Kennedy's investment tax credit—we have done virtually nothing (we have done zilch) to encourage the supply side of our economy—your side. The side that does the work.

That is why I applaud the emphasis that this agreement gives to the need to improve productivity, and supply side of the economy.

Mr. President, I thank the distinguished manager for the time and ask that my remarks appear in the RECORD at this time with those of my friend, the distinguished Senator from Florida, who has as much concern as I have in this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Will the distinguished chairman yield me 3 minutes?

Mr. LONG. I yield 3 minutes to the Senator.

Mr. CHILES. Mr. President, I want to join with my distinguished colleague from Texas (Mr. BENTSEN) in saying that I was pleased to learn that the Carter administration and the AFL–CIO leadership have achieved a major "national accord" on inflation and economic policy. This accord represents a major advance in public understanding of the causes and effects of inflation. For too many years, inflation has been a divisive issue, with labor arguing that a policy which restrains inflation costs jobs. In some circumstances that may be true. But not now. In the current situation, inflation is hurting employment by discouraging investment and eroding consumer purchasing power. It is thus to the advantage of labor, business, and consumers and certainly to the American public to reduce inflation. This new accord states the matter clearly and concisely:

> Inflation is a clear and present danger. It threatens our ability to achieve full employment; it reduces real incomes and values; it dries up jobs creating investment; it impedes productivity; it breeds recession; and it falls most heavily on those least able to bear the burden.

I am particularly pleased that the accord recognizes the need to continue controlling Federal spending and reducing the Federal deficit as much as possible given economic circumstances. The burden of inflation and austerity must be shared equitably, and we can do this by carefully designed policies. For example, we can offset the effect of higher energy prices on the poor and elderly by cash payments. To keep the deficit down, we have to keep those payments within the limits of the revenues generated by the windfall oil profits tax as proposed by the President. In another example, the accord suggests that if public works are necessary to create jobs, they should be in the form of energy saving mass transit projects all financed from the oil tax.

Mr. President, these are unusual times and we must look for new solutions. Under current projections, a tax cut will not be necessary to return the economy to real growth.

My colleague from Texas feels it is necessary for productivity, and well it might be. It may be that if the recession deepens, that we will have to have a tax cut for economic policies. But, if unemployment gets worse than we expect, a general tax cut which carries inflationary pressures should not be the response. This is what the accord spoke to. Rather, we should look for tax policies that reduce inflation and increase productivity, such as cutting payroll taxes and financing medicare out of general revenues.

Those are my remarks, the last things, not necessarily those of the accord.

The accord endorses this kind of anti-inflationary approach to tax policy, and that is a major achievement.

A final highlight of the accord is the agreement of labor to participate in a "pay advisory committee," which will revise the current wage guidelines and monitor voluntary compliance with the new levels it recommends.

Imported oil prices are a major part of the recent explosion of inflation. But we also have about 8 percent a year coming just from the wage-price spiral. Nobody gains from passing inflation on from one part of the economy to another in larger and larger doses. This accord represents a major commitment to start winding down the spiral by wide participation in a policy of restraint.

Mr. President, rather than discuss the accord in further detail, I ask unanimous consent that the text of the accord and accompanying factsheets be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A NATIONAL ACCORD: THE ADMINISTRATION—AMERICAN LABOR LEADERSHIP, SEPTEMBER 28, 1979

To provide for American labor's involvement and cooperation with the Administration on important national issues.

To deal effectively with inflation in an equitable manner, consistent with the historic values of our nation.

To assure that the austerity arising from battling inflation is fairly shared, while protecting those members of society who are least able to bear the burden.

To pursue our established national goals of full employment, price stability and balanced growth.

To maintain and enhance the preeminence of America at home and abroad.

All Americans share a common commitment to achieve our Nation's economic goals of full employment, price stability and balanced growth as set forth in the Full Employment and Balanced Growth Act of 1978.

Recently, progress has been impaired by high and persistent rates of inflation. Inflation has built up over the past fifteen years, and in the last six has been aggravated by extraordinary increases in world petroleum and other energy prices.

The causes of inflation are many. But it is now deeply embedded in our economic structure. Inflation is a clear and present danger. It threatens our ability to achieve full employment; it reduces real incomes and values; it dries up job creating investments; it impedes productivity; it breeds recession; and it falls most heavily on those least able to bear the burden.

The war against inflation must be the top priority of government and of private individuals and institutions. There is no quick or simple solution. The war must be waged through a comprehensive strategy on all fronts on a continuing basis. But it should not mean acceptance of higher than otherwise levels of unemployment.

To accept such levels of unemployment in the name of fighting inflation is inconsistent with the equitable sharing of sacrifice. The pursuit of full employment and balanced growth as set forth in the 1978 Act is essential to the ultimate elimination of budget deficits, the achievement of economic stability and the realization of social and economic justice.

It is imperative that we overcome inflation in order to provide adequately for the general welfare and for the national security. It is also essential in order to assure our continued technological, industrial and humanitarian leadership.

To deal effectively with inflation requires discipline and restraint. This will mean a period of austerity for Americans—individual and collective sacrifices for a time so that we may then enjoy the greater bounty of our land in the years to come.

Such austerity must be fairly shared. The burdens need to be distributed equitably. And in the process we must protect those least advantaged in our society, who are not able to bear the costs.

Full involvement and cooperation of the private sector is necessary in order to wring out inflation and to attain our goals of full employment and price stability.

Therefore, this National Accord has been undertaken to evidence and provide for the continued involvement and cooperation of American labor leadership with the Administration for this purpose.

1. General Economic Policies. It is recognized that a disciplined fiscal policy is needed to counter inflation. Close control should be exercised over Federal expenditures; and budget deficits should be minimized, giving due regard to the state of the business cycle and the social and economic needs of our society. The revenues required for targeted programs and pressing national needs should not be dissipated by general tax cuts in conflict with the principle of shared austerity. Spending and taxing decisions within this framework must be and can be made consistent with the long-term goals of full employment, price stability and balanced growth.

2. Countercyclical Economic Policies. The current recessionary conditions developed following the large increase in world oil prices in the second quarter. Policies should be directed toward moderating and reversing the resulting down-turn. Established countercyclical programs will automatically come into play to help in this regard. Further counter actions need to be approached with care, so as to avoid new inflationary pressures. Nevertheless, if the recession deepens, well balanced responses of appropriate scale should be prepared and ready for action giving due regard to any required Congressional approvals, to emphasis on actions that have anti-inflation as well as anti-unemployment characteristics, and to practical operational limitations. These include:

Programs to shelter the poor and needy from the twin ravages of inflation and recession.

Additional skills training to help remedy structural unemployment.

Public works that provide jobs while at the same time contributing to anti-inflation objectives, such as public transit projects funded by the proposed oil windfall profits tax.

Improved implementation and expansion of jobs programs.

Policies to assure access to capital for the housing industry, with emphasis upon availability of financing, at reasonable cost, to low and moderate income families.

Appropriate tax relief targeted to offset inflation on the one hand while on the other contributing to anti-inflation through job creation, productivity improvement and cost reduction—particularly in areas most severely affected by high unemployment and economic adversity.

3. Pay-Price Policies. An important aspect of the anti-inflation effort is responsible behavior with respect to pay and prices. For the past year, a voluntary program of pay and price restraint has been used.

In the present circumstances, continued constraint is required on the overall levels of price and compensation increases consistent with achieving a reduction in the rate of inflation. After extensive public consultations, the program for the second year has been established with provision for greater public participation, while maintaining the clear objectives of containment and deceleration of inflation.

Direct participation by labor, business and other public representatives will make a major contribution toward a fair and workable program which will achieve the overall goals.

The Federal Government must continue to show leadership in moderation. Federal pay action for fiscal 1980 has therefore been taken in the context of both fairness and continued restraint.

4. International. International developments in the post war era have led to greater economic interdependence among nations. In this environment, a demonstrated commitment to an effective anti-inflation program and to bringing our current account into balance is necessary in order to avoid adding to domestic inflation and to prevent disturbances in international trade and finance.

We must therefore seek both a reduction in dependence upon imported oil and an expansion of exports. An increase in exports will create additional American jobs. At the same time, all international trade must be fair so that American jobs are not threatened by unfair restrictions on American goods and services or by unfair subsidies for goods and services of other countries.

Where American jobs are impacted by international trade developments, adjustment assistance for American workers needs to be prompt and adequate.

The United States also should pursue maritime policies which will promote a strong merchant marine and assure that expanding American flag shipping services will make a growing contribution to the reduction of our balance of payments deficit.

5. Energy. In view of the availability, location and cost of oil and gas, our nation must reduce its dependence on petroleum as an energy source and particularly its dependence on imported petroleum.

Toward that end, the President has proposed a comprehensive energy program, which includes conservation measures, limitations on oil imports and a windfall profits tax to capture some of the increased revenues from higher oil prices for public purposes. Proceeds from the windfall profits tax will be used to help finance the development of unconventional energy sources, such as synthetic fuels; to carry out projects which conserve overall energy requirements, such as expanded public transit facilities; to provide incentives for greater conservation; and to extend financial relief from higher energy costs for the poor and needy.

These vital features of the President's energy program are of critical importance and should be carried out by Congressional and other actions as rapidly as possible.

6. Human Environment. It is also important to continue pursuit of the goal of improving the quality of the human environment. This includes cooperation on programs to assure safe living and working places and to improve health services available to Americans.

7. Other Matters. The specific areas set forth in this Accord are not intended to be exhaustive. There are other matters which currently deserve mutual consideration and others will arise in the future. Those will be part of an on-going agenda.

8. Continuing Consultations. The essence of this National Accord is involvement and cooperation. The process is by its nature dynamic and evolutionary. It is our purpose to establish procedures for continuing consultations between American labor leadership and the Administration on these and other issues of vital concern to working people, as workers and as citizens.

FACT SHEET: A NATIONAL ACCORD BETWEEN THE ADMINISTRATION AND AFL-CIO LEADERSHIP

The essence of this National Accord is involvement and cooperation.

Purpose: To establish procedures for continuing consultations between American Labor Leadership and the Administration on issues of vital concern to working people as workers and as citizens.

Basic Agreement: Fighting inflation is top priority. This fight requires a comprehensive strategy that is consistent wtih an equitable sharing of sacrifice.

Elements of the Agreement:

1. General economic policies

Necessity of disciplined fiscal policy.

Budget deficits as small as possible given economic reality and important national needs.

Spending and taxing decisions consistent with long-term goals of full employment, price stability, and balanced growth.

2. Countercyclical economic policies

Current recessionary conditions follow the large increase in world oil prices in the second quarter.

Recognition that established countercyclical programs automatically provide assistance in moderating the downturn.

Further countercyclical actions must be approached with care so as to avoid new inflationary pressures.

If the recession deepens, we must be prepared with appropriately-scaled responses that have both anti-inflation and anti-unemployment characteristics. Proposals must recognize operational limits and Congressional concerns.

3. Pay and price policies

Responsible behavior with respect to pay and prices is an important part of the anti-inflation effort. Continued restraint is appropriate in current economic circumstances.

The second year program has been designed after extensive public consultations and with provision for greater public participation.

The clear objectives of the program are containment and deceleration of inflation.

Direct participation by representatives of business, labor and the public will assist in the operation of a fair and workable program consistent with our overall goals.

4. International

Increased interdependence among nations requires an effective anti-inflation program and a reduction in our current account deficit.

Reduction in dependence on imported oil is critical.

Recognition of the importance for jobs of:

Increased exports;

Insuring fair international trade so American jobs are not threatened by unfair restrictions on American goods and services;

Need for prompt and appropriate assistance where American jobs are impacted by unfair restrictions;

Strong merchant marine.

5. Energy

We must reduce our dependence on petroleum and especially on imported petroleum.

The vital features of the President's energy program (windfall profits tax, development of alternative energy sources, conservation, mass transit, and relief to the poor) are of critical importance.

6. Human environment

Continued cooperation on programs to assure safe living and working places and to improve health services available to Americans.

SECOND-YEAR ANTI-INFLATION PROGRAM

The Council on Wage and Price Stability today released modified pay and price standards for the second year of the anti-inflation program. On the basis of comments received during the public comment period that began August 7, the Council will continue to use the basic structure of the first-year standards, with modifications to correct specific problems and to broaden public support for the program.

Many modifications resulted from suggestions received in response to the Council's Issue Paper. There were more than 600 comments from labor groups, business entities, State and local governments, public interest groups, and concerned individuals. Among proponents and opponents of the standards, there was widespread recognition that the program has clearly helped to restrain inflation. The annual rate of increase in the sectors of the economy to which the basic price deceleration standard applies—basically the industrial and service sectors—has been a little above 7 percent, or about 1 percentage point above the rate we would have experienced if all firms in these sectors had been able to adhere to that particular standard.

Following are the most significant changes in the program:

TRIPARTITE PAY ADVISORY COMMITTEE

The President will appoint a 15-member Pay Advisory Committee to provide greater public participation and advice to the Council on Wage and Price Stability. It will be composed of five representatives each of business, labor and the general public. The Committee will:

Submit to the Council by October 31 recommendations for modifications, if any, to the pay standard—specifically including the basic pay standard, the inflation assumption evaluating COLA clauses, the threshold for low-wage exemption, the treatment of increments and tandem relationships and equitable pay adjustments for non-COLA-protected workers. The Committee will also recommend changes, if any, in pay exception and noncompliance decisions of the Council.

Recommend new or revised interpretations of the pay standard.

Make other recommendations with respect to voluntary compliance that assure fairness and equity in individual cases and that are consistent with the overall objectives of the anti-inflation program.

Until the Committee submits its recommendations, the first-year standards will remain in effect and the Council will continue its current policy of using gross-inequity exceptions to remedy inequities that have arisen during the first program year.

THE PRICE STANDARD

Companies are expected to limit their price increases during the two program years beginning October 2, 1978 and ending September 30, 1980, to the percentage price change during the 1976–77 base period.

The President will appoint five representatives of the general public to a Price Advisory Committee, which will recommend possible modifications to the price standard and new or revised interpretations of it.

A company whose forces go up 3.5 percent or less during the second program year will be in compliance with the price standard regardless of its base period price change. (This compares with a 1.5 percent floor in the first year.) The upper limit on price increases will be reduced from 9.5 percent to 8.5 percent.

Measures have been taken to tighten the profit-margin limitation, which applies to companies unable to comply with the basic price standard because they have experienced uncontrollable increases in costs. Growth of dollar profits over the two-year program will be limited to 13.5 percent. In addition, the special adjustment for firms whose base year profit margin is below the profit margin in the best two of the last three years, will be cut in half.

The insufficient-product-coverage rule, which excused companies that derived more than 75 percent of their revenues from excluded products from the program, has been eliminated because it opened an excessively wide loophole in the program. At the same time, rules concerning discontinued and custom products have been made more explicit.

The base period October 1, 1975 to October 1, 1977, remains in effect.

Mr. CHILES. Mr. President, I join Senator BENTSEN in saying that I think this is a major breakthrough to show that the administration is sitting down with labor, that labor is recognizing the seriousness of the situation, and that it is not one in which we want to use the old rhetoric any more, but we are going to agree to sit down and determine what are the best ways rationally to try to work out these policies. I think that gives the national accord tremendous significance.

Mr. PRESSLER. Mr. President, I am opposed to this proposal to increase the temporary debt ceiling, just as I opposed similar legislation during two terms in the House of Representatives.

I have always been disturbed by the conscious, deliberate shell game of separating the national debt into permanent and temporary components. This national debt arithmetic is a mockery of the traditional American ethic—an ethic which generations of Americans have tried to live up to. That ethic recognizes the virtues of living within one's means, of balancing income with outgo. It seems to me that we add insult to the injury that has been done to that ethic by the Federal Government if we persist with the mathematical magic act of separating the permanent debt ceiling from the temporary debt limit.

Mr. President, in traditional China there was a political philosophy that supported long periods of harmonious government with a sensible balanced budget approach. That philosophy argued that the best government was one which set a good example for the people. The philosophy recognized that the force of the examples set by the country's leadership was a powerful and effective mechanism for maintaining a prosperous and peaceful society. The Chinese believed, and I suspect they still believe, that when leadership sets a bad example for the people, invariably the people, or at least a large number of them, would follow that example.

Mr. President, I feel that we have been setting a bad example which our American people unfortunately are beginning to follow in their private lives. Our economy is a house of credit cards, built on a foundation of enormous and excessive Government debt and persistent deficit spending.

Were it not for the dedicated efforts of Senators like our distinguished Budget Committee leaders, Senator MUSKIE and Senator BELLMON, who so ably and persuasively guided the Senate into thinking in terms of budgetary responsibility, we would probably have produced an even more deficit-ridden budget resolution last week. Despite their best efforts the Senate passed a budget resolution with a deficit that is larger than the House budget resolution. It would be setting a good example for the American people if the conference version of the budget resolution were lower than the Senate's version. We would have set an even better example had we adopted the lower deficit proposals offered by several of our distinguished friends and colleagues on this side of the aisle.

We are witnessing in this country a popular loss of faith in the capacity of our governing institutions to contribute to a solution to the problems of excessive inflation and unemployment, and of declining productivity and rates of savings. Is it not possible that Government is contributing more to these problems than to their solution? Most economists agree that Government deficit spending exacerbates inflation. They also agree that Government policies too often are disincentives to savings and investments.

Some say that if the debt ceiling is not raised, Federal employees will not be paid, and there will be chaos. That is not true, because we could very quickly redo the budget and the appropriations and take the necessary fiscal management steps to be within the debt limitation. We might as well repeal the permanent debt limitation legislation if we are going to continually raise the debt limitation.

So, Mr. President, we should not perpetuate Government's bad economic examples. We should resort to deficit spending only very occasionally and in unusual circumstances—not persistently and continuously as we have been doing. If we accept the House proposed debt limit increase to $879 billion, we will be guilty of setting a bad example that puts further unbearable pressure on the American ethic of hard work, saving at a high rate, and living within one's means. If that debt limit is increased to the House level, then we will lose credibility with our constituents and thus contribute to the institutional crisis of confidence which besets the Nation. Furthermore, if the resolution passes, the Congress will have been responsible for an increase in the national debt of over 100 percent since 1972. This would simply add more fuel to the raging fires of inflation which threatens our economic well-being.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that I may proceed and that the time I consume be charged to the time allocated previously to the Senator from Kansas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I note scattered about the floor of the Senate the last remains of three straw men which were erected by the distinguished chairman of the Finance Committee a few moments ago. The Senator from Louisiana erected these straw men and then proceeded to thump them and whack them unmercifully.

While I had not expected to speak again on the bill, after hearing his presentation, I am constrained to comment on the issues he has raised.

The Senator referred in disdainful terms to those who had come to this body to urge that the U.S. Government is in bankruptcy, that we are out of business. I have been here all afternoon, listening to the discussion of this matter, and I have not heard even one person say any such thing.

The Senator from Louisiana disagreed forcefully with those who suggest that the United States repudiate its honest debts. I have not heard anybody suggest that. That is not the issue, and I would not want this debate to end without focusing on the real issue.

No one I know of—certainly no one during the course of the debate this afternoon—has suggested for an instant that we repudiate the honest debts of the U.S. Government. The question is not whether we are going to pay what we owe. The question is whether we are going to incur another $49 billion in debt. This debt has not been incurred. The spending has not taken place. We are talking about what will happen in the fiscal year which begins October 1. Repudiation of the debt is not the issue.

Then I was surprised, I must say, to hear the Senator from Louisiana suggest that it is wonderful that the proportion of the gross national product which is accounted for by the national debt is declining, and I share his feeling that that is a good thing, but it might be well to refer to a couple of points.

First, when we entered the last war this country has been engaged in, we were borrowing to finance the wartime activities.

Second, I point out to the Senator from Louisiana that what we are monkeying around with here today is only a small proportion of the actual debt owed on behalf of the people of the United States by the U.S. Government.

The Senator is comparing the gross national product with what is owed by the Government, and he made no mention of the tremendous and rapidly growing unfunded liability to this Government. I refer, of course, to the unfunded liability of the Social Security System, the unfunded liability for Federal pensions, the unfunded liability under housing programs, loan guarantees, mortgages, section 8 mortgage subsidy, and others.

So I think there is a serious reason for concern about the financial future of this country, and I think the Senator from Louisiana may have treated that subject in a more casual and lighthearted way than he really intended and than it really deserves.

I also say to the Senator from Louisiana that I share his general optimism about the future of this country, and I appreciate and endorse entirely his thoughts about what the world is going to be like tomorrow. The Sun is going to come up tomorrow morning, whether we pass or defeat this resolution. It still is going to be a great country, a prosperous, wealthy, vigorous, industrious, successful country.

However, as to the implication that somehow that is because of the increase in the national debt, I would like to disassociate myself from that portion of his remarks. I think it is in spite of the increase in the national debt.

The reason why this is a prosperous country and why our economy has tripled in the years since 1945, which he mentioned, is not that we have increased the national debt but in spite of it. The real cause of the prosperity and growth of this country is that it is a very, very creative country, that we have been endowed by God with great natural resources, and that we have been operating within the framework of economic freedom that is unknown elsewhere. It is not because we have increased the national debt.

I suggest to the Senator from Louisiana—and I am sure he did not intend his remarks to be taken entirely at face value—that the issue is far more serious than simply to say that this still is going to be a great country, even if we do increase the debt by $49 billion.

My own belief, after listening to all that has been said here this afternoon, is that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and others who have spoken have hit the nail squarely on the head. What we really need is a constitutional amendment to put the cap on Federal spending.

I have listened over the years to those who say that Congress should do that job, and indeed it should. However, as Senator THURMOND pointed out, Congress, in 19 of the last 20 years, has neglected to do that, and the debts are getting bigger, not smaller.

So when we have a clear failure of Congress to balance the budget, I say it is time to take that matter out of the hands of Congress and write it into our Constitution.

This is not a drastic step. It is a modest step. Similar provisions for legislative discretion prevail in 38 States, and in those States they have balanced the budget.

In my State of Colorado, we are in such good financial shape that we have managed to fund adequately the needs of our State government and to grant the taxpayers of my State a very large tax cut this year. I think that is the general experience around the country in the States where they have that kind of constitutional discipline.

I also point out that all the speakers who talked about the need to amend the Constitution have mentioned different formulations of different kinds of proposals.

Senator HARRY F. BYRD, JR. spoke of a balanced budget. Others spoke about proposed spending limits. Some have suggested—not today, but on other occasions—a no-debt-increase provision in the Constitution. I think that one of these or a combination of these is needed.

It is increasingly clear, as we prepare to vote on another increase in the national debt, that something must be done. Congress has failed to keep the Nation's financial house in order; and notwithstanding the comments of the Senator from Louisiana, the growth and prosperity of this country have been in spite of the financial irresponsibility of Congress.

Under the circumstances, I still believe and hope that we will be able to vote this resolution down. I do not actually entertain serious hope that that will happen this afternoon, but I am of the opinion that this will be probably the last time that this body will agree to a large increase in the debt ceiling. I hope it is, because I think it has been harmful to the Nation's economy. It has stifled the creativity I have spoken of, and it is the chief cause of inflation in the country.

Mr. HATCH. Mr. President, will the Senator yield to me?

Mr. LONG. How much time does the Senator want?

Mr. HATCH. Ten minutes.

Mr. LONG. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Sixty-two minutes.

Mr. LONG. I yield to the Senator.

Mr. HATCH. Mr. President, I oppose increasing the public debt ceiling.

As we look at this country and see what has happened during the last 10 years, we have lifted the debt ceiling a great number of times, and nobody seems to understand why we are or are not doing it in the fullest sense.

I have heard the argument that the reason we need to lift the debt ceiling is that we must pay our bills, as the Federal Government.

But I wonder what is happening to those bills that we incur by borrowing more. Every time we borrow we have to pay those bills ultimately, too, except we have been deferring those to the point where now, as I understand it, we could have a national debt of $879 billion and I suspect by March 31, 1981, it would be somewhere in the neighborhood of a trillion dollars. I am pretty concerned about lifting the debt ceiling again.

So it is because of the "big spending" habits of Congress that I think we are forced to even consider raising the debt limit.

I think it is high time Congress "bite the bullet" and face up to the folks back home. Instead of spending time arguing about a pay raise for ourselves we should first admit to the taxpayers that we have been spending too much of their tax dollars to finance the activities and commitments of a central Government that has become too big for its britches. Considering the current level of public debt and the rate of increase, soon we will be talking about a 13-digit ceiling, and frankly the thought of a trillion-dollar public debt sends chills down my spine.

I wonder how many people, including Members of Congress, realize that the public debt is becoming only the tip of an ever-increasing iceberg of the financial commitments of the Federal Government. In a 34-page report, the Department of the Treasury divides the financial commitments and liabilities of the Government into four categories. Only the first category comprises those accounts which have become payable, known as the public debt.

The second category entails hundreds of billions of dollars in undelivered orders, which will become liabilities when the goods and services the Federal Government has ordered are delivered.

The third category is "long-term contracts" which are not legal commitments against appropriations, but mature to a liability stage over a longer period of time.

The fourth category is labeled "contingencies" because it invloves commitments based on certain conditions or events, meaning that they may never become payable.

All four categories add up to trillions of dollars. The Department of the Treasury cautions that these four categories cannot be aggregated in any meaningful sense, but I question that premise. The fact that contingent and long-term contract commitments may or may not become payable is no excuse for risking a heavier taxpayer burden.

The point I want to make, Mr. President, is that regardless of the dissimilar nature of these commitments, and when or whether we will have to call on the taxpayer to cover them, the Federal Government is relying too heavily on the taxpayers to pay its bills and to cover its excess spending. Nevertheless, Congress continues to make commitments to increase spending.

Within the report of the Department of the Treasury is a note explaining that in several instances, incomplete data have been submitted by certain agencies since their accounting systems have not yet been developed to the point where they are able to provide the required information. In other instances the data furnished were on the basis of estimates by the reporting agencies. Mr. President, in light of the fact that Federal agencies cannot accurately account for the money they spend, should Congress authorize increased spending? The answer is an emphatic no, and I think to increase the debt limit is to encourage unnecessary spending which in turn opens the door to waste and fraud.

Even more important, Mr. President, is the fact that if we increase the public debt limit, the Government will have to borrow more to pay off the increase. Everyone knows that if an organization or a person borrows money and continues to borrow money to pay off old debts, bankruptcy or a poor credit rating will eventually be the result. Until now Government has avoided this by borrowing from itself and to a large extent from the taxpayer, and by increasing the taxes and printing more money. This Government needs to cease relying on the inflationary practice of using the power to tax and print money to pay its debts.

Mr. President, these are some reasons why I am opposed to increasing the public debt limit.

Mr. President, I thank the Chair and I yield back the time to the distinguished Senator from Louisiana and thank him for his courtesy extended to me.

Mr. LONG. Mr. President, I yield myself 30 seconds.

Mr. President, I do not want to yield any additional time except for a speech relevant to the bill. I hope we can vote, and those who wish to make statements and requests will please withhold them and not request time until after we vote on the bill. I believe we are about ready to vote. I hope we are.

Mr. MORGAN. Mr. President, I can see only one good aspect in voting on this measure today. That is to remind us yet again that we must bring Federal spending into balance with Federal receipts. We have said this time and time again. Perhaps this year in adoption of the fiscal year 1980 Federal budget we have at last started to do something about it. The Congressional Budget Act went into full effect for the first time just this year. Under it, we in the Senate are committing ourselves to a balance in the budget in fiscal 1981.

Many of us—29 at last count—have committed ourselves to some sort of balanced-budget or Federal-spending limitation amendment for the U.S. Constitution. I am a cosponsor of Senator WALLOP's resolution (S.J. 50) for an amendment requiring a balanced budget within 3 years of ratification, and retirement of the present Federal debt by the turn of the century.

Deficit spending and increasing the national debt year to year simply must come to a halt. I believe we have committed ourselves to that halt, for the sake and well-being of our national economic health. On the basis of that commitment, to begin to take effect next year, I can vote today, albeit most reluctantly, for an accommodation on the national debt ceiling for this year, in order that the Treasury and the Federal Government can continue orderly day-to-day financial operations. Nonetheless, I want to serve notice that we have pledged ourselves to a different course of action for next year, and that I will be standing by my pledge and commitment at this time next year.

Moreover, the House of Representatives has chosen to include the annual debt ceiling vote as part of future budget considerations when Congress will be considering the various annual budget resolutions. This procedure is set forth in H.R. 5369 which we are considering today, and will apply for fiscal year 1981 and subsequent years. I sincerely hope this is not simply a measure to mislead or deceive the American people, or a way merely for Congressmen to go unrecorded in future votes on Federal spending excesses and on national debt reduction. The budget process, since enactment of the Budget Act of 1974, has been more and more out in the open for all to see, and for all to hold us to account. We cannot and must not retreat from this accountability.

● Mr. MUSKIE. Mr. President, the Senate is now considering H.R. 5369, a bill to provide for a temporary increase in the public debt limit to $879 billion for the period from October 1, 1979 to May 31, 1980. This increase is necessary to allow the Treasury to proceed in an orderly manner with its borrowing activities that finance the operations of the Federal Government.

Mr. President, the bill also amends the rules of the House to provide a new procedure to link the establishment of the public debt limit to the congressional budget process beginning in fiscal year 1981.

While I understand the concern of House Members to develop a more reasonable procedure for approving periodic changes in the public debt limit, aspects of the proposed change raise some serious questions.

First, if the proposed changes in the House rules are enacted, the effect would be to amend the Budget Act since the bill adds new requirements for the content of the House report on a budget resolution and the statement of managers accompanying any conference report on a budget resolution.

Such procedures have not been subject to hearings or consideration by the budget committees.

Second, the proposed changes could potentially disrupt consideration of budget resolutions in the two Houses by adding the public debt level to the deficit as another target for opponents.

Mr. President, these measures were hastily developed without full consultation on both sides.

The new procedures must be watched

closely to see how they will be implemented in the House.

Mr. President, I will not oppose this bill since the new procedures apply only to the House but I did wish to express my concerns to the Senate.●

Mr. ROBERT C. BYRD. Mr. President, the passage today of the debt ceiling bill will extend the Federal Government's legal authority to borrow. It provides for a temporary increase in the debt ceiling, so that obligations of the Federal Government which have already been incurred can be met.

Passage was absolutely essential to allow the Government to continue sales of U.S. savings bonds and invest cash received by Government trust funds which must be invested in U.S. securities.

Undue delay could have disrupted some security markets, potentially increasing the costs to Government of such borrowing as is necessary.

I commend Mr. HARRY F. BYRD, JR., the chairman of the Taxation and Debt Management Subcommittee of the Finance Committee, Mr. RUSSELL LONG, the chairman of the committee, and Mr. ROBERT DOLE, the ranking Republican on the committee, for their individual contributions in completing action on this legislation today.

Mr. CULVER. Mr. President, shall we vote now?

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LONG. Mr. President, I am prepared to yield back the remainder of my time if the other side is ready to yield the remainder of their time back.

Mr. HATCH. Mr. President, I am prepared to yield the remainder of the time back on this side.

Mr. LONG. Mr. President, I yield back the remainder of my time on this side.

Mr. HATCH. Mr. President, I yield back the remainder of the time on this side.

The PRESIDING OFFICER. All time is yielded back. The bill having been read the third time, the question is, Shall the bill pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), the Senator from Wisconsin (Mr. NELSON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Nebraska (Mr. EXON) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. PACKWOOD), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Wyoming (Mr. SIMPSON), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) and the Senator from South Carolina (Mr. THURMOND) would each vote "nay."

The PRESIDING OFFICER (Mr. STEWART). Is there any Senator in the Chamber who has not voted who desires to do so?

The result was announced—yeas 49, nays 29, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—49

Baker
Baucus
Bentsen
Boschwitz
Bradley
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Glenn
Gravel
Hart
Heinz
Inouye
Jackson
Javits
Johnston
Kassebaum
Leahy
Levin
Long
Mathias
Matsunaga
McGovern
Melcher
Morgan
Moynihan
Muskie
Nunn
Pell
Percy
Riegle
Sarbanes
Schmitt
Stevens
Stone
Tsongas
Weicker
Williams

NAYS—29

Armstrong
Boren
Byrd, Harry F., Jr.
Cochran
Cohen
Ford
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heflin
Helms
Humphrey
Jepsen
Laxalt
Lugar
Magnuson
McClure
Pressler
Proxmire
Pryor
Roth
Sasser
Stewart
Tower
Warner
Young
Zorinsky

NOT VOTING—22

Bayh
Bellmon
Biden
Bumpers
DeConcini
Exon
Hollings
Huddleston
Kennedy
Metzenbaum
Nelson
Packwood
Randolph
Ribicoff
Schweiker
Simpson
Stafford
Stennis
Stevenson
Talmadge
Thurmond
Wallop

So the bill (H.R. 5369) was passed.

The following occurred during the call of the roll:

Mr. ROBERT C. BYRD. No debate is allowed under the rollcall vote, but there may be other votes today. The HUD conference report is about to be called up following action on this measure. Also there may be some action on the continuing resolution yet this afternoon.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HONORS FOR MARY KATHERINE RANDOLPH

Mr. HATFIELD. Mr. President, I am sure if we had been carefully looking around today, we would note that one of our colleagues is not with us on this very important day, discussing this issue. He is away on another very important piece of business. I want to take this moment to make note of the fact that Senator JENNINGS RANDOLPH, of the State of West Virginia, who came to the Congress of the United States on March 4, 1933, was sworn in on the same day that President Franklin Roosevelt was sworn in as President and has served in a very honorable an distinguished way since that time, with one very short interim period when he was not in Congress.

He is in his home State this afternoon because of a very outstanding honor that is coming to his wife, Mary Katherine.

Mr. President, JENNINGS RANDOLPH'S grandfather was the primary founder of Salem College in West Virginia, which is a Seventh-Day Baptist college. Senator RANDOLPH'S father was one of the first graduates of that same college. For over 50 years, our colleague (Mr. RANDOLPH) has served on the board of trustees of that same institution.

As we know, those of us in public service, our wives play a very important part in our successful serving of the public. Today, instead of the Senator being honored, it is his wife who is being honored with an honorary degree of Doctor of Public Service.

Mary Katherine is being honored because she has been at her husband's side throughout all these years of his outstanding public service and has been a very important part of that team.

Any of us who are privileged to know the family realizes that she is not only an important part because she has helped raise two very distinguished sons, Jennings Randolph, Jr., and Frank Randolph, but she has been a woman in her own right, contributing many hours to voluntary services throughout her long, wonderful life.

So, Salem College today is honoring her in this way. Senator RANDOLPH is with her.

We also know she has suffered ill health for the last number of years. Yet, throughout that period of time, she has demonstrated great courage and fortitude, again as part of the characteristics of this very fine lady.

But I think it is very interesting there has been such continuity in the life of this college, reflected in the life of our colleague Senator RANDOLPH, because not only was his grandfather the founder, his father was one of the first graduates, Senator RANDOLPH himself was a graduate, and his son, Jennings, Jr., is also a graduate, which means four generations of one family.

This small liberal arts college is typical of many throughout this country. It faces great economic adversity and hardship. Yet because of the faithfulness of people like Senator RANDOLPH, and others who have joined him in supporting this college, it has survived and is surviving today. But more than that, it is growing, it is expanding.

I am honored to be a member of the board of trustees of that college and also to hold an honorary degree from the same institution.

I wanted to interject at this point in a very important debate to merely call attention to this other important event happening today in the life of the college and to pay triubute to not only our college, but more especially today to Senator Randolph's wife, Mary Katherine.

I am very happy to note that my wife, Antoinette, is in the party at Salem College to speak a few complimentary and appropriate words on behalf of the wives of my colleagues here in the Senate.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1980—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on H.R. 4394 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings in the Record of August 2, 1979.)

Mr. PROXMIRE. Mr. President, the report presently before us sets forth the decisions reached by the House and Senate conferees on fiscal year 1980 funding for the Department of Housing and Urban Development, the Veterans Administration, the Environmental Protection Agency, the National Aeronautics and Space Administration, the National Science Foundation, the Federal Emergency Management Agency, and the Treasury Department's general revenue sharing program. The conference report also covers 14 smaller Federal entities included in H.R. 4394, the HUD-independent agencies bill.

The conference report as passed by the House recommends that the Congress provide a total of $71,857,684,000 in new budget authority in fiscal year 1980 for these various departments and agencies. The recommended amount is $1,817,477,000 more than the Congress provided in fiscal year 1979, primarily attributable to an increase of about $2.3 billion for assisted housing and $429.6 million for veterans programs offset by a reduction of $800 million in the waste treatment construction grant program.

More importantly, the conference report as passed by the House is $957,554,750 below the administration's budget estimate and $105,791,000 below the amount initially approved by the House. Despite these impressive reductions we are currently somewhat above the amount of new budget authority allocated for this legislation under the first budget resolution and we face the unhappy prospect of exceeding the standard set in that resolution by $1.6 billion in budget authority and $1.2 billion in outlays if we take into account anticipated demands that would be handled in supplemental appropriations legislation. Although the second concurrent resolution on the budget will apparently mitigate this situation to some extent, the Congress may well have to make reductions in the legislation we are considering today through a reconciliation or rescission bill if we are to keep the budget deficit within acceptable bounds. I am perfectly prepared to take whatever action may be necessary to keep Federal spending on the program funded through the HUD-independent agencies bill under control, difficult as those actions may be.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Almost half of the budget authority in the House-passed conference report is for the programs of the Department of Housing and Urban Development—$33,461,988,000, to be exact—and the great bulk of this support is for assisted housing. Both Houses agreed to provide the budget request of $26,680,128,000 to support subsidized housing projects for periods of up to 40 years. There was disagreement between the two Houses as to how these funds were to be allocated. The conferees agreed on the Senate figure of $50 million for public housing modernization rather than the $37.5 million requested by the administration and approved by the House. The conferees also recommended that assisted housing funds be allocated in accordance with local housing assistance plans rather than on the basis of a 60 percent new 40 percent existing housing split as suggested by the House. The amount recommended would permit the Federal Government to subsidize an additional 295,701 housing units if we accept the administration's January assumptions and approximately 262,000 units if we agree with the Congressional Budget Office's calculations.

Other significant conference actions in the housing and community development area included endorsement of a Senate decision to rescind an estimated $200 million in long-term rent supplement contract authority and the recommended deletion of language contained in the House bill which would have earmarked $20 million in community development block grant discretionary funds for small metropolitan cities. This latter deletion was made with the understanding, as spelled out in the joint explanatory statement of the conferees, that $5 million of the amount requested in the innovative projects category was to be used for other activities. The conferees also approved the $675 million included in the Senate-passed version of H.R. 4394 for the urban development action grant (UDAG) program rather than the $400 million recommended by the House.

As a rule, other disagreements between the two Houses in the housing and community development area were resolved by an approximate split between the figures at issue. For instance, the conferees recommended $79,500,000 for the troubled projects operating subsidy program—an exact split—as well as the adoption of Senate language allowing the Secretary to make payments under this account to assist non-FHA insured projects; $830 million for housing for the elderly and handicapped, an increase of $30 million above the President's budget request; $42,500,000 for comprehensive planning grants; $135,000,000 for rehabilitation loans; $49,650,000 for policy development and research; and $539,307,000 for salaries and expenses.

The conferees could not agree on funding for a new livable cities program. I know that will be a great disappointment to the Senator from Connecticut (Mr. Weicker), who led a very strong fight for that program in the Senate, and did an outstanding job in defending it. The Senate bill contained $3 million for livable cities and the House refused to provide any support for this initiative. When the conference report was considered on the floor of the House on September 27, the House insisted on their position by a 278-to-128 vote—more than 2 to 1. Under the circumstances, I think it would be futile to further insist on the Senate position and I will move at the appropriate time that we recede to the House on the livable cities issue.

INDEPENDENT AGENCIES

Although the conferees agreed to some significant additions to the House version of H.R. 4394 for the activities of the Environmental Protection Agency, the bulk of the increase—a total of $22 million—resulted from a budget amendment which will provide the Agency with additional resources to handle the abandoned hazardous waste site problem.

The conferees recommended the appropriation of $233,568,000 for EPA's research and development activities including reductions of $2 million in the amount requested for anticipatory research, $5 million in the proposed budget for toxic substances health and ecological effects research, and $4 million of the total budgeted for air health and ecological effects research. These reductions were partially offset by increases of $2 million for Great Lakes research and $3 million in the integrated pest management area.

The conferees settled on a total of $508,892,000 for EPA's abatement, control and compliance activities, proposing the following changes in the budget estimates:

Minus $25 million for an integrated environmental assistance grants program that has not yet been authorized;

Minus $3,950,000 in local resource recovery financial assistance;

Minus $3,400,000 for underground injection control grants;

Minus $2,800,000 for State air control grants under section 105 of the Clean Air Act;

Minus $2,500,000 for areawide waste treatment management planning under section 208 of the Clean Water Act;

Plus $1,750,000 for pesticide applicator certification and training;

Plus $1,500,000 for academic training;

Plus $1,250,000 for spill prevention and response under the Clean Water Act;

Plus $1,000,000 for ocean outfall waiver implementation; and

Plus $354,000 for a Flathead River Basin environmental impact study.

As a result of these reductions and increases in the budget request the total in the bill for abatement, control and compliance as recommended by the conferees is $31,796,000 below the budget request.

The conferees also recommended the elimination of all new funding for EPA's foreign currency program in fiscal year 1980 in view of the large amount currently available for these activities as well as a reduction of $7,000,000 in EPA's $520,319,000 request for salaries and expenses.

The conferees were not able to agree on the amount which should be provided for the National Aeronautics and Space Administration's research and development activities. The Senate added $23 million to the House-passed bill, restoring $5 million of the $15 million cut by the House for Space Shuttle thrust augmentation as well as $3 million deleted by the House for automated data processing services and $1 million out of a total of $5 million cut by the House from space flight operations. The Senate also provided a total of $17 million for activities that were not provided for in the President's budget including an additional $4 million for the variable cycle engine (VCE) for a total VCE program of $9 million, $5 million for advanced rotorcraft technology, $4 million for a National Oceanic Satellite System, $2 million for a multispectral resources sampler, and $2 million for energy technology, identification and verification. These increases were partially offset by a general unspecified reduction of $3 million.

Although the House conferees were prepared to agree to the total of $3,822,500,000 endorsed by the Senate, the House conferees felt quite strongly that the $23 million added by the Senate should be placed in a shuttle reserve. When the House acted on the conference report on September 27, they not only endorsed language placing $23 million in a shuttle reserve, but also added language to the bill stating "that no funds may be obligated for development of separate orbiter and probe missions in Project Galileo, without the prior approval" of the House and Senate Appropriations Committees. The Galileo mission would send an orbiter and probe to the planet Jupiter.

This language is outside the conference and consequently is part of an amendment that will not be taken up until after we dispose of the conference report. I intend to discuss the amendment at greater length at that time.

The conferees were able to agree on a $5 million cut in NASA's research and program management budget request as compared with the $10 million reduction endorsed by the House. As a result, NASA would have a $959,900,000 research and program management budget in fiscal year 1980 if the conference recommendation is approved.

The committee of conference recommended the appropriation of $20,331,055,000 for the activities of the Veterans' Administration in fiscal year 1980, an increase of $20,478,000 above the administration's budget request. This increase is attributable to an add-on of $24,583,000 to the administration's medical care request. These additional funds will allow the VA to hire an additional 1,800 medical care personnel. The conferees agreed to a total of $12,581,000 under the medical care account for the implementation of the veterans' health care amendments of 1979 which represents a little better than half of the $25,096,000 added by the Senate for this purpose. The conferees also agreed to a total budget of $7,500,000 for the construction of State extended-care facilities; $587,392,000 for general operating expenses with a reduction of $1 million and 55 positions in the budget request for the vet reprogram; the budget request of $122,847,000 for medical and prosthetic research; and a total of $1,350,000 for grants to the Republic of the Philippines.

The budget for the National Science Foundation as recommended by the conferees totals $996,250,000. The conferees proposed that the bulk of the reduction of $9,250,000 in the Foundation's budget request be taken from research and related activities. This recommended reduction includes a cut of $1,500,000 from the budget request for applied science and research applications, leaving a total of $60,900,000 for this program, as well as a reduction of $1,500,000 in the budget request for managing NSF's programs, resulting in a total suggested management budget of $58,100,000.

In dealing with the budget request of the newly created Federal Emergency Management Agency, the conferees accepted the Senate reduction of $9,500,000 in the Agency's emergency planning, preparedness, and mobilization programs, with the entire reduction being made in the civil defense function. The conferees also concurred in the Senate cut of $7,000,000 in hazard mitigation and disaster assistance programs. The reductions are to be taken in the budget amendment proposed for operating the National Fire Academy (a cut of $614,000 leaving a total of $5,500,000); the funding of a new, flood-relocation program (a reduction of $4,500,000 in the $9,900,000 budget request); and executive direction costs (a cut of $1,886,000 in the Agency's $10,956,000 request for Executive direction). These proposed changes would leave FEMA with a $441,930,000 budget.

Other compromises reached by the conferees would provide a total of $74 million for the newly created National Consumer Cooperative Bank, including $49,050,000 in Treasury capitalization expenditures; $40,600,000 for the Consumer Product Safety Commission; $5,500,000 for the National Commission on Air Quality; $12 million for the Neighborhood Reinvestment Corp.; $3,126,000 for the Council on Environmental Quality; and $2,625,000 for the Office of Science and Technology Policy. The conferees declined to provide emergency lending authority to the National Credit Union Administration despite a budget request of $500 million in the absence of any indication that the funds would be utilized.

Two general provisions applying to all agencies and Departments funded through the HUD-independent agencies bill were added by the Senate. The conferees recommended the adoption of one of these provisions, a prohibition on the use of funds provided in this or any other act to contract with private firms to provide plant care or watering services. This provision was added to the bill on the floor of the Senate by our distinguished colleague from Tennessee and is clearly meant to apply to plants in interior offices, which I think we can agree should be cared for by the occupants of those offices rather than a private contractor. I ask unanimous consent that a letter from the General Accounting Office endorsing this interpretation be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., August 10, 1979.

MR. THOMAS L. VANDERVOORT,
Senate Committee on Appropriations,
Capitol S-125, Washington, D.C.

DEAR MR. VANDERVOORT: I have reviewed Section 410 of the HUD Appropriations Bill which states "no part of any appropriation for the fiscal year ending September 30, 1980, contained in this or any other act shall be used to contract with private firms to provide plant care or watering services". I have worked with our Office of General Counsel to determine the legislative intent of this Section. Based upon the legislative history involved, we have concluded that it is the clear intent of the sponsor that no part of any appropriation for fiscal year 1980 should be used to contract with private firms to provide plant care or watering services in interior offices housing federal employees.

I hope that interpretation will be useful in helping to clear up some of the ambiguities currently surrounding this Section of the Bill. If you have any questions concerning this matter please call me.

Sincerely,

RICHARD L. BROWN,
Director.

Mr. CRANSTON. Mr. President, I would like to clarify a point with my good friend, the Senator from Wisconsin (Mr. PROXMIRE) regarding the conference committee's action on H.R. 4394, the HUD-Independent Agencies Appropriations Act for 1980.

As the Senator from Wisconsin (Mr. PROXMIRE) recalls, the Senate, on July 27, during original Senate debate on this measure, adopted an amendment that I proposed to add $25.1 million to the Veterans' Administration's medical care account for the specific purpose of assuring funding necessary to implement the veterans' health care amendments of 1979—Public Law 96-22—in fiscal year 1980. It was made clear at that time that this additional amount included funding to hire the 450 additional full-time equivalent employees (FTEE's) needed to implement fully the various new programs authorized by Public Law 96-22, including 346 FTEE's for the long-overdue readjustment counseling program for Vietnam-era veterans and 104 FTEE's for the pilot preventive health care program, together with other needed funding.

However, Mr. President, the conference report now pending has reduced the $25.1 million add-on to $12.5 million, while continuing to include $76.4 million over the President's budget to fund an additional 3,800 FTEE's specifically for "existing programs."

Mr. President, I ask the Senator from Wisconsin (Mr. PROXMIRE) if my understanding is correct that, while reducing the $25.1 million add-on, the conferees still intend for the administration to implement Public Law 96-22 fully, including hiring the needed staff, as intended by the Senate action in agreeing to my amendment?

Mr. PROXMIRE. Mr. President, the Senator from California (Mr. CRANSTON) is correct in his understanding. The conferees intended for Public Law 96-22 to be implemented fully. There was no question that the various programs provided for by that legislation should be carried out upon their effective dates.

Mr. CRANSTON. Mr. President, I want to clarify a further point with the distinguished floor manager. It is my understanding that by noting that the 3,800 additional health care personnel are "only for existing programs" the conferees intended that none of these 3,800 FTEE's are to be used to implement Public Law 96-22.

Mr. PROXMIRE. Mr. President, the Senator from California is again correct. The 3,800 additional personnel are only to support existing programs so as to remedy staffing shortfalls throughout the VA health care system and clearly are not intended for new statutory programs such as those authorized by Public Law 96-22.

Mr. CRANSTON. Finally, Mr. President, may I ask the Senator from Wisconsin if it is his understanding, in light of the conference action, that the VA should use the $12.5 million add-on to acquire the additional needed staff and that, if necessary, the VA should send forward a reprograming request to make available, out of appropriated funds, such additional funding as may be needed to cover the other expenses associated with implementing Public Law 96-22 for which a budget amendment was submitted on July 26. Frankly, I think reprograming is the only feasible approach for such additional fiscal year 1980 funding, since any supplemental for that year will likely come too late in the fiscal year to achieve full implementation of Public Law 96-22.

Mr. PROXMIRE. Mr. President, I certainly agree with the Senator from California (Mr. CRANSTON) that the $12.5 million should be used to hire the needed staff for full and prompt implementation of Public Law 96-22. I would also expect the VA to take whatever other action is necessary to efficiently carry out the intent of that legislation. If a reprograming request is submitted, I am sure our subcommittee will carefully consider it. Of course, any reprograming request will also be considered by the House Appropriations Committee.

Mr. CRANSTON. Mr. President, I thank the Senator from Wisconsin (Mr. PROXMIRE) for giving the Senate the benefit of his knowledge and insight in this matter. I am vitally interested in the full and prompt implementation of Public Law 96-22, and it is critical that the VA proceed with the hiring of the needed personnel as soon as possible. In this regard, I am pleased to note that the Administrator of Veterans' Affairs, Max Cleland, is moving ahead in preparing to start with different programs, especially the readjustment counseling program, on October 1, and I know he can count on the cooperation of the Senator from Wisconsin in this effort.

Mr. PROXMIRE. Finally, Mr. President, the second general provision at issue in conference would prohibit the taking of annual leave in connection with official travel and was drafted to cover all agencies funded through the HUD-independent agencies bill. The provision was intended to prevent the use of taxpayer dollars to pay part of the cost of a vacation trip. Although the provision was stricken in conference, language was included in the joint explanatory statement of the managers making it clear that the deletion was without prejudice and that the approach contemplated by the language deleted was to be implemented administratively by the various agencies and departments covered by the bill.

Mr. President, although the conferees did not reach final agreement on two issues that I have already discussed, I believe the conference report as approved by the House represents, on balance, a fair accommodation of the conflicting interests of the two Houses. I ask unanimous consent that a tabulation of the contents of the conference report as it passed the House be printed in the RECORD at this point.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	New Budget authority					Conference compared with			
	Enacted fiscal year 1979	Estimates fiscal year 1980	House fiscal year 1980	Senate fiscal year 1980	Conference passed by house	Fiscal year 1979 enacted	Fiscal year 1980 estimate	House bill	Senate bill
TITLE I									
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
HOUSING PROGRAMS									
Annual contributions for assisted housing (contract authority)	24, 395, 848, 000	26, 680, 127, 750	26, 680, 128, 000	26, 680, 128, 000	26, 680, 128, 000	+2, 284, 280, 000	+250		
Increased limitation for annual contract authority	(1, 322, 297, 000)	(1, 140, 661, 275)	(1, 160, 474, 000)	(1, 140, 661, 000)	(1, 140, 661, 000)	(−181, 636, 000)	(−275)	(−19, 813, 000)	
Rent supplement		−200, 000, 000		−200, 000, 000	−200, 000, 000	−200, 000, 000		−200, 000, 000	
Housing payments (appropriation to liquidate contract authority)	(4, 460, 000, 000)	(5, 529, 000, 000)	(5, 529, 000, 000)	(5, 529, 000, 000)	(5, 529, 000, 000)	(+1, 069, 000, 000			
Housing for the elderly or handicapped fund (authority to borrow)	800, 000, 000	800, 000, 000	800, 000, 000	860, 000, 000	830, 000, 000	+30, 000, 000	+30, 000, 000	+30, 000, 000	−30, 000, 000
Congregate services program	10, 000, 000		10, 000, 000	10, 000, 000	10, 000, 000		+10, 000, 000		
Payments for operation of low-income housing projects	727, 000, 000	741, 500, 000	741, 500, 000	741, 500, 000	741, 500, 000	+14, 500, 000			
Troubled projects operating subsidy	74, 000, 000	82, 000, 000	77, 000, 000	82, 000, 000	79, 500, 000	+5, 500, 000	+2, 500, 000	+2, 500, 000	+2, 500, 000
Federal Housing Administration fund	352, 290, 000	194, 850, 000	194, 850, 000	194, 850, 000	194, 850, 000	−157, 440, 000			
Government National Mortgage Association									
Emergency Mortgage purchase assistance:									
Recapture of repayments	(1, 000, 000, 000)					(−1, 000, 000, 000)			
Special assistance functions fund:									
Authority to borrow	500, 000, 000					−500, 000, 000			
Recapture of repayments	(1, 500, 000, 000)	(2, 000, 000, 000)	(2, 000, 000, 000)	(2, 000, 000, 000)	(2, 000, 000, 000)	(+500, 000, 000)			
Payment of participation sales insufficiencies	20, 477, 000	16, 971, 000	16, 971, 000	16, 971, 000	16, 971, 000	−3, 506, 000			
Total, Government National Mortgage Association	520, 477, 000	16, 971, 000	16, 971, 000	16, 971, 000	16, 971, 000	−503, 506, 000			
Total, housing programs	26, 879, 615, 000	28, 315, 448, 750	28, 520, 449, 000	28, 385, 449, 000	28, 352, 949, 000	+1, 473, 334, 000	+37, 500, 250	+167, 500, 000	−32, 500, 000

	New Budget authority					Conference compared with			
	Enacted fiscal year 1979	Estimates fiscal year 1980	House fiscal year 1980	Senate fiscal year 1980	Conference passed by house	Fiscal year 1979 enacted	Fiscal year 1980 estimate	House bill	Senate bill
COMMUNITY PLANNING AND DEVELOPMENT									
Community development grants	$3, 750, 000, 000	$3, 900, 000, 000	$3, 900, 000, 000	$3, 900, 000, 000	$3, 900, 000, 000	+$150, 000, 000			
Urban development action grants	400, 000, 000	675, 000, 000	400, 000, 000	675, 000, 000	675, 000, 000	+275, 000, 000		+$275, 000, 000	
Comprehensive planning grants	53, 000, 000	40, 000, 000	35, 000, 000	50, 000, 000	42, 500, 000	−10, 500, 000	+$2, 500, 000	+7, 500, 000	−$7, 500, 000
Rehabilitation loan fund	230, 000, 000	130, 000, 000	140, 000, 000	130, 000, 000	135, 000, 000	−95, 000, 000	+5, 000, 000	−5, 000, 000	+5, 000, 000
Urban homesteading	20, 000, 000					−20, 000, 000			
Total, community planning and development	4, 453, 000, 000	4, 745, 000, 000	4, 475, 000, 000	4, 755, 000, 000	4, 752, 500, 000	+299, 500, 000	+7, 500, 000	+277, 500, 000	−2, 500, 000
NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION									
Housing counseling assistance	9, 000, 000	9, 000, 000	9, 000, 000	9, 000, 000	9, 000, 000				
Neighborhood self-help development program	5, 000, 000	15, 000, 000	10, 000, 000	10, 000, 000	10, 000, 000	+5, 000, 000	−5, 000, 000		
Livable cities program		5, 000, 000		3, 000, 000			−5, 000, 000		−3, 000, 000
Total, neighborhoods, voluntary associations and consumer protection	14, 000, 000	29, 000, 000	19, 000, 000	22, 000, 000	19, 000, 000	+5, 000, 000	−10, 000, 000		−3, 000, 000
POLICY DEVELOPMENT AND RESEARCH									
Research and technology	57, 500, 000	53, 000, 000	49, 000, 000	50, 300, 000	49, 650, 000	−7, 850, 000	−3, 350, 000	+650, 000	−650, 000
FAIR HOUSING AND EQUAL OPPORTUNITY									
Fair housing assistance		3, 700, 000	3, 700, 000	3, 700, 000	3, 700, 000	+3, 700, 000			
MANAGEMENT AND ADMINISTRATION									
Salaries and expenses	269, 458, 000	296, 002, 000	288, 377, 000	281, 002, 000	284, 189, 000	+14, 731, 000	−11, 813, 000	−4, 188, 000	+3, 187, 000
By transfer, FHA funds	(250, 255, 000)	(255, 118, 000)	(255, 118, 000)	(255, 118, 000)	(255, 118, 000)	(+4, 863, 000)			
Total, title I, Department of Housing and Urban Development:									
New budget (obligational) authority	31, 673, 573, 000	33, 442, 150, 750	33, 355, 526, 000	33, 497, 451, 000	33, 461, 988, 000	+1, 788, 415, 000	+19, 837, 250	+106, 462, 000	−35, 463, 000
Appropriations	5, 977, 725, 000	6, 162, 023, 000	5, 875, 398, 000	6, 157, 323, 000	6, 151, 860, 000	+174, 135, 000	−10, 163, 000	+276, 462, 000	−5, 463, 000
Contract authority	24, 395, 848, 000	26, 480, 127, 750	26, 680, 128, 000	26, 480, 128, 000	26, 480, 128, 000	+2, 084, 280, 000	+250	−200, 000, 000	
Authority to borrow	1, 300, 000, 000	800, 000, 000	800, 000, 000	860, 000, 000	830, 000, 000	−470, 000, 000	+30, 000, 000	+30, 000, 000	−30, 000, 000
Appropriation to liquidate contract authority	(4, 460, 000, 000)	(5, 529, 000, 000)	(5, 529, 000, 000)	(5, 529, 000, 000)	(5, 529, 000, 000)	(+1, 069, 000, 000)			
Increased limitation for annual contract authority	(1, 322, 297, 000)	(1, 140, 661, 275)	(1, 160, 474, 000)	(1, 140, 661, 000)	(1, 140, 661, 000)	(−181, 636, 000)	(−275)	(−19, 813, 000)	
Limitation on corporate funds to be expended	(250, 255, 000)	(255, 118, 000)	(255, 118, 000)	(255, 118, 000)	(255, 118, 000)	(+4, 863, 000)			
TITLE II									
INDEPENDENT AGENCIES									
AMERICAN BATTLE MONUMENTS COMMISSION									
Salaries and expenses	7, 425, 000	7, 603, 000	8, 136, 000	7, 603, 000	7, 603, 000	+178, 000		−583, 000	
CONSUMER PRODUCT SAFETY COMMISSION									
Salaries and expenses	42, 940, 000	41, 776, 000	41, 250, 000	40, 600, 000	40, 600, 000	−2, 340, 000	−1, 176, 000	−650, 000	
DEPARTMENT OF DEFENSE—CIVIL									
Cemeterial Expenses, Army									
Salaries and expenses	5, 100, 000	7, 943, 000	8, 326, 000	7, 611, 000	8, 326, 000	+3, 226, 000	+383, 000		+715, 000
ENVIRONMENTAL PROTECTION AGENCY									
Salaries and expenses	457, 419, 000	520, 319, 000	506, 748, 000	515, 319, 000	513, 319, 000	+55, 900, 000	−7, 000, 000	+6, 571, 000	−2, 000, 000
Research and development	218, 819, 000	239, 568, 000	233, 568, 000	232, 568, 000	233, 568, 000	+14, 749, 000	−6, 000, 000		+1, 000, 000
Abatement, control, and compliance	524, 145, 000	540, 688, 000	475, 809, 000	515, 592, 000	508, 892, 000	−15, 253, 000	−31, 796, 000	+33, 083, 000	−6, 700, 000
Buildings and facilities	1, 063, 000	1, 425, 000	1, 425, 000	1, 425, 000	1, 425, 000	+362, 000			
Construction grants:									
Appropriation	4, 200, 000, 000	3, 800, 000, 000	3, 400, 000, 000	3, 400, 000, 000	3, 400, 000, 000	−800, 000, 000	−400, 000, 000		
Appropriation to liquidate contract authority	(1, 400, 000, 000)	(1, 500, 000, 000)	(1, 500, 000, 000)	(1, 500, 000, 000)	(1, 500, 000, 000)	(+100, 000, 000)			
Scientific activities overseas (special foreign currency program)	2, 500, 000	4, 000, 000	2, 000, 000			−2, 500, 000	−400, 000, 000	−2, 000, 000	
U.S. Regulatory Council		3, 238, 000	2, 238, 000	3, 238, 000	3, 038, 000	+3, 038, 000	−200, 000	+800, 000	−200, 000
Total, Environmental Protection Agency	5, 403, 946, 000	5, 109, 238, 000	4, 621, 788, 000	4, 668, 142, 000	4, 660, 242, 000	−743, 704, 000	−448, 996, 000	+38, 454, 000	−7, 900, 000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New Budget authority					Conference compared with			
	Enacted fiscal year 1979	Estimates fiscal year 1980	House fiscal year 1980	Senate fiscal year 1980	Conference passed by house	Fiscal year 1979 enacted	Fiscal year 1980 estimate	House bill	Senate bill
TITLE II—Continued									
EXECUTIVE OFFICE OF THE PRESIDENT									
Council on Environmental Quality and Office of Environmental Quality	$3,026,000	$3,126,000	$3,026,000	$3,126,000	$3,126,000	+$100,000		+$100,000	
Office of Science and Technology Policy	2,496,000	2,900,000	2,725,000	2,625,000	2,625,000	+129,000	−$275,000	−100,000	
Total, Executive Office of the President	5,522,000	6,026,000	5,751,000	5,751,000	5,751,000	+229,000	−275,000		
FEDERAL EMERGENCY MANAGEMENT AGENCY									
Disaster relief, funds appropriated to the President	386,105,000	193,600,000	193,600,000	193,600,000	193,600,000	−192,505,000			
Emergency planning, preparedness and mobilization	129,348,000	139,121,000	131,121,000	129,621,000	129,621,000	+273,000	−9,500,000	−1,500,000	
Hazard mitigation and disaster assistance	132,517,000	125,709,000	119,109,000	118,709,000	118,709,000	−13,808,000	−7,000,000	−400,000	
Total, Federal Emergency Management Agency	647,970,000	458,430,000	443,830,000	441,930,000	441,930,000	−206,040,000	−16,500,000	−1,900,000	
GENERAL SERVICES ADMINISTRATION									
Consumer Information Center	1,162,000	1,364,000	1,315,000	1,315,000	1,315,000	+153,000	−49,000		
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Office of Consumer Affairs	1,732,000	1,861,000	1,861,000	1,861,000	1,861,000	+129,000			
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION									
Research and development	3,477,200,000	3,822,500,000	3,799,500,000	3,822,500,000	3,822,500,000	+345,300,000		+23,000,000	
Construction of facilities	147,500,000	157,600,000	156,100,000	156,100,000	156,100,000	+8,600,000	−1,500,000		
Research and program management	936,469,000	964,900,000	954,900,000	964,900,000	959,900,000	+23,431,000	−5,000,000	+5,000,000	−$5,000,000
Total, National Aeronautics and Space Administration	4,561,169,000	4,945,000,000	4,910,500,000	4,943,500,000	4,938,500,000	+377,340,000	−6,500,000	+28,000,000	−5,000,000
NATIONAL COMMISSION ON AIR QUALITY									
Salaries and expenses	2,000,000	6,000,000	5,000,000	5,500,000	5,500,000	+3,500,000	−500,000	+500,000	
NATIONAL CONSUMER COOPERATIVE BANK									
Salaries and expenses	1,500,000	8,900,000	7,000,000	8,900,000	7,950,000	+6,450,000	−950,000	+950,000	−950,000
Self-help development	1,000,000	20,000,000	17,000,000	17,000,000	17,000,000	+16,000,000	−3,000,000		
Total, National Consumer Cooperative Bank	2,500,000	28,900,000	24,000,000	25,000,000	24,950,000	+22,450,000	−3,950,000	+950,000	−950,000
NATIONAL CREDIT UNION ADMINISTRATION									
Central liquidity facility (authority to borrow)		500,000,000	300,000,000				−500,000,000	−300,000,000	
NATIONAL INSTITUTE OF BUILDING SCIENCES									
Salaries and expenses	750,000	750,000	718,000	750,000	750,000			+32,000	
NATIONAL SCIENCE FOUNDATION									
Research and related activities	827,000,000	915,300,000	896,800,000	915,300,000	906,050,000	+79,050,000	−9,250,000	+9,250,000	−9,250,000
Science education activites	80,000,000	84,700,000	84,700,000	84,700,000	84,700,000	+4,700,000			
Scientific activities overseas (special foreign currency program)	4,000,000	6,000,000	5,500,000	5,500,000	5,500,000	+1,500,000	−500,000		
Total, National Science Foundation	911,000,000	1,006,000,000	987,000,000	1,005,500,000	996,250,000	+85,250,000	−9,750,000	+9,250,000	−9,250,000
NEIGHBORHOOD REINVESTMENT CORPORATION									
Salaries and expenses		9,500,000	9,500,000	12,000,000	12,000,000	+12,000,000	+2,500,000	+2,500,000	
SELECTIVE SERVICE SYSTEM									
Salaries and expenses	7,830,000	9,825,000	7,830,000	7,830,000	7,830,000		−1,995,000		
DEPARTMENT OF THE TREASURY									
Payments to State and local government fiscal assistance trust fund	6,854,924,000	6,854,924,000	6,854,924,000	6,854,924,000	6,854,924,000				
Office of Revenue Sharing, salaries and expenses	7,200,000	6,337,000	6,237,000	6,237,000	6,237,000	−963,000	−100,000		
ew York City loan guarantee program, administrative expenses	1,050,000	1,034,000	1,034,000	1,022,000	1,022,000	−28,000	−12,000	−12,000	
Investment in National Consumer Cooperative Bank	1,000,000	60,000,000	50,000,000	48,100,000	49,050,000	+48,050,000	−10,950,000	−950,000	+950,000
Total, Department of the Treasury	6,864,174,000	6,922,295,000	6,912,195,000	6,910,283,000	6,911,233,000	+47,059,000	−11,062,000	−962,000	+950,000

	New budget authority					Conference compared with			
	Enacted fiscal year 1979	Estimates fiscal year 1980	House fiscal year 1980	Senate fiscal year 1980	Conference passed by house	Fiscal year 1979 enacted	Fiscal year 1980 estimate	House bill	Senate bill
VETERANS' ADMINISTRATION									
Compensation and pensions	$10,706,700,000	$11,201,800,000	$11,201,800,000	$11,201,800,000	$11,201,800,000	+$495,100,000			
Readjustment benefits	2,445,700,000	2,278,535,000	2,278,535,000	2,278,535,000	2,278,535,000	−167,165,000			
Veterans insurance and indemnities	5,750,000	5,400,000	5,400,000	5,400,000	5,400,000	−350,000			
Medical care	5,374,374,000	5,659,117,000	5,671,119,000	5,696,215,000	5,683,700,000	+309,326,000	+$24,583,000	+$12,581,000	−$12,515,000
Medical and prosthetic research	122,847,000	122,847,000	127,847,000	122,847,000	122,847,000			−5,000,000	
Medical administration and miscellaneous operating expenses	47,058,000	48,024,000	47,606,000	47,606,000	47,606,000	+548,000	−418,000		
General operating expenses	631,675,000	592,790,000	584,967,000	588,392,000	587,392,000	−44,283,000	−5,398,000	+2,425,000	−1,000,000
Construction, major projects	365,560,000	317,292,000	317,292,000	317,292,000	317,292,000	−48,268,000			
Construction, minor projects	86,345,000	73,072,000	72,633,000	72,633,000	72,633,000	−13,712,000	−439,000		
Grants for construction of State extended care facilities	10,000,000	5,000,000	5,000,000	10,000,000	7,500,000	−2,500,000	+2,500,000	+2,500,000	−2,500,000
Grants for construction of State veterans cemeteries		5,000,000	5,000,000	5,000,000	5,000,000	+5,000,000			
Assistance for health manpower training institutions	104,905,000					−104,905,000			
Grants to the Republic of the Philippines	500,000	1,700,000	1,700,000	1,000,000	1,350,000	+850,000	−350,000	−350,000	+350,000
Total, Veterans' Administration	19,901,414,000	20,310,577,000	20,318,899,000	20,346,720,000	20,331,055,000	+429,641,000	+20,478,000	+12,1565,000	−15,665 ,000
Total, title II, independent agencies:									
New budget (obligational) authority	38,366,634,000	39,373,088,000	38,607,949,000	38,432,796,000	38,372,696,000	+6,062,000	−1,000,392,000	−235,253,000	−60,100,000
Appropriations to liquidate contract authority	(1,400,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(+100,000,000)			
TITLE III									
CORPORATIONS									
Federal Home Loan Bank Board:									
Limitation on administrative expenses	(17,650,000)	(18,984,000)	(18,359,000)	(18,359,000)	(18,359,000)	(+709,000)	(−625,000)		
Federal Savings and Loan Insurance Corporation (limitation on administrative expenses)	(31,928,000)	(33,566,000)	(33,466,000)	(33,466,000)	(33,466,000)	(+1,538,000)	(−100,000)		
Total, t·tle III, corporations	(49,578,000)	(52,550,000)	(51,825,000)	(51,825,000)	(51,825,000)	(+2,247,000)	(−725,000)		
RECAPITULATION									
Grand total, titles I, II, and III:									
New budget (obligational) authority	70,040,207,000	72,815,238,750	71,963,475,000	71,930,247,000	71,857,684,000	+1,817,477,000	−957,554,750	−105,791,000	−72,563,000
Appropriations	44,344,359,000	45,035,111,000	44,183,347,000	44,590,119,000	44,547,556,000	+203,197,000	−487,555,000	+364,209,000	−42,563,000
Contract authority	24,395,848,000	26,480,127,750	26,680,128,000	26,480,128,000	26,480,128,000	+2,084,280,000	+250	−200,000,000	
Authority to borrow	1,300,000,000	1,300,000,000	1,100,000,000	860,000,000	830,000,000	−470,000,000	−470,000,000	−270,000,000	−30,000,000
Appropriations to liquidate contract authority	(5,860,000,000)	(7,029,000,000)	(7,029,000,000)	(7,029,000,000)	(7,029,000,000)	(+1,169,000,000)			
Increased limitation for annual contract authority	(1,322,297,000)	(1,140,661,275)	(1,160,474,000)	(1,140,661,000)	(1,140,661,000)	(−181,636,000)	(−275)	(−19,813,000)	
Limitation on corporate funds to be expended	(299,833,000)	(307,668,000)	(306,943,000)	(306,943,000)	(306,943,000)	(+7,110,000)	(−725,000)		

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may yield to the Senator from Maine whatever time he may require.

The PRESIDING OFFICER. There is no time limit, as I understand it, on this measure.

Mr. MUSKIE. Mr. President, as chairman of the Committee on the Budget, I take note of the fact that the conference report is somewhat lower than the Senate-passed bill. But beyond that, as the distinguished Senator from Wisconsin pointed out, this report comes to us in the context of the second budget resolution and the reconciliation instruction. In light of that fact and the fact that the conferees made a real effort to reduce the total of the Senate bill, I am happy to support it.

Mr. President, the conference report on H.R. 4394, provides appropriations for the Department of Housing and Urban Development and independent agencies for fiscal year 1980.

The conference agreement would provide $71.8 billion in budget authority, $0.1 billion below the Senate-passed bill. Outlays associated with the bill total $48.7 billion, $0.1 billion below levels in the Senate-passed bill.

Mr. President, I opposed the HEW-independent agencies bill when it was taken up by the Senate as not being consistent with the congressional budget.

At that time, I indicated that, when possible later requirements were taken into account, the bill threatened to exceed the HUD-Independent Agencies Subcommittee allocation by $1.7 billion in budget authority and $1.3 billion in outlays.

The conference agreement is not substantially lower than the Senate bill. However, the second budget resolution, as passed by the Senate, sets an overall ceiling of $388.0 billion in budget authority and $341.6 billion in outlays for all appropriation bills. In the event any bill exceeds that total ceiling, the Appropriations Committee is to report a rescission of other spending in order to stay within the committee ceiling.

The Appropriations Committee, and in particular its able chairman, Senator MAGNUSON, has pledged to stay within the ceiling agreed to by the Senate. Because I fully expect the Appropriations Committee to honor that commitment, I will not oppose this conference agreement now, despite its potential overage.

Mr. President, let me commend Senator MAGNUSON and other members of the Appropriations Committee for the fiscal restraint they have shown, and for their support of the second budget resolution. The bipartisan agreement in the budget resolution was not easily reached. Senator MAGNUSON's support of that resolution demonstrates his commitment to the compact we made five years ago to bring Federal spending under control.

Mr. President, I want to add my compliments to the Senator from Wisconsin for his commitment to fiscal restraint—especially in this area, which is of such concern to him and his Banking Committee. I compliment him on his support of the budget process, the second budget resolution, and the policy of restraint which we sought to write into that resolution.

Mr. PROXMIRE. Mr. President, I thank my good friend from Maine. I want to tell him that there is no way that we could have held this appropriation bill down if it had not been for his work on the floor and elsewhere and his influence in reminding the members of the conference, as well as members of the Appropriations Committee and the Senate, how this relates to the budget resolution and how important it is, in this year particularly, to keep our spending within the bounds that his committee has set forth.

(Mr. PRYOR assumed the chair.)

Mr. MATHIAS. Mr. President, we have waited a long time for this day, a day when we might consider the conference report on the HUD and independent agencies bill. I join with the distinguished Senator from Maine, the chairman of the Committee on the Budget, in extending my thanks to Senator PROXMIRE, because he has worked very hard to bring us to this moment. He has been very diligent in representing the views of the Senate during the long conference with the House. Sometimes, even though those views were contrary to the positions which he took during the Senate debate on the matter, he was very faithful as a spokesman and representative for the Senate, as he always is.

I would agree with Senator PROXMIRE that the conference report does represent a fair balance between the initial position of the House and the position of the Senate. We have been able to work very happily and in a very positive way with Representative BOLAND and Representative COUGHLIN.

Some of the important provisions contained in the conference agreement are as follows:

First, the conferees agreed to retain the concept of locally determining the housing mix. The Senate strongly opposed the concept of a federally mandated new versus existing housing ratio for the section 8—assisted housing programs. The conference report recognizes the importance of the local housing plan and the necessity for tailoring the section 8 program to local requirements. Additionally, the conference report reaffirms the administration's request for funds to reserve approximately 266,000 section 8 units during fiscal year 1980. In my opinion, this represents a minimal bare-bones level of Federal assistance.

Second, the conferees agreed to increase the House allowance for EPA abatement, control and compliance activities from $475.8 million to $508.9 million. Although this was $6.7 million less than the Senate bill, it does represent significant increases in several areas. For example, areawide waste treatment management planning grants (section 208) were increased by $7.5 million and State air control grants were increased by $2.8 million.

Third, within the Federal Emergency Management Agency (FEMA), the conferees provided $5.5 million for the operation of the National Fire Academy. These funds will provide the necessary facilities and personnel to establish the Academy.

Fourth, for the National Science Foundation (NSF), the conferees have recommended $995.5 million, which is $10 million less than recommended by the Senate and $8.5 million more than recommended by the House. The funds provided to NSF represent a 9-percent increase over the fiscal year 1979 level, which when adjusted for inflation represents a no-growth policy in the scientific area.

It is my position, and the position of the administration, that it is in the national interest to provide increased support to science and technology and, hopefully, the current no-growth situation can be turned around in the near future.

Mr. President, as my colleagues know, the House has just gone on record relative to the two items in disagreement: Amendment No. 12, livable cities; and amendment No. 27, NASA research and development; and I will have more to say about these two programs at a later time.

● Mr. WILLIAMS. Mr. President, as chairman of the Senate Housing and Urban Affairs Subcommittee, I have strived to insure that this country upholds its commitment to provide decent housing to the Nation's low and moderate income citizens and to assist in the rejuvenation of communities beset by disinvestment, joblessness, and poverty.

The conference report on HUD appropriations now under consideration would, I believe, allow us to make continued progress toward the revitalization of urban areas. It would provide a substantial increase to $675 million, for the urban development action grant program, which is proving itself to be an effective means to attract private investment to distressed cities and towns. I am also pleased that the appropriations bill would allow the community development block grant program, the mainstay of community revitalization efforts, to continue at an adequate funding level.

In the area of housing, the appropriations bill is a disappointment. There are some bright spots to be sure, such as second round of funding for the congregate housing services program, and an increase in the popular, and highly successful, section 202 housing program for the elderly and handicapped. However, the amount of funds for section 8 and public housing is inadequate. We should be under no illusion that the level of assistance provided in this bill would even begin to relieve the housing shortage that pervades communities all across the country. With rental vacancy rates at their lowest point in 24 years, we face a crisis in rental housing supply—a crisis that can only deepen if we do not encourage an appropriate degree of housing production. The conference report would provide about 265,000 additional units of section 8 and public housing for fiscal year 1980. But even if we add to this the number of housing units that would be reserved under Farmers' Home Administration programs, we will still fall woefully short of the 670,000 new and rehabilitated units that the Library of Congress estimates we must produce annually over the next 10 years to meet the needs of low and moderate income households.

Ironically, the belt-tightening forced upon assisted housing this year will in all likelihood result in greater inflation in the rental housing market.

So, although the HUD appropriations bill does not address assisted housing needs as fully as I believe they can and should be met, I support its passage in order to prevent disruption of HUD programs, and I urge my colleagues to support it as well.

In addition, Mr. President, I am deeply gratified that this conference report includes the necessary funding for construction of the Veterans Administration hospital in Camden, N.J.

The hospital, which was conceived a decade ago and has been authorized since 1976, will meet the urgent need for an expansion of health care facilities to serve the large veteran population in the Delaware valley. Funding for the Camden Hospital at this time is most appropriate in light of the recent reductions in veterans programs. The hospital will serve a vital role in improving the overall health care of our veterans, and I am pleased to support its inclusion in the appropriations bill.●

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, as I understand it, we do have some differences. Senator MATHIAS, as he indicated, objects to a House provision, and Senator WEICKER also opposes the action of the House on livable cities.

But I presume it would be in order for us to pass the conference report and then take up two items in disagreement.

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: nor more than $50,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $3,038,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert:

Provided, That no funds may be obligated for development of separate orbiter and probe missions in Project Galileo, without the prior approval of the Committees on Appropriations, $3,822,500,000, including a reserve of $23,000,000 for Space Shuttle which shall not be available without the prior approval of the Committees on Appropriations

Resolved, That the House insist upon its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill.

Mr. PROXMIRE. Mr. President, first, there are two amendments, as I understand it, that are noncontroversial. One has to do with housing modernization and the other involves funding for the U.S. regulatory agency. Neither deals with matters of interest to Senators on the floor.

Mr. President, I ask unanimous consent the Senate agree to the amendment of the House to Senate amendment No. 2 and that the Senate agree to the amendment of the House to Senate amendment No. 22.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment in disagrement to Senate amendment No. 27. The legislative clerk read as follows:

> The House recedes and concurs with an amendment to the Senate amendment No. 27.

Mr. PROXMIRE. Mr. President, amendment No. 27 concerns an issue the conferees could not agree on; namely, the amount that should be provided for NASA's research and development programs. Let me briefly recapitulate the situation.

Although the House conferees were prepared to agree to the total of $3,822,500,000 endorsed by the Senate, the House conferees felt quite strongly that the $23 million added by the Senate should be placed in a Shuttle reserve. When the House acted on the conference report on September 27, they not only endorsed language placing $23 million in a Shuttle reserve, but also added language to the bill stating "that no funds may be obligated for development of separate Orbiter and probe missions in Project Galileo, without the prior approval" of the House and Senate Appropriations Committees. The Galileo mission would send an Orbiter and probe to the planet Jupiter.

NASA originally intended to go with one Galileo launch which would include both the Orbiter and the probe. Following the filing of the conference report NASA started to look at the advisability of splitting the mission in two and postponing it from 1982 to 1984 because of Shuttle delays. This would add $250 million or so to costs because it would require a changed configuration and two launches instead of one. The House language is an attempt to make sure that NASA does not proceed on this course without Appropriations Committee approval.

I would hope we could move to concur with the House language for these reasons:

First. The chairman of the House Authorizing Committee, Mr. FUQUA, does not object to this approach;

Second. As a colloquy on the House floor made clear, the language would apply only to development hardware, not to planning twin missions;

Third. The language seems to require a reasonable Congressional check; and

Fourth. There is no reason to hold up a bill providing for veterans' benefits, low-income housing allowances, and other vital programs on the basis of the language in question.

Furthermore, and most importantly, my understanding is that NASA feels it can live with this language given certain assurances. I have discussed the matter with Congressman BOLAND, my House counterpart, and the House is willing to agree to the necessary assurances. They are:

First. The language will not cause NASA to terminate any contracts presently in existence for the Galileo work. The intent of the language is to prevent NASA from taking steps to commit the Congress irrevocably to a newly defined dual launch mission. Before we commit ourselves to that mission, the appropriate committees need the opportunity to assess the new proposal and its increased costs. What would be accomplished by this provision is that NASA could not use these appropriations to award new contracts for hardware development of separate orbiter and probe spacecraft.

Second. NASA could continue with the design work and with development despite the language so long as the development activities are not tied to the dual launch concept.

Third. The amendment is deliberately intended to assure that prompt and timely consideration of the reconfigured mission will occur. I am committed, and I have the personal assurances from the distinguished chairman of the House Subcommittee, Mr. BOLAND, of his commitment. We will act within 45 days of receipt of a formal report from NASA on the Galileo mission. A decision either way, up or down, will be forthcoming soon. The Appropriations Subcommittees in both the House and Senate are pledged to a formal review of Galileo within 45 days of the time a request is received. We are not intending that a decision on the reconfiguration of the Galileo mission be held off until next calendar year. If either subcommittee is unable to make a final decision on the request within 45 days NASA may go forward as proposed in the submission.

Mr. President, I want to make it clear that that procedure is satisfactory to the agency. It is satisfactory to NASA.

Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate numbered 27.

Mr. MATHIAS. Mr. President, with great respect to the Senator from Wisconsin, I move as a substitute amendment, that the Senate concur with the House amendment to the Senate amendment with an amendment.

UP AMENDMENT NO. 583

(Purpose: Substitute for House to Senate amendment No. 27)

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 583:

In lieu of the matter inserted by the House insert the following: "$3,809,500,000, of which not less than $1.5 million shall be for Space Shuttle thrust augmentation, not less than $2 million for multi-spectral resources sampler, not less than $5 million for advanced rotorcraft technology, and not less than $8 million for the variable cycle engine."

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the pending motion by Mr. Mathias.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MATHIAS. Mr. President, I think we ought to note that the House has added material which was not in conference. While I am not one of those who stand on the niceties of the procedure between the House and the Senate, that is a matter of some substantial concern.

If we have a conference and each of us goes back, submits the conference report, and new material is added, I think that is grounds for at least pausing and thinking about what has been added. There is no reason we should not do so.

The Senator from Wisconsin raises the question of holding up a bill which includes the provision for veterans' benefits, low-income housing allowances, and other vital programs. I have great concern about that, too. For that reason, the Senate acted late yesterday afternoon to include the HUD and independent agencies' appropriations bill in the continuing resolution, which is now pending.

So we do not have to be buffaloed on this. We have time to get at the kind of mature, thoughtful consideration that it needs.

The Senate has acted in a timely way to prevent the veterans, and other similar programs, from suffering from the careful legislative study that the matter deserves.

While the fact that this is new material is reason to weigh that proposal carefully, perhaps to reject it, let me just very briefly address what I think are the concerns in the other body, what I understand to be our chairman's concerns, and my own concern.

We have the chairman of the authorizing committee here, who, I think, can contribute very much to this.

Mr. President, the recent development which indicates that NASA will launch the Jupiter Orbiter and Probe separately by the space shuttle in 1984, instead of a single launch in 1982, is the center of this controversy. The reasons for this are many and technical and should be gone into in an orderly fashion. Congress has all the safeguards it needs to insure that it will be fully consulted during the change.

We have, of course, our own reprograming procedures in the Appropriations Committees, and there is section 4, paragraph 3, of the authorizing legislation which states that—

> No amount appropriated pursuant to this act may be used for any program which has not been presented to or requested of either such committee.

In addition, this matter will be and should be discussed in an orderly and deliberate fashion by OMB, NASA, the authorizing committees, the Appropriations Committees, and both Houses—and we will have that opportunity. If the House language is accepted, it will preclude that orderly decisionmaking process.

So I assure the Senate and I assure my chairman, Senator PROXMIRE, that while I deeply share his concern over this matter, I am as confident as I can be that we will have the necessary input without resorting to the procedures that have been suggested by the other body.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. PROXMIRE. What is the harm in the procedure that has been suggested by the House, including the House authorizing committee chairman, and endorsed by the agency itself? What is wrong with it?

Mr. MATHIAS. One thing that is wrong with it is that I value the expertise of Senator CANNON and the members of the authorizing committee, and they are completely shut out of the game on that procedure.

Mr. PROXMIRE. They can have hearings on such a proposal. They are not shut out of the game.

Mr. MATHIAS. What good is it for Senator CANNON to call a hearing if the House Appropriations Committee vetoes the program? His hearing would become an exercise in futility, because the whole matter will have gone up the chimney by that time. He could hold hearings from now until New Year's Day and it would have no bearing on what decision is made, because that decision could be made by the House Appropriations Committee.

Mr. PROXMIRE. The chairman of the House authorization committee, Mr. FUQUA, saw no problem with that procedure although I understand that Senator CANNON may have something to say about it.

It is difficult to oppose the House position because the agency is willing to acquiesce in it.

Mr. MATHIAS. The agency is over a barrel here. The agency is willing to agree to it. Perhaps the Senator from Wisconsin has talked to the agency. I know that Mr. BOWEN says he has, and I have. I think they are willing to agree to it about the way the subject of a rape is willing to agree when all resistance has been overcome.

Here we are at the end of September; the new fiscal year is about to begin. They have no money, beginning Monday, and they are threatened with a cutoff of funds, and we have not acted on the conference report until the very end. So they are in a difficult position to resist any further. But they are not happy with it.

Mr. PROXMIRE. NASA could resist the amendment. As the Senator pointed out, funding for the agencies covered by the bill was included in a continuing resolution yesterday.

Mr. MATHIAS. As the Senator knows, if we give up that continuing resolution, they are without any recourse on Monday morning except accepting something they do not like.

Mr. PROXMIRE. The Senator knows that the continuing resolution has to pass. Otherwise, the Government will come to a stop. The House is going out of session.

Mr. MATHIAS. It has not passed yet. That is the thing.

We have NASA sort of teetering between Scylla and Charybdis. Either they accept this kind of arrangement, which they do not really like, or they take a chance on being cut out of the continuing resolution. They are very nervous about it, and I can sympathize with their feelings.

As to the suggestion contained in the House amendment that the $23 million which the Senate added be placed in a reserve for the Space Shuttle, perhaps the chairman can enlighten me on this, but my information is that this is not authorized, that we have no authorization for that. I am going to suggest, as an alternative, that we save some money and send back to the House a proposal which would provide $3 million for the variable cycle engine, $5 million for advanced rotorcraft activity, $2 million for the multispectral resources sampler and $1.5 million for Space Shuttle thrust augmentation, which within an appropriations of $3,809,500,000 is a savings of $13 million from the Senate's original position and the position now being suggested by the House. The chairman, being an economy-minded man, will appreciate that saving.

Briefly summarized, what I am suggesting is that we knock out the new material which never was considered by the conference and that we provide $10 million of the $23 million that the Senate originally added to the bill over the Senator's position.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. MATHIAS. I am happy to yield the Senator such time as he requires.

Mr. CANNON. Mr. President, in the authorizing bill, we have this kind of protective language, and I refer to section 4:

> Notwithstanding any other provisions of this act—

I skip now to subparagraph 3—

> No amount appropriated pursuant to this act may be used for any program which has not been presented to or requested of either such committee.

Then we go on. That is the basic limiting factor.

The language of the House Appropriations Committee would make it much more limiting and would even preclude a reprograming action. It would preclude a reprograming action that the authorizing committees might have approved.

I support the amendment proposed by the Senator of Maryland to amendment 27, an amendment in disagreement between the two Houses, and which deals with the fiscal year 1980 NASA research and development appropriation. Senator MATHIAS' proposed amendment preserves essential elements of what Congress agreed to on the NASA Authorization Act for fiscal year 1980 (Public Law 96-48), and to what the Senate again agreed to for NASA research and development in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980. Senator MATHIAS' proposal does no violence to the House position which reduced the NASA R. & D. appropriation by $23 million below the budget request and below the amount agreed to by the Senate. The proposed amendment provides NASA with an R. & D. appropriation that is $10 million above the House figure, but $13 million below the Senate figure, yet keeps in the program four projects found most essential by the Senate.

I commend the Senator from Maryland and the Senator from Wisconsin (Mr. PROXMIRE), chairman of the subcommittee, for their diligence in preserving the Senate initiatives.

Mr. President, I urge the Senate to accept the amendment proposed by the Senator from Maryland.

And I may say that it was stated that NASA could live with that restriction in the House bill. We have been advised that NASA would find it difficult to live with that provision that is in the House bill.

● Mr. STEVENSON. Mr. President, I support the amendment of the Senator from Maryland and commend both him and the chairman of the subcommittee for an excellent solution to the disagreement on Amendment 27. I believe their proposal preserves the essential parts of both the Senate and the House position. Further it shows unity in the Senate between the authorizing and Appropriations Committee efforts.

As chairman of the Commerce Subcommittee that oversights the NASA program and scrutinizes the annual NASA budget proposed to the Congress, I am especially pleased with the perspective that this amendment brings to the NASA program. It preserves much needed shuttle thrust augmentation at a low level where it belongs; it provides funds to initiate a new instrument for the Earth remote-sensing satellites; it provides $5 million to initiate advanced rotorcraft technology efforts which will be very important to the future competitive position of our helicopter industry. Finally it continues work on the important variable cycle engine.

Mr. President, this is a superb compromise to the disagreement between the House and the Senate on this issue. I urge my colleagues to support it.●

Mr. MATHIAS. Let me say to the Senator that my understanding is the same as his as to NASA's position. I think it is fair to say, and I want to be accurate in reporting my conversations with NASA, that they can live with this language rather than be cut off totally on Monday morning from all funding.

Mr. CANNON. That is right.

Mr. MATHIAS. That is not really much of a choice. That is the fear in which they are existing today.

Mr. PROXMIRE. If the Senator will yield, on that point, if we accept the Mathias amendment, they are in just as much danger of having their funding cut off, are they not?

Mr. MATHIAS. No.

Mr. PROXMIRE. There is no way the House is going to accept this proposal, in my view. The chairman of the House Appropriations Subcommittee and the chairman of the House authorizing committee support the House language. The House position was not opposed by anyone in the House. The House seemed about as adamant and emphatic on this matter as they can get.

Mr. MATHIAS. Let me suggest to the Senator that in that event, of course, it goes back to the other body, the HUD bill could be kept in the continuing resolution, and we can work this matter out in a responsible and orderly way.

Mr. CANNON. Mr. President, I may say, if the Senator will yield, this is a $71.8 billion bill.

Mr. PROXMIRE. Let me answer the Senator from Maryland.

There is no assurance that the HUD-independent agencies bill will be covered by the continuing resolution under those circumstances. That is the danger. Under those circumstances the House may refuse to include the HUD-independent agencies bill in the continuing resolution. Mr. BOLAND is a very influential Member of the House. I do not know anyone more highly respected. He is firm and emphatic on this issue. He may make sure this bill is not covered by the continuing resolution.

Mr. MATHIAS. Mr. BOLAND I have known for many years. No one has a higher respect and regard for him than I have. I have such a high regard and respect for him and I am confident he is not going to let veterans' programs go unfunded on Monday morning over this dispute when there is a logical and proper way to work it out.

Mr. PROXMIRE. Mr. President, first let me respond to the Senator from Maryland regarding his statement that this is an economy move. I think the Senator from Maryland would have to agree that is not a way to save money. There appears to be a reduction in the amount approved by shifting $16.5 million from a Shuttle reserve to fund new projects. But that amendment will actually increase costs since, as we all know, the Shuttle funds will be needed in any event. No one argues that the Shuttle is going to be stopped or aborted. A supplemental is going to be needed and that supplemental is going to be approved.

Obviously if we add new projects to this bill and NASA decides to go ahead with those projects they are going to spend more money. There is no way we are going to save money. The amount of money that will be spent over the long term for the multispectral resources sampler according to the chart that has been given us by NASA is $24 million and the run-out costs for the advanced rotocraft technology program amount to $49 million. The total cost of these two items will be around $73 million.

These three are the added costs of the Galileo project. Maybe we should go ahead with a revised Galileo program. I suspect we very well may. But all we are suggesting is the endorsement of language that has been approved by the House Appropriations Committee, the House authorizing committee, and the agency. That language would allow the Appropriations Committees to have an opportunity to say yes or no before NASA proceeds with a revised Galileo program.

Obviously the House authorizing committee could have protested the language in question. They decided they would not. They felt that in view of the amounts involved and with the assurances that have been give NASA, it would not be necessary to object to the language.

Let me conclude with just one reminder to the Senate. NASA did not just stand mute and have this policy forced on them. NASA agreed to this position, and in getting NASA's agreement a concession was made. The concession was the assurance that prompt and timely consideration of any Galileo reprograming request will occur.

I have the personal assurances of Mr. BOLAND that he will act within 45 days of receipt of a formal report from NASA on the Galileo mission. A decision either way, up or down, will be forthcoming soon. The appropriations subcommittees in both the House and Senate will be glad to conclude a formal review of a Galileo reprograming request within 45 days from the time the request is received. We are not intending that a reconfiguration of the Galileo mission be held off until the next calendar year. If either subcommittee is unable to make a final decision on the request within 45 days, NASA will be allowed to go forward as proposed on the submission.

We are not proposing to delay this project. We will not hold it up. It just was felt there should be some degree of congressional responsibility, knowledge, and approval of a change in the scope of the Galileo program. The feeling on the part of the House of Representatives was that that could best be done by giving review authority to the Appropriations Committee and we have agreed that the review will proceed within a limited period of time.

I do hope under those circumstances that the Senate will not concur in the Mathias amendment. I think such an action would simply hold this appropriation up. It is going to mean we have to continue under a continuing resolution for some time. I think it is unlikely that you are going to get much of a change in the House position in view of the clear, emphatic, unanimous position that the House of Representatives has taken.

Mr. MATHIAS. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. MATHIAS. The Senator's assurance that this matter can be resolved within 45 days reminds me of my old colleague in the other body, Basil Whitener of North Carolina. Basil used to say that is like saying, "Hold still, little fish, while I gut you."

That is just what could happen. This matter could all be resolved in a very disastrous way within 45 days in the kind of summary execution that is available under this procedure.

But my question really is this: Where does the Senator find the authority to create this Space Shutle reserve of $23 million? One reform which the new chairman of the Senate Appropriations Committee, Senator MAGNUSON, has instituted is that we will very strictly adhere to the prohibition of appropriating money which is not authorized, and I cannot find authorization for that kind of an appropriation.

Mr. PROXMIRE. Mr. President, if the Senator will yield, you see the problem is that without the provisions which the House has urged on us, which I support, the Appropriations Committee just will not be involved in any way in a decision as to whether or not to proceed on a mission that eventually would cost us $250 million. The feeling is we ought to have an opportunity to act on that issue one way or the other. If we delete the House language we would have no opportunity to pass on that decision. We would be put in a position where that $250 million expenditure would in all likelihood have to be made.

Mr. CANNON. Well, Mr. President, will the Senator yield further?

Mr. MATHIAS. Yes, indeed.

Mr. CANNON. On the Space Shuttle, the program authorization is $1.586 billion. The House made a reduction there of, I think, $15 million in the appropriation. So in setting aside $23 million for space shuttle reserve, there is no authorization for the difference between that $15 million and the $23 million. The Congress has authorized this particular program. The House Appropriations Committee, by their language, gets a veto over the program.

The House committee tried to kill the Galileo program a few years ago, and they went to the floor of the House and they got beat. The Galileo program is there. It is going ahead. About $100 million has been spent on the Galileo program to date. The reason for the expected delay is not because of problems with Galileo but because of the delay in the Space Shuttle.

Mr. PROXMIRE. What does the Senator expect to get out of a further conference with the House? Their position is clear. They are asking for a simple procedure.

Mr. CANNON. What do I expect to get out of it? I think the House will agree to this particular language if the matter is presented to them. The amendment reduces—cuts about in half the money that is in dispute—and the amendment specifically line-items four very important programs: $1.5 million for space shuttle thrust augmentation, which is something we have to have; not less than $2 million for multi-spectral resources sampler, a very important program; not less than $5 million for advanced rotorcraft technology, and our technical people say if we do not get moving in this advanced rotorcraft technology the United States is going to lose out to foreign technology, to foreign competition, in the helicopter business that is getting to be so big throughout the world today.

Then the amendment provides not less than $8 million for the variable cycle engine, which is a research and development program, but it is a very important program. It is important that we learn how to build a usable and reliable variable cycle engine.

Mr. PROXMIRE. The Senator may be a thousand percent correct. Maybe these are fine programs, but I just wonder whether it is good policy for us to proceed with programs that may cost $73 million without even receiving an administration request. Once the bureaucracy starts these programs they are very difficult to stop, as the Senator knows. It is impossible to arrest them without losing your sunk costs. That is the problem. That is why the House turned these add-ons down.

Mr. CANNON. Both authorizing committees have considered these matters.

Mr. MATHIAS. In addition to the fact that the authorizing committees have authorized these specific programs, it is a matter of record that NASA did request money, and the only reason it did not come through was because of the opposition of OMB. But the need is very clear.

Mr. PROXMIRE. Well, the authorizing committees have not authorized $250 million in additional funding for the Jupiter mission. The split mission has not been authorized.

Once we start on that path——

Mr. MATHIAS. There is only $116 million in here for Jupiter, so that is authorized.

Mr. PROXMIRE. We are starting on a path that could cost us a great deal, that is all, and we feel the responsible thing to do is to have the Appropriations Committees have an opportunity to approve it.

Mr. CANNON. That decision to split the Galileo into two missions has not been made yet. They have not yet formally decided what they are going to do, and when they decide they would have to send it up in the form of reprograming and would want the committee's approval at the time of reprograming.

Mr. PROXMIRE. If that is the case what is the objection to the language?

Mr. CANNON. Because the appropriations committee is retaining a veto power over a program for which funds have been authorized and appropriated.

Mr. PROXMIRE. We always limit authorizations, as the Senator knows. That is a function of the Appropriations Committee.

Mr. MATHIAS. If this were even an arrangement which contemplated joint action by the Appropriations Committees of the House and Senate, that would be one thing. But it is a veto power by each House. It is sudden death. It is like sudden death in a sport, and this can be killed very, very quickly by the action of a very small group of people within Congress.

Mr. PROXMIRE. Let me just say one more word. We are considering a provision which the House supports unanimously. It is supported by the House Appropriations Committee, and the relevant authorizing committee in the House. We have a situation in which the agency itself has agreed to the language. There is no agency opposition to proceeding as the House has proposed. For us under these circumstances to delay the HUD-Independent agencies bill means the programs funded through the bill would have to be supported through a continuing resolution for heaven knows how long. It seems to me that is an action that we should not take. Further more in rejecting the provision we are put in the position of permitting a $250 million initiative to at least begin. Our ability to slow that initiative down, if we decide to do so, is limited.

Mr. MATHIAS. The Senator said the House agreed to this. It seems to me that the only real test of House sentiment on this particular issue was the vote which occurred, which Senator Cannon mentioned earlier, in July 1977 when an attempt was made to kill the Galileo program, and that attempt was defeated by a vote of 131-to-80. That is a pretty decisive vote, better than 2-to-1 endorsement, of the Galileo program. I do not believe the House—if the House is polled today on a similar up-and-down kind of vote—would like to put that program, which has been endorsed by better than a 2-to-1 vote, in the kind of jeopardy which this procedure puts it.

Mr. PROXMIRE. Mr. President, if the Senator will yield, we are not talking about reversing the Galileo vote. This is a new, separate Galileo initiative. They are splitting the mission now. It is a different approach and it will cost more. It will cost, if they go ahead, $250 million more. Maybe it is all right. Maybe the House would approve the change and the Senate would also, but just think we ought to pass on an initiative that costs that much money, and so does the House.

The PRESIDING OFFICER (Mr. BAUCUS). The question is on agreeing to the motion of the Senator from Maryland to concur in the House amendment to the Senate amendment with an amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Ohio (Mr. METZENBAUM), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), and the Senator from Nebraska (Mr. EXON) are absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Minnesota (Mr. DURENBERGER), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Oregon (Mr. PACKWOOD), the Senator from New Mexico (Mr. SCHMITT), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Wyoming (Mr. SIMPSON), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. SCHMITT) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

Mr. ROBERT C. BYRD. Mr. President, I ask Senators not to leave, because the Senate will undoubtedly have an opportunity to act on the continuing resolution today, and there will probably be a rollcall vote. So I ask Senators, please do not leave. Do not leave.

The PRESIDING OFFICER (Mr. TSONGAS). Are there other Senators in the Chamber who wish to vote?

Several Senators voted.

The PRESIDING OFFICER. Are there other Senators who wish to vote?

Several Senators voted.

Mr. ROBERT C. BYRD. Mr. President, there will definitely be more rollcall votes. When I say definitely, that means we are going to have some if I have to contrive one, because that continuing resolution is still out.

The result was announced—yeas 49, nays 20, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—49

Armstrong
Baker
Boschwitz
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
Dole
Domenici
Durkin
Ford
Garn
Glenn
Goldwater
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jackson
Jepsen
Johnston
Laxalt
Leahy
Long
Lugar
Mathias
McClure
Melcher
Nunn
Percy
Riegle
Roth
Sarbanes
Stevens
Stewart
Stone
Tower
Warner
Weicker
Williams
Young
Zorinsky

NAYS—20

Baucus
Boren
Bradley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Culver
Eagleton
Inouye
Levin
Magnuson
Matsunaga
Moynihan
Muskie
Pell
Pressler
Proxmire
Pryor
Sasser
Tsongas

NOT VOTING—31

Bayh
Bellmon
Bentsen
Biden
Bumpers
Church
DeConcini
Durenberger
Exon
Gravel
Hollings
Huddleston
Javits
Kassebaum
Kennedy
McGovern
Metzenbaum
Morgan
Nelson
Packwood
Randolph
Ribicoff
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Talmadge
Thurmond
Wallop

So the motion to concur with an amendment was agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment in disagreement.

The assistant legislative clerk read as follows:

The House insists upon its disagreement to Senate amendment No. 12.

Mr. WEICKER. Mr. President, I move the Senate insist on amendment No. 12 and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I intend to be brief on this matter and not to engage in a long debate.

Several weeks ago the Senate gave much consideration to the HUD livable cities program and decided overwhelmingly to support it. Funding was provided for the program at the $3 million level, roughly half of what the administration had requested. However, despite considerable support for the program in the House Appropriations Committee, the House has voted to zero fund this program.

It is my belief that this program merits funding at the $3 million level which the Senate has proposed. This program has the potential to serve as a catalyst which could generate revitalization efforts in some of the most deteriorated sections of America's urban and rural communities. By stimulating a sense of community pride and identity, the livable cities program gets local residents to pull together and work toward making their neighborhood a healthy place to live and work.

In the Housing and Community Developments of 1978, the livable cities program was authorized at the $10 million level. Following considerable debate the Senate concluded that the $3 million level was appropriate for the program's first year. This is a very minimal amount and reflects the willingness of the Senate to find a middle ground between the administration's request for $5 million and the House position of no funding at all. I call on the House to display this same spirit of compromise and agree with the Senate's provision appropriating $3 million for this program in fiscal year 1980.

I also add that my good friend and colleague from Wisconsin agrees with the Senate's provision appropriating $3 million for the program in fiscal year 1980.

Mr. President, I think we all recognize the slashes that have taken place relative to the urban segments of our society. Indeed, we have just gone through a rather large appropriation relative to scientific development research.

This is a small amount to be applied in both urban and rural areas within the community, to give people a sense of pride and participation in that community.

It is a good program. The basic argument is that it will grow into a big, unmanageable program. That is our job: to make sure it does not. But to abandon this or say that it should be taken from the discretionary fund of the Secretary, to my way of thinking, is not the appropriate way to direct either the policies or the priorities of this Nation.

It seems a little silly to raise all this about just $3 million, but it is not just $3 million. We are talking about the communities which have been very much neglected in the sense of priorities over the past 2 or 3 years.

I hope that the Senate will maintain its position on this matter and not give so much regard to the amount. It is not that large, but with the principles involved.

This is not Washington directing the rural and urban communities and the poor in those communities to do what Washington wants. It is a sense of them being able to adhere to and develop their own culture, regardless of what section of the country, the Southwest, the South, the Northeast, develop their own culture and sense of identity.

I think it is terribly important. I urge my colleagues in the Senate to support my motion on this amendment.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. May I say to my distinguished colleague from Connecticut (Mr. WEICKER) that I am well aware of the very genuine surge of support this program has received since our debate on this issue on August 1.

The Senator from Connecticut did an excellent job in supporting the program. I think he has persuaded many people that it is a program that should receive funding now.

The Senator from Connecticut led the fight both in committee and in conference to try to salvage at least a part of the amount requested by the administration for this program. Furthermore, the Department, the National Endowment for the Arts, and other interest groups around the country have lobbied heavily on this matter all summer long. But let me quickly say to the junior Senator from Connecticut that there are a number of reasons why I believe that the Senate should not object to the House position and I think should recede on this particular amendment.

Despite the intense lobbying of the groups mentioned above and a number of distinguished members of the House Appropriations Subcommittee, the vote on the House floor yesterday afternoon to uphold the House conferees' position of no funding for livable cities was 278–128—more than 2 to 1 in favor of not providing any money for this new program next year.

I repeat, the vote against this in the House was 278 to 128, better than 2 to 1 in favor of not providing any money for this new program next year. So it is likely that if we do send the issue back to the House, their position will not change.

It was argued in the conference that although this is a $3 million program this year, in a city and country this size, a $3 million program is not going to remain that small for very long. Next, it will be a $10 million program, then a $30 million program, then a $300 million program, then a multibillion dollar program. We have been through that process before. We know it is very likely to happen again.

Furthermore, as far as this particular $3 million program is concerned, the National Endowment for the Arts can and should support it. It would cost less than 4 percent of their $150 million budget.

If it deserves a priority, it ought to come out of that $150 million.

In the past the Endowment has supported a program of their own called "livable cities" with grants for architecture, planning, and design concepts undertaken by local governments and nonprofit corporations. The Endowment for the Arts has also successfully assisted arts projects which expend opportunities for minorities and other disadvantaged persons under their "expansion arts" program. To the extent that proposed activities under the livable cities program do not fit into these Arts Endowment categories they could be supported with a community's block grant funds or from the Secretary's discretionary fund.

So money for this program is now available in abundance in all kinds of other areas.

The community development bloc grant program—a $3.9 billion program in fiscal year 1980—can be used to fund exactly the type of neighborhood cultural and arts activities that are contemplated in the livable cities program. So if the priority is there, and if the local desire is there, the funds are available to go ahead.

If there is anything we have learned here it is that a program does not work unless it receives local support and that the biggest waste of money by the Federal Government is to provide funds that can be spent only in a particular way for narrow programs that do not have to compete with other priorities for local support.

Livable cities funds would be used to support questionable activities such as "fairs, festivals and celebrations." That is included in a list of the ways in which HUD intends to spend the money. This is not the kind of activity we should support in a year of fiscal austerity, at a time when inflation is at 13.4 percent and rising.

A sum of $3 million is a small amount of money. It is a microscopic amount compared to the size of our huge budget. But it is a beginning. Furthermore, even though this may be the kind of program which does have merit, there is a great deal of money available for these activities in other budgets. If the purposes of the program are good purposes, if they are locally supported, the money will be forthcoming.

Finally, by creating new programs such as livable cities, we are cutting against the trend of consolidating Federal programs as exemplified by the community development block grant effort.

Mr. President, I hope that the amendment supported by the Senator from Connecticut will not be approved by the Senate.

Mr. WEICKER. Mr. President, I will give some examples as to what the funds have been used for in the past:

New Orleans. The Center for Visual and Performing Arts opened in downtown area.

Chicago. The Architectural Assistance Center organized a neighborhood building conservation and revitalization program.

Philadelphia. Livable Cities helped fund a springtime "festival of the arts" in the downtown area. Attracted 200,000 people. Participants included the Philadelphia College of Art, Philadelphia Ballet Co., and the Historical Society of Philadelphia.

Albuquerque, N. Mex. Funds requested to expand Indian Cultural Center.

The fact is that here is this paltry amount which serves to produce a sense of identity and togetherness in these urban areas and among the rural poor. Not what is forced down their throats by Washington, but what they develop as their own sense of art and culture and civilization.

I sit in the Appropriations Committee, where I just came from, and there was a question as to whether or not a $500 million cut relative to travel by Government bureaucrats should go into effect, out of a budget of $8 billion for travel; $8 billion just for Government officials and bureaucrats to travel. Here we have $3 billion in order that people can appreciate their own heritage, not the Washington heritage, not the New England heritage, but their own heritage, depending upon the section of the country whence they come.

The mark of any civilized nation is its commitment to the arts, to culture. A country never is going to make its mark on the world if it has solely a budget for defense and for travel by bureaucrats. It must have more depth and soul and heart than that.

Nobody has lobbied to me to do this. I have not talked to anybody representing any organization to carry this ball.

You are going to have people fleeing their place of birth, where they have been raised. They will fall into a sort of nameless and purposeless quandary.

It is the principle involved that I fight for here. It is not the National Endowment for the Arts. This is nonprofessional. This is someone who feels he has something to offer, without being a big name or recognized by the artistic community to his neighbor.

This bill is going back to conference, anyway, because of the action the Senate took earlier, so it is not that by defeating my amendment, everything can be wrapped up.

I ask the Senate to stick to its initial position, to the position of the chairman right here on the Senate floor only a few weeks back and, most important, to say, yes, in the course of our priorities the chance for individuals to flower and blossom in their own way, in their own community, is still possible in America.

I am prepared at this juncture to vote.

The PRESIDING OFFICER. If there are no other speakers, the issue recurs on the motion by the Senator from Connecticut that the Senate insist upon its amendment No. 12. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Ohio (Mr. METZENBAUM), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE), and the Senator from Michigan (Mr. HART) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. EXON), the Senator from Idaho (Mr. CHURCH), and the Senator from Texas (Mr. BENTSEN) are absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Mississippi (Mr. COCHRAN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Oregon (Mr. PACKWOOD), the Senator from New Mexico (Mr. SCHMITT), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Wyoming (Mr. SIMPSON), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

Mr. ROBERT C. BYRD. Mr. President, I urge Senators to stay around because I expect final action yet today on the continuing resolution and as everyone knows October 1 is rapidly approaching and we need to be sure that Senators do not leave. I expect further rollcall votes.

The PRESIDING OFFICER. Are there other Senators who wish to vote?

Mr. COHEN voted in the affirmative.

Mr. HEFLIN voted in the negative.

Mr. GOLDWATER. Regular order, Mr. President.

The PRESIDING OFFICER. Are there other Senators wishing to vote?

The result was announced—yeas 35, nays 30, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—35

Baker
Bradley
Chafee
Cohen
Culver
Dole
Domenici
Durkin
Garn
Goldwater
Hatfield
Hayakawa
Heinz
Inouye
Jackson
Jepsen
Laxalt
Levin
Lugar
McClure
Magnuson
Mathias
Matsunaga
Melcher
Moynihan
Pell
Percy
Pryor
Riegle
Sarbanes
Stevens
Tsongas
Weicker
Williams
Young

NAYS—30

Armstrong
Baucus
Boren
Boschwitz
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cranston
Danforth
Eagleton
Ford
Glenn
Hatch
Heflin
Helms
Humphrey
Johnston
Leahy
Long
Muskie
Nunn
Pressler
Proxmire
Roth
Sasser
Stewart
Warner
Zorinsky

NOT VOTING—35

Bayh
Bellmon
Bentsen
Biden
Bumpers
Church
Cochran
DeConcini
Durenberger
Exon
Gravel
Hart
Hollings
Huddleston
Javits
Kassebaum
Kennedy
McGovern
Metzenbaum
Morgan
Nelson
Packwood
Randolph
Ribicoff
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stone
Talmadge
Thurmond
Tower
Wallop

So the motion was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOVIET TROOPS IN CUBA

Mr. THURMOND. Mr. President, the discovery of Soviet troops in Cuba has made many Americans voice their concern about Russian designs in the Western Hemisphere. As a result of the Soviet military presence 90 miles off our shores, the fate of SALT II has become even more uncertain.

An article in the Clemson University newspaper, the Tiger, by Doug Barfield, points out the many obstacles that lie in the path of ratifying this treaty.

Mr. President, in order to share this editorial with my colleagues, I ask unanimous support that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET TROOPS OBSTRUCT SALT II APPROVAL

(By Doug Barfield)

After years of difficult negotiations, the second Strategic Arms Limitation Treaty (SALT II) has finally been submitted to the United States Senate for approval. And there is not one single obstacle in the way of ratification; there are thousands—in the form of Soviet combat troops stationed in Cuba.

Senate Democratic Leader Robert Byrd is urging his colleagues to overlook the presence of the Soviet troops when considering SALT II. The presence of Communist forces 90 miles from the United States border is not an issue to be overlooked under any circumstances. SALT II is an effort to monitor and control the buildup of strategic weapons by the strongest nuclear forces in the world, Russia and the United States. Although the few thousand Communist troops in Cuba pose a threat far less significant than the least powerful atomic weapon, their presence is a time bomb in its own right. The issue should be resolved BEFORE the United States makes any promises to the Soviet Union by ratifying SALT II.

The discovery only several weeks ago that Soviet troops have been stationed in Cuba for who knows how long is a negative indicator of the capabilities of our intelligence network. We so often read of intelligence operations here and there and are amazed by the small and seemingly insignificant details that are dug up. How could such a monstrous chunk of information be overlooked? Intelligence experts explain the absence of detection by using the analogy of a puzzle. They do not deny previous knowledge of bits and pieces of information about the issue. Instead they claim that only when all the pieces of evidence collected over a long period of time were recently pulled together and the puzzle was completed were they able to see the whole picture, which is an ugly one at best.

To complicate matters, the Kremlin may now demand the pull-out of 2,203 American troops stationed in Cuba in exchange for the removal of the Soviet forces. The United States has since 1903 controlled Guantanamo Naval Base on the southeastern coast of Cuba. The Cuban government gave perpetual control of Guantanamo to the United States in 1934—25 years before Fidel Castro took control of the small island nation. Castro does not honor the agreement, and the issue has been a stumbling block to diplomatic talks between the two nations.

The Soviet Union wants to trade licks with the United States, but the Kremlin is already several licks ahead. A longstanding agreement by two nations made years ago should not be subject to the whims of a third party. The occupation of Guantanamo is not an issue in the case, and the Soviets should leave it alone.

The United States government has been openly challenged, blatantly insulted. We are in a sticky situation. It is time to make a move—a strong one if that is what it is going to take. The Soviets have been snickering at us for too long. The laughing must stop. We must prove that we are still the strongest democratic nation in the world.

We cannot prove that we are still the strong-afford to lose face by walking away from the challenge at hand. The rest of the world is watching.

Our government should demand the removal of Soviet forces from Cuba immediately. Call it blackmail if you like, but we must make it clear to the Kremlin that ratification of SALT II is definitely on the balance in this situation. Diplomacy is in order, but there is no room for backscratching and ducking the issue before us.

FEDERAL PAPERWORK BURDEN

Mr. HATCH. Mr. President, on June 28, 1979, the Senate Select Committee on Small Business, of which I am a member, held hearings on the Federal paperwork burden as it affects small businesses. Testifying at this hearing were representatives of the IRS, OMB, and GAO, who together know more about the paperwork burden than the rest of the Government combined. During the morning I asked each witness to comment on a simple little bill I introduced last March, S. 604, the Paperwork Cost Reimbursement Act of 1979. Mr. President, without exception, Mr. Kurtz, Commissioner of the IRS; Mr. Granquist, the Associate Director for Management and Regulatory Policy of OMB; and Mr. Arnold Jones, an Associate Director of GAO, all agreed that S. 604 would act as an unquestionable disincentive to Federal paperwork.

Mr. President, Government paperwork is nonproductive and noncompensatory. This is the very antithesis of free enterprise.

I will admit that this administration has worked to cut unnecessary Government paperwork and its burden on the private sector, but the battle has not gone as well as it could, we are losing the war. According to a recent GAO report to the businesses each year spend more than 69 million hours at an estimated cost of more than $1 billion responding to more than 2,100 U.S. reporting requirements that have been approved by either OMB or GAO under the requirement of the Federal Reports Act.

When you add on forms that affect individuals, farms, nonprofit organizations, and State and local governments, as well as forms that are not cleared by OMB or GAO, such as tax forms, the total burden of Federal paperwork comes to a staggering 786 million hours annually. This is equivalent to 393,000 full-time workers doing nothing but responding to Federal paperwork requirements a work force exceeded by only five American corporations. This is an unconscionable waste of America's most valuable resource.

In 1977, the Commission on Federal Paperwork issued 36 reports with more than 500 specific recommendations for reducing the paperwork burden on American citizens. Two years later, according to OMB, only half those recommendations had been implemented. In fact, according to OMB's Associate Director for Management and Regulatory Policy, Wayne Granquist, OMB each year is bombarded by 2,200 to 2,700 requests from agencies to collect even more data and issue even more forms.

Mr. President, where will this nonsense end? I submit that under the present system it will end only when the entrepreneur is so crushed that he would rather close down than fill out one more form. Mr. President, that time is nearly here. We must legislate a disincentive for the bureaucrat exploitation of the private sector, we must stimulate small firms, and we must make ourselves accountable for the burden—not a nonelected bureaucracy.

Mr. President, S. 604 will accomplish these goals. And I urge my colleagues to heed the call.

Mr. President, I ask unanimous consent to print in the Record relevant portions of the June 28 hearings.

There being no objection, the hearings were ordered to be printed in the Record, as follows:

Hearings Before the Senate Select Committee on Small Business on Federal Paperwork Requirements, June 28, 1979

Senator Hatch. Mr. Chairman, I cannot imagine a word in the English language which incites more fear in the heart of a businessman than regulation. Government regulations, in my opinion, are nonproductive and noncompensatory in any way. Our small businessmen in the United States, according to the Small Business Administration, spend in excess of 130 million manhours in filling out forms. The GAO reports an estimated minimum of 69 million manhours, and OMB sets the number at 142 million manhours. No matter which estimate you accept, it is an appalling etimate. All three of them are appalling. The Commission on Federal Paperwork estimated the burden at 210 million manhours which is nearly more than the other three put together.

Let us put this number into perspective. The 210 million manhours is about equal to the total labor required to produce General Motors annual output of Chevrolets. This represents an economic depressant unparalled in the history of free enterprise.

Mr. Chairman, that does not include the IRS paperwork which accounts for an additional 1,600 million manhours, exceeding the manhours required for one of the largest corporations in the world. Every General Motors car or truck, you see, could represent our paperwork burden. Part of my concern is how much of this burden is unnecessary. I am not asking how much is duplicative. We have all heard of the studies which estimate that a quarter or half of all paperwork is duplicative. The questions of duplication, how much paperwork is nedeed to accomplish our desired social effect, and who should bear the cost burden are some of the reasons for our hearing today.

Professor James Bennett and Professor Manuel Johnson, who we will hear from later, have published an article that suggests there presently exists an incentive for creating paperwork in government, an incentive for which the bureaucrats are only marginally accountable. If any philosophy exists, it should be that paperwork is presumed to be economically adverse to business and the country and thus, disincentives should correct the paperwork process. The paperwork that is essential for the benefit of the whole and the costs should be borne by the whole.

Mr. Chairman, I think this Bill, which I hope to solicit some comments on today, accomplishes the above objectives and restores small business to its rightful economic position before this insidious tax grew to absurd proportions. S. 604, the Paperwork Cost Reimbursement Act, requires an agency to reimburse a small business for the costs of submitting a required form. The payment must come from the agency's current budget, and the Bill will require the agency to "line item" in its annual budget request.

Just so we do not bite off too much, I have excluded the IRS, with its incredible burden, from this Bill. This is only aimed at the required, mandated paperwork.

Mr. Chairman, this is how I envision the Bill to work. For any given required form, a reasonable cost for preparation will be established. A uniform standard invoice will be prepared together by OMB, GAO, and SBA which will be made available to all small businesses. Thus, the agencies' costs will be well-known, and a moderate disincentive for paperwork will exist. Congressional control of the purse strings will see to that. Justifiable costs will be spread over the broadest possible base, and small businesses will not be artificially saddled with one of the worst economic deterrents known.

The Federal Reports Act of 1942 has its flaws, and the proponents for reform are varied. The whole philosophy of paperwork has to be re-evaluated. I think if we want to solve our country's economic burdens, we have to make some inroads on solving unnecessary paperwork.

Mr. Chairman, I would prefer to provide incentives to the government to cut down on paperwork or disincentives to keep sending so much paperwork out, and I think this would be one of the best ways of doing it. I believe that good government business managers would be scurrying all over the place to get rid of the useless and unnecessary forms, and you could extend the same plan to large businesses just as adequately. Our small businesses, in particular, have a burden. In the process, if we cut down on paperwork and have only that paperwork which is absolutely necessary, then I think we will be in a position of utilizing more dollars within the economy for its benefit as a whole. I think Mr. Kurtz will receive much more in taxes and tax revenues that will benefit our country. It would stimulate our economy and give our small businesses a chance to grow.

Thank you, Mr. Chairman. I appreciate your allowing me to make some comments at the beginning of this hearing. I welcome you fine gentlemen to the hearing today, and I am looking forward to your statements. I think we have an excellent group of people today who will help us understand, not only my Bill, but the issues we are concerned with.

Thank you again, Mr. Chairman.

Senator Culver. Thank you, Senator Hatch.

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Mr. Jones. I think what we are trying to do is significantly arrest the rate of growth and the burden Government imposes, and if that can be accomplished we have done something significant. Government is large and there are legitimate needs for information.

Senator Hatch. Mr. Chairman, that is why I brought up this antipaperwork Bill. You stress the frustrations of trying to solve the overlapping agency jurisdictions and the regulators determining how to cut down on paperwork.

What I have suggested are disincentives to paperwork. Let us mandate the agencies that require paperwork to pay the reasonable cost for that paperwork back to the businesses. It should be listed in a line item budget request. That would be the best disincentive to not have the continuation of this paperwork burden.

Don't you think that's a pretty unique idea?

Mr. Jones. Senator, I think it is a good idea and I would only mention one sort of additional point in relation to S. 604: there are few Federal reporting requirements that are imposed on business that we would say have a zero incremental cost; that is there are Federal reporting requirements imposed on businesses that if the Federal Government did not impose them, good common sense would indicate we do it anyway and in that case in terms of the issue of submitting an invoice for having provided the Federal Government with data that I, as a good and aggressive businessman would tend to accumulate myself, these are little issues that could be ironed out subsequently.

Senator Hatch. We are finding bipartisan support on both sides of the aisle, and I think I would have support from the bureaucracies. It is a nice way of saying back to the Congress that you have put it on us. You have said you think it is a good idea, and I believe Mr. Kurtz will back me up.

Do you really think it is not a unique idea that might put a disincentive in there?

Mr. Kurtz. I think it would have that result.

Senator Hatch. What about you, Mr. Granquist?

Mr. Granquist. Let me retreat to a bureacutic answer and then give you what I think. The first part of the answer is that we do not have an Administration position.

Senator Hatch. We would like you to comment on it

Mr. Granquist. If you will send it down, I will be glad to do that. When you talk incentives and disincentives you are talking my language. We have to change people's behavior down the line. Whether you do it, may be by making the person who puts out the requirement for information think: "boy, that is going to cost five bucks to get it." I do not think there is that kind of connection in the bureaucracies between Federal employees' behavior and the tax money they are spending.

Senator Hatch. It will be when they make their annual budgetary request. For example if HEW has a $40 million paperwork cost. That would be a tremendous disincentive if they had to march in front of the Budget Committee and every year have me ask the question, "why is it $40 million" and "should we give you that kind of money." They are going to have to justify at that point. That is the purpose of my Bill.

Mr. Granquist. I understand the purpose very well and I can understand very well and agree with your search for incentives.

Let me get on that line for one minute. You say when the Congress gave us the authority last year to change the Civil Service around we put in there very specific language to make very direct incentives possible for senior Federal employees and senior managers in the Federal service get their real pay increased upon the basis of what they do or do not do It seems to me that this is the kind of incentive we should be talking about and that is my second point.

The third thing I would point out to you is with respect to the cost that might be entailed in that Bill of yours. One, we have a problem of data base. Everybody argues how many hours it takes to fill out a form, et cetera, and how many dollars.

Senator Hatch. We have to have some basis of doing that. We allow the SBA to set the price.

Mr. Granquist. Frankly, the next point is there is a tremendous desire for information in the Federal Government. There is also a desire for that information when it is fed through the Federal Government in many cases to the business community. We have tried, in some cases, to cut that. The need for information is quite high, not only in the government but on the outside. If I went to Lincoln Moses today, the Administrator of the Energy Information Agency who is half crazy trying to find out where the gas is and if something I gave him—a report to find out where the gas is—if I denied that report to him I would really drive him crazy

Senator Hatch. I understand.

Mr. Granquist. The bottom line we ought to cut out the extraneous and unnecessary stuff.

Senator Hatch. The charge is incidental. What he cares about is not having to file a useless form. The disincentive I am talking about is that the government agency must justify that form on an annual budget request. That is an ingenious approach. We will have to see whether or not it would work in practice.

The CBO says "Over time, if agencies were required to implement this Bill with funds from their current budgets, an effort would be made to streamline the paperwork process, thus reducing the number of forms subject to reimbursement." I think you would have to agree with that statement.

Mr. Granquist. I do.

Senator Hatch. Mr Kurtz agrees with that statement, and Mr. Jones, you agree also?

Mr. Jones. Yes.

Senator Culver. There is also another disincentive that might apply and that is the agencies in their self-serving interest and their own budget preoccupation may well fail to obtain information that is clearly in the public interest to have, and who is to second guess that judgment?

Senator Hatch. I think we have to step in and make sure that is done. But that is a potential problem. There is no question about it.

What I find is that when people think of the idea presented in my bill, they universally think it is going to be a costly measure for the government to implement. But it may be worth the cost, partially because of the tremendous waste in paperwork today, and partially because it is the only way to create a disincentive for the agency paperwork.

I want to tell you how much I have appreciated your suggestion regarding the present legislation, not my bill but the present suggestion to correct it. Some of our House Members are working on a bill that has some merit. I do agree that this function should be transferred to one agency. I am going to support the suggestions that OMB could do a better job of overseeing paperwork control.

I am sorry I took so long on that point, Mr. Chairman. You have been gracious and I appreciate it.

STATEMENT OF JAMES BENNETT, PROFESSOR OF ECONOMICS, GEORGE MASON UNIVERSITY, ACCOMPANIED BY MANUEL JOHNSON, ASSISTANT PROFESSOR OF ECONOMICS

Mr. Bennett. The first thing that disturbed me about these entire hearings was the fact that as you well know, the Federal Reports Act came along in 1942 so we have had nearly four decades of experience with this whole business of bureaucratic self-policing, if you will.

I would submit to you that the people who were here this morning from OMB, from IRS and from GAO are essentially themselves part of the problem rather than part of the solution in that they have failed over a period of 37 years, if you will, to reduce the paperwork burden and, of course, it was a problem in 1942 or the bill would never have passed at that time.

Now with regard to Senator Culver's statement about pounding on the bureaucracy, I submit to you that you would have more luck whittling away at the Rock of Gibraltar with a marshmallow than you would in pounding away at the bureaucrats.

Asking a bureaucrat to police paperwork is like asking a fox to guard a henhouse.

Senator Stewart. Let me ask you a question in that regard. Are you not actually with this legislation, and I think it is a novel idea and good approach, but are you not really asking a body of Congress perhaps to do the same thing? Maybe I am not understanding it, but how do you provide a disincentive here for an agency that knows even though he will have to reimburse the businesses, that it will be a budgeted item. How do you get around that?

Mr. Bennett. Let me address the issue this way. The first point is if the paperwork is essential, it is for the public good.

Senator Stewart. Who makes that determination?

Mr. Bennett. If you will accept that assumption for a moment, let us assume we can define essential paperwork as paperwork that is essential to the good of the United States. If the paperwork is not essential we should not have it at all.

Senator Stewart. I agree with that.

Mr. Bennett. All right, the whole point of Senator Hatch's Bill is the fact that if the paperwork is, in fact, for the public good, the public should pay the freight. He who benefits should pay the freight. It is inequitable to ask a certain group to do something that is, in theory, for the good of the whole public.

Senator Stewart. As Mr. Westerfield said, he was keeping the books for the federal and state governments.

Mr. Bennett. That is right. If it is essential that we have this paperwork, it is only equitable for the people who benefit to pay the freight.

Senator Stewart. I buy that.

Mr. Bennett. Let us assume I am a bureaucrat. By the way, I happen to be an employee of a state university and I can qualify and do it with very excellent authority. The trip we had to Las Vegas last week is testimony to that.

Senator Stewart. Who paid for that trip?

Mr. Bennett. The State of Virginia.

Senator Stewart. All right.

Mr. Bennett. Not the federal government. The idea is that I get my benefits by increasing my budget. One of the ways of doing this is to come before the Congress and say we need to do this and this and this paperwork was associated with it. Now, suppose they come and say, well, we need x billions of dollars to pay off paperwork and you say we cannot afford this. What we are going to do is take it out of your travel budget just as an example. If you want to see some paperwork cut, you threaten to take some money out of the travel budget for paperwork and you will find out what paperwork is essential or not essential to their budget.

Senator Stewart. In other words, the Budget Committee would not make any determination as to what was essential or nonessential. All they would do is say if the figures seem high, they can cut the figure.

Mr. Johnson. It would be up to the agency themselves to determine what was essential and they could cut out what was not essential to avoid the high paper costs.

Senator Hatch. Wouldn't an agency have an incentive if we told them we are going to chop their budget, and that we will get rid of the nonessential paperwork. Then when they appear they can say, "this is what is essential". You will find them saying that rather than coming in and hiding what is nonessential.

Mr. Bennett. This is the exact logic that takes place. We have published two papers which put the economic theory of the bureaucracies in their place. One is more descriptive that has been published.

Senator Stewart. I would like to have a copy of those.

Mr. Bennett. Let me pass it up to you, Senator.

Senator Stewart. Unfortunately, government has a way of feeding on itself.

One thing I wanted to ask you. If this figure rose about $5 billion and got somewhere in the neighborhood of $35 or $40 billion, and realizing the budget deficit this year, depending on who you talk to, who is going to finance it?

Mr. Johnson. Even if it does grow somewhat?

Senator Stewart. That is more than somewhat.

Mr. Johnson. If the situation stays the same, OK, you are affecting a concentrated group of small businessmen when you are inflicting the total paperwork on these individuals and if it comes out of the general tax revenues you are disbursing the cost on an entire community. The burden is not really as great as it sounds.

Senator STEWART. How do you answer the question that the disproportionate share of the tax is paid by that small businessman? If you are going to say it is more fair, you are coming right back around to the same fellow who is having to pay the money for the forms and you create an apparatus to do that.

Mr. JOHNSON. I feel if Congress were to stand by and be totally ineffective on this issue—well, in theory I guess an agency could continue to appropriate larger and larger budgets but I cannot believe that an agency would attempt to go before Congress and try and get a huge appropriation because of paperwork.

Senator STEWART. You know, I saw yesterday where HEW Secretary Califano said oh, I guess four or five months ago, or maybe a year ago there was some $6 or $7 billion that had been misplaced in his department and he could not locate it. Congress through an amendment attempted to get him to cut his budget by $1 billion when some of us wanted to hold his feet to the fire so he would have to do that, the majority of the Members of the United States Senate voted in opposition so there you are talking about $1 billion and they had no qualms whatsoever acceding to the wishes of the department and it may be the same case here.

Mr. JOHNSON. It could be, but the primary advantage here is that the issue is going to get out in the open. The way it stands now, the bureaucrats could continue to simply shift this cost on the private sector and really never be held accountable whatsoever. They could continue to force private individuals to fill out more and more forms without ever being responsible whatsoever and there are thousands of bureaucrats and trying to manage that problem is impossible.

Senator HATCH. Or try to justify their existence.

Mr. JOHNSON. Yes. At least you can concentrate the responsibility in this area and it is advisable.

Senator HATCH. Mr. Chairman, can I interrupt for a moment?

Senator STEWART. Certainly.

Senator HATCH. This does not even include the savings in bureaucracies because there is a tremendous incentive within the bureaucracies to put out more forms to justify their existence.

If we can cut down on the forms, we are going to cut down on the bureaucracy also.

Mr. BENNETT. You are the first person in government I have known who has the bureaucracy pegged.

TAIWAN'S FUTURE

Mr. HATCH. Mr. President, despite the fears of many persons that U.S. recognition of the People's Republic of China represented the death knell for Taiwan, the Republic of China, there are clear indications that this is not going to be the case. Nearly one year after President Carter's surprise announcement that relations were being severed with Taiwan, that tiny island republic is freer and more prosperous than ever.

While I continue to view President Carter's actions on Taiwan as one of the most disgraceful diplomatic incidents in the history of our Nation, I am pleased to note that the events of the past year seem to have strengthened the resolve and independence of this country. It has proved extremely resourceful in responding to the crisis that the present administration has imposed upon them.

I call to the attention of my colleagues an excellent article on the future of Taiwan that appeared recently in "Current History." Its author, Theodore Hsi-en Chen, is professor emeritus of education and Asian studies at the University of Southern California. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TAIWAN'S FUTURE

(By Theodore Hsi-en Chen)

The normalization of relations between the United States and the People's Republic of China (PRC) was delayed for seven years because of perplexing problems. The Taiwan problem was certainly the most complicated and the most difficult.

The Taiwan problem was serious because the United States had a great deal at stake in Taiwan as a pillar of economic and military stability in the Pacific area and because Americans held heavy investments in Taiwan. United States-Taiwan trade was nearly $7.5 billion in 1978, 39.5 percent of the foreign trade of the Republic of China (ROC), making Taiwan the eighth largest trading partner of the United States. American business had invested $516 million in Taiwan's industries, and American banks had more than $4.1 billion in loans outstanding as of June 30, 1978. In pushing for normalization with the People's Republic before a deadline in December, 1978, President Jimmy Carter left the intricate Taiwan problem for later consideration, and Congress had to hammer out a workable formula to continue relations with Taiwan on a nongovernment basis after diplomatic relations between Taiwan and the United States were severed.

To say that President Carter's December 15, 1978, announcement shocked the government and people of Taiwan is to put it mildly. Many people in Taiwan believed that normalization of Chinese-American relations was inevitable but they did not expect the final decision would be so sudden. Even the United States Congress had not been informed of the progress of negotiations. In his interview with Walter Cronkite on December 19, President Carter revealed frankly that in the final weeks of negotiations he "did not consult with anyone outside of a very tiny group within the executive branch of the government" and that he did not want to jeopardize success by eliciting wide divergencies of views."

The shock and dismay of the people in Taiwan led to an eruption of intense emotion that threatened to endanger the peace and stability of the island republic. Facing an uncetrain future, the Taiwanese wondered whether the loss of security would jeopardize the life and livelihood they enjoyed. Fortunately for Taiwan and for the rest of the world, the initial shock led to an outburst of self-confidence and determination. Today, Taiwan is tranquil and peaceful. The government continues to pursue its goals of economic prosperity and politcal stability; the people go about their daily work with the vigor and optimism they showed before.

It is not difficult to understand the initial emotional reactions to the December 15 announcement. People in Taiwan hoped that American diplomacy would be able to find a formula that would avoid the complete and unqualified acceptance of the Chinese demands for the withdrawal of American troops from Taiwan, the abrogation of the United States-ROC Mutual Defense Treaty, and the severance of diplomatic relations with Taiwan. Taiwan had been given misleading assurances in the preceding months. On October 10, 1978, in a congratulatory message to the Republic of China on the sixty-seventh anniversary of its birth, President Carter sent wishes for the continued enjoyment of peace and prosperity in Taiwan. On November 3, amidst widespread speculation of a definite date for normalization, Secretary of State Cyrus Vance categorically stated that "no decisions have been made, nor can I predict what either the modalities or the timing would be" for the consummation of negotiations. As late as November 30, Assistant Secretary of State Richard Holbrook still maintained in a public address that "we do not have a firm timetable." The government of Taiwan was neither consulted nor forewarned.

The government and people of Taiwan resented the fact that the United States government informed the governments of Japan and the Soviet Union of the impending announcement before it sent a last-minute message to Taiwan. The United States Ambassador to the Republic of China went to the residence of President Chiang Ching-kuo after midnight and awakened him to break the news that some seven hours later the President of the United States would make an announcement that would affect the status of Taiwan and its relations with the United States.

Some observers expected a decline of morale in Taiwan. But the threat to stability lasted only a few days. After a brief decline, the stock market regained its health and real estate values remained steady. There was no flight of capital and no rush of people emigrating. On the contrary, liberalized government regulations on travel made it easier for residents to obtain passports and exit permits for travel.

Early slogans of indignation and protests were replaced by vows and pledges of a more constructive nature. A huge wall poster erected by the students of National Taiwan University urged their countrymen "to be firm with dignity, to be calm in time of adversity, and to stand up courageously to fight for the future." It stressed self-reliance: "Only we can save our own country; only we can pave the way ahead for ourselves." Expressive of the same spirit was a poster prepared by art students of the privately owned Yu-Teh Middle School, which featured plum blossoms, the national flower of Taiwan. Above the picture of a plum tree in bloom was the caption: "Plum Blossoms: the more severe the cold the more luxuriantly they grow."

There was an upsurge of patriotic fervor. Within 24 hours after December 15, a nationwide campaign was on foot to make voluntary contributions to a Self-Reliance and National Salvation Fund. *The Los Angeles* Times reported on December 21, 1978, that the contributions had added up to U.S. $5 million in a matter of days; a woman gave the proceeds from the sale of her pet dog, other women gave up their jewelry, a retired soldier donated his life's savings, factory workers contributed a day's pay, a taxi driver offered a month's earnings, a movie star gave more than $300,000, and an industrialist contributed $1.40 million. Gifts filled roadside collection boxes; leading newspapers and banks served as recipients on behalf of the fund, which was set aside to bolster defense capabilities. A proposal to earmark the fund for jet fighter planes was accepted by the government, which authorized the purchase of 18 FSE jet fighters to form a Self-Reliance Air Force Squadron, to be inaugurated on the traditional October 10 National Day of ROC in 1979.

By the end of May, the total receipts of the Self-Reliance and National Salvation Fund reached the equivalent of approximately $10 million. The contributions continue to pour in; enthusiasm is still high; and the spontaneous expression of patriotic fervor is impressive.

PROSPERITY

Taiwan is advancing steadily from a developing country to a country in a promising stage of industrial growth, recognized as one of the most attractive areas for investment by major foreign financial and business institutions. Mounting trade surpluses add up to an accumulation of foreign reserves worth about $6.5 billion, and the rate of growth accelerated in the months after the severance of relations with the United States. The Ministry of Economics Affairs announced that the total volume of imports and exports in the first quarter of 1979 amounted to $8,855.2 million, a 36.9 percent increase over the same period of 1978, and economic growth reached 10.7 percent although the target set by planners for the entire year was only 8.5 percent. Per capita income, rising each year, now exceeds $1,304; it was $719 in 1968. Major projects of construction and development are proceeding without interruption. Signs of prosperity are evident everywhere: the eye-catching international airport, the new housing projects, the modernized look of rural villages, the way people dress as they walk along the streets or dash about in motorcycles, the brisk business in department stores, even the maddening traffic on the streets of Taipei.

The increase of foreign investments in Taiwan in the first quarter of 1979 testifies to the confidence of investors. Japanese investors top the list, with the Americans a close second. Government officials are gratified by the increase of the investments of overseas Chinese because they see in this increase a sign of continued close links with Chinese abroad.

In the euphoria of heightened prosperity and the enjoyment of a high standard of living, American derecognition is not a subject of everyday conversation. President Chiang Ching-kuo, Premier Y. S. Sun, and other government leaders have emphasized that the United States and Taiwan have common interests in the Pacific area and that both countries have much to gain from close cooperation and cordial relations.

The Taiwan Relations Act, enacted by Congress to define and implement the new relationship with Taiwan, contains provisions designed to protect the rights and interests of Taiwan in the absence of formal diplomatic relations with the United States. There is to be no change in the application of United States laws "with respect to Taiwan prior to January 1, 1979"; no abrogation or modification of "any rights or obligations . . . under the laws of the United States heretofore or hereafter acquired by or with respect to Taiwan"; and others expressing similar intent.

To allay fears of vulnerability to attack after the termination of the Mutual Defense Act, the Act declares that "peace and stability in the area are in the political, security, and economic interests of the United States, and are matters of international concern" and that "any effort to determine the future of Taiwan by other than peaceful means, including boycotts or embargoes" will be considered "a threat to the peace and security of the Western Pacific area and of grave concern to the United States."

The Taiwan Relations Act, if and when it is fully implemented and approved by President Carter, will soften the effects of derecognition on the practical relations between Taiwan and the United States. To comply with the normalization agreement, the American Institute in Taiwan, a nongovernmental entity, has been established and is functioning as an officially recognized agency directed to represent the United States in its relations with Taiwan. Its staff consists of United States foreign service personnel temporarily separated from government service but entitled to later reemployment or reinstatement with no break in continuity of service and compensation, including benefit programs for health and life insurance and retirement.

The Taiwan counterpart of the American Institute is the Coordination Council for North American Affairs, established by Taiwan's government to represent Taiwan in the same way that the Institute represents the United States. The Council has a main office in Washington, D.C., and branch offices in the eight American cities where ROC consulates were located. The branch offices of the council are in the premises formerly occupied by the ROC consulates, and there is little change in the scope of activities except for the absence of official relations with the United States government. There are direct communications between the institute and the council, both of which are officially recognized by both governments. The director of the American Institute in Taiwan and the director of the Coordination Council for North American Affairs held ambassadorial rank prior to their current appointments.

The Taiwan Relations Act bears testimony to the ingenuity of American lawmakers, who designed a program to preserve American interests and continuing relations with Taiwan within the framework of the normalization agreement. Japanese leaders have already expressed a desire to revise their relations with Taiwan by incorporating some features of the Taiwan Relations Act. France has taken steps to broaden its activities in Taiwan; West Germany and other countries may follow suit.

Taiwan's current policy is to continue to strive for a sound economy and to seek closer cooperation with friendly countries, especially the United States, to maintain and advance peace and stability in the Pacific area. Measures are being taken to make trade relations and investment opportunities more attractive to Americans. To help relieve the United States trade deficit Taiwan has adopted a "Buy American" policy, buying what it needs from the United States to cut its trade surplus with the United States. Three purchase missions were dispatched to the United States in 1978. The first negotiated in 19 different states for the purchase of agricultural products and industrial materials and equipment totaling $268.86 million, of which more than half was spent on agricultural products like corn, soybeans, and wheat. The second mission bought even more goods, totaling $786.7 million. A third mission contracted to buy $560 million worth, including $334 million worth in agricultural products. Two similar missions have been announced for 1979. Procurement missions have also been dispatched to Japan and Korea.

At present, Taiwan imports only American-made passenger cars. While investors from several countries are eager to invest in Taiwan, the government accords priority to Americans. Two contracts signed in May 1979, were the result of this policy: a joint venture with the Chrysler Corporation to build a $70 million factory in Taiwan to manufacture trucks, and a $100 million plant to produce big turbo-generators in a joint venture with General Electric. In both instances, bidding was restricted to American companies.

LOOKING AHEAD

Taiwan's leaders repeatedly declare that the strength of the government lies in the advancing economy and the support of the population. The two are inseparably interrelated. The Taiwanese support the government because it has encouraged a prosperous society in which the people enjoy the benefits of modernization. In the event of a serious economic decline, however, popular support would dwindle. Economic advance depends on trade, and a constant flow of imports and exports must be maintained. Taiwan's future clearly depends on the maintenance of adequate security to insure the uninterrupted flow of trade and the availability of foreign loans and investments.

As a success story of growth and development, Taiwan has captured the imagination of developing countries. Thanks to her dynamic economy, she has won the respect of the world. Taiwan enjoys diplomatic relations with more than 20 countries, none of which have been influenced by the withdrawal of American recognition. Teams of technical experts from Taiwan render service in African countries. Saudi Arabia recently requested the assistance of medical personnel from Taiwan to help provide modernized health service; for five new hospitals constructed by a German contractor, Saudi Arabia has asked Taiwan to send doctors, administrators, nurses and engineers to take charge of the operation and management. Taiwan has also agreed to send agricultural personnel to help develop agriculture in Saudi Arabia. This cordial relationship has proved to be of direct benefit to Taiwan in the current oil shortage; Saudi Arabia and Kuwait, the largest suppliers of oil for Taiwan, both continue to maintain diplomatic relations. Nevertheless, while cordial relations with developing countries are gratifying and beneficial, the government must explore new ways of carrying on relations with major powers on a scale that can determine future growth and stability.

The spectacular growth of the economy and the appropriations for huge construction projects raise the question of inflation. Taiwan cannot avoid the effects of worldwide inflation. Price control and other related measures have managed to keep the inflation to six to eight percent, but the rate is expected to reach or exceed 10 percent in 1979. Although inflation is due in large measure to the high prices of imports, a campaign has been launched to curtail extravagant consumerism and encourage savings. As far as the economy is concerned, the government has announced a policy to move from light industries to heavy industries like the metal and petro-chemical industries that involve the intensive utilization of science and technology. Agriculture and rural development have not been neglected. In May, the government announced an additional appropriation of the equivalent of almost $100 million for agriculture and the modernization of rural life.

There has been a constant elevation of the standard of living; wages and family income have been on the rise. Parks, museums, theatres, and music halls draw large crowds seeking fun and recreation. This is the good life for millions of people in Taiwan. A visitor does not have to look hard to see evidences of good living. People dress well when they go about their daily activities, even when they go to the parks and recreational centers for their daily exercise at the crack of dawn. There is no organized exercise program, no set regimen for the thousands of people who swarm the parks and the hillsides in pursuit of physical culture, which seems to have become a fad. A small group may be practicing the Tai-Chi "boxing"; an old lady may choose to stay behind a tree bending, waving and kicking to exercise her muscles; younger people may be playing badminton; others may just sit or ramble to enjoy the fresh air of early morning. Electricity, refrigerators, running water, bicycles and motorcycles are commonplace. There is a telephone for every 8 persons and more than 3 million television sets for the population of 17 million.

A discussion of the internal situation in Taiwan would be incomplete without mention of the political factor. Stability is not only a matter of economics; it is also a political condition. Government leaders seem to realize this. Since he assumed leadership, President Chiang Ching-kuo has made a special effort to recruit into government service promising young men, including "Taiwanese" who are the descendants of migrants from China several generations ago.[*] Fortunately, the barrier between the native Taiwanese and the mainlanders has been slowly and steadily decreasing, especially among the young generation. The school system, the national language (Mandarin) and universal military service have proved to be effective unifiers.

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[*] The incumbent Vice President, the Vice Premier, the governor of Taiwan province and many lower-rank officials are native-born Taiwanese.

President Chiang Ching-kuo enjoys personal popularity. The high-echelon leaders of the government are capable and dedicated public servants whose talents, vision and wholehearted devotion have made Taiwan strong. Most people in Taiwan support the government, although a few frustrated and discontented individuals may express themselves in ways that are more emotional than constructive while an even smaller number may incite disruptive activities. A distinction must be made between dissent and rebellion. It is encouraging to note that recent years have witnessed a trend toward liberalization to permit dissent in speech and writing. Taiwan's newspapers and journals are expressing ideas that differ from official views and are frankly critical of government policies. There is more debate on controversial issues.

Given reasonable assurance of security, Taiwan will continue to develop its economy, bring prosperity to its population, and attract foreign loans and investments. It is hoped that Taiwan's leaders will apply their vision and resourcefulness to politics, and will institute political reforms to match and consolidate Taiwan's economic, educational and social progress.

CUBAN SPIES IN WASHINGTON

Mr. HATCH. Mr. President, recently there have been newspaper reports of substantial activity by the Soviet KGB in the United Nations. Arkady Shevchenko, the former top ranking Soviet official in the United Nations, has suggested that nearly half of the Soviet delegation to the United Nations may be associated with Soviet intelligence agencies.

An overlooked article that recently appeared in the London Daily Telegraph has suggested that similar activity may be taking place closer to home for most of us. According to a September 3 piece by the respected journalist Robert Moss, Cuban intelligence forces have been increasing their activities sharply in Washington. As he observes, "one of the most assiduous visitors to Capitol Hill these days is a very sociable, nattily dressed black Cuban called Teofilo Acosta Rodriguez," whom Moss proceeds to identify as the station chief of Castro's secret service, the DGI, in Washington. Acosta is reported to have remarked to a congressional staffer that he "had a number of Senators and Congressmen in his pocket."

While I seriously doubt the accuracy of Mr. Rodriguez' statement, I nevertheless ask my colleagues to take a closer look at the Telegraph's report of growing Cuban activity in Washington. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE DAILY TELEGRAPH EXPRESS "CASTRO SPY" IN WASHINGTON

One of the most assiduous visitors to Capitol Hill these days is a very sociable, nattily dressed black Cuban called Teofilo Acosta Rodriguez.

He is supposedly a first secretary in the Cuban interests section that has been set up inside the Czech Embassy in Washington. The section has a staff of 12 accredited diplomats and is headed by Sr Sanchez Parodi.

In fact, Acosta is the station chief of Castro's secret service, the DGI, in Washington.

According to a Cuban intelligence defector, who now lives in Miami, Acosta was formally recruited as a DGI officer in 1967 after a not particularly distinguished career as a journalist. In his DGI capacity he toured the PLO camps in Syria in 1969, becoming a member of the so-called Palestinian Mafia" within the Cuban secret services whose influence is particularly marked today in the campaign to subvert Central America.

Acosta boasted recently to a Congressional staffer that he "had a number of Senators and Congressmen in his pocket."

While that may be dismissed as a piece of crude braggadocio there is no doubt that the effort to influence Congressional opinion ranks very very high among the tasks that have been assigned to the DGI in the United States by its Soviet mentors.

The KGB has long appreciated that many Westerners—in Europe as well as the United States—feel far fewer inhibitions about dealing with Cubans than about dealing with Russians or East Europeans.

This is no doubt attributable to Castro's surviving image as a romantic guerrilla leader and to a widespread failure to understand how completely his regime has fallen under the Soviet sway.

Since 1969, for example, the DGI has been totally controlled by the KGB "liaison team," originally headed by Gen Vitaliy Semenov, which shares its offices.

The KGB supplies a special fund to enable the DGI to carry out foreign missions on its behalf.

The DGI contains seven divisions, or lineas. The Political and Economic Intelligence Division has primary responsibility for espionage and subversion in Western countries. Its chief, Ramon Oroza Naveran, used the nom de guerre of "Demetrio" when he ran the DGI's notorious Section III, responsible for deploying "illegals" (spies who do not use diplomatic or other official cover) in target countries.

The division chief's previous employment provides a clue to why the KGB sets a high valuation on Castro's secret service when it comes to spying on the United States.

Given the presence of a Cuban exile community of some 700,000—not to mention several million other Spanish-speakers, mostly of Mexican or Puerto Rican origin—it is singularly easy for the DGI to smuggle in illegals.

The task is made even simpler by the breakdown of internal security inside the United States exemplified by the fact that the FBI is no longer even trying to keep tabs on some of the identified DGI officers who are working under United Nations cover in New York when they regularly breach the official ban on travel inside the United States beyond a radius of 250 miles.

The Cuban Mission to the UN in New York, which occupies an imposing mansion at 6 East 67 Street, has become the largest DGI base outside Cuba itself.

Over the past three years, the number of "diplomats" accredited to the mission, whose nominal chief is Ricardo Alarcon de Quesada, has expanded from 35 to 77.

Most of them report to either the DGI or the Department of America—an organisation directed by the former DGI chief, Manuel Pineiro Losada (whose nickname is "Barbaroja" or "Red Beard") under the auspices of the Central Committee of the Cuban Communist Party.

The Department of America has special responsibility for subversion and terrorist support operations in the Western Hemisphere, but there is no hard-and-fast distinction between its role and that of the DGI in the field.

Some Western analysts suggest that there is no such thing as a legitimate Cuban diplomat, not merely because two-thirds or more of Cuban diplomats abroad are professional spies, but because the Ministry of Foreign Affairs in Havana is under the de facto control of the DGI.

The freedom of maneuver that the DGI has been able to establish for itself inside the United States has allowed it to provide staff back-up and logistical support for the series of Castro-backed political upheavals that are convulsing the Caribbean.

The first case that came to light this year was that of the successful coup by the "New Jewel" movement on tiny Grenada.

Weapons for the coup were purchased from private arms dealers by black Grenadan students from Washington's Howard University and stored in a house at Hyattsville, only 10 miles away from the American capital.

The police investigating breaches of the gun laws discovered that these students were being advised by Chilean exiles who, in turn, were close to Julian Rizo, then the chief of the DGI station in New York.

Rizo's own stake in the Grenadan revolt became obvious when he was appointed ambassador to the island as soon as the coup had taken place.

The manner of arrival of Rizo's accompanying squad of four DGI men within a few days of the coup was pure burlesque: A Cuban plane, claiming engine trouble, came in to land but took off again within a quarter of an hour—not before depositing the DGI men on the ground.

The delegates who are in Havana for the non-aligned summit this week might, indeed, do well to glance around the neighbouring territories to see what kind of men Dr. Castro has selected as his ambassadors of neutralism in Central America.

The Cuban representatives in St. Lucia and Dominica are both men with long backgrounds in the Department of America.

In Jamaica, which is one of the most important bases for Cuba's efforts to expand its influence over the region, the Cuban ambassador, recently appointed, is Sr Ulises Estrada. He is a prominent member of the DGI's "Palestinian Mafia."

He is a close friend of the Department of America chief and was previously DGI station chief in Cairo. According to Western intelligence sources, Estrada is not only working to push Michael Manley, Jamaica's prime minister, further down the road to Cuban-style socialism, but is encouraging him to play a more prominent role in marrying up diverse radical Third World causes.

In Costa Rica, the most important Cuban-in-residence over the months preceding the Sandinista take-over in a neighbouring Nicaragua was Julian Lopez Dias.

Lopez Dias has received high honours from Dr. Castro for his work in assisting the Nicaraguan revolution. (The recent expulsion of Trotskyites from Nanagua was a confirmation of Cuban influence over the Sandinistas, not the contrary; commentators who prattled about a "crackdown on the ultra-left" had clearly forgotten that there is a rift in the world communist movement and that the Cubans stand squarely on the Soviet side of the argument.)

Lopez Dias has received new assignments in Central America. The principal target that has now been assigned to him is believed to be Guatemala. This would fit in with the past background of this more-than-usually adventurous DGI officer.

In 1966, when he was working for the DGI in Mexico City under cover as a cultural attache at the Cuban Embassy, he was caught redhanded passing arms and money to a revolutionary Guatemalan.

Three years later he was the architect of what the DGI called "Operacion Estrella"—a successful attempt to spirit a hunted guerrilla leader from the Dominican Republic out of The Hague and via Paris and Geneva to sanctuary in Moscow.

Lopez Dias will be a man to watch wherever he next surfaces, in the next phase of

Dr. Castro's ambitious powerplay in Central America.

MICHAEL UHLMANN AND THE NATIONAL LEGAL CENTER

Mr. HATCH. Mr. President, it is disturbing to me that the concept of the "public interest" is a concept that has been largely appropriated by those individuals and those causes that invariably support the extension of Federal authority into matters hitherto reserved for States and localities, or for the private sector. This is particularly true with respect to the proliferation of "public interest" law firms that we have suffered in recent years, most of whom regularly litigate in behalf of causes that are not only unsupported by the public generally, but are actively opposed by a majority of the American people. Mr. Nader's "public interest" crusades in behalf of seatbelts, and in opposition to saccharin, represent this phenomenon.

I am pleased then to note the continued development of the National Legal Center for the Public Interest, headed by Michael Uhlmann, which has a different conception of what it is that the "public interest" represents. At the very least, the existence of his organization makes clear the fact that there are differing notions of "public interest," a fact that I suspect Mr. Uhlmann appreciates far better than Mr. Nader despite the name of his organization.

The National Legal Center coordinates litigation nationally on issues of public policy. Unlike the "public interest" conglomerate of Mr. Nader, the National Legal Center recognizes that occasionally the "public interest" requires the limitation of power in the central government. I ask unanimous consent to print in the RECORD an excellent article on the National Legal Center by columnist James J. Kilpatrick.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A BALANCE TO MR. NADER

(By James J. Kilpatrick)

In the familiar image, the goddess of justice carries evenly balanced scales. In certain areas of litigation, chiefly those beloved by Ralph Nader, the scales have been out of whack for years. Now things are evening up, and it's good news all around.

The National Legal Center for the Public Interest, headed by a ball of fire named Michael M. Uhlmann, is providing a conservative counterweight to the liberal forces exemplified by such organizations as the Consumers Union, the Sierra Club, Common Cause and Mr. Nader's various fronts. Thanks to the Center, heavy-handed agencies of the federal government are having to meet an opposition with a powerful clout. The Jane Fondas of the antinuclear claque no longer have it all their own way.

The Center came into being four years ago largely through the energy and persistence of Leonard J. Theberge, who was then general counsel for Rohr Industries. With increasing resentment, he had seen liberal groups dominate court proceedings on public issues. Here the Sierra Club was filing suit as a plaintiff; somewhere else Mr. Nader was filing a brief as friend of the court. Federal legal-aid corporations were all over the landscape.

A contrary point of view—the point of view of those opposed to expansive government regulation—seldom was effectively presented. Impressed by the thought that what is sauce for the goose is sauce for the gander, Mr. Theberg went to work. Over the next three years he set up six regional litigating foundations.

Mr. Theberge's idea was to avoid the virus of regimentation that infects foundations with a single controlling authority in Washington. The regional centers operate with a high degree of independence as watchdogs in their own areas. The national office now serves primarily as a back-up service center providing topflight research and expert witnesses. From time to time the national office also stages conferences on such issues as the freedom of commercial speech.

Mr. Uhlmann succeeded Mr. Theberge last spring. He is an engaging young Virginian with a doctor's degree in government in addition to his law degree. He taught law for a while at California State University, then came to Washington as assistant general counsel of the Federal Trade Commission. Under President Ford he served as an assistant attorney general. If he were on the tennis circuit, it would be said that he has the zest for combat of Mr. Connors and the jugular instincts of Mr. Borg.

Over the past four years, the several regional foundations have lost a few cases. The Southeastern Legal Foundation lost on the matter of the snail darter at Tellico Dam; the Supreme Court ruled that the dam had to be stopped under the strict requirements of the Endangered Species Act. The Mountain States Foundation lost on a question involving educational benefits under the GI Bill of Rights. But conservatives tended to disagree on the snail darter, and the GI decision avoided the constitutional questions the foundation sought to raise.

Otherwise the record is remarkably good. The Mountain States Foundation helped to win a big one in a suit to compel the Occupational Safety and Health Administration to get warrants before searching private businesses. The Mid-America office had a hand in the reverse discrimination case of Allan Bakke in California. The Southeastern Foundation has challenged the declared policy of Virginia Commonwealth University to hire only women as new faculty members. In a delightfully impudent proceeding here in Washington, the Capital Foundation has taken on the government itself for unlawful air pollution at a couple of federally owned heating plants.

Looking over a list of the cases in which the National Legal Center has intervened, I see a few in which I myself might have taken the other side. The snail darter's defense, on reflection, was not as ridiculous as it looked at the time. But American conservatism rarely presents a monolithic unanimity. It is a good and healthy thing to have competing views responsibly and vigorously presented in our courts, and if all of this annoys Mr. Nader, few of us will shed a single tear.

THE GRANTSMANSHIP HUSTLE

Mr. HATCH. Mr. President, a great deal has been written in recent years of the emergency in post-industrial America of a new class. These are individuals, usually in the upper middle class, whose political liberalism—or radicalism—can be closelv identified with their own economic self-interests. Discussing this concept in great detail is a recent book edited by B. Bruce-Briggs entitled "The New Class?" containing contributions by such observers as Daniel Bell, Peter Berger, Michael Harrington, Seymour Lipset, Norman Podhoretz, and Robert Bartley.

Typifying the new class perhaps better than any other group is the growing legion of persons in this country dependent upon Federal grants of every conceivable kind. In particular, this is true of those persons—consultants, management advisers, or foundation grantsmen—who exist to advise others on how to penetrate the Federal bureaucracy in search of public money. As the New Republic has observed, "helping others hustle grants is a hustle of its own."

I call to the attention of my colleagues an interesting article on this growing profession recently appearing in the New Republic. Only by understanding the development of the grantsmanship technique, in my opinion, can one truly understand the way in which public spending programs become institutionalized through the creation of their own constituencies, and the difficulties inherent in paring or eliminating such programs. I ask unanimous consent to print this article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GRANTSMANSHIP HUSTLE

(By Stan Luxenberg)

In the offices of nonprofit organizations the mail piles up. Dozens of letters, brochures, charts—all of them promoting people who claim to be masters of the art of luring grant money. Some of the ads tout newsletters designed to steer the harried nonprofit executive through the labyrinth of Washington's grant-giving agencies. Others describe how-to-do-it training sessions or "management advisory services." These self-styled experts are part of an industry that has boomed in the last several years: grants consulting.

Competition for grants has increased as more organizations grow dependent on government and foundation largesse. Sometimes organizations are set up to administer a particular grant; their cause expires or their "starter" grants run out, and they must find new money or go under. Sometimes established institutions, such as universities and churches, find themselves using grants for specific projects to help pay their overhead costs; soon they are hooked and need regular new grants to survive. Meanwhile inflation has eroded the endowments of the large foundations, and the tax revolt has made grants a tempting target for government budget cutters. This means there is less grant money available, making competition even fiercer.

The competition drives grant-dependent organizations to hire experts at finding and winning grant money. Such experts have prospered, enticing others who know their way through the grant thicket to set up as consultants. And as more consultants produce increasingly polished grant proposals, pressure grows on agencies not using a consultant to hire high-priced outside talent. James Lewis, director of Columbia University's Office of Projects and Grants, says that in the last year the volume of mail he receives offering consulting services has tripled.

There are about 500,000 nonprofit organizations in the U.S., many of them competing for the more than $50 billion in grant money available each year. Aiding this pursuit are 10,000 full-time professional fundraisers. About 2500 of these are consultants; the rest are staff members of institutions or government bodies. There are also about 40,000 people who spend part of their time raising funds." All of them have to make a living," points out John Brakeley, head of Brakeley, John Price Jones, a fundraising firm. "The competition is ferocious."

Most grants consultants used to be fundraisers on same grantee's staff. The pool of potential consultants is constantly growing. Yale University, for example, recently completed a campaign that raised $370 million. A staff of 100 worked on the project. Now many of them will be looking for jobs and calling themselves professional fundraisers.

Grants consultants range from freelance operators working out of their homes to large firms that charge substantial hourly fees and handle dozens of clients. There are about 30 major fundraising firms, most of them belonging to the American Association of Fundraising Counsel. Together they employ about 900 consultants. Brakeley's firm is one of the premier operations. Charging from $500 to over $1000 a day for the services of a staff member, Brakeley grossed more than two million dollars last year. Clients include the US Olympic Committee, Washington's National Cathedral, Dartmouth College, and UCLA.

Brakeley entered the fundraising business in 1938 as an employee of the firm then called John Price Jones. At the time, most of the money collected came from private donors. After World War II the federal government began giving away huge amounts of grant money. The Ford Foundation, with its much-publicized challenge grants, stimulated many organizations to increase grant giving. Brakeley and his colleagues became very prosperous. In 1953, Brakeley purchased the Canadian subsidiary of his firm, setting out on his own. Three years later he landed his first US account, Stanford University. In 1972, Brakeley bought out his former employer.

Brakeley still pursues private donations, but many consultants specialize exclusively in grants from foundations and the government. Like lawyers, grants consultants may or may not help their clients, depending on the skill of the consultant and the nature of the case. No consultant, no matter how shrewd, can achieve a 100 percent success record. If 300 school districts apply for 20 HEW grants, as sometimes happens, some clients will come out losers.

Whether the client is a senior citizens center of a ballet company or a university, the consultant typically begins by examining the institution and determining what sorts of funds it might raise. Brakeley describes his initial activities as a marketing study. "You go out and look at whether the product will sell," he says. "Have they got the salesmen? Have they packaged the product properly?"

Once the consultant has learned the nature of the institution, he or she begins searching for possible funding sources from among the 26,000 foundations in the U.S. and hundreds of government agencies. For someone unacquainted with the grant business, this might well seem like a task requiring an experienced specialist. And indeed, a skilled grantsman should have an advantage over a novice. But just as lawyers often mystify relatively simple legal procedures and charge unknowing clients huge fees, grants consultants tend to present their search process as a secret—and expensive—operation.

The Foundation Center, a nonprofit organization based in New York and supported by foundations, maintains libraries around the country that list all foundations and explain what grants they have given. For a fee the center will conduct computer searches to identify organizations that provide funding in particular areas such as programs for the handicapped or the arts. The lists are always a year old, and foundations tend to be trendy. What is fashionable one year may be out of vogue the next. Even so, the Foundation Center gives the prospective applicant a fairly reliable idea of where to start looking for grants.

Public libraries often have lists of foundations. The New York Public Library, for instance, has one heavily used shelf in its reference section of books that contain lists of grant-giving institutions and explain how-to-do-it. The government provides information on its grants in the Catalog of Federal Domestic Assistance and in publications like the *Federal Register*.

After determining likely funding sources, the consultant begins discussing strategy with the client. Consultants typically advise clients to take such common-sense steps as asking members of their boards of directors if they know anyone on the boards of foundations or in government agencies that might be a source of money. Before spending time preparing a written application, the client is told to talk to a member of the funding source's staff to see if there is a reasonable chance of success. Consultants cannot normally act as agents in discussions with funding groups, since the agency staff usually will insist on talking directly to the people who will be spending the money. But the consultant can write the application and coach the client on what to say in an interview.

The importance of the written application varies. Private foundation executives, such as those at the Ford Foundation, tend to be cautious when faced with the hordes of grant seekers. They usually give money to well-known institutions or groups bringing references from people known to the foundation. The most compelling written application will be of limited value in these cases and a nonprofit group paying a consultant to do the written work is probably wasting its money. But in dealing with the government, an artfully prepared application put together by a professional grantsman may improve chance of success. Government grant applicants are read and graded by outside readers, who often are former recipients of grants from the same agency.

Some organizations retain a consultant for years. It is often cheaper to hire a consultant than it is to put someone on salary full time. Fundraising is a full-time occupation, even for well-endowed organizations. Many grants last only for a year or two and organizations must constantly look for new sources. Each year an organization may send out dozens or hundreds of applications to win the few grants it needs to survive.

Some consultants specialize. Tom Stribling was a grant writer for the City University of New York. Four years ago he set out on his own, handling a regular group of clients and working out of his Manhattan apartment. Stribling specializes in education grants. He does work for Bronx Community College, the University of Bridgeport, and the public schools of Stamford, Connecticut.

Jane Geever, who considers herself a radical, heads the all-woman consulting firm she founded three and a half years ago. Geever first learned about grants while working for the United Nations. She worked for another consultant for a while before opening her own business. J. C. Geever Inc. has a staff of 14 and about 10 clients, all fairly small nonprofit agencies. The firm charges $19,000 a year for its services and grossed $250,000 last year. For the fee a client gets the services of an account executive, a backup person, and Geever, who supervises all operations. The fee is lower than comparable consulting firms, which tend to charge around $60,000 a year for similar services. Some nonprofit organizations have received special grants in order to pay Geever's fee.

Universities have begun to offer courses on how to write a grant proposal. These courses usually are part of the adult education programs started by many schools to attract older people into empty classrooms. New York University's adult education program has sponsored grant courses offered around the country. The University of Detroit and the University of Chicago also have grantsmanship programs.

The New School for Social Research awards a masters degree in fundraising. Its catalogue offers several courses in subjects such as writing proposals and administering grants. In 1977, Virginia White was asked to teach a course in grant writing at the New School. Ms. White suggested that the course be conducted as a seminar with 15 to 20 students. When 157 students signed up, she ran the class as a lecture series. In 1978, when the New York newspaper strike prevented the New School from advertising its offerings, an administrator told Ms. White to expect few students in her class. Over 100 signed up.

Hunter College of the City University of New York has begun a four-course curriculum in grant writing. Students completing the program receive certificates. The courses cover the history of grant making, the government grant-making process, the role of grants officers in nonprofit institutions, and proposal writing. Last year 100 students enrolled. Most are on the staffs of nonprofit agencies and they are sent by their employers.

The literature on grants is growing. Virginia White's Grants has gone through six printings and has been an alternative selection of the Macmillan Book Club and the McGraw-Hill Book Club. The 354-page book goes for a steep $19.50. Because of the volume's success, Ms. White's publisher, Plenum Press, induced her to leave her job at the City University to become editor of Grants magazine, a quarterly that contains articles on various funding bodies and on the state of foundations and the nonprofit sector. Subscriptions cost $45 a year for organizations and $22.50 for individuals.

Dozens of companies and consultants put out newsletters about grants to be used by nonprofit organizations. Some simply cull the Federal Register for news of funding approvals and compile this into listings of interest to grant officers. There are listings for funding of biomedical research and funding of the arts, for example. Brakeley, John Price Jones used to put out lists of donors who gave a million dollars or more to its clients. But it discovered that some company had reprinted the list and was selling it through the mail.

Something called the Public Service Materials Center puts out *Where America's Large Foundations Make Their Grants* ($24.00), and *Foundations That Send Their Annual Report* ($4.75), a listing of names and addresses of large foundations. *Federal Grants and Contract Weekly*, a newsletter for those wanting to keep abreast of money-raising possibilities in Washington, costs $114 a year. *Research Monitor* supplies profiles of federal programs supporting research. The service sends out weekly bulletins covering news affecting funding. The materials comes with binders and filing systems and costs $375 per year.

Besides the profit-making grantsmanship operations, there are dozens of nonprofit counseling services supported by the other nonprofits or by grants they themselves get. Welfare Research Inc., which receives grants from 18 sources, helps nonprofit agencies in New York write grant proposals. Perhaps the most well-known nonprofit counseling service is the Grantsmanship Center in Los Angeles. Since it was founded in 1972, more than 10,000 people have attended the center's five-day training sessions. For a fee of $325, representatives of nonprofit agencies and others interested in grants learn about program planning and fund seeking. Students write sample grant proposals that are criticized by the trainers.

All graduates of the Grantsmanship Center course get a free one-year subscription to the *Grantsmanship Center News*, which claims a readership of 80,000 and otherwise costs $15 for the six issues published each year. The publication features how-to articles and interviews with government and foundation officials who explain what they look for in grant proposals. Nonprofit organizations around the country host the training sessions. This year host organizations include Planned Parenthood in New York City, the Pennsylvania Bureau of Human Resources in Harrisburg, and the Houston YMCA. Places in sessions are in demand as groups rush to get what they believe is a detailed look at how the grants business works.

WHITHER THE FEDERAL JUDICIARY?

Mr. HATCH. Mr. President, to the attention of almost nobody, the Carter administration and the Senate Judiciary Committee have been reconstructing the judicial branch of our Government during the past year. The Federal judiciary that will emerge from the 96th Congress, and its installation of more than 150 new Federal judges, will be one that will survive long after the demise of the present administration and the present Congress. There is no doubt in my mind that it will be a judiciary that is more prone to judicial activism, less deferential to the will of the National Legislature, less respectful of the prerogatives of the States and localities, more willing to impose new law upon the country, and one that is far more "liberal" in its conception of that law which should be imposed upon the country.

Unfortunately, however, these jurisprudential characteristics have virtually become institutionalized in the sense that even conservative Federal judges share many of them. A recent article by columnist William F. Buckley, Jr., touches upon this largely unappreciated development.

To those who would attribute the growing alienation of the citizenry from their Government to the "remoteness" of Congress, I suggest that far worse is yet to come. In the manner that the States have become mere administrative entities, in many respects, for Congress, Congress may well become the same for the Federal courts. Anyone wanting evidence of this fear is invited to stop by the Judiciary Committee hearing room on one of those frequent occasions that nominations are being considered.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Insulation of the Courts

(By William F. Buckley, Jr.)

It is the most obstinately ignored development in contemporary politics that President Carter has been authorized to supplement the existing federal judiciary by 150 new district court judges. This means increasing the size of the federal judiciary by 30 per cent.

Inasmuch as federal judges are much given to making laws these days rather than merely interpreting them, we are faced with something akin to giving the president the authority to appoint 30 new senators, the difference, the more obvious differences apart, being that senators have to refresh their mandate every six years, while judges go on and on, not only in their opinions, but on the bench.

The politicization of the courts, most especially at the Supreme Court level, is hotly debated, and in his famous book, Government by Judiciary, Professor Raoul Berger has issued the most recent challenge to the Supreme Court's disposition to take the law into its own hands and simply change the law into what the court thinks it should be. Now a most vexing aspect of judicial protocol is that it is extremely hard to interrogate a member of the court. Supreme Court members greatly prefer asseverating to arguing. Such arguing as they do, they do only among themselves, in their written opinions, often contentious, sometimes even bitchy.

In 13 years I have interrogated 750 men and women in public life, including presidents, prime ministers, legislators, union chiefs, poets and candlestick makers. And not one judge.

It is refreshing under the circumstances to read an extraordinarily candid interview by Associate Justice Lewis Powell of the Supreme Court, given to Professor Harry Clor of Kenyon College. Professor Clor comes right out and asks, "Do you think that judicial statesmanship, to the extent that there is such a thing, consists primarily of insight into the needs or demands of the times or into the changing conditions to which constitutional clauses are to be applied?"

The answer of Justice Powell begins by acknowledging the Court's insulation from the democratic process. "It's well to bear in mind that the Court is composed of judges who are elected for life. We, therefore, are not directly responsible to the people in any political sense."

That's both good and bad, says Powell. "Yet our independence does give the Court a freedom to make decisions that perhaps are necessary for our society, decisions that the legislative branch may be reluctant to make. The classic case that comes to mind is *Brown* vs. *Board of Education*. The Congress had adequate authority under the Constitution to enact the sort of legislation that has been adopted since *Brown*.

"But it was the Supreme Court that finally decided in 1954 that segregation in our society must come to an end."

Another example: "It also was the Supreme Court that made the difficult decision, one the Congress apparently did not want to make, to lower the voting age to 18. There was nothing in the Constitution that could have suggested that result. In the simplest of terms, the Court decided that when young people were being drafted and asked to go to war and risk their lives at age 18, the time had come to extend to them the right to participate as citizens in the decisions that affected them so seriously."

An interesting line of reasoning, which to be sure could be extended to assert that because girls can and do bear children at age 11, they should have the vote concerning the statutory age of marriage.

But never mind the logic. The assertion of legislative autonomy has seldom been made with greater clarity, and on this occasion from a member who is considered a conservative; a judge among those least likely to approach the Constitution as though it still sat in Philadelphia, unfinished: Indeed, consigned, like the Flying Dutchman, never to reach port. We are left to wonder what is the role of the constitutional amendment? One possibility is to use it to curb the authority of the Supreme Court.

SOVIETS THREATEN THE USE OF CHEMICAL WEAPONS

Mr. HATCH. Mr. President, there is nothing more capable of creating a feeling of panic and helplessness than the discussion of chemical weapons in warfare. We here in the United States tend to shy away from this subject whenever possible. In my home State of Utah the debate over chemical weapons has gone on for several years, highlighted at the present time by the proposed move of the Weteye nerve gas bombs from Rocky Mountain Arsenal in Denver to Tooele Army Depot in Utah.

While this debate over chemical weapons remains at a stalemate in this country the Soviet Union has pressed forward with its own development of chemical weapons. If we learned nothing else from the capture of Soviet equipment during the Six Days War in the Middle East, we learned that the Soviets have made a heavy investment in both chemical weapons and the ability to fight in an environment where such weapons are in use.

There is only one way to deter the use of these weapons and sadly that is by the threat of retaliation. Unfortunately we have not kept pace with the Russians. In the September issue of the Reader's Digest our colleague from the House, Representative Richard H. Ichord, has written a short article on this issue. He brings the conclusion that many of us in the Congress have been saying for several years to the public readership. It is imperative that we go forward with the production of the "binary system" of chemical weapons. To turn our backs now is to permit the Soviets to gain an advantage in an area that would be indefensible.

Mr. President, I ask unanimous consent that the above-mentioned article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Reader's Digest, September 1979]

The Deadly Threat of Soviet Chemical Warfare

(By Representative Richard H. Ichord)

The huge American M-60 battle tank sat at the intersection of two roads near a German village, its 12-cylinder diesel engine rumbling at idle. Inside, where static poured from the radio, the gunner, loader and driver were slumped in their seats, dead. Only the tank commander had sensed something in the final seconds of his life that hot summer morning, and had groped desperately for the respirator mask attached to the tank's protective ventilation system—too late.

All across Western Europe, the eerie scene was repeated: bodies slumped on air strips and in cockpits; at entrances to radar bunkers, gun emplacements and missile sites. There had been no smell, no ominous cloud, not a sign that the shells and bombs detonated in the surprise barrage had contained Soman, a deadly nerve gas.

Masked and goggled troops of the Red army and its satellite forces now moved quickly to take advantage of the deadly, invisible miasma of their own making. And while the United States, fearful of massive Soviet retaliation, held back its nuclear weapons, it became clear that Western Europe—its industrial and military infrastructure left largely intact for the conquerors' uses—was falling.

Such a scenario becomes more than the stuff of "war-gaming" speculation when one considers the tremendous chemical-warfare capability that has been steadily developed over the past 40 years by the Soviet Union and its Warsaw Pact allies—a sophisticated catalogue of destructive chemical compounds that can kill or incapacitate by attacking the respiratory, blood or central nervous systems. It is an offensive capability Western forces cannot match, and against which we have only the most rudimentary defense.

As chairman of the Research and Development Subcommittee of the House Armed Services Committee, I have become gravely concerned over the growing U.S.-Soviet disparity in chemical warfare. Tragically, we have allowed our natural revulsion for this form of weapon to override our common sense and have permitted our deterrent capability to deteriorate dangerously.

More than two years ago, the U.S. Army's two top research-and-development officials, Assistant Secretary Edward A. Miller and Lt. Gen. Howard R. Cooksey, warned Congress that a non-nuclear Soviet attack against Western Europe would include the use of chemical weapons. "The Soviets," we were told, "are so immersed in chemical weapons, tactics, doctrine, equipment and personnel, and so much of their training centers around the use of lethal agents, that it would be odd if they did not employ them. Their offensive chemical capability dwarfs ours to the point that they would be throwing away a possibly decisive advantage by not using chemical weapons."

History has shown that the only real "defense" against chemical warfare is an "offense" of such weapons so formidable that it deters the enemy from using theirs. During World War II, mindful of Germany's use of poison gas during World War I, the Allies sent word to the Nazis that such use would result in overwhelming retaliation. Thus no gas was employed by either side.

After the war, the Allies learned that as early as 1936 the Germans had made a devasting breakthrough in chemical warfare by perfecting "nerve gases," such as Tabun, that attack and break down the body's nervous system Unlike the readily detectable asphyxiating gases of World War I, nerve gas is colorless, odorless, virtually undetectable. Although the Allies had nothing comparable to Tabun, the Germans did not know this, and the general threat of retaliation deterred them.

The United States, Britain and Russia divided the Nazis' Tabun stockpile into equal shares. The United States and Britain dumped most of theirs at sea, keeping only enough to aid them in development of their own gas. The Russians took theirs home, along with the dismantled Tabun laboratories and the scientists who made it, and went on to produce great quantities of this gas. They have continued to produce it, and numerous other chemical weapons as well.

During the 1950s, the United States became aware of this Soviet production, and set out to build a deterrent. By the mid-'60s, our chemical-warfare posture was such that no potential enemy would have contemplated using such weaponry against us.

During the Vietnam war, however, we received intense worldwide criticism for using chemicals to defoliate jungles, and tear gas to flush out enemy forces. In March 1968, American citizens joined in the furor after 6400 sheep died on grazing lands near the Army Chemical Corps' Dugway, Utah, proving ground, following a nerve-gas experiment. Some people were convinced that, had weather conditions been different, the lethal gas might have traveled 65 miles to Salt Lake City and killed all its inhabitants. (In reality, no conceivable meteorological conditions could have carried the gas to Salt Lake City in harmful concentrations.)

So we frightened and moralized ourselves into throwing away a vital deterrent, spending upward of $100 million stripping large portions of our chemical arsenal and dumping these munitions at sea. Even the movement of the stuff scared us—to the extent that tightly restrictive legislation was passed to govern the transport, testing and deployment of such weapons.

In 1973, following the Middle East war, American defense analysts were startled to find that Soviet-built equipment captured by the Israelis showed a sophisticated preparation for the offensive use of chemical weapons. Filtration systems in Russian tanks and armored personnel carriers were designed to protect against the nerve gas "Soman," a mainstay of Soviet chemical warfare. Clearly, this equipment had been designed for use in a possible nerve-gas offensive of Moscow's own making.

Ignoring such ominous signals, we continued to disband the Army Chemical Corps. Today we have perhaps 3500 officers and enlisted men involved with chemical-warfare tasks, and nothing remotely resembling an adequate retaliatory capability.

By contrast, the Red army includes a chemical-warfare contingent fully ten percent as large as the entire U.S. Army—80,000 to 100,0000 officers and enlisted men. At some 40 sites in Eastern Europe, these forces train intensively for chemical warfare—day and night, in all kinds of weather, on all kinds of terrain. Every Soviet tank and personnel carrier is equipped with chemical detection and alarm systems that automatically close all apertures, and with efficient air-filtration systems.

Every Soviet foot soldier is issued a gas mask made of lightweight, rubberized material resistant to all known chemical and biological agents He also carries gloves, leggings, boots and à thin cape quickly convertible into an overall suit, all of the same protective material.

Approximately every third Soviet missile and rocket warhead, and up to ten percent of artillery projectiles, mortar shells, land mines and aerial bombs, are loaded with a chemical agent. These weapons—between 300,000 and 700,000 *tons* of them—have a higher kill ratio (per shell or missile fired) than any military device short of nuclear bombs.

Would the Soviets really use their chemical weapons? To my mind, it is naive in the extreme to think that they would go the immense trouble and expense of constructing history's most impressive offensive chemical-warfare capability, and then not use it. Thus I believe that we have no choice but to proceed with the development of this kind of capability ourselves. Unless we do this, the Soviets will be tempted to wage chemical warfare simply because they are well prepared to do so and also fully aware that we do not now have the ability to retaliate in kind. In the interest of self-preservation, we must act.

Defense officials are aware that any effort to increase our chemical-warfare capability will run up against justifiable concerns over the storage of deadly chemical agents. But the Army has been at work on this problem, and investigation by my subcommittee confirms that a solution is at hand in the form of something called binary munitions. Essentially, these are bombs or shells in which two containers of relatively harmless chemicals remain separated until the weapon is dropped or fired. Only then do the two chemicals mix into a lethal concoction. Although binary weapons have gone through extensive testing and are now ready for production, opponents of chemical warfare have thus far managed to block their introduction into our armory. Clearly, we are taking a great chance in not moving ahead with this technological advance.

If we allow ourselves the luxury of giving in to our civilized revulsion against this form of warfare, we are whistling past what may turn out to be a graveyard for our forces in Europe. I am convinced the binary munitions will *decrease* the likelihood of chemical warfare. It is time for Congress to rise to the challenge.

THE COMING OUT OF CARDISS COLLINS

Mr. PERCY. Mr. President, 7 years ago, when Representative George Collins of the Seventh Congressional District of Illinois was tragically killed in an airplane crash, his wife, CARDISS COLLINS, stepped in to fill the vacancy left by his death. Since that time, she has been reelected to each succeeding Congress and has proven to be an able and dedicated public servant, often at great personal sacrifice. As chairperson of the Congressional Black Caucus, she has demonstrated outstanding leadership ability in dealing with the often controversial and sometimes unpopular issues the Caucus must face.

The Washington Post on September 21 profiled Representative COLLINS' rise from the position of accountant in the Illinois Department of Revenue to the prestigious chairmanship of the Congressional Black Caucus. The article aptly describes the challenges CARDISS COLLINS faced in those early years and the outstanding leader she has become. I ask unanimous consent that the article, entitled "The Coming Out of CARDISS COLLINS," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE COMING OUT OF CARDISS COLLINS

(By Jacqueline Trescott)

When Rep. George Collins (D-Ill) was killed in a plane crash almost seven years ago, his wife was offered the widow's mite—the chance to run for his seat. It took the late mayor of Chicago, Richard Daley, to persuade Cardiss Collins this was her future. She won easily.

Yet for several years Collins was ill at ease with the jump from accountant to politician, frustrated at her own political naivete and feeling guilty because her son was growing up without her close attention. She kept a low profile.

No more.

Last month, a Navy admiral, facing a small contingent of congressmen on a junket through the Far East, was getting annoyed. Cardiss Collins, chairwoman of the Congressional Black Caucus and the only woman present, wouldn't let up in her criticism of the idea of registration for the draft. When the admiral refused to concede, Collins' strong voice began booming, her tone became strident. As the politicians began to squirm, the more senior Rep. Louis Stokes (D-Ohio) brought up a totally different subject. Collins glared briefly, then everyone sat back.

A year ago that wouldn't have happened. The near-showdown with the admiral was part of the new Cardiss Collins, a woman who has traded in her shyness for a more forceful voice and leadership role. In the eight months since she was elected to head the 17-member caucus, she's been expected to speak out in the tradition of that position. Reps. Parren Mitchell of Maryland, Stokes of Ohio, Charles Diggs of Michigan and Yvonne Burke, the former California congresswoman—all aggressive politicians—preceded her.

"In the last six years my biggest roadblock has been shyness. I was basically an introvert, but once people learned I had something to say, I gained confidence. But it took a long time to come out of my shell and realize I was here, doing this alone," says Collins, 47. The first years after her husband's death were painful. Once she wept openly when she realized she was wearing the same dress she had worn to her husband's swearing in.

But so far this year, Collins has not appeared retiring—confronting President Carter on the budget, speaking forcefully to House Speaker Tip O'Neill on the Mottl

Amendment to ban school busing, then coordinating the defeat of the Mottl effort.

Her decision not to invite Jimmy Carter to address the annual Black Caucus fundraising dinner tomorrow has raised questions about her political savvy. Instead of the invitation to speak, which the president has received for the past two years, Carter received a telegram—as did all announced and anticipated presidential candidates—to mingle tonight at the opening reception of the caucus weekend.

But Collins, her elbows on her desk, her annoyance obvious, replies, "He has nothing to say; that's my personal view. He has traded off black votes given to him in confidence. When he calls these summits, he ignores the Black Caucus. What about respect for our offices?"

She also noted at last night's Black Caucus party for Rep. Ronald Dellums (D-Calif.) that many blacks were watching with growing interest Sen. Edward Kennedy's possible candidacy, but that she herself was lukewarm on it.

Among her Capitol Hill colleagues, Cardiss Collins' sense of fairness and her poise are openly praised.

"During the Community Services Administration hearings, Collins said frankly that these were programs she cared about and that affected her constituents. But at the same time she looked very closely for areas where the government wasn't getting its money's worth," says Rep. Wayne Grisham (R-Calif.), a member of Collins' manpower subcommittee of the Government Operations Committee.

In the often-raucous meetings of the Black Caucus, Collins has taken a personable stance as moderator. Now, say the insiders, there are debates instead of arguments. "She is always properly assertive," says Charles Diggs, founder of the caucus. "She uses a general forcefulness but with a degree of sophistication that helps her recognize the personalities and views of the caucus. That's no easy feat."

This is especially true because her emergence is still a work in-progress, with more advances and setbacks ahead, until she can command attention given to other black leaders.

"She's quietly determined," observes Eddie Williams, president of a black think-tank, the Joint Center for Political Studies, who works closely with a country-wide network of black officials. "Maybe she is too quiet, but that might only be a shortcoming in the role she plays right now."

Her lack of a strong public image until now resulted from her own background as one of the millions of blacks in the middle, not that over-examined underclass or the ballyhooed middle-class, a group that's traditionally moderate. An only child, raised by a domestic and a manual laborer in St. Louis and Detroit, Collins started as a stenographer, worked her way through college nights and rose through the ranks of Illinois civil service to become an accountant and a revenue auditor.

Her politics have been shaped by on-the-job training: As part of the Democratic machine in Chicago, as an integral worker in her husband's campaigns, as a representative to a tough district that once elected a dead man to Congress. Her district covers the Magnificent Mile of downtown Chicago as well as the scarred war zones of the black West Side.

She doesn't have the stirring speaking talent or moral tone that swept Jesse Jackson and Barabara Jordan into America's consciousness.

But what she does offer has a special place in American politics: A street-wise instinct that represents the pulse of the laundromat rather than, primarily, the pulse of Morehouse or Howard. "The Black Caucus has 17 members and there's a place for all," says Collins. "I just don't think Cardiss Collins has to say everything for everyone."

When George Collins was killed in a crash at Chicago's Midway Airport on Dec. 8, 1972, his wife was trying to be both mother and father to their only child, Kevin, then 13. So when she received the now-traditional widow's condolence—the party's offer to run her for his seat—she balked.

"Kevin's security was foremost. Kevin knew the sacrifices; I knew the pitfalls. And Kevin didn't want to leave Chicago. So first I had to deal with his stability," says Collins.

Kevin, now almost 20, is a political science student at Howard University, a tall, husky man. He recalls, "When we discussed her coming in Washington, I told her, 'I want you to take his place, to keep the Collins name going.'"

So, in the midst of adjustment to being a widow, and a new career at age 31, Collins began the routine of the Chicago-to-Washington shuttle and suffered the guilt of being an absentee parent. Both Kevin and his mother talk openly about the disadvantages.

"I missed a lot of the guidance you need growing up," says Kevin, who lived with his grandmother. "The male guidance. When I started looking at girls, I didn't know who to turn to. But I don't think it was as much of a strain for me as it was for her."

Collins, a large woman who wears a flattering short Afro and wide eyeglasses, rests her elbows on her desk and plays with telephone messages and earrings as she talks. "The worst thing was suddenly looking around and discovering Kevin was a man. He had grown up without me," says Collins. "When I returned to my district on weekends, I only saw him asleep. Then when he started dating I saw him at the doorway—he was going out when I was coming in."

If she had to do it over, Collins says, she wouldn't have run for Congress. "I was lonely and alone. My son was alone. I regret that lost time." Now, she and Kevin and her mother share a townhouse in Cleveland Park. She spends her spare time reading (recently "Shogun"), listening to jazz (Philly Joe Jones) and checking out live acts at the Pigfoot and Blues Alley. To work off tension, Collins does physical things—she installed a new floor in her exercise room and put up wallpaper.

Now Collins and her son have a relationship she describes as a friendship. The only sore point is the car. She has first call on the '78 Seville. "And sometimes our schedules get mixed. Trying to borrow the car is like borrowing the Rosetta Stone," says Kevin.

The Mottl Amendment fight and the Andrew Young resignation controversy illustrate the hit-and-miss nature of Cardiss Collins' political savvy.

On the Mottl matter, the caucus moved with lightning speed, touching all the bases in the House leadership and developing a strategy on the question of the amendment's constitutionality that attracted some conservatives.

But on the Young matter, the caucus bungled—and hasn't lived it down yet.

When Andrew Young resigned his U.N. ambassador post, the House was in recess; four caucus members were in the Far East, the rest were scattered. Since many of the other black spokesmen, including D.C. Delegate Walter Fauntroy, were at a Southern Christian Leadership Conference meeting together, television cameras focused on them for reaction. They ran with the issues of the dismissal, the contract with the Palestinians and the state of black-Jewish relations. The caucus never caught up.

Collins, who was in Singapore at the time, regrets that a unified statement was never made. "By the time we all got back, the question was moot," says Collins. Even a news conference called within a week of the resignation was canceled at the last minute because the members weren't available.

"We decided to make a more subtle statement by having Andy Young address Saturday night's fund-raiser and tell his story," Collins says.

Collins also has caused herself some problems in standing by statements she made to the Zionist Organization of America on July 30, two weeks before Young's resignation. Her speech, circulated by the organization as a pro-Israel position, has infuriated several of Collins' colleagues.

It contrasts sharply to the statements of others, such as Jesse Jackson and Gary, Ind., Mayor Richard Hatcher, who condemn Israel for its support of South Africa and criticize many American Jews for wavering on affirmative-action programs. In her speech Collins said the bond between the United States and Israel, "is cooperative and nonexploitive," and later said, "Israel's record in Africa reflects that non-exploitive nature I noted before." Collins describes the speech as "right down the middle."

Possibly the next stand by Collins that will cause some controversy is her frank desire to see Walter Mondale run for president. "Actually I have never been gung-ho Carter, and I was with Mondale the last time. But I think he's the middle of Carter and Kennedy," says Collins, warming up to her subject and resting her hands atop her head. "What I think should happen is that Carter should become a statesman and resign. And you would be surprised the number of people privately who are with me on this."

RESOLUTIONS PASSED BY CONVENTION OF PUBLIC EMPLOYEE DEPARTMENT OF THE AFL-CIO

Mr. STEVENS. Mr. President, recently the delegates to the fourth biannual convention of the Public Employee Department of the AFL–CIO expressed their views, through resolutions, on a number of important issues facing not only union members, but this Nation as a whole. The Public Employee Department of the AFL–CIO has a long record of dedicated service to the public and to its members. In view of their interest in the benefit of public employees and the people they serve, I feel it important that all be made aware of the resolutions passed at this recent convention. I wish to mention one specific resolution which calls for the reestablishment of a Senate Post Office and Civil Service Committee.

Mr. President, I ask unanimous consent that 10 of the 73 resolutions adopted at the fourth biannual convention of the Public Employee Department of the AFL–CIO be printed at the conclusion of my remarks.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

FRINGE BENEFIT TAXATION

RESOLUTION NO. 10

Whereas, The Treasury Department (IRS), as a result of a Supreme Court ruling, has assumed a right to broaden the area of fringe benefit taxation to include some forty benefits heretofore considered exempt; and

Whereas, The bulk of these previously exempt benefits that the IRS would now like to tax are those that normally accrue to the working man or woman. A partial list of some forty such benefits targeted for taxation would include: free parking on employer's premises, rebates to employees who buy their employer's products, discounts on company stock purchase, lunch and dinner reimbursements and company picnics; and

Whereas, It is estimated that such new taxes would create billions of dollars in added revenue, most of which would be extracted from the pockets of union members; and

Whereas, The United States Congress has stayed such action by the IRS until 1980 with passage of H.R. 12841. We believe that Congress must go a good deal further in the exercise of their constitutional duties by insisting that taxation policies and thus, the determination as to what portion of personal income is taxable, is clearly a purview of Congress and cannot be usurped by IRS regulation making; now, therefore be it

Resolved, That we communicate our concerns to Congress and, further, we support such bills that would effect the aforementioned changes such as Senate Bill 224 et al.; and be it further

Resolved, That we closely monitor all bills dealing with this subject and offer comment when appropriate.

Mandatory OSHA Coverage for Public Employees

RESOLUTION NO. 11

Whereas, Those engaged in public employment at the Federal, state, county and political subdivision levels make up a substantial portion of the total workforce. They have continued to labor for many years without adequate safety and health protection; and

Whereas, Public employment does not render individual workers immune to injuries and illness in the course of their work, merely because they are paid by the government. Millions of Federal, state, county and political subdivision employees are experiencing job-related deaths, injuries and illnesses every year; and

Whereas, It is to the betterment of each individual public employee, and to the public itself, that adequate safety and health protection be provided at the workplace; and

Whereas, The Occupational Safety and Health Act of 1970 (OSHA) does not provide for mandatory coverage for public employees. The Safety and Health Acts that have been enacted by the states also lack this fundamental requirement for the most part. The need for such coverage for public employees is clearly apparent; now, therefore be it

Resolved, The Public Employee Department reaffirms its total support for this concept of safety and health protection for public employees. And to urge the 96th Congress and the Administration to quickly enact legislation, thus providing public employees with the same safety and health protection guaranteed to other workers.

Public Pension Plan Protections

RESOLUTION NO. 17

Whereas, Too many public pension plans today do not provide adequate coverage of benefits for government workers. The AFL–CIO Public Employee Department views the serious deficiencies in public pension plans as a national problem which requires federal action; and

Whereas, The Employee Retirement Income Security Act affords workers covered by private pension plans with important protections. Public pension plans, on the other hand, have been held exempt from ERISA requirements; now therefore be it

Resolved, that the PED supports the enactment of legislation for public workers to provide similar protection to those afforded private sector workers by ERISA.

Federal and Postal Employee Parking

RESOLUTION NO. 28

Whereas, Circumstances permit free parking or reduced parking fees for many Federal employees in the public interest; and

Whereas, Postal worker unions have negotiated parking rights in the existing 1978–81 Labor Agreement with the U.S. Postal Service; now, therefore be it

Resolved, that the Delegates to this Fourth Biennial Public Employee Department Convention in Washington, D.C., September 11-12, 1979 go on record in opposition to any legislation adversely affecting Federal or postal employee parking rights; and be it further

Resolved, that the Delegates support the concept that parking is a condition of employment and should therefore be subject to the collective bargaining process.

Proper Funding for FLRA, MSPB and Federal EEOC

RESOLUTION NO. 33

Whereas, The Ninety-fifth Congress enacted the Civil Service Reform Act of 1978 and guaranteed in that Act the rights of employees to bargain collectively and assure freedom from prohibited personnel practices; and

Whereas, In that Act, Congress created two new agencies, the Federal Labor Relations Authority and the Merit Systems Protection Board to protect the rights of employees and the federal merit system. These agencies have been forced to rely primarily on staffs transferred from earlier management-oriented offices. Furthermore, they are saddled with inadequate funds, staff, and space, causing a backlog of cases victimizing thousands of workers; and

Whereas, Reorganization Plan No. 1 of 1978 gave the Equal Employment Opportunity Commission jurisdiction over discrimination complaints in the federal government but inadequate funds and staff have prevented expeditious resolution of discrimination complaints by federal employees; and

Whereas, In all these agencies, justice delayed for employees is justice denied; now, therefore be it

Resolved, That we strongly urge the Congress of the United States and the Administration to support full appropriation of all necessary funds and to authorize all necessary positions for the Federal Labor Relations Authority, its General Council, the Merit Systems Protection Board, its Special Council, and the Equal Employment Opportunity Commission; and be it further

Resolved, That the Congress take account of the additional funding needed to resolve the backlog of transferred cases in these agencies and to keep current their handling of new cases.

The Need for a Senate Committee on Post Office and Civil Service

RESOLUTION NO. 34

Whereas, At the current time, no Committee exists in the Senate of the United States that deals comprehensively with Federal personnel policy and the U.S. Postal Service; and

Whereas, Previously, a Senate Committee on Post Office and Civil Service dealt with Federal personnel issues and the U.S. Postal Service until that Committee was abolished by the Senate Committee Reorganization Amendments of 1977; and

Whereas, Since that time, Federal personnel policies and the U.S. Postal Service have suffered serious setbacks as a direct result of this inattention in the rush of other priority business in the Senate; now, therefore be it

Resolved, That the Senate of the United States recreate a Senate Post Office and Civil Service Committee with parallel jurisdiction to that of the House Committee on Post Office and Civil Service.

Cost of Living Adjustments for Federal and Postal Retirees

RESOLUTION NO. 38

Whereas, Every American worker should be able to reasonably expect his/her employer to live up to any agreements entered into. In the case of federal and postal employees, the Executive and Legislative Branches are their de facto employer; and

Whereas, On December 31, 1969, federal employees increased their contribution to the Civil Service Retirement Fund, in part, to provide for appropriate and timely cost of living adjustments in their annuity checks; and

Whereas, In 1976, Congress eliminated the so-called 1 percent kicker, which had been a method of compensating Federal and postal retirees for inflation during the time between actual rises in living costs and the point at which adjustments were made in their checks. There has been no concomitant decrease in the employee contributions; and

Whereas, Rapid inflation is still with us and it appears it will be for the foreseeable future; and

Whereas, Congress and the Administration are considering proposals to further cut back federal annuities by reverting to once rather than twice annual cost of living adjustments. Such a move would be blatantly unfair. Not only would it extend the time between adjustments for retirees—forcing them to endure long periods of higher costs—once a year COLA would also exaggerate and possibly jeopardize full payment of cost of living allowances because to do so may appear politically unsafe; and

Whereas, Congress and the Administration made a commitment to retirees when the 1 percent "catch-up" was repealed to provide twice a year COLA adjustments; now, therefore be it

Resolved, That the Public Employee Department, AFL–CIO, condemns any attempt of the Congress and the Administration to break faith with federal and postal employees by any effort to eliminate the present twice a year retirement provisions; and be it further

Resolved, That this convention urges the AFL–CIO and its affiliates to join forces with the Public Employee Department to actively combat any attempt to eliminate the present twice per year retirement adjustment provisions.

Ending Federal Pay Caps

RESOLUTION NO. 40

Whereas, Federal workers are the only group of workers in this nation beset with mandatory wage controls. Federal workers face the prospect of a continuing policy of pay caps in the indefinite future; and

Whereas, This means that this group of our brothers and sisters in the federal sector are being unfairly and in discriminatory fashion penalized for purely political and budgetary gains; and

Whereas, Comparability in pay with their private sector counterparts has long been the Congressionally-established principle behind Federal pay. Yet, all the available statistical evidence clearly shows that federal workers have fallen woefully behind since December of 1969; and

Whereas, For the President and the Congress to single out this segment of the workforce to bear a greater burden of a symbolic, yet futile, effort in the fight against inflation is grossly unfair, and a direct violation of the principle of pay comparability. Strict adherence to comparability in pay, demands comparability in restraint. When voluntary or mandatory restraints become necessary because of inflation, these controls must be uniformly applied to public and private sector workers; therefore be it

Resolved, That the Public Employee Department of the AFL–CIO, join in and support the effort to see that any further attempts at wage control be equal in degree, impact and application to both Federal and private sector workers.

Save Federal Pay Systems

RESOLUTION NO. 46

Whereas, Since the 1976 Presidential election campaign, the President and his advisers have been running against the federal employee; and

Whereas, Administration spokesmen are again attempting to mislead the American public, battered by inflation, and hungry for tax or other financial relief, into believing we must now *reform* the federal pay and benefit system. They are again circulating untrue or misleading stories inferring that career federal workers are overpaid, overgraded, and underworked; and

Whereas, The quality of government services affects every American. Government can only maintain the highest quality of services through fair and equitable compensation systems; and

Whereas, The Administration's Federal Compensation Reform package is not a reform. It is a blatant attempt to virtually wipe out nearly all federal pay and benefit systems. It would replace these with a mechanism that would give the President and the Executive Branch virtually unlimited authority to administer, adjust, increase, reduce, establish or abolish at will, almost every facet of federal pay and benefits; therefore be it

Resolved, That the Public Employee Department, AFL–CIO, takes every action possible to support its affiliates who represent federal workers in their effort to see that long-fought-for federal pay and benefits are protected and preserved; and be it further

Resolved, That P.E.D. sponsors legislation to remove Presidential control and establish that future increases be determined solely on true comparability; and be it finally

Resolved, That P.E.D. shall seek from the appropriate committees of the Congress to improve upon and protect the principle of comparability and equity promised federal employees by enactment of the 1970 Federal Employees Comparability Act.

HATCH ACT REFORM

RESOLUTION NO. 64

Whereas, More than 200 years ago, our country waged a bitter war for certain democratic principles. Among these principles was the right to actively support political candidates; and

Whereas, Under the Act and some 3,000 subsequent administrative rulings, these workers are prohibited from campaigning for partisan political candidates of their choice, seeking partisan elected offices themselves or actively participating in a political party; and

Whereas, The 94th Congress recognized the need to reform the 1939 Hatch Act, by passing modest reforms only to have them vetoed by President Ford; and

Whereas, The 95th Congress approved substantially the same amendments to the Hatch Act in the House of Representatives by an 80-vote plurality; and

Whereas, The 1976 Democratic Party Platform and the election reform program recommended by President Carter both called for these amendments to the Hatch Act, although without any practical effect or follow-up; and

Whereas, It should be noted that the 1974 Campaign Reform Act guarantees state and local government workers the right to participate in partisan political activities when their jobs involve federal funds; and

Whereas, Federal and postal employees continue to be denied citizenship rights to participate in the political process making them second class citizens, and denying them equality, justice and political civil rights under the guise of properly protecting them from partisan pressures; and

Whereas, Such a reform should incorporate strong protection for government workers against being forced to participate in political activities and must provide a badly needed system for administering and enforcing these freedoms, prohibitions and protections; and

Whereas, Voter turn-out and interest in recent national elections has been embarrassingly low, dropping to 34 percent in November, 1978, and the influx of postal and federal workers into the political processes, unfettered by Hatch Act restrictions, would reverse this dangerous trend; now, therefore be it

Resolved, That the Public Employee Department calls upon the AFL–CIO to again place reform of the Hatch Act at the top of its legislative and political priorities in order to return first class citizenship to 2.8 million Americans who are federal and postal employees; and be it further

Resolved, The Public Employee Department hereby calls on President Jimmy Carter to fulfill his pledge and that of the Democratic Party Platform to accomplish the amendments by new, greater and effective efforts in Congress; and be it finally

Resolved, That reform of the Hatch Act continues as a major legislative goal of the Public Employee Department.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF REVISION TO DEFERRAL OF TRANSPORTATION BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 113

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Appropriations, the Committee on the Budget, and the Committee on Commerce, Science, and Transportation, jointly, pursuant to order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a routine revision to a previously transmitted deferral for the Department of Transportation. This revision increases the amount deferred by $5.0 million. The details of this revised deferral are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *September 28, 1979.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:17 a.m., a message from the House of Representativees delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 210. An act to establish a Department of Education, and for other purposes; and

S. 721. An act to amend the Civil Rights Act of 1957 to authorize appropriations for the United States Commission on Civil Rights for fiscal year 1980.

S. 737. An act to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

The message also announced that the House disagrees to the amendments of the Senate to House Joint Resolution 404, a joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SLACK, Mr. DUNCAN of Oregon, Mr. CHARLES WILSON of Texas, Mr. BENJAMIN, Mr. CONTE, Mr. MICHEL, and Mr. McDADE were appointed managers of the conference on the part of the House.

At 3:25 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 4393. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1980, and for other purposes;

H.R. 5380. An act to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1979, for a certain period; and

H.J. Res. 406. A joint resolution to extend by one hundred and twenty days the expiration date of the Defense Production Act of 1950.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 4:37 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 756) to authorize appropriations for the Office of Federal Procurement Policy for fiscal years 1980 through 1984.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 237) to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of U.S. magistrates, and for other purposes.

At 6:17 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the following bill, without amendment:

S. 233. An act to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes.

ENROLLED BILLS SIGNED

At 7:21 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bills:

S. 237. An act to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of United States magistrates, and for other purposes; and

S. 756. An act to amend the Office of Federal Procurement Policy Act, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

ENROLLED BILLS SIGNED

At 10:27 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bills:

H.R. 3920. An act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes; and

H.R. 3996. An act to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 2 additional years, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to House Joint Resolution 404, a joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 4, 9, 11, 13, and 14 to the resolution, and concurs therein; that the House recedes from its disagreement to the amendments of the Senate numbered 12 and 15 to the resolution, and concurs therein each with an amendment; and that the House insists upon its disagreement to the amendment of the Senate numbered 17 to the resolution.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 28, 1979, he presented to the President of the United States the following enrolled bill:

S. 721. An act to amend the Civil Rights Act of 1957 to authorize appropriations for the United States Commission on Civil Rights for fiscal year 1980.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–2231. A communication from the President of the United States, transmitting amendments to the request for appropriations for the Panama Canal Commission for the fiscal year 1980 in the amount of $511,427,000; to the Committee on Appropriations and ordered to be printed.

EC–2232. A communication from the Secretary of the Army, transmitting, pursuant to law, the annual report of the United States Soldiers' and Airmen's Home for fiscal year 1978 and the report of the annual General Inspection of the Home, 1979; to the Committee on Armed Services.

EC–2233. A communication from the General Counsel of the Navy, transmitting, pursuant to law, a report concerning allegations of discrimination at the Naval Regional Contracting Office, Long Beach, California; to the Committee on Armed Services.

EC–2234. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the acquisition of certain trade association data and information which relates to the estimation of Outer Continental Shelf oil and gas reserves, the estimation of ultimate recovery of oil and gas from the Outer Continental Shelf, and the productive capacity of the oil and gas fields on the Outer Continental Shelf; to the Committee on Energy and Natural Resources.

EC–2235. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office released in August 1979; to the Committee on Governmental Affairs.

EC–2236. A communication from the Chairman and General Counsel, National Labor Relations Board, transmitting, pursuant to law, the Board's report for proposed amendments to its system of records; to the Committee on Governmental Affairs.

EC–2237. A communication from the President of the United States, transmitting amendments to the requests for appropriations for the fiscal year 1980 in the amount of $94,000,000 for the Department of Energy; to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Environment and Public Works, without amendment:

S. Res. 246. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4249. Referred to the Committee on the Budget.

By Mr. BENTSEN, from the Committee on Environment and Public Works, with amendments:

H.R. 4249. An act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes (Rept. No. 96–333).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

John C. Sawhill, of New York, to be Deputy Secretary of Energy.

(The above nomination from the Committee on Energy and Natural Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. JACKSON. Mr. President, today the Senate Committee on Energy and Natural Resources ordered favorably reported the nomination of John C. Sawhill to be Deputy Secretary of the Department of Energy. I ask unanimous consent that Dr. Sawhill's résumé and biography be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOHN CRITTENDEN SAWHILL

Born: June 12, 1936, Cleveland, Ohio.

Education: Princeton, AB, 1958; New York University, PhD, 1963.

Personal: Married, Isabel V. Shawhill. One son, James Winslow Sawhill.

Employment history: President and Professor of Economics, New York University, April 1975 to present.

Administrator, Federal Energy Administration, December 1973–January 1975.

Associate Director for Natural Resources Office of Management and Budget, December 1972–January 1974.

Senior Vice President, Commercial Credit Company and member Executive Committee, Control Data Corporation, September 1968–December 1972.

Senior Associate, McKinsey and Company, September 1966–September 1968.

Director of Credit Research and Planning, Commercial Credit Company, September 1964–September 1966.

Educational affiliations: American Association for the Advancement of Science: Director.

Aspen Institute for Humanistic Studies: Special Advisor and Co-Chairman (with Robert O. Anderson) of Committee on Energy.

Association for American Universities.

Council on Financial Aid to Education: Director and Member of Executive Committee.

Council on Foreign Relations, Maryland Institute, College of Art: Trustee Phelps-Stokes Fund: Director. Urban Institute: Trustee. Whitehead Medical Research Institute: Director. World Peace Foundation: Trustee.

Civic affiliations: Association for a Better New York: Director and Member of Executive Committee.

Mayor's Long Range Planning Committee on the Future of New York City: Chairman.

New York State Financial Control Board: One of three private members.

Other affiliations: Advertising Council: Member Policy Committee.

American Institute of Certified Public Accountants: Director.

Committee for Economic Development: Trustee.

Financial Accounting Standards Advisory Council: Member.

Trilateral Commission: Member and Director, Energy Study Group.

Recent publications: Nuclear Power Issues and Choices, Report of the Nuclear Energy Policy Study Group (Ford Foundation sponsored), Ballinger 1977.

Energy Conservation and Public Policy, Prentice Hall, April 1979.

Energy: Managing the Transition, Trilateral Commission, Triangle Press, 1978.

Key Issues in International Energy Policy, New York University Press (forthcoming).

Recent articles: "Paralysis on the Potomac," *Saturday Review*, January 22, 1977.

"Toward A National Energy Plan," *Washington Post*, (Op-Ed) January 22, 1977.

"Actually, This Article Is About Taxation," *The New York Times*, (Op-Ed) February 16, 1977.

"No Strings, Please," *The New York Times*, (Op-Ed) March 10, 1978.

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An Assessment of Present Energy Developments. International Association of Energy Economists, Washington, D.C., June 1979.

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BIOGRAPHICAL SKETCH

(Dr. John C. Sawhill, President, New York University)

John Crittenden Sawhill became president of New York University, the nation's largest independent institution of higher education, in 1975 at the age of 39 after pursuing successful careers in business, education and government. An economist, management expert and former Federal Energy Administrator, the 43-year-old president, an NYU alumnus, is also a professor of economics and the first incumbent of the David B. Kriser Professorship in the Humanities, an academic chair established to explore links between the liberal disciplines and urban medicine.

He has spoken out on a wide range of public issues and was one of the blue ribbon panel of experts recently invited to Camp David to share their views on the nation's problems with President Jimmy Carter. Dr. Sawhill was one of the individuals featured in the August 6, 1979 issue of Time Magazine which explored "Leadership in America." The president of New York University was quoted as saying that: "The starting point of leadership in any area is to set priority goals—a few, a very few overarching goals—that cover many of the competing and conflicting issues. That's the only way to gain a consensus."

As the leader of one of the nation's great urban educational complexes, Dr. Sawhill is committed to finding solutions to the economic, political and social problems of American cities because of his belief that "with all their difficulties, the cities remain the cultural, business and intellectual centers of our lives." To accomplish this goal, he has stated that "the University itself will continue to strengthen its role in the community and the city as it proceeds to execute its mandate to develop in students those skills and aspirations that can make a significant difference in the life of our city."

A leading proponent of a diversified system of privately-sponsored and public higher education, he is committed to the principles of sound fiscal management as the key to survival for the independent sector. Under his leadership, NYU's fiscal condition has had a dramatic turnabout—from a projected deficit of nearly $9 million for 1975–76 to a balanced budget for the last three years. Simultaneously, endowment funds were increased by more than $100 million, providing the University with the resources to deal effectively with the changes in student population projected for the 1980's and to move toward new levels of academic excellence. (An appraisal of Dr. Sawhill's leadership of New York University was made in a feature article called "The Miracle at Washington Square" which appeared in The New York Sunday Times Magazine, April 23, 1978.) His drive and inspiration are credited for the success of a recently-completed $111 million fundraising campaign at New York University, one of the few American institutions of higher learning to reach such ambitious capital campaign goals in recent years. Scheduled to celebrate its 150th anniversary in 1981–82, the University plans to continue its intensive fund-raising activities.

He is dedicated to the reinvigoration and broadening of the humanistic perspective in all University curricula by reaffirming the value of the liberal arts as a relevant component of higher education. As Dr. Sawhill wrote in an article entitled "The Unlettered University," which appeared in the February 1979 issue of Harper's Magazine: "Limited career-directed studies alone provide no lasting solutions to the multitude of difficult and potentially dangerous problems we confront. Universities must reassert the balance between the transient interests of a particular society and the enduring truths of civilization.

NYU is a privately supported institution that presently enrolls more than 40,000 students in 14 instructional divisions at five major centers in New York City. It was founded in 1831 and has a long tradition of urban-oriented innovation in teaching, research, medicine, and other forms of public service.

Dr. Sawhill was born in Cleveland, Ohio on June 12, 1936, the eldest of four children of Mary Gipe and James Mumford Sawhill. Shortly afterward, the family moved to Baltimore, Md. where he was raised.

After graduating *cum laude* from Princeton University's Woodrow Wilson School of Public and International Affairs in 1958, he joined the brokerage firm of Merrill, Lynch, Pierce, Fenner and Smith in New York. Two years later, he enrolled in NYU's Graduate School of Business Administration and while earning a Ph.D. in economics, finance, and statistics, he held various positions on the School's administrative and teaching staffs. By the time he earned his doctoral degree in 1963, he had become assistant dean and assistant professor of economics at the School.

From 1964 to 1966, he was director of credit and research planning at the Commercial Credit Company in Baltimore, Md. where he became senior vice president in 1968 after serving two years as senior associate in the Washington-based management consulting firm of McKinsey and Company.

In 1972, he began his government career as associate director for Natural Resources, Energy and Science in the U.S. Office of Budget and Management. Appointed Federal Energy Administrator a year later, he took charge of the development of "Project Independence," the government-wide plan aimed at moving the United States toward energy self-sufficiency. He resigned in January 1975 in disagreement with President Ford over the need for a tough program of mandatory energy conservation measures, many of which are now being reconsidered in light of the country's current energy situation.

Dr. Sawhill has continued to be an outspoken advocate of energy conservation, working closely with government leaders on energy issues and writing and lecturing extensively on the need for long-range energy planning and conservation. His views on energy, higher education, and many other issues have been published frequently as articles in The New York Times, The Christian Science Monitor, Saturday Review, and in many other major newspapers and magazines throughout the country.

He is a co-author of the 1977 report, "Nuclear Power Issues and Choices," written after participating in a one year Ford Foundation-sponsored study on the development and use of civilian energy. He is also the principal author of "Energy—Managing the Transition," a study prepared for the Trilateral Commission and published in June, 1978, and of "Energy Efficiency and Public Policy," a collection of papers on energy conservation which was recently published by Prentice-Hall. Dr. Sawhill currently serves as a member of another Ford Foundation-sponsored study "Energy: The Next Twenty Years," (directed by the Washington-based Resources For the Future) and is chairman of the Aspen Institute Committee on Energy. Recently he accepted an invitation to serve as associate editor of Energy Systems and Policy.

His civic activities include serving as a public member of the New York State Financial Control Board, and as chairman of the Mayor's Long Range Planning Committee on the Future of New York City. Instrumental in organizing a University/community clean-up drive for Washington Square Park, currently he is jointly chairing a project to refurbish the Astor Place subway station. In addition, he is a member of the major corporations committee of the United Way of Tri-State.

Dr. Sawhill is also a director of the American Association for the Advancement of Science, the Council on Financial Aid to Education, the Phelps-Stokes Fund, and the Whitehead Medical Research Institute.

His activities in the area of public interest include serving on the governing board of Common Cause and as a trustee for the World Peace Foundation, the Committee for Economic Development, and the Urban Institute in Washington, D.C.

The NYU president was married in 1958 to the former Isabel (Belle) Van Devanter. An economist, she is a 1962 *summa cum laude* graduate of NYU's Washington Square College of Arts and Science, and earned her Ph.D in economics from the University's Graduate School of Business Administration. Until September 1977, she was a senior research associate and program director at the Urban Institute in Washington, D.C. where she co-authored a book, "Time of Transition: The Growth of Families Headed by Women," published in 1975. She is currently director of the National Commission on Employment Policy.

The Sawhills have one son, 19-year-old James Winslow Sawhill.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TALMADGE (for himself and Mr. NELSON):

S. 1831. A bill to amend the Internal Revenue Code of 1954 to provide that in certain cases the net operating loss carryover period for a taxpayer who ceases to be real estate investment trust shall be the same as the net operating loss carryover period for a taxpayer who continues to be real estate investment trust; to the Committee on Finance.

By Mr. DOMENICI:

S. 1832. A bill to extend the authority of the Secretary of the Interior to declare and proclaim land to be Indian reservation land; to the Select Committee on Indian Affairs.

By Mr. LEAHY (for himself and Mr. STAFFORD):

S. 1833. A bill to amend the International Claims Settlement Act of 1949 to allow recovery by U.S. nationals for losses incurred in Vietnam; to the Committee on Foreign Relations.

By Mr. SARBANES:

S. 1834. A bill to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SASSER (for himself, Mr. Muskie, Mr. Chiles, Mr. Glenn, and Mr. Durenburger):

S. 1835. A bill to extend the Joint Funding Simplification Act of 1974; to the Committee on Governmental Affairs.

By Mr. PRYOR:

S. 1836. A bill relating to the currency of the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MATHIAS:

S. 1837. A bill for the relief of Mrs. Lagrimas Meneses Martinez; to the Committee on the Judiciary.

S. 1838. A bill for the relief of Ruiz Redentor Martinez; to the Committee on the Judiciary.

By Mr. PELL:

S. 1839. A bill to extend the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PELL (by request):

S. 1840. A bill to extend and improve the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

S. 1841. A bill to amend and extend the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JACKSON (by request):

S. 1842. A bill entitled the "National Heritage Policy Act of 1979"; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself, Mr. Williams, Mr Riegle, Mr. Kennedy, Mr. Javits, Mr. Stafford, Mr. Bayh, Mr. Leahy, Mr. Matsunaga, and Mr. Hatfield):

S. 1843. A bill to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and provide immediate shelter and other assistance for victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DURKIN (for himself, Mr. Matsunaga, Mr. Bradley, Mr. Hatfield, Mr. Tsongas, Mr. Levin, Mr. DeConcini, and Mr. Domenici):

S. 1844. A bill to establish a national goal for the use of renewable energy resources, to establish information and financial initiatives to promote the use of renewable energy resources, to authorize the use of certain renewable energy resources by the Federal Government, to provide for an accelerated wind commercialization program and to establish a program for the promotion of local energy self-sufficiency; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 1832. A bill to extend the authority of the Secretary of the Interior to declare and proclaim land to be Indian reservation land; to the Select Committee on Indian Affairs.

● Mr. DOMENICI. Mr. President, the legislation I introduce is intended to cure inconsistencies resulting from an aberration of our laws. During the period from 1877 to 1913 the Pueblo Tribes of the United States were declared "non-Indians." Consequently, the Pueblos were denied the protection of the Federal Government and instead were subjected to the authority of the Pueblo Lands Board. During this period great controversy arose as to ownership of land within boundaries of reservations by non-Indians. The Pueblos have since been riddled with private claims.

The redress this legislation would allow is exemplified by an existing situation in the San Juan Pueblo. The Pueblo has negotiated for and bought from its own funds, 1½ acres of land located in the middle of the reservation previously subject to a private claim. A non-Indian had been recognized as having established "squatter's rights" on this parcel by the Pueblo Lands Board in that curious period when the Pueblo Indians were non-Indians. There is no question that this was and is Indian land but for that 36 years the owners were non-Indianized. And because of that peculiar action the land which has been returned to the tribe at its own expense cannot be reservation land without an act of Congress. If this land were in any State other than New Mexico or Arizona, the Secretary could in his discretion do so. This is truly unjust.

I would hope that this legislation be considered as a reasonable means of expeditiously yet carefully restoring Indian lands to their proper heritage.●

By Mr. LEAHY (for himself and Mr. Stafford):

S. 1833. A bill to amend the International Claims Settlement Act of 1949 to allow recovery by United States nationals for losses incurred in Vietnam; to the Committee on Foreign Relations.

INTERNATIONAL CLAIMS SETTLEMENT ACT

● Mr. LEAHY. Mr. President, I am introducing today on behalf of myself and my senior colleague from Vermont, Senator Robert T. Stafford, a bill that is long overdue. Our colleagues in the House of Representatives, Mr. Bingham and Mr. Jeffords, introduced similar legislation earlier this year and I want to commend them for their work in this area. Our legislation, like its House counterpart, is designed to amend the International Claims Settlement Act of 1949 to enable the Foreign Claims Settlement Commission to begin registering and processing the losses that U.S. citizens incurred in Vietnam.

I want to make one fact perfectly and completely clear. This bill in no way seeks to prejudge or alter the relations of the U.S. Government with the Socialist Republic of Vietnam, nor does it presuppose any developments in either diplomatic dialog or any international formality. The sole purpose of this legislation is to establish the necessary mechanism between the U.S. Government and its citizens to ascertain the number and merit of outstanding claims against Vietnam. The bill sets out the manner and means to accomplish this.

These claims must be registered in a timely way for the simple reason that our State Department should know what the extent of American business and private losses are. Since the experience in similar claims settlements has proven to involve a very lengthy process, it is important to commence the registration soon. All too often, U.S. citizens have lost considerable sums because the registration process was begun too late, and many of those who were directly involved passed away, or pertinent records were no longer available. Thus the likelihood of ever adjudicating the actual claims themselves can become well near impossible unless they are registered and processed.

I have brought this matter to the attention of the Senate Foreign Relations Committee and the Department of State. Both feel that the language of the House bill is sound as well as necessary. I hope that hearings can be held in th near future and that the Foreign Claims Settlement Commission can commence its work in this regard. I know that the Commission is anxious and able to take on this task.

We know the sad legacy of Vietnam. The recent suffering of countless refugees in Southeast Asia brings it all home once again. I do not pretend to address the role of Vietnam in this new tragedy. This legislation is merely a necessary step forward on the part of American citizens.

Mr. President, whatever the future holds for United States-Vietnam relations, this legislation is necessary. It will give our represenetatives information that they will need—however our Government decides to proceed. Without acting prematurely, this bill will eanble the United States to weigh an important factor should this ever become necessary. I trust and hope that my colleagues in the Senate will support this endeavor.●

By Mr. SARBANES:

S. 1834. A bill to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes; to the Committee on Energy and Natural Resources.

GOODLOE BYRON

● Mr. SARBANES. Mr. President, almost 1 year ago, many of us were shocked by the untimely death of our colleague in the House of Representatives, Congressman Goodloe E. Byron, of Maryland's Sixth District.

Since his passing, there have been a number of fitting tributes to Goodloe and his achievements. I participated in one such tribute at the South Mountain Tourist Information Center, which was dedicated to Goodloe's memory. I am today introducing legislation in the U.S. Senate to authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail.

Goodloe always remained very close to the land and history of western Maryland. This was apparent in the extensive and continuous use he and his family made of the parks, forests, and trails around his home in Frederick County. All his life he maintained a great interest in the preservation and improvement of the Appalachian Trail, probably the longest and finest continuous trail in the world stretching from Maine to Georgia. He served on the Appalachian Trail National Advisory Council. He worked diligently to protect the Maryland portion of the trail, including many years of work in the Maryland General Assembly to pass legislation providing for the State to acquire land for scenic protection. It is fitting that the U.S. Senate join with the House of Representatives in authorizing the Interior Department to recognize and honor Goodloe's efforts at an appropriate location along the Appalachian Trail.●

By Mr. SASSER (for himself, Mr. Muskie, Mr. Chiles, Mr. Glenn, and Mr. Durenberger):

S. 1835. A bill to extend the Joint Funding Simplification Act of 1974; to the Committee on Governmental Affairs.

Mr. SASSER. Mr. President, I call the attention of my colleagues to the bill I am introducing today to reauthorize one of the few Federal programs that cuts redtape rather than adding to it. The program, called the Joint Funding Simplification Act, was initially passed by Congress in 1974. It will expire in February 1980, unless it is renewed.

The goal of the so-called "joint funding" process is to allow State and local governments, along with private, nonprofit organizations to package Federal assistance programs so that they can be more effectively used to achieve a common purpose or a single goal. Using the joint funding procedures, the governmental body or private organization needs only to make a grant application to a single Federal agency. That agency, in turn, coordinates the grant programs of related agencies to "round up" a comprehensive package of grants for the applicant.

This program allows State and local officials to concentrate on providing services to their constituents rather than spending their time playing the grantsmanship game in Washington.

In the 5 years the program has been legislatively authorized, we have seen many projects which demonstrate the value of joint funding in cutting Federal redtape. A sampling of these programs follows:

In West Virginia, a jointly funded project provides coordinated planning for highways, mass transportation, and economic development for four counties and the city of Charleston through the regional intergovernmental council;

In two Indian communities, the Salt River Pima Maricopa and the Cheyenne-Arapaho tribes, jointly funded programs are used to improve the management of federally assisted projects such as Head Start, police training programs, and comprehensive planning for the use of grants;

In Kentucky a jointly funded project provides resources for the orderly planning for local, State, and Federal programs through 15 area development districts representing all 120 counties of Kentucky;

In Sacramento, Calif., jointly funded programs are used by the regional area planning commission to provide comprehensive planning for such programs as vocational education, historic preservation, and highway safety.

Another successful project is in my home State of Tennessee, run by the Department of Human Resources for the city of Chattanooga. The Chattanooga project is a model joint funding program and the only one that actually delivers services. Three Federal grants (from Head Start, CETA, and community action programs) have been consolidated to fund a single local project to aid disadvantaged members of the community.

The centralized management of these Federal grants means that the planning for their use is better coordinated and that money can be saved on the expense of staff time and office space. The real "bottom line" of this joint funding project, though, is that more Federal dollars can be spent by Chattanooga to actually help families who are behind on paying their utility bills, or breadwinners who need job training or senior citizens who need to visit their doctors. The beneficiaries of the use of joint funding for Federal programs are not only those citizens who need services such as child care or transportation, but also the taxpayers who must foot the bill for these services.

Jointly funded Federal grant programs have enabled Chattanooga's human services program to more effectively and efficiently meet the needs of the community. The handful of successful jointly funded projects for planning in other States also ultimately result in "more bang for the buck."

Unfortunately, the success of jointly funded Federal programs is in the quality of the programs now in existence—but not in the quantity of programs around the country using the process. More jointly funded projects have been initiated under the Joint Funding Simplification Act and its forerunner demonstration project, the integrated grant administration, than have remained active. Of the 49 projects begun only 15 are still viable.

The bill I am introducing today, S. 1835, extends the Joint Funding Simplification Act of 1974. My main purpose in entering this legislation is to make certain that those States and communities with successful jointly funded projects will not lose the authorization to continue to run them just because of the expiration of the act in February of 1980.

However, I realize that the fact that there are only a handful of jointly funded projects now in existence around the country indicates the need to improve this grant packaging process to make it more attractive to people who run grant programs, whether they are Federal officials or local government administrators. S. 1835, is a "stopgap" measure which is designed to protect the highly successful programs which now use the joint funding process.

My sponsorship of S. 1835 is based in part on the assurances by the Office of Management and Budget contained in a recent letter to me that past difficulties in administering the Joint Funding Simplification Act will be overcome in the future. I am entering in the Record their letter which requests this legislation and the executive summary of their report to Congress on the implementation of the Joint Funding Simplification Act.

Mayor Pat Rose of the city of Chattanooga has made several recommendations to me about how the Joint Funding Simplification Act could be improved to encourage greater use of consolidated programs. I will be working with Mayor Rose over the next few weeks to see to it that his suggestions for improving joint funding will be incorporated into title III of S. 878, the Federal Assistance Reform Act which is now pending markup before the Senate Subcommittee on Intergovernmental Relations.

The basic means of strengthening the joint funding process are contained in title III of S. 878, the Federal Assistance Reform Act, which is cosponsored by Senator William Roth and myself and several other members of the Intergovernmental Relations Subcommittee.

I ask unanimous consent that the letter from OMB to me, as chairman of the Senate Intergovernmental Relations Subcommittee, asking that the Joint Funding Simplification Act of 1974 be reauthorized be printed in the Congressional Record at this point, along with the executive summary of the OMB Report to Congress on the Implementation of the Joint Funding Simplification Act of 1974. I also ask unanimous consent that the Record include the letter to the Chattanooga joint funding project from Mayor Pat Rose and a case study on the Chattanooga project taken from the OMB report on Succesful Joint Funding Projects. Following these documents, I ask unanimous consent that my bill, S. 1835, be printed in the Record.

I would like to thank Senators Muskie, Chiles, Glenn, and Durenberger for cosponsoring this legislation with me.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13 of the Joint Funding Simplification Act of 1974 is amended by striking out "five" and inserting "ten".

Office of Management and Budget,
Washington, D.C., August 21, 1979.

Hon. James R. Sasser,
Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: As stated in our report to Congress in February, the Office of Management and Budget has reviewed the operation of joint funding of related grants since passage of the Joint Funding Simplification Act in 1974. This Office found that although there have been several successful projects, joint funding as a whole has not worked that well. Inadequate measures were taken to implement joint funding, to build on successful programs, and to translate less effective experiences into timely redirection or resolution. We believe, however, that necessary, corrective, administrative actions can be taken by OMB and the Federal agencies to achieve meaningful implementation of the Act.

We recommend extension of the Act for five years to achieve more widespread acceptance of joint funding, including measures to achieve active participation and support by individual agencies. This recommendation follows up our report to Congress on joint funding. Enclosed you will find a proposed amendment to P.L. 93–510, which rewrites Section 13 of the Act to extend the legislation for another five year period.

We would be happy to discuss the proposed amendment with you at your convenience.

Sincerely,

James T. McIntyre, Jr.,
Director.

Enclosure.

EXECUTIVE SUMMARY

EVALUATION OF JOINT FUNDING

Introduction

The objective of joint funding is to allow State and local governments and private, nonprofit organizations to use Federal assistance more effectively by drawing upon resources from more than one Federal program to achieve a common purpose or single goal.

This evaluation responds to the Joint Funding Simplification Act of 1974 which calls for a report to the Congress on actions taken under the Act, including information on benefits and costs of joint funding projects to all participants.

The findings and recommendations are based on (1) updating previous surveys conducted in the field with Federal, State, and local participants in both successful and unsuccessful joint funding projects; (2) interviews with Federal agency staff at the headquarters level in Washington; (3) inputs from State and local interest groups which were invited to provide comments and suggestions; and (4) responses received by the Senate Subcommittee on Intergovernmental Relations from Federal agencies on their efforts to implement joint funding.

Summary of findings

Implementation of the Act has been limited. Only ten new projects have been funded since the Act was passed. However, some of these projects have been extremely successful demonstrating that, for certain applications, joint funding is a viable process for packaging related programs for simplified grant administration.

Reasons for the low level of joint funding activity include the following:

1. OMB did not provide adequate or timely leadership, support, and oversight to assure aggressive compliance by Federal agencies.

2. Federal agencies, in turn, did not make a commitment to implement joint funding and did not relate it to their own program objectives. Reasons are varied and complex, ranging from lack of tangible incentives to individual programmatic and administrative difficulties in adjusting to the joint funding process.

3. There is widespread ignorance of joint funding both at the Washington and regional levels.

4. OMB Circular A-111 utilizes certain grant administrative standards promulgated by other OMB financial management circulars designed to provide more uniformity and consistency among the profusion of grant application/reporting policies and procedures. Some of the obstacles to joint funding were attributed to inexperience with, improper use of, or non-adherence to these circulars. These problems became more visible and acute under the stress of multiple agency participation than in a single grant situation. Applicants felt that more OMB attention to monitoring and enforcement of these governmentwide directives would alleviate some of the problems.

5. Specific problems involving design and structure of the joint funding circular (A-111), administrative procedures under the circular, management of the process, and types of programs and operations covered discouraged implementation. These include Federal requests to applicants to prepare both regular and joint funding documentation; limited use of administrative waivers by Federal agencies; uncertainty about the appropriate use of the letter of credit method for payment; disparate Federal agency funding cycles; add-on Federal reporting requirements; little use of single integrated Federal audits; reluctance of Federal agencies to serve in a lead role for grant funding; inefficient use of Federal task forces to coordinate their participation in jointly funded projects; and attempts to apply joint funding in situations where other interagency mechanisms are more effective and efficient.

6. Statutory and administrative barriers exist in the implementation of the joint funding process. For example, agencies participating in a joint funding project deal with grantees that may not be their usual clients. As a result, complex administrative arrangements have been required to overcome some of these obstacles. Certain types of Federal assistance, e.g., block and formula grants, give rise to special administrative problems. Agency statutes have been interpreted as precluding individual agency program participating in the joint funding process or in certain aspects of the process.

7. Joint funding is constrained by the permissive nature of the Act and organization of the process. Participation by Federal agencies is not mandated. Federal Regional Councils (FRCs), the administrative focal point for the process, must rely on consensus to resolve disputes, often leading to delay and increased administrative burdens for all parties. The recent hiatus in FRC activity, while their future was being considered at White House/OMB policy levels, added to the confusion.

Summary of recommendations

Continuation of the Act is recommended. Although it is recognized that the permissive nature of the Act may have contributed to the low level of joint funding activity, it is felt that necessary, corrective, administrative actions can be taken by OMB and the Federal agencies to achieve successful implementation of the Act. Based upon the evaluation of joint funding experiences, these administrative actions involve simplifying the process, redirecting Federal interest toward realistic and useful applications, improving management of the process by OMB and the Interagency Coordinating Council (IACC) and exploring alternative program opportunities and special funding arrangements for possible application to joint funding.

Specific recommendations are:

Congress

1. Extend the Joint Funding Simplification Act of 1974 (Public Law 93-510) for a minimum of five years.

Office of Management and Budget

2. Review and reissue OMB Circular A-111 in a carrier and more useful format that will provide:

(a) A definition of "joint funding" to distinguish interagency activities undertaken within the scope of OMB Circular A-111 from other types of cooperative funding arrangements, thus establishing a stable base of comparable data for monitoring, evaluating, and directing joint funding as a manageable entity.

(b) Redirection of activities under OMB Circular A-111 to emphasize continuing programs and one-time multi-year projects, for which the A-111 process has proven most beneficial, and encourage the use of other forms of cooperative funding arrangements for one-time, short-term projects for which the A-111 process becomes a burden rather than an improvement.

(c) That, when an applicant has a joint funding management system in place for continuing programs, applications for one time competitive project grants may be processed separately through the approval stage, but require that the award be made through the joint funding lead agency and management fund/letter of credit to take advantage of the administrative simplification of joint funding.

(d) Semi-annual reports from Federal agencies and FRCs on progress and problems requiring action by OMB and IACC.

(e) Separate instructions and guidance that distinguish the roles, responsibilities, and relationships appropriate for different classes of applicants, e.g., States, Indian tribes, areawide agencies, local governments, and nonprofit organizations.

3. Develop specific instructions for States and other non-Federal grantor agencies to participate in joint funding, in support of regional or local projects, that will recognize the expanding role of such agencies in Federal grant administration.

Develop specific procedures for managing and administering block grants, formula grants, and other forms of pass-through funds to be used in joint funding.

5. Provide joint funding orientation, training, and technical assistance for Federal, State, and local agency staffs, in conjunction with the Office of Personnel Management and FRCs.

Office of Personnel Management

6. Explore the potential for using the Civil Service system of awards and incentives to provide special recognition of Federal staff efforts in successful joint funding activities.

Federal agencies (in conjunction with OMB and IACC)

7. Initiate joint action with other Federal agencies having common concerns and programs, to predesign programmatic assistance packages or joint funding models for specific types of projects, in cooperation with appropriate States, local, tribal, and nonprofit applicants.

8. Identify provisions of program statutes and regulations that prohibit or impede participation in joint funding (e.g., single agency requirements, exemptions from the Joint Funding Simplification Act), and initiate appropriate legislative or administrative changes.

9. Delegate additional authorities to field offices, where necessary, to facilitate joint funding.

CITY OF CHATTANOOGA,
Chatanooga, Tenn., September 19, 1979.

Re Joint Funding Simplification Act

Hon. JIM SASSER,
Senate House Office Building,
Washington, D.C.

DEAR SENATOR SASSER: The study of the Joint Funding Simplification Act, as reported by the Comptroller General of the United States, indicates four factual findings:

1. The Act will expire in February, 1980.

2. The implementation of the Act has been disappointing in that there were only 17 active jointly funded projects in the nation as of July 1, 1979.

3. A few highly successful projects (to include the Chattanooga project) have demonstrated that joint funding is a viable process.

4. The Federal Regional Councils and the Washington Office of Management and Budget have not projected the type leadership necessary to encourage joint funding projects.

The program in Chattanooga is the only jointly funded program in the nation funded purely for social services delivery.

Since 1972 as an Integrated Grant Program and from 1974 as a Jointly Funded Program, Chattanooga has sought to prove the advantages of consolidated area program delivery versus an array of categorical grant delivery systems.

The Chattanooga experience has proven the following:

1. Cost Effectiveness: The consolidated system of services delivery has resulted in a (greater than) 25% monetary savings in supplying the same services.

2. Duplication of Services: The consolidated system eleminates duplication of services within the community because all social services are under the supervision of a central administration.

3. Eliminates Confusion Within the Community: The Chattanooga Human Services Program has a single centralized intake system which determines client needs and assigns the client in the one or more areas designed to meet the identified need(s). Further, the transportation unit as an integral part of the consolidated system, is available to transport the client(s) according to determined need(s).

4. Community Impact: The single program

concept is an effective design for determining the needs within a community, designing the total array of social services program to meet the identified needs and to impact those programs within the community to effectively meet the identified needs.

Joint Funding, with the local government as prime sponsor, has an additional major advantage. The single program concept has served Chattanooga as a viable vehicle to establish direct and effective communication between the area poor and the officials who were elected to serve the total community. Two or more categorical grant programs, operating in the same area, have attempted to establish the needed communication, but have ended in confusion. This element of confusion is mainly attributable to more than one social services agency with equal responsibility in communicating similar information to the elected officials. The single program concept has minimized this element of confusion.

In spite of the many problems encountered due to the low profile of the concept of joint funding, Chattanooga has proven that the consolidated services delivery system is an absolute necessity if we are to meet the increasing demands with the available appropriated dollars.

Joint Funding seems to be an "idea before its time." The facts indicate that it is one piece of legislation that really addresses the needs of the local community, and as such really poses a problem for the federal agencies that are participating. The intent of the legislation was one of making it easier to plan and administer federally-funded programs at the local level.

Crucial to the implementation of the Joint Funding Act is the existence of a strong and viable Federal Regional Council. Without the Council, the Act becomes meaningless. The Office of Management and Budget has the responsibility for overseeing the Federal Regional Council.

Under the Carter Administration, they have not really accepted their role in overseeing the work of the Federal Regional Council. I have the following recommendations to make:

1. Provisions should be made in the Act to give OMB a definite role to play in providing adequate and timely leadership, support and oversight of the Act.

2. Federal agency participation must be mandated. They simply do not respond to "permissive" legislation.

3. Provide for the creation of a strong Federal Regional Council properly staffed to do the work of coordination of federal programs at regional and local levels.

4. Remove the obstacles that exist in the various "categorical" legislative acts of the federal agencies and provide incentives for participation in joint fundng activities.

Sincerely,

CHARLES A. ROSE.

SUCCESSFUL JOINT FUNDING PROJECTS

CHATTANOOGA HUMAN SERVICES DEPARTMENT

The City of Chattanooga is the only human services delivery joint funding program in the Nation. The program, which is operated by the City's Human Services Department, is designed to render comprehensive social services, in conjunction with other governmental or private agencies, to its disadvantaged citizens. One of the first IGA program projects, Chattanooga is now in its sixth year using the joint funding concept. The Chattanooga Human Services Department will receive through the joint funding process $7,980,840 from three Federal agencies, DOL, HEW and CSA, involving three Federal assistance programs to support its human services delivery activities from October 1, 1978 to September 30, 1979. In addition, there are three Federal assistance programs not incorporated in the present joint funding arrangement that provide $898,492.

Joint funding has enabled Chattanooga's Human Services Program to more effectively and efficiently meet the total socio-economic related problems of the community. The joint funding process, however, has not created a utopia. There are still those elements of local government in terms of planning and coordination within the programs that create some problems. The Chattanooga Human Services Department experiences of operating a jointly funded program of services delivery has taught them, however, that the advantages far exceed the problems that still exist.

PRESENT FUNDING PATTERN

CFDA	Agency: Program name	Dollars
17.232	DOL-ETA: Comprehensive employment and training programs	5,917,657
13.600	HEW—Office: Head Start of Human development services	1,259,235
49.002	CSA: Community Action	803,948
	Total, Federal joint funding	7,980,840
	OTHER ELEMENTS GOING TO CHATTANOOGA HUMAN SERVICES DEPARTMENT	
17.232	DOL-ETA: Summer-Youth and experimental programs	165,032
81.042	DOE: Weatherization program for low-income persons	115,049
13.642	HEW: Title XX (Day care)	521,136
13.252	HEW: Alcohol treatment and rehabilitation occupational services program	97,275
	Total, nonjoint funding	898,492

Development of the Chattanooga Joint Funding Program.[1] In December 1972, Chattangooga consolidated three categorical program functions into a single operation—the Chattanooga Human Services Department. The former programs, molded together under one administrative staff, provided a unified approach in meeting the multi-problematical needs of each client and home to be served in Chattanooga. The consolidation also enabled Chattanooga to have Federal funds for human services activities channeled to one city department.

Chattanooga's first application for a jointly funded project was submitted to the Southeastern Federal Regional Council (SEFRC) in June 1973. This application was approved in July 1973 for fiscal year 1974 funding. The Department of Housing and Urban Development (HUD) was designated to serve as the Federal lead agency. The participating Federal agencies were the Department of Labor (DOL); Department of Health, Education, and Welfare (HEW); and the Office of Economic Opportunity—now the Community Services Administration (CSA).

In June 1974, just prior to the start of fiscal year 1975 funding, DOL withdrew from the Chattanooga IGA program project. HUD, HEW and CSA continued the project. These three agencies also funded the project for fiscal year 1976.

When the HUD Model Cities program was terminated, the Chattanooga project was almost phased out. City officials, however, restructured the program and appealed to SEFRC[2] and the existing Federal funding agencies to continue its existence with a new Federal lead agency and new programs included.

The old project terminated on September 30, 1976. HEW and CSA continued to fund the program separately until the decision to continue the joint funding program was reached.

In October 1976, it was determined that DOL, HEW and CSA would provide a joint funding program for Chattanooga. This program became effective January 1, 1977, and DOL was designated as the Federal lead agency.

Joint Funding: The Chattanooga Strategy for Human Services Delivery. Over six years ago, Chattanooga made a commitment to improve the delivery of human services to its disadvantaged citizens. The development of a single program approach—through the consolidation of three categorical programs into a single department—was a major step to enhance this commitment. Centralizing management of the three former programs enabled the city to plan and evaluate a human services program according to a single data base, a single group of objectives in mind, a single set of standards for evaluation, and a single flow of information to Chattanooga decisionmakers where previously there were three. The three programs always shared a common purpose: Chattanooga's strategy was to create a management capability to direct this purpose and to make the attainment of similar goals a reality.

The joint funding process is seen as an essential part of Chattanooga's strategy. The advantages of the joint funding program that include a single application, a common funding cycle, a single source of funding, a uniform reporting system, a uniform completion report, and a single audit are basic to the concept of an improved management capability over programs of a common purpose.

Overall Program Design. Chattanooga's joint funding program is designed for the purpose of utilizing a unified approach system, on the Federal and local level, to more adequately meet the needs of people for whom the categorical programs are designed to serve.

The overall objectives are to:

1. Provide a mechanism by which Chattanooga can be given Federal assistance for human services in a timely and unified fashion;

2. Enhance the capability of the Federal Regional Council to assist in solving many of the problems experienced in Chattanooga;

3. Continue synchronization of funding cycles of Federal, State, and local governments; and

4. Provide a useful vehicle for assisting Chattanooga in planning comprehensively and establishing priorities among program components of a common purpose.

Chattanooga's annual joint funding application is designed to continue the process of getting the maximum services output for every dollar input. It annually continues (1) the efforts of local and Federal officials working in a joint venture to realize city and Federal objectives; (2) the experiment of lessening Federal oversight on details if program objectives are being accomplished; and (3) improve agency stability, planning, coordination, delivery, and administration of vital services to the poor of Chattanooga.

Human Services Delivery at Work in Chattanooga Using Joint Funding. Joint funding enables Chattanooga's Human Services Program to more effectively and efficiently meet the total needs of families and homes to be served. Each staff member within the Human Services Department is cognizant of the variety of services offered within the program and serves as a cross referral source in totally meeting a family's or home's identified needs—manpower, health, child care, transportation, home care, home repair and/or others.

An over-simplified example of how joint funding enables Chattanooga's Human Services Program to serve its clients can be portrayed by a family with six members, who have all the common problems of the poor.

The home is visited by a field worker from the Neighborhood Service Center, which is funded by CSA. The total problems are determined by the Center's counselor, and plan of service is designed to assist the family in overcoming their social, educational, health and economic problems. This information is stored in a computerized information system, which is financed by all of the Federal participating agencies.

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[1] This analysis provided by Mayor Rose of Chattanooga at the Kentucky National Conference on Joint Funding, September 6, 1978.

[2] Southeast Federal Regional Council, Atlanta, Georgia.

The family is without food, but through the Neighborhood Center, food is secured from outside agencies to hold the family until they can receive Food Stamps.

The family's home is without heat. In this case coal is purchased—using energy money funded by the Department of Energy through GSA—to keep the family warm until arrangements can be made otherwise. If the family had been behind in their utility bills, such as electric bills, then money could have been obtained through funds from HUD designed to pay those particular delinquent bills.

The father, age 56, and the oldest son, age 18, are both unemployed, but eligible for employment. The father can be placed either in training or a phase of DOL's Manpower Program as a holding situation until an unsubsidized job can be given him. The son can be given adequate training, so he will be able to develop a skill, and then placed in a job.

The four-year old child is enrolled in a Head Start component, and the two-year old child is enrolled in the Parent-Child Center component. These projects are HEW funded. The three-year old child is enrolled in the Day Care Component, which is a HEW Title XX Project funded through the State. Although it is not a part of the joint funding program, it is an operating point of the joint funding procedure.

The mother is unable to keep her medical appointments due to health and physical conditions. The transportation system, which is funded by CSA, is able to transport the mother for her medical appointments.

The family's home needs weather-proofing. This accomplished through the Weatherization Program—CSA funds the materials needed and DOL/CETA the labor for its installation.

As these services are performed, the information is added to the computerized family folder. When the family is determined self-sufficient, the computerized family folder is removed from the active data bank and stored into an inactive data bank to be used for future follow-up.

The synchronization of services provided by the Chattanooga Human Services Department is made possible by the joint funding process. It takes no more than a maximum of one week to identify a family's needs, assess the needs, and get those needs met.

Joint Funding: A Success in Chattanooga. Joint funding has been used for human services delivery in Chattanooga for almost six years. Over the period, there have been problems. Joint funding has not solved all of them. There are, however, a number of factors that indicate Chattanooga's success with joint funding.

Federal participating agencies in the Chattanooga program are now seeing that joint funding is a good concept; they are making every effort to assist Chattanooga develop a high quality human services program. Personnel in the Federal participating agencies are working as a team/task force—not as individual agency representatives—in partnership with Chattanooga in assessing the program and making recommendations.

Also, task force members are learning about the other Federal agencies' programs in the Chattanooga project; the problems with those programs; and planning together on how to eliminate those problems found.

Chattanooga's program staff members indicate that there is more understanding of the services available to support their efforts and much better understanding of objectives of each project element. Neighborhood Service Center managers agree that they have a much more coordinated program to offer their clients. Clients now receive available services in an orderly manner at the same location.

The success of Chattanooga's program, however, would not have been possible without the commitment and support of the city's former and present Mayor and City Commission. This is supported by the fact that city officials restructured the program when the Model Cities program was terminated, and the then existing program could have been phased down or out. These officials appealed to the Southeastern Federal Regional Council and the appropriate Federal agencies to continue in existence with a new lead agency and new programs included.

Other reasons for Chattanooga's success include:

1. Consolidation of categorical programs into a single department.
2. Support of a strong, active Southeastern Federal Regional Council.
3. Assistance, understanding and support from participating Federal funding agencies, particularly the initial Federal lead agency—HUD. These agencies did a great deal in assisting Chattanooga achieve an integrated grant. They helped city officials work out their problems in achieving this goal.

By Mr. PRYOR:

S. 1836. A bill relating to the currency of the United States; to the Committee on Banking, Housing, and Urban Affairs.

Mr. PRYOR. Mr. President, today I am introducing perhaps the shortest and simplest bill introduced in the 96th Congress. This bill will order that no denominational coin or currency of the United States may be abandoned without congressional approval.

Personally, Mr. President, I found the recent suggestion of the U.S. Treasury task force calling for the "dumping of the dollar" appalling.

Never has the phrase "pouring good money after bad" had as much meaning as now during these discussions calling for the phasing out of the $1 bill and its replacement with the Susan B. Anthony dollar coin and the $2 bill.

The American people obviously have indicated that they do not like this new coin and do not want to use it. Las Vegas casinos have found that people will not even put it into slot machines. Yet, rather than admit we have made a mistake, it appears that some would attempt to force this coin and the $2 bill down the throat and into the pocketbooks of the American people.

I do not know why this coin has not caught on. It may be because of its resemblance to a quarter. It may be because it is simply more convenient to carry folding money than heavy change. I certainly do not believe that it is out of disrespect to Ms. Anthony.

However, I think that we certainly should think twice before giving serious consideration to phasing out the single piece of currency which commemorates our first President, the father of our country, George Washington. In my view, the convenience of the $1 bill far outweighs any cost savings which might result from its elimination.

Quite frankly, I think that it is time we quit playing games with our currency and address the real concern the American people have about their money. That, Mr. President, is why it is not worth a nickel.

By Mr. PELL:

S. 1839. A bill to extend the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PELL (by request):

S. 1840. A bill to extend and improve the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

S. 1841. A bill to amend and extend the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

HIGHER EDUCATION AMENDMENTS OF 1979

● Mr. PELL. Mr. President, today I am introducing these bills dealing with the extension and revision of the programs contained in the Higher Education Act of 1965. The first, and the one which the Subcommittee on Education, Arts, and Humanities will use as the basis of its hearings and markup on the legislation, is a 5-year straight extension of existing higher education programs.

The second bill, which I am introducing by request, is proposed by the administration. The third, which I am also introducing at the request of the chairman of the House Subcommittee on Postsecondary Education, represents the action of that subcommittee in developing a new piece of higher education. By the introduction of these two bills, I am seeking to assure that a broad range of ideas is before the Senate. The subcommittee will give careful consideration to these ideas, as well as to those contained in legislation already introduced in the Senate, during its hearings on October 2, 3, 4, 5, 10, 11, and 12. I am hopeful that we will have legislation to put before the Senate early in the next session.●

By Mr. JACKSON (by request):

S. 1842. A bill entitled the "National Heritage Policy Act of 1979"; to the Committee on Energy and Natural Resources.

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill entitled the "National Heritage Policy Act of 1979."

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Assistant Secretary be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 1842

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Heritage Policy Act of 1979."

TITLE I

The Congress finds and declares that—

(a) it is in the public interest that natural and historic resources significant to this Nation's heritage and continuity be identified and protected by a coordinated national approach to heritage conservation, so that a vital legacy providing scientific, educational, recreational and inspirational benefits will be maintained and enriched for present and future generations of Americans;

(b) while existing Federal financial and technical assistance programs, such as the Land and Water Conservation Fund and the Historic Preservation Fund, as well as established natural and historic programs of Federal land management agencies and State and local governments, conserve particular aspects of our heritage through the protection of parklands, historic areas, wildlife habitat, recreation areas and wilderness, these efforts do not provide for the complete, effective and efficient identification and protection of heritage resources, many of which are being eliminated or substantially altered by the activities of man;

(c) more orderly, accessible and complete information on the existence, location, condition and status of this Nation's natural and historic resources is needed for informed and consistent heritage planning and policy;

(d) for the reasons stated above, it is necessary and appropriate for the Federal government to cooperate with and provide direction for the efforts of States, local governments, Indian tribes, private organizations and individuals to identify and protect those natural and historic resources significant to this Nation's heritage through a comprehensive national heritage policy.

TITLE II

NATIONAL HERITAGE PROGRAM

SEC. 201. The Secretary of the Interior (hereinafter referred to as the "Secretary") shall:

(a) establish a Natural Heritage Program and an Historic Preservation Program;

(b) establish and administer a National Register of Natural Areas (hereinafter referred to as the "Natural Register") which shall include resources of national, State and local significance; *Provided*, That items of national significantce shall be designated as National Natural Landmarks; and *Provided further*, That the designation of National Natural Landmark shall only apply to an area which clearly meets the standard for national significance established pursuant to revised criteria to be issued under section 201(e) of this Act.

(c) expand and administer the National Register of Historic Places (hereinafter referred to as the "Historic Register") established pursuant to section 101 of the Act of October 15, 1966, as amended, (16 USC 470a) which shall include resources of national, State and local significance; *Provided*, That items of national significance shall be designated as National Historic Landmarks; and *Provided further*, That the designation of National Historic Landmark shall only apply to an area which clearly meets the standard for national significance established pursuant to the criteria to be issued under section 201(e) of this Act.

(d) within one year of the effective date of this Act, develop or expand regulations or guidelines, as appropriate, for (1) documentation of significant information concerning the resources, (2) eligibility criteria for inclusion in the Natural or Historic Register, (3) nominations to the Natural or Historic Register by the State Natural Heritage Officer or the State Historic Preservation Officer established by subsections (f) and (g) of this section, respectively; *Provided*, That recommendations of resources which may be eligible for listing on the Registers may be made to the State by any agency or person, public or private, irrespective of the ownership or protective status of the resource, (4) notification by the State to the owners of natural areas and historic places that their property is being considered for nomination to the Natural or Historic Register, (5) listing resources in or removing them from the Registers; and (6) implementing the provisions of section 205 of this Act;

(e) establish revised criteria for the designation of nationally significant areas and places on the Registers which are: (1) clearly capable of excluding areas and places from the nationally significant category, as well as including them; (2) clearly understandable to those participating in the selection process and those potentially affected by it; (3) capable of objective and consistent application; and (4) of high enough standards to limit those areas and places selected for national significance to a relatively small proportion of all areas and places eligible to be placed on the National Registers. Review procedures shall be established to ensure that the criteria are applied and that nationally significant areas and places have met the criteria.

(f) within 18 months of the effective date of this Act, (1) develop, in consultation with the States, regulations or guidelines, as appropriate, for a State Natural Heritage Program and (2) request the Governor of each participating State to designate a State Natural Heritage Officer. This Officer may also be the State Historic Preservation Officer. The elements of each State's natural heritage shall include, but not be limited to, discrete types of: (1) terrestrial communities, (2) aquatic communities, (3) geologic features, (4) landforms, and (5) habitats of native plant and animal species which may be eliminated from the State without deliberate protection. It shall be the responsibility of each State Natural Heritage Officer, to (i) classify, locate, study, analyze and plan for the protection of the elements of natural heritage located on non-Federal lands within the State boundaries; (ii) accomplish these responsibilities on Federal and Tribal lands with the cooperation of Federal agencies and Indian Tribes, as appropriate; (iii) coordinate with ongoing Federal programs; (iv) consolidate and maintain Federal and non-Federal resource data as part of a statewide data system; and (v) nominate areas containing the best examples of these elements for inclusion in the Natural Register. Upon the determination of the Secretary that it has established a Natural Heritage Program consistent with the regulations or guidelines developed under this subsection, a State may use funds available to it under section 6 of the Land and Water Conservation Fund Act, as amended (16 USC 4601–8), for this purpose;

(g) within 18 months of the effective date of this Act (1) develop, in consultation with the States, regulations or guidelines, as appropriate, for a State Historic Preservation Program and (2) request the Governor of each participating State to designate a State Historic Preservation Officer. This Officer may also be the State Natural Heritage Officer. It shall be the responsibility of the State Historic Preservation Officer to assist the Secretary in accomplishing the Secretary's preservation responsibilities within the State, and to assist Federal, State, and local agencies and Indian tribes in accomplishing their preservation responsibilities as established under this Act.

(h) ensure and direct United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973, and in other international activities concerning the conservation and preservation of natural areas and historic places, in cooperation with the Secretary of State, the Smithsonian Institution and the Council on Heritage Conservation, as established by Title III of this Act: *Provided*, That whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

(i) consult with the Council on Environmental Quality to ensure that the administration of the National Heritage Program and any regulations or procedures issued to implement the program are coordinated with the Council's regulations for implementation of the National Environmental Policy Act to the maximum extent possible.

SEC. 202. The Secretary is authorized to—

(a) develop a process for the voluntary involvement of the public in the conservation and preservation of natural and historic heritage resources whereby the States: (1) encourage public participation in assisting with the identification and location of resources, (2) take conservation and preservation priorities of local governments into consideration in determining statewide conservation and preservation priorities, and (3) notify State agencies, local governments and the private sector of its priorities for protecting areas and places of national, State, and local significance, and provide them with technical information so that they can take appropriate action to protect the resources.

(b) extend honorific Federal recognition of exceptional efforts by local governments and the private sector in the identification and protection of significant heritage resources;

(c) develop and provide technical and nontechnical information and assistance, including documentation standards for natural and historic resources which may be eligible for inclusion in the Natural or Historic Register, to other nations and international organizations, the States, Indian tribes, other Federal agencies, private conservation and preservation organizations, and other interested parties on all aspects of natural and historic heritage conservation;

(d) study, in cooperation with other agencies and private and public organizations, as appropriate, the feasibility and necessity of establishing or developing other protective measures at the Federal, State, and local level for natural areas and historic places.

SEC. 203. Each Federal agency shall:

(a) with the advice of the Secretary and in cooperation with the State Historic Preservation Officer for the State involved, locate and nominate to the Historic Register historic resources located on lands which it owns or administers that appear to the head of such Federal agency to be eligible for inclusion in the Historic Register;

(b) in cooperation with the Secretary, and subsequent to compliance with the National Environmental Policy Act, section 206 of the Act of October 15, 1966, as amended, (16 USC 470f) and with sections 204 and 205 of this Act, as appropriate, initiate measures to assure that where as a result of Federal action or assistance, resources included in, or eligible for inclusion in the Natural Register or the Historic Register are to be substantially altered or destroyed, timely steps are taken to recover significant data, attributes or values of the resources and to make or have made records. A copy of such records is to be deposited in the Library of Congress for future use and reference. Agencies may call on the Secretary for advice and technical assistance in the completion of the above records. Notwithstanding section 7 of the Act of June 27, 1960, as amended, (16 USC 469c) or any other provisions of law to the contrary, compliance with the data recovery requirements of that Act shall constitute compliance with this subsection for the purposes of data recovery at historic places. The costs of such recovery may be conveyed to Federal licensees, permittees or grantees;

(c) initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation, or restoration, of federally owned historic resources of national significance in accordance with standards prescribed by the Secretary;

(d) cooperate with purchasers and transferees of any federally owned or administered property included in, or eligible for inclusion in, the Natural or Historic Register in the development of plans for users of such property that are compatible with conservation and preservation objectives without imposing unreasonable economic burdens on public or private interests;

(e) cooperate with the Secretary and the States in collection, use, and exchange of compatible heritage resource information;

(f) consistent with its missions and mandates: (1) cooperate with the Secretary and the States in efforts to classify, locate, study, analyze, and plan for the protection of the elements of the States' natural heritage, particularly those located on Federal lands; (2) integrate information contained in the State Natural Heritage Program inventories into its ongoing planning process; (3) in cooperation with the State Natural Heritage Officer for the State involved, nominate to the Natural Register natural resources located on lands which it owns or administers that appear to the head of such Federal agency to be eligible for inclusion in the Natural Register.

(g) within 24 months of the effective date of this Act, develop regulations or guidelines, as appropriate, to carry out its responsibilities under this Act.

SEC. 204. The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal agency having authority to license any undertaking, shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any area included in or eligible for inclusion in the Natural Register. The head of any such agency shall afford the Council on Heritage Conservation, as defined in Title III of this Act, a reasonable opportunity to comment with regard to such undertaking.

SEC. 205. Prior to the approval of any Federal undertaking which may adversely affect any Natural or Historic Landmark, the head of any Federal agency shall determine that no prudent and feasible alternative to such undertaking exists, shall, to the maximum extent possible, take such planning and actions as may be necessary to minimize harm to such Landmark, and shall afford the Council on Heritage Conservation a reasonable opportunity to comment on the undertaking: *Provided*, That this section shall not take effect until after the criteria to be prepared pursuant to section 201(e) are promulgated.

SEC. 206. Within six months of the effective date of this Act, the Council on Heritage Conservation with the concurrence of the Secretary shall promulgate regulations or guidelines, as appropriate, for the exemption of Federal undertakings from any or all of the requirements of this Act or the Act of October 15, 1966, as amended, (16 U.S.C. 470f) when such exemptions will not substantially impair the protection of natural areas or historic places, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of natural areas and historic places.

SEC. 207. Section 6 of the Land and Water Conservation Fund Act of 1965, as amended, (78 Stat. 900; 16 USC 4601-8) is further amended by—

(a) revising subsection (a) to read:

"(a) The Secretary of the Interior (hereinafter referred to as "Secretary") is authorized to provide financial assistance to the States for monies available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such terms and conditions as he considers appropriate and in the public interest to carry out the purpose of this Act, for (1) planning, (2) acquisition of lands, waters, or interests in land and waters, or (3) development for outdoor recreation and the conservation of natural areas; *Provided*, That such areas may be subject to uses or use restrictions as are found by the Secretary to be consistent with the maintenance of their natural qualities and condition."

(b) inserting before the colon in subsection (d)(2) the following words: ", and appropriate development or protection of natural areas"; and

(c) deleting in the first sentence of subsection (f)(3) the words "public outdoor recreation uses" and substituting "public outdoor recreation or natural area conservation uses", and deleting in the second sentence the words "recreation properties" and substituting "recreation or natural area properties, as appropriate,".

SEC. 208. Section 101(a)(1) of the Act of October 15, 1966, as amended, (16 USC 470a) is hereby amended to read:

"(a) to expand and maintain a national register of districts, sites, buildings, structures, objects, networks, cultural landscapes, and neighborhoods significant in American history, architecture, archeology or culture, hereinafter referred to as the National Register, and to grant funds to States for the purpose of preparing comprehensive statewide historic surveys and plans, in accordance with criteria established by the Secretary, for the preservation, acquisition, and development of such properties."

SEC. 209. Section 108 of the Act of October 15, 1966, as amended, (16 U.S.C. 470h) is amended by deleting the phrase "for fiscal year 1981" and inserting in its place the phrase "per year for fiscal years 1981, 1982, and 1983."

TITLE III

COUNCIL ON HERITAGE CONSERVATION

SEC. 301. Title II of the Act of October 15, 1966, as amended, (16 U.S.C. 470i) is further amended as follows:

(a) Amend section 201(a) as follows:

(1) delete the words "an Advisory Council on Historic Preservation" and substitute in lieu thereof "a Council on Heritage Conservation" and any reference in law to the Advisory Council on Historic Preservation shall hereafter be considered a reference to the Council on Heritage Conservation; and

(2) delete from section 201(a) the word "twenty-nine" and substitute in lieu thereof "thirty-three";

(3) delete sections 201(a)(9), (13), (17) and (18) and substitute in lieu thereof:

(9) The Secretary of Labor;

(13) The Secretary of Energy;

(17) The Administrator of the Environmental Protection Agency;

(18) The Director of the National Science Foundation;

(19) The Chairman of the National Endowment for the Humanities;

(20) The Chairman of the National Endowment for the Arts;

(21) Thirteen appointed by the President from outside the Federal government. In making these appointments the President shall give due consideration to equal representation of persons with expertise in natural area conservation and historic preservation, and to the selection of officers of State and local governments, Indian tribes, and individuals who are significantly interested and experienced in the matters to be considered by the Council.

(b) Amend section 201(b) by deleting "(17)" and substituting in lieu thereof "(20)";

(c) Amend section 201(c) to read as follows:

"(c) Each member of the Council appointed under paragraph (21) of subsection (a) shall serve for a term of four years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of from one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than five of them will expire in any one year."

(d) Amend section 201(d) to read as follows:

"(d) A vacancy in the Council shall not affect its power, but shall be filled in the same manner as the original appointment (and for the balance of any unexpired terms); *Provided*, That each member of the Advisory Council on Historic Preservation appointed by the President under former paragraph (18) of the Act of October 15, 1966, as amended, in office on the date of enactment of this Act, shall remain in office until such time as the member's term expires or the President appoints a new member under paragraph (21) of subsection (a) of this section;".

(e) Amend section 201(e) to read as follows:

"(e) The Chairman of the Council shall be designated by the President from among those members appointed under paragraph (21) of subsection (a) of that paragraph. The President shall also designate a Vice Chairman who shall act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant."

(f) Amend section 201(f) by deleting the word "fifteen" and substituting in lieu thereof the word "seventeen."

(g) Amend section 202(a)(1) by inserting prior to the semicolon in the first clause, "and conservation of natural areas" after the term "historic preservation" whenever it appears;

(h) Amend section 202(a) by adding at the end thereof the following new subsections:

"(6) review Federal policies and programs affecting historic places and natural areas to recommend means to improve the effectiveness, coordination and consistency of those policies and programs; and

(7) inform and educate interested Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities.";

(i) Amend section 204 by striking the term "(17)" in the first sentence and inserting in lieu thereof "(19)" and striking the term "(18)" in the second sentence and inserting in lieu thereof the term "(20)";

(j) Delete section 205(c);

(k) Amend section 205(d) by deleting the words "without regard to" and inserting in lieu thereof the words "in accordance with".

(l) Amend section 205(g) by inserting after the word "facilities," in the second sentence the word "monies,"; and adding the following phrase at the end of the last sentence: "and the Executive Director in his administration of the Council is authorized, in his discretion, to accept, hold, use, expend and administer the same for the purposes of this Act.";

(m) Amend section 206(c) to read as follows:

"(c) For the purpose of this section, there is authorized to be appropriated an amount equal to the assessment for United States membership in the Centre for fiscal years 1979 and 1980; *Provided*, That no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization.";

(n) Delete section 210;

(o) Redesignate section 211 as section 210;

(p) Redesignate section 212(a) as section 211 and amend by deleting the last sentence and inserting in lieu thereof the sentence "There are authorized to be appropriated such sums as may be necessary to carry out such activities of the Council as may be authorized by the Congress."; and

(q) Delete section 212(b).

SEC. 302. The Council is authorized to

promulgate, within 120 days of the effective date of this Act, such rules and regulations as it deems necessary to implement its responsibilities under sections 204 and 205 of this Act.

TITLE IV

ADMINISTRATIVE PROVISIONS

SEC. 401. For the purposes of this Act—

(a) the term "agency" means "agency" as such term is defined in section 551 of Title 5, United States Code;

(b) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands;

(c) the term "undertaking" means any Federal, federally assisted or federally licensed action, activity, or program or the approval, sanction, assistance, or support of any non-Federal action, activity or program. Undertakings include new and continuing projects and program activities that are: (1) directly undertaken by Federal agencies; (2) supported in whole or in part through Federal contracts and grants, or other forms of direct and indirect funding assistance; and (3) carried out pursuant to a Federal lease, permit, license, certificate, approval, or other form of entitlement or permission;

(d) the term "Indian tribe" means the governing body of any Indian tribe, band, nation or other group which is recognized as an Indian tribe by the Secretary of the Interior and for which the United States holds land in trust or restricted status for that entity or its members;

(e) the term "eligible for" the Natural or Historic Registers as used in this Act and section 106 of the Act of October 15, 1966, as amended, means meeting the criteria established by the Secretary for listing in the Natural or Historic Register.

SEC. 402. Each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of this Act.

SEC. 403. The Secretary may accept donations and bequests of money and personal property for the purposes of this Act and shall hold, use, and expend and administer the same for such purpose.

SEC. 404. The head of each Federal agency, after consultation with the Secretary of the Interior, shall withhold from disclosure to the public, information which might reveal the specific location of sites, objects, buildings, structures, terrestrial communities, aquatic communities, geologic features or landforms which are eligible for or included in the Natural Register or the Historic Register, whenever the head of the agency or the Secretary of the Interior has a reasonable basis for determining, and determines that the disclosure of such information would (1) create a substantial risk of harm, theft, or destruction to such sites, objects, buildings, structures, flora, fauna, terrestrial communities, aquatic communities, geologic features or landforms, or (2) create a substantial risk of harm, theft, or destruction to the area or place wherein such sites, objects, buildings, structures, flora, fauna, terrestrial communities, aquatic communities, geologic features or landforms are located, such as to destroy any or all of the features for which the area or place was determined eligible for or included in the Natural Register or the Historic Register.

SEC. 405. Nothing in this Act shall be construed to modify or amend existing authorities which provide for a greater degree of protection to natural areas and historic places; the more restrictive conservation or preservation authorities shall control.

SEC. 406. There are authorized to be appropriated such sums as are necessary to implement the provisions of this Act.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C. September 10, 1979.
Hon. WALTER MONDALE,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is the "National Heritage Policy Act of 1979," a bill to implement the National Heritage Program called for in President Carter's 1977 Environmental Message. The bill is the result of a study initiated in June 1977 by a National Heritage Task Force and program decisions made thereafter by this Department and the President. The Task Force was composed of numerous representatives of Federal and State agencies, private organizations, and individuals. Its recommendations have been widely circulated to interested individuals, groups, and government officials throughout the country.

We recommend that the enclosed bill be referred to the appropriate committee for consideration, and that it be enacted.

The purpose of the bill is to establish a national policy and provide the basis for implementing a program to assist in the identification and protection of areas and places of significance to our heritage. Our national heritage consists of that collection of resources important to Americans because they are significant aspects of our history and culture and significant elements of our natural environment. Natural areas include lands and waters of ecologic and geologic significance to this Nation's natural environment at the national, State, and local level. Historic places include districts, sites, buildings, structures, objects, networks, cultural landscapes, and neighborhoods significant in American history, architecture, archeology or culture at national, State and local levels. By identifying these areas and places, we will be helping to preserve our American heritage.

The National Heritage Program is a Federal initiative to work with the States and others to coordinate and strengthen existing public and private efforts to identify and protect significant natural areas and historic places. It will also provide a basis for developing and refining a consistent policy and program for heritage resources. The National Heritage Policy Act will not supplant any existing Federal program which identifies or protects natural areas or historic places. It will assist those programs by assuring that information on such resources is available to those programs in a timely manner and in a useful form. As such, it will facilitate rather than obstruct Federal planning and Federal actions. In addition, the bill provides for the judicious application of exemptions from the program and agencies may issue counterpart regulations to ensure that program compliance is consistent with their missions, mandates, and time requirements.

Since a national program for historic preservation has been in place since the 1966 National Historic Preservation Act, the natural heritage component of the National Heritage Program must be brought up to a similar level of sophistication and development. The national program seeks to recognize, and use as a foundation, the accomplishments of Federal land management agencies and financial and technical assistance programs, and the efforts of State and local governments, Indian tribes, and private organizations and individuals as a means to efficient and effective identification and protection of heritage resources. Thus, the bill does not substantially change the requirements of existing programs for historic resources and seeks to build similar responsibilities for the conservation of significant natural areas. In order to avoid the additional regulation inherent in Federal programs, participation by the States is voluntary and Federal activities to support the programs are to be consistent with their mission and mandates.

The proposal for a National Heritage Policy is designed to reduce duplicative inventory efforts and to enhance efficiency by coordinating ongoing heritage resource identification efforts. It will also improve the planning process of Federal agencies and aid environmental review by making information on the location, status, and condition of significant heritage resources available at early phases in planning. As such, this proposal is not another Federal acquisition program or protective system of Federal lands, but rather an effort to develop a uniform and consistent approach to the identification and inventory of significant natural areas and historic places—the foundation of a nationwide effort to protect heritage resources through informed planning and policy making.

The key components of the proposed National Heritage Program are as follows:

1. *The identification of potential heritage areas and places.* Identification of natural and historic resources is a major step in the preservation of our national heritage. Identification of heritage resources will be undertaken by the States through State Natural Heritage Programs which they may voluntarily participate in, as established by section 201(f) and the State Historic Preservation Programs established in 201(g). Financial support for these programs will be available from the Land and Water Conservation Fund and the Historic Preservation Fund, respectively. Federal agencies are directed to locate and nominate to the Historic Register historic resources located on lands which they own or administer which appear to the head of any such agency to be eligible for the Historic Register, and similarly to cooperate with the Secretary and the States in identifying and nominating areas for the Natural Register.

2. *The Registers.* Once identified, the States, Federal agencies, Indian tribes, individuals, or public or private agencies, as appropriate, may recommend areas and places which appear to be eligible for listing in either the National Register of Natural Areas, established by section 201(b) of this Act, or the National Register of Historic Places. The Secretary already administers the National Register of Historic Places under authority of the National Historical Preservation Act of 1966, as amended, 16 U.S.C. § 470 et seq. These recommendations will be forwarded to the Secretary as nominations to the Registers by the State Natural Heritage Officer or the State Historic Preservation Officer. In all cases, the owner of the resource will be notified when it is recommended for either Register. The criteria for natural areas and historic places of national, State, or local significance will be established under the Secretary's direction within one year of the effective date of the Act. These criteria will be developed in consultation with appropriate Federal agencies and participating States. The Registers will contain a comprehensive listing of areas and places significant to this nation's heritage which Federal agencies and State and local governments should consult early in their planning processes.

The criteria to be prepared for the designation of nationally significant areas will be capable of excluding as well as including areas and will be of high enough standards to limit those properties selected for national significance to a relatively small proportion of all properties eligible to be placed on the National Registers. Natural areas determined to be of national significance which are on the Register will be designated as National Natural Landmarks; nationally significant historic places which are on the Register will be designated as National Historic Landmarks.

3. *Protection*. Once listed on either Register, or determined to be eligible for listing, significant natural areas and historic places will receive a variety of protections:

a. The heads of Federal agencies responsible for Federal or federally assisted actions which may affect listed or eligible areas and places will be required to take such effects into consideration for the purpose of avoiding or mitigating adverse impacts. This consideration will include consultation with the Council on Heritage Conservation, an independent Federal agency established by Title III of the bill. This procedure is currently required for places listed in or eligible for listing on the National Register of Historic Places, pursuant to section 106 of the National Historic Preservation Act of 1966, as amended. Section 204 of the bill extends the section 106 requirements to natural areas. The Advisory Council on Historic Preservation is renamed the Council on Heritage Conservation and has been expanded to include certain responsibilities for natural areas. The requirements of section 106 of the Historic Preservation Act of 1966, as amended, and section 204 of this Act will not prohibit Federal or federally assisted actions which may adversely affect eligible or listed areas and places, but will help assure that efforts to avoid unnecessary adverse impacts are undertaken.

b. Section 205 of the bill requires that any Natural or Historic Landmarks not be adversely affected by any Federal undertaking unless no prudent and feasible alternative exists, and then only when planning and action are undertaken to minimize harm. This requirement, although not prohibiting adverse impacts on listed areas and places, will assure that efforts to avoid unnecessary adverse impacts are undertaken.

c. Although no new or additional planning, acquisition, or development funds are called for in this bill, States may use Federal financial assistance for planning, acquisition, and appropriate development of significant natural areas and historic places. This element of the program is currently in effect for historic places under the Historic Preservation Fund established by the National Historic Preservation Act of 1966, as amended. Section 207 of this bill will make available similar funding arrangements for natural areas by amending section 6 of the Land and Water Conservation Fund Act, as amended, 16 U.S.C. § 4601–8, to authorize Federal assistance to States that wish to use this funding source for planning, acquisition, and development of eligible natural areas even though, in some instances, the recreational use of such areas and places may have to be limited in order to protect fragile resources.

d. In addition to the specific protection measures mentioned above, section 202 of the bill gives general authority to the Secretary to (1) further the identification and protection of significant natural areas and historic places through technical assistance, consultation and cooperation with other Federal agencies; (2) extend honorific recognition of exceptional efforts by local governments and the private sector in the identification and protection of heritage resources; and (3) study, in cooperation with other agencies and organizations, other appropriate protection measures and actions.

As an administrative complement to the legislative proposal, the Secretary has established, by Secretarial Order #3017 of January 25, 1978, a Heritage Conservation and Recreation Service within the Department of the Interior. This Service administers most of the programs formerly administered by the Bureau of Outdoor Recreation. In addition, the Secretarial Order transferred from the National Park Service to the Heritage Conservation and Recreation Service, the National Natural Landmarks Program and the Office of Archeology and Historic Preservation, which administers the Historic Preservation Fund, the National Register of Historic Places, and the National Historic Landmarks Program. The consolidation of the planning and grant administration activities relating to outdoor recreation and the conservation of natural areas and historic places will serve to strengthen the efficiency and effectiveness of these programs and achieve necessary coordination between them which was lacking in the past.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely,

ROBERT HERBST,
Assistant Secretary.●

By Mr. CRANSTON (for himself, Mr. WILLIAMS, Mr. RIEGLE, Mr. KENNEDY, Mr. JAVITS, Mr. STAFFORD, Mr. BAYH, Mr. LEAHY, Mr. MATSUNAGA, and Mr. HATFIELD):

S. 1843. A bill to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and provide immediate shelter and other assistance for victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes; to the Committee on Labor and Human Resources.

DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

● Mr. CRANSTON. Mr. President, as chairman of the Subcommittee on Child and Human Development and on behalf of myself and nine colleagues, I am pleased to introduce, for appropriate reference, S. 1843, the proposed Domestic Violence Prevention and Services Act. Joining me in cosponsoring this bipartisan measure are the chairman of the Committee on Labor and Human Resources (Mr. WILLIAMS), four other committee members, the Senator from Massachusetts (Mr. KENNEDY), the Senator from New York (Mr. JAVITS), the Senator from Vermont (Mr. STAFFORD), the Senator from Michigan (Mr. REIGLE), who also serves on the subcommittee, as well as the Senator from Indiana (Mr. BAYH), the other Senator from Vermont (Mr. LEAHY), the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from Oregon (Mr. HATFIELD).

BACKGROUND

Mr. President, the proposed bill represents a great deal of work and research with respect to domestic violence, and domestic violence programs and possible legislation. In March 1978, I chaired hearings held by my subcommittee concerning domestic violence and the need for a Federal effort in this area. More than 35 witnesses provided oral testimony including representatives of the administration, State officials, service providers, law enforcement personnel, researchers, and representatives from the American Bar Association, the Coalition of Family Organizations, the National League of Cities, the California Coalition Against Domestic Violence, and the National Coalition Against Domestic Violence.

Following the hearings, on March 16, 1978, I introduced S. 2759, also called the Domestic Violence Prevention and Services Act. Copies of S. 2759 were distributed to each of the hearing witnesses and to interested groups and individuals for comment, and amendments made to the bill by the subcommittee and the full committee were generally in response to these suggestions. As amended, S. 2759 passed the Senate on August 1. Unfortunately, however, the House failed to act favorably on domestic violence legislation before the close of the 95th Congress.

I stated earlier this year that I believed it would be most appropriate to wait for the House to work its will on the domestic violence legislation in this Congress before the measure was reintroduced in the Senate.

On March 16, 1979, my friend and colleague from California (GEORGE MILLER) and 58 cosponsors introduced H.R. 2977, a bill similar to the legislation I propose today. On September 14, 1979, the House Subcommittee on Select Education, chaired by my friend and colleague from Illinois (Mr. SIMON) marked up and ordered the bill favorably reported to the full Committee on Education and Labor and just this past Wednesday, September 26, the full committee ordered the subcommittee bill reported with a number of amendments. Through these recent activities and the apparent strong support enjoyed by the bill—it now has 95 cosponsors—I believe that the House has demonstrated definite willingness to act favorably during the Congress on this legislative initiative.

Mr. President, the bill we are introducing is not identical to S. 2759 as passed by the Senate last year—although it is very similar; it is the product of consultations with a great many interested groups and individuals, as well as discussions with the sponsors of domestic violence legislation in the other body during the final days of the last Congress session. Over the last year, copies of the legislation were again distributed to witnesses who provided oral testimony at last year's hearing, as well as numerous individuals and organizations interested in the problem of domestic violence.

ADMINISTRATION ACTIVITIES

On April 27, 1979, former Secretary of Health, Education, and Welfare Califano expressed the administration's concern that we have too long ignored the problem of domestic violence. On that same day, the President announced the formation of the Interdepartmental Committee on Domestic Violence to review programs in 10 different Federal departments and agencies. At the same time, the administration established an Office on Domestic Violence within HEW. Knowing of the administration's interest in coordinating an effective Federal effort to combat this problem, I look forward to working with Secretary Harris and others in HEW and the administration on legislation in this area of shared concern.

NEED

Mr. President, through the 1978 hearings, the extent of the problem of domestic violence and the need for Federal leadership and involvement in this matter have been repeatedly stressed. Past and recent reports and testimony submitted to the subcommittee have emphasized the growing incidence of domestic violence, the enormous social costs of this problem—both for the victims and society, in general—and the inability of existing programs to meet the growing demand for assistance and shelter for domestic violence victims and their dependents.

At the time of the Senate's consideration of S. 2759 last August, I referred to many studies that demonstrate the proportions of the phenomenon of domestic violence and its tremendous social costs. One such study suggested that the number of wives suffering extreme violence at some time in their marriage may be as great as 5 million, with some being battered regularly. I pointed out a study funded by the National Institute of Mental Health that found that nearly 2 million American couples have used a lethal weapon on one another during their marriage—not including threats—and that, among randomly selected couples, one of six during a single year had engaged in violent acts—such as beatings, throwing objects at one another, or threats with a knife or gun.

An equally alarming aspect of the problem of domestic violence is the matter of injuries to police officer. During Senate consideration of this measure last August, I pointed out that approximately one-fifth of all deaths of police officers and 40 percent of all injuries occurring in line of duty arise out of domestic violence interventions.

Mr. President, the impact of the problem of domestic violence both to the victims and their children and to society cannot be overlooked.

PURPOSE

It is the purpose of this bill to stimulate increased participation by States, local communities, nonprofit private organizations, and individual citizens in efforts to prevent domestic violence and assist victims and dependents of victims of domestic violence; to provide technical assistance and training, as appropriate, with respect to domestic violence programs to interested States, local communities, nonprofit private organizations and other interested groups, officials, and persons; to establish an interagency council to seek to coordinate Federal programs with respect to domestic violence; and to stimulate research and reporting programs relating to domestic violence.

The bill addresses the immediate short-term needs of domestic violence victims for refuge and support as well as the long-term needs of victims and the need for activities to reduce the incidence of the problem.

Mr. President, to fulfill these needs, the legislation would establish a framework for a comprehensive partnership involving Federal and State governments with community groups and private citizens and organizations. This design for grassroots involvement between all levels of government and local citizens recognizes the wide range of problems faced by victims of domestic violence beyond the need for emergency shelter—problems relating to the judicial system, public assistance programs, law enforcement agencies, the medical community and social services agencies.

It should be noted that the functions envisioned in this bill are complimented by those recommended in S. 1153, a bill introduced by myself and Senators WILLIAMS, RANDOLPH, KENNEDY, RIEGLE, JAVITS, and STAFFORD to amend title XX of the Social Security Act. This amendment—approved by the Finance Committee just yesterday as part of its consideration of H.R. 3434—would assure that States, in the provision of services under title XX, would not be prohibited from using social services funds for the provision of emergency shelter—for a period not to exceed 30 days in any 6-month period—as a protective service to an adult in danger of physical or mental injury, neglect, maltreatment, or exploitation.

Likewise, the provisions of S. 440, the proposed Comprehensive Alcohol Abuse and Alcoholism Prevention and Treatment Act Amendments of 1979—passed by the Senate on May 7, but not yet acted upon by the other body—which relate to the provision of emergency assistance to individuals who are victims of alcohol-related domestic violence would interrelate with the programs outlined in the legislation we are introducing today. My friend from Michigan (Mr. RIEGLE) will be outlining these provisions in his statement today.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

PURPOSE

The purpose of the bill is to provide for Federal support of State, local, and community activities to prevent domestic violence and provide immediate shelter and other assistance to victims of domestic violence, and for coordination of Federal programs and activities pertaining to domestic violence (section 2).

AUTHORIZATION OF APPROPRIATIONS

The bill would authorize the appropriation to the Secretary of HEW of $65 million over a 3-year period—$15 million for the fiscal year 1981, $20 million for fiscal year 1982, and $30 million for fiscal year 1983 (section 15).

Of the amounts appropriated, 85 percent would be distributed in grants to local public agencies and nonprofit private organizations—60 percent through the States and 25 percent by the Federal Government (The Secretary is required to assure that not less than 75 percent of the funds distributed to local public agencies and nonprofit private organizations are distributed to entities providing immediate shelter and related assistance to victims and dependents of victims of domestic violence.) (Section 3); 10 percent would be distributed to States for developing and implementing the State plan, assuring active citizen participation in the program conducted under the Act, and paying the costs of administering the State's domestic violence program under the Act (section 4); and 5 percent would be for the operation and activities of a National Center on Domestic Violence, including the employment of necessary fulltime employees (section 8).

DISTRIBUTION OF GRANTS

States would receive funds to distribute in grants to local public agencies and private nonprofit organizations and funds to assure citizen participation and meet administrative expenses; funds would be distributed to States on the basis of population with a minimum amount provided to each participating State.

In the distribution of funds to local public agencies and private nonprofit organizations, each State would be required to give special emphasis to the support of community-based products of demonstrated effectiveness, and to distribute not less than ⅔ of the funds to private nonprofit organizations (section 3).

The Secretary would also distribute grants to local public agencies and private nonprofit organizations. However, the Secretary would be permitted to make a grant to a local public agency only if he determined that the agency has been recommended and approved for funding by the State (section 3).

GRANTS

The amount of a grant that may be made to any single entity (by a State or by the Secretary) is limited to no more than $50,000 in any one year and a total amount of $150,000; nor may such an entity receive assistance for more than 4 years (section 3).

FEDERAL INTERAGENCY COUNCIL

A Federal Interagency Council would be established composed of representatives of various Federal departments and agencies and not less than 5 members of the general public to be appointed by the Secretary. The public members would be individuals who have been victims of domestic violence or have experience in the provision of community services with respect to domestic violence. The Council would identify, assess, and facilitate the coordination of all Federal programs and projects providing services or research with respect to domestic violence and would make recommendations concerning coordination of policy and development of objectives and priorities for all Federal programs relating to prevention of domestic violence and providing assistance to victims of domestic violence (section 3).

RESEARCH

The Secretary is required to assure the application of funds, from sums otherwise available, to research activities and demonstration projects closely associated with the provision of shelter and other assistance to domestic violence victims and their dependents. Each year the Secretary would be required to provide, in a report, specific information regarding the allocation of funds for such purpose and about the research conducted (section 12).

NATIONAL CENTER

The Secretary would be charged with designating an identifiable administrative unit (which could be a new or appropriate existing entity) in the Office of the Secretary to serve as a Center on Domestic Violence. The Director, who would be appointed by the Secretary, would be responsible for overseeing all programs and activities carried out under the Act and would chair the Interagency Council. In addition, the Director would be responsible for establishing and operating a national information and resource clearinghouse. The clearinghouse would be responsible for, among other things, collecting, analyzing, and disseminating information and developing a national media campaign to increase public awareness of the problem of domestic violence.

The Secretary, through the Director, would be authorized to make grants or enter into contracts to provide technical assistance training, and outreach services to States, local public agencies, and nonprofit private organizations (section 7).

MATCH

No State or local match would be required.

CONFIDENTIALITY

The confidentiality of the records of any individual subject to any program, project, or activity assisted under the Act would be protected. In addition, the address or locality of a shelter in receipt of a grant would, at the request of the shelter, not be made public (section 10).

CONCLUSION

Mr. CRANSTON. In redrafting this measure, Mr. President, we have been ever mindful of the urgent need to reduce Federal expenditures and move toward a balanced budget. We have reassessed the need for Federal activity and the extent of real support for such legislation. We have concluded that there is a significant need for greater Federal activity to stimulate local efforts, and that there is a broad base of support for this type of effort. At the same time, we have tightened up on the bill's provisions so as to focus the hard-pressed Federal dollar on the areas of greatest need.

Mr. President, the bill passed by the Senate last year—S. 2759—would have authorized the appropriation of $150 million over a 5-year period. The bill we introduce today would reduce that $30-million-a-year level to $65 million over 3 years beginning with fiscal year 1981—a total decrease of $85 million. The bill we introduce today also focuses related services to provide immediate refuge and protection to spouses and children escaping from brutality. We have also reduced funds for administrative and operating expenses.

I believe the bill represents an effecttive and fiscally prudent melding of contributions made by numerous concerned individuals and groups. Its provisions, if enacted, can do much to help alleviate a problem whose unfortunate experience we have too often failed to attack directly, and that is very costly both in financial and in human terms.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1843

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Domestic Violence Prevention and Services Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds that—

(1) a significant number of homicides, aggravated assaults, and assaults and batteries occur within the home between adult members of families;

(2) the reported incidence of domestic violence represents only a portion of the total number of incidents of domestic violence;

(3) a large percentage of police officer deaths in the line of duty result from police intervention in domestic violence situations;

(4) domestic violence is a complex problem affecting families from all social and economic backgrounds; and

(5) the effectives of State laws and State and local community programs in reporting and preventing domestic violence and in providing immediate shelter and other assistance for victims and dependents of victims of domestic violence is not readily ascertainable.

(b) It is the purpose of this Act to increase the participation by States, local communities, nonprofit private organizations, and individual citizens in efforts to prevent domestic violence and provide immediate shelter and other assistance for victims and dependents of victims of domestic violence; to provide technical assistance and training, as appropriate, with respect to domestic violence programs to interested States, local communities, nonprofit private organizations, and other interested groups, officials, and persons; to establish an interagency council to seek to coordinate Federal programs relating to domestic violence; and to provide for reporting programs relating to domestic violence.

GRANTS ANTHORIZED

SEC. 3. (a) (1) In order to assist in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of domestic violence and to provide immediate shelter and other assistance for victims and dependents of victims of domestic violence, the Secretary is authorized, in accordance with the provisions of this Act and through the Director, to make grants to States that meet the requirements of this subsection.

(2) No grant may be made under this subsection unless the chief executive of the State submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall—

(A) provide that funds provided under this subsection will be distributed in grants to local public agencies and nonprofit private organizations for programs and projects within such State to prevent incidents of domestic violence and to provide immediate shelter and other assistance for victims and dependents of victims of domestic violence;

(B) provide, with respect to funds provided to a State under this subsection for any fiscal year, that not less than two-thirds of such funds will be distributed in grants to nonprofit private organizations within the State; and that, in the distribution of grants under this subsection, the State will give special emphasis to the support of community-based projects of demonstrated effectiveness, particularly those operating shelters;

(C) provide that, whenever feasible, in making grants under this subsection, reasonable assurances, and the basis therefor, will be provided to grantees of the level of future support which each such grantee is likely to receive from the State, assuming continuation of an adequate level of Federal assistance under this Act;

(D) set forth procedures designed to assure an equitable distribution of grants and grant funds within the State;

(E) set forth procedures for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds provided under this Act, including such funds distributed by the State to local public agencies and nonprofit private organizations;

(F) specify the State agency to be designated as responsible for the administration of the State domestic violence program under this Act;

(G) provide for making such reasonable reports in such form, at such times, and containing such additional information as the Secretary may deem essential to carry out the purposes and provisions of this Act, and for keeping such records and affording such access thereto as the Secretary may deem essential to assure the correctness and verification of such reports;

(H) provide assurances of, and procedures for, compliance with the provisions of section 10, relating to confidentiality, and provide assurances that the address or location of a shelter in receipt of a grant under this subsection will, at the request of such shelter, not be made public;

(I) set forth procedures to assure active citizen participation within the State with respect to—

(i) overseeing within the State the development and implementation of Federal, State, and local programs and projects funded under this Act, including consideration of the extent to which the geographic distribution of grants by the State is equitable, taking into account the distribution of population within the State, and, to the extent feasible, examining and evaluating other Federal, State, and local programs providing services in the State that are or could be used in relation to the prevention of domestic violence or the provision of immediate shelter and other assistance to victims of domestic violence, and

(ii) the distribution of funds to be made through grants to local public agencies and nonprofit private organizations, and plans for effectively meeting statewide needs;

(J) provide assurances that any project for which a grant is made under this subsection will be administered and operated by personnel with appropriate training or experience and that, where a substantial number of individuals with limited English-language proficiency will be served, particular attention will be given to the provision of services which respect cultural sensitivities and bridge linguistic and cultural differences; and

(K) provide such other assurances and include such other information as the Secretary deems essential to carry out the purposes and provisions of this Act.

(3) The Secretary shall approve any application that meets the requirements of this subsection, and the Secretary shall not disapprove an application for a grant under this subsection except after reasonable notice, opportunity for correction of any deficiencies, and notice of an opportunity for a hearing.

(b) (1) The Secretary, through the Director, is authorized to make grants to local public agencies and nonprofit private organizations for projects designed to prevent incidents of domestic violence and to provide immediate shelter and other assistance for victims and dependents of victims of domestic violence. In no event may the Secretary make a grant under this subsection in any fiscal year to a local public agency unless such agency has been recommended and approved for funding for such a project in such fiscal year by the State in which the local public agency is located.

(2) No grant may be made under this subsection unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems essential to carry out the purposes and provisions of this Act. Such application shall comply, as applicable, with the provisions of clauses (E), (G), (H), and (J) of subsection (a) of this section.

(c) No grant may be made under this section in any fiscal year to any single entity (other than to a State) for an amount in excess of $50,000, and the total amount of such grants to any single entity may not exceed $150,000, or be awarded in excess of four fiscal years.

(d) No funds provided through grants made under this section may be used as direct payment to any victim or any dependent of a victim of domestic violence.

(e) No income eligibility standard may be imposed with respect to any individual seeking assistance or services, supported with funds provided under this Act, from an entity in receipt of a grant under this Act.

(f) The Secretary shall assure that not less than 75 per centum of the funds distributed under subsections (a) and (b) of this section to local public agencies and nonprofit private organizations shall be distributed to entities providing immediate shelter and related assistance to victims and dependents of victims of domestic violence.

SUPPLEMENTAL GRANTS AUTHORIZED

SEC. 4. The Secretary is authorized, in accordance with the provisions of this Act, to make grants under this section to any applying State that has met the requirements for a grant under section 3(a) in order to pay the costs of administering any such State's domestic violence program under this Act, developing and implementing the State's domestic violence program as specified in the application submitted by such State under such section, and assuring active citizen participation as required under section 3(a)(2)(I).

ALLOTMENT OF FUNDS

SEC. 5. (a) From the sums appropriated under section 15 for grants to States for any fiscal year, each State shall be allotted for payment in a grant authorized under sections 3 and 4 an amount which bears the same ratio to such sums as the population of such State bears to the population of all States, except that—

(1) each State shall be allotted not less than whichever is the greater of the following amounts: one-half of 1 per centum of the amounts available for grants under sections 3(a) and 4 for the fiscal year for which the allotment is made, or $40,000 for the purposes of section 3 and $8,000 for the purposes of section 4; and

(2) Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands shall each be allotted not less than one-eighth of 1 per centum of the amounts available for grants under sections 3(a) and 4 for the fiscal year for which the allotment is made.

For the purpose of the exception contained in clause (1) of this subsection only, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

(b)(1) If, by the end of the sixth month of the fiscal year for which sums have been appropriated under section 14, the amount allotted to a State has not been awarded to such State under sections 3(a) and 4 because of such State's failure to qualify, in accordance with the provisions of this Act, for such grants, the Secretary shall make reallotment of the total amounts not so paid, as follows:

(A) not less than 50 per centum to States so qualifying for distribution as provided under section 3(a) in grants to local public agencies and nonprofit private organizations, each State to be awarded an amount which bears the same ratio to the total amount to be reallotted as the population of such qualifying State bears to the population of all qualifying States; and

(B) the remaining 50 per centum in grants under section 3(b), unless the Secretary determines that a lesser per centum would more effectively carry out the purposes and provisions of this Act.

(2) The Secretary may make available for reallotment, in accordance with the provisions of paragraph (1) of this subsection, such amounts provided in any fiscal year to a State under sections 3(a) and 4 as the Secretary determines, after consulation with such State, will not be used by such State during such fiscal year for carrying out the provisions of this Act.

(3) For the purposes of paragraphs (1) and (2) of this subsection, a State which the Secretary, pursuant to paragraph (2) of this subsection, has determined will not use any of the amounts provided under sections 3(a) and 4 shall not be eligible for a reallotment of funds under either such paragraph.

(4) Funds made available by the Secretary through reallotment pursuant to paragraph (1) or (2) of this subsection shall remain available for expenditure until the end of the fiscal year following the fiscal year in which such funds become available for reallotment.

STATE REPORTS

SEC. 6. (a) For the purpose of furnishing information to the Congress to aid in its oversight activities, each State receiving a grant under section 3(a) shall submit to the Secretary, on or before December 1 of each year, a concise report providing specific information on the implementation of programs and projects under this Act. Each such report shall include (with funds provided under sections 3(a) and 4 shown separately) information for the preceding fiscal year as to—

(1) the amount used to administer the State program;

(2) the amount used for programs and projects to provide training and technical assistance with respect to domestic violence, and the amount used for assuring active citizen participation;

(3) the amount used for services provided and activities conducted, or caused to be provided or conducted by the State, broken down by agency and by types of services and activities conducted or caused to be conducted by such agency;

(4) the number, nature, recipients, and amounts of grants made to local public agencies, the number, nature, recipients, and amounts of grants made to nonprofit private organizations and the number, nature, recipients, and amounts of grants to entities providing shelter and related assistance to victims and dependents of victims of domestic violence;

(5) the number of persons estimated to have been assisted in projects described in clauses (2), (3), and (4), respectively, of this subsection; and

(6) such other specific information as the Secretary may deem essential to carry out the purposes and provisions of this Act.

(b) Prior to requiring any specific information under clause (6) of subsection (a) of this section, the Secretary shall advise the appropriate committees of the Congress and each participating State of the reasons for requiring such information.

NATIONAL CENTER ON DOMESTIC VIOLENCE

SEC. 7. (a)(1) The Secretary shall designate within the Office of the Secretary an administrative unit to serve as the National Center on Domestic Violence.

(2) The Center shall be headed by a Director who shall be appointed by the Secretary.

(b) The Director of the Center shall—

(1) be responsible for overseeing all programs and activities carried out under this Act and shall seek to coordinate, through the interagency council established by section 13(a)(1) of this Act, all Federal programs and activities (including research activities), to the extent such programs and activities relate to domestic violence, carried out with respect to the prevention of domestic violence or the provision of immediate shelter and other assistance for victims and dependents of victims of domestic violence;

(2) in order to aid the Congress in its oversight activities, take whatever action is necessary to keep the Congress fully and currently informed with respect to the administration and implementation of this Act;

(3) provide for the establishment and operation of a national information and resource clearinghouse for matters with respect to domestic violence in order to—

(A) collect, analyze, prepare, and disseminate information relating to the prevention of domestic violence and the provision of immediate shelter and other assistance to victims and dependents of victims of domestic violence;

(B) serve as an advocate for the prevention of domestic violence and the provision of immediate shelter and other assistance to victims and dependents of victims of domestic violence; and

(C) provide appropriate technical assistance to persons or organizations interested in preventing domestic violence or providing immediate shelter and other assistance to victims and dependents of victims of domestic violence; and

(4) develop a national media campaign to increase public awareness of the problem of domestic violence and the availability of immediate shelter and other assistance for victims of domestic violence, including, if deemed necessary by the Director, the establishment of a national toll-free hotline to provide information regarding the availability of such services in particular areas of the country.

(c) The Secretary, through the Director, shall make grants to public or nonprofit private entities or enter into contracts with public or private entities to provide technical assistance, training, and outreach services to States, local public agencies, and nonprofit private organizations participating or interested in participating in the programs and projects authorized by this Act, and shall inform such States, agencies, and organizations and all other interested parties, officials, and organizations of alternative sources of assistance available with respect to the prevention of incidents of domestic violence and the provision of immediate shelter and other assistance for victims and dependents of victims of domestic violence.

NATIONAL CENTER REPORTS

SEC. 8. For the purpose of furnishing information to aid the Congress in its oversight activities, the Secretary, through the Director, on or before February 1 of each year, shall prepare and submit to the Congress a concise report providing specific information on the programs authorized by this Act. Each such report shall include for the preceding fiscal year—

(1) the name of each State funded under section 3(a) and the amounts of funds provided therein by way of allotment and reallotment and the name of each State funded under section 4 and the amount of such grant;

(2) the total amounts of funds realloted pursuant to section 5 and distributed pursuant to section 3(b);

(3) the names of the grantees, the nature of the research activity or demonstration project, and the amounts of funds awarded for research activities and demonstration projects described in section 12(c);

(4) with respect to funds provided under section 3(a), a tabulation of the data prescribed in section 6(a);

(5) with respect to grants made under section 3(b)—

(A) the number of such grants;

(B) a listing, by State, of the grants made to local public agencies;

(C) a listing, by State, of the number of grants made, and the amounts of funds provided thereunder, for projects in States not receiving or not utilizing in full such State's allotment of funds under section 3(a);

(D) the number of grants made, and the percentage of funds provided in grants, to projects conducted in rural areas;

(E) the number of grants made, and the percentage of funds distributed in grants, to entities providing shelter and related assistance to victims and dependents of victims of domestic violence; and

(F) the percentage of funds provided in grants to nonprofit private organizations and the names, locations, and the amounts of all funds provided in such grants; and

(6) any recommendation which the Secretary determines to be appropriate for improving the programs authorized by this Act.

CONFIDENTIALITY

SEC. 9. The provisions of section 408 relating to confidentiality (including the penalty in subsection (e) thereof) of the Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255; 21 U.S.C. 1175) shall be applied to the records of any individuals subject to any program, project, or activity assisted under the provisions of this Act.

AUDIT PROVISIONS

SEC. 10. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after the completion of the program, project, or activity authorized or assisted under this Act, have access, consistent with the provisions of section 10, for the purpose of audit and examination, to any books, documents, papers, and records of recipients which, in the opinion of the Comptroller General, after consultation with the Secretary, may be related, or pertinent to, the grants or contracts authorized to be made under this Act.

EVALUATION

SEC. 11. (a) The Secretary shall review, evaluate, and report to the Congress, not later than two years after the date funds are obligated under section 3(a) for the first time after the date of enactment of this Act, as to the effectiveness of the programs administered and operated pursuant to this Act. Such review, evaluation, and report shall be conducted and prepared by persons not directly involved in the administration or operation of such programs. Such review and evaluation shall include examination of—

(1) the extent to which public awareness of the problem of domestic violence has been increased;

(2) the extent to which the availability and the effectiveness of immediate shelter and other assistance with respect to domestic violence has been increased;

(3) the extent to which assistance made available under this Act has served as a catalyst for State and local community involvement and support (financial and otherwise) for projects with respect to domestic violence;

(4) the extent to which limiting the dollar amount of grants which may be awarded in any one fiscal year or over a four-year period has provided more opportunities for communities and nonprofit private organizations to establish, maintain, and expand projects under this Act;

(5) the extent to which such dollar limitations have resulted in stimulating State, local governmental, and community financial support for projects with respect to domestic violence;

(6) the extent to which projects assisted under this Act have continued, without assistance under this Act, to provide services with respect to domestic violence;

(7) the extent to which the interagency domestic violence council established by section 12(a)(1) of this Act has assisted the Director in coordinating at the Federal level programs for the prevention of domestic violence and the provision of immediate shelter and other assistance to victims and dependents of victims of domestic violence;

(8) the extent to which the Center has provided the necessary relevant information and assistance with respect to domestic violence to participating and interested States, local public agencies and communities, and nonprofit private organizations; and

(9) the extent to which research activities and demonstration projects described in section 12(c) have been useful to projects providing shelter and other assistance relating to domestic violence.

(b) In planning for the evaluations required to be conducted under this section, the Secretary shall consult with the Director and advise appropriate committees of the Congress. As part of such evaluations, the Secretary, to the maximum extent feasible, shall consult with appropriate State officials, local community officials, providers of services nonprofit private organizations, and individuals who have been victims of domestic violence.

COORDINATION OF FEDERAL PROGRAMS

SEC. 12. (a)(1) In order to assist the Director in coordinating at the Federal level programs for the prevention of domestic violence and the provision of immediate shelter and other assistance to victims and dependents of victims of domestic violence, a Federal interagency domestic violence council is established. Such council shall be chaired by the Director and shall include representatives of the Department of Agriculture (with respect to the food stamp program), Department of Defense, Department of Housing and Urban Development, Department of Justice (including the Law Enforcement Assistance Administration), the ACTION Agency, the Community Services Administration, the Legal Services Corporation, the appropriate Institutes within the Alcohol, Drug Abuse, and Mental Health Administration, and representatives of such other agencies as the President shall designate, and shall include not less than five members of the general public to be appointed by the Secretary who are individuals who have been victims of domestic violence or have experience in the provision of shelter and other assistance to victims of domestic violence.

(2) The council shall identify, assess, and facilitate the coordination of all Federal programs, projects, and plans for programs and projects providing immediate shelter and other services or research support relating to domestic violence, and shall make such recommendations as it deems appropriate to the President and the Congress with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to domestic violence.

(3) The council shall meet not less often than four times each year.

(4) Members of the council, other than those regularly employed by the Federal Government, shall be appointed by the Secretary, and, while serving on business of the council, shall be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.

(b) In seeking to coordinate programs with respect to domestic violence, provide information, otherwise carry out clearinghouse functions, and make grants and contracts under this Act, the Director shall give particular attention to the availability for assignment of VISTA volunteers serving under part A of title I of the Domestic Volunteer Service Act of 1973, as amended (Public Law 93-113), and of assistance through the conduct of or grants to special volunteer or demonstration programs under part C of title I and through grants and contracts made under title II of such Act.

(c)(1) From sums otherwise available to the Secretary, the Secretary shall assure that there are applied to research such sums each year as will be adequate to conduct, directly or by grant or contract, research activities and demonstration projects that are closely associated with the provision of shelter and other assistance to victims and dependents of victims of domestic violence.

(2) Not later than ninety days after the close of fiscal year 1981 and of each fiscal year thereafter, the Secretary shall report to the Committee on Appropriations of the Senate and the House of Representatives, the Committee on Human Resources of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives specific information for such fiscal year on—

(A) the (i) number of applications approved by the Secretary in the fiscal year reported on for grants and contracts under this Act for research which relates specifically to domestic violence, (ii) total amount requested under such applications, (iii) number of such applications for which funds were provided in such fiscal year, and (iv) total amount of such funds; and

(B) the (i) number of applications approved by the Secretary in such fiscal year for grants and contracts for research which relates generally to domestic violence, (ii) total amount requested under such applications, (iii) number of such applications for which funds were provided in such fiscal year, and (iv) total amount of such funds.

DEFINITIONS

SEC. 13. As used in this Act, the term—

(1) "Center" means the National Center on Domestic Violence established under section 7;

(2) "Director" means the Director of the Center;

(3) "domestic violence" means any act or threatened act of violence, including any forceful detention of an individual, which—

(A) results or threatens to result in physical injury; and

(B) is committed by a person eighteen years of age or older against another such person to whom such person is or was related, or by a person of any age against another person with whom such person is or was residing in a relationship of husband and wife;

(4) "Secretary" means the Secretary of Health, Education, and Welfare; and

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, except as otherwise provided, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. There are authorized to be appropriated $15,000,000 for fiscal year 1981, $20,000,000 for fiscal year 1982, and $30,000,000 for fiscal year 1983, to carry out the provisions of this Act. Of the sums so appropriated for any fiscal year, 60 per centum shall be used by the Secretary for making grants to States under section 3(a), relating to State grants; 25 per centum shall be used by the Secretary for making grants to nonprofit private organizations and local public agencies under section 3(b), relating to direct Federal grants to agencies and organizations; 10 per centum shall be used by the Secretary for making grants to States under section 4, relating to supplementary State grants; and 5 per centum shall be used for the operation and activities of the Center, including the employment of necessary full-time employees under section 7 for the National Center on Domestic Violence.●

● Mr. RIEGLE. Mr. President, the bill we are introducing today is based very heavily on S. 2759, the Domestic Violence Prevention and Services Act, which passed the Senate on August 1, 1978. Although the House of Representatives failed to act on S. 2759 last year, I believe that the horrendous scope of the domestic violence problem in this country will finally evoke a rational, reasoned cooperative approach to prevention and treatment of violence within the family.

As a member of the Child and Human Development Subcommittee, I am especially pleased to be joining with Senator Cranston, subcommittee chairman, in introducing this bill. Our subcommittee held a series of hearings on this tragic issue last year, and the testimony we heard was both impressive and depressing. At that time, the administration announced plans to develop an interdepartmental approach to domestic violence, which has recently begun to emerge. The International Association of Chiefs of Police, the American Bar Association, the American Psychiatric Association, the National League of Cities, the Teamsters, and many other organizations also urged action in this field.

The impressive support our bill received in the Senate last year also bears tribute to the severity of the problem. Senators Hayakawa, Javits, Kennedy, Williams, Stafford, Anderson, Bayh, Abourezk, Leahy, Matsunaga, Gravel, Brooke, Mark Hatfield, and Muriel Humphrey, all sponsored S. 2759 along with Senator Cranston and myself. Senator Maryon Allen also spoke on the floor in support of the bill.

This bipartisan support emphasizes that S. 2759, as well as the successor we are introducing today, are modest bills which adopt a measured approach to the problem of domestic violence. The cooperative Federal, State, and local partnership of government and private organization envisioned under these bills will not prevent all 5 million incidents of spouse abuse estimated by several studies. They will not even give every battered woman a place to turn for shelter and support. But they would make a start, and for the first time put the Federal Government clearly on record as offering some minimal help for its citizens who face violence and threats of death not on the streets, not on the highways, but in their own homes—in some sense the worst place of all, because they often have nowhere else to run.

My own deep concern for this problem led me to incorporate a special provision in S. 440, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979, which passed the Senate on May 7 of this year. Under that bill, which was cosponsored by Senators Hatch and Williams, the National Institute on Alcohol Abuse and Alcoholism is authorized to provide project grants for the provision of emergency shelter and counseling, but not direct financial assistance, to victims of alcohol-related domestic violence.

I ask unanimous consent that the appropriate portions of the report of the Labor and Human Resources Committee on S. 440 dealing with this provision be printed in the Record at this point.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Excerpts

Families of alcoholics

Since its first hearings on alcoholism in August of 1969, the Subcommittee on Alcoholism and Drug Abuse has had testimony that alcoholism adversely affects at least four persons other than the alcoholic. But until recently, except for self-help groups such as Al-Anon, little help has been available to these "other victims,"

On June 20, 1977, the Subcommittee held a field hearing in Salt Lake City, Utah, on the impact of alcoholism on the family. Dr. LeClair Bissell, Chief, Smithers Alcoholism Treatment and Training Center, Roosevelt Hospital, New World City, put the problem in perspective for the Committee. She stated:

"The people who are damaged most directly by alcoholism, are usually those closest to the drinker, particularly those who because of the special vulnerabilities of the very young, the weak, the elderly, the economically or emotionally dependent are unable or unwilling to escape from the situation. Obviously, this is most likely to be the immediate family, followed in turn by employer and coworker and the more extended family of other relatives, neighbors, and friends.

"Experts feel that essential for normal development in children and for reasonable health and stability for any of us are food, shelter, clothing, and some degree of predictability in our own lives. Those close to an alcoholic may be lacking all of these things.

"Every study of parents who abuse children physically and sexually has shown a high instance of alcoholism. While most alcoholic parents probably do not do these things, they do create a home situation in which other damage is common, damage that is more difficult to measure. For normal emotional growth to occur, a child needs honesty and consistency from his parents. His welfare needs to be placed high on their priority list. He needs their help in meeting the world outside the home and in learning how healthy adults relate to each other. Repeatedly children from alcoholic families report their distress over the continued fighting at home and their bewilderment over the fact that the nondrinking parent usually becomes so focused on the alcoholic that the children are neglected by both parents, even the one presumed to be well. Remarkably, isolation between different family members is common so that rather than discuss the drinking problem constructively, family members very often don't mention it to each other at all. Rather than help sustain each other, each goes his own way separate and alone. Each family member often admits to a secret feeling that the alcoholism is really in some way his fault."

Sgt. Don Harman of the Sheriff's Office, Salt Lake County, Utah, testified on June 20, 1977, concerning a report he had received of a husband beating his wife. When they arrived on the scene they found the mother with a black eye and other signs that she had been assaulted. Her concern was not so much for herself as for her 13-year-old son who was threatening to run away. The boy told Sgt. Harman that the cause of the fighting and arguing was "the drinking." Sgt. Harman took the boy to his car and taped an interview with him. He played this poignant tape for the Subcommittee. A transcript follows:

Question. Tommy, would you proceed to tell me some of the things that we talked about that occur when your father drinks at the house?

Answer. Well, I just don't know how to say it, but every time he gets a can of beer and he starts drinking, he goes kind of cuckoo, and once he gets that, he starts getting mad and all this. And I told him a long time ago, but he doesn't listen and keep on drinking, keeps on drinking.

So, now today, all this happening, and I'm getting sick and tired of seeing my parents start fighting, arguing, and this. My brother, Gregg, told them the same thing, to stop arguing. My sister, Rose, has told them: my sister, Angie, told them. Everyone of us told them. And now me, I'm telling them right now for them to quit drinking. My mom won't—she only had one beer. My dad, once he gets one beer, swallows that just like water. And when he drinks that beer, he goes for another, drinks that and drinks that, and drinks that. He keeps drinking it, and gosh, seems like he's never gonna stop. Keeps drinking and keeps drinking until he gets enough and right there he sobers down. And I'm getting sick and tired of seeing my parents arguing, arguing, arguing. And I told my mom if they keep arguing, I'm running away. That's when she went and called you guys at the gas station.

Question. That was today?

Answer. Yeah.

Question. That's a real shame and like I told you, before you run away, Tommy, we have some places that maybe we can help you out, such as youth services, and I've explained to you. You were telling me a little earlier how nervous it makes you. Why don't you tell me again just what effect it has on you.

Answer. Well, see, my mom raised me up when I was just a little tiny baby. When I was a tiny baby, I was so sick. I had a cleft palate and I was so sick and my mom—the doctor told my mom when she got out of the hospital to leave me there, cause I was gonna die anyway. My mom say, "Naw, I better take him home, I'm gonna take him home. I'm gonna take him home, I'm gonna take him home."

So they took me home, my mom raised me up and I was OK and I was going along good. But when I get nervous, man, nobody controls me. I have to run away, go somewhere, real far. Long as I can get away from the traffic. I don't care how far; about half a block, half a mile, like that. I travel halfway down to my probation officer to the park, across the street from the Taco Time. Trave. over there and I just sit there thinking; when is my dad ever gonna stop drinking—how wonderful. It's bad to see my dad drinking. It's bad to see my mom argue with my dad. And boy, it really hits me right then. And I told my mom, she keeps drinking and it keep on getting like that, fighting, arguing, and getting on my nerves, and one of those days I'm gonna hit a car straight on. I hit—I ran into a car once straight on and hit the back of the car.

Question. You just walking or on your bicycle?

Answer. No, I was riding on it.

Question. Riding on your bicycle?

Answer. And I hit the back of a car and I went over the whole car and landed in the middle of the street.

Question. Did you do it deliberately?

Answer. No, I did it on purpose.

Question. That's what I meant; you didn't care.

Answer. I wanted to have a little fun. I went over the car. I didn't hurt myself—landed on the cement. I got up, got on my bike, and took off again that's where I noticed my front wheel was kind of bent, It was on a different bike, and then I got this one. If I don't control myself, get too nervous, one of these days I'm gonna be in the cemetery.

Question. I don't want to see that happen to you, Tom. I think you're a real nice kid.

I really think you are. I'm really glad I got to meet you today.

ANSWER. And one of these days—I told my mom—just keep on arguing, you ain't gonna find me around the house no more. I know a kid named—one day I was in Riley Elementary with my teacher named—Mrs. A.—I forgot her name. She come in and says Steven died, hung himself over his parents, and he died.

QUESTION. That's really terrible.

ANSWER. And if he can do it, I know I can do it, too. And he was playing on top of the house on a lasso, caught the rope, put it around his neck and "shoo-shoo," fell down and broke his neck. And this one—if I ever happen to die I want to die in my sleep.

QUESTION. Well, I don't want to see you die for a long, long time, so we want to help you when we can.

In hearings on S. 440 on February 26, 1979, "Jane Doe", the wife of a $100,000-a-year physician, described alcoholism as "a slow insidious and ugly disease infecting the whole family." She described the effect her husband's alcoholism had on the family: her belief that she herself was crazy, her daughter's suicide attempt, her 24-year-old son wetting his pants because of fright, beatings and threats with a gun.

Dr. Bissell correctly pointed out that ". . . Health professionals need better education about alcoholism per se and about the needs of the family in particular. Social agencies of all kinds, schoolteachers and guidance counselors, doctors, and divorce lawyers are all seeing the results of alcoholism in the family, but often they fail to realize what is wrong.

"The spouse of the alcoholic often complains of nervousness, inability to sleep, vague fears and depression. Alcoholism in a family creates tremendous stress for all concerned, and the stress-related illnesses inevitably follow. These can be emotional or physical or both."

Mona Mansell, Director, Freedom Institute, New York City and vice president of the National Council on Alcoholism, testified in Salt Lake City in 1977 there must be early recognition and intervention, assurance of adequate services for the family independent of services for the alcohol family member, and dissemination of accurate and helpful information. Virtually all witnesses testified to the need of emergency assistance for the families of alcoholics.

The committee in favorably reporting S. 2759, the Domestic Violence Prevention and Services Act in May of 1978, recognized the special relationship of domestic violence to alcohol and drug abuse. It stated:

SPECIAL RELATIONSHIP TO ALCOHOL AND DRUG ABUSE

The committee wishes also to note the special relationship between domestic violence and alcohol or drug abuse. Statistics gathered by various projects dealing with domestic violence reveal a significant correlation between alcohol or drug abuse and domestic violence. For example, the domestic violence project in Ann Arbor, Mich., found that 58.9 percent of the spouse abusers also abused alcohol and 20.7 percent abused drugs. This project also reported that 66.7 percent of the assaults involved the use of alcohol and 12 percent involved the use of drugs.

Dr. Gerald Klerman, Administrator of the Alcohol Drug Abuse, and Mental Health Administration testified that one study reported that 52 percent of violent husbands have histories of problem drinking or alcoholism. There are indications that intoxication is a precipitating factor in many cases of child abuse. The largest American study on the subject reported that 38 percent of child abusing parents had histories of drinking problems. Other studies have shown that up to 63 percent of child abuse cases are alcohol related.

Dr. Klerman also testified that evidence suggests that alcohol treatment programs can be an important factor in diminishing the frequency of violence in the family unit. For example, Dr. Klerman testified, 35 percent of the persons entering alcoholism treatment programs, funded by the National Institute on Alcohol Abuse and Alcoholism (NIAAA), reported fighting and quarreling with others as a measure of their behavioral impairment; 6 months later, there was a reduction of 39 percent in those in the treatment programs who were reporting this behavior.

To explore the relationship between alcohol and violence and to understand the role of the family in drinking behavior, NIAAA is currently funding two research studies in the area of conflict and aggression and three research studies on the family.

Betty Stephens, in her Los Angeles testimony, described the following findings of the Abused Women's Aid in Crisis random sample from hundreds of cases of women who had called the organization for assistance and information:

The sampling indicated a high incidence of alcoholism associated with domestic violence.

"Ninety percent of the men involved in relationships exceeding 7 years duration were reported to have alcoholic * * * problems.

"About 85 percent of the violent husbands had either an alcoholic and/or other drug problems. These men were inclined to beat their wives at a higher frequency, either when under the influence of drugs (including alcohol) or when sober; and their violence was usually characterized by physical assault with or without a weapon, usually leading to serious injuries, and including sexual assault.

"More than 80 percent of the men who drank occasionally were inclined to beat their wives only when under the influence of alcohol.

"In relationships of less than 3½ years duration, a very high percentage of concurrent alcohol and hard drug use was reported, usually leading to constant violence."

S. 440 includes authorizations for NIAAA to provide grants to projects which provide emergency assistance to individuals (including spouses and dependents) who require immediate counseling and shelter to prevent incidents of alcohol-related domestic violence or as a result of such alcohol-related domestic violence. Alcohol-related domestic violence is any act or threatened act of violence, including any forceful detention of any individual, which results or threatens to result in physical injury, and is committed by one family member against another (or against another person with whom such person is or was residing in a relationship of husband and wife) while under the influence of alcohol.

The Committee does not intend that any funds provided for this purpose should be used for direct payment to any victim or any dependent of a victim of domestic violence. The Committee intends that these funds should be used to augment existing funds for shelters to enable them to provide the special counseling and assistance needed by the families of alcoholics. Although the Federal funds available under this Act are limited to alcohol-related incidents, projects receiving such funds may (and would be expected to) provide assistance covering other domestic violence from funds obtained from other sources whether Federal, State, local, or private.●

Mr. JAVITS. Mr. President, I am pleased to join with my distinguished colleague from California, Senator CRANSTON, as a cosponsor of the Domestic Violence Prevention and Services Act, which will begin to provide necessary Federal support to State and local programs and activities to prevent domestic violence and to assist victims of such violence.

The bill establishes within the Department of HEW a National Center on Domestic Violence to coordinate Federal prevention and research efforts, and to act as a clearinghouse for information and technical assistance for domestic violence prevention and treatment programs throughout the United States. Building upon the concepts and experience of the Child Abuse Prevention and Treatment Act, Public Law 93-247, this bill will assist the States to direct protection and treatment services toward both actual and potential victims of domestic violence, regardless of age. Perhaps most importantly, the structure of this bill's State and private grant mechanism enables support to be targeted primarily to local public and private nonprofit programs which most closely serve the needs of domestic violence victims in local communities.

This bill is a refinement of legislation (S. 2759) introduced last year by Senator CRANSTON, myself, and 17 cosponsors, which passed the Senate unanimously on August 1. Unfortunately, the other body did not act favorably on similar legislation, thus postponing for a year the critical enactment of a domestic violence prevention measure. I am hopeful that the Congress will realize the devastation of families caused by domestic violence, and will act apace to pass appropriate legislation.

Until recently the problem of domestic violence in the United States has been largely hidden or ignored, its proportions unknown, its victims faceless and mute. We have begun to recognize, however, that domestic violence in the United States is not only widespread, but wreaks terrible damage to individuals, families, and to society as a whole.

Domestic violence is not restricted to any one sector of our society, but affects the whole spectrum of American social and economic life. Previous efforts to combat this grave wrong have been minimal or largely inadequate in relation to its vast dimension. State social service programs provide funds for shelters and supportive services to victims of domestic violence through titles IVB and XX of the Social Security Act, yet these efforts are sporadic and underdeveloped.

In my own State of New York, private nonprofit organizations such as the Coalition for Abused Women, and the Victims Information Bureau of Suffolk have begun innovative programs for comprehensive crisis intervention, advocacy and counseling for victims of domestic violence. The New York State Department of Social Services has established a task force to develop programs for victims of domestic violence. These local and State efforts can and must be encouraged, expanded and improved by appropriate Federal help.

The time is at hand for a concerted program of Federal assistance to encourage and support such State and local prevention and treatment services. This bill will establish a first, yet nonetheless comprehensive, Federal effort to assist States and localities to help thousands of people affected directly or indirectly by the tragic consequences of domestic violence.

By Mr. DURKIN (for himself, Mr. MATSUNAGA, Mr. BRADLEY, Mr. HATFIELD, Mr. TSONGAS, Mr. LEVIN, Mr. DECONCINI, and Mr. DOMENICI):

S. 1844. A bill to establish a national goal for the use of renewable energy resources, to establish information and financial initiatives to promote the use of renewable energy resources, to authorize the use of certain renewable energy resources by the Federal Government, to provide for an accelerated wind commercialization program and to establish a program for the promotion of local energy self-sufficiency; to the Committee on Energy and Natural Resources.

OMNIBUS SOLAR COMMERCIALIZATION ACT OF 1979

● Mr. DURKIN. Mr. President, the cost of home heating oil in New Hampshire is already approaching $1 per gallon. Homeowners in New England simply will not be able to pay this exorbitant and outrageous cost. Over three-fourths of the homes in New Hampshire depend on the perilously high priced and precariously unreliable supply of imported oil. Unsettling storm clouds in the Mideast darken our energy future. Fortunately, we have an environmentally and economically sound alternative. I am referring, of course, to the tremendous untapped potential of the sun. Solar energy holds the key for a bright energy future for this country.

Today I am introducing a revised and stronger version of my Omnibus Solar Commercialization Act of 1979. It was revised after we received the expert advice of New Hampshire homeowners, scientists, and members of the business community during 3 days of hearings held both in Washington and in New Hampshire.

I have deleted the Solar Bank component of the bill because last week the Senate Banking Committee favorably reported my Solar Bank bill out of committee. The Solar Bank bill provides long-term, low-interest loans to help homeowners purchase solar energy systems.

The bill I am introducing today includes some challenging objectives. It sets a national goal of securing 20 quads of energy from renewable energy resources by the year 2000. This will save the energy equivalent of almost 10 million barrels of oil daily which is more than we import now from all the OPEC countries. In 20 years we can, and should, meet 20 percent of our overall energy needs with solar energy. In his domestic policy statement on solar energy the President endorsed a similar goal.

The bill also establishes a national policy to make solar energy information readily available to homeowners, contractors, bankers, and State and local officials. This will allow us to hurdle the barriers of misinformation which are impeding the development and commercialization of solar energy.

The act also expands the current Solar Heating and Cooling Information Center, which will now offer information on energy efficiency as well as on solar alternatives. It is important to let people know about available money-saving solar and energy efficiency programs and tax credits because the United States will be stronger if we do not have to rely on imported oil.

The bill also requires the Secretary of Energy to coordinate the various Federal solar information programs on a State and local level.

My bill would require all new civilian Federal buildings to include passive solar systems, and, where cost effective, active solar systems. This would be an important step to solidify the commitment made by the Congress in the National Energy Act to secure energy independence.

Keeping in line with this commitment, the act requires all Federal fueling stations to sell only gasohol by 1990. Gasohol, as you know, is gasoline made with 10 percent alcohol. The initiation of this program would save approximately 36 million barrels of gasoline annually. This would not only encourage the expansion of the gasohol industry but more importantly it would make more gasoline available to consumers and independent service station owners.

This legislation would also expand the low-income weatherization program to include solar systems, so that citizens of modest incomes may tap the free energy of the Sun.

Finally, this bill is the most ambitious piece of legislation introduced to date to encourage the development and commercialization of wind power. The technology for obtaining energy from wind is with us today.

As one of the most plentiful forms of solar energy, wind can make a major contribution toward meeting the 20 quad goal. It makes a lot of sense to transform the frigid frenzy of a midwinter Nor'easter into the power to heat a New Hampshire home. It is high time we begin to apply some of that New England commonsense to solve our energy problems.

The wind initatives in this legislation include setting a goal for the installation of a total wind capacity of 800 megawatts by 1986, of which 400 megawatts is to be provided by small wind systems.

Also, the bill would offer a long-term, low-interest loan program to provide the economic incentive for utilities and industries to obtain part of their energy needs from wind systems. To further boost the commercialization of wind systems, the bill establishes a Federal wind procurement program which would allow the Government to take the lead in meeting some of its energy needs from this sensible, inexpensive, renewable resource.

It will also provide an inflation-proof energy source for Federal facilities.

Direct solar and wind energy are nonpolluting, inexhaustible, and economical. Once we have developed solar sources, our Nation's energy security will no longer be jeopardized by hostile governments holding us over their oil barrels. A successful solar resources strategy will also help to revitalize small business, especially in the housing industry. And, most important, it will provide much needed relief to the energy consumer.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD along with a detailed description of the bill.

There being no objection, the bill and outline were ordered to be printed in the RECORD, as follows:

S. 1844

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Solar Commercialization Act of 1979."

TITLE I—RENEWABLE ENERGY INITIATIVES

FINDINGS

SEC. 101. The Congress finds and declares that—

(a) the United States faces an energy shortage arising from decreasing supplies of domestic fossil fuels and insufficient development of renewable energy resources;

(b) unless effective measures are promptly taken by the Federal Government and other users of energy to increase the rate of use of renewable energy resources, the United States will become increasingly dependent on the world oil market, increasingly vulnerable to interruptions of foreign oil supplies, and unable to provide the energy to meet future needs;

(c) the Nation is handicapped by the absence of an established national goal for the achievement of rapid commercialization of solar energy systems;

(d) the Federal Government can promote the commercialization of the direct solar energy systems by installing solar energy systems in the new Federal buildings;

(e) dwindling petroleum supplies can be directly supplemented through the addition of biomass-derived-alcohol to motor gasoline;

(f) the formal establishment of a coordinated network for the dissemination of information to the public is a prerequisite to the development of an improved public understanding of the potential of solar energy systems;

(g) it is in the Nation's interest to provide opportunities for the increased production of electricity from renewable sources;

(h) that the early widespread utilization of wind energy for the generation of electricity and for mechanical power could lead to relief on the demand on existing nonrenewable fuel and energy supplies;

(i) that the use of wind energy for certain applications has already proven feasible and economical; and

(j) that an aggressive commercialization program could provide an assured and growing market for wind energy during the next decade, and maximize the future contribution of wind energy to this Nation's future energy production;

(k) that it is the proper and appropriate role of the Federal Government to undertake such a commercialization program in wind energy technologies and to assist private industry, other entities, and the general public in hastening the general use of such technologies;

(l) that the widespread use of wind energy systems to supplement and replace conventional methods for the generation of electricity and mechanical power would have a beneficial effect upon the environment.

For the purposes of this Act—

(a) the term "Secretary" means the "Secretary of the Department of Energy";

(b) the term "renewable energy resource" means any energy resource which has recently originated in the Sun, including direct and indirect solar radiation and intermediate solar energy forms such as wind, ocean thermal gradients, ocean currents and waves, hydropower, products of photosynthetic processes, organic wastes, and others;

(c) the term "solar energy system" means any system or collection of systems which provides useful energy from renewable energy resource(s) and which is in conformity with such criteria and standards as shall be prescribed by the Secretary;

(d) the term "active solar system" means any system which employs the energy of the sun directly to heat or cool buildings; or to heat hot water; employing any mechanical device or combination of mechanical devices such as collectors; pumps or sensing devices; to collect, store, circulate, transfer heat through conduction, convection or radiation;

(e) the terms "Federal building" and "Federal agency" have the meaning provided by P.L. 94–385, Sec. 303;

(f) the term "entity" means any "person" or "municipality" as those terms are defined in the Federal Power Act;

(g) the term "passive solar energy system" means space heating and cooling systems that make most efficient use of, or enhance the use of, natural forces—including solar insulation, winds, night time coolness and opportunity to lose heat by radiation to the night sky—to heat or cool living space by the use of conductive, convective or radiant energy transfer. Passive solar systems include:

(1) Direct Gain Glazing Systems.—The term "direct gain glazing systems" means the use of south-facing (+ or −45° of True South) panels of insulated glass, fiberglass, or other similar transparent substances that admit the sun's rays into the living/working space where the heat is retained by proper use of thermal glass. Glazing is either double-paned, or single-paned equipped with moveable insulation.

(2) Indirect Gain Systems.—The term "indirect gain systems" means the use of panels of insulated glass, fiberglass or other transparent susbtances that direct the sun's rays onto specially constructed thermal walls, ceilings, rockbeds, or containers of water or other fluids where heat is stored and radiated.

The term includes "thermal pond systems" meaning containers, such as tanks or water bags, filled with water or other fluids which when placed on roof-top, capture the sun's rays and radiates stored heat directly into the residence and makes use of moveable insulation to regulate heat absorption and radiation;

(3) Solaria/Sunspace Systems.—The term "solaria/sunspace systems" means a structure of glass, fiberglass or similar transparent material which is attached to the South-facing (+ of −45° of True south) wall of a structure which allows for air circulation to bring heat into the residence, and which are able to be closed off from the structure during periods of low solar insulation.

(4) Daylighting.—The term "daylighting system" means the use of sun's rays for natural lighting of living and working spaces.

(5) Passive Space Cooling Systems.—The term "passive space cooling systems" means the cooling of interior spaces either by direct exposure to environmental energy sinks or cooling by uncontrolled radiation to storage (or some exchange surface) or cooling by uncontrolled fluid or radiative transfer to storage (or some exchange surface), which is in turn cooled by exposure to environmental energy sinks.

(h) the term "wind energy systems" means a system of components, or a series of systems, which converts the kinetic energy of the wind into electricity or mechanical power, including all components necessary to provide, but not store, electricity or mechanical power for individual, agricultural, commercial, industrial or

(i) the term "small wind energy system" means a wind energy system having a capacity of less than one hundred kilowatts at a wind speed of 20 miles per hour;

(j) the term "facility" means any building, any commercial, agricultural, or industrial complex, or any device, and the land necessary for such building, complex or device; and

(k) conventional energy source means energy produced from oil, gas, coal, and nuclear fuels.

NATIONAL GOAL

Sec. 103. (a) A national goal is hereby established that, as part of our Nation's total energy supply in the year 2000, a minimum of twenty quadrillion British thermal units of energy shall be supplied from renewable energy resources.

(b) The President shall create an Energy Coordinating Council which shall have the responsibility to monitor and direct the implementation of the goal established by this section. The Council shall report annually to Congress on the progress made towards the realization of this goal.

INFORMATION DISSEMINATION

Sec. 104. (a) With respect to the information, training, education, and other outreach services referred to in this Section, it shall be the policy of the Secretary to utilize to the maximum extent feasible private entities, and State and local governmental organizations, in addition to the Energy Extension Services, the Regional Solar Energy Centers and other such entities.

(b) It shall further be the policy of the Secretary to conduct such services in a localized, decentralized manner, delegating responsibilities and directing funds to local entities where such entities exist and are capable, in the view of the Secretary, of carrying out the purposes of this title.

(c) It shall also be the policy of the Secretary to develop or support the development of programs and information services which actively promote the use of energy efficient and solar energy systems by industry and the public in order to achieve the goal established by section 103.

(d) The Secretary shall establish the Solar Energy and Conservation Information Center (hereafter referred to as the Center) for the purpose of providing informational and educational services to the public and to the entities referred to in subsections 104 (a) and (e).

(e) The informational services provided by the Center shall include, but not be limited to—

(1) retrieval and dissemination of materials relating to the energy efficiency of any facility and the development and commercialization of solar energy systems to

(A) Federal, State, and local government organizations and their contractors;

(B) universities, colleges, and other non-profit organizations;

(C) private persons, upon request, in appropriate cases in cooperation with the Energy Extension Services and the Regional Solar Energy Centers;

(2) development of materials specifically designed to assist

(A) architects,
(B) builders,
(C) contractors,
(D) installers,
(E) officers of financial institutions,
(F) building appraisers, and inspectors,
(G) state and local officials,
(H) manufacturers,
(I) auditors who assess the energy efficiency or solar potential of residential or commercial buildings, and
(J) other persons who are involved in the improvement of energy efficiency in facilities or the development and commercialization of solar energy systems; and the

(3) development and implementation (where appropriate), in cooperation with the Regional Solar Energy Centers and the Energy Extension Services, of training, education, and other outreach programs designed to promote the development and commercialization of solar energy systems and the use of energy efficient materials and systems.

(f) The Secretary shall coordinate the Federal information dissemination and outreach programs established by the Solar Energy and Conservation Information Center, the Energy Extension Services, the Solar Energy Research Institute, the Regional Solar Energy Centers, and other entities funded by the Department of Energy involved in providing the services referred to in this section.

ENERGY INITIATIVES IN NEW FEDERAL BUILDINGS

Sec. 105. (a) Effective one hundred and eighty days after the date of enactment of this Act, the head of each Federal agency responsible for the construction of any new civilian Federal building, or the leasing of new structures for use by the Federal Government, shall require that a significant portion of the energy load of any such building be met by passive solar energy systems, and shall require the inclusion of active solar energy systems unless the head of such Federal agency determines that such active solar energy systems are not cost effective.

(b) For the purposes of this section, a solar energy system shall be considered cost-effective if the simple sum of all capital and operating expenses associated with the system can be recovered over the expected life of the system or during a period of thirty years, whichever is shorter, using constant non-inflating dollars, and marginal fuel costs as determined by the Secretary.

(c) For the purposes of this section, the marginal fuel cost shall be the equivalent of the cost of oil in international markets plus fees for international transportation, refining, and domestic delivery. In the case of natural gas, coal, and nuclear fuel, the marginal cost shall be the cost of the most expensive 5 percent of fuel supplies in the region purchased or contracted for during the previous quarter. In the case of electricity, the marginal price shall be the price of electricity which would have been charged by the utility in the service area supplying the facility under the assumption that all capital plant and equipment in the service area is financed at the average cost of new capital available to the utility, that equipment is purchased at the prices expected for new plants ordered in the region, and that fuel used by the utility is purchased at the marginal prices described previously.

(d) For the purposes of this section an active solar energy system shall be defined as the most cost-effective, commercially available active solar energy system which uses renewable energy sources.

(e) Subsections (a) and (b) shall not apply to those buildings which are designed to operate without heating, cooling or hot water systems.

(f) For the purposes of this section, a Federal building is considered a "new Federal building" if the final design of that building is completed after the date prescribed in subsection (a).

(g) The "Energy Conservation in Existing Buildings Act of 1976" (Public Law 94–385, as amended by Public Law 95–619) is amended by adding a new paragraph after section 412 (9) (F) as follows—

"(G) materials associated with passive and active solar energy systems; and", and re-labeling section 412(9)(G) as section 512(9)(H).

FEDERAL FLEET GASOHOL INITIATIVE

Sec. 106. (a) The head of each Federal agency operating a fueling station for civilian gasoline motor vehicles located in the U.S. shall establish a program for dispensing gasoline incorporating 10 per centum alcohol by volume from such fueling stations. This program shall require that no less than 50 percent of the fuel dispensed shall be such a gasoline/alcohol mixture by the calendar year 1985, and no less than 100 percent of the fuel dispensed shall be such a gasoline/alcohol mixture by the calendar year 1990.

(b) Alcohol purchased or produced to comply with the provisions of this section shall be derived from, and distilled using renewable or geothermal energy sources.

FEDERAL POWER MARKETING ADMINISTRATION INITIATIVES

Sec. 107. (a) The Administrators of the Alaska Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, and the Western Power Administration are authorized to enter into agreements to purchase and to guarantee the purchase of power from generating facilities utilizing renewable energy resources, geothermal energy, or cogeneration, constructed or proposed for construction by non-Federal entities.

(b) The said Administrators are authorized to construct and operate generating facilities using renewable energy resources (other than hydroelectric facilities), geothermal energy, or cogeneration. *Provided, however,* That no such facility may be constructed unless the said Administrator has: (1) made a public offer to purchase or to guarantee the purchase of the power from a non-Federally owned facility using renewable energy resources, at a rate equal to the cost of power from such facility if constructed and operated by the Administrator, and (2) received no offer from a non-Federal entity to construct such a generating facility within one hundred and eighty days after the date of the public offer required by this subsection.

(c) The said Administrators are authorized to enter into agreements with non-Federal entities which have constructed or propose to construct facilities using renewable energy resources to assist in firming-up power production, providing back-up power, or assisting in the disposal of surplus power produced by such facilities.

(d) The said Administrators are authorized to renegotiate existing power sales to customers who undertake energy conservation programs to:

(1) make adjustments in payment schedules, including the deferral of payments due, which will migitate any short-term loss in revenues resulting from decreased demand;

(2) assure customers that existing contractual rights to the purchase of power from the power marketing administrations cited in subsection (a) will not be diminished or otherwise impaired as a result of reduced demand resulting from conservation measures.

(e) For the purposes of section 210 of the Public Utility Regulatory Policies Act of 1978, the term "electrical utility" shall include a Federal power marketing agency with regard to the requirement to purchase electric energy from qualifying cogeneration facilities and qualifying small power production facilities.

(f) Nothing in subsection (e) shall be construed to establish additional regulatory authority in the Federal Energy Regulatory Commission with regard to Federal power marketing agencies.

ENERGY SELF-SUFFICIENCY INITIATIVES

Sec. 108. (a) The purpose of this section is to establish local, state, regional and national energy self-sufficiency programs through the use of renewable energy resources to accomplish the following objectives:

(1) to demonstrate by 1986 energy self-sufficiency through the use of renewable energy resources in a local jurisdiction in the United States such as an island or country; and

(2) to demonstrate by 1990 energy self-sufficiency through the use of renewable energy resources in at least one state in the United States;

(b) The Secretary shall establish such programs as the Secretary determines are necessary to meet the purpose of this section, including programs—

(1) to promote the development and utilization of synergistic combinations of different renewable energy resources in specific projects aimed at reducing fossil fuel importation:

(2) to initiate and encourage energy self-sufficiency at appropriate levels of government so that removal of institutional and legal barriers to the development of renewable energy resources can be accelerated; and

(3) of Federal assistance to stimulate private industry participation in the realization of the objectives outlined in subsection (a).

(1) In carrying out the provisions of this section, the Secretary is authorized to create on Office of Energy Self-Sufficiency and to undertake programs he determines to be necessary to fully accomplish the goals established in subsection (a).

(2) Additionally, the Secretary shall prepare a detailed plan within 180 days of the enactment of this Act, setting forth the responsibilities of the Office of Energy Self-Sufficiency including the Federal actions and the expected State/local industry responses, needed to encourage and promote the adoption of programs for energy self-sufficiency.

(3) The Secretary shall report to Congress on the plan, including in the report suggested legislative initiatives needed to fully implement the plan, within one year of the enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

Sec. 109. There is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1980 the sum of $50,000,000 to carry out the purposes of this title.

TITLE II—WIND ENERGY INITIATIVES

PURPOSE

Sec. 201. The purpose of this title is to establish the following wind energy program objectives:

(1) to reach by fiscal year 1986, a total megawatt capacity in the United States from wind energy systems of at least eight hundred megawatts, of which at least four hundred megawatts shall be provided by small wind energy systems;

(2) to reduce by the end of fiscal year 1986, the average cost of electricity produced by installed wind energy systems to a level competitive with conventional energy sources;

(3) to accelerate the growth of a commercially viable and competitive industry to make wind systems available to the general public as an option in order to reduce national consumption of fossil fuel;

(4) to reduce fossil fuel costs to the Federal Government;

(5) to stimulate the general use within the Federal Government of methods for the minimization of life-cycle costs; and

(6) to develop performance data on wind systems.

WIND ENERGY SYSTEMS COMMERCIALIZATION PROGRAMS

Sec. 202. (a) The Secretary shall establish such commercialization programs as the Secretary determines are necessary to meet the purposes of this title, including programs—

(1) to promote and accelerate research, development, field experimentation and commercialization of wind energy systems and components thereof; and

(2) to coordinate Federal efforts to accomplish the objectives outlined in Section 201.

(b) In carrying out the provisions of this section, the Secretary shall establish procedures to allow public or private entities wishing to install a wind energy system in conjunction with any new or existing facility or to undertake a project to facilitate the utilization of a wind energy system, to apply for Federal assistance in investigating, designing, fabricating, testing, purchasing, installing, and marketing such wind energy system.

(c) In carrying out the provisions of this section, the Secretary is authorized—

(1) to enter into agreements with any entity applying under paragraph (b), based on the need to obtain scientific, technological, economic, market, environmental, and safety information from a variety of wind energy systems under a variety of circumstances and conditions, on land and offshore, for the investigation, design, purchase, fabrication, testing, installation, and marketing of such a system, as well as the identification of suitable sites for wind installations;

(2) to provide as part of any agreement entered into under paragraph (1), loans to cover the estimated difference in costs between a wind energy system and available conventional power sources at the time the loan is to be made. Such estimated cost difference shall be determined in the following manner:

(a) In the case in which the wind energy system represents a displacement for conventional fuels, such difference in cost shall be considered to be the difference between the annual capital, operation, and maintenance costs of the wind energy system, which, for the purposes of this subsection only, shall include any new transmission system which the Secretary determines is required to be constructed in order to connect the wind energy system into the electrical system, and the annual cost of available conventional fuels.

(b) In the case in which the wind energy system represents base-load generating capacity, the difference in cost shall be considered to be the difference in power production costs between the power produced by the wind energy system and power produced by available conventional fuels.

(c) The percentage of the purchase and installation costs of such wind energy system covered by such loan shall be set as to cover the cost differential between the wind energy system and available conventional power sources as determined in paragraphs (a) and (b).

(3) to enter into such contracts and make such grants as may be necessary or appropriate for the development of wind energy systems including the field experimentation of prototype systems for commercial production and utilization, in accordance with the applicable provisions of sections 7, 8, and 9 of the Federal Non-nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906, 5907 and 5908) and with procedures established in conjunction with subsection (b).

(4) to enter into arrangements with appropriate Federal agencies to carry out such projects and activities with respect to Federal facilities as may be appropriate for the development, field experimentation and commercialization of wind energy systems which are suitable and effective for use in Federal facilities.

(5) to undertake other programs and activities which further the purposes of this title.

(d) Title to and ownership of the wind energy system constructed and/or installed under the provisions of this section may be conveyed to purchasers of such systems under terms and conditions prescribed by the Secretary, including an express agreement that any such purchaser shall (in such manner and form and on such terms and conditions as the Secretary may prescribe) observe and monitor (or permit the Secretary to observe and monitor) the performance and operation of any such wind energy system for a period of five years and that such purchaser (including any subsequent owner of the system) shall regularly furnish the Secretary with such reports on such system as the agreement may require.

(e) For the purposes of this section, with the exception of subsections (c) (1) and (2), the Secretary shall terminate Federal subsidization of purchases of wind energy systems by profitmaking entities when the Secretary determines that wind energy systems have become competitive with conventional energy sources, or September 30, 1986, whichever occurs first.

CRITERIA FOR PROGRAM SELECTION

SEC. 203. The Secretary shall set priorities which are, as far as possible, consistent with the intent and purpose of this title and which are set in accordance with the following criteria:

(a) The construction, operation and maintenance costs of wind energy systems shall be minimized.

(b) Programs established under this title shall be conducted with the express intent of bringing wind energy system costs down to a level competitive with energy costs from conventional energy systems.

(c) Priority shall be given in the conduct of programs established under this title to those projects in which funds are provided by private, industrial, agricultural, or governmental entities or utilities for the purpose of sharing with the Federal Government the costs of purchasing and installing wind energy systems.

MONITORING, INFORMATION GATHERING, AND LIAISON

SEC. 204. (a) The Secretary, in coordination with such Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of wind energy systems installed under this title,

(2) collect and evaluate data and information on the performance and operation of wind energy systems installed under this title, and

(3) from time to time carry out such studies and investigations and take such other actions (including the submission of special reports to the Congress when appropriate) as may be necessary to assure that the programs for which the Secretary is responsible under this title effectively carry out the purposes of section 201.

(b) The Secretary shall also maintain continuing liaison with related industries and interests and with the scientific and technical community in order to assure that the benefits of programs under this title are and will continue to be realized to the maximum extent feasible.

(c) The Secretary shall assure that full and complete information with respect to any program, project, or other activity conducted under this title is made available to Federal, State, and local authorities, relevant segments of the economy, the scientific community, and the public so that the early, widespread, and practical use of wind energy throughout the United States is promoted to the maximum extent feasible.

ANALYSIS OF APPLICATIONS OF WIND ENERGY SYSTEMS

SEC. 205. The Secretary of Energy shall—

(a) initiate and conduct a "Federal applications study for Wind Energy Systems", cooperatively with appropriate Federal agencies to determine the potential for the use of wind systems at specific Federal facilities; and this study shall—

(1) include an analysis which determines those sites that are currently cost-effective for wind energy systems as defined by subsections 105 (b) and (c) of this Act, as well as those which would be cost-effective at expected future market prices;

(2) identify potential sites and uses of wind energy systems at the following agencies as well as any others which the Secretary of Energy deems necessary:

(A) the Department of Defense;

(B) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration and the Federal Highway Administration);

(C) the Department of Commerce;

(D) the Department of Agriculture; and

(E) the Department of the Interior;

(3) provide a preliminary report to the Congress within nine months following the enactment of this Act;

(4) include the presentation of a detailed plan for the use of wind energy systems for power generation at specific sites in Federal Government agencies to Congress within twelve months following the enactment of this Act.

(b) initiate and conduct a study of the effects of the widespread utilization of wind energy systems on the existing electrical utility system;

(c) initiate and conduct a study involving the prospects for applications of wind energy systems for power generation in foreign countries, particularly lesser developed countries and the potential for the exploration of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Secretary of Energy deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act; and

(d) in carrying out his functions under this section, the Secretary shall consult with the appropriate government agencies, industry representatives, and members of the scientific and technical community having expertise and interest in this subject. The Secretary, as appropriate, may merge any continuing or on-going studies within the Department of Energy or other Federal Agency with those required under this section to avoid any unnecessary duplication of effort or funding.

FEDERAL WIND UTILIZATION PROGRAM

SEC. 206. (a) There is hereby established a wind energy utilization program for the accelerated procurement and installation of wind systems for power production in Federal facilities.

(b) The program established by subsection (a) shall provide for the acquisition of wind systems by the Secretary for their use by Federal agencies. The acquisition of wind systems shall be at an annual level substantial enough to allow use of low-cost production techniques by suppliers of such systems. The Secretary is authorized to make such acquisitions through the use of multiyear contracts. Authority under this part to enter into acquisition contracts shall be only to the extent as may be provided in advance in appropriation Acts.

(c) The Secretary shall administer the program established under this section and shall—

(1) consult with the Secretary of Defense to insure that the installation and purchase of wind systems pursuant to this part shall not interfere with defense-related activities;

(2) prescribe such rules and regulations as may be appropriate to monitor and assess the performance and operation of wind systems installed pursuant to this part; and

(3) report annually to the Congress on the status of the program.

(d) (1) The Secretary shall establish, within sixty days after the date of the enactment of this part, a wind systems evaluation and purchase program to provide such systems as are required by the Federal agencies to carry out this part. In acquiring wind systems under this part, the Secretary shall insure that such systems reflect to the maximum extent practicable the most cost-effective and reliable technologies and shall schedule purchases in a manner which will stimulate the early development of a permanent low-cost private wind production capability in the United States, and to stimulate the private sector market for wind systems.

(2) Nothing in this part shall preclude any Federal agency from directly procuring a wind system (in lieu of obtaining one under the program under subsection (a)), except that any such Federal agency shall notify the Secretary before procuring such a system.

(c) (1) There is hereby established an advisory committee to assist the Secretary in the establishment and conduct of the programs established under this part.

(2) Such committee shall be composed of the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the chairman of the Federal Trade Commission, the Postmaster General, and such other persons as the Secretary deems necessary. The Secretary shall appoint such other nongovernmental persons to the extent necessary to assure that the membership of the committee will be fairly balanced in terms of the point of view represented and the functions to be performed by the committee.

AUTHORIZATION OF APPROPRIATIONS

SEC. 207. There is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1980, the sum of $150,000,000 to be used for the programs authorized in this title.

OUTLINE OF NEW SOLAR OMNIBUS PROVISIONS

I. Goal.—Same as before, but also requires the Office of the President to monitor progress towards the goal.

II. Information Dissemination.—Same as before, with a few technical changes which clean up the language.

III. Bank.—Bank provision deleted.

IV. Federal buildings.—The bill now requires solar systems (where cost-effective) in federally financed, as well as federally owned buildings.

The definition of cost-effective is also changed to strengthen the federal buildings provisions.

V. Gasohol.—The requirement that Federal fueling stations sell only gasohol will now be phased in, rather than implemented immediately.

VI. Power Marketing.—This section is strengthened and expanded to allow the Power Marketing agencies to provide incentives to Utilities for energy-efficiency improvements and renewable generating facilities.

VII. Self Sufficiency.—This is a new section which establishes an Office of Self-sufficiency in DOE and requires the Department to devise a program for the promotion of local energy self-sufficiency using renewable resources.

VIII. Wind Initiatives.—Same as before, but it now includes a low-interest loan program for buyers of wind systems.●

ADDITIONAL COSPONSORS

S. 76

At the request of Mr. STONE, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 76, a bill to amend title XVIII of the Social Security Act to authorize payment under medicare for certain services performed by chiropractors.

S. 350

At the request of Mr. LONG, the Senator from Alabama (Mr. STEWART) was added as a cosponsor of S. 350, a bill to amend the Social Security Act by adding thereto a new title XXI which will provide insurance against the costs of catastrophic illness, by replacing the medical program with a Federal medical assistance plan for low-income people, and by adding a new title XV thereto which will encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges, and for other purposes.

S. 351

At the request of Mr. LONG, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 351, a bill to amend the Social Security Act by adding thereto a new title XXI which will provide insurance against the costs of catastrophic illness and by adding a new title XV thereto which will encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges, and for other purposes.

S. 1108

At the request of Mr. SASSER, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 1108, a bill to amend the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970.

S. 1444

At the request of Mr. BAUCUS, the Senator from Arizona (Mr. GOLDWATER), the Senator from Kentucky (Mr. FORD), the Senator from Oklahoma (Mr. BOREN), the Senator from Nevada (Mr. CANNON), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1444, a bill to amend the Internal Revenue Code to provide for the award of reasonable court costs, including attorney's fees, to prevailing parties in civil tax actions, and for other purposes.

S. 1681

At the request of Mr. PRYOR, the Senator from Kentucky (Mr. HUDDLESTON), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1681, a bill to reduce paperwork in the administration of certain construction contract provisions of law relating to wage rates.

S. 1703

At the request of Mr. CHAFEE, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1954 to provide an exclusion for income earned abroad attributable to certain charitable services.

SENATE JOINT RESOLUTION 39

At the request of Mr. RANDOLPH, the Senator from Washington (Mr. MAGNUSON) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Joint Resolution 39, a joint resolution to establish the "National Employ the Older Worker Week."

SENATE RESOLUTION 246—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. BENTSEN, from the Committee on Environment and Public Works, reported the following original resolution which was referred to the Committee on the Budget:

S. RES. 246

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 4249. Such waiver is necessary because H.R. 4249, an Act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes, provides an additional authorization of $1,500,000 to be available until expended which was not included in the Committee's submission to the Budget Committee.

Compliance with the deadlines of the Congressional Budget Act of 1974 was not possible by May 15, 1979, as the need for an additional authorization for the National Alcohol Fuels Commission established by section 170 of the Surface Transportation Assistance Act of 1978 did not come to the Committee's attention until after such date.

SENATE RESOLUTION 247—SUBMISSION OF A RESOLUTION TO ADDRESS THE FOOD AND MEDICAL EMERGENCY IN CAMBODIA

Mr. MCGOVERN (for himself and Mr. DOLE) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 247

Whereas approximately three million Cambodians have already perished within the borders of their own country; and

Whereas an estimated three million surviving Cambodians now face death through starvation and disease; and

Whereas 80 percent of the children of Cambodia are reported to be suffering slow death through malnutrition; and

Whereas only a massive, immediate international humanitarian relief program will produce sufficient food and medicine to prevent the unspeakable from being spoken for the second time in our century—the death by state policy of six million human beings; and

Whereas the authorities in Phnom Penh and the Socialist Republic of Vietnam must cooperate in effectively organizing and carrying out an international humanitarian relief program for the Cambodian people: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should direct our Ambassador to the United Nations to seek an emergency agenda item before the General Assembly to inaugurate an emergency food and medical relief program for the people of Cambodia. This program would be carried out by recognized international relief organizations, under United Nations sponsorship, with the full financial support of the member nations, and the full cooperation of the authorities in Phnom Penh, and the Socialist Republic of Vietnam, and

That the United States should participate fully in any such adequately monitored program of emergency food and medical relief for the people of Cambodia.

● Mr. MCGOVERN. Mr. President, I am today submitting a resolution on behalf of myself, to address the food and medical emergency in Cambodia. The resolution states that it is the sense of the Senate that the President should direct our Ambassador to the United Nations to seek an emergency agenda item before the General Assembly to inaugurate an emergency food and medical relief program for the people of Cambodia. The resolution also states that the United States should participate fully in any adequately monitored program of emergency food and medical relief for the people of Cambodia. A similar version of the resolution passed the House yesterday under the leadership of Representative WOLFF.

Reports from Western relief officials and Cambodian refugees indicate that 2 million Cambodians are facing imminent starvation. A European physician reported to the New York Times that—

> The sight of children suffering from severe malnutrition or dying of dysentery was reminiscent of conditions he witnessed during the 1968 civil war in Biafra. Unless help is rushed, he said, the death rate will be "worse than Biafra."

A UNICEF official in Phnom Penh reports that 80 percent of the children suffer from the severest form of hunger. Last week an American Quaker Relief Mission found children in parts of Cambodia "without even the energy to cry."

The crisis in Cambodia is compounded by the political struggles between two rival Cambodian Governments, between Vietnam and Cambodia, between Vietnam and China, and between China and the Soviet Union. The civilian population has been victimized repeatedly during the 1970–75 Cambodian war, the 1975–79 Pol Pot genocidal regime, and the 1979 Vietnamese invasion and occupation.

In my view, the threat of mass starvation and unchecked disease is so severe and so imminent that the basic human needs of Cambodians must be addressed regardless of the political and military campaigns now being waged. It should be a minimum principle of international behavior that innocent children must not become the victims of political maneuvering. The historic humanitarian policy of the United States reinforces this conclusion.

Our Government has stated that it is prepared to participate in relief efforts once monitoring provisions for food distribution have been agreed to by the Cambodian authorities and the UNICEF or the International Committee of the Red Cross. Monitoring "to the greatest extent possible" is a requirement of the international disaster assistance and the food for peace programs.

Therefore I was extremely gratified yesterday when Richard Holbrooke, Assistant Secreary of State for East Asian and Pacific Affairs, announced before the Committee on Foreign Relations that an agreement had been reached to permit UNICEF and the International Committee of the Red Cross to establish offices or delegations in Phnom Penh. According to Mr. Holbrooke's testimony:

> We understand that ICRC and UNICEF each will be able to place representatives in Phnom Penh to ensure that relief distribution is timely and, in the words of the an-

nouncement, "consistent with principles of impartiality and nondiscrimination."

Mr. Holbrooke also stated:

> The ICRC has furthermore announced that the Democratic Kampuchea authorities have also agreed to the immediate initiation of a relief program to provide urgently needed humanitarian assistance to help the tens of thousands of Khmer civilians along the Thai-Kampuchea border. ICRC and UNICEF representatives will be permitted to observe distribution of this relief.
>
> The ICRC has pledged that it and UNICEF "will watch that this relief will in no way contribute to the war effort of either of the belligerents." As we have said before the U.S. is prepared to make a substantial contribution to an effective international relief effort in Kampuchea. We will be consulting with the Congress regarding details of U.S. participation.

At the close of my remarks, I ask permission to have the full text of Mr. Holbrooke's statement printed in the RECORD. While I am not in full agreement with all aspects of his analysis of the situation in Southeast Asia, I believe he has presented a strong case for American participation in an international relief program.

Now that the monitoring obstacle is largely out of the way, our attention should turn toward development of a comprehensive and flexible program to avert a major tragedy in Cambodia. The situation is desperate not only because of the amounts for food and medicines which may be required, but also because Cambodia does not have the capacity to distribute effectively such large amounts of aid.

For example, a relief program means more than flying in tons of rice. It requires effective distribution to the countryside. Reports from UNICEF and the Red Cross make clear that the Hang Semrin authorities—and I am sure the same holds true for the Pol Pot forces as well—do not have the transportation and logistical facilities available at this time to distribute the aid quickly and efficiently. Therefore, the relief program will have to include not only foodstuffs and medicines but also the use of airport unloading facilities, trucks, and other equipment.

The UNICEF office in New York is in the process of developing a cost estimate of the relief effort. We will not be able to know how much the United States should or needs to contribute until a final accounting has been prepared. For this reason, the resolution does not state precise cost figures. These issues can be addressed in the context of specific appropriations bills which the Senate will be considering shortly, including the agriculture appropriations bill and the foreign assistance appropriations bill. The food-for-peace and the International Disaster Assistance programs funded in these measures will be the most important sources of American aid to the international relief effort.

The purpose of the resolution is to set a larger context in which these specific measures and programs can be considered. If these existing programs are not adequate, I believe we should also consider seriously additional authorization for humanitarian aid to the people of Cambodia, as Congressmen ANDERSON and SOLARZ proposed in the House of Representatives yesterday.

It should be clear to all the countries and agencies involved in this relief effort that humanitarian aid to the people of Cambodia does not in any sense constitute official recognition or approval of the Vietnamese-installed government in Cambodia. This government lacks any international standing in American diplomacy at the current time and this resolution does nothing either explicitly or by implication to change its status.

I would also like to note that United Nations agencies provided food aid to Bangladesh during its war with Pakistan, which was a member of the United Nations. This precedent of United Nations agencies providing humanitarian aid on a nonpolitical basis should be followed in the case of Cambodia. Therefore, United Nations Relief Assistance does not change the outcome of the recent vote in the General Assembly against seating the Heng Samrin government.

Mr. President, it is time to turn our attention to the task of saving the innocent children of Cambodia from starvation and disease. The United States has an important role to play along with the United Nations and private relief organizations. I am confident that the humanitarian spirit of the American people will respond to this need.

Mr. President, I ask unanimous consent to have printed in the RECORD several articles describing the situation in Cambodia for the benefit of my colleagues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE HONORABLE RICHARD HOLBROOKE

DEAR MR. CHAIRMAN: Your invitation to testify today on the situation in Southeast Asia is timely. Once again, events within Indochina have cast their long shadows upon the region as a whole, bringing still more anguish and suffering to the peoples of Indochina and posing a threat to the security and stability of its neighbors. Just over one year ago, a hearing of this Committee foreshadowed the possibility of what has since occurred; a year ago we took the initiative, submitting a letter to the United Nations Security Council calling attention to the developing crisis and urging preventive action by the international community.

We are following the situation today with great attention. If our influence is perforce limited, we remain prepared to take whatever steps will prove effective in resolving, or at least alleviating, the immense political and humanitarian problems facing the region.

Let me begin with the description of the situation that exists in Kampuchea and its dangerous implications for the region as a whole. I will then turn to the actions and policies that our nation and our close friends in the Pacific and Europe are following at this time in an effort to contain and limit the dimensions of the problem.

As I appear before you today, Vietnam's military offensive in Kampuchea, dormant during the rainy season, has been resumed on a large scale and is growing in intensity. Almost 200,000 Vietnamese troops, according to our latest intelligence, are inside Kampuchea. Their purpose is to consolidate Vietnam's hold on that country and destroy the 20,000 to 30,000 Khmer who are opposing them. Most are loyal to the regime of Democratic Kampuchea and its leader, Pol Pot.

Last week Vietnamese infantry units began setting up ambushes and conducting sweeps which are expected to continue for the next month. The ground is apparently drying sooner than usual this year since rainfall during the preceding season was unusually light. Therefore, the Vietnamese will probably be able to deploy their armor and artillery sometime in October, when the fighting will intensify further.

The resurgence of fighting signals the lack of success of efforts by many nations, including the United States, to find a peaceful, political solution to the problem of Kampuchea. At the same time there was a continuing refusal, overcome only yesterday, by both Phnom Penh and Hanoi, despite strenuous efforts by the United States and other governments, the United Nations and other international organizations, to cooperate in establishing an effective relief program for over three million Khmer people already in desperate straits due to lack of food and medicine.

It is clear that the Vietnamese plan to carry out a vigorous campaign to eliminate effective resistance to their domination of Kampuchea. Success in this campaign could permit Hanoi to reduce appreciably the SRV forces needed to prop up the Heng Samrin regime. Hanoi might then seek to exploit and perhaps exaggerate the extent of such withdrawals for maximum political effect abroad. The likelihood of such an outcome will depend, of course, upon Vietnamese success in engaging Pol Pot's forces of substantial size. Pol Pot's troops are particularly adept at small-unit warfare and will probably present as few opportunities as possible for the Vietnamese to engage them in large set-piece style battles. Pol Pot's objective, for both himself and his forces, will be primarily to survive the dry season.

We estimate that Hanoi's military prospects are best in those areas near the Thai border and in portions of central and northeastern Kampuchea where it can employ its armor and artillery. Pol Pot forces will have a better chance of defending themselves in their mountainous redoubt in southwestern Kampuchea. The Vietnamese may augment their forces somewhat for this offensive, but there is probably no need now for massive reinforcement. Vietnamese forces will benefit from the major military supply buildup from the Soviet Union, which already this year has supplied Vietnam with several times the amount of military equipment it did all last year, and the Soviet internal airlift transferring military supplies inside Vietnam and into Laos and Kampuchea.

The probable consequences for the region of this cruel struggle can be described as follows:

The immense loss of life and suffering of the Khmer people will become greater still;

The flow of refugees on Thai soil from Kampuchea will undoubtedly increase, as will the danger of the spread of military actions into Thailand;

The terrible effects of famine and disease on two to three million people will be intensified;

The international relief effort we and others have been so actively seeking, and which Heng Samrin and Hanoi authorities have just agreed to, will be enormously complicated;

Relations between China and Vietnam, already very poor in the wake of their seventeen day war earlier this year, will deteriorate further;

The threat to stability in the surrounding region will be heightened, as will the threat of expanded hostilities and the danger of an increased Soviet presence in Indochina.

Over the past year, the ASEAN states have met the challenge of events in Indochina with unity, courage, and resilience. We expect they will continue to do so. They have taken the lead in bringing the Kampuchea problem before the United Nations and in seeking a peaceful solution based upon the principles of the UN Charter. We support their request to place the issue on the UN General Assembly agenda. They have persistently used their direct contacts with Vietnam to urge withdrawal and a peaceful solution. They have provided first asylum for hundreds of thousands of refugees. And they have made evident their solidarity with ASEAN's front line state Thailand, even while maintaining the non-military nature of ASEAN and its focus on economic and social cooperation.

It is of vital importance that the friends and allies of the ASEAN countries provide them with the support they need to maintain their stability and confidence. The meetings at Bali hosted by the Foreign Ministers of ASEAN with the Foreign Ministers of Australia, Japan, New Zealand, the United States and Ireland representing the European Community, was a demonstration of the broad international importance accorded to ASEAN.

The United States has acted to strengthen its support of ASEAN and its individual members to help them meet the challenge. The Bali meeting, attended by Secretary Vance, was a symbol of our support and was marked by the conclusion of several agreements for cooperation in programs of economic development, cultural exchange, narcotics control and other areas, as well as fruitful discussions on how to deal with refugees and other serious problems affecting all five states.

Individually, we have welcomed Thai Prime Minister Kriangsak to the United States, when the President reaffirmed our commitment to that country under the Manila Pact, and have accelerated the delivery of weapons to that country to enable them better to protect themselves against external threats. At the initiative of this Committee, previously requested levels of FMS credits for Thailand, Indonesia and Malaysia have been increased, and we also moved forward in implementing the agreement reached with the Philippines on military assistance related to the base accords.

We have continued significant levels of economic assistance, as well, to Thailand, Indonesia and the Philippines and cooperated with those countries, Singapore and Malaysia on a number of international economic issues. With your support, we intend to continue this cooperation and support as our top priority for Southeast Asia.

The efforts of masses of people to escape war, starvation and disease exact a heavy toll from Indochina's neighbors. Ambassador Clark will discuss the international refugee programs and our role in them. Let me only touch upon some of the consequences of the vast displacement of peoples from Indochina due to Vietnamese policies.

The countries of first asylum in Southeast Asia, including the Crown Colony of Hong Kong, have accepted over 700.000 refugees over the past four years. They deserve the recognition of the entire international community for their cooperation in continuing to accept refugees, despite enormous political, economic, and social pressures. In addition, Indonesia and the Philippines have demonstrated their willingness to ease the burdens upon Thailand and Malaysia by accepting additional number of refugees in temporary centers.

The offer made by President Marcos of a Processing Center for some 50,000 refugees is of special significance and its establishment is proceeding with the cooperation of the UNHCR and a number of governments in addition to our own. Although the moratorium on forced and organized flight that Hanoi accepted last July at the Geneva Conference has had a decisive effect upon facilitated departures, the flow of escapees from Vietnam is still running at about 10,000 or so per month.

Pressures on Thailand will continue to increase as perhaps over 200,000 more Khmer will seek refuge from the war and famine inside Kampuchea. This massive exodus will put great strains on Thai capabilities, exacerbate the danger of a spillover of the capacities of the international community to respond to the humanitarian requirements.

The threat of famine in Kampuchea became evident early this year and we moved to alert international organizations to the need to undertake planning for a relief effort. In July in Canberra, and in subsequent Congressional testimony, Secretary Vance called for an international humanitarian relief program to aid the Khmer people.

In early August the State Department issued an appeal to all political authorities in Kampuchea to cooperate with international relief efforts for all needy Khmer, regardless of the political control under which they live, monitored by international observers to ensure against diversion of supplies. Supported by the United States and several like-minded governments, the ICRC and UNICEF tried for three months to obtain agreement from Phnom Penh and Hanoi for such an effort.

The situation today in Kampuchea is grim. The famine that Secretary Vance foresaw several months ago has begun and malnutrition and disease are omnipresent. We estimate that as many as 3.5 million people face severe malnutrition or starvation in the upcoming months. Because of the continued fighting, because of massive population movement away from the main rice growing areas (encouraged by both fighting sides), and because of the near total breakdown of transportation systems there is no way that domestic production can meet minimal consumption needs. With no resources to fight crop pests and disease, even scattered small plantings are endangered.

Scores of thousands of Khmer civilians are ranging across much of Kampuchea foraging for food. In such a situation, death takes its toll first among the very young and the very old. Observers have remarked on the near absence of infants in the Vietnamese-controlled zone and among refugees in Thailand. A generation of Khmer may already have been lost.

As might be expected, refugee pressure is also mounting with 20,000 refugees already along the Thai border and thousands more moving into border areas in search of food, shelter and safety. Further deterioration of the situation is virtually certain unless the international relief program announced yesterday is begun at once.

We have been doing everything we can within the limits of laws and regulations to facilitate humanitarian relief for Kampuchea. Secretary Vance has expressed our concerns directly to Secretary General Waldheim. Although we have no diplomatic relations with the various regimes involved, we have spoken directly to the Vietnamese, urging that such a program be facilitated by the Heng Samrin regime.

We have asked the USSR and the PRC to use their influence with the contending regimes in Kampuchea to further a relief effort for all the Khmer people. Other governments, such as Australia, New Zealand, Japan, and France, who have relations with Hanoi, have joined in our urging, as has Secretary General Waldheim.

As events evolved over the past months, a consensus developed among the governments most concerned that the only promising approach for a program on the magnitude required was a coordinated approach through the ICRC/UNICEF; Secretary General Waldheim has named UNICEF to be the lead agency.

The U.S. has made clear its willingness to accept whatever agreement these organizations could reach with the parties on the ground, in keeping with their standard procedures, and indicated that we would be prepared to contribute to any effective relief effort that can be developed. In the interim, we have already contributed to programs along the Thai border.

Representatives of the International Committee of the Red Cross (ICRC) and UNICEF have been working since early August to reach an agreement with the Vietnamese and the authorities set up in Phnom Penh by the Vietnamese that would make it possible to launch an effective program. Thus far the ICRC and UNICEF have been able to send in only a few planeloads of emergency supplies. The scale of these shipments and those of other international private groups has been woefully inadequate to meet the enormous needs.

The long delay in beginning a program has already proved costly in terms of suffering in Kampuchea. Furthermore the renewed Vietnamese offensive will enormously complicate the practical problems of delivering food and medicine to needy Khmer.

As the conflict grows in intensity it will increasingly pose serious obstacles to an adequate program; scores of thousands of Khmer will be condemned to death; tens of thousands will be driven into Thailand.

Already it has become necessary to provide funds to assist the UNHCR, ICRC, and the CRS to set up emergency feeding operations on Thai territory in the Thai/Kampuchean border areas. WFP, FAO, and others are also participating in this relief effort. It will become more important as the situation inside Kampuchea gets worse and will require much greater support from us and from the international community.

We note and welcome the announcement made yesterday in Geneva that the ICRC and UNICEF have finally received permission to establish offices in Phnom Penh. ICRC is moving forward toward full implementation of an international relief effort under ICRC/UNICEF coordination. We understand that ICRC and UNICEF each will be able to place representatives in Phnom Penh to ensure that relief distribution is timely and, in the words of the announcement, "consistent with principles of impartiality and non-discrimination."

The ICRC has furthermore announced that the Democratic Kampuchea authorities have also agreed to the immediate initiation of a relief program to provide urgently needed humanitarian assistance to help the tens of thousands of Khmer civilians along the Thai-Kampuchea border. ICRC and UNICEF representatives will be permitted to observe distribution of this relief.

The ICRC has pledged that it and UNICEF "will watch that this relief will in no way contribute to the war effort or either of the belligerents." As we have said before the U.S. is prepared to make a substantial contribution to an effective international relief effort in Kampuchea. We will be consulting with the Congress regarding details of U.S. participation.

Clearly the problems I have already described have a vital bearing on the question of our diplomatic relations with Vietnam.

At the beginning of this Administration, we made it clear that in order to put the hostility of the past behind us and to enhance the peace and stability of Southeast Asia we were ready to normalize relations with Vietnam. This remains our ultimate objective. But from the first meeting we stressed two things to the Vietnamese; we would not agree to economic aid as a precondition to normalization; and second, progress toward normalization would be affected by Hanoi's policies toward its neighbors.

While we still believe normal relations between our two countries to be in our mutual interest we cannot move in this direction under present circumstances. The Vietnamese are well aware of our views. We have had periodic talks with the Vietnamese on such issues as MIAs, refugees, and Kampuchea in the hope of convincing them that other, more responsible, courses of action would serve their own long-term interests. There has been some success on refugees and MIAs but none in Kampuchea. We will continue these contacts and keep Congress fully informed.

The question of the Kampuchea seat in the General Assembly has presented us with equally grave problems. When we, together with 70 countries, supported the credentials of Pol Pot's representatives, we also stated explicity as we have many times before, our abhorrence of the brutal violations of human rights under his regime. We have urged the international community to condemn these practices and to investigate the human rights situation in Kampuchea.

We believe, however, that in the absence of a superior claim, the General Assembly should seat the representatives of the government whose credentials were accepted by the previous General Assembly.

The Heng Samrin regime, installed and maintained by Vietnamese military force and continuing occupation of Kampuchea presents no such superior claim.

It rules thanks to the power of the Vietnamese army. The so-called "Peace and Friendship Treaty," cited by the Vietnamese as legitimizing their military presence in Kampuchea, signed eight weeks after Vietnam's invasion, is simply another indication of the extent of Vietnam's control over the regime in Phnom Penh, which is totally dependent on the Vietnamese for support and direction. Outside Phnom Penh, the only authority of any kind, civil or military is the Vietnamese army.

We are trying to alleviate the difficulties and dangers posed by Vietnam's policies and its confrontation with its neighbors.

We are focussing attention on providing international assistance to Khmer refugees in Thailand and to Thai along the border who have been uprooted by the refugee influx and by the spillover effect of the fighting in Kampuchea.

As the ICRC/UNICEF program of relief to Khmer and Kampuchea gets underway we will be making an appropriate and timely contribution.

We are urging the maintenance of a Vietnamese moratorium on organized departures, and pressing the international community to continue the impressive resettlement offers and financial contributions they made at Geneva.

But in addition to treating the symptoms, we are also seeking a cure for the disease. We and other governments have been in direct contact with the Hanoi regime, describing the disastrous consequences of these policies for Vietnam as well as the rest of Indochina. In discussions with Vietnam, the USSR, the PRC, and other governments that have a role to play, we have stressed the need for a political settlement to the Kampuchean tragedy. We believe that such a settlement would involve the withdrawal of Vietnamese troops from Kampuchea, the creation of an independent Kampuchea Government truly representative of the Khmer people, an end to external interference in any state in the region, and the establishment of peaceful relations amongst all of them. Thus, despite the difficulties that exist, we shall pursue this goal.

[From the Washington Post, Sept. 28, 1979]

MILLIONS FACING STARVATION IN CAMBODIA

(By Robert G. Kaiser)

A senior American official predicted yesterday that 3.5 million Cambodians face "severe malnutrition or starvation in the upcoming months," even though the Vietnamese-dominated government in Phnom Penh finally has agreed to allow an international relief effort in Cambodia.

Assistant Secretary of State Richard Holbrooke indicated to a Senate hearing that U.N. Secretary General Kurt Waldheim, the United States, France, Japan and other countries had applied intense diplomatic pressure on the Hanoi government in recent days to get its agreement for the relief effort which will be run by the International Red Cross and the U.N. Educational Scientific and Cultural Organization (UNESCO).

In testimony before the Foreign Relations Committee Holbrooke revealed new intelligence information about the continuing war in Cambodia including the whereabouts of Pol Pot leader of the regime that has now been replaced by a government of Hanoi's choosing that is led by Heng Samrin. Holbrooke said a new Vietnamese offensive to wipe out Pol Pot and his supporters is just beginning and will create "the most dangerous threat to the stability of Asia that we have seen in a long time."

The Heng Samrin government's willingness to permit Red Cross and UNESCO officials to come to Phnom Penh and organize famine relief was announced Wednesday night in Geneva.

"We've been trying for months to get this meager achievement" Holbrooke said yesterday. The new agreement is "of uncertain value" he added "but [it is] a long overdue step in the right direction."

U.S. officials have long been exasperated with Hanoi's refusal to deal with a human crisis in Cambodia without trying to gain some political advantage at the same time. Specifically, the Americans charge, Hanoi has sought to require other countries to recognize the government it has installed in Phnom Penh under Heng Samrin before allowing them to send food aid to Cambodia's already decimated and still-suffering population.

"Scores of thousands of Khmer [Cambodian] civilians are ranging across much of Kampuchea [Cambodia] foraging for food," Holbrooke testified. These conditions are harshest on the old and the very young, Holbrooke said, noting that visitors to Vietnamese-controlled sections of Cambodia had remarked on the absence of infants there. "A generation of Khmer may already have been lost," Holmrooke said.

He predicted that the new Vietnamese dry-season offensive against Pol Pot and his supporters would send another 200,000 or more Cambodian refugees fleeing into neighboring Thailand. Holbrooke said the Thais were better prepared than before to deal with this "onslaught."

But he expressed fear that the fighting could spread into Thailand, with unforeseeable consequences. Pol Pot's headquarters are located in the Cardamon Mountains next to Thailand, Holbrooke said.

Holbrooke said massive Soviet aid to Vietnam enables Hanoi to maintain a force of nearly 200,000 troops in Cambodia. They are fighting a force of 20,000 to 30,000 loyal to Pol Pot, he testified.

The Soviets are spending "as much as $2 million a day in Vietnam," Holbrooke said, and are providing a full range of military equipment, oil and other commodities. "It's already become several times as great as it was last year," Holbrooke said, describing the Soviet aid program.

Robert B. Oakley, a deputy to Holbrooke, testified that events in Cambodia in recent years are "equivalent in their horror to the Holocaust" in which 6 million Jews were killed by the Nazis in World War II. In response to questions from Sen. John Glenn (D-Ohio), Oakley did not dispute that the Vietnamese have been using starvation as a weapon to achieve their goals in Cambodia.

Glenn recommended that the United States call for an international conference that would investigate the famine in Cambodia as a means of drawing attention to it and perhaps shaming the Vietnamese into doing something about it. Holbrooke replied to this suggestion by asking, "Suppose you gave a conference and nobody came?" The Vietnamese and China probably would not take part, Holbrooke suggested.

Holbrooke held out no hope, that the Cambodian-conflict would soon end. He predicted that Pol Pot and at least some of his followers would survive this dry season offensive by the Vietnamese and live to fight again.

U.S. MISSION URGES AID TO CAMBODIA TO AVERT FAMINE

BANGKOK, Sept. 21.—Plague, malaria and malnutrition threaten thousands of survivors in war-torn Cambodia, a Quaker relief mission said today. The group urged efforts by the United States and other nations to send food and medicine to help the nation avoid a wave of famine and death.

"It's an incredible task to restore a city and a nation in a short time, and this must be accomplished by survivors who are asked to perform tasks which even the most skilled would find superhuman," said Edward Snyder, a member of an American Friends Service Committee delegation that spent two days recently in Cambodia.

Snyder said at a Bangkok news conference that the International Red Cross and other agencies told the group the new Cambodian government of Heng Samrin has been "extremely conscientious" in distributing relief aid to civilians. The Hanoi-backed government was installed this year after Vietnam launched an invasion that overthrew the government of Premier Pol Pot.

The five-member delegation said it would urge the U.S. government to send aid, possibly through private channels since a trade embargo with Cambodia is still in effect. The delegates also said other foreign assistance was urgently needed.

"Cambodia today is hard to believe," Snyder said. "We found a devastated land and a people in a state of shock trying to recover from a four-year nightmare."

He described the capital, Phnom Penh, as "a ghost town slowly returning to life" and said little food was being grown in the countryside. In the town of Kompong Speu, southwest of the capital, Snyder said he saw children "without even the energy to cry."

The group said there were 58 identifiable doctors in the country as compared to about 500 reported in a population estimated at 7.7 million when Pol Pot came to power in 1975. In Komong Speu, a regional hospital serving about 350,000 people had 567 patients, 200 hospital beds and no doctors, they said.

They said officials told them most of the medical books and journals at the Phnom Penh School of Medicine were destroyed by the Pol Pot government.

The delegtaion said Phnom Penh's official food request—which the Americans described as "modest relative to the need"—includes 108,000 tons of rice or wheat, 15,000 tons of sugar and 8,500 tons of vegetable oil. Also reportedly in urgent demand are vitamins, antibiotics, vehicles to transport patients medicine and books.

The Red Cross and UNICEF are negotiating with Cambodian officials for a large-scale relief effort and are already bringing in limited amounts of food and medicine.

U.S. State Department officials in Washington say the Vietnamese-backed government has thus far refused to agree on a program of international controls on food distribution. Until such controls are in effect, the United States would not contribute food, the officials said.

Some foreign governments and relief agencies have expressed concern that international aid might be channeled to the military still fighting the remnants of Pol Pot's forces. The military presence is evident, the Americans said, but they noted the Cambodians had set up a process for distributing the present aid that seemed to be working efficiently.

They said large-scale aid might be difficult to absorb because there is a lack of vehicles, trained personnel and basic infrastructure.

The group said it did not have overall statistics on deaths from disease and starvation nor information about the continued fighting in the countryside.

[From the Washington Post, July 27, 1979]

VANCE SAYS CAMBODIA FACES A FAMINE

(By Don Oberdorfer)

Cambodia faces a grave danger of famine, which could create new tides of fleeing refugees, Secretary of State Cyrus R. Vance and other State Department officials told a Senate hearing yesterday.

The United States has been frustrated in its efforts to work through international organizations and other governments to head off starvation, according to the State Department witnesses. The United States is prohibited by law from aiding Cambodia directly.

Sen. Edward M. Kennedy (D-Mass.), who raised the issue in a hearing on Indochina refugees, said the United States should "redouble our efforts" to break through procedural and political log jams that are holding up food assistance. Part of the trouble, Kennedy said, is a credentials fight at the United Nations over rival Cambodia regimes "when we are about to see hundreds of thousands of people starve."

Cambodia is the front line in a war involving combat elements and proxy forces of Soviet-backed Vietnam and its communist foe, the People's Republic of China.

The international political maneuvering centering on hapless and battered Cambodia has become intense, complicating the policies of the United States, the United Nations and others looking on.

"Without a political solution the bloodshed will continue," said Vance, who called for a political conference in search of a settlement. He said the United States has been in diplomatic discussions with Vietnam, the Soviet Union, China and Southeast Asian states about political solutions and will continue its discussions with all those nations.

State Department officials said they do not know on the basis of very sketchy reports how serious the Cambodian food situation will become. They said that at a minimum there will be severe localized shortages, and that extensive famine is considered a real possibility.

The Vietnamese invasion and occupation of the past seven months, along with continued insurgency of Chinese-backed Pol Pot forces, has disrupted the planting of rice, the food staple of Cambodia. The coming harvest may be also in danger.

Cambodia is believed to have a population of about 5 million after severe bloodletting from bombing, ground fighting, massacres and disease. The majority of the people are under control of a Vietnam-sponsored Heng Samrin regime centered in Phnom Penh, and a minority under the control of the Chinese-backed Pol Pot rebels, according to U.S. officials. A substantial number of people are living in a no man's land outside of effective control of either side.

The Hanoi-backed regime recently turned down an offer by the Swedish Red Cross to set up a food relief program for starving civilians in a northwestern Cambodia province, reportedly for fear that the food would fall into the hands of the rebels.

Earlier, the International Committee of the Red Cross reportedly was told by the Phnom Penh authorities that no food is needed, but Red Cross officials are in the Cambodian capital now for further discussions.

Ambassador Dick Clark, the State Department's refugee coordinator, told Kennedy the United States is prepared to work with "any qualified international group" to head off famine in Cambodia. So far the United States has provided a small amount of aid to Thailand for feeding Cambodian refugees fleeing to that country.

In view of the centuries-old conflict between Vietnam and Cambodia, American officials are not surprised at reports that the Vietnamese occupation is in trouble despite the presence of about 200,000 of Hanoi's troops.

Prince Norodom Sihanouk, the former Cambodian chief of state, has called for an international conference and has begun maneuvering to return to power as leader of a neutralist regime.

Sihanouk, who has close ties with China and with many non-aligned nations, may put on an international political campaign against the Vietnamese in coming moths, while China steps up its backing for the military insurgency.

U.S. VOICES CONCERN OVER FAMINE IN CAMBODIA AND OFFERS ASSISTANCE

(By Bernard Gwertzman)

WASHINGTON, Aug. 9.—The Carter Administration said today that it was deeply concerned over mounting signs of famine in Cambodia and declared it would participate in international efforts to help all Cambodians in need, regardless of their political affiliations.

In a statement, the State Department appealed to the competing groups in Cambodia to cooperate to the fullest with international relief efforts.

Under American law, the Government cannot supply direct assistance to either the Vietnam-backed Government in control of Phnom Penh or the forces of Prime Minister Pol Pot, now fighting a guerrilla war. But it can supply food and medicine for use by international groups in aiding Cambodians either inside their country or in refugee camps in Thailand.

REFUGEES TELL OF SHORTAGES

Refugees escaping Cambodia and recent visitors have told of severe food shortages and malnutrition.

The State Department said that this was a result of "the invasion and occupation of that country and from prior years of despotic rule." This was a reference to the seven-month old control of the main population centers by the Vietnamese forces and to the previous Pol Pot rule.

"The United States supports wholeheartedly efforts by international organizations, private voluntary agencies and others who are attempting to open channels through which humanitarian assistance to needy Khmer can flow," said Thomas Reston, the acting department spokesman. "The United States continues to urge that this assistance be aimed at meeting the basic human needs of the Khmer people, irrespective of their location or the political authority under whose control they fall."

MONITORS DENIED ENTRY

The statement took note of recent problems encountered by international relief groups. The rival Governments, wishing to secure wide international recognition, have sought to have the relief efforts limited to areas controlled by them.

Moreover, the relief organizations, such as the International Red Cross, have been unable to obtain permission to send personnel to monitor the relief programs to insure that food and medicine are not being given only to the military forces.

The statement said that "maximum effort should be exerted to assure through effective international monitoring that emergency relief supplies reach the needy for whom the assistance is intended."

"Thus far the humanitarian efforts of various organizations and nations to provide relief supplies to the Khmer people have had only limited impact," it said. "The competing forces have sought to impose political conditions on these international humanitarian undertakings.

"The United States deplores the attempts of the fighting sides to obtain political advantage from these relief efforts. The losers are the starving Khmer people."

DIPLOMATIC TIES NOT RESTORED

The United States, which evacuated its embassy in Phnom Penh in 1975 when Cambodia fell to the Communists, led by Pol Pot, has never reinstated diplomatic relations.

It has condemned the Pol Pot regime for its reported violations of human rights, including the deporting of thousands of people from Phnom Penh and the executions of thousands more.

After the Vietnamese-backed invasion last December, the Administration was even sharper in its criticism of the new regime. But as early as March, the United States began alerting international organizations to the possibility of severe food shortages in Cambodia.

The United States gave $300,000 to the Red Cross in May to aid the thousands of Cambodians who fled to Thailand and recently gave $325,000 to a private agency to feed Cambodians in the Thai border area.

In July, Secretary of State Cyrus R. Vance called for an international relief program for Cambodia. Today's statement, officials said, was more specific than Mr. Vance's call and reflected the increasing sense of urgency.

CAMBODIA GETS MEDICAL AID

GENEVA, Aug. 9.—A first shipment of emergency medical supplies and equipment was flown to the Cambodian capital of Phnom Penh today, international aid agencies announced here.

In a joint statement, the International Committee of the Red Cross and the United Nations Children's Fund said that this flight, with four tons of supplies, followed a visit by their representatives to Phnom Penh last month in which contact was established with the Cambodian authorities.

The two representatives, François Bugnion for the Red Cross and Jacques Beaumont for UNICEF, returned on today's flight from Ho Chi Minh City, Vietnam, to Phnom Penh to discuss arrangements for further aid. They have been in Vietnam since their three-day visit to Cambodia in mid-July.

U.S. SEEKS WORLD AID TO FEED CAMBODIANS

(By Kathleen Teltsch)

UNITED NATIONS, N.Y., Aug. 8—The United States is consulting with other governments on the launching of an international humanitarian operation to save Cambodians from starvation, members of the American delegation said today.

The United States moved ahead with these consultations as United Nations and Red Cross officials reported that their fact-finding mission to Cambodia had concluded that there was an urgent need for outside assistance to stave off starvation facing 2.25 million people.

The aid mission was the first group representing an international organization to have been allowed into Cambodia since 1975. The team members were said to have reported that they found the country ravaged, its basic services destroyed and its once-prosperous agriculture in ruins after four years under the regime of Premier Pol Pot.

The fact-finding team was invited by the new Government of Heng Samrin, which was installed in January with Vietnam's help after the defeat of the pro-Peking forces of the Pol Pot regime. The invitation was directed to the International Committee of the Red Cross, an all-Swiss organization based in Geneva, and to the United Nations Children's Fund, the aid agency popularly known as UNICEF.

DIRECT U.S. AID BARRED BY LAW

By law, the United States is prohibited from rendering direct assistance to Cambodia. However, the United States presumably would be able under certain conditions to supply food or other relief through an international agency such as UNICEF or the Red Cross.

Richard C. Holbrooke, Assistant Secretary of State for East Asian Affairs, said the United States would like to see emergency relief provided to the Cambodians if it could be assured that such help went to those for whom it was intended and was not diverted to the military forces of either the new Vietnamese-backed regime or the Pol Pot forces that are still resisting.

Mr. Holbrooke, in a telephone interview, said that the prospects for channeling such help through UNICEF already had been discussed with Congressional leaders. "They are ready to see this happen," he said.

The United States also has been consulting Western European and Asian countries about mounting an international aid program, and Japan made contact with UNICEF before the mission left New York for Cambodia.

There appeared to be wide support for such an undertaking, provided that the contributing countries were assured there would be some form of supervision over distribution of the supplies.

2.25 Million Cambodians Are Said to Face Starvation

(By Seymour M. Hersh)

Hanoi, Vietnam, Aug. 3.—United Nations and Red Cross officials said in interviews here and in Ho Chi Minh City this week that 2.25 billion Cambodians were facing starvation.

The officials, who agreed to discuss their recent fact-finding trip to Cambodia after being promised anonymity, also described the widescale starvation, shocking as it was, as only one element of what seemed to be the near destruction of Cambodian society under the regime of the ousted Prime Minister Pol Pot.

"I have seen quite a few ravaged countries in my career, but nothing like this," one official said. He added that as much as $100 million in food and medical aid was urgently needed.

PLIGHT HELD WORSE THAN REFUGEES'

The officials, representing the International Committee of the Red Cross in Geneva and the United Nations Children's Fund in New York, expressed dismay that the concern of many Western nations over the plight of the Vietnam refugees had overshadowed what they said would be a far greater tragedy in Cambodia.

Relief efforts in Cambodia have been slowed in part because of suspicion over the authenticity of the new Cambodian Government headed by Heng Samrin, which was installed by Vietnam after the invasion of Cambodia early this year.

The relief officials also said that during their visit to Cambodia they had seen evidence of systematic torture in chambers operated by the Pol Pot Government at a prison near Phnom Penh, the capital. Members of the Pol Pot regime, they said, carefully logged the names and titles of their victims and the types of torture each suffered. The officials said they knew of one large burial site where the remains of perhaps hundreds of the torture victims had been found after the Vietnamese invasion.

The relief experts said that the former regime had not only forced citizens to evacuate Phnom Penh, and other cities to work in the fields, as has been widely reported, but also had destroyed all vestiges of intellectual life and whatever they could find of 20th-century civilization in the country.

The Pol Pot Government took over Cambodia on April 17, 1975, after the defeat of the United States-backed Government of Marshal Lon Nol. Mr. Pol Pot believed that the salvation of Cambodia was possible only through the expulsion of all foreigners and foreign influence and through "purification," or evacuation, of the cities in an attempt to reconstruct Cambodia's war-damaged agricultural system.

SOME FOOD SUPPLIED BY VIETNAM

Since the fall of his Government and its replacement by the Vietnamese-backed regime of Mr. Heng Samrin early this year, Vietnam, itself faced with a deficit in food, has diverted some of its supplies to Cambodia.

Cambodia's social welfare apparatus has been left in shambles, the relief officials said, citing demolition of hospitals, schools, water supply facilities and sanitary systems. The destruction of such facilities has been on a scale far wider than previously believed, they asserted.

Intellectuals were systematically purged, the officials said. Survivors reported that all people who were known to speak foreign languages were hunted down, imprisoned and, in some cases, beaten to death with sticks. One doctor told the relief officials he had decided to hide his eyeglasses during the four years of Mr. Pol Pot's role for fear of being revealed as an intellectual, and punished.

Of more than 500 doctors known to have been practicing medicine in Cambodia before the defeat of the Lon Nol regime by the Communist forces in 1975, the relief officials said, only 40 have been found. The rest are presumed to have been slain or to have died while working in the fields in the last four years.

OFFICIALS BESIEGED ON ARRIVAL

The relief officials told of having been besieged by Cambodians on their arrival in Phnom Penh last month, with many of them asking the visitors to mail letters to family members and friends abroad.

In one such letter, dated June 20, and written to a doctor in Australia, a Cambodian nurse, after explaining that only 6 of the 14 persons in her family had survived, pleaded: "Please, doctor, would be sure taking my family to work in your country?"

The woman added: "Sorry of my poor English, because I never read for four years ago. My life always upset, no ideas, darkness in mind."

The officials said they had read many of the public accounts of the isolation of Phnom Penh under the former regime, but they still had been unprepared for the extreme destruction they saw during their visit there.

"It cannot be understood," one experienced official said. "It's a dead city. I saw only one pipe with running water."

EVERY HOUSE HAS BEEN DESTROYED

"Honestly, we could not believe it," he went on. "Every house has been destroyed and there are piles of garbage and furniture on the sidewalks."

Under the Pol Pot administration, the officials said, foreign journalists and other visitors were permitted to walk down one main thoroughfare that had been cleared of debris. Seen from the street, buildings seemed to be empty but in relatively good condition.

In fact, the relief officials said, every home had been ransacked. "It was not looting," one official declared, "because the soldiers did not take anything for themselves." But, he said, all signs of modern civilization—typewriters, radios, television sets, phonographs, books—were destroyed. In the shuttered hospitals of the capital, all the medical equipment, textbooks and reference journals were found, broken and scattered, on the floors.

A Roman Catholic cathedral in the center of Phnom Penh had been razed, with not a sign of its existence remaining, the officials said. Similarly, the city's central market had been destroyed.

All the automobiles in the city, the officials said, were driven by soldiers to an empty field and abandoned, left to rust as further symbols of modern decadence.

OUTBREAKS OF PLAGUE REPORTED

The increase in rats and other vermin has caused outbreaks of plague and other diseases, the relief officials said. The treatment of the sick is complicated, they said, by a lack of medical equipment, since the former Government was scrupulously methodical in its destruction of hospitals.

For example, in a hospital at Kompong Speu, about 30 miles west of Phnom Penh, the relief team found 30 patients who had developed hepatitis in recent weeks because of a lack of sterilizers for surgical instruments. The hospital had 500 patients when the group visited it last month, with one Vietnamese doctor who shuttled between it and other facilities.

The relief officials reported that there were believed to be 10,000 orphans in Cambodia, none of whom had been provided with the most basic immunizations.

NEW EQUIPMENT URGENTLY NEEDED

Some medical supplies were provided earlier this year by Vietnam, the officials said, and an emergency shipment of $10,000 worth of drugs and syringes was sent in this week.

Still urgently needed, they said, are new surgical and medical supplies, such as X-ray machines and sterilizers, for the ransacked hospitals, most of which were in towns and therefore were shut down.

Complicating the medical supply efforts is the food crisis, the relief officials said. They were permitted to visit some outlying towns. One of them, Kompong Speu, had been completely destroyed, they said. Everywhere they saw hundreds of children with the blank looks and distended bellies of the starving.

The officials said that the fragile government of Mr. Heng Samrin had set the daily intake of rice per person at 130 grams, roughly 4.5 ounces. That is less than one-third the average quota for other Southeast Asian nations, they said.

The officials said that Cambodia's fall harvest was expected to yield almost nothing, since many of the rice fields had been devastated in guerrilla warfare between Vietnamese troops backing the Heng Samrin regime and the surviving Pol Pot forces. In addition, the growing famine has forced many peasants to eat rice seedlings to stay alive, the officials said.

EASTERN AREA CALLED A "DESERT"

Yet another factor in the famine, the officials said, is the apparent absence of any significant population in the fertile rice-growing areas east of the Mekong River, the area between Phnom Penh and the Vietnamese border. "My first impression after passing the border is that at present no more than 5 percent of the fields are cultivated," one relief official explained. "The eastern half of the country is a desert—no boats, no one on the roads," he said.

The people who had lived in that area, the official said, were viewed with special suspicion by troops of the Pol Pot regime because of its proximity to Vietnam, and thus they were forced to move out.

One relief official recalled his sharing some canned litchi nuts with a group of Cambodian officials last month in the Government's guest house in Phnom Penh. He was astonished when the Cambodians told him it was the first fruit they had tasted in two years.

COUNTRY KNOWN AS "LAND OF FRUIT"

"You have to understand," the official explained, "Cambodia has always been known as the land of the fruit."

The first-hand evidence of torture was found at a former French high school in Phnom Penh that had been converted to a political prison, the officials said. They recalled having seen a prison file on a Cambodian doctor who was tortured to death there. "The file indicated that he was tortured at least 20 times," one official said with an expression of horror "and there were 5,000 files in the prison."

"You just cannot find anybody alive in Cambodia who has not lost somebody in his family," the official added.

He told of one couple who were overheard speaking to each other in French shortly after the Pol Pot Government came to power. "They were accused of being intellectuals and arrested," the official said. "She was killed the next morning by sticks, but he escaped."

[From the New York Times, Aug. 29, 1978]

Relief Cargo Going to Cambodia Soon

(By Henry Kamm)

Bangkok, Thailand, Aug. 28.—The first planeload of what United Nations and Red Cross officials hope will become a steady flow of relief to Cambodia will leave here this week.

However, diplomats report that no active negotiations appear to be under way to alleviate Cambodia's fundamental problem, that of generalized famine.

A cargo of 22 tons leaving here tomorrow or the next day will consist of medical supplies and powdered milk and sugar for children. Some mimeograph equipment for a possible restoration of the education system will also be carried.

The United Nations Children's Fund, also known as UNICEF, and the International Committee of the Red Cross have negotiated jointly with Vietnam and the Cambodian regime of President Heng Samrin for several months to initiate assistance. Mr. Heng Samrin is by all impartial accounts fully dependent on Vietnam, whose army put him in power in January and maintains him there. Four officials of the two relief organizations are flying in with the supplies.

Officials of the two groups spent a week in Phnom Penh earlier this month, after they flew in with four and a half tons of medical supplies. No agreement was reached in preliminary discussions of an aid program, whose needs are considered to be limitless and whose cost has been roughly estimated at $100 million for six months.

VAST AMOUNTS OF FOOD SOUGHT

No firm pledges of funds have been received for the joint program or in response to the request for vast quantities of food aid that the Heng Samrin Government submitted to representative of the United Nations World Food Program in Hanoi. That request included 108,000 tons of rice, 15,000 tons of sugar and 8,000 tons of cooking oil.

Diplomats here following the situation, while taking seriously the UNICEF and Red Cross initiative, are discouraged by the general inaction of potential donors and such international figures as Secretary General Kurt Waldheim of the United Nations on a broad relief program for all Cambodians, whether under the control of the Heng Samrin Government or in areas still controlled by forces of the ousted regime of Pol Pot.

When war broke out in Cambodia in 1970, the population was nearly eight million. How many have survived the war, the radical revolution of Mr. Pol Pot and the present fighting is not known.

The Swedish Government, said to be increasingly pessimistic over the possibility of mounting an international rescue operation in the face of apathy and political maneuvering by the competing Cambodian regimes and their sponsors, is considering independent action to deliver food to any Cambodians who are reachable, regardless of who exercises political control over them.

WIDESPREAD ILLNESS REPORTED

Reliable reports here say that a group estimated at 60,000 is suffering hunger near the Thai border south of the border-crossing town of Aranyaprathet.

A relief official who was in Phnom Penh recently reported widespread hunger and diseases connected with the destruction of the country's food system and sanitary facilities. He said that even the high officials with whom he negotiated and the groups that the regime was willing to show to foreigners were suffering.

The relief aide reported that officials with whom he was conducting talks had collapsed, largely from illnesses caused by intestinal parasites, during their meetings. He described a visit to the Phnom Penh orphanage where about 500 children were housed in a former Roman Catholic school that lacked even the most basic equipment. Administrators told him that they were receiving a total of two to four pounds of meat a day for all the children. They said they had been allocated a ration of about 10 ounces of rice per child per day but were receiving less than 5 ounces.

He said that about 100 of the children were in the sick ward suffering from hunger-related illnesses. And he said that only 20 of the children were less than 5 years old. This lends credence to refugee accounts in recent years that few children were born during the four years of the Pol Pot regime and many of those died in infancy.

"Of the 20 I saw, I don't think that 10 will survive," he said.

TRANSPORT FACILITIES INADEQUATE

The official reported eagerness on the part of the aides of the Phnom Penh regime to receive supplies but said there was a desperate lack of the basic services needed to make distribution efficient. Cambodia has no trucks to speak of, he said, and not much river transport.

A major food relief effort will have to begin with delivery by air of a fleet of trucks, the official stated, and an assured supply of fuel and spare parts to keep them moving over war-devastated roads and through zones of insecurity resulting from continuing guerrilla war conducted by remnants of the Pol Pot forces.

For the time being Red Cross and Children's Fund officials are the only ones negotiating actively with Mr. Heng Samrin's Cambodian regime and with Vietnam for a continuing program. They insist that this would require a permanent presence for their organizations in Phnom Penh and an assured channel of independent communications.

Cambodia Hobbling Foreign Relief Aid

(By Kathleen Teltsch)

United Nations, N.Y., Sept. 22.—Although two million Cambodians are facing famine, the Heng Samrin Government in Phnom Penh is obstructing the expansion of desperately needed foreign assistance, apparently for political reasons, according to diplomatic sources here and in Washington.

The Government, which was installed in January with the help of Vietnamese troops and Soviet support, has refused visas sought by the United Nations Children's Fund, or UNICEF, and the International Committee of the Red Cross, which were ready to extend their initial and limited aid undertakings begun this summer. Some visas were even revoked.

The abrupt reversal of policy has led American officials in Washington and other diplomats here to conclude that the Government does not want additional foreign observers in the country. The diplomats speculated that the Heng Samrin Government might be planning a major attack against groups loyal to the ousted pro-Peking regime of Pol Pot still operating in the countryside.

The sources also said that the Phnom Penh regime might be blocking humanitarian aid efforts as a means of putting pressure on foreign governments that wish to help the starving Cambodians but have been unwilling to extend political recognition to an administration installed by force. Those with this view charge the Government, in effect, is holding its own civilians as "hostages."

A Vietnamese official here brushed aside questions about the situation.

Whatever the reason, the obstruction of emergency aid is causing rising concern as reports on the worsening conditions in Cambodia trickle out.

According to authoritative accounts, two to three million Cambodians, after surviving the repression of the Pol Pot regime and the Vietnamese invasion, now are threatened with death from starvation and disease.

A European physician, after a two-day visit, said the sight of children suffering from severe malnutrition or dying of dysentery was reminiscent of conditions he witnessed during the 1968 civil war in Nigeria. Unless help is rushed, he said, the death rate will be "worse than Biafra."

600 TONS OF RICE A DAY NEEDED

A UNICEF official in Phnom Penh has reported that 80 percent of the children were suffering from the severest form of malnutrition and estimated that at least 600 tons of rice a day would be needed from abroad to prevent starvation.

Earlier this month the United Nations Secretary General, Kurt Waldheim, tried to enlist the help of Prime Minister Phan Van Dong of Vietnam. Potential donors wanted assurances that assistance would not be diverted from civilians. Mr. Waldheim was said to have been encouraged that assurances might be given.

However, the recent developments concerning visas have evoked skepticism about starting such a program in Cambodia soon. One Red Cross official managed to get as far as Pochentong Airport near Phnom Penh recently only to have Cambodian authorities refuse to let him leave the relief plane.

The aid agencies, because of their traditional neutrality, have usually been able to sidestep the politics in which the United Nations has become emmeshed, the Nigerian war UNICEF was able to assist both sides. Henry R. Labouisse, the agency's executive director, argues that "our clients are children and children know no political barriers."

RELIEF SHIPMENTS DISTRIBUTED

So far, UNICEF has been able to fly in 110 tons of food stuffs, medicines and other relief stocks and they have been distributed in Phnom Penh. In recent days a token supply of relief also was carried across the Thai border for Cambodians in a jungle area in the northwest still controlled by the anti-Government insurgents.

The United States Government supplied $325,000 in assistance to Catholic Relief Services, which has been sending convoys to the Thai-Cambodian border, where they are picked up by Cambodians, and is contemplating a contribution of $300,000 more. Japan has announced it is providing $300,000 through UNICEF, and Norway and Sweden also have given emergency help.

Oxfam, the British-based relief agency, said last week that it had succeeded in getting Phnom Penh's approval to send in a second relief shipment.●

AMENDMENTS SUBMITTED FOR PRINTING

SALT II TREATY—EX. Y, 96-1

AMENDMENT NO. 446

(Ordered to be printed and to lie on the table.)

Mrs. KASSEBAUM, as in executive session, submitted an amendment intended to be proposed by her to the resolution of ratification of the Treaty Between the United States of America and the Soviet Union Socialist Republics on the Limitation of Strategic Offensive Arms, done at Vienna on June 18, 1979, Ex. Y, 96-1.

(The remarks of Mrs. KASSEBAUM when she submitted the amendment appear earlier in today's proceedings.)

PRIORITY ENERGY PROJECT ACT—S. 1308

AMENDMENTS NOS. 447 THROUGH 485

(Ordered to be printed and to lie on the table.)

Mr. MUSKIE (for himself, Mr. STAFFORD, and Mr. RIBICOFF) submitted 39 amendments intended to be proposed by them, jointly, to S. 1308, a bill to set forth a national program for the full development of energy supply, and for other purposes.

ENERGY MOBILIZATION BOARD

● Mr. MUSKIE. Mr. President, Senators RIBICOFF, STAFFORD, and I are today submitting a number of amendments to S. 1308, the Priority Energy Project Act, for the purpose of forcing the Senate to give careful consideration to the details of this legislation. I do not feel that adequate attention has been focused on S. 1308, and it is my feeling that a line by line examination of legislation of this magnitude may be warranted.

In order to aid my colleagues in their understanding of the implications of various provisions of S. 1308 as reported by the Energy and Natural Resources Committee, I ask unanimous consent that a comparison of S. 1308 and S. 1806, a substitute bill introduced by Senators RIBICOFF, GLENN, ROTH, PERCY, STAFFORD, HART, JAVITS, DURENBERGER and myself be printed in the RECORD at this point.

There being no objection, the comparison was ordered to be printed in the RECORD, as follows:

COMPARISON OF S. 1308, THE ENERGY COMMITTEE, BILL AND S. 1806, THE RIBICOFF-MUSKIE BILL

COMPOSITION OF THE ENERGY MOBILIZATION BOARD

S. 1308 provides for a three member board appointed by the President and confirmed by the Senate. Board members would serve only part time, and would not be subject to conflict of interest laws.

S. 1806 also creates a three member Energy Mobilization Board appointed by the President and confirmed by the Senate. The only difference is that the members would serve full time and would be subject to conflict of interest laws.

DESIGNATION OF PRIORITY ENERGY PROJECTS

S. 1308 requires that a project not be designated unless the Board finds that it is likely to reduce directly or indirectly the Nation's dependence on foreign oil. This is an extremely loose criterion and the designation decision is not judicially reviewable. Therefore, even a tightening of the criterion would be meaningless because the Board is not accountable for justifying its decisions once a designation is made.

S. 1806 provides that the Board must make a finding that a project will contribute to a 50% reduction in the use of imported oil by 1990, the President's goal, and that it needs the fast-track system to make that contribution to the goal. This is much preferable a set of criteria in that it provides a specific measuring rod against which the project can be evaluated, and it provides more guidance to the Board in the designation decision. The designation is also judicially reviewable, which will deter the Board from abusing its discretion in this area.

In addition, only 24 priority energy projects may be designated for fast-track treatment at any one time under S. 1806. The numerical limit, not contained in the Energy Committee bill, has the obvious advantage of limiting the number of projects which can receive any sort of expedited treatment and in thus preventing the clogging of the fast-track system with unwarranted designations which would guarantee that the process would not work.

Under S. 1806, DOE will initially screen the application for priority status, and then forward its recommended candidates to the Board. This will provide a technological evaluation of each project using DOE's expertise, and make unnecessary a buildup of a small bureaucracy in the Board to perform that function.

DEADLINES FOR AGENCY ACTION

S. 1308 requires the Board to promulgate a project decision schedule with binding deadlines for every agency action relating to a priority energy project. That deadline may be no longer than two years from the date of designation, unless the Board determines that a longer period is necessary. This kind of arbitrary deadline has no reference to the particular requirements of any statute, which may be longer or shorter than a uniform deadline imposed for every action. The two years includes the time during which the applicant submits his permit application and the agency determines exactly what must be contained in the application. This process in itself has proved time consuming; the actual analysis by an agency once an application is complete can in most cases be made expeditiously. A two-year deadline for the entire permit process will be too short in some cases and, therefore, trigger the provision in S. 1308 authorizing the Board to make the permit decision in lieu of the agency.

S. 1806 also requires the Board to set deadlines binding on agencies which must perform actions relating to the approval of a priority energy project. That deadline can be no longer than one year after the completion of a permit application by the applicant. This approach provides the flexibility absent in a uniform deadline. It also provides an incentive to both the applicant and the agency to determine the contents of an application and to complete the application as soon as possible.

WAIVER OF PROCEDURAL REQUIREMENTS

S. 1308 authorizes the Board to adopt special procedures for Federal agencies governed by the deadlines set by the Board. The bill provides that such procedures must be consistent with all statutes, rules and regulations promulgated by the agencies with enumerated exceptions. The exceptions permit the consolidation of the proceedings with other agencies, the establishment of permit requirements to eliminate unnecessary duplication, the substitution of legislative-type hearings in lieu of trial-type hearings, and shortening the specific time periods required by statute, regulation or rule for agency actions. This approach is objectionable because the Board may impose such special procedures on an agency without any regard for the particular statutory requirement that the agency is implementing and the particular procedural needs associated with it.

The bill also authorizes Federal, State and local agencies to establish special procedures to meet deadline imposed by the Board, notwithstanding any other provision of law. The special procedures enumerated are identical to those which the Board may impose on an agency. However, this approach does make sense. Each Federal agency is familiar with the needs of particular permit requirements and can choose whether to use special procedures with reference to that permit proceeding.

S. 1806 contains no authorization to the Board or to agencies to modify procedural requirements to applicable statutes. However, to the extent that certain procedures and time limits on them (for example, a 30-day comment period) are contained in regulations promulgated by an agency, the agency could adjust those procedures or procedural time limits in dealing with a permit application for a priority energy project. This is the most preferable approach.

ENFORCEMENT OF DEADLINES

S. 1308 authorizes the Board to perform any agency decision in lieu of an agency which has missed its deadline. This approach is objectionable for a number of reasons. First, the Board is making a substantive decision for an agency has only one mission in mind, and that is to expedite construction of the priority energy project; second, it requires a duplication of expertise in the Board as well as a duplication of analysis already partially complete by an agency; and third, this approach is more time consuming in that the Board must begin its analysis after the agency has missed its deadline.

S. 1308 also authorizes the Board to seek a court order compelling agency action once the deadline has been missed, as an alternative enforcement mechanism. This is a far preferable approach in that the substantive duties of the agency in question are not usurped and the decision is made in a more timely fashion. However, the Board has complete discretion to choose the mechanism for enforcement that it uses.

S. 1806 provides only for enforcement by court order. This is preferable for the reason stated above.

JUDICIAL REVIEW

S. 1308 provides for expedited judicial review of any final action by a Federal, State or local agency relating to a priority energy project in a special court, the Temporary

Emergency Court of Appeals. Jurisdiction is removed from the District courts and Courts of Appeal as provided in the various substantive statutes.

S. 1806 also provides for expedited judicial review, but in the court of appeals for the circuit in which the priority project is located. This provision is far preferable; the Temporary Emergency Court of Appeals is an unknown quantity at this point. It is composed of Appellate Justices appointed to the court by the Chief Justice, who would also specify the judges who will sit on each panel hearing each specific case. Concern has been expressed that the choice of judges to hear these cases may be subject to inappropriate considerations.

GRANDFATHER PROVISION

S. 1308 contains a Grandfather provision authorizing the Board to waive the application of any Federal, State or local statute, regulation or requirement enacted or promulgated after the commencement of construction of a priority energy project. Commencement of construction is broadly defined to include any activity from site clearance through to operation of the facility. This approach fails to recognize that new requirements are often enacted or promulgated as specific remedial responses to problems which were unknown or unknowable at the time a project was initially approved. Such a prohibition would effectively prevent corrective action needed to protect public health or the environment. In addition, the Energy Committee has not provided any information indicating that this sort of substantive waiver is, in fact, necessary as a result of past problems.

S. 1806 contains no Grandfather provision.

THE NATIONAL ENVIRONMENTAL POLICY ACT

S. 1308 authorizes the Energy Mobilization Board to designate a lead agency before preparation of an Environmental Impact Statement. The Board is also authorized to determine whether a Federal action requires an impact statement. This changes the existing procedure substantially, although it has been satisfactory.

In addition, the Board is authorized to consolidate Federal, State and local impact statement requirements into one Federal consolidated statement. The one single statement must, however, cover the matters required in any State or local statement.

S. 1806 follows existing regulation in permitting the relevant agencies to decide among themselves the lead agency for preparation of the Environmental Impact Statement. The lead agency then determines whether any Federal action relating to the project affects the quality of the environment and therefore subject to the EIS requirement. S. 1806 also provides for consolidation of Federal, State and local EIS requirements into a single Federal statement which reflects also the requirements of State and local law.

This provision of S. 1806 is preferable to the language in S. 1308.●

AMENDMENT NO. 486

(Ordered to be printed and to lie on the table.)

Mr. MUSKIE (for himself, Mr. RIBICOFF, and Mr. STAFFORD) submitted an amendment intended to be proposed by them, jointly, to S. 1308, supra.

ENERGY MOBILIZATION BOARD—PRESERVATION OF STATE AND LOCAL AUTHORITY

● Mr. MUSKIE. Mr. President, Senators RIBICOFF, STAFFORD, and I are today submitting an amendment to S. 1308, the Priority Energy Project Act of 1979, reported this week from the Energy and Natural Resources Committee.

I have concern about many fundamental provisions in S. 1308. One of my strongest objections to the bill relates to its effect on substantive and procedural requirements of State and local law.

The amendment I present addresses this shortcoming by amending two provisions of S. 1308.

First, it deletes the "grandfather provision." Second, it removes the authority of the Board to make substantive decisions in lieu of State and local agencies which have failed to meet their decision deadlines. I would like to outline my specific concerns in order to provide my colleagues with information which has been discussed in the debate thus far.

GRANDFATHER PROVISION

While most of us in Congress support a speedup of the decision process for valid projects, we also can recognize a trojan horse when it appears. Some people clearly hope to make this Board become such a device.

One key issue stands out among the many contained in this legislation. It deals with a perpetual protection for projects annointed by the Board for fast track consideration. A waiver could be granted to such projects, protecting them forever from compliance with future Federal, State, or local requirements.

These are not merely environmental requirements—they are any requirements.

But is is clear that environmental law is the key target of this provision.

Such a grandfather protection creates a pernicious effect on any logical policy for treating toxic pollutants and other situations where knowledge is limited but leaping ahead daily.

Let me give an example. Many of the proposed synthetic fuel plants will be candidates for designation as priority projects. If they receive such designation, they will be placed on the fast track for decisionmaking.

Such projects have the potential of creating serious new toxic pollutants.

We do not know how harmful the pollutants are;

We do not know how sweeping the contamination would be;

But we do know that splitting the molecules of coal to make oil or gas creates some different pollutants from the mere combustion of coal. And these pollutants are frequently cancer causing or suspected of being so.

How will we ever know? Too often we waited to observe the effects of long-term exposure and then recognize that mistakes were made. We should not duplicate that same process knowingly. Yet, we are close to adopting an energy policy that would guarantee such an approach. Facilities would not have to meet any additional requirements once construction had commenced.

No additional cleanup, even if we find the toxic levels are threatening local populations;

No additional cleanup, even if groundwater supplies of the local population become contaminated by discharges; and

No additional cleanup, even if we discover that workers in the plants are gaining cancer-like skin lesions.

Such impacts on workers are not mere conjecture. In 1960, Union Carbide closed a synthetic fuels plant precisely because such lesions were appearing on plant workers.

Particularly in a new area, we should not bar our capability to improve a facility as we place it in operation.

Mr. President, section 36 of S. 1308 authorizes the Energy Mobilization Board to waive laws enacted and regulations promulgated after the commencement of construction of a priority energy project unless the Congress explicitly prohibits the waiver. The laws which would be suspendable under this provision are those enacted not only by the Congress but also by State and local governments in the future. Also, regulations promulgated subsequent to the designation of a priority energy project would be suspendable by the Energy Mobilization Board.

Although the fast track legislation will be used for other kinds of projects, the synfuels program was the stimulus.

But the grandfather provision could actually hurt the development of synfuels. It would bar the orderly development of environmental controls, and create continued resistance on environmental grounds. These fuels are made from coal and oil substances whose pollution characteristics are known, but transferring these to synthetic fuels does not create the same kind of pollutants.

Synthetic fuels from coal, a committee print of the Senate Energy Committee, June 1978, states the following:

> The liquefaction process breaks chemical bonds between aromatic (cyclic) structures in the coal molecule. Typical products of this chemical conversion include aromatic hydrocarbons, some of which are known or suspected carcinogenic agents. Accidental dermal (skin) or respiratory exposure to plant employees could lead to a variety of health effects, some severe. A coal liquefaction pilot plant operated by Union Carbide had to be shut down in 1960 because plant workers were developing cancerous skin lesions.

We frequently find problems of toxic pollutants after they have been emitted, not before.

I ask unanimous consent that a list of potentially hazardous substances likely to be admitted from synfuels plants be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

TABLE 1.—*Some potentially hazardous substances that could be associated with coal conversion technologies.*[1]

More poorly understood

Higher significance

Benzene: Suspected to cause leukemia.

Beryllium: Suspected to cause bone and lung cancer.

Cadmium: Possible relation to prostate cancer.

Fuorides: May increase sensitivity to chemicals affecting central nervous system.

Lead: Suspected occupational carcinogen.

Nickel: Occupational cancer incidence.

Nickel carbonyl: Causes lung cancer, possibly asthma.

Nitric acid: Can irriate eyes, lungs, mucous membrances, skin and corrode teeth.

Nitric oxide: Can cause pneumonia, circulatory system damage; suspected respiratory irration and tooth corrosion.

Nitrogen dioxide: Suspected to reduce resistance to bacteria; acute exposure causes increased respiratory inhibition.

Phenols and cresols: Occupational carcinogen (skin); may damage central nervous system and liver.

Selenium: Occupational cause of digestive and nervous disorders.

Sulfur dioxide: Correlates with chronic respiratory diseases; synergistic effects with particulates.

Zinc chloride: Possible carcinogen.

Lower significance

Carbon monoxide: Suspected to alter enzyme activity: cause behavioral changes: and precipitate heart attacks.

Fluoride: Suspected association with blood disorders.

Manganese: Causes brain damage and pneumonia in high doses.

Xylene: Inhibition of electrical activity in cerebral cortex at levels below odor threshold.

Vanadium: Acute respiratory irritation; chronic ingestion produces systemic symptoms.

Zinc oxide: Occupational exposure can cause intestinal, respiratory, skin and nervous disorders.

Better understood

Beryllium: Causes acute and chronic respiratory disorder from short-term exposure.

Chromium: Suspected cause of lung cancer.

Fluorides: High levels lead to chronic poisoning or fatality; can cause respiratory impairment.

Lead: Damages central nervous system.

Mercury: Damages central nervous system.

Polycyclic aromatic hydrocarbons: Carcinogenic.

Uranium: Insoluble compounds damage lungs: salts damage kidneys and arteries.

Arsenic: Lethal at high doses.

Barium: Eye, nose, throat, skin irritant: salts and sulfide poisonous.

Beryllium: Causes chronic berylliosis.

Cadmium: Systemic and fatal effects from inhalation of high concentrations.

Carbon monoxide: Causes dizziness, fatigue, and coronary dysfunction.

Chromium: Occupational exposure causes lesions of skin and mucous membranes.

Cyanides: High concentrations lethal.

Phenols and cresols: Corrodes skin and mucous membranes.

Selenium: Causes dermatitis and respiratory irritation.

Toluene: Chronic exposure can cause brain damage.

[1] The basis for the ranking of a substance is a combination of the substance's inherent toxicity and the degree of human exposure anticipated. The latter is a relative measure, reflecting the increase in concentrations over urban or rural background levels the concentration expected as compared with the level thought to be harmful and the number of persons who will be affected.

Each effect is placed in the grid according to its ranking of significance and how well it is understood. The list of problems is not comprehensive and does not incorporate all advances to date in the assessment of current knowledge. However, the most important effects are believed to be covered. Some substances are listed more than once depending on the effect and the level of understanding.

Mr. MUSKIE. Mr. President, the 1977 amendments to the Clean Air Act clearly contemplated granting additional time for innovative technologies to meet clean air standards. The Environmental Protection Agency after extensive consultations with the Department of Energy finally agreed to a policy that would allow a few demonstration plants to qualify for this slower cleanup schedule. That approach would have given regulatory agencies information about workplace safety and environmental cleanup requirements needed to develop responsible regulations to be applied broad scale commercialization of synthetic fuels. Section 36 of the present bill does not embody this careful approach. It would allow broad scale commercialization of synthetic fuel plants without imposing new source performance standards and without protecting public health and safety. Enactment of section 36 makes a mockery of the carefully crafted Department of Energy and Environmental Protection Agency agreement in this regard.

The Federal, State, and local government have not abused their authority in this area. The Congress should not preemptively take such authority away now. It is not needed and it creates mischief.

ENFORCEMENT MECHANISM

The second part of this amendment would delete another provision in S. 1308 which preempts the authority of State and local governments to regulate priority energy projects. This amendment removes the enforcement mechanism in S. 1308 under which the Board may make a substantive decision in lieu of the appropriate Federal, State or local agency. The only enforcement mechanism available to enforce a deadline for decision-making would be authorization to the Board to seek a court order compelling compliance.

Mr. President, there is absolutely no justification for running roughshod over the rights of States and localities to make their own decisions on projects which will affect the lives of their citizens for decades.

How could the Energy Mobilization Board possibly understand or even know the contents of the laws it would be implementing?

How could the Energy Mobilization Board possibly understand better, or at all, the particular concerns of the State or local agencies?

How could the Energy Mobilization Board possibly make a decision faster than an agency which has been working on the permit for months?

How could the required buildup of another bureaucracy duplicating those already in existence possibly speed up the review process for priority energy projects?

And most important, how could the Energy Mobilization Board, with a mission to expedite the construction of energy facilities, possibly have the good of the States and localities in mind when making these decisions?

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 486

On page 140, line 3, strike all through page 141, line 8.

Beginning on page 51, line 23, strike "(a)" and all after through "(b)" on page 52, line 17.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON ANTITRUST, MONOPOLY, AND BUSINESS RIGHTS

● Mr. METZENBAUM. Mr. President, the Judiciary Subcommittee on Antitrust, Monopoly, and Business Rights will hold hearings on S. 1413, legislation to extend the existing antitrust exemption for oil companies that participate in the International Energy Agency, on October 3 and 5. On October 3, the hearing will begin at 9 a.m. in room 1318 of the Dirksen Senate Office Building. On October 5, the hearing will begin at 9 a.m. in room 6226 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

● Mr. PELL. Mr. President, the Subcommittee on Education, Arts, and Humanities of the Committee on Labor and Human Resources has scheduled hearings on the extension and revision of the Higher Education Act of 1965 for October 2, 3, 4, 5, 10, 11, and 12. The hearing on October 3 will be held in room 6226, Dirksen Senate Office Building; the hearing on October 10 will be held in room 1318, Dirksen. The remainder of the hearings will be held in room 4232, Dirksen Senate Office Building.

Anyone wishing to submit testimony for the hearing record may do so by sending it to Ms. Jean S. Frohlicher, Counsel, Subcommittee on Education, Arts, and Humanities, Committee on Labor and Human Resources, room 4230, Dirksen Senate Office Building, Washington, D.C. 20510. The subcommittee's telephone number is (202) 224-7666.●

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

● Mr. EAGLETON. Mr. President, the Subcommittee on Governmental Efficiency and the District of Columbia will hold a second day of hearings on S. 828 and H.R. 3951, the Metrorail authorization legislation on Wednesday, October 3, in room 3302, Dirksen Senate Office Building, at 9:30 a.m. Any questions about the hearing should be directed to Ira Shapiro or Peggy Crenshaw of the subcommittee staff at 224-4161.●

ADDITIONAL STATEMENTS

THE PLIGHT OF THE CAMBODIAN POPULATION

● Mr. DOMENICI. Mr. President, it might surprise my colleagues to learn that Albuquerque, N. Mex., is the birthplace of an organization to alert people around the world to the plight of the Cambodian population.

John D. Robb, Jr. is president of Christians for Cambodia, Inc. John is a good friend of mine and a very respected lawyer. His enthusiasm is catching because he is right to be concerned.

Fish and fruit have virtually vanished from the scene in Cambodia. The scarce rice is thinly rationed to those who are fortunate enough to receive rations. Cultivation is at a standstill and disease is rampant.

The combined effects of famine and war currently result in 10 deaths for every birth. The 1975 population of about 7 million is down to 4.5 million, and half of these survivors will be lucky to be alive by January, 1980. The estimated 200,000 North Vietnamese troops are committed to the extermination of Pol Pot and his forces of 20,000 to 30,000. Hence, war instead of planting will be the major activity as the ground dries out and the North Vietnamese are able to mobilize.

Our concern is in no way to be taken as support for the Pol Pot forces whose cruelty to its own people has only been surpassed once in modern history. Our concern is for the human beings caught between two vicious armies. Our hope is to supply them with a ray of relief and a chance for life. Their needs are the most basic and the most obvious.

Therefore, Mr. President, in support of John Robb's efforts and the prayers and efforts of many, many good Americans like him, I ask that the following editorial and article from yesterday's New York Times be made a part of the Record: "Cambodia, Still Starving," and "Cambodia, Time to Act."

[From the New York Times, Sept. 27, 1979]

CAMBODIA, STILL STARVING

Responsibility for the catastrophe in Cambodia widens as reports of famine and disease there sink in. Yet the job of feeding people is being left largely to private organizations that lack the resources for the job.

The famine demands immediate relief. It was witnessed recently by a team of French doctors and British aid experts from Oxfam. One of the group says half a million hungry people wander the roads, trying to return to the desolated towns from which the Pol Pot regime expelled them. "Whole villages," the witness adds, "are dying in front of your eyes."

The starvation in Cambodia is different in one important respect from past famines in, say, Bangladesh or Biafra: There are few enough Cambodians that they could *all* be saved. There were as many as eight million people there as late as the mid-1970's. No one knows how many have died since from war, murder, disease and now starvation. Probably millions.

Given such conditions, it becomes increasingly likely that the rival regimes can be persuaded to allow the distribution of large amounts of food. Oxfam, which sent the first planeload a month ago, reports that the Heng Samrin authorities in Phnom Penh —the regime put in power by the Vietnamese Army—cooperated full in distributing those supplies to civilians. Two more planeloads are being prepared. Those, together with two recent planeloads of food from UNICEF and the International Red Cross, will be almost the total aid Cambodia has received from overseas.

UNICEF has had trouble distributing its supplies. Its connection with the United Nations, which reccgnizes Pol Pot, may be the reason. Secretary Vance, meanwhile, has said that international aid to Cambodia is being held up by Phnom Penh's refusal to let outsiders monitor the aid's distribution. Heng Samrin is also reported to have objected to food being sent from Thailand into Pol Pot's piece of Cambodia, while Pol Pot is hardly the sort of person who would worry about the lives of mere children. These bitter Cambodian leaders, obviously, are the greatest obstacle to the delivery of food. But the United Nations and the United States—which both, in varying degrees, have sided with Pol Pot lately—need to explain precisely what they have asked the Heng Samrin regime to do in return for aid, and precisely what is demanding.

The duty of clarification is all the more pressing because Phnom Penh *has* given Oxfam permission to sail one shipload of food into Cambodia's main port. And several days ago, a delegation from the American Friends Service Committee, after spending two days in Cambodia, reported that Phnom Penh has requested 100,000 tons of rice or wheat plus tons more of sugar, vegetable oil, vitamins and antibiotics. Evidently it is not impossible to help the starving.

Yet the world's attention has been diverted to the relatively trivial question of who is more legitimate: Pol Pot, China's ward, or Heng Samrin, Hanoi's. And last week, with the monsoon rains ending, Vietnam started re-mobilizing its troops in Cambodia in order to destroy what remains of Pol Pot's guerrila army. These concerns were distractions from the starvation when the United Nations General Assembly convened last week. They seem increasingly to stand in the way of aid. One would think there were obstacles enough in the deep cynicism of the rival Cambodian governments, which have until now virtually refused large-scale aid unless it came wrapped in ribbons of recognition. One would think there were hurdles enough in the apparent unconcern of Moscow and Peking and the reluctance of the United States Congress to aid any Communist government in Indochina.

But at least the United Nations does not have to let itself be blocked by every such obstacle. It is in session at this moment. People are starving at this moment. How can it not devote its entire energy to feeding desperate people?

CAMBODIA: TIME TO ACT

(By Anthony Lewis)

BOSTON.—Two million Cambodians—perhaps half the surviving population of that ravaged land—are going to die of starvation and disease in the next few months unless massive help from outside can get to them. That is the estimate of doctors and relief workers who have visited there recently.

Even a world numbed to the statistics of war and natural disaster should be moved by the fate of the Cambodians. The pictures of children with the look of concentration camp victims are before us. What those people have suffered and are suffering justifies a word that should not be cheapened by overuse: holocaust.

According to the experts, it would take an airlift of 600 tons of rice a day, starting immediately, to avert famine. There would have to be large amounts of medicine and relief teams, and trucks to distribute the supplies in a country stripped of its human and physical infrastructure.

All that could be done. Oxfam and UNICEF and the Red Cross and other agencies are ready to move. The U.S. and other governments would provide food and money. But political obstacles are preventing action.

The Heng Samrin Government, installed in Phnom Penh by invading Vietnamese forces last winter, has refused visas to relief workers—and even revoked some visas. Last week the regime angrily denounced the distribution of food, at the border with Thailand, to Cambodian civilians who were not under its control.

The signs are growing that Vietnam is using starvation as a weapon in the effort to consolidate its hold on Cambodia and destroy the remnants of Pol Pot's Khmer Rouge forces. Vietnam wants any Western aid for Cambodia to come through its agents and be distributed to those within its control. The effect would be to abandon to starvation the large areas where its control is contested—as much as 80 percent of the country according to some reports.

The Vietnamese this week apparently launched the dry-season military offensive in Cambodia that American officials have been predicting. The renewed fighting, together with the obstruction of aid from abroad, threatens to bring final disaster on what was an extraordinarily fruitful land until war engulfed it ten years ago. Correspondents report that rice was not even planted this summer because of the political turmoil.

Starvation is not the limit of what the situation in Cambodia threatens. There could be extremely grave political consequences, for the region and the world. State Department officials concerned with the problem see these as some of the possibilities:

More Cambodians may try to escape into Thailand, which already has 100,000 Cambodians and 120,000 other refugees in camps. The fighting could also spill over into Thailand and increase the strains on its stability.

China, which resolutely supports the Pol Pot forces, could react to a new Vietnamese offensive by taking punitive military action itself: a move into Laos, for example, or another direct assault on Vietnam. There are reports that Chinese officials told Vice President Mondale, during his recent visit, of their intention to respond strongly to any Vietnamese drive in Cambodia.

The Soviet Union, Vietnam's ally, might not keep hands off if China moves into Vietnam again. The Russians are deeply engaged in Cambodia, ferrying Vietnamese troops there in Soviet planes helping with logistics.

"Cambodia is very serious for all of us," a high American official said the other day. "The weakest state in Asia, because of its weakness, is the point of greatest danger. The events there, if mishandled, have a chance of setting off a chain reaction."

What can the United States do to head off threatening disaster, human and political? The Carter Administration's reluctant answer is: not much. It stands ready to offer relief but thinks the time is not ripe for larger diplomatic action because the parties involved are committed to another round of fighting. President Carter himself has had little to say.

The gloomy U.S. estimate may be realistic. But we do not want to tell ourselves, if the worst happens, that we stood by and wrung our hands. And I think there is something more dramatic that the United States, Japan and the West Europeans can attempt now. That is to call for an immediate international conference on the human situation in Cambodia.

World action on the boat refugees from Vietnam showed that public feeling and political pressure could make a difference. After an international conference, Hanoi did back off. Here again is a situation when world outrage could matter. A conference would have to focus at first on the imminent threat of famine. But that problem is so connected with the political struggle over Cambodia that there might be ways to move on to the larger issue.

The President of the United States and men who hope to succeed him in office are spending much of their time these days worrying about the threat of a few thousand Soviet soldiers in Cuba. They might spare a thought, and some words out loud, for the fate of 2 million Cambodians.●

OFFICE OF FEDERAL PROCUREMENT AUTHORIZATIONS

● Mr. CHILES. Mr. President, yesterday the Senate approved the House amendment, to S. 756 with several clarifying Senate amendments en bloc. At the time, I requested the inclusion of an explanation of the amendments in the Record. However, the explanation of the amendments were not included in the Record. I ask that the explanation be printed in todays Record in order to clarify the legislative history.

The material follows:

Explanations

The amendment to section 2 of the House amendment adds a new policy, the promotion of open and free competition in procurement, to the statute. The other policies in Section 2 are renumbered accordingly.

The Amendment to section 4(c) provides a statutory location for the computer based procurement information system as called for in P.L. 93–400 and this Act. It is expected that the data center will be organizationally placed in GSA so as to report directly to the Administrator.

The amendment to Section 4(d) of the House amendment clarifies the intent of the legislation with regard to OFPP's responsibility to consult with other executive agencies.

The purpose of this amendment to Section 4(e) of the House Amendment is to clarify OFPP's authority as discussed earlier in the statement. In carrying out Section 6(i) it is expected that the Director of the Office of Management and Budget, on enactment of this legislation, will institute a system by which OMB assures review of agency procurement regulations as they are promulgated. No change was made to paragraph (j) of the House Amendments.

The amendment to Section 6 of the House amendment is designed to draw a clearer distinction between the bases for modification of existing regulations, and the repeal or suppression envisioned by the uniform procurement system.

The purpose of the amendment to Section 7 of the House Amendment is to adjust OFPP's Authorization level to account for inflation over the next 4 years. An increase in funding to $4 million from the Office's current $3 million level could occur gradually over the next four years if warranted because of the effect of inflation.●

ESTATE TAX RELIEF

● Mr. ROTH. Mr. President, I am pleased to join my distinguished colleague from Wisconsin (Mr. Nelson) in sponsoring legislation (S. 1825) introduced this week to increase the Federal estate tax exemption to $250,000.

This legislation is necessary to offset the impact of inflation since the estate tax reforms were enacted in 1976.

In 1976, Congress enacted legislation increasing the estate tax exemption to approximately $175,000. The 1976 amendments increased the existing estate tax exemption of $60,000 to $120,000 in 1977 and provided further increases to $175,000 by 1981.

However, because of the dramatic increases in inflation, Federal estate taxes will increase by $2.5 billion unless the estate tax exemption is increased.

I am extremely concerned about the impact these increasing estate taxes are having on family farms and small businesses.

The rapid inflation of the past 3 years has nearly negated the 1976 increase in the estate tax exemption. Since 1976, inflation has pushed prices up more than 26 percent, increasing for tax purposes the value of land, equipment, and the cost of operation.

As a result, according to a Small Business Committee estimate, the estate tax increase solely from inflation could be as much as $24,000 for a business and family farm.

Unless these inflation-induced tax increases are offset, more and more wives and young people will be forced to sell or mortgage their farms and small businesses to pay the Federal estate taxes. The tremendous tax burden is already driving young people out of farming, and forcing farms and businesses into the hands of big businesses, developers, and foreign buyers.

Under this legislation, the estate tax exemption would be increased from $147,333 to $179,000 in 1979, from $161,563 to $213,000 in 1980, and from $175,625 to $250,000 in 1981.

This estate tax relief is urgently needed to curb the increasing threat of foreign takeovers of prime farmland and to maintain family ownership and management as a keystone of world food production.

I urge my colleagues to support this effort to provide immediate estate tax relief.●

COLORADO NATIONAL FOREST SYSTEM WILDERNESS ACT OF 1979

● Mr. HART. Mr. President, since last spring the members of the Colorado delegation, with help from the State government and people throughout the State, have been reviewing the administration's recommendations for congressional designation of new wilderness areas in Colorado.

The introduction today in the House by Congressmen Johnson and Kogovsek of a bill is the first official step in congressional consideration of the proposals for new wilderness. I will introduce a comparable bill in the Senate, to begin that consideration here, in the next 2 to 4 weeks.

While I have to consult further with the members of the delegation, State and local officials, and others in determining exactly what to include in the bill I will introduce, based on my review so far I expect it to be substantially similar to the bill introduced in the House today. The bills might differ slightly in the actual boundaries proposed, but I expect the areas of agreement to far outweigh any differences.

Of course the introduction of bills is just the beginning of the legislative process. Since management of public lands is so important to a variety of interests in the State, I and the other members of the delegation will make doubly sure that all Coloradans have ample opportunity to express their views before any final decisions are made.

Because of the importance of this legislation to the entire State, it is especially important that all members of the delegation and the State government cooperate in reaching the final decisions on which areas are designated as wilderness. By all Coloradans working closely together, we will insure we have the greatest possible influence on final congressional decisions. I have been encouraged by the sharing of information and general cooperation among the delegation and the State government to date, and for my part pledge to continue in that posture throughout the congressional consideration of the wilderness legislation.

I request that the text of the bill introduced by Congressmen Johnson and Kogovsek be printed in the Record.

The bill follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Colorado National Forest System Wilderness Act of 1979".

Sec. 2. In the furtherance of the purposes of the Wilderness Act of September 3, 1964 (78 Stat. 890), the following National Forest System lands in the State of Colorado, listed herein as new wildernesses or as wilderness additions, totalling about one point one million acres, as generally depicted on maps appropriately referenced, dated September 1979, are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

a(1) Certain lands in the Arapahoe National Forest, Colorado which comprise approximately 14,900 acres, are generally depicted on a map entitled "Never Summer Wilderness Proposal" and shall be known as the Never Summer Wilderness.

(2) Certain lands in the Roosevelt National Forest, Colorado which comprise ap-

proximately 59,490 acres, are generally depicted on a map entitled "Comanche Peak Wilderness Proposal" and shall be known as the Comanche Peak Wilderness.

(3) Certain lands in the Arapahoe and Pike National Forests, Colorado, which comprise approximately 74,000 acres are depicted on a map entitled "Mt. Evans Wilderness Proposal" and shall be known as the Mt. Evans Wilderness.

(4) Certain lands in the Roosevelt National Forest, Colorado, which comprise approximately 9,400 acres, are generally depicted on a map entitled "Cache La Poudre Wilderness Proposal" and shall be known as the Cache La Poudre Wilderness.

(5) Certain lands in the Roosevelt National Forest, Colorado, which comprise approximately 9,900 acres, are generally depicted on a map entitled "Neota Wilderness Proposal" and shall be known as the Neota Wilderness.

(6) Certain lands in the San Isabel and White River National Forests, Colorado, which comprise approximately 101,432 acres, are generally depicted on a map entitled "Holy Cross Wilderness Proposal" and shall be known as the Holy Cross Wilderness. PROVIDED; That no right, or right of claim of right, to the diversion and use of existing conditional water rights for the Homestake Water Development Project by the Cities of Aurora and Colorado Springs, shall be prejudiced, expanded, diminished, altered, or affected by this Act. Nothing in this Act shall be construed to expand, abate, impair, impede or interfere with the construction, maintenance, or repair of said project, nor the operation thereof, or any exchange or modification of the same agreed to by the Cities and the United States, acting through any appropriate agency thereof.

(7) Certain lands in the Gunnison, San Isabel and White River National Forests, Colorado, which comprise approximately 168,740 acres, are generally depicted on a map entitled "Elk Mountain-Collegiate Wilderness Proposal" and shall be known as Elk Mountain-Collegiate Wilderness.

(8) Certain lands in the Grande Mesa-Uncompahgre National Forest, Colorado, which comprise approximately 61,000 acres, are generally depicted on a map entitled "Raggeds Wilderness Proposal" and shall be known as the Raggeds Wilderness.

(9) Certain lands in the San Juan and Uncompahgre National Forests, Colorado, which comprise approximately 30,000 acres, are generally depicted on a map entitled "Mt. Wilson Primitive Area Proposal", and shall be known as the Lizard Head Wilderness.

(10) Certain lands in the Uncompahgre National Forest, Colorado, which comprise approximately 16,200 acres, are generally depicted on a map entitled "Mt. Sneffles Wilderness Proposal" and shall be known as the Mt. Sneffles Wilderness.

(11) Certain lands in the Uncompahgre National Forest, Colorado, which comprise approximately 120,000 acres, are generally depicted on a map entitled "Big Blue-Courthouse Wilderness Proposal" and shall be known as the Big Blue Wilderness.

(12) Certain lands in the Gunnison and White River National Forests, Colorado, which comprise approximately 103,011 acres, are generally depicted on a map entitled "Maroon Bells-Snowmass Additions-Proposed" and which are hereby incorporated in and shall be deemed to be a part of the Maroon Bells-Snowmass Wilderness as designated by Public Law 88-577.

(13) Certain lands in the Routt National Forest, Colorado, which comprise approximately 69,600 acres, are generally depicted on a map entitled "Mt. Zirkel Wilderness Additions—Proposed" and which are hereby incorporated in and shall be deemed to be a part of the Mt. Zirkel Wilderness as designated by Public Law 88-577.

(14) Certain lands in the Roosevelt National Forest, Colorado, which comprise approximately 48,930 acres, are generally depicted on a map entitled "Rawah Wilderness Additions—Proposed" and which are hereby incorporated in and shall be deemed to be a part of the Rawah Wilderness as designated by Public Law 88-577; PROVIDED; That the Secretary shall permit motorized access and the use of motorized equipment used for the periodic maintenance and repair of the McGuire Water Transmission Line ditch.

(15) Certain lands in the Rio Grande and San Juan National Forests, Colorado, which comprise approximately 66,000 acres are generally depicted on a map entitled "Weminuche Wilderness Additions—Proposed" and which are hereby incorporated in and shall be deemed to be a part of the Weminuche Wilderness as designated by Public Law 93-632.

(16) Certain lands in the San Isabel and White River National Forests, Colorado, which comprise approximately 26,000 acres, and are generally depicted on a map entitled "Hunter-Fryingpan Wilderness Additions—Proposed" and which are hereby incorporated in and shall be deemed to be a part of the Hunter-Fryingpan Wilderness as designated by Public Law 95-237.

(17) Certain lands in the Grande Mesa-Uncompahgre National Forest, Colorado, which comprise approximately 147,000 acres, and are generally depicted on a map entitled "West Elk Wilderness Additions—Proposed" and which are hereby incorporated in and shall be deemed to be a part of West Elk Wilderness.

(18) Certain lands in the Rio Grande and Gunnison National Forests, Colorado, which comprise approximately 60,000 acres, and are generally depicted on a map entitled "La Garita Additions—Proposed" and which are hereby incorporated in and shall be deemed to be a part of the La Garita Wilderness as designated by Public Law 88-577; PROVIDED; That the area depicted on such map as the "Wheeler Geologic Special Area" and shall be jointly evaluated and studied by the Secretary of Interior and Secretary of Agriculture as provided in Section 3 of this Act.

b. The previous classification of the Wilson Mountains Primitive Area and the Uncompahgre Primitive are hereby repealed.

SEC. 3. Within 12 months of the date of enactment of this Act, the Secretary of Interior and the Secretary of Agriculture shall undertake and complete a comprehensive report studying and evaluating the "Wheeler Geologic Special Study Area"; and shall submit such report along with their recommendations to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such report shall fully evaluate the following, including, but not limited to:

(a) The natural, historical, cultural, scenic, economic, educational, scientific, and geologic values of the Special Study Area;

(b) The management and protection of fragile geologic resources within the area;

(c) Possible land management options or designations including national park, monument, or national recreation area designation, addition to the wilderness system, special administrative designations, and management under the general laws and regulations applicable to the national forest system;

(d) The effect of possible land management options on State and local economies, including timber harvest, grazing, mineral and other commercial activities;

(e) The suitability and desirability of permanent or temporary road or other mechanized access to the Special Study Area, with special attention to access by the elderly and handicapped.

SEC. 4. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by this Act with the Energy and Natural Resources Committee, United States Senate, and the Interior and Insular Affairs Committee, House of Representatives, and such descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such descriptions and maps may be made.

ADMINISTRATION OF WILDERNESS

SEC. 5. (a) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SUBSTITUTE GRAZING CLAUSE

(b) When determining the use of permits for grazing on National Forest System lands partially or wholly within a national forest system wilderness area designated by this Act, the Secretary shall, by reasonable regulation, permit ingress and egress to such areas by means which have been or are being customarily enjoyed for purposes of operation, repair, and maintenance of structures and facilities used for grazing; and shall permit the use in such areas of such equipment as has been or is being customarily used to accomplish the operation, maintenance and repair of structures and facilities used for grazing.●

YOU CAN'T BE SURE ABOUT TAXES

● Mr. DOLE. Mr. President, the dramatic increase in the price of gold in recent weeks demonstrates that people are looking hard for a source of financial security with a guarantee of value. Given the uncertainty in the value of the dollar and the impact of inflation on investments that have a fixed rate of return, it should surprise no one that the gold market is receiving so much attention. The investors in gold are sending us a message. It is not that they have lost faith in the dollar or in the prospects for the economy. It is simply that they do not know what to expect from the economy and from the dollar. This uncertainty quite naturally leads people to invest in something with intrinsic value as a hedge against fluctuations in the economy.

Certainty of result is one of the principal elements of justice in the area of criminal law. If a person commits a crime, that person should know what the consequences of the act will be. When it is unclear what the consequences of a criminal act will be, an injustice is worked on both the offender and society. If the rules of the game are not set out clearly in advance, no one can know how to maneuver to win. The outcome is arbitrarily determined, and there is no standard for evaluating whether the result is just.

The consequences of economic policy are often uncertain, but the Government is at least obliged to give the public reasonable expectations, so that people can manage their finances and plan for the future. For the economy to function well, people must be able to determine the risk associated with saving as opposed to spending, or to investing in X, as opposed to Y. Runaway inflation can destroy certainty in financial planning and make it impossible to calculate risks with any degree of accuracy. A government that cannot manage inflation cannot promise its citizens reasonably certain results from given economic behavior. As a result, the citizen's sense of fair play is offended, and he tries to order his own finances by turning—if he can afford to—to things with tangible value—like gold.

Mr. President, the Government's failure to order the economy is nowhere more apparent than in its tax policy. As things stand now, people simply do not know what their tax liability may be, or what rate of tax they will have to pay, relative to their real income. Many people are aware that their real tax liability increases from year to year despite periodic tax cuts, but relatively few can pinpoint the cause, or know what to do about it. Their uncertainty is understandable—the Government would prefer they not know.

The Senator from Kansas believes that the people should know that taxflation—the impact of inflation on the progressive income tax—is the cause of people's uncertainty about taxes. When income increases to match inflation, the tax bite goes up even though purchasing power stays the same. Higher nominal income puts people in higher brackets, and they pay a higher rate of tax. Congress does not need to legislate a tax increase because inflation automatically raises tax revenues.

There used to be nothing certain but death and taxes, but in these times you can stop counting on taxes. They will be there, for sure, but you will not know what the tax rate will be unless you figure your real income in terms of purchasing power. Any other measurement of the tax rate is a distortion. Legislation is available that would restore certainty and fairness to our tax system. It is the Tax Equalization Act, S. 12, which I have introduced. The Tax Equalization Act would adjust the tax bracket, zero bracket amount, and personal exemption by the rate of inflation so that tax rates on each level of real income would remain constant, absent action by Congress. Congress would rightly bear the burden of changing tax rates, and taxpaying citizens would know what their real tax rate is and be able to plan accordingly.

Mr. President, we urgently need to set the economy back on a steady course. Otherwise, the current trend in the gold market will be the way of the future. There is no better or simpler way to begin to restore financial certainty than by indexing the Federal income tax for inflation. The Tax Equalization Act will demonstrate convincingly that the Government recognizes its obligation to play fair with the American people. It is a sound and a just idea and it is needed now.●

THE CASE FOR AN INDUSTRIAL POLICY

● Mr. BENTSEN. Mr. President, for 40 years economic theory in this Nation has focused on the demand and has neglected the supply side of the economy. As a result, our economic policy has discouraged savings, investment, innovation, and risk taking. By force feeding demand and starving supply over an extended period of time, we have created a situation in which inflation has become inevitable.

Fortunately, the thinking of our Nation's better economists has begun to change. More and more bright young economists are coming to the conclusion that the most effective way to deal with our economic difficulties is to provide incentives that will expand the capacity of our economy to produce goods and services efficiently. Mr. President, in March and again in August, the Joint Economic Committee issued two pathbreaking reports which endorsed a new economic strategy for America—one that emphasizes the supply side of our economy. Those reports were the first in 20 years endorsed by both the Democratic majority and the Republican minority members of the committee.

Mr. President, I would like to put a speech in the RECORD today which shows that a new consensus is developing in this Nation that demand stimulation and supply neglect just do not work. The speech is one delivered by Jerry Jasinowski, Assistant Secretary of Commerce for Policy, at the annual meeting of the National Association of Manufacturers in Houston, Tex. I urge my colleagues to read Mr. Jasinowski's speech with care because it shows clearly that we as a nation must focus on the long-neglected supply side of our economy in order to successfully fight the twin problems of inflation and unemployment.

Mr. President, I would like to print Mr. Jasinowski's remarks in the RECORD:

The statement follows:

THE CASE FOR AN INDUSTRIAL POLICY

(By Jerry J. Jasinowski)

We are at a turning point in the conduct of economic affairs in this country.

In the sixties and early seventies, we were all Keynesians. There was a consensus that the Government's prime economic responsibility was to control the level of total spending, or aggregate demand, in the economy. By manipulating government expenditures, taxes, and the size of the deficit, or by altering credit through the Federal Reserve, the level of total demand driving the business cycle was to be managed so that steady growth and high employment could be achieved. But energy and other supply shortages, decreased productivity, substantial market rigidities, and over-regulation have blunted the effectiveness of Keynesian economic tools. Keynesian attempts to manage the economy by manipulating aggregate demand have failed to achieve healthy economic growth and stable prices.

Now we must admit openly that conscious management of demand via public expenditures, taxes, and control over credit is a necessary, but not sufficient activity in addressing the problems of the 1970's and 1980's. Increasingly, those problems revolve around our ability to efficiently supply the goods and services necessary to satisfy overall demand at stable prices. The source of our problems lies not in the nation's ability to consume, but with our capacity to produce.

The challenge of the 1980's, in order to address the deficiencies of economic policy and to cope with the paramount problem of inflation, is to focus on the supply side of the economy. Attention to the supply side, I would argue, means shifting from a preoccupation with the ebb and flow of the business cycle, to a searching analysis of the effect of economic policies on the long-term structure, performance, and growth of sectors and industries. In that sense, I believe supply side policies are essentially economic growth and industrial policies.

Supply side policies are preeminently industrial policies because such a large proportion of the goods and services produced by the economy come from our industrial sectors. Although I recognize that the dividing line between industrial and general business is blurred, I am referring here to manufacturing, construction, mining, utilities, transportation, and communications. Taken together, these sectors produce almost half of our private sector GNP, and represent the heart of our economy with respect to economic growth, productivity, jobs, and trade. Within these six sectors, we are talking about roughly 200 relatively distinct industries.

THE CASE FOR SUPPLY SIDE POLICIES

My case for a new "supply side" industrial policy is based upon the emergence of several factors, which limit the effectiveness of Keynesian demand management.

1. Supply constraints. We must begin to recognize the real limitations imposed by finite natural resources, adjusting policy to insure both increased availability of supply and greater conservation.

Supply shortages, most notably energy, already constrain growth, add to inflation, and reduce the margin of freedom for government and private enterprise actions. As we move into an era of increased scarcity, we can expect additional shortages in water, arable land, lumber, and basic metals.

2. Capital formation. We must reverse what appears to be a chronic decline in capital investment. Productivity growth rates are down in the United States, from approximately 3 percent between 1948 and 1973 to under 1½ percent for the past five years. But productivity declines are a symptom of more fundamental trends:

a. There is a weakening of growth in manufacturing industry capacity:

1968–1973: 4 percent.
1973–1977: 2.9 percent.

b. The labor force is growing more rapidly than our stock of fixed capital.

	1965–73	1973–76
Fixed capital	4.4%	1.9%
Labor force	1.9%	2.3%

c. Investment as a proportion of U.S. domestic product is lower than any of our major trading partners. The rates for 1966–1976:

Country	*Percent of GNP*
United States	13.5
United Kingdom	14.9
France	16.7
Canada	17.2
West Germany	17.4
Japan	26.4

3. International trade competition. The decline of the dollar is one tangible expression of the erosion of American leadership in international trade. Our massive trade deficits, though owing partly to OPEC, are also the result of the growing economic strength of our trading partners. We face aggressive export competition from trading partners who have not hesitated to intervene in their economies through industrial policies designed to improve their trade balance.

4. International interdependence. My emphasis upon foreign trade also reflects a new and inescapable interdependence in the world economy. United States economic policies can, in short, no longer stop at the border. Japanese growth rates affect our domestic employment. Domestic credit management must reflect international monetary considerations. A harvest failure in the Soviet Union has repercussions for a Nebraska farmer. In short, unprecedented international interdependence requires increased attention both to the availability of domestic supplies and to the viability of key export and import-impacted industries.

5. Regulations. We must begin to regard regulatory goals as no more sacred than industrial growth and development goals. Government regulations have an enormous impact on the structure and performance of American industry because they divert private capital from productive uses. But they will not disappear. On the contrary, they must be regarded as important statements of public concern for health, safety, and environmental quality. But regulations are also haphazard in their cumulative effect on the industrial structure and productivity. The uncoordinated, burgeoning growth of regulations in the late sixties and early seventies requires a harder examination.

6. Unrealistic demands. Finally, the demands of various government policies have reached the point where they place too great an economic burden on the economy. The nation's real economic growth has declined from an annual rate of 4 percent in the 1960's to roughly 3 percent in the 1970's. Given the size of our economic pie, our efforts to achieve quality of life improvements, higher living standards, higher defense spending, and other social and economic objectives exceed what our industrial machine can provide, without using up our capital stock. We must choose among our national priorities.

WHAT DOES THE SUPPLY SIDE MEAN?

Given the domestic and international realities we face, and the limitations of past economic policies, I believe the case is made for shifting our attention to a supply side industrial policy. The issue then becomes: What does focusing on the supply side mean?

Focussing on the supply side implies a major change in the emphasis of economic policy. It denotes a shift from a preoccupation with macro-economics to the microeconomic dynamics of market and business development. At its best, it is an affirmative statement that we are turning our attention to the fundamentals of national economic well-being: a healthy, competitive, and productive industrial structure. It is conscious recognition of the fact that a primary responsibility of government in the 1980's should be to enhance, not inhibit, business development.

But on the other side of the ledger we face substantial challenges in shifting our focus to the supply side. In the simplest sense focusing on the supply side means increasing our national productivity. But behind productivity, given the way we measure it, is a collage of important and challenging dynamics. Looking behind the curtain of productivity, focusing on the supply side means:

increasing the efficiency with which we use our available labor, capital and other resources in the production process, within individual firms, in industries, and among industries. Focusing on the supply side means working harder in the sense of shifting resources from areas of low productivity to areas with higher payoff.

increasing the quality and availability of labor, capital, and other resources in the production process.

providing more or better resources to production and less to consumption.

combining the resources that go into production more ingeniously so that we increase output for any given combination of inputs. Focusing on the supply side means working smarter, not just harder.

improving our capacity to produce by creating a stable environment that encourages long-term economic growth. Focusing on the supply side means pursuing an investment oriented growth path.

taking a longer view, both in the public and private sectors. Ezra Vogel, in his very interesting book, Japan as Number One, has noted the strong Japanese attention to long-term market development and capital investment. Certainly, that attention is facilitated by the credit financing route Japanese companies take in supporting their capital requirements, but the long-term focus is yet noteworthy. Government policies must encourage a longer corporate vision, primarily through an enhancement of the long-term predictability of government policy.

Finally, focusing on the supply side involves two quite different levels of policy. At one level, it will mean examining how Federal policies influence industrial development across industries. At another level, it will mean examining how the package of Federal policies impact a particular industry. Both the substance and the politics of policy will be quite different from these two perspectives.

Certainly, in proposing so broad a policy perspective to our national economic challenges, there is at least some burden upon me to suggest specific policy directions. As a beginning, let me suggest the following:

POLICY DIRECTIONS FOR THE 1980'S

A supply side-industrial policy will require major changes in the attitudes and activities of both the public and private sectors. We cannot continue to operate our economy in the 80's as we have in the 1970's. We must concentrate on the economic fundamentals in order to rebuild the American economy for the future. As Lincoln told his countrymen during another difficult time, "We must think anew and act anew."

1. Controlling government expenditures. We must maintain stringent controls on Federal spending in order to provide the resources for future economic growth. The share of Federal spending in GNP should be reduced to 21 percent by FY 1982 with further reductions sought thereafter. We must shift from government expenditures to private investment.

2. Reducing specific government burdens. We must also reduce the specific legislative, regulatory, and administrative actions that directly increase costs and prices, without providing commensurate benefits. Attention in this area requires controlling Federal regulations, working toward the long-term objective of establishing a regulatory budget. Beyond that, I believe we ought to establish a report card that grades government actions in terms of their impact on inflation.

3. Tax policy. We must use tax policy that encourages long-term growth, rebuilds our industrial structure, and increases productivity. As budget resources become available, business taxes should be cut to modernize our industrial capacity, enhance technology, lower the costs of production, and provide new jobs. Moreover, consumer tax cuts should be supply-side oriented.

4. Technology and innovation. We must also expand the level of technology and its application in the private sector. A primary means for addressing this need is through tax and regulatory policy. Beyond that government has a role to play through its investments in R&D spending, improving the dissemination of technical knowledge, improving the patent system, and increasing the start up and growth of small, technology based firms.

5. Human capital. We must place as much emphasis on investing in human capital as physical capital by pursuing policies that enable labor to reach its full potential and make its maximum contribution to the production process. This means a public and private partnership that provides targeted job assistance that attacks structural unemployment among the disadvantaged, particularly youth. This should include adequate employment training to increase the supply of skilled workers in areas where shortages are likely to create bottlenecks and wage pressures.

6. Energy. We must encourage adjustment to a new era of expensive energy by greater reliance on market prices to encourage conservation, increase energy production, and allocate supplies among alternative uses. Also requiring a public and private partnership, in order to share the risks, this will mean reducing our dependence on foreign oil by building a new supply of domestic energy sources, including synthetic fuels, coal, and solar energy.

7. Market Structure. We must also encourage increased competition and efficiency in the operation of markets. Market structure is just as important to final outcomes as the more discrete factors of production. In one sense, our attention to market structure has comprised the single, explicit component on American's industrial policy to date. Our anti-trust policies have been the keystone of the government's long-term approach to industry. The new realities of the 1980's compel a reexamination of the government's posture towards market structure, to encourage the industrial cooperation needed to compete in high-technology, high-growth world markets, and to promote the growth of small and medium business firms.

8. International Trade. We must become more productive domestically so that we can meet the competition from abroad. The domestic policies I have outlined to strengthen American industry are the keystone to successful international performance. In addition, we must expand our commitment to trade with vigorous public and private export promotion programs.

CONCLUSION

Government confronts a substantial educational challenge. Industrial policy must grow out of a sophisticated, detailed understanding of how public policies reach into and affect the marketplace. We have long been aware in general terms that government actions affect technological development, capital availability, labor utilization and natural resource allocation. However, the time has come to translate this awareness into policies which effectively facilitate the operation of market forces.

At first glance, the motion of a supply side industrial policy may raise the specter of social engineering or undue government interference in the economy. This concern should dissolve, however, when we realize that the United States already has industrial policies. Current policies influence industries via tax incentives, subsidies, credit assistance, tariff and nontariff barriers and, of course, regulation. Practically none of our industries are exempt from some form of government support or regulation. These policies have failed to solve our problems, however, because the components of current industrial policies have been, to a large degree, ad hoc, defensive, short-sighted, and lacking in any unifying conceptual framework. Industrial policymaking has taken place in a reactive environment. All too often we wait until an industry runs into trouble, and then seek to solve its immediate problems without analyzing the long-term consequences of public actions, or adequately considering the repercussions of these actions on other sectors of the economy. To be blunt, we muddle through in a disorganized and sometimes contradictory manner.

Some might argue that muddling, contradictory policies are in fact preferable; that such policies allow a multitude of compromises with a vast array of competing interests; that the resulting "contradictions" are the essence of economic policy in a Democratic society.

I cannot accept this view. Some contradictions will always exist; we live in a complex world, becoming more so each day. But this nation can no longer afford a muddling relationship between government and industry. To accept such a status quo is to compromise our economic destiny. We must as a nation define a new relationship, a new industrial policy.

Obviously, no quick cures can be formulated. But economic realities have changed, and we—in government and in the private sector—must change with them.

We must begin to understand the full range of government influence on private sector behavior and on the supply side of the economy. Much responsibility here falls on government itself but businesses must share the burden by virtue of their unique insights, information, and experience. Together we must examine to what extent government has retarded development, in what areas greater government involvement is needed to promote growth, and which social goals can be achieved while providing resources adequate for investment.

We may opt for a broad approach or for a sectoral mixture of narrowly-defined, competing industrial policies. We may choose more government in some instances and less in others. We may maximize domestic marketplace competition in some industries or curtail it to meet the demands of foreign competition. But if we had coherent industrial policy—our actions would be closely related to the ends we select. Conversely, if the conflict between our goals is too fundamental to be resolved, if muddling through is the best we can do, then we should force ourselves to see and appreciate the full costs of such an incapacity.

Presently, no national consensus exists on the need for a coherent industrial policy. This is true largely because such an industrial policy has never been presented as a reasonable alternative. If we wait too long before formulating such an alternative, then rhetoric and emotion will foreclose our options. We cannot afford to forget that a national consensus does exist on the inadequacy of our present institutional and policy-forming practices.

No matter how pressing the need, however, no new public policy framework can emerge without a constituency. The business community must form a core of industrial policy advocates, primarily because the private sector knows firsthand what the potentialities and pitfalls are of government actions affecting the supply side of the economy.

Business has little to lose. The current dissatisfaction and disquieting economic forecasts do provide, however, a unique opportunity to guarantee that government will become an ally instead of a fellow victim.●

NORTHERN TIER PIPELINE

● Mr. DURENBERGER. Mr. President, I and other Minnesota Congressmen have sent a letter to President Carter urging him to designate the Northern Tier pipeline to transport Alaska's surplus crude oil supply to the Northern Tier States.

Northern Tier is one of four west-to-east pipelines contending for designation that will allow for expedited permitting. I have further requested that the President continue to evaluate alternative pipeline proposals in the event that the Northern Tier pipeline cannot obtain the necessary financial commitments by March 15, 1980.

The need for quick action on construction of a pipeline is even more urgent because of Canada's recent curtailment of crude oil exports, which supply the State of Minnesota with two-thirds of our petroleum needs.

I am pleased by the support of my colleagues in the Minnesota delegation who share my view that a pipeline replacement for the Canadian supply is absolutely essential to avert a potential disaster.

I request that the letter to President Carter be printed in today's RECORD.

The letter follows:

U.S. SENATE,
Washington, D.C., September 26, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are forwarding this communication to request your assistance in achieving a timely solution to the crude oil supply problems which will impact the northern tier states over the next few years. Specifically, this letter includes a recommended course of action to resolve the issues concerning a west-to-east pipeline under the authority of the Public Utility Regulatory Policy Act of 1978.

As you know, several northern tier states are facing a regional energy crisis because crude oil transportation facilities are not capable of replacing the crude oil that was lost when Canada modified its export policy. Although Canada has provided sufficient notice of its intention to discontinue exports, we have not, as yet, built the transportation systems necessary to replace Canadian supplies. The seriousness of this situation was highlighted this week when Canada announced plans to alter licensing arrangements immediately, with the possibility of terminating net exports entirely during the next few months.

There are currently several pipeline projects under consideration including proposals to move surplus Alaskan oil to the northern tier states over a west-to-east pipeline. Under the provisions of the Public Utility Regulatory Policy Act (PURPA) these four projects are contending for a Presidential designation that would provide an expedited permitting process. We have reviewed the Draft Report by the Department of Energy (Petroleum Supply Alternatives for the Northern Tier and Inland States), the final Environmental Impact Statement on the four projects, the findings of the Department of the Interior (West to East Crude Oil Transportation Systems), and the recommendations of your Cabinet and agency directors. With this letter we would like to offer a perspective on the four proposals and a specific recommendation as to your pending decision under PURPA authority.

In our view the Kitimat and Northwest Energy (Foothills) projects are not acceptable proposals for a west-to-east tranportation system. The comments by Secretary Schlesinger for the Department of Energy and Douglas M. Costle for the Environmental Protection Agency are particularly significant in regard to these two projects. EPA found that both Kitimat and Foothills should be rejected on environmental grounds, and DOE found that the Foothills proposal was not competitive because of high operating and capital costs. Based on our review, we concur in these statements and would recommend that neither proposal be considered for designation under PURPA.

Our reading of the department and agency comments indicates that there is considerable support for the Northern Tier project. If Northern Tier were built, it could provide significant crude oil capacity from the West Coast through the Mountain and Plains states to refineries as far east as Chicago. It has several advantages, including location within U.S. Borders, subject only to the U.S. permitting process; direct supply of the Mountain state refineries; significant net national economic benefit; and operating control independent of the major integrated oil companies.

However, careful analysis of the data also raises some important questions as to the viability of the Northern Tier project. At this time, Northern Tier does not have sufficient financial support or contractual commitment to proceed to construction. Obtaining the necessary capital will require evidence of throughput agreements that can support a profitable operation. These agreements are contingent upon West Coast crude oil supply, the needs of the northern tier and inland refineries, and the capacity of competing transportation systems with less costly tariffs. We are not altogether confident that these contingent considerations will favor Northern Tier in the future.

Trans-Mountain is an environmentally acceptable and financially promising alternative to Northern Tier. The capital and throughput requirements are less than those of Northern Tier and the construction schedule would be shorter. In our view, treaties and the long relationship with Canada provide adequate assurance as to the security of the supply route. However, Trans-Mountain is in the same financial position as Northern Tier and has less attraction for the Mountain state refineries.

Competition between Northern Tier and Trans-Mountain for financial support and federal approval would likely continue the current west-to-east stalemate for some time. This stalemate has the potential for great economic harm to the inland petroleum markets that need a new supply system. The provisions of Title V of PURPA provide a useful tool to break through the deadlock and assure the earliest possible construction date.

We recommend that you designate Northern Tier for expedited permitting under the provisions of PURPA as soon as possible. This would allow Northern Tier to seek throughout commitments with some assurance that construction could begin at an early date. Were you to take this action only, Trans-Mountain would be excluded from capital markets and could not continue as an alternative. Because we are concerned about the financial viability of Northern Tier—even with PURPA designation—we would recommend that you take additional steps to preserve Trans-Mountain as an available option.

Trans-Mountain does not require federal approval and therefore does not technically need PURPA designation. However, to indicate your support for Trans-Mountain as an option, you should communicate a request for thorough and timely evaluation of Trans-Mountain by Canada and the State of Washington.

You should take a third step to create a deadline for exercising the Trans-Mountain option. The Northern Tier designation under PURPA should be revoked if Northern Tier cannot make a showing of financial viability by March 15, 1980. Your decision to designate Northern Tier this fall should be made conditional upon the completion of take-or-pay contracts with inland refineries that guarantee Northern Tier sufficient throughput to pay operating costs and retire debt capital over the life of the project. We believe that you should set a final and non-extendable deadline of March 15, 1980, for completion of these contracts. Extending the date much beyond this point would damage Trans-Mountain's ability to continue as an option.

Beginning October 2, 1979, the Canadian National Energy Board will hold contested facility hearings on the Trans-Mountain and Foothills proposals. Most parties expect that NEB recommendation will be forwarded to the Canadian Federal Cabinet in November. We would recommend that you instruct the U.S. Department of the Interior to communicate American interest in Trans-Mountain and that you test the views of the Canadian government through personal communications to demonstrate our continued and strong interest. If Northern Tier fails to make adequate financial progress by March 15, 1980, you should cancel the PURPA designation and intensify negotiations with Canada to assure early construction of Trans-Mountain.

We hope the recommendations we have made prove useful in a timely resolution to the crude oil supply problem, and thank you for your consideration.

Respectfully,

Dave Durenberger, U.S. Senator; Thomas M. Hagedorn, Member of Congress; Bruce F. Vento, Member of Congress; Richard M. Nolan, Member of Congress; Arlen Erdahl, Member of Congress; Rudy Boschwitz, U.S. Senator; Bill Frenzel, Member of Congress; Martin O. Sabo, Member of Congress; Arlan Stangeland, Member of Congress.●

AMERICAN POWER PROJECTION AND INTERVENTION FORCES ARE SUPERIOR TO THOSE OF THE SOVIET UNION

● Mr. McGOVERN. Mr. President, a recent study of the American and Soviet military capabilities for intervention and power projection abroad indicates that American forces are unquestionably superior. The study was done by Michael Klare and was published in the June issue of The Nation magazine. As an American who has questioned the wisdom of military intervention abroad, I find it ironic that I should be calling attention to this disparity. But I am doing so because of the recent rash of explanations that America's global status is changing because other countries and leaders are perceiving a decline in our relative military capabilities.

The so-called perceptions theory may or may not be a cause of shifts in behavior abroad. But before we can test this explanation, it is important to have accurate information available so that the perceptions themselves will be accurate and reasonable. As this study shows, any claims that our intervention forces are weak—and that as a result we need to fear imminent Soviet intervention in the Persian Gulf, for example—do not match the reality. During consideration of Soviet troops in Cuba and other questions of big power influence in the Third World, it would be wise to take into account the conclusions of Mr. Klare's study. I submit the text of "The 'Power Projection' Gap" to be printed in the RECORD for consideration by my colleagues.

The article follows:

THE "POWER PROJECTION" GAP

(By Michael T. Klare)

It has long been common for Western analysts to assume that the Soviet military establishment is structured along the same lines as the American war machine. Thus, the Soviet nuclear arsenal is often pictured as a carbon copy of the American arsenal, while the Soviet Navy is described as a latter-day replica of the United States Navy. But while many Russian weapons resemble their American counterparts, the Soviet military apparatus as a whole is not closely patterned on the American model. Indeed, there are many disparities and asymmetries in the United States-Soviet military balance, reflecting profound differences in history, military doctrine, political outlook and technical proficiency. Only by recognizing these differences can we obtain an accurate assessment of America's and Russia's military capabilities and thus of their relative capacity to employ force as an instrument of national policy.

Nowhere has the tendency to misportray Soviet military capabilities been more pronounced than in the case of intervention forces. Because the United States maintains a large and powerful interventionist apparatus, and because these forces have occasionally been used in controversial and unpopular operations abroad, it has sometimes been convenient for Pentagon apologists to postulate the existence of a comparable Soviet apparatus. Thus, Soviet helicopter carriers are described as "aircraft carriers," Russian coastal infantry units are likened to the U.S. Marine Corps, and Soviet paratroop brigades are equated with America's long-range strike forces. The fact is, however, that the Soviet Union has not attempted to duplicate the American interventionist force, and such comparable units as it has created are organized for rather different tactical missions than their American equivalents.

This is not to say that the Soviet Union lacks a capacity to employ military force in pursuit of its foreign policy objectives; indeed, recent events in Angola and Ethiopia tell us otherwise. But we must not assume that because Moscow has demonstrated its willingness and capacity to support beleaguered allies abroad, it is therefore willing and able to commit its own troops in a full-scale intervention of the Vietnam type far from Soviet territory. As we shall see, the U.S.S.R. does not at present possess such a capability, nor does it appear to be building one. It is likely, however, that Moscow will seek new alliances in Africa and the Middle East, thus prompting calls for decisive American action—possibly including military action—to discourage these ventures. And given the danger that such action could trigger a major conflict, it is essential that we appreciate the relative imbalance between American and Russian intervention capabilities. This will enable us to draw the likely limits to Soviet military involvement abroad.

In this essay, I will compare the long-range intervention capabilities of the two superpowers and examine the military doctrine that governs their design and deployment. Before proceeding, however, a few words must be said about nomenclature. By intervention capabilities, I mean those military forces created by a country for the purpose of invading and occupying other countries in order to affect their political behavior. In Pentagon parlance, such capabilities are called "projection forces" (as in "projection of power"), and are characterized by their capacity "for long-distance, forcible insertion into enemy-occupied territory against armed opposition." Normally, such forces are assumed to include both ground combat units and the air- and sealift elements used to transport them to the battlefield. Projection forces may of course be used for other purposes—to intimidate hostile powers through "show of force" operations; to assist allied governments under attack from a common enemy; or to reinforce regular military forces during a major war—but it is their capacity to forcibly occupy enemy-held territory far beyond a country's normal defense perimeter that distinguishes interventionist forces from conventional military forces. Thus the Russian tank forces used to subdue Czechoslovakia in 1968 cannot be considered interventionist forces if they lack the ability to perform similar missions in, say, Africa or Asia, nor can Soviet amphibious forces be considered interventionist if they are unable to transport combat forces beyond Soviet coastal waters.

Having made these distinctions, we can turn to an examination of American and Soviet intervention capabilities, beginning with a review of the doctrines and strategies that govern the size, structure and operational deployment of these forces.

ONE-AND-A-HALF WARS

Ever since the end of World War II, the United States has pursued a "forward-deployed" strategy whereby large numbers of troops are based overseas in order to secure the boundaries of the Western world. Most of these troops are stationed along the principal East-West frontiers in Europe and along the 38th Parallel in Korea, but another set of forces has always been reserved for contingencies arising elsewhere. These latter forces, based in the United States, at sea and at key bases abroad, are on permanent call for deployment to distant trouble spots at the discretion of the President. Although trained and equipped for forcible insertion into enemy-held territory, these "projection" forces are also used in a threatening mode to signal that Washington can employ military force against any errant government that refuses to alter its objectionable behavior.

American projection forces also constitute the nation's standby reserve for meeting the "half-war" requirement in the Pentagon's "one-and-a-half war" planning model. Under current doctrine, war planners assume that America may someday have to fight a major war in Europe against Warsaw Pact forces (one war) and, at the same time, a limited conflict elsewhere (the half war). In order to guarantee that Washington can respond to a minor contingency in the Third World without in any way diminishing its capacity to withstand the Russians in Europe, the one-and-a-half war strategy requires the maintenance of powerful combat forces outside the NATO military establishment.

This "half-war" scenario reflects Washington's conviction that national security is threatened as much by political and economic turbulence in the Third World as by a hypothetical East-West war in Europe. Because the American economy is becoming increasingly dependent on foreign sources of raw materials—particularly energy sources—as well as on overseas markets for American-made goods, America's "national interests" are now seen as including unimpeded access to foreign oil supplies and control over the world's key maritime trade routes. "The United States has become irreversibly involved in world issues," Secretary of Defense Harold Brown told Congress on January 25. "Our economy has come to depend heavily on imports of energy supplies and raw materials, and 9 percent of our G.N.P. now results from the sale of U.S. goods and services abroad." To protect these interests, and to insure the survival of pro-American governments abroad, "we are bound to have a strategic stake in such distant places as the Sea of Japan, the Strait of Malacca, the Persian Gulf, the Dardanelles, the Baltic, and the Barents Sea." When the United States' access to these strategic areas is threatened, Brown affirmed, we must be prepared "to act early and positively."

Ultimately, then, the task of American projection forces is to forestall any changes in the world political-economic order that threaten our continued prosperity. Because such threats are largely unpredictable, and because they could involve a wide spectrum of potential adversaries, American projection forces must be prepared for rapid deployment to any location on the globe and, once there, to overcome forces that could range from poorly armed guerrillas up to modern armies, such as those found in Syria and Iraq. Pentagon doctrine also holds that these forces must be prepared to overcome Soviet expeditionary forces in the course of such maneuvers, and must be prepared to do so without assistance from allies. It is on the basis of these demanding contingencies, according to the Congressional Budget Office, that the United States maintains its current mix of "large, diversified projection forces with many support units."

U.S. CAPABILITY

For planning and budgetary purposes, the American projection capability is assumed by the Department of Defense to comprise the following combat, transport and supply elements:

§ *The Marine Corps*, consisting of three Marine divisions of 20,000 men each and their associated Marine Air Wings. Considered the interventionist force *par excellence*, the Marine Corps now numbers 192,000 men and women, with 30,000 (representing one division plus one air wing) held in the Reserve. Marine assets include 364 combat aircraft, 438 helicopters, 575 M–60 tanks and assorted artillery pieces. Normally, one Marine Amphibious Unit (a reinforced battalion assault team plus associated landing ships) is stationed in the Mediterranean and two in the Pacific.

§ *Army mobile strike forces*, encompassing the 15,000-man 82nd Airborne Division and the 18,000-strong 101st Airmobile Division. These "light" divisions, normally based in the United States, are kept at a high state of readiness for deployment on short notice to trouble spots abroad. Although these Army divisions do not possess integral air support as do the Marine divisions, Pentagon doctrine calls for the simultaneous deployment of several Tactical Air Command wings of seventy-five to 100 aircraft each. Also, should these forces prove inadequate, there are another three Army infantry divisions in the United States available for a "half-war" contingency. For lesser contingencies, on the other hand, Washington can employ such airborne units as the Army Special Forces, the Rangers and the new anti-terrorist force being assembled at Fort Bragg.

§ *Air Force transport capabilities*, consisting of seventy C–5A Galaxy heavy transports, 234 C–141 Starlifter medium transports and 234 C–130 Hercules tactical transports. These are the planes that would be used to transport Army or Marine units or both to the battlefield in any future interventions abroad. All told, the C–5As and C–141s can carry 16,000 tons of cargo or 60,000 fully equipped soldiers over distances of 3,000 miles or more, while the C–130s can carry 5,125 tons or 21,500 troops over 2,500 miles. These military aircraft can be augmented on short notice by the 220 commercial transports (727s, 747s, etc.) in the Civil Reserve Air Fleet.

§ *Navy carrier forces*, consisting of thirteen carriers and their aircraft, plus associated escort and supply vessels. All told, the existing carrier force can deploy an estimated 800 fighters and ground-support aircraft (F–14s, F–4s, A–7s, A–6s) plus assorted A.S.W. (antisubmarine warfare) and reconnaissance planes and helicopters. These forces, which can be brought to bear against any overseas power without reliance on foreign bases, are rightfully considered the backbone of America's power projection capability. (The Defense Department now expects to maintain the carrier force at its present, thirteen-ship level; Congressional pressure to establish a "Fifth Fleet" in the Indian Ocean could, however, force the Pentagon to deploy a fourteen- or even fifteen-carrier force.)

§ *Navy amphibious lift*, provided by sixty-four amphibious assault and transport vessels. This total includes two LCC amphibious command ships, three LHA helicopter assault ships (two more are under construction), seven LPH amphibious assault ships, five LKA amphibious cargo ships, fourteen LPD amphibious transport docks, thirteen LSD dock landing ships and twenty LST tank landing ships. All told, these vessels can carry the equivalent of one Marine division plus their war materiel, and can deliver this force directly to the battlefield using their self-contained fleet of some 300 helicopters and 100 landing barges.

And this is only the "cutting edge" of American projection forces. A full accounting would have to include any tactical air units provided by the Air Force for support of Army strike forces, Strategic Air Command tankers used for in-flight refueling of transport aircraft, and all necessary backup communications, logistics and medical forces. All told, the United States' power projection capability probably involves 600,000 uniformed personnel (about 28 percent of total Armed Forces manpower) and consumes some $28.5 billion, or 22 percent of the fiscal 1980 defense budget.

For some Pentagon planners, even this prodigious force is not adequate to protect critical American interests abroad. Citing the growing strength of such potential adversaries as Syria and Iraq, they argue that America's projection capabilities must be expanded if the Defense Department is to guarantee our access to Persian Gulf oil in the event of hostilities. In response to such concerns, the Carter Administration announced that the Pentagon would establish a 100,000-strong "rapid-reaction strike force" for possible deployment in the Persian Gulf. This special force is likely to consist of the 82nd and 101st divisions plus other Army, Marine and Air Force units. Moreover, the Air Force is enlarging its C–141 transports to provide additional airlift capacity, and will begin procurement of the McDonnell Douglas KC–10A advanced tanker/cargo aircraft. As concern over the Persian Gulf and adjacent areas mounts, these programs will undoubtedly receive increased attention from both Congress and the White House.

THE "MOTHERLAND" STRATEGY

Turning now to the Russians, we find a very different set of strategic priorities. While U.S. military doctrine emphasizes a "forward defense" at the outer boundaries of the West—Germany, Turkey, Korea, etc.—Soviet doctrine stresses the fortification of the U.S.S.R. itself as an impregnable bulwark against Western attack. (Thus, while nearly half of all of U.S. ground combat formations are stationed overseas, only 18 percent of Soviet divisions are deployed outside the borders of the U.S.S.R.—and all of these are stationed in Eastern Europe, which is perceived by Soviet leaders as guarding the very approaches to Moscow.) Given the grim experience of World War II—in which perhaps 20 million Russians lost their lives, defense of the Motherland is quite naturally seen as the overriding mission of the Soviet military establishment. This view is reinforced by Moscow's beliefs that the U.S.S.R. constitutes both the supreme achievement and the ultimate guardian of socialist society; in any war with the West, therefore, Soviet forces will be fighting not only to defend their homeland but also to insure the survival of socialism itself. Nationalism and ideology thus combine to perpetuate the "siege mentality" which governs the disposition of the Soviet military forces.

Soviet military theory also deviates from American doctrine in prescribing the *types* of war that Soviet forces must be prepared to fight. Whereas U.S. doctrine holds that American forces must be highly diversified in order to meet a wide spectrum of possible conflict situations. Soviet doctrine assumes that any East-West clash will automatically escalate to a full-scale war and that Soviet forces must therefore be designed with this contingency in mind. Thus, while the United States maintains both "heavy" divisions for a European contingency and "light" divisions for a Third World contingency, *all* Soviet divisions are designed for a full-scale engagement with the West.

It follows from all this that there is no equivalent, in Soviet doctrine, of the American "one-and-a-half war" strategy. In contrast to the U.S. practice of reserving a large block of forces for a "half-war" contingency in the Third World, all Soviet forces are assumed to perform a strategic defense role. Nevertheless, Soviet doctrine holds that these forces may, on occasion, be used for other missions in accordance with Soviet foreign policy. Such missions can include "show the flag" visits by Soviet vessels to foreign ports, naval maneuvers designed to demonstrate Moscow's support for an endangered ally or client (as, for example, when Soviet warships were stationed off the coast of Vietnam following the recent border clash with China) and to deliver military hardware to friendly Third World governments and national liberation movements. In such cases, Soviet forces can be said to be operating in a projection mode; but it is important to remember that the units involved are seen by Moscow as being "on loan" from their normal, defensive mission, and so would presumably be recalled the moment they were needed at home.

Despite this distinction, some military analysts in the West have charged that Soviet leaders are prepared to launch a "Western-style" intervention against hostile governments abroad. Soviet doctrine assumes, however, that Moscow would act only after a friendly government had come under attack and requested Soviet assistance (as the Russians perceive their role in Angola, Ethiopia and Afghanistan). Thus there is no requirement, in Soviet strategy, for specialized forces capable of "forcible insertion into enemy occupied territory against armed opposition"—to use the American definition of a projection capability. Nor do the Russians speak anywhere of overseas "interests" such as oil or mineral supplies which would justify such a capability. Such restraint is motivated as much by pragmatism as by ideology—Soviet leaders are fully aware of the West's determination to protect its vital interests abroad, and it is implicit in Soviet military doctrine that Moscow would not care to commit its own forces to any Third

World contingency where there is any risk of a direct clash with U.S. military forces.

Although Western analysts tend to discount the relevance of Soviet military theory (except when seeking evidence for their own interpretations of Soviet behavior), the evidence suggests that the Russians—no less than the Americans—tend to design and deploy their forces in accordance with established military doctrine. While America's "one-and-a-half war" strategy has resulted in the establishment of a substantial pool of forces designed for Third World contingency, the Soviet forces are principally designed for an all-out war with the West. Thus there are no true Soviet equivalents to the specific U.S. projection forces described earlier. There are, however, some Soviet central-war forces that exhibit characteristics comparable to U.S. projection forces and that would, presumably, perform a similar role should the U.S.S.R. engage in interventionist operations overseas. These forces are:

§ *Soviet Naval Infantry*, a small force of 12,000 "marines" assigned to Soviet fleets and river flotillas. This modest force was created in the early 1960's to provide the Soviet Navy with a limited amphibious assault capability. Unlike the United States Marines, the Naval Infantry is not equipped with tanks or other heavy equipment, and does not possess an integral air arm. According to former Pentagon analyst Graham Turbiville, the principal mission of the Naval Infantry is to secure the coastal flanks of Warsaw Pact ground troops in Europe (where Soviet land-based aircraft would be available to provide the necessary air cover). Theoretically, these forces could also be used in a seaborne attack outside of the European theater, but their small size and lack of integral airpower would place them at a severe disadvantage in any assaults on heavily defended positions.

§ *Soviet airborne forces*, consisting of seven paratroop divisions of about 7,500 men each equipped with infantry arms, anti-tank missiles and mobile artillery. Although often compared to the U.S. 82d and 101st divisions, Soviet paratroop forces do not have a primary Third World orientation but appear to be designed for a support role in the European theater. Thus, in recent Warsaw Pact training exercises, they have been used to neutralize enemy strong points in front of the main ground assault, or to occupy key ports, airstrips, bridges, etc., behind enemy lines. Presumably, these forces would also be used in the event of future anti-Soviet uprisings within Eastern Europe (or even in one of the ethnically distinct autonomous republics of the U.S.S.R. itself). Some Western analysts have suggested that they could likewise be used to spearhead a Soviet invasion of hostile countries in the Third World, but given Russia's lack of true attack carriers, they would be highly vulnerable to enemy air and tank attacks and are unlikely therefore to be deployed against a determined, well-equipped adversary.

§ *Soviet air transport capabilities*, now encompassing the 1,300-odd transport planes assigned to the Military Transport Aviation (V.T.A.) service. The long-range component of the fleet presently consists of 735 An-12 medium transports, some fifty An-22 heavy cargo planes and eighty Il-76 jet transports. These aircraft are capable of moving a significant quantity of troops and materiel over relatively long distances, but lack the airborne refueling capability of American transports and thus must land at friendly airports for refueling on long-haul operations. Also, the largest of these aircraft, the An-22 turboprop, can carry only 175,000 pounds of cargo compared to the C–5A's 220,000 pounds, and has a shorter operating range (3,100 miles compared with 3,750 miles). And while these aircraft could be used to supply Soviet forces in the event of a major operation abroad (as indeed they have been used to supply allied forces in Angola and Ethiopia), they could only be employed in the absence of an enemy air threat since the Russians lack carrier-based fighters to protect their unarmed transports.

§ *Soviet carrier forces*, presently consisting of two *Moskva*-class helicopter carriers and two *Kiev*-class helicopter/VTOL (vertical-take-off-and-landing plane) carriers. (Two more *Kiev*-class vessels are reportedly under construction.) The 15,000-ton *Moskva*, and her sister ship, *Leningrad*, normally carry some eighteen to twenty KA–25 ASW helicopters armed with depth charges and torpedoes; the 40,000-ton *Kiev*, and sister *Minsk*, carry twenty-five KA–25s plus a dozen or so Yak-36 VTOL combat planes (which, because of weight restrictions, are not believed to have a significant offensive capability). Neither class can be considered a match for America's newest carrier, the 93,000-ton nuclear-powered *Nimitz* with its complement of 100 jet fighters. The Russians call their carriers "antisubmarine cruisers," and everything we know about them to date confirms that this is indeed their mission. They can also be used, in peacetime, for "show the flag" operations intended to demonstrate Soviet support for distant allies, but they would be of very limited use in supporting a Soviet amphibious assault against heavily defended positions.

§ *Soviet amphibious lift*, now provided by eighty-four amphibious cargo ships, of which only twenty-five (fourteen *Alligator*-class LSTs, ten *Ropucha*-class LSTs, and the new *Ivan Rogov*) are considered capable of "open-ocean transit" by the Department of Defense. Most Soviet amphibious vessels are much smaller than their nearest American counterparts—the 5,800-ton *Alligator* types, for instance, have less than one-third the capacity of the comparable *Iwo Jima*-class transports, and they lack a self-contained helicopter transport fleet. Even the new *Ivan Rogov*, at 13,000 tons the largest Russian amphibious vessel, is considered a "far cry" from the 39,000-ton *Tarawa*-class helicopter assault ship. Although some Soviet amphibious vessels have joined combat ships on voyages to the Indian and Pacific oceans. Siegfried Breyer and Norman Polmar note in their *Guide to the Soviet Navy* that "these amphibious forces are primarily maintained to support ground and naval operations along the Soviet periphery."

Together, these forces provide the Soviet leadership with a substantial capacity for aiding friendly forces abroad, but only a modest capacity for long-range intervention against a well-armed opponent. In any major undertaking, Soviet projection forces could of course be reinforced by regular combat units—but this would require the diversion of forces committed to either the European or Chinese theater (since, as we have seen, the Russians do not have a strategic troop reserve such as that mandated by the Pentagon's "one-and-a-half war" strategy) and this is not likely to be allowed except in extraordinary (and at this point unforeseen) circumstances.

Some western analysts have suggested that Moscow has embarked on a major effort to beef up its interventionist capabilities, but evidence for such an effort is at present meager. The Naval Infantry and Airborne divisions have remained at their current strength for the past twenty years or so and there is still no sign that the Russians intend to build a true attack carrier on the American model. There has been an expansion in Soviet amphibious capabilities, but this reflects gradual improvements in ship design rather than any crash program to augment the fleet. Similarly, old propeller-driven transport planes are being replaced with jet-powered aircraft, but the overall size of the military transport fleet has diminished as this modernization program has progressed. Undoubtedly there are some Soviet officers who, like some American officers, feel their country's projection capabilities are grossly inadequate for many of the possible contingencies that are likely to occur in the future but, given growing Soviet concern with the threat posed by China, it is unlikely that any Soviet leaders will condone a major transfer of resources from the main defensive armies to a Third World-oriented projection apparatus.

U.S.-SOVIET GAP

We can now compare the strength and effectiveness of the principal components of the United States and Soviet intervention capabilities. Simply adding up the numbers of each provides some rough indicators of relative capacity:

§ Manpower: counting "marines" and airmobile forces only, we have 215,000 for the United States and 64,500 for the U.S.S.R., giving the United States a 3-to-1 advantage.

§ Carrier forces: total American carrier displacement comes to 1,039,600 tons compared with 114,000 tons for the U.S.S.R. (a 9-to-1 advantage); American carriers can launch 800 attack aircraft compared with perhaps forty Yak-36s of questionable value (a 20-to-1 advantage which increase to about 100-to-1 when U.S. advantages in range and payload are factored in).

§ Airlift: American transports (C-5As, C-141s, C-130s) can together deliver 21,135 tons while Soviet transports (An-12s, An-22s and Il-76s) can deliver 24,140 tons; this slight advantage for the Soviets is offset, however, by the superior range of the American transports.

§ Amphibious lift: the total displacement of U.S. amphibious vessels is 944,000 tons, compared with 175,000 tons for Soviet vessels, giving the United States a 5-to-1 advantage.

These figures clearly indicate that in most basic categories American projection forces are considerably superior to those possessed by the Soviet Union. This numerical advantage is enhanced, moreover, by significant American advantages in the performance capabilities of these forces. Soviet transport planes, for example, lack the in-flight refueling capacity of U.S. transports, Soviet amphibious vessels lack an integral helicopter life capability and Soviet marines are not equipped with tanks as are their American counterparts. More important than any of these deficiencies, however, is the U.S.S.R.'s lack of true attack carriers; without assured air superiority over the battlefield, Soviet ground forces would be highly vulnerable to enemy air and tank forces in any encounter with a determined opponent and thus it is in no position to launch a full-scale "over the beach" assault such as those conducted by the Marines during World War II and the Korean War.

For all of these reasons, the RAND Corporation concluded in 1977 that "gross Soviet capabilities" to project power abroad "do not remotely equal the gross capabilities the United States could potentially bring to bear." This assessment was seconded by the outgoing Chairman of the Joint Chiefs of Staff in his fiscal 1979 report on United States military posture: America's ability "to project and sustain power by military force," he asserted, "is unequalled by any other nation." Stated in more familiar terms, the Soviet Union is suffering from a severe "power projection gap" in relation to the United States.

ALLIES COUNT TOO

So far, we have been talking only about comparative American and Soviet capabilities. When we consider allied capabilities on both sides, the East-West projection gap widens appreciably. Both Britain and France possess significant interventionist forces which may prove useful in some of the trouble spots that might develop in Africa or the Middle East. Russia's Warsaw Pact allies, however, could provide only token support. Britain and France each retain two aircraft carriers in regular service, and both have well-equipped paratroop and counter-insurgency forces which have seen active service in Africa and the Middle East. France, in particular, has demonstrated a willingness to commit its interventionist forces to "police" operations in Africa (where recently, French commandos were carried on American military transports during the crisis in Zaire's Shaba Province), while even tiny Belgium has repeatedly sent its paratroop units into Zaire. These capabilities are, of course, balanced by the sizable Cuban forces in Angola and Ethiopia, but, barring any sudden reduction in the level of fighting in Angola, it is unlikely that the Cubans can muster additional forces for major conflicts elsewhere. The Cubans cannot, moreover, expect the same sort of battlefield air support from the Russians that the French and British can provide to their own forces.

Clearly, the United States retains a significant capacity for full-scale intervention against armed opposition in almost every area of the Third World. The only foreseeable contingency that is likely to pose extraordinary difficulties for United States forces is an armed takeover of Arab oilfields. Because such facilities are spread over a very wide area and are highly vulnerable to sabotage, it is considered unlikely that American forces could seize them intact should the Arabs decide to destroy them. The growing military power of many Third World countries—enhanced in many cases by Western no less than Soviet arms transfers—also poses problems for Pentagon war planners. But there is no doubt that American projection forces remain a credible instrument for a show of force, intimidation and, if need be, armed intervention against hostile Third World powers.

Moscow's options are manifestly much more limited. While we can expect that the U.S.S.R. will continue to provide military aid—and in some cases rather substantial aid—to chosen allies abroad, it does not appear capable of mounting a full-scale intervention against a determined and well-equipped opponent located any distance from Soviet territory. Should a war break out in the "northern tier" area of the Middle East—i.e., the region stretching from Pakistan and Afghanistan in the east to Iraq and Turkey in the west—Moscow could of course move its forces by ground directly to the battlefield. Elsewhere, however, the U.S.S.R. would encounter major difficulties in inserting its forces in sufficient speed and strength to insure certain success, especially if its adversaries were equipped with any sort of air force. Thus, it is unlikely that Moscow will order a Western-style intervention in Africa, Southeast Asia or other nonadjacent Third World areas. And if there is any likelihood of Washington or NATO involvement in a given conflict, the probability of direct Soviet involvement drops pretty close to zero—where it has been ever since the end of World War II.

The preceding analysis permits us to discard some of the more alarmist projections of future developments in Africa and the Middle East. No doubt the Russians will continue to cultivate ties with the Marxist-oriented regimes which have cropped up over the past few years, but its unhappy experiences with Somalia and Egypt (both of which have annulled their treaties of friendship with the U.S.S.R.) and the growing anti-Soviet outlook of the new Iranian Government will surely lead to a fair degree of caution. Soviet aid to its chosen allies—Ethiopia, Angola, Southern Yemen, etc.—will continue to vex Western leaders and thus prompt intensified calls for anti-Soviet efforts in the Middle East, but it is unlikely that Moscow will care to challenge—in military terms—any of the West's major overseas commitments. Given all we have learned here about comparative American and Soviet intervention capacities, we should be skeptical of any claims of an imminent Soviet military threat to critical Western interests, and reject any scare talk about Soviet military buildup that calls for further massive expansion by the United States of its forces.●

INTERNATIONAL AIR TRANSPORTATION COMPETITION ACT

● Mrs. KASSEBAUM. Mr. President, on September 21 the Commerce Committee unanimously voted to report S. 1300, the International Air Transportation Competition Act of 1979. The need for such legislation is well documented in hearings held by the committee over the past 2 years. Since that time the United States has proceeded with new determination to negotiate liberal bilaterals. This has met with some successes, most notably the agreement we reached with Belgium permitting multiple designation markets. The agreement has benefited both countries by encouraging greater travel, with Belgium becoming a major new gateway to Europe.

The fundamental purpose of S. 1300 is to give policy guidance to the Department of State, the Civil Aeronautics Board, and Department of Transportation in negotiating bilateral agreements with respect to air transportation. In keeping with current domestic air transportation philosophy, the legislation promotes greater competition on international air routes. Through its policy statement, increased authority to the Civil Aeronautics Board to respond to discriminatory practices against U.S. carriers, and permission to the State Department to trade the mandatory "Fly America" provision for Government employees in exchange for an equivalent benefit for U.S. carriers, S. 1300 takes a strong pro-competition stance.

One of the most important new provisions added to the bill, as a result of this past year's escalating fuel costs, is the establishment of a "standard foreign fare level" permitting a 5-percent increase and a 50-percent decrease in fares similar to that contained in the Airline Deregulation Act. This flexibility is needed to allow carriers to react quickly to soaring fuel prices. The current practice requiring CAB approval is inefficient because regulatory lag on the part of the Board in acting on fare requests results in the automatic loss of some recovery of costs.

The bill further permits, under emergency conditions, as determined by the CAB in consultation with the Department of Transportation, the transport of passengers between domestic points by foreign carriers. The need for some relaxation of the previous prohibition against cabotage became apparent this year when the United strike and DC-10 grounding left many U.S. passengers stranded. There was some initial concern about a change in this policy, however, the committee felt the terms of such a restricted use of cabotage was reasonable in responding to the needs of the traveling public.

By taking such prompt action on the International Air Transportation Competition Act, the Commerce Committee hopes to encourage the House to take up the matter soon. While current U.S. administration policy in negotiating bilaterals is now consistent with the very pro-competitive philosophy of S. 1300, some of the new tools in the act would certainly enhance U.S. negotiating position. Furthermore, the timely and much-needed fare provisions contained in the act will help prevent any further economic penalties for U.S. international carriers attempting to deal with fuel costs.

The International Air Transportation Competition Act represents another milestone in congressional efforts to deregulate and inject more competition in the air transportation industry.●

U.S. FLAG PASSENGER CRUISE FLEET TO BE REVIVED

● Mr. MATSUNAGA. Mr. President, the demise of steamship passenger service under the American flag has been widely predicted, especially since the S.S. *Monterey* and her sister ship, the S.S. *Mariposa*, were taken out of service 18 months ago. The prediction appears to have come true, for while only a decade ago there were 20 American passenger cruise ships plying the oceans of the world, today there is none.

However, to paraphrase the late Will Rogers, the reports of the death of American steamship passenger service may be greatly exaggerated.

As early as next year, American passenger cruise ships may return to the seas, by popular demand. It appears now that despite the rising costs of operating passenger vessels, passenger cruises are still an attractive business venture. Richard H. Hadley, president of United States Cruises, Inc., expressed this view, when he recently agreed to purchase the mothballed SS *United States*. If this sale is consummated in the near future as expected, the restored luxury liner could be back in service by the end of 1980, sailing between Hawaii and the west coast, with additional voyages to other destinations in the Pacific.

The U.S. Senate recently gave a vote of confidence to the proposed restoration of American passenger steamship service when it unanimously passed S. 1281, a bill which would authorize the SS *United States*, the SS *Oceanic Independence*, and the SS *Santa Rosa* to operate as American flag passenger cruise vessels.

The fact that passenger steamships can stay afloat at a time of soaring costs was the subject of an interesting article by Washington Post travel editor Morris D. Rosenberg. I believe that my colleagues will find Mr. Rosenberg's article an interesting and thought-provoking analysis of the passenger ship revival in the United States. Accordingly, Mr. President, I ask that Mr. Rosenberg's article be printed in the RECORD.

The article follows:

Staying Afloat In a Time Of Soaring Costs

(By Morris D. Rosenberg)

Who said the big ships are headed for the scrap heap, doomed by fuel, labor and other expenses?

Shock waves were felt in the cruise industry after the Norwegian Caribbean Lines' surpise announcement that the S.S. France, largest passenger ship in the world, would sail again "by early 1980."

And there was a frothy wake following the equally unexpected news from a Seattle businessman that the S.S. United States, "America's premier luxury liner," would soon be taken out of mothballs in Norfolk and again carry the U.S. flag around the world, beginning "in late 1980."

The major question: Can these Leviathans pay their way at a time of soaring operational costs? Even Cunard's mighty Queen Elizabeth 2 has had problems with red ink despite the British vessel's consistently strong bookings.

And what about speculation that the smaller liners Santa Rosa and the Independence might sail again under U.S. registry? (No passenger ship in regular cruise service now flies the U.S. flag.)

NCL, which bought the France from a Saudi Arabian financier for $18 million, has since moved the vessel from Le Havre, France, to Bremen, West Germany, where it is being refitted at a cost of $54 million. Renamed the S.S. Norway, she is 1,035 feet long and will carry 2,000 passengers on seven-day, year-round cruises from South Florida to St. Thomas and the Bahama Out Islands. The staff will number "almost 800."

Since 1974, the 66,348-ton France had been mothballed at the aptly named Quay of the Forgotten because the ship had been losing $20 million a year despite her enviable worldwide reputation for luxury, fine food and first-class service. The French government refused to continue paying subsidies, and French workers failed in subsequent efforts to prevent the floating national symbol from leaving Le Havre.

United States Cruises Inc., one of a number of companies operated by Richard H. Hadley, has agreed to pay the Commerce Department's Maritime Administration $5 million for the S.S. United States, and plans to spend an additional $30 million next year to remodel the ship. The vessel is 990 feet long and will accommodate 1,200 passengers on her projected maiden, around-the-world voyage with a crew of 550.

Later she is scheduled to make regular cruises to Hawaii from Los Angeles, and also sail from her home port of Honolulu to "exotic places." (Designed with troop ship duty in mind, she can slip through the Panama Canal; the France won't fit.)

The government had purchased the 53,329-ton ship, which last sailed in 1969, for $12 million from United States Lines Inc. in 1973, under the Passenger Ship Sales Act. She had cost $79.5 million to construct, sailed on her maiden voyage in 1952, and still holds the passenger liner record for the fastest Atlantic crossing in both directions. But she could not keep pace with rising costs.

Hadley has made a downpayment of $500,000, with the balance now due by Nov. 23. Under terms of his contract with the government, the purchase may be contingent upon congressional passage of a bill that would modify a current law prohibiting the S.S. United States from carrying passengers between American ports because it had received federal subsidies in the past. Such legislation may be acted upon this month. The bill is also expected to wipe out restrictions that now prohibit any U.S. vessel once sold to a foreign company from again flying the U.S. flag in domestic service after being resold to U.S. interests. Only ships of U.S. registry are eligible to apply for subsidies, if available.

United States Cruises is not seeking a subsidy, a spokesman explained. And there has "never been any provision for operating subsidies for U.S. vessels in domestic service," according to an official of the Maritime Administration. However, "in theory," the official added when questioned, a passenger vessel cruising to foreign ports would be eligible for subsidies "while in essential service in the foreign commerce of the United States." But, he added, subsidies could not be paid to any vessel more than 25 years old and thus beyond its statutory life, without "a special administrative finding."

The pending legislation concerning domestic operation would also affect at least two other cruise ships that are now laid up.

The Santa Rosa, owned by an American firm, Vintero Corp. based in New York, may be operated as part of a "joint venture" with another firm, according to a spokesman for the corporation. It would be required to pay back to the government a portion of past subsidies because the vessel is still within its statutory life period. The Independence, which is registered in Panama and was owned by a Liberian firm, Atlantic Far East Lines Inc., has just been sold to American Hawaiian Cruising Lines Inc. of New York, according to an official of that firm. The Independence is more than 25 years old.

The Monterey and the Mariposa, last operated by the Pacific Far East Line under the U.S. flag and also past the 25-year mark, were purchased in June by World Airways, but a spokesman indicated the airline intended to sell the vessels rather than operate them.

Neither Norwegian Caribbean Lines, which has had a long, successful record of operating smaller cruise ships out of Miami, nor United States Cruises' Hadley, whose other firms continue to design and construct major buildings in Hawaii, is unaware of the problems, risks and financial rewards involved.

So many tourists are buying passage to the Caribbean, Mexico, Alaska, South America and other far-flung ports that ship operators have been hard-pressed to find enough berths. Though a few new vessels are in the works, construction costs have become so inflated that some lines have chosen to add needed cabin capacity by "stretching"—slicing an existing vessel in half and inserting a new mid-section.

NCL is refitting the France "to transform her from an enclosed transatlantic express liner to a wide-open, spacious Caribbean ship." NCL presently carries about 156,000 passengers a year on four ships. The S.S. Norway alone could handle no more than 100,000 additional cruise buffs annually. Reservations are now being accepted "for spring 1980 onward."

Anticipating the industry's primary questions—how can ships be made to pay their way today and how can such a large number of passengers be brought ashore on a Caribbean island in a reasonable time span—NCL explained:

The France's (now the Norway's) 160,000 horsepower turbines "which drove her easily at upwards of 31 knots in transatlantic service, are being updated for maximum fuel efficiency. She will use only 30 percent of her original fuel consumption.

"Special passenger tenders and multiple gangways are being designed so those aboard can be 'ferried' easily and quickly ashore at St. Thomas and the Bahamas, where her deep draft forbids her to tie up at docks. She will have a modern bow thruster system for docking in Florida that will maneuver her sideways."

Providing one-class "luxury but casual" cruising, the refurbished Norway will offer many new features, including its promenade deck—longest in the world—redesigned "as an air-conditioned walking street" with stores, boutiques, lounges and cafes.

United States Cruises also expects to turn the S.S. United States into a one-class ship, reducing the total number of passengers and crew by about 40 percent and remodeling the 11 decks. The work is expected to be finished about one year after purchase arrangements are completed.

"Fast, diesel-powered shore tenders will be built to transport passengers from the vessel to ports of call, when the ship must anchor off shore," according to a company fact sheet. Instead of tipping there will be a service fee based on the fare paid, averaging 10 percent.

In addition, Hadley has formed the United States Cruising Society, which would take the time-sharing vacation plan (heretofore limited to resorts and condominiums) out to sea.

"Each member has the opportunity, each year for 20 years, to purchase one or more passenger tickets, which entitle him, his family or guests to occupy a stateroom of the category purchased for a total of 14 cruise days annually," Hadley explained. Members will save 60 percent of the published fare, he said, with the cost ranging from $11,500 for inside single staterooms to $149,500 for a two-bedroom suite. Members fares would be frozen for the first five years of operation. There are additional provisions.

United States Cruises is already accepting reservations for the Cruising Society, but not for regular passengers who want to book passage on specific future sailings. Hadley said 2,500 memberships are being offered initially, which would commit "about one-sixth of the ship's annual stateroom capacity." The balance of the berths would be sold by travel agents.

Society members may request that their payments be placed in an escorw account with funds to be released to the company only "after 95 percent of refurbishment is completed," according to an official. If, however, they permit the company to use the funds for current expenses, members can obtain special "financing benefits and additional travel rights," the official said.

Under the law, the S.S. United States, as an American flagship, would be required to hire only American crewmen and pay union wages. "American labor is flexible and has expressed a spirit of cooperation," said a spokesman for the company. "Most Americans would prefer an American crew."

Rising prices for food, docking fees, and other operational expenses—especially (in recent years) fuel—have been blamed for forcing a number of vessels to up anchor permanently. Cruise line management, particularly some American officials, have often pointed an accusing finger at salaries paid to their crews, admittedly a major expense of operating large passenger ships designed for a different era.

But although foreign cruise operators (including the Russians) have been able to stay afloat in recent years with smaller ships and generally pay their crews lower wages than received by U.S. counterparts (one reason the U.S. government has paid subsidies to passenger ship lines in the past), the competition can still take its toll.

As Robert H. Dickinson, senior vice president for sales and marketing of Carnival Cruise Lines, a successful operator, pointed out last month in Travel Weekly:

". . . . passenger shipping is an expensive and risky business" and "the typical cruise ship breaks even at 80 percent to 90 percent occupancy," compared with about 50 percent for an airline and 45 percent for a resort hotel.

Cunard Line Ltd., for example, has just allayed fears about the future of the QE2, currently billed as "the last of the great liners." Cunard, marking its 140th year of transatlantic service, announced that the QE2 "will operate more days than ever before on a schedule which combines transatlantic crossings with a wide variety of cruises" in 1980. Reservations are being accepted.

The liner's schedule "is the result of months of careful analysis to provide the most efficient operation . . ." according to the company.

Because the QE2 has been losing millions of dollars—she burns more than $16 million worth of oil a year—there were strong rumors that the vessel would be sold to a foreign buyer. It is possible that the rumors may be a bargaining chip to be used by Cunard in trying to reduce its payroll for an all-British crew of 1,300.

Obviously, though the travel business has been booming this summer ("it's almost as if people are pulling out all stops now because they're afraid they won't have any money for vacations tomorrow" said a local travel agent), the cruise industry is nervously aware of the delicate nature of its profit margins.

As prices continue to rise, no official is sure how much the traffic will bear. The advent of a severe recession, coupled with the addition of a number of jumbo vessels, could result in an embarrassing overcapacity.

Meanwhile, it's full speed ahead and damn the economists.●

S. 1241—FUNDAMENTAL PRINCIPLES FOR A NATIONAL WATER POLICY

● Mr. DOMENICI. Mr. President, on October 11, 1979, the National Governors Association will testify on S. 1241 in hearings by the Senate's Water Resources Subcommittee. S. 1241 is the legislation that I have sponsored with Senator MOYNIHAN and others to strengthen our national water resources development effort. We, of course, will take very seriously the views of the NGA on S. 1241. I am hopeful they will see, as I do, that S. 1241 offers a realistic approach to improve our national water resources effort.

The NGA, as I indicated, is presently developing its position on S. 1241. Much of the bill, I am pleased to note, conforms very closely with the Association's Fundamental Principles for a National Water Policy, issued last year.

Because of this close link, and because of the importance of the views of the NGA, I request that the NGA's Fundamental Principles for a National Water Policy be printed in the RECORD.

The material follows:

FUNDAMENTAL PRINCIPLES FOR A NATIONAL WATER POLICY

PREAMBLE

The National Governors' Association clearly recognizes the need for and supports the development of a comprehensive national water policy that truly addresses state water and related resources problems. In his May 1977 environmental message, the President called for a national water policy study that includes greater sensitivity to environmental values in water management and development programs; economic efficiency; water conservation; more equitable allocation of costs among beneficiaries; and better integration of water quantity and water quality objectives and programs.

The Governors conclude that (1) any new national water policy should be the result of a cooperative national, not primarily federal, effort; (2) the new policy should recognize the states' primary role in water management; (3) the new policy should strengthen the states' capabilities to manage water policy; (4) the federal government must be more flexible in its response to states; and (5) management should recognize hydrologic systems. The integration of concerns for water quantity and water quality with the related resources dependent thereon is essential to any national policy on water management. Any national water policy must recognize regional differences in water problems and ensure flexibility and equity in future federal water investments.

State representatives who participated in the national water policy review efforts were and are agreed that coherent goals and guidelines to provide a common purpose to the process have not been forthcoming from the federal government. This statement, then, is intended to give that direction.

The nation's water and related resources are increasingly regarded as central to its economic and environmental well-being. The goal of a national water policy should be to foster a joint federal, state, and local water management program to meet current and future water quantity, quality, development, and related resource needs that are, to the extent possible, consistent with environmental and economic considerations.

Some of the serious national and regional problems that indicate the scope of issues that need further attention to meet this goal include:

Public health concerns.

Loss of valuable wetlands.

Resource restoration and management.

Lake eutrophication.

Ground water depletion.

Escalating annual flood losses.

Antiquated water systems in urban and rural areas.

Water storage facilities.

Federal regulation of water resource structures.

Clarification of state, federal, and native American resource rights.

Contamination by toxic and hazardous materials of surface and ground waters.

Jurisdictional conflict regarding water rights administration and management.

Inadequate water systems.

These and similar problems suggest two directions of response. First, states must be equipped to manage their water resources better. Second, water resources policy must be developed in concert with and as an integral part of national economic, environmental, urban, agricultural, and energy policies.

Principle 1: The States Have the Primary Authority and Responsibility for Water Management.

Primary authority and responsibility for water management functions, including planning, development, and regulation, rest with the states and, in some cases, their delegated interstate agencies. Water management activities relating to water quality, water supply, groundwater, wetland protection, coastal zone management, and soil conservation should be clearly delineated by Congress as the primary responsibility of the states and their delegated interstate agencies.

To the degree appropriate, navigation, flood control, and other issues should continue to be shared with the federal government at the prerogative of the state.

Federal policy must recognize and respect the rights of the states to administer their individual water laws and manage their water resources.

Principle 2: The Proper Role of the Federal Government Is Threefold: (1) To establish a framework of national objectives and criteria developed in consultation with the states; (2) to provide assistance to the states in the development of programs to meet state needs within such a framework; and (3) to be consistent with such state programs to the maximum extent possible when undertaking direct federal actions pursuant to national interests.

The responsibility of the federal government is to establish, in full consultation with states and other appropriate interests, national objectives and criteria for the protection, management, restoration, development, and use of water and related resources to meet national economic, environmental, and social objectives and to assist in implementing such policies in federal actions and through assistance and support for state actions.

However, the nature of federal activities in water management involving direct actions by federal agencies, an array of narrow categorical programs for specific management purposes, and a similar range of regulatory programs has been a major barrier to comprehensive management and appropriate action at the state, local, or basin level.

The essential steps toward orderly, efficient, and balanced water management are to recognize the primary responsibility of the state and to put each state in the position to develop coherent management strategies in cooperation with local governments, other states, and the federal government.

It is the responsibility of the state to relate national objectives and criteria to its management programs. Federal policy should be directed toward strengthening the capability of the state to act as the integrator and manager of all programs affecting the water resources of the state. To do so effectively, states need:

1. Realistic and dependable financial support to integrate management activities through expansion of provisions for state assistance, such as a revised Water Resources Planning Act of 1965 or similar legislation;
2. Full funding of authorized programs, consistent with congressional intent;
3. Technical assistance from federal agencies with extensively developed expertise, such as the Environmental Protection Agency, Soil Conservation Service, U.S. Bureau of Reclamation, U.S. Geological Survey, Bureau of Land Management, or the Corps of Engineers;
4. Additional research assistance from, for example, the water resource research centers established under the Water Resources Act of 1964 or similar legislation; and
5. Assurance that direct federal actions will be responsive to national policy, consistent with state programs and priorities, and carefully evaluated against mutually agreed upon standards, such as Principles and Standards adopted pursuant to the Water Resources Planning Act, suitably revised.

Principle 3: Water Management Must Be Approached in a More Comprehensive and Coordinated Manner at the Federal, State, Local, and Interstate Levels.

The federal government should support a management system that provides for defined state and national objectives and criteria in the management of water resources. Such a system should guide resulting state, local, and federal implementation actions, with due regard for efficiency in public investment, environmental quality, equity, and the integrity of hydrologic and related natural systems.

At the federal level, this means resolution of conflicts or competition among federal programs and coordination of agency activities through a national coordinating entity reporting directly to the President and with provision for adequate state and public input, such as a strengthened and reconstituted U.S. Water Resources Council.

At the state level, this means preparation and maintenance of comprehensive statewide water and related resource programs developed within national objectives and criteria established in consultation with the states, appropriately funded, with specific funding support for local and federal participation.

At the interstate level, where states determine that federal/state collaboration is desirable, institutions such as river basin commissions, interstate compacts, or other mechanisms agreed upon by the participants should be supported.

Principle 4: Federal Actions Must Be Consistent with Adopted State and Interstate Water and Related Resources Plans and Programs.

A major frustration of regional, state, and local water resource decision makers is the problem of securing consistency of federal projects with state water planning programs. All direct federal actions, grants, and regulations must be shown to be consistent with adopted state and interstate water and related resources plans developed within the framework of the national objectives and criteria. In the absence of such plans, federal actions should be conducted following agreement with the affected states.

Principle 5: There Must Be Continuity in Federal Support for Water Management Programs.

Effective scheduling of local and state government appropriations processes and personnel recruitment is made extremely difficult by sharp variations in federal funding levels and by the failure to fully fund authorized programs.

Continuity of federal support is critical in two respects: in relative dependability in funding levels over time and in the entire sequence of actions from planning through implementation. With continuity in federal support guaranteed, nonfederal contributions can be more easily assured.

Principle 6: There Must Be Great Flexibility in the Entire Federal Support System for Water Management.

Sources of federal assistance for water planning in general and program management and projects in particular are not adequately responsive to water problems at the state, regional, or national level. Inherent biases toward specific courses of action exist throughout the system and are principally caused by (1) the failure to fund (or fund adequately) specific sections of approved federal legislation, (2) the narrow focus of some categorical grants, (3) the variations in the federal contributions in cost-sharing formulas, and (4) authorities that preclude agencies from participation in certain projects and programs. Such biases render the system of federal assistance inflexible, reduce the number of options state and local decision makers can consider, and effectively preclude achievement of the goal of comprehensive planning and management.

To eliminate the inflexibility that has evolved and promote a more flexible system capable of responding to perceived water problems, whether national or regional in scope, the Governors recommend four basic policy changes:

1. Broaden the applicability of existing categorical programs, or fully fund underfunded programs, to make them more responsive to state and regional needs;

2. Begin the establishment of a supplemental grant program for water management actions that are needed but do not qualify under existing categorical grant programs or direct federal projects. Guidelines would be designed within broad national objectives developed in consultation with the states;

3. Give equitable treatment to all alternative solutions to water-related problems by upgrading funding assistance for nonstructural programs; and

4. Establish federal agency authority, as needed, to participate in and fund a wider variety of water management solutions, such as for water supply and water restoration programs.

Principle 7: Criteria for Planning and Evaluating Federal and Federally Assisted Water Projects and Programs Must Be Refined and Applied Uniformly.

A special effort should be made to review and revise the Principles and Standards to better recognize, quantify, and display the environmental, social, and regional implications of federal water programs and projects. The general intent of the Principles and Standards should apply to all federally assisted and direct federal water and related resources programs.

1. The public participation requirements of project planning and evaluation criteria should be carried out aggressively.

2. Projects should be selected using a system that includes cost/benefit analyses, cost-effectiveness analyses, and economic, environmental, and social analyses.

3. The application of appropriately revised Principles and Standards to water quality programs is an example of effective and equitable assessment of such programs. Subsequently, projects that are part of such programs would be evaluated by cost-effectiveness criteria.

4. Steps must be taken to ensure that evaluations of all federal water programs and projects are conducted and reported uniformly, to the maximum extent possible.

5. The current method of establishing the discount rate for federal projects—based on the cost of federal borrowing—appears to be the most appropriate. Discount rates should be uniform and relatively stable.

Principle 8: Federal Project Financing, Cost-sharing, and Cost Recover Policies Should Be Reviewed and Simplified to Eliminate Inequities and Inherent Biases toward Specific Solutions to Water Problems and Promote Equal Consideration of Structural and Nonstructural Solutions.

Existing federal policies present a bewildering array of financing cost-sharing, and cost recovery options for direct federal and federally assisted water projects and programs. Inequities exist among those who pay for and those who benefit from such projects and programs. Moreover, many existing programs create inherent financial biases that favor certain solutions to water problems over others, sometimes resulting in the approval of projects of only marginal utility. Accordingly, the National Governors' Association urges that:

1. Cost-sharing policies should be consistent among alternative means for achieving the same purpose. This means uniformity among cost-sharing policies for both structural and nonstructural alternative solutions to a problem under existing agency authorities and the broadening of some agency authorities to permit consideration of more alternatives.

2. Cost-sharing policies should be consistent among federal agencies for the same purpose. There should be no financial bias making one agency's program more attractive than another's on financial grounds, forcing nonfederal participants to "shop around" for the best deal.

3. Where urgent action is called for and nonfederal participants cannot provide their "front end" share in a timely fashion, there should be provision for federal financing beyond the ultimate federal cost-sharing level, with subsequent cost recovery.

4. Cost recovery policies should promote conservation and equity. Project costs should be recovered from identifiable beneficiaries whenever possible through systems such as user charges, ad valorem taxation, and sale of vendable products, with due regard to benefits derived and for administrative practicality and financial constraints on direct beneficiaries and communities.

Principle 9: Water Conservation Must Be the Fundamental Consideration in Water Management Programs.

A national water conservation initiative reflecting regional variations and the factors defined below must be the cornerstone of national water policy. Water conservation includes: (1) day-to-day uses, (2) resources allocation, including conjunctive uses, (3) drought response, and (4) effective use of seasonal water, including storage where applicable. The issue is both economic and environmental. The economics and environmental impacts of water conservation vary by region and are often site-specific. National policy must be flexible enough to accommodate these differences. Accordingly, the National Governors' Association recommends:

1. A national water conservation initiative implemented by the states as part of their total water management programs, with federal financial and technical assistance, including a component for evaluation of the true benefits and costs of conservation.

2. Encouraging comprehensive management of intermittently available fresh water resources to maximize the availability of surface and groundwater supplies.

3. Requiring consideration of maximum water conservation contributions in project and program planning and evaluation criteria, such as the Principles and Standards, for all water programs and projects.

4. Examining closely the incentives and disincentives for encouraging recycling and reuse of water, with due consideration for public health.

5. Examining and promoting where feasible the practice of conjunctive use of water supplies—that is, the use of surface water supplies during high stream flows, thereby conserving groundwater supplies, and the use of groundwater supplies during low stream flows.

Principle 10: Federally Supported Water Research Should Be Expanded, Coordinated, and Tied Closely to the Planning and Management Concerns of the State.

The federal government currently supports a wide variety of water research programs, through both the individual federal water agencies and the state water resources research centers created under the Water Resources Research Act of 1964 and coordinated by the Office of Water Research and Technology in the Department of the Interior. Through these vehicles, important research has been conducted in all phases of water management. Little coordination exists among these programs, however, and no effective mechanism exists that can focus the water research establishment on the planning and management concerns of the nation's principal water managers—the states. The National Governors' Association recommends that:

1. At the federal level, coordination be provided for the many mission-oriented federal agency research programs, for example, by tying them and the Office of Water Research and Technology more closely to a national coordinating entity such as a reconstituted and strengthened U.S. Water Resources Council.

2. At the state and regional level, the research agendas of both the federal agencies and the federally supported water research centers be developed in conjunction with the expressed management needs of the states.

3. Substantially increased support, perhaps through amendment to the Water Resources Research Act, be provided for research programs in support of state needs, and increased support for programs of technology transfer and public information by the water centers to increase the vaule of their work.

Principle 11: Any Claims to Federal Reserved Water Rights, Including Those for Indians, Must Be Initially Addressed within the Framework of Established State Systems.

To ensure that there is equity and that procedures are prompt and orderly, the processes for the identification and quantification of federally reserved water rights, including those made on behalf of Indians, should be streamlined and accelerated in cooperation with the states with original jurisdiction in state courts subject to normal appeal. The subsequent administration of such rights should be within state systems.

The National Governors' Association recommends that:

1. Any federal claims to water asserted under the reservation doctrine or other theory of paramount right, including those made on behalf of Indians, should include a specific recital of the purpose, location, extent, and priority data of every water right claimed, and should relate such claims to the effectuation of the original purpose of the reservation.

2. Federal legislation should be passed to provide full compensation to the owners of water rights vested under state law, if (1) those rights are later taken by the United States or Indian tribes or (2) the exercise of those rights is precluded by actions of the United States.●

SALT AND EUROPE

● Mr. PELL. Mr. President, on September 12, the Christian Science Monitor published an excellent article by John A. Armitage entitled "Reject SALT and Lose Europe?" Mr. Armitage is a former Deputy Assistant Secretary of State for European Affairs.

Mr. Armitage makes a very persuasive case that if the Senate rejects SALT II, the prospect for negotiations on the control and reduction of European theater weapons, including theater nuclear systems, will be bleak. Even worse, Mr. Armitage concludes, our Western European allies will probably be highly reluctant to make the tough decisions on where and how to emplace new NATO theater nuclear weapons unless there appears to be some prospect of bringing that part of the arms race under control.

I know that many of my colleagues are concerned about the NATO dimension of SALT II, and Mr. Armitage has made a valuable contribution in pointing out the damage that rejection of SALT II could do to the NATO alliance.

Mr. President, I request that the full text of Mr. Armitage's article be printed in the RECORD.

The article follows:

[From the Christian Science Monitor, Sept. 12, 1979]

REJECT SALT AND LOSE EUROPE?

(By John A. Armitage)

Senators opposing or contemplating opposition to SALT II seem inclined to rivet their attention too exclusively on the nuclear hardware questions. Important as those may be, American national security is no less surely and clearly involved in the political effects of the rejection of the SALT treaty on our key NATO allies. We would do well to ponder how they will react should the treaty be turned down.

For we should be under no illusions. Rejection of SALT II will be regarded by Europeans as a basic change in this country's Soviet policy. They have seen us as attempting to contain Soviet expansionism but improving relations where it proved feasible. They would see SALT rejection as a deliberate U.S. move toward a policy of unrestrained confrontation with primary emphasis on the military rivalry. Europeans will not wish to join us on that path.

As happens not infrequently in international affairs, Western Europe has a kind of split in its outlook toward the Soviet Union. On one hand, the detente of the '70s has meant a highly prized adjustment. Tensions, crises, and pressures from the Soviet Union have substantially diminished. Political, economic and cultural ties with the USSR and the Eastern European countries have expanded greatly. Prominent West European leaders repeatedly stress the significance of Soviet/Eastern European trade for their beset economies.

Western European countries without exception value greatly the improved state of Soviet relations and consider it a more normal and promising line of development for Europe as a whole. We should not forget that it was the Federal Republic of Germany under Willy Brandt which made the difficult political decisions and took the thorny initiatives which provided the basic breakthrough in East-West relations.

On the other hand, Western Europe is increasingly concerned about its own defense, perhaps in a more serious way than at any time since World War II. The great expansion of Soviet strategic power has raised nagging and difficult questions about the credibility of US power and will to deter Soviet attack. And the build-up of Soviet forces in the European theater has markedly increased Soviet capabilities to implement a surprise attack and to bring Europe under attack by intermediate-range missiles. Increasingly, officials and military experts in Western Europe are becoming unwilling to leave all the strategic and tactical thinking to the Americans, notwithstanding Europe's continued dependency on US nuclear capabilities.

In this situation, Western European peoples and governments will strenuously oppose making an either/or decision. They will want to preserve the improved political relationship with Moscow. They will also recognize the need to face up to the problem of developing a military posture and doctrine for the European theater credible to the Soviets and to themselves. The decisions necessary to provide a credible theater deterrent will focus on the problem of positioning intermediate-range missiles and improved tactical nuclear weapons on the territories of allied countries. Those political decisions will be excruciatingly difficult.

Unquestionably, SALT II negotiations had worrisome aspects for Europeans. They, particularly the West Germans, will be reassured if we now take what steps we think necessary to overcome the vulnerability of the US landbased missile force. And they will want us to retain the possibility of emplacing cruise missiles in Western Europe. Those steps will add to the credibility of our deterrent power and will. But ratification of SALT II will be no less important to a courageous European decision on theater defense.

Without SALT II the prospect for negotiations on control and reduction of European theater weapons, including theater nuclear delivery systems, will be bleak. For that circumstance, we will be in for a large share of the blame in European eyes. But still worse, Western Europeans will probably be highly reluctant to make the tough decisions on where and how to emplace theater nuclear weapons like the Pershing missile, unless there also appears to be some prospect of bringing that part of the arms race under control. And in the divisive debate that could ensue, European acceptance of American leadership—even now in shaky condition—could become doubtful indeed.

Equally harmful, we would have presented the Soviet leadership with a priceless opportunity to pursue its long-cherished goal of getting the US out of Europe. The Soviets would, in all likelihood, devise markedly different policies toward us and Western Europe. The recent official visits of President Giscard and Chancellor Schmidt to Moscow have certainly signaled that France and the Federal Republic of Germany have no intention of casting aside their efforts to maintain and, if possible, build on their improved Soviet relationship.

Moscow does not forget, as the US seems prone to do, that the Soviet Union alone has the power to permit the two Germanys to draw closer together or to keep them apart. This awesome power gives the Kremlin a very strong card to play—or to play with—in its relations with Bonn.

It was Brandt's awareness of this power that lay behind the Ostpolitik he launched in the late '60s, when we seemed to forget how Europe saw its interests. The invasion of Czechoslovakia may have kept Moscow from drawing Europe away from America then. If Europeans see us heedlessly going our own way now—by turning down SALT II—we may not be so fortunate again.

NATO as we have known it could come under the severest sort of strain. And US security interests could suffer markedly in Western Europe—prescisely the area of the world where we can most indisputably call those interests "vital."

Surely, SALT II opponents do not wish to take us down that route.●

THE INTERNATIONAL SAKHAROV HEARINGS

● Mr. DOLE. Mr. President, the third session of the International Sakharov Hearings is nearing completion on Saturday, September 29, after 4 days of hearings held in Washington, in the Dirksen Building which stood as a symbol of the democratic process, while scores of witnesses testified on human rights violations in the Soviet Union.

As a member of the Advisory Board of the International Sakharov Hearings, I was particularly pleased to welcome those who participated.

For those of us who have been involved in the issue of human rights, the signing of the Helsinki accords in 1975 offered a glimmer of hope that indeed a new era had perhaps begun, and the liberalization of the Communist world was on its way. The realties have proved a bitter disappointment. In recent months alone, the arrest of members of the charter 77 group in Czechoslovakia, new restrictive laws in East Germany, and the continuing harassment of dissidents of all faiths in the Soviet Union and elsewhere have pointed to the fact that rights considered to be a sine qua non of the human condition are still denied routinely under the Soviet system of government.

The particular value of the International Sakharov Hearings is that they focus on aspects of life in the Soviet Union that normally receive little publicity. While a majority of the public in the West is aware of the more famous dissident cases, little is known about the violations of workers' rights that, for example, take place in Communist nations designed to have become in theory a "workers' paradise." In an amendment to the Foreign Relations Act of 1979, Congress acted last May to deny entrance visas to members of purported labor organizations from totalitarian states, in an acknowledgment of the pretense under which so-called labor representatives of the Soviet Union operate.

This was not intended to be a move to suppress freedom of movement between nations, but to indicate to the Soviet Union and other Communist regimes our unwillingness to play their game at accepting their definition of labor representatives and unions, thus betraying the cause of human rights we sought to promote.

The relentless pursuit of human rights in all nations transcends the humanitarian aspect of the issue. Inherent in this pursuit is the search for universal peace. While recognizing that the very nature of totalitarian states is dependent on the suppression of liberties, we must continue our efforts toward the democratization of the Soviet Union, without which peace will always face the danger of remaining a chimera.

I should like to have the following statement by the Representatives of Lithuania, Latvia, and Estonia printed in the Record.

The text of the declaration follows:

STATEMENT

In Soviet juridical science, the term "national sovereignty" encompasses the supreme rule of a nation, its political freedom, its real capacity to determine fully its destiny, in the first place its ability to exercise self-determination including separation [from another state] and creation of its own independent state. National sovereignty is characterized by political, territorial, cultural, linguistic independence of a nation shown by a fully sovereign exercise of legislation in all social aspects of the nation (and) affording the fullest implementation of such legislation.

National sovereignty cannot be supplemented, nor revoked, it can only be violated or re-established.

In 1919 Lenin acknowledged the *de facto* existence of Estonia, Latvia and Lithuania which had separated from the Russian Empire. In 1920 Soviet Russia concluded peace treaties with these countries which meant the *de jure* recognition of the Baltic States by Russia. In behalf of the Soviet Government Lenin "for all time" abandoned "all the sovereign rights" [of Russia] over Estonia, Latvia and Lithuania. Nevertheless, nineteen years thereafter Stalin and Hitler committed a conspiracy against the sovereignty of these nations. The 23rd of August this year marks the 40th anniversary of the signing of the so-called Molotov-Ribbentrop Pact, implementation whereof meant the end of the independence of Estonia, Latvia and Lithuania.

On August 23, 1939, a non-aggression treaty was concluded between the German Reich and the Soviet Union. Attached thereto was a strictly Secret Additional Protocol on the division of Eastern Europe into so-called spheres of influence. The objects of the confidential negotiations between People's Commissar for Foreign Affairs of the USSR V. M. Molotov and Minister for Foreign Affairs of Germany J. Ribbentrop were Finland, Estonia, Latvia, Lithuania, Poland, Bessarabia and Northern Bukovina. The substance of the Additional Protocol was to the effect that the fate of Finland, Estonia and Latvia was entrusted to the USSR, and of Lithuania—to the German Reich.

On September 28, 1939, a Friendship and Boundary Treaty was concluded between the USSR and Germany. This Treaty amended the Secret Additional Protocol of August 23, 1939 to the effect that Lithuania was "entrusted" to the USSR, with the exception of the left bank territory along the Sesupe River which, in the event of "special measures," was to be occupied by the German Army.

Between June 15 and 17, 1940, by order of the Government of the USSR, the Red Army had "implemented the special measures" on the territory of Lithuania, Latvia and Estonia. Also annexed was that territory of Lithuania which, according to the agreement between Stalin and Hitler, was to be annexed to Germany.

On January 10, 1941, the German ambassador to the USSR, Dr. von Schulenburg, on the one side, and Chairman of the Council of People's Commissars V. M. Molotov on the other, signed another Secret Protocol wherein the object of bargaining was the above-mentioned Lithuanian territory. The Government of Germany ceded to the USSR the territory on the western bank of the Sesupe River, receiving a monetary compensation in the amount of seven and one-half million dollars in gold, or thirty-one and one-half million reichsmarks.

The Molotov-Ribbentrop Pact was a conspiracy between the two greatest tyrants in history—Stalin and Hitler—against peace and humanity, and it inaugurated World War Two. We consider the date of August 23rd the day of shame.

On August 14, 1941, President F. D. Roosevelt of the United States and Prime Minister W. Churchill of Great Britain signed the Atlantic Charter of 6 [8] Points. The 2nd point of this Charter declared that the USA and England approve "no territorial changes that do not accord with the freely expressed wishes of the people concerned." Point III: "they respect the right of all peoples to choose the form of government under which they will live; and they wish to see sovereign rights and self-government restored to those who have been forcibly deprived of them." On September 24, 1941, the USSR acceded to the Charter.

The declaration of the USSR stated: "The Soviet Union in its external policies . . . shall be guided by the principle of self-determination of the peoples . . . The Soviet Union champions the right of every people to a State independence and territorial integrity of their country, the right to establish a social order and a form of government of their choice which they deem proper and necessary in order to safeguard the economic and cultural welfare of their country."

It behooves to remind that, according to International Law, realization of the right of the peoples to self-determination is impossible under the presence of occupation forces on the territory of these peoples. This is also emphasized in Lenin's Decree on Peace which states that if a nation "is not given the right to determine the form of its State life by free voting and free from the presence of the troops of the annexing or strange State, and without the least pressure, the adjunction of that nation by the stronger State is annexation, i.e., seizure by force and violence."

The results of the ill-famed Munich agreement of September 29, 1938 were erased by the very fact of the military defeat of Germany in World War Two. The Government of FRG [Federal Republic of Germany], pressured by the public opinion of Czechoslovakia, pronounced the Munich accord void from the moment of its signing.

However, the Molotov-Ribbentrop Pact apparently retains its juridical force to date. We deem that the silence of the world public opinion encourages the aggressors of the past, the present, and of the future.

We address:

The Government of the USSR with a plea to publish in full the contents of the Molotov-Ribbentrop Pact and of all the supplementary secret protocols attached thereto. We remind that [Lenin's] Decree on Peace declared the Soviet Government's renunciation of secret diplomacy. Likewise we request to declare the Molotov-Ribbentrop Pact to be void since the moment of its signing;

The Governments of the FDR and the GDR with a plea to publicly pronounce the Molotov-Ribbentrop Pact to be void since the moment of its signing, and to help the Government of the USSR to liquidate the consequences of the said Pact—to withdraw the foreign troops from the territories of the Baltic States. For implementing the said task, a Commission should be created of representatives of the USSR, FRG and GDR to liquidate the consequences of the Molotov-Ribbentrop Pact;

The Governments of the countries, signatories of the Atlantic Charter, with a plea that they, from the position of their moral responsibility, express their decisive condemnation of the Molotov-Ribbentrop Pact and its consequences. We remind that, according to International Law, actions which by their substance and purpose constitute a threat to peace and security, are not domestic concerns and they grossly violate the universally acknowledged international norms. The principle of self-determination of peoples and nations presupposes the rightfulness of various forms and methods of the struggle against colonialism which is an international crime. This is connected with the rightfulness of international support for the liberation struggle. Moreover, according to the Declaration of Principles of International Law, every State is obliged to cooperate in lending help to concerted and independent actions in realizing the principle of equality and self-determination of peoples;

The Secretary General of the UNO, with a reminder that this international organization is the direct successor of the League of Nations whose membership included Estonia, Latvia and Lithuania until the implementation of the "special measures." Therefore, on your shoulders rests the juridical responsibility for the destinies of these countries. We ask you to raise at the nearest session of the UNO General Assembly the question of undoing the consequences of the Molotov-Ribbentrop Pact.

We remind that the Principle of Self-determination was enacted into the contemporary International Law. This was done by incorporating the principle of self-determination of nations in such most significant international documents as the UNO Charter/Art. 1, 13, 55, 76/, the Declaration on granting independence to colonial countries and peoples adopted by the XXV (?) session of the General Assembly of the UNO on December 14, 1960, the General Assembly Resolution of December 20, 1965 which recognized the legality of the struggle of the colonial peoples; the International Convention on abolishing all forms of racial discrimination confirmed by the General Assembly XX session on December 21, 1965; International Pacts on Human Rights adopted by the General Assembly XXI session on December 16, 1966, and the Declaration of Principles of International Law adopted by the XXV Jubilee session of the General Assembly on October 24, 1970. These and other international legal acts of the UNO disclose the contemporary context of the principle of equality of rights and self-determination of peoples. This means:

The right of all peoples to freely shape their destinies, that is under conditions of full freedom to decide their internal and external political status without external interference, and to shape according to their own wishes their political, economic, social and cultural development;

The right of all peoples to enjoy their natural wealth and resources;

The duty of all States to cooperate by collective and independent actions toward the realization of the principle of equality and self-determination of peoples in accord with the provisions of the UNO Charter;

The equality and the right to determine their own destinies are proclaimed as a more important principle of International

Law in the Final Act of the Conference on European Security and Cooperation.

As you know, Mr. Secretary General, the above indicated international documents, which are binding, are being violated by certain States, members of the UNO. We wish that the next session of the UNO Assembly would consider the matter of the situation of Latvia, Estonia and Lithuania, to the extent that the peoples of these countries are deprived of the right and possibility to determine their own destinies.

AUGUST 23, 1979.

Signers:

Romas Andrijauskas, (Mrs.) Stase Andrijauskiene, Alfonsas Andriukaitis, Edmundas Bartuska, Vytautas Bastys, Vytautas Bogusis, Rev. Vladas Bobinas, Romas Vitkevicius, Jonas Volungevicius, Jonas Dambrauskas.

Jonas Eisvydas, Rimas Zukauskas, Ivars Zukovskis, Alfreds Zaideks, Juris Zamelis, Liutauras Kazakevicius, Leonas Laurinskas, Rimas Mazukna, Rev. Mocius, Mart Niklus.

Rev. Napoleonas Norkunas, Sigitas Paulavicius, (Mrs.) Angele Paskauskiene, Kestutis Povilaitis, (Mrs.) Jadvyga Petkeviciene, Jonas Petkevicius, Jonas Protusevicius, Sigitas Randis, Endel Ratas, Henrikas Sambore, Julius Sasnauskas, (Miss) Leonora Sasnauskaite.

Algis Statkevicius, Kestutis Subacius, Enn Tarto, Antanas Terleckas, Erik Udam, Ints Calitis, Petras Cidzikas, Arvydas Cekanavicius,, Vladas Sakalys, Jonas Serksnas, Zigmas Sirvinskas, Mecislovas Jurevicius, Rev. Virgilijus Paugelis.

The Baltic Republics—Lithuania, Estonia, Latvia—have become incorporated into the USSR independently of the expression of the will by the peoples of these countries, in substance—in consequence of the occupation by the armed forces of the USSR.

Adhering to the principle of equality and self-determination of peoples, respecting the right of each people to determine their destinies freely, we consider that, in the present historical situation, the question of self-determination of Lithuania, Latvia and Estonia—must be decided by means of a referendum, to be held in each of these countries under conditions safeguarding free expression of the people's will.

We support the call by the representatives of Lithuania, Estonia and Latvia to examine the violation of the right of the peoples of these countries to self-determination and to independent free determination of their own destinies.

August 23, 1979.

MALVA LANA,
VIKTOR NEKIPELOV,
TATIANA VELIKANOVA,
SAKHAROV,
ARINA GINZBURG.●

MEXICAN OIL SPILL

● Mr. PELL. Mr. President, this past June, the worst oil blowout in history occurred in the Gulf of Mexico. Approximately 2 million barrels of oil have been lost, and a large and ugly oil slick advanced and blackened beaches in Texas causing millions of dollars of damage.

The damage caused by the blowout was, however, not only physical, but political. United States-Mexican relations were strained as we sought financial compensation from Mexico for the damage caused, and Mexico charged that we were ignoring the environmental damage done by the United States to Mexico over many years.

As a member of the Foreign Relations Committee and chairman of the subcommittee concerned with oceans and international environmental issues, I am deeply concerned about the environmental and political consequences of natural disasters such as the Mexican blowout. As a Senator from Rhode Island, I am very much concerned about the possibility of a repetition of the Mexican disaster if oil drilling takes place on Georges Bank in the Gulf of Maine area. On August 26, the Providence Journal published an excellent and comprehensive series of articles written by its Washington bureau chief, Stephen M. Baron, on the Mexican blowout. I would like to share these articles with my colleagues and request that they be printed in full in the RECORD.

The articles follow:

[From the Providence (R.I.) Sunday Journal, Aug. 26, 1979]

(By Stephen M. Baron)

CIUDAD DEL CARMEN, MEXICO.—The helicopter heads for the Bay of Campeche. First the airport, then the palm trees, finally the beaches of this steamy fishing town recede and are gone. Ahead is the sea, the southern Gulf of Mexico. It is smooth and tranquil, glistening in reflected sunlight.

You look for telltale signs of trouble—oil slicks, boom ships, barges—but there are none. The helicopter flies seaward, its cabin vibrating gently to the rhythm of the whirling blades.

Then, about 50 miles into the Gulf, the helicopter begins its descent. Lower and lower it swoops. You press against the window and suddenly you see it, coming up fast on the right.

Fire A bright yellow ring of fire. The sea is burning.

Next to the ring is a barge, spraying huge arcs of water. It could be the opening sequence of a disaster movie, the last gasp of the Titanic.

The helicopter swoops lower and you see the grayish-brown sheen trailing off to the left of the fiery ring and under the helicopter and away: the oil slick.

It is as if the camera is moving in for a close-up. The helicopter descends swiftly. It touches down on the landing pad of a drilling platform about a half mile away.

The ring of fire is awesome, other-worldly—not because of its size, but because of its intensity. The ring churns and seethes and gurgles as huge brown bubbles of oil and gas force their way to the surface, expand in flame and disappear—only to be replaced by more bubbles and more still.

It is as if some angry sea god were breathing fire from the depths.

The Mexicans call it Ixtoc. 1. Some people are calling it the worst oil blowout in history. Since June 3, when its fury was accidentally unleased, the runaway well has disgorged more than 1.8 million barrels of oil—more than 75 million gallons—into the ring of fire.

It has destroyed a drilling platform, thwarted at least one attempt to cap it and killed an American diver. The oil slicks it has produced have stained Texas beaches 500 miles to the north. It has cost untold millions in oil loss and cleanup costs. And it has heightened tensions down here at the staging area for Mexican-led operations to tame the well.

The first sign of trouble occurred June 2. The Ixtoc 1 test well was drilling some 11,000 feet beneath the floor of the Gulf when technicians on the platform discovered they were losing mud pressure.

Normally the mud acts as a counterforce to the hugh natural pressures in the earth's crust below. As the drill digs deeper into the crust, mud is pumped down to the new depth through one of the tubes in the huge drill casing and returned to the surface in a U-shaped course, in much the same way water passes through a radiator. This circulation, monitored constantly to balance the pressures below, operates as the advance guard against a blowout.

According to an official government account, the drill had penetrated an unexpected cavern which was draining off the mud and upsetting the delicate balance of pressure. Then the drill broke through a layer of thin rock covering a huge oil and gas deposit.

When monitoring instruments warned of trouble, technicians on the drilling platform responded by pumping in more mud. According to one report, the technicians thought they'd licked the problem, that they'd stopped the drainoff. They began withdrawing the drill and were making good progress.

But about 3 a.m. June 3, all hell broke loose. First came the mud and drill pipe. Then the oil and gas, propelled by the enormous pressures of millions of years of confinement, gushed up from the depths—up from the crust, through 165 feet of water and onto the platform.

The gas ignited. From friction as it surged upward? From an electric light on the drilling tower? No one knows. They only know that the flames shot 250 feet into the air, lighting up the clouds.

Fire ships tried to douse the flames. Workers tried to tow the platform to safety. Technicians tried to activate the fail-safe system, the blowout preventer, a complicated array of valves attached to the pipe just above the seabed.

But the situation was out of control. The fire was intense. Two to three hours after the well blew, more than a dozen workers on the platform were evacuated to safety.

The platform met a fiery end, collapsing into the sea, its value some $22 million.

Exactly when the blowout preventer was activated and why it failed are unclear. In theory, the preventer should stop a blowout dead in its tracks by blocking its path with an internal gripping or jamming device that squeezes the tubing together. An official of PEMEX, the Mexican national oil company, said the preventer fell victim to the sinking debris from the collapsed steel tower.

Whatever the cause, once the preventer failed, the Mexicans had lost their chance to contain the blowout immediately and write the incident off as a relatively minor mishap.

Now, more involved battle plans would have to be devised. And as the plans were laid, the well would keep on gushing—at the rate of some 30,000 barrels or 1.2 million gallons a day.

And soon PEMEX would have another worry. For now the concern was not only how to control the well, but how to battle the escaping oil.

June 24 must have been a tumultuous day, a day when hopes were raised and then dashed, maybe the last day PEMEX officials harbored thoughts of capping Ixtoc 1 in a few weeks' time.

That was the day, according to one PEMEX official, when the blowout seemed stilled. Red Adair, the famous well-tamer, had been called. And, reportedly with Mexican help, it looked like he'd once again lived up to his reputation. The plan, according to PEMEX, was to run hoses from the surface to shut the valves of the submerged blowout preventer and somehow activate pumps in the tubing.

The scheme worked. The fire was stopped.

Elation must have rippled through the PEMEX community during that fleeting moment of triumph—particularly because, according to a PEMEX official, the blowout was an unusually difficult situation: technicians had no platform to work from and had to operate from a barge instead.

But within a matter of hours the well was leaking again. It is unclear from where. One guess is that the oil and gas were now escaping from a point below the level of the blowout preventers. A PEMEX official said divers found no rupture, but discovered the tubing was bent.

The well-fighters were right back where they started—except that the fire was out. But in the topsy-turvy world of oil, a gusher without fire is more of a problem than a gusher in flames. Fire burns off about half the oil—and the poisonous gas. Without fire, the threat of pollution is greater.

The decision was made. Technicians quit the area, the PEMEX official recalled, and the gurgling mass was torched. Once again, there was fire.

PEMEX is now fighting the well on two fronts. First, thousands of steel balls, along with mud, are being pumped into the drill pipe to try to slow down the flow of oil.

PEMEX officials say this approach has met with some success. The initial rate of flow of 30,000 barrels of oil a day was cut to 20,000 in July and is now down to 10,000.

Ideally, the company would probably like to see the sheer volume of the balls and mud contain the well by themselves.

But PEMEX has a second scheme at work. Far out in the Bay of Campeche, about a half mile on either side of the ring of fire, two drills are digging toward the spewing well. They are called directional or relief wells.

When the directional drills reach Ixtoc 1, technicians will pump globs of mud into the well. First, the idea is to force the oil away from the center of the well and replace it with circulating mud. Then the rushing mud will begin to rise up the Ixtoc 1 pipe, replacing the oil there, too.

Once the entire system is replaced with mud, and the oil at the center of the well has been forced away by the rushing mud, the pressures will be in balance—and the well can be capped.

PEMEX expects to make contact with its first directional well next month. When the second directional well will also penetrate is uncertain. But PEMEX may decide to go ahead with the tricky procedure before the second drill hits the mark.

Still being considered and apparently hush-hush is another contingency plan: a suction dome. A PEMEX official confirmed the company was thinking about using the procedure—but only if the directional wells fail.

The suction dome amounts to a sophisticated version of the fire now burning on the surface. It would burn off the spouting gas and absorb the gurgling oil.

"No firm decision has been made," the PEMEX official said.

For now, the company is pinning its hopes on the steel balls and the directional wells which daily move ever closer to Ixtoc 1.

Jesus Cabrero Serment, a PEMEX official who is a member of an oil-spill task force, complains that Ixtoc 1 is getting bad press.

The newspapers are making "noise" about Ixtoc, he says. They are convincing people that it is the oil from Ixtoc which is fouling beaches. He made those comments before heavy crude oil, reportedly from Ixtoc, soiled 50 miles of south Texas beaches, but the feeling behind his comments was strong and lasting.

He regards Ixtoc and PEMEX, more than the American beaches, as victims in this crisis.

He was particularly upset over early reports that tar balls, presumably from Ixtoc 1, were spotting south Texas and Mexican beaches. The tar balls, Cabrero says, come every year to the Mexican gulf port of Tampico. More than 100,000 barrels of oil naturally seep into the world's oceans each day. This, he suggested, was where the tar balls were coming from—not Ixtoc 1.

Chevron oil company officials in New Orleans were sympathetic. One acknowledged that tar balls are caused by natural oil seepage. In fact, the official said, early American explorers along the south coast used to gather them for caulking their boats.

Maybe so. But Cabrero's concern appears to reflect a deeper anxiety, a bunker mentality. At one point he flatly urged a reporter not to distort what he was saying, as if to imply that distortion is a problem PEMEX must deal with day after day. Indeed, another PEMEX official made a point of correcting a Mexican reporter about an inaccuracy he said had appeared in his article.

The defensiveness in the PEMEX camp is matched by bitterness in some sectors of the American camp. American technicians and shore workers appear to resent working for the Mexicans. They imply the job would be done better if Americans, not Mexicans, were running the show.

But even if those perceptions aren't true, the complaints have one thing in common: they portray the Mexican bosses as inept.

"The Mexicans," said one American technician, "are dumb." He recounted a tale of how Mexicans supposedly ruined a brake drum on a rig because they insisted on building the drum up instead of adjusting it. The highest-ranking American around, when told of the difference of opinion in the two camps, told his people that the Mexicans were paying, so do it their way, the technician said.

"This well should have been plugged some time ago," complained another American technician, this one with one of the two directional well teams. "It gets very discouraging sitting out here for 14 days . . . It's like they got a little bit of knowledge and they think they know everything."

He said that the directional drilling was held up for days at one point while a PEMEX supervisor on board awaited instructions from land on how to proceed.

Another American had a host of complaints: it was a mistake to pull up the drill when the mud began to drain off before the blowout; when Adair temporarily stopped the flow, too much downward pressure was applied by technicians aboard the platform, and it was that excess pressure which blew out the casing of the tube and caused the new leak; the drilling logs were inaccurate by U.S. standards, which means PEMEX isn't sure exactly where to find the crippled well.

The attitude of the Mexican oil men, he complained, is: "You do business with the Americans if you have to, but only if you have to."

A member of the PEMEX drill team, interviewed through an interpreter, was asked about all the more serious charges. In each instance he denied them. Without substantiation they remain only rumors.

Surprisingly, PEMEX received the heartiest endorsement from two American divers who had just made the long journey to the town morgue where their buddy was lying dead on a slab. The victim, Alan Anderson of Wisconsin, had been working near the blowout point about five feet off the seabed when he apparently was swept up in the surging oil. His lines became fouled and he reportedly died of the bends.

"I think PEMEX was doing everything they could," said one of his buddies. "It could have happened just as easily in the states."

What about all the rumors of incompetence?

Those kinds of complaints are common, the diver cautioned, in offshore operations. The Americans are far from home, mundane problems spark resentments, the rumor mill grinds away.

Each day that Ixtoc 1 gushes, more oil escapes into the Gulf. According to PEMEX, the amount which is taking a northwesterly ride on the Gulf Stream toward the United States is only a fraction of the 10,000 barrels expelled daily.

First there is the fire. That, PEMEX says, burns off about half the oil. Natural evaporation takes care of some of the rest. Oil booms near the well trap some more.

How much is left? One PEMEX official estimated that about 25 percent of the total, which means more than 450,000 barrels, has survived these processes. But that doesn't mean all this oil remains forever in the Gulf or finally wends its way to land.

According to PEMEX, two factors intervene, one natural, the other technological. After three months, one PEMEX official said, nature works its will on the oil, diluting much of it. In the interim, wherever the Mexican oil company spots a major slick, it douses it with chemicals from planes—to break up the mass and neutralize it.

Common sense suggests that even after all of these mitgating forces are taken into account, a huge amount of oil is still out there somewhere, going where the currents command.

So far, the U.S. coast appears to have escaped major damage.

But what about Ciudad del Carmen, the staging area for the whole operation? Obviously it is not a prime concern to anxious U.S. officials. They have other things to worry about. But this is a major shrimp fishing port. The sea is a source of livelihood for many in this city. And the shrimp are right out there in the Bay of Campeche.

So far it appears the shrimp fishermen have been spared. The catch is low, but it is always low this time of year, says a local shrimp processor. Moreover, he says, the oil has not floated toward the shrimp beds, for the shrimp thrive in waters to the south and east of the well. The currents are mercifully carrying the oil off to the north and west.

PEMEX officials say it is important to learn from the accident. This particular blowout does raise some technological challenges: how to fight a gusher without a drilling platform, how to tame a well when oil and gas are surging in great volume from a depth of more than 150 feet.

But the scheduling of future PEMEX drilling operations hasn't slowed. Mexico is sitting on billions of dollars of oil—and it appears determined to mine it.

Cabrero, asked what he thought about drilling off New England's fishing grounds, gave an answer that seemed to reflect Mexico's attitude toward its own oil exploration.

Yes, he agreed, it is important to learn from such accidents so the search for oil can be made safer. But, he insisted, current procedures are safe enough to allow the search to continue.

"Man," he said, "needs oil wherever he can find it."

Oil Hunger Warping A Quiet Fishing Town

Ciudad Del Carmen, Mexico.—More than 400 years ago the Spanish first came to this area on the steamy southern basin of the Gulf of Mexico. They came in ships in search of adventure and converts and gold.

Now there is a new wave of outsiders: officials of the state-run oil company, PEMEX, and oil technicians, many of them Americans. For them, too, there is adventure and gold—the black gold, oil.

They have transformed the tranquil Bay of Campeche into a coastal metropolis of high-rise oil rigs, and they have shattered the quiet of this once-peaceful island at the base of the Yucatan Peninsula.

Shrimp, not oil, used to be king here, as the city's giant shrimp statue proclaims.

Now, with the arrival of the oilmen, the city's economy and way of life have been changed and its facilities—hotels, taxis, telephones—strained to the limit.

Both the oil company and a local shrimp processor insist that the runaway Ixtoc 1 oil well 50 miles north of here has not polluted the shrimp beds. But the shrimp processor was the first to admit that the oil boom has accelerated inflation.

Guadalupe Morales, daughter of a local hotel owner, seems well enough off herself. But she says that since the oilmen arrived, everything has soared except the income of the poor.

Now, she says, when the poor go to market to buy meat, they return empty-handed. The butchers are charging them as much as they charge the wealthy outsiders.

Housing prices have also skyrocketed, says another local resident, placing a home out of reach for many.

The poor live in shacks on bumpy dirt roads dotted by puddles thick with algae. Skinny dogs trudge dizzily in the tropical heat. But the new wealthy class occupies fresh new homes with tended lawns and brightly painted fences and cheerful tropical plants, grouped around a lighted tennis court.

The outsiders, of course, also have their problems. This city clearly wasn't prepared for the onslaught of humanity in need of a place to sleep, transportation and means to communicate quickly with the outside world.

As a result, the wise outsider does not even think about flying down here, even if he's lucky enough to get a seat on the jammed flights, unless he's made reservations at one of the few local inns.

Two French women, here on vacation, made the mistake of just dropping in and ended up spending the night in a hotel lobby—waiting for sunrise and the bus out of town.

The taxis are also iffy. Sometimes they come in two minutes. Sometimes they don't come at all. Same with the long-distance telephone lines. Sometimes yes, sometimes no. One must be prepared to wait for hours to get a call through.

Some local people no doubt are prospering from the influx of people and money. But what must run through the mind of a local who gets around town on a motorbike—or even a horse-drawn cart—when he watches an American speed off in a pickup, leaving behind a cloud of dust and a community that probably will never be the same.

WILL IT HAPPEN HERE? OIL EXPERTS SAY NO—A QUICK, QUALIFIED NO

NEW ORLEANS, LA.—The U.S. government is poised to allow oil companies to drill for oil in southeastern New England's outer continental shelf. Could a Mexican-style gusher occur off New England, threatening the precious Georges Bank fishing grounds?

Not impossible, but highly unlikely, say a number of American experts.

"Nobody can say for sure," one New York-based oil company official observed. "All we can say is we've drilled over 20,000 wells offshore and we've had only four incidents," none of which has been as serious.

What's more, several Americans suggested that oil drilling off New England will enjoy two advantages over the Mexican experience: more favorable geologic conditions and superior American know-how.

Chevron oil company officials, interviewed in New Orleans, were careful to qualify their statements. But they said that U.S. oil companies just don't expect to encounter the great concentration of oil off New England which PEMEX, the Mexican national oil company, has found in the southern Gulf of Mexico.

As a result, even if a blowout occurred, less oil would gush into the sea, reducing the likelihood of serious environmental damage, the Chevron officials suggested.

One of the American divers dispatched to Ciudad del Carmen, Mexico, to do undersea patrolling near the raging well said he doubted New England will have to worry about a blowout like the one in the Gulf.

"The East Coast to me wouldn't be any problem," he said.

Oilmen are simply less likely to face "uncontrollable" pressures off Georges Bank, he said.

Drilling opponents have argued, on the other hand, that the Atlantic off New England suffers from perilous weather and currents.

A more detailed comparison of the Gulf and New England was unattainable. Chevron officials had tried to obtain details about the Ixtoc situation but were unable to do so. They also said their geologist was reluctant to discuss what he knew about the ocean floor off New England, lest he reveal secrets which competing oil companies could exploit when the bidding starts for the New England oil tracts.

Even so, the Chevron officials insisted that experienced drillers can cope with just about any drilling problem. And the oil company officials said their employees have the edge over the Mexicans in the experience department.

The U.S. government apparently agrees. In its final supplemental statement on the environmental impact of drilling off southeastern New England, the Interior Department compared the Mexican blowout to the great North Sea spill of 1977, noting that "human error" and "inadequate organizational and administrative systems to assure safe operations" figured in the North Sea accident.

Whether inexperience figured in the Ixtoc blowout is unclear. The Mexicans do not think so. Their government has already cleared PEMEX, attributing the accident to the fury of nature, not the negligence of PEMEX workers, according to one report.

But it is also true that foreign equipment and foreign labor play an important role in the oil operations in the Mexican Gulf. The fact that so much foreign assistance is needed suggests a lack of experience and capability on Mexico's part.

Jesus Cabero Serment, a PEMEX official and member of an environmental task force created to fight the spill, reminded that Americans have had their blowouts, too. Asked what he thought about the dangers of drilling off Georges Bank, he mused, "I don't believe there is a big danger. The sea digests everything. . . . The sea is the enemy—and the friend." ●

SOCIAL SECURITY ADMINISTRATION REVERSES POLICY AFFECTING HANDICAPPED INDIVIDUALS SERVING AS VOLUNTEERS IN ACTION AGENCY PROGRAMS

● Mr. CRANSTON. Mr. President, handicapped individuals who participate in the ACTION Agency-administered domestic volunteer programs—VISTA, RSVP, Foster Grandparents, and Senior Companions—have just won a major victory. The Social Security Administration has reversed a policy that might have deprived disabled individuals serving as volunteers in such programs of their SSI—supplemental security income—and related benefits, such as title XIX medicaid benefits, by interpreting activity in these volunteer programs as constituting "substantial gainful activity"—SGA—for purposes of determining eligibility for the disability benefits provided under title XVI of the Social Security Act.

On May 25, I wrote to Commissioner Ross to express my concern about the adverse impact of the Administration's policy interpretation on handicapped individuals involved in the ACTION Agency's volunteer programs. I recently received a most welcome response from Commissioner Ross advising me that the Administration had reversed its initial decision on this matter.

Mr. President, we often hear complaints about the insensitivity of big government to the needs of individual Americans. Commissioner Ross' decision in this matter belies that complaint. His decision reflects a sensitivity and openness that deserves our thanks and praise.

Mr. President, so that my colleagues can be aware of the details of this issue, I ask that my letter to Commissioner Ross and his September 11 reply be printed in the RECORD.

The material follows:

U.S. SENATE,
Washington, D.C., May 25, 1979.

Commissioner STANFORD G. ROSS,
Social Security Administration,
Baltimore, Md.

DEAR MR. COMMISSIONER: I am writing to express my concern and seek information with respect to the Social Security Administration (SSA) interpretation of the substantial gainful activity (SGA) requirement under title XVI of the Social Security Act insofar as such interpretation relates to the participation of handicapped individuals as volunteers in programs administered by the ACTION agency.

As you are aware, the ACTION agency is responsible for administering volunteer programs and encouraging volunteer efforts. Its volunteers, in particular those in the VISTA program; contribute much to our efforts to eliminate poverty and poverty-related human, social, and environmental problems, and receive only a minimum living allowance and readjustment stipend in return.

I understand, however, that efforts to encourage certain handicapped individuals—those currently receiving assistance under title XVI of the Social Security Act—to serve as volunteers are being hampered by SSA's interpretation that such volunteer activity by such handicapped individuals constitutes SGA for purposes of determining eligibility for the disability benefits provided under such title.

In order to remove certain disincentives to participation in ACTION Agency volunteer programs, section 404(g) of the Domestic Volunteer Service Act (Public Law 93-113) provides that volunteer "payments" under the Act to individuals who were receiving assistance or services under any other governmental program before enrolling as volunteers shall not reduce or eliminate the level of or eligibility for the continuation of such assistance or services.

Because activities are involved in the SGA test—in addition to "payments"—, section 404(g) has been interpreted as not protecting handicapped individuals from reduction or elimination on the basis of SGA of the level of or eligibility for title XVI coverage. The result is, of course, that for certain handicapped individuals, participation in VISTA would cause the elimination of or reduction in title XVI benefits, as well as other vital supportive services (such as title XIX medicaid benefits). I think that this is a very absurd result—and one totally inconsistent with the purposes underlying section 404(g) of Public Law 93-113.

Because of my concern about this situation, I would appreciate receiving your response to the following questions:

(1) What steps if any, have been taken by SSA, in conjunction with the ACTION agency, to resolve this problem administratively?

(2) Does the Administration intend to recommend an amendment (either to the Domestic Volunteer Service Act of 1973 or the Social Security Act) to deal with this problem? If not, why not?

(3) What problems, if any, would be entailed if the Domestic Volunteer Service Act of 1973 were amended to protect certain handicapped individuals from reduction or elimination of the level or eligibility for title XVI? What would be the approximate cost of such an amendment for fiscal year 1980? 1981? 1982?

Thank you for your attention to this matter, and I look forward to hearing from you at your earliest convenience.

With best wishes,

Sincerely,

ALAN CRANSTON.

SOCIAL SECURITY ADMINISTRATION,
Baltimore, Md., September 1, 1979.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: Please accept my apology for the delay in further responding to your inquiry on behalf of supplemental security income (SSI) recipients who are volunteers in ACTION agency programs.

I share your concern about the effect participating in ACTION programs could have on a volunteer's SSI payments and other supportive services. Wherever possible, I agree that we should do whatever we can to encourage the handicapped to participate in these programs. Consequently, we will no longer evaluate the activities and payments of ACTION volunteers to determine whether substantial gainful activity exists and are revising our instructions accordingly. This policy will apply to title II as well as to title XVI of the Social Security Act; however, it will apply only to those volunteers explicitly mentioned in Public Law 93-113. The protection does not cover workers employed to manage such programs nor volunteers for any work they may undertake in activities outside the specified programs.

I appreciate your bringing this matter to our attention.

Sincerely,

STANFORD G. ROSS,
Commissioner of Social Security.●

BEEF IMPORTS

● Mr. BAUCUS. Mr. President, on September 26, the Subcommittee on International Trade of the Finance Committee, on which I serve, held a hearing to consider S. 55 and other pending meat import legislation.

The hearing was particularly timely since the House Ways and Means Committee has reported H.R. 2727. I would hope that both Houses can act quickly to enact commonsense legislation to control meat imports.

The Meat Import Act of 1964 simply does not provide adequate protection for the Nation's cattle producers. Presently, imports disrupt the domestic livestock industry, contributing to cycles of extremely low prices that bankrupt ranchers and high prices that enrage consumers.

MEAT IMPORT ACT OF 1979

I have joined Senator BENTSEN in introducing S. 55. I believe S. 55 constructively amends the Meat Import Act; and I strongly support this legislation. This bill would establish a countercyclical import formula, restrict the President's authority to suspend quotas, and extend quotas to cover certain processed meats.

Adopting such a formula is a commonsense approach to dealing with meat imports.

The countercyclical formula is important to both producers and consumers. Incredibly, under present law, imports increase during periods of herd liquidation when domestic supplies are excessive.

At these times, when we need imported meat least, imports drive cattle prices far below ranchers' costs of production.

During the rebuilding phase of the cattle cycle, present law restricts imports. Usually when domestic supplies are short there is intense political pressure on the administration to suspend quotas. Thus, producers receive little protection from imports.

The countercyclical formula will reverse this process so that imports increase when domestic supplies are short and decrease during periods of abundant domestic supplies and low prices.

The countercyclical formula should stabilize cattle markets to the benefit of both producers and consumers.

In my view, the most important provision of S. 55 is that it gets the President out of the cattle business.

In the 14 years that the Meat Import Act has been in effect, the President has suspended or increased quota levels six times.

These Presidential suspensions seriously disrupted the domestic cattle industry without providing price relief for consumers.

In June of 1977, the President increased meat imports by 200 million pounds. As a result, domestic prices quickly plunged 20 percent.

However, there was no corresponding drop in consumer prices. In fact, consumer prices increased 2½ percent during June.

With a countercyclical formula in effect, there is no need for Presidential authority to suspend quotas.

OTHER NEEDED LEGISLATION

In addition to the provisions of S. 55, other legislation to control meat imports is needed. First, the loophole in present law that allows certain canned, cooked, and processed meat to enter the country irrespective of import quotas should be eliminated.

Second, the flow of live cattle from Canada and Mexico should be controlled. Large numbers of live cattle that sporadically enter the United States severely disrupt local markets. Some means must be devised to prevent these price-depressing disruptions that adversely affect ranchers in the border States.

In addition, our system of inspecting and labeling imported meat needs to be improved. I have introduced S. 1038, to require imported meat to meet the same inspection and labeling standards as domestic products and to be labeled as imported. This legislation is important to provide equitable treatment for domestic producers and to protect consumers from potentially unsafe foreign food products.

Mr. President, all cattle producers have ever requested from the Federal Government is a square deal. The legislative proposals I have discussed provide that kind of a square deal.●

LOS ANGELES ATHLETIC CLUB CELEBRATES 100TH ANNIVERSARY

● Mr. CRANSTON. Mr. President, September 1979 is a historic month in the rich and distinguished heritage of the city of Los Angeles. Ninety-nine years ago, in September 1880, 40 young men gathered together in a law office in the then small town of Los Angeles to form the Los Angeles Athletic Club. The purpose of the new organization, then as now, was to support amateur athletics and promote physical fitness.

In the intervening 99 years, the club has achieved a distinguished record of accomplishment that reaches beyond the boundaries of Los Angeles to affect the history of athletics throughout the world.

Under the leadership of William May Garland (1919–37), a Los Angeles real estate executive, the club became an active and vital force in the Olympic movement and was highly instrumental in obtaining the 1932 Olympic Games for Los Angeles. Not content just to secure the games for the city and country, the club and its members were an integral part of the organization and operation of the 1932 games.

Following in that tradition, it should be noted that the Los Angeles Athletic Club and its members were also highly visible in the successful movement to bring the 1984 games back to the United States, and Los Angeles. Four prominent members of the club—including chairman of the board Frank G. Hathaway—have been appointed to the Los Angeles Olympic Committee responsible for the 1984 Olympiad.

Many Olympic competitors have performed under the Los Angeles Athletic Club banner, including swimmer Buster Crabbe and yachtsman Owen Churchill in the early part of the century and more recent champions like shot-putter Parry O'Brien and diver Pat McCormick.

Mr. President, the club has also been involved in numerous community activities and public service projects. In many ways, its history is interwoven with the people, events and lifestyle of Los Angeles. Its members include representatives of the business, government, civic, and social life of Los Angeles as well as prominent people in the athletic world.

Mr. President, I thank you for this opportunity to honor the Los Angeles Athletic Club on the commencement of its 100th year of existence.●

THE PRIVACY PROTECTION ACT OF 1979

● Mr. BAUCUS. Mr. President, the press, constitutional scholars and concerned citizens have expressed much dismay with the 1978 Supreme Court decision, Zurcher against Stanford Daily. In that case the Court held that the constitutional restrictions applying to search warrants do not prohibit the police from forcibly entering and searching newsrooms and other private places for documents believed to be in the possession of a person not suspected of criminal activity.

This decision raises the possibility of abusive invasions by law enforcement officials into the security and privacy of newsrooms, other offices and citizen's homes. The Associated Press Bureau in Helena, Mont., was the target of such an intrusion just last year. The framers of the Constitution had their attention focused on the abuses of the power to search private places and to seize confidential papers. The Bill of Rights reflects the knowledge that an unrestricted power of search and seizure would stifle freedom of expression and personal privacy. It was a vivid memory of abusive searches that greatly influenced the adoption of the fourth amendment of 1790.

In modern times, the scope of privacy afforded by the fourth amendment to innocent third parties had been largely undefined. However, the Supreme Court's recent decision in the Stanford Daily case substantially limits whatever degree of privacy was thought to have existed for innocent citizens.

In 1978, the Congress reacted to the Court's decision with numerous bills designed to preserve freedom of the press and to strengthen the privacy rights of third parties. The constitutionality of such congressional action is not at issue. The Supreme Court in its opinion encouraged enactment of statutory protections against potential abuses to the right of privacy.

In my judgment, every American should have an expectation that their confidential records are private and therefore protected from extensive, disruptive searches by the government and its agents.

For these reasons, I joined Senator BAYH last week in cosponsoring S. 1790, the Privacy Protection Act of 1979. Essentially, this bill strikes a sensible balance between the individual's right to privacy and society's interest in investigating and prosecuting criminal behavior.

The provisions in S. 1790 that require authorities to use a subpena first when the materials sought are believed to be in the possesion of a third party would not hamstring the FBI or other law enforcement personnel. As a member of the Judiciary Committee, I am deeply involved in the consideration of the FBI Charter bill. I believe it is essential that enforcement officials have adequate tools to effectively investigate criminal activity. But this can be accomplished without disregard and erosion of our basic right to privacy.

I believe the legislation's carefully defined exceptions to the "subpena first" rule permitting use of search warrants against third parties preserve the ability of law enforcement officials to obtain documentary evidence.

For me the question is not whether authorities should be allowed access to confidential records relating to a criminal investigation. Rather the only question is how private documents or materials should be obtained by the Government.

In my opinion, freedom of the press and the security of individual privacy are fundamental to a democratic society. Respect for the first and fourth amendments requires congressional response to the possibility of subjecting the confidential records of innocent journalists, writers, doctors, lawyers, business persons, and ordinary citizens to abusive Government searches.

This legislation provides a reasonable framework for protecting the interests of society in enforcing our criminal laws. It is a minimum assurance to those not suspected of criminal involvement that their personal records are generally protected from unwarranted intrusions.•

A CLARIFICATION FOR THE RECORD CONCERNING VIETNAM VETERANS

• Mr. CRANSTON. Mr. President, an article in the September 26 Washington Post, headlined "Study Says Vietnam Vets Face Difficulty," discussed a preliminary report from the Center for Policy Research to the Veterans' Administration. A copy of that report was provided to me as the chairman of the Committee on Veterans' Affairs by the Administrator of Veterans' Affairs, Max Cleland, in a letter dated September 16, 1979.

Mr. President, I would like to clarify for my colleagues some points that may not have been clear in the Post article's description of the study and its ramifications.

Although the article noted that the study was a preliminary one, the article did not give adequate account of the very tentative nature of the study. The conclusions in this initial, preliminary phase of a four-part study—which is required under a provision of Public Law 95-202 I authored, the results of which will not be available until October 1980—are based on a sample taken in 1976-77 of only 380 persons in a very limited geographic area. Of this very small sample, only half of the sample population—or 190 persons—served in the Armed Forces during the Vietnam era and of these, only 82 actually served in the Vietnam theater. Clearly, such a small sample would not be likely to yield results with general validity for either veterans of the Vietnam era or combat veterans of the war in Vietnam—a point noted by the authors of the study who stated: "It is important to emphasize that the findings reported here are tentative" and "because of the relatively small sample size and the need for multivariate controls, some of the findings only approach statistical significance."

The principal focus of the Post article seems to be that the information in this report, particularly as it relates to the readjustment problems of Vietnam veterans, suggests that the administration is not aware of the dimensions of the problem. This suggestion is not correct. Leaving aside the statistical unreliability of the findings as they relate to service in Vietnam—a point clearly made by the study's authors when they noted that they could not "make any categorical statements about the effects of military service during the Vietnam war until we have analyzed thoroughly the data on our respondents' early life experiences and how these affect present day adjustment"—it is difficult to understand how anyone familiar with issues relating to Vietnam veterans could overlook the 9-year effort to authorize the VA to provide readjustment counseling to such veterans that culminated with the enactment earlier this year of the Veterans' Health Care Amendments of 1979, legislation containing such authority, which was signed into law this June as Public Law 96-22. From the beginning of that effort, in 1970, there has been a recognition that many Vietnam veterans have experienced significant readjustment problems; and the suggestion that the problem is deeper than VA Administrator Max Cleland has acknowledged does not take account of his personal effort from 1969, when he was newly discharged from a VA hospital and appeared before a Senate subcommittee I chaired to call attention to the need for special assistance for Vietnam veterans, until the present, when, as Administrator of Veterans' Affairs, he is working so very hard to assure the full and timely implementation of the new VA program of readjustment counseling.

The article likewise ignores the efforts of the administration and the Senate Committee on Veterans' Affairs to provide for a means of meeting the educational and vocational needs of unskilled, unemployed, and educationally disadvantaged Vietnam-era veterans through an extension of the 10-year delimiting period targeted on those seeking apprenticeship or on-job training opportunities or, in the case of Vietnam-era veterans without high school diplomas, seeking enrollment in secondary education or vocational training programs. This initiative, first proposed by the President last October, as a means of helping those Vietnam-era veterans most in need of assistance, is included as part of S. 870, the proposed GI Bill Amendments Act of 1979, as reported from the Veterans' Affairs Committee on September 7, and now pending on the Senate calendar.

The article in question does reinforce the critical need to provide for full and rapid implementation of the new readjustment counseling program. In this regard, I have recently written to the Director of the Office of Management and Budget, urging his support to provide the necessary personnel to the VA to assure the "full and expeditious implementation of Public Law 96-22." Mr. President, I shall submit for the RECORD at the conclusion of my remarks the text of that letter as well as the Administrator's September 16 letter.

CONCLUSION

Mr. President, in closing, let me reaffirm my total commitment to addressing the needs of Vietnam-era veterans, particularly the needs of those who have yet to make a successful transition from their military service back to civilian society. The preliminary data in the VA study suggest that there are real needs in this regard—something I have long believed and long sought to address—and I will certainly continue my work to see that these veterans receive all possible assistance.

The material follows:

Committee on Veterans' Affairs,
Washington, D.C., Aug. 23, 1979.
Hon. James T. McIntyre, Jr.
Director, Office of Management and Budget, Washington, D.C.

Dear Jim: I am writing to add my full support to the views expressed by Representative Ray Roberts, Chairman of the House Committee on Veterans' Affairs, in his August 3, 1979, letter to you concerning Administration plans to provide additional staff to the Veterans' Administration's Department of Medicine and Surgery (DM&S), especially as Chairman Roberts addressed the need for additional personnel to implement the Veterans' Health Care Amendments of 1979, Public Law 96–22. I am vitally concerned that the Administration provide full support to the VA, including authorizing an additional 450 full time equivalent employees (FTEEs), to carry out the full intent of Congress when P.L. 96–22 becomes effective on October 1, 1979.

As you know, the Senate, during consideration of H.R. 4394, the HUD-Independent Agencies Appropriations Act for fiscal year 1980, accepted my amendment to add $25.1 million to the VA medical care appropriation to assure the funding necessary to implement P.L. 96–22, including funds sufficient to hire 450 additional FTEEs (346 to staff the readjustment counseling program for Vietnam-era veterans and 104 to support the pilot preventive health program). However, the conferees on H.R. 4394, in the Conference Report now pending, reduced the $25.1 million add-on to $12.5 million while continuing to include $76.4 million over the President's budget specifically to fund an additional 3,800 FTEEs "only for existing programs".

It is clear that the Congress intends these 3,800 additional personnel, ceilings for which I trust will be released as soon as the Act is enacted, to offset losses previously experienced throughout the VA health care system, especially those losses resulting from the Administration's refusal to release funds appropriated last year for additional DM&S staffing, and does not intend any part of the 3,800 FTEEs to be used to implement P.L. 96–22. To provide personnel support for the new programs authorized by that law by withdrawing it from other VA functions would also be totally inconsistent with Congressional intent.

I was pleased, therefore, to note Chairman Robert's statement that Mrs. Woolsey of your staff reaffirmed to House Veterans' Affairs Committee staff members the Administration's commitment to allocate to the VA the necessary funding to support "increased medical care and medical research personnel" as required by new Congressional enactments. Clearly, the Veterans' Health Care Amendments of 1979 establishes new programs and entitlements that require such increased support. The President's strong commitment to the readjustment counseling program has been most reassuring to me, and it would be inexplicable if the additional staffing and funds were not forthcoming to implement this mandatory program fully and effectively. Similarly, I believe that the pilot preventive health care program established by the legislation may lead to important improvements in the provision of VA health care services and should be given all support necessary to assure a prompt start and meaningful evaluation.

I urge you to allocate 450 additional FTEEs to the VA and to take all other steps necessary (such as approving submission of a reprogramming notice to provide the remaining $12.6 million) to assure full and expeditious implementation of P.L. 96–22.

With warm regards,
Cordially,
Alan Cranston,
Chairman.

Veterans Administration,
Office of the Administrator of
Veterans Affairs,
Washington, D.C., Sept. 17, 1979.
Hon. Alan Cranston,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: You will recall that the Veterans Administration was directed to sponsor a major, independent effort to determine the degree to which veterans of Vietnam, and other veterans who served during the period of that conflict, have succeeded in reintegrating into civilian life. This Readjustment Study comes under section 304(b)(1) of Public Law 202, 95th Congress. Concurrently we have arranged for the requested data collection and analysis of the utilization of educational benefits and the attainment of educational objectives. A final report, covering all of the various aspects of the study, is scheduled to reach you in September 1980.

Today we are pleased to submit to you two working papers, prepared by the Center for Policy Research under contract with the VA. These papers represent the initial analysis of data collected in 1976–77 from 190 veterans and a control group of 190 nonveteran peers living in the northeastern United States. More specifically, the data were drawn from three sites in the New York City area: Bridgeport, Brooklyn and Westchester County. Information obtained in the southern, midwestern and far-western United States has not as yet been similarly analyzed. Because of the small sample to date, the authors' caution against drawing inferences as to conditions nationwide based upon these preliminary findings. The data reflect work in progress and the contractor considers it prudent to caution against assessing cause-effect relationships to them.

We note these limitations, despite our confidence in the work of the contractor and the eventual importance of the final report, because we want to share with you the results of the work to date.

The other aspects of the study are also progressing. Within the VA we are extracting certain educational data, while others, especially the utilization of educational benefits, are being surveyed by the Bureau of the Census. To safeguard the independent nature of the inquiry, there is being retained an independent research organization to analyze the data and to formulate such analyses as may be justified by the data.

We continue to consult the Education and Rehabilitation Advisory Committee on the progress of this study which is complex and explores many facets of the readjustment of veterans.

We look forward to transmitting the final report to you next September.

Sincerely,
Max Cleland,
Administrator.●

THE FUEL OIL GUARANTEE ACT

● Mr. DURKIN. Mr. President, I am here today to cosponsor and pledge my full support for the prompt passage of the Fuel Oil Guarantee Act recently introduced by Senator Dole. Almost 80 percent of the homes in New Hampshire and New England are heated by home heating oil. Homeowners throughout the region fear they will be left out in the cold this winter because of the prohibitively high price of home heating oil and kerosene.

However, a new crisis has quickly materialized that demands our immediate action. The major multinational oil companies are limiting the credit they extend to independent small business oil dealers in New Hampshire. This could not only result in the collapse of the oil distribution system in New Hampshire but it will also force the failure of many small business oil suppliers and raise even further the price of home heating fuels.

The local independent oil supplier is on the brink of bankruptcy. The major multinational oil companies have greatly shortened the credit period for the local dealers and the local supplier is caught in the middle. Because of this year's exorbitant energy costs, the already overburdened consumer is having difficulty meeting prompt payment and the small local supplier simply does not have the cash flow to meet the major multinational oil companies' demands. The Fuel Oil Guarantee Act would establish a guaranteed loan program under the Small Business Administration to meet the needs of small fuel oil dealers. This will not only give the small business supplier some much needed financial breathing space, but it would also protect New Hampshire residents who have already paid for this winter's oil through budget payments to their local fuel oil dealer. If the local dealer goes out of business everyone loses. And the hard-working homeowner will be left with an empty oil tank and an empty wallet.

Another big advantage to this program is that it will cost the taxpayer next to nothing. The administrative costs of the program will be covered by a small fee charged to the local dealer, who in turn will benefit from the assurance of available loans to pay for his product. This loan will be given at an interest rate slightly lower than the current market rate, and the Small Business Administration will take the necessary precautions to prevent loan defaults.

The heating season in New Hampshire is already well underway. This legislation needs to be enacted immediately to help prevent an economic disaster this winter for consumers and small business oil suppliers alike. I urge my Senate colleagues to join me in gaining prompt passage of this bill.●

S. 1308, PRIORITY ENERGY PROJECT ACT: A POWER GRAB AGAINST STATE AND LOCAL GOVERNMENTS

● Mr. ROTH. Mr. President, as ranking minority member of the Intergovernmental Relations Subcommittee which oversees Federal-State relations, I believe it is my duty to inform each of my colleagues that the fundamental rights of their State and its citizens acting through their local governments are in grave jeopardy under the Energy Mobilization Board bill, S. 1308 reported by the Energy Committee this week.

The Energy Committee bill empowers the Energy Mobilization Board to substitute its own decision for the decisions of State and local governments on such strictly local issues as zoning, land use planning, and building permits, S. 1308 would permit the Federal Government to ride roughshod over local zoning boards, county commissions, city councils, and State environmental agencies in order to get an expedited decision on energy projects. As a principal advocate of sunset and regulatory reform legislation, I am convinced the Federal bureaucracy—not the States—is the major cause of energy project delays. The States have already made the commitment to expedite priority national energy projects on the State and local level.

I am a principal sponsor of S. 1806, a bill which creates an Energy Mobilization Board to expedite Federal, State, and local energy project decisions while at the same time preserving the powers of States and local governments. Specifically, our bill allows the Board by expedited court action to order a State or local government to make an energy project decision on time. Our bill does not allow the Board to substitute its judgment for the constitutionally protected judgment of State and local governments on strictly local matters.

The National Governors Association, the National Association of Counties, the National League of Cities, the Conference of Mayors, the National Conference of State Legislatures, and the National League of Women Voters, have endorsed our bill and oppose the Energy Committee bill. I submit for the RECORD copies of their letters of endorsement.

The letters follow:

NATIONAL GOVERNORS' ASSOCIATION,
September 28, 1979.

Hon. WILLIAM V. ROTH, Jr.
Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR ROTH: The nation's Governors are deeply troubled by several provisions contained in S. 1308, the Senate Energy Committee's version of the Energy Mobilization Board. These provisions raise profound constitutional questions and threaten to undermine state and local decision-making processes. Specifically, we are concerned about:

First. Sec. 17(a) which empowers the EMB to set decision deadlines for state and local governments without obtaining the agreement of affected state and local agencies. We question the constitutional enforceability of such deadlines for state and local decisions unless they are arrived at through a "cooperative agreement" approach such as is used currently by the states and the Department of Interior in the federal coal management program.

Second. Sec. 21(a)(1) which empowers the EMB to intervene and make decisions in lieu of a state or local agency that has missed a decision deadline. This provision threatens to disrupt the basic system of federalism and raises serious constitutional issues that are certain to be litigated by the states. Reliance solely on the court order approach in Sec. 21(b)(1) would avoid these problems while offering effective enforcement.

Third. Sec. 23 does not insure adequately that the exercise of state water laws will be exempt from EMB interference. Decisions on the appropriation of water are quasi-judicial decisions and as such cannot and should not be subject to the Project Decision Schedule or the enforcement mechanisms of this bill.

Fourth. Sec. 36 allows the EMB open-ended authority to waive any statute passed after commencement of construction of a designated energy facility. On matters of such gravity, only the Congress should make the decision on a case-by-case basis. Such broad waiver authority should not be granted to the EMB.

Given these serious reservations concerning S. 1308, the National Governors' Association supports the passage of S. 1806, the Ribicoff-Muskie-Roth substitute as the alternative that best meets our concerns. I urge you to support S. 1806.

Sincerely,

RICHARD D. LAMM,
Chairman, NGA Committee on Natural Resources and Environmental Management.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., September 28, 1979.

Hon. ABRAHAM RIBICOFF,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR RIBICOFF: The National Association of Counties supports the concept of an Energy Mobilization Board and supports expediting the federal permitting process. We feel that state and local governments should work in close consultation with a federal board to develop concurrent reviews, joint hearings, consolidated data collection efforts and other methods of reducing "red tape."

While we support an Energy Mobilization Board we feel very strongly that state and local governments should retain authority over the final determination of decision deadlines as it relates to our laws and procedures. In addition, we feel that we should retain our authority over siting and permitting decisions without fear of federal preemption. Consequently, we oppose any structure which would allow an appointed federal body to substitute its judgment for that of state and local decisionmakers.

We have reviewed S. 1806 as introduced by yourself and others and we feel that of the Energy Mobilization Board proposals currently under consideration by the Senate it strikes the best balance between protecting state and local prerogatives while insuring that decisions will be made quickly.

We commend you for your efforts in this area and offer our assistance on behalf of passage of this or a similar proposal.

Sincerely,

BERNARD F. HILLENBRAND,
Executive Director.

NATIONAL LEAGUE OF CITIES,
Washington, D.C., September 27, 1979.

Hon. ABRAHAM RIBICOFF,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR RIBICOFF: On behalf of the 15,000 municipalities represented by the National League of Cities, I would like to express our strong support for your bill, S. 1806, the Energy Mobilization Board Act of 1979.

We believe your bill is much preferable to S. 1308 as reported by the Senate Energy and Natural Resources Committee.

The central justification for an Energy Mobilization Board (EMB) is to force authorized local, state and federal decision makers to act expeditiously. We believe your bill does this. And S. 1806 does it without running afoul of the historic and constitutional rights of state and local governments.

By permitting the EMB to set enforceable schedules and deadlines for local, state and federal decision makers, your bill guarantees that decisions on priority energy projects will be made in a timely manner by the duly authorized decision makers. By requiring that all decisions be made within a year of project application, your bill guarantees an expeditious decision making process at all levels of government. And by allowing the EMB to monitor decision making schedules and to obtain court orders forcing compliance when the schedule is violated or final deadlines are missed, your bill guarantees effective and efficient enforcement while avoiding serious constitutional problems that could embroil the EMB in litigation and keep it from exercising its power.

Equally important from the cities' point of view, your bill envisions a cooperative process for expediting priority energy projects. Municipal officials want to cooperate in the national energy effort. They welcome the opportunities your bill presents for involvement. Requirements in your bill, such as consultation with state and local officials in designating priority projects, will encourage a cooperative and workable relationship among all levels of government.

Unfortunately, this rational approach to the EMB is missing from S. 1308, the Senate Energy Committee's bill. Many municipal officials have indicated to NLC their anxiety about just the kind of powers that S. 1308 grants the EMB. We are strongly opposed to Senate passage of S. 1308 as reported by the Energy Committee.

Most objectionable to local governments is the power which S. 1308 gives the EMB to override substantive requirements of laws enacted after construction has begun on a priority energy project. Such unprecedented power for a federal agency is very probably an unconstitutional infringement of local and state rights. It will undoubtedly be challenged in court by a number of parties, which would hinder EMB from functioning effectively for some time.

The power of the EMB to waive laws is also unchecked by any requirement for presidential or congressional concurrence. This would leave local officials without any recourse or appeal from a decision by the EMB to waive a local ordinance.

While S. 1308 limits substantive waiver to future laws, this is nevertheless a major incursion on the rights of local government. Many of the projects designated as priority will be new and untested technologies. They may cause new and unforeseen problems. To impair a local government's ability to deal with those problems, as S. 1308 does, is an unconstitutional intrusion on the right of local government to protect the health and welfare of its citizens.

Another major objection of local governments to S. 1308 is that it permits the EMB to make decisions under state and local law in place of duly authorized local and state officials. If local decision makers fall behind schedule, S. 1308 allows the EMB to substitute its judgment on matters of local law for that of local officials. Not the least of the problems with this provision is that it would necessitate another large bureaucracy with the expertise to make decisions based on local, state and federal law.

Municipal officials rightly view the EMB legislation as one of the most significant changes in intergovernmental relations in recent memory. An EMB with the powers in S. 1308 may return to haunt congress members who voted for it in good faith, not realizing the impact of such sweeping power on local communities and states. We think it is the prudent course for the Senate to avoid such drastic and unpredictable legislation as S. 1308.

Instead, we sincerely hope the Senate adopts your substitute, S. 1806, a bill that permits the Energy Mobilization Board to effectively and efficiently expedite the siting and construction of energy projects that are vital to the nation's energy program.

Sincerely,

ALAN BEALS,
Executive Director.

U.S. CONFERENCE OF MAYORS,
Washington, D.C., September 28, 1979.
Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The U.S. Conference of Mayors is pleased to support your proposed legislation S. 1806, the Energy Mobilization Board Act of 1979.

The various proposals for creation of an energy mobilization board to move energy projects more expeditiously have been of great concern to Mayors for several months. Naturally, Mayors have viewed them closely both because of environmental issues and because of some trepidation for the integrity of local laws, both procedural and substantive.

S. 1806 meets many of these concerns directly, while still creating a mechanism which can get important projects going. Your proposal would keep all decisions within a one year after application framework, empower the EMB to monitor decision-making schedules, obtain court orders forcing compliance when the schedule is violated, and require consultation with state and local governments, among its most important components. These elements can be supported by Mayors who are intensely interested in playing an important part in reducing the nation's dependence on foreign energy sources.

S. 1308, the Energy Mobilization Board version developed by the Energy and Natural Resources Committee, also would substantially enhance the nation's ability to proceed with dispatch in the area of new energy development. However, it has several flaws, including waivers of substantive requirements of laws enacted after construction of a project begins, waivers which are unchecked by any requirements for presidential or congressional concurrence, and the ability of the EMB to make decisions under state and local laws in place of duly authorized state and local officials.

On balance, the U.S. Conference of Mayors believes that your approach is preferable to the current version of the Energy and Natural Resources Committee, and that both are preferable to the bill reported by the House Interstate and Foreign Commerce Committee. We believe that at this point the most productive approach is for you, Chairman Jackson and Chairman Randolph of the Environmental and Public Works Committee to work towards an EMB vehicle which could accommodate all interests. This would be useful both in ensuring an effective Senate version of the EMB and a strong Senate bill to meet the expected unacceptable House bill.

On behalf of the U.S. Conference of Mayors, I thank you for your efforts in this area to date and look forward to working with you in the future towards a workable energy policy.

Sincerely,

JOHN J. GUNTHER,
Executive Director.

NATIONAL CONFERENCE OF STATE LEGISLATURES,
Washington, D.C., September 28, 1979.
Hon. ABRAHAM RIBICOFF,
Chairman, Senate Governmental Affairs Committe, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR RIBICOFF: As President of the National Conference of State Legislatures, I want you to know our position on the legislation soon to come before the Senate on the Energy Mobilization Board.

The National Conference strongly supports the effort to speed the decision-making process for critically-needed energy facilities. The United States must take immediate steps to reduce its dependence on foreign oil, and we can ill afford the time it now takes to bring most major energy facilities into operation. Clearly, there is a pressing need to expedite and coordinate the federal, state and local decisions on such facilities.

At the same time, however, we must take care that we do not create an agency that would only add to delays by imposing more cumbersome procedures fraught with more opportunities for litigation. The National Conference is concerned that the powers proposed for the Mobilization Board in S. 1308, the Energy and Natural Resources Committee bill, could well have just this effect.

One of the most troublesome aspects of S. 1308 is the authority it gives the Board to make decisions in lieu of state or local agencies that fail to meet Board-set decision schedules. As a practical matter, substantial momentum could be lost during the time it would take the Board to complete the decision-making record of the state or local agency, decide what information is most important, and review existing state or local statutes and case law to determine how they should be applied. Secondly, the Board would probably be more subject to lawsuits because it would be perceived as a single-purpose agency whose primary mission is to facilitate energy projects, not to observe the spirit of state and local laws.

Not even state water rights laws would be insulated from these problems under S. 1308. The bill does exempt these laws from waivers by the Board where new state or local requirements are imposed after construction of a critical facility has begun. But there is nothing explicit in either the bill or the Committee report to prevent the Board from making decisions in place of a state water resources agency if the agency fails to meet its decision timetable.

This could play havoc in Western states. There are a number of areas where state water agencies cannot make decisions until claims on disputed water rights are adjudicated, and some of these adjudications involve several hundred separate claimants. Would it really speed the decision-making process for the Mobilization Board or a federal court to assume responsibility for such cases, some of which have been under state adjudication for many years?

A more important question is whether the lean, fast-moving entity originally conceived by its authors could even pretend to know the intricacies of the many state and local functions it might seek to displace. Simply to assume the responsibilities of a state or local agency, the Board would need substantial expertise to assure that its decisions are judicially sustainable. The likely result is thus not timely action but a redundant bureaucracy absorbed in defending itself against the unnecessary litigation its every action makes possible. Far better to let the state or local agency make the decision itself, under court order if necessary, than to create an untried entity with powers that tend to make self-justification its primary reason for existence.

A second area of difficulty arises from the authority given the Board to waive state and local laws adopted after construction starts on a priority facility. We understand the apprehension that a change in the rules after this point could severely affect the timely and cost-effective completion and operation of such a facility, but we question the presumption on which this concern is apparently based: that state and local governments would impose new requirements simply to obstruct a critical facility. Studies for the Nuclear Regulatory Commission and the Pacific Northwest Regional Commission have shown that in an overwhelming majority of cases, federal agencies, not state or local, have been the primary cause of delay.

The National Governors' Association also found in a recent 36-state study of power-plant siting that the average state permit processing time is twelve to eighteen months, and eighteen states have consolidated their decisionmaking processes for energy facilities. Surely if states were so hostile to energy development they would not be so interested in the timeliness of procedures for approving it.

Despite the sparse evidence for state intransigence, S. 1308 would give the EMB unprecedented power to annul state and local laws. This power itself raises major constitutional questions about state sovereignty and due process, and could well draw the Board into more litigation. New energy technologies will almost certainly develop unanticipated problems, and state and local governments should retain their rights to protect public health and safety. Yet the Board's decisions to waive these rights would be subject to the procedures designed to protect the facility, not the rights. The Board would have to consult the affected state or local agency and find that the waiver would not "unduly endanger public health or safety," but there is no requirement for public participation, no requirement for a formal record, not even a commitment to impose alternative measures to reduce public risks. A waiver would take effect unless Congress "explicitly prohibits" it, but the bill says nothing about the form of this prohibition, or when it must be considered, or whether it must be considered at all. These are hardly adequate safeguards against such a far-reaching and constitutionally questionable intrusion into state and local prerogatives.

For all of these reasons, NCSL strongly opposes the adoption of S. 1308 in its present form. Given its sweeping powers and the problems that could arise from them, problems addressed only vaguely or not at all, this bill could be a major setback to the intergovernmental harmony so essential for effective national action.

On the other hand, we commend you for your bill, Mr. Chairman, not only for the improvements it offers, but the flaws it lacks. We agree with you and the bi-partisan group of Senators who have co-sponsored S. 1806 that the Mobilization Board would be most effective without the troublesome provisions I have mentioned. S. 1806 would, however, give the Board all the powers it needs to expedite decisions without inviting major litigation and without the need for ponderous bureaucracy. The Board would have the authority to require all federal, state and local agency decisions to be made within one year of the completion of applications for approval, unless a longer time is needed to fulfill statutory obligations or assure due process. The Board would have authority to enforce these deadlines under expedited procedures in federal court. It could intervene in agency decisions and appeal them in federal court, again under expedited procedures. It could consolidate federal and state preparation of environmental impact statements. And it would be required to monitor all agencies subject to decision schedules and report regularly to Congress on their progress, pinpointing actual or anticipated sources of delay. This oversight function, carried out by officials appointed by the President and approved by the Senate, will no doubt exert considerable influence to assure interagency coordination and eliminate avoidable delays.

Another important aspect of S. 1806 is its attention to the need for substantive involvement of state and local governments in the decisions of the Board. State and local officials would have opportunities for consultation in the designation of critical facilities, the determination of decision schedules, the extension of decision deadlines, and the consolidation of environmental impact statements. These provisions go far to promote the intergovernmental cooperation that will be necessary for sound, timely decisions. We appreciate your care for state and local concerns, and wish you and the co-sponsors of your bill every success in the upcoming debate on the Senate floor.

Sincerely,

GEORGE ROBERTS, Jr.,
Speaker, New Hampshire House of Representatives, President, National Conference of State Legislators.

LEAGUE OF WOMEN VOTERS OF THE UNITED STATES,
Washington, D.C. September 27, 1979.

Hons. ABRAHAM RIBICOFF, EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RIBICOFF AND SENATOR MUSKIE:

The League of Women Voters supports S. 1806, your bill creating an Energy Mobilization Board to expedite decision-making for priority energy projects that would contribute to reducing the nation's dependence on imported energy. Because it would not sacrifice the nation's commitment to open, accountable government or to environmental protection, your bill is greatly preferable to S. 1308 reported by the Energy Committee.

There are several elements of S. 1806 which make it a particularly good bill:

The Energy Mobilization Board would have the active assistance of the Secretary of Energy in the designation of priority projects. Because of this, a large duplicative bureaucracy should not need to be created by the Board. Further, this will help ensure consistency in federal energy policy.

Judicial review of substantive decisions would be preserved and expedited. Judicial review is one of the most important checks on unbridled agency discretion and thus serves to protect the basic rights of citizens. The bill preserves review while balancing it with the need for expedited decision-making.

Deadlines for decision-making would be enforceable in court. This will ensure that priority projects are effectively expedited, while maintaining the character of our federal system.

The number of energy projects which may be designated as priority projects would be limited. This will encourage careful consideration of projects for priority status and ensure that selected projects do in fact receive priority treatment

Equally important, S. 1806 does not do several things:

Members of the Board would not be exempt from conflict of interest laws, as they would be under S. 1308. There is no excuse for exempting officials who will be making decisions of tremendous monetary significance.

There is no authority for waiving substantive federal, state, or local environmental laws. Environmental laws and regulations are not luxuries we can do without; they are vital to the health and welfare of our people. The Energy Committee approach would allow waiver of laws or regulations adopted after construction of a priority project has begun. But, discovery of new problems will require application of new solutions. Energy projects should not be exempt from those solutions

The bill would not give the Board power to make decisions in lieu of the responsible federal, state, or local agencies. Thus, it would preserve the vital state and local role in decision-making. S. 1308 would allow officials to avoid responsibility and accountability by failing to meet decision deadlines. It would also provide for the centralization of tremendous power at the federal level.

Again, the League of Women Voters supports your bill, S. 1806. We commend you for developing a good approach to expediting priority energy projects.

Sincerely,

NANCY NEUMAN,
Action Chair.
DORTHY K. POWERS,
Energy Chair.
ANN SAVAGE,
Government Chair.●

THE WINDFALL PROFITS MYTH

● Mr. TOWER. Mr. President, the Senate will soon have before it the legislation proposed by President Jimmy Carter to discourage oil production and increase the tax burden of domestic oil producers by hundreds of billions of dollars. This legislation, creatively mislabeled the windfall profits tax, actually has no relationship to profit and purportedly taxes a windfall which in truth exists almost exclusively as a figment of popular imagination and political demogaguery.

Despite all of the rhetoric to the contrary, oil company profits generally cannot be considered excessive by any reasonable standard of measurement. In fact, in most recent years, oil company profitability has been below that of other U.S. companies. The removal of Federal price controls on domestic crude oil will not alter that, but it will provide domestic producers with the capital and economic incentives necessary to reduce U.S. dependence on foreign oil.

In other words, there is simply no economic justification for the enactment of this special class oil company tax legislation. This point was made very eloquently recently in an article which appeared in the July-August 1979 issue of This Is West Texas, the publication of the West Texas Chamber of Commerce. The author of this excellent commentary is Mr. E. E. Hagan, chairman of the mineral resources committee of the West Texas Chamber.

I believe the information and analysis contained in this article would be of great benefit to every Member of Congress, but especially to my colleagues in the Senate as we begin consideration of this oil tax legislation. For that reason, I submit the text of this article to be printed in the RECORD.

WINDFALL PROFITS

(By E. E. Hagan)

During these summer months you are going to hear a lot about the subject of so-called "windfall profits" of the oil industry. Congress will be debating the taxing provisions of President Carter's crude oil price decontrol program announced at the same time as this year's WTCC annual meeting April 6–7.

The decontrol portion of Mr. Carter's program is a reasonable start to a solution of the nation's energy problems, i.e., allowing the price of domestic crude oil to gradually approach free market price by October, 1981 and with no control thereafter. This is the general approach of a proposed law by Repr. Kent Hance, co-sponsored by a number of Texas Congressmen; however, their bill, HR 3678, gives greater incentives to certain high cost production to further encourage better recovery of oil in place. It has no "windfall profit" tax provision. WTCC strongly supports the Hance proposal.

Mr. Carter also proposed to tax what he called "windfall profits"; in other words, the additional revenue coming to the oil companies along with his proposed decontrol of domestic crude oil prices. Unlike decontrol, an administrative measure, the tax must be levied by Congress. Whatever tax measure ensues and, from press releases, the sentiment varies from none at all to an effective 100 percent, the amount of additional funds left with the oil industry will determine the rate of domestic oil production for years to come. If no "windfall" taxes are levied, you will see a tremendous burst of oil industry activity of all kinds, exploration, drilling, and use of costly processes for recovery of more oil from existing fields. If an effective 100 percent is levied, you will see a decline set in with rapidly increasing dependence upon foreign oil, as it has been since the Arab oil crisis of 1973.

It should be understood that this proposed tax is not a profits tax like an income tax but is an excise tax to be paid on crude oil, permanently. It has the potential under certain conditions to almost destroy the private oil industry as we know it, because the excise tax would have to be paid when no profit was achieved. These conditions would exist if the Arab oil price increase exceeded our rate of inflation, a likely condition according to some economists. In some respects this part of Mr. Carter's program appears to be a substitute for last year's program, the crude oil equalization tax. That tax was voted down by Congress when it was perceived as being the greatest single taxing program in history and a direct levy on consumers. The tax receipts according to the new program are destined to help the poor pay fuel bills and put the government directly in the energy business as was the equalization tax. It could even be the funding basis for the many times proposed federal oil company. Certain Congressmen are looking now for sources of income for their various projects, welfare and otherwise, and a tax on the currently unpopular oil industry has a lot of appeal. It has even been mentioned as a source of funds for the coming massive social security deficit.

Concerning the unpopularity of the oil industry, it was perhaps unfortunate that the first quarter of 1979 was a good one in terms of financial results in the industry when the Iranian crisis was happening, supply was reduced, and petroleum product prices were on the increase. It is ironic that Texaco, one of the earliest to announce, with an 87 percent increase over the first quarter of 1978, was actually showing an increase over one of their worst quarters in current times. They were roundly castigated by TV newscasters and the like without mentioning that comparison. In fact, the earnings of Texaco for 1978, based upon their invested capital, amounted to only 9.0 percent, well below the 15–16 percent average recorded by U.S. industry, and considerably below that of CBS for the same year, 21.0 percent. Another company, Standard of California, announced a 43 percent increase the first quarter of 1979 compared with the previous 1978 quarter, but also said that U.S. petroleum earnings were actually 11.0 percent less than before. An increase in earnings outside the United States provided the overall increase for the quarter. Here's another recently published comparison of one media's 1978 earnings results versus five major oil companies for 1978:

Company net income as percent of

	Sales	Equity
Washington Post	9.6	28.0
Exxon	4.6	13.7
Standard Oil of California	4.8	13.4
Mobil	3.2	12.6
Gulf Oil	4.4	10.2
Texaco	3.0	9.0

To put the whole situation in perspective, if decontrol of crude oil pricing becomes a reality, there will be a large increase in revenue to the oil industry. However, it must pay additional royalty, state taxes, and biggest of all, the 46 percent corporate income tax on profit. Whatever left is available for reinvestment or distribution to the share-holders. If the petroleum industry is a really good source of profit, as everyone thinks, you will find it all being reinvested less the normal share-holder return.

You'll also see share-holders reinvesting their own dividends. That is what the nation needs, more investment in the experienced and highly capable private energy industry. Much has been made of Mobil's purchase of Montgomery-Ward. This was an indication of Mobil's opinion of the profitability of the oil industry at that time rather than an irresponsible act as charged by so many. They simply found a business that was more profitable and invested in it. If the oil industry is now a more profitable one, then the companies, as well as individuals, will invest there rather than in retail stores and other businesses.

As the price of domestic oil rises, you will find large energy users changing to competitive fuels such as coal and nuclear, reducing the overall requirement for oil and, therefore, foreign oil. As the prices rise further, you can also expect many individuals to seek alternatives to fuel usage, smaller cars, fewer trips, car pooling, more use of mass transit, insulation of homes and buildings, and many other energy trade-offs that become economical with higher priced fuel. Many of these changes are occurring right now.

If the price get high enough, you will then see oil manufactured from our almost unlimited supplies of oil shale, synthetic fuels from coal, solar power, and others coming into use. Sometime during this period you will find OPEC becoming competitive again. They are businessmen, as you and I, and they have to sell their product for what they can get for it. If, as now, our demand for foreign oil is unlimited, their price will have no limit. But when domestic oil and gas are returned to the market-place you will find foreign oil there too, competing with all U.S. energy sources; and finally, a buyer's market with its built-in competitive efficiencies will reign again.●

DEFENSE AUTHORIZATION 1980 CONFERENCE REPORT

● Mr. WARNER. Mr. President, the joint conference committee of the House and the Senate has just completed action on the fiscal 1980 defense authorization bill, and the conference report will soon be before the full Senate for its consideration.

I am pleased to announce that the Senate and the House conferees have agreed to authorize a *Nimitz*-class nuclear-powered aircraft carrier.

As every Senator knows, both the Senate and the House approved a *Nimitz*-class carrier last year after a long and very thorough consideration.

Unfortunately, the President vetoed the bill which would have authorized the carrier and, as a result, the carrier was not approved.

The Congress decision to build a *Nimitz* carrier was a sound decision last year.

It is a far stronger decision this year.

The issue that we face is not one of whether we should have a carrier or not. Almost everyone who is familiar with the issue believes that the United States needs at least one more aircraft carrier. The President believes we need one more, as does the Secretary of Defense, the Secretary of the Navy, and the House and Senate.

The question is what type of carrier.

I do not wish, at this time, to address in detail the importance of a strong Navy to our national security. It is fairly self-evident that we are an island nation heavily dependent on the seas for both our military and our economic security. The health of our economy depends to a large extent on overseas resources and overseas trade.

It is imperative that the United States maintain a strong Navy to insure our continued access to the seas.

However, in the past decade the Soviet Navy has gone from a limited coastal defense force to a truly significant "blue water" Navy capable of sustained operations in all the oceans of the world.

Soviet naval capabilities are now such that they provide a direct threat to our ability to control the seas.

It is only our aircraft carriers that provide a margin of superiority over the Soviet Navy, and that margin is slim and is slipping away as the Soviets continue to build more and larger air-capable ships.

We clearly need another carrier, and it is my conclusion—and the conclusion of the House and Senate conferees—that the *Nimitz*-class carrier is the best decision.

There are three main issues that must be considered with regard to the carrier decision.

First. Which of the three types of aircraft carriers is the most combat-capable?

Second. Which is the most cost effective?

Third. Should we consciously build a ship which is totally dependent on a scarce, costly, and dwindling resource—oil?

With regard to combat capability, there is no question. The *Nimitz*-class carrier is head and shoulders above the conventionally powered *Kennedy*-class carrier.

It is the most survivable and most combat-effective ship afloat. The *Kennedy*-class ship is nearly as capable, but it does not have the operational advantages that come from nuclear power.

The *Nimitz*-class carrier carries 50 percent more aircraft ammunition and almost twice as much aviation fuel as even the *Kennedy*-class carrier, and it can steam at maximum speed without replenishment almost indefinitely.

Aside from military aspects, there is the question of cost and cost effectiveness. Cost effectiveness is a difficult thing to measure because costs must be estimated 30 years into the future. However, from the cost studies submitted to the Congress, it is clear that the lifetime costs of a *Kennedy*-class and a *Nimitz*-class carrier are about even, and that assumes that there will be no future increase in the price of oil. If fossil fuel prices continue to climb at current rates, there is no telling how much more expensive an oil-fired carrier would be.

Aside from these considerations, however, is the question of whether it is wise to intentionally build a ship which will be operating in the 21st century and make it dependent on oil—costly, dwindling in supply, and nonrenewable.

We all remember the gaslines of this summer and we all know that heating oil may be in short supply this winter.

Furthermore, 80 percent of the world's proven oil reserves are in the hands of others—the OPEC nations—and we cannot be assured that we will have access to that oil in the years ahead.

It just does not make sense to spend all this money on a ship we badly need, and then needlessly hobble it by making it less combat capable and utterly dependent on oil.

Mr. President, for too long the Congress and the executive branch have been avoiding a decision on a new aircraft carrier.

The need was clear several years ago, and recent events have only served to underscore the need for naval power to protect American interests.

It is time we made a decision.

It is time we built this carrier.

I commend the Senate and the House conference for their decisions to authorize a *Nimitz*-class carrier. I hope we can now get down to bending steel and getting this ship to sea where it belongs.●

CONTINUING APPROPRIATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, I urge all Senators to not get very far away until final action has been taken on the continuing resolution. The conferees are still at work in conference on the continuing resolution, and it is anticipated that there will be action yet today, and I would urge Senators to be prepared for a rollcall or rollcalls in relation to that continuing resolution conference report.

As of Monday, which will be October 1, most Government agencies and Departments will lack the legal authority to make payments for payrolls, contracts, grants, administrative and other expenses.

The House will be pro forma next week, which would mean that if final action has not been taken on the continuing resolution by 1 second after midnight on Sunday night then this measure could not be disposed of until the House returns.

So it is vitally important that Senators not get very far away.

It is anticipated that there will be no action within the next 30, 40, 45 minutes, perhaps an hour and maybe longer.

Let me urge Senators again with the onrushing October 1 deadline, and all of the circumstances that will obtain if the conference report is not acted upon by that date, it is important that the Senate be prepared for action later tonight. That action will probably be a rollcall vote or rollcall votes.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 5:57 p.m., recessed awaiting the call of the Chair; whereupon, at 6:47 the Senate reassembled when called to order by the Presiding Officer (Mr. BURDICK).

CONTINUING APPROPRIATIONS CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, the conferees on the joint resolution have completed their work on the continuing resolution, but there will be a while yet before the Senate can act on the conference report.

The House leadership will be bringing the conference report on the resolution to the House floor as soon as possible, perhaps in about 1 hour. This time is needed for the conferees and the staffs to prepare the papers, and so forth.

The House leadership will try to move the matter as expeditiously as possible on the House floor. And it is of the utmost importance that Senators remain here to make a quorum or remain in their offices so they will be nearby to make a quorum and to vote on the conference report when it comes over from the House of Representatives. It will be a rollcall vote.

If the conference report is not in place by Monday, October 1, that means one-millionth of one second after midnight, payless paydays will be experienced by a good many people and many of the Government departments and agencies will not have the legal authority to expend funds, and contract cancellations will ensue.

The House of Representatives will be out next week. It will be impossible for the House to get a quorum which would mean that final action on this conference report would have to be delayed another 10 days. So it is vitally important that Senators remain nearby, and the leadership will attempt to notify Senators prior to the Senate taking up the conference report.

Mr. President, I ask unanimous consent that the Senate stand in recess——

Mr. MATHIAS addressed the Chair.

Mr. ROBERT C. BYRD. I withhold that request.

Mr. MATHIAS. Mr. President, I wonder if the majority leader would withhold that for about 1 minute while I can make a very brief statement.

Mr. ROBERT C. BYRD. Yes, indeed. I yield the floor.

Mr. MATHIAS. I thank the majority leader for yielding the floor.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

GEORGE MEANY

Mr. MATHIAS. Mr. President, George Meany, president of the AFL-CIO for many years, today announced his retirement from that post. This will come as a matter of regret to many of us who have worked very closely with Mr. Meany over the years. I have had a particular reason to know him because he has been my constituent for 20 years.

He has always been available to consult on matters of mutual interest and mutual concern.

It is a remarkable experience to talk to George Meany. It is like a talking book of American history. He has dealt with American Presidents since the time of President Franklin D. Roosevelt. He has been engaged in a central way not only in matters which affect organized labor alone but a whole spectrum of our national life.

He has taken an active role in foreign policy, and I think he has helped to make the whole labor movement understand the implications of foreign policy to the average working man and woman of America. This alone has been an enormously positive and important role.

So George Meany has been a very positive citizen.

It may come as a surprise to some Americans to know that George Meany has had a very liberal view in matters of partisanship in politics. I think he has publicly on television shows and on other public occasions pointed out the fact that, when he felt the public interest required it, he even voted for Republicans.

He has always, I think, put the public interest first, whatever it required him to do.

We fully appreciate the contributions that Mr. Meany has made in his long public career. We thank him for those contributions, and Mrs. Mathias would join me in wishing him years of satisfaction and fulfillment ahead.

Mr. ROBERT C. BYRD. Mr. President, I join with the distinguished Senator from Maryland (Mr. MATHIAS) in paying tribute to George Meany.

It has been with no small regret that I have received news that George Meany, president of the AFL–CIO since 1955, has announced his intention to retire in November.

Mr. Meany, who is completing his second 12-year term as president, has been an important figure, an outstanding figure, in the labor movement in this country. Not only that, but he has been a very prominent figure on the national political and economic scene as well for more than a quarter of a century.

Throughout that period and before, as president of the independent American Federation of Labor, George Meany has shared his considerable experience and wisdom with no less than seven American Presidents, and the whole Nation, I believe, is stronger for his efforts.

One of the reasons why George Meany has been so effective as a labor leader is that he rose though the ranks of labor. He knows what it is to earn his bread in the sweat of his brow, and he never forgot the meaning of hard work or the importance of working men and women to the prosperity and progress of this country.

At the age of 16 he took his first full-time job as an apprentice plumber, and he thus became active in the labor movement at an early age.

Subsequently, he served as president of the New York State Federation of Labor from 1934 to 1939. In 1940 he was chosen as the secretary-treasurer of the AFL, and he remained in that position until 1952, when he was elected to the national presidency of the union.

George Meany was instrumental in bringing the AFL and the CIO together, and is considered one of the founders of the combined union which merged in 1955.

After his election as president of the AFL–CIO, he launched a relentless campaign to rid unions of corruption and the influences of organized crime, and every American is indebted to him for the very high standards of honesty and integrity that he has steadfastly maintained throughout his term of office.

Moreover, he has consistently recognized that the purposes of international communism and those of the American labor movement are incompatible, and he has effectively preserved the AFL–CIO from Communist penetration since he assumed command of that great organization.

Labor plays a prominent role in the history of our civilization, in the history of mankind. It goes back to the Garden of Eden, in the murky mists of Biblical history. It plays an important part in American life, and George Meany has provided labor with exceptional leadership and a responsible and very respected voice for many years.

Although I am sure that members of the AFL–CIO will select another outstanding leader to follow in the footsteps of George Meany, his unique contributions to our national life will be missed as he enters his retirement.

I want to express my own gratitude to him for the excellent services he has rendered to this country and to its working people.

I want to voice my admiration for his forthrightness, for his frankness in speaking out on the great issues of our time, for the excellent services he has rendered to us all, and to voice also my respect for the patriotic fashion in which he has carried out his duties throughout his long career.

Mr. MATHIAS. Mr. President, if the distinguished majority leader will yield for a moment, I cannot add anything to the very eloquent tribute he has paid to George Meany, but I do not know that neither of us ought to let this colloquy end without mentioning the fact that George Meany had the courage and the commonsense to inject a sense of humor into public affairs. He was not afraid to point out sometimes ridiculous conditions of public matters and to poke a little fun at himself, at the world at large.

I think that a sense of humor in public life is a very important thing, one that is always in short supply. He had a very refreshing approach, which sometimes cast more light on difficult subjects than if he had delivered a long and ponderous speech on the subject.

Mr. ROBERT C. BYRD. He was never ponderous, never pontifical. He was always able to see himself go by, never took himself too seriously, and was able to see the larger things in proper perspective. And even though one may have disagreed with George Meany at times, one had to admire the frank, candid, fearless, open, forthright approach which George Meany always took.

Mr. MATHIAS. And it is very valuable, even if you are disagreeing with someone, if you can laugh with him at the same time. It injects that little ingredient of good will which goes a long way toward the solution of problems.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Maryland for inviting to the attention of our colleagues the news with respect to the forthcoming retirement of this great labor leader.

MARY KATHERINE BABB RANDOLPH RECEIVES AN HONORARY DEGREE

Mr. ROBERT C. BYRD. Mr. President, I wish to call the attention of the Senate to a special event and distinction that has taken place today affecting the wife of one of our most distinguished colleagues.

From my own experience over a period of 22 years, and from the testimony of my colleagues, I know how important a Senator's spouse can be, both personally and professionally. I know the contributions and I know the sacrifices that our spouses make. I know that these contributions not only frequently but almost invariably make possible the services that Members of this body are able to make to their country.

Seldom, though, are the contributions of a Senator's helpmate adequately recognized by people outside the more intimate circle of the U.S. Senate. But this afternoon Mrs. Jennings Randolph, the wife of my distinguished senior colleague from West Virginia, was awarded an honorary degree by Salem College in Salem, W. Va.

Throughout the years I have heard Senator RANDOLPH, in West Virginia, in other States, and in the District of Columbia, pay tribute to the dedication, the devotion, and the talents of his wife. Many times I have heard him affectionately speak of those talents. But I am especially pleased that a group of West Virginia citizens have undertaken to act and to recognize Mrs. Randolph for the services that she has rendered to the people of West Virginia publicly and privately throughout her husband's career.

While my senior colleague has been paid deserved tribute in the headlines, news stories, news commentaries, and editorials of our State over a period of many years—and the same can be said of other Senators like him—all too often that other individual on the team is overlooked. Theirs is a silent service. But it is a point to remember that "He also serves who only stands and waits."

I think all too often we forget the other half of the team that provides the service to a State and to our Nation.

Many years ago Mrs. Randolph, whose maiden name was Mary Katherine Babb, made a decision to accept a proposal of marriage, and that decision turned out to be a fortunate one for JENNINGS RANDOLPH and for the people of West Virginia, for her courage, her vision, her patience, her quiet, unassuming dedication, and her compassion and spirit have added significantly to Senator JENNINGS RANDOLPH'S success, his effectiveness, and his unswerving dedication to duty.

I want to express my appreciation to Salem College for the appropriate gesture that it has made toward Mrs. Randolph today, and to offer the heartiest congratulations and best wishes to Mrs. Randolph on my own behalf and on behalf of my wife Erma, who holds an equally high regard and eminent esteem for Mrs. Randolph.

I am glad that this recognition of Mrs. Randolph is being appropriately made today, so that thousands of people in every corner of West Virginia may join in their hearts and their spirits, because they, too, regard her with the most sincere warmth and affection.

Mr. RANDOLPH. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. RANDOLPH. When I entered the Chamber from the cloakroom, I had not known the subject matter of the kind remarks of the majority leader. I say to him that the weather was very blustery in West Viriginia today, but at Salem College the hearts of the people made it a very, very memorable occasion. The letter that you had written, Mr. Leader, was read by the president of the college, James Stamm; in fact your letter was the first of many greetings and well wishes coming to Mary at the luncheon in the Valley of Learning in the town in which I was born, and where I was born, and where I was graduated so long ago, in 1924, from our beloved college.

I hope it is not inappropriate—and I hesitate now to say what I am saying—but my grandfather, Jesse, was the principal founder of that college. He rode horseback through the hill country when the weather was inclement, as it was today, calling men and women to his side to bring into being a college there for those youth who might not have had the opportunity to attend the larger and more, let us say, affluent institutions of higher learning. Gathered with him was a small group of citizens who founded the school.

Before the first frame building was constructed, he had moved all of the merchandise out of his buildings in which he had many interests, so that the first classes could start on time.

Uncle Jesse, my grandfather, as he was known, had that dedication that the able majority leader has been speaking of this evening. It meant so very much, not just to the people of Salem College but to the people of our State. My father, Ernest, was the first graduate with a bachelor of arts degree in the initial class from Salem College. The facsimile of the check that he had given, $25, for the founding of the college where he was to be the recipient of that degree with a graduating class of five. He told me as a youth to "always remember the man and woman by the side of the road."

When I was a junior in college, my father, of necessity, had to leave the board. I was shocked to learn that I had been elected a member of the trustees to take his place.

Idell, our mother, also attended Salem College, as did my sister, Ernestine, who is here today.

After 50 years as a member of the board, I felt in 1974, that I should leave the trusteeship. Our older son, whom you know so well, Jay, was chosen to serve. Mary and I are so happy that Sue, his wife and the mother of their three children, was at Salem today. We were glad that Frank, our youngest son, had the joy of seeing his mother honored today; we were saddened Jay, because of bad flying weather, could not be there. These four generations of our family, as well as these other families, have meant so much to our institution in the hills:

> Where the hills of West Virginia stand like sentinels 'round,
> Nestling fondly in the valley lies our college town.

You, Mr. Leader, are so much a part of those hills and you understand our good people. From a few students, we now have 1,000 young men and young women on the home campus, and more than 600 at the branch campus at Clarksburg. There are 50 students in the masters studies.

We call it the college of participation. The students are busy, doing not only the jobs of building for themselves, through the conjugation of the Latin verbs and the rules of geometry, but the values not always gleaned from books.

On our campus, we have Fort New Salem, with 20 buildings, log cabins brought in from the hills and rebuilt. There are the printing and typesetting practiced in the era of Thomas Jefferson, the weaving, the quilting, the blacksmith shops.

President James Stamm asked me if I would accept the honorary degree of public service.

Of course, I did that. She finally agreed, although she was ill in Salem today. I know of the willpower, stamina, and spirit it took for her to be there today.

It is good of my colleague to have given a tribute.

I had suggested a year ago that at an appropriate opportunity we should honor Mrs. Ruth McGraw. In such a setting we have honored 183 ladies or gentlemen since 1910. One of these was MARK HATFIELD.

Antoinette Hatfield, his wife, was at Salem today speaking for the Senate wives. She had been there with you, MARK, on the earlier occasion. We shall always be in her debt for her coming to West Virginia today.

Yes, Mrs. McGraw did receive her honorary degree of doctor of public service today. She was my longtime State secretary.

Ruth, I think, is the only woman that I have ever known that was the top secretary to four Members of the U.S. Congress. She was the secretary of John W. Davis, who was the Democratic candidate for President of the United States in 1924. Earlier, he was a Member of the Congress, in the House, from the State of West Virginia. He went on to serve as Solicitor General of the United States and as our Ambassador to the Court of Saint James in Great Britain.

She was secretary to U.S. Representative Lynn S. Horner of Harrison County, the county in which Salem is located.

When he passed away another Representative, Andrew Edmiston from Weston, in Lewis County, took his seat. She became his secretary.

As our State secretary she served for so many, many fruitful years.

We are happy that the President's wife, Rosalynn Carter, sent a message read at the honors awards luncheon.

You, Mr. Leader, have talked of the service of Senate wives.

Recently, a paraplegic called at night and told Mary,

> I love to fish. I can't roll my wheelchair to the side of the pond, or river, and fish. I am a disabled veteran in West Virginia. I hope something will be done about it.

In my absence Mary talked with him, responding: "I know we will want to do something about this, if we can."

I am illustrating in Mary's life, the service of a Senator's wife.

Before we were married, in February of 1933, Mary engaged in children's work for the department of public welfare in our State. She worked in 13 mountain counties and was called "the welfare lady."

She rode the narrow gage railroads. Many times she put on her swimsuit and crossed a river so she might climb the paths to the home of a family, to help some child in need.

Mary was helping children in our State children's home, and after their being rehabilitated, in a sense, she found the right type of homes for these children, literally, by the scores and scores during the period of over 3 years when she served.

Today, and Mary had no idea about it, we had Mrs. Mary Wood come to the luncheon from the hill country of Preston County.

Her father and mother were Austrian. He was a stonemason. Her parents passed away when their daughter, Mary, was 6. She went to Morgantown nearby and lived with a good family. The people there could not care for her any longer at the age of 10. Mary took her to the State children's home. Later the girl was placed in a family that helped her grow through girlhood and into womanhood.

MARK, you are very active. You are the leader now of our Senate prayer group on Wednesday mornings.

On those Wednesday mornings, members join hands before a closing prayer given by one of the Senators.

Today, I presented Rev. Edward L. R. Elson, the Chaplain of the Senate, for our benediction. All present joined hands, some 250 persons.

There is a strength that comes, not only from the prayer of our minister, but also a strength that comes from the clasp of hands. I believe in miracles through God.

Perhaps a peaceful world will finally come through Him rather than through mere humans and treaties between countries.

As autumn comes on and the colors begin to weave a tapestry over the West Virginia landscape, I invite you to visit in the hills.

Before Dr. Elson's benediction, I quoted:

> I heard a bird at break of day
> singing in the autumn trees
> a song so mystical and calm,
> so full of certainties.

Yes, winter will come, but spring will follow, and the renewal of life will come when it seems to have been lost.

I will continue to be the constant believer that each day is not just another day. Each day is a new day, a day of challenge, a day of opportunity, a day of joy for those who understand that it will be a day of happiness, a day of faith.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. HATFIELD. Mr. President, I thank the Senator from West Virginia, my good friend JENNINGS RANDOLPH, for the obvious heartfelt sharing that he gives us today of a very joyous occasion in his life.

Many times—in fact, most frequently—we come to the floor of the Senate to make a statement advocating or defending or dissenting from some very important issue, and very frequently it is read from a piece of paper. More often than not, it has been prepared by some very able staff person. But tonight we have had the rare opportunity to hear a man speak truly from his heart, mixing the emotions of this moment and this day with the beauty of his expression of human relationships. After all, that basically is the heart of the whole political system in a free society. It is an exercise in human relations.

When we see a person who will open up and become as vulnerable as the Senator from West Virginia has been to his feelings, to his great heritage, to his emotions, it is a rare and wonderful opportunity to see more truly the person, rather than oftentimes merely the Senator.

I am pleased to know that, even though I could not be there in person today to join in this happy occasion, I have shared with our colleague, Senator RANDOLPH, the reason for his absence. I have recited the tremendous heritage that you and your family have had at Salem College, your grandfather having been a founder, your father having been one of the first graduates, and you having graduated in 1924. Your son Jennings, Jr., is the fourth generation of one family which has been a part of that great institution.

You speak about the fall colors. I was there during the springtime. I recall the freshness of that countryside, the flowers, the dogwood, the beauty of that setting in the midst of those hills on that little campus, where good, sound liberal arts education, mixed with practicality of vocational and technical training, provides an opportunity for those young people in the State of West Virginia, and from other States, with the experience they no doubt will treasure all their lives because it probably will have the greatest impact in the molding of their character and their intellect than any other experience they will have.

I say to the Senator that I am aware, too, of his devotion to this wonderful college. I know of the telephone calls he has made. I know of the financial crises that college has faced, perhaps even over a weekend, of the tenacity and determination of the Senator from West Virginia in contacting people, asking them, without any hesitation or without any shame, to make a contribution toward keeping the doors of this college open and to give it a stronger base for its educational commitment. I know of those many hours and the great energy that has been expended on behalf of that small college.

That also gives us a demonstration of the understanding, the character, and the quality of the Senator from West Virginia.

I just want to tell you that I am grateful I came to the floor in time to hear your wonderful sharing. I am happy for Mary Katherine, for you, for Jennings Randolph, Jr., for Frank Randolph, for the grandchildren, for the whole family, and for the college community at large; because I am sure that all share this very joyous occasion with you, with pride and with gratitude for what you have meant to that college, what you mean to the people of West Virginia, and what you mean to the people of this Nation.

Mr. RANDOLPH. Thank you very much, MARK. We are very grateful.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. RANDOLPH. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to, and at 7:35 p.m. the Senate recessed subject to the call of the Chair.

The Senate reassembled at 8:44 p.m., when called to order by the Presiding Officer (Mr. SASSER).

CONTINUING APPROPRIATIONS CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, for the benefit of our colleagues who may be listening in from their offices, the House of Representatives still has a quorum and the conference report is being debated there.

They have been on the conference report, as I understand it, about 15 or 20 minutes already.

I hope that within another hour we might be able to see some action by the House of Representatives.

So I urge my colleagues to remain close by because there will be action yet this evening and because of the urgency of the matter, as I have already outlined it, I know that my colleagues will understand the necessity for this appeal to their maintaining a very close vigilance.

There will be yet a rollcall vote or more rollcall votes this evening.

I urge my colleagues, if they have any engagements early in the morning, that they postpone them because if our own body lacks a quorum tonight on a rollcall vote this would mean we would have to come in tomorrow under the rule. So it is very important that we maintain a quorum and enough Senators to act decisively on the conference report on the continuing resolution.

I will give further information when I have it.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate at 8:46 p.m. recessed subject to the call of the Chair.

The Senate reassembled at 9:38 p.m., when called to order by the Presiding Officer (Mr. FORD).

CONTINUING APPROPRIATIONS CONFERENCE REPORT

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. MAGNUSON. Mr. President, we have run into a situation with the House on the continuing resolution in which we were in agreement on every item except the abortion item. The House agreed to take it back in disagreement, and we assumed that they would have a vote on it. They have not had a vote on the abortion issue at all at any time—a record vote—and we voted on it four times.

The result is that it is holding up the whole continuing resolution, which, as everyone knows, involves payment to all the Government employees—it involves everything—again, over the abortion issue.

I do not know just what to do about it. They were adamant in taking it back, and we thought they would have a vote on it and explain it to the House, but they did not.

They had a quick voice vote, and they have adjourned, hoping that we will accept the conference agreement. It is on its way over.

I am going to ask unanimous consent that when the Senate proceeds to act on the conference report on House Joint Resolution 404, it act first on amendment No. 17 in disagreement and then on the conference report itself, and lastly on two other amendments in disagreement, Nos. 12 and 15.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object.

Mr. WEICKER. Mr. President, reserving the right to object.

Mr. DURKIN. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask if the distinguished manager will explain what the amendment that we are going back with first is. He used a number. I do not know what the number means.

Mr. MAGNUSON. We acted on two amendments in disagreement, No. 12 and No. 15. There is no argument about those. That is the travel amount and the other in bringing in HUD under the continuing resolution.

But the main one is the abortion amendment No. 14.

Mr. DOMENICI. If we do not agree to the unanimous-consent request, what is the sequence and what would happen?

Mr. MAGNUSON. Then the Senate will have to act on the conference report one way or another or we can refuse to take it and hold it up for a while.

Mr. DOMENICI. Does the Senator mean the full report we would vote on, yes or no?

Mr. MAGNUSON. Yes; we could hold it up.

Mr. WEICKER. Mr. President, reserving the right to object.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, here is the situation:

The request that the distinguished Senator from Washington has made would allow the Senate to vote first on the so-called abortion amendent before it proceeds to vote on the adoption of the conference report, which is just the opposite to what the course would be otherwise. Otherwise, we have to vote on the conference report first. If it is voted down, that kills it. The whole process has to start all over again and by custom, as Senators know, it begins in the House of Representatives.

Come midnight Sunday night unless the House of Representatives can get another resolution over here, and the Senate can act on it and go to conference on it and both Houses can agree to it, which would be virtually impossible, then Sunday night at midnight, employees of the agencies involved would go without paychecks, the agencies would be without legal authority to fund the administrative procedures and the programs that they have jurisdictions over, and the pay increase of 12.88 percent would go into effect and while Members of Congress might act to make it retroactive and reduce their own down to whatever figure they wish to adjust it to, including zero, Congress could not retroactively reduce the pay of judges.

Mr. MAGNUSON. The pay of the judges would go up automatically.

Mr. ROBERT C. BYRD. That is because of the Constitution. But the important thing to remember, I think, is that the agencies are going to be without legal authority to fund programs and to pay their people and to pay for their administrative activities.

Mr. DURKIN. Mr. President, will the distinguished majority leader yield for a question on that point?

Mr. ROBERT C. BYRD. I yield.

Mr. DURKIN. What is the status of the House of Representatives? It is my understanding that they have adjourned and they have left town to at least Tuesday and possibly they are in recess with a pro forma session. They are, in effect, in recess until October 9.

I know that we are concerned with the appearance of irresponsibility. But how much more irresponsible can anyone be than to grab their 5.5 percent, for us to either go for 5.5 or 12.9 percent and run for the closest airplane?

Mr. ROBERT C. BYRD. Maybe there are those who disagree. But I do not think that the Senate should bear the responsibility of seeing the Federal agencies without the legal authority to act and to operate. If we kill this conference report, we bear that responsibility as much as they do.

We have the last clear chance. We have had this happen before. The House of Representatives has dumped conference reports back in the lap of the Senate and adjourned and gone home.

Mr. MAGNUSON. This is not unusual.

Mr. ROBERT C. BYRD. That is right. They have done it before.

Mr. MAGNUSON. This happens all the time.

Mr. ROBERT C. BYRD. I think what we should do is get consent, as the chairman has requested, vote on the abortion amendment and send it back and vote on the conference report and send it back, and let the House of Representatives realize that the matter is back in their laps and they are not going to——

Mr. MUSKIE. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. The Senator from Washington has the floor.

Mr. MAGNUSON. They have recessed now, I understand, until Tuesday, and if it were not for the House recessing, we would not be in all this trouble.

Mr. DURKIN. They are the ones who took the recess. We did not take the recess.

Mr. MAGNUSON. I know. Do not point fingers around here. The facts are as they are.

The PRESIDING OFFICER. Will the Senator from Washington use his microphone, please?

Mr. STEVENS. Mr. President, will the Senator from Washington yield to me?

Mr. MAGNUSON. I yield to the Senator.

Mr. STEVENS. I thank the Senator.

Mr. President, the situation is such that we knew that if we did not get a bill by Sunday night there would be approximately a 12.9-percent pay increase for those who did not get a pay increase last year and that the balance, of course, of the Government would get the 7 percent.

As the majority leader stated with regard to judges, if that becomes effective, constitutionally we cannot reduce it because we cannot, as Senators know, reduce the pay of a sitting judge.

However, I have supported the pay raise and I still support the pay raise, but I will not support a pay raise in exchange for taking away from any woman the funds we have provided before to pay for abortions.

The Senate by virtue of its amendment extended existing law on abortion to four bills—HEW, Defense, foreign assistance bill, and the District of Columbia bill. The House put the Hyde amendment on the HEW functions.

That is wrong. We tried to stand by the language that we had fought out over 28 votes in the last Congress. We have four times voted for this same provision. That was a provision we put in the bill and we told them that.

We were informed that there would be an attempt to move to recede from the House position and concur in the Senate amendment, which is existing law.

This is a continuing resolution to continue the functions of Government for 30 days because we have not gotten our job done.

As I said, I would have voted for the pay increase. As a matter of fact, I will not vote for the pay increase and I am going to do everything I can to prevent voting on the pay increase unless we send it back to the House of Representatives, and I do not care what they have to do Tuesday to do it. They are going to accept existing law for these agencies for this 30-day period.

It is wrong for us to take a pay increase and make the people who pay for it be those people who were receiving Federal funds for abortions that are legal and under State law. This has nothing to do with whether abortions are given or not. It is the question of who pays for them, and the Hyde amendment's being placed in this continuing resolution, to me is wrong and it should not happen.

I have been one who has led the fight to try and get a decent pay schedule and try to prevent the accumulations of these deficits. Had we not, incidentally, increased this pay to 5.5 percent next year in an election year we never would have raised it and the Congressional Budget Office estimates that we would face a pay adjustment of 40-plus percent in 1981. There is just no way that Congress can function that way, and there is no way we can function by keeping, as you know, the compression. We are at the point now where civil servants in grade 15, step 6, do not get a pay increase unless we change our own pay. That is an unfortunate linkage. We should change it in the future.

For myself, I will vote for that pay increase, and I hope everybody else will, provided we send back to the House the question of the Hyde amendment. If we do not, then for myself and, I hope, there will be others who will do the same thing, we will not accept a pay increase, I will not accept a pay increase, under these circumstances. I think it would be entirely wrong to do so.

Mr. MAGNUSON. Mr. President, I might clear up and say that the amendments in disagreement 12 and 15 are technical, and the House will accept them. There is no argument about them at all.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MAGNUSON. It is only amendment No. 17.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will reserve the right to object, if I may make one statement. I hope the unanimous-consent request will not be objected to. Senators will still have an opportunty to vote up or down on the conference report, but they will have an opportunity first, if the request is acceded to, to vote to send the abortion amendment with the conference report back to the House. So Senators will not be denying themselves an opportunity to vote up or down on the conference report. If they feel one way about the pay raise they can still vote against the conference report. If they feel another way they can vote for it, so they will not be denied that vote.

But if we vote on the conference report first and kill it then I think all the responsibility is on the Senate because it had the last chance. I think we ought to shift it back there and let them review the actions they have taken and, perhaps, they will have some second thoughts.

Mr. LEAHY. Mr. President, reserving the right to object——

Mr. WEICKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER (Mr. FORD). The Senator from Connecticut.

Mr. WEICKER. Mr. President, having attended the conference and admiring the efforts of the distinguished Senator from Washington, the distinguished Senator from Alaska and the distinguished Senator from North Dakota in achieving compromise, I want to point out to my colleagues exactly what it is we are now voting on.

No. 1, acceptance of the conference report indicates our approval of a pay raise of 5.5 percent. The question then arises if we do not do that, do we approve 12.9 percent as of Monday?

It is also true that the Senate will have the opportunity, even though the House is in recess as of Monday, and during the course of next week, to vote down the 12.9 percent. So let us not in any way believe this is the last opportunity to express the Senate's will on that particular subject.

No. 2, even though it only be for 30 days, it is an acceptance of the Hyde amendment. I am not going into detail of the unanimous-consent request, but it is an acceptance of the action of the House on the Hyde amendment, albeit for 30 days. I realize there is a split of opinion on that.

No. 3, it is an acceptance of the House rejection of both the Mathias amendment on the HUD bill vis-a-vis the Galileo project, and the livable cities project which is my amendment, if we accept that. In other words, by the simple act of the House's going on its vacation, the House has stuck it to the Senate.

Now, the question is as to what the response is going to be. I wish I could agree that we could accept the conference report. But in doing that, we totally reject, regardless of the maneuverings—and there were maneuverings in good faith, the increase in our and the House's salary, when, indeed, we will have another opportunity to express the Senate's opinion vis-a-vis the 12.9 percent. We are not stuck with the 12.9 percent.

Mr. STEVENS. But not the judges.

Mr. WEICKER. Never mind the judges. I am talking about what is crucial over here, which is the salary of Congressmen and Senators.

I advise, No. 1, that the conference report ought to be rejected for that reason, and then I would suggest to you, regardless of what your point of view is either on Galileo, or livable cities, or on Hyde, that you express yourselves in that regard.

Mr. President, nobody tried harder than the Senator from Washington, the Senator from Alaska, and the Senator from North Dakota to truly compromise the differing points of view between these two Houses, nobody tried harder than did these gentlemen, no question about it.

But by virtue of their going out, the ball is now in our court, and I feel no reason why it should be so. I would recommend that we reject the conference report; that come next week either by amendment or legislation ab initio that we go ahead and reject the 12.9 percent; that we then move also to do whatever is necessary to correct the other disagreements on the bill.

But to accept this as it is right now, the conference report, I think undoes everything that we have stood for publicly, on this floor and in committee, and I do not think it does credit to this institution and, therefore, I suggest rejection of the conference report. Indeed, amendments will then be raised rejecting the other positions as presented to the House. If they cannot respond this evening then the ball is in their court, and that is their problem not ours.

We are here, we have a quorum, and we are ready to go ahead and act. Because they set a schedule, regardless of the circumstances confronting either the institutions or the Nation, is not our problem. We are here to go ahead and make our decisions, and let us so move.

Mr. STEVENS. Mr. President, will the Senator let me correct one thing? I thank the Senator from West Virginia, and reserving the right to object——

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. WEICKER. I yield.

Mr. STEVENS. The Senator was kind in mentioning the role of the Senator from Alaska. I have been assisting the Senator from Washington and the Senator from North Dakota, as the chairman and the ranking member of the Appropriations Committee, in trying to work our way through the problems associated with this continuing resolution within the time frame available, as the acting minority leader from day to day with the majority leader because of the time frame, and we knew we had to do some things, and that was to try to build them into the conference as quickly as possible, and through the efforts of the distinguished Senator from Washington and the Senator from North Dakota we were able to do that.

But unfortunately the way that developments occurred over in the House in a very rapid fire manner in the last minutes of the House's consideration, the understandings we had were not achieved.

So I want to make sure you understand that so far as I am concerned there were understandings that were reached informally and in good faith. No one can guarantee what will happen on the floor of either body. I cannot guarantee you that this conference report is going to pass no matter what anyone says tonight, but I do believe we tried our best to get a continuing resolution passed by both Houses and to the President in time to prevent what is going to happen now apparently and that is that the judiciary will get a 12.9 percent pay increase almost without regard to what we do because the House has gone.

Mr. WEICKER. All right, I still believe I have the floor.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. WEICKER. We agree there is no way, whatever informal understandings might have taken place, that the Appropriations Committee was on record 23 to 0 against a pay increase. I believe that on the Senate floor, the passage of the continuing resolution prior to conference, we were again unanimous, at least without a vote, as I recall, in favor of being against an increase.

Now, Members of the Senate, there is just no way we are going to be able to say this was part of a grand scheme in conjunction with the House leadership to get through the continuing resolution, and now we are going to go ahead and back off. The answer is no.

You talk about credibility, whether or not it is the Appropriations Committee or the Senate of the United States; nobody is going to accept that. And especially if there was such an informal arrangement, surely it should have resulted in some plus on the other side of the ledger insofar as Senate opposition or consent did ever happen.

I would suggest to you, for that reason—and let me say this right now, in deference to the majority leader. We have been involved in these situations before, and they have been handled for whatever the period, 10 or 12 days. But so far as our own credibility is concerned, if we are against the pay raise; we are against the pay raise. If indeed it is a matter of negotiation, let us say so when we are in the process of acting.

Let me say right now, I have objective interests in this legislation, representing many central cities, but that to me is minor. What to me is important is, first, the pay raise, and, second, the issue of abortion; and these are the matters which now, in effect, are a challenge to the position of the United States Senate and the good faith negotiations. There is nobody, I imagine, more embarrassed than the leadership within the committee for what the committee tried to achieve with the House.

I am sorry; we have had too many vacations. I fear the time has come now to face up to the issues that confront us. Of course, they want one; I appreciate that. I am a member of their body. But I am sorry, this is not a time for their vacation, because their vacation is an embarrassment both to the Nation and to this body.

I firmly, again, request the body to reject the conference report, and then move on to the other issues involved.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I hope the Chair will recognize the Senator from Maine for a reservation of the right to object.

The PRESIDING OFFICER. The Senator from Washington has the floor. The Senator from Maine is recognized to reserve the right to object.

Mr. MUSKIE. Mr. President, reserving the right to object, I want to ask a question to clarify the unanimous-consent request. But before I do, I would like to make a few observations about my reaction to this situation.

I think what we are confronting here is a carefully crafted plan on the part of the House to nail down the 5.5-percent pay increase. I suspect that if the Senate were to insist upon its position on the abortion issue, and then vote for the conference report, the effect would be, as I understand it, to nail the 5.5-percent pay increase in place, and the House would somehow gracefully retreat from its position on the abortion issue, and we would be confronted with a fait accompli.

Mr. President, I am not about to become a party to that. I will vote on the abortion issue in accordance with my previous record. I will vote against the conference report, because I think that is the only way we have to force the House to face the issue of the pay raise on its merits.

What they have undertaken to do with us is generate several pressure points: First, the question of the pay raise for judges; second, the question of employees' pay after midnight on Sunday; and third, the risk of public disapproval for appearing to support a 12.9 percent pay raise.

That is what the House is trying to do to us. It is legislative blackmail, one of the most blatant examples of it that I have seen in my 21 years in the Senate, and I will not be a party to it.

One of the reasons why I am standing, though I do not often get involved in these preliminary discussions to a procedural proposal, is that I want to make it clear what my position is. I am against a 12.9 percent pay raise, and I am against a 5.5 percent pay raise, for only one reason: I think the credibility of this institution is on the line. The people out there believe that we use our power in order to line our own nest. And I have never seen such an example of devious maneuvering. Not really that devious, it is so transparent. It is so transparent that if we were to become parties to it, the Senate would be tarnished as I am sure the House will be.

I cannot understand how the House can deliberately participate in this kind of maneuvering and then go home to face the people. If we were to defeat this conference report and the 12.9 percent pay raise go into effect on midnight Monday, those people will be faced with a firestorm back home the like of which they have not seen in years. Thank God we will be here, and will not have to face it. The outrage of the country will be such that they will be forced to come back and reconsider the consequences of their action. I cannot believe otherwise. And then we will really look like fools—devious fools, so interested in picking up $3,200 in additional pay, of which half will return to the Treasury in taxes, and we will participate in this deviousness to nail it down.

I will be no party to it. As to the abortion issue, I have no objection to what Senator MAGNUSON proposes; I have no objection to voting on the abortion question first. But I did not want there to be any doubt back home among my people about how I will vote on the conference report. I will vote no, on the assumption that though the House has recessed, it still has time before midnight Sunday to contemplate the consequences of its action and come back and repeal it.

Why should I assume they have so abandoned responsibility that they will permit that 12.9 percent pay raise to go into effect on midnight Sunday? I will not assume it. If they want to assume it and do it, that is their responsibility and not mine, and I will not accept an iota of responsibility for the consequences.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington has the floor. The Senator from Vermont is recognized to reserve the right to object.

Mr. LEAHY. Mr. President, reserving the right to object, I find much in which to concur with my distinguished neighbor from New England, the senior Senator from Maine. I think that the distinguished majority leader, just this once, in trying to take the most responsible way of working this out, perhaps has been overly generous to the other body by saying the responsibility is now ours.

Let us review a little bit what has happened here. We are caught in this bind because of two actions by the other body. One is their constant effort to get an abortion prohibition by a back door way, through funding, and forcing us to vote up or down if we want to stand on our constitutional amendment in contrast to a back door way.

The other thing is on the pay raise issue itself. If you look at the record, it passed overwhelmingly in the House of Representatives at a time when nobody's name was on a standing vote. When somebody suggested that perhaps if we are going to dip our hands into the Treasury, we ought to have a rollcall vote, that time it lost, and it has gone back and forth.

I happen to have voted against the pay raise before, and I think the Senator from Maine did also. But let us vote up or down on the pay raise. For $3,200, for God's sake? Or any amount; the principle remains the same. And then to acquiesce in a back door way of facing the abortion issue? I think that, regardless of how anyone stands on it, that issue should not be faced on the appropriations process, but up or down on a constitutional amendment basis, which is the only way it could legally be done.

I have stood against a pay raise, and I will vote against the conference report, to put the responsibility right back where it belongs, on the people who are out at National Airport, hoping to be cleared for takeoff before anybody else finds out what they have done.

Several Senators addressed the Chair.

Mr. HARRY F. BYRD, JR. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Washington has the floor. The Senator from Virginia is recognized for the purpose of reserving the right to object.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. HARRY F. BYRD, JR. This changes the subject slightly.

The Senator mentioned that there are three amendments in disagreement.

Mr. MAGNUSON. Two.

Mr. HARRY F. BYRD, JR. That may be a difference of opinion.

Mr. MAGNUSON. Well, two of them are technical amendments.

Mr. HARRY F. BYRD, JR. Well, that may be a difference of opinion.

Mr. MAGNUSON. Well, there is no difference of opinion.

Mr. HARRY F. BYRD, JR. Amendment No. 12, as I understand it, deals with travel limitations.

Mr. MAGNUSON. Yes.

Mr. HARRY F. BYRD, JR. If my memory is correct, the Senate proposal was for a $750 million reduction.

Mr. MAGNUSON. Right.

Mr. HARRY F. BYRD, JR. The proposal brought back tonight is not for a $750 million reduction.

Mr. MAGNUSON. It is for $500 million.

Mr. HARRY F. BYRD, JR. I do not call that a technical disagreement. I call that a $250 million disagreement. I think that is an important item.

Mr. MAGNUSON. Well, the technical part of it is that the House wanted some language to exempt loan collectors in the Farm Labor Administration to go out and try to collect loans. We agreed to it.

Mr. HARRY F. BYRD, JR. Would it be in order to move that the Senate insist on the $700 million figure?

Mr. MAGNUSON. That would be in order, sure.

Mr. HARRY F. BYRD, JR. A parliamentary inquiry, Mr. President.

Mr. MAGNUSON. I do not think there is any problem on that.

The House crowd wanted to exempt collectors who go out and collect farm loans.

Mr. HARRY F. BYRD, JR. But they also reduced by $250 million what the Senate did.

Mr. MAGNUSON. Well, the Senator from Tennessee finally agreed to that. His original proposal was $500 million and I made it $750 million.

Mr. HARRY F. BYRD, JR. I want to support the chairman.

Mr. MAGNUSON. All right.

Mr. President, I think that, in view of the discussion here, we probably ought to—the conference report is here. I think we just ought to leave it alone until Tuesday and then think it all over.

The only problem on that is that the judges will get 12.9-percent raises. If you want the judges to get 12.9 percent, then leave it alone. If you do not mind the judges getting a 12.9-percent raise in salary, the other matters can be taken care of. The congressional pay can go down to zero or 5 or something, but that is all right.

I think that we ought to send it back to conference in disagreement with No. 17—that leaves everything else open—and see what the House does. Apparently, I am not going to get a unanimous-consent agreement.

Mr. ROBERT C. BYRD. Mr. President, may we have the Chair put the question for unanimous consent?

Mr. HARRY F. BYRD, JR. Reserving the right to object, Mr. President, the Senator from Virginia would like to have a vote on the proposal that the Senate insist on its amendment No. 12, namely, a $750 million reduction in travel expenditures rather than what the committee brought back.

My parliamentary inquiry is if the unanimous-consent agreement is entered into as requested by the Senator from Washington, will the Senator from Virginia then have an opportunity to make a similar request with regard to amendment No. 12?

The PRESIDING OFFICER. The Chair is uncertain about the request of the distinguished Senator from Virginia. Does the Senator wish the question to be placed before we vote on the conference report, on amendment 12?

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that amendment No. 12 be considered separately from the conference report and that the Senate insist on its position.

Mr. WEICKER. Mr. President, reserving the right to object.

Mr. ROBERT C. BYRD. Mr. President, there is already one unanimous-consent request before the Senate.

The PRESIDING OFFICER. The Senator's request does not take a unanimous consent. It can be considered separately and will be subject to the motion he makes.

Mr. HARRY F. BYRD, JR. It will take unanimous consent for that?

The PRESIDING OFFICER. No, sir, it will be considered separately after the conference report is disposed of.

Mr. HARRY F. BYRD, JR. After the conference report is disposed of?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. If the conference report is adopted. Then if the conference report is voted down, it will be unnecessary.

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. HARRY F. BYRD, JR. A parliamentary inquiry, Mr. President.

The Senator from Washington poses a unanimous-consent request that amendment No. 17 be voted on before the conference report. Would he add to that that, following the vote on amendment No. 17, there be a vote on amendment No. 12?

The PRESIDING OFFICER. Is the question to the Chair or to the Senator from Washington? Does the Senator from Washington modify his request?

Mr. MAGNUSON. I can do that, that is no problem.

Mr. WEICKER. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I object to the unanimous-consent request of the Senator from Washington.

Mr. MAGNUSON. Just a minute, Mr. President, I modified——

The PRESIDING OFFICER. The objection of the Senator from Connecticut is heard.

Mr. MAGNUSON. Mr. President, I modified my unanimous-consent request to add disagreement to No. 12, to add $250 million.

Mr. ROBERT C. BYRD. Then the Senator must renew his request. The Senator objected to the first request.

Mr. President, is there a request before the Senate?

The PRESIDING OFFICER. There is no request.

Mr. ROBERT C. BYRD. Then, Mr. President, will the Chair recognize me?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Maine has spoken of deviousness. Mr. President, I advocated that we vote on the abortion amendment, vote to send it back, and then vote on the conference report. Because of the exigencies of the situation, the circumstances that we are in, we vote to adopt the conference report and put it back in the lap of the House.

Lest the Senator from Maine or anyone else might extrapolate from that that I am participating in any deviousness on the pay raise, I stated in my press conference, I believe last Saturday, that I am personally opposed to the pay raise. So my position on the pay raise is a matter of record.

I merely thought that the Senate ought, however, to send the conference report back and put it in the lap of the House.

Mr. MUSKIE. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. MUSKIE. Certainly the majority leader understands that the comments were not directed at him in any way.

Mr. ROBERT C. BYRD. I know that.

Mr. MUSKIE. I can understand the reasons why the majority leader, as a leader, would advocate this procedure from his very high sense of responsibility. I was not critical of him at all, nor would I be critical of any Senator who disagreed with me on procedural grounds.

I was simply trying to describe the trap which I think the House has undertaken to put us in, and I am not picking anyone in the House.

Second, the effect that will have with respect to the public perception of the Senate equals the House, and I am not critical of the majority leader at all.

Could I put a parliamentary inquiry to the Chair at this point?

Mr. ROBERT C. BYRD. Mr. President, I yield for that purpose.

The PRESIDING OFFICER. The Senator has yielded to the Senator from Maine for that purpose.

The Senator will state the parliamentary inquiry.

Mr. MUSKIE. If the procedure suggested by the distinguished Senator from Washington were agreed to and we were to vote on the amendments, however many, and then get to the conference report, would it be possible to send the conference report back with instructions to delete the pay raise for Members of Congress?

The PRESIDING OFFICER. In the Chair's opinion, it would not.

Mr. MUSKIE. I was afraid of that.

Is that the only recourse parliamentarily available to us?

If we believe we ought to protest the pay raise, would be to vote against the conference report?

Is that a proper parliamentary inquiry?

The PRESIDING OFFICER. Would the Senator restate it?

Mr. MUSKIE. Then the only recourse for those of us who would like to vote against the pay raise would be to vote against the conference report?

The PRESIDING OFFICER. The Chair will not interpret that question for the Senator from Maine.

Mr. MUSKIE. But the Chair has advised me that sending the conference report with instructions to delete the congressional pay is not available to any Member of the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. MUSKIE. Well then, as far as I can see, there is no other recourse.

Mr. WEICKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. Would the Chair state the unanimous-consent request of the Senator from Washington?

The PRESIDING OFFICER. When the Senate acts on the conference report——

Mr. MAGNUSON. The Senator has raised an objection to vote against the whole conference report——

The PRESIDING OFFICER. I hope the Senator from Washington will let the Chair give an answer to the inquiry of the Senator from Connecticut.

The Senate acts on amendment No. 17 in disagreement first. Then acts on the conference report itself, and then acts on amendments 12 and 15 in disagreement.

That was the request the Senator from Connecticut objected to.

Mr. JOHNSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. Mr. President, are the amendments in disagreement amendable?

The PRESIDING OFFICER. No. 12 and No. 15 are amendable.

Mr. JOHNSTON. Is there a rule of germaneness with respect to such amendments?

The PRESIDING OFFICER. Would the Senator refrain for just a moment?

They are amendable because the House has concurred in the Senate amendments with amendments.

Mr. JOHNSTON. Is there a rule of germaneness with respect to the amendments in disagreement?

The PRESIDING OFFICER. In the Chair's opinion, there is.

Mr. JOHNSTON. There is a rule of germaneness?

The PRESIDING OFFICER. The Senator is correct at this time.

Mr. JOHNSTON. I thank the Chair.

Can the rule of germaneness be waived?

The PRESIDING OFFICER. As a practical matter, in all probability, the Senator could, but we are not sure what would happen when it went back to the conference.

Mr. JOHNSTON. My final question is, Would it be permissible, and if so, by what degree of vote, by unanimous consent or by majority, for the Senate to amend one of the amendments in disagreement by striking the 5.5 percent pay raise?

The PRESIDING OFFICER. That would take unanimous consent.

Mr. JOHNSTON. I thank the Chair.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Will the Senator withhold that request?

Mr. WEICKER. Yes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I think we ought to see what the Senate wants to do with this unanimous consent. The objection has already been made to the unanimous-consent request that the Senate proceed to vote on the amendment in disagreement. First, that objection has been made. I think it is up to the Senate now to vote up or down on the conference report. I hope the Senate will proceed to do that.

Mr. DURKIN. Will the Senator yield for a question?

Is there a possibility that the leader will propound a unanimous-consent request similar to the one offered by the Senator from Washington, with the further provision that before we vote on the conference report we vote on the 5.5 percent pay increase—I am opposed to the 5.5 percent—and if we lose that and the conference report is adopted, that we attach to it a resolution striking the 12.9 percent pay increase and send it back to the empty Chamber over there?

Mr. ROBERT C. BYRD. I am not sure that can be done because the House has already discharged its conferees. I am not sure that can be separated out.

Mr. DURKIN. Can we do it? If they cannot, that is their problem.

Mr. ROBERT C. BYRD. I am not sure that can even be done by unanimous consent.

The PRESIDING OFFICER. In the Chair's opinion, it could, but it has no conference to send it back to.

Mr. ROBERT C. BYRD. What is that?

The PRESIDING OFFICER. It has no conference to send it back to.

Mr. DURKIN. In that fashion, we have made the record clear. This is one of the few nights we have been in session at 10:30 here, involved in a pay raise for ourselves. We look like damn fools, and if the House is not there, that is too bad.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I withdraw my request for a quorum.

The PRESIDING OFFICER. The Senator from Connecticut has withdrawn his objection to the unanimous consent agreement.

Mr. WEICKER. No, Mr. President.

The PRESIDING OFFICER. I am sorry.

Mr. WEICKER. I withdrew my call for the quorum.

I join with the majority leader suggesting we have an up or down vote on the conference report.

I objected to the unanimous consent request of the Senator from Washington.

Mr. President, I ask at this time for the yeas and nays on the conference report.

Mr. STEVENS. A point of order, Mr. President. We do not have the conference report.

The PRESIDING OFFICER. The Chair says to the Senator from Connecticut that we do not have the conference report before the Senate. It has not been received. The papers have not been received from the House.

Mr. MAGNUSON. Mr. President, they on their way.

Here he is right now.

The PRESIDING OFFICER. The Senate will receive a message from the House of Representatives.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. Would the Senator suspend, the Chair wishes to correct the statement he made a couple of minutes ago as it relates to rule 16, that only one of these amendments we received could be amended by unanimous consent.

The Chair would like to correct that.

Mr. MAGNUSON. Mr. President, I submit the conference report on House Joint Resolution 404 and ask for its immediate consideration.

Mr. HARRY F. BYRD, JR. Mr. President, we cannot hear what is being requested of the Senate.

The PRESIDING OFFICER. The Chair understands very well and will do his utmost.

He can hear the cloakroom very well.

The Chair wants to finish the statement he was making and intends to stay here until he finishes it.

Germaneness on any amendment could be decided by the Senate on a majority vote.

The Senator from Washington is recognized.

CONTINUING APPROPRIATIONS, 1980—CONFERENCE REPORT

Mr. MAGNUSON. I submit a report of the committee of conference on House Joint Resolution 404 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 404) making continuing appropriations for the fiscal year 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. ROBERT C. BYRD. Mr. President, I suggest a 5-minute recess, during which time we draw up an amendment that will give the Senate an opportunity to vote on the pay increase.

Mr. WEICKER. Will the distinguished majority leader agree to the yeas and nays on the conference report?

Mr. ROBERT C. BYRD. Yes.

Mr. WEICKER. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there objection to the 5-minute recess?

There being no objection, at 10:30 p.m. the Senate recessed until 10:35 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. BOREN).

Mr. MAGNUSON. The Senator from West Virginia——

Mr. WEICKER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER (Mr. BOREN). The Senator will state it.

Mr. WEICKER. What is the pending business before the Senate?

Mr. MAGNUSON. The conference report.

The PRESIDING OFFICER. The conference report.

Mr. WEICKER. Mr. President, have the yeas and nays been ordered on the conference report?

The PRESIDING OFFICEP. They have been ordered.

Mr. WEICKER. Now that the unanimous-consent request of the distinguished majority leader has expired, would it be proper for the yeas and nays to take place on the conference report?

Several Senators addressed the Chair.

Mr. MAGNUSON. I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. ROBERT C. BYRD. Mr. President, we can vote up-or-down on the conference report. If the conference report is voted down the whole process has to start over again ab initio.

If we can get consent, if the Senate would give its consent, that amendments be offered which would clearly specify that the pay increase not go into effect for Members of Congress, we could vote on those amendments and then vote on the conference report, adopt the conference report, and request a conference with the House and avoid starting all over again the entire process.

If the House accedes to the request of the Senate for a conference and to appoint new conferees, then only these items would be the items involved, and it could expedite the matter.

So it seems to me that would be the better way to do it. The Senate will take its position on the pay raise, but it would not be killing the entire conference report so that all the work on all the items in the continuing resolution would have to be done all over again.

If Senators only want to state their position on the pay raise and on abortions, that is the way to do it, and then adopt the conference report and send it back to the other House.

Mr. DURKIN. Mr. President, will the leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. DURKIN. The effect would be that the adopted conference report would not have in it the 5 percent that would be in disagreement, and in a subsequent conference, as would the Hyde amendment, depending on the outcome of that separate vote, and they both would come up for a vote in conference.

Mr. ROBERT C. BYRD. Exactly, if the majority of the Senate would take that position. If the Senate would take the position to put the 5-percent pay increase back in conference, it would not apply to Members of Congress, no pay increase to Members of Congress, that would go back to conference, as would also the abortion amendment.

Mr. DURKIN. What happens if the House never appointed conferees? Would we automatically get the 12.9 percent?

Mr. ROBERT C. BYRD. We are automatically going to get the 12.9 percent in any event because they have gone out until Tuesday.

Mr. DURKIN. Say they never appoint conferees, have we fallen into a trap, assuming we vote the 5.5 percent, and the House never appoints conferees, and we end up in a position where we get 12.9 percent and the opprobrium of the whole country?

Mr. ROBERT C. BYRD. They have to either accept the request of the Senate for a conference or they have to start over again, because if they do not appoint conferees, the thing is dead, and they have to start all over in that event.

Mr. DURKIN. I thank the Senator.

Several Senators addressed the Chair.

Mr. DOMENICI. Mr. President, will the leader yield to the Senator from New Mexico? I will just take 3 minutes.

Could I ask the distinguished chairman of the full committee is it true that the Senator has introduced five bills of an authorizing type that address themselves to the issue of an American policy on abortion?

Mr. MAGNUSON. That is correct.

Mr. DOMENICI. I want to commend the Senator for it, and I want to say to the Senate that as one Senator here at 11 o'clock tonight for the fifth time in 7 years we have had an abortion issue on an appropriation bill, and we have not had one single bill come to this floor where we are willing to address the issue of abortion as a matter of policy.

The medicaid bill can be amended by the authorizing committee and they can clearly state, the Supreme Court has so indicated, whether or not we should pay for abortions, and that would be a law. That would not be a money bill. I submit that it is time we faced up to that. We do not have information to vote on abortion. We get letters telling us about abortion, but we ought to have a hearing in an authorizing committee, the Armed Services Committee on the military, the Finance Committee on medicaid, and then come to this floor, not at 11 o'clock when the Government is about to go out of business, and vote on a pay raise and on an issue of such significance as abortion.

I canceled a trip to my State with things set up for tomorrow, starting at 10 o'clock, because I thought it was important to be here, and I think it is important for all of us that we understand that we do not have to be here. If we have the courage to have that kind of vote, then I would admit you can still put it on an appropriation bill, but it would be a much shorter evening if we had voted 6 months ago to amend the medicaid law of this land to set the policy for abortion.

I submit if we brought that kind of amendment down and we had established a policy we would not be here until the waning hours and in conference ad nauseum on this kind of issue.

I tnank the chairman for his efforts to get it out from under appropriations, and I yield the floor.

Several Senators addressed the Chair.

Mr. MAGNUSON. I thank the Senator from New Mexico for his remarks. Yes, I have introduced five bills. This abortion thing has been going on for 6 years with me, and no legislative committee has tackled it at all. They say they will. It is a policy matter and it does not belong, in the first place, on a continuing resolution. If I had my way I would knock out all relationship to abortion. It goes on and on. It is getting so that the abortion issue is tying up the whole Federal Government.

It is a policy matter, and I appreciate the remarks of the Senator from New Mexico. I did introduce five bills. They were referred to five committees, and not a murmur, not even one single hearing on it. I do not know what is the responsibility of legislative committees, what it is getting to be around here. They will not touch it.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Connecticut.

Mr. WEICKER. I thank the distinguished Senator from West Virginia. I would suggest to my colleagues that all that has been set forth by the distinguished Senator from West Virginia could be accomplished by a simple up-or-down vote on the conference report. What I do not want to do here tonight is to get into a leadership contest, if you will, and put it on a partisan basis.

I suggest to you that indeed the overriding issue right now is the challenge to the U.S. Senate on a variety of issues as encompassed in the action by the House.

The difficulty with voting individually on those issues is that it colors, if you will, your vote on the conference report. I think right now none of us can count the votes on abortion or whether we want HUD or what have you and we are probably all in the same fog as to where the votes are, and that makes it fair for all of us. I would just go ahead and suggest that we vote up or down on the conference report and take everything with it, regardless of anybody's point of view on abortion or any of the rest of these issues, up or down as being the improper way to handle some very serious subjects, abortion being one of them. But, as I say, I do not know where the votes are right now, and neither does any one of us, nor on HUD insofar as livable cities, and the Galileo project, and so forth. I forget what else we have here, one of the amendments that the distinguished Senator from Virginia mentioned, it is all encompassed in there.

But the minute any one of us gets our way on a particular amendment, then that is going to pretty much dictate our vote on the overall conference report. So let us go ahead and face it squarely from the beginning, and vote up or down on the conference report, and either all get our wishes or none. Then we will be able to say that the negotiation process was conducted in a responsible way by the Senate and the legislative process was conducted in a responsible way by the Senate, and the Senate position is not just going to go out the window because the other side decides to take off on a vacation.

I would suggest, Mr. President, that we go to an up-or-down vote on the conference report, the yeas and nays having been ordered. I do not mean to foreclose any discussion, but I would suggest that that be the next order of business.

Mr. ROBERT C. BYRD. Mr. President, I have listened to the distinguished Senator from Connecticut, and I understand his position, and we will have an up-or-down vote on this conference report, there is no question about that. We can move to table it. But the question is whether we vote up or down on the conference report before we have an opportunity to vote on the amendments in disagreement, and before we have an opportunity to add an amendment to each of those that would specify that Members of Congress would not get any increase. By unanimous consent, we can vote on the amendments first. That would give the Senate a chance to take its position, and then it would vote on the conference report. It could vote it down, which kills it and the whole problem would start all over again, or it could vote it up. That would put it in conference with an abortion amendment again, and with an amendment that puts the salary issue back where it was in the first place, that the Senate position is that Members of Congress would not get any increase.

I would hope that the Senate would grant a unanimous-consent request and allow us to vote on the amendments. That clearly puts the Senate in a position by rollcall vote, and puts the matter back in conference. It does not kill the conference report, so that we would not have to start the whole process all over again.

The judges will get their increase no matter what happens, because Sunday night at midnight that goes into effect, and it cannot be made retroactive, because of the Constitution. If the President wants to call the House back into session tomorrow, he can do it, but the House cannot come back into session tomorrow otherwise. It has recessed until Tuesday, and I know of no way under the Constitution, if the Senate recesses until Tuesday, that anybody except the President of the United States can bring it back before then, and the same is true of the House; so they are out until Tuesday unless the President brings them back. He can bring either House back.

So I say let us not kill the conference report. Let us vote on the amendments, put them back in conference, and let the House then face up to its responsibilities.

If you want to object to my unanimous-consent request, you can do that, and we will vote on the conference report.

Mr. President, I ask unanimous consent that I be permitted to offer an amendment to two of the amendments in disagreement, the same amendment, which would eliminate the pay increase for Members of Congress prior to——

Mr. GOLDWATER. Mr. President, I object.

Mr. ROBERT C. BYRD. Will the Senator allow me to finish?

Mr. GOLDWATER. I do not have to explain it. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I hope the Chair will at least let the request be made. I know the Senator is going to make his objection again, but I think the Senator who makes the request ought to be allowed to finish his sentence.

I ask unanimous consent that I be allowed to offer an amendment to each of the two amendments the House passed, the amendment being the same in both cases, an amendment specifying that there be no increase for Members of Congress, and that the vote on those two amendments occur before the Senate votes on the conference report.

Mr. GOLDWATER. I object.

Mr. WEICKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Objection has been heard.

Mr. WEICKER. Will the Senator withhold for one moment?

The PRESIDING OFFICER. Objection has been heard.

SEVERAL SENATORS. Regular order, Mr. President.

Mr. ROBERT C. BYRD. Let us vote on the conference report, Mr. President.

CONCERNING CONGRESSIONAL PAY RAISE

● Mr. DOLE. Mr. President, in recent months the American people have expressed their opposition to any pay increase for Congress and top level civil servants. The Senator from Kansas wishes to express his opposition to the currently proposed 5.5-percent pay increase for not only Members of Congress but for more than 15,000 civil servants. At this juncture in time the people of this country are facing an inflation rate of 13 percent causing even the bare essentials of life to become exceedingly expensive. Everyday, it seems, the President continues to ask voluntary compliance to his wage and price ceilings. If the American people are to be convinced that such compliance is in their interest then there must be some kind of leadership. Congress has an opportunity to show its leadership by going farther than the goals of the wage and price guidelines and deny ourselves any pay increase. We are not dealing with a trivial amount of funds but between $60 and $70 million. For the last few years there has been growing support for a balanced budget amendment and has in effect placed Congress on notice, but giving itself a 5.5 percent pay increase creates an impression that Congress is still hard of hearing.

CONFIDENCE IN GOVERNMENT

It is said that the American people have lost or are losing confidence in their Government. The bureaucracies are not the only targets. Rapidly, the representatives of people are quickly becoming subject to their frustrations. Here is an opportunity to make a positive step toward restoring our much needed confidence. Let the U.S. Congress provide an example for the American people to follow. Any pay increase at this time is not in the best interest of this country and I stand in opposition.●

Mr. ROBERT C. BYRD. Mr. President, I shall vote "yea" on the conference report, and I hope it will be adopted, after which we can still vote on the amendments in disagreement to the conference report and also on an amendment which I shall offer to deny any increase in salary to Members of Congress.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, debate is not allowed during a rollcall, but there have been some Senators who may have voted with me to adopt the conference report, realizing that if the conference report is adopted, I would then offer the amendments to deny any congressional pay raise. The conference report is going down, and lest their votes for adoption of the report be misinterpreted as a vote to support a congressional pay increase, I suggest that all Senators who have voted with me to adopt the conference report may wish yet to vote the conference report down.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry. Can a Senator make a speech in the middle of a vote?

Mr. ROBERT C. BYRD. No.

Mr. GOLDWATER. The Senator is not using the rules.

The PRESIDING OFFICER. It cannot be done. The vote will continue.

The legislative clerk resumed the call of the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the

Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Arizona (Mr. DECONCINI), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Ohio (Mr. METZENBAUM), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), the Senator from Florida (Mr. STONE) and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. EXON) is absent on official business.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) and the Senator from North Carolina (Mr. MORGAN) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Mississippi (Mr. COCHRAN), the Senator from Kansas (Mr. DOLE), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Nevada (Mr. LAXALT), the Senator from Indiana (Mr. LUGAR), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Wyoming (Mr. SIMPSON), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND) and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 9, nays 55, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—9

Baucus
Byrd, Robert C.
Hatfield
Jackson
Javits
Magnuson
Matsunaga
Melcher
Williams

NAYS—55

Armstrong
Bentsen
Boren
Boschwitz
Bradley
Byrd,
Harry F., Jr.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
Domenici
Durkin
Eagleton
Ford
Garn
Glenn
Goldwater
Hart
Hatch
Hayakawa
Heflin
Helms
Humphrey
Inouye
Jepsen
Johnston
Leahy
Levin
Mathias
McClure
Moynihan
Muskie
Nunn
Pell
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Stevens
Stewart
Tower
Tsongas
Warner
Weicker
Young
Zorinsky

NOT VOTING—36

Baker
Bayh
Bellmon
Biden
Bumpers
Burdick
Cochran
DeConcini
Dole
Durenberger
Exon
Gravel
Heinz
Hollings
Huddleston
Kassebaum
Kennedy
Laxalt
Long
Lugar
McGovern
Metzenbaum
Morgan
Nelson
Packwood
Percy
Ribicoff
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stone
Talmadge
Thurmond
Wallop

So the conference report was rejected.

Mr. GOLDWATER. Mr. President, I move to reconsider the vote by which the conference report was rejected.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I know of no further action that the Senate should take on this conference report. It goes back to the House. Whether the House will take it up again on Tuesday, I do not know.

But, in the meantime, I guess we can just call time out here in the football game and bide our time and see what the House does.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

ORDER FOR RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today. But the Senate will be in session tomorrow.

In the event the President wishes to exercise his constitutional right to call the other body into session tomorrow, he will not have to call this body into session. The Senate will meet, ready to do business with the other body, if the other body were to be called back by the President.

SEVERAL SENATORS. Hear! Hear!

RECESS

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 12 o'clock noon tomorrow.

The motion was agreed to; and at 11:22 p.m., the Senate recessed until tomorrow, Saturday, September 29, 1979, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate September 28, 1979:

PANAMA CANAL COMMISSION

Dennis P. McAuliffe, of New Jersey, to be Administrator of the Panama Canal Commission (new position).

DEPARTMENT OF DEFENSE

Robert W. Komer, of Virginia, to be Under Secretary of Defense for Policy, vice Stanley R. Resor.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

William Brownlee Welsh, of Virginia, to be an Assistant Secretary of Health, Education, and Welfare, vice Richard D. Warden, resigned.

BUREAU OF INDIAN AFFAIRS

William Edward Hallett, of Colorado, to be Commissioner of Indian Affairs, vice Ben Reifel, resigned.

THE JUDICIARY

Warren John Ferguson, of California, to be U.S. Circuit judge for the ninth circuit, vice a new position created by Public Law 95-486, approved October 20, 1978.

Dorothy Wright Nelson, of California, to be U.S. Circuit judge for the ninth circuit, vice a new position created by Public Law 95-486, approved October 20, 1978.

Terry J. Hatter, Jr., of California, to be U.S. district judge for the central district of California, vice a new position created by Public Law 95-486, approved October 20, 1978.

Milton Lewis Schwartz, of California, to be U.S. district judge for the eastern district of California, vice a new position created by Public Law 95-486, approved October 20, 1978.

Robert H. Hall, of Georgia, to be U.S. district judge for the northern district of Georgia, vice a new position created by Public Law 95-486, approved October 20, 1978.

Dale Emerson Saffels, of Kansas, to be U.S. district judge for the district of Kansas, vice a new position created by Public Law 95-486, approved October 20, 1978.

Harold Arnold Ackerman, of New Jersey, to be U.S. district judge for the district of New Jersey, vice George H. Barlow, deceased.

Dickinson Richards Debevoise, of New Jersey, to be U.S. district judge for the district of New Jersey, vice a new position created by Public Law 95-486, approved October 20, 1978.

H. Lee Sarokin, of New Jersey, to be U.S. district judge for the district of New Jersey, vice Lawrence A. Whipple, retired.

Anne Elise Thompson, of New Jersey, to be U.S. district judge for the district of New Jersey, vice a new position created by Public Law 95-486, approved October 20, 1978.

Neal P. McCurn, of New York, to be U.S. district judge for the northern district of New York, vice a new position created by Public Law 95-486, approved October 20, 1978.

Frank Howell Seay, of Oklahoma, to be U.S. district judge for the eastern district of Oklahoma, vice Joseph W. Morris, resigned.

Lee Roy West, of Oklahoma, to be U.S. district judge for the western district of Oklahoma, vice a new position created by Public Law 95-486, approved October 20, 1978.

Thomas Rutherford Brett, of Oklahoma, to be U.S. district judge for the northern district of Oklahoma, vice a new position created by Public Law 95-486, approved October 20, 1978.

James Oliver Ellison, of Oklahoma, to be U.S. district judge for the northern district of Oklahoma, vice Allen E. Barrow, deceased

DEPARTMENT OF JUSTICE

George Washington Proctor, of Arkansas, to be U.S. attorney for the eastern district of Arkansas for the term of 4 years, vice Wilbur H. Dillahunty, term expired.

HOUSE OF REPRESENTATIVES—*Friday, September 28, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Bless the Lord, O my soul; and all that is within me, bless His holy name.—Psalms 103: 1.

We pray, O God, that we do not become so entangled with the responsibilities of each day that we forget to offer praise for the opportunities of life. We thank You for the assurance that You are with us wherever we go, that Your spirit lifts us and Your forgiveness is new each morning. We know our weaknesses and we confess our faults, even as we raise our voices to You for loving us as we are. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 3920. An act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes;

H.R. 5380. An act to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, fiscal year 1979, for a certain period; and

H.J. Res. 406. Joint resolution to extend by 120 days the expiration date of the Defense Production Act of 1950.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 737) entitled "An act to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce."

The message also announced that the Senate agrees to the amendments of the House with an amendment to a bill of the Senate of the following title:

S. 756. An act to authorize appropriations for the Office of Federal Procurement Policy for fiscal years 1980 through 1984.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3354. An act to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1788. An act to amend the National Consumer Cooperative Bank Act to provide for a small business representative on the Bank's Board.

REMARKS AND EXTENSIONS OF REMARKS

Mr. THOMPSON. Mr. Speaker, the time allotted for Members to return or to include remarks in the RECORD is normally 9 p.m.

Due to the fact that the House will be meeting in pro forma sessions, it has been decided by the Joint Committee on Printing that the foregoing remarks will be accepted up to 4:30 p.m. until the House returns to its full sessions.

REMINDERS FOR PRESIDENT LOPEZ PORTILLO

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute.)

Mr. GONZALEZ. Mr. Speaker, tonight the President of Mexico will be the guest of President Carter at a state dinner. I was honored to be invited to that dinner, but will not be able to attend because I will be out of the city at that time. But if I could go, and if I did have the opportunity to convey my thoughts to President Lopez Portillo, I would remind him of certain things.

First, I would remind him that when President Carter was in Mexico, he was subjected to discourtesies that were calculated to embarrass President Carter. This conduct was un-Mexican and deliberately provocative, and indeed unpardonable. But I would also remind him that he is now the guest of the United States, and that as such he can expect and will receive all the courtesies and gracious treatment that his country and his office is entitled to. President Carter is wise enough and gracious enough not to repay insults with insults of his own.

Second, I would remind President Lopez Portillo that he has said he would defer important decisions affecting United States-Mexican relations until after the elections next year. These questions are too important to delay, especially on some political pretense. He is wrong and impolitic to count President Carter as down and out. It is a disservice to both countries to speak of delaying decisions on the many important issues between us.

Third, I would remind President Lopez Portillo that his country bears great responsibility for the oil slick that is now damaging the entire gulf, and the coastline in Texas and Mexico as well. He is wrong to deny that responsibility, and his arrogance in the matter does not bespeak the kind of maturity that one would hope for in a man charged with the great powers he holds.

Most of all, I would say that both our countries need cordial relations. Pettiness and offensiveness of behavior have no place between two great nations, especially those that share a common border, a common history, and common interests.

Tonight there is an opportunity to begin anew. I hope that it is not lost.

PRESIDENT CARTER UNFAIRLY CRITICIZED

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, there is no question that President Jimmy Carter has been one of the most proenvironmental, anti-pork-barrel Presidents in recent history. Yet, because of his decision not to veto the appropriation bill containing the Tellico Dam, some of the environmentalists, based on this difficult decision, are now saying that he is an antienvironmentalist and cannot be trusted, and perhaps should not be supported in the next election.

Mr. Speaker, that kind of rigidly purist, one-issue, unfair attitude, whether it comes from the radical right, the environmentalist lobby, or wherever, is the kind of nonsense that our political system cannot stand. No political group, public interest or otherwise, has any monopoly on virtue. The President of this country does not deserve that kind of outcry. I do not believe that any Member of Congress should fall victim to that kind of self-righteousness.

EXCHANGE CLUB OF FRANKFORD CONGRATULATED ON ITS 50TH ANNIVERSARY

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEDERER. Mr. Speaker, I would like to pause in the business of the House of Representatives to ask my colleagues to join with me in congratulating the Exchange Club of Frankford on their 50th anniversary, October 25, 1979.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The Frankford Exchange Club is comprised of a number of business and professional men from the Delaware Valley area. During its 50 years as a service club, the Frankford Exchange Club has unselfishly contributed to such vital neighborhood institutions as the YWCA, YMCA, Northeast Boys Club, Youth of the Month Awards to Northeast Catholic High School, and Frankford High School, Friends Hospital, Frankford Hospital, Northeast Community Center for Mental Health and Research, and the Shallcross School for Disadvantaged Youths.

The Exchange Club of Frankford has erected seven Freedom Shrines within the last 12 years in the Delaware Valley and has participated in crime prevention programs. Everyone of the club's members has also given freely of their time in helping other community organizations such as the Northeast Chamber of Commerce, the American Red Cross and the Northeast Boys Club Board.

Over the past 10 years, the Exchange Club of Frankford has conducted charity auctions to insure funds for various local charities and its members have worked very hard to achieve success on these projects. The club has donated well over a quarter of a million dollars to various charitable organizations. Fittingly, the proceeds from the Frankford Club's 50th Anniversary Dinner on October 27 will be applied to a nationwide program to prevent child abuse organized by the National Exchange.

Mr. Speaker, I would like my colleagues in the House to join with me in congratulating the Frankford Exchange Club for 50 years of outstanding service to the Philadelphia community.

EXCESSIVE GOVERNMENT HURTS LABOR

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, as Congress has continued to build up an oversized Government the one that gets hurt the most is the average working man or woman in this country.

There is no such thing as a free lunch. And when the Government provides a so-called service or an added benefit, it is the poor guy out there working and paying taxes that has to carry the load.

No longer is the American worker the highest paid worker in the world. Today America has dropped to No. 5. I just read the report in the Wall Street Journal which had been reviewing recent data from the Bureau of Labor Statistics. The list starts with Belgium at $10.18; Sweden, $9.93; the Netherlands, $9.88; and West Germany, $9.41. Then comes the United States at $8.26 an hour, which leaves us fifth.

Going on down, we find England No. 10 with $4.29. Of course, in England the Government provides more services and even provides socialized medicine. But when the government does all things for all people, the person being pulled down is right in the middle class doing all of the work to provide these services to everyone else.

It raises the basic question: Is America providing more services through the Government than the people really need or want? Do we have too much government today? Do we have too many excessive regulations? Do we have too many taxes?

The hard-working American whose pay has dropped to No. 5 in the rankings, would be the first to say, let us have less government out of Washington and more net income left for the weekly paycheck of the hard-working American.

THREE HOURS A DAY ON THE BUS: OK FOR CHILDREN BUT NOT FOR CONGRESSMEN OR BUREAUCRATS

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, according to the September 6 Education Daily—

> (Los Angeles) parents object to round-trip bus rides (for their children) which often exceed one hour and sometimes take longer than three hours.

Every day, schoolchildren throughout the country must spend over 3 hours every day being bused to achieve racial balance. This barbarity was approved by a majority of this Congress in its rejection of the Mottl amendment.

I would like to ask my fellow Members what would happen if some judge or bureaucrat came up with a plan to require Congressmen to spend an hour and a half each morning and afternoon getting to and from work? How long would it take us to get an act through getting rid of such an abomination, and with precious few dissenting votes? After all, we are Members of Congress, and we have important work to do. Children trying to get an education paid for by their parents' and relatives' tax money are not in our privileged category.

Nor do I think any Federal judge or any Federal bureaucrat would stand still long for action which would make him travel 15 hours a week to and from work. The Federal employees union would raise a cry that could be heard all the way to Honolulu without a megaphone.

Teachers are striking all over the country for better pay. I will not say they do not deserve better pay and conditions, but I will say I am disappointed that none of the grievances raised by teachers' unions have anything to do with the forced transportation of children. On the contrary, the National Education Association supports forced busing. Shorter hours and better conditions are for union members, not mere children.

Children, according to the Washington establishment, are to be bused, not heard. They have no union, they have no vote in the Halls of Congress. They tried to appeal to us, and we refused. They have only one appeal left: to the voters. Next November, the voters, including the parents and kin of our bused generation, will once again have the power to send us a Congress and a President who thinks children have the right to go to the school nearest them. The court of last resort for America's children are the voters. Every vote for a Member who oppose the Mottl amendment, of either party, is a refusal to our children of that last appeal.

LEGISLATION INTRODUCED TO CHANGE WORK INCENTIVE PROGRAM

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, yesterday I introduced a bill, H.R. 5434, which will help to bring our welfare system up to date and could conceivably save somewhere in the range of $1 billion in Federal support for welfare programs each year. Specifically, this legislation will change the work incentive program such that women with children older than 3 who are receiving aid to families with dependent children (AFDC) payments will be included.

This reform is several years overdue. Under present law, an AFDC mother who has children under age 6 is exempt from any work requirement. There are approximately 700,000 AFDC mothers who are able bodied and presently exempt from this work requirement with youngest children between the ages of 3 and 6.

We all know women with young children, children between the ages of 3 and 6, who are active members of the work force. You and I recognize that modern conveniences enable today's homemakers to take care of tasks far more expeditiously than in years past.

There are day-care centers, as well as educational institutions for preschool youngsters. Children enjoy playing with one another and they certainly benefit from early educational opportunities.

Mr. Speaker, you and all my colleagues have heard from your constituents about their disappointment with the inequities of our welfare system. This bill would effect a just change. It emphasizes the productive energies that all Americans have, and increases the chances for a better life for those who will be helped to find and maintain jobs.

□ 1010

GOLD PRICES SOAR; DOLLAR DECLINES

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, gold prices continue to soar—or rather, the dollar continues to decline in value. In terms of gold, the dollar has now been devalued by 92 percent since 1971. It is not coincidental that 1971 was the last time the dollar had an official relationship with gold, until Nixon closed the gold window and ushered in the first official devaluation of the dollar since the Depression.

What are the currency trading and gold panic telling us? We are now witnessing the remonetization of gold, in disregard of the official U.S. Government position concerning the precious metal. The surge in gold prices is the world's vote of no confidence in paper currencies and the governments that promote fiat monetary policies.

People, as they have throughout history, want and demand money with intrinsic value. Governments are always resorting to inflation to fulfill the desires of special interest groups for something for nothing, but the majority will eventually insist on a return to commodity money—gold or silver.

Some try to brush off the skyrocketing price of gold as irrational panic. Panic there is, but it is neither irrational nor led by the uninformed. It is a logical reaction to the discovery that paper money is ultimately worthless.

The decision of millions of people in their attempt to protect themselves from the onslaught of inflation means they no longer trust the politicians nor the politicians' money.

The panic will end when we shut off the printing presses and make our dollar redeemable in gold once more.

WHO NEEDS ENERGY?

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, another fallout from the Supreme Court decision promoting forced busing for purposes of integration is being dramatically demonstrated in the Columbus, Ohio, School District. Those of us that supported the Mottl constitutional amendment to prohibit forced busing predicted massive busing would result in a needless use of energy during a critical energy shortage.

On September 27, 1979, I had occasion to visit with the very able superintendent of Columbus Public Schools, Dr. Joseph Davis, and he advised me that an accurate tabulation of miles traveled per week by the buses in the Columbus school system equaled six times around the world. Think of it. How much gasoline would it take to drive a bus around the world six times? Multiply this by the number of weeks school is in session, plus the number of school districts being involved in this type of social experimentation, and the energy consumption is beyond belief.

The President seeks energy conservation through standby rationing authority, 55-miles-per-hour speed limit, carpooling, and reduced thermostat settings, none of which would conserve enough energy to begin to match the energy wasted by providing fuel for busing for the purposes of forced integration.

Six times around the world—can you believe it?

RHETORIC AND REALITY ABOUT OPENNESS IN GOVERNMENT

(Mr. TAUKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUKE. Mr. Speaker, until recently, I thought that the reason I was having difficulty getting information from HEW was because I belong to the Republican Party. But recently, I found the real reason in a memorandum that the new Secretary of Health, Education, and Welfare sent to: Assistant Secretaries, heads of principal operating components, heads of OS staff offices, principal regional officials, special assistants, and executive secretariat within HEW. In Secretary Harris' memo she directed that:

> . . . no communications be sent to Members of Congress or staff on any pending or proposed legislation without express approval by me through the Assistant Secretary for Legislation.
>
> Until further notice, there are to be no meetings, calls, or staff contacts with Members of Congress or staff, White House Staff, Office of Management and Budget, or the Economic Policy Group regarding proposed legislation, 1980 authorizations or appropriations, or policy development without prior discussion with me through the Assistant Secretary for Legislation.

Before I was elected I listened to a lot of White House rhetoric about freedom of information and openness in government. I guess rhetoric and reality are two different things.

CREATION OF DEPARTMENT OF EDUCATION

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, it is frequently said that the President is somehow fighting the pork barrel tendency in this country. It mystifies me because it comes at a time when we see legislation coming through the House to create an entire new department of Government, the Department of Education, which was passed yesterday; at a time when the President is encouraging the development of a Government-based synthetic fuels program costing some $80 billion; and at a time when the Committee on Ways and Means has approved a program which would federalize the welfare system in this country. These things might not be so bad, one who believes in and loves big government would argue, but they are done at the expense of the hard-working American taxpayer.

This all contradicts the pledge that was made in 1976 for a balanced budget in this country.

STRATEGIC PETROLEUM RESERVE

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, under pressure from the OPEC nations, this administration has stopped buying oil for the planned 750-million-barrel strategic petroleum reserve. The reserve is expected to be this country's main insurance policy against another oil embargo. This recent decision reflects an astonishing acknowledgment of national indecision and vulnerability.

The Energy Department, which administers the oil stockpile, has not purchased oil for it since November of last year. With only 94 million barrels stored in three salt domes in Louisiana and Texas, the program is now more than a year and a half behind its original schedule. In addition to falling behind schedule, DOE has paid more than $27 million to three oil firms for services it has never received. The contracts entered into requires the Department make minimum payments even if the services are not entirely used.

The Saudis have apparently threatened to reduce its oil production from 9.5 million barrels a day if the United States continues to build its petroleum reserves. A year ago this country was filling the reserve at a rate of more than 200,000 barrels a day, much of it Arab oil. By August of this year, it was down to 50,000 barrels a day, all of it Mexican. This month it has been zero.

How is this great Nation to extricate itself from this dangerously weak position? Mr. Speaker, some of the options include the development of a synthetic fuels industry and a national conservation policy which offers direct grants to the residential sector and low-interest loans and other incentives to the industrial and commercial sector. We must prove to the world, and OPEC in particular, that Americans can, in fact, overcome their need to consume more oil. Once that is accomplished, the world demand for petroleum products will decline as will the price.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1980

Mr. ADDABBO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5359), making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. ADDABBO).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MURTHA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 337, nays 2, answered "present" 1, not voting 93, as follows:

[Roll No. 520]

YEAS—337

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Campbell
Carney
Carr
Chappell
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Donnelly
Dougherty
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary

Fascell
Fazio
Fenwick
Ferraro
Findley
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Harkin
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Holt
Hopkins
Horton
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh

McKay
Maguire
Markey
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Richmond
Ritter
Robinson
Rodino
Roe
Rostenkowski
Rousselot
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers

Stangeland
Stanton
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler

Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White

Whitley
Whittaker
Whitten
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—2

Mitchell, Md.
Wilson, Bob

ANSWERED "PRESENT"—1

Fish

NOT VOTING—93

Alexander
Anderson, Ill.
Ashley
AuCoin
Barnard
Beard, Tenn.
Biaggi
Bolling
Breaux
Brown, Calif.
Brown, Ohio
Burton, John
Byron
Carter
Cavanaugh
Cheney
Chisholm
Clausen
Cleveland
Collins, Ill.
Conyers
Corman
Cotter
Crane, Philip
Davis, S.C.
de la Garza
Diggs
Dingell
Dixon
Dornan
Downey

Duncan, Oreg.
Eckhardt
Fisher
Flood
Ford, Mich.
Forsythe
Garcia
Giaimo
Gingrich
Goldwater
Hance
Hansen
Harris
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Huckaby
Ireland
Johnson, Colo.
Kindness
Kogovsek
Lent
Lloyd
Lundine
McClory
McKinney
Madigan
Marks
Minish

Moffett
Murphy, Ill.
Pashayan
Reuss
Rhodes
Rinaldo
Roberts
Rose
Rosenthal
Roth
Roybal
Santini
Sebelius
Seiberling
Skelton
St Germain
Stark
Steed
Stokes
Swift
Treen
Udall
Whitehurst
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Winn
Wolff
Wydler
Wylie
Young, Alaska

☐ 1030

Mr. MOLLOHAN changed his vote from "nay" to "yea."

Mr. COLEMAN changed his vote from "present" to "yea."

So the motion was agreed to.

The result of the vote was unanimous as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5359, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, September 27, 1979, sections 701 through 724 of title VII had been considered as having been read and open to amendment at any point. Pending was an amendment offered by the gentleman from New York (Mr. ADDABBO).

The Chair recognizes the gentleman from New York (Mr. ADDABBO.).

Mr. ADDABBO. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto end in 1 hour, the time to be equally controlled by myself and the gentleman from Alabama (Mr. EDWARDS).

The CHAIRMAN. Is there objection to the request of the gentleman from New York.

There was no objection.

The CHAIRMAN. The gentleman from New York (Mr. ADDABBO) will be recognized for 30 minutes, and the gentleman from Alabama (Mr. EDWARDS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, my amendment would strike from the bill the so-called Maybank language. The Maybank language was added to the defense appropriation bill in 1954 by the Senator from South Carolina at that time who had a problem with one of his State's defense factories. Since that time the Congress has passed the Defense Manpower Production Act and also by Executive order on three different occasions under President Eisenhower, President Kennedy, and President Nixon, has imposed the defense manpower policy.

Now, the defense manpower policy requires every agency that deals in procurement shall, under the direction of the Secretary of that agency, give contracts throughout the Nation so that there would be a diversification of Federal procurements.

☐ 1040

In 1954 a limitation, as I said before, the so-called Maybank language, was imposed. The Defense Department, trying to do business as usual, not wanting change, using the so-called Maybank language, has exempted itself from this defense manpower policy. Every other agency, every other department, has complied with the requirements of the defense manpower policy.

The repeal of the Maybank language is not a socioeconomic program, because within the Defense Department there are certain programs which might be called socioeconomic. This is strictly a defense manpower policy.

I call my colleagues' attention to a booklet which they all received as to why the Maybank amendment should be repealed. It clearly points out the abuses of the Defense Department. It clearly points out that this is not a socioeconomic program. It would be a program that would be administered by the Secretary of Defense. This is delineated in the bill passed by this Congress, in the 95th Congress, which says:

> Notwithstanding any other provision of law, total labor surplus area set-asides pursuant to Defense Manpower Policy 4 (32A C.F.R. Chapter 1) or any successor policy shall be authorized if the Secretary or his designee specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices.

There will be no additional cost. There will be competition.

Mr. Chairman, last year, when this law was passed, there were about $15 billion which were to be spent by the Defense Department in procurement, which by law for a short period of time was taken out of the restrictions of the Maybank language. Out of that $15 billion, the Secretary of Defense applied contracts to the extent of about $7 million. Out of $15 billion, $7 million. And no contract was larger than $400,000. So I say to the Members that we do have a criteria, a set criteria. Contracts will not be taken away from the large weapons producers. These are small suppliers. This language which was placed in the bill in 1954 should be removed.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 6 minutes to the gentleman from Virginia (Mr. ROBINSON).

Mr. ROBINSON. Mr. Chairman, I regret very much being at issue with the chairman of my subcommittee with regard to this matter.

It was included in the bill as it was reported by the subcommittee by a very close vote. Then the Maybank amendment was restored to the bill in full committee by a vote of just about 2 to 1, 27 to 14, to be exact. So it was not exactly close.

It is important to realize that this amendment has been in the bill for years and years and years, since 1954. We are not plowing new ground here. What we are doing is making it possible for the first time for the Defense Department to grant contracts on other than a fair competitive basis and on a basis which brings into the picture for the first time the Secretary of Labor.

The Department of Defense is very solidly against the deletion of the Maybank amendment, and it is not because they are just opposed to it on general grounds because another agency gets involved; they are opposed because they have very solid grounds for saying that it will increase administrative expense, that it will drag out the awarding of contracts to a degree that would be unconscionable, and that it will be more expensive.

We have talked and talked and talked here about the fact that we need to get more defense for our dollars. What we are doing here if we delete Maybank is simply assuring that we are going to get less defense for the dollars because we are going to be eliminating competition from the spectrum of the contract awarding process.

I was amazed by the vehemence of the DOD witnesses who were on hand at the time that the Maybank amendment was restored in full committee when we were in open session by their unanimity in supporting the fact that Maybank is so important in being able to get more for the dollar than we will get if we are forced to go in the direction of awarding these contracts on the basis of what is a labor surplus area and what is not a labor surplus area.

Further than that, Mr. Chairman, you will find in the report that accompanies the bill no mention of Maybank whatsoever. It is not even covered. Why is that? It is because of the fact that it was not discussed in any depth when we were having our hearings. There has been no full review of this matter, there has been no consideration of it by our subcommittee, there has been no discussion of it to the extent that we are informed on the basis of recent reports as to what it would cost the Department of Defense if we went in this direction. It is unfair that this committee should have to consider this matter without having a proper review of the matter, because it is going to cost millions and millions of dollars in terms of the requirement that contracts be awarded on a basis of what the Department of Labor says is a labor surplus area versus a basis of what is quality and how much does it cost.

For those reasons, I ask the Members to defeat the Addabbo amendment. This Addabbo amendment would substitute bureaucracy and formulas and regulations as determined by the Department of Labor for quality and price and competition as it now exists. It would inevitably result in the fact that contracts now awarded to small businesses and minority firms would be diverted to labor surplus areas, and those same small businesses and minorities would be denied the opportunity to bid. It would result in a reduction of competition, an increase in prices and, what is so significant in these critical times, it would result in reducing our mobilization base. Firms that have historically bid and have been successful on defense contracts would no longer be able to bid because the Department of Labor would say, "You are not in a labor surplus area," even though in that area the unemployment rate might be 7½ percent. The Department of Labor says it has to be 7.9 percent before you are eligible. And what is perhaps most significant is that competitive procedures which have prevailed across the board, except in those instances of minority and small businesses, would be replaced by administrative judgments and political pressures as determined from the Department of Labor.

I say to the Members that that is not in the best interest of getting the most for your defense dollar. I appeal to the Members for the rejection of the Addabbo amendment

Mr. ADDABBO. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, I rise in support of the Addabbo amendment. It has been my experience since I have been in the Congress that the Department of Defense has most often run its procurement and contracting policies on almost a monopolistic basis. The same firms get the same contracts year after year after year. In more recent years we have managed to begin to dent that. I think it is very unwise for us not to support the Addabbo amendment. If we are going to spend military dollars, then let us do it in a fashion that will help the overall economy. If indeed we move into areas of high unemployment and we are able to get small businesses to secure procurement contracts in those areas of high unemployment, for each person that they will employ at about $16,000 a year we will be reducing the drain on the cost of keeping people unemployed, which amounts to about $17 to $19 billion a year for every 1 percent of unemployment.

□ 1050

I think it is a specious argument to say that if we indeed repeal Maybank that it will be more costly to the Government. It will not. It will save the Federal Government money to the extent and degree that we move into these high labor unemployment areas, put people to work, and therefore, and thereby begin to reduce the cost of unemployment to the Federal Government. That cost, as I indicated, is about $17 billion each year for 1 percent of unemployment.

I think the gentleman's amendment makes sense. I think this is a way in which we begin to use the military dollars in a fashion that they will be significantly impacted on the social welfare and well-being of this country.

I yield back the balance of my time.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 5 minutes to the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, in 1954 the Congress recognized that the only way to deal with the billions and billions of dollars of contracts with the Defense Department was to give it to the lowest bidder.

The chairman of the subcommittee has done a fine job this year, but on this issue I must disagree with him.

Every Member here, if they let contracts on any basis other than the lowest competitive bid, would be under tremendous pressure from all areas and groups regardless of the contribution to our national defense.

Now, we have some exceptions made in labor-depressed areas. We have it on small business. We have it on minority business.

Here the chairman would make the exception.

I have a statement here in my hands from the Department of Defense to the effect they do do that now.

May I say that here the chairman would make the exception to the rule.

One of our colleagues, when he left here, went home and started working with the welfare agency in my State. Under the figures from the Department of Labor as to unemployment, my State did not qualify for certain programs. The Labor Department called him and said, "It is an estimate. Why do you not estimate it high enough so you will qualify?"

That is just representative of what would happen if we went along with our fine subcommittee chairman, who repeals a law that has worked well since 1954.

Let me tell my colleagues, under present conditions more and more people are beginning to feel that defense expenditures are a political matter, that it is a pump-priming matter. As partial evidence of that, we are having trouble getting anybody to join the services.

We are lowering the educational requirements regularly so as to get people in the service.

We are limiting the number that we want so it will not appear that we lag behind so much in getting the people we want.

Now, if we come in here and let defense contracts, on any basis other than competitive bidding, which has proved sound since 1954, as our subcommittee chairman would ask us, we would ruin what remaining public confidence there is in the military department.

I would say again that the Defense Department in a letter to me pointed out that the primary result if Maybank was removed apparently would be a total setaside of other labor procedures in certain areas.

For example, a community gets a contract. The employment figures go up. Then that causes them not to qualify for the labor surplus contract, so the next contract has to go somewhere else.

We would have this defense contracting moving around the country. Keep in mind what the chairman's amendment would do. It would say that the Department of Defense can spend more money in the name of defense, awarding contracts where somebody might have twisted their arm and had them do it or some department in the Government might have had them do it. Some estimate might have been changed. Other things could happen but they would spend more money and not get as much for the defense dollar.

I say if you want to break down the Defense Department completely, if you want to raise the cost 25 percent, if you want to get where you have no public confidence in the Defense Department, repeal the provision which has proven sound since 1954, which says let contracts on a competitive-bid basis.

If the Department has misled me about making contracts available, I would like to take it up with them, because I have a letter in which they say they do recognize, in subcontracting, the points that are made here. What we cannot have is a general rule, something that will be motivated from Washington on any other basis. Make your bid proper, and you get the contract.

I urge my colleagues not to go along in repealing a provision that has proven thoroughly satisfactory to the Department and to the Government. Save this money, and the Defense Department supports it. Do not go along with repealing that section, passed, I say again, in 1954, 25 years ago. The longevity rule must prove its soundness.

I hope my colleagues will defeat the amendment.

Mr. ADDABBO. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. McDADE).

Mr. McDADE. Mr. Chairman, I want to begin by commending the members of this subcommittee for the fine job they did on this bill this year and in the past. I will be supporting it today, as I have in the past. As is sometimes the case around here on some issues, however, we can disagree. I disagree strongly with some of my colleagues on the question of repealing the so-called Maybank amendment. It ought to be repealed. I have not heard more inconsistencies in the well of this House in a long time. I want to tell my colleagues something. If you want to save money, if you want to create more jobs, and if you want to bring more of the free enterprise system into the Department of Defense, there is one way to do it, and that is to repeal the prohibition.

What I would like to do is try to put into perspective what we are talking about here. In rounded numbers, this budget contains about $50 billion in procurement dollars. Looking at the Pentagon's past record, about 70 percent of that is negotiated. There is not even a competitive bid on it. I do not quarrel with that. I am for that, because what we are talking about in that 70 percent, the vast bulk of what is in here is the major weapons systems that involve the security of this Nation. No one, certainly not this Member in the well, certainly not the chairman of the Defense Subcommittee, nobody wants to interfere with the national security of this Nation.

What we are talking about is tracking a program that is in existence now for small businesses that increases competition for the goods of the Defense Department that are not essential to the national security, that roughly 30 percent that is put out on competitive bid and in an effort to get more competition and better prices per product in the Defense Department's budget.

Let me just illustrate a couple of them to my colleagues. We have a program that nobody quarrels with: The small business set-aside program.

The Members heard the chairman, the distinguished gentleman from Mississippi (Mr. WHITTEN), talk about the small business set-aside program. It is in the law now. It is a 100-percent set-aside for small business. It was done because it was felt that would increase competition, that you would get a broader mobilization base, not shrink the number of companies that bid. You would get more companies bidding and more competition. That is precisely what has happened all over this Nation.

Let me just cite a few illustrations. Before we had the small business set-aside, 100 percent, we were procuring items like bushings and rotor tracks and nut-and-bolt assemblies. Before we had a small business set-aside and dealt exclusively with big business and no competition, that one item, the nut-and-bolt assembly—just a nut and bolt and all it requires is some machining—was costing the Defense Department $27 per unit. Under the small business set-aside program, that price has been reduced to $5.90. That is a saving of roughly 80 percent in the cost of the taxpayers of the United States to get that unit.

The same is true of other items, and let me emphasize again, I am talking only about items that do not affect the national security, and I want to make it clear to the Members that that judgment is made by one Department, the Defense Department. The Defense Department not affect the national security. They must find that competition exists, that they can get a reasonable price then and only then they can go out as they do now and have, my colleagues, since 1953, and say, "All right, compete for the item."

□ 1100

Let us look at what the record has been. A bushing, a simple bushing was costing the Defense Department $18.72 before this House overwhelmingly said let us establish a 100-percent small business set-aside on nonessential items where there is competition. That price was reduced to the Government of the United States, to the Defense Department by 91 percent through the competitive system.

I want to emphasize to the Members that the distinguished gentleman from New York, the chairman of the Defense Subcommittee, myself and other Members have had extensive hearings on the question of what the policy of the Congress ought to be on labor surplus set-aside areas. All we are saying is let us follow the highly successful, more than 20-year-old program of a 100-percent small business set-aside program and let us do it in labor surplus areas, but only if the following occur:

The Secretary of Defense says there is no problem with national security.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. ADDABBO. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania (Mr. McDADE).

Mr. McDADE. It is difficult when we are under this time restraint. But I want to tell the Members that the Defense Department only makes the judgment that national security is not at stake. Nobody in this Chamber wants that. But on the 70 percent that goes out noncompetitive now he must then find that there is competition and that we can expect to get a reasonable price for the items.

Based on the history of what was done with the 100-percent small business set-aside I would say to my colleagues if we want more free enterprise, if we want to save the taxpayers dollars, if we want to get more competition and expand the base for supplies to the Defense Department in a competitive, free enterprise situation, support the chairman's amendment and repeal the Maybank amendment.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I cannot argue with what the gentleman from Pennsylvania said. The small business set-aside has been very effective, and using small business has brought down the cost of defense.

All the Maybank provision says is we cannot pay differentials to contractors. That is all we are trying to do here, to keep from paying the differentials.

I think it is great that we can have the small business set-aside and it has worked. Let us not interfere with that successful program.

Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. MITCHELL).

Mr. MITCHELL of New York. Mr. Chairman, I rise in support of the Addabbo amendment. This cost issue, in my estimation, it totally phony. I think it is a red herring being drawn across the path.

The Defense Department contracted for a study that shows that the most that could happen would be there would be a differential in price of something like seven-tenths of 1 percent between what happens now with procurement and what would happen if Maybank were repealed.

I want to point out to my colleagues, too, that no procurement programs are mandated. Nothing is mandated by this. It is all permissible, all bids must be reasonable and none will interfere with the procurement of strategic weapons or other items necessary for military preparedness.

Some concern has been expressed that this is a regional issue. It is not a regional issue, it is national in scope; 1954 labor surplus areas would be afected by this program. These areas are in something like 300 different congressional districts. If my colleagues are thinking of voting against this, take a look at the small industry in your congressional district to see if they qualify for procurement under this program. It affects or could affect 37 percent of the labor force of this country and 50 percent of the unemployed labor force.

There is some concern that it would interfere with the procurement of strategic weapons. Let me read some of the 126 items on this list that would be procured under this program. Alcoholic beverages, bags and sacks, bottles and jars, brooms and brushes and mops, commercial fishing equipment.

DEFENSE DEPARTMENT PROCUREMENT CATEGORIES NOT RELATED TO NATIONAL SECURITY

Air conditioning equipment.
Alcoholic beverages.
Bags and sacks.
Bolts.
Bottles and jars.
Brooms, brushes, mops, and sponges.
Building glass, tile, brick, and block.
Circuit breakers.
Commercial fishing equipment.
Compressors and vacuum pumps.
Dogs and cats.
Draperies, awnings, and shades.
Dyes.
Electric hardware and supplies.
Electric lamps.
Electrical connectors.
Fencing, fences, and gates.
Fertilizers.
Floor coverings.
Floor polishers and vacuum cleaning equipment.
Fuel oils.
Fuses and lightning arresters.
Games and toys.
Hose and tubing, flexible.
Hospital furniture, equipment, utensils, and supplies.
Household furnishings.
Household furniture.
Iron and steel scrap.
Jewelry.
Kitchen equipment and appliances.
Laboratory equipment and supplies.
Luggage.
Lumber and related basic wood materials.
Marine lifesaving and diving equipment.
Motorcycles, motor scooters, and bicycles.
Musical instruments.
Nails, keys, and pins.
Nuts and washers.
Office furniture.
Office supplies.
Optical equipment.
Padding and stuffing materials.
Paper and paperboard.
Passenger motor vehicles.
Perfumes, toilet preparations, and powders.
Personal toiletry articles.
Phonographs, radios, and television sets.
Photographic supplies.
Plumbing, heating, and sanitation equipment.
Plywood and veneer.
Punched card equipment.
Refrigeration equipment.
Road clearing and cleaning equipment.
Roofing and siding material.
Screws.
Seeds and nursery stock.
Signs, advertising displays, and identification plates.
Space heating equipment and domestic water heaters.
Storage tanks.
Surgical dressing materials.
Tents and tarpaulins.
Textiles and fabrics.
Time-measuring instruments.
Toiletry paper products.
Typewriters and office-type composing machines.
Underwear and nightwear.
Vending and coin-operated machines.
Winches, hoists, cranes, and derricks.
Wire and cable, electrical.
Woodworking machines.
Yarn and thread.

I would urge my colleagues to take a look at this list before they vote against this amendment. I would say you are bound to have some of these industries in your district.

There would be overall savings to the Federal Government too, I am sure, because it would have to decrease the cost of unemployment benefits, it would have to help with welfare programs by decreasing them. It would cut out the number of people that are receiving medicare benefits and public service jobs programs would be far less necessary than they are now.

As I stated, I strongly support the amendment of the gentleman from New York (Mr. ADDABBO) which would remove the prohibition against the payment of any price differential in the awarding of defense contracts. This restriction has prevented the Defense Department from complying with Defense Manpower Policy No. 4 (DMP-4) which was designed in 1952 to target contracts to areas of high unemployment for over a quarter of a century. Failure to repeal makes a sham of DMP-4.

Some years after this provision was attached to the fiscal 1954 DOD appropriations budget, the Comptroller General ruled that in order to comply with both the proviso and DMP-4, contracts must be split into two production runs. One would go out for nationwide competition to determine the "base price" the Government would have to pay for the item. The other would be targeted under DMP-4 to firms in labor surplus areas which could meet the base price.

Procurement officials readily admit this process is too cumbersome to be effective, and therefore, they tend to refrain from using the targeting policy.

Those contracts that actually do lend themselves to this "splittable item" method are generally the least expensive procurements made by DOD, such as clothing, food, and medical supplies. Contracts representing major purchases of items such as tanks and airplanes never have been considered under DMP-4.

Few, if any, major procurement contracts are targeted to areas of highest need. In fact, over the past 26 years, DOD has targeted an average of only one-half of 1 percent of its procurement budget to districts of high unemployment.

Let us not forget that the Federal Government spends approximately $100 billion a year for goods and services—$70 billion of which is spent by the Department of Defense. One-half of 1 percent of $70 billion—the average percentage usually targeted to needy areas—is only $35 million. In the past 5 years, the total value of targeted contract awards has dropped to one-fifth of 1 percent of the total DOD procurement budget—imagine—only one-fifth of 1 percent.

Should the restriction against the payment of price differentials be repealed, the contracting officers of the Defense Department would be able to award a total set-aside of a Government contract to a labor surplus area under DMP-4, if the Secretary determines that the Government will be paying a reasonable price. This would substantially increase the number and value of contracts that could be awarded to labor surplus areas.

The enormous potential of the DMP-4 targeting program has been limited by the Maybank provision for more than 26 years. It is time to remove this impediment and allow the Agency which spends 3 out of every 4 Federal procurement dollars to target some of its contracts to areas of high unemployment.

This is worthy legislation. It is long overdue. It rights a serious wrong. I urge colleagues to support the Addabbo amendment.

Mr. ADDABBO. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, the Defense Department has an enormous potential for positive economic impact on our society, and particularly on the high unemployment areas of this Nation, probably the greatest of any Government program. I am thinking of the many programs that we have authorized and funded over the years, such as Appalachia, EDA, the title V regional commissions, the Farmers Home Administration loan and grant programs and the Small Business Administration programs. All combined these add up to less than 1 percent of the total nonstrategic, noncritical military procurement budget. In 1978 the military let 11 million contracts, and only $250 million of that went into the labor surplus areas of this country where we have the highest unemployment and the greatest need.

This is not political preference. This is political favoritism. This is just simple national good sense to target the procurement of this country that we need for defense into the areas where we have the highest social need and economic and employment need in this country.

Northeastern Minnesota is not now a distressed area, but it was 15 years ago. I want to tell the Members that a steel plant in my district could not get a barbed wire contract out of the Defense Department during those years to keep a few people off unemployment, off the welfare rolls, and keep them working and producing for this country. That is just nonsense. We ought to aim this procurement, we ought to aim this big economic gun of the military into those areas of this country where it is going to do the most good and provide jobs. I say let us support the Addabbo amendment and get this country on the track to doing something socially useful with that military budget.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. CHAPPELL).

Mr. CHAPPELL. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York (Mr. ADDABBO). I urge this House not to commit mayhem on the defense budget by repealing the Maybank amendment, for surely if we adopt this amendment that is precisely what we are going to do.

If we want to open the procurement budget to every kind of political decision, then vote for the Addabbo amendment. But if we want to retain competition, if we want to retain competition in the procurement budget, we certainly will vote no.

Let me mention several items I think are extremely important to us. I call the attention of my colleageus to the fact that we are here proceeding on an amendment that has had no hearing whatsoever before our committee. The subcommittee had no hearings on it, nor did the full committee have hearings on the effects of the Maybank amendment. The full committee has rejected the idea of repealing the Maybank amendment, and I think for good reason.

Some have said that this matter is not regional, and I do not suggest that it is. I do not suggest it is regional except to say to my colleagues that the coalition that has put out the information for the repeal of the Maybank amendment, strangely enough, are proceeding on the theory that you can better handle your procurement budget by geographic factors in the decisionmaking process where these contracts are going to go.

Let me give my colleagues five reasons why we ought not to accept this amendment.

First of all, there is no question in my view but that we will increase the cost of defense. The rejection of the Maybank amendment will increase, in an unknown magnitude, U.S. defense costs, with no increase in defense capability.

□ 1110

The proportion of defense awards which would be totally set aside is unknown. We do not know what we are talking about. The statute imposes no limit. The awards to labor surplus firms will be based on undefined "reasonable"—not low bid—prices. Here, we are talking about making these decisions on the basis of geographic areas rather than on competitive bids. I believe this budget ought to be protected from this kind of action.

Second, the potential for political abuse in the awarding of defense contracts for labor surplus areas would be extreme. Can we imagine a law, first of all, that is regulated by GSA, by rules and regulations, where the areas are defined by the Secretary of Labor, and where the Secretary of Defense is only going to determine whether, in a particular area eligible for set aside, whether or not that contractor is able to come forward with a reasonable price—not the lowest price, not the best price, but only a reasonable price? That is undefined in the law. There is no definition whatsoever; only the Secretary's determination would prevail.

The third reason is that we would have an extreme unfairness to nonlabor surplus areas. To deny as a matter of law a firm and its workers the right to receive a low bid defense contract because of the sole fact of its location in a geographical area with an unemployment rate below 7.9 percent is arbitrary as a matter of public policy, and rejects every notion of reward for fair competition. What if the unemployment rate for an area is only 6.6 percent—the national average—or 7.5 percent? Obviously, he is not going to be able to bid as now in those areas. So, it is just unfair on its face, and it is going to be detrimental to our minority and small business contractor. He simply is not going to have a reasonable opportunity to bid.

There is another factor that is important. The amendment would not restrict the size of the business or the size of the amount.

No. 4, there are going to be no new jobs created this way. We can only shift the jobs from one geographic area to another. To repeal Maybank would create no new jobs, but would only cause a geographical job shift from areas with less than 7.9-percent unemployment to those with that rate, or higher. The same jobs that would be gained in labor surplus areas by the set-aside awards would also be lost by firms in non-labor-surplus areas—firms which would otherwise receive low-bid awards.

Lastly, this would be a far-reaching procurement policy change.

To limit defense contract awards solely on the basis of geographical defined areas—rather than permit nationwide competition—and to further allow such awards to be made at reasonable prices rather than low-bid competition—constitutes a most far-reaching change for defense procurement which annually totals over $50 billion.

Before the uninterrupted 25-year, low-bid policy is repealed, there should be extensive hearings on the repeal implications.

I urge the defeat of the Addabbo amendment.

Mr. ADDABBO. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I know the gentleman in the well is not one to knowingly mislead the House. The subcommittee did hold hearings on the question of the Maybank language, and the record of that hearing is in volume 10 of the printed hearings. Also, the subcommittee voted to eliminate this language.

Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, I rise in support of the amendment by my distinguished colleague from New York, Mr. JOSEPH P. ADDABBO, which would repeal the Maybank amendment and thus permit the Department of Defense to target part of its procurement budget to firms located in labor-surplus areas.

Initiated in 1952, Defense Manpower Policy No. 4 (DMP-4) requires that certain procurement contracts be set aside for bidding in areas of substantial unemployment. The program was designed to preserve management and employeee skills useful to the Nation's defenses during times of economic downturns. However, every defense appropriations bill since 1953 has included the language of Senator Burnet R. Maybank, of South Carolina, which prohibits following DMP-4 where the result is a higher price to the Government. Through this language, Senator Maybank was reportedly able to prohibit the Defense Department from paying more for textiles produced in New England mills than would have to be paid at southern mills.

Originally, the General Services Administration imposed the same Maybank Amendment restrictions on civilian procurement, for the sake of uniformity in procurement policies. The GSA revised DMP-4 so that civilian agencies are no longer bound by the Maybank amendment as long as the resulting price of contracts targeted to labor surplus (DMP-4) areas is reasonable. Title V of the Small Business Act amendment (Public Law 95-89 of August 4, 1977) specifies that governmental procurement shall be "targeted to high unemployment areas, and specifically refers to DMP-4 as the policy to follow. Targeting to areas of high unemployment has been stymied since $60 billion of the $80 billion budgeted by the Government for goods and services is spent by the Defense Department.

Today we have the chance to change this situation while bringing Defense Department procurement practices in line with those of other governmental departments and agencies. The Addabbo amendment allows the Secretary of Defense the discretion to determine "that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices" in labor surplus areas. Set asides for labor surplus areas will create private sector jobs which, in turn, will reduce the local demand for welfare, food stamps, Comprehensive Education and Training Act (CETA) positions, and other similar programs. At the same time, it will be accomplished with little or no additional cost to the U.S. Treasury. There are enough eligible areas to insure that competitive bids would be submitted and under no circumstances is the Defense Department obligated to pay outrageously high prices for goods and services. A broad geographic base and an expanded number of companies participating can only strengthen our national defense.

For these reasons, I urge adoption of the amendment.

Mr. ADDABBO. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Chairman, I rise in support of the amendment by my distinguished colleague from New York. One of the primary issues we have faced these past years is how to use the resources of the Federal Government to help alleviate high unemployment, and how to do it in a noninflationary manner. We have tried a great many different approaches and programs, but we have never adequately used the Federal procurement dollar in our attempts to alleviate high unemployment. Why have we not done that, even though the labor surplus set-aside program has been on the books since the early 1950's?

Let me go into some of the history of the labor surplus set-aside program.

Essentially, the program operates to require a Government contracting officer to set aside the opportunity to bid on Government procurements for firms which agree to perform a substantial portion of the contract in labor surplus areas. The set-aside means that only firms that agree to this are eligible to bid on the procurement.

When this program was first implemented in the early 1950's in connection with our country's efforts to maintain a fully mobilized labor force for defense purposes, it was predicated solely upon an Executive order promulgated by President Eisenhower. In recent years, this program has fallen into disuse for several reasons: First, "labor surplus area" was defined to be a labor market area with greater than 6 percent unemployment, which included at one point 80 to 90 percent of our Nation. Second, it remained unclear how the labor surplus priorities were to integrate with the small business set-aside program, which confers upon small business similar advantages. Finally, the regulation implementing the Executive order contained a limitation which provided that in making a set-aside, no price differential could be paid. This limited use of a total set-aside to those instances in which a reasonable contract price could be determined by other than competitive bidding—for example, commodities or other goods for which the price is readily apparent.

As a result of this last limitation, "partial set-asides" sprang into usage. What this meant was the total needs of the Government were divided in half, with the first half being let by open nonrestricted competition. This in effect determined the price for the remaining half of the procurement, which could then be set aside for firms performing in labor surplus areas. However, the use of partial set-asides is a very cumbersome process. The contracting officer must make two solicitations, one to determine the partial set-aside price, and the partial set-aside. Further, it involved two contractors purveying the same goods, where probably one would suffice.

The genesis of this administrative prohibition on paying a price differential is contained in the so-called Maybank amendment, which for each year since 1953 has been annexed to the Defense Appropriations Act, which is the subject of the instant debate. This provision prohibits the payment of a price differential to relieve economic dislocation. While not applicable on its face to the labor surplus program, this provision has been interpreted by the Comptroller General of the United States to prohibit the use of total labor surplus set-asides for procurements made with moneys appropriated under the Defense Appropriations Act. Perhaps for simplicity, the Maybank prohibition was incorporated in the regulation implementing the policy, and thus applied not only to defense procurements, but to all procurements.

So much for the history of this program. Let me now tell you what has been happening to revitalize this program during the last 2 years.

In 1977, when I learned of this program, I realized that it offered significant potential for alleviating unemployment throughout the country. At that time, as I stated earlier, the only predicate for the policy was the old Executive order signed in 1953. To remedy this, I fought in the House conference with the Senate for amendments to the Small Business Act which had the effect of adding legislative sanction to this policy, repealing the Maybank limitation, defining the priorities within the labor surplus set-aside program and the small business set-aside program, and directing that a more appropriate definition of labor surplus areas be formulated. As a result, on August 4, 1977, President Jimmy Carter signed the bill I coauthored into law.

However, the enactment of this legislation merely represented the beginning of the battle to effect widespread usage of this most important program. First, the regulation reciting the policy had to be revised; second, the definition of labor surplus area had to be revised; and third and most important, the contracting officials had to be advised of these changes, as well as be encouraged to make use of the set-aside program. I have worked closely with the agencies involved including the Federal Preparedness Agency which has since been transferred to FEMA, which was responsible for revising the regulation implementing the policy. By November 1977, this was accomplished. Further, and at my request, the policy was made applicable to discretionary grants.

However, the revision delegated to the Deparment of Labor the duty to prepare a new definition for labor surplus area which would more adequately reflect those areas of the country hardest hit by unemployment. Until this new definition was forthcoming, the program—which theoretically, at least, remained in effect—continued to use the old definition of labor surplus area which embraced about 80 percent of the country, thus providing little or no preference.

Getting the Department of Labor to promulgate these regulations often proved to be a trying task. In October 1977, they indicated to me at a hearing I convened, that these regulations would be coming down by the end of that month. However, the end of October came and went with no action on their part. It was only by prodding them on a continual basis that by January 1978, proposed regulations were published. I should stress here that proposed regulations are, in effect, the same as no regulations at all. They are merely suggested regulations. Thus, we berated them for an additional 3 months until finally in March 1978, final regulations were published. These were further refined earlier this year.

Generally, these regulations define labor surplus areas to be those labor market areas in the country with an unemployment rate at least 1.20 times the national average unemployment rate. Additionally, any area with an unemployment rate of at least 10 percent will be automatically included, and any area with an unemployment rate less than 6 percent will be automatically excluded.

These regulations are significant in that they decrease coverage from over 80 percent of our work force to merely 28 percent which includes approximately 43 percent of our Nation's unemployed. Hence, the program can now provide a true preference to areas of high unemployment.

With the adoption of these Department of Labor regulations the entire mechanism for wide scale implementation of the labor surplus porgram is in place. However, in order to serve as a catalyst for effective implementation of this program, the Small Business Subcommittee which I chair held 2 days of hearings in April 1978.

These hearings were attended by the civilian agencies with greatest potential funds for the labor surplus program, as well as those charged with responsibility for its overall implementation and success. While none of the agencies were yet making substantial numbers of set-asides, they appeared generally familiar with the program, and in some cases, even enthusiastic. The hearings emphasized both their plans to get contracts out to labor surplus areas as well as what they were doing to educate and motivate their contracting officials.

The program received a considerable boost, in March 1978 when the President, in his urban policy plan, directed the agencies to make maximum use of the program, including the establishment of program goals. This was precisely the type of action I requested him to take in November 1977 when I wrote to him about the program stating:

> What is needed, however, is word from the White House to various executive agencies to make this a national and effective effort toward alleviating high unemployment in labor surplus areas.

However, as my hearings revealed a scanty use of the program, I again wrote the President advising him of the hearings' results, and requesting him to provide still greater direction for the program.

This year, the labor surplus set-aside program suffered somewhat of a setback as a result of the procurement code resulting from our multilateral trade negotiations. This procurement code will preclude labor surplus set-asides in many instances where civilian agencies might otherwise potentially be able to make them. While the agreement only applies to contracts the expected value which exceeds 150,000 SDR's—equivalent to about $190,000 and will thus continue to permit smaller procurements to be set-aside—the potential impact on the labor surplus set-aside program is nevertheless considerable.

In fact, at a hearing held earlier this year by my subcommittee, Lester Fettig, formerly the Administrator of the Office of Federal Procurement Policy, indicated that the Procurement Code would reduce the pool of contracts eligible for set-aside to labor surplus areas by approximately 30 percent. Despite efforts by the Small Business Committee to prevent this diminishment, our trading partners were unwilling to agree to exclude the labor surplus set-aside program from the negotiated procurement code.

However, many of the Department of Defense procurements are exempt from the Procurement Code. These include—

> The procurement of arms, ammunition or war materials, or procurement(s) indispensable for national security or for national defense purposes.

Further, the Department of Defense purchases of pins, needles, sewing kits; luggage; tobacco products; busses; and speciality metals are all exempt from the Procurement Code. Thus, if the labor surplus set-aside program were to become applicable to the Department of Defense, presumably much of the potential that has been lost through this diminishment can be recaptured.

Having traced through my continued involvement in this program you still may be wondering why? What is this all about? Well, it is about dollars and jobs. The civilian agencies purchase approximately $18 billion of goods and services and we are today appropriating over $48 billion to the Department of Defense at least some of which is potentially subject to set-aside. If these purchases can, to the greatest extent possible, be targeted into areas of high unemployment, it will help create and retain jobs, and will effect a more balanced national economy. In fact, one national commentator, Mike McManus, who was speaking on regional disparities, said:

> Federal procurement is the single most important tool the Federal government has to stimulate private sector job growth in stagnant areas such as inner cities.

As is evident getting the agencies to accept this program and use it on a wide scale basis, however, is not our only difficulty. The Maybank proviso stands as a principal stumbling block to the success of this program.

Many arguments are used against our efforts to repeal Maybank. Our opponents say: "Repeal of Maybank would reduce competition among defense suppliers and increase prices for defense purchases."

The truth is this: This amendment would allow the Defense Department to target purchases; it would not require procurement officials to do anything that is not in the national interest.

Second, targeting contracts would not necessarily increase prices; the Secretary of Defense, by law would not be required to make a set-aside which would result in an unreasonable price.

Third, the Federal Preparedness Agency conducted a procurement simulation study which found that when contracts were targeted to labor surplus areas rather than foreign suppliers, the average price differential that would be paid to the lowest bidding labor surplus area firm to award the contract was 0.64 percent.

Our opponents also say: "Repeal of the Maybank amendment would jeopardize making awards to the best qualified and most efficient producer and result in decreased quality and delays in defense production."

The truth is: First, there are plenty of "best qualified and most efficient producers" in labor surplus areas; just ask the members in whose districts firms are eligible under the labor surplus area determination. Manufacturing areas, which over the years have tended to be labor surplus, probably have more qualified firms than any other areas of the country. States which have largely in the past contributed heavily to our defense efforts, such as New York, New Jersey, Connecticut, Pennsylvania, Georgia, and California, all have a preponderance of labor surplus areas. It is beyond reason to assume that firms in these States would be other than best qualified, and most efficient. They would not contribute to decreased quality and delays in defense production.

Our opponents say: "Repeal of the Maybank proviso would affect mobilization planning adversely by denying some firms in the mobilization base the opportunity to bid for contracts."

The truth is: On the contrary, it is the Maybank proviso which denies firms in the mobilization base the opportunity to bid for contracts. With the adoption of the Addabbo amendment, as stated before, the Pentagon does not have to target any contracts it does not feel are appropriate to be targetted. But it is the impediment of the Maybank proviso which prohibits implementation of a labor surplus set-aside program and denies firms from bidding and winning contracts.

Our opponents say: "Repeal of Maybank would replace regular contracting procedures with administrative judgments on which contracts would be set aside from normal competitive procedures."

The truth is: There is nothing contained in the Addabbo amendment that would require changes in regular contracting procedures. For years, the Government procurement officers have been giving preference to various groups of suppliers—the small business set-aside program is a good example. Second, administrative judgments in no way would contradict the competitive bidding process. As we have stated over and over again, the labor surplus set-aside program would call for the lowest price of competing bids in the restricted area. And if one examines the definition of "restricted" area, one would find several million eligible firms.

Our opponents say: "Repeal of Maybank would place intense political pressures on our contracting officials from local firms and governments."

The truth is: This provision would result in no more pressure on contracting agencies than is already the case. Each member here has a caseworker or administrative assistant who is paid primarily to help constituents get Government contracts. Maybe we should get out of that business altogether: The Addabbo amendment would have no significant effect on that part of the political process.

Our opponents say: "Repeal of Maybank would divert contracts now given to small businesses and minority firms not in an LSA."

The truth is: Nothing could be further from the truth. By force of law—Public Law 95-89, which this Chamber approved in 1977—small businesses receive preference over any other type of firm, even if the other firm is located in a labor surplus area. Minority enterprises would also be assisted by an increase in the labor surplus set-aside program. Moreover, most minority businesses can be found in labor surplus areas. How is it possible that a labor surplus set-aside program would hurt minorities?

What we are talking about with the Addabbo amendment is simply making defense procurement harmonious. This is something that has the highest attention of the President right now. He has promulgated this as part of his urban policy statement. He has most recently approved an experimental outreach effort to help selected cities identify businesses capable of participating in this program.

What the gentleman from New York has done is to offer an amendment that will permit DOD to take part in this program. If this amendment would impart a mere 5 percent of the Department of Defense budget it would go a long way.

The fact of the matter is that in my hearings with the civilian agencies, they testified that if they try as hard as they possibly can, they may be able to use as much as 5 percent of their total procurement dollars in the labor surplus for set-aside programs. This is insignificant when counterpointed with a mere 5 percent of the $42.8 billion we are considering today.

Several additional points concerning the labor surplus set-aside program should be noted. Before an actual set-aside can occur, the contracting officer must make two determinations. First, at the time of seeking bids, he must believe that there will be sufficient competition among those eligible to bid to provide the Government with a reasonable price. Second, after bid submission, the lowest bid must be determined to be "reasonable." If the first determination cannot be made, eligibility for bid submission will not be limited to labor surplus firms. If the second determination is not made, no bids will be accepted, and the procurement will be resolicited without the labor surplus limitation on eligibility. Thus, the contracting officer has a considerable amount of discretion, as he is the person who makes these determinations.

I mentioned early that as revised, the labor surplus program now unifies the priorities between it and the small business set-aside program. The first priority is for small businesses located in a labor surplus area. Prior to bid solicitation the contracting officer must determine whether sufficient competition exists within this category. If such competition does not exist among such firms to assure the Government a reasonable price, the contracting officer must next consider the second priority, which is small business firms without regard to location on the basis of total set-asides. He either then proceeds with the set-aside on this basis, or if there are not a sufficient number of eligible firms to provide the Government with the reasonable price, he considers next the third priority which is small business, without regard to location on the basis of partial set-asides. He either proceeds on this basis or finally considers the last priority which is any firm in a labor surplus area. If this priority cannot be met, the bids may be sought on an unrestricted basis, and any firm including small business and labor surplus firms is eligible to bid.

As you can see, this program is highly complicated in many respects. But the groundwork has been laid. All that remains is to repeal Maybank and for the agencies to follow through on a widespread basis. Once this occurs, we will be effectively channeling Government purchases of goods and services to those areas that need it most. It is a program that I believe is workable, and I have to date devoted considerable time in promoting its success. I hope that you will all join me in supporting the Addabbo amendment to assure the program's viability.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, I rise because I was sucked in, as a member of the Small Business Committee, with this type of ingenious and skillful argument which really, in the words of our distinguished colleague in the preceding argument, should be labeled, "The biggest New York buck for the bang," because it really is an amendment prepared by the Northeast corridor lobby.

The truth of the matter is that what it does, particularly in the minority procurement section, is to knock out numerous minority business firms which, for the first time, are in a position to bid.

With all of this talk I have heard, one would not realize that just in fiscal year 1978 $7.3 billion were earmarked and were spent for small business and minority enterprises with the Maybank amendment, with the present provisions of the law. I have seen the natural result of my being sucked in because, just in the last 3 months I have had two cases where small minority successful local bidders were almost knocked out by Washington-New York bidders who knew nothing about the territory but moved in because of the provision that was tacked on in the small business section of the law, which is now being attempted to be foisted on us in this section of the law.

I think that, in all fairness to everybody, we ought to recognize this and define this for what it is. It is a geographical effort on the part of the Northeast corridor to foist special favor legislation for that section, and not anything else.

□ 1120

Mr. ADDABBO. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, we just heard this is a geographical benefit. Well, it is a geographical benefit. It would benefit the entire Nation. There are 936 labor surplus areas including every State of the Union. Within the State of Texas there are 28 total labor surplus areas. In the State of Alabama, 23. Within the State of California, 69. Within the State of Massachusetts, 109. Within the State of New Mexico, 6. Within the State of North Carolina, 18. Within the State of Pennsylvania, 39.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ADDABBO. Mr. Chairman, I yield myself an additional 15 seconds.

Mr. Chairman, this is not a regional thing. It is to help, as the defense manpower policy says, spread contracts throughout the country to help our national defense. It is nothing that will benefit only the Northeast corridor.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I do not like to be up here opposing my good friend, the gentleman from New York (Mr. ADDABBO), but I really think he is wrong on this issue. The budget of the Department of Defense in many ways is fair game. Any time you have a budget crunch, there are those who would like to cut into the budget of the Department of Defense, because that somehow can stand it—because it is the big budget.

I guess it is fair to say if we repeal the Maybank amendment, somehow we would absorb the increased cost and before long nobody would realize that had happened because we are talking of budgets in terms of $128 or $130 billion.

The problem is, Mr. Chairman, every time we come to the floor with a defense bill, we have had to scrape. We have had to make cuts. We have had to shortchange, in many ways, the defense needs of this country, because we really do not have the money budgeted to do the job.

We cannot afford to pay premiums, to pay price differentials for contracts. That is what this is all about. All the Maybank provision says is that the Department of Defense will not pay price differentials for contracts to carry out the responsibility of the Department of Defense.

The small business set-aside has worked, and I certainly agree with the gentleman from Pennsylvania (Mr. MCDADE) that it has brought the cost down as we have had more competition. The minority set-asides and the minority contracting provisions have worked.

Mr. Chairman, in the last year we have full figures, about 19 percent of the procurement went to small business and minority contractors.

Mr. Chairman, I think the Department of Defense in that context is doing a credible job in seeing that its contracts are parcelled out in ways to help those who need help. However, we should not pay price differentials. We should not eat further into the money available for defense of this country in an effort to provide price differentials for contractors.

The CHAIRMAN. The time of the gentleman has expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself 1 additional minute.

Again, that is what this is all about.

Mr. Chairman, one final point: It is true that on page 949, volume 10 of the hearings, you will find three or four questions asked by the committee chairman of the Department of Defense witness concerning primarily the impact of some small business language that was put in the law. We have had no hearings on the Maybank provision, as we know hearings. We have had no testimony by witnesses who have come prepared to discuss the impact of repealing that provision, and it would seem to me if we are going to make this kind of change with this kind of impact on the defense budget, we should have full hearings. Certainly this Member would participate in those hearings to try to get the proper answers as fare as the defense needs of this country are concerned.

The CHAIRMAN. The time of the gentleman has expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself 1 additional minute.

I yield to the gentleman from Pennsylvania (Mr. MCDADE).

Mr. MCDADE. I thank my distinguished colleague for yielding to me. The gentleman in the well knows I have the deepest respect for him and the job he does for all of us on this most important subcommittee.

I just want to address myself to the question of the language of Maybank, and the so-called price differential.

Mr. Chairman, the gentleman has agreed with me that the labor surplus set-aside section is inhibited by that very language. That language does not apply to the small business set-aside section, and if you applied that test, that section, the small business set-aside, 100-percent set-aside, would never have occurred, because I suggest to my colleagues some contracting officer has to be absolutely certain that he does not violate a statute which says there may never be a price differential. So the first time he goes out for a bid, if it ever occurred that he got a price differential based on historic records he would be in violation of the statute. I simply suggest that language is what destroys it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself an additional 30 seconds.

Mr. Chairman, the gentleman makes a point I was not making very well, I suggest. What the gentleman says may be true in all or in part. At least he leaves this gentleman confused. My point is that we ought to have hearings where we can have a full-scale understanding of what is being said to this House today, and we should not handle such matters based on what a few of us can get up and say, but rather we ought to have good hearings with expert witnesses who can come and talk about the impact and, based on that, make the decision as to whether we should act on the Maybank provision.

Mr. Chairman, I appreciate the gentleman's contribution. I do not doubt a word the gentleman says, but I would rather have it in hearings where I can cross-examine.

Mr. ADDABBO. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I have not always seen eye-to-eye with my good friend from New York (Mr. ADDABBO) on defense matters. We have differed a little bit on things like the nuclear carrier and the B-1, but on this amendment I want to make it clear that, as a strong supporter of defense, as one of the still unreconstructed hawks in this body, I support the gentleman's amendment wholeheartedly.

My good friend, the gentleman from Texas (Mr. GONZALEZ), said a moment ago this was a regional matter, that this was directed against one region of the country. This is absolutely not the case. This is the antidiscrimination amendment of the defense appropriations bill. This is the equal opportunity provision of the defense bill. We have this provision in every other procurement measure we come up with. Why not extend it to the Department of Defense?

Mr. Chairman, in every other department we recognize unemployment and the impact of unemployment and we recognize that Government contracts do contribute to the economic well-being of people in various areas. There is nothing particularly sacrosanct when it comes to unemployment, and there should not be anything particularly sacrosanct about the Department of Defense. In fact, in order to participate in this discussion I had to leave the conference between the House and the Senate on the defense authorization bill for fiscal year 1980.

□ 1130

What do you think has kept us tied up there for so long? Everybody in the conference wants to make sure that their particular manufacturing outfit in their particular town or State is taken care of. So defense procurement does have an impact on employment. It also has an impact on the quality of life. We are not suggesting in this amendment that we want to degrade the quality of production for the Defense Department; certainly not. If unemployment areas are to be considered, and they certainly should be considered in defense just as they are when we are handing out contracts for desks and filing cabinets and what have you, certainly these areas ought to be considered. But our defense inspectors are going to be just as tough. They are going to be just as rugged and their standards are going to be the same no matter what the area.

What has happened in this Government and in this country, as we well know, is that over the past 20, 30, 40 years, we have had a gradual shifting in industries and jobs from one area to another, out of the great Northeast and out of the Northwest and into the Sun Belt. Left behind in those areas that were part of the original makeup of this Nation have been pockets of unemployment. All we are saying is give them an equal break when it comes to the Defense Department procurement.

Now, my good friend, the gentleman from Alabama (Mr. EDWARDS), says we should not pay a premium, we should not raise the price of the defense budget by paying a premium to take care of these unemployed Americans who are victims of this industrial change. Well, it so happens that we are already paying a premium to buy products manufactured abroad. Over in the Defense Department, if they want to buy a new gun system, if they want to buy a new tank, if they want to develop a new antiaircraft missile, do they go to manufacturers in the United States of America? No, they tell us we have got to buy it from Germany, we have got to buy it from Belgium, you have got to buy it from Timbuktoo, because these people have been cooperating with us and we must show them that we have got a "two-way street."

Our subcommittee, the investigation committee of the Committee on Armed Services is going to look into this whole matter because we are today spending literally billions of dollars more than we ought to be spending simply to fund these purchases overseas. And they are without a single iota of congressional oversight; that is one of the real shocking things about this offshore procurement, so dear to the heart of the Defense Department.

Now, if we are going to pay extra to take care of our friends in NATO, do we not also have an obligation to take care of the unemployed in New York, in New England, and in the States of the Midwest? That is what this amendment is all about.

I hope we will support the Addabbo amendment overwhelmingly.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself 1 minute. I have to respond briefly to the gentleman from New York, because the gentleman knows, as the Members of this House know, that in dealing with NATO we sell billions and billions of dollars worth of military equipment to the NATO nations, and they do ask us once in a while to buy something from them. We have been trying to establish a two-way street. I do not deny that, but it will be a long, long time before we ever start buying more than we are selling to these countries. I just do not think that is a fair argument at all.

Mr. STRATTON. Mr. Chairman, will the gentleman yield to me?

Mr. EDWARDS of Alabama. Yes, surely.

Mr. STRATTON. Mr. Chairman, the gentleman recalls a few years ago—he and I have been in this body a number of years—there was a great effort made to bring our troops back from Europe because it was said they should not be there, they were there 25 years. The great Senator from Montana, Senator Mansfield, was supporting that.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. EDWARDS) has again expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself 30 seconds.

Mr. STRATTON. Mr. Chairman, will the gentleman yield further?

Mr. EDWARDS of Alabama. I yield.

Mr. STRATTON. The Senator from Georgia, Senator NUNN, and Senator JACKSON commented at that time that we were spending all this money over there in keeping our dependents and our combat troops abroad. They said this was ruining our balance of payments and they said our NATO allies had to make a contribution to offset these costs by buying U.S. products.

Now, suddenly we have forgotten all about that imbalance, and are insisting in the Pentagon that we must buy as much from abroad, as they buy from us. So, instead of curing our balance-of-payments problem, we are making it worse.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. EDWARDS) has again expired.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield myself 30 seconds, simply to say again that we know we do not have troops in Europe just to try to save the Europeans. I personally prefer to have troops beyond my shores, so that if there ever is a war, that that war is not fought on the shores of the Atlantic or the Gulf of Mexico or in the Pacific, but off somewhere else. That is why we have troops there. That has nothing to do with paying price differentials on contracts.

Mr. ADDABBO. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the gentleman from Alabama has brought up a very good point, that is how much we give and how much we get from the NATO nations; but we also get from the high unemployment areas throughout the various States, and as I said this problem exists throughout the 50 States. The high unemployment areas pay billions of dollars in taxes into Treasury. They should get the benefit of the $129 billion, Mr. Chairman, in defense appropriations. The most that should go into the contract area would be $48 billion and if we go by previous records of the Defense Department, we are talking about maybe—maybe 5 percent of that going to the high unemployment areas. Each unemployed person costs the taxpayer $16,000. That is what we are trying to correct.

Mr. EDWARDS of Alabama. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Mr. Chairman, since 1952, it has been the policy of the Federal Government to target its purchases of goods and services to private businesses in high unemployment areas. Defense Manpower Policy No. 4, by directing purchases to qualified firms in areas of high unemployment, is designed to insure a broad-based, diversified manufacturing capability. This policy recognizes that a diverse and economically sound mobilization base is required for military preparedness.

However, due to the restrictive Maybank amendment, routinely attached every year to the defense appropriations bill, the Defense Department has never targeted even 1 percent of its annual multibillion-dollar procurement budget to high unemployment areas. The Maybank amendment prohibits the Defense Department from paying a higher price for goods and services to help relieve economic distress; this effectively prevents it from restricting bidding to firms in labor surplus areas. Ironically, this procedure of restricting bids to a certain class of suppliers is routine procurement procedure for a number of other programs currently implemented by the Defense Department—such as small business and minority business set-asides. In these cases, the Defense Department must pay only a reasonable price—not necessarily the lowest obtainable price. For these programs reasonable price is defined as the lowest bid of at least two or more bidders.

If the Maybank amendment were repealed, the Defense Department could restrict bidding on appropriate contracts to firms in areas of high unemployment, providing a reasonable price could be obtained. Since the Defense Department should continue to face no restrictions in procuring items essential for national security, "appropriate contracts" would exclude major weapons systems, aircraft, electronic systems, and the like.

Every year, the Defense Department buys roughly $20 billion in material and equipment not related to national defense or security, including, for example, uniforms, office furniture, chemicals, medical supplies, food, tents, and tarpaulins. With repeal of the Maybank amendment, Defense Department procurement officials could restrict the bidding on these kinds of contracts to firms in high unemployment areas. A reasonable price would be assured through competition among the labor surplus area firms. Since currently almost a quarter of the Nation's cities and counties qualify, there would be no lack of qualified, competent firms to compete. A reasonable price would be assured, and the number of defense contracts flowing into the Nation's economically hard-pressed areas would be substantially increased. Meaningful jobs would be created where they are most needed.

What would be the cost of such a program? Limited Government research indicates that restricting bidding on contracts to firms in areas of concentrated unemployment would result in a price differential of less than 1 percent. Using that 1-percent price differential would mean that targeting $1 billion in defense procurement contracts to companies in labor surplus areas would result in added costs to the Government of $10 million. But it is estimated that this $10 million "investment" would yield $1 billion in direct economic activity with the private sector where it is most needed. No other Government program offers such a high rate of return on investment. In fact, targeting of procurement spending would have both direct and indirect economic benefits. The actual increase in contract dollars generates a "ripple effect" within a community, producing three to four times the initial investment in private economic activity.

At the same time there is good reason to believe that the actual cost to the Government would be even smaller than $10 million. As jobs are created in communities with high unemployment rates, demand for income maintenance programs—food stamps, welfare, and unemployment benefits—decreases.

One 1977 economic simulation study found that a 7.8 percent increase in defense procurement awards to current suppliers in one State—representing a $145 million increase—would create nearly 11,000 jobs and $29 million in State revenues over 2 years. The study also predicted a $171 million increase in personal income in the State during the 2-year period.

The current economic situation is now predicted to be more serious than the originally expected recession. Its detrimental effects will be felt the most by these areas of the country already economically depressed. We need a program that will selectively stimulate the private sector where it is most needed, creating meaningful jobs and at the same time not increase inflationary pressures on the Nation's economy. We need a program that can be implemented immediately. The administration already has determined that Defense Manpower Policy No. 4A is just such a program. Full implementation of this program provides a significant tool to combat the effects of a recession on distressed urban areas. It could make a significant contribution to realizing the national goal of full employment without fueling inflation.

As Dr. David Rasmussen, associate professor of economics at Florida State University, explained in testimony before the House Small Business Subcommittee on Capital, Investment, and Business Opportunities:

> The labor surplus policy is one way to raise the employment effects of a given rate of growth. It is an attempt to selectively raise employment in those areas which economic growth is last to reach. Such a policy lowers the amount of growth required to achieve any target rate of unemployment and therefore works to reduce inflationary pressures in the economy.
>
> Some may view the labor surplus policy as a zero sum game: that jobs created in areas of persistent unemployment will be lost in other areas. This is a misperception. In fact, the view presented above suggests that the entire nation receives some benefits from efforts to increase the number of jobs in high-unemployment areas. If we take our commitment to full employment seriously, this policy will help produce conditions under which we can realize full employment in most labor markets with less inflation. Rather than having less than full employment in areas ineligible for the labor surplus policy, they may suffer less inflation when they do have full employment . . . the labor surplus policy does not rob Peter to pay Paul.

We have the program designed to protect the diversified manufacturing capability of our Nation. We have the program designed to create meaningful jobs where they are most needed with little or no additional cost to the Government. We have a program that is already being used by other agencies of the Federal Government. It is time to take the outdated, prohibitive Maybank provision off the fiscal 1980 Defense appropriations bill so that the Defense Department, the largest buying agency in the Federal Government, can use the program—not for the purchase of strategic weapon systems—but for the billions of dollars worth of general goods and services they buy every year.

Accordingly, I urge you to cast your vote for the Addabbo amendment.

Mr. BOLAND. Mr. Chairman, I support the amendment offered by the distinguished gentleman from New York, the chairman of the Defense Appropriations Subcommittee, Mr. ADDABBO.

The Maybank amendment has been routinely added to every Defense appropriations bill since 1953. The effect of the amendment is to prevent the Defense Department from paying a higher price for goods and services from businesses which will perform most of the contract work in labor surplus areas. The advantages of being able to direct Department of Defense procurements to areas of high unemployment, where Federal dollars will stimulate the private sector economy, are clear, particularly to those of us who represent such areas.

All civilian agencies of the Federal Government currently award labor surplus area set-aside contracts. The Department of Defense is the only Federal agency which does not participate in the set-aside program. Repeal of the Maybank amendment would allow the Defense Department to utilize the contracting criteria employed by the other agencies and clearly spelled out in the Small Business Act Amendments of 1977. That legislation authorizes "total labor surplus area set-asides of Federal procurements."

One of the most persuasive arguments for repeal of the Maybank amendment is that it would allow targeting of contracts to labor surplus areas with relatively little added cost to the government. The Federal Preparedness Agency, in conjunction with the General Services Administration, made a study which indicates that if bidding on contracts were restricted to firms in labor surplus areas, a price differential of less than 1 percent would result. Targeting $1 billion in defense procurement contracts to companies in labor surplus areas would therefore result in added costs to the Government of $10 million. That $10 million, however, could generate private sector economic activity at a rate of three or four times the original investment. In addition, as jobs are created, the demand for income maintenance payments decreases. Some estimates indicate that the Federal Government saves $16,000 on an annual basis when an unemployed person gets a job. In view of the recent economic downturn, employment should be encouraged.

Mr. Chairman, precedence exists for the payment of price differentials on Government contracts. For example, the Buy American Act permits price differentials of 6 percent to American firms on civilian agency purchases. These differentials are an indication that the Congress recognized that there are greater needs to be met in procurement than merely securing goods at the lowest possible price. Repealing the Maybank amendment would be in keeping with this recognition. I urge that the amendment be adopted.

● Mr. EDGAR. Mr. Chairman, I would like to respond to some of the questions most frequently raised about the impact of repealing the Maybank amendment to the Defense appropriations bill.

Would repeal of the Maybank amendment reduce competition among defense suppliers and increase in prices?

First, repeal of the Maybank amendment would restrict competition on those contracts set aside for the labor surplus area program. Contracts would be set aside for firms in labor surplus areas, however, only when the Defense Department has determined that enough firms would bid on them to insure adequate competition. The Defense Department would not be required to target purchases to labor surplus areas if an unreasonable price would result or if it were not in the best interests of the Nation, as determined by the Secretary of Defense.

Second, it is unlikely that prices for goods and services purchased by the Defense Department would show more than a negligible increase. The Federal Preparedness Agency conducted a procurement study which compared the lowest price submitted by a labor surplus area firm to the price submitted by the eventual contract recipient. The results indicated that the prices submitted by firms in labor surplus areas were only 0.67 percent higher than the bids of contract winners; in other words, the price differential was less than three-quarters of 1 percent.

This means that if the Defense Department targeted $1 billion in contracts to private businesses in labor surplus areas, the added cost to the Government would be less than $10 million—an "investment" by the Federal Government that would generate $3 to $4 billion in private-sector economic activity in distressed areas. And when resulting reductions in income maintenance expenses—unemployment insurance, food stamps, housing subsidies, and the like—are considered, the "cost" of this program is greatly reduced.

Would repeal of the Maybank amendment jeopardize awards to the best qualified and most efficient producers and result in decreased quality and delays in defense production?

Many of the Nation's best qualified and most efficient manufacturers are located in labor surplus areas. In fact, nearly one-fourth of the Nation's cities, counties, and other eligible jurisdictions are designated as labor surplus areas. These manufacturing centers, which over the years, have tended to have high unemployment rates, probably have more qualified firms than other parts of the country. States which historically have contributed heavily to the Nation's defense efforts—New York, California, New Jersey, Georgia, Connecticut, Florida, and Pennsylvania, for example—all have significant numbers of labor surplus areas. It is beyond reason to assume that companies in these States would not be counted among the best qualified and most efficient firms in the Nation. They would contribute neither to decreased quality nor to delays in defense production.

In addition, it should be noted that the portion of the Pentagon's budget most affected by repeal of the Maybank amendment would be purchases made by the Defense Logistics Agency, the branch of the Defense Department responsible for procuring goods and services widely used by all sections of the military. Other procurement affected by repeal of the Maybank amendment would be goods and services purchased by the Army, Navy, and Air Force under the budget category of operation and maintenance.

This combined budget represents roughly $15 to $20 billion for the purchase of such common items as food, clothing, medical supplies, hardware, office furniture, animals, photographic supplies, insignia, hand tools, books, boxes, and so forth. It is clear that targeting such purchases to companies in high-unemployment areas will neither jeopardize the national security nor result in decreased quality.

Would repeal of the Maybank amendment adversely affect the Nation's mobilization capacity in denying some firms the opportunity to compete for contracts?

On the contrary, the original purpose of Defense Manpower Policy No. (DMP-4) was to minimize idle manpower and machinery in connection with the Nation's efforts in Korea. By directing Federal purchases to firms in areas of high unemployment, the policy helps insure that the Nation's defense needs are met by a broad-based and diversified manufacturing capability. Repealing the Maybank amendment would help guarantee against procurement delays caused by a lack of trained manpower at qualified manufacturing facilities. In case of a war or other national emergency, there would be a greater number of firms tooled up for defense production.

Would repeal of the Maybank amendment increase the dependency of labor surplus areas on defense procurement contracts?

First, an evaluation study of 10 labor surplus areas found that "for most private businesses, Federal contracts, direct and indirect, accounted for 5 to 20 percent of total sales, regardless of the size of the firm or the region from which it came." The report pointed out that from the perspective of private industry, Federal contracts represent an additional, but not primary, market.

Second, private companies most interested in the labor surplus area program viewed it as a means of adding to their financial stability and supplementing their potential for receiving development loans. These firms did not anticipate the program opening up a long-term guaranteed market.

Would repeal of the Maybank amendment replace regular contracting procedures with administrative judgments under which contracts could be diverted from normal competitive channels?

As a regular contracting procedure, the Defense Department for years has restricted bidding to various groups of suppliers, such as small businesses and minority-owned firms. Judgments on which contracts should be set-aside are made by procurement officials, not by administrative personnel unacquainted with the procurement process. Once earmarked as a small business set-aside, for example, a contract then is awarded on a competitive basis. Repeal of the Maybank amendment would allow the Defense Department to set-aside contracts for competition among firms in labor surplus areas.

Would repeal of the Maybank amendment divert contracts now awarded to small businesses and minority-owned firms not in labor surplus areas?

No. In 1977, small businesses received 87 percent of Defense Department labor surplus preference awards. In addition, by force of law (Public Law 95-89, passed in 1977), small businesses receive preference over any other type of firm, even if the other firm is located in a labor surplus area.

Minority enterprises also would be helped by an increase in the labor surplus set-aside program. Most minority-owned businesses are located in labor surplus areas. Black unemployment in 1978 hovered around 12 percent, and most minorities live in labor surplus areas. It is implausible that a labor surplus set-aside program could hurt minorities.

Does not the Defense Department already use the labor surplus area program?

The Defense Department is prohibited by the Maybank amendment from making total labor surplus area set-asides in the same way it now sets aside contracts for small businesses. The only way the Defense Department currently can use the program and comply with the law is to identify an item which can be purchased through two production runs. Half of the contract award is reserved for labor surplus area firms, and the other half is open to all bidders. The contracting officer first awards the "unreserved" portion of the contract on the basis of least cost. The other portion then is offered to labor surplus area firms at the base price, as established by the lowest bidder on the unrestricted portion. The Defense Department may also use the program in the case of tie bids. If a firm in a labor surplus area submits a bid matching the lowest price offered by another company, the labor surplus area firm gets the contract.

The procedure of splitting contracts into two separate awards is so cumbersome that Pentagon procurement officials do not actively use the program. As a result, the Defense Department has never targeted more than one-half of 1 percent of its annual procurement budget to businesses in labor surplus areas.

Would repeal of the Maybank amendment increase inflationary pressures on the Nation's economy?

Since full implementation of Defense Manpower Policy No. 4A (DMP–4A) would simulate employment in labor surplus areas, repeal of the Maybank amendment represents a significnat tool to combat the effects of a recession on distressed urban areas. It could make a significant contribution to realizing the national goal of full employment without fueling inflation.

As Dr. David Rasmussen, associate professor of economics at Florida State University, explained in testimony before the House Small Business Subcommittee on Capital, Investment, and Business Opportunities:

> The labor surplus policy is one way to raise the employment effects of a given rate of growth. It is an attempt to selectively raise employment in those areas which economic growth is last to reach. Such a policy lowers the amount of growth required to achieve any target rate of unemployment *and therefore works to reduce inflationary pressures in the economy.*
>
> Some may view the labor surplus policy as a zero sum game: that jobs created in areas of persistent unemployment will be lost in other areas. This is a misperception. In fact, the view presented above suggests that *the entire nation receives some benefits from efforts to increase the number of jobs in high-unemployment areas.* If we take our commitment to full employment serioulsy, this policy will help produce conditions under which we can realize full employment in most labor markets with less inflation. Rather than having less than full employment in areas ineligible for the labor surplus policy, they may suffer less inflation when they do have full employment. Monetary and fiscal policy can stimulate growth to generate full employment in most labor markets—these areas will not lose jobs because of the labor surplus policy. In fact, these regions benefit because the nation can reach full employment with less inflation. With a commitment to our stated goal of full employment, the labor surplus policy does not rob Peter to pay Paul. (Emphasis supplied.)

Mr. Chairman, a number of my colleagues have raised the issue of national security in regard to the repeal of the Maybank Amendment to the Defense Appropriations bill. I would like to share with them a list of 17 Defense Department procurement categories that are not related to national security.

The list follows:

Air conditioning equipment; Alcoholic beverages; Bags and sacks; Bolts; Bottles and jars; Brooms, brushes, mops, and sponges; Building glass, tile, brick, and block; Circuit breakers; Commercial fishing equipment; Compressors and vacuum pumps;

Dogs and cats; Draperies, awnings, and shades; Dyes; Electric hardware and supplies; Electric lamps; Electrical connectors; Fencing, fences, and gates; Fertilizers; Floor coverings; Floor polishers and vacuum cleaning equipment; Fuel oils; Fuses and lightning arresters;

Games and toys; Hose and tubing, flexible; Hospital furniture, equipment, utensils, and supplies; Household furnishings; Household furniture; Iron and steel scrap; Jewelry; Kitchen equipment and appliances; Laboratory equipment and supplies; Luggage; Lumber and related basic wood materials; Marine lifesaving and driving equipment; Motorcycles, motor scooters, and bicycles; Musical instruments;

Nails, keys, and pins; Nuts and washers; Office furniture; Office supplies; Optical equipment; Padding and stuffing materials; Paper and paperboard; Passenger motor vehicles; Perfumes, toilet preparations, and powders; Personal toiletry articles; Phonographs, radios, and television sets; Photographic supplies; Plumbing, heating, and sanitation equipment; Plywood and veneer; Punched card equipment;

Refrigeration equipment; Road clearing and cleaning equipment; Roofing and siding material; Screws; Seeds and nursery stock; Signs, advertising displays, and identification plates; Space heating equipment and domestic water heaters; Storage tanks; Surgical dressing materials;

Tents and tarpaulins; Textiles and fabrics; Time-measuring instruments; Toiletry paper products; Typewriters and office-type composing machines; Underwear and nightwear; Vending and coin-operated machines; Winches, hoists, cranes, and derricks; Wire and cable, electrical; Woodworking machines; Yarn and thread.●

Mr. EDWARDS of Alabama. Mr. Chairman, I have no further requests for time on my side.

Mr. ADDABBO. Mr. Chairman, I yield back the balance of my time and ask for an affirmative vote on my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. ADDABBO).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ADDABBO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 174, noes 187, not voting 72, as follows:

[Roll No. 521]

AYES—174

Addabbo
Albosta
Ambro
Annunzio
Applegate
Atkinson
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bingham
Blanchard
Boland
Bonior
Brademas
Brodhead
Broomfield
Buchanan
Burgener
Burton, Phillip
Carney
Carr
Chisholm
Clay
Clinger
Coelho
Conable
Conte
Corcoran
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
Deckard
Dellums
Derwinski
Dingell
Dixon
Dodd
Donnelly
Dougherty
Drinan
Early
Edgar
Edwards, Calif.
Emery
Ertel
Evans, Del.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fithian
Florio
Ford, Tenn.
Forsythe
Gaydos
Gephardt
Gilman
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hanley
Harkin
Harsha
Hawkins
Heckler
Horton
Howard
Hughes
Jacobs
Jeffords
Kastenmeier
Kildee
Kostmayer
LaFalce
Lederer
Lee
Lehman
Lujan
Luken
McDade
McEwen
McHugh
McKinney
Maguire
Markey
Matsui
Mavroules
Mikulski
Miller, Calif.
Miller, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Pease
Pepper
Peyser
Price
Pursell
Quayle
Rangel
Ratchford
Regula
Ritter
Rodino
Roe
Rostenkowski
Roybal
Russo
Sabo
Santini
Sawyer
Scheuer
Schulze
Seiberling
Shannon
Sharp
Shuster
Simon
Smith, Iowa
Snowe
Solarz
Solomon
Staggers
Stangeland
Stanton
Stark
Stewart
Stockman
Stratton
Studds
Thompson
Traxler
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walker
Waxman
Weiss
Williams, Mont.
Wirth
Wolpe
Yates
Yatron
Zablocki
Zeferetti

NOES—187

Abdnor
Akaka
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Aspin
Badham
Bafalis
Bauman
Bennett
Bereuter
Bethune
Bevill
Boggs
Boner
Bonker
Bouquard
Bowen
Brinkley
Brooks
Brown, Calif.
Broyhill
Burlison
Butler
Byron
Campbell
Chappell
Clausen
Coleman
Collins, Tex.
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derrick
Devine
Dickinson
Dicks
Dornan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Ga.
Fascell
Fisher
Flippo
Foley
Fowler
Frenzel
Frost
Fuqua
Gibbons
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harris
Hefner
Heftel
Hightower
Holt
Hopkins
Hubbard
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lungren
McCloskey
McCormack
McDonald
McKay
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Mica
Michel
Mineta
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Natcher
Neal
Nelson
Nichols
O'Brien
Panetta
Patterson
Paul
Perkins
Petri
Pickle
Preyer
Pritchard
Quillen
Rahall
Railsback
Robinson
Rousselot
Royer
Rudd
Runnels
Satterfield
Schroeder
Sensenbrenner
Shelby
Shumway
Slack
Smith, Nebr.
Snyder
Spellman
Spence
Stack
Stenholm
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Trible
Ullman
Volkmer
Wampler
Watkins
Weaver
White
Whitley
Whittaker
Whitten
Wilson, Bob
Wilson, Tex.
Wright
Wyatt
Young, Alaska
Young, Fla.
Young, Mo.

NOT VOTING—72

Alexander
Anderson, Ill.
Ashley
AuCoin
Barnard
Beard, Tenn.
Biaggi
Bolling
Breaux
Brown, Ohio
Burton, John
Carter
Cavanaugh
Cheney
Cleveland
Collins, Ill.
Conyers
Corman
Cotter
Crane, Philip
Davis, S.C.
de la Garza
Diggs
Downey
Flood
Ford, Mich.
Fountain
Garcia
Giaimo
Gingrich
Hance
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Huckaby
Johnson, Colo.
Kemp
Kindness
Lent
Lloyd
Lundine
McClory
Madigan
Marks
Minish
Moffett
Murphy, Ill.
Pashayan
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Rose
Rosenthal
Roth
Sebelius
Skelton
St Germain
Steed
Stokes
Treen
Udall
Whitehurst
Williams, Ohio
Wilson, C. H.
Winn
Wolff
Wydler
Wylie

□ 1150

The Clerk announced the following pairs:

On this vote:

Mr. Lundine for, with Mr. Fountain against.

Mr. Richmond for, with Mr. Barnard against.

Mr. Wolff for, with Mr. Hance against.

Mr. Hillis for, with Mr. Cheney against.

Mr. Marks for, with Mr. Carter against.

Mr. Rinaldo for, with Mr. Pashayan against.

Mr. Williams of Ohio for, with Mr. Sebelius against.

Mr. Wydler for, with Mr. Winn against.

Mr. Hollenbeck for, with Mr. Hinson against.

Mr. Kemp for, with Mr. Gingrich against.

Mr. Lent for, with Mr. Beard of Tennessee against.

Mr. Moffett for, with Mr. Roberts against.

Ms. Holtzman for, with Mr. Breaux against.

Messrs. SAWYER, FINDLEY, STANGELAND, and MOLLOHAN changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any other amendments to this portion of the bill? If not, the Clerk will read.

The Clerk read as follows:

SEC. 726. None of the funds appropriated by this Act may be obligated under section 206 of title 37, United States Code, for inactive duty training pay of a member of the National Guard or a member of a reserve component of a uniformed service for more than four periods of equivalent training, instruction, duty or appropriate duties that are performed instead of that member's regular period of instruction or regular period of appropriate duty.

Mr. MONTGOMERY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time for clarification, to ask the chairman of the subcommittee or the ranking member on the minority side about some action that was taken in this appropriation bill that I have some concern about.

The Appropriations Subcommittee a year ago mandated that a 2-year test of full-time military manning in both the Guard and Reserve units be implemented. As I understand it, under this act this testing will be done away with and the full 2-year testing will not take place.

I explain to my colleagues what has happened in the National Guard and Reserve technician program. The technicians are the men and women who run the armories, who keep up the equipment, who have the keys to the ammunition and to the weapons. The Federal employees' union has organized some of the National Guard technicians and some Reserve technicians especially in certain sections of the Nation. These Federal unions are almost running the National Guard units. The Defense Department, to correct this situation, as technician vacancies became available, instead of making them civilian technicians, the Defense Department put these men and women on active duty so that they could be controlled.

We have found out that these Federal unions do not want these National Guard technicians to wear the uniforms, not be members of the unit; do only certain assigned jobs and do not have to get haircuts. You cannot run a National Guard or a Reserve unit by the commander continuously negotiating with the unions on what the technicians are expected to do. I am quite concerned that this manning program that was recommended by the gentleman's committee will be eliminated and will not have the full 2-year test.

Another problem I have, in case you have natural disasters, as what happened in the district of the gentleman from Alabama, if you cannot get these technicians to go out and open the armories and issue the equipment to the guardsmen to protect citizens, then we are in a very, very serious situation.

So I bring this to the attention of the chairman. No amendment will be offered, but I am concerned that this manning program will be done away with short of the 2 years that it was supposed to run.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

Mr. Chairman, I point out to the gentleman that, under the language in the report, the test will end in July 1980, which is only 3 months short of the 2-year period. Within that period, until July, the testing program will go on.

□ 1200

The reason we made it July is that gives them a full 6 months to make their survey, because as the gentleman knows, serving on the Armed Services Committee, usually next year's budget formulation starts in October and November. This will give the Defense Department a little more time to carefully examine the test results and make their determinations for the next budget.

Mr. MONTGOMERY. I thank the chairman. It is very, very important that we be very careful that a commander of these National Guard or Reserve units does run the unit. Certainly there is a place in this Nation for unions, but not too far where a commander cannot control his unit. A commander has to spend too much time in negotiations with the Fed employee union where this time could be spent on improving training.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. First, I want to concur in what the chairman says.

We are attempting to give this a fair test to give time for review and to prepare ourselves for what action we should take in the coming year. I think that is the purpose of the action of the subcommittee.

Secondly, since the gentleman mentioned the National Guard and Hurricane Frederic in my congressional district, I would like to take this opportunity to say to the gentleman and to the House, that the National Guard performed in an exemplary fashion in dealing with the problems of Hurricane Frederic, both before the hurricane in helping to get people out of the low-lying areas, and in which case we had only one or two deaths. I think that is miraculous.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. MONTGOMERY) has expired.

(By unanimous consent, Mr. MONTGOMERY was allowed to proceed for 1 additional minute.)

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. After the hurricane, in performing work, in keeping down looting, in policing those areas that were left wide open by the storm where the destruction was massive, and where the local officials had no way of coping with it by themselves, I am very proud of what the National Guard did.

I met with them. I worked with them. I flew with them in their helicopters. I talked to their men as we viewed the damage and looked for ways to respond to it. They rose to great heights in this case. I think we should be very proud of the Guard, not only for what it does in its preparation for the defense needs of this country, but in rising to such great heights as far as civil disasters are concerned.

Mr. MONTGOMERY. I thank the gentleman for his remarks.

I thank the chairman for giving me his comments on this very important matter.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 762. None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if we pass the DOD authorization bill as is, we will overlook the following facts:

First. Full health care is an earned benefit for military personnel and dependents;

Second. Quality health coverage is a major recruitment and retention attraction for military service; and

Third. Military personnel rely on health care in military medical facilities since frequently, in both overseas and stateside locations, the only medical care available is in military facilities, but also that there are special cases where the choice of abortion is necessary.

Obviously this body would not accept an amendment for unrestructed abortions.

But, the amendment that I would like to offer today would make important exceptions to the harsh, restrictive language in the bill, would not be in order. My amendment would allow that an abortion may be provided if the pregnancy resulted from rape or incest, or if there is a reasonable certainty that the fetus has a hereditary genetic defect or deformity or a defect or deformity attributable to chromosonal damage in either parent arising from a service-connected disease or disability of such parent. I will not offer the amendment because a point of order would be sustained that it is legislation on an appropriations bill. Let me tell you why I think this is needed even though technically it cannot be offered.

According to testimony heard before the House Appropriations Subcommittee of the Department of Defense on this subject, the Department of Defense estimates that there are 100 cases per year of pregnancies involving serious defects in the Armed Forces, including dependents. In testimony heard before the same committee, the Acting Assistant Secretary of Defense, Vernon McKenzie, stated that the current regulations resulting from the Dornan language to last year's Defense appropriations bill, contain no provisions whatsoever for abortion of fetuses afflicted with severe deformities such as anencephaly, those affected by diseases such as rubella or Tay-Sachs or those fetuses that may be affected by harmful exposure to chemicals and radiation.

What do we tell those parents who have a reasonable certainty that the fetus has a defect or deformity attributable to chromosomal damage because one or both of the parents had been exposed to a toxic substance in a service-connected mission—what choice do they have? Ask the 2 million Vietnam veterans who were exposed to the 11 million gallons of agent orange or those veterans who were exposed to radiation in atom bomb tests in the 1950's. They will tell you—none.

As the language stands now, even a woman who knows through amniocentesis, ultrasounds, fetalgrams, or other tests which determine chromosomal abnormality that she is carrying a fetus afflicted with a genetic disease or a disease that she will pass on to her child cannot make the choice of whether to carry the fetus to term. Such was the case of Mr. and Mrs. Denny Edwards. Mr. Edwards, a member of the Navy for 5 years, and his wife were expecting their second child.

After months of testing, the conclusive diagnosis was that the fetus was an anencephalic. Anencephalic is where the baby has no brain and often has no skull, spine, or head. The baby dies either at birth or shortly thereafter. The Edwards had to endure the tragedy of bearing an anencephalic child because, as they were told time and time again, "Sorry, you're not covered by the law."

I would like to focus in on the example of agent orange, a defoliant used by U.S. troops between 1962 and 1970 on over 6 million acres in South Vietnam. The danger of agent orange lies in dioxin, one of the two chemicals in the mixture and its contaminant. Dr. Barry Commoner, director of the Center for the Biology of Natural Systems at Washington University, calls dioxin "the most toxic manmade substance known." One of the effects of dioxin—teratogenicity—was so great that the Catholic Church sanctioned abortions for exposed women. A National Institute of Environmental Health Services study showed agent orange to have significant teratogenic effects on study animals with relatively low dioxin levels. Thus, in 1970, the Surgeon General and Department of Defense suspended the use of agent orange in Vietnam.

But the effects of agent orange are still with us. Cases of birth defects have been occurring at an alarming rate, especially the defect spina bifeda—open spinal cord—in those babies whose father was exposed to agent orange. One researcher has 88 carefully screened cases where the mother had been healthy, taken no drugs, and had a normal delivery, but the father had been exposed to agent orange—the result was 88 incidents of birth defects.

The victims remain in the unborn generations and there is no compensation paid by the Veterans' Administration for genetic damage.

My amendment would allow the military to provide abortions for military personnel and their dependents who have reason to believe that they have suffered chromosomal damage because of a service-connected mission. It would give the military personnel and their dependents a choice. My amendment acknowledges the important role of the father in the reproductive process by making exceptions for any defect attributable to chromosomal damage in either parent. My amendment emphasizes that males are as vulnerable to reproductive hazards and disorders as females are. It recognizes that reproductive hazards are not a female phenomenon.

When genetic disorders are incurred by service-connected exposure to toxic chemicals, then the Government should bear the brunt of the burden.

We have a responsibility to protect our military personnel from the avoidable tragedy of being forced to bear children with birth defects. We must be able to provide our military personnel with full, comprehensive medical coverage to address any malfunction, disease, or damage, including that of the reproductive system which may be incurred while performing a service-related task.

In short, we owe our military personnel and their dependents a choice.

The amendment I would have offered, to be added to the amendment offered by Mr. DORNAN, would have added the following new sentence:

> Notwithstanding the foregoing, an abortion may be provided if necessary to save the life of the mother, if the pregnancy resulted from rape or incest, or if there is a reasonable certainty that the fetus has a hereditary genetic defect or deformity or a defect or deformity attributable to chromosomal damage in either parent arising from a service-connected disease or disability of such parent.

□ 1210

The CHAIRMAN. The time of the gentlewoman from Colorado has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 2 additional minutes.)

Mr. FAZIO. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman.

Mr. FAZIO. Mr. Chairman, I would like to congratulate the gentlewoman for the sensitive way in which she has brought this to the attention of the Members today.

I think that there is no question but that there is a need to have broader language in this bill than we currently have.

I think the Members would do well to focus on the fact that there are a number of illnesses which can easily occur to a woman in the military or one of the military dependents. For example, sickle cell anemia, multiple sclerosis, cancer, epilepsy, diabetes. All of these things, if not treated properly, can be devastating and have a devastating effect on the fetus, but yet currently, under the language of this bill, we would not currently be able to care for these people adequately and at the same time be sensitive to the effect that it would have on any potential bill.

I think it is particularly important as we talk, as we have so much in the last few months, about the issue of the retention in the military, the current concern that military people have about the erosion of their benefits, and their sensitivity to the fact that we are in a very real way taking funds away from them in the health care that we have indicated we are going to give them when they become members of the military. This is a part of their pay and not really a benefit. We are not talking about a welfare program. When we give them that assurance and then remove it by an act such as this, I think we are doing a devastating thing to our ability to sustain the volunteer force.

We know there are people who are paid very little in the ranks, people who are required to use food stamps, people who occasionally are eligible for welfare when the family size is great enough.

The CHAIRMAN. The time of the gentlewoman from Colorado has again expired.

(At the request of Mr. FAZIO and by unanimous consent, Mrs. SCHROEDER was allowed to proceed for 2 additional minutes.)

Mr. FAZIO. Mr. Chairman, will the gentlewoman yield further?

Mrs. SCHROEDER. I yield to the gentleman.

Mr. FAZIO. Mr. Chairman, when we require these people to go to the private sector or to avoid a very logical health procedure, we are doing a great deal of harm, not only to the individuals involved, but to the military service in general.

I would like to congratulate the gentlewoman for bringing this to the attention of the Members, and I hope at some point later on we will be able to see a more humane approach taken in this particular bill without going to the point of allowing abortion on demand, which I think most of the Members are not willing to support.

Mr. McCORMACK. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I want to thank the gentlewoman for yielding and say that I am sympathetic with the thrust of the remarks she has made. I certainly hope the time will come when the House will be more humane on this particular subject.

However, I do want to take a strong exception to one statement the gentlewoman has made with respect to genetic effects from radiation received by Marines going into Hiroshima or Nagasaki at the end of World War II. There is zero evidence of any genetic effect from radiation, even to the inhabitants of Hiroshima and Nagasaki. There yet has to be any evidence of any genetic effect to any human being from irradiation.

Mrs. SCHROEDER. If I can regain my time——

Mr. McCORMACK. And I would hope the gentlewoman would not use such an argument and thereby reduce her credibility.

Mrs. SCHROEDER. If I may reclaim my time, I must disagree with the gentleman. I have been working with the group of marines from World War II and have been pleading with the VA to study that group of marines that were subjected to radiation. There have been birth defects in the families of many of the marines that went in there. The VA is saying that it is unrelated, but they have refused to study them as a group and prove it. Why should the veterans have to prove their case?

With agent orange the VA also denied liability but finally when they studied the group they found out their position was entirely wrong.

May I also say that we have had the same problem in the nerve gas area.

What I am basically saying is that there appears to be that kind of a tendency. I do not think either one of us would want to say radiation absolutely does not affect the reproductive process. I think it is the level of radiation that affects chromosomal damage.

The CHAIRMAN. The time of the gentlewoman from Colorado has again expired.

(At the request of Mr. McCORMACK and by unanimous consent, Mrs. SCHROEDER was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Mr. Chairman, will the gentlewoman yield further?

Mrs. SCHROEDER. I yield to the gentleman.

Mr. McCORMACK. I would say to the gentlewoman that we do know quite a bit about the genetic effects caused by radiation; but this information comes from extensive studies hundreds of times more about the genetic effects of radiation than we know about chemical effects, using much higher amounts of radiation than comes from sources such as she has suggested. We know because such chemical reactions are much more confusing, especially as far as chromosomal damage from chemicals is concerned. The fact is there yet has to be established any one single genetic effect from irradiation from any of our nuclear activities at all, even to those victims of Hiroshima or Nagasaki.

Mrs. SCHROEDER. I must disagree with the gentleman and reclaim my time.

Mr. McCORMACK. And I would hope that the gentlewoman would not use that argument and thus reduce her credibility.

Mrs. SCHROEDER. I disagree and I hope that the gentleman will join with me in getting the VA to test these people and prove his allegations, because they have not proven.

Mr. McCORMACK. The National Academy of Sciences has a 30-year study of the victims of Hiroshima which is available to the whole world.

Mrs. SCHROEDER. We are talking about our own marines, not the victims in Japan, but our very own people whom we are ignoring on this issue and refusing to study.

The CHAIRMAN. The time of the gentlewoman from Colorado has again expired.

(At the request of Mr. GREEN and by unanimous consent, Mrs. SCHROEDER was allowed to proceed for 3 additional minutes.)

□ 1220

Mr. GREEN. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I just want to commend the gentlewoman for raising the issue about the availability of abortion services to members of the military. I can think of few more traumatic and moving accounts of hearings that I have read since I have been here than the account of a young enlisted man who told how his wife had become pregnant, and how the doctor noticed that she was not gaining weight as much as she should have been doing. Ultimately, after conducting the appropriate tests, she was diagnosed as being about to give birth in a few months to a child who would have no brain and could not possibly survive.

That couple, in the exercise of their moral judgment and after debating the issue between themselves, reached the conclusion that they did not want to go through that trauma and wanted to have an abortion. Under the language we have put in this law, they could not do that. They could not afford a private procedure. That couple was forced to go through the agony of having a child and seeing that child born and then die almost instantly.

I think that is an issue of moral choice, and I recognize that other people might make other moral judgments than that couple did in that situation. But I think everyone in this country ought to have the right to make that moral choice. I think it is tragic that we do not permit that.

Mrs. SCHROEDER. I thank the gentleman.

Mr. SEIBERLING. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, of course we know that the military have denied that there was any genetic effect from the fallout from the weapons test, where the GI's went in back in Nevada 20 years ago, and yet the incidence of stillbirths and miscarriages and defective births among those soldiers' offspring and their spouses, and the civilians living downwind in Utah, is much higher than among the general population.

Twenty years ago Herman Muller, Nobel Prize winning geneticist, showed that there was a definite relationship between levels of radiation and genetic defects. Dr. Sternglass, a scientist at the University of Pittsburgh published studies years ago that have shown that downwind from nuclear testing there has been a considerable increase in the number of stillbirths and birth defects. So the record is replete with evidence.

It is not absolutely ironclad, so one can say that this particular incident on this particular day produced this particular result, but you know, as Thoreau said:

> Some circumstantial evidence is quite strong, as when you find a trout in the milk.

The same thing is true of the statistics, the analyses of people who have been exposed to nuclear radiation from military weapons testing or from other sources. So, the gentlewoman's credibility is not at stake, though somebody else's may be.

Mrs. SCHROEDER. I thank the gentleman.

The CHAIRMAN. The time of the gentlewoman from Colorado has again expired.

(By unanimous consent Mrs. SCHROEDER was allowed to proceed for 1 additional minute.)

Mrs. SCHROEDER. I just want to respond again to the gentleman from Washington. The gentleman is a scientist, and I do not think the issue is whether or not we know definitely, exactly what happens to the reproductive process in both males and females when being exposed to all sorts of things. It is a whole area and is a new one that has been opened, and we have not done an incredible amount of research on it.

We really have not done a lot of research in that area, but the issue is, if we can determine that the child will be born with a very serious defect—and we now have tests that we can use to test for that—then the question is, should we deny to military families the right to have the option to say that, "I want to have the right to have a healthy child."

I think that is the real issue. We can stand here and debate about what the level of research is or the level of exposure is or should not be on and on and on and on. The question is not whether or not we have those tests. We do have tests to show if the fetus is damaged. They have proved to be scientifically accurate in the prenatal field.

The CHAIRMAN. The time of the gentlewoman from Colorado has again expired.

(At the request of Mr. McCORMACK and by unanimous consent, Mrs. SCHROEDER was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Mr. Chairman, will the gentlewoman yield further?

Mrs. SCHROEDER. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I just want to say that the scientific research on this is well established. I support the lady completely in her position with respect to abortion, but when she makes statements such as she has, she reduces her credibility.

With respect to the statement the gentleman from Ohio made about research by a person from Pittsburgh, he should know that after this paper was published and this man from Pittsburgh announced his great discovery about stillbirths and birth defects downwind from nuclear plants, scientists checking his data found that he actually had been studying upwind.

I think we should get our facts straight; and stop this emotionalism.

Mr. BURLISON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to explain why this language is in the bill. It is an effort to maintain consistency among the various agencies of the Government on this issue. Many of the points the gentlewoman and others have mentioned with respect to the impact of this legislation on military personnel are not peculiar to those personnel. That is, there would not be substantially different impact on them than is the case for coverage under the Health, Education, and Welfare bill, for instance.

So, this is an effort on the part of this committee to keep the policy of the Government with respect to the Department of Defense consistent with what the law is with respect to the Department of HEW. The House position this year has been that no Federal funds may be used for abortion unless the life of the mother is endangered.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. BURLISON. I will be glad to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I understand that what I am saying is military families who are ordered overseas and subjected to all sorts of things. We are really trying to get women into the military—and we really need them to keep our volunteer forces up to the proper level—I think the situation for our military people is different from the people on the civilian side. I hear what the gentleman is saying, and I thank him for his explanation. I think we owe a little more to military families because of their unique position in America compared to the rest of society.

Mr. BURLISON. I thank the gentlewoman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 772. None of the funds appropriated by this Act shall be available to increase the pay of a prevailing rate employee, as defined in paragraph (A) of section 5342(a)(2) of title 5, United States Code, as the result of adjustments in pay pursuant to section 5343 of title 5, United States Code, effective on or after October 1, 1979, in excess of seven per centum of the rate of pay in effect on September 30, 1979, for such an employee.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: On page 61, strike section 772 and renumber the following sections accordingly.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. Certainly.

Mr. ADDABBO. Mr. Chairman, I have read the gentleman's amendment. It pertains to blue collar limitation on salary. That has been covered by the Treasury, Post Office legislation appropriations which passed this House this week, and was signed into law yesterday.

I would accept the gentleman's amendment.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I would be delighted to yield.

Mr. EDWARDS of Alabama. Mr. Chairman, I just want to be sure I understand what we are accepting. Is it the opinion of the gentleman from New York that the Treasury, Post Office bill addresses all of these workers in the Government, including those who may be working under this particular appropriation bill?

Mr. ADDABBO. The language in the bill was drafted by the OMB to cover all employees.

Mr. EDWARDS of Alabama. Then we accept the amendment.

Mr. GONZALEZ. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The amendment was agreed to.

□ 1230

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 775. None of the funds appropriated by this Act shall be available on or after January 1, 1980, to make payments for veterinarian special pay pursuant to section 303 of title 37, United States Code.

AMENDMENT OFFERED BY MR. NICHOLS

Mr. NICHOLS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NICHOLS: Page 62, strike out lines 4 through 7.

Mr. NICHOLS. Mr. Chairman, I am offering an amendment to delete section 775 from the Defense appropriations bill, H.R. 5359. Section 775 provides that no funds appropriated by this act shall be available on or after January 1, 1980, to make payments of special pay for veterinarians.

As chairman of the Military Compensation Subcommittee of the Armed Services Committee, I am very concerned over the actions of the Appropriations Committee on this matter. The Military Compensation Subcommittee has jurisdiction over military compensation, and has done extensive work on special pay for all types of military doctors. We have held elaborate hearings on all aspects of special pay, particularly as it relates to recruiting incentives for medical professionals.

I am greatly disturbed that the Appropriations Committee did not come to me to discuss this special pay provision. While I am told that this section is, technically, not subject to a point of order, I do believe, as I am sure you will all agree, that this is clearly a case of the Appropriations Committee's legislating in an appropriations bill.

I will not argue the merits of the provision at this time, because the Military Compensation Subcommittee has not had a chance to hold hearings on this specific matter. I would ask that the gentlemen on the Defense Appropriations Subcommittee confer with our subcommittee on these important military compensation issues. Otherwise, I do not see what the purpose is of our subcommittee doing extensive, indepth work on military compensation issues, only to have it undone in a very brief move in the appropriations bill without our knowledge.

I understand that the savings involved here are, comparatively speaking, very small. I do not think it is asking too much of the Appropriations Committee, to let my subcommittee at least hold some hearings on this matter before taking action. It is not going to save us millions of dollars; the money involved this year is less than $1 million; I repeat, less than $1 million.

Therefore, I ask that you let our Military Compensation Subcommittee look at this issue before any action is taken, and delete this section from the bill.

Mr. ADDABBO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is with great reluctance that I cannot accept the amendment and must rise in opposition to the amendment.

Mr. Chairman, there had been extensive studies made on the question of medical bonuses. As a matter of fact, within this bill we have added $16 million for bonuses and scholarships for medical officers in support of Armed Services Committee actions. The question of the veterinarian service has been carefully reviewed by this committee. Extensive hearings were held. At the direction of the committee there was a separate study made by the Department of Defense itself. In its study they found that military veterinarians are not leaving the service for pay reasons, but primarily to engage in the profession of their choice; namely, animal care. Military veterinarians do not primarily engage in animal care, but conduct food inspections and public health functions. The analysis also shows that the regular military compensation meets the market value of this corps and the additional $100 per month assists very little in retention.

Mr. Chairman, this is also agreed to in testimony by Vernon McKenzie, Principal Duty Assistant Secretary of Defense. Furthermore, the Secretary of Defense has personally directed major reductions to the Veterinary Corps.

Mr. Chairman, I ask for defeat of the amendment.

Mr. MITCHELL of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am strongly in support of the Nichols amendment. I think the Appropriation Committee's action was unfortunate. It will tend to discourage veterinarians from serving in the Armed Forces, and we need them. They perform many services in addition to the one that generally is brought up on the floor here of taking care of generals' dogs.

They participate in food testing, Mr. Chairman. They test the food that members of our armed services consume, they test it for quality and disease. They protect service people from overseas animal diseases. They work closely with the Department of Agriculture in preventing plagues and epidemics. When such plagues and epidemics occur they fight them along with the Department of Agriculture.

There are many examples of their contributions in recent years. There was an outbreak of encephalitis in the chicken population of California and the livestock of Texas was threatened to be wiped out with encephalitis. Right now they are fighting epidemics of rabies. They are fighting rabies at least at Lackland Air Force Base and at Fort Bliss in Texas.

Mr. Chairman, in the overall picture we have a very serious shortage of health professionals in the Armed Forces. Veterinarians can serve along with all the other health practitioners as administrators. We have a shortage in this area, too.

Just 2 years ago when we were discussing and debating the military compensation for armed services health professionals, it was pointed out there was a greater shortage of veterinarians than there was of any other health practitioner except for the physicians. In this 2-year period the armed services have cut the authorized strength quite arbitrarily, thus wiping out the shortage that exists. It disguises the shortage.

Mr. Chairman, our Subcommittee on Military Compensation needs to hold hearings on this vital topic. The chairman has pledged to do so and I am confident he will. I would urge that those Members who are concerned with health care in the armed services vote for the Nichols amendment.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of New York. Yes, I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

Mr. Chairman, I would agree with the gentleman this will cause a reduction in the veterinarian corps, which is exactly what we are trying to do, because, now that we are taking veterinarians out of duties that are not connected with veterinarian care, things such as food inspection which is not veterinarian care, we have an excess and we are hoping we can reduce the corps by at least 4 percent. In such event we are saving tax dollars which can be more adequately directed to more important defense needs.

Mr. MITCHELL of New York. Mr. Chairman, I would respond to the gentleman, whether there is a shortage or not is highly debatable. We have held hearings on this topic for 3 years. I think there is a very serious shortage of all health practitioners including veterinarians. I would like to see us vote for the Nichols amendment so that we will have an opportunity to really study the problem.

Mr. BRINKLEY. Mr. Chairman, I rise in support of the Nichols amendment. I think it is penny-wise and pound-foolish to take the approach of the Appropriations Committee. I have studied an extensive analysis on this subject by Valerie Haynes of the staff of the Committee on Armed Services, the authorizing committee.

There are many, many things we could discuss. I think the most important thing for us to note here is the fact we are pulling a very important rug out from under the Veterinary Corps which performs very necessary functions.

Mr. Chairman, I think it is a heavy morale factor. And, if we talk about $100 a month incentive pay for professionals, we are not talking about too much money.

I think if we should pursue this to the ultimate we will see that the officers who replaced the veterinarians, food service officers, food inspection officers, and people like that, they will occupy exactly the same or higher rank of the veterinarians and, therefore, we will be just shifting gears and the cost will be transferred in that fashion.

Mr. Chairman, there is also discussion of civilianizing the research arm of the Veterinary Corps. One should just see what the real world is. You certainly are not going to get civilian veterinarians to do this work which is now being done by the military doctor of veterinary medicine at the same cost. I think this is something that has been arrived at hastily. I would hope that the gentleman from New York (Mr. ADDABBO), the chairman of the appropriations subcommittee would consider deferring this action for a year, allowing the authorizing committee to look into it and hold hearings, allowing this body to arrive at a more deliberate judgment.

Mr. Chairman, I hope the House will vote affirmatively for the Nichols amendment.

I yield back the balance of my time.

☐ 1240

Mr. ENGLISH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of this amendment which would allow for the continuation of incentive pay for veterinarians serving in our Armed Forces.

Passage of this amendment does not involve any large sums of money—it is a matter of pride. Doctors of veterinary medicine are highly skilled members of the medical profession, and deserve to be treated as such. The Defense Department recognizes that medical doctors, dentists, and optometrists are all entitled to pay incentives—military veterinarians should not be treated differently from their medical colleagues.

Military veterinarians have primary responsibility for all food inspection in the Armed Forces, including testing for food wholesomeness and quality, and overseeing the transportation and storage of food and the sanitation of the facilities.

Of course, a major role for veterinarians is the caring of all Government-owned animals. The Army alone has 671 working dogs requiring regular treatment. Veterinarians must care for animals used in research. They are also deeply involved in the prevention and treatment of diseases that may be transmitted from animals to man.

In fact military veterinarians primarily treat animals for disease control—those diseases that can be transmitted from animals to man.

There are 150 such diseases, including rabies and the plague, and last year the Air Force operated plague control programs at 26 bases—39,000 cases and diseases in animals were diagnosed and identified 534 humans with disease caused by pets. They investigated 6,388 animal bites on base, 10,800 off base, 15,000 animals were quarantined; and 33 of these were positive for rabies.

The Army last year quarantined and vaccinated 3,296 animals for rabies; impounded almost 21,000 stray animals; and immunized animals with diseases transmittable to man.

Mr. Chairman, as you can see, military veterinarians are not the "poor relatives" of the armed services medical community. They are a vital part of the effort to maintain a healthy and sanitary environment for all military personnel. I do not believe that they should be singled out as the one segment of the medical community which should no longer receive incentive compensation for providing needed expertise.

Mr. Chairman, a civilian veterinarian can earn between $45,000 and $60,000 as a starting salary, while a military veterinarian may earn only $26,000 per year. These trained medical professionals perform a vital role in our armed services.

I believe that the small cost of continuing the incentive pay is warranted—both as a matter of justice for these professionals, and to guarantee that our services will be able to recruit doctors of veterinary medicine.

I urge my colleagues to support this amendment.

Mr. BURLISON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this suggestion in our committee report was not arrived at instantly and should have been no surprise to this body or to other committees, because the item was discussed in detail just last year in our report.

Now, special pay connotes incentives and the question is whether there is a need for incentives for the retention and acquisition of veterinarians. Our evidence after extensive hearings and after study of various reports that have been made is negative.

Mr. Chairman, military veterinarians now spend less time in the care of animals than in any other activity which they perform. The animal care that is rendered is given predominantly to privately owned animals of military members and dependents. Government owned animals represent less than 10 percent of the Veterinary Corps workload.

Mr. Chairman, at the end of World War I there were 400 animals per veterinarian in the service. Now the number is four. There are four Government animals per veterinarian in the military service.

It is obvious, Mr. Chairman, that the subcommittee is correct on this recommendation and the amendment should be defeated.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BURLISON. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think the gentleman points out a very good point. I do not know what the incentives necessary to attract veterinarians might be, but I think really that the appropriation committee ought to be commended for the work they have done in terms of taking the maximum study and trying to adjust this issue in a reasonable way, and seeking not to cause any dislocations in terms of veterinary service.

Undoubtedly, there are enforcement functions and services that are provided by the veterinarians, but the gentleman from Missouri is so right when he said that there now are only four Government animals for each one veterinarian and that a large portion of a veterinarian's time is spent in treating pets. In fact, last year, for instance, the Army gave out 3,800 immunizations to Government-owned animals. At the same time they gave out 295,000 immunizations to private pets. This is what they are doing.

Furthermore, I think as we look at the service that they are providing, in many instances it should be provided by someone else; that is, it fulfills a different function and has a different background in terms of training, as was pointed out by the chairman of the subcommittee.

To top it all off, most of these veterinarians are located in this country in areas close to military bases. They are not spread throughout the country. Eighty percent of them are in this country at military bases where we have pet hospitals and this sort of thing going on. All at great cost to the taxpayer.

There is a role for the veterinarian in the armed services, but we are going to have to craft that function more carefully in the future if we are going to keep a viable service option available here. I think the effort is to try and say that we have it adequately. I do not think we need the incentive at this particular time.

Therefore, I would oppose the gentleman's amendment on that basis.

Mr. BURLISON. Mr. Chairman, I thank the gentleman for his contribution.

Mrs. BYRON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I have had a very interesting week this week. I have a district that includes Fort Detrick. Fort Detrick is the home of many of the veterinarians that we are talking about. I was contacted early in the week and they assured me that it was important enough to them to see me and to explain their program, that they would wait 24 hours a day for any time it was convenient for me to meet with them. Monday night at 10 o'clock I went out to Fort Detrick and was there until after midnight. I met with five of the individuals who are involved in research and development programs that I feel very strongly are important to this country.

One of the five individuals whom I met with is in charge of the botulism program and for the first time we have developed human serum for botulism. Another one is involved in the program for Lassar fever, for which there is no known remedy so far. Another is involved in Legionnaire's disease. Those of us who have been affected by that are well aware of the fact that it is a new disease and there is no cure for it at this moment.

I was quite amazed to realize that all these individuals, quite well educated veterinarians with Ph.D.'s, are members of the Army Veterinarian Corps. I think this is something that has not been brought out before. There are 365 officers in the Veterinary Corps; 111 of them are doing research and development projects; 47 of them are stationed overseas in key positions. There are 160 that are in defense food programs; 27 of them are in DOA defense positions; 20 of them are in student training programs.

When I was meeting with these individuals, they all had recent letters from private industry, which has been recruiting them. They are on a salary of about $25,000 a year. Industry was offering starting salaries between $50,000 and $80,000. These people are dedicated to the programs that they are involved in. They are very concerned about the cutback in this incentive pay.

It is not a large amount, but it is an amount that I think is well worth us thinking about before we eliminate it.

☐ 1450

Mr. NICHOLS. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I yield to the gentleman from Alabama.

Mr. NICHOLS. Mr. Chairman, I want to commend the gentlewoman for her presentation here and say that we are talking about an extremely small amount of money. We are paying physicians bonuses up to $13,000 a year, and we are talking about $100 a month as an increment to our veterinary officers.

Let me also take this occasion to assure the chairman of the subcommittee, my good friend, the gentleman from New York (Mr. ADDABBO), that in the event this amendment carries, Mr. Chairman, it would be my intent to hold hearings on this matter early in the second session of the 96th Congress.

Mr. ADDABBO. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I will ask my friend, the gentleman from Alabama (Mr. NICHOLS), if the amendment carries and we do not further oppose the amendment, I understand this amendment only goes to the small matter of the question of the pay of the veterinary service. Taking the gentleman's assurance that he will hold hearings and taking into consideration the fact the committee has addressed other aspects of the programs in the report which will remain active and in effect insofar as DOD is concerned. With the understanding that the gentleman's amendment will only affect bonuses of the veterinary service, we will not further oppose it.

I must, however, point out that the committee has thoroughly reviewed this area and found that military veterinarians receive compensation competitive with private sector individuals without being awarded extra pay. We also found that the typical DOD veterinarian who chooses to leave the military does so for reasons unrelated to compensation. When these two findings are considered along with the committee's additional finding that DOD has 40 percent more military veterinarians than are needed, it is obvious that we no longer need to offer bonuses.

However, the gentleman has promised to hold hearings in his subcommittee on the issue of veterinary compensation. The committee will therefore accept the gentleman's amendment to retain special pay for veterinarians, but does so with the express understanding that the Appropriations Committee's recommendations stand with regard to disestablishment of the Air Force Veterinary Corps, a 40-percent reduction in the number of military veterinarians, and continued phaseout of veterinary medicine scholarships.

Mr. NICHOLS. Mr. Chairman, if the gentlewoman will yield further, let me take the time to reassure the chairman of the subcommittee that it is my expectation to hold hearings on this matter early in the next session of Congress.

● Mr. HUGHES. Mr. Chairman, I rise in opposition to the provision in the defense appropriations bill which would deny the $100 per month special pay for veterinarians in our Armed Forces.

In my judgment, this is simply penny-wise and pound-foolish. In the last few days, we have cast many votes designed to cut out waste and inefficiency in our Government's programs. In most cases, there is always room for trimming, but I feel strongly that by cutting out the special pay provisions for military veterinarians we are making a serious mistake.

Although the Veterinary Corps is not large when compared with other components of our special services, it performs many valuable functions including the care of Government-owned animals, zoonosis control, food inspection, sanitary inspections, and public health as well as research and development.

Most military veterinarians could make a larger salary in private practice yet they have chosen to practice their profession and serve their country at the same time.

We have spent a good deal of time debating the merits of the All-Volunteer Forces in this Chamber. The consensus is that we should give it a fair chance. One of the ways to help keep the caliber of our military personnel at an acceptable level is to offer incentives to make the military an attractive career choice. Certainly, the extra $100 per month, while hardly a princely sum, does encourage military veterinarians to stay in the service.

To ask these dedicated individuals to make this kind of financial sacrifice in these difficult economic times is foolish. I urge my colleagues to support the removal of this ill-conceived provision from the Defense appropriations bill.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. Nichols).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Kramer: Page 62, after line 7, add the following new section:
>
> Sec. 776. None of the funds appropriated by this Act may be used to reduce the number of personnel assigned to, or the support or equipment levels at, any United States naval installation or facility at Guantanamo Bay, Cuba, below the number of such personnel, or such support or equipment levels, on September 30, 1979, or to discontinue or reduce any military functions which were primarily supported by such installation or facility on September 30, 1979.

Mr. ADDABBO. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from New York (Mr. Addabbo) reserves a point of order on the amendment.

The gentleman from Colorado (Mr. Kramer) is recognized for 5 minutes in support of his amendment.

Mr. KRAMER. Mr. Chairman, this amendment is similar to an amendment that I offered and which was passed on the defense authorization bill several weeks ago.

The amendment does simply nothing more than make a commitment by this House for us to stand tall on the issue of Guantanamo to show that we are there to stay, and that our presence at Guantanamo is nonnegotiable.

The discovery of 2,000 to 3,000 Soviet troops in Cuba has raised a number of serious questions. What is their mission? How long have they been there? Why did we not find out they were there before? Is it in our best interest to proceed with the SALT negotiations and the treaty ratification debates as long as this issue is unresolved? And what, if any, steps should the United States take to check the growing Soviet influence in the Caribbean?

Meanwhile, I think the issue of Soviet troops in Cuba has served to focus attention on another important subject: The presence of American forces at Guantanamo Bay and the future of the American forces at Guantanamo Bay.

On September 6, I wrote to the President, urging him to reassure the American people that Guantanamo is not negotiable, and that it will not be used as a bargaining chip in the U.S. negotiations with the Soviets over withdrawal of their troops. The President has not yet responded, but the State Department has at least issued a statement rejecting any suggestion of an American withdrawal from Guantanamo in exchange for a withdrawal of Soviet troops from Cuba.

In responding to inquiries and queries from the news media, Hodding Carter stated that Guantanamo is "not negotiable," and that any attempt to equate one withdrawal with another "will not be fruitful."

Nevertheless, Soviet commentaries continued to link the issue of the presence of Soviet troops in Cuba with the presence of our own facility at Guantanamo.

The latest reference came only 10 days ago in a column by Mr. Reston, in which this possibility was again raised.

Fidel Castro has prevailed upon the so-called nonalined summit conference to support his call for the removal of U.S. Forces from all nonalined countries. In addition to Korea, the clear target of that message was Guantanamo.

This is an issue on which, I believe, we, as Members of the House, ought to strongly back the President. He should have the full, nonpartisan support of the Congress, and that is what this amendment is intended to do, to give a loud and clear message to the Kremlin that Congress and the American people stand solidly behind the administration's position that Guantanamo is not negotiable.

There are several reasons why I would urge us to retain this strategically important naval facility:

No. 1, we have a legal right to be there. In 1903, President Roosevelt negotiated a lease with Cuba that gave us the right in perpetuity to maintain our presence in Guantanamo.

Our presence at Guantanamo is a stabilizing force in the Caribbean. The recent overthrow of the Government in Nicaragua, the instability of Governments in Guatemala, El Salvador, and Honduras, I think, today give us an increased impetus for maintaining our commitment there. The increased Soviet activity in this area, including the upgrading of their own nearby port at Cienfuegos, serves to underscore the importance of maintaining a strong U.S. naval presence at Guantanamo.

The advantages offered by that base as a training facility for our Atlantic Fleet cannot be duplicated literally anywhere in the world. Guantanamo should be retained for this reason alone, for its deep port facilities, if for no other reason.

Finally, it would make absolutely no sense for us to give Cuba and the Soviets a free naval base, complete with a modern airstrip, a multimillion-dollar desalinization plant, hospital, modern barracks, and other support facilities.

In short, our base at Guantanamo is critical to our national interest, more so now than ever before, and I urge the Members to support this amendment.

In closing, I would just make reference to our colleague, the gentleman from California (Mr. Lloyd), for a very noted and scholarly treatise on the Guantanamo facility, in which he quotes, with approval, the Hoover Research Institute as follows:

> We favor a very strong stand on the part of the United States with regard to the Naval Base at Guantanamo Bay. United States withdrawal from the Base would affect the entire Western Hemisphere power structure. It would seriously weaken the position of the United States, militarily and politically, as a major hemisphere power and as the Free World's principal bastion against communist penetration. It would be another step in the erosion of United States influence and of free world ideology. It would demoralize the free peoples of the hemisphere, and it would hasten the incursion and establishment of communist forces in this part of the world.

For this and other reasons I have stated, Mr. Chairman, I hope that this body can unanimously support this amendment, just as we did on the authorization bill several weeks ago.

Does the gentleman from New York (Mr. Addabbo) insist on his point of order?

Mr. ADDABBO. Mr. Chairman, I withdraw my reservation of a point of order.

The CHAIRMAN. The gentleman from New York (Mr. Addabbo) withdraws his reservation of a point of order.

Mr. ADDABBO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is with deep regret that I rise in opposition to the amendment. It is a good idea. If it was a sense-of-Congress type of resolution, I could support it, but if we were to make it a part of the law, it would disrupt the operations of the Navy Department.

The gentleman's amendment would require that the present level of manpower at Guantanamo always remain the same, 2,200. If a man was on leave, if a man was in rotation, that would be below the limit, and that could not be done. In the event of hostilities, Mr. Chairman, we could not use those Forces in other locations.

In other words, if we were to have an emergency in Panama, we would have to take Forces from some place else other than this base, which is the closest point.

Mr. Chairman, on that basis, the Department of Defense opposes the amendment, and the committee opposes it.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, I will only respond briefly to the gentleman and say that the amendment talks in terms of assigned personnel, not in bodies that are physically present. So what we are talking about here, I think, allows the administrative flexibility, and to do as the gentleman suggests might be necessary in an emergency does not present a problem.

This only talks about people actually assigned, not necessarily physically present.

Mr. Chairman, I think the gentleman has made a good point, but I think the way this amendment is drawn, it does indeed take care of that particular problem. There was an earlier amendment I had inserted into the RECORD, and perhaps the gentleman is referring to that, because someone did point out that particular problem to me, and I believe this amendment corrects that problem.

Mr. CHAPPELL. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, let me say that I totally agree with what the gentleman is intending here. I want us to do everything that displays our willingness to keep our strength levels in that area where they ought to be.

I personally believe, though, that this does precisely what the gentleman does not want to do. There is no question but what if we limit the numbers or say we cannot draw down upon a certain number, we do not know today just exactly what those sizes are. They may be lower than they ought to be at the moment, and there is no reason why we could not bring them up under this amendment.

But let us suppose we had some surplus and they were vitally needed to be transferred some place else or we needed them to support the Atlantic Fleet, because they are running personnel in and out of there all the time; it would be extremely restrictive on their ability to perform the mission that they are assigned to perform.

□ 1300

While I totally agree with what the gentleman wants to do, I think that what we ought to say here, in essence, is that we want to keep those levels up, and do nothing that is going to indicate any weakness in that area; but I think it would be unwise to tie it into the appropriation bill in this fashion, while I totally agree with the gentleman's purpose.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, I would just like to respond briefly to the gentleman's points.

I think, quite frankly, that the language, talking about personnel assigned rather than bodies present, allows the kind of flexibility that the distinguished chairman was concerned about several minutes ago. I think that it is important for this body to go on record—because we are only dealing with a troop level and personnel strength of somewhere between 2,200 and 2,500 people—that when we have a Navy of 600,000 people or thereabouts, with additional support people, that we make a very strong and clear and convincing point to the Soviet Union today that we are going to stand firm in terms of our present levels of operation of that facility. I believe that the only way we can accomplish that, to give them that kind of a message, is through an amendment that has language such as the one being offered by myself.

Mr. CHAPPELL. Mr. Chairman, if I may reclaim my time, the only point I would make to the gentleman, I would join him readily in an amendment that would say that we ought to keep our force levels at whatever is necessary to maintain our presence in the area, to do everything that is necessary to have the Soviets and the Cubans understand we have no intention of lessening any influence in that area of the world. But to do it by numbers I think would be self-defeating.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

Mr. Chairman, I would say to the gentleman in the well, the gentleman from Colorado (Mr. KRAMER), that if he would withdraw the amendment and offer instead a sense-of-Congress resolution, I think that would better carry out the intent of his amendment. We have already passed legislation as part of the armed services authorization bill which was passed by this House, similar to that proposed by the gentleman. So you have legislated the question. But to tie the hands of the military who, by their own statements, say that this would tie their hands, would be wrong and would be very difficult to administer.

As I say, most of us agree with the intent of your amendment, but to tie the hands of the Department of Defense as to how the personnel can be used in a time of crisis I think would be wrong.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KRAMER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceeding under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1310

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Colorado (Mr. KRAMER) for a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would like to announce that he has examined the transcript of the proceedings under the amendment offered by the gentleman from Colorado (Mr. KRAMER), and the Chair had announced that the noes appeared to have it and therefore the amendment was not agreed to.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO: Title VII, page 62, add the following new section:

"SEC. 776. None of the funds appropriated by this Act shall be used for the provision, care or treatment to dependents of members or former members of the Armed Services or the Department of Defense for the elective correction of minor dermatological blemishes and marks or minor anatomical anomalies.

Mr. VENTO. Mr. Chairman, this is a very straightforward amendment. I offered this earlier this year. This would prevent the Defense Department from using any of the appropriated funds in this act for providing nontherapeutic cosmetic surgery to dependents or former members of the armed services.

It was startling, of course, to learn this practice was going on in the Public Health Service and various DOD service hospitals and facilities.

Our constituents would probably associate this type of cosmetic surgery with the affluent, the movie stars, et cetera. Medicare, medicaid, commercial insurers, Blue Cross or CHAMPUS programs do not provide for the cost of this cosmetic type of surgery solely to improve appearance for personal reasons.

Former HEW Secretary Joe Califano was quick to recognize the problem in the PHS offering of nontherapeutic cosmetic surgery, and, after a requested report by the Inspector General in review of the Public Health Service's nontherapeutic "free" cosmetic surgery, documented the incidence, Secretary Califano discontinued it in all eight PHS hospitals.

Ironically, the DOD has not acted in response to this report in spite of the pressure on the defense dollars that exist today. The DOD's various service hospitals reflect the same problems with "free" nontherapeutic cosmetic surgery that exist in the PHS counterparts.

Cosmetic surgery is not available through other public or private insurance programs, and the PHS has obviously rejected this service.

Military hospitals are having difficulty in attaining adequate staff and the use of facilities and resources for such nontherapeutic cosmetic surgery should not burn up these resources.

The public demand for cosmetic surgery is growing and therefore the current future and commitment will be substantial. The review by the Inspector General of the eight PHS hospitals found that 881 such procedures were performed in a 21-month period and only about 11 percent were primary beneficiaries and 14 percent were special study patients.

Many of the patients who have one of these cosmetic surgery procedures return for a second procedure—34 percent, in fact, return.

What is the impact of this amendment on the residency program? In other words, some may argue that this program is needed to train residents.

First of all, residents seldom have a career obligation to the PHS or for that matter to the armed services hospitals.

Second, most frequently the resident is serving only a part of his residency at a service hospital which is seldom the "parent" hospital for the resident in the PHS experience.

In other words, we don't have to run around creating unneeded demand to foster the development of these skills in residents at service hospitals. There, in addition, is ample incentive for physicians to learn these skills because of the "economic" importance in private practice.

Interestingly, primary beneficiaries by nature of sex and age distribution, as well as cultural factors, are not likely to obtain cosmetic surgery for the aging process or for concerns unique to females.

These patients tend to consume hospital resources out of proportion to their number. The situation is ripe for abuse. The Inspector General found no internal controls or monitoring in the PHS review and it is obvious in the lack of response and the one answer to an inquiry that I made that the same circumstances are occurring with the other service hospitals.

I quote from a written response from the Bureau of Medicine and Surgery, Department of the Navy: "The Navy does not maintain a record of costs for cosmetic surgery provided at its Naval Hospitals and Naval clinics." signed. J. J. Quinn, Capt. MC USN—Assistant Chief for Planning and Resources Act.

Who are these people that receive the special study procedure? Employees and their relatives are not eligible for care as primary or secondary patients.

Well, this is what you might expect when the service is free and not provided by other public or private health insurance programs.

In addition, the PHS review pointed out that people travel great distances to receive this free cosmetic surgery—half way across the continent just to receive the service.

The lack of documentation referral and followup letters pointed out in the PHS review that this procedure was and is not characterized by comprehensive and continuous care.

Psychiatric consultation was absent. Social service consultation was absent.

What more needs to be said? No standards for service, no documentation, no referral record, no followup, no maintenance of costs records—this is a service and expense that should not be borne by the American taxpayer.

Vote yes on this amendment and help end this procedure.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

I have carefully studied the amendment and taken it up with the members of the subcommittee. This limitation is presently in the CHAMPUS regulation. Therefore, I would be willing to accept the amendment.

Mr. VENTO. I appreciate the gentleman's comments.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

I am happy to accept the amendment on this side.

Mr. VENTO. I appreciate the support. With that support, I think we can move forward and give this 1 year on the appropriations. I think it will be successful and provide ample opportunity for further remedial legislation.

I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. The question is on the amendment of the gentleman from Minnesota (Mr. VENTO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO: To title VII, page 62, add the following new section:

"SEC. 776. None of the funds appropriated by this Act shall be used for the veterinary care or treatment for any non-Department of Defense owned animal (or bird, fish, or reptile) in the United States, its territories or possessions."

Mr. VENTO. Mr. Chairman, I do not want to belabor this issue. I want to first of all pay credit to the Appropriations Subcommittee, because I think they have been very sensitive to this particular issue. They paid close attention to the facts of the study with regard to veterinarians, which is much broader in scope than the nature of this amendment.

I have paid close attention also to the Armed Services Subcommittee in their efforts in this matter. This has been a widely studied question. There have been almost 25 studies that have looked at Government-supported care of pets.

Obviously, there are instances in which that is justified, but there are many in which it is not. It is really, I think, time to reframe or remold the functions of the veterinary services. I think the Appropriations Committee is moving in that direction. I would, of course, hope that in this year that they will explore commercial rates being charged for the care of pets and elimination of that particular service where it is not necessary. Eighty percent of the vets, of course, are located within the continental United States.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

I would say to the gentleman the committee has gone into the question of veterinarians in great depth to include the proper use of their time and ability. We will continue to properly monitor it as I stated earlier to the gentleman from Alabama.

If the gentleman will withdraw his amendment, I assure the gentleman the committee will continue to monitor the program and see that needed reforms are made as recommended in the committee report.

Mr. VENTO. I appreciate the gentleman's support.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

What the gentleman says is true. We spent now about 2 years roughly delving into this whole problem of the veterinary service at some length. I would hope that the gentleman would allow us to continue to move in an orderly fashion to try to get a handle on this.

In addition to that, the gentleman from Alabama (Mr. NICHOLS), has suggested he is going to start holding hearings on the problem. I think between what the gentleman from Alabama (Mr. NICHOLS) will do, and what we have recommended, we are going to get to the bottom of this whole problem. I would hope the gentleman would go along with that and withdraw his amendment.

Mr. VENTO. I appreciate those comments and that support for this measure.

I paid close attention to the gentlewoman from Maryland and her concern about disease control and the vital research that veterinarians do. I am well aware of the fact. In fact, my background is in science and I am quite knowledgeable in some of the aspects with regard to zoonosis and epizootic type control that might go on with regard to veterinarians. It is not something solely within the military area, but I think it is an important function.

What I am concerned about is the spending that goes on is really not necessary here with regard to pet control.

But with the support of the chairman of the subcomittee, the gentleman from New York (Mr. ADDABBO), and with the support of the minority, I believe that this Congress will review this matter. Mr. Chairman, unanimous consent to withdraw the amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota (Mr. VENTO)?

There was no objection.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KRAMER: Page 62, after line 7:

SEC. 775. None of the funds appropriated by this Act shall be available to reduce United States military capability in Guantanamo Bay, Cuba, below that in effect on September 30, 1979.

Mr. KRAMER. Mr. Chairman, this is an amendment that is similar in direction and scope to the one just debated several minutes ago. I think the language in this one gives a little more flexibility for the operations at Guantanamo Bay, which was the concern of the committee. I believe, I hope this language is acceptable to the distinguished chairman of the committee.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. Yes, I yield to the chairman of the subcommittee.

Mr. ADDABBO. I thank the gentleman for yielding.

I have discussed the matter with the ranking minority member and the members of the committee. We find no objection with the language and would accept the amendment.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman.

Mr. EDWARDS of Alabama. Mr. Chairman, I concur with what the chairman has said and on this side we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The amendment was agreed to.

● Mr. FAZIO. Mr. Chairman, I would like to explain further to the House why I consider the remarks of my colleague from Colorado (Mrs. SCHROEDER) to be of such importance to the proper consideration of this Defense appropriations bill and to our national defense posture. I realize this House has spoken on the issue of abortions before and has made it clear that it does not want Federal funds to pay for abortions in any but the most restrictive circumstances.

However, I wonder whether the Members realize quite how restrictive the language in this bill now is. Further, I wonder whether it is fully understood that in the Department of Defense we are dealing with a category of programs different from those, for example, offered by the Department of Health, Education, and Welfare. Last, I wonder whether the Members of this House have fully considered the impact of this language on our efforts to recruit and retain an All-Volunteer Military, and thus its impact on our ability to defend this Nation.

As written, the Defense Appropriations bill would preclude abortions in all cases where the mother's life is not imperiled. In practical terms, this means cases where the mother's life is not judged imperiled by the time abortions are still safe to perform, during the course of pregnancy. We are talking then of instances such as the following:

When a woman who has multiple sclerosis becomes pregnant, she stands a 50–50 chance of greatly worsening her condition. Though certain forms of MS, such as Lou Gehrig's disease, mean early death when coupled with pregnancy and would thus be covered by this language the general situation is not that clear cut. Multiple sclerosis will often shorten a pregnant woman's life. It is important to realize that this language does not guard against such loss of years in the future.

When a pregnant woman has cancer, the growth-inducing hormones in her blood greatly propell the growth of the cancer as well as of the fetus. Again, this growth does not clearly result in immediate death, but it can result in much quicker death. If the fetus is to survive, further, women must forego treatment such as chemotherapy or cobalt radiation; otherwise the fetus will abort itself anyway.

When an epileptic woman becomes pregnant she must elect to forego the strong drugs sometimes required to treat her condition. If she does not, the fetus is very likely to suffer mental damage or severe physical deformities.

If a diabetic woman becomes pregnant she incurs serious difficulties trying to carry the pregnancy to term. Spontaneous abortion often occurs at 5 months. The fetus is often born with severe defects: organs insufficiently developed, mental retardation, other debilitating diseases.

Mr. Chairman, by allowing this restrictive language in this appropriations bill we are telling military women or military dependents that they may not have abortions in the cases of pregnancies resulting from rape or incest. We are also telling this particular group of people that they may not have abortions even though they know early in a pregnancy that the fetus will soon die from Tay Sach's disease—which afflicts Jewish people of Southeast European origins—that the fetus will die from spinal bifida, or that the fetus will die from anencephaly. We are telling black women afflicted with sickle-cell anemia that they will have to endure great pain during their pregnancy, plus frequent transfusions to avert frequent crises. And at the end there is a one in four chance the fetus will be born with sickle cell anemia, and another great chance that the woman's life will be greatly shortened.

Mr. Chairman, we had occasion to learn this year of one effect of last year's defense appropriations language on this particular category of citizen: Military personnel, and their dependents. One service couple learned early on in their pregnancy that their child would be born with anencephaly, a defect which means no skull, no brain, and certain death. Because they were poor—as so many of our young military families are—this couple turned to their military health plan for help; it was denied them and the couple was forced to carry the pregnancy to term. The strain on them was enormous, the baby died, and they have decided to never have another child.

Mr. Chairman, why is it that we are singling out this class of people for this policy? In the case of welfare abortions, the case can be rationally made that tax dollars, which the law requires everyone to pay, should not be used for purposes which many hold repugnant. Therefore, goes this line of reasoning, absolutely no tax dollars should be used for publicly financed abortions. I will not bother to dispute this line of reasoning, though I point out that many in this body disputed those who withheld their tax dollars for the war in Vietnam. Again we have a minority telling a majority what the public dollar may be used for.

However, we do not even need to get into that issue in order to distinguish the military from welfare recipient. Military people are not being given anything. Complete health care is part of their pay, just as much as cash is part of their pay. To reduce complete health care constitutes telling them that they may not spend their pay the way they want. It would be the same as saying they may not pay for private abortions with that portion of their compensation which happens to come in the form of cash. To say this retroactively is to take pay away from the military and their dependents. The logical extension of this argument will soon stretch to all Federal employees.

To deny any abortion to those who suffer from grave diseases, to the victims of rape or incest, to those who know their fetus will be born fatally and/or irreparably damaged, is to deter many who would otherwise consider joining the All-Vounteer Military and to destroy the morale of those who have. This policy hits hardest the poorest among our military; it hits hardest those sent overseas; it hits hardest the people we need most in order to make this all-volunteer policy work. On these grounds I think this House is making a grave error in policy. Department of Defense officials are unanimous in their testimony that this policy is doing damage to our need to recruit and more importantly retain qualified men and women.

This is not the time to be imposing the minority will on the military, if one result is a weakened national defense. Those among my colleagues who believe in reinstating the draft and those others who believe in merely reinstating registration of the draft, should be particularly sensitive to this point.

In sum, this language is too cruel in its restrictiveness. It is not based on the proper distinction between public gift and prviate earnings. And it is bad military policy. I do not think we would have a particularly difficult time explaining those rather straightforward points to our constituencies, and I would ask my colleagues to take a careful look at this language in the future.●

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of the bill.

Mr. ADDABBO. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation the amendments be agreed to to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There were no objections.

The SPEAKER. Is a separate vote demanded on any amendment? It not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FORSYTHE

Mr. FORSYTHE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. FORSYTHE. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FORSYTHE moves to recommit the bill, H.R. 5359, to the Committee on Appropriations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. EDWARDS of Alabama. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 305, nays 49, not voting 79, as follows:

[Roll No. 522]

YEAS—305

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Barnes
Bauman
Beard, R.I.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Chappell
Clausen
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Gaydos
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Holt
Hopkins
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Marlenee
Marriott
Martin
Mathis
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
O'Brien
Oakar
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Rinaldo
Ritter
Robinson
Rodino
Roe
Rostenkowski
Rousselot
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stratton
Stump
Swift
Synar
Tauke
Taylor
Traxler
Trible
Van Deerlin
Vander Jagt
Vento
Walgren
Walker
Wampler
Watkins
Waxman
White
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wolpe
Wyatt
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—49

Baldus
Bedell
Beilenson
Bingham
Bonior
Brodhead
Burton, Phillip
Carr
Chisholm
Clay
Daschle
Dellums
Drinan
Edgar
Edwards, Calif.
Forsythe
Gephardt
Gray
Harkin
Howard
Kastenmeier
Kildee
LaFalce
Leland
Maguire
Markey
Miller, Calif.
Mitchell, Md.
Murphy, Pa.
Nolan
Nowak
Oberstar
Obey
Ottinger
Paul
Pursell
Rangel
Roybal
Schroeder
Seiberling
Stark
Studds
Thompson
Vanik
Volkmer
Weaver
Weiss
Wirth
Yates

NOT VOTING—79

Alexander
Anderson, Ill.
Ashley
AuCoin
Barnard
Beard, Tenn.
Biaggi
Bolling
Breaux
Brown, Ohio
Burton, John
Carter
Cavanaugh
Cheney
Cleveland
Collins, Ill.
Conyers
Corman
Cotter
Crane, Philip
Davis, Mich.
Davis, S.C.
de la Garza
Diggs
Downey
Flood
Ford, Mich.
Fuqua
Garcia
Giaimo
Gingrich
Hall, Ohio
Hance
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Horton
Huckaby
Johnson, Colo.
Kemp
Kindness
Lent
Lloyd
Lundine
McClory
Marks
Mattox
Minish
Moffett
Mottl
Murphy, Ill.
Pashayan
Reuss
Rhodes
Richmond
Roberts
Rose
Rosenthal
Roth
Sebelius
Skelton
St Germain
Steed
Stokes
Symms
Thomas
Treen
Udall
Ullman
Whitehurst
Williams, Ohio
Wilson, C. H.
Winn
Wolff
Wright
Wydler
Wylie

□ 1340

The Clerk announced the following pairs:

On this vote:

Mr. Wolff for, with Mr. Moffett against.

Mr. Hance for, with Mr. Conyers against.

Mr. Mattox for, with Mr. Richmond against.

Mr. Corman for, with Mr. Garcia against.

Until further notice:

Mr. St Germain with Mr. Anderson of Illinois.

Mr. Rosenthal with Mr. Sebelius.

Mr. Reuss with Mr. Symms.

Mr. Alexander with Mr. Roth.

Mr. Wright with Mr. Thomas.

Mr. Steed with Mr. Whitehurst.

Mr. Charles H. Wilson of California with Mr. McClory.

Mr. Stokes with Mr. Winn.

Mr. Ullman with Mr. Wydler.

Mr. Williams of Ohio with Mr. Lent.

Mr. Udall with Mr. Wylie.

Mr. Skelton with Mr. Gingrich.

Mr. Rose with Mr. Hillis.

Mr. Fuqua with Mr. Kemp.

Mr. Roberts with Mr. Hinson.

Mr. Giaimo with Mr. Cheney.

Mr. Hall of Ohio with Mr. Kindness.

Mr. Holland with Mr. Beard of Tennessee.

Mr. Mottl with Mr. Carter.

Mr. Lloyd with Mr. Cleveland.

Ms. Holtzman with Mr. Brown of Ohio.

Mr. Downey with Mr. Davis of Michigan.

Mr. de la Garza with Mr. Philip M. Crane.

Mr. Ford of Michigan with Mr. Horton.
Mr. Minish with Mr. Pashayan.
Mr. Davis of South Carolina with Mr. Hollenbeck.
Mr. Cotter with Mr. Biaggi.
Mr. John L. Burton with Mr. Ashley.
Mr. Breaux with Mr. Barnard.
Mr. Huckaby with Mr. AuCoin.
Mr. Lundine with Mr. Marks.
Mr. Cavanaugh with Mrs. Collins of Illinois.

Mr. DASCHLE and Mr. MARKEY changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on September 28, 1979, the President approved and signed a bill of the House of the following title:

H.R. 111. An act to provide for the operation and maintenance of the Panama Canal under the Panama Canal Treaty of 1977, and for other purposes.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 192. Concurrent resolution directing the Clerk of the House to make a correction in the enrollment of the bill, H.R. 3996.

PERMISSION TO FILE CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 404, CONTINUING APPROPRIATIONS, 1980

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the joint resolution (H.J. Res. 404) making continuing appropriations for fiscal year 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR COMMITTEE ON VETERANS' AFFAIRS TO FILE REPORT ON H.R. 5288 NOT LATER THAN FRIDAY NEXT

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that the Committee on Veterans' Affairs be permitted to file a report on H.R. 5288 while the House is in recess next week, not later than Friday next.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERSONAL EXPLANATION

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, on September 27, 1979, I was unable to be present on the floor of the House of Representatives for rollcall No. 518 on an amendment to H.R. 5359, the Department of Defense appropriations, that would have provided for the consolidation of military helicopter pilot training programs. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, on Tuesday, September 25, 1979, when the House considered House Joint Resolution 404, the fiscal year 1980 continuing resolution containing the proposed congressional and senior government officials pay raise, I voted "aye."

I was properly recorded by the electronic device and that vote reflected the technical parliamentary advice I received prior to my vote. It also reflected many of my basic feelings about the merits of the bill.

However, I should have voted "nay."

As the record of debate shows, I offered a motion to recommit House Joint Resolution 404 to the Committee on Appropriations.

The Speaker asked me if I qualified to offer the motion. As the ranking member of the Appropriations Committee I assumed I was qualified and so stated.

Upon further reflection and counseling with my friends and colleagues, I came to realize that the honorable, if not the technical, duty of a Member offering a motion to recommit is to vote against the bill on final passage.

Thus, I wish to take this occasion to apologize to the House for my error in not adhering to the strong expectation that an author of an unsuccesful motion to recommit will in turn vote "nay" on final passage.

PRESS GALLERY ATTENDANCE

(Mr. WHITLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITLEY. Mr. Speaker, I noticed, and I think most of my colleagues did as well, a few days ago when we voted on the congressional pay raise, that there were a large number of people in the Press Gallery. As a matter of fact, I counted 33 people at the close of the rollcall. The congressional pay raise, as I recall, involved approximately $1.3 million per year.

Today, Mr. Speaker, we just finished voting on the defense appropriations bill which involves $123 billion. At the close of the rollcall I looked up at the Press Gallery. There were two people there. They were paying no attention to the rollcall but were simply talking to each other. That may be a commentary on what the press thinks is important in this country.

CONFERENCE REPORT ON S. 737, EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, pursuant to the unanimous-consent agreement of Tuesday, September 25, 1979, I call up the conference report on the Senate bill (S. 737) to provide authority to regulate exports, to improve the efficiencies of export regulation, and to minimize interference with the ability to engage in commerce.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the order of the House of September 25, 1979, the conference report is considered read.

(For conference report and statement, see proceedings of the House of September 27, 1979.)

The SPEAKER. The gentleman from New York (Mr. BINGHAM) will be recognized for 30 minutes, and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

(Mr. BINGHAM asked and was given permission to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, first I would like to say the conference report is available to the Members in yesterday's RECORD starting at page 26593. That is for the particular edification of the gentleman from Maryland (Mr. BAUMAN) if he decides to study it, and copies are also available in mimeograph form.

Mr. Speaker, I believe that your conferees have brought back a good bill, an improvement over the existing legislation. This is a balanced bill. It does a lot for the export industry in terms of establishing procedures with deadlines and requiring the administration to specify what it is doing. It gives clear guidelines to industry so they will know where they stand.

□ 1350

In many ways, I think it will facilitate an expansion of our exports, which is one of the major purposes of this bill.

At the same time, this bill strengthens in a number of respects the provisions with regard to controls on exports for national security purposes.

It requires the Defense Department to proceed with the drawing up of a list of military critical technologies. It retains the so-called Jackson amendment in full, which gives the Defense Department a veto over all licenses. It increases and clarifies penalties for diversion and other violations.

I think on the whole it is an improvement over the bill that was reported out of our committee.

We have a successful conference to report to you. A quick count indicates that of the roughly 70 points at issue between the House and the Senate, the House prevailed on about 40, the Senate on 20, and the House and the Senate provisions were combined on the remaining 10. Of the 15 or 20 amendments to the bill adopted by the House on the floor, all but one were sustained at least in essence by the conference. Many were sustained without change.

More important than these statistics is the actual substance of what we did on the more important House amendments. The Wolff amendment requiring negotiations to attempt to eliminate foreign availability was retained, but in the Senate form.

The Wolff amendment requiring reliable evidence of foreign availability was retained.

The Wolff amendment requiring sharing of foreign availability information was retained.

In my view, the essence of the Ichord amendment to the critical technologies provision was retained. We can discuss that in further detail as we continue this discussion. But, again in my view, the gentleman from Missouri has made a substantial contribution to the bill in focusing on the importance of military critical technologies and in giving the Defense Department clear instructions to proceed with the completion of that list within a reasonable period of time.

The Miller amendment on safeguards was retained. The Miller amendment requiring a cutoff of exports to diverters was retained, in essence, with a clarification which we felt was necessary in response to the Senate position. The Senate felt the amendment was vaguely drawn and had to be given a greater degree of specificity. This was predicted when we dealt with the amendment on the floor of the House.

The Dornan amendment requiring adequate recordkeeping was retained. The Dornan amendment providing penalties for failure to report diversion was retained and the fine was actually increased by making it five times the value of the export, or $100,000, whichever is greater.

The Fenwick amendment on terrorism was retained.

The Findley amendment on short supply monitoring and controls was retained.

The Preyer amendment on confidentiality was retained.

I think we have a good report to bring back to you.

Mr. Speaker, before I yield the floor, I would like to express my appreciation to the conferees. They worked diligently under great pressure of time. I am particularly grateful to the conferees from the minority side.

Mr. Speaker, I would like to call attention to a typographical error in the statement of the managers that appears in the RECORD on page 26609. It does not contain the names of the gentleman from California (Mr. LAGOMARSINO) and the gentleman from New York (Mr. GILMAN), both of whom did, in fact, sign the conference report.

I would also like to express my appreciation for the really extraordinary work of the staff in getting this material together. It was a stupendous job done under difficult circumstances in view of the pressure of time.

With that, Mr. Speaker, I yield to the gentleman from California (Mr. ANDERSON) for an inquiry.

Mr. ANDERSON of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, if I could, I would like to have the gentleman address the provision pertaining to scrap metals, the so-called Findley amendment. During floor debate on this matter 10 days ago, the chairman, the gentleman from Wisconsin (Mr. ZABLOCKI) interpreted the intent of the amendment as one meaning to get at price increases resulting from exports, not from increased domestic buying.

Although I still do not favor inclusion of the provision, I am very concerned that even at this late point in our deliberations, the intent in including the provision be clarified.

Mr. BINGHAM. Mr. Speaker, the gentleman from California brings up a good point. As a matter of fact, in the conference report we include precise words which take care of that problem, saying that we are dealing here with an increase in domestic prices or domestic shortage, either of which results from increased exports; so the gentleman's interpretation is not only correct, but it has been clarified in precise language in the conference report.

Mr. ANDERSON of California. Mr. Speaker, I thank the gentleman very much.

Mr. BINGHAM. Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I would like to state for the record, as the gentleman from New York just did, that I did actively participate in the full range of discussions of the House-Senate conference on the Export Administration Act and I did sign the final report, although my name and that of the gentleman from New York (Mr. GILMAN), our names were mistakenly omitted from the RECORD.

Mr. Speaker, I rise in support of the conference report on the Export Administration Act of 1979.

As everyone is well aware, a great deal of time and very careful attention has been given to this extremely complex piece of legislation. While there have been very significant differences of opinion on both sides of the aisle as to intent and interpretation of various provisions of the bill, I believe the end result is one that both sides can be at least relatively happy with and can support.

Now, some changes were made in the conference with which I disagreed, but it is still in my opinion an improvement over the committee bill and over the present law.

For those who want enhanced opportunities for American businesses to increase their overseas markets, this legislation offers expedited procedures and more precise guidelines, so that business can know with more certainty what to expect when seeking to export its products.

For those, like myself, who wants strengthened national security controls for exports of goods and technologies that might contribute significantly to the military potential of an adversary, this legislation provides for a strengthened role of the Department of Defense in that area.

The role of the Department of Defense is clarified as the department having primary responsibility for developing the list of military critical technologies which will be subject to national security controls, as provided in the Ichord amendment.

DOD will also have preserved its responsibility for approval of license applications for national security reasons, and in cases where there is disagreement by the President on a recommendation by DOD, the President must inform Congress of such a disagreement.

I might add, that where there is a difference between the Secretary of Defense and other secretaries, including the Secretary of Commerce, the amendment that was adopted in the conference, and as I say, over my objection, I preferred the form that had been submitted and adopted by the House, the President would make the final determination.

I think as a practical matter, that is where we are now, because if the President disagrees with the Secretary of Defense and the Secretary of Defense does not carry out his wishes, we would probably have a new Secretary of Defense.

Mr. ICHORD. Mr. Speaker, will the gentleman yield on that point?

Mr. LAGOMARSINO. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, let me state that I agree with the gentleman from California that I believe the bill which the gentleman brings from conference is definitely superior to the committee bill. I am not so sure that it is an improvement, however, over the existing law. I am afraid, and I am not particularly referring to my critical military technologies amendment, which was adopted, although I will say that the gentleman gave up considerably on the critical military technologies approach.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman let me reclaim my time just for that?

I did not give up, the conference gave up.

Mr. ICHORD. I understand that the gentleman from California did not.

I would state that I think they only kept about 10 percent of the Ichord amendment. It is true that they kept the provision to mandate the establishment of the critical military technologies approach, but they took away the fact that what the Secretary of Defense determines to be critical military technologies automatically would become part of the commodity control limit.

Yes, the Ichord amendment put that solely in the hands of the Secretary of Defense and stated that it shall go upon the control list.

☐ 1400

As I understand it—and I would like the gentleman from New York to join in this colloquy—the Secretary of Commerce is in on the act also; is that not correct?

Mr. BINGHAM. Mr. Speaker, if the gentleman will yield, let me say that the gentleman is correct.

But I would point out that there were other items in the Ichord amendment. For example, the first paragraph of the gentleman's amendment stated the intent of Congress that the control list should focus primarily on military critical goods and technologies. The conferees adopted an even stronger position from the Senate language, stating that the Secretary shall insure that the control list cover critical goods and technologies.

The gentleman's amendment also has a time limit on the submission of the initial version of the list. That was agreed to.

Mr. Speaker, I think that three-quarters of the gentleman's amendment was included.

Mr. LAGOMARSINO. Mr. Speaker, if I may add to what the subcommittee chairman has pointed out, an additional item to the Ichord amendment, I submit, is an improvement to the Ichord amendment in its original form, and that was adopted from the Senate language that had been proposed by Senator Jackson. That language requires the President to notify Congress if he should in any event override the Secretary of Defense. That amendment, I understand, was going to be offered on the House floor, but it was not.

Mr. ICHORD. Mr. Speaker, if the gentleman will yield on that point. What do we have in this situation as to the critical military technology list?

If the Secretary of Defense makes a decision that a certain item or technology should go on the critical military technology list and the Secretary of Commerce overrules that, then it would go to the President of the United States for decision. Is that correct, I would ask the gentleman?

Mr. BINGHAM. Mr. Speaker, if the gentleman will yield to me, that is so stated in the language agreed to by the conferees.

Mr. ICHORD. Mr. Speaker, does the gentleman from California (Mr. Lagomarsino) agree that that is the intent of this legislation?

First, may I say to the gentleman from New York (Mr. Bingham) and the gentleman from California (Mr. Lagomarsino) that this is a very complicated piece of legislation. I doubt if very many Members know what is in this bill. That is why I think it is so necessary to establish the legislative history.

Mr. LAGOMARSINO. Mr. Speaker, let me give the gentleman my understanding of that provision.

My understanding is that the Secretary of Defense would draw up the items for the list. If the Secretary of Commerce does not agree with that list, the President would make the final determination, and then, if the President overruled the Secretary of Defense, which he could do anyway, as a practical matter, he would have to report that fact to the Congress.

Mr. ICHORD. That is as to the critical military technology list?

Mr. LAGOMARSINO. Yes.

Mr. ICHORD. Mr. Speaker, if the gentleman will yield further, I thank the gentleman from California (Mr. Lagomarsino) for his explanation. I would state to the gentleman from New York (Mr. Bingham) and the gentleman from California that I hope we can clear up this next problem as easily as we did that. Perhaps it may be that I personally will not have any objection to the bill.

What I am really concerned about in the conference report is what the conference committee did to an amendment offered by the gentleman from Ohio (Mr. Miller). Let me direct the gentleman's attention to section 5(l) (2) in the bill.

Mr. LAGOMARSINO. Mr. Speaker, I wonder if the gentleman from Missouri (Mr. Ichord) would allow me to finish my statement. I have another request from a Member who wants me to yield time.

Mr. ICHORD. I am sure the gentleman from New York (Mr. Bingham) will yield to me on this matter. I thank the gentleman from California (Mr. Lagomarsino) for yielding.

Mr. LAGOMARSINO. Mr. Speaker, I will yield to the gentleman from Missouri (Mr. Ichord) later if he wishes.

Mr. HOPKINS. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Kentucky.

PERSONAL EXPLANATION

Mr. HOPKINS. Mr. Speaker, I wish to take this opportunity to explain the necessity to leave today prior to the conclusion of all legislative business.

My wife, Carolyn, was operated on in Lexington University of Kentucky Medical Center this morning and it is important for me to be there.

I appreciate this opportunity to explain my absence the remainder of today.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding, and let me say that I appreciate his work on this important piece of legislation.

Mr. Speaker, I wonder if I might get the answer to one simple question.

Can an American manufacturer of an advanced computer with military capabilities export that computer to the Soviet Union under this provision of the conference report?

Mr. LAGOMARSINO. Not if he could not do that under present law. There is nothing in here that would allow him to do so. He would still have to get a validated license, and he would be subject to all the provisions in the law.

Mr. ASHBROOK. So it has not been made easier?

Mr. LAGOMARSINO. No, it has not.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for clearing that point up.

Mr. LAGOMARSINO. Mr. Speaker, if I may, let me resume my presentation.

Notwithstanding foreign availability, national security interests will be preserved under export controls, and reexport controls will be maintained. Reliable evidence of foreign availability must be established and recognition of the ineffectiveness of safeguards are included as new provisions in this legislation as is the requirement for halting further exports of technology when diversion to significant military use occurs.

The legislation requires negotiations to eliminate foreign availability of critical technologies and makes the role of technical advisory committees more explicit with respect to their functions in assisting the Secretary of Defense in decisions on national security controls.

The foreign policy provisions of this bill, I believe, make a substantial improvement in the existing law and will help get rid of some of the uncertainty in the business community.

With all that we have accomplished in committee, in the House and in conference, I believe we have struck a reasonable and realistic balance between preserving the national security interests of our country in exports of technology as well as providing greater certainty for business.

Also, I am confident that, as the legislation is implemented, Congress will continue to carry out its oversight responsibility to insure that the intent of the law is carried out. Certainly, as a member of the subcommittee having oversight jurisdiction for export controls, I will be paying very close attention to see that our national security interests are preserved.

Mr. Speaker, we have reached a point in time where failure to adopt any legislation on export controls would prove to be disastrous for our national security.

Mr. Speaker, as I understand the matter, if we do not have this law passed and signed by October 1, there will be no export controls whatsoever. Anybody could export anything they wanted to, and that would be, as I say, a disastrous situation.

Moreover, this legislation, I believe, stands on its own merits as an improvement over existing law and certainly over the bill that came out of committee, with all due deference to the committee.

For those compelling reasons, Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I would like to ask the chairman of the subcommittee if he would respond to a question.

There have been some concerns raised about this legislation by the gentleman from Ohio (Mr. Miller) and by the gentleman from Missouri (Mr. Ichord). I personally feel that their concerns, although certainly they are sincere about them, are not justified, in that I do not think that we have weakened the law in any way. But I would ask the subcommittee chairman if he would be willing to have hearings on this if it should develop that perhaps there is a problem.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, I certainly would be glad to have hearings, and I would hold them in cooperation with the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I thank the chairman of the subcommittee.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, there are several Members present today who have had the experience of dealing with the extension of the Export Administration Act at least once prior to this Congress, and it is never an easy task.

As I view the Export Administration Act, its purpose is to facilitate trade expansion, but at the same time it provides assistance by which the national security interests of the United States are thoroughly protected.

I believe the expiring act needed modernization, and I believe the gentleman from New York (Mr. BINGHAM) and the gentleman from California (Mr. LAGOMARSINO) have together stuck with a very difficult and challenging task with great tenacity. I think we should commend them for it. I think the product of their work is an excellent piece of legislation that will provide adequate safeguards for the national security interests and at the same time loosen up trade expansion opportunities which I think the business community and the labor community will welcome.

☐ 1410

Mr. BINGHAM. Mr. Speaker, I would like to express my appreciation to the gentleman from Illinois (Mr. FINDLEY).

Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I rise in support of the conference report on S. 737, the Export Administration Act of 1979.

First of all, I would like to commend the chairman of the Subcommittee on International Economic Policy and Trade, Mr. BINGHAM, and the ranking minority member, Mr. LAGOMARSINO, for the excellent leadership they have provided the Committee on Foreign Affairs on this bill. It was only through their diligence and hard work that we have been able to bring such a well-drafted bill back from the conference committee. As was stated, this is a complex subject. Therefore, so much the more the reason to commend your conferees for their work on this legislation.

The conference report is very close to the bill which this body passed earlier this week. It maintains the important provision on critical technologies and the provisions which seek to discourage diversion of dual-use items.

The report retains the House version of the provision which would establish a procedure for petitioning for the imposition of controls or monitoring of metallic material capable of being recycled, if such material is facing a short supply situation or increased prices that would have an adverse impact on the economy or any sector thereof.

While the conference report adopted the form of the Senate bill of writing an entirely new act, all of the important new provisions and important changes were already in the House bill. The conference report follows the House direction in dividing up the section of the act that provides for authorities into three separate sections which clearly delineate the authorities for national security controls, foreign policy controls, and short supply controls.

Mr. Speaker, this is a well-balanced bill that protects the position the House took when it considered the bill and also balances the need to protect the national security with the need to increase U.S. exports. The bill will allow the relaxation of controls on less significant items which have little or no military importance, and will allow the focusing of controls on the more highly advanced technologies.

I urge the Members to support this conference report.

Mr. ICHORD. Mr. Speaker, will the distinguished gentleman from New York yield for the purpose of making legislative history?

Mr. BINGHAM. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. I appreciate the gentleman's yielding.

Mr. Speaker, I, too, want to commend the gentleman from New York and the gentleman from California for the very diligent efforts they have made to bring to this House legislation in this area.

I would state that the Export Administration Act does expire on September 30. I know that the gentleman from California has had views often differing from the gentleman from New York, as I have had views differing from the gentleman from New York, and I would point out to the Members of the House that this again is a very, very complicated matter. We are endeavoring to effect export controls to protect the domestic economy, to protect foreign affairs and to protect the national security.

Mr. BINGHAM. Mr. Speaker, if the gentleman will yield, I could not agree more with the gentleman that this is a very complicated matter.

Mr. ICHORD. I think it is very important that we make legislative history as to what is meant by the language, and I would direct the attention of the gentleman from New York to section 5 (l), and this affects the amendment of the gentleman from Ohio (Mr. MILLER), about which I am greatly concerned.

The gentleman defines "diversion" as follows:

> As used in this subsection, the terms "diversion to significant military use" and "significant military use" mean use of U.S. goods or technology to design or produce any items on the United States munitions list.

This is going to determine whether I can support this bill or not. The legislative history that we make on this particular section is particularly important because this deals with the problem of diversion. There is no need to go over it. We know about the Kama River truck plant, the largest truck plant in the world, where the Soviets have used our technology; used it to produce military trucks.

There is a question of what constitutes a diversion. The Commerce Department has stated that there is no diversion except when the end-use restriction is on the export license. As I understand it, in the earlier part of this provision, in 5(l) (1), you are going to require—and I have no objection to that—the end-use restriction to be on the export license itself. I think that clarifies whether you put it in the application or whether you put it in the export license. Personally, I think that clarifies the matter. It would be incumbent upon the Commerce Department to put that in the export license if they want to impose a restriction; is that correct, I will ask the gentleman from New York?

Mr. BINGHAM. Yes, that is correct, so far as that goes.

Mr. ICHORD. Now let us go on to 5(l) (2), though, which also bears on the question of diversion—and this bothers me. If this is exclusive, if you are restricting a diversion to goods or technology to design or produce any items on the U.S. munitions list, let me state to the gentleman from New York that if this is exclusive, then you could export a computer, for example, to produce and design goods on the atomic energy list. It also excludes the commodity control list. I think you really have to explain this particular language if that is exclusive.

Mr. BINGHAM. Mr. Speaker, if the gentleman will yield, I think I can reassure the gentleman. If the language used in subparagraph (2) there was applicable to the entire legislation, then I think you would have a real basis for concern, although not as great a basis of concern as I think perhaps the gentleman feels he does.

I would point out that military trucks, for example, are specifically included on the munitions list. But the point I want to make is that the definition that appears there is limited to this particular subsection and the particular automatic sanction it contains. It adds a whole new dimension to the tools that the Government has in controlling exports and responding to violations. But nothing in this subsection lessens or weakens the authorities or sanctions contained in other provisions of the bill. There are many ways in which the entire structure of the Export Administration Act is aimed at preventing diversions. Diversions are prohibited. There are pages of regulations to that effect.

The SPEAKER. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

Mr. BINGHAM. Mr. Speaker, I yield 2 additional minutes to the gentleman from Missouri.

Mr. Speaker, if the gentleman will yield further, this paragraph, the Miller of Ohio amendment, was described to me yesterday by the responsible Acting Assistant Secretary of the Department of

Commerce as a tough new provision because under paragraph (A) it leaves the administration no discretion about issuing licenses under the circumstances specified there. But all the powers that the Secretary of Commerce has, all of the powers that now exist in the administration to deny export licenses to stop various forms of diversion and other violations remain completely untouched and unweakened by this amendment. All exports, by the way, of computers of any degree of sophistication do contain end use restrictions—of that, the gentleman may rest assured.

Mr. ICHORD. I am not so sure that I made myself clear to the gentleman from New York. This particular provision ignores the existence of three lists, the international commodity control list maintained by Commerce, the atomic energy control list and the munitions list maintained by State. It is not meant to exclude those? This is not exclusive then?

Mr. BINGHAM. This applies only to this subsection and refers back to the prohibition contained in subparagraph 1 (a) and (b). And (a) is the key provision here, that the Secretary shall under these circumstances deny any further exports.

That is an automatic prohibition of exports which leaves the administration no discretion in such cases. But the other authorities the administration now has are untouched. Every day it is denying computer exports and requiring end-use restrictions on exports of significant military technology.

Mr. ICHORD. Let me specifically ask the gentleman from New York this question, and I am concerned about the export of computers, which both the gentleman from California and the gentleman from New York know can be used for civil or military purposes. Under this provision, can a computer that might be exported to the Soviet Union to support the Olympic games be used to provide for command and control for a modern air defense system without constituting a diversion?

Mr. BINGHAM. That would certainly be a diversion.

Mr. ICHORD. The use of a computer exported to the Soviet Union for the Olympic games if used for military purposes would definitely be a diversion?

Mr. BINGHAM. Provided that the condition is spelled out in the export license, it would be.

Mr. ICHORD. Mr. Speaker, let me say to the Members in the rear of the Chamber who are hollering for a vote that this could be the most important security matter that they pass upon if legislative history is not properly made this session.

The SPEAKER. The time of the gentleman from Missouri (Mr. ICHORD) has again expired.

Mr. BINGHAM. Mr. Speaker, I yield 1 additional minute to the gentleman from Missouri.

□ 1420

Mr. Speaker, if the gentleman will yield, I would say to the gentleman under the circumstances he outlines that would definitely be a diversion subject to penalties under the act.

Mr. ICHORD. I appreciate that.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I would like to say that is certainly my understanding also and my intent, and should anyone attempt to do otherwise, it would be in violation of my understanding of what the law does and what the amendments to the law do.

Mr. ICHORD. Then with that understanding, I can support the position of the gentleman from California and the gentleman from New York.

Mr. BINGHAM. I appreciate that.

Mr. LAGOMARSINO. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, I have heard some remarks concerning some of the changes that were made in the conference, and I am sure good legislative history has been added to the report—even on my "diversion" amendment. But I still have many problems, and I find myself in a position of crossing swords with my friends, the gentleman from New York (Mr. BINGHAM); the gentleman from Wisconsin (Mr. ZABLOCKI); and the gentleman from California (Mr. LAGOMARSINO.)

I find that the amendment I offered which was approved on the House floor was diametrically changed in the conference so that it loses not only its meaning, but I feel it relaxes the controls that we have over the exports that we will be exporting in the future.

It changes my amendment where we specify that sanctions be taken in the case of the military diversion of U.S. products or technology. This sanction, and the main thrust of the amendment, stated that if it was revealed that some nation that we sold our technology, whether it be computers, or machine tools, or whatever, diverted that export to military use, we would prohibit further export of goods or services to that particular project or plant which was producing the item.

My amendment would work like this: We would not issue a license through the Commerce Department for the spare parts needed in order to keep that industrial plant operating. That was the guts of the amendment.

We have heard many times of the Kama River plant where truck engines and trucks are being manufactured. We have reports for example, that the engines being manufactured are being diverted for military equipment that could be used against our own forces.

My amendment was to cut off the spare parts to Kama River now that it has been shown the project is assisting the production of items on our munitions list.

The changes that have been made are unacceptable to me, and I am sure there are many of my colleagues here who did not really foresee how crucial these changes would be.

My amendment defined the words "diversion to significant military use" for the first time in the Export Administration Act.

My intent was to make absolutely sure that sanctions would be enforced against the diversion of U.S. goods and technologies when reliable evidence showed that a diversion had taken place. The original House amendment defined diversion as "including but not limited to"—I repeat, "including but not limited to"—the production and design of military end products on the U.S. munitions list. The words "not limited to" were removed from the amendment by the conference. The words "not limited to" were in the amendment for two reasons.

First, "diversion" can occur in ways other than with respect to the "production" or "design" of items on the U.S. munitions list.

What about such significant uses as military training, field operations, production monitoring, missile guidance, and war games? I certainly consider such uses to provide significant military support.

Sanctions against the diversion to these end-uses exist today under the end-use provisions of the Export Administration regulations.

Under the wording of my amendment, however, as the conference has changed it, not only has my amendment been negated, but the sanctions that presently exist in the law and regulations could be wiped out.

If the conference language stands, the end-use provisions of the Export Administration regulations could be liberalized to an unacceptable event. Diverson could be defined very narrowly. The Soviets could, for example, divert U.S. technology such as technology used in the air traffic control systems to activities such as military signal testing, and get away with it.

I heard a few minutes ago that this very possibility could not happen under this act. However, the conference language causes me to doubt this assurance.

The SPEAKER. The time of the gentleman from Ohio (Mr. MILLER) has expired.

Mr. LAGOMARSINO. I yield 1 additional minute to the gentleman from Ohio.

Mr. MILLER of Ohio. Secondly, the United States maintains three export control lists, the commodity control list, known as the international list; the munitions list administered by the Department of State; and the atomic energy list, administered by the Department of Energy.

The changes made in conference make no mention of the diversion of U.S. products to the design and production of items on the other lists other than the munitions list.

If such diversion is not prohibited, we may end up allowing the Soviets to use our computers for making nuclear weapons with no clear recourse to stop U.S. support for the diversion.

The changes made in conference are therefore entirely unacceptable and only can be corrected by reinstatement of the House amendment in this original form.

Because of this conference change, it has opened up such a gigantic loophole in the meaning of diversion, as defined by the current regulations, that I cannot support this outcome of the conference.

This change has crucially weakened the national security portion of the act; whereas, my amendment intended to strengthen national security controls to make clear that sanctions would be administered whenever military diversion of technology occurs.

The conference committee stated that a diversion to military use must involve a "violation of the conditions of an export license." The whole aim of the original House amendment was to avoid this game of semantics.

Significant evidence has recently come to light showing that the Commerce Department currently draws up licensing agreements so vaguely that the Soviets are able to divert the exported technology for military purposes (often to produce items on the U.S. munitions list) without technically violating the export arrangement.

Because the Export Administration Act, by its very nature, focuses on civilian uses, a diversion to military uses provides adequate basis to cancel the licensing agreement and prevent the further export of spare parts and technical expertise to keep the plant or project in operation—regardless of end-use statements and safeguards.

There has been some controversy within the Commerce Department over what is meant by the "conditions of a license." The conference report inserts this language in my amendment. However, it is still not clear what those words mean. I hope that the conference does not only mean what is written on the license itself or what is attached to a license, as in the case of special computer conditions. Does the language introduced by the conferees, which prohibits diversion "in violation of the conditions of a license," include the end-use statement as part of these conditions?

I assume that "conditions" includes all restrictions or certifications of end-use pertaining to a certain license and kept in the Commerce Department file on that license. Restrictions and certifications and any signed agreement as to the end-use of a U.S. export are defined in the Export Administration Regulations to "be continuing in effect." I assume that the end-use statement, which is attached to an application for a license, and is signed by the foreign purchaser as a form of assurance that he will use the U.S. product only for the stated end-use is included in the meaning of the new language introduced by the conferees.

Also by "conditions of a license," I hope the conference means that all licenses issued for dual-use technologies under the national security policy provisions of the act will contain clear conditions preventing the use of such items for significant military use. Did the conference intend to require that all validated licenses issued under national security provisions contain restrictions preventing the significant military use of the item and to require that these restrictions be part of the conditions of every such license? I certainly expect this to be the case.

I assume the new language implies that any product or technology which could possibly be used for significant military use is either denied or at least has clear restrictions attached to the license preventing the use of that item for significant military purposes.

The term "reliable evidence" is still maintained in the conference.

I trust the conference defines the term "reliable evidence" to mean when the administration has reason to believe that a diversion is taking or has taken place. It does not mean that the administration must wait for some third party to make a conclusive, absolute report based on visits to the facility using the U.S. equipment or technology. When dealing with national security issues and with nations like the U.S.S.R., there is rarely absolute proof of anything The administration must act on those items it has reason to believe are being used for military purposes. As a result, American intelligence agencies must aggressively investigate any allegations that a diversion is taking place. In addition, they must have the attitude that when dealing with Communist nations—if technology can be diverted for military use, it will be.

Mr. Speaker, with all due respect, these provisions must be clarified in the conference language before I can support the bill.

Mr. BINGHAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, may I just say that I regret that the gentleman from Ohio (Mr. Miller) feels as he does.

I believe that his amendment has made a substantial contribution to the act. It adds a new dimension to the act, as I have indicated before, and it weakens the act in no way.

I would like to repeat what I said before to the gentleman from Missouri, that the other forms of diversion that the gentleman speaks of are all prohibited under the act, and there are sanctions for them at the discretion of the Secretary.

The Secretary of Commerce and the Secretary of Defense have full authority to limit exports in any way to prevent diversions and to stop exports if there are diversions.

The Miller of Ohio provision is limited to an automatic denial of licenses in a particular given case, and it is limited only to those cases.

I want to assure the gentleman that we have in no way weakened the act by this addition. We have indeed strengthened it.

I yield 1 minute to the gentleman from Ohio (Mr. Miller).

Mr. MILLER of Ohio. Under the Export Administration Act that we are considering right now, would we have any limitation whatsoever in spare parts that would be ordered and sent to the Soviet Union for continued operation of the Kama River truck plant?

Mr. BINGHAM. That would be within the jurisdiction of the Secretary of Defense and the Secretary of Commerce to determine whether those shipments would significantly add to the military potential of the Soviet Union. That is the way it is now. That is the way it would be under the act.

Mr. MILLER of Ohio. I thank the gentleman.

Mr. BINGHAM. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. Bonker).

Mr. BONKER. I thank the gentleman for yielding.

As we conclude debate on this legislation, I would like to take the opportunity to commend the chairman and the ranking member, the gentleman from California, for oustanding work in the 6 months that we have been considering this legislation.

□ 1430

As has been pointed out several times today, it is a very complicated bill and there have been considerable debates on the various aspects of the legislation. But I think what we have come up with is a fair compromise in the conference committee and one that all of us can accept today.

I would also like to commend the staff on both sides for their diligence and their cooperation as we have attempted to bring to an end a long and very constructive debate on a very important bill.

Mr. BINGHAM. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Peyser).

Mr. PEYSER. Mr. Speaker, I want to thank the chairman for the opportunity of addressing the House. I want to bring up just one statement and a question very briefly.

As the Members know, the House did adopt the amendment that I offered that invoked the principles of the Monroe Doctrine giving the President the authority to restrict trade with any nation or nations that violated those principles. I was specifically, of course, speaking of the issue of the Russian troops in Cuba and the involvement with wheat that we have with the Russians today.

I notice, Mr. Speaker, that the conference dropped that amendment feeling that the language was too general. It was of interest to me to note that the press around the world on this little amendment that the House passed had it on the front page of the international edition of the Herald Tribune, it was on the front page of the papers in Great Britain and France and Germany, and as well it was on the front page of the New York Times. So it seemed to touch a cord among people around the world that we in Congress were responding in a way to an issue of critical importance.

But the question, Mr. Speaker, is I do notice that the conferees say at the bottom that they do not wish to preclude the use of the authorities under this act. I assume what they are saying is that they are not opposing the President using these types of restrictions if he feels it necessary under the principles of the Monroe Doctrine.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman.

Mr. BINGHAM. That is certainly correct. The gentleman is absolutely correct.

Mr. PEYSER. Because the Senate itself, as I know the chairman knows, in 1962 invoked exactly the same principle in legislation and enacted it, so I appreciate the chairman's comment.

While I am disappointed that the amendment was dropped, at least the thrust of it remains in the conference report.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Speaker, I also want to join with some of my colleagues in congratulating the chairman and my friend, the distinguished ranking minority member of this committee for dealing with a very difficult bill in a very difficult set of circumstances. Despite the fact that our discourse on the floor was interrupted over a period of days skipping from week to week, your chairmanship was superb. It goes without saying and everyone is agreed here that by the sheer nature of the beast, export controls on high level technology is one of the toughest subjects this House has ever wrestled with. In short, we are between a rock and a hard place. I have never seen a more difficult juggling act than that of trying to increase American exports to the world, given the shortfall in our balance of payments, while simultaneously restricting the transfer of these intricate high technologies to the Communist world. In the Soviet Union, Lenin, their god-figure, whose portrait is on every wall, in every latrine in every public building, said so clearly, delineating their utter contempt and hostility toward the West, that we would sell them the rope with which they would hang us.

In just a few remaining seconds, I would like to point out that I have some very controversial letters here. I bless all of my colleagues'here for the Freedom of Information Act, which was passed before I was elected. I was able to get hold of some sensitive letters through a distinguished journalist in this country, letters between the Secretary of Commerce, Juanita Kreps—and I do not think the fine lady is qualified for her job—and some of the committees and some of her staff pertaining to this delicate problem. I am going to have to go through these for reasons of confidentiality, and talk with people who are more familiar with the intelligence implications than I am, and determine what I can put into the RECORD.

In the spirit of the excellent bipartisanship we enjoy on this committee, let me make a criticism of a past administration.

The Commerce Department's response to the testimony of Acting Director Lawrence Brady was truly incredible. We were treated to a first rate lesson in bureaucratese. When the Acting Director of the Office of Export Administration testified that technologies and goods being licensed for export to the Soviet Kama River truck plant were being diverted to military purposes, Secretary of Commerce Juanita Kreps flatly denied it. She said that there was no diversion at the Kama River truck plant because there were no end-use restrictions on the licenses that were violated. Since no restrictions had been imposed, military use of the equipment was not a violation.

In a letter to Senator HENRY JACKSON, Secretary Kreps wrote:

> A diversion occurs only when end-use restrictions pertaining to a license are violated. The Kama River truck plant licenses were issued during the Nixon administration and contained no restrictions which we can identify limiting the use of the trucks and engines produced at the factory. Accordingly, military use of the trucks or engines produced at the Kama River would not constitute a diversion or violation of the law because the licenses contained no restrictions pertaining to the use of those trucks or engines.

When I read this passage, I could hardly believe my eyes. Is the Secretary of Commerce saying that the United States was shipping goods and technologies to the Soviet Union, with a potential military value, without any restrictions at all on their military use? If that is, or was, the case, it is simply outrageous. It is even more outrageous than the semantic game that diversions to military use are really not diversions simply because they were not anticipated by the Export Control Administration. But the source of my own outrage goes deeper: The Soviet Union was supplying North Vietnam with both weapons and vehicles at the very time that we were exporting goods and technologies to the Kama River plant. This was, and is, a national scandal.

Then I asked myself: "Could this really be true?" Were there no restrictions? Or are we getting the proverbial bureaucratic runaround from the Department of Commerce?

Consider some relevant facts:

Item: In March 1975, the West German Government expressed fears that American-made computer equipment at the Kama River plant would be used for military purposes. Then-Secretary of State Henry Kissinger sent a confidential cable to representatives of the Organization for Economic Cooperation and Development in Paris, assuring the Europeans that American-made computers sold to the Soviets would not be involved in the production of military vehicles at Kama River.

Item: A license was issued on November 30, 1971, for the Kama River truck plant—the end use statement read: Manufacture of trucks for civilian use.

Item: A license for equipment was issued on September 23, 1971, for several million dollars worth of equipment; the end use statement read: "Manufacture of Commercial Vehicles."

Item: A license was issued for the multimillion dollar sale of equipment on December 21, 1971, for the Kama River project. The end use statement read: "Manufacture of heavy-duty trucks for civilian use."

What can we conclude? First, there were, contrary to Secretary Kreps' assertions, licenses issued with end use restrictions. Second, at the highest levels of Government there was expressed concern over the use of sophisticated equipment, including computer equipment, for military purposes. Third, exported items were indeed diverted by the Soviets to military use. And finally, as the distinguished chairman of the House Armed Services R. & D. Subcommittee has asserted Export Administration control is—indeed—in a shambles.

So I hope when we try to perfect similar legislation in the future, Mr. Chairman, that you will be as gracious as you have been on the House floor in this subcommittee to those of us, any of us, who have an interest in this area. I would like to counsel with you, both before the committee and in private, to try and figure out how we can accomplish this supremely difficult juggling act of encouraging exports and, at the same time, protecting the Western world.

Advanced technology creates some amazing legislative circumstances. I refer for example, Mr. Speaker, to our own districts and the great Northrop F–18 "Hornet" fighter aircraft. The G.E. engines are made in the district of the distinguished Speaker of this House while on the other coast, almost 3,000 miles away, in my district those engines are mated with the entire F–18 fighter system.

I am impressed by the unusual legislative brotherhoods that are forged here, in spite of other deep divisions on public policy. I thank my friend from California for yielding this time.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield to me?

Mr. DORNAN. I am happy to yield to the gentleman.

Mr. LAGOMARSINO. I would like to congratulate the gentleman for all of his efforts on behalf of this bill. I think some of the amendments that the gentleman offered have made substantial improvements to the legislation. I look forward to working with him during the time of the existence of this act, during the next 4 years, and I know and trust that he will be here to help us improve this bill further.

Mr. DORNAN. I thank the gentleman and I thank the chairman.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, when this bill came out of the committee I thought it was a slight improvement over the present act because it offered American exporters, business people, a chance to have an expedited process, and it offered all of us some hope of increasing our exports.

On the floor, however, it has been subjected to a number of amendments which have stuck and have stuck in conference, and the bill is now in such shape that I really doubt whether it is an improvement, whether it will help us improve our exports or not. All of us know we are carrying a heavy deficit, that that deficit will increase because of the price of our needs, because of the price, high cost of petroleum which we will need for our energy requirements.

Because that bill is too tough, I would normally vote against it, primarily because it is too tough on our smaller companies which have enough difficulty finding ways to export anyway. But since the Export Administration Act expires at the end of this month I think we have no choice. We cannot operate without an Export Administration Act and, therefore, I am going to support it.

Mr. Speaker, I would also like to commend the gentleman from New York (Mr. BINGHAM) and the gentleman from California (Mr. LAGOMARSINO), for excellent work on a very difficult subject. I hope in future years we may develop a way to encourage American companies to export so that we can put more Americans to work. To me it is a shame to worry about the technology of building trucks, which seems to me to be not a terribly technically advanced kind of work. I suppose if we have a war they can nail us with a hit-and-run offense or something.

But it seems to me we waste a lot of time worrying about technology which has no military application. We ought to worry more about making sure that American jobs are protected by export and that the American balance of trade is protected. Therefore, the American dollar is protected.

I shall vote for the bill with some reluctance, and I hope in the future we may get a more reasonable way to try and encourage exports from this country.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think this has been a very good debate. I think we have made some legislative history and I hope we have allayed some concerns.

With regard to the statements of my good friend from Minnesota (Mr. FRENZEL) I respectfully disagree. I think that the bill is a substantial improvement over present law for the export community. I think we have clarified the law, we have imposed some deadlines, we have made it very clear not only in the bill but I think, even more importantly, in our hearings, to the Department of Commerce and to the Department of Defense that we expect them to act expeditiously, we expect them to get rid of unnecessary redtape. We expect them to issue all of the licenses that are applied for, except those where there is a national security problem.

□ 1440

With regard to the concern of the gentleman from Ohio (Mr. MILLER), I appreciate that concern, but I really, in all due deference, disagree with his conclusions. I think that the amendment that was put in the bill, the substitute for his amendment, is a substantial improvement in the law and does not affect any of the existing authorities of the Department of Defense or Department of Commerce.

I would like to quote at this time and read into the RECORD the statement of the managers with respect to this very issue:

> The committee of conference experts that the executive branch will institute procedures that assure that export licenses for controlled goods or technology will clearly specify that such goods and technology will be used only for uses which would not make a significant military use in violation of license conditions, the President will be required to take appropriate actions.

I might add at this point that there is no similar provision in existing law.

I quote further:

> This provision is not intended to limit in any way the President's discretion under the act to take appropriate action to terminate diversion of exported items to military use even if such diversion does not technically constitute a violation of license conditions. Obviously the President's freedom of action to protect U.S. national security is not constrained in situations in which, through oversight or negligence, the Government fails to specify conditions of end-use of exported or licensed goods or technology.

I would just like to conclude by pointing out that Senator HENRY JACKSON of Washington, who has been one of the most vigorous proponents of restricting the export of technology to our adversaries, particularly the Soviet Union, is, as I understand it, very pleased with the final legislation.

Mr. Speaker, I urge my colleagues to adopt the conference committee report.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report under consideration.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BINGHAM. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 321, nays 19, not voting 93, as follows:

[Roll No. 523]

YEAS—321

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Conte
Corcoran
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Deckard
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hopkins
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Rinaldo
Ritter
Robinson
Rodino
Roe
Rostenkowski
Rousselot
Roybal
Royer
Runnels
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stratton
Studds
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Fla.
Zablocki
Zeferetti

NAYS—19

Ashbrook
Bauman
Derwinski
Devine
Dickinson
Dornan
Edwards, Okla.
Hansen
Holt
Jeffries
Kelly
McDonald
Miller, Ohio
Paul
Rudd
Satterfield
Stump
Weaver
Young, Alaska

NOT VOTING—93

Alexander
Anderson, Ill.
Ashley
AuCoin
Barnard
Beard, Tenn.
Biaggi
Bolling
Breaux
Brown, Ohio
Burton, John
Carter
Cavanaugh
Chappell
Cheney
Cleveland
Collins, Ill.
Collins, Tex.
Conable
Conyers
Corman

Cotter
Crane, Daniel
Crane, Philip
D'Amours
Davis, Mich.
Davis, S.C.
de la Garza
Diggs
Downey
Flood
Fuqua
Garcia
Giaimo
Gingrich
Hall, Ohio
Hance
Hanley
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Horton
Huckaby
Ireland
Jeffords
Johnson, Colo.
Kemp
Kindness
Latta
Lent
Lloyd
Lundine
McClory
Maguire
Marks
Mazzoli
Minish
Mitchell, N.Y.
Moffett
Mottl
Murphy, Ill.
Murphy, N.Y.
Pashayan
Quillen
Reuss
Rhodes
Richmond
Roberts
Rose
Rosenthal
Roth
Sebelius
Shuster
Skelton
Smith, Iowa
St Germain
Steed
Stockman
Stokes
Symms
Thomas
Treen
Udall
Whitehurst
Williams, Ohio
Wilson, C. H.
Winn
Wolff
Wydler
Wylie
Young, Mo.

☐ 1500

Mr. ROUSSELOT changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE ENERGY CONSERVATION AND RENEWABLE RESOURCE ACT

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, I am joining together today with my good friends and colleagues HARLEY STAGGERS and JOHN DINGELL in introducing legislation which, I am convinced, will greatly accelerate the weatherization and solarization of American homes and businesses. The entire emphasis of the legislation is on achieving the conservation, more efficient use of energy, and the greater utilization of renewable energy resources which now is clearly recognized as our best and most appropriate energy path over the next decade.

Whether one reads the Harvard Business School study, the recent work issued by the Carnegie Mellon Institute, the Council on Environmental Quality, the Princeton Center for Energy and Environmental Studies, the Ford Foundation, or the Union of Concerned Scientists, it is absolutely clear that energy conservation and renewable resources is the most effective clean and rapid way to reduce our reliance on imported oil and, thus, alleviate our horrendous inflation rate. The problem is how to achieve these goals. I would like to share with my colleagues a brief summary of the provisions of our legislation, which is designed to make it easy for the homeowner and commercial enterprise to obtain, finance, and maintain energy saving solar devices.

Two basic options are provided in the bill: First, utility involvement in energy conservation and renewable energy resources, with installation by independent contractors; the determination as to the method to be used by utilities for financing would be left to State regulatory authorities; and second, grants to residential and small commercial consumers for part of the cost of conservation of renewable energy measures—after completion of the work and verification by utility auditors.

The legislation we are introducing today is designed to mesh with programs already contained in the National Energy Act and other energy laws and, in some cases to improve those acts. Specifically, our bill will delete the provisions of existing law that utilities may not finance or install energy conservation measures. Utilities are already serving every household and doing energy audits. They are in a good position to arrange for obtaining, financing, and maintaining solar and energy-saving measures. In many parts of the country it makes sense for utilities to be directly involved, because financing energy conservation measures is cheaper than adding expensive, new generating capacity.

In several parts of the country, most notably in Portland, Oreg. and in the Tennessee Valley, utilities are involved in energy conservation very successfully.

Our bill does not do what the administration suggested earlier this summer, which is to make a utility program mandatory. Rather, our legislation is permissive, and leaves to State regulatory commissions the determination as to the form of utility involvement and methods of financing. This leaves appropriate latitude to the State regulatory authorities, which are the agencies most closely familiar with utility operations and finance. Under our legislation, the State commissions could determine whether to allow a utility to charge all customers for the conservation and renewable energy measures—assuming that rates would rise less under such a program than they would rise without such a program; or consider the investments as an operating expense; or charge the individual customer or arrange financing for that person.

A key feature of the legislation is that we require not only the energy audit now called for under the National Energy Act, but also a second audit after the conservation or renewable energy measures are installed, so as to assure consumers of high-quality work. We also provide for the possibility of maintenance of the equipment installed by or through the utility. This can overcome a major obstacle to installation of solar and other equipment—consumer concern about its reliability and maintenance.

A second provision of the bill establishes a program whereby the Secretary of Energy can provide grants to homeowners of up to $500, or 25 percent of the project's cost—whichever is less—for installing energy conservation or renewable energy measures. Grants in the same amount would be available also to small commercial customers. For multiple family housing, we would provide for grants of up to $150 per unit. As with the utility program, we would require audits both before and after completion of the work, so as to assure a satisfactory result.

In order further to assure quality workmanship, installers of energy conservation measures or renewable energy devices would have to be approved by the States to qualify for participation in our program.

I believe the legislation we are introducing today adds some new programs which, while modest in terms of Federal expenditures, will go a long way toward moving us on the path to energy independence. No matter how people may feel about synthetic fuels or other alternative energy production, it is clear that they cannot make a difference during the next decade. In the near future, we must adopt measures to put conservation and renewables into widespread use. This bill attempts to achieve that goal. It is my sincere hope that, during the coming days and weeks, my colleagues will give serious consideration to cosponsoring and supporting the legislation.

TEAMSTERS PENSION FUND TRUSTEES UP TO OLD TRICKS

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, I am distressed with news that the present trustees of the Central States Teamsters pension fund are up to the fund's old tricks—and the word "tricks" is a mild way to describe it.

The trustees are proposing to settle a lawsuit with Mr. Morris Shenker by giving Mr. Shenker's firm a $90 million loan. Under the November 1977 agreement with the Internal Revenue Service and the Department of Labor, the trustees are not supposed to give loans. Instead, the assets of the fund are supposed to be managed by the Equitable Life Assurance Co., with western assets under the control of the Victor Palmieri Co. of California.

Today I am sending an urgent letter to the Secretary of Labor, Ray Marshall, urging him to reject this settlement proposal. I do so in the hopes that the worthwhile actions of the Government early in the days of Secretary Marshall's tenureship are not undone by the cavalier, legally scheming trustees of the Central States pension fund.

I include a copy of the letter in the CONGRESSIONAL RECORD:

Secretary RAY MARSHALL,
U.S. Department of Labor,
Washington, D.C.

DEAR MR. SECRETARY: I write to urge that the Department of Labor refuse, with the strongest voice possible, the conditional settlement proposed by the plaintiff and defendant trustees of the Central States Pension Fund in the case M and R Investment Company, Inc., v. Frank C. Fitzsimmons, et al.

The case is presently pending before Judge Foley of the U.S. District Court for the District of Nevada (Civil L.V. 76–114 RDF).

Briefly, the settlement would allow the Central States Fund to loan $90 million to M and R Investment Company, Inc., which is controlled by Mr. Morris Shenker, the plaintiff.

This man has an unsavory background, and it was the loaning of money to characters like this that got the Fund in trouble in the first place.

This proposed settlement is a clear indication that the present trustees want to take the fund back to the days when the money of working men and women of the Teamsters Union was at the beck and call of people with very questionable reputations.

When the opportunity presents itself, I will try to discuss this personally with you. I know that you will continue to try to complete the work that you started in 1977 with such high hopes that this fund was being placed in good management hands.

Your attention to this is appreciated.

Sincerely yours,

J. J. PICKLE.

CONFERENCE REPORT ON S. 237, FEDERAL MAGISTRATE ACT OF 1979

Mr. KASTENMEIER. Mr. Speaker, I call up the conference report on the Senate bill (S. 237) to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of U.S. magistrates, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the order of the House of September 25, 1979, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of September 19, 1979.)

The SPEAKER. The gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 30 minutes.

The Chairman recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I would like to yield at the outset so much time as he may require to the gentleman from New Jersey, the distinguished chairman of the Committee on the Judiciary (Mr. RODINO).

Mr. RODINO. Mr. Speaker, at the outset I would like to commend the chairman of the subcommittee Mr. KASTENMEIER and the ranking minority member Mr. RAILSBACK for the diligent and conscientious manner in which they have pursued this important piece of legislation during the 95th and 96th Congresses.

As sponsor of the original bill during the last Congress, as chairman of the Committee on the Judiciary, and having closely followed the development of this legislation, I am pleased to come before the House in support of the conference report on S. 237. Passage of magistrates reform legislation is long past due.

The House and Senate versions of S. 237 were substantially the same and therefore every few issues had to be resolved in conference. Those resolved in conference were very close to the House amendment.

The Committee on the Judiciary believes that it has an affirmative and continuing obligation to weigh the constitutionality of any and all pieces of legislation before it. We have done this and would like to express your view that the conference report is constitutionally sound. The conference agreement has preserved the core of the House's work product: That right to appeal be available to an article III tribunal and that the magistrate's jurisdiction be entirely consensual.

Further, the magistrate remains an adjunct to the district court. He cannot try a case without designation by the court and at all times the court maintains power to try the case itself.

I commend the chairman of the subcommittee for his work in this area. He inquired with great care into any possible constitutional objections. He reviewed the printed records from the Senate and House hearings on the 90th, 94th, and 95th Congresses during which this question was also examined. Likewise, he reviewed our own reports from the 90th to the 95th Congresses. The committee also reviewed a 1968 Senate study on the constitutionality of trial of minor offense by magistrates, two detailed memoranda prepared by the Department of Justice which concluded that no such impediment existed, and a comprehensive study conducted by the Judicial Conference Committee on the administration of the Federal Magistrates System which concluded that the proposed legislation was clearly constitutional.

I have given close attention to this question and have concluded that the conference agreement not only satisfies the Constitution but is good legislation from a policy perspective. It provides the Federal judiciary with an important tool to meet its assigned tasks. Further, it increases the flexibility of the Federal judicial system and helps it confront constantly changing local needs. Lastly, it provides access to justice for individuals who presently have to wait years for resolution of their cases.

In conclusion, this conference report will improve the administration of justice in this country. I wholeheartedly recommend its approval.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I would like to know if under this bill a district judge can assign any type of case, either criminal or civil, to a magistrate with the consent of the parties.

Mr. KASTENMEIER. Mr. Speaker, if my chairman will yield.

Mr. RODINO. I yield.

Mr. KASTENMEIER. Mr. Speaker, the answer is "yes," in terms of general categories, criminal or civil.

Under this bill, the judge may not assign particular categories, like social security cases only, or other types of cases. We have precluded that for purposes of refusing to permit the categorization of justice. In other words, justice must be rather uniformly and equally applied. In brief, the judge may assign criminal and/or civil matters, not necessarily both.

Mr. KAZEN. Mr. Speaker, if the gentleman will yield further, this is what I was wondering. Is there any limitation on the type of case the district judge may assign to a magistrate?

Mr. KASTENMEIER. Mr. Speaker, if the gentleman will yield further, other than a felony criminal case, the magistrate may try any civil matter and any criminal misdemeanor.

Mr. KAZEN. The district judge keeps jurisdiction over all felonies?

Mr. KASTENMEIER. Over all felonies, yes.

Mr. KAZEN. Mr. Speaker, I thank the gentleman.

Mr. RODINO. Mr. Speaker, is not the jurisdiction entirely consensual in all cases?

Mr. KASTENMEIER. Yes; under this bill, I would add that even in the criminal misdemeanor and the minor offense matters, the jurisdiction exercised by the magistrate is entirely consensual, as it is with all civil matters. If a person wants to exercise the right to appear before a district judge, nothing can prevent him from getting a district judge.

Mr. RODINO. Mr. Speaker, I urge adoption of the conference report.

Mr. KASTENMEIER. Mr. Speaker, at this point in time, with the indulgence of the House, I would like to yield to the gentleman from Indiana (Mr. BRADEMAS) to speak out of order.

(By unanimous consent, Mr. BRADEMAS was allowed to speak out of order.)

LEGISLATIVE PROGRAM

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman from Wisconsin for having yielded.

I take this time simply to announce for the benefit of the Members of the House that the conference committee is now working on the continuing resolution in conference. We are not now sure whether they will be able to resolve that issue, but we are hoping that they are able to do so.

The other observation I would make is that it is not likely that the House will be meeting tomorrow.

I believe the gentleman from Illinois (Mr. MICHEL), the distinguished minority whip, had a question.

I yield to the gentleman.

Mr. MICHEL. Mr. Speaker, might I take this occasion to inquire of the distinguished majority whip the tentative schedule then, since we have taken this rare break, and maybe those other questions will be answered.

Mr. BRADEMAS. Yes. I might say to the gentleman that there are still some items on the agenda for today, including, for example, the conference report on the District of Columbia appropriations bill; but to respond to the gentleman in connection with the program for the week of October 1——

Mr. MICHEL. Mr. Speaker, might I first inquire, has the emergency medical services bill been pulled for today?

Mr. BRADEMAS. That, I would say to the gentleman from Illinois, depends upon the intention of the chairman of the committee handling that bill. It is still on the agenda. It would be up to the chairman of the committee whether he would wish to call it up after we have disposed of the bill under consideration.

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But if the gentleman would like, I would be glad to give him the information for next week.

Mr. MICHEL. Yes.

Mr. BRADEMAS. Mr. Speaker, on Monday, October 1, the House is not in session.

On Tuesday, October 2, the House meets at 10 a.m., but there is no legislative business scheduled.

On Wednesday, October 3, the House is not in session, and on Thursday, October 4, the House is not in session.

On Friday, October 5, the House will meet at 10 a.m., but there is no legislative business scheduled.

Mr. Speaker, for the following week, if the gentleman from Illinois (Mr. MICHEL) would like to have that information, I will give it now.

On Monday, October 8, the House is not in session. On that day we will be in the Columbus Day district work period.

On Tuesday, October 9, the House meets at noon. There are several suspensions scheduled, and votes on all suspensions will be postponed until the end of all suspensions.

The suspensions are as follows:

First. H.R. 5224, continue fringe benefit tax regulations;

Second. H.R. 3777, provisions concerning congressional use of frank mail;

Third. S. 817, Panama Canal Zone biological area authorizations;

Fourth. H.R. 5079, International Energy Exposition in Knoxville, Tenn.; and

Fifth. H.R. 3949, tire defect recall provisions.

Then we will take up H.R. 2859, Domestic Volunteer Service Act amendments, rule already adopted;

H.R. 3916, extension of alcoholism and drug abuse prevention, open rule, 1 hour.

On Wednesday, Thursday, and Friday, October 10, 11, and 12, the House will meet at 10 o'clock in the morning, and the present schedule is as follows:

H.R. 3000, Department of Energy authorizations for fiscal year 1980, complete consideration;

H.R. 2061, LEAA authorizations, under an open rule, 1 hour of debate;

H.R. 3033, Justice Department authorizations, fiscal year 1980, under an open rule, 1 hour of debate;

H.R. 3829, increase U.S. participation in International Development Banks, under an open rule, 1 hour of debate;

H.R. 2172, International Sugar Stabilization Act of 1979, under an open rule, 1 hour of debate, rule already adopted;

H.R. 2218, Endangered Species Act authorization, under an open rule, 1 hour of debate; and

The House will adjourn by 3 p.m. on Friday and by 5:30 p.m. on all other days except Wednesday.

Conference reports may be brought up at any time. Any further program will be announced later.

Mr. MICHEL. Mr. Speaker, if I might just ask this for the sake of emphasis of the distinguished majority whip, do I understand the two sessions scheduled next week are strictly pro forma, with no legislative business whatsoever to be considered?

Mr. BRADEMAS. Mr. Speaker, if the debt limit bill has not been resolved, there could be business on Tuesday, but in that event the Members will be notified.

The SPEAKER. In that event the Members will be notified by telegram.

Mr. MICHEL. I thank the Speaker, and I thank the distinguished majority whip.

ADJOURNMENT TO TUESDAY, OCTOBER 2, 1979; TO OCTOBER 5, 1979; AND TO OCTOBER 9, 1979

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 a.m. on Tuesday, October 2, 1979, that when the House adjourns on Tuesday, October 2, 1979, it adjourns to meet at 10 a.m. on Friday, October 5, 1979, and that when the House adjourns on Friday, October 5, 1979, it adjourns to meet at noon on Tuesday, October 9, 1979.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. LEVITAS. Mr. Speaker, reserving the right to object, I do so only for the purpose of making an inquiry of the distinguished majority whip.

I followed with very diligent care the recitation of the schedule for the week following the district work period, and I did not notice on that agenda the inclusion of the Federal Trade Commission authorization bill.

It was my understanding that when the House passed the continuing resolution for the Federal Trade Commission, there was assurance given that there would be prompt and expeditious consideration of the authorization bill which has been reported out of committee since May 14.

I wonder if the majority whip could advise the Members as to when we might expect that authorization bill to come to the floor.

Mr. BRADEMAS. Mr. Speaker, if the gentleman will yield, I understand a number of the bills that are scheduled to be considered during the week of October 8 have been reported since May 15, so the bill to which the gentleman refers is in a category with a number of other bills.

Mr. LEVITAS. Mr. Speaker, if the gentleman will respond further, is it expected that we will have this bill up in the next week or so after that?

Mr. BRADEMAS. Mr. Speaker, I am not in a position to answer the gentleman's question. I do not have that information, but it is possible.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

Mr. BRADEMAS. Mr. Speaker, I renew my unanimous-consent request.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, October 9, 1979, the Speaker be authorized to accept resignations, and to appoint commissions, boards and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AUTHORIZING THE CLERK TO RECEIVE MESSAGES FROM SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED, NOTWITHSTANDING ADJOURNMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, October 9, 1979, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, OCTOBER 10, 1979

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order on calendar Wednesday, October 10, 1979 may be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. KASTENMEIER) for yielding.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Members will recall that as a general proposition this legislation amend the current jurisdictional provisions for U.S. magistrates in order to clarify and further expand the power of these judicial officers and also to improve the functioning of the American judicial system. The bill provides magistrates with the authority to conduct jury and nonjury trials in civil cases where the parties to the legislation consent to a magistrate trial. In addition, the bill provides for an expansion of the present power of magistrates to dispose of certain less serious criminal cases by including all Federal misdemeanors within that jurisdiction. Last, the bill provides standards for magistrate competence and procedures for magistrate selection. These general propositions were contained in both the Senate bill and the House amendment thereto. They also are all preserved in the conference report.

Today, the U.S. magistrates play an integral and important role in the Federal judicial system. Statistics show that reliance on magistrates has risen dramatically during the last several years. Lawyers, judges, and litigants increasingly have accepted the use of magistrates. They have manifested this acceptance by supporting the current legislation— which strengthens the ability of the magistrates system to meet its assigned tasks.

Mr. Speaker, the conference report contains almost all of the House reforms in some form. I recommend it to the House without reservation.

I would like to briefly review some of the issues contained in the conference agreement.

For the record: First, with regard to the magistrates' authority to try civil cases, the conference substitute makes clear that the free and voluntary consent of the parties is required before a civil action may be referred to a magistrate for a final decision. Further, the magistrate must be specially designated to exercise the civil jurisdiction of the district court by the court or courts he serves. No categorization of types of cases to be tried by magistrates is to be tolerated. This important aspect of the House-passed legislation is designed to prevent the creation of "poor-person's" courts with jurisdiction only over social security appeals, prisoner petitions, and so on. Lastly, part-time magistrates, again pursuant to the consent of the parties (after, in this instance, a specific written request), may exercise the civil jurisdiction of the district court subject to the following requirements: The magistrate must meet the bar membership requirements set forth in the legislation and the chief judge of the district court must certify that a full-time magistrate is not reasonably available in accordance with guidelines established by the judicial council of the circuit. In this latter regard, the House receded to the Senate because it was persuasively argued that eight Western States did not have any full-time magistrates.

Second, appeals from magistrates' decisions in civil cases will be taken directly to the appropriate court of appeals unless the parties at the time of reference of the case to the magistrate agree to take any appeals to the district court. Thus, in this regard the House receded to the Senate. The conferees carefully weighed the merits of the House amendment: that is, appeal to the district court being the rule with the option of appealing to the court of appeals if the parties consented. Although there were pros and cons to each approach, the House receded to the Senate for two reasons. First, it was thought that appellants should be entitled to take the same route as those individuals who had their cases heard before a district judge. The availability of appellate review by a panel of three judges is an important feature of our judicial system which ought to be preserved. Further, as was argued in dissenting views before the House, since the district court is responsible for the appointment of the magistrate, the presumptive appeal to the appointing court creates a conflict of interest between the magistrate and the district court judge. This perceived conflict is removed by making appeals flow from the magistrate to the court of appeals. If the parties desire, they may consent to appeal directly to the district court. Thus, the conference report preserves an alternative appellate route and adds flexibility to the Federal judicial system.

Third, the conference report addresses the important issue of consent procedure in civil cases. Because of the possibility of coercion to force cases before a magistrate, a strong legislative warning indicates that neither the district judge nor the magistrate shall attempt to persuade or induce any party to consent to reference of any civil matter before a magistrate. This provision is very close to the House amendment.

Fourth, the conference report provides guidance that with the increased jurisdiction of the magistrate, assurance of an adequate record is essential. The report provides the parties involved in the litigation and the magistrate with the option of determining by which means—court reporter or electronic recording equipment—a record should be maintained. Again, this section closely parallels the House amendment.

Fifth, the conference agreement contains a section which provides merit selection standards and procedures for the appointment of all magistrates. All new full- and part-time magistrate appointments, or reappointments, are contingent upon the magistrate having been a member of the bar of the highest court of his State or territory for at least 5 years subject to the last proviso of 28 U.S.C. 636(b). Further, all standards and procedures must contain provision for public notice of all vacancies and for the establishment by the district courts of merit selection panels, composed of residents of the judicial districts, to assist in the selection process. Pursuant to this provision, the Judicial Conference may establish different standards and procedures for the appointment of full- and part-time magistrates. Lastly, magistrates serving prior to the promulgation of selection standards and procedures may only exercise the jurisdiction conferred by this legislation after having been reappointed under such standards and procedures or after having been certified as qualified to exercise such jurisdiction by the judicial council of the circuit in which the magistrate serves. This latter provision thus provides an important quality control procedure for all sitting magistrates.

In brief, the conference report is built on the firm foundation of the House amendment. The success of this reform will be determined by the quality of those individuals who implement it. It is imperative, therefore, that all magistrates be qualified to meet their assigned functions.

Further, the conference agreement takes notice of the fact that women, blacks, Hispanics, and other minorities are underrepresented in the Federal judiciary relative to the population at large, and that this factor should be taken into account in the selection of magistrates. Public notice of vacancies in magistrates' positions should be given and an affirmative effort made to identify and given due consideration to all qualified candidates including women, blacks, Hispanics, and other minorities. In order to maintain the confidence of the American public in the Federal court system, the conferees felt that all qualified applicants should be considered equally and that respect for the system is enhanced if it can be demonstrated that qualified people from all walks of life are able to strive for and achieve positions within the Federal judiciary.

Sixth, with regard to the magistrates' authority to try criminal cases, the conference report closely tracks—with minor drafting and clarifying changes—the House amendment. In brief, full- and part-time magistrates are empowered to try with the consent of the accused any criminal jury or nonjury misdemeanor. This represents a modest increase of their present statutory authority to try with certain limited exceptions all persons accused of minor offenses (wherein the maximum penalty cannot exceed imprisonment for a term of 1 year or a fine of $1,000 or both). Again, as in the civil area, the magistrate must be designated by the district court or courts he serves as competent and no categorization of the types of cases the magistrate can try is allowed. In addition, the magistrates' criminal jurisdiction is entirely consensual: the magistrate is required to carefully explain to the defendant that he has a right to trial, judgment, and sentencing by a judge of the district court and that he may have a right to trial before a district judge or magistrate. The magistrate shall not try the case unless the defendant files a written consent that specifically waives trial, judgment, and sentencing by a judge of the district court.

Seventh, the conference agreement specifies that magistrates can sentence under the provisions of the Youth Corrections Act. No youth offender can be ordered to serve a longer sentence under the YCA than he could have served as an adult. This mandate—no more than 1 year for conviction of a misdemeanor or 6 months for conviction of a petty offense—explicitly is set forth in the conference substitute.

Also, to give guidance to the Bureau of Prisons and to preserve a core concept of the YCA—that rehabilitation should be substituted for retribution for the sentencing of certain types of youthful offenders—the conditional release and unconditional discharge provisions of the YCA are carried forward in the magistrates legislation. In brief, youth offenders sentenced by magistrates shall be released conditionally under supervision no later than 3 months before the expiration of the term imposed by the magistrate, and shall be discharged unconditionally on or before the expiration of the maximum sentence imposed.

Eighth, magistrates are given consensual authority to try juveniles in petty offense cases. No such case may proceed unless the certification by the Attorney General referred to in 18 U.S.C. 5032 has been complied with. Moreover, no term of imprisonment shall be imposed by a magistrate in any case involving a magistrate. In this regard, the conference report is a compromise between the Senate bill which granted magistrates with more extensive jurisdiction and the House amendment thereto which had no comparable provision.

In summary, the conference report very closely parallels the House amendments to Senate bills passed during both the 95th and 96th Congress. I note that S. 1613 passed the House late in the 95th Congress by an overwhelming 323 to 49. A conference was requested with the Senate and after 2 days of conference without resolution of a related issue—the abolition of diversity of citizenship jurisdiction—the conferees voted to adjourn. However, a tentative agreement had been reached with the Senate on the magistrates reform issue. This proposed agreement resurfaced as the Senate bill introduced early in the 96th Congress. Thus, between the two Congresses the Senate came halfway to the House position.

In conclusion, Mr. Speaker, the House and Senate have worked long and hard to draft a superior bill. The legislation is widely supported, and indeed, is virtually without organizational opposition. I sincerely suggest that the conference agreement is a good one for the House of Representatives. I strongly urge its approval.

Mr. RAILSBACK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this conference report (96–444). The Members will recall that on June 26, 1979, by a vote of 374–42, we adopted legislation to permit an increase in the use of Federal magistrates. That bill was reported out of subcommittee and the full Judiciary Committee on voice vote. This conference bill is about identical to that bill. The major change made by the conference concerns the method of appeal taken from a magistrate's decision. The House bill provided for a direct appeal as of right to the district court, and the parties could consent to skip over the district court and go directly to the court of appeals. The conferees agreed to permit an appeal from a magistrate's decision to go directly to the court of appeals. The parties may consent, however, to go to the district court rather than the court of appeals. Although we do not anticipate very many appeals from magistrate's decisions, this appeal route will lessen the burden of our Federal trial courts.

The most important aspects of this legislation have been retained. The parties must consent, fully and voluntarily to try civil cases before the magistrate. The magistrate is appointed and assigned by the District court. That court can vacate a reference to the magistrate. The appeal from a magistrate's decision is to an article III judge.

The primary purpose of this legislation is to improve the quality of decisions and, at the same time, provide flexibility and further open the door to a quicker, less expensive and less formal access to justice.

Mr. Speaker, this legislation has the support of the American Bar Association, the Department of Justice, the U.S. Judicial Conference, the American Trial Lawyers, and most local bar groups. I am not aware of any organizational opposition to this legislation and urge my colleagues to support its passage.

□ 1520

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise today in opposition to the conference report on the Magistrates Act of 1979.

This bill is not necessary and is probably unconstitutional. I would urge my colleagues to cast a negative vote when this bill comes up before us in a few minutes.

The primary rationale behind this bill was developed during the 95th Congress when many Federal district courts experienced substantial backlogs in their cases, thus resulting in the delay of the administration of justice both in criminal cases and in civil cases.

Late in the last Congress, Public Law 95–486 was enacted, which created 117 new Federal district courts around the country. Those judges are in the process of being appointed and confirmed at the present time. Once they take the bench, they, rather than magistrates, should be the ones to take care of the backlogs which are occurring throughout the country.

Second and probably more importantly, this bill is unconstitutional. The U.S. Supreme Court has consistently held that article III judicial power cannot be delegated to nonjudicial personnel.

The passage of this bill is somewhat similar to Members of Congress authorizing their legislative assistants to cast votes on the floor of the House of Representatives for them.

According to the Supreme Court in the case of *Muskrat* v. *United States*, 219 U.S. 346, decided in 1911, the right to determine actual controversies between diverse litigants duly instituted in courts of proper jurisdiction is the essence of judicial power.

Should this conference report be adopted, not only will private civil lawsuits and criminal cases by consent of the parties be able to be tried by magistrates, but this bill will also allow magistrates to declare State statutes unconstitutional which have a public impact.

I feel that when we are talking about many of the serious issues addressed in constitutional challenges to State statutes that that case should be decided in court by a U.S. district judge who is appointed by the President and confirmed by the other body.

Finally, the Federal Magistrates Act currently authorizes magistrates to perform certain functions to assist district court judges, provided the judges supervise and control the performance of these functions. The bill as it passed the House in June said that the appeal from all magistrates' decisions lay to the Federal district court. However, the conference committee report says again by consent of the parties that the appeal lies to the U.S. Court of Appeals, thus taking away the essential power of supervising the case after it is decided from the district court and putting it in the hands of the court of appeals.

In *Mathews* v. *Weber*, 423 U.S. 261, decided in 1976, the Supreme Court upheld the delegation to magistrates of the function of conducting a preliminary review and making a recommendation to a district court judge. The Supreme Court in that case stressed the fact that the district court judge retained the power to approve or reject the recommendation and to decide the case. Here, with the appellate jurisdiction as determined by the conference committee, the district court no longer has that power. The district court no longer has the power to review and uphold the decision of the magistrate. That power is given to the U.S. Court of Appeals of the appropriate circuit, thus raising an additional constitutional question.

I urge the House to reject this conference committee report. The 117 new judges will have plenty of time to decide the cases that magistrates are supposed to decide in this bill.

Mr. KASTENMEIER. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, very briefly, questions of constitutionality have been raised a number of times concerning magistrates. The Muskrat decision relied upon by my friend, the gentleman from Wisconsin (Mr. SENSENBRENNER), is a 1911 decision. All of the authorities from whom we have heard over the years on this question, the Judicial Conference of the United States, the administration, the U.S. Department of Justice, bar associations, legal scholars, and others, have attested to the constitutionality of this proposal and related ones.

Essentially the magistrates reform legislation is based on three pillars. One, magistrates are adjuncts of the U.S. district court. They are appointed by the court and the court will have a role in designating them to try cases. Thus, they fully are accountable to the district judge.

Second, their legal decisions in each case are reviewable by an article III court. So in every instance, no one will ever be denied an appeal from the decision of a magistrate acting for the court.

And, third, the magistrates' jurisdiction is entirely consensual. If any party or either party does not care to have his or her case heard by a magistrate, there is no compulsion to do so. However, the right to a U.S. district judge may be waived, just as one may waive the right to a jury trial, may waive the right to counsel, may plead guilty and waive nearly all his rights, as a matter of fact. That may be done in the present legal system. For these reasons this legislation is constitutional.

The presumptive route of appeal from a magistrate judgment makes little constitutional difference. That any appeal shall go from the magistrate directly to the court of appeals, unless the parties agree to the U.S. district court, was originally provided in the Senate bill. In the House amendment, the presumptive route was to the U.S. district court, unless the parties agreed that the appeal should in fact go to the circuit court of appeals. There is practically no difference between these approaches. In either case, the appeal is reviewed by an article III court.

The reason the conferees settled on this particular mode was so that we accidentally do not create an extra level of appeals or a new appellate tier. The goal of this reform was not to add to the burden of the Federal judicial system, but rather to simplify it and to make it more expeditious. For this reason, we have settled for the language we have, and we commend it to our colleagues.

Mr. RAILSBACK. Mr. Speaker, I have no further requests for time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 273, nays 38, not voting 122, as follows:

[Roll No. 524]

YEAS—273

Abdnor
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Aspin
Atkinson
Badham
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brooks
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Campbell
Carney
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Conte
Corcoran
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Deckard
Derrick

Derwinski
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Findley
Fish
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Tex.
Hammerschmidt
Harkin
Harris
Harsha
Hawkins
Heckler

Hefner
Heftel
Hightower
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Mineta
Moakley
Mollohan

Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Pickle
Preyer
Price
Pritchard
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula

Rinaldo
Ritter
Robinson
Rodino
Roe
Rostenkowski
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Shannon
Shelby
Simon
Slack
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
Stack
Staggers
Stanton
Stark
Stewart
Stockman
Stratton
Swift

Synar
Tauke
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Waxman
White
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Alaska
Zablocki

NAYS—38

Bafalis
Bennett
Dingell
Dornan
Gephardt
Glickman
Gonzalez
Gore
Gramm
Grassley
Hagedorn
Hamilton
Hansen

Jeffries
Jones, Okla.
Kelly
Leath, Tex.
Lungren
McDonald
Miller, Ohio
Myers, Ind.
Panetta
Paul
Petri
Rousselot
Rudd

Runnels
Satterfield
Sensenbrenner
Sharp
Shumway
Solomon
Stenholm
Stump
Taylor
Weaver
Weiss
Young, Fla.

NOT VOTING—122

Addabbo
Alexander
Anderson, Ill.
Annunzio
Ashbrook
Ashley
AuCoin
Barnard
Bauman
Beard, Tenn.
Bereuter
Biaggi
Bolling
Bouquard
Breaux
Brodhead
Broomfield
Brown, Ohio
Burton, John
Byron
Carr
Carter
Cavanaugh
Chappell
Cheney
Cleveland
Collins, Ill.
Collins, Tex.
Conable
Conyers
Corman
Cotter
Crane, Daniel
Crane, Philip
D'Amours
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Devine
Diggs

Downey
Erdahl
Fazio
Fithian
Flood
Fuqua
Garcia
Giaimo
Gingrich
Hall, Ohio
Hance
Hanley
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Huckaby
Jeffords
Johnson, Colo.
Kemp
Kindness
Latta
Lent
Livingston
Lloyd
Lundine
McClory
Maguire
Marks
Mazzoli
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mottl
Murphy, Ill.

Murphy, N.Y.
Nedzi
Nowak
O'Brien
Pashayan
Peyser
Pursell
Quillen
Reuss
Rhodes
Richmond
Roberts
Rose
Rosenthal
Roth
Sebelius
Seiberling
Shuster
Skelton
Smith, Iowa
Snyder
St Germain
Stangeland
Steed
Stokes
Studds
Symms
Thomas
Treen
Udall
Walgren
Whitehurst
Williams, Ohio
Wilson, C. H.
Winn
Wolff
Wydler
Wylie
Young, Mo.
Zeferetti

□ 1540

The Clerk announced the following pair:

On this vote:

Mr. Mitchell of Maryland for, with Mr. Fazio against.

Mr. WEAVER changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING APPROPRIATIONS FOR OFFICE OF FEDERAL PROCUREMENT POLICY, 1980–84

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 756) to authorize appropriations for the Office of Federal Procurement Policy for fiscal years 1980 through 1984, with Senate amendments to the House amendments, and concur in the Senate amendments to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendments, as follows:

Strike section 2 of the House amendment and insert in lieu thereof the following:

"SEC. 2. Strike section 2 of the Act (41 U.S.C. 401) and insert in lieu thereof the following:

"DECLARATION OF POLICY

SEC. 2. It is declared to be the policy of Congress to promote economy, efficiency, and effectiveness in the procurement of property and services by and for the executive branch of the Federal Government by—

(1) promoting the use of full and open competition in the procurement of products and services;

(2) establishing policies, procedures, and practices which will require the Government to acquire property and services of the requisite quality and within the time needed at the lowest reasonable cost;

(3) improving the quality, efficiency, economy, and performance of Government procurement organizations and personnel, and eliminating fraud and waste in the procurement process;

(4) avoiding or eliminating unnecessary overlapping or duplication of procurement and related activities;

(5) avoiding or eliminating unnecessary or redundant requirements placed on contractor and Federal procurement officials;

(6) identifying gaps, omissions, or inconsistencies in procurement laws, regulations, and directives and in other laws, regulations, and directives, relating to or affecting procurement;

(7) achieving greater uniformity and simplicity, whenever appropriate, in procurement procedures;

(8) otherwise promoting economy, efficiency, and effectiveness in Government procurement organizations and operation;

(9) coordinating procurement policies and programs of the several departments and agencies;

(10) minimizing possible disruptive effects of Government procurement on particular industries, areas, or occupations;

(11) improving understanding of Government procurement laws and policies within the Government and by organizations and individuals doing business with the Government; and

(12) promoting fair dealing and equitable relationships among the parties in Government contracting."

Amend Section 4(c) of the House Amendment by striking paragraph (5) therein, and inserting in lieu thereof, a new paragraph (5), which shall read as follows:

"(5) establish, [through the Federal Procurement Data Center, which shall be located in the General Services Administration and acting as executive agent for the administrator.] a computer-based information system for collecting, developing, and disseminating procurement data which takes into account the needs of the Congress, the executive branch, and the private sector;"

Strike Section 4(d) of the House Amendment and insert in lieu thereof; the following:

"(d) Section 6(e) of the Act (41 U.S.C. 405(e)) is amended to read as follows:

"(e) In the development and implementation of the uniform procurement system the Administrator shall consult with the executive agencies affected, including the Small Business Administration and other executive agencies promulgating policies, regulations, procedures and forms affecting procurement. To the extent feasible, the Administrator may designate an executive agency or agencies, establish interagency committees, or otherwise use agency representatives or personnel to solicit the views and the agreement, so far as possible, of executive agencies affected on significant changes in policies, regulations, procedures and forms."

Strike Section 4(e) of the House Amendment and insert in lieu thereof; the following:

"(e) Section 6 of the Act (41 U.S.C. 405) is further amended by inserting at the end thereof the following new subsections:

"(h)(1) Until the effective date of legislation implementing a uniform procurement system, the Administrator may, with the concurrence of the Director of the Office of Management and Budget, issue policy directives, in accordance with existing law, for the purpose of promoting the development and implementation of the uniform procurement system or for the purpose of promoting the policies set forth in paragraphs (1) through (8) of Section 2 of this Act. Such policy directives shall be followed by executive agencies.

(2) Any policy directives issued pursuant to paragraph (1) may require executive agencies to issue implementing regulations which shall be in accord with the criteria and standards set forth in such policy directives."

"(i) Until the effective date of legislation implementing a uniform procurement system, the Director of the Office of Management and Budget shall deny or rescind the promulgation of any final rule or regulation of any executive agency relating to procurement if the Director determines that such rule or regulation is inconsistent with the policies set forth in paragraphs (1) through (8) of Section 2 of this act or is inconsistent with any policy directives issued pursuant to subsection (h).

(j) Nothing in this Act shall be construed—

(1) to impair or affect the authorities or responsibilities conferred by the Federal Property and Administrative Services Act of 1949 with respect to the procurement of automatic data processing and telecommunications equipment and services or of real property; or

(2) to limit the current authorities and responsibilities of the Director of the Office of Management and Budget.

Strike Section 6 of the House Amendment and insert in lieu thereof, the following:

"SEC. 6. Section 10 of the Act (41 U.S.C. 409) is amended to read as follows:

"EFFECT OF EXISTING REGULATIONS

"SEC. 10. Procurement policies, regulations, procedures, or forms in effect as of the date of enactment of the Office of Federal Procurement Policy Act Amendments of 1979 shall continue in effect, as modified from time to time by the issuing offices on their own initiative or in response to policy directives issued under 6(h) until repealed, amended, or superseded pursuant to the adoption of the uniform procurement system described in section 6 of this Act."

Section 7 of the House Amendment is amended by striking "$3,000,000" and inserting in lieu thereof "$4,000,000."

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ERLENBORN. Mr. Speaker, reserving the right to object. I reserve the right to object so I may ask the gentleman from Texas some questions. Is this the bill that passed the House under suspension of the rules on September 10 which came from our Committee on Government Operations?

Mr. BROOKS. Will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman.

Mr. BROOKS. The gentleman is correct. The Senate has made some amendments to it that are consistent with our bill and they are not any problem to us. I think we can accept them.

I had suggested earlier if they did not want to agree with the House bill they could just let the OFPP die, and they have agreed that maybe we had a fairly decent idea.

Mr. ERLENBORN. Is it not true, Mr. Chairman, that the Office of Federal Procurement Policy would cease to exist because its authorization would expire at the end of this month, and that the passage of this legislation, which will be accomplished by agreeing to the Senate amendments, would extend the authorization for an additional 4 years?

Mr. BROOKS. The gentleman is correct and, in fact, that was our most persuasive argument with them.

Mr. ERLENBORN. And is it not true, Mr. Chairman, that of the Senate amendments there are only about three that are really substantive and do carry out the intent of the bill as passed by the House, and that both the majority and the minority of the Committee on Government Operations have examined these amendments and find them totally acceptable?

Mr. BROOKS. The gentleman is correct.

Mr. ERLENBORN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

□ 1550

IF HOUSE DOES NOT TAKE ACTION, JUDGES WILL RECEIVE 12.9-PERCENT PAY RAISE

(Mr. BURGENER asked and was given permission to address the House for 1 minute.)

Mr. BURGENER. Mr. Speaker and my colleagues, it is my understanding that the leadership is considering adjourning the House today without the passage of a continuing resolution to fund Federal Government operations from October 1, 1979, to December 31, 1979. Should that occur, it is also my understanding—and I would like to be corrected if I am wrong—that on Monday next all pay entitlements for Members of Congress, for supergrade civil service and for Federal judges would be increased 12.9 percent. I further understand that we could deal with the Members of Congress and the supergrades on Monday or later to reduce them, but that we may not be able to reduce the judges' pay if that occurs because of a constitutional provision concerning their compensation only.

If that is correct, I think it would be highly irresponsible on our part to conduct the public's business in such a manner.

PERMISSION TO HAVE UNTIL MIDNIGHT TUESDAY, OCTOBER 2, 1979, TO FILE CONFERENCE REPORT ON S. 428, DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1980

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Tuesday, October 2, 1979, to file a conference report on the Senate bill, S. 428, Defense Department authorizations for fiscal year 1980.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONGRATULATIONS TO ADMINISTRATION AND LABOR LEADERS ON ANTI-INFLATION ACCORD

(Mr. SIMON asked and was given permission to address the House for 1 minute.)

Mr. SIMON. Mr. Speaker, I simply want to call the attention of my colleagues in the House to some welcome news: the fact that the White House has announced an accord between the administration and the labor leaders of this Nation, an accord that will have great impact in our struggle against inflation and could be an extremely significant step forward.

I think it is a great tribute to these labor leaders, to Dr. Alfred Kahn, and Secretary of the Treasury William Miller that this has been achieved. I hope we have some good news in the future as a result of this good news today.

ANNOUNCEMENT OF AGREEMENT WITH ORGANIZED LABOR LEADERS HAILED

(Mr. MOORHEAD of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I welcome the President's announcement of an agreement with the leaders of organized labor on the shape of future economic policy in general and anti-inflation policy in particular.

While reducing the present appalling rate of inflation is going to be a slow and difficult task, it will be a lot less difficult if there is a spirit of cooperation rather than warfare or unrestrained self-interest. I commend the AFL–CIO for its willingness to meet the Government half way.

The accord announced today recognizes, at least implicitly, that wages across the economy simply cannot "catch up" fully to the recent rise in prices without building in yet a higher underlying rate of inflation which could continue into the indefinite future. That is the meaning of the term "austerity"—that we are all going to have to accept a moderate loss of real income in the short run. This is the consequence chiefly of the rise in world oil prices of some 60 percent this year together with other elements, including the distressing performance of productivity at home.

The accord recognizes these facts. It says:

> To deal effectively with inflation requires discipline and restraint. This will mean a period of austerity for Americans—individual and collective sacrifices for a time so that we may then enjoy the greater bounty of our land in the years to come.

I fully share the view expressed in the accord that massive unemployment is not the right cure for inflation. I have consistently maintained that restraint in the Government's fiscal and monetary policy, while essential in the attack on inflation, cannot do the job by themselves without risking a major slump, including a big loss of jobs.

The accord todays points the way toward a moderation of inflation with a lot less agony. While there are bound to be differences of view as time goes on, the existence of a tripartite Pay Advisory Committee, headed by the widely respected John Dunlop, at least keeps the dialog going.

The new standards for prices seem, at first glance, to be reasonable. There is no doubt that compliance by the sectors of business with some discretion over their pricing is just as important as wage restraint in achieving a moderation of inflation.

The accord follows:

A National Accord: The Administration—American Labor Leadership, September 28, 1979

To provide for American labor's involvement and cooperation with the Administration on important national issues.

To deal effectively with inflation in an equitable manner, consistent with the historic values of our nation.

To assure that the austerity arising from battling inflation is fairly shared, while protecting those members of society who are least able to bear the burden.

To pursue our established national goals of full employment, price stability and balanced growth.

To maintain and enhance the preeminence of America at home and abroad.

All Americans share a common commitment to achieve our Nation's economic goals of full employment, price stability and balanced growth as set forth in the Full Employment and Balanced Growth Act of 1978.

Recently, progress has been impaired by high and persistent rates of inflation. Inflation has built up over the past fifteen years, and in the last six has been aggravated by extraordinary increases in world petroleum and other energy prices.

The causes of inflation are many. But it is now deeply embedded in our economic structure. Inflation is a clear and present danger. It threatens our ability to achieve full employment; it reduces real incomes and values; it dries up job creating investments; it impedes productivity; it breeds recession; and it falls most heavily on those least able to bear the burden.

The war against inflation must be the top priority of government and of private individuals and institutions. There is no quick or simple solution. The war must be waged through a comprehensive strategy on all fronts on a continuing basis. But it should not mean acceptance of higher than otherwise levels of unemployment.

To accept such levels of unemployment in the name of fighting inflation is inconsistent with the equitable sharing of sacrifice. The pursuit of full employment and balanced growth as set forth in the 1978 Act is essential to the ultimate elimination of budget deficits, the achievement of economic stability and the realization of social and economic justice.

It is imperative that we overcome inflation in order to provide adequately for the general welfare and for the national security. It is also essential in order to assure our continued technological, industrial and humanitarian leadership.

To deal effectively with inflation requires discipline and restraint. This will mean a period of austerity for Americans—individual and collective sacrifices for a time so that we may then enjoy the greater bounty of our land in the years to come.

Such austerity must be fairly shared. The burdens need to be distributed equitably. And in the process we must protect those least advantaged in our society, who are not able to bear the costs.

Full involvement and cooperation of the private sector is necessary in order to wring out inflation and to attain our goals of full employment and price stability.

Therefore, this National Accord has been undertaken to evidence and provide for the continued involvement and cooperation of American labor leadership with the Administration for this purpose.

1. General Economic Policies. It is recognized that a disciplined fiscal policy is needed to counter inflation. Close control should be exercised over Federal expenditures; and budget deficits should be minimized, giving due regard to the state of the business cycle and the social and economic needs of our society. The revenues required for targeted programs and pressing national needs should not be dissipated by general tax cuts in conflict with the principle of shared austerity. Spending and taxing decisions within this framework must be and can be made consistent with the long-term goals of full employment, price stability and balanced growth.

2. Countercyclical Economic Policies. The current recessionary conditions developed following the large increase in world oil prices in the second quarter. Policies should be directed toward moderating and reversing the resulting down-turn. Established countercyclical programs will automatically come into play to help in this regard. Further counter actions need to be approached with care, so as to avoid new inflationary pressures. Nevertheless, if the recession deepens, well balanced responses of appropriate scale should be prepared and ready for action giving due regard to any required Congressional approvals, to emphasis on actions that have anti-inflation as well as anti-unemployment characteristics, and to practical operational limitations. These include:

Programs to shelter the poor and needy from the twin ravages of inflation and recession.

Additional skills training to help remedy structural unemployment.

Public works that provide jobs while at the same time contributing to anti-inflation objectives, such as public transit projects funded by the proposed oil windfall profits tax.

Improved implementation and expansion of jobs programs.

Policies to assure access to capital for the housing industry, with emphasis upon availability of financing, at reasonable cost, to low and moderate income families.

Appropriate tax relief targeted to offset inflation on the one hand while on the other contributing to anti-inflation through job creation, productivity improvement and cost reduction—particularly in areas most severely affected by high unemployment and economic adversity.

3. Pay-Price Policies. An important aspect of the anti-inflation effort is responsible behavior with respect to pay and prices. For the past year, a voluntary program of pay and price restraint has been used.

In the present circumstances, continued constraint is required on the overall levels of price and compensation increases consistent with achieving a reduction in the rate of inflation. After extensive public consultations, the program for the second year has been established with provision for greater public objectives of containment and deceleration of inflation.

Direct participation by labor, business and other public representatives will make a major contribution toward a fair and workable program which will achieve the overall goals.

The Federal Government must continue to show leadership in moderation. Federal pay action for fiscal 1980 has therefore been taken in the context of both fairness and continued restraint.

4. International. International developments in the post war era have led to greater economic interdependence among nations. In this environment, a demonstrated commitment to an effective anti-inflation program and to bringing our current account into balance is necessary in order to avoid adding to domestic inflation and to prevent disturbances in international trade and finance.

We must therefore seek both a reduction in dependence upon imported oil and an expansion of exports. An increase in exports will create additional American jobs. At the same time, all international trade must be fair so that American jobs are not threatened by unfair restrictions on American goods and services or by unfair subsidies for goods and services of other countries.

Where American jobs are impacted by international trade developments, adjustment assistance for American workers needs to be prompt and adequate.

The United States also should pursue maritime policies which will promote a strong merchant marine and assure that expanding American flag shipping services will make a growing contribution to the reduction of our balance of payments deficit.

5. Energy. In view of the availability, location and cost of oil and gas, our nation must reduce its dependence on petroleum as an energy source and particularly its dependence on imported petroleum.

Toward that end, the President has proposed a comprehensive energy program, which includes conservation measures, limitations on oil imports and a windfall profits tax to capture some of the increased revenues from higher oil prices for public purposes. Proceeds from the windfall profits tax will be used to help finance the development of unconventional energy sources, such as synthetic fuels; to carry out projects which conserve overall energy requirements, such as expanded public transit facilities; to provide incentives for greater conservation; and to extend financial relief from higher energy costs for the poor and needy.

These vital features of the President's energy program are of critical importance and should be carried out by Congressional and other actions as rapidly as possible.

6. Human Environment. It is also impor-

tant to continue pursuit of the goal of improving the quality of the human environment. This includes cooperation on programs to assure safe living and working places and to improve health services available to Americans.

7. Other Matters. The specific areas set forth in this Accord are not intended to be exhaustive. There are other matters which currently deserve mutual consideration and others will arise in the future. Those will be part of an on-going agenda.

8. Continuing Consultations. The essence of this National Accord is involvement and cooperation. The process is by its nature dynamic and evolutionary. It is our purpose to establish procedures for continuing consultations between American labor leadership and the Administration on these and other issues of vital concern to working people, as workers and as citizens.

INTERNATIONAL TRAVEL ACT AUTHORIZATION, 1980

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2795) to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2795, with Mr. FISHER, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee rose on Monday, September 24, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 2795

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 6 of the International Travel Act of 1961, as amended (22 U.S.C. 2126) is amended by striking out "and" immediately after "1978;", and inserting immediately before the period at the end thereof the following: "; and (8) $8,000,000 for the fiscal year ending September 30, 1980".

SEC. 2. The International Travel Act of 1961, as amended (22 U.S.C. 2121 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 9. The Secretary shall reduce the number of employees of the United States Travel Service in the offices of such Service in the District of Columbia, in order that the total number of such employees as of September 1, 1979, and thereafter, does not exceed 40 per centum of the total number of such employees as of December 31, 1978.".

Mr. FLORIO (during the reading). Mr. Chairman, I know of no amendments, and therefore I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. WRIGHT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think that all Members should be vitally interested in this International Travel Act. Travel is broadening. It extends our opportunities as well as the opportunities of all great Americans to see and profit by what they see. It joins together understanding and cooperation on the part of all, and I just wanted our colleagues to witness an event that had occurred in faraway lands where two lone travelers from the United States met and joined forces and came to know and love and appreciate one another so much better because of their traveling together.

It makes for friendship and for understanding and for amity, and for all sorts of generous accords between fellow human beings. It draws them together in a sort of collision whereby through their travels they can understand and appreciate the greater and finer things of life.

● Mr. GOLDWATER. Mr. Chairman, I reluctantly urge the defeat of legislation to reauthorize funding for the U.S. Travel Service. I am reluctant because I fully recognize that the International Travel Act has proven successful in promoting foreign tourism in the United States, but under the circumstances, I have to acknowledge the fact that the Service is nonessential.

Adding this to the fact that the Federal Government is broke, we, as a body, must start accepting the realities and discontinue the luxuries. Every day individual citizens must make the same sort of decisions about purchasing absolute necessities and those things which are unnecessary and therefore can be put off. We have got to start making the same kind of decisions, and while the U.S. Travel Service is all well and good, the simple fact is, we cannot afford it.●

● Mr. SANTINI. Mr. Chairman, I rise in support of H.R. 2795, the International Travel Act authorization for 1980. This bill will result in a significant reduction from the 1979 authorization level of $30 million. By proposing a reduction to that level the Subcommittee on Transportation and Commerce is providing the bare bones budget necessary for the continuation of our promotional program.

Our subcommittee is currently considering legislation which will improve the performance of our tourism efforts. We have not been pleased with the efforts previously made by the U.S. Travel Service and believe that more emphasis should be placed on the development of overseas business. This bill should be viewed as stopgap. The funding is for 1 year only, and I hope that we will have a mechanism in place in fiscal year 1981 that will further improve our efforts and begin to place some of the monetary burden on private industry.

In the interim, it is important that we maintain a skeletal crew in our six offices overseas. The bill makes a significant reduction in the Washington, D.C., staff of the agency to 40 percent of its current level. This member believes that the most essential work of the Service is done in those six offices, and it is important to retain our good personnel until the new legislation is enacted.

I was quite disappointed to learn of the administration's position with regard to the retention of USTS. As I stated earlier, I have been quite critical of the agency's record. If this authorization is not passed, we will become the only industrialized nation without a national tourist office in foreign countries.

It is difficult to understand the position of the administration toward tourism. When the subcommittee asked for the testimony of the White House staff member assigned to tourism, we were sent a representative from the Department of Commerce. It is clear that the administration does not feel tourism is important. Yet it is one area in which we can work to improve our balance of payment deficit and strengthen the dollar. Studies of the USTS program have demonstrated a return of $18 for every dollar spent. There are few Federal programs that can show that return.

I ask that you join with me to support this bill so that we can maintain this vital program until it can be revised and improved. I pledge that I will work toward that goal.●

The CHAIRMAN pro tempore. Are there any amendments?

There being no amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. FISHER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2795) to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes, pursuant to House Resolution 318, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 239, nays 48, not voting 146, as follows:

[Roll No. 525]

YEAS—239

Akaka
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
Bafalis

Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brooks
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Carney
Clay
Clinger
Coelho
Coleman
Conte
Corcoran
Danielson
Daschle
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Gaydos
Gephardt
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gramm
Grassley
Gray
Guarini
Gudger
Hall, Tex.
Hamilton
Hammerschmidt
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Howard
Hubbard
Hughes
Hutto
Ireland
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kogovsek
Kostmayer
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Levitas
Long, La.
Lott
Lowry
Lujan
Luken
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marlenee
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Mineta
Mitchell, Md.
Moakley
Mollohan
Moore
Moorhead, Calif.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nelson
Nolan
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Preyer
Price
Pritchard
Quayle
Rahall
Rangel
Ratchford
Rinaldo
Robinson
Roybal
Royer
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Sensenbrenner
Shannon
Shelby
Simon
Slack
Smith, Nebr.
Snowe
Solomon
Spellman
Stack
Staggers
Stewart
Stratton
Swift
Synar
Tauke
Thompson
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Yatron
Young, Alaska
Young, Fla.
Zablocki

NAYS—48

Albosta
Andrews, N.C.
Archer
Badham
Clausen
Courter
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Dornan
Edwards, Okla.
Gilman
Goldwater
Goodling
Gradison
Hagedorn
Hansen
Ichord
Jacobs
Jeffries
Jones, Okla.
Kildee
Kramer
Leath, Tex.
Lewis
Long, Md.
Lungren
McDonald
Martin
Miller, Ohio
Montgomery
Myers, Ind.
Nichols
Paul
Petri
Regula
Ritter
Rousselot
Schroeder
Sharp
Shumway
Spence
Stenholm
Stockman
Stump
Taylor
Volkmer

NOT VOTING—146

Abdnor
Addabbo
Alexander
Anderson, Ill.
Ashbrook
Ashley
AuCoin
Barnard
Bauman
Beard, Tenn.
Bereuter
Biaggi
Bolling
Bouquard
Breaux
Brodhead
Broomfield
Brown, Ohio
Burton, John
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Cleveland
Collins, Ill.
Collins, Tex.
Conable
Conyers
Corman
Cotter
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Devine
Diggs
Downey
Emery
Erdahl
Fithian
Flood
Fuqua
Garcia
Giaimo
Gingrich
Green
Grisham
Guyer
Hall, Ohio
Hance
Hanley
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Huckaby
Hyde
Jeffords
Johnson, Colo.
Kemp
Kindness
LaFalce
Latta
Lent
Livingston
Lloyd
Loeffler
Lundine
McClory
Maguire
Marks
Marriott
Mathis
Mazzoli
Miller, Calif.
Minish
Mitchell, N.Y.
Moffett
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nowak
O'Brien
Pashayan
Peyser
Pickle
Pursell
Quillen
Railsback
Reuss
Rhodes
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rudd
Schulze
Sebelius
Seiberling
Shuster
Skelton
Smith, Iowa
Snyder
Solarz
St Germain
Stangeland
Stanton
Stark
Steed
Stokes
Studds
Symms
Thomas
Traxler
Treen
Udall
Vento
Walgren
Whitehurst
Williams, Ohio
Wilson, C. H.
Winn
Wolff
Wydler
Wylie
Yates
Young, Mo.
Zeferetti

□ 1610

The Clerk announced the following pairs:

On this vote:

Mr. Garcia for, with Mr. Moffett against.

Messrs. LONG of Maryland, GILMAN, KRAMER, and CLAUSEN changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FLORIO. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 233) to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes, a bill similar to H.R. 2795, just passed by the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 6 of the International Travel Act of 1961, as amended (22 U.S.C. 2126) is amended by striking out "and" immediately after "1978;", and inserting immediately before the period at the end thereof the following: "; and (8) $8,000,000 for the fiscal year ending September 30, 1980".

SEC. 2. The International Travel Act of 1961, as amended (22 U.S.C. 2121 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 9. The Secretary shall reduce the number of employees of the United States Travel Service in the offices of such Service in the District of Columbia, in order that the total number of such employees as of September 1, 1979, and thereafter, does not exceed 40 per centum of the total number of such employees as of December 31, 1978.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2795) was laid on the table.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5369. An act to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process.

REVISION TO PREVIOUSLY TRANSMITTED DEFERRAL FOR DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 96–196)

The SPEAKER pro tempore laid before the House the following Message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a routine revision to a previously transmitted deferral for the Department of Transportation. This revision increases the amount deferred by $5.0 million. The details of this revised deferral are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *September 28, 1979.*

EMERGENCY MEDICAL SERVICES REAUTHORIZATIONS

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3642) to extend for 3 fiscal years the programs under section 789 and title XII of the Public Health Service Act relating to emergency medical services and to authorize assistance for poison control and assistance centers.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3642, with Mr. FISHER (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee rose on Monday, September 24, 1979, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 3642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 789(g)(1) of the Public Health Service Act (42 U.S.C. 295g–9(g)(1)) is amended by striking out "the next five fiscal years" and inserting in lieu thereof "the next eight fiscal years".

SEC. 2. (a)(1) Paragraph (1) of subsection (a) of section 1207 of the Public Health Service Act (42 U.S.C. 300d–6(a)(1)) is amended to read as follows:

"(a)(1)(A) Except as provided in subparagraph (B), for the purpose of making payments pursuant to grants and contracts under sections 1202, 1203, and 1204, there are authorized to be appropriated $40,000,000 for the fiscal year ending September 30, 1980, $40,000,000 for the fiscal year ending September 30, 1981, and $40,000,000 for the fiscal year ending September 30, 1982.

"(B) No funds appropriated under subparagraph (A) may be used to make payments under the third and fourth grants and contracts made and entered into under section 1204. For the purpose of making payments under such grants and contracts, there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1980, $5,000,000 for the fiscal year ending September 30, 1981, and $5,000,000 for the fiscal year ending September 30, 1982."

(2)(A) Subparagraph (A) of paragraph (5) of such subsection is amended (i) by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)", and (ii) by striking out "two succeeding fiscal years at least 2½ per centum but" and inserting in lieu thereof "five succeeding fiscal years,".

(B) Subparagraph (B) of paragraph (5) of such subsection is amended (i) by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)", and (ii) by striking out "two succeeding fiscal years" and inserting in lieu thereof "five succeeding fiscal years".

(b) Subsection (b) of such section is amended to read as follows:

"(b) For the purpose of making payments pursuant to grants and contracts under section 1205, there are authorized to be appropriated $4,000,000 for the fiscal year ending September 30, 1980, $4,000,000 for the fiscal year ending September 30, 1981, and $4,000,000 for the fiscal year ending September 30, 1982.".

(c) Subsection (c) of section 1221 of such Act (42 U.S.C. 300d–21(c)) is amended by inserting before the period a comma and the following: "and for each of the next three fiscal years".

(d)(1) Subsection (a) of section 1204 of such Act (42 U.S.C. 300d–3(a)) is amended by adding at the end the following: "A third or fourth grant or contract under this subsection may not be used to acquire equipment or facilities acquired with a previous grant or contract under this subsection."

(2) Subsection (b)(1) of such section is amended (A) by inserting after "(1)" the following: "The total number of grants and contracts which a system may receive under subsection (a) may not exceed four.", (B) by stirking out "one additional" and inserting in lieu thereof "an additional", and (3) by striking out "under the first grant or contract" and inserting in lieu thereof "under the preceding grant or contract".

(3) Subsection (b)(2)(B) of such section is amended by striking out "second grant or contract" and inserting in lieu thereof "second or subsequent grant or contract".

(4) Subsection (d)(1) of such section is amended by striking out "A grant or contract" and inserting in lieu thereof "The first or second grant or contract".

(5) Subsection (d)(2) of such section is amended (A) by striking out "A second grant or contract" and inserting in lieu thereof "A second or subsequent grant or contract", and (B) by adding after and below subpargraph (B) the following: "A third or fourth grant or contract may not be made or entered into unless the emergency medical services system for which grant or contract will be made or entered into meets each of the requirements of section 1206(b)(4)(C)".

(6) Section 1206(b)(1)(B) of such Act (42 U.S.C. 300d–5(b)(1)(B)) is amended by striking out "five" and inserting in lieu thereof "seven".

(e) Title XII is amended by adding the following new part:

"PART C—POISON CONTROL INFORMATION AND TREATMENT CENTERS

"AUTHORIZATION OF ASSISTANCE

"SEC. 1231. (a) The Secretary may make grants to and enter into contracts with public and private nonprofit entities to assist in meeting the costs of establishing, training personnel for, operating, and acquiring equipment and materials for poison control information and treatment centers.

"(b)(1) Each grant or contract under subsection (a) shall be made or entered into for costs incurred in the twelve-month period beginning with the month after the grant or contract is made or entered into. The total number of months for which an entity may receive grants or contracts, or both, under subsection (a) may not exceed thirty-six.

"(2) The amount of a grant or contract under subsection (a) shall be determined by the Secretary, except that no grant or contract may exceed 50 percent of the costs for which it is made.

"(c) No grant may be made or contract entered into unless an application therefor is submitted to and approved by the Secretary. The application shall be in such form, submitted in such manner, and contain such information, as the Secretary may require by regulation.

"(d) To make payments under grants and contracts under subsection (a) there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, $8,000,000 for the fiscal year ending September 30, 1981, and $6,000,000 for the fiscal year ending September 30, 1982.".

SEC. 3. The amendments made by the first section and section 2 to section 789 and title XII of the Public Health Service Act shall take effect with respect to appropriations made under those provisions for fiscal years beginning after September 30, 1979.

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

☐ 1620

The CHAIRMAN. Are there any amendments?

AMENDMENT OFFERED BY MR. LELAND

Mr. LELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LELAND: Page 6, insert after line 9 the following:

(f)(1) Subsection (a) of section 340 of such Act (42 U.S.C. 256(a)) is amended by striking out "which provide health services".

(2) Subsections (c)(1) and (g)(4) of such section are each amended by striking out "section 301" and inserting in lieu thereof "section 301, 304, or 305".

Page 6, line 11, strike out "section 789" and insert in lieu thereof "sections 340 and 789".

Mr. LELAND (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. LELAND. Mr. Chairman, this is a very simple amendment, which seeks to remedy two minor technical problems which unduly limit grants for demonstration projects in medically underserved rural areas. These grants, which were authorized in the health centers amendments last year, are designed to demonstrate new and innovative ways to deliver health care to this underserved element in our society.

While attempting to assist in the preparation of a demonstration project of clinical pharmacy in rural south Texas, I learned of two minor, confusing, and inflexible restrictions in the statute. One could foreclose the ability of educational institutions, such as schools of pharmacy, to take part in the program—even if they are eminently qualified to perform a demonstration project. And, the second could be read to make the grants unauthorized if they could possibly qualify under any other section of the public health service act. It is now apparent that both of these limitations are a little too narrow. My amendment merely corrects these problems.

Part 1 of the amendment removes the requirement that all grantees must actually "provide health services," which would make educational institutions, among other worthwhile entities, ineligible.

Part 2 is technical in nature and clarifies the limitations on the Secretary's use of funds under this program by cross-referencing two other sections of the act. These two sections also contain "demonstration" authority, and without this amendment, could be interpreted to prohibit funding under the rural demonstration program.

In summary, this is a perfecting amendment that gives HEW the flexibility to use the demonstration grant money to fulfill the purposes for which it was intended, that is to explore new, innovative and efficient ways to get adequate and comprehensive health care to our citizens in rural, underserved areas.

I ask support of this amendment.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. LELAND. I will be glad to yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I have no objection to this amendment that has been proposed by the gentleman from Texas (Mr. LELAND).

I have studied the amendment, and as I see it, the proposed changes really do not alter the objectives of this authority. There is no additional funding that the gentleman is providing in his amendment.

Mr. LELAND. That is correct, Mr. Chairman.

Mr. BROYHILL. The first part of the gentleman's amendment would merely modify the eligibility criteria for applicants to receive funds for the purpose of conducting research and demonstration projects for medically underserved populations, under section 340 of the Public Health Service Act.

As I understand it, the school of pharmacy in south Texas has a well-designed project that it would like to sponsor, and that would help medically underserved areas. However, this university would not be eligible for funding under the language of the current law, which requires applicants to provide health services.

Under the current law, the Secretary of HEW may award grants and contracts to demonstrate new and innovative methods for the provision of primary health services and dental health services. HEW may also support research on existing methods of providing such services. The objective of this authority is to help find ways of improving health services for the millions of Americans who live in medically underserved areas.

Under the first part of the amendment offered by the distinguished gentleman from Texas, the eligibility for such funding would be expanded to include applicants which do not provide health services as well as those which do. Thus, a State agency or a university which has a particular interest and expertise in conducting research to improve services for medically underserved populations would be eligible to compete to receive Federal funds. It is my understanding that adoption of the amendment would not change the objectives that this auhority is intended to achieve. Nor would it change the criteria for the types of research projects that could be supported.

The second part of the amendment would clarify the limitation imposed by current law with respect to the Secretary's authority to award funds under this demonstration program. Is that correct?

Mr. LELAND. Mr. Chairman, that is exactly correct, and I appreciate the support of the gentleman who sits on the other side of the aisle from me. He has been very kind to me in the past on the committee, and I certainly appreciate the gentleman's support.

Mr. WAXMAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, we are pleased to accept the gentleman's amendment on this side, and I urge my colleagues to vote for it.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been interested in this subject, and I realize what the vote on the amendment will be. But just so we understand what this $79 million bill does, I would like a little explanation.

I understand the President asked for a phaseout of this program at the end of 3 years or some time soon. Does some Member want to comment on that?

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, the administration did request a phaseout of this program. The subcommittee and the full committee took that into consideration.

This program is one of the success stories, I believe, and it is a Federal program that is working. It provides seed money for the communities to start up an emergency medical services program. There are many areas of the country that need such service.

Mr. ROUSSELOT. The seed money is mostly for the communities?

Mr. WAXMAN. Yes, the seed money is mostly for the communities to start up an emergency medical services program.

The money for the emergency medical services systems are provided, and as a matter of fact, the community, once these programs are in place, will pick up the cost of the emergency medical services program.

We are extending the program because some of the communities have not yet taken advantage of the program, and we feel they will want to do that.

Mr. ROUSSELOT. Mr. Chairman, could the gentleman tell us this: The committee evidently paid little or no attention to the President's request to phase the program out because obviously this continues it for 3 years, and as I read it, it seems to continue it almost at the same levels; is that not right?

Mr. WAXMAN. Mr. Chairman, if the gentleman will yield, we accepted the administration's plan that only 25 percent or 75 of the 304 State regional systems would complete their 5-year Federal funding period for fully developed life support systems. So 179 systems or 59 percent would be forced to stop development of life support systems. The remaining 50 systems would either receive no assistance or would be stymied in the planning stage.

In short, under the administration's plan, 75 percent of the regional EMS systems we envisioned as being necessary would be left underdeveloped or undeveloped.

For that reason, Mr. Chairman, we rejected the administration's request.

Mr. ROUSSELOT. So the subcommittee and the full committee made the decision not to follow the recommendations of the President to phase this program out.

Does the gentleman foresee that at the end of 3 years we might be ready to phase it out, or is this going to be one of these emergency programs that keeps going forever and ever?

Mr. WAXMAN. Mr. Chairman, if the gentleman will yield, I would hope that when these regions take advantage of it, we can eventually phase it out. Right now that would not be appropriate.

Mr. ROUSSELOT. Does that mean at the end of 3 years the gentleman contemplates the Congrgess will phase it out?

Mr. WAXMAN. That is what we envision.

Mr ROUSSELOT. The gentleman envisions phasing it out in 3 years?

Mr. WAXMAN. We envision that. We will have to see what the appropriations level will be, and we will look at it at that time. But it is not meant to be and never has meant to be a permanent program.

Mr. ROUSSELOT. It is not a permanent program?

Mr. WAXMAN. That is correct.

Mr. ROUSSELOT. It will be fascinating to be here in 3 years and see if that occurs.

Mr. WAXMAN. I certainly hope the gentleman will be here.

Mr. ROUSSELOT. I intend to be, but it may be in the Senate.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to my colleague, the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I appreciate the gentleman's yielding.

Certainly the gentleman's concerns remind me of similar reservations I had as we were marking up this bill and considering whether to extend this program. However, I think that the gentleman should understand, as the gentleman from California (Mr. WAXMAN) has explained, that only one-quarter of the emergency medical services systems have been completely developed.

Mr. ROUSSELOT. Mr. Chairman, let me ask the gentleman, are these mostly paramedic units?

Mr. BROYHILL. They are emergency medical services systems that have been organized on a regional basis to try to develop and upgrade communities' capabilities to respond to emergencies in those regions. The program provides funds for training and research as well as for necessary equipment.

Earlier this year, we developed a good hearing record on this program. We heard from a great many witnesses who reported to us that this EMS program has been cost effective, that these regional systems are saving lives, and that they are able to help people.

One of the facts that impressed me was that approximately three-quarters of the systems have not completed full development. I am interested particularly in the impact of this program on rural areas and small towns. These areas have great difficulty financing a program like this on their own, and they need continued Federal support. It would really not be cost effective to remove the Federal dollars when the job is only one-quarter done. That is why we have recommended continuing the program for the next 3 years.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for his explanation.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. LELAND).

The amendment was agreed to.

● Mr. STAGGERS. Mr. Chairman, Federal support for emergency medical services saves lives. Statistics show that the number of deaths from accidents in the United States has decreased since this program began.

How often can you vote for a bill like this one that tangibly saves lives?

All of us know emergency medicine has accomplished miracles in the past several years. We all have a colleague, a friend, or a relative who has needed these services. In some cases, the dead have literally been brought back to life when emergency medicine's techniques were applied to someone who had suffered cardiac arrest. With modern ambulances, sophisticated equipment, and trained personnel, accident victims can now be treated at the scene or on their way to the hospital. Valuable treatment time is not lost.

When the Health and Environment Subcommittee held hearings on this bill, testimony was presented by physicians who described patients they had treated earlier the same day who survived multiple trauma, and would live normal lives.

One Alabama doctor described a patient he treated that morning who had been crushed under debris when a mine shaft he was working in collapsed on him. Just a few years ago, this man would have died from those injuries or been permanently disabled. But with the type of equipment and personnel training this Federal program made available, the man survived.

Rural areas are in particular need of this Federal support to bolster their emergency medical services until their programs find local sources of financial support. At the present time, because emergency medical services in rural areas are spread so thin, the chances of dying from injuries as a result of a major car accident are four times as great in a rural area as in a large metropolitan area. This reauthorization bill can improve that grim statistic.

We all care about Federal programs that show tangible results.

The emergency medical services systems bill reauthorizes that kind of program. I hope you all will join with me and give this reauthorization bill your enthusiastic support.

We all care about the effectiveness of Federal programs. We all care about programs that make the best use of Federal money.●

● Mr. MICHEL. Mr. Chairman, I rise in support of this bill, and I do so because the emergency medical services program has proven to be one of the most rewarding of the Federal programs we have launched in recent years.

I know this from firsthand experience, because Illinois has, perhaps, the best EMS program in the Nation. In fact, the Illinois program was launched before this Federal legislation came into being. Former Gov. Dick Olgivie was the initiator, and Dr. David Boyd was the first director. Dr. Boyd now runs the national program here in Washington. Sixteen of our counties in west central Illinois were recently cited as providing the "best functioning EMS system in the United States."

As an example of the accomplishments of this program, deaths from life-threatening accidents steadily decreased in west central Illinois since the inception of the program from 93 per thousand to 53 per thousand, despite an increase in the accident rate. Overall in Illinois, we have experienced a 29-percent reduction in vehicle accident deaths since the beginning of the program.

Other regions of the Nation can point to similar successes. For instance, in Massachusetts there has been a decrease by 50 percent of deaths en route to the hospital as a result of the fact that ambulances are staffed by two or more emergency medical technicians.

In Charlottesville, Va., the EMS system has resulted in a 28-percent reduction in deaths due to heart attack. The Maryland Trauma Center saved 750 lives in 1 year. The Seattle cardiac unit saved 85 lives in 6 months. And in Denver, there has been a threefold increase in the survival rate of premature babies with respiratory disorders.

The EMS program has, in other words, already demonstrated its worth, and even more importantly, it is not a program that calls for permanent Federal funding. Federal funds are provided to each EMS region for 5 years in order to help start the program in the region, after which the program must continue on its own with State and local funding.

To date, some 66 regions have completed the funding process and are on their own. An additional 225 are in various stages of Federal funding, leaving only 13 regions which have yet to participate out of a total nationwide network of 300. Based on current levels of funding, HEW estimates that blanket nationwide coverage will be achieved by fiscal year 1989, after which no further Federal funding will be necessary. Furthermore, the current funding level would be required only through 1985, after which it should decline as more and more regions become self-sustaining.

One would think that a health program such as this one, with the proven capacity for saving lives, with the potential for reducing health costs, and with a specific limitation on the duration of Federal funding, would have the full support of the Carter administration. But as with most actions of this admiinstration, logic is out the window in trying to understand the courses it chooses to pursue. The President is seeking to kill the program in midstream. He is proposing to end the program by fiscal year 1982, leaving 225 regions short of the Federal funds necessary to complete their 5-year development programs.

Fortunately, this legislation rejects the President's recommendation, and continues the program toward its logical conclusion. As such, it is deserving of support.

That is not to say, however, that the bill is without drawbacks. For instance, it initiates an additional 2 years of funding beyond the 5-year cycle, and despite report language limiting eligibility for such additional funding, I think this sets a bad precedent. It smacks too much like the financial distress provisions we have added to other programs, which have been used as a bailout for local projects that have not done the job of obtaining the necessary State and local financing. I would not hold out any high hopes that this provision will be funded.

The bill also would establish a separate program of poison control centers. In my view, this is an unnecessary fragmentation of the EMS program at a time when many EMS systems are already providing for poison care.

Other than these additions, however, the committee has kept the authorization levels fairly close to the amounts we have appropriated in recent years. I congratulate the committee for this recognition of reality, and I hope it reflects a trend that will be continued in future years and also pursued by other committees.

Before closing, I do want to say a few words about the administration of the EMS program. The surveys and investigative staff of our Appropriations Committee undertook a study of the EMS program a year and a half ago, and one of the most important findings was that the central EMS office lacks the necessary staff to provide proper administration of the program, to provide the necessary guidance and technical assistance to local regions, or to undertake program evaluations. Because of these personnel shortages, the Director spent 106 days in the year studied out in the field providing technical assistance and this of course has hampered the overall program administration.

At the time, the central office had just 13 positions. It still has only 13 positions. Dr. Lythcott, head of the Health Services Administration, testified before our Labor-HEW Appropriations Subcommittee last year that in his professional judgment, more positions were needed. We then authorized 30 additional positions last year, but OMB has refused to allow them to be filled.

The investigative staff also was highly critical of the EMS research. It found that the research was too theoretical and long term in nature, and was not geared to meeting the immediate needs of the EMS program. It was critical of the grant selection process, and stated that the selection process was overly concerned with the correctness of the research design, at the expense of the critical nature of the problems to be studied. The result was a rejection of applications from State EMS officials because of design weaknesses, due mainly to the fact that these people are not professional researchers. Both Dr. Lythcott and Dr. Boyd expressed general agreement with these findings.●

The CHAIRMAN pro tempore. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS), having assumed the Chair, Mr. FISHER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3642) to extend for 3 fiscal years the programs under section 789 and title XII of the Public Health Service Act relating to emergency medical services and to authorize assistance for poison control and assistance centers, pursuant to House Resolution 331, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

□ 1630

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WAXMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 245, nays 12, not voting 176, as follows:

[Roll No. 526]

YEAS—245

Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brooks
Broyhill
Buchanan
Burgener
Burlison

Burton, Phillip
Butler
Carney
Clausen
Clay
Clinger
Coelho
Coleman
Conte
Corcoran
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Deckard
Derrick
Derwinski
Dicks
Dixon
Donnelly
Dornan
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Findley
Fisher

Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Gaydos
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Guarini
Gudger
Hagedorn
Hall, Tex.
Hammerschmidt
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Howard
Hubbard
Hughes
Hutto
Jeffries

Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Marlenee
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski

Miller, Ohio
Mineta
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Pepper
Perkins
Price
Rahall
Rangel
Ratchford
Regula
Richmond
Rinaldo
Ritter
Robinson
Roth
Rousselot
Roybal
Royer
Runnels
Sabo
Satterfield
Sawyer
Scheuer
Shannon
Sharp
Shelby

Simon
Slack
Smith, Nebr.
Snowe
Solomon
Spellman
Spence
Stack
Staggers
Stenholm
Stewart
Stump
Swift
Synar
Tauke
Taylor
Thompson
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walker
Wampler
Watkins
Waxman
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Yatron
Young, Alaska
Young, Fla.
Zablocki

NAYS—12

Archer
Dannemeyer
Edwards, Okla.
Fenwick

Hansen
McDonald
Moore
Paul

Petri
Sensenbrenner
Shumway
Stockman

NOT VOTING—176

Abdnor
Addabbo
Alexander
Anderson, Ill.
Ashbrook
Ashley
AuCoin
Barnard
Bauman
Beard, Tenn.
Bereuter
Biaggi
Bolling
Bouquard
Breaux
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Burton, John
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Cleveland
Collins, Ill.
Collins, Tex.
Conable
Conyers
Corman
Cotter
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Devine
Dickinson
Diggs
Dingell
Dodd
Downey
Edwards, Calif.
Emery

Erdahl
Fascell
Ferraro
Fish
Fithian
Flood
Fuqua
Garcia
Gephardt
Giaimo
Gingrich
Goldwater
Green
Grisham
Guyer
Hall, Ohio
Hamilton
Hance
Hanley
Heckler
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Huckaby
Hyde
Ichord
Ireland
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Kastenmeier
Kemp
Kindness
LaFalce
Latta
Lent
Livingston
Lloyd
Loeffler
Lundine
McClory
McCloskey
Maguire
Markey
Marks

Marriott
Mathis
Mazzoli
Miller, Calif.
Minish
Mitchell, N.Y.
Moffett
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Pashayan
Patterson
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Quillen
Railsback
Reuss
Rhodes
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rudd
Russo
Santini
Schroeder
Schulze
Sebelius
Seiberling
Shuster
Skelton
Smith, Iowa
Snyder
Solarz
St Germain
Stangeland
Stanton

Stark
Steed
Stokes
Stratton
Studds
Symms
Thomas
Traxler

Treen
Udall
Vento
Walgren
Weaver
Whitehurst
Williams, Ohio
Wilson, Bob

Wilson, C. H.
Winn
Wolff
Wydler
Wylie
Yates
Young, Mo.
Zeferetti

□ 1640

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. WAXMAN. Mr. Speaker, pursuant to House Resolution 331, I call up from the Speaker's table the Senate bill (S. 497) to extend the authorizations of appropriations relating to emergency medical services systems under title XII and section 789 of the Public Health Service Act; to increase the authorizations of appropriations for sudden infant death syndrome counseling and information projects and revise and improve authorities under title XI, part B, of such act; and for other purposes and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WAXMAN moves to strike out all after the enacting clause of the Senate bill (S. 497), and to insert in lieu thereof the provisions of H.R. 3642, as passed by the House, as follows:

That section 789(g)(1) of the Public Health Service Act (42 U.S.C. 295-9(g)(1)) is amended by striking out "the next five fiscal years" and inserting in lieu thereof "the next eight fiscal years".

SEC. 2. (a)(1) Paragraph (1) of subsection (a) of section 1207 of the Public Health Service Act (42 U.S.C. 300d–6(a)(1)) is amended to read as follows:

"(a)(1)(A) Except as provided in subparagraph (B), for the purpose of making payments pursuant to grants and contracts under section 1202, 1203, and 1204, there are authorized to be appropriated $40,000,000 for the fiscal year ending September 30, 1980, $40,000,000 for the fiscal year ending September 30, 1981, and $40,000,000 for the fiscal year ending September 30, 1982.

"(B) No funds appropriated under subparagraph (A) may be used to make payments under the third and fourth grants and contracts made and entered into under section 1204. For the purpose of making payments under such grants and contracts, there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1980, $5,000,000 for the fiscal year ending September 30, 1981, and $5,000,000 for the fiscal year ending September 30, 1982."

(2)(A) Subparagraph (A) of paragraph (5) of such subsection is amended (i) by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)", and (ii) by striking out "two succeeding fiscal years at least 2½ per centum but" and inserting in lieu thereof "five succeeding fiscal years,".

(B) Subparagraph (B) of paragraph (5) of such subsection is amended (i) by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)", and (ii) by striking out "two succeeding fiscal years" and inserting in lieu thereof "five succeeding fiscal years".

(b) Subsection (b) of such section is amended to read as follows:

"(b) For the purpose of making payments

pursuant to grants and contracts under section 1205, there are authorized to be appropriated $4,000,000 for the fiscal year ending September 30, 1980, $4,000,000 for the fiscal year ending September 30, 1981, and $4,000,000 for the fiscal year ending September 30, 1982.".

(c) Subsection (c) of section 1221 of such Act (42 U.S.C. 300d–21(c)) is amended by inserting before the period a comma and the following: "and for each of the next three fiscal years".

(d)(1) Subsection (a) of section 1204 of such Act (42 U.S.C. 300d–3(a)) is amended by adding at the end the following: "A third or fourth grant or contract under this subsection may not be used to acquire equipment or facilities acquired with a previous grant or contract under this subsection."

(2) Subsection (b)(1) of such section is amended (A) by inserting after "(1)" the following: "The total number of grants and contracts which a system may receive under subsection (a) may not exceed four.', (B) by striking out "one additional and inserting in lieu thereof "an additional, and (3) by striking out "under the first grant or contract" and inserting in lieu thereof "under the preceding grant or contract".

(3) Subsection (b)(2)(B) of such section is amended by striking out "second grant or contract and inserting in lieu thereof "second or subsequent grant or contract".

(4) Subsection (d)(1) of such section is amended by striking out "A grant or contract" and inserting in lieu thereof "The first or second grant or contract".

(5) Subsection (d)(2) of such section is amended (A) by striking out "A second grant or contract" and inserting in lieu thereof "A second or subsequent grant or contract", and (B) by adding after and below subparagraph (B) the following: "A third or fourth grant or contract may not be made or entered into unless the emergency medical services system for which grant or contract will be made or entered into meets each of the requirements of section 1206(b)(4)(C)".

(6) Section 1206(b)(1(B) of such Act (42 U.S.C. 300d5(b)(1)(B)) is amended by striking out "five" and inserting in lieu thereof "seven".

(e) Title XII is amended by adding the following new part:

"PART C—POISON CONTROL INFORMATION AND TREATMENT CENTERS

"SEC. 1231. (a) The Secretary may make grants to and enter into contracts with public and private nonprofit entities to assist in meeting the costs of establishing, training personnel for, operating, and acquiring equipment and materials for poison control information and treatment centers.

"(b)(1) Each grant or contract under subsection (a) shall be made or entered into for costs incurred in the twelve-month period beginning with the month after the grant or contract is made or entered into. The total number of months for which an entity may receive grants or contracts, or both, under subsection (a) may not exceed thirty-six.

"(2) The amount of a grant or contract under subsection (a) shall be determined by the Secretary, except that no grant or contract may exceed 50 percent of the costs for which it is made.

"(c) No grant may be made or contract entered into unless an application therefor is submitted to and approved by the Secretary. The application shall be in such form, submitted in such manner, and contain such information, as the Secretary may require by regulation.

"(d) To make payments under grants and contracts under subsection (a) there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, $8,000,000 for the fiscal year ending September 30, 1981, and $6,000,000 for the fiscal year ending September 30, 1982.".

(f)(1) Subsection (a) of section 340 of such Act (42 U.S.C. 256(a)) is amended by striking out "which provide health services".

(2) Subsection (c)(1) and (g)(4) of such section are each amended by striking out "section 301" and inserting in lieu thereof "section 301, 304, or 305".

SEC. 3. The amendments made by the first section and section 2 to sections 340 and 789 and title XII of the Public Health Service Act shall take effect with respect to appropriations made under those provisions for fiscal years beginning after September 30, 1979.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to extend for three fiscal years the programs under section 789 and title XII of the Public Health Service Act relating to emergency medical services and to authorize assistance for poison control and assistance centers."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 3642, was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3642.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO HAVE UNTIL MIDNIGHT, OCTOBER 2, 1979, TO FILE REPORT ON H.R. 5235, TO AMEND UNITED STATES CODE

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight October 2, 1979, to file a report on H.R. 5235, a bill to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for certain health professionals in the uniformed services.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

□ 1650

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1979

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 367 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 367

Resolved, That upon the adoption of this resolution it shall be in order to move, sections 401(a) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2859) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such Act to facilitate the improvement of programs carried out thereunder, to authorize urban volunteer programs, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous quesion shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 2859, the House shall proceed, sections 401(a), 401(b)(1), and 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, to the consideration of the bill S. 239, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 2859 as passed by the House.

The SPEAKER pro tempore. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 367 is the rule providing for the consideration of the bill, H.R. 2859, the Domestic Volunteer Service Act Amendments of 1979. This is an open rule, providing for 1 hour of general debate. It also provides for two technical waivers of points of order against the bill as introduced for failure to comply with the Congressional Budget Act.

First, there is a waiver of section 401(a). This section provides that it shall not be in order to consider a measure containing new contract authority unless the authority is limited to such extent or in such amounts as provided in appropriation acts. Because section 7 of the bill authorizes the Director of ACTION to enter into contracts or cooperative agreements with public agencies and private nonprofit organizations for certain urban volunteer projects without limiting the availability of such contract authority, the bill would be subject to a point of order under section 401(a) of the Budget Act.

The second waiver is for section 402(a) of the Budget Act. This section prohibits consideration of any bill which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless the bill was reported by May 15, preceding the beginning of the fiscal year. Since section 13 of the bill as introduced would authorize appropriations to carry out various urban volunteer programs for fiscal year 1979, and since the bill was not reported on or before May 15, 1978, it would be subject to a point of order under section 402(a) of the Budget Act.

Although this bill as introduced is in violation of these sections of the Budget Act, a committee amendment has cured the Budget Act problems. Thus, the Committee on Rules has granted these waivers so that the bill and the committee amendment may be considered by the House.

The rule provides for the consideration of an amendment in the nature of a substitute recommended by the Committee on Education and Labor as an original bill for the purposes of amendment under the 5-minute rule. The Committee on Rules granted a waiver of clause 5, rule XXI—appropriations in a legislative bill—against consideration of the committee amendment.

Upon conclusion of consideration of the bill, a motion to recommit with or without instructions would be in order.

After passage of H.R. 2859, the rule allows the House to strike all after the enacting clause of the Senate bill, S. 239, and to substitute the language of the House-passed bill. The rule waives points of order against the Senate bill for failure to comply with sections 401(a), 402(b)(1) and 402(a) of the Congressional Budget Act. These waivers are technical in nature to allow consideration of the Senate bill.

Mr. Speaker, the domestic volunteer programs have been operating at fiscal year 1978 levels under a continuous resolution which expires September 30, 1979. H.R. 2859 would reauthorize ACTION for 2 additional years through fiscal year 1981. The bill would provide authorization of appropriations of $42,415,000 for VISTA, service-learning programs, and special volunteer programs for fiscal year 1980 and such sums as may be necessary for fiscal year 1981. Two new urban volunteer programs are authorized by this bill, the Urban Volunteer Corps and the Good Neighbor Fund. An authorization of $12,000,000 is provided for fiscal year 1980 for these programs. H.R. 2859 also contains provisions to limit the VISTA national grants program and lowers the ceiling on national grants from 20 to 18 percent of all VISTA spending.

Mr. Speaker, I would urge my colleagues to adopt House Resolution 367 so that we might proceed to consideration of this bill.

Mr. Speaker, I move the previous question.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. EDWARDS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I am happy to yield to the distinguished vice chairman of the Republican conference, the gentleman from Alabama (Mr. Edwards).

(By unanimous consent Mr. Edwards of Alabama was allowed to proceed out of order.)

LEGISLATIVE PROGRAM FOR THE REMAINDER OF TODAY

Mr. EDWARDS of Alabama. Mr. Speaker, it is 5 o'clock on Friday afternoon, and that does not bother me personally, but I know many people have made plans and there are many others who are sitting here in some doubt as to just exactly what we are about.

We are embarked upon a rather complicated rule leading to a very controversial bill, and it is my information that the ranking member on the Education and Labor Committee is not here. I would like to ask the Speaker if he could advise the House what we might expect for the rest of this afternoon and evening?

The SPEAKER pro tempore. The Chair would inform the gentleman from Alabama that it is hoped shortly to be able to inform the House more specifically of what might be in store for later this day. At this time the conference on the continuing resolution is meeting. The Chair can advise the gentleman that some of the members of that committee from the House have indicated that they are hopeful that some agreement may be reached. But, we hope to be able not too long from now to advise the House of what the prospects for the rest of the day are.

Mr. EDWARDS of Alabama. Mr. Speaker, may I inquire of the Speaker as to whether it is true that the debt limit bill is perhaps going to come up today?

The SPEAKER pro tempore. A message from the Senate, the Chair would inform the gentleman, has come back informing the House that the Senate has agreed to the debt limit bill as passed by the House.

Mr. EDWARDS of Alabama. So there is no further action necessary on that?

The SPEAKER pro tempore. The gentleman is correct.

Mr. EDWARDS of Alabama. May I respectfully request of the Speaker that at least for the time being we agree to take this rule up, but that we be cautious about embarking upon the debate on the bill itself at this hour and without many Members here. It is a very controversial bill.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Illinois.

□ 1700

Mr. SIMON. Mr. Speaker, I was notified about 30 minutes ago that we were going to be taking this up. I specifically inquired about our colleague from Ohio (Mr. Ashbrook), the ranking minority member who has some amendments on the bill. I also contacted my colleague from Wisconsin (Mr. Petri) to let the gentleman from Colorado (Mr. Kramer) know about this. I think I am correct in saying that the rule itself, I believe, is not a matter of controversy; that we can proceed with the rule.

We could proceed with the general debate, but I have an understanding with the people in charge of the House here that we will not move to the point of the final voting; that we will protect the rights of Mr. Ashbrook and any others who have amendments, when the House reconvenes on this. I think that is a correct statement of the situation.

Mr. EDWARDS of Alabama. I wonder if it might be a little more preferable to save some general debate time for the next day that this comes up, rather than using up all the general debate today.

Mr. LOTT. Would the gentleman from Illinois like to respond further to that inquiry? I will be glad to yield to the gentleman from Illinois.

Mr. SIMON. I do not see any great harm done in proceeding with general debate, and I think our colleague from Ohio would agree to that. He can offer amendments and discuss that during the time of amendments. This thing has been pending for some time.

Let me say also that the leadership faces a problem. We are trying to get some business done while we are waiting for the conference report to come back. This has been pending now for 3 weeks. I do not think that we violate the rights of our colleagues in any way if we proceed with the general debate.

Mr. EDWARDS of Alabama. Is it fair to ask if the gentleman has any agreement with the gentleman from Ohio as to what he proposes?

Mr. SIMON. No. As I indicated to the gentleman earlier, the first I knew about this matter was about 30 minutes ago. I learned that it was up, and I inquired about the presence of my colleague from Ohio and worked it out so that we can protect his rights on amendments. I think this would be satisfactory to our colleague from Ohio, although obviously I cannot speak for him.

Mr. LOTT. Mr. Speaker, I yield further to the gentleman from Alabama.

Mr. EDWARDS of Alabama. May I inquire of the Speaker whether there is any time certain this evening beyond which we will not go? Has any agreement been reached in that regard?

The SPEAKER pro tempore. The Chair is not in a position to respond with a specific time.

Mr. EDWARDS of Alabama. The Chair is saying, therefore, no specific time has been set?

The SPEAKER pro tempore. That is correct.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I will be glad to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I am informed by the staff working with Mr. Ashbrook and the other minority Members that they have 85 amendments to the bill, which I think is a substantial number. Therefore, I think it would be a little premature to rush into closing out the full debate. I know my colleague did not suggest that. He suggested finishing only part of that debate time tonight.

But, my concern is, if there are that many amendments to be offered—and my colleague knows very well that Mr. Ashbrook does not enter on amendment ventures without considerable thought, and especially in something as controversial as ACTION is—therefore I would suggest that we carry on only part of the discussion tonight. I know that there are several items of controversy relating to the rule itself. There are three waivers of the budget, which my colleague from California has already explained are not substantial, but they still have an effect on the ultimate legislation.

So, my feeling is that if Mr. ASHBROOK was not notified that this bill would be up today, I would hope that we would do nothing more than complete the rule, because I do not think it would be fair to our colleague and to other members of the committee to complete the action tonight. They have waited as long as the gentleman has to have this bill come up, not have it go by without full discussion. Eighty-five amendments are a substantial number.

Mr. SIMON. If my colleague from Mississippi would yield further——

Mr. LOTT. I would be glad to yield.

Mr. SIMON. I think my colleague from California has really confirmed my argument, that during amendment time our colleague from Ohio will have ample time to discuss this even if we do go ahead with general debate. I am not making a big thing out of it. I think that if our colleague from Ohio were here, he would say that we could go ahead with the general debate.

But, if he has 85 amendments pending, there will be ample time, much more than ample time, for him to discuss anything he wants to discuss in great detail.

Mr. ROUSSELOT. He may want to outline for the benefit of the House what some of those amendments are, and the debate period would be time to do that. I am sure he will. So, all I am saying is that I think we should proceed with caution in moving too aggressively and using up all the debate time.

Mr. SIMON. If the gentleman will yield further, if what we are talking about is not satisfactory and we go ahead with debate, if it is not satisfactory with our colleague from Ohio I will personally ask unanimous consent for additional time for him to outline whatever he wishes to outline, if that is satisfactory to the gentleman from California.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, may I point out to the House that about an hour ago the gentleman from Illinois (Mr. SIMON) expressed his great approval at some peace treaty that was negotiated by the union leaders and the President of the United States. I would suggest that the gentleman from Illinois concentrate on maintaining peaceful relations between himself and the gentleman from Ohio (Mr. ASHBROOK). That is really what the gentleman from California is trying to suggest.

Mr. SIMON. If my colleague from Mississippi will yield one more time, the next ranking member of the committee is my colleague from Illinois (Mr. ERLENBORN). If Mr. ERLENBORN thinks we should not proceed with general debate, that is satisfactory to me. If he thinks it is OK to go ahead. I will abide by his judgment on the matter.

Mr. ERLENBORN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the other gentleman from Illinois.

Mr. ERLENBORN. Mr. Speaker, let me first observe to my colleague from Illinois that it is seldom that I have so much power laid in my hands. But, let me suggest, rather than for me to exercise that, that we have an agreement by unanimous consent to extend the rule, amend the rule and to make the debate time 2 hours rather than 1. Then, we could take our hour tonight, and if Mr. ASHBROOK cares the next time the bill is brought up to use the time, we will have an additional hour under the rule. If he does not care to, the time can be yielded back.

Mr. LOTT. I yield further to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, my colleague from Illinois is a diplomat. He should be Secretary of State. If that is acceptable to the Parliamentarian, it is acceptable to me.

The SPEAKER pro tempore. The gentleman from California (Mr. BEILENSON) would have to make that in the form of a unanimous-consent request if he indeed wishes to agree to the suggestion made by the gentleman from Illinois (Mr. ERLENBORN).

Mr. LOTT. Mr. Speaker, while that is being further considered I think it may be would be appropriate to go ahead and continue to discuss this rule, since we do have some time remaining. At the conclusion of debate I think would probably be the appropriate time for the gentleman from California to make such a motion if he so desires.

Mr. Speaker, we have sort of stumbled along here this afternoon. I think Members are trying to be cooperative, realizing that we have a very important conference going on, and we want to continue doing that. But, I want to emphasize, as has already been emphasized, that this is not a totally noncontroversial rule, not to mention the bill.

I was very disappointed to see it brought up the way it was. Like the gentleman from Illinois said, he has had very short notice. I know the leadership is trying to keep us going while we wait on this important report, but again I want to caution us to take a look at this rule and the bill. We do not want to move too far in the debate, and I think the gentleman from Illinois has been very patient in trying to work that out.

Mr. Speaker, this rule does waive section 401(a) of the Budget Act and section 402(a) of the Budget Act. It waives clause 5, rule XXI.

☐ 1710

It also, after the passage, makes in order the consideration of S. 239 and waives section 401(a) and 402(a) and 401(B) (1), the entitlement authority of the Budget Act. So in effect there are five Budget Act waivers here. It provides for an appropriation in a legislative bill. It is, of course, a 1-hour open rule. It is not totally noncontroversial. There are an awful lot of waivers in this rule, and I think we should be aware of that.

In addition, the bill itself adds a couple of new programs: The Urban Volunteer Corps and the good neighbor fund. The good neighbor fund—I do not know what that is unless you pay people to be friendly or neighborly, or something, but it provides up to $15,000 in grants to assist neighborhoods in urban areas by reimbursing the out-of-pocket expenses of volunteers working on the neighborhood betterment projects, and there is a long list of things here.

This whole program has been one that has created a lot of problems. And I am glad to see the gentleman enjoying these remarks, and I will be glad to continue as long as it is necessary here before we start voting.

One other thing I would like to point out to the Members is there is a pretty good-sized authorization in this bill, authorization of appropriations, for VISTA, service learning programs, and special volunteer programs, $42,415,000 for fiscal year 1980, and such sums for fiscal year 1981. So I again want to emphasize that while the rule is a 1-hour open rule, it raises many points, and the bill itself is very controversial. I hope we will not go too far here this afternoon.

Mr. Speaker, I do not have any further requests for time at this time on the rule.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I will be glad to yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding.

I have just had some discussion with our colleague on the Committee on Rules, and if I may have the attention of my colleague, the gentleman from Illinois, also, if we proceed with the rule and just hold off general debate until our colleague, the gentleman from Ohio, gets back, is that satisfactory?

Mr. ERLENBORN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

That certainly is satisfactory with me. The only reason for my suggestion I made earlier is that I understood that this was the business that might keep the House in session until we heard from the conference committee, and that is why I suggested that. But I would be perfectly satisfied with the adoption of the rule today and then put off further consideration of the bill until after the recess.

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, we will absorb just a little bit more time—as long as we have the time—and carry on a small educational process here about what this domestic volunteer program is all about. It is series of volunteer programs that some of us have had a chance to observe and does an infinite amount of good for a very small amount of money. Let me just give the Members a couple of examples of the kinds of things in addition to the cost of grandparents and other things.

I had a chance to visit in Cincinnati where I visited in an inner city area where executives from Taft Broadcasting and Procter & Gamble were coming into an inner city area working with people there who were trying to set up small businesses, helping them in their businesses, but in the process learning what the inner city is all about. Both sides benefited, and it is that kind of thing that I think enriches everyone and pulls our society together. Our colleague, the gentleman from Minnesota (Mr. ERDAHL), a new Member of this Congress, joined me in going to New York City where we saw in the Bronx in the district of the gentleman from New York (Mr. GARCIA) some excellent programs, where we saw "Adopt a Building" programs, where people were taking buildings that were collapsing and going in with virtually no funds, learning a trade, rebuilding a building, doing some very constructive things.

Let me point out one other thing that I think many of our colleagues are not aware of, and that is there are no ACTION funds approved in any State without the approval of the Governor of that State.

Mr. Speaker, I hope we will approve the rule. I hope later we will positively act on this measure.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. LOTT. Mr. Speaker, I yield back the remainder of my time.

Mr. BEILENSON. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced the ayes appeared to have it.

Mr. ERLENBORN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 16, nays 235, not voting 182, as follows:

[Roll No. 527]

YEAS—16

Andrews, N.C.
Bennett
Brown, Calif.
Burton, Phillip
Deckard
Evans, Ind.
Hawkins
Hutto
Jones, N.C.
Mattox
Patten
Pease
Roth
Swift
Vanik
Wirth

NAYS—235

Akaka
Ambro
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bethune
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brooks
Broyhill
Buchanan
Burgener
Burlison
Butler
Carney
Clausen
Clay
Clinger
Coelho
Coleman
Conte
Corcoran
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Derrick
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fazio
Fenwick
Findley
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Gaydos
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Guarini
Gudger
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harkin
Harris
Hefner
Heftel
Hightower
Howard
Hubbard
Hughes
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Long, La.
Long, Md.
Lott
Lowry
Luken
Lungren
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Martin
Matsui
Mavroules
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
Oberstar
Obey
Ottinger
Panetta
Paul
Pepper
Perkins
Petri
Price
Pritchard
Rahall
Rangel
Ratchford
Regula
Richmond
Ritter
Robinson
Rousselot
Roybal
Royer
Runnels
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Slack
Smith, Nebr.
Snowe
Solomon
Spellman
Spence
Stack
Staggers
Stenholm
Stewart
Stockman
Stump
Synar
Tauke
Taylor
Thompson
Trible
Van Deerlin
Vander Jagt
Volkmer
Walker
Wamper
Watkins
Weiss
White
Whitley
Whittaker
Whitten
Wilson, Tex.
Wright
Wyatt
Yatron
Young, Alaska
Young, Fla.
Zablocki

NOT VOTING—182

Abdnor
Addabbo
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Ashbrook
Ashley
AuCoin
Barnard
Bauman
Beard, Tenn.
Bereuter
Bevill
Biaggi
Bolling
Bouquard
Breaux
Brodhead
Broomfield
Brown, Ohio
Burton, John
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Cleveland
Collins, Ill.
Collins, Tex.
Conable
Conyers
Corman
Cotter
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Devine
Dickinson
Diggs
Dodd
Downey
Emery
Erdahl
Fascell
Ferraro
Fish
Fithian
Flippo
Flood
Fuqua
Garcia
Gephardt
Giaimo
Gingrich
Goldwater
Goodling
Green
Grisham
Guyer
Hall, Ohio
Hamilton
Hance
Hanley
Harsha
Heckler
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Huckaby
Hyde
Ichord
Ireland
Johnson, Calif.
Johnson, Colo.
Kemp
Kindness
Kramer
LaFalce
Latta
Lent
Livingston
Lloyd
Loeffler
Lujan
Lundine
McClory
McCloskey
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Mazzoli
Miller, Calif.
Minish
Mitchell, N.Y.
Moffett
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Pashayan
Patterson
Peyser
Pickle
Preyer
Pursell
Quayle
Quillen
Railsback
Reuss
Rhodes
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rudd
Russo
Santini
Schulze
Sebelius
Seiberling
Shuster
Skelton
Smith, Iowa
Snyder
Solarz
St Germain
Stangeland
Stanton
Stark
Steed
Stokes
Stratton
Studds
Symms
Thomas
Traxler
Treen
Udall
Ullman
Vento
Walgren
Waxman
Weaver
Whitehurst
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Wolpe
Wydler
Wylie
Yates
Young, Mo.
Zeferetti

□ 1730

Messrs. SOLOMON, BUCHANAN, DINGELL, and EDWARDS of California changed their votes from "yea" to "nay."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LOTT

Mr. LOTT. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. LOTT: On page 2, line 10, of H. Res. 367 strike the words "one hour" and insert the words "two hours".

The SPEAKER pro tempore (Mr. HIGHTOWER). The gentleman from Mississippi (Mr. LOTT) is recognized for 1 hour.

Mr. LOTT. Mr. Speaker, if I could take just a couple minutes to explain what has happened, we did just defeat the previous question because of a discussion and an agreement that was reached through the consideration of the gentleman from Illinois (Mr. SIMON), the gentleman from California (Mr. BEILENSON) and the gentleman who is the ranking member of the Committee on Education and Labor, the gentleman from Illinois (Mr. ERLENBORN) that we would change the rule to extend from 1 hour to 2 hours the time we allowed for general debate.

My understanding is that so we can go ahead now if it is decided by the leadership and take up 1 hour of debate today and at some future time after the resolution when the gentleman from Ohio (Mr. ASHBROOK) is here, we can take up the other hour if it is needed or necessary if the gentleman from Ohio would like to have that time. That is why we have done this. That is why we are here.

We are going to move the previous question on the amendment and the resolution and I presume after that we would have a vote on the rule.

Mr. BEILENSON. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I would be happy to yield to the gentleman.

Mr. BEILENSON. Mr. Speaker, I

would like to support the gentleman's request on the amendment as proffered by the gentleman.

Mr. LOTT. Mr. Speaker, I move the previous question on the amendment.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Mississippi (Mr. LOTT).

The amendment was agreed to.

Mr. LOTT. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of Oklahoma. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 15, not voting 182, as follows:

[Roll No. 528]

AYES—236

Akaka
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
Badham
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brooks
Buchanan
Burgener
Burlison
Butler
Carney
Clausen
Clay
Clinger
Coelho
Coleman
Conte
Corcoran
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Deckard
Derrick
Dicks
Dingell
Dixon
Donnelly
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Findley
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Gaydos
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Guarini
Gudger
Hagedorn
Hall, Tex.
Hammerschmidt
Harkin
Harris
Hawkins
Hefner
Hightower
Howard
Hubbard
Hughes
Hutto
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lungren
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nichols
Oberstar
Obey
Ottinger
Panetta
Patten
Paul
Pease
Pepper
Perkins
Petri
Preyer
Price
Pritchard
Rahall
Rangel
Ratchford
Regula
Richmond
Ritter
Robinson
Roth
Rousselot
Roybal
Royer
Runnels
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Shannon
Sharp
Shelby
Shumway
Simon
Slack
Smith, Nebr.
Snowe
Solomon
Spellman
Spence
Staggers
Stenholm
Stewart
Stockman
Stump
Swift
Synar
Thompson
Trible
Ullman
Van Deerlin
Vanik
Volkmer
Wampler
Watkins
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wright
Wyatt
Yatron
Young, Alaska
Young, Fla.
Zablocki

NOES—15

Bafalis
Brown, Calif.
Broyhill
Derwinski
Dornan
Fenwick
Grassley
Hansen
Lott
Martin
Myers, Ind.
Sensenbrenner
Tauke
Taylor
Walker

NOT VOTING—182

Abdnor
Addabbo
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Ashbrook
Ashley
AuCoin
Barnard
Bauman
Beard, Tenn.
Bereuter
Bevill
Biaggi
Bolling
Bouquard
Breaux
Brodhead
Broomfield
Brown, Ohio
Burton, John
Burton, Phillip
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Cleveland
Collins, Ill.
Collins, Tex.
Conable
Conyers
Corman
Cotter
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Devine
Dickinson
Diggs
Dodd
Downey
Emery
Erdahl
Fascell
Ferraro
Fish
Fithian
Flippo
Flood
Fuqua
Garcia
Gephardt
Giaimo
Gingrich
Goldwater
Goodling
Green
Grisham
Guyer
Hall, Ohio
Hamilton
Hance
Hanley
Harsha
Heckler
Heftel
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Huckaby
Hyde
Ichord
Ireland
Johnson, Calif.
Johnson, Colo.
Kemp
Kindness
Kramer
LaFalce
Latta
Lent
Livingston
Lloyd
Loeffler
Lundine
McClory
McCloskey
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Mazzoli
Miller, Calif.
Minish
Mitchell, N.Y.
Moffett
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Pashayan
Patterson
Peyser
Pickle
Pursell
Quayle
Quillen
Railsback
Reuss
Rhodes
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rudd
Russo
Santini
Schulze
Sebelius
Seiberling
Shuster
Skelton
Smith, Iowa
Snyder
Solarz
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stokes
Stratton
Studds
Symms
Thomas
Traxler
Treen
Udall
Vander Jagt
Vento
Walgren
Waxman
Weaver
Whitehurst
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Wolpe
Wydler
Wylie
Yates
Young, Mo.
Zeferetti

□ 1750

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. SIMON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2859) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, to authorize urban volunteer programs, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. SIMON).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of Oklahoma. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 214, noes 28, not voting 191, as follows:

[Rollcall No. 529]

AYES—214

Akaka
Andrews, N.C.
Annunzio
Anthony
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bowen
Brademas
Brinkley
Brooks
Buchanan
Burgener
Burlison
Burton, Phillip
Carney
Clausen
Clay
Clinger
Coelho
Coleman
Conte
Corcoran
Courter
Daniel, Dan
Danielson
Dannemeyer
Daschle
Derrick
Dicks
Dingell
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Findley
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Gaydos
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gray
Guarini
Gudger
Hagedorn
Hall, Tex.
Harkin
Harris
Hawkins
Hefner
Hightower
Howard
Hubbard
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Matsui
Mattox
Mavroules
Mica
Mikulski
Miller, Ohio
Mineta
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nichols
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Pepper
Perkins
Petri
Preyer
Price
Pritchard
Rahall
Rangel
Ratchford
Regula
Richmond
Ritter
Roth
Roybal
Royer
Sabo
Sawyer
Scheuer
Schroeder
Shannon
Sharp
Shelby
Simon
Smith, Nebr.
Snowe
Spellman
Spence
Staggers
Stenholm
Stewart
Stratton
Stump
Swift
Synar
Tauke
Thompson
Trible
Ullman
Van Deerlin
Vanik
Volkmer
Wampler
Watkins
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wright
Wyatt
Yates
Yatron
Young, Alaska
Zablocki

NOES—28

Andrews, N. Dak.
Archer
Brown, Calif.
Broyhill
Butler
Daniel, R. W.
Derwinski
Edwards, Okla.
Forsythe
Frenzel
Gramm
Grassley
Hammerschmidt
Hansen
Jeffries
Lagomarsino
Martin
Michel
Myers, Ind.
Paul
Robinson
Rousselot
Runnels
Satterfield
Sensenbrenner
Shumway
Solomon
Walker

NOT VOTING—191

Abdnor
Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Applegate
Ashbrook
Ashley
AuCoin
Barnard
Bauman
Beard, Tenn.
Bereuter
Bevill
Biaggi
Bolling
Bonker
Bouquard
Breaux
Brodhead
Broomfield
Brown, Ohio
Burton, John
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Cleveland
Collins, Ill.
Collins, Tex.
Conable
Conyers
Corman
Cotter
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Devine
Dickinson
Diggs
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Emery
Erdahl
Fascell
Ferraro
Fish
Fithian
Flippo
Flood
Fuqua
Garcia
Gephardt
Giaimo
Gingrich
Goldwater
Goodling
Green
Grisham
Guyer
Hall, Ohio
Hamilton
Hance
Hanley
Harsha
Heckler
Heftel
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Huckaby
Hyde
Ichord
Ireland
Johnson, Calif.
Johnson, Colo.
Kemp
Kindness
Kramer
LaFalce
Latta
Lent
Livingston
Lloyd
Loeffler
Lundine
McClory
McCloskey
McEwen
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Mazzoli
Miller, Calif.
Minish
Mitchell, N.Y.
Moffett
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Pashayan
Patterson
Peyser
Pickle
Pursell
Quayle
Quillen
Railsback
Reuss
Rhodes
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rudd
Russo
Santini
Schulze
Sebelius
Seiberling
Shuster
Skelton
Slack
Smith, Iowa
Snyder
Solarz
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stockman
Stokes
Studds
Symms
Taylor
Thomas
Traxler
Treen
Udall
Vander Jagt
Vento
Walgren
Waxman
Weaver
Whitehurst
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Wolpe
Wydler
Wylie
Young, Fla.
Young, Mo.
Zeferetti

☐ 1800

So the motion was agreed to.

The result of the vote was announced as above recorded.

☐ 1810

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2859, with Mr. DAN DANIEL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois (Mr. SIMON) will be recognized for 1 hour, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 1 hour.

The Chair recognizes the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, over a century ago this Nation had a visitor from France by the name of de Tocqueville who said we are a nation that is run by volunteers and not by government. To some extent that is true. As we visit other nations and get acquainted with other cultures there is probably no nation that has as many PTA's and voluntary organizations as the United States.

Here we have in the bill that is up for consideration at this point our domestic volunteer program, the counterpart domestically of our Peace Corps abroad. That measure I think is one that we can be proud of.

Candidly, when I became chairman of this select subcommittee, succeeding our colleague from Indiana (Mr. BRADEMAS), I had some questions about how this was operated, particularly in view of the criticisms that had been made by a study by the House Appropriations Committee staff. We have had lengthy hearings. We had 7 days of hearings on this. We had 62 witnesses. We spent 40 hours on witnesses including 18 witnesses requested by the minority.

I do not think anyone can suggest that we did not take a good, thorough look at what this program is and what it has done.

I also took the opportunity to visit some of the places where programs are in action, and I can tell my colleagues beyond any question it is exciting to see not only what is done but the mix. One of the things we need in our society is a greater mix of people.

I mentioned earlier during the discussion of the rule, executives going into the inner city, people in the inner city having contact with executives, people who were volunteers under these programs who live in the suburbs of New Jersey, or California, or Illinois going into inner city areas in the Bronx of New York or wherever it might be. It is exciting not only seeing what is happening physically, but to see what is happening to people in the process. It is good and it is a program that we can be proud of.

During the course of our hearings in the subcommittee 11 minority amendments were accepted, and in the full committee 2 minority amendments were accepted.

I think the bill, as it emerged, is a much tighter bill. There were some mistakes that were made in the past in the administration of the program, not as horrendous as I think a great many thought, but I think we have set the course, charged it in the right direction.

Finally, Mr. Chairman, let me insert in the RECORD a list of organizations that are supporting the passage of H.R. 2859. It includes everything from the National Urban League, the National Conference of Catholic Charities, the League of Cities, the United Way of America and I could go on. There are probably 40 or so organizations mentioned here. I will insert that in the RECORD at this time.

National Urban League.
U.S. Conference of Black Mayors.
National Conference of Catholic Charities.
National Council of LaRaza.
League of Cities.
National Retired Teachers Assn./American Assn. of Retired Persons.
Center for Political Studies.
The League of Women Voters.
National Council of Senior Citizens.
National Council of Negro Women.
Anti-Defamation League of B'nai B'rith.
Americans for Democratic Action.
Conference of Mayors.
Leadership Conference on Civil Rights.
Center for Community Change.
Volunteer: National Center for Citizens Involvement.
The American Jewish Committee.
National Assn. of Social Workers.
Campaign for Human Development.
The Urban Elderly Coalition.
Institute for Local Self-Reliance.
National Assn. of Neighborhoods.
The National Council of Churches.
The Mexican/American Legal Defense Fund.
National Urban Fellows, Inc.
National Center for Urban and Ethnic Affairs.
Congress of American Indians.
Americans for Indian Opportunity.
National League of Cities.
United Auto Workers.
Machinist Union.
AFSCME.
National Board of YMCAs.
Young Lawyers Division of the American Bar Assn.
United Way of America.

I believe on balance the program is a solid one. I would hope also, if I can add one other word, I would hope, as I understand the feelings of some people here, I would hope we would vote on the basis of the program and not personalities. I say that with all due respect to everyone.

This is a program and the volunteer spirit in America ought to be encouraged. It is a good, substantial, solid program and it deserves our support.

Mr. ERLENBORN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, we hear our own constituents and people across this country demanding an end to inflation, and as a means to achieve that end demanding that the Congress get control over our national budget and eliminate the deficit. That is why I cannot understand this proposal at this time to add a new spending program, and particularly one for which there is no good justification and which duplicates existing Federal programs.

I am astonished that the Carter administration would send up this request at this time. The President has proposed cuts in basic, ongoing, proven programs which benefit millions of people, in programs and services which come under the jurisdiction of the Education and Labor Committee. The President has proposed cuts in fiscal year 1980 in adult education, aid for federally impacted schools, programs for the handicapped, higher education, vocational education, public libraries, child care, vocational rehabilitation, the Office for Civil Rights, the school lunch program, community service programs and comprehensive employment and training programs. These are real dollar cuts even on top of those cuts that are caused by the loss of purchasing power through inflation.

Last year before the election, when all of the grand statements were being made by the President and Members of the Congress about budget cutting and saving the taxpayers dollars, a proposal to create a new $40 million urban volunteer program was made by the administration. It was approved by the Education and Labor Committee without one day of hearings. We doubt that either our Members or staff understood what the program would do or how it would work. It was obvious in the hearings that the director of ACTION and his staff had no idea what the program would do or how it would work.

It was known that ACTION intended to use 28 percent of the $40 million to cover administrative and overhead costs and in the process to hire 270 new employees to administer the program. The administration's proposal was so bad that the chairman of the subcommittee which had jurisdiction last year described it by saying "I feel it," that is the urban volunteer program, "I feel it will become another small, virtually useless bureaucracy."

Because the urban volunteer proposal and the circumstances surrounding it last year were so controversial, the legislation reauthorizing the ACTION agency, which included the proposal, never even reached the floor.

The administration appears to learn nothing from its mistakes since they have again made almost the identical proposal, even against the background of a far more precarious budget situation and a frightening increase in the rate of inflation. They did, however, reduce the budget from $40 million to $30 million in new spending authorizations and the number of proposed new employees from 270 to 89.

□ 1820

This year hearings were held, but it is still not clear what the proposed Urban Volunteer programs will actually do. What is clear is that the majority on our committee strongly feel that the American people really want and need a brand-new Federal program and increased Federal spending. In fairness to our colleagues on the committee, however, they indicated some concern about increasing Federal spending because in place of the $30 million in new spending requested by the President, they would authorize only $12 million for the first year and an open-ended "such sums as may be necessary" for the second. I presume that means $12 million in the bare bones start-up cost and then "Katy bar the door" in the future.

They project that funding for the second year will be at least $12.8 million, and I guess we should understand that is a bottom figure, not a lid—not a cap.

The second program is called the Good Neighbor Fund, and it is harder to explain.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. ERLENBORN. Mr. Chairman, I yield myself 3 additional minutes.

This Good Neighbor Fund would give grants to any nonprofit organization not to exceeed $15,000. The bill requires that 80 percent of the grants not exceed $5,000. This means that if you meet with two, three, or four of your neighbors, and presumably agree that you are all good neighbors, and you incorporate and you say that you want to put together some volunteer effort to reverse the deterioration of, and improve the quality of life of your neighborhood, your group can apply to ACTION and pick up somewhere between $5,000 and $15,000.

Now, I confess to having entertained the thought that these grants would have considerable political value in that several thousand $5,000 grants in the right neighborhoods at the right time—like next year, an election year—might help to stimulate some interesting volunteer efforts. Aside from questioning the value of such grants and improving the conditions of the poor, I wonder if our colleagues have considered the danger of placing so much power, with so much potential for abuse, in the hands of the Director of ACTION, whether he be the current incumbent Director or someone else.

One of the programs that has become very controversial is the so-called national grants program. We believe some background information is necessary so that Members can better understand why many of us on the committee feel it is necessary that we make some changes. Under the authority of section 108 of the present act, the Director may spend up to 20 percent of the money appropriated for VISTA on grants. From the inception of VISTA in 1964, funds had always been given by a standard memo of agreement between the agency and the local sponsor. In 1975, when the Congress was considering the extension of the 1973 act, the agency proposed to the Congress that VISTA be given unlimited grant authority in the law.

The Senate resisted this approach because it was feared that VISTA would become a block grant program. As a compromise, the Congress allowed that 20 percent of the VISTA money could be used for grants or contracts.

Beginning in about 1976, money was allocated to regional offices and given out through grants within the regions for particular programs. Toward the end of the third quarter of 1977 the Director of VISTA discovered that not all regions were spending the money available to them. So, as an opportunity to recapture those funds and use them, they established what they called "New Direction."

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. ERLENBORN. Mr. Chairman, I yield myself 2 additional minutes.

The Director initiated what he called the national grants program. Several national grants became extremely controversial because they were given to political activist organizations.

Last year charges were made, and the Appropriations Committee directed its nonpartisan investigative staff to conduct an investigation of the national grants program. The Appropriation Committee released its final report on April 5 of this year, and documented those findings on several of the national grants. The Appropriations Committee suggested that the Congress consider the following legislative matters concerning the national grants program:

Prohibit further use of VISTA funds for national grants based on the findings of the Appropriations Committee;

Reviewing in depth the legislative history of the VISTA program and redefine congressional intent with respect to program directions and volunteer activities.

It ought to be clearly pointed out that the Select Education Subcommittee, although it heard 2 days of hearings, barely touched the surface of the problems, but the recommendations by the Appropriations Committee are based on an extensive 7-month investigation.

But, I must also point out that the so-called national grants are not essential to the services or function of VISTA or the ACTION Agency, and their elimination will not cause any program disruptions.

Mr. Chairman, in addition to these things that I have called to the attention of the House, I think that there are good reasons to consider the necessity for even continuing ACTION as an agency. Mr. Chairman, I was on the Government Operations Committee and ranking minority member on the Reorganization Subcommittee at the time the creation of ACTION was recommended, and I supported its creation. I have watched what ACTION has done, particularly under the stewardship of the present Director. I think that, having experienced what this agency has done, the conclusion now that most of us can reach is that it would be better to put the existing programs into other existing agencies that have like programs. It would be a consolidation; it would save money. It would aid in the proper administration of the programs. The Agency known as ACTION could be abolished.

Mr. SIMON. Mr. Chairman, I yield 3 minutes to my colleague the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Chairman, may I first commend the chairman of the Subcommittee on Select Education for the manner in which these hearings have been conducted on this agency known as ACTION. I think, under the able leadership of the gentleman from Illinois (Mr. SIMON), many of the allegations made against the agency have been proven to be unfounded. I think the establishment of this agency as being monitored by this subcommittee has proved, I think, to be worthwhile.

As to the question of the fiscal aspect of it, I think that it should be remembered that last year this agency had something like $57 million. For this year $69 million was requested. The subcommittee has cut that back to $54 million. I think, therefore, that any charge of excessive spending at the authorizing level is certainly unfounded.

It should be remembered, I think, that this constant charge of spending on various programs should be viewed in the light of what the spending is all about. It is true that there is such a thing as excessive spending. I think the spending in this instance should be looked upon as a good investment, however. Some of my friends who constantly bring up the issue of spending should simply, I think, discuss those not so much as the amount that is being expended, but what the spending is all about.

☐ 1830

If we look back in history, I think that they would have opposed the Louisiana Purchase, and our borders probably would still be east of the Mississippi. The canal over which we fight so much, the Panama Canal, that ditch on which we spend money, they would not even have had the canal to discuss today. We would not have had a synthetic rubber industry arising out of World War II which also necessitated spending. We would not have had the Manhattan project for the development of nuclear energy if they had had their way. And might even have lost the war because they would not have wanted to spend.

I think that if they had only seen, as some of us were privileged to see, some of the projects which have been developed under ACTION, perhaps they would appreciate the fact that there are hundreds of thousands of individuals from all walks of life who are participating as volunteers in this program. I think that it is a revelation to see senior citizens, lawyers from the private sector, Boy Scouts, people from the Red Cross, retired teachers, and others devoting their time to a public service at no expense at all to us. Through their combined efforts we have been able to get private industry, therefore, to contribute to these activities money that does not cost us anything. We have had local contributions from other levels of Government that we would not have had if it had not been for ACTION. We would not have had this tremendous amount of volunteer effort around the country. In many instances it has been a revelation to see young people contribute their efforts in projects for which they receive no stipends, but they were simply doing it to get the experience. We have seen retired business executives involved in technical assistance to struggling small businesses merely out of the goodness of their hearts in order that they may make a contribution. I think that this is a good investment both from a strict financial point of view and from the human point of view. I would certainly hope that we back up the work of this subcommittee on select education in the continuation of this program at its current level.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Chairman, at a time when we are arguing over spending limitations and inflation it would seem to me that any prudent and responsible Member would evaluate the merits of any new proposal and determine very simply: First, whether it is needed; and second, more importantly, whether the service already exists.

In the case of the new urban volunteer program the services already do exist and are already in place. In an effort to determine whether any of the services under this new provision could be provided now I had my staff check out the volunteer services available in the Washington, D.C., metropolitan area. In the area volunteers are coordinated by the Volunteer Clearinghouse of the District of Columbia, Arlington Department of Human Resources, Alexandria Department of Social Services, Fairfax Voluntary Action Center, Montgomery County Volunteer Bureau, and the Prince Georges Voluntary Action Center. Each organization provides services and volunteers. The Volunteer Clearinghouse of the District of Columbia serves approximately 270 nonprofit agencies in the District of Columbia alone which need help in recruiting volunteers. The organizations include schools, libraries, hospitals, handicapped organizations, counseling services, senior citizen centers, museums, day care centers, and many others. The organizations must meet certain agency standards as set forth by the clearinghouse. The clearinghouse processes about 125 to 150 new volunteers each month. The volunteer services include delivery of meals, research, counseling for problems ranging from juvenile delinquency and runaway children to food stamps, legal services for the elderly, and the need for interpreters, drivers, aides for the handicapped, typists, and so forth. HEW thinks so much of this organization that it printed 40,000 brochures and posters for them.

Mr. Chairman, I insert at this point in the RECORD several information sheets on the clearinghouse so Members may see for themselves the services that are provided.

The information is as follows:

THE VOLUNTEER CLEARINGHOUSE
OF THE DISTRICT OF COLUMBIA,
Washington, D.C., June 1979.

BACKGROUND INFORMATION

The Volunteer Clearinghouse is the only agency in the District which matches the needs of non-profit agencies for volunteers with the skills and interests of volunteer candidates. It also promotes participation in voluntarism through general publicity and by making volunteer jobs more accessible to specific groups.

The Clearinghouse was established in March 1976 by an Ad Hoc Committee of the Volunteer Resource Conference, a group of 450 volunteer coordinators in the Washington Metropolitan Area. They felt an urgent need for a centralized agency in the District which could help them recruit volunteers. During its first year the Clearinghouse operated 15 hours a week on a wholly volunteer basis. Funding from the Morris and Gwendolyn Cafritz Foundation enabled us to go on a full time basis in July 1977 with two paid employees and nine volunteers .

The Clearinghouse now finds itself serving the needs of all elements in the District—

The non profit agencies which need help in recruiting volunteers,

Citizens who need help in finding a volunteer job which will make effective use of their skills and interests,

Civic minded organizations seeking group volunteer projects,

The District's school system which needs help in finding volunteers for city wide school programs,

High school and college students looking for volunteer activities for self development or career exploration,

Business firms interested in assisting their employees to find satisfying volunteer jobs,

Government workers who need help in finding after hours and weekend volunteer work, and

Probationers and those who are recovering from mental illnesses for whom a volunteer commitment is a way of working themselves back into the main stream.

In addition to the Cafritz Foundation, funding has been received from the Agnes and Eugene Meyer Foundation, the Junior League, from local businesses and national corporations and from interested individuals. More than half of our budget is in donated space, equipment, or the services of volunteers.

We have been accredited for membership in the National Center for Voluntary Action and the Association of Volunteer Bureaus. As of July 1, 1978, we became a member agency of the United Way.

STATISTICAL REPORT—JULY 1, 1978
THROUGH JUNE 30, 1979

Individual volunteers referred to requesting agencies

New volunteers	1,468
Reassignments	216
Total interviews	1,684

Background of new volunteers

Sex	
Male	412
Female	1,056
Residence	
NW	658
NE	223
SW	38
SE	201
District of Columbia total	1,120
Maryland	222
Virginia	119
Others	7
Age	
12–14	18
14–19	336
20–29	655
30–39	232
40–49	101
50–59	67
60 & over	54
Unknown	5
Education	
6th–9th grade	92
In or completed high school	441
Some college or business school	432
B.A. or B.S.	368
M.A or other advanced degree	133
Unknown	2
Occupation	
Employed	738
Full time student	399
Retired	62
Unemployed	194
Housewife	75
Volunteer experience	
Yes	847
No	621
Ethnic distribution	
Black	736
Caucasian	685
Hispanic	34
Oriental	12
American Indian	1

Groups registered—Groups vary from 4 to 200 individuals. There are 16 groups.

Recorded inquiries—1,937.

PROGRAMS

Accountants for the Public Interest: AFS International—Intercultural Program; ACTION; Alcohol and Drug Problem Association of North America; Alexander Graham Bell Association; American Cancer Society; American Coalition of Citizens with Disabilities; American Heart Association; American Institute of Architects Foundation; American League of Anglers; American Red Cross, D.C. Chapter; American Red Cross, S.E. Center; American Rivers Conservation Council; Americans for Salt; Anacostia Neighborhood Museum—Smithsonian Institution; Anchor Mental Health Association; Anchor House; Anderson House Museum of the Society of Cincinnati; Andromedice Society; Archdiocesan Adult Education Program—Office of Social Development Arena Stage; Associated Catholic Charities; Automobile Owners Action Council.

Back Alley Theatre, Inc.; Baptist Home of the District of Columbia; Barney Senior Citizens Center; Barrett School; Florence Crittenden; Big Brothers of the National Capital Area, Inc.; Big Sisters of the Washington Metropolitan Area; B'nai B'rith; B'nai B'rith Museum; Boys and Girls Clubs of Greater Washington; Boy Scouts of America; Bread for the City; Bureau for Blind and Visually Handicapped—HEW; Bureau of Rehabilitation.

Call for Action, Inc.; Cancer Communications for Metropolitan Washington; Capital City Hospital (Rogers Memorial); Capital Head Start, Inc.; Capitol Children's Museum (formerly Ctr. for Inquiry & Discovery); Capitol East Children's Center; Catholic Charities Day Care Center (Elderly); Center for Environment, Education and Research; Center for Inquiry & Discovery (See Capitol Children's Museum); Center for the Administration of Justice, American University; Children's Hospital; Children's House Day Care Center; City Hall Complaint Center; Columbia Heights Youth Club; Columbia Hospital for Women; Columbia Lighthouse for the Blind; Columbia Senior Center; Commission for the Advancement of Public Interest; Common Cause; Community Health & Hospital Administration—D.H.R.; Community Research and Development Co.—Childevelop Ctr.; Concern, Inc.; Consumer Federation of America; Cultural Alliance of Greater Washington.

D.C. Citizens for Better Public Education; D.C. Commission on the Status of Women; D.C. Council on Clothing for Kids, Inc.; D.C. Department of Corrections; D.C. General Hospital; D.C. Hotline; D.C. Lung Association; D.C. Office of Consumer Protection; D.C. Public Schools; D.C. Reading is Fundamental; D.C. Village—D.C. Dept. of Human Resources; D.C. Women's Commission for Crime Prevention; Department of Labor; Department of Recreation, D.C.; Disability Rights Center; Downtown Clusters Geriatric Day Care Center.

Emergency Assistance Committee; Emmaus Community; Emmaus Fellowship Senior Citizens Project; Environmental Action; Epilepsy Foundation of America; Episcopal Diocese of Washington—Title VII Nutrition Programs; Experiment in International Living.

FACT—Hotline; Family and Medical Counseling Service, Inc.; Family and Child Services; Federal Employee's Learning Center; Fellowship Foundation/Urban Ministry; FLOC—For Love of Children; Folger Theatre Group; Foreign Student Service Council; Forest Haven Children's Center—DHR; Friendly Seniors; Friends of Forest Haven; Friends of the National Zoo; Friends of the Superior Court.

Gala Hispanic Theatre; Gallaudet College; Visitors Center; Georgetown Children's House; Georgetown University Hospital; George Washington University Reading Center; Girl Scout Council of the Nation's Capital; Gordon Education Center; Green Door; Gray Panthers of Metropolitan Washington; Greater Southeast Community Hospital.

Halfway-Houses—Bureau of Rehabilitation; Health Research Group; Hospital for Sick Children; House of Ruth; Humane Society.

Institute for the Arts of the Archdiocese of Washington; Institute for Local Self-Reliance; Institute for Urban Affairs and Research, Howard University; Interested S.E. Parents Association; IVIS—International Visitors Information Center; IONA House Community Service Center.

JACS—Joint Action in Community Service; Jaycees, D.C.; Jewish Family Agency; Junior Citizens Corps.

Karen Silkwood Fund; Key Day Care Center; Kidney Foundation of the National Capital Area, Inc.

Labor Relations Division—DHR; Laos, Inc.; Legal Counsel for the Elderly; Leukemia Society of America, Inc.; Literacy Action of Washington, D.C., Inc.; Logan Community School; Lutheran Social Services.

Mental Health Administration—DHR; Mental Health Center, Area A—DHR; Mental Health Center, Area B—DHR (Adams Mill Alcoholism Clinic); Mental Health Center, Area C—DHR; Methodist Home of the District of Columbia; Metropolitan Ecumenical Training Center; Metropolitan Washington Planning & Housing Association; Military Audit Project; Model Cities Senior Center; Museum of African Art; Museum of Natural History, Smithsonian.

Narcotics Treatment Administration—DHR; National Advisory Council on Vocational Education; National Archives—Docent Program; National Center on Black Aged, Inc.; National Center for Public Service Internship Programs; National Center for Voluntary Action; National Child Day Care Association; National Children's Center; National Citizens Committee on Broadcasting; National Council on Crime; National Council to Control Handguns; National Eye Foundation; National Gallery of Art; National Legal Aid & Defender Association; National Lutheran Home; National Multiple Sclerosis Society; National Network of Runaways & Youth Service; National Park Service; National Peace Academy Campaign; National Resource Center for Consumers of Legal Services; National Spiritual Science Center; National Symphony Orchestra; National Women's Political Caucus; National Youth Alternatives Project; Neighborhood Community Credit Union; Neighborhood Housing Services, Inc.; Neighborhood Legal Services Program; Neighborhood Housing Services, Inc.; New Directions; NRTA National Retired Teachers Association and AARP American Association of Retired Persons—Right to Reading Academy; New Start; New York Avenue Presbyterian Community Club; No Greater Love.

Office of the People's Counsel—D.C.; Office of Public Liaison—White House; Opera America; Outreach to Senior Citizens.

Paul Robeson International Center; Penthouse Nursery, Inc.; Pension Rights Center; Planned Parenthood; Potomac Appalachian Trail Club; Potomac Area Council of Camp Fire Girls; Presbyterian Home of the District of Columbia; Prevention of Blindness Society of Metropolitan Washington; Protection for Elderly People; Providence Hospital; Public Citizen; Public Citizen's Visitors' Center.

Rape Crisis Center; Recording for the Blind, Inc.; Right to Read—D.C.; Robert F. Kennedy Memorial—Student Information Service; Rock Creek Horse Center, Inc.; Rogers Memorial Hospital.

Sacred Heart Adult Education Center; St. Alban's Church Senior Citizen Program; St. Elizabeth's Hospital; St. Frances De Sales School; St. Mary's Senior Adult Fellowship Program; St. Stephen's Center; SAJA—Special Approaches in Juvenile Assistance: School of Human Ecology—Howard University Pre-School; Sibley Memorial Hospital; Sierra Club; Signs of the Times/Cultural Workshop and Gallery; Smithsonian Institution; Social Rehabilitation—DHR; Substance Abuse Administration; Solar Action, Inc.; Stepping Stones; Support Center; Spanish Catholic Center; Spanish Education Development Center (SED).

Textile Museum; Therapeutic Nursery School of Catholic University; Thomas House; Touch Toys, Inc.; Travelers' Aid Society, D.C.

United Cerebral Palsy of D.C.; United Planning Organization; United Way; University Legal Service; University of the District of Columbia—School of Continuing Education Institute of Gerontology; University of the District of Columbia—Van Ness Campus; Urban Reinvestment Task Force; USO—National Capital; USO—World Headquarters.

Veterans Hospital; Visiting Nurses Association; Visitors Service Center, Vital Records Section—DHR, Volunteers for the Visually Handicapped.

Wade School, Inc.; Washington Area Council on Alcoholism and Drug Abuse, Inc.; Washington Area Filmmakers League, Inc.; Washington Cathedral; Washington Center for the Study of Services; Washington Ethical Society; Washington Epilepsy Foundation of America Chapter; Washington Free Clinic; Washington Home; Washington Hospital Center; Washington Humane Society; Washington International Center; Washington Opera; Washington Project for the Arts; Washington Streetwork Project; WICS—Women in Community Service; Wider Opportunities for Women; Wilderness Society; Wisconsin Avenue Nursing Home; Woodrow Wilson International Center; Women in Development, Inc.; Women's Campaign Fund; Woodley House; World Wide Peace Foundation, Inc.; WPFW Radio, Pacifica Foundation; WTOP Call for Action.

YMCA—Anthony Bowen Branch; YMCA—Project Venture; YMCA—National Capital; Youth for Understanding; Youth to Understanding, National Office.

Zaccheus Medical Clinic; Zero Population Growth.

VOLUNTEER CLEARINGHOUSE OF THE DISTRICT OF COLUMBIA

AGENCY STANDARDS

1. Must be a non-profit health, education, or welfare agency or institution, operating within the District of Columbia.
2. Must have a volunteer coordinator or director (staff position or volunteer).
3. Shall fully inform all paid staff about the volunteer program and individual staff responsibilities to volunteers.
4. Must define volunteer jobs as to time, skills, age, duties to be performed, etc.
5. Shall interview each prospective volunteer (by coordinator of volunteers).
6. Must not discriminate in recruitment or assignment of volunteers because of race, creed, or socio-economic status.
7. Make assignments individually suitable and with minimal delay after initial contact.
8. Must not replace a paid position with a volunteer employee, but should utilize volunteers to supplement, extend, or reinforce services.
9. Must give the perspective volunteer the same careful placement, attention, and supervision as a paid employee.
10. Must provide orientation, training, evaluation, and recognition.
11. Shall make provisions for upgrading volunteer responsibilities as desired by the volunteer and appropriate to the organization.
12. Shall have clearly defined lines of supervision so that volunteers will know to whom they are responsible.
13. Shall maintain records of individual volunteer services with appropriate safeguards for confidentiality.
14. Shall give consideration to the agency insurance program, reimbursement for out-of-pocket expenses, uniforms, working conditions, etc. for volunteer.

15. Shall periodically evaluate the volunteer program performance in the attainment of goals and objectives and adherence to guidelines.

EVERYONE CAN HELP SOMEONE

WANTED: VOLUNTEERS

You can explore a variety of skills daytime, nighttime, any time

You can find new friends

You can share and develop talents and skills

You can enjoy working in education, recreation, health and social service programs

There are literally hundreds of opportunities for satisfying experiences in volunteering

Volunteer for your own sake!

Volunteer work adds distinction to the career employment records of Government workers.

Broaden your horizons. Take advanage of the almost limitless opportunity to select a voluneer job best suited to your interests and skills.

Some of the jobs in Washington, D.C., Maryland and Virginia are: Tutors and teachers, counsellors, recreation aides, medical aides, friendly visitors, hotline operators, museum aides, home hospitality, hospital aides, drivers, bookkeepers, arts and crafts leaders, telephone reassurance, probation aides, big brother/sister, receptionists, typists, aides for the handicapped, case work assistants, theater aides.

Please contact: Volunteer Action Centers: Washington, D.C., 333-0455; Maryland, 279-1666; Virginia, 691-3460.

Mr. Chairman, there is virtually nothing in this bill that is not already being done by the organizations in the District of Columbia metropolitan area, and it is my understanding that similar organizations exist throughout the country.

The urban volunteer program simply may not be needed and if it is not it should be stricken. The American people simply cannot afford to spend as much as $12 million or more a year on a program that provides no new services.

Let me say in addition, Mr. Chairman, that there are several other problems with this bill, one of which I will get to in more detail at a later time, and I hope to correct that problem with an amendment that I will offer to strike the national grants program. I would remind my colleagues that the Congress has never authorized a national grants program. But when the Director of VISTA discovered that there was no great demand to spend all of the money that was available in all of the regions of the country he decided, on his own, without congressional authority, to create a new program and to fund agencies under it. So at the proper time I intend to concur with the action of the Appropriations Committee, which has already declared its belief that this program ought to be done away with.

Mr. SIMON. Mr. Chairman, I yield 6 minutes to the gentleman from Texas (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, I rise in strong support of H.R. 2859, the Domestic Volunteer Service Act Amendments of 1979. Initially, I want to compliment our distinguished colleague, PAUL SIMON, chairman of the Subcommittee on Select Education, for his outstanding work on this legislation. Under his able leadership, extensive hearings were held. All issues were thoroughly explored and full opportunity was given to everyone to take an extremely close look at the ACTION agency and its programs.

Mr. Chairman, this is a modest piece of legislation to extend and expand slightly volunteer programs administered by the ACTION agency. Unfortunately, the agency and many of its programs have been operating on a continuing resolution for a number of years. Delays in processing this authorization have caused and are causing extreme difficulties in the agency and with the volunteer programs.

We simply cannot let this go on. Favorable action on this extension legislation will allow us to go to conference with the Senate on a companion bill in just a few days and we will do everything we can to secure a conference report at the earliest possible date.

As my colleagues know, the ACTION agency was established in July 1971 as a result of an Executive reorganization order. The new independent agency was given the responsibility of administering several existing volunteer programs formerly under other departments and agencies:

VISTA (Volunteers in Service to America), created by Congress in 1964 to fight poverty, was moved from the then-Office of Economic Opportunity;

NSVP (national student volunteer program), began at OEO in 1969 and was transferred to ACTION in 1971:

Two other programs formerly under the Administration on Aging at HEW were transferred: the foster grandparent program started in 1965 at OEO and moved to AOA in 1969, and the retired senior volunteer program that was developed at AOA in early 1971.

ACTION has since started other volunteer programs to bring more participants to programs to help the situation of those Americans living in poverty, in isolation or in institutions. One of the first new programs of the Agency was the University Year for ACTION (UYA), which was begun in 1971 and was modeled after the VISTA program. UYA enables college students to earn academic credit as they participate in full-time volunteer efforts in their local school communities, working on mental health and retardation, housing rehabilitation, early childhood education and other areas.

There are several reasons for my support of this Agency and this needed legislation. The first is a broad one concerning the needs of those people who have not benefited from the advantages this country has to offer. Some of us may be forgetful at times of the degree of poverty in this Nation—in 1977 there were about 25 million people living below the poverty level.

But there are other programs directed at the needs of the poor. The element that makes this legislation so necessary, so worthwhile and indeed, so important, is its emphasis on volunteer efforts. At a time when there is so much talk of bringing back the draft, of some sort of service for all the young people of this country, I cannot understand opposition to the very Agency that encourages and supports the efforts of those individuals who have taken the first step in serving their country—through their help to its citizens. The spirit of selflessness that prevails in volunteer efforts is something that should receive all the support it can.

The programs and projects supported by the volunteers have an important element to them—that is the goal of self-sufficiency after the volunteers have played their part in beginning what are to be ongoing activities. This is the very essence of ACTION programs.

ACTION programs are aimed at helping people help themselves. Contrary to what some would have you believe, most people want to earn what they receive. There are very few people who have such little self-respect that they would prefer handouts to honestly earned goods. Initial work on programs is greatly assisted by volunteers, but the goal is self-sufficiency by the community in continuing helpful and necessary programs.

At present, with the awareness of limited financial resources, there has been a retrenchment on funding of almost all budgets, but particularly hard hit have been social programs. While there is an obvious need for sound budget policies, this bill is completely within these goals.

The committee has determined that the inflationary impact of this legislation as a part of the total Federal budget is negligible. There is no doubt in my mind that the costs of this legislation bring about benefits many times over the initial appropriations.

For example, during the hearings an individual associated with Procter & Gamble testified that he had provided his services and expertise in financial management areas to human service agencies and organization in the Cincinnati area. The estimated value of these services in the private sector are at least $30 an hour, which he volunteered freely to these agencies.

The immediate past president of the National Association of Retired Senior Volunteer Program Directors also substantiated the cost effectiveness of the RSVP program in his testimony before the subcommittee. There are approximately 250,000 RSVP volunteers putting in about 52 million hours of service a year. The national actual cost per volunteer is $80 per person and the cost per hour of service is 39 cents. If these services were provided by individuals paid at the minimum wage rate of $2.85 an hour, the per person cost would increase to $575, or about seven times over.

But just as important as cost effectiveness is the assistance rendered by volunteers to the poor, elderly, and handicapped in our Nation. There are several programs within the ACTION agency, each tailored to the most effective use of resources to help eliminate the physical and mental problems associated with low incomes, institutionalization and isolation. Other available public and private resources are worthless if they are not utilized, and ACTION volunteers engage in local outreach programs that work to insure those in need of the services and resources obtain them.

I would be remiss if I failed to mention the initiatives ACTION has taken in meeting the needs of the rural poor. At present, the Agency has about 130,000 volunteers serving 800 or so projects in rural areas. About 25 percent of the U.S. population lives in rural areas. The rural poor suffer from an uneven distribution of services and facilities as much if not more than their urban counterparts, and ACTION has administered volunteers in local projects to meet the social and economic needs of the rural poor. Some of the programs that have been started include:

Establishing a cooperative, self-help community of small farms involving low-income families;

Help with the frail elderly in rural Appalachia, through the senior companion program, in their daily living activities to prevent premature and unnecessary institutionalization; and

A minigrant, matched by a local bank, to begin a program of craft and recreational activities of therapeutic value to severely handicapped rural people.

As of March 1978 about 40 percent of ACTION's resources were used in connection with meeting the needs of rural individuals.

Now, I would like to mention the proposed new urban initiative for the Agency, the new part D of title I—the urban volunteer program. The proposed Urban Volunteer Corps under this part is a technical and management assistance program that would match skilled volunteers with the needs of neighborhood groups. Accountants, lawyers and others would provide their services on an unpaid basis to community groups who have identified a need for their services. These services would involve such areas as legal assistance, fixed income counseling—an area in which volunteers have demonstrated great success—and person-to-person assistance to the elderly at their homes or residential institutions.

The other part of the urban volunteer program is the good neighbor fund. This is a system of direct and modest sized grants to neighborhood groups to provide seed money in establishing services and facilities for groups utilizing volunteer assistance. Some of the activities that would be made possible by these grants would be tool lending libraries, small recreational areas and other programs that frequently can be overlooked but are still a most desirable part of the urban scene in helping the urban poor improve their condition and self-esteem.

Perhaps the programs of greatest interest to me are those under title II of the act, the older Americans volunteer program, which includes the retired senior volunteer program (RSVP), the foster grandparent program (FGP) and the senior companion program (SCP). These three programs account for about 300,000 elderly volunteers who are working full and part time in almost 1,000 projects. These volunteers act as advisers, intermediaries and/or advocates serving in local schools, health care facilities, public and private agencies and other groups, as well as working with individuals. These older volunteers help serve frail elderly persons in maintaining independent or semi-independent arrangements at home; they help young institutionalized, handicapped and neglected children; and they perform various volunteer services in libraries, health care facilities, nutrition programs and many other areas.

In conclusion, I strongly urge all my colleagues to support this legislation. It is a measure to be proud of, for with a relatively small authorization it is assured that there will be a great return on the investment—thousands of people will be drawn into participating in volunteer efforts that help millions of people—that strengthen the country, the volunteers themselves and those who benefit from the volunteer efforts.

□ 1840

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, As I set and listen to the debate on the new proposed urban volunteer program I am somewhat confused as to why any new efforts are needed when so many volunteer efforts exist throughout the country. I am reminded just how much exists when I read the press release dated February 22, 1979 from the Office of the First Lady's Press Secretary. It said.

> First Lady Rosalynn Carter will travel on a cross country trip on March 19–21 to highlight citizen involvement in communities.
>
> "I have always believed," the First Lady commented in a recent article, "that the spaciousness of mind and spirit which exists in this country is unique. The mail that I receive as First Lady shows a pervasive desire among Americans to lead useful lives, to correct the defects of our society and to make our nation even greater than it already is."
>
> The First Lady's 2½ day trip will spotlight voluntary business involvement in youth employment in Washington, D.C.; the efforts of private citizens serving in voluntary positions in the public schools of Springfield, Massachusetts; revitalization of the downtown area by individuals and community groups in Lorain, Ohio; voluntary social services for the elderly in St. Louis, Missouri and community-wide efforts in energy conservation in Davis, California.
>
> "I want to praise all of the people involved in these programs," Mrs. Carter stated, "individuals who are assuming the responsibility for solving problems in their own communities."

As part of her trip, Mrs. Carter went to Springfield, Mass., and spoke on volunteerism. She also visited Lorain, Ohio, and a group that rehabilitated and renovated a theatre into a civic center. She then went on to St. Louis, Mo., and visited several senior citizen groups who provide volunteers to the community, and finally went to Davis, Calif., to visit an "energy community"—a community specifically designed to conserve energy with the use of solar energy. While at Davis she also attended a city council meeting and a public hearing on energy. Volunteerism is alive and well throughout the country. It seems to be working and there does not seem to be any need for a new program which will only increase the Federal budget and the Federal deficit.

I urge you to strike this new urban volunteer program from H.R. 2859.

□ 1850

Mr. SIMON. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, one of the great contributions of the collection of the Great Society programs was the innovation that offered to America a new way and new ideas of approaching the problem of poverty in America and with dealing with the problems of poverty in America.

The distinguished chairman, the gentleman from Kentucky, chairman of the committee, presided over much of that legislation to his great and everlasting credit.

One of those programs was VISTA and the main concept of VISTA was to give volunteerism a helping hand, a rather modest helping hand at that. If you look at where we are today with VISTA volunteers, most of them are poverty level people themselves. The average cost for a VISTA volunteer in the last fiscal year was $5,745. That is a modest, indeed, contribution to get people to go out and help others, not to do it for them, not to pay them a living wage, but just help them to eke out an existence helping the poor.

This program has been on a continuing resolution for 2 years. They have reduced the staff of VISTA volunteers by one-fifth. One out of every five who was there 2 years ago is now gone. You might say, well, what difference does it make to the program?

I have traveled throughout my congressional district meeting with senior citizen groups and low-income groups and they say, "We have lost our VISTA volunteer. Can you get our VISTA volunteer back?"

All I can say is that, "I voted for the increase and I voted for the program."

I decided today I had not done enough and maybe I ought to speak, even though it is in the dwindling hours of this session; but I think that we have a responsibility to the poor that goes beyond what we have done in the past and the programs that we have set up. We have to put some meat in them to make them meaningful.

One of the programs that has been so successful is to help the poor and the elderly in many areas to establish consumer cooperatives. Now, we passed legislation in the 95th Congress to provide substantial Federal funding for consumer cooperatives; but people have no idea how to get them started. VISTA volunteers are doing it. They are getting these consumer cooperatives started and initiated. They are helping the poor rehabilitate housing and weatherize their homes. Now, that is no small matter in northern Minnesota where I come from. When that temperature gets down to 40 below zero, you do not have enough fuel to heat your home, you are awfully thankful for that weatherization program.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. OBERSTAR) has expired.

Mr. SIMON. Mr. Chairman, I yield another 3 minutes to my colleague, the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding.

We have in the city of Duluth a very effective program of outreach to the poor and to the needy in the central Hillside area, in the west end community, the COACT group with VISTA volunteers forming the corps of their operation. They have gone out in the poor neighborhoods and helped the people understand what are the services available to them, what are their rights. Many of them do not even know the rights that they have to various existing Federal Government programs, to action under the law against landlords who treat their tenants like dirt. I have been in the west end community meetings and the folks have said, "We have lost our VISTA volunteers. We have got only a few left. Can you help us keep them on?"

The people who were affected, whose lives were touched by these VISTA programs, want help.

Well, VISTA is not just a one-way street. It is not just to reach out to the poor, whether they are Spanish-speaking, whether they are black, or whether they just happen to be poor people of any color or creed. The program goes back to the VISTA volunteer, him or herself.

I will speak of a friend of mine, a young man who upon graduating from college had no idea what he wanted to do, so he signed up for VISTA. It seemed to him a rational alternative to compulsory military service. He went off down here to Richmond, Va. He lived in a poor neighborhood, in a ramshackled little flat and on the weekend he would come up about once a month or once every 2 months, he would come up to our home and we would feed him, give him a good meal, put a litle meat on his bones. He lost 25 pounds in that VISTA program, but it changed his life. As he helped change the lives of others, it changed his life, too. He is out doing constructive work, social action. He has gone on to be a carpenter. He does beautiful carpentry work. He continues his involvement in poor neighborhoods. He has reached out into other people in the country. He is living in upstate New York now.

This is the finest example. If we can rehabilitate one life in this modest authorization asked for in the legislation of the gentleman from Illinois, it is well worth the effort and well worth the support of this body. I urgently hope that we will pass this legislation.

Mr. Chairman, I thank the gentleman for yielding.

Mr. ERLENBORN. Mr. Chairman, I have no further requests for time.

Mr. SIMON. Mr. Chairman, I have one request for time, but I do not see this Member here.

I will consume some few moments here, I yield myself some time, in response to some of the questions; but at any point, and I note the presence in the Chamber of our esteemed colleague on the conference committee, the gentleman from Kentucky (Mr. NATCHER), so I assume that at any point the Chairman wishes to interrupt this we can proceed on the conference report, that will not offend this gentleman from Illinois.

Mr. Chairman, let me just touch on a thing or two. Our colleague, the gentleman from Minnesota (Mr. OBERSTAR) touched on something that is very important; that is, what this does to the people involved, what it does to the volunteers, what it does to the people they come in contact with. In a very real sense, it is very much like the Peace Corps. The Peace Corps is the same general principle. We have contributed a great deal to others through the Peace Corps. We have ourselves benefited a great deal. My distinguished colleague, the gentleman from California (Mr. ROUSSELOT) said volunteerism is alive and thriving and kicking. Why have any government involvement here?

In fact, No. 1, the organizations that are involved in a lot of the voluntary efforts are backing this program. They believe it is important. That is one point to keep in mind.

A second point to keep in mind is that this works in areas where you do not find traditional voluntary efforts, often working where people have given up, where they are not working together to meet the problems that they face, that there is an inability sometimes, a lack of managerial skills, a variety of problems, and we want to give them hope. That fundamentally is the real division in our society today. It is not black and white, rich and poor. It is between those who have hope and those who do not have hope. I think this program gives people a little spark of hope. I think we ought to continue to do that.

I am pleased that my distinguished colleague, the gentleman from Illinois (Mr. ERLENBORN) pointed out that our authorizing committee, our subcommittee was conservative in this matter. The President requested $30 million for the first year for this one portion of the program. Our authorizing commitee authorized only $12 million.

The gentleman from Oklahoma asked the question about national grants. It is an important question. I went into the hearings feeling that this was a portion of the program that we could eliminate. In fact, as we took a look at it, there are many programs that are regional in nature.

Now, in all these programs we have to have the OK of the Governor of the State. Gov. George Nye of Oklahoma, for example, has to approve it before a program can go into Oklahoma, whether it is a national grant or a State grant; but there are some of the programs, the Federation of Southern Cooperatives, the nursing home group, the group working with ethnic groups in urban areas and some others, that are regional in nature here, where a State-by-State grant would just mean an awful lot of paperwork.

□ 1900

What we did do in the authorization was to cut back the percentage for national grants from 20 percent to 18 percent.

Mr. Chairman, let me make one other point. I will be very brief. Let me point out that this is as wise an investment as we can make in dollar terms. These VISTA volunteers—and these are the full-time people—get $75 a month. That is the total, plus $295 to $317 for their ongoing living costs. The senior or the foster grandparents get a very small amount; many of them get absolutely nothing.

This is a program that gets the maximum amount for the dollar that we invest.

Mr. Chairman, I sincerely hope that my colleagues will seriously consider this this program.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DAN DANIEL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2859) To authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, to authorize urban volunteer programs, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4394) entitled "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes," and that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 2, and 22 and that the Senate agreed to the House amendment to Senate amendment numbered 27, and insists on its amendment numbered 12 to the foregoing bill.

The message also announced that the Senate and passed a bill of the following title, in which the concurrence of the House is requested:

S. 1398. An act to establish energy efficiency standards for industrial equipment.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Without prejudice to the conducting of business later, and without objection, the Chair will now call special orders.

There was no objection.

SOVIET COMBAT TROOPS IN CUBA: AN ILL OMEN FOR THE FUTURE

The SPEAKER. Under a previous order of the House, the gentleman from

Missouri (Mr. COLEMAN) is recognized for 5 minutes.

Mr. COLEMAN. Mr. Speaker, once again the President of the United States and our Nation's top security advisors have had to meet and agonize over a Soviet presence in Cuba. Somehow the Soviets managed to smuggle 2,500 combat troops onto this little island barely 70 miles off our southern coast. Hopefully the President also discussed the fact that our Cuban neighbors welcomed them with open arms. While 2,500 Soviet troops are not a real threat to us, they do serve notice to us that both Soviet and Cuban policy in the Western Hemisphere have grown more openly hostile in recent years. Frankly, I am very concerned about what this situation may portend for the future.

These developments should come as no real surprise to anyone. Yet, they apparently surprise the President. It was barely 2 years ago that the administration and its top foreign policy advisers were earnestly discussing "normalizing" relations with our southern "neighbors," Cuba. Even at that early stage of this administration, I was startled by their efforts. Indeed, I still remember the President saying in mid-May of 1977 that a main foreign policy goal of his administration was "full friendship" with Cuba. Perhaps you remember, as I do, this statement came shortly after Cuban combat troops had won the war for Angalon Marxists in Africa, with massive Soviet logistical assistance.

Further, our intelligence community was warning us that it would not end there; Cuban troops might also be surfacing in Ethiopia to fight on behalf of Ethiopian Marxists.

The administration's reaction to Cuban involvement in Africa at that time was stated by the President at a May 1977, news conference:

> Obviously, it would be better for the peace of Africa if other nations would not send forces into Africa . . . we would like very much for Cuba to refrain from this intrusion into African affairs in a military way.

Mr. Speaker, the American people knew normalization of relations with a Castro-run Cuba was a mistake. And if the President could not hear their voice on the issue, he should have listened to the clear, direct words of some of our colleagues in the other body. Senator HOWARD BAKER of Tennessee said shortly after the President's normalization announcement that he "was convinced that there is a growing danger in Africa and that the Cubans are going to be adventurous," and that "they are the instruments of Soviet foreign policy." Even more prophetic was a statement made at this same time by Senator ROBERT DOLE of Kansas who said, "to extend a diplomatic thaw to the Cubans at this time is to indirectly suggest that we aren't really concerned about what they (the Soviet Union) are doing in Cuba."

Today the facts speak for themselves. Cuban combat troops or military advisers, supported by the Soviet Union, are fomenting unrest in nearly half the nations in Africa. These troops are instrumental in securing the position of the present Ethiopian leadership. Many foreign policy experts are predicting similar Cuban-Soviet imvolvement in southern African.

But, if that is not frightening enough, I deeply fear that the Soviet presence in Cuba foretells a new policy of Cuban aggression in the Western Hemisphere. Furthermore, the presence of Soviet combat troops, coupled with the Soviet Union's refusal to remove them, indicates that the Soviets intend to give Cuba full support in this endeavor.

Mr. Speaker, I believe that we are at a critical juncture in our relationship with Cuba and the Soviet Union. The decisions which the President must make in the next few days regarding this situation are of utmost importance to our Nation's security. I hope he will adopt a policy of realism and pragmatism, one tempered with the strength of will to insure our Nation's security.

Mr. Speaker, I do not say with much satisfaction, "I told you so." I do ask with some hope whether we have learned a lesson.

☐ 1910

PROVIDING FOR CONSIDERATION OF H.R. 2172, INTERNATIONAL SUGAR STABILIZATION ACT OF 1979

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 393 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 393

Resolved, That upon the adoption of this resolution it shall be in order to move, sections 303(a)(4) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2172) to implement the International Sugar Agreement, 1977, between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in italic in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of section 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93–344) and clause 7, rule XVI, are hereby waived. It shall be in order to consider as amendments to said substitute any of the provisions contained in the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in bold roman in the bill, and all points of order against any of said amendments for failure to comply with the provisions of section 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93–344) are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Louisiana is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 393 provides for the consideration of H.R. 2172, a bill to implement the International Sugar Agreement of 1977 between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes.

The bill provides a market price objective for the 1979 sugar supply year of 15.8 cents per pound, and an assured return of 16.3 cents per pound. Over the succeeding 2 years, the price objective will reflect changes in the cost of production up to a maximum of 7 percent. H.R. 2172 also provides for direct payments of up to one-half cents per pound, with a limitation on payments to producers of $50,000.

There exists the traditional controversy about our national sugar policy, but the two committees to which this legislation was referred have reported legislation with no really substantial differences. Because of the joint referral to the Committees on Agriculture and Ways and Means, House Resolution 393 appears more complicated than it actually is. It is in fact a fairly simple open rule which will permit full and fair floor discussion. The waivers provided in the rule are technical in nature and are not opposed by the Budget Committee.

Both the Committee on Agriculture and the Committee on Ways and Means agree in their support for the rule before us, which provides for 2 hours of general debate. One hour will be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture and 1 hour by the chairman and ranking minority member of the Committee on Ways and Means. The first reading of the bill will be dispensed with.

The rule makes in order as an original bill for the purposes of amendment the amendment in the nature of a substitute reported by the Committee on Agriculture. This substitute, which is now printed in the bill in italic, shall be read for amendment by titles instead of by sections. The rule makes it in order to consider as amendments to the Agriculture Committee substitute any of the provisions contained in the amendment in the nature of a substitute reported by the Committee on Ways and Means. The Ways and Means substitute is now printed in bold roman in the bill. The rule also provides for one motion to recommit with or without instructions.

As reported, the bill H.R. 2172, the Agriculture substitute, and the Ways and Means Committee substitute would be subject to certain points of order. House Resolution 393, therefore, provides waivers of points of order against the bill and the committee amendments for technical violations of the Congressional Budget Act. This procedure is common to agriculture price support legislation.

Section 303(a)(4) of the Budget Act bars consideration of any bill which provides new entitlement authority to become effective during a fiscal year until the first budget resolution for that year has been adopted.

Section 202 of the bill and the committee amendments provide new entitlement authority in the form of price support payments to producers of certain sugar crops. The payments would first be made during fiscal year 1981, and payments for subsequent fiscal years would be made pursuant to a formula which would also first become effective for fiscal year 1981. The first budget resolution for that fiscal year has not yet been adopted, of course; thus a waiver of this point of order has been granted.

Section 402(a) of the Budget Act bars consideration of any bill which authorizes the enactment of new budget authority for a fiscal year unless that bill has been reported on or before May 15, preceding the beginning of that fiscal year. Since various provisions of the bill would indirectly authorize the enactment of new budget authority for fiscal year 1980, the rule includes a waiver of the point of order under section 402(a). It is worthy of note that the overall costs of this bill are consistent with the funding level assumed for this program in the first budget resolution for fiscal 1980.

In addition, the rule provides a waiver of points of order against both committee's amendments for violation of clause 7 of rule XVI, the germaneness rule. This waiver was necessary because of committee action to add a loan guarantee program for the construction of facilities for industrial hydrocarbon and alcohols production. Section 407 provides authorization for a guarantee fund of up to $25 million during the next two fiscal years beginning October 1, 1979. The fund is not to exceed the amount of special import duties collected under this act.

Mr. Speaker, this is a fair and equitable rule which will permit full discussion of the committee difference and any possible amendments. I urge the adoption of House Resolution 393.

□ 1920

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Louisiana (Mr. LONG) has provided a thorough explanation of the provisions of this rule.

Mr. Speaker, this rule provides 2 hours of general debate for the consideration of H.R. 2172, the International Sugar Stabilization Act of 1979. The time is to be equally divided between the two committees that reported this bill, the Committee on Agriculture and the Committee on Ways and Means. Under the rule, the bill will be open to amendment.

There are a total of five different waivers of points of order included in this rule. Two of these are necessary in order to permit consideration of the introduced bill.

The first waiver is for failure to comply with section 303(a)(4) of the Budget Act. This section prohibits consideration of new entitlement authority to become effective during a fiscal year until the first budget resolution for that year has been adopted. Section 202 of the bill provides new entitlement authority in the form of price support payments. Since these payments could first be made in fiscal year 1981, and since the first budget resolution for that year has not been adopted, the waiver is necessary to allow consideration of the bill. According to a letter from the chairman of the Budget Committee, a poll of the members of the Budget Committee showed that a majority supported this waiver. The Rules Committee adopted that recommendation.

The second waiver is for failure to comply with section 402(a) of the Budget Act, which establishes the May 15 deadline for authorizing legislation. Various provisions in the bill would indirectly provide authorizations for fiscal year 1980 and since the bill was not reported by May 15, 1979, it would be subject to a point of order. Again a majority of Budget Committee members recommended this waiver, and the Rules Committee adopted it.

Mr. Speaker, after providing for the consideration of the original bill, the rule makes in order the amendment in the nature of a substitute reported by the Committee on Agriculture as an original bill for the purpose of amendment. It will be read for amendment by titles. The next two waivers in the rule protect this Agriculture substitute.

The first is a waiver of section 303(a)(4) of the Budget Act, the same point of order that had to be waived against the introduced bill.

The second waiver is of the germaneness rule, clause 7 of rule XVI. This waiver is necessary because part of the Agriculture substitute deals with alcohol production from other commodities besides sugar. Since the original bill dealt only with sugar, the waiver is necessary.

Next the rule provides that it will be in order to consider as amendments to the Agriculture substitute any of the provisions in the Ways and Means Committee substitute. In order to protect the Ways and Means substitute the rule provides the same waiver of section 303(a)(4) of the Budget Act that was necessary to protect the introduced bill and the Agriculture substitute.

Mr. Speaker, the bill made in order by this rule, the International Sugar Stabilization Act is one of the most significant items that the 96th Congress will consider. The bill is important to sugar consumers and to sugar producers. I urge adoption of the rule.

Mr. Speaker, I have tried to locate some figures on where the money that the consumer pays for a pound of sugar goes. I wanted to find out exactly how much has been going to the farmer, and how much has been going to others along the way. In checking with the minority staff of the Committee on Agriculture and, through them, with the Department of Agriculture, I have found that the actual figures vary from region to region and from month to month. There is also variation depending on whether the sugar is from cane or from beets, and whether the source is foreign or domestic. However, as an example let me review the figures for a large Midwestern city; namely, Chicago.

According to statistics compiled by the Economic Statistics and Cooperative Service of the Department of Agriculture, in 1978 the average retail price of sugar in Chicago using Louisiana cane sugar was 24.46 cents per pound. Of that 24.46 cents, the farmers' share was 9.41 cents or 38 percent of retail price. However, the average cost of production for 1978 in Louisiana was 11.338 cents per pound, representing a loss of almost 2 cents per pound. To cite another example, in Atlanta, Ga., the average retail price of sugar using Florida cane in 1978 was 22.85 cents per pound. The farmers' share was 9.25 cents per pound or 40.47 percent of the retail price. The cost of producing sugar that same year was 10.87 cents per pound, or a loss of 1.6 cents.

Mr. Speaker, those farmers whose cost of production exceeds what they receive for their sugar cannot stay in business for long. Unless we act responsibly on this bill, we could see the demise of one more domestic industry.

Mr. EDWARDS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

I am absolutely amazed at the gentleman's wealth of knowledge on this subject.

Mr. LOTT. I want to say it has taken a great deal of study. I have sought out this statistical information at the urging of the distinguished gentleman from Ohio (Mr. LATTA), on the Committee on Rules, and the gentleman from Louisiana (Mr. MOORE), and, of course, the gentleman from Louisiana (Mr. LONG), and all of those others who represent those producing States but who are also interested in the consumers of this country.

Mr. EDWARDS of Alabama. I have known the gentleman a long time, but I did not know he knew all this. The gentleman has been hiding it from us is what he has been doing. I appreciate the gentleman bringing it out tonight. It is very important as we get ready to tackle this big bill.

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Louisiana.

Mr. MOORE. I thank the gentleman for yielding.

I want to commend the gentleman on an absolutely fantastic statement. I have never seen him display such intelligence and knowledge on the subject. I have heard him speak many, many times on the floor in the last 5 years. I think this will go down as one of his brightest moments.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I will be glad to yield to the gentleman from Illinois (Mr. FINDLEY), who I am sure is going to inject a note on the other side of this question.

Mr. FINDLEY. I thank the gentleman for yielding.

I guess it is the sign of the times we are in tonight that this rule would even be brought up for consideration. Until I heard in the corridor that this was actually under consideration, I assumed that the forces for this ill-considered sugar bill had concluded that they did not have the votes and were not going to bring up the rule this year; but I guess we need something to fill in a few minutes of time tonight, which is about the only justification I can think of adequate for the consideration of this rule.

Actually the rule, as rules go, is OK. It is an open rule and permits amendments. I really do not object to the characteristics of the rule itself, but the bill to which it is attached is really an abomination. I hope that when the time comes for this body to take up the bill itself, if that day ever comes, and I hope it will not, if that day ever comes, I hope my colleagues will see it as an unfortunate step, one that should be rejected, because clearly it is a proposal to legislate higher consumer prices.

Why any Member of this body would choose to take that very strange step in these times of rising food costs, I cannot imagine.

I thank the gentleman for yielding.

Mr. LOTT. I certainly appreciate the gentleman's remarks.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

□ 1930

Mr. LONG of Louisiana. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I have known for many years and have admired enormously the personal capacity and legislative efforts of the gentleman from Illinois (Mr. FINDLEY), but seldom have I heard him speak more incorrectly than he spoke just a moment ago when he suggested that this bill was not only, in his terms, I believe, an abomination, but something against the interests of the American consumer. The fact is exactly the opposite. This bill is a splendid bill, an extremely well crafted bill.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I would like to explain to the gentleman the gentleman's error before I yield to him

Mr. FINDLEY. Mr. Speaker, if the gentleman will permit me, I hope he will not get me so upset that I will demand a record vote on the rule.

Mr. FOLEY. That is not likely to happen. Whatever it takes to keep the gentleman from getting upset, I assure him I will do.

But as I was saying, the gentleman from Illinois is a splendid legislator, a man of ability and conscientious judgment. But on this matter I have some slight disagreement with that normally good judgment.

The sugar bill, the sugar legislation, the Sugar Stabilization Act of 1979, is designed to provide some minimum assurance that the United States will continue to produce a part, about half of its domestic sugar requirements. One might ask why is that important.

Well, of course, it is important for the 16,000 or so sugar growers in the mainland United States and Hawaii. It is also important to the 100,000 or so total people, Americans who work in related sugar industries.

But beyond that, it is important to American consumers because if there is anything characteristic of the consumption of sugar, it is that it is, in economic terms, relatively inelastic. Sugar consumption is fairly predictable, it does not vary too much according to price. Prices can be high or low and the demand for sugar is rather stable.

Most Americans, of course, consume sugar not in the refined form that we think about sometimes as 5-pound bags of sugar in the supermarket, but in products, in the myriad number of food products and other products that contain sugar.

The suggestion is made that this bill will unfairly increase consumer prices for not only direct purchases of sugar, but for those who purchase products containing sugar.

The first fact: The bill does not increase the present price support level for sugar. The anticipated price support for sugar for the next sugar year beginning on October 1, with or without this bill, is 15.8 cents a pound. The bill will not increase that price objective one-tenth of a cent. There is nothing, nothing to indicate that the passage of the bill will either increase sugar prices next year or justify any manufacturer to increase the price of a product containing sugar.

The second fact: It is not true, as suggested by some, that the world price of sugar is 8 cents a pound. The world price of sugar, quote unquote, has sometimes fluctuated between 7 cents and 9 cents a pound before we have added the cost of transportation. But the real cost of sugar is estimated by the Department of Agriculture to be about 12 cents a pound worldwide.

As the gentleman from Illinois knows very well, the vast number of countries in the world maintain some special sugar program. Because of that, a relatively small portion of the sugar consumed in the world is traded on the so-called free market. Because that market is very small in comparison to the total consumption of sugar, there is a tendency for the market and its fluctuations to amplify prices. A small shortage relative to consumption in world-traded sugar will cause the price to go skyrocketing. A small surplus and the price is heavily depressed.

It is estimated that differences of 1 percent can affect the sugar market by 10, 15, or 20 percent in terms of price. Differences of 10 percent can affect the price of sugar by 100, 200, or 300 percent. Indeed, we saw that happen in 1974 and 1975 when consumption outstripped production to the degree that there were tensions or shortfalls in world sugar supplies and the price of raw sugar, we are talking about a price-supported level of 15.8 cents today, reached levels of 30 cents, 40 cents, 50 cents, and almost 60 cents a pound.

I believe that can happen again. One of the protections against that happening is to maintain some element of independence with our own sugar production from the otherwise total dependence that we will have on world supplies and on this very small and volatile world sugar market.

There is a steady increase in consumption going on right now relative to supplies. Some countries, like Brazil, are assigning a certain portion of their sugar production to alcohol for fuels. I also understand the Philippines may be doing that. Recent weather conditions have damaged certain sugar crops and I think it is fair to say that together with natural increases in demand the next several years are going to see upward pressure on sugar prices, again, whether this bill is passed or not. But it is my judgment that if the bill is not passed and the present, very depressed sugar price continues for a year or two before it recovers, we could well see more and more sugar mills closing in the beet areas, more and more strain on our sugar producers, both cane and beet, and more and more dependence on these international sugar markets.

So the second fact I would like to emphasize is that the opponents of the bill are not frankly being fair or accurate when they suggest that the price support today, aside from this bill, is something like twice the world price. That is totally unrealistic. No country can expect to import sugar at 8 or 9 cents a pound for the coming years. No country can expect to do that. It is not an economic and it is not a predictably available price.

This bill also ratifies the International Sugar Agreement to which the United States is a signatory and one of the last countries to implement legislation in support of its agreement. This agreement would set a price range, attempted price range of between 11 and 21 cents a pound, and would be designed to attempt to stabilize international sugar prices to a degree that would provide protection for both consuming countries and exporting countries. I think the ratification of this agreement, the support of this agreement in this legislation is necessary and a very desirable feature of the legislation.

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I am glad to yield to the gentleman.

Mr. MOORE. I thank the distingushed chairman for yielding.

I wonder if we could not add to the two factors that he has already illustrated very adequately as reasons why this bill should be supported by Members of this House. I wonder if we could not add a third factor, and that is simply that some people seem to be attacking the sugar legislation without really knowing why, thinking we are doing something for sugar here that is very unusual, very out of the ordinary, when, in fact, when we compare what is being done with sugar as a percent of parity, or an amount of direct payment, or anything else done in this sugar bill to help maintain stability for the farmer and the consumer, we are really not doing as much for sugar as these same Members of the House did, and wisely so, in the last Congress in the general farm bill for many other commodities such as corn, wheat, and on down the line, other commodities such as cotton.

Is it not true really we are doing less, and the only reason why there is any opposition to this bill is essentially because it is all by itself? It is not together with the other commodities as it probably should be. Traditionally it has always been by itself, and really if people stop and look at how they voted on the last farm bill, if they voted aye, which a great majority of this House did, there is no reason they should vote any other way than aye on this bill.

Mr. FOLEY. The gentleman is quite correct. We have in this bill some very modest payments of a half a cent a pound to producers. The principle for which the gentleman from Illinois (Mr. FINDLEY) fought so hard and so long, and I must say so successfully, that of providing limitations on payments, is recognized in this bill in precisely the same way as it applies to payments under the wheat and feed grain program, under the program for rice and upland cotton.

□ 1940

It is perfectly consistent in that way with the general farm bill.

Mr. ANDREWS of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Speaker, I appreciate what our distinguished chairman of the House Agriculture Committee has pointed out tonight as far as the relationship with consumers of this act. I think one further thing might be pointed out, that in all of the Western World, whether we are looking at Europe or Japan, the price of sugar is in the neighborhood of 25 to 26 cents. Here, we are talking about setting the price of sugar in the United States at 16 cents. That is a bargain for American consumers as compared to other consumers in the world.

The reason for the world price being at 10 cents is, that is a dump price. It is the price of sugar that has no home, where there is temporary overproduction. It is like a surplus of steel or television sets, where we have antidumping laws for that to protect the domestic industry and the consumer over the long run.

The whiplash effect of that lack of protection to maintain a domestic industry came about, as the gentleman pointed out so well, in 1973 or 1974, when there was not that dumping of sugar available and the price went to 70 cents, the highest price rise ever and the first time the American consumer had been exposed to the vagaries of the world market without the protection of the domestic industry.

I commend my good friend from Washington for explaining how this bill will benefit consumers.

Mr. FOLEY. I thank the gentleman from North Dakota. He is one of the greatest experts and most active Members of this House in support of sound agricultural legislation.

I would also emphasize to Members that it is in the interests of consumers to have a stable and active sugar industry in the United States. Very frankly, far from being an overly generous bill, as some Members who come from sugar-growing areas know, this bill has been controversial because it provides so low—not so high—but so low a price support.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, I want to thank the gentleman for his presentation tonight. For one reason, he has used some very glowing adjectives about my role in legislative affairs. I hope he will see fit to leave them in the printed RECORD so I can quote them in my next campaign brochure. In the event that he has need for some glowing adjectives, I want to tell the gentleman how much I admire the leadership he has provided in most of the agricultural legislation. I think he has proved to be an able exponent of the measure that is coming to the House floor, and I hope that during the interval between the consideration of this rule and when and if the bill does come up, the gentleman may reflect upon the comments he has made and come to a different conclusion.

Mr. FOLEY. I thank the gentleman. I promise to reflect. I think the result of my reflection will be increased pride in the result of this legislation and the work of the Committees on Agriculture and Ways and Means in bringing it to the floor. But, I do promise to reflect.

Mr. FINDLEY. I hope the gentleman will not reconsider his use of adjectives about my endeavors.

Mr. FOLEY. I think the gentleman and I share a mutual admiration, marked occasionally by disagreement on one policy or another.

But, Mr. Speaker, what I was saying to the House before I was so kindly interrupted by the gentleman from Illinois is that the consumer in the United States has an interest in stability. When we have had these great depressions in world sugar prices that we are going through now, and then that has been followed almost inevitably by sharp run-ups, there is a tendency—and I think people find this in their common experience—for the high price run-up of 30, 40, 50, 60 cents, sugar is multiplied by several times the price of sugar in the space of a few months. It has an impact of products containing sugar that is not again adjusted downward when the price of sugar falls. The tendency of those products is to stay up in price as a result of the run-up in sugar prices, and not ever to be adjusted downward.

On the other hand, stable prices that can be maintained and are fair to producers and are fair to consumers are in the interests of both. That is what this bill is designed to provide.

Mr. FINDLEY. Mr. Speaker, if the gentleman will yield further, I have had some information about the legislative requirements tonight. I am emboldened to ask the gentleman a question or two.

The gentleman made the statement that whether this bill passes or not, the price of sugar will be unaffected by that outcome. Nevertheless, the bill itself provides, as I understand it, for an increase from 15 cents to 15.8 cents in supporting the price of sugar in domestic markets.

Mr. FOLEY. I might say to the gentleman it is a minimum price, but it is my understanding that the administration intends to support the price of sugar at 15.8.

Mr. FINDLEY. I hope I stated that amount. That being the case, I wonder if the gentleman will advise us why, in these times of rising prices, he would want the Members of this body to vote for a measure which would, on the face of it, seem to create upward pressure on prices, if not this year, in future years. Perhaps the gentleman would like to explain.

Mr. FOLEY. First of all, in answer to the gentleman's question, I would say that it does not create any pressure on prices in this coming year. This is the point I have been trying to make again and again and again. But the present price support that is anticipated for the sugar year beginning October 1 is 15.8 cents, irrespective of whether this bill is passed or not.

If this bill is passed, that 15.8 will be a matter of statutory requirement, and in future years—in the years 1981 and 1982, and calendar years 1980 and 1981—the most that the sugar price support could rise. The most that it could rise would be by 7 percent under the bill. That is well within the guidelines the administration was declaring in support of its wage-price program. Frankly, that is about half of the actual inflation rate this year.

So, next year and the year after the 15.8 cents would not necessarily rise by 7 percent. It could not rise by more than that, so again we have a ceiling on the amount of price support that could be provided under this bill.

Mr. FINDLEY. No one can look in the economic crystal ball with accuracy in the future. We do not know really what even this coming year will bring. It is possible that world sugar supplies will be such that prices could go down, if not this year, in future years.

Would the gentleman not agree with me that an effect of this legislation could be to deny consumers prices that would be lower than will be the result from this legislation? In other words, this bill could conceivably deny consumers access to lower prices in the future.

Mr. FOLEY. I cannot conceive how this bill could deny consumers lower prices than they would otherwise be paying. I frankly have to remind the gentleman of what he knows very well—this is a 3-year bill. Within the 3-year period we have the first year of the bill at 15.8 cents, which will be no change from the contemplated price support without the bill. In the following 2 years we have a limit of 7 percent, and if the gentleman thinks that inflation is going to be dramatically below 7 percent next year and the year after, I would hope he is right, but in any case it is my judgment that sugar prices are, over the near term of the next 5 years or so, going to rise. I do not know whether they are going to rise absolutely in the 1982 year or the 1983 year, but I believe very strongly—and I think most sugar experts would agree—that the tendency is now going to be in the direction of strengthening sugar prices in the world market. Those sugar prices, far from denying—far from denying consumers an opportunity to buy sugar at lower prices, this bill may provide the kind of stability which will avoid some of that run-up, that tremendous increase in price that the consumers experienced in 1974 and 1975.

That indeed is why the bill is here in part, not only to give producers some minimum price to keep them in business, but by keeping them in business to protect the consumer against this volatile international market which has proved so destructive of the consumers' interest in periods of short supply such as 1974 and 1975.

☐ 1950

Mr. LONG of Louisiana. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Louisiana.

Mr. LONG of Louisiana. I thank the gentleman for yielding.

Will the chairman of the Committee on Agriculture give us the benefit of his knowledge as to what actually happened during that period of 1973, 1974, and 1975 when there was this great price runup and when we had no sugar legislation, and relate it to the importance of the necessity of having legislation enacted?

Mr. FOLEY. Of course. As the gentleman from Louisiana knows very well, from 1934 until 1974 the United States had a sugar policy known originally as the Jones-Costigan Act which was reenacted every 4 or 5 years, sometimes every 3 years, by a decision of the Congress. That act was a much more elaborate sugar act and sugar program than the one we are discussing tonight. It provided specific shares of the market between beet and cane producers domestically and between importing sugar countries and the domestic sugar supply.

It even went to the point of assigning country by country among some dozen or more major countries and other minor countries in the sugar sense quotas for importing to the United States. Most of the time those quotas provided some slight premium in the sugar price that would otherwise be paid by American consumers for imported sugar, but there were times when world sugar prices did rise and where the United States had the benefit of shipments under the Sugar Act at lower prices than the consumers would otherwise have to pay.

But in 1974 when the bill was brought to the floor by the Committee on Agriculture, it was defeated, I think my own judgment is, very frankly, by Members who were not fully aware of the changes, part of them again brought on by the gentleman from Illinois who served very diligently on the Committee on Agriculture at that time. Some of the changes in the sugar price that had been provided in the bill were not fully understood by the Members, and they defeated the bill. In the following months when international sugar prices tightened dramatically we had no sugar program, and there was a chaotic condition.

As a result, the sugar prices in the United States went wild, and the sugar consumers and the purchasers of sugar-containing products had to pay suddenly twice, three or four times, five times what sugar prices had been before.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

I do not have statistics available. As the gentleman knows, this rule came out rather suddenly without much notice to the members of the committee.

Mr. FOLEY. For all of us, I might tell the gentleman.

Mr. FINDLEY. But my memory, if it is correct, tells me that the Sugar Act did not keep sugar prices from rising dramatically, but that the sudden spurt that went way through the level prescribed in the Sugar Act began long before the expiration of the act. I do not recall the exact figures, but it is my recollection that the price of sugar went at least twice as high as the price objective of the act considerably before the expiration of the act, so the act itself did not provide price stability.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

I would like to say that I was, of course, shocked that this rule came up, and I understand the circumstances under which we are considering it, and I have no objection to bringing up the rule, but I want to say this, that I have some serious objections to the prospects for this legislation in either form, because my problem is that while we provide for a market for and subsidize the American industry, there is no ceiling limitation provided. In other words, I have no objection to a price objective if it gives the consumers some assurance that there is going to be some protection at the upper end. I think the gentleman will concur that world prices of sugar are moving upward.

Mr. FOLEY. The gentleman is correct. I made that statement just a moment ago, and if I may regain my time, I think we are at the very end of the allotted time under this rule.

I want to thank my colleagues for their contribution to this discussion which I think has helped in bringing at least to those Members who have had an opportunity to hear it a little bit of the discussion about the issues that we, of course, will have another opportunity to review when the general debate occurs.

Mr. ANDREWS of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. I thank the gentleman for yielding.

In response to what our colleague, the gentleman from Illinois, pointed out, we ought to say that at the time the sugar prices went up in this country, we had a unique relationship because we only produce half the sugar we consume in this country. They knew the act was expiring, so those foreign countries who had the impetus to ship to us because it is an assured and a stable market, when they knew the act was going to expire, seized the shipments to us, so technically the act was still in force. It was not because the foreign producers realized it was not a continuing thing.

Mr. FOLEY. The gentleman is exactly right.

Mr. Speaker, I hope the rule will be adopted.

Mr. LOTT. Mr. Speaker, I would like to say I think this has been a most informative and enlightening debate on this rule, and I am anxiously awaiting the general debate on the legislation when we return from the recess.

Does the gentleman from Louisiana (Mr. LONG) desire that I yield some of the remaining time I have?

Mr. LONG of Louisiana. Mr. Speaker, I would inquire of the Chair as to the remaining time.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LONG) has no remaining time.

Mr. LONG of Louisiana. Mr. Speaker, what about the remaining time of the gentleman from Mississippi?

The SPEAKER pro tempore. The gentleman from Mississippi has 21 minutes remaining.

Mr. LONG of Louisiana. It is my understanding the gentleman from Mississippi yielded back his remaining time.

Mr. LOTT. Mr. Speaker, I ask unanimous consent that I be allowed to reclaim the time that I prematurely yielded back earlier in the debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. LONG of Louisiana. Mr. Speaker, will the gentleman yield?

Mr. LOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. LONG) for the comments he would like to make.

Mr. LONG of Louisiana. I thank the gentleman for yielding the additional time.

If I may have the attention of the chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY), I would like to ask him another question, if I may.

In the gentleman's appearance on the McNeil-Lehrer report of July 13, 1977, I thought he made an eloquent and persuasive case for the sugar bill, and I had an opportunity to see part of it. I wonder if the gentleman would tell us again a little bit about what he knows about the committee action on sugar prices.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I will be happy to yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

The opposition to this bill is, I think, fairly described as a mistaken opposition. I think many people in and out of the Congress who feel some resistance to the Sugar Act have the impression that somehow it is going to raise consumer sugar prices, or the prices of sugar-containing foods, and they are naturally concerned about that.

The fact of the matter is that the bill will not raise consumer prices but, in fact, as I have said, will guarantee some stability for the consumer and producer. There is, however, formal opposition to the bill organized under a name, an acronym, of the Committee Against Sugar Hikes, or CASH, and this organization is attempting in a perfectly legitimate effort to defeat the bill.

Like other interest groups, they have a right to have their views expressed and communicate them to members. But part of the group is headed by an element in the sugar industry, a very fine element, called the cane refiners, who I suggest are not primarily interested in the sugar side of the issue but in the fact that they take foreign sugar, raw sugar, and refine it and sell it into the market. So the cheaper the foreign sugar is coming into the United States, the cheaper the costs are for their doing business.

So they have an economic interest in seeing to it that American sugar producers are under pressure in getting a fair price for their products because the entire world market is depressed. I have no quarrel with the cane refiners. They are an element of business in this country that is perfectly entitled to undertake their business, but I think there is a danger, and I must say it is dangerous to suggest that we ought to have the lowest possible prices even in a dump-depressed market for a product we ought to just run whatever import we can get into this country, even though it does not represent a fair price—it represents a dump price—and take advantage of it even if it destroys unfairly a domestic industry.

☐ 2000

We have laws, as the gentleman from Louisiana (Mr. MOORE) said, to protect against dumping. The gentleman from North Dakota made that statement. To protect against dumping. The very cane refiners who oppose this bill would be very much opposed, I think, if we were to import directly foreign refined sugar. Just to bring in the cheap foreign refined sugar from Canada and other places and have the domestic refining industry go out of business and sell the consumer the cheapest refined sugar possible. But that is the extension of the argument they are making against this bill. I think that is both ill-advised and mistaken on their part.

I thank the gentleman for yielding to me. I again emphasize this is a reasonable and fair bill. It is not any kind of a special interest, enriching bill to sugar producers.

Mr. Speaker, I want to say this in a candid discussion with my colleagues: The problem we have had with the bill is that many sugar-producing areas think that the bill is so minimal that they question whether it is worth having even that bare protection that the 15.8 cents provides because the cost of production of sugar in the United States, in many parts of the country, is at that point or higher. They feel they are not being given even a fair price at 15.8 cents. Since the world price is judged to be at a minimum around 12 cents a pound by the Department of Agriculture, it is unfair and incorrect to suggest that we could import in any period of time in the future, sugar at something like 8 cents or 9 cents a pound. It simply cannot be done. Sugar prices will rise, as the gentleman from Ohio said. We are just providing some short-term insurance to keep a segment of our sugar industry alive so we are not totally dependent on these foreign imports in the future.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I will be happy to yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, this rule is an open rule and we will be able to deal with this issue when it comes to the floor.

I want to point out one of the things we are going to have to determine during our discussion and consideration of this bill is whether a sugar program is a special program that is required. We do not have special programs for other agricultural products. The way they achieve this kind of a program is by restricting the import to a level where we subsidize—it is a subsidy for the domestic industry. I think we ought to fairly and openly debate the issue.

Mr. Speaker, there is going to be some controversy on the issue of direct payments. I know that one of my colleagues, the gentleman from Minnesota (Mr. FRENZEL) and other members of the Committee on Ways and Means are very concerned about the direct-payment program.

I think what we are going to have to develop in the general debate and in colloquy on this legislation is, why should sugar be treated specially?

I have been in this Congress and year after year we have debated this usually late in the session. This is the usual procedure for discussing sugar. I remember many, many sessions in which this was the very last piece of legislation that held the Congress in session.

Fortunately, we are going to have more time to debate it during the weeks ahead and I just urge my colleagues to be open, be available for participation in this very, very important debate to determine whether or not the program is necessary, whether or not there may be a better way to give the producers what they need and at the same time provide adequate production for the consumers of America. I think that will be our goal during the discussion in general debate.

Mr. ULLMAN. Mr. Speaker, will the gentleman from Louisiana yield?

Mr. LONG of Louisiana. Mr. Speaker, I yield to the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. I thank the gentleman for yielding.

I will say to my good friend, the chairman of the Trade Subcommittee, the gentleman has handled this bill, even though the gentleman has been opposed to it, with all fairness.

However, I think in all fairness we ought to say in answer to his question whether this bill is needed or not, that already some major sugar refiners in this country have gone out of business, many other refineries will go out of business. I have one in my district. If we do not have some kind of a promise for stability in this industry they will go out of business.

Mr. Speaker, the program is needed if we want to preserve a domestic capability for sugar growing and sugar refining.

Mr. Speaker, I want to say the imports that are coming in now are highly subsidized by the various governments around the world. If we wait until our domestic industry goes out of business we will see what kind of prices we will pay for sugar coming in.

Mr. Speaker, the consumers who are opposing this are mistaken. There is no inflation in this program. We are only continuing the existing price levels, only continuing on a basis to provide some stability so that our sugar industry can maintain its viability in our marketplace. This rule should be adopted. The bill is a very necessary bill, vitally important to thousands and thousands of producers but also important to the consumers of this country so that they can have some assurance of a continued supply so that they will not ultimately be gouged by some cartel of foreign sugar.

Mr. Speaker, I strongly urge support of this measure when it comes to the floor.

Mr. MOORE. Will the gentleman from Louisiana yield?

Mr. LONG of Louisiana. Mr. Speaker, I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Speaker, I appreciate the gentleman yielding. I would like to address a point made by my distinguished chairman of the Trade Subcommitttee, for whom I have great respect. I must challenge the statement he made that we are doing something for sugar we have not done for other commodities. If you look at a percent of parity of price support, we are doing less for sugar than for most commodities, as we did in the 1977 general farm bill. If you look at the amount of the direct payment, we are doing less for sugar than we do for most commodities. I agree with the chairman of the Trade Subcommittee in this regard, the fact that we are handling most price supports by virtue of limiting the amount of sugar that comes into this country. That is what is different. The reason it is different is because sugar is the only commodity we raise in this country of which we have no surplus. We have a deficit of sugar. I submit that is one of the best reasons to support this bill.

Mr. Speaker, when you are voting for price support, when you are voting for some kind of program to protect a wheat-grower you are basically doing it to keep him in business. He is growing too much wheat and the market is depressed. When you do it for a sugar grower you are trying to keep him in business, to guarantee him something because the simple fact is, you are protecting him from foreign sugar being manipulated, being dumped on the market and affecting the sugar consumer. If American sugar producers go out of business I think you will see the foreign price of sugar in this country go up dramatically, knowing we have to go to them to get it just like we have to do for oil.

I think it is only because we are a deficient producer of sugar. When you look at what we do for other commodities, we do far more than we are doing in this bill for sugar.

Mr. LONG of Louisiana. Mr. Speaker, I yield back the balance of my time, and move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question in on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 216, nays 12, answered "present" 1, not voting 204, as follows:

[Roll No. 530]

YEAS—216

Akaka
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Carney
Clausen
Clay
Clinger
Coelho
Corcoran
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Deckard
Derrick
Dicks
Dingell
Dixon
Dornan
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erlenborn
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Fisher
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Gaydos
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Guarini
Gudger
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harkin
Hawkins
Hefner
Hightower
Howard
Hubbard
Hughes
Hutto
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Leland
Levitas
Lewis
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lungren
McCormack
McHugh
McKay
McKinney
Madigan
Martin
Matsui
Mavroules
Mica
Michel
Miller, Ohio
Mineta
Mitchell, Md.
Moakley
Mollohan
Moore
Moorhead, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Oberstar
Obey
Patten
Paul
Pease
Pepper
Perkins
Petri
Preyer
Price
Pritchard
Rahall
Ratchford
Regula
Richmond
Ritter
Robinson
Roth
Rousselot
Roybal
Royer
Runnels
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Sensenbrenner
Shannon
Sharp
Shumway
Simon
Slack
Smith, Nebr.
Snowe
Solomon
Spellman
Spence
Staggers
Stenholm
Stewart
Stump
Swift
Synar
Tauke
Thompson
Trible
Ullman
Vanik
Volkmer
Walker
Watkins
Weiss
White
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wyatt
Yates
Young, Alaska
Young, Fla.
Zablocki

NAYS—12

Conte
Derwinski
Findley
Florio
Forsythe
Harris
Lederer
Luken
McDade
McDonald
Stockman
Stratton

ANSWERED "PRESENT"—1

Kogovsek

NOT VOTING—204

Abdnor
Addabbo
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Archer
Ashbrook
Ashley
Aspin
AuCoin
Barnard
Bauman
Beard, Tenn.
Bereuter
Bevill
Biaggi
Bingham
Bolling
Bouquard
Breaux
Brodhead
Brown, Ohio
Burton, John
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Cleveland
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conyers
Corman
Cotter
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Devine
Dickinson
Diggs
Dodd
Donnelly
Downey
Emery
Erdahl
Ertel
Evans, Del.
Fascell
Ferraro
Fish
Fithian
Flippo
Flood
Frenzel
Fuqua
Garcia
Gephardt
Giaimo
Gingrich
Goldwater
Goodling
Green
Grisham
Guyer
Hall, Ohio
Hamilton
Hance
Hanley
Harsha
Heckler
Heftel
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Huckaby
Hyde
Ichord
Ireland
Johnson, Calif.
Johnson, Colo.
Kemp
Kindness
Kostmayer
Kramer
LaFalce
Latta
Lent
Livingston
Lloyd
Loeffler
Lundine
McClory
McCloskey
McEwen
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Mattox
Mazzoli
Mikulski
Miller, Calif.
Minish
Mitchell, N.Y.
Moffett
Montgomery
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Ottinger
Panetta
Pashayan
Patterson
Peyser
Pickle
Pursell
Quayle
Quillen
Railsback
Rangel
Reuss
Rhodes
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rudd
Russo
Santini
Schulze
Sebelius
Seiberling
Shelby
Shuster
Skelton
Smith, Iowa
Snyder
Solarz
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stokes
Studds
Symms
Taylor
Thomas
Traxler
Treen
Udall
Van Deerlin
Vander Jagt
Vento
Walgren
Wampler
Waxman
Weaver
Whitehurst
Whitley
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Wolpe
Wright
Wydler
Wylie
Yatron
Young, Mo.
Zeferetti

□ 2020

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 404, CONTINUING APPROPRIATIONS, 1980

Mr. WHITTEN submitted the following conference report and statement on the joint resolution (H.J. Res. 404) making continuing appropriations for the fiscal year 1980, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96–493)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.J. Res. 404) making continuing appropriations for the fiscal year 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 3, and 19.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 6, 16, and 18, and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

For purposes of this subsection, H.R. 4390, as reported June 7, 1979, shall be treated as appropriating $11,000,000 under the headings "Office of Technology Assessment," "Salaries and Express"; $200,300,000 under the headings "General Accounting Office", "Salaries and Expenses"; and $50,707,000 under headings "Joint Items", "Official Mail Costs".

And the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$169,717,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following: "Activities of the Federal Trade Commission: *Provided*, That none of the funds made available by this joint resolution for the Federal Trade Commission may be used for the final promulgation of trade regulation rules authorized by Section 18 of the Federal Trade Commission Act, as amended, nor to initiate any new activities"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "November 20, 1979 except November 1, 1979 for the provisions of section 101(b) of this joint resolution"; and the Senate agree to the same.

The committee of conference reported in disagreement amendments numbered 4, 9, 11, 12, 13, 14, 15, and 17.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
JOHN M. SLACK,
ROBERT DUNCAN,
CHARLES WILSON,
ADAM BENJAMIN, Jr.,
SILVIO O. CONTE,
ROBERT H. MICHEL,
JOSEPH M. MCDADE,
Managers on the Part of the House.

WARREN G. MAGNUSON
(opposed to any congressional pay raise),
ROBERT C. BYRD,
DANIEL K. INOUYE,
WALTER D. HUDDLESTON,
JIM SASSER
(recorded as opposed to any congressional pay raise),
PATRICK LEAHY
(recorded as opposed to any congressional pay raise),
MILTON R. YOUNG,
MARK O. HATFIELD,
TED STEVENS,
CHARLES MCC. MATHIAS, Jr.
(except amendment No. 3),
LOWELL P. WEICKER, Jr.
(except amendment No. 3),
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 404) making continuing appropriations for the fiscal year 1980, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendment No. 1: Restores language proposed by the House providing that appropriations under the joint resolution are provided as contained in H.R. 4390, the Legislative Branch Appropriation Act, 1980, as reported on June 7, 1979.

Amendment No. 2: Retains the Senate language which adds "as amended" to the provision that provides appropriations for the Senate items to the extent and in the manner provided for in the budget estimates.

Amendment No. 3: Deletes the Senate language which would have denied 5.5 percent pay limitation for Members of Congress.

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which sets forth conditions relating to salaries and emoluments within the meaning of Article I, Section 6, clause 2 of the Constitution, and which also sets forth additional conditions whereby any Member of Congress may bring civil action in U.S. District Court regarding the appointment of Circuit Court judges.

Amendment No. 5: The conference agreement provides the following appropriation levels for the listed programs:

	House bill	Senate bill	Conference action
Office of Technology Assessment	$9,385,000	$12,500,000	$11,000,000
Books for the blind and physically handicapped (Library of Congress)	34,337,000	36,948,000	34,337,000
General Accounting Office	195,300,000	205,300,000	200,300,000
Congressional Budget Office	12,117,000	13,117,000	12,117,000
Official mail costs (joint items)	70,707,000	50,707,000	50,707,000

The conferees are sympathetic to the goals and objectives of the Books for the Blind and Physically Handicapped program of the Library of Congress and would be willing to entertain a supplemental appropriation request if it can be demonstrated that additional funds are required later in the fiscal year.

Amendment No. 6: Delete language, proposed by the House, providing for the funding of programs and projects in the Energy and Water Development Appropriation Act, 1980 (H.R. 4388). This language is no longer necessary as the bill was signed into law on September 25, 1979.

Amendment No. 7: Provides that activities under title XV of the Public Health Service Act shall be conducted at not to exceed an annual rate for obligations of $169,717,000, instead of $188,717,000 as proposed by the Senate, and the current rate, as proposed by the House. The conferees are agreed that the amount agreed upon includes $124,717,000 for local agencies, $32,000,000 for State agencies, $1,000,000 for planning centers, and $12,000,000 for program support.

Amendment No. 8: Provides for continuation of the activities of the Federal Trade Commission conducted in fiscal year 1979 at a rate of operations not in excess of the current rate, as proposed by the Senate, but prohibits promulgation of any final trade regulation rules authorized by Section 18 of the Federal Trade Commission Act, as amended, or initiation of any new activities.

The provisions embodied in the conference agreement were included in a separate continuing resolution for the Federal Trade Commission, H.J. Res. 402, which was passed by the House, but was not considered by the Senate. In addition, H.J. Res. 402 provided for a termination date of November 15, 1979 on the availability of funds for the FTC. Under the terms of the conference agreement on Amendment No. 10, the termination date on the availability of funds for the FTC (as well as all other activities covered by the resolution) is November 20, 1979, instead of October 31, 1979 as proposed by the Senate. This authority will continue appropriations for those program areas contained in the Federal Trade Commission's 1979 appropriations. The Commission is particularly admonished to continue to observe the directions concerning children's advertising, agricultural marketing orders, life insurance, and the auto industry investigation in the Reports accompanying the Commission's 1979 appropriations. This authority does not authorize the Commission to delve into new program areas.

The conferees wish to reiterate the concern expressed in the House and Senate reports about the lack of legislative authorization for the Federal Trade Commission. The authorization for appropriations for the FTC expired at the end of fiscal year 1977 and no authorization has been enacted since that time. Therefore, the conferees are agreed it is essential that this long-delayed authorization be passed by the House and Senate and enacted into law by the end of the 50-day period. The conferees expect that the appropriate legislative committees of the House and Senate will make maximum efforts in this regard and that the administration will cooperate fully in expediting passage of such legislation.

Amendment No. 9: Reported in disagreement.

Amendment No. 10: Changes the termination date of the continuing resolution to November 20, 1979 (and November 1, 1979 with respect to section 101(b)) instead of December 31, 1979 as proposed by the House and October 31, 1979 as proposed by the Senate.

Amendment No. 11: Reported in technical disagreement. Inasmuch as this amendment relates solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs therein without intervention, the managers on the part of the House will offer a motion to recede and concur in the Senate amendment No. 11.

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

SEC. 112. During the fiscal year ending on September 30, 1980, the total amount which may be obligated to travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the Government shall not exceed an amount which is $500,000,000 less than the total amount proposed therefor in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under Section 201 of the Budget and Accounting Act, 1921. The Director of the Office of Management and Budget shall allocate the reduction in such proposed total amount among the departments, agencies, and instrumentalities of the executive branch and shall report on such allocation to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That in allocating the reduction in such proposed total amount among the departments, agencies, and instrumentalities of the executive branch, no reduction shall be made in funds for debt collection or supervision of loans, nor shall any department, agency or instrumentality be reduced by more than fifteen per centum of the amount proposed for each such department, agency or instrumentality in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

In applying these reductions, the conferees expect each department and agency of the executive branch of the Government to review thoroughly current travel practices in an effort to eliminate unnecessary and excessive travel as well as travel abuses. Government employees should refrain from using first class travel, and should confine their travel to tourist class

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides authority for the Department of Justice to use the 1979 appropriation for "Support of United States Prisoners" to honor commitments for contracts or cooperative agreements for improving local facilities which house Federal prisoners.

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which extends the availability of budget authority for expansion of the University of The District of Columbia for one additional year under the same conditions stated in the District of Columbia Appropriation Act, 1978 (Public Law 95–288).

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

SEC. 115. (a) Section 3(e) of Public Law 91–663 is amended by adding at the end thereof the following: "With respect to a railroad which filed a petition for reorganization during fiscal year 1978, during the period October 1, 1979, through November 30, 1979, certificates shall be issued without regard to the limitations of subsection (a) and with such priority in payment as the Secretary deems appropriate to secure repayment, for the purpose of continuing service on the railroad system at the level in effect on October 1, 1979."

(b) Section 5(h)(2)(A) of Public Law 89–670, as amended, is further amended by striking "but has not yet" and inserting in lieu thereof "or has".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 16: Inserts language proposed by the Senate to prohibit the reorganization of certain offices of the Alaska Railroad. The conferees intend that this provision shall be effective only until November 20, 1979.

Amendment No. 17: Reported in disagreement.

Amendment No. 18: Inserts language proposed by the Senate providing that all obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

Amendment No. 19: Deletes Senate language which would have amended the Legislative Reorganization Act of 1946 to provide that no pay raise for a Member of Congress may take effect until the following Congress in which it is authorized.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
JOHN M. SLACK,
ROBERT DUNCAN,
CHARLES WILSON,
ADAM BENJAMIN, Jr.,
SILVIO O. CONTE,
ROBERT H. MICHEL,
JOSEPH M. MCDADE,

Managers on the Part of the House.

WARREN G. MAGNUSON
(opposed to any congressional pay raise),
ROBERT C. BYRD,
DANIEL K. INOUYE,
WALTER D. HUDDLESTON,
JIM SASSER
(recorded as opposed to any congressional pay raise),
PATRICK LEAHY
(recorded as opposed to any congressional pay raise),
MILTON R. YOUNG,
MARK O. HATFIELD,
TED STEVENS,
CHARLES MCC. MATHIAS, Jr.
(except amendment No. 3),
LOWELL P. WEICKER, Jr.
(except amendment No. 3).

Managers on the Part of the Senate.

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it be in order to consider immediately the conference report on the joint resolution (H.J. Res. 404 making continuing appropriations for the fiscal year 1980, and for other purposes, and the amendments in disagreement thereto, and that the conference report be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House just adopted, I call up the conference report on the joint resolution (H.J. Res. 404) making continuing appropriations for the fiscal year 1980, and for other purposes.

The SPEAKER. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, the conference committee on the continuing resolution has reached agreement on most all of the items in the two versions of the resolution. We have reconciled most of them. There are two votes we will have after the conference report is agreed to.

Primarily, we have made some changes, and there are some differences. The Health, Education, and Welfare Department will continue for 31 days under this agreement, as shown by the conference report.

□ 2030

The Federal Trade Commission is to be continued until November 20. As many of the Members know, for the last 2 or 3 years that agency has operated under appropriation bills alone and not by the authorization bill. In other words, the authorization has not been renewed.

So in an effort to bring together the conflicting views and to get legislation, the House passed a separate continuing resolution which limited the Federal Trade Commission to continue what they are doing now, but not to issue any final trade regulation rules for 45 days. The Senate has gone along with this restriction but we agreed on a 50-day period. They have consolidated that resolution with the one we have before us.

With the exception of the 31 days for Labor and HEW, this bill goes until November 20.

Amendment No. 5 included a slight decrease in connection with the Office of Technology Assessment. The conference agreed on $11 million. The House bill was $9,300,000. The Senate bill was $12,500,000. There are certain other changes in connection with that amendment. With respect to mail costs, the House bill was $70 million and the Senate bill was $50 million, and the conference action goes along with the Senate figure at $50,707,000, which was a reduction from the House figure.

Amendment No. 6 deletes language proposed by the House providing for the funding of the Energy and Water Development Appropriation Act. As the Members know, that bill has been signed by the President.

Amendment No. 7 provides that activities under title XV of the Public Health Service shall be conducted at not to exceed an annual rate for obligations of $169.7 million instead of the $188 million as proposed by the Senate and the current rate as proposed by the House.

Under this item, the conferees also agreed that $124,717,000 should be allocated for local agencies, $32 million for State agencies, $1 million for planning centers and $12 million for program support.

In all of these instances, these items were agreed to by the ranking member of the subcommittee and by the chairman of the respective subcommittees that oversees these activities.

Amendment No. 9 will be reported in disagreement and deals with the Department of Housing and Urban Development-Independent Agencies appropriations bill.

May I say, one of the matters of prime interest is the limitation on the 12.9-percent increase in pay which would otherwise automatically go into effect Sunday night. The conference agreement goes back to the 5.5-percent pay limitations provided by the House and was agreed to by both sides. In the absence of this agreement there would be a 12.9 percent pay increase which would become effective on October 1.

One of the major items in disagreement and which caused the largest problem in the conference was that of abortion. This is the situation on abortion: The House stood firmly by its position, which is the Hyde amendment language.

But the resolution itself, limits the funding of the Health, Education, and Welfare activities to 31 days. So for 31 days the abortion prohibition will follow the House language as voted on by the House in connection with the Labor-HEW appropriations bill. At the proper time, I shall move to further insist on this House position. There may be a motion to recede and concur. But the abortion prohibition runs for only 31 days. We felt this was a reasonable approach under the circumstances and would permit the various departments and agencies to continue to function until this matter is settled on the regular bill.

So your committee has been in session all afternoon and into the evening. As the Members know, there were a lot of differences. When you are working under pressure you have some difficulties getting together; but I think we have brought to the membership a good bill. We have stood by the House position on this particular item. I shall move to further insist on it when we get to that.

Mr. Speaker, that is all I have to say at this time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have brought to the

House this evening a conference report on House Joint Resolution 404, making continuing appropriations for fiscal 1980.

We had a long and difficult conference with the Senate.

All of the issues are well known to the Members of the House, and I will only take enough time to summarize the recommendations of the conferees.

On Federal pay, the Senate receded from its amendments, which means that a pay increase of 5.5 percent will go into effect for upper-level Federal employees, including Members of Congress instead of 12.9 percent increase.

The Senate receded from the amendment which would have postponed pay increases for Members until the subsequent Congress.

I believe this is a modest pay increase, when compared to the more than 20 percent increase in the cost of living during the past 2½ years since Members had their last pay raise.

On abortion, a motion will be offered to insist on the House position.

On the expiration date for the continuing resolution, the conferees agreed to November 20, 1979, except for activities covered in the Labor-HEW bill, where the resolution will extend through November 1, 1979.

The House won a clear victory in retaining the restraints on the FTC which had been approved by the House in House Joint Resolution 402. This language simply provides that the FTC shall not issue any new final regulations or undertake any new activities, and will protect the right of the Congress to conclude the orderly consideration of authorization legislation.

We also reached agreement on an allocation of health planning funds which will provide for a more generous share for local planning agencies. This is a good program, and the conferees are recommending that the money should go where it does the most good—at the local level.

We are recommending a reduction of $500 million in total obligations for Government travel, with language in the resolution which provides that no agency shall be cut more than 15 percent, and that no reduction shall be made in travel for purposes of collecting debts. We included report language firmly opposing first-class travel by Government employees.

We very reluctantly agreed to a Senate amendment to provide continuing Federal assistance, in the form of loan guarantees, to the Milwaukee Railroad.

However, we also succeeded in placing several important safeguards on this assistance.

First. We insisted on loan guarantees rather than direct grants.

Second. We placed a limit of $125 million on these guarantees.

Third. We provided the Secretary of Transportation with the discretion to assert the right of the Federal Government to first priority on liens against assets.

Fourth. We froze the level of service to the level in effect on the date of enactment of the continuing resolution.

Mr. Speaker, these are difficult issues, and this was a difficult conference.

But I urge the Members to support the recommendations of the conferees.

The fiscal year starts on Monday. If this resolution is not enacted, then next week many Federal programs will stop, and many Federal employees will not get paid.

For example—

Army, Navy, and Marine Corps paydays on October 10, 11, and 12 will not be met unless these payrolls are certified by October 7;

Disaster relief activities by the Department of Defense in the Caribbean will be stopped on October 4 or 5;

Black lung benefits due to be sent on October 10 may not be sent;

Worker's compensation payments to 78,000 Federal employees due to be sent on October 5 may not be sent;

Four thousand VISTA volunteers may not receive biweekly allowances on October 1;

Computer tapes for the payment of veterans' GI benefits are due to be delivered to the Treasury on October 10;

Payroll checks are due to be mailed out for the entire Treasury Department on October 11;

HEW SSI payments are due on the first of the month; and

CSA grants to State and local governments are due on the first of the month, and the entire CSA payroll must be sent to Treasury by October 9.

I know there are many difficult issues in this resolution.

But Members should know that our failure to pass a continuing resolution in the next few days will have a devastating impact on Federal employees, on State and local governments, and on the recipients of many direct payments which would be funded or administered with these continuing appropriations.

Mr. Speaker, I urge my colleagues to support the conference report, and to support the conferees on the amendment in disagreement.

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Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. BENJAMIN).

Mr. BENJAMIN. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, the conference agreement provides continuing appropriations totalling $1,157,985,400 for fiscal year 1980 for the legislative branch, which is $18,097,900 above the level enacted to date for fiscal year 1979 and $95,055,200 below the budget estimates. This agreement reflects the amounts specified in H.R. 4390 as reported to the House on June 7, 1979, and, in addition, $218,063,000 for Senate items not considered by this body.

Mr. Speaker, this conference agreement also includes the 5.5-percent limitation on pay increases for Members of Congress and other senior executives of the Federal Government. Without this specific limitation, Members of Congress and certain Federal employees earning $47,500 or more would receive a 12.9-percent pay increase during fiscal year 1980. The conferees felt that reducing this pay raise to 5.5 percent is a responsible action. By holding down tightly on the rate of inflation in operating the legislative branch of Government, we can set an example for the rest of the Nation to follow. We have allowed only a 1.5-percent increase over last year's budget to operate the legislative branch. Mr. Speaker, I think that shows how serious we are about setting that example.

Mr. Speaker, I include at this point in the RECORD a tabulation of the conference agreement which compares the House and Senate actions and the amount agreed to in conference:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN H.J. RES. 404—CONTINUING RESOLUTION FOR FISCAL YEAR 1980—LEGISLATIVE BRANCH

	New budget authority					Conference compared with fiscal year 1980 estimate
	Enacted fiscal year 1979	Estimates fiscal year 1980	[1] House fiscal year 1980	Senate fiscal year 1980	Conference fiscal year 1980	
TITLE I—CONGRESSIONAL OPERATIONS						
SENATE						
Compensation and Mileage of the Vice President and Senators and Expense Allowances of the Vice President, the Leaders, and Whips of the Senate						
Compensation and mileage of the Vice President and Senators	$6,480,000	$6,827,000	$6,827,000	$6,827,000	$6,827,000	
Expense allowances of the Vice President, president pro tempore, majority and minority leaders and majority and minority whips:						
Vice President	10,000	10,000	10,000	10,000	10,000	
President pro tempore of the Senate		10,000	10,000	10,000	10,000	
Majority leader of the Senate	5,000	10,000	10,000	10,000	10,000	
Minority leader of the Senate	5,000	10,000	10,000	10,000	10,000	
Majority whip of the Senate	2,500	2,500	2,500	2,500	2,500	
Minority whip of the Senate	2,500	2,500	2,500	2,500	2,500	
Total, expense allowances	25,000	45,000	45,000	45,000	45,000	
Total, Vice President and Senators	6,505,000	6,872,000	6,872,000	6,872,000	6,872,000	

Footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN H.J. RES 404—CONTINUING RESOLUTION FOR FISCAL YEAR 1980—LEGISLATIVE BRANCH—Continued

	New budget authority					Conference compared with fiscal year 1980 estimate
	Enacted fiscal year 1979	Estimates fiscal year 1980	[1] House fiscal year 1980	Senate fiscal year 1980	Conference fiscal year 1980	
TITLE I—CONGRESSIONAL OPERATIONS—Continued						
SENATE—Continued						
Salaries, Officers and Employees						
Office of the Vice President	$810,000	$810,000	$810,000	$810,000	$810,000	
Office of the President pro tempore	120,000	123,000	123,000	123,000	123,000	
Offices of the majority and minority leaders	440,000	540,000	540,000	540,000	540,000	
Floor assistants to the majority and minority leaders	103,000	109,000	109,000	109,000	109,000	
Offices of the majority and minority whips	252,000	252,000	252,000	252,000	252,000	
Offices of the secretaries of the conference of the majority and the conference of the minority	136,000	140,000	140,000	140,000	140,000	
Office of the Chaplain	42,000	55,000	55,000	55,000	55,000	
Office of the Secretary	4,318,000	4,407,000	4,407,000	4,407,000	4,407,000	
Committee employees	11,437,000	11,825,000	11,825,000	11,825,000	11,825,000	
Conference committees	792,000	792,000	792,000	792,000	792,000	
Sdministrative, clerical, and legislative assistance to Senators	75,045,000	75,133,000	75,133,000	75,133,000	75,133,000	
Office of Sergeant at Arms and Doorkeeper	20,866,000	21,072,000	21,072,000	21,072,000	21,072,000	
Offices of the secretaries for the majority and minority	428,000	434,000	434,000	434,000	434,000	
Agency contributions and longevity compensation	9,088,000	9,943,000	9,943,000	9,943,000	9,943,000	
Total, salaries, officers and employees	123,877,000	125,635,000	125,635,000	125,635,000	125,635,000	
Office of the Legislative Counsel of the Senate						
Salaries and expenses	840,000	899,000	899,000	899,000	899,000	
Contingent Expenses of the Senate						
Senate policy committee	1,462,000	1,462,000	1,462,000	1,462,000	1,462,000	
Automobiles and maintenance	58,000	65,000	65,000	65,000	65,000	
Inquiries and investigations	31,955,000	32,600,000	32,600,000	32,600,000	32,600,000	
Folding documents	109,000	109,000	109,000	109,000	109,000	
Miscellaneous items	29,456,000	39,195,000	39,195,000	39,195,000	39,195,000	
Postage stamps	6,000	7,000	7,000	7,000	7,000	
Stationery (revolving fund)	39,000	40,000	40,000	40,000	40,000	
Total, contingent expenses of the Senate	63,085,000	73,478,000	73,478,000	73,478,000	73,478,000	
Total, Senate	194,307,000	206,884,000	206,884,000	206,884,000	206,884,000	
HOUSE OF REPRESENTATIVES						
Compensation and Mileage for the Members						
Compensation of Members	27,699,300	27,690,000	27,690,000		27,690,000	
Mileage of Members	210,000	210,000	210,000		210,000	
Total, compensation and mileage for the Members	27,909,300	27,900,000	27,900,000		27,900,000	
House Leadership Offices						
Office of the Speaker	566,100	566,100	566,100		566,100	
Office of the Majority Floor Leader	396,500	396,500	396,500		396,500	
Office of the Minority Floor Leader	491,500	491,500	491,500		491,500	
Office of the Majority Whip	431,600	431,600	431,600		431,600	
Office of the Minority Whip	336,600	336,600	336,600		336,600	
Total, House leadership offices	2,222,300	2,222,300	2,222,300		2,222,300	
Salaries, Offices and Employees						
Office of the Clerk	8,201,900	8,378,400	8,378,400		8,378,400	
Office of the Sergeant at Arms	12,908,600	12,951,900	12,951,900		12,951,900	
Office of the Doorkeeper	4,569,500	4,615,100	4,530,100		4,530,100	−$85,000
Office of the Postmaster	1,239,600	1,284,700	1,284,700		1,284,700	
Office of the Chaplain	25,000	50,000	50,000		50,000	
Office of the Parliamentarian	256,200	280,000	280,000		280,000	
Compilation of precedents of the House of Representatives	305,000	200,000	200,000		200,000	
Technical assistant, Office of the Attending Physician	32,400	32,400	32,400		32,400	
House Democratic Steering Committee	323,000	323,000	323,000		323,000	
House Democratic Caucus	85,600	85,600	85,600		85,600	
House Republican Conference	566,900	566,900	566,900		566,900	
Six minority employees	277,100	300,000	300,000		300,000	
L. B. J. Interns and Former Speakers' staff	688,600	630,300	630,300		630,300	
Total, salaries, officers and employees	29,479,400	29,698,300	29,613,300		29,613,300	−85,000
Committee Employees						
Professional and clerical employees (standing committees)	24,705,000	24,705,000	24,705,000		24,705,000	
Committee on Appropriations (Studies and Investigations)						
Salaries and expenses	2,903,900	2,950,000	2,950,000		2,950,000	
Committee on the Budget (Studies)						
Salaries and expenses	261,000	277,000	277,000		277,000	
Office of the Law Revision Counsel						
Salaries and expenses	449,000	465,000	465,000		465,000	
Office of the Legislative Counsel						
Salaries and expenses	1,939,400	1,987,000	1,987,000		1,987,000	
Members' Clerk Hire						
Clerk hire	117,790,700	118,307,600	118,307,600		118,307,600	
Contingent Expenses of the House						
Allowances and Expenses						
Official expenses of Members	38,367,989	39,418,800	39,418,800		39,418,800	
Supplies, materials, administrative costs and Federal tort claims	2,578,511	3,483,600	3,483,600		3,483,600	
Furniture and furnishings	1,085,000	2,079,000	2,079,000		2,079,000	
Reporting hearings	1,501,000	1,650,000	1,650,000		1,650,000	
Reemployed annuitants reimbursement	2,099,700	661,500	661,500		661,500	
Government contributions	14,770,000	14,632,100	14,632,100		14,632,100	
Miscellaneous items	338,400	451,700	451,700		451,700	
Total, allowances and expenses	60,740,600	62,376,700	62,376,700		62,376,700	

Footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN H.J. RES. 404—CONTINUING RESOLUTION FOR FISCAL YEAR 1980—LEGISLATIVE BRANCH—Continued

	New budget authority					Conference compared with fiscal year 1980 estimate
	Enacted fiscal year 1979	Estimates fiscal year 1980	[1] House fiscal year 1980	Senate fiscal year 1980	Conference fiscal year 1980	
TITLE I—CONGRESSIONAL OPERATIONS—Continued HOUSE OF REPRESENTATIVES—Continued						
Special and Select Committees						
Salaries and expenses	$46,762,000	$55,551,200	$42,100,000		$42,100,000	−$13,451,200
Total, contingent expenses of the House	107,502,600	117,927,900	104,476,700		104,476,700	−13,451,200
Total, House of Representatives	315,162,600	326,440,100	312,903,900		312,903,900	−13,536,200
JOINT ITEMS						
Contingent Expenses of the Senate						
Joint Economic Committee	2,353,000	2,749,000	2,749,000	$2,749,000	2,749,000	
Joint Committee on Printing	716,000	864,000	864,000	864,000	864,000	
Total, contingent expenses of the Senate	3,069,000	3,613,000	3,613,000	3,613,000	3,613,000	
Joint Committee on Taxation						
Salaries and expenses	2,375,200	2,607,200	2,455,000		2,455,000	−152,200
Office of the Attending Physician						
Medical supplies, equipment, expenses, and allowances	465,000	459,000	459,000		459,000	
Capitol Police						
General expenses	750,100	809,500	809,500		809,500	
Capitol Police Board	1,421,000	1,297,000	1,263,000		1,263,000	−34,000
Total, Capitol Police	2,171,100	2,106,500	2,072,500		2,072,500	−34,000
Education of Pages						
Education of congressional pages and pages of the Supreme Court	216,700	241,800	220,000		220,000	−21,800
Official Mail Costs						
Expenses	64,944,000	70,707,000	70,707,000	50,707,000	50,707,000	−20,000,000
Capitol Guide Service						
Salaries and expenses	593,000	613,000	613,000	613,000	613,000	
Statements of Appropriations						
Preparation	13,000	13,000	13,000	6,500	13,000	
Total, joint items	73,847,000	80,360,500	80,152,500	54,939,500	60,152,500	−20,208,000
OFFICE OF TECHNOLOGY ASSESSMENT						
Salaries and expenses	9,700,000	12,500,000	9,385,000	12,500,000	11,000,000	−1,500,000
CONGRESSIONAL BUDGET OFFICE						
Salaries and expenses	11,368,000	13,586,000	12,117,000	13,117,000	12,117,000	−1,469,000
ARCHITECT OF THE CAPITOL						
Office of the Architect of the Capitol						
Salaries	2,382,000	3,055,000	2,836,000		2,836,000	−219,000
By transfer	(108,000)					
Contingent expenses	210,000	210,000	210,000		210,000	
Total, Office of the Architect of the Capitol	2,592,000	3,265,000	3,046,000		3,046,000	−219,000
Capitol Buildings and Grounds						
Capitol buildings	6,157,000	8,541,000	7,394,000		7,394,000	−1,147,000
By transfer	(223,000)					
Capitol grounds	2,565,000	4,223,000	4,062,000		4,062,000	−161,000
By transfer	(79,000)					
Senate office buildings	10,928,600	10,983,000	10,983,000	10,983,000	10,983,000	
By transfer	(334,000)					
Senate garage	164,000	196,000	196,000	196,000	196,000	
By transfer	(7,000)					
House office buildings	21,465,000	20,391,000	18,484,000		18,484,000	−1,907,000
Installation of solar collectors in House office buildings	1,500,000					
Capitol Power Plant (operation)	13,635,000	15,133,000	14,181,000		14,181,000	−952,000
Total, Capitol buildings and grounds	56,414,600	59,467,000	55,300,000	11,179,000	55,300,000	−4,167,000
Total, Architect of the Capitol (except Library buildings and grounds)	59,006,600	62,732,000	58,346,000	11,179,000	58,346,000	−4,386,000
LIBRARY OF CONGRESS						
Congressional Research Service						
Salaries and expenses	25,553,000	30,335,000	27,090,000		27,090,000	−3,245,000
GOVERNMENT PRINTING OFFICE						
Congressional printing and binding	73,961,000	76,212,000	74,500,000		74,500,000	−1,712,000
Total, title I—Congressional operations	762,905,200	809,049,600	781,378,400	298,619,500	762,993,400	−46,056,200
TITLE II—OTHER AGENCIES						
BOTANIC GARDEN						
Salaries and expenses	1,392,000	1,473,000	1,464,000		1,464,000	−9,000
By transfer	(56,000)					

Footnote at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN H.J. RES. 404—CONTINUING RESOLUTION FOR FISCAL YEAR 1980—LEGISLATIVE BRANCH—Continued

	New budget authority					Conference compared with fiscal year 1980 estimate
	Enacted fiscal year 1979	Estimates fiscal year 1980	[1] House fiscal year 1980	Senate fiscal year 1980	Conference fiscal year 1980	
TITLE II—OTHER AGENCIES—Continued						
LIBRARY OF CONGRESS						
Salaries and expenses	$92,249,000	$108,293,000	$102,380,000		$102,380,000	−$5,913,000
By transfer	(1,933,000)					
Copyright Office, salaries and expenses	8,560,500	10,542,000	9,251,000		9,251,000	−1,291,000
By transfer	(61,000)					
Books for the blind and physically handicapped, salaries and expenses	36,729,700	36,948,000	34,337,000	$36,948,000	34,337,000	−2,611,000
Collection and distribution of library materials (special foreign currency program):						
Payments in Treasury-owned foreign currencies	3,603,500	3,495,500	3,187,100		3,187,100	−308,400
U.S. dollars	256,600	406,500	375,900		375,900	−30,600
Total, collection and distribution of library materials	3,860,100	3,902,000	3,563,000		3,563,000	−339,000
Furniture and furnishings	7,694,000	2,880,000	870,000		870,000	−2,010,000
Total, Library of Congress (except Congressional Research Service)	149,093,300	162,565,000	150,401,000	36,948,000	150,401,000	−12,164,000
ARCHITECT OF THE CAPITOL						
Library Buildings and Grounds						
Structural and mechanical care	2,847,000	8,785,000	4,410,000		4,410,000	−4,375,000
By transfer	(95,000)					
COPYRIGHT ROYALTY TRIBUNAL						
Salaries and expenses	805,000	631,000	471,000		471,000	−160,000
GOVERNMENT PRINTING OFFICE						
Printing and binding	11,476,000	19,541,000	13,646,000		13,646,000	−5,895,000
Office of Superintendent of Documents, salaries and expenses	23,613,000	23,037,000	23,000,000		23,000,000	−37,000
Total, Government Printing Office (except congressional printing and binding and acquisition of site and general plans and designs of building)	35,089,000	42,578,000	36,646,000		36,646,000	−5,932,000
GENERAL ACCOUNTING OFFICE						
Salaries and expenses	185,906,000	206,763,000	195,300,000	205,300,000	200,300,000	−6,463,000
COST-ACCOUNTING STANDARDS BOARD						
Salaries and expenses	1,850,000	1,800,000	1,300,000		1,300,000	−500,000
Total, title II—other agencies	376,982,300	424,595,000	389,992,000	242,248,000	394,992,000	−29,603,000
TITLE III—CAPITAL IMPROVEMENTS						
GOVERNMENT PRINTING OFFICE						
Acquisition of site and general plans and designs of building		19,396,000				−19,396,000
Grand total, titles I, II and III: New budget (obligational) authority	1,139,887,500	1,253,040,600	1,171,370,400	540,867,500	1,157,985,400	−95,055,200
RECAPITULATION						
Title I—Congressional operations	762,905,200	809,049,600	781,378,400	298,619,500	762,993,400	−46,056,200
Title II—Other agencies	376,982,300	424,595,000	389,992,000	242,248,000	394,992,000	−29,603,000
Title III—Capital improvements		19,396,000				−19,396,000
TITLE I—CONGRESSIONAL OPERATIONS						
Senate	194,307,000	206,884,000	206,884,000	206,884,000	206,884,000	
House of Representatives	315,162,000	326,440,100	312,903,900		312,903,900	−13,536,200
Joint items	73,847,000	80,360,500	80,152,500	54,939,500	60,152,500	−20,208,000
Office of Technology Assessment	9,700,000	12,500,000	9,385,000	12,500,000	11,000,000	−1,500,000
Congressional Budget Office	11,368,000	13,586,000	12,117,000	13,117,000	12,117,000	−1,469,000
Architect of the Capitol (except Library buildings and grounds)	59,006,600	62,732,000	58,346,000	11,179,000	58,346,000	−4,386,000
Congressional Research Service, Library of Congress	25,553,000	30,335,000	27,090,000		27,090,000	−3,245,000
Congressional printing and binding, Government Printing Office	73,961,000	76,212,000	74,500,000		74,500,000	−1,712,000
Total, title I—congressional operations	762,905,200	809,049,600	781,378,400	298,619,500	762,993,400	−46,056,200
TITLE II—OTHER AGENCIES						
Botanic Garden	1,392,000	1,473,000	1,464,000		1,464,000	−9,000
Library of Congress (except Congressional Research Service)	149,093,300	162,565,000	150,401,000	36,948,000	150,401,000	−12,164,000
Library buildings and grounds, Architect of the Capitol	2,847,000	8,785,000	4,410,000		4,410,000	−4,375,000
Copyright Royalty Tribunal	805,000	631,000	471,000		471,000	−160,000
Government Printing Office (except congressional printing and binding)	35,089,000	42,578,000	36,646,000		36,646,000	−5,932,000
General Accounting Office	185,906,000	206,763,000	195,300,000	205,300,000	200,300,000	−6,463,000
Cost-Accounting Standards Board	1,850,000	1,800,000	1,300,000		1,300,000	−500,000
Total, title II—other agencies	376,982,300	424,595,000	389,992,000	242,248,000	394,992,000	−29,603,000
TITLE III—CAPITAL IMPROVEMENTS						
Government Printing Office		19,396,000				−19,396,000
Grand total, new budget (obligatoinal) authority	1,139,887,500	1,253,040,600	1,171,370,400	540,867,500	1,157,985,400	−95,055,200

[1] Reflects amounts contained in H.R. 4390 as reported June 7, 1979, and Senate items in the amount of the amended budget estimates.

Furthermore, Mr. Speaker, I should note that funds for the Joint Economic Committee and Joint Committee on Printing are provided at the rate contained in the budget estimates since these funds are disbursed by the Secretary of the Senate, although the recommendations in H.R. 4390 had reduced those amounts by $281,000 and $145,000, respectively. It is my expectation that these excess funds should only be applied to increased pay costs, thus obviating the need for supplemental pay increase appropriations.

Mr. Speaker, the amendments agreed to in conference are fully explained in the statement accompanying the conference report.

This is a good, responsible conference agreement, Mr. Speaker, and I urge its adoption by the House.

Mr. MICHEL. Mr. Speaker, I certainly do not want to be repetitious at this late hour, but do want to mention several of those items in this conference report for which I have some responsibility here on the minority side.

Before doing so, however, I want to

make clear that I am very distressed that we have had so many of our Members miss so many votes while we have been attempting to get agreement on this continuing resolution.

Members were advised earlier in the week that they were free to leave at 1 p.m. and here we are still around at 9 p.m. On Friday plane schedules are such that Members have to take what is available to them and appointments made a long time ago in anticipation of this recess period have to be kept. I just wanted the record to show that most of those absent this evening have good and sufficient reason for being where they are because they were given assurance that all would be settled far in advance of this hour.

HEALTH PLANNING

The conference report provides $169,717,000 for health planning, an increase of $14,835,000 over the 1979 level, which was the level contained in the House version of the resolution. The Senate version contained the budget recommendation of $188,717,000, so the conference report represents a reduction of $19,000,000 below the Senate level.

This program was not included in the regular Labor-HEW bill because it was not authorized. The authorization legislation cleared Congress last week, however, which is why the Senate provided for a higher level.

The conference report provides $124,717,000 for the local health planning agencies with which you are all most familiar. This represents an increase of $17,717,000 over the current level, so most of your local agencies will receive an increase.

We did not include the $17,000,000 contained in the Senate version for the new program of conversion grants. This can be considered later after we have had a chance to hold hearings.

LEGISLATIVE ITEMS

The Senate made some changes in several legislative items from the levels contained in the legislative appropriations bill as reported by the House Appropriations Committee. The House version of the continuing resolution provided for the levels as contained in that bill.

For the Office of Technology Assessment, the conference report provides $11,000,000, an increase of $1,615,000 over the House. I question the wisdom of this increase, since about all that Office produces are reports that end up collecting dust on the shelf.

We added $5,000,000 to the House level for the General Accounting Office, bringing the total up to $200,300,000.

The Senate wanted to increase the amount for the Congressional Budget Office by $1,000,000, but the conferees turned this down.

The Senate reduced the House figure of $70,707,000 for official mail costs by $20,000,000, due to some reestimates. We accepted this reduction, though there is a question as to whether this reduction might be a little excessive.

STATUARY HALL

The Senate went along with the House language prohibiting funds from being used to construct office cubicles for Members in Statuary Hall, so it was not an item for discussion in conference. I commend the Senate for going along with us in stopping this proposed boondoggle.

ABORTION

The Senate version provides for a continuation of the current language for the entire fiscal year, and would apply it to four different appropriation bills—labor-HEW, defense, foreign aid, and District of Columbia. In other words, it does not cover just the period of the continuing resolution, but the entire year.

Receding to Senate would thus represent a complete abdication of our position. It would provide us with no opportunity to resolve the issue on the individual appropriation bills.

On June 27, we voted to reject the Senate language by a vote of 241 to 180. I urge that we reaffirm that position and send the report back to the Senate.

Mr. WHITTEN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mrs. FENWICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. Two hundred and thirty-one Members are present, a quorum.

Mrs. FENWICK. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So the conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

> Senate amendment No. 4: Page 6, after line 5, insert:
>
> Any additional payment under existing law is not to be construed as an increase in salary or emoluments within the meaning of Article I, Section 6, Clause 2 of the Constitution, except that:
>
> (1) Any Member of Congress, whether he voted to confirm or not to confirm the appointment of any judge appointed during the 96th Congress to the United States Court of Appeals for the District of Columbia, or whether he abstained from, or was not present for such vote, may bring a civil action in the United States District Court for the District of Columbia or in any United States District Court in the State he represents to contest the constitutionality of the appointment and continuance in office of said Circuit Judge on the ground that such appointment and continuance in office is in violation of Article I, Section 6, Clause 2 of the Constitution;
>
> (2) The designated United States District Courts shall have exclusive jurisdiction, without regard to the sum or value of the matter in controversy, to determine the validity of such appointment and continuance in office;
>
> (3) Any action brought under this section shall be heard and determined by a panel of three judges in accordance with the provisions of section 2284 of title 28, United States Code. Any appeal from the action of a court convened pursuant to such section shall lie to the Supreme Court; and
>
> (4) Any judge designated to hear any action brought under this section shall cause such action to be in every way expedited.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is ther objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

> Senate amendment No. 9: Page 9, after line 10, insert:
>
> (j) Such amounts as may be necessary for projects or activities provided for in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980 (H.R. 4394), at a rate of operations, and to the extent and in the manner, provided for in such Act as reported from the committee of conference on August 2, 1979, notwithstanding the provisions of section 106 of this joint resolution: *Provided*, That those programs on which the committee of conference has failed to reach agreement shall be funded at the lesser of the amounts approved by the House or Senate.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. WHITTEN moves that the House insist on its disagreement to the amendment of the Senate numbered 9.

PREFERENTIAL MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. BOLAND moves that the House disagree to the Senate amendment No. 9 and concur therein.

Mr. WHITTEN. Mr. Speaker, the committee has no objection to this amendment. I suggest that it be adopted.

Mr. BOLAND. Mr. Speaker, in conference we could not reach an agreement on amendment numbered 9 and it has been brought back in true disagreement. I had intended to offer a motion to recede and concur with an amendment. I will not do that. A number of uncertainties about the status of the agencies funded in the HUD bill have been raised. My overriding concern is that some programs, like payment of veterans' benefits, not be thrown into doubt. As such, I am offering a preferential motion to recede and concur in order that the continuing resolution not be held up.

The SPEAKER. The question is on the preferential motion offered by the gentleman from Massachusetts (Mr. BOLAND).

The preferential motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 11: Page 12 after line 2, insert:

SEC. 111. Notwithstanding section 106 or any other provision of this joint resolution—

(a) effective October 1, 1979, the allowance for administrative and clerical assistance of each Senator from the State of Minnesota is increased to that allowed Senators from States having a population of four million but less than five million, the population of said State having exceeded four million inhabitants;

(b) effective October 1, 1979, the allowance for administrative and clerical assistance of each Senator from the State of Texas is increased to that allowed Senators from States having a population of thirteen million but less than fifteen million, the population of said State having exceeded thirteen million inhabitants;

(c) effective with the fiscal year ending September 30, 1980, section 117 of the Second Supplemental Appropriations Act, 1976 (2 U.S.C. 61f–1a), is amended by striking out "$25,000" and inserting in lieu thereof "$92,000"; and

(d) effective October 1, 1979, the Sergeant at Arms and Doorkeeper of the Senate may appoint and fix the compensation of two Photostat operators at not to exceed $12,663 per annum each; six Assistant Mail operators at not to exceed $12,096 per annum each; a Requisition and Receiving Clerk at not to exceed $13,608 per annum; a Maintenance and Rental Clerk at not to exceed $13,608 per annum; a State office Repair Clerk at not to exceed $13,608 per annum; and two Auditors at not to exceed $14,931 per annum each.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 12: Page 12, after line 2, insert:

SEC. 112. During the fiscal year ending on September 30, 1980, the total amount which may be obligated to travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the Government shall not exceed an amount which is $750,000,000 less than the total amount proposed therefor in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921. The Director of the Office of Management and Budget shall allocate the reduction in such proposed total amount among the departments, agencies, and instrumentalities of the executive branch and shall report on such allocation to the Committees on Appropriations of the House of Representatives and the Senate.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 112. During the fiscal year ending on September 30, 1980, the total amount which may be obligated to travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the Government shall not exceed an amount which is $500,000,000 less than the total amount proposed therefor in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under Section 201 of the Budget and Accounting Act, 1921. The Director of the Office of Management and Budget shall allocate the reduction in such proposed total amount among the departments, agencies, and instrumentalities of the executive branch and shall report on such allocation to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That in allocating the reduction in such proposed total amount among the departments, agencies, and instrumentalities of the executive branch, no reduction shall be made in funds for debt collection or supervision of loans, nor shall any department, agency or instrumentality be reduced by more than fifteen per centum of the amount proposed for each such department, agency or instrumentality in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read, printed in the RECORD, and I will yield myself such time as I may require to explain it.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, this amendment places a further limitation on travel of $500 million.

The record shows that a tremendous amount of money is spent in travel. The conference agreed that $500 million was a good compromise reduction instead of $750 million put in on the Senate side.

In deference to the fact that some of the travel expenses are necessary by reason of debt collections and supervision of loans, we did provide in the resolution that this cut should not be applied to those places where the employees were engaged in supervising obligations to the Government or in collecting them.

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In the report we further agreed that we would carry language that Government employees should travel tourist class like those in the Congress and others. That is what this amendment does.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 13: Page 12, after line 2, insert:

SEC. 113. Funds available under the Department of Justice Appropriation Act, Fiscal Year 1979 (Public Law 95–431) for support of United States prisoners shall be available as follows:

(a) The Attorney General is authorized to use the appropriation "Support of United States Prisoners" to enter into contracts or cooperative agreements to assist the government of any State, territory, or political subdivision thereof, for the necessary physical renovation, and the acquisition of equipment, supplies, services, or materials required to raise the level of conditions of confinement and facility services of any substandard facility which confines Federal detainees.

(b) This section shall apply only insofar as it is not inconsistent with section 4006 of title 18, United States Code.

(c) Authority provided by this section shall be available from September 26, 1979, and all obligations incurred in anticipation of the authority provided in this section are hereby ratified and confirmed if otherwise in conformance with the provisions of this section.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment number 14: Page 12, after line 2, insert:

SEC. 114. Notwithstanding the provisions of the paragraph entitled "Capital Outlay" in title II of the District of Columbia Appropriation Act, 1978, providing for the expiration of certain authorizations and the lapse of certain funds for capital outlay projects, the authorization for the capital outlay project involving the construction of phase I of the downtown permanent campus of the University of the District of Columbia located north of Mount Vernon Square and the funds appropriated in connection therewith by the District of Columbia Appropriation Act, 1978, shall, subject to the last proviso of such paragraph, expire on September 30, 1980, unless funds have been obligated in whole or in part prior to such date.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment number 15: Page 12, after line 2, insert:

SEC. 115. (a) Section 3(e) of Public Law 91–663 is amended by adding at the end thereof the following:

"With respect to a railroad which filed a petition in bankruptcy during fiscal year 1978, during the period October 1, 1979 through November 30, 1979, certificates shall be issued without regard to the limitations of this subsection and subsections (a), (b), and (c) hereof, for the purpose of continuing service on the railroad's system, at the level in effect on May 1, 1978.".

(b) Section 5(h)(2)(A) of Public Law 89–670, as amended, is further amended by striking "but has not yet" and inserting in lieu thereof "or has".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 115. (a) Section 3(e) of Public Law 91–663 is amended by adding at the end thereof the following: "With respect to a railroad which filed a petition for reorganization during fiscal year 1978, during the period October 1, 1979, through November 30, 1979, certificates shall be issued without regard to the limitations of subsection (a) and with such priority in payment as the Secretary deems appropriate to secure repayment, for the purpose of continuing service on the railroad system at the level in effect on October 1, 1979."

(b) Section 5(h)(2)(A) of Public Law 89–670, as amended, is further amended by striking "but has not yet" and inserting in lieu thereof "or has".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will report the final amendment in disagreement.

The Clerk read as follows:

Senate amendment number 17: Page 12, after line 2, insert:

SEC. 117. Notwithstanding any other provision of this joint resolution, none of the Federal funds provided by this joint resolution or provided for fiscal year 1980 by any other Act for the District of Columbia, Foreign Assistance and Related Programs, the Departments of Labor and Health, Education, and Welfare, or the Department of Defense shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House insist on its disagreement to the amendment of the Senate numbered 17.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an item that the Congress itself has been unable to agree on except with extreme difficulty. There are those that feel that the abortion issue should not be in a continuing resolution, but the circumstances are such that there is no way to avoid it being in the resolution.

In the House, the abortion language is known as the Hyde amendment, which I need not give you the exact words of because I know you are all familiar with it. But the House voted by a large majority in favor of the Hyde amendment, so your conferees stood by that position.

Recognizing myself that this item should not, or this controversy that surrounds this abortion prohibition should not, serve to tie up the funding of the entire Government, your committee suggests and recommends to you tonight that for the Department of Health, Education, and Welfare that the continuing resolution shall be in effect for only 31 days. That means that this prohibition will expire earlier than the other items in the continuing resolution and we thereby will be able to separate the Department of Health, Education, and Welfare from the other operations of Government.

It would leave the abortion controversy, should it continue to exist, to be resolved by those who know most about it and would affect only the appropriation bill in which it is a major problem.

So I say to my colleagues that we firmly stood by the House position, which restricts the use of Federal funds for abortion except where the life of the mother would be endangered if the fetus were carried to term. We have stood by the House position and the motion at the desk accomplishes this end. I strongly advised the other side that this was the only position we could take.

I repeat again that whatever action you may take here will be in effect for only 31 days because this matter should be essentially decided by those who deal with it and should affect only the bill in which this problem is situated.

Mr. BURLISON. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman.

Mr. BURLISON. I appreciate my chairman yielding.

Does this mean that the abortion issue with respect to the Department of Defense and the defense appropriations bill will be handled differently than the HEW bill?

Mr. WHITTEN. Not necessarily. It will eventually depend on what happens on the two individual bills. It is not covered in the provision we present in connection with this conference report.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PROPOSED NORTHERN TIER PIPELINE

(Mr. DASCHLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DASCHLE. Mr. Speaker, there is increasing support for one sure fire solution to the problem that has plagued this country during recent years—the uncertainty over the availability of crude oil. The proposed Northern Tier pipeline would transport Alaskan oil from Port Angeles, Wash.; directly to already existing refineries located in 17 States along the Northern Tier of our country. It would also provide a major oil transport route to the agricultural and industrial sector of our Midwestern States.

The need for a west to east oil pipeline has been firmly established. As much as 500,000 barrels a day is currently being shipped through the Panama Canal, at a shipping cost of $1.05 per barrel. Previous experience has put transportation costs for oil going through overland pipes at close to 42 cents per barrel.

The question now is which of four alternative pipeline routes is the most eco-logically sound, economically feasible and of greatest benefit to the Midwest and the Nation. Since 1977, when the application for Federal right-of-way was made, the Northern Tier pipeline proposal has been subject to intense scrutiny. In a recent memo to Interior Secretary Cecil Andrus, then Secretary of the Department of Energy James Schlesinger recommended the immediate construction of the Northern Tier pipeline:

> It commands the highest level of confidence in its ultimate construction. First, it is located entirely in the United States and therefore not subject to the risks and potential delays associated with international negotiations. It is a high capacity line that provides crude oil directly to Northern Tier and midwest refiners. As such, it provides the highest net national economic benefit and is further along in the non-Federal permitting process than any other alternative. . . .
>
> The Nation has already delayed the construction of a west-to-east pipeline for too long. . . . As the project with the highest degree of regulatory certainty, Northern Tier should be issued permits and encouraged to test the financial markets at the earliest possible time. . . .

Agricultural Secretary Bob Berglund has also endorsed the Northern Tier pipeline proposal, stating:

> The Northern Tier proposal stands out as the preferred alternative for a number of reasons. It yields the highest net national economic benefits and is consistent with national security interests in that the entire land route is on United States territory. Since no Canadian approval is required, the possibility of adverse impacts on international relations is minimized. The higher initial costs of the Northern Tier route are offset by its greater capability if used at full capacity. The important agricultural market in the Great Plains can be served at a lower cost per barrel than by any of the Canadian routes. . . .

All of the existing alternative pipeline route proposals travel through Canada and terminate at Edmonton, Alberta Province. From there, they would use the existing Interprovincial pipeline from Edmonton to Chicago.

The United States would have complete control over the regulation of the Northern Tier pipeline only, and would be the sole user of this large-capacity pipeline. This, in my opinion, is a distinct advantage over the three alternative routes through Canada.

For these reasons, I support the Northern Tier pipeline proposal, and encourage President Carter to endorse this pipeline.

BERRY PICKER BILL

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. DICKS. Mr. Speaker, last session of Congress many of us diligently worked for amendments to the Fair Labor Standards Act which allowed the Secretary of the Department of Labor, within certain guidelines, to waive child labor restrictions for the employment of children as hand-harvest agricultural laborers. These guidelines allowed children under the age of 12, under carefully protected circumstances, to work in the hand harvest of agricultural crops, including strawberries and other berries.

On the whole, these amendments are good legislation which protect the health and well-being of 10- and 11-year-old children by reasonable actions by the Secretary of the Department of Labor. However, recently the Department has used these amendments to inappropriately promote wasteful fiscal policies.

During the past year, the Department has hired and paid for outside consultants to produce and review toxicological data on the levels and types of pesticides and other agricultural chemicals which might have an adverse impact on the health of agricultural laborers.

I do not believe that this Congress intended the Department to hire these outside consultants and as a consequence I must offer legislation at this time which will restrict the Department from continuing to hire them.

The bill I introduce today will require the Secretary of Labor to consider scientific data concerning the level and type of pesticides and other agricultural chemicals only from the Environmental Protection Agency and the Food and Drug Administration in determining whether such pesticides or chemicals would have an adverse effect on the health of 10- and 11-year-old children.

I feel compelled to offer this legislation because I am concerned with the health and well-being of 10- and 11-year-olds who want to participate in the hand harvesting of strawberries and other berries in my district and in Washington State. This bill will continue the strong Federal protections which are necessary for young workers involved in agricultural hand-harvesting operations. These protections are necessary and have not been diminished by this bill.

I am also moved to offer this legislation because I believe it is inappropriate for the Department of Labor to contract for toxicological studies when the information in such studies can be provided by agencies within the Government. For the Department of Labor to contract for this type of information when it may be already available within the EPA or FDA, who have the primary responsibility of researching the potential toxicity of pesticides and chemicals, promotes waste in the Government and poor fiscal policy. Such policies should be not encouraged nor tolerated.

I believe that the health and well-being of 10- and 11-year-old children who work in berry fields and other agricultural hand harvesting should continue to be protected by the Department of Labor. I also believe that Federal Government agencies should employ all means and methods to promote fiscal restraint and responsibility in the expenditure of public funds.

This bill will promote both of these goals and I ask my colleagues in this House to join with me in supporting this legislation.

H.R. —

A bill to amend section 13 of the Fair Labor Standards Act of 1938 to require findings of adverse effects of pesticides and other chemicals to be based on objective scientific data

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 13(c)(4)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213 (c)(4)(A)) is amended (1) by striking out clause (iii) and by redesignating clauses (i), (ii), (iv), and (v) as subclauses (I), (II), (III), and (IV), respectively, and (2) by inserting after "may not grant such a waiver" the following: "(i) if he finds, based on scientific data developed by the Environmental Protection Agency, or the Food and Drug Administration of the Department of Health, Education, and Welfare that the level and type of pesticides and other chemicals uses would have an adverse effect on the health or well-being of the individuals to whom the waiver would apply, and (ii)".●

□ 2100

CARTER SNUBS THE KING

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

● Mr. FINDLEY. Mr. Speaker, President Carter's decision not to invite King Hussein of Jordan to meet with him at the White House is an unfortunate one. King Hussein, now visiting the United Nations in New York, leaves the United States on Saturday. Carter's decision is unfortunate, not just because it deprives Members of Congress of the opportunity to renew a social dialog with this longtime friend of the United States. It also demonstrates an approach to Mideast policy on President Carter's part that is shortsighted and unproductive.

King Hussein remains a friend of the United States despite the vicissitudes in our relationship created over the past year by the Camp David process. President Carter is upset because King Hussein has not agreed to speak for the Palestinians in the West Bank autonomy talks, but such a step would, in my opinion, cost the King his standing in the Arab world, probably his throne, and possibly his life, none of which should be U.S. objectives. Nevertheless, the King has been otherwise cooperative, moderate, and supportive of Western aims in the Middle East.

He continues to keep his border with the West Bank and Israel sealed to all violent incursions. He refuses increasingly generous offers of Soviet military assistance and equipment. And he presses for moderation among the Arabs, including the Palestinians, toward the West and its objectives.

As the peace process evolves, King Hussein's moderation and his active cooperation will become increasingly important. It is certainly unwise for President Carter to ignore these factors and to make the unfortunate decision not to invite King Hussein to the White House.

In preparation for his visit to the United States, King Hussein had a lengthy discussion in Amman with Yasser Arafat, PLO leader. It was widely expected that the King, in connection with his address to the United Nations, would be received by President Carter. The preparatory discussions with Arafat would have special importance because U.S. policy prevents direct U.S.-PLO communication.

In fact, King Hussein was authorized early this year to speak, not only for Jordan, but as well for Syria and the PLO in an expected meeting with President Carter. The invitation to Washington never came.

In this protracted snub to King Hussein, President Carter hurts vital U.S. interests, slows the peace process, and temporarily at least undercuts the ability of the king to continue as a moderate influence on Arab policy.

Reportedly a avid book reader, President Carter could wisely spend an evening brushing up on elementary human relations by reading Dale Carnegie's book, "How To Win Friends and Influence People."●

SECOND ANNUAL FRANKLIN'S YMCA GREATER SCRANTON ½ MARATHON

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

● Mr. McDADE. Mr. Speaker, I am pleased to take this opportunity to let my collegaues in the House know of a most exciting event held in the greater Scranton area on Sunday, September 23, 1979. This event is the Second Annual Franklin's/YMCA Greater Scranton ½ Marathon.

Hundreds of runners from all over the country participated in this 13.1-mile race, and all proceeds benefit the YMCA youth programs. I am happy to have this chance to publicly commend the participants and supporters of this race, and heartily congratulate those whose generosity and hard work contribute so much to the community life of Lackawanna County.●

DOE ASSURES ADEQUATE HEATING OIL THIS WINTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CARNEY) is recognized for 5 minutes.

● Mr. CARNEY. Mr. Speaker, over the past few months, the Department of Energy has assured us that our fellow citizens will not suffer from an inadequate supply of heating oil this winter. To that end, DOE committed the oil industry to the development of a 240 million barrel reserve of middle distillate fuel by the end of October.

Today's New York Times reports that in an effort to meet that goal by the October target date, refineries have been loathe to distribute home heating oil supplies at this time. Although retailers who receive supplies from the major oil companies have sufficient fuel to meet their customers' needs, many other retailers are dependent on independent suppliers, who purchase their fuel from the major suppliers and spot market. Middle distillate retailers in the First Congressional District of New York inform me that the independents are unable to supply retailers with fuel sufficient to meet their customers' needs.

Mr. Speaker, I urge my colleagues to speak to the retailers in their district and to obtain an accurate report from the local level as to middle distillate availability. I would add that as a proponent of the private sector and an advocate of fewer Government regulations, I am, nevertheless, of the opinion that the major oil companies are in a business affected with the public interest. All retailers must receive a sufficient amount of distillate to meet the needs of their customers. We cannot tolerate industry favoritism for wholly owned subsidiaries if the public will be adversely affected.●

A TRIBUTE TO ROBERT P. EARLY OF THE INDIANAPOLIS STAR

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. QUAYLE) is recognized for 15 minutes.

● Mr. QUAYLE. Mr. Speaker, it is a privilege to take this opportunity today in paying a well-deserved tribute to a good friend and distinguished journalist, Robert P. Early, of Indianapolis, who is about to call it "30" to a colorful and successful newspaper career spanning over 50 years.

Today is Bob Early's last day as managing editor of the Indianapolis Star, a slot he has held for 33 years. Before that he served as city editor of the paper. Mr. Early began his journalistic career in the Indianapolis bureau of United Press Associations, predecessor of UPI. Then he worked a year on the Connersville News-Examiner before joining the Star in 1927.

Bob has worked hard to make the Star a vital, influential, and accurate part of Indianapolis and Indiana history. He has earned the reputation of being a tough but respected newspaperman among his reporters and the community.

Under his direction the Star won many awards climaxed in 1975 by the coveted Pulitzer Prize for special local reporting of corruption in the Indianapolis Police Department.

The Star will not be the same without Bob Early. He leaves a tradition of bringing all the news with fairness, accuracy, and objectivity.

We know that, in his way, he will continue to be an important force in Indiana. I join in extending best wishes to Bob for good health, contentment, and happiness.

I include in the RECORD the following article from the Star concerning Bob Early:

STAR MANAGING EDITOR ROBERT EARLY RETIRING AFTER 52-YEAR CAREER

Robert P. Early, who has fought journalistic wars in Indianapolis for more than half a century, is retiring after 33 years as managing editor of The Indianapolis Star.

He will be 74 on Oct. 3. His official retirement date is Nov. 1 but his last day on the job will be Sept. 28.

Eugene S. Pulham, publisher of The Star, said Early's successor will be announced later.

In a statement, Pulham said:

"Bob Early has more than earned a well-deserved retirement, but to those of us who worked with him for so long it won't seem like The Star we've known without him.

"As I told him when we celebrated his 50 years at The Star, Bob, I've worked for you, against you and with you. It hasn't all been fun but I wouldn't have missed it for the world."

"His dedication, ability and perseverance set a standard seldom matched, a career to be admired and emulated," Pulham said.

Gov. Otis R. Bowen said:

"Bob Early's retirement closes out a distinguished career spanning more than half a century at the state's largest newspaper. Throughout his tenure as managing editor, Mr. Early has left a strong personal imprint upon The Star. He has received many honors from his colleagues and enjoys the respect of political and community leaders throughout the state."

Mayor William H. Hudnut commented:

"Bob Early has been a symbol of strength and vitality in our city. His sense of decency and fairness has been unquestioned and his major contributions to The Star over the years have been significant and lasting. Our city is losing one of its finest journalists and on behalf of the community, I wish him good health and a happy retirement."

An air of disbelief at the passing of an era swept through The Star's city room Thursday night when the retirement announcement was posted on the bulletin board.

A legend in his own time, Early has been such a dynamic, integral part of the newspaper's operations down through the years, and such a powerful force in shaping and directing events in Indianapolis itself, that a future without Bob Early is difficult to envision.

Earlier this year, Early was inducted into the Indiana Journalism Hall of Fame.

He was, and is, known to his staff as a tough and demanding editor and a stickler for complete accuracy who never has tolerated sloppy reporting or writing.

But he also always has been fiercely loyal to his staff members and friends and, at times, has fought passionately to protect a reporter or photographer whose work or character were being attacked unfairly by persons outside the newspaper.

In reporting Early's retirement Friday, the Associated Press referred to him as "the opinionated and undisputed boss of Indiana's largest daily newspaper."

It was his penetrating mind that down through the years directed public service campaigns and coverage of important news events that won a host of awards for The Star, climaxed in 1975 by the prestigious Pulitzer Prize for special local reporting.

The Pulitzer award, probably his most satisfying achievement, resulted from an expose of corruption in the Indianapolis Police Department in 1974 by the paper's team of investigative reporters.

He also is particularly proud of the American Headliner Club Award in 1964 for The Star's coverage of the Indianapolis Coliseum disaster in 1963.

The night of the Coliseum explosion, Early left his managing editor's office to take over the city desk as Lawrence S. Connor, then city editor, operated from a special disaster desk set up inside the Coliseum.

A native of Indianapolis, Early is a 1923 graduate of Cathedral High School. His first newspaper job was in the Indianapolis bureau of United Press Associations, now United Press International.

He worked as a reporter for the Connersville News-Examiner in 1926 before joining The Star in 1927. After covering most of the city's news beats, including police, City Hall and the Statehouse, he was named assistant city editor in 1940.

He was promoted to city editor in 1944 and two years later became managing editor.

Mr. HILLIS. Mr. Speaker, today September 28, marks the "last day on the job" for one of Indiana's most illustrious newspapermen of this century.

I refer to Robert P. "Bob" Early, who will be retiring after 50 years in the field of journalism. Bob Early has served with great distinction for the past 33 years as managing editor of the Indianapolis Star. He has gained the respect and admiration of hundreds of fellow newsmen during his career. His efforts have resulted in many awards for journalistic excellence for the Star, including the coveted Pulitzer Prize. He has always been known for being tenacious, hard working, and fair. He most certainly will be missed by journalistic colleagues in central Indiana.

It is an honor to join with others among my Hoosier colleagues in calling attention to Bob's retirement, and to join them in wishing him well in the years to come.

Mr. MYERS of Indiana. Mr. Speaker, I join with my colleagues in paying tribute to Bob Early, who retires this week after 33 years as managing editor of the Indianapolis Star.

Under Bob's leadership, the Star has earned national recognition for its hard-hitting coverage of events in Indiana and around the world. There was never any doubt who was in charge of the talented staff he assembled at Indiana's largest daily newspaper.

Bob Early's guiding hand will be missed. But we wish him well in the years ahead and feel confident that the foundation he laid during the past 50 years will assure continued growth of the Star in its influence and service to the community and the Nation.●

A WELCOME TO POPE JOHN PAUL II

● The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 10 minutes.

Mr. TAUKE. Mr. Speaker, next week marks a historic occasion in this country as Pope John Paul II journeys here to visit several of the Nation's cities, including Des Moines, the capital of my home State of Iowa.

The citizens of Iowa and much of the Midwest are expected to pilgrimage to living history farms near Des Moines for a Papal Mass on Thursday, October 4.

I, as have many of my colleagues in the House and Senate, will attend a reception for the Pope at the White House on Saturday, October 6.

The travels of Pope John Paul II through the United States will be long remembered by many of us from all denominations.

The spirit of peace, understanding and friendship he will bring with him illustrates the ideals and beliefs of persons throughout the world. The hope he symbolizes shines out to everyone he encounters.

Mr. Speaker, on this momentous and significant world event, and especially on the occasion of the Pope's visit to Iowa, which will be chronicled throughout history, I believe that it is appropriate to recognize the efforts of early Catholic missionaries who established the roots of Catholicism in Iowa.

The history of the Catholic Church in Iowa began in June 1673, when an explorer, Louis Jolliet, accompanied by five voyageurs and a Jesuit priest, Father Jacques Marquette, came down the Wisconsin River to the point where it joins the Mississippi River. Farther Marquette was the first to observe Christian rites on the soils of Iowa. It is believed this ceremony took place at the location of the community which now bears his name.

During the next 130 years no Catholic missions were established in Iowa and virtually no attempts were made to convert the Indian population. It was not until the land was opened to white settlers that the Roman Catholic Church made definite plans to establish a church in Iowa.

In 1833, the Catholic Church began expansion in Iowa that continued to grow and expand with a tremendous vitality.

Father Pierre Jean DeSmet arrived in Dubuque in July 1833, and formed a committee of laymen to begin construction of a church. Father DeSmet began the actual foundation of the Catholic Church in Iowa, but decided to move westward and left the actual forming of the church to two other missionaries—an Italian, Father Samuel Mazzuchelli, and a Frenchman, Father Mathias Loras.

Much of the work these two individuals performed took place in and around my hometown of Dubuque.

Around 1835, with the ground work established by Father DeSmet, Father Mazzuchelli, a Dominican priest, helped found 20 churches from Dubuque south to the Missouri border. The first church he helped build is the forerunner of the present St. Raphael's in Dubuque. It was the first Catholic church in Iowa and the second of any denomination in the State. The first was a Methodist church, also built in Dubuque.

In 1840, Father Loras joined Father Mazzuchelli in constructing the Catholic base in Iowa. Father Loras was the first bishop of the Iowa Diocese, which, at that time, extended to Canada.

Father Loras opened a seminary in Dubuque in 1839. In 1843, the Sisters of the Blessed Virgin Mary settled in Dubuque where they opened an academy for girls. These two institutions were the forerunners of today's Loras and Clarke colleges in Dubuque.

About this time the French Canadian and Indian populations were beginning to decrease in Iowa, as more immigrants began to reach the State. Many Irish, German, and Czechoslovakians were persuaded to settle throughout the region, primarily through the efforts of Father Loras.

Father Loras was also able to recruit many priests from these countries to serve in Iowa and succeeded in persuading the Trappist monks from Ireland to move to Dubuque.

In 1846, the first German parish was founded by a group of immigrants from Vienna. They settled the community of New Vienna and built a beautiful cathedral known as St. Boniface.

Most of the activity of the Catholic Church was centered in eastern and northeastern Iowa during the 1800's. It took several years before the church expanded into the western and central areas of the State.

The first Catholic church built outside of the eastern and northeastern sections of Iowa occurred in 1852, when St. Patrick's Church was built at the Irish community of Cummings, just south of Des Moines in central Iowa.

Pope John Paul II will celebrate Mass with the 204 parishoners of St. Patrick's in Cummings during his visit to Iowa.

Because of the conflicts of the Civil War, church development slowed, but in 1866, the railroads brought many new Catholic settlers from the Eastern United States and Europe. Many of these individuals settled in and around the lead mining community of Dubuque.

During this time, and for many years following, the majority of the clergy were made up of Irish and German priests. It was also during this time that Father Loras used much of his own personal wealth to build new parishes.

One of the most beautiful churches now existing in the United States was built because of the efforts and hard work of Father Loras. The Basilica of St. Francis Xavier, with its towering twin steeples, looks out over rolling farmland and commands the undivided attention of anyone passing through the community of Dyersville, where Father Loras constructed just one of his many churches in northeast Iowa.

St. Francis Xavier was designated a basilica on May 11, 1956, by Pope Pius XII. It is one of only 27 churches in the United States with this designation and the only one in Iowa.

Because of its papal designation the basilica has its own coat of arms, a special bell carrying the papal insignia and a ceremonial umbrella that marks the church as a special place for the Pope to pray.

As the church grew and expanded in Iowa during the late 1800's Catholic schools became more abundant. In 1866 there were 29 Catholic schools in Iowa, and by 1900 the number had grown to 187.

During this rapid growth in private education one of the orders to settle in Iowa was the Sisters of Mercy who came to Davenport in 1868. Seven years later they settled in Cedar Rapids, where a hospital and college, still in operation today, were founded.

In 1874, the Sisters of Presentation came to Dubuque from Ireland. They were followed, the next year, by the Sisters of St. Francis of the Holy Family, a group of nuns driven from Germany during a church-state struggle in that country. They settled first in Iowa City and then moved to Dubuque in 1878.

By 1881, the Catholic population was so great in the eastern section of Iowa, that the diocese warranted its own bishop and a separate diocese of Davenport was created.

It took another 20 years, however, before the remainder of the State was separated from the Dubuque Diocese. At that time the Sioux City Diocese was formed. Finally, in 1911, the Diocese of Des Moines was created to serve southwest Iowa. These four dioceses, Dubuque, Davenport, Sioux City, and Des Moines, exist today.

The expansion of the Catholic educational system in Iowa, which began in the late 1800's continued to grow in the 1900's. Today there are more than 58,000 students attending Catholic schools throughout the State.

In the late 1950's, the Catholic school system in Dyersville, where the Basilica of St. Francis Xavier is located, became so large that the public school closed its doors when it faced a dramatic loss in students.

The case was not the same in other areas of Iowa, even in neighboring communities. There were some problems in the 1960's as many of the schools faced financial problems. Several parishes were forced to close their schools. During the 1970's the private school system has again flourished and there are instances where some parishes have been able to reopen their schools. Other schools are experiencing an increase in enrollments.

On the college level, to meet the demands and challenges private schools across the Nation, have been facing, two Catholic Iowa colleges, Mount Mercy in Cedar Rapids and Clarke in Dubuque, have opened their doors to males during the past couple of years. By operating as a coeducational institution, these colleges have been able to offset some of the financial problems with which they had been faced.

Today, some 530,000 of Iowa's 2.8-million residents are Catholic. There are 578 Catholic Churches which support 203 parochial schools. Catholic religious organizations run 8 colleges and 19 hospitals.

Mr. Speaker, on this occasion of Pope John Paul II's visit to the United States, and especially his journey to the heartland of America, all residents of this great country should be extended the opportunity and privilege to embrace the ideals and philosophies he brings to us.

Mr. Speaker, distinguished colleagues, and all Americans, I ask you to join with me in welcoming Pope John Paul II to the United States and in recognizing the strong-willed efforts of those who established the Catholic Church during the early history of Iowa.●

SELF-DETERMINATION FOR THE BALTIC STATES

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 15 minutes.

● Mr. FASCELL. Mr. Speaker, I would like to bring to the attention of my colleagues the following signed statement in support of self-determination for the Baltic Republics—Lithuania, Estonia, and Latvia—which was issued by 45 Balts and 5 Moscow dissidents on August 23 in Moscow.

This joint statement was made available to me as chairman of the Commission on Security and Cooperation in Europe by the Joint Baltic American National Committee.

The statement follows:

To: Government of the U.S.S.R.

Government of the Federal Republic of Germany.

Government of the German Democratic Republic.

Governments of all nations which have signed the Atlantic Charter.

Mr. Kurt Waldheim, Secretary-General of the U.N.

In Soviet judicial science the term national sovereignty refers to a nation with all the rights, with its political freedom, with a real possibility to fully determine its own destiny, and in the first place to be able to form its own independent state.

National independence is characterized by political, territorial, cultural and linguistic independence, a state which has full sovereign rights in all social aspects. And all these rights must be fully realized.

National sovereignty cannot be given nor threatened; it can only be destroyed or established.

In 1919 Lenin acknowledged the existence of Estonia, Latvia and Lithuania, which had recently separated from Imperial Russia. In 1923, Soviet Russia concluded peace treaties with these nations extending the Baltic States de jure recognition as well. In the name of the Soviet government, Lenin, for all eternity, renounced all sovereign rights to Estonia, Latvia and Lithuania. But 19 years later, Stalin and Hitler infringed on the sovereignty of these nations. August 23 of this year marked the 40th Anniversary of the signing of the Molotov-Ribbentrop Pact, and its implementation meant the end of Estonian, Latvian and Lithuanian independence.

On August 23, 1939, Germany and Soviet Russia signed a non-aggression treaty, including a secret protocol on the division of Eastern Europe into so-called spheres of influence. The point of the secret Molotov and Ribbentrop talks was to decide the fate of Finland, Estonia, Latvia, Lithuania Poland, Bessarabia and Northern Bukovina. The point is that Finland, Estonia and Latvia were to go to the Soviet Union and Lithuania to Germany.

On September 28, 1939, the Soviet Union and Germany signed a treaty of friendship, among other things, also defining their respective borders. The pact amended the secret protocol of August 23 in that Lithuania as well was to go to the Soviet Union, with the exception of the coast along the Sesupe River, which in case of necessity would be occupied by the German armies.

In 1940 between June 15 and 17 Moscow made sure this occasion arose, as the Red armies occupied the territories of Lithuania, Latvia and Estonia, including that part of Lithuania which was to have gone to Germany. On January 10, 1941, the German ambassador Von Schulenburg and Molotov signed a new secret protocol on the afore-mentioned district in Lithuania. According to the new protocol, Germany was to let the Soviet Union have the territory west of the Sesupe River as well, while Moscow would pay Berlin 7.5 million dollars in gold, the equivalent of 31.5 million Reichmarks.

The Molotov-Ribbentrop Pact turned out to be the treaty of the two greatest tyrants in history, namely Stalin and Hitler, who were hostile to peace and humanity, and who laid the basis for the Second World War. It is for this reason that we consider August 23 a day of shame and infamy.

On August 14, 1941, U.S. President Roosevelt and Prime Minister Churchill of Great Britain signed the Atlantic Charter, which consists of six paragraphs. Paragraph two says that neither the United States nor Great Britain would agree to territorial changes which are not in accord with the free interests of the inhabitants of these territories. Point three recognizes the right of all nations to decide themselves on their form of government, and to try to realize their sovereign rights to self-determination, which may have been denied them by force.

The Soviet Union joined this Charter on September 24, 1941. In its declaration, Moscow said that in internal affairs it has followed the principle of self-determination, giving each person the right to an independent state as well as territorial integrity, and the right to a social system which the people would judge to be necessary to the country's economic and cultural development.

It would be well to remember, that in accord with international rights, it is impossible for persons to determine their own destiny if their land is occupied by foreign armies. This is also emphasized in Lenin's Peace Declaration, which says, that if persons have not had the opportunity for free elections without the presence of foreign forces or the influence of a foreign power, the joining of their territory to another country is annexation, namely it has been taken over by force.

The results of the Munich talks of September 25, 1938 were erased with Germany's defeat in the war. The Bonn government, following the wishes of the people of Czechoslovakia, admitted the Munich pact to be null and void, even from the moment of its signing.

But the Molotov-Ribbentrop Pact seems juridically to be still in effect. We charge that by keeping silent on this matter the rest of the world sides with the aggressors of the past, the present and the future.

We ask that the Soviet Union publish the full text of the Molotov-Ribbentrop Pact, including all the secret protocols. We wish to emphasize that in its peace treaty the Soviet government did not renounce secret diplomacy. At the same time we ask for declarations that the Molotov-Ribbentrop Pact is null and void from the moment of its signing.

We ask that this be declared publicly by the governments of the Federal Republic and the German Democratic Republic, and we ask their help in having the Soviet government erase the results of that Pact, namely withdraw their troops from the Baltic States. In order to accomplish this, it might be necessary to create an appropriate commission, to be made up of the representatives of the Moscow, Bonn and East Berlin governments.

We ask the signatories of the Atlantic Charter to take a moral stand and responsibility, and denounce the Molotov-Ribbentrop Pact and its effects. We would like to call attention to the fact that an action is not an internal affair when it effectively endangers peace and security, and crudely transgresses against accepted international norms. The principle of self-determination of peoples and nations recognizes a variety of methods in the struggle against colonialism, which is regarded as an international crime. That is why people around the world support the wars of liberation. Furthermore, in accordance with the declaration for international rights, every country is duty-bound to work for and support the realization of the principles of equality and self-determination.

We ask the Secretary-General of the United Nations that this international organization take up the matter of the Molotov-Ribbentrop Pact and its effects in the near future. The United Nations is the successor of the League of Nations, and until the Molotov-Ribbentrop Pact went into effect, Latvia, Estonia and Lithuania were full and active members of the League. Consequently, the United Nations juridically shares in the responsibility for the fate of the Baltic States.

We wish to mention that the principle of self-determination is affirmed in international agreements, as in the United Nations Constitution (pages 1, 13, 55, 76), in the declaration on independence for colonial territories and peoples which was voted on in the General Assembly on December 14, 1960. In the resolution of December 20, 1965, the General Assembly spoke out in support for the rights of colonial areas to independence, and in the international convention of December 21, 1965, against all forms of racial discrimination. There also are the international declaration on human rights of December 16, 1966 and the declaration on international rights of October 24, 1970. These and other United Nations international documents affirm the rights of peoples to equality and self-determination.

This means:

That all nations have the right to determine their own destiny, that is, under free conditions decide on their own internal and external policy without foreign interference, and to realize, in accord with their own wishes their political, economic, social and cultural development;

That each nation has the right to decide how to utilize and allocate its resources;

That the duty of each country is to foster the principles of equality and self-determination, as is prescribed by the United Nations Charter;

That the principles of equality and self-determination should be the main guiding principles in the final documents of the Conference on Security and Cooperation in Europe.

As you know, Mr. Secretary-General, the above-mentioned international documents, which are binding, are not being observed by some members of the United Nations. We request that in the next session the General Assembly take up the matter of Latvia, Estonia and Lithuania, to the extent that the peoples of these nations have been denied their rights and opportunities to determine their own destiny.

August 23, 1979.

SIGNATURES OF DISSIDENTS FROM THE THREE BALTIC REPUBLICS

Romas Andrijauskas.
Stase Andrijauskiene.
Alfonsas Andriukaitis.
Eduardas Bartuska.
Vytautas Boguscis.
Priest Vladas Bobinas.
Romas Vitkevicius.
Jonas Dambrauskas.
Jonas Einvidas.
Rimas Zukauskas.
Ivars Zukovskis.
Algirdas Zaideks.
Juris Ziemelis.
Lutauras Kazakevicius.
Leonas Laurinskas.
Rimas Mazukna.
Priest Moscos.
Mart Niklus.
Priest Napoleonas Norkunas.
Sigitas Naulavicius.
Antole Nauskuskiene.
Vytauskas Bastno.
Kestutis Novilaitis.
Jadvyga Natkeviciene.
Jonas Natkeviciene.
Jonas Protuslavicius.
Sigitas Randa.
Endel Ratas.
Henrikas Samboro.
Julius Sasnauskas.
Leonora Sasnauskaite.
Algis Statkevicius.
Kestutis Subacius.
Enn Tarto.
Antanas Terleckas.
Edik Udam.
Ints Calitis.
Petras Cidzika.
Areidas Cekanavicius.
Vladas Sakelis.
Jonas Serkinas.
Zigmas Sirvickas.
Mecislovas Juravicius.
Priest Virgilijus Jaugailis.

The Baltic Republics—Lithuania, Estonia and Latvia—have been by force incorporated into the Soviet Union, without any regard for the wishes of the inhabitants of these countries. In fact, this happened as a result of occupation of the Baltic States by the Soviet armies.

Seeing as we support the principles of equal rights and self-determination of all nations, and respecting the right of persons to determine their own destiny, we recognize that given present historical conditions the question of self-determination for Lithuania, Latvia and Estonia should be decided by referendum, and that this should be held under conditions in which the people could freely express their wishes and intentions.

We support the Lithuanian, Estonian and Latvian representatives' call to examine injustices done to these countries, and we recognize their rights to freely determine their own destiny.

Signatures of dissidents from Moscow:

Malva Landa.
Tatiana Velikanova.
Andrei Sakharov.
Viktor Nekipelov.
Arina Ginzburg.

CHICAGO'S 1979 COLUMBUS DAY PARADE

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the Italian navigator Christopher Columbus discovered America 487 years ago on October 12, 1492, and Chicagoans will celebrate this monumental event in the history of civilization with a gigantic parade on Monday, October 8.

Our Nation's First Lady, Rosalynn Carter, has graciously consented to be Chicago's guest of honor for this festive event, and Mrs. Angeline Annunzio and I, along with Congressman Martin Russo, will be honored to meet Mrs. Carter at the airport and accompany her into Chicago's famous downtown area to the corner of Clark Street and Wacker Drive, where the parade will kick off at 1 p.m. We will then proceed to the reviewing stand on Washington Street where the First Lady will be joined by many other Chicago and Illinois dignitaries, who will also include His Excellency, Paolo Pansa Cedronio, Ambassador of Italy, and Italian Under Secretary of Foreign Affairs, the Honorable Georgio Santuz. Televised live by WGN–TV, the parade will be watched by some 3 million people, and some 1 million more are expected to view the parade in person.

Christopher Columbus, whose courageous voyage brought Christianity to the New World and who ranks as the "Father of All Immigrants," displayed bold and daring determination that has become a part of the precious heritage of the United States, a land of immigrants, and it is this spiritual inheritance from Columbus that continues to keep our Nation strong and free. The theme of Chicago's Columbus Day Parade this year, "The Italian Odyssey," is a tribute to the role of Italian immigrants in making our country great, and depicts the role of Italian navigators from ancient to modern times through the use of beautiful and finely crafted floats and costumes of the participants.

Mr. Speaker, the President of the United States, the Honorable Jimmy Carter; the Governor of Illinois, the Honorable James R. Thompson; and the mayor of Chicago, the Honorable Jane M. Byrne; have issued proclamations in celebration of Columbus Day 1979, and copies of those proclamations follow:

Columbus Day, 1979

(A Proclamation by the President of the United States of America)

Four hundred and eighty-seven years have passed since an Italian navigator in the service of Spain left the Old World to find the New. Christopher Columbus was determined to test an audacious theory: to reach the East, sail west. On the morning of October 12, 1492, with ninety men in three small ships, he said into immortality.

The voyage of this intrepid explorer marked the convergence of American and world history. His discovery opened a new age—an age that gave the world a new center.

We are the inheritors of Columbus' legacy. As a nation which has always striven for the same qualities as the Great Navigator, we must continue the search for new horizons.

It is fitting that, on the observance of this October 12, we once again recall to mind Columbus' extraordinary voyage and in the spirit of that undertaking, rededicate ourselves to that which is best and most courageous in us.

In tribute to Columbus' achievement, the Congress of the United States of America, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1938 (82 Stat. 250), requested the President to proclaim the second Monday in October of each year as Columbus Day.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby designate Monday, October 8, 1979, as Columbus Day; and I invite the people of this Nation to observe that day in schools, churches, and other suitable places with appropriate ceremonies in his honor.

I also direct that the flag of the United States of America be displayed on all public buildings on the appointed day in memory of Christopher Columbus.

In witness whereof, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter.

State of Illinois

PROCLAMATION

Every American knows what historic event happened in 1492, for in that year the history of the world took a dramatic leap. The voyage of Columbus, which spurred further exploration of the New World, is celebrated annually throughout our land.

Columbus was just one of many distinguished Italians whom have contributed to the growth of civilization. The Italian community is joined by Americans of every ethnic background in recognizing Columbus Day.

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim October 8, 1979, to be Columbus Day in Illinois.

Office of the Mayor—City of Chicago

PROCLAMATION

Whereas, the annual Columbus Day Parade will be held in Chicago on Monday, October 8, starting at 1 p.m. on Clark Street; and

Whereas, the Columbus Day parade is yearly among the most colorful and eagerly-awaited of such events, attracting tremendous crowds of observers, and effectively demonstrating pride of Italian-Americans in their citizenship and their contributions to the city, the nation, and to American history; and

Whereas, Congressman Frank Annunzio is honorary chairman of the parade and Patrick S. Demoon is grand marshall, with John Serpico serving as general chairman; and

Whereas, the parade is under the auspices of the Joint Civil Committee of Italian Americans, of which Joseph Toltano is president, and James E. Coli, chairman of the board of trustees:

Now, therefore, I, Jane M. Byrne, Mayor of the City of Chicago, do hereby proclaim October 8, 1979, to be Columbus Day in

Chicago and urge all citizens to take cognizance of the special events arranged for this time in tribute to the great Genovese explorer of continents Christopher Columbus.

Dated this 15th day of August, 1979.

Jane M. Byrne,
Mayor.

Mr. Speaker, the all-day Columbus Day celebration will begin with a Concelebrated Mass at Our Lady of Pompeii Church at 9 a.m., and presiding will be His Eminence John Cardinal Cody, Archbishop of Chicago. The principal celebrant is Rev. Angelo Calandra, C.S. and the homily will be given by Rev. David J. Cortesi. Rev. Mr. Thomas Campagna is the deacon at the Mass, and Rev. Salvatore DeVita, the pastor of Our Lady of Pompeii Church, is the host at the Mass as well as a concelebrant. Other concelebrants include Very Reverend Msgr Edward Pellicore, Rev. Lawrence Cozzi, C.S.; Rev. Charles Fanelli, Rev. Robert Simionato, C.S.; Rev. Leonard Mattei, C.S.; Rev. Kenneth J. Velo, Rev. Gino Dalpiaz, C.S.; Rev. Valentino Alberton, C.S.; Rev. Louis M. Gandolfi, C.S.; Rev. Enrique Balerini, C.S.; and Rev. Robert Tonelli.

The master of ceremonies for the Mass will be Rev. Mr. Thomas Bema, and students at Sacred Heart Seminary will be the servers. A group of over 150 women and children, led by Mrs. Ann Sorrentino, and dressed in beautiful and authentic Italian native costumes, will join the traditional procession by the 4th Degree Knights of Columbus at the Mass. The Italian choral group of the Joint Civic Committee of Italian Americans, under the direction of Sylvano Bosi, will also participaate with special songs prepared for the Mass.

Special wreath-laying ceremonies will take place at 10:30 a.m. at the Columbus statute in Arrigo Park, conducted by the Order of Sons of Italy, the Joint Civic Committee of Italian Americans, and the Italian American War Veterans.

The main event of our celebration, Chicago's great Columbus Day Parade, will begin at 1 p.m. and some 150 floats, bands, and marching units depicting the theme of the parade will participate. In addition to the native costumes from the various regions of Italy worn by women and children, hundreds of young people in school bands, corps of marchers, and drum and bugle corps will also participate. Theme Coordinator Mrs. Frank R. Petrone, authentic costume chairman Ann Sorrentino, and float personnel chairman Lawrence Spallitta have done an outstanding job in their careful preparations so necessary for the parade's success. Christopher Columbus, the discoverer of the New World, will be portrayed this year by Joseph Mollica.

In addition to our guest of honor, First Lady Rosalynn Carter, and the Ambassador of Italy, Mayor Jane M. Byrne of Chicago, Governor James R. Thompson of Illinois, Illinois State Treasurer Jerome A. Consentino, Congressman Martin Russo, Cook County board of commissioners president George Dunne, Consul General of Italy Dr. Teodoro Fuxa, acting superintendant of police Joseph DiLeonardi, parade grand marshal Patrick S. DeMoon, parade general chairman John Serpico; Joseph Tolitano, president of the Joint Civic Committee of Italian Americans; James E. Coli, chairman JCCIA board of trustees; and many other political dignitaries, civic leaders, members of the judiciary, businessmen from the community, and labor leaders will kick off the parade.

Each year the Joint Civic Committee of Italian Americans, comprised of more than 40 Italo-American civic organizations in the Chicagoland area, sponsors the Columbus Day parade and other related activities. Many local groups cooperate with the Joint Civic Committee in this community-wide tribute to Columbus, and Anthony Sorrentino, consultant, has helped to coordinate the various activities for many years.

One of the highlights of Chicago's Columbus Day celebration is the selection of the queen of the parade. This year, Laurie Ann Cattinari, 412 Riverside Drive, Villa Park, Ill., was chosen to reign as queen of the Columbus Day Parade.

Judged on her beauty, poise, and personality, Laurie Ann Cattinari, as winner of the Columbus Day Queen Contest, won $500 from the Joint Civic Committee of Italian Americans, $100 from John Serpico, chairman of the 1979 parade; as well as her queen's crown and trophy, a bouquet of roses, and a certificate and Columbus Day necklace, also from the JCCIA.

The members of the queen's court are Mary Mazzenga, 512 North Main, Mt. Prospect, Ill.; Neila M. Francis, 1834 North Austin, in Chicago; Gina Marie Guzzaldo, 6114 Westgate Court, Woodbridge, Ill.; and Rebecca Mio, 4435 North Overhill, in Norridge, Ill.

Judges for the Columbus Day Queen Contest were Joseph Caliendo, a fur fashion designer; Robert Clementi, an attorney; Adrienne Levatino, adjunct professor of English; John DoCurro, an electrical contractor and former Italian opera singer; Celeste Del Guidice, former Columbus Day Queen; Joseph Lizzadro, board chairman of Meade Electric Co.; Hon. Philip Romiti, judge of Illinois appellate court; Rose Farina, of the Chicago council on fine arts; and Dennis J. Stevenson, a human resource consultant.

In addition to those watching the parade personally, millions of persons are expected to enjoy the parade via television, which this year is being sponsored by Dominick Di Matteo, of Dominick's Finer Foods; Anthony Terlato of Paterno Imports; Fencl-Tufo Chevrolet; Joseph Marchetti, the Como Inn; Joseph Tolitano, U.S. Shoe Repair; Nello Ferrara, the Ferrara Candy Co.; and the Turano-Campagna Bakery. The telecast of the parade will be narrated by Domenick Di Frisco and Vince Lloyd, and the reviewing stand commentators will include James L. Coli, Louis Farina, and Charles Porcelli.

Our grand Columbus Day celebration will close with a reception at the Fontana D'Or, 6425 West Grand Avenue, in Chicago, in honor of our guests, all the officers, subcommittee chairmen, and members who are participating in making the 1979 Columbus Day Parade a memorable success. Leaders of the Italo-American organizations from Illinois will also be present as well as officials from our State and city governments.

I am honored to participate as honorary parade chairman in this year's Columbus Day Parade. The members of the Joint Civic Committee of Italian Americans are to be commended for their continuing and dedicated hard work and the imaginative creativity that goes into the planning of a grand event such as the Chicago Columbus Day Parade. Our community and our city are proud of these citizens and of the work they are so successfully completing.

Mr. Speaker, the names of the officers and members of the 1979 Chicago Columbus Day Parade committee follow:

COLUMBUS DAY PARADE COMMITTEE

John Serpico, general chairman 1979.

Congressman Frank Annunzio, honorary parade chairman.

Patrick S. Demoon, grand marshal.

Honorary Chairperson: Hon. Jane Byrne, Mayor, City of Chicago; Hon. Jerome A. Cosentino, Treasurer, State of Illinois; Hon. George W. Dunne, President, Cook County Board of Commissioners; Dr. Teodoro Fuxa, Consul General of Italy; Congressman Martin Russo; and Hon. James R. Thompson, Governor, State of Illinois.

JCCIA Officers: Joseph Tolitano, President; Jerome N. Zurla, 1st Vice President: James L. Coli, 2nd Vice President; Charles C. Porcelli, 3rd Vice President; Carl DeMoon, 4th Vice President; Anthony Terlato, 5th Vice President; Anthony Morizzo, Treasurer; Charles Carosella, Secretary; and Sam Cerniglia, Sgt.-at-Arms.

Board of Trustees: James E. Coli, Chairman; Cong. Frank Annunzio; Judge Nicholas Bua; Hon. Jerome A. Cosentino; Angelo Fosco; Joseph Lizzadro, Jr.; Rev. Armando Pierini, C.S.; Mayor John C. Porcelli; Judge Philip Romiti; and Cong. Martin A. Russo.

President in Memoriam: Anthony Paterno.

Executive Director: Anthony Sorrentino.

Past Presidents: Joseph Barbera*, Peter R. Scalise, Dr. Mario O. Rubinelli, Vincente E. Ferrara*, Victor J. Failla, Anthony Bottalla, Charles C. Porcelli, Anthony J. Fornelli, James E. Coli, and Dr. James F. Greco.

Past Parade Chairmen: Martin Buccieri, Dr. Mario O. Rubinelli, Anthony Paterno, Cong. Frank Annunzio, Victor J. Failla, Nello Ferrara, Frank Armanetti, Fred Bartoli, Arthur Pullano, Anthony Bottalla, Dominick Dimatteo, James E. Coli, Anthony Terlato, Cong. Frank Annunzio, Mayor John C. Porcelli, Rudy L. Leone, Pasquale M. DeMarco, Joseph Lizzadro, Jr., Tony Judge, Hon. Jerome A. Cosentino, and Patrick S. DeMoon.

Chaplain, Reverend Armando Pierini, C.S.

Television Sponsors: Anthony Terlato, Chairman; Alfonso Di Benedetto, Cochairman; Dominick Di Matteo, Cochairman.

Theme Coordinator, Theresa Petrone.

Religious Program and Organizations: Rev. Lawrence Cozzi, C.S., Chairman; Rev. Charles Fanelli; Rev. Robert Simionato, C.S., Cochairman; Rev. Armando Pierini, C.S., Advisor; Bernard Bellario; Nick Bianco; Candido Biase; Michael R. Fortino; Louis Moretti; Michael Palello; Elvira Panaresse; Chief Anthony Pilas; Anthony Pope; Dr. Raymond Rondinelli; John Spatuzza.

Authentic Italian Costume: Ann Sorrentino, Chairperson; Elena Frigoletti, Cochairperson; Mary Spallitta, Cochairperson; Pauline Jo Cusimano, Cochairperson; Anna Albanese; Regina Panarese; Nancy Sturino.

Finance and Souvenir Book: Mayor John C.

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* Deceased.

Porcelli, Chairman; Frank N. Catrambone, Sr., Cochairman; Sam Cerniglia, Cochairman; Ann Sorrentino; Mrs. Frank Annunzio.

Business and Professional: Jack Cerone, Cochairman; Carl de Moon, Cochairman; Vincent Lucania, Cochairman; Anthony Terlatio, Cochairman; Mathew J. Alagna; Anthony Apa; Charles Carosella; James L. Coli; John Curielli; Peter Ingraffia; Marino Mazzei; Paul Paterno; Louis Ranieri; Michael R. Rosinia; Dr. Mario O. Rubinelli; George Salerno; Josep Scilabra; Dr. Joseph J. Sirchio; Amedeo Yelmini; Jerome N. Zuria.

Labor Committee: James L. Coli, Chairman; James Caporale; James Chiaro; Tom Crivellone; Angelo Fosco; Tony Judge; John Serpico; Thomas Siracusa; Joseph Spingola.

Bands, Marchers & Transportation: Louis H. Rago, Chairman; Jordan Canzone.

Programs & Arrangements: Domenick DiFrisco, Cochairman; Theresa Petrone, Cochairperson; James L. Coli; Louis Farina; Charles C. Porcelli.

Queen contest: Fred Mazzei, chairman; Josephine Bianco, cochairperson; Anita Louise Bianco, Spec. Asst.; Norma Battisti; Sam Bruno; Lilia Juarez; Anthony Morizzo; Marie Palello; Hugo Panarese; Aurelia Tornabene.

Floats: Sam Tenuta, Chairman; Sam Cerniglia, cochairman, Vincent R. Lucania, cochairman.

Float personnel: Lawrence Spallitta, Chairman, Joseph Belmonte, Nick Bianco, John de Bella, Lilia Juarez, Regina Panarese, Phyllis Schoene, Mary Spallitta.

Parade marshals: Marco De Stefano, chairman, Joseph Tolitano, co-chairman, Alex Batinich, Larry Battisti, Rocco Bellino, Ray Colagrossi, Ettore Di Vito, Anthony Finley, Neil Francis, Joseph Ippolitto, Mario Lombardi, Sam Messina, Mike Palello, Joseph Pantaleo, Chief Anthony Pilas, Louis Rago.

Reception committee: Phyllis Schoene, Chairperson; Lilia Juarez, Cochairperson; Reginia Panarese, Co-chairperson; Norma Battisti, Josephine L. Ortale, Naomi Serpico, Aurelia Tornabene, Leonara Turner.

Public officials: Congressman Frank Annunzio, Congressman Martin A. Russo, Senator John D'Arco, Jr., Hon. Alexander Adduci, Hon. John F. Aiello, Hon. Frank S. Belmonte, Hon. Phillip Bianco, Jr., Hon. Ralph C. Capparelli, Hon. Frank W. Chesrow, Hon. Elmer Conti, Hon. Jerome A. Cosentino, Hon. John D'Arco, Sr., Hon. Carl De Franco, Hon. Lawrence Di Prima, Hon. Marco Domico, Mayor William J. Francione, Hon. Louis P. Garippo, Hon. Frank Giglio, Hon. Thomas Hanahan, Hon. Anthony C. Laurino, Hon. William J. Laurino, Hon. John F. Leon, Hon. John A. Maloni, Hon. Vito Marzullo, Hon. John Merlo, Hon. Michael Nardulli, Hon. Salvatore E. Oddo, Mayor Charles Panici, Mayor John C. Porcelli, Hon. Sal P. Pullia, Hon. Fred B. Roti, Hon. Salvatore Ruffolo, Hon. Ronald Stearney, Mayor Alfred Stramaglia, Mayor C. August Taddeo, Mayor Anthony Vacco, Hon. Louis Viverito, Hon. Thomas E. Zirou.

Staff photographer: Sam Bruno.

Women's division: Phyllis Schoene, President.

West Suburban Women's Division: Lilia Juarez, President.

Young Adult Division: Regina Panarese, President.

AFFILIATED ORGANIZATION

American Unico Club of Chicago; Bianco Lodge, IANU; Chicago Italian American Organizaton; Chicago West Suburban Unico; Club Calascibetta Lodge No. 75, IANU; Columbia Club; DuPage Italian American Civic Committee; Father Louis Pilgrimage to the Mother Carbrini Shrines Society*; Filippo Mazzei—Post No. 1 (Illinois); Filippo Mazzei Women Aux. Post No. 1; Furlan Family of Chicago; Good Fellowship Club Italian American Communication Committee;

Italian American Executives of Transportation; Italian American Labor Council of Chicago; Italian American Police Association; Italian American Political Education Committee of Illinois; Italian American War Veterans of the U.S. (Ladies Auxiliary); Italian American War Veterans of the U.S. (Dept. of Illinois); Italian Bi-Lingual Association; Italian Catholic Federation; Italian Chamber of Commerce in Chicago*;

Italian Women's Club; Italo American National Union Fraternal Life Insurance Society; Italo American Soccer Club "Maroons"; Justinian Society of Lawyers; Ladies Auxiliary of Villa Scalabrini; Lake View Betterment Club; Lodge Aetna No. 1—I.A.N.U.; Maria Adelaide Club; Mazzini Verdi Club; Northlake Italian American Civic Organization; Norwood Park Chapter of Unico;

Our Lady of Grace Senior League; The Gregorians; The Italics*; Saint Francis DePaola Society; Scalabrini League; Society of Italian American Musicians of Greater Chicago; V.E. Ferrara Lodge No. 19—I.A.N.U.; Vicari Social Club; Victor Arrigo Post (Italian American War Veterans); Villa Ro Lodge No. 67—I.A.N.U.; Vizzinese Society; ●

KING CRIME

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, I want to remind the House that the murder of Federal District Judge John W. Wood and the attempted murder of the then-Assistant Federal District Attorney James W. Kerr remain as yet as unsolved as they have been from the beginning. The situation is really abominable.

Every single judge, magistrate, assistant, and district attorney in the western judicial district of Texas is under U.S. Marshal custody or protective custody. At the same time that this is happening, the Assistant District Attorney James W. Kerr has been compelled to leave his place of employment in the western district and go somewhere else yet to be announced—and perhaps for his own good it should remain unannounced. But, this is abominable.

The law enforcement agents of our Nation, charged with enforcing the laws that we pass, the protection of society, are murdered with impunity or attempted to be murdered with impugnity, and their colleagues must hide in fear or in custody while the criminals not only continue to challenge our society and our Government and its law enforcement agents, but roam the streets at will with their heads on high.

Mr. Speaker, I intend to continue to speak out on this. During the break I have arranged some meetings with some local and State law enforcement agents in order to try to compel and stimulate the breaking of this case, the solution of it, the prosecution of those who did make the hit as well as those who are behind the hits.

The SPEAKER pro tempore (Mr. FARY). Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 10 minutes.

INDEPENDENT CONTRACTORS—COMPLIANCE AND CLASSIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 60 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing H.R. 5460, the Independent Contractor Tax Act. This legislation is cosponsored by Chairman ULLMAN, Mr. VANIK, Mr. CORMAN, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. LEDERER, Mr. FOWLER, and Mr. GUARINI.

The bill deals with the two major problems that have been addressed in the Select Revenue Measures Subcommittee's extensive hearings on the subject of independent contractors. During our hearings on this subject, the Treasury Department outlined serious tax compliance problems that appear to exist among self-employed workers. Since the Treasury testimony on June 20, 1979, further studies presented to the Congress have reinforced the belief that there currently is an income and social security tax compliance problem among this sector of our work force. In addition, as many witnesses before the subcommittee pointed out, there is a real need to clarify the existing rules which determine how an individual worker should be classified for Federal employment tax purposes. In this regard, strong support has developed within Congress and in private industry for some type of classification formula which provides greater certainty about workers' status than is provided under present law. As my colleagues know, H.R. 3245, the Independent Contractor Tax Status Clarification Act of 1979, which has been introduced by my colleague from Missouri, DICK GEPHARDT, embodies such a "safe harbor" approach.

It is my goal in the current bill to address both of these serious concerns: tax compliance and certainty in classification. As is the case with any compromise, I cannot expect that this legislation will be warmly embraced by all parties. But I believe it is important that the Subcommittee on Select Revenue Measures have the opportunity to evaluate all the various legislative options when we meet to consider the entire independent contractor issue.

As introduced, the bill contains a "safe harbor" approach similar to that of the Gephardt bill. It also contains administrative provisions similar to those which were proposed by the Department of the Treasury to alleviate the tax compliance problem. The bill is designed to merge these different, yet not inconsistent approaches. I intend to work with the members of the subcommittee to make improvements in each—particularly improvements to promote simplicity and workability.

In the "safe harbor" classification section of the bill, efforts have been made to clarify the statutory language in order to define the scope of the rule better and to minimize potential litigation. It should not be the purpose of a "safe harbor" rule to broaden the definition of self-employment. To the extent the safe harbor rules do so, further efforts to refine the rules should be considered by the committee. Where substantive changes have been made in the language of H.R. 3245 by this proposal, they are so noted in the section-by-section summary which accompanies this statement.

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*Life Membership.

The bill also includes the Treasury proposals for withholding on compensation paid to certain independent contractors and Treasury suggestions for improving information reporting. These proposals have been modified to reflect problems raised at or since our hearings. In addition, certain other modifications have been made in the Treasury specifications to resolve technical problems that arose during the process of translating the proposals to legislative language. Again, such changes are noted in the detailed section-by-section summary.

It is clear to us in introducing this legislation, that the most controversial provision of the legislation is the extension of income tax withholding to certain self-employed individuals. Although the Treasury proposal provided two exceptions in its withholding proposal, for situations involving multiple payors or overwithholding due to high levels of expenses, and the introduced bill contains a third for direct sales, many will undoubtedly continue to question the wisdom of extending withholding to workers outside of the traditional employer-employee relationship. Therefore, it is appropriate here to review why we believe that a simplified withholding system to collect taxes from these self-employed workers may be desirable.

During the past year, the IRS conducted a study, the results of which were reviewed and confirmed by the GAO, that indicated a serious compliance problem exists. According to the IRS, approximately 45 percent of the independent contractors examined in the study reported none of their compensation in question for income tax purposes, and an even greater percentage failed to pay any SECA taxes on such compensation.

The Treasury Department has provided a conservative estimate of the revenue loss from this underreporting of $1 billion annually. Not only does the noncompliance among independent contractors deprive the Treasury of revenues, but it also results in the losss of social security coverage, particularly among low paid workers who had the highest rates of noncompliance and who are those most likely to need the protection afforded by social security benefits.

These findings of extensive noncompliance have been confirmed by other recent studies. One of these studies estimated that self-employed workers reported only 60 to 64 percent of their income from self-employment. By contrast the average wage earner who is subject to withholding reports between 97 and 98 percent of his compensation.

While some may continue to deny that a compliance problem exists, there is, in the view of many—including the sponsors of this bill as well as the Treasury Department, the Internal Revenue Service, experienced tax practitioners, and professional groups—substantial evidence that a large number of independent contractors are not reporting the full amount of their income and paying their fair share of the tax burden.

We cannot expect honest taxpayers to tolerate this tax evasion. What steps, therefore, can we take to prevent such noncompliance?

Mr. Speaker, we have under present law a system of withholding on the wages of millions of workers that has served us well in the past. We believe, based on this past experience and the views of many experts, that a simplified version of this withholding system may be the most effective way to combat the high noncompliance among independent contractors.

First, experience shows reporting of income is very high when income is subject to withholding and is lower when income is subject to information reporting. As I mentioned above, approximately 97 to 98 percent of wages and salaries (almost all of which are subject to withholding) are reported by individuals.

Second, withholding appears to be the most efficient way to eliminate the noncompliance problem. A system of information reporting—which is the only alternative we have to withholding—can work only if it is accompanied by a costly program of matching documents, with IRS agents following up on the millions of apparent discrepancies. An audit drive of the necessary proportions to collect the taxes due on this income not only would be wasteful of IRS resources but also would almost certainly produce a tax system that none of us want.

Third, it would appear that the additional costs for businesses associated with flat rate withholding should not be significant. Under the current information reporting system, payors must obtain identifying information about an independent contractor (name, address, social security number), maintain records of this information and of payments made to the independent contractor, and file an annual information return. The additional effort required under a flat rate withholding system would only involve minor modifications of these existing responsibilities.

Lastly, but equally important, withholding can serve the best interests of the individual taxpayer; it provides the taxpayer with a simple and systematic way to pay taxes, when compared to budgeting for large estimated tax payments.

To place the issue of withholding upon independent contractors in perspective, it is important to recognize that none of us, I am sure, would be willing to substitute a system of information reporting for the existing system of withholding on the millions of our Nation's employees.

Accordingly, we have included in the bill a system for withholding a flat rate of 10 percent from payments made to independent contractors that we believe is responsive to the concerns of both businesses and the Government. Under the proposed system, businesses may continue to treat workers as independent contractors and, indeed, may do so with the added certainty provided by the classification provisions of the bill. In addition, we intend that the flat rate withholding system contained in the bill be relatively simple for businesses to administer.

Finally, let me briefly summarize the main points of the Independent Contractor Tax Act:

The safe harbor section of the bill provides alternative standards for determining whether individuals are not employees for purposes of employment taxes. If a worker meets all five of these alternative standards, the individual shall not be considered to be an employee for Federal tax purposes. If any of the five standards are not met, the tax classification of that worker will continue to be determined under the common law.

The five standards are as follows:

First. Control of hours. The individual controls the number of hours worked and substantially all of the scheduling of the hours worked.

Second. Place of business. The place of business test must only be met if an individual performs more than one-half of the services at a single fixed location provided by the person for whom the service is performed. In such a case, the individual must pay rent for the use of such place of business equal to the fair rental value.

Third. Income fluctuation or investment. This is a two-part alternative test:

The individual must risk income fluctuation because substantially all of his remuneration is directly related to sales or other output (but not piecework) rather than to the number of hours worked; or

In the alternative, more than 25 percent of the amount paid for a service is attributable to capital furnished by the individual performing such service.

Fourth. Written contract and notice of tax responsibilities. The independent contractor relationship must be pursuant to a written contract and the worker must be apprised of his tax responsibilities.

Fifth. Filing of required returns. The person for whom the service is performed must file all required information returns.

The administrative sections of the bill would extend information reporting (form 1099) requirements of existing law to situations involving certain direct sales of $3,000 or more to an individual in the course of a calendar year. In addition, this section would require all payors to furnish similar information to the independent contractor payee, and would significantly increase the penalties for failure to file (or provide copies of) information returns.

The administrative sections of the bill also would extend income tax withholding to payments to certain independent contractors. The withholding would be at a flat rate of 10 percent rather than the graduated rate applicable currently to employees. The withholding would apply only to remuneration paid by a person in the course of such person's trade or business for services provided by an individual for such person. There are three exceptions to the withholding: First, an independent contractor who works for five or more payors during a calendar year would be exempt; second, an independent contractor who certifies to the payor that due to his or her high level of expenses, the 10-percent withholding on gross income would result in overwithholding would be exempt; finally, unlike the Treasury proposal, no withholding would be required in the case of direct selling transactions where the basic compensation is earned by the independent contractor from his resale of a product.

The text of the bill and a detailed technical explanation follow:

TECHNICAL EXPLANATION OF H.R. 5460, "THE INDEPENDENT CONTRACTOR TAX ACT OF 1979"

The bill is intended to resolve controversies concerning the proper classification of certain workers as employees or as independent contractors and to alleviate concern about such worker's compliance with the Federal tax laws. It would provide a new statutory test for determining the status of such workers for purposes of Federal employment tax laws. In addition, it would broaden the information reporting requirements and strengthen them with increased penalties. The bill also would require withholding at a flat 10-percent rate on independent contractors and would provide a new penalty for unreasonable failures to withhold.

I. CLASSIFICATION

Present law

With certain limited statutory exceptions, the classification of particular workers as employees or independent contractors (self-employed persons) for purposes of Federal employment taxes has been made under common law rules. The determination of an employer-employee relationship is important because a certain amount of wages paid to employees generally is subject to social security taxes imposed on the employer and the employee under the Federal Insurance Contributions Act (FICA) and unemployment taxes imposed on the employer under the Federal Unemployment Tax Act (FUTA). On the other hand, compensation paid to independent contractors is subject to the tax on self-employment income (SECA). In addition, Federal income tax must be withheld from compensation paid to employees, but payments to independent contractors are not subject to withholding.

Generally, the basis for determining whether a particular worker is an employee or independent contractor has been the common law test of control. Under Treasury regulations, if a person engaging the services of another has "the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work, but also as to the details and means by which the result is accomplished," the relationship of employer and employee is deemed to exist. On the other hand, the absence of a right to control generally indicates that the person performing the services is an independent contractor. In interpreting the Treasury regulations, twenty factors are used in determining whether workers are employees or independent contractors.

Explanation of provision

The bill would create a statutory "safe-harbor" test for determining whether an individual would not be classified as an employee. For a worker to qualify as an independent contractor under the bill, five requirements must be met. These requirements involve control of hours, place of business, income fluctuation or investment, written contract and notice of tax responsibilities, and filing of required returns.

Control of hours

This test would require that the individual control the number of hours worked and substantially all of the scheduling of the hours worked. Essentially the same test would be imposed under H.R. 3245.

Place of business

The place of business test would apply to individuals who perform services at a location or locations provided by the service-recipient (generally, the payor). The bill states that if the individual performs more than half of the service at a single fixed location and the service-recipient provides a place of business for the individual at that location, the test is met if the individual pays the service-recipient for the use of the place of business an amount equal to its fair rental value. If the individual works at premises provided by the service-recipient, at more than one location, all such premises are treated as a single fixed location under this test.

The statutory form of the place of business test in H.R. 5460 differs from the structure of the place of business test in H.R. 3245. However, both tests have substantially the same effect. Most individuals who meet the place of business requirements in H.R. 3245 will not be disqualified under the test in H R. 5460 because either they will meet the place of business criteria in H.R. 5460 or the place of business test itself will not be applicable to their cases.

A possible difference between the place of business tests in the two bills is the explicit requirement in H.R. 5460 that the individual pay "fair market value" for premises provided by the service-recipient, while H.R. 3245 requires the payment of "rent," which is undefined in that bill. However, under H.R. 5460, the fair rental value rule applies only if the individual performs more than half of the service at premises provided by the service-recipient, while the rent requirement in H.R. 3245 applies whenever the individual has a principal place of business which is provided by the person for whom service is performed.

Income or investment

The third safe-harbor standard would require individuals to pass either an income or an investment test. To meet the income test in H.R. 5460, an individual would have to risk income fluctuations because substantially all of the remuneration for the individual's performance of the service is directly related to sales or other output (but not piecework), rather than to the number of hours worked. The income test in H.R. 5460 is essentially the same as the income test in H.R. 3245, except that the latter bill does not expressly require that the amount of income subject to fluctuation be substantially all of the individual's income.

The alternative investment test in H.R. 5460 would be satisfied if more than 25 percent of the value of a service is attributable to capital furnished by the individual performing the service. In making this determination, a vehicle which is used primarily to transport the individual (and any tools, samples, or similar items) would not be taken into account. On the other hand, the investment test in H.R. 32345 would require that the individual have a substantial investment in assets used in connection with the performance of the service but provides no guidance concerning the type or quantity of investments which would be considered substantial.

Contract and notice

The fourth safe-harbor standard would require that the service be performed pursuant to a written contract between the individual and the service-recipient, that the contract be entered into before the service was performed, and that the contract provide that the individual not be treated as an employee for purposes of the laws providing for social security taxes and benefits, Federal unemployment compensation taxes, and Federal income tax withholding at source. In addition, the individual would have to be given written notice designed to ensure that the individual understands his or her responsibilities with respect to the payment of Federal self-employment and income taxes.

The contract and notice test of H.R. 5460 is essentially similar to the test in H.R. 3245.

Filing

The fifth requirement, which would have to be met if an individual is to be treated as an independent contractor within the H.R. 5460 safe harbor, would be imposed on the service-recipient. The service-recipient would be required to file any information returns required under section 6041A (relating to returns regarding payments to independent contractors and statements to be furnished to independent contractors). This requirement could be waived in cases where the Secretary of the Treasury found that failure to file the returns was due to reasonable cause and not to willful neglect.

The filing test in H.R. 3245 is generally the same as the test in this bill, except that the H.R. 3245 test has no waiver clause. The differences in the two requirements arise, not from the safe harbor provision, but from the new information reporting rules of section 6041A, which appear in section 3 of this bill.

II. DEFINITIONS AND SPECIAL RULES RELATING TO CLASSIFICATION

H.R. 5460 creates the term service-recipient, which is defined as the person for whom the service is performed. Both H.R. 5460 and H.R. 3245 make the safe-harbor tests inapplicable to statutory employees (agent-drivers, commission-drivers, full-time life insurance salesmen, home workers, and traveling or city salesmen), who are treated as employees for purposes of social security taxes.

No inference rule

H.R. 5460 contains a "no inference" rule which would provide that, in cases where the safe-harbor requirements are not met, none of the safe-harbor criteria may be interpreted to create an inference that an employment relationship exists. In such cases, a determination of employment status shall be made under the common law rules, as if the safe-harbor had not been enacted. An identical rule appears in H.R. 3245.

Relationship to other laws

This bill also provides that the fact that the safe-harbor criteria are met and an individual is not an employee for purposes of self-employment taxes (chapter 2), social security taxes (chapter 21), Federal unemployment compensation taxes (chapter 23), and Federal income tax withholding (chapter 24), shall not create any inference that the individual is not an employee and the service-recipient is not an employer for purposes of any other provisions. Determinations of employment status under provisions other than chapters 2, 21, 23, and 24, are to be made under common law principles, as if the safe-harbor rules were not enacted.

H.R. 3245 also limits the application of the safe-harbor tests to chapters 2, 21, 23, and 24, but lacks an express limitation on the tests' relationship to other provisions.

The final subsections contain a conforming amendment to the Social Security Act and a clerical amendment to the Internal Revenue Code.

III. INFORMATION REQUIREMENTS FOR PAYMENTS TO INDEPENDENT CONTRACTORS

Present law

Under present law, persons engaged in a trade or business generally must file information returns with respect to certain payments of $600 or more in any taxable year (Code sec. 6041(a)). This reporting obligation, subject to various exceptions, applies to payments of salaries, wages, commissions, fees, other forms of compensation for services, and other fixed or determinable gains, profits, or income.

Information returns generally must contain the name, address, and tax identification number of the recipient of the payment (Code secs. 6041(a) and (d), and 6109(a)). Recipients covered by this reporting requirement must furnish their name and address to the payor (Code sec. 6041(d)). However, there is no requirement that the payor furnish the recipient with a copy of the return.

Explanation of provision

General rule

Under the bill, a person engaged in a trade or business generally would be required to file an information return with respect to payments made in the course of such trade or business aggregating $600 or more, for services performed by an independent contractor. This return must set forth the aggregate amount of such payments made to an independent contractor and the name, address, and identification number of the recipient of the payments. When necessary to effectuate this requirement, the recipient of the payments must furnish his or her name, address, and identification number upon demand of the person making the payments.

The information return requirement would apply generally to any payments made by the United States, a State or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one of the foregoing. In this case, the information return would be made by the officer or employee having control of the payment or appropriately designated for the purpose of making the return.

For purposes of this information reporting requirement, services are to be treated as performed by an independent contractor if a statement with respect to such services is not required to be furnished under the provisions of the Code relating to information regarding wages paid employees (Code secs. 6051, 6052 and 6053).

Special rule for direct sales

The bill requires a person who in the course of a trade or business sells consumer products, in the aggregate amount of $3,000 or more during the calendar year, to any individual for resale in the home on a buy-sell or deposit-commission basis to make a return setting forth the aggregate amount of the sales and the name, address, and identification number of the individual to whom the sales are made.

Under the bill, a transaction would be on a buy-sell basis if the individual performing the services were entitled to retain the difference between the price at which he or she purchases the product and the price at which he or she sells the product as part or all of his or her remuneration for the transaction. A transaction would be on a deposit-commission basis if the individual performing the services were entitled to retain the deposit paid by the consumer in connection with the transaction as part or all of his or her remuneration for the transaction.

When necessary to effectuate this return requirement, the recipient of the sales must furnish his or her name, address, and identification number upon demand of the person making the sales.

This provision of the bill differs from the Administration proposal, which would expand the information reporting requirement to compensation for services performed by salespersons. The amount to be reported in the case of such compensation would be the difference between the cost of goods sold and the suggested or estimated retail selling price of goods sold.

Statements furnished to recipients of payments or sales

Every person who is required to make a return, under the bill, must furnish a written statement to each individual whose name is set forth in the return. This statement must be furnished on or before January 31 of the year following the calendar year for which the return was made and must show the name, address, and identification number of the person making the return, and the aggregate amount of payments (or sales) to the individual as shown on the return.

This provision of the bill is essentially similar to the Administration proposal.

IV. PENALTIES FOR FAILURE TO FILE INFORMATION RETURN WITH RESPECT TO PAYMENTS OR SALES MADE TO INDEPENDENT CONTRACTORS

Present Law

Under present law, a $1 penalty is provided for each failure to file an information return (Code sec. 6652(b)). The maximum aggregate penalty for all such failures during any calendar year is $1,000.

Explanation of provision

Under the bill, an individual who fails to file an information return (or furnish the required statement to an independent contractor) with respect to payments or sales to independent contractors would be subject to a penalty of $50 for each such failure. The maximum aggregate penalty for all such failures during any calendar year would be $25,000. However, this penalty would not apply if it could be shown that the failure was due to reasonable cause and not to willful neglect.

In addition, if an individual has failed to comply with the information reporting requirements for a prior calendar year and a penalty was assessed for such failure, then, for a failure occurring during the current calendar year, the individual generally would be denied deductions under section 162 of the Code for payments with respect to which there was a failure. (In lieu of disallowing deductions under section 162 in the case of direct sales, the cost of goods sold would be treated as zero.) This penalty would be applied in lieu of the $50-per-occurrence penalty, and would be applied only if greater than that penalty.

The Administration proposal would have increased the penalty for failure to file information returns to 5 percent of payments not reported, with a minimum penalty of $50.

V. 10-PERCENT WITHHOLDING ON PAYMENTS TO INDEPENDENT CONTRACTORS

Present law

Under present law, there is no requirement that Federal income tax be withheld from payments made to independent contractors. On the other hand, employers who pay wages to employees must withhold a portion of the wages to satisfy all, or part of, the employees' Federal income tax liability (Code sec. 3402).

Explanation of provision

General Rule

In general, the bill provides that taxes be withheld at a flat rate of 10 percent from payments made in the course of an individual's trade or business for services performed by certain independent contractors. This general rule is similar to the Administration proposal for withholding on independent contractors.

Under the bill, payments made to an independent contractor by the United States, a State or political subdivision thereof, the District of Columbia (or an agency or instrumentality of any of the foregoing) would be subject to the general withholding requirement.

Exceptions

In order to avoid undue administrative complexity on the part of payors, and to avoid overwithholding on payments made to independent contractors, the bill provides several exceptions to the general requirement for withholding.

First, no withholding would be required under the bill if the person who uses the services, that is, the service-recipient, of an independent contractor has reason to believe that the independent contractor will perform similar services for five or more unrelated persons during the calendar year. This exception may be satisfied by certification from the independent contractor to the service-recipient that he or she performed similar services for five or more unrelated persons during the preceding calendar year, or that he or she reasonably can expect to perform similar services for five or more unrelated persons during the year in question.

Second, no withholding would be required if an independent contractor certifies to the person for whom he or she is performing services that withholding with respect to payments for those services would exceed the amount of his or her tax liability for the taxable year.

Third, no withholding would be required under the bill if the transaction is a qualified direct sale. The bill defines a "qualified direct sale" as a transaction in which consumer products are sold in the home on a buy-sell basis or a deposit-commission basis, and the individual performing the services receives no remuneration from the supplier of the product (other than a volume sales bonus). A transaction would be on a buy-sell basis if the individual performing the services were entitled to retain the difference between the price at which the product is purchased and the price at which the product is sold as his or her remuneration for the transaction. A transaction would be on a deposit-commission basis if the individual were entitled to retain the deposit paid by the consumer in connection with the transaction as his or her remuneration for the transaction.

Fourth, the bill would not require withholding with respect to payments to nonresident aliens which are subject to withholding under section 1441(a) of the Code.

The first two exceptions to the bill's withholding requirement are similar to the exceptions which have been proposed by the Administration. The Administration proposal, however, would apply to "qualified direct sales" which are exempted from withholding under the bill.

VI. PENALTY FOR FAILURE TO WITHHOLD

Present law

Under present law, if workers who were treated as independent contractors are reclassified as employees, payors are liable for all income and FICA taxes which should have been withheld from the workers in addition to their own liability for FICA and FUTA taxes. The Internal Revenue Service generally will adjust Federal income tax withholding assessments if the employer is able to furnish certificates signed by his or her workers showing that they paid their proper tax.

Explanation of provision

In addition to the liability for tax under present law for failure to withhold, the bill provides a new penalty, equal to 5 percent of the amount which should have been withheld upon, with respect to each failure to withhold income tax or the employee's share of FICA tax. However, the new 5 percent penalty and the penalty imposed under present law equal to 100 percent of the tax (section 6672) could not both be imposed with respect to the same failure to withhold.

In general, this new 5 percent penalty would not apply if, taking into account the state of the law as it applied to a particular case, it was reasonable to assume that no withholding was required. In addition, with respect to payments made to an individual who was treated as an independent contractor but who should have been treated as an employee, this new penalty would not apply if payments made to that individual were withheld upon at a rate of 10 percent and if the information return requirement with respect to those payments were complied with.

The Administration proposed replacing the liability under present law with a penalty tax equal to 10 percent of the amount of compensation not withheld upon. Under their proposal, payors whose workers are reclassified as employees would remain liable for the employer's half of FICA taxes and FUTA taxes, and wokers would be liable for the employee's half of FICA taxes.

The Administration proposed that this 10-percent penalty tax be abated in cases where it would not have been unreasonable for the payor to treat the worker as an independent contractor and the payor also withheld a flat rate of 10 percent from the worker's compensation (or was excused from so doing).

VII. EFFECTIVE DATE

The amendments made by the bill would apply to payments after December 31, 1980.

H.R. 5460

A bill to amend the Internal Revenue Code of 1954 to clarify the standards used for determining whether individuals are not employees for purposes of the employment taxes and to assist in the administration of the tax law with respect to payments for personal services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title; Amendment of 1954 Code.

(a) Short Title.—This Act may be cited as the "Independent Contractor Tax Act of 1979".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Sec. 2. Alternative Standards for Determining for Purposes of Employment Taxes Whether Individuals Are Not Employees.

(a) In General.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"Sec. 3508. Alternative Standards for Determining for Purposes of Employment Taxes Whether Individuals Are Not Employees.

(a) General Rule.—Notwithstanding any other provision of this subtitle, solely for purposes of this subtitle (other than chapter 22) and chapter 2, if the requirements of paragraphs (1), (2) (if applicable), (3), (4), and (5) of subsection (b) are met with respect to service performed by any individual—

"(1) such service shall be treated as being performed by an individual who is not an employee, and

"(2) the service-recipient shall not be treated as an employer with respect to such service.

"(b) Requirements.—The requirements referred to in subsection (a) are as follows:

"(1) Control of hours worked.—The individual controls the number of hours worked and substantially all of the scheduling of the hours worked.

"(2) Place of business.—If—

"(A) the individual performs more than half of the service at a single fixed location, and

"(B) the service-recipient provides a place of business for the individual at such location,

such individual pays to the service-recipient for the use of such place of business an amount equal to the fair rental value of such place of business. For purposes of the preceding sentence, the premises of the service-recipient shall be treated as a single fixed location.

"(3) Income fluctuation; investment.—

"(A) Income fluctuation.—The individual risks income fluctuations because substantially all of the remuneration for the individual's performance of the service is directly related to sales or other output rather than to the number of hours worked. For purposes of the preceding sentence, the term 'other output' does not include piecework.

"(B) Alternative test where individual's capital is significant factor.—The requirement of this paragraph shall be treated as met with respect to any service if more than 25 percent of the value of such service is attributable to capital furnished by the individual performing such service. For purposes of the preceding sentence, a vehicle which is used primarily to transport the individual (and any tools, samples, or similar items) shall not be taken into account.

"(4) Written contract and notice of tax responsibilities.—

"(A) The individual performs the service pursuant to a written contract between the individual and the service-recipient—

"(i) which was entered into before the performance of the service, and

"(ii) which provides that the individual will not be treated as an employee with respect to such service for purposes of the Federal Insurance Contributions Act, the Social Security Act, the Federal Unemployment Tax Act, and income tax withholding; and

"(B) The individual is provided (in such contract or at the time such contract is executed) written notice which is designed to ensure that the individual understands his responsibilities with respect to the payment of Federal self-employment and income taxes.

"(5) Filing of required returns.—The service-recipient meets the requirements of section 6041A in respect of such service at the times prescribed therefor (including extensions thereof). The Secretary may waive the requirements of the preceding sentence in any case where the failure to meet such requirements is due to reasonable cause and not to willful neglect.

"(c) Definitions and Special Rules.—

"(1) Service-recipient.—For purposes of this section, the term 'service-recipient' means the person for whom the service is performed.

"(2) Section not to apply to certain individuals.—This section shall not apply to an individual described in section 3121(d)(3) (relating to certain agent-drivers, commission-drivers, full-time life insurance salesmen, home workers, and traveling or city salesmen).

"(d) No Inference Where Standards Are Not Met.—If not all of the requirements of subsection (b) are met with respect to any service—

"(1) nothing in this section shall be construed to infer that the service is performed by an employee or that the service-recipient is an employer, and

"(2) any determination of such an issue shall be made as if this section had not been enacted.

"(e) Relationship to Other Provisions of Law.—The fact that all of the requirements of subsection (b) are met with respect to service performed by an individual—

"(1) shall not be construed to infer that, for purposes of any provision of law other than chapters 2, 21, 23, and 24, the service is not performed by an employee or the service-recipient is not an employer, and

"(2) any determination of such an issue shall be made as if this section had not been enacted."

(b) Amendment of Social Security Act.—Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"ALTERNATIVE STANDARDS FOR DETERMINING WHETHER INDIVIDUALS ARE NOT EMPLOYEES

"(p) Notwithstanding any other provision of this title, the rules of section 3508 of the Internal Revenue Code of 1954 shall apply and any reference in such section to chapter 2 or 21 of such Code shall be deemed to include a reference to this title."

(c) Clerical Amendment.—The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3508. Alternative standards for determining for purposes of employment taxes whether individuals are not employees."

Sec. 3. Information Requirements for Payments to Independent Contractors.

(a) General Rule.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6041 the following new section:

"Sec. 6041A. Returns Regarding Payments to Independent Contractors

"(a) Payment of $600 or More.—If—

"(1) any person engaged in a trade or business pays in the course of such trade or business during any calendar year remuneration to any individual for services performed by such individual as an independent contractor, and

"(2) the aggregate of such remuneration paid to such individual during such calendar year is $600 or more,

then such person shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name, address, and identification number of the recipient of such payments.

"(b) Direct Sales of $3,000 or More.—

"(1) In general.—If—

"(A) any person engaged in a trade or business in the course of such trade or business during any calendar year sells consumer products to any individual for resale by such individual in the home on a buy-sell basis or a deposit-commission basis, and

"(B) the aggregate amount of the sales to such individual during such calendar year is $3,000 or more,

then such person shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such sales and the name, address, and identification number of the individual to whom such sales are made.

"(2) Definitions.—For purposes of paragraph (1)—

"(A) a transaction is on a buy-sell basis if the individual performing the services is entitled to retain the difference between the price at which he purchases the product and the price at which he sells the product as part or all of his remuneration for the transaction, and

"(B) a transaction is on a deposit-commission basis if the individual performing the services is entitled to retain the deposit paid by the consumer in connection with the transaction as part or all of his remuneration for the transaction.

"(c) Services Performed as an Independent Contractor.—For purposes of this section, services shall be treated as performed by an individual as an independent contractor if a statement with respect to such services is not required to be furnished under section 6051, 6052, or 6053.

"(d) Application to Governmental Units.—In the case of any payment by the United States, a State or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, any return under this section shall be made by the officer or employee having control of the payment or appropriately designated for the purpose of making such return.

"(e) Statements To Be Furnished to Persons With Respect to Whom Information Is Furnished.—Every person making a return under subsection (a) or (b) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name, address, and identification number of the person making such return, and

"(2) the aggregate amount of payments (or sales) to the individual as shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) or (b) was made.

"(f) Recipient To Furnish Name, Address, and Identification Number.—When necessary to make effective the provisions of this section, the name, address, and identification number of the recipient of the payment (or sales) shall be furnished upon demand of the person making the payment (or sales.)"

(b) Penalties.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (g) as subsection (i) and by inserting after subsection (f) the following new subsections:

"(g) Returns and Statements Relating to Payments or Sales to Independent Contractors.—In the case of each failure—

"(1) to make the return required by subsection (a) or (b) of section 6041A with respect to any individual, or

"(2) to furnish a statement required under section 6041A(e) to any individual,

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to so make the return or furnish the statement, $50 for each such failure, but the total amount imposed under this subsection on any person for all such failures during any calendar year shall not exceed $25,000.

"(h) Denial of Deduction Where Second or Subsequent Failure.—

"(1) In general.—If—

"(A) but for this subsection, an amount would be imposed under subsection (g) with respect to any person for a calendar year, and

"(B) an amount was imposed under subsection (g) with respect to such person for a prior calendar year,

then there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by such person an amount equal to the additional liability for tax which would arise under chapter 1 if there were disallowed all deductions under section 162 for payments with respect to which there was a failure described in subsection (g) for the calendar year. In the case of direct sales, for purposes of the preceding sentence the cost of goods sold shall be treated as zero (in lieu of disallowing deductions under section 162).

"(2) Penalty in lieu of subsection (g) penalty.—The amount determined under paragraph (1)—

"(A) shall be imposed for the calendar year with respect to a person only if it exceeds the amount determined under subsection (g) for such person for such year, and

"(B) shall be in lieu of the imposition of any amount under subsection (g) with respect to such person for such year."

(c) Technical Amendment.—Subsection (a) of section 6041 (relating to information at source) is amended by inserting "6041A (a)" before "6042(a)(1), 6044(a)(1)".

(d) Clerical Amendment.—The table of sections for such subpart B is amended by inserting after the item relating to section 6041 the following new item:

"Sec. 6041A. Returns regarding payments to independent contractors."

Sec. 4. 10-Percent Withholding on Payments to Independent Contractors.

(a) In General.—Section 3402 (relating to income tax collected as source) is amended by adding at the end thereof the following new subsection:

"(s) Withholding on Payments to Independent Contractors.—

"(1) General rule.—Every person making any independent contractor payment which is subject to withholding shall deduct and withhold from such payment a tax in an amount equal to 10 percent of such payment.

"(2) Independent contractor payment.—For purposes of this subsection—

"(A) In general.—The term 'independent contractor payment' means remuneration paid by a person in the course of such person's trade or business to an individual for service performed by such individual.

"(B) Wages, etc., excluded.—The term 'independent contractor payment' does not include remuneration—

"(i) which constitutes wages, or

"(ii) which would constitute wages but for an express exception set forth in section 3401(a).

"(C) Non-cash remuneration taken into account.—The term 'remuneration' includes the cash value of all remuneration paid in any medium other than cash.

"(3) Payments subject to withholding.—For purposes of this subsection—

"(A) In general.—An independent contractor payment to an individual is subject to withholding unless—

"(i) the service-recipient has reason to believe that the individual will perform similar services for 5 or more unrelated service-recipients during the calendar year,

"(ii) the individual certifies to the service-recipient that the aggregate amount which (but for this clause) could reasonably be expected to be withheld under this subsection would exceed the amount by which such individual's liability for tax under subtitle A for the taxable year exceeds the credits which will be allowable against such tax liability,

"(iii) the transaction is a qualified direct sale, or

"(iv) the payment is subject to tax under section 1441(a) (relating to withholding on nonresident aliens).

"(B) 5 service-recipient rule may be satisfied by certification.—A service-recipient shall in any case be treated as meeting the requirements of subparagraph (A)(i) if the individual certifies to the service-recipient—

"(i) that the individual performed similar services for 5 or more unrelated service-recipients during the preceding calendar year, or

"(ii) that the individual will perform similar services for 5 or more unrelated service-recipients during the calendar year.

"(C) Qualified direct sale.—

"(i) In general.—The term 'qualified direct sale' means a transaction in which—

"(I) consumer products are sold in the home on a buy-sell basis or a deposit-commission basis, and

"(II) the individual performing the services receives no remuneration from the supplier of the product other than a volume sales bonus for such individual (or for a chain of individuals which includes such individual).

"(ii) Buy-sell basis.—A transaction is on a buy-sell basis if the individual performing the services is entitled to retain the difference between the price at which he purchases the product and the price at which he sells the product as his remuneration for the transaction.

"(iii) Deposit-commission basis.—A transaction is on a deposit-commission basis if the individual performing the services is entitled to retain the deposit paid by the consumer in connection with the transaction as his remuneration for the transaction.

"(iv) Qualified direct sales includes certain bonuses.—Any volume sales bonus described in clause (i)(II) paid in connection with a qualified direct sale shall be treated as a qualified direct sale.

"(4) Coordination with other sections.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F as relates to this chapter, independent contractor payments which are subject to withholding shall be treated as if they were wages paid by an employer to an employee.

"(5) Statement by individual.—Every individual who is to receive an independent contractor payment which is subject to withholding shall furnish the person making such payment a statement, made under the penalties of perjury, containing such individual's name, address, and taxpayer identification number.

"(6) Definitions and special rules.—For purposes of this subsection—

"(A) Service-recipient.—The term 'service-recipient' means the person for whom the service is performed.

"(B) Governmental entity.—The term 'person' includes the United States, a State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any one or more of the foregoing."

(b) Assessable Penalty for Failure To Withhold Taxes Under Sections 3102 and 3402.—

(1) In general.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6672 the following new section:

"Sec. 6672A. Failure To Withhold Taxes Under Sections 3102 and 3402.

"(a) General Rule.—Any person required to withhold any amount under section 3102 or 3402 who fails to withhold such amount shall be liable for a penalty equal to 5 percent of the wages with respect to which such failure occurs.

"(b) Penalty Does Not Apply Where Person Acted Reasonably.—If—

"(1) the failure of any person to withhold was reasonable,

"(2) such person fully complied with the requirements of section 6041A (relating to information returns), and

"(3) in any case to which subsection (s) of section 3402 applies, such person complied with the requirements of such subsection,

then no penalty shall be assessed under subsection (a) with respect to such failure to withhold.

"(c) TEST OF REASONABLENESS.—For purposes of subsection (b), a failure to withhold was reasonable if (taking into account the state of the law as it applied to this case) it was reasonable to assume—

"(1) in the case of section 3102, that no amount was required to be withheld, or

"(2) in the case of section 3402, that either—

"(A) no amount was required to be withheld, or

"(B) an amount was required to be withheld, but solely by reason of subsection (s) of section 3402.

"(d) RELATIONSHIP TO OTHER PENALTIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty provided by subsection (a) shall be in addition to any other penalty provided by law.

"(2) RELATIONSHIP TO SECTION 6672.—If a penalty is assessed under subsection (a) with respect to any failure to withhold, no penalty shall be assessed under section 6672 with respect to that failure."

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by inserting after the item relating to section 6672 the following:

"Sec. 6672A. Failure to withhold taxes under sections 3102 and 3402."

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply to payments after December 31, 1980.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ANTHONY) is recognized for 5 minutes.

● Mr. ANTHONY. Mr. Speaker, yesterday, September 27, I was absent from the House of Representatives to address the 55th annual State convention of the Arkansas Realtors Association in Hot Springs, Ark. Due to this commitment I missed several votes. Had I been present I would have voted "yea" on Senate Concurrent Resolution 36, the second budget resolution, and "yea" on the Department of Education conference report, S. 210.

WEST-TO-EAST PIPELINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. SWIFT) is recognized for 30 minutes and to revise and extend his remarks.

Mr. SWIFT. Mr. Speaker, today I and other members of my State congressional delegation are introducing a bill that will mandate hook up of refineries in the northern part of my congressional district if a west-to-east pipeline is built in Washington State.

Although we take this action today, I hasten to add that I still have serious questions about the need for any such pipeline. I have seen studies by the Department of the Interior and the Department of Energy that just do not bear out the need for one, either in terms of supply or demand. In fact, I have sent a letter with my colleague DON BONKER to Secretary Andrus asking that they be very cautious in making any recommendation to the President to fully weigh the economic question surrounding the proposed west-to-east pipeline. I just do not think our country can afford to build a 1,500-mile long stainless steel white elephant.

The bill I and others are introducing today is not intended in any way to be an endorsement of any cross-Sound pipeline. However, I think it is vital that we now begin the process of talking about how we can best protect northern Puget Sound if indeed there is going to be a pipeline. The key word in all this is "if."

I recognize that there is tremendous interest in the Midwest for such a project. My colleagues in the Midwest are understandably concerned about the full cutoff of Canadian crude oil due within the next few years.

We are rapidly approaching a point in time where a crucial decision will be made regarding this northern tier corridor. As you may know, Secretary Andrus is scheduled to release the Department of the Interior's recommendations for a west-to-east pipeline in the middle of next month. The President is scheduled to make a decision on it sometime shortly after December 1.

The timing of these events make it all the more important that the Department of the Interior and the President address the question of connecting refineries in northern Puget Sound if the cross-island pipeline is ultimately built.

What is at stake here are resources valued at more than $270 million. We are talking about an annual payroll of more than $79 million for 12,000 people, we are talking about the fishing industry, both commercial and sport worth in 1978 more than $76 million. We are talking about tourism in the Northern Puget Sound region worth more than $52 million in 1978. And, we are talking about property values in excess of $76 million in 1978 dollars.

These are valuable resources, they are resources that are vital to the economy of our entire State and the entire Pacific Northwest region. The bill I am introducing today with my other colleagues from the State is vital to protecting those resources. Without the hookup of these refineries there is no benefit to any west-east pipeline for my constituents or anyone else in western Washington. We assume all the risks, then, and the benefits start at the peak of the Cascades and flow eastward. The measure we are proposing today is really nothing new. The question of hookup for these northern refineries has been kicking around as long as there has been talk of a cross-Sound pipeline. But, historically, the major objection to this hookup has been the element of cost. Frankly, the refineries in my congressional district do not need it. They say it is still cheaper to ship oil in by tanker than it is for any pipeline to deliver their crude supply.

But if there is a pipeline built, northern Puget Sound bears the brunt of the worst of both worlds, and we would have continued tanker traffic into the inner-Sound and increased tanker traffic at Port Angeles. I find these environmental and economic risks too high.

If this project is indeed in the national interest, I think it is only fair that the Nation as a whole assume some of the risks, and one of the ways to defray that risk is to hook up. The bill I am proposing today will give the refineries and whatever pipeline company may ultimately be selected 6 months to reach voluntary agreement on hookup conditions and costs. If there is no accord in that time, the President would be given the power to mandate hookup and the Federal Regulatory Commission would establish a tariff schedule for those refineries. I have included specifically language that would require the FERC in developing a tariff schedule to explore distributing equally the cost of hookup throughout the pipeline system. I think this is eminently fair if we are to pursue a project which is truly a national project.

Without hookup my region will bear all the risks for the benefit of those in the Midwest. I find that totally unacceptable. Puget Sound is a beautiful region of our country. And the potential damage that major oilspills from increased tanker traffic in the inner Sound could bring is a risk that we in our State, and in our Nation, cannot afford.

Mr. Speaker, two of my colleagues from Washington State today introduced a bill that relates to the northern tier pipeline project that has been of considerable concern to everyone, that runs across those States from Washington, Idaho, Montana, North Dakota, and across.

The issue is whether or not those in western Washington, those of us who live there, are going to absorb additional responsibilities without any additional benefits. The refineries in western Washington do not need hookup of a pipeline. In fact, the basic crude oil can be supplied to the people through their present methods than going through the pipeline. And yet, if the States in the Midwest are to receive their crude oil from an east-west pipeline, it is going to have to cross Puget Sound.

The issue in our area has long been, if we take on the additional hazard and the additional risk of a pipeline that would be built under Puget Sound, what kind of trade-off do we get that is beneficial to the people of our area? The only kind of trade-off do we get that is beneficial to refineries in our area were to be required to hook into that pipeline, and thereby reduce the tanker traffic on Puget Sound and reduce the overall environmental hazard that exists to our area.

The bill we introduced today would require that mandatory hookup of four refineries in northern Puget Sound. But, it is very important to understand that those refineries do not need that hookup. There is no need economically for that It is simply something that must be done in order for us to protect ourselves from additional environmental hazard as we become a transfer point for oil that is going to the Midwest to benefit the people there.

We point out in our bill that there is cost to this hookup, cost which will be totally on the backs of the refineries in our area and to the customers in western Oregon served by those refineries if in fact we do not make provision, as our bill would provide, to see that those costs are spread across the entire pipeline.

But, in introducing this bill today we wanted to make it very, very clear that none of us, the sponsors of this bill, are yet convinced that it is necessary to have any pipeline at all. Our legislative intent was clearly not to endorse any pipeline or any specific proposal for a pipeline across the northern tier.

Quite the contrary, our purpose is simply this: That if in fact a decision is made by the administration that there shall be an east-west pipeline beginning at Puget Sound and moving east, and under those circumstances there ought to be mandatory hookup, and the cost of that hookup should be carried across the entire pipeline. We further would like to indicate that in determining the economic feasibility of any such pipeline, the benefits to the pipeline from those refineries that we would require to be hooked up in Puget Sound should not be included.

The pipeline's purpose is to serve the Middle West. Actually, it is to serve from the crest of the North Cascades in the middle of Washington State, eastward. If it is to be justified economically, it must be justified on the basis of whether or not it serves in an economic fashion all of those States east of the Cascades.

To include what charges might accrue to any pipeline because of mandatory hookup would be to create and lead toward a perhaps justified, and otherwise totally unjustifiable, pipeline.

To summarize very simply, if there is to be a pipeline the people in the Puget Sound area must not be required to assume the total economic burden for providing for that hookup. That must be spread across the line.

Secondly, the introduction of this bill should not in any way be assumed to be an indication that there is, in our judgment, even a need for a pipeline, let alone an endorsement of any specific pipeline. Finally, to any economic benefit that may accrue to any people from that hookup should not be a part of the economic justification of the pipeline.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to my colleague from Washington.

Mr. DICKS. Mr. Speaker, I want to congratulate my colleague for requesting this opportunity to address the House on what I consider one of the most environmentally important economic issues facing the western Puget Sound area and our North Tier States. Several years ago, the Government of Canada made a decision to reduce dramatically the oil that was available to the Northern Tier States, including the State of Washington. Because of that decision some of our northern tier refineries in Minnesota, North Dakota, and Montana have had a difficult time getting the oil necessary to run their important refinery operations.

The Secretary of the Interior, under legislation enacted last year, will be making a recommendation to the President of the United States regarding a pipeline that will originate possibly in the State of Washington. My colleague from Washington has pointed out accurately that we do not endorse a pipeline in the State; we do not oppose one either. It is a decision that must be made on the basis of environmental and economic grounds.

□ 2110

That decision rests in the first part with the administration, and the latter, of course, with the people who have to finance pipelines. We can say that they will be given expedited treatment but, again, it is the financiers who eventually must determine whether a pipeline can or cannot be built. The reason for our legislation, as the gentleman pointed out, is to try to do the best thing possible for Puget Sound.

In my judgment, if an off-loading facility at or west of Port Angeles is built, and if transshipment is to be approved, then having mandatory hookup for the four refineries in the northern Puget Sound area is absolutely essential to protect very important economic considerations in our State and also to insure that we will minimize the risk from oil tankers proceeding in that sometimes very precarious water area.

I think the gentleman from Washington has made a very valuable contribution in developing this legislation by suggesting a somewhat unique idea about trying to take the cost of this hookup and spreading it out across the entire system.

Just recently the Canadian Government announced that it was going to have further cutoff of oil to those Northern State refineries, so their interest in having the new source of oil should be enhanced, and I would hope that those refineries in those States would be willing to share this burden of extra cost of hookup to our refineries so we can spread this cost over the entire system.

I think the contribution the gentleman has made in that respect has made his legislative proposal significantly better. I would also say that this has been an issue that has been of great interest to a Senator in the other body from our State who is the author of the Marine Mammals Protection Act. I think it is clear that the people of the State of Washington want to see Puget Sound protected in the best possible fashion, and I just want to congratulate my colleague and thank him for the efforts that we have both made in trying to develop this important initiative.

I would also like to say and complete my remarks on this basis that this is a beginning point and an opening statement. We hope that our other colleagues from the State will have a chance to join with us after they have had a chance to review the legislation in the next few weeks. We certainly would welcome their cosponsorship and any ideas that they may have about how this legislation could be improved.

I might also point out that we added a new provision to the bill in our findings that said and clearly stated—and I know this is of importance to my other colleagues from the Olympic Peninsula area—that we want to make it very clear that there is nothing in this bill that says that we endorse the construction of a pipeline either at Port Angeles or West Port Angeles and that that decision is up to the administration. We are not enthusiastic about this. I would prefer, frankly, if we could work this out with the Canadian Government to take care of those northern refineries through swap agreements so that we might not have to build this pipeline at all.

But whatever happens, if the decision is made by the administration and by the financiers to build it, then I think we ought to have hookup. I think that makes good economic and environmental sense. I appreciate my colleague's yielding to me.

Mr. SWIFT. I thank the gentleman very much.

Mr. PRITCHARD. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Washington.

Mr. PRITCHARD. I thank the gentleman for yielding.

I just want to compliment the gentleman from Washington (Mr. SWIFT), for his leadership in this effort, and also the gentleman from Washington (Mr. DICKS), as well as the gentleman from Washington (Mr. LOWRY), who are sponsors.

This is, I think, a very thoughtful effort to bring into play some other factors that have to be considered when we get into the total picture of the pipeline. I do not think we in western Washington are unmindful of our national concern, and our national responsibilities, but at the same time, I think we have a clear responsibility to look out for the Puget Sound waters and also the costs that will encumber the people of western Washington, and make sure that that cost is equitably spread all the way across, particularly to those people who are going to be the beneficiaries of this pipeline.

So I want to compliment the gentlemen for bringing up this bill, and I am hopeful that because they have brought it up we are going to make some thoughtful and helpful approaches in the final decision of whether we have a pipeline across the northern part of the United States.

Again, I appreciate the gentleman's yielding.

Mr. SWIFT. I thank the gentleman.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Washington.

Mr. BONKER. I thank the gentleman for yielding.

I am pleased that my colleague, the gentleman from Washington (Mr. DICKS), says that this a beginning point because this is legislation that I have not seen. It will have considerable impact on a pipeline that is proposed to be established in a community in my congressional district to run the line through a very fragile part of the North Olympic, and it is an issue about which I have been concerned for the entire 5 years since I have been in the House. This legislation, as I understand it, would mandate a hookup with refineries in the Puget Sound area; is that true?

Mr. SWIFT. That is correct. It would

provide a period during which negotiation could go on between the pipeline company and the refineries should they not come to some voluntary agreement, and then it could be mandated in some fashion.

Mr. BONKER. Does the gentleman or any of the sponsors of this bill have any indication from the refineries in this area that they are interested in a hookup? Should not this be something that would be settled in the marketplace rather than having it a federally mandated provision?

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. BONKER. I am addressing the gentleman in the well.

Mr. SWIFT. I would answer, and then I would be happy to yield to the other gentleman. In fact, the refineries in the area have always resisted this on the basis that it would cost too much, and that in fact it could even jeopardize the survival of possibly two of the four refineries in the area, and that if that did not occur, it would, nevertheless, require the passthrough to the consumer of some considerable expenses over and above the way they currently receive their shipment. That is the reason we have paid very close attention in this bill to seeing that it will not be only the refineries in the Northwest and only those consumers that are going to have to undertake to pay those additional costs but rather to spread them across to all of the consumers of the entire project.

I yield to the gentleman from Washington.

Mr. DICKS. The question was addressed to the sponsors of the bill, and I would just like to clarify this matter.

What we have said is that there will be a burden in which the parties can voluntarily negotiate on this question, and we have set as a condition that the cost must be reasonable or hookup is not mandated.

Mr. BONKER. What is "reasonable"?

Mr. DICKS. That will be determined by the Federal Energy Regulatory Commission on the basis of a statutory and a regulatory definition. Let me just point out to the gentleman, too, that today there was a press conference in the State of Washington in which one major company announced that they could provide hookup at a cost of 13 cents a barrel. I am told by one of the other firms involved in this that they think they can match that hookup cost as well.

In my judgment—I am not a regulator—13 cents a barrel which would work out to less than half a cent a gallon would be a very reasonable cost and one that I would hope we would be able to agree upon and that the parties could work out on a voluntary basis. I think that the refineries in the past have felt that the cost would be in the range of 30 or 40 cents a barrel and they were, of course, very concerned about this. So I think that this new statement by both of the leading competitors is an indication that the cost may well be reasonable and that we may not have the same kind of resistance from the refineries as we have had in the past. And I hope, as the gentleman has expressed, that this can be negotiated in the marketplace and worked out among the principals. I think that if that can be done, that would make the most sense.

Again I want to point out to my colleague we are not endorsing any pipeline. We are not even encouraging one. I would hope that as a first line we can get the Canadians to provide the oil so that we do not have to worry about this issue.

Mr. SWIFT. I appreciate the gentleman's remarks in that regard.

I now yield further to the gentleman from Washington (Mr. BONKER).

□ 2120

Mr. BONKER. I would like to pursue my inquiry. As I understand, the refineries in Washington State serve the customers in Oregon and Washington only.

Mr. SWIFT. That is correct.

Mr. BONKER. Would you propose in this legislation that you are going to require Northern Tier, if this is the company that is designated and actually builds a line, to absorb the cost and then distribute that cost throughout everyone in the Northern Tier system, the people in Montana, the people in Minnesota, who have refineries in that area, they will have to absorb the cost of a hookup that occurs in Washington State, even though they are not going to benefit from the petroleum products?

Mr. SWIFT. They would have to absorb the costs of bringing that pipeline to their area. One of those costs would be that they should pay for those expenses that are incurred in getting the pipeline across Puget Sound. In order to make any sense for the Puget Sound area at all, if there is a pipeline, you must consider as a basic part of those costs, hookup, and they should reasonably, rationally and I think quite equitably assume those costs, yes.

Mr. BONKER. Do the sponsors anticipate any legal problems or constitutional tests that would have the Federal Government in effect mandating a hookup and then passing the charges through the entire system to customers in States 50, 100, 2,000 miles away?

Mr. SWIFT. The gentleman would not in this body ever assume there would not be such a judicial review and test.

Mr. BONKER. Is there any intent through this legislation to imply a commitment of Federal backing through loan guaranties or any other financial moneys for the Northern Tier Pipeline Co. project or any other west-to-east hookup?

Mr. SWIFT. In this bill?

Mr. BONKER. Yes.

Mr. SWIFT. None whatever.

Mr. BONKER. So if the Federal Government requires this hookup, it is not the gentleman's intention in any way that it is going to have an obligation financially to pay the extra costs as a result of a hookup?

Mr. SWIFT. That is not the intent of this bill, no.

Mr. BONKER. Now, both the gentleman in the well and my other colleague from Washington State have been insisting that this legislation does not in any way endorse northern tier or transmountain or any other pipeline, but I would question whether the timing of this legislation could be construed by the sponsors of these pipeline projects to represent an endorsement or legislative support, or an indication of interest that would in some way make their project look more financially acceptable than it would otherwise appear if we did not have a mandated hookup.

Mr. SWIFT. I cannot tell what the motivations of any pipeline company may be. I would think it would be entirely possible they would make such a claim. It is one of the reasons we are having this colloquy and, in fact, I invited the gentleman to participate in it so we can make very clear that is not the intent that any such claim is a claim without foundation in terms of what we, the sponsors of the legislation, have in mind.

Further, I make clear, and I am not clear whether the gentleman was in the Chamber but in the opening statement I made it quite clear I think to include any benefits that might accrue to a pipeline company from that mandatory hookup, in any consideration of the cost of economics of that pipeline would be totally erroneous and unfair. The pipeline should, in its economic analysis, stand or fall on the basis of what economics there are starting at the Cascade Crest and moving east.

Mr. BONKER. In my research on this particular project, the figures I have seen indicate that the northern tier pipeline would require a throughput of 700,000 to 800,000 barrels a day in order to justify the construction costs.

Mr. SWIFT. At least.

Mr. BONKER. Presently all the refineries in the northern tier area consume no more than 370,000 barrels per day. Now it does not take a mathematician to figure out if you are going to have under 400,000 barrels consumed in these refineries and it is going to take a throughput of 700,000 to 800,000 barrels a day, that they have got to find another 300,000 to 400,000 barrels in that system to justify the construction costs.

Now those refineries are in your district, not mine, but what is the approximate per-barrel use of those refineries?

Mr. SWIFT. In the vicinity of 200,000.

Mr. BONKER. It would still come up under the 700,000 or 800,000 required?

Mr. SWIFT. It may be slightly larger than that.

Mr. BONKER. You know we had hearings yesterday in which the Department of the Interior, Energy, and the States testified on the northern tier project and it appears that we are close to reaching our optimum of Alaskan North Slope oil of about 1.5 million barrels a day. The estimate that we have is that that is going to begin to decline in 1985 and by 1995 that will be down to 200,000 barrels per day. There just simply is not enough Alaskan oil to use as an assumption to build a new pipeline.

Mr. SWIFT. The gentleman is using figures with which I am familiar and the questions the gentleman raises are most legitimate.

Mr. BONKER. If the President's national energy policy is aimed at reducing our dependence on foreign oil, imported oil, it seems to me northern tier is going to have a very difficult time making its case, both in terms of having enough oil to meet its throughput requirements on one end and the sheer lack of any commitments on the other end.

Now I recently met with the foothills pipeline project representatives. They make absolutely clear that all the commitments have to be in place on both ends of the line, the financial commitments, before they will lay 1 mile of pipeline.

In the northern tier case without any commitments on either end of the pipeline they are proceeding with very intense lobbying efforts and a lot of promotion to build a line that may not have any need.

The only statement I want to make with respect to the legislation that my colleagues are sponsoring is that this mandated hookup is not read or misread in any way to represent an endorsement of the northern tier or the Trans-Mountain or any other pipeline.

Mr. SWIFT. I would again stipulate that that is the case. The reason for the colloquy this evening was to establish that fact and I, and I am sure the other sponsors of the legislation will in any form stipulate that this was not the purpose, not the case, not the intent and, in fact, would feel it would be a misuse of this legislation.

Mr. DICKS. Will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Washington.

Mr. DICKS. We felt so strongly about this and wanted to do everything to satisfy our colleagues that we even put a new finding in our bill, section 5, which clearly states that it is our intent, and that we certainly want to make this very clear. I think in your statement submitted for the RECORD today we reiterated that in the strongest possible language.

Mr. BONKER. The gentleman is familiar with title V provisions in the Utility Regulatory Reform Act which establishes the time frame within which the President may designate a pipeline. The Secretary of the Interior has until October 15 to recommend to the President and then he has 45 days in which to make a determination, if he chooses to do so, and that even may be extended for another 60 days.

My question concerns the timing of this particular resolution, because the testimony we heard yesterday indicates there is so much uncertainty surrounding the statistics and the assumptions that are being used in these departmental recommendations that it is pretty shaky ground upon which to make any decision.

My colleague, the gentleman from Washington (Mr. DICKS), also talked about consultation with the Canadians, with the possible prospects of exchanges, which I think makes eminent, good sense.

In fact, we added an amendment to that title V which instructs the President to consult with the Canadians.

The fact of the matter is, we are just informing the Canadians and they are informing us, that no serious consultation is taking place.

□ 2130

Indeed, Canada and the United States are both proceeding on their own separate courses and could well end up building two different pipelines attempting to serve basically the same customers.

My question concerns the timing. In view of that title V time frame and the requirement of the Secretary of the Interior, would it not have been more prudent to withhold this legislation that well may be perceived as supporting the Northern Tier until after that title V process has run its course and then introduce the legislation?

Mr. SWIFT. I think that is a good question and it is one on which clearly a judgment call of reasonable people may disagree. Our reason for the timing was simply this, that if in fact consideration is going to be given to building an east-west pipeline, at the time that consideration is being made, the people making those decisions ought to understand that there is a hookup problem, that that hookup problem involves costs, those costs are going to be bitterly debated as to where they go and how those are handled and those factors ought well to be considered very seriously by anyone making a decision as to what kind of pipeline they are going to want to start west of Puget Sound and all the way across to Michigan. Raising those issues to the President, to the Secretary of the Interior, after they have made the decision and perhaps rather glibly said, you know, well, we will just run it across the sound and not know there is an issue of hookup, which we in the northwest have known about, but which they may have never considered, and not realize that with it comes a number of questions about cost, would I think be closing the barn door after the horse was stolen; so in fact, the timing was done now for that reason to bring up all the questions that I think all of us gentleman from western Washington are very concerned about.

Mr. DICKS. Mr. Speaker, if the gentleman will yield further, we wanted the President to know that if he approves a pipeline, that we think hookup is mandatory. That was my purpose.

Mr. BONKER. Mr. Speaker, I want to thank the gentleman in the well for his patience and his thoughtful responses.

Mr. SWIFT. I thank the gentleman very much.

THE "NATIONAL ACCORD"—A STRONG PLEDGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, bringing a nation as large and diverse as ours toward an accord on national policy is a difficult task. It cannot be done by one man or one office. National policy can only be properly set when we all put aside our personal interests and take up a common cause. That common cause today must be to check inflation—to check unemployment—to stabilize the economy. And the accord reached today between labor and the administration forges a crucial alliance in that effort.

The accord is more than a symbol. It is a pledge that we must accept as sincere and binding. For that is the spirit in which both sides met.

Organized labor is a major force in America—philosophically, economically, and politically. Its leaders deserve great respect and praise for committing all workers to a period of economic austerity. Recognizing the destruction that inflation has brought is one thing. Actually rolling up your sleeves and fighting it is another. Labor has chosen to roll up its sleeves.

The administration has taken a tough stand on wages and prices. Forcing the country's private and public sectors to adhere to voluntary guidelines is very difficult because of the very diversity of interests that makes our economy work. Yet fighting to meet those voluntary standards is the best hope in dealing with structural inflation. The administration's perseverance is commendable.

The accord between labor and the White House reflects the absolutely essential goal of a balanced budget. Fiscal discipline at a time of economic troubles takes courage and intelligence. The tough but flexible price formula built into this agreement allows bending to particular needs without compromising the ultimate goal.

Both sides have established a goal and a spirit which Congress must strive to reach.●

A SOCIAL SECURITY REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I am today introducing legislation that would make a small but significant change in our social security laws. My bill would help to achieve important savings by eliminating certain benefits that are totally unnecessary.

Under the Social Security Act, a stepchild is treated as a natural child for purposes of eligibility for child benefits. These benefits include survivors', retirement, and disability benefits. A child is generally eligible for the program until reaching the age of 22, if he or she remains in school.

Clearly, this provision is unobjectionable. An individual who has married the natural parent of a child and has adopted the child takes on financial responsibility for his or her support. Thus, if the stepparent becomes disabled, dies, or retires, the stepchild should be, and is, treated as if the stepparent were a natural parent.

My bill is directed toward situations where the stepparent and natural parent become divorced and the child begins to receive support from another source—a new stepparent or another source other than that natural parent.

Under current law, there are ridiculous abuses of the system which permit situations like one which now exists in my district: A man married a divorced woman who had two children. The man became disabled, and the two children, as dependents, were eligible for family benefits. After this occurred, though, the couple were divorced, and the woman married again. However, the children continued to receive benefits on the original man's disability. This is despite the fact that the children are being adequately supported by the woman's new husband and the woman is receiving child support from the children's natural father.

In this situation, it is my view that the disabled individual is no longer responsible for children who were not his natural children.

It is apparent that this situation places an unnecessary burden on the social security funds. But when the disabled individual has natural children, they are unfairly burdened. As my colleagues know, the law places a family maximum on how much the dependents of an insured individual may receive. Since this is the case, the total family benefits for dependents of our insured individual—who has two natural children of his own—must be parceled out to a larger "family." Thus, his natural children receive a good deal less than they should. This is unfair, and it distorts the true purpose of our social security programs.

My bill would prevent situations like this from occurring. It amends title II of the Social Security Act to eliminate benefits for any individual who qualifies only as a stepchild, when the natural parent and the insured individual are divorced and the child is receiving support from a source other than that natural parent. The bill also applies to stepgrandchildren under comparable circumstances.

I would like to state clearly that the purpose of my bill is not to punish the affected children. They, after all, are innocent victims in a situation like this. My bill cuts off benefits only when the child clearly has another means of support.

Mr. Speaker, I certainly hope that my colleagues will give this bill the support it deserves. It will achieve a legislative saving in social security, the kind we must enact if we are to cut wasteful spending in entitlement programs. In addition, it will direct this vital assistance toward those for whom it was intended and who truly need it. I urge the House to enact this important legislation.

At this point in the Record, I would like to insert the text of my bill:

H.R. —

A bill to amend title II of the Social Security Act to provide that child's insurance benefits shall not be payable to an insured individual's stepchild, after such child's natural parent and the insured individual are divorced, for any period during which such child is receiving support from another source

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(d)(1) of the Social Security Act is amended by adding at the end thereof the following new sentence: "No payment under this paragraph may be made for any month, on the basis of the wages and self-employment income of an insured individual, to any person who qualifies for such benefit solely as such individual's stepchild (or stepgrandchild), if such person's natural parent and the insured individual (or, in the case of a stepgrandchild, such person's natural parent and the son, daughter, stepson, or stepdaughter of the insured individual who is such person's stepparent or other natural parent) were divorced prior to that month and such person is receiving support, as determined under regulations prescribed by the Secretary, from any source other than such natural parent (and the insured individual) during that month.".

Sec. 2. The amendment made by the first section of this Act shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted.●

A SIMPLE CHANGE TO HELP MISSIONARIES, BUSINESSMEN AND REDUCE TRADE DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Neal) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, the 1976 Tax Reform Act included a counterproductive and ill-advised crackdown on the income earned by American citizens employed overseas.

In what was intended as a move toward more equitable taxation, the Congress eliminated the $20,000 exemption on income earned abroad and replaced it with a complex system of allowable income-tax deductions.

Like so many well-intended reforms, this one has backfired on us. For one thing, it has imposed a difficult tax burden on missionaries, teachers, and other low-paid employees of nonprofit organizations. For another, it has imposed a new handicap on American businesses overseas at a time when this country desperately needs to sell more on the world market to overcome a trade deficit.

To ease these problems, I am proposing today a bill that would simply restore the pre-1976 tax exemption of $20,000 for all Americans employed abroad by U.S. businesses and organizations.

Missionaries and other employees of religious or charitable organizations have been able to work overseas for very low pay because, under the pre-1976 law, they were usually exempt from taxation. Under the 1976 law, however, they will have high tax bills because they do not have the business-type deductions provided in the law for other overseas employees. This means that churches, universities, and other groups must now pay vastly more for their overseas operations to cover these tax expenses or else risk the loss of their best employees.

At the same time, the 1976 law is making it more difficult for American businesses to keep their best-qualified employees stationed overseas. These employees face not only additional U.S. taxes, but usually must pay taxes to their country of residence and also must suffer through exchange rate fluctuations that diminish the dollar's buying power.

In all too many cases, these employees are electing to leave their jobs and return to the United States. Often their employers send them home, because of rising costs, and replace them with lower-paid foreign nationals. Businessmen tell us that foreign nationals, however competent, are seldom as aggressive or effective in promoting U.S. goods and services as Americans would be. Consequently, the U.S. export trade is bound to suffer—at a time when we are struggling to overcome a chronic trade deficit (nearly $30 billion in 1978) while paying the inflated OPEC oil bill.

I must add that the United States is the only major trading nation that taxes its citizens on a worldwide basis, not just on the basis of residency. Exporters in Japan, Germany, France, and other countries do not have to worry about compensating their overseas employees for their heavy tax bills.

When we consider that more than half of all U.S. exports are sold through or to American companies abroad, it is obvious that we need to have our strongest and most capable salesmen and executives in overseas offices. It is worth remembering, too, that for every $1 billion of exports, between 40,000 and 60,000 jobs are sustained in this country.

At the very least, this Congress ought to restore the tax exemption for missionaries and other employees of religious, charitable and nonprofit organizations. I believe, however, that we should go a bit further and restore the pre-1976 $20,000 exemption for all Americans employed abroad. My bill would do just that. I hope that my colleagues will consider this measure carefully and, if possible, cosponsor it.

I would like to include in the Record at this point a copy of the bill I am introducing today:

H.R. —

A bill to amend the Internal Revenue Code of 1954 to restore the tax treatment of earned income from sources outside the United States which existed before the enactment of the Tax Reform Act of 1976, and to repeal the deduction for certain expenses of living abroad

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Restoration of Tax Treatment of Earned Income From Sources Outside the United States.

(a) In General.—Subsection (a) of section 911 of the Internal Revenue Code of 1954 (relating to income earned by individuals in certain camps) is amended to read as follows:

"(a) General Rule.—The following items shall not be included in gross income and shall be exempt from taxation under this subtitle:

"(1) Bona fide resident of foreign country.—In the case of an individual citizen of the United States who establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such uninterrupted period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

"(2) Presence in foreign country for 17 months.—In the case of an individual citizen or resident of the United States who during any period of 18 consecutive months is present in a foreign country or countries during at least 510 full days in such period, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such 18-month period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

An individual shall not be allowed as a deduction from his gross income any deduction to the extent that such deduction is properly allocable to or chargeable against amounts excluded from gross income under this subsection, other than the deduction allowed by section 217 (relating to moving expenses)."

(b) $20,000 Exclusion.—Paragraph (1) of section 911(c) of such Code (relating to special rules) is amended to read as follows:

"(1) Limitation on amount of exclusion.—The amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000."

(c) Technical Amendments.—

(1) Paragraph (7) of section 911(c) of such Code (relating to business premises of the employer) is hereby repealed.

(2) Subsection (d) of section 911 of such Code is amended to read as follows:

"(d) Section Not To Apply.—

"(1) In general.—An individual entitled to the benefits of this section for a taxable year may elect, in such manner and at such time as shall be prescribed by the Secretary, not to have the provisions of this section apply.

"(2) Effect of election.—An election unto the benefits of this section for a taxable year for which made and to all subsequent taxable years. Such election may not be revoked except with the consent of the Secretary."

(d) Clerical Amendments.—

(1) The section heading for section 911 of such Code is amended to read as follows:

"Sec. 911. Earned Income From Sources Without the United States."

(2) The table of sections for subpart B of part III of subchapter N of chapter 1 of such Code is amended by striking out the item relating to section 911 and inserting in lieu thereof the following:

"Sec. 911. Earned income from sources without the United States."

(3) Sections 43(c)(1)(C), 1302(b)(2)(A)(i), 1304(b)(1), 1402(a)(8), 6012(c), and 6091(b)(1)(B)(iii) of such Code are each amended by striking out "relating to income earned by employees in certain camps" and inserting in lieu thereof "relating to earned income from sources without the United States".

Sec. 2. Repeal of Deduction for Certain Expenses of Living Abroad.

(a) In General.—Section 913 of the Internal Revenue Code of 1954 (relating to deduction for certain expenses of living abroad) is hereby repealed.

(b) Technical Amendments.—

(1) Section 62 of Code (defining adjusted gross income) is amended by striking out paragraph (14).

(2) Subsection (k) of section 1034 of such Code (relating to sale or exchange of residence) is amended to read as follows:

"(k) Individual Whose Tax Home Is Outside the United States.—

"(1) In general.—The running of any period of time specified in subsection (a) or (c) (other than the 18 months referred to in subsection (c)(4) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) has a tax home outside the United States after the date of the sale of the old residence; except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence.

"(2) Tax home.—For purposes of paragraph (1), the term 'tax home' means, with respect to any individual, such individual's home for purposes of section 162(a)(2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States."

(3) Subsection (a) of section 3401 of such Code (defining wages) is amended by striking out the paragraph (18) added by Public Law 95-615.

(4) Clause (iii) of section 6091(b)(1)(B) of such Code (relating to place for filing tax returns) is amended by striking out "section 913 (relating to deduction for certain expenses of living abroad),".

(d) Clerical Amendment.—The table of sections for subpart B of part III of subchapter N of chapter 1 of such Code is amended by striking out the item relating to section 913.

Sec. 3. Effective Dates.

(a) In General.—Except as provided in subsection (b), the amendments made by this Act shall apply to taxable years beginning after December 31, 1979.

(b) Wage Withholding.—The amendment made by section 2(b)(3) shall apply to remuneration paid after December 31, 1979.

THE CASE FOR ENTREPRENEURS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LaFALCE) is recognized for 20 minutes.

○ Mr. LaFALCE. Mr. Speaker, the main concern of this Congress, and several others before this, has been how to improve our sagging economy. I believe one way is to amend the Immigration and Nationality Act, which presently discourages foreign entrepreneurs from entering the United States to establish business enterprises and create jobs for American workers. This could be alleviated by brief language amending the Immigration Act, solving problems currently faced by thousands of entrepreneurs seeking to establish and manage businesses here.

The Immigration Act does not specifically deal with aliens who seek to enter the United States on a permanent residence basis as entrepreneurs. Administratively, however, they are characterized as "investors" and are recognized as prospective immigrants who are exempt from the labor certification provisions. The exemption is premised on the fact that, by their very definition, they will not be performing skilled or unskilled labor which would be taking jobs away from Americans. In fact, of course, their investments create jobs for Americans.

Immigrant visas for permanent residence fall into two classifications, preference and nonpreference. Visas under the worldwide ceiling of 290,000 are distributed according to a seven-category preference system which gives priority to family members, certain professionals with special skills, hard-to-find workers and refugees. The visas are made available under the preference system on a first-come, first-served basis, not to exceed 20,000 per country per year.

The problem I am addressing concerns the way in which the preference system works regarding the entry of investors.

Investors are generally not considered to qualify under the third or sixth preference categories (respectively, members of the professions or persons of exceptional ability in the sciences and arts, and skilled and unskilled workers in short supply). The first, second, and fifth categories give priority to family members and the seventh gives priority to refugees. Hence, investors qualify only under the nonpreference portion.

The key point here is that nonpreference visas are granted only when prospective immigrants in the preference categories are not using up all of a country's annual allocations. And in recent years no such slots have been available, for demand in the preference categories has used up the entire allocation from almost all nations. Nonpreference applicants have been put on waiting lists, but the chances of their names being called in the foreseeable future are, for all practical purposes, virtually nil.

The worldwide backlog of applications in the nonpreference category stands in excess of 360,000. While no figures are available to detail how many of these are applications from investors, it does give an indication of the gravity of the situation.

There is the distinct possibility that visas in the nonpreference category will never again become available unless there is a change in the immigrant preference system. Until we do change that system, we are effectively excluding many who could bring entrepreneurial skills and invest much needed capital in new or existing business enterprises in the United States.

I suggest that we amend the Immigration Act to ameliorate this problem. I propose that investors be able to come in under the third preference, a category for which slots are currently available, and for which no displacement of other immigrants from most countries would occur.

To this end, I have introduced two

alternative bills which would amend the Immigration Act to allow foreign investors to come in under the third preference. The first bill would allow investors to immigrate if they invested or are in the process of investing a "substantial" amount of capital in an enterprise in the United States. The second would allow investors who have invested, or are in the process of investing, $200,000 or more in an enterprise in the United States to immigrate. It is my hope that the Judiciary Committee will see fit to select one of these options and recommend it to the House for our consideration.

Both bills stipulate that the investors must be principal managers of the businesses to insure that they have a sufficient interest in the business and are not just trying to buy their way into the country. Further, they provide that the businesses must employ U.S. citizens or nationals, exclusive of the investor, the investor's spouse and their children. This will insure that the businesses create jobs and are not ones which merely provide an income for the investor and his or her family.

The net result of my bills will be to provide jobs at a time when the national unemployment rate is 6 percent and at a time when our productivity is not keeping pace with previous periods.

I have been working closely with the Buffalo area Chamber of Commerce on this matter. Mr. Frank Taylor, director of its industrial development division told me that over 200 Canadian businesses, employing over 7,500 local residents, have been established in the Buffalo, N.Y. area. Who knows how many others would have taken this step if this immigration problem were resolved? We must take every available step to build upon this base and to provide jobs for so many of our citizens whose personal tragedies are reflected in our unemployment statistics.

In recent years, our immigration policies have focused upon humanitarian concerns, as is illustrated by the tragic circumstances of the "boat people." While we should retain this focus, we should also be giving consideration to those people who want to immigrate, and in so doing will provide many needed jobs. We can and should do both.

As a Nation, we have always prided ourselves on our entrepreneurial spirit and initiative. I believe this spirit will be underscored by the influx of needed capital and business initiative which these foreign entrepreneurs can provide.●

LEGISLATION TO REAUTHORIZE ACTION AGENCY'S DOMESTIC VOLUNTEER PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. Harris) is recognized for 5 minutes.

● Mr. HARRIS. Mr. Speaker, I rise to speak on behalf of H.R. 2859—legislation to reauthorize the ACTION agency's domestic volunteer programs.

As a citizen and a Member of Congress who is concerned with the elimination of poverty, I am aware of the work of VISTA and its volunteers. VISTA performs many important tasks. VISTA volunteers help poor people to form consumer cooperatives. They help to rehabilitate and weatherize housing for the poor. They assist the elderly to attain physical and financial security, and they work in approximately 730 different projects in over 2,000 communities throughout the country. The VISTA volunteers in the Eighth Congressional District have told me that if they do not receive a fiscal year 1980 reauthorization and appropriation the result will be the termination of many worthy projects throughout the Nation.

VISTA is not the only program that will be affected if this legislation is not passed. The funds to administer the older Americans volunteer programs are also contained in H.R. 2859. One of these, the retired senior volunteer program (RSVP) enables persons aged 60 and over to participate in the life of their community through meaningful activities which serve pressing human needs, including economic sufficiency, individual rights, health, nutrition, education, housing, energy, culture, and social services. There is a very successful RSVP program in Alexandria. In June, it completed its sixth grant year. Every day this program plays an important part in the lives of many older adults and in the agencies it assists. Over 43,000 hours of volunteer service were provided to 79 local agencies by approximately 400 volunteers during the year.

The RSVP seniors in Alexandria enjoy being considered part of the ACTION family. They like being identified with VISTA and other programs which are not age-segregated. The uniqueness of RSVP, and the focus of the whole ACTION agency, has been its dedication to providing opportunities, encouragement, and assistance to persons of all ages wishing to perform volunteer service.

RSVP, to the volunteers themselves, is not looked upon as just another program for old people. Noboby wants that designation. As volunteers, they feel needed, useful, and able and willing to help someone else. And that feeling is a real psychological plus.

I strongly support ACTION and its volunteer service programs, and I urge the House to pass H.R. 2859.●

NATIONAL WORKERS COMPENSATION STANDARDS ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. Beard) is recognized for 5 minutes.

● Mr. BEARD of Rhode Island. Mr. Speaker, one of the most serious problems facing the American worker today is his inability to obtain fair and adequate compensation for injury or disease suffered at the workplace.

In order to alleviate these problems, I am today introducing the National Workers Compensation Standards Act of 1979. This piece of legislation substantially parallels that submitted by Senator Williams and Senator Javits on this subject in the last Congress.

Compensating the worker who has incurred an occupationally-related injury or disease has been a task traditionally left to the States. But while there may be some States whose compensation laws provide equitable relief to the injured worker, far too many States provide this suffering.

In 20 of our States a worker who is permanently and totally disabled can receive benefits of as little as $25.00 per week or less.

In some States, if a worker is killed on the job, his widow can receive no more than 90 per week, no matter how many children she must support and irrespective of her own ability to find work.

In a number of States, whole classes of workers are totally excluded from receiving any compensation benefits from an occupational injury or disease.

But by far the most compelling reason for the need of this legislation is our country's growing awareness of the extent and severity of occupational disease, coupled with the tragic knowledge that the States have utterly failed to provide fortunate victims of this type of illness.

According to the President's Report on Occupational Safety and Health in 1972, as many as 100,000 deaths per year could be traced to occupationally related disease. Of even more alarming significance is the fact that past worker exposure to asbestos, to this one substance alone, could result in the death in as many as 11 million Americans.

Hearings held by my subcommittee last spring underlined the point that the health and compensation problems posed by occupational disease are only increasing. The testimony of the various medical experts and workers who appeared at these hearings pointed to the inescapable conclusion that occupational disease is a problem not merely limited to the coalfields of Appalachia or the shipyards of California, but one of national dimensions, whose enormity is overwhelming the antiquated compensation machinery presently existing at the State level.

Of the hundreds of thousands of American workers who are victims of occupational disease, relatively few of their cases are handled through the State systems. Unfortunately, those suffering individuals who have attempted to gain relief from the State programs have only encountered indifference, inaction and inordinate delay. Additionally, the continuing failure of many industries to provide a safe and healthy working environment for their employees more than suggests that the problem of occupational disease will not go away.

More importantly, we must recognize the disturbing fact that we do not know what the long-term health effects will be from worker exposure to many substances commonly used in the workplace. Such was the case only 40 years ago with regard to asbestos, and our failure to act in that instance has not only spawned an occupational disease epidemic of major proportions, but also threatens to bankrupt the companies responsible for its manufacture. Rather than repeating this mistake by simply waiting for the occurrence of another disaster in occupational health, we should act now to provide economic protection for both the worker and the employer.

Mr. Speaker, it is my strong belief that the most important section of this bill is that which grants authority to the Secretary of Labor to establish mandatory occupational disease standards by which claims in every State can be judged on an equitable basis. I am aware that strong objections have been raised to this provision in past Senate bills on grounds that it might prove to be too costly. However, it is extremely inequitable and unacceptable to me to continue to deny workers the opportunity to receive proper compensation for an occupationally related illness.

Moreover, it will take many years for the Secretary to promulgate any significant number of standards, due to the need to develop a body of medical knowledge concerning causation in determining compensability for occupational disease. Yet, in the end, we must realize that this legislation cannot be measured in monetary terms alone. What must be kept in mind is the dual need to not only provide American workers with the compensation that they deserve, but to restore their faith in a political and economic system that has left them both disabled and impoverished.

I share the concern of those on the State level who both fear and criticize the efforts of the Federal Government to extend its influence into areas traditionally seen as the preserve of State responsibility. Accordingly, this legislation does not call for a Federal takeover of the field of workers' compensation, nor does it allow for Federal interference with the administration and implementation of the workers' compensation laws of the States.

Under the bill, if a State did not meet Federal minimum standards, and a worker was deprived for compensation due under Federal standards, he or she could file a claim for supplemental compensation with the Benefits Review Board of the Department of Labor, but only after exhausting all remedies at the State level.

This claim could only be filed where State law has previously been determined by the Secretary of Labor not to meet Federal standards.

The standards incorporated in this bill closely follow the 19 "essential" recommendations contained in the 1972 report of the National Commission of State Workers; Compensation Laws. These standards can hardly be criticized as too extreme or idealistic. In fact, a review of the testimony before both the House and Senate committees which have held hearings on workers' compensation in the past, reveals that almost all the witnesses agreed that these recommendations should be met by State law. Briefly, some of the more important standards are as follows:

First. No maximum limitations on total benefits for death or for temporary or permanent total disability;

Second. No maximum limitation of the type or extent of medical care or rehabilitation services;

Third. Totally disabled workers must be paid not less than 66⅔ percent of the average weekly wage, or 80 percent of their spending earnings;

Fourth. Full coverage of occupational disease, with no arbitrary exclusions or limitations based on duration or recency of exposure;

Fifth. Subject to approval and direction of the State agency, free choice of physicians by the injured worker;

Sixth. Supervision and direction by the State agency of medical and rehabilitation services with the provision that benefits may be denied to an injured worker who refuses to undergo available and appropriate rehabilitation;

Seventh. Death benefits at the same rate as total disability benefits, but subject to a limited permissible offset against widows' benefits payable under social security law;

Eighth. A waiting period of not more than 3 days with retroactive benefits paid after 14 days.

Also, the provisions of this bill provide for stronger but similar standards when compared to those advanced by the National Commission. For instance, the bill establishes a maximum benefit of 200 percent of the statewide average weekly wage and requires that benefits be adjusted automatically to reflect annual changes in the average weekly wage of the State.

I hope that this bill receives the attention and consideration that it deserves, for the problems that it addresses will not fade away because of our studied indifference to their existence.

Already, others are pushing for greater Federal involvement in the field of workers' compensation that this bill contemplates. So great has the snowballing of occupational disease become that some commentators are calling for direct Federal intervention in this area. More specifically, John C. Read, a former Republican Assistant Secretary of Labor, has proposed that we give serious attention to the idea of establishing a separate Federal compensation system to deal with the occupational disease problem.

I do not think that I or any Congressman would care to face this prospect. The creation of another layer of Federal bureaucracy is something that all of us seek to avoid. However, the States have not been inclined to effectively reform their systems in order to give proper care to the tragic victims of occupational disease. Unless such steps are taken, either through dramatic reform efforts on the State level or through the establishment of limited Federal standards as proposed in this bill, I fear that we may have to grapple with such an issue in the near future.

Again, I therefore urge the Congress to give serious consideration to this measure, so that those who are victims of industrial accidents and disease will receive fair and humane treatment that they are due.●

THE EXPORT AMINISTRATION ACT AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. STAGGERS) is recognized for 5 minutes.

● Mr. STAGGERS. Mr. Speaker, the debate in the House on H.R. 4034, the Export Administration Act amendments, has helped to focus attention upon both the positive and negative impact that exporting large quantities of certain goods can have upon our domestic economy.

I would like to call my colleagues attention to the following editorial written by Dr. David Corcoran, publisher of the Mullens, W. Va., Advocate. The article points out that the severe problems that now plague our Nation's leather industry are closely related to the unlimited export of cattle hides.

U.S. Export of Cattle Hides Adds to Inflation

To many political commentators and particularly those knowledgeable about America's beef and leather industries, the Federal Government appears inept in protecting the nation's self-interests in foreign trade problems.

Our Government's knuckling under to the Arabs relative to continually importing inflationary heating oil rather than utilizing the nation's coal reserves is but one instance of its inability to stand up for what will benefit the American people.

Another current example of such governmental folly involves the little publicized, yet important beef packing and tanning industries.

These age honored companies are now facing their most serious challenge in history and their very survival is being held in the balance.

This is their predicament. Because Japan will pay seemingly any price for American cattle, and the fact that this nation's federal government does not limit the number of cattle which can be exported, United States beef packers have been put in a deadly "squeeze," one which finds the industry unable to sell beef and offal for more than the cost of the live animals.

The condition of America's leather industries is perhaps a better illustration of the problem.

Tanning is one of the oldest American crafts, going back to the very origins of this country. From the time of the Mayflower, these hardy tanners, like America's other craftsmen and laborers, have generally proven themselves good, honest, industrious, and hardworking citizens. While their sweat and aches over the past 200 years may not have been recorded in the history books, these craftsmen are definitely numbered among the unsung builders of this great nation.

And, in the Post-Second World War era, only the sturdiest and most dedicated tanners were able to compete with the popular plastics and other imitation leathers. One such tannery is the Howes Leather Company of Frank, West Virginia.

But, this last remaining leather factory in The Mountain State, along with the others spread throughout the country, cannot survive much longer under the recent price inflation wrought by the Japanese.

In early 1978, American tanneries could purchase cattle hides for 35 cents a pound. By that December, the price rose to 58 cents a pound and only lately spiralled to $1.00. Thus, the cost per rawhide has risen over 175 percent in about one year, one of the grossest examples of inflation ever seen in this nation.

The problem is that American cattle producers are exporting approximately 60 percent of their animals mainly to Japan. It is estimated that of the 34 million cattle hides to be produced this year, 24 million are scheduled for export.

At the same time, United States tanners need 19 million hides just to keep up with last year's production. In 1978 when tanneries could not purchase the desired number of hides, the resulting reduction of leather made products precipitated a significant consumer price markup. In addition, the domestic price increase has led to a new popularity of foreign-made leathers at the store.

Moreover, the tanner's new $1.00 per pound hide cost will place American-made leather shoes, handbags, belts, saddles, furniture, gloves, briefcases, garments, and many other products at a still greater disadvantage to foreign competitors.

Because of these developments, most packing plants and tanneries have already been forced either to close or to adopt short work weeks.

Not counting the packing industry, more than 500,000 tannery workers are affected. A large segment of these hold union memberships in the Amalgamated Meat Cutters and Butchers of America. In addition to the one-half million employees in the industry's manufacturing and retailing sectors, about 600,000 people work in ancillary businesses serving the leather industry. Their jobs are also now in real peril.

"The problems in both the beef packing and the tanning industries are fundamentally the result of the greatest herd liquidation that has ever taken place in the United States," according to The Tanners' Council Of America.

In appraising this current malady, the Council stated: "The industry is powerless to correct the existing inequities without government recognition that a free market in leather and leather products does not exist and therefore free market solutions cannot be effective."

The problem's ideal answer would therefore be for the Carter Administration to limit hide exports. In this way, both beef packers and tanners could obtain the needed raw materials and American consumers could purchase the finished products at reasonable prices.

Such governmental assistance to domestic industries is nothing new. With a protective tariff, George Washington, the nation's first president, sought to preserve American industry against foreign competition.

Why can't the Carter Administration, along with this country's legislators, stand up to the threat of foreign competition as the first president?

For the sake of the American people, we hope that Jimmy Carter will.●

NBC'S 2 HOUR TV MOVIE, "WHEN HELL WAS IN SESSION"

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 5 minutes.

Mr. **DORNAN**. Mr. Speaker, I rise tonight to call the attention of my colleagues to a most unusual TV motion picture that will premier on NBC Monday night, October 8. Some of us had an opportunity to go to a special screening that NBC set up in our own House recording studio to see this film, aptly titled, "When Hell Was in Session."

All of you remember that great night on Lincoln's Birthday in 1973 when Adm. and then Comdr. Jeremiah Denton was the first man off the first freedom flight back from Hanoi and told us all that they were honored to have served under most unusual circumstances.

I think that if you see this 2 hour film, that even though you will be in your districts, I hope you will take the time to do that and I hope any staffers that are listening on television will also avail themselves of this opportunity, that you will find that is a gut ripping, real life drama, with the first actual torture scenes accurately portrayed of what our men went through there for up to 9 years.

It is at the same time a very rare, beautiful and inspirational story of love, a story of what Jane Denton did here in the United States, along with hundreds of other wives to call this agony of the POW family to the attention of this Congress and to the entire Nation.

Jerry and Jane Denton have seven kids, children that also participated in this.

The love for God, love for family, the love for country and the 7½ years of suffering and survival in Communist North Vietnam's infamous Hanoi Hilton, which we all came to know was really called "Hao Loa" or Hell Hole, is absolutely amazingly portrayed. It is a gripping epic of devotion and self-sacrifice. I just think that after seeing it you will agree with me that we can thank God that America still produces people like Jane and Jerry Denton.

MEETING OF PRESIDENT CARTER AND PRESIDENT PORTILLO REFLECTS INCREASED SIGNIFICANCE OF HARMONIOUS RELATIONS WITH MEXICO

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 5 minutes.

● Mr. **BROWN** of California. Mr. Speaker, the President is meeting today with Sr. Lopez Portillo, the President of Mexico, to discuss the expanding relationships between our two countries. This meeting reflects the increased significance that harmonious relations with Mexico have for the United States and is an example of the cooperation that we should be seeking with nonalined and developing countries worldwide.

Much of our interest in Mexico centers around their energy resources but we have much more to gain through close cooperation with that country and we should begin discussing some of these equally important issues. We have numerous cultural, geographic, climatic, and economic ties with Mexico that should have generated our current levels of interest long ago. We also share many problems with Mexico in areas of trade, immigration, and land and water management that can only be solved through cooperative efforts. Mexican oil and gas will push these areas to the forefront and we need to begin preparing to address these issues now.

One successful example of United States-Mexico cooperation was the recent meeting in Saltillo, Mexico, to discuss collaborative research efforts on arid lands, new crops and agriculture. Hailed by both sides as a significant step forward, the meeting set out a program of coordinated research that will benefit both countries and help make future cooperative agreements more likely. Of special significance was the immediate agreement by the Federal agencies involved in this country to earmark funds for the research to take place in the United States. The delegations from both countries are to be complimented for their work with special recognition due to the head of the U.S. delegation, Assistant Secretary of Agriculture, Alex Mercure. Only by continuing this spirit of cooperation, by expanding this effort to the myriad issues that we need to address, can we truly find the secure relationship with Mexico that we seek.●

THE HAYDEN-FONDA ROAD SHOW

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 20 minutes.

● Mr. **ASHBROOK**. Mr. Speaker, when I read in the papers that Tom Hayden and Jane Fonda are on the road again to promote the drive to render America weak and ineffective, I have the funny feeling that I have seen this X-rated, B movie before. The cast is exactly the same. And the plot is the same boring propaganda theme: America is better off when it has lost its strength both economically and militarily.

Hayden and Fonda both participated in the movement to defeat America in the Vietnam war. Now they are "boring from within" to defeat America on the economic front.

The campaign to deny us nuclear energy is the main battlefield of that war. The alternatives to nuclear energy are: First, the unlikely possibility that sometime in the future solar and wind energy will be efficient enough to replace present energy sources—these have some value but they are no where near capable of providing all the energy needed by a modern industrial society; and second, reliance on fossil fuels while our Communist enemy uses its global power to reduce our sources. The fall of Iran—not yet conquered by the Communists, but already lost to the free world—and the Soviet-directed pressures on pro-Western Arab oil producers are clear to everyone. Into this situation come the Hayden-Fonda duet, to sing the song of "No Nukes" and to deliberately confuse safe nuclear energy and nuclear bombs. This is something like equating the fire in your kitchen stove and a forest fire.

I remember Hayden and Fonda from the days that I was ranking minority member of the House Committee on Un-American Activities and later the House Committee on Internal Security. They were both active in anti-American activities, then as now, but they were not yet a team.

One of our opportunities to see Hayden in action came in late 1968 when the Committee on Un-American Activities held hearings on the Subversive Involvement in Disruption of the 1968 Democratic Convention.

A letter was introduced in evidence at the hearing. It was dated June 4, 1968, and signed by Tom Hayden. It was addressed to Col. Lau (misspelled Lao) a North Vietnamese official in Paris and introduced Robert Greenblatt, an associate of Hayden.

Greenblatt testified that he met the North Vietnamese military official, and then went on to Prague, Czechoslovakia where he met with two Vietcong officials. He admitted that he had agreed to supply our enemy, the Vietcong and North Vietnamese, with reports on "work of the antidraft movement, with special emphasis on activity since the Tet offensive and President Johnson's decision not to run, and also reports on the antiwar agitation or experiences of organizations at work among members of the Armed Forces."

After a series of questions, Greenblatt admitted to me that he had agreed to make recordings on tapes and discs to send to the Vietcong office in Prague for transmission to North Vietnam to use for propaganda against the American troops.

When Tom Hayden testified during the same series of hearings, he also identified the letter he wrote to Col. Ha Van Lau whom he had met earlier during trips to North Vietnam. Hayden and his associates made it clear by their activities that they desired not peace, but a Communist victory in Vietnam, even more important—an American defeat.

Meanwhile Jane Fonda was also doing her part for a Communist victory. During a visit to North Vietnam, Fonda posed for a propaganda photo showing her wearing a helmet and manning an antiaircraft gun, a gun used against American airmen.

In September 1972 the House Committee on Internal Security reprinted over a dozen broadcasts made by Fonda over the North Vietnamese radio for propaganda aimed at American GI's. Fonda's broadcasts were carefully crafted to cause American servicemen to refuse to fight. She truly deserved the name "Axis Sally of the Vietnam War" or "Hanoi Jane."

When their Vietnamese Communist pals invaded Cambodia and instituted a bloodbath that shocked even the most hardened leftists, Fonda uttered not a peep. Millions have been systematically slaughtered while the Fonda types stand mute. At least another old line antiwar leftist, Joan Baez, had the honesty to stand up and denounce it. Fonda adopted the line of William Kunstler, attorney for the radical left, who flat out said he would not engage in criticism of a Socialist country.

These are the people who served our Communist enemy during the Vietnam war. Now they are trying to weaken America on the energy front. They should be repudiated by all Americans.●

THE NEED FOR ELEMENTARY SCHOOL COUNSELORS

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, today I am introducing the Elementary School Guidance and Counseling Incentive Act of 1979. This bill was prepared by a task force representing elementary school counselors from throughout the country.

I am introducing this bill because of the great need which exists for expanding counseling services to the elementary school students of the country. According to the National Center for Education Statistics, as of 1976, there were only 33,500 elementary public school counselors. This represents one counselor for every 910 students. By way of contrast, at the high school level there were nearly 56,000 counselors representing a ratio of one counselor for every 254 students. Even though I do not believe that adequate counseling services are being provided at the high school level, I do believe that these statistics show clearly the enormous need which exists for more counselors at the elementary school level.

Mr. Speaker, this bill would help to meet that need, and I urge my colleagues to review it and to add their support.●

NICARAGUA RATIFIES AMERICAN HUMAN RIGHTS CONVENTION

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. FASCELL. Mr. Speaker, in a ceremony September 25 at the headquarters of the Organization of American States here in Washington, the new Government of Nicaragua formally deposited its ratification of the American Convention on Human Rights, also known as the Pact of San José.

By this act the new Government of Nicaragua undertook a solemn international commitment to respect all fundamental human rights common to the democratic nations of our hemisphere: freedom of the individual, of the press, of religion, and of all others.

Equally important, Nicaragua's ratification of the American Human Rights Convention appears in keeping with other actions of the new Government. For a regime that came to power after prolonged and violent revolution, its treatment of former opponents has been unusually humane. There has been no policy of generalized revenge or retribution against officials of the former regime, such as we have seen in other countries. The Nicaraguan Government has also issued a decree guaranteeing individual rights and has allowed an independent press and radio. As the Miami Herald stated in a recent editorial:

> So far, the new provisional government seems to be stepping carefully toward a more open society than many observers thought possible in that war-torn nation.

The direction Nicaragua's new Government will take over the long run in its domestic and foreign policy is not yet clear. But I believe the commitment to respect human rights that Nicaragua has shown deserves our recognition and support.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. BEREUTER (at the request of Mr. MICHEL), after 3 p.m. today, on account of official business.

To Mr. DAVIS of Michigan (at the request of Mr. MICHEL), after 12:45 p.m. today, on account of official business.

To Ms. HOLTZMAN (at the request of Mr. WRIGHT), for today, on account of illness.

To Mr. MARKS (at the request of Mr. MICHEL), for today, on account of official business.

To Mr. CORMAN (at the request of Mr. WRIGHT), for today, on account of official business.

To Mr. ROTH (at the request of Mr. MICHEL), from September 27, on account of official business.

To Mr. WINN (at the request of Mr. MICHEL), for an indefinite period, on account of attending the 34th United Nations General Assembly as Congressional Representative.

To Mr. WILLIAMS of Ohio (at the request of Mr. MICHEL), for today, on account of official business.

To Mr. WOLFF (at the request of Mr. WRIGHT), for today, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CLINGER) to revise and extend their remarks and include extraneous material:)

Mr. COLEMAN, for 5 minutes, today.
Mr. FINDLEY, for 5 minutes, today.
Mr. McDADE, for 5 minutes, today.
Mr. DORNAN, for 5 minutes, today.
Mr. CARNEY, for 5 minutes, today.
Mr. QUAYLE, for 15 minutes, today.
Mr. TAUKE, for 10 minutes, today.

(The following Members (at the request of Mr. LEATH) to revise and extend their remarks and include extraneous material:)

Mr. FASCELL, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. ROSTENKOWSKI, for 60 minutes, today.
Mr. ANTHONY, for 5 minutes, today.
Mr. SWIFT, for 30 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mr. ULLMAN, for 5 minutes, today.
Mr. FORD of Tennessee, for 5 minutes, today.
Mr. PANETTA, for 5 minutes, today.
Mr. NEAL, for 5 minutes, today.
Mr. LAFALCE, for 20 minutes, today.
Mr. HARRIS, for 5 minutes, today.
Mr. BEARD of Rhode Island, for 5 minutes, today.

At the request of Mr. SABO, Mr. STAGGERS' special order, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ROSTENKOWSKI, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $5,000.

Mr. HUGHES, to extend his remarks following those of Mrs. BYRON in the Committee of the Whole today.

(The following Members (at the request of Mr. CLINGER), and to include extraneous matter:)

Mr. CONTE.

Mr. SENSENBRENNER.

Mr. YOUNG of Alaska in two instances.

Mr. GILMAN in two instances.

Mr. EVANS of Delaware.

Mr. BROWN of Ohio.

Mr. ASHBROOK in four instances.

Mr. FINDLEY.

Mr. PAUL in four instances.

Mr. DANIEL B. CRANE.

Mr. COLLINS of Texas in three instances.

Mr. LEWIS in two instances.

Mr. MCKINNEY.

Mr. PURSELL.

Mr. COURTER.

Mr. HYDE.

Mr. QUAYLE.

Mr. PHILIP M. CRANE in two instances.

Mr. DERWINSKI in two instances.

Mr. LEE.

Mr. YOUNG of Florida in six instances.

Mr. BETHUNE.

Mr. WYDLER.

Mr. KEMP.

Mr. MICHEL.

Mr. SYMMS.

Mr. DOUGHERTY.

(The following Members (at the request of Mr. DOUGHERTY) and to include extraneous matter:)

Mr. KEMP.

Mr. DERWINSKI.

Mr. HANSEN in seven instances.

(The following Members (at the request of Mr. LEATH of Texas) and to include extraneous matter:)

Mr. KILDEE.

Mr. FASCELL in five instances.

Mr. GRAMM.

Mr. SOLARZ.

Mr. BEDELL.

Mr. MCHUGH.

Mr. EDGAR.

Mr. DRINAN.

Mr. OBERSTAR in two instances.

Ms. MIKULSKI in two instances.

Mr. NOLAN in two instances.

Mr. GUARINI in four instances.

Mr. WYATT.

Mr. SHELBY.

Mr. KOSTMAYER.

Mr. EVANS of Indiana.

Mr. SHANNON.

Mr. FORD of Tennessee in three instances.

Mrs. SCHROEDER in two instances.

Mr. HARRIS.

Mr. NOWAK in two instances.

Mr. BLANCHARD.

Mr. OTTINGER in two instances.

Mr. GORE.

Mr. AMBRO.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 237. An act to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of U.S. magistrates, and for other purposes; and

S. 756. An act to amend the Office of Federal Procurement Policy Act, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3920. An act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes;

H.R. 3996. An act to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 2 additional years, and for other purposes;

H.R. 4393. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1980, and for other purposes;

H.R. 5380. An act to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, fiscal year 1979, for a certain period; and

H.J. Res. 406. Joint resolution to extend by 120 days the expiration date of the Defense Production Act of 1950.

ADJOURNMENT

Mr. SWIFT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 35 minutes p.m.), under its previous order, the House adjourned until Tuesday, October 2, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2535. A letter from the Secretary of the Army, transmitting the annual report of the U.S. Soldiers' and Airmen's Home for fiscal year 1978 and a copy of the annual general inspection of the Home, 1979, by the Inspector General of the Army, pursuant to the act of March 3, 1883, as amended; to the Committee on Armed Services.

2536. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank during August 1979 to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

2537. A letter from the President of the United States, transmitting notice of his intention to exercise his authority under section 614(a) of the Foreign Assistance Act of 1961 to permit the procurement in Nicaragua of rice, sorghum, beans, and corn without regard to the requirements of section 604(e) of the act, pursuant to section 652 of the act; to the Committee on Foreign Affairs.

2538. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license for the export of certain major defense equipment sold commercially to Singapore (Transmittal No. MC–25–79), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2539. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassadors-designate Donald F. McHenry and Richard W. Petree, and by members of their respective families, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

2540. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassadors-designate Robert Strauss, James F. Leonard, and Donald R. Norland, and their respective families, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

2541. A letter from the Secretary of the Interior, transmitting a report on the acquisition of certain trade association data and information relating to the estimation of Outer Continental Shelf oil and gas reserves, the estimation of ultimate recovery of oil and gas from the Outer Continental Shelf, and the productive capacity of the oil and gas fields on the Outer Continental Shelf, pursuant to section 606(e)(1) of Public Law 95–372; to the Committee on Interior and Insular Affairs.

2542. A letter from the Acting Assistant Secretary of the Interior, transmitting an announcement of the focused water research and development areas of interest for fiscal year 1980 funding consideration, pursuant to section 411 of Public Law 95–467; to the Committee on Interior and Insular Affairs.

2543. A letter from the Secretary of Health, Education, and Welfare, transmitting notice of a delay in the submission of the report on administration of the health professions schools' financial distress grant program, required by section 788(b)(6) of the Public Health Act, as amended; to the Committee on Interstate and Foreign Commerce.

2544. A letter from the President of the United States, transmitting notice of his intention to withdraw the designation of Ethiopia as a beneficiary developing country for purposes of the Generalized System of Preferences, pursuant to section 502(a)(2) of the Trade Act of 1974, as amended (H. Doc. No. 96–197); to the Committee on Ways and Means and ordered to be printed.

2545. A letter from the Comptroller General of the United States, transmitting a report on integrated logistics support for the Trident submarine (LCD–79–415, September 28, 1979); jointly, to the Committees on Government Operations and Armed Services.

2546. A letter from the Comptroller General of the United States, transmitting a report on the Department of Energy's magnetic confinement and inertial confinement fusion programs (EMD–79–27, September 28, 1979); jointly, to the Committees on Government Operations and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 826. A bill to amend title 39, United States Code, to provide that the U.S. Postal Service shall be subject to certain provisions of the Occupational Safety and Health Act of 1970 (Rept. No. 96–487). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 4064. A bill to amend title 39, United States Code, to provide that owners of motor vehicles leased by the U.S. Postal Service shall be exempt from the payment of

State taxes and fees on those vehicles (Rept. No. 96–488). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 3959. A bill to amend title 28 of the United States Code to allow the U.S. attorney and assistant U.S. attorneys for the eastern district of New York to reside within 20 miles of the district (Rept. No. 96–489). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5048. A bill to amend the act entitled "An act to preserve within Manassas National Battlefield Park, Va. the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (68 Stat. 56; 16 U.S.C. 429b); with amendments (Rept. No. 96–490). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 2686. A bill to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority (Rept. No. 96–491). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. S. 423. An act to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of consumer controversies, and for other purposes; with amendments (Rept. No. 96–492, pt. 1). Ordered to be printed.

Mr. WHITTEN: Committee of conference. Conference report on House Joint Resolution 404 (Rept. No. 96–493). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WIRTH:

H.R. 5458. A bill to amend the Social Security Act to change the calendar quarters during which a State's showing to the Secretary of Health, Education, and Welfare of satisfactory control over the utilization of certain services to aged individuals waives any reduction in the Federal medical assistance percentage to such State; to the Committee on Interstate and Foreign Commerce.

By Mrs. BYRON:

H.R. 5459. A bill to amend the Internal Revenue Code of 1954 to allow a deduction of not more than $1,500 for amounts paid or incurred for maintaining a household a member of which is a dependent of the taxpayer who has attained the age of 65; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI (for himself, Mr. Ullman, M. Vanik, Mr. Corman, Mr. Gibbons, Mr. Pickle, Mr. Rangel, Mr. Stark, Mr. Lederer, Mr. Fowler, and Mr. Guarini):

H.R. 5460. A bill to amend the Internal Revenue Code of 1954 to clarify the standards used for determining whether individuals are not employees for purposes of the employment taxes and to assist in the administration of the tax law with respect to payments for personal services; to the Committee on Ways and Means.

By Mr. CONYERS (for himself and Mr. Garcia):

H.R. 5461. A bill to designate the birthday of Martin Luther King, Jr., a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. DICKS:

H.R. 5462. A bill to amend the Internal Revenue Code of 1954 to exempt operators of punchboards from the occupational tax on wagering; to the Committee on Ways and Means.

By Mr. DICKS (for himself and Mr. Swift):

H.R. 5463. A bill to amend section 13 of the Fair Labor Standards Act of 1938 to require findings of adverse effects of pesticides and other chemicals to be based on objective scientific data; to the Committee on Education and Labor.

By Mr. FRENZEL (for himself and Mr. Rostenkowski):

H.R. 5464. A bill to amend the Tariff Act of 1930 in order to permit drawback for imported merchandise that is not used in the United States and is exported or destroyed under customs supervision; to the Committee on Ways and Means.

By Mr. GIBBONS:

H.R. 5465. A bill to amend title II of the Social Security Act to provide that social security credits based on self-employment income shall be available only to the extent that the self-employment tax has been paid with respect to such income; to the Committee on Ways and Means.

By Mr. HARSHA (for himself, Mr. Cleveland, Mr. Jeffords, Mr. Kindness, Mr. Lott, Mr. McCormack, Mr. Martin, Ms. Mikulski, Mr. Mitchell of New York, Mr. Mollohan, Mr. Pashayan, Mr. Patten, Mr. Perkins, Mr. Quillen, Mr. Stangeland, Mr. Young of Florida, and Mr. Edgar):

H.R. 5466. A bill to amend title 17 of the United States Code to exempt nonprofit veterans' organizations and nonprofit fraternal organizations from the requirement that certain performance royalties be paid to copyright holders; to the Committee on the Judiciary.

By Mr. HYDE:

H.R. 5467. A bill to amend title 35, United States Code, to provide that, except in exceptional cases, attorney's fees should be awarded in cases involving patent infringements; to the Committee on the Judiciary.

By Mr. KILDEE:

H.R. 5468. A bill to amend the Internal Revenue Code of 1954 to provide that the residential energy credit shall apply to expenditures made for the installation of solar photovoltaic energy systems; to the Committee on Ways and Means.

H.R. 5469. A bill to amend title 38, United States Code, to provide for guarantees of loans made to veterans for purposes of installation of residential solar photovoltaic energy systems; to the Committee on Veterans' Affairs.

H.R. 5470. A bill to amend the National Energy Conservation Policy Act to include the production of electrical energy from solar energy as a residential energy conservation measure; to the Committee on Interstate and Foreign Commerce.

H.R. 5471. A bill to amend the Housing and Community Development Amendments of 1978 to provide for the use of solar photovoltaic energy systems for the production of electrical energy for use in residential housing units; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MURPHY of New York (for himself and Mr. McCloskey):

H.R. 5472. A bill to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel *United States,* steamship vessel *Oceanic Independence,* steamship vessel *Santa Rosa* and the steamship vessels *Mariposa* and *Monterey* into the trade; to the Committee on Merchant Marine and Fisheries.

By Mr. NEAL:

H.R. 5473. A bill to amend the Internal Revenue Code of 1954 to restore the tax treatment of earned income from sources outside the United States which existed before the enactment of the Tax Reform Act of 1976, and to repeal the deduction for certain expenses of living abroad; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 5474. A bill to abolish the Department of Education; to the Committee on Government Operations.

H.R. 5475. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. NEAL:

H.R. 5476. A bill to provide for the reduction of inflation and the prevention of recession through regulation of the money supply; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PERKINS:

H.R. 5477. A bill to provide comprehensive elementary school guidance and counseling programs for States and local educational agencies; to the Committee on Education and Labor.

By Mr. RITTER:

H.R. 5478. A bill to amend the Federal Election Campaign Act of 1971 to change from more than $100 to more than $500 the amount with respect to which certain reports of contributions are required to be filed with the Federal Election Commission; to the Committee on House Administration.

H.R. 5479. A bill to amend the Internal Revenue Code of 1954 to allow individuals an income tax credit for amounts paid or incurred for maintaining a household member of which is a dependent of the taxpayer who has attained age 65; to the Committee on Ways and Means.

By Mr. VANDER JAGT:

H.R. 5480. A bill to amend the Internal Revenue Code of 1954 to allow certain individuals whose employers make contributions to pension plans a deduction for their contributions to certain individual retirement savings plans; to the Committee on Ways and Means.

By Mr. ANDERSON of California (for himself, Mr. Johnson of California, Mr. Fary, and Ms. Ferraro):

H.R. 5481. A bill to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for U.S. air carriers, establish goals for developing U.S. international aviation negotiating policy, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BEARD of Rhode Island:

H.R. 5482. A bill to strengthen State workers' compensation programs, and for other purposes; to the Committee on Education and Labor.

By Mr. DICKS (for himself, Mr. Swift, and Mr. Lowry):

H.R. 5483. A bill to assure coordinated Federal action on oil port siting policy, to provide for reasonable costs of transporting crude oil safely, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DINGELL (for himself and Mr. Ottinger) (by request):

H.R. 5484. A bill to facilitate energy efficiency in residential buildings; to the Committee on Interstate and Foreign Commerce.

By Mr. FINDLEY (for himself, Mr. Price, and Mr. Volkmer):

H.R. 5485. A bill to provide for expedited installation of hydroelectric power generating facilities at the project for replacement of locks and dam 26, Mississippi River, Alton, Ill., and Mo.; to the Committee on Public Works and Transportation.

By Mr. GUARINI:

H.R. 5486. A bill to provide for the establishment of a national energy development bank; jointly, to the Committees on Banking, Finance and Urban Affairs and Science and Technology.

By Mr. JOHNSON of Colorado (for himself and Mr. Kogovsek):

H.R. 5487. A bill to designate certain national forest system lands in the State of Colorado for inclusion in the national wilderness preservation system, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KOSTMAYER (for himself and Mr. Murphy of Pennsylvania):

H.R. 5488. A bill to designate certain public lands in the State of Pennsylvania as wilderness, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LaFALCE:

H.R. 5489. A bill to amend the Immigration and Nationality Act to provide for third-preference treatment of alien investors; to the Committee on the Judiciary.

H.R. 5490. A bill to amend the Immigration and Nationality Act to provide for third-preference treatment of alien investors; to the Committee on the Judiciary.

By Mr. LEE:

H.R. 5491. A bill to amend title 38, United States Code, to provide that in the case of any veteran who served for 90 days or more during a period of war, the development of the disease transverse myelitis to a degree of 10 percent of disability or more within 7 years from the date of the veteran's separation from service shall be presumed to have been incurred in or aggravated by such service; to the Committee on Veterans' Affairs.

By Mr. MARLENEE:

H.R. 5492. A bill to amend the Federal Land Policy and Management Act of 1976 and the Public Rangelands Improvement Act of 1978, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. OTTINGER (for himself, Mr. Staggers, and Mr. Dingell):

H.R. 5493. A bill to amend the National Energy Conservation Policy Act to permit utilities to supply, install, or finance energy conservation measures and to amend the Energy Policy and Conservation Act to establish a program under which persons may be reimbursed for part of the costs incurred in installing energy conservation measures in residential or commercial buildings, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Banking, Finance and Urban Affairs.

By Mr. PANETTA:

H.R. 5494. A bill to amend title II of the Social Security Act to provide that child's insurance benefits shall not be payable to an insured individual's stepchild, after such child's natural parent and the insured individual are divorced, for any period during which such child is receiving support from another source; to the Committee on Ways and Means.

By Mr. QUAYLE:

H.R. 5495. A bill to reduce dependence on foreign oil imports by providing for the increased use of coal, and for other purposes; jointly, to the Committees on Ways and Means, Interstate and Foreign Commerce, Interior and Insular Affairs, and Public Works and Transportation.

By Mr. SEIBERLING (for himself, Mr. Bennett, Mr. Sebelius, Mr. Kastenmeier, Mr. Bingham, Mr. Won Pat, Mr. Eckhardt, Mr. Florio, Mr. Kostmayer, Mr. Corrada, Mr. Murphy of Pennsylvania, Mr. Rahall, Mr. Vento, Mr. Gudger, Mr. Long of Maryland, Mr. McDade, Mr. Rodino, Mr. Pepper, Mr. Gephardt, Mr. Dellums, Mr. Pritchard, Mr. Moakley, Mr. Whitehurst, Mr. Richmond, Mr. Edwards of Alabama, Mrs. Fenwick, Mr. Mottl, Mr. Edwards of California, Mr. Mazzoli, Mr. Wolff, Mr. Derwinski, Mr. Ottinger, Mrs. Byron, Mr. Lundine, Mr. Sabo, Mr. Baldus, Mr. Stack, Mr. Weiss, Mr. Barnes, and Mr. Peyser):

H.R. 5496. A bill to amend the National Historic Preservation Act of 1966, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STAGGERS:

H.R. 5497. A bill to designate certain lands in the Monongahela National Forest, W. Va., as the Cranberry Wilderness and Cranberry Back Country, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STAGGERS (by request):

H.R. 5498. A bill to designate certain lands in the Monongahela National Forest, W. Va., as the Cranberry Wilderness, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WRIGHT (for himself, Mr Rodino, Mr. Mineta, Mr. Matsui, Mr. Brademas, Mr. Phillip Burton, Mr. Yates, Mr. Anderson of California, Mr. Simon, Mr. Akaka, Mr. Badham, Mr. Barnes, Mr. Bedell, Mr. Beilenson, Mr. Blanchard, Mr. Bonior of Michigan, Mr. Bonker, Mr. Brown of California, Mr. Burgener, Mr. Burlison, Mr. John L. Burton, Mr. Butler, Mrs. Chisholm, Mr. Clausen, Mr. Clay, Mr. Coelho, Mr. Corman, Mr. Danielson, Mr. Dannemeyer, Mr. Dellums, Mr. Dicks, Mr. Dingell, Mr. Dixon, Mr. Dornan, Mr. Duncan of Oregon, Mr. Edgar, Mr. Edwards of California, Mr. Evans of Indiana, Mr. Fary, Mr. Fascell, Mr. Fazio, Mrs. Fenwick, Mr. Fish, Mr. Florio, Mr. Foley, Mr. Ford of Michigan, Mr. Forsythe, Mr. Frost, Mr. Gephardt, Mr. Gilman, Mr. Gray, Mr. Green, Mr. Hansen, Mr. Hawkins, Mr. Heftel, Mr. Harkin, Mr. Howard, Mr. Hughes, Mr. Jacobs, Mr. Johnson of California, Mr. Kastenmeier, Mr. Kildee, Mr. Kogovsek, Mr. Kostmayer, Mr. Lagomarsino, Mr. Leath of Texas, Mr. Lehman, Mr. Leland, Mr. Lewis, Mr. Lloyd, Mr. Lowry, Mr. Lungren, Mr. Mavroules, Mr. McCloskey, Mr. McKay, Ms. Mikulski, Mr. Miller of California, Mr. Mitchell of Maryland, Mr. Moorhead of California, Mr. Murphy of Illinois, Mr. Oberstar, Mr. Panetta, Mr. Pashayan, Mr. Patten, Mr. Patterson, Mr. Pepper, Mr. Pritchard, Mr. Railsback, Mr. Rangel, Mr. Ratchford, Mr. Richmond, Mr. Roe, Mr. Rousselot, Mr. Roybal, Mr. Royer, Mr. Sabo, Mr. Scheuer, Mrs. Schroeder, Mr. Shannon, Mr. Shumway, Mrs. Spellman, Mr. Stark, Mr. Stewart, Mr. Swift, Mr. Symms, Mr. Synar, Mr. Thompson, Mr. Van Deerlin, Mr. Volkmer, Mr. Waxman, Mr. Weiss, Mr. Charles H. Wilson of California, Mr. Wirth, and Mr. Wyatt):

H.R. 5499. A bill to establish a commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order No. 9066, and for other purposes; to the Committee on the Judiciary.

By Mr. COURTER:

H.J. Res. 411. Joint resolution conferring U.S. citizenship posthumously on Rosinella Verdi; to the Committee on the Judiciary.

SUBSEQUENT ACTION ON BILLS INITIALLY REFERRED UNDER TIME LIMITATIONS

Under clause 5 of rule X, the following actions were taken by the Speaker:

Referral of the bill (H.R. 2626) to establish voluntary limits on the annual increases in total hospital expenses, and to provide for mandatory limits on the annual increases in hospital inpatient revenues to the extent that the voluntary limits are not effective, to the Committee on Interstate and Foreign Commerce extended for an additional period ending not later than October 9, 1979.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. KOSTMAYER:

H.R. 5500. A bill for the relief of Maximo Mudut Lagdao; to the Committee on the Judiciary.

By Ms. MIKULSKI (by request):

H.R. 5501. A bill for the relief of Mirza Arqueta, Griselda Arqueta, Brenda Arqueta, and Clarisa Arqueta; to the Committee on the Judiciary.

H.R. 5502. A bill for the relief of Lagrimas Martinez and Ruiz Martinez; to the Committee on the Judiciary.

By Mr. PATTERSON:

H.R. 5503. A bill for the relief of Matilda Anne Dean; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. McCloskey.

H.R. 182: Mr. Hutto.

H.R. 262: Mr. Gonzalez, Mr. Fisher, and Mr. Russo.

H.R. 509: Mr. Patterson.

H.R. 997: Mr. Beilenson, Mr. Bonior of Michigan, Mr. John Burton, Mrs. Chisholm, Mr. Clay, Mrs. Collins of Illinois, Mr. Conyers, Mr. Corman, Mr. Dellums, Mr. Diggs, Mr. Downey, Mr. Drinan, Mr. Edgar, Mr. Evans of the Virgin Islands, Mr. Fauntroy, Mr. Florio, Mr. Ford of Tennessee, Mr. Giaimo, Mr. Gray, Mr. Guarini, Mr. Hawkins, Ms. Holtzman, Mr. Hyde, Mr. Leland, Mr. McDade, Mr. Matsui, Ms. Mikulski, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Mitchell of New York, Mr. Myers of Indiana, Mr. Rangel, Mr. Richmond, Mr. Roe, Mr. Roybal, Mr. Simon, Mr. Solarz, Mr. Stewart, Mr. Stokes, Mr. Thompson, Mr. Waxman, Mr. Weiss, Mr. Won Pat, Mr. Yates, and Mr. Zeferetti.

H.R. 1429: Mr. Loeffler.

H.R. 1776: Mr. Hansen, Mr. Wolff, Mr. Grisham, Mr. Leath of Texas, Mr. Tauke, Mr. Stangeland, Mr. O'Brien, Mr. Lujan, Mr. Frost, Mr. Livingston, Mr. Andrews of North Carolina, Mr. Russo, Mr. Flippo, Mr. Hutto, Mr. Ambro, Mr. Mica, Mr. Mattox, Mr. Patterson, Mr. Wylie, Mr. Skelton, Ms. Ferraro, and Mr. Carney.

H.R. 2279: Mrs. Fenwick and Mr. McEwen.

H.R. 2602: Mr. McClory.

H.R. 3284: Mr. Jenrette, Mr. Lederer, Mr. Whitehurst, Mr. Holland, Mr. Won Pat, and Mr. Yatron.

H.R. 3558: Mr. Rinaldo and Mr. Carney.

H.R. 3561: Mrs. Fenwick.

H.R. 4019: Mrs. Bouquard.

H.R. 4400: Mr. Leach of Louisiana.

H.R. 4513: Mr. Volkmer, Mr. Erdahl, Mr. Rousselot, and Mr. Young of Missouri.

H.R. 4561: Mr. Gramm.

H.R. 4624: Mr. Addabbo, Mr. Dixon, Ms. Ferraro, and Mr. Peyser.

H.R. 4646: Mr. Roe, Mr. Skelton, Mr. de la Garza, Mr. Moorhead of California, Mr. Hanley, Mr. Jeffords, Mr. Mollohan, Mr. Slack, Mr. Fazio, and Mr. Evans of Georgia.

H.R. 4656: Mr. Shumway, Mr. Martin, Mr. Goldwater, and Mr. Andrews of North Carolina.

H.R. 4657: Mr. Abdnor, Mr. Bafalis, Mr. Barnard, Mr. Butler, Mr. Campbell, Mr. Philip M. Crane, Mr. Collins of Texas, Mr. Robert W. Daniel, Jr., Mr. Dannemeyer, Mr. Dickinson, Mr. Gingrich, Mr. Jeffries, Mr. Kramer, Mr. Kelly, Mr. Leath of Texas, Mr. McKay, Mr. Marriott, Mr. McDonald, Mr. Montgomery, Mr. Robinson, Mr. Rousselot, Mr. Rudd, Mr. Satterfield, Mr. Sebelius, Mr. Spence, Mr. Stangeland, Mr. Stump, Mr. Symms, Mr. Trible, Mr. Whitehurst, Mr. Whittaker, Mr. Winn, Mrs. Holt, Mr. Hinson, Mr. Badham, Mr. Shumway, Mr. Martin, and Mr. Loeffler.

H.R. 4659: Mr. Frost, Mrs. Fenwick, Mr. Dornan, Mr. Wolpe, Mr. Daschle, Mr. Murphy of Pennsylvania, Mr. Fazio, Mr. Pepper, Mr. Williams of Montana, Mr. Pritchard, Mr. Leach of Louisiana, Mr. Walgren, Mr. Coelho, Mr. Horton, Mr. Huckaby, and Mr. Murphy of Illinois.

H.R. 4709: Mr. Kildee.

H.R. 4789: Mr. Addabbo, Mr. Bedell, Mr. Downey, Mr. Edgar, Mr. Ertel, Mr. Flood, Mr. Garcia, Mr. Hanley, Mr. Lederer, Mr. Lundine, Mr. McHugh, Mr. Moorhead of Pennsylvania, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Murphy of New York, Mr. Nowak, Mr. Rangel, and Mr. Rosenthal.

H.R. 4878: Mr. Kogovsek, Mr. Hamilton, Mr. Whitehurst, Mr. Solomon, Mr. Daschle, Mr. Whittaker, Mr. Baldus, Mr. Rinaldo, Mr. Shumway, Mr. Bevill, Mr. Quayle, Mr. Livingston, Mr. Burgener, Mr. Jacobs, Mr. Weaver, Mr. Santini, Mr. Beard of Rhode Island, Mr. Panetta, Mr. Frenzel, Mr. Butler, Mrs. Schroeder, and Mr. Wolpe.

H.R. 5127: Mr. Abdnor, Mr. Cheney, Mr. Coelho, Mr. Hance, Mr. Johnson of Colorado, Mr. Leath of Texas, Mr. Pashayan, and Mr. Williams of Montana.

H.R. 5225: Mr. Skelton, Mr. Cleveland, Mr. Stump, Mr. Rudd, Mr. Traxler, Mr. Snyder, and Mr. Symms.

H.R. 5241: Mr. Stangeland, Mr. Murphy of Pennsylvania, Mr. Mitchell of Maryland, Mr. Jeffords, Mr. Conyers, Mr. Oberstar, Mr. Thompson, Mr. Jenrette, Mr. St Germain, Mr. Moakley, Mr. Dodd, Mr. Drinan, Mr. Markey, Mr. Bingham, Mr. Boland, Mr. Kildee, Mr. Ratchford, Mr. Maguire, Mr. Gilman, Mr. Florio, Mr. Mitchell of New York, Mr. Beard of Rhode Island, Mr. Conte, Mr. Rahall, Mr. Donnelly, Mr. Lederer, Mr. Ottinger, Mr. Downey, Mr. Ford of Michigan, Mr. Dellums, Mr. D'Amours, and Mr. Studds.

H.R. 5341: Mr. Hutto, Mr. Bennett, Mr. Ireland, Mr. Bafalis, Mr. Mica, Mr. Stack, Mr. Lehman, Mr. Pepper, and Mr. Fascell.

H.J. Res. 69: Mr. Bennett.

H.J. Res. 254: Mr. Patterson.

H.J. Res. 255: Mr. Albosta, Mr. Alexander, Mr. Annunzio, Mr. Anthony, Mr. Atkinson, Mr. Barnard, Mr. Barnes, Mr. Benjamin, Mr. Biaggi, Mrs. Boggs, Mr. Boner of Tennessee, Mr. Bowen, Mr. Broomfield, Mr. Brown of California, Mr. Burgener, Mr. Chappell, Mr. Cheney, Mr. Philip M. Crane, Mr. D'Amours, Mr. Davis of South Carolina, Mr. Davis of Michigan, Mr. de la Garza, Mr. Dellums, Mr. Devine, Mr. Dickinson, Mr. Dodd, Mr. Donnelly, Mr. Edgar, Mr. Fary, Mr. Fascell, Mr. Findley, Mr. Fisher, Mr. Fithian, Mr. Foley, Mr. Forsythe, Mr. Frenzel, Mr. Garcia, Mr. Gramm, Mr. Hall of Texas, Mr. Hall of Ohio, Mr. Hance, Mr. Hansen, Mr. Hawkins, Mrs. Heckler, Mr. Hinson, Mr. Hollenbeck, Mr. Horton, Mr. Howard, Mr. Huckaby, Mr. Jones of North Carolina, Mr. Kogovsek, Mr. Kramer, Mr. Leach of Louisiana, Mr. Leach of Iowa, Mr. Lederer, Mr. Lehman, Mr. Leland, Mr. Lloyd, Mr. Long of Maryland, Mr. Lowry, Mr. Marks, Mr. Mathis, Mr. Mica, Ms. Mikulski, Mr. Moakley, Mr. Moffett, Mr. Montgomery, Mr. Moorhead of California, Mr. Mottl, Mr. Murphy of Illinois, Mr. Murtha, Mr. Natcher, Mr. Nichols, Mr. O'Brien, Ms. Oakar, Mr. Oberstar, Mr. Pashayan, Mr. Patterson, Mr. Petri, Mr. Peyser, Mr. Preyer, Mr. Rahall, Mr. Ratchford, Mr. Reuss, Mr. Rinaldo, Mr. Rodino, Mr. Rostenkowski, Mr. Rousselot, Mr. Roybal, Mr. Royer, Mr. Sabo, Mr. Sebelius, Mr. Sharp, Skelton, Mrs. Spellman, Mr. St Germain, Mr. Staggers, Mr. Steed, Mr. Stewart, Mr. Stump, Mr. Swift, Mr. Symms, Mr. Synar, Mr. Thompson, Mr. Ullman, Mr. Weaver, Mr. Williams of Ohio, Mr. Bob Wilson, Mr. Charles H. Wilson of California, Mr. Wirth, Mr. Yates, Mr. Young of Florida, Mr. Young of Alaska, Mr. Zeferetti, Mr. Anderson of Illinois, and Mr. Baldus.

H.J. Res. 321: Mr. Blanchard.

H.J. Res. 384: Mr. Derwinski.

H.J. Res. 395: Mr. Gradison, Mr. Gudger, Mr. Derwinski, Mr. Fowler, Mr. Lee, Mr. Ginn, Mr. Dornan, Mr. Skelton, Mr. Grisham, Mr. Bowen, Mr. Marriott, Mr. Hutto, Mr. Hyde, Mr. Stump, Mr. Madigan, Mr. Whitley, Mr. Stangeland, Mr. Mathis, Mr. Davis of Michigan, Mr. Nichols, Mr. Hillis, Mr. Barnard, Mr. Bereuter, Mr. Hall of Texas, Mr. Kelly, Mr. Hefner, Mr. Burgener, Mr. Jones of North Carolina, Mr. Hopkins, Mr. Evans of Georgia, Mr. Harsha, Mr. Leach of Louisiana, Mr. Kramer, Mrs. Bouquard, Mr. Lagomarsino, Mr. O'Brien, Mr. Roth, Mr. Solomon, Mr. Walker, Mr. Whitehurst, and Mr. Winn.

H. Con. Res. 147: Mr. Cotter, Mr. Giaimo, Mr. Rousselot, and Mr. Russo.

H. Con. Res. 190: Mr. Abdnor, Mr. Addabbo, Mr. Ashley, Mr. Beard of Rhode Island, Mr. Bevill, Mr. Boland, Mr. Boner of Tennessee, Mr. Bowen, Mr. Burgener, Mr. Carr, Mr. Cleveland, Mr. Clinger, Mr. Conte, Mr. Corrada, Mr. Davis of Michigan, Mr. de la Garza, Mr. Devine, Mr. Dornan, Mr. Dougherty, Mr. Duncan of Tennessee, Mr. Emery, Mr. Fish, Mr. Flood, Mr. Florio, Mr. Goldwater, Mr. Gradison, Mr. Hansen, Mr. Harris, Mrs. Holt, Mr. Horton, Mr. Hyde, Mr. Kemp, Mr. Kildee, Mr. Kindness, Mr. Lagomarsino, Mr. Lederer, Mr. Lee, Mr. Lewis, Mr. Long of Maryland, Mr. Lujan, Mr. Luken, Mr. Madigan, Mr. Miller of California, Mr. Minish, Mr. Murphy of New York, Mr. Murphy of Illinois, Mr. Myers of Pennsylvania, Mr. Oberstar, Mr. Panetta, Mr. Pepper, Mr. Petri, Mr. Pickle, Mr. Price, Mr. Rahall, Mr. Rinaldo, Mr. Roe, Mr. Rousselot, Mr. Royer, Mr. Sabo, Mr. St Germain, Mr. Scheuer, Mr. Skelton, Mr. Stenholm, Mr. Stratton, Mr. Symms, Mr. Treen, Mr. Van Deerlin, Mr. Whitehurst, Mr. Winn, Mr. Wydler, Mr. Young of Alaska, Mr. Grisham, Mr. Butler, Mr. Waxman, Mr. Mitchell of Maryland, and Mr. Livingston.

AMENDMENTS

Under clause 6 of rule XIII, proposed amendments were submitted as follows:

H.R. 2859

By Mr. KRAMER:

—Page 42, line 6, strike out "such sums as may be necessary" and insert in lieu thereof "$45,384,000".

Page 42, line 15, strike out "such sums as may be necessary" and insert in lieu thereof "$12,840,000".

H.R. 3000

By Mr. FISH:

—Page 37, after line 15, insert the following:

Sec. 126. (a) Within 90 days after the date of enactment of this Act, the Secretary shall transmit to both Houses of Congress a detailed description of the comprehensive, multi-year program plan for energy conservation research, development and demonstration.

(b) The description of the comprehensive program plan submitted under subsection (a) shall include—

(1) the anticipated research, development and demonstration multi-year objectives to be achieved by the program;

(2) the program elements, management structure, and activities, including any regional aspects and field responsibilities thereof;

(3) the program strategies and commercialization plans, including detailed milestone goals to be achieved during the next fiscal year for all major programs and projects;

(4) the economic, environmental, and societal significance which the program may have;

(5) the total estimated cost of individual program items;

(6) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program;

(7) the relationship of the program to any Federal national energy or fuel policies; and

(8) the relationship of any short-term undertakings and expenditures to long-range goals and comprehensive conservation strategy.

H.J. Res. 341

Amendment in the nature of a substitute.

By Mr. FLORIO:

—Strike out all after the resolving clause and insert in lieu thereof the following:

CONGRESSIONAL FINDINGS

Section 1. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (hereinafter the "Milwaukee Railroad") threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which the Milwaukee Railroad principally operates (the States of Washington, Montana, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) experienced railroad employees make a valuable contribution toward strengthening the railroad industry;

(5) other railroads have the ability and willingness to employ displaced Milwaukee Railroad employees;

(6) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(7) cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare;

(8) cessation of such services is imminent; and

(9) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this resolution must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential operations by the Milwaukee Railroad would otherwise cause.

SALES AND TRANSFERS

Sec. 2. (a) The Milwaukee Railroad, in consultation with the Secretary of Transportation, may negotiate and enter into agreements to sell all or any portion of its railroad system to any other rail carrier or to any other person. Such sale agreements may in no event become final and effective until the occurrence of an event described in section 23(b) of this joint resolution, or March 1, 1980, whichever first occurs.

(b)(1) The Secretary of Transportation, under the authority of section 5(a)-(e) of the Department of Transportation Act, may develop plans and enter into negotiations for the sale or transfer of any portion of the Milwaukee Railroad. In developing such plan and entering into such negotiations, the Secretary shall give preference to financially responsible persons, including governmental entities, negotating for the purchase of any lines with the intent of providing common carrier service.

(2) The Secretary shall submit to the court having jurisdiction over the reorganization of the Milwaukee Railroad (hereinafter the "bankruptcy court") any proposal developed under paragraph (1) of this subsection for the sale or transfer of any portion of the Milwaukee Railroad. Such a proposal may in no event become final or effective until the occurrence of an event described in section 23(b) of this joint resolution, or March 1, 1980, whichever first occurs.

COURT APPROVED ABANDONMENTS AND SALES

SEC. 3. (a)(1) Upon the occurrence of an event described in section 23(b) of this joint resolution, or on March 1, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11 of the United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interest of employees as that required under section 11347 of title 49 of the United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection, the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Interstate Commerce Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with such paragraph (1).

(b)(1) Upon the occurrence of an event described in section 23(b) of this Act, or on March 1, 1980, whichever first occurs, the bankruptcy court may authorize the sale or transfer of lines of the Milwaukee Railroad, subject to paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interest of employees as that required under section 11347 of title 49 of the United States Code.

(2) The bankruptcy court may not authorize a sale or transfer pursuant to paragraph (1) of this subsection unless an appropriate application with respect to such sale or transfer is initiated with the Interstate Commerce Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5. An application may be initiated with the Commission prior to the date specified in paragraph (1) of this subsection.

(3) The bankruptcy court may, on a preliminary basis, authorize the sale or transfer of lines of the Milwaukee Railroad to another rail carrier. The court may permit the purchasing carrier to operate interim service over the lines to be purchased, and in operating such service it shall use employees of the Milwaukee Railroad to the extent such purchasing carrier deems necessary for the operation of such service. The bankruptcy court may take final action authorizing any such sale or transfer only in accordance with paragraph (1) of this subsection.

(c) Nothing in this section shall be deemed to affect the priorities or timing of payment of labor protection which might have existed in the absence of this joint resolution.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN

SEC. 4. (a) (1) No later than December 1, 1979, an association composed of representatives of national railway labor organizations, employee coalitions, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or substantially all of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan shall include a comprehensive evaluation of the prospects for the financial selfsustainability of the Milwaukee Railroad.

(2) The Commission shall, within 30 days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5 of the United States Code, and for purposes of making such finding the plan as submitted shall be presumed to be feasible.

(3) The Commission shall make a finding that the plan submitted under this section is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the creditors;

(C) implementation of such plan will occur by March 1, 1980; and

(D) the railroad can be operated on a self-sustaining basis.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate, and Federal, State or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent and which the proponent is likely to obtain.

(b) If the Commission finds that the plan submitted under this section is feasible, it shall submit its findings to the bankruptcy court. Within 10 days after the date of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the creditors of the Milwaukee Railroad. The Commission's determination with respect to that issue shall be rebutted only by clear and convincing evidence.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the creditors of the Milwaukee Railroad, the proponents of such plan shall, no later than March 1, 1980, take such steps as may be necessary to implement the plan.

(d) Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e)(1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section—

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor of the Milwaukee Railroad.

EMERGENCY RAIL SERVICES ACT OF 1970

SEC. 5. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3(c) of the Emergency Rail Services Act of 1970 is amended to read as follows:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term "restructuring" includes an employee ownership plan or an employee-shipper ownership plan.".

(c) Section 3(e) of the Emergency Rail Services Act of 1978 is amended by striking out "$125,000,000" and inserting in lieu thereof "$200,000,000".

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad to maintain its entire railroad system in accordance with section 23 of this joint resolution, and for purposes of financing the operations which the Milwaukee Railroad continues for the 60-day period beginning on the date of the occurrence of an event described in section 23(b) of this joint resolution or on March 1, 1980, whichever first occurs. Such guarantee shall be made without regard to the finders set forth in section 3(a) of the Emergency Rail Services Act of 1970.

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses incurred by such railroad attributable to the maintenance and the continuation of service in accordance with this section, and (2) the revenues of such railroad.

(f) Notwithstanding the provisions of section 3(c) of the Emergency Rail Services Act of 1970, certificates guaranteed under this joint resolution shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment of this joint resolution.

RAILROAD PREFERENTIAL HIRING

SEC. 6. Notwithstanding any provision of law which affects the granting of preferences or priorities or equal treatment in employment, each rail carrier shall give preference in hiring to any employee of the Milwaukee Railroad who is separated from his employment by reason of any reduction of service by such railroad occurring prior to March 1, 1981. For purposes of this section, "reason of any reduction of service" does not include resignations, retirement, or discharge for cause.

MOVING EXPENSES

SEC. 7. (a) Any employee of the Milwaukee Railroad—

(1) who, in connection with a restructur-

ing transaction carried out by the Milwaukee Railroad prior to March 1, 1981, is required to make a change of residence prior to April 1, 1981, in order to maintain his employment with such railroad; or

(2) who is separated from his employment by reason of any reduction of service by the Milwaukee Railroad prior to March 1, 1981, and is required to make a change of residence, prior to April 1, 1981, in order to obtain employment with another rail carrier, shall be entitled to receive moving expense benefits in accordance with this section.

(b) The benefits to which an employee described in subsection (a) of this section shall be entitled are as follows:

(1) The actual expenses of moving such employee's household and personal effects.

(2) The actual, necessary traveling expenses of such employee and members of his family.

(3) The closing costs involved in disposing of a residence and acquiring a new residence, including a realtor's fee of not more than $3,000.

(4) If the employee holds an unexpired lease on a dwelling occupied by him as his home, reimbursement for all loss and cost in securing the cancellation of such lease.

(c) Claims for moving expense benefits under this section shall be paid by the Milwaukee Railroad, and shall be treated as administrative expenses of the estate of such railroad.

(d) Any claim of an employee for moving expense benefits under this section shall be filed with the Railroad Retirement Board. The Board shall determine the amount to which such employee is entitled under this section and shall certify such amount to the Milwaukee Railroad for payment.

SUPPLEMENTARY UNEMPLOYMENT INSURANCE

SEC. 8. (a) Any employee of the Milwaukee Railroad—

(1) who (A) is employed by the restructured Milwaukee Railroad, and (B) is separated from that employment by reason of any reduction of service by the Milwaukee Railroad occurring prior to March 1, 1984; or

(2) who (A) is separated from his employment with the Milwaukee Railroad by reason of a reduction of service, and obtains employment, prior to March 1, 1981, with another rail carrier, and (B) is separated from employment with such other carrier prior to March 1, 1984,

shall be entitled to receive monthly supplementary unemployment insurance in accordance with the provisions of this section.

(b) Each employee described in subsection (a) of this section shall be entitled to receive supplementary unemployment insurance during each month in which such employee is not employed, for all or a portion of such month, by the Milwaukee Railroad or another rail carrier. Each such employee shall be entitled to receive such insurance for a total of not more than 36 months, except that—

(1) the period of entitlement for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad; and

(2) no compensation shall be provided under this section after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such insurance, but after such date, such employee only shall receive such 8-month minimum if such employee is not employed continuously after such date.

(c) Supplementary unemployment insurance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this joint resolution, less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(d) Entitlement to monthly supplementary unemployment compensation under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(e) Any supplementary unemployment insurance received by any employee pursuant to this section shall be consirered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act.

(f) The provisions of this section shall not apply to an employee in the event of his resignation, retirement, or discharge for cause from the employment of any rail carrier.

(g) As used in this section, the term "restructured Milwaukee Railroad" means the entity which operates the lines of railroad of the Milwaukee Railroad after March 1, 1980, as reduced or modified by the bankruptcy court.

(h) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "The" and inserting "Notwithstanding any other provision of law, the" in lieu thereof; and

(2) by inserting "and the joint resolution entitled 'Joint Resolution to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad' " immediately before the period at the end thereof.

EMPLOYMENT OF MILWAUKEE RAILROAD EMPLOYEES

SEC. 9. (a)(1) Within 60 days after the date of enactment of this joint resolution, and at the end of each of the 16 following 30-day periods, the Milwaukee Railroad shall submit to the Railroad Retirement Board a list of individuals separated from employment with the Milwaukee Railroad who at the time of such separation indicated a desire to appear on a list to be distributed to all rail carriers. Each such list shall include the class or craft qualifications of each employee listed, his seniority status with the Milwaukee Railroad, and such other information as the Board considers appropriate. The first list shall include only individuals separated after the date of enactment of this joint resolution and before the date on which the list is submitted pursuant to this paragraph. Each subsequent list shall include only those individuals separated after the submission of the previous list and before the submission of such subsequent list.

(2) Within 5 days after each day specified in paragraph (1) of this subsection, the Railroad Retirement Board shall mail a copy of the list submitted to the Board by the Milwaukee Railroad by such date to all other rail carriers. In addition, the Board shall maintain a current copy of such list in each office of the Board.

(b)(1) Within 60 days after the date of enactment of this joint resolution, and at the end of each of the 16 following 30-day periods, each rail carrier shall submit to the Railroad Retirement Board a list of employment, by class and craft, available with such carrier as of the date of the submission of such list. Each such list shall set forth such information with respect to such employment as the Board considers appropriate.

(2) Within 5 days after each date specified in paragraph (1) of this subsection, the Railroad Retirement Board shall prepare a compilation of all of the positions of employment by class and craft submitted by each rail carrier by such date, and shall mail a copy of such compilation to each employee who, pursuant to subsection (c) of this section notifies the Board of such employee's interest in such compilation. In addition, the Board shall maintain a copy of such compilation in each office of the Board.

(c) Any employee of the Milwaukee Railroad described in section 6 of this joint resolution may notify the Railroad Retirement Board that he is interested in receiving a copy of each compilation of positions of employment by class and craft prepared by the Board, pursuant to subsecton (b)(2) of this section.

(d) Within 20 days after the Railroad Retirement Board mails a compilation of employment positions to employees pursuant to subsection (b)(2) of ths section, any such employee may submit a bid on any position contained in such compilation to the rail carrier which listed the position.

(e) Any rail carrier which, during the 20-day period after a compilation of positions is mailed, receives one or more bids on any employment position listed by such rail carrier in such compilation shall offer such employment position to the employee who submitted a bid on such position during such period who has the most seniority in the class or craft within which such position is listed. Such offer shall be made to such employee whether or not such rail carrier hired another person for such employment position during the period of time beginning on the date of the submission to the Board of the list containing such position and the last date on which bids were submitted by emnloyees for such position pursuant to this section.

(f) Nothing in this section shall impair the seniority rights or other interests under a collective bargaining agreement of any person employed by a carrier which offers employment positions pursuant to this section, unless otherwise specifically authorized or required by applicable union law.

EMPLOYEE RELOCATION INCENTIVE COMPENSATION

SEC. 10. (a) Any employee of the Milwaukee Railroad—

(1) who is employed by the restructured Milwaukee Railroad; or

(2) who is separated from his employment with the Milwaukee Railroad by reason of a reduction of service, and obtains employment, prior to March 1, 1981, with another rail carrier,

shall be eligible for employee relocation incentive compensation in accordance with this section.

(b) Each employee described in subsection (a) of this section shall be eligible to receive a total of not more than 36 months of employee relocation incentive compensation under this section. No such compensation shall be provided after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such compensation, but after such date such employee shall only receive such 8-month minimum if such employee is employed continuously after such date.

(c)(1) Employee relocation incentive compensation shall be payable to each employee described in subsection (a) of this section in any month in which—

(A) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this joint resolution; exceeds

(B) such employee's compensation for that month from his new position with the Milwaukee Railroad.

(2) The amount of compensation payable to an employee shall be the amount by which the monthly compensation described in paragraph (1)(A) of this subsection exceeds the monthly compensation described in paragraph (1)(B).

(d) An employee shall not be eligible to receive compensation under this section during any month in which such employee receives supplementary unemployment insurance under section 7 of this joint resolution.

(e) Employee relocation incentive compensation under this section shall be paid by the Milwaukee Railroad, and shall be treated as an administrative expense of the estate of such railroad.

(f) Any claim of an employee for employee relocation incentive compensation under this section shall be filed with the Railroad Retirement Board. The Board shall determine the amount to which such employee is entitled under this section and shall certify such amount to the Milwaukee Railroad for payment.

(g) As used in this section, the term "restructured Milwaukee Railroad" has the meaning given to such term in section 8(g) of this joint resolution.

SEPARATION ALLOWANCE

SEC. 11. (a) Any employee of the Milwaukee Railroad described in section 6 of this joint resolution may, no later than April 1, 1981, elect to receive a separation allowance from the Milwaukee Railroad, in an amount equal to $2,000 for each year of completed service and, in addition thereto, full payment for all vacation time earned but not previously taken and of deferred compensation. The amount of separation allowance payable to an employee under this section shall not exceed $25,000.

(b) Any separation allowance under this section shall be paid by the Milwaukee Railroad, and shall be treated as an administrative expense of the estate of such railroad.

* * * * *

NEW CAREER TRAINING ASSISTANCE

SEC. 12. (a) Any employee who elects to receive separation allowance under section 11 of this joint resolution shall be entitled to receive from the Railroad Retirement Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(d) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000;

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code.

ELECTIONS

SEC. 13. (a) Any employee who receives moving expense benefits under section 7 of this joint resolution, supplementary unemployment compensation under section 8, or employee relocation incentive compensation under section 10, shall not be eligible for a separation allowance under section 11 or for new career training assistance under section 12.

(b) An employee who receives a separation allowance under section 11 of this joint resolution shall not be eligible for assistance under section 7, 8, or 10.

(c) Any employee who receives any assistance under section 7, 8, 10, or 11 of this joint resolution shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. (a) There is authorized to be appropriated to provide supplementary unemployment insurance under section 8 of this joint resolution not to exceed $5,000,000.

(b) There is authorized to be appropriated for new career training assistance under section 12 of this joint resolution not to exceed $1,500,000.

(c) There are authorized to be appropriated to the Railroad Retirement Board to carry out its administrative expenses under this Act not to exceed $750,000.

(d) Amounts appropriated under this section are authorized to remain available until expended.

OBLIGATION GUARANTEES

SEC. 15. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, shall guarantee obligations of the Milwaukee Railroad for purposes of providing moving expenses under section 7, employee relocation incentive compensation under section 10, and separation allowances under section 11. Such guarantees shall be entered into without regard to the requirements of subsection (g) of such section 511. Any obligation guaranteed pursuant to this section shall be treated as administrative expense of the estate of the Milwaukee Railroad.

(b) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to this section shall not exceed $75,000,000.

(c) If funds available to the Milwaukee Railroad pursuant to obligation guarantees of the Secretary of Transportation under this section are insufficient to pay the total amount of benefits and allowances for which employees are eligible under sections 7, 10, and 11 of this joint resolution, the Milwaukee Railroad shall reduce, on a pro rata basis, the amount provided under each such section.

(d) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with benefits and allowances provided under sections 7, 10, and 11 of this joint resolution.

TRANSACTION ASSISTANCE

SEC. 16. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 845) is amended by adding at the end thereof the following new subsection:

"(f) REHABILITATION FOR COMMON CARRIER SERVICE.—Notwithstanding subsection (a) through (e) of this section, the Secretary shall immediately purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold to another person or retained by the Milwaukee Railroad and that will be used for common carrier rail service.".

ASSESSMENT OF COAL HAULING NEEDS

SEC. 17. The Secretary of Energy shall immediately conduct an assessment of present and potential coal hauling needs in the area served by the Milwaukee Railroad and report his findings to the Congress within thirty days after the date of enactment of this joint resolution.

COURT APPROVED ABANDONMENTS AND SALES IN PENDING CASES

SEC. 18. (a) Notwithstanding any other provision of law, the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of the joint resolution may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11 of the United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to such section 1170, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49 of the United States Code.

(b)(1) Notwithstanding any other provision of law, the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of the joint resolution may authorize the sale or transfer of rail property, subject to the approval of the Interstate Commerce Commission under paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49, United States Code.

(2) The court described in paragraph (1) may not authorize a sale or transfer pursuant to such paragraph unless an appropriate application with respect to such sale or transfer is initiated with the Interstate Commerce Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5.

(3) The court described in paragraph (1) may, on a preliminary basis, authorize the sale or transfer of lines of the carrier subject, to the bankruptcy proceeding to another rail carrier. The court may permit the purchasing carrier to operate interim service over the lines to be purchased, and in operating such service it shall use employees of the carrier subject to the bankruptcy proceeding to the extent such purchasing carrier deems necessary for the operation of such service.

(c) The authority of the court having jurisdiction over the reorganization of the Milwaukee Railroad to authorize abandonments, sales, and transfers of lines of such railroad shall be governed by the provisions of section 3 of this joint resolution, rather than the provisions of this section.

(d) Nothing in this section shall be deemed to affect the priorities or timing of payment of labor protection which might have existed in the absence of this joint resolution.

DIRECTED SERVICE

SEC. 19. Until March 1, 1981, the provisions of this joint resolution shall be in lieu of any directed service under section 11125 of title 49 of the United States Code.

APPLICABILITY OF NEPA

SEC. 20. The provisions of the National Environmental Policy Act shall not apply to transactions carried out pursuant to this joint resolution.

AUTHORITY OF THE RAILROAD RETIREMENT BOARD

SEC. 21. (a) The Railroad Retirement Board may prescribe such rules as may be necessary to carry out its duties under this joint resolution.

(b) In carrying out its duties under this joint resolution, the Board may exercise such of the powers, duties, and remedies provided in subsections (a), (b), and (d) of section 12 of the Railroad Unemployment Insurance Act as are not inconsistent with the provisions of this joint resolution.

PUBLICATIONS AND REPORTS

SEC. 22. (a) Within 30 days after the date of enactment of this joint resolution, the Board shall publish, and make available for distribution by the Milwaukee Railroad to all its employees, a document which describes in detail the rights of such employees under sections 7 through 13 of this point resolution.

(b) During the 2-year period beginning on the date of enactment of this joint resolution, the Railroad Retirement Board shall submit a report to the Congress every 6 months describing its activities under sections 7, 8, 9, 10, 11, and 12 of this joint resolution.

CONTINUATION OF SERVICE

SEC. 23. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on the date of enactment of this joint resolution, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 4(a) of this joint resolution;

(2) the proposed plan is found by the Commission not to be feasible;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the creditors of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 4(c) of this joint resolution.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 24. Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711(e)) is amended by striking out paragraph (2) and the sentence following that paragraph and inserting in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection, determines that such railroad is establishing an employee stock ownership plan which will be reviewed and approved by the Association, and assures that by December 31, 1980, the railroad will contribute to the employee stock ownership plan an amount of convertible preferred employer stock, or cash used to purchase convertible preferred employer stock, equal to the lesser of (A) 20 percent of the amount made available under this paragraph, or (B) 20 percent of the fair market value of the railroad as of that date.

The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

REHABILITATION AND IMPROVEMENT FINANCING

SEC. 25. (a) CONSIDERATION OF APPLICATIONS.—Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting immediately after the comma at the end of clause (A) thereof the following: "except that if the Secretary determines, pursuant to clause (C) of this paragraph, that significant railroad restructuring will result from the project, the Secretary shall not consider the availability of funds from other sources but instead shall consider whether such restructuring benefits would be likely to be achieved if assistance were not provided,"; and

(2) by amending clause (C) thereof to read as follows: "(C) the public benefits, including any significant railroad restructuring, to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs.".

(b) DEFINITION.—Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(8) 'restructuring' means any activity (including a consolidation, coordination, merger, or abandonment) which (A) involves rehabilitation or improvement of a facility or the transfer of a facility, (B) improves the long-term profitability of any railroad, and (C) results in the enhancement of the national rail freight system through the achievement of higher average traffic densities or improved asset utilization.".

Amend the title so as to read: "Joint resolution to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad".

By Mr. MADIGAN:

(Amendment in the nature of a substitute.)

—(For the language of the amendment to be offered by Mr. MADIGAN, see Mr. FLORIO's amendment printed above. The language is the same for both amendments.)

EXTENSIONS OF REMARKS

TIME TO GET BACK ON THE TRACKS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. OBERSTAR. Mr. Speaker, an editorial from my hometown newspaper, the Chisholm Tribune-Press, analyzes with wisdom and insight the Nation's malaise of spirit to which President Carter eloquently addressed himself last July.

I think we can all benefit from the advice of Veda Ponikvar, publisher and editor of the Chisholm Tribune-Press, who offers a moving and incisive analysis of the national mood. Veda Ponikvar is one of Minnesota's outstanding citizens—dedicated to her profession of journalism and to public service. She is active in just about every community project in Chisholm and the Iron Range. I have enormous respect for her wisdom and advice.

The editorial, "Time to Get Back on the Tracks," tells us to stop feeling sorry for America and to stop the seemingly endless carping and criticism of our leaders and of the Nation as a whole.

Veda Ponikvar concludes her editorial with the exhortation:

> Come on America. Let's get back on the tracks and start pulling together. We have the greatest nation on earth. We just forgot for a little while!

I do not think anyone could have said it better.

[From the Chisholm (Minn.) Tribune-Press, July 24, 1979]

TIME TO GET BACK ON THE TRACKS

For a few hours the past week, our nation of citizens and the world reeled from shock waves of upheaval within our own government circles.

The world community, so accustomed to parliamentary procedures, and somewhat leery of United States leadership, felt another shattering blow to their assumed confidence.

Unfortunately, the world will not understand that the resignations in top cabinet and staff positions at the White House were merely an effort by our President to set the ship of state on the right course . . . to get the tottering cars back on the railroad tracks.

THIS WAS NOT A COUP

The reshuffling around the oval office was not a coup like the ones that have taken place in Iran, Nicaragua, and so many of the other countries where turmoil of far greater significance is boiling day after day.

THE SHAPE-UP AND SHAKE-UP WAS GOOD

If the jolt was stunning, let us all recognize that it was a long time in coming and that something had to be done. The lesson applies to everyone of us.

First of all. Let us stop feeling sorry for ourselves and blaming our Nation for every whisper that wafts the wrong way. We live in the greatest nation on earth, and it's time we began appreciating America for what she really is; for what she stands for; and what she has done and is doing. True, we are experiencing some traumatic upheavals in the social, economic, governmental, and technological sectors. But we shall all be the better for it, if we can learn to accept the changes with grace and dignity; with wisdom and prudence; with an attitude that spells sharing and understanding instead of selfishness and greed.

Secondly. We need to take a realistic approach to a workable program in the field of energy. Since World War II, we've had things pretty much our own way. We have wanted for nothing . . . or at least very little. We are a society spending far beyond our means. We have forgotten or lost some of that key drive to save, preserve, and pass on. We look at our resources and seem to forget that there is a bottom to the barrel. We have created such a bubble of affluence that we keep putting off the necessary funding and mechanisms to promote research and new developments. We are going to have to recognize that we must incorporate a basic combination of reducing the demand for imported oil and develop synthetic fuel to increase our domestic supply. It won't hurt any of us to walk a little more and to pool our rides. This appears to be the only way that the United States can ever put a ceiling on the prices charged by the oil cartels.

Thirdly. We need to stop our internal squabbling and develop a unifying theme. This will take all the strength and ingenuity that Americans can muster. We've got to face up to the facts that if environmental groups hold out against all compromise; if consumerists pursue their everlasting vendetta against corporations and business, big and small, regardless of the consequences, the possibility of agreement on a workable program is likely to be trampled to death.

Come on, America. Let's all get back on the tracks and start pulling together. We have the greatest nation on earth. We just forgot for a little while! ●

BIG RISK ON THE CANAL

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, as you may be aware, I have been an opponents of the Panama Canal Treaty since its inception. In light of our vote to appropriate implementing funds for the transfer of the canal in this chamber on Tuesday, I would like to take this opportunity to point out some of the background which led me to vote against such funding.

There is an increasingly ominous shadow which hovers over our entire southern flank: One which I feel is threatening our historical pledge to insure that outside forces will not involve themselves in the affairs of our neighbors. Cuban troops have been involved in the disruption of internal affairs throughout Latin America, and now the Soviets have introduced combat troops into Cuba itself. The relationship between the Panamanian Government and the Cubans is a friendly one, and shows signs of growing stronger. Yet, despite the President's efforts to impress upon the Soviets our legitimate concerns about the combat troops, Soviet Foreign Minister Gromyko yesterday told the U.N. that such troops are none of our business. If something was rotten in the state of Denmark, I would not be too concerned. But when its closer to home, in Cuba and in the Panama Canal Zone, this bothers me immensely. I simply cannot understand how my colleagues can ignore what is happening to our southern flank, while at the same time they spend U.S. tax dollars to give away yet another vital link in our defense system.

Because of the vote on Tuesday on the Export Administration Act, H.R. 4034, 350,000 barrels of oil from the great State of Alaska will be passing through the canal daily, on its way to heat the homes and hospitals of Americans throughout the East and Midwest. It is my genuine hope that this oil makes it to its destination without disruption this winter; perhaps with the blessing of Moscow, Cuba, and now, Panama, it will.●

SUSAN B. ANTHONY DOLLAR COIN

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. EVANS of Delaware. Mr. Speaker, last year the House Banking Committee, of which I am a member, voted to recommend a bill the House later approved authorizing the minting of the now infamous Susan B. Anthony dollar coin.

As the lone member of the Banking Committee to vote against the proposal, I am now in the less than pleasant position to say "I told you so."

The new dollar coin proposal, when debated by this body, was the subject of accolades and testimony to the great feminist and her accomplishments—and not the merits of the coin itself. Now, I support Ms. Anthony and her achievements as whole-heartedly as any American should, but I voted against this coin in a vain effort to point out to Members the need for further in-depth study of public support for a coin so easily mistaken for a quarter.

Well, after a cost to the taxpayers of over $15 million, it is evident this coin is a collosal flop. I have repeatedly pointed out the short-comings of this 25 cents look-a-like, and I ask that a copy of a recent column by Jack Anderson be included in the RECORD to further outline the failure of this new coin. Mr. Chairman, Congress needs to study the long-range problems confronting our currency and coinage system. This must be done to avoid any more band-aid type solutions to problems as they arise. I think Susan B. Anthony deserves a better fate than to be associated with a dollar coin that is accepted about as well as a plug nickel.

[From the Washington Post, September 26, 1979]

SUSAN B. ANTHONY'S FLOP: NO SURPRISE

(By Jack Anderson)

The feminists' triumph in getting a woman's likeness on an American coin has turned to ashes. The Susan B. Anthony dollar is a costly fiasco, rejected by merchants, bankers and the public alike.

That the treasury has laid another egg should come as no surprise in light of its earlier failure to change Americans' monetary habits by reissuing the two-dollar bill. The only surprise in the flop of the Anthony dollar is the fact that treasury officials appear to have been surprised.

For the sad truth is that the coin's doom was foretold as far back as the summer of 1976.

That's when the treasury ordered its own internal market research on the chances for success of a new "silver" dollar roughly the size of a 25-cent piece. Sources told us the researchers saw no hope for such a coin unless its acceptance were forced by withdrawal of the paper dollar from circulation.

Ignoring this gloomy prediction, the treasury pressed on with its new dollar program. It was approved by Congress and signed by President Carter on Oct. 10, 1978.

Meanwhile, the Detroit branch of the Federal Reserve Bank of Chicago, more skeptical than the bureaucrats in Washington, commissioned an independent study of the dollar coin's potential. The $20,000 study, undertaken by the University of Michigan's business school in August of 1978, reached the same conclusion as the treasury research team: As long as the paper dollar was available, the Anthony dollar didn't stand a chance.

The Michigan report also found the public had deep misgivings about the supposedly handy size of the new coin. "The consumer perceives a confusion of the dollar coin with the quarter and there is some *real* fear concerning this aspect," the Michigan researchers reported, adding: "There is a major potential for nonacceptance on the part of the general public."

In addition, the study found resistance among retailers and fast-food chains, banks and armored-car companies. They were concerned about such everyday problems as handling costs, confusion with the two-bit piece and the "reconfiguration" of cash drawers that would be made necessary by the new coin.

The warnings, like those in 1976, were ignored by the treasury. The reaction of Mint Director Stella Hackel to the Michigan report was to complain that the university had no business testing public acceptance of the Anthony dollar. It was, she said, only supposed to find the best ways to promote the new coin.

A meeting last February of treasury and Federal Reserve officials became emotional and acrimonious, sources told our reporter Adam Pfeiffer. The bureaucrats would hear no criticism of the Anthony dollar. Instead, they tried to blame the Fed for the failure of the two-dollar bill—not to mention the Eisenhower dollar and Kennedy half-dollar before that.

One Federal Reserve official came out of the meeting in a sour mood, with the impression that the treasury people regarded the Fed as "a stodgy old bank that didn't know a damn about marketing."

The treasury is stubbornly determined to make the Anthony dollar succeed, using promotional gimmicks to overcome the public's and the business community's—hostility. So far, the Fed and the treasury have spent about $300,000 each on this effort. But still no one is choosin' Susan.●

SAN JACINTO COLLEGE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. PAUL. Mr. Speaker, this week, in Houston, the cornerstone of the new South Campus of San Jacinto College was laid.

Located near the Sagemont area, the 114-acre campus will be the third campus in the San Jacinto Junior College District.

When completed, the campus will include an administration and classroom building, a bookstore, a student union building, a gym, and labs for nine areas of study.

There will also be an extensive continuing education program.

The South Campus will be under the direction of the very capable Dr. Parker Gregoire, vice president. President of all three campuses is Dr. Thomas Spencer.

San Jacinto College has made a great contribution to the lives of many Texans, and to the communities lucky enough to welcome its campuses. The new South Campus will continue this great record of educational achievement.

Everyone involved deserves our congratulations.●

ENVIRONMENTAL OVERKILL

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, our Nation has taken a leadership position throughout the world in maintaining a clean and healthy environment. In all probability, we have the largest body of environmental law of any country.

Unfortunately, there are times when we have erred on the side of too much protection. In all things, we must keep a careful balance between too much pollution and too much cleanliness.

Two recent incidents have occurred which demonstrate this principle. As many of you know, some small towns in Alaska are being required to install secondary sewage treatment facilities at great cost in terms of money and energy, when there is little if any evidence to show that a secondary treatment plant is in fact needed. However, the law is the law, according to the Environmental Protection Agency, and the plants have now been built. However, due to the high cost of running the plants, some small towns, such as Skagway, have shut their plants down because they cannot afford to keep them running. I ask you. How much time, money and effort would have been saved if we had only required primary treatment?

A second case involves seafood processing plants that are being told to install treatment facilities, even though the product they produce is a natural one that contributes to the marine ecosystem. In one case in California, the marine biosphere was adversely affected when a fish processor was told to clean up by the EPA.

These are obvious cases of environmental overkill. In our zeal to clean up the air and water, a goal which I share, we are overstepping the bounds of reason. I hope that all Members will consider this when they are faced with voting on environmental legislation. Too much can be just as harmful as too little.

Mr. Speaker, I ask that the enclosed editorial by Mr. Henry Lyman, publisher of the Salt Water Sportsman, be inserted in the Record at this point. Mr. Lyman discusses the issues I have mentioned and I think his editorial should be read by all Members of this body.

Beneficial Pollution

The tendency of people and governmental agencies that regulate their activities in this country is to over-correct. If something is wrong, measures taken to correct the error may appear well on paper, yet the practical application right across the board may become ridiculous, and even reverse the original intent of the regulations as originally conceived. In our opinion, somewhere along the line decisions should be tempered with a large application of common sense even though some bureaucrats may froth at the mouth as a result.

A classic example of this problem has appeared in action taken by the Environmental Protection Agency (EPA). In the San Diego area of California, a fish processing plant had discharged effluent from the factory into a relatively deep channel where the currents were swift so that the alleged pollutants were spread over a large area comparatively rapidly. Note particularly that the effluent itself—and this is important—was basically fish scrap composed of bits and pieces which could not be converted economically for use in fishery products or fertilizer. No heavy metals nor disease-producing viruses were involved.

Noting that such discharge was contrary to anti-pollution regulations, the EPA moved in and ordered the factory to alter the discharge so that it poured this same effluent into a shallow water area where currents do not disperse it, where it has festered—for want of a better word—to the extent that oxygen in the water dropped to nearly nothing, and where undesirable growths have ruined water quality and killed the many forms of life that previously existed in the shallows. We do not understand why, but the new discharge meets the paper requirements set forth in EPA regulations. The area has become an ecological disaster.

Formerly, the effluent returned nutrients to the sea to support many desirable forms of microscopic and fish life. The scrap was simply carrying through the basic natural cycle which takes place in the ocean's food chain. Marine biologists have documented this mini-disaster carefully, yet as this is written, the EPA is standing firm and refusing to admit any error. The comments of the factory owners concerning costs of the conversion and its unfortunate results cannot be repeated in polite society.

Although the San Diego case is an extreme one, there are many more along all coasts that might be cited as examples of overcorrection. Obviously pouring raw sewage onto a shellfish bed or dumping toxic chemical wastes into fish-rich waters should not be condoned. However, reasonable amounts of biodegradable wastes, unpleasant as they may be in concentration, may well be used to enrich otherwise barren waters. All too often pollution is a word used to indicate materials which may be foreign to the area into which they are introduced. In truth, such materials, under controlled conditions, may well be extremely beneficial to the environment.

Farming the oceans in a manner similar to farming of the land is a science in its infancy. Enough has been learned, however, to indicate clearly that what may be pollution in one area can enrich another in terms of basic food and fish production. We submit that any regulation of alleged pollution should be studied carefully before it is condemned totally. Rare books should be written with built-in flexibility, not to give polluters a loophole, but to prevent repetition of the San Diego fiasco.

There is a world of difference between a pile of swill and a compost heap. A recent case in the courts made the distinction in terms that even a layman can understand. The swill stank and drew vermin; the compost heap did neither. The EPA and other regulatory bodies might well apply the same criteria to disposal of effluents in coastal waters when benefits to both fish and human life results. In brief, there is indeed such a thing as beneficial pollution.●

HOSPITAL COST CONTAINMENT BILL

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. SHELBY. Mr. Speaker, on September 26 the Interstate and Foreign Commerce Committee passed a hospital cost containment bill that I believe will have a serious detrimental impact on the quality of care the hospitals of this Nation, and particularly my area of the country, are able to provide. The bill would severely limit the amount of money available to support advances in medical science and technology.

This country has made a great and continuing investment in medical research. The work at the National Institutes of Health and at universities and research centers throughout the country has been strongly and continuously supported by the Congress. We must be sure that the results of these efforts are widely available in hospitals throughout the country.

Under the so-called national voluntary percentage limit, the proposed bill restricts the percentage increase for net services—the intensity factor in the formula—to 1 percent per year. This 1 percent is a rigid, precise figure. There is absolutely no flexibility in this item of the bill.

Historically the rate of intensity increase in hospitals has been 5 to 6 percent. It is reasonable to expect hospitals to cut this in half in the name of austerity; it is not reasonable to ask them to essentially forgo all product-improving intensity increases over the 5-year life of this bill.

In an effort to correct this serious defect in the hospital cost containment bill that I and my colleagues will soon be considering in this Chamber, it is my intention to offer an amendment to that bill to change the intensity percentage in the voluntary limit formula from 1 to 3 percent. This percentage increase will allow the development of and access to the technological improvements that we expect and demand in a hospital care delivery, with very little effect on the overall increase in hospital care costs.●

JUSTICE FOR ALL HUMAN BEINGS

HON. DAVID W. EVANS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. EVANS of Indiana. Mr. Speaker, not a week goes by that a Member of this body does not bring to our attention the plight of an unfortunate soul who has been wrongly imprisoned in the Soviet Union. This is as it should be—after all, we have sworn to uphold the Constitution which includes among its purposes the establishment of justice. When given the opportunity, we must cry out for justice for all human beings, no matter what their nationality.

I rise today to bring to your attention the case of Raoul Wallenberg. According to Department of State records, Mr. Wallenberg was assigned to the Swedish mission in Budapest, Hungary, during World War II, and disappeared in January of 1945 following the arrival of Soviet troops in Budapest. After 12 years of refusing to acknowledge that they were holding Wallenberg, in February of 1957 the Soviet Government stated that he had died in a Moscow prison on July 17,

1947. Despite the fact that the question of Mr. Wallenberg's fate has been raised on a number of subsequent occasions, in response to the claims of several persons that they had seen him alive during the 1950's, the Soviet Government claims that "there is, and cannot be, anything new in the case of Raoul Wallenberg."

The Swedish Government and the Red Cross have continued to request information from the Soviets as to the whereabouts of Raoul Wallenberg. When possible, the U.S. Government has made every effort to verify information or assist Swedish authorities.

The Members of this House must not be apathetic about this situation or the situation of the many prisoners unjustly imprisoned in Soviet jails. We must continue to speak out against the deceitful attitude of the Soviet Government with regard to these prisoners. I urge my colleagues to use whatever means are available to bring pressure to bear in seeking the release of Raoul Wallenberg and other prisoners.●

COAL PRODUCTION

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. QUAYLE. Mr. Speaker, during the past 2 years Congress and the administration have wrestled with the problem of developing a national energy policy which will lessen America's dependence on foreign sources of oil. At this moment several committees of the Congress are considering everything from an Energy Mobilization Board, an expensive synthetic fuels development program, to a windfall profits tax—all in the name of winning the war on energy.

There has been a lot of lip service given to stimulating the use of coal. We have heard the President and others describe our country as the "Saudi Arabia for coal." It is time to put those words to action, and I am today introducing a comprehensive bill which would encourage production and utilization of coal as well as generate jobs in an economy hit by both recession and inflation.

The Coal Production and Jobs Creation Act of 1979 can answer both our fuel needs and economic worries. The coal industry has over 100 million tons of idled capacity, which could help us insure that American homes are warm, and the 16,000 unemployed miners could return as productive members of the workforce.

The energy produced from our coal reserves in Eastern and Western mines would give us the capacity to grow industrially instead of shrinking under the $16-billion annual foreign fuel payments.

Since the 1973 Arab oil embargo, consumption of energy has increased 15 percent, we have seen a 33 percent increase in oil imports and a 6 percent reduction in oil production. We have nearly wasted 5 years and played into the hands of the foreign oil sheiks rather than taking steps at home to protect our own industrial capacity and keep our people on the job.

President Carter's National Energy Plan proposed increasing coal production to 1.2 billion tons by 1985, nearly double 1977. This would have us 800 million barrels of oil a year, but the administration has not taken steps so we can realize this increase.

For example, there are 16 major Federal laws affecting coal mining. As a result, it takes longer to permit and construct a western mining and power plant complex than it did for the allied forces to win World War II. Coal prices have tripled over these 10 years, but mining costs have quadrupled in some mines.

As a result of Federal regulations, production in my own Hoosier State totaled 23 million tons in 1978, but only 17.8 million tons were used in Indiana. Industry inside the State was forced to purchase two million tons of foreign coke to make steel.

In order to achieve greater production and use of domestic coal, I am offering a comprehensive, four-point plan.

First, since the fastest and most expeditious way to expand American energy supplies is to shift from oil-burning power to coal power, I suggest a tax incentive for purchase and installation of coal-burning equipment. I would extend the current 10-percent energy tax investment indefinitely. This would give business, industry, and homeowners assurance that the Government is serious about energy and actively supports coal.

A large share of the price paid to the coal producer reflects recovery of the high capital costs of producing coal. Recovery of these costs through our current tax system is inadequate to encourage development.

Rather it is based on the archaic useful life theory which allows little, if any, provision for technological improvements. Depreciation incentives in the U.S. tax system are not competitive with other industrialized nations. This puts our industry at a disadvantage when they attempt to compensate with foreign capital investment in the coal industry, where large amounts of capital are necessary.

Second, we should provide the miners with the fuel they need to find and develop our coal resources. Currently, the coal industry is allocated fuel based on fuel use in 1977, the year of the long coal strike. This is not a fair share of fuel for an essential industry just starting to come into full operation again.

Third, I recommend we give Governors authority to grant emergency suspensions of standards to allow expanded use of coal—provided that national ambient air quality standards are not waived. My proposal also provides that surfacing mining State plans be written to reflect the terrain of each State while at the same time conforming to the act. The bill also provides for a 12-month extension of the implementation deadlines of the State Surface Mining and Control Reclamation Act, compensating States for the tardiness of Federal regulations.

Fourth, we need to provide adequate transportation routes to ease the movement of coal to market. In some areas of the country, coal trains cause substantial delays in highway travel both in the country and mid-sized towns. To avoid this difficulty, this bill would offer cities and States assistance in building bridges where there is substantial increase in the use of rail and coal-truck traffic.

These steps need to be taken if we are to produce and utilize our country's most valuable energy resource—coal, which is essential to this country's economy, security and social welfare.

HYDROELECTRIC POWER AT ALTON LOCK AND DAM 26

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. FINDLEY. Mr. Speaker, today I join with my colleagues MEL PRICE and HAROLD VOLKMER in introducing legislation which will authorize inclusion of a hydroelectric generating plant at the new facility at lock and dam 26 on the Mississippi River which is about to get under construction.

Several years ago we asked the Corps of Engineers to consider the economic feasibility of generating electricity at the new Alton dam. The report that we got back from the Director of Civil Works in January of 1978 was that "at this point in time, the hydropower project does not appear to be economically feasible; however, if electrical energy costs continue to increase at a faster rate than construction costs the addition of hydropower may be justified in the future."

Things have changed. Today, the Corps thinks that it probably makes economic sense to add electric generating capacity to the new Alton Lock and Dam. And, we have been assured by district engineer Col. Robert J. Dacey, with whom we recently met, that this change in design will not delay construction of the facility in any way. Construction of the lock and dam is currently anticipated to take 8 years, and Dacey will be the officer charged by the corps with completing the project.

In an era when conventional sources of energy such as petroleum, coal and nuclear power are coming under increasing fire because of their environmental impact and costs, using a proven technology that has little environmental risk, such as hydroelectric power, seems highly desirable. Hydroelectric power would also be less costly in the long run as OPEC and Government regulations boost ever higher the cost of oil, coal, and nuclear power.

One Government study estimates that if all of the dams on the Mississippi River were equipped with electric generating capacity, they could produce nearly 2,400 megawatts of power, enough to light the city of Alton nearly eight times over.

It is clear that now is the time to plan for the building of a hydroelectric generating plant at lock and dam.●

CENTENNIAL OF THE NORTHFIELD MOUNT HERMON SCHOOL, NORTHFIELD, MASS.

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. CONTE. Mr. Speaker, I would like to take a few moments to commemorate the beginning of the celebration of the 100th anniversary of one of the most prestigious secondary schools in the country. Northfield Mount Hermon School, located just outside of Greenfield, Mass., has for 100 years exemplified quality education not only to its some 20,000 graduates, but also to the community-at-large, other institutions of higher learning, and its friends around the world.

When evangelist Dwight Lyman Moody founded the Northfield Seminary and the Mount Hermon School for Boys in 1879, he used the following words to express his thoughts on the kind of education that the two institutions would engender:

> Develop the hand, the head, and the heart. If one of these must be more important than the others, let it be the heart that distinguishes education here.

And indeed, to this day, the school has had unmitigated success in this pursuit.

Since the school was founded, it has been totally dependent on student help. The development of the hand, which Moody considered valuable in understanding the virtues of a good day's work, has become at Northfield Mount Hermon a model program observed by many educators as worthwhile not only in cutting ever-rising costs, but also in raising student morale and consciousness. Moody's original idea of student farm and kitchen help has blossomed over the years to include community outreach as well.

When discussing the development of the head, it is important to note that the academic reputation of Northfield Mount Hermon is unquestionable around the world; 99.5 percent of its students go on to colleges, among them the most prestigious in the country. Although Moody himself had little formal education, he recognized the value of a liberal arts education encompassing all disciplines—the arts, classics, sciences, and social sciences—to complement any achievement in later life.

Yet, to Moody, the development of the heart remained the most important. All of Northfield Mount Hermon's students are encouraged through academic work, campus employment, athletic training, and the study of world religions to develop their own sense of values. The school has always encouraged all students to apply for admission, and has a fine record in insuring that their student body is necessarily wealthy in spirit and enthusiasm, and not exclusively wealthy in dollars.

The social rules followed in the campus residences are applied to the school community, and in turn applied to the surrounding world. Thus the religious dimension of personal growth is stressed in an holistic sense, not only in each student's private world.

The two campuses, male and female, of the Northfield Mount Hermon Schools were merged under one administration in 1971, and the tradition of educating the secondary school student in the ways of the world continues to flourish today. Recently, two of the school's most successful graduates were asked to express their feelings on Northfield Mount Hermon.

"There are many, many things to note about the Northfield Mount Hermon School as it concludes its first 100 years and looks to the future," notes Lucy Wilson Benson (Northfield 1945), Undersecretary of State for Security Assistance, Science, and Technology.

> One, of course, is its academic quality and the fact that Northfield Mount Hermon is an opportunity school which has tried throughout its history to be available to the maximum number of students, regardless of their financial ability. Northfield Mount Hermon has achieved a well-deserved reputation for instilling in its students a sense of excellence, a feeling of integrity, and an understanding of the need for self-reliance coupled with a sense of responsibility for the community—local, state, national, and international.

David Hartman (MH 1952), host of ABC–TV's "Good Morning America" has stated that—

> Northfield Mount Hermon offers the best academic education in America, and at the same time prepares young people to live in the *real* world. They are stimulated to find a true sense of self . . . who am I? Mostly, the Northfield Mount Hermon students, with enthusiasm, are challenged to use their capabilities for more than self-gratification.

Although founder Dwight Lyman Moody captured world renown for his evangelistic activities, his schools remained the closest to his heart. Moody's own selfless visions are embodied today not only in every student that has passed through the gates of Northfield Mount Hermon, but also in the lives that each of them has touched. I congratulate the Northfield Mount Hermon School on its 100th anniversary, and wish it many more years of developing the hands, heads, and hearts of your young people.●

ROLE OF HADASSAH WOMEN IN STATE OF ISRAEL

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. LEWIS. Mr. Speaker, Hadassah women have constantly played a distinguished role in the Zionist effort to rebuild and sustain the modern State of Israel. Significant projects in medicine, education and child rescue speak of their humanitarian concerns.

As is the case with any organization, the success of Hadassah is a direct reflection upon the quality of its leadership. It is with great pride I recognize one of the special women who has contributed to the success of this organization.

Mrs. Ethel Stein has volunteered time and again to share part of her life with Hadassah. From the strength of her convictions she has encouraged the involvement of countless others. One can only marvel at her irresistible appeal in recruiting new members to support and strengthen Hadassah's goals. In every executive position her enthusiastic sense of humor has brought a fresh and provocative vitality to decisionmaking.

Her compassionate nature spills over into the community at large, where she serves in Hadassah's local program of crisis intervention. In every involvement Ethel and her husband, Ed, share a tremendous generosity of spirit, and as a family, the Steins have endeared themselves to our community by their tireless efforts on behalf of others.

Mr. Speaker, I take this opportunity, on behalf of all her friends to commend Mrs. Ethel Stein for her many contributions to Hadassah and to our community as a whole.●

OIL DRILLING COSTS ESCALATE

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. COLLINS of Texas. Mr. Speaker, when I was in Texas 2 weeks ago, I was visiting with some geologists and asked them to give me specific examples of how oil well drilling costs are going up. Let me give you these facts as passed on to me by John D. Sistrunk, Jr., who is a petroleum geologist in Dallas doing work all over the southwest.

I quote Sistrunk's statement:

> In December, 1976, we completed a gas well to a depth of 13,010′ in Freestone County, Texas, for a total cost $853,000. In April, 1979, we completed a gas well in Limestone County, Texas, located approximately 7 miles from one in Freestone County, to a depth of 12,632′ for a total cost $1,645,954. Both of these wells are producing from the same formation and underwent similar treatment prior to completion. The majority of the additional costs on the later well are due to labor, increase in material cost such as steel, mud and services. Incidentally, both wells produce approximately the same volumes of gas per day.
>
> In August, 1979, we abandoned a 12,000′ dry hole, located in this same area, after an expenditure of $1,637,760. This well was extensively tested to no avail.

Here is a 2-year period. The cost of drilling wells doubled. Also notice the cost of a dry hole. But the cost of dry holes is not taken into consideration in our floor debates.

Wells are costing twice as much to drill, but recovery of capital investment extends over a long period of time. Since Government regulation entered the price control picture 6 years ago, the independent oil men lack capital for increasing costs needed to drill wells.

Staying on their normal cash flow, their cash was only about to drill half as many wells. With inflationary costs, we need to accelerate cash flow to local independent producers.

The economic pressure in this country is coming from excessive imported oil. Six years ago this country imported $3 billion of Arab OPEC oil. This year we are importing $60 billion of Arab OPEC oil. The financial pressure developing within this country from massive oil imports has a severe adverse effect on our domestic economy.●

VERY SERIOUS CORRESPONDENCE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. ASHBROOK. Mr. Speaker, I admire a President who keeps in touch with his friends in Congress. Columnist James Reston, in today's Washington Star, gives us an example of a Chief Executive who does just that. Mr. Reston rarely criticizes a liberal President, so things really must be bad at the White House. Mr. Reston has published a series of letters which apparently traveled between the Oval Office and an unnamed Senate office building.

Mr. Reston deserves a pat on the back for breaking this story and stressing the importance of open communication channels between the executive and legislative branches. I urge my colleagues to read this excellent article:

A VERY SECRET CORRESPONDENCE

(By James Reston)

DEAR SENATOR: I don't want to make a habit of this, but during the campaign, I hope we can write in the uttermost privacy to one another. Otherwise we're likely to be misrepresented.

When I talked in public the other day about the importance of leadership and not panicking in a crisis, I was not thinking of Chappaquiddick but actually about the sad collapse of the Boston Red Sox whose misfortunes grieved us both. But you know how these newspaper reporters are!

P.S.: You'll be glad to know that I also have my mother's consent to seek reelection.

DEAR MR. PRESIDENT: Thanks for your courteous note. We don't really differ on this question of character in public office. I have been impressed by the way you have handled this character issue in the cases of Bert Lance, Hamilton Jordan, Dr. Peter Bourne, and others.

P.S.: Give my regards to your brother Billy.

DEAR SENATOR: I want to thank you most sincerely for the support you have given me on the SALT II treaty with the Soviets. Next to uncontrolled political races, nothing seems more dangerous to me than an uncontrolled nuclear arms race.

With you in charge of the Senate Judiciary Committee during the next six years, I feel confident that together we can meet these grave threats to the peace of the world from the Soviet Union and Cuba.

P.S.: I am not my brother's keeper.

DEAR MR. PRESIDENT: In your last note, you mentioned Cuba, and this reminds me of how much we have in common. Your handling of the latest crisis in Cuba is reminiscent, in my mind, of the way my own brother Jack handled the Bay of Pigs invasion.

Both of you demonstrated how to be bold and what "leadership" really means, but as Jack said when it was all over—this is very private of course—"I wish I'd panicked in that crisis."

P.S.: Your courage during the attack by that killer rabbit in Georgia was magnificent.

DEAR SENATOR: I forgot to mention in my previous letters one other important thing our families have in common. Your brother John ended the prejudice against a Catholic president in the election of 1960, and I ended the prejudice against a Southern president in the election of 1976.

In light of these common achievements, shouldn't we concentrate now on party unity in order to defeat the Republicans?

P.S.: I am thinking of holding a political rally on Chappaquiddick. Would you like to join me there?

DEAR MR. PRESIDENT: I agree that party unity is desirable. I remember how you led all the popularity polls at the start of the 1976 campaign and deferred to Humphrey, Jackson, and Udall out of modesty and deference to the old-guard. Also how you finally prevailed, with the help of the unions, the blacks, the Jews, and all the rest of the old New Deal types.

But as Jack once said, "Life is unfair," and I just had this idea that despite your excellent record of holding the party together, maybe it could use a little help from me.

P.S.: I wonder if it's worth your time to go to Chappaquiddick—not many votes there.

DEAR SENATOR: I have glanced at the polls lately and marked their progress. At this time in the last election, I had less than 3 per cent support and now I have 19 per cent. Not even the inflation has gone up that high in the last three years.

But if you decide to divide the party and hand over the election to the Republicans, I'll make you an offer: If you'll stop telling lies about me, I'll stop telling the truth about you.

P.S.: Rosalynn is having an ice-cream social on the White House back porch next Wednesday evening and we're especially eager to have you join us.

DEAR MR. PRESIDENT: I was sorry to see that you dropped out of that race the other day in Maryland, and wondered if there was any significance to that incident.

I trust you are now in good health and spirits and will not allow your official duties to interfere in the future with your jogging.

DEAR SENATOR: I appreciate your solicitous note, but hope you will not be deceived. I didn't drop into the White House in order to drop out.

P.S.: How would you like to jog for a few miles with me next Sunday before church?●

THE ANNIVERSARY OF THE ITALIAN-AMERICAN CLUB OF LIVONIA

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. PURSELL. Mr. Speaker, it is with great pleasure and pride that I am able to inform my colleagues that on Sunday, Oct. 7, the Italian-American Club of Livonia, Mich., will be celebrating the anniversary of its establishment.

The club has instilled itself for 2 years as an integral part of the Livonia community, and has a firm reputation for constructive community service.

In addition I can note no better function than that of fellowship and brotherhood which will result from the assemblage of the 1,200 Italian-American people of the Livonia community in unity and symbolic bond.

I share with my colleagues in wishing the Italian-American Club of Livonia much success, health and solidarity. Saluto.●

MINIMUM WAGE, MAXIMUM FOLLY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, Dr. Walter E. Williams, associate professor of economics at Temple University, deserves hearty commendation for his excellent economic research in the area of youth and minority unemployment. Dr. Williams' studies have carefully documented the devastating effects of price controls on wages.

A wage is, in fact, a price—a price for labor. Our energy policy has taught us the consequences of tampering with prices. By setting a maximum price for fuel supplies that is less than the market would bring, we have created shortages of energy. But this is only one example of how attempts to manipulate market prices cause more harm than good.

By setting a minimum price—through Federal loans to farmers to hold their commodities off the market—for wheat that is more than the market would bring, we have created surpluses of grain. Then, of course, the surpluses have depressed grain prices in the following year. The minimum wage has the same effect, except that the surplus created is a labor surplus, or in other words, unemployment. Dr. Williams documents that the unemployment caused by the minimum wage is targeted at those who can least afford it, the young and the disadvantaged.

Dr. Williams brilliantly dissects the consequencies of well-meaning laws that tamper with prices. I am pleased to see scholars with the insight and courage to examine the actual impact of popular programs. Moreover, I salute Robert F. Dee, chairman of the board for the SmithKline Corp., whose corporation paid to print Dr. Williams' article in a recent edition of Newsweek.

The article follows:

ECONOMIST WALTER E. WILLIAMS CHALLENGES DISADVANTAGED AMERICANS DISADVANTAGED

Federal minimum wage laws represent a tragic irony. In the name of "preventing worker exploitation", "providing a living wage", and "reducing poverty", these measures in fact impede the upward mobility and increase the dependence of the most disadvantaged among us.

National leaders, including black leaders, fail to recognize that many economic problems faced by a large segment of the black population (and other minorities) are but a special case of problems for Americans generally: government-imposed restrictions on voluntary exchange.

THE STRANGE HISTORY OF BLACK YOUTH UNEMPLOYMENT

Today's youth joblessness is unprecedented; nearly 40 percent among blacks and 16 percent among whites, nationally. Black youth unemployment in some major cities is estimated to be 70 percent.[1]

In dramatic contrast, black youth unemployment in 1948 was 9.4 percent and white youth unemployment was 10.2 percent. In further contrast to today, until 1954 blacks in every age group were at least as active in the labor market as whites were.

These facts demand that we challenge the official and popular explanations of current black youth joblessness. Employers have not become more racially discriminatory. Black youths of earlier times were not better skilled or educated than their white counterparts. Neither can we attribute the problem to slow economic growth. Even during the relative prosperity of the sixties and parts of the seventies, black youth unemployment rose—both absolutely and in relation to white youth unemployment.

The real explanation lies in the limitations of law itself. By increasing the minimum wage, Congress has caused a significant loss of job opportunities for young blacks. When employers are required to pay a minimum labor price of $2.90 an hour, they have no economic incentive to hire workers whose labor value, in the production of goods or delivery of services, may be only $2.00 an hour.

Congress can legislate a higher wage, but it cannot legislate that workers be more productive. Because Congress has not yet seized complete control of personnel operations in private firms, the minimum wage law thus discriminates against the low-skilled.

BASIC ECONOMICS, PRACTICAL POLITICS

A law that reduces opportunity for some almost always increases it for others. To see how the minimum wage law accomplishes this, recognize, as economists do, that low-skilled labor and high-skilled labor can often be substituted for each other.

Imagine an employer can build a particular fence by using three low-skilled workers each earning $14 a day ($42 total labor cost per day), or by using one high-skilled worker who earns $38 a day. To minimize labor costs, the employer hires the high-skilled worker.

But suppose the high-skilled worker suddenly demands $55 a day. The fence firm then hires the three low-skilled workers, and the high-skilled worker loses his job.

On the other hand, the high-skilled worker may understand politics and economics. He may now join with others himself and lobby for a minimum wage law of $20 a day (claiming noble motivations like "prevention of worker exploitation" and "provision of a living wage"[2]).

Once the $20 minimum wage is law, the high-skilled worker can demand and get his $55 a day—because it now costs $60 to build the fence using low-skilled labor. By law, the high-skilled worker's competition is priced out of the market.

AN INCENTIVE TO DISCRIMINATE

Aside from causing unemployment for some, the minimum wage law encourages racial discrimination. If an employer must pay a minimum of $2.90 an hour no matter whom he hires, he may as well hire someone whose color he likes. Economists would explain this by saying that the minimum wage law prevents the worker from offering a "compensating difference" for less-preferred characteristics.

The same principle applies to groceries. Less-preferred chuck steak can compete with more-preferred filet mignon only by offering a compensating difference—a lower price. If we had a minimum price law for steak of, say, $4 a pound, sales of chuck would fall relative to sales of filet. Because uniform minimum price laws encourage people to discriminate against goods and services they perceive as less valuable, chuck steak would be "unemployed."

The minimum wage law's powerful incentive for racial discrimination is clearly illustrated in South Africa. There the white unions are the strongest supporters of minimum wage laws and their counterpart, "equal-pay-for-equal-work for blacks! There, unions advocate these laws with the stated purpose of protecting white jobs against black competition.

THE BURDEN ON THE YOUNG

Young people suffer most from any law that discourages employment of low-skilled workers, simply because the young normally have the lowest skills.

If joblessness merely deprived young people of pocket money, we might shrug it off as another minor consequence of foolish government intervention. But early work experience produces more than money. It teaches job-search skills, effective work habits and respect for supervisors. It produces pride and self-respect. It lets a worker make mistakes when they are not terribly costly—when there are probably no dependents counting on the worker for continuous income. These labor market lessons are critical, particularly for minority youths who attend grossly inferior schools, where these lessons are not learned.

Moreover, an absence of job opportunity may account for much of the crime and other antisocial behavior among many of today's youth.

GOVERNMENT PRIVILEGES—GRANTED TO SOME, DENIED TO OTHERS

Many other restrictive laws grant monopoly power to the few at the expense of the many. This not only makes us a poorer nation but also heightens conflict between classes of Americans.

These laws handicap minorities, even though racial discrimination is not their intent. Occupational licensure and business regulation laws deserve special mention. Taxi licensure laws in most cities are among the most flagrant forms of monopoly and collusion.

In the 1920's, a poor, industrious immigrant in New York City could buy a used car, paint "Taxi" on it, and be in business. Today's poor New Yorker must have not only a car but also $60,000 for a taxi license.[3] In Boston it's $45,000. In Philadelphia, $35,000. In Chicago, $40,000.

There is no social justification for such entry costs. They serve only to protect the incomes of incumbent taxi owners and deny people the opportunity to enter a business whose skill and capital requirements are low.

Washington, D.C. is unusual. There, fees to own and operate a taxi are under $100. As a result, there are more minority owner-operators (as a percentage of minority population), the ratio of taxis to population is higher (8,400 taxis in Washington, 11,700 in New York, 600 in Philadelphia, 4,600 in Chicago), and taxi fares are lower than they are in most cities.

HOW GOVERNMENT CHASES ITS TAIL

When government confers a privilege on one class or group of citizens, it usually creates a disadvantage for another. Then, of course, it has to do something for the newly disadvantaged. This creates a disadvantage for another group and the cycle continues ad infinitum.

For example, the Davis-Bacon Act requires contractors to pay "prevailing wages" on Federally funded construction projects. This discriminates against non-union building contractors. Because most black contractors are non-union, the law inadvertently discriminates against blacks.

The government has responded to the disadvantages of minority contractors by setting racial quotas——setting aside 10 percent of Federal contracts for minority firms. These "set-asides" are now being challenged in the courts by white contractors who feel injured. More appropriate would be a court challenge of the Davis-Bacon Act.

But racial conflict, though significant, is a minor effect of government-created advantages and disadvantages. Most often this process has nothing to do with race.

WE ALL PAY FOR THE POVERTY INDUSTRY

America has legislated a host of costly social programs to fight the ill (but unrecognized) effects of laws that deny upward mobility to the disadvantaged. Without such laws we could do without many expensive Federal agencies (like the Equal Employment Opportunity Commission and most of HEW). The fact remains, at all levels of government $250 billion is spent annually in the name of fighting various aspects of poverty.

If we simply gave that sum to America's poor, each family of four would receive about $34,000 each year. But most of it goes instead for salaries and overhead to run the growing poverty industry. This is like feeding the horses in order to feed the sparrows. An acceptable, perhaps inevitable method—if one is a horse.

PRESCRIPTION FOR PROGRESS

Disadvantaged minorities do not need government programs that generate paternalism and dependency. They have secured their Constitutional guarantees. Now they need only legal changes that foster and promote a freer economy.

As a nation, we should: (1) exempt young people from the full requirements of the minimum wage law, (2) modify national labor law to allow free access to jobs, (3) reduce occupational licensure and business regulation restrictions, and (4) provide mechanisms for delivering higher quality education.

If we take these steps, today's disadvantaged minorities will melt into the economic mainstream en masse, as have other disadvantaged minorities—minorities fortunate enough to have become urbanized before America had so many laws that cut the bottom rungs off the economic ladder.●

THE FEDERAL BUDGET FOR 1980

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. PAUL. Mr. Speaker, last night this House passed the second concurrent resolution on the budget for 1980. The final figures included in that resolution were expenditures, $548 billion, taxes $519 billion, with a deficit of $29 billion. Assuming that there are 220 million people in this country, those figures translate into a Federal tax burden of $2,359 for every man, woman, and infant alive today, or $9,426 for a family of four. The spending level passed by the House means that each family of four will have to shell out $9,960 during 1980 to support the programs of the Federal Government. When one considers the fact that median family income is about $18,000 per year, it is obvious that the tax burden in this country is enormous, approximately 50 percent of family income. This massive theft of property by the Federal Government, it is well to remember, has been perpetrated by those who claim to be for the "people," who are concerned about "people." I fail to see how confiscating 50 percent of a family's income demonstrates any concern about people. It is, rather, a demonstration of the crassest type of politicking, the type that cares not how much suffering may result so long as the politician remains in office.●

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[1] If we include youths not in school, not employed and not looking for work.

[2] Some support the minimum wage as an anti-poverty policy. But no more than 12 percent of the labor force works at the minimum wage, and virtually all these are either single, teenagers or part-time workers. For single persons, annual income from minimum wages long ago exceeded even today's poverty standards. Furthermore, if minimum wage laws could eliminate poverty, the Third World could become as rich as we simply by legislating higher minimum wages.

[3] A number of people, mostly blacks and hispanics, have ignored the city-granted monopoly and have entered the "gypsy" taxi industry. They are earning an honest, albeit illegal living.

PAYING LEISURE, TAXING WORK

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. BROWN of Ohio. Mr. Speaker, there have been a number of articles in newspapers, magazines, and technical economic journals in the past year or two condemning Keynesian theory. It is a theory which deals almost entirely with national totals and multibillion dollar cash flows. It takes no notice of the individual, the factors and incentives that motivate him, or the perfectly natural reactions that individuals might have to well-meaning but ill-constructed government policies.

One area in which economic policy has boldly ignored the theory of individual choice is the relationship between unemployment compensation and rising payroll and personal income taxes. Over time, we have permitted payroll and income taxes to rise as a percent of income to such an extent that after tax take-home pay has fallen sharply relative to unemployment compensation. The General Accounting Office reports that this has produced a sharp drop in the financial incentive for the recipients of unemployment benefits to find jobs.

Furthermore, the GAO reports that some of these recipients have responded in perfectly predictable fashion—they have taken longer to look for work. Also predictably, the Labor Department has rushed in to defend the program, without actually being able to refute the basic point.

Unfortunately, the GAO recommends that Congress remedy the problem by making unemployment benefits less attractive by taxing them. A far more productive solution would be to make earnings more attractive by lowering the tax rates on income.

These disincentive effects of taxes and unemployment compensation on work effort are not a freak accident of the data. They are an enduring phenomenon across time and across oceans, everywhere, in fact, that human nature is the same. Dr. Paul Craig Roberts, in a recent Wall Street Journal column, reports on a study done of unemployment in Britain in the 1920's and 1930's. Several times in that period, the dole was increased sharply. Each time, the level of unemployment jumped, with no preceding fall-off in GNP at which to point the finger of blame.

In recent years, rising tax rates and welfare benefits in the Netherlands have had a similar impact, as Pieter Korteweg reports in another Wall Street Journal piece. Tax and welfare payments "have dramatically increased the 'wedge' between wages before and after taxes, and have sizably decreased the 'wedge' between income from work and income from inactivity." As a consequence, even in good times, the basic Dutch unemployment rate has jumped from about 1 percent in the early 1960's to 5 percent in the late 1970's.

Apparently, the Western World is not going to cure its problems of inflation, unemployment, and stagnation until it brings the individual back as the focal point of economic theory and political concern. Only then will we see the end of the tax, tax, spend, spend school of political economy, and return to a time of economic and social progress. In fact, this is precisely the goal of the supply side economics which has stirred so much interest among economists, journalists, and policymakers in recent months.

The articles follow:

[From the Wall Street Journal, Aug. 29, 1979]

Jobless Benefits So Generous, GAO Says, That Many Recipients Quit Seeking Jobs

Washington.—A congressional watchdog agency says unemployment insurance benefits have become so generous that many recipients lack financial incentive to get a job.

In a 51-page report that's almost certain to generate controversy, the General Accounting Office urges Congress to require recipients to pay taxes on jobless benefits. Currently, they're only taxable for the small number of recipients who have relatively high incomes.

The GAO interviewed 3,000 recipients in 10 states in the spring of 1978. The agency later sent questionnaires to 2,785 of the 3,000, of whom 2,100 responded.

"We found that compensation, either alone or combined with other income, replaced an average of 64 percent of a recipient's net income before unemployment," the GAO says. Moreover, the agency found that the higher the proportion of income replaced by jobless benefits, the longer the recipient remained unemployed.

Nominally, the GAO notes, the benefit formula in most states remains the same as it was in 1935, when the unemployment-insurance system was set up. Most states still pay eligible unemployed workers 50 percent of their gross income while employed.

But in 1935, the average worker's after-tax take-home was about 92 percent of this gross income, whereas today it's only about 82 percent, according to the GAO. Thus, "although unemployment compensation still replaces about 50 percent of gross wages, due to higher taxes it tends to replace 60 percent or more of net wages," the GAO calculates. "This is one reason why many recipients don't have a financial incentive to seek and accept a job."

Moreover, the GAO says, some recipients today, unlike 1935, also receive Social Security or private pension benefits. Among those the GAO surveyed, 8 percent were receiving some type of retirement income as well as unemployment benefits. On the average, they tended to draw jobless benefits about three weeks longer than those without retirement income.

The GAO recommends that states reduce a recipient's jobless benefits by the amount of any retirement income.

The Labor Department, which administers the federal part of the federal-state jobless insurance system, criticized the GAO report on a variety of grounds, mainly technical. The department also complained that the GAO hadn't focused any attention on the fact that some recipients' jobless benefits fall well below 50 percent of income because of the "caps" states put on benefit levels.

By the GAO's own data, the department said, "as many as 31 percent of the claimants received less than 50 percent of their net lost income, and as many as 6 percent received less than 30 percent of their net income loss."

The GAO figures also show, however, that about 25 percent of the recipients replace over 75 percent of their prior income, and that those 25 percent tended to draw benefits about two weeks longer than those that replaced less than 75 percent.

An AFL–CIO jobless-insurance expert, Bert Seidman, criticized the GAO's recommendations and urged Congress to refrain from acting on them until it hears from a national study commission that is reviewing similar issues.

[From the Wall Street Journal, Aug. 16, 1979]

Phantom Employment

(By Paul Craig Roberts)

From 1921 to 1938 the measured rate of unemployment in Britain averaged 14 percent and never fell below 9.5 percent. The persistence of unprecedented high unemployment convinced John Maynard Keynes that insufficient aggregate demand was the cause and government deficit spending was the remedy. The appearance of his "General Theory of Employment, Interest and Money" in 1936 launched our era of demand management and budget deficits, culminating in rising inflation rates, stagflation and controls.

All for naught, say University of Washington scholars Daniel Benjamin and Levis Kochin. Reporting the results of the research on unemployment in interwar Britain in the June issue of the prestigious Journal of Political Economy, the scholars confidently state: "The army of the unemployed standing watch in Britain at the publication of the General Theory was largely a volunteer army." It was an army not pushed out of employment by insufficient aggregate demand, but pulled into unemployment by unprecedented high unemployment benefits.

Prior to 1920 and in the years just after World War II, the ratio of unemployment benefits to wages was low and did not have a substantial effect on the measured rate of unemployment. A big jump in benefits and coverage in 1920 ushered in a decade of legislation that progressively liberalized the benefits and reduced the requirements. By 1936 when the ratio of unemployment benefits to wages was at its peak, the unemployment insurance system had raised the unemployment rate by 6.5 to 10 percentage points. Over the 1920–38 period as a whole, professors Benjamin and Kochin find that the "insurance system raised the average unemployment rate by about five to eight percentage points."

Winston Churchill, who was responsible for the original unemployment insurance legislation, complained that the liberalization of the system had inflated the unemployment figures. He was concerned that the bogus figures would misdirect public policy and urged that they be disregarded. He didn't expect his advice to be followed because, as he put it, everyone could use the unemployment figures for advocating their schemes.

The fact that subsidizing leisure raised the unemployment measure will surprise no economist. But shattered and reeling Keynesians will demand the evidence. Suffice it to say that Benjamin and Kochin's empirical evidence survives the statistical tests and is far better than any evidence behind the Keynesian assertion that the unemployment was involuntary and caused by insufficient aggregate demand.

The professors add to their case by examining the behavior of juvenile unemployment and the effect of changes in the insurance system on the unemployment rate among married women. The juvenile work force was quite large with compulsory schooling during the period ending at age 14. Yet juvenile unemployment averaged 5 percent during the same years that the overall unemployment rate averaged 14.6 percent. Moreover, the unemployment rate jumped sharply at age 18 and again at age 21. Unemployment among persons aged 18–20 was about double that of juveniles, and the rate for the 21–24 age group was about 50 percent higher than for the 18–20 age group.

The disparity in unemployment is explained by the disparity in benefits. The benefit rate for juveniles was low, and many could collect no benefits. At age 18 the benefits doubled, and they increased an additional 50 percent at age 21. As the system paid additional benefits for dependents, the span from age 16 to 21 saw a jump in unemployment benefits of more than 250 percent. Wages did not rise nearly as rapidly over this age span, so there were big jumps in the ratio of benefits to wages at ages 18 and 21 corresponding to the jumps in the unemployment rate.

In 1932 the unemployment rate for women fell sharply. The explanation is simple. Benefits paid to married women were reduced as a result of changes making it more difficult for women who were not in the work force to become "unemployed." As the rewards for being unemployed fell, so did measured unemployment.

Almost any system of unemployment benefits will cause measured unemployment to rise for two reasons. Some people will move out of paid work and into paid leisure. Others who would have chosen leisure anyway will simply contrive to avail themselves of the benefits. Governments can always add to the measured rate of unemployment by being more compassionate.

The professors' findings clear up a paradox that has long puzzled economists. The growth in British real income between 1920 and 1938 was as rapid as the country ever achieved over a period of comparable length, rising by one-third. By the end of the period there was a new England with "a general spread of prosperity unequaled in prior British history." These facts don't easily reconcile with a 14 percent rate of involuntary unemployment. Now we know that except for the depressions in the early 1920s and early 1930s, the unemployment rate was measuring the voluntary response of people who were capitalizing on a system that made leisure lucrative. Given the level of benefits, "the British economy was fully employed at 10 percent unemployment."

It is no wonder Keynesians failed to grasp the economics of unemployment benefits. After all, their economic world is ruled by the mythical King Demand who permits no incentives or relative prices in his realm. Thanks to scholars like Benjamin and Kochin, science is steadily encroaching on the reign of Keynesian superstition.

[From the Wall Street Journal, Sept. 14, 1979]

COST OF UNLOCKING THE FLOODGATES IN THE NETHERLANDS

(By Pieter Korteweg)

ROTTERDAM.—Taxes in the Low Countries are high.

Tax plus non-tax revenue as a percent of national income in Holland has risen to 37 percent in the 1975–'79 period from 29 percent in the 1960–'64 period. Social Security taxes as a percent of national income have risen to 20 percent from 9 percent over the same span. The total government levy, as a result, has increased to 57 percent from 38 percent.

The tax burden has become this high, and tax revenues this large, with the best of intentions: to give Dutch capitalism a human face through the buildup of a well-equipped welfare state. Most of the taxes collected were spent on such items as subsidies, income transfers, and welfare payments. The following table tells the story:

	(1)	(2)	(3)
Years:			
1960–64	20	21	41
1965–69	22	26	48
1970–74	22	30	52
1975–79	24	37	61

[1] Government consumption, investment, wages, etc., as percentage of national income.

[2] Transfers, subsidies, social security payments, as percentage of national income.

[3] Total government expenditure as percentage of national income.

The welfare state inclination of Dutch governments carried far-reaching redistributional consequences in its wake. This can best be seen by looking at the next table, which summarizes who paid the taxes and who got the benefits.

[As percentage of national income]

SOURCES

	1960–64	1970–74	1975–79
Business	16	19	20
Families	22	32	37
Total tax burden	38	51	57

BENEFICIARIES

	1960–64	1970–74	1975–79
Government	20	21	22
Business	4	4	4
Families	17	27	35
Total expenditures	41	52	61

Via consumption and investment, government has benefitted most from the unprecedented growth of the Dutch welfare state. Families as a whole have contributed slightly more to government than they received from it; within this group, however, a sizable redistribution of income has taken place from high to low income families. The brunt of the welfare state seems to have been borne by business.

The growth of taxation and the welfare state in the Netherlands, and the redistribution of income from capital to labor accompanying it, have not been without consequences. The rising burden of social security taxes borne by producers has raised their unit labor costs much faster than prices, thereby draining their profits. Private capital's share in Dutch national income has dwindled from 30 percent in 1960 to only 10 percent in 1979, while labor's share has gone up from 70 percent to 90 percent. This tapping of capital income through growing social security taxes has dealt a major blow to private capital investment activity in the Netherlands to the extent that new investment is virtually nonexistent. As a result, output growth is stagnant in the Netherlands, with the growth rate reduced from more than 5 percent on average during the 1960s to about 3 percent on average during the 1970s.

Moreover, the rising tax burden and the growing amount of welfare payments as a fraction of income have dramatically increased the "wedge" between wages before and after taxes, and have sizably decreased the "wedge" between income from work and income from inactivity. Employer decisions to hire, however, are based on gross labor costs, and employe decisions to work on after-tax take home pay relative to after-tax welfare payments. Consequently, the rising tax wedge between gross and net wages, and the dwindling wedge between income from work and income from welfare reduces people's inclination to offer and accept work, and induces them to register as unemployed, ill or disabled.

The result has been an increase in the Dutch rate of unemployment from about 1 percent of the labor force in the early 1960s to a stable 5 percent in the second half of the 1970s. Sick-leave rates have jumped from around 6 percent in the early sixties to around 12 percent in the * * * ably shipbuilding and car manufacturing) reporting sick-leave rates up to 30 percent.

In the summer of 1978, the current Dutch government of Conservatives and Christian Democrats launched a government program known as Blueprint 1981 in an effort to halt Dutch stagnation by halting the excessive growth of the welfare state. The diagnosis offered in Blueprint 1981 seems largely correct. The actions proposed to stabilize the share of government in national income at its 1978-level and reduce the unemployment rate to 3 percent consist of a cut-back of planned government outlays up to 1981 of $5 billion. Government spending this year will be about $85 billion.

Studies by the author show that this proposed cut-back is much too timid to reach its goals; rather, a cut-back of about double the amount seems needed. Moreover, the measures needed to achieve any cutback are proving difficult to carry through Parliament, owing to the extremely thin majority of the coalition backing the current government. In the meantime, sizable cut-backs have become all the more inescapable now that the growth of government revenues is down, owing not to slack in the economy but to the fact that 1979 inflation came down to around 4 percent.

The Dutch government's budget deficit already runs at a record level of 6 percent of national income, compared to about 5.2 percent for the U.S. government and its agencies. This has triggered strong opposition from the Dutch Central Bank, which has tightened up sharply on the money supply. Interest rates are now more than twice the rate of inflation. All signs indicate that the new budget proposal for 1980—to be introduced next week—will announce tax increases and a heavier overall tax burden in order to keep the budget deficit from growing.

What is needed to get the Dutch economy moving and restore its health again is that its tax burden be permanently lowered rather than increased.

(Mr. Korteweg is a professor of economics at Erasmus University, Rotterdam, and an adjunct-scholar of the American Enterprise Institute.) ●

THE KOLARS OF MINNESOTA: AN ETHNIC ODYSSEY

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. OBERSTAR. Mr. Speaker, the people of my district take an enormous and justifiable pride in the diversity of our ethnic heritage. We as a nation celebrate the richness of that heritage.

As metals are strengthened by the alloy process, we as a nation have been made great by the union of peoples from all over the world.

As we cherish the memory of our ancestral traditions, we recognize that the journey to America was a fundamental part of that tradition. In the native lands of our ancestors, the dream of that journey was a vital force in their lives, a source of great hope.

In honoring our ethnic tradition, we pay tribute to the vision of America as a land of equality of opportunity and freedom from oppression.

I would like to share with my colleagues a very deeply moving account of one family's journey to America, The Kolars, a veritable ethnic odyssey.

It is a beautiful description of Frank Kolar's very personal encounter with his grandfather's native village of Semic, in Solvenia, one of the six republics of Yugoslavia.

I know this story, prepared under the auspices of the Minnesota Historical Society, will strike a responsive chord in anyone who has pondered the existence of grandfathers and grandmothers across the oceans.

THE KOLARS

In the summer of 1972 Frank Kolar visited a small, Slovenian town in northern Yugoslavia called Semic. It was the birthplace of his grandfather, John Kolar, who had emigrated to the United States in 1895. Frank had hardly known his grandfather. He was only four years old when John died in 1916, but he remembered the stories that his father and grandmother told about John's life in the old country. He remembered how they often said, "Your grandfather was an honorable man."

Frank knew that his grandfather had served eight years in the Austro-Hungarian army. He had risen to the rank of an officer and had been decorated for bravery three times. His deeds in battle had attracted the attention of Emperor Francis Joseph I, who offered him an appointment to his palace guard in Vienna. But John had no desire to live in Vienna. He longed to return to Semic and to a young woman named Anna Smrekar who lived there. In 1879 at the age of 29 John left the army and went home to marry Ana. He carried with him a wedding gift from the emperor.

For many years John and Anna prospered in Semic. In addition to managing the family farm, John also owned the village inn and blacksmith shop. Year after year his neighbors elected him mayor. Then in the early 1890s John's prosperity came to an end. As the leading businessman in Semic, he agreed to help his fellow villagers sell a large herd of swine across the border in Italy. Arriving with the livestock, John discovered that he lacked certain documents necessary for the sale. The entire herd was confiscated by the Italian authorities. Holding himself responsible for the misfortune, John promised to pay his neighbors for all their losses.

John knew that he could not earn enough money in Semic to pay this debt. He had heard, however, that in the United States it was possible to make money quickly. Leaving his wife and five children behind, John journeyed to America. He was 45 years old when he arrived.

In the United States John discovered that good-paying jobs were hard to find. For a time he worked in a match factory in West Virginia. Then in 1896 he traveled across the country to Ely, Minnesota, to work in the iron mines alongside many other Slovenian immigrants. Realizing that he could not earn enough money by himself, he wrote home asking his oldest son, Joseph, to come and help him. That same year Joseph joined his father in Ely. He was 16 years old.

Gradually John and Joseph succeeded in paying off the family debt. By 1900 they also managed to save enough money to bring the rest of the family to Ely. Although John remained a common laborer in the mines, his son learned to run the steam locomotives that hauled the iron ore from the pits. Within a few years Joseph was the leading locomotive engineer in the mine.

In 1903 the Kolar family moved to Nashwauk to work in a newly opened mine on the Mesabi Iron Range. Two years later Joseph, then 23 years old, married Helen Klun, whose parents had also been born in the Slovenian region of the Austro-Hungarian Empire. Joseph and Helen raised two sons and two daughters. Frank, the second oldest of their children, was born in 1912.

During his summer vacations from school, Frank, worked in the mines near Nashwauk. But he decided that he did not want to spend the rest of his life there. He attended St. Cloud State Teachers College and in 1934 began teaching high school in the Crosby-Ironton area. After serving four years in the army during World War II, Frank settled in Duluth and entered the insurance business. In 1947 he married Joan Woods, who was of Norwegian and Irish descent. She and Frank had four children.

As Frank grew older, his curiosity about his grandfather's life in the old country became stronger. The stories he had heard as a child became more and more vivid. Finally in the summer of 1972 he decided to visit Yugoslavia.

Frank walked down the main street of Semic and thought to himself, "This is my family's village. Here are my beginnings." He stepped in front of an old stone house, and an elderly woman came out to greet him. "What do you wish?" she asked.

Frank answered in Slovenian, which he had learned as a child from his grandmother in Nashwauk. "My name is Frank Kolar," he said. "My grandfather was John Kolar. He lived here many years ago. Have you heard of him?"

The old woman smiled. "The Lord has given me three and ninety years," she replied. "I went to school with Joseph Kolar, your father. And I knew your grandfather, as well. John Kolar was mayor here for many years. It was his misfortune to owe the village a great deal of money. But he paid it. Your grandfather was an honorable man."●

PACKAGE OF BILLS WOULD MAKE SOLAR PHOTOVOLTAIC TECHNOLOGY AVAILABLE TO HOMEOWNERS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. KILDEE. Mr. Speaker, without incentives for the development of the solar industry, we will have difficulty reaching the goal of 20 percent of our energy requirements through solar and other renewable technologies by the year 2000, which was announced last June by President Carter. Today I am introducing a package of four bills designed to encourage the utilization of solar photovoltaic technology in our basic housing stock.

The first bill would extend the residential solar tax credit provisions of the Energy Tax Act of 1978 (Public Law 95-618) to include the installation of solar photovoltaic systems.

The second bill would extend eligibility for veterans' home loans to include the installation of a solar photovoltaic provisions.

The third bill would amend the National Energy Conservation Policy Act (Public Law 95-619) so that, in addition to other solar energy systems, solar photovoltaic systems would be eligible for home loan programs of the Department of Housing and Urban Development and the Farmers Home Administration.

The final bill would extend the grant programs for low income housing under the Housing and Community Development Amendments of 1978 (Public Law 95-557) so that photovoltaic systems are included.

None of these laws presently contain provisions for photovoltaic systems. Part of the reason for this is that the Department of Energy has stated that such systems are not yet cost competitive. While short-range cost is certainly a consideration, we must also consider the importance of the goal of reducing our dependence on fossil fuels. To some extent, the cost cycle is self-reinforcing. One of the reasons for the cost is that insufficient demand precludes the application of mass production technology. One of the reasons for insufficient demand is the cost of such systems. By providing incentives for the use of such technology we can remove one of the inhibitory factors.

These bills would also help to solve one of the problems which faces a homeowner who makes a decision to install a photovoltaic system. While the homeowner normally pays a utility bill in increments every month, the vast majority of the cost of a photovoltaic system is in the initial capita investment. By making photovoltaic systems eligible for tax credit and loan programs, the installation cost of such a system can be managed more easily.

The time for such legislation is especially propitious. Within the last year, there have been breakthroughs in the efficiency of photovoltaic systems and the cost of producing such cells. I feel that the time has come when incentives can be effective.

These bills are designed to spur private industry by increasing demand. My hope is that this legislation will have two results. First, it would encourage private investment into research for developing even more effective collector cells and storage batteries. Second, it would encourage capital investment into mass production technology, thereby decreasing the per unit cost.

Mr. Speaker, it is not often that we have the opportunity to assist in the development of a new industry that can create jobs and help meet an important national goal. The four bills which I am introducing today can help meet this goal without the creation of a massive new governmental program.●

IN HONOR OF 65TH BIRTHDAY OF CECIL BURNEY

HON. JOE WYATT, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. WYATT. Mr. Speaker, I rise today to address the House in honor of one of the happiest occasions I can think of—the 65th birthday of one of the premier citizens of Corpus Christi, and Texas, and the Nation. I am speaking of the October 6 birthday of Mr. Cecil Edward Burney. A leader in the civic and social life of that great city for many years now.

From 1938 when he was selected as the "most outstanding young man in Corpus Christi," until today, he can look back on a career which includes everything from president of the Texas Historical Foundation to service as a presidential elector, from a member of the board of deacons of the First Presbyterian Church to president of the "War on Poverty."

Mr. Burney, a graduate of Texas A. & I. University and the University of Texas Law School, has been awarded some of the most prestigious awards anyone can be proud to have received. In 1939 he was honored by the U.S. Junior Chamber of Commerce with their "distinguished service award." In 1962, the National Legal Aid Association awarded him the Arthur Van Briesen Medal for his meritorious service to the poor in the United States.

St. Mary's University in San Antonio awarded him the St. Thomas More Award in 1964 for his contributions to the legal profession. The University of Corpus Christi bestowed an honorary LL.D. on his service to the cause of education in Corpus Christi, and Texas A. & I. University's Alumni Association gave him the Distinguished Alumni Award in 1977 for his work as chairman of their advisory board.

Mr. Burney's contributions to the legal profession have indeed been numerous. In 1951 he was chosen as president of the Texas State Bar Association—the youngest person to ever hold that position. While he was president, Texas was chosen as the best bar association in the United States. Honors followed his 1-year tenure as president of the bar association for another 18 years. He was a member of the board of directors of the National Legal Aid and Defender Association, chairman of the National Conference of Bar Presidents, president of the American Jurisprudence Society, and within the American Bar Association was a member of the board of governors and house of delegates and served as chairman of the membership committee, the American Citizenship Committee, and of bar activities.

The State of Texas did not pass up the chance to use the talents and dedication of Mr. Burney, either. That great and wise State chose Mr. Cecil Burney to be the president or director of numerous organizations, including the Governor's Statewide Traffic Safety Committee, the Texas Historical Foundation, the Texas Safety Association, the Texas Law Enforcement Foundation, the Texas Tourist & Development Foundation, and the Texas Historical Commission.

As with any great public servant, Mr. Burney's interests did not all lie just with the most visible organizations—the statewide or national committees. He has a great love for the Coastal Bend and for Corpus Christi in particular. Many local groups have had the opportunity to work with this preeminent citizen—groups like the Coastal Bend chapter of the American Red Cross, of which he was chairman twice; the Corpus Christi Chamber of Commerce, where he served as president; the Corpus Christi Civil Service Board, of which he was chairman; and the list goes on and on touching on such organizations as the Corpus Christi Housing Authority which he organized, the Corpus Christi Community Council, the YMCA, the YWCA, the Boy Scouts, the Campfire Girls, the Salvation Army, United Fund, Boys City, Goodwill, the Coastal Bend Halfway House, the J. E. Conner Museum, and the Rotary. No list could possibly hold all the contributions to the area which Mr. Burney has made, but that gives you some idea of the kind of man I am talking about.

The political and business worlds of the gulf coast have also had the benefit of Mr. Burney's guidance. He has served as a delegate to the Democratic National Conventions of 1956, 1960, 1964, and 1968, a delegate to every statewide Democratic convention from 1956 through 1974 and statewide director of the 1968 Humphrey-Muskie campaign for the Presidency. He was also a close personal friend and confidant of that great Texan, Lyndon Baines Johnson.

One other area which has been fortunate enough to have Mr. Burney's guidance, and I certainly do not mean this area to be the last or least, is the business community of south Texas. The list of banks and other businesses for which Mr. Burney serves as director is one of the most impressive any of us have seen. Banks in San Antonio, Corpus Christi, Kingsville, Ingleside, Brownsville, and Aransas Pass are under his directorship as well as two broadcasting outlets and other businesses in Corpus Christi.

Mr. Speaker, I have read to you an impressive list of accomplishments, a list which I would be proud to boast only half of by the time I reach my 65th birthday, but the important thing with Mr. Cecil Burney is not the number of accomplishments he has had, but the way in which he fulfills the challenge of each new assignment. Anywhere throughout south Texas and the entire State for that matter, Mr. Cecil Burney's name is mentioned only in the greatest respect.

There is another of our colleagues who is a close friend of Mr. Burney's and in honor of his birthday, Congressman JAKE PICKLE has asked me to include these other personal remarks.

> Cecil Burney is so good and thoughtful that it is hard to believe such a good man actually lives amongst us. He is the kind of friend that you can depend on at any time, day or night. Our Nation is much better because of the activities of this good man.
>
> When Cecil Burney was in the University of Texas, his home was a gathering place for many university students. His mother, God bless her, would invite students into her home for coffee and cookies and other refreshments—and those extra refreshments sometimes helped students keep body and soul together. It was at the university that Mr. Burney learned to debate in the athenaeum and to receive valuable training that has enabled him to become one of the Nation's leading attorneys. After graduation it was the friendships that Cecil Burney had developed with men like Culp Krueger, John Ben Sheppard, John Connally, Durwood Thompson, John Peace, Vince Taylor, and many others, that have been kept alive for over 40 years.
>
> Many a social/political gathering has been held at Escondido Ranch, where the owner, Ernie Poenisch, gathered together some of the leading figures of our state for hunting, and more importantly, for conferences that helped set the direction of progress across the state.
>
> And it was Cecil Burney and his unique and vivacious and clever late wife Cara who brought into their home many of the leaders of south Texas and the entire state. In matters of politics when Cecil Burney has agreed to help a friend, it may have been no more than a verbal agreement, but it was better than any contract ever written because Mr. Burney helps you with money, marbles and chalk.

It is easy to accept that Cecil and Cara Burney have been considered to be the "Mr. and Mrs. South Texas." Generous to a happy fault, Cecil Burney has given more of himself to his family, his State, and Nation than most any man of our time.

And so, on his 65th birthday, I would like to speak for all my colleagues in the Texas delegation and wish Mr. Burney the happiest of birthdays and beg him to stay an active and vital part of the life of Texas for many, many years to come.●

WILDERNESS LEGISLATION FOR AREAS IN ALLEGHENY NATIONAL FOREST

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. KOSTMAYER. Mr. Speaker, today I am introducing legislation to designate certain areas of the Allegheny National Forest in Pennsylvania as wilderness under the Wilderness Act of 1964.

This legislation draws upon information compiled by the Department of Agriculture's Forest Service in its so-called RARE II inventory of roadless areas in our national forests. The roadless areas review and evaluation process was begun several years ago in order to resolve the ongoing wilderness/nonwilderness debates that have delayed decisions on land use within the 154 national forests.

In Pennsylvania's one national forest, the Allegheny National Forest, which was established in 1923 to protect the upper watershed of the Allegheny River, the Forest Service identified 15 roadless areas in its inventory. The 15 areas total 36,322 acres, a small part of the 506,000 acres of federally owned lands in the Allegheny National Forest. There are approximately 750,000 acres within the proclamation boundaries of the ANF.

Specifically, the legislation I am introducing today designates three land areas as wilderness:

First. Allegheny Islands. This proposal includes 8 islands, the largest being 96 acres in size in the Allegheny River.

Second. Kinzua Wilderness. This area includes Tracy Ridge (9,188 acres) which was recommended for wilderness by the Forest Service, and Cornplanter (3,012 acres) which the Forest Service recommended for further planning. The two areas lie on either side of the Allegheny Reservoir and will be administered as one unit.

Third. Tanbark Wilderness. This area includes Allegheny Front (8,696 acres) and Hickory Creek (9,427 acres), both of which were recommended for further planning by the Forest Service. The two areas would be united by Sandstone Springs (2,977 acres), which although it was not inventoried, qualifies as a wilderness and would enhance the administration of both Allegheny Front and Hickory Creek by creating one unit.

Mr. Speaker, I believe this legislation balances the interests of those who wish to see suitable wilderness in the Allegheny National Forest preserved for future generations as well as the interests of those who wish to develop the timber and mineral and gas potential of the nonwilderness acreage. I think the areas selected for wilderness in this legislation meet the rigorous evaluation standards of the Forest Service.

I note, Mr. Speaker, that within the Allegheny National Forest we have one of the few opportunities left in the Northeast for preservation of wilderness. It is important that we act now before this opportunity is lost. The forest is within a day's drive for 92 million Americans, and as such it represents one of the most accessible wilderness areas the Congress has the chance to preserve.

I am pleased that my colleague from Pennsylvania on the Public Lands Subcommittee, AUSTIN MURPHY, is cosponsoring this Allegheny legislation.

I commend this legislation to my colleagues and hope we can complete action on the bill in the 96th Congress.●

QUESTIONS: U.S. GOLD POLICY

HON. WILLIAM PHILIP GRAMM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. GRAMM. Mr. Speaker, the American people swept a new administration into power in 1976. This change was due in part by a desire of the electorate to make the Federal Government more responsive to the people it governed. One of the first actions of the new Chief Executive was to proclaim that all correspondence from citizens to executive agencies would be answered promptly, within five working days.

Recently, one of my constituents brought to my attention a letter written to the Secretary of the Treasury on August 13, 1979, and unanswered as of the 28th of September. What I find particularly distressing is the fact that this correspondence is from the editor and publisher of one of the largest newspapers in my district. One can only wonder what happens to the correspondence from the average citizens of this country to the executive agencies of our Government.

I am inserting the text of my constituent's letter in the CONGRESSIONAL RECORD in the hope that the appropriate officials at the Department of the Treasury will take note and provide answers to the questions posed in it.

SEPTEMBER 19, 1979.

Hon. G. WILLIAM MILLER,
Secretary of the Treasury,
Washington, D.C.

MY DEAR MR. SECRETARY: Inasmuch as I have not had an answer to my letter of August 13, 1979, and because I feel that our readers are entitled to the answers, I am writing you again, this time with my questions even more specifically outlined.

Your immediate answers can reach our readers in time to advise them whether or not it is judicious for them to invest in the new United States gold medallions authorized for minting and sale by the last Congress. The sale of these gold medallions, once they are manufactured, will doubtless be widely advertised to the public by the Treasury Department. Surely you realize that most people will buy these gold medallions not at all for aesthetic reasons but rather for their intrinsic (investment) value. Therefore, the Treasury Department's posture with relation to gold has great bearing on the advice we wish to give our readers regarding the wisdom of purchasing these medallions when they are finally advertised and offered. Your utmost candor will be in the best and Christian interests of the citizens of this country.

Furthermore, let me observe that, although the writer himself is not an investor in gold, I have watched with some concern and apprehension as any number of relatively poor people, senior citizens, widows and working people invested portions of their savings in gold—most particularly in purchases of the much advertised South African Krugerrand gold coins.

Since various officials of the United States Treasury Department have, in the past, indicated a continuing desire to "demonetize" gold, I feel impelled to comment editorially to these lower-income citizens concerning the advisability and safety of such gold investments as the forthcoming U.S. medallions, the Krugerrands, etc.

President Carter, in a move designed to stabilize the U.S. dollar last November 1st, announced a tripartite program which involved an increase in the Federal discount rate, the initiation of a $30 billion "swap" arrangement to borrow foreign currencies for purposes of intervention to support the dollar in foreign exchange markets, and an increase in U.S. gold sales to 1½ million ounces monthly via auction to foreigners only.

Although the dollar resultantly and immediately stabilized for six months, our currency has once again (since June) come under renewed pressure in the foreign exchange markets, as you know. The Treasury Department has, since November, halved its monthly gold sales to 750,000 ounces. All such Treasury gold sales have been heavily oversubscribed by foreign purchasers.

In the meantime, the European Currency Union has come into being, with wide publicity being given to the fact that a substantial portion of its reserves consists of gold from member nations. From this, one can only conclude that powerful member states of the E.C.U. still consider gold very much a monetary vehicle and in no sense "demonetized." If these European countries' view of gold as money be valid, the United States continues to drain away each month to foreign buyers (among them doubtless various Middle Eastern and other oil-producing states) a portion of our nation's very substance.

Thus, the following questions from this newspaper:

1. With what logic does the United States continue to sell three-quarters of a million ounces of its gold reserves each month, in view of the fact that such sales manifestly have failed to end downward pressures against the U. S. dollar?

2. Indeed, with such auctions, has not the Treasury Department reopened to foreign nations the very "gold window" which President Nixon closed with such international flourish in August 1971, and thus simply made the dollar once again convertible into gold in whatever amount of gold the U. S. chooses to auction each month?

3. With what logic does the United States Treasury continue to carry gold on its books at $45.00 per ounce, when it sells gold to foreign buyers at the free market price, currently around $376.00 per ounce, and presumably will sell the medallions at this same anomalous free market rate?

4. These continuing U. S. gold sales, being massively over-subscribed each month and apparently having little or no effect upon maintaining the value of the U. S. dollar in the world marketplace, would therefore seem to the writer to accomplish nothing more than the prolongation of a long, astonishingly refractory and failing effort by the U. S. Treasury Department to force its theories of gold demonetization on trade partners both doubting and disbelieving of such U. S. gold theories. Does the Treasury Department, with Americans having now been given again by Congress the legal right to own gold, intend to continue a policy of gold demonetization that will be harmful to smaller-income families which read this newspaper and which have chosen to invest in this metal?

5. The writer might well observe that it is small wonder that West Germany, France, Holland, other members of the E.C.U. and, as well, powerful non-member countries, hold the U.S. dollar in low estate and view it as risky paper when this country continues to sell away its reserves of gold as though it were a commodity of no more consequence than sand—at the very same time that the aforementioned new European Currency Union and many other countries are all not only carrying gold as an important monetary asset and reserve but also listing it in their statements of account as having a value far nearer its free market price than does the United States.

How can these other nations, valuing gold as an important part of their reserves, be expected to have confidence in the currency of a country which so patently holds an exactly contrary view?

6. Can pensioners, old people, low-income and other savers and investors in gold, gold coins or medallions be assured by this news-

paper that the Treasury Department does not plan once again to increase the size of its monthly gold auctions, thus depressing the values of their gold savings when, in fact, a reduction or discontinuance of such auctions would seem the only meritorious course?

7. Newspapers throughout the United States, such as The Dallas Morning News, print each day an accounting of the U.S. Government's finances. Today's issue, September 18, 1979, of the Morning News, lists these as shown below:

Government Finances

WASHINGTON (AP)—Here are the figures on government spending and debt (last six digits are omitted) as of Sept. 13.

Total public debt	814, 005
Interest on public debt for July	4, 301
Interest for fiscal year through July	50, 806
Budget deficit for July	7, 214
Budget deficit for July last year	7, 276
Budget deficit fiscal year so far	30, 025
Estimated deficit fiscal 1979	30, 261
Outlays fiscal year so far	409, 317
Outlays same period year before	372, 336
Gold for July	11, 290

If gold be merely another commodity and not a monetary instrument, why is it always reported to the American people separately by the Treasury Department as one of the ten parts of its daily reporting of the nation's financial position? Why not also our silver, tungsten, manganese, cobalt, copper, lead and other strategic commodity reserves?

8. If the Treasury Department is, as all the above evidence would seem to make so transparent, determined to keep the world free market price of gold at the lowest possible level, this newspaper can only conclude that those citizens of modest income among its readers, who have purchased gold (and will purchase these gold medallions) as a part of their savings, need, editorially, to be cautioned to view such investments in gold as an undependable and even dangerous method of saving—yet dangerous and risky *only* because of their own government's anachronistic and purposeless insistence upon keeping the value of gold commodity investments as low as possible, and by any means, however small, mean, illogical or unjustified, thus directly damaging the savings of U.S. citizens who have bought gold for savings.

Then, should this newspaper not warn its readers, gold auctions having failed as a tool to depress the value of gold, to expect from their government a special gold tax or other action inhibiting the purchase or holding of gold?

9. Can the Treasury Department allow this newspaper to insure its readers, who are investing their small savings in gold (in any form, the new medallions or otherwise), that the Treasury Department is not waiting in the wings to ambush and bushwhack them with a tax, surcharge or other penalty upon further purchases of gold by U.S. citizens (or even present gold holdings) which will drive down the value of this possibly life-giving portion of their savings?

It is not easy for the writer to forget either the ill-advised silver surcharge or the dreadful 15 percent so-called Interest Equalization Tax imposed upon Americans in the all too recent past.

10. Does the Treasury Department plan to take any further measures whatever to decrease the world market price of gold, and perforce also the value of these forthcoming gold medallions, should this commodity increase in value to $400, $500, $600 or $1,000 or more per ounce and, if so, for what reason?

Such measures, if considered even a remote possibility by the Treasury Department, need to be publicized now, so that our readers of meager financial worth can be forestalled from what, to many of them, can become, with calculated foreknowledge of their own Treasury Department, a disastrous speculation rather than a saving—a nightmarish trap set for them by their own government.

Among other things, the writer would not want the U.S. Treasury Department, in promoting the sale of gold medallions, to run afoul of the Government's own Truth-in-Advertising regulations.

The Freedom of Information Act was passed into law because of Congress' belief in the public's need to know. This letter is based upon that same belief.

Sincerely yours,

RAY ZAUBER. ●

THE SILENT MINORITY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. ASHBROOK. Mr. Speaker, one of the major tragedies of 1979 will have to be the sight of helpless people drifting out to sea in sinking boats off the coast of Vietnam. This constant reminder of the incredible inhumanity of communism is heart rendering when I think that once many in this country celebrated the end of freedom in Vietnam. A number of those who urged America to abandon our Southeast Asian ally have now renounced their former stands. A few, like Joan Baez, have tried to make amends for their role in allowing the tragedy of the boat people to occur.

There is another group, however, that tries to gloss over their past. For them it is a new day, a new era. Their role in aiding Communist aggression and in overlooking Communist oppression is downplayed or just not mentioned. Those in the press are especially at fault for not bringing past records of collusion with the enemy to light. The prime example of this historical revisionism is the new Hollywood golden couple—Jane Fonda and Tom Hayden. Back in the Vietnam era their treasonous activities of inciting riots at home and giving aid and comfort to the enemy abroad played major roles in hindering this Nation's ability to thwart Communist aggression.

Today they are media stars trumpeting a new cause that some feel maybe the next great leftist crusade—antinuclear. Throughout their rallies and their talk show interviews very little is said about those lives being lost as the South China Sea swallows up tiny boats. Even less is said about the over 2,000 American citizens whose lives are still question marks in the Defense Department's files. The Missing-In-Action, or MIA, situation is another legacy of Vietnam that will not go away. As America watches the State Department try to cozy up to the dictators of Hanoi and sees the Haydens prance around the Nation it should keep in mind that there is a silent minority of grieving families who still keep the vigil for the MIAs.

I hope my colleagues will take some time to read a recent article on the MIAs. We owe it to those who are still missing and to their families who still have hope that this issue will not drift off into the seas of history:

[From the National Review, Sept. 13, 1979]

LOST OR MERELY FORGOTTEN?

(By Paul A. Gigot)

It was a hot, clear Indochinese afternoon, May 10, 1972, and Navy Commander Harry Lee Blackburn's F–4 Phantom jet fighter was escorting a bomber strike squadron to Hai Duong, North Vietnam. Blackburn, the pilot, and Lieutenant Steven Rudloff, the backseater, first saw the MiGs approaching after the squadron had passed the target. Blackburn banked at a narrow arc to challenge the MiGs, aiming over the center of Hai Duong. Then the anti-aircraft guns opened up and Blackburn's plane was hit. The F–4, burning, nosed down in a crash spiral. Rudloff ejected first, followed seconds later by Blackburn. According to the F–4 pilot who was following at Blackburn's wing, the chutes landed cleanly some two hundred yards apart in the Red River; he heard the beeper sounds which indicated that Rudloff and Blackburn were alive. The area was heavily populated. "The time delay between each ejection strongly indicates that both men were not seriously injured since each was able to eject himself," says a Navy report sent to Blackburn's wife and three children.

Rudloff was lucky. Captured immediately, held in Vietnam for the next ten months, he was released in 1973 with the other American POWs during Operation Homecoming. At his debriefing Rudloff said that the North Vietnamese had several times assured him that they had also taken Blackburn prisoner. But Blackburn, dead or alive, has never returned to the United States.

"MIAs/POWs: Ask Kissinger Why?" reads the sticker on a tan bookcase in the office of Frank Sieverts, standing only a few feet from the autographed wall portraits of Averell Harriman and Dean Rusk. Sieverts, a handsome man with bushy blond-grey hair, has been the U.S. State Department expert on MIAs (Missing in Action) for nearly 15 years, through four Administrations. He believes the Vietnamese are making adequate efforts to discover and return the remains of American MIAs. "Reasonably, a remarkable amount has been accomplished."

THE FIVE CATEGORIES

"Frank Sieverts is a lying bastard with absolutely no credibility—and you can quote me," says Dermot Foley, legal counsel for the National League of Families. Foley is an intense man, bespectacled, balding. He still wears a tarnished copper band engraved with the name of an American MIA. His brother, who has five children, has been missing since early in the war. Foley believes that the North Vietnamese have been withholding information, and that our State Department has in effect abandoned the MIAs and their families. "They've been trying to get rid of us, as they do after every war," he says.

Frank Sieverts and Dermot Foley are men whose views have hardened into absolutes. As Sieverts says, "I'm depicted as the Antichrist." It is difficult to sort truth from passion. There are few obvious villains. But the evidence and the views of disinterested observers document a pitiful record of noncooperation by the North Vietnamese. And they raise questions about the U.S. commitment to obtaining an adequate MIA accounting.

The most revealing data are contained in a Department of Defense (DOD) report informally named the "Hawaii Briefing." It was presented to President Carter's Woodcock Commission on MIAs (named for its chairman, Leonard Woodcock, now ambassador to China) in February 1977 and was treated as classified material. Its public disclosure was forced by a Freedom of Information Act request by the National League of Families. The briefing divided the 2,546 MIAs into five categories, based on the degree of knowledge which U.S. intelligence indicated the North Vietnamese had about each MIA. For example, Harry Lee Blackburn is a Category One. That is, the DOD has "confirmed knowledge" that the Vietnamese knew about Blackburn. In some cases Category Ones were identified by name by Radio Hanoi or exploited for propaganda. Other Category One proof includes reports from POWs or from "highly reliable intelligence sources." Navy Lieutenant Ron Dodge is another Category One. He was the only pilot shot down on May 17, 1967 in Nghe An province, North Vietnam. Three days later Radio Hanoi acknowledged the time and place of Dodge's capture. A photograph of Dodge, with his head bandaged, surrounded by NV guards, was published in *Paris Match* in 1967, and in *Pravda*. He was also featured in the propaganda film *Pilots in Pajamas*.

Air Force Captain John Swanson is a Category Two MIA, the category of "suspect knowledge." When his jet was hit off the coast of Nghe An province, Swanson parachuted into the ocean among some small boats. His wingman observed Swanson's chute and heard his beeper signals. DOD intelligence later confirmed that a pilot had been captured that day by local fishermen.

The remaining three categories are of "doubtful knowledge," "unknown knowledge," and "unrelated to degree of enemy knowledge." The Hawaii Briefing admitted that "it is doubtful that the enemy would have knowledge of the [se] specific individuals."

'A LOT OF HOOEY'?

Of the 2,546 MIAs in February 1977, the Briefing listed 179 in Category One, 1,160 in Category Two, 344 in Category Three, 428 in Category Four, and 436 in Category Five. The Briefing acknowledged that the "categorizing is, at best, an inexact science," so some of the placements may be mistaken. (DOD judgments were 91 percent correct about repatriated POWs.) The Briefing also recognized, as even Foley and the families have, that a total accounting will never be possible. But the report concluded: "We know [the NV] have information about some of our missing people but, for reasons of their own, have withheld it from us. . . . it would be reasonable to expect an accounting for those men in Categories One and Two—a total of 1,339 men." And yet since March 1973 the Vietnamese have returned the remains of only 69 men: 33 in Category One, 31 in Category Two, one in Category Three, two in Category Four, and two in Category Five.

According to Frank Sieverts, the Hawaii Briefing was a hasty assessment compiled by overzealous DOD officials. Sieverts explains with fetching similes. The MIA issue is "like looking out of the wrong end of a telescope," "like a flickering TV screen," "like viewing a candle in a window." The images flash alert for a second, disappear, then reappear. So much time has passed; memories have proven fallible. Jets were often downed under traumatic circumstances. The heavy jungle and difficult terrain hamper the search for remains. Sieverts believes the Vietnamese do not even know about, say, Ron Dodge.

Sieverts is supported by Representative G. V. "Sonny" Montgomery (D., Miss.). He chaired the House Select Committee on MIAs, was a member of the Woodcock Commission, and as recently as last August led an eight-member U.S. congressional delegation to Hanoi to discuss Southeast Asian diplomacy. Montgomery has steadfastly argued (as the House Select Committee also concluded) that there are no living MIAs being held by the Vietnamese. "That [briefing] was a lot of hooey," Montgomery says in a deep Mississippi drawl. He says the Vietnamese have information about "no more than 14 or 15 men." It was foolish of his 1976 committee to suggest that the remains of 150 men could be returned, although a minority report by Representatives Tennyson Guyer (R., Ohio) and Benjamin Gilman (R., N.Y.) decried even that number as too low. Montgomery does admit that his predictions could be self-fulfilling: the Vietnamese can cite him, an American congressman who applauds their diligence. But then he re-emphasizes the ravages of time, the frailty of human memory, and the remoteness of jet crash sites.

These arguments are initially compelling because, unlike those of the families, they are sophisticated and unemotional. But they also serve to support a U.S. State Department policy which may be seeking better relations with the North Vietnamese. Logic dictates that the State Department cannot accuse the Vietnamese of not providing an adequate MIA accounting while it also argues for normalization or for providing economic aid. Moral paradoxes, as with detente, only confuse.

There *are* prudent geopolitical reasons for improving relations with Vietnam. According to Representative W. Henson Moore (R., La), "the benefits for us could be a reduction of present tension in that part of the world, prevention of excessive Soviet influence, and creation of an opportunity to influence Vietnam's future actions." Moore might have included opportunities for American business. Oil deposits off the Vietnam coast are thought to be substantial. And, according to reports in the *Wall Street Journal*, American businessmen have been pressing for improved ties in order to take advantage of the very favorable investment incentives offered by Vietnam. But regardless of the motivations, a decision to improve relations forces a shift in priorities: an MIA accounting becomes less important than geopolitics.

Oddly, Frank Sieverts argues that postwar American negotiations with Vietnam represent "a signal accomplishment of U.S. diplomacy." At one time the Vietnamese linked their progress on MIAs to fulfillment of our reconstruction aid "obligations" under the 1973 Paris Peace Agreement. The State Department's great triumph, says Sieverts, was to convince the Vietnamese to separate the issues, to consider an MIA accounting as a humanitarian problem.

That, obviously, is a generous assessment of Vietnamese motives. A different analysis might point to their festering economic and political problems. They invaded Cambodia; China invaded them. Small but tenacious resistance movements continue to fight in the South and in Laos. Their economy, as French visitors have reported, is undergoing the typical collectivist malfunctions. In short, they need our capital and industrial technology, and so they have dropped bellicose demands for reconstruction aid; they now *request* aid. And we have the leverage. To grant the Vietnamese business credits and diplomatic credibility without demanding *quid pro quo* progress on MIAs is to squander the last American trump card. The Vietnamese will merely repeat their denials.

Frank Sieverts and Sonny Montgomery are contradicted by several DOD officials, and by former Deputy Assistant Secretary of Defense Roger Shields. Now an economist with Chemical Bank in New York, Shields was from 1971 to 1976 the DOD's counterpart to Sieverts at State, the organizer of Operation Homecoming for the POWs, an expert on MIAs. Shields says that "there are at least one thousand men who could still be accounted for." The evidence, he says, is pregnant in the Hawaii Briefings, in the pathetic trickle of information from Vietnam, and in incidents which suggest Vietnamese deceit and American naiveté.

LOST IN DOWNTOWN HANOI

For example, in December 1975 the Montgomery Committee visited Hanoi to discuss MIAs. At that time the DOD had reliable intelligence that a retired America CIA official, Tucker Gugglemann, was in prison in Vietnam. The Vietnamese denied holding Gugglemann. Yet one year later, when the Woodcock Commission visited Hanoi, the Vietnamese turned over his remains. They said he had died in captivity in June 1975, six months before the Montgomery Committee visit. Sieverts acknowledges the Gugglemann incident, but considers it only one, relatively insignificant, example.

Shields cites another. When the American POWs were finally released in 1973, 23 sets of remains were returned. Yet U.S. intelligence knew at the time of a 24th man, a B-52 pilot, who had also died in captivity. "We had seen the grave of the 24th man in Van Diem cemetery [in Hanoi]," says Shields, who personally confronted a Vietnamese official in Van Diem when he was there in 1977 with the Woodcock Commission. "I flustered the fella. . . . He said he knew nothing about it, but that he'd check on it." Sonny Montgomery asked the same question: he received the same answer. "It is not clear to me to this day that that man has been returned," Shields says.

The Woodcock Commission was formally known as the Presidential Commission on Americans Missing and Unaccounted For in Southeast Asia. Its public mandate was to negotiate progress on the repatriation of MIAs. With that in mind, it listened to the DOD Hawaii Briefing and brought to Hanoi many DOD folders containing specific information about the missing, most of them Category Ones. Yet, says Shields, the Commission virtually ignored the implications of the Hawaii Briefing and never presented the folders to the Vietnamese. Shields' protests were rebuffed, and in frustration he left the folders in an unlocked conference room where he presumed the Vietnamese would rummage through them. Upon his return to the U.S., Shields sent a critical letter to Defense Secretary Harold Brown, stating in effect: "The Vietnamese sold us a bill of goods. I did not believe what I was told."

To the then-newly-elected Carter Administration, the lack of progress on MIAs was a lingering impediment to any new policies toward Southeast Asia. According to Shields and a March 11, 1977 report in the Wall Street Journal, the Woodcock Commission's visit may have been primarily intended to bury the MIA issue by assuring the American people that the Vietnamese were doing all they could to discover remains.

Frank Sieverts claims that the folders were not turned over because there was never an appropriate diplomatic opportunity; and he denies charges of any reduced concern within the Carter Administration for MIAs. Instead, a "mechanism" was created and utilized to funnel U.S. information to Vietnam. Since the Woodcock visit in early 1977, that undefined "mechanism" has yielded about 35 more bodies.

But Shields and his former DOD colleagues are adamant, especially about pilots and crewmen shot down in raids over the North. "These are not people lost in triple-canopy jungle," says one official. "Some of these people were lost in downtown Hanoi." Another official summed up his frustration: "I don't think anyone could look at the record, have heard the DOD Hawaii Briefing, and then conclude that the North Vietnamese have been doing all they can. . . . You would have to be an idiot."

As another defense of Vietnamese efforts, Sieverts points to the relatively low percentage of American casualties in Vietnam whose bodies or remains were not recovered. Of the more than 57,000 Americans killed or lost throughout Indochina, only 4 percent were MIA. In the Korean War and in World War II, 22 percent of all casualties were MIA. Part of the reason for the lower Indochina figure is the nature of the war. There were no front lines. Men lost one day could be recovered the next because of the shifting and desultory patterns of conflict. U.S. search and rescue operations were the most highly developed in history.

But, say DOD officials, it is deceptive to use these figures to reduce the extent of the MIA problem. In fact, if one divides the casualty figures according to where in Indochina they occurred—North or South Vietnam, Laos, or Cambodia—and then compares them with the MIA figures for those areas, the percentage comparison actually reinforces belief in Vietnam's lack of cooperation. For example, over 55,000 of the more than 57,000 casualties in Indochina occurred in South Vietnam, but only 1,132 of the 2,546 missing (as of 1976) were lost in the South. The percentage of casualties who were missing for all of South Vietnam, then, is around 2 percent. But for North Vietnam, the figures are astounding: 878 casualties, hostile and nonhostile; but 769 of the missing 2,546 were lost in the North. Thus, of total casualties in the North about 87 percent were missing; that figure is almost 70 percentage points higher than for World War II. (In Laos, largely controlled by the North, and Cambodia, the figures are 89 and 16 percent.) Put in reverse, only 13 percent of American casualties in the North—most of them pilots—have been accounted for.

BODIES FOR BUSINESS

Doubts about the North's credibility are also underscored by the breadth and sophistication of the Vietnamese record-keeping system. Shields and Sieverts agree that peasants who turned in information or personal effects were rewarded. The collection system was centralized. The North valued news of American deaths or prisoners, both for the psychological boost to its own troops and for the world propaganda potential; its own Ministry of Defense maintained an Enemy Proselytizing Department. As Lieutenant General Vernon Walters, then Deputy Director of the CIA, told the Montgomery Committee: "Based on . . . the known Communist proclivity for detailed reporting, it is believed [that Vietnam] holds significant amounts of accurate information on former and current American MIA/KIA in Southeast Asia."

Why don't the Vietnamese cooperate, especially since progress on MIAs might induce the State Department to lobby for normalization? There is, first, enmity inspired by the long war; old hates die hard. Vietnam may also be too embarrassed about the circumstances surrounding some of the more celebrated missing. Ron Dodge, Harry Lee Blackburn, and others may have been tortured and killed. Yet the Vietnamese *have* returned some remains: three during the Montgomery Committee visit; 11 more for the Woodcock Commission; 22 more in June 1977 to coincide with a round of State Department talks on normalization; 15 more for the 1978 congressional delegation; individuals and groups here and there. Each release seems to have been timed to deliver maximum media exposure and to curry the favor of those congressmen or diplomatic negotiating with Hanoi.

The French experience is instructive. France abandoned its colony of Vietnam with the Geneva Agreement of 1954, whose terms included guarantees of the return of all foreign nationals, dead or alive. (The 1973 Paris Peace Agreement guaranteed the same for North and South Vietnam and the U.S.) Yet, according to Anita Lauvé, a U.S. foreign service officer in Vietnam from 1954 to 1956 and a Rand Corporation consultant through the Sixties, "the question of the recovery of French remains is far from resolved."

Miss Lauvé told the Montgomery Committee about twenty years of North Vietnamese promises and deceit: the sporadic return of remains; the refusal to allow an international agency to mediate; and adamant, escalating requests for money in payment for bodies. "For the North Vietnamese, the French graves are like a reservoir from which they release a little at a time," said Miss Lauvé. Dermot Foley says that the U.S. experience has been horrifyingly similar. The difference is that instead of cash the Vietnamese prefer normalization and business investment as our payment.

The sum of this evidence—the French experience, the extensive Vietnamese record-keeping, the Hawaii Briefing, the testimony of defense experts and POWs, the photographs and movies of American men—has plunged the families of the missing into angry despair. Their frustration has erupted into charges of conspiracy against the State Department, and has sustained improbable hopes that sons and husbands may still be alive.

Dermot Foley believes that Americans are still being held as POWs in Vietnam. He relies for evidence on the reports of Vietnamese refugees, in particular on the testimony of Ngo Phi Hung. Speaking before the House International Relations subcommittee on Asian and Pacific Affairs on August 9, 1978, Hung said he saw 46 living Americans as late as April 1977 in prison in Quangngai, four hundred miles north of Saigon. Hung has since been debriefed by DOD intelligence, however, and an 86-page DOD assessment of his testimony points out many inconsistencies.

Like other refugees who have reported seeing Americans, Hung responded to an advertisement in *Trang Den*, a newspaper run for refugees by Vietnamese activist Le Thi Anh. To a penniless Vietnamese living in a Thai refugee camp, the merest hint of American interest is coveted; it can mean better food, a flight to the States, new freedom. Many refugees have told stories of living Americans to encourage U.S. attention; but not one has been substantiated. Shields, Sieverts, and DOD officials agree that the risks of discovery are too great and potentially too damaging in the eyes of world opinion for the Vietnamese secretly to hold some POWs.

There also may be some Americans who have *chosen* to remain in the North. For example, Robert Garwood has recently returned, and now faces court-martial charges of collaborating with the enemy and desertion. But few dispassionate observers retain any hopes that there are still living American prisoners in the North.

Conspiracy theories and wild hopes, however, are the perverse yield of years of Vietnamese deceit and of failed State Department assurances. In six years, fewer than eighty bodies have been returned; and there is all that other evidence and testimony. Frank Sieverts blames a "neutral villain"—the DOD policy from the beginning of the war "which actively encouraged the families to keep their hopes up because the North Vietnamese had not provided complete lists of prisoners. . . . From that moment on," adds Sieverts, "the psychological acceptance of death was short-circuited. . . . I didn't say these stories had happy endings."

For the families of the missing, the endings indeed have not been happy. Most of the missing have by now been listed as KIA, according to the usual DOD review of the status of casualties. The men are still unaccounted for, but the years of waiting and the lack of new evidence (plus a recommendation by a majority of the Montgomery Committee) prompted the DOD to consider them killed. A federal court upheld the continuation of status reviews against a suit by the National League of Families. But the issue of an accounting remains. Most families will settle even for some confirmation of what they already suspect: that their son or husband was killed. "Funerals and burials are important for Americans," says Roger Shields, recognizing the relief of being *assured* of the fate—even if it is death—of a loved one. "I never thought we'd have this satisfaction," said Ginger Daul at the funeral for her first husband, Thomas C. Kolstad, 11 years after he was shot down over Hanoi.

Others await the same satisfaction, especially those whose sons are Category Ones and Twos. Some have turned bitter. "If we could spend 39 million a day on the Vietnam War and pay for the love-life of congressmen, then we should be able to find out about MIAs," one woman screamed at Sonny Montgomery at a National League of Families meeting. Dermot Foley says that most MIA families will send their sons to Canada the next time. Says Mrs. Frank F. Roark, lucky because her son's remains have been returned: "A person almost has to lose a son to understand."●

D.C. PROGRESS ON HOUSING

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. McKINNEY. Mr. Speaker, a few months ago, I came before the House and outlined to my colleagues the housing problems of the District of Columbia.

The catalyst for that action was the release of a "draft housing policy" put forth by D.C. Mayor Marion Barry after only 6 months in office. At that time, I focused on the goals of the mayor's policy, the challenges which they presented, and the responsible approach with which Mr. Barry intended to pursue those goals. I should note that I refrained from specific comment on singular policies of the program since, as with many drafts, what is put on paper rarely finds its way to fruition.

Now, less than 3 months following release of that "draft housing policy," I am pleased to report that the first steps have been taken toward correcting the "housing crisis" in the Nation's Capital. Last week, the District of Columbia Government, along with the area's private lending institutions, announced that they will invest more than $142.9 million over the next 3 years to build or rehabilitate more than 6,200 housing units. The singular aim of this joint venture between the city government and the private sector will be to address the critical issue of housing for low- and moderate-income families which have been caught in the skyrocketing real estate boom in the District.

Certainly, the District of Columbia is no different than any other city in the Nation in welcoming the long-overdue reversal of the flight to the suburbs. However, Washington, D.C., is a city of limited space and no room for expansion. As is true of many large cities, the District of Columbia is experiencing a housing problem in its attempts to accommodate its "new citizens" while continuing to provide for the needs of those already here. For every house that is purchased and renovated on Capitol Hill or in Adams-Morgan and for every apartment which goes "condo" on Connecticut Avenue or Logan Circle, a low- or moderate-income family is forced out and thrown into the ever-decreasing housing market which is left to accommodate them.

The Mayor's new program has many facets. It is not a throwback to the past, when entire square blocks of buildings were razed under the auspices of urban renewal. Rather, the key to accomplishing the goal of 6,200 units will be renovation in lieu of demolition. Many of the units will in fact be located in old buildings bought under the old urban renewal program which were never torn down due to neighborhood opposition, or lack of money. Other units, specifically designed for low income families and the handicapped, will be located in two obsolete high schools. The interiors of these schools will be gutted, but the character of their turn of the century exterior will be preserved. Still more units will be "resurrected" in the sense that many large apartment complexes which have stood vacant for years will be brought back to life.

It should be emphasized that the plans for the majority of the 6,200 housing units that will result from this program will not be restricted to one particular section of the city. Anacostia will benefit from approximately 20 percent of the new units, because it is home to a large portion of the city's low income families. However, plans call for the remaining units to be scattered throughout the city with quite a bit of emphasis being placed on the now developing area north of downtown.

In undertaking a project of this intensity, the Mayor and the private sector are taking a gigantic step. The private sector—banks, savings and loans, and the mortgage investment companies—are reaffirming their faith in Washington, D.C. as a viable city. The Mayor is finally addressing an issue which has been ignored for far too long by the city. I think it is necessary for the Congress to give recognition to this activity because all too often many of my colleagues are quick to criticize this city instead of standing back and weighing the progress against the problems. Upon taking office, Mayor Barry promised us progress. I, for one, am once again pleased to see that we are on the right road.•

JAMES W. GILL

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

• Mr. LEWIS. Mr. Speaker, James W. Gill who is the editor and publisher of the Hemet News in Hemet, Calif., is currently the president of the National Newspaper Association, a long established body of publishers that represents the largest number of newspapers in the United States. Elected to the board of directors as a director for the Southwestern States in the early 1970's he served several years in that capacity before being elected to the presidency in 1978.

James Gill's career with the newspaper industry began as general manager at the South Coast News in Laguna Beach, Calif., from 1932 to 1937. During 1938 he moved to the drier climate of Hemet joining the King Family as advertising manager of their weekly newspaper, the Hemet News, becoming a partner in 1942 and sole owner in 1960.

While managing the growth of the Hemet News he has nurtured the weekly newspaper through its expansion to a semiweekly in 1956 and a three times a week publication in 1961. In 1967, the Hemet News, under the direction of James Gill, became a six-times-a-week daily afternoon newspaper and today remains one of the State of California's few independently owned daily newspapers.

Prior to aspiring to national office he served many terms on the board of directors of the California Newspaper Publishers Association, and after service as secretary-treasurer, vice president and president-elect he was elected to serve as president of the CNPA in 1971. During his years of service to the CNPA, James Gill was very active in committee work and was particularly active in the legislative area.

Aside from his devotion to the newspaper industry he has worked very hard for his community, serving currently on the board of directors and as past president of the Hemet Chamber of Commerce and the Hemet Kiwanis Club. During his term he founded the Hemet Key Club, and was chosen citizen of the year in 1969 by the Kiwanis Club.

In 1941, he was active in helping to develop plans for a community hospital in Hemet which has grown from its original 14-bed beginning to a facility today with over 250-bed capacity. He served many years on the hospital's board of directors and was president of the board for 10 years during which time he was instrumental in getting an over $7 million bond issue passed by the voters.

Another of his devotions for some period of time has been the Ramona Pageant of which he is the treasurer for the board of directors and is now serving his 31st consecutive year as a board member. He was president of the board of directors for 3 years and has been treasurer for 15 years, and is founder and continuing designer of the Ramona play first nighter dinner program.

James Gill is married to Myra Gill, who has encouraged him throughout his many projects and obligations. They have three sons; James Gill III, advertising director for the Hemit News; Dean Gill, office manager for the Hemet News; and Dexter Gill, who is associated with the eastern municipal water district.

I would like to extend my heartfelt best wishes and appreciation to James W. Gill for his many contributions to the newspaper industry and to the people and community of Hemet, Calif.•

MAYBANK AMENDMENT

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

• Mr. EDGAR. Mr. Speaker, I feel very strongly that we should repeal the Maybank amendment. As chairman of the Northeast-Midwest congressional coalition, I asked the staff to put together a briefing paper on this issue. I share this document in hopes that the Congress will act quickly to repeal Maybank.

TEN COMPELLING REASONS FOR REPEALING THE MAYBANK AMENDMENT

Repealing the Maybank Amendment will:

Allow the Defense Department to target a substantial portion of roughly $15 to $20 billion in procurement of non-strategic goods and services to areas of high unemployment.

Generate private-sector economic activity three to four times greater than the amount of procurement awards, at little or no additional cost to the federal government.

Help create jobs in those areas of the nation suffering most from high unemployment.

Reduce government spending for income maintenance programs, including welfare payments, housing subsidies, and unemployment benefits.

Provide the nation's economically distressed communities with a needed cushion against the effects of a predicted recession.

Better utilize an existing program without creating new government machinery.

Complement the small business set-aside program and increase minority participation in government contracting.

Enhance the national security by diversifying suppliers of goods and services to the Defense Department and expanding the mobilization base needed for emergency production.

Provide government-wide uniformity in procurement policy and practices without interfering with the procurement of strategic weapons and other items necessary for the nation's military preparedness.

Make the federal government's procurement policies consistent with its goal of lowering unemployment and fulfilling urban policy objectives.

WHY THE MAYBANK AMENDMENT SHOULD BE REPEALED

Since 1952, it has been the policy of the federal government to target its purchases of goods and services to private businesses in high-unemployment areas. Considering the size of the federal government's annual procurement budget—roughly $90 billion in 1979—the rigorous implementation of this policy, known as Defense Manpower Policy Number Four A (DMP-4A), represents one of the most creative and cost-effective methods of stimulating private-sector economic development in distressed areas.

But since the inception of this program, the federal government has never targeted even 1 percent of its annual procurement budget to high-unemployment areas. In large part, this poor record has been caused by the Maybank Amendment.

THE MAYBANK AMENDMENT

The Maybank Amendment, added routinely to every defense appropriations bill since 1953, prohibits the Defense Department from paying a higher price for goods and services to help relieve economic distress; this effectively prevents it from restricting bidding to firms in labor surplus areas. Price differentials are permitted, however, to aid small businesses or minority-owned businesses.

In other words, the Defense Department must generally obtain the lowest possible price for the goods and services it buys. This restriction on its $65 billion annual procurement budget does not apply to the small business set-aside program or the 8(a) program. In these cases, the Defense Department must pay only a reasonable price—not necessarily the lowest obtainable price.

If the Maybank Amendment were repealed, the Defense Department could restrict the bidding on appropriate contracts to firms in areas of high unemployment, providing a reasonable price could be obtained. Since the Defense Department should continue to face no restrictions in procuring items essential for national security, "appropriate contracts" would exclude major weapons systems, aircraft, electronic systems, and the like.

Every year, the Defense Department buys roughly $15 to $20 billion in material and equipment not related to national defense or security, including, for example, uniforms, food, medical supplies, laundry and dry cleaning equipment, screws, pipe, and tubing. With repeal of the Maybank Amendment, Defense Department procurement officials would restrict the bidding on these kinds of contracts to firms in high-unemployment areas. A reasonable price would be assured, and the number and dollar value of defense contracts flowing into the nation's most economically hard-pressed areas would be substantially increased.

REPEAL OF THE MAYBANK AMENDMENT WILL NOT INCREASE FEDERAL SPENDING

Limited government research has indicated that restricting bidding on contracts to firms in areas of high unemployment would result in a price differential of about 1 percent or less (see "Total Labor Surplus Set-Aside Procurement Simulation," Federal Preparedness Agency, 1977). Using the 1 percent price differential as a guide, targeting $1 billion in defense procurement contracts to companies in high-unemployment areas would result in added costs to the government of $10 million. But that $10 million "investment" would yield $3 to $4 billion in direct and indirect economic activity within the private-sector. No other government program offers such a high rate of return on investment.

There is good reason to believe that the actual cost to the government would be even smaller. As jobs are created in communities with high unemployment rates, demand for income maintenance programs—food stamps, welfare, and unemployment benefits—decreases. It is estimated that when an unemployed person gets a job, the federal government saves $16,000 a year.

Targeting a greater portion of the government spending to high-unemployment areas would have both direct and indirect economic benefits. The actual increase in contract dollars generates a "ripple effect" within a community, producing three to four times the initial investment in private economic activity.

One 1977 economic simulation study found that a 7.8 percent increase in defense procurement awards to current suppliers in one state (representing $145 million) would create nearly 11,000 jobs and $29 million in state revenues over two years. The study also predicted a $171 million increase in personal income in the state during the two-year period.

DEFENSE MANPOWER POLICY NUMBER FOUR A (DMP–4A)

Defense Manpower Policy Number Four (DMP–4), issued by the Office of Defense Mobilization in 1952, reaffirmed by the General Services Administration in 1977 as DMP–4A, and the subject of Executive Order 12073 (issued by the President in August 1978), makes it the policy of the federal government to direct federal procurements, nonformula grants, and executive agreements to businesses in areas of excessive unemployment. Last year, this kind of government spending amounted to approximately $120 billion.

The original purpose of DMP–4, as issued by the Office of Defense Mobilization in 1952, was to minimize idle manpower and machinery in connection with the nation's efforts in Korea. By directing federal purchases to firms in areas of high unemployment, the policy was to help insure that the nation's defense needs would be met by a broad-based and diversified manufacturing capability. DMP–4 was designed to guarantee against procurement delays caused by a lack of manpower at qualified manufacturing facilities. In case of a war or other national emergency, there would be a greater number of firms "tooled up" for defense production. Since it helped relieve unemployment as well, DMP–4 also was viewed as a socioeconomic policy.

THE MAYBANK AMENDMENT HAS PREVENTED FULL IMPLEMENTATION OF DMP–4

Before the DMP–4 program got off the ground, Senator Burnet Maybank's amendment to the 1954 Defense Appropriations Act drastically reduced its potential. By requiring the Defense Department to buy goods and services at the lowest possible price, it was prohibited from restricting the bidding on some contracts to firms in high-unemployment areas. In order for the Defense Department to meet the requirements of DMP–4 and still comply with the provisions of the Maybank Amendment, contracts under the program had to be split into two production runs. One production run was advertised for unrestricted nationwide competitive bidding—to determine the lowest (or base) price the government would have to pay—and the other reserved for a firm in a high-unemployment area that could match the base price.

This additional burden on Pentagon procurement officials, coupled with the limited amount of Defense Department purchases that could be split into two production runs, prohibited effective implementation of DMP–4.

Provisions of the Maybank Amendment also were included in regulations governing purchases made by federal civilian agencies to maintain uniformity in government procurement policies. This scuttled any hope of using the federal government's vast purchasing power to help stimulate economic development in distressed areas.

An additional obstacle to wider implementation of DMP–4 was the government's changing definition of high-unemployment (labor surplus) areas. In 1955, when the national unemployment rate was about 3 percent, the Labor Department ruled that labor market areas with unemployment rates of at least 6 percent—twice the national average—would be designated "labor surplus areas" and be eligible for preference under DMP–4. But despite substantial increases in the national unemployment rate, the Labor Department's definition of a labor surplus area remained unchanged for 22 years. As a result, virtually every area of the nation qualified for preference under DMP–4.

RECENT EFFORTS TO FULLY IMPLEMENT DMP–4A

In early and mid-1977, three congressional subcommittees held hearings to examine the vast, untapped potential of DMP–4: the Subcommittee on Minority Enterprise and General Oversight of the House Small Business Committee; the same committee's Subcommittee on Capital Investment and Business Opportunities; and the Government Procurement Subcommittee of the Senate Select Committee on Small Business. These subcommittees heard testimony from representatives of major government agencies, who uniformly reported that the restrictive nature of the Maybank Amendment was largely responsible for their failure to more rigorously enforce the provisions of DMP–4.

In July 1977, the General Accounting Office reviewed the federal procurement process and DMP–4 in particular to determine whether such programs helped relieve high levels of unemployment. GAO's findings mirrored those of previous studies by the Northeast-Midwest Institute: DMP–4 was ineffective in its present form as a government tool to help reduce unemployment. GAO recommended that the policy either be strengthened by giving it a statutory basis or rescinded while modifying existing socioeconomic programs to deal with the unemployment problem.

In August 1977, following these developments, Congress amended the Small Business Act to authorize "total labor surplus area set-asides of federal procurements." This amendment permitted departments and agencies of the federal government to restrict the bidding on some purchases to firms in areas classified by the Labor Department as labor surplus areas. This action effectively repealed the Maybank Amendment provisions requiring the government to award contracts at the lowest obtainable price. In the absence of this restriction, the total amount of a government contract could be reserved for a firm in one of the nation's labor surplus areas, provided that enough responsible bids were received to insure that the government is paying a reasonable—but not necessarily the lowest—price.

In September 1977, Congress passed the fiscal 1978 Defense Appropriations Act with the Maybank Amendment intact, again requiring Pentagon procurement officials to buy goods and services at the lowest obtainable price.

In November 1977, the General Services Administration revised DMP–4 to reflect these legislative initiatives and reissued it as DMP–4A.

But even though federal civilian agencies have been released from the restrictions of the Maybank Amendment, their annual procurement purchases of $20 billion are dwarfed by Pentagon procurements. Failure to remove the Maybank Amendment restrictions from Defense Department purchases seriously undermines the potential of DMP–4 for relieving unemployment in the nation's economically distressed communities.

THE ADMINISTRATION'S ATTITUDE TOWARD DMP–4A

A major weakness plaguing full implementation of DMP–4 has been the lack of a commitment by any previous administration to use the government's purchasing power to stimulate private economic development. Procurement officials simply had never been told that use of DMP–4 was an important priority of the federal government.

But the Carter Administration has correctly viewed the government's procurement policies as a significant tool for stimulating private-sector development in the nation's distressed areas. In releasing the details of his Administration's urban policy in March 1978, President Carter said:

To assure that federal procurement is used to strengthen the economic base of our nation's cities and communities, I will strengthen the implementation of the existing procurement set-aside program for labor surplus areas, by directing the General Services Administration to work with each agency to develop specific procurement targets and to monitor their implementation. GSA will report to me every six months on the progress of each agency."

The President also directed that an Interagency Coordinating Council be formed to monitor the implementation of his urban policy, including DMP–4A. The Office of Federal Procurement Policy, part of the Office of Management and Budget, is responsible for overall implementation of DMP–4A. In conjunction with the General Services Administration, the Office of Federal Procurement Policy established 1979 labor surplus area goals for civilian agencies of approximately 10 percent of their annual procurement budgets.

In August 1978, President Carter issued Executive Order 12073 ("Federal Procurement in Labor Surplus Areas"), directing executive agencies to "emphasize procurement set-asides in labor surplus areas to strengthen our national economy." The executive order implemented those sections of the Administration's urban policy statement on procurement not requiring legislative action.

Finally, the Labor Department also reviewed its role under DMP–4A and, effective

January 1, 1979, revised its definition of a labor surplus area to more accurately reflect the changing nature of the national economy.

LABOR SURPLUS AREAS

Under Labor Department regulations, counties, county equivalents, and cities with populations of at least 50,000 are classified as labor surplus areas if their average unemployment rate for the prior two years has been 20 percent above the national unemployment rates. Cities with populations of 50,000 or more must qualify on the basis of their own unemployment rate, even if they are located within a county that qualifies. The eligibility list is updated every year on June 1 and printed in the Labor Department's publication, "Area Trends."

The national unemployment rate used for the current eligibility list, covering June 1, 1979 to May 31, 1980, was 6.6 percent. This means that labor surplus areas for this period had an average unemployment rate of at least 7.9 percent.

Roughly one-quarter of the nation's cities and counties are designated as labor surplus areas (954 out of 4,073). They are distributed on a relatively even basis across the nation. The Northeast and Midwest have 45 percent of all labor surplus areas, while the South and West have 55 percent.

The Labor Department may, in some cases, waive the eligibility criterion in areas where a sudden and precipitous increase in unemployment has occurred that would not be reflected in the unemployment rate for the reference period. Such exceptions may arise from natural disasters, plant closings, contract cancellations, and the like that have a substantial impact on an area's unemployment situation and are not the result of temporary or seasonal factors. In instances where such exceptional circumstances exist, the Labor Department may respond to a petition from a state's employment security agency by declaring such areas eligible for DMP-4A preference for a period not to exceed one year.

COMPETITION FOR LABOR SURPLUS AREA SET-ASIDES

A firm is eligible for a labor surplus area set-aside if it agrees to perform a substantial portion of production, manufacturing, or appropriate services in labor surplus areas, as of the date of the contract award. A "substantial portion" means that the aggregate costs incurred by the recipient and its first-tier subcontractors in a labor surplus area amount to more than half the total contract price.

When making awards under DMP-4A, as well as the Small Business Set-Aside Program, government procurement officials must adhere to the following list of priorities:

(1) Total set-asides for small businesses located in a labor surplus area.

(2) Total set-asides for small businesses located anywhere.

(3) Partial set-asides for small businesses located anywhere.

(4) Total set-asides for firms located in a labor surplus area, regardless of the size of the firm.

Neither small businesses nor minority-owned enterprises could be hurt by repeal of the Maybank Amendment. Under law, all opportunities to award contracts to small businesses in the labor surplus area program must be exhausted before bids can be accepted from larger firms. Minority-owned businesses would be helped by an expansion of the labor surplus set-aside program, since most such enterprises are located in labor surplus areas.

PENTAGON PROCUREMENT AFTER REPEAL OF THE MAYBANK AMENDMENT

Repeal of the Maybank Amendment would allow Defense Department procurement officials to review purchasing needs in order to determine which contracts could be set aside for firms in labor surplus areas. In other words, if there were enough labor surplus area firms producing the goods or services needed by the Defense Department, the contracting officer would invite bids from only labor surplus area firms or small businesses. Following the priorities established by amendments to the Small Business Act of 1977, award of the contract would be made on the following basis:

If enough firms bid on the contract to insure adequate competition, the small business in a labor surplus area submitting the bid would receive the contract.

If no qualified small business in a labor surplus area submitted a competitive bid, a small business elsewhere would receive the contract.

If no qualified small business bid competitively, the contract would be reviewed for a partial small business set-aside.

If this were not feasible, the contract would be awarded to the labor surplus area firm submitting the lowest bid.

If for any reason there were not enough bidders on a contract to insure a reasonable price, the procurement official then could reopen the bidding to all interested companies.

Nothing in the labor surplus area program requires the Defense Department to award a contract to a firm located in a high-unemployment area if there is not adequate competition to guarantee a reasonable price. In fact, procurement officials must be convinced that they will receive enough bids on a contract before they decide to set it aside under either the small business or labor surplus area program. To help procurement officials make set-aside decisions, the Small Business Administration has compiled a computerized listing of small businesses and the products they manufacture. Such a system could be expanded to provide a listing of labor surplus area firms, thus facilitating the review of contracts for set-asides.

This contracting procedure currently is used on a routine basis by the Defense Department as part of the small business set-aside program. The only difference repeal of the Maybank Amendment would make is in the preference given to small businesses in labor surplus areas or in the award of contracts to large firms in labor surplus areas when no small businesses qualify. Repeal of the Maybank Amendment would not require changing the basic procurement procedures used by the Defense Department. It would only insure that companies in areas with high unemployment rates receive preference over firms in other areas.

SUMMARY

In fiscal 1978, the Defense Department let more than 11 million contracts. Only about $230 million in contracts, however, was awarded on a preferential basis to businesses in areas of high unemployment.

In a time of continuing inflation, a predicted recession, and high unemployment levels, the labor surplus area program provides the federal government with an effective tool to stimulate private-sector investment in areas of concentrated unemployment. The added cost to the government is negligible, and results in reduced federal spending for income maintenance programs such as food stamps, housing subsidies, and unemployment benefits.

Repeal of the Maybank Amendment will not affect the procurement of weapons systems of any other purchases made by the Defense Department for the nation's military preparedness. It simply would require Pentagon purchasing officials to set aside contracts on items not related to national security for private businesses located in areas of high unemployment.

Repeal of the Maybank Amendment actually would enhance the nation's military preparedness. Two of DMP-4's original purposes still remain vital to American security: to assure use of the nation's total manpower potential by using the manpower resources of each area, and to help assure timely delivery of goods and services by locating procurements where the needed manpower and facilities are fully available.

The benefits—direct and indirect—are significant: increased employment in communities with the greatest need for new jobs; increased tax revenues at all levels of government; the "ripple effect" on local businesses generated by increased spending from those newly employed; and lowered government costs for income maintenance programs.●

NEW ENGLAND'S SHARE OF THE DOE BUDGET

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. SHANNON. Mr. Speaker, I would like to bring to the attention of my colleagues a study which was released this summer by the New England Congressional Caucus. The study, entitled "Doing Business With The Department of Energy," provides a comprehensive analysis of the DOE budget from New England's perspective as well as from a national standpoint.

The study was sponsored by myself and a number of my New England Caucus colleagues, including Representatives James Cleveland, Silvio Conte, Robert Drinan, James Jeffords, Stewart McKinney, Edward Markey, and Olympia Snowe.

The analysis indicates that the Department of Energy's budget totaled more than $10.8 billion in 1978, but New England's prime contractors were awarded only $229 million of this spending. This figure represents 2.1 percent of the DOE budget, or little more than one-third of what the six State region might be expected to receive on a per capita basis.

According to the study, New England's low per capita showing in the DOE budget is largely due to the absence of national laboratories or other major energy government facilities in the region. The Northeast Solar Energy Center and MIT's Bates Linear Accelerator, both located in Massachusetts with a combined income of $10 to $15 million, are the only good sized energy facilities in the region.

I am pleased to say that a constituent of mine is the author of this comprehensive, 300 page report. Geoffrey K. Bentley just completed a year's Congressional Fellowship with the New England Congressional Caucus, where in addition to this report he authored studies on the region's energy situation, its potential to convert from oil to coal, and an overview on New England's alternative energy sources. Geoff is a resident of Carlisle, Mass.

Mr. Speaker, I would now like to include for the benefit of my colleagues the executive summary of the report prepared by Mr. Bentley:

DOING BUSINESS WITH THE DOE: AN AID FOR DOING BUSINESS WITH THE U.S. DEPARTMENT OF ENERGY

(Prepared for the New England Congressional Caucus by Geoffrey K. Bentley, Congressional Fellow, July 1979)

OVERVIEW

The federal energy budget is large by any measure. At a level in excess of $10 billion per year, the funding for the Department of Energy (DOE) is larger than the individual budgets of 44 states. It also works out to be about $150 per family in the United States. There is a staff of 20,000 working for the energy department in Washington, D.C. and throughout the country.

Another significant figure is that 95 percent of the DOE budget goes to procurement—i.e., to contractors doing business with the DOE and to institutions and states for grants and aid programs. The overhead and non-project related expenses are about $500 million per year.

Procurement is dominated by three disbursements—48 percent supports 60 contractors who operate the National Laboratories and other facilities for the energy department, 25 percent goes for the Strategic Petroleum Reserve, and 19 percent is spent for on-going projects and services. Based on FY 1978 Obligations data, less than 8 percent of the procurement budget ($833) is available for new awards. Of this total, only about half ($438 million) is awarded competitively—the remainder being awarded on the basis of sole source or unsolicited proposal. Furthermore, if university funding were removed from the new ventures category, the figure for new competitive procurements for the private sector would drop to $300 million, or less than $300 million, or less than 3 percent of the procurement budget.

NEW ENGLAND'S SHARE OF THE DOE BUDGET

New England does not do particularly well in its share of the federal energy dollar. Only 2.1 percent ($229 million) of the total budget comes as prime contracts to the six-state region. This is little more than one-third of the return that might be expected on a per-capita basis. Even if the funds for the Strategic Petroleum Reserve are eliminated from the total DOE budget, New Englands return is one-half of that expected on a population basis. Table I profiles DOE disbursements by type of procurement for the New England states and the U.S. as a whole.

The absence of a National Laboratory or major DOE activity, and the attendant support operations that go with these facilities, is the principal reason for the region's relatively poor showing. In New England, there are just two activities which could be loosely classified as government-sponsored operations. They are the Bates Linear Accelerator Facility at the Massachusetts Institute of Technology and the Northeast Solar Energy Center—both located in Cambridge, Massachusetts and with a combined annual budget of between $10 and 15 million. The numerous National Laboratories, offices and activities, storage facilities, and DOE defense test sites are all located in other parts of the country. The fact that some of these monies may come back to New England in the form of subcontracts is not reflected in the figures shown in Table I. Overall, it is estimated that 36 percent of all operating contract awards are passed along to subcontractors. However, for the most part, the subcontracts are awarded to support groups in the local area for a variety of service functions.

Another reason for New England's weak position relates to the small percentage of the budget which goes for new ventures (8 percent). This is the principal source of competitive research and development (high technology) funding, an area in which New England is particularly resourceful. The majority of DOE research and development funding goes to the National Laboratories, and is not generally available to New England contractors.

The small business share of all prime contracts for the U.S. is less than 3 percent, and even with the DOE estimates on pass-through or subcontract awards, the disbursement figure is still less than 10 percent. New England's proportion of prime contracts going to small business is 10 percent. These figures are consistent with the low percentage of the budget available for new ventures (8 percent), which includes only 1 percent for unsolicited proposals—the traditional source of funding for small or disadvantaged businesses.

TABLE I.—PROFILE OF NEW ENGLAND AND U.S. PROCUREMENT: PRIME CONTRACT AWARDS

[Fiscal year 1978 obligations from the Contract Information System, DOE, May 1979 data. Research, development and demonstration is 66 percent of New England's funding—Compared to 11 percent for the United States]

	Total			Percent population w/respect to—		Small business		Big business		Universities and colleges		Nonprofit organizations (not including universities		State and local governments		Federal agencies and foreign governments[1]	
		Percent w/respect to—															
	Millions	NE.	U.S.	NE.	U.S.	Millions	Percent of total	Millions	Percent of total	Millions	Percent of total	Millions	Percent of tctal	Millions	Percent of total	Millions	Percent of total
Connecticut	$93.340	40.7	0.9	25.4	1.4	$3.147	3.4	$83.164	89.1	$4.951	5.3	0	0	$2.078	2.2		
Maine	2.668	1.2	0	8.9	.5	.533	20.0	.192	7.2	.119	4.5	$.166	6.2	1.658	62.1		
Massachusetts	124.958	54.5	1.2	47.2	2.7	18.272	14.6	46.847	37.5	52.093	41.7	2.925	2.3	4.821	3.9		
New Hampshire	2.636	1.1	0	6.9	.4	.074	2.8	.720	27.3	.560	21.3	.030	1.1	1.252	47.5		
Rhode Island	3.325	1.5	0	7.6	.4	.178	5.4	0	0	1.270	38.2	.474	14.2	1.403	42.2		
Vermont	2.247	1.0	0	4.0	.2	.643	28.6	.143	6.4	.018	.8	0	0	1.443	64.2		
New England	229.174	100.0	[2] 2.1	100.0	5.6	22.847	10.0	131.066	57.2	59.011	25.7	3.595	1.6	12.655	5.5		
United States	10,817.3		100.0		100.0	246.4	2.3	5,469.4	50.5	1,784.5	16.5	299.2	2.8	118.2	1.1	$2,899.6	26.8

[1] 99 percent of this category is Federal agencies of which the strategic petroleum reserve is the dominant procurement.

[2] If the category of Federal agencies and foreign governments is eliminated from the total budget New England's share of the remaining figure is 2.9 percent.

Finally, it should be noted that a disproportionate share of New England's federal energy dollar goes to universities and colleges. Fully 26 percent of all DOE funding in New England goes to universities—nearly double the national average. Of this total, almost 82 percent comes to the Massachusetts Institute of Technology (MIT). This means that MIT accounts for over one-fifth of the region's DOE budget.

The intent of focusing on the New England share of the energy budget is to underscore the region's problems and opportunities in doing business with the DOE. Though DOE's structure and procurement policies are not geared to many of New England's strengths, awareness of the problem should be helpful in efforts to increase the region's energy business with the Federal Government.

MAJOR OUTLAYS AND ACTIVITIES

There are six major outlay areas which account for 69 percent of the FY 1979 budget authority for the DOE. Of these areas, Energy Technology and Defense Programs dominate the Department's activities in research, development and demonstration, and together they account for 50 percent of the total budget. The Strategic Petroleum Reserve and overhead categories make up the remaining 31 percent of the budget.

Table II shows the funding by principal technology and program activity across all six major outlay areas. National defense programs consume 24 percent ($2.7 billion) of the budget; nuclear fission, breeder reactor technology and nuclear waste disposal 10 percent ($1.2 billion); fossil energy 9 percent ($1.0 billion); and solar-related technologies 5 percent ($561 million). Basic research represents about 8 percent ($906 million) of the budget and conservation activities about 6 percent ($671 million).

TABLE II.—FUNDING FOR TECHNOLOGY AND PROGRAM ACTIVITIES, FISCAL YEAR 1979 BUDGET AUTHORITY

	Millions	Percent
Conservation	$671.4	(5.9)
Electric energy systems and storage	100.7	(.9)
Fossil energy	1,039.7	(9.2)
Geothermal	305.3	(2.7)
Magnetic fusion	356.0	(3.1)
National defense	2,699.6	(23.8)
Nuclear (civilian):		
Fission	230.1	(2.0)
Breeder reactor	741.7	(6.5)
Waste disposal	202.1	(1.8)
Total	1,173.9	(10.3)
Research (basic and unspecified)	906.0	(8.0)
Solar-related energy[1]	561.3	(4.9)
Strategic petroleum reserve	3,007.8	(26.5)
Overhead	527.5	(4.7)
Total	11,349.2	(100.0)
Less adjustments, supplementals, unobligated funds, etc	−550.3	
Total	10,798.9	

[1] Includes solar thermal and photovoltaics, and such renewables as wind and ocean systems, hydropower and biomass.

CONGRESSIONAL ACTION

In the 95th Congress, 43 major pieces of energy-related legislation were enacted—more than double the number that was passed by the 94th Congress. Although critical review of Administration proposals has been the traditional role of Congress, the House and Senate have taken significant leadership positions particularly in the areas of solar technologies and synthetic fuels from coal. In addition to considering such new proposals as the President's Energy Security Corporation for synthetic fuels development, it is expected that the present 96th Congress will also focus on oversight or close review of recently enacted energy measures.●

HONORING EDWIN A. LINK, SIMULATION INDUSTRY FOUNDER

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. McHUGH. Mr. Speaker, I would like to take a few moments to recognize a remarkable American inventor, who with genius, mechanical engineering ability and perseverance, founded the multimillion dollar simulation industry.

Through it air travel has become a practical, safe, and dependable means of transportation. Space exploration and oceanographic exploration have advanced as well through use of simulation techniques.

Edwin A. Link, who is best known by half a million airmen from World War II for the invention and development of his Blue Box trainer, celebrated his 75th birthday this year. Throughout his career, he has strived for technical excellence in the state of the art in each of his scientific pursuits. From his first invention to his undersea work, Ed Link designed new equipment and technology to accomplish his objectives.

Ed Link began a long and successful career as scientist, inventor, and industrialist with the idea that student pilots could be taught to fly without leaving the ground. Although it now is an accepted practice, it was a revolutionary idea 50 years ago. Ed began working on his pilot trainer in the basement of his father's piano and organ factory in Binghamton, N.Y., building what he believed would be a safe and economical instrument to teach people how to fly.

Finally, from scraps of wood and machinery was born the first flight trainer—a wooden fuselage and set of wings, mounted on an organ bellows. A primitive vacuum pump generated the pitch and roll as the pilot worked the controls.

The pilot trainer had limited success as a commercial product until 1934 when President Roosevelt asked the Army Air Corps to deliver the U.S. mail. The Air Corps needed more experienced pilots than were available and a training program became immediately necessary. Ed Link was able to provide the Army with instrument flight trainers, an improved version of his original model, which incorporated the latest navigational aids.

Throughout World War II, Ed Link's company supplied "Blue Box" trainers and navigational aids for more than half a million airmen in the Allied armies who logged "Link time."

After World War II, Ed Link kept his company active by designing commercial aircraft simulation equipment and complementary computer systems. When America moved into the space age, Link was at the forefront with simulation equipment to train astronauts for such space explorations as the Apollo program, Gemini, Skylab, and the Space Shuttle.

As founder of the simulation industry, Ed Link brought his company into worldwide prominence. After he left flight simulation in 1958, Ed turned his creative genius to the sea. With the same perseverence and ambition he used to make flight training safe and economical, he designed diving trainers to simulate conditions thousands of feet beneath the sea.

Simulation systems have come a long way from the early trainer Ed Link built. The industry is making a positive contribution to world wide energy conservation and air safety. For this we owe a debt of gratitude to Ed Link, a man who personifies the American spirit.●

SECOND ANNIVERSARY OF THE AD HOC COMMITTEE ON IRISH AFFAIRS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. GILMAN. Mr. Speaker, it is my pleasure to rise to note the second anniversary of the Ad Hoc Committee on Irish Affairs, and to commend the 130 members of this ad hoc committee who have taken note of, and worked toward the cessation of hostilities in Northern Ireland. Our esteemed chairman from New York, Mr. BIAGGI, has worked tirelessly toward a peaceful solution to the problems which plagues Northern Ireland, and has taken on the difficult role of chairman at the time when this task engenders more criticism and concern than rightful praise. Mr. BIAGGI's leadership has been an inspiration to the members of the ad hoc committee and to the Congress, as well as to the millions of Irish-Americans who have requested congressional action and attention to this issue.

Mr. Speaker, the Irish Affairs Ad Hoc Committee has heard testimony from many individuals in the last year who have observed first hand the human rights violations being perpetrated in Northern Ireland.

During this past year, Sean McBride, Nobel Peace Prize winner and founder of Amnesty International spoke before the ad hoc committee and offered suggestions on peace prospects in Northern Ireland. We worked together to bring congressional attention to the State Department's approval of the sale of arms to the Royal Ulster Constabulary for use in Northern Ireland and successfully halted any future sales to Great Britain pending a State Department investigation. We formulated plans for a peace forum designed to bring opposing parties together to talk over plans for a peaceful Ireland, and this peace forum, hopefully, will take place some time soon. We are also working for the passage of a resolution urging that peace come to Northern Ireland through the self-determination of the Irish people.

Mr. Speaker, it has been a hard year for all those involved in the Irish struggle. It has been an equally hard year for those of us who have spoken out against the human rights violations in Ireland and against the lack of a political intiative on the part of Great Britain. Continuing allegations against this committee and against organizations such as the Irish National Caucus have been circulated in order to discourage our continuing criticism of the British and the continuing violations occurring in Northern Ireland. This can be expected when a group of 130 Congressmen from across the Nation speak out on an unpopular issue. But we will continue to speak out, and the ever-growing membership of the ad hoc committee testifies to the fact that this is an important American issue . . . one which will continue to be made public, and one which will not die.

Mr. Speaker, the violence in Ireland has ripped the souls of many Irish people, and the American-Irish community grieves at the continuation of violence. Lord Mountbatten's death should never have occurred, and the heinous violence which surrounds the conflict in Ireland, or grows as a result of this conflict, must end. Daily we read of reports of innocent people being slain in retaliation. This has gone far enough. Lord Mountbatten was a good man, a hero, a brave, and courageous leader. He has now been reduced to a statistic in the tragedy which is Northern Ireland. We must continue to speak out against this type of hatred and violence, and must join together in assisting the Irish people to find a peaceful solution to this conflict.

I consider my membership on this committee to be of particular importance and I am pleased that the ad hoc committee grows stronger each day, each session of Congress. Let us hope that in the months ahead the British Government will offer a political solution to the problem in Northern Ireland and will deescalate its military action in that part of the world.●

A SALUTE TO THE 43D ANNUAL PULASKI DAY PARADE AND CHIEF EDWARD S. ADAMSKI, GRAND MARSHAL

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. GUARINI. Mr. Speaker, on Sunday, October 7, more than 100,000 marchers and millions of viewers will participate in the 43d Annual Pulaski Day Parade on Fifth Avenue, New York City.

This year's parade will commemorate the 200th anniversary of the death of Gen. Casimir Pulaski, a hero of the American Revolution who died of wounds received in the Battle of Savannah.

Casimir Pulaski is a beacon to all Americans of Polish origin, and all Polonians can be justly proud of their common heritage in part because of the contributions which Pulaski made to the cause of our freedom. Casimir Pulaski fought in Poland for Stanislaus II against Russian tyranny and was invited by General Washington to come to the aid of the Thirteen Colonies during the American Revolution. The Polish hero Pulaski served with great distinction in the forces of America, particularly at the battles of Brandywine and Germantown. In fact, he was chosen by Washington to command American cavalry against the British forces.

The Pulaski Day Parade annually pays tribute to the 4 million Poles and Americans of Polish descent living throughout America.

I am especially pleased to salute the parade this year because Edward S. Adamski, chief of police in the city of Bayonne, N.J., has been named grand marshal for the parade. I am privileged to represent Bayonne and one of its most outstanding public servants in the U.S. Congress.

A professional in every sense of the word, Chief Adamski joined the Bayonne Police Department in 1950, earning the rank of sergeant in 1960 and placing first on each subsequent examination for lieutenant, captain, and inspector. He was named deputy chief on July 6, 1970 and promoted to chief of police in 1976.

A certified instructor for over 20 years at the Jersey City Police Academy, he has taught in the areas of sociological problems in police work, police-community relations, juvenile delinquency, supervision and administration, investigative techniques, and report writing.

Working with the late Capt. Vincent Doyle, Chief Adamski compiled and edited the Bayonne Police Manual of Rules and Regulations.

Chief Adamski's community service has been outstanding, for he has worked with many community groups and associations. He has been cited for excellent work by the Catholic War Veterans, Polish-American Congress, Disabled American Veterans, Hudson County Jewish War Veterans, American Legion, Mt. Carmel Lyceum, Jersey City Police Academy, and the Junior Chamber of Commerce.

Chief Adamski is a lifelong resident of Bayonne and is married to the former Rieva Fisher. They have one son, Michael, who is director of the department of mathematics in the North Plainfield, N.J., school system.

The name of the great hero Pulaski lives on as a famous bridge spanning the New Jersey Meadowlands as well as the annual parade. It was my honor to speak at the dedication of that bridge, where I told Stephen R. Kopycinski of my great friendship with his father, Stephen Joseph Kopysinski, who led the Pulaski Day Parade in 1957.

Chief Adamski does me personal honor by naming me to be his principal aide during the parade and by his gracious invitation to speak at the Pulaski Day banquet.

I invite all of my colleagues to join me in this tribute today and to take part personally, if their busy schedule permits, in the grand and glorious Pulaski Day Parade of October 7, 1979. Polonia will rightly celebrate with pride on that occasion.●

EMERGENCY RELIEF FOR CAMBODIA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. SOLARZ. Mr. Speaker, 2½ million Cambodians who have survived the ravages of war and the terrors of the Pol Pot regime now face death—but this time from starvation and disease.

On September 26, UNICEF and the International Committee of the Red Cross announced that after careful negotiations these relief organizations have reached an agreement with both the Heng Samrin government and the forces of Pol Pot that would allow an internationally supervised emergency relief effort to begin in Cambodia.

I have introduced legislation with Congressman John Anderson that would authorize up to $30 million for a special program of humanitarian assistance to the Cambodian people under the auspices of both public and private international agencies.

It is imperative that such an internationally supervised relief effort begin immediately so that the Cambodian people, who have already witnessed the destruction of their cities and towns, of their families, institutions, and traditions by the murderous Pol Pot regime, might be spared to one day have the opportunity to rebuild their country.

Less than 12 percent of the arable land in Cambodia has been planted, and many of the farmers have been forced to eat the seedlings to survive. Thousands of Cambodians freed from forced labor have been attempting to return to their former homes and villages, but many are too weak to survive the journey. Others have returned only to find no food, or shelter, or medical care. Other thousands have fled the war zone and are camped along the country's western border with little to eat and no medicines or shelter. Unless help arrives soon, these thousands will cross into Thailand as refugees, adding to the 170,000 refugees already in Thailand.

International relief experts estimate that 170,000 tons of food will be needed to sustain the Cambodian people for the next 6 months, and that there is little transportation. There are only 22 trucks, but no gasoline, no railroads, and few boats. Some say that 80 percent of the children are ill.

The already agreed to monitoring and supervision of the relief effort by international officials and experts can prevent these relief supplies from being misused or from failing to reach the civilian population for which they are intended.

If our relief assistance is not to come too late, we must move quickly to provide the needed quantities of food and medicine that will have to be airlifted into Cambodia.

As someone who has had the occasion to address my colleagues in the past on the great sufferings of the Cambodian people under the murderous Khmer Rouge regime, I must say that this time we have at our disposal the means of saving the survivors of what has been described as an "Asian Auschwitz." I hope that our Government will join quickly in the international effort to feed, and clothe, and shelter these people, as we have in similar tragic situations in Bangladesh and Biafra.●

WELCOME POPE JOHN PAUL II

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. ASHBROOK. Mr. Speaker, during the first week of October Pope John Paul II will visit America. His visit will take him to major industrial cities, a small country parish, and to our Nation's Capital. I think it is a fitting time for his visit. Our Nation has what some people call a crisis of confidence and a lack of direction. Pope John Paul's words and deeds have inspired millions around the world. His thoughts have touched those of all religions and of all nations. The courage of his convictions and of his desire to see men free is a marked contrast to the shallow and over-packaged posturings of Jimmy Carter.

At a time when America has lost its will to stand up for the very ideals on which this once great Nation was founded it is necessary to have a vision of what one man can do when he does take a stand. I hope John Paul's presence in America can bring this Nation around and make us all realize that this land of opportunity and of freedom can still rally its strengths to meet the challenges at home and abroad.

I would like to call to my colleague's attention a recent article reviewing developments in Poland after the Pope's historic visit this last spring. The reawakening of this long-oppressed nation will hopefully lead to positive changes throughout Eastern Europe and inspire other oppressed people to strive for greater freedom:

Poland After the Pope

(For nine remarkable days last spring, Pope John Paul II drew an outpouring of religious and patriotic joy from the people of his native Poland. Newsweek's Paul Martin, who accompanied the Pontiff on his homecoming, returned to Poland last week to assess the visit's impact. Martin's report:)

Outwardly, little has changed from the prepilgrimage days. Warsaw's Victory Square, where the Pope hoisted his giant cross in triumph, has once again become a parking lot for city buses. The verdant Cracow Meadow, where 2 million worshipers celebrated history's largest Mass with John Paul II, is peppered with picnickers and lovers. The priests and nuns who took to the streets by the thousands to direct traffic and marshal crowds, virtually usurping the role of the state, have melted back into their churches and convents. But it is apparent that the papal pilgrimage deepened the ardor of Poland's overwhelming Catholic majority and frightened their Communist rulers into new techniques—some subtle and others more direct—of repression.

Evidence of the effect of the Pope's visit upon the faithful range from the trivial to the profound. Local parish churches across the country are doing a brisk trade in color pictures of John Paul's every move in Poland. The Jesuits have begun an underground distribution of cassette recordings of the homilies and sermons he gave. There is even a contraband, Italian-made record called "Wojtyla Disco" making the rounds.

Activists: But the impact of the historic trip goes far beyond mere mementos. Middle-of-the-road intellectuals who previously shunned involvement with the church now seem more willing to identify with it. The head of the Writer's Union, Jaroslaw Iwaszkiewiiz, who had long been at odds with the Church over its version of the life story of Poland's patron Saint Stanislaus, has changed his view. Vocations to the priesthood, which are always high in Poland, may double this year. And last week, on the anniversary of the 1944 Warsaw uprising, 4,000 worshipers who had attended Mass at St.

John's Cathedral marched on the Tomb of the Unknown Soldier in Victory Square and listened to anti-Soviet speeches by human-rights activists.

Poland's official reaction to the papal pilgrimage has been more than a little schizophrenic. The government has tried to turn John Paul's visit to its advantage in propaganda campaigns outside the country. The state television and press agency are both producing films about the visit—for export only. Even Orbis, the government tourist organization, has moved in on the act, offering Europeans package tours to "the homeland of the Pope."

Inside Poland, however, there was a swift crackdown as soon as the Pope left. Many teachers and factory managers who had failed to restrain their students or workers from joining the throngs that greeted John Paul II suddenly found themselves out of work. The censors' pens ripped into Catholic publications. The authorities have threatened to "inspect" seminaries, which previously had been considered off-limits. And the building of illegal churches, a tolerated cat-and-mouse activity of the past, has been brought to a halt by police.

'Duty': Ordinary Catholics have struck back at the crackdown with gusto. More people than ever before made this summer's pilgrimage to Jasna Gora, the revered shrine of the Black Madonna; a foreign contigent of more than 15,000 swelled the ranks of Polish Catholics on the fifteen-day march to the Virgin's sanctuary. Parish priests have been posting a "child's guide" to the Polish language frequencies of Vatican Radio. "They may jam Radio Free Europe," laughed one Cracow priest, "but not Vatican Radio." An attempt by the authorities to put a stop to the "osases"—religious retreats by young people—by blaming a brush fire on one of the outdoor gatherings has resulted in an upsurge in attendance. As one Iublin student put it: "We have turned [attending an oasis] into a patriotic duty."

High church officials are less publicly defiant than the rank and file. "Ours is a long-term battle," an aide to the Polish primate said last week. Frankly, we are not interested in individual campaigns." But the papal visit has led to a change of tactics even in the delicate maneuvering at the top of Poland's two great hierarchies. Polish bishops once resisted formal diplomatic relations between Warsaw and the Vatican, fearing that Rome might sacrifice the rights of believers to detente with Communism. With John Paul as Pope, they are now actively seeking such ties. The Catholics are confident that time is on their side. "They need us more than we need them," a confidant of the Pope told me. "When they come calling, they will find us sympathetic listeners. But we'll also have a thing or two to say."

Image building: The papal visit came at a particuarly inopportune time for Communist Party chief Edward Gierek and his comrades. Economic mismanagement and a harsh winter have produced food shortages in a country where such hardships have traditionally produced unrest. As one response to the stunning outpouring of affection for the Pope, a top party group was charged with the task of promoting Gierek's image. For a time, he was shown as a back-slapping, beer-drinking buddy—a campaign that proved to be a dismal failure and was quickly dropped.

But it was the Pope's appeal to the young that frightened the party most. "It's one thing to have the party soul-searching about flunking a growth target," said one Polish academic. "But admitting you've lost the youth is another." Even the export-only films and photo essays on the visit seldom show the Pope with the young people he sought out. A few weeks ago the government began training the nucleus of an "indoctrination force" charged with winning over schoolchildren to the party. "They are making a very serious effort with the children," said one Warsaw journalist familiar with the program. "They devote one school period a week to propaganda about the glories of the party. But my son goes to catechism five days a week. Who will win?" With two powerful organizations doing the battling, there was no sure answer—but Polish Catholics clearly feel the odds are now in their favor.●

THE TAX REFORM FRAUD

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. PAUL. Mr. Speaker, are the advocates of so-called tax reform seeking to help the poor and the middle class, or are they simply cynical advocates of bigger and bigger government?

I believe the latter, and so do Paul Craig Roberts and Richard E. Wagner. They discuss this question, explode some liberal economic myths, and pass on some real financial wisdom in their recent policy review article called "The Tax Reform Fraud."

The only way to reform taxes is to lower them. This is necessary for the savings and investment vital to a market economy, and for reasons of equity and freedom. I would like to call some excerpts from this excellent and scholarly article to my colleagues' attention, in hopes that it may have some influence on our deliberations on "tax reform":

The Tax Reform Fraud

(By Paul Craig Roberts and Richard E. Wagner)

The growth of government is widely explained as a response to constituent demands for programs. Many economists see government as an agent for maximizing social welfare. * * * Other economists believe that government grows by responding to demands from special interests rather than from the public. * * * These explanations share the view that government is a passive agent that merely responds to demands. In contrast, we offer an explanation of tax reform that takes into account the self-interest of government itself. In this view, public policy also serves the private interests of the policymakers.

How does one define the self-interest of government? To an important extent, public officials can further their self-interest by increasing the power of government. Power maximization does not necessarily mean that government will maximize its revenue. Revenue maximization may result in a government that is large in absolute size, but small relative to the size of the economy. Power maximization may result in a smaller economy that produces less tax revenue, but in which the government is the source of a greater share of income and exercises greater control over the allocation of resources. Government, then, might rationally forego revenue maximization and adopt tax policies which result in government activity replacing private activity. * * *

Tax reform has been explained in terms of maximizing revenue, enhancing economic efficiency, achieving equity, and promoting social welfare. We offer a different view and explain tax reform as a means of strengthening the power of government. Tax reformers propose to expand the tax base by taxing fringe benefits and eliminating deductions and the distinction between capital and income. It is easy to show that the arguments used to support tax reform are false. How, then, should the tax reform movement be understood? As a well-intentioned movement that is simply misinformed or as an attempt to expand the power of government?

THE GOVERNMENT'S STAKE IN TAX REFORM

Like most "reforms" that increase the power of government, "tax reform" is advanced under moral and populist guises. Tax reformers claim that their purpose is to help the poor by closing "loopholes" that allegedly allow the rich to avoid paying their fair share of taxes. They attempt to create the impression that the tax system is biased in favor of the well-to-do, particularly those whose income results from previous acts of saving and capital formation. The tax reform literature quite clearly conveys the normative proposition that the tax burdens borne by people with above-average incomes and by people who own capital assets should increase, because at present such people are unfairly escaping the tax collector.

"Tax expenditures" have been defined by tax reformers as another name for tax loopholes. These loopholes include an array of fringe benefits, itemized deductions, and exemptions from income that tax reformers claim is equivalent to the expenditure of public funds. Tax reform, then, assumes the guise of getting public expenditures under control. But, each "reform" would add to the power of government even though it may be inconsistent with revenue maximization.

The taxation of fringe benefits would discourage these benefits from being privately supplied, while also creating a demand for these benefits to be provided by government. Such taxation is, in other words, consistent with the power maximization view of government * * *.

Eliminating the itemized deduction for medical insurance and medical expenses is a way of raising the cost to the individual of privately-provided health services, thereby strengthening the demand for government-supplied health services. Eliminating the itemized deduction for home mortgage interest is a way of raising the cost of private housing which, in turn, would induce a greater demand for government housing programs. Eliminating the itemized deduction for state gasoline taxes and interest on installment credit is a way of raising the cost of privately-provided transportation, thereby increasing the market for government-supplied mass transit.

Expansions in the share of income that is provided in-kind by government will strengthen the power of government. It seems obvious that, from the standpoint of self-interest, government has an incentive to tax fringe benefits. * * *

The "reasonable man" might respond to our perspective on tax reform by treating it as an interesting, hypothetical explanation. It can be made to appear this way, he might say, but the explanation assumes too much rationality behind government policy. Besides, tax reformers talk about equity, helping the poor, and making the rich pay, not about the power of government. Today a reasonable man must show some cynicism, and he may say that tax reformers are out to redistribute income, but not to establish leviathan. Although economists are quite content to understand self-interest in the private sector as expected rational behavior, they become uncomfortable when the self-interest hypothesis is applied to the government sector.

They rebel and say that explanations of government behavior in terms of self-interest implies that the government is in the hands of devious men and, although that might be true of a government headed by Richard Nixon, it is not true of any other. Only the private sector, they say, is in the hands of devious men. In other words, the behavioral assumption made by economists—that people in the private sector serve their own interests, but people in government serve everyone's interests but their own—is a dichotomy. Tax reformers may be muddleheaded, the reasonable man may say, but they are not devious.

CLAIMS VERSUS THE FACTS

Let's then look at the arguments of tax reformers in their own terms. Consider the main charges they make:

The effective corporate tax rate is far below the statutory rate. By avoiding taxes through loopholes, wealthy corporations are paying a declining share of the total tax burden, thus increasing the burden on the little man.

The rich don't pay income taxes.

Poor and middle-income taxpayers are taxed on all their income while upper-bracket money escapes through loopholes and deductions.

The federal tax burden as a percentage of income has remained constant for years, while the share of this burden borne by lower income taxpayers has been increasing.

What are the facts? The U.S. Commerce Department's National Income and Product Accounts show that the effective tax rate on real corporate profits has been higher than the statutory rate for the past decade, reaching almost one hundred percent in 1974. Table I summarizes what official government statistics show the tax rates to be for the years 1968–76 * * *

TABLE I

[In percent]

Year	Inflation rate (CPI)	Effective tax rate
1968	4.7	54
1969	6.1	60
1970	5.5	65
1971	3.4	62
1972	3.4	58
1973	8.8	64
1974	12.2	96
1975	7.0	73
1976	4.8	67
1977	6.8	66

Source: Bureau of Economic Analysis, U.S. Department of Commerce.

TABLE II.—PERCENTAGE OF TOTAL TAXES PAID BY HIGH- AND LOW-INCOME TAXPAYERS, 1970 AND 1975

Adjusted gross income class	Income level 1970	Income level 1975	Percentage of tax paid 1970	Percentage of tax paid 1975
Highest 1 percent	$43,249 or more	$59,338 or more	17.6	18.7
Highest 5 percent	$20,867 or more	$29,272 or more	34.1	36.6
Highest 10 percent	$16,965 or more	$23,420 or more	45.0	48.7
Highest 25 percent	$11,467 or more	$15,898 or more	68.3	72.0
Highest 50 percent	$6,919 or more	$8,931 or more	89.7	92.9
Lowest 50 percent	$6,918 or less	$8,930 or less	10.3	7.1
Lowest 25 percent	$3,157 or less	$4,044 or less	.9	.4
Lowest 10 percent	$1,259 or less	$1,527 or less	.1	.1

Source: Tax Foundation computations based on Internal Revenue Service's Statistics of Income.

Table I shows the distribution of the personal income tax burden. The top ten percent of taxpayers pays almost 50 percent of personal income taxes collected. The top 50 percent paid 92.9 percent of the total personal income taxes in 1975. The data show that the income tax burden is shifting away from lower income people. In 1970, the bottom 50 percent of taxpayers paid 10.3 percent of personal income taxes. By 1975 this figure had declined to 7.1 and * * * to 6.7 percent in 1976. The 1978 legislation maintained this trend, for it has been estimated that 79 percent of the tax reduction will accrue to the top 50 percent of taxpayers. Since the top 50 percent was already paying 93 percent of the taxes, it will be paying an even greater share after 1978; maintenance of the pattern of distribution would have required that the top 50 percent receive 93 percent of the tax reduction. Progressivity has been increased still further by the 1978 legislation.

In 1975, for every $1 in personal income taxes paid by the bottom ten percent of taxpayers, the top one percent paid $187. In spite of shelters and deductions, higher income taxpayers pay disproportionately high shares of the total income tax burden. Treasury figures show that in 1976 the top 1.4 percent of the taxpayers with incomes of $50,000 or more received 10.7 percent of the income and paid 23 percent of the income taxes. The top 0.3 percent with incomes of $100,000 or more received 4.5 percent of the income and paid 10.5 percent of the income taxes. * * *

With millions of people dropped from the tax rolls and with half the taxpayers paying only 6 percent of the personal income taxes, (the result has been) representation without taxation, something that long ago was recognized as a problem for democracy. The situation in which one group is forced to give up large amounts of its income to the government and another group is dependent on the government for its income seems consistent with the power maximization hypothesis, but hardly with any of the public interest views of government.

Tax reformers point out that upper-income taxpayers receive a disproportionate share of "Tax expenditures" or "loophole" benefits. They do not point out that these same people also pay a disproportionate share of the income taxes. Upper income taxpayers are not getting rich through loopholes. Actually, 70 percent of the "tax expenditures" go to people with incomes of $50,000 or less. * * *

Tax reformers seem strongly opposed to closing the greatest loophole of all. This is the loophole which works for the benefit of government by allowing the government to use inflation to increase taxes on constant and even declining levels of purchasing power without having to legislate higher tax rates. Between 1966 and 1976, the average wage rose 77.3 percent, and the consumer price index rose 75.4 percent. So the average worker kept up with inflation, but not with taxes. The total tax burden rose 144 percent during the same period. Because of the progressive structure of the income tax, when people's money incomes rise they enter higher tax brackets. The government's revenues do not simply rise at the rate of inflation; they rise 1.6 times as rapidly.

American after-tax incomes have been undone by taxflation. This explains why government prefers to cut taxes in the lower brackets. Inflation soon pushes people into the higher brackets that were not cut. The central issue of tax reform is surely that of closing this loophole. But in their proposal to tax capital gains as ordinary income, the tax reformers show every intention of opening the loophole wider.

By emphasizing that the federal personal income tax take has remained roughly constant as a percentage of personal income for years, at about 10 to 11 percent of personal income, tax reformers imply that the tax burden is not growing. They do not note that this average take is the result of millions of people being pushed into higher tax brackets while millions of others are dropped from the tax rolls. Nor do they note that the total government tax take (state, local and federal tax revenues and federal deficit spending) has increased from 12 percent of national income in 1929 to 33 percent in 1960, and to 41 percent in 1977. * * *

Reassurances that only the rich will suffer have proved false in the past. Initially, the personal income tax burden rested on only 357,515 people—less than one-half of 1 percent of the population. Only people with incomes much greater than average were subject to the tax. Only income in excess of $117,000 in 1977 dollars encountered the first surtax bracket of 2 percent. The top tax bracket of 7 percent was encountered only by income in excess of $2.9 million in 1977 dollars. However, the personal income tax soon found its way into the lower brackets. The income thresholds were lowered and the tax rates raised. The bottom bracket today, an income level not subject to taxation in 1914, is taxed at 14 percent—twice 1914's top rate. The tax rate today on the first $500 of taxable income is twice as great as the tax rate on a multi-millionaire income in 1914.

INCOME GROWTH OR INCOME REDISTRIBUTION?

A characteristic of democratic politics is the use of public policy to create supporting constituencies. Different tax policies mean different patterns of gains and losses for different people. Many people realize that tax reformers seek the support of those who pay little if any tax by heaping even greater burdens upon those who pay most of the tax, but there is more to tax policies than the tax distribution of tax burden among people. It also deals with the distribution of power between government and citizens. Tax reforms strengthen the power of government relative to citizens generally when they destroy private wealth and lead to the creation of income claims that are dependent on government transfers.

When examined at a given point in time, tax legislation seems to deal primarily with the distribution of tax burdens and disposable income. When seen as part of an ongoing social life, however, tax legislation deals primarily with the production and destruction of wealth. For instance, taxes on capital, which appear to deal with the distribution of consumption among people, actually reduce the consumption opportunities available to all.

Savers and investors are the primary benefactors of society. The first two little pigs were clearly better off because the third little pig was thrifty and industrious and built a brick house. As Ludwig von Mises put it:

> Every single performance in this ceaseless pursuit of wealth production is based upon the saving and the preparatory work of earlier generations. We are the lucky heirs of our fathers and forefathers whose saving has accumulated the capital goods with the aid of which we are working today. We favorite children of the age of electricity still derive advantage from the original saving of the primitive fishermen, who, in producing the first nets and canoes, devoted a part of their working time to provision for a remoter future. If the sons of these legandary fishermen had worn out these intermediary products—nets and canoes—without replacing them by new ones, they would have consumed capital and the process of saving and capital accumulation would have had to start afresh. We are better off than earlier generations because we are equipped

with the capital goods they have accumulated for us.

The effort to promote more equal sharing of economic output by penalizing productive efforts reduces the amount of savings and future production. For a while recipients of redistributed income may gain, but eventually even they lose too as a result of the reduction in economic growth. Many tax reformers would have us playing a negative sum game that benefits only the power brokers in Washington.

Substantial efforts under the guise of promoting justice has gone into promoting guilt over economic success, but what the elimination of poverty really requires is a strong dose of middle class values. If the story of "The Three Little Pigs" is cultural imperilism, the more the better. True charity consists in promoting the traits that foster individual success. Nothing but widespread individual success can constrain the power of government.●

THE REAL REASON FOR HUNGER IN VIETNAM

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. YOUNG of Florida. Mr. Speaker, the question of whether the United States should provide foreign aid to Vietnam is a major issue facing this Congress. The House has voted overwhelmingly to prohibit the spending of American tax dollars either directly or indirectly to aid Vietnam. The issue is now before the Senate.

I want to call the attention of the House to a very interesting article which appeared in the Washington Post September 26, 1979. It was, in my view, an article designed to create sympathy for Vietnam. And yet, in a section that could be overlooked, the article made one thing very clear: The sad plight of the Vietnamese people is very much the result of actions of the Vietnamese Government.

The article quoted Mr. Le Vinh, Vice Director of the Economic Institute of the Commission for Social Science of Vietnam, as saying this:

> You could say we can feed our own people this year because we produced all we need: 12.5 million tons. But we cannot feed the people. We had to put our rice to other uses.

The story quotes Mr. Le Vinh further:

> The other uses, he said, were raising livestock and feeding Vietnam's army stationed in Laos, Cambodia and along the northern border. "Now we have to give more food and spend greater amounts on military. More of our foreign currency is reserved for the military," said Le Vinh. "The army takes the trucks we need for transportation and the labor we need to build up agriculture, every sector of the economy."

Mr. Speaker, that is a very clear statement. Many Vietnamese are hungry because the Government of Vietnam is using its rice, its trucks and its other resources to support foreign military adventures. Instead of using the rice to feed its own people, they are using it to support armies in Laos and Cambodia.

I have sympathy for the plight of people anywhere who are hungry, and that includes the Vietnamese. And I would not oppose legitimate programs to feed the hungry in that country—or elsewhere. But why should Americans be made to support Vietnam at the very same time they are using their own resources to wage war against their neighbors.

The Government of Vietnam needs to take the first steps to feed its own people. It should bring its troops home. It should spend its resources on building a peacetime economy. It should be a peaceful neighbor to other nations in Southeast Asia.

Then, Mr. Speaker, when these conditions are met and only when these conditions are met should Congress consider American aid for Vietnam.●

INDEPENDENT CONTRACTOR TAX STATUS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, the tax status of workers as employees or independent contractors has troubled the Ways and Means Committee for some time. If an entrepreneur is reclassified as an employee, it could mean additional taxes for both the worker and his employer. Indeed, long and costly lawsuits have been fought over this single issue.

Congressman GEPHARDT should be commended for his effort to clarify their tricky problem of tax status. His bill, H.R. 3245, creates a "safe harbor" for workers whose control over the terms of their employment clearly establishes their independent contractor status. My study of this problem, which goes back to my service as ranking member on the 95th Congress task force assigned to this problem, leads me to believe that Congressman GEPHARDT's bill should be expanded by including a second "safe harbor" based on another important test of contractor status. The Supreme Court, in *NLRB* v. *Hearst Publications, Inc.*, 322 U.S. 111 (1944), and *United States* v. *Silk*, 331 U.S. 704 (1947), also known as the Greyvan case, acknowledged that many workers are independent contractors solely due to their substantial investment in equipment used to perform their service. When a worker invests heavily in equipment, accepts liability for damages by that equipment, bears the burden of operating and maintaining the equipment, and contracts to perform services with the equipment, the Court acknowledges that he is an independent contractor.

I have introduced a bill, H.R. 5622, to create a second "safe harbor" for entrepreneurs. In addition, H.R. 5622 would direct IRS to study the effect this proposed law would have on independent contractor compliance with income tax filing requirements. IRS would like to impose a withholding requirement on contractors. When Congress has made tax classification of workers more predictable, then we will be in a position to examine whether contractors are failing to report all their reportable income. Until then, it would be premature to impose the administrative burdens of withholding upon independent contractors. My bill will authorize IRS to study compliance under a clarified tax status law in lieu of hastily imposing withholding.

The Senate recently held hearings on this entire question. Mr. Robert Dunville delivered some excellent testimony on this matter. I encourage my colleagues to examine his testimony before making any final decisions about the independent contractor business.

The testimony follows:

> Mr. Chairman and members of the committee, my name is Robert M. Dunville, Sr., President of Robert M. Dunville Bros., Inc., a construction company located in Richmond, Virginia. I am a member of the Tax and Fiscal Affairs Committee of the Associated General Contractors.
>
> I am here representing the Associated General Contractors of America. Primarily, I am here to speak in behalf of the small businessman in construction, requesting amendments to S. 736.
>
> Mr. Chairman, the purpose of S. 736 is to clarify the status for tax purposes of as many payees as possible so that wasteful and unnecessary litigation and harassment will be eliminated in the future. We also believe a necessary and proper objective of these deliberations would be to provide consistency among the various federal agencies in their definitions of who is and who is not an independent contractor. That is, the law should permit an individual to anticipate with some reasonable certainty whether or not he qualifies as an independent contractor regardless of which governmental agency he is confronting.
>
> * * * * *
>
> This bill provides Congress with an excellent opportunity to do just that, basing the criteria on two leading tax decisions: U.S. v. Mutual Trucking Co.,[1] and the decision in two cases considered jointly: U.S. v. Silk and Collector of Internal Revenue v. Greyvan Lines.[2]
>
> These hearings also provide Congress with an opportunity to protect the common law generally in addition to the economic reality and control tests, and to promote private, free enterprise by precluding regulations that would prevent the entrepreneurial system from operating.
>
> * * * * *
>
> There seems to be a general agreement in the private sector that independent contractors should be distinguished from employees and exempted from federal tax withholding requirements. The problem exists in defining an independent contractor.
>
> Section 3508(b) of the Dole proposal is a fair and reasoned refinement of the common law control test. Therefore it justly qualifies for what has been referred to as a "safe harbor." However, in the construction industry there are several ways one or more of the five points will not be met and yet tax law, under the economic reality test, upholds, for example, owner operators as independent contractors.
>
> AGC therefore very strongly recommends the inclusion of subsection (c) found in H.R. 5266[3] introduced by Congressman Phil Crane, a member of the House Ways and Means Committee and former ranking member of that body's task force on the independent contractor.
>
> This "safe harbor" is primarily based on the aforementioned Mutual Trucking and Greyvan cases, giving this provision, we think, equal standing under tax law. In the Mutual Trucking case it was held that control factors are not conclusive when the payor controls the work only for the results to be accomplished.
>
> In Greyvan, the economic reality test re-

ceived further expansion under the common law. On the facts, the Supreme Court concluded, and I quote: "Where the arrangements leave the driver-owners so much responsibility for investment and management . . ." they must be held to be independent contractors. Thus, under the economic reality test or the "investment and management" test, a person who owned his own tractor and leased it to a trucking company in exchange for a percentage of the revenue obtained for hauling on orders solicited and obtained by the trucking company was deemed an entrepreneur, not an employee.

In addition, other courts reviewing owner operator litigation other than tax cases have also upheld this principle. As we emphasized at the beginning, an individual should know if he qualifies as an independent contractor regardless of the agency he is confronting. Since the National Labor Relations Board and the courts under the Taft-Hartley Act attempt to implement the common law definition of independent contractor, and the IRS attempts to accomplish the same purpose, this subsection (c) will be of special significance. It will show that the Congress will not permit tax law as defined by the IRS to conflict with or replace the common law regarding the independent contractors as viewed by other agencies and the courts.

It is our understanding that the National Labor Relations Board now accepts the "investment and management" test. In his remarks at the American Bar Association National Institute, Washington, D.C., April 27, 1979, Edward B. Miller, managing partner in Pope, Ballard, Shepard & Fowle, Chicago, and former chairman of the National Labor Relations Board said, "The board has also rather recently accepted the findings of the ninth circuit in a series of cases involving Associated General Contractors of California, wherein the court had found that the board had erred in finding certain dump truck operators to be employees, again because it had failed to apply the common law tests (564 F. 2D 271 (1977), 239 NLRB No. 100 (December 11. 1978))." [4]

This court's articulation of a bona fide owner-operator which we call to your attention appears on page 16,832 in the case cited as 82 Labor Cases at 10215, a copy of which is attached to this testimony. In this case, the court referred to the "investment and management" test as the "total factual context." This emphasizes the need, as Judge Bazelon complained, for Congress to clarify the "maze of precedents." Congress can do that, we believe, in these two "safe harbors."

You may ask, why can't this be done in one "safe harbor"? Let us examine the five requirements of subsection (b) of the Dole bill.

As to requirement No. 1, control of hours worked, many very independent contractors who own their own dump trucks, welding rigs, backhoes, draglines, etc., have their hours of work dictated for a specific contract by the general contractor in accordance with the needs of the construction program and probably would not be covered by the Dole proposal for that reason.

And by no stretch of the imagination could an owner operator on a construction site do substantially all of the scheduling of the hours worked. On some large projects, a contractor will have as many as 500 trucks dumping and/or removing material. Most of those owner operators would not know who the others are or where they are from and could not even attempt to schedule their arrivals and departures as the contractor needs them to obtain certain results.

We also can see the principle in the *Mutual Trucking* case—that the payor can control and direct an independent contractor (owner-operator) as to the result to be accomplished by the work—is in conflict with this requirement.

Therefore, after just the first requirement we can see that the criteria for the two "safe harbors" are apparently incompatible and probably cannot be drafted into one subsection.

As to requirement No. 2, place of business, owner operators of trucks usually have over night vehicle parking problems and normally find rent-free parking accommodations on the construction site. That again could result in their disqualification under the Dole proposal.

As to the requirement No. 3(b), income fluctuations, many of this same type of independent contractors are paid by the hour or partially by the hour for the hours they and their equipment work. They usually are responsible for their own fuel oil and maintenance, etc., and suffer loss of compensation during periods of breakdown or other work stoppage. But their tax status under the Gephardt proposal probably would be challenged by the IRS because all of their compensation is not directly related to output. The more realistic line of demarcation would be whether or not the earnings are partially attributable to the equipment owned and operated by the individual, as distinguished from earnings attributable solely to his manual contributions. That line of demarcation differs from that in the Dole proposal. However, apparently an owner operator would qualify under No. 3(a).

As to requirement No. 4, written contract, most small construction contracts are verbal and are administered by the job foreman, who is a good craftsman but is often lacking in paper ability. You would be surprised at how very difficult it is just to obtain a proper W-2 form from the field. We can see that the necessity of obtaining a signed contract before performance would be a real problem, so that requirement would not be met in many instances.

As to requirement No. 5, filing of required return, there would be many instances where the payor would fail to file information returns required for such services under code section 6041(a), either through administrative oversight or through lack of proper knowledge of all the ramifications of the law. For that reason, AGC supports the two provisions in the Crane bill. First, Sec. 3508 (c)(7), that unless the failure to file is willful or intentional, the individual's status is not affected.

Second, and most important, Crane's Section 4, that instructs IRS to conduct a four year study of this legislation's impact on compliance. We feel this eliminates the need to include withholding at this time and gives IRS time to prove that noncompliance among the self employed can only be solved by withholding, if that is in fact the case.

As Senator Bellmon said, the recent disclosure "suggests that withholding is the most efficient method for eliminating the problem of noncompliance," but he didn't say the disclosure proved it.

Before the Congress enacts a requirement that could force some small businessmen to close shop, it would seem prudent to require a very detailed and reliable study, even if it requires an additional appropriation to IRS.

We do suggest that report language indicate that IRS should be instructed to develop a new, shorter, more efficient reporting form to be used in connection with the study, perhaps along the lines of that used for reporting interest income.

However inappropriate the Dole points would be to owner operators, they would appear to be important to the common law control test and should be enacted into law. However, AGC emphasizes that the Congress, in order to be completely responsible in this matter, must give proper attention to the tax law regarding the economic reality test.

In this regard, I take this opportunity to call your attention to the following figures, as a brief comparison, received from the Bureau of Labor Statistics:

Total Males Employed, 1978, 55,490,000.

Total Males Self-Employed, 1978, Non-Agriculture, 4,529,000.

Agriculture, 1,455,000.

Total Males Employed in Construction, 1978, 5,630,000.

Total Males Self-Employed in Constr., 1978, 1,045,000.

Total Employed in Trucking Service, 1978, 1,343,000.

Total Self-Employed in Trucking Service, 1978, 176,000.

Total Employed in Insurance, 1978, 1,776,000.

Total Self-Employed in Insurance, 1978, 106,000.

Total Employed in Real Estate, 1978, 1,478,000.

Total Self-Employed in Real Estate, 1978, 258,000.

Most of the self-employed (independent contractors) in construction and trucking are owner-operators. So it appears that the owner-operator group is larger than many of the independent contractor groups that are now included in the Gephardt/Dole "safe harbor." In addition, 57,000 of the self-employed in the construction category are non-white payees.

So we are not only discussing the common law, economic reality test, but also large numbers of independent contractors and large numbers of minority payees. According to Overdrive magazine (of Delray, California), there are approximately one-quarter million truck owner operators in the United States in just the large construction and trucking areas alone. So we can assume that there are many more non-truck owner operators in construction and truck owner operators in the very small construction and trucking service industries. We would also have to include owner operators in all other fields so the numbers would be quite significant. Overdrive estimated that 20 percent of these owner operators are non-white.

In fact, the route provided to owner operators of equipment is one of the most common ways in which small businessmen, including minority group members, have been able to make successful entrances into the construction industry. Several past presidents of The Associated General Contractors began their careers in the construction contracting business by serving as owner-operators of pieces of equipment.

The recognition of bona fide owner operators in the construction industry would be a very appropriate move for the federal government, in view of the high profile which Congress has given to minority business enterprise (MBE) in the construction industry. It is no secret that The Associated General Contractors has opposed the MBE law in litigation up to the Supreme Court, where the issue is still pending. AGC opposes the method, not the objective. AGC is sincerely interested in bringing a maximum number of minority business enterprises into the construction industry. Consistent with this goal, we would highly recommend that the economic reality test or "investment management" test be recognized as one of the best ways we know for accomplishing the objective in a proper and effective manner.

In addition, Mr. Chairman, we suggest a third "safe harbor" for those workers who hold themselves out as independent contractors and who either worked for five or more payors during the previous year, or who anticipate working for five or more payors during the current year. This, of course, is based on Sec'y. Lubick's proposal that "no withholding would be required on payments to an individual who provides similar services to five or more payors during each calendar year."

This makes sense and is incorporated into subsection (d) of the Crane bill. This subsection also makes sense to the argument for no withholding. If a very large group of the self employed are to be exempt from withholding on the recommendation of the IRS, why should the Congress strive to discriminate against all other independent contractors?

Mr. Chairman, if the individual is not qualified under the five points of Dole and Gephardt; or, the Crane "safe harbors," the statute should still give him the opportunity to qualify as an independent contractor under the current IRS common law definition of an independent contractor.

* * * * *

We feel the Dole legislation is a good bill and can be strengthened by the Crane provisions. We have, Mr. Chairman, based our testimony on what we believe to be the common law and common sense.

Thank you for this opportunity to share this vital information with you. We hope it will be useful and we will be happy to attempt to answer any questions.●

A TRIBUTE TO POPE JOHN PAUL II—SHEPHERD OF THE POOR AND WORLD LEADER

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. GUARINI. Mr. Speaker, I am pleased to express my pride and pleasure regarding the upcoming visit of Pope John Paul II to the United States. My district, the home for an estimated 300,000 Roman Catholics, is extremely excited over the visit to our shores of Pope John Paul II, the spiritual leader for more than 700 million Catholics worldwide.

An outgoing and confident man, the Pope has focused the spotlight of concern on the problems of the world, while instilling the faithful with a deeper understanding of the nature of the church and its role in human salvation. His social thrusts should be looked upon as an important symbol of the direction that his papacy may take in the years to come. His visits to Poland, Czechoslovakia, Mexico, and the Dominican Republic, as well as his upcoming trip to strife torn Ireland clearly shows his concern for all mankind, and the need to look within ourselves for inner peace, in addition to working with others for world peace. Furthermore, Pope John Paul II has strongly spoken out against political systems that "degrade the dignity of man," while defending the national self-determination of all peoples, and the human rights of all individuals.

The deep emotion that he exhibited during his visit to Auschwitz, the infamous Nazi concentration camp, was genuine and moving, and I was deeply impressed as well, when the Pope discoursed recently on the meaning of prudence. The Holy Father stated that—

> The prudent man, who works for everything that is truly good, strives to measure everything, every situation, and all his activity according to the yardstick of moral good. The prudent person is not therefore the one who—as it is often understood—knows how to get the greatest profit out of it. It is rather the one who knows how to build his whole life according to the voice of right conscience and according to the requirements of just morality.
>
> Thus, prudence constitutes the key for the realization of the fundamental task that each of us has received from God. This task is the perfection of man himself.

I am confident that history will reveal the true greatness of this defender of religious and personal liberty, and honor the hard work and constant study that have marked the life of Pope John Paul II since his youth.

Born May 18, 1920, in Wadowice, Poland—a short distance from Cracow, the future Pope worked to support his family during his years in school. His liberal arts studies at Cracow's Jagelonica University were interrupted by the Second World War. Karol Wojtyla was forced to return to work, first in a stone quarry, and then in a chemical plant where he was active in seeking better conditons for his fellow workers. It was largely through his efforts that the plant employees were given a recreation center within the factory.

While a plant worker, Wojtyla secretly studied theology after Cracow's seminary was closed by the German occupation forces.

Father Wojtyla was ordained in Cracow on November 1, 1946, and was immediately sent to Rome where, in 1948, he received a doctorate in ethics at the Angelicum University. His thesis bore the title: "Faith in St. John of the Cross."

Returning to Communist Poland, Father Wojtyla continued his studies at the Catholic University of Lublin, where he earned his doctorate in theology. It was during this period that the future Pope began publishing the first of over 120 articles and books on a myriad of philosophical and theological themes. It was also during these years that he served as chaplain to the students at the university, a time when the Communist government was applying intense pressure on Catholics, especially those in the universities.

Mr. Speaker, I am pleased that the Pope's schedule will allow him to conduct Mass at Yankee Stadium on October 2, morning prayer at St. Patrick's Cathedral for the clergy on October 3, and a giant youth rally at 9:00 a.m. at Madison Square Garden on Wednesday, October 3. The formal rallies scheduled at Shea Stadium and at Battery Park on October 3 will allow my constituents to join the millions who wish to walk in his shadow and hear his voice. A visit to the United Nations is also on the agenda.

The Pope's visit to Washington has ignited genuine excitement. He will say Mass at the Washington Monument, and visit with us at the White House at the invitation of President and Mrs. Carter, on Saturday, October 6.

I pray that the world will be blessed with the good health, wisdom, and leadership of this great and holy man for many decades to come.

With confidence in Pope John Paul II, both pastor and scholar, I feel certain that we will enjoy his warmth and direction, resulting in social justice throughout the world.

It is my feeling that this man chosen as successor to St. Peter is that rare human being, genuine leader of men—even more rare, a leader of men who meets the measure of God.●

BIG GOVERNMENT BLAMED FOR RUNAWAY INFLATION

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. BETHUNE. Mr. Speaker, a newspaper in my district recently ran an article written by Mr. Leon Moss, Jr., a fellow Arkansan, concerning the Government's inability to control runaway inflation. It is my belief that this article reflects a ponderance of American thinking on the subject and is worthy of my colleagues attention here in Congress.

The article follows:

BIG GOVERNMENT BLAMED FOR RUNAWAY INFLATION

Considerest thou now the economy. It is amazing that so little is actually known about such a major factor in the life of each and every person in this country. Numerous economists and financial experts run lose amongst us, each touting his own philosophy, and rarely is one found who is in complete agreement with any other of his tribe.

Some are highly knowledgeable, with valid facts and figures ready on the tip of their tongues, while a far larger group prefers to be guided by gut feelings, and fly by the seat of their pants. From this latter aggregation come the spokesmen who advise the public concerning the reasons for the daily fluctuations of the stock market, basing everything upon a single facet of national or world news, and carefully ignoring any element that is more than twenty-four hours old. Still, for one and all of them, their field of study, if not expertise, is economics, and they feel impelled to forecast.

To many of these prognosticators, the economy is an enigma, wrapped in a mystery, floating free in an abyss, buoyed up by such inconceivables and intangibles as the gross national product, Dow Jones averages, prime interest rates, special drawing rights, balance of payments, and price quotients for hamburger. Most consult the same reports and production figures, provided by the same sources; they digest them thoroughly and come up with completely contradictory conclusions, all neatly buttressed by irrefutable facts and proven beyond doubt by means of graphs and charts.

The leaders of our nation then use these to plot the course of governmental policy. The method used to select the favored view from all the diverse theories at hand is not widely known outside of official circles, but, judging from the results, one may deduce that, having assembled a number of the more far-out ones, thereby obtaining a cross-section, the final choice is made scientifically, by the toss of a coin.

The fiscal makeup of this nation is fantastically complex, but it is still governed by the same basic principles as a simple household budget: Spend more than you take in, and sooner or later you will end up broke. Some manipulations, such as a tax cut that spurs the sale of goods and services, generating more tax income than would have been produced by the higher rate, may seem to hold this law in abeyance for a while, but the effect is temporary in scope. Unless the tax cut is matched by a reduction in spending, the impact will be blunted, the law will reassert itself, and, if it is ignored for a period of time, inflation is the inevitable result. To the first dictum, a correlary may be added: The government is spending too much money, and is draining the economy. Combine these two, and you have the recipe for the galloping prices that have been enjoyed so much in recent years.

Inflation is the end result of myriad factors, but it is strange that many of our economic pundits seem to be unable to fathom the more glaring causes of it. They hold forth learnedly upon the effect of labor contracts, the catastrophic cost of oil, the diminishing size of the candy bar, the price of a beer, and similar problems currently afflicting the Good Life, but rarely does one point a finger at the foremost culprit: the government. On second thought, maybe this is not so odd—because a large percentage of them rely, one way or another, upon tax-generated funds for their livelihood.

To illustrate how the government is at fault, let us consider two examples. Say that the Zilch Company makes eleven-foot poles, for use in touching those people who cannot be reached by the standard ten-foot models, and is making a respectable profit. Being sensitive to the needs of his fellow man, one bright morning Mr. Zilch comes in and announces that, starting immediately, he intends to double his labor force, and use the extra personnel for community uplift, studies of municipal problems, charitable activities, and many kinds of good works. Everyone is pleased to be associated with a firm that is involved in such worthwhile causes, and, at first, results are most gratifying, but soon a serious flaw in the planning becomes evident. Not one of the new employees is fabricating poles, the only item sold by the company. What had been a comfortable profit margin is wiped out by the 100 percent increase in labor costs, and a devestating loss results. Now Mr. Zilch faces a dilemma. He can go broke, lay off the nonessential employees, or raise his prices. None of the three choices are particularly appealing, but the last one is easiest, so up go the prices. As is widely known, eleven-foot poles are essential to the well-being of the citizenry—no thinking individual would be caught without one—this added expense causes their style of living to be adversely effected, so they demand, and receive, higher salaries to compensate for it. In turn, their employers, faced with more labor costs, raise their prices. Thus the ripple impact of the Zilch action moves throughout the economy, feeding the inflationary spiral.

Now change the above scenario to one in which Mr. Zilch is not foolish enough to hire more employees than he can pay. Instead, say that the government has a project that they want to place in operation, so they hire personnel, then jack up Zilch's corporation tax to pay for everything. Zilch is in the same problem as before, and is forced to raise prices. In these two situations it matters not a whit whether the employees are seated behind a desk in the Zilch plant or in a Federal building, Zilch must pay. Admittedly, this portrayal is greatly simplified, because the system for extracting tax dollars is far more subtle. The bite is spread around and disguised many ways. According to newspaper articles, someone who obviously had a great amount of time on his hands has calculated that, hidden in the price of a loaf of bread are over 100 separate taxes. Even so, the principle remains the same.

Except for comparatively small amounts generated by coinage of money and sale of stamps, the government has no funds of its own, and the funds to meet its bills must be squeezed from the income of the taxpayers, directly or indirectly, either at the present time, or deferred by running up debts that will be a burden for future generations. Therefore, every additional employee placed on a government payroll contributes to the inflationary trend.

Government can best be described as a necessary evil. We cannot do without it, but it must be kept within restraints. It absorbs money by the ton, while producing nothing to make it self-supporting. During the past twenty years it has grown tremendously in size and power, waxing fat on sky-high taxes and borrowed cash.

In 1963, when Lyndon Johnson became president, the national budget was one hundred billion dollars; in 1979, only sixteen years later, it was over five times that much. So many projects, good and bad, have been undertaken that they have exceeded our ability to pay.

What with the proliferation of bureaus and functionaries, the present situation calls to mind the words of Thomas Jefferson, when, in the Declaration of Independence, he complained of George III, King of England: "He has erected a multitude of new offices and sent hither swarms of officers to harass our people and eat out their susbtance." The old adage is appropriate: the more things change, the more they remain the same.

The responsibility rests with the Congress, because they voted to spend the money, and to them we must turn for redress. So many governmental agencies have been established that, despite repeated attempts, no one has been able to even list all of them, and more are being created every year.

Once the funding starts to flow into one of these tentacles of the bureaucracy, few things short of a national calamity can shut it off. Their annual budgets are given routine approval, and, like Ol' Man River, they jes' keep rollin' along, often after they have outlived their original purpose. In this maze of governmental largess can be found countless examples of duplication and overlapping responsibilities.

In many cases generous portions of the appropriations are consumed in paying salaries of administrative personnel, with little left to support the intent of the legislation. With a minimum of Congressional supervision, opportunities for waste and mismanagement are abundant.

Voters can make national leaders quake in their boots—only in election years, of course—and the time has come when they must grab the bull by the horns and demand that Congress busy itself with a full review of all the programs that they have authorized, to eliminate the failures and to strengthen those that have proven their merit.

Aside from the tremendous savings that would result, even a casual appraisal of each agency would keep out lawmakers so occupied for the next several decades that they would have no time to enact a tax increase. Ponderest thou upon it—what a glorious relief! ●

CONGRESSMAN HARRIS WELCOMES POPE JOHN PAUL II TO UNITED STATES

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. HARRIS. Mr. Speaker, as a Member of Congress from the Washington area, I am honored that Pope John Paul II will be visiting our Nation's Capital. Pope John Paul is a dynamic advocate of world peace and understanding. He has demonstrated his appeal to the economically deprived and the politically oppressed peoples of the world, and now he brings his message of peace and goodwill to Americans, a message we should all pause to reflect upon.

There are already estimates that as many as 1 million people may attend the Mass celebrated by Pope John Paul in Washington. Millions more, no doubt, will view this event on television. Certainly many of those drawn to the Pope will not be of the Catholic faith. Rather, they will be drawn by the vibrant force of this man, and by his commitment to human rights, to world peace, and to the economic and religious freedom of all mankind.

As did his visit to Mexico, and his electrifying visit to his native Poland, the significance of the Pope's visit to the United States transcends the religious celebration. Pope John Paul's travels represent a call to all citizens of the world—of all faiths and of all nationalities—to renew our commitment to the irrepressible dream of mankind: The dream for peace, for hope, and for a better world for our children.

I join all Americans in welcoming Pope John Paul II to the United States and wish him success in his travels. ●

ELMER LUNDE—HONORARY MAYOR OF SAN PEDRO, 1978–79

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. ANDERSON of California. Mr. Speaker, each year the people of California's San Pedro community conduct a mayor's race unlike other political contests. Candidates campaign for votes, but not in the typical way. The office seekers collect dollar contributions for charitable and service organizations instead of trying to win talleys at the ballot box. In last year's race, an all-time fundraising record was set. During a 5-week campaign, Elmer Lunde raised $16,000 for the benefit of organizations such as the Harbor Area Retarded Children Foundation to become honorary mayor for the year.

This past week marked the end of Elmer Lunde's term as honorary mayor. It concluded a tenure of service that will long be remembered not only for the great financial contributions it produced but also for all the dedication Mayor Lunde gave to the job. Consider this example: during his 13 months in office, Elmer attended more than 300 breakfasts, dinners, lunches, receptions, mixers, ribbon cuttings, ground breakings, festivals, parades, pageants, and meetings.

The people he has worked with say his hard work has always been combined with friendliness and a genuine concern for others. His overt affection won him the distinction of being known as the "kissing mayor."

Even before his election as honorary mayor, Elmer Lunde was an active, involved citizen. He has had a long-standing association with the Ulabrand Hall, Sons of Norway; the Boys Club; the National Association of Retired Federal Employees; the Hollywood Bowl Volunteer Committee; the San Pedro Coordinating Council; the Veterans of Foreign Wars; the Retired Military Officers Association; the Red Cross; the Military Affairs Committee of the San Pedro chamber of commerce and community development; and many other organizations.

A 28 year career of service in the U.S. Army is especially noteworthy. Tours of duty carried Elmer Lunde all over the Nation and all over the world. The outstanding highlight of his military career was the presentation of the Legion of Merit Medal, the second highest peacetime award given by the Army.

Leisurely retirement would seem the next logical step for someone who has already done so much for their community and their country; however, the 72-year-old Elmer Lunde says he is not ready to quit. In a recent interview he said he will continue to work for the community "for as long as I possibly can".

My wife, Lee, joins me in offering this congressional recognition to show our appreciation for his never ending commitment. We hope the future brings many more years of good fortune. He deserves nothing less.●

THAT "ARTIFICIAL" FUSS OVER CUBA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. DERWINSKI. Mr. Speaker, as high level diplomatic meetings continue and with the President promising to report to the Nation on the Soviet troops in Cuba, the all too familiar foreign policy bungling by the Carter administration is evident.

In a very hard-hitting editorial in their September 28 edition, the Chicago Tribune focuses on the latest Cuban crisis.

This editorial follows for the Members' attention:

THAT 'ARTIFICIAL' FUSS OVER CUBA

It is nothing new for Soviet officials to heap scorn upon the United States, as Foreign Minister Andrei Gromyko did at the United Nations the other day. They do it all the time, often in language far more strident than Mr. Gomyko used. Usually, the rest of the world considers the source and ignores it.

But it is different this time. When Mr. Gromyko excoriated the United States for creating an "artificial" controversy over the Soviet troops in Cuba, his scorn was believable for a change. Anybody who considers the facts of the case could easily conclude that the curious leak of the information on the troops, and the near-hysterical breast-beating that ensued, are part of a misguided attempt to drum up a phony crisis for hometown political purposes.

There is indeed plenty of politics involved, and the timing was suspicious—it came up in the midst of the Havana nonaligned conference and during Senate debate on SALT II. But it is difficult to accept that the silly dispute was created intentionally. It more likely arose through thoughtless administration bungling, which may be worse.

The fundamental blunder was in feeding the information on the Soviet brigade to members of Congress, allowing it to be leaked by them rather than being announced by the administration. Predictably, people like Sen. Frank Church (D., Idaho) blew it out of all proportion, making it sound as if the Soviets were threatening the security of the hemisphere by pouring combat troops into Cuba.

What the CIA had actually learned was nothing like that. Intelligence analysts had known for years that the Russians occasionally staged combat maneuvers, but in the past they had been organized only in battalion size or smaller. On Aug. 17, however, it was discovered that the same troops had been organized into brigade strength.

There was no evidence that an entire Soviet brigade had been slipped into Cuba for some nefarious purpose. The Soviet troops involved may have been in the country since the early 1960s. In essence, the only new information was an organizational chart for a brigade staff—interesting to Pentagon analysts, perhaps, but hardly a credible basis for national alarm. It can even be argued that a combat brigade with no airlift or sealift capability is far less threatening than the same number of military advisers teaching advanced combat techniques to a 600,000-man Cuban army.

Had the administration calmly announced these facts in their proper perspective there would have been no more excitement than the earlier discovery in Cuba of Mig-23 fighters, which are of more military significance than island-bound ground troops.

The administration's mishandling of the affair is shocking, but it does not excuse the irresponsibility of such congressional leaders as Sen. Church. In their eagerness to misuse the issue for partisan political purposes, they played right into the communists' hands. Fidel Castro was able to deride the "Yanquis" and draw attention to an American military presence in Cuba—at Guantanamo Bay—as large as the Russian one. Mr. Gromyko had a chance to scoff, making the Soviet presence in the hemisphere appear less menacing than it actually is and diverting world attention from genuine Soviet threats elsewhere.

American prestige is now on the line in what looks more and more like a no-win confrontation. About the only way out of it is for the Soviets, in the interests of saving the SALT treaty and halting the decline in U.S.-Soviet relations, to make a gesture such as removing the troops from combat status.

If they do, we hope the cynical alarmists in Congress will take Mr. Gromyko's advice and let the matter drop.●

ROY R. SILVER—DEAN OF NASSAU COUNTY REPORTERS

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. WYDLER. Mr. Speaker, I wish to report the recent passing of one of Nassau County's distinguished citizens and prominent member of the fourth estate, and to pay personal tribute to the late New York Times reporter, Mr. Roy R. Silver.

Mr. Silver, who is commonly referred to as the dean of the Nassau County press room, covered the Long Island area as a reporter for 22 years. Mr. Silver was also a man of great compassion and wrote his stories with an eye to fairness to all parties. He was a reporter who had the respect of all people in public life, his colleagues and those he served.

Roy Silver joined the New York Times in 1941 as a copyboy and worked as a police reporter, general assignment reporter, and rewriteman. In 1957 he was assigned to Nassau County. He served in that capacity until his passing this week. He also served as an information officer in the U.S. Air Corps during World War II.

With the passing of Roy Silver, Nassau County has lost one of its most respected newsmen, one who has seen Nassau County grow in the last quarter of a century, and he recorded these events both on a local and international basis for the New York Times.

I wish to personally extend my condolences to his wife, Marjorie, his daughter, Linda, and his son, Brian, and to the people who will miss him most, the people of Nassau County.●

PRESIDENT'S HEALTH DESERVES CLOSE ATTENTION

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. GORE. Mr. Speaker, there has been much discussion of the recent incident in which President Carter collapsed during a cross-country race. Some of the media may have overplayed this story, trying to attach some political significance to it. But one newspaper, the Nashville Banner, looked beyond this aspect of the story to the important question of what steps were taken—or should have been taken—to insure the health of the President.

The Banner concluded that the President should have been given a stress test, an ordinary medical procedure to measure physical capabilities for anyone returning to vigorous activity after a prolonged layoff. I think the Banner's conclusion is well-taken and insert its editorial in the RECORD at this point:

[From the Nashville Banner, Sept. 27, 1979]

WHY NO STRESS TEST FOR A JOGGING PRESIDENT?

There is nothing more relevant in a news sense than the health of the President of the United States. Certainly attention was given when President Carter nearly collapsed while trying to run in a 6.2-mile race earlier this month. But that should have inspired more queries into the state of the president's health. That it did lead a few newspapers—the Banner and The Washington Post—to check more closely has now revealed that Mr. Carter apparently has not had a routine stress test since he resumed jogging last fall.

Medical experts recommend a stress test to measure physical capabilities for anyone over age 35 returning to vigorous activity after a prolonged layoff. And it is astonishing that President Carter apparently was not given such a test. Mr. Carter was a member of a cross-country team while in college, reportedly jogged some while governor of Georgia, but didn't get back into it until last year's Camp David summit—a gap of at least four years and by any measure a prolonged layoff. Mr. Carter also turns 55 on Monday.

Indeed, if he had taken a stress test earlier, the president might have been better advised on whether to have undertaken that race Sept. 15. Mr. Carter's personal physician, Dr. William Lukash, has since pronounced the president as being in excellent health. But still, medical specialists—including several in Nashville—rightly were surprised that no stress test had been given and it is unknown whether Mr. Carter has been given one since his race. The White House's fuzzy statements and failure to confirm whether a stress test has been administered are puzzling.

There really seems to be no reason why a routine procedure was not given Mr. Carter. Proper exercise is necessary, but knowing the difference between what is proper and what is over-reaching just makes good sense. By now, it should make especially good sense to the President of the United States and—we would expect—his physician.●

MODIFY CARRYOVER BASIS RULE; DO NOT REPEAL IT

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. NOLAN. Mr. Speaker, on Thursday, September 27, 1979, I introduced H.R. 5432 which cleans up the carryover basis rule to make it workable and exempts family farmers and small business from its provisions. The legislation which I have introduced incorporates Congressman Joseph Fisher's bill (H.R. 4694), which amended the carryover basis rule to make it workable, with my own provisions to exempt family farmers and small business, and to clarify the definition of material participation for purposes of estate tax valuation.

The purpose of the carryover basis rule is equitable taxation to close the tax loopholes which allow the wealthy to escape any tax at all on the growth of their fortunes. The carryover basis rule was intended to apply to the superrich taxing gains in the value of their property transferred at death. Unfortunately, the rapidly inflating value of farmland during the past several years placed an excessive capital gains tax burden on farm families—on widows, for example, who sold the farm to their children. The carryover basis rule failed to distinguish between the speculative value of farmland and its lower productive value. Inflation, therefore, placed an unfair estate tax burden on the heirs of family farmers.

In order to make the carryover basis rule equitable for agriculture, my bill exempts farmers and small businesses whose property is valued at $1 million or less. The carryover basis rule, therefore, will continue to apply to the superrich but typical family farms and small businesses will be exempted.

The Senate Finance Committee's recent decision to repeal carryover basis, when a modification as I have suggested would have been adequate, is deplorable. By voting to repeal the carryover basis rule, the Senate Finance Committee gave a handful of millionaires a gigantic tax break. The U.S. Government will lose around $1 billion in tax revenue while the wealthiest Americans will receive a big tax subsidy at the expense of everyone else. My bill will affect only the superrich—around 3 percent of the estates passed on annually—and will not affect family farmers whose property is valued at less than $1 million. The issue, therefore, is whether or not Congress is going to let the supperrich escape all taxes on the growth in their fortunes. I oppose such a boondoggle for the rich and offer my bill to assure tax equity.●

ENDING INSURANCE DISCRIMINATION

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Ms. MIKULSKI. Mr. Speaker, I recently read in Focus, the monthly publication of the Joint Center for Political Studies, an article entitled "Ending Insurance Discrimination." That article was by our colleague, Congressman John D. Dingell, of Michigan. It describes the widespread race discrimination and sex discrimination which insurance companies perpetrate against millions of people. It also discusses the bill, H.R. 100, which Congressman Dingell introduced this year, to prohibit discriminaiton in all types of insurance on the basis of race, color, religion, sex, or national origin. That bill is now cosponsored by over 60 other Members of this House, including myself.

I am inserting this article in the Congressional Record so that my colleagues will have the opportunity to learn in greater detail about the discrimination in the insurance industry from our distinguished colleague, Mr. Dingell. I hope after reading the article you will cosponsor H.R. 100. We need your assistance to give the bill the momentum to pass during the 96th Congress.

The article follows:

Ending Insurance Discrimination

(By Rep. John Dingell)

[Rep. Dingell is author of a bill introduced in the present session of Congress to ban race and sex discrimination in insurance.]

The business of insurance is rife with discrimination—against blacks in almost every policy category—and against both men and women in different ways in life insurance, annuities, and health and disability insurance.

The insurance industry, in fact, has in the past quite openly discriminated against blacks on the grounds that they had higher mortality rates, were more irresponsible or negligent, or were otherwise economically burdensome to insure. The industry no longer makes such arguments, but nevertheless, continues to discriminate against blacks in more subtle ways.

For instance, a report given to the U.S. Commission on Civil Rights in February, 1979, from seven midwestern state advisory committees, examined industry policies as they affect property insurance. The report documented the fact that insurance for property in inner ciites is increasingly difficult to obtain. Minorities are most affected by this, the report said, because of their concentration within the urban centers of the nation's large metropolitan areas. The study pointed out that the urban riots of the 1960's affected insurance companies' decisions to restrict or withdraw coverage for property in inner cities, but it noted, too, that "insurance unavailability plagued several cities for many years even before the 1960's."

The study cited 1967 data from the National Advisory Panel on Insurance which showed that 30 percent of residents and 40 percent of businessmen in the poverty areas of six cities had serious problems in obtaining insurance. Among those who were uninsured, over 50 percent of the homeowners and 35 percent of the businessmen said insurance was unavailable.

The Civil Rights Commission study described practices which make it difficult for inhabitants of certain areas of cities to get insurance while residents of other areas have no such problems as "geographical discrimination" or "redlining." The latter phrase refers to a company's allegedly marking in red pencil areas on city maps where they will not write insurance.

The Commission report cited a number of "redlining' activities currently practiced by some insurance companies. These include:

Locating agents only in certain areas of cities;

Refusing, limiting, or varying insurance availability solely because of age of a building, or due to subjective judgments that certain areas are "deteriorating" or "changing";

Refusing, limiting, or varying insurance availability due to subjective perceptions of "adverse factors" such as the race or sex of an applicant or the racial composition of the geographic area in which the risk is located;

Requiring inspections in certain locations within a state but not within other locations;

Informally instructing or formally requiring agents to avoid certain areas; and

Varying underwriting practices solely by ZIP code.

The report went on to note that "redlining" practices contribute to the decline of neighborhoods. "Once an area starts to deteriorate, or is perceived as deteriorating, a self-fulfilling prophecy occurs. A healthy community begins to deteriorate and one which may have had only marginal problems soon finds it has major ones. Whether the initial withdrawal or limitation of insurance is based on 'sound business practices' or amounts to blatant arbitrary discrimination and redlining matters little after a trend is established."

SEX DISCRIMINATION

Sex discrimination in the industry is still blatant and widespread.

The industry argues that sex discrimination is justified because "women as a group have longer life expectancy than men as a group." The same justification can be made for discrimination against blacks because white persons as a group have a longer life expectancy than black persons as a group. Such discrimination on the basis of race has been outlawed by many states, and so should such discrimination on the basis of sex.

The industry's argument is based on a distortion of the "average" man.

The fact is that most men and women can be paired at death. For example, the Teachers Insurance and Annuity Association and College Retirement Equities Fund (TIAA CREF) filed figures in a recent case before the Supreme Court (Los Angeles Dept. of Water and Power v. Manhart) concerning the survival experience of 100,000 males and 100,000 females retiring at age 65. TIAACREF's figures showed that 86,193 women had the same death age as 86,193 men; 13,807 more males than females died at ages 66–80; and 13,807 more females than males died at ages 81–100.

Thus, because less than 14 percent of the women did not match the death ages of the men, all women receive lesser monthly retirement benefits than all the men, and all men receive more monthly retirement benefits than all the women.

A reverse type of discrimination occurs in life insurance lump-sum payments. Because less than 14 percent of the men did not match the death ages of the women, all men pay higher premiums for life insurance than women and in those cases where the men elected joint and survivor benefit plans, the men suffered a greater reduction in their annuities than all women who elected the same plan.

The insurance industry computes life insurance and annuity rates and benefits almost exclusively on the basis of sex and disregards other more accurate classification criteria, such as smoking habits, physical condition, geographic location, family health history, and recreational and occupational activities.

RECENT COURT CASES

Recent court actions involving suits by employees and retirees against employers have ruled that Title VII of the Civil Rights Act of 1964, which prohibits sex discrimination in employoemnt, prevents the use of sex based differentials in the rates and benefits under annuity and pension plans, including those operated or supported by insurance companies for employers. On April 25, 1978, the U.S. Supreme Court in the Manhart case squarely rejected the insurance industry's argument that group discriminatory treatment as to insurance rates and pension benefits can be justified on the basis of actuarial tables indicating longer life expectancy for a group (all females, or white persons) than for another group (all males, or black persons).

The case involved an employer operated pension plan which required women to make greater payments that men to the pension fund: The Court said that the Title VII prohibition against sex discrimination focuses on "the individual," and, therefore, "precludes treatment of individuals as simply components of a racial, religious, sexual, or national class . . ."

The court said that even a true generalization about the class of an individual would be insufficient reason for treating the person differently because "there is no assurance that any individual woman (or man) will actually fit the generalization." In other words, the justices said, even if women as a group do live longer than men as a group, many women do not outlive men and many men actually do outlive women.

Other decisions in lower federal courts have followed the Supreme Court's position on this subject. At the state level, the Indiana Supreme Court has ruled that the state agency which administers the teachers' retirement fund violated both federal and state constitutional guarantees of equal protection when it used a male mortality table to calculate larger monthly annuity payments for male retirees and the same table, with a five year setback, to calculate smaller monthly annuity payments for female retirees.

These judicial decisions which are beginning to crack the barriers of discrimination based on race, color, religion, or national origin are important and praiseworthy. But, they cannot effectively treat the problem uniformly or comprehensively. This can be done only through national legislation and by changes in state laws and regulations.

FEDERAL AND STATE ACTION

In the present session of Congress, I introduced H.R. 100 to prohibit race and sex discrimination in insurance. My bill would not prevent state law from doing the job. Indeed, my bill recognizes the primacy of state law by providing that any complaints that an insurer has committed an unlawful discriminatory act based on race, color, religion, sex or national origin must first be filed with the appropriate state agency, if the state has an anti-discrimination law and an agency to enforce it. Only if the state does not have such a law or agency, or fails to resolve the complaint, will any Federal agency or court have any role in resolving the matter. But the presence of a Federal law will mean that a state agency can proceed to eliminate such kinds of discrimination without any fear that its action may result in insurance companies moving to another state which allows such discrimination. That is because the Federal law will make the principle of nondiscrimination uniform for insurers in all the states.

States, it must be noted, have already made some commendable efforts toward ending discrimination in insurance. The National Association of Insurance Commissioners (NAIC), made up of heads of state and territorial insurance commissions, last November issued a comprehensive report recommending enactment of legislation to ban the use of sex and marital status as classification factors in auto insurance.

The report said that recent studies raise serious questions about the validity of such factors. It cited the following reasons for such questions:

They fail the important test of controllability; that is, sex and marital status classifications present almost no practical opportunities for control of auto accidents.

They have very little relationship to the test of causality; that is, the connection between the rating factor and the loss potential—since the implied behavioral relationships "rely on questionable social stereotypes."

Third, they substantially fail the test of social acceptability, as shown by a recent opinion survey conducted for the Aetna Life and Casualty Insurance Company, which revealed that "fewer than 14 percent of the people surveyed believed that sex or marital status were acceptable rating criteria."

Only in one test—that of stability and ease of vertification—did sex and marital status receive high marks as rating factors.

Therefore, the NAIC report says "as rating characteristics, sex and marital status are seriously lacking in justification and are subject to strong public opposition and should therefore be prohibited as classification factors" in automobile insurance.

It is significant that two major government agencies interpret existing laws and executive orders which prohibit race and sex discrimination in employment as also prohibiting sex differentiation among employees in connection with pensions, and insurance which are employment fringe benefits. This has been the clear-cut position of the Equal Employment Opportunity Commission (EEOC) since at least 1972 in its administration of Title VII provisions of the Civil Rights Act. Moreover, the Department of Labor last year announced that it intends to adopt the same position.

Making the nondiscrimination rule applicable to all insurance, whether or not employment related, would not harm the insurance industry. It can easily develop nonsex based rules and payments by adjustments to reflect the mortality and disability experience of the total population rather than separately for men and women. Indeed, the very purpose of insurance is to spread risks, not to impose discriminations not warranted by the individual's own circumstances.●

WESTMINSTER PRESBYTERIAN CHURCH'S 125TH ANNIVERSARY

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. NOWAK. Mr. Speaker, on September 3, 1854, 40 residents of Buffalo, N.Y. founded the Westminster Church. On August 26, 1858, this small group laid the cornerstone of what is essentially the same sanctuary where the congregation gathers to worship today.

The Westminster Presbyterian Church, 724 Delaware Avenue, Buffalo, has a history of prosperity and growth. By reaching out into the community, they have contributed to the spiritual and social well-being of people all over the world.

This year marks the 125th anniversary of the Church. Through the pastoral leadership of Dr. Samuel Van Vranken Holmes, Dr. Albert G. Butzer, Dr. Ray H. Kiely, and presently the Reverend Thomas P. Stewart, along with the strong support and participation of the members, many social programs have been initiated successfully and expanded throughout the history of the Church.

The new facilities available in the Butzer Education Building, dedicated to the memory of Dr. Albert G. Butzer, have allowed for the expansion of the "School of Religious Impression" for children. Programs were added in the areas of speech and hearing difficulties and the developmentally disabled. In addition, two groups of Alcoholics Anonymous meet at the church weekly and a telephone program offers hospitality and help to shut-ins. Among the wide variety of community groups who make use of the facilities include a self-help group for the emotionally disturbed and a group of young, single adults.

The leadership of Westminster has been and continues to be committed to growth: adaptation of programs to emerging needs, redevelopment of facilities for new programs, and personal and spiritual growth.

I ask my colleagues in Congress to join me in extending the warmest of congratulations and heartfelt best wishes on this, Westminster's 125th anniversary.●

AID TO NICARAGUA

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. FASCELL. Mr. Speaker, a recent editorial in the Miami Herald expresses extremely well the case for a generous policy on aid to Nicaragua. The Herald puts the emphasis on this issue where I believe it should be, pointing out that U.S. assistance to Nicaragua is in the long range best interests of our own country.

The situation in Nicaragua holds many uncertainties and risks for the United States. But we also have a great many friends in Nicaragua. Within the new government, which by all accounts enjoys the support of a great majority of the Nicaraguan people, there are many moderates who will fight to keep their country from becoming any sort of left-wing dictatorship. To turn our back on Nicaragua by refusing it aid would be an enormous blow to the forces for democracy there, and would only strengthen the hand of those who want to turn Nicaragua in other directions.

I want to commend my colleagues on the Foreign Operations Subcommittee for approving the administration's request to reprogram $8 million in aid funds for Nicaragua.

The text of the September 13 editorial from the Miami Herald reads:

Aid to Nicaragua Cuts Both Ways

Out of a total U.S. foreign-aid budget of $8.9 billion for fiscal 1980, the $8.8 million approved in a congressional committee for Nicaragua Tuesday is hardly extravagant. It is, in fact, a bargain investment in the long-range stability of the hemisphere.

That's not to say that the Yankee dollar can buy friends in the New World or in the Third World any more than it did in the old world. Dollars don't buy friends, and never did. They can however, relieve a lot of the economic and social pressures that are so dangerously explosive in so many parts of the world.

Nicaragua is desperately in need of help to rebuild its economy, which was still staggering in the aftermath of the 1972 earthquake and years of Somoza plundering when it was crushed by this summer's civil war. Reconstruction and price-stabilization programs are that proud nation's only hope for economic health and political stability.

Americans should be pleased to help with that kind of aid, especially when there is a possibility of tipping the scales in favor of a democratic movement that's competing with left-wing totalitarianism to replace the deposed right-wing dictatorship.

The tiny $23,000 grant for military training in the larger economic package also is appropriate. It will permit 20 Sandinista soldiers to spend time at U.S. bases in the Caribbean and will bring two of their commanders on a tour of military bases in the United States. This is a welcome first step toward normal military relations between the U.S. armed forces, which are despised in Nicaragua for their former role in defense of the Somoza regime, and the new government in Managua, which already has normal diplomatic communications with Washington.

A first-hand look at some concentrated U.S. military force might even give the visitors a greater appreciation for just how much restraint was exercised by Washington in turning its back when Somoza begged for more weapons to fight the Sandinistas. The deposed dictator himself now calls President Carter profane names and says the Administration declared war against him in refusing to send more arms.

There's good reason for the squeamishness some congressmen showed toward the provisional government in Nicaragua. The junta includes avowed Marxists, and it clearly still has the potential to turn hard to the left in betrayal of the broad public support that helped it succeed.

But if dollars are no guarantee of friendship, the converse also is true—turning one's back is a guarantee of enmity. For political as well as humanitarian reasons, therefore, generous U.S. aid to Nicaragua is in the long-range best interests of the United States.●

HISTORIC PRESERVATION BILL

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. SEIBERLING. Mr. Speaker, I am today reintroducing, with cosponsors, a bill to improve our Nation's programs for preserving historic, architectural, archeological and cultural resources—the National Historic Preservation Amendments of 1979.

The bill is an outgrowth of similar legislation which I introduced in the 95th Congress. It addresses a number of issues which have been raised since then by Members of Congress, the House Interior and Insular Affairs Committee, the House Interior Appropriations Subcommittee, and the Department of the Interior, the General Accounting Office, the National Conference of State Historic Preservation Officers, and individuals and organizations from the private historic preservation community, including Preservation Action and the National Trust for Historic Preservation.

I introduced the present bill in August of this year as a discussion document to focus attention on these issues. The response has been tremendously supportive, and I have received a number of excellent suggestions for improving the legislation. Indeed, the bill I am introducing today contains several technical changes to further clarify the language of the bill. Suggestions for substantive changes will, of course, be addressed and responded to during the usual legislative process.

Our national historic preservation program has served this country well. Until 1966, the program was primarily fostered by private individuals and groups, guided and assisted by a number of excellent State organizations, such as the Ohio Historical Society. In 1966 Congress passed into law the National Historic Preservation Act. This was truly landmark legislation. It firmly established, for the first time, a Federal partnership with the States and the private sector in historic preservation. The act provided a process for identifying, evaluating and designating historic properties and created a grants-in-aid program to assist State and local efforts to preserve significant historic and archeological properties. It also set up a reasonable process whereby Federal undertakings which would damage or destroy such properties would be reviewed and commented on by the Advisory Council on Historic Preservation.

Other subsequent acts of Congress have provided for the salvaging of historic and archeological resources threatened by Federal projects such as dams and highway construction, expanded the historic preservation grant program with moneys derived from offshore oil revenues, required the Federal Government to consider historic and architecturally significant buildings before constructing new office facilities, and provided Federal tax incentives for preserving historic commercial properties and disincentive for demolishing them. Most recently, the House passed important new legislation, authored by the distinguished chairman of the House Interior and Insular Affairs Committee, Mr. UDALL, to protect archeological resources on Federal lands.

HISTORIC PRESERVATION TODAY

We can view with pride the many achievements of our national historic preservation program over the past 13 years. Indeed, this program has been doing what others try, and unlike many others it has been remarkably successful. It has helped save countless historic and architecturally significant properties and preserved or salvaged many important archeological and cultural sites. Without this program, much of our rich and diverse heritage would have been destroyed.

Over the years, historic preservation has also provided many extra, sometimes unexpected, benefits. Recent studies have shown that historic preservation contributes to the conservation of energy and raw materials, increased tax revenues, new businesses and jobs, greater housing supply, growth in retail sales, expanded tourism, and increased public and private investments. Indeed, historic preservation has become a major force in the revitalization of our cities and in the conservation of many rural towns and villages as well.

Although the present program has been successful in a great many ways, it, like any program of its age, needs both refinement and a boost. The program faces many new responsibilities, and it needs the flexibility to deal with them.

HIGHLIGHTS OF THE BILL

The bill I am introducing today is aimed at offering fresh thinking to a number of issues that face historic preservation today. Following are a few highlights of what the bill would do:

Combine the existing programs in the Department of the Interior with those in the Advisory Council on Historic Preservation which would be reconstituted as the Historic Preservation Agency.

Give States more flexibility to administer their own programs and more flexibility in using Federal grant funds—two-thirds of the Federal funds would go directly to States and qualifying local governments.

Streamline and strengthen Federal agency requirements for protecting historic resources.

Establish a national inventory of all historic properties, including those eligible for Federal protection and funding; include on the National Register of Historic Places, for additional protection, those properties which have received grants or other public investments, are dedicated to preservation or are of national significance.

Create a National Center for the Building Arts in the Pension Building, with educational, training, reference and exhibit programs in the professions, trades, crafts and skills related to historic preservation and the building arts.

Mr. Speaker, 13 years ago Congress found, in the National Historic Preservation Act of 1966, that—

> The present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation. . . .

Fortunately, we have come a long way since that statement of gloom. But we still have a distance to go before we can be satisfied that our Nation's rich heritage is truly protected.

There are in fact many fine and able programs in States and communities throughout our country that still need what the 1966 act promised—"maximum encouragement" by the Federal Government.

My bill offers for discussion a means

for giving them the encouragement that was promised and for assuring that, as Congress intended in 1966—

The historical and cultural foundations of the Nation (are) preserved as a living part of our community life and development in order to give a sense of orientation to the American people.●

SOLAR ENERGY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. OTTINGER. Mr. Speaker, solar energy has received a great deal of rhetorical support over the past few years and a number of excellent pieces of solar legislation have been enacted into law. However, very little new has been accomplished in this session of Congress.

This session, the solar coalition is joining in support of a comprehensive package of bills aimed at moving this country toward the widespread use of solar energy to meet the President's goal of 20 percent of the country's energy demand by the year 2000. I urge Members to support the following list of bills, I have included a staff contact for each, in order to facilitate Members' gaining further information on the details of each proposal:

LIST OF BILLS

Biomass research, development and demonstration—John Kinas, Rep. Fithian, 55777. Would roughly double current federal expenditures for biomass R&D. $75.6 million would be added for FY 1980 to advance a wide variety of bioconversion technologies to the commercialization stage.

International solar energy research, development and demonstration—John Loewy, Rep. Ottinger, 59117. Seeks to accelerate the development of cost-effective solar systems manufactured by U.S. industries by promotting the export of such systems. It would also encourage the development of renewable resources in foreign nations. This bill is being developed by Reps. Ottinger and Wolpe and Sen. Tsongas.

Global market survey, H.R. 3401, S. 1066—Rey Post, Rep. Jeffords, 54115. Directs the Secretary of Commerce to conduct a global market survey to determine countries to which solar energy technology equipment manufactured in the U.S. might be exported. Similar legislation has been introduced in the Senate by Sen. Percy.

DOE solar energy programs reorganization, H.R. 5169—John Loewy, Rep. Ottinger, 59117. Will consolidate all of the solar energy research, development, demonstration and commercialization activities in the Department of Energy under the authority of one assistant secretary for renewable energy resources. Conservation and geothermal programs would also be included. The initial sponsors of this bill are Reps. Ottinger and Fish.

Solar energy employment and training, H.R. 3525, H.R. 3532—John Martin, Rep. Jeffords, 54115; Joe Colaneri, Rep. Mineta, 52631. Establishes a program to train unskilled, disadvantaged youth in solar energy and energy conservation job skills. Amends CETA to provide five-year, $90 million program of classroom and on-the-job training, counseling, job referral, and apprenticeship programs.

Wind energy supply, H.R. 3558—Joe Colaneri, Rep. Mineta, 52631. Provides for a seven-year, $1 billion program with a goal of reaching a national wind energy capacity of at least 500 megawatts by 1986. Emphasizes cost-sharing with private industry and reduction of wind energy costs as principal program goals.

Federal power marketing and REA renewable energy requirements—Dan Deudney, Sen. Durkin, 43324. Would require that an increasing percentage of REA loans for new generating capacity be reserved for facilities using renewable resources, with the required percentage reaching 50 percent in the year 2000.

Solar access alternatives—Sen. Hart, 45852. Would assist states in conducting pilot projects to identify and encourage legal alternatives to assure access to direct sunlight.

Local energy management, S. 1537—Chris Palmer, Sen. Percy, 41462. Would establish three interlocking programs aimed at encouraging innovative local approaches to development of renewable energy resources. Involves grants for localities to promote energy conservation or use of renewables. Establishes a program to enable localities with such programs to share information with other communities. Would establish a Local Energy Reference Center to serve as an information clearing house on innovative projects. Funding of $55 million for three years.

Small scale energy technology programs reorganization, S. 1708—Chris Palmer, Sen. Percy, 41462. Increases funding for DOE Office of Small Scale Technology from FY 1979 level of $8 million to $23.6 million. This would allow the Appropriate Energy Technology Small Grants Program to expand and would make an additional $6 million available to assist inventors and small businesses in marketing promising new small scale energy technologies.

Solar tax initiative, H.R. 5084, S. 1571—Rob Lively, Rep. Fowler, 53801; Peter Friedman, Sen. Packwood, 47096. These similar bills would increase the investment tax credit for solar energy. The House bill would also extend the investment tax credit to noncorporate lessors of solar energy property and allow the amortization of solar energy property based on a 36-month period.

Federal buildings, H.R. 5073—Tom Gray, Rep. Blanchard, 52101. Would require the use of passive solar systems in all new federal buildings, and of active solar energy systems unless they are determined not to be cost-effective.

Solar bank, H.R. 605—Rob Wrigley, Rep. Neal, 52071. Establishes a Solar Bank to make interest subsidy payments to lending institutions which make long-term, low-interest loans for the purchase and installation of solar energy systems. This bill has attracted 129 cosponsors and was favorably reported from the House Subcommittee on Domestic Monetary Policy on June 20th. Rep. Neal has also introduced the Administration version, H.R. 4974, which would make funding contingent upon passage of the Energy Security Trust Fund.

Title X of S. 1308, "Renewable Energy Resources"—Dan Deudney, Sen. Durkin, 43324. Establishes a national goal of 20 quadrillion Btu's of energy production from renewable resources by the year 2000. Provides for a number of programs, including use of passive solar and, when cost-effective, active solar systems on new federal buildings and federally assisted nongovernment buildings; mandated sale of an increasing amount of gasohol at federal fueling stations; and development and commercialization of wind energy systems.●

A HEARTY WELCOME TO POPE JOHN PAUL II

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. ANNUNZIO. Mr. Speaker, Pope John Paul II, the first Polish Pope, will soon arrive on his historic visit to the United States, and I am delighted to join with my colleagues in welcoming this great world leader to our Nation.

As a member of the Presidential delegation that went to Rome to attend the investiture of Pope Paul John II, it was a pleasure for me to join in cosponsorship and unanimous approval by the House of Representatives of a resolution of welcome to Pope John Paul II. A copy of that resolution follows:

H. RES. 412

Whereas Pope John Paul II is a moral leader and a force for good in the world community; and

Whereas, he is an advocate for world peace and disarmament, goals shared by men and women of all nationalities; and

Whereas, Pope John Paul's visit to his homeland of Poland was a beacon of light for all those who hope for an end to the repression of religious and other freedoms that has befallen Eastern Europe; and

Whereas, this country has as one of its founding principles the freedom of all to celebrate the worship as they may choose; now: Therefore, be it

Resolved, by the House of Representatives, That we do welcome Pope John Paul II to the United States and extend to him all the courtesies, all the warmth, and all the hospitality appropriate to his visit.

Mr. Speaker, Pope John Paul II, despite his brief period as the head of the Roman Catholic Church, has already become recognized by the people of the world as a strong voice and a strong leader in mankind's quest for religious freedom, international human rights, and the resolution of conflict between nations through peaceful means. Our own Nation's founding principles emphasize the ideals of cultural, religious, and political freedom, and it is most fitting that we as a people extend our heartiest welcome to Pope Paul II, who has done so much to reaffirm these ideals and these goals for all humanity.

My own city of Chicago, a traditional center in our country for new immigrants over the generations, is privileged and honored to receive the Pope on his personal visit. I share that feeling of great honor and I look forward to meeting Pope John Paul II at the White House reception for Members of Congress on October 6. Tremendous love and admiration for his work is felt by millions of ethnic Chicagoans who have contributed so much to the greatness of our city and the greatness of our Nation with its precious heritage of liberty.

For over 1,000 years, Poland has been a Christian nation, the bulwark of Christianity and a vital protector of the values of Western civilization. Pope John Paul II's dedication to the principles of human dignity has been forged by his personal experiences of bitter persecution by

Nazis and then by communists, and he knows the deep yearning in the hearts of the people of Poland and the oppressed peoples of the world for religious, cultural, and political freedom.

Pope Pius IV titled the nation of Poland "Polonia Semper Fidelis" centuries ago because of the Polish people's long struggle against foreign invaders and against those who would destroy Christianity, and Pope Paul II, a son of Poland, is now powerfully reaffirming this valiant tradition that will be of tremendous importance in the continuing struggle against advocates of oppressive state control of individual freedoms.

It is a deep honor for me to welcome Pope Paul II to the United States on this historic visit, and it is my hope and prayer that his visit here and to other nations around the world will contribute to the strengthening of the precious principles of liberty.●

JEWISH STRUGGLE STILL EXISTS IN RUSSIA

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. FORD of Tennessee. Mr. Speaker, it is the time of the Jewish New Year when Hebrew families around the world gather together to reflect upon the passing of another season. Last year, the dreams of all people around the world were rekindled with new hopes for peace in the Middle East and for progress of their Russian brethren in practicing their faith.

Today, the hopes for peace in the Middle East have come to a critical turning point. A stalemate over old issues threatens to undo much of the progress made by President Sadat's historic trip to Jerusalem 1 year ago. In Moscow this year, Jews were allowed to congregate to celebrate Rosh Hashanah without the open intimidation of Soviet authorities. This marks a small sign of progress.

But, at the same time, the coming of the New Year and its day of reflection and atonement should remind us of the challenges left to be undertaken. One that requires our unrelenting attention is the plight of the "refusniks" who still suffer the brunt of Russian religious tyranny.

A recent report of a visit to Anatoly Shcharansky should provide us with evidence which points to the need for our continued perseverance. Shcharansky is a 31-year-old activist now serving a 13-year prison term for the "anti-Soviet activities" of working for the human rights of minorities in Russia. Here is the report of Shcharansky's mother as published in Alert, the newsletter of the Union of Councils for Soviet Jews:

> On August 6, for the first time in a year, Anatoly Shcharansky's family was permitted to see him. His mother, Ida Milgrom, and his brother Leonid, recieved a terrible shock when they saw him and his mother, several days later, still suffers from the effects of seeing him. "He looks like a prisoner from Auschwitz" said Mrs. Milgrom and at first she did not recognize him.
>
> Anatoly appeared to be distraught and had difficulty speaking coherently. They were allowed to be with him for two hours, speaking through a glass window under guard. For twenty minutes they spoke about his physical condition. His blood pressure remains quite high and he has been very ill since February. Mrs. Milgrom told her son that when she had heard about his head pains and eyesight problems she had written to the Minister of Health and Minister of Interior and she was informed that he had been examined and was reassured that his illness had been treated. Anatoly replied that the only examination he had was the routine check that all prisoners had received by a visiting doctor and all had been declared healthy. Anatoly's eyes were never examined. He cannot read at all. After reading for ten minutes the pain is so intense he has to lie down, but it is forbidden for prisoners to lie down during the day in the cell. If he does, several guards immediately pounce on him and threaten him with a punishment cell. In February he was put in a punishment cell for precisely this reason and that is why the visit of his mother, schedued for that time, was cancelled.

Mr. Speaker, as we enter into this new season, let us renew both our prayers and our efforts to secure the freedoms of those now suffering persecution like Anatoly Shcharansky. May the United States be the messenger of hope for peace and freedom and the source of inspiration to oppressed peoples throughout the world. May the coming year bring an end to their suffering.●

WIND AND ENERGY AND CARL DOBAT

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. BLANCHARD. Mr. Speaker, the House Subcommittee on Energy Development and Applications is currently holding hearings on the "Wind Energy Systems Research, Development and Demonstration Act," of which Mr. MINETA, Mr. JEFFORDS, and I are principal sponsors.

I have been particularly impressed over the last few months with the potential of wind energy as exemplified in several major studies done for the Federal Government.

However, national studies and projections and data assessments can tell us only so much. Sooner or later, if we want to understand the full meaning of alternative energy sources, we must turn to case studies—the stories of those who are making tomorrow's ideas come true today, in their own daily lives.

With that in mind, I would like to take this opportunity to insert in the RECORD an article which appeared in a recent issue of the Detroit News concerning a "do-it-yourself" windpower system which has been constructed near my congressional district.

The article follows:

IT'S IN THE WIND—FARMER UNDER HIS OWN POWER

(By Don Tschirhart)

> A new electrical company in Oakland County shouldn't give Detroit Edison much competition.
>
> Dobat Power Co. serves only one couple—Oakland Township farmer Carl Dobat, 70, and his wife, Glenwood.
>
> Designed and constructed by Dobat, the electrical generator is powered by a windmill, perched atop a 40-foot-high steel H-beam, 100 feet from the couple's farmhouse.
>
> Dobat said he hopes that the windmill will generate enough electricity to operate household appliances and heat the couple's three-bedroom home.
>
> But more importantly, he hopes the home-made electrical plant will eliminate $160 a month heating oil bills.
>
> The windmill operates a generator which builds up a charge in batteries. The batteries, located in storage room next to the Dobat home, create 110 volts of power that will be used to work a new electric baseboard heating system along with household appliances.
>
> The wind-powered electrical system took Dobat six months to build. The windmill generator produced its first surge of electricity three weeks ago.
>
> Dobat, who lost his right arm in a corn picker 35 years ago, was helped by friends, his son and some grandchildren, but the windmill was Dobat's idea and basic design. He worked long hours to get it built and now looks at the spinning propellers with pride.
>
> "Pretty darn smart for a dumb farmer, wouldn't you say?" Dobat asked as he smiled and waved toward the steel blades turning rapidly in the gusts of wind.
>
> "I figure that in about six months the snow will be comin' down and the wind will be tossin' it around somethin' fierce. Me and my wife will be in the parlor nice and warm watchin' television and it won't cost us a thin dime.
>
> "We're not going to let the cost of heating oil bother us. I don't expect the Edison bill will be much either.
>
> Dobat moved to the farm 60 years ago with his parents. The farm is located in Oakland Township, five miles northwest of Rochester. It was originally settled in the early 1800's.
>
> After marrying, the Dobats moved into a three-bedroom house next to his parents' farmhouse and raised a son and four daughters while continuing to farm the property.
>
> At one time the family had a 50-cow dairy herd and acres of wheat, oats, corn and hay. The Dobats considered themselves "well fixed".
>
> But the last decade has been difficult financially for them. Increasing prices for fuel, fertilizer, food and property taxes without a corresponding increase in crop prices cut deep into the farm's profits. Dobat has had to sell more than 100 acres of the farmland to developers to pay taxes. He still owns 93 acres.
>
> Unable to control the costs of most necessities, Dobat turned his sights on the price of energy. Having grown up on a farm where the windmill supplied water for irrigation, it was only natural that Donat thought about a windmill for electric power.
>
> Much of the windmill-generator comes from junk machinery. The gearbox was taken from an old flail chopper which cut hay. The hub for the windmill propeller was taken from a team grain drill and weights from the front end of a tractor.
>
> He purchased some baseboard heating units, a generator, some old snowmobile batteries and the 40-foot high H-beam—the most expensive items—and started assembling it. He estimates that the entire system cost $3,000 and believes it will pay for itself in three years.

Three weeks ago Glenwood plugged in the toaster, frying pan and coffee pot and inaugurated the Dobat Power Co. The couple sat at the kitchen table speechless, admiring the project's success.

Unlike Detroit Edison Co. electricity, the original Dobat Power Co. supply didn't last long the first time it was used. The old snowmobile batteries refused to keep a charge and Dobat is now looking for newer and larger batteries he knows he'll need to last through a cold-winter.

"I'm not dumb, though," he said. "I've hooked the new heating plant up so that if by chance it doesn't work, the old oil-fired furnace will kick on. I've also double-wired the house so Detroit Edison can be used as a backup system."

Dobat said he now is thinking of adding a second windmill to produce more electric power for his farm and act as a backup to his first windmill.

"Who knows? Maybe I'll provide wind power to my neighbors," he said.●

FORMER SECRETARY OF DEFENSE MELVIN R. LAIRD SPEAKS OUT FOR A STRONG SALT II TREATY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. KEMP. Mr. Speaker, there is really only one significant direct threat to America's national security, and it comes from the Soviet Union. Today we see the U.S.S.R. directing an unprecedented military buildup, covering every conceivable aspect of military preparations. In light of this and recent Soviet military escapades in the Third World, many Americans feel major changes should be made in the present SALT Treaty. We must push for a treaty that is equitable, verifiable, promotes strategic stability, and is consistent with our alliance interests. The SALT Treaty as currently negotiated meets none of these criteria.

One courageous American leading the fight for a strong treaty is former Secretary of Defense Melvin R. Laird. His experienced testimony in favor of a tough and equitable treaty helped shape the current Senate debate over SALT. October's Reader's Digest contains a timely discussion of SALT by former Secretary Laird, wherein he restates the inequities and inconsistencies of SALT II, and calls for a treaty to best serve the interests of American security and world peace.

I urge all of my colleagues to read this article, which follows:

SALT II: THE SENATE'S MOMENTOUS DECISION

(By Melvin R. Laird)

The Second Strategic Arms Limitation Talks (SALT II) treaty, now before the U.S. Senate, presents that body with one of the most important challenges of this century—the reassertion of American strength and purpose in the cause of world peace.

To make that bold and timely reassertion, the Senate must amend the treaty which, in its present form, seriously compromises American strength and promotes global instability. In nearly seven years of deliberation, it was negotiated largely by men whose devotion to the bright theoretical prospects of arms control seems to have blinded them to the realities of Soviet military power and political ambition.

The much-touted SALT II "proccess" of "delicate" and "intricate" negotiations has in fact proved to be a series of American retreats before a vigorous and determined Soviet government. Indeed, the talks have provided a lulling background to a profound and disturbing change in the global equation. Since the talks began in 1969, the backbone of America's strategic forces—1054 intercontinental ballistic missiles (ICBMs) and 656 submarine-launched ballistic missiles (SLBMs)—has remained static (except for the addition of more and newer warheads). But in that period the Soviets have increased their ICBMs at least 36 percent to 1400 (the figure may well be higher) and their SLBMs 417 percent to 1015, and markedly improved the accuracy and number of their missile warheads.

THREAT TO SECURITY

This growth in Soviet strategic power—the greatest buildup in history—has been accompanied by a growth in the Kremlin's inclination to throw its weight around the globe. In the last five years, Soviet-allied Marxist governments have been forcibly established in five nations: South Vietnam, Laos, Angola, Ethiopia and Afghanistan.

SALT II might be accceptable if it (1) reduced the vulnerability of our nuclear deterrent to surprise attack and (2) constrained the burgeoning growth of Soviet strategic forces. It achieves neither goal. In the words of Lt. Gen. Edward Rowny, a dedicated believer in arms control who retired this summer after six years on the SALT II negotiating team: "This treaty does not meet minimal accepted standards. The agreement we now have before the Senate and the nation establishes conditions which threaten our security."

The threat may be hidden from the average American by the complex anatomy of the treaty itself—the numbers of "launchers,"[1] the arithmetic of nose cones and "fractionated" warheads, and the computations of "aggregate throw-weights" (the total amount of destructive weaponry that can be directed against chosen targets.) But the torrent of raw data, to which the nation has been exposed daily for the past few months, may be distilled into one inescapable and frightening point:

SALT II allows the Soviets military advantages which are denied to the United States—advantages which, if unchecked, will give them clear strategic superiority within a matter of two or three years.

Among the most flagrant of the treaty's inequities:

SALT II permits continued Soviet deployment of 308 heavy ICBMs (SS–18s), missiles of such overwhelming power and accuracy that they *alone* will hold our entire ICBM force under threat. With these missiles, Soviet planners could generously target at least two warheads to every one of our Minuteman silos, thus freeing the balance of their ICBMs for other targets in the United States and elsewhere in the free world.

The Joint Chiefs repeatedly warned of these heavy missiles at the outset of the arms-limitation talks, and I, as Secretary of Defense, warned that with their large tonnage warheads the Soviets were attaining a first-strike capability. But our negotiators failed to press the issue. So now the Soviets have these missiles explicitly permitted in the treaty—missiles whose destructive power exceeds that of all our ICBMs and SLBMs combined. We, on the other hand, are allowed no such heavy missiles.[2]

SALT II allows the Soviets to deplay perhaps 375 supersonic intercontinental heavy bombers of the type known as the TU–22M "Backfire." This plane can reach the United States without refueling, and can be equipped to fire long-range nuclear missiles. And, in an incredible display of Soviet arrogance, just such a long-range missile was tested at the height of the SALT negotiations. Since our air defense is virtually dismantled (it now consists of 331 aging fighters sprinkled throughout the continent), the Backfire thus poses a formidable threat to the entire country. But it is not even counted in SALT II, while *all* our bombers—even mothballed B–52s and four test models of the now-canceled B–1—are counted under treaty limits. As a sop, we have been given the "good word" of Soviet Premier Leonid Brezhnev that the Backfire will not be employed as a long-range bomber.

SALT II, through a special protocol to the treaty, severely hampers the effectiveness of one of our most promising weapons—the land- and sea-launched cruise missile—by limiting its range to 600 kilometers (373 miles). A child with ruler and a map of the Soviet Union can see the advantage this gives the Russians. Under SALT limits, our land- and submarine-launched cruise missiles cannot reach many Warsaw Pact reserve areas, weapon depots and air bases, or the vital three western military districts of the Soviet Union. On the other hand, the Soviet SS–20, an intermediate-range ballistic missile of great power and exceptional accuracy, of which 120 are already deployed—holding all of our Western European allies under threat—is not even mentioned in the SALT treaty.

SALT II explicitly permits the Soviets to hide data on the test performance of their missiles by encoding it. The electronic data which flow from missles during test flights are one of the chief ways in which we learn the characteristics of Soviet missiles and determine that arms agreements are not being violated. But in one of our most ludicrous cave-ins to the Russians, we allowed them to encrypt *some* test data—letting them decide what would and would not be encrypted! And remember, encryption has only one purpose: the denial of information to other parties. (We encode none of our test data.)

In addition, there is serious doubt about whether the treaty will permit any of the options we have considered for protecting our ICBM force against a first strike. Relocation of silos, construction of deeper ones, any deployment that imparts some mobility to our ICBMs appear either to be banned or, because of the language of the treaty, can be interpreted by the Soviets as prohibited. This includes any of various schemes we have envisioned for the movement of a small number of our missiles in and out of a large number of silos at random intervals. Thus, the treaty clearly *enhances* the Soviet threat to our Minuteman (by permitting the heavy missiles, for example) and clearly *diminishes* our options to create a defense against that threat.

NO "COSMETICS"

For these reasons, the Senate's clear duty of advice and consent under the Constitution takes on a more compelling urgency and necessity. SALT II, as written, is not an instrument of stability or balance. It does not place real restraints on the growth of the Soviet strategic arsenal. It is pernicious to our interests and security. Therefore, it must be changed.

The changes cannot be mere cosmetic ones—"sense of the Senate" or "reservations" or "understandings" or any of the other sugar-coated maneuverings already contemplated by pro-treaty Senators. Such addenda will have little standing in international law and will be totally ignored by the Soviet Union.

Footnotes at end of article.

Look at the Soviet record of abuse of similar understandings in connection with SALT I. We believed we had barred the building of heavy missiles by issuing a unilateral declaration against them. The Soviets answered by building the huge SS–19, half again as large as its then biggest ICBM. We believed we had barred the development of antiballistic-missile capability under the 1972 ABM treaty. The Soviets answered by opening a new ABM test range and by conducting at least 16 illegal ABM tests. They further abused American "understandings" regarding missile-submarine construction and even resorted to elaborate camouflage and concealment to hide submarine construction sites from our satellite cameras.

The Senate must either carefully remodel SALT II through a series of precise, unequivocal and binding amendments or else recommit the treaty for further negotiations along lines exactly reflecting the will of the American people. At a *minimum*, Senate revision should:

Ban heavy missiles on both sides, thus requiring the Soviets to dismantle their 308 large ICBMs which have such a destabilizing effect on the power balance.

Place *all* bombers of unrefueled intercontinental range under the "launcher" limits of the treaty.

Erase the grossly inequitable 600-kilometer limit on ground- and sea-launched cruise missiles—or bring Soviet missiles like the SS–20 under similar restrictions.

Ensure that all limitations in the treaty can be fully verified by our intelligence-gathering apparatus or by other agreed procedures. This must include the outright ban on *all* encryption of telemetry from test missiles. As a backup to such revisions, the Senate should consider postponing ratification until the Administration and Congress have reached agreement on a new five-year defense plan that will assure military equality between the signers of SALT II. The presently approved five-year plan, taken with the treaty as proposed, ensures Soviet superiority.

THE SENATE'S DUTY

In asserting its role, the Senate must not be deterred by a false sense of urgency or by the use of scare tactics—employed by both the Administration and the Soviets—in an effort to rush a flawed document into law. Soviet Premier Brezhnev's threat of "grave and even dangerous consequences" if the treaty is changed is more than matched by those in this country who tell us that our only choice is between quick rubber-stamping of SALT II or disaster.

The fact is, the treaty has been a disaster already. It has atrophied our defense effort: the B–1 bomber canceled, the Trident missile-submarine program delayed, cruise-missile development hobbled, the MX—a needed follow-up to our aging Minuteman ICBMs—delayed. And, at the same time, it has served to enhance Soviet strategic efforts while screening them from view behind a facade of diplomacy.

The argument that rejecting SALT or tinkering with it will unleash a new "arms race" is likewise phony. The Kremlin is already spending around 15 percent of the Soviet gross national product on the military. (We spend less than five percent.) How much more can its notoriously inefficient economy afford?

The most striking aspect of the SALT "process" has been the fact that it has been carried on with the Soviet military machine operating at or near full capacity. There is no real balance on the American side for the Soviet heavy missiles, for the Soviet Backfire bombers, for the Soviet SS–20 ballistic missiles. Most of all, there is no way one can imagine equity in the treaty-sanctioned *4.5-to-1* Soviet advantage in ICBM throw-weight.

This treaty, wrought in the closed rooms of Geneva where accommodation and acquiescence have answered Soviet intransigence and pathological secrecy, does not fare well in the open light of honest debate. Global stability will not be achieved by genuflection to the threats of the Soviet leaders. The world is watching the United States Senate. Its duty is clear. The inequities and inconsistencies of SALT II must be eliminated, or the interests of American security and world peace will not be served.

FOOTNOTES

[1] Rather than count actual missiles, SALT II counts "launchers"—the devices from which nuclear weapons are launched, which include in-ground missile silos, aircraft and submarine missiles tubes.

[2] The only U.S. missile that comes near to being "heavy" is our obsolete Titan, a relatively inaccurate ICBM, 54 of which are still deployed. It has less than a third of the throw-weight of the SS–18.●

WOMEN IN CONGRESS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mrs. SCHROEDER. Mr. Speaker, the constant lament of those of us in Congress who are women is: "Why aren't there more of us here?" This song was sung in 1973 when I first came to Congress, and today, when there are even fewer Congresswomen than in 1973, the tune hasn't changed much.

In the spring, 1979 issue of the Harvard Political Review, my colleague from New York, GERALDINE FERRARO, tells us why there are not enough women in Congress and what it will take to get more of us here:

WOMEN AS CANDIDATES

(By Congresswoman FERRARO)

The 96th Congress convened in January with four new women Members—three in the House of Representatives and one in the Senate. These new Members brought the total number of women who have served in the Congress to 103. The fact that there are now only 17 women in the national legislature is staggering. What is even more significant is that since the First Congress, 10,847 people have served, and less than 1% of them have been women. Fully one-third of the women who have sat as Members of the House of Representatives completed the terms of their late husbands. (One was elected to serve the term left vacant by the death of her father.) Similarly more than half of the women senators served as a result of the death of their husbands. However, since 1949, the majority of women entering Congress have arrived here as the result of open elections. In spite of their moderate success women still have not grown accustomed to their role as candidates, winners and officeholders.

The successes of women in politics have been unevenly distributed throughout the various layers of government. The proportion of women Members in Congress has stabilized in recent years at a mere 3%. In the state legislatures women now hold approximately 10% of the seats and promise to improve on that figure in the near future. For the first time in history we have two female cabinet officers, and two female governors. In local government the number of women serving in elected office is also on the rise. From 1975–1977, the total number of women county commissioners, mayors, and members of municipal governing bodies doubled. The signs are encouraging, but the outlook is still less than bright.

With the exception of the Congress, the majority of elected women officials are serving their first term. This lack of seniority detracts from the role of women in public office.

Despite reforms in recent years, Congress is still based on the seniority system. Because there are so few women in Congress, the political prestige accorded them by the seniority system plays an increasingly important role. Unfortunately, women do not meet the normal levels of achievement. The "dean" of the House of Representatives has served continuously since 1941. The "dean" of the women Members has served since 1967. The average tenure of both a House and Senate Member is approximately 8 years (new Members are computed as having no years of services, and those elected as a result of non-Election Day special elections are rounded off). Only two of the current women Members have served this eight year average. As a result, no women chair committees of either body. But four subcommittees are under the stewardship of women Members. In addition, the Congressional Black Caucus is chaired by a woman.

This lack of seniority hinders the effectiveness of the women Members when they act as a coalition in support of a particular legislative proposal. By way of example: if the New York State delegation were to endorse a proposal and commit themselves as a group to its enactment, they would expedite the process by designating a ranking Member of the appropriate committee to sponsor the legislation. When the women Members wish to act as such a coalition they are, quite understandably, limited in terms of designating a single Member to serve that function. The legislation to extend the deadline for the ratification of the Equal Rights Amendments was initially proposed by a Congresswoman who sits on the House Judiciary Committee. But in addition to her efforts, and those of the other women Members, it was necessary to gain the support and active participation of the Chairman of the Judiciary Committee and the Chairman of the Subcommittee to which the bill was referred. To be succinct, the "old boys' network" exist; women's lack of seniority, not gender differences, prevent them from being a part of that network.

In an effort to bring cohesion to the activities of the women Members, the Congresswomen's Caucus was formed in the 95th Congress. Fifteen of the 18 women House Members joined the Caucus when it was established, and Senator Muriel Humphrey (appointed to fill her husband's term) became an active participant in Caucus projects following her arrival in Washington. Fourteen of the current 17 women Members have joined the Caucus in the 96th Congress.

The Congresswomen's Caucus is predicated on an understanding of the diverse interests and beliefs of the Congresswomen. It operates under a unanimity rule which prevents action from being taken unless all Members are in agreement. It has been argued that the strictures and inflexibility of this rule prevents the Caucus from acting on some of the controversial issues facing the women in Congress and the nation. For example, Federal funding of abortions is not a proper subject for Caucus action because the women Members do not agree on this issue. Despite the unanimous consent rule, the Caucus has been able to assume a viable role and to serve as the focal point for the legislative actions of the women Members as a coalition. Most recently, the Congresswomen have discussed their mutual interests and developed a legislative agenda for the 96th Congress. Caucus support will be lent to proposals such as social security and pension reform, aid to battered spouses and the provisions of the Internal Revenue Code which levy the so-called "tax on marriage."

In addition to its formal role, the Caucus has facilitated the development of an informal network of staff members so that strategies may be planned and information disseminated regarding issues which the majority of the Congresswomen endorse. Because of its youth, the role of the Congresswomen's Caucus in this Congress and in the future is unpredictable. However, the activities of the Caucus should be greatly enhanced by a recent move to link the Caucus with an educational institution which would facilitate long-term research and develop a resource center.

The Congresswomen carry a special responsibility, as do all "minority" politicians. They are called upon to speak with a single voice for the cause of "women's issues." The women of America are a diverse population, and the women in Congress reflect that diversity. We are Democrats and Republicans, liberals and conservatives; we even disagree, on "women's issues." Nonetheless, there are areas of mutual agreement, which allow us to formulate a common legislative agenda. The recent victories of the Congresswomen in enacting the ERA extension legislation, in obtaining legislative aid for displaced homemakers, and in broadening the employment opportunities for women in the Civil Service has lent credibility to the women in Congress. As a result of the credibility and visibility which the women Members have earned through their earlier successes, the 96th Congress will witness the passage of programs for women.

Women have played a vital role in politics for decades. That role, however, has been merely a supportive one; women have stuffed envelopes, manned phonebanks, and canvassed door-to-door. More often than not, this effort has been expended on behalf of male candidates. Quite simply, women have been active politically for others, but not for themselves. There are, of course, many examples of prior involvement in party politics leading to a political career for a woman. Grassroots activity helps potential candidates develop political aspirations and build a base for future campaigns. The Democratic Party's recent adoption of a rule requiring that 50% of the delegates to national conventions be women, should bolster the number of potential women candidates with prior party experience. (Only 20% of the 1976 women candidates had attended a national convention.) While the Democratic Party's rule is not tantamount to equal representation, it is an important step—both in fact and symbolically. By this action, the Party has reaffirmed its belief that women are capable of fulfilling policymaking roles. It is interesting that equal representation by fiat is attainable, while equal (or even slightly more equitable) representation by general election is unachievable.

In their attempts to attain improved representation, women candidates face three major obstacles; fundraising, running against an incumbent, and credibility in the eyes of the party and in the eyes of the electorate.

Fundraising has been perhaps the greatest difficulty encountered by most candidates. In the absence of public financing of Congressional elections, candidacy for national office is an expensive venture. The 924 House and Senate candidates in 1976 spent a total of $98,000,000. The survey of women candidates for state and Federal office in that year revealed that 12% of the respondents contributed 90% of the total amount spent on their campaigns! Half of them contributed more than a third of their total expenditures.

Women candidates face particularly acute difficulties in convincing contributors of the seriousness of their candidacies. As a result, contributions from labor unions and businesses are not given as frequently or in as large sums as those made to male candidates. Women, therefore, resort to self-financing, seeking the aid of special groups organized to promote women candidates, or relying upon the support of other women. Women contributors, generally, have no conception of the costs of a candidacy or the average level of an individual contribution. This naivete severely inhibits fundraising by women candidates, most of whom employ personal solicitation as the most common method of raising campaign funds. The establishment of the National Women's Political Caucus and the Women's Campaign Fund have helped to alleviate this problem, as have efforts to establish an "old girls' network" to identify and tap the resources of professional women and proven campaign donors.

Married women candidates face a special disadvantage as a result of the Federal Elections Campaign Act which limits the contributions of a candidate's spouse to $1000. While many married couples retain assets jointly, some choose to list only one spouse as the legal owner. More often than not, these couples place assets in the husband's, not the wife's, name. Therefore, even if the candidate and her husband consent to tapping these resources, they are limited to a $1000 contribution. Thus, the Federal law adds yet another obstacle to an already difficult path for women candidates.

The second major hurdle for women candidates is that they are rarely the incumbent. The 1976 survey indicated that only 20% of the respondents were already elected and seeking reelection. The advantages of incumbency are many: the Congressional franking privilege, high name recognition, past and continuing service to the constituency, and the many perquisites of office all lend a tremendous advantages to incumbents. It is often difficult to draw the fine line between activities as an elected official and activities as a candidate. The result is that incumbents generally enjoy a substantial advantage. As the statistics indicate, most women candidates do not have the luxury of incumbency and are, therefore, deprived of this advantage. It is, of course, possible though difficult to beat an incumbent, and it is not unheard of for a woman seeking reelection to lose her seat.

Finally, women candidates must convince party regulars and the electorate of their viability as candidates and as potential officeholders. Like financial contributors, the party prefers to back a winning ticket. The disadvantage caused by the lack of party support is inextricably linked to the obstacles facing a woman candidate. Contributors are reluctant to support a candidate who has not been endorsed by the party. Moreover, it becomes increasingly difficult to convince the electorate of the viability of the candidacy without the support of the party.

The fear of bias on the part of the electorate may be misplaced, and appears to be vanishing. Most women officeholders readily identify male party members as more discriminatory than the voters. A 1976 Gallup Poll indicated that more than 70 percent of the American people would support a female Presidential candidate if she were qualified. The respondents in the 1976 poll indicated that 41 percent of them believed that a candidate's gender was a neutral factor, 30 percent saw it as an asset, and 18 percent termed it a liability.

At the same time, it is interesting to note that defeated women candidates seem to attribute their loss to their being a woman. Perhaps this is a result of gender being the one campaign variable over which the candidate has no control. In another survey of female officeholders, fully 20 percent of those that were defeated attributed their loss to an opposition to women in office. At the same time, 12 percent blamed lack of financial support, and another 12 percent held the lack of party endorsement accountable for their loss.

My own campaign epitomized the obstacles that women candidates face. In addition, I had never run for political office. Despite this, I succeeded in raising my name recognition from zero in April to 78 percent in September. I took the primary in a three-way race with 54 percent of the vote. I won the general election after a bitter battle—again with 54 percent of the votes cast.

In addition to the three impediments that I have mentioned, I faced bitter personal attacks which could only have been leveled at me because of my gender. It is interesting to note that following the marriage of Rep. Martha Keys (Kan.) and Rep. Andy Jacobs (Ind.), their marriage became a major issue in her campaign, and hardly mentioned in his. (Rep. Keys, incidentally was defeated last November in her bid for a third term.)

Of the women officeholders who were defeated in reelection campaigns, 12 percent listed smear campaign tactics as the cause of their loss. My opponent disseminated lies about my personal life, my husband, and my children. Had I not been trained, as a prosecutor, not to react, I might have retaliated in a similar manner. Fortunately, my background and the confidence and support of my family allowed me to ignore him. Equally fortunate was the fact that the voters chose to ignore him as well.

The increasing number of politically active women on the state and local levels is an encouraging sign. The profiles of these women reveal that they are younger and more ambitious than their predecessors in the ranks of women in politics. More than 80 percent of the women state legislators have responded favorably when questioned as to whether they will seek another term or run for higher office. This finding, in fact, revealed that these women politicians were more ambitious than their male counterparts.

The women serving on the state and local levels are the logical "farm-team" for national elected office. The successes and visibility of national women officeholders should serve as an impetus for increased success. We have reached the historic 100 mark for women in Congress and double-digit representation in the state legislatures. The signs are hopeful and as the myths of women being ill-suited for politics fade, they will become even more encouraging.

POSTHUMOUS CITIZENSHIP

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. COURTER. Mr. Speaker, the resolution I am introducing today is to confer citizenship posthumously on Rosinella Verdi, who died July 26, 1979, at 99 years of age. Mrs. Verdi died a few days before she was to be sworn in as a citizen in a special naturalization ceremony.

Mrs. Verdi immigrated to the United States from Cesa, Italy, in 1902. She lived in this country for 77 years and raised a family of 10 children, all of whom are citizens of the United States. Mrs. Verdi sacrificed one of her sons in defense of this country during World War II and was proud to be a Gold Star mother.

To confer posthumous citizenship

would be the fulfillment of a lifelong dream. Mrs. Verdi loved this country and treasured the possibility of becoming a citizen of the United States. Her death at 99 years of age denied her the honor of becoming a citizen and it is my firm conviction that we should recognize her efforts and grant her posthumous citizenship.●

MILWAUKEE RAILROAD

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. SENSENBRENNER. Mr. Speaker, soon the House will address itself to various proposals relating to the Milwaukee Railroad. Yesterday, the U.S. District Court for the Northern District of Illinois rendered a decision which is relevant to this case. So that the Members may study this decision, I am inserting it into the RECORD below:

[U.S. DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, No. 77B8999]

DECISION

(In the matter of Chicago, Milwaukee, St. Paul & Pacific Railroad Co., debtor, in proceedings for the reorganization of a railroad)

On August 13, 1979, the Trustee filed a petition to "embargo" all of its freight operations on lines which are not included in its Reorganization Plan filed August 10, 1979. Previously the Trustee had filed a petition to spend $15 million of funds derived and to be derived from sale of property and from the Milwaukee Land Company's operations, and he now also asks for a "direction" as to whether or not to spend $1,700,000 to rehabilitate portions of the railroad west of Miles City, Montana. Since all of these issues are somewhat related, they were referred to Special Master Milton H. Gray for hearings, and he filed a report on September 11, 1979.

We have examined with great care and interest the report, the objections which have been filed by various parties, and the post-trial memoranda supporting not only objections but the report. We are again impressed by the thoroughness and expedition with which Master Gray handled this assignment and express our appreciation for his services which relieved the court of a burden which could not have been satisfied by us during the time strictures requested by the Trustee.

Although we find that some of the objections to the Master's report have merit and some of the Master's findings and conclusions should be amended, we agree in substance with his general conclusions. These are that an "embargo" should be directed on a substantial portion of the Trustee's railroad at an early date, followed by a request for directed service pursuant to 49 U.S.C. § 11125, and that the Trustee should be authorized to issue a certificate for the expenditure of the funds requested. The request to upgrade portions of the west lines becomes moot if these are embargoed on the terms which we will set forth hereinafter. We also do not base our agreement with the Master's recommendations on precisely the same expansive equitable grounds as requested by the Trustee and inferentially adopted by Master Gray, because we need not.

We find and conclude that any kind of cessation of operations, whether it be termed a temporary or permanent embargo, an abandonment, or directed services, can best be accomplished within the framework of existing statutes and regulations.[1] The railroad industry has been one of the most thoroughly and continuously regulated businesses in this country, and to the extent that written guidelines can be found in the statutes and regulations, including the restrictions or prohibitions which are also found there, they must be followed. When more than one statute may be applicable to a specific problem, they should be used compatibly. Congress and the Interstate Commerce Commission in our opinion have provided us with a body of laws adequate to give the Trustee substantially the relief which he seeks in this case.

THE FINDINGS OF CASHLESSNESS

We find our guidelines, as we did in our Decision on this general subject dated June 1, 1979, (471 F.Supp. 964), in the recently enacted provisions of 49 U.S.C. § 11125. The pertinent provisions of this important statute, which was given its present form in 1974 and was amended in technical ways in 1978, are as follows:

"(a) When a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter 1 of chapter 105 of this title cannot transport the traffic offered to it because—

"(1) its cash position makes its continuing operation impossible;

"(2) transportation has been discontinued under court order; or

"(3) it has discontinued transportation without obtaining a required certificate under section 10903 of this title;

the Commission may direct the handling, routing, and movement of the traffic available to that carrier and its distribution over the railroad lines of that carrier by another carrier to promote service in the interest of the public and of commerce. Subject to subsection (b) of this section, the Commission may act without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5."

Not overlooking the fact that the foregoing subsection (a) is primarily to be effectuated by the I.C.C., this does not oust a court having § 77 jurisdiction from concern with the provisions of the statute. In other words, as we found in our prior decision and still believe, the reorganization court can properly determine whether or not any of the three requirements of § 11125(a) are present and can then expect the I.C.C. to effectuate the directed service provisions. The maximum period of time for directed service under subsection (b) is 240 days, and in this particular case it fits in well with the time when the extent of the Trustee's surviving railroad should be either approved or disapproved by the I.C.C. abandonment procedures, expedited to May 1980. Thus the court can take advantage of § 11125 to help the I.C.C. in determining whether the reorganization plan is a practical and viable one.

In our prior decision we found that neither subparagraph (a) (1) nor (a) (2) has been satisfied and that subparagraph (a) (2) is not applicable to the type of petition filed by the Trustee. We now find and conclude, however, that subparagraph (a) (1) will soon be satisfied and that continuing operation of a substantial portion of the railroad is becoming impossible due to cashlessness.

The principal change which has occurred since our decision of June 1, 1979, on the question of cashlessness is the position adopted by the Acting Secretary of Transportation, both in his letter to Congressman Staggers dated July 31, 1979 and in the testimony of Robert E. Gallamore, his representative at the hearings. This position in substance is that the Federal Railroad Administration will not lend any further funds to the Trustee, even on a priority basis, if they are going to be used in connection with the entire Milwaukee system. Instead, Federal loans will be limited to those portions of the system which the Department of Transportation believes can become economically "self-sustaining." In other words, the federal authorities are convinced that the present Milwaukee system can never operate profitably, and they are no longer willing to spend any money on portions of the railroad which neither the government nor the Trustee believes can be reorganized to operate in one way or another. This is not only a perfectly justifiable and logical position for the federal government to take but also one over which we have no control.

The initial and controlling question therefore is resolved down to whether cashlessness exists or will occur in the foreseeable future and if so when. The Master was apparently inundated by various financial figures and projections, some rather speculative, but all parties seem to agree and certainly the record reflects that the Milwaukee railroad as it now exists is a seriously and permanently deficit operation. It lost approximately $100,000,000 in the three years preceding the filing of its petition for reorganization, and the losses have accelerated since that time. The present system was losing $350,000 per working day at the time of the hearings in late August 1979.

This per diem loss is somewhat of an improvement over the railroad's experience for the years 1978 and 1979 to date, but there is no hard evidence that the necessary improvement will continue. Some advantages may accrue from the diversion of business from the Rock Island during its strike, and there is the possibility of a rate increase to become effective October 1, 1979. The Trustee estimates that the rate increase would improve fourth quarter "revenue" by $6,500,000, but we cannot base any projection on this. On the other hand, we do not find any facts in the record to indicate that the per diem operating losses will return to the prior figure of $500,000 per working day. Therefore, we find that the expectable operating losses beginning September 1, 1979 will be $1,750,000 per week if no embargo or other suspension of services occurs.

On the asset side, the Trustee still had $8 million working capital and $10 million unexpended federal funds as of the end of August which if depleted at the rate of $1,750,000 a week have now been reduced to approximately $11,000,000. At that time the Trustee also had approximately $10 million in proceeds of sales which were in escrow and which he was seeking leave to expend, together with $5 million which he anticipated receiving by the end of the year. We are going to authorize the expenditure of the $10 million or more which is in escrow, as will be discussed below, which will afford the Trustee approximately $21 million in working capital as of the time of this Decision. This is somewhat less than estimated by the Master (Report, p. 23).

The Master found some further reasons why the Trustee was effectively "cashless" at the time of his report. He accepted an estimate by the Trustee that "transition costs" of a partial embargo will be between $20,000,000 and $25,000,000, summarizing these costs on pages 24 through 26 of his report. We do not find that this particular estimate is acceptable for several reasons. It includes a one-half month payroll of $8 million, interline settlements, and net car hire payments, without taking into consideration the fact that revenues from the same period will be due or received. The net effect is that the operating losses will still remain at $350,000 per day during full operations, although some of the losses may be greater than this until revenue for the same period are received.

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[1] The lack of distinction between an abandonment and an embargo of indefinite duration is discussed in *I.C.C.* v. *Maine Central R. Co,* 505 F2d 590, 593 (2d Cir 1974).

We interpret the D.O.T. estimates to require a maximum of $10,000,000 for a complete shutdown (Gallamore afft. par. 21), while the Milwaukee estimates its expenses for a partial embargo and directed services considerably in excess of that amount. For an embargo, the Master (p. 25–26) includes cash disbursements for assisting "directed carriers," for safeguarding track and other physical assets not utilized in directed service, and for liquidating assets and processing petitions for abandonment before the I.C.C. Some of these items cannot properly be attributed to an embargo. We fail to find persuasive evidence in the record that the expenses of a partial embargo would exceed the foregoing $10,000,000 if service is directed pursuant to § 11125(b)(5) under which the directed carrier can expect to be reimbursed for its expenses and reasonable profit in moving the railroad's traffic.

Furthermore, the Trustee's rebuttal witness, Thomas F. Power, Jr., testified that 42 percent of the 1979 operating loss can be attributed to the operations west of Miles City, Montana, which would be embargoed under the Trustee's petition, and 39.2 percent attributable to other portions of the line except Milwaukee II (the allegedly reorganizable portion), parts of which he also seeks to embargo. He testified that the railroad's net operating losses in the last quarter of 1979 would be reduced by $23,200,000 or approximately the foregoing 81 percent if the petition for embargo is granted. The expert witnesses for two of the indenture trustees testified that the Trustee's estimates of reduced losses and eventual profitability of Milwaukee II were unjustified, so even if we were to accept the testimony of these experts, the cashlessness prospect for the railroad at some recent date is a foregone certainty, in the absence of government aid.

It is also significant to note that the Trustee estimates at least 5,800 of its current 10,000 employees would remain employed on Milwaukee II. Another 2,000 employees would be used for directed service as required by § 11125(4). If the sale of some 1,660 route-miles of trackage outside of Milwaukee II is consummated as hoped for, another 770 employees could obtain employment on those lines, and the Trustee further estimated that 500 to 700 employees will be needed for "rehabilitation work on Milwaukee II" (Report, p. 30). Adding these figures together indicates that only about 1,000 of the present employees will be terminated if directed service is authorized by the I.C.C. Employee claims resulting from terminated or changed services will be substantial, albeit to date unliquidated.

We find and conclude that cashlessness is a clearly predictable event in view of the D.O.T. dictum. We do not find that this will occur on October 1, 1979, but that it will occur on or quite soon after November 1, 1979. This is because, of the estimated $21 million available, post-embargo transition costs may amount to $10 million and the current system is losing $1,750,000 a week. Instead of waiting for the fatal day of cashlessness to arrive, we believe that the evidence clearly supports a specific finding that it will arrive on November 1, 1979.

The Interstate Commerce Commission has estimated that it will need approximately one week to plan and implement directed service on the "embargoed" sections. This appears to be a rather optimistic estimate, partly because the Trustee has changed his position concerning which portions of the line should be embargoed, and the Secretary of the Department of Transportation has not determined exactly which portions he will not fund, except for the lines west of Miles City, Montana.

Furthermore, a precipitous embargo as of October 1, 1979 would preclude all possibility of additional Congressional relief to the railroad, in the face of representations which we have recently received from various members of Congress that such legislation may be imminent. Equally significant, the Milwaukee railroad has great responsibilities for grain shipments, particularly in the Western states, a responsibility which has been augmented by the Rock Island strike, and the public in this area as well as in the Midwest is entitled to continued service as long as possible under § 11125(a)(1) and pending reorganization. Finally, the United States Court of Appeals for the Seventh Circuit on reviewing our prior decision may clarify the law before November 1, 1979.

CONCLUSIONS OF LAW

This brings us to a further discussion of the law which governs this petition, since neither the Trustee nor the Master rely primarily upon § 11125. No participant in this case has found any court decision on this question. The statement of Judge Friendly in the *Matter of Valuation Proceedings Under §§ 303(c) and 306 of the Regional Rail Reorganization Act*, 439 F.Supp. 1351 at 1376 (Sp. Ct. 1977) was not made under § 11125 but referred to the obvious fact that when a railroad runs out of cash, it must "abandon" its operations without I.C.C. approval.

The I.C.C. concurs, since it states that a carrier is entitled to cease operation when caused by "cashlessness or some other circumstance beyond the carrier's control" (Report, p. 41). We must agree that if § 11125(a) cannot properly be invoked, the railroad will have no other alternative. Although we overrule the objections that our Decision of June 1, 1979 is the immutable law of this case, and we would certainly change our opinion if the the Court of Appeals agrees with the Trustee, we adhere to our previous Decision and therefore differ with the Master's conclusion of law that an embargo should be imposed and directed service requested absent satisfying the provisions of § 11125.

Subparagraph (a)(1) of that section authorizes the I.C.C. to direct other carriers to handle the Milwaukee's traffic over the Milwaukee's lines if its "cash position makes its continuing operation impossible." The second subparagraph is not specifically phrased as an alternative to subparagraph (a)(1) but provides for directed service if transportation has been "discontinued under court order." We considered those two subsections as alternatives in our prior decision, but there is no reason why they cannot be combined in the present circumstances. With this in mind, we will enter an order which will authorize the Trustee to discontinue service on certain portions of its main system and branches because its cash position will make the continuing operation of these segments impossible as a practical matter at a date on or closely following November 1, 1979.

THE PORTIONS TO BE EMBARGOED

There is confusion in the Master's report and in the record as to exactly what portions of the system the Trustee should be ordered to embargo. We had originally interpreted the Acting Secretary of Transportation's letter of July 31, 1979 to apply to all portions of the railroad outside of Milwaukee II. During the course of the hearings, however, the Trustee represented that private funds and other considerations would avoid the cashlessness condition of four branch lines known as the Ontonagon line in Michigan, the North Mason City line in Iowa, the Madison to Richland Center line in Wisconsin, and the Bayport line in Minnesota.

At the time of the hearing, the Acting Secretary of Transportation had not decided whether it would support an embargo of certain branch lines "within the Milwaukee II core territory" in Wisconsin, Minnesota, Illinois and Iowa, and did not specify which branches this involved. In fact, at the time of his first letter dated July 31, 1979, he specifically restricted new Federal funds to "those portions of the system which are reorganizable."

A subsequent letter to the court dated August 15, 1979, written after filing of the reorganization plan on August 10, 1979, is no more specific. The Master recommended an embargo which would except branch lines, including the Ontonagon, Michigan line, and presumably his recommendation refers to the other three specific branch lines mentioned above (see f.n. p. 19). There is no question but that the Department of Transportation will not lend funds to operate the entire system, that this applies to all of the lines west of Miles City, Montana, and that it has withheld a decision with respect to financing branch lines within the Milwaukee II core area. From all indications we believe the Secretary[2] would not approve loans for any portions outside of Milwaukee II except those which can be operated on a self-sustaining basis by private funds (Tr. 247). This is the portion of the system which the Trustee submits is reorganizable as an operating, ultimately profitable entity.

Therefore, rather than stating at this time that we will enter an order for discontinuance of service on all lines not covered by Milwaukee II or by private financing, we will ask the Department of Transportation to conclude its remaining studies and decide which, if any, lines outside of Milwaukee II it will assist financially. We will then enter an order specifying the exact portions on which transportation must be discontinued, based upon the Secretary of Transportation's refusal to fund the operation of those lines. If they all fall outside of Milwaukee II, this will achieve the additional result of giving a fair test to the Trustee's abandonment and reorganization proposals for up to 240 days, in order to allow the I.C.C. to make a specific ruling on abandonments. If the Trustee is unable to obtain a timely agreement with the Secretary of Transportation, then the order should provide for an embargo of all lines not in Milwaukee II and not sustainable by non-Federal funds. All of this of course is based on the finding that the Department of Transportation will not fund the embargoed portions of the Milwaukee Road, and that they thereby become in fact cashless unless Congress changes that situation, but that the portions which the Department of Transportation or other sources will fund will not be cashless.

MOST OF THE OBJECTIONS ARE OVERRULED

One strenuous objection to any embargo has been filed by the Railway Employees' Department consisting of four labor unions. It relies upon the national agreement between those unions and certain carriers dated September 25, 1964 and subsequently continued in effect. Section 4 of that agreement requires a carrier to give 60 days' written notice of the "abolition of jobs as a result of changes in operations for any of the reasons set forth in Section 2 hereof, by posting a notice on bulletin boards convenient to the interested employees and by sending certified mail notice to the General Chairman of such interested employees. . . ."

Section 2 of the agreement refers *inter alia* to "abandonment" or "discontinuance for six months or more" and provides for a method of effectuating or adjusting the abolition of jobs. The unions state that they have not received the notice required by Section 4 and that therefore the jobs should not be abolished. We do not intend to abrogate the terms of this collective bargaining agreement, but on the other hand we find and conclude that it does not preclude the application of §11125. As the Master pointed out, the forum for a breach of this agreement is arbitration, and if the agreement is violated with or without court order, the remedy presumably will be back pay for the employees affected, not a prohibition of an embargo (Report, p. 56).

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[2] Acting Secretary Claytor has now been succeeded by Secretary Neil Goldschmidt whom we can only assume will adopt his predecessor's policies.

We note also that there will be some period of time, certainly more than 60 days from the date when the Trustee filed his petition for an embargo on August 13, 1979, before any working conditions are changed pursuant to his petition, and this filing has constituted notice to the union. Furthermore, the impact upon the employees will be much less under the directed service provisions of § 11125 than were we to authorize an unqualified embargo. (See discussion above pp. 9–10.) Therefore, the provisions of Section 4 of the labor agreement have not yet been violated, may never be violated in most instances, and will not deprive any party of its remedy of arbitration.

A somewhat similar objection was made by the Railway Labor Executives Association but based upon the abandonment provisions of the Interstate Commerce Act. As a matter of law, an embargo cannot be a violation of that statute if it is carried out under the provisions of § 11125 and of section 77 of the Bankruptcy Act. If and when an actual, statutory abandonment occurs, it will be done by due process, pursuant to the Trustee's applications and reorganization plan filed with the I.C.C.

As is implicit from the foregoing discussion, the use of § 11125 avoids several problems that of the legal power of this court. Subsection (b) (4) requires a directed carrier to hire the employees of the Milwaukee Railroad and to assume its existing employment obligations. It also requires the directed railroads to use the Milwaukee's lines. Finally, it provides for compensation and fair and reasonable profit to the directed railroad. Were we to rely merely upon ethereal theories of equity which have never been spelled out by any court, these advantages could be lost.

Other parties have made additional objection that the concept of "partial cashlessness," as well as the concept of "partial reorganization," is untenable. If it is untenable, then what we and the Trustee are attempting to do in this case is an act of futility. The railroad in the foreseeable future will run out of cash and cease to operate. This is what the indenture trustees seek for their clients, but in our opinion, this is not in the best interest of the creditors and the public, at least until a fair opportunity has been given to the Trustee's reorganization plan. We confidently expect this to occur during the 240 or less days following November 1, 1979, and by that time the railroad will be found to be either operable in part or it will go out of business entirely.

The final objections ruled on by the Master concern general questions of this court's jurisdiction or power in the face of our prior decision and so long as it remains unreversed on the pending appeal. We find his discussion on pages 57–59 to be completely convincing and adopt it. We are here confronted with a different set of circumstances than those dealt with previously.

COMPLAINT AND MOTION FILED JUNE 16, 1979 TO USE CERTAIN FUNDS

At pages 59–61 of his report, the Master recommends approval of the Trustee's request to issue certificates for $15 million of proceeds or sale of land and other cash on deposit or expected. We have previously authorized certificates for proceeds of sales and in fact found that this would avoid cashlessness up to a point. Although the use of such funds does undermine the security of the indenture trustees, we continue to believe this is authorized by § 77. The Trustee's position is stronger today than it was when we last acted upon such a petition, because he now has filed a proposed plan of reorganization which has been at least implicitly and tentatively favored by an Acting Secretary of Transportation and which, if approved, would permit the reorganization of the railroad. Therefore, under *Matter of Chicago, Rock Island and Pacific R. Co.*, 545 F. 2d 1087 (7th Cir. 1976), the Trustee's petition on this subject matter seems unassailable. It would be folly to require the Trustee to file a plan of reorganization and then to deprive him of any readily available funds to continue the railroad's operation until the plan can be acted upon by the I.C.C. and the Court, as was pointed out by Judge Friendly in *In Re Penn Central Transportation Co.*, 384 F. Supp. 895, 919, fn. 31 (Sp. Ct. 1974).

However, on this particular subject we again must disagree to a certain extent with the Master's recommendation, bearing in mind that we are governed by laws, not by man. Bankruptcy Rule 8–509(c) specifies that:

"The proceeds received from the sale of property under this rule shall be deposited with such depository and on such terms as the court may direct."

Our Order No. 19 provided that this be done in a trust account at the Continental Illinois National Bank and Trust Company of Chicago. Bankruptcy Rules 8–601(3) and 8–602 require that funds deposited can only be released after an adversary proceeding on the basis of a complaint, as was filed by the Trustee on July 16, 1979. We therefore find and conclude that funds can be released on certificates to the extent only that they are in the escrow account at the time when the adversary proceeding is concluded by this Decision. When additional funds are received, further notice and proceedings will be required.

PETITION FOR DIRECTION TO EXPEND $1,700,000 ON THE WESTERN MAIN LINES

On page 59 of his report, the Master found that the Trustee's petition for direction to maintain the western main lines is mooted by a "total or partial embargo." The Master was apparently referring to an embargo in two senses, one a complete cessation of all operations and, alternatively, directed service performed over the Milwaukee system by other carriers. If other carriers are so directed by the I.C.C., then someone will need to upgrade the western lines.

At the present time and certainly until November 1, 1979 these lines will continue to be used for the public benefit. The problem is that certain portions of them have been found to be out of compliance with the standards of the Federal Railroad Administration, and the trustee estimates it would cost $1,700,000 to put them into compliance even for a short time. Furthermore, the Trustee's witness Paul F. Cruikshank, Jr. now estimates that it will take approximately $4,000,000 to do this in the State of Montana and that the work cannot be done before winter sets in. However, Mr. Cruikshank also revealed that a great amount of other lines, some within Milwaukee II, do not meet minimum F.R.A. track standards. The Trustee agrees that this does not create a safety problem but that it causes trains to run at 10 miles an hour over such tracks and that, if they are not upgraded, they will become impassable.

The alternative to upgrading the lines is to attempt to obtain a waiver from the F.R.A. To expend funds on lines which the Trustee and the Department of Transportation believe are not reorganizable is to fly in the face of our finding that these portions of the line are cashless. Therefore, we deny the request for the expenditure of funds on the maintenance of lines outside of Milwaukee II or on the other portions of the Milwaukee Railroad which the Department of Transportation will not fund.

Section 11125 does not spell out the duty of a directed carrier to maintain the lines of the affected carrier, but it provides for payment to the directed line for the "total expenses . . . incurred in or attributable to the handling, routing, and moving the traffic over the lines of the [affected] carrier . . ." There is also an I.C.C. provision for reimbursement to the directed carrier at 49 C.F.R. Part 1126 if I.C.C. consent is obtained in advance. It therefore appears to us that the expenditure of $4,000,000 to upgrade the western lines will become the obligation of a directed carrier. The only obligation which we find the Milwaukee Road has is to prevent the lines over which service is to be directed from becoming impassable and to attempt to obtain waivers.

CONCLUSION

The Trustee filed a response to the report of the Special Master on September 14, 1979. We have not overlooked this document but believe the points raised therein have been adequatley answered above or will be answered by the Court of Appeals on the matter now under advisement there.

To the extent not modified by the above decision, the report of Special Master Milton H. Gray filed herein on September 11, 1979 is approved. The exceptions and objections thereto filed by the parties are overruled, except to the extent adopted by this Decision. The Trustee will serve and file an order in accordance with this Decision at the earliest practicable time. We do not believe it is necessary to include the recommendations contained on the last page of the Master's report, since this court will retain jurisdiction to implement an appropriate order.●

MEMORIAL TO HONOR CATHOLIC CHAPLAIN MEDAL OF HONOR RECIPIENTS

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. DOUGHERTY. Mr. Speaker, on October 6, 1979, Pennsylvania's Calvert Province of the Knights of Columbus and the board of directors of the Freedoms Foundation at Valley Forge will hold a ceremony dedicating a memorial honoring the Catholic chaplain recipients of the Medal of Honor.

The Medal of Honor, the highest military decoration of the United States awarded by Congress, is given to individuals who in action involving actual combat with an enemy distinguish themselves conspicuously, and at the risk of their lives, by gallantry and intrepidness above and beyond the call of duty. In the history of the United States, from among the many individuals awarded the Medal of Honor, four were priests.

Father O'Callahan, a Jesuit priest, was the only Navy Chaplain to be awarded the Medal of Honor in World War II. Chaplain O'Callahan, who died in 1964, was presented the Nation's highest decoration by President Harry S. Truman in January 1946. He earned the medal for bravery while serving aboard the aircraft carrier U.S.S. *Franklin* off Kobe, Japan, in March 1945, when it was fiercely attacked by Japanese fighter bombers.

In the Vietnam war, three chaplains, two Army and one Navy, earned the Medal of Honor.

The first was Army Chaplain Angelo J. Liteky who received by medal at

White House ceremonies from President Lyndon B. Johnson on November 14, 1968, for action with an infantry company while on a reconnaissance-in-force mission in Bien Hou Province. Chaplain Liteky is the sole surviving chaplain of the four priests awarded the Medal of Honor.

The second Medal of Honor for Vietnam service was awarded posthumously on January 7, 1969, by the Secretary of the Navy to Navy Chaplain Vincent R. Capodanno who was killed while serving the men of the 1st Marine Division, Fleet Marine Force, as they fought against enemy forces in Duang Tin Province. Father Capodanno was struck down while going to the rescue of a wounded Marine.

Chaplain Charles J. Watters, a paratrooper with the 173d Airborne Brigade, also received this honor posthumously in ceremonies led by Vice President Spiro T. Agnew on November 4, 1969. Chaplain Watters was with troops fighting in the vicinity of Dak To giving aid to the wounded, assisting in their evacuation, offering words of encouragement and administering the last rites to the dying, when he himself was mortally wounded.

It is especially to honor these four Catholic chaplains that the Knights of Columbus have erected a special memorial within the Medal of Honor Grove at Valley Forge. While these four heroes are presently memorialized within their respective State areas in the Grove, it is considered proper and fitting that a special memorial has been created to focus attention not only on these four Catholic chaplains but also on all military chaplains who have served God by serving their fellow men and women in the Armed Forces of the United States.

I would like to add my prayers in memory of these four fine men.●

INTERNATIONAL ENERGY CONSERVATION

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. FORD of Tennessee. Mr. Speaker, now, more than ever, our Nation must take conscious and purposeful steps to reduce our dependence on petroleum products. As this winter approaches, American consumers will be hit hard with just how extensive and how expensive our current waste of energy is.

Our dependence on foreign producers for oil must begin to decline. It has serious consequences not only for the stature and prestige of our country in the eyes of the rest of the world, but helps to fuel the tremendous inflation which cripples each of us.

Just this week, we found out once again how vulnerable our current position is, when a foreign power, the Saudi Arabians, virtually ordered the United States to cease stockpiling reserve supplies of oil. In any other day and age, we could have responded in strength to a foreign intervention into our domestic policies. But, today we must accede to the wishes of our largest supplier of oil.

The United States must take action to educate our people as to what can be done to reduce our economic and political vulnerability. In the Congress, we are working on the President's proposals which are designed to spur both conservation and the production of alternative sources of power.

It must be the business of this Congress not only to work rapidly and thoroughly to produce legislation to set our country down the road of energy conservation, but we must also take every opportunity to educate the people to the choices to be made.

I have sponsored legislation to take a specific time period during which our Nation would focus attention on what individuals may do in the terms of their own lives to spur energy awareness. Accordingly, President Carter has designated October as Energy Conservation Month. This action puts the United States in conjunction with 19 other industrialized nations, who are using October to bring attention to methods of energy conservation.

In my district we are having a series of exhibitions and educational programs. We hope to let people know what they can do to fight rising energy costs. Here is an example of some of the simple, cost-saving steps we want to let people know about:

IMPROVED DRIVING HABITS

Taking mass transit when possible.

Slowing down: Cars going 55 miles per hour use 20 percent less gas than those going 70 miles per hour.

Using radial tires which save 5 percent in the city and 7 percent on the highway.

Reduce motor idling time: Restarting engines saves fuel.

Keeping your car well tuned.

Minimizing the use of air conditioners and automatic transmissions.

HOME CONSERVATION

Good insulation can reduce heating bills by one-third.

Taping clear plastic film to the insides of windows. This $10 investment can save up to 10 percent of total fuel costs.

Lowering the temperature on your hot water heater. Generally, 120° F is sufficient for most homes. Houses with dishwishers may want to set their thermostats slightly higher.

Refrigerator temperatures should be set at 38° F, freezers at 5° F, and long-term storage at 0° F.

Saving water by installing aerators and flow restrictors on faucets.

Weather stripping and caulking doors and windows can save 10 percent of heat loss.

Converting to fluorescent lighting wherever possible. Lighting for homes and businesses consumes almost 5 percent of all energy consumption.

Insulating your water heater can save you up to $20 a year.

If your house uses an electric furnace, installing a heat pump can save up to 40 percent of your heating expenses.

Making sure that the filters on your vents are clean: checking them six times a year.

Looking into solar energy for space heating and water heating.

Planting leafy trees on the south and west sides of your house to provide shade.

Learning about the different tax credits which are available for insulating costs. Up to $300 of the first $2,000 is creditable for money spent on insulation, caulking, storm windows, flue modifications, automatic furnace ignition, and clock thermostats. Changes must be made by December 31, 1985.

Investigating tax breaks for solar, wind, and other renewable energy sources. Heat for home space and hot water equipment is creditable at 30 percent of the first $2,000 and 20 percent of the next $8,000.

Finally, Mr. Speaker, I ask that the text of the President's proclamation of October as Energy Conservation Month be printed in the RECORD:

INTERNATIONAL ENERGY CONSERVATION MONTH, OCTOBER 1979

A Proclamation by the President of the United States of America

The United States is the largest user of energy in the world and since 1978 has become increasingly dependent on imported oil to meet its domestic needs.

While considerable progress has been made in reducing the rate of growth in demand for energy, much more remains to be done if the United States is to meet its responsibility to reduce its demand for petroleum on the world market.

Energy problems facing us in the United States are similar to those facing other industrialized nations, as well as many of the world's less developed countries. The fundamental problem domestically and internationally is that demand for petroleum is increasing faster than the capacity to produce it.

As the world's major consumer of energy, it is essential that the United States become a leader in conserving energy by curtailing unnecessary and wasteful uses, by improving the efficiency with which we use energy for essential purposes, and by switching from increasingly scarce petroleum and petroleum products to more abundant alternate sources.

To this end, I have announced a program of import quotas to see that the commitment we made at the Tokyo Summit will be achieved.

We must also reduce our imports through vigorous and sustained conservation of energy. This task has already begun. The National Energy Act I proposed, which was enacted last November, includes:

A $300 residential energy conservation tax credit, which the taxpayer can claim for the purchase of insulation and other energy-saving measures;

A residential insulation service which local utilities must provide beginning in the fall of 1980, to provide energy evaluations of homes and to arrange loan financing for installation of insulation;

A 10 percent investment tax credit for equipment used to conserve energy by improving the efficiency of industrial plants;

Weatherization grants for low-income households;

A 5 percent reduction in annual energy use by each Federal department, including mandatory building temperature standards and a 10 percent reduction in automobile fuels;

A $900 million grant program to provide 50 percent of the cost of energy conservation measures for schools and hospitals;

A $65 million grant program to provide technical assistance and energy audits for local government and other public buildings;

Mandatory non-residential building temperature restrictions;

Mandatory automobile fuel economy standards for each model year through 1985; and

A "gas guzzler tax" on automobiles failing to meet fuel efficiency standards, beginning with the 1980 model year.

I also have proposed, and Congress will consider:

A major program to make residential and commercial buildings more energy efficient;

$16.5 billion in new Federal funding over the coming decade for mass transportation systems and improved automobile efficiency. These latter programs will be funded by the proposed Windfall Profits Tax.

The effectiveness of our efforts to conserve energy in the years ahead will have substantial impact on both the Nation's ability to meet future energy needs at home and on the stability of social, political and economic institutions around the world.

In response to the recognized need to conserve energy, the 20 member countries of the International Energy Agency, including the United States, have designated the month of October 1979 International Energy Conservation Month. The objectives of International Energy Conservation Month are: (1) to provide an international focus for national efforts to stimulate greater public awareness of the continuing and long-term need for energy conservation; (2) to underline the extent to which industrialized nations are cooperating to conserve energy; and to use it as an opportunity to plan events which will either culminate during the month or use the month as a springboard for continuing programs.

Now, therefore, I, Jimmy Carter, President of the United States of America, in full support of this international program, do proclaim October 1979 as International Energy Conservation Month in the United States and call upon all Americans to join me in observing it. During the month let us as a Nation focus our attention on energy conservation through our actions and deeds. Let us view that month as the springboard to a more energy-efficient, energy-reliable future.

I call upon State and local governments to join me in proclaiming October as International Energy Conservation Month and to undertake activities in support of its objectives.

I urge all citizens, corporations, labor unions, trade associations, the media, and groups and organizations of all types to participate in this international energy conservation program at home, at work, while traveling and in all daily activities.

In witness whereof, I have hereunto set my hand this 4th day of September, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

JIMMY CARTER.●

POPE IS HERALD OF SURGING WEST

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. NOWAK. Mr. Speaker, the forthcoming visit to the United States of Pope John Paul II is an event eagerly awaited by Catholics and non-Catholics alike. The Pope is not only the spiritual leader of the Roman Catholic Church, but also a symbol of liberty realized by the free world and of hope for the still repressed peoples of the world.

The religious impact of the Pope's trip is great, of course. Yet the significance of the man and his mission transcends the boundaries of religious dogma. I would like to insert a very perceptive column by William A. Rusher, which appeared in the Buffalo Evening News on September 6, 1979.

POPE IS HERALD OF SURGING WEST

(By William A. Rusher)

NEW YORK.—The pope's visit to the United States in the first week of October will be freighted with more than ordinary significance.

Internally, of course, it will solidify his leadership of the tremendously important American subdivision of Roman Catholicism.

One of the pope's purposes here will be to strengthen some of the trends now visible in the American church, and no doubt to discourage others.

But the significance of the pope's visit will not be confined to its impact on American Catholicism. Pope John Paul II stands forth, by sheer force of personality, as probably the most impressive spokesman for the Western cause alive today.

Thirty-five years ago, Winston Churchill and Franklin Roosevelt were king-size figures. But not even Jimmy Carter would attempt to argue that he overshadows contemporary America, and if France's Giscard or Germany's Schmidt seem even slightly larger than life, it is relatively and by default.

But Karol Wojtyla—the mountain climber, the babykisser, the jut-jawed prelate who reduced the communist bosses of Poland to awed acquiescence—is the real thing. There isn't an alienated or neurotic cell in his body: not a whiff of anomie. He knows precisely who he is, what he believes and what his mission is; and when he sets foot on American soil the whole nation will sense the tread of an authentic and towering defender of Western values against the challenge of communism.

That brings us to the most significant point of all. Shortly before Pope Paul's trip to Poland last June, Cardinal Franz Koenig, archbishop of Vienna, said of Eastern Europe: "Religion is undergoing a revival there, an extraordinary revival. The convinced believers are in the East, not here in the West. I used to say that in the future the missionaries will come from the East European countries, to convert or work as missionaries in the West, where decay is visible. And now the first such missionary has already come to Rome."

Next month, that missionary will come from Rome to America. He has been preceded by another missionary, Alexander Solzhenitsyn, the towering spokesman of Russian Orthodoxy, whose commencement address at Harvard last year was probably the first trumpet of the West's resurgence.

How strange that these two men, both of whom have spent most of their adult life under the yoke of Communism—should come to the West to rearm us morally for the struggles that lie ahead. Or perhaps it is not so strange, for they are under no illusion that "the Cold War is over."

However diplomatically he puts the point, that will be very much on the pope's mind in the United States next month.●

JOAN SHOREY AND THE SOLAR LOBBY CONTINUES TO LEAD THE FIGHT FOR CONSERVATION AND SOLAR IN FEDERAL BUILDINGS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. OTTINGER. Mr. Speaker, if we are to expect the American people to practice conservation in their homes, schools, hospitals, and State and local governments, surely the Federal Government must show it is serious about conservation and solar and lead the way.

The fight for this essential objective has been most difficult because the Department of Energy has consistently refused the leadership role in the Federal buildings program that the Congress mandated.

The Solar Lobby and Joan Shorey of that organization have long led the difficult fight to force DOE to live up to its responsibilities in this matter.

Ms. Shorey was largely responsible for the creation of the Federal buildings program when she worked for me on my congressional staff. From her position now with Solar Lobby she has continued to be vigilant in leading this important fight.

On September 26, 1979, Joan Shorey testified before the Subcommittee of Buildings and Grounds of the Committee on Public Works and Transportation. That testimony is an insightful analysis of this program, DOE's failures, and what we must do to correct the situation and bring about an aggressively enforced conservation and solar program for our Federal buildings.

I commend Joan Shorey's testimony, which follows, to the attention of my colleagues:

TESTIMONY OF JOAN SHOREY

I thank you for the opportunity to appear before you today. I am here as a representative of the Solar Lobby, a non-profit organization formed over a year ago in response to the Sun Day, May 1978 clarion call for our country's transition to solar energy. Solar Lobby now has over 30,000 supporters. We have an active Washington Office and an expanding political network comprised of state and local leaders from the solar community.

During the 95th Congress Solar Lobby worked extensively on the Domestic Policy Review, which resulted in the President's declaration that the U.S. will obtain 20 percent of its energy from solar sources by the year 2000 We also strongly supported the Photovoltaic Research Development and Demonstration Act of 1978. During this 1st session of the 96th Congress, Solar Lobby has been very actively involved in the development of a strong Solar Bank Act, increasing the tax credits for both residential and commercial solar systems as well as expanding the IRS' interpretation of solar system to include substantive passive solar energy provisions. Another of the Lobby's highest priorities has been the oversight both of existing legislative programs and the tracking of regulations called for by recently enacted legislation. I have been particularly involved in this oversight and regulatory procedure, and I certainly stress the importance and necessity of hearings such as you have scheduled these two days.

The Federal Energy Initiative Title V of the National Energy Conservation Policy Act establishes a substantive foundation for a strong conservation and solar Federal program. The mandate is there. The opportunities to encompass solar heating and cooling and electrical generation in our Federal household are many. The procedures are articulated. Yet, practically nothing has happened.

It is essential that this committee specifically examine two fundamental problems that lie at the root of this inexcusable inaction. One is the inability of the management of the Department of Energy to implement the provisions of Title V according to the clearly expressed mandates of the legislation. The other is the failure of the proposed regulations to abide by Congressional intent. You must not allow Title V to waft away as it seems to be doing. Congressional surveillance is sorely needed.

During my work these past months three serious flaws in DOE's ability to cope with this legislation have surfaced over and over again. First, within the Office of Conservation and Solar Applications, the conservation and solar divisions are ineffectively coordinated. Second, staffing for specific solar energy responsibilities is totally inadequate. For instance, two programs with $100 million budget authorizations are each managed by one in-house staff member. And finally, support from the top echelon of DOE for even a bare bones Federal Energy Initiative program is minimal. The report from the April 24 and 25 hearings of the House Government Operations Committee highlights some of this scandalous behavior and includes supporting memoranda. In addition, you will be hearing from the GAO about questions raised in several recent reports regarding the management of these Federal Solar and Conservation Building Programs.

Meantime, I would like to give you a rough idea of how these administrative faults and pressures have affected the drafting of the regulations called for in Title V.

Four specific proposed rules have been published in the Federal Register: The Federal Energy Management and Planning Programs; Procedures for Preliminary Audits and Guidelines for Building Plans, the Life Cycle Cost Methodology, the Solar in Federal Buildings Demonstration Program, and the Regulations to Monitor and Assess the Performance and Operation of Photovoltaic Systems under the Federal Photovoltaic Utilization Program. I will submit comments on these proposed rules for the record, if I may.

A few examples illustrate how necessary it is for you to be sure your congressional interests are truly reflected in the regulatory process and to pound the table and agitate bastions of DOE when they are not.

To begin, Part 3, section 547, calls for each Federal agency to conduct preliminary energy audits of all Federal buildings under its jurisdiction with 30,000 or more square feet and with 1,000 or more but less then 30,000 square feet. From these audits Federal agencies are to select those buildings most appropriate for retrofit measures for energy conservation and solar technology.

The preliminary energy audit guidelines were published in the April 26, 1979 Federal Register. But only buildings under 30,000 square feet are to be evaluated using solar criteria in the energy audits. Since these preliminary audits establish the first cut for candidate buildings to begin the retrofit program for both conservation and solar energy use, the exclusion of solar criteria from a sizable stock of the Federal store is plainly against the legislative intent. It is an omission however that would seem an easy issue to rectify. DOE nevertheless, claims it is too difficult, too expensive and that reports are already in for buildings over 30,000 square feet, even though these assessments were done prior to NECPA and before solar energy criteria were a part of the Federal Energy Management Program. Reluctance remains rampant. Why? And why did this omission occur in the first place?

One answer is that the Conservation Division, with scant input from any solar staff, drafted the rules. And the other answer is that the top management of DOE does not support a strong leadership role for its agency in terms of seeking compliance from other federal agencies in implementing the provisions in Title V. This later point was rather dramatically documented in a DOE Memo tht suggested that the Federal Energy Management Program "be as simple and light handed on the agencies as man can devise". Another memo questioned whether DOE should continue to "play the minimum role . . . the minimum we must do to stay out of jail." To my knowledge there is still no comprehensive solar and conservation preliminary energy audit despite the fact that this disregard of congressional intent has been brought to DOE attention by public comment and congressional inquiry.

For a second example of inadequate support for the Title V provisions, look to the management and coordination of the Demonstration of Solar Heating and Cooling in Federal Buildings, Part 2 of Title V.

This demonstration program calls for a $100 million program. And here is where a single person has had the responsibility for initiating the program and drafting the regulations. Money from this program should surely be spent in conjunction with the provisions of the Energy Conservation and Solar Energy Federal Buildings, Part 3 of Title V. But the proposed rules contain no hint that there is to be any coordination at all between the two demonstration programs. Indeed, instead of establishing means of meshing these responsibilities in DOE, the rules for this solar demonstration program indicate that once the program is under way, the management will be turned over to NASA.

As it stands, Section 549 of Part 3 requires each Federal Agency preparing and submitting requests to Congress for the authorization and appropriation of funds to identify in a separate line item those funds requested for the retrofit or initial costs of construction attributable to energy conservation or utilization of solar energy. I certainly hope this committee will pay special attention to the substance and frequency of these line items. They will indicate to you the commitment of federal agencies to solar and conservation. They can serve as DOE's report cards on Title V. Examine them closely.

A third example of DOE's timidity in bringing forward Title V's provisions is its handling of the life-cycle cost methodology called for in section 545 of Part 3 of Title V.

A life-cycle cost evaluation, as you are aware, is particularly important for solar energy where the initial costs may be higher than conventional energy but the eventual payback lower. The subsidies given other fuel sources, the marginal costs of conventional fuel, and price escalation projections must all be taken into account when the economics of solar versus conventional fuel is evaluated. These considerations should be a part of a life-cycle cost methodology. But the proposed rules establishing the life-cycle cost criteria leave out several. I am submitting testimony on these particular issues previously submitted by the Center for Renewable Resources.

What the proposed rule for a life-cycle cost procedeure does incorporate however, is the 10% discount rate established in 1972 by OMB for Federal procurements. And it is an error.

The legislative mandate requesting this life-cycle costs methodology does call for the consultation of DOE with the Office of Management and Budget. But it is certainly not meant to sanction a procedure developed in 1972 before it was widely understood that a special economic evaluation should be related to solar and energy conservation. Surely the drafters of NECPA asked for a new formula. But it is like moulding saw dust to get the top DOE cadre to overthrow outdated strictures.

Several memoranda have been circulated within DOE to set specific discount rates for solar energy applications apart from this 1972 provision. In addition, a letter signed by 15 Senators and 32 Congressmen was sent on July 5 to Secretary Schlesinger raising substantive questions about the provisions of the proposed rule on life-cycle costs and questioning the applicability of the existing OMB discount rate. Moreover the Office of Technology Assessment sent a letter to Senator Durkin commenting on the proposed rule. I urge this Committee to address this issue.

Commenting on regulations is often a joyless task—and one performed without a large body of supporters. But how necessary it is. It has certainly been a revelation to me these past months to see how far afield the proposed rules can be from what are seemingly clearly established Congressional mandates. I heartily support committees such as yours that take an active interest in exactly what happens to legislative provisions in the rulemaking process.

The NECPA's Title V, as well as past initiatives dealing with conservation and solar energy use in Federal buildings, have simply not been pursued with any vigor or substance by the Department of Energy or the Administration as a whole. It is a tragedy. Congress asked the Federal Government to move into the forefront of energy conservation and solar energy use in its own plentiful and visible stock of buildings. Legislative provisions are there. Apt regulations could set it all in motion. But it seems like Sisyphus pushing a rock up a hill: Progress never seems to take place. Perhaps this committee can assure a forward-moving Federal Initiative. I hope so and offer any further help that Solar Lobby can provide in moving and overturning the rocks in the way. Thank you for allowing me to have my say here today.●

A BILL TO AMEND TITLE 38 OF UNITED STATES CODE

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1979

● Mr. LEE. Mr. Speaker, today I am introducing a bill to amend title 38 of the United States Code, to provide that in the case of any veteran who served for 90 days or more during a period of war, the development of the disease transverse myelitis to a degree of 10 per centum of disability or more within 7 years from the date of the veteran's separation from service shall be presumed to have been incurred in or aggravated by such service in the Armed Forces of the United States.

Transverse myelitis is a disease for which no cure is known. Additionally, the process of its manifestation and its etiology is also unknown. All that is really is that it strikes the spinal cord, and in many cases is accompanied by another crippling and deadly disease, multiple sclerosis. In fact the similarities between MS and TM is so great, that justice would be better served by treating both diseases the same, by extending the benefits to sufferors of this disease as well. No rational reason is evident to exclude TM while MS is covered. This bill, in my judgment, will enable those that suffer with this disease who honorably served their country when called, to be in turn served by their country in their hour of need.●